START

Title: FEDERAL REGISTER.

Volume: 61 Issues: 22-36
PAGES: 3539-6916

Date: FEBRUARY 1 - FEBRUARY 22, 1996

UMI Number: 2575.00

Note: REEL NO. 2 OF 11

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2–1–96
Vol. 61 No. 22

federal register

Thursday
February 1, 1996

United States
Government
Printing Office
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SECOND CLASS NEWSPAPER
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2–1–96
Vol. 61 No. 22
Pages 3539–3776

Federal Register

Thursday
February 1, 1996

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166-997 95 – 1

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[Two Sessions]

WHEN: February 6, 1996 at 9:00 am and February 21, 1996 at 9:00 am

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New Feature in the Reader Aids!
Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the **Federal Register** called "Reminders". The Reminders will have two sections: "Rules Going Into Effect Today" and "Comments Due Next Week". Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect "today". Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the **Federal Register** will be eligible for inclusion in the Reminders.
The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.
The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Chapter III

Removal of CFR Chapter

Effective February 1, 1996, the Administrative Conference of the United States (ACUS) is terminated by Public Law 104–52, 104 Stat. 480 (see 5 U.S.C. note preceding 591). Therefore, the Office of the Federal Register is removing ACUS regulations from the Code of Federal Regulations pursuant to its authority to maintain an orderly system of codification under 44 U.S.C. 1510 and 1 CFR part 8.

Accordingly, 1 CFR is amended by removing parts 301 through 326 and vacating Chapter III.

BILLING CODE 1505–1D–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 530, 531, 534, 550, 575, 581, 582, and 630

RIN: 3206–AH09

Pay Under the General Schedule; Termination of Interim Geographic Adjustments

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the termination of interim geographic adjustments (IGA's) payable to certain Federal employees. The IGA's were terminated by the President because the locality-based comparability payments he authorized for January 1996 exceed 8 percent in both of the two remaining IGA areas (New York-Northern New Jersey-Long Island, NY–NJ–CT–PA, and Los Angeles-Riverside-Orange County, CA).

DATES: The regulations are effective on January 1, 1996, and are applicable on the first day of the first pay period beginning on or after January 1, 1996. Comments must be received on or before April 1, 1996.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415 (FAX: (202) 606–0824).

FOR FURTHER INFORMATION CONTACT: Jeanne D. Jacobson, (202) 606–2858 or FAX: (202) 606–0824.

SUPPLEMENTARY INFORMATION: On August 31, 1995, the President transmitted to Congress a plan for fixing alternative levels of locality-based comparability payments affecting General Schedule (GS) employees in January 1996 under the authority of 5 U.S.C. 5304a. The alternative plan provides an 8.05–percent comparability payment for the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA, locality pay area and an 8.15-percent comparability payment for the Los Angeles-Riverside-Orange County, CA, locality pay area. These locality payments will exceed the 8-percent interim geographic adjustment (IGA) authorized for the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA, and Los Angeles-Riverside-Orange County, CA, interim geographic adjustment areas. Consequently, the President issued Executive Order 12984 of December 28, 1995, which includes no IGA pay schedules. This action has the effect of terminating the IGA's previously established for the New York and Los Angeles Consolidated Metropolitan Statistical Areas (CMSA's). These interim regulations implement the termination of IGA's.

Section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509) authorized the President to establish IGA's of up to 8 percent of basic pay for GS employees in geographic areas with significant disparities between Federal and non-Federal pay. On December 12, 1990, the President issued Executive Order 12736, designating the (1) New York-Northern New Jersey-Long Island, NY–NJ–CT CMSA (changed to the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA CMSA as of December 31, 1992); (2) Los Angeles-Anaheim-Riverside, CA CMSA (changed to the Los-Angeles-Riverside-Orange County, CA CMSA as of December 31, 1992); and (3) San Francisco-Oakland-San Jose, CA CMSA as geographic areas in which IGA's should be paid. Payment of IGA's in these geographic areas began in January 1991.

Interim geographic adjustments were intended to be an interim measure pending the implementation of locality-based comparability payments in January 1994. Because locality pay is to be phased in over several years, section 302(d)(2)(A) of FEPCA provides that employees receiving IGA's may not have their pay reduced as a result of the implementation of locality pay. Therefore, the regulations governing IGA's under 5 CFR part 531, subpart A, provided that an employee's IGA entitlement terminates when his or her locality rate of pay exceeds his or her IGA rate of pay.

In January 1995, the San Francisco-Oakland-San Jose, CA CMSA was terminated as an IGA area because the locality payment for that area exceeded 8 percent. (See Executive Order 12944 of December 29, 1994.) Since locality pay will exceed 8 percent in the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA, and Los Angeles-Riverside-Orange County, CA, IGA areas in January 1996, the President has terminated IGA's for these areas, as well.

As a result of the termination of IGA's, OPM is removing 5 CFR part 531, subpart A, "Interim Geographic Adjustments." However, because some employees in the former IGA areas will continue to receive "continued rates of pay" (a form of saved pay established in January 1994 for employees who previously received an IGA on top of a worldwide or nationwide special rate), we are retaining—in a new subpart G of part 531—several provisions previously found in subpart A concerning the administration of continued rates of pay.

These interim regulations also make conforming changes in other parts of the regulations to reflect the termination of IGA's. For example, the interim regulations revise the definition of *rate of basic pay* in § 550.103 relating to premium pay by removing the reference to "interim geographic adjustment" and

adding "continued rate adjustment" to the list of payments included in an employee's *rate of basic pay* for premium pay purposes.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this amendment effective in less than 30 days. These interim regulations reflect the termination of IGA's effective on the first day of the first pay period beginning on or after January 1, 1996, as required by the President's Executive Order 12984 of December 28, 1995.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 530, 531, 534, 550, 575, 581, 582, and 630

Administrative practice and procedure, Alimony, Child support, Claims, Government employees, Hospitals, Law enforcement officers, Reporting and recordkeeping requirements, Students, and Wages.

Office of Personnel Management,

James B. King,

Director.

Accordingly, OPM is proposing to amend parts 530, 531, 534, 550, 575, 581, and 582, and 630 of title 5, Code of Federal Regulations, as follows:

PART 530—PAY RATES AND SYSTEMS (GENERAL)

1. The authority citation for part 530 is revised to read as follows:

Authority: 5 U.S.C. 5305 and 5307; E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316;

Subpart B also issued under secs. 302(c) and 404(c) of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively;

Subpart C also issued under sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981.

2. In § 530.202, paragraph (2) in the definition of *aggregate compensation* is revised to read as follows:

§ 530.202 Definitions.

* * * * *

Aggregate compensation means the total of—

(2) Locality-based comparability payments under 5 U.S.C. 5304; continued rate adjustments under subpart G of part 531 of this chapter; or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509);

* * * * *

PART 531—PAY UNDER THE GENERAL SCHEDULE

3. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of FEPCA, Pub. L. 101–509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102–378, 106 Stat. 1356;

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553; and E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682;

Subpart G also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, 3 CFR, 1991 Comp., p. 376.

4. Subpart A consisting of §§ 531.101–531.106 is removed and reserved.

5. In § 531.301, paragraph (1) in the definition of *scheduled annual rate of pay* is revised to read as follows:

§ 531.301 Definitions.

* * * * *

Scheduled annual rate of pay means—

(1) The General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range), including a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509), but exclusive of a special salary rate established under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), a *continued rate of pay* under subpart G of this part, a *special law enforcement adjusted rate of pay* under this subpart (including a rate continued under § 531.307), a *locality rate of pay* under subpart F of this part, or additional pay of any kind;

* * * * *

6. In § 531.304, paragraphs (a)(2) and (k) are revised to read as follows:

§ 531.304 Administration of special law enforcement adjusted rates of pay.

(a) * * *

(2) A *continued rate of pay* under subpart G of this part;

* * * * *

(k) When an employee's *special law enforcement adjusted rate of pay* under this subpart is greater than any applicable *locality rate of pay* under subpart F of this part, a *continued rate of pay* under subpart G of this part, or special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), the payment of the rate resulting from the comparison required by paragraph (a) of this section shall be deemed to have reduced the special pay adjustment for law enforcement officers payable under section 404 of FEPCA, as authorized by section 404(a) of FEPCA.

7. Section 531.306 is revised to read as follows:

§ 531.306 Effect of special pay adjustments for law enforcement officers on retention payments under FBI demonstration project.

As required by section 406 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), a retention payment payable to an employee of the New York Field Division of the Federal Bureau of Investigation under section 601(a)(2) of Public Law 100–453, as amended, shall be reduced by the amount of any special any adjustment for law enforcement officers payable to that employee under this subpart. For the purpose of applying this section, the amount of the special pay adjustment for law enforcement officers shall be determined by subtracting the employee's scheduled annual rate of pay from his or her special law enforcement adjusted rate of pay.

8. In § 531.602, paragraph (1) in the definition of *scheduled annual rate of pay* is revised to read as follows:

§ 531.602 Definitions.

* * * * *

Scheduled annual rate of pay means—

(1) The General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range), including a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA)

(Pub. L. 101–509, 104 Stat. 1465), but exclusive of a special salary rate established under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), a *continued rate of pay* under subpart G of this part, a *special law enforcement adjusted rate of pay* under subpart C of this part (including a rate continued under § 531.307), a *locality rate of pay* under this subpart, or additional pay of any kind;

* * * * *

9. In § 531.606, paragraph (a)(2) is revised to read as follows:

§ 531.606 Administration of locality rates of pay.

(a) * * *

(2) A *continued rate of pay* under subpart G of this part;

* * * * *

10. A new subpart G is added to read as follows:

Subpart G—Continued Rates of Pay

Sec.

531.701 Definitions.
531.702 Computation of hourly, daily, weekly, and biweekly continued rates of pay.
531.703 Administration of continued rates of pay.
531.704 Effect of continued rates of pay on retention payments under FBI demonstration project.
531.705 Reports.

Subpart G—Continued Rates of Pay

§ 531.701 Definitions.

In this subpart:

Continued rate of pay means a rate of pay first established in January 1994 for an employee who previously received an interim geographic adjustment on top of a worldwide or nationwide special rate authorized under 5 U.S.C. 5305.

Employee means an employee in a position in whom subchapter III of chapter 53 of title 5, United States Code applies, whose official duty station is located in an interim geographic adjustment area and who is receiving a continued rate of pay.

General Schedule means the basic pay schedule established under 5 U.S.C. 5332.

Interim geographic adjustment area means one of the following Consolidated Metropolitan Statistical Areas (CMSA's), as defined by the Office of Management and Budget (OMB), that was an interim geographic adjustment area when continued rates of pay first became applicable in January 1994:

(1) New York-Northern New Jersey-Long Island, NY–NJ–CT–PA;

(2) Los Angeles-Riverside-Orange County, CA; or

(3) San Francisco-Oakland-San Jose, CA.

Official duty station means the duty station for an employee's position of record as indicated on his or her most recent notification of personnel action.

§ 531.702 Computation of hourly, daily, weekly, and biweekly continued rates of pay.

When it is necessary to convert a continued rate of pay from an annual rate to an hourly, daily, weekly, or biweekly rate, the following methods apply:

(a) To derive an hourly rate, divided the continued rate by 2,087 and round to the nearest cent, counting one-half cent and over as a whole cent;

(b) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required by the employee's basic daily tour of duty;

(c) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

§ 531.703 Administration of continued rates of pay.

(a) An employee shall receive the greatest of—

(1) His or her rate of basic pay, including any applicable special salary rate established under 5 U.S.C. 5305 or similar provision of law or special rate for law enforcement officers under section 403 of FEPCA;

(2) A *continued rate of pay* under this subpart;

(3) A *special law enforcement officer adjusted rate of pay* under subpart C of this part, where applicable, including a *special law enforcement adjusted rate of pay* continued under § 531.307; or

(4) A *locality rate of pay* under subpart F of this part, where applicable.

(b) A continued rate of pay is considered basic pay for the same purposes as described in § 531.606(b), as applicable.

(c) A continued rate of pay is paid only for those hours for which an employee is in a pay status, except that it shall be included in a lump-sum payment for annual leave under 5 U.S.C. 5551 or 5552.

(d) A continued rate of pay is included in an employee's "total remuneration," as defined in § 551.511(b) of this chapter, and "straight time rate of pay," as defined in § 551.512(b) of this chapter, for the purpose of computations under the Fair Labor Standards Act of 1938, as amended.

(e) At the time of an adjustment in pay under 5 U.S.C. 5303, a continued rate of pay shall be increased by the lesser of—

(1) The dollar amount of the adjustment (including a zero adjustment) made under 5 U.S.C. 5303 in the General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range); or

(2) The dollar amount of the adjustment (including a zero adjustment) in the special salary rate applicable to the employee as a result of the annual review of special rates required by § 530.304 of this chapter.

(f) An increase in a continued rate of pay under paragraph (e) of this section is not an equivalent increase in pay within the meaning of section 5335 of title 5, United States Code.

(g) A continued rate of pay terminates on the date—

(1) An employee's official duty station is no longer located in one of the interim geographic adjustment areas;

(2) An employee is no longer in a position covered by this subpart;

(3) An employee separates from Federal service;

(4) An employee's special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA) exceeds his or her continued rate of pay;

(5) An employee's *special law enforcement adjusted rate of pay* under subpart C of this part exceeds his or her continued rate of pay;

(6) An employee's *locality rate of pay* under subpart F of this part exceeds his or her continued rate of pay;

(7) An employee is reduced in grade; or

(8) An employee is no longer in a position covered by a nationwide or worldwide special rate authorization (or, in the event of the conversion of a nationwide or worldwide special rate authorization to a local special rate authorization, a position covered by the new local special rate authorization).

(h) Termination of a continued rate of pay under paragraph (g) of this section is not an adverse action for the purpose of subpart D of part 752 of this chapter.

(i) An employee's entitlement to a continued rate of pay is not affected by a temporary promotion or a temporary reassignment.

§ 531.704 Effect of continued rates of pay on retention payments under FBI demonstration project.

As required by section 406 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), a retention payment payable to an employee of the New York Field Division of the Federal Bureau of Investigation under section 601(a)(2) of Public Law 100–453, as amended, shall

be reduced by the amount of any continued rate adjustment payable to that employee under this subpart. For the purpose of applying this section, the amount of any continued rate adjustment shall be determined by subtracting the employee's scheduled annual rate of pay (as defined in § 531.602 of this part from his or her continued rate of pay.

§ 531.705 Reports.

The Office of Personnel Management may require agencies to report pertinent information concerning the administration of payments under this subpart.

PART 534—PAY UNDER OTHER SYSTEMS

11. The authority citation for part 534 continues to read as follows:

Authority: 5 U.S.C. 1104, 5307, 5351, 5352, 5353, 5376, 5383, 5384, 5385, 5541, and 5550a.

12. In § 534.401, paragraph (b)(3) is revised to read as follows:

§ 534.401 Definitions and setting individual basic pay.

* * * * *

(b) * * *

(3) For the purpose of paragraph (b)(2) of this section, *rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by an employee or, in the case of an employee entitled to grade or pay retention, the employee's retained rate of pay, before any deductions and exclusive of additional pay of any other kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

13. The authority citation for subpart A of part 550 continues to read as follows:

Authority: 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5548 and 6101(c); E.O. 12748, 3 CFR, 1991 Comp., p. 316.

14. In § 550.103, the definition of *rate of basic pay* is revised to read as follows:

§ 550.103 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including any applicable special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), locality-based comparability payment under 5 U.S.C. 5304, or continued rate adjustment under subpart G of part 531 of this chapter, before any deductions and exclusive of additional pay of any other kind.

* * * * *

15. In § 550.105, paragraph (a)(1) is revised to read as follows:

§ 550.105 Biweekly maximum earnings limitation.

(a) * * *

(1) A locality-based comparability payment under 5 U.S.C. 5304; and

* * * * *

16. In § 550.106, paragraph (c)(1) is revised to read as follows:

§ 550.106 Annual maximum earnings limitation for work in connection with an emergency.

* * * * *

(c) * * *

(a) A locality-based comparability payment under 5 U.S.C. 5304; and

* * * * *

17. In § 550.107, paragraph (a) is revised to read as follows:

§ 550.107 Special maximum earnings limitation for law enforcement officers.

* * * * *

(a) 150 percent of the minimum rate for GS–15, including a locality-based comparability payment under 5 U.S.C. 5304 or special law enforcement adjustment under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) and any special salary rate established under 5 U.S.C. 5305, rounded to the nearest whole cent, counting one-half cent and over as a whole cent; or

* * * * *

18. In § 550.111, the first sentence in paragraph (d)(2) is revised to read as follows:

§ 550.111 Authorization of overtime pay.

* * * * *

(d) * * *

(2) Performed by an employee, when the employee's basic pay exceeds the minimum rate for GS–10 (including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) or when the employee is engaged in professional or technical, engineering or scientific activities. * * *

19. In § 550.113, paragraph (a) is revised to read as follows:

§ 550.113 Computation of overtime pay.

(a) For each employee whose rate of basic pay does not exceed the minimum rate for GS–10 (including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law), the overtime hourly rate is 1½ times his or her hourly rate of basic pay.

* * * * *

20. In § 550.114, paragraph (c) is revised to read as follows:

§ 550.114 Compensatory time off.

* * * * *

(c) The head of an agency may provide that an employee whose rate of basic pay exceeds the maximum rate for GS–10 (including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) shall be compensated for irregular or occasional overtime work with an equivalent amount of compensatory time off from the employee's tour of duty instead of payment under § 550.113 of this part.

* * * * *

21. In § 550.141, the second sentence is revised to read as follows:

§ 550.141 Authorization of premium pay on an annual basis.

* * * Premium pay under this section is determined as an appropriate percentage, not in excess of 25 percent, of that part of the employee's rate of basic pay which does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under 5 U.S.C. 5304 or special rate of pay under 5 U.S.C. 5305 or similar provisjon of law).

22. In § 550.144, paragraph (a), introductory text, is revised to read as follows:

§ 550.144 Rates of premium pay payable under § 550.141.

(a) An agency may pay the premium pay on an annual basis referred to in § 550.141 to an employee who meets the requirements of that section, at one of the following percentages of that part of the employee's rate of basic pay which does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under 5 U.S.C. 5304 or special rate of pay under 5 U.S.C. 5305 or similar provision of law):

* * * * *

23. In § 550.151, the second sentence is revised to read as follows:

§ 550.151 Authorization of premium pay on an annual basis.

* * * Premium pay under this section is determined as an appropriate percentage, not less than 10 percent nor more than 25 percent, of the employee's rate of basic pay (as defined in § 550.103).

24. In § 550.154, paragraph (a) is revised to read as follows:

§ 550.154 Rates of premium pay payable under § 550.151.

(a) An agency may pay the premium pay on an annual basis referred to in § 550.151 to an employee who meets the requirements of that section, at one of the following percentages of the employee's rate of basic pay (as defined in § 550.103):

* * * * *

Subpart B—Advances in Pay

25. The authority citation for subpart B of part 550 is revised to read as follows:

Authority: 5 U.S.C. 5524a, 5545a(h)(2)(B); sections 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101–509), 104 Stat. 1462 and 1466, respectively; E.O. 12748, 3 CFR, 1992 Comp., p. 316.

26. In § 550.202, the definition of *rate of basic pay* is revised to read as follows:

§ 550.202 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including, as applicable, annual premium pay under 5 U.S.C. 5545(c), availability pay under 5 U.S.C. 5545a, night differential for prevailing rate employees under 5 U.S.C. 5343(f), and any special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-based comparability payment under 5 U.S.C. 5304, but not including additional pay of any kind.

Subpart G—Severance Pay

27. The authority citation for subpart G of part 550 is revised to read as follows:

Authority: 5 U.S.C. 5595; E.O. 11257, 3 CFR, 1964–1965 Comp., p. 357.

28. In § 550.703, the definition of *rate of basic pay* is revised to read as follows:

§ 550.703 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including, as applicable, annual premium pay for standby duty under 5 U.S.C. 5545(c)(1), availability pay under 5 U.S.C. 5545a, night differential for prevailing rate employees under 5 U.S.C. 5343(f), and any continued rate adjustment under subpart G of part 531 of this chapter, special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), or locality-based comparability payment under 5 U.S.C. 5304, but not including additional pay of any kind.

* * * * *

PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

29. The authority citation for part 575 is revised to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5753, 5754, and 5755; sec. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively; E.O. 12748, 3 CFR, 1992 Comp., p. 316.

30. In § 575.103, the definition of *rate of basic pay* is revised to read as follows:

§ 575.103 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is or will be newly appointed before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

* * * * *

31. In § 575.203, the definition of *rate of basic pay* is revised to read as follows:

§ 575.203 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is being relocated or, in the case of an employee who is entitled to grade or pay retention, the employee's retained rate of pay, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

* * * * *

32. In § 575.303, the definition of *rate of basic pay* is revised to read as follows:

§ 575.303 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee or, in the case of an employee who is entitled to grade or pay retention, the employee's retained rate of pay, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

33. In § 575.402, paragraph (b) is revised to read as follows:

§ 575.402 Delegation of authority.

* * * * *

(b) A supervisory differential may not be paid on the basis of supervising a civilian employee whose rate of basic pay exceeds the maximum rate of basic pay established for grade GS–15 on the pay schedule applicable to the GS supervisor, including a schedule for any applicable locality rate of pay under 5 U.S.C. 5304, a special law enforcement adjusted rate of pay under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), or any applicable special rate of pay under 5 U.S.C. 5305.

34. In § 575.403, the definition of *rate of basic pay* is revised to read as follows:

§ 575.403 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative

action for the position held by an employee before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

* * * * *

35. In § 575.405, paragraphs (c)(2) and (d)(2) are revised to read as follows:

§ 575.405 Calculation and payment of supervisory differential.

* * * * *

(c) * * *

(2) A locality-based comparability payment under 5 U.S.C. 5304, a continued rate adjustment under subpart G of part 531 of this chapter, or a special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509);

* * * * *

(d) * * *

(2) A locality-based comparability payment under 5 U.S.C. 5304, a special law enforcement adjusted rate of pay under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), or another locality-based payment under similar authority, excluding a continued rate adjustment under subpart G of part 531 of this chapter;

* * * * *

PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

36. The authority citation for part 581 continues to read as follows:

Authority: 15 U.S.C. 1673; 42 U.S.C. 659, 661–662; E.O. 12105, 43 FR 59465, 3 CFR, 1979 Comp., p. 262; E.O. 12953, 60 FR 11013.

37. In § 581.103, paragraph (a)(24) is revised to read as follows:

§ 581.103 Moneys which are subject to garnishment.

(a) * * *

(24) Locality-based comparability payments or continued rate adjustments;

* * * * *

PART 582—COMMERCIAL GARNISHMENT OF FEDERAL EMPLOYEES' PAY

38. The authority citation for part 582 continues to read as follows:

Authority: 5 U.S.C. 5520a; 15 U.S.C. 1673; E.O. 12897.

39. In § 582.102, paragraph (5) is revised to read as follows:

§ 582.102 Definitions.

In this part—* * *

(5) In conformance with 5 U.S.C. 5520a, *pay* means basic pay; premium pay paid under chapter 55, subchapter V, of title 5 of the United States Code; any payment received under chapter 55, subchapters VI, VII, and VIII, of title 5 of the United States Code; severance pay and back pay under chapter 55, subchapter IX, of title 5 of the United States Code; sick pay, and any other paid leave; incentive pay; locality pay (including special pay adjustments for law enforcement officers and locality-based comparability payments); back pay awards; and any other compensation paid or payable for personal services, whether such compensation is denominated as pay, wages, salary, lump-sum leave payments, commission, bonus, award, or otherwise; but does not include amounts received under any Federal program for compensation for work injuries; awards for making suggestions, reimbursement for expenses incurred by an individual in connection with employment, or allowances in lieu of thereof as determined by the employing agency.

PART 630—ABSENCE AND LEAVE

40. The authority citation for part 630 continues to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6403(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 102–25, 105 Stat. 92; and subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23.

41. In § 630.1204, paragraph (d)(1) is revised to read as follows:

§ 630.1204 Intermittent leave or reduced leave schedule.

* * * * *

(d) * * *

(1) An equivalent grade or pay level, including any applicable locality-based comparability payment under 5 U.S.C. 5304; special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; continued rate of pay under subpart G of part 531 of this chapter; or special salary rate under 5 U.S.C. 5305 or similar provision of law;

* * * * *

42. In § 630.1208, paragraph (b)(2) is revised to read as follows:

§ 630.1208 Protection of employment and benefits.

* * * * *

(b) * * *

(2) An equivalent grade or pay level, including any applicable locality-based comparability payment under 5 U.S.C. 5304; special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; continued rate of pay under subpart G of part 531 of this chapter; or special salary rate under 5 U.S.C. 5305 or similar provision of law;

* * * * *

[FR Doc. 96–1835 Filed 1–31–96; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Docket No. FV95–905–3FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; and Import Regulations (Grapefruit); Relaxation of the Minimum Size Requirement for Red Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule without change, the provisions of an interim final rule revising requirements under the Florida citrus marketing order and grapefruit import regulations. This rule relaxes the minimum size requirement for red seedless grapefruit to 3$^{5}/_{16}$a inches in diameter (size 56). The Citrus Administrative Committee (Committee), the agency that locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida, unanimously recommended this change. This change will enable handlers and importers to continue to ship size 56 red seedless grapefruit for the entire 1995–96 season. As required under section 8e of the Agricultural Marketing Agreement Act of 1937, this final rule also changes the citrus import regulation so that it conforms with the requirements established under the Florida citrus marketing order.

EFFECTIVE DATE: March 4, 1996.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: 813–299–4770; or Caroline C. Thorpe, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 720–8139.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 905 (7 CFR Part 905), as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule is also issued under section 8e of the Act, which provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and apply regulations based on that area to the imported commodity. The Secretary has determined that grapefruit imported into the United States are in most direct competition with grapefruit grown in Florida regulated under Marketing Order No. 905, and has found that the minimum grade and size requirements for imported grapefruit should be the same as those established for grapefruit under Marketing Order No. 905.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 100 handlers of Florida citrus who are subject to regulation under the marketing order, approximately 12,000 producers of citrus in the regulated area, and about 25 grapefruit importers. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of these handlers, producers, and importers may be classified as small entities.

An interim final rule was issued on November 20, 1995, and published in the **Federal Register** (60 FR 58497, November 28, 1995). That rule provided a 30-day comment period which ended December 28, 1995. No comments were received.

The order for Florida citrus provides for the establishment of minimum grade and size requirements. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality, thereby maintaining consumer confidence for fresh Florida citrus. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of producers, packers, and consumers, and is designed to increase returns to Florida citrus growers.

This final rule finalizes changes to regulations implemented through an interim final rule that relaxed the minimum size requirement for red seedless grapefruit allowing for the continued shipment of size 56 grapefruit.

The Committee met September 14, 1995, and unanimously recommended this action.

This rule finalizes a relaxation of the minimum size from size 48 (3$^{9}/_{16}$ inches diameter) to size 56 (3$^{5}/_{16}$ inches diameter) for the period November 13, 1995, through November 10, 1996.

Section 905.52, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. Such requirements for domestic shipments are specified in Section 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under Section 944.106 (7 CFR 944.106), as reinstated on July 26, 1993 (58 FR 39428, July 23, 1993). Export requirements are not changed by this rule.

In making its recommendation, the Committee considered estimated supply and current shipments. The Committee reports that it expects that fresh market demand will be sufficient to permit the shipment of size 56 red seedless grapefruit grown in Florida during the entire 1995–96 season. The Committee believes that markets have been developed for size 56 and that they should continue to supply those markets.

Finalizing this size relaxation will enable Florida grapefruit shippers to continue shipping size 56 red seedless grapefruit to the domestic market. This rule will have a beneficial impact on producers and handlers, since it will

permit Florida grapefruit handlers to continue to make available those sizes of fruit needed to meet consumer needs. This is consistent with current and anticipated demand in those markets for the 1995–96 season, and will provide for the maximization of shipments to fresh market channels.

There are several exemptions to these regulations provided under the order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day, and up to 2 standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale. Fruit shipped for animal feed is also exempt under specific conditions. Fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule will finalize the relaxation of the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under Section 944.106 (7 CFR 944.106), as reinstated on July 26, 1993 (58 FR 39428, July 23, 1993). This rule finalizes the relaxation of the minimum size requirements for imported red seedless grapefruit to 3–5/16 inches in diameter (size 56) for the period November 13, 1995, through November 10, 1996, to reflect the relaxation being made under the order for grapefruit grown in Florida. The minimum grade and size requirements for Florida grapefruit are specified in Section 905.306 (7 CFR 905.306) under Marketing Order No. 905.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

Based on these considerations, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that finalizing this interim final rule without change, as published in the **Federal Register** (60 FR 58497, November 28, 1995) as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR parts 905 and 944 are amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 905 which was published at 60 FR 58497 on November 28, 1995, is adopted as a final rule without change.

PART 944—FRUITS; IMPORT REGULATIONS

Accordingly, the interim final amending 7 CFR part 944 which was published at 60 FR 58497 on November 28, 1995, is adopted as a final rule without change.

Dated: January 25, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–2066 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 945

[FV95–945–2FIR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Modification of the Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which changed pack requirements and established marking requirements for Idaho-Eastern Oregon potatoes. These changes are expected to improve the marketing of such potatoes and increase returns to producers. These changes were recommended by the Idaho-Eastern Oregon Potato Committee (Committee), the agency responsible for local administration of the marketing order program. The rule also included several conforming changes to recognize that the marketing order regulates shipments of potatoes within, as well as outside, the production area.

EFFECTIVE DATE: This final rule becomes effective March 4, 1996.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724 or FAX (503) 326–7440; or Valerie L. Emmer, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 205–2829, or FAX (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 945 (7 CFR part 945), as amended, hereinafter referred to as the "order," regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of Idaho-Eastern Oregon potatoes that are subject to regulation under the order and approximately 1,600 producers in the production area. Small agricultural service firms, which include handlers of Idaho-Eastern Oregon potatoes, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A majority of potato handlers regulated under the order may be classified as small entities. A majority of producers may also be classified as small entities.

This rule finalizes an interim final rule which amended the handling regulation in § 945.341 by specifying that: (1) All cartons (except when used as master containers) be conspicuously marked as to size of the potatoes in the carton; (2) for all varieties, when 50-pound containers are marked with a count, size, or similar designation, the potatoes contained therein must meet the count, average count, and weight ranges established within the handling regulation; and (3) all Idaho-Eastern Oregon potatoes packed in cartons of any size (except when cartons are used as master containers) shall be U.S. No. 1 grade or better. The interim final rule also included several conforming changes to recognize that the order regulates shipments of potatoes within, as well as outside, the production area.

These changes were recommended by the Committee at its August 9, 1995, meeting. The Committee's recommendations are authorized pursuant to §§ 945.51 and 945.52 of the order. This rule will continue the improvement in the marketing of Idaho-Eastern Oregon potatoes and improve returns to producers.

A recent order amendment (60 FR 29724; June 5, 1995), added authority to § 945.52 to require accurate and uniform marking and labeling of containers in which Idaho-Eastern Oregon potatoes are shipped. With this authority in the order, the Committee recommended requiring that all cartons shall be conspicuously marked as to potato size; i.e., marked so that the potato size is noticeable on the carton. The Committee recommended this requirement to reduce confusion in the marketplace as to the size of the potatoes in cartons. While most cartons already are marked as to size, the Committee reported that there have been many instances when product size in unmarked cartons was misrepresented through the marketing chain; (e.g., 100-count size potatoes in 50-pound cartons being represented as 90-count size). This type of misrepresentation created market confusion, damaged buyer acceptance, and depressed prices. The marking requirement should continue in effect to prevent such problems.

In addition, the interim final rule changed the pack requirements in § 945.341(c). For several decades, the handling regulation specified that when long varieties of potatoes in 50-pound containers are marked with a count, size or similar designation, the potatoes contained therein must meet the count, average count and weight ranges established within the handling regulation. This benefitted buyers and sellers by reducing market confusion and misrepresentation related to the marking of count and weight ranges on 50-pound containers. In recent years, there has been an increase in the number of plantings of round varieties grown in the Idaho-Eastern Oregon production area. Therefore, the Committee recommended that this pack requirement, which the industry has found to be beneficial for long varieties, be extended to all varieties. The extension of the pack requirement to all varieties should be continued to further the marketing of potatoes from the production area.

The second aspect of the change in pack requirements recommended by the Committee was the establishment of a requirement that all Idaho-Eastern Oregon potatoes packed in cartons of any size (except when cartons are used as master containers) shall be U.S. No. 1 grade or better. Previously, the handling regulation required this only of potatoes packed in 50-pound cartons (except when used as master containers). Some buyers had indicated that a smaller carton size is more desirable than the 50-pound carton. Those buyers indicated that they need a smaller carton that takes up less storage space and is easier to lift and handle. However, those buyers still want to be provided with the same quality of potatoes; i.e., U.S. No. 1 grade or better. Previously, the grade of potatoes packed in other than 50-pound cartons had to be U.S. No. 2 grade or better. This finalization of change in the handling regulation reflects the industry's intention to provide a high quality product, regardless of carton size used. The change should remain in effect so that goal can be met.

Another order amendment revised § 945.9 to broaden the scope of the order to authorize regulating shipments of potatoes within, as well as outside, the production area. Conforming changes were made in § 945.341(d)(3) regarding inspection and certification procedures so these procedures cover all shipments of potatoes, not only shipments made outside the production area.

The changes to the handling regulation were published in the **Federal Register** as an interim final rule on November 24, 1995 (60 FR 57904). That rule provided that interested persons could file comments through December 26, 1995. No comments were received.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation and other available information, it is found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 945 is amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

Accordingly, the interim final rule amending 7 CFR part 945 which was published at 60 FR 57904 on November 24, 1995, is adopted as a final rule without change.

Dated: January 24, 1996.

Sharon Bomer Lauritsen

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–2065 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–02–P

Commodity Credit Corporation

7 CFR Part 1485

Agreements for the Development of Foreign Markets for Agricultural Commodities

AGENCY: Commodity Credit Corporation (CCC).

ACTION: Interim final rule.

SUMMARY: This interim final rule amends regulations implementing the Market Promotion Program (MPP) authorized by Section 203 of the Agricultural Trade Act of 1978. This rule revises procedural and documentation requirements pertaining to program participants' contracts with third parties. The rule also corrects an erroneous cross-reference.

DATES: This interim rule is effective on February 1, 1996. Comments must be received in writing by February 15, 1996 to be assured of consideration.

ADDRESSES: Sharon L. McClure, Director, Marketing Operations Staff, Foreign Agricultural Service, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250–1042.

FOR FURTHER INFORMATION CONTACT: Sharon L. McClure, (202) 720–5521.

SUPPLEMENTARY INFORMATION: This interim final rule is issued in conformance with Executive Order 12866. It has been determined to be significant for the purposes of E.O. 12866 and, therefore, has been reviewed by the Office of Mangement and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to the interim final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This rule has been reviewed under the Executive Order 12778, Civil Justice Reform. The rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The rule would not have retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

Background

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations.

On February 1, 1995, Commodity Credit Corporation ("CCC") published final rules governing the MPP. These new rules were applicable beginning with a participant's 1995 marketing year. Following publication, CCC participated with interested parties in five information sessions designed to familiarize participants with the new regulations and offer participants an additional opportunity to identify any problem areas. At these sessions, participants expressed concern that new regulatory requirements applicable to a participant's contracts with third parties imposed an undue administrative burden and, because of the relatively late announcement of 1995 MPP allocations, could significantly delay effective implementation of some participants' 1995 programs. Specifically, participants expressed concern regarding the requirements for a price or cost analysis for each contract, 7 CFR 1485.23(c)(2)(v), and for certain procedural requirements in the solicitation of bids, 7 CFR 1485.23(c)(2)(vi).

CCC agrees that these requirements may unnecessarily increase costs to participants and may delay implementation of many activities and thereby be detrimental to the operation of an efficient market development program. Consequently, this rule will eliminate the current requirements in 7 CFR 1485.23(c)(2)(vi) regarding specific procurement procedures. In addition, the regulation regarding price or cost analysis is revised to indicate that CCC is not requiring a specific type of analysis or formal procedure for such analysis. Rather, the regulation makes it clear that various types of informal analysis should suffice, *e.g.*, a simple comparison of price quotes with present market conditions. In this way, CCC requires the participant to act in a reasonable manner when entering into obligations to be reimbursed with project funds, without imposing any undue administrative burden on the participant.

This rule also revises an erroneous cross-reference presently in § 1485.16(c)(24).

Information Collection Requirements

The amendment set forth in this interim final rule does not impose any new reporting or record keeping requirements. The information collection requirements for participating in the MPP were approved for use by the Office of Management and Budget under OMB control number 00551–0027.

List of Subjects in 7 CFR Part 1485

Agricultural commodities, Exports.

PART 1485—AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

1. The authority citation for Part 1485 continues to read:

Authority: 7 U.S.C. 5623, 5662–5664 and sec. 1302, Pub. L. 103–66, 107 Stat. 330.

Subpart B—Market Promotion Program

2. Section 1485.16(c)(24) is revised to read as follows:

§ 1485.16 Reimbursement rules.

* * * * *

(c) * * *

(24) Generic commodity promotions (see § 1486.16(f));

* * * * *

3. Section 1485.23 is amended by revising paragraph (c)(2)(v) to read as follows and by deleting paragraph (c)(2)(vi):

§ 1485.23 Miscellaneous provisions.

* * * * *

(c) * * *

(2) * * *

(v) Perform some form of price or cost analysis such as a comparison of price quotations to market prices or other price indicia, to determine the reasonableness of the offered prices.

* * * * *

Signed at Washington, DC, this 25th day of January 1996.

August Schumacher, Jr.,

Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 96–1206 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–10–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, 105, 109, 110 and 114

[Notice 1996–3]

Document Filing

AGENCY: Federal Election Commission.

ACTION: Final rule; Technical amendments.

SUMMARY: On December 28, 1995, the President signed a bill that amended the Federal Election Campaign Act of 1971 ("FECA" or "Act") to improve the electoral process, *inter alia*, by requiring candidates, and the authorized committees of the candidates, to the United States House of Representatives ("House") to file campaign finance reports with the Federal Election Commission. The Commission today is publishing technical amendments to conform its regulations to the statute.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Teresa A. Hennessy, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The FECA governs, *inter alia*, the filing of campaign finance reports by candidates for Federal office. 2 U.S.C. 432(g). As amended in 1979, the FECA required that all designations, statements, and reports required to be filed under the Act by a candidate, authorized committee(s) of the candidate, or principal campaign committee of the candidate for the House be filed with the Clerk of the House as custodian for the Commission. The FECA specified that a House candidate includes a candidate for the Office of Representative in, or Delegate or Resident Commissioner to, the Congress. Federal Election Campaign Act Amendments of 1979, Public Law No. 96–187, section 102, 93 Stat. 1339, 1346, codified at 2 U.S.C. § 432(g)(1). At 11 CFR 105.1, the Commission implemented this requirement and provided that all other reports by committees that support only candidates to the House be filed with the Clerk of the House.

On December 28, 1995, Public Law No. 104–79, 109 Stat. 791 (1995) amended the FECA to require that these reports instead be filed with the Federal Election Commission. See Section 3. The new law made no changes to the filing requirements for candidates to the United States Senate. The law became effective with the first reports required to be filed after December 31, 1995. However, since the law was enacted shortly before this date, under agreement with the Clerk, authorized committees of candidates for the House will file year-end reports for 1995 with the Clerk. The Clerk will date stamp and forward these reports to the Commission. Thereafter, the candidates and committees formerly filing with the Clerk will file all documents required to be filed under FECA with the Commission.

Therefore, the Commission is publishing this Notice to make necessary technical and conforming amendments to its regulations. The Notice amends 11 CFR 105.1 to conform to the statute and includes conforming amendments to several provisions that refer to the regulation: 11 CFR 100.5(e)(3)(i), 104.3(e)(5), 104.4(c)(3), 104.5(f), 104.14(c), 104.15(a), 105.4, 105.5, 109.2(a), 110.6(c)(1) (i) and (ii), and 114.6 (d)(3)(i) and (d)(5). Please note that the sale or use restriction on information in campaign finance reports, set forth at 11 CFR 104.15(a), still would apply to all reports, including those previously filed with the Clerk.

Because the amendments are merely technical, they are exempt from the notice and comment requirements of the Administrative Procedure Act. *See* 5 U.S.C.553(b)(B). They are also exempt from the legislative review provisions of the FECA. *See* 2 U.S.C. § 438(d). These exemptions allow the amendments to be made effective immediately upon publication in the **Federal Register**. As a result, these amendments are made effective on February 1, 1996.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

I certify that the attached final rule will not have a significant economic impact on a substantial number of small entities. The basis of this certification is that the rule is necessary to conform to the Act and that the rule changes only the location of filing reports. Therefore, no significant economic impact is caused by the final rule.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 105

Campaign funds, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 109

Elections, Reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 114

Business and industry, Elections, Labor.

For the reasons set out in the preamble, subchapter A, chapter I, title 11 of the Code of Federal Regulations is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

§ 100.5(e)(3)(i) [Amended]

2. Section 100.5(e)(3)(i) is amended by removing ", Clerk of the House".

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

3. The authority citation for Part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), 438(b).

§ 104.3(e)(5) [Amended]

4. Section 104.3(e)(5) is amended by removing all references to "Clerk of the House of Representatives," and by removing the comma after "Secretary of the Senate" in the first and third sentences.

§ 104.4(c)(3) [Amended]

5. Section 104.4(c)(3) is amended by revising all references to "Clerk of the House" to read "Federal Election Commission".

§ 104.5(f) [Amended]

6. Section 104.5(f) is amended by removing "the Clerk of the House,".

§ 104.14(c) [Amended]

7. Section 104.14(c) is amended by removing ", the Clerk of the House,".

§ 104.15(a) [Amended]

8. Section 104.15(a) is amended by revising "with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent State officer" to read "under the Act".

PART 105—DOCUMENT FILING (2 U.S.C. 432(g))

9. The authority citation for Part 105 continues to read as follows:

Authority: 2 U.S.C. 432(g), 438(a)(8).

10. Section 105.1 is revised to read as follows:

§ 105.1 Place of filing; House candidates and their authorized committees (2 U.S.C. 432(g)(1)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR parts 101, 102, and 104 by a candidate for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, or by his or her authorized committee(s), shall be filed in original form with, and received by, the Federal Election Commission.

§ 105.4 [Amended]

11. Section 105.4 is amended by removing "105.1," and by removing the comma after "105.2".

12. Section 105.5 is revised to read as follows:

§ 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Secretary of the Senate to the Commission (2 U.S.C. 432(g)(3)).

(a) Either a microfilmed copy or photocopy of all original designations, statements, reports, modifications or amendments required to be filed pursuant to 11 CFR 105.2 shall be transmitted by the Secretary of the Senate to the Commission as soon as possible, but in any case no later than two (2) working days after receiving such designations, statements, reports, modifications, or amendments.

(b) The Secretary of the Senate shall then forward to the Commission a microfilm copy and a photocopy of each designation, statement, and report, or any modification or amendment thereto, filed with the Secretary pursuant to 11 CFR 105.2.

(c) The Secretary of the Senate shall place a time and date stamp on each original designation, statement, report, modification or amendment received.

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

13. The authority citation for Part 109 continues to read as follows:

Authority: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

§ 109.2(a) [Amended]

14. Section 109.2(a) is amended by removing ", the Clerk of the House".

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

15. The authority citation for Part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

§ 110.6(c)(1) (i) and (ii) [Amended]

16. Section 110.6 is amended by removing ", the Clerk of the House of Representatives," from paragraph (c)(1)(i) and by removing ", Clerk" from paragraph (c)(1)(ii).

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

17. The authority citation for Part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8),438(a)(8), and 441b.

§ 114.6(d)(3)(i) and (d)(5) [Amended]

18. Section 114.6 is amended by removing ", the Clerk of the House" from paragraph (d)(3)(i) and by removing ", the Clerk of the House," from paragraph (d)(5).

Dated:January 26, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–1972 Filed 1–31–96; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–276–AD; Amendment 39–9496; AD 96–03–01]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This action requires inspections of the lower engine mount to determine if the tangential link upper bolt and nut are oriented properly, and if the tangential link upper bolt nut is torqued within certain limits. This action also requires replacement of the bolt and nut with serviceable parts, if necessary, and requires certain follow-on actions for airplanes on which the upper bolt is missing. Terminating action is also provided by this AD. This amendment is prompted by reports of migration of bolts completely from the tangential link of the aft engine mount, a condition which would reduce the capability of the retention system for the engine. The actions specified in this AD are intended to prevent separation of the engine from the airplane due to migration of the tangential link upper bolt.

DATES: Effective February 16, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 16, 1996.

Comments for inclusion in the Rules Docket must be received on or before April 1, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–276–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tammy L. Dow, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2771; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Recently, the FAA received reports indicating that the upper bolt and nut of the tangential link of the aft engine on Model 747 airplanes were found to have migrated out of proper position. In three cases, the bolt had completely backed out of the hole. Analysis conducted by the manufacturer demonstrated that the nuts used to secure the bolts may not provide adequate run-on torque. Additionally, there was evidence that lubricants were used on the threads of some of the bolts. These conditions can allow the nut to rotate and disengage from the bolt. With no nut or other retention for the bolt, normal vibration causes the bolt to loosen and migrate out of the tangential link. Loss of the bolt would reduce the capability of the engine retention system, and could result in cracking of the engine turbine exhaust case due to the increased load. This condition, if not corrected, could result in separation of the engine from the airplane.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–71A2277, dated November 29, 1995, which describes procedures for repetitive inspections of the lower engine mount to verify if the tangential link upper bolt nut is properly oriented and to verify that the tangential link upper bolt nut is torqued within certain limits. Additionally, the service bulletin describes procedures for the replacement of the bolt and nut with serviceable parts, if necessary. The alert service bulletin also describes certain other follow-on procedures for airplanes on which the tangential link upper bolt is missing. Those procedures involve a visual inspection to detect damage and deformation of the lower engine mount lugs that attach the affected safety link; magnetic particle inspections to detect cracking of the lower engine mount lugs; detail visual inspections to detect cracking, bulging, discoloration, and corrosion of the engine mounts and adjacent structures; and replacement of the lower engine mount fittings with serviceable parts, if necessary; installation of new safety links, bolts, and nuts; and installation of the tangential link upper bolt.

The FAA also has reviewed and approved Boeing Service Bulletin 747–71–2206, Revision 1, dated November 12, 1987 (as revised by Boeing 747 Notice of Status Change No. 747–71–2206 NSC 1, dated December 4, 1987, and Boeing 747 Notice of Status Change No. 747–71–2206 NSC 2, dated March 17, 1988). This service information describes procedures for replacement of the safety links with modified safety links. Accomplishment of this replacement eliminates the need for repetitive inspections of lower engine mount bolt and nut.

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 747 series airplanes of the same type design, this AD is being issued to prevent possible separation of the engine from the airplane due to consequences associated with the complete migration of the tangential link upper bolt. This action requires repetitive visual inspections to verify if the tangential link upper bolt is correctly oriented; inspections to determine if the tangential link upper bolt nut is torqued within certain limits; and replacement of the bolt and nut with serviceable parts, if necessary. This action also requires certain other follow-on procedures for airplanes on which the tangential link upper bolt is missing. Additionally, this AD provides for replacement of the safety links as optional terminating action for the repetitive inspection requirements. The actions are required to be accomplished in accordance with the service bulletins described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

This is considered to be interim action. Once final action is identified, the FAA may consider further rulemaking.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–276–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–01 Boeing: Amendment 39–9496. Docket 95–NM–276–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–71A2277, dated November 29, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the

current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the engine from the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD in accordance with Boeing Alert Service Bulletin 747–71A2277, dated November 29, 1995.

(1) Perform a visual inspection to ensure that installation of the tangential link upper bolt nut is on the forward side of the engine mount fitting.

(i) If the tangential link upper bolt nut is installed on the forward side of the engine mount fitting, repeat the visual inspection at intervals not to exceed 18 months.

(ii) If the tangential link upper bolt is not installed on the forward side of the engine mount fitting, prior to further flight, remove the nut, bolt, and washers and reinstall the nut, bolt, and washers in accordance with the alert service bulletin. Thereafter, repeat the visual inspection at intervals not to exceed 18 months.

(iii) If the tangential link upper bolt is missing from the engine mount fitting, prior to further flight, perform the various follow-on actions in accordance with the alert service bulletin. (The follow-on actions include visual inspections, magnetic particle inspections, replacement of the lower engine mount fitting with a serviceable part, if necessary; installation of new safety links, bolts, and nuts; and installation of a new tangential link upper bolt.) Thereafter, repeat the visual inspection at intervals not to exceed 18 months.

(2) Perform an inspection to verify that the torque value of the tangential link upper bolt (on both sides of the mount) is within the limits specified in the alert service bulletin.

(i) If the torque value of the tangential link upper bolt nut is within the limits specified in the alert service bulletin, repeat the inspection (verification) at intervals not to exceed 18 months.

(ii) If the torque value of the tangential link upper bolt nut is outside the limits specified in the alert service bulletin, prior to further flight, perform a visual inspection of the tangential link upper bolt and washer for any damage or discrepancy, in accordance with the alert service bulletin.

(A) If no damage or discrepancy of the tangential link upper bolt and washers is found, prior to further flight, replace the bolt nut with a new or serviceable part in accordance with the alert service bulletin. Thereafter, repeat the inspection (verification) specified in paragraph (a)(2) of this AD at intervals not to exceed 18 months.

(B) If any damage or discrepancy of the tangential link upper bolt and washers is found, prior to further flight, replace the damaged or discrepant part with a new or serviceable part, and replace the bolt nut with a new or serviceable part, in accordance with the alert service bulletin. Thereafter, repeat the inspection (verification) specified in paragraph (a)(2) of this AD at intervals not to exceed 18 months.

(b) Replacement of the safety links with modified safety links in accordance with Boeing Service Bulletin 747–71–2206, dated April 16, 1987; or Boeing Service Bulletin 747–71–2206, Revision 1, dated November 12, 1987, as revised by Boeing Notice of Status Change No. 747–71–2206 NSC 1, dated December 4, 1987, and Boeing Notice of Status Change No. 747–71–2206 NSC 2, dated March 17, 1988; constitutes terminating action for the repetitive inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections, replacement, and follow-on actions shall be done in accordance with Boeing Alert Service Bulletin 747–71A2277, dated November 29, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 16, 1996.

Issued in Renton, Washington, on January 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1572 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–02–AD; Amendment 39–9497; AD 96–03–02]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This action requires inspections to detect cracking and corrosion of the aft trunnion of the outer cylinder of the main landing gear (MLG) and various follow-on actions. This action provides for termination of the inspections by repairing the outer cylinder and installing new aft trunnion bushings. This amendment is prompted by a report of the collapse of the right MLG due to fracture of the aft trunnion outer cylinder. The actions specified in this AD are intended to prevent the collapse of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder.

DATES: Effective February 16, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 16, 1996.

Comments for inclusion in the Rules Docket must be received on or before April 1, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2783; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA recently received a report of the collapse of the right main landing gear (MLG) of a Boeing Model 767–300ER airplane while the airplane was taxiing in a low speed right-hand turn. Investigation revealed that the cause of the collapse of the MLG was attributed to the fracture of the aft trunnion outer cylinder due to stress corrosion cracking. The cracking initiated at the crossbolt hole, which is approximately five inches from the aft trunnion bushing flange. This condition, if not corrected, could result in the collapse of the MLG due to ductile fracture of the aft trunnion of the outer cylinder.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995. The alert service bulletin places affected airplanes into three categories:

- Category 1 airplanes have outer cylinders of the MLG that have accumulated 2½ years or less since the cylinder was new or overhauled.
- Category 2 airplanes have outer cylinders of the MLG that have accumulated between 2½ years and 4 years since new or overhauled.
- Category 3 airplanes have outer cylinders of the MLG that have accumulated 4 years or more since new or overhauled.

This categorization reflects the time-related phenomenon of corrosion; i.e., the risk of developing corrosion (or stress corrosion cracking) increases with the length of time that an outer cylinder has been in service. Therefore, Category 3 comprises airplanes that are generally at the greatest risk of experiencing stress corrosion cracking .

The alert service bulletin describes the procedures necessary for performing various visual, eddy current, and ultrasonic inspections; and when appropriate, for performing chemical spot testing of the aft trunnion of the outer cylinder of the MLG (hereinafter referred to as the "aft trunnion"). It also includes the following actions for all three categories of airplanes:

1. replacement of the outer cylinder, if cracking is found;
2. replacement of the aft trunnion bushing and crossbolt bushings; or repeat the visual, eddy current, and ultrasonic inspections of the immediate area in which corrosion is found in the aft trunnion;
3. application of plating and finish to the outer cylinder, if the finish is found to be damaged or missing;
4. functional testing of the lock link actuator;
5. repetitive visual inspections, or termination of the inspections by repairing the outer cylinder and installing flangeless aft trunnion bushings and new crossbolt bushings;
6. repetitive 360-degree close visual inspection of the aft trunnion, including the crossbolt area;
7. application of corrosion inhibiting compound on the aft trunnion; and
8. eventual repair of the outer cylinder and replacement of the existing aft trunnion and crossbolt bushings with new bushings, which terminates the inspections specified in the alert service bulletin.

The alert service bulletin refers to Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, which describes procedures for repair of the outer cylinder and replacement of the existing bushings of the aft trunnion and crossbolt of the MLG with new bushings. The FAA has also reviewed and approved this alert service bulletin.

Since an unsafe condition has been identified that is likely to exist or develop on other Model 767 series airplanes of the same type design, this AD is being issued to prevent the collapse of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder. This AD requires various inspections to detect cracking and corrosion of the aft trunnion and various follow-on actions. The actions are required to be accomplished in accordance with Boeing Alert Service Bulletin 767–32A0151, described previously.

The compliance times for accomplishing these inspections are dependent upon the age of the outer cylinders of the MLG. Category 3 airplanes, which have the oldest cylinders, are to be inspected within 30 days (the alert service bulletin recommends inspecting these airplanes within 60 days). Category 2 airplanes are to be inspected within 90 days (the alert service bulletin recommends inspecting these airplanes within 120 days). Category 1 airplanes, which have the youngest cylinders, are to be inspected within 150 days (the alert service bulletin recommends inspecting these airplanes within 180 days).

In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, the availability of required parts, and the practical aspects of performing the inspections. The FAA points out that the varying compliance times allow the manufacturer sufficient time to produce all the eddy current probes, ultrasonic transducers, and non-destructive inspection (NDI) reference standards that operators need to accomplish the inspections. Further, the FAA took into account the compliance times recommended by the manufacturer, as well as the number of days required for the rulemaking process; in consideration of these factors, the FAA finds that the compliance times required by this AD will fall approximately at the same time as those recommended by the manufacturer.

Operators should note that, although Boeing Alert Service Bulletin 767–32A0151 specifies eventual repair of the outer cylinder and replacement of the existing bushings with new bushings, this AD does not require such replacement. The FAA is considering further rulemaking action to require eventual replacement of the bushings. However, the planned compliance time for the replacement is sufficiently long so that prior notice and time for public comment will be practicable.

This AD does provide operators with the option of terminating the requirement for the repetitive inspections by replacing the bushings with new bushings in accordance with Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995. Accomplishment of this bushing replacement also terminates the requirements of the following AD's:

- AD 95–19–10, amendment 39–9372 (60 FR 47689, September 14, 1995), and
- AD 95–20–51, amendment 39–9398 (60 FR 53109, October 12, 1995). [The comment period for AD 95–20–51 was extended by an AD action that was issued on November 28, 1995 (60 FR 62321, December 6, 1995.)]

Operators should also note that Boeing Alert Service Bulletin 767–32A0148 refers to Component Maintenance Manual (CMM) 32–11–40, which, in turn, provides instructions for plugging the aft trunnion lubrication fitting with a rivet. This AD, however, does not require plugging this lube fitting to terminate the requirements of this AD, AD 95–19–10, or AD 95–20–51.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and

suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–02–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–02 Boeing: Amendment 39–9497. Docket 96–NM–02–AD.

Applicability: Model 767 series airplanes having line numbers 001 through 609, on which the terminating action described in paragraph (e) of this AD has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the collapse of the main landing gear (MLG) due to stress corrosion cracking of the aft trunnion of the outer cylinder, accomplish the following:

(a) Perform the inspections described in Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, to detect cracking and corrosion of the aft trunnion of the outer cylinder of the MLG at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable. These inspections are to be accomplished in accordance with Figure 1 of that alert service bulletin. Repeat these inspections thereafter at the intervals specified in that alert service bulletin. To determine the category in which an airplane falls, the age of the outer cylinder of the MLG is to be calculated as of the effective date of this AD. For airplanes on which the age of the right MLG differs from the age of the left MLG, an operator may place the airplane into a category that is the higher (numerically) of the two categories to ease its administrative burden, and to simplify the recordkeeping requirements imposed by this AD. Once the category into which an airplane falls is determined, operators must obtain approval from the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, to move that airplane into another category.

Note 2: The broken (dash) lines used in Figure 1 of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, denote "go to" actions for findings of discrepancies detected during any of the inspections required by this AD.

Note 3: Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, refers to Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, for procedures to repair the outer cylinder and replace the bushings in the outer cylinder of the MLG with new bushings.

(1) For airplanes identified as Category 3 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections within 30 days after the effective date of this AD.

(2) For airplanes identified as Category 2 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections within 90 days after the effective date of this AD.

(3) For airplanes identified as Category 1 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections prior to the accumulation of 2½ years since the MLG outer cylinder was new or overhauled, or within 150 days after the effective date of this AD, whichever occurs later.

(b) If no cracking or corrosion is detected, accomplish the follow-on actions described in the Boeing Alert Service Bulletin 767–32A0151, November 30, 1995, at the time specified in the alert service bulletin. These follow-on actions are to be accomplished in accordance with that alert service bulletin.

(c) If any cracking is detected, prior to further flight, replace the outer cylinder with a new or serviceable outer cylinder in accordance with Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995.

(d) If any corrosion is detected, accomplish the follow-on actions at the time specified in the "Corrosion Flowchart," in Figure 1 of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995. The follow-on actions are to be accomplished in accordance with that alert service bulletin.

(e) Repair of the outer cylinder and replacement of the bushings in the aft trunnion and crossbolt of the MLG with new bushings in accordance with Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, constitutes terminating action for the inspection requirements of this AD, and for the requirements of AD 95–19–10, amendment 39–9372, and AD 95–20–51, amendment 39–9398. Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, refers to Component Maintenance Manual (CMM) 32–11–40. Operators should note that, although the CMM specifies plugging the aft trunnion lubrication fitting with a rivet, this AD does not require plugging the lube fitting to terminate the requirement of this AD, AD 95–19–10, or AD 95–20–51.

(f) Accomplishment of the requirements of this AD is considered acceptable for compliance with AD 95–19–10, amendment 39–9372, and AD 95–20–51, amendment 39–9398.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) The inspections and follow-on actions shall be done in accordance with Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995. Certain replacements and repairs shall be done in accordance with Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on February 16, 1996.

Issued in Renton, Washington, on January 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1568 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 799

[Docket No. 960111006–6006–01]

RIN 0694–AB29

Revision to the Commerce Control List: Items Controlled for Nuclear Nonproliferation Reasons, Addition of Argentina, New Zealand, Poland, South Africa, and South Korea to GNSG Eligible Countries

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to the Export Administration Regulations. The items on the CCL that are subject to nuclear nonproliferation controls are referred to as the Nuclear Referral List (NRL). This interim rule amends a number of Export Control Classification Numbers (ECCNs) on the CCL in order to make the NRL conform more closely with the items contained in the Annex to the "Nuclear-Related Dual-Use Equipment, Materials, and Related Technology List" (the Annex) published by the International Atomic Energy Agency and adhered to by the United States and other subscribing governments in the Nuclear Suppliers Group.

In addition, this rule removes Poland from General License GNSG national security item country restrictions. In May 1994, Poland was moved from Country Group W to Country Group V to conform with changes in licensing policies for national security-based proscribed countries.

Lastly, this rule adds Argentina, New Zealand, South Africa and South Korea to the countries that are eligible to receive exports under General License GNSG, because they were admitted to the Nuclear Suppliers Group. The subscribing governments have agreed to establish export licensing procedures for the transfer of items identified on the Annex.

While some of the changes in this rule increase the validated license requirements for certain commodities and technology, the fact that other member countries of the Nuclear Suppliers Group have agreed to implement equivalent export licensing procedures for these items and the addition of GNSG eligible countries should limit the economic impact on U.S. exporters.

DATES: This rule is effective February 1, 1996. Comments must be received by March 4, 1996.

ADDRESSES: Written comments (six copies) should be sent to Sharron Cook, Department of Commerce, Bureau of Export Administration, Office of Exporter Services, Regulation Policy Division, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: For questions of a general nature, call Sharron Cook, Regulatory Policy Division, at (202) 482–2440.

For questions of a technical nature, the following persons in the Bureau of Export Administration are available:

Category 1: Jeff Tripp—(202) 482–4188
Category 2: George Loh—(202) 482–3570
Category 3: Robert Lerner—(202) 482–3710
Category 4: Joseph Young—(202) 482–4197
Category 5: Dale Jensen—(202) 482–4188
Category 6: Joseph Chuchla—(202) 482–4188
Categories 7, 8 and 9: Steve Clagett—(202) 482–4188

SUPPLEMENTARY INFORMATION:

Background

This rule amends a number of entries on the Commerce Control List (CCL) by revising the items that are subject to nuclear non-proliferation controls, i.e., the Nuclear Referral List (NRL). As more fully described in § 778.2 of the EAR, NRL items are defined as those "that could be of significance for nuclear explosive purposes if used for activities other than those authorized at the time of export". The changes made by this rule are intended to revise the NRL to conform more closely with the items contained in the Annex to the "Nuclear-Related Dual-Use Equipment, Materials, and Related Technology List" (the Annex), as published by the International Atomic Energy Agency in INFCIRC/254/Part 2. The adherents to INFCIRC/254/Part 2, which include the Nuclear Suppliers Guidelines, have agreed to establish export licensing procedures for the transfer of items identified in the Annex.

In addition, this rule removes Poland from General License GNSG national security item country restrictions. There are some ECCNs that have both National Security (NS) and Nuclear Proliferation (NP) reasons for control. For these ECCNs, GNSG eligibility stated "Yes, except Bulgaria, Poland, Romania, or Russia", i.e., all NP items in that ECCN were eligible for General License GNSG to all GNSG eligible countries, except Bulgaria, Poland, Romania, or Russia. Although Poland is a NSG member, the more restrictive control, in this case NS, was applied. In May 1994, Poland was moved from Country Group W to Country Group V to conform with changes in licensing policies for proscribed countries. Therefore, NS reasons for control no longer apply to Poland and GNSG privileges now extend to all ECCNs that have both NS and NP controls for Poland.

Lastly, this rule will add Argentina, New Zealand, South Africa, and South Korea to the countries that are eligible to receive exports under General License GNSG, because they were admitted to the Nuclear Suppliers Group. General License GNSG permits certain items subject to nuclear nonproliferation controls to be exported under general license to a number of countries whose governments have subscribed to the Annex to the "Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material,

and Related Technology" (the Annex) published by the International Atomic Energy Agency and adhered to by the United States and other subscribing governments. The subscribing governments have agreed to establish export licensing procedures for the transfer of items identified on the Annex.

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before February 15, 1996 may be exported under the previous general license provisions up to and including February 29, 1996. Any such items not actually exported before midnight, February 29, 1996, require a validated export license in accordance with this regulation.

Summary of ECCNs Added and Revised by This Rule

The following listing is intended to serve as a guide to the revisions to the Commerce Control List contained in this rule. It is not a complete summary of all the CCL changes made by this rule. Specific questions concerning these changes should be answered by referring to the actual entries in the CCL.

I. The following ECCNs are amended to revise the items subject to nuclear nonproliferation controls (Unless specifically stated the scope of the ECCN is not revised):

1A46B Aluminum and titanium alloys in the form of tubes or solid forms; a clarification to scope of control of solid forms was added

1B16A Plants for the production of uranium hexafluoride (UF_6) and specially designed or prepared equipment (including UF_6 purification equipment); Poland was added to GNSG eligibility

1B17 Electrolytic cells for the production of fluorine with a production capacity greater than 250 grams of fluorine per hour; Poland was added to GNSG eligibility

1B50B Furnaces; the ECCN title is expanded to include "(inert gas) induction" furnaces and clarifications are added that define which furnaces are controlled in paragraph (a)—result will be a decrease in scope of controls

1B51B Pressure sensing elements/measuring instruments; the entry was restructured to remove controls on differential pressure transducers and stainless steel was removed as a material of construction—result will be a decontrol in these areas

1B52B Water-hydrogen sulfide exchange tray columns; materials of construction is clarified

1B53B Hydrogen-cryogenic distillation columns; materials of construction is clarified

1B54B Ammonia synthesis converters; clarification is made to the entry and a technical note is removed

1B58B Facilities or plants for prod/recovery/extract/concentration/handling of tritium; the entry is reorganized for better clarity

1C10A "Fibrous and filamentary materials" that may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates; Poland is added to GNSG eligibility and GCT is corrected to state "Yes, except NP items"

1C19A Items on the International Atomic Energy List (e.g., zirconium, nickel powder, lithium, beryllium, wet-proofed platinized catalysts, hafnium); Poland is added to GNSG eligibility; the scope is narrowed by applying the hafnium content parameter to all entries of Zirconium in paragraph (a); in paragraph (b), pertaining to porous nickel metal, the exception is increased from 930 cm^2 to 1000 cm^2 per sheet and a technical note is revised; and in paragraph (d), an exception for bore-hole logging devices and Beryl (silicate of beryllium and aluminum) in the form of emeralds or aquamarines is added—the result of these changes will be a decrease in licensing requirements

1C50B Fibrous and filamentary materials not controlled by 1C10; an exception for certain aramid "fibrous or filamentary materials" is added—result will be a decrease in licenses; the controls on prepregs is clarified; and definitions are added to the technical note

1C54B Alpha-emitting radionuclides; minor clarifications are made to the entry

1C55B Helium isotopically enriched in the helium-3 isotope; the entry is restructured for clarification purposes

1C58B Radium-226; the entry is restructured for clarification purposes

1D01A "Software" specially designed or modified for the "development", "production", or "use" of equipment controlled by 1B01, 1B02, 1B03, 1B16, 1B17, or 1B18; Poland is added to GNSG eligibility

1E01A Technology according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 1A01.b, 1A01.c, 1A02, 1A03, 1B01, 1B02, 1B03, 1B18, 1C01, 1C02, 1C03, 1C04, 1C05, 1C06, 1C07, 1C08, 1C09, 1C10, or 1C18; Poland is added to GNSG eligibility

1E19A Technology according to the General Technology Note for the "development", "production", or "use" of equipment or materials controlled by 1B16, 1B17, or 1C19; Poland is added to GNSG eligibility

1E41B Technology for items controlled by 1A44, 1A45, 1A46, 1A47, 1A50, 1B41, 1B42, 1B50, 1B51, 1B52, 1B53, 1B54, 1B58, 1B59, 1C48, 1C49, 1C50, 1C51, 1C52, 1C53, 1C54, 1C55, 1C56, 1C57, or 1C58; 1B55 and 1B57 are added to entry title to reflect new ECCNs

2A19A Commodities on the International Atomic Energy List (e.g., power generating and/or propulsion equipment, neutron generator systems, and valves for gaseous diffusion separation process); Poland is added to GNSG eligibility

2A48B Valves not controlled by 2A19.c that are made of or lined with aluminum, aluminum alloy, nickel, or alloy containing 60 percent or more nickel; revisions are made to the title and technical note for clarification purposes

2A50B Equipment related to nuclear material handling and processing and to nuclear reactors; in paragraph (c), a clarification is made to the parameters; in paragraph (e), the paragraph is restructured and a note added for clarification purposes

2A52B Vacuum pumps; the title is corrected, and a technical note added for clarification

2B01A "Numerical control" units, "motion control boards" specially designed for "numerical control" applications on machine tools, machine tools, and specially designed components therefor; Poland is added to GNSG eligibility and a note added to the Requirement section

2B06A Dimensional inspection or measuring systems or equipment; Poland is added to GNSG eligibility and a note added to the Requirement section

2B07A Robots, controllers, and end-effectors; Poland is added to GNSG eligibility

2B08A Assemblies, units or inserts for machine tools; NP controls have been removed because of NSG October 1995 agreement on machine tools

2B09A Specially designed printed circuit boards with mounted components and software therefor, or "compound rotary tables" or "tilting spindles", capable of upgrading, according to the manufacturer's specifications, "numerical control" units, machine tools or feed-back devices to or above the levels specified in ECCNs 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, and 2B08; NP controls have been removed because of NSG October 1995 agreement on machine tools

2B41B "Numerically controlled" machine tools not controlled by ECCN 2B01A; turning capacity parameter has been increased from 2m to 2.5m

2B50B Spin-forming and flow-forming machines; a new parameter and note are added to clarify the scope of control and the scope of GNSG eligibility is amended to reflect the clarifying revisions made to the list of items controlled

2D01A Software for equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09; Poland is added to GNSG eligibility and GNSG eligibility is clarified to include revisions made by this rule

2D19A "Software" for the "development", "production", or "use" of equipment controlled by 2A19; Poland is added to GNSG eligibility

2D50B Software for the equipment controlled by 2A50B or 2B50B; GNSG eligibility is clarified

2E01A Technology according to the General Technology Note for the "development" of equipment or "software" controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, 2B09, 2D01, or 2D02; Poland is added to GNSG eligibility

2E02A Technology according to the General Technology Note for the "production" of equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09; Poland is added to GNSG eligibility

2E03A Other technology; Poland is added to GNSG eligibility

2E19A Technology for the "development", "production", or "use" of equipment controlled by 2A19; Poland is added to GNSG eligibility

2E50B Technology for the equipment controlled by 2A50B or 2B50B; the Reason for control is corrected to include MT controls; and NP and MT notes are added for clarification

3A01A Electronic devices and components; Poland is added to GNSG eligibility

3D01A "Software" specially designed for the "development" or "production" of equipment controlled by 3A01.b to 3A01.f, 3A02, and 3B01; Poland is added to GNSG eligibility

3E01A Technology according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 3A01, 3A02, 3B01, 3C01, 3C02, 3C03, or 3C04; Poland is added to GNSG eligibility

6A03A Cameras; Poland is added to GNSG eligibility

6A05A "Lasers", components and optical equipment; Poland is added to GNSG eligibility

6A43B Cameras and components not controlled by 6A03—includes radiation-hardened television cameras; paragraphs (a) and (c) are restructured and a note added to paragraph (a) for clarification

6E01A Technology according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, 6C05, 6D01, 6D02, or 6D03; Poland is added to GNSG eligibility

6E02A Technology according to the General Technology Note for the "production" of equipment or materials controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, or 6C05; Poland is added to GNSG eligibility

9B26B Other vibration test equipment; the reason for controls is corrected to add NP controls which was inadvertently omitted in a previous rule; NP controls are increased by adding all of paragraph (a) to the NP scope—the result will not be an increase in licensing, because these entries are already controlled for MT reasons; and a NP note is clarified

II. The following new ECCNs are added to control items listed in the Annex, but not previously controlled on the CCL:

1B55B Turboexpanders or turboexpander-compressor sets designed for operation below 35K and a throughput of hydrogen gas of 1000 kg/hr or greater

1B57B Lithium isotope separation facilities, plants and equipment.

III. Although Commerce will retain unilateral nuclear nonproliferation controls on the following items, the United States Government will continue to urge multilateral adoption of comparable controls. Please note that ECCNs 2A49E, 2A50B, 2D49E, and 2E49E are the only entries revised in this list.

1A48B Depleted uranium

2A49E The following items, previously requiring a validated license to Country Groups S&Z, South African military and police, and countries listed in Supplement No. 4 to Part 778, now only require a validated license to Country Groups S, Z and countries listed in Supplement No. 4 to Part 778: Generators, turbine generator sets, steam turbines, heat exchangers, and heat exchanger type condensers and process control systems therefor

2A50B Reactor and power plant simulators and analytical models for reactor and power plant simulators; in paragraph (c), clarification to parameters; in paragraph (e), restructured and note added for clarification

2A51B Piping, fittings, and valves made of, or lined with, stainless steel, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium

2A53B Pumps designed to move molten metals by electromagnetic forces

2D49E The following items, previously requiring a validated license to Country Groups S & Z, South African military and police, and countries listed in Supplement No. 4 to Part 778, now only require a validated license to Country Groups S, Z and countries listed in Supplement No. 4 to Part 778: Software for equipment controlled by 2A49E

2E49E The following items, previously requiring a validated license to Country Groups S & Z, South African military and police, and countries listed in Supplement No. 4 to Part 778, now only require a validated license to Country Groups S, Z and countries listed in Supplement No. 4 to Part 778: Technology for equipment controlled by 2A49E

4A01A Electronic computers that are radiation-hardened, specially designed for operation at extreme temperatures, or capable of performing functions exceeding the limits of the "information security" entries in Category 5 (NP controls apply to computers with a CTP of 500 Mtops or more to countries listed in Supplement No. 4 to Part 778)

4A02A Hybrid computers (NP controls apply to computers with a CTP of 500 Mtops or more to countries listed in Supplement No. 4 to Part 778)

4A03A Digital computers (NP controls apply to computers with a CTP of 500 Mtops or more to countries listed in Supplement No. 4 to Part 778)

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, and extended by a notice published in the **Federal Register** on August 15, 1995.

Rulemaking Requirements

1. This interim rule has been determined to be significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act, (5 U.S.C. 553), requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, under sections 3(a) and 4(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so.

The period for submission of comments will close March 4, 1996. The Department will consider all comments received on or before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their

consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requests comments in written form.

Oral comments should be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Theodore Zois, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–1525.

List of Subjects in 15 CFR Parts 771 and 799

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 771 and 799 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

PART 771—[AMENDED]

1. The authority citation for 15 CFR Parts 771 and 799 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O 12918 of May 26, 1994 (59 FR 28205, May 31, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); and E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994); and Notice of August 15, 1995 (60 FR 42767).

2. In § 771.24 paragraphs (b) and (c) are revised to read as follows:

§ 771.24 General License GNSG.

(a) * * *

(b) *Eligible countries.* The countries that are eligible to receive exports under this general license are Argentina, Australia, Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea (Republic of), Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russia, the Slovak Republic, South Africa, Spain, Sweden, Switzerland, and the United Kingdom. Canada is also a member of the Nuclear Suppliers Group, but generally there is no license requirement for shipments to Canada (see § 770.3).

(c) *Eligible commodities, software, and technology.* The items that are eligible for export under this General License GNSG are indicated in the GNSG paragraph under the Requirements heading for each entry on the CCL that contains eligible items. Entries that contain no eligible items do not have a GNSG paragraph. General License GNSG may only be used for items controlled for nuclear proliferation reasons. Items that are subject to the missile technology controls described in § 778.7 are not eligible for General License GNSG. Items controlled for national security reasons (i.e., entries that end in the code letter "A") are not eligible for shipment under General License GNSG to Bulgaria, Romania, or Russia. All shipments under General License GNSG are subject to the prohibitions contained in § 771.2(c), except that the prohibitions in § 771.2(c)(2) do not apply to Russia for items controlled by entries that do not end in the code letter "A".

* * * * *

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

The following amendments are made to Supplement No. 1 to § 799.1:

3. In Category 1 (Materials), ECCNs 1A46B, 1B50B and heading, 1B51B, 1B52B, 1B53B, 1B54B, 1B58B, 1C19A, 1C50B, 1C54B, 1C55B, 1C58B, and 1E41B and heading are revised, ECCNs 1B16A, 1B17A, 1C10A, 1D01A, 1E01A, 1E19A are amended by revising the requirements sections and new ECCNs 1B55B and 1B57B are added, as follows:

1A46B Aluminum and titanium alloys in the form of tubes or cylindrical solid forms (including forgings) with an outside diameter of more than 75 mm (3 inches).

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

Alloys in the form of tubes or cylindrical solid forms (including forgings) with an outside diameter of more than 75 mm (3 inches), as follows:

a. Aluminum alloys capable of an ultimate tensile strength of 460 MPa (0.46×10^9 N²) or more at 293 K (20° C);

b. Titanium alloys capable of an ultimate tensile strength of 900 MPa (0.9×10^9 N/m²) (130,500 lbs./in²) or more at 293 K (20° C).

Technical Note: Alloys "capable of" a specified tensile strength include those having that strength at the time of export, as well as those capable of attaining that strength as a result of heat treatment.

1B16A Plants for the production of uranium hexafluoride (UF_6) and specially designed or prepared equipment (including UF_6 purification equipment), and specially designed parts and accessories therefor.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NS, NPP (items appear on International Atomic Energy List).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Note*).

Note: See 10 CFR Part 110 for nuclear plants subject to the export licensing authority of the Nuclear Regulatory Commission (i.e., fuel fabrication facilities, enrichment facilities, reprocessing facilities, and heavy water production facilities).

* * * * *

1B17A Electrolytic cells for the production of fluorine with a production capacity greater than 250 grams of fluorine per hour, and specially designed parts and accessories therefor.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NS, NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia.

* * * * *

1B50B Vacuum or controlled environment (inert gas) induction furnaces.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Vacuum or controlled environment (inert gas) induction furnaces capable of operation above 850° C and having induction coils 600 mm (24 in.) or less in diameter, and designed for power inputs of 5kW or more; and power supplies specially designed therefor with a specified power output of 5 kW or more;

b. Vacuum and controlled atmosphere metallurgical melting and casting furnaces, as follows, and specially configured computer control and monitoring systems therefor:

b.1. Arc remelt and casting furnaces with consumable electrode capacities equal to or greater than 1,000 cm³, *and* less than or equal to 20,000 cm³, and capable of operating with melting temperatures above 1,700° C;

b.2. Electron beam melting and plasma atomization and melting furnaces with a power of 50 kW or greater and capable of operating with melting temperatures above 1,200° C.

Note: This ECCN does not control furnaces designed for semiconductor wafer manufacturing or processing (see ECCN 3B96).

1B51B Pressure transducers which are capable of measuring absolute pressure at any point in the range 0 to 13 kPa, with pressure sensing elements made of or protected by nickel, nickel alloys with more than 60% nickel by weight, aluminum or aluminum alloys as follows:

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Transducers with a full scale of less than 13 kPa and an accuracy of better than ±1% of full scale;

b. Transducers with a full scale of 13 kPa or greater and an accuracy of better than ±130 Pa.

Technical Notes: 1. Pressure transducers are devices that convert pressure measurements into an electrical signal.

2. For the purposes of this entry, "accuracy" includes non-linearity, hysteresis and repeatability at ambient temperature.

1B52B Water-hydrogen sulfide exchange tray columns constructed from fine carbon steel with a diameter of 1.8 m (6 ft.) or greater, which can operate at a nominal pressure of 2 Mpa (300 psi) or greater, and internal contactors therefor.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Note: This ECCN does not control columns specially designed or prepared for the production of heavy water. See 10 CFR Part 110 for heavy water production equipment subject to the export licensing authority of the Nuclear Regulatory Commission.

Technical Notes: 1. For columns which are especially designed or prepared for the production of heavy water, see INFCIRC/254/Part 1.

2. Internal contactors of the columns are segmented trays with an effective assembled diameter of 1.8 m (6 ft.) or greater, are designed to facilitate countercurrent contacting and constructed of materials resistant to corrosion by hydrogen sulfide/water mixtures. These may be sieve trays, valve trays, bubble cap trays or turbogrid trays.

3. Fine carbon steel in this entry is defined to be steel with the austenitic ASTM (or equivalent standard) grain size number of 5 or greater.

4. Materials resistant to corrosion by hydrogen sulfide/water mixtures in this entry are defined to be stainless steels with a carbon content of 0.03% or less.

1B53B Hydrogen-cryogenic distillation columns.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

Hydrogen-cryogenic distillation columns having all of the following characteristics:

a. Designed to operate at internal temperatures of −238° C (35 K) or less;

b. Designed to operate at internal pressure of 0.5 to 5 MPa (5 to 50 atmospheres);

c. Constructed of fine-grain stainless steels of the 300 series with low sulfur content or equivalent cryogenic and H_2-compatible materials; *and*

d. With internal diameters of 1 m or greater and effective lengths of 5 m or greater.

Technical Note: Fine-grain stainless steels in this item are defined to be fine-grain austenitic stainless steels with an ASTM (or equivalent standard) grain size number of 5 or greater.

Note: See 10 CFR 110 for heavy water production equipment subject to the export licensing authority of the Nuclear Regulatory Commission.

1B54B Ammonia synthesis converters or synthesis units in which the synthesis gas (nitrogen and hydrogen) is withdrawn from an ammonia/hydrogen high-pressure exchange column and the synthesized ammonia is returned to said column.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

1B55B Turboexpanders or turboexpander-compressor sets designed for operation below 35K

and a throughput of hydrogen gas of 1000 kg/hr or greater.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

1B57B Lithium isotope separation facilities, plants and equipment.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Lithium isotope separation facilities, plants and equipment, as follows:

a. Facilities or plants for the separation of lithium isotopes;

b. Equipment for the separation of lithium isotopes, as follows:

b.1. Packed liquid-liquid exchange columns specially designed for lithium amalgams;

b.2 Mercury and/or lithium amalgam pumps;

b.3 Lithium amalgam electrolysis cells;

b.4 Evaporators for concentrated lithium hydroxide solution.

1B58B Tritium facilities, plants and equipment, as follows:

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Facilities or plants for the production, recovery, extraction, concentration, or handling of tritium;

b. Equipment for tritium facilities or plants, as follows:

b.1. Hydrogen or helium refrigeration units capable of cooling to 23 K (−250°C) or less, with heat removal capacity greater than 150 watts;

b.2. Hydrogen isotope storage and purification systems using metal hydrides as the storage, or purification medium.

Note: This ECCN 1B58B does not control tritium, tritium compounds, and mixtures containing tritium, or products or devices thereof. Tritium is subject to the export licensing authority of the Nuclear Regulatory Commission.

1C10A "Fibrous and filamentary materials" that may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates.

Requirements

Validated License Required:
QSTVWYZ.
Unit: kilograms.
Reason for Control: NS, MP (see *Note).*
GLV: $1500, *except* $0 for NP items (see *Note).*
GCT: Yes, except NP items (see *Note).*
GFW: No.
GNSG: Yes, except Bulgaria, Romania, or Russia, for NP only (see *Note*).

Notes: NP controls apply to 1C10.a (all aramid "fibrous and filamentary materials"), 1C10.b. (all carbon "fibrous and filamentary materials"), 1C10.c. (all glass "fibrous and filamentary materials"), and 1C10.e.1.

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1C19A Zirconium, nickel powder and porous nickel metal, lithium, beryllium metal, wet-proofed platinized catalysts, and hafnium.

Requirements

Validated License Required:
QSTVWYZ.
Unit: Kilograms.
Reason for Control: NS, NP (see Notes).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Notes*).

Notes: 1. NP controls apply to entire entry, except shipments of zirconium foil or strip having a thickness not exceeding 0.10 mm.

2. NS controls apply to entire entry, except for zirconium metal, alloys, or compounds in shipments of 5 kg or less and shipments of 200 kg or less of zirconium foil or strip having a thickness not exceeding 0.10 mm.

List of Items Controlled

a. Zirconium, with a hafnium content of less than 1 part hafnium to 500 parts zirconium by weight, in the form of:

a.1. Zirconium metal;

a.2. Alloys containing more than 50% zirconium by weight;

a.3. Compounds;

a.4. Manufactures wholly of zirconium metal, alloys, or compounds described in 1C19.a.1, a.2, or a.3;

a.5. Waste and scrap from zirconium metal, alloys, compounds, or manufactures wholly thereof controlled by 1C19.a.1, a.2, a.3, or a.4.

Note 1: This ECCN 1C19 does not control zirconium in the form of foil having a thickness not exceeding 0.10 mm (0.004 in.).

Note 2: Zirconium metal and alloys in the form of tubes or assemblies of tubes, specially designed or prepared for use in a reactor are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR Part 110).

b. Nickel powder and porous nickel metal, as follows:

b.1. Powder with a nickel purity content of 99.0% or more and a mean particle size of less than 10 micrometers measured by the ASTM B 330 standard, except filamentary nickel powders;

b.2. Porous nickel metal produced from materials controlled for export by 1C19.b.1, *except* single porous nickel metal sheets not exceeding 1000 cm^2, per sheet.

Note: 1C19.b.2 controls porous nickel metal formed by compacting and sintering nickel powder, described in 1C19.b.1, to form a metal material with fine pores interconnected throughout the structure.

c. Lithium (isotopically enriched in lithium-6), as follows:

c.1. Metal, hydrides, or alloys containing lithium enriched in the 6 isotope (^{6}Li) to a concentration higher than the one existing in nature (7.5% on an atom percentage basis);

c.2. Any other materials containing lithium enriched in the 6 isotope (including compounds, mixtures, and concentrates), *except* lithium enriched in the 6 isotope incorporated in thermoluminescent dosimeters.

d. Beryllium, as follows:

d.1. Beryllium metal;

d.2. Alloys containing more than 50% beryllium by weight;

d.3. Beryllium compounds;

d.4. Manufactures of beryllium metal, alloys, or compounds described in 1C19.d.1, d.2, or d.3;

d.5. Waste and scrap from beryllium metal, alloys, compounds, or manufactures thereof described in 1C19.d.1; d.2, d.3, or d.4.

Note: 1C19.d does not control:

a. Metal windows for X-ray machines, or for bore-hole logging devices;

b. Oxide shapes in fabricated or semi-fabricated forms specially designed for electronic component parts or as substrates for electronic circuits; and

c. Beryl (silicate of beryllium and aluminum) in the form of emeralds or aquamarines.

e. Wet-proofed platinized catalysts specially designed or prepared for promoting the hydrogen isotope exchange reaction between hydrogen and water for the recovery of tritium from heavy water or for heavy water production.

f. Hafnium, as follows:

f.1. Hafnium metal;

f.2. Alloys and compounds of hafnium containing more than 60 percent hafnium by weight;

f.3. Manufactures of hafnium metal, alloys, or compounds described in f.1 or f.2.

1C50B "Fibrous or filamentary materials" not controlled by 1C10.

Requirements

Validated License Required:
QSTVWYZ.
Unit: Kilograms.
Reason for Control: NP, FP (see Note).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Note: FP controls apply to Iran and Syria for the items described in 1C50.b.

List of Items Controlled

"Fibrous or filamentary materials" not controlled by 1C10, as follows:

a. Carbon or aramid "fibrous and filamentary materials" having:

a.1. A "specific modulus" of 12.7×10^6 m or greater; *or*

a.2. A "specific tensile strength" of 23.5×10^6 m or greater;

Note: 1C50.a does not include aramid "fibrous or filamentary materials" having 0.25 percent or more by weight of an ester based fiber surface modifier.

b. Glass "fibrous or filamentary materials" having:

b.1. A "specific modulus" of 3.18×10^6 m or greater; *and*

b.2. A "specific tensile strength" of 7.62×10^4 m or greater;

c. Thermoset resin impregnated continuous yarns, rovings, tows or tapes with a width no greater than 15 mm (prepregs), made from carbon or glass "fibrous or filamentary materials" described in 1C50.a or .b;

Note: The resin forms the matrix of the composite.

d. Composite structures in the form of tubes with an inside diameter greater than 75 mm (3 in.), but less than 400 mm (16 in.), made with "fibrous or filamentary materials" described in 1C50.a or carbon prepreg materials described in 1C50.c.

Technical Note: 1. For the purpose of this entry, the term "fibrous or filamentary materials" means continuous monofilaments, strands, rovings, yarns, tows or tapes.

Definitions

Filament or Monofilament is the smallest increment of fiber, usually several μm in diameter.

Strand is a bundle of filaments (typically over 200) arranged approximately parallel.

Roving is a bundle (typically 12–120) of approximately parallel strands.

Yarn is a bundle of twisted stands.

Tow is a bundle of filaments, usually approximately parallel.

Tape is a material constructed of interlaced or unidirectional filaments, strands, rovings, tows or yarns, etc., usually preimpregnated with resin.

2. *Specific modulus* is the Young's modulus in N/m^2 divided by the specific weight in N/m^3, measured at a temperature of 23±2° C and a relative humidity of 50±5 percent.

3. *Specific tensile strength* is the ultimate tensile strength in N/m^2 divided by specific weight in N/m^3, measured at a temperature of 23±2° C and a relative humidity of 50±5 percent.

1C54B Alpha-emitting radionuclides having an alpha half-life of 10 days or greater but less than 200 years, compounds or mixtures containing any of these radionuclides with a total alpha activity of 1 curie per kilogram (37 GBq/kg) or greater, and products or devices containing any of the forgoing.

Requirements

Validated License Required:
QSTVWYZ.
Unit: Millicuries.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Technical Note: This ECCN does not control products or devices containing less than 3.7 GBq (100 millicuries) of alpha activity.

Note: See 10 CFR Part 110 for alpha-emitting radionuclides subject to the export licensing authority of the Nuclear Regulatory Commission.

1C55B Helium-3 or helium isotopically enriched in the helium-3 isotope, mixtures containing helium-3, and products or devices containing any of the foregoing.

Requirements

Validated License Required:
QSTVWYZ.
Unit: Liters.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Note: 1C55 does not control a product or device containing less than 1g of helium-3.

1C58B Radium-226, radium-226 compounds, or mixtures containing radium-226, and products or devices containing any of the foregoing.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Technical Note: This ECCN does not control radium contained in medical applicators, or a product or device containing not more than 0.37 GPq (10 millicuries) of radium-226 in any form.

1D01A "Software" specially designed or modified for the "development", "production", or "use" of equipment controlled by 1B01, 1B02, 1B03, 1B16, 1B17, or 1B18.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NS, MT, NP (see *Notes*).
GTDR: Yes, except MT and NP (see *Notes*).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Notes*).

Notes: 1. MT controls apply to software for the "development", "production", or "use" of equipment controlled by 1B01 (except 1B01.d.4 and 1B01.f) and 1B18.a.

2. NP controls apply to software for the "development", "production", or "use" of filament winding machines described in 1B01.a that are capable of winding cylindrical rotors with diameters between 75 mm (3 in.) and 400 mm (16 in.) and lengths of 600 mm (24 in.) or greater.

* * * * *

1E01A Technology according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 1A01.b, 1A01.c, 1A02, 1A03, 1B01, 1B02, 1B03, 1B18, 1C01, 1C02, 1C03, 1C04, 1C05, 1C06, 1C07, 1C08, 1C09, 1C10, 1C18 or 1C50.

Requirements

Validated License Required:
QSTVWYZ.
Reason for Control: NS, NP, MT, FP (see *Notes*).
GTDR: Yes, *except* NP, MT, and FP (see *Notes*).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Notes*).

Notes: 1. NP controls apply to exports to all destinations of technology for the "development" or "production" of the following:

a. Filament winding machines controlled by 1B01.a that are capable of winding cylindrical rotors having a diameter between 3 inches and 16 inches and a length of 24 inches or greater;

b. "Fibrous or filamentary materials" controlled by 1C10 or 1C50.

2. MT controls apply to technology for items controlled for missile technology reasons by 1A02 or 1B01 (except 1B01.d.4 and f).

3. FP controls apply to all technology described in this entry for Iran and Syria.

Related ECCNs: See 1E40B for NP controls on technology for the "use" of filament winding machines controlled by 1B01A.a.

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1E19A Technology according to the General Technology Note for the "development", "production", or "use" of equipment or materials controlled by 1B16, 1B17, or 1C19.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, NP (see Note).
GTDR: No.
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Note*).

Note: NP controls apply to technology for the "development", "production", or "use" of plants controlled by 1B16, equipment controlled by 1B17, or materials controlled by 1C19.

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1E41B Technology for the "development", "production", or "use" of items controlled by 1A44B, 1A45B, 1A46B, 1A47B, 1A48B, 1A50B, 1B41B, 1B42B, 1B50B, 1B51B, 1B52B, 1B53B, 1B54B, 1B55B, 1B57B, 1B58B, 1B59B, 1C49B, 1C50B, 1C51B, 1C52B, 1C53B, 1C54B, 1C55B, 1C56B, 1C57B, or 1C58B or for the "use" of items controlled by 1C10.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NP, FP (see *Note*).
GTDR: No.
GTDU: No.
GNSG: Yes.

Note: FP controls apply to Iran and Syria for technology for the "development", "production", or "use" of glass "fibrous and filamentary materials" controlled by 1C50.b.

4. In Category 2 (Materials Processing), ECCNs 2A48B and heading, 2A49E, 2A50B, 2A52B and heading, 2B01A, 2B08A, 2B41B, 2B50B, 2D01A, 2D49E, 2D50B, 2E49E, and 2E50B are revised, and ECCNs 2A19A, 2B06A, 2B07A, 2B09A, 2D19A, 2E01A, 2E02A, 2E03A, and 2E19A are amended by revising the Requirements sections as follows:

2A19A Commodities on the International Atomic Energy List (e.g., power generating and/or propulsion equipment, neutron generator systems, and valves for gaseous diffusion separation process).

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS and NP (see *Note*).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes for 2A19.b and c, except to Bulgaria, Romania, or Russia.

Note: NP controls apply to items described in 2A19.b or c.

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2A48B Valves not controlled by 2A19.c that are 5 mm (0.2 in.) or greater in nominal size, with a bellows seal, wholly made of or lined with aluminum, aluminum alloy, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Technical Note: For valves with different inlet and outlet diameter, the nominal size parameter above refers to the smallest diameter.

Note: See 10 CFR Part 110 for valves subject to the export licensing authority of the Nuclear Regulatory Commission.

2A49E Generators and other equipment specially designed, prepared, or intended for use with nuclear plants.

Requirements

Validated License Required: SZ, and countries listed in Supplement No. 4 to Part 778.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.

List of Items Controlled

a. Generators, turbine-generator sets, steam turbines, heat exchangers, and heat exchanger type condensers designed or intended for use in a nuclear reactor;

b. Process control systems intended for use with the equipment controlled by 2A49.a.

Note: See 10 CFR Part 110 for nuclear equipment subject to the export licensing authority of the Nuclear Regulatory Commission.

2A50B Equipment related to nuclear material handling and processing and to nuclear reactors.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Reactor and power plant simulators and analytical models for reactor and power plant simulators, models or mock-ups;

b. Process control systems, except those controlled by 2A49.b, intended for use with nuclear reactors;

c. High density (lead glass or other) radiation shielding windows greater than 0.09 m^2 on cold area and with a density greater than 3 g/cm^3 and a thickness of 100 mm or greater; and specially designed frames therefor;

d. Casks that are specially designed for transportation of high level radioactive material and that weigh more than 1,000 kg;

e. Remote manipulators that can be used to provide remote actions in radiochemical separation operations and "hot cells", as follows:

1. Having a capability of penetrating 0.6 m or more (2 ft. or more) of hot cell wall ('through-the-wall' operation); or

2. Having a capability of bridging over the top of a hot cell wall with a thickness of 0.6 m or more (2 ft. or more) ('over-the-wall' operation).

Note: Remote manipulators provide translation of human operator actions to a remote operating arm and terminal fixture.

They may be of a 'master/slave' type or operated by joystick or keypad.

f. Commodities, parts and accessories specially designed or prepared for use with nuclear plants (e.g., snubbers, airlocks, reactor and fuel inspection equipment), except items licensed by the Nuclear Regulatory Commission pursuant to 10 CFR, part 110.

Note: See 10 CFR part 110 for nuclear equipment subject to the export licensing authority of the Nuclear Regulatory Commission.

2A52B Vacuum pumps with an input throat size of 38 cm (15 in.) or greater with a pumping speed of 15,000 liters/second or greater and capable of producing an ultimate vacuum better than 10^{-4} Torr (1.33×10^{-4} mbar).

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Technical Notes: 1. The ultimate vacuum is determined at the input of the pump with the input of the pump blocked off.

2. The pumping speed is determined at the measurement point with nitrogen gas or air.

Note: See 10 CFR part 110 for vacuum pumps for gaseous diffusion separation process subject to the export licensing authority of the Nuclear Regulatory Commission.

2B01A "Numerical control" units, specially designed "motion control boards" for "numerical control" applications on machine tools, "numerically controlled" machine tools and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS and NP (See *Note*).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia.

Note: NP controls apply to entire entry except 2B01.a and .b unless controlled software in 2D01 or 2D02.b resides there in, 2B01.c.1.b.1 (turning machines only), c.1.b.2, c.1.b.3, c.1.b.4, c.1.b.5.a, c.2 and c.4, milling machines with greater than 2 meters travel and worse than 30 micron accuracy, or crankshaft and camshaft grinding machines.

List of Items Controlled

Technical Notes: 1. Secondary parallel contouring axes, e.g., the w-axis on horizontal boring mills or a secondary rotary axis the center line of which is parallel to the primary rotary axis, are not counted in the total number of contouring axes.

Note: Rotary axes need not rotate over 360°. A rotary axis can be driven by a linear device, e.g., a screw or a rack-and-pinion.

2. Axis nomenclature shall be in accordance with International Standard ISO 841, 'Numerical Control Machines—Axis and Motion Nomenclature'.

a. "Numerical control" units for machine tools, as follows, and specially designed components therefor:

a.1. Having more than four interpolating axes that can be coordinated simultaneously for "contouring control"; *or*

a.2. Having two, three or four interpolating axes that can be coordinated simultaneously for "contouring control" and one or more of the following:

a.2.a. Capable of "real-time processing" of data to modify the tool path during the machining by automatic calculation and modification of part program data for machining in two or more axes by means of measuring cycles and access to source data;

a.2.b. Capable of receiving directly (on-line) and processing computer-aided-design (CAD) data for internal preparation of machine instructions; *or*

a.2.c. Capable, without modification, according to the manufacturer's technical specifications, of accepting additional boards that would permit increasing the number of interpolating axes that can be coordinated simultaneously for "contouring control", above the control levels specified in 2B01, even if they do not contain these additional boards;

b. "Motion control boards" specially designed for machine tools and having any of the following characteristics:

b.1. Providing interpolation in more than four axes;

b.2. Capable of "real time processing" as described in 2B01.a.2.a; *or*

b.3. Capable of receiving and processing CAD data as described in 2B01.a.2.b;

Note: 2B01.a does not control "numerical control" units and "motion control boards" if:

a. Modified for and incorporated in uncontrolled machines; *or*

b. Specially designed for uncontrolled machines.

c. Machine tools, as follows, for removing or cutting metals, ceramics or composites, which, according to the manufacturer's technical specifications, can be equipped with electronic devices for simultaneous "contouring control" in two or more axes:

Technical Note: a. The c-axis on jig grinders used to maintain grinding wheels normal to the work surface is not considered a contouring rotary axis.

b. Not counted in the total number of contouring axes are secondary parallel contouring axes, e.g., a secondary rotary axis, the center line of which is parallel to the primary rotary axis.

c. Axis nomenclature shall be in accordance with International Standard ISO 841, "Numerical control Machines Axis and Motion Nomenclature."

d. Rotary axes do not necessarily have to rotate over 360°. A rotary axis can be driven by a linear device, e.g., a screw or a rack-and-pinion.

c.1. Machine tools for turning, grinding, milling or any combination thereof that:

c.1.a. Have two or more axes that can be coordinated simultaneously for "contouring control"; *and*

c.1.b. Have any of the following characteristics:

c.1.b.1. Two or more contouring rotary axes;

c.1.b.2. One or more contouring "tilting spindles";

Note: 2B01.c.1.b.2 applies to machine tools for grinding or milling only.

c.1.b.3. "Camming" (axial displacement) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

Note: 2B01.c.1.b.3 applies to machine tools for turning only.

c.1.b.4. "Run out" (out-of-true running) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

c.1.b.5. The "positioning accuracies", with all compensations available, are less (better) than:

c.1.b.5.a. 0.001° on any rotary axis; *or*

c.1.b.5.b.1. 0.004 mm along any linear axis (overall positioning) for grinding machines;

c.1.b.5.b.2. 0.006 mm along any linear axis (overall positioning) for milling or turning machines; *or*

Note: 2B01.c.1.b.5.b.2 does not control milling or turning machine tools with a positioning accuracy along one linear axis, with all compensations available, equal to or greater (worse) than 0.005 mm.

Technical Note: The positioning accuracy of "numerically controlled" machine tools is to be determined and presented in accordance with ISO/DIS 230/2, paragraph 2.13, in conjunction with the requirements below:

a. Test conditions (paragraph 3):

1. For 12 hours before and during measurements, the machine tool and accuracy measuring equipment will be kept at the same ambient temperature. During the premeasurement time, the slides of the machine will be continuously cycled identically to the way they will be cycled during the accuracy measurements;

2. The machine shall be equipped with any mechanical, electronic, or software compensation to be exported with the machine;

3. Accuracy of measuring equipment for the measurements shall be at least four times more accurate than the expected machine tool accuracy;

4. Power supply for slide drives shall be as follows:

a. Line voltage variation shall not be greater than ±10% of nominal rated voltage;

b. Frequency variation shall not be greater than ±2 Hz of normal frequency;

c. Lineouts or interrupted service are not permitted.

b. Test program (paragraph 4):

1. Feed rate (velocity of slides) during measurement shall be the rapid traverse rate;

Note: In the case of machine tools that generate optical quality surfaces, the feed rate shall be equal to or less than 50 mm per minute.

2. Measurements shall be made in an incremental manner from one limit of the axis travel to the other without returning to the starting position for each move to the target position;

3. Axes not being measured shall be retained at mid travel during test of an axis.

c. Presentation of test results (paragraph 2): The results of the measurement must include:

1. "Positioning accuracy" (A); *and*

2. The mean reversal error (B).

Note 1: 2B01.c.1 does not control cylindrical external, internal, and external-internal grinding machines having all of the following characteristics:

a. Not centerless (shoe-type) grinding machines;

b. Limited to cylindrical grinding;

c. A maximum workpiece outside diameter or length of 150 mm;

d. Only two axes which can be coordinated simultaneously for "contouring control"; *and*

e. No contouring c axis.

Note 2: 2B01.c.1 does not control machines designed specifically as jig grinders having both of the following characteristics:

a. Axes limited to x, y, c and a, where the c-axis is used to maintain the grinding wheel normal to the work surface and the a-axis is configured to grind barrel cams; *and*

b. A spindle "run out" not less (not better) than 0.0006 mm.

Note 3: 2B01.c.1 does not control tool or cutter grinding machines having all of the following characteristics:

a. Shipped as a complete system with "software" specially designed for the production of tools or cutters;

b. No more than two rotary axes that can be coordinated simultaneously for "contouring control";

c. "Run out" (out-of-true running) in one revolution of the spindle not less (not better) than 0.0006 mm total indicator reading (TIR); *and*

d. The "positioning accuracies", with all compensations available, are not less (not better) than:

1. 0.004 mm along any linear axis for overall positioning; *or*

2. 0.001° on any rotary axis.

c.2. Electrical discharge machines (EDM):

c.2.a. Of the wire feed type that have five or more axes that can be coordinated simultaneously for "contouring control";

c.2.b. Non-wire EDMs that have two or more contouring rotary axes and that can be coordinated simultaneously for "contouring control";

c.3. Other machine tools for removing metals, ceramics or composites:

c.3.a. By means of:

c.3.a.1. Water or other liquid jets, including those employing abrasive additives;

c.3.a.2. Electron beam; or

c.3.a.3. "Laser" beam; *and*

c.3.b. Having two or more rotary axes that:

c.3.b.1. Can be coordinated simultaneously for "contouring control"; *and*

c.3.b.2. Have a "positioning accuracy" of less (better) than 0.003°;

2B06A Dimensional inspection or measuring systems or equipment.

Requirements

Validated License Required:
QSTVWYZ.
Unit: Number.
Reason for Control: NS and NP (see Note).
GLV: $0.
GCT: Yes, for 2B06.d only.
GFW: No.
GNSG: Yes for 2B06.a, b, and c, *except* Bulgaria, Romania, or Russia.

Note: NP controls apply to items described in 2B06.a, b or c.

* * * * *

2B07A "Robots" or "end-effectors" and specially designed controllers therefor.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NS and NP (see Note).
GLV: $5,000, except for $0 for NP (see Note).
GCT: Yes, except NP (see Note).
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see Note)

Note: NP controls apply to 2B07.b robots, to specially designed or rated as radiation hardened robots to withstand greater than 5 $\times 10^4$ grays (Silicon) (5×10^6 rad (Silicon)) without operational degradation, and to specially designed controllers and "end-effectors" therefor.

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2B08A Assemblies, units or inserts specially designed for machine tools, or for equipment controlled by 2B06 or 2B07.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NS.
GLV: $0.
GCT: No.
GFW: No.

List of Items Controlled

a. Spindle assemblies, consisting of spindles and bearings as a minimal assembly, with radial ("run out") or axial ("camming") axis motion in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

b. Linear position feedback units, e.g., inductive type devices, graduated scales, infrared systems or "laser" systems, having with compensation an overall "accuracy" less (better) than $(800 + (600 \times L \times 10^{-3}))$nm (L equals the effective length in millimeters of the linear measurement);

c. Rotary position feedback units, e.g., inductive-type devices, graduated scales, "laser", or infrared systems, having with compensation an "accuracy" less (better) than 0.00025° of arc;

d. Slide way assemblies consisting of a minimal assembly of ways, bed and slide having all of the following characteristics:

d.1. A yaw, pitch or roll of less (better) than 2 seconds of arc total indicator reading (reference: ISO/DIS 230–1) over full travel;

d.2. A horizontal straightness of less (better) than 2 micrometer per 300 mm length; *and*

d.3. A vertical straightness of less (better) than 2 micrometer over full travel per 300 mm length;

e. Single point diamond cutting tool inserts, having all of the following characteristics:

e.1. Flawless and chip-free cutting edge when magnified 400 times in any direction;

e.2. Cutting radius out-of-roundness less (better) than 0.002 mm total indicator reading (TIR) (also peak-to-peak); *and*

e.3. Cutting radius from 0.1 to 5 mm inclusive;

Note: This ECCN does not control measuring interferometer systems, without closed or open loop feedback, containing a "laser" to measure slide movement errors of machine-tools, dimensional inspection machines or similar equipment.

2B09A Specially designed printed circuit boards with mounted components and software therefor, or "compound rotary tables" or "tilting spindles", capable of upgrading, according to the manufacturer's specifications, "numerical control" units, machine tools or feed-back devices to or above the levels specified in ECCNs 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, and 2B08.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NS.
GLV: $0.
GCT: No.
GFW: No.

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2B41B "Numerically controlled" machine tools not controlled by ECCN 2B01A.

Requirements

Validated License Required:
QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

Numerically controlled machine tools for vertical or horizontal turning, milling, or boring that, according to the manufacturer's technical specifications, can be equipped with "numerical control" units controlled for export under ECCN 2B01A (even if not equipped with such units at the time of delivery) and that have:

a. Turning machines or combination turning/milling machines which are capable of machining diameters greater than 2.5 m.

2B50B Flow forming machines and spin forming machines capable of flow forming functions, and mandrels.

Requirements

Validated License Required:
QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NP, MT (see Notes).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, for 2B50.a and .b only.

Notes: 1. MT controls apply to items described by 2B50.a.2, except those that are not usable in the production of propulsion components and equipments (e.g., motor cases) for "missile" systems.

2. NP controls apply to items described by 2B50.a.1 and .b.

List of Items Controlled

a. Spin-forming and flow-forming machines, and specially designed components therefor, that according to the manufacturer's technical specifications, can be equipped with "numerical control" units or a computer control; *and*

1. Have three or more rollers (active or guiding); *and*

Note: This entry includes machines which have only a single roller designed to deform metal plus two auxiliary rollers which support the mandrel, but do not participate directly in the deformation process.

2. Have two or more axes that can be coordinated simultaneously for "contouring control".

b. Rotor-forming mandrels designed to form cylindrical rotors of inside diameter between 75 mm (3 in.) and 400 mm (16 in.).

Note: The only spin-forming machines controlled by this ECCN 2B50B are those capable of flow forming functions.

2D01A "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NS, MT, and NP (see *Notes*).
GTDR: Yes, except MT and NP (see *Notes*).
GTDU: No.
GNSG: Yes for software for 2B01, 2B06.a, .b, and .c, and 2B07.b and .c, (see Notes), *except* to Bulgaria, Romania, or Russia. "Software" (including documentation) for "numerical control" units must be:

a. In machine executable form only; *and*

b. Limited to the minimum necessary for the use (i.e., installation, operation, and maintenance) of the units.

Notes: 1. MT controls apply to "software" specially designed or modified for the "development", "production", or "use" of equipment described in 2B04.

2. NP controls apply to "software" described in this ECCN for the "development", "production", or "use" of equipment described in ECCNs 2B01, 2B04, 2B06.a, .b, and .c, and 2B07.b and .c. Specially designed "software" for the systems described in 2B06.c includes "software" for simultaneous measurements of wall thickness and contour.

2D19A "Software" for the "development", "production", or "use" of equipment controlled by 2A19.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NS, NP (see *Note*).
GTDR: No.
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Note*)

Note: NP controls apply to Country Groups QSTVWYZ for "software" for the "development", "production", or "use" of neutron generator systems and valves described in 2A19.b and c, respectively.

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2D49E "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A49E.

Requirements

Validated License Required: SZ, and countries listed in Supp. No. 4 to Part 778.
Unit: $ value.
Reason for Control: NP.
GTDR: No.
GTDU: Yes, except destinations listed under *Validated License Required:*

2D50B "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A50 or 2B50.

Requirements

Validated License Required:
QSTVWYZ.
Unit: $ value.
Reason for Control: NP, MT (see Notes).
GTDR: No.
GTDU: No
GNSG: Yes, for NP only (see Note).

Note: 1. NP controls apply to "software" specially designed or modified for the "development", "production" or "use" of items controlled by 2A50 and 2B50.a and .b.

2. MT controls apply to 'software' specially designed or modified for the "development", "production" or "use" of items controlled by 2B50.a; except those that are not usable in the production of propulsion components and equipments (e.g., motor cases) for "missile" systems.

2E01A Technology according to the General Technology Note for the "development" of equipment or "software" controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, 2B09, 2D01, or 2D02.

Requirements

Validated License Required:
QSTVWYZ.
Reason for Control: NS, MT, NP (see Notes).
GTDR: Yes, except MT and NP (see Notes).
GTDU: No.
GNSG: Yes for NP, *except* technology for 2B04 (see Notes) and *except* Bulgaria, Romania, or Russia.

Notes: 1. MT controls apply to technology for the "development" of commodities controlled by 2B04.

2. NP controls apply to technology for the "development" of commodities controlled by 2B01, 2B04, 2B06.a, .b, and .c, and 2B07.b

and .c, and technology for the "development" of "software" controlled by 2D01 for NP reasons.

Related ECCNs: See 2E40B for NP controls on technology for the "use" of equipment controlled by 2B04, 2B06.a, b, or c, or 2B07.b.

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2E02A Technology according to the General Technology Note for the "production" of equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, MT, NP (see *Notes*).
GTDR: Yes, except MT and NP (see *Notes*).
GTDU: No.
GNSG: Yes for NP, *except* technology for 2B04 (see *Notes*) and *except* Bulgaria, Romania, or Russia.

Notes: 1. MT controls apply to technology for the "production" of commodities controlled by 2B04.
2. NP controls apply to technology for the "production" of commodities controlled by 2B01, 2B04, 2B06.a, .b, and .c, and 2B07 .b and .c.

Related ECCNs: See 2E40B for NP controls on technology for the "use" of equipment controlled by 2B04, 2B06.a, b, or c, or 2B07.b.

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2E03A Other technology.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, NP (see *Note*).
GTDR: Yes, *except* 2E03.a, a.3, b, and d.
GTDU: No.
GNSG: Yes *except* Bulgaria, Romania, or Russia, for 2E03.a and a.3 only (see *Note*).

Note: NP controls apply to technology described in 2E03.a or a.3.

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2E19A Technology for the "development", "production", or "use" of equipment controlled by 2A19.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, NP (see *Note*).
GTDR: No.
GTDU: No.
GNSG: Yes *except* Bulgaria, Romania, or Russia.

Note: NP controls apply to Country Groups QSTVWYZ for technology for the "development", "production", or "use" of neutron generator systems and valves described in 2A19.b and c, respectively.

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2E49E Technology for the "development", "production", or "use" of equipment controlled by 2A49E.

Requirements

Validated License Required: SZ and countries listed in Supp. No. 4 to Part 778.
Reason for Control: NP.
GTDR: No.
GTDU: Yes, except destinations listed under *Validated License Required.*

2E50B Technology for the "development", "production" or "use" of equipment controlled by 2A50 or 2B50.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NP, MT (see Notes).
GTDR: No.
GTDU: No.
GNSG: Yes, for NP only.

Notes: 1. MT controls apply to "technology" specially designed or modified for the "development", "production" or "use" of items described by 2B50.a.2, except those that are not usable in the production of propulsion components and equipments (e.g., motor cases) for "missile" systems.
2. NP controls apply to "technology" specially designed or modified for the "development", "production" or "use" of items controlled by 2B50.a.1 and .b.

5. In Category 3, (Electronics Design, Development and Production), ECCNs 3A01A, 3D01A, and 3E01A are amended by revising the Requirements sections to read as follows:

3A01A Electronic devices and components.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number.
Reason for Control: NS, MT, NP (see Notes).
GLV: $1,500: 3A01.c; $3,000: 3A01.b.1 to b.3, 3A01.d to 3A01.f; $5,000: 3A01.a, 3A01.b.4 to b.7.
GCT: Yes, except 3A01.a.1.a and 3A01.e.5 (see *Notes*).
GFW: Yes, except 3A01.a.1.a, 3A01.b.1 and b.3 to b.7, 3A01.c to f.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Notes*).

Notes: 1. MT controls apply to 3A01.a.1.a.
2. NP controls apply to 3A01.e.5.

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3D01A "Software" specially designed for the "development" or "production" of equipment controlled by 3A01.b to 3A01.f, 3A02, and 3B01.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, NP (see *Note*).
GTDR: Yes, except 3A01.e.5 (see *Note*).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for "software" for 3A01.e.5 only (see *Note*).

Note: NP controls apply to "software" for the "development" or "production" of items controlled by 3A01.e.5.

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3E01A Technology according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 3A01, 3A02, 3B01, 3C01, 3C02, 3C03, or 3C04.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, MT, and NP (see *Notes*).
GTDR: Yes, except MT and NP.
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for technology for 3A01.e.5 only (see *Notes*).

Note 1: MT controls apply to technology specially designed for the "development" or "production" of items described in 3A01.a.1.a.
Note 2: NP controls apply to technology specially designed for the "development" or "production" of items described in 3A01.e.5.
Note 3: 3E01 does not control technology for the "development" or "production" of:
a. Microwave transistors operating at frequencies below 31 GHz;
b. Integrated circuits controlled by 3A01.a.3 to a.11, having both of the following characteristics:
1. Using technology of one micrometer or more, and
2. Not incorporating multi-layer structures.

N.B.: This Note does not preclude the export of multilayer technology for devices incorporating a maximum of two metal layers and two polysilicon layers.

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In Category 6 (Sensors), ECCN 6A43B is revised, and ECCNs 6A03A, 6A05A, 6E01A and 6E02A are amended by revising the Requirements sections as follows:

6A03A Cameras.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.
Reason for Control: NS, FP and NP (see *Notes*).
GLV: $1,500, except $0 for 6A03.a.2 through a.5, b.1, b.3 and b.4.
GCT: Yes, except NP and FP (see *Notes*).
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see Notes).

Notes: 1. FP controls for regional stability apply to items controlled in 6A03.b.3 and b.4.
2. NP controls apply to items controlled in 6A03.a.2, a.3, a.4, a.5 and b.1.
3. The items listed in 6A03.b.3 and b.4 are subject to the United Nations Security Council arms embargo against Rwanda described in § 785.4(a) of this subchapter.

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6A05A "Lasers", components and optical equipment, as follows.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS, NP (see Note).
GLV: $0 for NP items (see Note); $3,000 for all other items.
GCT: Yes, except NP (see Note).
GFW: Yes, except NP (see Note), for items in Advisory Notes 5.3 and 5.4.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see Note).

Note: NP controls apply to lasers described in 6A05.a.1.c, a.2.a, a.4.c, a.6 (argon ion lasers only), a.7.b, c.1.b, c.2.c.2, c.2.c.3, c.2.d.2, and d.2.c.

Related ECCNs: See 6A50B for NP controls on lasers, laser amplifiers, and oscillators not controlled by 6A05A.

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6A43B Cameras and components not controlled by ECCN 6A03A.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Mechanical rotating mirror cameras, as follows; and specially designed components therefor:
a.1. Framing cameras with recording rates greater than 225,000 frames per second;
a.2. Streak cameras with writing speeds greater than 0.5 mm per microsecond;

Technical Note: Components of such cameras include their synchronizing electronics units and rotor assemblies consisting of turbines, mirrors, and bearings.

b. Electronic streak and framing cameras and tubes, as follows:
b.1. Electronic streak cameras capable of 50 ns or less time resolution and streak tubes therefor;
b.2. Electronic (or electrically shuttered) framing cameras capable of 50 ns or less frame exposure time;
b.3. Framing tubes and solid state imaging devices for use with cameras described in 6A43.b.2, as follows:
b.3.a. Proximity focused image intensifier tubes having a photocathode deposited on a transparent conductive coating to decrease photocathode sheet resistance;
b.3.b. Gated silicon intensifier target (SIT) vidicon tubes, where a fast system allows gating the photoelectrons from the photocathode before they impinge on the SIT plate;
b.3.c. Kerr or pocket cell electro-optical shuttering; *or*
b.3.d. Other framing tubes and solid-state imaging devices having a fast-image gating time of less than 50 ns specially designed for cameras controlled by 6A43.b.2;
c. Radiation-hardened Television cameras, or lenses therefor, specially designed or rated as radiation hardened to withstand greater than 5×10^4 grays (Silicon) (5×10^6 rad (Silicon)) without operational degradation.

6E01A Technology according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, 6C05, 6D01, 6D02, or 6D03.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, MT, NP, and FP (see Notes).
GTDR: Yes, except MT, NP, and FP (see Notes).
GTDU: No..
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see Notes).

Notes: 1. MT controls apply to technology for the "development" of equipment controlled by 6A02.a, a.3, or a.4, 6A07.b or c, or 6A08. MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.
2. FP controls for regional stability apply to technology for the "development" of items controlled by 6A02.a, a.2, a.3, or c and 6A03.b.3 and b.4 (see § 776.16(b) of this subchapter).
3. FP controls for human rights apply to all destinations except Australia, Japan, New Zealand, and members of NATO for technology for the "development" of police-model infrared viewers controlled by 6A02.c (see § 776.14 of this subchapter).
4. NP controls apply to technology for the "development" of equipment controlled by 6A03.a.2, a.3, a.4, a.5, or b.1 or 6A05.a.1.c., a.2.a, a.4.c, a.6 (argon ion lasers only), a.7.b, c.1.b, c.2.c.2, c.2.c.3, c.2.d.2, or d.2.c.
5. Technology for the "development" of items controlled by 6A02.a, a.2, a.3, or c and 6A03.b.3 or b.4 is subject to the United Nations Security Council arms embargo against Rwanda described in § 785.4(a) of this subchapter.

Related ECCNs: See 6E21B for MT controls on technology for the "development" of equipment controlled by 6A22, 6A28, 6A29, or 6A30. See 6E40B for NP controls on technology for the "use" of cameras or lasers controlled by 6A03 or 6A05, respectively. See 6E41B for NP controls on technology for the "development", "production", or "use" of cameras or lasers controlled by 6A43 or 6A50, respectively.

* * * * *

6E02A Technology according to the General Technology Note for the "production" of equipment or materials controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, or 6C05.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, MT, NP, and FP (see Notes).
GTDR: Yes, *except* MT, NP, and FP (see Notes).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Rumania, or Russia, for NP only (see Notes).

Notes:

1. MT controls apply to technology for the "production" of equipment controlled by 6A02.a, a.3, or a.4, 6A07.b or c, or 6A08. MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.
2. FP controls for regional stability apply to technology for the "development" of items controlled by 6A02.a, a.2, a.3, or c and 6A03.b.3 and b.4 (see § 776.16(b) of this subchapter).
3. FP controls for human rights apply to all destinations except Australia, Japan, New Zealand, and members of NATO for technology for the "development" of police-model infrared viewers controlled by 6A02.c (see § 776.14 of this subchapter).
4. NP controls apply to technology for the "development" of equipment controlled by 6A03.a.2, a.3, a.4, a.5, or b.1 or 6A05.a.1.c., a.2.a, a.4.c, a.6 (argon ion lasers only), a.7.b, c.1.b, c.2.c.2, c.2.c.3, c.2.d.2, or d.2.c.
5. Technology for the "development" of items controlled by 6A02.a, a.2, a.3, or c and

6A03.b.3 or b.4 is subject to the United Nations Security Council arms embargo against Rwanda described in § 785.4(a) of this subchapter.

Related ECCNs: See 6A22B for MT controls on technology for the "production" of equipment controlled by 6A22, 6A28, 6A29, or 6A30. See 6E40B for NP controls on technology for the "use" of cameras or lasers controlled by 6A03 or 6A05, respectively. See 6E41B for NP controls on technology for the "development", "production", or "use" of cameras or lasers controlled by 6A43 or 6A50, respectively.

* * * * *

7. In Category 9 (Propulsion systems and transportation equipment), ECCN 9B26B is revised, as follows:

9B26B Vibration test systems, equipment, and components therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ Value.
Reason for Control: MT, NP (See *Notes*).
GLV: $0 for 9B26.a; $3,000 for 9B26.b.
GCT: No.
GFW: No.
GNSG: No.

Notes: 1. NP controls apply to 9B26.a, and in paragraph 9B26.a NP controls only apply to *electrodynamic* vibration test systems meeting all of the parameters in paragraph 9B26.a.1.

2. MT controls apply to 9B26.a and .b, and in paragraph 9B26.a MT controls only apply to vibration test systems employing feedback or closed loop techniques and incorporating a digital controller, capable of vibrating a system at 10 g RMS or more *over the entire range* 20 Hz to 2,000 Hz and imparting forces of 50 kN (11,250 lbs.), measured "bare table", or greater.

List of Items Controlled

a. Vibration test systems and components therefor, as follows:

a.1. Vibration test systems employing feedback or closed loop techniques and incorporating a digital controller, capable of vibrating a system at 10 g RMS or more between 20 Hz and 2,000 Hz and imparting forces of 50 kN (11,250 lbs.), measured "bare table", or greater;

a.2. Digital controllers, combined with specially designed vibration test software, with a real-time bandwidth greater than 5 kHz and designed for use with vibration test systems described in 9B26.a.1;

a.3. Vibration thrusters (shaker units), with or without associated amplifiers, capable of imparting a force of 50 kN (11,250 lbs.), measured "bare table", or greater, which are usable for the vibration test systems described in 9B26.a.1;

a.4. Test piece support structures and electronic units designed to combine multiple shaker units into a complete shaker system capable of providing an effective combined force of 50 kN, measured "bare table", or greater, and usable in vibration test systems described in 9B26a.1.

Note: The term "digital control" refers to equipment, the functions of which are, partly or entirely, automatically controlled by stored and digitally coded electrical signals.

b. Environmental chambers and anechoic chambers.

b.1. Environmental chambers and anechoic chambers capable of simulating the following flight conditions:

b.1.a. Altitude of 15,000 meters or greater; or

b.1.b. Temperature of at least minus 50 degrees C to plus 125 degrees C; and either

b.1.c. Vibration environments of 10 g RMS or greater between 20 Hz and 2,000 Hz imparting forces of 5 kN or greater, for environmental chambers; or

b.1.d. Acoustic environments at an overall sound pressure level of 140 dB or greater (referenced to 2×10^{-5} N per square meter) or with a rated power output of 4 kiloWatts or greater, for anechoic chambers.

Dated: January 24, 1996.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 96–1575 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 93–96]

RIN 1515–AB31

Reporting Requirements for Vessels, Vehicles, and Individuals; Correction

AGENCY: Customs Service, Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (T.D. 93–96), which were published on Tuesday, December 21, 1993 (58 FR 67312). The regulations related to the reporting requirements for vessels, vehicles, and individuals.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton, Attorney, Entry and Carrier Rulings Branch (202) 482–6933.

SUPPLEMENTARY INFORMATION:

Background

On Tuesday, December 21, 1993, Customs published a document in the **Federal Register** (T.D. 93–96, 58 FR 67312), that amended the Customs Regulations to implement certain provisions of the Customs Enforcement Act of 1986, a part of the Anti-Drug Abuse Act of 1986, designed to strengthen Federal efforts to improve the enforcement of Federal drug laws and enhance the interdiction of illegal drug shipments. The regulatory changes pertained to the arrival, entry, and departure reporting requirements applicable to vessels, vehicles, and individuals, and informed the public regarding applicable penalty, seizure and forfeiture provisions for violation of the provisions.

As set forth in the **Federal Register**, the document contained an error in an amendatory instruction resulting in the inadvertent removal of two paragraphs from § 4.30(a). At the time the document was published, § 4.30(a) consisted of three paragraphs: introductory paragraph (a), paragraph (a)(1), and paragraph (a)(2). The amendatory instruction which was in error stated that paragraph (a) was being revised, rather than stating that introductory paragraph (a) was being revised. Because only the text of introductory paragraph (a) followed that instruction, paragraphs (a)(1) and (a)(2) were deleted from future editions of the Customs Regulations (19 CFR). The intent of Customs was to revise the language of introductory paragraph (a), but to retain paragraphs (a)(1) and (a)(2). This document corrects that error by reinserting those two paragraphs.

List of Subjects in 19 CFR Part 4

Cargo vessels, Coastal zone, Customs duties and inspection, Fishing vessels, Harbors, Imports, Maritime carriers, Passenger vessels, Reporting and recordkeeping requirements, Seamen, Vessels, Yachts.

Amendments to the Regulations

Accordingly, Title 19, Chapter I, part 4 of the Customs Regulations (19 CFR part 4) is corrected by making the following amendments:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 and the specific authority citation for § 4.30 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.30 also issued under 19 U.S.C. 288, 1433, 1446, 1448, 1450–1454, 1490;

* * * * *

2. Section 4.30(a) is amended by adding paragraphs (a)(1) and (a)(2) to read as follows:

§ 4.30 Permits and special licenses for unlading and lading.

(a) * * *

(1) U.S. and foreign vessels arriving at a U.S. port directly from a foreign port or place are required to make entry, whether it be formal or, as provided in § 4.8, preliminary, before the port director may issue a permit or special license to lade or unlade.

(2) U.S. vessels arriving at a U.S. port from another U.S. port at which formal entry was made may be issued a permit or special license to lade or unlade without having to make either preliminary or formal entry at the second and subsequent ports. Foreign vessels arriving at a U.S. port from another U.S. port at which formal entry was made may be issued a permit or special license to lade or unlade at the second and subsequent ports prior to formal entry without the necessity of making preliminary entry. In these circumstances, after the master has reported arrival of the vessel, the port director may issue the permit or special license or may, in his discretion, require the vessel to be boarded, the master to make an oath or affirmation to the truth of the statements contained in the vessel's manifest to the Customs officer who boards the vessel, and require delivery of the manifest prior to issuing the permit.

* * * * *

Dated: January 26, 1996.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 96–2063 Filed 1–31–96; 8:45 am]

BILLING CODE 4820–02–P

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19 CFR Part 132

[T.D. 96–12]

RIN 1515–AB73

Export Certificates for Beef Subject to Tariff-Rate Quota

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, the interim amendment to the Customs Regulations setting forth the form and manner by which an importer may make a declaration that a valid export certificate is in effect for imported beef which is the subject of a tariff-rate quota and the product of a participating country, as defined in regulations of the United States Trade Representative, in accordance with the Uruguay Round Agreements Act.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Karen Cooper, Quota Branch, (202) 927–5401.

SUPPLEMENTARY INFORMATION:

Background

As a result of the Uruguay Round Agreements, approved by Congress in § 101 of the Uruguay Round Agreements Act (Pub. L. 103–465), the President, by Presidential Proclamation No. 6763, established a tariff-rate quota for imported beef.

The specific imported beef, as well as the various countries eligible for the in-quota tariff rate are set forth in Additional U.S. Note 3, Schedule XX, Chapter 2, of the Harmonized Tariff Schedule of the United States. The eligible countries which may export such beef to the United States and avail themselves of the preferential, in-quota tariff rate include Australia, New Zealand and Japan.

As part of the implementation of the tariff-rate quota for beef, the United States, specifically, the United States Trade Representative (USTR), offered these exporting countries that have an allocation of the in-quota quantity the opportunity to use export certificates for their qualifying beef exports to the United States. Although countries that have an allocation of the in-quota quantity are referred to in the statutory law as "participating countries", for purposes of the interim rule and now for this final rule, a participating country constitutes an allocated country that has been authorized to participate in the export certificate program. To this end, New Zealand has requested the opportunity to participate in this program.

An exporting country using export certificates in this regard must notify the USTR and provide the necessary supporting information. Customs is then responsible for ensuring that no imports of beef from that country are counted against the country's in-quota allocation unless such beef is covered by a proper export certificate.

Accordingly, the USTR undertook rulemaking in this matter (15 CFR 2012.2 and 2012.3).

In addition, Customs issued an interim rule published in the **Federal Register** (60 FR 39108) on August 1, 1995, in order to set forth the form and manner by which an importer declares that a valid export certificate exists, including a unique number therefor which must be referenced on the entry, or withdrawal from warehouse, for consumption. This interim rule also included a record retention period for the certificate and required the submission of such certificate to Customs upon request.

No comments were received from the public in response to the invitation therefor set forth in the interim rule, and Customs has determined to adopt this rule as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

Because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to E.O. 12866. Because no notice of proposed rulemaking was required in this case, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal author of this document was Russell Berger, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 132

Customs duties and inspection, Imports, Postal service, Quotas.

Amendment to the Regulations

PART 132—QUOTAS

Accordingly, the interim rule amending 19 CFR part 132 to add a new § 132.15, which was published in the **Federal Register** at 60 FR 39108 on August 1, 1995, is adopted as a final rule without change.

George J. Weise,

Commissioner of Customs.

Approved: December 22, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–1992 Filed 1–31–96; 8:45 am]

BILLING CODE 4820–02–P

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19 CFR Part 148

[T.D. 96–13]

Changes to Customs List of Designated Public International Organizations

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by updating Customs list of designated public international organizations entitled to certain free entry privileges provided for under provisions of the International Organizations Immunities Act. The last time the list was updated was in 1993 and since then the President has issued several Executive Orders which designate certain organizations as entitled to this free entry privilege. Accordingly, Customs deems it appropriate to update the list at this time.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Dennis Sequeira, Director, International Organizations & Agreements Division, Office of International Affairs, (202) 927–1480.

SUPPLEMENTARY INFORMATION:

Background

The International Organizations Immunities Act, 22 U.S.C. 288, generally provides that certain international organizations, agencies, and committees, those in which the United States participates or otherwise has an interest and which have been designated by the President through appropriate Executive Order as public international organizations, are entitled to enjoy certain privileges, exemptions, and immunities conferred by the Act. The Department of State lists the public international organizations, designated by the President as entitled to enjoy any measure of the privileges, exemptions, and immunities conferred by the Act, in the notes following the provisions of Section 288.

One of the privileges provided for under the Act is that the baggage and effects of alien officers, employees, and representatives—and their families, suites, and servants—to the designated organization, are admitted free of duty and without entry. Those designated organizations entitled to this duty-free entry privilege are delineated at § 148.87(b), Customs Regulations (19 CFR 148.87(b)). Thus, the list of public international organizations maintained by Customs is for the limited purpose of identifying those organizations entitled to the duty-free entry privilege; it does not necessarily include all of the international organizations that are on the list maintained by the Department of State, which delineates all of the international organizations designated by the President regardless of the extent of the privileges conferred.

Since the last revision of § 148.87(b) in 1993 (T.D. 93–45), four Executive Orders have been issued designating certain organizations as public international organizations. Collectively, these Executive Orders add 7 international organizations to Customs list of public international organizations entitled to the duty-free entry privilege—bringing the total of designated international organizations to 68, as follows:

1. Executive Order 12842 of March 29, 1993, 58 FR 17081, 3 CFR 1993 Comp., p. 592, 29 Weekly Comp. Pres. Doc. 505, designated the International Development Law Institute;
2. Executive Order 12894 of January 26, 1994, 59 FR 4237, 3 CFR 1994 Comp., p. 857, 30 Weekly Comp. Pres. Doc. 159, designated the North Pacific Marine Science Organization;
3. Executive Order 12895 of January 26, 1994, 50 FR 4237, 3 CFR 1994 Comp., p. 857, 30 Weekly Comp. Pres. Doc. 159, designated the North Pacific Anadromous Fish Commission; and
4. Executive Order 12904 of March 16, 1994, 59 FR 13179, 3 CFR 1994 Comp., p. 880, 30 Weekly Comp. Pres. Doc. 550, designated the Commission for Environmental Cooperation, the Commission for Labor Cooperation, the Border Environment Cooperation Commission, and the North American Development Bank pursuant to the North American Free Trade Agreement Implementation Act.

Inapplicability of Public Notice and Comment Requirements, Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Because this amendment merely corrects the listing of designated organizations entitled by law to free entry privileges as public international organizations, pursuant to 5 U.S.C. 553(b)(B), good cause exists for dispensing with notice and public procedure thereon as unnecessary. For the same reason, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d) (1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch, Office of Regulations and Rulings.

List of Subjects in 19 CFR Part 148

Foreign officials, Government employees, International organizations, Privileges and immunities, Taxes.

Amendment to the Regulations

For the reasons stated above, part 148, Customs Regulations (19 CFR part 148), is amended as set forth below:

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for part 148 is revised to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States);

* * * * *

2. Section 148.87(b) is amended by adding the following, in appropriate alphabetical order, to the table, to read as follows:

§ 148.87 Officers and employees of, and representatives to, public international organizations.

* * * * *

(b) * * *

Organization	Executive order	Date
* * *	* *	* *
Border Environmental Cooperation Commission.	12904	Mar. 16, 1994.
* * *	* *	* *
Commission for Environmental Cooperation.	12904	Mar. 16, 1994.
* * *	* *	* *
Commission for Labor Cooperation.	12904	Mar. 16, 1994.
* * *	* *	* *
International Development Law Institute.	12842	Mar. 29, 1993.
* * *	* *	* *
North American Development Bank.	12904	Mar. 16, 1994.
* * *	* *	* *
North Pacific Anadromous Fish Commission.	12895	Jan. 26, 1994.
* * *	* *	* *
North Pacific Marine Science Organization.	12894	Jan. 26, 1994.

* * * * *

George J. Weise,
Commissioner of Customs.

Approved: December 22, 1995.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–1991 Filed 1–31–96; 8:45 am]
BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 80

[Docket No. 94C–0041]

Color Additive Certification; Increase in Fees For Certification Services

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations by increasing the fees for certification services. The change in fees will allow FDA to continue to maintain an adequate color certification program as required by the Federal Food, Drug, and Cosmetic Act (the act). The fees are intended to recover the full costs of operation of FDA's color certification program, including the unfunded liability of the Civil Service Retirement Fund and the appropriate overhead costs of the Public Health Service (PHS) and the Department of Health and Human Services (DHHS).

DATES: Effective March 4, 1996.

FOR FURTHER INFORMATION CONTACT: David R. Petak, Accounting Branch (HFA–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1766.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 29, 1994 (59 FR 60898), FDA issued an interim rule to amend the color additive regulations by increasing the fee for certification services. The change in fees was necessary so that FDA could recover the full costs of operation of its color certification program, including the unfunded liability of the Civil Service Retirement Fund and the appropriate overhead costs of PHS and DHHS. The fee schedule in effect before publication of the interim rule had been in place since 1982. While costs of the certification program have increased through the years, until 1991, the steady growth of the color additive market and corresponding increase in the batches certified generated sufficient revenue to cover these increased costs. The fee schedule is designed to cover the costs involved in the certifying of batches of color additive. These costs include both the cost of specific tests required by the regulations and the general costs associated with the certification program, such as costs of accounting, reviewing data, issuing certificates, and conducting research and establishment inspections.

Since 1991, however, the volume of batches certified has leveled off, while the costs have continued to rise at approximately 10 percent per year. Moreover, the old fee schedule did not reflect all applicable overhead costs for the program. It did not reflect the costs of management support provided by both PHS and DHHS, personnel costs for the unfunded liability portion of the Civil Service Retirement Fund, and ancillary costs of space, equipment, travel, and supplies. The agency announced in the November 1994 notice that it concluded that it is necessary to include these costs in the calculation of the fees to ensure that the fees fully cover the costs of certification. Because section 721(e) of the act (21 U.S.C. 379e(e)) requires payment of such fees necessary to provide, maintain, and equip an adequate certification service, an immediate increase was necessary.

The fee for straight colors including lakes is $.30 per pound (a $.05 per pound increase) with a minimum fee of $192. There are similar increases in fees for repacks of certified color additives and color additive mixtures. In addition, the interim rule announced the agency's tentative conclusion that fees would increase at a rate that is proportional to Federal salary increases, commencing with pay raises on or after January 1, 1996. This provision would permit FDA to set initial fees lower than they would otherwise be set. Interested persons were given until February 13, 1995, to comment on the interim rule. One letter was received in response to the interim rule from the International Association of Color Manufacturers (IACM). A description of the comment and the agency's response is as follows.

II. Comment

IACM, a trade association representing firms that manufacture certified color additives for use in foods, drugs, cosmetics, and medical devices, objected to the fee escalation provision, supported refunds of surplus fees, and suggested alternatives to the certification program.

In support of its objection to the escalator provision, IACM stated that it was opposed to an automatic annual increase in the color certification fees because it was contrary to section 721(e) of the act. IACM argued that Congress clearly intended that such fee increases would have to be specified in a proposed regulation with an opportunity for public notice and comments. IACM further stated that the fee study that FDA made available does not support the need for automatic fee increases and requested clarification of all the factors (e.g., local pay rate increase) that FDA intended to use as a basis for the automatic fee increase. IACM also requested more time to comment on these factors. In addition, IACM supported refunds of surplus fees but requested that FDA include a statement that it is "* * * committed to making refunds." Lastly, IACM suggested that, in light of FDA's decision to increase the fee and provide for an automatic fee escalator, FDA should consider alternative methods of certification such as certifying private laboratories or certifying an individual company to conduct its own certification.

After due consideration FDA finds that it is persuaded by IACM's comments in support of its objection to the escalator provision, and the agency will not implement this provision. The agency will continue with its past policy of monitoring color certification costs and set fees as required by section 721(e) of the act as necessary to provide, maintain, and equip an adequate certification service. FDA will continue to closely monitor the certification fee structure and will continue with its policy of refunding any excess of funds in proportion to workload of each company that sought color certification. Accordingly, FDA is removing § 80.10(c) (21 CFR 80.10(c)) from the regulations.

IACM's request that FDA consider alternatives to the certification program are outside the scope of interim rule, and since the agency is returning to the past procedure for determining color additive certification fees, the issue needs no further consideration at this time. Thus, FDA is not making any additional modifications to § 80.10. The interim rule adopted on November 29, 1994, is therefore permanent, with the only modification that § 80.10(c) is withdrawn, and § 80.10(d) is redesignated as § 80.10(c) to replace it.

III. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866

directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The entire cost of this fee increase would be approximately $450,000 per year and would be distributed among approximately 30 companies who would pay an increased fee that is proportional to the number of pounds of color that they certify. Because the great majority of these costs will be borne by a few firms that have a dominant share of the market, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24 (a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 80

Color additives, Cosmetics, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Foods and Drugs, the interim rule published in the **Federal Register** of November 29, 1994 (59 FR 60898) is confirmed with the following changes to 21 CFR part 80:

PART 80—COLOR ADDITIVE CERTIFICATION

1. The authority citation for 21 CFR part 80 continues to read as follows:

Authority: Secs. 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371, 379e).

§ 80.10 [Amended]

2. Section 80.10 *Fees for certification services* is amended by removing paragraph (c) and by redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), respectively.

Dated: January 25, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–1977 Filed 1–31–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–064–1–7179a; FRL–5305–7]

Approval and Promulgation of Implementation Plans: Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to Florida's State Implementation Plan (SIP) to allow the State of Florida to issue Federally enforceable state operating permits (FESOP). On December 21, 1994, the State of Florida through the Florida Department of Environmental Protection (FDEP), submitted a SIP revision fulfilling the requirements necessary for a state FESOP program to become Federally enforceable. In order to extend the Federal enforceability of Florida's FESOP program to hazardous air pollutants (HAP), EPA is also approving Florida's FESOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA) so that Florida may issue Federally enforceable state operating permits for HAP.

DATES: This final rule is effective April 1, 1996 unless adverse or critical comments are received by March 4, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to Gracy R. Danois, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4150. Reference file FL–064–1–7179a.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On December 21, 1994, the State of Florida through the FDEP submitted a SIP revision designed to make certain permits issued under the State's existing minor source operating permit program Federally enforceable pursuant to EPA requirements as specified in a **Federal Register** notice, "Requirements for the preparation, adoption, and submittal of implementation plans; air quality, new source review; final rules." (see 54 FR 22274, June 28, 1989). Additional materials were provided by FDEP to EPA in a supplemental submittal on April 24, 1995.

Florida will continue to issue permits which are not Federally enforceable under its existing minor source operating permit rules as it has done in the past. The SIP revision, which is the subject of this document, adds requirements to Florida's current minor source operating permit program, which allows the State to issue FESOP. This voluntary SIP revision allows EPA and citizens under the CAA to enforce terms and conditions of Florida's FESOP program. Operating permits that are issued under the State's FESOP program that is approved into the SIP and under section 112(l), will provide Federally enforceable limits to an air pollution source's potential to emit. Limiting a source's potential to emit through Federally enforceable operating permits can affect the applicability of Federal regulations, such as title V operating permits, New Source Review (NSR) preconstruction permits, Prevention of Significant Deterioration (PSD) preconstruction permits for criteria pollutants and federal air toxics requirements mandated under section 112 of the CAA, to a source.

In the aforementioned June 28, 1989, **Federal Register** document, EPA listed

five criteria necessary to make a State's minor source operating permit program Federally enforceable and, therefore, approvable into the SIP. This revision satisfies the five criteria for Federal enforceability of Florida's FESOP program.

The first criterion for a state's operating permit program to be Federally enforceable is EPA's approval of the permit program into the SIP. On December 21, 1994, the State of Florida submitted through FDEP a SIP revision designed to meet the five criteria for Federal enforceability. The State supplemented their submittal with additional information on April 24, 1995. Today's action will approve these regulations into the Florida SIP, and therefore satisfy the first criterion for Federal enforceability.

The second criterion for a state's operating permit program to be Federally enforceable is that the regulations approved into the SIP must impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits. Florida's program meets this criterion in Rule 62–210.300(2)(b)1.d. of the Florida Administrative Code (F.A.C.), by stating that "each permit shall be conditioned such that the owner or operator is legally obligated to adhere to the terms and limitations of such permit, and of any revision or renewal of such permit made in accordance with the requirements of this paragraph * * *" Moreover, F.A.C. 62–210.300(2)(b)1., states that only permits issued, renewed or revised in accordance with the requirements of this rule shall be deemed Federally enforceable. Hence, the second criterion for Federal enforceability is satisfied.

The third criterion for a state's operating permit program to be Federally enforceable is that the state operating permit program must require all emissions limitations, controls, and other requirements imposed by permits to be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise "Federally enforceable" (e.g., standards established under sections 111 and 112 of the CAA). The first paragraph of F.A.C. Rule 62–210.300, requires that "all emissions limitations, controls, and other requirements imposed by such permits shall be at least as stringent as any applicable limitations and requirements contained in or enforceable under the SIP or that are otherwise Federally enforceable". Additionally, this paragraph specifies that "issuance of a permit does not relieve the owner or operator of any emission unit from complying with applicable emission limiting standards or other requirements of the air pollution rules of the Department or any other applicable requirements under Federal, state, or local law." Therefore, this section of Florida's permits rule satisfies the third criterion for Federal enforceability.

The fourth criterion for a state's operating permit program to be Federally enforceable is that limitations, controls, and requirements in the operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter. With respect to this criterion, enforceability is essentially provided on a permit-by-permit basis, particularly by writing practical and quantitative enforcement procedures into each permit. EPA will review the Federal enforceability of Florida's permits by using the policy memorandum entitled, "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and title V of the Clean Air Act (Act)," dated January 25, 1995, which describes the types of limitations that reduce potential to emit in a Federally enforceable manner. Florida's F.A.C. Section 62–210.300(2)(b)1.e. provides for fully enforceable permit requirements. Concerning permanence, F.A.C. Section 62–210.300(2)(b)(2), establishes that once a facility obtains a synthetic non-title V permit, the facility is subject to its requirements unless the source becomes a title V source or the facility can demonstrate that is "naturally minor" without any Federally enforceable limitations. Consequently, Florida's rules provide for the degree of permanence necessary for enforcement of the applicable provisions, and provide that the permit limitations will be fully enforceable. Hence, the fourth criterion for Federal enforceability is met.

The fifth criterion for a state's operating permit program to be Federally enforceable is providing EPA and the public with timely notice of the proposal and issuance of such permits, and providing EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be Federally enforceable. This process must also provide for an opportunity for public comment on the permit applications prior to issuance of the final permit. Florida satisfies this criteria in F.A.C. Sections 62–210.300(2)(b)1.b., 62–210.350(1)(a)2. and 62–210.350(4), which require the State to provide a 30 day public comment period of proposed permitting actions, and to provide a copy of each proposed (or draft) and final permit to the Administrator. EPA notes that any permit which has not gone through an opportunity for public comment and EPA review under the Florida FESOP program will not be Federally enforceable.

In addition to requesting approval into the SIP, Florida has also requested approval of its FESOP program under section 112(l) of the Act for the purpose of creating Federally enforceable limitations on the potential to emit of HAP through the issuance of Federally enforceable state operating permits. Approval under section 112(l) is necessary because the proposed SIP approval discussed above only extends to the control of criteria pollutants.

EPA believes that the five criteria for Federal enforceability are also appropriate for evaluating and approving FESOP programs under section 112(l). The June 28, 1989, **Federal Register** document did not specifically address HAPs because it was written prior to the 1990 amendments to section 112, not because it establishes requirements unique to criteria pollutants.

In addition to meeting the criteria in the June 28, 1989, document, a FESOP program that addresses HAP must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) gives EPA authority to approve a program only if it: (1) contains adequate authority to assure compliance with any section 112 standards or requirements; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the CAA. The January 25, 1995, memorandum cited above, provides further discussion of these criteria and of the extent to which limits on criteria pollutants such as volatile organic compounds and particulate matter may be considered to limit sources' potential to emit HAP.

EPA plans to codify the approval criteria for programs limiting the potential to emit for HAP, such as FESOP programs, through amendments to Subpart E of Part 63, the regulations promulgated to implement section 112(l) of the CAA. (See 58 FR 62262, November 26, 1993). EPA anticipates that these regulatory criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989, **Federal Register** document. The EPA also anticipates that since FESOP programs approved pursuant to section 112(l) prior to the planned Subpart E

revisions will have been approved as meeting these criteria, further approval actions for those programs will not be necessary.

EPA has authority under section 112(l) to approve programs to limit the potential to emit of HAP directly under section 112(l) prior to the Subpart E revisions. Section 112(l)(5) requires the EPA to disapprove programs that are inconsistent with guidance required to be issued under section 112(l)(2). This might be read to suggest that the "guidance" referred to in section 112(l)(2) was intended to be a binding rule. Even under this interpretation, EPA does not believe that section 112(l) requires this rulemaking to be comprehensive. That is to say, it need not address every possible instance of approval under section 112(l). EPA has already issued regulations under section 112(l) that would satisfy any section 112(l)(2) requirement for rulemaking. Given the severe timing problems posed by impending deadlines set forth in "maximum achievable control technology" (MACT) emission standards under section 112 and for submittal of title V permit applications, EPA believes it is reasonable to read section 112(l) to allow for approval of programs to limit potential to emit prior to promulgation of a rule specifically addressing this issue. Therefore, EPA is approving Florida's FESOP program so that Florida may begin to issue Federally enforceable operating permits as soon as possible.

Regarding the statutory criteria of section 112(l)(5) referred to above, EPA believes Florida's FESOP program contains adequate authority to assure compliance with section 112 requirements because the third criterion of the June 28, 1989, **Federal Register** document is met. That is to say, Florida's program does not allow for the waiver of any section 112 requirements. Sources that become minor through a permit issued pursuant to this program would still be required to meet the section 112 requirements applicable to non-major sources.

Regarding the requirement for adequate resources, EPA believes Florida has demonstrated that it will provide adequate resources to support the FESOP program. EPA expects that resources will continue to be adequate to administer that portion of the State's minor source operating permit program under which Federally enforceable operating permits will be issued since Florida has administered a minor source operating permit program for several years. EPA will monitor Florida's implementation of its FESOP program to ensure that adequate resources are in fact available.

EPA also believes that Florida's FESOP program provides for an expeditious schedule to assure compliance with section 112 requirements. This program will be used to allow a source to establish a voluntary limit on potential to emit to avoid being subject to a CAA requirement applicable on a particular date. Nothing in Florida's FESOP program would allow a source to avoid or delay compliance with a CAA requirement if it fails to obtain an appropriate Federally enforceable limit by the relevant deadline. Finally, EPA believes Florida's program is consistent with the intent of section 112 and the CAA for states to provide a mechanism through which sources may avoid classification as major sources by obtaining Federally enforceable limits on potential to emit.

Eligibility for Federally enforceable permits extends not only to permits issued after the effective date of this rule, but also to permits issued under the State's current rule prior to the effective date of today's rulemaking. If the State followed its own regulation, each issued permit that established a title I condition (e.g. for a source to have minor source potential to emit) was subject to public notice and prior EPA review. Therefore, EPA will consider all such operating permits which were issued in a manner consistent with both the State regulations and the five criteria as federally enforceable upon the effective date of this action provided that any permits that the State wishes to make federally enforceable are submitted to EPA and accompanied by documentation that the procedures approved today have been followed. EPA will expeditiously review any individual permits so submitted to ensure their conformity with the program requirements.

With Florida's addition of these provisions and EPA's approval of this revision to the SIP, Florida's FESOP program satisfies the criteria described in the June 28, 1989, **Federal Register** document.

II. Final Action

In this action, EPA is approving Florida's FESOP program. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, within 30 days of its publication, adverse or critical comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. EPA has determined that this action conforms with those requirements.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607 (b)(2).)

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2) and 7410(R).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State has elected to adopt the program provided for under Section 112(l) of the Clean Air Act. These rules may bind the State government to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose no new requirements, such sources are already subject to these regulations under State law. Accordingly, no additional costs to the State government, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to the State government in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: September 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(90) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(90) Revisions to Chapter 62–210, Stationary Sources—General Requirements, submitted by the Florida Department of Environmental Protection on December 21, 1994 and April 24, 1995.

(i) Incorporation by reference.

(A) Revised Sections 62–210.300, "Permits Required", except 62–210.300(2)(b)1., and 62–210.350, "Public Notice and Comment", effective November 23, 1994. Revised Section 62–210.300(2)(b)1., effective April 18, 1995.

[FR Doc. 96–1937 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IL112–1–6759a; FRL–5331–7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On October 24, 1994, the State of Illinois submitted a site-specific State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) for Alumax Incorporated's Morris, Illinois facility, as part of the State's requirement under the Clean Air Act (Act) to adopt Reasonably Available Control Technology (RACT) rules controlling Volatile Organic Material (VOM) for sources in the Chicago ozone nonattainment area which have the potential to emit 25 tons of VOM per year and are not covered under a USEPA Control Techniques Guideline (CTG) document. VOM, as defined by the State of Illinois, is identical to "volatile organic compounds" (VOC), as defined by USEPA. Emissions of VOC react with other pollutants, such as oxides of nitrogen, on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. Chicago area RACT rules are intended to establish for each particular major stationary source in the Chicago ozone nonattainment area the lowest VOC emission limitation it is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. RACT controls are a major component of the Chicago ozone nonattainment area's overall strategy to achieve and maintain attainment with the ozone standard. A final approval action is being taken because the submittal meets all pertinent Federal requirements.

DATES: The "direct final" is effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(2) of the Act requires States with moderate and above ozone nonattainment areas to adopt VOC RACT rules covering "major" sources not already covered by a CTG for all areas designated nonattainment for ozone and classified as moderate or above. Under Section 182(d), sources located in areas classified as "severe" are considered "major" sources if they have the potential to emit 25 tons per year or more of VOC.

On October 21, 1993, the State of Illinois submitted "generic" RACT rules covering non-CTG major sources in the Chicago severe ozone nonattainment

area, which includes subparts PP, QQ, RR, TT, and UU of part 218 of the 35 Illinois Administrative Code (IAC), as a revision to the Illinois SIP. This SIP revision is soon to be promulgated by USEPA.

On December 20, 1993, Alumax and the Illinois Environmental Protection Agency (IEPA) filed a joint petition for an adjusted standard for Alumax's Morris, Illinois facility with the Illinois Pollution Control Board (Board). The adjusted standard petition sought relief for the Morris facility's hot and cold aluminum rolling mills from VOM control requirements found in part 218, subpart TT. Subpart TT would require the Morris facility's rolling mills to meet an 81 percent (%) reduction in uncontrolled VOM emissions. A public hearing on the adjusted standard was held on March 1, 1994, in Morris, Illinois. Alumax and IEPA contended that alternative control requirements for the Morris facility are necessary due to Alumax's finding that placing add-on control equipment to the facility's hot and cold rolling mills in order to meet the 81% control requirement would be technically and economically infeasible. On September 1, 1994, the Board adopted a Final Opinion and Order, AS 92–13, granting the adjusted standard, replacing the 81% control requirement with less stringent requirements, which include lubricant selection and temperature control. The adjusted standard also became effective on September 1, 1994.

The IEPA formally submitted the adjusted standard for Alumax on October 24, 1994, as a site-specific revision to the Illinois SIP for ozone. In doing so, IEPA intends to cover the Act's section 182(b)(2) major non-CTG RACT requirement for Alumax's Morris, Illinois facility. USEPA made a finding of completeness of this SIP submittal in a letter dated November 30, 1994.

II. State Submittal

The site-specific SIP revision would alter application of regulations contained within subpart TT, section 218.986 of the 35 IAC, as they apply to the Alumax facility's hot and cold aluminum rolling mills. The regulations in section 218.986 address "other emission units." The request for an adjusted standard deals solely with the requirements found in subsections (a), (b), and (c), which require installation and maintenance of emission capture and control equipment which achieves an overall reduction in uncontrolled VOM emissions of at least 81%, an independent requirement for coating lines (not applicable in this case), or an alternative control plan which has been approved by the IEPA and the USEPA.

The site-specific SIP revision submittal contains a study conducted by Environmental Resources Management (ERM) which reviewed possible VOM emission control strategies and associated costs for the Alumax facility's hot and cold aluminum rolling mills. This study considered five process modification and treatment technologies to demonstrate RACT for the facility, including thermal incineration, oil absorption, carbon adsorption, steam concentration, and rolling lubricant selection with temperature control. Also considered was mill hooding, but hooding is ineffectual without connection to an add-on control device. The study found thermal incineration, oil absorption, carbon adsorption, and steam concentration to be technically and economically infeasible for the Alumax facility. Rolling lubricant selection with temperature control, however, was found to be the most appropriate VOM control method for the facility. The use of inherently low volatility rolling oils as lubricants in the cold rolling mills, and oil and water emulsions which maximizes water, instead of oil in lubricating the hot rolling mills, could achieve lower VOM emissions in the Alumax facility. Likewise, the study recommended temperature control of these lubricants so that the vapor pressure exerted by the system does not cause excessive VOM emission while maximizing the sensible heat capacity of the system. The Board's adjusted standard reflects these recommendations, by exempting the Alumax facility from the 81% control requirement, and, instead, requiring that lubricant selection and temperature control be used at the facility, along with requiring certain monitoring, test methods, and recordkeeping/recording be performed to demonstrate compliance. Based upon the ERM study, the USEPA finds acceptable the justification for not requiring the use of add-on control technology at the Alumax facility, and establishing for the facility instead lubricant selection and temperature control as RACT.

III. Analysis of Adjusted Standard

The adjusted standard's requirements for the Alumax facility are as follows:

A. Hot Rolling Mill

The Alumax Morris facility's hot rolling mill must use an oil/water emulsion rolling lubricant not to exceed 10%, by weight, of petroleum-based oil and additives, and a maximum inlet sump rolling lubricant temperature of 200 Fahrenheit (F). Compliance shall be demonstrated by a monthly analysis of a grab rolling lubricant sample from the hot mill and continuous temperature reading in the inlet sump feeding the mill.

The lubricants at the hot mill must be sampled and tested, for the percentage of oil and water, on a monthly basis. ASTM Method D95–83 (Reapproved 1990), "Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation," shall be used to determine the percent by weight for petroleum-based oil and additives.

B. Cold Rolling Mills

The Morris facility's cold rolling mills must use low vapor pressure lubricants composed of highly paraffinic oils and additives (rolling lubricant) and a maximum inlet sump rolling lubricant temperature of 150 degrees F. Stoddard solvent shall be the only solvent additive used in rolling lubricants. Compliance shall be demonstrated by a monthly analysis of a grab rolling lubricant sample from each operating mill and continuous temperature readings of the rolling lubricant temperature of the inlet sump feeding each mill.

All incoming shipments of the rolling lubricants for the cold mills must be sampled and each sample must undergo a distillation range test using ASTM method D86–90, "Standard Test Method for Distillation of Petroleum Products". The initial and final boiling points of oils must be between 440 and 650 degrees F. Also, for the cold mills, samples of the as-applied rolling lubricants must be taken on a monthly basis to verify, using ASTM D86–90, that the initial boiling point is greater than 310 degrees F and no more than 10.0 % of as-applied rolling lubricants shall boil off between the initial boiling point and 440 degrees F.

In addition, Stoddard solvent shall be the only solvent additive used in the cold mill rolling lubricants. All incoming shipments of Stoddard solvent must be sampled like the rolling lubricants using ASTM method D86–90, and the initial and final boiling points of the solvent additive must be between 310 and 390 degrees F.

C. Coolant Temperature Monitoring

Coolant temperature shall be monitored at all of the rolling mills by use of thermocouple probes and computer data system which automatically record values at least every five (5) minutes.

D. Recordkeeping and Reporting

All percent oil test results for hot mill lubricants, all distillation test results for cold mill lubricants and Stoddard solvent, all coolant temperature recording data, and all oil/water emulsion formulations with identification of all oils and solvent additives shall be kept on file, and be available for inspection by the Agency (IEPA or USEPA), for three years.

If Alumax deviates from these control requirements for any reason, it must submit a written report providing a description of the deviation, along with a date and time, cause of the deviation, if known, and any corrective action taken. Unless more frequent or detailed reporting is required under other provisions, including permit conditions, such written report shall be submitted, for each calendar year, by February 15 of the following year.

E. Compliance Date

Alumax shall comply with the above requirements listed above by October 31, 1994.

II. Final Rulemaking Action

The USEPA has undertaken its analysis of the site-specific SIP revision request based on a review of the materials presented by Alumax and IEPA, and has determined that the VOM control requirements specified for the Alumax Morris facility's aluminum rolling mills does constitute RACT and are fully enforceable. On this basis, the site-specific SIP revision request for Alumax's Morris facility is approvable.

This adjusted standard, AS 92–13, was adopted on September 1, 1994, and became effective on September 1, 1994, and replaces the requirements of section 218.986 of the 35 IAC as they apply to Alumax's Morris, Illinois hot and cold rolling operations.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 1, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: October 27, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(118) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(118) On October 24, 1994, the State submitted a site-specific revision to the State Implementation Plan establishing lubricant selection and temperature control requirements for Alumax Incorporated, Morris, Illinois facility's hot and cold aluminum rolling mills, as part of the Ozone Control Plan for the Chicago area.

(i) Incorporation by reference.

September 1, 1994, Opinion and Order of the Illinois Pollution Control Board AS 92–13, effective September 1, 1994.

[FR Doc. 96–1935 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[AZ 13–2–7096; FRL–5297–5]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Division of Air Pollution Control

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the Arizona State Implementation Plan (SIP) proposed in the **Federal Register** on October 4, 1994. The revisions concern rules from the Maricopa County Division of Air Pollution Control (MCDAPC). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from solvent degreasing operations, petroleum solvent dry cleaning, gasoline transfer, and the use of roadway asphalt. Thus, EPA is finalizing the approval of these revisions into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on March 4, 1996.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street SW., Washington, D.C. 20460.

Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, AZ 85012.

Maricopa County Division of Air Pollution Control, 2406 South 24th Street, Suite E–214, Phoenix, AZ 85034.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 1994 in 59 FR 50533, EPA proposed to approve the following MCDAPC rules into the Arizona SIP: Rule 331, Solvent Cleaning; Rule 333, Petroleum Solvent Dry Cleaning; Rule 340, Cutback and Emulsified Asphalt; and Rule 353, Transfer of Gasoline into Stationary Dispensing Tanks. Rule 331 and Rule 333 were adopted by MCDAPC on June 22, 1992. Rule 340 was adopted on September 21, 1992, and Rule 353 was adopted on April 6, 1992. These rules were submitted by the Arizona Department of Environmental Quality (ADEQ) to EPA on June 29, August 10, and November 13, 1992. These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and the nonattainment area is provided in the notice of proposed rulemaking (NPRM) cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 59 FR 50533 and in technical support documents (TSDs) available at EPA's Region IX office.

Response to Public Comments

A 30-day public comment period was provided in 59 FR 50533. EPA received no comments regarding the NPRM.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the Arizona SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 5, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

2. Section 52.120 is amended by revising paragraph (c)(72) and by adding paragraphs (c) (79) and (80) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(72) New and amended plans and regulations for the following agencies were submitted on November 13, 1992 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(*1*) Small Business Stationary Source Technical and Environmental Compliance Assistance Program, adopted on November 13, 1992.

(B) Maricopa County Environmental Quality and Community Services Agency.

(*1*) Rule 340, adopted on September 21, 1992.

* * * * *

(79) New and amended regulations for the following agencies were submitted on June 29, 1992 by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Quality and Community Services Agency.

(*1*) Rule 353, adopted on April 6, 1992.

* * * * *

(80) New and amended regulations for the following agencies were submitted on August 10, 1992 by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Quality and Community Services Agency.

(*1*) Rules 331 and 333, adopted on June 22, 1992.

* * * * *

[FR Doc. 96–1930 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 52

[CA 144–3–7121; FRL–5331–4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on March 28, 1995 and on April 20, 1995. The revisions concern San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4403 and South Coast Air Quality Management District (SCAQMD) Rule 1164. SJVUAPCD Rule 4403 controls volatile organic compound (VOC) emissions from components at light crude oil and gas production facilities and at natural gas processing facilities. SCAQMD Rule 1164 covers VOC emissions from semiconductor manufacturing operations. This approval action will incorporate the rules into the Federally approved SIP. The intended effect of approving these rules is to regulate VOC emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, this action will serve as a final determination that deficiencies identified by EPA in limited approval/limited disapproval actions on August 30, 1993 and September 29, 1993 have been corrected and that any sanctions or Federal Implementation Plan obligations are permanently stopped. EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on March 4, 1996.

ADDRESSES: Copies of these rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street SW., Washington, DC. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 1995 in 60 FR 15891, EPA proposed to approve the following rule into the California SIP: SJVUAPCD Rule 4403, Components Serving Light Crude Oil and Gases at Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities. Rule 4403 was adopted by SJVUAPCD on February 16, 1995. On

April 20, 1995 in 60 FR 19701, EPA proposed to approve SCAQMD Rule 1164, Semiconductor Manufacturing, into the California SIP. SCAQMD Rule 1164 was adopted on January 13, 1995. Both of these rules were submitted by the California Air Resources Board (CARB) to EPA on February 24, 1995.

The rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for the above rules and nonattainment areas is provided in the appropriate Notice of Proposed Rulemaking (NPRM) cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRMs cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of each rule and its evaluation has been provided in the NPRMs and in the technical support documents (TSDs) available at EPA's Region IX office. (TSDs dated March 7, 1995 and April 7, 1995, respectively.)

Response to Public Comments

A 30-day public comment period was provided in each NPRM. No comments were received regarding SCAQMD Rule 1164. EPA received letters from two commenters regarding SJVUAPCD Rule 4403. The comments, listed below, have not affected EPA's decision to take final approval action on this rule.

Comment: Annual inspection of flanges goes beyond RACT. Data are available which demonstrate that flange leaks are rare, and therefore annual flange inspections are not cost-effective. Flanges should be exempted from inspection requirements.

Response: A requirement that flanges be inspected annually is consistent with similar requirements in several other California district rules covering this source category. District rules are not precluded from requiring controls which may exceed Federal RACT. The SJVUAPCD is conducting a field study to gather additional data on the historical leak frequency of flanges in order to determine if the annual flange inspection requirement should be amended. If the District determines that this requirement should be amended, the District may revise Rule 4403 and submit the revised version for incorporation into the SIP.

Comment: The definitions of "component" and "component type" should be amended to reference pump seals and compressor seals rather than the pump and compressor itself. The current definitions create enforcement confusion as to how a leak on a pump or compressor device will count towards the leak thresholds.

Response: SJVUAPCD is in the process of writing an enforcement policy to clarify and formalize the District's inspection practices regarding pumps and compressors.

Comment: Small oil and gas producers should be exempt from annual instrument inspection due to cost-effectiveness considerations.

Response: This concern, along with supporting evidence, should be presented to the SJVUAPCD in order for the District to determine if a small producer exemption is appropriate.

Comment: Rule 4403 should be amended prior to EPA's final rulemaking action.

Response: The decision to amend Rule 4403 lies with the SJVUAPCD. The current submitted version of Rule 4403 is consistent with the CAA and EPA policy. EPA has determined that it is appropriate to approve this rule into the SIP.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittals under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose no new requirements, such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 31, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(215)(i)(A)(*4*) and (c)(215)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(215) * * *

(i) * * *

(A) * * *

(*4*) Rule 1164, adopted on January 13, 1995.

* * * * *

(C) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4403, adopted on February 16, 1995.

* * * * *

[FR Doc. 96–1847 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[IN57–1–7204a; FRL–5333–9]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On August 25, 1995, the State of Indiana submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) for open burning as part of the State's 15 percent (%) Rate of Progress (ROP) Plan control measures for Volatile Organic Compounds (VOC). VOC is one of the air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. These ROP plans are intended to bring areas which have been exceeding the public health based Federal ozone air quality standard closer toward the goal of attaining and maintaining this standard. The control measures specified in this open burning SIP revision prohibit residential open burning in Clark, Floyd, Lake, and Porter Counties beginning June 1, 1995. Indiana expects that these measures will reduce VOC emissions by 921 pounds per day in Lake and Porter Counties, and 704 pounds per day in Clark and Floyd Counties.

DATES: The "direct final" is effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman at (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Act requires all moderate and above ozone nonattainment areas to achieve a 15 percent reduction of 1990 emissions of volatile organic compounds by 1996. In Indiana, Lake and Porter Counties are classified as "Severe" nonattainment for ozone, while Clark and Floyd Counties are classified as "Moderate" nonattainment. As such, these areas are subject to the 15 percent Rate of Progress (ROP) requirement. On August 25, 1995, the Indiana Department of Environmental Management (IDEM) submitted a SIP revision request which amends Title 326 Indiana Administrative Code Article 4 Rule 1 Section 3 (326 IAC 4–1–3), to include a ban on residential open burning in Clark, Floyd, Lake, and Porter Counties. In doing so, IDEM believes that these control measures will help reduce VOC emissions enough to meet the 15% ROP requirements. The USEPA is undertaking a separate analysis to determine whether the 15% ROP requirement has been met as a result of this and other States submissions, and will make that determination in a separate rulemaking action.

Public hearings were held on this rule on May 4, 1994, September 7, 1994, and April 5, 1995, in Indianapolis, Indiana. The rules were finally adopted by the Indiana Air Pollution Control Board on April 5, 1995, became effective on June 23, 1995, and were published in the Indiana Register on July 1, 1995.

II. Analysis of State Submittal

The USEPA first approved an Indiana open burning rule on June 22, 1978, (43 FR 26721) as rule APC–2. (Indiana has since recodified APC–2 as 326 IAC 4–1.) Changes in the rule since USEPA's approval include the addition of an exemption for prescribed burning by the Department of Natural Resources for wildlife habitat maintenance, forestry purposes, and Natural Area management (326 IAC 4–1–3(a)(8)), and an exemption for United States Department of the Interior burning in order to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore (326 IAC 4–1–3(a)(9)). These exemptions have been in place on the State level for several years, but had not been submitted for USEPA approval before the August 25, 1995, submittal.

The major change in the new rule is the addition of a ban on residential open burning for Clark, Floyd, Lake, and Porter Counties. The rule continues to allow residential open burning, with certain restrictions, in other parts of the State. There are no specific requirements or criteria for the USEPA to use in reviewing a ban against open burning. However, it is reasonable to conclude that this rule will provide reductions in VOC emissions. Therefore, this rule is approvable as part of Indiana's 15% ROP plan.

III. Final Rulemaking Action

Revised 326 IAC 4–1–3, contains a ban on residential burning in Clark, Floyd, Lake, and Porter Counties, and has been submitted as part of Indiana's 15% ROP Plan for VOC. The USEPA has undertaken an analysis of this SIP revision request based on a review of the materials presented by IDEM and has determined that it is approvable because it provides an enforceable mechanism for reducing VOCs and ozone. USEPA will take separate action on Indiana's ROP Plan in a future **Federal Register** document.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in subsequent rulemaking. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 1, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the

procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 9, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: October 31, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(100) to read as follows:

§ 52.770 Identification of Plan.

* * * * *

(c) * * *

(100) On August 25, 1995, Indiana submitted a regulation which bans residential open burning in Clark, Floyd, Lake, and Porter Counties in Indiana. The regulation allows residential open burning, with certain restrictions, in other parts of the State, and describes other types of open burning which are allowed in Indiana.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 4: Burning Regulations, Rule 1: Open Burning, Section 3: Exemptions. Added at 18 In. Reg. 2408 Effective June 23, 1995.

[FR Doc. 96–1843 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MD043–3005; FRL–5339–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Prevention of Significant Deterioration: PM–10 Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland which amends Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, 26.11.02.10 (C)(9), and 26.11.06.14. The intended effect of this action is to approve an amendment to Maryland's Prevention of Significant Deterioration (PSD) program. This revision makes these regulations consistent with the currently effective version of 40 CFR part 52.21, including establishing the maximum increases in ambient particles with an aerodynamic diameter of less than or equal to a nominal 10 micrometers (PM–10) concentration allowed in an area above the baseline concentrations. This action is being taken in accordance with section 110 of the Clean Air Act (CAA), and in satisfaction of the June 3, 1993 promulgation of the PM–10 increment regulations requiring that existing state PSD programs be modified to replace the total suspended particulate (TSP) increments with the new PM–10 increment provisions.

DATES: This action is effective April 1, 1996 unless notice is received on or before March 4, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Lisa M. Donahue, (215) 597–2923.

SUPPLEMENTARY INFORMATION: From 1991 to 1993, EPA promulgated amendments to the regulations for the prevention of significant deterioration of air quality from emissions of sulfur dioxide, nitrogen oxides, and particulate matter. These regulations establish the maximum increases, or increments, in ambient concentrations of these criteria pollutants. In 1991, EPA amended the definition of significant at § 52.21(b)(23)(i) (56 FR 5506). In 1992, EPA promulgated two revisions to 40 CFR Part 52.21. On February 3, 1992 EPA amended the definition of VOC at § 52.21(b)(30) (57 FR 3946), and on July 21, 1992 EPA adopted a New Source Review (NSR) exclusion for utility pollution control projects and amended § 52.21(b)(2), (21), and (31)–(38) (57 FR 32314–32339).

On June 3, 1993, EPA promulgated regulations under Section 166 of the Clean Air Act to prevent significant deterioration of air quality due to emissions of particles with an aerodynamic diameter of less than or equal to a nominal 10 micrometers (PM–10), establishing increments for PM–10. EPA added the PM–10 increments to the PSD program elements in 40 CFR 51.166 and 52.21, which replaced the original increments that were based on total suspended particulate (TSP) (58 FR 31637). On July 20, 1993, EPA revised § 52.21(l)(1) and (2), which adds Supplement B to the "Guideline on Air Quality Models (Revised)" (57 FR 38816).

Summary of SIP Revision

On July 17, 1995, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revisions consist of changes to Maryland's Prevention of Significant Deterioration (PSD) Program at the Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, 26.11.02.10 (C)(9), and 26.11.06.14, which update references to 40 CFR Part 52.21 to the 1993 edition. The SIP would be revised to remove references to the 1990 edition of the CFR and replace those references with 1993.

EPA Evaluation

EPA evaluated Maryland's SIP revision and concluded the following: (1) Updating the regulations provides updated definitions and model guidelines, establishes a New Source Review (NSR) exclusion for utility pollution control projects, and provides protection of the PSD increment for PM–10; and (2) all of the applicable requirements of 40 CFR Part 51 and 52 are met. A more detailed evaluation is provided in a Technical Support Document available upon request from the Regional EPA office listed in the **ADDRESSES** section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, by March 1, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 1, 1996.

Final Action

EPA is approving as revisions to the Maryland SIP changes to the Code of Maryland Administrative Regulations (COMAR) which were submitted on July 17, 1995. The submitted revision updates the reference to 40 CFR 52.21. This actions make Maryland's SIP regulations, COMAR 26.11.01.01, 26.11.02.10 (C)(9) and 26.11.06.14, consistent with the currently effective version of 40 CFR 52.21.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve revisions to the Maryland SIP which make Maryland's SIP regulations, COMAR 26.11.01.01, 26.11.02.10 (C)(9) and 26.11.06.14, consistent with the currently effective version of 40 CFR 52.21 must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: November 3, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(119) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(119) Revisions to the Code of Maryland Administrative Regulations for prevention of significant deterioration submitted on July 17, 1995 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of July 17, 1995 from the Maryland Department of the Environment transmitting revisions to the Maryland State Implementation Plan.

(B) Amendments to regulations 26.11.01.01, 26.11.02.10 (C)(9) and 26.11.06.14 under the Code of Maryland Administrative Regulations (COMAR) revising Maryland's prevention of significant deterioration program to incorporate changes to 40 CFR 52.21 made between 1992 and 1993. The amendments were effective on May 8, 1995 in the State of Maryland.

(ii) Additional material.

(A) Remainder of July 17, 1995 State of Maryland submittal.

[FR Doc. 96–1931 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NC–070–1–6962a; FRL–5295–9]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 15, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, (NCDEHNR) submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions are the adoption of new air quality rules, amendments to existing air quality rules and repeals of existing air quality rules that were the subject of public hearings held on March 21 and 30, 1994. These major rule changes include the addition of new sections 15A NCAC 2Q .0100 through .0111 General Provisions, 15A NCAC 2Q .0300 through .0311 (except 302) Construction and Operation Permits, and 15A NCAC 2Q .0600 through .0606 Transportation Facility Procedures. Other major revisions to the SIP include the repealing of sections 15A NCAC 2H .0601 through .0607, Purpose and Scope, and .0609 Permit Fees. Additional rule changes include modification to existing rules to correct cross references.

EFFECTIVE DATE: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the material submitted by the NCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4212.

SUPPLEMENTARY INFORMATION: On August 15, 1994, the State of North Carolina, through the NCDEHNR submitted revisions to the North Carolina SIP covering the adoption of new air quality rules, amendments to existing air quality rules and repeals of existing air quality rules that were the subject of public hearings held on March 21 and 30, 1994. These rules address permitting and transportation.

EPA is approving the following new rules and revisions of existing rules in the North Carolina SIP. These new rules and revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

Section 15A NCAC 2Q .0100 General Provisions

This Section contains rules that apply to the entire subchapter. It requires a permit to be issued before constructing, operating or modifying a source that emits a regulated air contaminant or before entering into an irrevocable contract to construct, operate, or modify an air cleaning device. It identifies two types of air quality permits: the stationary source construction and operation air permit and the transportation facility (parking lots, parking decks and airports) construction and operation air permit. It also

1. Identifies activities exempted from air permit requirements;
2. defines terms used in this subchapter;
3. Provides information regarding where to obtain and file permit applications and where to inspect referenced documents;
4. describes procedures to follow for requesting and declaring confidential treatment of information;
5. authorizes the Director of the Division of Environmental Management to delegate his permit issuance authority;
6. contains a compliance schedule for sources that have been previously exempted from permitting but are now required to be permitted;
7. requires permits to be kept on site; and
8. allows the owner or operator of a facility to request a determination whether a particular facility or source requires a permit.

Section 15A NCAC 2Q .0600 Transportation Facility Procedures

This section contains permitting procedures for transportation sources (complex sources). These rules are, for the most part, a recodification of rules contained in section 15A NCAC 2D .0800 and 2H .0600. This section

1. Identifies who needs a permit under this section
2. defines terms used in this section;
3. describes items to be submitted with the application;
4. explains public participation procedures;
5. describes final action that may be taken on a permit application; and
6. explains when a permit may be terminated, modified, or revoked and reissued.

The following rules have been amended primarily to correct cross references. Other changes are noted where applicable.

15A NCAC 2D .0101 Definitions

Rule .0101 has also been amended to change the definition of "air pollutant" to one more consistent with the EPA definition

15A NCAC 2D .0501 Compliance With Emission Control Standards

Rule .0501 has been amended to include the paragraph previously listed in 15A NCAC 2H .0503 that describes emissions trading procedures.

15A NCAC 2D .0503 Particles From Fuel Burning Indirect Heat Exchangers

15A NCAC 2D .0530 Prevention of Significant Deterioration

15A NCAC 2D .0531 Sources in Nonattainment Areas

15A NCAC 2D .0532 Sources Contributing to an Ambient Violation

15A NCAC 2D .0533 Stack Height

15A NCAC 2D .0601 Purpose and Scope

Section 15A NCAC 2D .0800 Transportation Sources

The parts of this section that pertain to permitting procedures have been transferred to section 15A NCAC 2Q .0600. Other changes include the addition of new definitions for construction, modify (or modification), owner (or developer) and transportaion facility. Two new rules, 15A NCAC 2D .0805 Parking Facilities (explains in more detail the types of parking facilities required to be evaluated and permitted) and 15A NCAC 2D .0806 Ambient Monitoring and Modeling Analysis (authorizes the Director to require modeling or monitoring), have been added.

EPA is approving that the following rules in the North Carolina SIP be repealed. These rules have been recodified into Section 15A NCAC 2Q .0600 Transportation Facility Procedures.

15A NCAC 2H .0601 Purpose and Scope

15A NCAC 2H .0602 Definitions

15A NCAC 2H .0603 Application

15A NCAC 2H .0604 Final Action on Permit Applications

15A NCAC 2H .0606 Delegation of Authority

15A NCAC 2H .0607 Copies of Referenced Documents

15A NCAC 2H .0609 Permit Fees

This following sections are being addressed in separate **Federal Register** Notices.

SECTION 15A NCAC 2Q .0207 Annual Emissions Reporting

SECTION 15A NCAC 2Q .0300 Construction and Operating Permit

Final Action

In this notice, EPA is approving the revisions to the North Carolina Environmental Management regulations listed above. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective on April 1, 1996. However, if notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities

with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2).

Unfunded Mandates

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 14, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(84) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(84) The VOC RACT regulations, NSR regulations, and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on August 15, 1994.

(i) Incorporation by reference.

(A) Addition of new North Carolina regulations 15A NCAC 2D .0805 and .0806 and 15A NCAC 2Q .0101 through .0111, and .0601 through .0607. effective on July 1, 1994.

(B) Amendments to North Carolina regulations 15A NCAC 2D .0101, .0501, .0503, .0530, .0531, .0532, .0533, .0601, .0801, .0802, .0803, and .0804 effective on July 1, 1994.

(ii) Other material. None.

* * * * *

[FR Doc. 96–1840 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–075–1–7221a; FRL–5317–5]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the Forsyth County Air Quality Control Ordinance and Technical Code

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On March 7, 1995, the Forsyth County Environmental Affairs Department, through the North Carolina Department of Environment, Health and Natural Resources, submitted recodifications to the Forsyth County Air Quality Control Ordinance and Technical Code. These recodifications make the Forsyth County Air Quality Control Ordinance and Technical Code more directly comparable to the North Carolina Air Quality Regulations.

DATES: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4216.

SUPPLEMENTARY INFORMATION: On March 7, 1995, the Forsyth County Environmental Affairs Department, through the North Carolina Department of Environment, Health and Natural Resources, submitted recodifications to the Forsyth County Air Quality Control Ordinance and Technical Code. These recodifications make the Forsyth County Air Quality Control Ordinance and Technical Code more directly comparable to the North Carolina Air Quality Regulations. EPA has not reviewed the substance of these regulations at this time. These rules were approved into the State implementation plan in previous rulemakings. The EPA is now merely approving the renumbering system, as well as any new language, submitted by the Forsyth County Environmental Affairs Department. The EPA's approval of the renumbering system and new language, at this time, does not imply any position with respect to the approvability of the substantive rules. To the extent EPA has issued any SIP calls to the State with respect to the adequacy of any of the rules subject to this recodification, EPA will continue to require the Forsyth County Environmental Affairs Department to correct any such rule deficiencies despite EPA's approval of this recodification.

Final Action

EPA is approving the above referenced revisions to the Forsyth County Air Quality Control Ordinance and Technical Code. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

Under Section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain duties. EPA has examined whether the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(87) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(87) Recodifications to the Forsyth County Air Quality Control Ordinance and Technical Code and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on March 7, 1995.

(i) Incorporation by reference.

Forsyth County Air Quality Control Ordinance and Technical Code effective on December 19, 1994. Subchapter 3A, Air Quality Control; Subchapter 3B, Relationship to State Code; Subchapter 3D, Air Pollution Control Requirements; Subchapter 3H, Section .0600 Air

Quality Permits; and Subchapter 3Q, Air Quality Permits.

(ii) Other material. None.

[FR Doc. 96–1924 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–77–1–7728a & NC–74–1–7727a; FRL–5325–3]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On March 3, 1995, and May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions adopt three source-specific volatile organic compound rules; Thread Bonding Manufacturing, Glass Christmas Ornament Manufacturing, Commercial Bakeries, delete textile coating, Christmas ornament manufacturing, and bakeries from the list of sources that must follow interim standards, define di-acetone alcohol as a non-photochemically reactive solvent, and place statutory requirements for adoption by reference for referenced ASTM methods into a single rule rather than each individual rule that references ASTM methods.

DATES: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4212.

SUPPLEMENTARY INFORMATION: On May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions affect several sections in the ozone regulations. EPA is approving the revisions to sections 15A NCAC 2D .0104 Incorporation by Reference, .0950 Interim Standards for Certain Source Categories, .0955 Thread Bonding Manufacturing, .0956 Glass Christmas Ornament Manufacturing, and .0957 Commercial Bakeries, because these revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

15A NCAC 2D .0104, Incorporation by Reference

These amendments involve the placement of statutory requirements for adoption by reference for referenced American Society for Testing and Materials methods (ASTM) into a single rule rather than each individual rule that references ASTM methods.

15A NCAC 2D .0950, Interim Standards for Certain Source Categories

This section, is being revised to delete textile coating, bakeries and Christmas ornament manufacturing from the list of sources that are required to follow the interim standards. The sources removed have had permanent rules adopted and are now subject to those requirements. The final revision in this section adds a sentence that defines di-acetone alcohol and perchloroethylene as a non-photochemically reactive solvent for these interim standards.

The permanent rules adopted were 15A NCAC 2D .0955 THREAD BONDING MANUFACTURING, .0956 GLASS CHRISTMAS ORNAMENT MANUFACTURING, and .0957 COMMERCIAL BAKERIES. These sections adopted rules to reduce the emission level by requiring at least a 95% reduction by weight and/or by installing a thermal incinerator with a temperature of at least 1600 F and a residence time of at least 0.75 seconds.

The submitted revisions also included amendments to 15A NCAC 2D .0902 Applicability; .0907 Compliance Schedules For Sources In Nonattainment Areas; .0910 Alternative Compliance Schedules; .0911 Exception From Compliance Schedules; .0952 Petition For Alternative Controls; .0954 Stage II Vapor Recovery; .1401–.1415; Reasonably Available Control Technology for Sources of Nitrogen Oxides (NO_x RACT); .1501–.1504 Transportation Conformity; and .1601–.1603; General Conformity. These revisions are being addressed in separate **Federal Register** Notices.

Final Action

EPA is approving the above referenced revisions to the North Carolina SIP. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2) and 7410 (k) (3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(85) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(85) The VOC revisions to the North Carolina State Implementation Plan which were submitted on March 3, 1995, and on May 24, 1995.

(i) Incorporation by reference.

(A) Regulations 15A NCAC 2D .0955, .0956, and .0957 effective on April 1, 1995.

(B) Regulations 15A NCAC 2D .0950, and .0104 effective on May 1, 1995.

(ii) Other material. None.

* * * * * *

[FR Doc. 96–1841 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–73–1–7225a; NC–77–2–7726a; FRL–5337–4]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 15, 1994, and May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions include the adoption of new air quality rules and amendments to existing air quality rules.

The major rule changes include the addition of new sections for Vapor Return Piping for Stage II Vapor Recovery and Stage II Vapor Recovery. Other major revisions to the SIP include the amendments of regulation for Sources in Nonattainment Areas, Applicability, Compliance Schedules for Sources in Nonattainment Areas, Alternative Compliance Schedules, Exception from Compliance Schedules, Gasoline Service Stations Stage I, Gasoline Truck Tanks, and Vapor Collection Systems, Petroleum Liquid Storage in External Floating Roof Tanks, and Petition for Alternative Controls.

DATES: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to:

Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365

Copies of the material submitted by the NCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection

Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 x4212.

SUPPLEMENTARY INFORMATION: On August 15, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions covering the adoption of new air quality rules, and amendments to existing air quality rules that were the subject of public hearings held on February 24, and 28, 1994. This submittal led to several EPA comments that were addressed in a second submittal received by EPA on May 26, 1995. The second submittal was the subject of a public hearing on February 1, 1995.

EPA is approving the following new rules and revisions of existing rules in the North Carolina SIP. These new rules and revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

.0531 Sources in Nonattainment Areas

This rule has been amended to extend its coverage to a 1992 ozone nonattainment area that has been redesignated attainment if a violation of the ambient air quality standard occurs after the redesignation to attainment. The coverage would be extended by the Director noticing in the *North Carolina Register* that the area is in violation of the ambient air quality standard for ozone.

.0902 Applicability

This rule has been amended to extend coverage of section 15A NCAC 2D. .0900 Volatile Organic Compounds, to a 1992 ozone nonattainment area that has been redesignated attainment if a violation of the ambient air quality standard occurs after the redesignation to attainment. Permitted facilities within the area of violation that are or may be subject to this section will also receive written notification.

.0907 Compliance Schedules for Source in Nonattainment Areas

This rule has been amended to clarify its applicability.

.0909 Compliance Schedules for Sources in New Attainment Areas

This rule has been amended to provide compliance schedules by which sources brought under the rules in section 15A NCAC 2D .0900, Volatile Organic Compounds (VOCs), because of the Director's notice in the *North Carolina Register*, can come into compliance.

.0928 Gasoline Service Stations Stage I

This rule has been amended to clarify Stage I control requirements. The rule has been clarified to show that it applies to both the delivery vessels and the station and that the delivery vessel and vapor collection system at the station are to meet the pressure and vacuum specifications of 15A NCAC 2D .0932 Gasoline Truck Tanks and Vapor Collections Systems. An exemption has been added for farm tanks less than 2000 gallons and for tanks used exclusively to test fuel dispensing meters.

.0932 Gasoline Truck Tanks and Vapor Collection Systems

This rule has been amended to clarify that annual testing of vapor collection systems is required only at bulk gasoline plants and bulk gasoline terminals.

.0933 Petroleum Liquid Storoge in External Floating Roof Tanks

This rule has been amended to exempt external floating tanks of welded construction equipped with a metallic type shoe primary seal and a shoe mounted secondary seal from the secondary seal requirement and not from the entire rule.

.0952 Petition for Alternative Controls

This rule has been amended to extend it to areas that become subject to section 15A NCAC 2D .0900, VOCs, because of notice that the area is in violation of the ambient air quality standard for ozone.

.0953 Vapor Return Piping for Stage II Vapor Recovery

This rule has been adopted to require piping for Stage II vapor recovery controls to be installed at new gasoline service stations and tanks in the 1992 ozone nonattainment areas. This rule contains the specifications for Stage II vapor recovery piping.

.0954 Stage II Vapor Recovery

This rule has been adopted because it contains the specifications for stage II vapor recovery controls. This rule is a contingency measure that applies to all facilities, in areas that are or will be designated nonattainment for ozone, that dispense gasoline unless the facility has met the criteria to be exempted. The following gasoline dispensing facilities are exempt from this rule.

1. Any facility which dispenses 10,000 gallons or less of gasoline during calendar month;
2. Any facility which dispenses 50,000 gallons or less during calendar month and is an independent small business marketer of gasoline;
3. Any facility which dispenses gasoline exclusively for refueling marine vehicles, aircraft, farm equipment, and emergency vehicles; or
4. Any tanks used exclusively to test the fuel dispensing meters.

In addition to the above revisions EPA is approving a revision applicable to the following Sections: 15A NCAC 2D .0902, .0907, .0910, .0911, .0952, and.0954. This revision adjusts final compliance dates, for VOC sources located in nonattainment areas, to allow reasonable time frames for implementation.

Final Action

EPA is approving the above referenced revisions to the North Carolina SIP. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, March 4, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(88) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(88) The VOC RACT regulations, NSR regulations, and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on August 15, 1994. The Stage II regulations and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on May 24, 1995.

(i) Incorporation by reference.

(A) Regulations 15A NCAC 2D .0531, .0909, .0928, .0932, .0933, and .0953 effective on July 1, 1994.

(B) Regulations 15A NCAC 2D .0902, .0907, .0910, .0911, .0952, and .0954 effective on May 1, 1995.

(ii) Other material. None.

* * * * *

[FR Doc. 96–1939 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[OH60–1–6377a; FRL–5410–1]

Approval and Promulgation of Air Quality Implementation Plans, and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving the ozone State Implementation Plan (SIP) revision and redesignation requests submitted by the State of Ohio for the purpose of redesignating Franklin, Delaware, and Licking Counties (Columbus area) from marginal nonattainment to attainment for ozone; and revising Ohio's SIP to include a 1990 base-year ozone precursor emissions inventory for the Columbus ozone nonattainment area. Ground-level ozone, commonly known as smog, is an air pollutant which forms on hot summer days which harmfully affects lung tissue and breathing passages. The redesignation to attainment of the health-based ozone air quality standard is based on a request from the State of Ohio to redesignate this area and approve its maintenance plan, and on the supporting data the State submitted in support of the requests. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change, and a maintenance plan is put in place which is designed to ensure the area maintains the ozone air quality standard for the next ten years. The emissions inventory was submitted to satisfy a Federal requirement that States containing ozone nonattainment areas submit

inventories of actual ozone precursor emissions for the year 1990. Data from emission inventories aide States in developing plans to meet and/or maintain the ozone air quality standard.

DATES: The "direct final" is effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone William Jones at (312) 886–6058 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones at (312) 886–6058.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (CAA). Pub. L. 101–549, codified at 42 U.S.C. 7401–7671q. Pursuant to Section 107(d)(4)(A) of the CAA, Franklin, Delaware, and Licking Counties (Columbus area) were designated as nonattainment for ozone, see 56 FR 56694 (November 6, 1991). At the same time, the Columbus area was classified as a marginal ozone nonattainment area.

I. Emissions Inventories

Section 182(a)(1) of the Clean Air Act Amendments of 1990 (Act) requires States with ozone nonattainment areas to submit a comprehensive, accurate and current inventory of actual ozone precursor emissions [which include volatile organic compounds (VOC), nitrogen oxides (NO_X), and carbon monoxide (CO)] for each ozone nonattainment area by November 15, 1992. This inventory must include anthropogenic base-year (1990) emissions from stationary point, area, non-road mobile, and on-road mobile sources, as well as biogenic (naturally occurring) emissions in all ozone nonattainment areas. The emissions inventory must be based on conditions that exist during the peak ozone season (generally the period when peak hourly ozone concentrations occur in excess of the primary ozone National Ambient Air Quality Standard—NAAQS). Ohio's annual ozone season is from April 1 to October 31.

A. Criteria for Evaluating Ozone Emissions Inventories

Guidance for preparing and reviewing the emission inventories is provided in the following USEPA guidance documents or memoranda: "State Implementation Plans; General Preamble for the Implementation of Title I of the Act," (Preamble) published in the April 16, 1992 **Federal Register** (57 FR 13498); "Emission Inventory Requirements for Ozone State Implementation Plans," (EPA–450/4–91–010) dated March 1991; a memorandum from John Calcagni, Director, Air Quality Management Division, Office of Air Quality Planning and Standards, entitled "Public Hearing Requirements for the 1990 Base-Year Emissions Inventories for Ozone and Carbon Monoxide Nonattainment Areas," dated September 29, 1992; "Procedures for the Preparation of Emissions Inventories for Carbon Monoxide and Precursors of Ozone, Volumes I and II," (EPA–450/4–91–016 and EPA–450/4–91–014) dated May 1991; "Procedures for Emissions Inventories Preparation, Volume IV: Mobile Sources," (EPA–450/4–81–026d) dated 1992; and "Supplement C to Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources," (AP–42) dated September 1990.

As a primary tool for the review of the quality of emission inventories, the USEPA has also developed three levels (I, II, and III) of emission inventories checklists. The Level I and II checklists are used to determine that all required components of the base-year emission inventory and associated documentation are present. These reviews also evaluate the level of quality of the associated documentation and the data provided by the State and assess whether the emission estimates were developed according to the USEPA guidance. The Level III review evaluates crucial aspects and the overall acceptability of the emission inventory submittal. Failure to meet one of the ten crucial aspects would lead to disapproval of the emissions inventory submittal.

Detailed Level I and II review procedures can be found in the USEPA guidance document entitled "Quality Review Guidelines for 1990 Base Year Emissions Inventories," (Quality Review) (EPA–454/R–92–007) dated August 1992. Level III criteria were attached to a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled "Emission Inventory Issue," dated June 24, 1993. The Level I, II, and III checklists used in reviewing this emissions inventory submittal are attached to a USEPA technical support document (TSD) dated October 3, 1995.

B. State Submittal

On March 15, 1994, the Ohio Environmental Protection Agency (OEPA) submitted a revision to the ozone portion of Ohio's SIP which consisted of the 1990 base-year ozone emissions inventory for the following ozone nonattainment areas in Ohio: Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo and Youngstown. The emissions inventory for the Columbus area was deemed complete on September 13, 1994. The USEPA has completed its review of the emissions inventory submitted for the Columbus ozone nonattainment area. The 1990 base-year emissions inventories submitted for all other areas are addressed in separate rulemakings.

Inventory Preparation Plan/Quality Assurance Plan

All States were required to submit an Inventory Preparation Plan (IPP) to USEPA for review and approval by October 1, 1991. The IPP documents the procedures utilized in the development of an emissions inventory and contains the quality assurance and quality control plan (QA/QC). On March 19, 1992, the State of Ohio submitted a final ozone emissions IPP. On April 15, 1992, USEPA informed the State that the IPP was not approvable at the time. The USEPA has worked with the State since that time in order to correct deficiencies in the IPP. With the March 1994 SIP revision request, the State submitted documentation as to how the emissions inventory was prepared, as well as a quality assurance report for the point, area, and mobile source portions of the emissions inventory. The USEPA finds that this documentation and quality assurance reports are acceptable to meet the requirements of an IPP.

Point Source Emissions Inventory

The State submitted a point source emissions inventory of all facilities that emit at least 10 tons per year (tpy) of VOC, or 100 tpy NO_X or CO in the nonattainment area. The State also included sources that emit 100 tpy of VOC, CO, or NO_X located in a 25-mile boundary surrounding the nonattainment area. The point source emissions inventory contains general facility information, number of sources, production schedules and related emissions for each source, emissions limitation, control efficiency and rule effectiveness (RE), as applicable, and total emissions on an annual and daily ozone season basis. (Rule effectiveness is a factor designed to take into account the assumption that control equipment does not operate at 100 percent all of the time of source operation, due to maintenance, malfunction, etc.)

The following methods were employed by the State to identify sources to be included in the 1990 base-year emissions inventory: the 1989 records for plants in the Emissions Inventory System (EIS) were checked and plants meeting the VOC, CO or NO_X criteria were updated with 1990 emissions data; the air permit records were reviewed for plants that may be candidates for inclusion in the point source inventory; and current industrial directories and the Toxic Release Information System (TRIS) database were checked for additional sources. For facilities in the point source inventory, the State acquired the emissions data by means of the following: mail surveys; plant inspections; telephone calls; and air permit files.

The USEPA reviewed the point source emissions data by cross referencing the point source inventory to the following sources: (1) USEPA's guidance document entitled "Major CO, NO_2, and VOC Sources in the 25–Mile Boundary Around Ozone Nonattainment Areas, Volume I: Classified Ozone Nonattainment Areas," (EPA–450/4–92–005a) February 1992; a 1990 TRIS Retrieval; and a 1990 Aerometric Inventory Retrieval System (AIRS) Facility Subsystem (AFS) AFS—Emission to Compliance Comparison Report. The State was notified of any potentially missing sources or discrepancies in their reported emissions and provided any corrections necessary.

Where a source was governed by a regulation or a control device, the emissions limit was stated. A RE factor was then applied in the determination of emissions. In accordance with USEPA guidance, a standard RE factor of 80 percent was utilized unless otherwise justified.

Area Source Emissions Inventory

Area source emissions were calculated using State-specific data as well as USEPA guidance documents and technical memoranda developed for various categories. The State utilized emission factors from "Procedures for the Preparation of Emission Inventories of Carbon Monoxide and Precursors of Ozone, Volume I: General Guidance for Stationary Sources, and IV: Mobile Sources," and AP–42 and provided necessary documentation. The following area source categories were included in the emissions inventory: Gasoline loading and distribution, dry cleaning, degreasing, architectural surface coatings, traffic markings, automobile refinishing, graphic arts, cutback asphalt, pesticide application, commercial/consumer solvents, bakeries, waste management practices (landfills), leaking underground storage tanks, incineration of solid waste, stationary fossil fuel combustion, and fires (structural, open burn, etc.). Vehicle refueling emissions were included as part of the mobile source emissions inventory.

The area source inventory was reviewed utilizing USEPA's guidance documents, and the Level I and II checklists, to ensure that all source categories and their related emissions (and emission factors) were included in the area source emissions inventory. Seasonal adjustments, rule effectiveness, and rule penetration factors were applied as indicated in the State submittal.

On-Road Mobile Source Emissions Inventory

In the development of the mobile source emissions inventory, the State of Ohio utilized USEPA's mobile source emissions model, Mobile 5a, for the determination of the emission factors for all eight vehicle types. Hard-copy documentation of the input and output files were provided in the submittal. Where available, State-specific inputs were utilized in the development of the input files for Mobile 5a.

The 1990 vehicle miles travelled (VMT) for each of the twelve roadway types were developed by the Ohio Department of Transportation (ODOT). ODOT maintains data on each section of highway in the State of Ohio. VMT values were developed by ODOT and entered in the State Road Inventory System (SRIS). The data from the SRIS was reported to the Federal Highway Administration (FHWA) by utilizing the Highway Performance Monitoring System (HPMS).

The daily VMT (dVMT) for each roadway section was computed as the annual average daily traffic (AADT) count for that section multiplied by the length of the section. The total county DVMT is the sum of the dVMTs for each of the twelve highway classifications in the county. The total county DVMTS are then summed to determine the statewide total DVMTS.

In order to determine consistency between the SRIS and the HPMS, the statewide total DVMTS are then compared by functional class to the HPMS submittal. For those classifications where traffic counts are available for all or nearly all their sections, the totals between the two systems were essentially the same. For those with more off-systems roads, the resulting SRIS totals were larger than the HPMS's submittal value (as expected). Correction factors were computed from the two sets of totals and applied to the individual cells.

ODOT used permanent and portable vehicle classification equipment to develop the vehicle mix by functional classification of highway. Traficomp III vehicle classification equipment are used to support the HPMS data collection effort. A software program called OHIO CONVERT formats vehicle classification data into the FHWA Vehicle Classification categories.

Off-Road Mobile Source Emissions Inventory

The State developed emissions estimates for the following off-road categories according to USEPA guidance: aircraft, railroad locomotives, recreational boating, off-road motorcycles, agricultural equipment, construction equipment, industrial equipment, and lawn and garden equipment. Documentation was provided as to the sources of emissions factors utilized and were submitted in the area source emissions inventory portion of the submittal.

The off-road mobile source inventory was reviewed utilizing the Level I and II checklists and USEPA's guidance documents to ensure that all source categories and their related emissions factors were included in the off-road mobile source emissions inventory.

Biogenic Emissions Inventory

The State of Ohio determined the biogenic emissions for the Columbus area according to a USEPA's guidance document entitled "User's Guide to the Personal Computer Version of the Biogenic Emissions Inventory System (PC-BEIS)," (EPA–450/4–91–017) dated July, 1991. Meteorological data utilized in PC-BEIS was collected in accordance with USEPA guidance. Data from the ten warmest days from the period between 1988 to 1990 with the highest hourly peak ozone concentrations in each ozone nonattainment area was collected and reviewed. As required by USEPA guidance, the fourth highest daily maximum ozone concentration for each nonattainment area was selected and utilized in the model. The State provided hard copy documentation as to the meteorological inputs utilized and PC-BEIS output files for the biogenic emissions inventory for the Columbus nonattainment areas.

C. Summary of Ozone Emissions Inventory

A summary has been prepared of the emissions inventory for an average ozone summer weekday for the Columbus ozone nonattainment area as follows. The emissions are stated in tons per ozone season weekday:

TABLE 1.—COLUMBUS OZONE NON-ATTAINMENT AREA, 1990 BASE-YEAR EMISSIONS INVENTORY

[tons per day]

Source type	VOC	CO	NO_x
Point Sources	16.44	8.52	13.79
Area Sources	53.56	9.09	7.37
On-Road Mobile Sources	94.73	580.75	78.65
Off-Road Mobile Sources	47.62	438.21	89.31
Biogenic Sources	105.92		
Totals	318.27	1,036.57	189.12

II. Ozone Redesignation Request

The OEPA requested that the area be redesignated in a letter dated January 7, 1994, and received by USEPA on January 14, 1994. The public hearing information portion was transmitted to USEPA in a letter from Robert Hodanbosi, Chief of the Division of Air Pollution Control, OEPA, dated April 11, 1994, and received by USEPA on April 14, 1994.

The State provided monitoring, and emissions data to support its redesignation request. The review criteria and a review of the request are provided below.

A. Redesignation Review Criteria

Under the CAA, designations can be changed if sufficient data are available to warrant such change. The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, Section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the National Ambient Air Quality Standard (NAAQS); (ii) The Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of Section 175A; and (v) The State containing such area has met all requirements applicable to the area under Section 110 and Part D.

The USEPA has provided guidance on processing redesignation requests in documents including the following:

1. "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.
2. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas," D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.
3. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993.
4. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992.
5. "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992.
6. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.
7. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498), April 16, 1992.

B. Review of the Redesignation Request

1. The Area Must Have Attained the Ozone NAAQS

For ozone, an area may be considered attaining the NAAQS if there are no violations, as determined in accordance with the regulation codified at 40 CFR § 50.9, based on three (3) consecutive calendar years of quality assured monitoring data. A violation occurs when the ozone air quality monitoring data show greater than one (1) average expected exceedance per year at any site in the area at issue. An exceedance occurs when the maximum hourly ozone concentration exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR Part 58, and recorded in the Aerometric Information Retrieval System (AIRS) in order for it to be available to the public for review.

The redesignation request for the Columbus area relies on ozone monitoring data for the years 1990 through 1992, to show that they are meeting the NAAQS for ozone. Ozone monitoring data for 1993 and 1994 continue to show that the area has reached attainment. The Columbus area is currently meeting the requirement of attaining the ozone NAAQS.

The ozone monitoring network consists of three monitors. Two of the monitors are located in Franklin County and one is located in Licking County. No monitors are currently located in Delaware County; however, the other monitors in Franklin and Licking Counties adequately represent the entire Columbus area. Two exceedances of the ozone standard have been monitored since 1990, both of these occurred at the Maple Canyon monitor in Franklin County. At this site, the first exceedance of 0.128 ppm occurred in 1990, and the second exceedance of 0.131 ppm occurred in 1991. Data stored in AIRS was used to determine the annual average expected exceedances for the years 1992, 1993, and 1994. Data contained in AIRS have undergone quality assurance review by the State and USEPA. Since the annual average number of expected exceedances for each monitor during the most recent three years is less than 1.0, the Columbus-Springfield area is considered to have attained the standard.

2. The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have Met All Applicable Requirements Under Section 110 and Part D

Before the Columbus area may be redesignated to attainment for ozone, it must have fulfilled the applicable requirements of section 110 and part D. USEPA interprets section 107(d)(3)(E)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that became applicable to the subject area prior to or at the time of the submission of the redesignation request. As the Columbus redesignation request was submitted to USEPA in January, 1994, requirements that came due prior to that time must be met for the request to be approved. Section 110 and Part D requirements of the CAA that come due subsequent to the submission of the redesignation request continue to be applicable to the area (*see* section 175A(c)) and, if the redesignation is disapproved, the State remains obligated to fulfill those requirements.

Section 110 Requirements

General SIP elements are delineated in section 110(a)(2) of Title I, Part A. These requirements include but are not limited to the following: submittal of a SIP that has been adopted by the State after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C, Prevention of Significant Deterioration (PSD), and D, New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the Ohio SIP was reviewed to ensure that all requirements under the amended Act were satisfied. On October 31, 1980, the USEPA conditionally approved Ohio's SIP under Part D of Title I (as amended in 1977) (45 FR 27122). The Ohio VOC Reasonably Available Control Technology (RACT) requirements, or requirements for certain stationary sources to use technically and economically feasible technology to reduce emissions of VOC, are being addressed in a separate TSD and **Federal Register** actions, (59 FR 23796 and 60 FR 15235), except for a few outstanding requirements in the Cleveland and Cincinnati areas. There are no outstanding VOC RACT requirements for the Columbus area, as explained under "Part D Requirements" below.

Part D Requirements

Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of Title I, specific requirements of subpart 2 may override subpart 1's general provisions [57 FR at 13501 (April 16, 1992)]. The Columbus area was classified as marginal. Therefore, in order to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D that apply to marginal areas such as Columbus.

(a) Section 172(c) Requirements

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years after an area has been designated as nonattainment under the amended CAA. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. In the case of Columbus, the State has satisfied all of the section 172(c) requirements necessary for Columbus to be redesignated upon the basis of the redesignation request submitted on January 7, 1994, and April 14, 1994.

The Columbus area was designated marginal nonattainment on November 6, 1991 (56 FR at 56694), effective January 6, 1992). In the case of marginal ozone nonattainment areas, the section 172(c)(1) Reasonably Available Control Measures requirement was superseded by the section 182(a)(2) RACT requirements, which did not require nonattainment areas designated marginal after enactment of 1990 CAA amendments to submit RACT corrections. See General Preamble for the Implementation of Title I, 57 FR at 13503, and the VOC RACT Fix-up rulemaking published at 58 FR 49458. Thus, no additional RACT submissions were required for the Columbus area to be redesignated. Also, by virtue of provisions of section 182(a), which provides that any area designated as marginal does no have to submit an attainment demonstration.

With respect to the section 172(c)(2) Reasonable Further Progress (RFP) requirement, as Columbus has attained the ozone NAAQS no RFP requirements apply. *See* General Preamble for the Implementation of Title I, 57 FR at 13564.

The section 172(c)(3) emissions inventory requirement has been met by the submission and approval (in this action) of the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1).

As for the section 172(c)(5) NSR requirement, USEPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. A memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," fully describes the rationale for this view, and is based on the Agency's authority to establish *de minimis* exceptions to statutory requirements. *See Alabama Power Co.* v. *Costle*, 636 F. 2d 323, 360–61 (D.C. Cir. 1979). As discussed below, the State of Ohio has demonstrated that the Columbus area will be able to maintain the standard without part D NSR in effect and, therefore, the State need not have a fully-approved part D NSR program prior to approval of the redesignation request for Columbus. Once the area is redesignated to attainment, the PSD program (applicable to attainment areas), which has been delegated to Ohio, will become effective immediately. The PSD program was delegated to Ohio on May 1, 1980, and amended November 7, 1988. *See* 40 C.F.R. 52.21(u)

The section 172(c)(9) contingency measure requirements also do not apply to marginal ozone nonattainment areas. *See* section 182(a) and 57 FR at 13571.

Finally, for purposes of redesignation, the Columbus SIP was reviewed to ensure that all requirements of section 110(a)(2), containing general SIP elements, were satisfied. As noted above, USEPA believes the SIP satisfies all of those requirements.

(b) Section 176 Conformity Requirements

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that, before they are taken, Federal actions conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity").

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188), and general conformity regulations on November 30, 1993 (58 FR 63214). Pursuant to section 51.396 of the

transportation conformity rule and section 51.851 of the general conformity rule, the State of Ohio is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994, and November 30, 1994, respectively. Because the redesignation request was submitted before these SIP revisions came due, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.

(c) Subpart 2 Requirements

Marginal ozone nonattainment areas are subject to the requirements of section 182(a) of subpart 2. Ohio has met all of the applicable requirements of that subsection with respect to the Columbus area. The emissions inventory required by section 182(a)(1) is being approved in this action. The emission statement SIP required by section 182(a)(3)(B) was approved on October 13, 1994. *See* 59 FR 51863. As noted above, RACT corrections are not required under section 182(a)(2) for areas such as Columbus that were not designated nonattainment until after the 1990 CAA Amendments. Similarly, section 182(a)(2) does not require the submission of inspection and maintenance SIP revisions for Columbus since the area was not required to have an I/M program before the enactment of the 1990 CAA Amendments. Finally, the State need not comply with the requirements of section 182(a) concerning revisions to the part D NSR program in order for the Columbus area to be redesignated for the reasons explained above in connection with the discussion of the section 172(c)(5) NSR requirement.

3. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions Resulting From the SIP, Federal Measures and Other Permanent and Enforceable Reductions

The submittal demonstrates that the improvement in air quality is due to emissions reductions due to the Federal Motor Vehicle Emissions Control Program (FMVECP). This program is codified in 40 CFR Part 86. Between 1988 and 1990 the area's volatile organic compound emissions were reduced by 2.7 percent, due to FMVECP. This trend is expected to continue in the area with a ten (10) percent reduction in overall emissions by 1996 due to the FMVECP program and Federal restrictions on gasoline volatility. Based on this reduction, the State has shown that the improvement in air quality is based on permanent and enforceable reductions in emissions.

As was already discussed, this area is not required to adopt new enforceable regulations in order to meet the CAA requirements of section 110 and Part D. Therefore, USEPA believes that it is reasonable to attribute the improvement in air quality to be due just to Federal measures and it is not necessary in this case to link emission reduction to enforceable regulations in the SIP.

4. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision which provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. A September 4, 1992, USEPA memorandum from the Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, to Directors of Regional Air Divisions regarding redesignation provides further guidance on the required content of a maintenance plan.

An ozone maintenance plan should address the following five areas: the attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment and a contingency plan. The attainment emissions inventory identifies the emissions level in the area which is sufficient to attain the ozone NAAQS, and includes emissions during the time period which had no monitored violations. Maintenance is demonstrated by showing that future emissions will not exceed the level established by the attainment inventory. Provisions for continued operation of an appropriate air quality monitoring network are to be included in the maintenance plan. The State must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include contingency measures which ensure prompt correction of any violation of the ozone standard.

The State has included a copy of the base year 1990 emissions inventory as the attainment inventory. The Columbus maintenance plan provides emissions estimates from 1990 to 2005 for volatile organic compounds (VOCs), and from 1990 to 2005 for oxides of nitrogen (NO_X) for the Columbus area. These emissions estimates have been revised based on comments that Ohio received from USEPA, and the tables reflect the revised emissions estimates. These estimates are consistent with the base year 1990 emissions inventory for the area. The emissions in the Columbus area are projected to decrease. The results of this analysis show that the area is expected to maintain the air quality standard for at least ten (10) years into the future.

The emissions summary for VOCs and NO_X are provided below for the Columbus area:

TABLE 2.—VOC EMISSIONS IN TONS PER SUMMER DAY

Year	Point Sources	Area Sources	Mobile Sources	Totals
1990	16.44	101.18	94.73	212.35
1996	17.52	107.47	63.36	188.35
2005	19.33	117.30	61.38	198.01

TABLE 3. NO_X EMISSIONS IN TONS PER SUMMER DAY

Year	Point Sources	Area Sources	Mobile Sources	Totals
1990	13.79	96.68	78.65	189.12
1996	14.35	102.62	68.85	185.82
2005	15.27	111.82	61.24	188.33

The State also commits to continuing the operation of the monitors in the area. It will also track the maintenance of the area by regularly updating the emissions inventory for the area. The emission projections for 2005 are the budgets for transportation conformity.

The State commits to Automobile Inspection and Maintenance (I/M) as the first contingency measure. This first measure would be triggered by a violation of the NAAQS. The second contingency measure is Stage II vapor recovery. If both measures are implemented, the area will choose additional measures. The State also provided the following schedule in Table 4 for implementing the I/M measure. Based on these measures, the maintenance requirement has been met.

TABLE 4.—SCHEDULE FOR IMPLEMENTING I/M

Date	Action/Event
Contingency Triggered	Initiate contingency I/M plan measures. New legislative authority will not be necessary for implementation.
Month 1/Day 1	Begin revisions to Request for Proposals (RFP). Coordinate with appropriate agencies. Begin drafting rules for I/M program, procedures and guidelines.
Month 2/Day 1	Release RFP for centralized contractor.
Month 3/Day 1	File draft rule rev. with Legislative Serv. Commission.
Month 4/Day 15	Public hearing on program rule revisions.
Month 4/Day 30	Rules approved by Joint Committee on Agency Rule Review. RFP responses for centralized contract due.
Month 5/Day 1	Begin evaluation of RFP responses.
Month 6/Day 15	Award centralized contract. Seek Controlling Board approval of contract(s) by end of month 7.
Month 6/Day 30	Program rule revisions become effective.
Month 7/Day 1	Draft RFPs for Ohio EPA (BAR 90) approved analyzer certification, if necessary, and inspector certification training in the Columbus metropolitan area.
Month 8/Day 1	Release RFPs for inspector certification training and analyzer certification services.
Month 9/Day 15	Proposals for analyzer certification services (ACS) and inspector certification training (ICT) due.
Month 9/Day 16	Begin evaluation of proposals for ACS and ICT.
Month 10/Day 1	Award contracts for ACS and ICT.
Month 11/Day 1	Begin licensing process for reinspection stations.
Month 12/Day 1	New Analyzer spec. issued. Begin certifying four-gas analyzers.
Month 14/Day 1	Inspector certification begins
Month 15/Day 1	Begin final licensing of reinspection stations.
Month 16/Day 1	Initiate Public Relations program including media blitz.
Month 16/D 15	Initiate motorist notification mailings.
Month 17/Day 1	Begin limited voluntary inspections at centralized test stations. Reinspection stations begin to perform retests.
Month 18/Day 1	Begin mandatory testing at centralized test stations.

Transport of Ozone Precursors to Downwind Areas

Preliminary modeling results utilizing USEPA's regional oxidant model (ROM) indicate that ozone precursor emissions from various States west of the ozone transport region (OTR) in the northeastern United States contribute to increases in ozone concentrations in the OTR. The State of Ohio has provided documentation that VOC and NO_X emissions in the Columbus area will remain below attainment levels for the next ten years. If the monitored air quality levels exceed the NAAQS, then the contingency plan will be triggered. In addition, Ohio is required to submit a revision to the maintenance plan eight years after redesignation to attainment which demonstrates that the NAAQS will be maintained until the year 2015. The USEPA is currently developing policy which will address long range impacts of ozone transport. The USEPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. The USEPA intends to address the transport issue through section 110 based on a domain-wide modeling analysis.

Rulemaking Action

The USEPA is approving the 1990 base-year ozone precursor emissions inventories for the Columbus nonattainment area as meeting the requirements of section 182(a)(1) of the CAA based upon the evidence presented by the State and the State's compliance with the requirements outlines in the applicable USEPA guidance. In addition, the USEPA is also approving the redesignation of the Columbus ozone nonattainment area to attainment for ozone since Ohio's request meets the conditions of the CAA in section 107(d)(3)(E) for redesignation.

VI. Comment and Approval Procedure

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval of the Columbus area emissions inventory shall be effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw that approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. It should be noted, however, that an adverse or critical comment on the approval of the Columbus area redesignation request or maintenance plan will not result in a withdrawal of the approval of the Columbus emission inventory, unless USEPA receives adverse or critical comments on the emission inventory approval, as well. All public comments received will be addressed in a subsequent rulemaking document. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 1, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Hydrocarbons, Nitrogen oxides, Ozone, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Note:—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 30, 1995.

Valdas V. Adamkus,

Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1885 is amended by adding new paragraph (u) to read as follows: § 52.1885 Control Strategy: Ozone.

* * * * *

(u) Approval—The 1990 base-year ozone emissions inventory requirement of Section 182(a)(1) of the Clean Air Act has been satisfied for the Columbus ozone nonattainment area (which includes the Counties of Delaware, Franklin, and Licking).

3. Section 52.1885 is amended by adding paragraph (b)(6) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(b) * * *

(6) Franklin, Delaware, and Licking Counties.

* * * * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—OHIO

1. The authority citation of Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q, unless otherwise noted.

2. In § 81.336 ozone table is amended by revising entries for the Franklin, Delaware, and Licking Counties to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—OZONE

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Columbus Area				
Delaware County	April 1, 1996	Attainment.		
Franklin County	April 1, 1996	Attainment.		
Licking County	April 1, 1996	Attainment.		

[1]This date is November 15, 1990, unless otherwise noted.

[FR Doc. 96–1933 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 281

[FRL–5406–6]

Montana; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on State of Montana application for final approval.

SUMMARY: The State of Montana has applied for final approval of its underground storage tank program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Montana application and has reached a final determination that Montana's underground storage tank (UST) program satisfies all of the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State to operate its program in lieu of the Federal program.

EFFECTIVE DATE: Final approval for Montana shall be effective at 1:00 pm Eastern Time on March 4, 1996.

FOR FURTHER INFORMATION CONTACT: Kris Knutson, U.S. EPA, Region 8, Montana Office, DWR 10096, 301 South Park, Helena, Montana 59626–0096, phone: (406) 441–1130, extension 225.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) enables EPA to approve state underground storage tank programs to operate in the State in lieu of the Federal underground storage tank (UST) program. Program approval is granted by EPA if the Agency finds that the State program: (1) is "no less stringent" than the Federal program in all seven elements, and includes notification requirements of section 9004(a)(8), 42 U.S.C. 6991c(a)(8); and (2) provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6991c(a)).

On February 22, 1995, Montana submitted an application for "complete" program approval which includes regulation of both petroleum and hazardous substance tanks. The State of Montana established authority through an amendment to the 1981 Montana Hazardous Waste Act to implement an underground storage tank program. The State changed the title of the Act to the Montana Hazardous Waste and Underground Storage Tank Act in April 1985, and further amended the Act in 1989 to expand rulemaking authority. Another amendment in 1993 provided the State with rulemaking authority to assess civil penalties.

On September 22, 1995, EPA published a tentative decision announcing its intent to grant Montana final approval. Further background on the tentative decision to grant approval appears at 60 FR 49239, September 22, 1995. Along with the tentative determination, EPA announced the availability of the application for public comment and provided notice that a public hearing would be provided if significant public interest was shown. EPA received only one comment on the application and no request for a public hearing. Therefore, a hearing was not held.

B. Decision

I conclude that Montana's application for final approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Montana is granted final approval to operate its underground storage tank program in lieu of the Federal program. Montana now has the responsibility for managing underground storage tank facilities within its borders and carrying out all aspects of the UST program except with regard to "Indian Country," as defined in 18 U.S.C. 1151, where EPA will retain and otherwise exercise regulatory authority. "Indian Country" includes the following Indian reservations in the State of Montana:

1. Blackfeet;
2. Crow;
3. Flathead;
4. Fort Belknap;
5. Fort Peck;
6. Northern Cheyenne; and
7. Rocky Boys.

The Environmental Protection Agency retains all underground storage tank authority under RCRA which applies to "Indian Country" in Montana.

Before EPA would be able to approve the State of Montana UST program for any portion of "Indian Country," the State would have to provide an appropriate analysis of the State's jurisdiction to enforce in these areas. In order for a state to satisfy this requirement, it must demonstrate to the EPA's satisfaction that it has authority pursuant to applicable principles of Federal Indian Law to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval. EPA has reason to believe that disagreement exists with regard to the State's jurisdiction over "Indian Country," and EPA is not satisfied that Montana has, at this time, made the requisite showing of its authority with respect to such lands.

In withholding program approval for these areas, EPA is not making a determination that the State either has adequate jurisdiction or lacks such jurisdiction. Should the State of Montana choose to submit analysis with regard to its jurisdiction over all or part of "Indian Country" in the State, it may do so without prejudice.

EPA's future evaluation of whether to approve the Montana program for "Indian Country," to include Indian reservation lands, will be governed by EPA's judgement as to whether the State has demonstrated adequate authority to

justify such approval, based upon its understanding of the relevant principles of Federal Indian law and sound administrative practice. The State may wish to consider EPA's discussion of the related issue of tribal jurisdiction found in the preamble to the Indian Water Quality Standards Regulation (see 56 FR 64876, December 12, 1991).

Montana also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 9005 of RCRA 42 U.S.C. 6991d and to take enforcement actions under section 9006 of RCRA 42 U.S.C. 6991e.

Compliance with Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. The approval effectively suspends the applicability of certain Federal regulations in favor of Montana's program, thereby eliminating duplicative requirements for owners and operators of underground storage tanks in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority: This notice is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6974(b), and 6991(c).

Dated: December 14, 1995.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 96–2142 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 90

[ET Docket 93–235; FCC 95–486]

Additional Frequencies for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Final Rule; petition for reconsideration.

SUMMARY: By this action, the Commission denies the Petition for Reconsideration filed by the American Petroleum Institute (API). The cordless telephone rules are intended to improve the operation and convenience of cordless telephones. The Commission finds that API presents no new information in its petition that would justify a further change in our requirements for cordless telephones.

FOR FURTHER INFORMATION CONTACT: Anthony Serafini, Office of Engineering and Technology, (202) 418–2456.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* in ET Docket 93–235, Adopted December 1, 1995 and released December 12, 1995. The complete *Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

1. On June 5, 1995, the American Petroleum Institute (API) filed a Petition for Reconsideration requesting that the Commission amend its cordless telephone rules adopted in the *Report and Order,* 60 FR 21984 (May 4, 1995), on April 5, 1995. API stated that the rules do not fully protect against interference to PLMRS and requested changes to the requirements for automatic channel selection in cordless telephones. Alternately, API requested that cordless telephones operating on the new frequencies be required to place a 2-inch by 3-inch label on both the exterior packaging and the actual equipment. The label, which would include specific language proposed by API, would warn consumers of possible interference from the PLMRS and inform them that they must accept interference.

2. In the *Report and Order,* the Commission found that it was neither necessary nor desirable to impose specific design standards for the automatic channel selection mechanism, and the Commission permitted manufacturers the flexibility to implement the requirement in a manner that best suits the design of their equipment. API has presented no new information in this regard, and we continue to believe that the concerns of API have been addressed. Commenters opposed API's petition stating that the concerns raised by API have already been adequately addressed by the Commission and that any further action is unnecessary. Regarding API's alternative request for additional labelling, we note that our existing Part 15 rules already require cordless telephones to be labelled regarding potential interference.

3. Based on the comments, the Commission adopted the *Memorandum Opinion and Order* denying API's petition for reconsideration. Accordingly, IT IS ORDERED that the petition for reconsideration filed by the American Petroleum Institute IS DENIED. This action is taken pursuant to the authority contained in Sections 4(i), 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended.

List of Subjects

47 CFR Part 15

Communications equipment.

47 CFR Part 90

Communications equipment.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2168 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 228 and 252

Defense Federal Acquisition Regulation Supplement; Alternatives to Miller Act Bonds

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the interim rule which was published in the **Federal Register** on August 31, 1995, providing alternative payment protections for construction contracts between $25,000 and $100,000.

DATES: *Effective Date:* Februar 1, 1996. *Comments Date:* April 1, 1996.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D305 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim DFARS rule revises the interim rule which was published in the **Federal Register** on August 31, 1995 (60 FR 45376). It provides alternative payment protections for construction contracts between $25,000 and $100,000, pending implementation of Section 4104(b)(2) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) in the FAR. This rule has been revised to require that the contracting officer select two or more alternative payment protections, and encourages the contracting officer to include irrevocable letters of credit as one of the selected alternatives. In addition, this rule excludes payment bonds from the provisions authorizing the contracting officer to access funds under the payment protection.

B. Regulatory Flexibility Act

This interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule provides alternatives to payment bonds as payment protection for construction contracts between $25,000 and $100,000. The objective of the rule is to make it easier for small businesses to provide payment protections under construction contracts. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address specified herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95–D305 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies. The applicable OMB Control Number is 9000–0045.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Urgent and compelling reasons exist to promulgate this rule without prior opportunity for further public comment because it is necessary to revise the payment protections for construction contracts between $25,000 and $100,000, based on comments received on the interim rule published in the **Federal Register** on August 31, 1995 (60 FR 45376). The wording of the initial interim rule regarding contracting officer access to funds under payment bonds erroneously resulted in a "forfeiture type" payment bond rather than a traditional type payment bond consistent with the terms and conditions of the Miller Act. However, comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 228 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 228 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 228 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 228—BONDS AND INSURANCE

2. Section 228.171–1 is revised to read as follows:

228.171–1 General.

(a) For construction contracts greater than $25,000, but not greater than $100,000, the contracting officer shall select two or more of the following payment protections, giving particular consideration to inclusion of an irrevocable letter of credit as one of the selected alternatives:

(1) A payment bond.

(2) An irrevocable letter of credit.

(3) A tripartite escrow agreement. The prime contractor establishes an escrow account in a Federally insured financial institution and enters into a tripartite escrow agreement with the financial institution, as escrow agent, and all of the suppliers of labor and material. The escrow agreement shall establish the terms of payment under the contract and of resolution of disputes among the parties. The Government makes payments to the contractor's escrow account, and the escrow agent distributes the payments in accordance with the agreement, or triggers the disputes resolution procedures if required.

(4) Certificates of deposit. The contractor deposits certificates of deposit from a federally insured financial institution with the contracting officer, in an acceptable form, executable by the contracting officer.

(5) A deposit of the types of security listed in FAR 28.204.

(b) The contractor shall submit to the Government one of the payment protections selected by the contracting officer.

3. Section 228.171–2 is amended by revising paragraph (a) to read as follows:

228.171–2 Amount required.

(a) The requirements at FAR 28.102–2(b), for the amount of payment bonds, also apply to the alternative payment protections described in 228.171–1.

* * * * *

4. Section 228.171–3 is revised to read as follows:

228.171–3 Contract clause.

Use the clause at 252.228–7007, Alternative Payment Protections, in solicitation and contracts for construction, when the estimated or actual value exceeds $25,000 but does not exceed $100,000. Complete the clause by specifying the payment protections selected (see 228.171–1(a)), the penal amount required, and the deadline for submission.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.228–7007 is amended by revising the clause date and by revising paragraphs (d) and (e) to read as follows:

252.228–7007 Alternative Payment Protections.

As prescribed in 228.171–3, use the following clause:

ALTERNATIVE PAYMENT PROTECTIONS (FEB 1996)

* * * * *

(d) The payment protection shall provide protection for the full contract performance period plus a one-year period.

(e) Except for escrow agreements and payment bonds, which provide their own protection procedures, the Contracting Officer is authorized to access funds under the payment protection when it has been alleged in writing by a supplier of labor or material that a nonpayment has occurred, and to withhold funds pending resolution by administrative or judicial proceedings or mutual agreement of the parties.

* * * * *

[FR Doc. 96–2009 Filed 1–31–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 620

[Docket No. 9601–26016–6016–01; I.D. 012696C]

RIN 0648–XX41

General Provisions for Domestic Fisheries; Closes Block Island Sound to All Fishing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: NMFS has determined that, in order to protect public health , safety, and welfare, it is necessary to close a portion of Federal waters in Block Island Sound off the coast of the State of Rhode Island, to all fishing. Closure of this area is made at the request of the State of Rhode Island. The closure will be in effect for a period of 90 days beginning on the effective date of this rule, unless conditions allow NMFS to terminate it sooner. This closure is implemented due to the adverse environmental conditions created by the recent grounding of an oil barge, and subsequent oil spill. This action will prevent fishermen from harvesting fish which may be contaminated.

EFFECTIVE DATE: January 26, 1996 through May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone at (508) 281–9221.

SUPPLEMENTARY INFORMATION: This emergency action is taken in response to the January 19, 1996, grounding of an oil barge, and subsequent spill of more than 700,000 gallons (2.6 million L.) of fuel oil into the waters of Block Island Sound. The closed area is defined as Federal waters of Block Island Sound bounded as follows: From the point where LORAN line 25740 intersects with the 3 nautical mile line south of Easton Point, RI, proceeding southwesterly along the 25740 line to its intersection with the 43870 line, thence southwesterly along the 43870 line to the intersection of the 3 nautical mile line east of Block Island, RI, thence northwesterly along said 3 nautical mile line to the intersection of the 14540 line, thence northwesterly along the 14540 line to the intersection of the 3 nautical mile line, thence northeasterly along the 3 nautical mile line to the starting point. Vessels fishing outside of this area may pass through the closed area, provided that all fishing gear is stowed and unavailable for immediate use in accordance with 50 CFR sections 625.24(f), 650.21(a)(2)(iii), and 651.20(c)(4)(i).

The complete extent of the ecological damage due to the spill is not known at this time. Oil exposure has been shown to be lethal to marine life, and can accumulate and linger in the food chain. The purpose of this action is to prevent vessels from harvesting contaminated fish from the area of the spill in the interest of public health. The emergency nature of the adverse environmental condition created by the presence of oil in the area renders prior notice and opportunity to comment on a proposed closure contrary to the public interest. Consequently, the emergency action authority vested in the Secretary of Commerce under section 305(c) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1855(c) is invoked to make the closure effective immediately.

The closure prohibits all fishing in the area beginning on January 26, 1996, through April 29, 1996, unless circumstances exist that permit earlier reopening of the area. The are may reopen earlier if NMFS, in association with other State and Federal agencies, determines that the environmental degradation of the marine environment represented by the presence of the oil, and the consequential negative impact on fishing operations, and risk to public health, safety, and welfare has ended.

This action has the support of the State of Rhode Island, the U.S. Food and Drug Administration, and U.S. Coast Guard. The New England Fishery Management Council was informed of the planned action and made no comment.

Classification

The Secretary finds for good cause that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment or to delay for 30 days the effective date of these emergency regulations under the provisions of sections 553 (b) and (d) of the Administrative Procedures Act.

List of Subjects in 50 CFR Part 620

Fisheries, Fishing.

Dated: January 26, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 620 is amended as follows:

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

1. The authority citation for part 620 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 620.7, paragraph (i) is added to read as follows:

§ 620.7 General prohibitions.

* * * * *

(i) Fish in Federal waters of Block Island Sound bounded as follows: From the point where LORAN line 25740 intersects with the 3 nautical mile line south of Easton Point, Rhode Island, proceeding southwesterly along the 25740 line to its intersection with the 43870 line, thence, southwesterly along the 43870 line to the Intersection of the 3 nautical mile line east of Block Island, Rhode Island, thence northwesterly along said 3 nautical mile line to the intersection of the 14540 line, thence northwesterly along the 14540 line to the intersection of the 3 nautical mile line, thence northeasterly along the 3 nautical mile line to the starting point. Vessels fishing outside of this area may pass through the closed area, provided that all fishing gear is stowed and unavailable for immediate use in accordance with the regulations cited in 50 CFR 625.24(f), 650.21(a)(1)(iii), and 651.20(c)(4)(i).

[FR Doc. 96–2043 Filed 1–29–96; 11:54 am]

BILLING CODE 3510–22–M

50 CFR Part 672

[Docket No. 951120272–5272–02; I.D. 012696D]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 63 of the Central Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is terminating the closure to directed fishing for pollock in Statistical Area 63 in the Gulf of Alaska (GOA). This action is necessary to fully utilize the interim total allowable catch (TAC) of pollock in that area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), January 29, 1996, until superseded by the final 1996 specifications.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The interim specification of pollock TAC in Statistical Area 63 was established by the Interim 1996 Harvest Specifications (60 FR 61492, November 30, 1996) as 3,250 metric tons (mt), determined in accordance with § 672.20(c)(1)(ii)(A). The directed fishery for pollock in Statistical Area 63 of the GOA was closed under § 672.20(c)(2)(ii) on January 23, 1996 (61 FR 2457, January 26, 1996).

The Director, Alaska Region, NMFS, has determined that the remaining interim specification of pollock TAC in Statistical Area 63 has not been reached. Therefore, NMFS is terminating the previous closure to directed fishing for pollock in Statistical Area 63 of the GOA. All other closures remain in full force and effect.

Classification

This action is taken under 50 CFR 672.20, and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 29, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–2118 Filed 1–29–96; 2:10 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 22
Thursday, February 1, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV95–920–4PR]

Kiwifruit Grown in California; Proposed Relaxation of Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would relax the container marking requirements for kiwifruit packed under the Federal marketing order for kiwifruit grown in California. This relaxation would reduce the number of kiwifruit containers required to be marked with the lot stamp number. This rule would reduce handling costs and provide more flexibility in kiwifruit packing operations.

DATES: Comments must be received by March 4, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be submitted in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, or by facsimile at (202) 720–5698. Comments should reference this docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone (209) 487–5901, Fax # (209) 487–5906; or Charles Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 720–5127, Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 920 (7 CFR Part 920), as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of California kiwifruit subject to regulation under the order and approximately 500 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

Under the terms of the marketing order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, pack and container requirements. Current requirements include specifications that all containers of kiwifruit shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except for individual consumer packages and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service.

The Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the marketing order, met on November 30, 1995, and recommended, by unanimous vote, to relax the container marking requirements by reducing the number of containers plainly marked with the lot stamp number from all containers to all exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet.

The marketing order authorizes under § 920.52(a)(3) the establishment of container marking requirements. Section 920.303(d) of the rules and regulations outlines the lot stamp number container marking requirements for fresh kiwifruit packed under the order.

The committee recommended relaxing the lot stamp number marking requirement because of changes in the produce retail industry. The committee anticipates that the current order language, which requires all containers to be plainly marked with the lot stamp number, would create a problem in the near future due to industry changes in container packaging configurations and pallet sizes. This relaxation would allow the industry flexibility for future pallet size and container configurations.

Many products, outside the produce industry, are received by retailers on 48- by 40-inch pallets. The kiwifruit industry almost exclusively used the "LA Lug" container which fits on the 35- × 42-inch or 53- by 42-inch pallets until recent years. The "LA Lug" configuration does not create a center tier when stacked on these pallets. When kiwifruit shippers use 35- by 42-inch or 53- by 42-inch pallets, receivers must unload the pallets and restack the fruit on metric pallets, causing more damage to the fruit and more labor costs to the receiver. Because of retail buying patterns and the retail demand for operational consistency in pallet usage, the produce industry has been moving away from using the 35- by 42-inch or 53 × 42 inch pallets and has been moving towards using a standard grocery-industry metric pallet measuring 48- by 40-inches. The committee anticipates that the retail usage of the metric pallet will continue to increase because: (1) Retailer and handler trucking and transportation costs for produce stacked on metric pallets are less than for produce stacked on 35- by 42-inch and 53- by 42-inch pallets, (2) retailer labor and disposal costs are less when metric pallets are utilized, and (3) receiving areas are steadily being remodeled to handle metric pallets. In the 1995/1996 season, approximately one percent of the industry's 9.3 million trays equivalents were packed in "shoe" box containers. The "shoe" box container (12 × 20 inches) is one of two new containers which is stacked in eight columns on a 48- by 40-inches metric pallet, and is configured in a manner which leaves one side of each container exposed. The other container that fits on the metric pallet is the "mum" box container. The "mum" box container (13.3 × 16 inches) is stacked nine columns on a pallet with the center column inaccessible to lot stamp numbering after the containers are placed on the pallet during block inspection. In block inspection, the inspection occurs after the pallets have been packed, strapped, and been placed in storage. In-line inspection is performed during the packing process, prior to palletization and storage.

The industry's usage of block and in-line inspection methods is fairly evenly split with approximately 50 percent of the handlers using in-line inspection and 50 percent using block inspection. The majority of block inspections are conducted in the northern part of California while in-line inspections are conducted primarily in the southern part of California.

The committee's recommendation to relax the container marking requirement would not significantly lower the number of containers being inspected or bearing the lot stamp number. Of the 81 containers stacked on a metric pallet during block inspection, nine containers (the center tier—approximately 11 percent of the pallet) would not be lot stamp numbered. The center tiers of all pallets would be randomly inspected by the Federal or Federal-State Inspection Service for all marketing order requirements. When the industry utilizes in-line inspection, both the "shoe" and "mum" containers are accessible to lot stamp number marking and inspection, as they are being stacked on the pallet.

There is unanimous support in the industry to reduce the lot stamp number container marking requirement.

Several other alternatives were suggested during the public meeting. One alternative discussed by the committee was to require all containers to continue to be lot stamp numbered. Maintaining the requirement for lot stamp numbers to be placed on all containers would increase handler labor costs, slow handler operations, increase handler restrapping costs, as well as increase inspection costs. It was the consensus of the committee that such a requirement would be cost prohibitive as each block-inspected pallet would have to be manually pulled apart to enable the lot stamp number to be placed on the nine-column center tier containers.

Another alternative suggested was to eliminate the block-inspection method and require all handlers to use the in-line inspection method. During in-line inspection, containers would be stamped with the lot stamp number prior to being stacked on the pallet. This would have a serious financial impact on the industry, especially among small growers and handlers, due to a large increase in inspection costs. This suggestion was unacceptable to the industry as it would be cost prohibitive and could force small growers and handlers out of business.

Another alternative examined was to establish regulations prohibiting the use of any containers that would create an inaccessible center when stacked on pallets. This alternative was not acceptable as it would not allow the industry to make necessary container changes to meet changing retailer needs and would be an excessive restriction.

This proposed rule, which would relax the lot stamp number requirement, would impact all handlers in the same manner and was viewed by the committee as the least restrictive and best solution. Relaxing the lot stamp number requirement would solve the problems caused by changes in pallet sizes and container configurations as well as spare the industry future financial hardship. It would allow the industry flexibility for future pallet size and container configurations.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 920.303, paragraph (d) is revised to read as follows:

§ 920.303 Container marking regulations.

* * * * *

(d) All exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet, shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector; except for individual consumer packages and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service.

* * * * *

Dated: January 24, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–2064 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 999

[Docket No. FV94–999–2PR]

Specialty Crops; Import Regulations; Peanut Import Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish minimum quality, identification, certification and safeguard requirements for imported farmers stock, shelled, and cleaned-inshell peanuts. The rule is issued under section 108B(f)(2) of the Agricultural Act of 1949, as amended. The provisions of paragraph (f)(2) require all peanuts in the domestic market to fully comply with all quality standards under Peanut Marketing Agreement No. 146 (Agreement). Thus, this rule would establish the same quality requirements and handling procedures for imported peanuts as those in effect for domestically produced peanuts. This action would benefit peanut handlers, importers and consumers by helping to ensure that all peanuts in the marketplace comply with the same quality standards.

DATES: Comments must be received by March 4, 1996. Pursuant to the Paperwork Reduction Act, comments to the information collection burden must be received by April 1, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; fax 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor or Rick Lower, Marketing Specialists, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; tel: (202) 720–6862 or (202) 720–2020; fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under paragraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3), as amended November 28, 1990; Pub. L. 101–624, hereinafter referred to as the Act. Paragraph (f)(2) of section 108B of the Act provides that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic market fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR part 998), issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This proposed rule would add a new § 999.600 governing the importation of peanuts" under 7 CFR part 999—Specialty Crops; Import Regulations. Proposed § 999.600 establishes minimum quality, identification, certification and safeguard requirements for foreign produced farmers stock, shelled and cleaned-inshell peanuts presented for importation into the United States. The quality requirements are the same as those specified in § 998.100 Incoming quality regulation and § 998.200 Outgoing quality regulation established pursuant to the Agreement. Whenever the regulations specified in the Agreement are changed, the regulations in § 999.600 would be changed accordingly. Safeguard procedures enable the Department to monitor and assure importers' compliance with the requirements of this regulation.

The intent of paragraph (f)(2) of section 108B of the Act is to ensure that all peanuts in the domestic marketplace comply with the same quality standards.

The U.S. Department of Agriculture (Department or USDA) is issuing this rule in accordance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform, and is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms, which include importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5 million. This proposed import regulation is based on regulations established under the Agreement, which regulates the quality of domestically produced peanuts. The majority of entities that are signers of the Agreement cannot be classified as small businesses, and it is anticipated that peanut importers affected by this regulation will be comprised primarily of signatories to the Agreement. Although small business entities may incur additional costs in meeting these proposed import regulations, the benefits accrued from the assurance of good quality peanuts should outweigh any additional costs to such entities. Inspection and testing fees would be uniformly applied to importers, regardless of size. Finally, this action is required by statute.

The Department is unable to estimate, at this time, the number or size of importers, or domestic peanut handlers acting as importers, who may choose to import peanuts under the relaxed quota. The Department estimates that there are as many as 50 domestic peanut handlers with storage and milling facilities that can be used to prepare peanuts for human consumption markets.

In the past, the importation of peanuts has been limited to 1.71 million pounds annually. However, the Schedule of the United States annexed to the North American Free Trade Agreement (NAFTA), implemented on January 1, 1994, provided duty free entry for up to approximately 7.43 million pounds of qualifying peanuts from Mexico. For 1995, the duty-free access increased to approximately 7.65 million pounds. By calendar year 2008, access will be unlimited. In addition, the United States Schedule to the Uruguay Round Agreements negotiated under the General Agreement on Tariffs and Trade (GATT) relaxes the peanut import quota to 74.5 million pounds in 1995, with additional annual increases to 124 million pounds by the year 2000.

Various qualities of peanuts are entered into the United States from countries such as Argentina, Mexico, Nicaragua, India, and the People's Republic of China. However, until the People's Republic of China accedes to the World Trade Organization, no benefits of the increased access will be available to it. Foreign produced peanuts are produced under varying weather conditions and using different cultural practices. Consistent with the Agreement's regulatory provisions, each lot of peanuts entered into the U.S. would be required to be officially sampled and graded by the Federal or Federal-State Inspection Service (inspection service). Incoming inspection for farmers stock peanuts and outgoing inspection for edible quality shelled peanuts and cleaned-inshell peanuts would be required for imported peanuts. A list of inspection service offices is provided in paragraph (d)(2)(i) of this regulation.

Some peanuts contain defects or other damage which cause them to be of low quality or have poor taste which could affect the demand for peanuts. Producers, handlers and manufacturers in the domestic peanut industry believe that even an isolated quality problem could adversely affect consumer confidence, which would be detrimental to the domestic peanut industry.

The Agreement imposes quality standards for domestically produced inshell and shelled peanuts. Peanut lots are graded based on the percentage of unshelled peanuts, percentage of kernels with damage and minor defects, percentage of loose shelled kernels, percentage of foreign material, and percentage of moisture content. In addition, an integral part of these quality standards is the extent of the presence of *Aspergillus flavus* mold (the principal cause of aflatoxin, which is a carcinogen). This mold is more likely to be found on damaged or defective kernels than on sound, whole, good quality kernels. A chemical analysis for aflatoxin is required on shelled peanut lots not meeting superior quality requirements. Shelled lots that exceed certain superior quality requirements are exempt from the aflatoxin chemical analysis requirements.

U.S. Customs Service requirements and USDA safeguard procedures: Importer obligations would include filing documents notifying the U.S. Customs Service (Customs Service) and the USDA of different actions taken concerning foreign produced inshell and shelled peanuts. Customs Service importation procedures and requirements are set out in title 19 of the Code of Federal Regulations (19 CFR). The Customs Service regulations applicable to peanut handling and processing include, but are not be limited to: bond requirements (19 CFR part 113); transfer from port of entry to another Customs Service office location (19 CFR part 112); entry of merchandise for consumption (19 CFR part 141); warehouse entry, and withdrawal from warehouse for consumption (19 CFR part 144); establishment of bonded warehouses (19 CFR parts 19.13 and 19.2); and manipulation in bonded warehouses (19 CFR part 19.11); transfer of ownership (19 CFR parts 141.113 and 141.20); failure to recondition (19 CFR part 113.62(e); and redelivery of merchandise 19 CFR part 113.62(d). For Customs Service purposes, the term "consumption" means "use in the United States." Customs Service entry procedures would not be superseded by this import regulation.

When arriving at a port of entry, foreign produced peanuts may be entered for "warehouse" or entered for "consumption," or may be transported to another Customs Service port of entry to be entered there for warehouse or consumption. Peanuts transported from one Customs Service port of entry to another Customs Service port of entry must be transported by a carrier designated by the Customs Service under 19 U.S.C. 1551. Peanuts entered for warehouse are stored in a Customs Service bonded warehouse. Such peanuts remain in Customs Service custody until they are withdrawn from warehouse, entered for consumption, or released from Customs Service custody. Peanuts entered for consumption, and peanuts withdrawn from warehouse for consumption, are released from Customs Service custody for edible or non-edible use. Release of peanuts, in both cases, would be a conditional release, pending certification that the peanuts conform to Customs Service entry requirements and meet the handling and quality requirements of this proposed regulation. The Customs Service can demand redelivery of peanuts that are subsequently determined to be inadmissible.

The importer, or import broker acting on behalf of the importer, would be required to file with the Customs Service required entry documentation for each foreign produced peanut lot to be entered. Under USDA safeguard procedures established in this proposed rule, each importer would also be required to file completed entry documentation (Customs Service Form 3461 or other equivalent form) with the inspection service office that would perform the sampling of the lot for inspection to provide that office with advanced notice of requested inspection. The entry documentation would be filed by mail or facsimile transmission (fax). The filing would occur prior to arrival of the shipment at the port of entry in order to expedite entry procedures. The inspection service office would stamp, sign, and date the entry document and return it to the importer or broker by fax or mail. The importer/broker would then submit the stamped copy to the Customs Service. This "stamp-and-fax" procedure is similar to a procedure in place for other imported agricultural commodities under AMS jurisdiction. Failure to file with the Customs Service a copy of the entry documentation stamped by the inspection service would result in a delay or denial of entry. The importer/broker would also send a completed copy of the document to the AMS to initiate USDA's monitoring process.

The names, addresses and contact numbers of inspection service offices that perform peanut sampling and/or grade inspections are provided in paragraph (d)(3) of this proposed rule. Inspection service offices at other locations may be contacted to sample the imported peanut lot. In such cases, the collected peanut samples would be shipped to an inspection service office with equipment and personnel qualified to a perform grade inspection. Samples of lots meeting minimum grade requirements would also be sent to an approved laboratory (listed in paragraph (d)(4) of this rule) for aflatoxin analysis. The lot would have to remain in storage pending grade and aflatoxin certification.

It would then be the importer's responsibility to provide, in the mailed or faxed documentation, sufficient information to identify the peanut lot being entered and to ensure that arrangements are made for sampling and inspection. The information would include the container identification, weight of the peanut lot, the city, street address, and building number (if known) receiving the peanut lot, the requested date and time of inspection, and a contact name or number at the destination. If the destination is changed from that listed on the stamp-and-fax document, it would be the importer's responsibility to immediately advise inspection service offices at both the original destination and the new destination of such change. Shipments which are not made available pursuant to the entry document, or are not properly displayed for sampling purposes, would be reported to the Customs Service.

Falsification of reports submitted to the AMS is a violation of Federal law punishable by fine or imprisonment, or both.

A bond secured by surety or U.S. Treasury obligations is required to be posted by the importer with the Customs Service to guarantee the importer's performance. Peanuts would be determined inadmissible because the importer failed to follow Customs Service importation procedures, the peanuts failed to meet quality requirements, or because the handling procedures (including lot identification and certification) specified in these proposed regulations were not followed.

Redelivery could be demanded for failure to comply with the quality, handling, and reporting requirements of this import regulation, including: arrival at the inland destination with a broken Customs Service or inspection service

seal; failure to maintain lot identity; failure to receive required inspection; commingling of peanut lots not of like quality or condition; disposition of non-edible peanuts to an edible peanut outlet or an improper, non-edible peanut outlet; and failure to fully report the disposition of foreign produced peanuts. Disposition reports would include grade, aflatoxin, and identification certifications and bills of lading, sales receipts, and other documentation showing the peanuts were disposed to a non-edible peanut outlet, exported, or destroyed.

A redelivery demand must be made by the Customs Service within 30 days of release of the peanuts. Redelivery to the port of entry is normally required within 30 days after the redelivery demand is issued. The Customs Service may authorize a longer redelivery period and may authorize an appropriate extension of the redelivery period for good cause.

Because the Customs Service requires one week to prepare and issue a redelivery demand notice, this proposed import rule would establish that importers must report disposition of lots of peanuts to the AMS within 23 calendar days of the date of release. Although a 23-day deadline may be considered burdensome by some, this deadline is necessary because of the Customs Service 30-day requirement. Thus, the importer would have 23 days to perform necessary shelling, cleaning, sorting, sizing or other handling functions necessary to obtain edible certification or to dispose of the peanuts to a non-edible peanut outlet. If the AMS did not receive certification of the lot's edible quality or non-edible disposition by the 23rd calendar day, or if the importer fails to comply with quality or handling requirements of this import regulation, the AMS would notify the Customs Service. The Customs Service would then demand redelivery of the lot. Peanuts entered for warehouse (and which remain in Customs Service custody in a bonded warehouse) would not be subject to these time constraints until they are withdrawn for consumption. If notified by the importer, AMS would extend a deadline to correspond with an extension granted to the importer by the Customs Service.

The importer would cause a copy of the entry documentation applicable to each peanut lot to be forwarded with the peanuts to the lot's inland destination. If the shipment is sealed by Customs Service or the inspection service, the seal must remain intact and would be broken only by an authorized official at the destination point.

The identification requirements in this proposed regulation are similar to the Agreement's lot identification requirements. Lot size would be limited to 200,000 pounds to comply with Agreement requirements and random sampling provisions of the inspection service. Boatload shipments exceeding 200,000 pounds would be entered under two or more Customs Service entry documents. For instance, five containers averaging 40,000 pounds each (the industry standard) would be entered on one entry document. Lot size and identification arrangements would be made consistent with the port of entry inspection service office and would be established cooperatively between the inspection service, Customs Service offices and the importer at the port of entry. This would facilitate subsequent lot identification, inspection, and reporting of large imported shipments.

Foreign produced peanuts placed in storage could be commingled only with like-quality, foreign produced peanuts belonging to the same importer. Similarly, failing quality peanuts could be commingled with other such foreign produced peanuts prior to clean up or non-edible disposition. However, reports concerning commingled lots would have to be reported within the 23-day reporting period of the earliest-entered lot commingled. For example, if two 100,000 pound shipments were released for consumption entries on consecutive Mondays, and commingled in storage prior to outgoing inspection, at least 100,000 pounds from the commingled lot would have to be withdrawn from storage, inspected and reported as meeting edible or non-edible disposition requirements of this proposed rule within 23 days of the first lot's consumption entry date. Further, the remaining commingled peanuts would have to be withdrawn, inspected, properly disposed and reported within the next week—before the end of the second lot's 23 day reporting period.

The objective of the lot identification requirements is to help ensure that individual peanut lots would be disposed as required and that defects in poor quality peanut lots would not be blended out by commingling poor quality peanuts with higher quality peanuts. The lot identification requirements in this proposed import regulation are the same as those specified for domestically produced peanuts.

All USDA required sampling, quality certification, and lot identification would be conducted by the inspection service. Chemical analysis would be conducted by USDA or approved laboratories. Foreign produced peanuts stored in bonded warehouses are subject to Customs Service audits. Importers would reimburse the inspection service, laboratories, and the Customs Service for services provided and costs incurred with regard to the importation of the importer's peanuts.

Release for importation:

Depending on condition (shelled or inshell) and containerization, foreign produced peanuts could be either: (1) Sampled, inspected, and held at the port of entry until certified by the inspection service as meeting the edible quality requirements of this rule; or (2) conditionally released at the port of entry and entered under Customs Service entry procedures for later inspection and certification.

Under option (1), foreign produced shelled or cleaned-inshell peanuts which are cleaned, sorted, sized, and otherwise prepared for edible consumption prior to entry, could be sampled and inspected at the port of entry. The importer would present such peanuts in containers or bags that would allow appropriate sampling of the lot pursuant to inspection service requirements. After sampling, such lots would be held at the port of entry, under lot identification requirements of the inspection service, pending results of the inspection and chemical analysis. If determined to meet the applicable edible quality requirements in paragraph (c) of this proposed rule, the shelled or cleaned-inshell peanuts could be entered for consumption without further inspection. Reports of such entries would not have to be filed with AMS.

Shelled or cleaned-inshell peanuts, sampled and held at the port of entry, which fail edible quality requirements would, at the importer's discretion, be: (1) exported; (2) entered for clean up, and if satisfactorily remilled or blanched, used for edible consumption; or (3) entered for non-edible consumption. Failing peanuts that are exported would not have be reported to AMS because the peanuts were not entered into the U.S. The importer would fully report all actions taken on each lot entered for clean up or non-edible disposition within 23 days of the lot's consumption entry filing date.

Under option (2), foreign produced shelled or cleaned-inshell peanuts which are cleaned, sorted, sized, and otherwise prepared for edible consumption prior to entry, would be conditionally released at the port of entry and transported inland for sampling, inspection, and certification. Farmers stock peanuts would have to be shipped inland for sampling and inspection because specialized sampling facilities are not available at ports of entry.

Categories of peanuts submitted for importation:

Farmers stock peanuts. Such peanuts would be required to undergo incoming inspection at a prearranged buying point prior to arrival at a shelling or storage destination. All required inspections, shelling, and dispositions of released farmers stock peanuts would be completed and reported within the required 23 day reporting deadline.

Foreign produced farmers stock peanut lots could not be commingled with other peanut lots prior to incoming inspection. Incoming inspection determines the quality of the farmers stock peanuts based on moisture content, foreign material, damage, loose shelled kernels, and visible Aspergillus flavus mold. The inspection service would issue USDA form CFSA–1007, "Inspection Certificate and Sales Memorandum" (formerly ASCS–1007) designating the lot as either Segregation 1, 2, or 3 quality.

Only Segregation 1 peanut lots could be prepared for human consumption use. Such peanuts would be shelled or prepared for cleaned-inshell use, and certified for disposition within 23 days of the lot's release. If Segregation 1 lots imported on successive days were commingled, each imported lot would still have to comply with the 23-day reporting period. For quality control and reporting purposes, Segregation 1 lots intended for human consumption outlet could be commingled only with other like quality peanuts of the same importer. A Segregation 1 lot commingled with Segregation 2 or 3 peanuts would assume the lower Segregation 2 or 3 quality and would be disposed as non-edible quality peanuts.

Foreign produced farmer stock peanuts received by importers and determined at incoming inspection to be Segregation 2 and 3 quality peanuts could be disposed only as non-edible peanuts. Segregation 3 and commingled Segregation 2 and 3 farmers stock peanuts could be exported inshell or shelled and fragmented prior to export. Segregation 2 and 3 peanuts could also be destroyed by burying (under inspection service supervision) or exported (certified by Customs Service). The importer would report non-edible disposition by providing a copy of the incoming inspection certificate, bills of lading and sales receipts, or other official certifications as proof of disposition to crushing or exportation, or to other non-edible outlets or burying. Exported peanuts would be lot identified by the inspection service and that certification would be filed with the Secretary within the 23 day reporting period and applicable Customs Service re-export procedures would be followed.

Foreign produced Segregation 2 and 3 quality peanuts could be shelled by a custom seed sheller for seed use and dyed or chemically treated so as to be unfit for human or animal consumption. Domestically produced Segregation 2 and 3 peanuts shelled for seed need not be dyed or treated but must be produced under the auspices of a State agency, shelled by a custom seed sheller, and subject to the Peanut Administrative Committee (PAC) oversight. Measures such as these are necessary to ensure that peanuts used for human consumption are safe and wholesome. Proof of dyeing or chemical treatment of foreign produced peanuts would be filed with the Secretary within the 23 day reporting period.

Foreign produced farmers stock peanuts do not qualify for the support program administered by the Farm Service Agency, formerly the Agricultural Stabilization and Conservation Service (ASCS).

Shelled peanuts: Foreign produced shelled peanuts could: (1) Originate from foreign produced Segregation 1 farmers stock milled at facilities in the U.S., or (2) be peanuts produced and milled in another country which are conditionally released at the port-of-entry for inland sampling and inspection. Both categories of shelled peanuts would be sampled and inspected against outgoing quality requirements specified in paragraph (c) of this regulation.

Domestically produced shelled peanuts intended for edible markets must originate from farmers stock peanuts which have undergone incoming inspection and are determined to be of Segregation 1 quality. The AMS cannot determine whether shelled peanuts produced and milled in a foreign country originated from Segregation 1 quality peanuts prior to milling. However, because outgoing inspection is more reliable and precise in determining aflatoxin content in peanut kernels, this proposed import regulation provides that peanuts shelled prior to entry would be exempt from incoming inspection before delivery for outgoing inspection. Such shelled peanuts would be sampled and tested against outgoing quality requirements prior to disposition to edible outlets.

Two grade levels for shelled peanuts are in effect under the Agreement and would be established in this import regulation. The Agreement provides that shelled peanut lots meeting the quality requirements specified in a table entitled "Other Edible Quality," under paragraph (a) of § 998.200, must be chemically analyzed for aflatoxin content prior to disposition to edible outlets. The quality requirements specified in the Other Edible Quality table are duplicated in "Table 1, Minimum Grade Requirements—Peanuts for Human Consumption" of this proposed import regulation. The outgoing quality requirements would also include a parts-per-billion tolerance for aflatoxin, determined by chemical analysis.

Aflatoxin appears most frequently in damaged, stressed, under-developed and malformed kernels. Domestic lots with fewer poor quality kernels are less likely to be contaminated and; thus, do not have to be chemically tested. The Agreement's "Indemnifiable Grades" table in paragraph (a) of § 998.200, provides for a superior quality level with more rigorous percentage tolerances than those found in the Other Edible Quality table. Thus, foreign produced shelled lots meeting the superior quality standards would be exempt from chemical analysis. The quality requirements specified in the "Indemnifiable Grades" table are duplicated in "Table 2 Superior Quality Requirements—Peanuts for Human Consumption" of this proposed regulation.

Currently, in paragraph (c)(4) of § 998.200, peanuts are considered edible quality if the chemical assay shows the lot contains 15 ppb or less of aflatoxin. Thus, the level of aflatoxin in foreign produced peanut lots intended for edible peanut markets could not exceed 15 ppb. Consistent with paragraphs (c)(4) and (g)(3) of § 998.200, non-edible quality peanut lots with 25 ppb or less could be disposed to certain non-edible peanut outlets. Non-edible quality peanut lots with aflatoxin exceeding 25 ppb would be further restricted to certain other non-edible peanut outlets. The sampling, testing, certification and identification of foreign produced peanuts lots would be performed in accordance with paragraph (d)(4) of this proposed regulation.

Chemical testing would be performed by an AMS, Science and Technology Division laboratory or a laboratory approved by the PAC. The PAC locally administers the Agreement with Department oversight. A list of approved laboratories is provided in paragraph (d)(4)(iv) of this proposed regulation. These are the same laboratories specified in the Agreement.

Thus, to obtain approval for human consumption use of a foreign produced shelled peanut lot, the importer would present to the AMS and the Customs

Service two certifications: (1) Quality certification Form FV–184–9A "Milled Peanut Inspection Certificate" and (2) aflatoxin certification Form CSSD–3 "Certificate of Analysis for Official Samples" issued by USDA laboratories, or equivalent forms issued by a PAC approved lab. An aflatoxin certificate would not be required if the lot meets the superior grade requirements, but could be required by the buyer. The certificates are the same as those used to report grade and chemical analysis results for domestically produced peanuts. If the required certificates were not received by the AMS within 23 days of a consumption entry, or a withdrawal for consumption entry, the AMS would request the Customs Service to initiate a redelivery demand for the lot.

Cleaned-inshell peanuts: Inshell peanuts that have been cleaned, sorted, and prepared in another country for edible inshell peanut markets in the U.S. could be presented as a consumption entry at the port of entry. Such peanuts would be declared as cleaned-inshell peanuts on the Customs Service entry document and could either be presented for outgoing inspection at the port of entry, if delivered in bags, or conditionally entered for outgoing inspection at a facility inside the U.S. Peanuts declared as cleaned-inshell on a Customs Service entry document could not undergo additional cleaning, sorting, sizing, or drying prior to outgoing inspection at the destination point inside the U.S.

Cleaned-inshell peanut lots destined for edible peanut markets would be required to meet certain minimum quality requirements for damage, moisture and foreign material. Cleaned-inshell lots containing more than 1 percent kernels with visible mold would have to be chemically tested and meet aflatoxin requirements. The cleaned-inshell quality requirements specified in paragraph (c)(2) of this proposed regulation are the same as the quality requirements in paragraph (b) of § 998.200 of the Agreement.

Foreign produced farmers stock Segregation 1 peanuts also could be prepared and presented at outgoing inspection as cleaned-inshell peanuts. Such peanuts inspected and certified as meeting edible requirements for cleaned-inshell peanuts would be designated as imported peanuts on inspection service form FV–184–9A. The importer would file form FV–184–9A with the AMS for each lot of foreign produced cleaned-inshell peanuts meeting edible quality requirements for cleaned-inshell peanuts.

Imported peanuts certified as meeting edible requirements could be used any way desired. Only after shelled and cleaned-inshell peanuts are certified as meeting applicable requirements could such peanuts be commingled with imported lots of other importers or domestically produced peanuts also certified for human consumption.

Disposition of Failing Peanuts

The following peanuts could not be used for human consumption: (1) Farmers stock peanuts that grade either Segregation 2 or Segregation 3; (2) cleaned-inshell and shelled peanuts that fail outgoing quality and/or aflatoxin requirements and were not reconditioned or reworked (the removal of defective kernels); and (3) below grade residue from any shelling, milling or blanching operations.

Cleaned-inshell lots that fail outgoing inspection requirements of paragraph (c)(2) could be reconditioned by remilling the peanuts, which could include shelling. If shelled, the peanuts would have to meet outgoing requirements of proposed paragraph (c)(1) for shelled peanuts.

Failing shelled lots, which originated from Segregation 1 peanuts, could be reconditioned following procedures established in paragraph (f) of this proposed rule. These provisions are the same as those established under various provisions of the Agreement. Segregation 1 shelled peanuts failing quality requirements in table 1 and/or exceeding 15 ppb aflatoxin content could be reconditioned by remilling and/or blanching and, when subsequently reinspected and certified as meeting edible quality and aflatoxin requirements, could be disposed to edible peanut outlets. If not reconditioned, failing Segregation 1 lots would have to be disposed to non-edible peanut outlets as unrestricted or restricted peanuts (below).

Provisions controlling the disposition of residue peanuts from inshell remilling and shelled remilling and blanching that continue to fail edible quality requirements are also provided in this proposed rule. Two categories of non-edible peanuts are specified under the Agreement—"unrestricted" and "restricted." The designation would be based on the amount of aflatoxin detected in the lot. "Unrestricted" peanuts would be peanuts which fail one or more quality requirements and, when chemically assayed, contain more than 15 ppb but 25 ppb or less aflatoxin. While such peanuts would not be edible quality, they could be crushed for oil, exported or used in animal feed, provided that certain handling and container labeling requirements were followed. Unrestricted peanuts also could be used for seed (if dyed or treated to prevent edible use), crushed for oil, exported, or buried. Meal resulting from the crushing of unrestricted peanuts would not have to be tested a second time for aflatoxin content. Disposition of meal resulting from the crushing of peanuts is not regulated under the Agreement or this proposed regulation.

Peanuts containing more than 25 ppb aflatoxin would be considered "positive" to aflatoxin and would be designated as "restricted" peanuts. Restricted peanut lots may or may not meet quality requirements of table 1. At the direction of the importer, restricted peanut lots would be used either for seed (if dyed or treated), crushed for oil, destroyed by burying, or exported. Meal resulting from the crushing of restricted peanuts would be certified as to aflatoxin content and such certification would accompany the meal into the channels of commerce.

The importer could dispose of a failing peanut lot directly to a non-edible peanut outlet or set aside and commingle several failing lots for eventual disposition to one or more non-edible outlets. Commingled failing quality peanuts would be held separate and apart from edible peanuts and identified with red tags indicating non-edible peanuts. Eventual disposition would be to non-edible peanut outlets consistent with the failing quality of the peanuts, pursuant to paragraph (e) of this proposed rule.

If an importer chose to destroy by burying or export unrestricted or restricted peanuts, the peanuts would be lot identified and proof of burying or exportation would be provided by the importer to the AMS. Customs Service procedures controlling re-exported merchandise would also be followed by the importer. Burying and exportation expenses would be borne by the importer.

It would be the importer's responsibility to file inspection certificates and other documentation sufficient to account for disposition of all failing quality peanuts acquired by the importer. Such proof could consist of copies of bills of lading and sales receipts between the importer and non-edible peanut outlet receivers. The documentation would contain identifying information, such as container or lot numbers, that tie the peanuts reported on the documents to failing quality peanuts on inspection service or aflatoxin certificates. The name and address of the non-edible peanut receiver and valid contact information would also be specified on the documentation.

Disposition of unrestricted and restricted peanut lots would be reported to the AMS within 23 days of filing for a consumption entry, or a withdrawal for consumption entry, with the Customs Service.

The inspection service would identify imported peanuts as peanuts of foreign origin on the inspection certificate to assist in lot identification (and help prevent unintended commingling with domestically produced peanuts prior to certification). Foreign origin designations also would help importers and the AMS meet its monitoring responsibilities.

From time to time, the PAC may recommend to the Secretary that quality requirements or handling procedures specified in the Agreement be revised. If such changes are approved by the Secretary and implemented for the domestic peanut industry in 7 CFR Part 998, corresponding changes would be made in § 999.600. Changes in regulations for domestically produced peanuts are generally made effective July 1. Thus, corresponding changes to the import regulation would be made effective on that date, unless otherwise specified in the regulation. Quality requirements in effect on the date of inspection of a foreign produced lot would be applied to the inspected lot.

Safeguard procedures: This proposed rule would establish a procedure to verify importers' compliance with import requirements. The safeguard procedures would provide for monitoring of peanut lots from entry to final disposition. The purpose of these procedures would be to ensure that foreign produced peanuts either meet edible requirements or are appropriately disposed to non-edible peanut outlets, exported or destroyed. The proposed safeguard procedures are similar to safeguard procedures already in place for other imported commodities and are consistent with the inspection, identification and certification requirements applied to domestically produced peanuts under the Agreement.

The safeguard process would include the "stamp-and-fax" entry procedure, described above, whereby the importer provides the Customs Service with an entry document stamped by the inspection service. The importer also would file a copy of the entry document with the AMS and forward a copy, with the released lot, to the inland destination where the lot would be inspected or warehoused. Edible certification and non-edible disposition would be reported by filing with the AMS copies of all grade certificates, aflatoxin certificates, and proof of non-edible disposition. Such certifications would be filed within 23 days of filing a consumption entry or a withdrawal from warehouse for consumption entry.

Receipt of required certificates and other documentation within the 23-day deadline would be essential. Failure of an importer to obtain edible certification—or arrange for appropriate non-edible disposition—on all foreign produced peanut acquisitions, and file such reports with the AMS within 23 days of a consumption declaration, could result in a redelivery demand by the Customs Service. Failure to redeliver the violating lot could result in liquidated damages.

Certificates and other supplementary documentation would be sent to AMS, Marketing Order Administration Branch (MOAB) which oversees the domestic peanut program and would oversee this proposed import program. Facsimile or express mail deliveries could be used to ensure timely receipt of certificates and other required documentation. Overnight and express mail deliveries would be addressed to the USDA/AMS, Marketing Order Administration Branch, 14th and Independence Ave. SW, Room 2525, Washington, DC. 20250, Attn: Report of Imported Peanuts. The MOAB's fax number is (202) 720–5698, Attn: Report of Imported Peanuts.

For the purposes of checking and verifying reports filed by importers and disposition outlets, provisions would be included in this proposed regulation that would allow the Secretary, through duly authorized agents, to have access to any premises where peanuts may be held and processed. Authorized agents, at any time during regular business hours, would be permitted to inspect any peanuts held, and any and all records with respect to the acquisition, holding or disposition of any peanuts which may be held, or which may have been disposed by that importer.

USDA record retention requirements would also be established to require importers to retain information for at least two years beyond the year of applicability. Customs Service record retention requirements are longer.

With regard to Customs Service reporting procedures, it is the importer's decision when to commence "consumption" entry procedures or when to withdraw merchandise from a warehouse for consumption. The importer's decision would be implemented in a manner consistent with Customs Service procedures and reported in accordance with normal Customs Service requirements. Any Customs Service reporting or recordkeeping requirements for disposition of imported merchandise or clearance of bonding requirements would not be superseded by this regulation.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information and collection requirements that are contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) and would be assigned a new OMB number. Comments should reference this proposed import regulation and the date and page number of this **Federal Register**. Comments must be received by April 1, 1996. Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, D.C., 20503 and to the USDA in care of the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; fax 202–720–5698. A comment to OMB is best assured of having its full effect if OMB receives the comment within 30 days of publication of the rule. All comments will also become a matter of public record.

Comments are invited on: (1) Whether the proposed collection of information is necessary for USDA's oversight of imported peanuts; (2) the accuracy of the collection burden estimate and the validity of methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

The reporting and recordkeeping burdens imposed under this proposed rule are designed to be minimal on importers and customs brokers. No new forms would be required to be completed by importers or customs brokers. However, various documentation obtained during the importation process—incoming and outgoing inspection certificates, lot identification certificates, aflatoxin laboratory analyses, Custom Service documentation, bills of lading, etc. would be photocopied and mailed to the Secretary. The information collected would be used for compliance purposes only and would be held confidential by the Department. The information collected would not be compiled for dissemination in any public report.

Estimate of Burden: Public reporting burden for this proposed collection of information is estimated to average 5 minutes (0.083 hours) per response.

Respondents: Importers and customs brokers who import peanuts.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 85.

Estimated Total Annual Burden on All Respondents: 177 hours (7.08 hours per respondent).

Without the benefit of prior experience in this subject, and for the purposes of complying with the Paperwork Reduction Act requirements, the Department makes several rough estimates as to the number of importers affected by this regulation, the number of peanut shipments imported, and the number of documents needed to be filed for each shipment. As many as 50 peanut handlers are capable of conducting handling functions on imported peanuts, but evidence from 1995 indicates that only a handful imported peanuts. Thus, the number of importers is estimated at 25. While the exact amount is not yet determined, if the 1996 quota is established at 85 million pounds (and is fully subscribed), approximately 425 entries of 200,000 pound shipments would be entered. If allocated equally, the number of shipments per importer would be 17.

It is expected that most shipments would be shelled peanuts needing as few as three documents filed with the Secretary—the initial Customs Service entry document (Form 3461, or equivalent form, filed with the inspection service office and AMS), a grade inspection certificate (FV–184–9A, "Milled Peanut Inspection Certificate") and an aflatoxin assay certificate (Form CSSD–3 "Certificate of Analysis for Official Samples" or equivalent PAC approved laboratory form). Inshell lots and shelled lots that fail inspection requirements (expected to be far fewer in number) would require additional forms for reconditioning or disposition of non-edible peanuts. This rule estimates that each entry would require an average of five documents be filed for each imported shipment of peanuts—resulting in an estimated 85 documents filed for each importer, and approximately 2,125 filings for the industry. The time to photocopy and mail a document, and file the document for recordkeeping purposes, is estimated to total 5 minutes—resulting in an annual burden of approximately 7 hours per importer, and a total of 177 burden hours for the industry.

In addition to the reporting requirements, this proposed rule would establish that importers and customs brokers retain copies of certifications and entry documentation for not less than two years after the calendar year of acquisition. This is a commonly accepted records retention period and within good business practices. The time for maintaining records by filing each document internally is included in the five minute filing estimate. The information collected would be used only for compliance purposes by personnel of the USDA.

The reporting and recordkeeping requirements established in this proposed rule would enable the USDA to oversee the importation of peanuts and help the U.S. peanut industry provide only good quality, wholesome peanuts for edible peanut outlets. Without the quality requirements specified in the Agreement (7 CFR Part 998), regulations for non-signatory handlers (7 CFR Part 997), and these proposed regulations, poor quality peanuts could more easily be entered into edible channels, causing consumer dissatisfaction and having a negative impact on the market for peanuts and peanut products. Compliance with these standards would help the peanut industry in its efforts to expand markets.

Although these proposed requirements could result in small additional costs for importers, the benefits from the restriction of low quality peanuts from edible markets could outweigh any additional inspection, handling, recordkeeping and reporting costs resulting from the requirements. The proposed requirements have been carefully reviewed and every effort has been made to minimize any unnecessary reporting and recordkeeping costs.

Based on available information, the Administrator of the AMS has determined that this proposed rule could impose some additional costs on affected importers. However, the benefits of marketing a high quality product should exceed the additional costs, if any, which could be incurred in meeting these requirements.

A 30 day comment period is provided to allow interested persons to respond to this proposal. All written comments received within the comment period will be considered when finalizing this proposed rule.

List of Subjects in 7 CFR Part 999

Dates, Filberts, Food grades and standards, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 999 is proposed to be amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 is revised to read as follows:

Authority: 7 U.S.C. 601–674; and 7 U.S.C. 1445c-3.

2. A new § 999.600 is added to part 999 to read as follows:

§ 999.600 Regulation governing imports of peanuts.

(a) *Definitions.* (1) *Peanuts* means the seeds of the legume *Arachis hypogaea* and includes both inshell and shelled peanuts produced in countries other than the United States, other than those marketed in green form for consumption as boiled peanuts.

(2) *Farmers stock peanuts* means picked and threshed raw peanuts which have not been shelled, crushed, cleaned or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the form in which customarily marketed by producers.

(3) *Inshell peanuts* means peanuts, the kernels or edible portions of which are contained in the shell.

(4) *Incoming inspection* means the sampling and inspection of farmers stock peanuts to determine Segregation quality.

(5) *Segregation 1 peanuts*, unless otherwise specified, means farmers stock peanuts with not more than 2.49 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus.*

(6) *Segregation 2 peanuts*, unless otherwise specified, means farmers stock peanuts with more than 2.49 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus.*

(7) *Segregation 3 peanuts*, unless otherwise specified, means farmers' stock peanuts with visible *Aspergillus flavus* mold.

(8) *Shelled peanuts* means the kernels of peanuts after the shells are removed.

(9) *Outgoing inspection* means the sampling and inspection of either: shelled peanuts which have been cleaned, sorted, sized and otherwise prepared for human consumption markets; or inshell peanuts which have been cleaned, sorted and otherwise prepared for inshell human consumption markets.

(10) *Negative aflatoxin content* means 15 parts-per-billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements, and 25 ppb or less for non-edible quality peanuts.

(11) *Person* means an individual, partnership, corporation, association, or any other business unit.

(12) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture (USDA) who is, or who may hereafter be, authorized to act on behalf of the Secretary.

(13) *Inspection service* means the Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, USDA.

(14) *USDA laboratory* means laboratories of the Science and Technology Division, Agricultural Marketing Service, USDA, that chemically analyze peanuts for aflatoxin content.

(15) *PAC approved laboratories* means laboratories approved by the Peanut Administrative Committee, pursuant to Peanut Marketing Agreement No. 146 (7 CFR Part 998), that chemically analyze peanuts for aflatoxin content.

(16) *Conditionally released* means released under bond by the United States Customs Service (Customs Service) for consumption (use in the United States) or withdrawal from warehouse for consumption.

(17) *Importation* means the release from custody of the Customs Service.

(b) *Incoming regulation:* (1) Farmers stock peanuts presented for importation must first undergo incoming inspection. Only Segregation 1 peanuts may be used for human consumption. All foreign produced farmers stock peanuts for human consumption must be sampled and inspected at a buying point or other handling facility capable of performing incoming sampling and inspection. Sampling and inspection shall be conducted by the inspection service. Only Segregation 1 peanuts certified as meeting the following requirements may be used in human consumption markets:

(i) *Moisture.* Except as provided under paragraph (b)(2) *Seed peanuts*, of this section, peanuts may not contain more than 10.49 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storage or milling.

(ii) *Foreign material.* Peanuts may not contain more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term *sand-screen* means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(iii) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(iv) *Loose shelled kernels.* Peanuts may not contain more than 14.49 percent loose shelled kernels, except that peanuts having a higher loose shelled kernel content may be imported if held separately until milled or shipped directly to a shelling facility for prompt shelling. All percentage determinations shall be rounded to the nearest whole number. Kernels which ride screens with the following or larger slot openings may be separated from loose shelled kernels: Runner—$^{16}/_{64}$ x $^{3}/_{4}$ inch; Spanish and Valencia—$^{15}/_{64}$ x $^{3}/_{4}$ inch; Virginia—$^{15}/_{64}$ x 1 inch. If so separated, those loose shelled kernels which ride the screens may be included with shelled peanuts prepared for inspection and sale for human consumption: *Provided*, That no more than 5 percent of such loose shelled kernels are kernels which would fall through screens with such minimum prescribed openings. Those loose shelled kernels which do not ride the screens shall be removed from the farmers' stock peanuts and shall be held separate and apart from other peanuts and disposed of for non-edible use, pursuant to paragraph (e) of this section. If the kernels which ride the prescribed screen are not separated from the kernels which do not ride the prescribed screen, the entire amount of loose shelled kernels shall be removed from the farmers stock peanuts and shall be held separate and apart and disposed of for non-edible use, pursuant to paragraph (e) of this section.

(2) *Seed peanuts.* Farmers stock peanuts determined to be Segregation 1 quality, and shelled peanuts certified negative to aflatoxin (15 ppb or less), may be imported for seed purposes. Disposition of such peanuts to a seed outlet must be reported to the Secretary by submitting a copy of the bill of lading or sales contract which reports the weight of the peanuts so disposed, and the name, address and telephone number of the receiving seed outlet. Residuals from the shelling of Segregation 1 seed peanuts shall be held and/or milled separate and apart from other peanuts, and such residuals meeting quality requirements specified in paragraph (c)(1) of this section may be disposed to human consumption channels, and any portion not meeting such quality requirements shall be disposed to non-edible peanut channels pursuant to paragraph (e) of this section. Segregation 2 and 3 peanuts may be shelled for seed purposes but must be dyed or chemically treated so as to be unfit for human or animal consumption. All disposition of seed peanuts and residuals from seed peanuts shall be reported to the Secretary pursuant to paragraphs (f)(2) and (3) of this section. The receiving seed outlet must retain records of the transaction, pursuant to paragraph (g)(7) of this section.

(3) *Oilstock and exportation.* Farmers stock peanuts of lower quality than Segregation 1 (Segregation 2 and 3 peanuts) shall be used only in non-edible outlets as provided herein. Segregation 2 and 3 peanuts may be commingled but shall be kept separate and apart from edible quality peanut lots. Commingled Segregation 2 and 3 peanuts and Segregation 3 peanuts shall be disposed only to oilstock, exported inshell, or shelled and fragmented for export as provided in paragraph (e) of this section. Shelled peanuts and cleaned-inshell peanuts which fail to meet the requirements for human consumption in paragraph (b)(1) may be crushed for oil or exported.

(4) Whenever the Secretary has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Secretary may reject the then effective inspection certificate and may require the importer to have the peanuts reinspected to establish whether or not such peanuts may be disposed of for human consumption.

(c) *Outgoing regulation.* No person shall import peanuts for human consumption into the United States unless such peanuts are lot identified and certified by the inspection service as meeting the following requirements:

(1)(i) *Shelled peanuts.* All shelled peanuts shall at least meet the requirements specified in Table 1 as follows:

TABLE 1.—MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole Kernels and Splits]

Type and grade category	Maximum limitations						
	Excluding lots of "splits"						
	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total		
Runner	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 16/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (except No. 2)	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 15/64 × 1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia	1.50	2.50	3.00%; 16/64 inch; round screen.	3.00%; 15/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
No. 2 Virginia	1.50	3.00	6.00%; 17/64 inch; round screen.	6.00%; 15/64 × 1 inch; slot screen.	6.00%; both screens.	.20	9.00
Lots of "splits"							
Runner (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (not more than 90% splits).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64 × 1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 16/64 inch; round screen.	3.00%; 13/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00

(ii) Peanuts meeting the specifications in Table 1 must also be certified "negative" to aflatoxin content, pursuant to paragraph (d)(4), prior to shipment to domestic human consumption markets. Shelled peanuts meeting requirements specified in Table 2 may be imported without sampling and testing for aflatoxin.

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole Kernels and Splits]

Type and grade category	Maximum limitations						
	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Runner U.S. No. 1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia U.S. No. 1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64 × 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia U.S. No. 1 and better.	1.25	2.00	3.00%; 16/64 inch, round screen.	2.00%; 15/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Runner U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 17/64 inch, round screen.	3.00%; 14/64 × 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Virginia U.S. Splits (not less than 90% splits and not more than 3.00% sound whole kernels and portions passing through 20/64 inch round screen).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 14/64 × 1 inch, slot screen.	4.00%; both screens.	.20	9.00

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION—Continued

[Whole Kernels and Splits]

Type and grade category	Maximum limitations						
	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Spanish and Valencia U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 16/64 inch, round screen.	3.00%; 13/64 × 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Runner with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 × 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 16/64 inch, round screen.	2.00%; 15/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00

(2) *Cleaned-inshell peanuts.* Peanuts declared as cleaned-inshell peanuts may be presented for sampling and inspection in bags at the port of entry. Alternatively, peanuts may be conditionally released as cleaned-inshell peanuts but shall not subsequently undergo any cleaning, sorting, sizing or drying process prior to presentation for outgoing inspection as cleaned-inshell peanuts. Cleaned-inshell peanuts intended for human consumption may not contain more than:

(i) 1.00 percent kernels with mold present, unless a sample of such peanuts is drawn by the inspection service and analyzed chemically by a USDA or PAC approved laboratory and certified "negative" as to aflatoxin.

(ii) 2.00 percent peanuts with damaged kernels;

(iii) 10.00 percent moisture (carried to the hundredths place); and

(iv) 0.50 percent foreign material.

(3) *Reconditioned peanuts.* Peanuts shelled, sized and sorted in another country prior to arrival in the U.S. and shelled peanuts which originated from Segregation 1 peanuts that fail quality requirements of Table 1 (excessive damage, minor defects, moisture, or foreign material) or are positive to aflatoxin may be reconditioned by remilling and/or blanching. After such reconditioning, peanuts meeting the quality requirements of Table 1 and which are negative to aflatoxin (15 ppb or less) may be disposed for edible peanut use.

(d) *Sampling and inspection.* (1) All sampling and inspection, quality certification, chemical analysis, and lot identification, required under this section, shall be done by the inspection service, a USDA laboratory, or a PAC-approved laboratory, as applicable, in accordance with the procedures specified herein. The importer shall make arrangements with the inspection service for sampling, inspection, identification and certification of all peanuts accumulated by the importer. The importer also shall make arrangements for the appropriate disposition of peanuts failing edible quality requirements of this section. All costs of sampling, inspection, certification, identification, and disposition incurred in meeting the requirements of this section shall be paid by the importer. Whenever peanuts are offered for inspection, the importer shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection.

(2) For farmers stock inspection, the importer shall cause the inspection service to perform an incoming inspection and to issue an CFSA–1007, "Inspection Certificate and Sales Memorandum" form designating the lot as Segregation 1, 2, or 3 quality peanuts. For shelled and cleaned-inshell peanuts, the importer shall cause the inspection service to perform an outgoing inspection and issue an FV–184–9A, "Milled Peanut Inspection Certificate" reporting quality and size of the shelled or cleaned-inshell peanuts, whether the lot meets or fails to meet quality requirements for human consumption of this section, and that the lot originated in a country other than the United States. The importer shall provide to the Secretary copies of all CFSA 1007 and FV–184–9A applicable to each peanut lot conditionally released to the importer. Such reports shall be submitted as provided in paragraph (g)(5) of this section.

(3) *Procedures for sampling and testing peanuts.* Sampling and testing of peanuts for incoming and outgoing inspections of peanuts presented for importation into the United States will be conducted as follows:

(i) *Application for sampling.* The importer shall request inspection and certification services from one of the following inspection service offices convenient to the location where the peanuts are presented for incoming and/or outgoing inspection. To avoid possible delays, the importer should make arrangements with the inspection service in advance of the inspection date. A copy of the Customs Service entry document specific to the peanuts to be inspected shall be presented to the inspection official prior to sampling of the lot.

(A) The following offices provide incoming, farmers stock inspection:

Dothan, AL, tel: (205) 792–5185,
Graceville, FL, tel: (904) 263–3204,
Winter Haven, FL, tel: (813) 291–5820, ext 260,
Albany, GA, tel: (912) 432–7505,
Williamston, NC, tel: (919) 792–1672,
Columbia, SC, tel: (803) 253–4597,
Suffolk, VA, tel: (804) 925–2286,
Portales, NM, tel: (505) 356–8393,
Oklahoma City, OK, tel: (405) 521–3864,
Gorman, TX, tel: (817) 734–3006,
Yuma, AZ, tel: (602) 344–3869.

(B) The following offices, in addition to the offices listed in paragraph (A), provide outgoing sampling and/or inspection services, and certify shelled and cleaned-inshell peanuts as meeting

or failing the quality requirements of this section:

Eastern U.S.

Mobile, AL, tel: (205) 690–6154,
Jacksonville, FL, tel: (904) 359–6430,
Miami, FL, tel: (305) 592–1375,
Tampa, FL, tel: (813) 272–2470,
Presque Isle, ME, tel: (207) 764–2100,
Baltimore/Washington, tel: (301) 344–1860,
Boston, MA, tel: (617) 389–2480,
Newark, NJ, tel: (201) 645–2670,
New York, NY, tel: (212) 718–7665,
Buffalo, NY, tel: (716) 824–1585,
Philadelphia, PA, tel: (215) 336–0845,
Norfolk, VA, tel: (804) 441–6218,

Central U.S.

New Orleans, LA, tel: (504) 589–6741,
Detroit, MI, tel: (313) 226–6059,
St. Paul, MN, tel: (612) 296–8557,
Las Cruces, NM, tel: (505) 646–4929,
Alamo, TX, tel: (210) 787–4091,
El Paso, TX, tel: (915) 540–7723,
Houston, TX, tel: (713) 923–2557,

Western U.S.

Nogales, AZ, tel: (602) 281–0783,
Los Angeles, CA, tel: (213) 894–2489,
San Francisco, CA, tel: (415) 876–9313,
Honolulu, HI, tel: (808) 973–9566,
Salem, OR, tel: (503) 986–4620,
Seattle, WA, tel: (206) 859–9801.

(c) Questions regarding inspection services or requests for further assistance may be obtained from: Fresh Products Branch, P.O. Box 96456, room 2049–S, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20090–6456, telephone (202) 690–0604, fax (202) 720–0393.

(ii) *Sampling.* Sampling of bulk farmers stock lots shall be performed at a facility that utilizes a pneumatic sampler or approved automatic sampling device. The size of farmers stock lots, shelled lots, and cleaned-inshell lots, in bulk or bags, shall not exceed 200,000 pounds. For farmers stock, shelled and cleaned-inshell lots not completely accessible for sampling, the applicant shall be required to have lots made accessible for sampling pursuant to inspection service requirements. The importer shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by the inspection service. The amount of such peanuts drawn shall be large enough to provide for a grade and size analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. Because there is no acceptable method of drawing official samples from bulk conveyances of shelled peanuts, the importer shall arrange to have bulk conveyances of shelled peanuts sampled during the unloading process. A bulk lot sampled in this manner must be positive lot identified by the inspection service and held in a sealed bin until the associated inspection and aflatoxin test results have been reported.

(4) *Aflatoxin assay.* (i) The importer shall cause appropriate samples of each lot of shelled peanuts intended for edible consumption to be drawn by the inspection service. The three 48-pound samples shall be designated by the inspection service as "Sample 1IMP," "Sample 2IMP," and "Sample 3IMP" and each sample shall be placed in a suitable container and lot identified by the inspection service. Sample 1IMP may be prepared for immediate testing or Samples 1IMP, 2IMP, and 3IMP may be returned to the importer for testing at a later date under lot identification procedures.

(ii) The importer shall cause Sample 1IMP to be ground by the inspection service or a USDA or PAC-approved laboratory in a subsampling mill. The resultant ground subsample shall be of a size specified by the inspection service and shall be designated as "Subsample 1–ABIMP." At the importer's option, a second subsample may also be extracted from Sample 1IMP and designated "Subsample 1–CDIMP" which may be sent for aflatoxin assay to a USDA or PAC-approved laboratory. Both subsamples shall be accompanied by a notice of sampling signed by the inspector containing identifying information as to the importer, the lot identification of the shelled peanut lot, and other information deemed necessary by the inspection service.

Subsamples 1–ABIMP and 1–CDIMP shall be analyzed only in a USDA or PAC-approved laboratory. The methods prescribed by the Instruction Manual for Aflatoxin Testing, SD Instruction-1, August 1994, shall be used to assay the aflatoxin level. The cost of testing and notification of Subsamples 1–ABIMP and 1–CDIMP shall be borne by the importer.

(iii) The samples designated as Sample 2IMP and Sample 3IMP shall be held as aflatoxin check-samples by the inspection service or the importer until the analyses results from Sample 1IMP are known. Upon call from the USDA or PAC-approved laboratory, the importer shall cause Sample 2IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample from Sample 2IMP shall be designated as "Subsample 2–ABIMP." Upon further call from the laboratory, the importer shall cause Sample 3IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample shall be designated as "Subsample 3–ABIMP." The importer shall cause Subsamples 2–ABIMP and 3–ABIMP to be sent to and analyzed only in a USDA or PAC-approved laboratory. Each subsample shall be accompanied by a notice of sampling. The results of each assay shall be reported by the laboratory to the importer. All costs involved in the sampling, shipment and assay analysis of subsamples required by this section shall be borne by the importer.

(iv)(A) Importers should contact one of the following USDA or PAC-approved laboratories to arrange for chemical analysis.

Science and Technology Division, AMS/USDA, P.O. Box 279, 301 West Pearl St., Aulander, NC 27805, Tel: (919) 345–1661 Ext. 156, Fax: (919) 345–1991

Science and Technology Division, AMS/USDA, 1211 Schley Ave., Albany, GA 31707, Tel: (912) 430–8490/8491, Fax: (912) 430–8534

Science and Technology Division, AMS/USDA, P.O. Box 488, Ashburn, GA 31714, Tel: (912) 567–3703

Science and Technology Division, AMS/USDA, 610 North Main St., Blakely, GA 31723, Tel: (912) 723–4570, Fax: (912) 723–3294

Science and Technology Division, AMS/USDA, P.O. Box 1368, Dothan, AL 36301, Tel: (205) 792–5185, Fax: (205) 671–7984

Science and Technology Division, AMS/USDA, 107 South Fourth St., Madill, OK 73446, Tel: (405) 795–5615, Fax: (405) 795–3645

Science and Technology Division, AMS/USDA, P.O. Box 272, 715 N. Main Street, Dawson, GA 31742, Tel: (912) 995–7257, Fax: (912) 995–3268

Science and Technology Division, AMS/USDA, P.O. Box 1130, 308 Culloden St., Suffolk, VA 23434, Tel: (804) 925–2286, Fax: (804) 925–2285

ABC Research, 3437 SW 24th Avenue, Gainesville, FL 32607–4502, Tel: (904) 372–0436, Fax: (904) 378–6483

J. Leek Associates, Inc., P.O. Box 50395, 1200 Wyandotte (31705), Albany, GA 31703–0395, Tel: (912) 889–8293, Fax: (912) 888–1166

J. Leek Associates, Inc., P.O. Box 368, 675 East Pine, Colquitt, GA 31737, Tel: (912) 758–3722, Fax: (912) 758–2538

J. Leek Associates, Inc., P.O. Box 6, 502 West Navarro St., DeLeon, TX 76444, Tel: (817) 893–3653, Fax: (817) 893–3640

J. Leek Associates, Inc., P.O. Box 548, 42 N. Ellis St., Camilla, GA 31730, Tel: (912) 336–8781, Fax: (912) 336–0146

Pert Laboratories, P.O. Box 267, Peanut Drive, Edenton, NC 27932, Tel: (919) 482–4456, Fax: (919) 482–5370

Pert Laboratory South, P.O. Box 149, Hwy 82 East, Seabrook Drive, Sylvester, GA 31791, Tel: (912) 776–7676, Fax: (912) 776–1137

Professional Service Industries, Inc., 3 Burwood Lane, San Antonio, TX 78216, Tel: (210) 349–5242, Fax: (210) 342–9401

Southern Cotton Oil Company, 600 E. Nelson Street, P.O. Box 180, Quanah, TX 79252, Tel: (817) 663–5323, Fax: (817) 663–5091

Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, TX 78154–1257, Tel: (210) 651–5799, Fax: (210) 651–9271.

(B) Further information concerning the chemical analyses required pursuant to this section may be obtained from: Science and Technology Division, USDA/AMS, P.O. Box 96456, room 3507–S, Washington, DC 20090–6456, telephone (202) 720–5231, or facsimile (202) 720–6496.

(v) *Reporting aflatoxin assays.* A separate aflatoxin assay certificate, Form CSSD–3, "Certificate of Analysis for Official Samples", or equivalent PAC-approved laboratory form, shall be issued by the laboratory performing the analysis for each lot. The assay certificate shall identify the importer, the volume of the peanut lot assayed, date of the assay, and numerical test result of the assay. The results of the assay shall be reported as follows.

(A) Lots containing 15 ppb or less aflatoxin content shall be certified as "Meets U.S. import requirements for edible peanuts under § 999.600 with regard to aflatoxin."

(B) Lots containing more than 15 ppb aflatoxin content shall be certified as "Fails to meet U.S. import requirements for edible peanuts under § 999.600 with regard to aflatoxin." The importer shall file USDA Form CSSD–3, or equivalent form, with the Secretary, regardless of result.

(5) *Appeal inspection.* In the event an importer questions the results of a quality and size inspection, an appeal inspection may be requested by the importer and performed by the inspection service. A second sample will be drawn from each container and shall be double the size of the original sample. The results of the appeal sample shall be final and the fee for sampling and analysis shall be charged to the importer.

(e) *Disposition of peanuts failing edible quality requirements.* (1) Peanuts failing grade and/or aflatoxin requirements shall be designated as non-edible quality "unrestricted" peanuts or "restricted" peanuts and shall be crushed for oil, exported, or disposed to other non-edible outlets as specified in this section. For the purposes of this regulation, the term "non-edible quality unrestricted peanuts" means loose shelled kernels, fall through, and pickouts from—and the entire milled production of—Segregation 1, Segregation 2, and commingled Segregation 1 and 2 farmers stock peanuts which contain more than 15 ppb and 25 ppb or less aflatoxin. The term "non-edible quality restricted peanuts" means loose shelled kernels, fall through, and pickouts from—and the entire milled production of—Segregation 1, Segregation 2, and commingled Segregation 1 and 2 farmers stock peanuts which contain in excess of 25 ppb aflatoxin. The term *loose shelled kernels* means peanut kernels or portions of kernels completely free of their hulls, as found in deliveries of farmers stock peanuts or those which fail to ride the screens prescribed in paragraph (d)(iv) of this section; the term *fall through* means sound split and broken kernels and whole kernels which pass through specified screens; and the term *pickouts* means those peanuts removed during the final milling process at the picking table, by electronic equipment, or otherwise during the milling process.

(2) Non-edible quality unrestricted peanuts may be disposed to animal feed: *Provided*, That such peanuts are certified by the inspection service as to moisture, foreign material content and treated with a coloring agent or dyeing solution covering at least 80 percent of the peanuts, handled and shipped under lot identification procedures. Except for bulk loads, red tags shall be used and marked "Animal Feed, Not For Human Consumption."

(3) Lots of non-edible quality unrestricted peanuts may be commingled during or after fragmentation and, if certified as meeting fragmentation requirements by the inspection service, such fragmented peanuts may be exported. For the purposes of this section, the term *fragmented* means that not more than 30 percent of the peanuts shall be whole kernels that ride the following screens, by type: Spanish—$^{15}/_{64}$×$^{3}/_{4}$ inch slot; Runner—$^{16}/_{64}$×$^{3}/_{4}$ inch slot; and Virginia—$^{15}/_{64}$×1 inch slot. All peanut lots exported must be lot identified by the inspection service and applicable Customs Service procedures for the export of merchandise must be followed.

(4) Unrestricted fall through may be disposed for use as wild-life feed and rodent bait, if in labeled containers.

(5) Seed peanuts which are chemically treated causing them to be unfit for edible or animal feed use shall be exempt from the requirements of paragraph (c) of this section.

(6) Meal produced from the crushing of unrestricted peanuts shall be exempt from further aflatoxin testing. Meal produced from the crushing of restricted peanuts shall be tested and the numerical test result of the chemical assay shall be shown on a certificate covering each lot and the certification shall accompany each shipment or disposition.

(7) Non-edible quality restricted peanuts may be crushed for oil or exported: *Provided*, That such peanuts are lot identified, bagged, red tagged, and so certified by the inspection service.

(8) Inspection certifications and proof of non-edible dispositions sufficient to account for all peanuts in each consumption entry filed by the importer must be reported to the Secretary by the importer pursuant to paragraphs (f) (2) and (3) of this section.

(f) *Reconditioning of failing peanuts:* (1) Importers may remill and/or blanch shelled peanuts which originated from Segregation 1 peanuts that fail quality requirements of Table 1 or are positive to aflatoxin. After such reconditioning, peanuts meeting the quality requirements of Table 1 and which are certified negative to aflatoxin (15 ppb or less) may be disposed for edible use.

(2) Whole lots of remilled and/or blanched peanuts, and residuals of such peanuts, which continue to fail quality requirements of Table 1 and contain 25 ppb or less aflatoxin content shall be considered "non-edible quality unrestricted" peanuts and shall be disposed as "unrestricted" peanuts crushed for oil, exported, or animal feed, pursuant to provisions of paragraph (e). Meal produced from unrestricted peanuts shall be disposed pursuant to paragraph (e)(5).

(3) Whole lots of remilled and/or blanched peanuts, and residuals of such peanuts, which continue to fail quality requirements of Table 1 and contain more than 25 ppb aflatoxin content, shall be considered "non-edible quality restricted" peanuts and shall be disposed as "restricted" peanuts pursuant to paragraph (e)(6). Meal produced from restricted peanuts shall be disposed pursuant to paragraph (e)(5).

(4) Inspection certifications and proof of non-edible dispositions sufficient to account for all peanuts in each consumption entry filed by the importer must be reported to the Secretary by the

importer pursuant to paragraphs (f) (2) and (3) of this section.

(g) *Safeguard procedures.* (1) Prior to arrival of a foreign produced peanut lot at a port of entry, the importer, or customs broker acting on behalf of the importer, shall mail or send by facsimile transmission (fax) a copy of the Customs Service entry documentation for the peanut lot to the inspection service office that will perform sampling of the peanut shipment. The documentation shall include identifying lot or container number(s) and volume of the peanut lot being entered, and the location (including city and street address), date and time for inspection sampling. The inspection office shall sign, stamp, and return the entry document to the importer. The importer shall present the stamped document to the Customs Service at the port of entry and send a copy of the document to the Secretary. The importer also shall cause a copy of the entry document to accompany the peanut lot and be presented to the inspection service at the inland destination of the lot.

(2) The importer shall file with the Secretary copies of the entry document and grade, aflatoxin, and identification certifications sufficient to account for all peanuts in each entry filed by the importer. Certificates and other documentation providing proof of non-edible disposition, such as bills of lading and sales receipts which report the weight of peanuts being disposed and the name, address and telephone number of the non-edible peanut receiver, must be sent to the Marketing Order Administration Branch, Attn: Report of Imported Peanuts. Facsimile transmissions and overnight mail may be used to ensure timely receipt of inspection certificates and other documentation. Fax reports should be sent to (202) 720–5698. Overnight and express mail deliveries should be addressed to USDA, AMS, Marketing Order Administration Branch, 14th and Independence Avenue, SW, Room: 2526–S, Washington, DC, 20250. Regular mail should be sent to AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456. Telephone inquiries should be made to (202) 720–6862.

(3) Certificates and other documentation for each peanut lot must be filed within 23 days of the filing date of the entry for the lot. Failure of an importer to receive edible certification—or arrange for appropriate non-edible disposition—on all foreign produced peanuts, and file such reports with the Secretary within 23 days of an entry declaration, may result in a request for a redelivery demand by the Customs Service. Extensions granted by the Customs Service will be correspondingly extended by the Secretary, upon request of the importer.

(4) The Secretary shall ask the Customs Service to demand redelivery of foreign produced peanut lots failing to meet requirements of this section. Importers unable to redeliver or account for all peanuts covered in a redelivery order shall be liable for liquidated damages. Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

(h) *Additional requirements:* (1) Nothing contained in this section shall be deemed to preclude any importer from milling or reconditioning prior to entry any shipment of peanuts for the purpose of making such lot eligible for importation. However, all peanuts presented for importation into the United States for human consumption use must be certified as meeting the quality requirements specified in paragraph (c) of this section.

(2) Conditionally released peanut lots of like quality and belonging to the same importer may be commingled. Defects in an inspected shelled lot may not be blended out by commingling with other shelled lots of higher quality. Such commingling must be consistent with applicable Customs Service regulations. Commingled lots must be reported and disposed of pursuant to paragraphs (f)(2) and (f)(3) respectively of this section.

(3) Inspection by the Federal or Federal-State Inspection Service shall be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 51). The importer shall make each conditionally released lot available and accessible for inspection as provided herein. Because inspectors may not be stationed in the immediate vicinity of some ports-of-entry, importers must make arrangements for inspection and certification through one of the offices listed in this section.

(4) Imported peanut lots sampled and inspected at the port of entry, or at other locations, shall meet the quality requirements of this section in effect on the date of inspection.

(5) A foreign produced peanut lot, released by the Customs Service for consumption, may be transferred or sold to another person: *Provided,* That the original importer shall be the importer of record unless the new owner applies for bond and files Customs Service documents pursuant to 19 CFR 141.113 and 141.20: and *Provided further,* That such peanuts must be certified and reported to the Secretary pursuant to paragraphs (f)(2) and (3) of this section.

(6) The cost of transportation, sampling, inspection, certification, chemical analysis, and identification, as well as remilling and blanching, and further inspection of remilled and blanched lots, and disposition of failing peanuts, shall be borne by the importer. Whenever peanuts are presented for inspection, the importer shall furnish any labor and pay any costs incurred in moving, opening containers, and shipment of samples as may be necessary for proper sampling and inspection. The inspection service shall bill the importer for fees covering quality and size inspections; time for sampling; packaging and delivering aflatoxin samples to laboratories; certifications of lot identification and lot transfer to other locations, and other inspection certifications as may be necessary to verify edible quality or non-edible disposition, as specified herein. The USDA and PAC-approved laboratories shall bill the importer separately for fees for aflatoxin assay. The importer also shall pay all required Customs Service costs as required by that agency.

(7) Each person subject to this section shall maintain true and complete records of activities and transactions specified in this part. Such records and documentation accumulated during importation shall be retained for not less than two years after the calendar year of acquisition, except that Customs Service documents shall be retained as required by that agency. The Secretary, through duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted, at any such time, to inspect such records and any peanuts held by such person.

(8) The provisions of this section do not supersede any restrictions or prohibitions on peanuts under the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, any other applicable laws, or regulations of other Federal agencies, including import regulations and procedures of the Customs Service.

Dated: January 23, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–1667 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[Docket No. PRM–72–2]

Portland General Electric Company; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Portland General Electric Company. The petition has been docketed by the Commission and has been assigned Docket No. PRM–72–2. The petitioner requests that the NRC amend its regulations which govern independent storage of spent nuclear fuel and high-level radioactive waste to specifically include radioactive waste produced from reactor operations pending its transfer to a permanent disposal facility. The petitioner believes that its proposal would clarify the process for interim storage pending transfer for disposal of this class of material.

DATES: Submit comments by April 16, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For information regarding electronic submission of comments, see the language in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7163 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking dated November 2, 1995, submitted by Portland General Electric Company. The petition was docketed as PRM–72–2 on November 8, 1995. The petitioner is an NRC-licensed public utility authorized to possess the Trojan Nuclear Plant (TNP). The petitioner requests that the NRC amend its regulations in 10 CFR Part 72 entitled, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste." Specifically, the petitioner requests that 10 CFR Part 72 be amended to include radioactive waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55(a)(2)(iv).

The petitioner anticipates that it will need to dispose of radioactive waste categorized in 10 CFR 61.55(a)(2)(iv) as generally unsuitable for near-surface disposal during decommissioning activities at TNP. This material is commonly referred as "greater than Class C" (GTCC) waste because it exceeds the radionuclide concentration limits of Class C waste. 10 CFR 61.55(a)(2)(iv) requires that this type of waste must be disposed of in a geologic repository unless the NRC authorizes disposal at another licensed site.

The petitioner indicates that its TNP decommissioning plan, submitted to the NRC on January 26, 1995, specifies plans for transfer of spent reactor fuel currently being stored in the spent fuel pool to an onsite Independent Spent Fuel Storage Installation (ISFSI). The petitioner believes that because the ISFSI will be licensed under the requirements of 10 CFR Part 72, these regulations should be clarified to explicitly provide for storage of GTCC waste produced from reactor operations pending its transfer to a permanent disposal facility.

The NRC is soliciting public comment on the petition for rulemaking submitted by the Portland General Electric Corporation that requests the changes to the regulations in 10 CFR Part 72 as discussed below.

Discussion of the Petition

The petitioner notes that the regulations in 10 CFR Part 72 establish requirements, procedures, and criteria for the issuance of licenses to store spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI. The petitioner believes that, based on evaluations by the NRC and other licensees, an ISFSI provides a safe, interim method to store highly radioactive spent fuel assemblies pending their transfer to a permanent repository. The petitioner's TNP Decommissioning Plan, submitted to the NRC on January 26, 1995, provides for the transfer of spent nuclear reactor fuel, currently being stored in the TNP spent fuel pool, to an onsite ISFSI. The petitioner suggests that, because the need to provide interim storage for GTCC waste is not specific to TNP and is generic, the regulations in 10 CFR Part 72 should be amended to explicitly provide for the isolation and storage of GTCC waste in a licensed ISFSI.

The petitioner also believes that the NRC must address this issue because decommissioning activities will involve a need to transfer or store before transfer other radioactive materials classified as GTCC, and because GTCC waste is not generally acceptable for near-surface disposal as specified in 10 CFR 61.55(a)(2)(iv). The petitioner anticipates that GTCC waste, like spent fuel and other radioactive materials associated with spent fuel, would be stored in the ISFSI pending the disposal in a geologic repository. The petitioner notes that the design criteria currently provided in 10 CFR Part 72, Subpart F, entitled "General Design Criteria," establish design, fabrication, construction, testing, maintenance, and performance requirements for structures, systems, and components important to safety.

The petitioner also indicates that 10 CFR 72.122 encompasses quality standards, protection against environmental conditions, performance of confinement barriers, and the ability to retrieve radioactive waste for processing or disposal. Criteria are also currently provided for nuclear criticality safety, radiological protection, waste handling, and decommissioning. The petitioner believes that the proposed amendments to 10 CFR Part 72 would address the consideration of radioactive waste which is beyond the scope of 10 CFR Part 61 and would serve as an interface between these regulations.

The petitioner has concluded that the proposed amendments would prevent repetitious NRC staff reviews of individual requests to authorize storage and disposal of GTCC wastes. The petitioner also has concluded that the inclusion of GTCC waste under 10 CFR Part 72 would facilitate the eventual transfer of GTCC waste to a Department of Energy or other approved facility for proper disposal.

The Petitioner's Proposed Amendments

The petitioner requests that 10 CFR Part 72 be amended to overcome the problems the petitioner has itemized and recommends the following revisions to the regulations:

1. The petitioner proposes that § 72.1 be revised to read as follows:

§ 72.1 Purpose

The regulations in this part establish requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel, other radioactive materials associated with spent fuel storage, and radioactive waste which exceeds the radionuclide concentrations of Class C waste defined in § 61.55(a) as provided for in Part 61 of this chapter in an independent spent fuel storage installation (ISFSI) and the terms and conditions under which the Commission will issue such licenses, including licenses to the U.S. Department of Energy (DOE) for the provision of not more than 1900 metric tons of spent fuel storage capacity at facilities not owned by the Federal Government on January 7, 1993, for the Federal interim storage program under Subtitle B—Interim Storage Program of the Nuclear Waste Policy of 1982 (NWPA).

* * * * *

2. The petitioner proposes that § 72.2, paragraphs (a)(1), (a)(2), and (c) be revised to read as follows:

§ 72.2 Scope

(a) * * *

(1) Power reactor spent fuel to be stored in a complex that is designed and constructed specifically for storage of power reactor spent fuel aged for at least one year, other radioactive materials associated with spent fuel storage, and radioactive waste which exceeds the radionuclide concentrations of Class C waste defined in § 61.55(a) as provided for in Part 61 of this chapter, in an independent spent fuel storage installation (ISFSI); or

(2) Power reactor spent fuel to be stored in a monitored retrievable storage installation (MRS) owned by DOE that is designed and constructed specifically for storage of spent fuel aged for at least one year, high-level radioactive waste that is in solid form, other radioactive materials associated with spent fuel or high-level radioactive waste storage, and radioactive waste which exceeds the radionuclide concentrations of Class C waste defined in § 61.55(a) as provided for in Part 61 of this chapter. The term "Monitored Retrievable Storage Installation" or "MRS," as defined in § 72.3, is derived from the NWPA and includes any installation that meets this definition.

* * * * *

(c) The requirements of this regulation are applicable, as appropriate, to both wet and dry modes of (1) spent fuel in an independent spent fuel storage installation (ISFSI) and (2) spent fuel and solid high-level radioactive waste, and radioactive waste which exceeds the radionuclide concentrations of Class C waste defined in § 61.55(a) as provided for in Part 61 of this chapter in a monitored retrievable storage installation (MRS).

* * * * *

3. The petitioner proposes that the definition of "Spent Nuclear Fuel or Spent Fuel" in § 72.3 be revised to read as follows:

§ 72.3 Definitions.

* * * * *

"Spent Nuclear Fuel" or "Spent Fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, has undergone at least one year's decay since being used as a source of energy in a power reactor, and has not been chemically separated into its constituent elements by reprocessing. Spent fuel includes the special nuclear material, byproduct material, source material, and other radioactive materials associated with fuel assemblies. As used in this part, spent fuel shall also be deemed to include other radioactive materials which exceed the radionuclide concentrations of Class C waste defined in § 61.55(a) of this chapter.

* * * * *

The Petitioner's Conclusion

The petitioner has concluded that the proposed amendments to 10 CFR Part 72 would clarify the process for interim storage, pending transfer for disposal of waste that exceeds the limits for Class C waste, and would also ensure safe interim storage of this waste pending permanent disposal. The petitioner believes that the proposed amendments would provide identical public health and safety, and environmental protection as required for spent fuel located in an ISFSI. The petitioner has also concluded that the proposed amendments to 10 CFR Part 72 would avoid the costs associated with preparation of multiple requests for handling GTCC by licensees and the review of those requests by the NRC.

Electronic Submission of Comments

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on this rulemaking are also available for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Dated at Rockville, Maryland, this 26th day of January, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–2048 Filed 1–31–96; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 110 and 114

[Notice 1996–2]

Candidate Debates and News Stories

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is seeking comments on proposed revisions to its regulations governing candidate debates and news stories produced by cable television organizations. These regulations implement the provisions of the Federal Election Campaign Act (FECA) which exempt news stories from the definition of expenditure under certain conditions. The proposed rules would indicate that cable television programmers, producers and operators may cover or stage candidate debates in the same manner as broadcast and print news media. The rules would also restate Commission policy that news organizations may not stage candidate debates if they are owned or controlled by any political party, political committee or candidate. No final decisions have been made by the Commission on any of the proposed revisions contained in this Notice. Further information is provided in the supplementary information which follows.

DATES: Comments must be received on or before March 4, 1996. The Commission will hold a hearing on March 20, 1996 at 10:00 a.m. Persons wishing to testify should so indicate in their written comments.

ADDRESSES: Comments must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street, N.W. Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Rosemary C. Smith, Senior Attorney (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The FECA generally prohibits corporations from making contributions or expenditures in connection with any election. 2 U.S.C. 441b. However, the definition of "expenditure" in section 431(9) indicates that news stories, commentaries, and editorials distributed through the facilities of any broadcast station, newspaper, magazine, or other periodical publication are not considered to be expenditures unless the facilities are owned or controlled by a political party, political committee, or candidate. 2 U.S.C. 431(9)(B)(i). This "news story" exemption forms the basis for the Commission's long-standing regulations at 11 CFR 100.7(b)(2), 100.8(b)(2), as well as the provisions of 11 CFR 110.13 and 114.4(f) which permit broadcasters and bona fide print media to stage candidate debates under certain conditions.

The Commission is now seeking comments on expanding the types of media entities that may stage candidate debates under sections 110.13 and 114:4 to include cable television operators, programmers and producers. Hence, proposed sections 110.13(a)(2) and 114.4(f) would allow these types of cable organizations to stage debates under the same terms and conditions as other media organizations such as broadcasters, and bona fide print media organizations. New language in sections 110.13, 100.7(b)(2) and 100.8(b)(2) would also permit cable organizations, acting in their capacity as news media, to cover or carry candidate debates staged by other groups. Examples of the types of programming that the Federal Communications Commission considers to be bona fide newscasts and news interview programs are provided in *The Law of Political Broadcasting and Cablecasting: A Political Primer*, 1984 ed., Federal Communications Commission, at p. 1494–99.

The proposed rules would be consistent with the intent of Congress not "to limit or burden in any way the first amendment freedom of the press. * * *" H.R. Rep. No. 93–1239, 93d Cong., 2d Sess. at 4 (1974). In Turner Broadcasting System, Inc. v. *Federal Communications Commission*, _____ U.S. _____, 114 S. Ct. 2445, 2456 (1994), the Supreme Court recognized that cable operators and cable programmers "engage in and transmit speech, and they are entitled to the protection of the speech and press provisions of the First Amendment."

The 1974 legislative history of the FECA also indicates that in exempting news stories from the definition of "expenditure," Congress intended to assure "the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns." H.R. Rep. No. 93–1239, 93d Cong., 2d Sess. at 4 (1974). Although the cable television industry was much less developed when Congress expressed this intent, it would be reasonable to conclude that cable operators, programmers and producers, when operating in their capacity as news producers and distributors, would be precisely the type of "other media" appropriately included within this exemption.

For these reasons, the Commission is proposing to allow cable operators, programmers and producers to act as debate sponsors. However, the Commission seeks comments on whether there are distinctions between cable operators, programmers and producers that should be considered in determining when it is appropriate for these types of organizations to stage candidate debates. In addition, are there other types of cable news organizations that should be included as debate sponsors?

The proposed rules would also be consistent with Advisory Opinion 1982–44, in which the Commission concluded that the press exemption permitted Turner Broadcasting System, Inc. to donate free cable cast time to the Republican and Democratic National Committees without making a prohibited corporate contribution. The cablecast programming on "super satellite" television station, WTBS in Atlanta, Georgia, was to be provided to a network of cable system operators. The Commission stated *inter alia* that "the distribution of free time to both political parties is within the broadcaster's legitimate broadcast function and, therefore, within the purview of the press exemption." AO 1982–44.

The courts have also examined the application of the press exemption in section 431(9)(B)(i). *See, e.g., Readers Digest Ass'n* v. *FEC*, 509 F. Supp. 1210 (S.D.N.Y. 1981); *FEC* v. *Phillips Publishing Company, Inc.*, 517 F. Supp. 1308 (D.D.C. 1981). In *Reader's Digest*, the court articulated a two part test "on which the exemption turns: whether the press entity is owned by the political party or candidate and whether the press entity was acting as a press entity in making the distribution complained of." *Readers Digest*, at p. 1215. The first prong is discussed more fully below. With regard to the second prong, the court stated that "the statute would seem to exempt only those kinds of distribution that fall broadly within the press entity's legitimate press function." *Id.* at 1214. The Commission believes a cable operator, producer or programmer could satisfy this standard if it follows

the same guidelines as other debate sponsors. For example, it would be required to invite at least two candidates and refrain from promoting or advancing one over the other(s).

The Commission is also proposing to add language to sections 100.7(a)(2) and 100.8(a)(2) to provide that the news story exception in 2 U.S.C. 431(9) allows cable operators, producers and programmers to exercise legitimate press functions by covering or carrying news stories, commentaries and editorials in accordance with the same guidelines that apply to the print or broadcast media. For example, they would be subject to the same provisions regarding ownership by candidates and political parties as are broadcasters or print media. As noted above, however, comments are sought on whether there are distinctions between cable operators, programmers and producers that should be considered in determining which of these organizations are bona fide news organizations entitled to the press exemption.

The approach taken in the proposed rules regarding cable television entities would avoid conflict with the Federal Communication Commission's application of the equal opportunity requirements under the Communications Act of 1934. Section 315(a) of the Communications Act requires that broadcast station licensees, including cable television operators, who permit any legally qualified candidate to use a broadcasting station, must afford equal opportunities to all other such candidates for that office in the use of that broadcasting station. 47 U.S.C. 315(a). However, the equal opportunity requirement is not triggered if the broadcasting station airs a bona fide newscast, bona fide news interview, bona fide news documentary or on-the-spot coverage of bona fide news events (including political conventions). 47 U.S.C. 315(a)(1)–(4). In 1975, the Federal Communications Commission decided that broadcasts of debates between political candidates would be exempt from the equal opportunities requirement as on-the-spot coverage of bona fide news events where, *inter alia*, the broadcaster exercised a reasonable, good faith, judgment that it was newsworthy, and not for the purpose of giving political advantage to any candidate. *See, The Law of Political Broadcasting and Cablecasting: A Political Primer*, 1984 ed., Federal Communications Commission, at p. 1502. This ruling was expanded in 1983 to permit broadcastersponsorship of candidate debates. *Id.* Similarly, in 1992, the Federal Communications Commission ruled that independently produced *bona fide* news interview programs qualify for exemption from the equal opportunities requirement of the Communications Act. *In Matter of Request for Declaratory Ruling That Independently Produced Bona Fide News Interview Programs Qualify for the Equal Opportunities Exemption Provided in Section 315(a)(2) of the Communications Act*, FCC 92–288 (July 15, 1992).

The third change in the proposed rules would be the addition of language indicating that broadcast, cable and print media organizations, may not stage candidate debates if they are owned or controlled by a political party, political committee or candidate. This policy is not stated in the current candidate debate rules, although it was included in the 1979 explanation and justification for these rules. *See* 44 F.R. 76735 (December 27, 1979). It is based on 2 U.S.C. 431(9)(B)(i), which specifies that the news story exemption does not apply to media entities that are owned or controlled by a political party, political committee or candidate. Please note that this new language applies only to media corporations, and thus would not change the rules in 11 CFR 110.13 regarding candidate debates staged by nonprofit corporations under sections 501(c)(3) or (c)(4) of the Internal Revenue Code.

The Commission welcomes comments on the foregoing proposed amendments to 11 CFR 100.7, 100.8, 110.13 and 114.4(f) and the issues raised in this notice.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

These proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that any small entities affected are already required to comply with the requirements of the Act in these areas.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 110

Campaign funds, Political candidates, Political committees and parties.

11 CFR Part 114

Business and industry, Elections, Labor.

For the reasons set out in the preamble, it is proposed to amend Subchapter A, Chapter I of Title 11 of the *Code of Federal Regulations* as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 would continue to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

2. Section 100.7 would be amended by revising paragraph (b)(2) to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

* * * * *

(b) * * *

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the costs for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution.

* * * * *

3. Section 100.8 would be amended by revising paragraph (b)(2) to read as follows:

§ 100.8 Expenditure (2 U.S.C. 431(9)).

* * * * *

(b) * * *

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication is not an expenditure unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the costs for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not an expenditure.

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

4. The authority citation for Part 110 would continue to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

5. Section 110.13 is revised to read as follows:

§ 110.13 Candidate debates.

(a) *Staging organizations.* (1) Nonprofit organizations described in 26 U.S.C. 501(c)(3) or (c)(4) and which do not endorse, support, or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 CFR 114.4(f).

(2) Broadcasters (including a cable television operator, programmer or producer), bona fide newspapers, magazines and other periodical publications may stage candidate debates in accordance with this section and 11 CFR 114.4(f), provided that they are not owned or controlled by a political party, political committee or candidate. In addition, broadcasters (including a cable television operator, programmer or producer), bona fide newspapers, magazines and other periodical publications, acting as press entities, may also cover or carry candidate debates in accordance with 11 CFR 100.7 and 100.8.

(b) *Debate structure.* The structure of debates staged in accordance with this section and 11 CFR 114.4(f) is left to the discretion of the staging organization(s), provided that:

(1) Such debates include at least two candidates; and

(2) The staging organization(s) does not structure the debates to promote or advance one candidate over another.

(c) *Criteria for candidate selection.* For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate. For debates held prior to a primary election, caucus or convention, staging organizations may restrict candidate participation to candidates seeking the nomination of one party, and need not stage a debate for candidates seeking the nomination of any other political party or independent candidates.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

6. The authority citation for Part 114 would continue to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

7. Part 114 would be amended by revising paragraph (f) of § 114.4 to read as follows:

§ 114.4 Disbursements for communications beyond the restricted class in connection with a Federal election.

* * * * *

(f) *Candidate debates.* (1) A nonprofit organization described in 11 CFR 110.13(a)(1) may use its own funds and may accept funds donated by corporations or labor organizations under paragraph (f)(3) of this section to defray costs incurred in staging candidate debates held in accordance with 11 CFR 110.13.

(2) A broadcaster (including a cable television operator, programmer or producer), bona fide newspaper, magazine or other periodical publication may use its own funds to defray costs incurred in staging public candidate debates held in accordance with 11 CFR 110.13.

(3) A corporation or labor organization may donate funds to nonprofit organizations qualified under 11 CFR 110.13(a)(1) to stage candidate debates held in accordance with 11 CFR 110.13 and 114.4(f).

Dated: January 26, 1996.

Lee Ann Elliott,

Chairman.

[FR Doc. 96–1969 Filed 1–31–96; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Chapter VI

Notice of Deadline for Submitting Completed Applications To Begin Participation in the Tribal Self-Governance Program in Fiscal Year 1997 or Calendar Year 1997

AGENCY: Office of Self-Governance, Office of the Secretary, Interior.

ACTION: Notice of application deadline.

SUMMARY: In this notice, the Office of Self-Governance (OSG) establishes the deadline for tribes/consortia to submit completed applications to begin participation in the tribal self-governance program in fiscal year 1997 or calendar year 1997.

DATES: Tribes/consortia wishing to be considered for participation in the tribal self-governance program in fiscal year 1997 or calendar year 1997 must respond to this notice, except for those which are (1) currently involved with negotiations with the Department; (2) one of the 54 tribal entities with signed agreements; or (3) one of the tribal entities already included in the applicant pool as of the date of this notice. Completed application packages must be received by the Director, Office of Self-Governance by April 29, 1996.

ADDRESSES: Application packages for inclusion in the applicant pool should be sent to the Director, Office of Self-Governance, U.S. Department of the Interior, Mail Stop 2548, 1849 C Street NW, Washington DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, U.S. Department of the Interior, Office of Self-Governance, 1849 C Street NW, Mail Stop 2548, Washington DC 20240, 202–219–0240.

SUPPLEMENTARY INFORMATION: Under the Tribal Self-Governance Act of 1994, the Director, Office of Self-Governance may select up to 20 additional participating tribes/consortia per year for the tribal self-governance program, and negotiate and enter into an annual written funding agreement with each participating tribe. The Act mandates that the Secretary submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the Bureau of Indian Affairs (BIA) agency that is serving the tribe that is a party to the funding agreement. Initial negotiations with a tribe/consortium located in an area and/or agency which has not previously been involved with self-governance negotiations, will take approximately two months from start to finish. Since agreements for an October 1 to September 30 fiscal year need to be signed and submitted by July 1, new participating tribes would need to be selected by May 3 to allow sufficient time for negotiations.

Background

The tribal self-governance program is designed to promote self determination by allowing tribes to assume more control through negotiated agreements of programs operated by the Department of the Interior. The new law allows for negotiations to be conducted for programs operated by BIA and for programs operated by other bureaus and offices within the Department that are available to Indians or when there is an

historical, cultural, or geographic connection to an Indian tribe.

The Tribal Self-Governance Act of 1994 requires the Secretary, upon request of a majority of self-governance tribes, to initiate procedures under the Negotiated Rulemaking Act, 5 U.S.C. 561 *et seq.*, to negotiate and promulgate regulations necessary to carry out the tribal self-governance program. The Act calls for a negotiated rulemaking committee to be established pursuant to 5 U.S.C. 565 comprised of Federal and tribal representatives, with a majority of the tribal representatives representing self-governance tribes. The Act also authorizes the Secretary to adapt negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and the Indian tribes. On November 1, 1994, a majority of self-governance tribes wrote the Secretary requesting the immediate initiation of negotiated rulemaking. On February 15, 1995, the self-governance negotiated rulemaking committee was established.

On the same date, an interim rule was published in the **Federal Register** announcing the criteria for tribes to be included in an applicant pool and the establishment of the selection process for tribes/consortia to negotiate agreements pursuant to the Tribal Self-Governance Act of 1994. This interim rule was added to Title 25 of the Code of Federal Regulations at Part 1001 of Chapter VI. While it may be changed by later rulemaking, the Act stipulates that the lack of promulgated regulations will not limit its effect. The interim rule allowed an additional 20 new tribes/consortia to negotiate compacts and annual funding agreements for fiscal year 1996 and calendar year 1996 as authorized by the Act. To date, a total of 54 compacts and annual funding agreements have been negotiated.

Purpose of Notice

This notice is intended to allow up to 20 new tribes/consortia to be selected to negotiate compacts and annual funding agreements in fiscal year 1997 and calendar year 1997. The interim rules established at 25 CFR 1001.1 to 1001.5 will be used to govern the application and selection process for tribes/consortia to begin their participation in the tribal self-governance program in fiscal year 1997 and calendar year 1997. Applicants should be guided by the requirements in 25 CFR 1001.1 to 1001.5 in preparing their applications. Copies of the interim rules published in the **Federal Register** on February 15, 1995, may be obtained from the information contact person identified in this notice.

The Director's decision on the actual number of tribes that will enter negotiations will be made at a later date. Tribes already in the applicant pool will retain their existing ranking with tribes entering the applicant pool under these rules receiving a lower ranking. Being in the applicant pool will not guarantee that a tribe will actually be provided the opportunity to negotiate in any given year. However, it does mean that a tribe will not be passed over by a tribe with a lower ranking in the applicant pool or by a tribe not in the applicant pool, with the exception of a tribe already in the negotiation process.

For example, if the Department determines that 20 tribes will be afforded the opportunity to negotiate self-governance agreements in 1997, the tribes with the highest 20 rankings would be notified and negotiations would be scheduled. The tribe ranked 21 on the list would then have the highest ranking to negotiate a self-governance agreement in 1998 or might enter negotiations in 1997 if one of the first 20 tribes discontinued negotiations. In such a case, the tribe that discontinued negotiations would remain in the applicant pool with its original ranking and would be the first to be selected in 1997 for negotiating agreements commencing in 1998.

Dated: January 26, 1996.

William A. Sinclair,

Director, Office of Self-Governance.

[FR Doc. 96–1886 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–02–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Chapter XIV

Older Workers Benefit Protection Act of 1990 (OWBPA)

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Third Meeting of Negotiated Rulemaking Advisory Committee.

SUMMARY: EEOC announces the revised dates of the third meeting of the "Negotiated Rulemaking Advisory Committee for Regulatory Guidance on Unsupervised Waivers of Rights and Claims under the Age Discrimination in Employment Act" (the Committee). A Notice of Intent to form the Committee was published in the **Federal Register** on August 31, 1995, 60 FR 45388, and a Notice of Establishment of the Committee was published in the **Federal Register** on October 20, 1995, 60 FR 54207.

DATES: The third meeting will be held on March 6–7, 1996, beginning at 10:00 a.m. on March 6. It is anticipated that the meeting will last for two days. The session of March 7, 1996 will commence at 9:00 a.m..

ADDRESSES: The meeting will be held at the EEOC Headquarters, 1801 L Street, N.W., Washington, D.C. 20507.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Paul E. Boymel, or John K. Light, ADEA Division, Office of Legal Counsel, EEOC, 1801 L Street, N.W., Washington, D.C. 20507, (202) 663–4692.

SUPPLEMENTARY INFORMATION: All Committee meetings, including the meeting of March 6–7, will be open to the public. Any member of the public may submit written comments for the Committee's consideration, and may be permitted to speak at the meeting if time permits. In addition, all Committee documents and minutes will be available for public inspection on EEOC's Library (6th floor of the EEOC Headquarters).

Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. To schedule and appointment call (202) 663–4630 (voice), (202) 663–4630 (TDD). Copies of this notice are available in the following alternate formats: large print, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice), (202) 663–4399 (TDD).

Purpose of Meeting/Summary of Agenda: At the meeting, the Committee will continue to discuss the unsupervised waiver legal issues that will be considered by the Committee in drafting a recommended notice of proposed rulemaking for EEOC approval.

Dated: January 26, 1996.

Francess M. Hart,

Executive Officer.

[FR Doc. 96–2086 Filed 1–31–96; 8:45 am]

BILLING CODE 6570–06–M

29 CFR Chapter XIV

Older Workers Benefit Protection Act of 1990 (OWBPA); Cancellation of Meeting

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Cancellation of Meeting of Negotiated Rulemaking Advisory Committee.

SUMMARY: On January 19, 1996, 61 FR 1282, EEOC announced the scheduled dates, February 6–7, 1996, for a meeting of EEOC's Negotiated Rulemaking Advisory Committee for Regulatory Guidance on Unsupervised Waivers of Rights and Claims under the Age Discrimination in Employment Act" (the Committee). The meeting scheduled for February 6–7, 1996 has been cancelled.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Paul E. Boymel, or John K. Light, ADEA Division, Office of Legal Counsel, EEOC, 1801 L Street, N.W., Washington, D.C. 20507, (202) 663–4692.

SUPPLEMENTARY INFORMATION: Copies of this notice are available in the following alternate formats: large prints, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice), (202) 663–4399 (TDD).

Dated: January 26, 1996.

Frances M. Hart,

Executive Officer.

[FR Doc. 96–2085 Filed 1–31–96; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[SPATS NO. NM–036–FOR]

New Mexico Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the New Mexico regulatory program (hereinafter, the "New Mexico program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to and/or additions of rules pertaining to definitions; procedures for designating lands unsuitable for coal mining; permit application requirements concerning compliance information, the reclamation plan, and the subsidence information and control plan; procedures concerning permit application review; criteria for permit approval or denial; procedures concerning improvidently issued permits; permit conditions; requirements concerning ownership and control information; and performance standards for coal exploration, hydrologic balance, permanent and temporary impoundments, coal processing waste, disposal of noncoal waste, protection of fish, wildlife, and related environmental values, revegetation success, subsidence control, and roads. The amendment is intended to revise the New Mexico program to consistent with the corresponding Federal regulations, incorporate the additional flexibility afforded by the revised Federal regulations, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.s.t., March 4, 1996. If requested, a public hearing on the proposed amendment will be held on February 26, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t., on February 16, 1996.

ADDRESSES: Written comments should be mailed or hand delivered by Guy Padgett at the address listed below.

Copies of the New Mexico program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Guy Padgett, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102

Mining and Minerals Division, New Mexico Energy & Minerals Department, 2040 South Pacheco Street, Santa Fe, New Mexico 87505, Telephone: (505) 827–5970

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (505) 248–5081.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86459). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.11, 931.15, 931.16, and 931.30.

II. Proposed Amendment.

By letter dated January 22, 1996, New Mexico submitted a proposed amendment to its program (administrative record No. NM–766) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment at its own initiative and in response to the required program amendments at 30 CFR 931.16 (a), (c), (d), and (f) through (s) (55 FR 48841, November 23, 1990; 56 FR 67520, December 31, 1991; and 58 FR 65907, December 17, 1993).

The provisions of the Coal Surface Mining Commission (CSMC) rules that New Mexico proposes to revise are:

CSMC Rule 80–1–5, by (1) adding new definitions for "applicant/violator system or avs," "drinking, domestic or residential water supply," "federal violation notice," "material damage," "noncommercial building," "occupied residential dwelling and associated structures," "OSM," "ownership or control link," "replacement of water supply," "SMCRA," "state violation notice," and "qualified laboratory," and (2) revising existing definitions for "road and" "violation notice;"

CSMC Rule 80–4–15(b)(1), concerning procedures for designating land unsuitable for coal mining, by adding the requirement that the regulatory authority notify the general public of the receipt of the petition and request submissions of relevant information through the publication of a notice in the New Mexico State Register;

CSMC Rule 80–7–14(c), concerning permit application requirements for compliance information, by adding the requirement for information on violations received pursuant to SMCRA, its implementing regulations, and to any State or Federal law, rule or regulation enacted or promulgated pursuant to SMCRA;

CSMC Rules 80–9–25(a)(2), (a)(3), and (c), concerning permit application requirements for the reclamation plan, by adding the requirement that certain existing design specifications apply to structures that meet the U.S. Soil Conservation Service Class B or C criteria for dams in this agency's Technical Release No. 60 (210–VI–TR60, October 1985), "Earth Dams and Reservoirs;"

CSMC Rules 80–9–39(a) through (c), concerning permit application requirements for the subsidence information and control plan, to (1) add the requirement for a description of the measures to be taken to mitigate or

remedy subsidence-related material damage (regardless of the liability, or lack thereof, under other State laws) to the land and subsidence-related material damage incurred after October 24, 1992, by occupied residential dwellings, structures related thereto, and noncommercial buildings and (2) remove the exception to the requirement to mitigate or remedy subsidence-related material damage that was previously allowed at CSMC Rule 80–9–39(c)(2);

CSMC Rules 80–11–17(c) and (d) and 80–11–19(i), concerning the requirement that the regulatory authority, when making a determination of whether a pattern of willful violations exists (during review of a permit application and when deciding whether to approve a permit application), shall also consider violations received by the applicant, anyone who owns or controls the applicant, or the operator named in the application, pursuant to SMCRA, the Federal regulations at 30 CFR Chapter VII, the Federal program for Indian lands, Federal programs for States, or OSM-approved State programs other than the New Mexico program;

CSMC Rules 80–11–20(b)(1)(ii) and (3), concerning the review criteria under which the regulatory authority would find that a surface coal mining and reclamation permit had been improvidently issued, by including situations where (1) the permit was issued on the presumption that a notice of violation was in the process of being corrected, but a cessation order subsequently was issued, and (2) the permittee was linked to the violation, penalty, or fee through ownership or control under the violations review criteria of the regulatory program at the time the permit was issued, an ownership or control link between the permittee and the person responsible for the violation, penalty, or fee still exists, or where the link has been severed, the permittee continues to be responsible for the violation, penalty, or fee.

CSMC Rules 80–11–20(c) and (e) by adding (1) provisions identifying when the provisions for challenging ownership or control links and the status of violations at Rule 80–11–34 apply to determinations regarding improvidently issued permits and (2) a provision which establishes public notice and administrative review procedures that are applicable when the regulatory authority decides to suspend or rescind a permit;

CSMC Rules 80–11–24(a) and (c) by specifying new timeframes and review procedures applicable to automatic permit suspension and rescission;

CSMC Rule 80–11–29(d), concerning the permit condition which identifies the permittee's responsibility upon receiving a cessation order issued by New Mexico, by including cessation orders issued in accordance with the Federal regulations at 30 CFR 843.11;

CSMC Rules 80–11–31 through 80–11–34 by adding new provisions concerning verification of ownership or control application information, review of ownership or control and violation information, procedures for challenging ownership or control links shown in the applicant violator system (AVS), and standards for challenging ownership or control links and the status of violations;

CSMC Rules 80–19–15(c)(2) through (c)(4), concerning performance standards for coal exploration, by applying the reclamation requirements to all roads or other transportation facilities used in exploration activities;

CSMC Rules 80–20–41(e)(3)(i), 80–20–82(a)(4), 80–20–89(d)(2), concerning respectively, general requirements for the hydrologic balance, site inspections for coal processing waste banks, and disposal of noncoal wastes, by referencing, respectively, (1) "Rule 80–20–41(e)(2)(i)," (2) "Part 9," and (3) the New Mexico Water Quality Control Commission regulations at "Section 3–109 D."

CSMC Rule 80–20–49(e), concerning performance standards for permanent and temporary impoundments, by adding the requirement that certain existing design specifications apply to structures that meet the U.S. Soil Conservation Service Class B or C criteria for dams in this agency's Technical Release No. 60 (210–VI–TR60, October 1985), "Earth Dams and Reservoirs;"

CSMC Rule 80–20–93(a), concerning design and construction of coal processing waste dams and embankments, by removing the provision at paragraph (a)(1) which required that the design freeboard between the lowest point on the embankment crest and the maximum water elevation be at least 3 feet;

CSMC Rules 80–20–97 (b) and (c), concerning performance standards for protection of fish, wildlife, and related environmental values, by (1) referring to "surface coal mining operations or reclamation" in order to extend the protection of threatened and endangered species to areas disturbed by the conduct of reclamation in addition to surface coal mining operations and surface impacts of underground mining operations and (2) requiring protection of endangered or threatened species listed by the New Mexico Game and Fish Department;

CSMC Rule 80–20–116(b) (1) and (6), concerning revegetation success standards, by (1) providing for approval of normal husbandry practices that would not restart the liability period, (2) removing the unconditional allowance for interseeding and supplemental fertilization in the first 2 or 7 years of the applicable 5- or 10-year liability period, (3) recodifying Rules 80–20–116(b)(1) (i) and (ii) as Rules 80–20–116(b) (2) and (3) with editorial revisions; and (4) recodifying Rules 80–20–116(b) (2) and (3) as Rules 80–20–116(b) (4) and (5), and revising paragraph (5) to provide that revegetated "shrubland stocking" may be considered successful when it is at least 90 percent of the technical standard developed using historic records;

CSMC Rule 80–20–117, concerning revegetation success standards for tree and shrub stocking, by (1) requiring that the tree and shrub stocking success standards apply to reclaimed lands developed for use as fish and wildlife habitat, recreation, and shelterbelts, in addition to forestry, and (2) including the requirement that trees and shrubs used in determining the success of stocking and the adequacy of the plant arrangement shall have the utility for the approved postmining land use;

CSMC Rule 80–20–117, concerning revegetation success standards for tree and shrub stocking, by recodifying Rule 80–20–117(b), concerning areas where commercial forest land is the approved postmining land use, as Rule 80–20–117(c) and (1) clarifying at paragraph (c)(1) that the success standard for stocking of trees and shrubs will be determined by the State Forester "on a permit-specific basis," and (2) referencing in, respectively, paragraphs (c)(3) and (c)(4), the procedures for determining the number of trees or shrubs and the ground cover at "Sections 20–116(b)(5)(iv) and 20–117(b)," and the requirements for successful stocking of trees and shrubs and groundcover in "Sections 20–116 and 20–117;"

CSMC Rule 80–20–117, concerning revegetation success standards for tree and shrub stocking, by recodifying Rule 80–20–117(c), concerning performance standards for areas where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land, as Rule 80–20–117(d), and, at paragraph (d)(2), by (1) referencing "Sections 20–116(b) and (5)(iv) and Section 20–117(d)(1)" for the success standards for revegetated stocking of trees, half-shrubs, shrubs, and ground cover, and (2) removing the requirement that stocking of live woody plants shall be equal to or greater than 90 percent of the stocking of woody plants of the same life forms ascertained pursuant to Section 20–116(a);

CSMC Rule 80–20–117(d)(3)(i), concerning the required demonstration for success of revegetated woody plants required upon expiration of the 5 or 10 year responsibility period and at the time of request for bond release, by (1) referencing "Section 20–117(b)" for the success standards for stocking, (2) requiring 90, rather than 80, percent statistical confidence when demonstrating success, and (3) providing for the "use of an appropriate (parametric or nonparametric) one-tail test with a 10 percent alpha error" when determining the statistical confidence of the measurements of successful stocking;

CSMC Rules 80–20–121 (a) through (d) by providing new performance standards for subsidence control;

CSMC Rules 80–20–124 (a) through (d) by (1) providing new performance standards for the measures to be taken to mitigate or remedy subsidence-related material damage (regardless of the liability, or lack thereof, under other State laws) to the land and subsidence-related material damage incurred after October 24, 1992, by occupied residential dwellings, structures related thereto, and noncommercial buildings, and (2) requiring the replacement of any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption;

CSMC Rules 80–20–125 (a) through (e) by providing new performance standards concerning the rebuttable presumption of causation for damage resulting from subsidence;

CSMC Rules 80–20–127 by providing a new performance standard that requires the permittee to obtain additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the protected water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed, unless repair, compensation, or replacement is completed within 90 days of the occurrence of damage; and

CSMC Rule 80–20–150, concerning roads, by removing the provision at paragraph (c), which prohibited vehicular use of fords or low water crossings by ancillary roads at any time there is a visible surface flow.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the New Mexico program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t., on February 16, 1996. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have

a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 24, 1996.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 96–1989 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 943

[SPATS No. TX–029–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Texas regulatory program (hereinafter the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Texas Coal Mining Regulations pertaining to road systems, support facilities, and utility installations. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations and incorporate the additional flexibility afforded by the revised Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.s.t., March 4, 1996. If requested, a public hearing on the proposed amendment will be held on February 26, 1996. Requests to speak at the hearing must be received by 4:00 p.m., c.s.t., on February 16, 1996.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Jack R. Carson, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Texas program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135–6547, Telephone: (918) 581–6430.

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas, 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, **Federal Register** (45 FR 12998). Subsequent actions concerning the Texas program can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated December 20, 1995 (Administrative Record No. TX–608), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to a February 21, 1990, letter (Administrative Record No. TX–476) that OSM sent to Texas in accordance with 30 CFR 732.17(c) and at its own initiative. The provisions of the Texas Coal Mining Regulations (TCMR) that Texas proposes to amend are TCMR 708.008(71), definition of road; 780.154, road systems and support facilities; 816.400–403, roads, primary roads, utility installations, and support facilities (surface); 784.198, road systems and support facilities (underground); 817–569–572, roads, primary roads, utility installation, and support facilities (underground); 815.327, coal exploration performance standards; and 827.651, coal processing plants performance standards.

1. *TCMR 701.008(71), Definition of Road.*

Texas proposes to revise its definition of road to read as follows.

"Road" means a surface right-of-way for purposes of travel by land vehicles used in surface coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haulroads constructed, used, reconstructed, improved, or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal-hauling vehicles to and from transfer, processing, or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

2. *TCMR 780.154 (Surface Mining) and 784.198 (Underground Mining), Road Systems and Support Facilities.*

Texas proposes to remove its currents provisions at TCMR 780.154 for surface mining operations and TCMR 784.198 for underground mining operations, entitled Transportation Facilities, and replace them with the following provisions, entitled Road Systems and Support Facilities. Significant differences between the surface and underground regulations are shown with the underground language in brackets.

(a) Plans and drawings. Each applicant for a surface [an underground] coal mining and reclamation permit shall submit plans and drawings for each road, as defined in Section 701.008 of this chapter, to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall:

(1) Include a map, appropriate cross sections design drawings and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low-water crossings, and drainage structures;

(2) Contain the drawings and specifications of each proposed road that is located in the channel of an intermittent or perennial stream, as necessary for approval of the road by the Commission in accordance with Section 816.400(d)(1) [817.569(d)(1)] of this chapter;

(3) Contain the drawings and specifications for each proposed ford of perennial or intermittent streams that is used as a temporary route, as necessary for approval of the ford by the Commission in accordance with Section 816.401(c)(2) [817.570(c)(2)] of this chapter;

(4) Contain a description of measures to be taken to obtain approval of the Commission for alteration or relocation of a natural stream channel under Section 816.401(d)(5) [817.570(d)(5)] of this chapter;

(5) Contain the drawings and specifications for each low-water crossing of perennial or intermittent stream channels so that the Commission can maximize the protection of the stream in accordance with Section 816.401(d)(6) [817.570(d)(6)] of this chapter; and

(6) Describe the plans to remove and reclaim each road that would not be retained under an approved postmining land use, and the schedule for this removal and reclamation.

(b) Primary road certification. The plans and drawings for each primary road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer with experience in the design and construction of roads as meeting the requirements of this chapter; current, prudent engineering practices; and any design criteria established by the Commission.

(c) Support Facilities. Each applicant for a surface [underground] coal mining and reclamation permit shall submit a description, plans, and drawings for each support facility to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall include a map, appropriate cross sections, design drawings, and specifications sufficient to demonstrate compliance with Section 816.403 [817.572] of this chapter for each facility.

3. Texas proposes to repeal its current regulations pertaining to roads, other transportation facilities, support facilities, and utility installations at TCMR 816.400 through 422 for surface mining operations and at TCMR 817.569 through 591 for underground mining operations.

4. *TCMR 816.400 (Surface Mining) and TCMR 817.569 (Underground Mining), Roads: General.*

At TCMR 816.400 for surface mining operations and TCMR 817.569 for underground mining operations, Texas proposes the following new provisions pertaining to general requirements for roads. Differences between the surface and underground regulations are shown with the underground language in brackets.

(a) Road classification system.

(1) Each road, as defined in Section 701.008 of this chapter, shall be classified as either a primary road or an ancillary road.

(2) A primary road is any road which is:

(i) Used for transporting coal or spoil;

(ii) Frequently used for access or other purposes for a period in excess of six months; or

(iii) To be retained for an approved postmining land use.

(3) An ancillary road is any road not classified as a primary road.

(b) Performance standards. Each road shall be located, designed, constructed, reconstructed, used, maintained, and reclaimed so as to :

(1) Control or prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices;

(2) Control or prevent damage to fish, wildlife, or their habitat and related environmental values;

(3) Control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Neither cause nor contribute to, directly or indirectly, the violation of State or Federal water quality standards applicable to receiving waters;

(5) Refrain from seriously altering the normal flow of water in streambeds or drainage channels;

(6) Prevent or control damage to public or private property, including the prevention or mitigation of adverse effects on lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including designated study rivers, and National Recreation Areas designated by Act of Congress; and

(7) Use nonacid- and nontoxic-forming substances in road surfacing.

(c) Design and construction limits and establishment of design criteria. To ensure environmental protection appropriate for their planned duration and use, including consideration of the type and size of equipment used, the design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, and culvert size, in accordance with current, prudent engineering practices, and any necessary design criteria established by the Commission.

(d) Location.

(1) No part of any road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Commission in accordance with the applicable portions of Sections 816.339 through 816.355 [817.509 through 817.524] of this chapter.

(2) Roads shall be located to minimize downstream sedimentation and flooding.

(e) Maintenance.

(1) A road shall be maintained to meet the performance standards of this part and any additional criteria specified by the Commission.

(2) A road damaged by a catastrophic event, such as a flood or earthquake, shall be repaired as soon as is practicable after the damage has occurred.

(f) Reclamation. A road not to be retained under an approved postmining land use shall be reclaimed in accordance with the approved reclamation plan as soon as practicable after it is no longer needed for mining and reclamation operations. This reclamation shall include:

(1) Closing the road to traffic;

(2) Removing all bridges and culverts unless approved as part of the postmining land use;

(3) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

(4) Reshaping cut and fill slopes as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain;

(5) Protecting the natural drainage patterns by installing dikes or cross drains as necessary to control surface runoff and erosion; and

(6) Scarifying or ripping the roadbed; replacing topsoil or substitute material, and revegetating disturbed surfaces in accordance with Sections 816.334 through 816.338 and 816.390 through 816.396 [817.504 through 817.508 and 817.555 through 817.561] of this chapter.

5. *TCMR 816.401 (Surface Mining) and TCMR 817.570 (Underground Mining), Primary Roads.*

At TCMR 816.401 for surface mining operations and 817.570 for underground mining operations, Texas proposes the following new provisions pertaining to primary roads. Differences between the surface and underground regulations are shown with the underground language in brackets.

Primary roads shall meet the requirements of Section 816.400

[817.569] and the additional requirements of this section.

(a) Certification. The construction or reconstruction of primary roads shall be certified in a report to the Commission by a qualified registered professional engineer [with experience in the design and construction or roads]. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

(b) Safety Factor. Each primary road embankment shall have a minimum static factor of 1.3 or meet the requirements established under Section 780.154 [784.198] of this chapter.

(c) Location.

(1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.

(2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Commission as temporary routes during periods of road construction.

(d) Drainage control. In accordance with the approved plan:

(1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross drains, and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the Commission;

(2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to prevent or control erosion at inlets and outlets;

(3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;

(4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;

(5) Natural stream channels shall not be altered or relocated without the prior approval of the Commission in accordance with applicable Sections 816.339 through 816.355 [817.509 through 817.524] of this chapter; and

(6) Except as provided in paragraph (c)(2) of this Section, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed, and maintained using current, prudent engineering practices. The Commission shall ensure that low-water crossings are designed, constructed, and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to steamflow.

(e) Surfacing. Primary roads shall be surfaced with material approved by the Commission as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

6. *TCMR 816.402 (Surface Mining) and TCMR 817.571 (Underground Mining), Utility Installations.*

At TCMR 816.402 for surface mining operations and TCMR 817.571 for underground mining operations, Texas proposes the following new provision pertaining to utility installations. There is no difference in the language of the surface and underground regulations.

All surface coal mining operations [underground mining activities] shall be conducted in a manner which minimizes damage, destruction, or disruptior of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the Commission.

7. *TCMR 816.403 (Surface Mining) and TCMR 817.572 (Underground Mining), Support Facilities.*

At TCMR 816.403 for surface mining operations and TCMR 817.572 for underground mining operations, Missouri proposes the following new provisions pertaining to support facilities. There is no difference in the language of the surface and underground regulations.

(a) Support facilities shall be operated in accordance with a permit issued for the mine or coal preparation operation to which it is incident or from which its operation results.

(b) In addition to the other provisions of this part, support facilities shall be located, maintained, and used in a manner that:

(1) Prevents or controls erosion and siltation, water pollution, and damage to public or private property; and

(2) to the extent possible using the best technology currently available—

(i) Minimizes damage to fish, wildlife, and related environmental values; and

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

8. *TCMR 815.327, Performance Standards For Coal Exploration.*

Texas proposes to remove the existing language in subsections (c)(1) through (c)(4) and replace it with the following language.

(c) All roads or other transportation facilities used for coal exploration shall comply with the applicable provisions of Sections 816.400 (b) through (f), 816.402, and 816.403 of this chapter.

9. *TCMR 827.651, Coal Processing Plants: Performance Standards.*

1. At TCMR 827.651(b), Texas proposes to change the sections referenced from "400–.422" to "816.400 and 816.401 of this chapter."

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Texas program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on February 16, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 25, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96–1990 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN57–1–7204b; FRL–5334–1]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve Indiana's August 25, 1995, request to ban residential open burning in Clark, Floyd, Lake, and Porter Counties as part of the State's 15 percent Rate of Progress Plan control measures for Volatile Organic Compounds emissions. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 4, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: October 31, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–1844 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IL112–1–6759b; FRL–5331–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' October 24, 1994, site-specific State Implementation Plan (SIP) revision request establishing RACT requirements for Alumax Incorporated, Morris, Illinois facility's aluminum rolling mills. In the final rules section of this

Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 4, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: October 27, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–1936 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[FL–064–1–7179b; FRL–5305–8]

Approval and Promulgation of Implementation Plans: Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Florida for the purpose of establishing a Federally enforceable state operating permit (FESOP) program. In order to extend the Federal enforceability of Florida's FESOP to hazardous air pollutants (HAP), EPA is also proposing approval of Florida's FESOP regulations pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA). In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments should be addressed to: Gracy R. Danois, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the material submitted by Florida may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4150. Reference file FL–064–1–7179b.

SUPPLEMENTARY INFORMATION: For additional information, refer to the direct final rule which is published in the rules section of this **Federal Register**.

Dated: September 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1938 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MD043–3005b; FRL–5339–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Prevention of Significant Deterioration: PM–10 Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland which amends Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, 26.11.02.10 (C)(9), and 26.11.06.14. The intended effect of this action is to approve an amendment to Maryland's Prevention of Significant Deterioration (PSD) program. This revision makes these regulations consistent with the currently effective version of 40 CFR 52.21, including establishing the maximum increases in ambient particles with an aerodynamic diameter of less than or equal to a nominal 10 micrometers (PM–10) concentration allowed in an area above the baseline concentrations. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Lisa M. Donahue, (215) 597-2923.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title, "Approval and Promulgation of Air Quality Implementation Plans; MARYLAND; Prevention of Significant Deterioration: PM–10 Increments", which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 3, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96–1932 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–70–6962b; FRL–5296–1]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On August 15, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions are the adoption of new air quality rules, amendments to existing air quality rules and repeals of existing air quality rules that were the subject of public hearings held on March 21 and 30, 1994. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626-0535.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347-3555, ext. 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: August 14, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1839 Filed 1–31–96; 8:45 am]

BILLING CODE 6050–50–P

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40 CFR Part 52

[NC–75–1–7221b; FRL–5317–6]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 7, 1995, the Forsyth County Environmental Affairs Department, through the North Carolina Department of Environment, Health and Natural Resources, submitted recodifications to the Forsyth County Air Quality Control Ordinance and Technical Code. These recodifications make the Forsyth County Air Quality Control Ordinance and Technical Code more directly comparable to the North Carolina Air Quality Regulations. These recodifications were the subject of a public hearing held on September 20, 1994. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Scott M. Martin at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345

Courtland Street NE., Atlanta, Georgia 30365.
North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4216.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: October 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1925 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–77–1–7728b & NC–74–1–7727b; FRL–5325–4]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 3, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions include the adoption of three source-specific volatile organic compound rules; 15A NCAC 2D .0955, Thread Bonding Manufacturing, .0956, Glass Christmas Ornament Manufacturing, and .0957 Commercial Bakeries.

On May 24, 1995, North Carolina submitted additional revisions to their SIP. These revisions delete textile coating, Christmas ornament manufacturing, and bakeries from the list of sources that must follow interim standards, define di-acetone alcohol as a non-photochemically reactive solvent, and place statutory requirements for adoption by reference for referenced ASTM methods into a single rule rather than each individual rule that references ASTM methods. Revisions to 15A NCAC 2D .0902 Applicability; .0907 Compliance Schedules For Sources In Nonattainment Areas; .0910 Alternative Compliance Schedules; .0911 Exception From Compliance Schedules; .0952 Petition For Alternative Controls; .0954 Stage II Vapor Recovery; 1401–.1415; Reasonably Available Control Technology for Sources of Nitrogen Oxides (Nox RACT); .1501–.1504 Transportation Conformity; and .1601–.1603; General Conformity are being addressed in separate **Federal Register** Notices.

In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington DC 20460.
Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.
North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: October 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1842 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–73–1–7225b; NC–77–2–7726b; FRL–5337–5]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On August 15, 1994, and May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions are the adoption of new air quality rules, amendments to existing air quality rules and repeals of existing air quality rules. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington, DC 20460.
Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.
North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, ext. 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: November 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1940 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 52 and 81

[OH60–1–6377b; FRL–5410–2]

Approval and Promulgation of Air Quality Implementation Plans, and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the ozone State Implementation Plan (SIP) revision and redesignation requests submitted by the State of Ohio for the purpose of redesignating Franklin, Delaware, and Licking Counties (Columbus area) from nonattainment to attainment for ozone; and revise Ohio's SIP to include a 1990 base-year ozone precursor emissions inventory for the Columbus ozone nonattainment area. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. It should be noted, however, that an adverse or critical comment on the direct final approval of the Columbus area redesignation request or maintenance plan will not result in a withdrawl of the direct final approval of the Columbus emission inventory, unless USEPA receives adverse or critical comments on the emission inventory approval, as well. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 4, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6058.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: November 30, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–1934 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

RIN 3067–AC40

National Flood Insurance Program; Audit Program Revision

AGENCY: Federal Insurance Administration (FEMA).

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administration (FIA) proposes to amend its regulations regarding the manner in which its audits are conducted under the National Flood Insurance Program's (NFIP) Write Your Own (WYO) Program. The intent of the proposed regulations is to develop a comprehensive, less burdensome, more efficient audit program. FIA anticipates that these revisions will result in greater economy of resources and new savings to the NFIP public.

DATES: We invite your comments and ask that you submit them no later than March 18, 1996.

ADDRESSES: Please submit written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (fax) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Roland E. Holland, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3439.

SUPPLEMENTARY INFORMATION: Recently, after reviewing the programs and services provided to the NFIP public, the Federal Insurance Administrator concluded that the services currently being provided could be enhanced and improved by revising the audit procedures. As a result, FIA intends to discontinue the self-audit program, along with the triennial claims and underwriting operations reviews. The "triennial" audit will be revised to be conducted on a biennial basis, and expanded to encompass greater claims and underwriting audits that are to be conducted by Certified Public Accountant (CPA) firms, selected by the WYO companies, at the companies' expense. These changes are being made to facilitate improved management control over the audit process. FIA believes these efforts will result in appreciable program savings to both the WYO companies and the FIA.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44

CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Executive Order 12898, Environmental Justice

The socioeconomic conditions relating to this proposed rule were reviewed and a finding was made that no disproportionately high and adverse effect on minority or low income populations result from this proposed rule.

Executive Order 12866, Regulatory Planning and Review

This proposed rule is not a significant regulatory action within the meaning of section 2(f) of E.O. 12866 of September 30, 1983, 58 FR 51735, and has not been reviewed by the Office of Management and Budget (OMB). Nonetheless, this proposed rule adheres to the regulatory principles set forth in E.O. 12866.

Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the collections of information contained in this proposed rule have been submitted to and approved by the Office of Management and Budget. To request additional information or copies of the OMB submissions, contact the FEMA Informations Collections Officer, Muriel B. Anderson, by calling (202) 646–2625 or by writing to FEMA, 500 C Street, SW., Washington, DC 20472. The approved collections of information are:

OMB Number 3067–0169, Write Your Own (WYO) Program—To maintain adequate financial control over Federal funds, the National Flood Insurance Program requires each WYO company to meet the requirements of the WYO Transaction Record Reporting and Processing Plan and to submit monthly financial and statistical reports as required in FEMA regulation 44 CFR Part 62, Appendix B. The number of respondents is estimated at 105. The burden estimates per respondent are as follows: Reconciliation Report, 30 minutes; Biennial Audit Administrative Review Checklist, 1 hour; Monthly Financial and Statistical Reconciliation Reports Certification Statement, 3 minutes; and Monthly Statistical Transaction Reports Certification Statement, 3 minutes.

OMB Number 3067–0229, Mortgage Portfolio Protection Program (MPPP)—Lending institutions, mortgage servicing companies and others servicing mortgage loan portfolios can bring their mortgage loan portfolios into compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. The number of respondents is estimated at 6,526. The burden estimates per respondent are as follows: 150 hours for WYO companies to set up initial operations under the MPPP; 30 minutes per lender to sign an agreement with a WYO company to notify each mortgagor (3 notices at 10 minutes per notice); and 30 minutes for each mortgagor to ask questions and respond to the notices.

Although the collections of information have been approved by OMB, FEMA continues to solicit comments on (1) whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden of the collections of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Submit comments within 60 days of this notice to the Federal Emergency Management Agency, Attention: Information Collections Management, 500 C Street S.W., room 311, Washington, D.C. 20472.

Executive Order 12612

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 62

Flood insurance.

Accordingly, 44 CFR part 62 is proposed to be amended as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., 376.

§ 62.23 [Revised]

2. Section 62.23 is revised to read as follows:

§ 62.23 WYO Companies authorized.

(a) Pursuant to section 1345 of the Act, the Administrator may enter into arrangements with individual private sector property insurance companies whereby such companies may offer flood insurance coverage under the Program to eligible applicants for such insurance, including policyholders insured by them under their own property insurance business lines of insurance pursuant to their customary business practices including their usual arrangements with agents and producers, in any State in which such WYO Companies are licensed to engage in the business of property insurance. Arrangements entered into by WYO Companies under this subpart shall be in the form and substance of the standard arrangement, entitled "Financial Assistance/Subsidy Arrangement", a copy of which is included in Appendix A of this part and made a part of these regulations.

(b) Any duly licensed insurer so engaged in the Program shall be a WYO Company.

(c) A WYO Company is authorized to arrange for the issuance of flood insurance in any amount within the maximum limits of coverage specified in § 61.6 of this subchapter, as Insurer, to any person qualifying for such coverage under parts 61 and 64 of this subchapter who submits an application to the WYO Company; coverage shall be issued under the Standard Flood Insurance Policy.

(d) A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment and defense of all claims arising from policies of flood insurance it issues under the Program, based upon the terms and conditions of the Standard Flood Insurance Policy.

(e) In carrying out its functions under this subpart, a WYO Company shall use its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act and regulations prescribed by the Administrator under the Act.

(f) To facilitate the marketing of flood insurance coverage under the Program to policyholders of WYO Companies, the Administrator will enter into arrangements with such companies whereby the Federal Government will be a guarantor in which the primary relationship between the WYO Company and the Federal Government will be one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended. In furtherance of this end, the Administrator has established "A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program", a copy of which is included in Appendix B of this part and made a part of these regulations.

(g) WYO Companies shall not be agents of the Federal Government and are solely responsible for their obligations to their insureds under any flood insurance policies issued under arrangements entered into with the Administrator.

(h) To facilitate the underwriting of flood insurance coverage by WYO Companies, the following procedures will be used by WYO Companies:

(1) To expedite business growth, the WYO Company will encourage its present property insurance policyholders to purchase flood insurance and to transfer to the WYO Company, at the time of policy renewal, business placed by its producers with the NFIP Bureau and Statistical Agent.

(2) To confirm its underwriting practices to the underwriting rules and rates in effect as to the NFIP, the WYO Company will establish procedures to carry out the NFIP rating system and to provide its policyholders with the same coverage as is afforded under the NFIP.

(3) The WYO Company may follow its customary billing practices to meet the Federal rules on the presentment of premium and net premium deposits to a Letter of Credit bank account authorized by the Administrator and reduction of coverage when an underpayment is discovered.

(4) The WYO Company is expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported by the WYO Company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the NIP Servicing Agent. A monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of WYO Company submissions, the disposition of transactions that have not passed systems edits and the reconciliation of the totals generated from transaction reports with those submitted on the WYO Company's reconciliation reports.

(5) If a WYO Company rejects an application from an agent or a producer, the agent or producer should be notified so that the business can be placed through the NFIP Servicing Agent, or another WYO Company.

(6) Flood insurance coverage will be issued by the WYO Company on a separate policy form and will not be added, by endorsement, to the Company's other property insurance forms.

(7) Premium payment plans can be offered by the WYO Company so long as the net premium depository requirements specified under the NFIP/WYO Program accounting procedures are met. A cancellation by the WYO Company for non-payment of premium will not produce a pro rata return of the net premium deposit to the WYO Company.

(8) NFIP business will not be assumed by the WYO Companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO Company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrent expiration dates with other policies covering the property. Where the insurance agent or producer of record of a flood insurance policy issued by the Administrator has authorized the NFIP, in writing, to release policy information for the conversion of the NFIP coverage to a designated WYO Company represented by the agent or producer of record, in order to facilitate policy issuance and reduce administrative burdens upon the NFIP and WYO Companies and their agents and producers, countersignature requirements in the several States shall not apply.

(i) To facilitate the adjustment of flood insurance claims by WYO Companies, the following procedures will be used by WYO Companies.

(1) Under the terms of the Arrangement set forth at appendix A of this part, WYO Companies will adjust claims in accordance with general Company standards, guided by NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the WYO Company.

(2) The WYO Company may use its staff adjusters and/or independent adjusters. It is important that the Company's Claims Department verifies the correctness of the coverage interpretations and reasonableness of the payments recommended by the adjusters.

(3) An established loss adjustment Fee Schedule is part of the Arrangement and cannot be changed during an Arrangement year. This is the expense allowance to cover costs of independent or WYO Company adjusters.

(4) the normal catastrophe claims procedure currently operated by a WYO Company should be implemented in the event of a claim catastrophe situation. Flood claims will be handled along with other catastrophe claims.

(5) It will be the WYO Company's responsibility to try to detect fraud (as it does in the case of property insurance) and coordinate its findings with FIA.

(6) Pursuant to the Arrangement, the responsibility of defending claims will be upon the Write Your Own Company and defense costs will be part of the unallocated or allocated claim expense allowance, depending on whether a staff counsel or an outside attorney handles the defense of the matter. Claims in litigation will be reported by WYO Companies to FIA upon joinder of issue and FIA may inquire and be advised of the disposition of such litigation.

(7) The claim reserving procedures of the individual WYO Company can be used.

(8) Regarding the handling of subrogation, if a WYO Company prefers to forego pursuit of subrogation recovery, it may do so by referring the matter, with a complete copy of the claim file, to FIA. Subrogation initiatives may be truncated at any time before suit is commenced (after commencing an action, special arrangement must be made). FIA, after consultation with FEMA's Office of the General Counsel (OGC), will forward the cause of action to OGC or to the NFIP Bureau and Statistical Agent for prosecution. Any funds received will be deposited, less expenses, in the National Flood Insurance Fund.

(9) Special allocated loss adjustment expenses will include such items as: nonstaff attorney fees, engineering fees and special investigation fees over and above normal adjustment practices.

(10) The customary content of claim files will include coverage verification, normal adjuster investigations, including statements where necessary, police reports, building reports and investigations, damage verification and other documentation relevant to the adjustment of claims under the NFIP's and the WYO Company's traditional claim adjustment practices and procedures. The WYO Company's claim examiners and managers will supervise the adjustment of flood insurance claims by staff and independent claims adjusters.

(11) The WYO Company will extend reasonable cooperation to FEMA's Office of the General Counsel on matters pertaining to litigation and subrogation, under paragraph (i)(8) of this section.

(j) To facilitate establishment of financial controls under the WYO Program, the WYO Company will:

(1) Select a Certified Public Accountant (CPA) firm to conduct biennial audits of the financial, claims and underwriting records of the company. These audits shall be performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States (commonly known as yellow book). FIA further requires that pre-selected policy and claims files the CPA firm is asked to review are in addition to any files that the auditors may select for their sample. A report of the detailed biennial audit conducted will be filed with the FIA which, after a review of the audit report, will convey its determination to the Standards Committee. The CPA firm chosen to conduct the audit is expected to use qualified, skilled persons with the requisite background in property insurance and a knowledge of the NFIP. Persons performing claims audits are expected to possess claims expertise which would allow them to ascertain whether the scope of damage was proper, and if all applicable NFIP policy provisions were properly followed. Persons performing underwriting audits should be able to ascertain if the risk has been properly rated, which would necessitate being aware of special NFIP rating situations, such as elevated buildings.

(2) Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan and the WYO Accounting Procedures Manual. Transactions reported to the National Flood Insurance Program's (NFIP's) Bureau and Statistical Agent by the WYO Company under the WYO Transaction Record Reporting and Processing Plan and the WYO Accounting Procedures Manual will be analyzed by the Bureau and Statistical Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company submissions, the disposition of transactions which do not pass systems edits and the reconciliation of the totals generated from transaction reports with those submitted on WYO Company reconciliation reports.

(3) Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

(4) Cooperate with FIA in the implementation of a claims reinspection program.

(5) Cooperate with FIA in the verification of risk rating information.

(6) Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

(k) To facilitate the operation of the WYO Program and in order that a WYO Company can use its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act, the Administrator, for good cause shown, may grant exceptions to and waivers of the regulations contained in this title relative to the administration of the NFIP.

(l)(1) WYO Companies may, on a voluntary basis, elect to participate in the Mortgage Portfolio Protection Program (MPPP), under which they can offer, as a last resort, flood insurance at special high rates, sufficient to recover the full cost of this program in recognition of the uncertainty as to the degree of risk a given building presents due to the limited underwriting data required, to properties in a lending institution's mortgage portfolio to achieve compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. Flood insurance policies under the MPPP may only be issued for those properties that:

(i) Are determined to be located within special flood hazard areas of communities that are participating in the NFIP, and

(ii) Are not covered by a flood insurance policy even after a required series of notices has been given to the property owner (mortgagor) by the lending institution of the requirement for obtaining and maintaining such coverage, but the mortgagor has failed to respond.

(2) WYO Companies participating in the MPPP must provide a detailed implementation package to any lending institution that, on a voluntary basis, chooses to participate in the MPPP to ensure the lending institution has full knowledge of the criteria in that program and must obtain a signed receipt for that package from the lending institution. Participating WYO Companies must also maintain evidence of compliance with paragraph (l)(3) of this section for review during the audits and reviews required by the WYO Financial Control Plan contained in appendix B of this part.

(3) The mortgagor must be protected against the lending institution's arbitrary placing of flood insurance for which the mortgagor will be billed by being sent three notification letters as described in paragraphs (l)(4) through (6) of this section.

(4) The initial notification letter must:

(i) State the requirements of the Flood Disaster Protection Act of 1973, as amended;

(ii) Announce the determination that the mortgagor's property is in an identified special flood hazard area as delineated on the appropriate FEMA map, necessitating flood insurance coverage for the duration of the loan;

(iii) Describe the procedure to follow should the mortgagor wish to challenge the determination;

(iv) Request evidence of a valid flood insurance policy or, if there is none, encourage the mortgagor to promptly obtain a Standard Flood Insurance Policy (SFIP) from a local insurance agent (or WYO Company);

(v) Advise that the premium for an MPPP policy is significantly higher than a conventional SFIP policy and advise as to the option for obtaining less costly flood insurance; and

(vi) Advise that an MPPP policy will be purchased by the lender if evidence of flood insurance coverage is not received by a date certain.

(5) The second notification letter must remind the mortgagor of the previous notice and provide essentially the same information.

(6) The final notification letter must:

(i) Enclose a copy of the flood insurance policy purchased under the MPPP on the mortgage's (insured's) behalf, together with the Declarations Page.

(ii) Advise that the policy was purchased because of the failure to respond to the previous notices, and

(iii) Remind the insured that similar coverage may be available at significantly lower cost and advise that the policy can be cancelled at any time during the policy year and a pro rata refund provided for the unearned portion of the premium in the event the insured purchases another policy that is acceptable to satisfy the requirements of the 1973 Act. "(Approved by the Office of Management and Budget under OMB control number 3067–0229.)"

Appendix B to Part 62 [Revised]

3. Appendix B to Part 62—National Flood Insurance Program, is proposed to be revised to read as follows:

Appendix B to Part 62—National Flood Insurance Program

A Plan To Maintain Financial Control for Business Written Under the Write Your Own Program

Under the Write Your Own (WYO) Program, the Federal Insurance Administrator (Administrator) may enter into arrangements with individual private sector insurance companies that are licensed to engage in the business of property insurance, whereby these companies may offer flood insurance coverage to eligible property owners using their customary business practices. To facilitate the marketing of flood insurance coverage, the Federal Government will be a guarantor of flood insurance coverage for WYO Company policies issued under the WYO Arrangement. To ensure that any taxpayer funds are accounted for and appropriately expended, the Federal Insurance Administrator (FIA) and WYO Companies will implement this Financial Control Plan. Any departures from the requirements of this Plan must be approved by the Administrator. The authority for the WYO Program is contained in § 1345 of the National Flood Insurance Act of 1968, 42 U.S.C. 4081, and 44 CFR parts 61 and 62, §§ 61.13 and 62.23. The WYO Financial Assistance/Subsidy Arrangement (Arrangement) which is included in appendix A of this part is hereby made a part of this Financial Control Plan.

WYO Companies are subject to audit, examination, and regulatory controls of the various states. Additionally, insurance company operating departments are customarily subject to examinations and audits performed by Company internal audit (and/or quality control) departments and independent CPA firms. It is intended that this Plan use to the extent possible, the findings of these examinations and audits as they pertain to business written under the WYO Program (Parts 3 and 4).

The WYO Financial Control Plan contains several checks and balances that can, if properly implemented by the WYO Company, significantly reduce the need for extensive on-site reviews of Company files by the FIA staff or their designee. Furthermore, we believe that this process is consistent with customary reinsurance practices and avoids duplication of examinations performed under the auspices of individual State Insurance Departments, NAIC Zone examinations, and independent CPA firms.

The WYO Financial Control Plan requires the WYO Company to meet the minimum requirements established by the Standards Committee. The Standards Committee consists of four (4) members from FIA, one (1) member from the Federal Emergency Management Agency's (FEMA's) Office of Financial Management, one (1) member designated by the Administrator who is not directly involved in the WYO Program, and one (1) member from each of six (6) designated WYO Companies, pools or other entities.

The WYO Financial Control Plan must require the WYO Company to:

1. Have a biennial audit of the flood insurance financial statements and claims and underwriting activity conducted by an independent accounting firm at the Company's expense to ensure that the financial data reported to FIA accurately represents the flood insurance activities of the Company. Require that the CPA firm's audit be performed in accordance with GAO yellow book requirements. Require that the auditors conduct their own review sample, even if pre-selected policy and claims files are given to them for review.

2. Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported to the National Flood Insurance Program's (NFIP's) Bureau and Statistical Agent by the WYO Company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the Bureau and Statistical Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company's submissions, the disposition of transactions that do not pass systems edits, and the reconciliation of the total generated from transaction reports with those submitted on the WYO Company's reports (part 1).

3. Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

4. Cooperate with FIA in the implementation of a claims reinspection program (part 2).

5. Cooperate with FIA in the verification of risk rating information.

6. Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

The Standards Committee will review and make a recommendation to the Administrator concerning any adverse action arising from the implementation of the Financial Control Plan. Adverse actions include, but are not limited to the FIA Operations Division's recommendations not to renew a particular Company's WYO arrangement.

This Plan includes the following guidelines:

Part 1—Transaction Record Reporting and Processing Plan Reconciliation Procedures
Part 2—Claims Reinspection Program
Part 3—Financial Audits, Underwriting Audits, Claims Audits, Audits For Cause, and State Insurance Department Audits
Part 4—Reports Certifications
Part 5—WYO Financial Assistance/Subsidy Arrangement (Incorporated by Reference)
Part 6—Transaction Record Reporting and Processing Plan (Incorporated by Reference)
Part 7—Write Your Own (WYO) Accounting Procedures Manual (Incorporated by Reference)

Part 1—Transaction Record Reporting and Processing Plan Reconciliation Procedures

Transaction Record Reporting and Processing Plan Reconciliation Objectives

The objectives are: To reconcile transaction detail with monthly financial statements submitted by the WYO Companies; to assess the quality and timeliness of submitted data; and to provide for the identification and resolution of discrepancies in the data. The reliance on computer processing to perform the review of transaction and financial data will help minimize the necessity for on-site audits of WYO Companies. Reconciliation of the statistical reports submitted will be performed by the WYO Companies and independently by the NFIP Bureau and Statistical Agent.

The Review of monthly financial statements and transaction level detail will involve five areas:

A. Financial control;
B. Quality control (audit trails);
C. Quality review of submitted data;
D. Policy rating;
E. Timeliness of reporting; and
F. Monthly reports.

A. Financial Control

1. WYO Companies are required to submit a reconciliation report (Exhibit "A") with the submission of transaction level detail. This report will reconcile the transaction records data to the financial report, explaining any discrepancies.

2. WYO Companies are required to submit, on a form approved by the Administrator, a tape transmittal document with the submission of the statistical tape containing transaction detail. This will be used to validate record counts and dollar amounts.

3. The NFIP will review, at a minimum, the categories on the attached format and produce a similar report reconciling the transaction data to the monthly financial statement submitted by each WYO Company.

4. To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NFIP to review the quality of submitted data will be so identified, but still maintain whenever possible until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP.

B. Quality Control

Transaction level detail will be maintained in policy and claim history files for record-keeping and audit purposes.

C. Quality Review of Submitted Data

1. Transaction records will be edited for correct format and values.

2. Relational edits will be performed on individual transactions as well as between policy and claim transactions submitted against those policies.

3. Record validation will be performed to check that the transaction type is allowable for the type of policy or claim indicated.

4. Errors will be categorized as critical or non-critical. The rate of critical errors in the submission of statistical data will be the basis by which company performance is reported to the Standards Committee. Critical errors include those made in required data elements. Required data elements:

a. Identify the policyholder, the policy, the loss, and the property location;

b. Provide information necessary to rate the policy;

c. Provide information used in financial control; and

d. Provide information used for actuarial review of NFIP experience.

5. Non-critical errors are those made in data elements reported by the WYO Companies at their option.

D. Policy Rating

1. The rating will be validated by the NFIP for all policies for which the following transactions have been submitted:

a. New Business;

b. Renewals;

c. Endorsements involving type A transaction records; and

d. Corrections of type A transaction records previously submitted for premium transactions.

2. Incorrect rating will be considered a critical error.

E. Timeliness of Reporting

1. WYO Companies will be expected to submit monthly statistical and financial

reports within thirty days of the end of the month of record.

2. The NFIP will provide reports based on review of submitted data within thirty days after the due date or the first processing cycle subsequent to the receipt of WYO Company submissions, whichever is later.

F. Monthly Reports

1. Reports for each WYO Company's data submission will be sent to the respective WYO Company and the FIA explaining any discrepancies found by the NFIP review.

2. Reports to WYO Companies. Transaction records that fail to pass the quality review or policy rating edits will be reported to the appropriate Company in transaction detail with error codes, classification of errors as either critical or non-critical and any codes used by the Company to identify the source of the transaction data.

3. Report to WYO Companies and the FIA:

a. Summary statistics will be generated for each monthly submission of transaction data. These will include:

i. Absolute numbers of transactions read and transactions rejected by transaction type; and

ii. Dollar amounts associated with transactions read and transactions rejected.

b. Summary statistics for all policy and claim records submitted to date (which may each be the result of multiple transactions) will be generated, separately for critical and non-critical errors. These will include:

i. Absolute number of policy and claim records on file and those containing errors; and

ii. Relative values for the number of records containing critical errors.

c. Control totals will be generated for tapes submitted to and processed by the NFIP. This front-end balancing procedure will include:

i. Numbers of records submitted according to the NFIP compared with numbers of records submitted according to the WYO Company transmittal document; and

ii. Dollar amounts submitted according to the NFIP compared with dollar amounts submitted according to the WYO Company transmittal document.

d. If there is any discrepancy between the NFIP reading of dollar amounts from the tape and the WYO Company tape transmittal document, then the monthly statistical tape submission will be rejected and returned to the Company. The rejected tape must be corrected and resubmitted by the next monthly submission due date.

e. In cases where the NFIP reconciliation of transaction level detail with the financial statements does not agree with the reconciliation report submitted by the WYO Company, a separate report will be generated and transmitted to the Company for resolution and to the FIA.

Reporting of Company Rating to the Standards Committee and the Administrator

A. Satisfactory Rating

An annual end of the year report will be submitted to convey the satisfactory rating of WYO Companies' submission of transaction data and the reconciliation of this data with financial reports.

B. Unsatisfactory Rating

The report of an unsatisfactory rating will be submitted as soon as errors and problems reach critical threshold levels. This rating will be based on: Continuing problems in reconciling transaction data with financial reports; statistics on the percentage of transactions submitted with critical errors; the percentage of policy and claim records on file that contain critical errors; and late submission of statistical and financial reports.

Exhibit "A"—WYO Statistical Tape Transmittal Document

Date Sent: _____

WYOPrefix Code _____ _____

WYO Company Name: _____

Address: _____

_____

Reel Number (S) of Enclosed Tapes: _____

_____

Density _____ LRECL _____

Blocksize _____

File Name (DSN) _____

Contact Person _____

Contact Number _____

IBU Number _____ (WYO Use Only

Monthly Reconciliation—Net Written Premiums

Company name _____

Month/year ending _____

Co. NAIC No _____

Date submitted _____

Preparer's name _____

Telephone No _____

Monthly financial report	Monthly statistical transactions report		
	Trans. code	Record count	Premium amount
Net Written premiums	$		
(Income statement=Line 100)	11		$
	15		
	17		
Unprocessed statistical:			
(+) Prior month's	20		
(−) Current month's	23		
Other—Explain:			
(+) Current month's	26		(−)
(−) Prior month's	29		(−)
	14 and 81		(+)
Total	Total: Add 11 Through 23 less 26 and 29		
Comments:			

Monthly Reconciliation—Losses

Company name _____

Month/year ending _____

Co. NAIC No _____

Date submitted _____

	Trans. code	Record count	Loss/paid recoveries
100 Net paid losses			
(Income statement line 115)			
Unprocessed statistical:			
	31		$
140 (+) Prior month's	34		
	37		
150 (−) Current month	40		
	43		
160 Salvage not to be reported by transaction (explain)			
170 Other—Explain	46 and 61		
	49		
	64		
	84 amd 87		
	52 Recovery		
	Salvage		
	Subrogation		
	67 Recovery		
	Salvage		
	Subrogation		
Total: (Sum of Lines 100, 140, 160, and 170 less 150)	Total: (Add 31, 34, 40 through 64 less 52 and 67)		
Comments:			

Monthly Reconciliation—Special Allocated LAE

Company name _____

Month/year ending _____

Co. NAIC No _____

Date submitted _____

Monthly financial report	Monthly statistical transaction report		
	Trans. code	Record count	Amounts
Special allocated loss adjustment expenses			
(Other loss and LAE Calc.—Line 655)			
	71		$
	74		
Unprocessed statistical:			
(+) Prior Month			
(−) Current Month			
Other—Explain:			
(1)			
(2)			
Total:	Total:		
Comments:			

Monthly Reconciliation—Net Policy Service Fees

Company name _____

Month/year ending _____

Co. NAIC No _____

Date submitted _____

Monthly financial report	Monthly statistical transaction report		
		Record count	Fee amount
Net Policy Service			
Fees $_____ (Income Statement—Line 170)			
Unprocessed statistical:			
(+) Prior Month's _____.			
(−) Current Month's _____.			
Other—Explain:			
(1) _____.			
(2) _____.			
Total _____	Total _____.		
Comments:			

(Approved by the Office of Management and Budget under OMB control number 3067–0169.)

Part 2—Claims Reinspection Program

WYO—NFIP Claims Reinspection Program

To keep WYO–NFIP Claims Management informed, to assist in the overall claims operation, and to provide necessary assurances and documentation for dealing with GAO, Congressional Oversight Committees, and the public, the FIA and WYO Companies have established a Claims Reinspection Program.

The Program is comprised of the following major elements:

A. All files are subject to reinspection.

B. Files for reinspection may be randomly selected by flood event, or size of loss, or class of business, as determined by WYO–NFIP Claims Management.

C. WYO–NFIP Claims Management will utilize a binomial table to define sample size for reinspections prior to payment. A larger sample may be used depending upon error ratio.

D. An agreed upon sample of closed files, by event, will be subjected to reinspection as well.

E. A WYO representative will conduct the reinspection, accompanied by an NFIP General Adjuster.

F. A joint, single report will be issued by the WYO Company representative and the NFIP General Adjuster.

G. Copies of reinspection reports will be forwarded to the Claims Management of both the WYO Company and the NFIP.

Part 3—Financial Audits, Underwriting Audits, Claims Audits, Audits for Cause, and State Insurance Department Audits

A. Biennial Financial Audits

1. Objectives of WYO Biennial Financial Audit. The biennial financial audit is intended to provide the Federal Emergency Management Agency with independent assessment of the quality of financial controls over activities relating to the Company's participation in the National Flood Insurance Program as well as the integrity of the financial data reported to FEMA.

a. Participating WYO companies are responsible for selecting and funding independent Certified Public Accounting firms to conduct the biennial audits. Such costs are considered part of the normal administrative cost of operating the WYO program and as such are included in the WYO expense allowance.

b. The WYO Company's representative will be notified in writing to arrange for a biennial audit. This notice should provide the WYO Company at least 120 days to prepare for the biennial audit.

c. It is also intended that the biennial audit will reduce if not eliminate the need for FEMA auditors or their designees to conduct on-site visits to WYO companies in their review of financial activity. However, the requirement may still exist for such visits to occur as determined by the auditors. The CPA firm's audit shall be performed in accordance with GAO yellow book requirements. Further, the CPA firm is required to select its own sample, even though FIA may provide them with pre-selected policy and claim files for review. In addition, nothing in this section should be construed as limiting the ability of the General Accounting Office or FEMA's Office of Inspector General to review the activities of the WYO Program.

d. The purpose of the biennial audit is to provide opinion on the fairness of the financial statements, the adequacy of internal controls, and the extent of compliance with laws and regulations.

B. Audits for Cause

In accordance with the terms of the Arrangement, the Administrator, on his/her own initiative or upon recommendation of the WYO Standards Committee or the FEMA Inspector General, may conduct for-cause audits of participating companies. The following criteria, in combination or independently may constitute the basis for initiation of such an audit.

1. Underwriting

a. Excessively high frequency of errors in underwriting:

i. Issuing policies for ineligible risks.

ii. Issuing policies in ineligible communities.

iii. Consistent premium rating errors.

iv. Missing or insufficient documentation for submit for rate policies.

v. Other patterns of consistent errors.

b. Abnormally high rate of policy cancellations or non-renewals.

c. Policies not processed in a timely fashion.

d. Duplication of policy coverage noted.

e. Problems with Rollover from National Flood Insurance Program (NFIP) to WYO (duplication of coverage, timeliness of changeover).

f. Relational type edits indicate an unusually high or low premium amount per policy for the geographical area.

g. Biennial audit results indicate unusual volume of errors in underwriting.

2. Claims

a. Reinspection indicates consistent patterns of:

i. Losses being paid when not covered.

ii. Statistical information being reported on original loss adjustment found to be incorrect on reinspection.

iii. Salvage/subrogation not being adequately addressed.

iv. Consistent overpayment of claims.

b. Unusually high count of erroneous assignments and/or claims closed without payment (CWP). (WYO Company is paid a flat fee for CWP cases where little or no work is done—risk is fraudulent CWP cases).

c. Unusually low count of CWP. (May indicate inadequate follow-up of claims submitted).

d. Average claim payments which significantly exceed the average for the Program as a whole.

e. Lack of (adequate) documentation for paid claims.

f. Claims not processed in a timely fashion.

g. Consistent failure of WYO Company to receive authorization for special allocated loss adjustment expenses prior to incurring them.

h. High submission of Special Allocated Loss Adjustment Expenses (SALAE).

i. Consistently high policyholder complaint level.

j. Low/high count of salvage/subrogation.

k. Biennial audit indicates significant problems.

3. Financial Reporting/Accounting

a. Consistently high reconciliation variations and/or errors in statistical information.

b. Financial and/or statistical information not received in a timely fashion.

c. Letter of Credit violations are found.

d. WYO Company is not depositing funds to the Restricted Account in a timely manner, or funds are not being transferred through the automated clearinghouse on a timely basis.

e. Premium suspense is consistently significant, older than 60 days, and/or cannot be detailed sufficiently.

f. Large/unusual balance in Cash-Other (Receivable and/or Payable).

g. Large, unexplained differences in cash reconciliation.

h. Large/unusual balances or variations between months noted for key reported financial data.

i. Financial statement to statistical data reconciliation sheets improperly completed indicating proper review of information is not being performed prior to signing certification statement.

j. Repeated failure to respond fully in a timely manner to questions raised by FIA or its servicing agent concerning monthly financial reporting.

k. Biennial audit indicates significant problems.

C. Underwriting Audit

1. Samples of new business policies, renewals, endorsements and cancellations will be provided by the FIA with the biennial audit instructions, including samples of the Mortgage Portfolio Protection business, where applicable. The audit is to be conducted in accordance with GAO yellow book requirements. The CPA firm may supplement with its own sample of risks which were in-force during all or part of the Arrangement Year under audit for detail testing.

2. Underwriting Audit Outline.

a. Review of the Underwriting Department's responsibilities, authorities and composition.

b. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

c. Administrative review to verify compliance with company procedures.

d. Thorough examination of a random sample of underwriting files to measure the quality of work. The CPA firm is expected to provide a representative sample of its review to substantiate its opinion and findings. At a minimum, the files should be reviewed to verify the following:

i. Policies are issued for eligible risks;

ii. Rates are correct and consistent with the amount of insurance requested on the application.

iii. Waiting period for new business is consistent with government regulations;

iv. Elevation certification or difference is correctly shown on application;

v. The coverage does not include more than one building and/or its contents per policy;

vi. No binder is effective unless issued with the authorization of FIA;

vii. The FIRM zone shown on the application is applicable to the community in which the property is located;

viii. Community shown on application is eligible to purchase insurance under the NFIP;

ix. Information on type of building, etc., is fully complete;

x. Applicable deductibles are recorded;

xi. A new, fully completed application or a photocopy of the most recent application, or similar documentation, with the appropriate updates to reflect current information is on file for each risk, including those formerly written by the NFIP Servicing Facility;

xii. If any files to be audited are unavailable, determine the reason for the absence.

e. Endorsement Processing.

1. Complete tasks as applicable.

2. Review requests for additional coverage to ensure that they are subject to the waiting period rule.

3. Review controls established to ensure that no risk is insured under endorsement provisions that are not acceptable as a new business risk (i.e., a property located in a suspended community).

f. Cancellation Processing. Verify controls to ensure that one of the necessary reasons for cancellation exists and that the transaction is accompanied by proper documentation.

g. Renewal Processing. Determine controls to ensure that all necessary information needed to complete the transaction is provided.

h. Expired Policies. Determine controls to ensure that each step is carried out at the proper time.

i. Observance of Waiting Period. Establish procedures to document, as a matter of WYO Company business record and in each transaction involving a new application, renewal, and endorsement, that any applicable effective date and premium receipt rules have been observed (44 CFR 61.11). Documentation reasonably suitable for the purpose includes retention of postmarked envelopes (for three (3) years) from date, date-stamping and retention (via hard copy or microfilm process) of application, renewal and endorsement documents and checks received in payment of premium; computer input of document and premium receipt transactions and retention of such records in the computer system; and other reasonable insurer methods of verifying transactions involving requests for coverage and receipts of premium.

D. Claims Audit Outline

1. Review of the Claims Department's responsibilities, authorities, and composition.

2. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

3. Administrative review to verify compliance with company procedures.

4. Thorough examination of a random sample of claims files which may be provided by FIA to measure the quality of work. At a minimum, the files should be reviewed to verify the following:

a. Verify controls to ensure that a file is set up for each Notice of Loss received.

b. Review adjuster reports to determine whether they contain adequate evidence to substantiate the payment or denial of claims, including amount of losses claimed, any salvage proceeds, depreciation and potential subrogation.

c. Ascertain that building and contents allocations are correct.

d. Determine whether the file contains evidence identifying subrogation possibilities.

e. Verify that partial payments were properly considered in processing the final draft or check.

f. Verify that the loss payees are listed correctly (consider insured and mortgagee).

g. Verify that the total amount of the drafts or checks is within the policy limits.

h. Ascertain the relevance and validity of the criteria used by the carrier to judge effectiveness of its claims servicing operation.

i. Confirm that when information is received from an independent adjuster, the examiner either acts promptly to give proper feedback with instructions or takes action to pay or deny the loss.

j. Determine whether the Claims Department is using an "impression of risk" program in reporting misrated policies, etc.

k. Where attempts at fraud occur, verify that these instances are being reported to FIA for referral to the FEMA Inspector General's office.

l. If any files to be audited are unavailable, determine the reason for their absence. In undertaking this portion of the biennial audit, the Administrative Review Checklist (Exhibit B) below should be utilized.

Exhibit "B"—Administrative Review Checklist

Policy #
Insured's name:
State:
Date of loss:
Date paid:
Date reported:
Amt. of loss: $
Bldg. $
Contents $
Adjusting firm:
Examiner's name:
Comments

	Yes	No	N/A
1. Investigation and Adjustments			
A. Application of Coverage			
(1) Insurable interest?	[ ]	[ ]	[ ]
(2) Is loss from the flood peril?	[ ]	[ ]	[ ]
(3) Did loss occur within the policy term?	[ ]	[ ]	[ ]
(4) Does location and description of risk coincide with policy information?	[ ]	[ ]	[ ]
(5) Were proper deductibles applied?	[ ]	[ ]	[ ]
(6) Other insurance considered?	[ ]	[ ]	[ ]
(7) Other losses?	[ ]	[ ]	[ ]
b. Application of Sound Adjusting Practices			
(1) Was adjuster's report accurate/complete?	[ ]	[ ]	[ ]
(2) Was an attorney used in the settlement?	[ ]	[ ]	[ ]
(3) Was a technical expert used in the settlement?	[ ]	[ ]	[ ]
c. Documentation			
(1) Are damages clearly identified?	[ ]	[ ]	[ ]
(2) Are damages flood related?	[ ]	[ ]	[ ]
(3) Are damages clearly and completely itemized and documented by the adjuster?	[ ]	[ ]	[ ]
(4) Was depreciation considered?	[ ]	[ ]	[ ]
(5) Has subrogation been considered?	[ ]	[ ]	[ ]
(6) Has salvage been properly handled?	[ ]	[ ]	[ ]
(7) Was salvage timely?	[ ]	[ ]	[ ]
2. Supervision			
a. Assignments			
(1) Are assignments made promptly?	[ ]	[ ]	[ ]
(2) Is insured contacted promptly?	[ ]	[ ]	[ ]
b. Reserves			
(1) Are initial reserves indicated on the first report?	[ ]	[ ]	[ ]
(2) Are they adequate?	[ ]	[ ]	[ ]
(3) Does final settlement compare favorably with last reserve established?	[ ]	[ ]	[ ]
c. Diary Control			
(1) Automatic?	[ ]	[ ]	[ ]
(2) Timely?	[ ]	[ ]	[ ]
(3) Is file reviewed at diary date with examiner's comments?	[ ]	[ ]	[ ]
d. Examiner Evaluation and Settlement Performances			
(1) Is examiner directing adjuster when needed?	[ ]	[ ]	[ ]
(2) Are files documented?	[ ]	[ ]	[ ]
(3) Is adequate control maintained over in-house adjuster?	[ ]	[ ]	[ ]
(4) Is adequate control maintained over outside adjuster?	[ ]	[ ]	[ ]

	Yes	No	N/A
e. Salvage and Subrogation			
(1) Is salvage evaluated by salvors?	[ ]	[ ]	[ ]
(2) Is salvage disposed of promptly?	[ ]	[ ]	[ ]
(3) Are salvage returns adequate?	[ ]	[ ]	[ ]
(4) Is potential subrogation being promptly and properly investigated?	[ ]	[ ]	[ ]
(5) Are proper subrogation forms used?	[ ]	[ ]	[ ]
(6) Are subrogation and salvage files properly opened, diaried, and referred (if appropriate)?	[ ]	[ ]	[ ]
(7) Are recovery funds for subrogation and salvage being properly handled?	[ ]	[ ]	[ ]
f. Suits			
(1) Are suits properly identified?	[ ]	[ ]	[ ]
(2) Are suits being properly evaluated?	[ ]	[ ]	[ ]
(3) Are suits being referred to attorneys promptly?	[ ]	[ ]	[ ]
(4) Are attorneys being advised as to handling settlement or compromise?	[ ]	[ ]	[ ]
(5) Are suits being properly controlled?	[ ]	[ ]	[ ]
(6) Are suits files properly diaried?	[ ]	[ ]	[ ]
(7)–(8) [Reserved]	[ ]	[ ]	[ ]
g. Other			
(1) Was there other coverage by the WYO Company?	[ ]	[ ]	[ ]
(2) Were damages correctly apportioned?	[ ]	[ ]	[ ]
(3) Was a solo adjuster used?	[ ]	[ ]	[ ]
(4) Were there prior flood claims?	[ ]	[ ]	[ ]
(5) Were prior damages repaired?	[ ]	[ ]	[ ]
(6) Were prior claim files reviewed?	[ ]	[ ]	[ ]
(7) Was a congressional complaint letter in file?	[ ]	[ ]	[ ]
(8) Was it responded to promptly?	[ ]	[ ]	[ ]
(9) Is the statistical reporting correction file being properly managed?	[ ]	[ ]	[ ]

E. State Insurance—Department Examination

1. It is expected that audits of WYO Companies by independent accountants and/or state insurance departments, aside from those conducted by the FIA or its designee, will include flood insurance activity. When such audits occur, a financial officer for the WYO Company will notify the FIA, identifying the auditing entity and providing a brief statement of the overall conclusions that relate to flood insurance and the insurer's financial condition, when available. In the case of an audit in progress, a brief statement on the scope of the audit should be provided to the FIA. A checklist will be utilized for this reporting and will be provided to WYO Companies by the FIA.

2. The WYO Companies will maintain on file the reports resulting from audits, subject to on-site inspection by the FIA or its designee. At the FIA's request, the WYO Company will submit a copy of the auditor's opinion, should one be available, summarizing the audit conclusion.

"(Approved by the Office of Management and Budget under OMB control number 3067–0169)"

Part 4—Reports Certifications

A. Certification Statement for Monthly Financial and Statistical Reconciliation Reports

I have reviewed the accompanying financial and statistical reconciliation reports of XYZ Company as of _____. All information included in these statements is the representation of the XYZ Company.

Based on my review (with the exception of the matter(s) described in the following paragraphs, if applicable), I certify that I am not aware of any material modifications that should be made to the accompanying reports.

Signed _____
(Responsible Financial Officer)
Date _____

B. Certification Statement for Monthly Statistical Transaction Report

I have reviewed the accompanying statistical transaction report control totals in conjunction with appropriate statistical reconciliation reports. All information included in these reports is the representation of the XYZ Company.

"(Approved by the Office of Management and Budget under OMB control number 3067–0169.)"

Signed _____
(Responsible Reporting Officer)
Date _____

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: January 25, 1996.

Elaine A. McReynolds,

Administrator, Federal Insurance Administration.

[FR Doc. 96–2089 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–05–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20, 61, and 69

[CC Docket Nos. 95–185 and 94–54, FCC 95–505]

Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is issuing this Notice of Proposed Rulemaking seeking comment on possible changes in the regulatory treatment of interconnection compensation arrangements between LECs and CMRS providers and related issues. The Notice tentatively concludes that in order to ensure the continued development of wireless services as a potential competitor to LEC services, the Commission should move expeditiously to adopt interim policies governing the rates charged for LEC–CMRS interconnection. The Notice further tentatively concludes that, at least for an interim period, interconnection rates for local switching facilities and connections to end users should be priced on a "bill and keep" basis (*i.e.*, both the LEC and the CMRS provider charge a rate of zero for the termination of traffic), and that rates for dedicated transmission facilities connecting LEC and CMRS networks should be set based on existing access charges for similar transmission facilities. The Notice seeks comment on these tentative conclusions and on a number of alternative pricing options for LEC–CMRS interconnection arrangements. The Notice tentatively concludes that information about interconnection compensation arrangements should be made publicly available, and seeks comment on what method to use to achieve this objective, such as tariffing, public disclosure, or some other approach. The Notice seeks comment on how to implement both interim and permanent interconnection policies (*i.e.*, a non-binding model, or mandatory general or specific federal requirements), and tentatively concludes that the Commission has authority to adopt these approaches. The Notice also proposes compensation arrangements that should apply to interstate, interexchange traffic traversing interconnections between LECs and CMRS providers, which typically involve an interexchange carrier (IXC).

DATES: Comments are due on or before February 26, 1996 and Reply comments are due on or before March 12, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, DC 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW, Room 544, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW, Room 239, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David Sieradzki at (202) 418–1576 or Kathleen Franco at (202) 418–1932, Common Carrier Bureau, Policy and Program Planning Division.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted December 15, 1995 and released January 11, 1996 (FCC–95–505). The full text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW, Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Notices/fcc95505.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., NW, Suite 140, Washington, DC 20037.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

A. Summary

1. In this Notice, the Commission continues its examination of whether our policies related to interconnection between commercial mobile radio service (CMRS) providers and local exchange carriers (LECs) are sufficient to advance the public interest. We currently require LECs to offer interconnection to CMRS providers on reasonable terms and conditions, and to do so under the principle of mutual compensation. We have not, however, set specific limits on the price of such interconnection, nor have we required that interconnection agreements be filed with regulatory authorities or that interconnection be provided pursuant to tariff.

2. We are concerned that existing general interconnection policies may not do enough to encourage the development of CMRS, especially in competition with LEC-provided wireline service. LECs unquestionably still possess substantial market power in the provision of local telecommunications services. If commercial mobile radio services, such as broadband personal communications services (PCS), cellular telephone services, satellite telephony, and interconnected specialized mobile radio (SMR) services, are to begin to compete directly against LEC wireline services, it is important that the prices, terms, and conditions of interconnection arrangements not serve to buttress LEC market power against erosion by competition.

3. This Notice therefore considers the policy issues involved in establishing compensation arrangements for LEC–CMRS interconnection. We tentatively conclude that in order to ensure the continued development of wireless services as a potential competitor to LEC services, we should move expeditiously to adopt interim policies governing the rates charged for LEC–CMRS interconnection. We further tentatively conclude that, at least for an interim period, interconnection rates for local switching facilities and connections to end users should be priced on a "bill and keep" basis (*i.e.*, both the LEC and the CMRS provider charge a rate of zero for the termination of traffic), and that rates for dedicated transmission facilities connecting LEC and CMRS networks should be set based on existing access charges for similar transmission facilities. We seek comment on these tentative conclusions and on a number of alternative pricing options for LEC–CMRS interconnection arrangements. We also tentatively conclude that information about interconnection compensation arrangements should be made publicly available, and seek comment on what method to use to achieve this objective, such as tariffing, public disclosure, or some other approach. We also seek comment on how we should implement both interim and permanent interconnection policies (*i.e.*, a non-binding model, or mandatory general or specific federal requirements), and we tentatively conclude that we have authority to adopt these approaches. In addition, we propose compensation arrangements that should apply to interstate, interexchange traffic traversing interconnections between LECs and CMRS providers, which typically involve an interexchange carrier (IXC).

B. Overview

1. Goals. 4. In developing policies regarding LEC–CMRS interconnection, our overriding goal is to maximize the benefits of telecommunications for the American consumer and for American society as a whole. As with other areas of common carrier policy, we adopt policies that are intended to create or replicate market-based incentives and prices for both suppliers and consumers. By relying on market-based incentives and prices, where possible, and replicating them, where necessary, our policies have sought to ensure the availability to consumers of goods and services at the lowest overall cost. With the most efficient firms producing goods and services at the lowest cost, consumers benefit from lower prices. With consumers receiving cost-based pricing signals, they purchase communications goods and services only when they receive value greater than or equal to the cost of producing them. In general, reasonable and non-discriminatory rates should give consumers incentives to purchase the combination of services that they most value. As a matter of long-term policy, functionally equivalent services—including services related to network interconnection—should be available to all classes of consumers at the same prices, unless there are cost differences or policy considerations that justify different rates. In addition, these policies, over time, should ensure an efficient level of innovation in terms of the development of new services and the deployment of new technology, as well as the efficient entry of new firms. Service providers should make optimal levels of investments in developing new technologies and new services, and consumers should receive the maximum benefit from their purchases of telecommunications services.

5. Our policies also have sought to ensure and advance universal basic telephone service. For individual households, being connected to telecommunications networks—whether wireline LEC networks or wireless CMRS networks—facilitates access to emergency services, employment and educational opportunities, and social interaction. We recognize that not all the societal benefits accrue to the

individual being connected with the network. Thus, we have pursued our mandate under the Communications Act by adopting specific programs designed to advance universal service in areas and for individuals where special needs exist.

6. Our primary means for achieving these public interest goals has been competition. Competition drives prices toward cost: In a competitive market, rival service providers will have strong incentives to reduce their prices to attract customers until prices approach their costs. The cost-based prices achieved in competitive markets ensure optimal utilization of the network by consumers and give service providers accurate information regarding the benefits and costs of introducing new services and incentives for investing in technological innovations. In addition, competition gives producers strong incentives to stimulate demand and reduce costs. By forcing producers to minimize the per-unit costs of providing service, competition generally advances, rather than hinders, universal service. It increases the number of consumers willing and able to connect to the nation's telecommunications networks.

7. Of course, full competition does not exist in many areas of telecommunications, and, because of the general benefits society derives from universal service, even full competition by itself may not be sufficient to further our public interest goals. In those circumstances, policymakers may need to intervene. Regulatory policies should be capable of implementation in a timely manner, cost-effective to both regulators and industry, and enforceable.

2. Need for Reform. 8. The Communications Act provides that carriers shall offer interconnection when it is determined to be in the public interest. The ability to interconnect has become more important because today telecommunications is increasingly provided by a system of independent, interconnected networks, often referred to as a "network of networks." In this environment, the ability of communications to move seamlessly from one network to another is becoming increasingly vital. Uneconomic and unnecessary barriers to the flow of communications between the increasing number of diverse networks would seriously undermine the benefits of telecommunications to consumers and the American economy and would impede the development of competition between network providers.

9. Efficient interconnection with LEC networks, which reach, on a nationwide basis, 93.8% of all households, benefits both subscribers and providers of services. First, interconnection enables new providers to compete with incumbent LECs on the basis of the services they offer the public and the prices, quality, and features of those services. In the complete absence of interconnection, prospective new entrants would have to attract enough capital to build and provide origination, transport, and termination services for an entire geographic area, such as a metropolitan area. Second, interconnection allows subscribers of one network to obtain access to subscribers of all other interconnected networks. In a market with multiple and possibly competing networks, it is unlikely that all people would subscribe to all networks. Thus, without interconnection, subscribers to one network may be unable to reach people who subscribe only to some other network.

10. The availability of interconnection cannot, however, be divorced from its price. Interconnection that is priced too high can be the marketplace equivalent of no interconnection. An interconnection obligation is undermined if the charges imposed for interconnection are excessive, and society will not enjoy the benefits described above. On the other hand, if interconnection is available at an unreasonably low price, service providers that otherwise may have built their own facilities to serve part of a LEC's service territory in competition with the LEC may decline to do so. Facilities-based competition can confer benefits on customers such as lower prices, accelerated innovation, and deployment of new technologies. Interconnection at efficient prices should lead to the highest and best use of the existing telecommunications infrastructure, as well as the expansion of this infrastructure, because proper pricing will send economically efficient signals to firms to decide whether the costs of interconnection in a particular case are less than or greater than the benefits of interconnection.

11. In the absence of market power or other distortions, efficient forms of interconnection may develop through private negotiation. For example, small interexchange carriers interconnect with one another, and purchase and resell one another's services, with little or no outside involvement. Similarly, Internet service providers have developed interconnection arrangements without intervention by outside parties.

12. LECs, however, unquestionably still possess substantial market power in the provision of local telecommunications services. Thus, a LEC may have the incentive and the ability to prevent or reduce the demand for interconnection with a prospective local competitor, such as a CMRS provider, below the efficient level by denying interconnection or setting interconnection rates at excessive levels. Such abuse of market power could lead to at least two problems. First, a LEC may extract monopoly rents for interconnection. Excessive prices for termination of CMRS-originated traffic would lead to retail prices (charged to CMRS customers) that are above the efficient level and thus discourage CMRS customers from placing calls to wireline customers that would be made if LEC interconnection rates were set at efficient levels. Second, a LEC may attempt to restrict the entry of potential competitors. To the extent that certain CMRS providers are potential competitors to a LEC's local telephone service, or to the extent that a LEC may wish to provide certain wireless services, a LEC may have an incentive to withhold interconnection from some CMRS providers. Even where interconnection is mandated, a LEC still could potentially restrict entry either by setting the interconnection rates prohibitively high or by specifying technical requirements for interconnection that are disadvantageous for the connecting network.

13. Another potential problem is that a LEC and an interconnecting CMRS provider may have the incentive and the ability to engage in collusive behavior. If the CMRS provider constitutes a substitute for the LEC network, the two networks could negotiate a high per minute charge to terminate each other's traffic as a means of giving each incentives to charge customers supra-competitive rates for local exchange service. It may be particularly likely that such collusive behavior could occur in cases where the CMRS provider is an affiliate of the LEC. Negotiation of interconnection arrangements could be used as a vehicle to keep the retail price of their respective retail services uneconomically high at the expense of customers. Depending on market structure developments, intervention may be necessary to prevent such outcomes.

14. As set forth below, we have recognized LEC market power by requiring that LECs interconnect with CMRS providers. Under our rules, LECs must negotiate in good faith to provide the type of interconnection arrangement desired by CMRS providers under the principle of mutual compensation, and to furnish interconnection for interstate traffic at reasonable and non-discriminatory rates. In response to an earlier Notice relating to CMRS interconnection issues, many commenters strongly argued, however, that our current policy can be and is being used by LECs to reduce competition. LECs typically terminate many more calls that originate from the cellular network than an interconnecting cellular network terminates LEC-originated calls. This is due, in part, to cellular customers' reluctance to give out their wireless telephone numbers (since they generally are charged for incoming calls), charges for cellular air time, or technical limitations on cellular telephones (*e.g.*, limited battery life). Because of this imbalance, LECs clearly would benefit competitively from maintaining high, even if symmetrical, interconnection charges. With the growing significance of interconnection and competition in today's telecommunications environment, we believe that a reexamination of our policies addressing compensation arrangements for LEC–CMRS interconnection is essential.

II. Compensation for Interconnected Traffic Between LECS and CMRS Providers' Networks

A. Compensation Arrangements

1. Existing Compensation Arrangements. 15. According to the comments received in this proceeding, at present, cellular carriers typically pay LECs three types of usage-sensitive charges for local calls from cellular subscribers to LEC subscribers, regardless of the physical interconnection facility used: (1) Per-call charges for call set-up; (2) per-minute charges for usage; and (3) per-minute, per-mile charges for transport between the cellular carrier's mobile telephone switching office (MTSO) and the LEC's tandem or end-office switch. Some cellular carriers contend that, notwithstanding our mutual compensation requirement, they typically are forced to pay LECs these charges for calls originating from cellular customers and terminating to LEC wireline customers, as well as for calls originating from LEC customers and terminating to cellular customers. Commenters also submit that, typically, substantially more traffic flows from cellular carriers to LECs than *vice versa*. This may be due to cellular customers' reluctance to give out their wireless telephone numbers, because of charges for cellular air time, technical limitations on cellular telephones (*e.g.*, limited battery life), or other factors. On the other hand, for services such as paging, most (or all) of the interconnected traffic flows from LECs to CMRS providers, rather than *vice versa*, because most pager devices are incapable of originating calls.

16. We invite commenting parties to provide more detailed information about existing LEC–CMRS interconnection arrangements. Specifically, we are interested in data regarding the rate structures and price levels in those arrangements. We also request comment on what facilities and technical arrangements are used in providing LEC–CMRS interconnection, what rate elements are applicable to providing the services, and the functions that are associated with each rate element. To what extent are these arrangements filed in tariffs before state commissions, or are otherwise publicly disclosed? To what extent do these arrangements make use of provisions in FCC tariffs? We also seek comment on the extent of, and reasons for, the imbalance of traffic flowing between LECs and CMRS providers. Are traffic flows likely to be more balanced in the future for existing commercial mobile radio services or new services such as PCS? Do LECs' current charges/tariffs differ depending on the flow of traffic? We also invite parties to submit data on the extent to which existing LEC–CMRS interconnection arrangements involve both interstate and intrastate traffic. In particular, we seek empirical data and analysis on the extent to which significant levels of interstate wireless traffic are being carried under such arrangements. We also seek comment on the extent to which our mutual compensation requirement is not being observed in the marketplace.

2. General Pricing Principles. a. Rate Structure. 17. In general, we believe that costs should be recovered in a manner that reflects the way they are incurred. Network providers incur costs in providing two broad categories of facilities, dedicated and shared. Dedicated facilities are those that are used by a single party—either an end user or an interconnecting network. Shared facilities are those that are used by multiple parties. Shared facilities can be further divided into two sub-categories, those that need to be augmented to increase the network's capacity and those that need not. In the first such sub-category are facilities, such as switches and multiplexing electronics, for which incremental investments can increase the volume of traffic that the network can handle during peak periods. In the second such sub-category are facilities, such as telephone poles and buildings that house equipment, whose capacity will not restrict the volume of traffic that the network can handle during peak periods.

18. The cost of a dedicated facility can be attributed directly to the party ordering the service that uses that facility. To the extent that the benefits of a dedicated facility accrue to the party to whom it is dedicated, it is efficient for that party to pay charges that recover the full cost of the facility. To ensure that the party pays the full fixed cost of the facility, the cost should be recovered on a non-traffic sensitive (NTS) basis (*i.e.*, without regard to actual usage). Charging a flat, cost-based rate ensures that a customer will pay the full fixed cost of the facility, and no more; this ensures that the customer will, for example, add additional lines if and only if the customer believes that the benefits of the additional lines will exceed their cost. An additional advantage of a flat fee is that it does not distort usage. The alternative, a usage-based charge, would cause parties with high traffic volumes to overpay (*i.e.*, pay more than the fixed cost of the facility), while parties with low traffic volumes would underpay (*i.e.*, pay less than the fixed cost of the facility). In addition, a usage-based charge would give all parties an uneconomic incentive to reduce their traffic volumes or to avoid connecting with networks that impose such charges. It would also give parties with low volumes of traffic, who face below-cost prices, an incentive to add lines that they valued below their cost.

19. The costs of shared facilities whose cost varies with capacity, such as network switching, should be recovered in a manner that efficiently apportions costs among users. Since the cost of capacity is a function of the volume of traffic the facilities are able to handle during peak load periods, we believe, as a matter of economic theory, that network capacity costs should primarily be recovered through traffic-sensitive (TS) rates charged for peak period traffic, with lower rates for non-peak usage. The peak load price should be designed to recover at least the cost of the incremental network capacity added to carry peak period traffic. Pricing traffic during peak periods based on the cost of the incremental capacity needed to handle additional traffic is economically efficient because additional traffic will be placed on the network if and only if the user or interconnecting network is willing to pay the cost of the incremental network capacity required to handle this additional traffic. Such pricing also ensures that a call made during the peak period generates enough revenue to

cover the cost of the facilities expansion it requires, and it thus gives carriers an incentive to expand and develop the network efficiently. In contrast, off-peak traffic imposes relatively little additional cost because it does not require any incremental capacity to be added, and consequently, the price for carrying off-peak traffic should be lower.

20. We recognize that there may be practical problems in implementing a peak sensitive pricing system. For example, different parts of a given provider's network may experience peak traffic volumes at different times (*e.g.*, in LEC networks, business districts may experience their peak period between 10 and 11 a.m., while suburban areas may have their peak periods between 7 and 8 p.m.). Moreover, peak periods may change over time. For instance, charging different prices for calls made during different parts of the day may cause some customers to shift their calling to the less expensive time periods, which could potentially shift the peak or create new peaks. We seek comment on whether a system with a long peak period (*e.g.*, 8 a.m. to 9 p.m.) and with peak and off-peak rates that reflect both the difference in costs across these periods and customers' propensity to substitute across time periods would improve the utilization rates of the network and would be administratively simple. We seek comment on this analysis, and on possible methods for implementing peak-load pricing or other schemes to recover shared network capacity costs. We also seek comment on possible administrative costs associated with peak-load pricing or other schemes to recover shared network capacity costs.

21. There are also certain shared facilities, such as land, buildings, and telephone poles, whose costs do not vary with capacity (or peak period traffic volumes). As we discuss in the following section on rate levels, there are theoretical and practical problems associated with recovering these shared costs and overheads. We seek comment on how these costs should be recovered and, in particular, on whether they should be recovered entirely through peak rate charges, or through off-peak rates as well. Finally, we note that a carrier may incur varying costs to provide a given service in different geographic areas. We seek comment on how this should be taken into account.

b. Rate Levels. *(1) Long Run Incremental Costs.* 22. The long run incremental cost (LRIC) of a service is the theoretical foundation for efficient pricing of interconnection and other network services. Economists generally agree that prices based on LRIC reflect the true economic cost of a service and give appropriate signals to producers and consumers and ensure efficient entry and utilization of the telecommunications infrastructure. Since customers will buy a good only if the benefit to the customer exceeds the price, prices based on LRIC ensure that customers purchase a good only when the benefit exceeds the cost. Similarly, since firms will offer a service when the revenue exceeds the cost, prices based on LRIC ensure a firm has an incentive to offer a service when customers' willingness to pay for the service exceeds the cost of providing it.

23. Pricing at LRIC raises some difficulties, however. First, attempting to determine the LRIC of a specific service for a particular LEC is likely to raise significant practical and administrative problems. In addition, given that services are provided over shared facilities and there are economies of scale and scope, setting the price of each discrete service based on the LRIC of that service will not recover the total costs of the network. Similarly, where technological developments are reducing the costs of providing service, setting the price of discrete services equal to the forward-looking LRIC of each service is not likely to recover the historical, embedded costs of the network (or the interstate share of such costs assigned by our Part 36 separations rules). We seek comment on the empirical magnitude of these cost differentials.

(2) Recovering Costs in Excess of Long Run Incremental Costs. 24. The fact that pricing based on the LRIC of specific services may not cover all common costs raises difficult issues for pricing interconnection. In particular, this problem means that, if all costs are to be recovered, some services must be priced above LRIC, which will cause some distortions. It is therefore necessary to consider whether terminating carriers should be allowed to recover such costs in excess of LRIC, and if so, to address the method of recovering such costs that would minimize economic distortions and best advance our goals. We seek comment on how best to deal with this recovery issue and, in particular, on the following approaches.

25. One approach would be to allow carriers to set LEC–CMRS interconnection rates equal to the LRIC of the individual services associated with interconnection, and to recover common costs by having the rates for other services, such as vertical calling features (*e.g.*, call waiting, call forwarding, or caller ID), exceed LRIC. This would clearly benefit those CMRS and LEC networks that seek to interconnect with one another's network. We seek comment on whether, and on what basis, LEC–CMRS interconnection offerings should be treated differently from a carrier's other service offerings, which generally are priced to recover some portion of shared costs and overheads.

26. Another approach would be to allocate shared costs and overhead among services in an inverse relationship to the sensitivity of demand for each of the services. Under this "Ramsey rule," a higher percentage of shared costs and overheads would be allocated to services for which the quantity demanded declines less as the price increases, than to services for which demand is more sensitive to changes in price. In theory, this approach has the advantage that it efficiently minimizes reductions in the quantities of services demanded due to prices above LRIC. While demand sensitivity is clearly relevant to setting efficient prices, there is some concern about how Ramsey principles should be applied to markets subject to actual or potential competition. We recognize that Ramsey pricing principles were developed in the context of a regulated monopoly and not for markets subject to existing or potential competition. We seek comment on whether such an approach is desirable for markets in which competition is developing. We also seek comment on whether such a pricing rule is in the public interest, given that it may result in imposing the greatest burdens on those customers who have the fewest alternatives.

27. A third commonly employed alternative would be to allocate shared costs and overheads among all services based on some specified allocator. For example, shared costs and overheads could be allocated among services uniformly in proportion to each service's LRIC or direct costs, or could be apportioned based on some measure of usage. The advantages of these allocators are that they are relatively simple to administer and result in full recovery of all shared and overhead costs. A principal drawback of this approach, however, is that it may have undesirable effects on demand for particular services. More specifically, such allocators do not minimize the distortions in demand caused by divergences between price and LRIC, and may induce inefficient investment by incumbents and entrants. In addition, or in the alternative, we could limit the permissible overhead loading factor a LEC could collect from an interconnecting CMRS provider to the overhead loading factor that the LEC uses for some comparable service or services that compete with CMRS offerings.

28. A fourth approach would be to allow incumbent carriers such as LECs to employ the "efficient component pricing rule" (ECPR) proposed by economist William Baumol and others. Under this approach, an incumbent carrier that sells an essential input service, such as interconnection, to a competing network would set the price of that input service equal to "the input's direct per-unit incremental cost plus the opportunity cost to the input supplier of the sale of a unit of input." The ECPR essentially guarantees that the incumbent will recover not only all of its overheads, but also any profits that it would otherwise forego due to the entry of the competitor. Proponents of the ECPR argue that the ECPR creates an incentive for services to be provided by the least-cost provider and that it makes the incumbent indifferent between selling an input service to a competitor or a final service to an end user. Critics, however, have shown that these properties only hold in special circumstances. On the other hand, some express concern that the ECPR may inhibit beneficial entry. In addition, because the ECPR would permit an incumbent carrier to recover its opportunity costs, including any monopoly profits in the sale of the final service, the use of this rule may prevent competitive entry from driving prices towards competitive levels. These arguments cast significant doubts on claims that the rule will yield efficient outcomes. Finally, as an administrative matter, it would be difficult for a regulatory agency to determine the actual level of a carrier's opportunity cost.

29. Finally, we might adopt an approach that permits a range of permissible rates (and implicitly of overhead allocations). We note, for example, that the Commission has repeatedly expressed concern about preventing cross-subsidies. Some economists have defined the following alternative tests for cross-subsidy: (1) The price of each individual service, and of any group of services, must be less than the stand-alone cost of that service (*i.e.*, the cost of providing that service alone but no other services); or (2) the revenue from each service and from all subsets of services must exceed the incremental cost of the service or the subset of services. According to these definitions, if either of the two tests is satisfied, there is no cross-subsidy. This test effectively requires that the revenues generated by any group of services that share a common facility recover at least the incremental cost of that facility. We seek comment on this theory, and on whether it reduces the range of acceptable prices, and hence, implicitly, the range of acceptable allocation schemes.

30. We seek comment on the foregoing approaches to determining rate levels, how they might apply in the context of LEC–CMRS interconnection, the extent to which they are administratively feasible, and how they will affect rates for other services including intrastate services. We also seek comment on how these LEC–CMRS interconnection rate levels could affect telecommunications network subscribership and universal service. We also ask parties to address the extent to which these approaches could be implemented in the context of the specific pricing options discussed in the following section.

c. Practical Considerations Regarding Cost-Based Pricing. 31. LEC–CMRS interconnection rates could be based on a specific demonstration of the costs of providing service, much as we do for establishing rates for new services under our price cap rules. The new services test requires price cap LECs to demonstrate that the rates for a new service recover the direct costs of that service plus a reasonable share of overhead loadings. We seek comment on whether we should provide guidance with respect to such a cost showing similar to our interpretation of the new services test in *Telephone Company-Cable Television Cross Ownership Rules*, Memorandum Opinion and Order on Reconsideration, 59 FR 63909 (December 12, 1994) (*Video Dialtone Reconsideration Order*). In addition, we seek comment on how we should deal with overhead loadings and whether we should employ any of the alternative approaches discussed in the previous section. We also note that similar cost justification requirements could be enforced by state commissions.

32. The approaches described in the preceding paragraph have a number of advantages, in that they result, at least in theory, in cost-based rates for particular services. On the other hand, these approaches have the disadvantage, typically, of requiring contentious, and time-consuming administrative proceedings to resolve the complex issues raised by cost studies.

3. Pricing Options. a. Interim Approach. 33. Any significant delays in the resolution of issues related to LEC–CMRS interconnection compensation arrangements, combined with the possibility that LECs could use their market power to stymie the ability of CMRS providers to interconnect (and may have incentives to do so), could adversely affect the public interest. We tentatively conclude that it will better serve the public interest to give providers some degree of certainty, within a short time, that reasonable interconnection arrangements will be available. Some of the alternatives described below may approximate the results of cost studies, and thus provide most of the advantages of the theoretical model described above, but avoid the main disadvantages—administrative costs and delays.

34. Accordingly, we tentatively conclude that an interim pricing approach should be adopted that could be implemented relatively quickly and with minimal administrative burdens on CMRS providers, LECs, and regulators. We plan to move forward expeditiously so as to have an interim pricing approach in place in the near term. Below, we discuss our tentative conclusion that a bill and keep approach (zero rate for termination of traffic) should apply with respect to local switching facilities and connections to end users, with the exception of dedicated transmission facilities linking the two networks. We also set out a number of alternative approaches. Our preferred approach or the alternative options could be adopted as interim solutions for some limited period of time. We seek comment on whether such an approach should apply for a prescribed time period, whether months or years, or until the occurrence of a specific triggering event. With respect to our preferred approach and each of the alternative options discussed below, we ask parties to address whether some combination of these options should be made available, and on the implementation costs for carriers, as well as the speed with which such options could be implemented. In particular, we seek comment on the extent to which modifications would be required in the network to implement such options (*e.g.*, to collect information necessary for billing and collection), the cost of such modifications, and who should bear such costs. We also solicit parties' analysis of the relevant administrative burdens on the Commission caused by the various options, and the ease with which these options can be enforced. Finally, we seek comment on any changes to our approaches that would be necessary or advisable if LECs and CMRS providers were to change current arrangements for recovering costs from end users.

(1) Tentative Conclusions. 35. *Bill and Keep.* We tentatively conclude that a "bill and keep" arrangement represents the best interim solution with respect to

terminating access from LEC end offices to LEC end-user subscribers, and with respect to terminating access from equivalent CMRS facilities to CMRS subscribers. Under bill and keep arrangements, neither of the interconnecting networks charges the other network for terminating the traffic that originated on the other network, and hence the terminating compensation rate on a usage basis is zero. Instead, each network recovers from its own end-users the cost of both originating traffic delivered to the other network and terminating traffic received from the other network. Bill and keep arrangements yield results that are equivalent to the networks charging one another incremental cost-based rates for shared network facilities if the incremental cost of using such facilities is equal to (or approximates) zero for both networks. We note that several states, including California, Connecticut, Texas and Pennsylvania, have implemented bill and keep arrangements, at least on an interim basis. We tentatively conclude that, as an interim solution, such bill and keep arrangements should cover both peak and off-peak time periods.

36. Bill and keep arrangements appear to have a number of advantages, especially as an interim solution. First, such arrangements are administratively simple and would require the development of no new billing or accounting systems. Second, the bill and keep approach prevents incumbent LECs that possess market power from charging excessively high interconnection rates. Third, according to proponents, a bill and keep approach is economically efficient if either of two conditions are met: (1) Traffic is balanced in each direction, or (2) actual interconnection costs are so low that there is little difference between a cost-based rate and a zero rate. Proponents of bill and keep submit that condition (2) is satisfied in the case of LEC–CMRS interconnection because they allege that the average incremental cost of local termination on LEC networks is approximately 0.2 cents per minute.

37. In view of these advantages, we tentatively conclude that, for terminating access between the end office (or equivalent CMRS facilities) and the end-user subscriber, a bill and keep arrangement applied to both peak and off-peak periods represents the best interim solution. We also tentatively conclude that a requirement that LECs and CMRS providers not charge one another for terminating traffic from the other network would not violate any party's legal rights. Specifically, we believe that a bill and keep requirement would not deprive either LECs or CMRS providers of a reasonable opportunity to recover costs they incurred to terminate traffic from the other's network, because these costs could be recovered from their own subscribers. We seek comment on these tentative conclusions. We also seek comment on the effect that a bill and keep approach is likely to have on traffic flows between LEC and CMRS networks: is this approach likely to lead to more balanced traffic flows, or will it create incentives to perpetuate or exacerbate existing traffic imbalances between LEC and CMRS networks?

38. *Transport Costs between the CMRS and LEC Networks.* The analysis of bill and keep presented in comments by Dr. Gerald W. Brock, Director of the Graduate Telecommunications Program, George Washington University, appears not to consider the costs associated with the physical transmission circuits connecting CMRS MTSOs with LEC end offices. Transmitting calls between CMRS and LEC networks can be accomplished through the use of dedicated facilities between CMRS MTSOs and LEC end offices, or through dedicated facilities between CMRS MTSOs and LEC tandem switches. When tandem switches are used, additional tandem-switched transport, consisting of tandem switching and transmission over common transport facilities, is used to transmit traffic between LEC tandem switches and LEC end offices. These facilities are generally provided by LECs. With respect to dedicated transport facilities, cost-causation principles suggest that the costs of such facilities be recovered from the cost-causer through flat rates. With respect to shared facilities used to provide tandem-switched transport, cost-causation principles suggest traffic-sensitive cost recovery, at least during peak periods.

39. LECs' existing interstate access tariffs include flat rates for dedicated transport (entrance facilities and direct-trunked transport) that we have concluded, in general, are reasonably cost-based. Similar charges are included in many LEC intrastate access tariffs. These tariffed charges could be applied to CMRS providers relatively rapidly, with virtually no additional administrative proceedings. Moreover, we believe that the dedicated transport facilities used to connect LEC and IXC networks are similar or identical to the facilities connecting LEC and CMRS networks. Accordingly, we tentatively conclude that, when LECs provide the dedicated transmission facilities between CMRS MTSOs and LEC networks, they should be able to recover the costs of those facilities from CMRS providers through appropriate dedicated transport rates found in their existing access tariffs. We seek comment on this tentative conclusion.

40. We also seek comment on whether and how LECs should recover from CMRS providers the costs of tandem switching and common transport between tandem switches and end offices, in cases where such LEC-provided facilities are used. The LECs' interstate access tariffs include usage-sensitive charges for tandem-switched transport, as do many state tariffs. Should these tandem-switched transport charges be applied to CMRS providers? Should such charges apply to all minutes, or only to traffic during peak periods?

(2) Other Options. 41. While we tentatively conclude that the proposals outlined above would lead to LEC–CMRS interconnection arrangements that best serve our public interest objectives during an interim period, we also seek comment on a number of alternative approaches. We seek comment on the relative costs and benefits of our proposals and these options. We also invite parties to suggest other alternatives or combinations of these options that would advance our public interest objectives and that could be implemented rapidly and with minimal administrative costs.

42. *Bill and Keep for Off-Peak Usage Only.* Brock acknowledges that "[i]f interconnection charges are imposed, they should be assessed at the long run incremental cost of adding capacity." He also acknowledges that "the true cost for peak period usage is much greater than the cost for off peak usage * * * (which) may be near zero," and that the cost for peak period usage is much higher than the average incremental cost of local usage, which he estimates to be 0.2 cents ($0.002) per minute. In light of Brock's comments, we seek comment on whether a bill and keep approach should be limited to off-peak traffic, with charges assessed for peak-period traffic. We seek comment on what charges should apply for peak period traffic under this approach. For instance, we seek comment on whether some subset of existing access charges should apply, or whether an incremental capacity cost for peak-period traffic should be developed. We also seek comment on the peak periods for both LEC and CMRS networks, and the appropriate period for a peak capacity charge. In addition, we seek comment on whether charging different prices for peak and off-peak traffic has any disadvantages and whether it is likely to result in a shift in the peak period. In addition, we seek comment on the potential administrative costs and complexity involved in this approach.

43. *Subset of Access Charges.* To the extent that LEC–CMRS interconnection arrangements are similar to the interconnection arrangements between LECs and IXCs or other access customers, the rates for LEC–CMRS interconnection could be based on a subset of the LECs' existing interstate access charges (or comparable rates from their intrastate access tariffs). As noted above, LECs could charge existing local transport rates for the transmission facilities that they provide to link LEC and CMRS networks. Similarly, LECs could charge CMRS providers existing local switching rates for minutes of use originating on CMRS networks and terminating on LEC networks. We do not envision that the LECs would charge CMRS providers the carrier common line (CCL) charge. The CCL charge, in essence, represents a subsidy from LECs' interstate access customers to reduce the subscriber line charges (SLC) paid by end-user subscribers for loop facilities that are dedicated to their use. We do not believe that such a subsidy should be imposed on CMRS providers. Under this alternative, we are also inclined not to permit LECs to charge CMRS providers the transport interconnection charge (TIC), given that the extent to which the TIC recovers transport-related costs is unclear. We seek comment on what subset of access charges should apply if we select this option as an interim compensation mechanism. We also seek comment on whether per-minute access charges should be converted into peak-sensitive capacity charges (either per-peak minute or flat-rate) in the context of LEC–CMRS interconnection, and, if so, on how to do so. In addition, we seek comment on whether the LECs' access charges would be an appropriate framework for LEC–CMRS interconnection once our Access Reform proceeding is completed.

44. *Existing Interconnection Arrangements Between Neighboring LECs.* In the alternative, LEC–CMRS interconnection arrangements could be based on existing arrangements between neighboring LECs. We seek comment on whether LECs should be required to disclose publicly the terms of their interconnection arrangements with neighboring LECs and to offer CMRS providers comparable arrangements. This option could help ensure that CMRS providers receive interconnection on terms and conditions that are at least as favorable as neighboring LECs. Neighboring LECs generally are larger and more established than CMRS providers and thus more likely to have been able to negotiate reasonable interconnection arrangements. We ask parties for comment on this option. In particular, we ask parties to describe existing arrangements between neighboring LECs and to comment on whether these arrangements would be workable in the context of other forms of LEC–CMRS interconnection.

45. *Existing Interconnection Arrangements Between LECs and Cellular Carriers.* Another possibility would be to apply the same rates, terms, and conditions in existing LEC-cellular interconnection arrangements to broadband PCS providers, or to other categories of CMRS providers. Like the previous option, this option could help ensure that CMRS providers would receive interconnection on terms and conditions that are at least as favorable as cellular carriers. We seek comment on whether cellular carriers, like neighboring LECs, are better established than broadband PCS providers and thus are more likely to have negotiated reasonable interconnection arrangements. We ask the parties to describe existing interconnection arrangements between LECs and cellular carriers and to comment on whether these arrangements could be extended to other forms of LEC–CMRS interconnection.

46. *Intrastate Interconnection Arrangements Between LECs and New Entrants.* In a few states, LECs have filed tariffs providing for interconnection arrangements with competing wireline providers of local exchange service. We invite parties to comment on the various state approaches, such as those in Illinois, Michigan, Maryland, and California, in particular on whether CMRS providers should be eligible for these offerings or whether there is any technical or economic basis for distinguishing CMRS from wireline interconnection. We also ask parties to provide us with other relevant information about state regulations in this area, and to comment on the extent to which state actions in wireline-wireless interconnection may serve as a model for LEC–CMRS interconnection. We note that, as part of broader initiatives to remove the statutory or regulatory barriers to entry into the local telephone market, several states have initiated proceedings, and in some cases adopted interim or permanent rules, governing interconnection arrangements between LECs and competing local carriers. We ask parties to comment on these state regulations and on the relative costs and benefits of various approaches states have taken in this area.

47. *Measured Local Service Rates.* With respect to rates that recover the costs of shared facilities whose costs vary in proportion to capacity, we seek comment on whether interconnection rates should be set at some fixed percentage of the measured local service rates that LECs currently charge their local customers. For example, if a LEC currently charges its own measured local service customers 5 cents per minute, it could charge an interconnecting CMRS provider half that amount—2.5 cents per minute. This option essentially would assume that the existing measured service rates are cost-based, and that the LEC's cost in terminating a call placed by a CMRS customer is one-half (or some other percentage) of the cost of both originating and terminating a call placed by a LEC customer to another LEC customer. Under a variant of this option, if a LEC does not offer measured local service, or if few LEC customers select such service, an imputed per-minute rate could be derived by dividing the LEC's monthly local service rate by the average customer's number of local minutes originated per month. Both the basic option and the variant discussed here have the appeal of facilitating competition between CMRS providers and LECs, by ensuring that CMRS providers never pay more for interconnection than LECs charge for a complete call. A disadvantage of these options is that they would not necessarily result in cost-based interconnection rates.

48. *Uniform Rate.* We also seek comment on whether a presumptive uniform per-minute interconnection rate should be established for all LECs and CMRS providers. Such a rate could be developed from generic, forward-looking studies of LEC network costs. We invite parties to submit any such studies into the record of this proceeding. A second option would be to develop such a rate based on one or more (or an average) of the state policy decisions cited in the preceding paragraph. Interconnection rates that have been ordered or accepted by state commissions range between 0.5 cents to 2.4 cents per minute, with a median of around one cent per minute. A third possibility would be to set such a uniform rate based on the average level of LECs' interstate access charges. For example, the per minute rate for terminating traffic interconnected at an end-office (exclusive of flat-rate charges for circuits connecting LEC and CMRS networks and per-minute charges for tandem switched transport) could be set

based on the average level of LECs' interstate local switching charges, but not transport interconnection charges or carrier common line charges. We seek comment on the advantages and disadvantages of establishing a uniform interconnection rate level, whether establishing such a uniform rate would be lawful, the basis on which such a rate might be set, and the practical problems of implementing such a rate scheme. We also seek comment on whether such a rate, instead of being a presumptively lawful rate, should be a prescription, and on what showing a carrier would need to make to charge a different rate. In the alternative, we seek comment on whether carriers should apply different interconnection rate levels in different geographic areas that they serve.

49. *Bill and Keep Until a Satisfactory Rate Is Developed.* Finally, we seek comment on whether a bill and keep arrangement should be imposed on a LEC pending the negotiation of a satisfactory interconnection arrangement between the LEC and a CMRS provider or the approval of other cost based charges. If the negotiations were to break down, a reasonable basis for resolving the dispute might be the imposition of a rate equal to the lowest of: (1) Existing interconnection arrangements between the LEC and neighboring LECs; (2) intrastate interconnection arrangements between the LEC and new entrants; or (3) a subset of LEC interstate access charges for terminating traffic. A LEC would be allowed, however, to demonstrate that the lowest of the charges described above does not provide the LEC with a reasonable opportunity to recover all the costs incurred in terminating CMRS traffic on the local landline network, and some overhead costs. This approach would preserve the primary role of negotiations between the parties in reaching interconnection arrangements, but would limit the LEC's ability to exercise its market power, while simultaneously creating an incentive for it to negotiate a satisfactory rate expeditiously. We also seek comment on whether CMRS providers would have an incentive to negotiate under this approach.

b. *Long Term Approach.* 50. We seek comment on what the long-term approach to interconnection pricing should be, whether one of the interim options outlined above should be the permanent methodology, or whether interconnection rates should be based on a specific demonstration of the cost of providing service, much as we require for establishing rates for new services under our price cap rules. We believe that, in the long term, pro-competitive LEC–CMRS interconnection arrangements should be developed that advance our public interest objectives. First, these arrangements should give efficient incentives regarding both consumption and investment in telecommunications services. To this end, prices should be reasonably cost-based. Cost-based prices could be derived through cost studies, or could be based on potentially reasonable proxies in lieu of developing rates based on complete cost justifications, possibly including one or more of the interim approaches described above. Moreover, over time, we believe that price cap regulation and increasing competition will force interconnection rates toward cost. Ultimately, markets may become sufficiently competitive that cost-based interconnection prices should result without any regulatory intervention.

51. Second, functionally equivalent forms of network interconnection arguably should be available to all types of networks at the same prices, unless there are cost differences or other policy considerations that justify different rates. Thus, in the long run, if LECs provide essentially similar interconnection services to CMRS providers and to IXCs, then it may well be in the public interest for the rates in LEC–CMRS interconnection arrangements not to differ from the rates for LEC–IXC interconnection—*i.e.*, access charges. We acknowledge, however, that there may be significant reasons, including our interest in facilitating the competitive development of CMRS and considerations relating to the Part 36 jurisdictional separations rules, that may necessitate differences in regulatory regimes. We also recognize that current interstate access charges are problematic, and in the near future we intend to initiate a comprehensive proceeding to reform the access charge regime. We also seek comment on the impact of each of the pricing options on universal service considerations. Finally, we note that substantially different prices for similar forms of interconnection raise the possibility that parties could seek to deflect traffic from a more costly form of interconnection to a less costly form. We invite comment on the implications of this possibility, including methods to prevent such traffic deflection.

c. *Symmetrical Compensation Arrangements.* 52. We tentatively conclude that LEC–CMRS interconnection rates should be symmetrical—that is, LECs should pay CMRS providers the same rates as CMRS providers pay LECs. Most existing interconnection arrangements between LECs and competing wireline providers of local exchange service require that interconnection rates be symmetrical.

53. We recognize that symmetrical interconnection rates have certain disadvantages. Asymmetrical, cost-based rates have the benefit of providing each of the carriers (and, if passed through to them, their customers) incentives to use resources such as interconnection commensurate with the actual cost of those resources. LEC networks and CMRS networks use different technologies that may have different costs. If interconnection rates were fully cost-based, then a LEC might pay a CMRS provider different interconnection rates than the CMRS provider would pay the LEC.

54. On the other hand, symmetrical compensation rates would be administratively easier to derive and manage than asymmetrical rates based on the costs of each of the respective networks. Moreover, symmetrical rates could reduce LECs' ability to use their bargaining strength to negotiate an excessively high termination charge that CMRS providers would pay LECs and an excessively low termination rate that LECs pay CMRS providers. Setting asymmetric, cost-based rates might require evaluating the cost structure of non-dominant carriers, which would be complex and intrusive. Accordingly, we tentatively conclude that interconnection arrangements should include symmetrical compensation rates, at least during an interim period. We seek comments on the foregoing analysis. Commenters should discuss any other reasons why symmetrical or asymmetrical compensation rates would be in the public interest and the relative merits of these approaches. We also seek comment on whether we should revisit our existing policy of forbearing from regulating CMRS providers' rates in order to enforce our interim policies with respect to the rates CMRS providers charge to LECs.

55. In addition, we note that, according to a number of parties, many LECs do not now pay any compensation to CMRS providers for LEC-originated traffic that terminates on their networks, and that some LECs even impose charges on CMRS providers for such traffic. Such conduct would appear to violate our existing mutual compensation requirement. We seek comment on whether such violations are occurring and what methods could and should be used to enforce this requirement. In *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services,* Second Report and Order, 59 FR 18493 (April 19, 1994), we stated that CMRS providers may file complaints, under section 208 of the Act, if a LEC violates the requirement that they charge the same rates to CMRS providers for interstate interconnection as they charge other mobile service providers. Is this avenue for obtaining remedies sufficient, or should we institute some other procedure or other mechanism to ensure that LECs comply with our existing rules? For example, should we require LECs to report to us on the amounts of compensation they are paying to CMRS providers for traffic that originates on LEC networks and terminates on CMRS networks? Are alternative dispute resolution procedures necessary?

C. Implementation of Compensation Arrangements

1. Negotiations and Tariffing. 56. As discussed above, we believe that some involvement in the formation and administration of interconnection arrangements between LECs and CMRS providers would help to counter possible abuses of market power and would help ensure that these arrangements are efficient and advance the public interest. We also have addressed the types of compensation arrangements that we believe would best serve the public interest. We seek more detailed comment on the type of involvement that would be optimal in light of our views on the compensation arrangements. In particular, we ask parties to comment on the interrelationship of the procedural issues addressed in this section to the substantive policy options regarding compensation arrangements discussed above. Some of the substantive options discussed above might make some procedural approaches infeasible, or could make certain protections unnecessary.

57. In considering how to implement our policies regarding interconnection arrangements, we seek to promote arrangements that foster competition and advance economic efficiency and our other goals. We also desire to enable LECs and CMRS carriers to respond rapidly and flexibly to changing interconnection needs. We seek comment on whether an open process in which a LEC and a CMRS provider freely discuss and negotiate a wide variety of interconnection options is preferable to a process whereby the LEC presents the CMRS provider with a limited choice of preset interconnection options. There may be a useful purpose in some level of intervention to prevent abuse of market power or unreasonable discrimination. This may be particularly critical in cases in which the parties are unable to negotiate a satisfactory agreement, but may also be valuable as a "backstop" measure even when parties can reach agreement, to prevent unreasonable discrimination against other parties or anticompetitive collusion that might disadvantage consumers.

58. If LECs and CMRS providers were to negotiate interconnection arrangements consistent with the compensation framework discussed above, the public interest would be served while avoiding the need for intervention. As discussed above, however, we believe that optimal compensation arrangements are unlikely to result from purely private negotiations. At least for the near future, there is likely to be an imbalance in negotiating power between the incumbent LECs, which currently possess monopoly power in local exchange markets, and new CMRS providers seeking to enter such markets. The LECs may seek to impose unduly high interconnection rates or other unreasonable conditions that could reduce CMRS entry. Moreover, there is a significant risk that LECs may not offer new CMRS carriers interconnection agreements that are as financially advantageous as those that large and incumbent CMRS providers have already secured. Finally, in cases where LECs and CMRS providers compete directly against one another, there is a significant risk that LECs and CMRS providers could engage in collusive behavior and voluntarily agree to arrangements that would not advance the public interest. Thus, participation in the process by regulators may be warranted for some period of time.

59. An alternative would be a requirement that voluntarily-negotiated interconnection contracts be filed publicly. Such public filing—either at the Commission (pursuant to section 211) or at state commissions—could reduce the LECs' ability to engage in unreasonable discrimination among CMRS providers, although we recognize that such a procedure would not necessarily ensure that arrangements will comply with the substantive standards discussed above. We also seek further comment on possible ways to minimize the burden of such disclosure and protect the confidentiality of LECs' and CMRS providers' proprietary data, while still obtaining disclosure of enough information to advise new entrants about rates, terms, and conditions. Finally, we seek comment on whether filing at a regulatory agency is necessary if the carriers themselves were required to make publicly available relevant, specified information about the agreement upon request.

60. As noted above, even public disclosure of negotiated agreements may not be sufficient to prevent anticompetitive behavior by LECs possessing market power and to ensure that interconnection compensation arrangements are structured in an optimal manner. A more forceful approach would be to require that interconnection arrangements be filed as tariffs. The tariff process is a well-established mechanism for regulatory commissions to protect the public interest by rejecting unreasonable provisions in carriers' offerings. On the other hand, tariffing requirements could entail administrative costs. We tentatively disagree with the position taken by some of the commenting parties that any tariffing requirement would automatically preclude flexible interconnection arrangements. We note that, even in a contractual environment, one party might inflexibly present a limited number of options and refuse to negotiate alternatives; by contrast, even under a tariffing requirement, parties can cooperatively negotiate provisions in a flexible manner. Such provisions can later be incorporated as tariffed options. Thus, tariffed interconnection arrangements need not be "one size fits all."

61. The major difference we see between non-tariffed arrangements and arrangements subject to a contract tariff process is that, in the latter case, the regulator has additional mechanisms to protect against terms that may be unreasonable or unreasonably discriminatory, such as issuing an order for investigation pursuant to section 205 of the Act. We seek comment on the costs and benefits of amending our rules to permit the use of contract tariffs to implement LEC–CMRS interconnection arrangements. We also seek comment on whether a different form of contract tariffing for LEC–CMRS interconnection would better serve the public interest. For instance, should a special notice period apply to LEC–CMRS interconnection contracts? Should some level of cost showing be required for LEC–CMRS interconnection contracts, unlike contract tariffs generally?

62. In sum, we tentatively conclude that information about interconnection compensation arrangements should be made publicly available in order to foster competition and to advance the public interest. As to what form this information should take—tariff, public disclosure or other approach—we seek comment from parties as to the costs and benefits of each option, keeping in mind the goals of promoting economic

efficiency through competition and negotiating flexibility.

2. Jurisdictional Issues. 63. We seek comment on three alternative approaches to implementing the interconnection policies discussed above. We recognize that states share our goals of stimulating economic growth by promoting the development of CMRS, which would upgrade the nation's telecommunications infrastructure and would help make available broader access to communications networks. We also recognize that, as detailed above, some state public utility commissions have begun to develop their own policies governing interconnection arrangements. We intend to continue to work cooperatively with state regulators to formulate interconnection policies that advance our common public interest goals.

64. One approach to implementing these goals would be to adopt a federal interconnection policy framework that would directly govern LEC–CMRS two-carrier interconnection with respect to interstate services and that would serve as a model for state commissions considering these issues with respect to intrastate services. Essentially, we would recommend that states voluntarily follow our guidelines, rather than making them mandatory requirements. Under this informal model, we would give guidance to the states while not directing state regulators in interconnection matters. For example, if we were to affirm our tentative conclusions discussed above regarding bill and keep compensation, we could require LECs and CMRS providers to use that approach with respect to terminating interstate traffic originating on the other's network, and encourage states to adopt the same approach with respect to intrastate traffic. On the other hand, there would be no guarantee that states would adopt our proposed model. We seek comment on this option and whether there might be some way to supplement it to better achieve the goals discussed above. For example, would it be beneficial to have an industry group develop specific standards to govern the terms and conditions for interconnection arrangements, based on our informal model? If so, should we set a date certain by which such an industry group should develop these standards?

65. A second approach would be to adopt a mandatory federal policy framework or set of general parameters to govern interconnection arrangements between LECs and CMRS providers with respect to interstate and intrastate services, but allow state commissions a wide range of choices with respect to implementing specific elements of these arrangements. Thus, although compliance with these policy parameters would be mandatory, state commissions would have substantial latitude in developing specific arrangements that would comply with these parameters. One example of a general policy parameter is our existing mutual compensation requirement—which generally requires that there be mutual compensation between LECs and CMRS providers for the reasonable costs of terminating each other's traffic—without precluding the states from setting the actual interconnection rates that LECs and CMRS providers charge. We could also adopt more specific policy parameters, while still preserving a degree of discretion for state commissions. For example, we could require the use of bill and keep compensation, as discussed above, for all off-peak traffic, but allow states to decide whether to use bill and keep or some alternative option with respect to compensation for intrastate traffic during peak periods. The possible benefit of this approach is that it would provide some greater national uniformity, while still preserving the state commissions' flexibility to develop specific arrangements that meet their needs. We seek comment on this option and on whether it would most effectively achieve our goals. If parties do support the use of mandatory federal policy parameters, we ask that they comment on what level of detail we should adopt in such parameters—that is, whether we should adopt broad, general parameters on what the appropriate interconnection rates should be or whether we should adopt a more detailed set of parameters.

66. As a third alternative, we seek comment on our promulgating specific federal requirements for interstate and intrastate LEC–CMRS interconnection arrangements. This approach would place more specific parameters on state action regarding interconnection rates. For example, if we were to affirm our tentative conclusions discussed above regarding bill and keep compensation, we could require LECs and CMRS providers to adopt such an approach with respect to all traffic.

67. We tentatively conclude that the Commission has sufficient authority to implement these options, including our proposal that interconnection compensation on a bill and keep basis be adopted on an interim basis. As a preliminary matter, 47 U.S.C. 332 explicitly preempts state regulation in this area to the extent that such regulation precludes (or effectively precludes) entry of CMRS providers. In addition, to the extent state regulation in this area precludes reasonable interconnection, it would be inconsistent with the federal right to interconnection established by Section 332 and our prior decision to preempt state regulation that prevents the physical interconnection of LEC and CMRS networks. We also believe, contrary to our conclusion in earlier orders, that preemption under *Louisiana Public Service Commission* v. *FCC*, 476 U.S. 355 (1986), may well be warranted here on the basis of inseverability, particularly in light of the strong federal policy underlying Section 332 favoring a nationwide wireless network. Indeed, in this regard, we note that several entities have argued that section 332 itself gives the Commission exclusive jurisdiction in this area.

68. We seek comment on this analysis and also ask parties to submit relevant factual information on this issue. We seek comment, first, on the inseverability of interconnection rate regulation. We note that much of the LEC–CMRS traffic that may appear to be intrastate may actually be interstate, because CMRS service areas often cross state lines, and CMRS customers are mobile. For example, if a cellular customer from Richmond travels to Baltimore and then places a call to Alexandria, the call might appear to be an intrastate call, placed from a Virginia telephone number to another Virginia number, but would in fact be interstate because the call originates in Maryland and terminates in Virginia. Service areas defined as "local" in wireless providers' rate structure do not coincide with LEC "exchanges" defined by section 221(b) as subject to state authority, and often cross state lines. This is true of many existing cellular providers, and is even more likely to be true with respect to PCS licensees in major trading areas (MTAs). We request that commenting parties submit empirical data and analysis on the extent to which existing LEC–CMRS interconnection arrangements involve both interstate and intrastate traffic, the extent to which significant levels of interstate wireless traffic are being carried under such arrangements, and, most importantly, the extent to which interstate and intrastate traffic can be severed for regulatory pricing purposes. We seek comment on whether either the CMRS or the LEC networks have the technical capability to distinguish whether a wireless call interconnecting with its network is an interstate or intrastate call. We also seek comment on whether we should reconsider our recent conclusion, cited by BellSouth, that section 332 does not circumscribe state regulation of the interconnection rates that LECs charge CMRS providers.

69. We also ask parties to identify what types of state rate regulation, if any, preclude (or effectively preclude) entry of CMRS providers. We seek specific information on the types of regulations that are either in effect or have been proposed by state regulators in the area of LEC–CMRS interconnection, and seek comment on what impact such state action has had on interconnection arrangements and on the ability of CMRS providers to compete in the market. We also request comment on the meaning and relevance of section 332(c)(1)(B) to our jurisdictional analysis.

70. In determining what the Commission's role should be with respect to implementation of LEC–CMRS interconnection policies, we again emphasize our recognition of the states' legitimate interest in interconnection issues and our intention to work in coordination with state regulators in this regard. In addition, although we have identified three possible options to implement our interconnection compensation proposals, and we seek comment on these options, we also encourage parties to suggest other options, or variations of our options, regarding implementation. Our goal is to achieve implementation of our interconnection proposals in the most efficient and effective manner to the collective benefit of all the parties involved.

III. Interconnection for the Origination and Termination of Interstate Interexchange Traffic

71. We held in 1984 that radio common carriers and cellular carriers are not IXCs and therefore are not required to pay LECs interstate access charges. We have never addressed, however, whether LECs or IXCs should remit any interstate access charges to CMRS providers when the LEC and the CMRS provider jointly provide access service. For example, when a cellular customer places a long-distance call, the cellular carrier typically transmits the call to the LEC, which connects the call to the IXC. Similarly, when long-distance calls are placed to cellular customers, the IXC handling the call typically transmits the call to a LEC, which, in turn, hands it to the cellular carrier for termination to the called party. We have not previously established specific rules or guidelines applicable to the joint provision of interstate access service by a LEC and a CMRS provider. Until CMRS providers generate sufficient traffic to warrant direct connections to IXC points of presence, we believe that most CMRS providers are likely to depend on LECs for interconnection of interexchange traffic to IXCs. Thus, we tentatively conclude that it will be necessary to apply certain protections to such interconnection arrangements, at least in the foreseeable future. We seek comment on this analysis and on our tentative conclusion. We also invite CMRS providers and LECs to describe existing arrangements under which CMRS providers are compensated for originating and terminating interstate interexchange traffic that transits a LEC's network.

72. In the context of the existing access charge regime, we tentatively conclude that CMRS providers should be entitled to recover access charges from IXCs, as the LECs do when interstate interexchange traffic passes from CMRS customers to IXCs (or vice versa) via LEC networks. We propose to require that CMRS providers be treated no less favorably than neighboring LECs or CAPs with respect to recovery of access charges from IXCs and LECs for interstate interexchange traffic. We tentatively conclude that any less favorable treatment of CMRS providers would be unreasonably discriminatory, and would interfere with our statutory objective and ongoing commitment to foster the development of new wireless services such as CMRS. We seek comment on how to implement this non-discrimination requirement. For example, should we require that contracts between neighboring LECs establishing joint arrangements for providing interstate access, as well as comparable contracts between LECs and CMRS providers, be publicly filed pursuant to section 211 of the Act in order to protect against such discrimination? Should such arrangements be included in LEC interstate access tariffs?

73. We also seek comment on the basis for CMRS providers' access charges, which under our proposal would be collected directly or indirectly from IXCs. Should CMRS providers impose interstate access charges that mirror those of the LECs with which they connect? Or should they impose their own access charges, as do many independent LECs? If the latter, should we retain our existing policy of forbearing from regulating CMRS providers' interstate access charges? In the alternative, should we find that, even though CMRS providers may lack market power with respect to end users, they may have some market power over IXCs that need to terminate calls to a particular CMRS provider's customer, or to originate calls (in an equal access context) from such a customer? If we were to adopt such a conclusion, should we adopt guidelines or some other form of pricing regulation to govern CMRS providers' interstate access charges? Should we address the billing arrangements that would apply in this context? Parties are invited to comment on the issues and proposals discussed herein, and to address the costs and benefits of these and possible alternative approaches.

IV. Application of These Proposals

74. We invite comment on whether the proposals and options considered in this Notice of Proposed Rulemaking should apply to interconnection arrangements between LECs and: (1) Broadband PCS providers only; (2) broadband PCS, cellular telephone, SMR, satellite telephony, and other CMRS providers that offer two-way, point-to-point voice communications, which could compete with LEC landline telecommunications services; or (3) all CMRS providers. We solicit comments and analysis on the relative costs and benefits of broader and narrower approaches, and on any technical or economic similarities or differences among CMRS services that would warrant similar or different treatment. (We note that, as a matter of convenience, we refer elsewhere in this notice generically to "CMRS providers;" this usage is not intended to exclude the possibility of applying our policies more narrowly.)

75. There may be benefits to focusing primarily on broadband PCS or some other limited group of CMRS services. First, it might be desirable to limit our focus to broadband PCS because it is a new service. We have assigned the initial broadband PCS licenses relatively recently and will soon assign more. Fewer issues arise in applying policy changes to a new service, such as broadband PCS, than to existing services: For example, it is less likely that we would need to consider problems of displacement, interference with existing contracts, or transitions from existing interconnection arrangements to new arrangements.

76. Second, we could consider addressing interconnection between LECs and all types of commercial mobile radio services that support voice telecommunications and could compete with the local telephone services provided by the LECs. The interconnection arrangements between this group of CMRS providers and LECs could have a critical effect on whether these carriers can develop into effective

competitors for providing the local links required for interstate communications. Focusing narrowly either on broadband PCS alone or on this subset of CMRS would allow us to tailor our policies more carefully to the particular subset of carriers or services involved.

77. Third, there are arguments for applying our proposals more broadly to interconnection between LECs and all CMRS providers because this would enable us to make improvements in as large a part of the local telephone and CMRS markets as possible. Moreover, pursuant to Congressional intent, we have taken a number of actions to apply similar regulatory treatment to different types of CMRS providers. Differential treatment among CMRS providers in the critical area of interconnection could be interpreted as inconsistent with our overall policies with respect to CMRS. On the other hand, some of the proposals in this Notice might not be in the public interest if applied to CMRS providers that do not compete with LEC services.

V. Procedural Issues

A. *Ex Parte* Presentations

78. This is a non-restricted notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, 1.1206.

B. Initial Regulatory Flexibility Analysis

79. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, the Commission's Initial Regulatory Flexibility Analysis with respect to the *Notice of Proposed Rulemaking* is as follows:

80. *Reason for Action:* The Commission is issuing this *Notice of Proposed Rulemaking* seeking comment on possible changes in the regulatory treatment of interconnection compensation arrangements between LECs and CMRS providers and related issues.

81. *Objectives:* The objective of the *Notice of Proposed Rulemaking* is to provide an opportunity for public comment and to provide a record for a Commission decision on the issues stated above.

82. *Legal basis:* The *Notice of Proposed Rulemaking* is adopted pursuant to sections 1, 2, 4, 201–205, 215, 218, 220, 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201–205, 215, 218, 220, 303(r) and 332;

83. *Description, potential impact, and number of small entities affected:* Any rule changes that might occur as a result of this proceeding could impact entities which are small business entities, as defined in section 601(3) of the Regulatory Flexibility Act. After evaluating the comments in this proceeding, the Commission will further examine the impact of any rule changes on small entities and set forth findings in the Final Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Notice of Proposed Rulemaking* to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601, *et seq.* (1981).

84. *Reporting, recordkeeping and other compliance requirement:* None.

85. *Federal rules which overlap, duplicate or conflict with the Commission's proposal:* None.

86. *Any significant alternatives minimizing impact on small entities and consistent with stoted objectives:* The *Notice of Proposed Rulemaking* solicits comments on a variety of alternatives.

87. *Comments are solicited:* Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this *Notice of Proposed Rulemaking* but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

C. Comment Filing Procedures

88. Comments and reply comments should be captioned in CC Docket No. 95–185 only. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before February 26, 1996, and reply comments on or before March 12, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW., Room 544, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW., Room 239, Washington, DC 20554.

89. In order to facilitate review of comments and reply comments, both by parties and by Commission staff, we request that such comments be organized in a uniform format. Specifically, we ask the parties to organize their comments and reply comments according to the following outline:

I. General Comments
II. Compensation for Interconnected Traffic between LECs and CMRS Providers' Networks
  A. Compensation Arrangements
  1. Existing Compensation Arrangements
  2. General Pricing Principles
  3. Pricing Proposals (Interim, Long Term, Symmetrical)
  B. Implementation of Compensation Arrangements
  1. Negotiations and Tariffing
  2. Jurisdictional Issues
III. Interconnection for the Origination and Termination of Interstate Interexchange Traffic
IV. Application of These Proposals
V. Responses to Initial Regulatory Flexibility Analysis
VI. Other

Each new section should begin on a new page, and should be labeled with the name of the filing party, identification of whether the document is an initial comment or a reply comment, the docket number, filing date, and number and name of the outline section addressed (although formal legal headers are unnecessary for section headings). No pages need be submitted for issues that a party chooses not to address. Arguments that conceptualize issues in a manner that does not fit into the segments listed above may be included in the "Other" section.

D. Ordering Clauses

90. Accordingly, it is ordered that, pursuant to sections 1, 4, 201–205, 215, 218, 220, 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 215, 218, 220, 303(r) and 332, a notice of proposed rulemaking is hereby adopted.

91. It is further ordered that, the Secretary shall send a copy of this notice of proposed rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects

47 CFR Part 20

Radio.

47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

[FR Doc. 96–1974 Filed 1–31–96; 8:45 am]
BILLING CODE 6712–01–U

47 CFR Part 76

[CS Docket No. 95–184; FCC 95–504]

Telecommunications Inside Wiring, Customer Premises Equipment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on whether certain telephone and cable inside wiring rules should be harmonized or otherwise changed in light of the evolving and converging telecommunications marketplaces. This item will assist the Commission in creating a record necessary to its ultimate design of rules in this area.

DATES: Comments are due on or before March 18, 1996 and reply comments are due on or before April 17, 1996.

FOR FURTHER INFORMATION CONTACT: Larry Walke, (202) 416–0847, or Rick Chessen, (202) 416–1166.

SUPPLEMENTARY INFORMATION: The text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Washington DC 20037.

Notice of Proposed Rulemaking

I. Introduction

1. The Commission issues this *Notice of Proposed Rulemaking* (*"NPRM"*) to consider changes in our telephone and cable inside wiring rules and policies in light of today's evolving and converging telecommunications marketplace. Because this proceeding will consider the issue of parity between our telephone and cable inside wiring rules, we are granting a petition for rulemaking (RM 8380) filed jointly by the Media Access Project, the United States Telephone Association and Citizens for a Sound Economy Foundation (collectively, "MAP"), to the extent that MAP urges the Commission to establish a proceeding to consider making cable home wiring rules the same as those governing telephone inside wiring. We also note that, concurrently with the adoption of this *NPRM*, we issue a *First Order on Reconsideration and Further Notice of Proposed Rulemaking* in MM Docket No. 92–260 regarding our cable home wiring rules under Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), Pub. L. No. 102–385, 106 Stat. 1460 (1992), 47 U.S.C. 521, *et seq.* We incorporate the record in MM Docket No. 92–260 herein by reference.

2. We expect that at least some consumers may soon have a choice of two or more telecommunications service companies providing telephony, data, video programming and other services. Through this *NPRM*, we seek comment on whether and how we should revise our current telephone and cable inside wiring rules to reflect these new realities and promote competition, by ensuring that the Commission's inside wiring rules continue to facilitate the development of new and diverse services for the American public. In particular, and as described more fully below, we seek comment on whether it is technically and competitively desirable to create a uniform set of inside wiring rules that would apply to telephone companies and cable operators alike, or, in the alternative, that would apply according to the technical characteristics of the service—e.g., broadband or narrowband—or the type of wiring used—e.g., fiber optics, coaxial cable or twisted-pair wiring.

II. Inside Wiring Issues

A. Demarcation Point

1. *Background.* 3. Section 16(d) of the 1992 Cable Act directs the Commission to "prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber." The Commission's regulations implementing Section 16(d) provide that, when a customer voluntarily terminates service, the cable operator must give that subscriber the opportunity to acquire the wiring before the operator removes it. The subscriber may purchase the wiring inside his or her premises up to the demarcation point. The cable wiring demarcation point serves such multiple purposes as defining (1) the location at which the subscriber may control the internal home wiring if he or she owns it; (2) the point at which an alternative multichannel video programming service provider would attach its wiring to the subscriber's wiring in order to provide service; and (3) the point from which the customer has the right to purchase cable home wiring upon termination of service. The demarcation point for cable home wiring in single unit installations is set at (or about) 12 inches outside of where the cable wire enters the subscriber's premises. The demarcation point for multiple dwelling units is set at (or about) 12 inches outside of where the cable wire enters the subscriber's individual dwelling unit.

4. In multiple dwelling unit buildings, cable wiring configurations fall into two categories: loop-through and non-loop-through. In a loop-through cable wiring system, a single cable provides service to multiple subscribers such that every subscriber on the loop must receive the same cable service. Generally, in a non-loop-through configuration, each subscriber has a dedicated line (a "drop") running to his or her premises from a common "feeder line." Only the wiring extending from the demarcation point to inside the subscriber's premises constitutes home wiring; thus, the drop wiring from the demarcation point out to the feeder line does not constitute home wiring. The feeder line is the source of video programming signals for everyone in the multiple dwelling unit building. A "tap" or "multi-tap" is a passive device, installed where the drop meets the feeder, that extracts portions of the signal strength in the feeder and distributes individual portions to subscribers. The strength of the signals within the feeder decreases each time the signals encounter a tap. In addition, the cable's electrical characteristics cause the strength of the signals to diminish as the signals pass through the coaxial cable. As a result of the signal strength lost through taps and its passage through coaxial cable, periodic amplification is often required within

the multiple dwelling unit building to maintain good picture quality. Amplification is accomplished by installing amplifiers at pre-designed intervals along the feeder based upon the number of taps and the length of coaxial cable within the multiple dwelling unit building.

5. With respect to telephone wiring, in 1990, the Commission amended the definition of the telephone demarcation point for simple inside wiring, *inter alia*, to "assure that it [would] not be at a significant distance from where [the] wiring enters the customer's premises." *Report and Order and Further Notice of Proposed Rule Making* in CC Docket No. 88–57, 5 FCC Rcd 4686, 4692 (1990) 53 FR 9952 (March 28, 1988) ("*Telephone Inside Wiring Report and Order*"), *recon. pending*. Accordingly, the Commission's rules set the telephone wiring demarcation point for new and existing single unit installations (where there is no protector) at a point within 12 inches of where the telephone wire enters the customer's premises—i.e., up to 12 inches inside the home. The telephone demarcation point in existing multiple dwelling unit buildings is determined in accordance with the carrier's reasonable and nondiscriminatory standard operating practices. For new multiple dwelling unit buildings, including additions, modifications and rearrangements of existing wiring, the telephone company may establish a standard operating practice of placing the demarcation point at the minimum point of entry (usually the basement of the building). If the telephone company does not establish such a practice, the owner of a multiple dwelling unit building may determine the location of the demarcation point or points. Finally, in contrast with cable inside wiring, individual telephone lines typically run from the basement in multiple dwelling unit buildings (where the demarcation point is usually located) to each individual subscriber's dwelling unit.

6. In another Commission proceeding involving the setting of the cable network demarcation point, some alternative multichannel video programming providers argue that the demarcation point in multiple dwelling unit buildings should be located "at that point outside a subscriber's premises and within the common areas of the multiple dwelling unit where existing wiring is first readily accessible" for increased access and subscriber convenience. On the other hand, some cable operators argue that these proposals to move the demarcation point for multiple dwelling units are not precise enough because such a point could vary from building to building, and that such proposals are contrary to the plain language of the statute. Cable operators in the same proceeding argued that moving the cable demarcation point would severely restrict their ability to compete to provide telephony and advanced telecommunications services even if a subscriber chose a competitor's video services. Moreover, the cable operators asserted that consumers would benefit from additional broadband wires to their premises, since they could then have the flexibility of receiving different broadband services from different providers, rather than simply choosing which single provider's package to receive.

2. *Request for Comment.* 7. We seek comment on whether we should establish a common demarcation point for wireline communications networks—regardless of whether such networks are broadband or narrowband, or cable or telephony services. Sound reasons for creating a common demarcation point may exist. For example, in a world in which cable and telephony services are provided over a single broadband wire, a common demarcation point could make logical and technical sense. On the other hand, there may be technical and practical constraints on setting a common demarcation point. For example, if we set the demarcation point for multiple dwelling units at the minimum point of entry (usually in the basement), there may be concerns about the expense, disruption, and additional space required to install individual broadband wires and amplifiers to each unit, as well as the removal of any existing common wiring. Moreover, it also raises the issue of who the "customer" is—the landlord or the tenant—who is entitled to control the wiring. Altering the cable demarcation point so that it is farther away from the subscriber's individual unit would also raise questions about compensation for the wire between the current cable demarcation point and any amended demarcation point. For instance, if a subscriber already owns the cable home wiring up to the current demarcation point, and the Commission moves the demarcation point to the minimum point of entry, how would the cable operator be compensated for the additional wiring if the subscriber wished to purchase it? On the other hand, if the subscriber elected not to purchase the additional wiring in this scenario, would the cable operator then have the right to remove that portion of the wiring? Alternatively, if we require a common demarcation point that is closer to each subscriber, such as where the existing cable wiring demarcation point is located, this could subject the currently unregulated telephone wiring between the minimum point of entry and the customer's premises to regulation. We seek comment on where, if we establish a common demarcation point for cable and telephony services, we should establish such a common demarcation point. We also seek comment on whether, if we do not create a common demarcation point, we should continue to establish demarcation points based on the services provided over facilities (i.e. telephony or cable), or whether we should create demarcation points based upon the nature of the ultimate facilities used to deliver the service (i.e. narrowband termination facilities or broadband termination facilities).

8. We seek comment on whether and how our wiring rules can be structured to promote competition both in the markets for multichannel video programming delivery and in the market for telephony and advanced telecommunications services, and if it will affect our goal of promoting the development of advanced telecommunications services and competition for those services. In addition, we seek comment on whether, and if so, how, the selection of a demarcation point for either network should depend upon the technical characteristics of the wiring and the current design considerations for telephone and cable services.

9. *Single Dwelling Units.* We seek comment on the effect of changing the telephone demarcation point to mirror the cable demarcation point, and on the effect of changing the demarcation point for cable, which presently does not employ protectors, to mirror the telephone demarcation point. Finally, we seek comment on the consequences of permitting broadband service providers to choose where to locate the network demarcation point, within a range of 12 inches outside the customer's premises and 12 inches inside the customer's premises.

10. *Multiple Dwelling Units.* We seek comment on the effect of changing the telephone network demarcation point to mirror the cable demarcation point, and on whether the current cable and telephony demarcation points give reasonable access to competitive providers of either narrowband or broadband services, or whether it would better promote competition and otherwise be in the public interest to require that the demarcation points for broadband and narrowband networks be placed at a common point or at the point at which the broadband or narrowband line becomes dedicated to an individual subscriber's use.

11. We seek additional comment on the competitive effect and consumer impact of keeping or changing the current cable demarcation point—not only on the video programming delivery marketplace, but on the broader telecommunications services market. Because we are concerned, however, that the current cable demarcation point may be impeding competition in the video services delivery marketplace, we intend to resolve this issue expeditiously.

12. We recognize that numerous other factors may affect the proper location of the cable network's demarcation point, as well as one's control over cable inside wiring and cable service generally. For example, single-family row units in condominiums or other residential settings may be provided cable service via a single, central access point, which may generate many of the same issues concerning the network demarcation point as are present in vertical multiple dwelling unit buildings. We seek comment on other factors related to the architecture of multiple dwelling unit premises that can affect the location of the demarcation point. We also seek comment on the consequences of changing the demarcation point or points, under one of the approaches described above, in light of the many various architectural settings in which subscribers may reside. The Commission also seeks information on any technical constraints on moving either network's demarcation point.

B. Connections

1. *Background.* a. *Cable Service Wiring.* 13. An important technical consideration in the delivery of cable service and the connections employed in the technology used to deliver service, is the risk of cable signal leakage. Cable systems often deliver cable signals over the same frequencies as many over-the-air licensees, including air traffic control and police and fire safety communications. The Commission has established specific restrictions on cable operators' use of radio frequencies in order to reduce the potential for interference caused by cable leakage. Another important technical consideration is the quality of the signal delivered to the subscriber's terminal. Our rules require a minimum signal level at the subscriber's terminal to ensure that adequate levels are delivered to the television set or video cassette recorder and that a good quality picture is delivered. Signal strength can be lessened by the use of poor cable, signal splitting for additional television sets, improper termination and improper attachments of and to customer-owned premises equipment.

b. *Telephone Connection.* 14. By contrast, signal leakage interfering with over-the-air communications has not been a regulatory concern for telephone service because the transmission of telephony requires only a fraction of the signal power used to transmit video programming, and telephone signals are carried over a much narrower, as well as a different, portion of frequency spectrum than aeronautical communications. Rather, the overall purpose of our telephone wiring regulations is to ensure that equipment connected to the telephone network and the methods used to make those connections do not cause harm to the telephone network or telephone company employees. Harm, as defined in our rules, includes: electrical hazards to telephone company personnel, damage to telephone company equipment, malfunction of telephone company billing equipment, and degradation of service to persons other than the user of the subject terminal equipment, his calling or called party. 47 CFR 68.3. The Commission has determined that allowing customers access to carrier-installed wiring on their premises for the purpose of connecting simple inside wiring will not impair the ability of carriers to provide adequate service to the public. The Commission has found little inherent risk that a plug/jack arrangement will be installed incorrectly, or if actually installed incorrectly, will cause harm to the network.

2. *Request for Comment.* 15. We expect that broadband common carrier services will be delivered over the same aeronautical and public safety frequencies, and at similar levels of power, as are current cable television signals. Therefore, the same concerns regarding interference with over-the-air communications that we currently encounter only with traditional cable service may be implicated. We seek comment on the best method of extending our signal leakage limits that are currently applied only to traditional cable service to others who provide service over broadband facilities. Our cable signal leakage limits are based on individual leakage levels as well as maximum allowable cumulative leakage levels and frequency separations from over-the-air users. We solicit comment on whether these requirements are sufficient or should be changed to safeguard against interference by any broadband service provider. We also request comment on whether our cable signal quality standards should be extended to other broadband video signal providers or whether, in a future competitive environment, quality standards may be unnecessary because signal quality will be one of the factors highlighted by broadband providers in competing for business.

16. Finally, we note that underlying all of the discussion and proposals outlined in this item is a concern for system integrity, including any increased risk of signal leakage or decrease in signal quality. We thus seek comment generally on how any new or revised regulatory approaches proposed in this *NPRM* may impact upon these considerations.

3. *Means of Connection.* a. *Background.* 17. The Commission's common carrier rules define the technical specifications for any jacks that interface with the telephone network. The rules state that "any jack installed by the telephone company at, or constituting, the demarcation point shall conform to Subpart F of 47 CFR Part 68. Subject to the requirements of section 68.213 of our rules, connection of wiring and terminal equipment to the telephone network may be through a jack conforming to Subpart F or by direct attachment to carrier installed wiring.*.*.*." This standardization ensures that network integrity is maintained and protects telephone company employees, facilitates the installation of equipment by non-telephone company employees, and promotes competition for inside wiring services and telephone customer premises equipment.

18. Even though the Commission does not have specific rules governing the type of connectors used by the cable industry, operators almost exclusively employ "F-type connectors" for connection between coaxial wire and equipment, which, in part, are designed to prevent signal leakage. These F-type connectors are installed at the ends of coaxial cable in order to attach the wiring to customer premises equipment such as televisions, videocassette recorders and set-top boxes.

b. *Request for Comment.* 19. We seek comment on whether the Commission should adopt technical requirements for standard jacks and connectors for broadband or narrowband networks. If standards are necessary, how should factors such as electronics and the physical features of the jack or connector be addressed in designing such standards? All responses to this and the above inquiries should address the relative need for standards for protectors, jacks and connectors that

will maintain system integrity (i.e., picture and audio quality, signal reliability, minimal signal leakage), while giving other providers ease of connection and thus facilitate competition among telecommunications services providers.

20. We solicit comment on whether the Commission should establish technical standards for connections to cable networks or broadband services, where multiple services are delivered over a single wire. We note that a single standard may facilitate competition among providers by standardizing and simplifying the type of connection all providers must use. In the alternative, we seek comment on whether we should require that all connections to either the telephone network or cable systems use only the jacks meeting Commission standards or their technical equivalent.

C. Regulation of Simple and Complex, and Residential and Non-Residential Wiring

1. *Background.* a. *Telephone Provisions: Simple vs. Complex Wiring.* 21. The degree to which the Commission regulates telephone inside wiring depends largely on whether the subscriber requires simple wiring or complex wiring to receive service. Simple inside wiring includes all one and two line telephone wiring on the customer's side of the demarcation point, and is often called "non-system premise wiring" or "customer premise wiring." Complex wiring, also called "intrasystem wiring," includes all wiring of three or more twisted pairs and its associated components (e.g., connecting blocks, terminal boxes, conduit) located on the customer's side of the demarcation point that connects telephones, facsimile machines, modems, and other devices to each other or to the common equipment of a private branch exchange ("PBX") or key system, when this wiring is inside a building or between a customer's buildings located on the same or contiguous property not separated by public property.

22. Most single dwelling units require only simple wiring, while multiple dwelling units and commercial settings require complex intrasystem wiring. We have not allowed customers to connect to the public telephone network with complex wiring other than through a telephone company-provided jack. In the interstate jurisdiction, we have deregulated the installation and maintenance of both simple and complex inside wire. In the intrastate jurisdiction, however, we have allowed the states to regulate the prices, terms and conditions on which simple inside wire services are offered to the public.

b. *Cable Service Provisions.* 23. As described above, our cable inside wiring rules address three primary areas: (1) technical standards; (2) the disposition of wiring after termination of service; and (3) rates for the wiring installation and maintenance. First, the Commission's technical standards apply only to wiring that a cable operator installs and maintains. This caveat does not affect the Commission's standards concerning signal leakage, however, because these requirements must be met regardless of who provides the final service link to the individual subscriber or who actually receives payment from subscribers for cable service.

24. Second, rules adopted pursuant to Section 16(d) of the 1992 Cable Act governing the disposition of wiring upon termination of service apply only to cable wiring installed by cable operators in residential dwelling units. Both the House and Senate Reports and the 1992 Cable Act clearly identify Section 16(d) as applying to home wiring—i.e., wiring "inside the home." Third, rates for equipment used to receive residential cable service, including inside wiring, are regulated by the local franchising authority pursuant to rules the Commission has promulgated under the 1992 Cable Act.

2. *Request for Comment.* 25. We anticipate that telecommunications service providers in the future will provide both telephony and video programming services, as well as other services. These services may be delivered over multiple wires or over a single broadband wire. We believe that separate regulatory regimes for telephone and cable inside wiring may impede the delivery and possibly development, of broadband and other services to the public because the differing schemes may cause needless confusion for providers and consumers. Therefore, we seek comment on whether the Commission can and should harmonize the definitions within the common carrier and cable rules with regard to simple versus complex wiring; and residential versus non-residential wiring.

26. We also seek comment on whether the complex telephone wiring configurations and cable inside wiring configurations employed in multiple dwelling unit buildings or non-residential settings, respectively, are similar, and if so, whether this similarity means that complex telephone wiring and similarly employed cable inside wiring should be subject to similar rules. Would our telephone wiring rules, cable wiring rules, or some combination of both, be most appropriate? We seek comment on the optimal regulatory regime for wiring used to deliver both telephony and video programming as well as other services, i.e., the complex versus simple dichotomy, our cable wiring regulations, or some other approach. For example, would it be sensible to explore treating different types of cable inside wiring differently based on their technical characteristics, similar to the complex versus simple distinction in the regulation of telephone wiring? In addition, we seek comment on regulating wiring based on some other approach, such as the type of wiring used (i.e., twisted copper pair, coaxial or fiber optic). In this vein, would it be appropriate to establish individual simple and complex wiring definitions for each type of wiring? Finally, we seek comment on how any changes in our rules concerning the above aspects of wiring may affect system integrity and reliability.

27. We seek comment on how any changes in our rules concerning these aspects of wiring may affect signal leakage and signal quality. We also seek comment on how any of the above changes to our rules may affect competition in the telephone and cable markets.

D. Customer Access to Wiring

1. *Cable Wiring Provisions.* 28. Section 16(d) of the 1992 Cable Act requires the Commission to "prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber." The Commission's regulations implementing Section 16(d) provide that, when a customer voluntarily terminates cable service, the cable operator may not remove the cable home wiring unless it has first given that subscriber the opportunity to acquire the wiring at its per-foot replacement cost and the subscriber declines. If the subscriber declines to purchase the wiring, the operator must remove the wiring within 30 days (now seven business days) or make no subsequent attempt to remove it or restrict its use. This rule does not apply where the subscriber already owns the home wiring. The current cable home wiring rules do not require cable operators to permit subscribers to provide and install their own cable home wiring, or to move or rearrange operator-owned cable home wiring.

2. *Telephone Provisions.* 29. The Commission has deregulated the installation and maintenance of both complex and simple telephone inside wire. As explained above, we first acted with regard to the installation of complex wiring, which is "new intrasystem wiring installed with new CPE systems." Since we had deregulated the installation of new CPE systems in *Computer II, Amendment of Section 64.702 of the Commission's Rules and Regulations*, Final Decision, 77 FCC2d 384, 45 FR 31319 (May 13, 1980) ("*Computer II*"), *modified on reconsideration*, 84 FCC2d 50 (1980), *further modified on reconsideration*, 88 FCC2d 512 (1981) it was inconsistent to have complex wiring installed under tariff. Therefore, to foster competition in complex wiring installation, we deregulated the installation of complex wiring in the same way and on the same basis as we had deregulated CPE in *Computer II*. We subsequently deregulated the installation of simple inside wiring and maintenance of all inside wiring, effective January 1, 1987. Through these actions, we intended to make the cost-causative customer bear the costs of connecting CPE, including inside wiring, to the telephone network and, thus, to produce immediate cost savings that would be passed on to ratepayers.

30. To complete the deregulation of inside wire, the Commission prohibited telephone companies from imposing restrictions on inside wire that would prevent customers from removing, replacing, rearranging or maintaining inside wire using sources of their own choosing. In addition, we precluded the telephone companies from requiring customers to purchase or to pay a charge for using inside wire that had been previously installed or maintained under tariff.

3. *Request for Comment.* 31. We tentatively conclude that there is no reason to change our rules giving consumers the right to access their narrowband wiring inside the demarcation point, whether that wiring is used to provide voice, video or data services. We seek comment on this tentative conclusion. We also seek comment on whether the Commission should establish rules that give consumers the right to provide and to install their own broadband inside wiring and to access broadband wiring (for purposes of, for example, installing additional outlets, performing maintenance or reconfiguring existing wiring) on their premises which has been installed and is owned by the broadband service provider. In particular, we seek comment on whether consumers should have such a right if: (a) the broadband wire carries both cable and common carrier services ("joint use"); or (b) the broadband wire carries cable services only.

32. Access to broadband inside wiring *prior* to termination of service would allow consumers to select who will install and maintain their broadband wire (e.g., someone other than the cable operator, such as a commercial contractor, or the consumer himself or herself). The resulting competition in the wiring marketplace might also reduce the amount of maintenance fees and service charges a subscriber pays to the broadband service provider.

33. In this context, we ask whether and how broadening the cable rules to establish the subscribers' right to provide and to install their own cable inside wiring and to access cable operator-owned inside wiring would (a) promote consumer choice; (b) foster competition among multichannel video programming service providers, thus lowering prices and encouraging technological innovation; and (c) facilitate the provision of more than one type of telecommunications service (e.g., telephone and video) by different types of companies. We also request comment generally on how to protect against signal leakage and to maintain the signal quality delivered over the coaxial cable if subscribers are given pretermination access to broadband cable inside wiring.

34. We seek comment on whether the Commission has authority under the Communications Act to promulgate cable inside wiring rules requiring pretermination access, both when the wiring is used jointly by cable and common carrier services and when the wiring is used solely for cable services. In particular, we ask whether, in the joint use context, the inside wiring used to transmit interstate telecommunications services is so inseparable from the wiring used to transmit the cable services that consumers should have the right to access the wiring under the Commission's current telephone rules. We note that, while the telephone rules may provide a useful model for broadband wiring, cable operators may not be regulated as common carriers "by reason of providing any cable service." We believe, however, that simply applying rules to cable that are the same as, or similar to, the telephone inside wiring rules is not tantamount to treating cable operators as common carriers. We nevertheless request comment on this interpretation of the statute. We also ask commenters to address the issue of whether permitting pretermination access would constitute an impermissible "taking" of property without just compensation, in violation of cable operators' Fifth Amendment rights.

35. We also ask whether the best way to ensure that subscribers are permitted to own and to access cable inside wiring, whether by buying it or installing it prior to termination of service, might be to deregulate cable inside wiring rates, much the same as telephone inside wiring has been deregulated. We ask whether the introduction of competition in the markets for cable inside wiring would force cable operators to permit pretermination access where there is subscriber demand. We seek comment on whether we have the statutory authority to deregulate cable home wiring rates. We direct the parties to Section 16(d) of the 1992 Cable Act and Section 623(b) of the Communications Act, as amended, and note that Congress specifically expressed a "[p]reference for competition" over regulation in setting rates for cable services. In addition, we seek comment on whether and on what basis the Commission should establish a transition period, during which rates would remain regulated, while the market for cable home wiring becomes competitive. We also ask for comment on whether, if the Commission is statutorily required to regulate cable inside wiring rates, we should provide incentives to cable operators to permit pretermination access, for example, by providing that, if an operator allows subscribers to access the home wiring prior to termination of service, or sells the wiring to the subscriber (upon installation or any time thereafter), the operator may then charge the subscriber whatever rate it wishes to reconfigure or perform maintenance on the wiring.

36. In order to promote the efficient transfer of service, we thus seek comment on establishing a requirement that subscribers own their inside wiring upon installation of cable service, on a going-forward basis. We note that our current rules, as Title VI requires, already permit cable operators to recover the costs of inside wiring installation. We solicit comment on whether we should require cable operators to sell the wiring upon installation of cable service. We seek comment on the best way to achieve this. For example, should we require cable operators to include the cost of the wiring as well as the cost of labor to install the wiring in the cost of installation of cable service? We seek comment on whether it is necessary for the Commission to detail how these costs are to be recovered, *e.g.*, in a one-time initial payment, or on a monthly basis for some maximum number of

months. Under the latter approach, we would intend for full ownership of the wiring to be vested in the subscriber once the subscriber pays any portion of the costs associated with the wiring. We understand that cable operators would need time to implement this approach; therefore, we seek comment on requiring cable operators to adopt this approach as of some date certain in the future, *e.g.*, six, 12 or 18 months following adoption of the requirement.

37. Alternatively, we seek comment on whether the Commission can and should create a presumption that the subscriber owns his or her cable inside wiring. As we noted in the *Cable Wiring Order*, the subscriber often already owns the home wiring, such as where the subscriber was charged for the wiring upon installation, or, at least in the case of single family dwellings, where the applicable state or local law treats the wire as a "fixture," or the previous occupant already owned the home wiring, either by purchasing the wiring upon voluntary termination of service or because the operator failed to remove it within the time allowable under our rules. We seek comment on whether this presumption could be rebutted by the cable operator or be an irrebuttable presumption. If rebuttable, we seek comment on what kind of showing cable operators would have to make to overcome a presumption that the subscriber owns his or her home wiring, what type of records operators would be required to keep, any constitutional or statutory impediments to such a presumption, and when such a process would occur. We also seek comment on our concern that, at least for existing wiring, operators may possess inadequate records to demonstrate ownership. If irrebuttable, we seek comment on how such a relinquishment of ownership rights could be structured consistent with constitutional and statutory requirements, and what deadlines should be imposed in order to permit cable operators to obtain full compensation for their inside wiring costs.

4. *Compensation for Wiring.*—a. *Background.* 38. The Commission's rules compensate cable operators for their costs of installing the subscriber's cable home wiring. With respect to telephone wiring, as previously noted, the Commission deregulated the installation of simple inside wiring and the maintenance of all inside wiring, effective January 1, 1987. We then precluded carriers from imposing restrictions upon the removal, replacement, rearrangement or maintenance of inside wiring.

39. Currently, cable operators must elect a uniform installation charge that is based upon either the product of the hourly service charge and the person hours of the visit, or the product of the hourly service charge and the average hours spent per installation visit. Further, the rules prescribe a per-foot replacement cost upon termination of service. We stated in the *Cable Wiring Order* that the per-foot charge should be based on the replacement cost of coaxial cable in the community, and gave as an example for which the cost was approximately six cents per foot.

b. *Request for Comment.* 40. We seek comment on whether our current rules for compensation of broadband cable should change if, for example, we move the demarcation point for cable systems to the minimum point of entry in multiple dwelling unit buildings or some other point, including some point farther than 12 inches from the subscriber's premises. We also seek comment on providing compensation to telephone companies for the cost of an additional segment of what is now a customer's narrowband telephone loop, if it is determined that the demarcation point for the telephone network will be placed 12 inches outside the customer's premises, or at some point inside of the minimum point of entry.

E. Dual Regulation

1. *Background.* 41. As described above, the Commission has established rules to govern the technical performance of cable systems, the disposition of wiring upon termination of service, and subscriber rates for the installation, maintenance and sale of equipment necessary to receive cable service generally, including inside wiring. The local franchising authority generally is the first line of enforcement of all such rules, while the Commission will, either informally or by rule, resolve disputes that may arise between a cable operator and the local franchising authority.

42. Because most local telephone exchange facilities are used jointly to provide interstate and intrastate telephone services, they are regulated by both federal and state regulatory authorities. The extent of dual regulation depends generally on whether the Commission has preempted state authority to regulate exclusively a particular aspect of telephone service rates.

43. With respect to simple wiring services, however, we have maintained certain federal standards with which state regulations must comply. For example, if a state chooses to regulate the rates under which telephone companies provide simple inside wiring, the state regulations must require the telephone companies to unbundle the inside wiring charges from the charges for basic transmission services. Moreover, a state may not establish rules that will impede the competitive provision of telephone inside wiring. In addition, any state regulations governing the terms or conditions under which inside wire services are provided must be consistent with the technical standards set forth in Part 68 of our rules.

44. In addition, the Commission has instituted a system to monitor state regulatory programs for inside wire to assess their impact on our goal of achieving full competition in the market for inside wire services. We require a telephone company with annual operating revenues of $100 million or more to file with the Commission a copy of any state or local statute, rule, order, or other document that regulates, or proposes to regulate, the price or prices the telephone companies charge for inside wire services.

2. *Request for Comment.* 45. We first solicit comment on whether it may be necessary to harmonize these respective disparate systems of regulation as the similarity increases between the technology employed to deliver telephony and video programming. For example, as stated previously, it is possible that in the future both telephony and video programming will be delivered over a single wire; thus, an issue may arise over which dual system regulation should govern, i.e, Commission-local franchising authority (cable service) or Commission-state public utility commission (telephone service). We seek comment on whether the Commission has legal authority to change or harmonize these dual systems of regulation to accommodate the situation where broadband or multiple services are provided over a single wire or multiple wires, and how this could be accomplished. Similarly, if we were to adopt a common demarcation point for both cable and telephone networks, confusion also might arise over which relationship between local and federal authorities should govern. Therefore, we also seek comment generally on any conflicts that may arise from unifying these disparate systems of dual regulation between cable and telephone service for inside wiring, in light of the definition of the network or system demarcation points as well as the other standard technical requirements for the two services.

46. We also ask commenters to discuss the role of non-federal regulation in setting the prices, terms and conditions for telecommunications services inside wiring. Currently, many local regulators regulate cable wiring. We seek comment on whether the non-federal regulation of telephone wiring should be altered if the delivery systems for telephony and video programming become more similar. With respect to federal involvement, difficulties also may arise in determining the proper level of our involvement in the oversight of wiring as telephone and video programming technologies advance. In this context, we seek comment on whether we should expand or decrease our monitoring of charges for inside wiring used to provide video service, or increase or decrease our oversight of telephone inside wiring.

F. Service Provider Access to Private Property

1. *Background.* 47. We also wish to examine the right of various service providers to obtain access to private property, such as multiple dwelling unit buildings, private housing developments, and office buildings. If, in the interest of competitive parity, we ultimately were to adopt a uniform demarcation point for the networks of all companies providing similar services, that goal may not be achieved if all providers do not have equal access to the customer's wiring at the demarcation point.

48. Telephone companies traditionally have gained access to private property through private easements and contracts with the property owners. As common carriers, they also have the use of public right-of-ways and can exercise the power of eminent domain. Thus, when they seek to provide telephone service, there has been little objection to their right to access private property.

49. Cable operators' right to gain access to private property has been less clear. Currently, approximately thirteen states have passed some form of cable mandatory access statute, including Connecticut, Delaware, Florida, Illinois, Kansas, Maine, Minnesota, Nevada, New Jersey, New York, Pennsylvania, Rhode Island and Wisconsin.

2. *Request for Comment.* 50. Parity of access rights to private property may be a necessary predicate for any attempt to achieve parity in the rules governing cable and telephone network inside wiring, because without access to the premises, the inside wiring rules and proposals discussed in this *NPRM* will not even be implicated. An inequality in access can unfairly benefit one provider over another. In addition, we have received conflicting information about the ability of alternative service providers to obtain the permission of multiple dwelling unit building owners: (a) to enter the building at all; (b) to run a common feeder line up a stairwell, for example, to a security closet or lockbox; and (c) to run individual wiring down hallways from the lockbox to individual units. We seek comment on the legal and practical impediments faced by telecommunications service providers in gaining access to subscribers. For instance, as discussed above, moving the cable demarcation point farther away from the subscriber, such as back to the lockbox, could alleviate much of the access problem if building owners primarily objected to running additional wiring down the hallways; on the other hand, moving the demarcation point may have little impact if building owners have been denying alternative providers access to the property altogether.

51. We seek comment on the above discussion and several other specific issues related to provider access. First, we seek comment on the current status of the law regarding access to private property by cable operators and telephone companies. For instance, what type(s) of access do state statutes granting mandatory access for cable operators provide? Who qualifies for such mandatory access (e.g., only franchised cable operators)? Have cable operators been successful in obtaining access to private property under any other statutory or common law theories? Similarly, what type(s) of access to private property do the states grant to telephone companies? Is such access related to the type of service provided or to the identity of the company? Do the statutes permit telephone companies to obtain access to private residences, such as multiple dwelling units, or simply to run their lines across private property? In other words, can an individual resident in a multiple dwelling unit obtain telephone service over the property owner's objection?

52. We also seek comment on whether and how the rules governing access to customers' premises should be harmonized in a world in which the cable operator, the telephone company and possibly others may be offering telephony, video and other services over a single wire. Can and should cable operators that offer telephony be permitted to use the telephone companies' easements to obtain access to private property? Can and should cable operators or telephone companies, if they have an easement to provide telephony, also be permitted to provide video or other services using the same easement? Should it make a difference whether the services are provided over one wire or two? We seek comment on whether allowing a company that possesses an easement for one service to rely on that easement in providing another service would constitute an impermissible "taking" without just compensation, in contravention of the property owner's Fifth Amendment rights.

53. Finally, we request comment on whether the Commission can and should attempt to create access parity among service providers, and what our rules should say regarding the terms of such access. We also seek comment on any statutory or constitutional impediments to this goal. In particular, we ask commenters to address the concern that any right of access to private property may constitute an impermissible "taking" in violation of the property owner's Fifth Amendment rights. We realize that a number of these potential service providers are not common carriers and their right to access is not well established in state or federal law. We seek comment on the potential constraints this lack of common carrier status will have on the rules we prescribe.

G. Customer Premises Equipment

1. *Background.* 54. Telephone-related customer premises equipment (CPE) constitutes all telephone equipment located on the customer's side of the demarcation point, including private branch exchanges (PBXs), key systems, modems, and telephone handsets. In the Computer II Final Decision, we concluded that Title II regulation of CPE was no longer warranted. We found that deregulation "fosters a regulatory scheme which separates the provision of regulated common carrier services from competitive activities that are independent of, but related to, the underlying utility service." Earlier decisions removed tariff provisions that restricted customers' rights to attach non-carrier provided CPE to the telephone network. Those earlier efforts culminated in a registration program that allows consumers to connect their own equipment to the network if the equipment conforms to certain technical standards and is properly registered with the Commission under Part 68 of our rules. These decisions confirmed the existence of broad consumer right under Sections 201(b) and 202(a) of the Act.

55. In *Computer II*, we were also concerned that carriers' practices of bundling CPE charges with charges for basic services could undermine our efforts to ensure that regulated service rates accurately reflected the costs of providing the associated service. Given

the variety of CPE products and suppliers, we were confident that our unbundling and detariffing of CPE would not adversely affect consumers.

56. Cable-related CPE, regulated under Part 15 of the Commissions rules for emission and interference, generally includes equipment located on the customer's side of the demarcation point, such as television receivers ("TVs"), video cassette recorders ("VCRs"), remote control units, and set-top converter descramblers ("set-top boxes"). We note that most of the current cable-related CPE mentioned, such as TVs and VCRs, were designed and can function without connection to cable systems, whereas practically all telephone-related equipment is specifically designed to be connected to telephone networks. As such, a number of issues may exist regarding the connection of customer-owned CPE to cable system equipment, including loss of CPE features and requiring a set-top box to receive cable service. While set-top boxes are generally provided by the cable operator, TVs and VCRs are generally provided by the subscriber. In addition, we anticipate that future CPE used by cable and telephone subscribers may include computers, component decoders and tuning devices, and facilities used for interactive services. Often, cable operators protect their extended basic and premium services with proprietary scrambling techniques. In these cases, the subscriber must obtain the descrambler converters from the cable operator. Our current cable regulations do not specifically address the rights of cable subscribers to connect CPE to cable operators' facilities. Therefore, unlike equipment used to receive common carrier telephone service, there is some ambiguity as to whether cable operators may prohibit or limit subscribers' ability to connect CPE to operators' facilities for services other than cable service.

57. The 1992 Cable Act directed the Commission to establish standards that relied upon actual cost to set the rates charged to lease equipment used by subscribers to receive basic cable service. Only some cable-related CPE are subject to this statutory provision, including set-top boxes, remote control units, connections for additional outlets, and inside wiring. We note that the 1992 Cable Act also directed the Commission to ensure compatibility between consumer equipment and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefits of both the programming available on cable systems and the functions available on their television receivers and VCRs.

58. What is more, and as stated previously, we anticipate that the technologies used to deliver and receive cable and telephone service may become more similar. For example, future video programming and telephony may not only be delivered over a single broadband wire, but future subscribers may receive both services using a single piece of equipment, such as a computer modem or a "videophone." It is also possible that the subscriber may only need one piece of customer premises equipment to interact with both services, such as an enhanced set-top box or stand-alone interface unit. In addition, multi-use devices may be developed that allow subscribers to receive video, data and voice services, akin to the present functions of a telephone modem used to reach computer networks. In such cases, the disparate regulatory schemes for cable-related CPE and telephone-related equipment could cause confusion for service providers as well as subscribers and regulators. For example, service providers may be uncertain whether rates for such equipment are subject to regulation. Similarly, subscribers may be uncertain of their rights to connect CPE to the network(s) over which they receive service.

2. *Request for Comment.* 59. *Interconnection.* Since the Commission deregulated telephone CPE, the Commission's goals of promoting marketplace entry by communications equipment vendors, increasing competition among these vendors, and producing cost savings for both consumers and common carriers have largely been fulfilled. We believe that exploring and possibly establishing the rights of consumers to provide and connect unregulated CPE to cable operator facilities can similarly benefit cable subscribers. We also believe that creating a record on these and other related issues will enable the Commission to establish simple and pro-competitive rules setting forth the rights and responsibilities of both service providers and subscribers with respect to CPE.

60. We therefore seek comment on the costs and benefits of harmonizing or revising our rules to accommodate better the possible convergence of technologies used to receive and to interact with network-delivered video programming and telephony. We seek comment on whether to allow customers to use and connect their cable-related CPE, such as set-top boxes, to cable facilities while allowing cable operators to protect their legitimate security interests and to provide new and innovative services without inhibiting the use of existing customer CPE. We recognize that new and innovative services often require proprietary equipment which may not be compatible with existing CPE. We seek comment on the technical and economic impediments to requiring new services to be compatible with existing CPE. We also solicit comment on whether we should establish a common regulatory scheme to govern both cable and telephone network CPE.

61. We also understand that the technology of future CPE may take a variety of forms (e.g., component decoders, computer modems). We note that technologies to deliver voice and video service on an integrated basis continue to evolve. We seek comment on whether we should tailor our rules to accommodate different types of CPE technologies and functions. For example, perhaps there should be a different set of rules for cable-related equipment that is designed to both transmit and receive, than for equipment that is designed only to receive. We tentatively conclude that consumers should be able to connect cable-related equipment, as well as purchase this equipment, and seek comment on how the Commission may best achieve this goal. We note that in the 1992 Cable Act, Congress recognized that there are a number of compatibility problems between cable service and consumer electronics equipment. Congress was particularly concerned about the inability of cable subscribers to use the special features and functions of their TV sets and VCRs when receiving cable signals which are most often precluded by the use of a cable supplied set-top box. These features include picture-in-picture, timed recordings and the ability to view one channel while recording another. Presently, the Commission is awaiting finalization of a standard for a Decoder Interface connector. This standard is being developed by the Cable-Consumer Electronics Compatibility Advisory Group in conjunction with the Joint Engineering Committee of the Electronics Industry Association and NCTA. We believe that special rules must govern subscribers' access to and connection of CPE with access control functions that are consistent with these efforts. In this context, we seek comment on how best to protect against theft of cable service or other damage to cable operators' facilities if we were to change our rules to accommodate the possible convergence of technology used to deliver and receive cable and

telephone service. We also note that the Commission has taken steps to ensure enhanced compatibility between consumer electronics equipment and cable operators' facilities. *See In the Matter of Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992: Compatibility Between Cable Systems and Consumer Electronics Equipment,* ET Docket 93–7, 9 FCC Rcd 1981 (1994), 58 FR 7205 (Feb. 2, 1993). The regulations adopted in the equipment compatibility proceeding will allow consumers to utilize customer premises equipment offered by a variety of suppliers, including the cable operator, in a competitive market.

62. We are not proposing to change our *Computer II* framework for equipment connected to narrowband facilities, or for equipment used in conjunction with Title II services but not Title VI services. We tentatively conclude that CPE used in conjunction with Title VI services provided over narrowband facilities should also be governed by *Computer II,* and seek comment on this tentative conclusion, including any security concerns that are raised by such a conclusion.

63. We note that Part 68 of the Commission's rules establishes standards for telephone-related CPE and an equipment registration program that are designed to ensure the reliability of telephone networks. Network reliability and safety must be maintained as entities other than traditional telephone companies begin to offer both voice and video services that use or interconnect with the public switched network. We thus seek comment on whether the Commission should enlarge the current registration program to cover cable-related CPE that use or interconnect with the public switched network, if such interconnection is to occur. We further seek comment on whether an equipment registration program similar to the existing Part 68 program should be established for manufacturers of equipment used with future services, both broadband and narrowband, to ensure the integrity and reliability of these networks. Finally, we seek comment on how such a program should be structured to define the rights of both the service providers and the network subscribers, while ensuring the development and maintenance of a competitive CPE market. Such policies might include adoption of standards, for example, such as the Commission has adopted for telephone equipment in Part 68 of its rules.

64. *Equipment Rates.* We believe that improving cable subscribers' rights to acquire and provide their own cable-related CPE would benefit subscribers. Such rules would give subscribers the choice of purchasing, installing or maintaining CPE themselves, or having a vendor other than the cable operator do so. This should promote marketplace entry by communications equipment vendors and facilitate competition among these vendors, as we have seen in the telephone context. A competitive marketplace should lead to the development of innovative types of CPE, improved performance of existing and new CPE, and improved maintenance of CPE.

65. As previously stated with respect to equipment rates, the 1992 Cable Act directed the Commission to establish a rate-setting methodology for equipment used to receive basic cable service, including set-top boxes, remote control units, wiring, and additional cable outlets. In response, the Commission's regulations link maximum permitted rates for regulated equipment to operators' actual costs of providing the equipment. We note, however, that Congress exhibited a clear preference for competition over regulation in the setting of rates for cable service and equipment.[1] We believe that deregulating rates for currently regulated CPE would be in the public interest if the marketplace for CPE becomes competitive, and seek comment on this tentative conclusion. We wish to make clear that we are not proposing to re-regulate currently deregulated telephone CPE rates. We also seek comment on whether the Commission has authority to deregulate cable CPE rates under the Communications Act, and specifically whether the Commission possesses such authority under Sections 623(b), 632(b), 4(i), and 1. We further seek comment on whether specifically deregulating rates for currently regulated CPE would be inconsistent with the 1992 Cable Act, given that market forces in the resulting marketplace should determine rates. Finally, we seek comment on whether it would be necessary to establish a transition period prior to the deregulation of currently regulated CPE rates, until a competitive marketplace for CPE exists.

III. Initial Regulatory Flexibility Act Analysis

66. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following initial regulatory flexibility analysis ("IRFA") of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *NPRM,* but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall cause a copy of the *NPRM,* including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq.* (1981).

67. The Commission issues this *NPRM* to consider changes in our telephone and cable inside wiring rules and policies in light of today's evolving and converging telecommunications marketplace.

68. *Objectives.* To explore the development of new cable and telephony service rules in the following areas in light of converging technology: demarcation point, means of connection, simple and complex residential and non-residential wiring, installation, maintenance, access and ownership of inside wiring, compensation, dual regulation and service provider access.

69. *Legal Basis.* Action as proposed for this rulemaking is contained in Section 1, 4(i), 201–205, 214–215, 220, 623, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, 214–215, 220, 543 and 552.

70. *Description, Potential Impact and Number of Small Entities Affected.* The proposals, if adopted, will not have a significant effect on a substantial number of small entities.

71. *Reporting, Recordkeeping and Other Compliance Requirements.* None.

72. *Federal Rules which Overlap, Duplicate or Conflict with these Rules.* None.

73. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives.* None.

IV. Procedural Provisions

74. *Ex parte Rules—Non-Restricted Proceeding.* This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in Commission's rules. *See generally* 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

75. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments and

[1] 47 U.S.C. § 543(a)(2).

reply comments, you must file an original plus nine copies. Comments are due on March 18, 1996, and reply comments are due on April 17, 1996. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W. Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington D.C. 20554.

V. Ordering Clauses

76. It is ordered that, pursuant to Sections 1, 4(i), 201–205, 214–215, 220, 623, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, 214–215, 220, 543 and 552, NOTICE IS HEREBY GIVEN of proposed amendments to Part 76, in accordance with the proposals, discussions, and statement of issues in this *Notice of Proposed Rulemaking*, and that COMMENT IS SOUGHT regarding such proposals, discussion, and statement of issues.

77. It is further ordered that the Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

78. It is further ordered that the Petition for Rulemaking filed by the Media Access Project, *et al.*, to the extent it concerns making cable home wiring rules the same as those governing telephone inside wiring, is Hereby granted.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2169 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 112995B]

Negotiated Rulemaking Advisory Committee on Tuna Management in the Mid-Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce:

ACTION: Notice of intent; request for comments.

SUMMARY: Commerce is considering establishing a new advisory committee under the Federal Advisory Committee Act (FACA). The committee's purpose would be to negotiate issues leading to a proposed rulemaking that will resolve the gear conflict between recreational and commercial fishermen competing for tuna off the Mid-Atlantic coast. The committee would consist of representatives of parties with a definable stake in the outcome of the proposed rule.

DATES: Comments must be submitted on or before March 4, 1996.

ADDRESSES: Comments should be submitted to the Highly Migratory Species Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 301–713–2347.

I. Introduction

In accordance with the Presidential directive of March 4, 1995, the report of the National Performance Review, entitled "Creating a Government that Works Better and Costs Less", and Executive Order 12866 to utilize Negotiated Rulemaking (NRM), the Secretary of Commerce (Secretary) pledged to utilize the technique of NRM, where appropriate. In March 1995, NOAA suggested, and Commerce accepted, the National Fishing Association's petition as the basis for such a procedure.

The project's stated purpose is to resolve the gear conflict between the recreational and commercial fishermen competing for access to tuna fishery areas off the Mid-Atlantic coast. The project will bring together a balanced mix of parties and interests to negotiate at the pre-proposal stage. The goal of the negotiation is to reach consensus on proposals and/or language that will be the basis of the rule. Negotiations will be conducted through an advisory committee chartered under FACA. All procedural requirements of the Administrative Procedure Act and other applicable statutes continue to apply.

A senior official selected by NMFS will act as the designated Federal officer on behalf of NMFS. Individuals representing definable interests in the fishing industry, environmental community, academia, governmental and quasi-governmental entities will negotiate on behalf of their constituencies. A neutral mediator will keep the process moving smoothly and assist in resolving disputes.

NMFS is optimistic that this process can produce better regulations, use all parties' time and resources more wisely, and reduce litigation and uncertainty.

II. Procedures and Guidelines

A. Procedures for Establishing on Advisory Committee

NMFS has prepared a charter and has initiated the requisite consultation process. Only upon the successful completion of this process and the receipt of the approved charter will Commerce form the committee and commence negotiations.

B. Participants

The negotiating group should not exceed 21 participants. Participants must be willing to negotiate in good faith and be authorized to do so. One purpose of this notice is to help determine whether the rule that NMFS is developing would substantially affect interests not adequately represented by the proposed participants (listed later in this notice). NMFS does not believe that each potentially affected organization or individual must necessarily have its own representative, but each interest must be adequately represented. The intent is to have a group that as a whole reflects a proper balance and mix of interests.

The National Marine Fisheries Service will provide the necessary administrative support, including technical assistance, for the proposed committee.

C. Requests for Representation

If, in response to this notice, an additional individual or representative of an interest requests membership or representation in the negotiating group, NMFS, in consultation with the facilitator, will determine whether that individual or representative should be added to the group. The Secretary will make the final decision based on whether the individual or interest would be substantially affected by the rule or whether the individual is already adequately represented in the negotiating group.

D. Tentative Schedule

NMFS plans to hold the first meeting of the advisory committee in March 1996, with three additional meetings to follow, scheduled at 2-week intervals or until consensus is reached on a proposed rule, whichever occurs first. Another committee meeting may be necessary after publication of the proposed rule if the comments received reflect that substantial controversy exists regarding the proposed rule. In the event that the committee is unable to reach consensus, NMFS will proceed to develop its own proposal with the insight gained through the negotiation process.

E. Potential Interests and Participants

NMFS has tentatively identified the following list of possible interests and parties:

4Recreational Fishery Interests
- American Sportfishing Association
- Billfish Foundation
- Coastal Conservation Association
- Confederation of Associations of Atlantic Charterboat Captains
- Delaware Captain's Association
- Jersey Coast Anglers' Association
- Maryland Saltwater Sportfishermen's Association, Inc.
- Mystic Marlin and Tuna Club
- National Coalition for Marine Conservation
- National Fishing Association
- New York Sportfishing Federation
- Ocean City Marlin & Tuna Club
- Oregon Inlet Fishing Center
- Rhode Island Marine Trade Association
- Thousand Fathom Club of South Jersey
- United Boatmen of New York and New Jersey

Commercial Fishery Interests
- Blue Water Fishermen's Association
- East Coast Fisheries Federation
- East Coast Tuna Association
- General Category Tuna Association
- National Fishing Institute
- Purse Seiner Owners and Operators

Shore-side Industry Interests
- A&J
- American Sportfishing Association
- Associated Fisheries of Maine
- Etheridge
- Great Circle
- National Marine Manufacturers' Association
- Reel Seat Tackle
- Seafarers International Union
- Other dealers, processors, harvesters

Representatives with Special Experience in Fishery Issues
- Economist
- Fishery Biologist
- Gear and Technical Specialist
- Social Scientist

Representatives of the Environmental Community
- Center for Marine Conservation
- National Audubon Society
- Ocean Wildlife Campaign
- World Wildlife Fund

Representatives of Government or Quasi-government
- Atlantic States Marine Fisheries Commission
- Caribbean Fishery Management Council
- Commerce's Marine Fisheries Advisory Committee
- Mid-Atlantic Fishery Management Council
- New England Fishery Management Council
- South Atlantic Fishery Management Council
- U.S. International Commission for the Conservation of Atlantic Tunas Advisory Committee

Comments and suggestions on this tentative pool of representatives are invited. The listing of a potential group does not necessarily mean that the group has been chosen or has agreed to participate. NMFS will use this pool to develop a list of participants for the Advisory Committee. Those who feel that their interests are not adequately represented by the forementioned list may apply to be included or nominate another organization or individual to represent their interests. The application should include:

1. The name of the applicant or nominee and a description of the interest such person shall represent;

2. Evidence that the applicant or nominee is authorized to represent parties related to the interest the person proposes to represent;

3. A written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

4. The reasons that the organizations specified in this notice do not adequately represent the interests of the person submitting the application or nomination.

Authority: 16 U.S.C. 971 *et seq.*

Dated: January 25, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–1944 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 22
Thursday, February 1, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

January 26, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 and to Department Clearance Officer, USDA, OIRM, Ag Box 7630, Washington, DC 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Food and Consumer Service

Title: Evaluation of the USDA Team Nutrition Pilot Implementation.

Summary: The evaluation will assess the impact of the Team Nutrition Pilot on student behavior and motivation relative to healthy food choices.

Need and Use of the Information: The evaluation will be used to provide information to guide future implementation of the Team Nutrition Program. It will also identify the factors that are critical to successful outcomes.

Description of Respondents: Individuals or households; Not-for-profit institutions.

Number of respondents: 16,919.

Frequency of Responses: Reporting—One Time.

Total Burden Hours: 7,435.

Agricultural Marketing Service

Title: Reporting and Recordkeeping Requirements for Imported Peanuts.

Summary: The Agricultural Act of 1949 has been amended to require that all peanuts in the domestic market meet the same quality requirements established for domestically produced peanuts. The new requirements will require importers to file copies of documentation proving compliance with quality and handling requirements.

Need and Use of the Information: The documents submitted will show compliance with handling procedures and quality and food safety requirements established for the import regulation. The intent is to ensure that all peanuts in the domestic market are of good quality.

Description of Respondents: Business or other for-profit.

Number of Respondents: 25.

Frequency of Responses: Recordkeeping, Reporting—On occasion.

Total Burden Hours: 177.

Emergency processing of this submission has been requested by February 2, 1996.

Larry K. Roberson,
Deputy Departmental Clearance Officer.
[FR Doc. 96–2067 Filed 1–31–96; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Wildcat River Advisory Commission

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Wildcat River Advisory Commission will meet at the Jackson Elementary School in Jackson, New Hampshire, on March 20, 1996, April 17, 1996 and May 15, 1996. The purpose of these meetings is to continue with the development of a Draft River Management Plan for administration of the designated Wild and Scenic Wildcat River. The Wild and Scenic Rivers Act requires the establishment of an advisory commission to advise the Secretary of Agriculture on administration of the river. The public is encouraged to attend the meeting and may provide written comment on the plan to the commissioners c/o the district office.

DATES: The meetings will be held March 20, 1996, April 17, 1996 and May 15, 1996 at 7:30 p.m.

ADDRESSES: The meetings will be held at the Jackson Elementary School, Route 16B, Jackson, New Hampshire.

Send written comments to Terrence O. Clark III, Saco Ranger District, White Mountain National Forest, 33 Kancamagus Highway, Conway, NH 03818.

FOR FURTHER INFORMATION CONTACT:

Terrence O. Clark III, Saco Ranger District, (603) 447–5448.

Dated: January 22, 1996.
Terence O. Clark III,
Acting Forest Supervisor.
[FR Doc. 96–2119 Filed 1–31–96; 8:45 am]
BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Kansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Kansas Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:30 p.m. on February 16, 1996, at the Gateway Tower II, 400 State Avenue, Suite 908, Kansas City, Kansas 66101. The purpose of the meeting is to plan for an upcoming community forum.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TTY 913–551–1413). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 24, 1996.
Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 96–2120 Filed 1–31–96; 8:45 am]
BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting of the Maryland Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:00 p.m. on Friday, February 23, 1996, at the Marriott Hotel, 110 South Eutaw Street, Baltimore, Maryland 21201. The purpose of the meeting is to discuss current developments in civil rights, choose a project topic and plan its project activity for fiscal year 1996.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TTY 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 24, 1996.
Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 96–2121 Filed 1–31–96; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Supplement 17 to the Antiboycott Regulations

Pursuant to Articles 5, 7, and 26 of the Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan and implementing legislation enacted by Jordan, Jordan's participation in the Arab economic boycott of Israel was formally terminated on August 16, 1995.

On the basis of this action, it is the Department's position that certain requests for information, action or agreement from Jordan which were considered boycott-related by implication now cannot be presumed boycott-related and thus would not be prohibited or reportable under the regulations. For example, a request that an exporter certify that the vessel on which it is shipping its goods is eligible to enter Hashemite Kingdom of Jordan ports has been considered a boycott-related request that the exporter could not comply with because Jordan has had a boycott in force against Israel (see 43 FR 16969, April 21, 1978). Such a request from Jordan after August 16, 1995 would not be presumed boycott-related because the underlying boycott requirement/basis for the certification has been eliminated. Similarly, a U.S. company would not be prohibited from complying with a request received from Jordanian government officials to furnish the place of birth of employees the company is seeking to take to Jordan, because there is no underlying boycott law or policy that would give rise to a presumption that the request was boycott-related.

U.S. persons are reminded that requests that are on their face boycott-related or that are for action obviously in furtherance or support of an unsanctioned foreign boycott are subject to the regulations, irrespective of the country of origin. For example, requests containing references to "blacklisted companies", "Israel boycott list", "non-Israeli goods" or other phrases or words indicating boycott purpose would be subject to the appropriate provisions of the Department's antiboycott regulations.

Dated: January 24, 1996.
John Despres,
Assistant Secretary for Export Enforcement.
[FR Doc. 96–2115 Filed 1–31–96; 8:45 am]
BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 7–96]

Foreign-Trade Zone 75—Phoenix, AZ, Application for Subzone Status, Abbott Manufacturing, Inc., Plant (Infant Formula, Adult Nutritional Products) Casa Grande, Arizona

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Phoenix, grantee of FTZ 75, requesting special-purpose subzone status for export activity at the infant formula and adult nutritional products manufacturing plant of Abbott Manufacturing, Inc., (AMI) (a subsidiary of Abbott Laboratories, Inc.), located in Casa Grande, Arizona. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 22, 1996.

The AMI plant (590,000 sq.ft. on 161 acres) is located at 1250 West Maricopa Highway, Casa Grande (Pinal County), Arizona, approximately 50 miles south of Phoenix. The facility (340 employees) is used to produce milk and sugar-based infant formula and adult nutritional products for export and the domestic market; however, zone procedures would be used only for production for export. The production process involves blending foreign, ex-quota milk powder and foreign, ex-quota sugar with domestically-sourced oils, soy isolates, vitamins and minerals, and EZO ends. Other foreign-sourced items that may be used in the export-blending activity include: cocoa powder, pharmaceutical grade fat emulsions, vitamins and minerals, and caseinates. All foreign-origin milk and sugar would be re-exported as finished blended products.

Zone procedures would exempt AMI from quota requirements and Customs duty payments on the foreign milk and sugar products used in the export activity. The application indicates that subzone status would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 1, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 16, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Phoenix Plaza, Suite 970, 2901 N. Central Avenue, Phoenix, AZ 85012

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230–0002.

Dated: January 24, 1996.
John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 96–1999 Filed 1–31–96; 8:45 am]
BILLING CODE 3510–DS–P

[Docket A(32b1)–1–96]

Foreign-Trade Zone 87—Lake Charles, LA, Subzone 87A, Conoco Inc.; Request for Modification of Restrictions (Oil Refinery Complex)

A request has been submitted to the Foreign-Trade Zones Board (the Board)

by the Lake Charles Harbor and Terminal District, grantee of FTZ 87, pursuant to § 400.32(b)(1) of the Board's regulations, for modification of the restrictions in FTZ Board Order 406 (53 FR 52455, 12/28/88) authorizing Subzone 87A at the crude oil refinery complex of Conoco Inc., in Lake Charles, Louisiana. The request was formally filed on January 24, 1996.

The Board Order in question was issued subject to certain standard restrictions, including one that required the election of privileged foreign status on incoming foreign merchandise. The zone grantee has requested that the latter restriction be modified so that Conoco would have the option available under the FTZ Act to choose non-privileged foreign (NPF) status on foreign refinery inputs used to produce certain petrochemical feedstocks and by-products, including the following: benzene, ethane, methane, propane, other hydrocarbon mixtures, propylene, butane, butylene, petroleum coke, sulfur, and sulfuric acid.

The request cites the FTZ Board's recent decision in the Amoco, Texas City, Texas case (Board Order 731, 60 FR 13118, 3/10/95) which authorized subzone status with the NPF option noted above. In the Amoco case, the Board concluded that the restriction that precluded this NPF option was not needed under current oil refinery industry circumstances.

Public comment on the proposal is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 30, 1996.

A copy of the application and accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: January 24, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–1997 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 799]

Grant of Authority for Subzone Status; Ben Venue Laboratories, Inc. (Pharmaceutical Products), Bedford, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Cleveland-Cuyahoga County Port Authority, grantee of Foreign-Trade Zone 40, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facility of Ben Venue Laboratories, Inc., in Bedford, Ohio, was filed by the Board on May 31, 1995, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 29–95, 60 FR 31142, 6–13–95); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 40G) at the plant of Ben Venue Laboratories, Inc., in Bedford, Ohio, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 23rd day of January 1966.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–1996 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 77–95]

Foreign-Trade Zone 168—Fort Worth, Texas; Application for Expansion, Extension of Comment Period

The comment period for the pending application of the Dallas/Fort Worth Maquila Trade Development Corporation, grantee of FTZ 168, requesting authority to expand its zone (Docket 77–95, filed 11/21/95, 60 FR 61528, 11/30/95), is further extended to March 1, 1996, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 3 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, N.W., Room 3716, Washington, D.C. 20230.

Dated: January 24, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–1998 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received a request to revoke one antidumping finding in part.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. The Department also received a timely request to revoke in part the antidumping findings on elemental sulphur from Canada.

Initiation of Reviews

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a) (19 CFR 353.22(a)). We intend to issue the final results of these reviews not later than December 31, 1996.

	Period to be reviewed
Antidumping Duty Proceedings:	
Brazil:	
Silicomanganese	
A–351–824	
Companhia Paulista De Ferroligas	06/17/94–11/30/95
Canada:	
Elemental Sulphur	
A–122–047	
Mobil Oil Canada, Ltd., Husky Oil Ltd	12/01/94–11/30/95
Japan:	
Polychloroprene Rubber	
A–588–046	
Denki Kaguku, K.K., Denki Kaguku Koggo, K.K./Hoei Sangyo Co., Ltd., Mitsui Bussan K.K., Showa Neoprene K.K./Hoei Sangyo Co., Ltd., Suzugo Corporation, Toyo Soda Manufacturing Co., Ltd., Toyo Soda Manufacturing Co./Hoei Sangyo Co., Ltd	12/01/94–11/30/95
Mexico:	
Porcelain-on-Steel Cooking Ware	
A–201–504	
Cinsa, S.A. de C.V., Esmaltaciones de Norte America, S.A. de C.V	12/01/94–11/30/95
The People's Republic of China:	
Certain Cased Pencils	
A–570–827	
Beijing Pencil Factory, Dalian Pencil Factory, Donghua Pencil Factory, Harvin Pencil Factory, Jiangsu Pencil Factory, Jinan Pencil Factory, Juihai Pencil Factory, Julong Pencil Factory, Quindao Pencil Factory, Shenyiang Pencil Factory, Anhui Stationery Company, Ltd., (aka Beng Bu Pencil Factory)	12/21/94–11/30/95
Songnan Pencil Factory, China First Pencil Company, Ltd., Shanghai Three Star Stationary Com., Shanghai Foreign Trade Corporation, Guandong Stationary & Sporting Goods I/E Corporation, Shanghai Lansheng Co., Ltd. (aka Stationary & Sporting Goods I/E Corporation), Shanghai Machinery & Equipment I/E Corporation, Tianjin Pencil Factory, Xinbang Joint Venture Pencil Factory, AEMPAC Systems (Hong Kong), Anhui I/E Group Corporation, Anhui Ligh Industrial Products I/E Corp., Anhui Provincial I/E Corporation, Applause Products, Atico International, Atico Overseas, Beijing Ligh Industrial Products I/E Corporation, CS Container Line (Hong Kong), Cargo Service (Hong Kong), Cargo Systems, Changzhou Foreign Economic Technical & Trading Company, Changzhou Foreign Trade Group, Chiangshu Foreign Trading, China Fujian Foreign Trade Center, China National Light Industrial Products I/E Corporation (all branches), China North Industrias Tianjin Corporation, Dalian Light Industrial Products I/E Corp., China Shenzhen SEZ Foreign Trade, El Ocean (Hong Kong), Far East Enterprises, Fuji Industrial (Hong Kong), Gansu Provincial Machinery, Golden Way Trading Company, Guangzhou Foreign Trade Group, Hianan Provincial Foreign Trade, Haiwang Enterprises Company, Ltd., Han Maritime	12/21/94–11/30/95
Jin Hai Jei Air International Forwarding, Heilongjiang Light Industrial Products I.E Corporation, Ideal Consolidators (Hong Kong), Ideal Ocean Lines (Hong Kong), Inteks Transport International, Jacky Maeder (Hong Kong), Jiangsu Light Industrial Products I/E Group Corporation, Jilin Provincial Machinery & Equipment I/E Corporation, King Sun (Hong Kong), Kwok Luen Plastic Manufacturing, Lailon Enterprises (Hong Kong), LEP Guangzhou Delegation Office, LEP Transport International, Liaoning Light Industrial Products I/E Corp., Licken Industrial (Hong Kong), Maritime International, Onan Shipping (Hong Kong), Orwave, Panalpina, Panalpina (Hong Kong), Perpetual Product Development, Po Shing Industrial, Premier Shipping, Qingdao Light Industrial Products I/E Corporation, Regent C&C Shanghai Office, Regent Express, Shandong Light Industrial Products I/E Corporation, Shantou Light Industrial Products I/E Corporation, Shantou Stationary & Sporting Goods I/E Corporation, Shanxi Light Industrial Products I/E Corporation, Shenyiang Light Industrial Products I/E Corporation, Shum Yip (Shenzen) Industry & Trade Development Corporation	12/21/94–11/30/95
Translink Transportation, Sichuan Light Industrial Products I/E Corporation, Sui Jun International (Hong Kong), THI (Hong Kong), The Merton Company, Ltd. (Hong Kong), Tianjin Beifing Corporation, Tianjin Stationary & Sporting Goods I/E Corporation, Tony Trading (Hong Kong), Trade Power (Taiwan), Trinity Mark Industries, Tru Blue Products, UT Consolidators (Hong Kong), Wah Luen Stationary Supplies, Y.K. Shipping International, Yangjiang Light Industrial Products I/E Corporation, Zhenjiang Foreign Trade Corporation	12/21/94–11/30/95
All other exporters of certain cased pencils from the People's Republic of China are conditionally covered by this review.	
The People's Republic of China:	
Porcelain-on-Steel Cooking Ware	
A–570–506	
Clover Enamelware Enterprise, Ltd., Lucky Enamelware Factory Limited	12/01/94–11/30/95
All other exporters of porcelain-on-steel cooking ware from the People's Republic of China are conditionally covered by this review.	
Taiwan:	
Certain Welded Stainless Steel Pipe	
A–583–815	
Ta Chen Stainless Pipe	12/01/94–11/30/95

	Period to be reviewed
Countervailing Duty Proceedings: None	

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

As explained in the memorandum from the Assistant Secretary for Import Administration dated January 11, 1996, due to the partial shutdown of the Federal Government from December 16, 1995 through January 6, 1996, the Department has exercised its discretion to toll this deadline for the duration of the partial shutdown. All deadlines have been extended by 22 days, i.e., one day for each day (or partial day) the Department was closed. This notice is published in accordance with the extended deadline for initiation of these reviews. The reviews will proceed in accordance with the normal statutory and regulatory deadlines.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: January 26, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–1994 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–549–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom; Extension of Time Limits of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for preliminary and final results in the administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom covering the period May 1, 1994, through April 30, 1995, since it is not practicable to complete the reviews within the time limits.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Michael Rill or Richard Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce has received requests to conduct administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom. On June 19, 1995, the Department initiated these administrative reviews covering the period May 1, 1994, through April 30, 1995.

Due to the complexity of these cases it is not practicable to complete this review within the time limit mandated by section 751 (a) (3) (A) of the Tariff Act of 1930, as amended. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to June 27, 1996, and for the final results to December 24, 1996.

The Department adjusted 28 days to the time limits due to the Government shutdowns, which lasted from November 14, 1995, to November 20, 1995, and from December 15, 1995, to January 6, 1996. See Memorandum to the file from Susan G. Esserman, Assistant Secretary for Import Administration, January 11, 1996.

Interested parties must submit applications disclosure under administrative protective order in accordance with 19 CFR 353.34 (b).

These extensions are in accordance with section 751 (a) (3) (a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675 (a)).

Dated: January 23, 1996

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–1995 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–475–819, C–489–806]

Notice of Postponement of Final Countervailing Duty Determinations and Termination of Suspension of Liquidation: Certain Pasta From Italy and Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Vincent Kane (Italy) and Elizabeth Graham (Turkey), Office of Countervailing Investigations, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2815 and (202) 482–4105, respectively.

POSTPONEMENT OF FINAL DETERMINATIONS AND TERMINATION OF SUSPENSION OF LIQUIDATION: On October 17, 1995, we published the preliminary affirmative countervailing duty determinations with respect to certain pasta from Italy (60 FR 53739) and Turkey (60 FR 53747). On October 26, 1995, we published a notice of alignment of the final countervailing duty determinations with the final antidumping duty determinations of certain pasta from Italy and Turkey (60 FR 54847). The notice stated that the final countervailing duty determinations would be made on February 21, 1996.

On January 19, 1996, the notices of preliminary determination of sales at less than fair value and postponement of final determination for certain pasta from Italy and Turkey were published in the **Federal Register**. These notices stated that the final determinations in the antidumping duty investigations and the companion countervailing duty investigations would be made 135 days after the date of publication of the Department's preliminary determination in the antidumping cases, *i.e.*, June 3, 1996. Accordingly, the date for the final countervailing duty determinations for certain pasta from Italy and Turkey will be June 3, 1996.

In accordance with section 703(d) of the Act, the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty investigations on February 14, 1996, which is four months (120 days) from the date of publication of the preliminary determinations in these countervailing duty investigations. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters on or after February 14, 1996. The suspension of liquidation will not be resumed unless and until the Department publishes countervailing duty orders. We will also direct the U.S. Customs Service to continue to suspend liquidation of entries made between October 17, 1995, through February 13, 1996 until the conclusion of these investigations.

The U.S. International Trade Commission is being advised of this postponement of final determinations in accordance with section 705(d) of the Act and the termination of suspension of liquidation in accordance with section 703(f) of the Act. This notice is published pursuant to section 705(d) of the Act and 19 C.F.R. 355.20(c)(3).

Dated: January 24, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–1993 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

ACTION: Notice of Application for an Amendment to an Export Trade Certificate of Review, Application No. 88–3A013.

SUMMARY: The Department of Commerce has received an application to amend an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to determining whether the Certificate should be amended. An original and five (5) copies should be submitted not later than 30 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 88–3A013."

CISA Export Trade Group, Inc.'s (CISA ETC) original Certificate of Review No. 88–00013 was issued to CISA on October 19, 1988. Notice of issuance of the Certificate was published in the **Federal Register** on October 26, 1988 (53 FR 43253). Previous amendments to the Certificate were issued on March 2, 1990 (55 FR 23123, June 6, 1990) and on December 16, 1991 (57 FR 883, January 9, 1992).

Summary of the Application

Applicant: CISA Export Trade Group, Inc., 124 Fieldstone Drive, Venice, Florida 34292.

Contact: Pierre A. Dahmani, Legal Counsel, Telephone: (312) 876–0200.

Application No.: 88–3A013.

Date Deemed Submitted: January 18, 1996.

Proposed Amendment: CISA Export Trade Group, Inc. seeks to amend its Certificate to:

1. add the following companies as "Members" within the meaning of Section 325.2 (1) of the Regulations (15 CFR 325.2(1)): Borden, Inc./North American Resins, Westchester, Illinois; Delta Resins & Refractories, Inc, Milwaukee, Wisconsin; Eirich Machines, Inc., Gurnee, Illinois; Fargo Wear, Detroit, Michigan; Palmer Manufacturing Company, Springfield, Ohio; Vulcan Engineering Company, Helena, Alabama.

2. delete the following two companies as "Members" within the meaning of Section 325.2(1) of the Regulations (15 CFR 325.2(1)): Carrier Vibrating Equipment, Louisville, Kentucky; and Simplicity Engineering, Durant, Missouri.

Dated: January 25, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–2000 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DR–P

National Technical Information Service

NTIS Advisory Board Meeting

AGENCY: National Technical Information Service, Technology Administration, U.S. Department of Commerce.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Technical Information Service Advisory Board (the "Board") will meet on Thursday, February 22, 1996, from 9:00 a.m. to 4:00 p.m., and on Friday, February 23, 1996, from 9:00 a.m. to 4:00 p.m. The session on Friday, February 23, will be closed to the Public.

The Board was established under the authority of 15 U.S.C. 3704b(c), and was Chartered on September 15, 1989. The Board is composed of five members appointed by the Secretary of Commerce who are eminent in such fields as information resources management, information technology, and library and information services. The purpose of the meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The agenda will include a progress report on NTIS activities, an update on the progress of FedWorld, and a discussion of NTIS' long range plans. The closed session discussion is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. on February 23, 1996. The session will be closed because premature disclosure of the information to be discussed would be likely to significantly frustrate implementation of NTIS' business plans.

DATES: The meeting will convene on February 22, 1996, at 9:00 a.m. and adjourn at 4:00 p.m. and convene again on February 23, 1996, at 9:00 a.m. and adjourn at 4:00 p.m.

ADDRESSES: The meeting will be held in Room 2029 Sills Building, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

PUBLIC PARTICIPATION: The meeting will be open to public participation on February 22, 1996, and closed on February 23, 1996. Approximately thirty minutes will be set aside on February 22, 1996 for comments or questions from the public. Seats will be available for the public and for the media on a first-come, first-served basis. Any member of the public may submit written comments concerning the Board's affairs at any time. Copies of the minutes of the open session meeting will be available within thirty days of the meeting from the address given below.

FOR FURTHER INFORMATION CONTACT: Linda Lucas, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 . Telephone: (703) 487–4636; Fax (703) 487–4093.

Dated: January 25, 1996.

Donald R. Johnson,

Director.

[FR Doc. 96–2047 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–04–M

National Oceanic and Atmospheric Administration

[I.D. 112995C]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of scientific research permit no. 867 (P540).

SUMMARY: Notice is hereby given that Dr. Frank Cipriano, Kewalo Marine Laboratory, 13 Ahui Street, Honolulu, HI 96813, has been issued a permit to obtain and/or import odontocete cetacean specimen material for ongoing study of cetacean molecular genetics.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment, in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4015), including the Pacific Area Office of NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/955–8831);

Director, Northwest Region (206/526–6150) and Director, National Marine Mammal Laboratory (206/526–4020), NMFS, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115;

Director, Alaska Region, NMFS, Federal Annex, P.O. Box 21668, Juneau, AK 99802 (907/586–7221); and

Director, Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141).

SUPPLEMENTARY INFORMATION: On October 12, 1995, notice was published in the **Federal Register** (60 FR 53170) that a request for a scientific research permit to take an unspecified number of cetacean species had been submitted by the above-named individual. The requested modification has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended, (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Issuance of this modified permit as required by the Endangered Species Act of 1973 was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act.

Dated: January 25, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–2146 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Information Collection.

SUMMARY: The Commodity Futures Trading Commission has submitted information collection 3038–0007, Regulation of Domestic Exchange-Traded Options to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. The information collection pursuant to this rule is in the public interest and is necessary for market surveillance.

ADDRESSES: Persons wishing to comment on this information collection should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, D.C. 20502, (202) 395–7340. Copies of the submission are available from Joe F. Mink, Agency Clearance Officer, (202) 418–5170.

Title: Regulation of Domestic Exchange-Traded Options.

Control Number: 3038–0007.

Action: Extension.

Respondents: Business (excluding small business).

Estimated Annual Burden: 41,387 total hours.

Respondents	Regulation (17 CFR)	Estimated No. of respondents	Annual responses	Est. avg. hours per response
Business	Parts 33 and 16	190,420	230,782	50.57

Issued in Washington, D.C. on January 26, 1996.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 96–2012 Filed 1–31–96; 8:45 am]

BILLING CODE 6351–01–M

Applications of the Chicago Board of Trade as a Contract Market in Futures and Options on the Following Four Yield Differentials: 5-Year/2-Year, 5-Year/3-Year, 10-Year/3-Year and 30-Year/3-Year.

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in U.S. Treasury yield curve spread futures and options on the following four yield differentials: 5-year/2-year, 5-year/3-year, 10-year/3-year and 30-year/3-year. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before March 4, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Reference should be made to the CBT U.S. Treasury yield curve spread contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., Washington, DC 20581, telephone 202–418–5277.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., N.W., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 26, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–2011 Filed 1–31–96; 8:45 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps* National Civilian Community Corps' Availability for Collaboration With Eligible Service Organizations To Perform Community Service Projects

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability for collaboration.

SUMMARY: AmeriCorps* National Civilian Community Corps (A*NCCC), engages young men and women of all social, economic and educational backgrounds in the conduct of national service projects. AmeriCorps*NCCC's priority service areas include education, the environment, public safety, human needs and disaster relief. AmeriCorps*NCCC collaborates with private non-profit organizations, governmental entities at the Federal, State and local levels, and community based organizations dedicated to service. All interested and eligible organizations are encouraged to apply.

DATES: Proposals are accepted and reviewed on an ongoing basis and are approved taking into consideration compelling need, availability of funds and geographical distribution.

ADDRESSES: For interested organizations in Maryland, Delaware, New Jersey, Pennsylvania, New York, and District of Columbia contact: AmeriCorps*NCCC Northeast Region Campus, Attn: Mr. John Underwood—Director, P.O. Box 27, Perry Point, MD 21902–0027 (410) 642–2411 Ext. 6850.

For interested organizations in Alabama, Arkansas, Connecuticut, Florida, Georgia, Kentucky, Louisiana, Massachusetts, Mississippi, New Hampshire, North Carolina, Ohio, Puerto Rico, South Carolina, Tennessee, Vermont, Virgin Islands, Virginia, and West Virginia contact: AmeriCorps*NCCC Southeast Region Campus, Attn: Ms. Ruth Rambo—Regional Project Director, P.O. Box 150010, Charleston, SC 24415–0010, (803) 743–8640 Ext 3007.

For interested organizations in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming contact: AmeriCorps*NCCC Central Regional Campus, Attn: Ms. Dale Whyte—Regional Project Director, 1059 Yosemite Street—Bldg. 758, #261, Aurora, CO 80010–6002, (303) 340–7306.

For interested organizations in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington contact: AmeriCorps*NCCC Western Region Campus, Attn: Mr. Charles Davenport—Regional Project Director, San Diego, CA 92133–1212, (619) 524–0728.

FOR FURTHER INFORMATION CONTACT: AmeriCorps*NCCC Headquarters, Attn; Mr. Rodger Hurley—National Project Coordinator, 1201 New York Avenue., 9th Floor, Washington, DC 20525, (202) 606–5000 Ext. 144.

SUPPLEMENTARY INFORMATION: The AmeriCorps*National Civilian Community Corps is a program operated by the Corporation for National and Community Service. The Corporation is a government organization which engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, human, environmental and disaster response needs by achieving direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. Corpsmembers of the AmeriCorps*National Civilian Community Corps reside on facilities located in Maryland, South Carolina, Denver and San Diego. They travel to and conduct service projects in four regions of the country and live in temporary housing. Local support for housing and food for corpsmembers is a factor taken into account in project selection. Projects are ordinarily four to six weeks in duration and engage one team of twelve or so corpsmembers; some larger and longer projects are approved when there is a strong justification for doing so.

Dated: January 24, 1996.

Fred Peters,

*Senior Coordinator of Program Operations, AmeriCorps*NCCC.*

[FR Doc. 96–2148 Filed 1–31–96; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Tuesday and Wednesday 6–7 February 1996.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II § 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: January 26, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–2005 Filed 1–31–96; 8:45 am]

BILLING CODE 5004–04–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0094]

Request for Public Comments Regarding OMB Clearance Entitled Debarment and Suspension

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0094).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Debarment and Suspension. This OMB clearance currently expires on April 30, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0094, Debarment and Suspension, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Office of Federal Acquisition Policy, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR requires contracts to be awarded to only those contractors determined to be responsible. Instances where a firm or its principals have been indicted, convicted, suspended, proposed for debarment, debarred, or had a contract terminated for default are critical factors to be considered by the contracting officer in making a responsibility determination. This certification would require the disclosure of this information.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30 minutes per subcontractor and 5 minutes per prime contractor* per response, including the time for reviewing instructions, searching exiting data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,100,000*; responses per respondent, *1*; total annual responses, *1,100,000*; preparation hours per response, *30 min. sub., 5 min. prime*; and total response burden hours, *91,667*.

Dated: January 26, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1979 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 900–0053]

Request for Public Comments Regarding OMB Clearance Entitled Permits, Authorities, or Franchises Certification

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0053).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Permits, Authorities, or Franchises Certification. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

This certification and copies of authorizations are needed to determine that the offeror has obtained all authorizations, permits, etc., required in connection with transporting the material involved. The contracting officer reviews the certification and any documents requested to ensure that the offeror has complied with all regulatory requirements and has obtained any permits, licenses, etc., that are needed.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes for the first completion, *1* minute for subsequent completions, or an average of *5.7* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,106*; responses per respondent, *3*; total annual responses, *3,318*; preparation hours per response, *.094*; and total response burden hours, *312*.

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1982 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0054]

Request for Public Comments Regarding OMB Clearance Entitled U.S.-Flag Air Carriers Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0054).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of currently approved information collection requirement concerning U.S.-Flag Air Carriers Certification. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0054, U.S.-Flag Air Carriers Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag carrier is available to provide such services. In the event that the contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the contractor shall include a certification on vouchers involving such transportation. The contracting officer uses the information furnished in the certification to determine whether adequate justification exists for the contractor's use of other than a U.S.-flag air carrier.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *150*; responses per respondent, *2*; total annual responses, *300*; preparation hours per response, *.25*; and total response burden hours, *75*.

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1983 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0055]

Request for Public Comments Regarding OMB Clearance Entitled Freight Classification Description

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0055).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Freight Classification Description. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405, Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government purchases supplies that are new to the supply system, nonstandard, or modifications of previously shipped items, and different freight classifications may apply, offerors are requested to indicate the full Uniform Freight Classification or National Motor Freight Classification. The information is used to determine the proper freight rate for the supplies.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *2,640;* responses per respondent, *3;* total annual responses, *7,920;* preparation hours per response, *.167;* and total response burden hours, *1,323.*

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1984 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0057]

Request for Public Comments Regarding OMB Clearance Entitled Evaluation of Export Offers

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0057).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Evaluation of Export Offers. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Dote: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0057, Evaluation of Export Offers, in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

Offers submitted in response to Government solicitations must be evaluated and awards made on the basis of the lowest laid down cost to the Government at the overseas port of discharge, via methods and ports compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Offers are evaluated on the basis of shipment through the port resulting in the lowest cost to the Government. This provision collects information regarding the vendor's preference for delivery ports. The information is used to evaluate offers and award a contract based on the lowest cost of the Government.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* minutes for the first completion, *10* minutes for subsequent completions, or an average of *15* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *100;* responses per respondent, *4;* total annual responses, *400;* preparation hours per response, *.25;* and total responses burden hours, *100.*

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1986 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0061]

Request for Public Comments Regarding OMB Clearance Entitled Transportation Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0061).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Transportation Requirements. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date:* April 1, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Part 47 and related clauses contain policies and procedures for applying transportation and traffic management considerations in the acquisition of supplies and acquiring transportation or transportation-related services. Generally, contracts involving transportation require information regarding the nature of the supplies, method of shipment, place and time of shipment, applicable charges, marking of shipments, shipping documents and other related items. This information is required to ensure proper and timely shipment of Government supplies.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *23* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *65,000;* responses per respondent, *5;* total annual responses, *325,000;* preparation hours per response, *.23;* and total response burden hours, *74,750.*

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1987 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0004]

Clearance Request Entitled Architect-Engineer and Related Services Questionnaire (SF–254)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0004).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Architect-Engineer and Related Services Questionnaire (SF 254). A request for public comments was published at 60 FR 57227, November 14, 1995. No comments were received.

DATES: *Comment Due Date:* March 4, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets NW., Washington, DC 20405. Please cite OMB Control No. 9000–0004, Architect-Engineer and Related Services Questionnaire (SF 254), in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard Form 254 is used by all Executive agencies to obtain uniform information about a firm's experience in architect-engineering (A–E) projects. The form is submitted annually as required by 40 U.S.C. 541–544 by firms wishing to be considered for Government A–E contracts. The information obtained on this form is used to determine if a firm should be solicited for A–E projects.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *5,000;* responses per respondent, *7;* total annual responses, *35,000;* preparation hours per response, *1;* and total response burden hours, *35,000.*

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0004, Architect-Engineer and Related Services Questionnaire (SF 254), in all correspondence.

Dated: January 26, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1980 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0043]

Clearance Request Entitled Delivery Schedules

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0043).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Delivery Schedules. A request for public comments concerning this burden estimate was published at 60 FR 53916, October 18, 1995. No public comments were received.

DATES: *Comment Due Date: March 4, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0043, Delivery Schedules, in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph De Stefano, Office of Federal Acquisition Policy, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

The time of delivery or performance is an essential contract element and must be clearly stated in solicitations and contracts. The contracting officer may set forth a required delivery schedule or may allow an offeror to propose an alternate delivery schedule. The information is needed to assure supplies or services are obtained in a timely manner.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes) per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,440;* responses per respondent, *5;* total annual responses, *17,200;* preparation

hours per response, .167; and total response burden hours, 2,872.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0043, Delivery Schedules, in all correspondence.

Dated: January 25, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1981 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy; Notice of Open Meeting

AGENCY: United States Military Academy, West Point, New York.

SUMMARY: In accordance with Section 10(a)(20) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 29 February 1996.

Place of Meeting: Room 418, Russell Senate Office Building, Washington, D.C.

Start Time of Meeting: 9:00 a.m.

Proposed Agenda: Election of officers; selection of Executive Committee; scheduling of meeting for remainder of year; and identification of areas of interest for 1996. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John J. Luther, United States Military Academy, West Point, NY 10996–5000, (914) 938–5870.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–2116 Filed 1–31–96; 8:45 am]

BILLING CODE 3710–08–M

Privacy Act of 1974; Notice to Amend and Delete Systems of Records

AGENCY: Department of the Army.

ACTION: Notice to amend and delete systems of records.

SUMMARY: The Department of the Army is amending eleven systems of records notices and deleting one in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 4, 1996 unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (602) 538–6856 or DSN 879–6856.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 24, 1996.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION
A0380–67USAREUR

SYSTEM NAME:

Employee Screening Program/ Installation Access Files *(February 22, 1993, 58 FR 10121).*

Reason: All records identified with this system were destroyed prior to the October 1, 1994 inactivation date for all U.S. Army units remaining in Berlin, Germany.

AMENDMENTS
A0015–34DARP

SYSTEM NAME:

Army Civilian/Military Service Review Board *(February 22, 1993, 58 FR 10029).*

SYSTEM IDENTIFIER:

Replace 'DARP' with 'ARPC'.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

RECORD ACCESS PROCEDURE:

Delete address and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

* * * * *

A0015–34ARPC

SYSTEM NAME:

Army Civilian/Military Service Review Board.

SYSTEM LOCATION:

U.S. Army Reserve Personnel Center, 9700 Page Boulevard, St. Louis, MO 63132–5200.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian or contractual personnel (or their survivors) who were members of a group certified by the Secretary of the Air Force to have performed active duty with the Armed Forces of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application of individuals for recognition of service, evidence that supports claim of membership in approved group, action of the Army Civilian/Military Service Review Board, DD Form 214 and DD Form 256 or DD Form 257 as appropriate, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 401, Pub. L. 95–202 and DOD Directive 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel.

PURPOSE(S):

To determine whether individual applicants were members of civilian or contractual groups approved as having rendered service to the Army and whose service constitutes active military service, and to issue appropriate discharge or casualty documents, including applicable pay and equivalent rank or grade.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Copy of DD Form 214 is furnished to the Department of Veterans Affairs for benefits entitlements.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers stored in file folders.

RETRIEVABILITY:

By applicant's surname.

SAFEGUARDS:

Information is accessible only to designated persons having official need therefore in the performance of their duties. During non-duty hours, guards assure that records areas are secured.

RETENTION AND DISPOSAL:

Upon favorable Board decision, an Official Military Personnel File is created, containing individual's application, Board action, DD Form 213, DD Form 256 or DD Form 257 as appropriate, and DD Form 1300 if applicable. This file is transferred to the National Personnel Records Center, General Services Administration, where it is retained permanently.

Disapproved applications, together with supporting documentation and the Board's decision, are retained for 2 years, following which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.

For verification purposes, individual should provide the full name at the time of the recognized military service, date and place of birth, details concerning affiliation with group certified to have performed active duty with the Army, and signature.

RECORD ACCESS PROCEDURE:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.

For verification purposes, individual should provide the full name at the time of the recognized military service, date and place of birth, details concerning affiliation with group certified to have performed active duty with the Army, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are published in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0027DAJA

SYSTEM NAME:

Civil Process Case Files *(August 3, 1993, 58 FR 41252).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate, Headquarters, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0007.'

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A0027DAJA

SYSTEM NAME:

Civil Process Case Files.

SYSTEM LOCATION:

Office of the Judge Advocate, Headquarters, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0007.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Armed Forces, civilian employees of the U.S. Government, and their dependents upon whom service is made of documents issued by German civil courts, customs and taxing agencies, and other administrative agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents from German authorities regarding payment orders, execution orders, demands for payment of indebtedness, notifications to establish civil liability, customs and tax demands, assessing fines and penalties, demands for court costs or for costs for administrative proceedings summonses and subpoenas, paternity notices, complaints, judgments, briefs, final and interlocutory orders, orders of confiscation, notices, and other judicial or administrative writs; correspondence between U.S. Government authorities and the Federal Republic of Germany; identifying data on individuals concerned; and similar relevant documents and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013; Agreement to Supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces with respect to Foreign Forces stationed in the Federal Republic of Germany (NATO Status of Forces Supplementary Agreement).

PURPOSE(S):

To ensure that U.S. Forces obligations under the North Atlantic Treaty Organization Status of Forces Agreement are honored and the rights of U.S. Government employees are protected by making legal assistance available.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to foreign law enforcement or investigatory or administrative authorities, to comply with requirements imposed by, or to claim rights conferred in international agreements and arrangements regulating the stationing and status in Federal Republic of Germany of Defense military and civilian personnel.

Information disclosed to authorities of the Federal Republic of Germany may be further disclosed by them to claimants, creditors or their attorneys.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records and cards in steel filing cabinets; computer disk-packs and computerized database.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

All information is maintained in areas accessible only to designated individuals having official need therefor in the performance of their duties. Records are housed in buildings protected by military police or security guards.

RETENTION AND DISPOSAL:

Paper records are destroyed 2 years after completion of case; card files are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address inquiries to the Office of the Judge Advocate General, Headquarters, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0007.

Individual should provide the full name, rank/grade, service number, sufficient details to permit locating the records, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to record about themselves contained in this record system should address inquiries to the Office of the Judge Advocate General, Headquarters, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0007.

Individual should provide the full name, rank/grade, service number, sufficient details to permit locating the records, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; German authorities; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0027–10cDAJA

SYSTEM NAME:

Witness Appearance Files *(February 22, 1993, 58 FR 10034).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete address and replace with 'Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.'

RECORD ACCESS PROCEDURES:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.'

* * * * *

A0027–10cDAJA

SYSTEM NAME:

Witness Appearance Files.

SYSTEM LOCATION:

Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former military personnel and civilian employees requested to appear as witnesses before civil courts, administrative tribunals, and regulatory bodies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of the witness and official requesting same; name and location of trial or other proceeding.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To locate and provide witnesses to U.S. attorneys conducting trials on behalf of the Department of the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information from this system of records may also be disclosed to law students participating in a volunteer legal support program approved by the Judge Advocate General of the Army.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and magnetic tapes/discs.

RETRIEVABILITY:

Retrieved by individual's surname.

SAFEGUARDS:

Records are accessible only to authorized personnel who are properly instructed in the permissible use thereof; building housing records are protected by security guards.

RETENTION AND DISPOSAL:

Destroyed after 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200..

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.

Individual should provide his/her full name, current address and telephone number, case number appearing on correspondence, and any other personal identifying data that will assist in locating the record.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.

Individual should provide his/her full name, current address and telephone number, case number appearing on correspondence, and any other personal identifying data that will assist in locating the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports, Department of Justice, U.S. attorneys, civilian counsel, and similar pertinent sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0027–20bDAJA

SYSTEM NAME:

Tort Claim Files *(February 22, 1993, 58 FR 10035).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete address and replace with 'Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.'

RECORD ACCESS PROCEDURES:

Delete address and replace with'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.'

* * * * *

A0027–20bDAJA

SYSTEM NAME:

Tort Claim Files.

SYSTEM LOCATION:

Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed a complaint against the U.S. Army in the U.S. District Court under the Federal Tort Claims Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pleadings, motions, briefs, orders, decisions, memoranda, opinions, supporting documentation, and allied material, including claims investigation, reports and files involved in representing the U.S. Army in the Federal Court System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2671–2680.

PURPOSE(S):

To defend the Army in civil suits filed against it in state or federal courts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is disclosed to the Department of Justice and United States Attorneys' offices handling the particular case. Most of the information is filed in some manner in the courts in which the litigation is pending and therefore is a public record. In addition, some of the information will appear in the written orders, opinions, and decisions of the courts which, in turn, are published in the Federal Reporter System under the name or style of the case and are available to individuals with access to a law library.

Information from this system of records may also be disclosed to law students participating in a volunteer legal support program approved by the Judge Advocate General of the Army.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes/discs.

RETRIEVABILITY:

Retrieved by claimant's surname and court docket number.

SAFEGUARDS:

Records are maintained in file cabinets within secured buildings and available only to designated authorized individuals who have official need for them.

RETENTION AND DISPOSAL:

Records are destroyed 10 years after final action on the case.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.

Individuals should provide full name, current address and telephone number, case number that appeared on documentation, any other information that will assist in locating pertinent records and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.

Individual should provide full name, current address and telephone number, case number that appeared on documentation, any other information that will assist in locating pertinent records and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0027–40DAJA

SYSTEM NAME:

Litigation Case Files *(February 22, 1993, 58 FR 10037).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete address and replace with 'Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.'

RECORD ACCESS PROCEDURES:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.'

* * * * *

A0027–40DAJA

SYSTEM NAME:

Litigation Case Files.

SYSTEM LOCATION:

Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who has filed a complaint against the U.S. Army or its

personnel in the state or federal courts; military and civilian personnel in the Department of the Army who are named defendants, in their individual or official capacity, in civil litigation initiated by or against the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pleadings, motions, briefs, orders, decisions, memoranda, opinions, supporting documentation, and allied materials involved in representing the U.S. Army in the Federal Court System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To defend the Army in civil suits filed against it in the state or federal courts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is disclosed to Department of Justice and U.S. Attorney's offices handling a particular case. Most of the information is filed in some manner in the courts in which the litigation is pending and therefore is a public record. In addition, some of the information will appear in the written orders, opinions, and decisions of the courts which, in turn, are published in Federal Reporter System under the name or style of the case and are available to individuals with access to a law library.

Information from this system of records may be disclosed to law students participating in a volunteer legal support program approved by the Judge Advocate General of the Army.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes/discs.

RETRIEVABILITY:

By individual's surname and court docket number.

SAFEGUARDS:

Records are maintained in file cabinets within secured buildings and available only to designated authorized individuals who have official need therefor.

RETENTION AND DISPOSAL:

Records at the Office of the Judge Advocate General and the Chief of Engineers' office (for civil works) are destroyed after 30 years, except that those cases determined to have precedential, policy, or otherwise significant, value are permanent. Records in other legal offices are destroyed 6 years after completion of litigation.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

Individual should provide full name, current address and telephone number, case number that appeared on documentation, any other information that will assist in locating pertinent records, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

Individual should provide full name, current address and telephone number, case number that appeared on documentation, any other information that will assist in locating pertinent records, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 35 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Department of the Army records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0030AMC

SYSTEM NAME:

Food Taste Test Panel Files *(February 22, 1993, 58 FR 10040).*

* * * * *

NOTIFICATION PROCEDURE:

Replace address to read 'Director, U.S. Army Natick Research Development and Engineering Center, ATTN: AMSSC-NC, Science and Technology Directorate, Natick, MA 01760-5020.'

RECORD ACCESS PROCEDURES:

Replace address to read 'Director, U.S. Army Natick Research Development and Engineering Center, ATTN: AMSSC-NC, Science and Technology Directorate, Natick, MA 01760-5020.'

* * * * *

A0030AMC

SYSTEM NAME:

Food Taste Test Panel Files.

SYSTEM LOCATION:

U.S. Army Natick Research, Development and Engineering Center, Natick, MA 01760–5020.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel who volunteer to participate in sensory taste tests of food items.

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaire and locator documents completed by participants containing name, date, organization, business telephone number, sex, age, marital status, rank/grade, present/prior military service, highest educational level attained, section of country lived in the longest, willingness to test irradiated foods, food aversion/food preference data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE(S):

To evaluate food rations under development by the Army; to determine acceptability of food items in consideration of purchase.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer paper printouts, cards, magnetic tapes and paper records in file folders.

RETRIEVABILITY:

By participant's surname or assigned unique number.

SAFEGUARDS:

Records are stored in metal file cabinets which are locked when not under the control of authorized personnel. Buildings housing the records employ security guards.

RETENTION AND DISPOSAL:

Records are destroyed when participant is no longer active in the program.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Chief Counsel, U.S. Army Soldier Systems Command, Natick, MA 01760–5035.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, U.S. Army Natick Research Development and Engineering Center, ATTN: AMSSC-NC, Science and Technology Directorate, Natick, MA 01760–5020.

Individual should provide their full name and current address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, U.S. Army Natick Research Development and Engineering Center, ATTN: AMSSC-NC, Science and Technology Directorate, Natick, MA 01760–5020.

Individual should provide their full name and current address.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0055–355MTMC

SYSTEM NAME:

Personal Property Movement and Storage Records *(July 27, 1993, 58 FR 40115).*

* * * * *

RETRIEVABILITY:

Add to the end of the entry 'Social Security Number.'

* * * * *

A0055–355MTMC

SYSTEM NAME:

Personal Property Movement and Storage Records.

SYSTEM LOCATION:

Installation Transportation Offices and Joint Personal Property Shipping Offices, world-wide. Addresses may be obtained from the Commander, Headquarters, Military Traffic Management Command, Falls Church, VA 22041–5050.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Army, Navy, Marine Corps, and Air Force: Civilian employees; dependents; personnel of other government agencies when sponsored by the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Orders authorizing shipment/storage of personal property to include privately owned vehicles and house trailers/mobile homes; DD Form 1131 (Cash Collection Voucher), DD Form 1299 (Application for Shipment and/or Storage of Personal Property), DD Form 1384 (Transportation Control and Movement Document), DD Form 1797 (Personal Property Counseling Checklist), Standard Form 1203 (Government Bill of Lading), Storage contracts, and other related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012 and E.O. 9397.

PURPOSE(S):

To arrange for the movement, storage and handling of personal property; to identify/trace lost or damaged shipments; to answer inquiries and monitor effectiveness of personal property traffic management functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to commercial carriers to identify ownership, verify delivery of shipment, support billing for services rendered, and justify claims for loss, damage, or theft.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; microfilm; magnetic tapes and computer printouts.

RETRIEVABILITY:

By individual's surname and Social Security Number.

SAFEGUARDS:

Information is maintained in secured areas, accessible only to authorized personnel having an official need-to-know. Automated segments are further protected by code numbers/passwords.

RETENTION AND DISPOSAL:

Documents relating to packing, shipping and/or storing of household goods within continental United States are destroyed after 3 years; those relating to overseas areas are destroyed after 6 years. Documents regarding shipment of Privately owned vehicle/house trailers are destroyed after 2 years. Shipment discrepancy reports are destroyed after 2 years or when claim/investigation is settled, whichever is later. Administrative files reflecting queries and responses are retained for 2 years; then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters, Military Traffic Management Command, Falls Church, VA 22041–5050.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Installation Transportation Office which processed the shipping/storage documents.

Individuals should provide full name, Social Security Number, current address and telephone number, and any information which will assist in locating the records requested (e.g. type of shipment, origin, destination, date of application, etc.).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Installation Transportation Office which processed the shipping/storage documents.

Individuals should provide full name, Social Security Number, current address and telephone number, and any information which will assist in locating the records requested (e.g. type of shipment, origin, destination, date of application, etc.).

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual whose personal property is shipped/stored; from the carrier/storage facility.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0056–9TRADOC

SYSTEM NAME:

Marine Qualification Board Records *(February 22, 1993, 58 FR 10069).*

* * * * *

SYSTEM NAME:

Delete 'Board' from entry.

SYSTEM LOCATION:

Delete entry and replace with 'Director, Office of the Chief of Transportation, ATTN: ATZF-OCT-S, Fort Eustis, VA 23604–5407.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add 'and E.O. 9397' to entry.

PURPOSE(S):

Delete the phrase 'to issue Marine Service Book to qualified individuals;'

STORAGE:

Add to entry 'microfiche.'

RETRIEVABILITY:

Add 'Social Security Number' to entry.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete address and replace with 'Commander, U.S. Army Transportation Center, ATTN: ATZS-IMO-RM (Privacy Act Officer), Fort Eustis, VA 23604–5000.'

* * * * *

A0056–9TRADOC

SYSTEM NAME:

Marine Qualification Records *(February 22, 1993, 58 FR 10069).*

SYSTEM LOCATION:

Director, Office of the Chief of Transportation, ATTN: ATZF-OCT-S, Fort Eustis, VA 23604–5407.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian employees of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Marine Service Record (DA Form 3068–1), individual's request for examination, test results, character and suitability statements, physical qualification reports, experience qualifications and evaluations, commander's recommendation, Marine Qualification Board recommendation and final action thereon, U.S. Army Marine Licenses (DA Forms 4309 and 4309–1), and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012 and E.O. 9397.

PURPOSE(S):

To evaluate and recommend appropriate action concerning the issuance, denial, suspension, or revocation of U.S. Army Marine Licenses; to award certification to individuals passing the marine qualification examination; to monitor test content and procedures to ensure that tests are valid and current; to award Special Qualification Identifiers to appointed Marine Qualification Field Examiners; to review marine casualty reports, incident reports, and investigations to re-evaluate qualifications of persons involved; and to maintain Marine Service Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The U.S. Coast Guard, Department of Transportation may be furnished information concerning certification and licensing of individuals.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of system of record notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on microfiche.

RETRIEVABILITY:

By individual's surname and Social Security Number.

SAFEGUARDS:

Records are maintained within a building secured during non-duty hours, and are available only to authorized individuals having official need therefor.

RETENTION AND DISPOSAL:

Records are retained for 40 years, after which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Transportation Center, ATTN: ATZS-IMO-RM (Privacy Act Officer), Fort Eustis, VA 23604–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Office of the Chief of Transportation, ATTN: ATZF-OCT-S, Fort Eustis, VA 23604–5407.

Individual should furnish name, Social Security Number, address and enough pertinent details that will facilitate locating the information. Request must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Office of the Chief of Transportation, ATTN: ATZF-OCT-S, Fort Eustis, VA 23604–5407.

Individual should furnish name, Social Security Number, address and enough pertinent details that will facilitate locating the information. Request must be signed.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, military and civilian personnel records and reports, civilian maritime records, U.S. Coast Guard, commanders and vessel masters, and other appropriate sources able to furnish relevant information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0095–1aTRADOC

SYSTEM NAME:

Individual Flight Records Folder *(April 28, 1993, 58 FR 25815).*

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete 'DA Form 4507 (Standard Evaluation/Training Gradeship)'. Replace 'DD Form 1021 (Contractor Crewmember Record)' with 'DD Form 1821 (Contractor Crewmember Record).'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Aviation Center, ATTN: ATZQ-IS (Privacy Act Officer), Fort Rucker, AL 36362–5000.'

* * * * *

A0095–1aTRADOC

SYSTEM NAME:

Individual Flight Records Folder.

SYSTEM LOCATION:

Records are located at flight operations sections and contractor facilities at fixed Army airfields and other aviation units for all personnel on whom flight records are maintained. Including activities who approve contractor aircraft flight and ground operations procedures or use contractor personnel who operate aircraft for the government.

In addition to above locations, copies of individual flight records are maintained for active Army and Army Reserve officers at U.S. Total Army Personnel Command, ATTN: TAPC-OPE-V, 200 Stovall Street, Alexandria, VA 22332–0400;

Active Army warrant officers at U.S. Total Army Personnel Command, ATTN: TAPC-OPW-AV, 200 Stovall Street, Alexandria, VA 22332–0400;

Active Army Medical Service Corps officers at Headquarters, Department of the Army, ATTN: DASG-HCO-A, Skyline Place, Building 6, Falls Church, VA 22041–3258.

Army reservists not on extended active duty at U.S. Army Reserve Personnel Center, St. Louis, MO 63132–5200;

National Guard Personnel at the National Guard Bureau, Aberdeen Proving Grounds, MD 21005–5000;

Contractor personnel by the designated Government Flight Representative at the contractor facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army aviators who are members of the Active and Reserve Components and qualified and current in the aircraft to be flown; civilian employees of Government agencies and Government contractors who have appropriate certifications or ratings, flight surgeons or aeromedical physicians' assistants in aviation service, enlisted crew chief/crew members, aerial observers, personnel in non-operational aviation positions, and those restricted or prohibited by statute from taking part in aerial flights.

CATEGORIES OF RECORDS IN THE SYSTEM:

DA Forms 759 and 759–1 (Individual Flight and Flight Certificate Army (Sections I, II, and III); DA Form 4186 (Medical Recommendations for Flying Duty), DD Form 1821 (Contractor Crewmember Record); Name, Social Security Number, home address, date of birth, security clearance data, education, waivers, qualifications, disqualifications, re-qualifications, training, proficiency, and experience data, medical and physiological data, approvals to operate Government aircraft, requests for approval or contractor flight crewmember and contractor qualification training, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 3013; E.O. 9397; and Army Regulation 95–20, Contractor Flight Operations.

PURPOSE(S):

To record the flying experience and qualifications data of each aviator, crew member, and flight surgeon in aviation service; and to monitor and manage individual contractor flight and ground personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the Federal Aviation Agency and/or the National Transportation Safety Board.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of system of record notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, notebooks, and selected data automated on computer tapes and discs for management purposes.

RETRIEVABILITY:

Manual records are retrieved by individual surname.

Automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.

SAFEGUARDS:

Records are maintained in secure areas available only to designated persons having official need for the record.

Automated systems employ computer hardware/software safeguard features and controls which meet the administrative, physical, and technical safeguards of Army Regulation 380–19, Information Systems Security.

RETENTION AND DISPOSAL:

Active paper records are retained by the Flight Operations Facility until individual is transferred or separated. The records are transferred with the military personnel records jacket or civilian personnel folders, as appropriate.

Upon separation or retirement of individual, the records are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St Louis, MO 63118 and U.S. Army Personnel Center (Military Personnel Records), and U.S. Army Reserve Components Personnel and Administration Center (Reserve Personnel), 9700 Page Boulevard, St Louis, MO 63132–5200; retained for 75 years after date of birth or 60 years after date of earliest document in the folder if date of birth cannot be ascertained.

If determined by the contracting officer, contractor flight personnel records with definite legal and administrative value to or required by the Army will be preserved with Army records to which they pertain and destroyed when no longer needed. Automated management information at system locations is retained until no longer needed for current operations.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Aviation Center, ATTN: ATZQ-IS (Privacy Act Officer), Fort Rucker, AL 36362–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is

contained in this record system should address written inquiries to the Flight Operations Section of their current unit or contractor facility; if not on active duty, send written inquiries to addresses listed in 'system location' or to the system manager.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system may visit or address written inquiries to the Flight Operations Section of their current unit or contractor facility; if not on active duty, furnishing full name and Social Security Number; if not on active duty, send written inquiries to addresses listed in 'system location' or to the system manger.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Federal Aviation Administration, flight surgeons, evaluation reports, proficiency and readiness tests, and other relevant records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0095–2dTRADOC-ATC

SYSTEM NAME:

Air Traffic Controller/Maintenance Technician Records *(April 28, 1993, 58 FR 25817).*

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Aviation Center, ATTN: ATZQ-IS (Privacy Act Officer), Fort Rucker, AL 36362–5000'.

NOTIFICATION PROCEDURE:

Add 'ATTN: ATZQ-ATC-PM,' after 'Center,'.

RECORD ACCESS PROCEDURES:

Add 'ATTN: ATZQ-ATC-PM,' after 'Center,'.

* * * * *

A0095–2dTRADOC-ATC

SYSTEM NAME:

Air Traffic Controller/Maintenance Technician Records.

SYSTEM LOCATION:

Primary system is at U.S. Army Aviation Center, Fort Rucker, AL 36362–5000.

Segments are located at Army Air Traffic Control facilities at fixed Army airfields and other aviation units requiring Air Traffic Control personnel. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Traffic Controllers and Air Traffic Control Maintenance Technicians employed by the Department of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, Air Traffic Controller and Maintenance Technician qualifications and certifications, training and proficiency data and ratings, date assigned to current facility, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Aviation Act of 1958, 49 U.S.C. 313, 601, 1354, and 1421; and E.O. 9397.

PURPOSE(S):

To determine proficiency of Air Traffic Controllers and Air Traffic Control Maintenance Technicians and the reliability of the Air Traffic Control system operations within the Department of the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the Federal Aviation Administration, the National Transportation Safety Board, and similar authorities in connection with aircraft accidents, incidents, or traffic violations.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of system of record notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on cards. Selected data is automated on tapes and discs for management purposes.

RETRIEVABILITY:

Manually by individual surname; automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.

SAFEGUARDS:

Records are maintained in secure areas available only to designated persons having official need for the record. Automated systems employ computer hardware/software safeguard features and controls which meet the administrative, physical, and technical safeguards of Army Regulation 380–19, Information Systems Security.

RETENTION AND DISPOSAL:

Active paper records are retained by the Air Traffic Control facility until individual is transferred. The records are transferred with the military personnel records jacket or civilian personnel folders, as appropriate.

Upon separation or retirement of individual, the records are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St Louis, MO 63118 and U.S. Army Personnel Center, and U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St Louis, MO 63132–5200; retained for 75 years after date of birth or 60 years after date of earliest document in the folder if date of birth cannot be ascertained. Automated management information at the primary location is retained until no longer needed for current operations.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Aviation Center, ATTN: ATZQ-IS (Privacy Act Officer), Fort Rucker, AL 36362–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Air Traffic Control facility where assigned or to Commander, U.S. Army Aviation Center, ATTN: ATZQ-ATC-PM, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will facilitate locating the records, current address and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Air Traffic Control facility where assigned or to Commander, U.S. Army Aviation Center, ATTN: ATZQ-ATC-PM, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, individual's supervisor, Army or Federal Aviation Administration physicians, Air Traffic Control Facility Personnel Status Reports (DA Form 3479–6–R), and Air Traffic Control Maintenance Personnel Certification Record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0145–1aTRADOC–ROTC

SYSTEM NAME:

ROTC Applicant/Member Records *(February 22, 1993, 58 FR 10076).*

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Fort Monroe, ATTN: ATIM-AS (Privacy Act Officer), Fort Monroe, VA 23651–6000'.

* * * * *

A0145–1aTRADOC–ROTC

SYSTEM NAME:

ROTC Applicant/Member Records.

SYSTEM LOCATION:

Headquarters, U.S. Army Reserve Officers Training Corps (ROTC) Cadet Command, Fort Monroe, VA 23651–5000. Segments of the system exist at the U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400 and in offices of the Professor of Military Science at civilian educational institutions in ROTC regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who apply and are accepted into the Army ROTC program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for appointment, which includes such personal data as name, Social Security Number, date and place of birth, citizenship, home address and telephone number, marital status; dependents; transcripts and certificates of education, training, and qualifications; medical examinations; financial assistance documents; awards; ROTC contract; photograph; correspondence between the member and the Army or other Federal agencies; letter of appointment in Active Army on completion of ROTC status; security clearance documents; official documents such as Cadet Command Form 139, DA Form 597, DA Form 61, DA Form 873, SF 88 and SF 93, DD Forms 4/1–4/2, and DOJ Form I–151 if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2101–2111 and E.O. 9397.

PURPOSE(S):

These records are used in the selection, training, and commissioning of eligible ROTC cadets in the Active Army and Reserve Forces and for personnel management, strength accounting, and manpower management purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the Federal Aviation Administration to obtain flight certification and/or licensing; to the Department of Veterans Affairs for member Group Life Insurance and/or other benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in folders; punched cards; microfilm/fiche; magnetic tape, drum, or disc.

RETRIEVABILITY:

By name or Social Security Number.

SAFEGUARDS:

All records are maintained in areas accessible only to authorized personnel who have official need in the performance of their assigned duties. Automated records are further protected by assignment of users identification and password edits to protect the system from unauthorized access and to restrict each user to specific files and data elements. User identification and passwords are changed at random times; control data are maintained by the system manager in a sealed envelope in an authorized safe.

RETENTION AND DISPOSAL:

Cadet Command Form 139 is retained in the ROTC unit for 5 years after cadet leaves the institution or is disenrolled from the ROTC program. Following successful completion of ROTC and academic programs and appointment as a commissioned officer with initial assignment to active duty for training, copy of pages 1 and 2 are reproduced and sent to the commandant of individual's basic branch course school. Records of rejected ROTC applicants are destroyed. Other records mentioned in preceding paragraphs are destroyed if not required to become part of individual's Military Personnel Records Jacket.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Fort Monroe, ATTN: ATIM-AS (Privacy Act Officer), Fort Monroe, VA 23651–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps (ROTC), Fort Monroe, VA 23651–5000 or the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

Individual should provide the full name, current address and telephone number and definitive description of the information sought.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps (ROTC), Fort Monroe, VA 23651–5000 or the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

Individual should provide the full name, current address and telephone number and definitive description of the information sought.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, civilian educational institutions, official Army records addressing entitlement status, medical examination and treatment, security determination, and attendance and training information while an ROTC cadet.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–2004 Filed 1–31–96; 8:45 am]

BILLING CODE 5000–04–F

Department of the Navy, DOD

Notice of Availability of Invention for Licensing

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. Patent Application Serial No. 08/295,581: Projector Slides for Night Vision Training; filed August 25, 1994.

Requests for copies of the patent application cited should be directed to the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660 and must include the application serial number.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: January 26, 1996.

M.A. WATERS,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–2122 Filed 1–31–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Intent To Grant Exclusive Patent License; Stidd Systems, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Stidd Systems, Inc., a revocable, nonassignable, exclusive license in the United States to practice the Government-owned invention described in U.S. Patent No. 5,377,613, "Submersible Boat, " issued January 3, 1995.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–2117 Filed 1–31–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.215V]

Fund for the Improvement of Education: Partnerships in Character Education Pilot Projects Notice inviting Applications for New Awards for Fiscal Years 1996 and 1997

PURPOSE OF PROGRAM: The purpose of the Fund for the Improvement of Education (FIE) is to support nationally significant programs to improve the quality of education, assist all students to meet challenging State content standards, and contribute to the achievement of the National Education Goals. The purpose of this competition is to support pilot projects that design and implement character education programs as a way to address the broader FIE objectives.

ELIGIBLE APPLICANTS: Only State educational agencies, in partnership with one or more local educational agencies, may apply for grants under this program.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: March 26, 1996.

APPLICATIONS AVAILABLE: February 1, 1996.

ESTIMATED AVAILABLE FISCAL YEAR 1996 FUNDS: $1,000,000.

ESTIMATED RANGE OF AWARDS: $200,000–$250,000.

ESTIMATED AVERAGE SIZE OF AWARDS: $250,000.

ESTIMATED NUMBER OF AWARDS: 4.

Note: The Department is not bound by any estimates in this notice.

MAXIMUM AWARD: The Secretary does not consider an application that proposes a budget exceeding $250,000 for the first 12-month budget period.

PROJECT PERIOD: Up to 48 months.

SUPPLEMENTARY INFORMATION: It is the Department's intent to fund two cycles of awards from this competition. The first cycle of awards will be made from fiscal year 1996 funds. If applications of high quality remain unfunded, additional awards will be made in the second cycle in 1997, pending availability of Fiscal Year 1997 funds.

Under the Character Education program, State educational agencies provide technical and professional assistance to local educational agencies in the development and implementation of curriculum materials, teacher training, and other activities related to character education. Applicants requesting funds under this program must propose projects designed to develop character education programs that incorporate the following elements of character:

(a) Caring.
(b) Civic virtue and citizenship.
(c) Justice and fairness.
(d) Respect.
(e) Responsibility.
(f) Trustworthiness.
(g) Any other elements deemed appropriate by the members of the partnership.

APPLICABLE REGULATIONS: (a) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 75, 77, 79, 80, 81, 82, 85, and 86, and (b) the regulations in 34 CFR Parts 98 and 99, and (c) the final regulations for *Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts,* published on September 14, 1995 in the **Federal Register** (60 FR 47808), to be codified as 34 CFR Part 700.

TO REQUEST AN APPLICATION: Voice Mail: 202–219–2274; Facsimile machine: 202–219–2053; Mail: OERI/FIE Application, 555 New Jersey Avenue, NW, Washington, DC 20208–5645. Individuals who use a telecommunications device for the deaf (TDD), may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m., and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950, or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register.**

Program Authority: 20 U.S.C. 8003.

Dated: January 26, 1996.

Sharon P. Robinson,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 96–2046 Filed 1–31–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–143–000]

Algonquin Gas Transmission Company; Notice of Application

January 26, 1996.

Take notice that on January 18, 1996, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP96–143–000 an application pursuant to Section 7 (b) and (c) of the Natural Gas Act for authorization to abandon and remove facilities being replaced and to utilize temporary workspace associated with, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Algonquin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2033 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

In the matter of Algonquin Gas Transmission Corporation; Panhandle Eastern Pipe Line Company; Texas Eastern Transmission Corporation; Trunkline Gas Company.

[Docket No. RP96–46–000]

Notice of Technical Conference

January 26, 1996.

Take notice that a technical conference in this docket will be held on Tuesday, February 20, 1996, to discuss the standardization issues raised by the filing. The conference will begin at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons are invited to attend. for additional information please call Michael Goldenberg on 202–208–2294, or Cheum Ni on 202–208–2218.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2036 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP94–2–005]

Columbia Gas Transmission Corporation; Notice of Refund Report

January 26, 1996.

Take notice that on January 16, 1996, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Commission a Refund Report stating that on November 28, 1995, Columbia made refunds and billings resulting in a net refund of $59,804,183.03 to certain customers, as explained below. These refunds were implemented in accordance with Article XV, Section E of the April 17, 1995 Settlement approved by the Commission in Docket No. GP94–2, *et al.* on June 15, 1995.

Columbia states that each customer receiving a refund or invoice was notified by a letter containing detailed schedules of each customer's refund and billing amounts by issue. Any customer which received a Docket No. RP90–108 refund or Docket No. RP80–146 Storage Gas Lost refund also received schedules showing the computation of the principal and interest portions of the refund.

In accordance with Article XV, Section C(3) of the Settlement, customers which did not execute a written agreement by the Effective Date did not receive refunds on November 28, 1995. Those customers, identified in Schedule 2 of the subject report, received a detail of the refunds due and were notified that the refunds could not be issued until a written waiver agreement is executed.

Schedule 3 of the subject report reflects an adjustment to the amounts that were billed for Contract Rejection Costs to appropriately reflect the annualization of short term contracts. These adjustments will be reflected on the January 1996 invoices.

Any person desiring to protest Columbia's refund report should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before February 2, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.,

[FR Doc. 96–2034 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–120–000]

Colorado Interstate Gas Company; Notice of Application

January 26, 1996.

Take notice that on January 23, 1996, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to be effective February 22, 1996.

Second Revised Sheet No. 269
Second Revised Sheet No. 270

CIG proposes changing its advance notice that a Shipper that receives no-notice transportation service or stand-alone firm storage service must provide regarding whether the Shipper will seek to renew its service agreement pursuant to the right-of-first-refusal procedures in Article 3 of the General Terms and Conditions. Specifically, the revised tariff sheets provide that the deadline for advanced notice is either three

months (in connection with an agreement that has a duration of three years or less) or six months (in connection with an agreement that has a duration longer than three years) prior to the commencement of the storage Injection Period rather than the expiration of the contract. CIG states that this change is necessary to ensure that both existing and new firm storage shippers can fully utilize its service entitlements.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations. All such motions or protests must be filed a provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to this proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2038 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1518–005, et al.]

Commonwealth Electric Company, et al.; Electric Rate and Corporate Regulation Filings

January 25, 1996.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Electric Company

[Docket No. ER94–1518–005]

Take notice that on January 18, 1996, Commonwealth Electric Company tendered for filing its compliance refund report in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. National Gas & Electrical L.P., Vesta Energy Alternatives Co., Ashton Energy Corporation, ACME Power Marketing, Inc., Kaztex Energy Ventures, Inc., IEP Power Marketing, LLC, Coral Power, L.L.C.

[Docket No. ER90–168–026; Docket No. ER94–1168–007; Docket No. ER94–1246–006; Docket No. ER94–1530–007; Docket No. ER95–295–005; Docket No. ER95–802–003; Docket No. ER96–25–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 16, 1996, National Gas & Electrical L.P. filed certain information as required by the Commission's March 20, 1990 order in Docket No. ER90–168–000.

On January 16, 1996, Vesta Energy Alternatives Company filed certain information as required by the Commission's July 8, 1994 order in Docket No. ER94–1168–000.

On January 22, 1996 Ashton Energy Corporation filed certain information as required by the Commission's August 10, 1994 order in Docket No. ER94–1246–000.

On January 5, 1996, ACME Power Marketing, Inc. filed certain information as required by the Commission's October 18, 1994 order in Docket No. ER94–1530–000.

On January 16, 1996, Kaztex Energy Ventures, Inc. filed certain information as required by the Commission's February 24, 1995 order in Docket No. ER95–295–000.

On January 17, 1996, IEP Power Marketing, LLC filed certain information as required by the Commission's May 11, 1995 order in Docket No. ER95–802–000.

On January 22, 1996, Coral Power, L.L.C. filed certain information as required by the Commission's December 6, 1995 order in Docket No. ER96–25–000.

3. Public Service Company of New Mexico

[Docket No. ER95–1068–000]

Take notice that on January 17, 1996, Public Service Company of New Mexico tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. American Electric Power Service Corporation

[Docket No. ER95–1596–001]

Take notice that on January 11, 1996, American Electric Power Service Corporation tendered for filing its compliance filing and filing of Service Agreements under AEP Companies' Power Sales and Transmission Tariffs in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Tampa Electric Company

[Docket No. ER95–1775–001]

Take notice that on December 11, 1995, Tampa Electric Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy, Power Inc.

[Docket No. ER96–101–000]

Take notice that on January 18, 1996, Entergy Power Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Duke Power Company

[Docket No. ER96–110–001]

Take notice that on January 16, 1996, Duke Power Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Nevada Power Company

[Docket No. ER96–133–000]

Take notice that on January 18, 1996, Nevada Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Seagull Power Services Inc.

[Docket No. ER96–342–000]

Take notice that on January 5, 1996, Seagull Power Services Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Montana Power Company

[Docket No. ER96–472–000]

Take notice that on January 16, 1996, Montana Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER96–546–000]

Take notice that on January 16, 1996, Cinergy Services, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Pacific Gas & Electric Company

[Docket No. ER96–611–000]

Take notice that on December 29, 1995, Pacific Gas & Electric Company tendered for filing a Certificate of Concurrence, and a Notice of Termination of Pacific Gas & Electric Company's Rate Schedule FERC No. 83 in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of Colorado

[Docket No. ER96–713–000]

Take notice that on January 19, 1996, Public Service Company of Colorado tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. New York State Electric & Gas Corporation

[Docket No. ER96–715–000]

Take notice that on January 22, 1996, New York State Electric & Gas Corporation tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Duke Power Company

[Docket No. ER96–763–000]

Take notice that on January 5, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and American Electric Power Service Corporation (AEP). Duke states that the TSA sets out the transmission arrangements under which Duke will provide AEP firm transmission service under its Transmission Service Tariff.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. The Dayton Power and Light Company

[Docket No. ER96–764–000]

Take notice that on January 5, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Electric Interchange Agreement between Dayton and AES Power, Inc. (AES).

Pursuant to the rate schedules, attached as Exhibit B to the Agreement, Dayton will provide to AES power and/or energy for resale.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Niagara Mohawk Power Corporation

[Docket No. ER96–765–000]

Take notice that on January 5, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and KCS Power Marketing (KCS) dated January 3, 1996 providing for certain transmission services to KCS.

Copies of this filing were served upon KCS and the New York State Public Service Commission.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Niagara Mohawk Power Corporation

[Docket No. ER96–766–000]

Take notice that on January 5, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Associated Power Services (APSI) dated January 3, 1996 providing for certain transmission services to APSI.

Copies of this filing were served upon APSI and the New York State Public Service Commission.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Niagara Mohawk Power Service Corporation

[Docket No. ER96–767–000]

Take notice that on January 5, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Koch Power Services (Koch) dated January 2, 1996 providing for certain transmission services to Koch.

Copies of this filing were served upon Koch and the New York State Public Service Commission.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Maine Public Service Company

[Docket No. ER96–769–000]

Take notice that on January 11, 1996, Maine Public Service Company, submitted an agreement under its Umbrella Power Sales tariff.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Southern California Edison Company

[Docket No. ER96–770–000]

Take notice that on January 11, 1996, Southern California Edison Company (Edison), tendered for filing a Letter Agreement (Letter Agreement) with the Sacramento Municipal Utility District (SMUD). The Letter Agreement modifies the contract capacity purchase referenced in Commission Rate Schedule No. 238, the Power Sale Agreement between Edison and SMUD.

Edison requests an effective date of March 10, 1996.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. MidAmerican Energy Company

[Docket No. ER96–772–000]

Take notice that on January 11, 1996, MidAmerican Energy Company (MidAmerican), filed with the Commission Firm Transmission Service Agreements with Commonwealth Edison Company (Commonwealth) dated December 19, 1995; Cenergy, Inc. (Cenergy) dated December 29, 1995; and LG&E Power Marketing Inc. (LG&E) dated January 8, 1996; and Non-Firm Transmission Service Agreements with Commonwealth dated December 19, 1995; Cenergy dated December 29, 1995; and LG&E dated January 8, 1996, entered into pursuant to MidAmerican's Point-to-Point Transmission Service Tariff, FERC Electric Tariff, Original Volume No. 4.

MidAmerican requests an effective date of December 19, 1995 for the Agreements with Commonwealth, December 29, 1995 for the Agreements with Cenergy; and January 8, 1996 for the Agreements with LG&E; and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Commonwealth, Cenergy, LG&E, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Texas Utilities Electric Company

[Docket No. ER96–773–000]

Take notice that on January 11, 1996, Texas Utilities Electric Company (TU Electric), tendered for filing three executed transmission service agreements (TSA's) with Central & South West Services, Inc., Delhi Energy Services, Inc. and Sonat Power Marketing Inc. for certain Economy Energy Transmission Service under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

TU Electric requests an effective date for the TSA's that will permit them to become effective on or before the service commencement date under each of the three TSA's. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on Central & South West Services, Inc., Delhi Energy Services, Inc. and Sonat Power Marketing Inc., as well as the Public Utility Commission of Texas.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. The Dayton Power and Light Company

[Docket No. ER96–774–000]

Take notice that on January 11, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Power Sales Agreement between Dayton and Tennessee Valley Authority (TVA).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to TVA power and/or energy for resale.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Vermont Yankee Nuclear Power Corporation

[Docket No. ER96–775–000]

Take notice that on January 11, 1996, Vermont Yankee Nuclear Power Corporation (Vermont Yankee), tendered for filing proposed changes in its FPC Electric Service Tariff No. 1. Vermont Yankee states that the rate change proposed would result in a decrease in Vermont Yankee's revenue requirements of approximately $266,015 during 1996.

Vermont Yankee is making a limited Section 205 filing solely for amounts to fund post-retirement benefits other than pensions (PBOPS) pursuant to the requirement of SFAS 106.

Vermont Yankee states that copies of its filing have been provided to its customers and to state regulatory authorities in Vermont, New Hampshire, Maine, Massachusetts, Connecticut, and Rhode Island.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Piney Creek Limited Partnership

[Docket No. QF86–896–007]

On January 23, 1996, Piney Creek Limited Partnership tendered for filing an amendment to its December 28, 1995, filing in this docket.

The amendment pertains to technical requirements and the ownership structure of the small power production facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: February 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2071 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP96–119–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

January 26, 1996.

Take notice that on January 23, 1996, Equitrans, L.P. tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with a proposed effective date of March 1, 1996:

First Revised Sheet No. 21
First Revised Sheet No. 32
Second Revised Sheet No. 34
Second Revised Sheet No. 35
Second Revised Sheet No. 36
Second Revised Sheet No. 37
First Revised Sheet No. 38
Second Revised Sheet No. 40
Second Revised Sheet No. 41
Second Revised Sheet No. 42
Second Revised Sheet No. 43
First Revised Sheet No. 44
Second Revised Sheet No. 46
Second Revised Sheet No. 47
Second Revised Sheet No. 48
Second Revised Sheet No. 49
First Revised Sheet No. 50
Second Revised Sheet No. 52
Second Revised Sheet No. 53
Second Revised Sheet No. 54
Second Revised Sheet No. 55
First Revised Sheet No. 56
First Revised Sheet No. 58
Second Revised Sheet No. 63
Second Revised Sheet No. 64
Third Revised Sheet No. 66
First Revised Sheet No. 68
Second Revised Sheet No. 200
First Revised Sheet No. 201
Second Revised Sheet No. 202
Second Revised Sheet No. 203
First Revised Sheet No. 203A
Second Revised Sheet No. 207
Second Revised Sheet No. 209
First Revised Sheet No. 210
First Revised Sheet No. 211
First Revised Sheet No. 212
Original Sheet No. 212A
First Revised Sheet No. 213
First Revised Sheet No. 217
First Revised Sheet No. 227
Second Revised Sheet No. 238
First Revised Sheet No. 239
First Revised Sheet No. 240
First Revised Sheet No. 241
First Revised Sheet No. 242
First Revised Sheet No. 243
First Revised Sheet No. 244
First Revised Sheet No. 245
First Revised Sheet No. 246
First Revised Sheet No. 247
First Revised Sheet No. 248
Original Sheet No. 248A
First Revised Sheet No. 250
First Revised Sheet No. 251
First Revised Sheet No. 252
Second Revised Sheet No. 261
Second Revised Sheet No. 267
First Revised Sheet No. 300
First Revised Sheet No. 301
First Revised Sheet No. 302
First Revised Sheet No. 303
Original Sheet No. 303A
Original Sheet No. 303B
Fourth Revised Sheet No. 304
Second Revised Sheet No. 305
Fourth Revised Sheet No. 306
First Revised Sheet No. 307
First Revised Sheet No. 308
Original Sheet No. 308A
Original Sheet No. 308B
First Revised Sheet No. 309
First Revised Sheet No. 310
First Revised Sheet No. 312
First Revised Sheet No. 313
Third Revised Sheet No. 314
First Revised Sheet No. 315
First Revised Sheet No. 316
First Revised Sheet No. 317
First Revised Sheet No. 319
First Revised Sheet No. 320
Third Revised Sheet No. 321
First Revised Sheet No. 322
First Revised Sheet No. 323
First Revised Sheet No. 327
Third Revised Sheet No. 329
Second Revised Sheet No. 332
First Revised Sheet No. 333
First Revised Sheet No. 334
First Revised Sheet No. 335
Third Revised Sheet No. 336
Second Revised Sheet No. 338
Third Revised Sheet No. 341
Third Revised Sheet No. 342
Second Revised Sheet No. 343
First Revised Sheet No. 345
First Revised Sheet No. 346
First Revised Sheet No. 358
Original Sheet No. 361
Original Sheet No. 362
Original Sheet No. 363
Original Sheet No. 364
Original Sheet No. 365
Original Sheet No. 366
Original Sheet No. 367
Sheets Nos. 368–399 Reserved for Future Use
First Revised Sheet No. 400
First Revised Sheet No. 401
First Revised Sheet No. 402
First Revised Sheet No. 403

Equitrans states that since its restructuring took effect in September, 1993, it has found a number of inconsistencies, ambiguities, and typographical errors in the tariff which require correction or clarification. Equitrans states that it has also identified certain modifications which are required to comport the tariff to recent changes in Commission regulations. Finally, Equitrans states that it is proposing certain tariff modifications which are desirable based on its experience in operating in a restructured environment. Equitrans states that these tariff modifications are proposed with the intent of making Equitrans' tariff easier to use and refer to, thereby enhancing service to Equitrans' customers.

Equitrans states that these tariff revisions will have no impact on the nature of services Equitrans performs and will not result in a general increase in Equitrans revenues. Equitrans requests a shortened suspension period to permit the tariff sheets to take effect on March 1, 1996.

Any person desiring to be heard or to protest this application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2037 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–2–28–001]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

January 26, 1996.

Take notice that on December 5, 1995, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing additional data to comply with the Commission's October 31, 1995, order in Docket No. TM96–2–28–000, 73 FERC ¶ 61,150 (1995). The Commission directed Panhandle to provide additional support for fuel usage calculations, the deferred recoveries and to respond to an argument advanced that the surcharge recoveries are not commensurate with the changes to the fuel reimbursement adjustment.

Panhandle provided a narrative explanation and workpapers to comply with the order. Panhandle filed (1) data to support the deferred fuel reimbursement and to respond to the contention that surcharges are not commensurate with the changes to the fuel reimbursement adjustments; (2) gathering volumes before and after Panhandle's system reconfiguration for the period July 1994 through March 1995; and (3) support for the Market Zone Lost and Unaccounted-for Percentage of .24%.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before February 2, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2040 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG96–6–000]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

January 26, 1996.

Take notice that on January 19, 1996, Transcontinental Gas Pipe Line Company (Transco) filed a revised Code of Conduct pursuant to Order Nos. 566 *et seq.*[1] Transco states that the purpose of the filing is to reflect changes to its list of marketing affiliates, shared directors and officers resulting from the merger of Transco Energy Company (Transco's former parent) with a subsidiary of the Williams Companies, Inc.

Transco states that copies of this filing have been mailed to customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 12, 1996. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2035 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–121–000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 26, 1996.

Take notice that on January 23, 1996 Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of February 23, 1996:

[1] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No.566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707, (December 21, 1994); 69 FERC ¶ 61,334 (December 14, 1995).

Ninth Revised Sheet No. 6
Tenth Revised Sheet No. 6A
First Revised Sheet No. 250A
Original Sheet No. 250B

WNG states that this filing is being made pursuant to Subpart C of part 154 of the Commission's regulations.

WNG states that this filing is being made to permit WNG to respond to competitive situations by discounting the fuel portion of its fuel and loss reimbursement percentages in order to gain or retain throughput on its system in cases where no incremental fuel is used in the transportation of the gas.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.
[FR Doc. 96–2039 Filed 1–31–96; 8:45 am]
BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5411–9]

Common Sense Initiative Council, Automobile Manufacturing Sector Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of open meeting of the Public Advisory Common Sense Initiative Council, Automobile Manufacturing Sector Subcommittee.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is given that, pending resolution of EPA's FY 1996 appropriation, the Automobile Manufacturing Sector Subcommittee of the Common Sense Initiative Council will meet on Friday, February 16, 1996, in Atlanta, Georgia. All meetings are open to the public. Seating at meetings will be on a first-come basis. Each individual or group wishing to make oral presentations will be allowed a total of three minutes.

OPEN MEETING NOTICE: Notice is hereby given that the Envionmental Protection Agency, pending resolution of its FY 1996 appropriation, is convening an open meeting of the Automobile Sector Subcommittee on Friday, February 16, 1996. Registration will open at 8:30 a.m. EST. The meeting will begin at approximately 9:00 a.m. EST and run until about 3:30 p.m. EST. The meeting will be held at the Summit Building, 10th floor conference room 10A and 10B, 410 West Peachtree Street, Atlanta, Georgia. The Automobile Manufacturing Sector has formed three project teams—Regulatory Initiatives, Alternative Sector Regulatory System/Community Technical Assistance and Life Cycle Management/Supplier Partnership. The Regulatory Initiatives project team's most recent meetings have focused on issues within the Clean Air Act's New Source Review Program. The Alternative Sector Regulatory System/ Community Technical Assistance project team is currently identifying and discussing principles and attributes desirable in a new alternative regulatory system. The Life Cycle Management/ Supplier Partnership project team has identified a portion of the supply chain to participate in the development of a framework for a supplier partnership that encourages the consideration of environmental impacts in product development. The project teams will report progress on these ongoing projects and present deliverables, if applicable. Seating may be limited, therefore, advance registration is recommended. An Agenda will be available February 9, 1996. Any person or organization interested in attending the meeting should contact Ms. Carol Kemker, Designated Federal Official (DFO), no later than February 13, 1996, at (404) 347–3555 extension 4222.

INSPECTION OF SUBCOMMITTEE DOCUMENTS: Documents relating to the above topics will be publicly available at the meeting. Thereafter, these documents and the minutes of the meeting will be available for public inspection in room 2821 of EPA Headquarters, 401 M Street SW., Washington, DC 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically through contacting Katherine Brown at: brown.katherine@epamail.gov.

FOR FURTHER INFORMATION CONTACT: For more information about and vertification of this meeting, please call Carol Kemker, DFO on (404)347–3555 extension 4222; Keith Mason, Alternate DFO on (202) 260–1360; or Julie Lynch, Alternate DFO on (202) 260–4000.

Date: January 26, 1996.

Prudence Goforth,
Designated Federal Officer.
[FR Doc. 96–2008 Filed 1–31–96; 8:45 am]
BILLING CODE 6560–50–P

[PF–643; FRL–4994–3]

Pesticide Tolerance Petitions; Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces initial filings and amendments of pesticide petitions (PP) and for food and feed additive petitions (FAP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: OPP-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–643]. No CBI should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Library.

Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/ telephone number:

Product Manager	Office location/telephone number	Address
Rick Keigwin (PM 10) .	Rm. 214, CM #2, 703–305–6788, e-mail: keigwin.rick@epamail.epa.gov	1921 Jefferson Davis Hwy., Arlington, VA.
George LaRocca (PM 13).	Rm. 204, CM #2, 703–305–6100, e-mail: larocca.george@epamail.epa.gov ...	Do.
Dennis Edwards (PM 19).	Rm. 266A, CM #2, 703–305–6386, e-mail: edwards.dennis@epamail.epa.gov	Do.
Teresa Stowe (PM 22)	Rm. 229, CM #2, 703–305–7740, e-mail: stowe.teresa@epamail.epa.gov	Do.
Joanne I. Miller (PM 23).	Rm. 237, CM #2, 703–305–7830, e-mail: miller.joanne@epamail.epa.gov	Do.
Robert J. Taylor (PM 25).	Rm. 245, CM #2, 703–305–6027, e-mail: taylor.robert@epamail.epa.gov	Do.
Ruth Douglas (PM 32)	Rm. 276, CM#2,, 703–305–6909. e-mail: douglas.ruth@epamail.epa.gov	Do.
Janet Anderson (PM 90).	Rm. 5th Fl., CS, 703–308–8694, e-mail: anderson.janet@epamail.epa.gov	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

Initial Filings

1. *PP 4F3012.* FMC Corporation, Agricultural Marketing Group, 1735 Market St., Philadelphia, PA 19103, proposes to amend 40 CFR part 180 by establishing a regulation to add a tolerance for the use of cypermethrin [(R,S)-cyano-(3-phonoxyphenyl)methyl cis,trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] at 30 ppm in or on sweet corn. (PM 13)

2. *PP 5F4486.* Agridyne Technologies, Inc., 2401 South Foothill Drive, Salt Lake City, UT 84109 proposes to exempt from the requirement of a tolerance dihydroazadirachtin when used in accordance with good agricultural practices as an insect growth regulator and/or antifeedant applied to all RAC's. (PM 90)

3. *PP 5F4545.* E.I. DuPont de Nemours & Company, Agricultural Products, Walker Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880–0038, proposes to amend 40 CFR 180.441 by establishing tolerances for the combined residues of the herbicide quizalof[2-[4-(6-chloroquinoxalin-2-yl)oxylphenoxy)propanic acid] and quizalofopethyl(ethyl-2-[4,(6-chloroxyunoxalin-2-yloxy)phenoxylpropanonate), all expressed as quizalofop ethyl in or on foliage of legume vegetables (except soybean) at 3.0 ppm and on canola seed at 2.0 ppm. (PM 25)

4. *PP 5F4572.* Valent U.S.A. Corp., 1333 N. California Blvd., Suite 600, Walnut Creek, CA 94596, proposes to amend 40 CFR 180.458 by establishing a regulation to permit the combined residues of the herbicide clethodim [(*E*)-(±)-2-[1-[[(3-chloro-2-propenyl) oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 2-cyclohexen-1-one moiety expressed as clethodim in or on tuberous and corm vegetables (crop subgroup 1-C) at 1.0 ppm and on tomatoes at 1.0 ppm. The proposed analytical method for determining residues is gas chromatography with a flame photometric detector. (PM 23)

5. *PP 5F4587.* Rohm and Haas Comapny, 100 Independence Mall West, Philadelphia, PA 19106–2399, proposes to amend 40 CFR 180.842 by establishing a tolerance for the residues/ combined residues of the insecticide benzoic acid 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide in or on pecans at .05 ppm. The proposed analytical method for determining residues is HPLC separation with UV detection. (PM 10)

6. *PP 5F4601.* Ciba Corp Protection, Ciba-Geigy Corporation, P.O. Box 18300, Greensboro, NC 27419–8300, proposes to amend 40 CFR 180.459 by establishing a tolerance for residues of the herbicide triasulfuron (3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-[2-(2-chloroethoxy)-phenylsulfonyl)urea in or on barley hay at 15 ppm and wheat hay at 15 ppm. (PM 25)

7. *PP 6E4647.*-ABERCO, Inc., 9430 Lanham-Severn Road, Seabrook, MD 20706, proposes to amend 40 CFR part 180 by establishing a regulation to permit the combined residues of the insecticide propylene oxide, at 300 ppm in or on raw nutmeats (except peanuts) when such foods are to be furhter processed into a final food form. The proposed analytical method for determining residues is gas chromatography. (PM 32)

8. *PP 6F4606.* E.I. du Pont de Nemours & Co., P.O. Box 80038, Wilmington, DE 19880–0038, proposes to amend 40 CFR 180.362 to decrease the tolerance for combined residues of fenbutatin-oxide, hexakis (2-methyl-2-phenylpropyl) distannoxane, and its organotin metabolites calulated as hexakis (2-methyl-2-phenylpropyl) distannoxane to 4.0 ppm in or on the raw agricultural commodity citrus fruits; to amend 40 186.3550 to decrease the tolerance to 20 ppm for the processed feed citrus pulp, dried; and to amend 40 CFR 185.3550 to decrease to tolerance to 28 ppm for the food citrus oil. (PM 19)

9. *PP 6F4609.* Zeneca AG Products, P.O. Box 15458, 1800 Concord Pike, Wilmington, DE 19850–5458, proposes to amend 40 CFR 180.226 by establishing a regulation to permit combined residues of the plant growth regulator diquat [6,7-dihydrodipyrido(1,2-alpha:2',1'-c) pyrazinediium] derived from application of the dibromide salt and calculated as the cation, in or on dried shelled peas and beans (except soybeans) at 0.80 ppm. The proposed analytical method for determining residues is extraction with sulfuric acid with spectrometric detection. (PM 23)

10. *PP 6F4620.* Monsanto Company, 700 14th St., NW., Suite 1100, Washington, DC 20005, proposes to amend 40 CFR 180.479 by establishing a tolerance for the combined residues of the herbicide halosulfuron-methyl,

methyl 5-[[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl]-3-chloro-1-methyl-1-H-pyrozole-4-carboxylate, and its metabolites determined as 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid and expressed as parent equivalents, in or on sugarcane cane at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography with an electron-capture detector. (PM 23)

11. *PP 6F4621*. Sandoz Agro, Inc., 1300 East Touhy Ave., Des Plaines, IL 60018-3300, proposes to amend 40 CFR 180.356 by adding permanent tolerances for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluro-*m*-tolyl)-3(2H)-pyridazinone] and its desmethyl metabolite [4-chloro-5-(amino)-2-(alpha, alpha, alpha-trifluro-*m*-tolyl)-3(2H)-pyridazinone] in or on bermudagrass forage at 3.0 ppm and bermudagrass hay at 2.0 ppm. The proposed analytical method for determining residues is gas chromotography with a Ni-63 electron capture detector. (PM 23)

12. *PP 6F4627*. ISK Bioscience Corporation, 5966 Heisley Road, P.O. Box 8000, Mentor, Ohio 44061-8000, proposes to amend 40 CFR 180.275 by establishing a regulation to permit the combined residues of chlorothalonil and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile (SDA-3701) in or on peanut hay at 20 ppm. (PM 22)

Food Additive Petitions; Initial Filings

1. *FAP 5F4541*. Zeneca AG Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850-5458, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of the fungicide azoxystrobin(methyl(*E*)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl]-3-methyoxyacrylate) in or on grapes at 1.0 ppm; grape pomace at 2.0 ppm; raisin waste at 9.0 ppm, and pecans at 0.01 ppm. (PM 22)

2. *FAP 6F5737*. E.I. DuPont de Nemours & Company, Inc., Agricultural Products, Walker Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to amend 40 CFR 185.5250 by establishing tolerances for the combined residues of the herbicide quizalof[2-[4-(6-chloroquinoxalin-2-yl)oxylphenyl)propanic acide] and quizalofopethyl(ethyl-2-[4,(6-chloroxyunoxalin-2-yloxy)phenoxy]propanonate), all expressed as quizalofop ethyl in or on the food commodities canola: meal at 3.0 ppm and canola: oil at 0.1 ppm and to amend 40 CFR 186.5250 by establishing tolerances for the combined residues of the herbicide quizalof[2-[4-(6-chloroquinoxalin-2-yl)oxylphenyl)propanic acide] and quizalofopethyl(ethyl-2-[4,(6-chloroxyunoxalin-2-yloxy)phenoxy]propanonate), all expressed as quizalofop ethyl in or on the feed commodity canola: meal at 3.0 ppm. (PM 25)

Pesticide Petitions; Amended

PP 4F4322. E.I. DuPont de Nemours & Company, Inc., Agricultural Products, Walker Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to amend 40 CFR 180.451 by establishing tolerances for the herbicide tribenuron(methyl 2- [[[[N-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino] carbonyl]amino]sulfonyl]benzoate) in or on the raw agricultural commodities hay of grass forage, fodder and hay group (excluding bermuda grass) at 0.1 ppm; forage of grass forage, fodder and hay group (excluding bermunda grass) at 0.1 ppm and forage regrowth at 0.1 ppm. The proposed analytical method for determining residues is gas chromotography with mass spectrum detector. The initial filing appeared in the **Federal Register** at 59 FR 35719, July 13, 1994.

A record has been established for this document under docket number [PF-643] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this document, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Authority: 7 U.S.C. 136a.

Dated: January 26, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 96–2144; Filed 1–29–96; 4:28 pm]

BILLING CODE 6560–50–F

[FRL–5410–9]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act Regarding the Tri-Cities Barrel Superfund Site, Broome County, New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed *de minimis* administrative settlement and opportunity for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency Region II ("EPA") announces a proposed administrative *de minimis* settlement pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. 9622(g)(4), relating to the Tri-Cities Barrel Co., Inc. Superfund Site ("Site"). The Site is located in the Hamlet of Port Crane, Town of Fenton, Broome County, New York, and is on the National Priorities List established under Section 105 of CERCLA. This notice is being published pursuant to Section 122(i) of CERCLA to inform the public of the proposed settlement and of the opportunity to comment. EPA will consider any comments received during the comment period and may withdraw or withhold consent to the proposed settlement if comments disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper or inadequate.

The proposed *de minimis* settlement will be memorialized in an Administrative Order on Consent ("Order") between EPA and twenty-six settling parties ("Respondents"). Under the Order, the Respondents will be obligated to pay an aggregate of $634,465 to the Hazardous Substances Superfund. The amount required to be paid by each settling party represents the share attributable to such Respondent of the projected total response costs at the Site, based upon the Respondent's estimated volumetric contribution, plus a premium to account for the potential of cost overruns, the potential of failure of the selected remedy and other risks.

Pursuant to CERCLA Section 122(g)(4), the Order may not be issued without the prior written approval of the Attorney General or her designee. In accordance with that requirement, the Attorney General or her designee has approved the proposed administrative order in writing.

The remedial investigation and feasibility study for the Site are being conducted by other potentially responsible parties under EPA oversight and the remedial action has not yet been selected.

DATES: Comments must be provided on or before March 4, 1996.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, 290 Broadway, 17th Floor, New York, NY 10007–1866 and should refer to: "Tri-Cities Barrel Co., Inc. Superfund Site, Hamlet of Port Crane, Town of Fenton, Broome County, New York (U.S. EPA Index No. II-CERCLA–95–0213)." For a copy of the settlement document, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Carl P. Garvey, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866, Telephone: (212) 637–3181.

Dated: December 4, 1996.

William Muszynski,

Acting Regionol Administrator.

[FR Doc. 96–2143 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

January 29, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c)ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 4, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0623

Title: Application for Mobile Radio Service Authorization for Rural Radiotelephone service authorization

Form No.: FCC Form 600.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit; individuals or households; Not-for-profit institutions; Federal government; and State Local and Tribal Government.

Number of Respondents: 194,769.

Estimated Time Per Response: 4 hours.

Total Annual Burden: 779,076 hours.

Needs and Uses: FCC Form 600 is field by applicants applying for new or modified authorization to provide for use in commercial private, both commercial and private, or fixed services. The data is used to determine eligibility, for rulemaking proceedings, enforcement purposes and for resolving treating obligations. The OMB collection is being revised to include additional applicants.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2201 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Approved by Office of Management and Budget

January 24, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0526.

Expiration Date: 01/31/99.

Title: Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91–141.

Estimated Annual Burden: 3,200 total annual hours; average 200 hours per respondent; 16 respondents.

Description: In CC Docket No. 91–141, the Commission required Tier 1 local exchange carriers (LECs) to provide expanded opportunities for third-party interconnection with their interstate special access facilities. The LECs will be permitted to establish a number of rate zones within study areas in which expanded interconnection is operational. These LECs must file and obtain approval of their pricing plans which will be used by FCC staff to ensure that the tariff rates are just, reasonable, and nondiscriminatory pursuant to the Act.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2074 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Submitted to OMB for Review and Approval

January 24, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the

following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 4, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0174.

Title: 73.1212 Sponsorship identification; list retention; related requirements.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit; individuals or households.

Number of Respondents: 34,026.

Estimated Time Per Response: 1.3 hours.

Total Annual Burden: 45, 375 hours.

Needs and Uses: Section 73.1212 requires a broadcast station to identify the sponsors of any matter for which consideration is provided. For matters advertising commercial products or services, generally the mention of the name of the product or service constitutes sponsorship identification. In addition, when an entity rather than an individual sponsors the broadcast of a matter that is of a political or controversial nature, the licensee is required to retain a list of the executive officers, or board of directors, or executive committee, etc., of the organization payng for such matter. Sponsorship announcements are waved with respect to the broadcast of "want ads" sponsored by an individual but the licensee shall maintain a list showing the name, address and telephone number of each such advertiser. These lists shall be made available for public inspection. The data is used by the public so that they may know by whom they are being persuaded.

OMB Approval No.: 3060–0540.

Title: Tariff filing requirement for nondominant common carriers.

Form No.: N/A.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,000.

Estimated Time Per Response: 10.5 hours.

Total Annual Burden: 21,000 hours.

Needs and Uses: 47 CFR Part 61 Section 61.20 - 61.23 contains tariff filing requirements for nondominant common carriers. The purpose of the filing requirement is so that the Commission, customers, and interested parties can ensure that the service offerings of communications common carriers comply with the Communications Act. The Commission rectnly modified the tariff filing rules for domestic nondominant carriers to remove the provision permitting such carriers to file rates in a manner of the carriers choosing, including as a reasonable range of rates. Domestic, nodominant common carriers must file tariffs containing specific rates.

OMB Approval No.: 3060–0520.

Title: Section 90.127(e) Submission and filing of applications.

Form No.: N/A.

Type of Review: Extension of an existing collection.

Respondents: Business or other for-profit; Not-for-profit-institutions; State, Local or Tribal Governments.

Number of Respondents: 109,200.

Estimated Time Per Response: 5 minutes.

Total Annual Burden: 9,100 hours.

Needs and Uses: Section 90.127(e) requires licensees to report the number of mobiles and pagers when license is modified or renewed. This information is used for frequency coordination and licensing.

OMB Approval No.: 3060–0484.

Title: Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions (section 63.100).

Form No.: N/A.

Type of Review: Revison of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 52 respondents; approximately 4 responses per respondent; total responses 208.

Estimated Time Per Response: 5 hours.

Total Annual Burden: 1,040 hours.

Needs and Uses: 47 CFR Section 63.100 requires that any local exchange or interexchange common carrier that operates transmission or switching facilites and provides access service or interstate or international telecommunications service that experiences an outage on any facilites which it owns or operates must notify the Commission if such service outage continues for 30 minutes or more. An initial and a final report is required for each outage. In an Order of Reconsideration in CC Docket No. 91–273, the Commission amended the rules to require, among other things, that local exchange or interexchange common carriers or competitive access providers that operate either transmission or switching facilites and provide access service or interstate or international telecommunications service report outages that effect 30,000 or more customers or that affect special facilities and report fire-related incidents impacting 1,000 or more lines. With such reports the FCC can monitor and take effective action to ensure network reliability.

OMB Approval Number: 3060–0384.

Title: Auditor's Certification Section 64.904.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 19.

Estimated Time Per Response: 500 hours.

Total Annual Burden: 9,500.

Needs and Uses: Local exchange carriers required to file cost allocation manuals must have performed annually, by an independent auditor, and audit that provides a positive option on whether the applicable data shown in the carriers annual report presents fairly the information of the carrier required to be set forth in accordance with the carrier's cost allocation manual, the Commission's Joint Cost Orders and applicable Commission rules in Part 32 and 64 in force as of the date of the auditor's report. This requirement assist the Commission in effectively carrying out its responsibilites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2075 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–F

Public Safety Wireless Advisory Committee; Subcommittee Meetings

AGENCIES: The National Telecommunications and Information Administration (NTIA), Larry Irving, Assistant Secretary for Communications and Information, and the Federal Communications Commission (FCC), Reed E. Hundt, Chairman.

ACTION: Notice of the next meetings of the Spectrum Requirements, Interoperability, Technology, Operational Requirements, and Transition Subcommittees of the Public Safety Wireless Advisory Committee.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the next meetings of the five Subcommittees of the Public Safety Wireless Advisory Committee. The NTIA and the FCC established a Public Safety Wireless Advisory Committee and Subcommittees to prepare a final report to advise the NTIA and the FCC on operational, technical and spectrum requirements of Federal, state and local Public Safety entities through the year 2010. All interested parties are invited to attend and to participate in the next round of meetings of the Subcommittees.

DATES: February 28, 29, March 1, in Orlando, Florida (Wednesday–Friday).

ADDRESSES: U.S. Customs Service, Department of the Treasury, National Law Enforcement Communications Center, Naval Training Center, 1900 Leahy Avenue, Orlando, FL 32803.

FOR FURTHER INFORMATION CONTACT: For information regarding the Subcommittees, contact:

Interoperability Subcommittee: James E. Downes at 202–622–1582

Operational Requirements Subcommittee: Paul H. Wieck at 515–281–5261

Spectrum Requirements Subcommittee: Richard N. Allen at 703–630–6617

Technology Subcommittee: Alfred Mello at 401–738–2220

Transition Subcommittee: Ronnie Rand at 904–322–2500 or 800–949–2726 ext. 600

For more information regarding accommodations and transportation, contact: Deborah Behlin at 202–418–0650 (phone), 202–418–2643 (fax), or dbehlin@fcc.gov (email). You may also contact Ms. Behlin for general information concerning the Public Safety Wireless Advisory Committee. Information is also available from the Internet at the Public Safety Wireless Advisory Committee's homepage: http://pswac.ntia.doc.gov.

SUPPLEMENTARY INFORMATION: The five Subcommittees of the Public Safety Wireless Advisory Committee will hold consecutive meetings over a three day period, Wednesday through Friday, February 28, 29 and March 1, 1996. The expected arrangement of the meetings, which is subject to change at the time of the meetings, is as follows:

February 28, 1995—The Operational Requirements and Transition Subcommittees will meet consecutively starting at 9:00 a.m.

February 29, 1995—The Interoperability and Spectrum Requirements Subcommittees will meet consecutively starting at 9:00 a.m.

March 1, 1995—The Technology Subcommittee will meet starting at 9:00 a.m.

The agenda for each meeting is as follows:

1. Welcoming Remarks
2. Approval of Agenda
3. Administrative Matters
4. Work Program/Organization of Work
5. Meeting Schedule
6. Agenda for Next Meeting
7. Other Business
8. Closing Remarks

The tentative schedule and general location of future meetings of the Subcommittees of the Public Safety Wireless Advisory Committee are as follows:

April, 1996 in San Diego, CA

May, 1996 at Scott AFB, Illinois (near St Louis, MO)

June, 1996 in Washington, D.C.

The tentative schedule and general location of the next full meetings of the Public Safety Wireless Advisory Committee are:

June 1996, in Washington, D.C.

The Co-Designated Federal Officers of the Public Safety Wireless Advisory Committee are William Donald Speights, NTIA, and John J. Borkowski, FCC. For public inspection, a file designated WTB–1 is maintained in the Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, Room 8010, 2025 M Street NW., Washington, D.C. 20554.

Federal Communications Commission.

Robert H. McNamara,

Chief, Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 96–2073 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–P

First Meeting of the WRC–97 Advisory Committee; Notice

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the first meeting of the WRC–97 Advisory Committee will be held on February 6, 1996 at the Federal Communications Commission. The purpose of the meeting is to begin preparations for the 1997 World Radiocommunication Conference.

DATE: February 6, 1996; 2:00 p.m.–4:30 p.m.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Cecily C. Holiday, FCC International Bureau, Satellite and Radiocommunication Division, at (202) 418–0719.

SUPPLEMENTARY INFORMATION: As part of its preparation for the 1997 World Radiocommunication Conference (WRC–97), the Federal Communications Commission (FCC) has amended the charter of its Advisory Committee for the 1995 World Radio Conference. The Advisory Committee will now be called the Advisory Committee for the 1997 World Radiocommunication Conference and its scope of activities will be to address the issues contained in the agenda for WRC–97. A copy of the WRC–97 Agenda is attached. The FCC established the Advisory Committee to provide advice, technical support and recommendations relating to the preparation of U.S. proposals and positions for World Radiocommunication Conferences.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the first meeting of the WRC–97 Advisory Committee. Due to the severe time constraints resulting from the recent government office closures and the scheduling of a series of international meetings to consider preparations for WRC–97, this agency has concluded that exceptional circumstances warrant holding the Advisory Committee's first meeting on February 6, 1996. Public Notice of this meeting has also been published by the FCC.

The WRC–97 Advisory Committee will continue to have an open membership. All interested parties are invited to participate and to attend the meeting.

The proposed agenda for the first meeting is as follows:

Agenda

First Meeting of the WRC–97 Advisory Committee, Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, DC 20036, February 6, 1996; 2:00 p.m.–4:30 p.m.

1. Opening Remarks.
2. Approval of Agenda.
3. Review of Results of WRC–95.
4. Review of U.S. Preparatory Process for WRC–97 (FCC-NTIA-State).
5. Structure of WRC–97 Advisory Committee.
6. Other Business.

Resolution GT PLEN–3

Agenda for the 1997 World Radiocommunication Conference

The World Radiocommunication Conference (Geneva, 1995), considering:

(a) That in accordance with Nos. 118 and 126 of the Convention of the International Telecommunication Union (Geneva, 1992), and having regard to Resolution 1 of the Additional Plenipotentiary Conference (Geneva, 1992), the general scope of the agenda for a world radiocommunication conference should be established four years in advance and a final agenda shall be established two years before the conference;

(b) Resolution 3 of the Plenipotentiary Conference (Kyoto, 1994);

(c) The relevant resolutions and recommendations of previous world administrative radio conferences (WARC) and world radiocommunication conferences (WRC), recognizing that this Conference identified a number of urgent issues requiring further examination by the 1997 World Radiocommunication Conference (WRC–97), resolves to recommend to the Council that a World Radiocommunication Conference be held in Geneva in late 1997 for a period of four weeks, with the following agenda:

1 On the basis of proposals from administrations and the Report of the Conference Preparatory Meeting, and taking account of the results of WRC–95, to consider and take appropriate action in respect of the following topics:

1.1 Requests from administrations to delete their country footnotes or to have their country's name deleted from footnotes, if no longer required, within the limits of Resolution [COM4–1];

1.2 Issues arising from the WRC–95 consideration of the VGE Report taking into account the following Resolutions [COM4–3];

1.3 Review of Appendix S7 [28] to the Radio Regulations, taking into account Resolution 60 (WARC–79), Resolution 712 (Rev.WRC–95) and Recommendation 711 (WARC–79);

1.4 Examination of, and taking necessary decisions on, the question of the HF bands allocated to the broadcasting service in the light of developments to date and the results of the studies carried out by the Radiocommunication Sector, and review of Article 17 [S12] of the Radio Regulations in accordance with Resolution [COM4–2] and Resolution [GT PLEN–2];

1.5 Based on the results of the studies to be carried out under Recommendation [GT PLEN–B], consider changes to the Radio Regulations, as appropriate;

1.6 Matters related to the maritime mobile and maritime mobile-satellite services:

1.6.1 The provisions of Chapters IX [Appendix S13) and NIX [Chapter SVII] of the Radio Regulations, as stipulated in Resolution 331 (Mob-87), and appropriate action in respect of the issues dealt with in Resolutions 200 (Mob-87), 210 (Mob-87) and 330 (Mob-87), including maritime certification and licensing issues related to Chapter [SIX] of the Radio Regulations, taking into account that the global maritime distress and safety system (GMDSS) shall be fully implemented in 1999;

1.6.2 The use of Appendix 18 [S18] to the Radio Regulations in respect of the VHF band for maritime mobile communications, and the use and extension of UHF channels contained in S5.287, taking into account Resolution 310 (Mob-87);

1.6.3 Article 61 [S53] of the Radio Regulations relating to the order of priority of communications in the maritime mobile service and in the maritime mobile-satellite service;

1.6.4 Review, and if necessary, revision of the provisions related to the NAVTEX coordination in order to release the ITU from the obligation to undertake operational coordination for this service operating on 490 kHz, 518 kHz and 4 209.5 kHz, in the light of the consultations undertaken with the International Maritime Organization (IMO) Resolution [COM4–7];

1.6.5 Use of the new digital technology in the maritime radiotelephony channels;

1.7 Review of Appendix 8 to the Radio Regulations taking into account Recommendation 66 (Rev.WARC–92);

1.8 The possible deletion of all secondary allocations from the band 136–137 MHz, which is allocated to the aeronautical mobile (R) service on a primary basis, in accordance with Resolution 408 (Mob-87) and in order to meet the special needs of the aeronautical mobile (R) service;

1.9 Taking into account the needs of other services to which the relevant frequency bands are already allocated:

1.9.1 Pressing issues concerning existing and possible additional frequency allocations and regulatory aspects as related to the mobile-satellite and fixed-satellite services including consideration of WRC–95 Resolutions [PLEN–1], [COM5–4, COM5–6, COM5–7, COM5–8, COM5–9, COM5–11], [GT PLEN–6] and Recommendation 717 (Rev.WRC–95);

1.9.2 Resolutions 211 (WARC–92), 710 (WARC–92) and Resolution 712 (Rev.WRC–95);

1.9.3 Recommendation 621 (WARC–92);

1.9.4 Frequency allocation issues related to the needs of the earth exploration-satellite service, which are not covered in the above-mentioned Resolutions, namely:

1.9.4.1 Allocation of frequency bands above 50 GHz to the earth exploration-satellite (passive) service;

1.9.4.2 Frequency allocations near 26 GHz to the earth exploration-satellite service (space-to-Earth);

1.9.4.3 The existing frequency allocations near 60 GHz and, if necessary, their re-allocation, with a view to protecting the earth exploration-satellite (passive) service systems operating in the unique oxygen absorption frequency range from about 50 GHz to about 70 GHz;

1.9.5 Allocations to the space research service (space-to-space) near 400 MHz;

1.9.6 The identification of suitable frequency bands above 30 GHz for use by the fixed service for high density applications;

1.10 Review of Appendices 30 [S30] and 30A [S30A] for Regions 1 and 3 in response to Resolution 524 (WARC–92), and taking particular account of *resolves* 2 of that Resolution, in accordance with Resolution [GT PLEN–1] (WRC–95) and taking into account Recommendation [COM4–B];

2 To examine the revised ITU-R Recommendations incorporated by reference in the Radio Regulations which have been communicated by the associated Radiocommunication Assembly, in accordance with Resolution [COM4–5]; and decide whether or not to update the corresponding references in the Radio Regulations, in accordance with principles contained in the Annex to Resolution [COM4–4];

3 To consider such consequential changes and amendments to the Radio Regulations as may be necessitated by the decisions of the Conference;

4 In accordance with Resolution 94 (WARC–92), to review those resolutions and recommendations of world administrative radio conferences and world radiocommunication conferences which are relevant to agenda items 1 and 2 above with a view to their possible revision, replacement or abrogation;

5 To review, and take appropriate action on, the report from the Radiocommunication Assembly submitted in accordance with Nos. 135 and 136 of the Convention (Geneva, 1992);

6 To identify those items requiring urgent actions by the radiocommunication study groups in accordance with Resolution [GT PLEN-BB];

7 To consider the final report of the Director of the Radiocommunication Bureau on activities related to Resolution 18 (Kyoto, 1994);

8 In accordance with Article 7 of the Convention (Geneva, 1992):

8.1 To consider and approve the report of the Director of the Radiocommunication Bureau on the activities of the Radiocommunication Sector since the last Conference;

8.2 To recommend to the Council items for inclusion in the agenda for the 1999 World Radiocommunication Conference, and to give its views on the preliminary agenda for the 2001 Conference and on possible agenda items for future conferences, invites the Council to establish the agenda and make provision for WRC–97 and to initiate as soon as possible the necessary consultation with Members, instructs the Director of the Radiocommunication Bureau to make the necessary arrangements to convene meetings of the Conference Preparatory Meeting and to prepare a report to WRC–97, instructs the Secretary-General to communicate this Resolution to concerned international and regional organizations.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2072 Filed 1–29–96; 1:22 pm]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1082–DR]

Delaware; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Delaware (FEMA–1082–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: January 12, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 12, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Delaware, resulting from "the Blizzard of 1996", which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Delaware.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2108 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1080–DR]

District of Columbia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the District of Columbia (FEMA–1080–DR), dated January 11, 1996, and related determinations.

EFFECTIVE DATE: January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 11, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the District of Columbia, resulting from "the Blizzard of 1996", which occurred on January 6–10, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the District of Columbia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are

required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities in the District of Columbia.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2105 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1076–DR]

Georgia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1076–DR), dated December 20, 1995, and related determinations.

EFFECTIVE DATE: December 20, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 20, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Georgia, resulting from severe storms and tornadoes on November 7–8, 1995 is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Georgia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn C. Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Georgia to have been affected adversely by this declared major disaster:

The City of Albany located in Dougherty County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2104 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1089–DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1089–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky, resulting from "the Blizzard of 1996", which occurred on January 5–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn C. Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2100 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1081–DR]

Maryland; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maryland (FEMA–1081–DR), dated January 11, 1996, and related determinations.

EFFECTIVE DATE: January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 11, 1996 , the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Maryland, resulting from "the Blizzard of 1996", which occurred on January 6–10, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Maryland.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. This assistance will be provided to the City of Baltimore and the counties of Anne Arundel, Baltimore, Carroll, Harford, Howard, Montgomery, and Prince George's.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2106 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1081–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland (FEMA–1081–DR), dated January 11, 1996, and related determinations.

EFFECTIVE DATE: January 17, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster has been amended. The incident period for this disaster is January 6–12, 1996.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. This assistance will be provided to the City of Baltimore and the counties of Anne Arundel, Baltimore, Carroll, Harford, Howard, Montgomery, and Prince George's.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2091 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1094–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland, (FEMA–1094–DR), dated January 23, 1996, and related determinations.

EFFECTIVE DATE: January 23, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 23, 1996:

Cecil County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2097 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1094–DR]

Maryland; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maryland (FEMA–1094–DR), dated January 23, 1996, and related determinations.

EFFECTIVE DATE: January 23, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated

January 23, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Maryland, resulting from flooding on January 19, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Maryland.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Adamcik of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Maryland to have been affected adversely by this declared major disaster:

The counties of Allegany, Frederick, Garrett and Washington for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2102 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1077–DR]

New Hampshire; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Hampshire, (FEMA–1077–DR), dated January 3, 1996, and related determinations.

EFFECTIVE DATE: January 18, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New Hampshire, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 3, 1996:

Carroll, Cheshire, Merrimack and Sullivan Counties for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2090 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1088–DR]

New Jersey; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Jersey (FEMA–1088–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New Jersey, resulting from "the Blizzard of 1996", which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New Jersey.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Agnes Mravcak of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2099 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1095–DR]

State of New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 24, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from severe storms and flooding on January 19, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Joe Picciano of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster: Chemung, Delaware, Schoharie, Steuben, Sullivan, and Ulster for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2103 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1083–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1083–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: January 12, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 12, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from "the Blizzard of 1996", which occurred on January 6, 1996 and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Additional assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Agnes Mravcak of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–2109 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1087–DR]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–1087–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as follows:

I have determined that the damage in certain areas of the State of North Carolina, resulting from "the Blizzard of 1996", which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of North Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a),

Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn C. Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–2098 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 21, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 21, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Pennsylvania, resulting from flooding on January 19, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Commonwealth of Pennsylvania.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Pennsylvania to have been affected adversely by this declared major disaster:

Luzerne, Dauphin, Columbia, Montour, Perry, and Snyder for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2101 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Adams, Armstrong, Berks, Butler, Cameron, Carbon, Chester, Clarion, Crawford, Delaware, Elk, Erie, Forest, Franklin, Fulton, Greene, Indiana, Jefferson, Lancaster, Lawrence, Lebanon, Lehigh, Mercer, Montgomery, Northampton, Philadelphia, Pike, Potter, Schuylkill, Sullivan, Venango, Warren and Wayne Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2093 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 25, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Allegheny, Bedford, Blair, Bradford, Cambria, Centre, Clearfield, Cumberland, Fayette, Huntingdon, Lackawanna, Lycoming, McKean, Mifflin, Northumberland, Somerset, Westmoreland, Washington, Wyoming and York Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiawtkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2092 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 25, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include Public Assistance and Hazard Mitigation for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996.

The counties of Allegheny, Bedford, Bradford, Clinton, Dauphin, Huntingdon, Lackawanna, Luzerne, Lycoming, Potter, Susquehanna, Wayne, Westmoreland, and Wyoming Counties for Public Assistance and Hazard Mitigation. (Already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2094 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Bucks, Clinton, Juniata, Monroe, and Susquehanna Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2095 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Beaver County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2096 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1085–DR]

Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–1085–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as follows:

I have determined that the damage in certain areas of the Commonwealth of Pennsylvania, resulting from "the Blizzard of 1996", which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Commonwealth of Pennsylvania.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Additional assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities

without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2111 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1086–DR]

Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Virginia (FEMA–1086–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Virginia, resulting from "the Blizzard of 1996", which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Commonwealth of Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2107 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1079–DR]

Washington; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington, (FEMA–1079–DR), dated January 3, 1996, and related determinations.

EFFECTIVE DATE: January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Washington, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 3, 1996:

Clallam, Clark, Island, Jefferson, Kittitas, Mason, Pacific, and Whatcom Counties for Individual Assistance, Public Assistance and Hazard Mitigation; and

Thurston County for Public Assistance and Hazard Mitigation (already designated for Individual Assistance); and

Yakima County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2088 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1084–DR]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–1084–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of West Virginia, resulting from "the Blizzard of 1996", which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2110 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. § 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Seabourn Cruise Line Limited and Seabourn Maritime Management A/S, 55 Francisco Street, San Francisco, California 94133

Vessel: *Queen Odyssey*

Date: January 26, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2002 Filed 1–31–96; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Seabourn Cruise Line Limited and Seabourn Maritime Management A/S, 55 Francisco Street, San Francisco, California 94133

Vessel: *Queen Odyssey*

Date: January 26, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2003 Filed 1–3–96; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 96–02]

World Class Freight Inc. v. Worldlink Logistics, Inc. and Worldlink International; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by World Class Freight Inc. ("Complainant") against Worldlink Logistics, Inc. and Worldlink International ("Respondents") was served January 26, 1996. Complainant alleges that the Respondents have violated sections 8(a)(1), and 10(b)(1), (10, (11) and (12) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1707(a)(1) and 1709(b)(1), (10), (11) and (12), by having no tariff rate on file for a 40' container shipped CY/CY from Singapore to Los Angeles, demanding additional untariffed freight charges at destination in order to release the container, and seeking excessive freight charges from Respondents while not doing so from other shippers.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by January 27, 1997, and the final decision of the Commission shall be issued by May 27, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2001 Filed 1–31–95; 8:45 am]

BILLING CODE 4730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Expeditors International (Puerto Rico), Inc., 65 Infantry Station, San Juan, Puerto Rico 00929, Officers: Kevin M. Walsh, President, Mario Alfonso, Treasurer/Secretary

EM Global Shipping Enterprises, 4350 Town Plaza, #200, Houston, TX 77036, Bassey Morgan Etukudo, Sole Proprietor

Mundus Shipping, Inc., 15 Broad Street, Williston Park, NY 11596, Officer: Jaroslaw Rogawski, President

Peter J. Jantzen, 750 Pratt, Elk Grove Village, IL 60007, Sole Proprietor

Metra Corporation, 1637 Holloway Road/P.O. Box 788, Holland, OH 43528–0788, Officers: Zuhair R. Kamal, President, Kathleen S. Kamal, Vice President

International Trade Logistics, Inc., Hemisphere Center, Suite 306, Routes 1 & 9 South, Newark, NJ 07114, Officer: Jean Aiello, President

Overseas Mahanm Inc., 82–02 138th Street, Kew Gardens, NY 11435, Officers, M. Loni, President, Parikshit Majumder, Vice President

S & T Shipping, 402 N. Boston Avenue, Deland, FL 32724, Timothy A. Voit, Sole Proprietor

A. J. Int'l Cargo, Inc., 7579 N.W. 50th Street, Miami, FL 33166, Officers: Ana M. Palma, President, Jaime F. Palma, Vice President

Dated: January 26, 1996.
Joseph C. Polking,
Secretary.
[FR Doc. 96–2010 Filed 1–31–96; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

Background

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 C.F.R. 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:
Federal Reserve Board Clearance Officer—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829)
OMB Desk Officer—Milo Sunderhauf—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7340)

Final approval under OMB delegated authority of the extension, without revision, of the following report:

1. Report title: Notification of Foreign Branch Status
Agency form number: FR 2058
OMB Control number: 7100–0069
Effective date: February 5, 1996
Frequency: On occasion
Reporters: State member banks, Edge and agreement corporations, and bank holding companies
Annual reporting hours: 20
Estimated average hours per response: 0.25
Number of respondents: 80
Small businesses are not affected.

General description of report: This information collection is required to obtain or retain a benefit (12 U.S.C. §§321, 601, 602, 615, and 1844(c)) and is not given confidential treatment.

Abstract: Member banks, bank holding companies, and Edge and agreement corporations are required to notify the Federal Reserve System of the opening, closing, or relocation of an approved foreign branch. The notice requests information on the location and extent of service provided by the branch, and is filed within thirty days of the change in status. The Federal Reserve needs the information to fulfill its statutory obligation to supervise foreign branches of U.S. banking organizations. Minor clarifying changes have been made to the form and instructions.

Regulation K, "International Banking Operations," sets forth the conditions under which a foreign branch may be established. For their initial establishment of foreign branches, organizations must request prior Board approval as directed in Attachment A of the FR K–1, "International Applications and Prior Notifications Under Subparts A and C of Regulation K" (OMB No. 7100–0107). For subsequent branch establishments into additional foreign countries, organizations must give the Federal Reserve System forty-five days prior written notice using Attachment B of FR K–1. Organizations use the FR 2058 notification to notify the Federal Reserve when any of these branches has been opened, closed, or relocated.

The changes in the FR 2058 instructions clarify the scope of the branch status changes that require notification to the Federal Reserve. Information on changes in status of additional branches within the same country in which such a subsidiary is incorporated is not required. Also, the instructions have been clarified to reflect that a notice should be filed for foreign branches of subsidiaries acquired or divested by the institution. The FR 2058 notification form also has been better formatted to elicit the effective date of the branch status change and whether the branch is a shell or a full service branch.

Regulatory Flexibility Act Analysis: The Board certifies that the above reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

2. Information collection title: Disclosure Requirements in Connection with Regulation CC to implement the Expedited Funds Availability Act
Agency form number: None
OMB Control number: 7100–0235
Frequency: Event-generated
Respondents: State member banks
Annual reporting hours: 171,900
Estimated average hours per response: Notice of exceptions, Case by case hold notice, or Notice to potential customers upon request: 3 minutes; Notice posted where consumers make deposits: 15 minutes; Notice of changes in policy: 20 hours; and Annual notice of new ATMs: 5 hours.
Number of respondents: 975
Small businesses are affected.

General description of information collection: This information collection is mandatory (12 U.S.C. § 4008). No issue of confidentiality under the Freedom of Information Act normally arises.

Abstract: The third party disclosure requirements are intended to alert consumers about their financial institutions' check-hold policies and to help prevent unintentional (and costly) overdrafts. Most disclosures must be made within one banking day of the triggering event. Disclosures resulting from a policy change must be made thirty days before action is taken, or within thirty days if the action makes funds available more quickly. Model forms, clauses, and notices are appended to the regulation to provide guidance.

The Board's Regulation CC applies to all depository institutions, not just state member banks. However, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Other agencies account for the Regulation CC paperwork burden on their respective constituencies.

Regulatory Flexibility Act Analysis: The Board certifies that the extension of the above disclosure requirements are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

3. Information collection title: Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation (12 CFR 208.51)
Agency form number: None
OMB Control number: 7100–0261
Frequency: Annual
Respondents: State member banks
Annual reporting hours: 39,000
Estimated average hours per response: 40
Number of respondents: 975
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. § 1828(o)). No issue of confidentiality under the Freedom of Information Act normally arises.

Abstract: This information collection is a recordkeeping requirement contained in the Board's Regulation H (12 CFR 208.51) that implements section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). The requirement is to adopt and maintain a written real estate lending policy that is consistent with safe and sound lending practices. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Regulatory Flexibility Act Analysis: The Board certifies that the extension of the above recordkeeping requirements are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Board of Governors of the Federal Reserve System, January 26, 1996.
William W. Wiles,
Secretary of the Board.
[FR Doc. 96-2077 Filed 1-31-96; 8:45AM]
BILLING CODE 6210–01–F

Proposed Agency Information Collection Activities; Comment

AGENCY: Board of Governors of the Federal Reserve System (Board)
ACTION: Notice and request for comment.

BACKGROUND: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. The following currently approved collection of information has received approval from the Federal Financial Institutions Examination Council (FFIEC), of which the Board is a member, and is hereby published for comment. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the information collection may be modified prior to the agencies' submission of them to OMB for review and approval. Comments are invited on:

(a) whether the collection of information is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) the accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before April 1, 1996.

ADDRESSES: Interested parties are invited to submit written comments the agency listed below. All comments should refer to the OMB control number.

Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Milo Sunderhauf, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the reporting form and instructions may be requested from the agency clearance officers whose name appears below.

Mary M. McLaughlin, Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For the hearing impaired *only,* Telecommunications Device for the Deaf (TDD), Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Proposal to extend, without revision, the following currently approved collection of information:
Title: Monthly Consolidated Foreign Currency Report
Form Number: FFIEC 035
OMB Number: 7100–0178.
Frequency of Response: Monthly.
Affected Public: U.S. banks and U.S. branches and agencies of foreign banks.
Estimated Number of Respondents: 116
Estimated Time per Response: 12.68 burden hours.
Estimated Total Annual Burden: 17,651 burden hours.

General Description of Report: This information collection is mandatory: 12 U.S.C. 248(a) and 1844(c) and is given confidential treatment.

Small businesses are not affected.

Abstract: The data collected on the monthly report is used primarily by the three federal bank regulatory agencies (i.e., the Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) to monitor the foreign exchange activities of individual U.S. banks and banking institutions. On an aggregate basis, the three agencies make considerable use of the data in monitoring and analyzing developments in foreign exchange markets. Such data are used to identify changing market practices and bank reactions to disruptions in foreign exchange markets. On an individual bank basis, the data are used in monitoring a bank's foreign exchange activities to assure that they are being conducted in a safe and sound manner. The report is collected and processed by the Federal Reserve on behalf of the three agencies. The proposed extension, without revision, of the Monthly Consolidated Foreign Currency Report (FFIEC 035) that is the subject of this notice has been approved by the FFIEC for implementation as of the March 31, 1996, report date.

REQUEST FOR COMMENT

Comments submitted in response to this Notice will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Board of Governors of the Federal Reserve System, January 26, 1996.
William W. Wiles,
Secretary of the Board.
[FR Doc. 96-2076 Filed 1–31-96; 8:45AM]
BILLING CODE 6210–01–F

Farmers State Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 25, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Farmers State Corporation, Mountain Lake, Minnesota, and Bank Southwest Corporation, Worthington, Minnesota; to acquire 100 percent of the voting shares of First Security Bank-Madison, Madison, Minnesota.

2. JRS Investments, Limited Partnership, Billings, Montana, to become a bank holding company by acquiring 7.18 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Commerce, Billings, Montana, and First Interstate Bank of Commerce, Sheridan, Wyoming.

3. Nbar5, Limited Partnership, Ranchester Wyoming, to become a bank holding company by acquiring 15.43 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Commerce, Billings, Montana, and First Interstate Bank of Commerce, Sheridan, Wyoming.

4. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of AmeriGroup, Incorporated, Minnetonka, Minnesota, and thereby indirectly acquire AmeriBank, Bloomington, Minnesota.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Southern Colorado Bank Holding Company, Pagosa Springs, Colorado; to acquire 100 percent of the voting shares of Mancos Bancorporation, Inc., Mancos, Colorado, and thereby indirectly acquire Mancos Valley Bank, Mancos, Colorado.

Board of Governors of the Federal Reserve System, January 26, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2042 Filed 1–31–96; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Notice of Availability DEIS

The General Services Administration (GSA) announces the release of the Draft Environmental Impact Statement (DEIS), for the siting and proposed construction of a new Courthouse Annex in the Central Business Area (CBA) of Savannah, Georgia, A 45-day public comment period begins February 2 and runs through March 18, 1996.

The DEIS has examines the impacts of constructing an Annex of the existing Courthouse in the Savannah CBA. This includes impacts to historic and cultural resources, traffic and parking, and socioeconomic (including the impacts of local businesses). The DEIS examines ways to mitigate unavoidable adverse impacts of the proposed action. Concurrent with implementation of the National Environmental Policy Act requirements, GSA has also implemented its consultation requirements under Section 106 of the National Historic Preservation Act, regarding the impacts of historic properties as a result of undertaking the proposed action. GSA is very much aware of the potential for adverse affects to the National Historic Landmark District as a result of the proposed action, and has made every effort to identify and take into account such affects while planning this project.

The New Courthouse will house approximately 250 employees in an 165,000 to 180,000 occupiable square feet (osf) structure(s) that will meet the 10-year and 30-year space requirements of the US Courts. The project will contain four courtrooms, and office space for Court-related agencies, as well as space for GSA. After an exhaustive process of site identification and site screening, three potential sites and four alternative configurations, and the "No Action" alternative, were considered technically feasible and analyzed in the DEIS as follows:

- 1. "No Action," that is, undertake no new construction.
- 2. Construction of a single 165,000 osf building 80 feet tall on the sites of the current Juliette Gordon Low Federal Buildings A & B including building over President Street. This is the GSA preferred alternative.
- 3. Construction of two buildings with a total of 180,000 osf, 133 feet tall, on the sites of the current Juliette Gordon Low Buildings A & B and not building over President Street.
- 4. Partial demolition and construction of the site of the Juliette Gordon Low Building currently housing the US Army Corps of Engineers.
- 5. Construction north of the existing Courthouse on a 1.4 acre parcel bounded by State, Bull, Broughton, and Whitaker Street, leaving undisturbed the two buildings facing Bull, Street, demolishing the remaining structures, and closing and building over Broughton Lane.

As part of the public comment process, you are encouraged to contact GSA in writing at the following address with your comments regarding the DEIS: Mr. Philip Youngberg, Regional Environmental Officer—4PT, 401 West Peachtree Street, NW., Suite 3015, Atlanta, GA 30365–2550; or FAX your comments to Mr. Youngberg at 404–331–4540. Comments should be postmarked no later than Monday, March 18, 1996.

GSA will conduct a Public Meeting to solicit comments for the DEIS. A Notice of this meeting and all subsequent public meetings conducted by GSA for this project will appear in the Savannah News-Press at least two weeks prior to the meeting date.

Dated: January 23, 1996.

Phil Youngberg,

Regional Environmental Officer (4PT).

[FR Doc. 96–2123 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Commission on Dietary Supplement Labels: Announcement of Appointment; Notice of Meeting; Opportunity to Provide Comments

AGENCY: Office of Disease Prevention and Health Promotion.

SUMMARY: The Department of Health and Human Services (HHS) is (a) announcing the appointment of the Commission on Dietary Supplement Labels, (b) providing notice of the first meeting of the Commission pending approval of the Commission's Charter, (c) receipt of information on current Department of Health and Human Services activities related to dietary supplements, and (d) soliciting oral and written comments.

DATES: (1) The Commission will meet February 16, 1996, from 8:30 a.m. to 4:30 p.m. E.S.T. at the Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008. (2) Written comments on the scope and intent of the Commission's objectives may be submitted up to 5 p.m. E.S.T. on June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Ph.D., Executive Director, Commission on Dietary Supplement Labels, Office of Disease Prevention and Health Promotion, Room 738G, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201, (202) 205–5968.

SUPPLEMENTARY INFORMATION:

Commission on Dietary Supplement Labels

The President announced his intent to appoint the following seven persons as members of the Commission on October 2, 1995. The Commission is chaired by Malden Nesheim, Cornell University, Ithaca, New York. Other members of the Commission are Annette Dickenson, Council for Responsible Nutrition, Washington, DC; Norman R. Farnsworth, University of Illinois at Chicago, Chicago, Illinois; Margaret Gilhooley, Seton Hall University, School of Law, Newark, New Jersey; Shiriki Kumanyika, Pennsylvania State College of Medicine, Hershey, Pennsylvania; Robert McCaleb, Herb Research Foundation, Boulder, Colorado; and Anthony Podesta, Podesta Associates, Washington, DC.

Commission's Task

Public Law 103–417, Section 12, authorizes the establishment of a Commission on Dietary Supplement Labels whose seven members are appointed by the President. The appointments to the Commission by the President and the establishment of the Commission by the Secretary of Health and Human Services reflect the commitment of the President and the Secretary to the development of a sound and consistent regulatory policy on labeling of dietary supplements.

The Commission is charged with conducting a study and providing recommendations for regulation of label claims and statements for dietary supplements, including the use of supplemental literature in connection with their sale and, in addition, procedures for evaluation of label claims. The Commission is expected to evaluate how best to provide truthful, scientifically valid, and nonmisleading information to consumers in order that they make informed health care choices for themselves and their families. The Commission's study report may include recommendations on legislation, if appropriate and necessary.

Announcement of Meeting

The Commission's first meeting will be February 16, 1996, 8:30 a.m. to 4:30 p.m. E.S.T. The meeting will be held at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008. The agenda will include (a) orientation, (b) discussion of the Commission's charge, (c) receipt of information on current Department of Health and Human Services activities related to dietary supplements, and (d) oral comments from interested parties and the general public.

Public Participation at Meeting

The meeting is open to the public. However, space is limited. Both oral and written comments from the public will be accepted, but oral comments at the meeting will be limited to a maximum of five minutes per presenter; thus, organizations and persons that wish to make their views known to the Commission should use the time for oral presentation to summarize their written comments. Members of the Commission may wish to question the presenters following each oral presentation. Please request the opportunity to present oral comments in writing and provide nine (9) copies of the written comments from which the oral presentation is abstracted to the address above by February 9, 1996. If you will require a sign language interpreter, please call Sandra Saunders (202) 260–0375 by 4:30 p.m. E.S.T. on February 9, 1996.

Written Comments

By this notice, the Commission is soliciting submission of written comments, views, information and data pertinent to Commission's task. Comments should be sent to Kenneth D. Fisher, Executive Director of the Commission at the Office of Disease Prevention and Health Promotion, Room 738G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201, by 5 p.m. E.S.T. on June 30, 1996.

Claude Earl Fox,

Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

[FR Doc. 96–1858 Filed 1–31–96; 8:45 am]

BILLING CODE 4160–17–M

Health Care Financing Administration

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), has submitted to the Office of Management and Budget (OMB) the following requirement for Emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320, in order to prevent hospitals from inappropriately transferring individuals with emergency medical conditions, as mandated by Congress. The Agency cannot reasonably comply with the normal clearance procedures because public harm is likely to result if normal clearance procedures are followed. Without this information, HCFA could not assure compliance with this Congressional mandate.

HCFA is requesting that OMB provide a two-day review and a 90-day approval. During this 90-day period HCFA will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. Then HCFA will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: Emergency (This is an identical package to the one that was approved in January, 1995. This is not a new package.); *Title of Information Collection:* Information Collection Requirements Contained in BPD–393, Examination and Treatment for Emergency Medical Conditions and Women in Labor; *Form No.:* HCFA–R–142; *Use:* BPD–393 contains information collection requirements for hospitals that would seek to prevent them from inappropriately transferring individuals with emergency medical conditions, as mandated by Congress. HCFA will use this information to help assure compliance with this mandate. This information is not contained elsewhere in regulations. *Frequency:* On occasion; *Affected Public:* Individuals or households, not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of*

Respondents: 7,000; *Total Annual Responses:* 7,000; *Total Annual Hours Requested:* 8,818,577.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 2 working days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: January 25, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2124 Filed 1–31–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Program Announcement for Contracts for the Disadvantaged Health Professions Faculty Loan Repayment Program for Fiscal Year 1996

The Health Resources and Services Administration (HRSA) announces that applications for contracts for fiscal year (FY) 1996, for the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP) are now being accepted under section 738(a) of the Public Health Service Act (The Act).

This program announcement is subject to reauthorization of the legislative authority and to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for title VII programs, the amount of available funding for this program cannot be estimated.

Purpose

The purpose of the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP), authorized by section 738(a), is to attract disadvantaged health professionals into faculty positions in accredited health professions schools. The program provides a financial incentive for degree-trained health professions personnel from disadvantaged backgrounds who will serve as members of the faculties of those schools. The FLRP is directed at those individuals available to serve immediately or within a short time as "new" full-time faculty members. Loan repayment may be provided only for an individual who has *not* been a member of the faculty of any school at any time during the 18-month period preceding the date on which the Secretary receives the request of the individual for a repayment contract (i.e., "new" faculty).

Section 738(b) makes available grants and contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology and other public or private nonprofit health or educational entities to assist in increasing the number of underrepresented minority faculty. Section 738(b) will be implemented as a separate program.

Eligible Individuals

Individuals from disadvantaged backgrounds are eligible to compete for participation in the FLRP if they:

1. Have degrees in medicine, osteopathic medicine, dentistry, nursing, pharmacy, podiatric medicine, optometry, veterinary medicine, public health or clinical psychology; or
2. Are enrolled in an approved graduate training program in one of the health professions listed above; or
3. Are enrolled as full-time students in the final year of health professions training, leading to a degree from an eligible school.

Established faculty members are not eligible to apply for funds under the FLRP. Only individuals that have not taught in the last 18 (eighteen) months prior to application to the program will be considered.

Statutory Requirements

Prior to submitting an application for a contract for loan repayment, individuals must sign a contract with an eligible school, as prescribed by the Secretary, setting forth the terms and conditions of the FLRP. This contract with the school must require the individual to serve as a full-time member of the faculty, as determined by the school, for not less than 2 years, whereby the school agrees to pay, for each year, a sum (in addition to faculty salary) equal to that paid by the Secretary towards the repayment of principal due on the applicant's health professions educational loans. Additionally, the individual involved may not have been a member of the faculty of any school at any time during the last 18 months prior to application to the program.

Eligible Schools

Eligible schools are public or nonprofit private accredited schools of medicine, nursing, as defined in section 853 of the Act, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine or public health, or schools that offer graduate programs in clinical psychology and which are located in States as provided in section 799 of the Act.

Provisions of the Loan Repayment Program

Section 738(a) authorizes repayment, for each year of service, as much as 20 percent of the outstanding principal and interest on the individuals educational loans, not to exceed $20,000 for any given year. The school pays an equal amount, unless the Secretary determines that the repayment will impose an undue financial hardship on the school in which case, the Secretary may pay up to the entire 20 percent.

The school is required, for each such year, to make payments of principal and interest in an amount equal to the amount of payment made by the Secretary for that year. These payments must be in addition to the faculty salary the participant otherwise would receive.

Allowable educational loan repayment expenses include the following:

1. Tuition expenses;
2. All other reasonable educational expenses such as fees, books, supplies, educational equipment and materials required by the school, and incurred by the applicant;
3. Reasonable living expenses, as determined by the Secretary; and
4. Partial payments of the increased Federal income tax liability caused by the FLRP's payments and considered to be "other income," if the recipient requests such assistance.

Prior to entering into a contract for repayment of loans, the Secretary requires satisfactory evidence of the existence and reasonableness of the individual's educational loans, including a copy of the original written loan agreement establishing the outstanding educational loan.

Waiver Provision

In the event of undue financial hardship to a school, the school may obtain from the Secretary a waiver of its share of payments while the participant is serving under the terms of the contract. For purposes of this program, "undue financial hardship", as seen by the Secretary, is based on a school's particular financial status as influenced by such circumstances as budget cutbacks. Decisions will be made on a case-by-case basis, and must be supported by the school's documentation of comparative yearly financial allocation of funds; or the most current certified public accounting audit, including the Balance Sheet and Statement of Income and Expenses for the past several years.

If the Secretary waives the school's payment requirement, the amount of the Federal loan repayment may be up to the full 20 percent described above (regardless of the "equal amount" provision described above), but cannot exceed the $20,000 repayment limit. The participant must pay that portion of loan payment due which is not covered.

The following Definitions, Program Requirements, Review Criteria and Funding Preference were established in FY 1991 after public comment dated October 2, 1991, at 56 FR 49896, and the Secretary is extending them in FY 1996.

Definitions

For purposes of the FLRP in FY 1996, an "Individual from a Disadvantaged Background" is defined as in 42 CFR 57.1804, as one who:

1. Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession; or

2. Comes from a family with an annual income below a level based on low income thresholds according to a family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in health professions and nursing programs. The Secretary will periodically publish these income levels in the **Federal Register**. The following income figures determine what constitutes a low income family for purposes of the Faculty Loan Repayment Program for FY 1996.

Size of parents' family [1]	Income level [2]
1	$10,000
2	12,900
3	15,400
4	19,700
5	23,200
6 or more	26,100

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1994 rounded to $100.

The term "Living expenses" means the costs of room and board, transportation and commuting costs, and other costs incurred during an individual's attendance at a health professions school, as estimated each year by the school as part of the school's standard student budget. (National Health Service Corps Loan Repayment Program, 42 CFR part 62.22)

The term "Reasonable educational expenses and living expenses" means the costs of those educational and living expenses which are equal to or less than the sum of the school's estimated standard student budgets for educational and living expenses for the degree program and for the year(s) during which the Program participant is/was enrolled in the school. (National Health Service Corps Loan Repayment Program, 42 CFR part 62.22)

The term "Unserved Obligation Penalty" means the amount equal to the number of months of obligated service that were not completed by an individual, multiplied by $1,000, except that in any case in which the individual fails to serve 1 year, the unserved obligation penalty shall be equal to the full period of obligated service multiplied by $1,000. (Section 338E of the Act) See "Breach of Contract" section below.

Program Requirements

The following requirements will be applied to the applicant and to the school.

The Applicant

The applicant will be required to do the following:

1. Submit a completed application, including the applicant's contract with an eligible school to serve as a full- time faculty member for not less than 2 years;
2. Provide evidence that the applicant has completely satisfied any other obligation for health professional service which is owed under an agreement with the Federal Government, State Government, or other entity prior to beginning the period of service under this program;
3. Certify that the United States does not hold a judgment against the applicant; and
4. Provide documentation to evidence the educational loans and to verify their status.

The School

The school will be required to do the following:

1. Enter into a contractual agreement with the applicant whereby the school is required, for each year for which the participant serves as a faculty member, to make payments of principal and interest in an amount equal to the amount of such quarterly payments made by the Secretary. These payments must be in addition to the faculty salary the participant otherwise would receive.
2. Verify the participant's continuous employment at intervals as prescribed by the Secretary.

The Secretary will pay participants in equal quarterly payments during the period of service.

Effective Date of Contract

After an applicant has been approved for participation in the FLRP, the Director, Division of Disadvantaged Assistance (DDA), will send the applicant a contract with the Secretary. The effective date is either the date work begins at the school as a faculty member or the date the Director, DDA, signs the FLRP contract, whichever is later. Service should begin no later than September 30, 1996.

Breach of Contract

The following areas under Breach of Contract are addressed in the appended contract:

1. If the participant fails to serve his or her period of obligated faculty service (minimum of 2 years) as contracted with the school, he/she is then in breach of contract, and neither the Secretary nor the school is obligated to continue loan repayments as stated in the contract. The participant must then reimburse the Secretary and the participating school for all sums of principal and interest paid on his/her behalf as stated in the contract in addition to any income tax assistance he/she may have received.
2. Regardless of the length of the agreed period of obligated service (2, 3, or more years), a participant who serves less than the time period specified in his/her contract is liable for monetary damages to the United States amounting to the sum of the total of the amounts the Program paid him/her, plus an "unserved obligation penalty" of $1,000 for each month unserved.
3. Any amount which the United States is entitled to recover because of a breach of the FLRP contract must be paid within 1 year from the day the Secretary determines that the participant is in breach of contract. If payment is not received by the payment date, additional interest, penalties and

administrative charges will be assessed in accordance with Federal Law (45 CFR 30.13).

Review Criteria

The HRSA will review fiscal year 1996 applications taking into consideration the following criteria:

1. The extent to which the applicant meets the requirements of section 738(a) of the Act;
2. The completeness, accuracy, and validity of the applicant's responses to application requirements;
3. The submission of the signed contract with the school;
4. An applicant's earliest available date to begin service as a faculty member provided funding is available for that year; and
5. An applicant's availability to enter into a service contract for a longer period than the mandatory 2-year minimum.

Factors to assure equitable distribution (e.g. geographic, discipline) will be considered in determining the funding of completed applications.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Disadvantaged Health Professions Faculty Loan Repayment Program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001- 00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017-001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone (202) 783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Application Requests

Requests for application materials and questions regarding program information and business should be directed to: Lafayette Gilchrist, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8A–09, Rockville, Maryland 20857, Telephone: (301) 443–3680, FAX: (301) 443–5242.

Completed applications should be returned to the address listed above. The application deadline date is June 30, 1996. Applications shall be considered to be "on time" if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

The application form and instructions for this program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915- 0150.

The Disadvantaged Health Professions Faculty Loan Repayment Program is listed at 93.923 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: January 25, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–1978 Filed 1–31–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (15 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) Meetings:

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Multidisciplinary Sciences.
Date: February 8–9, 1996.
Time: 7:00 p.m.
Place: Marriott Hotel, Newport Beach, California.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Multidisciplinary Sciences.
Date: April 1–3, 1996.
Time: 7:00 p.m.
Place: Bethesda Marriott Hotel, Bethesda, Maryland.
Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 5110, Bethesda, Maryland 20892, (301) 435–1168.

Purpose/Agenda: To review individual grant applications.
Name of SEP: Multidisciplinary Sciences.
Date: February 12–14, 1996.
Time: 8:30 p.m.
Place: Sheraton Boston Hotel and Towers, Boston, MA.
Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435–1180.

This notice is being published less than 15 days prior to the meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Clinical Sciences.
Date: February 26–28, 1996.
Time: 8:00 a.m.
Place: Ramada Inn, Bethesda, Maryland.
Contact Person: Dr. Ronald Suddendorf, Scientific Review Administrator, 6000 Executive Blvd., Room 409, Bethesda, Maryland 20892, (301) 443–2932.

Name of SEP: Clinical Sciences.
Date: February 26–28, 1996.
Time: 8:00 a.m.
Place: Ramada Inn, Bethesda, Maryland.
Contact Person: Dr. Jules Selden, Scientific Review Administrator, 6701 Rockledge Drive, Room 4108, Bethesda, Maryland 20892, (301) 435–1785.

Name of SEP: Clinical Sciences.
Date: February 26–28, 1996.
Time: 8:00 a.m.
Place: Ramada Inn, Bethesda, Maryland.
Contact Person: Dr. Antonio Noronha, Scientific Review Administrator, 6000 Executive Blvd., Room 409, Bethesda, Maryland 20892, (301) 443–9419.

Name of SEP: Multidisciplinary Sciences.
Date: February 28–March 1, 1996.
Time: 7:00 p.m.
Place: University Inn, Champaign, Illinois.
Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5112, Bethesda, Maryland 20892, (301) 435–1169.

Name of SEP: Multidisciplinary Sciences.
Date: March 11, 1996.
Time: 8:00 a.m.
Place: Embassy Suites, Washington, DC.
Contact Person: Dr. Eileen Bradley, Scientific Review Administrator, 6701 Rockledge Drive, Room 5214, Bethesda, Maryland 20892, (301) 435–1178.

Name of SEP: Microbial and Immunological Sciences.
Date: March 27–28, 1996.
Time: 8:00 a.m.
Place: Holiday Inn-Bethesda, Bethesda, Maryland.
Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, Maryland 20892, (301) 435–1146.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2025 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Specialized Centers of Research in Cellular and Molecular Mechanisms of Asthma, Pathobiology of Lung Development, and Pathobiolgy of Fibrotic Lung Disease Parent Committee.
Date: March 25–26, 1996.
Time: 8:00 a.m.
Place: Bethesda Holiday Inn, Bethesda, Maryland.
Contact Person: Dr. Deborah Beebe, Rockledge II, Room 7206, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0303.
Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Disease Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2028 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Initial Review Group (IRG) meeting:

Name of IRG: Heart, Lung, and Blood Program Project Review Committee.
Date: March 20–21, 1996.
Time: 8:00 a.m.
Place: Holiday Inn Chevy Chase, Chevy Chase, Maryland.
Contact Person: Dr. Jeffrey H. Hurts, 6701 Rockledge Drive, Rm. 7208, Bethesda, Maryland 20892, (301) 435–0303.
Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2029 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Hepatitis C Cooperative Research Centers.
Date: February 13–15, 1996.
Time: 8:00 a.m.
Place: Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814, (301) 654–1000.
Contact Person: Dr. Stanley Oaks, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C06, Bethesda, MD 20892–7610, (301) 496–7042.
Purpose/Agenda: To evaluate cooperative agreement applications.

The meeting will be closed in accordance with the provisions set forth in secs 552(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2022 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Health

National Institute of Child Health and Human Development; Notice of Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council on February 23, 1996, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting will be conducted via a telephone conference call originating in the Natcher Conference Center, Building 45, Conference Rooms E1 and E2.

In accordance with the provisions set forth in sections 552b(c)(4), and 552b(c)(6), Title 5, United States Code and sections 10(d) of Public Law 92–463, the meeting of the full Council will be closed to the public on February 23 from 10:00 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or

commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Executive Secretary, NICHD, 6100 Executive Boulevard, Room 5E03, National Institutes of Health, Bethesda, Maryland 20892–7510, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members.

(Catalog of Federal Domestic Assistance Program Nos. 93.864, Population Research, and 93.865, Research for Mothers and Children, National Institutes of Health.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2026 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on February 8, 1996. The meeting of the full Council will be open to the public February 8, from 8 a.m. to 9:30 a.m. in Conference Room 10, Building 31C, National Institutes of Health, Bethesda, Maryland, to discuss administrative issues relating to Council business and special reports. The following subcommittee meetings will be open to the public February 8 from 10 a.m. to 10:30 a.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee meeting will be held in Conference Room 10, Building 31C; Digestive Diseases and Nutrition Subcommittee meeting will be held in Conference Room 7, Building 31C; and Kidney, Urologic and Hematologic Diseases Subcommittee meeting will be held in Conference Room 9, Building 31C. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meetings of the subcommittees and full Council will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on February 8, from 10:30 a.m. to 2:30 p.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee; Digestive Diseases and Nutrition Subcommittee; and Kidney, Urologic and Hematologic Diseases Subcommittee. The full Council meeting will be closed from 2:30 p.m. to 4 p.m. on February 8. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosures of which would constitute a clearly unwarranted invasion of personal privacy.

For any further information, and for individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Natcher Building, Room 6AS–25C, Bethesda, Maryland 20892, (301) 594–8834, in advance of the meeting.

In addition, upon request, a summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, Room 9A07, National Institute of Health, Bethesda, Maryland 20892, (301) 496–6623.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institute of Health.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2024 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Clinical Centers and Special Projects Review Committee.

Date: February 20–February 23, 1996.

Time: 9 a.m.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1340.

Committee Nome: Social and Group Processes Review Committee.

Date: February 22–February 23, 1996.

Time: 8:30 a.m.

PLace: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–6470.

Committee Nome: Psychobiology, Behavior, and Neuroscience Review Committee.

Date: February 22–February 23, 1996.

Time: 9 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: William H. Radcliffe, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Child/Adolescent Development, Risk, and Prevention Review Committee.

Date: February 22–February 23, 1996.

Time: 9 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone; 301–443–6470.

Committee Name: Molecular, Cellular, and Developmental Neurobiology Review Committee.

Date: February 26–February 27, 1996.

Time: 8 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Perception and Cognition Review Committee.

Date: February 29–March 1, 1996.

Time: 9 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Violence and Traumatic Stress Review Committee.

Date: March 4–March 5, 1996.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockvilie, MD 20857, Telephone: 301–443–3936.

Committee Name: Epidemiology and Genetics Review Committee.

Date: March 4–March 5, 1996.

Time: 8:30 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Shirley Williams, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1367.

Committee Name: Mental Health AIDS and Immunology Review Committee—2.

Date: March 14—March 15, 1996.

Time: 8:30 a.m.

Place: One Washington Circle, One Washington Circle, N.W., Washington, DC 20037.

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: Clinical Neuroscience and biological Psychopathology Review Committee.

Date: March 18—March 19, 1996.

Time: 9 a.m.

Place: Hampshire Hotel, 1310 New Hampshire Ave., N.W., Washington, DC 20036.

Contact Person: Maureen L. Eister, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Nome: Mental Health AIDS and Immunology Review Committee—1.

Date: March 18—March 19, 1996.

Time: 8:30 a.m.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: Neuropharmacology and Neurochemistry Review Committee

Date: March 21—March 22, 1996.

Time: 8:30 a.m.

Place: Hampshire Hotel, 1310 New Hampshire Ave., N.W., Washington, DC 20036.

Contact Person: Shirley H. Maltz, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: Cognitive Functional Neuroscience Review Committee.

Date: March 28—March 29, 1996.

Time: 9 a.m.

Place: One Washington Circle, One Washington Circle, N.W., Washington, DC 20037.

Contact Person: Shirley H. Maltz, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: Child Psychopathology and Treatment Review Committee.

Date: March 28—March 29, 1996.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Angela L. Redlingshafer, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: Mental Health Small Business Research Review Committee.

Date: April 22—April 23, 1996.

Time: 9 a.m.

Place: River Inn, 924 25th Street NW, Washington, DC 20037.

Contact Person: Richard Johnson, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: January 23, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2020 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Nursing Research; Notice of Meeting of the National Advisory Council for Nursing Research and its Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council for Nursing Research, National Institute of Nursing Research, National Institutes of Health and Its Subcommittee on February 6–7, 1996.

The meetings will be open to the public as indicated below. Attendance will be limited to space available.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meetings, roster of committee members, and other information may be obtained from the Executive Secretary listed below. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Name of Committee: Planning Subcommittee.

Date of Meeting: February 6, 1996.

Place: National Institutes of Health, Building 31, Conference Room 5B03, Bethesda, MD.

Open: 8:30 a.m. to 11:30 a.m.

Agenda: Discussion of long-term and strategic planning and policy issues.

Name of Committee: National Advisory Council for Nursing Research.

Date of Meeting: February 6–7, 1996.

Place: National Institutes of Health, Building 31, Conference Room 6, Bethesda, MD.

Open: February 6, 1:00 p.m. to 5:30 p.m.

Agenda: NINR Director's Report Discussion: Minority Health Research Scientific Report, NIH Office of Research on Minority Health, Clinical Research Supported by the NIH, Report on the Advisory Committee to the Director, Report of the Planning Subcommittee, Statement of Understanding.

Closed: February 7, 8:30 a.m. to adjournment.

Executive Secretary: Dr. Ernest Marquez, NINR, NIH, Building 45, Room 3AN–12, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.361, Nursing Research, National Institutes of Health.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

Certified to be a true copy.

[FR Doc. 96–2023 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the Board of Scientific Counselors, National Institute on Deafness and Other Communications Disorders

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institution Deafness and Other Communication Disorders, on March 28–29, 1996. The meeting will be held in Conference Room D, the Natcher Conference Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public from 1 p.m. to 3 p.m. March 28 to present reports and discuss issues related to business of the Board. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, United States Code, and section 10(d) of Public Law 92–463, the meeting of the Board of Scientific Counselors will be closed to the public from 3 p.m. on March 28 until adjournment at approximately 3 p.m. on March 29. The closed portion of the meeting will be for the review, discussion and evaluation of the program of a tenure track scientist and the Section on Neurotransmitter Receptor Biology of the division of Intramural Research, National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and a roster of committee members may be obtained from James F. Battey, M.D., Ph.D., Executive Secretary of the Board of Scientific Counselors, National Institute on Deafness and Other Communication Disorders, 5 Research Court, Room 2B–28, Rockville, Maryland 0850, (301) 402–2829.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Battey at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93,173 Biological Research Related to Deafness and Communication Disorders)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2027 Filed 1–3–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute on Drug Abuse Initial Review Group.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Epidemiology and Prevention Research Subcommittee.

Date: February 12–13, 1996.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Raquel Crider, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 9042.

Name of Committee: Molecular, Cellular and Chemical Neurobiology Research Subcommittee.

Date: February 13–15, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Rita Liu, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Neuropharmacology Research Subcommittee.

Date: February 13–15, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Syed Husain, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Neurophysiology and Neuroanatomy Research Subcommittee.

Date: February 13–15, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Committee: Basic Behavioral Science Research Subcommittee.

Date: Feburary 20–22, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: William C. Grace, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

The meetings will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2021 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) (NIH) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 60 FR 58369, November 27, 1995), is amended to reflect the reorganization of the Office of the Director, NIH (OD/NIH) (HNA). The reorganization consists of the following: (1) Establish the Office of Management (OM) (HNAM); (2) establish the Office of the Director within OM (HNAMI); (3) transfer the Office of Administration, OD/NIH (HNAB) to OM and change the Standard Administrative Code (SAC) to HNAM2; (4) transfer the Office of Financial Management, OD/NIH (HNAJ) to OM and change the SAC to HNAM3; (5) transfer the Office of Human Resource Management, OD/NIH (HNAK) to OM and change the Standard Administrative Code (SAC) to HNAM4; and (6) transfer the Office of Research Services, OD/NIH (HNAL) to OM and change the Standard Administrative Code (SAC) to HNAM5.

Section HN–B, Organization and Functions, is amended as follows:

(1) Under the heading *Office of the Director (HNA),* insert the following:

Office of Management (HNAM). (1) Advises the NIH Director and staff on all phases of NIH-wide administration and management; (2) provides leadership and director to all aspects of management; and (3) oversees the management of functions in the areas of budget and financial management, personnel management, information resources management, management policy, management assessment, program integrity, contract, procurement, and logistics management, engineering services, safety, space and facility management, support services, and security operations.

(2) Under the heading *Office of the Director (HNA), Office of Management (HNAM),* insert the following:

Office of the Director (HNAMI). Provides leadership, direction, and coordination on all phases of NIH-wide administration and management.

Dated: January 20, 1996.

Harold Varmus,

Director, NIH.

[FR Doc. 96–2052 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are *not* to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/205–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave. Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5810

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 11850 West 85th St., Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984, (Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

CORNING Clinical Laboratories, 8300 Esters Blvd., Suite 900, Irving, TX 75063, 800–526–0947 (formerly: Damon Clinical Laboratories, Damon/MetPath)

CORNING Clinical Laboratories, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–284–7515 (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories)

CORNING Clinical Laboratories, 24451 Telegraph Rd., Southfield, MI 48034, 800–444–0106 ext. 650 (formerly: Health Care/Preferred Laboratories, HealthCare/MetPath)

CORNING Clinical Laboratories Inc., 1355 Mittel Blvd., Wood Dale, IL 60191, 708–595–3888 (formerly: MetPath, Inc. CORNING MetPath Clinical Laboratories)

CORNING Clinical Laboratories, South Central Division, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 (formerly: Metropolitan Reference Laboratories, Inc.)

CORNING Clinical Laboratory, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5000 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)

CORNING National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science)

CORNING Nichols Institute, 7470–A Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT))

Cox Medical Centers, Department of Toxicology, 1423 North jefferson Ave., Springfield, MO 65802, 800–876–3652/417–836–3093

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 813–936–5446/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

Drug Labs of Texas, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300 (formerly: Harrison & Associates Forensic Laboratories)

Holmes Regional Medical Center Toxicology Laboratory, 5200 Babcock St., N.E., Suite 107, Palm Bay, FL 32905, 407–726–9920

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927 (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 13900 Park Center Rd., Herndon, VA 22071, 703–742–3100 (formerly: National Health Laboratories Incorporated)

Laboratory Corporation of America, 21903 68th Ave. South, Kent, WA 98032, 206–395–4000 (formerly: Regional Toxicology Services)

Laboratory Corporation of America Holdings, 1120 Stateline Rd., Southaven, MS 38671, 601–342–1286 (formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986 (formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–222–5835

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38175, 901–795–1515

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699–0008, 419–381–5213
Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227
MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466
Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587
Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199
MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808 (x4512)
National Psychopharmacology Laboratory, Inc., 9320 Park W. Blvd., Knoxville, TN 37923, 800–251–9492
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 503–687–2134
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400
PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352
PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177
Pharm Chem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627 (formerly: Physicians Reference Laboratory Toxicology Laboratory)
Poisonlab, Inc., 7272 Clairemont Mesa Rd., San Diego, CA 92111, 619–279–2600/800–882–7272
Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640
Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601–264–3856/800–844–8378
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788
S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–244–8800, 800–999–LABS
Sierra Nevada Laboratories, Inc., 888 Willow St., Reno, NV 89502, 800–648–5472
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91045, 818–989–2520
SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 904–787–9006 (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Altanta, GA 30340, 770–452–1590 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 708–885–2010 (formerly: Internatlonal Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–5447 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 1737 Airport Way South, Suite 200, Seattle, WA 98134, 206–623–8100
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373 (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–343–8191 (formerly: MedWest-BPL Toxicology Laboratory)

The following laboratory withdrew from the Program on December 1, 1995: CompuChem Laboratories, Inc., Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263 (Formerly: Roche CompuChem Laboratories, Inc., Special Division, A Member of the Roche Group, CompuChem Laboratories, Inc., Special Division).

CompuChem Laboratories, Inc., Special Division tested specimens only for the Federal Railroad Administration. This withdrawal affects only CompuChem Laboratories, Inc., Special Division. CompuChem Laboratories, Inc., at the same address, maintains its ongoing certification.

No laboratories withdrew from the Program during January 1996. In addition, no laboratory list was published in January 1996 in the **Federal Register.**

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–2007 Filed 1–31–96; 8:45 am]

BILLING CODE 4160–20–M

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a teleconference meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in March 1996.

The Council will discuss the Center's policy issues and current administrative, legislative, and program developments.

A summary of the meeting and a roster of Council members may be obtained from: Ms. Deloris Winstead, Committee Management Specialist, CSAT National Advisory Council, Rockwall II Building, Room 8A141, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment National Advisory Council.
Meeting Date: March 4, 1996.
Ploce: Center for Substance Abuse Treatment, Rockwall II Building, 6th Floor Conference Room, 5515 Security Lane, Rockville, Maryland 20852.
Open: March 4, 1996, 1:15 p.m. to 2:45 p.m.
Contact: Marjorie Cashion, Rockwall II Building, Room 8A139, Telephone: (301) 443–8923 and FAX: (301) 480–3144.

Dated: January 26, 1996.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Service Administration.

[FR Doc. 96–1976 Filed 1–31–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

[Docket No. FR–3917–N–38]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OM3) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: April 1, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Gloria S. Diggs, Reports Liaison Officer, Office of Administration, Department of Housing & Urban Development, 451—7th Street, SW., Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Gloria S. Diggs, 202–708–0050 (this is not a total-free number) for copies of the proposed forms and other available documents:

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Grant and Cooperative Agreement Request for Application and General Reporting Requirements of Grant and Cooperative Agreement Recipients.

OMB Control Number, if applicable: 2535–0084.

Description of the need for the information and proposed use: Potential Recipients respond to a Request for Application (RFA) in order to receive an award. After the award is granted, periodic reports are necessary to ensure that technical progress is satisfactory.

Agency form numbers, if applicable: SF–269, SF–270, SF–424, SF–1199A.

Members of affected public: Business or Other For-Profit, Individuals or Households, Not-For-Profit Institutions, and State, Local, or Tribal Government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 500 respondents ×4 times per year × 40 hours per respondent =80,000 burden hours.

Status of the proposed information collection: Extension, no change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 23, 1996.

David S. Cristy,

Director, Information Resource Management Policy and Management Division.

[FR Doc. 96–2031 Filed 1–31–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–3917–N–37]

Government National Mortgage Association Notice of Proposed Information Collection for Public Comment

AGENCY: Government National Mortgage Association, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: March 25, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya K. Suarez, Government National Mortgage Association, Office of Program, Policy, Procedure, and Risk Management, Department of Housing and Urban Development, 451—7th Street, SW., Room 6222, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya K. Suarez, on (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: (1) Request for release of Documents; (2) ACH Debit Authorization; (3) Letter Agreement for Servicer's Principal and Interest Custodial Account; (4) Letter Agreement for Servicer's Escrow Account; and (5) Custodial Agreement.

OMB Control Number: 2503–0017.

Description of the need for the information and proposed use: The forms provide the release of mortgage documents held by the pool custodian allowing Ginnie Mae to have some control of these documents, and provide evidence that the issuers have established custodial accounts to maintain the funds to be paid to Ginnie Mae securities holders. Ginnie Mae establishes, through the use of these forms, that only the issuer and Ginnie Mae have access to the funds for the benefit of the Ginnie Mae securities holders of mortgage-backed securities.

Agency form numbers: HUD 11708, 11709, 11709–A, 11715, and 11720

Members of affected public: Business or other for-profit and the Federal Government

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

HUD 11708

Number of respondents—900
Frequency of response—200
Total annual responses—180,000
Hours per response—.0017 (1 min.)
Total Hours—3,060

HUD 11709–A

Number of respondents—50
Frequency of response—1
Total annual responses—50

Hours per response—.017
Total Hours—1 hr.

HUD 11709, 11715, and 11720

Number of respondents—900 per each form
Frequency of response—34 per each form
Total annual responses—520 per each form
Hours per response—.017 per each form
Total Hours—520 per each form

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 25, 1996.

George S. Anderson,

Acting Executive Vice President, Government National Mortgage Association.

[FR Doc. 96–2032 Filed 1–31–96; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–01–4410–04–ADVB]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Thursday, February 29, 1996, from 8:00 a.m. to 5:00 p.m., and Friday, March 1, 1996, from 8:00 a.m. to 5:00 p.m. The sessions will be held in the Hoover Room, which is in the Education Center at the Living Desert Museum, located at 47900 Portola Avenue, Palm Desert, California.

Council members will participate in a field tour on Thursday morning, which will focus on various area management programs. The tour will assemble at the Embassy Suites parking lot located at 74–700 Highway 111, Palm Desert, California at 7:15 a.m., and depart at 7:30 a.m. The public is welcome to participate in the field tour, but should dress appropriately and plan on providing their own transportation, food, and beverage. Anyone interested in participating in the field tour should contact BLM at (909) 697–5215 for more information.

The council meeting is scheduled to begin at 1:00 p.m. in the conference room at the Living Desert Museum. All Desert District advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714; (909) 697–5215.

Dated: January 26, 1996.

Henri R. Bisson,

District Manager.

[FR Doc. 96–2070 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–40–M

[ID–060–1610–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater Districts, Idaho.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia-Salmon Clearwater Districts Resource Advisory Council (RAC) on Tuesday, February 20 and Wednesday, February 21, 1996 in Coeur d'Alene, Idaho. The meeting will be held at the BLM office at 1808 North Third Street in Coeur d'Alene.

The purpose of the meeting is for the RAC members to discuss, modify or develop proposed rangeland standards and guidelines. Other administrative issues may be discussed as time permits. The RAC will meet from 8:00 a.m. to 4:30 p.m. each day. The public may address the Council during the public comment period on February 20, 1996 starting at 1:30 p.m.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

The Council's responsibilities include providing long-range planning and establishing resource management priorities; and assisting the BLM to identify state standards for rangeland health and guidelines for grazing.

FOR FURTHER INFORMATION CONTACT: Ted Graf (208) 769–5004.

Dated: January 24, 1996.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 96–2129 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–GG–M

[MT–960–1990–00]

Resource Advisory Council Meeting, Butte, Montana

AGENCY: Butte District Office, Bureau of Land Management.

ACTION: Notice of Butte District Resource Advisory Council Meeting, Butte, Montana.

SUMMARY: The Council will convene at 10:00 a.m. on February 29, 1996, to work on the Grazing Standards and Guidelines and any new business the Council may want to discuss. The meeting will be held in the Bureau of Land Management Butte District Office conference room, and is of an urgent nature to meet the time frames established to complete the Standards and Guidelines.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 3 p.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting; or need special assistance, such as sign language or other reasonable accommodations, should contact the Butte District, 106 North Parkmont (PO Box 3388), Butte, Montana 59702–3388; telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT:

Orval Hadley at the above address or telephone number.

Orval L. Hadley,

District Manager.

[FR Doc. 96–2128 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–DN–M

[CO–930–1020–04–WEED]

Notice of proposed supplementary rules to require the use of certified noxious weed-free forage on Bureau of Land Management-administered lands in Colorado

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The State Director of the Bureau of Land Management (BLM) in Colorado is proposing a requirement that all BLM visitors and permittees in Colorado use certified noxious weed-free hay, straw, or mulch when visiting BLM administered lands in Colorado. This requirement will affect visitors who use hay or straw on the BLM administered lands in Colorado such as: recreationists using pack and saddle stock, ranchers with grazing permits, outfitters, and contractors who use straw or other mulch for reseeding purposes. These individuals or groups would be required to purchase certified noxious weed-free forage products, or use other approved products such as processed grains and pellets while on BLM administered lands in Colorado.

DATES: Comments concerning the proposal should be received on or before March 4, 1996.

ADDRESSES: Send written comments concerning the Colorado requirement to: State Director (930), USDI, Bureau of Land Management, 2850 Youngfield Street, Lakewood, CO 80215.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Colorado State Office, Carol Spurrier, Resource Services, Plant and Animal Sciences Team, 2850 Youngfield Street, Lakewood, CO 80215, or telephone (303) 239–3725.

SUPPLEMENTARY INFORMATION: Noxious weeds are a serious problem in the western United States. Estimates of the rapid spread of weeds in the west include 2,300 acres per day on BLM administered lands and 4,600 acres per day on all western public lands. Species like Leafy Spurge, Spotted Knapweed, Russian Knapweed, Musk Thistle, Dalmatian Toadflax, Purple Loosestrife, and many others are alien to the United States and have no natural enemies to keep their populations in balance. Consequently, these undesirable weeds invade healthy ecosystems, displace native vegetation, reduce species diversity, and destroy wildlife habitat. Widespread infestations lead to soil erosion and stream sedimentation. Furthermore, noxious weed invasions weaken reforestation efforts, reduce domestic and wild ungulates' grazing capacity, occasionally irritate public land users by aggravating allergies and other ailments, and threaten federally protected plants and animals.

To curb the spread of noxious weeds, a growing number of Western States have jointly developed noxious weed-free forage certification standards, and, in cooperation with various federal, state, and county agencies, passed weed management laws. Because hay and other forage products containing noxious weed seed are part of the infestation problem, Colorado has developed a state hay inspection-certification-identification process, participates in a regional inspection-certification-identification process, and encourages forage producers in Colorado to grow noxious weed-free products. The Colorado Department of Agriculture Division of Plant Industry has documented that in the first two years of the program, 101 growers in Colorado produced 5,547.49 acres of certified forage including grass hay, alfalfa hay, a mixture of grass and alfalfa hay, as well as barley and wheat straw as of October 30, 1995.

Region Two of the United States Forest Service, Department of Agriculture, implemented a similar policy for National Forest lands in Colorado and surrounding states in 1994. The BLM in Colorado implemented a standard stipulation on all Special Recreation Permits in 1994 requiring holders of those permits to use certified weed-free products. This proposal will provide a standard regulation for all users of BLM lands in Colorado and will provide for coordinated management with National Forest lands across jurisdictional lines.

In cooperation with the state of Colorado and the U.S. Forest Service, the BLM is proposing—for all BLM administered lands within Colorado—a ban on hay, straw or mulch that has not been certified. This proposal includes a public information plan to ensure that: (1) this ban is well publicized and understood; and (2) BLM visitors and land users will know where they can purchase state-certified hay or other products.

These supplementary rules will not appear in the Code of Federal Regulations.

The principal author of these proposed supplementary rules is Carol Spurrier, Botanist, of the Colorado State Office, BLM.

For the reasons stated above, under the authority of 43 CFR 8365.1–6, the Colorado State Office, BLM, proposes supplementary rules to read as follow: Supplementary Rules to Require the Use of Certified Noxious Weed-Free Forage on Bureau of Land Management-Administered Lands in Colorado

(a)(1) To prevent the spread of weeds on BLM-administered lands in Colorado, effective August 1, 1996, all BLM lands within the state of Colorado, at all times of the year, shall be closed to possessing or storing hay, straw, or mulch that has not been certified as free of prohibited noxious weed seed.

(2) Certification will comply with "Regional Standards" jointly developed by the states of Colorado, Idaho, Montana, Utah, Wyoming, and Nebraska for noxious weed seed free and noxious weed free forage.

(3) The following persons are exempt from this order: anyone with a permit signed by BLM's authorized officer at the Resource Area Office specifically authorizing the prohibited act or omission within that Resource Area.

(b) Any person who knowingly and willfully violates the provisions of these supplemental rules regarding the use of noncertified noxious weed-free hay, straw, or mulch when visiting Bureau of Land Management administered lands in Colorado, without authorization required, may be commanded to appear before a designated United States Magistrate and may be subject to a fine of not more than $1,000 or imprisonment of not more than 12 months, or both, as defined in 43 United States Code § 1733(a).

Donald R. Glaser,

State Director, Bureau of Land Management, Colorado.

[FR Doc. 96–2133 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–JB–P

[NM–932–1310–01; TXNM 26411]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease TXNM 26411, Shelby County, Texas, was timely filed and was accompanied by all required rentals and royalties accruing from October 1, 1995, the date of the termination. No valid lease has been issued affecting the land. The lessee(s) have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, and 16⅔ percent, respectively. Payment of a $500.00 administrative fees has been made. Having met all the requirements for reinstatement of the lease as set in

Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this Notice.

FOR FURTHER INFORMATION CONTACT:
Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: January 25, 1996.

Lourdes B. Ortiz,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 96–2130 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–FB–M

[NM–932–1310–01; TXNM 26414]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease TXNM 26414, Shelby County, Texas, was timely filed and was accompanied by all required rentals and royalties accruing from October 1, 1995, the date of the termination. No valid lease has been issued affecting the land. The lessee(s) have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, and 16⅔ percent, respectively. Payment of a $500.00 administrative fee has been made. Having met all the requirements for reinstatement of the lease as set in Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this Notice.

FOR FURTHER INFORMATION CONTACT:
Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: January 5, 1996.

Lourdes B. Ortiz,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 96–2132 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–FB–M

[NM–932–1310–01; TXNM 26413]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease TXNM 26413, Shelby County, Texas, was timely filed and was accompanied by all required rentals and royalties accruing from October 1, 1995, the date of the termination. No valid lease has been issued affecting the land. The lessee(s) have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, and 16⅔ percent, respectively. Payment of a $500.00 administrative fee has been made. Having met all the requirement for reinstatement of the lease as set in Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this Notice.

FOR FURTHER INFORMATION CONTACT:
Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: January 25, 1996.

Lourdes B. Ortiz,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 96–2131 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–930–06–1020–00]

Intent To Prepare an Arizona Statewide Plan Amendment, To Develop State Standards for Rangeland Health and Guidelines for Grazing Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent and Notice of Scoping Period.

SUMMARY: Pursuant to Section 202(a) of the Federal Land Policy and Management Act of 1976 and Section 102(2) of the National Environmental Policy Act of 1969 (NEPA), the Arizona Bureau of Land Management will be preparing a Statewide plan amendment to develop State Standards for Rangeland Health and Guidelines for Grazing Management as provided in the BLM's new grazing regulations (43 CFR Part 4100). All existing land use plans (LUP) in the State of Arizona, whether resource management plan (RMP) or management framework plan (MFP), will be amended. The appropriate level of NEPA analysis used, either an environmental assessment (EA) level or environmental impact statement (EIS) level, will be determined based on comments received during the scoping period. This notice invites public input on the development of Standards for Rangeland Health and Guidelines for Grazing Management for Arizona, on issues to be addressed, alternatives to be considered, and the appropriate level of NEPA analysis needed.

DATES: Comments will be accepted throughout the Statewide plan amendment and NEPA analysis process. However, comments received after March 4, 1996, may not be reflected in the alternatives considered or issues analyzed in the plan amendment and associated NEPA document released for public review and comment (anticipated release is mid-May 1996).

ADDRESSES: Any comments or requests to be placed on the mailing list should be sent to: Standards and Guidelines (AZ–930); Bureau of Land Management, P.O. Box 16563, Phoenix, AZ, 85011–6563.

FOR FURTHER INFORMATION CONTACT:
Clint Oke or Ken Mahoney; Co-Team Leaders; Bureau of Land Management (AZ–930); P.O. Box 16563; Phoenix, AZ, 85011–6563; phone (602) 650–0513.

SUPPLEMENTARY INFORMATION: The BLM's new grazing administration regulations (43 CFR Part 4100), which became effective August 21, 1995, provide for the development of State Standards for Rangeland Health and Guidelines for Grazing Management. These Standards and Guidelines are to be approved and implemented through an integrated planning and NEPA process using an interdisciplinary team of specialists pursuant to BLM's Planning Regulations (43 CFR part 1600). All existing LUPs for public lands in the State of Arizona will be amended. At this point in time, it is undecided what level of NEPA analysis (EA-level or EIS-level) will be needed.

Description of Possible Alternatives

At this time three preliminary reasonable alternatives have been identified: the continuation of current management as provided for in existing land use plans (no action alternative), the adoption of the fallback Standards and Guidelines contained in the Grazing Regulations (43 CFR Part 4100), and the adoption of Standards and Guidelines developed locally and in consultation

with Arizona's Resource Advisory Council. (All Arizona Resource Advisory Council meetings are open to the public and are published in the **Federal Register**.)

Anticipated Issues

Anticipated issues to be addressed during the plan amendment and NEPA analysis process include, but may not be limited to, the following: the effect that adoption of Standards would have on resource conditions, uses, and users of public land; and, the effect that adoption of Guidelines would have on livestock grazing operations. Consultation under Section 7 of the Threatened and Endangered Species Act will occur as appropriate.

Bruce Conrad,

Associate State Director.

[FR Doc. 96–1964 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–32–P

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 18 N., R. 91 W., accepted January 19, 1996
T. 25 N., R. 102 W., accepted January 19, 1996
T. 26 N., R. 102 W., accepted January 19, 1996
T. 25 N., R. 103 W., accepted January 19, 1996

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s). These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT:
Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: January 24, 1996.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 96–2134 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–22–M

Fish and Wildlife Service

Silvio Conte National Fish and Wildlife Refuge Advisory Committee Meeting

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, this notice announce a meeting of the Silvio Conte National Fish and Wildlife Refuge Advisory Committee established under the authority of the Silvio O. Conte National Fish and Wildlife Refuge Act.

DATES: The Silvio Conte National Fish and Wildlife Refuge Advisory Committee will meet from 10:00 a.m. to 2:00 p.m., Wednesday, March 13, 1996.

ADDRESSES: The meeting will be held at the Connecticut Department of Environmental Protection, 79 Elm Street, Hartford, Connecticut in the Phoenix Room.

Summary minutes of meeting will be maintained in the office of the Coordinator for the Silvio Conte National Fish and Wildlife Refuge Advisory Committee at 38 Avenue A, Turners Falls, MA 01376.

FOR FURTHER INFORMATION CONTACT:
Committee Coordinator Lawrence Bandolin at 413–863–0209, FAX 413–863–3070.

SUPPLEMENTARY INFORMATION:
Committee members will be updated on the status of the Conte Refuge funding, comment on the final Environmental education outreach plan, be updated on on-going developments for educational partnerships, and discuss the Challenge Cost Share program review process.

The meetings are open to the public. Interested persons may make oral statements to the Committee or may file written statements for consideration. Summary minutes of meeting will be available for public inspection during regular business hours (8:30–4:00) Monday through Friday within 30 days following the meeting at the committee coordinator's office listed above. Personal copies may be purchased for the cost of duplication.

Dated: January 24, 1996.

Ronald Lambertson,

Regional Director, Region 5, Hadley, Massachusetts.

[FR Doc. 96–2125 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research and Development Agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with 3M Corporation. The purpose of the CRADA is to conduct research and development in print-on-demand technology to support graphic production of USGS mapping products. Any other organization interested in pursuing the possibility of a CRADA for similar kinds of activities should contact the USGS.

ADDRESSES: Inquiries may be addressed to the Senior Program Advisor for Research and Applications, U.S. Geological Survey, 519 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092; Telephone (703) 648–4637, facsimile (703 648–5542; Internet "dnystrom@usgs.gov".

FOR FURTHER INFORMATION CONTACT:
David A. Nystrom, address above.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: January 24, 1996.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 96–2126 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–31–M

Office of the Assistant Secretary for Water and Science; Central Utah Project Completion Act

Notice of Intent to Negotiate a Contract Among the Central Utah Water Conservancy District, Strawberry Water Users Association, and Department of the Interior for Irrigation Water From the Bonneville Unit of the Central Utah Project, Utah

AGENCY: Office of the Assistant Secretary for Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate a contract among the Central Utah Water Conservancy District (CUWCD), Strawberry Water Users Association (SWUA), and Department of the Interior (DOI) for Irrigation Water from the Bonneville Unit of the Central Utah Project.

SUMMARY: Public Law 102–575, Section 202(a)(1)(C) stipulates that: "Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed." Subparagraph A relates to construction of the Spanish Fork Canyon/Nephi Irrigation System of the Bonneville Unit, Central Utah Project. A negotiated contract among CUWCD, SWUA, and DOI will meet the requirements of Section 202(a)(1)(C).

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT, 84606–6154. Telephone: (801) 379–1237.

Dated: January 26, 1996.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 96–2069 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–RK–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Paperwork Reduction Project (1029–0036), Washington, DC 20503, telephone 202–395–7340.

Title: Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan—30 CFR 780.

OMB Number: 1029–0036.

Abstract: Permit application requirements in sections 507(b), 508(a), 510(b), 515(b) and (d), and 522 of Public Law 95–87 require the applicant to submit the operations and reclamation plan for coal mining activities. Information collection is needed to determine whether the mining and reclamation plan will achieve the reclamation and environmental protections pursuant to SMCRA.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Surface Coal Mining Operators.

Annual Responses: 610.

Annual Burden Hours: 235,261.

Average Burden Hours Per Response: 386.

Bureau Clearance Officer: John A. Trelease (202) 208–2617.

Dated: December 4, 1995.

Gene E. Krueger,

Acting Chief, Division of Technology Development and Transfer.

[FR Doc. 96–1988 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act and Oil Pollution Act

In accordance with Departmental policy, notice is hereby given that on January 24, 1996 a proposed Consent Decree in *United States of America and State of Indiana* v. *Marathon Oil Company*, Case No. IP 96–110–C–M/S, was lodged with the United States District Court for the Southern District of Indiana. This consent decree represents a settlement of claims against Marathon Oil Company for violations of the Clean Water Act and Oil Pollution Act.

Under this settlement between the United States and the State of Indiana and Marathon Oil Company [Marathon], Marathon will pay the United States and the State of Indiana $304,630 for natural resources damages, including the costs incurred by the governments to assess the damages. The monies recovered by the governments shall be expended, among other purposes, to restore, replace or acquire equivalent natural resources injured by two oil spills at the Marathon oil refinery located in Indianapolis, Indiana. In addition, the Consent Decree requires Marathon to pay $50,025 as a civil penalty for eight violations of its NPDES permit.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States and State of Indiana* v. *Marathon Oil Company*, D.J. Ref. 90–5–1–1–4150.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Indiana, U.S. Courthouse, Fifth Floor, 46 East Ohio Street, Indianapolis, Indiana 46204, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $3.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–2135 Filed 1–31–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act

In accordance with 42 U.S.C. 9622(d), 42 U.S.C. 6973(d), and 28 CFR 50.7, notice is hereby given that on January 24, 1996, a proposed consent decree in *United States of America v. City of Somersworth, N.H., et al.*, Civil Action No. 96–046–JD, was lodged with the United States District Court for the District of New Hampshire. The United States' complaint sought injunctive relief and recovery of response costs under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), and the Resource Conservation and Recovery Act ("RCRA"), in regard to the Somersworth Sanitary Landfill Superfund Site ("Somersworth Landfill Site") in Somersworth, New Hampshire, against the City of Somersworth, N.H. ("City"), General Electric Company ("GE"), Browning-Ferris Industries of New Hampshire, Inc., Cate's Rubbish Removal Services, Inc., Waste Management of Maine, Inc./Waste Management of New Hampshire, Inc./ Waste Management of North America, Inc., D.F. Richard, Inc., Exeter & Hampton Electric Company, Fortier & Son, Inc., General Linen Service Co., Inc., J.A. Prince & Sons, Inc., Mid-way Buick, Pontiac GMC Truck, Inc., New England Telephone & Telegraph Company, New Hampshire Printers & Business Forms, Inc., Public Service Company of New Hampshire, R.M. Rouleau, Inc., Riverside Garage & Leasing, Inc., Robbins Auto Parts, Inc., Somersworth Nissan, Inc., Tri-City Dodge, Inc./Tri-City Subaru, Inc., and Gagnon's Auto Body, Inc. The State of New Hampshire is also a plaintiff in the action.

The Consent Decree provides that the City and GE will implement the remedial design and remedial action selected by EPA in the Record of Decision dated June 21, 1994, for the Somersworth Landfill Site. The Consent Decree also provides that the defendants will pay $283,181 to the Superfund for past response costs incurred by the U.S. Environmental Protection Agency, $3,000 to the U.S. Department of the Interior for natural resource damage assessment costs, and $10,669 to the State of New Hampshire for past response costs incurred by the State of New Hampshire. The Consent Decree includes a covenant not to sue by the United States under Sections 106 and 107 of the CERCLA, 42 U.S.C. 9606 and 9607, and under Section 7003 of RCRA, 42 U.S.C. 6973.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States versus City of Somersworth, N.H., et al.*, D.J. Ref. 90–11–3–1311A. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d).

The proposed Consent Decree may be examined at the office of the United States Attorney, 55 Pleasant St., Rm. 312, Concord, New Hampshire 03301 and at the New England Region office of the Environmental Protection Agency, One Congress St., Boston, Massachusetts 02203. The proposed Consent Decree may also be examined at the Consent Decree Library, 1120 G. St., N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed Consent Decree (without appendices) may be obtained in person or by mail from the Consent Decree Library, 1120 G. St., N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $40.75 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 96–2136 Filed 1–31–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

[Civil Action No. 395CV01946RNC]

United States v. HealthCare Partners, Inc., et al.; Public Comments and United States' Response to Public Comments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States* versus *HealthCare Partners, Inc., et al.*, Civil Action No. 395CV01946RNC, United States District Court for the District of Connecticut, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in Room 215 of the Antitrust Division, U.S. Department of Justice, 325 7th Street, N.W., Washington, D.C. 20004, and for inspection at the Office of the Clerk of the United States District Court for the District of Connecticut, 450 Main Street, Hartford, Connecticut 06103.

Rebecca P. Dick,

Deputy Director of Operations, Antitrust Division.

United States of America, and State of Connecticut, ex rel., Richard Blumenthal, Attorney General, Plaintiffs, vs. *HealthCare Partners, Inc., Danbury Area IPA, Inc., and Danbury Health Systems, Inc.*, Defendants. [Civil Action No. 395CV01946RNC]

January 18, 1996.

United States' Response to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (commonly referred to as the "Tunney Act"), 15 U.S.C. 16(b)–(h), the United States hereby responds to public comments regarding the Consent Decree proposed as the basis for settling this proceeding in the public interest. After careful consideration of these comments, the United States concludes that the proposed Consent Decree will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint. Once the public comments and this Response have been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d), the United States will urge the Court to enter the Consent Decree as originally proposed.

On September 13, 1995, the United States and the State of Connecticut filed a Complaint alleging that Defendants HealthCare Partners, Inc., Danbury Aree IPA, Inc., and Danbury Health Systems, Inc. violated Section 1 of the Sherman Act, 15 U.S.C. § 1. The Complaint also charges that Defendant Danbury Health Systems, Inc. violated Section 2 of the Sherman Act, 15 U.S.C. § 2. Simultaneously with the filing of the Complaint, the United States and the State of Connecticut filed a proposed Consent Decree, a Stipulation signed by all parties to entry of the Decree following compliance with the Tunney Act, and a Competitive Impact Statement (CIS).

Pursuant to the Tunney Act, on September 27, 1995, the Defendants filed the required description of certain written and oral communications made on their behalf. A summary of the terms of the proposed Decree and the CIS and directions for the submission of written comments were published in the *Danbury News-Times* for seven consecutive days, from September 22, through September 29, 1995. The proposed Consent Decree and the CIS

were published in the **Federal Register** on October 4, 1995. 60 Fed. Reg. 52014 (1995).

The 60-day period for public comments began on October 4, 1995, and expired on December 4, 1995. Two comments were submitted; the United States is filing them as attachments to this Response. The United States has concluded that the Consent Decree reasonably, adequately, and appropriately addresses the harm alleged in the Complaint. Therefore, the United States urges that following publication of the comments and this Response, this Court hold that entry of the proposed Consent Decree would be in the public interest.

I.

Background

Danbury Health Systems, Inc. ("DHS") owns the Danbury Hospital which is a 450-bed acute care facility. It is the sole source of acute inpatient care in the Danbury area and possesses a monopoly in general acute inpatient care. The Hospital also provides outpatient surgical care and other services.

By 1992, managed care organizations had recruited a sufficient number of physicians with active staff privileges at Danbury Hospital to offer managed care plans to employers and individuals in the Danbury area. The introduction of managed care plans into the Danbury area reduced the Hospital's market power in inpatient services and decreased the number of hospital admissions and length of hospital stays. Managed care also resulted in increased competition among the doctors in Danbury and reduced referrals to Danbury Office of Physician Services ("DOPS"), the Hospital's affiliated multispecialty practice group.

On May 6, 1994, DHS implemented the first of two means it had developed to forestall the continued development of managed care plans in Danbury. DHS and virtually every doctor on its Hospital's medical staff incorporated HealthCare Partners. The Hospital and the physicians authorized HealthCare Partners to represent them jointly in negotiations with managed care organizations. Danbury Area IPA ("DAIPA") was also formed on that date as a vehicle for physician ownership in HealthCare Partners. Each doctor who joined DAIPA contracted with HealthCare Partners and authorized it to negotiate fees on the doctor's behalf.

DHS's second means of forestalling the continued development of managed care plans was the exercise of its control over admitting privileges at the Hospital. DHS implemented a Medical Staff Development Plan to reduce competition among the doctors. It also proposed to amend its bylaws to require the active medical staff to perform a minimum volume of outpatient procedures at the Hospital rather than at competing outpatient facilities.

These actions, along with the additional conduct alleged in the Complaint, violated Sections 1 and 2 of the Sherman Act.

II.

Response to Public Comments

The two comments on the Consent Decree are both from physicians practicing in a group of neonatalogists, Complete Newborn Care. Neither objects to entry of the proposed Decree, nor contends that the Decree does not adequately and appropriately remedy the violations alleged in the Complaint. Dr. Alicia Perez says, in effect, that DHS has monopolized the delivery of healthcare in the Danbury area through additional means not charged in the Complaint or addressed in the Consent Decree. According to Dr. Perez, the formation of DOPS, its size, and the administrative functions of the Hospital performed by DOPS members unreasonably restrain competition among physicians. Dr. Perez asserts that Hospital physicians have improperly induced non-DOPS physicians to refer to DOPS and to use the Hospital's facilities. As set forth more fully below, Dr. Perez's comments do not provide a basis for not entering the Decree.

Similarly, Dr. Diana M. Lippi's comments do not raise any grounds for not entering the Decree. Rather, Dr. Lippi simply urges the Department to continue its investigation of DHS in light of the relationship between the Hospital and DOPS on which Dr. Perez commented and in order to address conduct of the Hospital occurring subsequent to the events set forth in the Complaint and redressed in the Decree.

Dr. Lippi contends that the Hospital is taking new actions to restrict medical staff privileges. Dr. Lippi's comments in fact support entry of the Decree, in that the Decree limits the Hospital's ability to use its control over staff privileges to reduce competition. Entry of the Decree gives the Court the authority to punish such actions if they violate the Decree. Moreover, the Tunney Act, as explained below, does not authorize the Court to reject the Decree on the grounds that the Hospital is, or will, abuse its control over privileges in ways that independently violate the antitrust laws, but are not challenged in the Complaint.

III.

The Legal Standard Governing The Court's Public Interest Determination

The Tunney Act directs the court to determine whether entry of the proposed Decree "is in the public interest." 15 U.S.C. § 16(e). In making that determination, "the court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest." *United States v. Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993) (internal quotation and citation omitted).[1]

The Court should evaluate the relief set forth in the Decree in light of the claims alleged in the Complaint and should enter the Decree if it falls within the government's "rather broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995).

The Court is not "to make *de novo* determination of facts and issues." *Western Elec.*, at 1577. Rather, "[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General." *Id.* (internal quotation and citation omitted throughout). In particular, the Court must defer to the Department's assessment of likely competitive consequences, which it may reject "only if it has exceptional confidence that adverse antitrust consequences will result—perhaps akin to the confidence that would justify a court in overturning the predictive judgments of an administrative agency." *Id.*[2]

The Court may not reject a decree simply "because a third party claims it could be better treated." *Microsoft*, 56 F.3d at 1461 n.9. The Tunney Act does not empower the Court to reject the remedies in the proposed Decree based on the belief that "other remedies were preferable." *Id.* at 1460.

To a great extent it is the realities and uncertainties of litigation that constrain the role of courts in Tunney Act proceedings. *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715–16 (D. Mass. 1975). As Judge Greene has observed:

> If courts acting under the Tunney Act disapproved proposed consent decrees merely because they did not contain the exact relief which the court would have imposed after a finding of liability, defendants would have no incentive to consent to judgment and this element of compromise would be destroyed. The consent decree would thus as a practical matter be eliminated as an antitrust enforcement tool, despite Congress' directive that it be preserved.

United States v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 450 U.S. 1001 (1983) (Mem). Indeed, where, as here, the Consent Decree comes before the Court at the time the Complaint is filed, "the district judge must be even more deferential to the government's predictions as to the effect of the proposed remedies * * *." *Microsoft*, 56 F.3d at 1461.

Moreover, the entry of a governmental antitrust decree forecloses no private party from seeking and obtaining appropriate antitrust remedies. Thus, Defendants will remain liable for any illegal acts, and any private party may challenge such conduct if and when appropriate.[3] If any of the commenting parties has a basis for suing Defendants, they may do so. The legal precedent discussed above holds that the scope of a Tunney Act proceeding is limited to whether entry of *this* particular proposed Consent Decree, agreed to by the parties as settlement of *this* case, is in the public interest.

Finally, the Tunney Act does not contemplate judicial reevaluation of the wisdom of the government's determination of which violations to allege in the Complaint. The government's decision not to bring a particular case on the facts and law before it at a particular time, like any other decision not to prosecute, "involves a complicated balancing of a number of factors which are peculiarly within [the government's] expertise," such as "whether [the government's] resources are best spent on this violation or another, whether the [government] is likely to succeed if it acts, whether the particular enforcement action requested best fits the [government's] overall policies, and, indeed, whether the [government] has enough resources to undertake the action at all." *Heckler v. Chaney*, 470 U.S. 821, 831 (1985); *see also Maryland v. United States*, 460 U.S. 1001, 1106 (1983) (Rehnquist, J., dissenting from summary affirmance). The Court may not "reach beyond the complaint to evaluate claims that the government did *not* make and to inquire as to why they were not made." 56 F.3d at 1459 (emphasis added). Entry of the proposed Decree will not prevent the government from investigating and challenging, if appropriate, conduct not addressed in the current action.

IV.

Conclusion

The Tunney Act requires that public comments and this Response be published in the **Federal Register**. When that publication has been accomplished, the United States will notify the Court and urge entry of the proposed Consent Decree based on the Court's determination that the Decree is in the public interest.

Respectfully submitted,

Mark J. Botti,

Pamela C. Girardi,

U.S. Department of Justice, Antitrust Division.

Christopher F. Droney,

United States Attorney.

Carl J. Schuman,

Assistant U.S. Attorney.

Certificate of Service

I, Mark J. Botti, hereby certify that copies of the Response to Public Comments in *U.S. v. HealthCare Partners, Inc., et. al.*, Civ. No. 395CV01946RNC was served on the 18th day of January 1996 by first class mail to counsel as follows:

William M. Rubenstein,

State of Connecticut,

David Marx, Jr.,

McDermott, Will & Emery.

James Sicilian,

Day, Berry & Howard

October 27, 1995.

Gail Kursh,

Chief, Professions and Intellectual Property Section/Health Care Task Force, Department of Justice, Antitrust Division, 600 E Street N.W. Room 9300. Washington, D.C.

Dear Ms. Kursh, The consent decree pending in Civil No. 395–CV–01946–RNC concerning the antitrust suit brought by the Justice Department and the Connecticut Attorney General's Office against Danbury Health Systems (DHS) and the Danbury Area IPA (DAIPA) should be reconsidered in light of the following information.

The formation of the DAIPA is only a small part of a more far-reaching attempt by DHS to willfully monopolize health care in the Danbury area.

Despite the outcome of this case, there continues to be ongoing and extensive activity by DHS to maintain its monopoly in inpatient care and extend this monopoly into the outpatient care arena. These activities are a blatant attempt to eliminate competition from area physicians and other outpatient services. They promote the almost exclusive use of the services of the physician employees of the Danbury Office of Physician Services, P.C. (DOPS), other physicians affiliated with Danbury Hospital or the new "Foundation" which is forming, and outpatient ancillary services affiliated with or owned by DHS.

The consent decree prohibits activities by DHS to control medical staff privileges to reduce competition. However, at the last medical staff meeting on 10/10/95, the Hospital railroaded through amendments to the Medical Staff Bylaws including the establishment of a committee that could potentially limit the size and mix of the medical staff. This committee is to prescreen and interview applicants for medical staff privileges before they are evaluated by the medical department in which they seek privileges. This could allow the committee to discourage applicants representing competition to DHS and DOPS from continuing their application process. It could allow this committee, and not the competitive market, to decide which specialities in the area are over-represented or understaffed and could potentially allow DHS to expand DOPS to the detriment of competing groups.

Another amendment dissolved the category of "courtesy staff". Physicians with courtesy privileges are generally affiliated with competing hospitals. They do, however, admit a percentage of their patients to Danbury Hospital but are not required to fulfill many of the responsibilities of an active member of the Danbury Hospital staff. By eliminating this category, their patients would then be admitted to the "house-

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[1] The *Western Electric* decision concerned a consensual modification of an existing antitrust decree. The Court of Appeals assumed that the Tunney Act was applicable.

[2] The Tunney Act does not give a court authority to impose different terms on the parties. *See, e.g., United States v. American Tel. & Tel. Co.*, 552 F. Supp. 131, 153 n.95 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983) (Mem.); *accord* H.R. Rep. No. 1463, 93d Cong., 2d Sess. 8 (1974). A court, of course, can condition entry of a decree on the parties' agreement to a different bargain, *see, e.g., AT&T*, 552 F. Supp. at 225, but if the parties do not agree to such terms, the court's only choices are to enter the decree the parties proposed or to leave the parties to litigate.

[3] The commenters in fact previously sued Danbury Hospital and DOPS and obtained injunctive relief against them from this Court. It is the understanding of the United States that the commenters have filed a motion before Judge Dorsey in *Perez, et al. v. Danbury Hospital and Danbury Office of Physician Services, P.C.*, Civil Action No. 3:94-CV416(PCD), to hold defendants in that case in contempt. The contempt motion apparently rests at least in part on some of the conduct that Dr. Perez believes the United States should now investigate in connection with this case, namely, an allegation that DOPS physicians have coerced non-DOPS obstetricians to refer neonatalogy patients to DOPS neonatalogists. The United States is investigating whether that alleged conduct occurred and, if it did, whether it violates the Final Judgment proposed in this action.

doctor" (DOPS) who would use DOPS consultants for any specialty services needed.

These amendments were "passed" without observing the process outlined in the Medical Staff Bylaws.

The medical staff is further controlled by DHS through DOPS. Although DOPS physicians constitute only about 25% of the medical staff at Danbury Hospital, an arrangement has been established which places a DOPS physician as Chairman of each medical department (except one, as a result of a per-existing contract) and a DOPS physician as Chief of virtually every medical service in which there are DOPS physicians. By virtue of their positions of power, DOPS physicians control the Executive Committee and 33% or more of all but one of the other committees of the medical staff.

The Chairmen of the departments are, in part, paid by the Hospital and, therefore, directed by Hospital recommendations and not the desires of the members of their departments. Indeed, when asked to whom they report, they reply, the President of the Hospital and CEO of DHS, rather than to the president of DOPS, their employer. I have knowledge of department Chairmen using their position as chairmen to influence referrals of patients to their won corporation, DOPS.

I urge you to continue your investigation of the antitrust activities of DHS and Danbury Hosptial to allow fair and unrestrained competition for health care services in our community.

Sincerely,

Diana M. Lippi.

October 23, 1995.

Gail Kursh,
Chief, Professions and Intellectual Property Section/Health Care Task Force, Department of Justice, Antitrust Division, 600 E Street, N.W., Room 9300, Washington; D.C. 20530.

By facsimile transmission and by regular mail.

Dear Ms. Kursch: In response to the Legal Notice in the Danbury News Times, I have several concerns regarding the proposed final Judgment against Health Partners Inc., et al., Civil No. 395–CV–01946–RNC.

Despite the objections to the Final judgment filed in the civil complaint, it is my opinion that Danbury Health Systems continues to protect its monopoly of health care in the Greater Danbury Area.

The anti-competitive activities of Danbury Health Systems Inc., its subsidiaries, and affiliates extends beyond the hospital and community walls. As the biggest employer in town the economic ramifications of its business associations and its political network are too powerful to allow for legitimate competition to exist in any arena.

Control and monopoly of inpatients at Danbury Hospital is accomplished through the affiliated physician corporation the hospital created in 1985, Danbury Office of Physician Services, P.C. (DOPS). The agreement between Danbury Hospital and DOPS physicians directly and indirectly restrains competition among physicians in Danbury, in violation of Section 1 of the Sherman Act.

DOPS physicians comprise approximately one fourth of the Medical Staff. However, these physicians are employed (paid) by Danbury Hospital to hold positions of power and thus control over the general Medical Staff. DOPS physicians are Chairmen of all but one of the clinical Departments, Chiefs of virtually all sections within the clinical departments, and hold the majority vote on many Medical Staff Committees. The Chairmen of the clinical departments at Danbury Hospital are accountable to the hospital's CEO and not to the members of their respective departments. Chairmen of clinical departments actively direct patient referrals to DOPS physicians, thus taking advantage of their administrative role for their own economic self-interest. DOPS physicians are in control of Medical Staff Committees, including most Peer Review Committees, and the activities of these committees are overwhelmingly targeted against non-DOPS physicians. Chairmen of clinical departments are free to disband a committee without discussion with or prior notification of its members or the President of the Medical Staff. Although DOPS physicians are not employed by Danbury Hospital directly, they are expected to support the philosophy and the wishes of the administration of the hospital.

Non-DOPS physicians are also intimidated and scare tactics are used by administrators to induce referrals to DOPS physicians. There are reports of special favors and/or privileges (i.e., O.R. schedules) being used as rewards to those physicians that refer to DOPS and use Danbury Hospital facilities exclusively.

During the last few weeks such tactics have been used to coerce community obstetricians (chosen to join the soon to be established HMO) to refer only to DOPS neonatologists. This practice disregards the prior established policy developed by the members of the Department of Pediatrics and agreed to by the members of the Department of Obstetrics and Gynecology. As a result, this practice has significantly reduced the referrals to my group.

I enclose a list of community pediatricians affiliated with Danbury Hospital. All you need to do to verify this anti-competitive practice is to ask the pediatricians to describe how they choose a neonatologist for referrals.

Respectfully,

Alicia Perez,

Pediatricians & Neonatologists Associated with Danbury Hospital

Brockfield

John Gundy, MD & Sarojini Kurra, MD, 300 Federal Road, 775–1118

Danbury

Lorraine Braza, MD, 69 Sandpit Road, 798–8228

Costom for Pediatrics Medicines, P.C.

Robert Golenbock, MD, Anna Paula Machado, MD, Joan Magner, MD, 107 Newtown Road, Suite 1D, 790–0822

Child Care Associates

Pushpa Mani, M.D., Rajadevi Satchi, MD, 57 North Street, Suite 209, 791–9599

Barry Keller, MD, 16 Hospital Avenue, 743–1201

Uwa Koepke, MD, 57 North Street, Suite 311, 792–4021

Christopher Randolph, MD & Martin Randolph, MD, 70 Deer Hill Avenue, 792–4021

Pediatric Associates

Leon Baczeski, MD, Bruce Cohen, MD, John Erti, MD, David Gropper, MD, Nandini Kogekar, MD, L Robert Rubin, MD, 41 Germantown Road, 744–1620

Pediatric Health Ctr./Danbury Hospital

Jack S. C. Fong, MD, Chief, Veronica Ron, MD, Gary Wenick, MD, 73 Stand Pit Road, 797–7216

New Fairfield

Oscar Lascano, MD, Fairwood Professional Building, 746–6000

New Milford

Josef Burton, MD, 23 Poplar Street, 355–4113
Vadakkekara Kavirajan, MD, 7 Pickett District Road, 355–4195

Candlewood Pediatrics

Diane D'Isidori, MD, Wendy Drost, MD, Evan Hack, MD, 17 Poplar Street, 355–8190

Newton

Humberto Bauta, MD, Danbury Newton Road, 426–3267
Alex Lagut, MD, 18 Church Hill Road, 426–1818

Pediatric Health Ctr. of Newton

Thomas Draper, MD, 184 Mount Pleasant Road, 426–2400

Ridgefield

Ridgefield Pediatrics

Robert Elisofon, MD, Susan Leib, MD, James Sheehan, MD, 38B Grove Street, 438–9557

Southberg

Southberg Pediatrics

Susan Beris, MD, 108 Main Street North, 264–9200

Neonatologists

Neonatologists, Dept. of Pediatrics, Danbury Hospital

Edward James, MD, Chief, Laura K. Lasley, MD, 24 Hospital Avenue, Danbury, CT 06810, 797–7150

Complete Newborn Care

Diana Lippi, MD, Alicia Perez, MD, Joseph M. Tuggle, MD, 57 North Street, Suite 408, Danbury, CT 06810, 790–4262

[FR Doc. 96–1794 Filed 1–31–96; 8:45 am]

BILLING CODE 4410–01–M

Immigration and Naturalization Service

[INS No. 1725R–96]

Citizens Advisory Panel Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Meeting.

SUMMARY: The Immigration and Naturalization Service (Service) in accordance with the Federal Advisory Committee Act (15 U.S.C. App. 2) and 41 CFR 101–6.1001–101–6.1035 (1992), has established a Citizens' Advisory Panel (CAP) to provide the Department of Justice with recommendations on ways to reduce the number of complaints of abuse made against employees of the Service, and to minimize or eliminate the causes for those complaints. This notice announces the CAP's forthcoming meeting and the agenda for the meeting.

DATES: February 26–27, 1996 at 8:00 A.M.

ADDRESSES: The Henley Park Hotel, 926 Massachusetts Ave., NW., The Eton Room, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Susan B. Wilt, CAP Designated Federal Official (DFO), Immigration and Naturalization Service, Room 3260, Chester Arthur Building, 425 I Street NW., Washington, DC 20536, Telephone (202) 616–7072.

SUPPLEMENTARY INFORMATION: Pursuant to the charging language of the Senate Appropriations Committee Report 102–331 on the FY 1993 Budget for the Immigration and Naturalization Service, Department of Justice, the Service established a Citizens' Advisory Panel for the purpose of providing recommendations to the Attorney General on ways to reduce the number of complaints of abuse made against employees of the Service and, most importantly, to minimize or eliminate the causes for those complaints. The CAP is authorized by the Attorney General to (1) accept and review civilian complaints made against Service employees, and (2) review the systems and procedures used by the Service for responding to such complaints. (February 11, 1994 at 59 FR 6658)

Summary of Agenda

The principal purpose of the meeting is to set forth recommendations on the Immigration and Naturalization Service's complaint process, education and the development of training, the current training curriculum, and training policies and procedures for Service employees.

Public Participation

The CAP meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the CAP DFO at least 2 days prior to the meeting by contacting the DFO at (202) 514–2373. Any hearing-challenged individuals wishing to attend please contact the DFO by February 20, 1996 so services can be arranged.

Any member of the public may file a written statement with the CAP DFO before the meeting. Materials submitted at the meeting should be submitted in 20 copies. Members of the public will not be permitted to present oral statements at the meeting.

Minutes of the meeting will be available on request from the CAP DFO.

Dated: January 25, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–1973 Filed 1–31–96; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Annual Reporting and Disclosure Requirements

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of Change to the 1995 Form 5500 Series and Request for Comment.

SUMMARY: This document announces a change made by the Department of Labor to items 15h and 26h on the 1995 Form 5500–C/R, "Return/Report of Employee Benefit Plan (With Fewer Than 100 Participants)," filed by administrators of employee benefit plans under Part 1 of title I of the Employee Retirement Income Security Act of 1974 (ERISA). This change, and additional guidance in the instructions to all forms in the 1995 5500 Series, relate to the handling of participant contributions by employers.

EFFECTIVE DATES: The change is incorporated in the 1995 Form 5500 Series, and is effective for plan years beginning on or after January 1, 1995.

ADDRESSES: Interested persons are invited to submit written comments to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N5669, U.S. Department of Labor, 200 Constitution Ave NW., Washington, DC 20210. Attention: 1995 Form 5500 Series Comments.

FOR FURTHER INFORMATION CONTACT: Susan E. Rees, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC, (202) 219–9141, or George M. Holmes, Jr., Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC, (202) 219–8515. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: As part of its effort to enhance the security and protection of participant contributions, the Department has modified items 15h and 26h on the 1995 Forms 5500–C/R to enable more effective monitoring of the handling of participant contributions by employers.[1] Currently, item 15h of the 1994 Form 5500–CR, applicable to Form 5500–R filers, and item 26h of the 1994 Form 5500–C/R, applicable to Form 5500–C filers, asks whether, during the plan year, the employer owed contributions to the plan that are more than 3 months overdue, and if so, the amount. For the 1995 Form 5500–C/R, the Department has modified items 15h and 26h to focus on participant contributions due from the employer. As modified, item 15h and item 26h now ask whether, during the plan year, there were any participant contributions transmitted to the plan more than 31 days after receipt or withholding by the employer, and if so, the amount.

In general, the Department believes that the information required to be reported in modified item 15h and 26h on the Form 5500–C/R is, or should be, readily available and easily accessible from the plan's and/or the plan sponsor's records and, accordingly, should not result in any new or additional recordkeeping burdens on plans or employers. Further, as with the existing items 15h and 26h, an affirmative response to the modified items does not necessarily mean that the employer has violated ERISA. Lastly, this modification does not affect the administrators of plans with 100 or more participants filing the Form 5500 who, unlike Form 5500–C/R filers, are currently required to disclose on the Form 5500 detailed information about prohibited transactions involving delinquent participant contributions, and must have their plans audited annually by an independent qualified public accountant.[2]

Statutory Authority

These forms and instructions are issued pursuant to the Secretary's general rulemaking authority under section 505 of ERISA, and under

[1] Among other things, the Department has proposed an amendment to the participant contribution regulation to reduce the maximum amount of time an employer may hold participant contributions before such contributions constitute "plan assets." *See* 29 CFR § 2510.3–102 and proposed amendment thereto at 60 Fed. Reg. 66036 (December 20, 1995).

[2] The instructions for the 1995 Form 5500 Series, including the Form 5500 and Form 5500–C/R, have been modified to remind filers that a failure to segregate participant contributions that constitute plan assets from an employer's general assets has prohibited transaction implications.

sections 104(a)(2)(A) and 104(a)(3) of Part 1 of title I of ERISA which authorize the Secretary to prescribe simplified reports. *See* 29 CFR 2520.104–41.

Effective Date of the Forms

The change to the Form 5500–C/R items 15h and 26h is effective for plan years beginning on or after January 1, 1995. The Department has determined that publication of the change as a proposal for comment prior to publication of the 1995 Form 5500 Series is impracticable and contrary to the public interest. The Department believes that reporting and disclosure of this information is important for the 1995 plan year, and, without incorporating the change immediately, the Department, and participants and beneficiaries, will not be able to monitor and take action on this information. The additional time needed to provide prior notice and opportunity for comment would delay printing and disseminating the 1995 Forms, creating administrative difficulties for filers, and ultimately would be detrimental to the interests of the participants and beneficiaries. Thus, the Department finds for good cause that this prompt action is necessary and permissible under section 553(b)(3)(B) of the Administrative Procedures Act (APA). The Department also has determined that good cause exists to waive the 30 day pre-effective date requirement of section 553(b)(3)(D) of the APA.

Although an opportunity to comment on the change has not been provided prior to the publication of the 1995 Form 5500 Series, the Department will consider public comment on the change for subsequent filing years.

Economic Impact

The Department certifies that the change will not have a "significant economic impact on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The Department has also determined that this action is not a "significant regulatory action" within the meaning of Executive Order 12866 (58 FR 51735, Oct. 4, 1993).

Paperwork Reduction Act

The collection of information contained in this modification to the 1995 Form 5500 C/R has been submitted to the Office of Management and Budget for emergency processing under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). OMB approval has been requested by February 6, 1996. For copies of the OMB submission, contact Mrs. Theresa O'Malley, U.S. Department of Labor, OASAM/DIRM, Room N–1301, 200 Constitution Ave. NW, Washington, D.C. 20210, 202–219–5095 or via internet to tomalley@dol.gov.

Comments are solicited on the Department's need for this information, specifically to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Persons wishing to comment on the collection of information should direct their comments to the Office of Information and Regulatory Affairs, OMB, Room 10235, NEOB, Washington, D.C. 20503, Attn: Desk Officer for PWBA. Comments must be filed with the Office of Management and Budget within 60 days of this publication. Although an opportunity to comment on the change has not been provided prior to the publication of the 1995 Form 5500 Series, the Department will consider public comment on the change for subsequent filing years. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Department: Mrs. Theresa O'Malley, U.S. Department of Labor, OASAM/DIRM, Room N–1301, 200 Constitution Ave. NW, Washington, D.C. 20210. For further information, contact Gerald B. Lindrew at 202–219–4782.

Title: Annual Report/Form 5500 Series (1210–0016).

Summary: Section 104(a)(1)(A) of ERISA requires plan administrators to file an annual report containing the information described in section 103 of ERISA. The Form 5500 Series provides a standard format for fulfilling that requirement.

Needs and Uses: The change to the Forms 5500–C and R described here is calculated to enhance the security and protection of participant contributions and to enable more effective monitoring of the handling of participant contributions by employers.

Respondents and Proposed Frequency of Response: The Department staff estimates that approximately 665,000 plans will file either Form 5500–C or Form 5500–R for the 1995 plan year (of the estimated 822,000 annual filers).

Estimated Annual Burden: The change to the Forms described here substitute one yes/no/amount question for another in reference to contributions to the plan. It is the belief of the Department of Labor that the same business records should be reviewed as in previous years, so there should be no affect upon the recordkeeping burden of the respondent plans. Therefore, the Department's annual collection burden for the Form 5500 Series will remain at the previously budgeted 1,014,000 hours.

The Change to Form 5500–C/R: Form 5500–C, line 26h, and Form 5500–R, line 15h, are modified to read as follows:

During this plan year:

Were any participant contributions transmitted to the plan more than 31 days after receipt or withholding by the employer?

Yes☐ No☐ Amount _____

Additionol Guidance to the Form 5500–C/R Instructions:[3]

An instruction for Form 5500–C, line 26h, and Form 5500–R, line 15h, has been added as follows:

Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (see 29 CFR 2510.3–102). An employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file IRS Form 5330 to pay any applicable excise tax on the transaction.

Signed at Washington, DC, this 29th day of January 1996.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 96–2140 Filed 1–31–96; 8:45 am]

BILLING CODE 4510–29–M

[3] The Department notes that similar guidance is provided for 1995 Form 5500 items 27e and f, relating to nonexempt prohibited transactions.

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Engineering (1170).

Date and Time: February 22; 9:00 a.m.–4:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Janie M. Fouke, Division Director, Division of Bioengineering and Environmental Systems, Room 565, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1320.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Bioengineering and Environmental Systems Division.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: January 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2147 Filed 1–13–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

The Lobbying Disclosure Act of 1995

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: President Clinton recently signed into law the Lobbying Disclosure Act of 1995 (the "Act"), which requires some individuals and entities who lobby "covered" Federal officials to register with Congress and file semiannual reports describing their lobbying activities.

For purposes of the Act, NRC "covered" officials are limited to the Members of the Commission and their personal staffs, the Inspector General, the Executive Director for Operations, the General Counsel and the Directors of the Offices of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards and Nuclear Regulatory Research.

FOR FURTHER INFORMATION CONTACT: Daryl M. Shapiro, Office of the General Counsel at 301–415–1600.

Dated at Rockville, Maryland, this 25th day of January, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–1862 Filed 1–31–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–275]

Diablo Canyon Nuclear Power Plant, Unit No. 1; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–80 issued to Pacific Gas and Electric Company (the licensee) for operation of the Diablo Canyon Nuclear Power Plant, Unit No. 1, located in San Luis Obispo County, California.

The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2, to allow operation of Unit 1 in Mode 3 (Hot Standby) during installation of a replacement nonvital auxiliary transformer 1–1. Specifically, TS 3/4.8.1.1, "Electrical Power Systems—A.C. Sources—Operating," Action Statement (a), would be revised to permit a one-time extension of the allowed outage time (AOT) from 72 hours to 120 hours.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

A probabilistic risk assessment (PRA) evaluation shows that the probability of a loss of off site power duration is increased slightly by the allowed outage time (AOT) increase from 72 to 120 hours. The core damage probability is 1.2 E–7 for the total 120 hour AOT. Based on EPRI/NEI [Electric Power Research Institute/Nuclear Energy Institute] guidance, this increase is not considered significant.

The consequences of the 230 kV system loss are not affected by increasing the AOT of the 500 kV system. Additionally, the consequences of the potential event are mitigated by the compensatory measures taken to assure the reliability of the remaining power sources.

Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not affect the method of operating any equipment at Diablo Canyon Power Plant. Additionally, the proposed extension of the AOT does not result in a physical modification to any equipment.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

A PRA evaluation has shown that the impact of extending the AOT has no significant impact on core damage frequency. Additionally, compensatory measures have been implemented to minimize the potential of losing the 230 kV system.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period.

However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 4, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William H. Bateman, Director, Project Directorate IV–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 18, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 26th day of January 1996.

For the Nuclear Regulatory Commission.

Steven D. Bloom,

Project Manager, Project Directorate IV–2; Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2049 Filed 1–31–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–445 and 50–446]

Comanche Peak Steam Electric Station, Units 1 and 2; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Consideration of Issuance of Amendment: Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on January 22, 1996 (61 FR 1651), that states the Commission is considering issuance of an amendment to Facility Operating License Nos. NPF–87 and NPF–89, issued to Texan Utilities Electric Company (TU Electric, the licensee), for operation of the Comanche Peak Steam Electric Station, Units 1 and 2 located on Somervell County, Texas. The action is necessary to correct the 30-day filing date.

On page 1652, in the first paragraph in the first column, the date "February 20, 1996," should read "February 21, 1996."

Dated at Rockville, Maryland, this 26th day of January, 1996.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch.

[FR Doc. 96–2050 Filed 1–31–96; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Repayment of Debt (ORSP).
(2) *Form(s) submitted:* G–421f.
(3) *OMB Number:* 3220–0169.
(4) *Expiration date of current OMB clearance:* February 29, 1996.
(5) *Type of request:* Extension of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 300.
(8) *Total annual responses:* 300.
(9) *Total annual reporting hours: 25.*
(10) *Collection description:* Section 2 of the Railroad Retirement Act provides for payment of annuities to retired or disabled railroad employees, their spouses, and eligible survivors. When the RRB determines that an overpayment of RRA benefits has occurred, it initiates prompt action to notify the claimant of the overpayment and to recover the amount owed.

The collection obtains information needed to allow for repayment by the claimant by credit card, in addition to the customary form of payment by check or money order.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven, (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–2137 Filed 1–31–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36777; File No. SR–CHX–96–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to MAX

January 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on January 25, 1996, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The exchange proposes to amend subsection (e) of Rule 37 of Article XX relating to the CHS's MAX System. The test of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

Article XX

Rule 37

(e) The Exchange's Enhanced SuperMAX program shall be an automatic execution program within MAX in which a Specialist may voluntarily choose to participate on a stock-by-stock basis. A Specialist shall decide if his or her stock will be eligible for Enhanced SuperMAX treatment. In the event that a stock is eligible for Enhanced SuperMAX treatment (pursuant to paragraph (e) of this Rule) and SuperMAX treatment (pursuant to paragraph (c) of this Rule) at the same time, the size of the order *and the inclusion of security in the S&P 500™ Index* will determine which program will be followed for execution. *If a stock is not included in the S&P 500™ Index, an order of 299 shares or less will execute according to the SuperMAX program and an order from 300 shares up to and including 1099 shares (or such greater size specified by the specialist and approved by the Exchange) will execute according to the Enhanced SuperMAX program. If a stock is included in the S&P 500™ Index, or if a specialist in a non-S&P 500™ Index issue so chooses, a*[A]n order of 599 shares or less will execute according to the SuperMAX program and an order *from 600 shares up to and including 1099 shares (or such greater size specified by the specialist and approved by the Exchange)* [greater than 599] will execute according to the Enhanced SuperMAX program. In the

event that a Specialist determines that his stock is eligible for Enhanced SuperMAX program *only* and voluntarily chooses to participate in Enhanced SuperMAX program, agency market orders up to and including 1099 shares (or such greater size specified by a specialist and approved by the Exchange) in that stock may automatically be stopped and executed in MAX, through the Enhanced SuperMAX program, without any specialist intervention based on the following criteria:

(1)–(7) No change in text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 22, 1995, the Commission approved a proposed rule change of CHX that allows specialists on the Exchange, through the Exchange's MAX System, to provide order execution guarantees that are more favorable than those required under CHX Rule 37(a), Article XX.[1] That approval order contemplated that the CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options available under this new rule.

The purpose of this proposed rule change is to amend an existing option currently available under this new rule. Specifically, the Exchange proposes to provide a specialist with more flexibility in placing a stock on both SuperMAX and Enhanced SuperMAX. Currently, if a specialist places a stock in both programs, orders from 100 to 599 shares are executed under the SuperMAX algorithm and orders greater than 599 shares up to 1099 shares are executed under the Enhanced SuperMAX algorithm. Specialists, however, have been hesitant to use this combination feature for stocks that are not included in the S&P 500 Index. While the specialists are in favor of price improvement, they believe that, at least with respect to the less liquid stocks, using the SuperMAX automated price improvement algorithm, which historically has provided price improvement to approximately 50% of eligible orders in stocks that participate in the program, for executions of orders up to 599 shares is not feasible or economically practical. For the larger size orders in these non-S&P issues (*i.e.*, order greater than 299 shares), the Enhanced SuperMAX algorithm, which appears, based on the Exchange's limited experience with this program, to provide price improvement less often than SuperMAX, may be more appropriate.

Thus, this rule change will permit a specialist to place a stock that is not listed in the S&P 500 Index on both SuperMAX and Enhanced SuperMAX and have orders from 100 to 299 shares execute under the SuperMAX algorithm and orders from 300 to 1099 shares execute under the Enhanced SuperMAX algorithm. As a practical matter, despite the fact that the SuperMAX threshold will be reduce by this new feature, the SuperMAX algorithm will still apply to the majority of orders using this feature. In December 1995, for example, approximately 60% of the orders that were sent to the Exchange through the MAX System were orders for 100 to 299 shares. Under this new feature, these orders are still eligible for execution under the SuperMAX algorithm.

By providing additional flexibility to specialists, the Exchange believes that this rule change will significantly increase the number of issues and orders that participate in the Exchange's SuperMAX price improvement program. Currently, out of the approximately 2600 Dual Trading System issues[2] traded on the Exchange, approximately 2000 have been made eligible for either SuperMAX or Enhanced SuperMAX. Approximately 1100 of these 2000 issues are currently on Enhanced SuperMAX and approximately 900 are either on SuperMAX or are on the current combined feature. Out of the approximately 900 issues on SuperMAX or on the current combined feature, approximately 460 are S&P 500 Index issues. Out of the 1100 issues on Enhanced SuperMAX, about 1080 are currently non-S&P 500 Index issues. This rule change is targeted at the 1080 non-S&P 500 Index issues currently on Enhanced SuperMAX and at the approximately 600 non S&P 500 Index issues that are not on any automated price improvement algorithm.[3]

While it is possible that if this rule change is implemented, specialists in the approximately 460 non-S&P 500 issues that are currently on SuperMAX may switch those stocks to this new combined feature (which has a lower SuperMAX threshold than the current SuperMAX feature), the Exchange believes, after discussions with these specialists, that this proposed rule change will result in a greater number of issues and orders that will be made eligible for the SuperMAX algorithm and a greater overall incidence of price improvement on the Exchange. This is consistent with the Exchange's experience when it added the Enhanced SuperMAX program as an option last year. Despite the existence of this option, approximately 460 non-S&P 500 issues participate in SuperMAX and approximately 80 S&P 500 issues remain on SuperMAX up to 1099 shares.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder.[4]

A proposed rule change filed under Rule 19b–4(e)[5] does not become operative prior to thirty days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. CHX has requested, in order for it to encourage CHX specialists to add more stocks to automated price improvement algorithm programs as soon as possible, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the thirty days specified under Rule 19b–4(e)(6)(iii).[6] The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and therefore has determined to make the proposed rule change operative as of the date of this order.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–96–01 and should be submitted by February 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margert H. McFarland,

Deputy Secretary.

[FR Doc. 96–2059 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[1] See Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007 (May 26, 1995).

[2] The Dual Trading System of the Exchange allows the execution of both round-lot and odd-lot orders in certain issues assigned to specialists on the Exchange and listed on either the New York Stock Exchange or the American Stock Exchange.

[3] The Exchange notes that price improvement is available for all orders submitted to the Exchange through the MAX System even if an automated price improvement algorithm is not used.

[4] 17 CFR 240.19b–4(e)(6) (1994).

[5] 17 CFR 240.19b–4(e).

[6] 17 CFR 240.19b–4(e)(6)(iii).

[Release No. 34–36778; File No. SR–CBOE–95–62]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Regarding Book-Entry Settlement of Securities Transactions and Depository Eligibility Requirements

January 26, 1996.

On October 19, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–CBOE–95–62) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On October 26, 1995, CBOE filed an amendment to the proposed rule change.[2] Notice of the proposed rule change was published in the **Federal Register** on December 18, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

Under the rule change, CBOE has added Rules 30.136 and 30.137 to Chapter XXX of its rules in an effort to encourage book-entry settlement of securities transaction.[4] The new rules are in response to recommendations of the Group of Thirty, U.S. Working Committee ("U.S. Working Committee"), Clearance and Settlement Project ("Project"), regarding book-entry settlement of securities transactions.[5] In connection with the Project, the U.S. Working Committee recommended that settlements of transactions in corporate and municipal securities among financial intermediaries (brokers, dealers, and banks) and between financial intermediaries and their institutional clients be effected only by book-entry movements within a depository.[6] Thereafter, six national securities exchanges and the National Association of Securities Dealers, Inc. ("NASD") adopted uniform book-entry settlement rules in conformity with the Committee's recommendations.[7] Both of the CBOE's new rules are substantially the same as rules previously adopted by six other national securities exchanges and the NASD, which rules are designed to ensure that the vast majority of securities transactions effected in the U.S. will be settled by book-entry.[8]

Subject to certain exceptions set forth in the text of the rule and described below, CBOE Rule 30.136 requires the use of the facilities of a registered securities depository for the book-entry settlement of all transactions in depository eligible securities (1) between a CBOE member and a financial intermediary or a member of a national securities exchange or a registered securities association and (2) between a CBOE member and its customers if settlement is to be effected on a delivery-versus-payment ("DVP") or receipt-versus-payment ("RVP") basis. As is the case under comparable rules adopted by other self-regulatory organizations, Rule 30.136 does not apply to or affect the manner in which member firms settle (1) transactions with traditional retail customers (who typically do not have DVP/RVP privileges), (2) transactions in securities that are not depository eligible,[9] or (3)

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Michael L. Meyer, Schiff, Hardin & Waite, to Mark Steffensen, Division of Market Regulation ("Division"), Commission (October 16, 1995).

[3] Securities Exchange Act Release No. 36568 (December 8, 1995), 60 FR 65074.

[4] The rules in Chapter XXX govern the listing and trading of debt and equity securities, warrants, UIT interests, and such other securities as may be determined by CBOE's Board of Directors. Chapter XXX does not apply to the trading of option contracts.

[5] The Group of Thirty is an independent, nonpartisan, nonprofit organization established in 1978. In its March 1989 report, the Group of Thirty made nine recommendations, including the recommendation that final settlement of securities transactions should occur by T+3, for harmonizing clearance and settlement practices worldwide. The U.S. Working committee, comprised of representatives from brokerage firms, banks, other financial intermediaries, and major industry organizations was formed to study the existing U.S. clearance and settlement system and to recommend reforms consistent with the Group of Thirty recommendations.

[6] U.S. Working Committee, Implementing the Group of Thirty Recommendations in the United States (November 1990).

[7] Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679 (order approving proposed rule changes of the American Stock Exchange ("Amex"), Boston Stock Exchange ("BSE"), Midwest Stock Exchange [now the Chicago Stock Exchange ("CHX")], New York Stock Exchange ("NYSE"), Pacific Stock Exchange ("PSE"), Philadelphia Stock Exchange ("PHLX"), and NASD requiring book-entry settlement of securities transactions).

[8] Because CBOE did not then provide a market in depository eligible securities, it did not adopt the uniform rule at that time.

[9] Under Rule 30.136(d), depository eligible securities is defined to mean securities that (i) are part of an issue (as identified by a single CUSIP number) of securities that is eligible for deposit at a securities depository and (ii) with respect to a

Continued

transactions in which settlement occurs outside the U.S. Rule 30.136 also does not apply to transactions where the securities to be delivered in settlement of a transaction are not on deposit at a securities depository and (1) the transaction is for same-day settlement and the deliverer cannot by reasonable efforts deposit the securities prior to the depository's cut-off time for same-day crediting of deposited securities or (2) the deliverer cannot by reasonable efforts deposit the securities prior to a cut-off time established for that issue by the depository. The latter exception is intended to address corporate reorganizations and other extraordinary activities.

CBOE Rule 30.137 also reflects a response to a directive from the Group of Thirty to address the need to raise clearing and settlement standards.[10] Rule 30.137 requires that before any issue of a domestic issuer's securities is listed for trading on CBOE the issuer must represent to CBOE that the CUSIP number identifying the issue has been included in the file of eligible issues maintained by a registered securities depository. This requirement does not apply to a security if the terms of the security cannot be reasonably modified to meet the criteria for depository eligibility at all securities depositories. In addition, the rule does not apply to American Depositary Receipts for securities of a foreign issuer.

Rule 30.137 also sets forth additional requirements that must be met before a security will be deemed to be depository eligible within the meaning of the rule. These requirements are premised upon whether a new issue is distributed by an underwriting syndicate before or after the date a securities depository system is available for monitoring repurchases of the distributed shares by syndicate members (*i.e.*, a "flipping tracking system").

Currently, a flipping tracking system is being developed that: (1) Can be activated upon the request of the managing underwriter for a period of time that the managing underwriter specifies (2) in certain circumstances, will require the delivering participant to provide to the depository information sufficient to identify the seller of such shares as a precondition to the processing of book-entry delivery instructions for distributed shares, and (3) will report to the managing underwriter the identity of any other syndicate member or selling group member whose customer(s) sold distributed shares (but will not report to the managing underwriter the identity of such customer[s]) and in certain circumstances will report to such syndicate member or selling group member the identity of such customer(s). Prior to the availability of a flipping tracking system, the managing underwriter may delay the date a security is deemed depository eligible for up to three months after trading has commenced in the security. After the availability of a flipping tracking system, a new issue must be depository eligible before commencement of trading on CBOE.

particular transaction are eligible for book-entry transfer at the depository at the time of settlement of the transaction.

[10] The rule is substantially identical to a uniform depository eligible rule that was developed through the coordinated efforts of six national securities exchanges and the NASD and has been incorporated in the rules of those self-regulatory organizations. Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909 (order approving proposed rule change of Amex, BSE, CHX, NYSE, PSE, PHLX, and NASD regarding uniform depository eligibility rules).

II. Discussion

The Commission believes that the rule change is consistent with Section 6(b)(5).[11] Section 6(b)(5), among other things, requires that the rules of a national securities exchange be designed to remove impediments to and perfect a national market system. Both the book-entry settlement and depository eligibility requirements should reduce the problems associated with settling securities transactions by means of physical delivery of certificates and thereby should promote the perfection of a national market system and should promote efficiencies within that system.

Furthermore, the Commission believes the rule change should promote the purposes of Section 17A of the Act.[12] In Section 17A, Congress called for the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. In Section 17A(e),[13] Congress directed the Commission to use its authority to end the physical movement of securities certificates in connection with the settlement among brokers and dealers of transactions in securities.

Book-entry settlement of interdealer securities transactions has been a goal since Congress enacted the Securities Acts Amendments of 1975.[14] Since 1975, substantial progress has been made in reducing the flow of physical certificates for settlement of interdealer and institutional securities transactions.[15] In 1993, the Commission approved the uniform book-entry settlement rules applicable to certain transactions in depository eligible securities [16] as a means to facilitate the conversion from a five-day settlement cycle to a three-day settlement cycle, which occurred on June 7, 1995.[17] The present rule change is designed to facilitate efficient and timely settlement of trades through the various market facilities and to further aid the transition to a three-day settlement cycle by requiring book-entry settlement of depository eligible issues and by increasing the number of such depository eligible securities.[18] CBOE's addition of book-entry and depository eligibility requirements should reduce costs, risks, and delays associated with the physical delivery of securities certificates and should eliminate many of the labor intensive functions associated with physical delivery of nondepository eligibility securities.

[11] 15 U.S.C. § 78f(b)(5) (1988).

[12] 15 U.S.C. § 78q–1 (1988).

[13] 15 U.S.C. § 78q–1(e) (1988).

[14] Pub. L. No. 94–29, 89 Stat. 97 (1975) (codified at 15 U.S.C. §§ 77–80h (1988)).

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with Sections 6 and 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (File No. SR–CBOE–95–62) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2057 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[15] *E.g.*, Securities Exchange Act Release Nos. 22021 (September 23, 1983), 48 FR 45167 (order granting full registration to nine clearing agencies); 19698 (April 15, 1983), 48 FR 17604 (order implementing The Depository Trust Company's ("DTC") Fast Automated Securities Transfer program); 30283 (January 23, 1992), 57 FR 3658 (order implementing DTC's Deposit/Withdrawal at Custodian program); 30505 (March 20 1992), 57 FR 10683 (order eliminating DTC's Certificate on Demand service for most corporate issues); 31645 (December 23, 1992), 57 FR 62407 (order approving rule change requiring that most interdealer transactions in municipal securities be settled by book-entry through a depository); and 32455 (June 11, 1993), 58 FR 33679 (order approving uniform book-entry settlement rules).

[16] *Supra* note 7 and accompanying text.

[17] Securities Exchange ACt Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adoption of Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 (change of effective date of Rule 15c6–1 from June 1, 1995, to June 7, 1995).

[18] Although the rule change should serve to further reduce the number of transactions in depository eligible securities for which settlement is effected by the delivery of physical certificates, it will not eliminate the ability of investors to obtain physical certificates after settlement of the transaction. As the Commission previously has noted, subject to an issuer's determination whether to make physical certificates available to shareholders, the Commission believes investors should be able to obtain negotiable certificates on request. Securities Exchange Act Release No. 35038 (December 1, 1994), 59 FR 63652 (File No. S7–34–94] at note 17.

[19] 15 U.S.C. § 78s(b)(2) (1988).

[Release No. 34–36772; File No. SR–DGOC–96–01]

Self-Regulatory Organizations; Delta Government Options Corp.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Establishment of Fees Charged for Repurchase Agreements

January 25, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 16, 1996, Delta Government Options Corp. ("DGOC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DGOC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to establish DGOC's fee schedule for repurchase and reverse repurchase agreements trades involving U.S. Treasury securities as the underlying instrument ("repos").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DGOC included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DGOC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

[20] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified parts of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish DGOC's fee schedule for repo trades. On October 13, 1995, DGOC commenced its clearance and settlement system for repos.[3] At that time, DGOC did not propose any fees. DGOC has now set fees for repo trades as follows.

Term of the trade	Fee based on invoice price[4]
0–30 days	.05 Basis Points[5] per day.
Greater than 30 days	.033 Basis Points/per day.

DGOC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act,[6] which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services it provides to its participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

DGOC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by DGOC, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(e)(2) thereunder.[8] At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Intersted persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at DGOC. All submissions should refer to the File No. SR–DGOC–96–01 and should be submitted by February 22, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2013 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[3] For a description of DGOC's repo system, see Securities Exchange Act Release No. 36367 (October 13, 1995), 60 FR 54095.

[4] Invoice price equals the amount for which the reverse repurchase agreement is settled (principal amount of the underlying securities plus the repo interest).

[5] A basis point equals 1/100th of a percent.

[6] 15 U.S.C. 78q–1(b)(3)(D) (1988).

[7] 15 U.S.C. 78q–1(b)(3)(A) (1988).

[8] 17 CFR 240.19b–4(e)(2) (1994).

[Release No. 34–36780; File No. SR–NASD–96–03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Association's FOCUS Filing Plan

January 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on January 24, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in items I, II, and III below, which Items have been prepared by the NASD.[1] The

[9] 17 CFR 200.30–3 (a)(12) (1994).

[1] The proposal was originally filed with the Commission on January 16, 1996. The NASD

Continued

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend the Plan of the National Association of Securities Dealers, Inc. For the Implementation of Parts I, II & IIA of Form X–17A–5 Financial and Operation Combined Uniform Single Report ("Focus Report") and Schedule I Thereunder as Amended. Below is the text of the proposed rule change.[2] Proposed new language is italicized; proposed deletions are in brackets.

Plan of the National Association of Securities Dealers, Inc. for the Implementation of Parts I, II & IIA of Form X–17A–5 *Financial and Operational Combined Uniform Single Report ("Focus Report")* and Schedule I Thereunder as Amended

1. Every member that is subject to the requirements of subparagraph (e) of SEC Rule 15c3–3 or that conducts a business in accordance with [the exemptive provisions specified in subparagraph (k)(2)(i) thereof shall file a monthly Part I of Form X–17A–5. Such report shall be filed with the Association on or before the tenth (10th) business day of the next month following the month-end reporting date. In addition, pursuant to the provisions of subparagraph (a)(2)(iv) of SEC Rule 17a–5, every member that conducts a business in accordance with the exemptive provisions specified in subparagraph (k)(2)(ii) of SEC Rule 15c–3–3 shall file a monthly FOCUS Part I of Form X–17A–5.] *subparagraph (k)(2)(i) of Rule 15c3–3, or that is subject to subporagraph (a)(2)(i) through (a)(2)(iii) of SEC Rule 15c3–1 shall file monthly a FOCUS Part II Report. Such report shall be filed on or before the 17th business day of the next month following the month-end reporting date. The monthly filing for those months that are not calender quarters shall contain only the balance sheet, net capital computation, reserve formula computation, the net monthly profit or loss, and certain financial and operational data. The filing made at each calendar quarter-end shall contain a complete detailed profit and loss statement and all other schedules required by SEC Rule 17a–5.*

2. [Every member that is subject to the requirements of subparagraph (e) of SEC Rule 15c3–3 or that conducts a business in accordance with the exemptive provisions of subparagraph (k)(2)(i) thereof shall file a quarterly Part II of Form X–17A–5 with the Association on or before the seventeenth (17th) business day of the next month following the calendar quarter ending date] *Every member that conducts a business in accordance with subparagraph (k)(1)(i) through (iii), (k)(2)(ii), or (k)(3) of SEC Rule 15c3–3 and is not subject to subparagraphs (a)(2)(i) through (a)(2)(iii) of SEC Rule 15c3–1 shall file quarterly a FOCUS Part IIA Report. Such report shall be filed on or before the 17th business day of the next month following the end of the calendar quarter.*

3. Every member that conducts a business in accordance with [the provisions of subparagraphs (k)(1)(i) through (iii), (k)(2)(ii) or (k)(3) of SEC Rule 15c–3–3 shall file a quarterly Part IIA of the Form X–17A–5 with the Association on or before the seventeenth (17th) business day of the next month following the calendar quarter ending date.] *subparagraphs (a)(6), (a)(7), and (a)(8) of SEC Rule 15c3–1 shall file quarterly a FOCUS Part IIA Report. Such report shall be filed on or before the 17th business day of the next month following the end of the calendar quarter.*

4. The provisions of paragraphs (1), (2) and (3) of this plan shall not apply to any member not designated to the Association pursuant to SEC Rule 17d–1 (17 CFR 240.17d–1); *provided, however,* that Form X–17A–5 information which is required to be furnished to the Commission by other self-regulatory designees for Association members having exchange memberships is provided to the Association on a quarterly basis pursuant to an arrangement or arrangements which shall be mutually agreeable to the SEC, the Association and such other regulatory body.

5. The provisions of paragraphs (1), (2) and (3) of the plan shall not apply to any insurance company that: is registered with the SEC as a broker-dealer and is a member of this Association; is exempt from SEC Rule 15c3–1; and, is otherwise operating in accordance with the requirements of subparagraph (k)(1)(iv) of SEC Rule 15c3–3.

6. Every member subject to the requirements of paragraphs (2) or (3) of this plan that receives written notice from the Association that it has exceeded [parameters of] financial and operational condition *parameters* established by the Association shall file Part II or IIA of Form X–17A–5 or such other financial and operational information on a monthly or such other basis as determined by the Association. Among other things, such additional information may be required of a member whenever it is referred by the Association to SIPC pursuant to Section 5(a) of the Securities Investors Protection Act of 1970, as amended; whenever it is subject to monitoring by the Association on a closer-than-normal surveillance basis; or, whenever it is deemed necessary for reasons relating to any member's financial and/or operational condition or the condition of the marketplace or the industry.

7. Every member, other than those referenced in paragraph (4) above, which is subject to the requirements of paragraph (d) of SEC Rule 17a–5, shall file an additional Part II or Part IIA of Form X–17A–5, as applicable, with the Association within seventeen (17) business days after the date selected for the annual audit whenever said date is other than a calendar quarter.

8. Edited data from the information supplied the Association on reports filed by members pursuant to paragraphs *(1) (quarterly filings only)*, (2) and (3) of this plan shall be furnished *to* the Commission by the Association on a quarterly basis on a date not later than sixty (60) calendar days following quarter ending reporting date. Such data shall be supplied *to* the Commission on magnetic computer tape in a format compatible, to the extent technically possible, with the computer tape criteria specified by the SEC and attached hereto as Exhibit A.

9. Upon request, the Association shall furnish the Commission with information contained on reports filed by members pursuant to this plan in a form and format which shall be mutually agreed upon by the Commission and the Association.

10. The information supplied the Association on Parts [I], II[,] and IIA of Form X–17A–5 by members participating in this plan which are also members of one or more national securities exchanges shall be furnished by the Association to such other exchange or exchanges in a format and on a schedule which shall be mutually agreed upon by the Association and such other exchange or exchanges.

11. For the fourth calendar quarter ending December 31 of each year, every member shall file Schedule I of Form X–17A–5 with the Association within seventeen (17) business days following the *end of the* calendar quarter [ending date]. Such schedules shall be filed jointly with the member's normal quarterly filing of Part II or IIA of Form X–17A–5 for the same period ending date.

12. The provisions of paragraph (11) of this plan shall not apply to any member which is not designated to the Association pursuant to SEC Rule 17d–1 (17 CFR 240.17d–1).

13. Edited data from the information supplied by members on Schedule I of Form X–17A–5 and received by the Association pursuant to paragraph (11) of this plan shall be furnished to the Commission by the Association on a date no later than one-hundred (100) calendar days following the end of the calendar year. Such data shall be supplied the Commission on magnetic computer tape in a format compatible, to the extent technically possible, with the computer tape criteria specified by the SEC and attached hereto as Exhibit B.

14. Members request to file any part of Form X–17A–5 with the Association, *including Schedule I*, shall do so electronically in accordance with the provisions of the Electronic FOCUS Filing System *User's Guide* as it may be changed by the Association from time to time. Notwithstanding the foregoing, the requirement to file electronically shall not apply to the annual financial statement filed pursuant to SEC Rule 17a–5(d).

15. In the event that the Association enters into an agreement with another self-regulatory organization to provide data processing services in respect to Form X–17A–5 reports and/or schedules collected by such organization on behalf of its designated members pursuant to a plan adopted by that organization and declared effective by the Commission, the Association shall, pursuant to a written agreement, process the information collected by such organization for transmission to the Commission in accordance with the same criteria and specifications employed by the Association in the processing of data collected by it from its designated members pursuant to this plan.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Background

SEC Rule 17a–5 requires all registered broker-dealers to submit certain financial information on Form X–17A–5 (FOCUS Reports). Paragraph (a)(4) of SEC Rule 17a–5 provides that the filing requirements contained in paragraphs (a)(2) and (a)(3) shall not apply to a member of a registered national securities association if the association, among other things, has members make FOCUS filings pursuant to a plan, procedures and provisions of which have been submitted to and declared effective by the SEC. The Association has had a FOCUS filing plan (Plan) in effect since December 16, 1977, and it has been amended from time to time since then.

Currently, the Plan requires every member that is subject to the requirements of subsection (e) of SEC Rule 15c3–3[1] or, that conducts a business in accordance with subparagraph (k)(2)(i), must file monthly Part I of Form X–17A–5. The report must be filed on or before the tenth business day of the next month following the month-end reporting date. Additionally, every member which conducts a business in accordance with subparagraph (k)(2)(ii) must file monthly Part I of Form X–17A–5 and members subject to subparagraph (e) or (k)(2)(i) shall also file quarterly a FOCUS Report Part II on or before the seventeenth business day of the next month following the end of the calendar quarter. Members that conduct a business in accordance with subparagraphs (k)(1) (i) through (iii), (k)(2)(ii) or (k)(3) of SEC Rule 15c3–3 shall file quarterly a FOCUS Part IIA on or before the seventeenth business day of the next month following the end of the calendar quarter.

Proposed Amendment

In recent years, other self-regulatory organizations (SROs) have simplified their FOCUS filing requirements by eliminating the FOCUS Part I filing requirement and modifying the requirements for filing FOCUS Part II reports. The NASD is proposing to modify its Plan to standardize its requirements with those of the other SROs and reduce the filing burden on NASD members. Those proposed Plan modifications would:

1. Eliminate the requirement for members to file monthly FOCUS Part I reports for all firms, and only require monthly filings of a modified FOCUS Part II report for certain firms that carry customer accounts and are subject to the reserve computation requirement of SEC Rule 15c3–3 or are classified as brokers or dealers under the net capital rule. The modified FOCUS Part II report would consist of a balance sheet, net capital computation, reserve formula computation, a one line profit and loss figure for the month and certain financial and operational data.

2. Require all firms to file a quarterly FOCUS Part II or IIA Report, as currently required.

Under this proposed change, approximately two thousand (2,000) firms who operate on a fully disclosed basis would no longer have to file a monthly FOCUS Part I Report, and the firms that must file monthly will have a simplified filing requirement. The NASD would, however, continue to have the right under SEC Rule 17a–5(a)(2)(iv) to require financial and operational information to be submitted more frequently when conditions or events so warrant.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[2] in that the amended Plan will foster cooperation with other regulators by making the FOCUS filing requirements consistent for all registered broker/dealers and reduce the regulatory burdens on broker/dealers consistent with the purposes of the Act.

The NASD believes that the Plan as amended will comply with the requirements of SEC Rule 17a–5(a)(4) because the FOCUS Part II Reports required to be filed under the Plan will provide the Association with the information currently provided in the FOCUS Report Part I.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD has requested that the Plan be effective upon Commission approval for all members, except members subject to the requirements of SEC Rule 15c3–3 or members engaged in market making activity for whom the Plan will be effective for the month ending July 31, 1996. In addition, the NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A and the rules and regulations thereunder. The Commission believes that the Plan as amended will comply with the requirements of SEC Rule 17a–5(a)(4) in that the FOCUS Part II Reports required to be filed under the Plan will provide the Association with the information currently provided in the FOCUS Report Part I.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of

subsequently submitted Amendment No. 1 to the filing. This document provides notice of the filing as amended. Letter from Elliot Curzon, Assistant General Counsel, NASD, to Mark Barracca, Branch Chief, Over-the-Counter Regulation, Division of Market Regulations, SEC, dated January 24, 1996.

[2] The text refers to Exhibits A and B of the FOCUS filing plan which are not attached to this amendment.

[1] SEC Rule 15c3–3 is the SEC's Customer Protection-Reserves and Custody of Securities rule. Subsection (e) requires certain broker/dealers holding customer securities or funds to establish a "Special Reserve Account for the Exclusive Benefit of Customers" according to a formula specified in the rule.

[2] 15 U.S.C. § 78o–3.

publication of notice of filing thereof in that the proposed amendments to the Association's FOCUS Filing Plan submitted herewith are designed to bring the NASD's filing requirements into line with those of other SROs, will facilitate member compliance with financial information filing obligations and reduce regulatory burdens. In addition, because the first FOCUS filings are due in early February 1996, accelerating approval of the proposed rule change will benefit NASD members by permitting them to avoid the significant burden of filing monthly reports and more cumbersome current FOCUS Form II reports.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–96–03 and should be submitted by February 22, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2056 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36771; File No. SR–NSCC–96–02]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Fees and Charges

January 25, 1996.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on January 5, 1996, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises NSCC's New York Window Service Fee Schedule which is attached as Exhibit 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to reduce two existing service fees and introduce three new service fees in connection with NSCC's New York Window Service. The revisions to the New York Window Service fee schedule are being made as a result of the increase in usage of the New York Window Service. A sliding scale for over-the-window receives and deliveries is being introduced whereby high volume users will realize economies of scale based upon usage. Custody fees are being reduced to allow users that have significant physical inventory with the New York Window to realize an economic benefit from outsourcing their vault functions. Fees for branch receives, The Depository Trust Company receives and deliveries, and internal triparty receives and deliveries are being introduced. These new fees became effective for transactions as of January 1, 1996.

The proposed rule change is consistent with the requirements of Section 17A of the Act[3] and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among NSCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[4] of the Act and pursuant to Rule 19b–4(e)(2)[5] promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by NSCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–96–02 and should be submitted by February 22, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

Exhibit 1—Modifications to Addendum A to NSCC's Rules and Procedures[7]

IV. OTHER SERVICE FEES

* * * * *

R. NEW YORK WINDOW

1. Over the Window-Receives/Deliveries.	[$12.00 per item].
a. 1–50 daily	*$12.00 per item.*
b. 51–100 daily	*$10.00 per item.*
c. 101–and up daily	*$8.00 per item.*
2. Branch Receives:	
a. With SIC validation	*$3.50 per item.*
b. Without validation	*$2.50 per item.*
[2]*3.* Envelope Settlement Service/Receives:	
a. 1–100 daily	$6.00 per item.
b. 101–150 daily	$5.00 per item.
c. 151–and up daily	$4.00 per item.
[3]*4.* Envelope Settlement Services/Deliveries.	$6.00 per item.
[4]*5.* FOSS/DSS-Receives/Deliveries (Money Only).	$3.50 per item.
[5]*6.* Transfers	$15.00 per item.
[6]*7.* Reorganizations:	
a. One-Way	$15.00 per item.
b. Two-Way	$18.00 per item.
[7]*8.* Underwritings (Coordinating Distribution).	$35.00 per hour.
[8]*9.* Special Handling	$35.00 per hour.
[9]*10.* Custody (Per [Position Per Issue] *CUSIP*).	$[.10].*05* per day.
[10]*11.* Return to Firm (Securities).	$.10 per item.
[11]*12.* Internal Cross-Receives/Deliveries.	$7.00 per item.
[12]*13.* Messenger Service (Accommodation).	$7.50 per hour.
[13]*14.* Accomodation Handling.	$3.50 per item.
15. DTC Receives/Deliveries.	*$3.00 per item.*
16. Internal Tri-Party-Receives/Deliveries.	*$7.00 per transaction plus 1.00 per security.*
[14]*17.* Settlement Reconciliation.	$25.00 per day.

* * * * *

[7] Additions to the text are denoted by italics, deleted text is bracketed.

[FR Doc. 96–2014 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] 15 U.S.C. 78q–1 (1988).

[4] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[5] 17 CFR 240.19b–4(e)(2) (1994).

[6] 17 CFR 200.30–3(a)(12) (1994).

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, 15 February 1996.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II§ 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: January 26, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–2006 Filed 1–31–96; 8:45 am]

BILLING CODE 5000–04–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36775; File No. SR–Phlx–95–93]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Increase the Number of Appointed Public Governors to Four, To Limit Appointed Public Governors to Two Consecutive Three-Year Terms, and To Eliminate From the Board of Governors the Ex-Officio Position Presently Held by the Immediate Past President of the Exchange

January 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 4, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to increase the number of Appointed Public Governors from three to four and also proposes a two term limit on all Appointed Public governors. Additionally, the Phlx proposes to eliminate one of the *ex-officio* offices of the Board of Governors. Finally, the Phlx proposes to delete the second paragraph of Article IV section

[1] 15 U.S.C. 78s(b)(1).

4–3 because it no longer provides any constructive use.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Article IV of the Phlx By-Laws presently provides for three Appointed Public Governors. These Governors presently serve three-year terms and have no term limits. The Phlx proposes to increase the number of Appointed Public Governors from three to four, while eliminating the *ex-officio* position presently held by the immediate past President of the Phlx.[3]

Additionally, the proposed amendment establishes term limits for Appointed Public Governors of no more than two consecutive three year terms (total of six consecutive years). The term limit provision makes Appointed Public Governors ineligible for further service in such capacity until an interval of at least one year passes.[4] By imposing term limits on the Appointed Public Governors, the Phlx hopes to promote diversity amongst the Appointed Public Governors. The Exchange believes this diversity will better serve the Exchange, its members, its member organizations, and investors.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b)(3) of the Act[5] because it provides in part that one or more directors shall be representative of issuers and investors and not associated with a member of the Exchange, broker, or dealer. The Exchange also believes the proposed rule change furthers the objectives of Section 6(b)(5)[6] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Competition

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not receive any written comments in response to Phlx Circular *95–193.*[7]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95-93 and should be submitted by February 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2058 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36776; File No. SR–Phlx–95–91]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Option Specialist Evaluations

January 26, 1996

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act,[1] proposes to update its Options Specialist Evaluation System by adopting a new questionnaire and revising Exchange Rules 509, 511 and 515 regarding the evaluation procedure.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Since at least 1978, the Exchange has been evaluating its options specialists based on the same questionnaire in use today. This quarterly survey is a series of subjective questions answered by floor brokers that have traded with the particular specialist over the last quarter. The purpose of this filing is to propose a new updated survey which requests information that the Exchange believes is more relevant to a specialist's performance in this day and age. The results of these evaluations are used by the Allocation, Evaluation and Securities Committee when making allocation and reallocation decisions regarding option specialist privileges.

The new survey has 15 all-new questions and will be answered by floor brokers who, Exchange records show, have traded at least a minimum number of contracts over the subject quarter.[2] Only specialist units (not individual specialists) will be graded as allocations are made to units, not individual specialists. The same questionnaire will be used for equity option specialists, index option specialists[3] and foreign currency option specialists. Each question must be answered by giving the unit a score of 1 through 9 (very poor to excellent) and any question that is answered with a score of less than 4 must be accompanied by a written explanation. Floor brokers who do not complete and return the surveys still will be subject to fines pursuant to Options Floor Procedure Advice C–8. An overall score of 5.00 or above on the survey continues to be considered acceptable and will not trigger a review by the Committee.

The proposed questionnaire covers a wide range of specialist responsibilities such as the degree of liquidity provided, the tightness of quotes, timeliness of quote updates, ability to fill small lot orders, timeliness of reports, ability to conduct opening rotations, maintenance of crowd control, and clerical staffing.

The process by which a specialist unit's scores will be reviewed and used as the basis of a reallocation proceeding is also being amended. Currently, there is a very complicated review system in place that the Exchange has determined needs to be simplified in order to be effective. An average score of below 5.00 for the whole survey still will trigger a review but the existing additional criteria of a score below 5.00 on three or more questions in a quarter or a score below 5.00 for one question in three consecutive quarters will be eliminated.

Under the proposed new procedure, if a unit receives an average score of below 5.00 on the whole questionnaire for two consecutive quarters, it will be deemed to have performed below minimum standards[4] and the head specialist will be required to appear before the Quality of Markets Subcommittee in order to discuss the reasons for such score and what can be done to improve the unit's performance.[5] If the specialist unit then receives an overall score below 5.00 for the next review period, the matter will be brought to the attention of the full Allocation, Evaluation & Securities Committee, which will institute proceedings to determine whether to remove or reallocate specialist privileges from that unit. Rules 511(c) and 515 will be amended to reflect this new review procedure. The hearing procedures set forth in Rule 511(e) will not change and decisions still will be subject to appeal to the Board of Governors, as provided for under Article XI, Section 11–1 of the Phlx By-Laws.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5),[6] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions

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[2] This paragraph currently provides that "Notwithstanding the provisions of By-Law 4–1 and the first paragraph of this by-law, the classes whose terms expire in 1986, 1987 and 1988 shall remain as currently constituted until their terms expire." It was included in connection with the last amendment to this by-law to ensure a smooth transition of the Governors whose terms were scheduled to expire in 1986, 1987, and 1988. Telephone conversation between Murray L. Ross, Secretary, Phlx, and Anthony P. Pecora, Attorney, SEC (Jan. 22, 1996).

[3] The Commission notes, according to the proposal, that the fourth Appointed Public Governor's term would commence in 1996. Hence, one Appointed Public Governor would be selected every year, except in 1996 and every third year thereafter. In those years, two Appointed Public Governors would be selected.

[4] The Commission notes, in addition to the Appointed Public Governors, that the Exchange's Board of Governors would be composed of the offices of the Chairman of the Board, two Vice Chairmen of the Board, 9 On-Floor Governors, 9 Off-Floor Governors, 2 At-Large Governors, the President of the Exchange, and an *ex-officio* position held by the immediate past Chairman of the Board. The Chairman may serve in such office for two consecutive two-year terms, and the Vice Chairman may serve in such office for four consecutive one-year terms. After serving for such periods, these Governors are ineligible for further service in such office until an interval of at least one year passes. The immediate past Chairman may serve in such office for a one-year term. The 9 On-Floor Governors, the 9 Off-Floor Governors, the 3 At-Large Governors, and the President of the Exchange, however, are not subject to term limits. See Phlx By-Laws, Article IV, §§ 4–1 and 4–2.

[5] 15 U.S.C. 78f(b)(3).

[6] 15 U.S.C. 78f(b)(5).

[7] In accordance with Phlx By-Law Article XXII, § 22–2, this circular announced the current proposal to the Exchange's members.

[8] 17 C.F.R. 200.30–3(a) (12).

[1] 17 CFR 249.19b–4.

[2] The number of contracts is variable based on the number of contracts traded in a particular quarter and may, for example, be 10 contracts.

[3] Currently, all of the specialist units that have been allocated index options are also equity option specialists; however, if a unit only traded index options, the survey would be equally applicable.

[4] Under the current procedure, a specialist unit that receives an average score under 5.00 in any one quarter would be deemed to have performed below minimum standards.

[5] The Quality of Markets Subcommittee was created in 1994 in order to conduct reviews for specialists subject to the enhanced parity splits provided for in Exchange Rule 1014. See Securities Exchange Act Release No. 34606 (August 28, 1994), 59 FR 45741 (September 2, 1994) (File No. SR–Phlx–94–12). Pursuant to Exchange Rule 509, it is a permanently standing subcommittee composed of a floor broker chairman (who must be a member of the Allocation, Evaluation & Securities Committee) and an equal number of specialists and market makers. Rule 509 will also be amended to reflect this new added responsibility of the Subcommittee.

[6] 15 U.S.C. 78f(b)(5).

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–95–91 and should be submitted by February 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2060 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21710; 812–9932]

Cityfed Financial Corp.; Notice of Application

January 26, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Cityfed Financial Corp. ("Cityfed").

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 6(e) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order that would exempt it from all provisions of the Act, except sections 9, 17(a) (modified as discussed herein), 17(d) (modified as discussed herein), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder until the earlier of one year from the date of the requested order or such time as Cityfed would no longer be required to register as an investment company under the Act. The requested exemption would extend an exemption granted until February 28, 1996.

FILING DATE: The application was filed on December 21, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 20, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 4 Young's Way, P.O. Box 3126, Nantucket, MA 02584.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Cityfed was a savings and loan holding company that conducted its savings and loan operations through its wholly-owned subsidiary, City Federal Savings Bank ("City Federal"). City Federal was the source of substantially all of Cityfed's revenues and income. As a result of substantial losses in its mortgage banking and real estate operations, City Federal was unable to meet its regulatory capital requirements. Accordingly, on December 7, 1989, the Office of Thrift Supervision (the "OTS") placed City Federal into receivership and appointed the Resolution Trust Corporation (the "RTC") as City Federal's receiver. City Federal's deposits and substantially all of its assets and liabilities were acquired by a newly created federal mutual savings bank, City Savings Bank, F.S.B. ("City Savings"). The OTS appointed the RTC as receiver of City Savings.

2. Once City Savings was placed into receivership, Cityfed no longer conducted savings and loan operations through any subsidiary and substantially all of its assets consisted of cash that has been invested in money market instruments with a maturity of one year or less and money market mutual funds. As of September 30, 1995, Cityfed held cash and securities of approximately $8.9 million. Because of Cityfed's asset composition, it may be an investment company under the Act. Rule 3a–2 under the Act provides a one-year safe harbor to issuers that meet the definition of an investment company but intend to engage in a business other than investing in securities. Because of various claims against Cityfed and certain Cityfed officers and directors, Cityfed could not acquire an operating company within the one year safe harbor. The expiration of the safe harbor period necessitated the filing of an application for exemption from all provisions of the Act, with certain exceptions. In 1995, Cityfed was granted an exemption from all provisions of the Act until February 28, 1996.[1]

3. While Cityfed's board of directors has considered from time to time whether to engage in an operating business, the board has determined not to engage in an operating business at the present time because of the claims filed against Cityfed, whose liability thereunder cannot be reasonably estimated and may exceed its assets.

4. On June 2, 1994, the OTS issued a Notice of Charges and Hearing for Cease and Desist Order to Direct Restitution and Other Appropriate Relief and Notice of Assessment of Civil Money Penalties ("Notice of Charges") against Cityfed and certain current or former directors and, in some cases, officers of Cityfed and City Federal. The Notice of Charges requests that an order be entered by the Director of the OTS requiring Cityfed to make restitution, reimburse, indemnify or guarantee the OTS against loss in an amount not less than $118.4 million, which the OTS alleges represents the regulatory capital deficiency reported by City Federal in the fall of 1989. The Notice of Charges provides that a hearing will be held before an administrative law judge on the question of whether a final cease and desist order should be issued against Cityfed. As of the date of the filing of the application, no date has been set for such hearing. On November 30, 1995, the OTS issued an Amended Notice of Charges and Hearing for Cease and Desist Order to Direct Restitution and Other Appropriate Relief and Notice of Assessment of Civil Money Penalties ("Amended Notice of Charges") that is identical to the Notice of Charges except that the Amended Notice of Charges includes a reference to a federal statutory provision not referred to in the Notice of Charges that the OTS asserts provides an additional basis for the issuance of a Cease and

[1] *Cityfed Financial Corp.*, Investment Company Act Release Nos. 20877 (Feb 2, 1995) (notice) and 20929 (Feb. 28, 1995) (order).

Desist Order against Cityfed and certain current or former directors and, in some cases, officers of Cityfed and of Cityfed's former subsidiary ("Respondents").

5. Also on June 2, 1994, the OTS issued a Temporary Order to Cease and Desist ("Temporary Order") against Cityfed. The Temporary Order required Cityfed to post $9.0 million as security for the payment of the amount sought by the OTS in its Notice of Charges. Cityfed unsuccessfully petitioned the district court for an injunction against the Temporary Order. Cityfed and the Respondents filed notices of appeal from the D.C. Court's Order to the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit"), and the Respondents filed a motion in the D.C. Circuit for an expedited appeal and an order enjoining the enforcement of the Temporary Order during the pendency of the appeal. The D.C. Circuit denied the Respondents' motion for injunction on October 21, 1994. On July 11, 1995, the D.C. Circuit affirmed the denial by the D.C. Court of the motions by Cityfed and the Respondents for a temporary restraining order and an injunction against the Temporary Order. On October 26, 1994, Cityfed and the OTS entered into an Escrow Agreement ("Escrow Agreement") with CoreStates Bank, N.A. ("CoreStates") pursuant to which Cityfed transferred substantially all of its assets to CoreStates for deposit into an escrow account to be maintained by CoreStates. Cityfed's assets in the escrow account continue to be invested in money market instruments with a maturity of one year or less and money market mutual funds. Withdrawals or disbursements from the escrow account are not permitted without the written authorization of the OTS, other than for (a) monthly transfers to Cityfed in the amount of $15,000 for operating expenses, (b) the disbursement of funds on account of purchases of securities by Cityfed, and (c) the payment of the escrow fee and expenses to CoreStates. The Escrow Agreement also provides that CoreStates will restrict the escrow account in such a manner as to implement the terms of the Escrow Agreement and to prevent a change in status or function of the escrow account unless authorized by Cityfed and the OTS in writing.

6. On December 7, 1992, the RTC filed suit against Cityfed and two former officers of City Federal seeking damages of $12 million dollars for failure to maintain the net worth of City Federal ("First RTC Action"). In light of the filing by the OTS of the Notice of Charges on June 2, 1994, the RTC and Cityfed agreed to dismiss without prejudice the RTC's claim against Cityfed in the First RTC Action.

7. In addition, the RTC filed suit against several former directors and officers of City Federal alleging gross negligence and breach of fiduciary duty with respect to certain loans ("Second RTC Action"). The RTC seeks in excess of $200 million in damages. Under Cityfed's bylaws, Cityfed may be obligated to indemnify these former officers and directors and advance their legal expenses. Cityfed generally has agreed to advance expenses in connection with these requests. Because of the Temporary Order and the Escrow Agreement, however, Cityfed is not continuing to advance expenses in connection with these requests. Cityfed is unable to determine with any accuracy the extent of its liability with respect to these indemnification claims, although the amount may be material.

8. On August 7, 1995, Cityfed, acting in its own right and as shareholder of City Federal, filed a civil action in the United States Court of Federal Claims seeking damages for loss of "supervisory goodwill." Cityfed's goodwill suit is presently stayed (as are all Court Federal Claims supervisory goodwill cases) pending possible Supreme Court review of the recent decision of the United States Court of Appeals for the Federal Circuit in another supervisory goodwill case, *Winstar Corp. v. United States*, 64 F.3d 1531 (Fed. Cir. 1995).

9. Currently, Cityfed's stock is traded sporadically in the over-the-counter market. Cityfed has one employee who is president, chief executive officer, and treasurer. Cityfed's secretary does not receive any compensation for her service. If Cityfed is unable to resolve the above claims successfully, Cityfed may seek protection from the bankruptcy courts or liquidate. Cityfed asserts that it probably will not be in a position to determine what course of action to pursue until most, if not all, of its contingent liabilities are resolved.

10. During the term of the proposed exemption, Cityfed will comply with sections, 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder, subject to the following modifications. With respect to section 17(d), Cityfed represents that it established a stock option plan when it was an operating company. Although the plan has been terminated, certain former employees of City Federal have existing rights under the plan. Cityfed believes that the plan may be deemed a joint enterprise or other joint arrangement or profit-sharing plan within the meaning of section 17(d) and rule 17d–1 thereunder. Because the plan was adopted when Cityfed was an operating company and to the extent there are existing rights under the plan, Cityfed seeks an exemption to the extent necessary from section 17(d). In addition, Cityfed may become subject to the jurisdiction of a bankruptcy court. With respect to transactions approved by the bankruptcy court, applicant requests an exemption from sections 17(a) and 17(d) as further described in condition 3 below.

Applicant's Legal Analysis

1. Section 3(a)(1) defines an investment company as any issuer of a security who "is or holds itself out as being engaged primarily * * * in the business of investing, reinvesting or trading in securities." Section 3(a)(3) further defines an investment company as an issuer who is engaged in the business of investing in securities that have a value in excess of 40% of the issuer's total assets (excluding government securities and cash). Cityfed acknowledges that it may be deemed to fall within one of the Act's definitions of an investment company. Accordingly, applicant requests an exemption under sections 6(c) and 6(e) from all provisions of the Act, subject to certain exceptions.

2. In determining whether to grant an exemption for a transient investment company, the SEC considers such factors as whether the failure of the company to become primarily engaged in a non-investment business or excepted business or liquidate within one year was due to factors beyond its control; whether the company's officers and employees during that period tried, in good faith, to effect the company's investment of its assets in a non-investment business or excepted business or to cause the liquidation of the company; and whether the company invested in securities solely to preserve the value of its assets. Cityfed believes that it meets these criteria.

3. Cityfed believes that its failure to become primarily engaged in a non-investment business by February 28, 1996 is due to factors beyond its control. Because of outstanding and potential claims against Cityfed and certain of its officers and directors, Cityfed cannot acquire an operating company. Cityfed has diligently pursued its claims against others and has taken steps to determine the extent of its contingent liabilities. Since the filing of its initial application for exemptive relief under sections 6(c) and 6(e) on October 19, 1990, Cityfed has invested in money market instruments and money market mutual funds solely to preserve the value of its assets.

4. Cityfed requests an order that would exempt it from all provisions of the Act, subject to certain exemptions, until the earlier of one year from the date of any order issued on this application or such time as Cityfed would no longer be required to register as an investment company under the Act.

Applicant's Conditions

Cityfed agrees that the requested exemption will be subject to the following conditions, each of which will apply to Cityfed from the date of the order until it no longer meets the definition of an investment company or during the period of time it is exempt from registration under the Act:

1. Cityfed will not purchase or otherwise acquire any additional securities other than securities that are rated investment grade or higher by a nationally recognized statistical rating organization or, if unrated, deemed to be of comparable quality under guidelines approved by Cityfed's board of directors, subject to two exceptions:

a. Cityfed may make an equity investment in issuers that are not investment companies as defined in section 3(a) of the Act (including issuers that are not investment companies because they are covered by a specific exclusion from the definition of investment company under section 3(c) of the Act other than section 3(c)(1)) in connection with the possible acquisition of an operating business as evidenced by a resolution approved by Cityfed's board of directors; and

b. Cityfed may invest in one or more money market mutual funds that limit their investments to "Eligible Securities" within the meaning of rule 2a-7(a)(5) promulgated under the Act.

2. Cityfed's Form 10–KSB, Form 10–QSB and annual reports to shareholders will state that an exemptive order has been granted pursuant to sections 6(c) and 6(e) of the Act and that Cityfed and other persons, in their transactions and relations with Cityfed, are subject to sections 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act, and the rules thereunder, as if Cityfed were a registered investment company, except insofar as permitted by the order requested hereby.

3. Notwithstanding sections 17(a) and 17(d) of the Act, an affiliated person (as defined in section 2(a)(3) of the Act) of Cityfed may engage in a transaction that otherwise would be prohibited by these sections with Cityfed:

(a) If such proposed transaction is first approved by a bankruptcy court on the basis that (i) the terms thereof including the consideration to be paid or received, are reasonable and fair to Cityfed, and (ii) the participation of Cityfed in the proposed transaction will not be on a basis less advantageous to Cityfed han that of other participants; and

(b) In connection with each such transaction, Cityfed shall inform the bankruptcy court of: (i) The identity of all of its affiliated persons who are parties to, or have a direct or indirect financial interest in, the transaction; (ii) the nature of the alliliation; and (iii) the financial interests of such persons in the transaction.

For the SEC, by the Division of Investment Management, under delegate authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2054 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21711; 811–2953]

John Hancock Cash Management Fund; Notice of Application

January 26, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: John Hancock Cash Management Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 10, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 20, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidivat or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Anne C. Hodsdon, 101 Huntington Avenue, Boston, MA 02199–7603.

FOR FURTHER INFORMATION CONTACT: Robert Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust. On August 24, 1979, applicant filed a notice of registration pursuant to section 8(b) of the Act on Form N–8A. Applicant registered an unlimited number of shares by a registration statement on Form N–1A under the Securities Act of 1933. The registration statement became effective on October 26, 1979, and the initial public offering commenced as soon as practicable thereafter.

2. On August 28, 1995, applicant's board of trustees, including a majority of trustees who were not interested persons of the applicant, approved an Agreement and Plan of Reorganization (the "Plan"). The Plan provided that applicant would transfer all of its assets and liabilities to John Hancock Money Market Fund ("Money Market Fund").

3. Applicant and the Money Market Fund may be deemed to be affiliated persons of each other by reasons of having a common investment adviser, common directors, and common officers. In compliance with rule 17a-8, which governs mergers of certain affiliated investment companies, applicant's trustees determined that the reorganization was in the best interests of applicant and the interests of applicant's existing shareholders would not be diluted.[1]

4. Applicant filed its preliminary proxy materials as part of Series, Inc's registration statement on Form N–14 with the SEC on September 7, 1995 and filed definitive copies of its proxy materials on October 12, 1995. Applicant's shareholders approved the Plan at a meeting held on November 15, 1995.

5. On November 17, 1995, the reorganization was consummated. Applicant transferred all of its assets and liabilities to the Money Market Fund in exchange for shares of the Money Market Fund with an aggregate net asset value equal to the net asset value of applicant's assets transferred. Specifically, in exchange for $241,651,168 of assets transferred, the Money Market Fund issued 241,738,168 Class A shares of common stock.

6. The expenses applicable to the reorganization, consisting of accounting, printing, administrative and certain legal expenses, are estimated to be approximately $120,000. Applicant and the Money Market Fund each assumed its own expenses related to the reorganization. Applicant's share of the expenses were approximately $57,500.

7. At the time of filing the application, applicant had no assets, outstanding debts or liabilities. Applicant has no shareholders and is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

[1] Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a-8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2053 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21709; International Series Release No. 922; File No. 812–9656]

PNC Bank, N.A. and PFPC Trustee & Custodial Services Ltd; Notice of Application

January 26, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: PNC Bank, N.A. ("PNC") and PFPC Trustee & Custodial Services ("PFPC").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 17(f) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit PFPC, a subsidiary of PNC, to act as custodian for certain investment companies' foreign assets in Ireland. The order further would permit PFPC to act as primary custodian for all assets of such investment companies and to delegate to PNC all duties and obligations relating to the custody of the investment companies' U.S. assets.

FILING DATE: The application was filed on July 7, 1995 and amended on November 29, 1995. Applicants have agreed to file an amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 20, 1996 by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, PNC Bank, N.A., Land Title Building, Broad & Chestnut Streets, Philadelphia, Pennsylvania 19110, Attn: Gary M. Gardner, Esq.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. PNC is a national banking association organized and existing under the laws of the United States, and is regulated by the Comptroller of the Currency under the National Bank Act. As of December 31, 1994, PNC had aggregate capital, surplus and undivided profits exceeding $3.2 billion. PNC is a wholly-owned indirect subsidiary of PNC Bank Corp., a bank holding company organized under the laws of Pennsylvania and regulated under the Bank Holding Company Act of 1956. PNC provides custodial and other services to registered investment companies, offshore funds, investment advisers, pension funds, other financial institutions, and individuals.

2. PFPC is a wholly-owned indirect subsidiary of PNC. PFPC is a limited purpose corporation supervised by the Central Bank of Ireland under several Irish laws, including the Companies Act 1990, the Unit Trust Act 1990, and the Investment Limited Partnership Act. PFPC was organized in Ireland to provide custody services for PNC's U.S. investment company customers.

3. Applicants request an order exempting PNC, PFPC, any management investment company registered under the Act other than an investment company registered under section 7(d) of the Act (a "U.S. Investment Company"), and any custodian for a U.S. Investment Company, from the provisions of section 17(f) of the Act to the extent necessary to permit: (a) PNC (as custodian or subcustodian for U.S. Investment Companies) or a U.S. Investment Company to deposit, or cause or permit the U.S. Investment Company to deposit, its Foreign Securities, cash, and cash equivalents ("Foreign Assets") with PFPC, as delegate for PNC; (b) PFPC (as custodian or subcustodian) to receive and hold the Foreign Assets of a U.S. Investment Company directly from such U.S. Investment Company, its custodian or subcustodian (other than PNC); or (c) PFPC, upon request by a U.S. Investment Company, to act as primary custodian for all assets of investment companies and to delegate to PNC all duties and obligations relating to the custody of the U.S. Investment Company's U.S. Assets. As used herein, the term "Foreign Securities" includes (i) securities issued and sold primarily outside the U.S. by a foreign government, a national or any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country; and (ii) securities issued or guaranteed by the U.S. Government or by any state or any political subdivision or any agency thereof or by any entity organized under the law of the U.S. or any state thereof which have been issued and sold primarily outside the U.S. The term "U.S. Assets" includes securities, cash and cash equivalents other than Foreign Assets.

4. PFPC would provide custody services required in Ireland as delegate for PNC, when PNC acts as custodian or subcustodian for a U.S. Investment Company, or directly, as custodian or subcustodian for a U.S. Investment Company for the investment company's Foreign Assets. In addition, if requested by a U.S. Investment Company, PFPC would act as primary custodian for that company's assets and delegate to PNC all custody services to be provided to the company with respect to the U.S. Assets. In each case, PNC will assume liability for any loss caused by PFPC. Thus, there will be no difference in the nature or extent of PNC's liability based on whether such services are provided by PFPC directly or as PNC's delegate.

5. PFPC proposes to act as primary custodian for assets of a U.S. Investment Company to accommodate certain

master/feeder arrangements. Applicants state that, under the master/feeder investment structure, investment management and custodial activities are performed at the master portfolio level, and marketing, distribution, and shareholder servicing functions are performed at the feeder fund level. Under these master/feeder arrangements, the master portfolio is a registered investment company, and feeder funds may consist of registered and unregistered foreign and domestic entities.

6. Applicants represent that the Central Bank of Ireland has stated that it may be more willing to grant regulatory approval of Irish feeder fund investments in U.S. master funds if primary custody of the master fund's assets is maintained in Ireland so that the Central Bank can monitor the safekeeping of the master fund's assets. Applicants contend that, by utilizing PFPC to maintain primary custody of a master fund's assets, the fund's sponsor can provide Irish regulators with the ability to monitor custodial procedures affecting the interest of Irish feeder funds. Applicants assert that, because PNC will (a) supervise all aspects of PFPC's custody arrangements with U.S. Investment Companies; (b) assume direct responsibility for maintaining custody of U.S. Assets in the U.S.; and (c) be liable for any loss arising out of or in connection with PFPC's performance or custodial responsibilities, there is greater assurance that custodial services will be provided in accordance with U.S. standards, and U.S. regulators will have jurisdiction over the custodial arrangements.

Applicants' Legal Conclusions

1. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain entities, including "banks" having aggregate capital, surplus and undivided profits of at least $500,000. A "bank," as defined in section 2(a)(5) of the Act includes (a) a banking institution organized under the laws of the U.S.; (b) a member of the Federal Reserve System; and (c) any other banking institution or trust company doing business under the laws of any state or of the U.S., and meeting certain requirements. Therefore, the only entities located outside the U.S. which section 17(f) authorizes to serve as custodians for registered management investment companies are the overseas branches of U.S. banks.

2. Rule 17f–5 under the Act expands the group of entities that are permitted to serve as foreign custodians. Rule 17f–5(c)(2)(ii) defines the term " Eligible Foreign Custodian" to include a majority-owned direct or indirect subsidiary of a qualified U.S. bank or bank-holding company that is incorporated or organized under the laws of a country other than the U.S. and that has shareholders' equity in excess of $100 million. Rule 17f–5(c)(3) defines the term "Qualified U.S. Bank" to include a banking institution organized under the laws of the U.S. that has an aggregate capital, surplus and undivided profit of not less than $500,000. PNC meets the definition of a Qualified U.S. Bank.

3. While PFPC satisfies the requirements of rule 17f–5 insofar as it is a wholly-owned indirect subsidiary of PNC Bank Corp. and is incorporated under the laws of Ireland, it does not meet the rule's $100 million minimum shareholders' equity requirement. Accordingly, PFPC does not qualify as an Eligible Foreign Custodian under rule 17f–5 and, absent exemptive relief, could not serve as custodian for the Foreign Assets of U.S. Investment Companies.

4. Applicants assert that PNC's U.S. Investment Company customers currently must incur the inconvenience of using the services of a custodian other than PNC to maintain custody of their Foreign Assets in Ireland. Applicants contend that those customers who keep a single custody account with PNC suffer the inconvenience and expense associated with moving Foreign Securities away from their primary market or foregoing effecting transactions in the particular securities market. However, PNC's U.S. Investment Company customers would not be forced to choose between such inconveniences if they and PNC were permitted access to PFPC's custody services.

5. Applicants also assert that the requested order would facilitate Irish feeder fund investments in U.S. master funds. Applicants believe that certain U.S. Investment Companies that invest in Irish Foreign Securities may wish to obtain the benefit of PNC's consolidated custody services while using PFPC's services as primary custodian. Such an arrangement would allow customers whose holdings are principally Foreign Securities the advantage of having one custodian handle all custody issues and of having a single custody account and account statement. Under a custody arrangement in which PFPC is primary custodian for a U.S. Investment Company's Assets and PNC acts as subcustodian for the U.S. Assets, the U.S. Assets would have the same protection as if held directly by PNC, and PNC would remain fully liable to the U.S. Investment Companies to the same extent as if it provided custody services to such companies directly.

6. Applicants represent that the protection afforded the assets of U.S. Investment Companies held by PFPC would not be diminished from the protection afforded by rule 17f–5. PNC will maintain records reflecting the ownership of the assets held by PFPC as primary or subcustodian for U.S. Investment Companies, and these records will identify each security held by each U.S. Investment Company. PFPC will also maintain its own records. All movements of money effected through PFPC and all assets held by PFPC will be monitored, recorded, and tested by PNC. Accordingly, when PFPC, in its capacity as primary custodian, receives instructions relating to the disposition of the assets of a U.S. Investment Company, PNC will be provided the same information contemporaneously. Moreover, all transactions effected through PFPC as primary or sub-custodian will be done on a payment versus delivery basis.

7. Internal compliance personnel presently employed by PNC or its affiliates will advise PFPC on establishing procedures and controls. Thus, applicants represent that safeguards substantially equal to those provided by PNC's U.S. operations will be in place and that PFPC will provide uniform procedures for custody administration.

8. Applicants assert that PNC's role as supervisor addresses the custodian specific risks to U.S. Investment Company Assets identified by rule 17f–5. PNC will assure that safeguards consistent with U.S. standards will be employed to maintain the safety of U.S. Investment Company Assets held by PFPC. Moreover, because a U.S. Investment Company may pursue a claim for recovery against PNC in the event of a loss caused by PFPC, regardless of whether PFPC acts as PNC's delegate or as direct custodian or primary custodian, U.S. jurisdiction over claims of U.S. Investment Companies is assured.

9. Applicants believe that permitting U.S. Investment Companies access to PFPC's custody services as subcustodian, direct custodian, or primary custodian will allow those companies to obtain the same quality of services for both their Foreign Securities and their U.S. securities, and at the same time will give PFPC's U.S. Investment Company customers the greatest flexibility and convenience in custody arrangements.

10. Section 6(c) of the Act provides, in relevant part, that the SEC may exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicants believe the requested order satisfies this standard.

Conditions

Applicants agree that any order of the SEC granting the requested relief may be conditioned upon the following:

1. The foreign custody arrangement proposed regarding PFPC will satisfy the requirements of rule 17f–5 in all respects other than PFPC's level of shareholders' equity, except to the extent that relief may be needed for PFPC to act as primary custodian for U.S. Investment Companies under the specific terms provided in the application.

2. PNC, any U.S. Investment Company, and any custodian for a U.S. Investment Company, will deposit Foreign Assets with PFPC only in accordance with an agreement (the "Agreement") required to remain in effect at all times during which PFPC fails to satisfy the requirements of rule 17f–5 (and during which such Foreign Assets remain deposited with PFPC). Each Agreement will be a three-party agreement among PNC, PFPC and the U.S. Investment Company or the custodian for a U.S. Investment Company pursuant to which PNC or PFPC, as the case may be, will undertake to provide specified custody services. If PNC is acting as a custodian for the U.S. Investment Company, the Agreement will authorize PNC to delegate to PFPC such of the duties and obligations of PNC as will be necessary to permit PFPC to hold in custody the U.S. Investment Company's Foreign Assets. If PNC is not acting as a custodian for the U.S. Investment Company, the Agreement will authorize PFPC to provide custody services directly, and no delegation from PNC to PFPC will be necessary. In each case, the Agreement will provide that PNC will be liable fore any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by PFPC of its responsibilities under the Agreement to the same extent as if PNC had itself been required to provide custody services under the Agreement. Further, the Agreement will specifically provide that, in the event of loss, a U.S. Investment Company may pursue a claim for recovery against PNC, regardless of whether PFPC acted as PNC's delegate or as direct custodian or subcustodian.

3. PFPC will act as primary custodian for a U.S. Investment Company's Assets only in accordance with a supplement or addendum to the Agreement (the "Supplemental Agreement"), which would be required to remain in effect at all times, regardless of whether PFPC satisfies the requirements of rule 17f–5. PFPC will act as primary custodian for a U.S. Investment Company's Assets only if PFPC is also custodian for the Company's Foreign Assets. The Supplemental Agreement will provide that PFPC will delegate to PNC all of the duties and obligations of PFPC necessary to permit PNC to provide full and complete custody services with respect to the U.S. Investment Company's U.S. Assets. PNC will remain directly liable to the U.S. Investment Company under the Agreement, for any loss, damage, cost, expense, liability or claim arising out of or in connection with the performance of PFPC of its responsibilities under the Agreement, including the Supplemental Agreement.

4. PNC currently satisfies and will continue to satisfy the Qualified U.S. Bank requirement set forth in rule 17f–5(c)(3).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2061 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26464]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

January 26, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 20, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Power System, Inc., et al. (70–7888)

Allegheny Power System, Inc. ("Allegheny"), Tower Forty Nine, 12 East 49th Street, New York, New York 10017, a registered holding company, Allegheny Power Service Corporation ("APSC"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, Allegheny's service company subsidiary, three electric utility subsidiary companies of Allegheny—(i) Monongahela Power Company ("Monongahela"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, (ii) The Potomac Edison Company ("Potomac Edison"), 10435 Downsville Pike, Hagerstown, Maryland 21740, and (iii) West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, and Allegheny Generating Company ("AGC"), Tower Forty Nine, 12 East 49th Street, New York, New York 10017, an electric public utility subsidiary of Monongahela, Potomac Edison and West Penn (collectively, "Applicants") have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(b) and rules 45, 53 and 54 thereunder.

By order dated November 28, 1995 (HCAR No. 26418) ("November 1995 Order"), Applicants were authorized to engage in the following transactions from December 31, 1995 to December 31, 1997: (i) Issuance of promissory notes for short-term bank borrowing by Allegheny, Potomac Edison, Monongahela, West Penn and AGC; (ii) issuance and sale of commercial paper by Allegheny, Monongahela, Potomac Edison, West Penn and AGC; (iii) entry into a revolving credit facility by AGC and the issuance of notes to evidence borrowing thereunder; (iv) guarantees

by Monongahela, Potomac Edison and West Penn of the amounts that AGC borrows under a revolving credit agreement; and (v) operation of a system money pool by Allegheny, APSC, Monongahela, Potomac Edison, West Penn and AGC. In addition, the November 1995 Order provided that the issuance of short-term debt would not exceed the following aggregate amounts outstanding at any one time for each of the following Applicants: Allegheny—$165 million; Monongahela—$100 million; Potomac Edison—$115 million; West Penn—$170 million; AGC—$75 million.

Allegheny now proposes that the aggregate limit on its short-term debt financing be increased from $165 million to $400 million, subject to the same terms and conditions outlined in the November 1995 Order.

Eastern Utilities Associates (70–8769)

Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed an application-declaration under sections 6, 7, 9(a), 10, 12(b), 12(f) and 13(b) of the Act and rules 45, 52, 54, 90 and 91 thereunder.

EUA proposes to acquire an interest in a new subsidiary, EUA Energy Services, Inc. ("Energy Services"), which has a 30% ownership interest in Duke/Louis Dreyfus (New England) LLC ("LLC"), a limited liability company formed to provide energy services to customers in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. The remaining interest in LLC is owned by Duke/Louis Dreyfus LLC, a Nevada limited liability company.

LLC's business includes buying, selling and brokering electric power and fuel, and providing engineering, consulting, financing, leasing, operations and maintenance services with respect to equipment for the production of electricity and steam, efficiency services and processes and equipment retrofit. LLC will initially conduct its power marketing activities in wholesale energy markets in its territory, and will sell energy to wholesale and retail customers to the extent permitted without becoming an "electric utility company" or "gas utility company" under the Act.

EUA states that LLC will use options, puts, futures and other similar transactions to offset the price risk of a purchase or sale of energy or energy products. LLC may also acquire or lease generating facilities in the future, if such acquisition would not subject it to regulation as an electric utility subsidiary of EUA under the Act.

EUA seeks authorization (1) for LLC and the companies in the EUA system, other than the utility subsidiaries and EUA Service Corporation, to provide goods or services to each other at market prices or on terms no less favorable than those that would result from armslength bargaining, and (2) for LLC on the one hand and EUA Service Corporation and the utility subsidiaries on the other to provide goods or services to each other, in each case pursuant to an exception from the requirements of section 13(b) and rules 90 and 91 thereunder.

To effect the acquisition of an interest in LLC's business and related transactions, authorization is sought, through the period ending December 31, 2000: (1) For EUA to acquire 100 shares of common stock, $.01 par value, of Energy Services, for a purchase price of $1000; (2) to the extent not exempt from the requirement of prior Commission approval, for EUA to make capital contributions, open account advances and/or short term loans bearing interest at EUA's effective cost of borrowing to, and purchase additional shares of capital stock from, Energy Services, from time to time, in an aggregate amount not to exceed $3 million ("Investments"); (3) for EUA to provide credit support for Energy Services and/or LLC, from time to time, in an aggregate amount that, together with the Investments, will not exceed $15 million; (4) to the extent not exempt from the requirement of prior Commission approval, for Energy Services to issue securities to EUA in connection with the Investments; (5) to the extent not exempt from the requirement of prior Commission approval, for Energy Services to make investments in and provide credit support to LLC, from time to time, without limitation as to amount, on such terms as are appropriate on the basis of market conditions; (6) to the extent not exempt from the requirement of prior Commission approval, for LLC to issue securities to Energy Services to evidence its investments in LLC; and (7) for EUA to issue and sell short-term notes to banks from time to time in aggregate amounts at any one time outstanding not to exceed $15 million.

EUA's short-term borrowings from banks will be made pursuant to informal credit line arrangements; will be evidenced by notes that will mature no more than one year from the date of issuance and, in any event, no later than September 30, 2001; will bear interest at a floating prime rate or at fixed money market rates; will be prepayable without premium only if they bear a floating interest rate; and will be subject in some cases to commitment fees.

Louisiana Power & Light Company (70–8771)

Louisiana Power & Light Company ("LP&L"), 639 Loyola Avenue, New Orleans, Louisiana 70113, an electric utility subsidiary company of Entergy Corporation ("Entergy"), a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act.

LP&L proposes to cause the issuance and sale of up to $326 million in secured lease obligation bonds ("Refunding Bonds"), in one or more series through December 31, 1997, in order to redeem approximately $310 million in previously issued and sold secured lease obligation bonds ("Original Bonds").

By orders dated September 26, 1989 (HCAR No. 24956) and September 27, 1989 (HCAR No. 24958) ("Original Orders"), LP&L sold to and leased back from three separate trusts ("Lessors"), for the benefit of an owner participant ("Owner Participant"), on a long-term net lease basis pursuant to three separate facility leases ("Leases"), an approximately 9.3% aggregate ownership interest ("Undivided Interests") in Unit No. 3 of the Waterford nuclear power plant ("Waterford 3") in three almost identical but separate transactions. The First National Bank of Commerce ("Owner Trustee") is the trustee for these trusts. LP&L now has an approximately 90.7% undivided ownership interest and an approximately 9.3% leasehold interest in Waterford 3.

The purchase price of the Undivided Interests was $353.6 million. About $43,603,000 was provided through equity contributions of the Owner Participant in each of the three Lessor trusts. About $309,997,000 was provided through issuance of the Original Bonds by the Owner Trustee in an underwritten public offering. The Original Bonds consist of three separate series of secured lease obligation bonds, with an annual interest rate of 10.30%, to mature on January 2, 2005, issued in an aggregate principal amount of $140,452,000 ("2005 Bonds"), and three separate series of secured lease obligation bonds, with an annual interest rate of 10.67%, to mature to January 2,1 2017, issued in an aggregate principal amount of $169,545,000 ("2017 Bonds").

LP&L now proposes to have the Owner Trustee issue the Refunding Bonds either under three amended and supplemented Indentures of Mortgage and Deeds of Trust dated September 1, 1989 or under comparable instruments ("Indentures"). The proceeds from the sale of the Refunding Bonds, together with any funds provided by LP&L and/or the Owner Participant, will be applied to the cost of redeeming the Original Bonds. Additionally, these funds may be applied to pay a portion of the transaction expenses incurred in issuing the Refunding Bonds and a portion of the premium on the Original Bonds. The 2005 Bonds were first optionally redeemable on July 2, 1994 and are currently redeemable at 104.120% of their principal amount. The 2017 Bonds were first optionally redeemable on July 2, 1994 and are currently redeemable at 107.469% of their principal amount.

Each series of Refunding Bonds will have such interest rate, maturity date, redemption and sinking fund provisions, be secured by such means, be sold in such manner and at such price and have such other terms and conditions as shall be determined through negotiation at the time of sale or when the agreement to sell is entered into, as the case may be. No series of Refunding Bonds will be issued at rates in excess of those rates generally obtainable at the time of pricing for sales of bonds having the same or reasonably similar maturities, issued by companies of the same or reasonably comparable credit quality and having reasonably similar terms, conditions and features. Each series of Refunding Bonds will mature not later July 2, 2017. The Refunding Bonds will be structured and issued under the documents and pursuant to the procedures applicable to the issuance of the Original Bonds, or comparable documents having similar terms and provisions.

LP&L is obligated to make payments under the Leases in amounts that will be at least sufficient to provide for scheduled payments, when due, of the principal of and interest on the Refunding Bonds. Upon refunding of the Original Bonds, amounts payable by LP&L under the Leases will be adjusted pursuant to the terms of supplements to the Leases which supplements will be entered into at that time. In the event that the Owner Participants elects to provide an additional equity investment to pay a portion of the transaction costs incurred in issuing the Refunding Bonds or a portion of the premium on the Original Bonds, the adjustment of the amounts payable by LP&L under the Leases will reflect such additional equity investment.

The Refunding Bonds will not be direct obligations of or guaranteed by LP&L. However, under certain circumstances, LP&L might assume all or a portion of the Refunding Bonds. Each Refunding Bond will be secured by, among other things, (i) a lien on and security interest in the Undivided Interest of the Lessor that issues the Refunding Bond and (ii) certain other amounts payable by LP&L thereunder.

Instead of Refunding Bonds issued through the Owner Trustee, LP&L might arrange for a funding corporation to issue the Refunding Bonds, in which case the proceeds from the Refunding Bonds would be loaned by the funding corporation to the Lessors, which would issue notes ("Lessor Notes") to the funding corporation to evidence the loans and secure the Refunding Bonds, and the Lessors would use the loans to redeem the Original Bonds.

The terms of the Lessor Notes and the indentures for their issuance would reflect the redemption and other terms of the Refunding Bonds. The rental payments of LP&L would be used for payments on principal and interest on the Lessor Notes, which payments would be used for payments of Refunding Bonds when due. The Refunding Bonds would be secured by the Lessor Notes, which would be secured by a lien on and security interest in the Undivided Interests and by certain rights under the Leases.

Another alternative to Refunding Bonds issued by the Owner Trustee or a funding corporation would be for LP&L to use a trust structure in which the Lessors would issue Lessor Notes to one or more passthrough trusts and the trusts would issue certificates in evidence of ownership interests in the trusts. The debt terms of the Refunding Bonds would be comparable to the terms of the Lessor Notes and the indentures for their issuance.

American Electric Power Service Corporation (70-8777)

American Electric Power Service Corporation ("AEPSC"), 1 Riverside Plaza, Columbus, Ohio 43215, a subsidiary service corporation of American Electric Power Company, Inc., a registered holding company, has filed a declaration under section 13(b) of the Act and rules 80 through 94 thereunder.

AEPSC proposes to amend ("Proposed Amendment") Schedule A to its service agreements ("Service Agreements") with AEP and the direct and indirect subsidiaries of AEP. The Proposed Amendment will reflect changes in the services provided by AEPSC and the related cost allocations that began on January 1, 1996 pursuant to reorganization of AEPSC and AEP's eight subsidiary electric utility companies currently served by AEPSC (AEP Generating Company, Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company ad Wheeling Power Company (collectively, "Electric Utility Companies")).

AEPSC and the Electric Utility Companies began to realign their organizations of January 1, 1996 to create four functional business units: (1) Power Generation; (2) Energy Transmission and Distribution; (3) Nuclear Generation; and (4) Corporate Development. No new entities will be formed and no utility assets will be transferred. Some management, engineering, maintenance and a variety of administrative and support services previously performed by the Electric Utility Companies are being rendered by AEPSC after the realignment.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2055 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Prehearings Conducted by Adjudication Officers; Testing of New Procedures

AGENCY: Social Security Administration.

ACTION: Notice of the test sites and the duration of tests involving prehearing procedures and decisions by Adjudication Officers.

SUMMARY: The Social Security Administration (SSA) is announcing the locations and the duration of additional tests it will conduct under the final rules published in the **Federal Register** on September 13, 1995 (60 FR 47469). These final rules authorize the testing of procedures to be conducted by an adjudication officer, who, under the *Plan for a New Disability Claim Process* published in the **Federal Register** on September 19, 1994 (59 FR 47887), would be the focal point for all prehearing activities. Under the final rules, when a request for a hearing before an administrative law judge is requested, the adjudication officer will conduct prehearing procedures and, if appropriate, issue a decision wholly favorable to the claimant.

FOR FURTHER INFORMATION CONTACT: Mary Glenn-Croft, Appeals Team Leader, Disability Process Redesign Team, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, 410–966–8331.

SUPPLEMENTARY INFORMATION: On November 1, 1995, we announced in the **Federal Register** our intent to begin tests on or about November 1, 1995 of the procedures to be conducted by an adjudication officer (60 FR 55642). At that time we identified nine test sites; all of the test sites listed in that notice were in State Agencies which make disability determinations for us. We are now planning additional tests of the adjudication officer procedures and at this time we are announcing an additional 17 test sites. All of these additional test sites are offices of the Social Security Administration. We plan to begin these tests on or about February 1, 1996. We will continue these tests for approximately 12 months. The sites selected present a mix of geographic areas and case loads. We expect that these tests, together with the tests already being conducted in State Agencies, will provide us with sufficient information to determine the effect of the adjudication officer position on the administrative review process. We will publish another notice in the **Federal Register** if we extend the duration of any of the tests or expand further the number of test sites. The tests discussed in this notice will be conducted at the following seventeen Social Security Administration locations:

- SSA, Office of Hearings and Appeals, 555 Main Street, Suite 900, Norfolk, VA 23510
- SSA, District Office, 2600 Wilshire Blvd, Los Angeles, CA 90057
- SSA, District Office, 500 Gene Reed Road, Suite 218, Birmingham, AL 35215
- SSA, District Office, 8585 W 14th Ave, Lakewood, CO 80215
- SSA, Office of Hearings and Appeals, American Financial Center, Building #1 Suite 300, 2400 Louisiana NE, Albuquerque, NM 87110
- SSA, Office of Hearings and Appeals, 1642 Kentucky Ave, Paducah, KY 42001
- SSA, District Office, 401 South State Street, Suite 800, Chicago, IL 60605
- SSA, District Office, 200 North High Street, Rm 225, Columbus, OH 43215
- SSA, Office of Hearings and Appeals, 1001 Office Park Rd, Suite 305, West Des Moines, IA 50265
- SSA, District Office, 380 Westminster Mall, Room 318, Providence, RI 02903
- SSA, District Office, 30 Quaker Lane, 1st floor, Warwick, RI 02886
- SSA, Western Payment Service Center, 1221 Nevin Ave, Richmond, CA 94801
- SSA, Office of Hearings and Appeals, 26 Federal Plaza Room 3954, New York, NY 10278
- SSA, Office of Hearings and Appeals, Federal Building Room 3–B, 300 West Congress St, Tucson, AZ 85701
- SSA, San Patricio Branch Office, Rexam BLDG 7th floor, 1510 Roosevelt Avenue, Guaynabo, PR 00968
- SSA, Office of Hearings and Appeals, Suite 300, 1500 Valley River Drive, Eugene, OR 97401
- SSA, Office of Disability and International Operations (ODIO), 3–B–21 Tower, 1500 Security Drive, Baltimore, MD 21241

Not all hearing requests received in the test sites listed above will be handled under the test procedures. However, if a request for a hearing is selected to be handled by an adjudication officer as part of the test, the claim will be processed under the procedures established under the final regulations cited above. We currently plan to conduct these alone; they will not be conducted in combination with one or more of the tests we plan to conduct pursuant to the final rules "Testing Modifications to the Disability Determination Procedures" published in the **Federal Register** on April 24, 1995 (60 FR 20023). However, if we test the use of the adjudication officer in combination with the provisions of the final rules on "Testing Modifications to the Disability Determination Procedures," we will publish the locations and dates of the tests in the **Federal Register.**

Dated: January 26, 1996.

Charles A. Jones,

Director, Disability Process Redesign Team.

[FR Doc. 96–2157 Filed 1–31–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–083]

Chemical Transportation Advisory Committee (CTAC); Extension of deadline regarding applications for membership on CTAC

AGENCY: Coast Guard, DOT.

ACTION: Extension of deadline for applications.

SUMMARY: In order to increase the pool of applicants, the Coast Guard is extending the deadline for applications for appointment to membership on CTAC as was initially published in [CGD 95–083] on November 15, 1995 [60 FR 57475].

DATES: Completed applications and résumés should be submitted to the Coast Guard before March 18, 1996.

ADDRESSES: Persons interested in applying for membership on CTAC may obtain an application form by writing to Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or by calling the points of contact listed in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Commander Kevin S. Cook, Executive Director, or Lieutenant Rick J. Raksnis, Assistant to the Executive Director, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; telephone (202) 267–1217, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: CTAC provides advice and makes recommendations to the Chief, Office of Marine Safety, Security and Environmental Protection on matters relating to the safe transportation and handling of hazardous materials in bulk on U.S. flag vessels and barges in U.S. ports and waterways. The advice and recommendations of CTAC also assist the U.S. Coast Guard in formulating U.S. positions prior to meetings of the International Maritime Organization.

The Committee meets at last once a year at U.S. Coast Guard Headquarters, Washington, DC. Special meetings may also be called. Subcommittee meetings are held to consider specific problems as required.

Applications will be considered for seven positions that expire or become vacant in June 1996. To be eligible, applicants should have experience in chemical manufacturing, marine transportation of chemicals, occupational safety and health, or environmental protection issues associated with chemical transportation. Each member serves for a term of 3 years. Members of the Committee serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the U.S. Department of Transportation's policy on ethnic and gender diversity, the Coast Guard is especially seeking applications from qualified women and minority group members.

Dated: January 25, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–2150 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 95–085]

Chemical Transportation Advisory Committee (CTAC) Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of rescheduled meeting.

SUMMARY: Due to the severe winter weather in Washington, DC, the Hazardous Substances Response Plan (HSRP) Subcommittee meeting and CTAC meeting originally scheduled for Wednesday, January 10, 1996 and Thursday, January 11, 1996, respectively, as published in [CGD 95–085] on Tuesday, November 28, 1995 [60 FR 58720] were postponed. CTAC has rescheduled its meeting to discuss various issues relating to the marine transportation of hazardous materials in bulk. The meeting is open to the public. The meeting of the HSRP Subcommittee has not been researched as of this date.

DATES: The rescheduled CTAC meeting will be held on Monday, February 26, 1996 from 10 a.m. to 3 p.m. Persons wishing to make oral presentations or provide written material during the meeting should notify the Executive Director, listed below under **ADDRESSES**, on or before February 19, 1996.

ADDRESSES: The CTAC meeting will be held in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. Written material should be sent to Commander Kevin S. Cook, Executive Director, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Commander Kevin S. Cook, Executive Director, or Lieutenant Rick J. Raksnis, Assistant to the Executive Director, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–1217, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2, 1 *et seq.* The agenda for the CTAC meeting will comprise the following topics:

(1) Introduction and swearing-in of new Executive Director and new members;

(2) Progress report from the *ad hoc* 46 CFR Part 152 Subcommittee;

(3) Progress report from the HSRP Subcommittee;

(4) Presentation of task statement, and formation of the Prevention through People Subcommittee;

(5) Status Report on the Navigation and Vessel Inspection Circular (NVIC) on tank barge cleaning;

(6) Status Report on policy guidance for Marine Vapor Control Systems; and

(7) Status Report on the implementation of the International Safety Management Code, Safety of Life at Sea, Chapter IX, as amended.

Dated: January 25, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–2151 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 96–003]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Towing Safety Advisory Committee (TSAC) and its working groups will meet to discuss various issues relating to shallow-draft inland and coastal waterway navigation and towing safety. The agenda will include working group reports and discussion of various Coast guard programs such as Prevention Through People and Casualty Investigation. The meetings will be open to the public.

DATES: The working group meetings will be held on Wednesday, February 28, 1996, from 9 a.m., to 4:30 p.m. the committee meeting will be held on Thursday, February 29, 1996, from 9 a.m. to 1 p.m. Written material must be received not later than February 15, 1996.

ADDRESSES: The meetings will be held in the offices of Texaco, in the Ffrechief Room, at Texaco Center, 400 Poydras Street, New Orleans, LA 70130. Written material should be submitted to LTJG Patrick J. DeShon, the Assistant Executive Director, U.S. Coast Guard (G–MMS–1), 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Assistant Executive Director, LTJG Patrick J. DeShon, U.S. Coast Guard (G–MMS–1), 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–2997.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 1 *et seq.* The agenda for the Committee meeting includes the following:

Follow-up to Past Recommendations

(1) Radar training for towing vessel operators.

Work Group Reports

(1) Licensing of towing vessel operators;

(2) Prevention Through People;

(3) Distinguishing marine assistance towing;

(4) Casualty investigation;

(5) Adequacy of tug/barge navigation lights; and

(6) Revision of 46 CFR marine investigation regulations.

New Issues

(1) Offshore supply towing industry; and

(2) Adequacy of tug/barge navigation lights.

With advance notice, and at the discretion of the Chair, members of the public may present oral statements during the meeting. Persons wishing to make oral presentations should notify the person listed under **FOR FURTHER INFORMATION CONTACT** not later than February 20, 1996. Written materials may be submitted for presentation to the Committee any time; however, to ensure distribution to each Committee member, 45 copies of the written material should be submitted by February 15, 1996.

Dated: January 26, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard.

[FR Doc. 96–2152 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Summary Notice No. PE–96–3]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary

is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 21, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmtsmail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 26, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28411.
Petitioner: United Parcel Service.
Sections of the FAR Affected: 14 CFR 121.695 and 121.697.
Description of Relief Sought: To allow the pilots in command of UPS airplanes to carry, in the airplane, to its destination, a copy of the load manifest in an electronic for in lieu of a paper copy.

Dispositions of Petitions

Docket No.: 28324.
Petitioner: Cessna Aircraft Company.
Sections of the FAR Affected: 14 CFR 25.811(d)(1).
Description of Relief Sought/ Disposition: To permit exemption from the emergency exit locator sign requirements of § 25.811(d)(1) for the Cessna Model 750 airplane.
DENIAL, December 18, 1995, Exemption No. 6251.

[FR Doc. 96–2113 Filed 1–31–96; 8:45 am]
BILLING CODE 4910–13–M

Research, Engineering and Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development Advisory Committee. The meeting will be held on February 14 and 15, 1996, in Rooms 9ABC at the Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC 20591.

On Wednesday, February 14 the meeting will begin at 9 a.m. and end at 5 p.m. On Thursday, February 15 the meeting will begin at 8 a.m. and end at 12 noon. The meeting agenda includes several subcommittee report outs, a report of the Challenge 2000 Subcommittee, a System Architecture Briefing and a Free Flight Briefing.

Attendance is open to the interested public but limited to space available. With the approval of the committee chair, members of the public may present oral statements at the meeting. Persons wishing to attend the meeting, obtain information or present oral statements, should contact Lee Olson at the Federal Aviation Administration, AAR–200, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267–7358.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 25, 1996.

Andres G. Zellweger,

Director, Aviation Research.

[FR Doc. 96–2112 Filed 1–31–96; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement/ Section 4(f) Evaluation: Ontonagon, Ontonagon County, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement/ Section 4(f) Evaluation will be prepared for the proposed M–64 structure replacement over the Ontonagon River in Ontonagon, Ontonagon County, Michigan. Also being studied is the relocation of the M–64 alignment with up to 2.0 kilometers (1.3 miles) of new approach roadway.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Kirschensteiner, Program Operations Engineer, FHWA, 315 W. Allegan Street, Room 207, Lansing, Michigan, 48933, Telephone: (517) 377–1880; or Mr. Ronald S. Kinney, Manager, Environmental Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan, 48909, Telephone: (517) 335–2621.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation (MDOT), is preparing an Environmental Impact Statement (EIS) Section 4(f) Evaluation for the proposed replacement of the M–64 swing bridge over the Ontonagon River in Ontonagon, Ontonagon County, Michigan. The existing swing bridge built in 1939 is in need of major maintenance to the deck and piers. This structure has been determined to be of historical importance since it is the last swing bridge on the Michigan trunkline system. The swing bridge expands when open in hot weather and needs to be cooled down to close, thus creating motorist delays. The bridge provides a substandard opening for both navigation and water flow in the Ontonagon River. Low underclearance in combination with relatively close pier spacing and windrowed ice at the mouth of the river has also created ice jams on the upstream side of the bridge during the spring breakup. At various times this situation has caused flooding in downtown Ontonagon. There is also concern of a major ice blockage causing damage to the bridge resulting in a 130 kilometer (81 mile) detour over state highways.

Alternatives include: (1) no action, (2) rehabilitate the existing swing structure, (3) construct new moveable bridge adjacent to existing structure (Alternative A), (4) Alternatives B, B–2, C, D, and E involve constructing a fixed structure on new alignment upstream of the marina. Traffic will be maintained on the existing structure while Alternatives A, B, C, D, or E structures are being built.

Alternative A would involve constructing a bascule type lift bridge approximately 35 meters (115 feet) upstream of the existing structure. This alternative starts approximately 140 meters (460 feet) northeast of the railroad crossing on M–64, parallels the existing alignment for 0.8 kilometer (0.5 mile), and ties into River Street 35 meters (115 feet) southeast of the existing M–64/River Street intersection. Two commercial displacements may occur with Alternative A.

Alternative B starts approximately 250 meters (820 feet) southwest of the M–64/Superior Way intersection. The alignment then travels northeasterly to cross the Ontonagon River with a 220 meter (720 foot) fixed structure upstream of the marina and ties into River Street along Copper Street. The total length of this alternative is approximately 1.6 kilometer (one mile) and may involve up to three commercial, two public, and three residential displacements.

Alternative B–2 follows a similar alignment to Alternative B with the same starting point southwest of the M–64/Superior Way intersection. The alignment then shifts to the northeast crossing the river with a 193 meter (635 foot) fixed structure upstream of Alternative B and ties into River Street along Tin Street. Alternative B–2 is approximately 1.6 kilometer (one mile) long and may involve up to one commercial and five residential displacements. The alternative will require modifications to the M–38/US–45/River Street intersection, with US–45 being relocated 84 meters (275 feet) southeast of its current location to intersect M–38 at a right angle. Alternative B–2 may displace five residential and one commercial units.

Alternative C involves combining a new M–64 structure with a new railroad bridge using the same location for the piers and abutments for both the railroad and highway bridges. Alternative C starts southwest of the M–64/Superior Way intersection and crosses the river immediately upstream of the existing railroad structure. The combination fixed bridge would be approximately 430 meters (1410 feet) long. This alignment would intersect US–45 between Lead and Gold Streets and then intersect M–38 approximately 82 meters (270) southeast of Parker Avenue. This alternative may involve up two commercial and ten residential displacements.

Alternative D starts southwest of the M–64/Superior Way intersection and crosses the river upstream of Alternative C. The fixed structure would be approximately 500 meters (1640 feet) long. Alternative D would be approximately 1.9 kilometers (1.2 miles) long. This alternative would intersect US–45 just south of Silver Street and continue east to tie into M–38 at Alsace Avenue. Alternative D may involve up to one commercial and eight residential displacements.

Alternative E also starts southwest of the M–64/Superior Way intersection and runs easterly to tie into US–45 at Mercury Street and continues easterly along the north side of Mercury Street to intersect M–38. Alternative D is approximately 1.9 kilometers (1.2 miles) long with a 350 meter (1150 foot) long fixed structure that crosses the Ontonagon River upstream of Alternative D. This alternative may involve up to ten residential displacements.

Early coordination with a number of federal, state, and local agencies has identified the more significant issues to be addressed in the EIS. A summary of the scoping process to date, identifying the alternatives being considered and the social, economic, and environmental issues involved, is being prepared. The scoping summary is expected to be available in February 1996 and will be made available to all interested agencies, organizations, and individuals on request.

A public informational meeting was held on October 12, 1995, to provide the public an opportunity to discuss the proposed action. Additional public informational meetings are anticipated. Comments on the scoping summary and the issues identified are invited from all interested parties. Requests for a copy of the scoping summary or any comments submitted should be addressed to the above contact persons. Once comments are received on the scoping summary and all potential impacts and issues are determined, a Draft EIS will be prepared to address all aspects of the different alternatives. The Draft EIS is expected to be available in late 1996 and will be available for public and agency review.

Issued on: January 24, 1996.

Norman Stoner,

Assistant Division Administrator, Lansing, Michigan.

[FR Doc. 96–2138 Filed 1–31–96; 8:45 am]
BILLING CODE 4910–22–M

Research and Special Programs Administration

[Docket PS–146]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Research and Special Programs Administration's (RSPA) intention to request an extension for and revision to a currently approved information collection in support of the Office of Pipeline Safety (OPS) Certification and Agreement forms for the gas and hazardous liquid pipeline safety program based on re-estimates.

DATES: Comments on this notice must be received on or before April 1, 1996, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: G. Tom Fortner, Director, Compliance and State Programs, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, S.W. Washington, D.C. 20950, (202) 366–1640.

SUPPLEMENTARY INFORMATION:

Title: Certification and Agreement forms for the gas and hazardous liquid pipeline safety program.
OMB Number: 2137–0584.
Expiration Date of Approval: March 31, 1999.
Type of Request: Extension and revision of a currently approved information collection.
Abstract: Chapter 601, Title 49, United States Code (49 U.S.C.) authorizes DOT to regulate pipeline transportation. While DOT's Office of Pipeline Safety is primarily responsible for developing, issuing, and enforcing minimum pipeline safety regulations, Chapter 601, 49 U.S.C., provides for state assumption of all or part of the regulatory and enforcement responsibility for intrastate pipelines.

Since the initiation of this Federal/ State partnership, almost every state, including Puerto Rico and the District of Columbia, participates in this program. The State agency is required to submit a certification or an agreement for the gas and/or hazardous liquid program. Under a certification, the state assumes regulatory and enforcement responsibility for intrastate pipelines. Under an agreement, a state must inspect pipeline operators to determine compliance with the minimum federal safety standards and report any probable violations to DOT's Office of Pipeline Safety, which retains responsibility for enforcement action.

This request covers the collection of information under four related instruments:

—Gas Pipeline Safety Program Certification
—Gas Pipeline Safety Program Agreement
—Hazardous Liquid Pipeline Safety Program Certification
—Hazardous Liquid Pipeline Safety Program Agreement

These instruments request information relevant to the State agency's operation of the pipeline safety program which is essential for:

(1) Confirming that the state wishes to continue its participation in the pipeline safety program;

(2) Preparing the Bi-Annual Report on Pipeline Safety due to Congress on odd numbered years as mandated in Section 1121 of Public Law 104–66;

(3) Measuring state program performance that can be used to calculate the state grant allocation; and

(4) demonstrating to Congress the value of this cooperative Federal/State pipeline safety program.

Estimate of Burden: The average burden hours per response is 60.

Respondents: State gas and hazardous liquid pipeline offices.

Estimated Number of Respondents: 61.

Estimated Number of Responses per Respondent: 1.

Copies of this information collection can be reviewed at the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh St., S.W. Washington, D.C.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques. Send comments to G. Tom Fortner, Director, Compliance and State Programs, OPS, RSPA, U.S. Department of Transportation, 400 Seventh St., S.W. Washington, D.C. 20590.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

Issued in Washington, DC on January 29, 1996.

G. Tom Fortner,

Director for Compliance and State Programs, Office of Pipeline Safety.

[FR Doc. 96–2114 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–60–M

Surface Transportation Board

[Finance Docket No. 32852] [1]

Russell A. Peterson; Continuance in Control Exemption; Atlantic Transportation Trust, Inc. d/b/a Jaxport Railway

Russell A. Peterson, a noncarrier, has filed a verified notice under 49 CFR 1180.2(d)(2) to continue in control of Atlantic Transportation Trust, Inc. d/b/a Jaxport Railway (JXRY), upon JXRY's becoming a class III rail carrier. JXRY, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32851, *Atlantic Transportation Trust, Inc., d/b/a Jaxport Railway—Lease and Operation Exemption—Lines of Jacksonville Port Authority,* in which JXRY seeks to acquire by lease and operation approximately 10.33 miles of rail line owned by Jacksonville Port Authority in Duval County, FL. The transaction was to have been consummated on January 12, 1996.

Russell A. Peterson also controls through stock ownership four other nonconnecting class III rail carriers: Allegheny Valley Railroad Company; Gulf Coast Rail Service, Inc. d/b/a Orange Port Terminal Railway; Southwest Pennsylvania Railroad; and the Camp Chase Industrial Railroad Corporation.

The transaction is exempt from the prior approval requirements of 49 U.S.C. 11343 because Russell A. Peterson states that: (1) The railroads will not connect with each other or with any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or with any railroad in their corporate family; and (3) the transaction does not involve a class I carrier.

As a condition to this exemption, any employees adversely affected by the transaction will be protected under *New York Doc Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502 [formerly section 10505(d)] may be filed at any time. The filing of a petition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings, referring to Finance Docket No. 32852, must be filed with the Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Keith G. O'Brien, Rea, Cross & Auchincloss, 1920 N Street, NW, Suite 420, Washington, DC 20026.

Decided: January 26, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2078 Filed 1–31–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

Surface Transportation Board [1]

[Finance Docket No. 32851]

Atlantic Transportation Trust, Inc., d/b/a Jaxport Railway; Lease and Operation Exemption; Lines of Jacksonville Port Authority

Atlantic Transportation Trust, Inc., d/b/a Jaxport Railway (JXRY), a noncarrier, has filed a verified notice under 49 CFR Part 1150, Subpart D—*Exempt Transactions* to acquire by lease and operate approximately 10.33 miles of rail line owned by the Jacksonville Port Authority (JPA), previously known as the "Municipal Docks Terminal Railway" (MDT), which consists of: (a) Lead from MP MDT 0.00 to MP MDT 0.94; and (b) Tallyrand Marine Terminal trackage from MP MDT 0.94 to MP MDT 10.33, in Duval County, FL. The transaction was to have been consummated on January 12, 1996.

This proceeding is related to *Russell A. Peterson—Continuance in Control Exemption—Atlantic Transportation Trust, Inc. d/b/a Jaxport Railway,* Finance Docket No. 32852, wherein Russell A. Peterson has concurrently filed a verified notice to continue to control Atlantic Transportation Trust, Inc., d/b/a Jaxport Railway upon its becoming a rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) [formerly section 10505(d)] may be filed at any time. The filing of a petition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings, referring to Finance Docket No. 32851, must be filed with the Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, NW., Washington, DC 20423. In addition, a copy of each pleading must be served on Keith G. O'Brien, Rea, Cross & Auchincloss, 1920 N Street, NW., Suite 420, Washington, DC 20026.

Decided: January 26, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2079 Filed 1–31–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) end transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former *sections* of the statute, unless otherwise indicated.

DEPARTMENT OF THE TREASURY

Customs Service

Country of Origin Marking Requirements for Wearing Apparel

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed change of practice; extension of comment period.

SUMMARY: On November 16, 1995, Customs published in the **Federal Register** a document proposing to change the practice regarding the country of origin marking of wearing apparel. Comments were to be received on or before January 16, 1996. This document extends for an additional 60 days the period of time within which interested members of the public may submit comments on the proposed change of practice.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, N.W., Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Monika Rice, Special Classification and Marking Branch, Office of Regulations and Rulings, (202) 482–6980.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1995, Customs published a document in the **Federal Register** (60 FR 57621) proposing to change the practice regarding the country of origin marking of wearing apparel. Customs previously has ruled that wearing apparel, such as shirts, blouses, coats, sweaters, etc., must be marked with the name of the country of origin by means of a fabric label or label made from natural or synthetic film sewn or otherwise permanently affixed on the inside center of the neck midway between the shoulder seams or in that immediate area or otherwise permanently marked in that area in some other manner. Buttons tags, string tags and other hand tags, paper labels and other similar methods of marking are not acceptable. In the November 16 **Federal Register** document Customs proposed to change this practice. Customs proposed to evaluate the marking of such wearing apparel on a case-by-case basis in order to determine whether the requirements of the marking statute, 19 U.S.C. 1304, are satisfied.

The comment period for this proposed change of practice expired on January 16, 1996. However, Customs has received requests from interested parties to extend the period of time for comments in order to afford the parties additional time to prepare responsive comments. Customs believes that it is appropriate to grant the request. Accordingly, the period of time for the submission of comments is extended another 60 days. With the extension, comments must be received on or before March 15, 1996.

Dated: January 26, 1996.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 96–2062 Filed 1–31–96; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing final regulation, PS–7–90, Nuclear Decommissioning Fund Qualification Requirements.

DATES: Written comments should be received on or before April 1, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Nuclear Decommissioning Fund Qualification Requirements.

OMB Number: 1545–1269.

Regulation Project Number: PS–7–90 Final.

Abstract: If a taxpayer requests, in connection with a request for a schedule of ruling amounts, a ruling as to the classification of certain unincorporated organizations, the taxpayer is required to submit a copy of the documents establishing or governing the organization.

Current Actions: There is no change to the collection of information in this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: The estimated annual burden per respondent varies from 2 hours to 4 hours, depending on individual circumstances, with an estimated average of 3 hours.

Estimated Total Annual Burden Hours: 150.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 22, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–1965 Filed 1–31–96; 8:45 am]

BILLING CODE 4830–01–U

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing regulation, LR–115–72, Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes; Reporting and Recordkeeping Requirements.

DATES: Written comments should be received on or before April 1, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes; Reporting and Recordkeeping Requirements.

OMB Number: 1545–0723.

Regulation Project Number: LR–115–72, Final.

Abstract: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a credit or refund of the tax to manufacturers in certain cases. Section 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles.

Current Actions: There is no change to the collection of information in this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: All taxpayers.

Estimated Number of Respondents: 1,500,000

Estimated Time per Respondent: 19 minutes.

Estimated Total Annual Burden Hours: 475,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 23, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–1967 Filed 1–31–96; 8:45 am]

BILLING CODE 4830–01–U

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing final regulation, CO–49–88, Limitations on Corporate Net Operating Loss.

DATES: Written comments should be received on or before April 1, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Limitations on Corporate Net Operating Loss

OMB Number: 1545–1381.

Regulation Project Number: CO–49–88 Final.

Abstract: This regulation provides rules for the allocation of a loss corporation's taxable income or net operating loss between the periods before and after an ownership change under section 382 of the Code, including an election to make the allocation based on a closing of the books as of the change date.

Current Actions: There is no change to the collection of information in this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 200.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 23, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–1968 Filed 1–31–96; 8:45 am]

BILLING CODE 4830–01–U

Office of the Comptroller of the Currency

Information Collection Submitted to OMB for Review

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Office of the Comptroller of the Currency (OCC) hereby gives notice that it has sent to the Office of Management and Budget (OMB) a Paperwork Reduction Act Submission regarding an information collection titled Release of Non-Public Information (12 CFR part 4).

DATES: Comments on this information collection are welcome and should be submitted by March 4, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the OCC contact.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the OCC has sent to OMB a Paperwork Reduction Act Submission regarding the following information collection:

Type of Review: Regular.

Title: Release of Non-Public Information (12 CFR part 4).

Description: The information collection is required to protect non-public OCC information from unnecessary disclosure in order to ensure that national banks and the OCC engage in a candid dialogue during the bank examination process. The collection of information requires individuals who are requesting non-public OCC information to provide the OCC with information regarding the requester's legal grounds for the request. Inappropriate release of information would inhibit open consultation between a bank and the OCC.

Form Number: None.

OMB Number: 1557–0200.

Respondents: Businesses or other for-profit.

Number of Respondents: 180.

Total Annual Responses: 505.

Frequency of Response: On occasion.

Total Annual Burden Hours: 894.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Paperwork Reduction Project 1557–0200, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

OCC Contact: John Ference or Jessie Gates, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0200), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Comments: Comments regarding the submission should be addressed to both the OMB reviewer and the OCC contact listed above.

Dated: January 25, 1996.

Nancy P. Michaleski,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 96–2051 Filed 1–31–96; 8:45 am]

BILLING CODE 4810–33–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 22
Thursday, February 1, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 6, 1996 at 10:00 a.m.
PLACE: 999 E Street, N.W., Washington, D.C.
STATUS: This meeting will be closed to the public.
ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Wednesday, February 7, 1996 at 10:00 a.m.
PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor.)
STATUS: This meeting will be open to the public.
ITEM BEFORE THE COMMISSION:

Oral Presentation—Lenora B. Fulani for President.

DATE AND TIME: Thursday, February 8, 1996 at 10:00 a.m.
PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor.)
STATUS: This meeting will be open to the public.
ITEM TO BE DISCUSSED:

Correction and Approval of Minutes.
Title 26 Certificate Matters.
Advisory Opinion 1995–47: Congressman Robert A. Underwood.
Regulations Status Report.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,
Administrative Assistant.
[FR Doc. 96–2274 Filed 1–30–96; 3:13 pm]
BILLING CODE 6715–01–M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM*

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM*
TIME AND DATE: 2:00 p.m., Tuesday, February 6, 1996.
PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.
STATUS: Closed.
MATTERS TO BE CONSIDERED:

1. Proposed operations review.
2. Any items carried forward from a previously announced meeting.

* The Committee on Employee Benefits considers matters relating to the Retirement, Thrift, Long-Term Disability Income, and Insurance Plans for Employees of the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 30, 1996.
William W. Wiles,
Secretary of the Board.
[FR Doc. 96–2207 Filed 1–30–96; 11:58 am]
BILLING CODE 6210–01–P

INTER-AMERICAN FOUNDATION BOARD MEETING

TIME AND DATE: February 13, 1996, 11:30 a.m.–2:00 p.m.
PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.
STATUS: Open session.
MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the November 15, 1995, Meeting of the Board of Directors.
2. President's Report.
3. Discussion on Future Course for the Foundation.

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 841–3894.

Dated: January 30, 1996.
Adolfo A. Franco,
Sunshine Act Officer.
[FR Doc. 96–2290 Filed 1–30–96; 3:56 pm]
BILLING CODE 7025–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following open meeting during the week of February 5, 1996.

An open meeting will be held on Monday, February 5, 1996, at 11:30 a.m., in Room 1C30.

The subject matter of the open meeting scheduled for Monday, February 5, 1996, at 11:30 a.m., will be:

The Commission will consider releasing the staff report of the Task Force on Disclosure Simplification. This report will contain a number of recommendations designed to simplify, streamline, and modernize the rules and forms addressing corporation finance. The Task Force, composed of Commission staff members, was assisted by Philip K. Howard. For further information, contact Brian J. Lane, Counselor to the Chairman, at (202) 942–0100.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: January 30, 1996.
Jonathan G. Katz,
Secretary.
[FR Doc. 96–2287 Filed 1–30–96; 3:52 pm]
BILLING CODE 8010–01–M

federal register

Thursday
February 1, 1996

Part II

Reader Aids

Cumulative List of Public Laws—
104th Congress, First Session

CUMULATIVE LIST OF PUBLIC LAWS

This is the cumulative list of public laws for the 104th Congress, First Session. Any comments may be addressed to the Director, Office of the Federal Register, Washington, DC 20408. The text of laws may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). Some laws may not yet be available for purchase.

Public Law	Title	Approved	109 Stat.
104–1	Congressional Accountability Act of 1995	Jan. 23, 1995	3
104–2	To amend section 61h–6 of title 2, United States Code	Feb. 9, 1995	45
104–3	To amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea.	Mar. 7, 1995	47
104–4	Unfunded Mandates Reform Act of 1995	Mar. 22, 1995	48
104–5	To amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes.	Mar. 23, 1995	72
104–6	Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995.	Apr. 10, 1995	73
104–7	To amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting non-recognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes.	Apr. 11, 1995	93
104–8	District of Columbia Financial Responsibility and Management Assistance Act of 1995	Apr. 17, 1995	97
104–9	CFTC Reauthorization Act of 1995	Apr. 21, 1995	154
104–10	To amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet Region, and for other purposes.	May 18, 1995	155
104–11	Chacoan Outliers Protection Act of 1995	May 18, 1995	158
104–12	Truth in Lending Class Action Relief Act of 1995	May 18, 1995	161
104–13	Paperwork Reduction Act of 1995	May 22, 1995	163
104–14	To provide that references in the statutes of the United States to any committee or officer of the House of Representatives the name or jurisdiction of which was changed as part of the reorganization of the House of Representatives at the beginning of the One Hundred Fourth Congress shall be treated as referring to the currently applicable committee or officer of the House of Representatives.	June 3, 1995	186
104–15	To reauthorize appropriations for the Navajo-Hopi Relocation Housing Program	June 21, 1995	189
104–16	To reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes.	June 21, 1995	190
104–17	To extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.	July 2, 1995	191
104–18	To amend the Omnibus Budget Reconciliation Act of 1990 to permit medicare select policies to be offered in all States.	July 7, 1995	192
104–19	Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995.	July 27, 1995	194
104–20	To amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.	July 28, 1995	255
104–21	District of Columbia Emergency Highway Relief Act	Aug. 4, 1995	257
104–22	To extend authorities under the Middle East Peace Facilitation Act of 1994 until October 1, 1995, and for other purposes.	Aug. 14, 1995	260
104–23	Corning National Fish Hatchery Conveyance Act	Sept. 6, 1995	261
104–24	To direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa	Sept. 6, 1995	262
104–25	To direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility.	Sept. 6, 1995	263
104–26	Court Reporter Fair Labor Amendments of 1995	Sept. 6, 1995	264
104–27	To designate the United States Post Office building located at 33 College Avenue in Waterville, Maine, as the "George J. Mitchell Post Office Building".	Sept. 6, 1995	266
104–28	District of Columbia Convention Center and Sports Arena Authorization Act of 1995	Sept. 6, 1995	267
104–29	Truth in Lending Act Amendments of 1995	Sept. 30, 1995	271
104–30	To extend authorities under the Middle East Peace Facilitation Act of 1994 until November 1, 1995, and for other purposes.	Sept. 30, 1995	277
104–31	Making continuing appropriations for the fiscal year 1996, and for other purposes	Sept. 30, 1995	278
104–32	Military Construction Appropriations Act, 1996	Oct. 3, 1995	283
104–33	To make the reporting deadlines for studies conducted in Federal court demonstration districts consistent with the deadlines for pilot districts, and for other purposes.	Oct. 3, 1995	292
104–34	To clarify the rules governing venue, and for other purposes	Oct. 3, 1995	293
104–35	To amend part D of title IV of the Social Security Act to extend for 2 years the deadline by which States are required to have in effect an automated data processing and information retrieval system for use in the administration of State plans for child and spousal support.	Oct. 12, 1995	294
104–36	Small Business Lending Enhancement Act of 1995	Oct. 12, 1995	295
104–37	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996.	Oct. 21, 1995	299
104–38	To disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.	Oct. 30, 1995	334
104–39	Digital Performance Right in Sound Recordings Act of 1995	Nov. 1, 1995	336
104–40	To authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.	Nov. 1, 1995	350
104–41	To amend title 35, United States Code, with respect to patents on biotechnological processes	Nov. 1, 1995	351
104–42	To amend the Alaska Native Claims Settlement Act, and for other purposes	Nov. 2, 1995	353
104–43	Fisheries Act of 1995	Nov. 3, 1995	366
104–44	To designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the "Winfield Scott Stratton Post Office".	Nov. 3, 1995	397

Public Law	Title	Approved	109 Stat.
104–45	Jerusalem Embassy Act of 1995	Nov. 8, 1995	398
104–46	Energy and Water Development Appropriations Act, 1996	Nov. 13, 1995	402
104–47	To extend authorities under the Middle East Peace Facilitation Act of 1994 until December 31, 1995, and for other purposes.	Nov. 13, 1995	423
104–48	Perishable Agricultural Commodities Act Amendments of 1995	Nov. 15, 1995	424
104–49	Respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.	Nov. 15, 1995	432
104–50	Department of Transportation and Related Agencies Appropriations Act, 1996	Nov. 15, 1995	436
104–51	To amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.	Nov. 15, 1995	467
104–52	Treasury, Postal Service, and General Government Appropriations Act, 1996	Nov. 19, 1995	468
104–53	Legislative Branch Appropriations Act, 1996	Nov. 19, 1995	514
104–54	Making further continuing appropriations for the fiscal year 1996, and for other purposes	Nov. 19, 1995	540
104–55	Edible Oil Regulatory Reform Act	Nov. 20, 1995	546
104–56	Making further continuing appropriations for the fiscal year 1996, and for other purposes	Nov. 20, 1995	548
104–57	Veterans' Compensation Cost-of-Living Adjustment Act of 1995	Nov. 22, 1995	555
104–58	To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes.	Nov. 28, 1995	557
104–59	National Highway System Designation Act of 1995	Nov. 28, 1995	568
104–60	To amend the commencement dates of certain temporary Federal judgeships	Nov. 28, 1995	635
104–61	Department of Defense Appropriations Act, 1996	Dec. 1, 1995	636
104–62	Philanthropy Protection Act of 1995	Dec. 8, 1995	682
104–63	Charitable Gift Annuity Antitrust Relief Act of 1995	Dec. 8, 1995	687
104–64	Defense Production Act Amendments of 1995	Dec. 18, 1995	689
104–65	Lobbying Disclosure Act of 1995	Dec. 19, 1995	691
104–66	Federal Reports Elimination and Sunset Act of 1995	Dec. 21, 1995	707
104–67	Private Securities Litigation Reform Act of 1995	Dec. 22, 1995	737
104–68	To designate the Federal Triangle project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center".	Dec. 22, 1995	766
104–69	Making further continuing appropriations for the fiscal year 1996, and for other purposes	Dec. 22, 1995	767
104–70	To amend the Clean Air Act to provide for an optional provision for the reduction of work-related vehicle trips and miles travelled in ozone nonattainment areas designated as severe, and for other purposes.	Dec. 23, 1995	773
104–71	Sex Crimes Against Children Prevention Act of 1995	Dec. 23, 1995	774
104–72	To extend au pair programs	Dec. 23, 1995	776
104–73	Federally Supported Health Centers Assistance Act of 1995	Dec. 26, 1995	777
104–74	To amend the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act, and for other purposes.	Dec. 26, 1995	784
104–75	To designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the "Bruce R. Thompson United States Courthouse and Federal Building".	Dec. 28, 1995	786
104–76	Housing for Older Persons Act of 1995	Dec. 28, 1995	787
104–77	To designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, as the "Romano L. Mazzoli Federal Building".	Dec. 28, 1995	789
104–78	To rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge.	Dec. 28, 1995	790
104–79	To amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes.	Dec. 28, 1995	791
104–80	To designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Courthouse".	Dec. 28, 1995	794
104–81	Providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 28, 1995	795
104–82	Providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 28, 1995	796
104–83	Providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 28, 1995	797
104–84	Providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 28, 1995	798
104–85	To designate the Federal Courthouse in Decatur, Alabama, as the "Seybourn H. Lynne Federal Courthouse", and for other purposes.	Dec. 28, 1995	799
104–86	To designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the Albert V. Bryan United States Courthouse.	Dec. 28, 1995	800
104–87	To extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.	Dec. 29, 1995	802
104–88	ICC Termination Act of 1995	Dec. 29, 1995	803
104–89*	To extend authorities under the Middle East Peace Facilitation Act of 1994 until March 31, 1996, and for other purposes.	Jan. 4, 1996	960
104–93*	Intelligence Authorization Act for Fiscal Year 1996	Jan. 6, 1996	961
104–95	To amend title 4 of the United States Code to limit State taxation of certain pension income	Jan. 10, 1996	979
104–96	Smithsonian Institution Sesquicentennial Commemorative Coin Act of 1995	Jan. 10, 1996	981
104–97	To reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.	Jan. 11, 1996	984
104–98	Federal Trademark Dilution Act of 1995	Jan. 16, 1996	985

*Note: Public Laws 104–90—92 and 94 will appear in the cumulative list of public laws for the 104th Congress, Second Session.

Federal Register

Thursday
February 1, 1996

Part III

Department of Education

Office of Elementary and Secondary Education

34 CFR Part 201

Title I, Part C—Education in Migratory Children; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 201

RIN 1830–ZA03

Title I, Part C—Education of Migratory Children

AGENCY: Department of Education.

ACTION: Notice of proposed criteria for consortium incentive grants in fiscal year (FY) 1996 and subsequent fiscal years, available under part C of title I of the Elementary and Secondary Education Act of 1965.

SUMMARY: Under the authority of section 1308(d) of Title I of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA), the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) proposes criteria for awarding Migrant Education Program (MEP) consortium incentive grants to State educational agencies (SEAs) with approved consortium arrangements.

DATES: Comments must be received on or before March 4, 1996.

ADDRESSES: All comments concerning these proposed criteria should be addressed to James English, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building, Room 4100, Washington, D.C. 20202–6135. Comments may also be sent via FAX to (202) 205–0089 or through the Internet to James_xEnglish@ed.gov.

FOR FURTHER INFORMATION CONTACT: James English. Telephone: (202) 260–1394. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The MEP, authorized in Title I, Part C of the ESEA, is a State-operated, formula grant program under which SEAs receive funds to improve the academic achievement and welfare of migratory children who reside in their States. Consistent with the emphasis that the reauthorized ESEA places upon removing barriers to cross-program coordination and integration of programs that serve migratory children, sections 1303(d) and 1308(d) of the ESEA encourage SEAs to consider whether consortium arrangements with other States or appropriate entities would result in a more effective and efficient delivery of MEP services.

In this regard, section 1303(d) directs the Secretary to consult with States whose MEP allocations in any year will be $1 million or less about the desirability of forming consortia. This section also directs the Secretary to approve any State's consortium proposal that (1) reduces MEP administrative costs or program function costs, and (2) increases the amount of MEP funds that are made available for direct services to migratory children that add substantially to the educational attainment or welfare of those children. While an SEA may form a consortium arrangement with any appropriate entity, the Secretary, in light of the strong interstate emphases in the MEP, encourages SEAs to establish multi-State consortium arrangements.

To encourage States to form consortium arrangements that meet the requirements of section 1303(d), section 1308(d) of the ESEA directs the Secretary to reserve up to $1.5 million of the funds appropriated for the MEP for competitive incentive awards to SEAs with consortium arrangements approved by the Secretary. Section 1308(d) also limits the size of each of these grants to not more than $250,000, and provides that not fewer than 10 grants be made to eligible SEAs with approved consortium arrangements whose MEP allocations are less than $1 million. While the provision offers all States an incentive to participate in consortium arrangements, it was enacted particularly to benefit those States that, because of the small size of their MEP allocations, may have particular difficulty in both administering the MEP and providing direct services to migratory children.

Last year, for FY 1995, the Department exercised its authority under section 437(d)(1) of the General Education Provisions Act (GEPA) to waive public comment on the criteria and process for first-year implementation of the consortium incentive grant program. The notice of final criteria for the FY 1995 grants was published in the **Federal Register** on March 30, 1995. FY 1995 awards went to 15 SEAs participating in five approved consortium arrangements.

Based on the Department's experience with the FY 1995 grants and subsequent discussions with staff from SEAs that applied or considered applying last year, the Secretary proposes to continue using the same criteria and process, as follows, in order to award the consortium incentive grants authorized under section 1308(d) of the ESEA in FY 1996 and subsequent fiscal years:

Eligibility for Consortium Incentive Grants

The Secretary will reserve $1.5 million to implement this consortium incentive grant program in FY 1996. For subsequent fiscal years, the Secretary shall announce, in the **Federal Register**, the amount of funds that will be available under this grant authority.

The Secretary will use a variety of methods, including meetings and telephone calls, to discuss with SEA officials in States receiving MEP allocations of less than $1 million, the circumstances in which consortium arrangements might enhance their programs for migratory children.

Consistent with section 1303(d), a consortium arrangement will be approved if it (1) reduces the overall amount of MEP administrative or program function costs across the participating SEAs from the amount that would be incurred in the absence of the consortium, and (2) makes more funds available, in total across the participating SEAs, for direct educational or support services to migratory children, so as to add substantially to their welfare or educational attainment than would have been available in the absence of the consortium.

For purposes of section 1303(d), "administrative or program function costs" include all costs that an SEA or its local operating agencies pay from MEP funds to support MEP activities other than direct educational or support services for migratory children. Administrative and program function costs would include the costs of general program administration paid from funds reserved under section 1603(c) of ESEA, as well as the costs of other, program-specific administrative activities, such as identification and recruitment, interstate, intrastate, and interagency coordination, and parent advisory councils. The term "direct educational or support services" means any instructional or support activities provided directly to migratory children, as well as training of instructional or support staff who provide instructional or support services directly to migratory children. For purposes of section 1303(d), the term "other appropriate entity" can mean any public or private agency or organization.

A single SEA may be part of more than one consortium arrangement. However, consistent with section 1303(d) of the ESEA, each consortium arrangement that the Secretary approves must separately decrease the amount of MEP administrative or program function costs in total for the participating SEAs and, conversely, increase the amount of MEP funds available for direct services to migratory children in total for the participating SEAs. An SEA will submit the information that the Department needs to review and approve the SEA's consortium arrangement, and determine the size of the SEA's consortium incentive grant, through its MEP-specific application or in conjunction with the optional consolidated State plan under section 14302 of the ESEA.

Amount of Incentive Grants

Each SEA with one or more consortium arrangements that the Secretary determines meet the criteria in section 1303(d) of the ESEA, *and* whose consortium arrangements increase the amount of MEP funds available for direct services to migratory children in *its* State, will receive one incentive award. In determining the size of an SEA's award, the Secretary will rank SEAs seeking incentive grants on the basis of the *total* percentage increase in MEP funds that the SEA will make available for direct services to migratory children in *its* State as a result of the SEA's participation in the consortium arrangements, as compared to the level of direct services that would be made available to migratory children in the State in the absence of the consortia.

Example I: SEA A has one consortium arrangement that increases the amount of funds available for direct services in State A by 10 percent, while SEA B has two consortium arrangements that increase the total amount of funds available for direct services in State B by 8 percent. SEA A would be ranked higher than SEA B even if SEA B's consortium arrangements permit more total funds to be used for direct services.

Example II: SEA C and SEA D participate together in one consortium and this consortium is the only one in which each SEA participates. If the amount available for direct services increases in total across the two States due to participation in the consortium, but the amount available for direct services in State C does not increase, the consortium arrangement will be approved, but only State D, and not State C, will receive an incentive grant.

From the information that an SEA submits, the Department will calculate, for each State, the total percentage increase in MEP funds available for direct services as a result of all the approved consortium arrangements in which the applicant SEA participates. The Department will then rank these percentages in descending order and divide the distribution into thirds (that is, into terciles). Each SEA ranked in the highest third of the distribution will receive an incentive grant that is three times the size of the grant received by each SEA ranked in the lowest third, while each SEA ranked in the middle third will receive an incentive grant that is twice the size of that provided to each SEA ranked in the lowest third. Within each third, grant awards will be of equal size, except that adjustments will be made so that no consortium incentive grant will be greater than $250,000 or 100 percent of the amount of funds awarded to the SEA under its formula grant allocation, whichever is less.

An SEA may use incentive grant funds awarded under section 1308(d) of the ESEA only to provide direct services to migratory children. These funds are in addition to, and not in place of, the funds awarded under the MEP formula grant.

The Secretary implements section 1308(d) in this way in order to (1) reward all SEAs whose participation in consortium arrangements increases direct services to migratory children in their State, (2) provide larger awards to those SEAs whose consortium arrangements most enhance their capacity to deliver direct services, and (3) ensure that funds under this program are available to SEAs as soon as possible.

Applicability of the Education Department General Administrative Regulations (EDGAR)

In view of the process that the Department proposes to use to obtain information on proposed SEA consortium arrangements, and the criteria it proposes to use to determine, by formula, the amount of consortium incentive grant that each applicant SEA will receive, the regulations in 34 CFR Part 75 (Direct Grant Programs of the Education Department General Administrative Regulations (EDGAR)) do not apply. Instead, the consortium incentive grant program will be administered, like the MEP itself, under the provisions of 34 CFR Parts 76, 77, 79, 80, and 85 of EDGAR.

Paperwork Reduction Act of 1995

These proposed criteria have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Intergovernmental Review

The MEP is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with this order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed criteria. The Secretary is particularly interested in views from applicants for and recipients of FY 1995 consortium incentive grant awards.

All comments submitted in response to these proposed criteria will be available for public inspection, during and after the comment period, in Room 4100, 1250 Maryland Avenue, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Program Authority: 20 U.S.C. 6393(d), 6398(d))

(Catalog of Federal Domestic Assistance Number: 84.011, Migratory Education Basic State Formula Grant Program)

Dated: January 24, 1996.

Gerald N. Tirozzi,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 96–2015 Filed 1–31–96; 8:45 am]

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federal register

Thursday
February 1, 1996

Part IV

Department of Education

34 CFR Parts 668 and 690
Student Assistance General Provisions and Federal Pell Grant Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668 and 690

Student Assistance General Provisions and Federal Pell Grant Program

AGENCY: Department of Education.

ACTION: Final regulations; correction.

SUMMARY: This document corrects errors in the Student Assistance General Provisions and the Federal Pell Grant Program regulations published in the **Federal Register** on December 1, 1995.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Rachael Sternberg, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3053, ROB–3, Washington, D.C. 20202. Telephone (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On December 1, 1995, final regulations were published in the **Federal Register** (60 FR 61796) as part of the Secretary's response to the President's March 4, 1995 Regulatory Reform Initiative. This document corrects errors in the text of the amendments to sections 668.37, 668.164, 668.165, and 690.83.

Dated: January 29, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The following corrections are made in FR Doc. 95–29180 published on December 1, 1995 (60 FR 61796):

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

§ 668.37 [Corrected]

1. On page 61812, column 3, § 668.37 is corrected by removing "and/" in paragraph (a)(2)(iii).

2. On page 61814, column 1, amendment 11 to § 668.164 did not reflect prior amendments to paragraph (a), which are repeated here for the convenience of the public. In order to correctly incorporate amendment 11, § 668.164 is corrected by revising paragraph (a) to read as follows:

§ 668.164 Maintaining funds.

* * * * *

(a) *General.* (1) The requirements in this section apply only to title IV, HEA program funds an institution receives under the campus-based, Direct Loan, and Federal Pell Grant programs. An institution that receives FFEL program funds through electronic funds transfer or by master check must maintain those funds as provided under 34 CFR 682.207(b).

(2)(i) Except as provided in paragraph (e) of this section, an institution is not required to maintain a separate account for funds an institution receives under the campus-based, Direct Loan, and Federal Pell Grant programs, but must maintain these funds in a bank account that meets the requirements of this paragraph and under paragraph (b) or (c) of this section. An institution must—

(ii) Ensure that the name of the account includes the phrase "Federal Funds" to clearly identify that title IV, HEA program funds are maintained in that account; or

(iii)(A) Notify the bank of the accounts that contain Federal funds and retain a record of that notice in its recordkeeping system; and

(B) Except for public institutions, file with the appropriate State or municipal government entity a UCC–1 statement disclosing that the account contains Federal funds and maintain a copy of that statement in its records.

* * * * *

§ 668.165 [Corrected]

3. On page 61814, column 1, amendment 12 to § 668.165 is corrected by redesignating paragraphs (e)(3) as (e)(3)(i) and (e)(4) as (e)(3)(ii).

PART 690—FEDERAL PELL GRANT PROGRAM

§ 690.83 [Corrected]

4. On page 61816, column 2, amendment 47 to § 690.83 is corrected by adding ", and removing paragraph (e)" after "(d)"in the amendatory language.

[FR Doc. 96–2155 Filed 1–31–96; 8:45 am]

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Vol. 61, No. 22

Thursday, February 1, 1996

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FEDERAL REGISTER PAGES AND DATES, FEBRUARY

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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  - Turbine engine rotor burst protection; published 11-2-95

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**. A cumulative list of Public Laws for the First Session of the 104th Congress is in Part II of this issue of the **Federal Register**.

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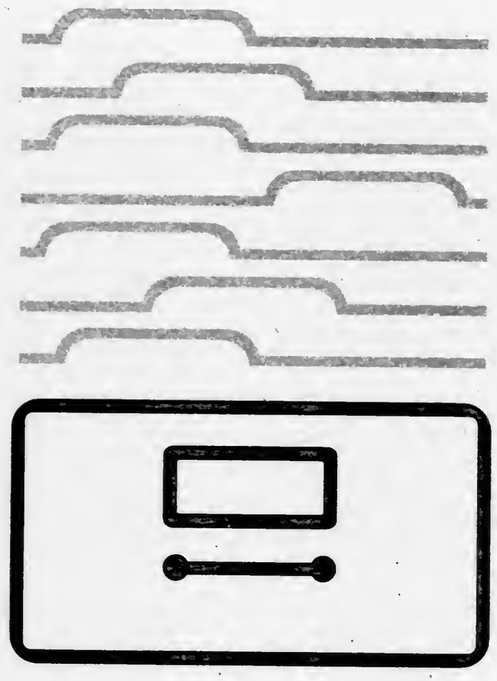
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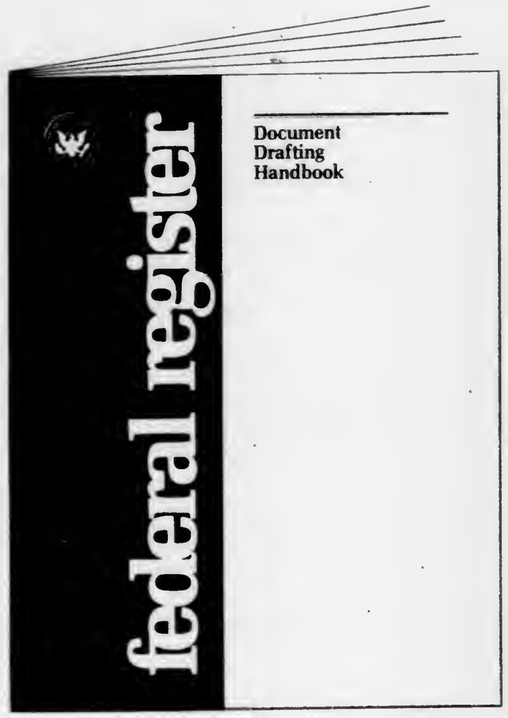
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104th Congress, 2nd Session, 1996

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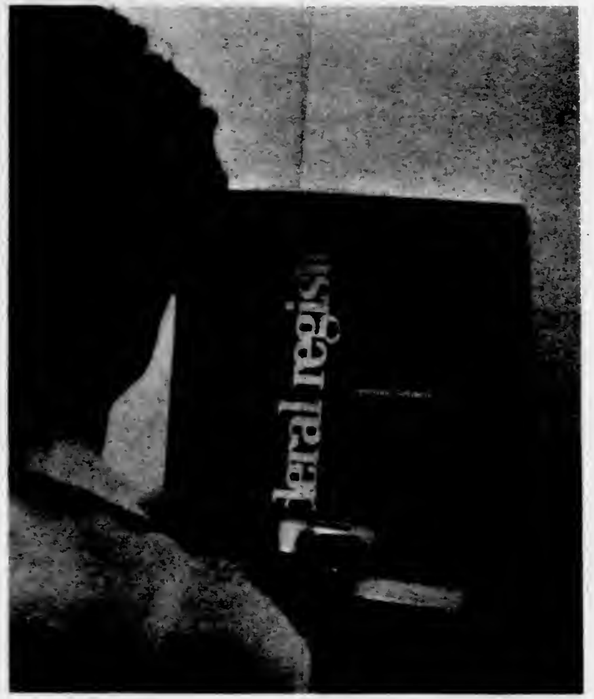
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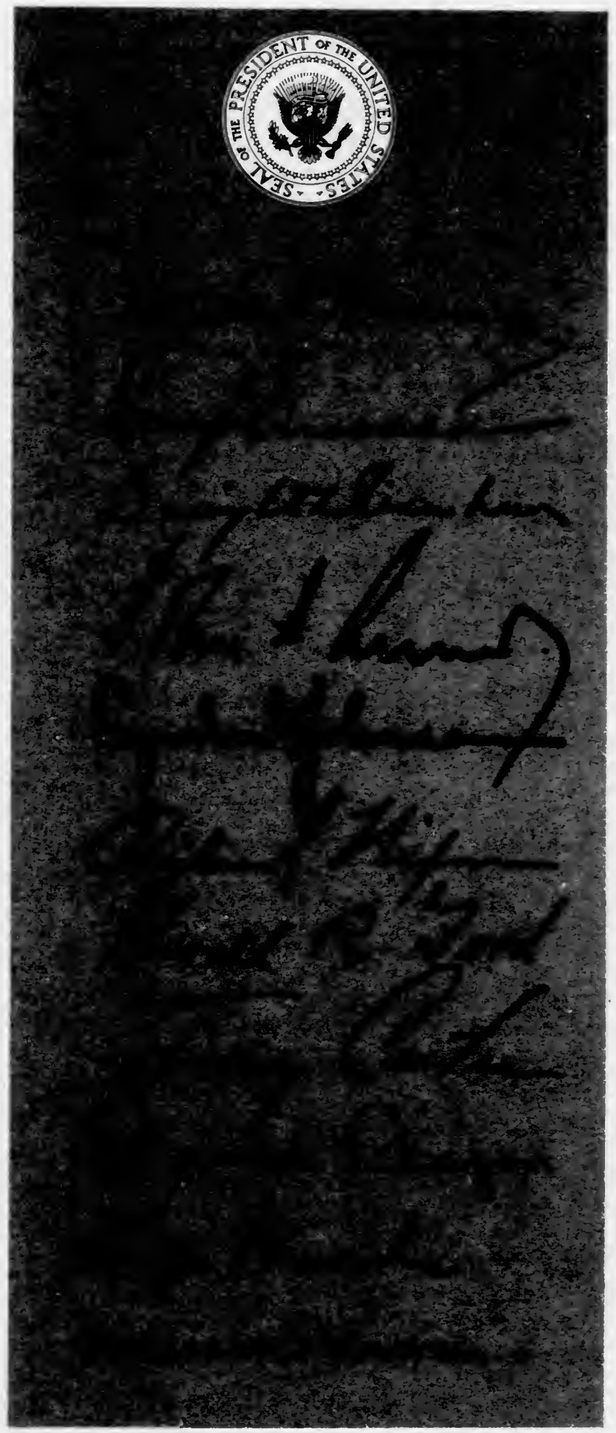
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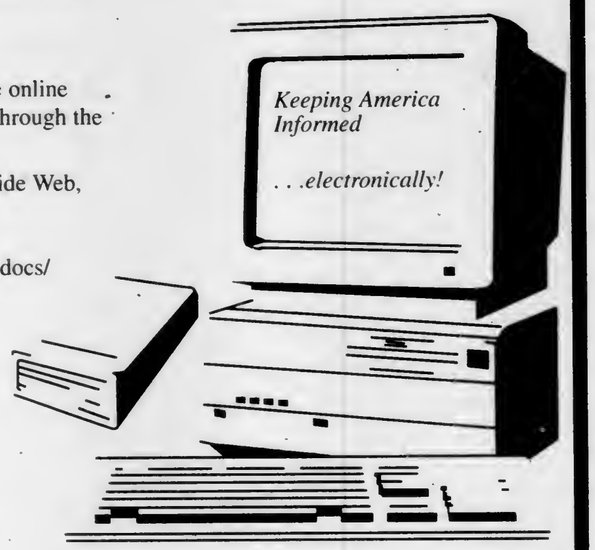
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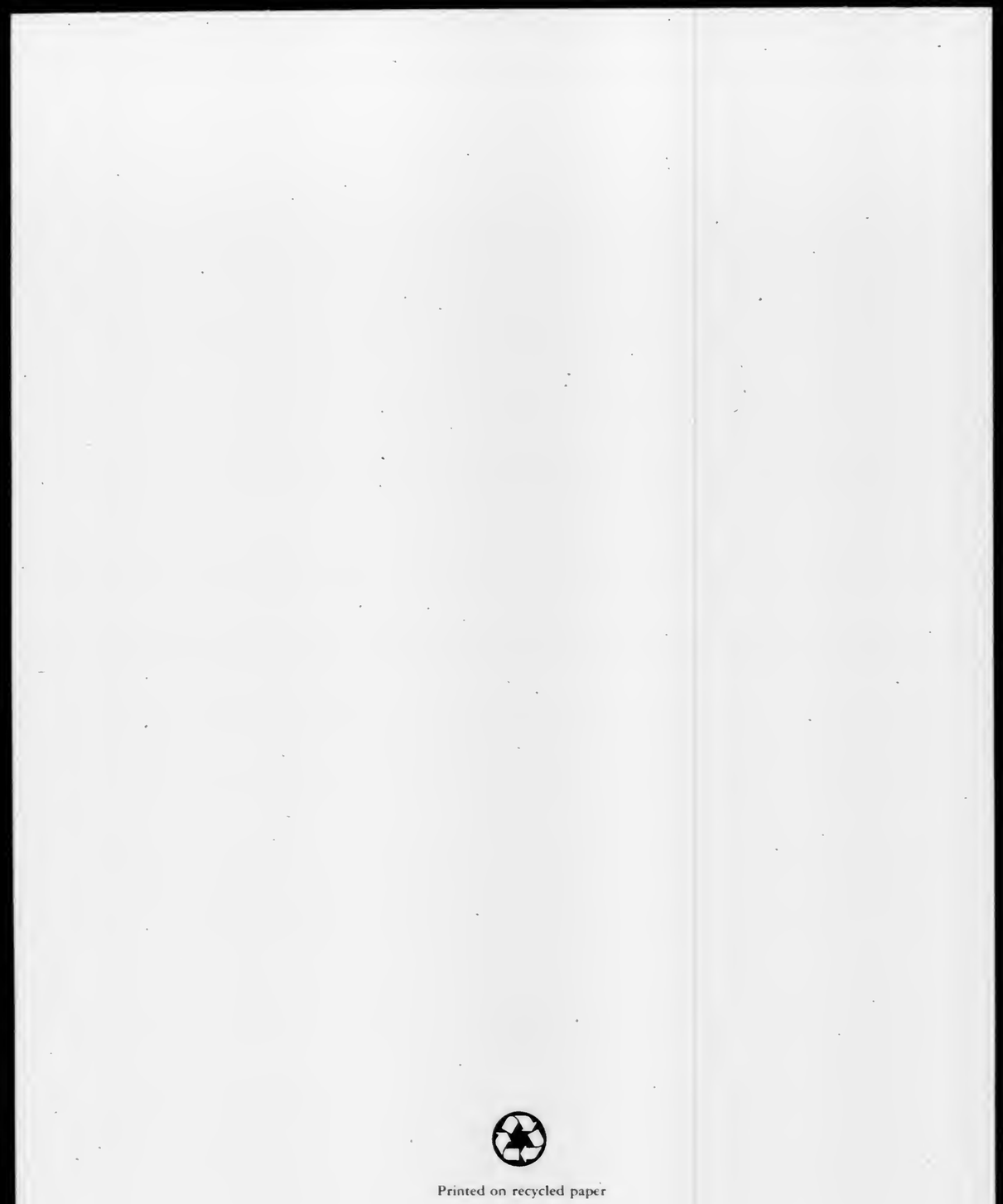
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2–2–96
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federal register

Friday
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Vol. 61 No. 23
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federal register

Friday
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The President

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National African American History Month, 1996

By the President of the United States of America

A Proclamation

Today's schoolchildren are fortunate to grow up in classrooms where they are taught to appreciate all of the many heroes of American history. While previous generations read textbooks that told only part of our Nation's story, materials have been developed in recent years that give our students a fuller picture—textured and deepened by new characters and themes. African American History Month provides a special opportunity for teachers and schools to celebrate this ongoing process and to focus on the many African Americans whose lives have shaped our common experience.

This year, our observance emphasizes black women and the strides made to bring their achievements to the fore. From Sojourner Truth's sermons, to Mary McLeod Bethune's speeches, to the contemporary novels of Nobel laureate Toni Morrison, the voices of African American women have called attention to the twin burdens of racism and sexism and have invited listeners to discover the richness of traditions kept alive in back kitchens and workrooms. In churches and communities, and more recently in universities and statehouses across America, these women have fought extraordinary battles for social, economic, and political empowerment.

Barbara Jordan once wrote,

> 'We the people'; it is a very eloquent beginning. But when the Constitution of the United States was completed on the seventeenth of September, 1787, I was not included in that 'We the people.'

As we mourn the loss of this great American, let us honor her by seeking to further the progress made since those early days toward true equality and inclusion. During African American History Month and throughout the year, we must embrace the diverse strands of our story, so that all children can see themselves in our Nation's past and know that they have a role to play in seizing the future's countless opportunities.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 1996, as National African American History Month. I call upon Government officials, educators in schools, colleges, universities, and libraries, and all the people of the United States to observe this month with appropriate ceremonies, activities, and programs that raise awareness of African American history and invite further inquiry into this area of study.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of January, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96–2363
Filed 2–1–96; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 61, No. 23
Friday, February 2, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business—Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1901, 1940, 1951, and 2003

Rural Business—Cooperative Service

Rural Utilities Service

7 CFR Chapter XLII and Part 4284

RIN 0570–AA02

Rural Technology and Cooperative Development Grants

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) revises its regulations for Rural Technology and Cooperative Development Grants (RTCDG) and amends other regulations utilized by RBS in administering its grant programs. This action is necessary to comply with legislation which authorizes grants for establishing and operating centers for rural technology or cooperative development. The intended effect of this action is to implement this grant program.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph R. Binder, Director, Specialty Lenders Division, Rural Business-Cooperative Service, US Department of Agriculture, Room 2245, South Agriculture Building, 14th and Independence Ave. SW, Washington, D.C. 20250. Telephone (202) 720–1400.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this final rule in conformance with Executive Order 12866, and the Office of Management and Budget has determined that it is not a "significant regulatory action."

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." RBS has determined that this action does not constitute a major federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. In accordance with this rule: (1) all state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule and; (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR, part 1900, subpart B, or those regulations published by the Department of Agriculture to implement the provisions of the National Appeals Division as mandated by the Department of Agriculture Reorganization Act of 1994, whichever is applicable, must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Intergovernmental Review

This program is listed in the Catalog of Federal Domestic Assistance under number 10.771 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. RBS has conducted intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J.

National Performance Review

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

The information collection and record keeping requirements contained in these regulations were previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S. C. Chapter 35 and have been assigned OMB control numbers 0575–0018, 0575–0066, and 0570–0006, in accordance with the Paperwork Reduction Act of 1980. This final rule does not impose any new information or record keeping requirements from those approved by OMB.

Background

The RTCDG program was established by interim rule on August 12, 1994 (59 Fed. Reg. 41386–98). The public comment period ended October 11, 1994. The RTCDG program is authorized by section 310B(f) through (h) of the Consolidated Farm and Rural Development Act (7 U.S.C. § 1932 Act). The primary objective of the program is to improve the economic condition of rural areas. The RTCDG program will achieve this objective by supporting the creation or enhancement of institutions including cooperatives capable of

promoting the development and commercialization of new services, products, processes, and enterprises. The program is administered through Rural Economic and Community Development (RECD) State Offices acting on behalf of RBS. RBS, formerly known as the Rural Business and Cooperative Development Service, is the successor of the Rural Development Administration as to the RTCDG program pursuant to the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354).

Discussion of Public Comments

A total of 14 commenters offered comments to the interim rule. The commenters represented the federal agencies, Arkansas Enterprise Groups, National Rural Cooperative Development Task Force, New York Department of City & Regional Planning, Winrock International in Arkansas, Southwest Grain of North Dakota, The Maine Ambulatory Care Coalition, and The North Dakota Associations of Rural Electric and Telephone Cooperatives.

Several respondents objected to the kinds of demographic data required because they believe it was not available, did not accurately represent, or only partially represented the distressed economic conditions of rural areas. The Agency agrees and, therefore, amends the regulation to allow applicants to use their choice of data as long as they reflect the intent of serving economically distressed communities and the data are from established official independent sources. This change will give applicants flexibility to use available data that best describe the conditions impacted by their proposal. The Agency, however, still will give preference in selecting those projects demonstrating their ability to effectively serve rural areas with few rural industries and agribusinesses, high levels of unemployment or underemployment, high rates of outmigration of people, businesses, and industries, or low levels of per capita income. This preferential treatment is required by Conact § 310B (f) (3).

Three respondents objected to the use of the terms, "industry" and "agribusiness" because there were no definitions provided and there is no consistent source of comprehensive data available. These terms also did not explain how to consider other points such as temporary businesses, and small vs. large businesses. These comments were adopted to allow applicants to use their choice of data with regard to industries and agribusinesses as long as they provided an accurate, comprehensive description of the economic conditions of their community and their data are secured from established official independent sources.

Three respondents recommended that a higher score or priority be given to applicants who collaborate with others. The comment was not adopted because collaboration will strengthen the preapplication in all or most of the listed selection criteria so that it would not be a distinguishing factor. One respondent suggested that a higher priority be given to regional and multistate projects. The rule was not amended to adopt this comment because it would work unfairly against those organizations which do not have multistate responsibilities. Under the final rule there is no prohibition against multistate projects. In fact, applicants who propose multistate projects may get more points because of their project's ability to demonstrate national applicability of innovations developed under the program. One of the preferential selection criteria is the transferability or demonstration value of the project in helping rural areas outside the project area.

One respondent suggested that a higher priority be given to applicants in states who have not received RTCDG grants. This comment was not adopted because it would work unfairly against organizations which produce multiple quality applications.

One respondent suggested that a higher priority be given to organizations which administer multiple projects through several organizations. Another respondent suggested that fewer points be given to organizations which administer multiple projects. These comments were not adopted because the Agency sees no clear advantages or disadvantages to funding organizations who administer multiple projects. The possibility exists that organizations which administer multiple projects would have a broader perspective, a better ability to disseminate their innovations nationally, and a stronger capacity to manage projects effectively; however, the possibility also exists that this organization would increase overhead costs and provide fewer resources to benefit rural communities. Thus, the Agency finds no basis for treating multiple project applicants differently than single project applicants.

Two respondents suggested that a higher priority be given to organizations with demonstrated ability to administer effective projects. The Agency agrees and has adopted the comment as part of the criteria for scoring. Specifically, the Agency will consider the experience, organizational skills, and background needed to successfully carry out the project.

One respondent suggested that the requirement for 25 percent matching funds be limited to administrative costs. The rule was not amended because program funds are limited and it is believed that organizations need to match some of the funding to demonstrate local support for the application.

One respondent suggested that all projects must be exclusively rural. The comment was not adopted. The projects will serve rural areas; however, there is nothing wrong with indirect benefits supporting urban interests as well as rural.

Two respondents recommended that the requirement to secure "evidence of support" for the project from all of the affected local governmental bodies be dropped. The rule was not amended because all affected governmental bodies should be on record as supporting the project. The time spent documenting this support will be worth the time spent in order to avoid misunderstandings later.

One respondent recommended that projects be selected in all major rural areas of the United States. The comment was not adopted in order to allow for the highest quality preapplications to be selected.

One respondent recommended that a different theme be selected each year. The Agency agrees that this is a desirable policy and plans to adopt it to the extent possible in keeping with rule-making requirements of the Administrative Procedures Act.

One respondent recommended that the preapplications be sent to the RECD State Office for initial processing to determine eligibility and to ensure that all necessary forms were in place before sending the preapplications to the RBS National Office for scoring and selection. The RBS National Office will follow this process. This is a better process because the RECD State Office employees know the area, applicants, and conditions of the communities better and can advise the National Office. Organizations who prepare multistate preapplications are to submit their preapplications through the state where the organization's headquarters are located.

One respondent commented that using RTCDG funds for revolving loans should be given a low priority. The Agency agrees that the RTCDG program should emphasize those statutory factors that will benefit economically distressed communities. However, Conact § 310B (f) (2) (C) specifically provides that an acceptable center activity is a program providing loans and grants to individuals, small businesses, and cooperatives in rural areas served by the center for purposes of generating, evaluating, developing, and commercializing new products, processes, or services. The Agency will continue to carry out this mandate in its review and selection process.

In addition to the changes made in response to public comments, the Agency has made some administrative revisions. The Agency has revised its selection criteria to provide for Administrator's points. The Administrator may give emphasis to geographical distribution, interagency cooperation, or other appropriate factors. This change will allow the Administrator the flexibility to choose the best applicants for limited grant funds.

The Agency has added definitions for "center" and "subcenter" for clarity.

The Agency also has added references to the applicability of recently adopted departmental regulations to RTCDG grants made to nonprofit institutions. The Uniform Administrative Requirements For Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations, 7 CFR part 3019, were adopted by interim final rule (60 Fed. Reg. 44122–39) on August 24, 1995.

The final rule removes the points from the selection criteria. The points assigned to each of the selection criteria will be given in the **Federal Register** notice to be published in advance each year. This will allow the Agency to adjust the priorities given to each of the preferential factors on a yearly basis to best meet the objectives set forth in the regulations.

All references to Farmers Home Administration in the organization procedures of 7 CFR part 2003 will be left in place but will be revised in the near future. At that time they will be changed to reflect the current names of the new agencies which were formed as a result of the reorganization.

Internal management procedures have been removed from the regulations but will appear in internal agency instructions.

List of Subjects

7 CFR Part 1901

Civil rights, Compliance reviews, Fair housing, Minority groups.

7 CFR Part 1940

Allocations, Administrative practice and procedure, Agriculture, Grant programs—Housing and community development, Loan programs—Agriculture, Rural areas.

7 CFR Part 1951

Account servicing, Grant programs—Housing and community development, Reporting requirements, Rural areas.

7 CFR Part 2003

Organization and functions (Government agencies).

7 CFR Part 4284

Business and Industry, Grant programs—Housing and community development, Rural areas.

Accordingly, chapters XVIII and XLII, title 7, Code of Federal Regulations, are amended as follows:

CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY

PART 1901—PROGRAM-RELATED INSTRUCTIONS

1. The authority citation for part 1901, subpart E, is revised as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 40 U.S.C. 442; 42 U.S.C. 1480, 2942.

Subpart E—Civil Rights Compliance Requirements *C*

2. Section 1901.204 is amended by revising paragraph (a)(27) to read as follows:

§ 1901.204 Compliance reviews.

(a) * * *

(27) Rural Technology and Cooperative Development Grants in subpart F of part 4284 of this title.

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PART 1940—GENERAL

3. The authority citation for part 1940 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

§ 1940.590 [Removed and Reserved]

4. Section 1940.590 is removed and reserved.

PART 1951—SERVICING AND COLLECTIONS

5. The authority citation for part 1951 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart E—Servicing of Community and Insured Business Programs Loans and Grants

6. Section 1951.201 is revised to read as follows:

§ 1951.201 Purpose.

This subpart prescribes the Rural Economic and Community Development (RECD) mission area policies, authorizations, and procedures for servicing Water and Waste Disposal System loans and grants; Community Facility loans; Rural Business Enterprise/Television Demonstration grants; loans for Grazing and other shift-in-land-use projects; Association Recreation loans; Association Irrigation and Drainage loans; Watershed loans and advances; Resource Conservation and Development loans; Insured Business loans; Economic Opportunity Cooperative loans; loans to Indian Tribes and Tribal Corporations; Rural Renewal loans; Energy Impacted Area Development Assistance program grants; National Nonprofit Corporation grants; Water and Waste Disposal Technical Assistance and Training grants; Emergency Community Water Assistance grants; System for Delivery of Certain Rural Development Programs panel grants; section 306C WWD loans and grants in subpart E of part 4284 of this title; and Rural Technology and Cooperative Development Grants in subpart F of part 4284 of this title. RECD State Offices act on behalf of the Rural Housing Service, the Rural Business-Cooperative Service and the Rural Utilities Service as to loan and grant programs formerly administered by the Farmers Home Administration, the Rural Development Administration, and the Rural Electrification Administration. Loans sold without insurance to the private sector will be serviced in the private sector and will not be serviced under this subpart. The provisions of this subpart are not applicable to such loans. Future changes to this subpart will not be made applicable to such loans.

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PART 2003—ORGANIZATION

7. The authority citation for part 2003 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480; Public Law 100–82, 101 Stat. 545.

Subpart A—Functional Organization of the Farmers Home Administration or its Successor Agency Under Public Law 103–354

Exhibit A to part 2003 [Amended]

8. In part 2003, Exhibit A of subpart A, paragraph 2, under the heading of Assistant Administrator—Community and Business Programs is amended by revising "rural technology development grants" to read "rural technology and cooperative development grants."

9. The heading of 7 CFR chapter XLII is revised to read as follows:

CHAPTER XLII—RURAL BUSINESS-COOPERATIVE SERVICE AND RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE

Chapter XLII (Parts 4284 and 4285) [Amended]

10. In 7 CFR chapter XLII (consisting of parts 4284 and 4285), everywhere "Farmers Home Administration", "FmHA", "Rural Development Administration", or "RDA" appear, except "FmHA Instruction" and "Form FmHA" references, add the phrase "or its successor agency" immediately thereafter.

PART 4284—GRANTS

11. The authority citation for part 4284 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

12–13. Subpart F of part 4284 is revised to read as follows:

Subpart F—Rural Technology and Cooperative Development Grants

Sec.

4284.501 Purpose.
4284.502 Policy.
4284.503 [Reserved]
4284.504 Definitions.
4284.505 Applicant eligibility.
4284.506–4284.514 [Reserved]
4284.515 Grant purposes.
4284.516 Ineligible grant purposes.
4284.517–4284.526 [Reserved]
4284.527 Other considerations.
4284.528 Application processing.
4284.529–4284.539 [Reserved]
4284.540 Grant selection criteria.
4284.541 Grant approval, fund obligation, grant closing, and third-party financial assistance.
4284.542–4284.556 [Reserved]
4284.557 Fund disbursement.
4284.558 Reporting.
4284.559–4284.570 [Reserved]
4284.571 Audit requirements.
4284.572 Grant servicing.
4284.573 Programmatic changes.
4284.574 Subsequent grants.
4284.575 Grant suspension, termination, and cancellation.
4284.576–4284.586 [Reserved]
4284.587 Exception authority.
4284.588–4284.599 [Reserved]
4284.600 OMB control number.

Subpart F—Rural Technology and Cooperative Development Grants

§ 4284.501 Purpose.

(a) This subpart outlines the Rural Business-Cooperative Service's (RBS) policies and authorizations and sets forth procedures to provide grants for technology and cooperative development in rural areas.

(b) Grants for establishing and operating centers for rural technology or cooperative development will be for the primary purpose of improving the economic condition of rural areas by promoting the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new services and products that can be produced or provided in rural areas; new processes that can be utilized in the production of products in rural areas; and new enterprises or cooperatives that can add value to on-farm production through processing or marketing.

(c) Copies of all forms and Instructions referenced in this subpart are available in the RBS National Office or any RECD State Office.

§ 4284.502 Policy.

(a) The grant program will be used to assist in the economic development of rural areas.

(b) Funds allocated for use in accordance with this subpart are also to be considered for use by Native American tribes within the state regardless of whether state development strategies include Indian reservations within the state's boundaries. Native American tribes residing on such reservations must have equal opportunity along with other rural residents to participate in the benefits of these programs. This includes equal application of outreach activities of RECD servicing offices.

§ 4284.503 [Reserved]

§ 4284.504 Definitions.

Approval official—Any authorized agency official.

Center—The place established and operated by the grantee for rural technology or cooperative development.

Cooperative—An association organized to provide a specific service with open membership, equality in ownership and control, limited return on members' capital, and equitable methods to distribute any excess earnings back to its members.

Cooperative development—The startup, expansion, or operational improvement of a cooperative which will promote the development of new services and products that can be produced or provided in rural areas, new processes that can be utilized in the production of products in rural areas, or new enterprises that can add value to on-farm production through processing or marketing. Operational improvement includes making the cooperative more efficient, better managed, etc.

Economic development—The growth of an area as evidenced by increases in total income, employment opportunities, decreased outmigration of populations, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

Nonprofit institution—Any organization or entity, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Project—The undertaking for which funds will be used to develop or operate a technology or cooperative development center.

Public body—Any state, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Indian tribe on federal and state reservation or other federally recognized Indian tribe in rural areas.

RBS—The Rural Business-Cooperative Service, an agency of the United States Department of Agriculture, or a successor agency.

RECD—Rural Economic and Community Development mission area.

Rural and rural area—Includes all territory of a state that is not within the outer boundary of any city having a population of 50,000 or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than 100 persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

Servicing office. Any RECD State Office or successor office.

Small business—A business which does not exceed the maximum number of employees or annual receipts allowed for a concern (including its affiliates) to be considered small according to the established size standards for Small Business Administration (SBA) assistance as set forth in § 121.601, 13 CFR, part 121. The business may be operated on a profit or nonprofit basis but must rely primarily on revenues of the business for operation rather than outside support.

State—Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Subcenter—A unit of a center acting under the same direction as and having a purpose consistent with that of the center.

Technology—The application of science to industrial or commercial objectives. The entire body of methods and material used to achieve such objectives.

Technology development—The creation of new technology or the use and application of existing technology to promote the development and commercialization of new products, new processes, and new services that can be produced or provided in rural areas.

Urbanized area—An area immediately adjacent to a city having a population of 50,000 or more which, for general social and economic purposes, constitutes a single community and has a boundary contiguous with that of the city. Such community may be incorporated or unincorporated to extend from the contiguous boundaries to recognizable open country, less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. Outer boundaries of an incorporated community extend at least to its legal boundaries. Cities which may have a contiguous border with another city, but are located across a river from such city, are recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area, as defined in this section, are not in a nonrural area.

Urbanizing area—A community which is not now, or within the foreseeable future not likely to be, clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community is considered "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. A community is considered "independent of" when its social and economic structure (e.g. government; educational, health, and recreational facilities; and business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized areas.

§ 4284.505 Applicant eligibility.

(a) Grants may be made to public bodies or nonprofit institutions.

(b) Grants may be made for technology and cooperative development in "rural areas." In determining whether an area is rural, the Agency will determine whether the area is urbanized or urbanizing and then the population density per square mile. All such density determinations will be made on the basis of minor civil division or census county division as used by the Bureau of the Census. In making the density calculations, large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries or land set aside for such purposes will be excluded.

(c) An outstanding judgement obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgement is paid in full or otherwise satisfied. RBS grant funds may not be used to satisfy the judgement.

§§ 4284.506–4284.514 [Reserved]

§ 4284.515 Grant purposes.

Grant funds may be used to pay up to 75 percent of the costs for establishing or operating centers for rural technology or cooperative development. Applicant's contribution may be in cash or third party in-kind contribution in accordance with parts 3015, 3016 and 3019 of this title and must be from nonfederal funds except that a loan from another federal source can be used for the applicant's contribution. Grant funds may be used for, but are not limited to, the following purposes:

(a) Technology research, investigations, and basic feasibility studies in any field or discipline for the purpose of generating principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by such centers in the development and commercialization of new products, processes, or services.

(b) The collection, interpretation, and dissemination of principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by the center in the development and commercialization of new products, processes, or services.

(c) Providing training and instruction for individuals residing in rural areas served by the center with respect to the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new products, processes, or services.

(d) Providing loans and grants to individuals, small businesses and cooperatives in rural areas for purposes of generating, evaluating, developing and commercializing new products, processes, or services.

(e) Providing technical assistance and advisory services to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing and commercializing new products, processes, or services.

(f) Providing research and support to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing new agricultural enterprises to add value to on-farm production through processing or marketing.

(g) Paying up to 75 percent of the administrative costs of the applicant in carrying out its projects.

(h) Equipment and materials necessary to carry out other eligible grant purposes under this section.

§ 4284.516 Ineligible grant purposes.

Grant funds may not be used to:

(a) Pay more than 75 percent of project costs.

(b) Pay more than 75 percent of administrative costs.

(c) Duplicate current services or replace or substitute support previously provided.

(d) Pay costs of preparing the application package for funding under this program.

(e) Pay costs incurred prior to the effective date of the grant made under this subpart.

(f) Pay for building construction or the purchase of real estate or vehicles; improving or renovation of office space; or repair or maintenance of privately-owned property.

(g) Fund political activities.

(h) Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§§ 4284.517–4284.526 [Reserved]

§ 4284.527 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, and national origin as outlined in subpart E of part 1901 of this title. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap; the requirements of the Age Discrimination Act of 1975 which prohibits discrimination on the basis of age; and title III of the Americans with Disabilities Act, Pub. L. 101–336, which prohibits discrimination on the basis of disability by private entities in places of public accommodations.

(b) *Environmental requirements.*

(1) *General applicability.* Unless specifically modified by this section, the requirements of subpart G of part 1940 of this title apply to this subpart. For example, the Agency's general and specific environmental policies contained in §§ 1940.303 and 1940.304 of subpart G of part 1940 of this title must be met. Although the purpose of the grant program established by this subpart is to improve business, industry, and employment in rural areas, this purpose is to be achieved, to the extent practicable, without adversely affecting important environmental resources of rural areas such as important farmland and forest lands, prime rangelands, wetland, and flood plains. Prospective recipients of grants, therefore, must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans and projects that minimize the potential to adversely impact on the environment.

(2) *Technical assistance.* An application for a technical assistance project is generally excluded from the environmental review process by § 1940.333 of subpart G of part 1940 of this title. However, as further specified in that section, the grantee of a technical assistance grant, in the process of providing technical assistance, must consider and generally document within their plans the potential environmental impacts of the plan and recommendations provided to the recipient of the technical assistance.

(3) *Applications for grants to provide financial assistance to third-party recipients.* As part of the preapplication, the applicant must provide a complete Form FmHA 1940–20, "Request for Environmental Information," for each project specifically identified in its plan to provide financial assistance to third parties who will undertake eligible projects with such assistance. The Agency will review the preapplication, supporting materials, and any required Forms FmHA 1940–20 and initiate an appropriate environmental review for the preapplication. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects that can be identified at this time from the information submitted. Because the Agency's approval of this type of grant application does not constitute a commitment to the use of grant funds for any identified third-party projects (see § 4284.541 of this subpart), no public notification requirements will apply to the preapplication. After the grant is approved, each third-party project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in subpart G of part 1940 of this title prior to the Agency providing its consent to the grantee to assist the third-party project. If the preapplication reflects only one specific project which is specifically identified as the third-party recipient for financial assistance, the Agency may perform the appropriate environmental assessment with no public notification. However, the applicant must be advised that if the recipient or project changes after the grant is approved, the project to be assisted under the grant will undergo the applicable environmental review and public notification requirements.

(c) *Government wide debarment and suspension (non-procurement) and requirements for drug-free workplace.* Persons who are disbarred or suspended are excluded from federal assistance and benefits including grants under this subpart. Grantees must certify that they will provide a drug free workplace. See part 3017 of this title and FmHA Instruction 1940–M (available in any RECD State Office) for further guidance.

(d) *Restrictions on lobbying.* All grants must comply with the lobbying restrictions set forth in part 3018 of this title.

(e) *Excess capacity or transfer of employment.*

(1) If a proposed grant is for more than $1 million and will increase direct employment by more than 50 employees, the applicant will be requested to provide written support for an Agency determination that the proposal will not result in a project which is calculated to, or likely to, result in:

(i) The transfer of any employment or business activity from one area to another (this limitation will not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations, or

(ii) An increase in the production of goods, materials, or commodities or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area. The applicant's written support will consist of a resolution from the applicant and Form FmHA 449–22, "Certification of Non-Relocation and Market and Capacity Information Report," from each existing and future occupant of the site. The applicant may use Guide 2 of subpart G of part 1942 of this title (available in any RECD State Office) as an example in preparing the resolution. Future occupants of the site must be certified by the Department of Labor (DOL) as outlined in paragraph (e)(3) of this section for a period of 3 years after the initial certification by DOL.

(2) [Reserved]

(3) Grants shall not be made if the Secretary of Labor certifies within 30 days after the matter has been submitted by the Secretary of Agriculture that the provisions of paragraph (e) (1) of this section have not been met. Information for obtaining this certification will be submitted, in writing, by the applicant to RECD. Grant approval may be given and funds may be obligated, subject to the DOL certification being received, provided RBS has made its own separate determinations of paragraphs (e) (1) (i) and (ii) of this section when applicable.

(f) *Management assistance.* Grant recipients will be supervised, as necessary, to ensure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this subpart will be administered under, and are subject to, parts 3015, 3016, 3017 and 3019 of this title, as appropriate, and established RBS guidelines.

(g) *National Historic Preservation Act of 1966.* All projects will be in compliance with the National Historic Preservation Act of 1966 in accordance with subpart F of part 1901 of this title.

(h) *Uniform Relocation Assistance and Real Property Acquisition Policies Act.* All projects must comply with the requirements set forth in part 21 of this title.

(i) *Flood plains and wetlands.* All projects must comply with Executive Order 11988, "Flood Plain Management," and Executive Order 11990, "Protection of Wetlands."

(j) *Flood or mudslide hazard area precautions.* If the grantee financed project is in a flood or mudslide area, flood or mudslide insurance must be provided.

(k) *Termination of Federal requirements.* Once the grantee has provided assistance with project loans in an amount equal to the grant provided by RBS, the requirements imposed on the grantee shall not be applicable to any new projects thereafter financed from the RTCDG funds. Such new projects shall not be considered as being derived from federal funds. The purposes of such new projects, however, shall be consistent with these regulations.

(l) *Intergovernmental review.* Grant projects are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. A loan fund established in whole, or in part, with grant funds will also be considered a project for the purpose of intergovernmental review as well as the specific projects funded with grant funds from the RTCDG funds. For each project to be assisted with a grant under this subpart and which the state has elected to review under their intergovernmental review process, the state point of contact must be notified. Notification, in the form of a project description, can be initiated by the grantee. Any comments from the state must be included with the grantee's request to use RBS grant funds for the specific project. Prior to RBS's decision on the request, compliance with requirements of intergovernmental consultation must be demonstrated for each project. These requirements should be completed in accordance with "Intergovernmental Review of Department of Agriculture Programs and Activities," subpart V of part 3015 of this title (see FmHA Instruction 1940–J, available in any RECD State Office).

§ 4284.528 Application processing.

(a) *Preapplications.*

(1) Applicants will file an original and one copy of Standard Form (SF)–424.1, "Application for Federal Assistance (For Non-construction)," with the appropriate RECD State Office. This form is available in any RECD State Office.

(2) All preapplications shall be accompanied by:

(i) Evidence of applicant's legal existence and authority to perform the proposed activities under the grant.

(ii) Latest financial information to show the organization's financial capacity to carry out the proposed work. At a minimum, the information should include a balance sheet and an income statement. A current audit report is preferred where one is reasonably obtainable.

(iii) Estimated breakdown of total costs, including costs to be funded by the applicant as well as other sources. Other sources should be identified. Certification must be provided from the applicant that its matching share to the project is available and will be used for the project. The matching share must meet the requirements of parts 3015, 3016 and 3019 of this title. Certifications from an authorized representative of each source of funds must be provided indicating that funds are available and will be used for the proposed project.

(iv) Budget and description of the accounting system in place or proposed.

(v) Area to be served, identifying each government unit, i.e., town, county, etc., if affected by the proposed project and evidence of support and concurrence in the proposed project from the affected local governmental bodies as evidenced by a resolution or a written statement from the chief elected local official.

(vi) Evidence that the proposed project will serve or have the potential to serve economically distressed areas supported by established official independent sources of data which are sufficient to verify the extent to which economically distressed conditions exist. (Preference will be given in selecting projects demonstrating their ability to effectively serve rural areas with few rural industries and agribusinesses, high levels of unemployment or underemployment, high rates of outmigration of people, businesses, and industries, or low levels of per capita income).

(vii) A listing of businesses to be assisted.

(viii) Applicant's experience, including experience of key staff members and persons who will be providing the proposed services and managing the project.

(ix) The number of months duration of the project or service and the estimated time it will take from grant approval to beginning of service.

(x) Method and rationale used to select the areas or businesses that will receive the service.

(xi) Brief description of how the work will be performed and whether organizational staff, consultants or contractors will be used.

(xii) Evaluation method to be used by the applicant to determine if objectives of the proposed activity are being accomplished.

(xiii) A brief plan which contains the following provisions and describes how the applicant will meet those provisions:

(A) A provision that substantiates that the applicant will effectively serve rural areas in the United States.

(B) A provision that the primary objective of the applicant will be to improve the economic condition of rural areas by promoting the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of:

(*1*) New services and products that can be produced or provided in rural areas;

(*2*) New processes that can be utilized in the production of products in rural areas; and

(*3*) New enterprises that can add value to on-farm production through processing or marketing.

(C) Copies of the established official independent sources of data need to be included in the plan along with any documentation that more fully explains the date produced, methodology, source, or interpretation of the data.

(D) A description of the activities that the applicant will carry out to accomplish such objective.

(E) A description of the proposed activities to be funded under this subpart.

(F) A description of the contributions that the applicant's proposed activities are likely to make to the improvement of the economic conditions of the rural areas served by the applicant.

(G) Provisions that the applicant, in carrying out its activities, will seek, where appropriate, the advice, participation, expertise, and assistance

of representatives of business, industry, educational institutions, the federal government, and state and local governments.

(H) Provisions that the applicant will consult with any college or university administering Extension Service programs and cooperate with such college or university in the coordination of the center's activities and programs.

(I) Provisions that the applicant will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

(J) Provisions for:

(*1*) Monitoring and evaluating its activities; and

(*2*) Accounting for money received and expended by the institution under this subpart.

(K) Provisions that the applicant will provide for the optimal application of technology and cooperative development in rural areas, especially those areas adversely affected by agricultural economic conditions, through the establishment of demonstration projects and subcenters for:

(*1*) Rural technology development where the technology can be implemented by communities, community colleges, businesses, cooperatives, and other institutions; or

(*2*) Cooperative development where such development can be implemented by cooperatives to improve local economic conditions.

(xiv) If grant funds are to be used for the purpose of making loans or grants to individuals, small businesses, or cooperatives (ultimate recipients) in rural areas for eligible purposes under this subpart, the preapplication must include the agreement proposed to be used between the applicant and the ultimate recipients which includes the following:

(A) An assurance that the responsibilities of the grantee, as a recipient of grant funds under this subpart, are passed on to the ultimate recipient and the ultimate recipient understands its responsibilities to comply with the requirements set forth in this subpart, including parts 3015, 3016, and 3019 of this title.

(B) Provisions that the ultimate recipient will comply with debarment and suspension requirements contained in part 3017 of this title and will execute Form AD–1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions."

(C) Provisions that the ultimate recipient will execute Forms FmHA 400–1, "Equal Opportunity Agreement," and FmHA 400–4, "Assurance Agreement."

(D) Documentation that the ultimate recipient understands its responsibilities to the applicant.

(E) Documentation that the applicant understands its responsibilities in monitoring the ultimate recipient's activities under the grant and the applicant's plan for such monitoring.

(F) Documentation when other references or sources of information are used, along with copies if possible, to provide dates, addresses, page numbers and explanations of how interpretations are made to substantiate that such things as economically distressed conditions do exist.

(G) Narrative addressing all items in § 4284.540 (a) of this subpart regarding grant selection criteria.

(b) *Applications.* Upon notification that the applicant has been selected for funding, the following will be submitted to the RECD by the applicant:

(1) SF 424.1, "Application for Federal Assistance (for Non-construction)".

(2) Proposed scope of work, detailing the proposed activities to be accomplished and time frames for completion of each activity.

(3) Proposed budget, including source and amount of applicant contribution and any other funding sources for the proposed project.

(4) Other information requested by RECD to make a grant award determination.

(c) *Applicant response.* If the applicant fails to submit the application and related material by the date shown on the notice, RECD may discontinue consideration of the preapplication.

§§ 4284.529–4284.539 [Reserved]

§ 4284.540 Grant selection criteria.

Grants will be awarded under this subpart on a competitive basis. The priorities described in this paragraph will be used by RBS to rate preapplications. Preference will be given to applicants demonstrating factors in paragraphs (a) (4) and (5) of this section. RBS' review of preapplications will include the complete preapplication package submitted to the RECD State Office. Points will be distributed according to ranking as compared with other preapplications on hand. Recognizing that a wide variety of individual strategies and approaches may be used to promote economic development and that specific needs vary according to geographic region and over time, the Agency has determined to publish an informational notice annually in the **Federal Register** which will contain those objective strategies or approaches, consistent with this subpart with weighted priorities, that the Agency wishes to emphasize during that year. The notice will establish the period of time that the Agency will accept preapplications for consideration of that fiscal year's funding.

(a) The selection criteria are as follows:

(1) Likelihood of project being effective in achieving one or more of the following: technological innovation, adaptation of existing technology, cooperative development, commercialization of new services and products, and promotion of new processes and enterprises.

(2) Innovativeness or originality of project in addressing authorized grant purposes.

(3) Experience, organizational skills, and background that are needed for applicant to successfully carry out project.

(4) Transferability or demonstration value of project to help rural areas outside of project area.

(5) Ability of project to contribute to the improvement of economic conditions in rural areas with one or more of the following: few rural industries and agribusinesses; high levels of unemployment or underemployment; high rates of outmigration of people, businesses, industries; and low levels of per capita income.

(6) The Administrator may award discretionary points to focus on geographical distribution, interagency cooperation or other appropriate factors.

(b) Each preapplication for assistance will be carefully reviewed in accordance with the priorities established in this section. A priority rating will be assigned to each preapplication. Preapplications selected for funding will be based on the priority rating assigned each preapplication and the total funds available. All preapplications submitted for funding should contain sufficient information to permit RBS to complete a thorough priority rating.

§ 4284.541 Grant approval, fund obligation, grant closing, and third-party financial assistance.

The grantee will execute all documents required by the Agency to make a grant under this subpart.

§§ 4284.542–4284.556 [Reserved]

§ 4284.557 Fund disbursement.

Grants will be disbursed as follows:

(a) An SF–270, "Request for Advance or Reimbursement," will be completed by the applicant and submitted to RECD not more frequently than monthly. The grantee will only be reimbursed for allowable costs incurred.

(b) [Reserved]

(c) The grantee's share in the cost of the project will be disbursed in advance of grant funds or on a pro-rata distribution basis with grant funds during the disbursement period. The grantee may not provide its contribution at the end of the grant period.

§ 4284.558 Reporting.

An SF–269, "Financial Status Report," and a project performance activity report will be required of all grantees on a quarterly basis. A final project performance report will be required with the last SF–269. The final report may serve as the last quarterly report. The final report must include a final evaluation of the project. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees are to submit an original of each report to RECD. The project performance reports shall include, but not be limited to, the following:

(a) A comparison of actual accomplishments to the objectives established for that period;

(b) Reasons why established objectives (if any) were not met;

(c) Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(d) Objectives and timetable established for the next reporting period.

§§ 4284.559–4284.570 [Reserved]

§ 4284.571 Audit requirements.

The grantee will provide an audit report in accordance with § 1942.17 of subpart A of part 1942 of this title. The audit requirements only apply to the years in which grant funds are received. Audits must be prepared in accordance with general accounting principles and standards using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions."

§ 4284.572 Grant servicing.

Grants will be serviced in accordance with subpart E of part 1951 of this title.

§ 4284.573 Programmatic changes.

The grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope or budget can result in suspension or termination of grant funds.

§ 4284.574 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements set forth in this subpart.

§ 4284.575 Grant suspension, termination, and cancellation.

Grants may be canceled by RBS by written notice. Grants may be suspended or terminated for cause or convenience in accordance with parts 3015, 3016, and 3019 of this title.

§§ 4284.576–4284.586 [Reserved]

§ 4284.587 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute, an applicable law, or a decision of the Comptroller General, if the Administrator determines that application of the requirement or provision would adversely affect the Government's financial interest and shows how the adverse impact will be eliminated or minimized if the exception is made.

§§ 4284.588–4284.599 [Reserved]

§ 4284.600 OMB control number.

The reporting and record keeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570–0006. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 8 hours per response, with an average of 1.85 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, DC 20250, and to the Office of Management and Budget, Paperwork Reduction Project (OMB#0570–0006), Washington, D.C. 20503.

Dated: January 3, 1996.

Jill Long Thompson,

Under Secretary, Rural Economic and Community Development.

[FR Doc. 96–1578 Filed 2–1–96; 8:45 am]

BILLING CODE 3410–32–U

Economics Management Staff

7 CFR Part 4001

Availability of Information

AGENCY: Economics Management Staff, USDA.

ACTION: Final rule.

SUMMARY: This document removes the regulations of the Economics Management Staff (EMS) regarding the availability of information to the public in accordance with the Freedom of Information Act (FOIA) to reflect an internal reorganization of the Department of Agriculture (USDA).

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Stasia A.M. Hutchison, FOIA Coordinator, Information Staff, Agriculture Research Service, USDA, 6303 Ivy Lane, Room 456, Greenbelt, MD 20770, Telephone (301) 344–2207.

SUPPLEMENTARY INFORMATION: The FOIA (5 U.S.C. 552(a)(1) requires Federal agencies to publish in the **Federal Register** regulations describing how the public may obtain information from the agency. Part 4001 of Title 7, Code of Federal Regulations, was issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR Part 1, Subpart A, implementing FOIA.

Pursuant to an internal reorganization of USDA, EMS has been abolished. This document removes 7 CFR Part 4001. Requests for information relating to EMS may be obtained through the FOIA Coordinator for ARS pursuant to 7 CFR Part 1, Subpart A, and 7 CFR Part 510.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Orders 12778 and 12866. Also, this rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply.

List of Subjects in 7 CFR Part 4001

Freedom of information.

Accordingly, under the authority of U.S.C. 301 and 552, Part 4001 is removed.

Done at Washington, DC, this 29th day of January 1996.

Catherine E. Woteki,

Deputy Under Secretary, Research, Education and Economics.

[FR Doc. 96–2068 Filed 2–1–96; 8:45 am]

BILLING CODE 3410–03–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 709 and 741

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: This interim rule authorizes credit unions serving predominantly low-income members to raise secondary capital from foundations and other philanthropic-minded institutional investors. Increased capital will in turn enable these credit unions to make more loans and improve other financial services for the limited income groups and communities they serve.

This rule establishes a new section in NCUA's Regulations providing authority for secondary capital accounts and amending existing regulatory provisions concerning designation of low-income status. The rule also amends an existing rule to address the authority of federally insured state credit unions to issue secondary capital accounts, and amends another rule to establish that secondary capital accounts are paid after all other claims in the event of liquidation.

Secondary capital accounts will not be issued as share accounts and will not establish voting or ownership rights. The applicability of this rule is limited to credit unions having a low-income designation from NCUA or the appropriate state regulator.

DATES: The interim rule is effective January 25, 1996. Comments must be received on or before April 1, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Joyce Jackson, Special Assistant, Office of Community Development Credit Unions, at the above address or telephone (703) 518–6610, or David Marquis, Director, Office of Examination and Insurance, or Stephen Austin, Director of the Department of Supervision, Office of Examination and Insurance, both at the above address or telephone (703) 518–6360, or Robert M. Fenner, General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

As of November, 1995, there were 260 federally insured credit unions designated by NCUA or the appropriate state regulator as serving predominantly low-income members. Like other credit unions serving members of limited financial means, these credit unions perform an important mission of providing loans and other financial services to individuals and communities who most need these services and most often do not have them available from other sources. Like all insured credit unions, the low-income designated credit unions are, as a group, quite healthy and financially strong. For example, the average net capital ratio for low-income designated credit unions as of May, 1995 was 9.8 percent.

Individual low-income designated credit unions find it difficult, however, in view of the limited resources of their members, to accumulate capital. (As cooperatives, credit unions build their primary capital—statutory reserves—solely by setting aside a portion of their income each accounting period.) To ease this burden, and to facilitate an additional opportunity for low-income designated credit unions to build capital that will support greater lending and financial services in their communities, the NCUA Board is issuing this interim final rule authorizing secondary capital accounts. These capital accounts, to the extent that low-income designated credit unions choose to offer them, will supplement rather than reduce existing statutory reserve requirements.

Overview

The Board has established certain key safety and soundness elements in this interim rule to ensure both that secondary capital accounts serve the purpose of capital—i.e. that they are available to absorb loss and thus prevent losses to members or the failure of the institution—and that there is no misunderstanding on the part of investors as to the nature of the accounts and the risks involved. Included are the following:

- The accounts may be offered only to organizational investors, not to natural person members or other natural person investors.
- The accounts are subordinate to all other claims on the assets of the credit union.
- The accounts are not insured by the National Credit Union Share Insurance Fund or any other government entity, and may not be offered as share accounts. It is anticipated that credit unions will issue these accounts as a form of subordinated debt.
- Funds in the accounts must be available to cover losses, after depletion of reserves and undivided earnings, but prior to liquidation of the credit union.
- The accounts must have a minimum maturity of five years.
- These and other key provisions must be reflected in an account agreement and in disclosures prescribed as an Appendix to the interim rule.
- When the remaining maturity of a secondary capital account is less than five years, the credit union will reflect through a footnote to its financial statement, and NCUA will recognize, the capital value of the account as a percentage of the account's face value, on a sliding scale ranging from 80% of face value (four years to less than five years remaining maturity) to zero (less than one year remaining maturity).

Additional Explanation of Amendments

This interim rule contains four separately numbered amendments. The following is an additional explanation of each.

Amendment 1 removes from Section 701.32 of NCUA's rules the provisions concerning designation of low-income status. Those provisions are now placed in new Section 701.34. As a result, Section 701.32 now deals solely with the limitations on federally insured credit unions receiving nonmember shares above certain levels without prior NCUA approval. Such shares include public unit shares in all federally insured credit unions and other nonmember shares in the case of low-income designated credit unions. Section 701.34 contains the provisions related solely to low-income designated credit unions: The rules concerning designation of low-income status and the new provisions concerning receipt of secondary capital accounts.

Because secondary capital accounts are not share accounts, they are not subject to the Section 701.32 limitations. A reference in Section 701.32(b)(1) to "accounts" is replaced with "shares" to eliminate any possible confusion over the fact that Section 701.32 is limited in its applicability to nonmember *share* accounts.

Amendment 2 establishes the new Section 701.34. Section 701.34(a) contains the provisions concerning designation of low-income status, Section 701.34(b) contains the provisions authorizing secondary capital accounts and setting forth the terms and conditions for these accounts, and Section 701.34(c) establishes the sliding scale capital values for accounts with remaining maturities of less than five years.

As previously discussed, the Board has established a number of requirements in this interim rule to ensure both that these accounts actually serve as capital and that there is no misunderstanding on the part of investors as to the risks involved. A credit union offering these accounts must adopt a written plan addressing how the credit union will use the funds and how the credit union will meet liquidity needs to repay the funds upon maturity. The plan must be submitted to the appropriate NCUA Regional Director. The submission is for purposes of notice to NCUA; the credit union need not await NCUA approval.

Other requirements include that the accounts may be offered only to nonnatural person investors, that the accounts have a minimum maturity of five years, that they are not insured, that they may not be provided as security on other obligations of the accountholder, that the accounts will not "carry over" in the event of merger into a credit union that is not low-income designated, that claims represented by these accounts are subordinate to all other claims on the credit union, and that they are available to cover losses. The accounts may not be offered as share accounts. Lowincome designated Federal credit unions that choose to offer these accounts will do so pursuant to their borrowing authority, and this will presumably be the case for federally-insured state chartered credit unions as well, depending on their authority under state law.

Funds in secondary capital accounts must be available to cover losses in an *operating* credit union, i.e. the funds are available without having to liquidate the credit union. The funds must be available to cover losses that exceed available "reserves and undivided earnings". For this purpose, reserves and undivided earnings are *exclusive* of all allowance accounts for loan and investment losses, inasmuch as such allowance accounts are already earmarked to cover other anticipated losses.

To avoid overreliance on the availability of these temporary accounts to cover future operating losses, the rule establishes a declining scale for the capital value of accounts with less than five years remaining maturity. (All of the funds, however, will continue to be at risk to cover losses that exceed reserves and undivided earnings.) Accounts with remaining maturities of at least four years but less than five are counted as capital at 80 percent of face value, remaining maturities of at least three but less than four years are counted at 60 percent, and so on, to the point of less than one year remaining maturity, where the account reflects no capital value. In addition to preventing overstatement of the true value of these accounts as continuing capital, this feature will encourage credit unions to continually replenish their sources of maturing secondary capital to the extent such funds are needed to support ongoing lending programs and other operations. The reduced capital value of the accounts will be shown through a footnote to the credit union's financial statement.

The interim rule sets forth prescribed disclosures, as Appendix A to section 701.34, that must be provided to investors in secondary capital accounts, and requires that signed originals of the disclosure and account agreement be retained by the credit union at least for the life of the agreement.

Amendment 3 updates NCUA's regulatory provisions for federally insured state credit unions related to low-income designation and receipt of secondary capital accounts. This amendment revises Part 741 *Requirements for Insurance* by adding a new 741.204(c) and making conforming amendments to Section 741.204(b). The new 741.204(c) establishes that state chartered federally insured credit unions may offer secondary capital accounts on the same terms and conditions as Federal credit unions, as long as the credit union has a low-income designation pursuant to 741.204(b) and the accounts are not inconsistent with state law or regulation. State chartered credit unions must submit their plan to both the Regional Director and their state supervisor, and should coordinate with the state supervisor to confirm that these accounts are permissible under state law and to determine whether preapproval of the state supervisor is required.

Amendment 4 revises Section 709.5 *Payout Priorities in Involuntary Liquidation* by adding a new Section 709.5(b)(8) to establish that secondary capital accounts in low-income designated credit unions are paid after all other claims in the event of involuntary liquidation. Also, Section 709.5(e) is revised to specify that, in the unlikely event of a liquidation surplus, secondary capital holders would be repaid before payment of a liquidation dividend.

Effective Date; Interim Rule; Comment Period

Although this amendment is being issued as an interim final rule and is effective immediately, the NCUA Board encourages credit unions to submit comments. Comments may be submitted on or before April 1, 1996.

Because this rule provides a new authority to low-income designated credit unions and use of the authority is voluntary, the NCUA Board finds that good cause exists for an immediate effective date. Moreover, the Board finds it necessary and appropriate to act quickly in this matter in order to allow credit unions an additional avenue to meet the matching fund requirements established by the Community Development Financial Institutions (CDFI) Fund. 60 FR 54110, 54112 (October 19, 1995).

Institutions, including credit unions, seeking funds under the CDFI Program are to submit applications to CDFI by January 29, 1996. NCUA is aware of several low-income credit unions that have submitted or will submit applications to CDFI. CDFI will in turn grant funding in the form of loans, deposits/shares, or capital grants to qualifying institutions. However, one of the major qualifications of the CDFI Program is the requirement that the institution "obtain matching funds from sources other than the Federal government." 60 FR at 54112. Institutions must have "firm commitments for the matching funds requirements * * * not later than July 1, 1996." 60 FR 54136.

This interim rule will provide low-income credit unions that have applied for CDFI funds with a method of raising secondary capital that may be counted as matching funds for either capital grants or loans, depending on the approach ultimately followed by the CDFI Fund. If this was a proposed rule and not an interim rule with an immediate effective date, federally-insured credit unions would have a very limited window of opportunity from the date of a final rule to solicit secondary capital funds. Any delay in the effective date of this rule is contrary to the best interests of federally-insured credit

unions which qualify under the CDFI Program.

Request for Comments

Although this interim rule is effective immediately, the NCUA Board welcomes comment on any aspect of the rule. After the close of the comment period and analysis of the comments, the Board will determine whether any changes in the rule are necessary or appropriate.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that this rule will not have a significant impact on a substantial number of small credit unions. The rule affects only low-income designated credit unions, and imposes no mandatory regulatory burden on those credit unions. Rather, it increases flexibility by providing a new method of raising capital through secondary capital accounts. Accordingly, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the requirements that low-income designated credit unions choosing to offer secondary capital accounts must adopt a written plan, send a copy of the plan to their NCUA Regional Director, and have account contract documents and disclosure forms constitute collection of information requirements under the Paperwork Reduction Act of 1995. The Paperwork Reduction Act and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information. NCUA believes that these requirements are essential both to ensure the safe and sound operation of a secondary capital program and to ensure that account holders fully understand the nature of their investment in the credit union and the risks involved.

NCUA estimates that the increase in paperwork requirements will affect less than 50 credit unions. The requirements will affect only those credit unions that have a low-income designation and voluntarily choose to offer secondary capital accounts. NCUA estimates that it should reasonably take no more than three hours to comply with the paperwork requirements. This translates to 150 burden hours. The NCUA Board invites comment on: (1) Whether the collection of information is necessary for the proper performance of the functions of NCUA, including whether the information will have practical utility; (2) the accuracy of NCUA's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Suzanne Beauchesne, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Comments should be postmarked by April 2, 1996.

NCUA will, after 60 days from the effective date of the interim rule, submit the paperwork requirements to OMB for review under the Paperwork Reduction Act and publish a notice to that effect in the **Federal Register**. NCUA will also publish a notice in the **Federal Register** once OMB takes action on the submission. Federally insured credit unions are not required, pursuant to the terms of the Paperwork Reduction Act, to comply with paperwork requirements until OMB approval and an OMB control number are received. Low-income designated credit unions that choose to offer secondary capital accounts will be expected, however, as a matter of safety and soundness, to adopt written plans, forward a copy of the credit union's plan to the Regional Director (and state supervisor in the case of state credit unions) and use account contract documents and disclosure forms that meet the requirements of this rule in every respect. Failure to do so may jeopardize the ability of low-income designated credit unions to use this authority pending completion of the rulemaking process.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effects of its actions on state interests. This rule has no adverse effects on state interests. The rule provides additional authority for federally insured state chartered credit unions, but only to the extent not inconsistent with state law and regulations. The NCUA Board, however, specifically requests the comments of State credit union regulators to obtain their guidance in how the rule may affect their credit unions.

List of Subjects in 12 CFR Parts 701, 709 and 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on January 25, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR chapter VII as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and Public Law 101–73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 12 U.S.C. 1601, et seq., 42 U.S.C. 1981 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

2. Section 701.32 is amended by revising the section heading and paragraphs (a) and (b)(1) to read as follows:

§ 701.32 Payment on shares by public units and nonmembers.

(a) *Authority.* A Federal credit union may, to the extent permitted under Section 107(6) of the Act and this section, receive payments on shares, (regular shares, share certificates, and share draft accounts) from public units and political subdivisions thereof (as those terms are defined in § 745.1) and nonmember credit unions, and to the extent permitted under the Act, this section and § 701.34, receive payments on shares (regular shares, share certificates, and share draft accounts) from other nonmembers.

(b) *Limitations.* (1) Unless a greater amount has been approved by the Regional Director, the maximum amount of all public unit and nonmember shares shall not, at any given time, exceed 20% of the total shares of the federal credit union or $1.5 million, whichever is greater.

* * * * *

3. Section 701.34 is added by redesignating paragraph (d) of § 701.32 as paragraph (a) of § 701.34, by revising the third sentence of newly designated paragraph (a)(1) and by adding new paragraphs (b) and (c) and an Appendix as follows:

§ 701.34 Designation of low-income status; receipt of secondary capital accounts by low-income designated credit unions.

(a) *Designation of low-income status.* (1) * * * The designation may be removed by the Regional Director upon notice to the federal credit union if the definitions set forth in paragraphs (a)(2) and (3) of this section are no longer met.

* * *

* * * * * *

(b) *Receipt of secondary capital accounts by low-income designated credit unions.* A Federal credit union having a designation of low income status pursuant to paragraph (a) of this section may offer secondary capital accounts to nonnatural person members and nonnatural person nonmembers on the following conditions:

(1) Prior to offering secondary capital accounts, the credit union shall adopt, and forward to the appropriate NCUA Regional Director, a written plan for use of the funds in the secondary capital accounts and subsequent liquidity needs to meet repayment requirements upon maturity of the accounts.

(2) The secondary capital account must be established as a subordinated debt account or other form of non-share account.

(3) The maturity of the secondary capital account must be for a minimum of five years.

(4) The secondary capital account must not be redeemable prior to maturity.

(5) The secondary capital account shall not be insured by the National Credit Union Share Insurance Fund or any governmental or private entity.

(6) The secondary capital account holder's claim against the credit union must be subordinate to all other claims including those of shareholders, creditors and the National Credit Union Share Insurance Fund.

(7) Funds in the secondary capital account (including both principal and interest) must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings (i.e., reserves and undivided earnings exclusive of allowance accounts for loan and investment losses), and to the extent funds are so used, the credit union shall under no circumstances restore or replenish the account. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time the losses are realized.

(8) The secondary capital account may not be pledged or provided by the account-holder as security on a loan or other obligation with the credit union or any other party.

(9) In the event of merger or other voluntary dissolution of the credit union, other than merger into another low-income designated credit union, the secondary capital accounts will, to the extent they are not needed to cover losses at the time of merger or dissolution, be closed and paid out to the account-holder.

(10) A secondary capital account contract agreement must be executed between an authorized representative of the account holder and the credit union accurately establishing the terms and conditions of this section and containing no provisions inconsistent therewith.

(11) A disclosure and acknowledgment as set forth in the Appendix to this section must be provided to and executed by an authorized representative of the secondary capital account holder at the time of entering into the account agreement, and original copies of the account agreement and the disclosure and acknowledgment must be retained by the credit union for the term of the agreement.

(c) *Accounting treatment; weighted value for purposes of recognizing capital value of secondary capital accounts.* A low-income designated credit union that issues secondary capital accounts pursuant to paragraph (b) of this section shall record the funds on its balance sheet in an equity account entitled "secondary capital account". For such accounts with remaining maturities of less than five years, the credit union shall reflect the capital value of the accounts in a footnote to its financial statement in accordance with the following scale:

1. Four to less than five years remaining maturity—80 percent.
2. Three to less than four years remaining maturity—60 percent.
3. Two to less than three years remaining maturity—40 percent.
4. One to less two years remaining maturity—20 percent.
5. Less than one year remaining maturity—0 percent

Appendix to § 701.34

Disclosures and acknowledgment in the following form must be provided to any investor in secondary capital accounts in a low-income designated credit union.

An original, signed copy must be retained by the credit union.

Disclosure and Acknowledgment

I, _____ (name of signatory), hereby acknowledge and agree to the following in my capacity as _____ (official position or title) of _____ (name of institutional investor):

• _____ (name of institutional investor) has committed _____ (amount of funds) to a secondary capital account with _____ (name of credit union).

• The funds committed to the secondary capital account are committed for a period of ____ years and are not redeemable prior to _____.

• The secondary capital account is not a share account and the funds committed to the secondary capital account are not insured by the National Credit Union Share Insurance Fund or any other governmental or private entity.

The funds committed to the secondary capital account and any interest paid to the account may be used by _____ (name of credit union) to cover any and all operating losses that exceed the credit union's net available reserves and undivided earnings (i.e., reserves and undivided earnings exclusive of allowance accounts for loan and investment losses), and in the event the funds are so used _____ (name of credit union) will under no circumstances restore or replenish those funds to _____ (organization).

• In the event of liquidation of _____ (name of credit union), the funds committed to the secondary capital account shall be *subordinate to all other claims* on the assets of the credit union, including claims of member shareholders, creditors and the National Credit Union Share Insurance Fund.

_____

(signature)

_____

(official title)

PART 709—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

4. The authority citation for part 709 continues to read as follows:

Authority: 12 U.S.C. 1766; Public Law 101–73, 103 Stat. 183, 530 (1989) (12 U.S.C. 1787 *et seq.*).

5. Section 709.5 is amended by revising paragraphs (b)(6) and (b)(7), by adding a new paragraph (b)(8) and by revising the last sentence of paragraph (e) to read as follows:

§ 709.5 Payout priorities in involuntary liquidation.

(a) * * *

(b) * * *

(6) Shareholders to the extent of their respective uninsured shares and the National Credit Union Share Insurance Fund to the extent of its payment of share insurance;

(7) In a case involving liquidation of a corporate credit union, membership capital share deposits of corporate credit unions; and

(8) In a case involving liquidation of a low-income designated credit union, any outstanding secondary capital accounts issued pursuant to the authority of §§ 701.34 or 741.204(c) of this chapter.

* * * * *

(e) * * * If a surplus remains after making distribution in full on all allowed claims described in paragraphs (b)(1) through (b)(8) of this section, such

surplus shall be distributed pro rata to the credit union's shareholders.

PART 741—REQUIREMENTS FOR INSURANCE

6. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, and 1781–1790.

7. Section 741.204 is amended by revising the third sentence of paragraph (b) and adding a new paragraph (c) to read as follows:

§ 741.204 Maximum public unit and nonmember accounts, and low-income designation.

* * * * *

(a) * * *

(b) * * * The designation will be made and reviewed by the state regulator on the same basis as that provided in § 701.34(a) of this chapter for federal credit unions. * * *

(c) Receive secondary capital accounts only if the credit has a low-income designation pursuant to paragraph (b) of this section, and then only in accordance with the terms and conditions authorized for Federal credit unions pursuant to § 701.34 of this chapter and to the extent not inconsistent with applicable state law and regulation. State chartered federally insured credit unions offering secondary capital accounts must submit the plan required by § 701.34 to both the state supervisory authority and the NCUA Regional Director.

[FR Doc. 96–2018 Filed 2–1–96; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–12–AD; Amendment 39–9506; AD 96–03–09]

Airworthiness Directives; De Havilland Model DHC–8–102, –103, –106, –301, –311, –314, and –315 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–8 series airplanes, that requires modification of a certain battery temperature monitor. This amendment is prompted by reports of failure of the battery temperature monitor, which resulted in smoke in the flight compartment. The actions specified by this AD are intended to prevent failure of the battery monitor, which could result in smoke in the flight compartment.

DATES: Effective March 4, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter Cuneo, Electrical Engineer, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7506; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8 series airplanes was published in the **Federal Register** on February 21, 1995 (60 FR 9647). That action proposed to require modification of a certain battery temperature monitor.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Since issuance of the NPRM, Transport Canada Aviation has issued Canadian airworthiness directive CF–94–22R1, dated June 30, 1995, which revises the effectivity of the original version of the Canadian airworthiness directive by adding Model DHC–8–315 series airplanes.

The FAA has revised the applicability of the final rule to include these additional airplanes. These additional airplanes currently are operated by non-U.S. operators under foreign registry; therefore, they are not affected directly by this AD action. However, the FAA considers that the revision to the applicability of the rule is necessary to ensure that the unsafe condition is addressed in the event that these subject airplanes are imported and placed on the U.S. Register in the future.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 137 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. The cost of required parts will be nominal. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,220, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–09 De Havilland, Inc.: Amendment 39–9506. Docket 95–NM–12–AD.

Applicability: Model DHC–8–102, –103, –106, –301, –311, –314, and –315 series airplanes, serial numbers 003 through 389 inclusive; equipped with Ametek/Weston battery temperature monitor having part number (P/N) 522487; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the battery temperature monitor, which could result in smoke in the flight compartment, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the battery temperature monitor in accordance with de Havilland Service Bulletin S.B. 8–24–53, dated September 7, 1994.

(b) As of the effective date of this AD, no person shall install an Ametek/Weston battery temperature monitor, P/N 522487, on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with de Havilland Service Bulletin S.B. 8–24–53, dated September 7, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 4, 1996.

Issued in Renton, Washington, on January 25, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1873 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–274–AD; Amendment 39–9507; AD 96–03–10]

Airworthiness Directives; Boeing Model 747–400 Series Airplanes Equipped With Rolls Royce Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes. This action requires an inspection for damage of the fuel tube located in the forward engine strut, and repair, if necessary; installation of a new support bracket and clamps on the power feeder conduit; and an inspection for proper positioning of the power feeder conduit in each engine strut, and adjustment, if necessary. This amendment is prompted by reports of worn fuel tubes that were caused by the power feeder conduit moving and touching the fuel tube. The actions specified in this AD are intended to prevent wear of the fuel tube, which could result in a fuel leak in the engine strut and a consequent fire hazard.

DATES: Effective February 20, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 20, 1996.

Comments for inclusion in the Rules Docket must be received on or before April 2, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–274–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2793; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Two operators of Boeing Model 747–400 series airplanes equipped with Rolls Royce engines have reported five incidents of worn engine fuel feed tubes found in the engine struts. In each case, the worn tube was found to be touching the engine power feeder cable conduit in the front of the engine strut. This touching created worn (chafed) areas on the fuel tubes; the worn areas were between 0.0055 and 0.014 inch deep. Investigation revealed that the currently-installed bracket and clamps for the power feeder conduit allow the conduit to rotate and consequently come into contact with the engine fuel feed tube. If this is not prevented, the conduit can wear a hole in the fuel tube, which could result in a fuel leak in the forward strut area. A fuel leak such as this, if not corrected, could pose a fire hazard.

Boeing has issued Alert Service Bulletin 747–28A2190, dated March 23, 1995, which describes procedures for inspecting the fuel tube in each strut for wear or damage, and repairing it, if necessary. It also describes procedures for installing a new support bracket and two new clamps on the power feeder

conduit in all four engine struts. The service bulletin also describes procedures for inspecting the power feeder conduit for proper positioning, and adjusting it to obtain maximum clearance between it and the fuel tube.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent a fuel leak in the forward engine strut. This AD requires (1) an inspection for wear of the fuel tube in the forward engine strut, and repair, if necessary; (2) the installation of a new support bracket and two new clamps on the power feeder conduit; and (3) an inspection for proper positioning of the power feeder conduit, and adjustment, if necessary. The actions are required to be accomplished in accordance with the service bulletin described previously.

None of the Model 747–400 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 8 work hours to accomplish the required actions, at an average labor charge of $60 per work hour. The cost of required parts would be $368 per airplane. Based on these figures, the cost impact of this AD would be $848 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–274–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–10 BOEING: Amendment 39–9507. Docket 95–NM–274–AD.

Applicability: Model 747–400 series airplanes equipped with Rolls Royce engines; as listed in Boeing Alert Service Bulletin 747–28A2190, dated March 23, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously. To prevent a fuel leak in the forward engine strut, accomplish the following: (a) Within 90 days after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD in accordance with Boeing Alert Service Bulletin 747–28A2190, dated March 23, 1995:

(1) Inspect the fuel tube in each engine strut for wear and damage. Prior to further flight, repair any discrepancy found.

(2) Install a new support bracket and new clamps on the power feeder conduit in each engine strut.

(3) Inspect the engine power feeder cable conduit in the front of each engine strut for proper positioning. Prior to further flight, position the conduit to obtain the most clearance between it and the fuel tube.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection and installation shall be done in accordance with Boeing Alert Service Bulletin 747–28A2190, dated March 23, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on February 20, 1996.

Issued in Renton, Washington, on January 25, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1877 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 97

[Docket No. 28447; Amdt. No. 1707]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate fight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on January 26, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective February 29, 1996 * * **

Alturas, CA, Alturas Muni, GPS RWY 31, Orig
Oakland, CA, Metropolitan Oakland Intl, VOR/DME RWY 29, Orig
Ruston, LA, Ruston Rgnl, NDB RWY 18, Orig
Sulphur, LA, Southland Field, LOC RWY 15, Orig
Sulphur, LA, Southland Field, NDB RWY 15, Orig
Ruidoso, NM, Sierra Blanca Regional, LOC/DME RWY 24, Orig
Provo, UT, Provo Muni, VOR or GPS RWY 13, AMDT 1
Provo, UT, Provo Muni, ILS RWY 13, AMDT 4

** * * Effective March 28, 1996 * * **

Venice, LA, Point in Space, COPTER LORAN RNAV 087, Orig, CANCELLED

** * * Effective April 25, 1996 * * **

Stuttgart, AR, Stuttgart Muni, GPS RWY 18, Orig
Stuttgart, AR, Stuttgart Muni, GPS RWY 36, Orig
Boone, IA, Boone Muni, GPS RWY 14, Orig
Chariton, IA, Chariton Muni, GPS RWY 10, Orig
Sulphur, LA, Southland Field, GPS RWY 15, Orig
Farmington, MO, Farmington Regional, GPS RWY 2, Orig
Lake Ozark, MO, Lee C. Fine Memorial, GPS RWY 21, Orig
Monroe City, MO, Monroe City Regional, GPS RWY 27, Orig
Las Vegas, NM, Las Vegas Muni, GPS RWY 2, Orig
Las Vegas, NM, Las Vegas Muni, GPS RWY 20, Orig
Las Vegas, NM, Las Vegas Muni, GPS RWY 32, Orig
Roswell, NM, Roswell Industrial Air Center, GPS RWY 35, Orig
Taos, NM, Taos Muni, GPS RWY 4, Orig
Dumas, TX, Moore County, GPS RWY 19, Orig
Houston, TX, Houston Intercontinental, GPS RWY 26, Orig
Roosevelt, UT, Roosevelt Muni, GPS RWY 25, Orig

The FAA published Amendments in Docket No. 28408, Amdt. No. 1700 to Part 97 of the Federal Aviation Regulations (Vol 61 FR No. 7 Page 699, dated Wednesday, January 10, 1996) under Section 97.23 effective February 29, 1996 which are hereby rescinded:

West Milford, NJ, Greenwood Lake, VOR RWY 6, Orig
West Milford, NJ, Greenwood Lake, VOR or GPS–A, Amdt 3, CANCELLED

[FR Doc. 96–2253 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28448; Amdt. No. 1708]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, are reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (air).

Issued in Washington, DC, on January 26, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106 (g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
01/19/96 ...	DE	Wilmington	New Castle County	FDC 6/0510	VOR Rwy Amdt 5.
01/19/96 ...	IA	Newton	Newton Muni	FDC 6/0490	ILS Rwy 32, Amdt 1.
01/19/96 ...	KS	Washington	Washington County Memorial	FDC 6/0509	NDB–A Orig.
01/24/96 ...	OR	Portland	Portland-Hillsboro	FDC 6/0589	VOR/DME or GPS–A, Orig.

[FR Doc. 96–2254 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28449; Amdt. No. 1709]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include "or GPS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS procedure is developed, the procedure title will be altered to remove "or GPS" from these non-localizer, non-precision instrument approach procedure titles.) Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on January 26, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, Effective at 0901 UTC on the dates Specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective FEB 29, 1996*

Rogers, AR, Rogers Municipal-Carter Field, VOR or GPS RWY 1, Amdt. 31 CANCELLED
Rogers, AR, Rogers Municipal-Carter Field, VOR RWY 1, Amdt 13
Magnolia, AR, Magnolia Muni, NDB or GPS RWY 35, Orig–A CANCELLED
Magnolia, AR, Magnolia Muni, NDB RWY 35, Orig–A
Bullhead City, AZ, Laughlin/Bullhead Intl, VOR/DME or GPS RWY 34, Orig CANCELLED
Bullhead City, AZ, Laughlin/Bullhead Intl, VOR/DME RWY 34, Orig
Flagstaff, AZ, Flagstaff Pulliam, VOR/DME or GPS RWY 21, Orig CANCELLED
Flagstaff, AZ, Flagstaff Pulliam, VOR/DME RWY 21, Orig
Ames, IA, Ames Muni, VOR or GPS RWY 31, Amdt 8A CANCELLED
Ames, IA, Ames Muni, VOR RWY 31, Amdt 8A
Tipton, IA, Mathews Memorial, VOR or GPS RWY 11, Amdt 2 CANCELLED
Tipton, IA, Mathews Memorial, VOR RWY 11, Amdt 2
Houma, LA, Houma-Terrebonne, VOR or GPS RWY 12, Amdt 4A CANCELLED
Houma, LA, Houma-Terrebonne, VOR RWY 12, Amdt 4A
New Orleans, LA, Lakefront, VOR or GPS RWY 18R, Amdt 3 CANCELLED
New Orleans, LA, Lakefront, VOR RWY 18R, Amdt 3
Grayling, MI, Grayling AAF, NDB or GPS RWY 14, Amdt 6 CANCELLED
Grayling, MI, Grayling AAF, NDB RWY 14, Amdt 6
Howell, MI, Livingston County, NDB or GPS RWY 13, Amdt 1 CANCELLED
Howell, MI, Livingston County, NDB RWY 13, Amdt 1
Kalamazoo, MI, Kalamazoo/Battle Creek Intl., VOR or GPS RWY 5, Orig CANCELLED
Kalamazoo, MI, Kalamazoo/Battle Creek Intl., VOR RWY 5, Orig
Kalamazoo, MI, Kalamazoo/Battle Creek Intl., VOR or GPS RWY 23, Amdt 17 CANCELLED
Kalamazoo, MI, Kalamazoo/Battle Creek Intl., VOR RWY 23, Amdt 17 CANCELLED
St Charles, MO, St Charles County Smartt, VOR or GPS RWY 18, Orig CANCELLED
St Charles, MO, St Charles County Smartt, VOR RWY 18, Orig
Sedalia, MO, Sedalia Memorial, NDB or GPS RWY 18, Amdt 7B CANCELLED
Sedalia, MO, Sedalia Memorial, NDB RWY 18, Amdt 7B
Hastings, NE, Hastings Muni, VOR or GPS RWY 14, Amdt 16 CANCELLED
Hastings, NE, Hastings Muni, VOR RWY 14, Amdt 16
Silver City, NM, Grant County, NDB or GPS RWY 26, Amdt 3 CANCELLED
Silver City, NM, Grant County, NDB RWY 26, Amdt 3
Sullivan, MO, Sullivan Regional, NDB or GPS RWY 24, Orig CANCELLED
Sullivan, MO, Sullivan Regional, NDB RWY 24, Orig
Rugby, ND, Rugby Muni, NDB or GPS RWY 30, Amdt 4 CANCELLED
Rugby, ND, Rugby Muni, NDB RWY 30, Amdt 4
Ponca City, OK, Ponca City Muni, VOR/DME RNAV or GPS RWY 35, Amdt 2 CANCELLED
Ponca City, OK, Ponca City Muni, VOR/DME RNAV RWY 35, Amdt 2
Burlington/Mount Vernon, WA, Burlington/Skagit Regional-Bay View, NDB or GPS RWY 10, Amdt 2 CANCELLED
Burlington/Mount Vernon, WA, Burlington/Skagit Regional-Bay View, NDB RWY 10, Amdt 2.

[FR Doc. 96–2255 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 22

Guides for the Hosiery Industry

AGENCY: Federal Trade Commission.

ACTION: Rescission of the guides for the hosiery industry.

SUMMARY: The Federal Trade Commission (the "Commission"), as part of its periodic review of all its guides and rules, announces that it has concluded a review of its Guides for the Hosiery Industry ("Guides" or "Hosiery Guides"). The Commission has decided to rescind the Guides.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Ann Stahl Guler, Investigator, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (310) 235–7890.

SUPPLEMENTARY INFORMATION:

I. Background

The Hosiery Guides were issued by the Commission in 1979.[1] The Guides concerned deceptive advertising and marketing of all hosiery industry products, including stockings and socks that are marketed to men, women, and children. Specifically, the Guides proscribed misrepresentations as to the grade, character, construction, origin, denier, size, style, fashion, gauge, twist of yarn, quality, quantity, value, price, serviceability, resistance to snagging or the development of runs, holes or breaks in the in fabric, strength, stretch, length, color, finish, manufacture, or distribution of any hosiery product. The Hosiery Guides also delineated the use of the terms "lisle," "irregulars," and "seconds" as they apply to hosiery.

On April 15, 1994, the Commission published a Notice in the **Federal Register** soliciting comment on the Hosiery Guides.[2] Specifically, the Commission solicited comments on six questions pertaining to the costs and benefits of the guides and their regulatory and economic effect. The initial closing date for comments was June 14, 1994. The Commission subsequently extended the comment period until July 14, 1994. The Commission received 52 comments in response to the Notice. They are discussed in Part II below.

II. Comments Received

The Commission received comments from 18 individuals, all of whom focused on three issues related to women's history: fit, durability, and the need for labels in pantyhose. Several commenters complained that pantyhose wear out too quickly; others stated that pantyhose either are ill-fitting or that their packaging reflects incorrect sizes. Eight of the commenters asked the Commission to require that labels be sewn in pantyhose. Three of the individual commenters praised the quality of hosiery currently available to American consumers, and supported retention of the Hosiery Guides.

One government official submitted two comments. Lydia Justice Edwards, State Treasurer of Idaho, asked the Commission in her first comment to expand the Hosiery Guides to mandate labeling on hosiery packages. The State Treasurer submitted a proposed specification chart listing such characteristics as the fiber and weight of the fabric, as well as the type of stitch used. She also proposed that the Commission develop a rating system that would enable purchasers to evaluate and compare among brands such characteristics as resistance to runs and snags, elasticity, and durability. Ms. Edwards further suggested that the Commission develop a uniform sizing method that all hosiery manufacturers would be required to use. Her first comment also recommended that manufacturers be required to provide a means for consumers to examine and touch hosiery before making a purchase decision. The State Treasurer's second comment proposed that the Commission mandate for every hosiery product a "statement of guarantee" that the product is in perfect condition and meets a minimum quality standard.

The Crafted With Pride in the U.S.A. Council, Inc. urged the Commission not to modify current labeling requirements relating to country of origin.

Twenty-nine comments were received from individual hosiery manufacturers. The National Association of Hosiery Manufacturers (NAHM) and the American Textile Manufacturers Institute (ATMI) also submitted comments. All of the industry commenters supported the continuation of the Guides. The NAHM and its members stated that the guides provide a sound set of principles for the advertising and marketing of hosiery products, and ensure that consumers are provided with fair and accurate information. The ATMI commented that the guides are beneficial to the industry because they provide information on deceptive practices, definitions of hosiery and product classes, labeling information, and product sizing guidance.

The NAHM and 14 hosiery firms recommended that the Guides' definition of "Industry Products" be amended to include "tights" and to delete "anklets." The NAHM and its members also requested that the FTC include in the Guides a definition of the terms "non-run," "no-run," and "run-resistant" that were contained in a Commission decision dismissing a complaint against *Holeproof Hosiery Company*.[3]

III. Conclusion

Although the comments submitted to the Commission supported retaining the Guides, they did not clearly demonstrate why the hosiery industry in particular needs special Commission guidance in the advertising or sale of its products. In this regard, the Commission notes that hosiery products are covered by its Textile Rules [4] and Care Labeling Rule.[5] The Textile Rules require that textile products be labeled with the fiber content, the name or registered identification number of the manufacturer or other responsible company, and the country of origin. For hosiery products, the required information may appear on the packaging and need not be on a label

[1] The Guides were originally issued as Trade Practice Rules. The Commission reissued them as guides in 1979 when it rescinded all Trade Practice Rules. Industry guides are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. 16 CFR 1.5.

[2] 59 FR 18004.

[3] 47 F.T.C. 1668 (1951).

[4] Rules and Regulations under the Textile Fiber Products Identification Act, 16 CFR Part 303.

[5] Trade Regulation Rule concerning Care Labeling of Textile Wearing Apparel and Certain Piece Goods as Amended, 16 CFR Part 423.

affixed to the product itself.[6] Under the Care Labeling Rule, items of textile wearing apparel must be labeled with appropriate care instructions. For most such items, the care instructions must appear on a label permanently attached to the product. However, hosiery products have been granted an exemption from the labeling requirement if care instructions accompany the product on a tag or on packaging.[7]

In addition, the Commission notes that industry self-regulation efforts, led by the NAHM, already exist in certain technical areas. For example, the industry currently conforms sizing of all hosiery products to a set of voluntary standards.[8]

For these reasons, the Commission concludes that it is unnecessary to retain guides specific to the hosiery industry and therefore is rescinding the Guides. If, in the future, practices in the sale of hosiery are determined to be materially misleading and to cause consumer harm, the Commission can address such practices under Section 5 of the Federal Trade Commission Act.[9]

The Commission appreciates the concerns raised by the commenters. It declines, however, to expand the coverage of the guides as recommended. First, some of the areas suggested for inclusion in the guides are beyond the Commission's authority under the FTC Act, which is the basis for the content of the guides. Second, the Commission believes that existing rules governing care labeling and labeling of textile products are adequate to protect consumers from deceptive claims concerning the attributes and care of hosiery products.

List of Subjects in 16 CFR Part 22

Advertising, Hosiery, Labeling, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

PART 22—[REMOVED]

The Commission, under authority of section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, amends chapter I of title 16 of the Code of Federal Regulations by removing Part 22.

[FR Doc. 96–2261 Filed 2–1–96; 8:45 am]

BILLING CODE 6750–01–M

[6] 16 CFR 303.15(c).

[7] In addition, certain hosiery products which can be machine washed and dried at hot settings without damage and without transferring their dye to other fabrics, and which sell at retail for less than $3.00, need not provide any form of care instructions.

[8] Commercial Standard CS 46–49 (last revised in 1990).

[9] Section 5 of the FTC Act, 15 U.S.C. 45(a)(1), prohibits unfair or deceptive acts or practices in or affecting commerce.

DEPARTMENT OF STATE

22 CFR Part 9b

[Public Notice 2273]

Bureau of Public Affairs; Press Building Passes

AGENCY: Bureau of Public Affairs, State.

ACTION: Direct final rule.

SUMMARY: This rule eliminates the requirement for annual submission of a letter from press pass holders attesting that they continue to cover the Department of State on a regular and substantial basis to maintain their press passes. Instead, press building passes will automatically lose their validity if not used in a 12-month period without further notification to the pass holder. This rule also changes the period of validity for press building passes and allows issuance of press passes pending positive completion of international background investigation. The changes will reduce the administrative burden on press pass holders, as well as on the Department.

DATES: *Effective Date:* April 2, 1996. The rule will become final on April 2, 1996 unless this agency publishes a document withdrawing the rule based on receipt of adverse comments which are due on or before March 4, 1996.

ADDRESSES: Interested persons are invited to submit comments to: Director, Office of Press Relations, Department of State, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Julie M. Reside, Office of Press Relations (202) 647–2492.

SUPPLEMENTARY INFORMATION: The implementation of this rule as a direct final rule is based upon the "good cause" exception found at 5 U.S.C. 553(d)(3). Promulgation notice and comment is "unnecessary" because the rule is noncontroversial and not likely to engender public comment. This rule is not expected to have a significant impact on small business entities. This final rule does not impose information collection requirements under the Paperwork Reduction Act of 1980. The rule has been reviewed as required under Executive Order 12778 and certified to be in compliance therewith. The rule is exempt from review under Executive Order 12866, but has been reviewed internally by the Department to ensure consistency with the objectives thereof.

List of Subjects in 22 CFR Part 9b

Administrative practice and procedure, Federal buildings and facilities, News media, Security measures.

For the reasons set forth in the preamble, the Department of State amends 22 CFR part 9b as follows:

PART 9b—[AMENDED]

1. The authority citation for 22 CFR part 9b continues to read as follows:

Authority: 22 U.S.C. 2658.

2. Section 9b.8 is revised to read as follows:

§ 9b.8 Term and renewal of Department of State press building passes.

(a) Department of State press building passes for U.S. citizens are issued with three years' validity. Subject to positive completion of an international background check, passes for non-U.S. citizens are issued with one year's validity and may be renewed for three years. Notwithstanding its initial validity, any press building pass that has not been used for a twelve-month period, as recorded by the Bureau of Diplomatic Security's turnstyle entry devices, will become invalid at the end of that twelve-month period.

(b) For any valid passes issued before October 1, 1995, notification shall be sent by the Department of State to the holder of the pass that the pass has become invalid by reason of lack of use for 12-month period. However, failure of the holder for any reason to receive such a notification shall not affect the invalidity of the pass. Anyone whose pass has become invalid may apply for a new pass in accordance with §§ 9b.2 through 9b.5.

Richard M. Moose,

Under Secretary of State for Management.

[FR Doc. 96–1258 Filed 2–1–96; 8:45 am]

BILLING CODE 4710–11–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 206 and 260

RIN 1010–AB93

Bidding Systems for Leases in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This rule amends the regulations of the Minerals Management Service (MMS) to modify the bidding systems available for use on tracts offered for lease under the Outer Continental Shelf Lands Act (OCSLA). The change gives the Secretary of the Interior more flexibility in setting the terms of a lease sale. This rule provides four methods of modifying the existing alternative bidding systems: (1) setting the minimum prescribed royalty rate charged on Federal offshore leases below 12½ per centum but greater than zero per centum; (2) permitting operating allowances when computing payment obligations under the lease; (3) suspending or deferring royalty for a specific time period, volume, or value of production; and (4) expanding the methods for calculating royalty rates under variable royalty systems to include product prices, as well as value and amount of production, with the ability to use different formulas across time periods. The rule does not affect existing leases.

EFFECTIVE DATE: This rule is effective March 4, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Marshall Rose, Chief, Economic Evaluation Branch, telephone (703) 787–1536.

SUPPLEMENTARY INFORMATION: The OCSLA provides authority to modify any bidding system currently authorized by the Act if the Secretary determines the modification to be useful to accomplish the purposes and policies of the Act (section 8(a)(1)).

This final rule is the result of a review of alternative leasing policies conducted within MMS with input from constituents. The final rule, like the proposed rule, enables MMS to set royalty terms at the time of sale for new offshore leases that will adjust automatically to changing market conditions in the oil and gas industry as lease exploration, development, and production proceed. Implementation is expected to increase competition for new Federal offshore leases, ensure receipt of fair market value, and increase the likelihood that new leases will be explored and developed.

The new royalty terms will be considered for use in the leasing of specific types of tracts, such as tracts that can be identified before a sale containing potential oil and gas resources in reservoirs located below tabular salt formations. Other categories of tracts that we might choose to offer under the new terms include tracts with qualifying wells which have uneconomic reserves or tracts which previously received high bonus bids but were not explored.

When we choose to use the new bidding terms, MMS may set the minimum royalty rate at less than 12½ per centum for all or a part of the lease's productive life as described in the lease terms portion of a final notice of sale. The MMS may designate a royalty rate that is either a fixed constant or varied over the life of the lease or a royalty rate that emerges or fluctuates as specified conditions are met (e.g., royalties would not accrue until a designated time period expires or a specified production level or value is reached, or a predetermined capital cost allowance is recovered, or royalties would be reduced during periods of declining average product prices).

Concurrently, with MMS development of this rule, Congress enacted the Outer Continental Shelf Deep Water Royalty Relief Act (Pub. L. 104–58, November 28, 1995) which amended the OCSLA to add a new section 8(a)(1)(H) which defines a new bidding system. The new bidding system prescribes a cash bonus bid with a royalty of no less than 12½ per centum and provides for a suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease. Any lease sale held before November 28, 2000, must use the new bidding system for all tracts located in water depths of 200 meters or more in the Western and Central Gulf of Mexico Planning Areas, including that portion of the Eastern Gulf of Mexico Planning Area west of 87 degrees, 30 minutes west longitude.

This rule allows MMS to implement this new bidding system. The proposed rule had included the substance of the required provisions. Thus, MMS is able to include implementing provisions in this final rule. We are preparing another rule to implement further details of the Outer Continental Shelf Deep Water Royalty Relief Act.

Twelve respondents submitted comments during the public comment period and MMS reviewed and analyzed the comments. The following is a discussion of the comments received and our response. Each time MMS announces use of this new bidding rule in a preliminary lease sale notice, interested parties may submit comments.

Narrative Response to Comments

Comment: Several commenters had specific questions regarding uncertainty over aspects or terms used in the proposed rule.

Question 1: What would a "simple price-royalty rate formula" look like?

Response: One example of such a formula is a royalty rate of one-sixth applies if the average oil price is above $18 (per barrel) and one-eighth if the average price is below $18. Or, the royalty rate could vary in several discrete increments, or even continuously, as a function of oil (and perhaps gas) prices prevailing during the life of the lease.

Question 2a: What does the MMS mean when it suggests it would be able to "set royalty terms at time of sale for new leases that will adjust dynamically to changing market conditions?"

Response: An example of a royalty term that responds automatically to market conditions would be a royalty rate that depended on gross lease revenues. As prices declined or production from the lease decreased, the royalty rate would decline according to conditions specified in the sale notice, reflecting a lower profit potential on the lease. Such a system could include a predetermined cost allowance that would be deducted from gross revenues for the purpose of computing the net revenue amount, to which the royalty rate would be applied.

Question 2b: How frequently would royalty terms change?

Response: The frequency of change will be specified in the sale notice and lease. It will depend on both the form of the system and the variables defined in the sale notice and lease. For example, if MMS uses an inflation adjustment, the terms could change annually or monthly according to the specified adjustment factor. If MMS uses a fixed volume suspension, the change would occur only at the time the prescribed production volume is achieved. Once the lease is executed, any change in royalty will be triggered solely by satisfying the objectively determined economic and geologic factors specified in the lease.

Question 2c: Are there limits on the changes?

Response: Yes. The MMS will specify the range of values over which the royalty rate will change in the final notice of sale and the lease.

Question 2d: Is the 12½ per centum royalty the ceiling?

Response: No. When there is a ceiling we will specify it in the notice of sale.

Question 2e: How will MMS and industry administer these leases (e.g., audits)?

Response: We will continue to administer leases in the same manner. However, estimates of future prices could, under some systems, necessitate a recalculation not only in the receipts

subject to royalty, but also in the size of the royalty rate as well.

Question 2f: How would MMS administer these new leases when unitized with leases with different or fixed royalties?

Response: The MMS will be careful to ensure that lessees properly allocate production to each unitized lease. Normally unitized production from a common reservoir is based on the proportion of recoverable resources present on each lease.

Question 3a: How does the "operating allowances" concept relate to the amendments to the bidding systems regulations?

Response: Under existing royalty regulations, transportation costs and gas processing costs are permissible deductions in computing royalty due. The notion of a predetermined operating allowance is proposed partly to expand the set of tract-specific costs that MMS may consider in calculating payment obligations, without complicating the accounting. Or alternatively, MMS may simply offer some tracts under a bidding system with a specified transportation and processing allowance instead of actual costs incurred.

Question 3b: How do operating allowances relate to existing transportation and processing allowances in terms of substance and reporting requirements?

Response: Because the allowance concept is based on the specified standard, there will be some difference between actual costs incurred and those used to compute payment obligations. However, if set properly, we expect that the allowance will be about right on average. Moreover, this could alleviate some of the administrative and auditing burdens, since actual costs may not affect the amount of payments owed under some of these systems.

Question 3c: What is the effect of the introduction of the new concept of "operating allowances" into the valuation regulations?

Response: Operating allowances could be used in conjunction with valuation regulations in one of two ways. First, predetermined operating allowances, defined at the time of sale, could replace valuation regulations for the purpose of calculating net receipts subject to payment obligations.

Second, a predetermined operating allowance could be subtracted from net receipts after the valuation regulations are applied, to determine the final amount of receipts subject to payment obligations. In either case, the approach used would be designated in the proposed and final sale notices.

Question 4: Can phrases such as "any amounts creditable against future royalties" and "inflation factor" for purposes of determining value "or amount" of production be explained?

Response: Should the governing statutes change, MMS might consider allowing the lessee to credit other payments made to the Government (e.g., rentals) against future payments due the Government (e.g., royalties). Existing statutes do not allow MMS to encourage lessee behavior (e.g., starting exploration or production earlier in the primary term) by reimbursing the lessee in cash. In developing the original sliding-scale bidding system, MMS made the royalty rate dependent upon the gross value of production generated during a period. The MMS used an index or "inflation factor" to make adjustments in production value in future production periods to reflect the prevailing level of aggregate prices in the economy.

For simplicity, MMS will provide the details of any required modifications of this type in the official sale and lease documents, rather than in the regulations.

Question 5: Why would industry have to wait for publication of lease sale packages to examine royalty rate formulas?

Response: In the April 20, 1995, **Federal Register** Notice asking for comments on the proposal (60 FR 19767), MMS described the general nature of the equations and formulas, along with the applicable variables, and this notice continues the discussion. In many instances, the specific parameters that we will use in specific lease sales may depend on the characteristics of the tracts to which they apply as well as prevailing price and cost conditions at time of sale. The rule itself does not include values for the parameters. Whenever possible we will announce the formulas to be used, along with proposed values for the parameters, in the preliminary notice of sale. This will permit industry to comment on the details of the bidding system before MMS publishes the final notice of sale.

Question 6: What does "suspension or deferral magnitudes or formulas" mean?

Response: During the productive life of a lease, the existing royalty could be suspended (i.e., reduced or eliminated) or deferred (i.e., paid at a later time under some circumstances). Typically, such provisions will apply at the start of production. We may express the suspension or deferral variable as a specified number of barrels of oil equivalent produced, gross revenues collected from oil and gas sales, or length of time over which royalties would be collected at a reduced rate.

Question 7: What index will MMS use for pricing?

Response: We will specify the index to be used in the final sale notice. We expect that such indices will reflect the rate of inflation in either the energy sector or the economy as a whole. Indices of this nature typically appear in a variety of Federal documents published among others by the Department of Commerce and the Department of Energy.

Question 8: For a particular lease sale, can a bidder choose between a reduced (variable) rate or fixed rate? If so, how would the MMS award competitive bids?

Response: No. The MMS did not envision allowing the bidders to choose between different leasing systems on the same tract. The concept does have some appeal, however, since it would allow bidders with different capacities to bear risk to choose the system that best suits them. With this added flexibility, the ceiling royalty rate associated with the variable royalty rate option will have to be above the fixed rate. Otherwise, bidders presumably would be better off always choosing the reduced (variable) royalty rate. However, unless MMS develops a way to show that the anticipated value of the tract was the same under either system, there will be no simple way to choose among competitive cash bonus bids submitted under each of the systems. Thus, MMS has not chosen to pursue this option.

Question 9: How much lead time can companies expect to have between promulgation of final regulations and the first lease sale where they would apply?

Response: Before using some of the innovative new concepts covered by this rule, MMS will both take time to determine how the new system will be used in the specific lease sale and will solicit industry comments in a preliminary notice of sale. This will provide industry with an opportunity to understand the new system.

Question 10: Would a potential bidder have any flexibility in the bidding process with regard to the royalty rate? For example, could a potential bidder offer a traditional one-eighth royalty?

Response: These changes in bidding systems relate to the manner in which MMS will determine the applicable royalty rate during a give production period. We are not introducing these changes to facilitate various forms of actual bidding on the royalty rate to be paid by the lessee. Thus, we intend to set the form of the royalty rate, and the lessee will bid a cash bonus. Under this format, the lessee cannot affect the royalty rate during the bidding process. Only if the royalty is the bid variable, would a potential bidder be free to offer a traditional one-eighth royalty.

Question 11: Would there be any changes to the basis upon which the MMS awards competitive bids?

Response: No. Under the proposed systems, the high cash bonus bidder will be awarded the lease subject to satisfying the MMS bid adequacy criteria.

Comment: One commenter mentioned that although the proposed rule does not specifically indicate MMS is contemplating such a system, they are against one which might call for bidding of both a royalty variable and bonus.

Response: The term "variable royalty rate" is meant to convey the notion that the royalty rate, as described in the sale notice, may vary over the life of the lease. This does not mean that MMS is making the royalty rate a bidding variable. This rule does not affect the MMS authority to use the royalty rate as a bidding term, either in place of or in conjunction with a cash bonus. While the OCSLA does not authorize MMS to use more than one bidding variable simultaneously, we may be able to design some systems that operate sequentially.

For example, in the unlikely event that bidding for some tracts involved both the cash bonus and the royalty rate, MMS needs a means to objectively determine the winning bidder. One way to do that would be to require bidding on the two terms in sequence rather than in parallel. Subject to a fixed minimum required cash bonus, bidding could be allowed on the royalty rate up to a predetermined and known maximum. If a bidder chooses to bid above the maximum royalty rate, it would do so by offering to add to the minimum required bonus bid.

Comment: One commenter stated that it would be unjust for a lessee to relinquish a lease after conducting exploratory drilling, with the possible public release of data, and then for the Government to reoffer the tract under more favorable terms to competitors.

Response: The original lessee purchased the contract for a cash bonus bid. If it then voluntarily relinquishes the lease after conducting exploratory drilling, the Government is free to reoffer the tract in the market at any terms it deems appropriate. The original lessee can compete on equal terms with others through the auction process used to reoffer the tract.

Comment: Two commenters suggested that royalty relief and flexible royalty terms would benefit production if MMS applies them to existing OCS leases that are approaching the economic limits of production.

Response: This rule does not affect the authority of MMS, under § 8(a)(3)(A) of OCSLA, to reduce or eliminate any royalty or net profit share on an active tract.

Response: One commenter strongly recommended that MMS consider providing an appropriate allowance for poor quality and/or low gravity crude in order to foster development of such resources.

Response: Lower quality crude sells for less. Since royalty paid is directly propositional to price, the current fixed royalty arrangement reflects differences in product quality. To the extent that an additional adjustment is needed for low quality crude, to account for higher costs of extraction, then a properly set cost allowance under the new bidding rule would be one way to handle the situation for tracts being offered for lease.

Comment: One commenter stated that it does not believe that royalty relief by itself, in the absence of other financial incentives such as a production tax credit, is sufficient to generate additional substantial deepwater activity.

Response: The MMS does not have taxing authority, so production tax credits are not part of the policies affected by this rule. The final rule differs from the proposed rule in that portions have been reworded for clarity. The final rule also contains a new system, § 260.110(a)(7), designed specifically to address the Outer Continental Shelf Deep Water Royalty Relief Act. This new system includes a cash bonus bid, a fixed royalty rate of not less than 12½ per centum, and an option for MMS to defer or suspend royalties. Although a lease sale of this type would have been possible under paragraph § 260.110(a)(5), MMS added the new paragraph specifically addressing the provisions in the statute. This will clearly indicate when MMS is conducting a lease sale under the provisions of the Outer Continental Shelf Deep Water Royalty Relief Act.

Author

This document was prepared by Marshall Rose, Mary Vavrina, and Keith Meekins, Offshore Resource Evaluation Division, MMS.

Executive Order (E.O.) 12866

MMS reviewed this rule and determined that the rule is not significant.

Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this rule will not have a significant economic effect on a substantial number of small entities. Any direct effects of this rulemaking will primarily affect lessees and operators-entities that are not, in general, small due to the technical complexities and financial resources necessary to conduct OCS activities. MMS also determined that the indirect effect of this rulemaking on small entities that provide support for offshore activities is small.

Paperwork Reduction Act

The information collection requirements contained in those parts of MMS's regulatory program affected by this rule have been approved by OMB under (44 U.S.C. 3501 *et seq.*). The forms, filing date, and approved OMB clearance numbers are identified in 30 CFR 210.10 and 30 CFR 216.10.

Takings Implication Assessment

The DOI certifies that this rule does not represent a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment prepared pursuant to E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights, is not required.

E.O. 12778

The DOI has certified to OMB that this rule meets the applicable civil justice reform standards provided in Sections 2(a) and 2(b)(2) of E.O. 12778.

National Environmental Policy Act

The National Environmental Policy Act (NEPA) compliance for the rule is covered by DOI procedures for implementing NEPA (516 DM2, Appendix 1.10). In accordance with those procedures, MMS will examine the potential environmental effects of the rule during NEPA review for each lease sale. This is appropriate because the potential environmental effects of the rule depend largely on how it is applied, and decisions on application will be made on a sale-by-sale basis.

List of Subjects

30 CFR Part 206

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 260

Continental shelf, Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources.

Dated: January 26, 1996.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons set forth in the preamble, the Minerals Management Service amends 30 CFR parts 206 and 260 as follows:

PART 206—PRODUCT VALUATION

1. The authority citation for part 206 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

2. Section 206.106 of subpart C is added to read as follows:

§ 206.106 Operating allowances.

Notwithstanding any other provisions in these regulations, an operating allowance may be used for the purpose of computing payment obligations when specified in the notice of sale and the lease. The allowance amount or formula shall be specified in the notice of sale and in the lease agreement.

3. Section 206.160 of subpart D is added to read as follows:

§ 206.160 Operating allowances.

Notwithstanding any other provisions in these regulations, an operating allowance may be used for the purpose of computing payment obligations when specified in the notice of sale and the lease. The allowance amount or formula shall be specified in the notice of sale and in the lease agreement.

PART 260—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

1. The authority citation for part 260 is revised to read as follows:

Authority: 43 U.S.C. 1331 and 1337.

2. Section 260.001 of subpart A is revised to read as follows:

§ 260.001 Purpose and scope.

The purpose of this part 260 is to implement OCSLA, 43 U.S.C. 1331 *et seq.*, as amended, by providing regulations to foster competition including, but not limited to, regulations to prohibit joint bidding for development rights by certain types of joint ventures; the implementation of alternative bidding systems (including suspension of royalties for a period, volume, or value of production); and the establishment of diligence requirements for Federal OCS leases issued under the OCSLA.

3. Section 260.002 of subpart A is amended by revising the definition of "OCSLA" to read as follows:

§ 260.002 Definitions.

* * * * *

OCSLA means the Outer Continental Shelf Lands Act, (43 U.S.C. 1331 *et seq.*), as amended.

* * * * *

2. Section 260.110 of subpart B is amended by revising paragraphs (a)(1)(iii), (a)(2)(iii), (a)(3)(i)(C)(*4*) and (a)(3)(iii) and by adding new paragraphs (a)(5), (a)(6), and (a)(7) to read as follows:

§ 260.110 Bidding systems.

(a) * * *

(1) * * *

(iii) The annual rental to be paid by the highest responsible qualified bidder and any amounts creditable against future royalties shall be specified in the notice of sale published in the **Federal Register**.

* * * * *

(2) * * *

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

* * * * *

(3) * * *

(i) * * *

(C) * * *

(*4*) The production period, inflation factor and procedures for making the inflation adjustment and for determining the value or amount of production shall be stated in the notice of sale published in the **Federal Register**.

* * * * *

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

* * * * *

(5) *Cash bonus bid with a variable royalty rate or rates during one or more production periods in amount or value of the production saved, removed or sold, and an annual rental.* MMS may suspend or defer the royalty due for a period, volume, or value of production. Such suspensions or deferrals may vary based on changes in the prices of oil and/or gas as specified in the notice of sale published in the **Federal Register**.

(i) The royalty rate due on production may be less than 12½ per centum, but greater than zero per centum, at any designated time during the lease period based on the amount or value of production saved, removed, or sold. Royalty may be suspended or deferred for a period, volume, or value of production. The applicable royalty rate(s) and suspension or deferral magnitudes or formulas shall be specified in the notice of sale published in the **Federal Register**.

(ii) The amount and the procedure for payment of a cash bonus must be as specified in paragraph (a)(1)(ii) of this section.

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

(6) *Cash bonus bid with a royalty rate or rates bosed on formula(s) or schedule(s) during one or more production periods in amount or value of the production saved, removed or sold, and an annual rental.* Royalty may be suspended or deferred for a period, volume, or value of production. Such a suspension or deferral may vary based on changes in the prices of oil and/or gas as specified in the notice of sale published in the **Federal Register**.

(i) The royalty due on production shall be specified as a percentage of the amount or value of the production saved, removed, or sold. When the value of production is used, by unit or in aggregate, the royalty rate will be determined based on prices for oil and/or gas as specified in the notice of sale published in the **Federal Register**.

(A) The lessee must calculate the royalty due using the formula or schedule specified in the lease based on the adjusted amount or indexed value of the oil and gas produced. The formula or schedule will describe the relationship between the adjusted or actual amount of production, indexed value, or indexed price, and the royalty rate. It will stipulate the lowest and highest royalty rates.

(B) The royalty rate formula or schedule and the suspension or deferral magnitudes or formulas shall be specified in the notice of sale published in the **Federal Register**.

(C) Royalty payment calculation.

(1) The royalty rate used to calculate the royalty due on production is based on an adjusted or actual amount of production, indexed value, or indexed price and is set through application of the specified formula or schedule to the designated production period.

(2) The lessee will determine the adjusted amount or indexed value, or indexed price by applying an index or inflation factor specified in the lease to the actual amount or value of production, or to the adjusted price.

(3) The lessee must apply the royalty rate to the actual value of production. The result is the amount in dollars that the lessee must pay to the United States, or the amount of royalty oil and/or gas that the United States will take in kind.

(4) The production period, inflation factor and procedures for making the inflation adjustment and for determining the value or amount of production shall be stated in the notice of sale published in the **Federal Register**.

(ii) The amount and the procedure for payment of a cash bonus must be as specified in paragraph (a)(1)(ii) of this section.

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

(7) *Cash bonus bid with a royalty rate of not less than 12½ per centum fixed in amount or value of the production saved, removed or sold, and with suspension of royalties for a period, volume, or value of production, and an annual rental.* Royalty may be suspended for a period, volume, or value of production. Such a suspension may vary based on changes in the prices of oil and/or gas as specified in the notice of sale published in the **Federal Register**.

(i) Except for a period of suspension, the royalty rate due on production will be specified as a percentage of the amount or value of the production saved, removed, or sold. The applicable royalty rate shall be specified in the notice of the lease sale published in the **Federal Register**. When the royalty rate is applied to the value of production, by unit or in aggregate, the royalty rate will be determined based on the prices for oil and/or gas as specified in the notice of sale published in the **Federal Register**.

(A) The lessee must calculate the royalty due using the formula or schedule specified in the lease agreement based on the adjusted amount or indexed value of the oil and gas produced. The formula or schedule will describe the relationship between adjusted or actual amount of production, indexed value, or indexed price, and the royalty rate. It will stipulate the lowest and highest royalty rates that may apply.

(B) The formula or schedule for royalty due on production and the suspension magnitudes or formulas shall be specified in the notice of sale published in the **Federal Register**.

(ii) The amount and the procedure for payment of a cash bonus must be as specified in paragraph (a)(1)(ii) of this section.

(iii) Rental payment amounts must be as specified in paragraph (a)(1)(iii) of this section.

[FR Doc. 96–2200 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 595

Terrorism Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing the Terrorism Sanctions Regulations to implement the President's declaration of a national emergency and imposition of sanctions against certain persons whose acts of violence have the purpose or effect of disrupting the Middle East peace process.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION: Contact the Office of Foreign Assets Control, Department of the Treasury, Washington, DC 22201, Tel.: 202/622–2520.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

On January 24, 1995, the President issued Executive Order 12947, declaring a national emergency with respect to "grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process," and invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). The order blocks all property and interests in property of 12 terrorist organizations designated in the order, as well as the property and interests in property of other persons who are designated by the Secretary of State or the Secretary of the Treasury. The order also authorizes the Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, the Attorney General, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the order. In implementation of the order, the Treasury Department is issuing the Terrorism Sanctions Regulations (the "Regulations").

The Regulations block all property and interests in property of (1) persons designated in Executive Order 12947; (2) persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, because they are found (a) to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or (b) to assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence.

The Regulations also block all property and interests in property of persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any other designated person. Persons coming within any of these categories are called specially designated terrorists ("SDTs"). Executive Order 12947 blocks all property or interests in property of SDTs that are in the United States, that hereinafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches. Section 1(b) of Executive Order 12947 also prohibits any transaction or dealing by U.S. persons or in the United States in property or interests in property of SDTs, including the making or receiving of any contribution of funds, goods, or services for the benefit of an SDT.

Transactions otherwise prohibited under this part but found to be consistent with U.S. policy may be authorized by a general license contained in subpart E or by a specific license issued pursuant to the procedures described in § 595.801 of subpart H. Civil and criminal penalties for violations of the Regulations are described in subpart G.

Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public

participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply. Wherever possible, however, it is the practice of the Office of Foreign Assets Control to receive written submissions or hold informal consultations with interested parties concerning any rule or other public document.

Paperwork Reduction Act

The Regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the collections of information contained in the Regulations have been submitted to and approved by the Office of Management and Budget ("OMB") pending public comment, and have been assigned control number 1505–0156. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in the Regulations are contained in §§ 595.503, 595.504, subpart F, and §§ 595.703 and 595.801. This information is required by the Office of Foreign Assets Control for licensing, compliance, civil penalty, and enforcement purposes. This information will be used to determine the eligibility of applicants for the benefits provided through specific licenses, to determine whether persons subject to the Regulations are in compliance with applicable requirements, and to determine whether and to what extent civil penalty or other enforcement action is appropriate. The likely respondents and record keepers are individuals and business organizations.

No assurances of confidentiality are given to persons who furnish information to OFAC unless specifically indicated in advance. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a).

Estimated total annual reporting and/or recordkeeping burden: 500 hours.

The estimated annual burden per respondent/record keeper varies from 30 minutes to 2 hours, depending on individual circumstances, with an estimated average of 1 hour.

Estimated number of respondents and/or record keepers: 500.

Estimated annual frequency of responses: 1-12.

Comments are invited on: (a) whether these collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments concerning the above information, the accuracy of estimated average annual burden, and suggestions for reducing this burden should be directed to OMB, Paperwork Reduction Project, control number 1505–0156, Washington, DC 20503, with a copy to the Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Annex, Washington, DC 20220. Any such comments should be submitted not later than April 2, 1996. Comments on aspects of the Regulations other than those involving collections of information should not be sent to OMB.

List of Subjects in 31 CFR Part 595

Administrative practice and procedure, Banking and finance, Blocking of assets, Fines and penalties, Reporting and recordkeeping requirements, Specially designated terrorists, Terrorism, Transfer of assets.

For the reasons set forth in the preamble, 31 CFR part 595 is added to read as follows:

PART 595—TERRORISM SANCTIONS REGULATIONS

Subpart A—Relation of this Part to Other Laws and Regulations

Sec.

595.101 Relation of this part to other laws and regulations.

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Subpart I—Paperwork Reduction Act

595.901 Paperwork Reduction Act notice.

Authority: 50 U.S.C. 1601–1641, 1701–1706; 3 U.S.C. 301; E.O. 12947, 60 FR 5079 (January 25, 1995).

Subpart A—Relation of This Part to Other Laws andRegulations

§ 595.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 595.201 Prohibited transactions involving blocked property.

Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, no property or interests in property of a specially designated terrorist, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

§ 595.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date, which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property held in the name of a specially designated terrorist or in which a specially designated terrorist has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property held in the name of a specially designated terrorist or in which a specially designated terrorist has an interest, or has had an interest since such date, unless the person with whom such property is held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of property which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

Note: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property which, on or since the effective date, was held in the name of a specially designated terrorist or in which there existed an interest of a specially designated terrorist.

§ 595.203 Holding of certain types of blocked property in interest–bearing accounts.

(a)(1) Any person, including a U.S. financial institution, currently holding property subject to § 595.201 which, as of the effective date or the date of receipt if subsequent to the effective date, is not being held in an interest–bearing account, or otherwise invested in a manner authorized by the Office of Foreign Assets Control, shall transfer such property to, or hold such property or cause such property to be held in, an interest–bearing account or interest–bearing status in a U.S. financial institution as of the effective date or the date of receipt if subsequent to the effective date of this section, unless otherwise authorized or directed by the Office of Foreign Assets Control.

(2) The requirement set forth in paragraph (a)(1) of this section shall apply to currency, bank deposits, accounts, obligations, and any other financial or economic resources or assets, and any proceeds resulting from the sale of tangible or intangible property. If interest is credited to an account separate from that in which the interest–bearing asset is held, the name of the account party on both accounts must be the same and must clearly indicate the specially designated terrorist having an interest in the accounts. If the account is held in the name of a specially designated terrorist, the name of the account to which interest is credited must be the same.

(b) For purposes of this section, the term *interest–bearing account* means a blocked account in a U.S. financial institution earning interest at rates that are commercially reasonable for the amount of funds in the account. Except as otherwise authorized, the funds may not be invested or held in instruments the maturity of which exceeds 90 days.

(c) This section does not apply to blocked tangible property, such as chattels, nor does it create an affirmative obligation on the part of the holder of

such blocked tangible property to sell or liquidate the property and put the proceeds in a blocked account. However, the Office of Foreign Assets Control may issue licenses permitting or directing sales of tangible property in appropriate cases.

§ 595.204 Prohibited dealing in property; contributions of funds, goods, or services.

Except as otherwise authorized, no U.S. person may deal in property or interests in property of a specially designated terrorist, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of a specially designated terrorist.

§ 595.205 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

§ 595.206 Exempt transactions.

(a) *Personal Communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Information and informational materials.*—(1) The importation from any country and the exportation to any country of information or informational materials as defined in § 595.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(2) This section does not authorize transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services by a U.S. person. Such prohibited transactions include, without limitation, payment of advances for informational materials not yet created and completed, provision of services to market, produce or co–produce, create or assist in the creation of information and informational materials, and payment of royalties to a specially designated terrorist with respect to income received for enhancements or alterations made by U.S. persons to information or informational materials imported from a specially designated terrorist.

(3) This section does not authorize transactions incident to the exportation of technical data under restriction as defined in § 779.4 of the Export Administration Regulations, 15 CFR parts 768–799 (1994), or to the exportation of goods for use in the transmission of any data. The exportation of such goods to specially designated terrorists is prohibited, as provided in § 595.201 of this part.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including non scheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 595.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 595.201 held in the name of a specially designated terrorist or in which a specially designated terrorist has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 595.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EST, January 24, 1995, or, in the case of specially designated terrorists designated after that date, the earlier of the date on which a person receives actual or constructive notice of such designation.

§ 595.303 Entity.

The term *entity* means a partnership, association, corporation, or other organization, group or subgroup.

§ 595.304 Foreign Person.

The term *foreign person* means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States), or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state.

§ 595.305 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 595.306 Information and informational materials.

(a)(1) For purposes of this part, the term *information and informational materials* means publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds, and other information and informational articles.

(2) To be considered informational materials, artworks must be classified under chapter subheading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The terms *information* and *informational materials* with respect to U.S. exports do not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (the "EAA"), or section 6 of the EAA to the extent that such controls promote nonproliferation or antiterrorism policies of the United States, including "software" that is not "publicly available" as these terms are defined in 15 CFR Parts 779 and 799.1; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 595.307 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (*e.g.*, " an interest in property") means an interest of any nature whatsoever, direct or indirect.

§ 595.308 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 595.309 Person.

The term *person* means an individual or entity.

§ 595.310 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 595.311 Specially designated terrorist.

(a) The term *specially designated terrorist* means:

(1) Persons listed in the Annex to Executive Order 12947;

(2) Foreign persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, because they are found:

(i) To have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or

(ii) To assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence; and

(3) Persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any other specially designated terrorist.

(b) [Reserved]

§ 595.312 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 595.313 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 595.314 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 595.315 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches); or any person in the United States.

§ 595.316 U.S. financial institution.

The term *U.S. financial institution* means any U.S. person (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 595.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 595.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 595.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a specially designated terrorist, such property shall no longer be deemed to be property in which a specially designated terrorist has or has had an interest, or which is held in the name of a specially designated terrorist, unless there exists in the property another interest of a specially designated terrorist, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a specially designated terrorist, including by the making of any contribution of funds, goods, or services to or for the benefit of a specially designated terrorist, such property shall be deemed to be property in which there exists an interest of the specially designated terrorist.

§ 595.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether

by a U.S. bank or other U.S. person, is a prohibited transfer under § 595.201 if effected after the effective date.

§ 595.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, specially designated terrorist or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license.

§ 595.406 Provision of services.

(a) Except as provided in § 595.206, the prohibitions contained in §§ 595.201 and 595.204 apply to services performed by U.S. persons, wherever located:

(1) On behalf of, or for the benefit of, a specially designated terrorist; or

(2) With respect to property interests of a specially designated terrorist.

(b) *Example*: U.S. persons may not, except as authorized by the Office of Foreign Assets Control by or pursuant to this part, provide legal, accounting, public relations, educational, or other services to a specially designated terrorist. See § 595.506.

§ 595.407 Offshore transactions.

The prohibitions contained in § 595.201 apply to transactions by U.S. persons in locations outside the United States with respect to property which the U.S. person knows, or has reason to know, is held in the name of a specially designated terrorist, or in which the U.S. person knows, or has reason to know, a specially designated terrorist has or has had an interest since the effective date.

§ 595.408 Charitable contributions to specially designated terrorists.

(a) Unless otherwise specifically authorized by the Office of Foreign Assets Control by or pursuant to this part, no charitable contribution or donation of funds, goods, services,or technology to relieve human suffering, such as food, clothing or medicine, may be made to or for the benefit of a specially designated terrorist. For purposes of this part, a contribution or donation is made to or for the benefit of a specially designated terrorist if made to or in the name of a specially designated terrorist; if made to or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, a specially designated terrorist; or if made in an attempt to violate, to evade or to avoid the bar on the provision of contributions or donations to specially designated terrorists.

(b) Individuals and organizations who donate or contribute funds, goods, services or technology without knowledge or reason to know that the donation or contribution is destined to or for the benefit of a specially designated terrorist shall not be subject to penalties for such donation or contribution.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 595.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 595.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 595.503 Payments and transfers to blocked accounts in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account pursuant to this authorization may only be made to another blocked account held in the same name on the books of the same U.S. financial institution. This authorization is subject to the condition that written notification from the U.S. financial institution receiving an authorized payment or transfer is furnished to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220, within 10 days from the value date of the payment or transfer. This notification shall confirm that the payment or transfer has been deposited into a blocked account pursuant to this section and § 595.203 and shall provide the account number, the name and address of the person in whose name the account is held and, if the account party is not a specially designated terrorist, the name of the specially designated terrorist having an interest in the account, the name and address of the transferee U.S. financial institution, the name and address of the transferor financial institution, the amount of the payment or transfer, the name and telephone number of a contact person at the transferee financial institution from whom compliance information may be obtained, and the name and telephone number of the person, registered with the Office of Foreign Assets Control pursuant to § 595.603, responsible for the administration of blocked assets at the transferee financial institution from whom records on blocked assets may be obtained.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

§ 595.504 Investment and reinvestment of certain funds.

(a) U.S. financial institutions are hereby authorized and directed to invest and reinvest assets held in blocked accounts in the name of a specially designated terrorist, subject to the following conditions:

(1) The assets representing such investments and reinvestments are credited to a blocked account or sub–account which is in the name of the specially designated terrorist and which is located in the United States or within the possession or control of a U.S. person; and

(2) The proceeds of such investments and reinvestments are not credited to a blocked account or sub–account under any name or designation which differs from the name or designation of the specific blocked account or sub–account in which such funds or securities were held; and

(3) No immediate financial or economic benefit or access accrues (*e.g.*, through pledging or other use) to the specially designated terrorist.

(b)(1) U.S. persons seeking to avail themselves of this authorization must register with the Office of Foreign Assets Control, Blocked Assets Section, before undertaking transactions authorized under this section.

(2) Transactions conducted pursuant to this section must be reported to the Office of Foreign Assets Control, Blocked Assets Division, in a report filed no later than 10 business days following the last business day of the month in which the transactions occurred.

§ 595.505 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationary and supplies, check books, and other similar items.

§ 585.506 Provision of certain legal services to a specially designated terrorist.

(a) The provision to or on behalf of a specially designated terrorist of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipts of payment therefor must be specifically licensed. The provision of any other legal services as interpreted in § 595.406 requires the issuance of a specific license.

(b) Specific licenses may be issued, on a case–by–case basis, authorizing receipt of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to a specially designated terrorist:

(1) Provision of legal advice and counselling to a specially designated terrorist on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counselling is not provided to facilitate transactions in violation of this part;

(2) Representation of a specially designated terrorist when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of a specially designated terrorist;

(4) Representation of a specially designated terrorist before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against a specially designated terrorist; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(c) Enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of a specially designated terrorist is prohibited unless specifically licensed in accordance with § 595.202(e).

§ 595.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services to a specially designated terrorist located in the United States is authorized, provided that any payment for such services requires prior authorization by specific license.

Subpart F—Reports

§ 595.601 Required records.

(a) Except as otherwise provided, every person engaging in any transaction subject to the provisions of this part shall keep a full and accurate record of each transaction engaged in, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least 5 years after the date of such transaction. Except as otherwise provided, every person holding property subject to § 595.201 shall keep a full and accurate record of such property, and such record shall be available for examination for the period of time that such property is blocked and for at least 5 years after the date such property is unblocked.

(b) Any person, other than an individual, required to maintain records pursuant to this section, must designate an individual to be responsible for providing information concerning such records to the Office of Foreign Assets Control when so requested.

§ 595.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required, complete information relative to any transaction, regardless of whether such transaction is effected pursuant to license or otherwise, subject to the provisions of this part. Such reports may be required to include the production of any books of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the person required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. The Director of Foreign Assets Control may, through any person or agency, conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation, regardless of whether any report has been required or filed in connection therewith.

§ 595.603 Registration of persons holding blocked property subject to § 595.201.

(a) Any individual holding property subject to § 595.201 must register with the Office of Foreign Assets Control, Blocked Assets Division by the later of February 12, 1996, or within 10 days after the date such property is received or becomes subject to § 595.201.

(b) Any person, other than an individual, holding property subject to § 595.201 must register the name, title, address, and telephone number of the individual designated under § 595.601(b) to be responsible for the administration of blocked assets, from whom the Office of Foreign Assets Control can obtain information and records. The registration shall be sent to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220, by the later of February 12, 1996,

or, unless notification is given pursuant to § 595.503, 10 days after the date such property is received or becomes subject to § 595.201.

Subpart G—Penalties

§ 595.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705), which provides that a civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under the International Emergency Economic Powers Act; and that whoever willfully violates any license, order, or regulation issued under the International Emergency Economic Powers Act, shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. Section 206 of the International Emergency Economic Powers Act is applicable to violations of any provision of this part and to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act.

(b) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 595.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents.*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to make presentation.* The prepenalty notice also shall inform the person of his right to make a written presentation within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 595.703 Presentation responding to prepenalty notice.

(a) *Time within which to respond.* The named person shall have 30 days from the date of mailing of the prepenalty notice to make a written presentation to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of written presentation.* The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

§ 595.704 Penalty notice.

(a) *No violation.* If, after considering any presentations made in response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any presentations made in response to the prepenalty notice, the Director of the Office of Foreign Assets Control determines that there was a violation by the person named in the prepenalty notice, he promptly shall issue a written notice of the imposition of the monetary penalty to that person.

§ 595.705 Administrative collection; referral to United States Department of Justice.

In the event that the person named does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 595.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions contained in this part. All such licenses in effect on the date of publication are set forth in subpart E of this part. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses may be required to file reports and statements in accordance with the instructions specified in those licenses. Failure to file such reports or statements will nullify the authority of the general license.

(b) *Specific licenses.*—(1) *General course of procedure.* Transactions subject to the prohibitions contained in this part which are not authorized by general license may be effected only under specific licenses.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transactions prohibited by or pursuant to this part may be filed by letter with the Office of Foreign Assets Control. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing such transaction, but the applicant for a specific license is required to make full disclosure of all parties in interest to the transaction so that a decision on the application may be made with full knowledge of all relevant facts and so that the identity and location of the persons who know about the transaction may be easily ascertained in the event of inquiry.

(3) *Information to be supplied.* The applicant must supply all information specified by relevant instructions and/or forms, and must fully disclose the names of all the parties who are concerned with or interested in the proposed transaction. If the application is filed by an agent, the agent must disclose the name of his principal(s). Such documents as may be relevant shall be attached to each application as a part of such application except that documents previously filed with the Office of Foreign Assets Control may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Office of Foreign Assets Control. Any applicant or other party in interest desiring to present additional information or discuss or argue the application may do so at any time before or after decision. Arrangements for oral presentation should be made with the Office of Foreign Assets Control.

(4) *Effect of denial.* The denial of a license does not preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition for the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury or licenses may be issued by the Secretary of the Treasury acting directly or through any specifically designated person, agency, or instrumentality.

(7) *Address.* License applications, reports, and inquiries should be addressed to the appropriate section or individual within the Office of Foreign Assets Control, or to its Director, at the following address: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W.—Annex, Washington, D.C. 20220.

§ 595.802 Decisions.

The Office of Foreign Assets Control will advise each applicant of the decision respecting filed applications. The decision of the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury with respect to an application shall constitute final agency action.

§ 595.803 Amendment, modification, or revocation.

The provisions of this part and any rulings, licenses, whether general or specific, authorizations, instructions, orders, or forms issued hereunder may be amended, modified, or revoked at any time.

§ 595.804 Rulemaking.

(a) All rules and other public documents are issued by the Secretary of the Treasury upon recommendation of the Director of the Office of Foreign Assets Control. In general, rulemaking by the Office of Foreign Assets Control involves foreign affairs functions of the United States, and for that reason is exempt from the requirements under the Administrative Procedure Act (5 U.S.C. 553) for notice of proposed rulemaking, opportunity for public comment, and delay in effective date. Wherever possible, however, it is the practice of the Office of Foreign Assets Control to receive written submissions or hold informal consultations with interested parties before the issuance of any rule or other public document.

(b) Any interested person may petition the Director of the Office of Foreign Assets Control in writing for the issuance, amendment, or repeal of any rule.

§ 595.805 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 12947 or any further Executive orders relating to the national emergency declared in Executive Order 12947 may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

§ 595.806 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control which are required by the Freedom of Information Act (5 U.S.C. 552) to be made available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the Disclosure of Records of the Departmental Offices and of other bureaus and offices of the Department of the Treasury issued under 5 U.S.C. 552 and published at 31 CFR part 1.

(b) The records of the Office of Foreign Assets Control which are required by the Privacy Act (5 U.S.C. 552a) to be made available to an individual shall be made available in accordance with the definitions, procedures, requirements for payment of fees, and other provisions of the Regulations on the Disclosure of Records of the Departmental Offices and of other bureaus and offices of the Department of the Treasury issued under 5 U.S.C. 552a and published at 31 CFR part 1.

(c) Any form issued for use in connection with this part may be obtained in person or by writing to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W.—Annex, Washington, D.C. 20220, or by calling 202/622–2480.

Subpart I—Paperwork Reduction Act

§ 595.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 595.503, 595.504, subpart F, and §§ 595.703 and 595.801 have been approved by the Office of Management and Budget under the Paperwork Reduction Act and assigned control number 1505-0156.

Dated: December 21, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 4, 1996.

John P. Simpson

Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).

[FR Doc. 96–2183 Filed 1–29–96; 5:06 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

OSD Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: The Office of the Joint Staff is adopting an exemption to the system of records JS004SECDIV, entitled Joint Staff Security Clearance Files. The exemption is needed to comply with prohibitions against disclosure of information provided the government under a promise of confidentiality and to protect privacy rights of individuals identified in the system of records.

EFFECTIVE DATE: December 5, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695–0970.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'.

Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Investigative and other records needed to make the judgment of approval or denial of a security clearance may require that certain records in the system be protected using the specific exemption (k)(5), to insure that a source who furnished information to the Government under an express promise of confidentiality be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence will be afforded such protection. The exemption is needed to comply with prohibitions against disclosure of information provided the government under a promise of confidentiality and to protect privacy rights of individuals identified in the system of records. The proposed rule was previously published on September 27, 1995, at 60 FR 49812.

List of Subjects in 32 CFR part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 311.7 is amended by adding paragraph (c)(9) as follows:

§ 311.7 Procedures for exemptions.

* * * * *

(c) *Specific exemptions.* * * *

(9) *System identifier and name--* JS004SECDIV, Joint Staff Security Clearance Files.

Exemption. Portions of this system of records are exempt pursuant to the provisions of 5 U.S.C. 552a(k)(5) from subsections 5 U.S.C. 552a(d)(1) through (d)(5).

Authority. 5 U.S.C. 552a(k)(5).

Reasons. From subsections (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. This exemption is limited to disclosures that would reveal the identity of a confidential source. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

* * * * *

Dated: January 29, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96-2257 Filed 2-1-96; 8:45 am]

BILLING CODE 5000-04-F

Defense Investigative Service

32 CFR Part 321

Privacy Program

AGENCY: Defense Investigative Service, DOD.

ACTION: Final rule.

SUMMARY: The Defense Investigative Service is exempting a system of records identified as V5-04, entitled Counterintelligence Issues Database (CII-DB), from certain provisions of 5 U.S.C. 552a. Exemption is needed to comply with prohibitions against disclosure of information provided the government under a promise of confidentiality and to protect privacy rights of individuals identified in the system of records.

EFFECTIVE DATE: December 5, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Dale Hartig at (703) 325-5324.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974. The proposed rule was previously published on October 3, 1995, at 60 FR 51764.

List of Subjects in 32 CFR Part 321

Privacy.

Accordingly, 32 CFR part 321 is amended as follows:

1. The authority citation for 32 CFR part 321 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C.552a).

2. Section 321.14, paragraph (g) is redesignated as (h) and a new paragraph (g) is added as follows:

§ 321.14 Exemptions.

* * * * *

(g) System identifier. V5-04.

(1) *System name.* Counterintelligence Issues Database (CII-DB).

(2) *Exemption.* Portions of this system of records that fall within the provisions of 5 U.S.C. 552a(k)(1), (k)(2), (k)(3) and (k)(5) may be exempt from the following subsections (c)(3); (d)(1) through (d)(5); (e)(1); (e)(4)(G), (H), and (I); and (f).

(3) *Authority.* 5 U.S.C. 552a(k)(1), (k)(2), (k)(3) and (k)(5).

(4) *Reasons.* From subsection (c)(3) because giving the individual access to the disclosure accounting could alert the subject of an investigation to the existence and nature of the investigation and reveal investigative or prosecutive interest by other agencies, particularly in a joint-investigation situation. This would seriously impede or compromise the investigation and case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate with the investigators; lead to suppression, alteration, fabrication, or destruction of evidence; and endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families.

From subsection (d) because the application of these provisions could impede or compromise an investigation or prosecution if the subject of an investigation had access to the records or were able to use such rules to learn of the existence of an investigation before it would be completed. In addition, the mere notice of the fact of an investigation could inform the subject and others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

From subsection (e)(1) because during an investigation it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear. In other cases, what may appear to be a relevant and necessary piece of information may become irrelevant in light of further investigation. In addition, during the course of an investigation, the investigator may obtain information that related primarily to matters under the investigative jurisdiction of another agency, and that information may not be reasonably segregated. In the interest of effective law enforcement, DIS investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

From subsections (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) because this system is exempt from subsection (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that these records will be exempt from these subsections. However, DIS has published information concerning its notification and access procedures, and the records source categories because under certain circumstances, DIS could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

* * * * *

Dated: January 29, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96-2256 Filed 2-1-96; 8:45 am]

BILLING CODE 5000-04-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI41-1-6999a; FRL-5407-5]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: This document approves a State Implementation Plan (SIP) revision for the State of Michigan which was submitted pursuant to the USEPA general conformity rules set forth at 40 ozone maintenance part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Section 51.851(a) of the general conformity rules requires each State to submit to USEPA a revision to its applicable SIP which contains criteria and procedures for assessing conformity of Federal actions to applicable SIPs. The general conformity rules, except for the 40 CFR 51.851(a) language requiring State submission of a SIP revision, are repeated at 40 CFR part 93, subpart B. Michigan's SIP revision incorporates verbatim the criteria and procedures set forth at 40 CFR part 93, subpart B. This general conformity SIP revision will enable the State of Michigan to implement and enforce the Federal general conformity requirements in the nonattainment and maintenance areas at the State and local level.

This document of approval is limited only to the general conformity SIP revision submitted pursuant to 40 CFR part 51, subpart W. SIP revisions submitted under 40 CFR part 51, subpart T, relating to conformity of Federal transportation actions funded or approved under Title 23 U.S.C. or the Federal Transit Act, will be addressed in a separate document. This document provides the rationale for the proposed approval and other information.

DATES: This "direct final" rule is effective April 2, 1996 unless USEPA receives adverse or critical comments by March 4, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the SIP revision, public comments and USEPA's responses are available for inspection at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Michael Leslie at (312) 353-6680 before visiting the Region 5 Office.)

A copy of this SIP revision is available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260-7548.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Regulation Development Section (AT-18J), Air Toxics and Radiation Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353-6680.

SUPPLEMENTARY INFORMATION:

I. Background

Section 176(c) of the Clean Air Act (CAA), 42 U.S.C. § 7506(c), provides that no Federal department, agency, or instrumentality shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to a SIP that has been approved or promulgated pursuant to the CAA. Conformity is defined in section 176(c) of the CAA as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of such standards, and that such activities will not: (1) cause or contribute to any new violation of any standard in any area, (2) increase the

frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

Section 176(c)(4)(A) of the CAA requires USEPA to promulgate criteria and procedures for determining conformity of all Federal actions to applicable SIPs. Criteria and procedures for determining conformity of Federal actions related to transportation projects funded or approved under Title 23 U.S.C. or the Federal Transit Act are set forth at 40 CFR part 51, subpart T. The criteria and procedures for determining conformity of other Federal actions, the "general conformity" rules, were published in the November 30, 1993, **Federal Register** and codified at 40 CFR part 51 subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The general conformity rules require the States and local air quality agencies (where applicable) to adopt and submit a general conformity SIP revision to the USEPA not later than November 30, 1994.

II. Evaluation of the State's Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the CAA the Michigan Department of Natural Resources (MDNR) submitted a SIP revision to the USEPA on November 29, 1994. The USEPA found this submittal to be complete on April 13, 1995. In its submittal, the State adopted the USEPA general conformity rule (40 CFR part 93, subpart B) verbatim.

General conformity is required for all areas which are designated nonattainment or maintenance for any NAAQS criteria pollutant. The State of Michigan currently has 25 areas designated ozone nonattainment, and one ozone maintenance area. The areas for which conformity determinations are required and which are included as part of this submittal include the following nonurbanized counties: Allegan, Barry, Branch, Cass, Gratiot, Hillsdale, Huron, Ionia, Lenawee, Lapeer, Montcalm, Saint Joesph, Sanilac, Shiwassee, Tuscola, Van Buren. Urbanized areas include: Battle Creek Metropolitan Statistical Area (MSA) (Calhoun County), Benton Harbor MSA (Berrien County), Detroit-Ann Arbor Consolidated MSA area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties which are ozone maintenance), Flint MSA (Genesee County), Grand Rapids MSA (Kent and Ottawa Counties), Jackson MSA (Jackson County), Kalamazoo MSA (Kalamazoo County), Lansing-East Lansing MSA (Clinton, Eaton, and Ingham Counties), Muskegon MSA (Muskegon County), and Saginaw-Bay City-Midland MSA (Bay, Midland, and Saginaw Counties). Portions of three counties (Wayne, Oakland, and Macomb) are designated carbon monoxide nonattainment. A portion of Wayne county is nonattainment for Particulate Matter-10. The State of Michigan is currently attaining the NAAQS for Nitrogen Dioxide and Sulfur Dioxide, and has not been designated nonattainment for lead.

The MDNR held a public hearing on the transportation conformity submittal on November 16, 1994. One comment was received by MDNR during the public comment period and that comment was addressed in the submittal.

III. USEPA Criteria on Submittal

The revision incorporated the provisions of the following sections of 40 CFR part 93, subpart B in verbatim form: §§ 93.150, 93.151, 93.152, 93.153, 93.154, 93.155, 93.156, 93.157, 93.158, 93.159, 93.160.

The MDNR, after consulting with the Michigan Attorney General, correctly concluded that this SIP revision will be enforceable pursuant to Michigan statutory law. Section 336.15 of the Michigan Compiled Laws (MCL), MSA § 14.58(5) (1965 Mich. Pub. Acts 348), authorizes MDNR: to promulgate rules to establish standards for ambient air quality and for emissions (including SIPs); to institute a civil action to compel compliance with such rules; to cooperate with USEPA with respect to the control of air pollution; and to take other actions necessary to enforce such rules. Section 336.26d of MCL, MSA § 14.58(16d) (1965 Mich. Pub. Acts 348), provides for the assessment of penalties by MDNR for SIP violations and Section 336.26e of MCL, MSA § 14.58(16e) (1965 Mich. Pub. Acts 348), authorizes the attorney general to seek both penalties and injunctive relief for such violations.

Additional enforcement authority is found in MCL § 691.1202, MSA § 14.528(202) (1970 PA 127), which authorizes the attorney general, any political subdivision of the State, any instrumentality or agency of the State, or any person or legal entity to bring a civil action for declaratory and equitable relief for the protection of the air from pollution, impairment or destruction. In determining whether a violation has occurred or is likely to occur, the court may adopt standards set forth in a SIP or may adopt another standard.

IV. USEPA Action

The USEPA is approving the general conformity SIP revision for the State of Michigan. The USEPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal general conformity rules set forth at 40 CFR part 93, subpart B. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this SIP revision. Because USEPA considers this action to be noncontroversial and routine, USEPA is approving it without prior proposal. This action will become effective on April 2, 1996. However, if USEPA receives adverse comments by March 4, 1996. USEPA will publish a document that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2) of the CAA).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, General conformity, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: December 13, 1995.

Gail Ginsberg,

Acting Regional Administrator.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart X—Michigan

2. Section 52.1173 is amended by adding paragraph (e) to read as follows:

§ 52.1173 Control strategy: Particulates.

* * * * *

(e) Approval—On November 29, 1994, the Michigan Department of Natural Resources submitted a revision to the particulate State Implementation Plan for general conformity rules. The general conformity SIP revisions enable the State of Michigan to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

3. Section 52.1174 is amended by adding paragraph (n) to read as follows:

§ 52.1174 Control strategy: Ozone.

* * * * *

(n) Approval—On November 29, 1994, the Michigan Department of Natural Resources submitted a revision to the ozone State Implementation Plan for general conformity rules. The general conformity SIP revisions enable the State of Michigan to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

4. Section 52.1185 is added to read as follows:

§ 52.1185 Control strategy: Carbon Monoxide.

(a) Approval—On November 29, 1994, the Michigan Department of Natural Resources submitted a revision to the carbon monoxide State Implementation Plan for general conformity rules. The general conformity SIP revisions enable the State of Michigan to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(b) Reserved.

[FR Doc. 96–1850 Filed 2–1–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[GA–28–1–6955a; GA–30–1–7009a; FRL–5318–3]

Approval and Promulgation of Implementation Plans; State: Georgia; Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves revisions to the Georgia State Implementation Plan (SIP) submitted by the Georgia Department of Natural Resources, Environmental Protection Division (GA EPD) on June 24 and November 15, 1994, for the purpose of realphabetizing and updating definitions, updating volatile organic compounds (VOCs) reasonably available control technology (RACT) rules, stationary source monitoring and testing procedures, and regulations for the prevention of significant deterioration of air quality (PSD). The SIP revisions are consistent with requirements of the Clean Air Act as amended in 1990 (CAA).

DATES: This final rule is effective April 2, 1996, unless adverse or critical comments are received by March 4, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Laura Thielking at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural

Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Laura Thielking, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is 404/347-3555, X4210. Reference files GA-28-1-6955 and GA-30-1-7009.

SUPPLEMENTARY INFORMATION: On June 24, 1994, the State of Georgia through the Georgia Environmental Protection Division submitted SIP revisions to EPA Region 4, and additional revisions were submitted on November 15, 1994. These submittals contain changes pursuant to requirements of part D of Title I of the CAA with regard to nonattainment areas; part A, section 114, pertaining to source monitoring; and part C, regarding PSD.

Specifically, Georgia submitted, and EPA is approving, the following revisions.

391-3-1-.01 Definitions

Revised definition of Potential to Emit, (www); Opacity, (ss); Part 70 Permit, (ww); Reid Vapor Pressure, (iii); Synthetic Minor Permit, (cccc); and Total Reduced Sulfur (TRS), (eeee). Re-alphabetized all of the definitions to be consistent with EPA definitions, to correct errors, and to simplify finding definitions.

391-3-1-.02(2) Emission Standards

Subsection (2)(t), VOC Emissions from Automobile and Light-Duty Truck Manufacturing, has been revised and subsections (2)(ccc), VOC Emissions from Bulk Mixing Tanks, and (2)(eee), VOC Emissions from Expanded Polystyrene Products Manufacturing, have been added to include new VOC emission limitations to specify RACT for certain industrial categories. The reference given for the procedure for determining leaks in subsection (2)(hh), Petroleum Refinery Equipment Leaks, is revised to cite the present form of the test method. This will bring the reference up to date. These revisions are consistent with the CAA.

391-3-1-.02(3) Sampling and 391-3-1-.02(6) Source Monitoring

Subparagraphs (3)(a), (6)(a), and (6)(b) were revised to reference the methods specified in the Georgia Department of Natural Resources Manual of Procedures for Testing and Monitoring Sources of Air Pollutants, dated September 1, 1994. The revised manual has been reviewed and meets EPA requirements.

391-3-1-.02(7) Prevention of Significant Deterioration of Air Quality (PSD)

Paragraph (7) is amended to incorporate by reference the PSD rules in 40 CFR Part 52.21 as amended. This revision incorporates the changes to the rules published on June 3, 1993 [58 FR 31637] and July 20, 1993 [58 FR 38883]. The action effective on June 3, 1993, revised the maximum allowable increases (increments) for particulate matter (PM) under the requirements for PSD. The July 20, 1993, revision updated the 'Guideline on Air Quality Models (Revised)' (1986), as modified by Supplement A (1987) by adding new models, improving existing models and incorporating Supplement B (1993). This action also set the Guideline, revised by Supplements A and B, as appendix W to 40 CFR part 51.

Final Action

EPA is approving the plan revisions submitted by the State of Georgia on June 24 and November 15, 1994, listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

The EPA is publishing this action without a prior proposal for approval because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective April 2, 1996, unless, by March 4, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 2, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2) and 7410(k)(3).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the revisions provided for under section 114, part C, and part D of Title I of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 29, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401-7671(q).

Subpart L—Georgia

2. Section 52.570, is amended by adding paragraph (c) (47) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(47) Chapter 391-3-1-.01, .02(2), and .02(7), of the Georgia Department of Natural Resources Rules for Air Quality Control, submitted on June 24, 1994, and November 15, 1994. Change to Chapters 391-3-1-.02(3) and 391-3-1-.02(6) to reference a new version of the Georgia Department of Natural Resources Manual of Procedures for Testing and Monitoring Sources of Air Pollutants, submitted on November 15, 1994.

(i) Incorporation by reference.

(A) The following revised Rules of the Georgia Department of Natural Resources, Chapter 391-3-1, Air Quality Control, became State effective on June 13, 1994:

391-3-1-.02(2)(hh)(iii);
391-3-1-.02(7);

(B) The following revised Rules of the Georgia Department of Natural Resources, Chapter 391-3-1, Air Quality Control, became State effective on November 20, 1994:

391-3-1-.01;
391-3-1-.02(2)(t);
391-3-1-.02(2)(ccc);
391-3-1-.02(2)(eee);
391-3-1-.02(3)(a);
391-3-1-.02(6)(a)2.(v)(I);
391-3-1-.02(6)(a)2.(vii)(I);
391-3-1-.02(6)(a)2.(vii)(II)I.;
391-3-1-.02(6)(b)1.(vi)

(ii) Other material. None.

* * * * *

[FR Doc. 96-1928 Filed 2-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[GA-21-3-6481a; FRL-5319-5]

Approval and Promulgation of Implementation Plans, Georgia: Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves revisions to the Georgia State Implementation Plan (SIP) adopted by the Georgia Department of Natural Resources Environmental Protection Division (GA EPD) on September 9, 1992, for the purpose of implementing the following programs within the Atlanta ozone nonattainment area: emission statement program for stationary sources, Stage II Gasoline Vapor Control revisions with SIP narrative and transfer of the existing Georgia Department of Public Safety's Inspection and Maintenance (I/M) program regulations to the Georgia Department of Natural Resources. The submitted revisions meet the November 15, 1992, plan requirements for nonattainment areas of the Clean Air Act as amended in 1990 (CAA). The revisions were submitted for the Atlanta ozone nonattainment area.

DATES: This final rule is effective April 2, 1996 unless adverse or critical comments are received by March 4, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Alan Powell at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Alan Powell, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347-3555, extension 4209. Reference file GA-21-3-6481.

SUPPLEMENTARY INFORMATION: The air quality planning and SIP requirements for ozone nonattainment and transport areas are set out in subparts I and II of Part D of Title I of the CAA. Section 182 of the CAA sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in subsections (b), (c), (d), and (e) to all other ozone nonattainment areas. On November 13, 1992, Georgia submitted a SIP package to address these requirements. The submittal contained regulations relating to emissions statements, new source review, enhanced motor vehicle inspection committal SIP, Stage II vapor recovery, the small business assistance program (SBAP) and non-control technology guidance (non-CTG) Reasonably Available Control Techniques (RACT). The new source review, non-CTG RACT, SBAP and I/M committal SIP portions of this package will be processed as separate **Federal**

Register notices. The following summarize the applicable revisions addressing emission statements, revision to the I/M program which transfer authority to the Georgia Environmental Protection Division from the Georgia Department of Motor Vehicles and Stage II vapor recovery.

391–3–1–.02(6)(a)4.—Emission Statements. This is a new rule which requires annual emission statements from owners and operators of stationary sources of nitrogen oxides (NO_X) and/or VOCs which emit greater than or equal to 25 tons per calendar year of either pollutant in the Atlanta ozone nonattainment area. Among the requirements in section 182(a) is a program in paragraph (3) of that subsection for stationary sources to prepare and submit to the State each year emission statements showing actual emissions of VOC and NO_X. The emission statement must contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.

The CAA requires applicable facilities (25 tons per year (tpy) and greater of VOC and NO_X) to submit the emission statements to the State within three years after November 15, 1990, and annually thereafter. The Georgia emission statement rule, submitted on November 13, 1992, requires applicable sources to submit an emissions statement to the GA EPD beginning March of 1993, and the emission statements submitted will be certified correct as required by the CAA. The emission statement rule submitted by GA EPD meets all applicable requirements of the CAA.

391–3–10—Inspection and Maintenance. This chapter adopts, with various minor changes, the Georgia Department of Public Safety's I/M rules as GA EPD rules, reflecting the transfer of responsibility for the program contained in the Georgia Motor Vehicle I/M Act. This rule will not significantly change the operation of the existing I/M program.

391–3–1–.02(2)(zz)—Gasoline Dispensing Facilities—Stage II. The provisions required for serious ozone nonattainment areas include a requirement for owners or operators of gasoline dispensing systems to install and operate vapor recovery equipment at their facilities. The CAA specifies that the state regulations must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer (ISBM), any facility that dispenses more than 50,000 gallons of gasoline per month. Section 324 of the CAA defines an ISBM. The State definition of ISBM is consistent with the definition in the CAA.

The CAA specifies the time by which certain facilities must comply with the State regulation. For facilities that are not owned or operated by an ISBM, these times, calculated from the time of State adoption of the regulation, are: (1) 6 months for facilities for which construction began after November 15, 1990, (2) 1 year for facilities that dispense greater than 100,000 gallons of gasoline per month, and (3) by November 15, 1994, for all other facilities. For ISBM's, section 324(a) of the CAA provides that the time periods may be: (1) 33 percent of the facilities owned by an ISBM by the end of the first year after the regulations take effect; (2) 66 percent of such facilities by the end of the second year; and (3) 100 percent of such facilities after the third year.

Consistent with EPA's guidance, the State requires that Stage II systems be tested and certified to meet a 95 percent emission reduction efficiently by using a system approved by the California Air Resources Board (CARB). The State requires sources to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and every five years or upon major modification of a facility (i.e., 75 percent or more equipment change). The State has also established an inspection program consistent with that described in EPA's guidance and has established procedures for enforcing violations of the Stage II requirements.

Pursuant to the CAA, Georgia is required to adopt specific air quality control rules and incorporate them into the Georgia SIP. On November 13, 1992, the State of Georgia through the GA EPD submitted the required November 15, 1992, regulations to EPA for approval and incorporation into the Georgia SIP. EPA has evaluated the State's submittal for consistency with the CAA, EPA regulations, and EPA policy. EPA has determined that the rules addressed in this notice meet all of the CAA requirements and is approving under section 110(k)(3), the following regulations within Georgia's SIP Air Quality Control Rules, Chapter 391–3–1, and Rules for Inspection and Maintenance, Chapter 391–3–10. The regulations apply within the thirteen (13) county Atlanta ozone nonattainment area.

Recodification

EPA is additionally approving several minor recodification revisions in response to the recent amendments to the Georgia Air Quality Act. The Georgia Air Quality Act contains the necessary authority to adopt the Georgia SIP revisions pursuant to the requirements of the CAA.

EPA has not reviewed the substance of all of these regulations at this time. These rules were approved into the State implementation plan in previous rulemakings. The EPA is now merely approving the renumbering system submitted by the State. The EPA's approval of the renumbering system, at this time, does not imply any position with respect to the approvability of the substantive rules. To the extent EPA has issued any SIP calls to the State with respect to the adequacy of any of the rules subject to this recodification, EPA will continue to require the State to correct any such rule deficiencies despite EPA's approval of this recodification.

Final Action

EPA is approving these revisions because they meet the requirements of EPA and the CAA. This action is being taken without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments.

However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 2, 1996, unless, by March 4, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 2, 1996.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action.

The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference, Lead, Ozone, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 18, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart L—Georgia

2. Section 52.570 is amended by adding paragraph (c) (44) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(44) Revisions to the Georgia State Implementation Plan; Chapter 391–3–1 and Chapter 391–3–10 of the Georgia Department of Natural Resources Administrative Code which were submitted to EPA on November 13, 1992.

(i) Incorporation by reference.

(A) Georgia Department of Natural Resources Air Quality Rules submitted by the Georgia Department of Natural Resources, Environmental Protection Division for inclusion in the Georgia state implementation plan which were adopted on October 28, 1992, are as follows:

391–3–1–.05, 391–3–1–.09, 391–3–1–.10, 391–3–1–.02(2)(zz), 391–3–1–.02(6)(a)4., 391–3–1–.03(5), 391–3–1–.03(6)(h), 391–3–10.01(d)(e), 391–3–10–.04(d), 391–3–10–.07(2), 391–3–10–.10(b), 391–3–10–.12, 391–3–10–.24(11), 391–3–10–.30(1), 391–3–10–.30(2).

(ii) Other material. None.

* * * * *

[FR Doc. 96–1845 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[GA–21–2–5930a; FRL–5321–6]

Approval and Promulgation of Implementation Plans; Georgia: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) submitted by the State of Georgia through the Georgia Environmental Protection Division for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This implementation plan was originally submitted by the State on November 13, 1992. On September 27, 1995, the State of Georgia resubmitted the SIP establishing the PROGRAM and formally requested to withdraw the November 13, 1992, submittal. This PROGRAM satisfies the federal mandate to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Clean Air Act as amended in 1990 (CAA).

DATES: This action is effective April 2, 1996, unless notice is received March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Georgia may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Environmental Protection Division, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 x4195.

SUPPLEMENTARY INFORMATION: Implementation of the CAA will require small businesses to comply with specific regulations in order for areas to attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a PROGRAM, and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the EPA to oversee the small business assistance program and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of

title V of the CAA and the EPA guidance document Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments. In order to gain full approval, the state submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a state Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. The plan must also determine the eligibility of small business stationary sources for assistance in the PROGRAM. The plan includes the duties, funding and schedule of implementation for the three PROGRAM components.

Section 507(a) and (e) of the CAA set forth requirements the State must meet to have an approvable PROGRAM. The State of Georgia has addressed these requirements and established a PROGRAM as described below.

1. Small Business Assistance Program (SBAP)

The State of Georgia has established a mechanism to implement the following six requirements set forth in section 507 of title V of the CAA:

A. The establishment of adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further comply with the CAA;

B. The establishment of adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution;

C. The development of a compliance and technical assistance program for small business stationary sources which assist small businesses in determining applicable permit requirements and in receiving permits under the CAA in a timely and efficient manner;

D. The development of adequate mechanisms to assure that small business stationary sources receive notice of their rights under the CAA in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the CAA;

E. The development of adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors, or at the option of the State, for providing audits of the operations of such sources to determine compliance with the CAA; and

F. The development of procedures for consideration of requests from a small business stationary source for modification of (A) any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

The State of Georgia acknowledges the heart of the PROGRAM is the Small Business Assistance Program (SBAP), which resides in the Air Protection Branch within the Environmental Protection Division. The SBAP will provide an information clearinghouse and refer small businesses to State technical experts within the Branch who are trained to handle specific questions relevant to achieving compliance with the CAA. In addition, the SBAP will provide for the collection and dissemination of information to small businesses on determining applicable requirements under the CAA, permit issuance, small businesses' rights and obligations, compliance methods, acceptable control technologies, pollution prevention, accidental release prevention and detection, audit programs and procedures, and other matters deemed useful or necessary by the Division. The specific mechanisms for collection and dissemination of information will be developed by the Ombudsman. The SBAP also will consider requests from small business stationary sources for modifications of work practices, technological methods of compliance, or compliance procedures and provide guidance as necessary. The SBAP will utilize, on an as needed basis, the services of other in-state entities with expertise in various aspects related to the PROGRAM.

The dissemination of information to small businesses in Georgia through the SBAP involves both a proactive and a reactive component. The SBAP will actively advertise the PROGRAM to ensure the regulated communities are aware of their obligations under the CAA. The reactive component takes place after the regulated community recognizes that there is or could be some obligation on their part to comply with the CAA. The Division is committed to supporting the proactive component of the program which includes, but is not limited to the following: utilizing the Georgia Department of Industry and Trade manufacturing directory; providing informational packets which describe in layman terms compliance and technical information relevant to small businesses as required by the Act; and holding meetings throughout the State with interested parties. Reactive components of the SBAP include: the designation of a trained technical specialist to handle inquiries from small businesses; a technical specialist to interface with the Air Protection Branch's engineering, permitting, and compliance programs for needed information; and an information clearinghouse of information from EPA's technical support services, other state ombudsman offices, and professional organizations.

The SBAP will assist small businesses in determining applicable requirements and will provide information on permit issuance, compliance methods, acceptable control technologies, pollution prevention, accidental release prevention and detection, and audit programs. The SBAP will inform small businesses about their rights under the CAA; assist in the preparation of guidance documents and ensure that technical and compliance information is available to the small business community and the general public; answer regulatory questions raised by small businesses and provide them with clean air compliance information; obtain information and counsel from other appropriate state agencies; and participate and sponsor meetings on air quality requirements, pollution prevention, and other regulatory issues.

A small business may petition the Division to modify work practices, compliance methods or implementation schedules in accordance with established procedures as described in the SIP.

2. Ombudsman

Section 507(a)(3) of the CAA requires the designation of a state office to serve as the Ombudsman for small business stationary sources. Georgia has appointed a Small Business Ombudsman and established the Office of the Ombudsman within the Environmental Protection Division. Through that office, the Ombudsman will have access to the Governor, the Director of the Environmental Protection Division, the Chief of the Air Protection Branch, and other state and Federal agencies. The Ombudsman will have the necessary autonomy to function independently of the air program.

3. Compliance Advisory Panel

Section 507(e) of the CAA requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses. Four members will be selected by the state legislature who are owners, or represent owners, of small businesses. The majority and minority leadership in both the house and the senate shall each appoint one member of the panel. One member will be selected by the Chief of the Air Protection Branch. The State of Georgia has established a CAP with a membership consistent with the aforementioned CAA requirements.

The duties of the CAP include: providing advisory opinions to the EPA regarding the effectiveness of the state PROGRAM, the difficulties encountered by small businesses, and the severity of enforcement; reviewing information for small business stationary air pollution sources to assure such information is understandable to the lay person; and to make periodic reports to the Administrator of the Environmental Protection Agency in accordance with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act. The SBAP will serve as the secretariat to the CAP in the development and dissemination of reports, advisory opinions, and other information.

4. Source Eligibility

Georgia has incorporated section 507(c)(1) of the CAA and defined a Small Business Stationary Source as a source that:

(1) Is owned or operated by a person who employs 100 or fewer individuals;

(2) is a small business concern as defined in the Small Business Act;

(3) is not a major stationary source; and

(4) does not emit 50 tons per year (tpy) of any regulated pollutant and emits less than 75 tpy of all regulated pollutants.

Georgia has established the following mechanisms as required by section 507: (1) A process for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the CAA; (2) A process for public notice and comment on grants of eligibility to sources that do not meet the provisions of sections 507(c)(1) (C), (D), and (E) of the CAA, but do not emit more than 100 tpy of all regulated pollutants; and (3) a process for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the Division determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

Final Action

In this action, EPA is approving the SIP revision establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance program submitted by the State of Georgia through the Environmental Protection Division. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 2, 1996 unless, by March 4, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published with this action. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 2, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2).)

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

By today's action, the USEPA is approving a State program created for the purpose of assisting small business stationary sources in complying with existing statutory and regulatory requirements. The program being approved today does not impose any new regulatory burden on small business stationary sources; it is a program under which small business stationary sources may elect to take advantage of assistance provided by the State. Therefore, because the USEPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. Environmental Protection Agency*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. sections 7410(a)(2) and 7410(k).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA"), P.L. 104–4, establishes requirements for the Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written

statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Through submission of the SIP or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The submission approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the submission being approved by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 17, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart L—Georgia

2. Section 52.570 is amended by adding paragraph (c)(43) read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(43) The Georgia Environmental Protection Division has submitted revisions to the Georgia State Implementation Plan on September 27, 1995. These revisions address the requirements of section 507 of Title V of the Clean Air Act and establish the Small Business Stationary Source Technical and Environmental Program.

(i) Incorporation by reference.

(A) The submittal of the state of Georgia's Small Business Stationary Source Technical and Environmental Compliance Assistance Program which was adopted on July 20, 1995.

(ii) Additional Material. None.

* * * * *

[FR Doc. 96–1926 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[RI15–1–6954a; A–1–FRL–5329–3]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Control of Volatile Organic Chemicals from Automotive Refinishing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision establishes VOC emission standards for automotive refinishing operations. The intended effect of this action is to approve a revision to Rhode Island SIP which reduces VOC emissions from automotive refinishing. This action is being taken in accordance with Section 183(e) and Section 182(b)(1) of the Clean Air Act.

DATES: This action is effective April 2, 1996, unless notice is received by March 4, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove, (617) 565–3246.

SUPPLEMENTARY INFORMATION: Under section 183(a) of the Clean Air Act, EPA was required to issue a control techniques guideline (CTG) for the category of autobody refinishing. However, EPA has instead issued guidance for this category in the form of an Alternative Control Technology (ACT) guideline. While the ACT does not define reasonably available control technology (RACT) standards for autobody refinishing, it does include three control options with estimates of costs and emission reductions for each option. In addition to the section 183(a) requirements, Section 183(e) of the CAA, requires EPA to issue national VOC emissions standards for consumer and commercial products, which include automotive refinishing coatings. EPA expects to propose the national rule for automotive refinishing coatings in early 1996. Rhode Island decided to adopt rules for autobody refinishing in advance of a federal rule, to get credit for reductions from this category in its 15% plan.

Rhode Island was required to submit, by November 15, 1993, a SIP revision for Reasonable Further Progress (RFP) for 15% reduction of VOCs as necessary for moderate areas and above. The entire state of Rhode Island is classified as serious nonattainment area, therefore the 15% plan must cover the entire state.

On November 24, 1993, the Rhode Island DEP submitted to EPA for comment, proposed amendments to the SIP to address the RFP requirements including new Air Pollution Control Regulations No. 30, Control of Volatile Organic Compounds from Automobile Refinishing Operations." Rhode Island held public hearing on December 15, 1993 for its proposed automotive refinishing rule. EPA submitted written comments regarding the proposed regulation on December 14, 1993 and January 3, 1994. The regulation was adopted on March 11, 1994 and became effective on March 31, 1994. Rhode Island submitted their adopted regulation as a formal SIP submittal to EPA on March 17, 1994. On January 14, 1995, the Rhode Island DEM submitted to EPA for comment proposed revisions to Air Pollution Control Regulation 30, "Control of Volatile Organic Compounds from Automobile Refinishing Operations." Rhode Island held a public hearing on the revised rule on April 17, 1995. EPA submitted written comments on the proposed revisions on April 17, 1995. The regulation became effective on July 17, 1995.

Subsequently, on June 27, 1995, the Rhode Island Department of Environmental Management (DEM) submitted an amended Air Pollution Control Regulation Number 30, "Control of Volatile Organic Compounds from Automobile Refinishing Operations." as a revision to the Rhode Island SIP. The amended Regulation No. 30 in the June 27, 1995 submittal replaces Rhode Island's March 17, 1994 Regulation No. 30 submittal. The amended regulation changed the emission limit for primer/primer surfacer coatings applied to Group I vehicles from 3.8 pounds of VOC/gallon of coating applied to 4.8 pounds of VOC/gallon of coating applied.

The adopted Air Pollution Control Regulation Number 30, "Control of Volatile Organic Compounds from Automobile Refinishing Operations" regulates the VOC content of automotive refinishing products. The regulation applies to any person who owns, leases, operates or controls an automotive refinishing facility.

Summary of SIP Revision

The adopted Air Pollution Control Regulation Number 30, "Control of Volatile Organic Compounds from Automobile Refinishing Operations, establishes Reasonably Available Control Technology for all automobile refinishing facilities. "Automotive Refinishing" is defined by Rhode Island as "any coating of vehicles, their parts and components, or mobile equipment, including partial body collision repairs, for the purpose of protection or beautification and which is subsequent to the original coating applied at the plant coating assembly line."

The rule establishes the following RACT emission limits, expressed as pounds of VOC per gallon of coating and grams of VOC per liter of coating, excluding water:

TABLE 1.—EMISSION LIMITATIONS FOR AUTOMOTIVE REFINISHING OPERATIONS FOR GROUP I VEHICLES

(Passenger Cars, Large/Heavy Duty Truck Cabs and Chassis, Light and Medium Duty Trucks, Vans, and Motorcycles)

Type of Coating	VOC Emission Limitation	
	lb VOC/gallon coating applied minus water	lb VOC/gallon solids applied (for facilities which use add on control)
Pretreatment	6.5	55.6
Primer/primer Surfacer	4.8	13.8
Primer Sealer	4.6	12.3
Topcoat	5.0	15.6
Three or Four-Stage Topcoat	5.2	17.7
Specialty Coating	7.0	143.1

TABLE 2.—EMISSION LIMITATIONS FOR AUTOMOTIVE REFINISHING OPERATIONS FOR GROUP II VEHICLES

(Public Transit Buses and Mobile Equipment)

Type of Coating	VOC Emission Limitation	
	lb VOC/gallon coating applied minus water	lb VOC/gallon solids applied (for facilities which use add on control)
Pretreatment	6.5	55.6
Primer/primer Surfacer	2.8	4.5
Primer Sealer	3.5	6.7
Topcoat	3.5	6.7
Extreme Performance Coating	6.2	39.3
Specialty Coating	7.0	143.1

The rule gives facilities the option of complying through the use of compliant coatings, or by installing a control system which reduces the total VOC emissions from the facility by 95% or greater as compared to uncontrolled VOC emissions, or by installing emission control systems that result in VOC emissions less than or equal to the limits specified in Tables 1 and 2. The rule also contains the following provisions:

1. Requirements to store solvent waste material in closed containers to minimize solvent evaporation;

2. Equipment Requirements that specify the use of High Volume Low Pressure spray equipment or electrostatic application equipment, or another type of application equipment that results in a transfer efficiency of at least 65% and has been approved by the RI DEM. Spray guns are to be cleaned and solvent is to be stored in a manner that limits solvent evaporation; and

3. Training, recordkeeping, reporting, registration, compliance demonstration, and testing requirements.

Facilities were required to comply with the regulation by July 1, 1995.

EPA's evaluation is detailed in a memorandum, entitled "Technical Support Document for Rhode Island's Regulation 30, Control of Volatile Organic Compounds from Automobile Refinishing Operations".

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 2, 1996 unless adverse or critical comments are received by March 4, 1996.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent document that

will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 2, 1996.

Final Action

EPA is approving Air Pollution Control Regulation No. 30, "Control of Volatile Organic Compounds from Automobile Refinishing Operations".

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 183(e) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables.

The OMB has exempted this action from review under Executive Order 12866.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. § 7410(a)(2).

On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: October 16, 1995.

John P. DeVillars,

Regional Administrator, EPA, New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart OO—Rhode Island

2. Section 52.2070 is amended by adding paragraph (c)(44) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(44) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on June 27, 1995.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Management dated June 27, 1995 submitting a revision to the Rhode Island State Implementation Plan.

(B) The following portions of the Rules Governing the Control of Air Pollution for the State of Rhode Island effective on July 17, 1995: Air Pollution Control Regulation No. 30, Control of Volatile Organic Compounds from Automotive Refinishing Operations.

3. In § 52.2081 Table 52.2081 is amended by adding an entry for state citation No. 30 to read as follows:

§ 52.2081 EPA-approved Rhode Island state regulations.

* * * * *

TABLE 52.2081.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/Unapproved sections
No. 30	Control of VOC from Automobile Refinishing Operations.	June 27, 1995	February 2, 1996 ...	[Insert *FR* citation from published date].	(c)(44)	Control of VOC From Automobile Refinishing Operations.

[FR Doc. 96–2228 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[AD–FRL–5405–5]

Clean Air Act Interim Approval of Operating Permits Program; Delegation of Section 112 Standards; Commonwealth of Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the Commonwealth of Massachusetts for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. EPA is also approving the Commonwealth's authority to implement hazardous air pollutant requirements.

DATES: This action is effective April 2, 1996 unless notice is received by March 4, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be addressed to Ida E. Gagnon, Air Permits, APO, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203–2211.

Copies of the State's submittal and other supporting information relevant to this action are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 1, One Congress Street, 10th floor, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, Air Permits, APO, U.S. Environmental Protection Agency, Region 1, JFK Federal Building, Boston, MA 02203–2211, (617) 565–3500.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act ("the Act")), EPA has promulgated rules which define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) Part 70. Title V requires States to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that States develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial program and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, EPA is proposing interim approval of the Operating Permit Program submitted by the Commonwealth of Massachusetts should adverse or critical comments be filed. This action will be effective April 2, 1996 unless adverse or critical comments are received by March 4, 1996.

If EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 2, 1996.

B. Federal Oversight and Sanctions

When EPA promulgates this interim approval, it will extend for two years following the effective date, and cannot be renewed. During the interim approval period, the Commonwealth of Massachusetts is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal permits program for the Commonwealth of Massachusetts. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources specified in section 503(c) of the Act begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications.[1]

Following final interim approval, if the Commonwealth of Massachusetts fails to submit a complete corrective program for full approval by the date 6 months before expiration of the interim approval, EPA will start an 18-month clock for mandatory sanctions. If the Commonwealth of Massachusetts then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the Commonwealth of

[1] Note that states may require applications to be submitted earlier than required under section 503(c). See 310 CMR Appendix C(4)(a).

Massachusetts has corrected the deficiency by submitting a complete corrective program. If, six months after application of the first sanction, the Commonwealth of Massachusetts still has not submitted a corrective program that EPA finds complete, a second sanction will be required.

If, following final interim approval, EPA disapproves the Commonwealth of Massachusetts' complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the Commonwealth of Massachusetts has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. If, six months after EPA applies the first sanction, the Commonwealth of Massachusetts has not submitted a revised program that EPA has determined corrected the deficiencies that prompted disapproval, a second sanction will be required.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if the Commonwealth of Massachusetts has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to a Commonwealth of Massachusetts program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for the Commonwealth of Massachusetts upon interim approval expiration.

II. Action and Implications

A. Analysis of State Submission

1. Support Materials

The Acting Commissioner of the Commonwealth of Massachusetts (Designee of the Governor) submitted an administratively complete title V Operating Permits Program (PROGRAM) on April 28, 1995. EPA deemed the PROGRAM administratively complete in a letter to the Commissioner dated on June 26, 1995. The PROGRAM submittal includes a description of how the Commonwealth intends to implement the PROGRAM and legal opinions from the Attorney General of Massachusetts stating that the laws of the Commonwealth provide adequate authority to carry out the PROGRAM. The submittal additionally contains evidence of proper adoption of the PROGRAM regulations, permit application forms, a data management system and a fee adequacy demonstration.

2. Regulations and Program Implementation

The Commonwealth of Massachusetts has submitted 310 CMR 7.00 Appendix C entitled "Operating Permit Program" for implementing the State part 70 program as required by 40 CFR 70.4(b)(2). Sufficient evidence of procedurally correct adoption is included in part b of the submittal.

The Massachusetts operating permits regulations follow part 70 very closely. The following requirements, set out in EPA's part 70 operating permits program review are addressed in Part B of the Commonwealth's submittal.

The Massachusetts PROGRAM, including the operating permit regulations, substantially meets the requirements of 40 CFR 70.2 and 70.3 with respect to applicability; §§ 70.4, 70.5 and 70.6 with respect to permit content and operational flexibility; § 70.5 with respect to complete application forms and criteria which define insignificant activities; §§ 70.7 and 70.8 with respect to public participation, minor permit modifications, and review by affected states and EPA; and § 70.11 with respect to requirements for enforcement authority.

Part 70 of the operating permits regulation requires prompt reporting of deviations from the permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. The Commonwealth of Massachusetts has not defined "prompt" in its program with respect to reporting of deviations. Although the permit program regulations should define prompt for purposes of administrative efficiency and clarity, an acceptable alternative is to define prompt in each individual permit. The EPA believes that prompt should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given this is a distinct reporting obligation under § 70.6(a)(3)(iii)(A). Where "prompt" is defined in the individual permit but not in the program regulations, EPA may veto permits that do not contain sufficiently prompt reporting of deviations.

EPA is granting interim approval for the Massachusetts program rather than full approval. Pursuant to section 502(g) of the Act, Massachusetts would be authorized to implement the interim program for a period of two years following EPA's final interim approval of the program. There are four technical mistakes in the PROGRAM regulation that could confuse the regulated community concerning DEP's intent in implementing the PROGRAM. When Massachusetts makes the following changes EPA will grant the PROGRAM full approval:

1. In Appendix C(8)(b)4., the program regulation extends the permit shield to all administrative amendments, including those that receive no public or EPA review. EPA's rule extends the permit shield only to those administrative amendments that have previously been reviewed in an "enhanced" new source review program with requirements substantially equivalent to the significant permit modification process. 40 CFR 70.7(d)(4). The permit shield should not extend to all administrative amendments. This is a technical error in the PROGRAM regulation and DEP has agreed to delete this section of their regulations.

2. In Appendix C(7)(b)3.e., the program regulation provides that a notice of an operational flexibility change made pursuant to an intra-facility emissions trading plan may include notice of "[a]ny permit term or condition that is no longer applicable as a result of the change." Changes made pursuant to an intra-facility emissions trading plan must be provided for in the permit, and such plans provide no authority to render permit conditions inapplicable through a simple notice. 40 CFR 70.4(b)(12)(iii)(A). The DEP agrees with this interpretation. It does not intend during the interim program to allow sources to violate conditions of the permit using a notice under a trading plan. Therefore, DEP has agreed to remove this section of their regulation.

3. In Appendix C(4)(a)5., the program regulation requires "new construction" to apply for an operating permit within one year of commencing operation, but it does not clearly cover sources that become major without any new construction, for example by relaxing an emissions cap in a restricted emission status (RES) plan approval. EPA and DEP agree that such sources are subject to the program, and that it is the intent of DEP's regulations to require such facilities to apply within a year of becoming major sources during the interim program. DEP has agreed to revise this provision to clarify the intent of this requirement.

4. In Appendix C(8)(a)2.b., the program regulation prohibits any *relaxation* of monitoring, reporting, or recordkeeping from qualifying as a minor permit modification. Additionally, in Appendix C(8)(a)3.c., the program regulation requires any *significant change* to such permit terms to be processed as a significant permit modification. EPA's rule prohibits all significant changes to monitoring, reporting, or recordkeeping, whether or not they are characterized as a relaxation, from being processed as a minor permit modification, because it is often impossible to tell in advance whether a proposed significant monitoring change is in fact a relaxation. 40 CFR 70.7(e)(2)(i)(2). DEP interprets the requirement in its significant permit modification procedures to be paramount and to require any significant change to monitoring, etc., to be handled as a significant permit modification, consistent with EPA's permit modification procedures. DEP has agreed to revise the operating permit regulations to clarify this matter.

The complete program submittal and the Technical Support Document (TSD) dated November 6, 1995 entitled "Technical Support Document—Massachusetts Operating Permits Program" are available in the docket for review. The TSD includes a detailed analysis, including a program checklist, of how the Commonwealth's program and regulations compare with EPA's requirements and regulations. The TSD also includes several important representations from DEP concerning its interpretation of the intent of their program regulations, on which EPA is relying in finding the Commonwealth's program substantially equivalent to federal requirements.

3. Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permit program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that the fees collected exceed $25 per ton of actual emissions per year, adjusted from the August, 1989 consumer price index. The $25 per ton was presumed by Congress to cover all reasonable direct and indirect costs to an operating permit program. This minimum amount is referred to as the "presumptive minimum."

Massachusetts has opted to make a presumptive minimum fee demonstration. In the fee regulation, the Commonwealth proposes a fee-for-service methodology for calculating the operating permit program fees for the first four years of the program. This fee is equivalent to at least the part 70 presumptive minimum fee of $25 per ton of regulated air pollutants, adjusted per the consumer price index (CPI). This rate is based on emissions of regulated pollutants excluding carbon monoxide (CO) capped at 4000 tons per year per pollutant. Using Massachusetts' fee-for-service approach, the Commonwealth will collect from $33.84 to $34.50 per ton annually via application and compliance assurance fees. Massachusetts' average rate is above the presumptive minimum adjusted by the CPI.

Therefore, Massachusetts has demonstrated that the state is collecting sufficient permit fees to meet EPA's presumptive minimum criteria. For more information, see part G of Massachusetts' title V program.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and/or Commitments for Section 112 Implementation. Massachusetts has demonstrated in its title V program submittal adequate legal authority to implement and enforce all section 112 requirements for hazardous air pollutants through the title V permit. This legal authority is contained in Massachusetts' enabling legislation and in regulatory provisions defining "applicable requirements" and stating that the permit must incorporate all applicable requirements. EPA has determined that this legal authority is sufficient to allow Massachusetts to issue permits that assure compliance with all section 112 requirements.

Therefore, EPA will consider that the State of Massachusetts' legal authority is sufficient to allow the State to issue permits that assure compliance with all section 112 requirements, and to carry out all section 112 activities. For further rationale on this interpretation, please refer to the Technical Support Document referenced above and the April 13, 1993 guidance memorandum titled "Title V Program Approval Criteria for Section 112 Activities," signed by John Seitz.

b. Implementation of 112(g) Upon Program Approval. On February 14, 1995 EPA published an interpretive notice (see 60 FR 8333) that postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g) Massachusetts must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations. EPA believes that Massachusetts can utilize its preconstruction permitting program to serve as a procedural vehicle for implementing section 112(g) rule and making these requirements Federally enforceable between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations. For this reason, EPA is approving Massachusetts' preconstruction permitting program found in 310 CMR 7.02 "Plan Approval and Emission Limitations" under the authority of title V and part 70 solely for the purpose of implementing section 112(g) during the transition period between title V approval and adoption of a State rule implementing EPA's section 112(g) regulations.

Since the approval would be for the single purpose of providing a mechanism to implement section 112(g) during the transition period, the approval would be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. Also, since the approval would be for the limited purpose of allowing the State sufficient time to adopt regulations, EPA is limiting the duration of the approval to 18 months following promulgation by EPA of its section 112(g) rule.

c. Program for Straight Delegation of Sections 111 and 112 Standards. Requirements for operating permit program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 General Provision Subpart A and standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also granting approval under section 112(l)(5) and 40 CFR 63.91 of

the State's program for receiving delegation of section 112 standards that are unchanged from the Federal standards as promulgated, and section 112 infrastructure programs such as those programs authorized under sections 112(i)(5), 112(g), 112(j) and 112(r) to the extent they apply to sources subject to 310 CMR 7.00 Appendix C. EPA is reconfirming the 40 CFR part 60 and 61 standards currently delegated to Massachusetts as indicated in Table I.[2] EPA is also reconfirming delegation of 40 CFR part 60 standards to the extent they apply to sources subject to 310 CMR 7.00 Appendix C as indicated in Table II. In addition, EPA is proposing to delegate all future 40 CFR parts 60, 61 and 63 standards to the extent they apply to sources subject to 310 CMR 7.00 Appendix C.[3] EPA is delegating the 40 CFR part 63 standards as indicated in Table III to the extent they apply to sources subject to 310 CMR 7.00 Appendix C.

Massachusetts has informed EPA that it intends to accept future delegation of section 111 and 112 standards by checking the appropriate boxes on a standardized checklist. The checklist will list applicable regulations and will be sent by the EPA Regional Office to Massachusetts. Massachusetts will accept delegation by checking the appropriate box and returning the checklist to EPA Region I. The details of this delegation mechanism are set forth in the November 28, 1995, Memorandum of Agreement between Massachusetts and EPA. This program applies to both existing and future standards but is limited to sources covered by the part 70 program. The original delegation agreement between EPA and Massachusetts was set forth in a letter from Kenneth Hagg dated June 25, 1982.

d. Commitment to implement title IV of the ACT. Massachusetts has committed to take action, following promulgation by EPA of regulations implementing section 407 and 410 of the Act, or revisions to either part 72, 74, or 76 or the regulations implementing section 407 or 410, to either incorporate by reference or submit, for EPA approval, Massachusetts Department of Environmental Protection (DEP) regulations implementing these provisions.

B. Final Action

The EPA is promulgating interim approval to the operating permits program submitted to EPA by the Commonwealth of Massachusetts on April 28, 1995. After promulgation, the Commonwealth must make the changes listed above to receive full approval. This interim approval, which may not be renewed, extends for a period of up to 2 years. During the interim approval period, the Commonwealth is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the Commonwealth. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period under the Act for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

The scope of the Commonwealth of Massachusetts' part 70 program that EPA is approving in this notice would apply to all part 70 sources (as defined in the approved program) within the Commonwealth of Massachusetts, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to Part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under Part 70. Therefore, the EPA is also granting approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the Part 70 program.

III. Administrative Requirements

A. Opportunity for Public Comments

In a related notice in the Proposed Rule section the EPA is providing an opportunity for comments on all aspects of this final rule. Copies of the State's submittal and other information relied upon for the interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this interim approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by March 4, 1996.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 28, 1995.

John P. DeVillars,

Regional Administrator, Region I.

[2] Please note that federal rulemaking is not required for delegation of section 111 standards.

[3] The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of "major" for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. The EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

TABLE I.—RECONFIRMATION OF PART 60 AND 61 DELEGATIONS

	PART 60 SUBPART CATEGORIES
D	FOSSIL-FUEL FIRED STEAM GENERATORS.
Da	ELECTRIC UTILITY STEAM GENERATORS.
E	INCINERATORS.
F	PORTLAND CEMENT PLANTS.
G	NITRIC ACID PLANTS.
H	SULFURIC ACID PLANTS.
I	ASPHALT CONCRETE PLANTS.
J	PETROLEUM REFINERIES.
K	PETROLEUM LIQUID STORAGE VESSELS.
Ka	PETROLEUM LIQUID STORAGE VESSELS.
L	SECONDARY LEAD SMELTERS.
M	SECONDARY BRASS AND BRONZE PRODUCTION PLANTS.
N	BASIC OXYGEN PROCESS FURNACES PRIMARY EMISSIONS.
O	SEWAGE TREATMENT PLANTS.
P	PRIMARY COPPER SMELTERS.
Q	PRIMARY ZINC SMELTERS.
R	PRIMARY LEAD SMELTERS.
S	PRIMARY ALUMINUM REDUCTION.
T	PHOSPHATE FERTILIZER WET PROCESS.
U	PHOSPHATE FERTILIZER-SUPERPHOSPHORIC ACID.
V	PHOSPHATE FERTILIZER-DIAMMONIUM PHOSPHATE.
W	PHOSPHATE FERTILIZER TRIPLE SUPERPHOSPHATE.
X	PHOSPHATE FERTILIZER-GRANULAR TRIPLE SUPERPHOSPHATE STORAGE.
Y	COAL PREPARATION PLANTS.
Z	FERROALLOY PRODUCTION FACILITIES.
AA	STEEL PLANTS-ELECTRIC ARC FURNACES.
BB	KRAFT PULP MILLS.
CC	GLASS MANUFACTURING PLANTS.
DD	GRAIN ELEVATORS.
EE	SURFACE COATING OF METAL FURNITURE.
GG	STATIONARY GAS TURBINES.
HH	LIME MANUFACTURING PLANTS.
KK	LEAD-ACID BATTERY MANUFACTURING.
MM	AUTO & LIGHT TRUCK SURFACE COATING OPERATIONS.
NN	PHOSPHATE ROCK PLANTS.
PP	AMMONIUM SULFATE MANUFACTURING.
QQ	GRAPHIC ARTS-ROTOGRAVURE PRINTING.
RR	TAPE AND LABEL SURFACE COATINGS.
SS	SURFACE COATING: LARGE APPLIANCES.
TT	METAL COIL SURFACE COATING.
UU	ASPHALT PROCESSING ROOFING.
WW	BEVERAGE CAN SURFACE COATING.
XX	BULK GASOLINE TERMINALS.
FFF	FLEXIBLE VINYL AND URETHAN COATING AND PRINTING.
HHH	SYNTHETIC FIBER PRODUCTION.
JJJ	PETROLEUM DRY CLEANERS.
	PART 61 SUBPART CATEGORIES
C	BERYLLIUM.
D	BERYLLIUM-ROCKET MOTOR.
E	MERCURY.
F	VINYL CHLORIDE.
M	ASBESTOS.
N	ARSENIC-GLASS MANUFACTURING.

TABLE II.—RECONFIRMATION OF PART 60 DELEGATIONS AS THEY APPLY TO MASSACHUSETTS TITLE V OPERATING PERMITS PROGRAM

	PART 60 SUBPART CATEGORIES
Db	INDUSTRIAL- COMMERCIAL- INSTITUTIONAL STEAM GENERATING UNIT.
Dc	SMALL INDUSTRIAL-COMMERCIAL-INSTITUTIONAL STEAM GENERATING UNITS.
Ea	MUNICIPAL WASTE COMBUSTORS.

TABLE II.—RECONFIRMATION OF PART 60 DELEGATIONS AS THEY APPLY TO MASSACHUSETTS TITLE V OPERATING PERMITS PROGRAM—Continued

Kb	PETROLEUM LIQUID STORAGE VESSELS 7/23/84.
AAa	ELECTRIC ARC FURNACES AND ARGON-OXYGEN DECARBURIZATION.
VV	EQUIPMENT LEAKS OF VOC IN SOCMI.
DDD	VOC EMISSIONS FROM POLYMER MANUFACTURING INDUSTRY.
III	VOC FROM SOCMI AIR OXIDATION UNIT.
NNN	VOC FROM SOCMI DISTILLATION.
OOO	NONMETALLIC MINERAL PLANTS.
PPP	WOOL FIBERGLASS INSULATION.
RRR	VOC EMISSIONS FROM SOCMI PROCESS.
SSS	MAGNETIC TAPE COATING.
TTT	SURFACE COATING OF PLASTIC PARTS FOR BUSINESS MACHINES.
UUU	CALCINERS & DRYERS IN THE MINERAL INDUSTRY.
VVV	POLYMERIC COATING OF SUPPORTING SUBSTRATES.

TABLE III.—DELEGATION OF PART 63 STANDARDS AS THEY APPLY TO MASSACHUSETTS TITLE V OPERATING PERMITS PROGRAM

PART 63 SUBPART	CATEGORIES
A	General Provisions.
F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.
G	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
N	National Emission Standards for Chromium Emissions from Hard and Decorative Electroplating and Chromium Anodizing Tanks.
O	Ethylene Oxide Emission Standards for Sterilization Facilities.
Q	National Emission Standards for Hazardous Air Pollutants for Industrial Cooling Towers.
R	National Emission Standards for Organic Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I).
T	National Emission Standards for Halogenated Solvent Cleaning.
W	National Emission Standards for Organic Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
X	National Emission Standards for Organic Hazardous Air Pollutants from Secondary Lead Smelting.
EE	National Emission Standards for Magnetic Tape Manufacturing Operations.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for Massachusetts in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Massachusetts

(a) Department of Environmental Protection: submitted on April 28, 1995; interim approval effective on March 4, 1996; interim approval expires March 2, 1998.

(b) (Reserved)

* * * * *

[FR Doc. 96–2248 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 80

[FRL–5412–1]

RIN 2060–AD55

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Clean Air Act prohibits the introduction of gasoline containing lead or lead additives into commerce for use as a motor vehicle fuel after December 31, 1995. In today's action, EPA revises its regulations regarding gasoline so as to prohibit the introduction of gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, into commerce for use as motor vehicle fuel effective January 1, 1996, remove existing regulatory provisions which will no longer be necessary as a result of this ban, and modify other provisions to reflect the institution of this ban. Among the provisions deleted are recordkeeping and reporting requirements for refiners and importers, and the requirement that motor vehicle manufacturers place "unleaded fuel only" labels on the dashboard and on or around the fuel filler inlet area of each motor vehicle produced. EPA believes that continuance of the provisions deleted by this rule would pose needless costs on industry in light of the ban.

In the proposed rules Section of today's **Federal Register**, EPA is proposing to issue a regulatory ban on the introduction of gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, into commerce for use as a motor vehicle fuel effective January 1, 1996, and to remove existing regulatory provisions which will no longer be necessary as a result of this ban, and modify other provisions to reflect the institution of this ban. If adverse comment or a request for an opportunity for a public hearing is received on this direct final rule, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule on the related proposed rule. No additional opportunity for public comment on the leaded gasoline prohibition and related regulatory changes will be provided.

The statutory ban goes into effect as of January 1, 1996, whether or not EPA amends its regulations by January 1, 1996 to incorporate the statutory ban on the introduction of gasoline containing lead or lead additivies into commerce for use as motor vehicle fuel.

DATES: This action will become effective on March 4, 1996 unless notice is received by February 20, 1996 from someone who wishes to submit adverse comment or request an opportunity for a public hearing. If such notice is received, EPA will withdraw this direct final rule, and a timely notice will be published in the **Federal Register** to indicate the withdrawal.

ADDRESSES: Materials relevant to this rulemaking have been placed in Docket A–95–13. The docket is located at the U.S. Environmental Protection Agency, Air Docket Section, 401 M Street, SW., Washington, DC 20460 in Room M–1500 of Waterside Mall. Documents may be inspected between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material. Those wishing to notify EPA of their intent to submit adverse comment or request an opportunity for a public hearing on this action should contact Paulina Chen, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233–9031.

FOR FURTHER INFORMATION CONTACT: Paulina Chen, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233–9031.

SUPPLEMENTARY INFORMATION: A copy of this action is available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS). The TTNBBS can be accessed with a dial-in phone line and a high-speed modem (PH# 919–541–5742). The parity of your modem should be set to none, the data bits to 8, and the stop bits to 1. Either a 1200, 2400, 9600, 14.4K, or 28.8K baud modem should be used. When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

(M) OMS
(K) Rulemaking and Reporting
(3) Fuels
(8) Leaded fuel and engine bans

Today's action will be in the form of a ZIP file and can be identified by the following title: LEADBAN.ZIP. To download this file, type the instructions below and transfer according to the appropriate software on your computer: <D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip.

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Introduction

A. Background

In the early 1970s, EPA issued regulations regarding lead in gasoline in order to accomplish two purposes. First, EPA issued regulations designed to ensure the availability of unleaded gasoline for use in motor vehicles equipped with emission control systems such as catalytic converters. EPA had determined that lead additives would impair to a significant degree the performance of emission control systems. 38 FR 1254 (Jan. 10, 1973). Second, EPA issued regulations designed to gradually reduce the content of lead in leaded gasoline, because EPA found that lead particle emissions from motor vehicles presented a significant risk of harm to the health of urban populations, especially children. 38 FR 33734 (Dec. 6, 1973).

The first category of regulations, which were designed to ensure the availability of unleaded gasoline, defined unleaded gasoline as gasoline containing not more than 0.05 gram of lead per gallon and not more than 0.005 gram of phosphorus per gallon. 38 FR at 1255. The Agency allowed up to 0.05 gram of lead per gallon in unleaded gasoline because it determined this maximum trace level would provide adequate protection for catalyst emission control devices and would be practicable for the petroleum industry. 38 FR 1254. The current definition of unleaded gasoline still allows for trace amounts of lead up to 0.05 gram per gallon but expressly prohibits the use of any lead additive in the production of unleaded gasoline. 40 C.F.R. 80.2(g).

The same 1973 regulations also limited phosphorus in unleaded gasoline to 0.005 gram per gallon or less, because the Agency found this maximum, set at trace levels, was necessary to prevent catalyst deterioration in emission control systems. 38 FR 1254–55. The current definition of unleaded gasoline still limits phosphorus to no more than 0.005 gram per gallon. 40 C.F.R. 80.2(g).

In 1973, EPA also instituted the lead phasedown program designed to minimize the lead content of leaded gasoline. Through an orderly phase out, including banking and trading of lead credits, and through aggressive enforcement, the lead phasedown program was successful. By 1988, it was estimated that total lead usage in gasoline had been reduced to less than one percent of the amount of lead used in the peak year of 1970.[1] The remaining uses of leaded gasoline in motor vehicles are predominantly in rural areas.

B. Statutory Authority

In 1990 Congress added section 211(n) to the Clean Air Act, which provides as follows:

After December 31, 1995, it shall be unlawful for any person to sell, offer for sale, supply, offer for supply, dispense, transport,

[1] Persons interested in detailed historical information may refer to the following **Federal Register** notices: "Regulation of Fuel Additives—Advanced Notice of Proposed Rulemaking," 36 FR 1486 (January 30, 1971); "Regulation of Fuels and Fuel Additives—Notice of Proposed Rulemaking," 37 FR 3882 (February 23, 1972); "Regulation of Fuels and Fuel Additives—Notice of Proposed Rulemaking," 38 FR 1254 (January 10, 1973); "Proposed Rulemaking Concerning Availability of Unleaded Gas," 38 FR 28301 (October 12, 1973); "Control of Lead Additives in Gasoline," 38 FR 33734 (December 6, 1973); "Fuels and Fuel Additives—Suspension of Enforcement of Regulations for Control of Lead Additives in Gasoline," 40 FR 7480 (February 20, 1975); "Fuels and Fuel Additives—Lifting of Suspension of Enforcement of Regulations for Control of Lead Additives in Gasoline," 41 FR 13984 (April 1, 1976); "Regulation of Fuel and Fuel Additives—Lifting of Suspension of Enforcement of Regulation Additives in Gasoline," 41 FR 28352 (July 9, 1976); "Regulation of Fuels and Fuel Additives—Control of Lead Additives in Gasoline," 41 FR 42675 (September 28, 1976); "Lead Additives in Gasoline: Controls on Refiners, Clarifications and Response to Public Comments," 41 FR 55646 (December 21, 1976); "Regulation of Fuels and Fuel Additives: Small Refinery Amendment—Final Rulemaking," 44 FR 46275 (August 7, 1979); "Controls Applicable to Gasoline Refiners; Lead Phase-Down Regulations—Notice of Proposed Rulemaking," 45 FR 3722. Also see: "Regulation of Fuels and Fuel Additives—Proposed Rule," 47 FR 7812 (February 22, 1982); "Regulation of Fuels and Fuel Additives—Withdrawal of Proposed Rule," 47 FR 38070 (August 27, 1982); "Regulation of Fuels and Fuel Additives—Final Rule," 47 FR 49322 (October 29, 1982).

or introduce into commerce, for use as fuel in any motor vehicle (as defined in section 7554(2) of this title) any gasoline which contains lead or lead additives.

42 U.S.C. 7545(n). The term "motor vehicle" is defined to include any self-propelled vehicle designed for transporting persons or property on a street or highway. 42 U.S.C. 7550(2).[2]

Section 211(n)'s prohibition will become effective January 1, 1996. By this action, EPA is incorporating the statutory ban into the agency's existing regulations on the lead content of gasoline, and is simplifying the existing regulations accordingly. In so doing, EPA had to determine whether Congress specifically intended in section 211(n) to ban the introduction into commerce for use in motor vehicles of gasoline which contains even a trace amount of lead, or whether this prohibition could reasonably be interpreted as authorizing the continued sale of unleaded gasoline which includes the trace amount of lead currently allowed under EPA's regulations.

As EPA interprets the statutory ban, it prohibits the sale of gasoline which is produced with the use of any lead additive or contains more than a trace amount of lead, but allows the continued sale of gasoline which meets EPA's current definition of unleaded gasoline. EPA has historically defined unleaded gasoline as gasoline that is produced without the use of any lead additive and that contains no more than 0.05 gram of lead per gallon.[3] EPA interprets section 211(n) this way for the following reasons.

Unleaded gasoline that was produced without lead additives may pick up trace amounts of lead as it passes through refinery and transport systems that had previously contained leaded gasoline. The language of section 211(n) indicates no clear Congressional intent regarding such trace amounts of lead that unintentionally exist in gasoline which was produced without the use of lead additives. Had Congress wanted to ban even unintentional, trace amounts of lead, it could have made its intent clear with, for example, statutory language banning gasoline that "contains *any* lead or lead additives."

While the text of section 211(n) is ambiguous, its heading and the heading of section 220 of the 1990 amendments, which added section 211(n) to the Clean Air Act, suggest that Congress intended to ban the use in motor vehicles of leaded gasoline, which EPA has historically defined as gasoline that is produced with the use of a lead additive or that contains more than 0.05 gram of lead per gallon. *See* 40 CFR 80.2(f). Where headings are enacted by Congress in conjunction with the statutory text and the meaning of the text is ambiguous, headings may help elucidate congressional intent. *E.g., United States* v. *Wallington*, 889 F.2d 573, 577 (5th Cir. 1989). In this instance, the heading of section 220 of the 1990 amendments reads "Lead Phasedown" while the heading of section 211(n) reads "Prohibition on Leaded Gasoline for Highway Use." Clean Air Act Amendments of 1990, Pub. L. No. 101–549, § 220, 104 Stat. ____, 2500 (1990). Since it is presumed that Congress was familiar with EPA's existing regulations implementing the phasedown of lead in leaded gasoline,[4] these headings suggest that Congress intended to complete the lead phasedown program by banning the use in motor vehicles after 1995 of gasoline that is produced with the use of a lead additive or that contains more than 0.05 gram of lead per gallon.

The legislative history of the Clean Air Act Amendments of 1990 supports this interpretation of Congress's intent in adding section 211(n) to the Clean Air Act. While the conference report for the 1990 amendments contains no explanation of section 220, the "Chafee-Baucus Statement of Senate Managers," which was included in the Congressional Record at the request of Senators Chafee and Baucus to supplement the conference report, describes the provision as banning "the sale of leaded gasoline * * *." 136 Cong. Rec. S16,938 (Oct. 27, 1990). This evidence supports EPA's conclusion that section 211(n) may reasonably be interpreted as banning in 1996 the introduction into commerce for use as a motor vehicle fuel all gasoline that is produced with the use of any lead additive or that contains more than 0.05 gram lead per gallon. *See Chevron, USA* v. *NRDC*, 467 U.S. 837 (1984).

EPA originally issued regulations mandating the availability of unleaded gasoline for use in motor vehicles containing catalytic converters or similar emission control devices under section 211(c) of the Clean Air Act, which authorizes the Administrator to control the manufacture, introduction into commerce, offering for sale, or sale of any fuel additive for use in a motor vehicle if the emission products of such additive will impair to a significant degree the performance of any emission control device. 42 U.S.C. 7545(c)(1). The definition of "unleaded gasoline" which EPA finalized at that time and which remains in effect today includes a phosphorus cap of not more than 0.005 gram per gallon because phosphorus above this trace level could cause catalyst deterioration in emission control systems. EPA's actions in this rule do not change its prior exercise of authority under section 211(c) to control the amount of phosphorus in gasoline.

EPA also promulgates this final rule pursuant to its authority under section 301(a) of the Clean Air Act, 42 U.S.C. 7601(a).

C. Availability of Gasoline Containing Lead or Lead Additives for Uses Other Than as Motor Vehicle Fuel

Section 211(n) bans the use of gasoline containing lead or lead additives for use as a motor vehicle fuel but does not restrict other potential uses of gasoline containing lead or lead additives. The definition of motor vehicle is limited to self-propelled vehicles designed for transporting persons or property on a street or highway. 42 U.S.C. 7550(2). The regulations of 40 CFR Part 80, which are amended by this rule, apply only to fuel that is sold for use in motor vehicles. *See* 40 CFR 80.2(c). The petroleum industry may continue to make and market gasoline produced with lead additives for all remaining uses, including use as fuel in aircraft, racing cars, and nonroad engines such as farm equipment engines and marine engines, to the extent otherwise allowed by law.

II. Description of Today's Rule

Today's direct final rule amends 40 CFR Part 80 to prohibit the introduction into commerce for use as a motor vehicle fuel after December 31, 1995 of gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, in accordance with section 211(n) of the Clean Air Act. Because the existing regulations at 40 CFR Part 80 currently allow the sale of leaded gasoline for use as a motor vehicle fuel, and the prohibition in Section 211(n) makes some of Part 80's requirements unnecessary, this rule also deletes the provisions which are no longer needed, and modifies other provisions to reflect the institution of the ban.

[2] Section 211(n) of the Clean Air Act refers to the definition of motor vehicle in 42 U.S.C. 7554(2), but the definition appears in section 7550(2) (section 7554 pertains to urban bus standards). EPA believes that section 211(n) contains a typographical error and that Congress intended to refer to the definition of motor vehicle that appears in 42 U.S.C. 7550(2).

[3] The regulatory definition of "unleaded gasoline" also contains a cap on the amount of phosphorus, *see* 40 CFR 80.2(g), but the phosphorus cap is not relevant to the discussion of section 211(n).

[4] Congress is presumed to be familiar with an agency's construction of the existing provisions of a statute when Congress amends the statute. N. Singer, Sutherland Statutes and Statutory Construction, § 22.35 (5th Ed. 1992).

A detailed description of this rule's changes to 40 CFR Part 80 is offered below. This rule becomes effective on March 4, 1996 and all changes discussed below become effective on that date.

A. Prohibition on the Sale of Gasoline Which is Produced With the Use of Any Lead Additive or Contains More Than 0.05 Gram of Lead Per Gallon

In accordance with the statutory ban set forth in section 211(n) of the Clean Air Act, this rule adds a paragraph (b) to section 80.22 that prohibits introducing into commerce for use as fuel in motor vehicles gasoline which is produced with the use of any lead additive or contains more than 0.05 gram of lead per gallon. As explained above, EPA will permit an unintentional trace level of lead in motor vehicle fuel. Also, the term "lead additive" as defined in section 80.2(e) encompasses pure lead as well as lead compounds, so that the ban in section 80.22(b) will cover gasoline produced with the use of pure lead as well as lead compounds.

B. Related Changes

Several of Part 80's existing provisions will become unnecessary once the statutory ban on the use of gasoline containing lead or lead additives as a motor vehicle fuel goes into effect on January 1, 1996. Accordingly, this rule deletes or revises the following provisions effective March 4, 1996.

Section 80.2(f). Section 80.2(f) currently contains the definition of leaded gasoline and is deleted. The definition of leaded gasoline is no longer necessary in regulations relating to motor vehicle fuels once the statute's ban on using gasoline containing lead or lead additives as motor vehicle fuel goes into effect.

Section 80.7. Section 80.7 currently explains the extent to which EPA may require persons to provide information to EPA when EPA has reason to believe that a violation of section 211(c) of the Clean Air Act and the regulations thereunder has occurred. This rule amends section 80.7 to include a reference to violations of section 211(n) of the Clean Air Act and the regulations thereunder. It also deletes the reference to labels and signs in section 80.7(c), because these items will no longer be required under section 80.22 (see discussion of section 80.22).

Section 80.20. This rule deletes section 80.20 in its entirety. Section 80.20 contains provisions related to the phasedown of lead content in gasoline produced for use in motor vehicles which will become obsolete once the sale of gasoline containing lead or lead additives for use in motor vehicles is banned. The provisions specify interim phases of lead reduction, reporting requirements for refiners and importers to show compliance with the lead content restrictions, and provisions allowing inter-refinery averaging and banking of lead usage rights.

Section 80.21. This rule deletes section 80.21 in its entirety. Section 80.21 contains controls applicable to gasoline distributors similar to the provisions in 80.22. For simplification, these provisions will be consolidated in the general controls and prohibitions under 80.22.

Section 80.22. This rule changes the title of section 80.22 to reflect the consolidation of sections 80.21 and 80.22. The title will be changed from "Controls applicable to gasoline retailers and wholesale purchaser-consumers" to "Controls and prohibitions."

Section 80.22(a). This rule modifies section 80.22(a) to reflect the simultaneous removal of both the definition of leaded gasoline (see discussion of section 80.2(f)) and the requirement to label motor vehicles "unleaded gasoline only" (see discussion of section 80.24).

Section 80.22(d) and (e). This rule deletes section 80.22(d), which requires notices at each gasoline pump stand prohibiting the introduction of leaded gasoline into motor vehicles designed for unleaded gasoline. This rule also deletes section 80.22(e), which requires that gasoline pumps be labelled to identify whether they contain leaded or unleaded gasoline.

EPA believes that these requirements are no longer necessary to prevent misfueling. Leaded gasoline has been largely phased out and now accounts for less than one percent of gasoline sold in urban areas. EPA's discussions with the gasoline refiners which produced leaded gasoline in 1995 have revealed that all but one refiner have already ceased to produce gasoline with the use of lead additives. One refiner continues to produce leaded fuel for nonroad uses. Many fuel pumps dispensing gasoline used in nonroad applications are not located at retailers and wholesale purchaser-consumers, although some fuel pumps dispensing racing fuel may be located at retailers and wholesale puchaser-consumers. EPA believes it unlikely that misfueling of motor vehicles with gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, will occur at these locations, because such gasoline costs significantly more than unleaded gasoline. For example, racing fuel currently costs around five dollars per gallon.

Section 80.22(f). Section 80.22(f) regulates nozzle spout sizes of pumps dispensing gasoline. First, the dates in this section are modified to reflect the institution of this ban. Second, paragraph 80.22(f)(1) contains the requirement for the nozzle size of pumps dispensing leaded gasoline, and this requirement will no longer be necessary because gasoline containing lead or lead additives will no longer be permitted to be dispensed into motor vehicles as a result of the statutory ban. Although leaded fuel will still be available for nonroad uses, EPA currently does not regulate the nozzle sizes on pumps dispensing such fuel. Therefore, this rule deletes paragraph 80.22(f)(1). EPA is retaining a nozzle size requirement for dispensing unleaded gasoline in paragraph 80.22(f)(2) in order to ensure that nozzles function properly in conjunction with the motor vehicle fuel inlet restrictors, which must be of a certain size per the requirement of section 80.24(b).

Sections 80.22(g) and (h). Sections 80.22(g) and (h) refer to compliance with sections 80.22(e) and (f) for multiple grades of gasoline. These sections' references to 80.22(e) are irrelevant because this rule deletes that subsection. With respect to paragraph (f), section 80.22(g) permits the Administrator to grant an exception to the requirement of paragraph (f) upon demonstration that alternate equipment will comply with the objectives of paragraph (f). EPA is not aware of any exceptions granted under paragraph (g) at this time and believes the exception authority provided by 80.22(g) is not needed. According to section 80.22(h), compliance with paragraph (f) is required for only one grade where there is more than one grade of unleaded gasoline offered for sale. EPA believes that, to ensure that the statute's ban is implemented properly, the requirements of paragraph (f) should apply to each pump dispensing unleaded gasoline. Therefore, sections 80.22(g) and 80.22(h) are deleted.

Section 80.22(i). Section 80.22(i), which refers to an exemption from the requirements of section 80.22(b), is deleted. Section 80.22(i) was inadvertently retained when section 80.22(b) was deleted in a prior rulemaking and is currently obsolete. The new section 80.22(b) added by this rule bears no relation to section 80.22(i), and therefore section 80.22(i) must be deleted to avoid confusion.

Section 80.23. This rule makes three changes to section 80.23, which currently imposes liability for violations of section 80.22(a).

First, the rule changes the introductory text of section 80.23 to include liability for violations of the new section 80.22(b), which is the general provision prohibiting the introduction into commerce for use as motor vehicle fuel of gasoline which is produced with the use of any lead additive or contains more than 0.05 grams of lead per gallon.

Second, the rule deletes subparagraph (e)(2) of section 80.23. Subparagraph (e)(2) offered an "emergency exemption" to allow a retailer or wholesale purchaser-consumer to provide leaded gasoline for use in a motor vehicle designed to use unleaded gasoline in emergency situations, such as when a vehicle has an empty tank and no unleaded gasoline is available within a several mile radius. EPA believes the continued availability of this exemption not only would be unnecessary given the scarce availability of gasoline containing lead or lead additives in comparison to that of unleaded gasoline, but also would be inconsistent with the intent of section 211(n) to prohibit the introduction into commerce for use as motor vehicle fuel of gasoline containing lead or lead additives.

Third, the rule modifies sections 80.23(b)(2)(ii) and (e)(1) to reflect the simultaneous removal of the definition of leaded gasoline.

Section 80.24. This rule simplifies section 80.24, which contains requirements applicable to motor vehicles. EPA has determined that portions of section 80.24 are no longer needed to prevent misfueling (see discussion of sections 80.22 (d) and (e) above). Accordingly, this rule deletes section 80.24(a), which requires that "unleaded gasoline only" labels be affixed to the dashboard and fuel filler inlet of each motor vehicle with an emission control device which will be significantly impaired by the use of gasoline containing lead or lead additives. The labels will no longer be necessary once the ban on fueling motor vehicles with gasoline which is produced with the use of any lead additive, or contains more than 0.05 grams of lead per gallon, becomes effective January 1, 1996.

Similarly, section 80.24(b)(1) currently requires that a pump nozzle dispensing gasoline other than unleaded gasoline must automatically shut off during attempted refueling into a motor vehicle equipped with a fuel filler inlet for unleaded gasoline. It is appropriate to remove this requirement because the requirement was intended to prevent misfueling and, as stated above (see discussion of sections 80.22 (d) and (e)) EPA now believes misfueling is unlikely, making this safeguard against misfueling unnecessary. Section 80.24(b)(2) explains the scope of section 80.24(b)(1). Once section 80.24(b)(1) is removed, it is appropriate to remove section 80.24(b)(2) as well.

The introductory text of section 80.24 is deleted and the remaining text of section 80.24(b) is modified so that section 80.24(b)'s tank filler inlet size requirements apply to all new motor vehicles, and not just those equipped with an emission control device that would be significantly impaired by the use of gasoline containing lead or lead additives. This modification comports with the statutory ban prohibiting the use of gasoline containing lead or lead additives as a motor vehicle fuel, by requiring that all new motor vehicles are equipped with tank filler inlets matching the size of the nozzle on pumps dispensing unleaded gasoline.

Finally, section 80.24(c) is deleted, because the paragraph clarifies the term "emission control device which will be significantly impaired by the use of leaded gasoline." This term is currently used in the introductory text of section 80.24, but is being removed as explained above. Therefore, section 80.24(c) no longer serves any purpose and will be deleted.

Section 80.25. Section 80.25, which requires lead additive manufacturers to report the amount of lead shipped to refineries, is deleted in its entirety. These reports are currently utilized to verify reports submitted by refineries in the lead phasedown program summarizing the amount of lead used in the production of gasoline. Section 80.20, which contains provisions related to the lead phasedown program, is being deleted in today's action (see discussion of section 80.20), making the requirements of section 80.25 unnecessary.

III. Environmental Impact

This rule is expected to have a positive environmental effect by facilitating smooth implementation of the Clean Air Act prohibition on gasoline containing lead or lead additives for use in motor vehicles, which becomes effective after December 31, 1995. This rule marks the completion of a lead phasedown program which EPA began in 1973 upon determining that lead particle emissions from motor vehicles presented a significant risk of harm to the health of urban populations, especially in children.

IV. Economic Impact

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal Agencies examine the impacts of their regulations on small entities. The act requires an Agency to prepare a regulatory flexibility analysis in conjunction with notice and comment rulemaking, unless the Agency head certifies that the rule will not have a significant impact on a substantial number of small entities. 5 U.S.C. 605(b). The Administrator certifies that this rule will not have a significant impact on a substantial number of small entities. This rule is not expected to result in any additional compliance cost to regulated parties and, in fact, is expected to decrease compliance costs for some regulated parties. This decrease in compliance costs is largely due to the deletion of regulatory requirements no longer necessary given the Clean Air Act statutory ban on gasoline containing lead or lead additives for use in motor vehicles. This rule will reduce compliance costs due to the removal of several reporting, labeling, and equipment requirements. Owners of vehicles which are designed to operate on leaded gasoline will not be subject to additional costs as a result of this ban. Many vehicles designed to use leaded gasoline currently use unleaded gasoline, which costs significantly less than leaded gasoline. Lead substitute additives are available for vehicles which operate under higher loads and require additional protection against valve seat wear.

V. Effective Date

This action will become effective March 4, 1996, unless EPA receives notice by February 20, 1996 from someone who wishes to submit adverse comments or request an opportunity for a public hearing. If EPA receives such notice, EPA will withdraw this rule and publish timely notice in the **Federal Register** of such withdrawal.

VI. Executive Order 12866

Under Executive Order 12866,[5] the Agency must determine whether a regulation is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments of communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.[6]

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

[5] 58 FR 51735 (October 4, 1993).

VII. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA"), P.L. 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that the final rule promulgated today does not trigger the requirements of UMRA. The rule does not include a Federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of $100 million or more, and it does not establish regulatory requirements that may significantly or uniquely affect small governments.

VIII. Judicial Review

Because this action promulgates a prohibition in Section 211 of the Clean Air Act and is nationally applicable, under Section 307(b)(1) of the Clean Air Act judicial review of this action is available only by the filing of a petition for review in the U.S. Court of Appeals for the D.C. Circuit within sixty days of publication of this action in the **Federal Register**, unless EPA withdraws this rule in response to notice of intent to file adverse comment or request the opportunity for a public hearing.

[6] Id. at section 3(f)(1)–(4).

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Leaded gasoline, Unleaded gasoline, and Motor vehicle pollution.

Dated: January 29, 1996.

Carol M. Browner,

Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

§ 80.2 [Amended]

2. Section 80.2 is amended by removing and reserving paragraph (f).

3. Section 80.7 is amended by revising paragraph (a) introductory text and the first sentence of paragraph (c) to read as follows:

§ 80.7 Requests for information.

(a) When the Administrator, the Regional Administrator, or their delegates have reason to believe that a violation of section 211(c) or section 211(n) of the Act and the regulations thereunder has occurred, they may require any refiner, distributor, wholesale purchaser-consumer, or retailer to report the following information regarding receipt, transfer, delivery, or sale of gasoline represented to be unleaded gasoline and to allow the reproduction of such information at all reasonable times.

* * * * *

(b) * * *

(c) Any refiner, distributor, wholesale purchaser-consumer, retailer, or importer shall provide such other information as the Administrator or his authorized representative may reasonably require to enable him to determine whether such refiner, distributor, wholesale purchaser-consumer, retailer, or importer has acted or is acting in compliance with sections 211(c) and 211(n) of the Act and the regulations thereunder and shall, upon request of the Administrator or his authorized representative, produce and allow reproduction of any relevant records at all reasonable times. * * *

§§ 80.20 and 80.21 [Removed and reserved]

4. Sections 80.20 and 80.21 are removed and reserved.

5. Section 80.22 is amended by revising the title and paragraphs (a), (f) introductory text, and (f)(2) introductory text by adding paragraph (b), and by removing and reserving paragraphs (d), (e), (f)(1), (g), (h) and (i) to read as follows:

§ 80.22 Controls and prohibitions.

(a) After December 31, 1995, no person shall sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce gasoline represented to be unleaded gasoline unless such gasoline meets the defined requirements for unleaded gasoline in § 80.2(g); nor shall he dispense, or cause or allow the gasoline other than unleaded gasoline to be dispensed into any motor vehicle which is equipped with a gasoline tank filler inlet which is designed for the introduction of unleaded gasoline.

(b) After December 31, 1995, no person shall sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce for use as fuel in any motor vehicle (as defined in Section 216(2) of the Clean Air Act, 42 U.S.C. 7550(2)), any gasoline which is produced with the use of lead additives or which contains more than 0.05 gram of lead per gallon.

(c) * * *

* * * * * *

(f) Beginning January 1, 1996, every retailer and wholesale purchaser-consumer shall equip all gasoline pumps as follows:

(1) [Reserved]

(2) Each pump from which unleaded gasoline is dispensed into motor vehicles shall be equipped with a nozzle spout which meets the following specifications:

* * * * * *

6. Section 80.23 is amended by revising the introductory text and paragraphs (b)(2)(ii) and (e)(1), and by removing and reserving paragraph (e)(2) to read as follows:

§ 80.23 Liability for violations.

Liability for violations of paragraphs (a) and (b) of § 80.22 shall be determined as follows:

* * * * * *

(b)(1) * * *

(2) * * *

(ii) That the violation was caused by an act in violation of law (other than the Act or this part), or an act of sabotage, vandalism, or deliberate commingling of gasoline which is produced with the use of lead additives or phosphorus additives with unleaded gasoline, whether or not such acts are violations of law in the jurisdiction where the

violation of the requirements of this part occurred, or

* * * * *

(e)(1) In any case in which a retailer or his employee or agent or a wholesale purchase-consumer or his employee or agent introduced gasoline other than unleaded gasoline into a motor vehicle which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, only the retailer or wholesale purchaser-consumer shall be deemed in violation.

(2) [Reserved].

7. Section 80.24 is amended by removing the introductory text and by removing and reserving paragraph (a), and removing paragraph (c), and by revising paragraph (b) to read as follows:

§ 80.24 Controls applicable to motor vehicle manufacturers.

(a) [Reserved].

(b) The manufacturer of any motor vehicle powered with gasoline shall equip such vehicle with a gasoline tank filler inlet having a restriction which allows the insertion of a nozzle with a spout meeting the specifications in § 80.22(f)(2) and which prevents the insertion of a nozzle of greater size than prescribed in § 80.22(f)(2).

§ 80.25 [Removed and reserved]

8. Section 80.25 is removed and reserved.

[FR Doc. 96–2231 Filed 2–1–96; 8:45 am]
BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302–11

[FTR Amendment 46]

RIN 3090–AF78

Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates. The Federal, State, and Puerto Rico tax tables contained in this rule are for calculating the 1996 RIT allowance to be paid to relocating Federal employees.

DATES: *Effective date:* This final rule is effective January 1, 1996.

Applicability date: The new tables in this final rule apply for RIT allowance payments made on or after January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jane Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703-305-5745.

SUPPLEMENTARY INFORMATION: This amendment provides the tax tables necessary to compute the relocation income tax (RIT) allowance for employees who are taxed in 1996 on moving expense reimbursements.

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **FEDERAL REGISTER** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 302–11

Government employees, Income taxes, Relocation allowances and entitlements, Transfers.

For the reasons set out in the preamble, 41 CFR part 302–11 is amended to read as follows:

PART 302–11—RELOCATION INCOME TAX (RIT) ALLOWANCE

1. The authority citation for part 302–11 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586; E.O. 12466, 49 FR 7349, 3 CFR, 1984 Comp., p. 165.

2. Appendixes A, B, C, and D to part 302–11 are amended by adding the following tables at the end of each appendix, respectively:

APPENDIX A TO PART 302–11—FEDERAL TAX TABLES FOR RIT ALLOWANCE

* * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1995

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1995.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$6,643	$30,783	$11,937	$44,304	$16,387	$57,249	$8,171	$28,637
28	30,783	68,684	44,304	102,201	57,249	119,362	28,637	59,017
31	68,684	139,546	102,201	163,966	119,362	173,514	59,017	88,341
36	139,546	283,746	163,966	294,200	173,514	286,217	88,341	147,650
39.6	283,746		294,200		286,217		147,650	

APPENDIX B TO PART 302–11—STATE TAX TABLES FOR RIT ALLOWANCE

* * * * *

STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 1995

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–11.8(e)(2). This table is to be used for employees who received covered taxable reimbursements during calendar year 1995.

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column[1 2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 and over
1. Alabama	5	5	5	5
2. Alaska	0	0	0	0
3. Arizona	3.25	4	5.05	6.9
If single status[3]	4	5.05	6.4	6.9
4. Arkansas	4.5	7	7	7
If single status[3]	6	7	7	7
5. California	2	4	8	11
If single status[3]	4	9.3	9.3	11
6. Colorado	5	5	5	5
7. Connecticut	4.5	4.5	4.5	4.5
8. Delaware	6	7.6	7.7	7.7
9. District of Columbia	8	9.5	9.5	9.5
10. Florida	0	0	0	0
11. Georgia	6	6	6	6
12. Hawaii	8	9.5	10	10
If single status[3]	9.5	10	10	10
13. Idaho	7.5	7.8	8.2	8.2
14. Illinois	3	3	3	3
15. Indiana	3.4	3.4	3.4	3.4
16. Iowa	6.8	7.55	9.98	9.98
If single status[3]	7.2	8.8	9.98	9.98
17. Kansas	3.5	6.25	6.25	6.45
If single status[3]	4.4	7.75	7.75	7.75
18. Kentucky	6	6	6	6
19. Louisiana	2	4	4	6
If single status[3]	4	4	6	6
20. Maine	4.5	7	8.5	8.5
If single status[3]	8.5	8.5	8.5	8.5
21. Maryland	5	5	5	5
22. Massachusetts	5.95	5.95	5.95	5.95
23. Michigan	4.4	4.4	4.4	4.4
24. Minnesota	6	8	8	8.5
If single status[3]	8	8	8.5	8.5
25. Mississippi	5	5	5	5
26. Missouri	6	6	6	6
27. Montana	6	9	10	11
28. Nebraska	3.65	5.60	7.35	7.75
If single status[3]	5.60	7.35	7.60	7.75
29. Nevada	0	0	0	0
30. New Hampshire	0	0	0	0
31. New Jersey	1.7	2.125	2.975	6.58
If single status[3]	1.7	4.25	6.013	6.58
32. New Mexico	3.2	6	7.1	8.5
If single status[3]	6	7.1	7.9	8.5
33. New York	4.55	7.594	7.594	7.594
If single status[3]	7.594	7.594	7.594	7.594
34. North Carolina	6	7	7	7.75
35. North Dakota	14	14	14	14
		(See footnote 4)		
36. Ohio	2.972	4.457	5.201	7.5
37. Oklahoma	4	7	7	7
If single status[3]	7	7	7	7
38. Oregon	9	9	9	9
39. Pennsylvania	2.8	2.8	2.8	2.8
40. Rhode Island	27.5	27.5	27.5	27.5
		(See footnote 5)		
41. South Carolina	7	7	7	7
42. South Dakota	0	0	0	0
43. Tennessee	0	0	0	0
44. Texas	0	0	0	0
45. Utah	7.2	7.2	7.2	7.2
46. Vermont		(See footnote 6)		
47. Virginia	5	5.75	5.75	5.75
48. Washington	0	0	0	0
49. West Virginia	4	4.5	6	6.5
50. Wisconsin	6.55	6.93	6.93	6.93
51. Wyoming	0	0	0	0

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(ii).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] The income tax rate for North Dakota is 14 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2)(iii).

[5] The income tax rate for Rhode Island is 27.5 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2)(iii).

[6] The income tax rate for Vermont is 25 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2)(iii).

APPENDIX C TO PART 302–11—FEDERAL TAX TABLES FOR RIT ALLOWANCE—YEAR 2

* * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1996

The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, or 1995.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$6,885	$31,807	$12,295	$45,572	$17,027	$59,055	$8,229	$29,600
28	31,807	70,867	45,572	105,805	59,055	123,190	29,600	61,245
31	70,867	144,170	105,805	168,990	123,190	179,414	61,245	90,611
36	144,170	292,883	168,990	301,968	179,414	295,681	90,611	150,779
39.6	292,883	.....	301,968	.....	295,681	.....	150,779	.....

APPENDIX D TO PART 302–11—PUERTO RICO TAX TABLES FOR RIT ALLOWANCE

* * * * *

PUERTO RICO MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 1995

The following table is to be used to determine the Puerto Rico marginal tax rate for computation of the RIT allowance as prescribed in § 302–11.8(e)(4)(i).

Marginal tax rate (percent)	Single filing status		Any other filing status	
	Over	But not over	Over	But not over
12	.....	.....	.....	$25,000
18	.....	$25,000	.....	.....
31	.....	.....	$25,000	$50,000
33	$25,000	.....	$50,000	.....

Dated: January 5, 1996.

Roger W. Johnson,

Administrator of General Services.

[FR Doc 96–2154 Filed 2–1–96;8:45am]

BILLING CODE 6820–24–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 89–552, GN Docket No. 93–252; FCC 96–27]

Wireless Telecommunications Services; Private Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a procedure that will enable 220 MHz licensees to modify their licenses to relocate their authorized base stations at currently unauthorized locations. The Commission also extends the current February 2, 1996, construction deadline to March 11, 1996, for all non-nationwide 220 MHz licensees that elect to construct their base station at their currently authorized location, and to August 15, 1996, for all licensees granted authority to modify their licenses to relocate their base station. The action adopted in this *Second Report and Order* is needed to provide existing 220 MHz licensees with the flexibility they need to complete construction of their systems and provide service. This *Second Report and Order* contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

EFFECTIVE DATE: The extensions of the construction deadline is effective January 26, 1996. The rule amendmentes are effective March 4, 1996. Letters of intent and modification applications may be filed after March 4, 1996. Written comments by the public on the proposed and/or modified information collections are due by February 23, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before March 1, 1996.

ADDRESSES: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Marty Liebman, 202–418–1310, or Mary Woytek, 202–418–1066. For additional information concerning the information collections contained in this *Second Report and Order* contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Second Report and Order* in PR Docket No. 89–552 and GN Docket No. 93–252, FCC 96–27, adopted January 26, 1996, and released January 26, 1996. The complete text of this *Second Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Second Report and Order

The Commission adopts a procedure that will enable 220 MHz licensees to modify their licenses to relocate their authorized base stations to currently unauthorized locations. Under this procedure, licensees with base stations authorized inside any Designated Filing Area (DFA) will be permitted to relocate their base stations up to one-half the distance over 120 kilometers (km) toward any authorized co-channel base station, to a maximum distance of 8 km. Licensees with base stations authorized outside the boundaries of any DFA will be permitted to relocate their base stations up to one-half the distance over 120 km toward any authorized co-channel base station, to a maximum distance of 25 km, so long as they do not locate their base station more than 8 km inside the boundaries of any DFA. A licensee will be permitted to relocate its base station less than 120 km from the base station of a co-channel licensee or more than one-half the distance over 120 km toward the base station of a co-channel licensee only with the consent of that licensee.

The Commission also extends the current February 2, 1996, construction deadline to March 11, 1996, for all non-nationwide 220 MHz licensees that elect to construct their base station at their currently authorized location, and to August 15, 1996, for all licensees granted authority to modify their licenses to relocate their base stations. Licensees seeking authority to modify their authorizations to relocate their base stations may file, by March 11, 1996, a statement of their intention to file an application requesting such modification, and will be required to file a modification application by no later than May 1, 1996. The Commission believes that the procedures adopted in this Order will provide existing 220 MHz licensees flexibility to complete construction of their systems and provide service. At the same time, the Commission believes its decision will not unreasonably impair the opportunity of potential licensees to obtain licenses in the 220 MHz service.

The Commission began accepting applications for 220 MHz licenses on May 1, 1991, and on May 24, 1991, after receiving over 59,000 applications, imposed a freeze on the filing of all initial and modification applications for the 220 MHz service—a freeze that remains in effect today. Since then, the Commission has issued authorizations to approximately 3,800 licensees to operate "non-nationwide" 220 MHz stations. A number of 220 MHz licensees have asked to be permitted to file modification applications to relocate their stations to currently unauthorized sites. In response, the Commission released, on August 29, 1995, the *Fourth Notice of Proposed Rulemaking* in this proceeding (*Fourth NPRM*), 60 FR 46566, September 7, 1995) proposing a procedure to enable existing licensees in the 220 MHz service to seek modification of their authorizations to relocate their base stations.

While the Commission is ordinarily reluctant to open a "license modification only" filing window, where the applications of initial applicants would not be accepted, it recognizes that the 220 MHz service is unique. *Evans* v. *Federal Communications Commission, Order*, per curiam, Case No. 92–1317 (D.C. Cir. March 18, 1994), effectively placed all of the more than 3,000 authorizations the Commission granted in the 220 MHz service in doubt for nearly a two-year period, and caused many licensees to refrain from constructing their stations. Following the settlement of the case, the deadline for licensees to construct their systems and place them in operation was extended on four separate occasions to allow licensees sufficient time to construct their systems. However, with several years having passed since 220 MHz licensees filed their applications, many licensees have found that, for various reasons, they are unable to construct at their authorized locations. In light of these circumstances, the Commission is adopting a modification

procedure which will provide these licensees an opportunity to construct their radio stations and offer mobile communications service to the public. The Commission believes that this modification procedure will also increase the number of potential users of the 5 kHz narrowband radio equipment and thus help to promote the development and implementation of this spectrally efficient technology.

The Commission will afford non-nationwide 220 MHz licensees the opportunity to relocate their authorized base stations by filing modification applications under the following procedure:

(1) A licensee with an authorized base station located in a DFA will be permitted to relocate its base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 8 km.

(2) A licensee with an authorized base station not located in a DFA may relocate its base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 25 km, so long as it does not locate its base station more than 8 km inside of any DFA (i.e., not more than 8 km from the nearest DFA boundary line).

(3) The application of a licensee proposing a modification to relocate its base station at least 120 km from each co-channel licensee's initially authorized base station but more than one-half the distance over 120 km toward the base station of a co-channel licensee will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a letter submitted concurrently with the modification application.

(4) The application of a licensee proposing a modification resulting in less than 120 km separation from a co-channel licensee's initially authorized base station will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a letter submitted concurrently with the modification application.

(5) Any modification application that does not meet these standards will be considered defective and dismissed.

All licensees applying for modification of their authorization must also ensure that they comply with all applicable technical and operational rules (e.g., Section 90.723(d) and Section 90.729 of the Commission's Rules).

While the Commission believes that this decision will accommodate the needs of most 220 MHz licensees to relocate their base stations, we recognize that in certain areas of the Nation it is possible that the technical characteristics of base station sites available under our relocation procedure may be considerably inferior to the technical characteristics of currently licensed sites and sites that may exist at nearby, more elevated locations. Because of their unique terrain features, the Commission has historically treated licensees authorized to serve these areas differently than licensees authorized elsewhere in the Nation. The Commission therefore believes that it would be appropriate to entertain waiver requests by licensees authorized in any urban areas with such unique terrain features, to relocate their stations to sites at higher elevations that may be situated more than 8 km (or 25 km, for licensees authorized outside DFAs) from their authorized location. A licensee seeking such a waiver of Section 90.753 of the Commission's Rules must provide: (1) A showing that the terrain in question does, in fact, present unique technical and operational problems; and (2) a technical analysis demonstrating that in relocating its base station to its desired location at a higher elevation, the licensee will provide service to substantially the same geographic area it was authorized to serve pursuant to its initial application.

The Commission notes that there are five groups of applications (totalling 34 applications) that were filed on the last day 220 MHz applications were accepted in May 1991, and that remain pending before the Commission. These applications are mutually exclusive with one another and, in each of the five groups, the applicants have requested the same base station locations. How these 34 applications are to be ultimately processed is a matter raised in the context of the *Third Notice of Proposed Rulemaking (Third NPRM)* in this Docket (60 FR 46564, September 17, 1995). Prior to reaching decisions in that proceeding, the Commission will not take any action in this *Second R&O* that would affect the rights of these applicants, either positively or negatively, to be licensed or, once licensed, to take advantage of the relocation options being afforded to other existing 220 MHz licensees. The Commission's analysis indicates that if we were to allow certain existing 220 MHz licensees, located between 120 km and 170 km from one of the five base station locations, to relocate under the modification procedure as though these pending applications did not exist, the licensees granted licenses at these locations, once authorized, would not be able to relocate their base stations under the procedure. The Commission will therefore require the following licensees to ensure that, in seeking relocation of their base stations pursuant to this *Second R&O*, they comply with our modification procedure by protecting a possible co-channel station at the following locations.

The following licensees must protect a possible co-channel licensee at coordinates N 30.5221, W 083.2036:

Licensee (Call Sign) Distance to Coordinates (km)

WPCB732	163.87
WPCW990	163.87

The following licensees must protect a possible co-channel licensee at coordinates N 36.3628, W 121.0951:

Licensee (Call Sign) Distance to Coordinates (km)

WPCY266	140.77
WPCA288	140.77
WPCV737	140.90
WPCX490	140.77
WPCW812	140.90
WPCX487	140.77
WPBU519	140.77
WPBZ605	154.53
WPCW456	154.53
WPCX473	163.16
WPCY621	123.67
WPCK365	123.67
WPCR214	123.67
WPCX477	165.01
WPCW482	156.40
WPCJ969	168.09
WPCX469	157.27

The following licensees must protect a possible co-channel licensee at coordinates N 42.1551, W 089.0155:

Licensee (Call Sign) Distance to Coordinates (km)

WPBU711	123.19
WPCM336	123.19
WPCX791	123.19
WPCD923	123.45
WPCA452	120.23
WPCT282	126.45
WPCK616	130.69
WPCA720	125.51
WPCA717	125.51
WPCA301	152.08
WPDG617	143.76
WPCV785	152.08
WPDH432	143.76
WPCB933	143.76
WPDR932	123.19

The following licensees must protect a possible co-channel licensee at coordinates N 33.2753, W 080.5642:

Licensee (Call Sign) Distance to Coordinates (km)

WPCC592	126.82
WPCQ606	126.82
WPBR454	137.48

WPCK496	158.29
WPCP569	158.29
WPDG323	163.37

The following licensees must protect a possible co-channel licensee at coordinates N 35.0658, W 078.5558:

Licensee (Call Sign) Distance to Coordinates (km)

WPCD332	138.40
WPCV776	136.08
WPCW524	131.16

Licensees with authorized base stations identified above as being located more than 136 km from a protected base station site and located in a DFA are still restricted to relocations of no greater than 8 km.

The *Second R&O* next determines that licensees with Special Temporary Authority (STA) to operate base stations at alternative locations, who certify, in accordance with this *Second R&O* that it has constructed its base station and has placed it in operation, or commenced service at that site by the adoption date of this decision, will be permitted to seek permanent authorization at the site, in accordance with the procedures for filing modification applications established the full text of this *Second R&O*, regardless of whether locating at its STA site is in strict conformance with the relocation distance limitations prescribed in the Commission's modification procedure.

For the same reasons, the Commission will provide similar relief to licensees that are in the process of constructing their base station at their STA site. Such licensees will be permitted to seek permanent authorization at their STA site, in accordance with the procedures for filing modification applications established in the full text of this *Second R&O*, regardless of whether locating their station at its STA site is in strict conformance with the relocation distance limitations prescribed in our modification procedure, if they certify that they had taken delivery of their base station transceiver on or before the adoption date of this decision. A licensee seeking permanent authorization at its STA site under either of these conditions must ensure that it complies with all applicable technical and operational rules (e.g., Section 90.723 and Section 90.729 of the Commission's Rules).

The current deadline for non-nationwide 220 MHz licensees to construct and operate their base station is February 2, 1996. With the adoption and release of this *Second R&O* occurring close to this February date, the Commission believes that it is appropriate to give licensees sufficient time to decide whether they want to relocate their base station under our modification procedure, and then to construct their base station and begin operation. The Commission will therefore extend the construction deadline for all non-nationwide 220 MHz licensees that intend to construct their base station at their currently authorized location to March 11, 1996. For licensees that elect to modify their authorization to relocate their base station, the deadline shall be August 15, 1996.

The Commission will begin to accept modification applications from licensees seeking to relocate their base stations 30 days after publication of the summary of this *Second R&O* in the **Federal Register**. The deadline for filing modification applications will be May 1, 1996. If a licensee does not construct its base station and place it in operation, or commence service, at its currently authorized location on or before March 11, 1996, and, instead, chooses to seek modification of its authorization to relocate its base station, it must inform the Commission on or before March 11, 1996, of its intention to seek a license modification. Otherwise its authorization will cancel automatically at the close of March 11, 1996. Because the Commission recognizes that the relatively short time period between the release of this *Second R&O* and the March 11, 1996 date may not be sufficient to enable licensees to evaluate the decisions reached in this *Second R&O*, acquire an alternative base station site, and perform the necessary technical analysis needed to file a modification application, the Commission will permit licensees to submit a letter during the period beginning 30 days after publication of the summary of this *Second R&O* in the **Federal Register**, but no later than March 11, 1996, certifying to the Commission their intent to file an application to modify their authorization to relocate their base station. This letter will serve to extend a licensee's authorization past March 11, 1996, even if the licensee has not yet identified and secured an alternate site. The Commission will then allow licensees to file their modification applications requesting relocation of their base station any time after this date, but no later than May 1, 1996. If a licensee files a letter indicating its intent to file a modification application and does not file such an application on or before May 1, 1996, the licensee's existing authorization will cancel automatically unless the licensee had constructed its base station at its initially authorized location and placed it in operation, or commenced service, on or before March 11, 1996. To ensure that licensees are provided an adequate construction period, the Commission will extend the deadline for a licensee to construct its station and place it in operation, or commence service, beyond August 15, 1996, by the number of days after June 1, 1996, that pass before a licensee's timely filed modification application is actually granted.

If a licensee elects to construct its base station and place it in operation, or commence service, at its initially authorized location on or before March 11, 1996, and also seeks to modify its authorization to relocate the station, its construction deadline will be considered to be met if it constructs its base station and places it in operation, or commences service, on or before March 11, 1996, and it will be given until August 15, 1996, to construct and place in operation its base station, or commence service, at its new station location. If the application for modification of any licensee seeking relocation of its base station is denied for any reason, that licensee's existing authorization will cancel automatically unless the licensee has constructed its base station at its initially authorized location and placed it in operation, or commenced service, by March 11, 1996.

The application of a licensee seeking relocation of its base station should include the following:

(1) A Form 600 requesting station modification, and providing all applicable information.

(2) Certification that the location of the proposed base station is in conformance with the modification procedures adopted in this proceeding, or a letter evidencing consent of a co-channel licensee that the licensee may be authorized less than 120 km from the co-channel licensee or more than one-half the distance over 120 km toward the base station of a co-channel licensee.

(3) For licensees with STAs (if applicable, and as provided in the *Second Report and Order*), certification that (a) the licensee has constructed its base station and placed it in operation, or commenced service, at its STA site on or before the adoption date of this *Second R&O*; or (b) the licensee had taken delivery of its base station transceiver on or before the adoption date of this *Second R&O*.

(4) Certification that the licensee has constructed its base station and placed it in operation, or commenced service, at its initially authorized location on or before March 11, 1996 (if applicable).

The *Second R&O* considers the issue of meeting the construction and operation requirement, and determines that "grandfathered" CMRS licensees and PMRS licensees would be required to meet their "placed in operation" requirement by satisfying the provisions of Section 90.155 of the Commission Rules and all "non-grandfathered" CMRS licensees would be required to meet the "commencement of service" requirement as provided under Section 90.167 of the Commission's Rules. However, to eliminate any confusion on the part of 220 MHz licensees as to which station construction and operation requirement they must follow, the Commission will allow all 220 MHz licensees to meet their applicable deadline (*i.e.*, March 11, 1996, for licensees constructing their base station at their initially authorized location, and August 15, 1996, for licensees granted license modification to relocate their base station) by constructing their base station and satisfying either the "placed in operation" provisions of Section 90.155 or the "commencement of service" provisions of Section 90.167.

Fred Daniel d/b/a Orion Telecom (Orion) asks that the Commission modify Section 90.723(d) of the Rules to require that base station transmitters utilizing channels assigned from Sub-Band A be geographically separated from AMTS base station receivers utilizing channels within 200 kHz of the Sub-Band A channel. The Commission does not believe that the current record is adequate to determine the merits of Orion's request, and finds it would be more appropriate to consider it as part of a separate proceeding. The Commission invites Orion to submit its request for relief in the form of a Petition for Rulemaking.

Finally, in the *Third NPRM*, the Commission extended the construction deadline for Phase I 220 MHz licensees located within Line A of the Canadian border until 12 months after the signing of an agreement with Canada on the sharing of 220–222 MHz channels near the border. Since the Commission did not amend the appropriate rules at the time of the adoption of the *Third NPRM*, we will take the opportunity to do so in this proceeding.

Procedural Matters; Ordering Clauses

Final Regulatory Flexibility Analysis.

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that this decision will have an impact on small 220 MHz operators. As detailed in the full text of the *Second Report and Order*, the actions taken in this decision were initiated in response to requests by 220 MHz licensees to establish a flexible license modification procedure that will end a freeze on the acceptance of modification applications and will give existing 220 MHz licensees the ability to relocate their authorized base stations to currently unauthorized sites. This action will enhance the competitive potential of 220 MHz services in the commercial radio service marketplace. The Commission believes the alternative adopted in this decision represents the best balance of providing licensees, many of whom may be considered small businesses, with the most flexibility and the least regulatory burden possible. The full text of the Commission's final regulatory flexibility analysis may be found in Appendix B of the full text of this *Second R&O*.

Paperwork Reduction Act

This *Second Report and Order* contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *Second Report and Order*, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due February 23, 1996; OMB comments are due March 1, 1996. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: _____

Title: Private Land Mobile Radio Services Part 90.

Form No.: _____

Type of Review: New collection.

Respondents: 220 MHz licensees seeking to modify their authorizations to relocate their base stations.

Number of Respondents: 500.

Estimated Time Per Response: 3.8 hours.

Total Annual Burden: 1,900.

Needs and Uses: The information collected will be used by the Commission to verify licensee compliance with Commission rules and regulations, to ensure the integrity of the 220 MHz service and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934.

It is ordered that the Final Regulatory Flexibility Analysis, as required by Section 604 of the Regulatory Flexibility Act, and as set forth in Appendix B of the full text of this decision, is adopted.

It is further ordered that pursuant to the authority of Sections 4(i), 303(d), 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303 (d), 303(r) and 332, Part 90 of the Commission's Rules, 47 CFR Part 90, is amended as set forth below effective 30 days after publication of the summary of this *Second Report and Order* in the **Federal Register**.

It is further ordered that non-nationwide 220 MHz licensees may file a letter with the Acting Secretary of the Commission indicating their intent to file an application to modify their authorizations to relocate their base stations 30 days after publication of the summary of this *Second Report and Order* in the **Federal Register**, but no later than March 11, 1996.

It is further ordered that non-nationwide 220 MHz licensees may file applications to modify their authorizations to relocate their base stations 30 days after publication of the summary of this *Second Report and Order* in the **Federal Register**, but no later than May 1, 1996.

It is further ordered that the deadline for non-nationwide 220 MHz licensees to construct their base station and place it in operation, or commence service, is extended from February 2, 1996, to March 11, 1996, and that the effective date of this extension is the adoption date of this *Second Report and Order*. The current deadline for non-nationwide 220 MHz licensees to construct and operate their base stations is February 2, 1996. With the adoption and release of the *Second Report and Order* occurring within 30 days of that date, there is good cause to order this rule change to take effect upon the adoption of this *Second Report and Order*.

It is further ordered that non-nationwide 220 MHz licensees that file a modification application on or before March 11, 1996, or a letter in accordance with this Order indicating an intent to modify their authorization to relocate their base station shall be granted an extension of the deadline to construct their base station and place it in operation, or commence service, until August 15, 1996, if the modification application is ultimately granted.

It is further ordered that the request by the American Mobile Telecommunications Association to extend the current February 2, 1996, deadline for non-nationwide 220 MHz licensees to construct their stations and place them in operation to a date 120 days after the effective date of this *Second R&O* is denied.

It is further ordered that the Acting Secretary shall transmit a copy of this *Second Report and Order* to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Revisions to Commission Rules

47 CFR Part 90 is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.723(f) is revised to read as follows:

§ 90.723 Selection and assignment of frequencies.

* * * * *

(f) Except for nationwide assignments, the separation of co-channel base stations shall be 120 kilometers. Except for licensees seeking license modification in accordance with the provisions of Sections 90.751 and 90.753, shorter separations will be considered on a case-by-case basis upon submission of a technical analysis indicating that at least 10 dB protection will be provided to an existing station's 38 dBu signal level contour.

3. Section 90.751 is added to read as follows:

§ 90.751 Minor modifications of non-nationwide licenses.

Licensees granted non-nationwide authorizations from among applications filed on or before May 24, 1991 (Phase I licensees) will be given an opportunity to seek modification of their license to relocate their initially authorized base station, i.e., locate their base station at a site other than its initially authorized location. The conditions under which modifications will be granted and the procedures for applying for license modifications are described in Sections 90.753, 90.755, and 90.757. For CMRS licensees, these modifications will be treated as minor modifications in accordance with Section 90.164.

4. Section 90.753 is added to read as follows:

§ 90.753 Conditions of license modification.

(a) Except as provided in paragraphs (b), and (c) of this section, a Phase I non nationwide licensee may modify its authorization to relocate its authorized base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 8 km.

(b) A Phase I non-nationwide licensee with an authorized base station located outside a Designated Filing Area (DFA) (see Public Notice, DA 86–173, 52 FR 1302 (January 12, 1987)) may modify its authorization to relocate its authorized base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 25 km, so long as the base station is relocated no more than 8 km inside of any DFA (i.e., no more than 8 km from the nearest DFA boundary line).

(c) A Phase I non-nationwide licensee that has been granted Special Temporary Authority (STA) to operate at an alternative base station location may modify its authorization to seek permanent authorization at that location, regardless of whether locating the station at the STA site is in strict conformance with the provisions of paragraphs (a) and (b) of this section, if the licensee certifies that such a modification is in conformance with Sections 90.723 and 90.729 and:

(1) It has constructed its base station and has placed it in operation, or commenced service, at the STA site on or before January 26, 1996; or

(2) It has taken delivery of its base station transceiver on or before January 26, 1996.

(d) The application of a Phase I non-nationwide licensee proposing a base station modification resulting in less than 120 km separation from a co-channel licensee's initially authorized base station will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a letter submitted concurrently with the licensee's application.

(e) The application of a Phase I non-nationwide licensee proposing a base station modification resulting in at least a 120 km separation from each co-channel licensee's initially authorized base station but more than one-half the distance over 120 km toward any co-channel licensee's initially authorized base station will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a letter submitted concurrently with the licensee's application.

5. Section 90.755 is added to read as follows:

§ 90.755 Procedures for License Modification.

(a) A Phase I non-nationwide licensee seeking modification of its authorization to relocate its authorized base station in accordance with the provisions of Section 90.753 must file the following on or before May 1, 1996:

(1) Form 600 requesting license modification, and providing all applicable information;

(2) Certification that the location of its proposed base station is in conformance with the provisions of Section 90.753, or, as provided in Section 90.753(d), a letter evidencing consent of a co-channel licensee that the licensee may be authorized less than 120 km from the co-channel licensee;

(3) If applicable, the required certification by a licensee with a Special Temporary Authority, in accordance with Section 90.753(c);

(4) If applicable, certification that the licensee has constructed its base station and placed it in operation, or commenced service, at its initially authorized location on or before March 11, 1996.

(b) A licensee seeking modification of its authorization to relocate its base station in accordance with the provisions of Section 90.753, should file, on or before March 11, 1996, either a modification application, as provided in paragraph (a) of this section, or a letter certifying to the Commission its intent to file an application to modify its authorization to relocate its base station. For a licensee that has not constructed its authorized base station and placed it in operation, or commenced service, by March 11, 1996, this filing will serve to extend the licensee's constructio.. requirement in accordance with the provisions of Section 90.757.

6. Section 90.757 is added to read as follows:

§ 90.757 Construction requirements.

(a) Except as provided in paragraph (b) of this section, a Phase I non-nationwide licensee that is granted modification of its authorization to relocate its base station must construct its base station and place it in operation, or commence service, on all authorized channels on or before August 15, 1996, or within 12 months of initial grant date, whichever is later. The authorization of a licensee that does not construct its base station and place it in operation, or commence service, by this date, cancels automatically and must be returned to the Commission.

(b) A Phase I non-nationwide licensee with a base station authorized at a location north of Line A must construct its base station and place it in operation,

or commence service, on all authorized channels within 12 months of initial grant date, or within 12 months of the date of the release of the terms of an agreement between the United States and Canadian governments on the sharing of 220–222 MHz spectrum between the two countries, whichever is later. The authorization of a licensee that does not construct its base station and place it in operation, or commence service, by this date, cancels automatically and must be returned to the Commission.

[FR Doc. 96–2324 Filed 2–1–96; 8:45 am]

BILLING CODE 6712–01–P

PANAMA CANAL COMMISSION

48 CFR Part 3509

RIN: 3207–AA30

Panama Canal Commission Acquisition Regulation; Debarment, Suspension and Ineligibility

AGENCY: Panama Canal Commission.

ACTION: Interim final rule with request for comments.

SUMMARY: The Panama Canal Commission is today amending its regulations in Subpart 3509.4 of Title 48, Code of Federal Regulations (CFR), concerning the debarment, suspension and ineligibility of contractors or potential contractors to conform with changes in the Federal Acquisition Regulation (FAR) and to improve the agency's notice and administrative procedures pertaining to debarment, suspension or ineligibility.

DATES: Effective February 2, 1996. Comments must be received by April 2, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to John A. Mills, Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006–5402 (Telephone: (202) 634–6441; Facsimile: (202) 634–6439), or Theodore G. Lucas, Deputy General Counsel, Office of General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011–2300 (Telephone in Republic of Panama: 011 (507) 272–7511; Facsimile: 011 (507) 272–3748).

FOR FURTHER INFORMATION CONTACT: Theodore G. Lucas, Deputy General Counsel, Office of General Counsel, Panama Canal Commission, or Barbara Fuller, Assistant to the Secretary for Commission Affairs, Office of the Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006–5402 (Telephone: (202) 634–6441; Facsimile: (202) 634–6439).

SUPPLEMENTARY INFORMATION: Subpart 3509.4 forms part of the Panama Canal Commission Acquisition Regulation (PAR) located at Part 3509 of CFR Title 48. The subpart is being revised at this time to conform with recent changes to this subpart in the FAR and to improve the agency's notice and administrative procedures that govern actions pertaining to debarment, suspension and ineligibility determinations.

The changes substitute "Procurement Executive" for "Chairman of the Debarment Committee" in section 3509.404(c), remove paragraph (a) from section 3509.406–1, the substance of which is now incorporated in new section 3509.403, add paragraph (c) under section 3509.406–1 to name the Procurement Executive as the agency head's designee with respect to the action authorized by FAR 9.406–1(c), and improve the procedures in section 3509.406–3 by providing a more comprehensive and efficient system including the use of an independent, non-Government fact-finding official where fact-finding is required and by improving the internal processes of investigation, review and recommendation.

Several new sections are added to the subpart. Section 3509.403 is added to identify the Administrator of the Panama Canal Commission as the agency's *Debarring Official* and *Suspending Official* unless there is a conflict of interest or a previously established recusal statement in which case it is the Deputy Administrator. The new section also introduces and defines the term *Fact-finding Official*. The appointment and duties of a *Fact-finding Official* are developed fully at section 3509.406–3. Sections 3509.405, 3509.405–1 and 3509.405–2 are added to name the Procurement Executive as the agency head's designee with respect to the requirements of FAR 9.405 (a) and (d) (2) and (3), 9.405–1 (a) and (c) and 9.405–2(a). Section 3509.406–2 is unchanged. Sections 3509.406–70, "Settlement," and 3509.406–71, "Voluntary Exclusion," are added to enable the debarring official to, at his discretion, resolve a potential debarment without engaging in the complete debarment process. New sections 3509.407–2, 3509.407–70 and 3509.407–71 are added and section 3509.407–3 is revised to establish that most of the subpart's provisions concerning debarment apply equally to suspension. New section 3509.470 is substantively identical to the existing 3509.406–3(b)(7) and new section 3509.471 is substantively identical to the existing 3509.406–3(b)(6).

The section and paragraph numbers of this PAR subpart continue to conform with the corresponding section and paragraph numbers of the FAR.

The Commission has been exempted from Executive Order 12866 and, accordingly, the provisions of that directive do not apply to this rule. Even if the Order were applicable, this rule would not have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Only a very small percentage of contractors or prospective contractors doing business with the Commission are debarred or suspended.

The agency has additionally determined the Paperwork Reduction Act does not apply because these changes to the PAR do not impose recordkeeping or information collection requirements or collections of information from offerors, contractors or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Further, the agency has determined implementation of the rule will have no adverse effect on competition, employment, investment, productivity or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Administrator of the Panama Canal Commission certifies these regulatory changes meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778.

List of Subjects in 48 CFR Part 3509

Government procurement.

For the reasons set forth in the preamble, 48 CFR Part 3509 is amended as follows:

PART 3509—CONTRACTOR QUALIFICATIONS

1. The authority citation for Part 3509 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Part 3509 is amended by revising Subpart 3509.4 to read as follows:

Subpart 3509.4—Debarment, Suspension and Ineligibility

Sec. 3509.400 Scope of subpart.
3509.403 Definitions.
3509.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
3509.405 Effect of listing.
3509.405–1 Continuation of current contracts.
3509.405–2 Restrictions on subcontracting.
3509.406 Debarment.
3509.406–1 General.
3509.406–2 Causes for debarment.
3509.406–3 Procedures.
3509.406–70 Settlement.
3509.406–71 Voluntary exclusion.
3509.407 Suspension.
3509.407–2 Causes for suspension.
3509.407–3 Procedures.
3509.407–70 Settlement.
3509.407–71 Voluntary exclusion.
3509.470 Special notice.
3509.471 Equal application.

Subpart 3509.4—Debarment, Suspension and Ineligibility

3509.400 Scope of subpart.

This subpart supplements, and shall be applied in conformity with, FAR subpart 9.4.

3509.403 Definitions.

Debarring official means the Administrator of the Panama Canal Commission (hereinafter "Commission"). In the event the Administrator is ineligible from participating personally in Commission actions with respect to the particular contractor, named individual or affiliate subject to the proposed debarment due to a conflict of interest or in view of a previously established recusal statement, the Commission Deputy Administrator shall be the debarring official.

Fact-finding official means a person not employed by the Commission or any agency of the U.S. Government retained at Commission expense to conduct fact-finding under this subpart. The individual must have no prior knowledge of the particular subject matter and no conflict of interest with respect to any of the parties involved in the debarment or suspension action. He shall have knowledge of the laws and regulations governing the federal procurement system, and shall have experience in receiving evidence and formulating findings of fact.

Suspending official means the Commission Administrator. In the event the Administrator is ineligible from participating personally in Commission actions with respect to the particular contractor, named individual or affiliate subject to the proposed suspension due to a conflict of interest or in view of a previously established recusal statement, the Commission Deputy Administrator shall be the suspending official.

3509.404 List of parties excluded from Federal procurement and nonprocurement programs.

(c) The Commission Procurement Executive (hereinafter "PE") shall perform the actions required by FAR 9.404(c).

3509.405 Effect of listing.

The PE is the designee of the agency head for the purposes of FAR 9.405(a) and (d)(2) and (3) and may, upon the written recommendation of the pertinent Head of the Contracting Activity (hereinafter "HCA"), make the determinations referenced therein.

3509.405–1 Continuation of current contracts.

The PE is the designee of the agency head for the purposes of FAR 9.405–1(a) and (c) and may, upon the written recommendation of the pertinent HCA, take the actions referenced therein.

3509.405–2 Restrictions on subcontracting.

(a) The PE is the designee of the agency head for the purposes of FAR 9.405–2(a) and may, upon the written recommendation of the pertinent HCA, take the action referenced therein.

3509.406 Debarment.

3509.406–1 General.

(c) The PE is the designee of the agency head for the purposes of FAR 9.406–1(c) and may, upon the written recommendation of the pertinent HCA, take the action referenced therein.

3509.406–2 Causes for debarment.

In addition to the causes listed in FAR 9.406–2, the use of a Panama Canal Commission employee or a member of the Commission's Board of Directors as an agent or advocate for a Commission contractor, or prospective contractor, shall be a cause for debarment.

3509.406–3 Procedures.

(a) *Investigation and referral.*

(1)(i) Any Commission official or employee who suspects or has knowledge of any conduct, statement, act, or omission of, or attributable to, a Commission contractor or a potential Commission contractor which could justify debarment under FAR subpart 9.4 or this subpart shall immediately report this information to the Commission General Counsel (hereinafter "GC") or to the appropriate contracting officer.

(ii) Any Commission official or employee who suspects or has knowledge that a debarred individual or company has reestablished itself under a new name shall immediately report this information to the GC or to the appropriate contracting officer.

(2) When the GC receives such information he shall refer the matter to the appropriate contracting officer for investigation and shall notify the PE and the pertinent HCA. When the contracting officer receives such information he shall notify the PE and the pertinent HCA.

(3) The contracting officer shall, in coordination with the pertinent HCA, promptly investigate the matter, assemble all relevant information and prepare a written report containing all available evidentiary material, including copies of indictments and conviction notices when applicable, and the names of the owners and officers, as well as any affiliates, of the contractor in question. The written report shall include a recommendation whether a debarment action should be commenced and, if so, shall identify the causes for debarment, see FAR 9.406–2 and 3509.406–2 of this subpart, and identify each company and individual, including divisions of companies and affiliates, which the contracting officer recommends should be specifically named in the action.

(4) The contracting officer shall submit his report to the pertinent HCA and a copy thereof to the PE and the GC. The HCA shall study the report and promptly advise the PE, in writing, whether or not he concurs in the contracting officer's recommendation and shall explain the reasons for his concurrence or nonconcurrence.

(5) The PE shall study the contracting officer's report and the recommendation of the HCA. If the HCA and the PE agree that a debarment action should not be commenced, the PE shall so inform the debarring official and shall prepare a memorandum for record describing and closing the matter. If, however, either the HCA or the PE recommend that a debarment action should be commenced, the PE shall forward the contracting officer's report to the debarring official, together with the recommendation of the HCA as well as the PE's own written recommendation.

(b) *Decisionmaking process.*

(1) If the debarring official, after reviewing the contracting officer's report and the recommendations of the HCA and the PE, considering fully the provisions of FAR 9.402 and 9.406–1(a), and consulting with the GC, determines there is a reasonable basis to commence a debarment action, the debarring official shall instruct the PE to sign and send to each specifically named company, individual or affiliate to which the action is to apply, via certified mail, return receipt requested, either:

(i) An informal notice of the Commission's intention to propose debarment, *see* 3509.406–3(b)(2) of this subpart; or

(ii) A formal notice of the Commission's proposal to debar under FAR 9.406–3(c).

(2) An informal notice of the Commission's intention to propose debarment shall advise the addressee, in writing, of the following:

(i) The issuance under FAR 9.406–3(c) of a formal notice of proposal to debar the addressee is seriously being considered by the Commission;

(ii) The basic factual reasons for the contemplated debarment;

(iii) The causes relied upon under FAR 9.406–2 and 3509.406–2 of this subpart;

(iv) The Commission's procedures governing the debarment process;

(v) The addressee's right to reply to the PE in writing within 21 calendar days of receipt of the informal notice, and show cause why the Commission should not issue, to the addressee, a formal notice of proposal to debar under FAR 9.406–3(c) for the reasons and causes cited by the Commission;

(vi) That, if the PE does not receive a reply from the addressee to the informal notice within 21 calendar days of the addressee's receipt of the informal notice, the Commission will issue to the addressee a formal notice of proposal to debar;

(vii) The effect of the issuance of a formal notice of proposal to debar;

(viii) The potential effect of an actual debarment; and

(ix) That, while the Commission will carefully consider the content of a timely reply to the informal notice, the Commission reserves the right to issue a formal notice of proposal to debar without additional discussion or correspondence.

(3) The PE shall study the timely reply of an addressee to an informal notice and shall forward the reply to the GC and the debarring official with the PE's evaluation and recommendation.

(4) If, after reviewing a timely reply to an informal notice, as well as the views of the PE and the GC, the debarring official determines, considering fully the provisions of FAR 9.402 and 9.406–1(a), that a formal debarment action should commence, the debarring official shall instruct the PE to sign and send a formal notice of proposal to debar to the addressee.

(c) *Notice of proposal to debar.* In addition to the matters listed at FAR 9.406–3(c), a formal notice of proposal to debar shall advise the contractor and any specifically named individual or affiliate of the specific, fundamental allegations of material fact supporting the proposed debarment.

(d) *Debarring official's decision.*

(1) A submission in opposition to the Commission's formal notice of proposal to debar presented by a contractor, or any named individual or affiliate, shall include information and argument in opposition to the proposed debarment, including any additional specific information or documents that raise a genuine dispute over material facts. The submission shall be addressed to the PE.

(2) If a timely submission in opposition to a formal notice of proposal to debar is not presented by a named contractor, individual or affiliate to whom a formal notice was sent, the PE shall, with respect only to each such contractor, individual or affiliate that failed to present a timely submission, study all the information in the administrative record and shall forward the entire record to the debarring official with an evaluation and recommendation whether to debar the nonresponding contractor, individual or affiliate and, if so, for what period of time.

(3) If a timely submission in opposition to a formal notice of proposal to debar is submitted in actions based upon a conviction or civil judgment, the PE shall evaluate all the information in the administrative record, including the submission in opposition, and shall forward these materials to the debarring official with a recommendation whether to debar and, if so, for what period of time.

(4)(i) If a timely submission in opposition to a formal notice of proposal to debar is presented in actions not based upon a conviction or civil judgment, the PE shall evaluate the formal notice of proposal to debar and the submission in opposition and shall determine, with the advice of the GC, if the submission raises a genuine dispute over any facts material to the proposed debarment. If it does not, the PE shall forward the entire administrative record, including the submission in opposition, to the debarring official with an evaluation and a recommendation whether to debar and, if so, for what period of time.

(ii) If, however, the PE determines, in consultation with the GC, that a timely submission in opposition to a formal notice of proposal to debar in actions not based upon a conviction or civil judgment raises a genuine dispute over any fact material to the proposed debarment, the PE shall so advise the contractor, named individual or affiliate, and shall inquire whether a fact-finding hearing is desired. If a fact-finding hearing is not requested by the contractor, named individual or affiliate, the PE shall forward the entire administrative record, including the submission in opposition, to the debarring official with an evaluation and a recommendation whether to debar and, if so, for what period of time.

(iii) If a fact-finding hearing is requested, the PE shall appoint a fact-finding official to whom all matters involving disputed material facts shall be referred. The PE will provide the fact-finding official with a copy of the entire administrative record including the submission in opposition. The fact-finding official shall study the Commission's notice(s) of proposal to debar and the submission(s) in opposition, and shall identify specifically the material facts in genuine dispute and so advise the pertinent contractor, named individual or affiliate, as well as the Commission's designated advocate in the Office of General Counsel. A fact-finding hearing shall be scheduled and conducted by the fact-finding official, and shall take place in a Commission facility in Panama unless the fact-finding official determines that fundamental fairness compels the use of another location. The rules governing the fact-finding hearing shall be established by the fact-finding official but shall conform fully with FAR 9.406–3(b)(2) and (d)(2) and (3).

(5) The fact-finding official shall present written findings of fact and the transcribed record of the hearing, if made, to the debarring official within 21 calendar days from his receipt of the transcript or from the final day of the hearing if no transcript is ordered. The findings shall resolve each material fact previously determined to be in genuine dispute based on a preponderance of the evidence presented.

(6) Upon receiving the complete administrative record and the evaluation and recommendation of the PE or, if there was a fact-finding hearing, upon receiving the hearing record and the findings of fact of the fact-finding official and the evaluation and recommendation of the PE, the debarring official shall, considering fully the provisions of FAR 9.402 and 9.406–1(a), make a final decision whether to impose debarment. If debarment is chosen, the debarring official shall also determine the period of debarment.

(e) *Notice of debarring official's decision.* The debarring official shall promptly notify the contractor and any named individual or affiliate of the final decision in writing by certified mail, return receipt requested.

3509.406–70 Settlement.

(a) At any time prior to the debarring official's issuance of a final decision whether to debar, the debarring official may, in the best interests of the U.S. Government, forgo or withdraw a proposed debarment by entering into a written agreement with the contractor, named individual or affiliate, in which the contractor, individual or affiliate agrees to perform, accomplish or implement such remedial measures or mitigating factors as are listed at FAR 9.406–1(a). The contractor, individual or affiliate shall also agree that its failure to observe any term or condition of the agreement shall constitute sufficient cause for the immediate imposition of debarment by the debarring official without entitlement to a fact-finding hearing.

(b) The debarring official shall not enter into a settlement agreement if the proposed debarment is based on a conviction of or civil judgment for any of the causes in FAR 9.406–2(a).

3509.406–71 Voluntary exclusion.

(a)(1) At any time prior to the debarring official's issuance of a final decision whether to debar, the debarring official may, in the best interests of the U.S. Government, forgo or withdraw a proposed debarment by entering into a written agreement with the contractor, named individual or affiliate, in which the contractor, individual or affiliate agrees to voluntarily refrain, for a specified period of time, from attempting to obtain, and from entering into, any contract, purchase agreement or other form of contractual relationship, regardless of dollar amount, with, as the debarring official may determine, either: (i) the Commission; or (ii) the Commission and one or more, or all, other agencies, departments or entities of the U.S. Government.

(2) A voluntary exclusion will not be reported to the GSA nor appear in the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs," and if the contractor, individual or affiliate is currently listed due to a Commission notice of proposal to debar the PE will advise the GSA of the voluntary exclusion and request the immediate cessation of the listing. The contractor, individual or affiliate shall agree that its failure to observe any term or condition of the voluntary exclusion shall constitute sufficient cause for the immediate imposition of debarment by the debarring official without entitlement to a fact-finding hearing.

(b) The debarring official shall not enter into a voluntary exclusion agreement if the proposed debarment is based on a conviction of or civil judgment for any of the causes in FAR 9.406–2(a).

3509.407 Suspension.

3509.407–2 Causes for suspension.

In addition to the causes listed in FAR 9.407–2, the cause for debarment identified in 48 CFR (PAR) 3509.406–2 also applies to suspension actions.

3509.407–3 Procedures.

(a) The procedures set forth in 48 CFR (PAR) 3509.406–3 for debarment also apply, insofar as they are compatible with the procedures set forth in FAR 9.407–3, to suspension actions except those procedures identified in paragraph (b) of this subsection.

(b) The following procedures in 48 CFR (PAR) 3509.406–3 do *not* apply to suspension actions: 3509.406–3(b)(1)(i), 3509.406–3(b) (2) through (4) and 3509.406–3(c).

(c) *Notice of suspension.* In addition to the matters listed at FAR 9.407–3(c), in actions not based on an indictment, a notice of suspension shall advise the contractor and any specifically named individual or affiliate of the specific, fundamental allegations of material fact supporting the suspension.

3509.407–70 Settlement.

Where a suspension is being considered, the suspending official may enter into a settlement agreement in the same manner and under the same terms as are provided in 48 CFR (PAR) 3509.406–70.

3509.407–71 Voluntary exclusion.

Where a suspension is being considered, the suspending official may enter into a voluntary exclusion agreement in the same manner and under the same terms as are provided in 48 CFR (PAR) 3509.406–71.

3509.470 Special notice.

The Commander in Chief, United States Southern Command, shall be notified by the Procurement Executive of the issuance of any Commission notice of proposal to debar and of any debarment or suspension decision made by the debarring or suspending official.

3509.471 Equal application.

These procedures for debarment and suspension apply equally to all firms, individuals and affiliates doing business with the Panama Canal Commission regardless of their nationality, residence or location.

Dated: January 24, 1996.

Gilberto Guardia F.,

Administrator, Panama Canal Commission.

[FR Doc. 96–2044 Filed 2–1–96; 8:45 am]

BILLING CODE 3640–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN 1018–AD33

Conferring Designated Port Status on Atlanta, GA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service confers designated port status on Atlanta, Georgia, pursuant to section 9(f) of the Endangered Species Act of 1973. Designated port status will allow the direct importation and exportation of fish and wildlife, including parts and products, through Atlanta, Georgia, a growing international port. Under this final rule, 50 CFR 14.12 will be amended to add Atlanta, Georgia, to the list of Customs ports of entry designated for the importation and exportation of wildlife. A public hearing has been held on this proposal.

EFFECTIVE DATE: This rule is effective March 4, 1996.

FOR FURTHER INFORMATION CONTACT: Special Agent Thomas Striegler, [(703) 358–1949), or Special Agent Cecil M. Halcomb, Assistant Regional Director, U.S. Fish and Wildlife Service, P.O. Box 49226, Atlanta, Georgia 30359, [(404) 679–7057].

SUPPLEMENTARY INFORMATION:

Background

Designated ports are the cornerstones of the process by which the Fish and Wildlife Service (Service) regulates the importation and exportation of wildlife in the United States. With limited exceptions, all fish or wildlife must be imported and exported through such ports as required by section 9(f) of the Endangered Species Act of 1973, 16 U.S.C. 1538(f). The Secretary of the Interior is responsible for designating these ports by regulation, with the approval of the Secretary of the Treasury after notice and the opportunity for public hearing.

Under Service regulations, wildlife must be imported and exported through one of the designated ports unless the importer/exporter meets one of the exceptions in the regulations. The most common exception is through a permit issued by the Service authorizing an importer or exporter to ship through a nondesignated port. The Service maintains a staff of Wildlife Inspectors at each designated port to inspect and clear wildlife shipments.

The Service presently has twelve designated Customs ports of entry for the importation and exportation of wildlife; these include: the ports of Los Angeles, California; San Francisco, California; Miami, Florida; Honolulu, Hawaii; Chicago, Illinois; New Orleans, Louisiana; New York, New York; Seattle, Washington; Dallas/Fort Worth, Texas; Portland, Oregon; Baltimore, Maryland; and Boston, Massachusetts.

Summary of Comments and Information Received

On October 20, 1995, between 10 a.m. and 12 p.m., the Fish and Wildlife Service held a public meeting at the Airport Manager's Office, Hartsfield International Airport, Atlanta, Georgia. The Service received comments from individuals in the wildlife import/export business, from individuals involved in the brokerage and freight forwarding business, and from individuals representing the city of Atlanta. All comments received during the public meeting supported the designation of Atlanta as a designated port for wildlife and wildlife products.

One participant of the public meeting representing Hartsfield International Airport commented on the fact that the city of Atlanta and the Georgia Congressional delegation have supported the designation of Atlanta for several years. Atlanta is the second busiest airport in the world, according to the commenter, and is considered the aviation gateway to the southeast United States. The commenter stated that Hartsfield International Airport has experienced significant growth in cargo shipments over the past several years and for Atlanta to realize its full potential and take advantage of expanding world trade, Service designation as a designated port is important. A commenter at the public meeting representing brokers and freight forwarders, as well as the "international community" in Atlanta, stated that several businesses in the Atlanta area have quit importing wildlife products through Atlanta (by using Designated Port exception permits issued by the Service) because of the unavailability of Wildlife Inspectors to process importations on a timely basis. The commenter told the meeting that he has received numerous inquiries from those involved in the wildlife import/export business about using Atlanta to receive or ship wildlife internationally, but has told them they could not use Atlanta due to the lack of designation by the Service. The commenter stated that he sees designation of Atlanta as an "ingredient to economic growth" in the area.

Another commenter formally representing the Association of Brokers and Freight Forwarders in Atlanta was fully supportive of designation by the Service of Atlanta as a port of entry for wildlife and wildlife products. A commenter representing a Congressman from Georgia told the meeting that the Congressman had worked for several years for the designation of Atlanta by the Service and was very pleased to see the proposed rule. A tropical fish importer told the meeting that he deals in such a highly perishable product that importing directly into Atlanta will mean his customers do not have to go to California for tropical fish, and that his business depends upon Atlanta being designated a wildlife port of entry. The commenter wishes to see the rulemaking process proceed towards designation of Atlanta. The Service has received one written comment on the proposed rule. That commenter, from the shipping industry, stated that it supports the designation of Atlanta as a designated port. This commenter also requested the Service to consider Memphis, Tennessee, as a designated port in the future.

Service Response

The Service appreciates public comments and support for designation of Atlanta as a designated port. At this time the Service has no plans to make Memphis, Tennessee, a designated port.

Need for Final Rulemaking

Containerized air and ocean cargo has become the paramount means by which both live wildlife and wildlife products are transported into and out of the United States. The use of containerized cargo by the airline and shipping industries has compounded the problems encountered by the Service and by wildlife importers and exporters in the Atlanta area. In many instances, foreign suppliers will containerize entire shipments and route them directly by air to Atlanta. If, upon arrival, the shipment contains any wildlife, those items must be shipped under Customs bond to a designated port for clearance. In most cases, this has involved shipping wildlife products to either Miami, Florida; Chicago, Illinois; New York, New York; Baltimore, Maryland; or New Orleans, Louisiana, the nearest designated ports, but reshipment has been both time consuming and expensive. In other cases containerized maritime cargo is transhipped overland for post entry inspection at Atlanta. Atlanta is one of the Nation's busiest inland seaports, with an estimate of greater than 25,000 ocean containers arriving annually by rail on Atlanta ocean bills of lading. In addition there has been a steady increase in mail inspections being conducted at Atlanta.

Atlanta area importers and exporters have attempted to direct entire shipments to a designated port prior to their arrival at Atlanta to alleviate problems, even though such shipments may contain only a small number of wildlife items. This method of shipment meets the current regulatory requirements of the Service; however, this is also time consuming and entails additional expense. It is also contrary to the increasing tendency of foreign suppliers to ship consignments directly to regional ports such as Atlanta. In addition, time is a key element when transporting live wildlife and perishable wildlife products. Without designated port status, businesses in Atlanta cannot import and export wildlife products directly, and consequently may be unable to compete economically with merchants in other international trading centers located in designated ports.

With airborne shipments, mail, and transhipped maritime containerized cargo into and out of Atlanta steadily increasing, the Service has concluded that the port should be designated for wildlife imports and exports. A tremendous increase in the volume of shipments has made Atlanta the second largest port of entry in the Southeast. The Service's figures for fiscal year 1994 for the present nondesignated port of Atlanta indicate a total of 397 shipments occurred representing an estimated total value worth $3,801,043 of wildlife and wildlife products. The Service projects that with the establishment of Atlanta as a designated port that the number of shipments through the port would triple over the first 3 to 5 years. This projection is based upon the Service's previous experience at other newly designated ports such as Dallas/Fort Worth and Portland. As Atlanta prepares to host the 1996 Summer Olympics, the Service expects even greater demands to be placed on its inspection capabilities. Conferring the status of a designated port on Atlanta, therefore, would serve not only the interests of businesses in the region, but would also facilitate the mission of the Service.

The Service is making the decision to confer designated port status upon Atlanta, Georgia, contingent upon the continued funding of adequate Service inspection and administrative personnel to properly staff the port. The Hartsfield Atlanta International Airport, City of Atlanta, Department of Aviation (Airport), has agreed in principle to fund the operational costs of the port, subject to a dollar cap, to the extent that those costs exceed the fees collected at the port for inspection services. This arrangement has been set forth in a Memorandum of Agreement between the Airport and the Service, to be executed within 30 days of the publication of this final rule. The Airport will provide such funds to the Service through a contributed fund mechanism. *See* 16 U.S.C. 742f(b). This agreement provides for $150,000, sufficient operational funding for the port, initially to include two Wildlife Inspectors and one clerical/administrative support position.

Required Determinations

This rule was not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866. The Department of the Interior (Department) has determined that this final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will have a positive incidental effect upon small entities by reducing overland transportation costs.

The Service anticipates that the addition of the Port of Atlanta to the list of Service Designated Ports for the importation and exportation of wildlife to have no adverse affects upon individual industries and cause no demographic changes in populations. In addition, the Service anticipates that this rule will not have the effect of increasing the direct costs of small entities. The Service, in light of the above analysis, has determined that the final rule will not have a significant economic effect on a substantial number of small entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

This final rule has no private property takings implications as defined in Executive Order 12630. The only effect of this rule will be to make it easier for businesses to import and export wildlife directly through Atlanta, Georgia. This action does not contain any federalism impacts as described in Executive Order 12612. This final rule does not contain any information collection requirements which require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995. These changes in the regulations in Part 14 are regulatory and enforcement actions which are covered by a categorical exclusion from National Environmental Policy Act procedures under 516 Department Manual; the changes have no Environmental Justice implications under Executive Order 12898. A determination has been made pursuant to Section 7 of the Endangered Species Act that the revision of Part 14 will not affect federally listed species. The Department has certified that these regulations meet the applicable standards provided in Section 2(a) and 2(b)(2) of Executive Order 12778.

Author

The originator of this final rule is John M. Neal, Senior Special Agent, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Service amends Title 50, Chapter I, Subchapter B of the Code of Federal Regulations as set forth below.

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

1. The authority citation for Part 14 is revised to read as follows:

Authority: 16 U.S.C. 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 483(a).

§ 14.12 [Amended]

2. Section 14:12(k) is amended by removing the word "and".

3. Section 14.12(l) is amended by removing the period and adding the word "and" preceded by a semicolon.

4. Section 14.12 is amended by adding the following new paragraph (m):

§ 14.12 Designated ports.

* * * * *

(m) Atlanta, Georgia.

Dated: January 22, 1996.

George T. Frampton Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–1880 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–65–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 950605147–5288–03; I.D. 112895A]

RIN 0648–AH33

Delay of the Effective Date of the 1996 Marine Mammal Protection Act Final List of Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; delay of effective date.

SUMMARY: NMFS published its Marine Mammal Protection Act of 1972 (MMPA) final List of Fisheries (LOF) for 1996 on December 28, 1995. In that rule, the effective period for the 1995 LOF was extended until March 1, 1996. The recent government shutdown delayed NMFS from mailing out registration packets to commercial fishers for the Marine Mammal Authorization Program. Therefore, NMFS is delaying the effective date of the 1996 final LOF from March 1, 1996 to April 1, 1996.

EFFECTIVE DATE: February 2, 1996. The effective date of the MMPA final LOF for 1996 is delayed from March 1, 1996 to April 1, 1996.

ADDRESSES: Information and registration material for the region in which a fishery occurs may be obtained from the following addresses: NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930–2298, Attn: Sandra Arvilla; NMFS, Southeast Region, 9721 Executive Center Drive North, St. Petersburg, FL 33702; NMFS, MMAP, Protected Species Management Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; NMFS, Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115, Attn: Permits Office; NMFS - PMRD, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99082.

FOR FURTHER INFORMATION CONTACT: Victoria Cornish, Office of Protected Resources, 301–713–2322; Douglas Beach, Northeast Region, 508–281–9254; Charles Oravetz, Southeast Region, 813–570–5312; James Lecky, Southwest Region, 310–980–4015; Brent Norberg, Northwest Region, 206–526–6140; Steven Zimmerman, Alaska Region, 907–586–7235.

SUPPLEMENTARY INFORMATION:

In accordance with section 118 of the MMPA of 1972, and 50 CFR 229.4,

commercial fishers in Category I and II fisheries must register with NMFS for authorization to seriously injure or kill marine mammals incidental to fishing operations. On December 28, 1995, NMFS published its MMPA final List of Fisheries (LOF) for 1996 (60 FR 67063), which classified fisheries according to frequency of serious injury or mortality of marine mammals. The preamble to the final regulations implementing section 118 (60 FR 45086, August 30, 1995) stated that vessel owners holding a valid Exemption Certificate under section 114 will be deemed by NMFS to have registered under section 118 through December 31, 1995. Because it took longer than expected to publish the MMPA final LOF for 1996, NMFS extended the MMPA LOF for 1995 to remain in effect until March 1, 1996 (60 FR 67063, December 28, 1995). Vessel owners holding a valid Exemption Certificate under section 114 were deemed to have registered under section 118 until March 1, 1996. The extension was intended to allow vessel owners sufficient time to register under section 118 of the MMPA.

The recent government shutdown delayed NMFS from mailing registration packets to commercial fishers for the Marine Mammal Authorization Program. Therefore, NMFS is extending the effective date of the 1996 LOF from March 1, 1996 to April 1, 1996. In conjunction with this action, NMFS is extending the effective period for the 1995 LOF through March 31, 1996, and vessel owners holding a valid Exemption Certificate under section 114 will be deemed to have registered under section 118 through March 31, 1996. Owners or authorized representatives of fishing vessels or non-vessel fishing gear that will participate in a Category I or II fishery as of April 1, 1996 must register for and obtain a valid section 118 Authorization Certificate before April 1, 1996. Owners or authorized representatives of fishing vessels or non-vessel fishing gear that will participate in a Category I or II fishery after April 1, 1996 must register for and obtain a valid section 118 Authorization Certificate before fishing activity starts.

NMFS expects to mail registration packets to commercial fishers during the second week of February, 1996. Commercial fishers who plan to participate in Category I and II fisheries during the spring of 1996 should submit their completed registration forms and $25 fee to NMFS by March 1, 1996 to allow NMFS at least 30 days to process the forms. Commercial fishers who will be participating in affected fisheries that begin later in the year should submit their completed registration form and $25 fee at least 30 days before they expect to begin fishing.

Dated: January 26, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–2145 Filed 2–1–96; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 61, No. 23

Friday, February 2, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1980

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 4279 and 4287

RIN 0570–AA09

Business and Industrial Loan Program

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) is the successor to the Rural Business and Cooperative Development Service, which was the successor to the Rural Development Administration (RDA), which was the successor to the Farmers Home Administration (FmHA).

RBS is issuing new Business and Industry Guaranteed Loan Program regulations to replace the FmHA regulations for the program. This action is needed to streamline and update the program. The intended effect is to shorten, simplify, and clarify the regulation, shift some responsibility for loan documentation and analysis from the Government to the lenders, make the program more responsive to the needs of lenders and businesses, and provide for smoother and faster processing of applications.

DATES: Written comments must be received on or before April 2, 1996.

ADDRESSES: Submit written comments in duplicate to the Chief, Regulations, Analysis, and Control Branch, Rural Economic and Community Development, U.S. Department of Agriculture, Ag Box 0743, 14th and Independence SW., Washington, DC 20250–0743. All written comments will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Business and Industry Senior Loan Specialist, RBS, U.S. Department of Agriculture, Ag-Box 3221, 14th & Independence Avenue SW., Washington, DC 20250–3221, Telephone (202) 720–6819.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been determined to be a "significant regulatory action" and was reviewed by OMB under Executive Order 12866.

Programs Affected

The Catalog of Federal Domestic Assistance program impacted by this action is: 10.768, Business and Industrial Loans.

Intergovernmental Review

As set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983, Business and Industrial Loans are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. RBS conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

Civil Justice Reform

The proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with the regulations of the agency at 7 CFR part 1900, subpart B or those regulations published by the Department of Agriculture to implement the provisions of the National Appeals Division as mandated by the Department of Agriculture Reorganization Act of 1994 must be exhausted before bringing suit in court challenging action taken under this rule.

Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." RBS has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Discussion of the Proposed Rule

This action replaces the Business and Industrial loan program administered under 7 CFR part 1980 with a program to be administered under 7 CFR parts 4279 and 4287 which significantly departs from the previous program of loan guarantees for businesses in rural areas. The new Business and Industrial Guaranteed Loan Program will be more flexible and will place more reliance on lenders. There are fewer specific requirements for lenders and businesses. Eligible loan purposes are broader. The lender has added responsibility for analyzing credit quality, and for making, securing, and servicing the loan and monitoring construction. The priority system will give increased priority to underserved communities. Application processing procedures will be more efficient, less burdensome for borrowers, lenders, and RBS staff, and will provide for more rapid decisions.

The Business and Industry (B&I) guaranteed loan program was authorized by the Rural Development Act of 1972. The loans are made by private lenders to rural businesses for the purpose of creating new businesses, expanding existing businesses, and for other purposes that create employment opportunities in rural areas. Eligibility for this program includes businesses located in cities of up to 50,000 population, but priority is given to areas outside cities of 25,000 or more population.

Since 1974, more than 5,120 businesses have received loans totaling nearly $5 billion guaranteed through the B&I program. These loans have helped to create or save over 460,000 jobs. The program level peaked in 1979 at just over $1 billion, then was reduced to $100 million annually through much of the 1980's. The program level for FY 1994 was about $249 million and for FY

1995 it was about $500 million. The FY 1996 budget is approximately $700 million, which required only $6.5 million in budget authority to be appropriated by Congress.

Loans can be made for a variety of purposes including business acquisition, expansion, or improvement; purchase of land, easements, or buildings; purchase of equipment, machinery, or supplies; repair and modernization; pollution control; transportation services; start up and working capital; and feasibility studies. The rate and term of the loan is negotiated between the business and the lender.

The Rural Business-Cooperative Service proposes to replace the regulations for the B&I program with a compete set of new regulations. This is a high priority effort to streamline the administration and operation of the program, responding to the requests of users of the program and the field staff administering the program. The revised regulations are shorter, simpler, clearer, and more logically organized. The volume of material in the new regulations is about one-half that of the current regulation.

The revisions are not required by statute. However, the senate report on the FY 1995 Appropriations Act did contain a directive for the department to streamline the B&I regulations and application procedures, reduce loan application processing time by relying on in-state resources, allow more management flexibility and decision making capacity at the state office level, and expand eligible loan purposes to include recreation and tourism.

Recognizing the need to streamline the regulations, the Agency established a task force of State Directors and B&I program chiefs from state offices to examine changes that needed to be made in the program to attract additional lenders and to make the program more user friendly and customer oriented. Task force recommendations and drafts have been further developed by national office staff. In addition, the Department's Office of inspector General (OIG) agreed to work in conjunction with the Agency in competing an evaluation of the program and to assist the agency in determining areas that could be changed to assist in making the program more effective and more efficiently administered. The OIG evaluation determined that (1) RBS needs to better promote the program and encourage lender and borrower participation, (2) lenders have little experience with the B&I program, (3) some of the requirements of the program are too costly to be attractive to borrowers wanting a relatively small loan, and (4) RBS needs to employ its resources more efficiently by relying more on lenders to analyze and monitor smaller loans. OIG surveyed 800 lenders and, based on the responses to the survey, projected that only 5.2 percent of the universe of lenders have had any experience with the program, but of those that did the experience was favorable. Further, the Agency determined that of the lenders participating in the program, the average number of times they did participate was 1.2. In a few states, the program has been used more frequently by lenders, but according to task force members and others familiar with the program this has been true only because Agency officials in those states took the time and effort to make the program more widely known.

OIG also determined that smaller borrowers refused to participate in the program because they feel that meeting some of the requirements is too costly to make a loan feasible. For example, the requirement to submit annual audited financial statements is believed to be too costly and OIG found that private lenders do not always request audited financial statements from smaller commercial borrowers. The General Accounting Office, in a 1992 report, also found that the cost of feasibility studies and the annual audit requirements coupled with appraisal fees and credit reports may impede participation.

Presently State office personnel analyze financial information provided by the lenders and the borrowers regardless of the size of the loan and regardless of the fact the lender has performed an analysis of the borrower's financial condition. In order to increase the level of lending activity as called for in the 1996 and 1997 budgets, and improve the effectiveness of the program and the efficiency with which it is delivered, RBS must rely more on the capabilities of the lending community to deliver the program.

Based on the recommendations of the task force and other reviews, the Agency has proposed these revisions to make the program more usable by the lenders and the borrowers. More importantly, the Agency recognizes the changes are necessary to make the program more effective in creating jobs and stimulating economic activity, particularly in chronically low income rural areas. Under the proposed new B&I regulations, the material that must be submitted to and reviewed by the Agency before approval of the guarantee is reduced and responsibilities for credit analysis and application processing tasks will be shifted from the Agency national office to field offices and from the Agency to the lender where feasible. Following is a discussion of some of the most significant policy revisions included in the proposed new regulations.

Currently, most lenders participating in the B&I program are commercial banks and eligibility to be a lender under the program is limited to certain types of organizations. This proposal allows the Agency to approve additional lenders when determined by the Administrator to have sufficient legal authority, lending expertise, and financial strength.

The Agency proposes to reduce the loan guarantee fee if it is determined that the business seeking the guarantee provides high-impact business development and is located in a community experiencing long-term population decline and job deterioration, a community that has remained persistently poor over the past 60 years, or a community experiencing economic trauma due to natural disaster or fundamental economic structural change. The intent of this provision is to encourage businesses to locate in areas with persistent economic problems.

Presently, individual borrowers must be citizens of the United States or reside in the United States after being legally admitted for permanent residence and organization borrowers must be at least 51 percent owned by citizens or persons legally admitted. The proposed regulations would allow guaranteed loans to businesses that do not meet that requirement if the facility being financed will create or save jobs for rural United States residents, adequate management is available, and loan funds are used only for fixed assets that will remain in the United States. The intent of this provision is to have the flexibility to create jobs in rural areas even if the company is owned by foreign interests. The Agency has experienced requests for guarantees in such situations in border states.

Presently, agricultural production loans are not eligible for B&I guarantees. RBS proposes to provide guarantees for agricultural production, but limit eligibility to integrated businesses involved in both production and processing.

Current regulations will not allow a lender to bring loans it has previously made under a guarantee through refinancing unless the percentage of guarantee is adjusted to maintain the previous unguaranteed exposure. The new regulations will allow the previous exposure to be guaranteed, provided the refinancing is a secondary part of the loan and will allow the lender to restructure the rates and terms.

The Agency is particularly interested in public comments on a new priority system, designed to target loan guarantees to locations of greatest need and businesses that will have the most impact. High impact considers factors that effect such things as job quality, potential to stimulate the local economy other than just through the direct jobs provided, and potential for long term presence in the community and future expansion. For example, businesses in industries in the top half of the industrial life cycle are likely to be successful for a longer period of time than those in an industry that is declining. Businesses tied in some way to the community are less likely to move on in a few years to a more favorable location outside the community. A business in an industry new to the community provides economic diversification. Businesses that will need new suppliers or customers are likely to have a ripple effect, causing other new businesses to be formed nearby. Priority points are also given for lenders that will structure the loan at favorable rates to the borrower or less risk for the Government.

Eligible loan purposes would be expanded to include hotels, motels, and other tourism and recreational facilities, which have been ineligible for the past several years. Loans for such facilities would be evaluated on the merits and financial feasibility of each proposal, except for racetracks, golf courses, and gambling facilities, which would remain ineligible. The Agency is particularly requesting comments on whether there is a significant need for loan guarantees for tourism and recreation businesses and whether offering loan guarantees for such businesses will significantly increase the risk to the Government and satisfy otherwise unmet needs for financing of such businesses.

Current regulations limit the size of loans considered for guarantee to $10 million. The proposed regulations would give the Administrator the authority to approve exceptions for high priority projects of up to $25 million.

The proposed regulations limit the guarantee percentage to 80 percent for loans of $5 million or less and 70 percent for loans exceeding $5 million, but provide authority for the Administrator to approve exceptions up to 90 percent when the higher percentage is necessary to allow a high priority project to proceed.

In conjunction with implementation of the new regulations, the Agency intends to provide a new application form that will serve the function of 10 forms now in use. The application form will, of course, be supplemented by additional information provided by the lender.

The proposed regulations also provide for experienced lenders to apply for status as certified lenders. Certified lenders will submit about one-half as much application material for agency review as regular lenders. Consideration was given to creating another classification of lender determined to be very reliable and familiar with the program that would be able to obtain guarantees with little or no review of individual projects by the Agency. However, it was determined that the Agency does not have sufficient legal authority to implement that alternative.

Agency staff will be authorized to rely on a written credit analysis prepared by the lender rather than the Agency completing its own complete credit analysis.

For the most part, the lender will determine the frequency of financial statements to be required from the business after the loan is closed and whether or not the statements must be audited.

The lender and its legal counsel will be responsible for loan closing, without a required review by the Office of General Counsel.

Loan servicing will also be simplified and shifted toward the lender. Loans will classified by the lender. Lenders will be able to release collateral with a cumulative value of up to 20 percent of the loan if the proceeds will be used to reduce the loan or buy replacement collateral. Lenders may make protective advances of up to $5,000 without prior agency approval. If unsecured personal or corporate guarantees cannot be settled promptly, a final loss report may be filed and paid and the guarantees treated as future recovery.

RBS believes the streamlining of the regulations for this program will enhance the use of the program in improving the future prosperity of rural residents through targeted investments that enhance rural competitiveness, facilitate industrial conversion, and enable rural residents to profit from private sector activity. The proposed revisions are consistent with the Administration's efforts to streamline government functions, improve efficiency and the effectiveness of government activities, and be more customer friendly. The changes proposed will enable the Agency to deliver a larger program with less staff resources, and simultaneously meet the objectives of the National Performance review regarding improved customer service, less regulation and streamlined Agency operations.

Incorporation of the proposed changes will provide more flexibility for both lenders and agency staff. Many errors will be reduced because the guidelines and requirements are much more clear and items are more easily found in a reduced and better organized volume of regulations. Lenders will be more interested in using the program because the procedures are more simple and direct. The ultimate benefit to be realized is increased lending activity resulting in the expansion of business opportunities and the creation of more jobs in rural areas, particularly in those areas that have experienced historical economic distress.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the Rural Business-Cooperative Service (RBS) announces its intention to seek OMB approval of the reporting/recordkeeping requirements contained in these new regulations.

The purpose of the B&I loan program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved by bolstering the existing private credit structure through the guarantee of loans which will provide lasting community benefits. Loans to rural businesses are made by private lenders, primarily commercial banks, and guaranteed by RBS. These proposed regulations include various requirements for information from the lenders and borrowers. The information requested is vital for RBS to be able to process applications for loan guarantees in a responsible manner, make prudent credit and program decisions, and effectively monitor the lenders' servicing activities to protect the Government's financial interest. It includes information to identify the lender and borrower, describe the business and use of loan funds, indicate the rates and terms of the loan, allow for credit quality analysis, and other information necessary for prudent program and credit decisions. The lender or borrower may need to provide information regarding some special assistance or consideration, such as when a lender requests a change in specific conditions cited by the Agency for approval of a guarantee. Additional information is necessary to ensure a loan is adequately serviced and continues to perform as expected, or, if necessary, properly liquidated.

Currently, the regulations for the B&I Loan Program are contained in 7 CFR 1980, subpart E. The information collection associated with 7 CFR 1980–E has been previously approved by the Office of Management and Budget (OMB) and assigned control number 0575–0029. RBS is now proposing new regulations for the B&I program to replace 7 CFR 1980–E. RBS's primary reason for proposing new regulations is to simplify the requirements and streamline the application and loanmaking process. The total public reporting burden under these regulations is expected to be significantly reduced, as compared to the burden contained in the current regulation. The average public reporting burden for the collections of information contained in these regulations is expected to range from .75 to 54 hours per response. Lending institutions and rural businesses are the primary respondents for this data collection. The number of respondents for the various collections of information contained in these regulations is expected to range from 15 to 1240 per year. The number of annual responses per respondent is expected to range from less than 1 to 4 per year. Total annual burden on respondents is estimated at 67,456 hours. This is based on an estimated volume of activity of 500 preapplications, 425 applications, and 360 new loan guarantees. The estimated total annual burden for 7 CFR 1980, subpart E, was 78,318 hours. However, the larger estimated burden for 7 CFR 1980, subpart E, was based on a lower estimated volume of activity of only 350 preapplications, 275 applications, and 220 new loan guarantees.

In conjunction with implementation of the proposed new regulations, RBS plans to initiate use of a new application form. The new form should not be more difficult or time consuming to complete than the current application but it will facilitate the elimination of 10 other forms currently in use. Some items of information required by the agency have been made easier to provide, such as the material incorporated into the new application. Some has been eliminated by changing program requirements and providing more flexibility to lenders. An example of this is the documentation regarding refinancing required by 7 CFR 1980, section 1980.452 Administrative C (1). Under the proposed rule there are less restrictions on refinancing so there is no need for the specific documentation. Some information will be collected less frequently, as in the case of feasibility studies. Feasibility studies will be required for new businesses at the discretion of the loan approval official, rather than for all new businesses. Financial statements will still be required at least annually, but whether they are required more often than annually and whether they must be audited statements will be decided by the lender.

Some new items of burden have also been created. For the most part, however, these are the result of new options being made available. For example, requesting status as a certified lender is a burden upon the lenders that choose to make a request. That burden has not existed previously because there were no certified lenders. To become certified a lender must submit an executed Lender's Agreement (if it does not already have a valid Lender's Agreement), a new form called "Certified Lender, Business and Industry," and a written request summarizing its history of commercial lending activity with information on delinquencies and losses. Loan officers of certified lenders must receive training from RBS on the B&I program. The burden for completing a request for certification has been estimated at 2.5 hours.

Certified lenders will submit less material for agency review for each individual loan application proposed for guarantee. A complete application for guarantee from a certified lender will include the application form, a Form FmHA 1940–20, "Request for Environmental Information," the lender's written financial analysis with spreadsheets, a proposed Loan Agreement or list of conditions for a Loan agreement, and intergovernmental review comments. A complete application for guarantee from an eligible lender that is not certified will include all of those items plus the business's historical and projected financial statements, financial statements of personal or corporate guarantors, personal credit reports on the principals, appraisals, commercial credit report on the business, and a business plan or feasibility study.

Although it is not reflected in the proposed rule or the estimates of burden, RBS is also working on a project to automate forms. It is intended that most of the forms used in connection with an application will be made available on computer disk so the form can be brought up on a screen, the appropriate information typed in, and the entire completed form printed. When completed, the appropriate disks will be made available to the public as well as to Agency staff.

The complete text of the subject regulations is published herein for public review and comment. Additional copies of the proposed regulations or copies of the referenced forms may be obtained from Jack Holston, Agency Information Collection Coordinator, at (202) 720–9736.

Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspects of this collection of information, to: Jack Holston, Agency Information Collection Coordinator, U.S. Department of Agriculture, RECD, Ag. Box 0743, Washington, DC 20250. These comments must be received on or before April 2, 1996 to be assured of consideration. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

List of Subjects

7 CFR Part 1980

Loan programs—Agriculture, Loan programs—Business and industry—Rural development assistance, Loan programs—Housing and community development, Loan programs—Community programs—Rural development assistance, Rural areas.

7 CFR Part 4279

Loan programs—Business and industry—Rural development assistance, Rural areas.

7 CFR Part 4287

Loan programs—Business and industry—Rural development assistance, Rural areas.

Accordingly, chapters XVIII and XLII, title 7 of the Code of Federal Regulations are proposed to be amended as follows:

CHAPTER XVIII—RURAL HOUSING SERVICE, RURAL BUSINESS-COOPERATIVE SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

PART 1980—GENERAL

1. The authority citation for part 1980 is revised to read as follows:

Authority: 7 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart A—General

2. Section 1980.6(a) is amended by: removing the definitions for "Borrower," "Disaster Assistance for Rural Business Enterprises," and "Drought and Disaster Guaranteed loans;" in the heading for the definition of "Assignment Guarantee Agreement," removing ", 1980–70 or 1980–73;" revising the definition of "Guaranteed loan," to read as set forth below; in the third sentence of the definition of "Holder," removing the parenthetical phrase "(or 1980–70 or 1980–73);" in the heading for the definition of "Lender's Agreement," removing the comma and adding the word "or" in its place immediately following "449–35" and removing ", 1980–68, or 1980–71" immediately following "1980–38;" in the heading for the definition of "Loan Note Guarantee," removing the parenthetical phrase "(or 1980–69 or 1980–72)".

§ 1980.6 Definitions and abbreviations.

(a) * * *

Guaranteed loan. A loan made and serviced by a lender for which FmHA or its successor agency under Public Law 103–354 has entered into a Form FmHA 449–35 or Form FmHA 1980–38, "Lender's Agreement," and for which FmHA or its successor agency under Public Law 103–354 has issued a Form FmHA 449–34, "Loan Note Guarantee."

* * * * *

3. Section 1980.6 (b) is amended by removing the entries for "B&I," "DARBE," and "D&D" from the list of abbreviations.

§ 1980.13 [Amended]

4–5. Section 1980.13 is amended in the second sentence of paragraph (a) introductory text by revising the reference "paragraphs (a) (1), (2) and (3)" to read "paragraphs (a) (1) and (2);" in paragraph (a)(2) by removing ";or" and adding a period at the end of the paragraph; by removing paragraph (a)(3); and in paragraph (c) by removing the parenthetical phrase "(See subpart E of this part.)".

§ 1980.20 [Amended]

6. Section 1980.20 is amended in paragraph (a) introductory text by removing the third and forth sentences in their entirety; in the fifth sentence, by removing the words "for all other loans covered by this section;" and in the sixth sentence by removing the words "except in regards to D&D and DARBE guaranteed loans (see Subpart E of this part),".

§ 1980.41 [Amended]

7. Section 1980.41 is amended in the first sentence of paragraph (b)(3)(iii)(A) by removing the parenthetical phrase "(State Director for B&I)".

§ 1980.46 [Amended]

8. Section 1980.46 is amended in paragraph (a)(2) by removing the parenthetical phrase "(State Director for B&I)" at the end of the paragraph.

§ 1980.47 [Amended]

9. Section 1980.47 is amended in the first sentence of paragraph (d) by removing the words "and Business".

10. Section 1980.60 is amended by revising paragraph (a) (2) to read as follows:

§ 1980.60 Conditions precedent to issuance of the Loan Note Guarantee or Contract of Guarantee.

(a) * * *

(1) * * *

(2) All planned property acquisition has been completed and all development has been substantially completed in accordance with plans and specifications. All costs have not exceeded the amounts approved by the lender and FmHA or its successor agency under Public Law 103–354.

* * * * *

§ 1980.61 [Amended]

11. Section 1980.61 is amended in the first sentence of paragraph (b)(3) by revising "Forms FmHA or its successor agency under Public Law 103–354 449–35," to read "Form FmHA 449–35" and removing "FmHA or its successor agency under Public Law 103–354 1980–68, and FmHA or its successor agency under Public Law 103–354 1980–71;" in paragraph (b)(4) by revising the word "request" to read "requests," revising "Forms FmHA or its successor agency under Public Law 103–354 449–35," to read "Form FmHA 449–35" removing, "FmHA or its successor agency under Public Law 103–354 1980–68, and FmHA or its successor agency under Public Law 103–354 1980–71," and removing the parenthetical phrase "(State Director for B&I);" and in paragraph (h) by removing the words ",except for B&I where the State Director and State B&I or C&BP Chief will execute these forms."

§ 1980.63 [Amended]

12. Section 1980.63 is amended in paragraph (b) by removing the parenthetical phrase "(State Director for B&I)" from the second and fourth sentences and removing the parenthetical phrase "(except for B&I)" from the third sentence.

§ 1980.67 [Amended]

13. Section 1980.67 is amended in the first sentence of paragraph (a) by removing the reference "E,".

§ 1980.68 [Amended]

14. Section 1980.68 is amended by revising the reference "paragraph 5" to read "paragraph 6" in the second sentence and removing the parenthetical phrase "(State Director for B&I)" from the third and fourth sentences.

§ 1980.83 [Amended]

15. Section 1980.83 is amended in the table of forms in paragraph (b) by removing the entries beginning with "1980–68," "1980–69," "1980–70," "1980–71," "1980–72," and "1980–73."

Subpart E—Business and Industrial Loan Program

16. Section 1980.401 is amended by revising paragraph (a) to read as follows:

§ 1980.401 Introduction.

(a) This subpart contains the regulations for direct Business and Industrial (B&I) loans disbursed by the Agency. All references to guaranteed loan processing or servicing are not applicable. B&I loan guarantees are to be processed and serviced under the provisions of subparts A and B of part 4279 of this title and subpart B of part 4287 of this title. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with any Agency employee.

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CHAPTER XLII—RURAL BUSINESS—COOPERATIVE SERVICE AND RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE

17. A new part 4279 is added to chapter XLII to read as follows:

PART 4279—GUARANTEED LOANMAKING

Subpart A—General

Sec.

4279.1 Purpose.
4279.2 Definitions.
4279.3–4279.14 [Reserved]
4279.15 Exception authority.
4279.16 Appeals.
4279.17–4279.28 [Reserved]
4279.29 Eligible lenders.
4279.30 Lenders' functions and responsibilities.
4279.31–4279.42 [Reserved]
4279.43 Certified Lender Program.
4279.44 Access to records.
4279.45–4279.57 [Reserved]
4279.58 Equal Credit Opportunity Act.
4279.59–4279.70 [Reserved]
4279.71 Public bodies and nonprofit corporations.

4279.72 Conditions of guarantee.
4279.73–4279.74 [Reserved]
4279.75 Sale or assignment of guaranteed loan.
4279.76 Participation.
4279.77 Minimum retention.
4279.78 Repurchase from holder.
4279.79–4279.83 [Reserved]
4279.84 Replacement of document.
4279.85–4279.100 [Reserved]

Subpart B—Business and Industry Loans

4279.101 Introduction.
4279.102 Definitions.
4279.103–4279.106 [Reserved]
4279.107 Guarantee fee.
4279.108 Eligible borrowers.
4279.109–4279.112 [Reserved]
4279.113 Eligible loan purposes.
4279.114 Ineligible purposes.
4279.115 Prohibition under Agency programs.
4279.116–4279.118 [Reserved]
4279.119 Loan guarantee limits.
4279.120 Fees and charges.
4279.121–4279.124 [Reserved]
4279.125 Interest rates.
4279.126 Loan terms.
4279.127–4279.130 [Reserved]
4279.131 Credit quality.
4279.132–4279.136 [Reserved]
4279.137 Financial statements.
4279.138–4279.142 [Reserved]
4279.143 Insurance.
4279.144 Appraisals.
4279.145–4279.148 [Reserved]
4279.149 Personal and corporate guarantees.
4279.150 Feasibility studies.
4279.151–4279.154 [Reserved]
4279.155 Loan priorities.
4279.156 Planning and performing development.
4279.157–4279.160 [Reserved]
4279.161 Filing preapplications and applications.
4279.162–4279.164 [Reserved]
4279.165 Evaluation of application.
4279.166–4279.172 [Reserved]
4279.173 Loan approval and obligating funds.
4279.174 Transfer of lenders.
4279.175–4279.179 [Reserved]
4279.180 Changes in borrower.
4279.181 Conditions precedent to issuance of Loan Note Guarantee.
4279.182–4279.185 [Reserved]
4279.186 Issuance of the guarantee.
4279.187 Refusal to execute Loan Note Guarantee.
4279.188–4279.200 [Reserved]

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart A—General

§ 4279.1 Purpose.

(a) This subpart contains general regulations for making and servicing Business and Industry (B&I) loans guaranteed by the Agency and applies to lenders, holders, borrowers and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans.

(b) It is the responsibility of the lender to ascertain that all requirements for making, securing, servicing, and collecting the loan are met.

(c) Copies of all forms, regulations, and instructions referenced in this subpart are available in any state or district office or the National office.

§ 4279.2 Definitions.

Agency. The Federal agency within the United States Department of Agriculture (USDA) with responsibility assigned by the Secretary of Agriculture to administer the B&I program.

Arm's-length transaction. The sale, release, or disposition of assets in which the title to the property passes to a ready, willing, and able disinterested third party that is not affiliated with or related to and has no security, monetary or stockholder interest in the borrower or transferor at the time of the transaction.

Assignment Guarantee Agreement. The signed agreement among the Agency, the lender, and the holder setting forth the terms and conditions of an assignment of a guaranteed portion of a loan, using the single note system. Such agreement will be documented using Form RECD 4279–6, "Assignment Guarantee Agreement."

Borrower. All parties liable for the loan except for guarantors.

Conditional Commitment. Agency's notice to the lender that the loan guarantee it has requested is approved subject to the completion of all conditions and requirements set forth by the Agency. The commitment will be documented on Form RECD 4279–3, "Conditional Commitment."

Deficiency balance. The balance remaining on a loan after all collateral, including the personal guarantees, has been liquidated.

Deficiency judgment. A money judgment rendered by a court of competent jurisdiction after foreclosure and liquidation of all collateral securing the loan.

Existing lender debt. A debt not guaranteed by the Agency, but owed by a borrower to the same lender that is applying for or has received the Agency guarantee.

Fair market value. The price that could reasonably be expected for an asset in an arms-length transaction between a willing buyer and a willing seller in ordinary economic and business conditions.

Farmers Home Administration ("FmHA"). The former agency of the United States Department of Agriculture ("USDA") that previously administered the programs of this Agency. Many Instructions and forms of FmHA are still applicable to Agency programs.

Finance office. The office which maintains the Agency financial accounting records and is located at 1520 Market Street, St. Louis, Missouri 63103.

Holder. A person or entity, other than the lender, who owns all or part of the guaranteed portion of the loan with no servicing responsibilities. When the single note option is used and the lender assigns a part of the guaranteed note to an assignee, the assignee becomes a holder only when the Agency receives notice and the transaction is completed through use of Form RECD 4279–6, "Assignment Guarantee Agreement."

Interim Financing. A temporary or short-term loan made with the clear intent that it will be repaid through another loan. Interim financing is frequently used to pay construction and other costs associated with a planned project, with permanent financing to be obtained after project completion.

Lender. The organization making, servicing, and collecting the loan which is guaranteed under the provisions of the appropriate subpart.

Lender's Agreement. The agreement between the Agency and the lender setting forth the lender's loan responsibilities when the Loan Note Guarantee is issued. The agreement is Form RECD 4279–4, "Lender's Agreement."

Loan Agreement. The agreement between the borrower and lender setting out the terms and conditions of the loan and the responsibilities of the borrower and lender.

Loan Note Guarantee. The signed instrument issued by the Agency setting out the terms and conditions of the guarantee. The guarantee is Form RECD 4279–5, "Loan Note Guarantee."

Loan-to-value. The ratio of the dollar amount of a loan to the dollar value of the collateral for the loan.

Negligent Servicing. The failure to perform those services which a reasonably prudent lender would perform in servicing (including liquidation of) its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act.

Parity. A lien position whereby two or more lenders share a security interest of equal priority in collateral. In the event of default, each lender will be affected on a proportional basis.

Participation. Sale of an interest by the lender in a loan wherein the lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

Poor. A community or area is considered poor if, based on the most recent decennial census data, either the county, city, or census tract where the community or area is located has a median household income at or below the poverty line for a family of four; has a median household income below the nonmetropolitan median household income for the state; or has a population of which 25 percent or more have income at or below the poverty line.

Promissory Note. An evidence of debt. "Note" or "Promissory Note" shall also be construed to include "Bond" or other evidence of debt where appropriate.

RECD. The Under Secretary for Rural Economic and Community Development ("RECD") has policy and operational oversight responsibilities for the Rural Housing Service ("RHCDS"), Rural Business-Cooperative Service ("RBS"), and the Rural Utilities Service ("RUS").

Spreadsheet. A table containing data from a series of financial statements of a business over a period of time. Financial statement analysis normally contains spreadsheets for balance sheet items and income statements and may include funds flow statement data and commonly used ratios. The spreadsheets enable a reviewer to easily scan the data, spot trends, and make comparisons.

State. Any of the 50 states, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Subordination. An agreement between the lender and borrower whereby lien priorities on certain assets pledged to secure payment of the guaranteed loan will be reduced to a position junior to, or on parity with, the lien position of another loan in order for the Agency borrower to obtain additional financing, not guaranteed by the Agency, from the lender or a third party.

Veteran. For the purposes of assigning priority points, a veteran is a person who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable and who served on active duty in such forces:

(1) During the period of April 6, 1917, through March 31, 1921;

(2) During the period of December 7, 1941, through December 31, 1946;

(3) During the period of June 27, 1950, through January 31, 1955; or

(4) For a period of more than 180 days, any part of which occurred after January 31, 1955; but on or before May 17, 1975.

§§ 4279.3–4279.14 [Reserved]

§ 4279.15 Exception authority.

The Administrator may, in individual cases, grant an exception to any requirement or provision of this part or part 4287 which is not inconsistent with any applicable law; provided that: the Administrator determines that application of the requirement or provision would adversely affect the Government's financial interest.

§ 4279.16 Appeals.

Only the borrower, lender, or holder can appeal an Agency decision made under this part or part 4287. Except as set forth in this section, the borrower and lender must jointly execute the written request for review or appeal of an adverse decision made by the Agency. In cases where the Agency has denied or reduced the amount of final loss payment to the lender, the adverse decision may be appealed by the lender only. An adverse decision that only impacts the holder may be appealed by the holder only. A decision by a lender adverse to the interest of the borrower is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be handled in accordance with the departmental appeal regulations.

§§ 4279.17–4279.28 [Reserved]

§ 4279.29 Eligible lenders.

(a) An eligible lender is any Federal or state chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, Bank for Cooperatives, Savings and Loan Association, or mortgage company that is part of a bank-holding company. These entities must be subject to credit examination and supervision by either an agency of the United States or a state. Eligible lenders may also include credit unions, provided they are subject to credit examination and supervision by either the National Credit Union Administration or a state agency, and insurance companies provided they are regulated by a state or National insurance regulatory agency. Eligible lenders include the National Rural Utilities Cooperative Finance Corporation.

(b) Rural Utilities Service borrowers and other lenders not meeting the criteria of paragraph (a) of this section may be considered by the Agency for eligibility to become a guaranteed lender provided the Agency determines that they have the legal authority to operate a lending program and sufficient lending expertise and financial strength to operate a successful lending program.

(1) Such a lender must:

(i) Have a record of successfully making at least three commercial loans for at least the most recent 3 years, with delinquent loans not exceeding 10 percent of loans outstanding and historic losses not exceeding 10 percent of dollars loaned; and

(ii) Have tangible balance sheet equity of at least 7 percent of tangible assets and sufficient funds available to disburse the guaranteed loans it proposes to approve within the first 6 months of being approved as a guaranteed lender.

(2) A lender not covered under paragraph (a) of this section that wishes consideration to become a guaranteed lender must submit a request in writing to the state office for the state where the lender's lending and servicing activity takes place. The National office will notify the prospective lender, through the state director, whether the lender's request for eligibility is approved or rejected. If rejected, the reasons for the rejection will be indicated to the prospective lender in writing, and appeal rights will be provided in accordance with departmental appeal regulations. The lender's written request must include:

(i) Evidence showing that the lender has the necessary capital and resources to successfully meet its responsibilities.

(ii) Copy of any license, charter, or other evidence of authority to engage in the proposed loanmaking and loan servicing activity. If licensing by the state is not required, an attorney's opinion to this effect must be submitted.

(iii) Information on lending experience, including length of time in the lending business, range and volume of lending and servicing activity, and status of loan portfolio including delinquency rate, loss rate as a percentage of loan amounts, and other measures of success; experience of management and loan officers; audited financial statements not more than 1 year old; sources of funds for the proposed loans; office location and proposed lending area; and proposed rates and fees, including loan origination, loan preparation, and servicing fees. Such fees must not be greater than those charged by similarly located commercial lenders in the ordinary course of business.

(iv) An estimate of the number and size of guaranteed loan applications the lender will develop.

(c) Expertise. Loan guarantees will only be approved for lenders with adequate experience and expertise to adequately make, secure, service, and collect B&I loans.

§ 4279.30 Lenders' functions and responsibilities.

(a) *General.* Lenders have the primary responsibility for the successful delivery of the B&I loan program. All lenders obtaining or requesting a B&I loan guarantee are responsible for processing applications for guaranteed loans, developing and maintaining adequately documented loan files, recommending only loan proposals that are eligible and financially feasible, obtaining valid evidence of debt and collateral in accordance with sound lending practices, supervising construction and distribution of loan funds, servicing guaranteed loans in a prudent manner, including liquidation if necessary, following Agency regulations, and obtaining Agency approvals or concurrence as required. This subpart, along with subpart B of this part and subpart B of part 4287 sets out the regulations for this program, including the lenders' responsibilities.

(b) *Credit evaluation.* This is a key function of all lenders during the loan processing phase. The lender must analyze all credit factors associated with each proposed loan and apply their professional judgment to determine that the credit factors, considered in combination, ensure loan repayment. The lender should have an adequate underwriting process to ensure that loans are reviewed by other than the originating officer. There must be good credit documentation procedures.

(c) *Environmental assessment.* All lenders should alert the Agency to any controversial environmental issues related to a proposed project or items that may require extensive environmental review. Lenders should help the borrower prepare Form FmHA 1940–20, "Request for Environmental Information," and attachments when required by FmHA Instruction 1940–G.

(d) *Loan closing.* The lender will conduct loan closings at its discretion.

§§ 4279.31–4279.42 [Reserved]

§ 4279.43 Certified Lender Program.

(a) *General.* This section provides policies and procedures for the Certified Lender Program ("CLP") for loans guaranteed under this part. The objectives are to expedite loan approval for those lenders with a proven ability, in accordance with paragraph (b) of this section, to process, service, and collect loans.

(b) *CLP eligibility criteria.* The lender must meet established eligibility criteria prior to being considered for CLP status as follows:

(1) Be an "eligible lender" as defined in § 4279.29 and authorized to do business in the state in which CLP status is desired.

(2) Demonstrate to the Agency's satisfaction that it has a thorough knowledge of commercial lending. The lender will demonstrate such knowledge by providing a summary of its guaranteed and unguaranteed business lending activity. At a minimum, the summary should include the dollar amount and number of loans in the lender's portfolio, unguaranteed and guaranteed by any Federal agency, with information on delinquencies and losses and, if applicable, the performance of the lender as an SBA certified or preferred lender. A certified lender should be recognized throughout the state as a commercial lender and have a track record of successfully making at least five commercial loans per year for at least the most recent 5 years, with delinquent loans not exceeding 6 percent of loans outstanding and historic losses not exceeding 6 percent of dollars loaned. The lender will provide a written certification to this effect along with a statistical analysis of its loan portfolio for the last 3 of its fiscal years.

(3) If a bank or savings and loan, have a financial strength rating in the upper half of possible ratings as reported by a lender rating service selected by the Administrator.

(4) Possess loan officers and other appropriate personnel who have received training conducted by the Agency. Additional training may be required if the lender's contact person changes or if the Agency feels further instruction is needed.

(5) Have committed no action within the most recent 2 years prior to requesting CLP status which would be considered cause for revoking CLP status under § 4279.43(e).

(c) *CLP approval.* The Agency may grant CLP status for a period not to exceed 5 years by executing Form RECD 4279–8, "Certified Lender, Business and Industry Program," with the lender. The Form RECD 4279–8 will not apply to branches or suboffices of the lender unless so specified in the agreement. Such branches or suboffices may submit loans as regular lenders or apply for their own CLP status. Any lender who desires CLP status must prepare a written request to the state director for the state in which it desires status. The request should address each of the required criteria outlined in paragraph (b) of this section except for paragraph (b)(3) and may be accompanied by any other information the lender believes will be helpful. The request will also include Form RECD 4279–8 completed and executed by the lender and an executed Lender's Agreement, if it does not already have a valid Lender's Agreement on file with the Agency. Loans made by the lender and guaranteed by the Agency prior to the lender receiving CLP status shall continue to be governed by the forms and agreements executed between the lender and the Agency for those loans.

(d) *Renewal of CLP status.* Renewal of CLP status is not automatic. CLP status will lapse upon the expiration date of Form RECD 4279–8 unless the lender obtains a renewal. A lender whose CLP status has lapsed may continue to submit loan guarantee requests, but only as a regular lender. The lender must provide a new Form RECD 4279–8 completed and executed by the lender, along with a written update of the eligibility criteria required in this section for CLP approval. This information should be supplied at least 60 days prior to the expiration of the existing agreement to be processed for uninterrupted status. The information should address how the lender is complying with each of the required criteria described in paragraph (b) of this section. It should include any proposed changes in the designated persons for processing guaranteed loans or operating methods used in processing and servicing Agency guaranteed loans.

(e) *Revocation of CLP status.* The lender's CLP status may be revoked at any time for cause. The debarment of a lender is an additional alternative the Agency may consider. A lender which has lost its CLP status, but has not been debarred and still meets the requirements of § 4279.29 may continue to submit loan guarantee requests as a regular lender. Cause for revoking CLP status includes:

(1) Failure to maintain status as an eligible lender as set forth in § 4279.29.

(2) Knowingly submitting false information when requesting a guarantee or basing a guarantee request on information known to be false or upon information which the lender should have known to be false.

(3) Making an Agency guaranteed loan with deficiencies which may cause losses under the Loan Note Guarantee not to be covered by the Loan Note Guarantee.

(4) Conviction for acts in connection with any loan transaction, regardless of whether the loan was guaranteed by the Agency.

(5) Violation of usury laws in connection with any loan guaranteed by the Agency.

(6) Failure to obtain the required security for any loan guaranteed by the Agency.

(7) Using loan funds guaranteed by the Agency for purposes other than those specifically approved by the Agency in the Conditional Commitment.

(8) Violation of any terms of the Lender's Agreement.

(9) Failure to correct any cited deficiency in loan documents in a timely manner.

(10) Failure to submit reports required by the Agency in a timely manner.

(11) Failure to process Agency guaranteed loans in a reasonably prudent manner.

(12) Failure to provide for adequate construction planning and monitoring in connection with any loan to ensure that the project will be completed within the available funds and, once completed, will be suitable for the borrower's needs.

(13) Repetitive recommendations for guaranteed loans with marginal or substandard credit quality or that do not comply with Agency requirements.

(14) Repetitive recommendations for servicing actions that do not comply with Agency requirements.

(15) Negligent servicing.

(16) Failure to conduct any approved liquidation of a loan guaranteed by the Agency or its predecessors in a timely and effective manner and in accordance with the approved liquidation plan.

(f) *General loan processing and servicing guidelines.* All requests for guaranteed loans will be processed and serviced under subparts A and B of this part and subpart B of part 4287 except as modified by this section. When determining whether or not to request a guarantee for a proposed loan, lenders must consider the priorities set forth in § 4279.155.

(1) Prior to processing an application, the CLP lender may give written notice to the state director of its intention to submit an application. Upon receipt of such written notice, the Agency will notify the CLP lender whether or not there is sufficient guarantee authority for the loan. Such guarantee authority will be held for 30 days pending receipt of the application. If a complete application for which guarantee authority is being held is not received within 30 days of the notice of intent to file, or is rejected, the guarantee authority for this application will no longer be held in reserve.

(2) Refinancing of existing lender debt in accordance with § 4279.113(q) will not be permitted without prior Agency approval.

(3) CLP lenders will process all guaranteed loans as a "complete application" by obtaining and completing all items required by § 4279.161(b). The CLP lender must maintain all information required by § 4279.161(b) in its loan file, and determine that such material complies with all requirements.

(4) CLP lenders will make all material relating to any guarantee application available to the Agency upon request.

(5) At the time of the Agency's issuance of the Loan Note Guarantee, the CLP lender will provide the Agency with copies of the following documents:

(i) Executed Loan Agreement.

(ii) Executed Promissory Notes.

(iii) Executed copies of security documents including personal and corporate guarantees.

(g) *Unique characteristics of the CLP.* A proposed loan by a CLP lender requires only a review by the Agency of the information submitted by the lender. The Agency may rely on the lender's credit analysis.

(1) The following will constitute a complete application submitted by a CLP lender:

(i) Form RECD 4279–1, "Application for Loan Guarantee (Business and Industry)," (marked with the letters "CLP" at the top) completed in its entirety and executed by the borrower and CLP lender.

(ii) Copy of the proposed Loan Agreement or a list of proposed requirements.

(iii) Form FmHA 1940–20, completed and signed, with attachments.

(iv) The lender's complete written analysis of the proposal, including spreadsheets of the balance sheets and income statements for the 3 previous years (for existing businesses), pro forma balance sheet at startup, and 2 years projected yearend balance sheets and income statements, with appropriate ratios and comparisons with industry standards (such as Dun & Bradstreet or Robert Morris Associates). All data must be shown in total dollars and also in common size form, obtained by expressing all balance sheet items as a percentage of assets and all income and expense items as a percentage of sales. The lender's credit analysis must address the borrower's management, repayment ability, history of debt repayment, necessity of any debt refinancing, and the credit reports of the borrower, its principals, and any parent, affiliate, or subsidiary.

(v) Intergovernmental consultation comments in accordance with 7 CFR part 3015, subpart V.

(vi) If the loan will exceed $1 million and will increase direct employment by more than 50 employees, Form RECD 4279–2, "Certification of Non-Relocation and Market Capacity Information Report," must be completed by the lender. For such loans, the Agency will submit Form RECD 4279–2 to the Department of Labor and obtain clearance before a Conditional Commitment may be issued.

(2) The Agency will make the final credit decision based primarily on a review of the credit analysis submitted by the lender except that refinancing of existing lender debt in accordance with § 4279.113(q) will not be approved without review of the borrower's complete financial statements and complete credit analysis by the Agency. The Agency may request additional information to clarify or complete the submission.

(h) *Lender loan servicing responsibilities.* CLP lenders will be fully responsible for all aspects of loan servicing and, if necessary, liquidation as described in subpart B of part 4287.

§ 4279.44 Access to records.

The lender will permit representatives of the Agency (or other agencies of the United States) to inspect and make copies of any records of the lender pertaining to the Agency guaranteed loans during regular office hours of the lender or at any other time upon agreement between the lender and the Agency.

§§ 4279.45–4279.57 [Reserved]

§ 4279.58 Equal Credit Opportunity Act.

In accordance with Title V of Pub.L. 93–495, the Equal Credit Opportunity Act, with respect to any aspect of a credit transaction, neither the lender nor the Agency will discriminate against any applicant on the basis of race, color, religion, national origin, sex, marital status or age (providing the applicant has the capacity to contract), or because all or part of the applicant's income derives from a public assistance program, or because the applicant has, in good faith, exercised any right under the Consumer Protection Act. The lender will comply with the requirements of the Equal Credit Opportunity Act as set out in the Federal Reserve Board's Regulation implementing this Act (see 12 CFR part 202). Such compliance will be accomplished prior to loan closing.

§§ 4279.59–4279.70 [Reserved]

§ 4279.71 Public bodies and nonprofit corporations.

Any public body or nonprofit corporation that receives a guaranteed loan that meets the thresholds established by Office of Management and Budget (OMB) Circulars A–128 or A–133 or successor circulars must provide an audit in accordance with the applicable OMB Circular for the fiscal year (of the borrower) in which the Loan Note Guarantee is issued. If the loan is for development or purchases made in a previous fiscal year through interim financing, an audit will also be provided for the fiscal year in which the development or purchases occurred. Any audit provided by a public body or nonprofit corporation in compliance with OMB Circulars A–128 or A–133 or their successors will be considered adequate to meet the audit requirements of the B&I program for that year.

§ 4279.72 Conditions of guarantee.

A loan guarantee under this part will be evidenced by a Loan Note Guarantee issued by the Agency. Each lender will execute a Lender's Agreement. If a valid Lender's Agreement already exists, it is not necessary to execute a new Lender's Agreement with each loan guarantee. The provisions of this subpart, other appropriate subparts of this part, and part 4287 of this chapter will apply to all outstanding guarantees unless directly in conflict with the Loan Note Guarantee or Lender's Agreement issued for the guarantee. In the event of such a conflict, the lender may elect to have the loan serviced in accordance with these regulations. The lender must notify the Agency of such election in writing. Without such written election, the provisions of the Loan Note Guarantee and Lender's Agreement will control.

(a) *Full faith and credit.* A guarantee under this part constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which a lender or holder has actual knowledge at the time it becomes such lender or holder or which a lender or holder participates in or condones. The guarantee will be unenforceable to the extent that any loss is occasioned by a provision for interest on interest. In addition, the guarantee will be unenforceable by the lender to the extent any loss is occasioned by the violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which the Agency acquires knowledge of the foregoing. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by the Agency in its Conditional Commitment. The Agency will guarantee payment as follows:

(1) To any holder, 100 percent of any loss sustained by the holder on the guaranteed portion of the loan and on interest due on such portion.

(2) To the lender, the lesser of:

(i) Any loss sustained by the lender on the guaranteed portion, including principal and interest evidenced by the notes or assumption agreements and secured advances for protection and preservation of collateral made with Agency's authorization; or

(ii) The guaranteed principal advanced to or assumed by the borrower and any interest due thereon.

(b) *Rights and liabilities.* When a guaranteed portion of a loan is sold to a holder, the holder shall succeed to all rights of the lender under the Loan Note Guarantee to the extent of the portion purchased. The lender will remain bound to all obligations under the Loan Note Guarantee, Lender's Agreement, and the Agency program regulations. A guarantee and right to require purchase will be directly enforceable by a holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the guarantee by the lender, except for fraud or misrepresentation of which the holder had actual knowledge at the time it became the holder or in which holder participates or condones. In the event of material fraud, negligence or misrepresentation by the lender or the lender's participation in or condoning of such material fraud, negligence or misrepresentation, the lender will be liable for payments made by the Agency to any holder.

(c) *Payments.* A lender will receive all payments of principal and interest on account of the entire loan and will promptly remit to the holder its pro rata share thereof, determined according to its respective interest in the loan, less only the lender's servicing fee.

§§ 4279.73–4279.74 [Reserved]

§ 4279.75 Sale or assignment of guaranteed loan.

The lender may sell all or part of the guaranteed portion of the loan on the secondary market or retain the entire loan. The lender shall not sell or participate any amount of the guaranteed or unguaranteed portion of the loan to the borrower or members of the borrower's immediate families, officers, directors, stockholders, other owners, or a parent, subsidiary or affiliate. If the lender desires to market all or part of the guaranteed portion of the loan at or subsequent to loan closing, such loan must not be in default. Loans made with the proceeds of any obligation the interest on which is excludable from income under Section 103 of the Internal Revenue Code of 1954, as amended, will not be guaranteed.

(a) *Single note system.* The entire loan is evidenced by one note, and one Loan Note Guarantee is issued. The lender may assign all or part of the guaranteed portion of the loan to one or more holders by using Agency's Assignment Guarantee Agreement. The holder, upon written notice to the lender and the Agency, may reassign the unpaid guaranteed portion of the loan sold under the Assignment Guarantee Agreement. Upon notification and completion of the assignment through the use of Form RECD 4279–6, "Assignment Guarantee Agreement," the assignee shall succeed to all rights and obligations of the holder thereunder. If this option is selected, the lender may not at a later date cause any additional notes to be issued.

(b) *Multinote system.* Under this option the lender may provide one note for the unguaranteed portion of the loan and no more than 10 notes for the guaranteed portion. When this option is selected by the lender, the holder will receive one of the borrower's executed notes and a Loan Note Guarantee. The Agency will issue a Loan Note Guarantee for each note, including the unguaranteed note, to be attached to the note. An Assignment Guarantee Agreement will not be used when the multinote option is utilized.

(c) *After loan closing.* If a loan is closed using the multinote option and at a later date additional notes are desired, the lender may cause a series of new notes, not to exceed the total number provided for in paragraph (b) of this section, to be issued as replacement for previously issued guaranteed notes, provided:

(1) Written approval of the Agency is obtained;

(2) The borrower agrees and executes the new notes;

(3) The interest rate does not exceed the interest rate in effect when the loan was closed;

(4) The maturity of the loan is not changed;

(5) The Agency will not bear or guarantee any expenses that may be incurred in reference to such reissuances of notes;

(6) There is adequate collateral securing the notes;

(7) No intervening liens have arisen or have been perfected and the secured lien priority remains the same; and

(8) All holders agree.

(d) The lender's servicing fee will stop when the Agency purchases the guaranteed portion of the loan from the secondary market. No such servicing fee may be charged to the Agency and all loan payments and collateral proceeds received will be applied first to the guaranteed loan and when applied to the guaranteed loan, will be applied on a pro rata basis.

(e) When the Agency purchases the guaranteed portion, the loan shall not be sold with recourse. The purchased loans may be sold on a nonrecourse basis only, i.e., without a Loan Note Guarantee attached and without recourse.

§ 4279.76 Participation.

The lender may obtain participation in the loan under its normal operating procedures; however, the lender must retain title to the notes if any of them are unguaranteed and retain the lender's interest in the collateral.

§ 4279.77 Minimum retention.

The lender is required to hold in its own portfolio a minimum of 5 percent of the total loan amount. The amount required to be maintained must be of the unguaranteed portion of the loan and cannot be participated to another. The lender may sell the remaining amount of the unguaranteed portion of the loan only through participation.

§ 4279.78 Repurchase from holder.

(a) *Repurchase by lender.* A lender has the option to repurchase the unpaid guaranteed portion of the loan from a holder within 30 days of written demand by the holder when the borrower is in default not less than 60 days on principal or interest due on the loan; or the lender has failed to remit to the holder its pro rata share of any payment made by the borrower within 30 days of its receipt thereof. The repurchase by the lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest less the lender's servicing fee. The holder will concurrently send a copy of the demand letter to the Agency. The guarantee will not cover the note interest to the holder on the guaranteed loan accruing after 90 days from the date of the demand letter to the lender requesting the repurchase. The lender will accept an assignment without recourse from the holder upon repurchase. The lender is encouraged to repurchase the loan to facilitate the accounting of funds, resolve the problem, and permit the default, where and when reasonable. The lender will notify the holder and the Agency of its decision.

(b) *Agency purchase.* (1) If the lender does not repurchase as provided in paragraph (a) of this section, the Agency will purchase from the holder the unpaid principal balance of the guaranteed portion together with accrued interest to date of repurchase, less the lender's servicing fee, within 30 days after written demand to the Agency from the holder. (This is in addition to the copy of the written demand on the lender.) The guarantee will not cover the note interest to the holder on the guaranteed loan accruing after 90 days from the date of the original demand letter of the holder to the lender requesting the repurchase.

(2) The holder's demand to the Agency must include a copy of the written demand made upon the lender. The holder must also include evidence of its right to require payment from the Agency. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to the Agency or the original of the Assignment Guarantee Agreement properly assigned to the Agency without recourse including all rights, title, and interest in the loan. The holder must include in its demand the amount due including unpaid principal, unpaid interest to date of demand, and interest subsequently accruing from date of demand to proposed payment date. The Agency will be subrogated to all rights of the holder.

(3) The Agency will notify the lender of its receipt of the holder's demand for payment. The lender must promptly provide the Agency with the information necessary for the Agency to determine the appropriate amount due the holder. Upon request by the Agency, the lender will furnish a current statement certified by an appropriate authorized officer of the lender of the unpaid principal and interest then owed by the borrower on the loan and the amount then owed to any holder. Any discrepancy between the amount claimed by the holder and the information submitted by the lender must be resolved between the lender and the holder before payment will be approved. Such conflict will suspend the running of the 30-day payment requirement.

(4) Purchase by the Agency neither changes, alters, nor modifies any of the lender's obligations to the Agency arising from the loan or guarantee nor does it waive any of Agency's rights against the lender. The Agency will have the right to set-off against the lender all rights inuring to the Agency as the holder of the instrument against the Agency's obligation to the lender under the guarantee.

(c) *Purchase for servicing.* If, in the opinion of the lender, repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the holder must sell the guaranteed portion of the loan to the lender for an amount equal to the unpaid principal and interest on such portion less the lender's servicing fee. The guarantee will not cover the note interest to the holder on the guaranteed loan accruing after 90 days from the date of the demand letter of the lender or the Agency to the holder requesting the holder to tender its guaranteed portion. The lender must not repurchase from the holder for arbitrage or other purposes to further its own financial gain. Any repurchase must only be made after the lender obtains the Agency's written approval. If the lender does not repurchase the portion from the holder, the Agency may, at its option, purchase such guaranteed portion for servicing purposes.

§§ 4279.79–4279.83 [Reserved]

§ 4279.84 Replacement of document.

(a) *Authorized representative.* The Agency may issue a replacement Loan Note Guarantee or Assignment Guarantee Agreement which may have been lost, stolen, destroyed, mutilated, or defaced to the lender or holder upon receipt of an acceptable certificate of loss and an indemnity bond.

(b) *Requirements.* When a Loan Note Guarantee or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated, or defaced while in the custody of the lender or holder, the lender will coordinate the activities of the party who seeks the replacement documents and will submit the required documents to the Agency for processing. The requirements for replacement are as follows:

(1) A certificate of loss, notarized, which includes:

(i) Name and address of owner;

(ii) Name and address of the lender of record;

(iii) Capacity of person certifying;

(iv) Full identification of the Loan Note Guarantee or Assignment Guarantee Agreement including the name of the borrower, the Agency's case number, date of the Loan Note Guarantee or Assignment Guarantee Agreement, face amount of the evidence of debt purchased, date of evidence of debt, present balance of the loan, percentage of guarantee, and, if Assignment Guarantee Agreement, the

original named holder and the percentage of the guaranteed portion of the loan assigned to that holder. Any existing parts of the document to be replaced should be attached to the certificate;

(v) A full statement of circumstances of the loss, theft, or destruction of the Loan Note Guarantee or Assignment Guarantee Agreement; and

(vi) For the holder, evidence demonstrating current ownership of the Loan Note Guarantee and Note or the Assignment Guarantee Agreement. If the present holder is not the same as the original holder, a copy of the endorsement of each successive holder in the chain of transfer from the initial holder to present holder must be included if in existence. If copies of the endorsement cannot be obtained, best available records of transfer must be presented the Agency (e.g., order confirmation, canceled checks, etc.).

(2) An indemnity bond acceptable to the Agency shall accompany the request for replacement except when the holder is the United States, a Federal Reserve Bank, a Federal Government corporation, a state or territory, or the District of Columbia. The bond shall be with surety except when the outstanding principal balance and accrued interest due the present holder is less than $1 million verified by the lender in writing in a letter of certification of balance due. The surety shall be a qualified surety company holding a certificate of authority from the Secretary of the Treasury and listed in Treasury Department Circular 580.

(3) All indemnity bonds must be issued and payable to the United States of America acting through the USDA. The bond shall be in an amount not less than the unpaid principal and interest. The bond shall hold USDA harmless against any claim or demand which might arise or against any damage, loss, costs, or expenses which might be sustained or incurred by reasons of the loss or replacement of the instruments.

(4) In those cases where the guaranteed loan was closed under the provision of the multinote system, the Agency will not attempt to obtain, or participate in the obtaining of, replacement notes from the borrower. It will be the responsibility of the holder to bear costs of note replacement if the borrower agrees to issue a replacement instrument. Should such note be replaced, the terms of the note cannot be changed. If the evidence of debt has been lost, stolen, destroyed, mutilated or defaced, such evidence of debt must be replaced before the Agency will replace any instruments.

§§ 4279.85–4279.100 [Reserved]

Subpart B—Business and Industry Loans

§ 4279.101 Introduction.

(a) Content. This subpart contains loan processing regulations for the Business and Industry (B&I) Guaranteed Loan Program. It is supplemented by subpart A of this part, which contains general guaranteed loan regulations, and subpart B of part 4287, which contains loan servicing regulations.

(b) Purpose. The purpose of the B&I Guaranteed Loan Program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved by bolstering the existing private credit structure through the guarantee of quality loans which will provide lasting community benefits. It is NOT intended that the guarantee authority will be used for marginal or substandard loans or to relieve lenders having such loans.

(c) Documents. Copies of all forms, regulations, and Instructions referenced in this subpart are available in any state or district office or the National office.

§ 4279.102 Definitions.

The definitions in § 4279.2 of subpart A of this part also apply to this subpart.

§§ 4279.103–4279.106 [Reserved]

§ 4279.107 Guarantee fee.

The guarantee fee will be paid to the Agency by the lender and is nonrefundable. The fee may be passed on to the borrower. Except as provided in this section, the guarantee fee will be 2 percent multiplied by the principal loan amount multiplied by the percent of guarantee and will be paid one time only at the time the Loan Note Guarantee is issued.

(a) The guarantee fee may be reduced to 1 percent if the Agency determines that the business meets the following criteria:

(1) High-impact business development investment (It is the goal of this program to encourage high-impact business investment in rural areas. The weight given to business investments will be in accordance with § 4279.155(b)(5)); and

(2) The business is located in a community that is experiencing long-term population decline and job deterioration; or

(3) The business is located in rural community that has remained persistently poor over the last 60 years or more; or

(4) The business is located in a rural community that is experiencing trauma as a result of natural disaster or that is experiencing fundamental structural changes in its economic base.

(b) Each fiscal year, the Agency shall establish a limit on the maximum portion of guarantee authority available for that fiscal year that may be used to guarantee loans with a guarantee fee of 1 percent. The limit will be announced by publishing a notice in the **Federal Register**. Once the limit has been reached, the guarantee fee for all additional loans guaranteed during the remainder of that fiscal year will be 2 percent.

§ 4279.108 Eligible borrowers.

(a) *Type of entity.* A borrower may be a cooperative, corporation, partnership, or other legal entity organized and operated on a profit or nonprofit basis; an Indian tribe on a Federal or state reservation or other Federally recognized tribal group; a public body; or an individual. A borrower must be engaged in or proposing to engage in a business. Business may include manufacturing, wholesaling, retailing, providing services, or other activities that will:

(1) Provide employment;

(2) Improve the economic or environmental climate;

(3) Promote the conservation, development, and use of water for aquaculture; or

(4) Reduce reliance on nonrenewable energy resources by encouraging the development and construction of solar energy system.

(b) *Citizenship.* Borrowers must meet one of the following sets of conditions:

(1) Individual borrowers must be citizens of the United States or reside in the United States after being legally admitted for permanent residence. Corporations or other nonpublic body organization-type borrowers must be at least 51 percent owned by persons who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence; or,

(2) The borrower does not meet the requirements of paragraph (1) of this section; but,

(i) The facility financed will create or save jobs for U.S. residents in a rural area, and

(ii) The principals or other capable management are present and able to remain in the U.S. and will remain in the U.S. to continue the operation of the company; and,

(iii) The loan funds will only be used to finance fixed assets that will be located in the U.S.

(c) *Rural area.* The business financed with a B&I Guaranteed Loan must be located in a rural area. Loans to borrowers with facilities located in both urban and rural areas will be limited to the amount necessary to finance the facility located in the eligible rural area.

(1) Rural areas include all territory of a state that is:

(i) Not within the outer boundary of any city having a population of 50,000 or more; and,

(ii) Not within an area that:

(A) Is urbanized or urbanizing as defined in this section; and,

(B) Has a population density of more than 100 persons per square mile, according to the latest decennial census of the United States. All density determinations will be made on the basis of minor civil divisions or census county divisions as used by the Bureau of the Census. In making the density calculations, large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, cemeteries, office parks, shopping malls, or land set aside for such purposes will be excluded.

(2) An urbanized area is an area immediately adjacent to a city with a population of 50,000 or more, that for general social and economic purposes forms a single community with such a city. An urbanizing area is an area immediately adjacent to a city with a population of 50,000 or more or its urbanized area, which appears likely, based on development and population trends, to become urbanized in the foreseeable future. The corporate status of an urbanized or urbanizing area is not material. An area located in recognizable open country or separated from any city of 50,000 or more population by recognizable open country or by a river, will be assumed to be not urbanized or urbanizing.

(d) *Other credit.* All applications for assistance will be accepted and processed without regard to the availability of credit from any other source.

§§ 4279.109–4279.112 [Reserved]

§ 4279.113 Eligible loan purposes.

Loan purposes must be consistent with the general purpose set forth in § 4279.101. They include but are not limited to the following:

(a) Business and industrial acquisitions when the loan will keep the business from closing, prevent the loss of employment opportunities, or provide expanded job opportunities.

(b) Business conversion, enlargement, repair, modernization, or development.

(c) Purchase and development of land, easements, rights-of-way, buildings, or facilities.

(d) Purchase of equipment, lease-hold improvements, machinery, supplies, or inventory.

(e) Pollution control and abatement.

(f) Transportation services incidental to industrial development.

(g) Startup costs and working capital.

(h) Agricultural production, when not eligible for a Farm Credit Programs loan from the Farm Service Agency and when it is part of an integrated business also involved in the processing of agricultural products.

(1) Examples of potentially eligible production include but are not limited to: an apple orchard in conjunction with a food processing plant; poultry buildings linked to a meat processing operation; or sugar beet production coupled with storage and processing. Any agricultural production considered for B&I financing must be owned, operated, and maintained by the business receiving the loan for which a guarantee is provided. Independent agricultural production operations, even if not eligible for Farmer Programs loans, are not eligible for the B&I program.

(2) The agricultural production portion of any loan will not exceed 50 percent of the total loan or $1 million, whichever is less.

(i) Purchase of membership, stocks, bonds, or debentures necessary to obtain a loan from Farm Credit System institutions and other lenders provided the purchase is required for all of their borrowers.

(j) Aquaculture, including conservation, development, and utilization of water for aquaculture.

(k) Commercial fishing.

(l) Commercial nurseries engaged in the production of ornamental plants and trees and other nursery products such as bulbs, flowers, shrubbery, flower and vegetable seeds, sod, and the growing of plants from seed to the transplant stage.

(m) Forestry, which includes businesses primarily engaged in the operation of timber tracts, tree farms, and forest nurseries and related activities such as reforestation.

(n) The growing of mushrooms or hydroponics.

(o) Interest (including interest on interim financing) during the period before the first principal payment becomes due or the facility becomes income producing, whichever is earlier.

(p) Feasibility studies.

(q) To refinance outstanding debt when it is determined that the project is viable and refinancing is necessary to improve cash flow and create new or save existing jobs. Existing lender debt may be included provided that, at the time of application, the loan has been current for at least the past 12 months (unless such status is achieved by the lender forgiving the borrower's debt), the lender is providing better rates or terms, and the refinancing is a secondary part of the overall loan.

(r) Take out of interim financing. Guaranteeing a loan to pay off a lender's interim loan will not be treated as debt refinancing provided that the lender submits a complete preapplication or application which proposes such interim financing prior to completing the interim loan. A lender that is considering an interim loan should be advised that the Agency assumes no responsibility or obligation for interim loans advanced prior to the Conditional Commitment being issued.

(s) Fees and charges for professional services and routine lender fees.

(t) Agency guarantee fee.

(u) Tourist and recreation facilities, including hotels, motels, bed and breakfast establishments, and convention centers, except as prohibited under ineligible purposes.

(v) Educational or training facilities.

(w) Community facility projects which are not listed as an ineligible loan purpose.

(x) Constructing or equipping facilities for lease to private businesses engaged in commercial or industrial operations.

(y) The financing of housing development sites provided that the community demonstrates a need for additional housing to prevent a loss of jobs in the area or to house families moving to the area as a result of new employment opportunities.

(z) Community antenna television services or facilities.

§ 4279.114 Ineligible purposes.

(a) Distribution or payment to an individual owner, partner, stockholder, or beneficiary of the borrower or a close relative of such an individual when such individual will retain any portion of the ownership of the borrower.

(b) Projects in excess of $1 million that would likely result in the transfer of jobs from one area to another and increase direct employment by more than 50 employees.

(c) Projects in excess of $1 million that would increase direct employment by more than 50 employees, if the project would result in an increase in the production of goods for which there is not sufficient demand, or if the availability of services or facilities is insufficient to meet the needs of the business.

(d) Charitable institutions, churches, or church-controlled or fraternal organizations.
(e) Lending and investment institutions and insurance companies.
(f) Assistance to government employees and military personnel who are directors or officers or have a major ownership of 20 percent or more in the business.
(g) Golf courses or race tracks.
(h) Any business that derives more than 10 percent of annual gross revenue from gambling activity.
(i) Any illegal business activity.
(j) Prostitution.
(k) Any line of credit.
(l) The guarantee of lease payments.
(m) The guarantee of loans made by other Federal agencies.
(n) Residential housing except when health care or assisted living is involved.
(o) Loans made with the proceeds of any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code, as amended. Funds generated through the issuance of the tax-exempt obligations may neither be used to purchase the guaranteed portion of any Agency guaranteed loan nor may an Agency guaranteed loan serve as collateral for a tax-exempt issue. The Agency may guarantee a loan for a project which involves tax-exempt financing only when the guaranteed loan funds are used to finance a part of the project that is separate and distinct from the part which is financed by the tax-exempt obligation, and the guaranteed loan has at least a parity security position with the tax-exempt obligation.

§ 4279.115 Prohibition under Agency programs.

No B&I loans guaranteed by the Agency will be conditioned on any requirement that the recipients of such assistance accept or receive electric service from any particular utility, supplier, or cooperative.

§§ 4279.116–4279.118 [Reserved]

§ 4279.119 Loan guarantee limits.

(a) *Loan amount.* The total amount of Agency loans to one borrower, including the guaranteed and unguaranteed portions, the outstanding principal and interest balance of any existing Agency guaranteed loans, and new loan requests, must not exceed $10 million except as provided for in this paragraph. The Administrator may, at the Administrator's discretion, grant an exception to the $10 million limit under the following circumstances:
(1) The project to be financed is a high priority project. Priority will be determined in accordance with the criteria set forth in § 4279.155;
(2) The lender must document to the satisfaction of the Agency that the loan will not be made and the project will not be completed if the guarantee is not approved;
(3) In no circumstances will the total amount of guaranteed loans to one borrower, including the guaranteed and unguaranteed portions, the outstanding principal and interest balance of any existing Agency guaranteed loans, and new loan requests, exceed $25 million;
(4) The percentage of guarantee will not exceed 60 percent. No exception to this requirement will be approved under paragraph (b) of this section for loans exceeding $10 million; and,
(5) Any request for a guaranteed loan exceeding the $10 million limit must be submitted to the Agency in the form of a preapplication. The preapplication must be submitted to the National office for review and concurrence before encouraging a full application.
(b) *Percent of guarantee.* The percentage of guarantee, up to the maximum allowed by this section, is a matter of negotiation between the lender and the Agency. Except as provided in paragraphs (b) (1) through (4) of this section, the maximum percentage of guarantee is 80 percent for loans of $5 million or less and 70 percent for loans exceeding $5 million. The Administrator may, at the Administrator's discretion, grant an exception to the guarantee percentage limits under the following circumstances:
(1) The project to be financed is a high priority project. Priority will be determined in accordance with the criteria set forth in § 4279.155;
(2) The lender must document to the satisfaction of the Agency that the loan will not be made and the project will not be completed if the higher guarantee percentage is not approved;
(3) The percentage of guarantee will not exceed 90 percent; and
(4) Each fiscal year, the Agency shall establish a limit on the maximum portion of guarantee authority available for that fiscal year that may be used to guarantee loans with a guarantee percentage exceeding 80 percent. The limit will be announced by publishing a notice in the **Federal Register**. Once the limit has been reached, the guarantee percentage for all additional loans guaranteed during the remainder of that fiscal year will not exceed 80 percent.

§ 4279.120 Fees and charges.

(a) Routine lender fees. The lender may establish charges and fees for the loan provided they are similar to those normally charged other applicants for the same type of loan in the ordinary course of business.
(b) Professional services. Professional services are those rendered by professionals generally licensed or certified by states or accreditation associations, such as architects, engineers, packagers, accountants, attorneys, or appraisers. The borrower may pay fees for professional services needed for planning and developing a project provided that the amounts are reasonable and customary in the area. Professional fees may be included as an eligible use of loan proceeds.

§§ 4279.121–4279.124 [Reserved]

§ 4279.125 Interest rates.

The interest rate for the guaranteed loan will be negotiated between the lender and the applicant and may be either fixed or variable as long as it is a legal rate. Interest rates will not be more than those rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to Agency review and approval. Lenders are encouraged to utilize the secondary market and pass interest rate savings on to the borrower.
(a) A variable interest rate agreed to by the lender and borrower must be a rate that is tied to a base rate agreed to by the lender and the Agency. The variable interest rate may be adjusted at different intervals during the term of the loan, but the adjustments may not be more often than quarterly and must be specified in the Loan Agreement. The lender must incorporate, within the variable rate Promissory Note at loan closing, the provision for adjustment of payment installments coincident with an interest rate adjustment. The lender will assure that the outstanding principal balance is properly amortized within the prescribed loan maturity to eliminate the possibility of a balloon payment at the end of the loan.
(b) Any change in the interest rate between the date of issuance of the Conditional Commitment and before the issuance of the Loan Note Guarantee must be approved in writing by the Agency approval official. Approval of such a change will be shown as an amendment to the Conditional Commitment.
(c) It is permissible to have one interest rate on the guaranteed portion of the loan and another rate on the unguaranteed portion of the loan provided that the rate on the guaranteed portion does not exceed the rate on the unguaranteed portion.
(d) A combination of fixed and variable rates will be allowed.

§ 4279.126 Loan terms.

(a) The maximum repayment for loans on real estate will not exceed 30 years; machinery and equipment repayment will not exceed the useful life of the machinery and equipment purchased with loan funds or 15 years, whichever is less; and working capital repayment will not exceed 7 years. The term for a loan that is being refinanced may be based on the collateral the lender will take to secure the loan.
(b) The first installment of principal and interest will, if possible, be scheduled for payment after the project is operational and has begun to generate income. However, the first full installment must be due and payable within 3 years from the date of the Promissory Note and be paid at least annually thereafter. Interest-only payments will be paid at least annually from the date of the note.
(c) Only loans which require a periodic payment schedule which will retire the debt over the term of the loan without a balloon payment will be guaranteed.
(d) A loan's maturity will take into consideration the use of proceeds, the useful life of assets being financed, and the borrower's ability to repay the loan. The lender may apply the maximum guidelines specified above only when the loan cannot be repaid over a shorter term.

§§ 4279.127–4279.130 [Reserved]

§ 4279.131 Credit quality.

The lender is primarily responsible for determining credit quality and should address all of the elements of credit quality in a written credit analysis including adequacy of equity, cash flow, collateral, history, management, and the current status of the industry for which credit is to be extended.
(a) Cash flow. All efforts will be made to structure or restructure debt so that the business has adequate debt coverage and the ability to accommodate expansion. All loans guaranteed through the B&I program must be sound, with reasonably assured repayment.
(b) Collateral.
(1) Collateral must have documented value sufficient to protect the interest of the lender and the Government and collateral value will normally be at least equal to the loan amount. Lenders will discount collateral consistent with sound loan-to-value policy.
(2) Some businesses are predominantly cash flow oriented, and where cash flow and profitability is strong, loan-to-value coverage may be less than normal policy. A loan primarily based on cash flow must be supported by a successful and documented financial history.
(c) Industry. Current status of the industry will be considered and businesses in areas of decline will be required to provide strong business plans which outline how they differ from the current trends. The regulatory environment surrounding the particular business or industry will be considered.
(d) Equity. The equity amount will indicate a significant investment by the owners, sufficient to provide reasonable protection to creditors, and an ability to maintain a positive equity position through a normal economic downturn.
(e) Lien priorities. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will neither be paid first nor given any preference or priority over the guaranteed portion. A parity or junior position may be considered provided discounted collateral values are adequate to secure the loan in accordance with paragraph (b) of this section after considering prior liens.
(f) Management. A thorough review of key management personnel will be completed to assure that the business has adequately trained and experienced managers.

§§ 4279.132–4279.136 [Reserved]

§ 4279.137 Financial statements.

(a) The lender will determine the type and frequency of submission of financial statements by the borrower. At a minimum, annual financial statements prepared by an accountant in accordance with Generally Accepted Accounting Principles will be required.
(b) If specific circumstances warrant and the proposed guaranteed loan will exceed $3 million, the Agency may require annual audited financial statements. For example, the need for audited financial statements will be carefully considered in connection with loans that depend heavily on inventory and accounts receivable for collateral.

§§ 4279.138–4279.142 [Reserved]

§ 4279.143 Insurance.

(a) Hazard. Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the collateral or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk during construction by the business, and property damage.
(b) Life. The lender may require life insurance to insure against the risk of death of persons critical to the success of the business. When required, coverage will be in amounts necessary to provide for management succession or to protect the business. The cost of insurance and its effect on the applicant's working capital must be considered as well as the amount of existing insurance which could be assigned without requiring additional expense.
(c) Worker compensation. Worker compensation insurance is required in accordance with state law.
(d) Flood. National Flood insurance is required when it is available.
(e) Other. Public liability, business interruption, malpractice and other insurance appropriate to the borrower's particular business and circumstances should be considered and required when needed to protect the interests of the borrower.

§ 4279.144 Appraisals.

Lenders will be responsible for assuring that appraisal values adequately reflect the actual value of all collateral. All real property appraisals associated with Agency guaranteed loanmaking and servicing transactions will meet the requirements set forth by the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 and the appropriate guidelines set forth in Standards 1 and 2 of the Uniform Standards of Professional Appraisal Practices (USPAP). For additional guidance and information concerning the completion of real property appraisals, refer to subpart A of part 1922. Chattels will be evaluated in accordance with normal banking practices and generally accepted methods of determining value.

§§ 4279.145–4279.148 [Reserved]

§ 4279.149 Personal and corporate guarantees.

(a) Personal and corporate guarantees, when obtained, are part of the collateral for the loan. However, the value of such guarantee is not considered in determining whether a loan is adequately secured for loanmaking purposes.
(b) Personal/corporate guarantees for those owning greater than 20 percent of the borrower or those providing significant revenues or income to the borrower will be required where legally

permissible, except as provided for by this section.

(c) Exceptions to the requirements for personal guarantees must be requested by the lender and concurred in by the Agency approval official on a case-by-case basis. The lender must strongly document that collateral, equity, cash flow, and profitability, or a combination of these, indicates an above average ability to repay the loan.

§ 4279.150 Feasibility studies.

A feasibility study by a qualified independent consultant may be required by the Agency for startup businesses or existing businesses when the project will significantly affect the borrower's operations.

§§ 4279.151–4279.154 [Reserved]

§ 4279.155 Loan priorities.

Applications and preapplications received by the Agency will be considered in the order received; however, for the purpose of assigning priorities as described in paragraph (b) of this section, the Agency will compare an application to other pending applications.

(a) When applications on hand otherwise have equal priority, applications from qualified veterans will have preference.

(b) Priorities will be assigned by the Agency to eligible applications on the basis of a point system as set forth in this section. The application and supporting information will be used to determine an eligible proposed project's priority for available guarantee authority. All lenders, including CLP lenders, will consider Agency priorities when choosing projects for guarantee. The lender will provide necessary information related to determining the score, as requested.

(1) *Population priority.* The priority score for population will be the total score for the following categories:

(i) Located in an unincorporated area or in a city with under 25,000 population (10 points).

(ii) Located in a county defined as nonadjacent to a metropolitan area, according to the latest definition provided by the Economic Research Service of the Department of Agriculture (5 points).

(2) *Community priority.* The priority score for community will be the total score for the following categories:

(i) Located in an eligible area of long term population decline and job deterioration based on reliable statistical data (5 points).

(ii) Located in a rural community that has remained persistently poor over the last 60 years or more (5 points).

(iii) Located in a rural community that is experiencing trauma as a result of natural disaster or experiencing fundamental structural changes in its economic base (5 points).

(iv) Located in a city or county with an unemployment rate 125 percent of the statewide rate or greater (5 points).

(3) *Empowerment Zone/Enterprise Community (EZ/EC).*

(i) Located in an EZ/EC selected or designated area (10 points).

(ii) Located in a EZ/EC applicant community which was not selected or designated as EZ/EC. (5 points).

(4) *Loan features.* The priority score for loan features will be the total score for the following categories except that the total score for loan features cannot exceed 15 points:

(i) Lender will price the loan at secondary market rate plus 1.5 percent or less (5 points).

(ii) Lender will price the loan at secondary market rate plus 1 percent or less (5 points).

(iii) The Agency guaranteed loan is less than 50 percent of project cost (5 points).

(iv) Percentage of guarantee is 10 or more percentage points less than the maximum allowable for a loan of its size (5 points).

(5) *High impact Business Investment Priorities.* The priority score for high impact business investment will be the total score for the following three categories:

(i) Industry. The priority score for industry will be the total score for the following, except that the total score for industry cannot exceed 10 points.

(A) Industry that ranks among the leading-edge industries for industrial growth potential, as measured by being in the top half of industries in terms of industrial life cycle (3 points).

(B) Industry whose basis for competitiveness results from effective use of the local natural resource base, rural location, or special assets or contributions from the community, and not from extraordinary tax abatements or other industrial attractions (3 points).

(C) Industry that has potential to achieve 20 percent or more of its sales in international markets (3 points).

(D) Industry that is not already present in the community and therefore represents a diversification of the local economy and reduces overall community vulnerability to cyclical changes in the fortunes of the predominant local industries (3 points).

(ii) Business. The priority score for business will be the total score for the following, except that the total score for business cannot exceed 10 points.

(A) Business that offers high value, specialized products and services that command high prices because of uniqueness, high quality, or niche marketing strategies and which displays the capacity for innovativeness and rapid response in capitalizing on market opportunities (3 points).

(B) Business that has a significant potential to stimulate the development of a broader complex of business activities that provide inputs to or serve as the markets for the initial business (3 points).

(C) Business that is locally owned and managed (3 points).

(D) Business that is a cooperative form of enterprise (3 points).

(iii) Job quality. The priority score for job quality will be the total score for the following, except that the total score for job quality cannot exceed 10 points.

(A) Business that provides jobs with career and earnings growth opportunities within the local plant and does not require employees to move away from the community in order to achieve career advancement (4 points).

(B) Business in which the average wage for project jobs exceeds 150 percent of the Federal minimum wage (4 points).

(C) Business in which the average wage for project jobs exceeds 200 percent of the Federal minimum wage (an additional 4 points).

(6) *Administrative points.* The state director may assign up to 10 additional points to an application to account for such factors as statewide distribution of funds, natural or economic emergency conditions, area economic development strategies, or other factors the state director believes are not adequately covered elsewhere in the scoring system. An explanation of the assigning of these points by the state director will be appended to the calculation of the project score maintained in the case file. If an application is considered in the National office, the Administrator may also assign up to an additional 10 points. The Administrator may assign the additional points to an application to account for items such as geographic distribution of funds and emergency conditions caused by economic problems or natural disasters or other factors the Administrator believes are not adequately covered elsewhere in the scoring system.

§ 4279.156 Planning and performing development.

(a) *Design policy.* All project facilities must be designed utilizing accepted architectural and engineering practices and must conform to applicable Federal, state, and local codes and requirements. The lender must ensure that the planned project will be completed within the available funds and, once completed, will be suitable for the borrower's needs.

(b) *Project control.* The lender will monitor the progress of construction and undertake the reviews and inspections necessary to ensure that construction proceeds are used in accordance with the approved plans, specifications, and contract documents and that funds are used for eligible project costs.

(c) *Equal opportunity.* For all construction contracts in excess of $10,000, the contractor must comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented by applicable Department of Labor regulations (41 CFR part 60). The borrower and lender are responsible for ensuring that the contractor complies with these requirements.

(d) *Americans with Disabilities Act (ADA).* B&I Guaranteed Loans which involve the construction of or addition to facilities that accommodate the public and commercial facilities, as defined by the ADA, must comply with the ADA. The lender and borrower are responsible for compliance.

§§ 4279.157–4279.160 [Reserved]

§ 4279.161 Filing preapplications and applications.

Borrowers and lenders are encouraged to file preapplications and obtain Agency comments before completing an application. However, if they prefer, they may file a complete application as the first contact with the Agency. Neither preapplications nor applications will be accepted or processed unless a lender has agreed to finance the proposal.

(a) *Preapplications.* Lenders may file preapplications by submitting the following to the Agency:

(1) A letter signed by the borrower and lender containing the following:

(i) Borrower's name, organization type, address, contact person, and federal tax identification and telephone numbers.

(ii) Amount of the loan request, percent of guarantee requested, and the proposed rates and terms.

(iii) Name of proposed lender, address, telephone number, contact person, and lender's Internal Revenue Service (IRS) identification number.

(iv) Brief description of the project, products, and services provided, and availability of raw materials and supplies.

(v) Type and number of jobs created or saved.

(vi) Amount of borrower's equity and a description of collateral, with estimated values, to be offered as security for the loan.

(vii) If a corporate borrower, the names and addresses of the borrower's parent, affiliates, and/or subsidiary firms, if any, and a description of the relationship.

(2) A completed Form RECD 4279–2, "Certification of Non-Relocation and Market Capacity Information Report," if the proposed loan is in excess of $1 million and will increase direct employment by more than 50 employees.

(3) For existing businesses, a current balance sheet and a profit and loss statement not more than 90 days old and financial statements for the borrower and any parent, affiliates, and subsidiaries for at least the 3 most recent years.

(4) For startup businesses, a preliminary business plan must be provided as part of the preapplication.

(b) *Applications.* Except for CLP lenders, applications will be filed with the Agency by submitting the following information: (CLP applications will be completed in accordance with § 4279.43(g)(1) but CLP lenders must have the material listed in this paragraph in their files.)

(1) A completed Form RECD 4279–1, "Application for Loan Guarantee (Business and Industry)."

(2) The information required for filing a preapplication, as listed above, if not previously filed or if the information has changed.

(3) Form FmHA 1940–20, "Request for Environmental Information," and attachments, unless the project is categorically excluded under Agency environmental regulations. If a Phase I site assessment has been completed, a copy must be provided.

(4) A personal credit report from an acceptable credit reporting company for a proprietor (owner), each partner, officer, director, key employee, and stockholder owning 20 percent or more interest in the applicant, except for those corporations listed on a major stock exchange. Credit reports are not required for elected and appointed officials when the applicant is a public body.

(5) Intergovernmental consultation comments in accordance with 7 CFR part 3015, subpart V.

(6) Appraisals, if available. (Agency approval in the form of a Conditional Commitment may be issued subject to receipt of adequate appraisals.)

(7) For all businesses, a current (not more than 90 days old) balance sheet, a pro forma balance sheet at startup, and projected balance sheets, income and expense statements, and cash flow statements for the next 2 years. Projections should be supported by a list of assumptions showing the basis for the projections.

(8) Lender's complete written analysis, including spreadsheets of the balance sheets and income statements for the 3 previous years (for existing businesses), pro forma balance sheet at startup, and 2 years projected yearend balance sheets and income statements, with appropriate ratios and comparisons with industrial standards (such as Dun & Bradstreet or Robert Morris Associates). All data must be shown in total dollars and also in common size form, obtained by expressing all balance sheet items as a percentage of assets and all income and expense items as a percentage of sales. The lender's credit analysis must address the borrower's management, repayment ability, history of debt repayment, necessity of any debt refinancing, and the credit reports of the borrower, its principals, and any parent, affiliate, or subsidiary.

(9) Commercial credit reports obtained by the lender on the borrower and any parent, affiliate, and subsidiary firms.

(10) Current personal and corporate financial statements of any guarantors.

(11) A proposed Loan Agreement or a sample Loan Agreement with an attached list of the proposed loan agreement provisions for the loan. The final Loan Agreement must be executed by the lender and borrower before the Agency issues a Loan Note Guarantee. The following requirements must be addressed in the Loan Agreement:

(i) Prohibition against assuming liabilities or obligations of others.

(ii) Restriction on dividend payments.

(iii) Limitation on purchase or sale of equipment and fixed assets.

(iv) Limitation on compensation of officers and owners.

(v) Minimum working capital or current ratio requirement.

(vi) Maximum debt to net worth ratio.

(vii) Restrictions concerning consolidations, mergers, or other circumstances.

(viii) Limitations on selling the business without the concurrence of the lender.

(ix) Repayment and amortization of the loan.

(x) List of collateral and lien priority for the loan including a list of persons and corporations guaranteeing the loan with a schedule for providing the lender with personal and corporate financial statements. Financial statements on the corporate and personal guarantors must be updated no less than annually.

(xi) Type and frequency of financial statements to be required for the duration of the loan.

(xii) The final Loan Agreement between the lender and borrower will contain any additional requirements imposed by the Agency in its Conditional Commitment.

(12) A business plan, which includes at a minimum a description of the business and project, management experience, products and services, proposed use of funds, availability of labor, raw materials and supplies, and the names of any corporate parent, affiliates, and subsidiaries with a description of the relationship. This may be omitted if the information is included in a feasibility study.

(13) Independent feasibility study, if required.

(14) For companies listed on a major stock exchange and/or subject to the Securities and Exchange Commission (SEC) regulations, a copy of SEC Form 10–K, "Annual Report Pursuant to Section 13 or 15D of the Act of 1934."

(15) For health care facilities, a certificate of need, if required by state law.

(16) A certification by the lender that it has completed a comprehensive analysis of the proposal, the applicant is eligible, the loan is for authorized purposes, and there is reasonable assurance of repayment ability based on the borrower's history, projections and equity, and the collateral to be obtained.

(17) Any additional information required by the Agency.

§§ 4279.162–4279.164 [Reserved]

§ 4279.165 Evaluation of application.

(a) *General review.* If the Agency determines it is unable to guarantee the loan, the lender will be informed in writing. Such notification will include the reasons for denial of the guarantee. Review of CLP applications will be modified in accordance with § 4279.43(g).

(b) *Environment.* Before loan approval, the proposed project must comply with environmental requirements.

§§ 4279.166–4279.172 [Reserved]

§ 4279.173 Loan approval and obligating funds.

(a) Upon approval of a loan guarantee, the Agency will issue a Conditional Commitment to the lender to set forth conditions under which a Loan Note Guarantee will be issued. The Conditional Commitment must be accepted by the lender and borrower in writing.

(b) If certain conditions of the Conditional Commitment cannot be met, the lender and applicant may propose alternate conditions. Within the requirements of the applicable regulations and instructions and prudent lending practices, the Agency may negotiate with the lender and the applicant regarding any proposed changes to the Conditional Commitment.

§ 4279.174 Transfer of lenders.

(a) The loan approval official may approve the substitution of a new eligible lender in place of a former lender who holds an outstanding Conditional Commitment when the Loan Note Guarantee has not yet been issued, provided that there are no changes in the borrower's ownership or control, loan purposes, or scope of project and loan conditions in the Conditional Commitment and the Loan Agreement remain the same.

(b) The new lender's servicing capability, eligibility, and experience will be analyzed by the Agency prior to approval of the substitution. The original lender will provide the Agency with a letter stating the reasons it no longer desires to be a lender for the project. The substituted lender must execute a new Part B of Form RECD 4279–1.

§§ 4279.175–4279.179 [Reserved]

§ 4279.180 Changes in borrower.

Any changes in borrower ownership or organization prior to the issuance of the Loan Note Guarantee must be approved by the Agency loan approval official.

§ 4279.181 Conditions precedent to issuance of Loan Note Guarantee.

The Loan Note Guarantee will not be issued until the lender, including a CLP lender, certifies to the following:

(a) No major changes have been made in the lender's loan conditions and requirements since the issuance of the Conditional Commitment, unless such changes have been approved by the Agency.

(b) All planned property acquisition has been completed, all development has been substantially completed in accordance with plans and specifications, and costs have not exceeded the amount approved by the lender and the Agency.

(c) Required hazard, flood, liability, worker's compensation, and personal life insurance, when required, are in effect.

(d) Truth in lending requirements have been met.

(e) All equal credit opportunity requirements have been met.

(f) The loan has been properly closed, and the required security instruments have been obtained or will be obtained on any acquired property that cannot be covered initially under state law.

(g) The borrower has marketable title to the collateral then owned by the borrower, subject to the instrument securing the loan to be guaranteed and subject to any other exceptions approved in writing by the Agency.

(h) When required, the entire amount of the loan for working capital has been disbursed except in cases where the Agency has approved disbursement over an extended period of time.

(i) When required, personal, partnership, or corporate guarantees have been obtained.

(j) All other requirements of the Conditional Commitment have been met.

(k) Lien priorities are consistent with the requirements of the Conditional Commitment. No claims or liens of laborers, subcontractors, suppliers of machinery and equipment, or other parties have been filed against the collateral and no suits are pending or threatened that would adversely affect the collateral when the security instruments are filed.

(l) The loan proceeds have been disbursed for purposes and in amounts consistent with the Conditional Commitment and Form RECD 4279–1. A copy of the detailed loan settlement of the lender must be attached to support this certification.

(m) There has been neither any material adverse change in the borrower's financial condition nor any other material adverse change in the borrower, for any reason, during the period of time from the Agency's issuance of the Conditional Commitment to issuance of the Loan Note Guarantee regardless of the cause or causes of the change and whether or not the change or causes of the change were within the lender's or borrower's control. The lender's certification must address all adverse changes of the borrower, any parent, affiliate, or subsidiary of the borrower, and guarantors.

(n) None of the lender's officers, directors, stockholders, or other owners (except stockholders in an institution that has normal stockshare requirements for participation) has a substantial financial interest in the borrower and neither the borrower nor its officers, directors, stockholders, or other owners has a substantial financial interest in the lender. If the borrower is a member of the board of directors or an officer of a Farm Credit System (FCS) institution that is the lender, the lender will certify that an FCS institution on the next highest level will independently process the loan request and act as the lender's agent in servicing the account.

§§ 4279.182–4279.185 [Reserved]

§ 4279.186 Issuance of the guarantee.

(a) When loan closing plans are established, the lender will notify the Agency. Coincident with, or immediately after loan closing, the lender will provide the following to the Agency:

(1) Lender's certifications as outlined in § 4279.181.

(2) Executed Lender's Agreement.

(3) Form FmHA 1980–19, "Guaranteed Loan Closing Report," and appropriate guarantee fee.

(b) When the Agency is satisfied that all conditions for the guarantee have been met, the Loan Note Guarantees and the following documents, as appropriate, will be issued:

(1) *Assignment Guarantee Agreement.* In the event the lender uses the single note option and assigns the guaranteed portion of the loan to a holder, the lender, holder, and the Agency will execute the Assignment Guarantee Agreement; and

(2) *Certificate of Incumbency.* If requested by the lender, the Agency will provide the lender with a certification on Form RECD 4279–7, "Certificate of Incumbency and Signature," of the signature and title of the Agency official who signs the Loan Note Guarantee, Lender's Agreement, and Assignment Guarantee Agreement.

(c) The Agency may, at its discretion, request copies of loan documents for its file.

(d) There may be instances when not all of the working capital has been disbursed, and it appears practical to disburse the balance over a period of time. The state director, after review of a disbursement plan, may amend the Conditional Commitment in accordance with the disbursement plan and issue the guarantee.

§ 4279.187 Refusal to execute Loan Note Guarantee.

If the Agency determines that it cannot execute the Loan Note Guarantee, the Agency will promptly inform the lender of the reasons and give the lender a reasonable period within which to satisfy the objections. If the lender writes the Agency within the period allowed requesting additional time to satisfy the objections, the Agency may grant the request. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

§§ 4279.188–4279.200 [Reserved]

18. A new part 4287, is added to chaper XLII to read as follows:

PART 4287—SERVICING

Subpart A—[Reserved]

Subpart B—Servicing Business and Industry (B&I) Guaranteed Loans

Sec.

4287.101 Introduction.
4287.102 Definitions.
4287.103–4287.105 [Reserved]
4287.106 Routine servicing.
4287.107–4287.111 [Reserved]
4287.112 Interest rate adjustments.
4287.113 Release of collateral.
4287.114–4287.122 [Reserved]
4287.123 Subordination of lien position.
4287.124 Alterations of loan instruments.
4287.125–4287.133 [Reserved]
4287.134 Transfer and assumption.
4287.135 Substitution of lender.
4287.136–4287.144 [Reserved]
4287.145 Default by borrower.
4287.146–4287.155 [Reserved]
4287.156 Protective advances.
4287.157 Liquidation.
4287.158 Determination of loss and payment.
4287.159–4287.168 [Reserved]
4287.169 Future recovery.
4287.170 Bankruptcy.
4287.171–4287.179 [Reserved]
4287.180 Termination of guarantee.
4287.181–4287.200 [Reserved]

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart A—[Reserved]

Subpart B—Servicing Business and Industry Guaranteed Loans

§ 4287.101 Introduction.

(a) This subpart supplements subparts A and B of part 4279 by providing additional requirements and instructions for servicing and liquidating all Business and Industry (B&I) Guaranteed Loans. This includes Drought and Disaster (D&D), Disaster Assistance for Rural Business Enterprises (DARBE), and Business and Industry Disaster (BID) loans.

(b) The lender will be responsible for servicing the entire loan and will remain mortgagee and secured party of record notwithstanding the fact that another party may hold a portion of the loan. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of a loan will neither be paid first nor given any preference or priority over the guaranteed portion of the loan.

(c) Copies of all forms, regulations, and instructions referenced in this subpart are available in any state or district office or the National office.

§ 4287.102 Definitions.

The definitions contained in § 4279.2 apply to this subpart.

§§ 4287.103–4287.105 [Reserved]

§ 4287.106 Routine servicing.

The lender is responsible for servicing the entire loan and for taking all servicing actions that a prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The Loan Note Guarantee is unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which the Agency acquires knowledge of the foregoing. This responsibility includes but is not limited to the collection of payments, obtaining compliance with the covenants and provisions in the Loan Agreement, obtaining and analyzing financial statements, checking on payment of taxes and insurance premiums, and maintaining liens on collateral.

(a) *Lender reports.* The lender must report the outstanding principal and interest balance on each guaranteed loan semiannually using Form FmHA 1980–41, "Guaranteed Loan Status Report."

(b) *Loan classification.* Within 90 days of receipt of the Loan Note Guarantee, the lender must notify the Agency of the loan's classification or rating under its regulatory standards. Should the classification be changed at a future time, the Agency must be notified immediately.

(c) *Agency/lender conference.* The lender will meet with the Agency at the Agency's request to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the Loan Agreement are being enforced.

(d) *Financial reports.* The lender must obtain the financial statements required by the Loan Agreement, and these statements must be forwarded to the Agency. The lender is required to submit annual statements to the Agency within 120 days of the borrower's fiscal yearend. The lender must analyze the financial statements and provide the Agency with a written summary of its analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the borrower. Spreadsheets of the new financial statements and previous financial statements must also be included.

(e) *Additional expenditures.* The lender will not make additional loans to the borrower without first obtaining the prior written approval of the Agency, even though such loans will not be guaranteed.

§§ 4287.107–4287.111 [Reserved]

§ 4287.112 Interest rate adjustments.

(a) *Reductions.* The borrower, lender, and holder (if any) may collectively initiate a permanent or temporary reduction in the interest rate of the guaranteed loan at any time during the life of the loan upon written agreement among these parties. The Agency must be notified by the lender, in writing, within 10 calendar days of the change. If the guaranteed portion has been purchased by the Agency, then the Agency will affirm or reject interest rate change proposals in writing. When the Agency holds any portion of the loan, it will concur in such interest rate changes only when it is demonstrated to the Agency that the change is a more viable alternative than initiating or proceeding with liquidation of the loan or continuing with the loan in its present state. The Government's financial interests must not be adversely affected by the reduction of the interest rate.

(1) Factors which will be considered in making such determinations include:

(i) Whether the proposed interest rate will be below the Government's cost of borrowing money;

(ii) Whether continuing with the loan would realistically promote or enhance rural development and employment in rural areas;

(iii) Whether recovery is maximized and the monetary recovery would be increased by proceeding immediately to liquidation (if applicable) or allowing the borrower to continue at a reduced interest rate; and

(iv) Whether an in-depth financial analysis by the lender reasonably indicates that the business would be successful at a lower interest rate and reasonably indicates that the borrower could make the reduced payment and pay off amounts in arrears, if any.

(2) Fixed rates can be changed to variable rates to reduce the interest rate to the borrower only when the variable rate has a ceiling which is less than or equal to the original fixed rate.

(3) Variable rates can be changed to a fixed rate, which is at or below the current variable rate.

(4) The interest rates, after adjustments, must comply with the requirements for interest rates on new loans, as established by § 4279.125.

(5) The lender is responsible for the legal documentation of interest rate changes by an endorsement or any other legally effective amendment to the promissory note; however, no new notes may be issued. Copies of all legal instruments should be provided to the Agency for its records.

(b) *Increases.* No increases in interest rates will be permitted except the normal fluctuations in approved variable interest rates.

§ 4287.113 Release of collateral.

(a) All releases of collateral must be supported by a current appraisal on the remaining collateral. The appraisal will be at the expense of the borrower and must meet the requirements of § 4279.144. The Agency must not be adversely affected by the release, and the remaining collateral must be sufficient to provide for repayment of the Agency's guaranteed loan. Sale or release of collateral must be based on an arm's-length transaction. There must be adequate consideration for the release. Adequate consideration for release of collateral may include, but is not limited to:

(1) Application of the net proceeds from the sale of collateral to the borrower's debts in order of lien priority (Application of sale proceeds to the Agency guaranteed debt must be in inverse order of maturity);

(2) Use of the net proceeds from the sale of collateral to purchase other collateral of equal or greater value for which the lender will obtain a lien position equal or superior to the position previously held;

(3) Application of the net proceeds from the sale of collateral to the borrower's business operation in such a manner that a significant enhancement of the borrower's debt service ability can be clearly demonstrated. (The lender's written request must detail how the borrower's debt service ability will be enhanced); and

(4) Assurance that the release of collateral is essential for the success of the business, thereby furthering the goals of the B&I program. Such assurance must be supported by written documentation from the lender.

(b) Within the parameters of paragraph (a) of this section, lenders may release collateral (other than personal and corporate guarantees) with a cumulative value up to 20 percent of the original loan amount without Agency concurrence if the proceeds will be used to reduce the guaranteed loan or to buy replacement collateral.

(c) Within the parameters of paragraph (a) of this section, release of collateral with a cumulative value in excess of 20 percent of the original loan or when the proceeds will not be used to reduce the guaranteed loan or to buy replacement collateral must be requested in writing by the lender and concurred in by the Agency in writing in advance of the release. A written evaluation will be done by the lender to justify the release.

§§ 4287.114–4287.122 [Reserved]

§ 4287.123 Subordination of lien position.

A subordination of the lender's lien position must be requested in writing by the lender and concurred in by the Agency in writing in advance of the subordination. The subordination must enhance the borrower's business, and the Agency's interest in and lien position on the collateral, after the subordination, must be adequate to secure the loan. The lien to which the guaranteed loan is subordinated must be for a fixed dollar limit and fixed or limited term, after which the guaranteed loan lien priority will be restored. Generally, subordination to a revolving line of credit will not exceed 1 year. There must be adequate consideration for the subordination.

§ 4287.124 Alterations of loan instruments.

The lender shall neither alter nor approve any alterations of any loan instruments without the prior written approval of the Agency.

§§ 4287.125–4287.133 [Reserved]

§ 4287.134 Transfer and assumption.

(a) *Documentation of request.* All transfers and assumptions must be approved in writing by the Agency and must be to eligible applicants in accordance with subpart B of part 4279. An individual credit report must be provided for transferee proprietors, partners, officers, directors, and stockholders with 20 percent or more interest in the business, along with such other documentation as the Agency may request to determine eligibility.

(b) *Terms.* Loan terms must not be changed unless the change is approved in writing by the Agency with the concurrence of any holder and of the transferor (including guarantors) if they have not been or will not be released from liability. Any new loan terms must be within the terms authorized by § 4279.126. The lender's request for approval of new loan terms will be supported by an explanation of the reasons for the proposed change in loan terms.

(c) *Release of liability.* The transferor, including any guarantor, may be released from liability only with prior Agency written concurrence and only when the value of the collateral being transferred is at least equal to the amount of the loan being assumed, supported by a current appraisal and a current financial statement where applicable. The Agency will not pay for the appraisal. If the transfer is for less than the entire debt, the lender must demonstrate to the Agency that the transferor and any guarantors have no reasonable debt-paying ability considering their assets and income at the time of transfer.

(d) *Proceeds.* Any proceeds received from the sale of collateral before a transfer and assumption will be credited to the transferor's guaranteed loan debt in inverse order of maturity before the transfer and assumption are closed.

(e) *Additional loans.* Loans to provide additional funds in connection with a transfer and assumption must be considered as a new loan application under subpart B of part 4279.

(f) *Credit quality.* In all cases, the lender must make a complete credit analysis, subject to Agency review and approval.

(g) *Documents.* Prior to Agency approval, the lender must advise the Agency, in writing, that the transaction can be properly and legaliy transferred, and the conveyance instruments will be filed, registered, or recorded as appropriate.

(1) The assumption will be done on the lender's form of assumption agreement and will contain the Agency case number of the transferor and transferee. The lender will provide the Agency with a copy of the transfer and assumption agreement. It is the lender's responsibility to ensure that all transfers and assumptions are noted on all original Loan Note Guarantees.

(2) A new Loan Agreement, consistent in principle with the original Loan Agreement, should be executed to establish the terms and conditions of the loan being assumed. An assumption agreement can be used to establish the loan covenants.

(3) The lender will provide to the Agency.a written certification that the transfer and assumption are valid, enforceable, and comply with all Agency regulations.

(h) *Loss resulting from transfer.* If a loss should occur upon consummation of a complete transfer and assumption for less than the full amount of the debt and the transferor (including personal guarantors) is released from liability, the lender, if it holds the guaranteed portion, may file an estimated report of loss to recover its pro rata share of the actual loss. In completing the report of loss, the amount of the debt assumed will be entered as net collateral (recovery). Approved protective advances and accrued interest thereon made during the arrangement of a transfer and assumption, if not assumed by the transferee, will be included in the calculations.

(i) *Related party.* If the transferor and transferee are affiliated or related parties, any transfer and assumption must be for the full amount of the debt.

(j) *Payment requests.* Requests for a loan guarantee to provide equity for a transfer and assumption must be considered as a new loan under subpart B of part 4279.

(k) *Cash downpayment.* When the transferee will be making a cash downpayment as part of the transfer and assumption:

(1) The lender should have an appropriate appraiser, acceptable to both the transferee and transferor and currently authorized to perform appraisals, to determine the value of the collateral securing the loan. The appraisal fee and any other costs will not be paid by the Agency.

(2) The market value of the collateral, plus any additional property the transferee proposes to offer as collateral, must be adequate to secure the balance of the guaranteed loans.

(3) Cash downpayments may be paid directly to the transferor provided:

(i) The lender recommends that the cash be released and the Agency concurs prior to the transaction being completed. The lender may wish to require that an amount be retained for a defined period of time as a reserve against future defaults. Interest on such account may be paid periodically to the transferor or transferee as agreed;

(ii) The lender determines that the transferee has the repayment ability to meet the obligations of the assumed guaranteed loan as well as any other indebtedness;

(iii) Any payments by the transferee to the transferor will not suspend the transferee's obligations to continue to meet the guaranteed loan payments as they come due under the terms of the assumption; and

(iv) The transferor agrees not to take any action against the transferee in connection with the assumption without prior written approval of the lender and the Agency.

(4) The Agency will not consider a purchase money mortgage or contract for purchase as an option to maximize recovery.

§ 4287.135 Substitution of lender.

After the issuance of a Loan Note Guarantee, the lender shall not sell or transfer the entire loan without the prior written approval of the Agency. The Agency will not pay any loss or share in any costs (i.e., appraisal fees, environmental studies, or other costs associated with servicing or liquidating the loan) with a new lender unless a relationship is established through a substitution of lender in accordance with paragraph (a) of this section. This includes cases where the lender has failed and been taken over by a regulatory agency such as the Federal Deposit Insurance Corporation (FDIC) and the loan subsequently sold to another lender.

(a) The Agency may approve the substitution of a new lender if:

(1) The proposed substitute lender:

(i) Is an eligible lender in accordance with § 4279.29;

(ii) Is able to service the loan in accordance with the original loan documents; and

(iii) Agrees in writing to acquire title to the unguaranteed portion of the loan held by the original lender and assumes all original loan requirements, including liabilities and servicing responsibilities.

(2) The substitution of lender is requested in writing by the borrower, the proposed substitute lender, and the original lender if still in existence.

(b) Where the lender has failed and been taken over by FDIC and the guaranteed loan is liquidated by FDIC rather than being sold to another lender, the Agency will pay losses and share in costs as if FDIC were an approved substitute lender.

§§ 4287.136–4287.144 [Reserved]

§ 4287.145 Default by borrower.

(a) The lender must notify the Agency when a borrower is 30 days past due on a payment or is otherwise in default of the Loan Agreement. Form FmHA 1980–44, "Guaranteed Loan Borrower Default Status," will be used and the lender will continue to complete this form bimonthly until such time as the loan is no longer in default. If a monetary default exceeds 60 days, the lender will arrange a meeting with the Agency and the borrower to resolve the problem.

(b) In considering options, the prospects for providing a permanent cure without adversely affecting the risk to the Agency and the lender is the paramount objective.

(1) Temporary curative actions include but are not limited to:

(i) Deferment of principal (subject to rights of any holder);

(ii) An additional temporary loan by the lender to bring the account current;

(iii) Reamortization of or rescheduling the payments on the loan (subject to rights of any holder);

(iv) Transfer and assumption of the loan in accordance with § 4287.134;

(v) Reorganization;

(vi) Liquidation;
(vii) Subsequent loans guarantees; and
(viii) Changes in interest rates with the Agency's, the lender's, and holder's approval, provided such interest rate is adjusted proportionally between the guaranteed and unguaranteed portion of the loan and the type of rate remains the same.

(2) In the event a deferment, rescheduling, reamortization, or moratorium is accomplished, it will be limited to the remaining life of the collateral or limits as set out in § 4279.126, whichever is less.

§§ 4286.146–4287.155 [Reserved]

§ 4287.156 Protective advances.

Protective advances are advances made by the lender for the purpose of preserving and protecting the collateral where the debtor has failed to, will not, or cannot meet its obligations. Sound judgment must be exercised in determining that the protective advance preserves collateral and recovery is actually enhanced by making the advance. Protective advances will not be made in lieu of additional loans.

(a) The maximum loss to be paid by the Agency will never exceed the original principal plus accrued interest regardless of any protective advances made.

(b) Protective advances and interest thereon at the note rate will be guaranteed at the same percentage of loss as provided in the Loan Note Guarantee notwithstanding the guaranteed portion of the loan is held by another.

(c) Protective advances must constitute an indebtedness of the borrower to the lender and be secured by the security instruments. Agency written authorization is required when cumulative protective advances exceed $5,000.

§ 4287.157 Liquidation.

In the event of one or more incidents of default or third party actions that the borrower cannot or will not cure or eliminate within a reasonable period of time, liquidation may be considered. If the lender concludes that liquidation is necessary, it must request the Agency's concurrence. The lender will liquidate the loan unless the Agency, at its option, carries out liquidation. When the decision to liquidate is made, if the loan has not already been repurchased, provisions will be made for repurchase in accordance with § 4279.78.

(a) *Decision to liquidate.* A decision to liquidate shall be made when it is determined that the default cannot be cured through actions listed in § 4287.145 or it has been determined that it is in the best interest of the Government and the lender to liquidate because such actions would only delay liquidation and liquidating early would enhance the possibility of a maximum recovery. Therefore, the decision to liquidate or continue with the borrower must be made as soon as possible when any of the following exist:

(1) A loan has been delinquent 90 days and the lender and borrower have not been able to cure the delinquency through one of the actions listed in § 4287.145.

(2) It has been determined that delaying liquidation will jeopardize or eliminate the possibility of full recovery on the loan.

(3) The borrower or lender has been uncooperative in resolving the problem and the Agency or the lender has reason to believe the borrower is not acting in good faith, and it would enhance the position of the guarantee to liquidate immediately.

(b) *Submission of liquidation plan.* The lender will, within 30 days after a decision to liquidate, submit to the Agency in writing its proposed detailed method of liquidation. Upon approval by the Agency of the liquidation plan, the lender will commence liquidation. State directors have no authority to exercise the option to liquidate by the Agency without National office approval. When the Agency liquidates, reasonable liquidation expenses will be assessed against the proceeds derived from the sale of the collateral. Form FmHA 1980–45, "Notice of Liquidation Responsibility," will be forwarded to the Finance office when the Agency liquidates.

(c) *Lender's liquidation plan.* The liquidation plan must include, but is not limited to, the following:

(1) Such proof as the Agency requires to establish the lender's ownership of the guaranteed loan promissory note and related security instruments and a copy of the payment ledger if available which reflects the current loan balance and accrued interest to date and the method of computing the interest.

(2) A full and complete list of all collateral including any personal and corporate guarantees.

(3) The recommended liquidation methods for making the maximum collection possible on the indebtedness and the justification for such methods, including:

(i) Recommended action for acquiring and disposing of all collateral; and

(ii) Recommended action to collect from guarantors.

(4) Necessary steps for preservation of the collateral.

(5) Copies of borrower's latest available financial statements.

(6) Copies of guarantor's latest available financial statements.

(7) An itemized list of estimated liquidation expenses expected to be incurred and justification for each expense.

(8) A schedule to periodically report to the Agency on progress of liquidation.

(9) Estimated protective advance amounts with justification.

(10) Proposed protective bid amounts on collateral to be sold at auction and a breakdown on how the amounts were determined.

(11) If a voluntary conveyance is considered, the proposed amount to be credited to the guaranteed debt.

(12) Legal opinions, if needed.

(13) If the outstanding balance of principal and accrued interest is less than $200,000, the lender will obtain an estimate of fair market and potential liquidation value of the collateral. If the outstanding balance of principal and accrued interest is $200,000 or more, the lender will obtain an independent appraisal report on all collateral securing the loan which will reflect the fair market value and potential liquidation value. The independent appraiser's fee will be shared equally by the Agency and the lender.

(14) The Agency must concur in advance regarding the need for and scope of an environmental site assessment. If an environmental site assessment is needed to evaluate potential risks associated with the acquisition of real estate serving as collateral, the lender will arrange for a qualified, independent environmental assessment of the property. The cost of the assessment will be shared equally by the Agency and the lender.

(d) *Approval of liquidation plan.* The Agency will inform the lender in writing whether it concurs in the lender's liquidation plan. Should the Agency and the lender not agree on the liquidation plan, negotiations will take place between the Agency and the lender to resolve the disagreement. When the liquidation plan is approved by the Agency, the lender will proceed expeditiously with liquidation.

(1) A transfer and assumption of the borrower's operation can be accomplished before or after the loan goes into liquidation. However, if the collateral has been purchased through foreclosure or the borrower has conveyed title to the lender, no transfer and assumption is permitted.

(2) A protective bid may be made by the lender, with prior Agency written approval, at a foreclosure sale to protect the lender's and the Agency's interest. The reason for a protective bid is to ensure that the collateral is not sold to other bidders at an unrealistically low price. The protective bid will not exceed the amount of the loan, including expenses of foreclosure, and should be based on the liquidation value less estimated expenses for holding and reselling the property. These expenses include, but are not limited to, expenses for resale, interest accrual, length of time necessary for resale, maintenance, guard service, weatherization, and prior liens.

(e) *Acceleration.* The lender, or the Agency if it liquidates, will proceed to accelerate the indebtedness as expeditiously as possible when acceleration is necessary including giving any notices and taking any other legal actions required. A copy of the acceleration notice or other acceleration document will be sent to the Agency (or lender if the Agency liquidates). The guaranteed loan will be considered in liquidation once the loan has been accelerated and a demand for payment has been made upon the borrower.

(f) *Filing an estimated loss claim.* When the lender is conducting the liquidation and owns any or all of the guaranteed portion of the loan, the lender will file an estimated loss claim once a decision has been made to liquidate if the liquidation will exceed 90 days. The estimated loss payment will be based on the liquidation value of the collateral. For the purpose of reporting and loss claim computation, the lender will discontinue interest accrual on the defaulted loan in accordance with Agency procedures, and the loss claim will be promptly processed in accordance with applicable Agency regulations.

(g) *Accounting and reports.* When the lender conducts liquidation, it will account for funds during the period of liquidation and will provide the Agency with reports at least quarterly on the progress of liquidation including disposition of collateral, resulting costs, and additional procedures necessary for successful completion of the liquidation.

(h) *Transmitting payments and proceeds to the Agency.* When the Agency is the holder of a portion of the guaranteed loan, the lender will transmit to the Agency any payments received from the borrower and pro rata share of liquidation or other proceeds, using Form FmHA 1980–43, "Lender's Guaranteed Loan Payment to FmHA."

(i) *Abandonment of collateral.* There may be instances when the cost of liquidation would exceed the potential recovery value of the collection. The lender, with proper documentation and the concurrence of the National office, may abandon the collateral in lieu of liquidation. A proposed abandonment will be considered a servicing action requiring the appropriate environmental review by the Agency in accordance with subpart G of part 1940. Examples where abandonment may be considered include but are not limited to:

(1) The cost of liquidation is increased or the value of the collateral is decreased by environmental issues;

(2) The collateral is functionally or economically obsolete;

(3) There are superior liens held by other parties;

(4) The collateral has deteriorated; and

(5) The collateral is specialized and there is little or no demand for it.

(j) *Disposition of personal or corporate guarantees.* The lender should take action to maximize recovery from all collateral, including personal and corporate guarantees. The lender will seek a deficiency judgment when there is a reasonable chance of future collection of the judgment. The lender must make a decision whether or not to seek a deficiency judgment when:

(1) A borrower voluntarily liquidates the collateral, but the sale fails to pay the guaranteed indebtedness;

(2) The collateral is voluntarily conveyed to the lender, but the borrower and personal and corporate guarantors are not released from liability; or

(3) A liquidation plan is being developed for forced liquidation.

(k) *Compromise settlement.* A compromise settlement will normally not take place until all collateral has been sold, a deficiency balance exists, and the deficiency obligation exceeds the debtor's repayment ability.

(1) The lender and the Agency must receive complete financial information on all parties obligated for the loan and must be satisfied that the statements reflect the true and correct financial position of the debtor including all assets. Adequate consideration must be received before a release from liability is issued. Adequate consideration includes money, additional security, or other benefit to the goals and objectives of the Agency.

(2) Before a personal guarantor can be released from liability, the following factors must be considered:

(i) Cash or other consideration offered by the guarantor;

(ii) Age and health of the guarantor;

(iii) Potential income of the guarantor;

(iv) Inheritance prospects of the guarantor;

(v) Availability of the guarantor's assets;

(vi) Possibility that the guarantor's assets have been concealed or improperly transferred; and

(vii) Effect of other guarantors on the loan.

(3) Once the Agency and the lender agree on a reasonable amount that is fair and adequate, the lender can proceed to effect the settlement compromise.

§ 4287.158 Determination of loss and payment.

In all liquidation cases, final settlement will be made with the lender after the collateral is liquidated, unless otherwise designated as a future recovery or after settlement and compromise of all parties has been completed. The Agency will have the right to recover losses paid under the guarantee from any party which may be liable.

(a) *Report of loss form.* Form FmHA 449–30, "Loan Note Guarantee Report of Loss," will be used for calculations of all estimated and final loss determinations. Estimated loss payments may only be approved by the Agency after the Agency has approved a liquidation plan.

(b) *Estimated loss.* In accordance with the requirements of § 4287.157(f), an estimated loss claim based on liquidation appraisal value will be prepared and submitted by the lender.

(1) The estimated loss payment shall be applied as of the date of such payment. The total amount of the loss payment remitted by the Agency will be applied by the lender on the guaranteed portion of the loan debt. Such application does not release the borrower from liability.

(2) An estimated loss will be applied first to reduce the principal balance on the guaranteed loan and the balance, if any, to accrued interest. Interest accrual on the defaulted loan will be discontinued.

(3) A protective advance claim will be paid only at the time of the final report of loss payment.

(c) *Final loss.* Within 30 days after liquidation of all collateral, except for certain unsecured personal or corporate guarantees as provided for in this section, is completed, a final report of loss must be prepared and submitted by the lender to the Agency. The Agency will not guarantee interest beyond this 30-day period other than for the period of time it takes the Agency to process the loss claim. Before approval by the Agency of any final loss report, the lender must account for all funds during the period of liquidation, disposition of the collateral, all costs incurred, and any other information necessary for the successful completion of liquidation.

Upon receipt of the final accounting and report of loss, the Agency may audit all applicable documentation to determine the final loss. The lender will make its records available and otherwise assist the Agency in making any investigation. The documentation accompanying the report of loss must support the amounts shown on Form FmHA 449–30.

(1) A determination must be made regarding the collectibility of unsecured personal and corporate guarantees. If reasonably possible, such guarantees should be promptly collected or otherwise disposed of in accordance with § 4287.157(j) prior to completion of the final loss report. However, in the event that collection from the guarantors appears unlikely or will require a prolonged period of time, the report of loss will be filed when all other collateral has been liquidated, and unsecured personal or corporate guarantees will be treated as a future recovery with the net proceeds to be shared on a pro rata basis by the lender and the Agency.

(2) The lender must document that all of the collateral has been accounted for and properly liquidated and that liquidation proceeds have been properly accounted for and applied correctly to the loan.

(3) The lender will show a breakdown of any protective advance amount as to the payee, purpose of the expenditure, date paid, and evidence that the amount expended was proper and that payment was actually made.

(4) The lender will show a breakdown of liquidation expenses as to the payee, purpose of the expenditure, date paid, and evidence that the amount expended was proper and that payment was actually made. Liquidation expenses are recoverable only from collateral proceeds. Attorney fees may be approved as liquidation expenses provided the fees are reasonable and cover legal issues pertaining to the liquidation that could not be properly handled by the lender and its in-house counsel.

(5) Accrued interest will be supported by documentation as to how the amount was accrued. If the interest rate was a variable rate, the lender will include documentation of changes in both the selected base rate and the loan rate.

(6) Loss payments will be paid by the Agency within 60 days after the review of the final loss report and accounting of the collateral.

(d) *Loss limit.* The amount payable by the Agency to the lender cannot exceed the limits set forth in the Loan Note Guarantee.

(e) *Rent.* Any net rental or other income that has been received by the lender from the collateral will be applied on the guaranteed loan debt.

(f) *Liquidation costs.* Liquidation costs will be deducted from the proceeds of the disposition of primary collateral. If changed circumstances after submission of the liquidation plan require a substantial revision of liquidation costs, the lender will procure the Agency's written concurrence prior to proceeding with the proposed changes. No in-house expenses of the lender will be allowed. In-house expenses include, but are not limited to, employee's salaries, staff lawyers, travel, and overhead.

(g) *Payment.* When the Agency finds the final report of loss to be proper in all respects, it will approve Form FmHA 449–30 and proceed as follows:

(1) If the loss is greater than any estimated loss payment, the Agency will pay the additional amount owed by the Agency to the lender.

(2) If the loss is less than the estimated loss payment, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of payment.

(3) If the Agency has conducted the liquidation, it will pay the lender in accordance with the Loan Note Guarantee.

§§ 4287.159–4287.168 [Reserved]

§ 4287.169 Future recovery.

After a loan has been liquidated and a final loss has been paid by the Agency, any future funds which may be recovered by the lender will be prorated between the Agency and the lender based on the original percentage of guarantee.

§ 4287.170 Bankruptcy.

The lender is responsible for protecting the guaranteed loan and all collateral securing the loan in bankruptcy proceedings.

(a) *Legal expenses during bankruptcy proceedings.* (1) When a bankruptcy proceeding results in a liquidation of the borrower by a trustee, legal expenses will be handled as directed by the court.

(2) When a proceeding under Title 11 of the United States Code (Bankruptcy) results in liquidation by the lender, legal expenses incurred by the lender during the entire bankruptcy proceedings will be considered eligible liquidation costs for payment only from liquidation proceeds.

(b) *Reports of loss during bankruptcy.* When the loan is involved in reorganization proceedings, payment of loss claims may be made as provided in this section. For a liquidation proceeding, only paragraphs (b)(3) and (5) of this section are applicable.

(1) *Estimated loss payments.* (i) If a borrower has filed for protection under Title 11 of the United States Code for a reorganization (but not Chapter 13) and all or a portion of the debt has been discharged, the lender will request an estimated loss payment of the guaranteed portion of the accrued interest and principal discharged by the court. Only one estimated loss payment is allowed during the reorganization. All subsequent claims of the lender during reorganization will be considered revisions to the initial estimated loss. A revised estimated loss payment may be processed by the Agency, at its option, in accordance with any court-approved changes in the reorganization plan. Once the reorganization plan has been completed, the lender is responsible for submitting the documentation necessary for the Agency to review and adjust the estimated loss claim to reflect any actual discharge of principal and interest and to reimburse the lender for any court-ordered interest rate reduction under the terms of the reorganization plan.

(ii) The lender will use Form FmHA 449–30 to request an estimated loss payment and to revise any estimated loss payments during the course of the reorganization plan. The estimated loss claim, as well as any revisions to this claim, will be accompanied by documentation to support the claim.

(iii) Upon completion of a reorganization plan, the lender will complete a Form FmHA 1980–44 and forward this form to the Finance office.

(2) *Interest loss payments.* (i) Interest losses sustained during the period of the reorganization plan will be processed in accordance with paragraph (b)(1) of this section.

(ii) Interest losses sustained after the reorganization plan is completed will be processed annually when the lender sustains a loss as a result of a permanent interest rate reduction which extends beyond the period of the reorganization plan.

(iii) A report of loss will be completed to compensate the lender for the difference in interest rates specified on the Loan Note Guarantee and the rate of interest specified in the plan.

(iv) If an estimated loss claim is paid during the operation of the Chapter 11 reorganization plan and the borrower repays in full the remaining balance without an additional loss sustained by the lender, a final report of loss is not necessary.

(3) *Final loss payments.* Final loss payments will be processed when the loan is liquidated.

(4) *Payment application.* The lender must apply estimated loss payments first to the unsecured principal of the guaranteed portion of the debt and then to the unsecured interest of the guaranteed portion of the debt. In the event a bankruptcy court attempts to direct the payments to be applied in a different manner, the lender will immediately notify the Agency servicing office.

(5) *Overpayments.* Upon completion of the reorganization plan, the lender will provide the Agency with the documentation necessary to determine whether the estimated loss paid equals the actual loss sustained. If the actual loss sustained as a result of the reorganization is less than the estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of payment of the estimated loss. If the actual loss is greater than the estimated loss payment, the lender will submit a revised estimated loss in order to obtain payment of the additional amount owed by the Agency to the lender.

(6) *Protective advances.* If approved protective advances were made prior to the borrower having filed bankruptcy, these protective advances and accrued interest will be considered in the loss calculations.

§§ 4287.171–4287.179 [Reserved]

§ 4287.180 Termination of guarantee.

A guarantee under this part will terminate automatically:

(a) upon full payment of the guaranteed loan;

(b) upon full payment of any loss obligation; or

(c) upon written notice from the lender to the Agency that the guarantee will terminate 30 days after the date of notice, provided that the lender holds all of the guaranteed portion and the Loan Note Guarantee is returned to the Agency to be canceled.

§§ 4287.181–4287.200 [Reserved]

Dated: September 12, 1995.

Jill Long Thompson,

Under Secretary for Rural Economic and Community Development.

[FR Doc. 96–1576 Filed 2–1–96; 8:45 am]

BILLING CODE 3410–32–U

DEPARTMENT OF ENERGY

10 CFR Parts 1035 and 1036 and 48 CFR Part 909

RIN 1991–AB24

Debarment and Suspension (Procurement) and Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) and Department of Energy Acquisition Regulation

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) today is proposing to amend its regulations governing debarment and suspension in procurement and nonprocurement activities. The proposed amendments to the nonprocurement rule only include DOE agency-specific provisions; i.e., none include provisions in the Government-wide common rule. The proposed rule would establish a common fact-finding process in cases involving a genuine dispute over material facts. The proposed rule removes the Department's procurement debarment and suspension regulations from part 10 of the Code of Federal Regulations (CFR) and recodifies them in the Department of Energy Acquisition Regulations (DEAR), chapter 9 of title 48 of the Code of Federal Regulations.

DATES: Written comments (3 copies) must be received on or before April 2, 1996 in order to be assured of consideration.

ADDRESSES: Persons wishing to submit comments on this notice of proposed rulemaking should send them to Cynthia Yee, Office of Clearance and Support, Procurement and Assistance Management, HR–52.2, U. S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Mrs. Cynthia Yee, 202–586–1140.

SUPPLEMENTARY INFORMATION:

I. Background
  A. Discussion.
  B. Section-by-Section Analysis.
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  D. Review Under the National Environmental Policy Act.
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  F. Review Under Executive Order 12778.
III. Public Comments.

I. Background

A. Discussion

President Reagan signed Executive Order 12549 on February 18, 1986, which established governmentwide effect for an agency's nonprocurement debarment and suspension actions. On October 13, 1994, President Clinton signed Public Law 103–355, the Federal Acquisition Streamlining Act of 1994. Section 2455 of that Act provides that the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to 12549, shall be given reciprocal governmentwide effect. This proposed rulemaking furthers those actions by changing various provisions to clarify the DOE procurement suspension and debarment provisions and to ensure consistency between the Federal Acquisition Regulation (FAR) and the DEAR. Additionally, this proposed rule deletes some DOE-specific provisions to provide for uniformity with other Federal agencies.

B. Section-by-Section Analysis

The DOE today is removing the current regulation, at 10 CFR Part 1035, and recodifying the regulation at 48 CFR Part 909. In recodifying the debarment and suspension regulations, DOE has made various changes to clarify the provisions of procurement debarment and suspension and to ensure consistency between the FAR and the DEAR. The rules of procedure for fact-finding conferences in Appendix A of 10 CFR Part 1035 are removed. Under the recodified regulations, the Energy Board of Contract Appeals will conduct fact-finding in disputed suspension or proposed debarments.

This proposed rule also amends 10 CFR Part 1036, which governs debarment and suspension with regard to DOE nonprocurement and grants programs.

The Department of Energy Consolidated List of Debarred, Suspended, Ineligible and Voluntarily Excluded Awardees (DOE List) has been eliminated as unnecessary because the General Services Administration maintains, pursuant to Executive order 12549, a governmentwide list of parties excluded from federal procurement and nonprocurement programs.

The following is a comparison of existing provisions in 10 CFR Part 1035 with provisions proposed for inclusion in 48 CFR Part 909 (DEAR).

Subpart 909.400 is not signficantly different from the previous 10 CFR

1035.1; subpart 909.401 also is unchanged from 10 CFR 1035.2. Subpart 909.402 is removed as it is contained in FAR 9.402. Subpart 909.403 differs significantly from 1035.4 in that, except for DOE-specific definitions, all other definitions are removed as they are contained in FAR 9.403.

Subpart 909.405 is an abbreviated discussion of the effects of being listed on the General Services Administration's Consolidated List of Debarred, Suspended, and Ineligible Contractors (GSA List), previously contained in 10 CFR 1035.13, which includes only those DOE-specific requirements.

Subpart 909.406–2, which identifies causes of so serious or compelling a nature that they affect the present responsibility of a DOE contractor, was previously contained at 10 CFR 1035.5.

Subpart 909.406–3 discusses the DOE procedures for investigation, referral, decisionmaking and notices of debarment previously contained in 10 CFR 1035.5(c), 1035.7 and 1035.8. The discussion in 909.406–3 is abbreviated and more consistent with the requirements contained in FAR 9.406 and incorporates many of the FAR provisions.

Subpart 909.406–6, in which provision for reconsideration is addressed, was previously contained in 10 CFR 1035.11(c).

New subpart 909.407–2 enumerates other causes for suspension previously contained in 10 CFR 1035.5(b).

New subpart 909.407–3 discusses the DOE procedures for investigation, referral, decisionmaking and notices of suspension previously contained 10 CFR 1305.5(c), 1035.7 and 1035.8.

The changes proposed to 10 CFR Part 1036, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) are primarily minor in nature. Sections 1036.105, 1036.110, 1036.215, 1036.312, 1036.313, 1036.314, 1036.412, 1036.710, and 1036.715 are administrative changes, consisting of correcting the identity of the DOE debarring and suspending official, correcting the citation for procurement suspension and debarment provisions, deleting reference to the DOE List, and deleting incorrect references within Part 1036.

Significant changes to DOE agency-specific provisions are made to section 1036.312 and 1036.411, which are amended by deleting the references to information that is not to be included in a notice of proposed debarment. Section 1036.315, a DOE agency-specific provision, is amended by deleting subparagraph 1036.315(c), which discusses terms of voluntary exclusions.

Section 1036.700, which discusses DOE procedures for debarment and suspension, is revised to include language similar to that contained in the proposed DEAR provisions. The proposed revision provides for fact-finding by the Energy Board of Contract Appeals in suspensions or proposed debarments in which the debarring/suspending official determines that material facts are in dispute.

Section 1036.705 is amended by deleting reference to *in camera* review of evidence, providing for decision making based on the administrative record.

The most signficant changes that will be made by the proposed DEAR provisions and the revisions to 10 CFR Part 1036 are with respect to *in camera* review and fact-finding. The proposed changes are procedural in nature and will not have any substantive impact on any person's or entity's rights.

Due to the extensive revisions to DEAR, the complete text of DEAR 909.4 is published. In order to focus commentor's attention on the changes that are proposed to 10 CFR Part 1036, only those portions of Part 1036 that are affected by the changes proposed are published, rather than publishing the complete text of the common rule. In addition to the amendments discussed, minor technical changes of a nonsubstantive nature are made.

II. Procedural Requirements

A. Regulatory Review

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). However, the proposed rule was subject to review under the Executive Order by the Office of Information and Regulatory Affairs because it relates to the subject matter of a Governmentwide common rule.

B. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a signficant economic impact on a substantial number of small entities, and therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this proposed rulemaking. Accordingly, no OMB clearance is required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

D. Review Under NEPA

DOE has determined that issuance of this proposed rule is not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., and therefore that neither an environmental assessment nor an environmental impact statement is required. Categorical exclusion A2 in DOE's regulations implementing NEPA, appendix A of subpart D of 10 CFR Part 1021, applies to this rulemaking. Categorical exclusion A2 encompasses procedural and administrative matters pertaining to contracts.

E. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national Government and the States, and in the distribution of power and responsibility among various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's proposed rule, when finalized, will revise certain procedural requirements pertaining to suspension and debarment of DOE contractors. However, DOE has determined that none of the revisions will have a substantial direct effect on the institutional interests or traditional functions of the States.

F. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. This proposed rule would, when adopted as a final rule, have no preemptive effect, will not have any effect on existing Federal laws, and would only clarify the existing regulations on this subject. The revisions would apply only to actions initiated after the effective date of the final rule, and thus, would have no retroactive effect. Therefore, DOE certifies that this proposed rule meets the requirements of sections 2(a) and (b) of Executive Order 12778.

III. Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed amendments set forth in this notice. Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice. All written comments received by the date indicated in the DATES section of this notice and all other relevant information will be fully considered by DOE before taking final action. Comments received after that date will be considered to the extent that time allows. Any information considered to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to our determinations (10 CFR 1004.11).

DOE has concluded that this proposed rule does not involve a substantial issue of fact or law, and that the proposed rule will not have substantial impact on the nation's economy or a large number of individuals or businesses. Therefore, pursuant to Public Law 95–91, the DOE Organization Act, and the Administrative Procedure Act (5 U.S.C. 533), the Department does not plan to hold a public hearing on this proposed rule.

List of Subjects in 10 CFR Parts 1035 and 1036 and 48 CFR Part 909

Administrative practice and procedure, Government procurement.

Issued in Washington, DC, on January 23, 1996.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Title 10 Code of Federal Regulations Parts 1035 and 1036 and Chapter 9, Title 48 Code of Federal Regulations are proposed to be amended as set forth below.

10 CFR PART 1035—DEBARMENT AND SUSPENSION (PROCUREMENT) [REMOVED]

1. Part 1035—Debarment and Suspension (Procurement) is removed.

48 CFR PART 909—CONTRACTOR QUALIFICATIONS

2. The authority citation for Part 909 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

3. Subpart 909.4 is revised to read as follows:

Subpart 909.4—Debarment, Suspension, and Ineligibility

909.400 Scope of subpart.
909.401 Applicability.
909.403 Definitions.
909.405 Effect of listing.
909.406 Debarment
909.406–2 Causes for debarment.
909.406–3 Procedures
909.406–6 Requests for reconsideration of debartment.
909.407–2 Causes for suspension.
909.407–3 Procedures.

909.400 Scope of subpart.

This subpart—

(a) Prescribes policies and procedures governing the debarment and suspension of organizations and individuals from participating in Department of Energy (DOE) contracts, procurement sales contracts, and real property purchase agreements, and from participating in DOE approved subcontracts and subagreements.

(b) Sets forth the causes, procedures, and requirements for determining the scope, duration, and effect of DOE debarment and suspension actions; and

(c) Implements and supplements FAR subpart 9.4 with respect to the exclusion of organizations and individuals from procurement contracting and Government approved subcontracting.

909.401 Applicability.

The provisions of this subpart apply to all procurement debarment and suspension actions initiated by DOE on or after the effective date of this subpart. Nonprocurement debarment and suspension rules are codified in 10 CFR part 1036.

909.403 Definitions.

In addition to the definitions set forth at FAR 9.403, the following definitions apply to this subpart.

Debarring Official. The DOE Debarring Official is the Deputy Assistant Secretary for Procurement and Assistance Management, or designee.

DOE means the Department of Energy, including the Federal Energy Regulatory Commission.

Suspending Official. The DOE Suspending Official is the Deputy Assistant Secretary for Procurement and Assistance Management, or designee.

909.405 Effect of listing.

(e) The Department of Energy may not solicit offers from, award contracts to or consent to subcontract with contractors debarred, suspended or proposed for debarment unless the Deputy Assistant Secretary for Procurement and Assistance Management makes a written determination justifying that there is a compelling reason for such action in accordance with FAR 9.405(a).

(f) DOE may disapprove or not consent to the selection (by a contractor) of an individual to serve as a principal investigator, as a project manager, in a position of responsibility for the administration of Federal funds, or in another key personnel position, if the individual is on the GSA List.

(g) DOE shall not conduct business with an agent or representative of a contractor if the agent's or representative's name appears on the GSA List.

(h) DOE shall review the GSA List before conducting a preaward survey or soliciting proposals, awarding contracts, renewing or otherwise extending the duration of existing contracts, or approving or consenting to the award, extension, or renewal of subcontracts.

909.406 Debarment.

909.406–2 Causes for debarment.

(c) The Debarring Official may debar a contractor for any other cause of so serious or compelling a nature that it affects the present responsibility of a DOE contractor. Such cause may include but is not limited to:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a private contract or subcontract; and

(2) Inexcusable, prolonged, or repeated failure to pay a debt (including disallowed costs and overpayments) owed to DOE, provided the contractor has been notified of the determination of indebtedness, and further provided that the time for initiating any administrative or legal action to oppose or appeal the determination of indebtedness has expired or that such action, if initiated, has been concluded.

(d) The Debarring Official may debar a contractor:

(1) On the basis that an individual or organization is an affiliate of a debarred

contractor, subject to the requirements of FAR 9.406–1(b) and 9.406–3(c);

(2) For failure to observe the material provisions of a voluntary exclusion (see 10 CFR 1036.315 for discussion of voluntary exclusion).

909.406–3 Procedures.

(a) *Investigation and referral.* (1) Offices responsible for the award and administration of contracts are responsible for reporting to both the Deputy Assistant Secretary for Procurement and Assistance Management and the DOE Inspector General information about possible fraud, waste, abuse, or other wrongdoing which may constitute or contribute to a cause(s) for debarment under this subpart. Circumstances that involve possible criminal or fraudulent activities must be reported to the Office of the Inspector General in accordance with 10 CFR Part 1010, Conduct of Employees, Section 1010.217(b), Cooperation with the Inspector General.

(2) At a minimum, referrals for consideration of debarment action should be in writing and should include the following information:

(i) The recommendation and rationale for the referral;

(ii) A statement of facts;

(iii) Copies of documentary evidence and a list of all witnesses, including addresses and telephone numbers, together with a statement concerning their availability to appear at a fact-finding proceeding and the subject matter of their testimony;

(iv) A list of parties including the contractor, principals, and affiliates (including last known home and business addresses, zip codes and DUNS Number);

(v) DOE's acquisition history with the contractor, including recent experience under contracts and copies of pertinent contracts;

(vi) A list of any known active or potential criminal investigations, criminal or civil proceedings, or administrative claims before the Board of Contract Appeals; and

(vii) A statement regarding the impact of the debarment action on DOE programs. This statement is not required for referrals by the Inspector General.

(3) Referrals may be returned to the originator for further information or development.

(b) *Decisionmaking process.* Contractors proposed for debarment shall be afforded an opportunity to submit information and argument in opposition to the proposed debarment.

(1) In actions based upon a conviction or civil judgment, or in which there is no genuine dispute over material facts, the Debarring Official shall make a decision on the basis of all the information in the administrative record, including any submissions made by the contractor. If the respondent fails to submit a timely written response to a notice of proposed debarment, the Debarring Official shall notify the respondent in accordance with FAR 9.406–3(e) that the contractor is debarred.

(2) In actions not based upon a conviction or civil judgment, the contractor may request a fact-finding hearing to resolve a genuine dispute of material fact. In its request, the contractor must identify the material facts in dispute and the basis for disputing the facts. If the Debarring Official determines that there is a genuine dispute of material fact, the Debarring Official shall refer the matter to the Energy Board of Contract Appeals for a fact-finding conference.

(3) *Meeting.* Upon receipt of a timely request therefor from a contractor proposed for debarment, the Debarring Official shall schedule a meeting between the Debarring Official and the respondent, to be held no later than 30 days from the date the request is received. The Debarring Official may postpone the date of the meeting if the respondent requests a postponement in writing. At the meeting, the respondent, appearing personally or through an attorney or other authorized representative, may present and explain evidence that causes for debarment do not exist, evidence of any mitigating factors, and arguments concerning the imposition, scope, or duration of a proposed debarment or debarment.

(4) *Fact-finding conference.* The purpose of a fact-finding conference under this section is to provide the respondent an opportunity to dispute material facts through the submission of oral and written evidence; resolve facts in dispute; and provide the Debarring Official with findings of fact based, as applicable, on adequate evidence or on a preponderance of the evidence. The fact-finding conference shall be conducted in accordance with rules consistent with FAR 9.406–3(b) promulgated by the Energy Board of Contract Appeals. The Energy Board of Contract Appeals will notify the affected parties of the schedule for the hearing. The Energy Board of Contract Appeals shall deliver written findings of fact to the Debarring Official (together with a transcription of the proceeding, if made) within a certain time period after the hearing record closes, as specified in the Energy Board of Contract Appeals Rules. The findings shall resolve any disputes over material facts based upon a preponderance of the evidence, if the case involves a proposal to debar, or on adequate evidence, if the case involves a suspension. Since convictions or civil judgments generally establish the cause for debarment by a preponderance of the evidence, there usually is no genuine dispute over a material fact that would warrant a fact-finding conference for those proposed debarments based on convictions or civil judgments.

(d) *Debarring Official's decision.*

(4) The Debarring Official's final decision shall be based on the administrative record. In those actions where additional proceedings are necessary as to disputed material facts, written findings of fact shall be prepared and included in the final decision. In those cases where the contractor has requested and received a fact-finding conference, the written findings of fact shall be those findings prepared by the Energy Board of Contract Appeals. Findings of fact shall be final and conclusive unless within 15 days of receipt of the findings, the Department or the respondent requests reconsideration, as provided in the Board's Rules, or unless set aside by a court of competent jurisdiction. The Energy Board of Contract Appeals shall be provided a copy of the Debarring Official's final decision.

909.406–6 Requests for reconsideration of debarment.

(a) At any time during a period of debarment, a respondent may submit to the Debarring or Suspending Official a written request for reconsideration of the scope, duration, or effects of the suspension/debarment action because of new information or changed circumstances, as discussed at FAR 9.406–4(c).

(b) In reviewing a request for reconsideration, the Debarring or Suspending Official may, in his or her discretion, utilize any of the procedures (meeting and fact-finding) set forth in 48 CFR (DEAR) 909.406–3 and 909.407–3. The Debarring or Suspending Official's final disposition of the reconsideration request shall be in writing and shall set forth the reasons why the request has been granted or denied. A notice transmitting a copy of the disposition of the request for reconsideration shall be sent to the respondent and, if a fact-finding conference under 48 CFR (DEAR) 909.406–3(b)(4) is pending (as in the case of a request for reconsideration of a suspension, where the proposed debarment is the subject of a fact-finding conference), a copy of the disposition shall be transmitted to the Energy Board of Contract Appeals.

909.407–2 Causes for suspension.

(d) The Suspending Official may suspend an organization or individual:

(1) Indicted for or suspected, upon adequate evidence, of the causes described in 48 CFR (DEAR) 909.406–2(c)(1).

(2) On the basis of the causes set forth in 48 CFR (DEAR) 909.406–2(d)(2).

(3) On the basis that an organization or individual is an affiliate of a suspended or debarred contractor.

909.407–3 Procedures.

(b) *Decisionmaking process.*

(1) In actions based on an indictment, the Suspending Official shall make a decision based upon the administrative record, which shall include submissions made by the contractor in accordance with 48 CFR (DEAR) 909.406–3(b)(1) and 909.406–3(b)(3).

(2) For actions not based on an indictment, the procedures in 48 CFR (DEAR) 909.406–3(b)(2) and FAR 9.407–3(b)(2) apply.

(3) *Coordination with Department of Justice.* Whenever a meeting or fact-finding conference is requested, the Suspending Official's legal representative shall obtain the advice of appropriate Department of Justice officials concerning the impact disclosure of evidence at the meeting or fact-finding conference could have on any pending civil or criminal investigation or legal proceeding. If such Department of Justice official requests in writing that evidence needed to establish the existence of a cause for suspension not be disclosed to the respondent, the Suspending Official shall:

(i) Decline to rely on such evidence and withdraw (without prejudice) the suspension or proposed debarment until such time as disclosure of the evidence is authorized; or

(ii) Deny the request for a meeting or fact-finding and base the suspension decision solely upon the information in the administrative record, including any submission made by the respondent.

(e) *Notice of suspending official's decision.* In actions in which additional proceedings have been held, following such proceedings, the Suspending Official shall notify respondent, as applicable, in accordance with paragraphs (e)(1) or (e)(2) of this section.

(1) Upon deciding to sustain a suspension, the Suspending Official shall promptly send each affected respondent a notice containing the following information:

(i) A reference to the notice of suspension, the meeting and the fact-finding conference;

(ii) The Suspending Official's findings of fact and conclusions of law;

(iii) The reasons for sustaining a suspension;

(iv) A reference to the Suspending Official's waiver authority under 48 CFR (DEAR) 909.405;

(v) A statement that the suspension is effective throughout the Executive Branch as provided in 48 CFR (FAR) subpart 9.407–1(d);

(vi) Modifications, if any, of the initial terms of the suspension;

(vii) A statement that a copy of the suspension notice was sent to GSA and that the respondent's name and address will be added to the GSA List; and

(viii) If less than an entire organization is suspended, specification of the organizational element(s) or individual(s) included within the scope of the suspension.

(2) If the Suspending Official decides to terminate a suspension, the Suspending Official shall promptly send, by certified mail, return receipt requested, each affected respondent a copy of the final decision required under this section.

PART 1036—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

4. The authority citation for part 1036 continues to read as follows:

Authority: E.O. 12689, E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 42 U.S.C. 701 et seq.); Secs. 644 and 646, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254 and 7256); Pub. L. 97–258, 98 Stat. 1003–1005 (31 U.S.C.) 6301–6308.

Subpart A—General

§ 1036.105 [Amended]

5. Section 1036.105 is amended by revising the phrase "Director, Procurement and Assistance Management Directorate" to read "Deputy Assistant Secretary for Procurement and Assistance Management or designee" in the definitions for "Debarring Official" (paragraph (3)) and "Suspending Official" (paragraph (3)); and removing the definitions for "Director" and "DOE List."

Subpart C—Debarment

§ 1036.312 [Amended]

6–8. Section 1036.312 is amended by removing paragraph (b)(1); by removing paragraph (d)(1); by removing paragraph (e)(1); in paragraph (f) by revising "Director" to read "debarring official;" and in paragraph (g) by revising "DOE" to read "GSA."

§ 1036.313 [Amended]

9. Section 1036.313 is amended in paragraph (a)(1) by revising "Director" to read "debarring official" and removing the citation "(See § 1036.600(c))."

§ 1036.314 [Amended]

10. Section 1036.314 is amended by removing paragraph (d)(1)(vi) and redesignating paragraphs (d)(1) (vii) and (viii) to (d)(1) (vi) and (vii).

§ 1036.315 [Amended]

11. Section 1036.315 is amended by removing paragraph (c).

Subpart D—Suspension

§ 1036.411 [Amended]

12. Section 1036.411 is amended by removing paragraph (c)(1); by removing paragraph (f)(1); in paragraph (h) by revising "Director" to read "suspending official" and in paragraph (j) by revising "DOE" to read "GSA."

§ 1036.412 [Amended]

13. Section 1036.412 is amended by removing paragraph (a)(1).

Subpart G—Additional DOE Procedures for Debarment and Suspension

§ 1036.700 [Revised]

14. Section 1036.700, is revised to read as follows:

§ 1036.700 Procedures.

(a) *Decisionmaking process for debarments.*

(1) In actions based upon a conviction or civil judgment, and other actions in which there is no genuine dispute over material facts, the debarring official shall make a decision on the basis of all the information in the administrative record, including any submissions made by the awardee. If no suspension is in effect, the decision shall be made within 30 working days after receipt of any information and argument submitted by the awardee, unless the debarring official extends this period for good cause. The debarring official shall consider information and argument in opposition to the proposed debarment including identification of disputed material facts. If the respondent fails to submit a timely written response to a notice of proposed debarment, the debarring official shall notify the respondent in accordance with 10 CFR 1036.312 that the awardee is debarred.

(2) In actions not based upon a conviction or civil judgment, if it is

found that the awardee's submission in opposition raises a genuine dispute over facts material to the proposed debarment, at the request of the awardee, the debarring official shall refer the matter to the Energy Board of Contract Appeals for a fact-finding conference, in accordance with rules consistent with this section promulgated by the Energy Board of Contract Appeals. The Energy Board of Contract Appeals shall report to the Debarring Official findings of fact, not conclusions of law. The findings shall resolve any disputes over material facts based on a preponderance of evidence.

(b) *Decisionmaking process for suspensions.*

(1) In actions based on an indictment, the suspending official shall make a decision based upon the administrative record, which shall include submissions made by the awardee.

(2) In actions not based on an indictment, if it is found that the awardee's submission in opposition raises a genuine dispute over facts material to the suspension and if no determination has been made, on the basis of Department of Justice advice, that substantial interest of the Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced, the suspending official shall, at the request of the awardee, refer the matter to the Energy Board of Contract Appeals for a fact-finding conference, in accordance with rules promulgated by the Energy Board of Contract Appeals. The Energy Board of Contract Appeals shall report to the Suspending Official findings of fact, not conclusions of law. The findings shall resolve any disputes over material facts based on adequate evidence.

(c) *Meeting.* Upon receipt of a timely request therefore from the respondent, the debarring/suspending official shall schedule a meeting between the debarring/suspending official and the respondent, to be held no later than 30 days from the date the request is received. The debarring/suspending official may postpone the date of the meeting if the respondent requests a postponement in writing. At the meeting, the respondent, appearing personally or through an attorney or other authorized representative, may informally present and explain evidence that causes for debarment or suspension do not exist, evidence of any mitigating factors, and arguments concerning the imposition, scope, duration, or effects of a proposed debarment or suspension.

(d) *Fact-finding conference.* The purpose of a fact-finding conference under this section is to provide the respondent an opportunity to dispute material facts and to provide the debarring/suspending official with findings of fact based, as applicable, on adequate evidence or on a preponderance of the evidence. If the debarring/suspending official determines that a written response or a presentation at the meeting under paragraph (c) of this section puts material facts in dispute, the debarring/suspending official shall refer the matter to the Energy Board of Contract Appeals for fact-finding. The fact-finding conference shall be conducted in accordance with rules promulgated by the Energy Board of Contract Appeals. The Energy Board of Contract Appeals shall report to the Debarring Official findings of fact, but not conclusions of law. The findings shall resolve any disputes over material facts based on a preponderance of evidence if the case involves a proposal to debar, or on adequate evidence if the case involves a suspension. Since convictions or civil judgments generally establish the cause for debarment by a preponderance of the evidence, there usually is no genuine dispute over a material fact that warrants a fact-finding conference for those proposed debarments based on convictions or civil judgments.

15. Section 1036.705 is amended in the introductory paragraph by revising "Director's" and "Director" to read "debarring/suspending official" in the first and second sentences, revising reference to "1036.700 (b)(1) or (b)(2)" to read "1036.700(c)" and by revising paragraph (b) to read as follows:

§ 1036.705 Coordination with Department of Justice.

* * * * *

(b) Deny additional proceedings and base the decision on all information in the administrative recording, including any submissions made by the respondent.

§ 1036.710 [Removed]

16. Section 1036.710, DOE consolidated list of debarred, suspended, ineligible, and voluntarily excluded awardees, is removed.

§ 1036.715 [Amended]

17. Section 1036.715 is amended by revising the section heading to read "Effects of being listed on the GSA list." and, in the introductory paragraph, by revising "Director" to read "Deputy Assistant Secretary for Procurement and Assistance Management or designee" and by revising "DOE List" to read "GSA List" wherever it appears in paragraphs (a) through (g).

[FR Doc. 96–1920 Filed 2–1–96; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–SW–32–AD]

Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Robinson Helicopter Company (Robinson) Model R44 helicopters. This proposal would require an adjustment to the low-RPM warning unit threshold to increase the revolutions-per-minute (RPM) at which the warning horn and caution light activate, and revisions to the R44 Rotorcraft Flight Manual that prohibit flight with the throttle governor (governor) selected off, except in certain situations. This proposal is prompted by an FAA Technical Panel Review of Robinson accident history data which revealed that main rotor (M/R) blade stall at abnormally low M/R RPM resulted in accidents. The actions specified by the proposed AD are intended to minimize the possibility of pilot mismanagement of the M/R RPM, which could result in unrecoverable M/R stall and subsequent loss of control of the helicopter.

DATES: Comments must be received by March 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–32–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (310) 627–5265; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–SW–32–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–32–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD that is applicable to Robinson Model R44 helicopters, serial numbers (S/N) 0001 through 0183 and 0189, which would require resetting the warning unit to activate the warning horn and caution light at 96 to 97% RPM, and revisions to the R44 Rotorcraft Flight Manual that prohibit flight with the governor selected off, except in certain situations. A recent FAA Technical Panel review of Robinson accident history data revealed that some Model R22 accidents resulted from pilot mismanagement of the M/R RPM.

The Technical Panel noted that, with the throttle governor selected off, the Model R44 demonstrates potential for rotor RPM decay similar to the Model R22. This lead the Technical Panel to recommend that the Model R44 be flown with the governor on with exceptions for inflight system malfunction or emergency procedures training with an instructor pilot. Additionally, the Technical Panel recommended an increase in the RPM at which the warning horn and caution light activate, thereby allowing additional time for the initiation of corrective action between the activation of the warning horn and caution light and the onset of M/R blade stall.

Based on this recommendation, Robinson issued Robinson Helicopter Company R44 Service Bulletin SB–7A, Revised June 8, 1995, which describes procedures for increasing the RPM threshold at which the warning horn and caution light activate to avoid inadvertent low M/R RPM. This condition, if not corrected, could result in M/R stall and a subsequent loss of control of the helicopter.

Since an unsafe condition has been identified that is likely to exist or develop on other Robinson Model R44 helicopters of the same type design, the proposed AD would require an adjustment to the warning horn and caution light threshold from 95± 1% RPM to between 96% and 97% RPM to increase the RPM at which the warning horn and caution light activate, and revisions to the R44 Rotorcraft Flight Manual that prohibit flight with the governor selected off, with exceptions for inflight system malfunction or emergency procedures training with an instructor pilot.

The FAA estimates that 20 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 0.2 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $240.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Robinson Helicopter Company: Docket No. 95–SW–32–AD.

Applicability: Model R44 helicopters, serial numbers (S/N) 0001 through 0183 and 0189, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 30 days after the effective date of this AD, unless accomplished previously.

To minimize the possibility of pilot mismanagement of the main rotor (M/R) RPM, which could result in M/R stall and subsequent loss of control of the helicopter, accomplish the following:

(a) Adjust the A569–6 low-RPM warning unit so that the warning horn and caution

light activate when the M/R RPM is between 96% and 97% rotor RPM in accordance with the procedures contained in the Model R44 maintenance manual.

(b) Insert pages 2–7 of the FAA-approved Robinson Helicopter Company R44 Rotorcraft Flight Manual, revised July 25, 1995, into each Model R44 helicopter's flight manual, and make pen-and-ink changes to pages 2–7 to add the word "inflight" before "system malfunction", change "and" to "or", and add the phrase "with an instructor pilot" at the end so that the affected limitation will state "Flight prohibited with governor selected off, with exceptions for inflight system malfunction or emergency procedures training with an instructor pilot."

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on January 29, 1996.

Daniel P. Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–2263 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 73

[Airspace Docket No. 95–ASW–6]

Proposed Establishment of Restricted Areas; NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish the following four new restricted areas in western/central New Mexico: R–5117, Fort Wingate, NM; R–5119, Socorro, NM; R–5121, Fort Wingate, NM; and R–5123, Magdalena, NM. The proposed restricted areas would provide an extended test range for the U. S. Army to conduct missile and sensor system tests associated with the theater missile defense system. Under the proposed test program, missile launches would be conducted from the Fort Wingate Army Depot, near Gallup, NM, and would terminate in the existing restricted areas at the White Sands Missile Range (WSMR), NM. Currently, there are no operational over land ranges and few over water ranges operated by the United States that provide a realistic environment for testing the theater missile defense system. The proposed restricted areas would provide airspace to contain the launch, ascent, reentry, and impact of missiles and boosters. The areas would be designated for joint-use and would be activated only for the minimum time needed to safely conduct each test.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500 Docket No. 95–ASW–6, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX 76193–0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Pete Magarelli, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–7130.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–ASW–6." The postcard will be date/time stamped and returned to the commenter. Send comments on environmental and land use aspects to:

(1) U.S. Army Space and Strategic Defense Command, Attention: Mr. Dennis R. Gallien, P.O. Box 1500, Huntsville, AL 35807–5027, Telephone No. (205) 955–3887

or

(2) National Range Operations Branch, Attention: Mr. John W. Jensen, Building 1530, White Sands Missile Range, NM 88002–5012, Telephone No. (505) 678–1121.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to part 73 of the Federal Aviation Regulations (14 CFR part 73) to establish four new restricted areas in west/central New Mexico. The proposed restricted areas would be designated R–5117, Fort Wingate, NM; R–5119, Socorro, NM; R–5121, Fort Wingate, NM; and R–5123, Magdalena, NM. The U.S. Army has proposed these areas to accommodate extended range tests needed to validate theater missile defense system design and operational effectiveness.

Proposed Restricted Area R–5117 would be designated at the Fort Wingate Army Depot. R–5117 would extend from the surface to unlimited altitude to contain the missile launch area. Restricted Area R–5121 would be designated adjacent to R–5117. R–5121 would extend from FL 200 to unlimited altitude and would be required to contain the ascent of missiles after launch from the Fort Wingate site. R–5123 would be designated in order to provide a booster drop zone to contain the reentry and impact of missile boosters after launch from R–5117. R–5123 would extend from the surface to unlimited altitude. R–5119 would be designated as a missile reentry area. R–5119 would extend from FL 350 to unlimited altitude and would be located adjacent to existing WSMR restricted airspace. R–5119 would be required to contain missiles during that portion of the reentry phase of flight prior to the trajectory entering existing WSMR restricted airspace. Missile impact would occur in the existing WSMR impact areas.

When activated, the proposed restricted areas could potentially impact nonparticipating aircraft operations along portions of Federal airways and jet routes, or on direct flights, in the vicinity of the Gallup (GUP), Socorro (ONM), and Truth or Consequences (TCS) navigational aids. It is anticipated that the potential impact of the restricted areas on nonparticipating aircraft operations would be lessened by the limited number of planned test events (6 to 10 per year), and a U.S. Army agreement to complete test activity prior to 9:00 a.m., local time, when the volume of air traffic in the area is normally low. In addition, the entire launch through recovery operation is designed to take less than 15 minutes total, therefore, it is anticipated that the tests would 5 have minimal impact on instrument flight rules traffic. It is possible that activation of the proposed restricted areas may necessitate rerouting of a few aircraft, however, any rerouting should be minimal due to the location, small size, and limited activation time requirements of the areas. The two proposed restricted areas which would extend from the surface, R–5117 and R–5123, would be designated over government-controlled tracts of land.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental impact analysis by the proponent and the FAA prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854;, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

2. Section 73.51 is amended as follows:

§ 73.51 [Amended]

R–5117 Fort Wingate, NM [New]

Boundaries. Beginning at lat. 35°25'51"N., long. 108°30'09"W.; to lat. 35°28'46"N., long. 108°37'14"W.; to lat. 35°28'46"N., long. 108°37'39"W.; to lat. 35°21'27"N., long. 108°36'58"W.; to the point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Intermittent by NOTAM 24 hours in advance.
Controlling agency. FAA, Albuquerque ARTCC.
Using agency. Commanding General, White Sands Missile Range, NM.

R–5119 Socorro, NM [New]

Boundaries. Beginning at lat. 33°59'56"N., long. 106°43'29"W.; to lat. 33°59'51"N., long. 106°56'27"W.; to lat. 34°08'16"N., long. 107°05'17"W.; to lat. 34°00'28"N., long. 107°12'04"W.; to lat. 33°46'04"N., long. 107°02'38"W.; to lat. 33°26'49"N., long. 107°02'25"W.; to lat. 33°26'49"N., long. 107°00'00"W.; to lat. 33°32'44"N., long. 106°58'47"W.; to lat. 33°54'10"N., long. 106°46'24"W.; to lat. 33°57'16"N., long. 106°43'58"W.; to the point of beginning.
Designated altitudes. FL 350 to unlimited.
Time of designation. Intermittent by NOTAM 24 hours in advance.
Controlling agency. FAA, Albuquerque ARTCC.
Using agency. Commanding General, White Sands Missile Range, NM.

R–5121 Fort Wingate, NM [New]

Boundaries. Beginning at lat. 35°25'51"N., long. 108°30'09"W.; to lat. 35°21'22"N., long. 108°25'59"W.; to lat. 35°19'18"N., long. 108°28'10"W.; to lat. 35°17'48"N., long. 108°31'41"W.; to lat. 35°21'27"N., long. 108°36'58"W.; to the point of beginning.
Designated altitudes. FL 200 to unlimited.
Time of designation. Intermittent by NOTAM 24 hours in advance.
Controlling agency. FAA, Albuquerque ARTCC.
Using agency. Commanding General, White Sands Missile Range, NM.

R–5123 Magdalena, NM [New]

Boundaries. Beginning at lat. 34°22'30"N., long. 107°57'00"W.; to lat. 34°25'00"N., long. 107°49'00"W.; to lat. 34°24'45"N., long. 107°37'00"W.; to lat. 34°18'00"N., long. 107°30'00"W.; to lat. 34°15'08"N., long. 107°37'00"W.; to lat. 34°19'00"N., long. 107°40'00"W.; to lat. 34°15'08"N., long. 107°45'20"W.; to lat. 34°14'52"N., long. 107°44'40"W.; to lat. 34°13'00"N., long. 107°48'00"W.; to the point of beginning.
Designated altitudes. Surface to unlimited.
Time of designation. Intermittent by NOTAM 24 hours in advance.
Controlling agency. FAA, Albuquerque ARTCC.
Using agency. Commanding General, White Sands Missile Range, NM.

Issued in Washington, DC, on January 25, 1996.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 96–2273 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 95N–0103]

Food Labeling; Nutrient Content Claims and Health Claims; Special Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require that, in certain circumstances, persons responsible for the labeling of foods with nutrient content and health claims maintain records that support the claims, and that they make those records available to appropriate regulatory officials upon request. FDA has tentatively concluded that the proposed requirements are necessary to ensure that, in the specified circumstances, when a claim is made on the label or in the labeling of a food to characterize the level of a nutrient in that food, or to characterize the relationship between a nutrient in the food and a disease or health-related condition, the claim is made in

accordance with regulations issued by the agency.

DATES: Written comments by April 17, 1996; except that comments regarding information collection requirements by March 4, 1996, but not later than April 2, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Written comments regarding paperwork burden estimates should be sent to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration,200 C St. SW., Washington, DC 20204, 202–205–4561.

SUPPLEMENTARY INFORMATION:

I. Background

Nutrition Labeling and Education Act of 1990 (the 1990 amendments) (Pub. L. 101–535) amended the act by, among other things, adding section 403(r)(21 U.S.C. 343(r)). This section sets out the circumstances in which nutrient content claims and health claims can be made in food labeling. Under section 403(r) of the act, a food is misbranded if a claim made in its label or labeling that characterizes the level of a nutrient in the food, or characterizes the relationship between a nutrient in the food and a disease or health-related condition, unless the claim is made in accordance with regulations issued by the agency. FDA has adopted regulations implementing the 1990 amendments with respect to nutrient content claims in § 101.13 (21 CFR 101.13) and subpart D of part 101 (21 CFR part 101) of FDA's regulations and with respect to health claims in § 101.14 and subpart E of part 101.

One of the purposes of the 1990 amendments was to encourage the development of new food technologies. (See 136 Congressional Record S 16610, October 24, 1990, statement of Senator Hatch: "[M]anufacturers should have the economic incentives they need to be creative and innovative so that more and more low-fat, reduced sodium, and high-fiber foods come onto the market.") The 1990 amendments also addressed "the need to have consistent, enforceable rules pertaining to the claims that may be made with respect to the benefits of nutrients in foods." (See H. Rept. No. 538, 101st Cong., 2d sess., at 8 (1990).) It is likely that new, more healthful products that qualify for claims will be introduced. Yet newly developed foods can present situations that challenge FDA's traditional enforcement tools of inspection and sample analysis.

When FDA issued the regulations implementing the 1990 amendments, the agency determined that, in certain situations, adequate enforcement of the new regulations would be possible only if the agency could review the information that a manufacturer had developed to support the statements on its food labels. One such situation is aeration, a technique now being used to reduce the fat and calorie content of foods. (See the January 6, 1993, final rule on serving sizes (58 FR 2229 at 2271).) Comments on the proposed rule on serving sizes argued that manufacturers of aerated foods should be permitted to substitute a volume-based measure for a weight-based reference amount as the basis for determining the product's serving size. FDA determined that the most reasonable solution was to allow manufacturers to determine a "density-adjusted reference amount" for their aerated foods. Under the final regulations, however, manufacturers who choose this approach must have available upon request certain information, including a detailed protocol and records of all data used to arrive at the density-adjusted reference amount (58 FR 2272; § 101.12(e)), available for inspection by FDA.

FDA also found it necessary to impose a records requirement for claims such as "light," which compare the amount or percentage of a nutrient in one product to a reference nutrient value derived from one of a variety of sources (e.g., a representative valid data base or an average value determined from the top three national brands). In issuing its final regulation on nutrient content claims, the agency required that:

> to fully inform consumers, firms that use a broad based reference nutrient value as a basis for a claim must be prepared to make information on how they derived the reference nutrient value available to consumers on request. In addition, the information must also be made available to appropriate regulatory officials on request. This additional requirement will assist regulatory officials in determining compliance with the requirements for appropriate reference nutrient values for products bearing a claim to ensure the claim is not false or misleading.

(58 FR 2302 at 2365, January 6, 1993; nutrient content claims, general principles final rule.) The agency codified this requirement at § 101.13(j)(1)(ii)(A).

Another example of the agency's need to examine supporting information arose with respect to the caloric content of new products with reduced digestibility, such as novel fats and carbohydrates (58 FR 2079 at 2111, January 6, 1993; mandatory status of nutrition labeling, final rule). The agency stated that it would consider the digestibility of new products on a case-by-case basis. FDA also said that those manufacturers who wish to declare adjusted values for the energy contribution of a substance, based on reduced digestibility, should include information on the digestibility of the substance, analytical assay procedures for the compound, and data on interference with required methods of analysis in a food additive petition or in a petition for affirmation that use of the substance is generally recognized as safe, or should provide the information to the agency by other appropriate means. (See 58 FR 2079 at 2087 and 2111 and § 101.9(c)(1)(i)(D).)

Nutrient content claims for restaurant foods presented FDA with difficult compliance questions, as well (58 FR 2302 at 2387). In order to provide a way for restaurants to make claims, FDA devised a "reasonable basis" standard, under which restaurateurs who make nutrient content claims for their foods on labeling other than menus must be prepared to present to regulatory officials the basis for their belief that pertinent nutrient levels are present in their foods. (58 FR 2302 at 2388 and § 101.13(q)(5)(ii).) By requiring access to information supporting nutrient content claims, FDA sought to encourage the provision of useful dietary information on restaurant foods while maintaining its ability to assure consumers that nutrient content claims made for restaurant foods reasonably reflect the nutrient content of the food (58 FR 2302 at 2387).

Although in some situations, such as those described above, FDA required that access to a manufacturer's information supporting its labeling claims be provided to the agency, the agency declined to adopt the review of nutritional analyses on file at firms as a general investigatory procedure (58 FR 2079 at 2110). The agency set forth compliance criteria in § 101.9(g) that explain how its traditional investigatory procedures will be applied to mandatory nutrition labeling and, by extension, to claims made under section 403(r) of the act. A comment on proposed § 101.9 suggested that FDA substantiate nutrition label information by verifying laboratory analysis results on file at a firm (58 FR 2079 at 2110). The comment cited, as a model for FDA to follow, the food labeling regulations proposed (and since made final) by the United States Department of Agriculture (USDA) that require firms to maintain records to support the validity of nutrient declarations contained on product labels and to make these records available upon request by USDA. (See 9 CFR 317.309(h)(8) and 381.409(h)(8).) The agency responded:

> To support a misbranding charge for inaccurate nutrient content information, FDA must have accurate, reliable, and objective data to present in a court of law. To obtain that information, FDA relies upon the work performed by its trained employees because it does not have legal authority in most instances to inspect a food manufacturing firm's records.

(58 FR 2079 at 2110.)

This statement reflects the fact that, unlike USDA, FDA does not have explicit, broad statutory authority to inspect food manufacturing records. However, as discussed in greater detail below, FDA may issue regulations for the efficient enforcement of the act, and those regulations may require that access to certain records be provided to the agency. Thus, although the statement that FDA lacks authority to inspect the records of a food manufacturing firm "in most instances" is generally accurate, it is also true that FDA may legally inspect a food manufacturing firm's records when it acts under the authority of a regulation that provides for records inspection.

II. Recent Enforcement Concerns

Since the publication of its final regulations implementing the 1990 amendments, FDA has given further consideration to the difficulties it expects to encounter in enforcing the new rules. When it issued the final rules, FDA identified and addressed the particular problems of which it was aware, such as aeration. Although this approach appeared adequate at the time the regulations were developed, the agency now recognizes that there may be situations that are not provided for in its current regulations in which it will need to have access to records in order to enforce the act adequately.

For example, circumstances may arise of the sort foreshadowed in the final rule authorizing health claims associating calcium with a reduced risk of osteoporosis. In that rule, the agency anticipated that:

> * * * instances may develop in which the bioavailability of the calcium source has not been shown, including the use of new fortificants or food products in which the combination of the component nutrients raises concerns about the assimilability of calcium from the product (e.g., a new bread rich in a novel high phytate fiber source and fortified with calcium).

(See 58 FR 2665 at 2667, January 6, 1993). In the **Federal Register** of January 6, 1994, the agency also stated that "[c]alcium sources whose bioavailability has not been shown would be at risk for * * * enforcement action."

Having further considered this type of situation, the agency believes that it would be a far more appropriate and efficient use of its resources to require the manufacturer of a new food product labeled with a health or nutrient content claim, such as the bread described above, to provide the agency with access to the information that the manufacturer has developed to support a claim. Where a company has developed a product and labeled it with a health or nutrient content claim, and elaborate testing is required to provide the basis for the claim (e.g., animal tests for bioavailability, 58 FR 2665 at 2667), the agency should not have to duplicate those tests. Indeed, it would be unlikely that the agency would have the resources to do so. Thus, unless FDA were able to review the underlying data, companies could make certain claims on newly developed foods that the agency effectively would be unable to verify. Companies would then be in a position to make false labeling statements with virtual impunity.

FDA is also concerned that the development and use of new testing methods may place it in the position of not having sufficient information to assess the accuracy of a claim. The agency has recognized that advances are being made in the area of nutrient testing. For example, in issuing its final regulation on nutrition labeling, the agency noted that testing for certain nutrients is being actively researched (see 58 FR 2079 at 2112 (cholesterol)), and that new testing methods are being developed (see 58 FR 2079 at 2113 (sugars)). The agency said that it would not "preclude [companies'] use of emerging technologies * * * as they are developed and validated," (58 FR 2079 at 2113), but that, for compliance purposes, it would continue to use the methods of the Association of Official Analytical Chemists (AOAC) International or other validated procedures (58 FR 2079 at 2109). However, FDA now expects that there may be situations in which this approach is inadequate; for example, where there is no AOAC or other validated method applicable to a particular food, and a manufacturer has used a new testing method to determine that its food qualifies to bear a claim. Such a case might involve a novel form of fat that requires the use of unconventional analytical methods (58 FR 2079 at 2087).

New foods and new testing techniques are two matters about which the agency has enforcement concerns. The agency does not wish to stand in the way of the development of new technology and of new foods by limiting companies to conventional manufacturing techniques and analytical methods, and FDA believes that to do so would be fundamentally inconsistent with the purpose of the 1990 amendments. (See 136 Congressional Record, S 16610, October 24, 1990, statement of Senator Hatch, stating that Congress "should not deter" the benefits of new, more healthful foods for the consumer.) However, the only way that the agency can avoid doing so, and still enforce the act effectively, is if it is able to examine certain relevant records.

The agency also has concerns about claims that are based on information about a food that is available only to the food manufacturer and without which the agency would be unable to evaluate the truthfulness of the claim. "Light" provides an example of this type of claim. Without information on what the company has used as its reference nutrient value, FDA cannot determine whether the claim accurately describes the food. An inflexible approach would be to prohibit these claims altogether. However, FDA believes that it is consistent with the 1990 amendments to permit certain useful nutrition-related information in food labeling if the agency can be assured that the information accurately describes the labeled food.

Under section 403(r)(2)(C) and (r)(2)(D) of the act, certain foods bearing nutrient content claims as part of their brand names are exempt from requirements contained in section 403(r)(2) of the act, if the brand name was in use for the food before October 25, 1989 (§ 101.13(q)(1) and (q)(2)). Without access to company records, FDA will often not be able to determine whether a food that is asserted to qualify for this "grandfather" provision actually qualifies; i.e., whether the name was in use prior to October 25, 1989, and whether the food is unchanged. As with the claim "light," this information may be available only to the food manufacturer. FDA's tentative view is that companies that take advantage of this exemption should be prepared to demonstrate to FDA that the food for which they claim the exemption qualifies for it.

The regulations that FDA is now proposing are designed both to ensure that the agency's ability to enforce the 1990 amendments is not compromised and to avoid significant interference with the development of new food technologies and more healthful foods. The circumstances described above establish a need for FDA to have access to records in particular situations; this rule is intended to address those situations. The agency expects that the concerns it has identified will arise primarily with respect to foods bearing claims (e.g., a new food designed specifically to meet the requirements of a nutrient content claim). Therefore, although the proposed regulations are limited in scope to health and nutrient content claims, the agency expects that they will be sufficient to enable it to enforce the provisions of the 1990 amendments and the regulations implementing those amendments, and it does not at this time anticipate extending these proposed requirements to other situations.

III. Legal Authority

When Congress enacted the 1990 amendments, it sought to ensure that the rules pertaining to health and nutrient content claims would be enforceable (see H. Rept. 538, 101st Cong., 2d sess. 8, 9 (1990)). Health and nutrient content claims are intended to make the consumer aware of the nutritional attributes of the labeled food. Because these claims are meant to help consumers maintain healthful dietary practices, it is of the utmost importance that they accurately reflect the nutritional composition of the labeled food. (See 136 Congressional Record, H 12953, October 26, 1990, statement of house floor managers: "There is a great potential for defrauding consumers if food is sold that contains inaccurate or unsupportable health claims.")

The agency expects that many advances in food technology will occur that will provide the basis for claims, as food products are designed to meet the requirements for particular health and nutrient content claims. These developments, although beneficial, have the potential, as stated above, to outstrip the agency's traditional enforcement tools. This proposal is intended to address this problem. By enabling manufacturers to provide valuable information to consumers, while ensuring that the agency has the ability to verify that information, the regulations being proposed will serve the interests of both manufacturers and consumers. Food manufacturers will be able to profit from the advances that they make by marketing foods with claims that make the foods attractive to consumers, yet consumers and competitors can be confident that the agency has the tools to ensure that the claims appropriately appear on the foods that bear them. Thus, consumers will be able to rely on the claims to structure their diet in a manner that allows them to achieve their dietary goals.

FDA may require records to be maintained in specific instances and may inspect those required records, despite the act's lack of express, general statutory authority to inspect records. The Supreme Court has recognized that FDA has authority that "is implicit in the regulatory scheme, not spelled out in haec verba" in the statute. (See *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 653 (1973).)

> Indeed: It is a fundamental principle of administrative law that the powers of an administrative agency are not limited to those expressly granted by the statutes, but include, also, all of the powers that may fairly be implied therefrom. * * * In the construction of a grant of powers, it is a general principle of law that where the end is required the appropriate means are given and that every grant of power carries with it the use of necessary and lawful means for its effective execution.
>
> (*Morrow* v. *Clayton*, 326 F.2d 35, 44 (10th Cir. 1963).)

Under section 701(a) of the act (21 U.S.C. 371(a)), the agency may issue regulations for the efficient enforcement of the act. Courts have recognized that FDA may impose recordkeeping requirements where they effectuate the act's goals. (See *Toilet Goods Association* v. *Gardner*, 387 U.S. 158, 163–64 (1967); and *National Confectioners Association* v. *Califano*, 569 F.2d 690, 693 & n.9 (D.C. Cir. 1978).) The agency has required that records be maintained and made available for inspection by FDA employees in a number of situations. (See, e.g., 21 CFR 108.25(g) and 114.100 (acidified foods); 108.35(h) and 113.100 (thermal processing of low-acid foods); part 129 (21 CFR part 129) (bottled drinking water); 172.320 (amino acids); 176.170 (components of paper and paperboard in contact with aqueous and fatty foods); and 179.25(e) (food irradiation).)

FDA has tentatively determined that the proposed requirements, which would cover only those health and nutrient content claims that pose particular enforcement difficulties, are necessary for the efficient enforcement of the act. Ensuring the accuracy of claims was an overriding concern of Congress in passing the 1990 amendments. Congress envisioned that, under the act as amended, "only truthful claims may be made on foods" (136 Congressional Record H 12953, October 26, 1990, statement of Representative Waxman. See also 136 Congressional Record H 12954, statement of Representative Moakley: "This bill will help curb misleading claims * * *."; and H. Rept. 538, 101st Cong., 2d sess. 21 (1990): "The [health] claim on the food label or labeling would have to be stated in a manner which accurately represented the substance of the regulation * * *.") By its terms, section 403(r) of the act (21 U.S.C. 343(r)(1)) applies to claims made "for" a food "in the label or labeling of the food." In order for a claim "for" a food to be truthful, it must accurately describe the labeled food. A food labeled "low fat" must meet the definition of "low fat" in 21 CFR 101.62(b) and any other applicable requirements. Similarly, a food bearing a health claim relating calcium intake to the risk of osteoporosis must, among other things, actually provide the consumer with a "high" amount of calcium (§ 101.72(c)(2)(ii)).

It is implicit in the 1990 amendments that a manufacturer who places a health or nutrient content claim in food labeling must have knowledge that the food qualifies to bear the claim. Congress expected that manufacturers would have to ascertain the nutritional attributes of their food products, through laboratory analysis or otherwise, in order to label those products properly. (See H. Rept. 538, 101st Cong., 2d sess. 14 (1990), stating that nutrient definitions will enable manufacturers to "know the type of analysis to conduct on the food.") FDA has previously stated that a food manufacturer is responsible for the accuracy of its food labels (58 FR 2079 at 2163 and 2165). Indeed, placing a claim in food labeling that calls the consumer's attention to the food's nutritional characteristics is a representation that the manufacturer has evidence that the food meets the requirements for the claim.[1] Thus, making a claim without such a basis would be misleading, in violation of section 403(a) of the act.

The agency anticipates, and hopes, that in some instances companies will be amenable to demonstrating to FDA how particular values were calculated, regardless of the existence of these regulations. In the mandatory status of nutrition labeling final rule, the agency noted that: "A few comments expressed the position that FDA should not declare a product misbranded until the manufacturer has had an opportunity to establish that the variations are reasonable under the circumstances" (58 FR 2079 at 2162). Moreover, the agency considers that, when a product bears a claim based on information available solely to the manufacturer, it is reasonable for the agency to have access to that information. (See *United States* v. *An Article of Device*, 731 F.2d 1253, 1261–62 (7th Cir. 1984) (upholding regulation requiring makers of prescription devices to be able to prove that their devices work safely for their intended purposes and stating that "[w]here the government's access to the necessary information may be limited * * * it seems not inappropriate to put the burden of persuasion on the party who * * * presumably has better access to the relevant information".) (See also *Trans-American Van Service, Inc.* v. *United States*, 421 F. supp. 308, 331 (N.D. Tex. 1976).)

In section 3(b) of the 1990 amendments, Congress specifically directed FDA to issue regulations implementing section 403(r) of the act, and FDA has done so. Congress clearly contemplated that, in these regulations, the agency would not only define certain terms used in claims but would also determine the circumstances when claims can be made (see 136 Congressional Record H 5841, July 30, 1990, ("[T]he secretary is required, in the regulations, to define the circumstances under which statements disclosing the amount and percentage of nutrients in food will be permitted."); 136 Congressional Record H 12953, October 26, 1990, (defined terms "will have to be used in a manner that is consistent with the FDA's definition."); and 136 Congressional Record S 16609, October 24, 1990, statement of Senator Metzenbaum:

> [T]he bill does not specify how the term 'light' should be defined or how the Secretary should permit the term to be used. However, the bill gives the Secretary broad authority to develop an appropriate definition, so the Secretary certainly could consider permitting the term 'light' to be used in the manner * * * describe[d].)

FDA is now proposing to amend the general requirements for nutrient content and health claims in §§ 101.13 and 101.14 so that manufacturers who choose to place certain claims on the food label or in labeling may do so only if they keep the information on which the claim is based and make it available to appropriate regulatory officials upon request. Failure to meet the requirements by maintaining appropriate records and complying with an agency request to examine those records will be a violation of section 403(r) of the act, misbranding the food bearing the claim.

IV. The Proposal

FDA is now proposing that manufacturers who place certain types of claims on the labels or labeling of food be required to maintain the information upon which they have relied in determining that the food meets the requirements for the claims and to make it available to the agency upon request. The agency proposes that the claims covered by this requirement will be those based on new food technology (e.g., novel ingredients such as fat substitutes) or a new use of a food technology (e.g., manufacturing methods such as aeration), those based on the results of novel or nonstandardized testing procedures (e.g., where there is no applicable AOAC or other validated method), and those which the agency cannot evaluate without such information (e.g., because they are based on information available only to the manufacturer). The agency believes that these three categories encompass the areas of enforcement difficulty that it has already encountered in developing its new food labeling regulations and those that it can expect in the future, as advances in food technology are made.

Compliance with the proposed regulations would not entail the creation of any new information or the compilation of any special records. Rather, the proposed recordkeeping requirement would obligate manufacturers simply to keep and provide FDA with information that they should already possess. Adequate records may consist of results of direct product analyses, data base values or recipe calculations, or a combination of direct analyses, data base values, and recipe calculations.

The agency anticipates that manufacturers may have concerns about the confidentiality of the information inspected by the agency under this regulation. Manufacturers should be assured that FDA does not and would not release information that would provide a competitive advantage to another manufacturer (21 CFR 20.61). For example, if a company's records that support the validity of a labeling statement contain confidential information describing product formulation, manufacturing processes, or unique testing methods, the agency would protect this information from public disclosure (21 CFR 20.61). (See also 5 U.S.C. 552(b)(4); 18 U.S.C. 1905; and 45 CFR 5.65.)

V. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analyis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency estimates that this proposed rule would cause some incremental cost of developing, maintaining, and storing information above what food firms would normally experience. However, the agency anticipates these costs will be small. Therefore, the agency finds that the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because any records or necessary documents would be ones that any responsible firm would create and maintain in the normal course of business, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Paperwork Reduction Act of 1995

This proposed rule contains record retention requirements that are subject to public comment and to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 and 3507).

[1] Cf. Aerosolized food, drug, and cosmetic products, proposed rule; 38 FR 6191 at 6192, March 7,. 1973, ("[W]ith respect to the safety of cosmetics, [the act) necessarily contemplates that the manufacturer or distributer has obtained all data and information necessary and appropriate to substantiate the product's safety before marketing. Any cosmetic product whose safety is not adequately substantiated prior to marketing may be adulterated and would in any event be misbranded unless it candidly and prominently warns that the safety of the product has not been adequately determined.") *Thompson Medical Co., Inc.* v. *FTS*, 791 (1987) ("[I]n general an advertisement is considered deceptive if the advertiser lacks a 'reasonable basis' to support the claims made in it."

Therefore, in accordance with 5 CFR part 1320, a description of the record retention requirements is given below with an estimate of the annual collection of information burden. Included in the estimate is the time for reviewing instructions, gathering necessary data, and maintaining the required records.

FDA is soliciting comments to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) evaluate the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, when appropriate.

Title: Record Retention Requirements for Nutrient Content Claims and Health Claims.

Description: FDA has previously issued regulations that prescribe nutrient content claims (§ 101.13 and subpart D) and health claims (§ 101.14 and subpart E) that may be used on the label or labeling of a food. The proposed rule would establish a requirement that, in certain circumstances, persons responsible for the labeling of foods with nutrient content claims and health claims maintain the records upon which they rely as the basis for those claims. The proposal would also require that those records be made available to appropriate regulatory officials upon request. The proposed regulation does not specify the records that must be retained or the format in which they must be retained but proposes that they be the ones which form the basis for the claims. Thus, the agency believes that the proposed provisions will add only a minor additional record retention burden for firms subject to the proposed provisions.

Description of Respondents: Persons and businesses, including small businesses.

Estimated Annual Reporting and Recordkeeping Burden

21 CFR Section	No. of Responses Per Respondents	Total Annual Responses	Hours Per Response	Total Annual Hours	Total Operating/ Maintenance Costs
101.13 and 101.14	10	1,000	1	1,000	$46,000

The agency has submitted copies of the proposed rule to OMB for its review of these recordkeeping requirements. Interested persons are requested to send comments regarding information collection by March 4, 1996, but not later than April 2, 1996 to the Office of Information and Regulatory Affairs, OMB, rm. 1035, New Executive Bldg., Washington, DC 20503, ATTN: Desk Officer for FDA.

VIII. Comments

Interested persons may, on or before April 17, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

2. Section 101.13 is amended by revising paragraph (o) and by adding new paragraph (s) to read as follows:

§ 101.13 Nutrient content claims—general principles.

* * * * *

(o) Except as provided in § 101.10 and in this paragraph, compliance with requirements for nutrient content claims in this section and in the regulations in subpart D of this part will be determined using the analytical methodology prescribed for determining compliance with nutrition labeling in § 101.9. With respect to those foods covered by paragraph (s) of this section, compliance may be determined by reviewing the records required to be kept under paragraph (s) of this section.

* * * * *

(s) Each person responsible for the labeling of a food that bears a nutrient content claim defined in subpart D of this part that is based on:

(1) A new food technology (e.g., novel ingredients such as fat substitutes) or a new use of a food technology (e.g., manufacturing method such as aeration);

(2) Novel or nonstandardized testing procedures (e.g., where there is no applicable Association of Official Analytical Chemists method or other reliable and appropriate analytical procedure); or

(3) Information available only to the person responsible for the labeling, and which the agency cannot evaluate without such information, shall maintain, for as long as the food is marketed, all records that demonstrate that the food meets the requirements in this section and in the applicable regulation in subpart D of this part. These records shall be made available for authorized inspection and copying by appropriate regulatory officials and shall be submitted to those regulatory officials upon request.

3. Section 101.14 is amended by adding new paragraph (h) to read as follows:

§ 101.14 Health claims: general requirements.

* * * * *

(h) Records. Each person responsible for the labeling of a food that bears a health claim provided for in subpart E of this part that is based on:

(1) A new food technology (e.g., novel ingredients such as fat substitutes) or a new use of a food technology (e.g., manufacturing method such as aeration);

(2) Novel or nonstandardized testing procedures (e.g., where there is no applicable Association of Official Analytical Chemists method or other reliable and appropriate analytical procedure); or

(3) Information available only to the person responsible for the labeling, and which the agency cannot evaluate without such information, shall maintain, for as long as the food is marketed, all records that demonstrate that the food meets the requirements in this section and in the applicable regulation in subpart D of this part. These records shall be made available for authorized inspection and copying by appropriate regulatory officials and shall be submitted to those regulatory officials upon request.

Dated: December 12, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–2153 Filed 2–1–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI41–01–6999b; FRL–5409–9]

Approval and Promulgation of Implementation Plan; Michigan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve a revision to the Michigan State Implementation Plan (SIP) for the general conformity rules. The general conformity SIP revisions enable the State of Michigan to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

DATES: Comments on this proposed action must be received by March 4, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie at (312) 353–6680.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register.** Copies of the request and the USEPA's analysis are available for inspection at the following address: USEPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. (Please telephone Michael G. Leslie at (312) 353–6680 before visiting the Region 5 office.)

Authority: 42 U.S. C. 7401–7671q.

Dated: December 13, 1995.

Gail Ginsberg,

Acting Regional Administrator.

[FR Doc. 96–1851 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[GA–28–1–6955b; GA–30–1–7009b; FRL–5318–4]

Approval and Promulgation of Implementation Plans State: Georgia; Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the State of Georgia through the Department of Natural Resources, Environmental Protection Division (GA EPD) for the purpose of realphabetizing and updating definitions, updating volatile organic compounds (VOCs) reasonably available control technology (RACT) rules, stationary source monitoring and testing procedures, and regulations for the prevention of significant deterioration of air quality (PSD). In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Laura Thielking at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Division for Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 316 St. Clair Mall, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Laura Thielking, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, X4210. Reference files GA–28–1–6955 and GA–30–1–7009.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register.**

Dated: September 29, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1929 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[GA–21–3–6488lb; FRL–5319–6]

Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the state implementation plan (SIP) revision submitted by the State of Georgia for the purpose of establishing regulations governing emission statements, inspection and maintenance procedures, new source permitting requirements and stage II vapor recovery regulations. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal

because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Alan Powell at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Alan Powell, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4209. Reference file GA–21–5747.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: September 18, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1846 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[GA–21–2–5930b; FRL–5321–7]

Approval and Promulgation of Implementation Plans; Georgia: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision originally submitted on November 13, 1992, and resubmitted on September 27, 1995, by the State of Georgia for the purpose of establishing a small business assistance program (SBAP). In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments should be addressed to: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Georgia may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Environmental Protection Division, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555, ext. 4195.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: October 17, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1927 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[RI15–1–6954b; A–1–FRL–5329–4]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Control of Volatile Organic Chemicals From Automotive Refinishing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision establishes and requires VOC emission standards for automotive refinishing operations. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before March 4, 1996.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove, (617) 565–3246.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 16, 1995.

John P. DeVillars,

Regional Administrator, EPA New England.

[FR Doc. 96–2229 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[AD–FRL–5405–6]

Clean Air Act Interim Approval of Operating Permits Program; Delegation of Section 112 Standards; State of Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes interim approval of the Operating Permit Program submitted by the Commonwealth of Massachusetts. Massachusetts' Operating Permit Program was submitted for the purpose of complying with Federal requirements which mandate that states develop, and submit to EPA, programs for issuing operating permits for all major stationary sources and to certain other sources. EPA is also approving the Commonwealth's authority to implement hazardous air pollutant requirements. In the Final Rules Section of this **Federal Register**, EPA is promulgating interim approval of the Massachusetts Operating Permit Program as a direct final rule without prior proposal because the Agency views this submittal as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before March 4, 1996.

ADDRESSES: Comments should be addressed to Ida E. Gagnon, Air Permits, APO, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203–2211. Copies of the State's submittal and other supporting information relevant to this action are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 1, One Congress Street, 10th floor, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, Air Permits, APO, U.S. Environmental Protection Agency, Region 1, JFK Federal Building, Boston, MA 02203–2211, (617) 565–3500.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 28, 1995.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 96–2249 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 76

[FRL–5416–4]

Acid Rain Program; Nitrogen Oxides Emissions Reduction Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of addition of documents to docket and of extension of comment period on proposed rule.

SUMMARY: On January 19, 1996 the Environmental Protection Agency (EPA) promulgated a proposed rule implementing the second phase of the Nitrogen Oxides Reduction Provisions in Title IV of the Clean Air Act (refered to as "the January 19, 1996 proposed rule"). The proposed rule established nitrogen oxides (NO_X) emission limitations for certain coal-fired utility units and revised NO_X emission limitations for others as specified in section 407(b)(2) of the Clean Air Act. The emission limitations will reduce the serious adverse effects of NO_X emissions on human health, visibility, ecosystems, and materials.

EPA recently determined that certain materials related to interagency review of the January 19, 1996 proposed rule were erroneously excluded from the rulemaking docket. EPA has added those materials to the docket. Further, EPA is extending the comment period so that comments on the proposed rule are due on March 19, 1996.

DATES: *Comments.* Comments on the January 19, 1996 proposed rule (which implements the second phase of the Nitrogen Oxides Reduction Provisions of Title IV) must be received on or before March 19, 1996.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to Air Docket Section (A–131), Attention, Docket No. A–95–28, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Docket. Docket No. A–95–28, containing supporting information used in developing the proposed rule (including the added materials relating to interagency review), is available for public inspection and copying betweeen 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, Room 1500, 1st Floor, 401 M Street, SW, Washington DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Peter Tsirigotis, at (202) 233–9133), Source Assessment Branch, Acid Rain Division (6204)], U.S. Environmental Protection Agency, 401 M Street, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: On January 23, 1996, the Utility Air Regulatory Group (UARG) requested that the period (which had been set at 45 days) for submission of comments on the January 19, 1996 proposed rule be extended for 30 more days, until April 3, 1996. In addition, UARG stated that certain materials that related to interagency review of the proposed rule and that were required to be docketed under section 307(d)(4)(B)(ii) of the Clean Air Act had not been included in the docket.

In response, EPA has reviewed the docket and, on January 26, 1996, added to the docket the interagency materials that were erroneusly excluded. UARG was notified at that time about the addition of the materials. Further, EPA has considered the extension request as well as the importance of completing this rulemaking (including interagency review of the final rule) and issuing a final rule by the statutory deadline, under section 407(b)(2) of the Act, of January 1, 1997. In light of these considerations, EPA is extending the comment period to March 19, 1996. This extension will provide commenters a total of 60 days from the promulgation

of the January, 19, 1996 proposed rule. This also provides a sufficient period, well in excess of the typical 30-day notice period, from the addition of materials in the docket and the publication of the instant notice concerning such addition.

Dated: January 29, 1996.

Brian J. McLean,

Director, Acid Rain Division.

[FR Doc. 96–2238 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 80

[FRL–5412–2]

RIN 2060–AD55

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Clean Air Act prohibits the introduction of gasoline containing lead or lead additives into commerce for use as a motor vehicle fuel after December 31, 1995. In today's action, EPA proposes to revise its regulations regarding gasoline so as to prohibit the introduction of gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, into commerce for use as motor vehicle fuel effective January 1, 1996, to remove existing regulatory provisions which will no longer be necessary as a result of this ban, and to modify other provisions to reflect the institution of this ban. In the final rules section of this **Federal Register**, EPA is promulgating this amendment as a direct final rule without prior proposal, because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the proposed changes is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received by March 4, 1996.

ADDRESSES: Written comments on this proposed action should be addressed to Public Docket No. A–95–13, Waterside Mall (Room M–1500), Environmental Protection Agency, Air Docket Section, 401 M Street, S.W., Washington, D.C. 20460. Materials relevant to this rulemaking have been placed in Docket A–95–13. Documents may be inspected between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material. Those wishing to notify EPA of their intent to submit adverse comment or request an opportunity for a public hearing on this action should contact Paulina Chen, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233–9031.

FOR FURTHER INFORMATION CONTACT: Paulina Chen, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233–9031.

SUPPLEMENTARY INFORMATION: For addition information, see the direct final rule published in the rules section of this **Federal Register**.

Dated: January 29, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 96–2232 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Box Turtles From the United States in 1996

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for Information and Comment.

SUMMARY: Information is solicited to assist the Fish and Wildlife Service in (1) making an export finding for box turtles for 1996, as required under The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and (2) evaluating the feasibility of breeding of box turtles in captivity for export. International Air Transport Association (IATA) Live Animals Regulations, as they apply to shipment of box turtles, are described, and comment is invited on IATA shipping container requirements for live box turtles.

DATES: Comments and information must be received by March 4, 1996.

ADDRESSES: Please send correspondence concerning this notice to the Office of Scientific Authority; Mail Stop 725, Arlington Square; U.S. Fish and Wildlife Service; Department of the Interior; Washington, D.C. 20240. The fax number is (703) 358–2276. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; 4401 North Fairfax Drive, Room 750; Arlington, Virginia 22203. Comments and other information received are available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Scientific Authority finding—Dr. Marshall A. Howe, Office of Scientific Authority, phone (703) 358–1708; fax (703) 358–2276; e-mail marshall_howe@mail.fws.gov. Management Authority finding and export permits—Mr. Scott Hicks, Office of Management Authority, phone (800) 358–2104; fax (703) 358–2281.

SUPPLEMENTARY INFORMATION: Publication of this notice has occurred later than planned, because of the unexpected furlough of most Department of the Interior employees in December, 1995 and January, 1996. Nevertheless, the Fish and Wildlife Service (Service) believes that public input is important and has allowed for a 30-day public comment period. The Service realizes that the collecting period for turtles by commercial dealers in Louisiana is highly seasonal and will therefore issue its advice as promptly as possible after all public input has been thoroughly considered. It is the Service's intent to be able to issue export permits, if warranted, by March 15, 1996.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in one of three Appendices. Appendix I includes species threatened with extinction that are or may be affected by international trade. Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless the trade is strictly controlled. Appendix III includes species that any Party country identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties to control trade.

International trade in Appendix II species is permitted only if shipments are accompanied by either an export permit issued by the country-of-origin, or a re-export certificate issued by an intermediary country. Before such

export permits can be issued, the designated Scientific Authority of the country-of-origin must make a finding that the exports will not be detrimental to the survival of the species ("non-detriment finding"); and the designated Management Authority of the country-of-origin must determine that the specimens to be exported were obtained legally and, for live specimens, that they are treated and shipped so as to minimize the risk of injury, damage to health, or cruel treatment [50 CFR 23.15(d)]. The Scientific Authority is also charged with monitoring the export permits and actual exports of Appendix II species on an ongoing basis, to ensure that the export remains at a level well below that which might make the species eligible for inclusion in Appendix I.

Non-Detriment Findings for Species Exported in Large Numbers

In making non-detriment export findings for Appendix II animal species traded in large numbers, Scientific Authorities consider such factors as whether take of the species or similar species in the past may have contributed to a reduction in its numbers or distribution, or whether life history traits indicate a potential vulnerability to current levels of take and export. Findings are usually based upon existing biological information derived from scientific studies and/or professionally accepted wildlife or fishery management programs. For species bred-in-captivity, a key element of the finding is an evaluation of the extent to which the captive population is self-sustaining, without need for augmentation from the wild.

Information desirable for making a non-detriment finding includes the total offtake of the species; the geographical source of the animals; an independent measure of population status (or an index to population change over time) for the species; and the presence of an enforceable program for managing take and commerce. Also desirable, and sometimes necessary, is information on recruitment potential, demographic structure of the collected population, status of the habitat base, and an assessment of market factors likely to influence commercial demand in the future.

For Appendix II species traded in large numbers, the Service, as Scientific Authority for the United States, has generally found it to be impractical to develop findings for each export application. A general finding, which defines minimum criteria that future applications must meet for approval, is the preferred approach. One type of general finding used by the Service is a determination that all exports allowed by a program professionally managed by a State wildlife agency will be non-detrimental. This approach has been taken in certain special cases, where the primary management responsibility for heavily traded Appendix II species (e.g., alligators) rests with the States, and the State program has been determined to collect the requisite information on population status and trends and otherwise meet professionally accepted standards for wildlife management programs.

Other general findings may establish restrictive conditions, such as a quota (maximum allowable number) or other export limitation mechanism, to ensure that exports from the United States remain non-detrimental. Under a quota system, for example, all valid applications for export permits that meet Management Authority criteria for legal acquisition and humane transport would be approved, until the cumulative number of specimens exported reached the established quota level. Subsequent applications would be denied. General export findings will be conservative (zero or minimal export permitted) when the quality and comprehensiveness of biological and management information are weak, or when substantial information suggests a possible detrimental impact of take. Similarly; liberal advices (high levels of export permitted) will be issued only when comprehensive information of high quality indicates the species can likely sustain intensive collection.

International Trade in Box Turtles

At the ninth meeting of the Conference of the Parties to CITES in 1994, the Parties adopted proposals submitted by the United States and the Netherlands to add to Appendix II all species of box turtles (*Terrapene* spp.) not already listed on a CITES Appendix. Two of these species are native to the United States: the eastern box turtle (*T. carolina*) and the ornate box turtle (*T. ornata*). The listing proposals were based on several sources of information. First, long-term population declines had been documented in most well studied populations in the United States (*T. carolina*: Maryland, Indiana, Missouri; *T. ornata*: Wisconsin, Kansas). Second, analysis of Service export statistics revealed a substantial increase in export of wild *T. carolina* and *T. ornata* for the pet trade in recent years, coincident with declining availability of certain popular tortoise species. According to Service data, the number of *T. carolina* reported to be exported was approximately 26,000 in both 1992 and 1993 and 22,000 in 1994. Reported export of box turtles identified as *T. ornata* totalled approximately 10,500 in 1993 and 12,300 in 1994. Finally, population modelling of other turtle and tortoise species with similar longevity, survival, and reproductive characteristics (e.g. Blanding's turtle, *Emydoidea blandingii*) suggest that box turtle populations may be unusually vulnerable to elevated mortality of adults or juveniles. Removal of adult box turtles from the wild for commercial trade could have the effect of being an additive mortality factor.

In considering how to manage trade in these newly listed species, the Service first reviewed State laws and regulations pertaining to commerce in reptiles and discussed management capabilities with representatives of wildlife agencies in those States interested in maintaining an export market for box turtles. On the basis of these reviews and discussions, the Service determined, for 1995 only, that only the State of Louisiana was interested in export and had the regulatory and management (including enforcement) infrastructure for managing collection of reptiles in a manner that could potentially allow the appropriate CITES findings to be made.

Key elements of the Louisiana regulations included the following: (1) requirement of a collector's license for anyone collecting or selling box turtles; (2) requirement of a dealer's license for anyone buying, acquiring, or handling native reptiles for resale or shipping out of State; (3) Department of Wildlife and Fisheries (hereinafter "Department") authority to inspect the premises, holding facilities, and records of dealers, and require data from dealers on the total number of box turtles taken within each of the State's wildlife districts; (4) establishment of a standing advisory committee (the Louisiana Reptile and Amphibian Task Force) that consists of university herpetologists, State personnel, and commercial interests; and (5) provision for penalties for violations of State laws related to trade in reptiles.

In this management context, the following information was considered in determining whether a non-detriment finding could be made for export of box turtles taken in Louisiana in 1995:

1. The Department provided the following assessment with respect to population status of *T. carolina*: "After consultation with the Louisiana Reptile and Amphibian Task Force * * * there is no evidence to indicate that native (eastern) box turtles are endangered or threatened in Louisiana." (It is recognized that this statement represents a professional

opinion rather than a quantitative assessment of population status.)

2. The primary target of turtle dealers in Louisiana appeared to be the Gulf coast subspecies, *T. carolina major*, which, according to the scientific literature, may be more commonly multiple-brooded than more northern subspecies and therefore possibly less vulnerable to take than turtle/tortoise species that have been the focus of recent population modelling efforts.

3. The Department was in the process of seeking funding for initiating studies of (1) the status of box turtle populations in Louisiana and (2) a comparison of box turtle demographic characteristics in protected and unprotected areas.

4. The Department would be collecting statistically representative data on the sizes (carapace length) of animals collected for commercial purposes. Such data are important for determining whether commercial take is size-selective or negatively affecting the demographic structure of box turtle populations.

5. The Department stated its intention to develop these data collection efforts into an operational box turtle management program that will include, if necessary, such standard management protocols as quotas, seasons, and size limits. The Department provided a written commitment to the goal of assuring "a sustainable and perpetual harvest of box turtles."

On the basis of this available information, the Service's Scientific Authority made a general, non-detriment finding for 1995 establishing a precautionary export quota of 9,750 specimens of *T. carolina* taken in the State of Louisiana. This number represents 50% of the number of Louisiana-collected *T. carolina* believed, on the basis of export records, to have been exported from the United States in 1993 (the most recent year for which complete export figures were available). Based on studies of eastern box turtle population densities, this represents the adult population of approximately 4 square miles of suitable habitat. The Service believed then and continues to believe that this level of export for 1995 will not significantly affect populations, but that a much more substantial database on population status and impacts of take, and full implementation of a management program, would be necessary before any increase in the quota could be considered. The Service was unable to make a non-detriment finding for *T. ornata*, or for *T. carolina* collected in States other than Louisiana.

Given the paucity of biological information currently available, the 1995 advice is subject to the following additional conditions:

1. It is limited to those animals held in captivity at the end of 1994 or collected in 1995.

2. Studies of (a) the status of box turtle populations in Louisiana and (b) a comparison of box turtle demographic characteristics in protected and unprotected (i.e., potentially subject to collection) areas will be initiated by the Department, in cooperation with Louisiana box turtle exporters, as soon as funding is secured. A study proposal, approved by the Louisiana Amphibian and Reptile Task Force, to assess the population status of box turtles must be received before any export applications for 1996 will be considered.

3. Because the impact of exports on populations cannot be thoroughly assessed without knowledge of the total commercial offtake of turtles (domestic use + export), issuance of permits for export will be further conditional upon collection of information by the Department on (a) the total number of box turtles collected for commercial markets in Louisiana, and (b) certain physical characteristics of all turtles (or a statistically representative sample), collected.

4. Collectors will be required to record the wildlife district (as defined by the Department) in which each turtle is collected and to provide this information to the wholesaler/retailers. The wholesaler/retailer will be required to provide such information to State authorities upon request and to retain the records for 3 years. Before export permits will be issued by the Service, dealers will have to certify that box turtles for which export permits are requested were taken in the State of Louisiana. The Department will review these certifications.

5. The limited quota will remain in effect until such time as (1) either analysis of data on turtle measurements or other information suggests that a change in the quota in either direction is warranted, or (2) field studies develop baseline information sufficient for modelling parameters of a sustainable level of take.

6. Advice on export applications for 1996 will not be issued before (1) data on sizes and locations of animals collected in 1995 are analyzed and the animals appear to be representative of a demographically healthy population; (2) the State's management program and the process of initiating the required field studies is determined to be on track; and (3) the existing information and proposed advice is made available for public review.

Developments Subsequent to 1995 Export Decision

After export advice was issued for specimens taken in Louisiana in 1995, the Department prepared a draft study plan for assessing the population status of box turtles and the impact of box turtle collection in Louisiana. After approval by the Louisiana Amphibian and Reptile Task Force, this plan was submitted to the Service for review. The Service found that the study design was appropriate for obtaining the information necessary for development of a sound management program.

The plan describes an approach to field-sampling of box turtles that should yield comparative data on populations and demographic structure between collected and uncollected areas. It also describes procedures State personnel will use for collecting demographic data on turtles in the possession of dealers prior to export. Funding for the study has been secured. However, because study plan development was not completed until late summer, field studies will not commence until 1996. Data on physical characteristics of a sample of turtles in the possession of dealers were summarized and provided to the Service in an October 1995 interim report.

A survey of Louisiana dealers reported by the Department in December 1995 yielded a total estimated collection in Louisiana in 1995 of 11,950 box turtles, of which 9,500 were ascribed to the Gulf coast race, *T. c. major*, and 2,450 to the three-toed race, *T. c. triunguis*. Service export records up to the time of this notice show that 6,115 of these (4,365 *major* and 1,750 *triunguis*) were exported from the United States. It is not known what proportion of the 5,835 animals not exported were marketed domestically, released, or maintained in captivity.

Samples of 437 *major* and 394 *triunguis* were selected for morphological analysis. Juveniles constituted 23.3 percent of the sample of *triunguis* and 9.6 percent of the sample of *major*. (For these purposes juveniles were defined as animals in size classes smaller than the first size class that, in a frequency distribution of collected animals by size class, exhibited a sudden increase). The sex ratio (male:female, all ages included) in the sample of collected animals was 1.0:0.78 for *triunguis* and 1.0:0.52 for *major*. Sex ratio varied substantially as a function of the time of year that animals were collected. Average carapace length was 123.2 mm for adult *triunguis* and 164.9 mm for adult *major*. There was no sexual size dimorphism in *triunguis*, but carapaces of *major* males averaged 7.4 mm longer than female carapaces. Although there appeared to be no deliberate selectivity on the part of collectors with respect to size class of either race, the sex ratio bias toward males may be an artifact of a market or collector preference for males, which are, on average, more brightly colored and more active than females (fide Department staff).

According to the Department, the area from which box turtles were collected commercially in Louisiana in 1995 ranged from Lafayette and Baton Rouge east to the Mississippi border and southeast to the vicinities of New Iberia, Thibodeaux, and the Mississippi River delta. The range of collected *triunguis* extends along the northern border of this zone from the neighborhood of Baton Rouge across the northern border of Lake Pontchartrain and east to Mississippi. Maps provided by the Department indicate a narrow zone of overlap between the range of this race and that of *major* to the south. The Department believes that the great majority of box turtles are being taken along the margins of extensive swampland and bottomland hardwood forests and along just a few cleared corridors within this zone. They further state that 75 percent of the habitat of *major* is inaccessible.

The Service solicits comments on the information presented above and any additional information relevant to the issuance of export advice for box turtles from Louisiana for 1996.

Captive-Bred Box Turtles

The Service has received several inquiries and five permit applications (from Arkansas) concerning export of captive-bred box turtles. The Service considers captive-bred animals to be animals that are both conceived and hatched within the confines of a controlled environment physically isolated from wild populations. Offspring hatched in captivity from eggs collected from the wild or produced from eggs laid in captivity by gravid females collected from the wild are not considered to be captive-bred. Unless a captive-breeding program meets the rigorous standards of CITES Resolution Conf. 2.12, captive-bred Appendix II animals are subject to the same CITES permit requirements and non-detriment findings as wild-caught animals, as described above. For many species, however, properly managed captive-breeding programs can provide a sustainable supply of animals with minimal impact on wild populations.

The Service is not convinced of the feasibility of breeding box turtles in captivity in commercial quantities. The Service is also concerned about the difficulty of distinguishing captive-bred turtles from wild turtles, especially when wild specimens are readily available in the vicinity of the captive-breeding operation. To substantiate that individual box turtles are captive-bred and to allow the Service to make the necessary determinations, the breeder must be able to document the source and disposition of all box turtles that enter into the breeder's possession. This necessitates physical separation of the breeding stock from wild-caught turtles or marking each turtle individually, and providing detailed records of the captive-breeding operation. Such records must include the source of the parent stock, age and sex composition of the population, annual egg production, hatching success, mortality rate of breeder stock and hatchlings, and disposition of any turtles sold. To understand more fully the potential for both sustainable and verifiable captive-breeding of box turtles, the Service solicits additional information.

Transport Requirements

CITES requires that "any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment." Specifically, to export species listed in Appendix II, such as the box turtle, Article IV, paragraph (c) of the treaty requires that, to issue an export permit, the Management Authority of the exporting country must be satisfied that the animals in the shipment will be "so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment." The CITES party countries have agreed that compliance with the International Air Transport Association (IATA) Live Animal Regulations is the standard for meeting the treaty's humane transport requirements for air transport. The CITES party countries have also agreed that all CITES permits should state that for live animal shipments a permit is only valid if the shipment complies with the IATA Live Animal Regulations (Resolution Conf. 9.3). All U.S. CITES permits contain this provision as a permit condition to comply with this CITES requirement. If a shipment of box turtles is transported that is not in compliance with the IATA Live Animals Regulations, the export permit being used is not valid, and may not be accepted by the importing country.

All U.S. exporters who obtain CITES export permits for live box turtles are informed of the requirement to comply with the IATA Live Animals Regulations. Prior to export, CITES export permits must be endorsed by the Service's Division of Law Enforcement. If the shipment is not in compliance with IATA, Law Enforcement officials can refuse to endorse the export permit. Such shipments are also subject to refusal of clearance on import. Improperly transported containers, in addition to being subject to seizure or enforcement actions upon import, also increase the risk of disease or mortality to the animals contained therein.

It is therefore obligatory that all exports of box turtles from the United States comply with the IATA Live Animal Regulations, for air transport. Shipments may comply with either the 21st or 22nd Edition of the Live Animals Regulations, copies of which may be ordered directly from IATA, at 2000 Peel Street, Montreal, Quebec, Canada H3A 2R4.

These shipping standards are internationally accepted by all airlines that are members of IATA (the majority of all U.S. and world carriers, and all carriers shipping turtles internationally from the United States), and by the CITES party governments. The IATA Live Animals Regulations are multilateral and internationally accepted.

In addition to complying with the general requirements of the IATA Live Animals Regulations, shipments of box turtles are also required to comply with the specific container requirement applicable to box turtles, which is Container Requirement 43 in the 22nd Edition of the IATA Live Animals Regulations.

The Service notes the mandatory nature of the requirements that turtles not be overcrowded in the containers, that sufficient ventilation must be provided, and that the containers be sufficiently strong. For all shipments of live animals, the IATA Live Animals Regulations state that the container "must be able to withstand other freight potentially damaging it or causing the structure to buckle or bend." A container used for box turtles must be manufactured from fibreboard, hardboard, plywood, or rigid plastics that can withstand crushing if other freight falls upon it. Containers must also have ventilation holes that are large enough to allow for air circulation. In some cases during very cold weather, styrofoam can be used to line the container as an insulating layer, as long as ventilation is not impeded. Fine wire or nylon mesh should be used to screen the ventilation openings, but should not have jagged edges that may injure the

animals or loose pieces that may be ingested. Box turtles should not under any circumstances be stacked or be shipped in containers that are deep enough to allow them to clamber on top of one another.

The Service also notes the requirement to comply with other aspects of Container Requirement 43 and the general IATA Live Animals Regulations, which are industry standards accepted internationally by air carriers and governments. The Service attends the IATA Live Animals Board meetings, which are also attended by air carriers, the CITES Secretariat, veterinary experts, and non-governmental organizations. The Service welcomes comments from industry, veterinary, and conservation experts on whether or not the IATA Container Requirement for box turtles could be refined in any way in order to facilitate more healthful or more humane transport of box turtles.

Future Actions

If possible, advice will be issued within a week of the closing period for comment and published in the **Federal Register**.

The primary authors of this request for information were Dr. Marshall A. Howe and Mr. Tim Van Norman, Office of Scientific Authority, and Mr. Scott Hicks and Dr. Susan Lieberman, Office of Management Authority, under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: January 25, 1996.

John G. Rogers,

Director.

[FR Doc. 96–2208 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 61, No. 23

Friday, February 2, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 96–002–1]

Asgrow Seed Co.; Receipt of Petition for Determination of Nonregulated Status for Squash Line Genetically Engineered for Virus Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from the Asgrow Seed Company seeking a determination of nonregulated status for a squash line designated as CZW–3 that has been genetically engineered for virus resistance. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether this squash line presents a plant pest risk.

DATES: Written comments must be received on or before April 2, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–002–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–002–1. A copy of the petition and any comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing access to that room to inspect the petition or comments are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. James White, Biotechnology Permits, BBEP, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the petition, contact Ms. Kay Peterson at (301) 734–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for determination of nonregulated status must take and the information that must be included in the petition.

On December 18, 1995, APHIS received a petition (APHIS Petition No. 95–352–01p) from the Asgrow Seed Company (Asgrow) of Kalamazoo, MI, requesting a determination of nonregulated status under 7 CFR part 340 for a yellow crookneck squash line designated as CZW–3 (line CZW–3) that has been genetically engineered to contain genes that confer virus resistance. The Asgrow petition states that squash line CZW–3 should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, line CZW–3 has been genetically engineered to contain the coat protein genes from cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus for resistance to these three viruses. The subject squash line also contains the *nptII* gene from the prokaryotic transposon Tn5, which encodes the enzyme neomycin phosphotransferase II and is used as a selectable marker for transformation. Expression of the added genes is controlled by 35S promoters and terminators from the plant pathogen cauliflower mosaic virus. The *Agrobacterium tumefaciens* vector system was used to transfer the plasmid containing the DNA elements described above into the yellow crookneck squash parental line.

Line CZW–3 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. The subject squash line has been evaluated in field trials conducted in 1993 and 1994 under APHIS permits. In the process of reviewing the applications for field trials of line CZW–3, APHIS determined that the vectors and other elements were disarmed and that the trials, which were conducted under conditions of reproductive and physical containment or isolation, would not present a risk of plant pest introduction or dissemination.

In the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), "plant pest" is defined as "any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured or other products of plants." APHIS views this definition very broadly. The definition covers direct or indirect injury, disease, or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

The Food and Drug Administration (FDA) published a statement of policy on foods derived from new plant varieties in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). The FDA statement of policy includes a discussion of FDA's authority for ensuring food safety under the Federal Food, Drug, and Cosmetic Act, and provides guidance to industry on the scientific considerations associated with the development of foods derived from new plant varieties, including those plants developed through the techniques of genetic engineering.

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the Petition for Determination of Nonregulated Status from any interested person for a period of 60 days from the date of this notice. The petition and any comments received are available for public review, and copies of the petition may be ordered (see the **ADDRESSES** section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. Based on the available information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of Asgrow's yellow crookneck squash line CZW–3 and the availability of APHIS' written decision.

Authority: 7 U.S.C. 150aa–150jj, 151–167, and 1622n; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 30th day of January 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–2259 Filed 2–1–96; 8:45 am]

BILLING CODE 3410–34–P

Commodity Credit Corporation

Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to a currently approved information collection in support of the Conservation Reserve Program (CRP). The collection requirements have been revised to decrease the number of respondents for certain forms, decrease the total annual responses to match the reduction in respondents, change form identified as CRP–42 to CRP–1F Addendum, and reduce the average response time for this form from 30 minutes to 5 minutes.

DATES: Comments on this notice must be received on or before April 2, 1996 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Comments may be sent to Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Programs Division, USDA, FSA, P.O. Box 2415, Washington, DC 20013, (202) 720–6221.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR Part 704, 1986–1990 Conservation Reserve Program and 7 CFR Part 1410, 1991–1995 Conservation Reserve Program Regulations.

OMB Number: 0560–0125.

Approval Date of Expiration: March 3, 1996.

Type of Request: Extension and Revision of a Currently Approved Information Collection.

Abstract: Revisions were made to the currently approved information collection to reflect the Department's continued efforts to retarget CRP to more environmentally sensitive acreage. Total public burden hours are based on the following assumptions:

1. Some contracts will expire from CRP on September 30, 1996;

2. Easement authority will not be reinstated;

3. Participants with acreage that expires from CRP on September 30, 1996, will be offered an opportunity to modify and extend the expiration date under certain conditions;

4. Five percent of eligible producers will elect to preserve bases, allotments, and quotas by continuing to abide by the terms and conditions of the contract after expiration.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .1207253 hours per response.

Respondents: Owners, operators, and other producers on eligible cropland.

Estimated Number of Respondents: 310,200.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 37,449.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, D.C., 20503 and to Cheryl Zavodny, Chief, Conservation Programs Branch, Conservation and Environmental Programs Division, USDA, FSA, P.O. Box 2415, Washington, DC 20013, (202) 720–6221.

Copies of information collection documents may be obtained from Leslie Deavers, Agriculture Program Specialist, Conservation and Environmental Programs Division, USDA, FSA, P.O. Box 2415, Washington, DC 20013, (202) 720–9563.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on January 25, 1996.

Bruce R. Weber,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 96–2176 Filed 2–1–96; 8:45 am]

BILLING CODE 3410–05–P

Farm Service Agency

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Farm Service Agency's (FSA) intention to request an extension for, and revision of, an information collection process currently in effect with respect to regulations issued under the United States Warehouse Act (USWA), related reporting and recordkeeping requirements and Standards for Approval of Warehouses Under the Commodity Credit Corporation (CCC) Charter Act.

DATES: Comments on this notice must be received on or before April 2, 1996 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Judy Fry, Agricultural Marketing Specialist, Warehouse and Inventory Division, Farm Service Agency, USDA, P.O. Box 2415, Washington, D.C. 20013–2415; telephone (202) 720–7433.

SUPPLEMENTARY INFORMATION:

Title: Regulations Under the United States Warehouse Act, Related Reporting and Recordkeeping Requirements, and Standards for Approval of Warehouses Under the CCC Charter Act.

OMB Control Number: 0560–0120.

Expiration Date of Approval: February 28, 1996.

Type of Request: Extension and Revision of Currently Approved Information Collection.

Abstract: The information collected under Office of Management and Budget (OMB) Number 0560–0120, as identified above, allows FSA to effectively administer the regulations under the USWA, related reporting and recordkeeping requirements, and the Standards for Approval under the CCC Charter Act.

USWA and CCC activities are administered by FSA. Although there are several types of warehouses covered by USWA and CCC functions, the reporting requirements for a particular type of warehouse are essentially the same for all types of warehouses. With some exceptions, the same forms are used for both USWA licensing and CCC purposes. These forms are furnished to interested warehouse operators or used by warehouse examiners employed by FSA to secure and record information about the warehouse operator and the warehouse. The general purpose of the forms are identical, i.e., to provide those charged with issuing licenses under USWA or executing contracts for CCC as a basis to determine whether the warehouse and the warehouse operator meet applicable standards, to receive a license or contract, and to determine compliance once the license is issued or the contract approved.

Estimate of Burden: Public reporting burden for this information collection is estimated to average .42799 hours per response.

Respondents: Business or other for profit.

Estimated Number of Respondents: 6500.

Estimated Number of Responses per Respondent: 4.566.

Estimated Total Annual Burden on Respondents: 19,544.

Comments are sought on these requirements including: (a) whether the continued collection of information is necessary for the proper performance of USWA functions and CCC contracting activities, including whether the information will have practical utility; (b) the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility, and clarity of the information to be collected; (d) minimizing the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Judy Fry, Agricultural Marketing Specialist, Warehouse and Inventory Division, Farm Service Agency, USDA, P.O. Box 2415, Washington, D.C. 20013–2415; telephone (202) 720–7433. Copies of the information collection may be obtained from Judy Fry at the above address. The comment period is limited to 30 days because of the current expiration date of the information collection approval.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C., on January 30, 1996.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 96–2260 Filed 2–1–96; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Bureau of the Census

1996 Test Census

ACTION: Proposed agency information collection activity; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 2, 1996.

ADDRESSES: Direct all written comments to Margaret L. Woody, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Edison Gore, Bureau of the Census, Room 3536, FOB #3, Washington, DC 20233, (301) 457–3998.

SUPPLEMENTARY INFORMATION:

I. Abstract

The 1996 Test Census is designed to test new and improved methodologies for reducing the differential in the census results among the various components of the population, and for containing costs associated with conducting a census. The Census Bureau will use the results of this test, in combination with other research, to decide how to conduct the 2000 census. The test will be conducted in two rural sites and one urban site with a combined housing unit total of about 10,000. The rural sites (roughly 2,000 housing units) will encompass two American Indian reservations. The urban site (roughly 8,000 housing units) will encompass six census tracts in Chicago, Illinois.

A primary objective for both the rural and urban components of the test is to refine the Integrated Coverage Measurement (ICM) program. Other objectives are listed below.

Major objectives for the rural component of the test:

- Use and evaluate tribal "administrative records," such as tribal rolls, utility records, tribal school records, and tribal voter registration as coverage improvement tools.
- Use improved address list development and collection methodology.
- Implement and evaluate a "partnership agreement" with the tribes, and expand the Tribal Liaison's role to include involvement in census operational activities.
- Test the use of statistical estimation techniques to improve the enumeration of residents on American Indian reservations and trust lands.

Major objectives for the urban component of the test:

- Test the ICM program in a reengineered census setting.
- Test techniques for measuring housing unit and noninstitutional group quarters coverage in a census setting.
- Test use of administrative records for coverage improvement.
- Test improved address listing techniques.

The 1996 Test Census will include four questionnaires—two self-enumeration simple forms (consisting of basic population and housing questions), a self-enumeration Individual Census Report (used to gather population information from residents of group quarters), and a self-enumeration Be Counted form (used only in the rural sites and made available at convenient locations for persons who did not receive a

questionnaire or believe they were not counted).

The two simple forms are identical in content, except for the household rostering questions. Another component of this test will be to evaluate two alternative approaches to household rostering. One roster design, called the "rosterless" version, does not require the respondent to create a traditional roster list. It includes an abbreviated set of instructions on who should be included and not included, and asks the respondent to provide the number of persons in the household. The second roster design, called the "extended" roster, includes a sequential set of reminders about whom to include, such as non-relatives as well as related persons, mobile persons who may have more than one residence, and persons with no usual residence.

Enumerator-administered questionnaires also will be used in this test to conduct nonresponse followup operations for housing units that do not return their questionnaires by mail. These questionnaires will be addressed in a separate OMB submission.

II. Method of Collection

We will conduct a complete census in the three test sites. In the rural sites, census enumerators will deliver the questionnaires to the households. Respondents will be asked to complete the questionnaires and return them by mail in the postage-paid envelopes. In the urban site, census questionnaires will be mailed to the housing units and returned in postage-paid envelopes.

III. Data

OMB Number: Not available.

Form Number: DT–1A, DT–1B, DT–10 (Be Counted), and DT–20A (Individual Census Report).

Type of Review: Regular.

Affected Public: Individuals and households.

Estimated Number of Respondents: 10,000 Housing Units.

Estimated Time Per Response: 9 minutes (DT–1A and DT–10), 10 minutes (DT–1B), and 2 minutes (DT–20A).

Estimated Total Annual Burden Hours: Total = 494 hours.

The estimated burden assumes an anticipated mail-back response rate of 35 percent, and a vacancy rate of 11 percent on average for the three sites. Although total burden normally is calculated assuming a 100 percent response rate, the burden for this test does not include the time taken by field enumerators to complete the enumerator-administered census questionnaires during nonresponse followup for the remaining 65 percent of households that we expect will not respond by mail. The burden for the enumerator forms, including the portion of the form that is completed for vacant units, will be reported in a separate OMB submission.

DT–1A = *233.6 hours* [9 minutes × 4,450 occupied housing units × .35(mail return rate)]; DT–1B = *260.1* hours [10 minutes × 4,450 occupied housing units × .35 (mail return rate)].

Estimated Total Annual Cost: $1.7 Million (FY96), and $0.3 Million (FY97).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 29, 1996.

Margaret L. Woody,

Office of Management and Organization.

(FR Doc. 96–2270 Filed 2–1–96; 8:45 a.m.)

BILLING CODE 3510–07–P

International Trade Administration

[A–428–814]

Certain Cold-Rolled Carbon Steel Flat Products From Germany; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Administrative Review of Antidumping Duty Order; Certain Cold-Rolled Carbon Steel Flat Products From Germany (A–428–814).

SUMMARY: On September 8, 1995, in response to a request from petitioners, the Department of Commerce ("the Department") initiated an administrative review of Thyssen Stahl AG ("TSAG") and Thyssen, Inc. ("TINC"), covering the period August 1, 1994, through July 31, 1995. The Department received a request for withdrawal on December 14, 1995, from petitioners. Because the request for review was withdrawn, and there were no other requests from any interested parties for review of these or other companies under this antidumping duty order, the Department is now terminating this review.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian or Robin Gray; Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone (202) 482–1395 or (202) 482–0196, respectively.

SUPPLEMENTARY INFORMATION: On August 31, 1995, the Department received a request from petitioners for review of the antidumping duty order on certain cold-rolled carbon steel flat products from Germany for the period August 1, 1994, through July 31, 1995.

On September 8, 1995, the Department published in the **Federal Register** (60 FR 46817) a notice of initiation of an administrative review of the order with respect to TSAG and TINC and the period August 1, 1994, through July 31, 1995.

On December 14, 1995, petitioners withdrew their request for this administrative review, pursuant to 19 CFR 353.22(a)(5). Ordinarily, parties have 90 days in which to withdraw a request for review.

Given that the review has not progressed substantially and there would be no undue burden on the parties or the Department, the Department has determined that it would be reasonable to grant the withdrawal at this time. Therefore, in accordance with section 353.22(a)(5) of the Department's regulations, the Department has terminated this administrative review. Further, we note that respondent has not objected to petitioners' request to withdraw.

This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22.

Dated: January 26, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–2160 Filed 2–1–96; 8:45 am]

BILLING CODE 3510–DS–P

Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty orders and findings and to terminate suspended investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than 30 days from the date of publication.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Brazil
Brass Sheet & Strip
A–351–603
52 FR 1214
January 12, 1987
Contact: Tom Killiam at (202) 482–2704

Canada
Color Picture Tubes
A–122–605
53 FR 429
January 7, 1988
Contact: Valerie Turoscy at (202) 482–0145

Japan
Color Picture Tubes
A–588–609
53 FR 430
January 7, 1988
Contact: Charles Riggle at (202) 482–0650

Singapore
Color Picture Tubes
A–559–601
53 FR 432
January 7, 1988
Contact: Michael Heaney at (202) 482–4475

South Africa
Brazing Copper Wire & Rod
A–791–502
51 FR 3640
January 29, 1986
Contact: Valerie Turoscy at (202) 482–0145

South Korea
Brass Sheet & Strip
A–580–603
52 FR 1215
January 12, 1987
Contact: Tom Killiam at (202) 482–2704

South Korea
Color Picture Tubes
A–580–605
53 FR 431
January 7, 1988
Contact: Tom Prosser at (202) 482–1130

Taiwan
Stainless Steel Cooking Ware
A–583–603
52 FR 2139
January 20, 1987
Contact: Valerie Turoscy at (202) 482–0145

Canada
Potassium Chloride
A–122–701
53 FR 1393
January 19, 1988
Contact: James Rice at (202) 482–1374

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity To Object

Domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by 30 days from the date of publication. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k)(3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: January 25, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–2162 Filed 2–1–96; 8:45 am]

BILLING CODE 3510–DS–P

Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of February 1996.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed

under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, DC 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Austria
Railway Track Maintenance Equipment
A–433–064
43 FR 6937
February 17, 1978
Contact: Paul Stolz at (202) 482–4474

Germany
Sodium Thiosulfate
A–428–807
56 FR 6623
February 19, 1991
Contact: Lyn Johnson at (202) 482–5287

Japan
Benzyl Paraben
A–588–816
56 FR 5795
February 13, 1991
Contact: Leon McNeill at (202) 482–4236

Japan
Butt-Weld Pipe Fittings
A–588–602
52 FR 4167
February 10, 1987
Contact: Sheila Forbes at (202) 482–5253

Japan
Melamine
A–588–056
42 FR 6366
February 2, 1977
Contact: Todd Peterson at (202) 482–4195

The United Kingdom
Sodium Thiosulfate
A–412–805
56 FR 6623
February 19, 1991
Contact: Lyn Johnson at (202) 482–5287

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity To Object

Domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of February 1996. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k)(3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: January 25, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–2163 Filed 2–1–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

ACTION: Notice and opportunity for public comment.

SUMMARY: The National Weather Service (NWS) is publishing proposed certifications for the proposed consolidations of:

(1) Colorado Springs Weather Service Office (WSO) into the future Pueblo, Denver/Boulder and Goodland Weather Forecast Offices (WFO);

(2) Rockford WSO into the future Chicago and Quad Cities WFOs;

(3) Grand Island WSO into the future Hastings WFO;

(4) Apalachicola WSO into the future Tallahassee WFO;

(5) Pensacola WSO into the future Mobile and Tallahassee WFOs;

(6) Tupelo WSO into the future Memphis and Jackson WFOs;

(7) Del Rio WSO into the future Austin/San Antonio WFO; and

(8) Bristol WSO into the future Knoxville/Tri-Cities, Roanoke, and Charleston, WV WFOs.

In accordance with Pub. Law 102–567, the public will have 60 days in which to comment on these proposed consolidation certifications.

DATES: Comments are requested by April 2, 1996.

ADDRESSES: Requests for copies of the proposed consolidation packages should be sent to Janet Gilmer, Room 12316, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0276. All comments should be sent to Janet Gilmer at the above address.

FOR FURTHER INFORMATION CONTACT: Julie Scanlon at 301–713–1413.

SUPPLEMENTARY INFORMATION: NWS anticipates consolidating:

(1) The Colorado Springs Weather Service Office (WSO) with the future Pueblo, Denver/Boulder and Goodland Weather Forecast Offices (WFOs);

(2) The Rockford WSO with the future Chicago and Quad Cities WFOs;

(3) The Grand Island WSO with the future Hastings WFO;

(4) The Apalachicola WSO with the future Tallahassee WFO;

(5) The Pensacola WSO with the future Mobile and Tallahassee WFOs;

(6) The Tupelo WSO with the future Memphis and Jackson WFOs;

(7) The Del Rio WSO with the future Austin/San Antonio WFO; and

(8) The Bristol WSO with the future Knoxville/Tri-Cities, Roanoke and Charleston, WV WFOs.

In accordance with section 706 of Pub. Law 102–567, the Secretary of Commerce must certify that these consolidations will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation certifications in the FR. The documentation supporting each proposed certification includes the following:

(1) A draft memorandum by the meteorologist-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the WSR–88D Radar Commissioning Report(s), User Confirmation of Services Report(s), and the Decommissioning Readiness Report (as applicable); and

(7) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Pub. Law 102–567. At their December 14, 1995 meeting the members ". . . resolved that the MTC modify its procedure to eliminate proposed certification consultations of noncontroversial closings, consolidations, relocations, and automation certifications but will provide final consultation on certifications after public comment and before final submission to the Secretary of Commerce."

Documentation supporting the proposed certifications is too voluminous to publish in its entirety. Copies of the supporting documentation can be obtained through the contact listed above.

Attached to this Notice are draft memoranda by the respective meteorologists-in-charge recommending the certifications.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certifications. If decisions to certify are made, the Secretary of Commerce must publish the final certifications in the FR and transmit the certifications to the appropriate Congressional committees prior to consolidating the offices.

Dated: January 29, 1996.

Elbert W. Friday, Jr.,

Assistant Administrator for Weather Services.

Memorandum For: Richard P. Augulis, Director, Central Region

From: Steven D. Schurr, MIC, NWSO Hastings, NE

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgement, consolidation of the Grand Island Weather Service Office (WSO) with the future Hastings Weather Forecast Offices (WFO) will not result in any degradation in weather services to the Grand Island service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Grand Island service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Hastings WFO will not degrade these services.

2. A detailed list of the services provided within the Grand Island service area from the Grand Island WSO location and a list of services to be provided from the future Hastings WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposal consolidation. Also, the enclosed map shows the WSO Grand Island Area of Responsibility (i.e. "Affected Service Area") and the future Hastings WFO's Area of Responsibility. As discussed below, I find there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (MWS) operations which will enhance services in the WSO Grand Island service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Nebraska and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Grand Island service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Report from Hastings, attachment E, validates that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Hastings, attachment F, documents that one negative comment was received. That negative comment has been answered to the satisfaction of the commentor as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Grand WSR–57 radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Grand Island service area is included as attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and continue to recommend this certification.

Endorsement

I, Richard P. Augulis, Director, Central Region, endorse this consolidation certification.

Richard P. Augulis

Date

Attachments

Weather Service Forecast Office, 2090 Airport Road, New Braunfels, TX 78130

January 31, 1996.

Memorandum For: Harry S. Hassel, Director, Southern Region

From: Antonio A. Dreumont, South Texas Area Manager

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgement, that consolidation of the Del Rio Weather Service Office (WSO) with the future Austin/San Antonio Weather Forecast Office (WFO) will not result in any degradation in weather services to the Del Rio area. This proposed certification is in accordance with the advance notification

provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Del Rio service area is included as Attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Austin/San Antonio office will not degrade these services.

2. A detailed list of the services currently provided within the Del Rio service area from the WSO Del Rio location and a list of services to be provided from the future Austin/San Antonio WFO location after consolidation is included in Attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Del Rio Area of Responsibility (i.e., "Affected Service Area") and the future WFO Austin/San Antonio Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Del Rio service area is included as Attachment C. The new technology (i.e., ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Texas is included as Attachment D. NWS operational radar coverage for the specific service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service.

A. The WSR–88D Radar Commissioning Reports for NWSO Austin/San Antonio, Attachment E–1, and Laughlin AFB, Attachment E–2, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services, Attachment F, documents that only one negative comment was received. The negative comment has been answered to the satisfaction of the commentor as stated in the service Confirmation Report.

C. The Decommissioning Readiness Report, attachment G, is not applicable. There is no radar at WSO Del Rio to decommission.

6. A memorandum assigning the liaison officer for the Del Rio service area is included as Attachment H.

I have considered recommendations of the Modernization Transition Committee (Committee) (Attachment I) and the _____ public comments received during the comment period (Attachment J). On _____, the Committee voted to endorse the proposed consolidation (Attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, Harry S. Hassel, Director, Southern Region, endorse this consolidation certification.

Harry S. Hassel

Date

Attachments

January 24, 1996.

Memorandum for: Harry S. Hassel, Director, Southern Region, NWS

From:

Jerry O. McDuffie, MIC, NWSO Knoxville/Tri-Cities, TN

Kenneth A. Kostura, MIC, NWSO Roanoke, VA

Alan A. Rezek, MIC, NWSFO Charleston, WV

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, We have determined, in our professional judgment, that consolidation of the Bristol Weather Service Office (WSO) with the future Knoxville/Tri-Cities, TN, Roanoke, VA, and Charleston, WV Weather Forecast Office (WFO) will not result in any degradation in weather services to the Bristol service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, We recommended that you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Bristol service area is included as Attachment A. As discussed below, We find that providing the services which address these characteristics and concerns from future WFOs Knoxville/Tri-Cities, TN, Roanoke, VA, and Charleston, WV will not degrade these services.

2. A detailed list of the services currently provided within the Bristol service area from WSO Bristol and a list of services to be provided from the future WFO Knoxville/Tri-Cities, Roanoke, and Charleston, WV locations after consolidation is included as Attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Bristol Area of Responsibility (i.e., "Affected Service Area") and the future WFO Knoxville/Tri-Cities, Area of Responsibility. As discussed below, We submit that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Bristol service area is included as Attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned WSR–88D radar coverage at an elevation of 10,000 feet for east Tennessee and southwest Virginia is included as Attachment D. NWS operational radar coverage for the specific service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service.

A: The WSR–88D Radar Commissioning Reports for NWSO Knoxville/Tri-Cities, NWSO Roanoke, and NWSFO Charleston, WV, Attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment, along with trained operations and maintenance personnel, are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services, Attachment F, document that no negative comments were received.

C. The Decommissioning Readiness Report, Attachment G, verifies that the existing Bristol WSR–57 radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the WSO Bristol service area is included as Attachment H.

We have considered recommendations of the Modernization Transition Committee (Committee) (Attachment I) and the _____ public comments received during the comment period (Attachment J). On _____, the Committee voted to endorse the proposed consolidation (Attachment K). I believe all negative comments have been addressed to satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, Harry S. Hassel, Director, Southern Region, endorse this consolidation certification.

Harry S. Hassel

Date

Attachments

Memorandum for: Harry S. Hassel, Director, Southern Region

From:

Richard I. Coleman, MIC, NWSFO Memphis, TN

Tice H. Wagner, MIC, NWSFO Jackson, MS

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Tupelo, MS Weather Service Office (WSO) with the future Memphis and Jackson Weather Forecast Offices (WFO) will not result in any degradation in weather services to the Tupelo service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Tupelo service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Memphis and Jackson WFOs will not degrade these services.

2. A detailed list of the services currently provided within the Tupelo service area from the Tupelo WSO location and a list of services to be provided from the future Memphis and Jackson WFO locations after consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Tupelo Area of Responsibility (i.e. "Affected Service Area") and the future WFO Memphis Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Tupelo service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Mississippi and Tennessee is included as attachment D. NWS operational radar coverage for the specific service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service.

A. The WSR–88D Radar Commissioning Reports for Memphis and Jackson, attachment E, validate that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services for Memphis and Jackson, attachment F, document that the only negative comment received was from the manager of the AFSS. Upon further investigation, we found that the complaint was aimed at FAA practices rather than with WSR–88D products and services.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing WSR–74C radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Tupelo service area is included as attachment H.

I have considered recommendations of the Modernization Transition Committee (Committee) (attachment I) and the _____ public comment received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe the one negative comment has been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, Harry S. Hassel, Director, Southern Region, endorses this consolidation certification.

Harry S. Hassel

Date

Attachments

8400 Airport Blvd., Bldg. 11, Mobile, AL 36608

November 13, 1995.

Memorandum To: Harry S. Hassel, Director, NWS Southern Region

From:

Randall S. McKee, MIC, NWSO Mobile, AL

William P. Duval, MIC, NWSO Tallahassee

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, Consolidation of the Pensacola Weather Service Office (WSO) with the future Mobile and Tallahassee Weather Forecast Offices (WFO) will not result in any degradation of weather services to the Pensacola service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my view of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Pensacola service area is included as Attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the Mobile and Tallahassee WFOs will not degrade these services.

2. A detailed list of the services currently provided within the Pensacola service area from the Pensacola WSO location and a list of services to be provided from the Mobile and Tallahassee WFO locations after consolidation is included as Attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Pensacola Area of Responsibility (i.e., "Affected Service Area") and the future WFO Mobile Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Pensacola service area is included as Attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Florida is included as Attachment D. NWS operational radar coverage for the specific service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of services.

A. The WSR–88D Radar Commissioning Reports for Mobile and Tallahassee, Attachment E, validate that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance

documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed, but two national work-arounds remain in effect.

B. The User Confirmation of Services for Mobile and Tallahassee, Attachment F, document that two negative comments were received and have been satisfactorily addressed as stated in the Service Confirmation Report. Neither degrades services to the Pensacola WSO area of responsibility.

C. The Decommissioning Readiness Report, Attachment G, verifies that the existing Pensacola WSR–57 radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Pensacola service area is included as Attachment H.

We have considered recommendations of the Modernization Transition Committee (Committee) (Attachment I) and the _____ public comments received during the comment period (Attachment J).

_____ We believe all concerns have been addressed to the satisfaction of our customers and we therefore recommend this certification.

Endorsement

I, Harry S. Hassel, Director, Southern Region, endorse this consolidation certification.

Harry S. Hassel

Date

Attachments

Regional Airport, 3238 Capital Circle, SW, Tallahassee, FL 32310–8723

November 3, 1995.

Memorandum For: Harry S. Hassel, Director, NWS Southern Region

From: Paul Duval, MIC NWSO Tallahassee, Florida

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined that in my professional judgment, consolidation of the Apalachicola Weather Service Office (WSO) with the future Tallahassee Weather Forecast Office (WFO) will not result in any degradation in weather services to the Apalachicola service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with Section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based upon my review of the pertinent evidence, and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of the local weather characteristics and weather-related concerns affecting the weather services provided in the Apalachicola service area is included as Attachment A. As discussed below, I find that providing services which address these characteristics and concerns from the Tallahassee WFO will not degrade these services.

2. A detailed list of the services currently provided within the Apalachicola service area from the Apalachicola WSO location, and a list of services to be provided from the Tallahassee WFO location after consolidation is included as Attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Apalachicola Area of Responsibility (i.e. "Affected Service Area") and the future WFO Tallahassee Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Apalachicola service area is included as Attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for north Florida, southeast Alabama and southwest Georgia is included as Attachment D. NWS operational radar coverage for the specific service area will be increased, and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding that there will be no degradation of service.

A. The WSR–88D Radar Commissioning Report, Attachment E, validates that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of the system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed, but two national work-arounds remain in effect.

B. The User Confirmation of Services, Attachment F, documents that only two negative comments were received. Both of the negative comments have been answered to the satisfaction of the commentors as stated in the Service Confirmation Report.

C. The Decommissioning Readiness Report, Attachment G, verifies that the existing Apalachicola WSR–57 radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the Liaison Officer for the Apalachicola service area is included as Attachment H.

I have considered recommendations of the Modernization Transition Committee (Committee) (attachment I) and the _____ public comments received during the comment period (Attachment J). On _____ the Committee voted to endorse the proposed consolidation (Attachment K). I believe all negative comments have been addressed to the satisfaction of our customers, and I continue to recommend this certification.

Endorsement

I, Harry S. Hassel, Director, National Weather Service Southern Region, endorse this consolidation certification.

Harry S. Hassel

Date

Attachments

Weather Service Forecast Office, 333 West University Drive, Romeoville, IL 60441

Memorandum For: Richard P. Augulis, Director, Central Region

From:

Paul W. Dailey, MIC, NWSFO Chicago

Charles T. Fenley, MIC, NWSFO Quad Cities

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Rockford Weather Service Office (WSO) with the future Chicago Weather Forecast Office (WFO) in Romeoville, Illinois and the future Quad Cities WFO in Davenport, Iowa will not result in any degradation in weather services to the Rockford service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approved, he will forward the certification to the Secretary for approval and transmittal to congress.

Our recommendation is based on review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Rockford service area is included as Attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Chicago and Quad Cities WFOs will not degrade these services.

2. A detailed list of the services traditionally provided within the Rockford service area from the Rockford WSO location and a list of services to be provided from the future Chicago and Quad Cities WFO locations after consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Rockford area of responsibility (i.e. "affected service area") and the future WFO Chicago area of responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Rockford service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and WIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Illinois is included as attachment D. NWS operational radar coverage for the Rockford service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D Radar Commissioning Report, attachment E, validates that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and training operations and maintenance personnel are available on site. Training was completed but two national workarounds remain in effect.

B. The User Confirmation of Services, attachment F, documents that six negative comments were received. All comments have been answered to the satisfaction of the commentors as stated in the service Confirmation Report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Marseilles WSR–74S radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Rockford service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, Richard P. Augulis, Director, Central Region, endorse this consolidation certification.

Richard P. Augulis

Date

Memorandum for: Richard P. Augulis, Director, Central Region

From:

William F. Fortune, MIC, NWSO Pueblo, CO

Larry E. Mooney, MIC, NWSFO Denver, CO

Scott A. Mentzer, MIC, NWSO Goodland, KS

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Colorado Springs Weather Service Office (WSO) with the future Pueblo, Denver and Goodland Weather Forecast Offices (WFO) will not result in any degradation in weather services to the Colorado Springs service area. This proposed certificate is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided to the Colorado Springs service area is included as Attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Pueblo, Denver, and Goodland WFOs will not degrade these services.

2. A detailed list of the services currently provided within the Colorado Springs service area from the Colorado Springs WSO location and a list of services to be provided from the future Pueblo, Denver, and Goodland WFO locations after the proposed consolidation is included as Attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Colorado Springs Area of Responsibility (i.e. "Affected Service Area") and the future Pueblo, Denver, and Goodland WFOs' Areas of Responsibility. As discussed below, we find that there will be no degradation in the quality of those services as a result of consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Colorado Springs service area is included as Attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed, and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Colorado is included as Attachment D. NWS operational radar coverage for the Colorado Springs service area will be increased. Some blocking will occur along the western slope of the Rampart Range of mountains but this will have only a minimal impact on the majority of the WSO Colorado Springs service area.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from Pueblo, Denver and Goodland, Attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. A full compliment of spares is on-station, but one national work-around remains in effect.

B. The User Confirmation of Services from Pueblo, Goodland, and Denver, Attachment F, document that only two negative comments were received at Pueblo. Four negative comments were received at Denver, but only one pertained to the Colorado Springs Service Area. Three negative comments were received at Goodland, but none referred to the Colorado Springs Service Area. All negative comments have been answered to the satisfaction of those who made negative comments as reflected in the reports.

C. The Decommissioning Readiness Report, Attachment G, not applicable, there is no radar at Colorado Springs to decommission.

6. A memorandum assigning the liaison officer for the Colorado Springs service area is included as Attachment H.

We have considered recommendations of the Modernization Transition Committee (Attachment I) and the _____ public comments received during the comment period (Attachment J). On _____, the Committee voted to endorse the proposed consolidation (Attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend certification.

Endorsement

I, Richard P. Augulis, Director, Central Region, endorse this consolidation certification.

Richard P. Augulis

Date

Attachments

[FR Doc. 96–2189 Filed 2–1–96; 8:45 am]

BILLING CODE 3510–12–M

[I.D. 012496A]

Marine Mammals and Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of modification to scientific research permit no. 888 (P559).

SUMMARY: Notice is hereby given that Mr. Hiroyuki Suganuma, Ogasawara Marine Center, Byobudani, Chichijima Ogasawara-mura, Tokyo 100–21, Japan has been issued a modification to permit no. 888.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001); and

Coordinator, Pacific Area Office, Southwest Region, NMFS, 2570 Dole Street, Room 106, Honolulu HI 96822–2396 (808/973–2987).

SUPPLEMENTARY INFORMATION: On November 15, 1995, notice was published in the **Federal Register** (60 FR 57402) that a request for a permit modification had been submitted by the above-named organization.

The modification was issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing endangered species permits at 50 CFR part 212.

Dated: January 26, 1996.

Ann D. Terbush,

Chief, Permits & Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–2215 Filed 2–1–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List man's brown undershirts to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 4, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 23, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (60 F.R. 64421) of proposed addition to the Procurement List. Comments were received from the current contractor and from agents of the Puerto Rican government opposing the proposed addition to the Procurement List. The commenters noted that the addition, together with the declining Defense Department buys and the effects of the North American Free Trade Agreement, would severely impair the contractor's competitive position and the Puerto Rican textile industry, and would cause the loss of a substantial number of jobs in an area of high unemployment.

The Defense Personnel Support Center (DPSC), which purchases the undershirts for the Government, has informed the Committee that it plans to divide future buys between the Committee's program and the Federal Prison Industries on the one hand, and commercial industry on the other, in approximately equal proportions subject to the statutory priorities of Federal Prison Industries and the Committee. DPSC has also informed the Committee that it intends to conduct its next commercial buys of the undershirt as directed purchases from companies other than the current contractor. Consequently, any impact on the current contractor which results from DPSC's purchasing decisions would occur whether or not the Committee added a portion of the Government requirements for the undershirt to the Procurement List. In this situation, the Committee has concluded that adding the requirement to the Procurement List would not, in itself, constitute a severe adverse impact on the contractor, its employees, or the Puerto Rican textile industry.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.
2. The action will not have a severe economic impact on current contractors for the commodities.
3. The action will result in authorizing small entities to furnish the commodities to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Undershirt, Man's, Brown
8420–01–112–1472
8420–01–112–1473
8420–01–112–1474
8420–01–112–1475
8420–01–112–1476
8420–01–112–1477
8420–01–112–1478
8420–01–112–1479
(Between 1,000,000 and 1,600,000 annually)

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–2266 Filed 2–1–96; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 4, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 30, November 27, December 1 and 8, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 F.R. 34235, 58337, 61685 and 63026) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action will not have a severe economic impact on current contractors for the services.
3. The action will result in authorizing small entities to furnish the services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Administrative Services for the following locations:

Denver Federal Center, Buildings 1, 41 and 44, Lakewood, Colorado
Denver Field Office, 1961 Stout Street, Denver, Colorado
Colorado Field Office, 730 Simmons Street, Denver, Colorado
Grounds Maintenance, Base Command, Building 2750, Burger King, Building 6006, Edwards Air Force Base, California
Janitorial/Custodial, Schofield Barracks, Building T–913, Fort Shafter, Hawaii
Janitorial/Custodial, Carl D. Perkins Federal Building & U.S. Courthouse, 1405 Greenup Avenue, Ashland, Kentucky
Janitorial/Custodial, Fort Buchanan, Puerto Rico
Operation of Postal Service Center, Andrews Air Force Base, Maryland
Recycling Service, Basewide, Goodfellow Air Force Base, Texas
Switchboard Operation, VA Medical Center, 1601 Perdido Street, New Orleans, Louisiana

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–2264 Filed 2–1–96; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received proposal to add to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 4, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.
2. The action does not appear to have a severe economic impact on current contractors for the service.
3. The action will result in authorizing small entities to furnish the service to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following service has been proposed for addition to Procurement List for production by the nonprofit agency listed:

Food Service Attendant, U.S. Coast Guard Air Station Miami, Opa Locka, Florida
NPA: Goodwill Industries of South Florida, Inc., Miami, Florida

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–2265 Filed 2–1–96; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0005]

Clearance Request Entitled Architect-Engineer and Related Services Questionnaire for Specific Project (SF 255)

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0005).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Architect-Engineer and Related Services Questionnaire for Specific Project (SF 255). A request for public comments was published at 60 FR 57228, November 14, 1995. No comments were received.

DATES: *Comments Due Date:* March 4, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to

the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–005, Architect-Engineer and Related Services Questionnaire for Specific Project (SF 255), in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard Form 255 is used by all Executive agencies to obtain information from architect-engineer (A–E) firms interested in a particular project. The information on the form is reviewed by a selection panel composed of professional people and assists the panel in selecting the most qualified A–E firm to perform the specific project. The form is designed to provide a uniform method for A–E firms to submit information on experience, personnel, capabilities of the A–E firm to perform, along with information on the consultants they expect to collaborate with on the specific project. Hence the need for information regarding the number and discipline of consultant personnel. The degree to which an A–E firm will utilize consultants can significantly impact on their suitability and qualifications for a specific project. The revision to the form requesting A–E firms provide the name and phone number of a point of contact, usually the project manager, will (1) reduce the time required by the Government to verify performance on current Federal contracts, and (2) reduce the time lost by the A–E firms providing this information at a later date. The information is used to determine if a firm is qualified to perform a specific project.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1.2* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *5,000*; responses per respondent, *4*; total annual responses, *20,000*; preparation hours per response, *1.2*; and total response burden hours, *24,000*.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0005, Architect-Engineer and Related Services Questionnaire for Specific Project (SF 255), in all correspondence.

Dated: January 29, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–2191 Filed 2–1–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0060]

Clearance Request Entitled Accident Prevention Plans and Recordkeeping

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0060).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Accident Prevention Plans and Recordkeeping. A request for public comments concerning this burden estimate was published at 60 FR 57228, November 14, 1995. No comments were received.

DATES: *Comment Due Date:* March 4, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20405. Please cite OMB Control No. 9000–0060, Accident Prevention Plans and Recordkeeping, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause "Accident Prevention" (48 CFR 52.236–13) requires Federal construction contractors to keep records of accidents incident to work performed under the contract that result in death, traumatic injury, occupational disease or damage to property, materials, supplies or equipment. Records of personal inquiries are required by OSHA (OMB Control No. 1220–0029). The Federal Acquisition Regulation requires records of damage to property, materials, supplies or equipment to provide background information when claims are brought against the Government.

If the contract involves work of a long duration, the contractor must submit a written proposal for implementation of the clause. The Accident Prevention Plan, for projects that are hazardous or of long duration, is analyzed by the Contracting Officer along with the agency safety representatives to determine if the proposed plan will meet the requirement of the safety regulations and applicable statutes. The records maintained by the contractor are used to evaluate compliance and may be used in workmen's compensation cases. The Accident Prevention Plan is placed in the contract file for reference.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 2 hours per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *2,106*; responses per respondent, *2*; total annual responses, *4,212; preparation hours per response, 2*; and total response burden hours, *8,424*.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0060, Accident Prevention Plans and Recordkeeping, in all correspondence.

Dated: January 26, 1996

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–2192 Filed 2–1–96; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Notice to Amend Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Army is amending eleven systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 4, 1996, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (602) 538–6856 or DSN 879–6856.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 29, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0145–1bTRADOC–ROTC

SYSTEM NAME:

ROTC Financial Assistance (Scholarship) Application File *(February 22, 1993, 58 FR 10077).*

CHANGES:

* * * * *

RETENTION AND DISPOSAL:

Add to the end of the entry 'Records for nonselected applicants are destroyed 1 year after graduation of the nonselectee(s) class.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Fort Monroe, ATTN: Privacy Act Officer, Fort Monroe, VA 23651–6000.'

* * * * *

A0145–1bTRADOC–ROTC

SYSTEM NAME:

ROTC Financial Assistance (Scholarship) Application File.

SYSTEM LOCATION:

Primary location is at U.S. Army Reserve Officers Training Corps Cadet Command, Fort Monroe, VA 23651–5000.

Segments exist at U.S. Army Reserve Officers' Training Corps (ROTC) Regions, ROTC elements of civilian educational institutions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students and service members who desire to participate in the Army ROTC Financial Assistance (Scholarship Program).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual application for membership, academic transcripts, college board scores and test results, references, photograph, interview board results, acceptance/declination, selection board action including applicants' scores in areas evaluated, notice of applicants' medical status including reports of medical examination, evaluation of applicant by Professor of Military Science commanding officer, letters of recommendation, inquiries regarding applicants' selection/non-selection, reports of ROTC Advanced, Ranger, or Basic Camp performance of applicant, information of applicants' choice of institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2101–2111 and E.O. 9397.

PURPOSE(S):

To administer the financial assistance program; to select recipient for 2, 3, and 4–year scholarships; to monitor selectee's academic and ROTC performance; to develop policies and procedures, compile statistics and render reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of record system notices apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act of 1966 (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal Government; typically, to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folder; selected data automated for management purposes on tapes, discs, cards, microfilm/fiche.

RETRIEVABILITY:

By individual's name, Social Security Number, other characteristics of qualification or identity.

SAFEGUARDS:

Records maintained in areas accessible only to authorized personnel having official need in the performance of duties.

RETENTION AND DISPOSAL:

Destroyed 1 year after individual graduates or is disenrolled. Records for nonselected applicants are destroyed 1 year after graduation of the nonselectee(s) class.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Fort Monroe, ATTN: Privacy Act Officer, Fort Monroe, VA 23651–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps Cadet Command, ATTN: ATCC–PS, Fort Monroe, VA 23651–5000.

Individual should provide the full name, current address and telephone number and definitive description of the information sought.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps Cadet Command, ATTN: ATCC-PS, Fort Monroe, VA 23651–5000.

Individual should provide the full name, current address and telephone number and definitive description of the information sought.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, medical records, academic institutions, Army agencies and commands.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0145–1TRADOC

SYSTEM NAME:

Army Reserve Officers' Training Corps Gold QUEST Referral System *(February 22, 1993, 58 FR 10075).*

* * * * *

CHANGES:

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Fort Monroe, ATTN: ATZG-BO-PF (Privacy Act Officer), Fort Monroe, VA 23651–6000.'

* * * * *

A0145–1TRADOC

SYSTEM NAME:

Army Reserve Officers' Training Corps Gold QUEST Referral System.

SYSTEM LOCATION:

MCS, Incorporated, 10041 Polinski Road, Ivyland, PA 18974–9872;

U.S. Army ROTC Cadet Command, Rot Monroe, VA 23651–5000;

Army ROTC Region Headquarters; and

ROTC Cadet Battalions and ROTC Goldminer Teams. Official mailing address are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential enrollees in the Senior ROTC program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of current and former prospect referrals showing: Name, address, telephone number, Social Security Number (optional), sex, citizenship, prior military service, name of high school, high school graduation date, grade point average, SAT/ACT test score, college expected to attend, admissions status to college, academic major, and date of birth.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., Chapter 103, sections 2101–2111.

PURPOSE(S):

To provide a central database of potential prospects for enrollment in the Senior ROTC program; assist prospects by providing information concerning educational institutions having ROTC programs; scholarship information and applications; information regarding other Army enlistment, Reserve or National Guard Programs; to render recruitment management information reports; to refer qualified prospects, a Professor of Military Science at or nearest to their college of choice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of record system notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and cards in file cabinets; on magnetic tape, disks, and computer printouts.

RETRIEVABILITY:

By prospects surname or peculiar identification number assigned by the system.

SAFEGUARDS:

Records are maintained in secured areas within protected buildings, and accessible by only designated, authorized individuals having official need.

RETENTION AND DISPOSAL:

Records are retained for 3 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Fort Monroe, ATTN: ATZG-BO-PF (Privacy Act Officer), Fort Monroe, VA 23651–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army ROTC Cadet Command, ATTN: Marketing Directorate, Fort Monroe, VA 23651–5000.

Individuals should provide their full name, current address, telephone number and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army ROTC Cadet Command, ATTN: Marketing Directorate, Fort Monroe, VA 23651–5000.

Individuals should provide their full name, current address, telephone number and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the Commander, U.S. Army ROTC Cadet Command, ATTN: Marketing Directorate, Fort Monroe, VA 23651–5000.

RECORD SOURCE CATEGORIES:

Source categories for prospects include the Army ROTC toll-free telephone number, magazines, newspapers, poster advertising coupons, mail-back reply cards, letters, walk-ins, referrals from parents, relatives, counselors, teachers, coaches, friends, associates, college registrars, dormitory directors, national testing organizations, honor societies, boys' clubs, boy scout organizations, Future Farmers of America, minority and civil rights organizations, fraternity and church organizations; neighborhood youth centers, YMCA, YWCA, social clubs, athletic clubs, boys state/girls state/ scholarship organizations, U.S. Army Recruiting Command, Military Academy Liaison officers, West Point non-select listing, previous employers, trade organizations, military service, and other organizations and commands comprising the Department of Defense.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0145–2TRADOC

SYSTEM NAME:

Junior ROTC/NDCC Instructor Files *(February 22, 1993, 58 FR 10077).*

CHANGES:

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SYSTEM LOCATION:

Delete 'at Fort Bragg, NC; Fort Knox, KY; Fort Riley, KS; and Fort Lewis, WA.'

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Fort Monroe, ATTN: ATZG-BO-PF (Privacy Act Officer), Fort Monroe, VA 23651–6000.'

* * * * *

A0145–2TRADOC

SYSTEM NAME:

Junior ROTC/NDCC Instructor Files.

SYSTEM LOCATION:

U.S. Army Reserve Officers Training Corps Cadet Command, Fort Monroe, VA 23651–5000; schools, colleges, training centers and ROTC Regions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Assigned and potential instructors and guest speakers at above locations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Instructor evaluation forms, qualification data, biographical sketches and similar or related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2031 and 4651 and E.O. 9397.

PURPOSE(S):

To provide record of qualifications, experience, effectiveness, and similar related information on potential and/or assigned instructors and guest speakers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files.

RETRIEVABILITY:

By name, Social Security number/ service number, and year.

SAFEGUARDS:

Records are stored in locked cabinets or rooms, depending on location.

RETENTION AND DISPOSAL:

Records are destroyed 2 years after instructor's transfer or separation or after guest speaker speaks.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Fort Monroe, ATTN: ATZG-BO-PF (Privacy Act Officer), Fort Monroe, VA 23651–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained this record system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps Cadet Command, Fort Monroe, VA 23651–5000 or commanders of organizations listed under 'System location'.

Individual should provide full name, Social Security Number/military service number, duty position, academic department, and dates of service at the training activity to aid in the information search.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps Cadet Command, Fort Monroe, VA 23651–5000 or commanders of organizations listed under 'System location'.

Individual should provide the full name, Social Security Number/military service number, duty position, academic department, and dates of service at the training activity.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents; and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES.

Staff and faculty of appropriate school, college, training center, or ROTC Region responsible for conduct of instruction.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0210–190TAPC

SYSTEM NAME:

Individual Gravesite Reservation Files *(February 22, 1993, 58 FR 10093).*

CHANGES:

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SYSTEM LOCATION:

Change zip code to '22331–0482'.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Change zip code to '22331–0482'.

* * * * *

A0210–190TAPC

SYSTEM NAME:

Individual Gravesite Reservation Files.

SYSTEM LOCATION:

Commander, Military District of Washington, Fort Lesley J. McNair, Washington, DC 20319–5000;

Soldiers' and Airmen's Home National Cemetery, Washington, DC 20011–4999; and

Commander, U.S. Total Army Personnel Command, Alexandria, VA 22332–0482 for selective Army post cemeteries.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active and former Armed Forces personnel and their dependents who reserved grave plots in either Arlington National Cemetery Soldiers' Home National Cemetery, or Army post cemeteries prior to 1961.

CATEGORIES OF RECORDS IN THE SYSTEM:

Gravesite reservations (DA Forms 2122, 2123); reservist's name, address, number and section of grave reserved, military service, or relationship to service member.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013.

PURPOSE(S):

To maintain records of individuals holding gravesite reservations in Army national or post cemeteries made prior to 1961; to conduct periodic surveys to determine validity of such reservations; to respond to inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; cards.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel

having official need therefor in the performance of their duties.

RETENTION AND DISPOSAL:

Destroyed when gravesite reservation is used or canceled.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Military District of Washington, Fort Lesley J. McNair, Washington, DC 20319–5000; Soldiers' and Airmen's Home National Cemetery, Washington, DC 20011–4999; Commander, U.S. Total Army Personnel Command, Alexandria, VA 22332–0482 for selective Army post cemeteries.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this records system should address written inquiries to the appropriate system manager.

Individual should provide sufficient details to permit locating pertinent records and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the appropriate system manager.

Individual should provide sufficient details to permit locating pertinent records and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the reservist, his/her representative or next-of-kin; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0351AMC

SYSTEM NAME:

Student/Faculty Records: AMC Schools Systems *(February 22, 1993, 58 FR 10104).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete from entry 'U.S. Army Logistics Management Center, Fort Lee, VA' and 'U.S. AMC Field Safety Agency, Charlestown, IN', and replace 'Training Agency' with 'College'.

* * * * *

A0351AMC

SYSTEM NAME:

Student/Faculty Records: AMC Schools Systems.

SYSTEM LOCATION:

U.S. Army Management Engineering College, Rock Island, IL 61299–7040 and U.S. Army Defense Ammunition Center and School, Savanna, IL 61074–9639.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students enrolled/attending schools identified above, faculty, instructors, and guest speakers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student academic records consisting of course completion and results, aptitudes and personal qualities, grades/ratings assigned; instructor/guest speaker qualifications and evaluations, including biographical data; class historical/academic achievements; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and E.O. 9397.

PURPOSE(S):

To determine applicant eligibility, monitor individual's progress, maintain record of student/faculty achievements, and to provide bases for management assessment of curricula and faculty effectiveness and class standing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records; cards; photographs; magnetic tapes/discs; and printouts.

RETRIEVABILITY:

By name, Social Security Number, military service number.

SAFEGUARDS:

Records are maintained in locked cabinets within secured areas accessible only to authorized persons having an official need-to-know.

RETENTION AND DISPOSAL:

Individual academic records are retained for 40 years, 3 of which are at the school which created them; they are subsequently transferred to the National Personnel Records Center, 9700 Page Boulevard, St. Louis, MO 63132–5200. Faculty/instructor qualifications records are retained until individual transfers from the facility, held for 5 years, and then destroyed. Other records are retained until no longer needed, at which time they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commandant/Director of the appropriate School/Agency.

Individual should provide full name, rank/grade, Social Security Number, course title/class number, and date of attendance or, if a faculty member: Name, course(s) taught, and period in which instructed at named training facility.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commandant/Director of the appropriate School/Agency.

Individual should provide full name, rank/grade, Social Security Number, course title/class number, and date of attendance or, if a faculty member: Name, course(s) taught, and period in which instructed at named training facility.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual student, faculty, instructor, guest speaker, and management analyses of class performance.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0351aTRADOC

SYSTEM NAME:

Army School Student Files *(February 22, 1993; 58 FR 10113).*

CHANGES:

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CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the last eight words of the entry.

SAFEGUARDS:

Add a new paragraph 'User identification passwords are assigned each person with authorized access to the records. Each sign-on is authenticated by system software. Identification passwords are change every six months, additions and deletions occur at any time a new person is assigned or someone leaves. The above meets Army Information System Security Regulation requirements'.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Combined Arms Command, ATTN: ATZL-IMS-AR (Privacy Act Officer), Fort Leavenworth, KS 66027–2309'.

* * * * *

A0351aTRADOC

SYSTEM NAME:

Army School Student Files.

SYSTEM LOCATION:

All Army schools, colleges, and training centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students who attend formal and/or nonresident courses of instruction at Army schools, colleges and training centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual academic records consisting of courses attended, length of each, extent of completion and results; aptitudes and personal qualities, including corporate fitness results; grade and rating attained; and related information; collateral individual training records comprising information posted to the basic individual academic training record or other long term records; faculty board files pertaining to the class standing/rating/classification/proficiency of students; class academic records maintained by training instructors indicating attendance and progress of class member instructors indicating attendance and progress of class members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and E.O. 9397.

PURPOSE(S):

To determine eligibility of students for attendance, monitor progress, record completion of academic requirements, and document courses which may be prerequisites for attendance/participation in other courses of instruction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders, cards, computer magnetic tapes/disks; printouts.

RETRIEVABILITY:

By individual's name, Social Security Number/military service number.

SAFEGUARDS:

Information is stored in locked cabinets or rooms, accessed only by authorized individuals having official need thereof.

User identification passwords are assigned each person with authorized access to the records. Each sign-on is authenticated by system software. Identification passwords are change every six months, additions and deletions occur at any time a new person is assigned or someone leaves. The above meets Army Information System Security Regulation requirements.

RETENTION AND DISPOSAL:

Individual and class academic records are destroyed after 40 years; collateral individual training records and faculty board files are destroyed after 1 year.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Combined Arms Command, ATTN: Privacy Act Officer, Fort Leavenworth, KS 66027–2309.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Academic Record Office of the Army school, college, or training center attended.

Individual should provide the full name, student number, course title and class number, or description of type training received and dates of attendance/enrollment.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Academic Record Office of the Army School, college, or training center attended.

Individual should provide full name, student number, course title and class number, or description of type training received and dates of attendance/enrollment.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents; and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the staff and faculty of appropriate school, college, or training center responsible for the instruction.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0351bTRADOC

SYSTEM NAME:

Army Correspondence Course Program (ACCP) *(September 9, 1994, 59 FR 46622).*

CHANGES:

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Transportation Center, ATTN: Privacy Act Officer, Fort Eustis, VA 23604–5000.'

* * * * *

A0351bTRADOC

SYSTEM NAME:

Army Correspondence Course Program (ACCP).

SYSTEM LOCATION:

U.S. Army Training Support Center, ATTN: ATIC IPS, Fort Eustis, VA 23604–5121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Army, Navy, Marine Corps, and Air Force, Reserve Officer Training Corps and National Defense

Cadet Corps students, Department of Defense civilian employees, and approved foreign military personnel enrolled in a nonresident course administered by the Army Institute for Professional Development.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain name, grade/rank, Social Security Number, address, service component, branch, personnel classification, military occupational specialty, credit hours accumulated, examination and lesson grades, student academic status, curricula, course description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013 and E.O. 9397.

PURPOSE(S):

To record lessons and/or exam grades; maintain student academic status; course and subcourse descriptions; produce course completion certificates and reflect credit hours earned; and produce management summary reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, discs, paper printouts, and microfiche.

RETRIEVABILITY:

By Social Security Number.

SAFEGUARDS:

Random number sign-on authentication for each inquiry made to the system is required. Sign-on decks to enable such access are updated weekly, safeguarded under Army Regulation 380–19, Information Systems Security, and are unique to one terminal only. Access is granted only to designated personnel at the Army Institute for Professional Development responsible for the administration and processing of nonresident students.

RETENTION AND DISPOSAL:

Machine records are retained during student's enrollment, after which student's records are transferred to the Academic Records System History File for indefinite retention. Nonresident students are assigned a 12 month enrollment period. A hard copy transcript reflecting the student's personal and academic data is produced; this is retained by the Army Institute of Professional Development for 3 years, then transferred to the National Personnel Records Center, St. Louis, MO, where it is retained for 37 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Transportation Center, ATTN: Privacy Act Officer, Fort Eustis, VA 23604–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, ATTN: ATIC IPS, Fort Eustis, VA 23604–5121.

Individual should provide the full name, Social Security Number, and signature for identification.

Individual making request in person must provide acceptable identification such as driver's license and military identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, ATTN: ATIC IPS, Fort Eustis, VA 23604–5121.

Individual should provide the full name, Social Security Number, and signature for identification.

Individual making request in person must provide acceptable identification such as driver's license and military identification.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting content, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From individual upon enrollment, from class records and instructors; and from graded examinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0351cTRADOC

SYSTEM NAME:

Standardized Student Records System *(February 22, 1993, 58 FR 10114).*

CHANGES:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Defense Language Institute Foreign Language Center and Presidio of Monterey, Presidio of Monterey, CA 93944–5006.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Commandant, Defense Language Institute Foreign Language Center, ATTN: ATZP-SSA (Academic Records), Presidio of Monterey, CA 93944–5006.'

RECORD ACCESS PROCEDURES:

Delete address and replace with 'Commandant, Defense Language Institute Foreign Language Center, ATTN: ATZP-SSA (Academic Records), Presidio of Monterey, CA 93944–5006.'

* * * * *

A0351cTRADOC

SYSTEM NAME:

Standardized Student Records System.

SYSTEM LOCATION:

Defense Language Institute, Presidio of Monterey, CA 93944–5006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have been enrolled for foreign language training at the Defense Language Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, and military administrative data, together with academic data generated at Defense Language Institute.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013 and E.O. 9397.

PURPOSE(S):

To establish a permanent student record used for issuing official grade transcripts and preparing statistical studies to improve training and testing methods.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes/discs.

RETRIEVABILITY:

By Social Security Number.

SAFEGUARDS:

Records are accessible via remote terminal only by authorized personnel citing established user identifier and password

RETENTION AND DISPOSAL:

Records are permanent. They are retained in active file (on-line) until the student departs; then retired to a history tape.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Defense Language Institute Foreign Language Center and Presidio of Monterey, Presidio of Monterey, CA 93944–5006.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commandant, Defense Language Institute Foreign Language Center, ATTN: ATZP-SSA (Academic Records), Presidio of Monterey, CA 93944–5006.

Individual should provide the full name, current address and telephone number, Social Security Number, class attended, and year graduated.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commandant, Defense Language Institute Foreign Language Center, ATTN: ATZP-SSA (Academic Records), Presidio of Monterey, CA 93944–5006.

Individual should provide the full name, current address and telephone number, Social Security Number, class attended, and year graduated.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; staff and faculty.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0351–1aTRADOC

SYSTEM NAME:

Automated Instructional Management System (AIMS) *(February 22, 1993, 58 FR 10115).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete address and replace with 'Commander, U.S. Army Training Support Center, ATTN: ATIC–TIS, Fort Eustis, VA 23604–5166.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Transportation Center, ATTN: ATZS-IMO-RM (Privacy Act Officer), Fort Eustis, VA 23651–5000.'

* * * * *

A0351–1aTRADOC

SYSTEM NAME:

Automated Instructional Management System (AIMS).

SYSTEM LOCATION:

Headquarters, Training and Doctrine Command (TRADOC); TRADOC Service Schools; and Army Training Centers. Addresses for the above may be obtained from the Commander, U.S. Army Training Support Center, ATTN: ATIC–TIS, Fort Eustis, VA 23604–5166.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Army, Navy, Marine Corps, and Air Force, and civilians employed by the U.S. Government, and approved foreign military personnel enrolled in a resident course at a U.S. Army service school.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain personnel, Program of Instruction, scheduling, testing, academic, graduation, recycle, and attrition data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and E.O. 9397.

PURPOSE(S):

This is the TRADOC standard resident student training management system which automates those processes associated with the scheduling, management, testing, and tracking of resident students. The system is composed of several subsystems which perform functions for personnel, student load management, academic records management, test creation, scoring and grading, student critique, resource scheduling and utilization, electronic mail, and query.

Course completion data on active Army enlisted personnel is supplied to the Army-American Council on Education Registry Transcript System (AARTS) in magnetic media.

Course completion data on active Army officer personnel is supplied to the U.S. Army Research Institute (ARI) in magnetic media.

All student transactions are supplied to the Army Training Requirements and Resources System (ATRRS) through a daily electronic interface for updating course/class data with graduation data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, computer discs, and paper printouts.

RETRIEVABILITY:

Retrieved by Social Security Number and course/class number.

SAFEGUARDS:

Different user identification sign-on codes are assigned each person with authorized access to the database. Each sign-on is authenticated by system software. Identification sign-on codes are changed every six months, additions or deletions occur at any time a new person is assigned or someone leaves. The sole users are the personnel responsible for the administration of personnel enrolled in the resident student training programs at U.S. Army service schools and Army training centers. The above meet Army's Information System Security Regulation requirements.

RETENTION AND DISPOSAL:

Machine records are retained during student's active enrollment, after which they are classified as history records, written to magnetic tape, and stored indefinitely for reference. Paper records are destroyed after 40 years as follows:

Army elements serviced by a records holding area (RHA) hold records for 2 years in the current files area, transfer to RHA for 1 year; the RHA retires the records to the National Personnel Records Center, St. Louis, MO, for the remaining 37 years. Army elements not serviced by a RHA, hold records for 2 years in CFA, then retire to NPRC for the remaining 38 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Transportation Center, ATTN: ATZS-IMO-RM (Privacy Act Officer), Fort Eustis, VA 23651–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, ATTN: ATIC-TIS, Fort Eustis, VA 23604–5166.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Training Support Center, ATTN: ATIC-TIS, Fort Eustis, VA 23604–5166.

Individual should provide the full name, Social Security Number, and military status or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents and appealing initial agency determinations are published in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is received from the individual, DOD staff, Personnel and Training systems, and staff and faculty.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0381–100bDAMI

SYSTEM NAME:

Technical Surveillance Index *(August 29, 1994, 59 FR 44411).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete second paragraph and replace with 'The law enforcement portions of the index are located at the Director, U.S. Army Crime Records Center, ATTN: CICR-FP, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060–5585'.

* * * * *

A0381–100bDAMI

SYSTEM NAME:

Technical Surveillance Index.

SYSTEM LOCATION:

The intelligence portions of the index are located at the Investigative Records Repository, U.S. Army Central Security Facility, U.S. Army Intelligence and Security Command, 902d Military Intelligence Group, ATTN: IAGPA-CSF-R, Fort Meade, MD 20755–5995; and

The law enforcement portions of the index are located at the Director, U.S. Army Crime Records Center, ATTN: CICR-FP, 6010 6th Street, Building 1465, Fort Belvoir, VA 22060–5585.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons under investigation by military law enforcement or military intelligence activities and parties to the conversation whose conversations have been intercepted during electronic surveillance operations conducted by, or on behalf of, the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

The person who is the subject of the surveillance and to the extent known, names of each identifiable person whose communications were intercepted; language of conversation; Social Security Numbers; telephone number, radio frequencies or radio call signs involved; address of premise at which surveillance was conducted; title or number of the investigative file; element maintaining the case file and date or dates of the interceptions.

Also may include backup material (i.e., electronic surveillance information that was used, retained, or disseminated) when not filed as part of the investigative file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 2510–2520 and 3504; DoD 5240.1-R as implemented by Army Regulation 381–10, U.S. Army Intelligence Activities; and DoD 5200.24 as implemented by Army Regulation 190–53, Interception of Wire and Oral Communications for Law Enforcement Purposes; and E.O. 9397

PURPOSE(S):

To enable Military Law Enforcement and Counterintelligence agencies to quickly locate records of electronic surveillance activities in response to motions for discovery and inquiries and court documents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computers, micro-imaging, and paper records.

RETRIEVABILITY:

By a combination of name, address, Social Security Number, telephone number, radio frequency, call sign, or case designation.

SAFEGUARDS:

Access to buildings is controlled by security guards. Computer based index is maintained in 'fail-safe' system software with password protected access. Paper records are maintained in General Services Administration approved security containers, physically separated from other materials, and are accessible only to authorized personnel who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Investigative Records Repository computer index entries are deleted 10 years after date of interception or upon destruction (shredding, burning, pulping or magnetic erasing) or transfer to the National Archives of case file containing electronic surveillance information. Transfer dates occur 25, 30, and 50 years after the date of the most current material in the file as governed by retention period applied to the case dossier.

Crime Records Center documents and related interception will be maintained for the period of time consistent to the investigative record to which they pertain, i.e., 3, 5, and 40 years. Disposal will be through shredding, burning or pulping and magnetic erasing.

Tapes obtained as the result of domestic non-consensual interceptions and retained as backup material will be kept for 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

The Deputy Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310–1001 for the intelligence portion of the index.

The U.S. Army Criminal Investigations Command, 5611 Columbia Pike, Falls Church, VA 22041–2015 for the law enforcement portion of the index.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, U.S. Army Central Security Facility, USAINSCOM, 902d Military Intelligence Group, ATTN: IAGPA-CSF-F, Fort George G. Meade, MD 20755–5995, for intelligence records;

Or to the Director, U.S. Army Crime Records Center, ATTN: CICR-FP, 2301 Chesapeake Avenue, Baltimore, MD 21222–4099, for law enforcement records.

Individual should provide full name, address, and Social Security Number in written request.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, U.S. Army Central Security Facility, USAINSCOM, 902d Military Intelligence Group, ATTN: IAGPA-CSF-F, Fort George G. Meade, MD 20755–5995, for intelligence records;

Or to the Director, U.S. Army Crime Records Center, ATTN: CICR-FP, 2301 Chesapeake Avenue, Baltimore, MD 21222–4099, for law enforcement records.

Individual should provide full name, address, and Social Security Number in written request.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Army and other federal, state and local investigative agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system may be exempt under the provisions of 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5), as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), an (e) and published in 32 CFR part 505. For additional information contact the system manager.

A0570–4DARP

SYSTEM NAME:

Human Resources Information System (HRIS) *(February 22, 1993, 58 FR 10131).*

CHANGES:

SYSTEM IDENTIFIER:

Replace 'DARP' with 'ARPC'.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

RECORD ACCESS PROCEDURE:

Delete address and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

* * * * *

A0570–4ARPC

SYSTEM NAME:

Human Resources Information System (HRIS).

SYSTEM LOCATION:

U.S. Army Reserve Personnel Center, 9700 Page Boulevard, St. Louis, MO 63132–5200.

CATEGORIES OF RECORDS IN THE SYSTEM:

All U.S. Army Reserve Personnel Center employees, both military and civilian.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of man-hours utilization, production, and backlog records reported by individuals daily and maintained by operating officials to track data in the above categories. The documents include, but are not limited to, information on individuals relating to name, grade, Social Security Number, TDA paragraph and line number, employment category, job title, work center, and distribution of work hours among direct productive, indirect productive, and unavailable categories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; and E.O. 9397.

PURPOSE(S):

To document man-hours utilization, workload, and backlogs to analyze, program, and review manpower requirements in U.S. Army Reserve Personnel Center (ARPERCEN); provide a decision basis for approval or disapproval of requests for additional employees, overtime requests, and awards nominations; measure productivity of units and individual employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Records are used to justify manpower requirements with the U.S. Army Manpower Requirements and Documentation Agency.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Personal computer diskettes and computer tapes.

RETRIEVABILITY:

By name, Social Security Number, and TDA paragraph and line number.

SAFEGUARDS:

Computer tapes are stored in locked cabinets. Diskettes are stored in areas accessible only to authorized personnel of ARPERCEN. After hours, the building and security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Diskettes and tapes are retained for 5 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquires to the Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.

For verification purposes, individual should provide the full name, Social

Security Number, organization to which assigned, and dates of assignment.

RECORD ACCESS PROCEDURE:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132-5200.

For verification purposes, individual should provide the full name, Social Security Number, organization to which assigned, and dates of assignment.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are published in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from the record subjects by means of ARPC Form 222-1-R, Individual Daily Record, and ARPC Form 222-3-R, Individual Daily Executive Level.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96-2252 Filed 2-1-96; 8:45 am]

BILLING CODE 5000-04-F

DEPARTMENT OF ENERGY

Electrometallurgical Treatment Research and Demonstration Project in the Fuel Conditioning Facility at Argonne National Laboratory-West Availability of Draft Environmental Assessment and Notice of Public Meetings

AGENCY: Department of Energy.

ACTION: Notice of availability and public meetings.

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Environmental Assessment for the Electrometallurgical Treatment Research and Demonstration Project in the Fuel Conditioning Facility at Argonne National Laboratory-West. DOE also announces the dates, times, and locations for public meetings on the Draft EA. The proposed project would be conducted at the Fuel Conditioning Facility at Argonne National Laboratory-West (ANL-W) near Idaho Falls, Idaho, to demonstrate the feasibility of an advanced spent fuel treatment technology using a small quantity of spent nuclear fuel from the Experimental Breeder Reactor-II (EBR-II), which is also located at the ANL-W site. The purpose of the proposed project would be to assess the reliability and performance of the facility and the process equipment and provide information on the characteristics of the waste forms resulting from the treatment of the fuel.

DATES: Written and oral comments on the Draft EA are invited from the public and other interested parties and organizations. DOE will consider the comments in preparing the final version of the EA. The public comment period will begin on February 5, 1996, and end on March 22, 1996. Written comments should be postmarked by March 22, 1996, to ensure consideration; comments postmarked after that date will be considered to the extent practicable. Public meetings on the Draft EA will be held as follows:

Idaho Falls, Idaho—February 21, 1996, 1:00 p.m. to 4:00 p.m. and 7:00 p.m. to 10:00 p.m., the Shilo Inn, 780 Lindsay Boulevard

Washington, D.C.—February 27, 1996, 1:00 p.m. to 5:00 p.m., Loew's L'Enfant Plaza Hotel, Ballroom D, 480 L'Enfant Plaza, SW

The meetings will provide opportunities for the submittal of oral and written comments as well as for information exchange and discussion.

ADDRESSES: Requests for copies of the Draft EA, written comments on the Draft EA, or other matters regarding this environmental review should be addressed to: Mr. Greg Bass, NEPA Document Manager, Argonne Group-West, U.S. Department of Energy, P.O. Box 2528, Idaho Falls, ID 83403. Mr. Bass may be contacted by telephone at (208) 533-7184 and facsimile at (208) 533-7422.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance, EH-42, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, D.C. 20585. Ms. Borgstrom may be contacted by leaving a message at (800) 472-2756 or by calling (202) 586-4600. For general information on the Electrometallurgical Treatment Research and Demonstration Project, contact: Mr. Robert G. Lange, Associate Director, Office of Facilities, NE-40, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874. Mr. Lange may be contacted by calling (301) 903-2915.

SUPPLEMENTARY INFORMATION: DOE is preparing an environmental assessment to evaluate the potential environmental impacts of a proposal to conduct research and demonstration at the Argonne National Laboratory-West (ANL-W) of electrometallurgical technology for the treatment of sodium-bonded spent nuclear fuel. Without some form of treatment, sodium-bonded spent nuclear fuel is unlikely to be suitable for disposal in a geologic repository because the fuel is saturated with sodium, a reactive material. Electrometallurgical treatment of the fuel is expected to stabilize the reactive metallic sodium by converting it to common table salt (i.e., sodium chloride) and allow the fission products to be collected, concentrated, and stabilized together with the transuranic elements for disposal.

The proposed research and demonstration project would be conducted in the Fuel Conditioning Facility at the ANL-W site near Idaho Falls, Idaho. A small quantity of Experimental Breeder Reactorr-II (EBR-II) spent nuclear fuel consisting of both driver fuel (highly-enriched uranium fuel that was located in the center of the reactor core to power the reactor) and blanket assemblies (depleted uranium fuel that was located around the periphery of the core to provide shielding for the reactor vessel) would be treated to determine whether electrometallurgical treatment is a feasible management option for sodium-bonded spent nuclear fuel. The proposed project would also assess the reliability and performance of the facility and the process equipment and provide needed information about the waste forms predicted to result from the treatment of the fuel. To achieve these objectives, up to 100 EBR-II spent fuel driver assemblies and 25 irradiated blanket assemblies may be treated.

DOE will distribute copies of the Draft EA to interested members of the public, Congressional members and committees, the State of Idaho, American Indian tribal governments, local county governments, other Federal agencies, and other interested organizations.

Signed in Washington, D.C., this 25th day of January, 1996, for the United States Department of Energy.

Terry R. Lash,

Director, Office of Nuclear Energy, Science and Technology.

[FR Doc. 96-2242 Filed 2-1-96; 8:45 am]

BILLING CODE 6450-01-P

Availability of the Final Environmental Impact Statement for Management of Spent Nuclear Fuel From the K Basins at the Hanford Site, Richland, Washington

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability of Final Environmental Impact Statement (EIS).

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of a Final EIS (FEIS) entitled "Management of Spent Nuclear Fuel from the K Basins at the Hanford Site, Richland, Washington," DOE/EIS-0245F. The FEIS evaluates the potential environmental impacts of managing spent nuclear fuel (SNF) located in the K-East (KE) and K-West (KW) SNF storage basins at the Hanford Site located in southeastern Washington State. The FEIS was prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969; the Council on Environmental Quality (CEQ) regulations implementing NEPA in 40 CFR Parts 1500-1508; and DOE's NEPA implementing procedures in 10 CFR Part 1021. The FEIS consists of the Draft EIS (DEIS) and an Addendum containing (1) public comments on the DEIS and DOE's responses to the comments, and (2) a compilation of errata.

The FEIS has been filed with the Environmental Protection Agency (EPA) and has also been distributed to interested members of the public and federal and state agencies. The FEIS will also be available for viewing by the public in the DOE public reading rooms and information repositories identified in this notice. DOE plans to issue a record of decision on the FEIS no sooner than 30 days after the publication of the notice of availability of the FEIS in the **Federal Register**.

ADDRESSES AND FURTHER INFORMATION: Requests for copies of the FEIS and further information on the FEIS should be directed to: Dr. Phillip G. Loscoe, U.S. Department of Energy, P.O. Box 550, M/S S7-41, Richland, Washington 99352. Dr. Loscoe may be contacted by telephone at (509) 376-7434 or at (800) 321-2008. General information on the DOE NEPA process may be obtained from Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH-42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Ms. Borgstrom may be reached by telephone at (202) 586-4600 or by leaving a message at (800) 472-2756.

SUPPLEMENTARY INFORMATION:

Background

DOE issued a notice of availability and public hearing for the DEIS and the EPA published a notice of availability in the **Federal Register** on November 9, 1995 (60 FR 56581, 56590). The public comment period on the DEIS ended on December 29, 1995. One public hearing on the DEIS was held in Pasco, Washington on December 12, 1995. All written and oral public comments on the DEIS were assessed and considered by DOE both individually and collectively.

Because there were no additional alternatives identified from the public and agency review process, DOE determined that an Addendum to the DEIS could be prepared in lieu of rewriting the DEIS. Comment letters, public hearing transcripts, the DOE responses to comments, and a compilation of errata are printed in the Addendum. The DEIS and the Addendum constitute the FEIS under the CEQ regulation at 40 CFR 1503.4(c).

Responses to some comments resulted in errata. Responses to other comments included answers to questions, explanations of technical issues, references to information in DOE's Programmatic SNF EIS (DOE/EIS-0203-F), references to the Draft EIS, explanations of the relationship of this EIS to other related DOE NEPA documents, statements of government policy, or indications that the comment was beyond the scope of this EIS.

Alternatives Considered

The FEIS, like the DEIS, addresses the potential environmental impacts of alternative ways to provide for the safe management and storage of SNF currently stored in the Hanford K Basins. DOE's preferred alternative in the FEIS is the same as in the DEIS, i.e., drying/passivation (conditioning) of the SNF followed by dry vault storage. This alternative would provide for drying the SNF, placing it in multi-canister overpacks in an inert atmosphere, and storing it in a vault for up to 40 years. The FEIS compares the environmental impacts that would be expected to occur from continuing storage in the KE and KW basins (the no action alternative) with the consequences that would be expected to occur if DOE implemented the preferred alternative or one of five other alternatives. The five other alternatives are (1) an enhanced K Basin storage alternative under which SNF would be consolidated in the KW Basin; (2) removal of the SNF and subsequent storage in a new wet storage facility at Hanford; (3) removal of the SNF followed by calcination and dry storage at Hanford; (4) removal of the SNF followed by processing at Hanford and dry storage of the recovered uranium and plutonium at Hanford; and (5) removal of the SNF followed by foreign processing and dry storage of the recovered uranium and plutonium at Hanford.

Availability of Copies of the FEIS

Copies of the FEIS have been distributed to federal, state, and local officials and agencies, organizations and individuals known to be interested in the EIS, and to persons and agencies that commented on the DEIS. Copies of the FEIS may be obtained by contacting Dr. Loscoe at the above address or telephone numbers.

Copies of the FEIS, including reference materials, comment letters, public hearing transcripts, and the DOE responses to comments, will be available for public review at the DOE public reading rooms and information repositories listed below.

(1) U.S. Department of Energy, Headquarters, Freedom of Information Public Reading Room, 1E-190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586-6020, Monday-Friday 9:00 a.m. to 4:00 p.m.

(2) U.S. Department of Energy, Richland Operations Office, Public Reading Room, 100 Sprout Road, Room 130W, Richland, WA 99352, (509) 376-8583, Monday-Friday 10:00 a.m. to 5:00 p.m.

(3) University of Washington, Suzzallo Library, Government Publications Room, Seattle, WA 98185, (206) 685-9855, Monday-Thursday 9:00 a.m. to 8:00 p.m., Friday and Saturday 9:00 a.m. to 5:00 p.m.

(4) Gonzaga University, Foley Center, East 502 Boone Avenue, Spokane, WA 99258, (509) 328-4220 ext. 3829, Monday-Thursday 8:00 a.m. to midnight, Friday 8:00 a.m. to 9:00 p.m., Saturday 9:00 a.m. to 9:00 p.m., Sunday 11:00 a.m. to midnight.

(5) Portland State University, Branford Price Millar Library, SW Harrison and Park, Portland, OR 97207, (503) 725-3690, Monday-Friday 8:00 a.m. to 10:00 p.m., Saturday 10:00 a.m. to 10:00 p.m., Sunday 11:00 a.m. to 10:00 p.m.

(6) Nuclear and Mixed Waste Library, Washington State Department of Ecology, 300 Desmond Dr. S.E., Lacey, WA 98504, (360) 407-7097, Monday-Friday 8:00 a.m. to 5:00 p.m.

Potential users should call ahead to verify the open hours at the reading room of interest.

Signed in Richland, WA this 25th day of January, 1996, for the United States Department of Energy.

John D. Wagoner,

Manager, U.S. Department of Energy, Richland Operations Office.

[FR Doc. 96-2241 Filed 2-1-96; 8:45 am]

BILLING CODE 6450-01-P

Availability of Draft Environmental Impact Statement for the Nevada Test Site and Off-Site Locations Within the State of Nevada

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Sitewide Environmental Impact Statement (Draft EIS) for the Nevada Test Site and Off-site Locations in the State of Nevada (DOE/EIS–0243), for public review and comment. DOE also announces the dates, times, and locations for public hearings on the Draft EIS. Alternative uses for the land and facilities at the site are analyzed in the Draft EIS.

DATES: DOE filed the Draft EIS with the U.S. Environmental Protection Agency on January 26, 1996, with an expected **Federal Register** publication date for the notice of availability of February 2, 1996. Written or oral comments on the Draft EIS are invited from the general public, other government agencies, and all other interested parties. Comments received or postmarked by May 3, 1996, whether written or oral, submitted directly to the Department, or presented during a public hearing, will be given equal consideration in preparation of the final EIS. Comments received or postmarked after that date, will be considered to the extent practicable. DOE will use the comments received to help prepare the final version of the EIS.

The dates and locations for the public meetings are listed below. All meetings are scheduled to begin at 6:00 p.m: March 5, 1996, Dixie Center Convention Facilities, 425 South 700 East, St. George, Utah; March 13, 1996, Bob Ruud Community Center, 150 North Highway 160, Pahrump, Nevada; March 19, 1996, University of Nevada, Student Union Bldg., Reno, Nevada; March 26, 1996, Cashman Field Convention Center, 850 Las Vegas Blvd. North, Las Vegas, Nevada.

ADDRESSES: Requests for a copy of the Draft EIS and written comments on the Draft Site-wide EIS should be directed to: Donald R. Elle, Director, Environmental Protection Division, U.S. Department of Energy, Nevada Operations Office, P.O. Box 14459, Las Vegas, NV 89114, phone (702) 295–1433. Oral comments may be submitted at the public hearing or by calling the Nevada Test Site EIS Hotline, 1–800–405–1140 or (702) 794–1550, and recording comments or suggestions.

FOR FURTHER INFORMATION CONTACT: For general information on the Department's NEPA process, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, 202–586–4600 or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

This sitewide EIS evaluates the potential environmental impacts of four possible resource management alternatives being considered for the Nevada Test Site (NTS), the Tonopah Test Range, and the formerly operated DOE sites in the state of Nevada: the Project Shoal Area, the Central Nevada Test Area, and portions of the Nellis Air Force Range Complex. Three additional sites in Nevada, Coyote Spring Valley, Dry Lake Valley, and Eldorado Valley are evaluated for colocation of solar energy production facilities. The four alternatives include No Action (continue to operate at the level maintained for the past 5 years); Discontinue Operations (discontinue operations and interagency programs and close the site); Expanded Use (maximize use of NTS and its resources to support defense and nondefense programs; and Alternate Use of Withdrawn Lands (discontinue all defense-related activities at NTS; continue waste management operations in support of NTS environmental restoration efforts; expand nondefense research). Environmental impacts were assessed for each alternative by analyzing, to the extent possible, the discrete and cumulative environmental impacts associated with defense, waste management, environmental restoration, nondefense research and development, and work for others programs.

Related Documentation

The Department will prepare transcripts of the oral comments received during the Draft EIS public hearings. The records of all comments, both oral and written, received during the comment period will be made available for public review in the reading rooms listed below. Additional background documents and references identified as pertinent during the EIS process will also be made available in the reading rooms.

1. DOE Public Reading Room, 2621 Losee Road, North Las Vegas, NV 89030
2. Las Vegas Public Library, 833 N. Las Vegas Blvd., Las Vegas, NV 89101
3. Carson City Public Library, 900 N. Roop St., Carson City, NV 89701
4. Tonopah Public Library, 171 Central St. Tonopah, NV 89049
5. Doris Shirkey Library, 2101 E. Calvada Blvd., Pahrump, NV 89041
6. Caliente Branch Library, 100 Depot Avenue, Caliente, NV 89008
7. University of Nevada, Reno, Noble H. Getchell Library, Reno, NV 89557
8. University of Nevada, Las Vegas, James Dickenson Library, 4505 S. Maryland Parkway, Las Vegas, NV 89154
9. Freedom of Information Reading Room, Forrestal Bldg, 1000 Independence Ave., S.W., Washington, DC 20585
10. Fallon Public Library, Churchill County Library, 553 S. Main, Fallon, NV 89406–3387
11. Washington County Library, 50 S. Main, St. George, UT 84770

Cooperating Agencies

The preparation of this Site-wide EIS required the participation of several Federal agencies and a local government, including the Department of Defense (Air Force and Defense Nuclear Agency), the Department of the Interior (Bureau of Land Management and Fish and Wildlife Service), and Nye County, Nevada.

Public Hearings Registration and Format

Oral and written comments may be presented at the public hearings. Persons desiring to speak at any of these hearings should register by calling the Nevada Test Site EIS Hotline by 3:00 p.m. Pacific Standard Time, two working days in advance of the public hearing; or by writing to the Director of the Environmental Protection Division at the above address. Persons wishing to speak that have not registered in advance may register at the entrance of the meeting room. Individuals speaking on behalf of an organization should identify the organization represented. In order to solicit individual viewpoints and facilitate interactive communication between participants and representatives of the Department, opportunities will be provided at the public hearings for questions and informal discussions regarding the issues to be addressed in this EIS.

Subsequent Document Preparation

After the completion of the public hearing process for the Draft EIS, the Department will consider all comments prior to publication of the Final EIS and the Record of Decision.

Issued in Washington, DC, this 29th day of January, 1996.

Gary T. Palmer,

Environmental Specialist, Office of Environmental Support, Defense Programs.

[FR Doc. 96–2240 Filed 2–1–96; 8:45 am]

BILLING CODE 6450–01–P

Savannah River Operations Office Financial Assistance Award; Intent To Award a Noncompetitive Cooperative Agreement

AGENCY: Savannah River Operations Office, DOE.

ACTION: Notice.

SUMMARY: The DOE announces that it plans to award a cooperative agreement to the University of Georgia Research Foundation (UGARF), University of Georgia, Athens, GA 30602. The cooperative agreement, "Savannah River Ecology Laboratory (SREL) Program," will be awarded for a five-year period at a projected funding level of $70,000,000. Funds of $12,000,000 are available for the first budget period, subject to the availability of funds; the remainder will be awarded thereafter. Pursuant to Section 10 CFR Part 600.7(b)(2)(i)(A) of the DOE Assistance Regulations (10 CFR Part 600), DOE has determined that a noncompetitive award is appropriate since the SREL Program is a continuation of the program presently being funded by DOE, and for which competition for support would have a significant adverse effect on continuity or completion of the activity.

FOR FURTHER INFORMATION CONTACT: Charlene Smith, Office of Procurement and Contractor Human Resources, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, Telephone: (803) 725–7644.

SUPPLEMENTARY INFORMATION:

Procurement Request Number: 09–96SR18546.000.

Project Scope: The proposed cooperative agreement allows UGARF to continue the Savannah River Ecology Laboratory (SREL) program. SREL provides an independent evaluation of the ecological effects of Savannah River Site (SRS) operations through a program of ecological research, education and outreach. This program will continue basic and applied environmental research with emphasis upon expanding the understanding of ecological processes and principles, and upon evaluating the impacts of industrial and land use activities on the environment. The program will provide DOE and the public with an independent view of the environmental management of the SRS. Publication of SREL's scientific findings in peer-reviewed journals will provide independent, verifiable science as a basis for DOE–SRS policy decisions. Collaboration will continue with the other SRS contractors and National Environmental Research Park participants. SREL will respond to mission priorities to increase understanding in such areas as biodiversity, ecosystem management, restoration/remediation ecology, geographic information systems and landscape ecology, radioecology, toxicology, ecological risk assessment, environmental transport of contaminants, dose responses of organisms, and predictive modeling of impacts of restoration processes on population structure and genetics of organisms in the environment.

Based on the documentation presented and appropriate evaluation, it is determined that this award to UGARF on a noncompetitive basis is appropriate and is in the best interest of DOE.

Issued in Aiken, South Carolina, on: January 9, 1996.

Ronald D. Simpson,

DOE Savannah River Operations Office, Head of Contracting Activity, Designee.

[FR Doc. 96–2243 Filed 2–1–96; 8:45 am]

BILLING CODE 6450–01–M

Environmental Management Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following Advisory Committee meeting:

Name: Environmental Management Advisory Board; formerly Utilized Sites Remedial Action Program Committee.

Date and Times: Thursday, February 15, 1996 from 5:00 p.m. to 9:00 p.m.

Place: SAIC Headquarters, 301 Laboratory Road, First Floor Conference Room, Oak Ridge, TN 37831, (423) 481–8200.

For Further Information Contact: James T. Melillo, Executive Director, Environmental Management Advisory Board, EM–22, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4400. The Internet address is: James.Melillo@em.doe.gov.

Supplementary Information: Purpose of the Board. The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management program and the Programmatic Environmental Management Impact Statement, from the perspectives of affected groups and State and local Governments. The Board will help to improve the Environmental Management Program by assisting in the process of securing consensus recommendations, and providing the Department's numerous publics with opportunities to express their opinions regarding the Environmental Management Program including the Formerly Utilized Site Remedial Action Program.

Tentative Agenda

Thursday, February 15, 1996

5:00 p.m.—Chairman Opens Public Meeting.
5:05 p.m.—Review of FUSRAP Committee's Mission and Final Report.
7:00 p.m.—Dinner Break.
8:00 p.m.—Public Comment Session Opens.
9:00 p.m.—Chairman Concludes Public Comment Session.

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact James T. Melillo at the address or telephone number listed above. Individuals wishing to orally address the Committee during the public comment session should call (800) 736–3282 and leave a message. Individuals may also register on February 15, 1996 at the meeting site. Every effort will be made to hear all those wishing to speak to the Committee, on a first come, first serve basis. Those who call in and reserve time will be given the opportunity to speak first. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication. The Chairman is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts and Minutes: Meeting minutes will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 30, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–2245 Filed 2–1–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge.

Dates: Wednesday, February 21, 1996: 6:00 p.m.–9:00 p.m.

Address: Jacobs Engineering Group, Inc. Building, Einstein Conference Room, 125 Broadway, Oak Ridge, Tennessee.

For Further Information Contact: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

Supplementary Information: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

February Meeting Topics

The Board will be briefed on the Oak Ridge Aerial Measurements/Overflight activities and will also begin the election process for Officers (Chair, Vice Chair, and Secretary).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 a.m. and 5:00 p.m. on Monday, Wednesday, and Friday; 8:30 a.m. and 7:00 p.m. on Tuesday and Thursday; and 9:00 a.m. and 1:00 p.m. on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC on January 29, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–2244 Filed 2–1–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG96–30–000, et al.]

Ventway Pty Ltd., et al.; Electric Rate and Corporate Regulation Filings

January 26, 1996.

Take notice that the following filings have been made with the Commission:

1. Ventway Pty Ltd.

[Docket No. EG96–30–000]

On January 19, 1996, Ventway Pty Ltd. ("Applicant"), with its principal office at AMP Place, Level 22, 10 Eagle Street, Brisbane, Queensland, Australia 4001, filed with the Federal Energy Regulatory Commission (the "Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it will own and/or operate an undivided interest in an electric generating facility and adjacent brown coal mine located in Victoria, Australia.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Eclipse Energy Inc.; AIG Trading Corporation; Peak Energy, Inc.; National Fuel Resources, Inc.; Superior Electric Power Corporation

[Docket Nos. ER94–1099–007, ER94–1691–008, ER95–379–003, ER95–1374–001, and ER95–1747–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 16, 1996, Eclipse Energy Inc. filed certain information as required by the Commission's June 15, 1994, order in Docket No. ER94–1099–000.

On January 19, 1996, AIG Trading Corporation, filed certain information as required by the Commission's January 19, 1995, order in Docket No. ER94–1691–000.

On January 17, 1996, Peak Energy, Inc., filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–379–000.

On January 18, 1996, National Fuel Resources, Inc. filed certain information as required by the Commission's September 7, 1995, order in Docket No. ER94–1374–000.

On January 17, 1996, Superior Electric Power Corporation, filed certain information as required by the Commission's October 23, 1995, order in Docket No. ER95–1747–000.

3. Southwest Regional Transmission Association

[Docket No. ER94–1381–001]

Take notice that on January 17, 1996, Southwest Regional Transmission Association (SWRTA), on behalf of its Members, submitted for filing the signature pages of new Members and a list of all of its Members by Member Class designations.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Minnesota Power & Light Company

[Docket No. ER96–674–000]

Take notice that on January 16, 1996, Minnesota Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Calpine Newark Cogen, Inc.

[Docket No. ER96–675–000]

Take notice that on January 24, 1996, Calpine Newark Cogen, Inc. tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Calpine Parlin Cogen, Inc.

[Docket No. ER96–676–000]

Take notice that on January 11, 1996, Calpine Parlin Cogen, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. PECO Energy Company

[Docket No. ER96–776–000]

Take notice that on January 11, 1996, PECO Energy Company (PECO) filed a Service Agreement dated December 28, 1995, with Tennessee Valley Authority (TVA) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TVA as a customer under the Tariff.

PECO requests an effective date of December 28, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to TVA and to the Pennsylvania Public Utility Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. PECO Energy Company

[Docket No. ER96–777–000]

Take notice that on January 11, 1996, PECO Energy Company (PECO), filed a Service Agreement dated December 21, 1995, with Aquila Power Corporation (Aquila) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Aquila as a customer under the Tariff.

PECO requests an effective date of December 21, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to Aquila and to the Pennsylvania Public Utility Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. PECO Energy Company

[Docket No. ER96–778–000]

Take notice that on January 11, 1996, PECO Energy Company (PECO), filed a Service Agreement dated December 21, 1995, with New England Power (New England Power) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds New England Power as a customer under the Tariff.

PECO requests an effective date of December 21, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to New England Power and to the Pennsylvania Public Utility Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. New York State Electric & Gas Corporation

[Docket No. ER96–779–000]

Take notice that on January 11, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Global Petroleum Corporation (Global). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Global and Global will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on January 12, 1996, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Global.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Southern Company Services, Inc.

[Docket No. ER96–780–000]

Take notice that on January 11, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as "Southern Companies") filed a tariff pursuant to which Southern Companies would make wholesale power sales at market-based rates.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER96–781–000]

Take notice that on January 11, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Point-to-Point Transmission Service Tariff (the Tariff) entered into between Cinergy and Sonat Power Marketing, Inc.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc.

[Docket No. ER96–782–000]

Take notice that on January 11, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the Ohio Edison Company.

Cinergy and the Ohio Edison Company are requesting an effective date of January 1, 1996.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER96–783–000]

Take notice that on January 11, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Point-to-Point Transmission Service Tariff (the Tariff) entered into between Cinergy and Coastal Electric Services Company.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Baltimore Gas and Electric Company and Potomac Electric Power Company

[Docket No. ER96–784–000]

Take notice that on January 11, 1996, Baltimore Gas and Electric Company (BGE) and Potomac Electric Power Company (Pepco) (collectively, Applicants) filed, pursuant to Rule 205 of the Federal Power Act and Part 35 of the Commission's Regulations, two transmission tariffs; a Point-to-Point Transmission Service Tariff and a Network Integration Service Transmission Tariff.

The Applicants state that they are making this filing in connection with the proposed merger of BGE and Pepco into Constellation Energy Corporation (Constellation), and that service under these two tariffs will be provided by Constellation upon the consummation of the merger. The Applicants request that the Commission waive the 120-day notice requirement of 35.3 of the Commission's Regulations to allow the tariffs to be accepted for filing and put into effect on the date upon which the merger is consummated. Copies of the filing have been served on the state utility regulatory commissions of the District of Columbia, Maryland, Pennsylvania and Virginia.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. UtiliCorp United Inc.

[Docket No. ER96–785–000]

Take notice that on January 16, 1996, UtiliCorp United Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Colorado, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with *Cenergy Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Colorado to *Cenergy Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Cenergy Inc.* to WestPlains Energy-Colorado pursuant to *Cenergy Inc.'s* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Cenergy Inc.*

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. UtiliCorp United Inc.

[Docket No. ER96–786–000]

Take notice that on January 16, 1996, UtiliCorp United Inc., tendered for filing

on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with *Cenergy Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to *Cenergy Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Cenergy Inc.* to WestPlains Energy-Kansas pursuant to *Cenergy Inc.*'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of concurrence by *Cenergy Inc.*

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. UtiliCorp United Inc.

[Docket No. ER96–787–000]

Take notice that on January 16, 1996, UtiliCorp United Inc. tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10 with *Cinergy Inc.* The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Cinergy Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Cinergy Inc.* to Missouri Public Service pursuant to *Cinergy Inc.*'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Cinergy Inc.*

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. The Toledo Edison Company

[Docket No. ER96–788–000]

Take notice that on January 16, 1996, The Toledo Edison Company (Toledo Edison), tendered for filing a revision to the Resale Service Rate Agreement between Toledo Edison and Southeastern Michigan Rural Electric Cooperative (Southeastern Michigan), which was effective for service rendered by Toledo Edison to Southeastern Michigan from January 1, 1996.

Toledo Edison states that Southeastern Michigan presently purchases firm power under is FERC Electric Tariff No. 33 which terminates under its own provisions on December 31, 1995. Under the Resale Service Rate Agreement, Toledo Edison will continue to sell to Southeastern Michigan all of the power and energy needed by Southeastern Michigan to serve its requirements.

Toledo Edison states that the rate set forth in the Resale Service Rate Agreement is a negotiated rate between Toledo Edison and Southeastern Michigan. Toledo Edison states that the Resale Service Rate Agreement will help Southeastern Michigan become competitive in its source of power.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. PECO Energy Company

[Docket No. ER96–789–000]

Take notice that on January 16, 1996, PECO Energy Company (PECO), filed a Service Agreement dated January 3, 1996 with Orlando Utilities Commission (OUC) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds OUC as a customer under the Tariff.

PECO requests an effective date of January 3, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to OUC and to the Pennsylvania Public Utility Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. PECO Energy Company

[Docket No. ER96–790–000]

Take notice that on January 16, 1996, PECO Energy Company (PECO), filed a Service Agreement dated December 28, 1995, with Central Virginia Electric Cooperative (CVEC) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CVEC as a customer under the Tariff.

PECO requests an effective date of December 28, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to CVEC and to the Pennsylvania Public Utility Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. PECO Energy Company

[Docket No. ER96–791–000]

Take notice that on January 16, 1996, PECO Energy Company (PECO), filed a Service Agreement dated December 28, 1995, with Baltimore Gas & Electric Company (BG&E) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds BG&E as a customer under the Tariff.

PECO requests an effective date of December 28, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to BG&E and to the Pennsylvania Public Utility Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Western Resources, Inc.

[Docket No. ER96–792–000]

Take notice that on January 16, 1996, Western Resources, Inc. (Western Resources), tendered for filing a non-firm transmission service agreement with Duke/Louis Dreyfus L.L.C., Western Resources states the purpose of this filing is to permit Duke/Louis Dreyfus L.L.C., access to Western Resources' transmission system. The agreement is proposed to become effective January 3, 1996.

Copies of the filing were served upon Duke/Louis Dreyfus L.L.C. and the Kansas Corporation Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Kansas City Power & Light Company

[Docket No. ER96–793–000]

Take notice that on January 16, 1996, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated December 20, 1995 between KCPL and Delhi Energy Services, Inc. (Delhi). KCPL proposes an effective date of December 20, 1995, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and Delhi.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rate and charges which were conditionally accepted for filing by the Commission in Docket No. ER94–1045–000.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Wisconsin Power and Light Company

[Docket No. ER96–794–000]

Take notice that on January 16, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 2, 1996, establishing Citizens Lehman Power Sales as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 2, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Gateway Energy Marketing

[Docket No. ER96–795–000]

Take notice that on January 16, 1996, Gateway Energy Marketing (Gateway), tendered for filing pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 and 385.207, a petition for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective the earlier of March 16, 1996, or the date of a Commission order granting approval of this Rate Schedule.

Gateway intends to engage in electric power and energy transactions as a marketer and broker. In transactions where Gateway purchases power, including capacity and related services from electric utilities, qualifying facilities and independent power producers, and resells such power to other purchasers, Gateway will be functioning as a marketer. In Gateway's marketing transactions, Gateway proposes to charge rates mutually agreed upon by the parties. In transactions where Gateway does not take title to the electric power and/or energy, Gateway will be limited to the role of a broker and will charge a fee for its services. Gateway is not in the business of producing or transmitting electric power. Gateway does not currently have or contemplate acquiring title to any electric power transmission facilities.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Cinergy Services, Inc.

[Docket No. ER96–797–000]

Take notice that on January 16, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated November 1, 1995, between Cinergy, CG&E, PSI and Aquila Power Corporation (AQUILA).

The Interchange Agreement provides for the following service between Cinergy and AQUILA.

1. Exhibit A—Power Sales by AQUILA
2. Exhibit B—Power Sales by Cinergy

Cinergy and AQUILA have requested an effective date of February 1, 1996.

Copies of the filing were served on Aquila Power Corporation, the Nebraska Public Service commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. William T. McCormick, Jr.

[Docket No. ID–2423–002]

Take notice that on December 18, 1996, William T. McCormick, Jr. (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, First Chicago NBD
Chairman of the Board and Director, Consumers Power Company

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2218 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–P

Federal Energy Regulatory Commission

[Docket No. CP95–52–000]

Granite State Gas Transmission, Inc.; Notice of Availability of the Draft Environmental Impact Statement for the Granite State LNG Project

January 29, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has made available a Draft Environmental Impact Statement (DEIS) on the construction and operation of the liquefied natural gas (LNG) storage facility, truck unloading stations, and permanent access road as proposed in the above-referenced docket.

The staff prepared the DEIS to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures as recommended, including receipt of necessary permits and approvals, would have limited adverse environmental impact. The DEIS evaluates alternatives to the proposal, including system alternatives and alternative sites for the storage facility and the permanent access road.

Granite State Gas Transmission, Inc. (Granite State), is seeking approval of a specific site in Wells, Maine to store LNG that would be transported by tanker trucks from Everett, Massachusetts. The LNG would be vaporized as needed and the natural gas delivered into Granite State's existing natural gas pipeline transportation system. The proposed action involves construction of:

- a 580,000-barrel LNG storage tank (equivalent to 2 billion cubic feet of natural gas);
- two truck unloading stations;
- two 67 million cubic feet per day vaporizers;
- a vapor handling system;
- a 12-inch-diameter sendout pipeline to deliver the natural gas to the existing Granite State pipeline; and
- a new 1.4-mile-long permanent access road to the storage facility site from State Route 9.

In addition, Granite State proposes to upgrade and temporarily use an existing 1.1-mile-long dirt road for access into the storage facility site during the initial stages of construction. Construction of the project would take about 29 months with an average work force of approximately 45 workers for 26 of the 29 months.

Public Meeting Schedule

A public meeting to receive comments on the DEIS will be held during the comment period. We will give the location and time for this meeting in a future notice.

Comment Procedures

Written comments are welcome to help identify significant issues or concerns related to the proposed action. All comments on environmental issues should contain supporting documentation and rationale. The staff is specifically requesting comments regarding:

• system alternatives (see section 3.2);
• alternative storage facility sites (see sections 3.3 and 6.1); and
• alternative alignments for the permanent access road to the storage facility site (see sections 3.4 and 6.2).

Written comments should be filed on or before March 18, 1996, must reference Docket No. CP95–52–000, and be addressed to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

A copy of the comments should also be sent to the FERC Project Manager identified below.

After these comments are reviewed, any significant issues are investigated, and modifications are made to the FEIS, a Final Environmental Impact Statement (FEIS) will then be published by the staff and distributed. The FEIS will contain the staff's responses to timely comments received on the DEIS.

The DEIS has been placed in the public files of the FERC and is available for public inspection at:

Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE., Washington, DC 20426, (202) 208–1371
and
Town Manager's Office, Town Hall, Wells, ME 04090

Copies of the DEIS have been mailed to Federal, state, and local agencies; public interest groups; public libraries; newspapers; individuals who have requested the DEIS; and other parties to this proceeding. Any person may file a motion to intervene on the basis of the Commission staff's DEIS [see 18 CFR 380.10(a) and 385.214].

A limited number of copies of the DEIS are available from: Mr. Chris Zerby, Project Manager, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Room 72–55, Washington, DC 20426, (202) 208–0111.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2179 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. CP96–150–000]

Chevron U.S.A. Inc.; Notice of Petition for Declaratory Order

January 29, 1996.

Take notice that on January 5, 1996, Chevron U.S.A. Inc. (Chevron), Post Office Box 3725, Houston, Texas 77253–3725, filed in Docket No. CP96–150–000 a petition pursuant to Section 1(b) of the Natural Gas Act (NGA) for a declaratory order exempting facilities to be acquired from Transwestern Pipeline Company (Transwestern) from Commission regulation under the NGA, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Chevron proposes to purchase from Transwestern 48.3 miles of 20-inch pipeline lateral and 3.4 miles of 6-inch pipeline lateral, both located in Pecos County, Texas, for use in Chevron's gathering operations. It is stated that Transwestern filed a request to abandon the facilities by sale to Chevron in Docket No. CP96–119–000. It is asserted that although the facilities are presently certificated as transmission facilities, their primary function, on acquisition by Chevron, would be gathering. It is further asserted that the facilities and their proposed use by Chevron meet the Commission's criteria to support a finding of non-jurisdictional gathering function. It is explained that the facilities will be operated by Warren Petroleum Company, a division of Chevron, which is a producer of natural gas and oil, and not subject to Commission regulation. Chevron requests that the facilities be refunctionalized on acquisition from Transwestern.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2180 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–2–97–003]

Chandeleur Pipe Line Company; Notice of Compliance Filing

January 29, 1996.

Take notice that on January 24, 1996, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets, to become effective January 1, 1996:

Substitute Third Revised Sheet No. 5
Substitute First Revised Sheet No. 8
Substitute First Revised Sheet No. 14

Chandeleur states that the purpose of this filing is to correct the pagination, in compliance with Exhibit B of Order 582 issued in Docket No. RM95–3–000 on September 28, 1995.

Chandeleur states that it is serving copies of this filing to its customers, State Commissions and interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2188 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT96–4–000]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 29, 1996.

Take notice that on January 23, 1996, Mid Louisiana Gas Company (Mid Louisiana) field to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets with an effective date of January 25, 1996:

First Revised Sheet No. 0
First Revised Sheet No. 86
Second Revised Sheet No. 131

Mid Louisiana states that the purpose of the filing of the Revised Tariff Sheets is to reflect a revision to the physical location of facilities, related telephone number changes and to update the listing of shared personnel and facilities.

Additionally, the electronic version of this filing consists of all currently effective tariff sheets numbered 1 through 85, 87 through 130, and 132 through 288 as well as the indicated revised sheets. This re-filing of currently effective sheets is submitted in compliance with the Federal Energy Regulatory Commission's directive in Order 582, issued September 28, 1995 (RM95–3–000).

Pursuant to Section 154.7(d) of the Commission's Regulations, Mid Louisiana respectfully requests waiver of ¶ 154.203(b), Compliance filings, and ¶ 154.207, Notice requirements, as well as any other requirement of the Regulations in order to permit the tendered tariff sheets to become effective January 25, 1996, as submitted.

Mid Louisiana states that paper copies of the Revised Tariff Pages and this filing were served upon its jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this compliance filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2182 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–397–003]

Panhandle Eastern Pipe Line Company; Notice of Motion To Place Tariff Sheets Into Effect

January 29, 1996.

Take notice that on January 24, 1996, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective January 25, 1996. Panhandle asserts that the purpose of this filing is to move into effect the tariff sheets required to implement Limited Firm Transportation Service under Rate Schedule LFT on Panhandle's system.

Panhandle states that on July 25, 1995, Panhandle filed tariff sheets to implement Rate Schedule LFT for Limited Firm Transportation Service on its system with a proposed effective date of August 24, 1995. On August 24, 1995, the Commission issued its Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions and Establishing Technical Conference (August 24, 1995 Order) 72 FERC ¶ 61,185 (1995) in which the Commission accepted Panhandle's tariff sheets subject to refund and the outcome of the technical conference to become effective the earlier of January 25, 1996 or a date specified by the Commission following the technical conference. At the time of this motion filing, the Commission had not specified an effective date earlier than January 25, 1996.

Panhandle states that in copies of this filing are being served on all affected customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2186 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–407–004]

Questar Pipeline Company; Notice of Tariff Filing

January 29, 1996.

Take notice that on January 25, 1996, Questar Pipeline Company (Questar) tendered for filing and acceptance to be effective February 1, 1996, Alternate First Revised Sheet No. 7 to First Revised Volume No. 1 and Alternate Substitute Fifteenth Revised Sheet No. 8 to Original Volume No. 3 of its FERC Gas Tariff. Questar explains that these tariff sheets, which reflect Questar's currently effective gathering rates, are filed in compliance with Paragraph E of the Commission's August 31, 1995, order in Docket No. RP95–407.

Questar explains further that the tendered tariff sheets are to become effective February 1, 1996, only if Questar has not received Commission authorization, on or before that date, to spin down its gathering facilities as requested in Docket No. CP95–650. Questar states that the alternate tariff sheets will be withdrawn if the Commission approves Questar's gathering spin down after January 31, 1996.

Questar states that copies of the proposed alternate tariff sheets and the transmittal letter describing the nature of the filing were served upon all parties set out on the official service list in Docket No. RP95–407.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2187 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–155–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

January 29, 1996.

Take notice that on January 24, 1996, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama, 35202–2563, filed in Docket No. CP96–155–000 a request pursuant to Section 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for approval to abandon certain regulating facilities in connection with a change in the operation of a delivery point for an existing customer, Alabama Gas Corporation (Alagasco), under Southern's blanket certificate authority issued in Docket No. CP82–406–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set

forth in the request which is on file with the Commission and open to public inspection.

Southern indicates that Alagasco has requested it to remove the existing regulators and install incidental piping and fittings at its Fairfield Delivery Point, located at or near Mile Post 0.128 on Southern's six-inch Fairfield Line in Section 14, Township 18 South, Range 4 West, Jefferson County, Alabama. It is further indicated that the point will be redesigned to deliver gas to Alagasco at mainline pressure not less than 175 psiq. Southern states that such operational changes to the Fairfield Delivery Point will have no impact on Southern's peak day and annual deliveries. Southern further states that the estimated cost of the modifications is $10,900 which Alagasco has agreed to reimburse Southern.

Southern states that the abandonment of facilities and change in operation of the delivery point proposed in this request for authorization will not result in any termination of service or any change to the total Firm Transportation Demand delivered to Alagasco. Southern further states that the proposed abandonment of facilities and change in delivery pressure are not prohibited by any existing tariff of Southern and that Southern has the ability to accomplish the deliveries to Alagasco without detriment or disadvantage to its ability to meet the firm requirements of its other customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed thereunder, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2181 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–375–004 and RP95–215–003]

Texas Gas Transmission Corporation; Notice of Refund Report

January 29, 1996.

Take notice that on January 4, 1996, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a refund report detailing the allocation of credits to its former sales customers on December 10, 1995, of $1,265,904, in accordance with the Offer of Settlement filed on August 21, 1995, in the above-captioned dockets.

Texas Gas states that this refund report is being made to comply with Subpart F, Sections 154.501 and 154.502 under the Natural Gas Act as amended by Order No. 582, which became effective on November 13, 1995, which requires refund reports within 30 days of the date the refund was made unless otherwise provided by order, settlement or tariff provision.

Texas Gas further states that copies of the refund report are being served upon Texas Gas's jurisdictional customers receiving refunds/credits made on December 10, 1995, and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before February 5, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2185 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–164–010]

Trunkline Gas Company; Notice of Compliance Filing

January 29, 1996.

Take notice that on January 25, 1996, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets, as listed on Appendix A attached to the filing, proposed to be effective September 1, 1994 and February 1, 1996, as applicable. Trunkline asserts that the purpose of this filing is to comply with the Commission's orders issued July 6, 1995 and December 15, 1995, in Docket No. RP94–164–006, et al. (72 FERC ¶ 61,012 and 73 FERC ¶ 61,319).

Trunkline states the purpose of this filing is to implement the terms of the January 20, 1995, Stipulation and Agreement in Docket No. RP94–164–006, et al. (Settlement). The revised tariff sheets reflect the Final Settlement Rates proposed to be effective February 1, 1996. The revised tariff sheets also reflect Settlement tariff provisions to be effective September 1, 1994 which 1) provide for the crediting of interruptible storage service revenues and for the termination of the interruptible transportation revenue crediting provision and 2) provide for changes in Trunkline's Fuel Recovery Provisions so that the fuel tracker becomes the means by which all of Trunkline's fuel requirements are recovered.

Trunkline states that a copy of this filing are being served on all jurisdictional customers, applicable state regulatory agencies, and all parties to the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2184 Filed 2–1–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5413–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed January 22, 1996 Through January 26, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 950608, FINAL EIS, IBR, CA, Cachuma Water Supply Project, Implementation, Long-Term Contract Renewal, Santa Ynez Valley, Bradbury Dam, Santa Barbara County, CA, Due: January 22, 1996, Contact: Robert May (209) 487–5137.

Due to the federal government furlough and closing in the Washington, DC area due to inclement weather, the 30 Day Wait Period for this FEIS is Calculated from the Intended **Federal Register** Date of December 22, 1995.

EIS No. 960023, DRAFT SUPPLEMENT, NPS, AZ, Tumacacori National Historical Park General Management Plan, Additional Information, Santa Cruz County, AZ, Due: March 18, 1996, Contact: Dan Olson (415) 744–3968.

EIS No. 960024, DRAFT SUPPLEMENT, COE, FL, Palm Beach County Beach Erosion Project, Updated Information concerning Shore Protection for the Ocean Ridge Segment from the Martin County Line to Lake Worth Inlet and from the South Lake Worth Inlet to the Broward County Line, Palm Beach, Martin and Broward Counties, FL, Due: March 18, 1996, Contact: Michael Dupes (904) 232–1689.

EIS No. 960025, DRAFT EIS, AFS, AK, Port Houghton/Cape Fanshaw Timber Harvest Sale Project, Implementation, Tongass National Forest, Chatham and Stikine Areas, South of Juneau, AK, Due: March 26, 1996, Contact: Dave Cottrell (907) 772–3841.

EIS No. 960026, DRAFT EIS, FHW, SC, Carolina Bays Parkway (better known as Grand Strand), Funding, NPDES Permit, COE Section 10 and 404 Permits, Horry and Georgetown Counties, SC, Due: March 18, 1996, Contact: Kenneth R. Myers (803) 253–3881.

EIS No. 960027, DRAFT SUPPLEMENT, FHW, SC, Mark Clark Expressway (Charleston Inner Belt Freeway) Updated Information, Construction between SC–7 Sam Rittenberg Boulevard and SC–171 Folly Road, Stone River, US Coast Guard Permit and COE Section 10 and 404 Permits, Charleston County, SC, Due: March 18, 1996, Contact: Kenneth Myers (803) 253–3881.

EIS No. 960028, DRAFT EIS, AFS, CA, Sequoia National Forest Land and Resource Management Plan, Amendment "Grazing Management", Implementation, Kern, Tulare and Fresno Counties, CA, Due: May 3, 1996, Contact: Julie Allen (209) 784–1500.

EIS No. 960029, DRAFT EIS, FHW, MO, US Route 71/Range Line Road Bypass east of the Joplin City limits, Construction, COE Section 404 Permit, Jasper County, MO, Due: March 29, 1996, Contact: Donald Neumann (314) 636–7104.

EIS No. 960030, FINAL EIS, DOE, CA, NV, ADOPTION—Alturas 345 Kilovolt (kv) Electric Power Power Transmission Line Project, Construction, Operation and Maintenance, Right-of-Way Grant Approval, Special-Use-Permit and COE Section 404 Permit, Susanville District, Modoc, Lassen and Sierra Counties, CA and Washoe County, NV, Due: March 4, 1996, Contact: Richard Stone (503) 230–3797.

The U.S. Department of Energy's, Bonneville Power Administration (BPA) has adopted the U.S. Department of the Interior's, Bureau of Land Management FEIS #950572, filed with the Environmental Protection Agency on 12–7–95. BPA is a cooperating agency on this project. Recirculation of the document is not necessary under Section 1506.3(c) of the Council on Environmental Quality Regulations.

EIS No. 960031, FINAL EIS, FAA, MO, ADOPTION Richards-Gebaur Air Force Base Disposal and Reuse, Implementation, Possible Clean Air Act Title V, National Pollutant Discharge Elimination System, COE Section 404, Hazardous Water Treatment Storage or Disposal Facility, Archaeological Resources Protection Act and Endangered Species Act Section 10 Permits, Jackson and Cass Counties, MO, Due: Contact: Jonathon D. Farthing (210)

The U.S. Department of Transportation's, (FAA) has ADOPTED the U.S. Air Force's FEIS #940289, filed with the Environmental Protection Agency on 7–20–94. FAA is a Cooperating Agency for the above final EIS. Recirculation of the document is not necessary under Section 1506.3(c) of the Council on Environmental Quality Regulations.

EIS No. 960032, FINAL EIS, BLM, NV, Cortez Pipeline Gold Deposit Project, Development, Construction and Operation of an Open-Pit Mine, Plan of Operations Approval, Right-of-Way Permits and COE Section 404 Permit, Lander County, NV, Due: March 4, 1996, Contact: Dave Davis (702) 635–4000.

EIS No. 960033, DRAFT EIS, FHW, CA, I–805 Nobel Drive Interchange and Extension Project, Improvements, between Nobel Drive and Miramar Road/LaJolla Village Drive and the extension of Nobel Drive from Shoreline Drive to Miramar Road, in the City of San Diego, San Diego County, CA, Due: March 18, 1996, Contact: Dennis A. Scovil (916) 498–5034.

EIS No. 960034, FINAL SUPPLEMENT EIS, COE, FL, Central and Southern Florida Flood Control Project, Restoration of the Upper Kissimmee River Basin through the Headwater Revitalization Project and the Lower Kissimmee River Basin through the Level II Backfilling Plan, Implementation, Updated Information, Glades, Osceda Highlands, Polk, Okeechobee and Orange Counties, FL, Due: March 4, 1996, Contact: Michael A. Smith (904) 232–3506.

EIS No. 960035, DRAFT EIS, NOA, NC, Black Sea Bass (Centropristis striata) Fishery Management Plan (FMP), Implementation, in the western Atlantic Ocean, from Cape Hatteras, NC northward to the US-Canadian Border, Due: April 2, 1996, Contact: Rolland A. Schmitten (301) 713–2239.

EIS No. 960036, FINAL EIS, MMS, AK, Cook Inlet Planning Area, Alaska Outer Continental Shelf Oil and Gas Sale 149, Leasing Offering, AK, Due: March 4, 1996, Contact: George Valiulis (703) 787–1662.

EIS No. 960037, FINAL EIS, DOE, WA, Hanford Site K Basins Management of Spent Nuclear Fuel, Storage and Disposal, Application for Approval of Construction and NPDES Permit Issuance, Columbia River, Richland, Benton County, WA, Due: March 4, 1996, Contact: P.G. Loscoe (509) 376–7434.

EIS No. 960038, DRAFT EIS, FRC, ME, Granite State Gas Transmission, Construction and Operation of a Liquefied Natural Gas Facility, Permits and Approvals, In the Town of Wells, York County, ME, Due: March 18, 1996, Contact: Chris Zerby (202) 208–0111.

EIS No. 960039, FINAL EIS, AFS, OR, Hoodoo Master Plan, Plan of Operation Approval and Special-Use-Permit Issuance, Willamette National Forest, McKenzie Ranger District, Linn County, OR, Due: March 4, 1996, Contact: John P. Allen (541) 822–3381.

EIS No. 960040, FINAL EIS, AFS, MT, Red Lodge Mountain Ski Area Master Development Plan, Special-Use-Permit Approval or Denial, Custer National Forest, Beartooth Ranger District, Carbon County, MT, Due: March 4, 1996, Contact: Tom Highberger (406) 446–2103.

EIS No. 960041, FINAL EIS, COE, WI, East Channel of the Mississippi River at Prairie du Chien Long-Term Channel Maintenance Plan and St. Feriole Island and Adjacent Mainland Barge Transloading Facility Upgrading and Expansion, Implementation and COE Permits, Prairie du Chien, WI, Due: March 4, 1996, Contact: Dennis Anderson (612) 290–5272.

EIS No. 960042, FINAL EIS, FTA, CO, Southwest Corridor Light Rail Transit Project, Construction from Mineral Avenue in the City of Littleton to I–25/Broadway, Colorado Metropolitan Area, Central Business District, Arapahoe, Denver and Jefferson Counties, CO, Due:

March 4, 1996, Contact: Don Cover (303) 844–3242.

EIS No. 960043, FINAL EIS, AFS, UT, Blanchett Park Dam and Irrigation Reservoir, Construction and Operation, Uintah Water Conservancy District (UWCD), Special-Use-Permit and COE Section 404 Permit, Ashley National Forest, Vernal Ranger District, Uintah County, UT, Due: February 26, 1996, Contact: Roland Leiby (801) 781–5140.

Due to the federal government furlough and closing in the Washington, DC area due to inclement weather, the 30 Day Wait Period for this FEIS is Calculated from the Intended **Federal Register** Date of January 26, 1996.

EIS No. 960044, DRAFT EIS, BLM, NV, Talapoosa Gold Mine Project, Construction and Operation, Plan of Operations Approval, Special-Use-Permit and COE Section 404 Permit Issuance, Silver Springs, Lyon County, NV, Due: March 26, 1996, Contact: Ron Moore (702) 885–6000.

Due to the federal government furlough and closing in the Washington, DC area due to inclement weather, the Comment Period for this DEIS is Calculated from the Intended **Federal Register** Date of January 26, 1996.

EIS No. 960045, DRAFT EIS, DOE, NV, Nevada Test Site (NTS) and Off-Site Locations, Implementation, at the Following Sites: Tonopah Test Range; Portions of the Nellis Air Force Range (NAFR) Complex; the Central Nevada Test Area and Shoal Area Project, Nye County, NV, Due: May 3, 1996, Contact: Donald R. Elle (800) 405–1140.

EIS No. 960046, FINAL EIS, BLM, AZ, Cyprus Bagdad Copper Mine, Mill Tailings and Waste Rock Storage Expansion, Plan of Operation Approval, NPDES and COE Section 404 Permits Issuance, Yavapai County, AZ, Due: March 4, 1996, Contact: Mary Johnson (602) 780–8090.

Amended Notices

EIS No. 950489, DRAFT EIS, COE, IN, Indiana Harbor and Canal Dredging and Confined Disposal Facility, Construction and Operation, Comprehensive Management Plan, East Chicago, Lake County, ID, Due: April 1, 1996, Contact: Keith Ryder (312) 353–7795.

Published FR 10–27–95—Review period extended.

EIS No. 950601, FINAL EIS, COE, PR, Rio Fajardo Flood Control Feasibility Study for Flood Protection, Implementation, PR, Due: March 4, 1996, Contact: Barbara Cintron (904) 232–1692.

Published FR 08–25–95—Due Date Correction.

EIS No. 950607, FINAL EIS, AFS, NM, Santa Fe Ski Area Master Development Plan, Upgrading and Expansion, Special-Use-Permit, Santa Fe National Forest, Espanola Ranger District, Santa Fe County, NM, Due: February 5, 1996, Contact: Robert Remilland (505) 667–5120.

Published FR 01–26–96—Correction of CEQ Accession Number.

Dated: January 30, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–2337 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–5413–1]

Intent To Prepare a Supplemental Environmental Impact Statement (SEIS) on the Modification/Reissuance of a New Source National Pollutant Discharge Elimination System (Permit for Waste Water Discharges From the Proposed Expansion of Sabine Mining Company's (SMC) South Hallsville Lignite Mine No. 1, in Harrison County, Texas

AGENCY: U.S. Environmental Agency (EPA).

PURPOSE: To meet National Environmental Policy Act and Clean Water Act requirements for consideration of environmental impacts associated with the modification/reissuance of a NPDES permit.

SUMMARY: In 1982, the EPA prepared an EIS on its decision to issue NPDES permits for the Henry W. Pirkey Power Plant Unit 1 and the SMC's South Hallsville Mine No. 1. The EPA's Supplemental EIS will cover SMC's expansion activities not covered by the original EPA document. The 33,500 acre expansion is located east of, and contiguous to, the existing SMC South Hallsville Mine No. 1. The expansion will provide an estimated four million tons per year of lignite to fuel the Pirkey Plant through the year 2020.

ALTERNATIVES: The EPA may issue or deny NPDES permit authorization for waste water discharges from the proposed expansion.

SCOPING MEETING: The EPA will hold a public meeting on Tuesday, March 19, 1996, at 7:00 p.m. at the Marshall Civic Center, located at 2501 East End Boulevard (U.S. Highway 59), in Marshall, Texas, to receive public input on environmental issues that should be addressed in the Draft SEIS.

FOR SCOPING COMMENTS, ADDITIONAL INFORMATION, OR TO BE PLACED ON EIS MAILING LIST CONTACT: Mr. Robert D. Lawrence, Chief, Office of Planning and Coordination, EPA (6EN–XP), 1445 Ross Avenue, Dallas, Texas 75202–2733; telephone (214) 665–2258.

ESTIMATED DATE OF DRAFT EIS RELEASE: July, 1996.

RESPONSIBLE OFFICIAL: Jane N. Saginaw, Regional Administrator.

Anne Norton Miller,

Deputy Director, Office of Federal Activities.

[FR Doc. 96–2267 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–5413–2]

South Bay International Wastewater Treatment Plant Intent To Prepare Two Draft Supplemental Environmental Impact Statements (SEISs)

AGENCIES: U.S. Environmental Protection Agency (EPA) U.S. Section, International Boundary and Water Commission (IBWC).

ACTION: Notice of Intent to prepare two Supplemental Environmental Impact Statements (SEISs) to examine interim disposal options and secondary treatment alternatives for the South Bay International Wastewater Treatment Plant, San Diego, CA.

AUTHORITY: In accordance with Section 510 of the Water Quality Act of 1987, as amended, and Section 102(2)(c) of the National Environmental Policy Act (NEPA). EPA and the IBWC have identified a need to prepare two SEISs and therefore issue this Notice of Intent pursuant to 40 CFR 1501.7, 1508.22, 6.404(a), and 6.105(e).

FOR FURTHER INFORMATION AND TO BE PLACED ON THE PROJECT MAILING LIST CONTACT: Ms. Elizabeth Borowiec, U.S. EPA, Region 9, 75 Hawthorne Street, Mail Code W–2–2, San Francisco, California 94105, (415) 744–1948.

SUMMARY: In July 1990, the IBWC and Mexico signed Minute 283 which outlined a plan for the treatment of renegade sewage flows emanating from Tijuana, Mexico and crossing into the United States along the U.S/Mexican border in San Diego. In the Minute, the two countries agreed to construct an international wastewater treatment plant (IWTP) on the U.S. side of the border. In May of 1991, EPA and the IBWC issued a draft Environmental Impact Statement (DEIS) which examined alternatives to implementing the Minute. After receiving public comment on the DEIS, a final EIS (FEIS) was issued in February of 1994 recommending the construction of a full secondary treatment wastewater treatment plant to be located on a 75-acre site just west of San Ysidro, CA near the intersection of Dairy Mart and Monument Roads. The FEIS also

recommended the construction of the South Bay Ocean Outfall for effluent disposal. In May of 1994, the agencies signed the Record of Decision (ROD) selecting the recommended alternative in the FEIS.

The IWTP, also called the South Bay or Tijuana International Wastewater Treatment Plant, is designed to treat an average flow of 25 million gallons per day of wastewater to a secondary level, with the capacity to treat an additional 50 million gallons per day to the advanced primary level during peak flows..

Since the issuance of the FEIS and the ROD, the EPA and IBWC have decided to prepare two Supplemental Environmental Impacts Statements (SEISs) to address proposed project changes. The first SEIS, or Interim SEIS, will address, among other things, a proposal to operate the IWTP and discharge effluent in the interim period after completion of the advanced primary component but before completion of the secondary treatment component and/or the South Bay Ocean Outfall. The Interim SEIS will also address other issues such as any new information on flows from Mexico, de/chlorination impacts, and toxic monitoring data. The second SEIS, or Long-Term SEIS, will address a proposal to evaluate alternatives to activated sludge as a method for secondary treatment. It will also address issues such as any new information concerning Mexico's progress in implementing sludge disposal and industrial pretreatment programs.

Alternatives

Interim SEIS

1. No Action

The IWTP would not be activated until the 25 mgd full secondary treatment facilities and the South Bay Ocean Outfall (SBOO) are completed.

2. Operate the IWTP as an Advanced Primary Facility

The IWTP would be used for advanced primary treatment and storage in primary settling tanks with disposal via the emergency pipeline connection to the City of San Diego's Point Loma Wastewater Treatment Plant. Treated flows in excess of the capacity of the emergency connection (13 mgd) would be returned to Mexico, if possible, and/or released to the Tijuana River.

3. Operate the IWTP as an Advanced Primary Facility With Earthen Basin Storage for Flow Equalization

The IWTP would be used for advanced primary treatment with disposal via the emergency pipeline connection to the City of San Diego's Point Loma Wastewater Treatment Plant. During peak flow periods, the capacity of the emergency connection may be exceeded. Those treated flows could be stored in an earthen basin until additional flow capacity is available in the emergency connection. Once the capacity of the earthen basins are exceeded, treated sewage could be returned to Mexico or discharged into the Tijuana River.

4. Operate the IWTP With Treated Flows Returned to Mexico for Discharge to the Pacific Ocean at Punta Banderas

The IWTP would be used for advanced primary treatment with discharge to the Pacific Ocean at Punta Banderas in Mexico.

5. Operate the IWTP With Disposal Through the SBOO

The IWTP would be utilized for advanced primary treatment with discharge to the Pacific Ocean via the completed South Bay Ocean Outfall.

6. Operate the IWTP Utilizing a Phased Disposal Approach

The IWTP would be utilized for advanced primary treatment with a phased disposal approach dependent on flows from Mexico and the completion of SBOO. For flows less than 13 mgd, Alternative 2 would be the disposal alternative used. For flows above 13 mgd, Alternative 3 would be used until SBOO is completed. Finally, Alternative 5 would be selected once SBOO is on line.

Long Term SEIS

1. No Action

The IWTP would be constructed for a 25 mgd mechanical secondary facility as discussed in the 1994 FEIS and the ROD. Peaks above 25 mgd, up to 75 mgd, would receive only advanced primary treatment.

2. Operate the IWTP With Flow Equalization

The IWTP would be constructed for a 25 mgd mechanical secondary IWTP as discussed in the FEIS and ROD, with the addition of flow equalization facilities. Flow equalization would allow for flow storage of advanced primary effluent during peak hours of the day with secondary treatment of these stored flows at off-peak hours. Flow equalization facilities would be designed to equalize flows from the primary to the secondary treatment facilities to a constant rate of 25 mgd.

3. Operate the IWTP With an Expansion to the Mechanical Secondary Facilities

As stated in the FEIS and ROD, the mechanical secondary system has a maximum capacity of 25 mgd. This alternative would consider expanding the mechanical secondary capacity to handle flow peaks of up to 50 mgd (i.e., a 2 to 1 peaking factor).

4. Operate the IWTP With an Alternative to Mechanical Secondary Treatment

Alternatives under consideration include ponds (biological treatment ponds) and trickling filters.

4a. Use of trickling filters with a design capacity of 25 mgd. The trickling filters would be designed with either a 2 to 1 peaking factor or with flow equalization facilities that would equalize peak flow rates of up to 75 mgd from the advanced primary treatment facilities to a constant rate of 25 mgd to the trickling filters.

4b. Use of ponds sized to equalize and treat peak flows up to 75 mgd.

5. Maintain the IWTP at the Advanced Primary Treatment Level

The IWTP would be built with advanced primary facilities only as discussed in the FEIS and ROD (25 mgd average, 75 mgd peak); no secondary facilities would be constructed. Advanced primary treated effluent would be released to the Pacific Ocean through the SBOO.

SCOPING: Although scoping meetings are not required for SEISs, the EPA and the IBWC have held a meeting on August 31, 1995 in San Diego for the Interim SEIS. A scoping meeting for the general public regarding the Long-Term SEIS is planned for San Diego in February 1996.

PROPOSED DATE OF RELEASE:

Interim SEIS—Draft-Spring 1996, Final-Fall 1996

Long-Term SEIS—Draft-Summer 1997, Final-Winter 1997.

RESPONSIBLE OFFICIALS:

Felicia Marcus, Regional Administrator, U.S. Environmental Protection Agency, Region 9

John Bernal, Commissioner, U.S. Section, International Water and Boundary Commission.

Anne Norton Miller,

Deputy Director, Office of Federal Activities.

[FR Doc. 96–2268 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5412–7]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing its Winter meeting of the Ozone Transport Commission to be held on February 13, 1996.

This meeting is for the Ozone Transport Commission to deal with appropriate matters within the transport region, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meeting will be held on February 13, 1996 from 10 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at: The Madison Hotel, 15th and M Streets, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: EPA: Susan Studlien, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, MA 02203, (617) 565–3800.

THE STATE CONTACT: Host Agency: Donald Wambsgans, District of Columbia Environmental Regulation Administration, 2100 Martin Luther King, Jr., Avenue, SE., Washington, DC 20020–5732, (202) 645–6093.

FOR DOCUMENTS AND PRESS INQUIRIES CONTACT: Stephanie A. Cooper, Ozone Transport Commission, 444 North Capitol Street, NW., Suite 604, Washington, DC 20001, (202) 508–3840.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the Commission in New York City on May 7, 1991. The purpose of the Transport Commission is to deal with appropriate matters within the transport region.

The purpose of this notice is to announce that this Commission will meet on February 13, 1996. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of Transport Commissions are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

TYPE OF MEETING: Open.

AGENDA: Copies of the final agenda will be available from Stephanie Cooper of the OTC office (202) 508–3840 on Tuesday, February 6, 1996. The purpose of this meeting is to review air quality needs within the Northeast and Mid-Atlantic States, including reduction of motor vehicle and stationary source air pollution. The OTC is also expected to address issues related to the transport of ozone into its region.

John DeVillars,

Regional Administrator, EPA Region I.

[FR Doc. 96–2223 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–44621; FRL–4996–5]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on refractory ceramic fibers (RCFs) (CAS No. 142844–00–6), submitted pursuant to a Testing Consent Order under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–541A, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received. Under 40 CFR 790.60, all results of testing conducted pursuant to a consent order must be announced to the public in accordance with the procedures specified in section 4(d) of TSCA.

I. Test Data Submissions

Test data for refractory ceramic fibers were submitted by three member companies of the Refractory Ceramic Fiber Coalition (Carborundum Company, Premier Refractories and Chemicals, Incorporated, and Thermal Ceramics, Incorporated) pursuant to a Testing Consent Order at 40 CFR 799.5000. They were received by EPA on January 11, 1996. The submission describes workplace exposure monitoring data from RCFC company facilities, as well as from their customers' facilities. The customers selected include those chosen at random and those who specifically requested monitoring. Air monitoring samples were collected from employees engaged in RCF fiber production and processing, or use in functional categories such as forming, finishing, and installation.

RCFs are used as insulation for industrial insulation applications such as high temperature furnaces, heaters, and kilns. RCFs are also used in automotive applications, aerospace uses, and in certain commercial appliances such as self-cleaning ovens.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44621). This record includes copies of all data reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Nonconfidential Information Center (NCIC) (also known as the TSCA Public Docket Office), Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: January 26, 1996.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 96–2237 Filed 2–1–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL RESERVE SYSTEM

Arthur W. Cousatte; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than February 16, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Arthur W. Cousatte, Miami, Oklahoma; to acquire an additional 11 percent, for a total of 30.49 percent, of the voting shares of Welch Bancshares, Inc., Welch, Oklahoma, and thereby indirectly acquire Welch State Bank, Welch, Oklahoma.

Board of Governors of the Federal Reserve System, January 29, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2175 Filed 2–1–96; 8:45 am]

BILLING CODE 6210–01–F

GOVERNMENT PRINTING OFFICE

The Federal Register Online via GPO Access; Meeting and Demonstration for Federal Agencies

The United States Government Printing Office (GPO) will hold a meeting for Federal agencies interested in an overview and demonstration of the Government Printing Office's award-winning online service, *GPO Access*, provided under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (Public Law 103–40).

The demonstration will be held at the National Archives Building, 5th Floor Theater, 7th and Pennsylvania Avenue NW., Washington, DC on Thursday, February 22, from 9 a.m. to 10:30 a.m. and 11 a.m. to 12:30 p.m. The National Archives Building is located at the Archives-Navy Memorial Metro stop on the Green and Yellow Lines. There is no charge to attend.

The online **Federal Register** service offers access to the daily issues of the **Federal Register** by 6 a.m. on the day of publication at no charge to the user. All notices, rules and proposed rules, Presidential documents, executive orders, separate parts, and reader aids are included in the database. Documents are available as ASCII text files and in typeset form as Adobe Acrobat Portable Document Format (PDF) files. Graphics are included in the PDF files and are also available as separate files in the TIFF format. The online **Federal Register** is available via the Internet or as a dial-in service. Historical data is available from January 1994 forward.

Other databases currently available online through GPO Access include the *Government Manual, Congressional Record; Congressional Record Index*, including the *History of Bills; Congressional Bills; Public Laws; U.S. Code; GILS; and GAO Reports;* and a growing list of important Government documents on the same day of publication.

Individuals interested in attending may reserve a space by contacting John Berger, Product Manager, at the GPO's Office of Electronic Information Dissemination Services, by Internet e-mail at jberger@gpo.gov; by telephone: 202–512–1525; or by fax: 202–512–1262. Seating reservations for Federal agencies will be accepted through Friday, February 16. From February 20–21, reservations will be accepted from the general public on a space available basis.

January 23, 1996.

Michael F. DiMario,

Public Printer.

[FR Doc. 96–2204 Filed 2–1–96; 8:45 am]

BILLING CODE 1505–02–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KD, The Regional Offices of the Administration for Children and Families (60 FR 34284), as last amended, June 30, 1995. This reorganization realigns the functions in Region 7 to support their streamlining plan. This Chapter is amended as follows:

1. KD.10 Organization. Regions 1, 3, 4, 8 through X are organized as follows:

Office of the Regional Administrator (KD1A, KD3A, KD4A, KD8A through KDXA)
Office of Financial Operations (KD1B, KD3B, KD4B, KD8B through KDXB)
Office of Family Security (KD1C, KD3C, KD4C, KD8C through KDXC)
Office of Family Supportive Services (KD1D, KD3D, KD4D, KD8D through KDXD)

After the end of KD6.20 Functions, Paragraph C, insert the following:

2. KD7.10 Organization. The Administration for Children and Families, Region 7, is organized as follows:

Office of Regional Administrator (KD7A)
Office of State and Tribal Operations (KD7E)
Office of Community Operations (KD7F)
Office of Program Support (KD7G)

KD7.20 Functions. A. The office of the Regional Administrator is headed by a Regional Administrator. In addition, the Office of the Regional Administrator has a Deputy Regional Administrator who reports to the Regional Administrator. The Office provides executive leadership and directives to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs. The office takes action to approve state plans and submits recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval. The Office contributes to the development of national policy based on perspectives on all ACF programs. It oversees ACF operations, the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. The Office represents ACF at the regional level in executive communications within ACF, with the HHS Regional Director, other HHS operating divisions, other federal agencies, and public or private local organizations representing children and families.

Within the Office of the Regional Administrator, The Operations Support team, consisting of administrative staff, assist the Regional Administrator and Deputy Regional Administrator in providing day-to-day support for

regional administrative functions, including budget, performance management, procurement, property management internal systems, employee relations and human resource development activities.

B. The Office of State and Tribal Operations is headed by a Director who reports to the Regional Administrator. The Office is responsible for providing centralized management, financial management services, and technical administration of ACF formula, block and entitlement programs such as Aid to Families with Dependent Children (AFDC), Child Support Enforcement (CSE), Job Opportunities and Basic Skills Training (JOBS), Child Care, Foster Care and Adoption Assistance, Child Welfare, Child Abuse and Neglect and Developmental Disabilities. The Office provides policy guidance to state, county, city or town and tribal governments and public and private organizations to assure consistent and uniform adherence to federal requirements governing formula and entitlement programs. State plans are reviewed and recommendations concerning state plan approval or disapproval are made to the Regional Administrator. The Office provides technical assistance to entities responsible for administering these programs to resolve identified problems, ensures that appropriate procedures and practices are adopted, monitors the programs to ensure their efficiency and effectiveness, establishes regional financial management priorities and reviews cost allocation plans, and oversees the management and coordination of office automation systems in the region and monitors state systems projects for the CSE, AFDC, Child Welfare and JOBS programs. The Office provides financial management services for ACF formula and entitlement grants in the region. The Office also reviews cost estimates and reports for ACF entitlement and formula grant programs and recommends funding levels. The Office performs systematic fiscal reviews and makes recommendations to the Regional administrator to approve, defer or disallow claims for federal financial participation in ACF formula and entitlement grant programs. As applicable, recommendations are made on the clearance and closure of audits of state programs, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of the ACF programs and taking steps to monitor the resolution of such deficiencies. The Office represents the Regional Administrator in dealing with the ACF Program Offices on all program and financial policy matters under its jurisdiction. Alerts or early warnings are provided to the Regional Administrator regarding problems or issues that may have significant implications for the programs.

C. The Office of Community Operations is headed by a Director who reports to the Regional Administrator. The Office is responsible for providing centralized management, financial management services, and technical administration of ACF discretionary grant programs such as Head Start and Youth Programs. In that regard, the Office provides policy guidance to state, county, city or town and tribal governments and public and private organizations to assure consistent and uniform adherence to federal requirements. The Office provides technical assistance to entities responsible for administering these programs to ensure that appropriate procedures and practices are adopted, and monitors the programs to ensure their efficiency and effectiveness. The Office performs systematic fiscal reviews; and makes recommendations to the Regional Administrator to approve or disallow costs under ACF discretionary grant programs. The Office issues certain discretionary grant awards based on a review of project objectives, budget projections, and proposed funding levels. As applicable, recommendations are made on the clearance and closure of audits of grantee programs, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of the ACF programs and taking steps to monitor the resolution of such deficiencies. The Office oversees the management and coordination of office automation systems in the region such as the PC Cost and HS Cost systems for budget analysis on Head Start Applications and monitors grantee systems projects such as the Head Start Program Information Report, Head Start Management Tracking System and the Youth Development and Head Start Bulletin Board. The Office represents the Regional Administrator in dealing with ACF program offices on all program policy and financial matters under its jurisdiction. Alerts or early warnings are provided to the Regional Administrator regarding problems or issues that may have significant implications on the programs.

D. The Office of Program Support is headed by a Director who reports to the Regional Administrator. The Office is responsible for providing centralized management of the program quality and outcome leadership initiatives, such as child welfare and special populations, early childhood development and self sufficiency. The Office provides cost allocation and audit support to the Office of State and Tribal Operations and the Office of Community Operations. The Office provides leadership, coordination, program expertise and planning for the outcome leadership functions. The Office provides technical assistance and team leadership regarding the outcome leadership initiatives to entities responsible for administering ACF programs, as well as to the Office of State and Tribal Operations and the Office of Community Operations. The Office conducts analyses of State and Federal performance, including those associated with the Quality Control/Quality Assurance functions. The Office represents the Regional Administrator in dealing with ACF Offices on all program and financial policy matters under its jurisdiction. Alerts or early warnings are provided to the Regional Administrator regarding problems or issues that may have significant implications for the programs.

Dated: January 24, 1996.

Mary Jo Bane,

Assistant Secretary for Children and Families.

[FR Doc. 96–2212 Filed 2–1–96; 8:45 am]

BILLING CODE 4184–01–M

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Cancer Institute Initial Review Group:

Purpose/Agenda: To review individual grant applications.

Committee Name: Manpower and Training Subcommittee.

Date: February 4–7, 1996.

Time: 6:30 p.m.

Place: The Holiday Inn Georgetown, 2101 Wisconsin Avenue NW., Washington, DC 20007.

Contact Person: Dr. Mary Bell, Scientific Review Administrator, Executive Plaza North, Room 611A, Bethesda, MD 20892–7405, Telephone: 301/496–7978.

This notice is appearing less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Committee Name: Education Subcommittee.

Date: February 20–21, 1996.

Time: 8:30 a.m.

Place: The Holiday Inn Georgetown, 2101 Wisconsin Avenue NW., Washington, DC 20007.

Contact Person: Dr. Neal B. West, Scientific Review Administrator, Executive Plaza North, Room 611D, Bethesda, MD 20892–7405, Telephone: 301/402–2785.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: January 30, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2302 Filed 2–1–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3778–N–70]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with Sections 2905 and 2906 of the National Defense Authorization Act for Fiscal Year 1994, P.L. 103–160 (Pryor Act Amendment) and with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the April 21, 1993 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

These properties reviewed are listed as suitable/available. In accordance with the Pryor Act Amendment suitable properties will be made available for use to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Please be advised, in accordance with the provisions of the Pryor Act Amendment, that if no expressions of interest or applications are received by the Department of Health and Human Services (HHS) during the 60 day period, these properties will no longer be available for use to assist the homeless. In the case of buildings and properties for which no such notice is received, these buildings and properties shall be available only for the purpose of permitting a redevelopment authority to express in writing an interest in the use of such buildings and properties. These buildings and properties shall be available for a submission by such redevelopment authority exclusively for one year. Buildings and properties available for a redevelopment authority shall not be available for use to assist the homeless. If a redevelopment authority does not express an interest in the use of the buildings or properties or commence the use of buildings or properties within the applicable time period such buildings and properties shall then be republished as properties available for use to assist the homeless pursuant to Section 501 of the Stewart B. McKinney Homeless Assistance Act.

Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Army Corps of Engineers: Gary Paterson, Chief, Base Realignment and Closure Office, Directorate of Real Estate, Pulaski Building, 20 Massachusetts Avenue, NW., Room 4133, Washington, DC 20314–1000; (202) 761–0520; (This is not a toll-free number).

Dated: January 26, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 02/02/96

Suitable/Available Properties

Buildings (by State)

California

Bldgs. 4440, 4430
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 3296100001
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 4-story, presence of asbestos, most recent use—residential and dining

Bldgs. 4432, 4434, 4436
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610002
Status: Pryor Amendment
Base closure Number of Units: 3
Comment: 4-story, presence of asbestos, most recent use—residential

Bldgs. 4442, 4444, 4446
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610003
Status: Pryor Amendment
Base closure Number of Units: 3
Comment: 10,374 sq. ft. each, presence of asbestos, most recent use—residential

5 Bldgs.
POM Annex, Fort Ord
Bldgs. 4451, 4452, 4454, 4456, 4457
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610004
Status: Pryor Amendment

Base closure Number of Units: 5
Comment: 17,858 sq. ft. each, presence of asbestos, most recent use—residential
5 Bldgs.
POM Annex, Fort Ord
Bldgs. 4466, 4467, 4469, 4471, 4472
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610005
Status: Pryor Amendment
Base closure Number of Units: 5
Comment: over 34,000 sq. ft. each possible asbestos, most recent use—residential

Bldgs. 4562, 4552
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610006
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 35,775 sq. ft. each, 4-story, presence of asbestos, most recent use—office, residential

Bldg. 3877
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610007
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 2423 sq. ft., possible asbestos, most recent use—dining

Bldgs. 4453, 4470
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610008
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 7466 sq. ft. and 5165 sq. ft., presence of asbestos, most recent use—dining

Bldg. 4572
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610009
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 1309 sq. ft., possible asbestos, most recent use—dining

Bldgs. 4465, 4474
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610010
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 4000 sq. ft. and 3707 sq. ft., possible asbestos, most recent use—office

Bldgs. 4450, 4458, 4464, 4473
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610011
Status: Pryor Amendment
Base closure Number of Units: 4
Comment: over 9500 sq. ft. each, possible asbestos, most recent use—office

Bldgs. 4438, 4448, 4550, 4560
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610012
Status: Pryor Amendment
Base closure Number of Units: 4
Comment: 4952 sq. ft. each, presence of asbestos, most recent use—office

Bldg. 4423
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610013
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 2729 sq. ft., possible asbestos, most recent use—office

Bldg. 4420
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610014
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 2170 sq. ft., possible asbestos, most recent use—office

Bldgs. 4418, 4408
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610015
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 5816 sq. ft. and 6673 sq. ft., presence of esbestos, most recent use—office

Bldg. 3891
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610016
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 3781 sq. ft., presence of asbestos, most recent use—recreation

Bldg. 3895
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610017
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 18,249 sq. ft., presence of asbestos, most recent use—recreation

Bldg. 4480
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610018
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 17,428 sq. ft., possible asbestos, most recent use—gym

Bldg. 3723
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610019
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 20,689 sq. ft., presence of asbestos, most recent use—clinic w/o beds

Bldg. 3786
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610020
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 25,900 sq. ft., presence of asbestos, most recent use—bank

Bldg. 4481
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610021
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 5803 sq. ft., possible asbestos, most recent use—thrift shop

Bldg. 4483
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610022
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 6676 sq. ft., possible asbestos, most recent use—chapel

Bldgs. 4492, 4492A, 4492C
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610023
Status: Pryor Amendment
Base closure Number of Units: 3
Comment: 21,227 sq. ft., most recent use—garage skill ctr.

Bldgs. 4490, 4491
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610024
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 13,433 sq. ft., presence of asbestos, most recent use—storage/supply

Bldgs. 3803, 3804, 3805
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610025
Status: Pryor Amendment
Base closure Number of Units: 3
Comment: various sq. ft., most recent use—storage

Bldg. 3859
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610026
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 2741 sq. ft., possible asbestos, most recent use—vehicle storage

Bldg. 3860
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610027
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 877 sq. ft., presence of asbestos, most recent use—storage

Bldg. 3861
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610028
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 877 sq. ft., possible asbestos, most recent use—storage

Bldgs. S–3898, S–3897
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610029
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 5870 sq. ft. each, presence of asbestos, most recent use—storage

5 Bldgs.
POM Annex, Fort Ord
Bldgs. 3854, 3855, 3856, 3857, 3858
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610030
Status: Pryor Amendment
Base closure Number of Units: 5
Comment: various sq. ft., possible asbestos, most recent use—maintenance shop

Bldg. 3865
POM Annex, Fort Ord
Seaside Co: Monterey CA 93944–5006
Landholding Agency: COE—BC
Property Number: 329610031
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 936 sq. ft., most recent use—maintenance shop.

[FR Doc. 96–2030 Filed 2–1–96; 8:45 am]
BILLING CODE 4210–29–M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR–4020–D–01]

Redelegation of Authority by the Mortgagee Review Board to Conduct Hearings Pursuant to Section 202(c)(4) of the National Housing Act, 12 U.S.C. 1708(c)(4), as Implemented by 24 CFR Part 25

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: The Mortgagee Review Board ("Board") within the Department of Housing and Urban Development redelegates to the Assistant Secretary for Housing-Federal Housing Commissioner, in his/her capacity as chairperson to the Board, the authority to serve as the Board's "hearing official" for appeals of certain sanctions by Mortgagees. The chairperson retains the right to redelegate the authority accompanying the "hearing official" position, to a specific designee on a case-by-case basis.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT: Georjan D. Overman, Trial Attorney, Office of General Counsel, Office of Program Enforcement, administrative Proceedings Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10251, Washington, DC 20410, (202) 708–4248. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 202(c)(4) of the National Housing Act, 12 U.S.C. 1708(c)(4), authorizes the Board to "hold a hearing on the record" concerning certain sanctions it has taken against a mortgagee, if the mortgagee so requests within thirty (30) days notice of the Board's action. Section 202(c)(4) is implemented by HUD regulations published at 24 CFR Part 25. On August 1, 1995, Part 25 was amended to allow the Board to redelegate its hearing authority to a "hearing official." 60 FR 39236 (August 1, 1995) (effective August 31, 1995). The "hearing official" reviews submissions by the mortgagee, conducts informal hearings, and prepares findings of fact and a recommended decision to the Board. 60 FR 39238, August 1; 1995 (to be published at 24 CFR 25.8). The present redelegation is intended to allow the Assistant Secretary for Housing/Federal Housing Commissioner, in his/her capacity as chairperson to the Board, to serve as the "hearing official" for appeals of certain sanctions by mortgagees. It also makes clear that the chairperson retains the right to redelegate the authority accompanying the "hearing official" position, to a specific designee on a case-by-case basis. This further redelegation will be accomplished in the form of a written notice from the chairperson of the Board to the affected mortgagee.

Accordingly, the Mortgagee Review Board redelegates authority as follows:

Section A. Authority Redelegated

To the Assistant Secretary for Housing/Federal Housing Commissioner, in his/her capacity as chairperson of the Mortgagee Review Board, there is redelegated the authority of the Mortgagee Review Board to serve as the "hearing official" pursuant to 60 FR 39236, August 1, 1995 (to be published at 24 CFR Part 25).

Section B. Authority to Further Redelegate From the Chairperson to a Specific Designee Only

The chairperson may redelegate to a specific designee all authority granted in Section A., above, except for the authority to further redelegate the authority granted. The redelegation from the chairperson to the specific designee shall be accomplished on a case-by-case basis in the form of a written notice from the chairperson of the Board to the affected mortgagee.

Authority: Sec. 202(c), National Housing Act (12 U.S.C. 1708(c)); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: January 17, 1996.
Nicolas P. Retsinas,
Assistant Secretary for Housing-Federal Housing Commissioner.

Dated: December 12, 1995.
Nelson A. Díaz,
General Counsel.

Dated: January 23, 1996.
Kevin G. Chavers,
President, Government National Mortgage Association.

Dated: January 23, 1996.
Marilynn A. Davis,
Assistant Secretary for Administration.

Dated: January 24, 1996.
John A. Knubel,
Chief Financial Officer.

Dated: January 25, 1996.
Elizabeth K. Julian,
Acting Deputy Assistant Secretary for Policy and Initiatives, Office of Fair Housing and Equal Opportunity.

[FR Doc. 96–2220 Filed 2–1–96; 8:45 am]
BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–024–096–1220–04]

Closure of Public Land to Camping in Yavapai County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure of public lands to camping.

SUMMARY: Notice is hereby given that the following described lands are temporarily closed until further notice for camping for the protection of public health and safety under the provisions of 43 CFR 8364.1.

Gila and Salt River Meridian, Arizona

T. 14N., R. 1W.,
Sec. 31, lots 17, 18, 21, 22, 25, and 26.

EFFECTIVE DATE: This order became effective on the lands described above, on August 22, 1995—the date of signature of the Land Closure Order by the authorized officer.

T. 14N., R. 1W.,
Sec. 33, W½W½NW¼.

EFFECTIVE DATE: This order became effective on the lands described above, on October 31, 1995—the date of signature of the Land Closure Order by the authorized officer.

SUPPLEMENTARY INFORMATION: The public lands involved (approximately 80 acres) are adjacent to areas of expanding urban development. Unregulated and extended overnight camping use is not consistent with the orderly growth of the communities and presents health and safety problems.

Order: Notice is hereby given that the above described public lands, upon their respective effective dates, are closed to camping until further notice.

FOR FURTHER INFORMATION CONTACT: Kathy Pedrick, Recreation Planner, Phoenix Resource Area, 2015 West Deer Valley Road, Phoenix, AZ 85027, (602) 780–8090.

Dated: January 25, 1996.

David J. Miller,

Associate District Manager.

[FR Doc. 96–2167 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–32–P

[AZ–020–7122–00–5499; AZA 28639]

Notice of Availability of Final Environmental Impact Statement (EIS), Proposed Tailings & Waste Rock Disposal Areas, Cyprus Bagdad Copper Corporation, Bagdad, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability, Final Environmental Impact Statement (FEIS).

SUMMARY: The Bureau of Land Management, Phoenix District, in response to a Mining Plan of Operations (MPO) filed by Cyprus Bagdad Copper Corporation (CBCC), has prepared an Environmental Impact Statement (EIS) in compliance with the Federal Land Policy and Management Act of 1976, as amended, 43 CFR 3809, and Section 102(2)(c) of the National Environmental Policy Act of 1969. The proposed action involves development of a new tailings impoundment, expansion of an existing waste rock disposal area, and continuation of expansion of the existing open pit in order to continue copper mining and milling operations in Bagdad, Arizona for 35 years. The proposed action would affect private lands owned by CBCC and approximately 320 acres of public lands administered by the Bureau of Land Management (BLM). In response to comments received on the Draft EIS, the BLM made minor factual corrections and the Final EIS is an abbreviated Final document to be read in conjunction with the Draft EIS. The BLM has selected the proposed action as its preferred alternative. The Final EIS is now available to the public.

ADDRESSES/FOR FURTHER INFORMATION, CONTACT: Copies of the Final EIS may be requested from: Mary Johnson, Project Manager, Bureau of Land Management, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, AZ 85027, or telephone (602) 780–8090, ext. 564. Copies of the Final EIS are available for public use/review at the following locations: BLM, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027; BLM, Kingman Resource Area, 2475 Beverly Ave., Kingman, Arizona 86401; BLM, Arizona State Office, Public Room, 3707 N. 7th St., Suite 300, Phoenix, AZ 85014; Cyprus Bagdad Copper Corporation, Lower Main Street, Environmental Dept., Bagdad, Arizona 86321; Mohave County District Library, 3269 N. Burbank St., Kingman, Arizona; Prescott Public Library, 215 E. Goodwin St., Prescott, Arizona 86303.

DATES: On or before March 4, 1996 the BLM will be issuing a Record of Decision. This will be followed by a 30-day appeal period.

Dated: January 23, 1996.

David J. Miller,

Associate District Manager.

[FR Doc. 96–2127 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–32–P

[NV–050–1430–01; N–59112]

Notice of Realty Action: Amendment of Notice of Realty Action N–59112

AGENCY: Bureau of Land Management.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Pahrump, Nye County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The South Valley Baptist Church proposes to use the land for church facility. This action was previously published as a portion of Lot 1, resurvey of the property has created the following description and increased the acreage by 1.965 acres.

Mount Diablo Meridian, Nevada

T. 21 S., R. 53 E.,
Sec. 24: Government Lot 5
Containing 6.965 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the District Manager, Las Vegas District, P. O. Box 26569, Las Vegas, Nevada 89126.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a church facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a church facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: January 23, 1996.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 96–2165 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–HC–P

Fish and Wildlife Service

Notice of Receipt of Application for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–810274

Applicant: Eco-Tech, Inc., Frankfort, Kentucky, Hal Bryan, President and Senior Ecologist

The applicant requests a permit to take (capture, radio-tag selected individuals, and release) Indiana bats, Myotis sodalis, and gray bats, M. grisescens, in Kentucky, Tennessee, Georgia, Ohio, Virginia, New Jersey, and Indiana for the purpose of enhancement of survival of the species.

PRT–810273

Applicant: Dr. Timothy J. Gaudin, University of Tennessee at Chattanooga, Chattanooga, Tennessee

The applicant requests a permit to take (capture and release) Indiana bats, Myotis sodalis, and gray bats, M. grisescens, in Tennessee for the purpose of enhancement of survival of the species.

PRT–810271

Applicant; Sunlight Gardens, Andersonville, Tennessee

The applicant requests a permit to sell in interstate commerce Tennessee purple coneflower, Echinacea tennesseensis, and Cumberland rosemary, Conradina verticillata, that have been reared from propagated stock.

PRT–810270

Applicant; Mr. Stuart W. McGregor, Geological Survey of Alabama, Tuscaloosa, Alabama

The applicant requests a permit to take (collect dead shells of each species) endangered mussels throughout the Southeastern United States for the purpose of enhancement of survival of the species.

PRT–810267

Applicant; Aquatic Resources Center, Franklin, Tennessee

The applicant requests a permit to take (capture and relocate) Nashville crayfish, Orconectes shoupi, in Mill Creek, Davidson County, Tennessee; and to take (capture and relocate) Anthony's riversnail, Athearnia anthonyi, in the Tennessee River, Jackson County, Alabama for the purpose of enhancement of survival of the species.

PRT–810269

Applicant; Dr. Jeffrey R. Walters, Virginia Polytechnic Institute and State University, Blacksburg, Virginia

The applicant requests a permit to take (capture for banding and to translocate selected individuals) red-cockaded woodpeckers, Picoides borealis, in North Carolina and Florida for the purpose of enhancement of survival of the species.

PRT–810266

Applicant; Dr. Jerome A. Jackson, Mississippi State University, Mississippi

The applicant requests a permit to take (capture for banding and collecting feather and blood samples) red-cockaded woodpeckers, Picoides borealis, in Louisiana, Mississippi, and Alabama for the purpose of enhancement of survival of the species.

PRT–810277

Applicant; David S. Addison, The Conservancy, Naples, Florida

The applicant requests a permit to take (harass while attaching and removing radio and sonic transmitters) loggerhead sea turtles, Caretta caretta, in Florida for the purpose of enhancement of survival of the species.

Written data or comments on these applications should be submitted to: Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Fax: 404/679–7081.

Dated: January 26, 1996.

Noreen K. Clough,

Regional Director.

[FR Doc. 96–2214 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–55–P

Letters of Authorization to Take Marine Mammals

AGENCY: Bureau of Fish and Wildlife, Interior.

ACTION: Notice of issuance of letters of authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with Section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities have been issued to the following companies:

Company	Activity	Date issued
BP Exploration (Alaska) Inc., Milne Point Unit	Exploration	December 6, 1995.
Geco-Prakla, Hemi Springs Area	Exploration	December 8, 1995.
ARCO Alaska, Inc., Colville Delta area	Exploration	December 14, 1995.
BP Exploration (Alaska) Inc., Sourdough #3	Exploration	December 14, 1995.
Western Geophysical, Colville River Delta	Exploration	December 14, 1995.

FOR FURTHER INFORMATION CONTACT:
John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3800.

SUPPLEMENTARY INFORMATION: All Letters of Authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations "Marine Mammals; Incidental Take During Specified Activities" (58 FR 60402; November 16, 1993).

Dated: January 24, 1996.

David B. Allen,

Acting Regional Director.

[FR Doc. 96–2164 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Texas Eastern Transmission Corporation Padre Island National Seashore Kenedy and Kleberg County, Notice of Availability of Plan of Operations and Environmental Assessment Continuing Operation of a 12-inch Natural Gas Pipeline and Abandonment of a 4-inch Natural Gas Pipeline

The National Park Service has received from Texas Eastern Transmission Corporation, a Unit of Panhandle Eastern Corporation, a Plan of Operations for the continuing operation of a 12-inch pipeline and the abandonment of a 4-inch pipeline within Padre Island National Seashore, Kenedy and Kleberg Counties, Texas.

Pursuant to § 9.52(b) of Title 36 of the Code of Federal Regulations, Part 9, Subpart B (36 CFR 9B), the Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas. Copies of the documents are available from the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418–5597, and will be sent upon request.

Dated: January 25, 1996.

Ernest W. Ontega,

Superintendent, Southwest System Support Office.

[FR Doc. 96–2158 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–70–M

Notice of Inventory Completion of Human Remains in the Possession of the Anchorage Museum of History and Art, Anchorage, AK

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003 (d), of the completion of an inventory for Native American human remains from Little Diomede Island, Alaska, currently in the possession of the Anchorage Museum of History and Art, Anchorage, AK.

A detailed inventory and assessment has been made by members of the professional staff of the Anchorage Museum of History and Art in consultation with representatives of the Inalik Native Corporation.

Limited provenience information indicates this human remain was excavated from a cemetery on Little Diomede Island. In 1970, Ms. Helen McCullen donated the human remains to the Anchorage Museum of History and Art.

The human remains consist of one skull fragment representing one individual. No known individual was identified. No associated funerary objects are present.

The Inalik Native Corporation represents the villages of Little Diomede Island for repatriation purposes. The Inalik Native Corporation has identified the island as the traditional occupation territory for the Little Diomede Islanders since pre-contact times. There is no evidence to indicate otherwise.

Based on the above mentioned information, officials of the Anchorage Museum of History and Art have determined that, pursuant to 43 CFR 10.10 (b)(1)(i), the human remains listed above represent the physical remains of one individual of Native American ancestry. Museum officials have further determined that, pursuant to 25 U.S.C. 3001 (a)(2), there is a relationship of shared group identity which can be reasonably traced between the human remains and the Inalik Native Corporation.

This notice has been sent to officials of the Inalik Native Corporation. Representatives of any other Indian tribe or Native Alaskan village or corporation which believes itself to be culturally affiliated with the human remains should contact Patricia B. Wolf, Museum Director, Anchorage Museum of History and Art, 121 W. 7th Avenue, Anchorage, Alaska, 99501, telephone (907) 343–4326, fax (907) 343–6149 before *March 4, 1996.* Repatriation of the human remains to the Inalik Native Corporation may begin after this date if no additional claimants come forward.

Dated: January 29, 1996

Veletta Canouts

Deputy Chief, Archeology and Ethnography Program

[FR Doc. 96–2161 Filed 2-1-96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the Bureau of Reclamation, Upper Colorado Regional Office, Salt Lake City, UT

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of an inventory for Native American human remains and associated funerary objects from four sites in New Mexico currently in the control of the Bureau of Reclamation, Upper Colorado Regional Office, Salt Lake City, UT.

Under contract with the Bureau of Reclamation, a detailed inventory and assessment has been made by members of the professional staff of Southern Methodist University, where the remains and associated funerary objects were originally curated, the Museum of New Mexico, and the Utah Museum of Natural History in consultation with representatives of Nambe Pueblo. Meetings with representatives from Nambe Pueblo have been held at Nambe Pueblo on three occasions during 1994–95, in addition to many phone conversations during this period.

During 1973–75, the National Park Service was contracting for the Bureau of Reclamation, who planned to build a dam and reservoir at Nambe Falls on tribal lands owned by Nambe Pueblo. Southern Methodist University, under contract with the National Park Service, Southwest Cultural Resource Center, Santa Fe, Contract #CX 700030194, conducted data recovery investigations at four sites around Nambe Falls under the authority of the National Historic Preservation Act of 1966. Under agreement with the National Park Service, the collections resulting from this work were accessioned by Southern Methodist University. In 1995, in consultation with representatives of Nambe Pueblo, the Bureau of Reclamation deaccessioned the collections from Southern Methodist University and transferred them to the Museum of New Mexico.

Human remains from Site X29SF17 consist of four individuals. Two adults and an infant were interred together just above the floor of the pithouse. One fragmentary scapula from a fourth individual, an older adult, was found nearby. No known individuals were identified. Cultural items associated with these burials were the remains of three dogs.

Site X29SF17 consisted of three structures: a pithouse, an associated surface room block, and a fieldhouse. Cultural materials excavated from the site include stone tools and debris, ceramic sherds, manos and metates, and faunal remains. Based on ceramic seriation, archaeologists estimated that the site dates to the Developmental Period, ca. A.D. 900–1100.

Human remains from Site X29SF7 include the extremely fragmentary remains of one individual. No known individuals were identified. No funerary objects were present.

Site X29SF7 consists of a pueblo with 26 surface rooms and one kiva. Cultural materials excavated from the site include flaked stone tools and debris, ceramic sherds, pieces of ground stone, and faunal remains, including bone awls. Based on ceramic seriation, archaeologists estimated that the site dates to the Coalition Period, ca. A.D. 1200–1300.

Human remains from Site X29SF10 consist of one tooth from 1 older adult individual. No known individuals were identified. No funerary objects were present.

Site S29SF10 consisted of a pueblo with 32 surface rooms and one kiva. Cultural materials excavated from the same site includes flaked stone tools and debris, ceramic sherds, and pieces of ground stone. Based on ceramic seriation, archaeologists estimated that the site dates to the Coalition Period, ca. A.D. 1251–1269.

Human remains from Site X29SF47, Agawano Ouinge, consist of one parietal fragment of one adult individual collected from the surface of the site. No known individuals were identified. No funerary objects were present.

Site X29SF47 consists of a large adobe-walled pueblo with three room blocks arranged around a plaza and kiva depressions. Based on ceramic seriation of cultural material from the site, archaeologists estimated that the site dates to the Coalition/Classic Period, ca. A.D. 1350–1425.

All the human remains from these sites are identified as Puebloan, and all are believed to be ancestral to present day Nambe Pueblo people based on the archaeological context of their collection or excavation. All four sites are located near the Rio Nambe and Nambe Falls, approximately five miles from the present-day Nambe Pueblo, on Nambe Pueblo lands. The cultural affiliation of these individuals can be considered ancestral to the northern Rio Grande Pueblos based on the application of the Wendorf and Reed 1955 chronologic framework, as modified by Skinner et al 1980. Skinner et al concluded that the movement of Puebloan people into this area occurred sometime prior to A.D. 1200 and the population eventually was consolidated in the vicinity of the modern Nambe Pueblo.

Based on the above-mentioned information from these four sites, the Bureau of Reclamation's Upper Colorado Regional Archaeologist has determined that, pursuant to 43 CFR 10 (d)(1), the human remains listed above represent the physical remains of seven individuals of Native American ancestry. The Bureau of Reclaimation's Upper Colorado Regional Archaeologist has also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the remains of three dogs listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, the Bureau of Reclamation's Upper Colorado Regional Archaeologist has determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these human remains and Nambe Pueblo.

This notice has been sent to the pueblos of Acoma, Cochiti, Hopi, Isleta, Jemez, Laguna, Picuris, Pojoaque, San Felipe, San Ildefonso, San Juan, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia, and Zuni. Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Signa Larralde, Regional Archaeologist, Upper Colorado Region, Bureau of Reclamation, 125 S. State St., Room 6107, Salt Lake City, Utah 84138–1102, telephone (801) 524–6292 #6 before March 4, 1996. Repatriation of these human remains to Nambe Pueblo may begin after this date if no additional claimants come forward.

Dated: January 26, 1996

Veletta Canouts

Deputy Chief, Archeology and Ethnography Program

[FR Doc. 95–2159 Filed 2–1–96; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Information Collection Under Review

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the **Federal Register**. This process is conducted in accordance with 5 Code of Federal Regulations, part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimated of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below:

(1) Type of information collection. Existing collection in use without an OMB control number.

(2) The title of the form/collection. Postgraduate Evaluation of the FBI National Academy Survey Booklet.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number: None. Federal Bureau of Investigation, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: State, Local or Tribal Governments. Other: None. This is program evaluation data collected to verify the appropriateness of courses offered at the FBI Academy to state and local law enforcement officers. Respondents are graduates of the FBI National Academy Program.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. 907 responses per year at .45 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection. 680 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: January 30, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–2219 Filed 2–1–96; 8:45 am]

BILLING CODE 4410–18–M

Drug Enforcement Administration

[Docket No. 95–39]

Edward L.C. Broomes, M.D.; Revocation of Registration

On March 27, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Edward L.C. Broomes, M.D., (Respondent) of East Chicago, Indiana, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AB2703925, under 21 U.S.C. 824(a)(4), and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f). Specifically, the Order to Show Cause alleged that:

1. Information provided to DEA and the Indiana State Police by several confidential informants indicates that since 1989, [the Respondent has] written prescriptions for controlled substances to numerous individuals for other than legitimate medical purposes. These informants stated that a group headed by a James Marshall regularly drives to East Chicago, Indiana, from Pennsylvania, provides names to [the Respondent] and/or [his] employees to be used on prescriptions, obtains the prescriptions from [his] medical office, fills the prescriptions at specific pharmacies in Gary, Indiana, and sells the controlled substances in Pennsylvania. The informants identified the drugs obtained as Desoxyn and Percocet, both Schedule II controlled substances. The informants also identified some of the names used by James Marshall in this scheme as Houston Abbott, David Abbott, Michael Johnson, Jason Brown, Beverly Abbott, and Patricia Armstrong.

2. [The Respondent] continued to write prescriptions for controlled substances in the names of at least two (2) individuals, Sean Abbott and James Quisenberry, for several years after their deaths.

3. Review of triplicate prescription records maintained by the State of Indiana indicates that between September 1989 and April 1994, [the Respondent] wrote prescriptions totalling over 6,600 dosage units of Schedule II controlled substances to the six (6) individuals identified by the informants. Many of these individuals obtained prescriptions for Desoxyn at least once a month for a period of over three (3) years.

4. [The Respondent] prescribed Desoxyn and Percocet on a regular basis to at least one (1) drug-addicted individual.

5. On December 22, 1992, eight (8) prescriptions issued by [the Respondent] were filled at a Gary, Indiana, drug store. Each of the prescriptions was for 400 dosage units of Dilaudid. None of the prescriptions contained a date of issue as required by 21 CFR 1306.05.

6. Many prescriptions written by [the Respondent] listed nonexistent addresses for the patients. For example, none of the addresses provided on the eight (8) prescriptions listed in the preceding paragraph was in existence as of October 1994. In addition, between January 1, 1993 and July 31, 1993, [the Respondent] wrote at least sixteen (16) prescriptions for controlled substances, including Percocet and Desoxyn, for James Marshall. The address provided on each of the prescriptions, 4930 Alden in East Chicago, Indiana, does not exist. Information provided by a confidential informant and corroborated by the Pennsylvania Bureau of Motor Vehicles indicates that James Marshall is a resident of Aliquippa, Pennsylvania.

7. On October 4, 1994, investigators executed a federal search warrant at [the Respondent's] office. The following violations were noted:

a. [The Respondent] had presigned controlled substance prescriptions for James Marshall in violation of 21 CFR 1306.05(a).

b. Patient files indicated that [the Respondent had] maintained narcotic addicts on methadone without obtaining a separate registration in violation of 21 CFR 1301.22.

c. Patient files revealed that [the Respondent had] prescribed Desoxyn, a Schedule II controlled substance, to treat obesity, in violation of Indiana law.

On May 30, 1995, the Respondent filed a reply to the show cause order, but he did not indicate whether he was requesting a hearing. On May 31, 1995, the Hearing Clerk sent a letter to the Respondent, advising him that he had until June 14, 1995, to request a hearing, and on June 30, 1995, Chief Judge Mary Ellen Bittner issued an order terminating proceedings before her, noting that the Respondent had failed to request a hearing by that date. Accordingly, the Deputy Administrator now enters his final order in this matter pursuant to 21 CFR 1301.54(e) and 1301.57, without a hearing and based on the investigative file and the written Reply submitted by the Respondent.

The Deputy Administrator finds that the Respondent is licensed to practice medicine in Indiana, and he has a Certificate of Registration with the DEA as a practitioner in Schedules II through V. The Respondent's registered location is the Lakeside Medical Clinic in East Chicago, Indiana. In February 1992, an investigation was initiated by the Indiana State Police because the Respondent had purportedly authorized an unusually large number of Schedule II controlled substance prescriptions according to information provided by the Indiana Health and Professions Bureau. DEA was asked to assist in this investigation, and it was found that the Respondent had issued prescriptions for Schedule II substances as late as April 1991, to an individual who had died on December 9, 1988. In his Reply, the Respondent wrote: "Attention has been drawn to the fact that two of my patients were receiving prescriptions of Ritalin although they had been dead for some time. I did not know of the demise until reading of it in the letter."

On October 5, 1994, a federal search warrant was executed at the Lakeside Medical Clinic, and presigned controlled substance prescriptions were found. Further, patient files indicated that the Respondent had maintained narcotic addicts on methadone, even though he was not registered to participate in such a program.

Further, two of the clinic's employees, as well as the Respondent, were interviewed during the search of the Respondent's clinic. The interviewing officer noted that the Respondent sometimes talked about matters unrelated to his questioning. Further, he was concerned when the Respondent appeared to fall asleep during the interview, although the Respondent assured him that he wished to continue, and the interview lasted only approximately one hour. The Respondent stated that during 1994 he had been in the hospital in January, August, and September, when he had remained for about 10 or 11 days. Further, the Respondent admitted to prescribing controlled substances to a known drug addict, stating that he would rather have her obtain such substances from him than from someone "on the street." The Respondent also admitted that he had prescribed Desoxyn for appetite control. Desoxyn is a brand name for a product containing methamphetamine, a Schedule II controlled substance, and according to the Physicians' Desk Reference, if it is prescribed for treatment of obesity, it should be used on a short-term basis. Yet a survey of the Respondent's prescriptions revealed that he had issued prescriptions for Desoxyn to individuals for a period of time in excess of three years.

A colleague of the Respondent's (Colleague), whose medical license was then under probation in Indiana and who was under the Respondent's supervision, was also interviewed. He stated that patients were taken into the Respondent's office when he could hardly walk, and that it was unknown what type of examination, if any, was conducted on these patients. in the Colleague's opinion, the Respondent was no longer competent to practice medicine and was a danger to his patients.

Another of the Respondent's employees was interviewed, and she stated that a box of approximately 40 patient records were segregated in the file room, and office personnel referred to these files as the "druggie files." She stated that these patients came to the clinic solely to get controlled substance prescriptions, specifically Schedule II controlled substance prescriptions, for which they paid an additional fee. The investigator interviewed another of the Respondent's employees who corroborated this information. This second employee also reported that the clinic had had several thefts of entire stock bottles of controlled substances, which were in the clinic to dispense to patients. However, these thefts had not been reported to DEA, State, or local police.

Subsequently, investigators interviewed cooperating individuals who had received controlled substance prescriptions from the Respondent. Two such individuals reported that on several occasions they had been given prescriptions for Schedule II substances of their choice, and that no physical examinations had been conducted. After filling these prescriptions, they had given the substances to James Marshall, who paid them for their participation in his scheme. The individuals were told by Mr. Marshall that he sold these controlled substances to individuals in another State. On one occasions, an individual assisting Mr. Marshall was told to choose a local address from the telephone book in the Respondent's office and to give that address for the prescription. Following up on this information, investigators noted that in numerous instances the addresses appearing on the multiple prescription forms signed by the Respondent for Schedule II controlled substances, when investigated, did not exist. The Respondent did not address these allegations in his Reply.

In his Reply, the Respondent wrote that he was 81 years old, and that he generally denied the allegations in the show cause order. Although he described in general his treatment practices, the Respondent did not factually refute specific allegations in the order. He disputed the evidence providing a numerical analysis of his prescribing practices, but he did not rebut the specific allegations concerning the conduct by James Marshall or his associates. He merely denied that such conduct could occur, given his general office procedures. He did not deny (1) prescribing Desoxyn to treat obesity, (2) having pre-signed controlled substance prescriptions for James Marshall in his clinic, or (3) prescribing methadone to narcotic addicted patients.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke the Respondent's DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, factors two, four, and five are relevant in determining whether the Respondent's continued registration would be inconsistent with the public interest. As to factor two, the Respondent's "experience in dispensing * * * controlled substances," the Deputy Administrator has previously found that a prescription for a controlled substance "must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 CFR 1306.04(a); see also Harlan J. Borcherding, D.O, 60 FR 28796, 28798 (1995). Here, the Respondent issued prescriptions for Schedule II substances to deceased individuals, showing a blatant disregard for the requirement that controlled substance prescriptions be issued for a legitimate medical purpose. Further, the investigative file contains evidence that the Respondent issued controlled substance prescriptions to individuals upon their request, to include the substance of their request, without performing any physical examinations or other clinical tests. He also accepted additional payment for these prescriptions. The Deputy Administrator has previously found that prescriptions issued under such circumstances were not for a legitimate medical purpose. Ibid.

As to factor four, the Respondent's "[c]ompliance with applicable State, Federal, or local laws relating to controlled substances," Indiana passed a statute in 1988 which made it unlawful to prescribe controlled substances "to any person for purposes of weight reduction or for control in the treatment of obesity." See Indiana Code 25–22.5–2–7. However, the Respondent admitted that he had prescribed Desoxyn, a Schedule II controlled substance, as part of his treatment for his obese patients, and the evidence demonstrated that he issued such prescriptions through 1994. Further, a separate DEA registration is required to treat drug addicted patients with methadone, but the Respondent engaged in such treatment without obtaining the required registration, in violation of the Controlled Substances Act and its implementing regulations. See 21 U.S.C. 823(g); 21 CFR 1301.22. Also, the Respondent failed to report to the DEA the theft of large quantities of controlled substances from his clinic, despite the requirement to do so. See 21 CFR 1301.76(b). Finally, he kept pre-signed controlled substance prescription forms prepared for James Marshall. Such practices violate 21 CFR 1306.05(a), which states in relevant part:

"(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued * * * [and] the prescribing practitioner is responsible in case the prescription

does not conform in all essential respects to the law and regulations."

As to factor five, "[s]uch other conduct which may threaten the public health or safety," the Deputy Administrator gives some weight to the Colleague's opinion concerning the danger the Respondent's practices creates for his patients. Although the Colleague had also experienced professional difficulties, his observations as to the Respondent's impaired abilities to treat his patients were corroborated by other office personnel, by interviewing investigators, and by the Respondent himself in discussing his health problems in 1994. Such impairment, coupled with his past prescribing practices, creates doubt as to the Respondent's ability to comply with DEA regulations in issuing prescriptions for controlled substances. Also, his failure to provide any basis for the Deputy Administrator to believe that his professional practices would be altered in the future, weighs heavily in favor of revoking the Respondent's DEA Certificate of Registration at this time.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AB2703925, previously issued to Edward L.C. Broomes, M.D., be, and it hereby is, revoked, and that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective March 4, 1996.

Dated: January 29, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–2170 Filed 2–1–96; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–35]

Therial L. Bynum, M.D.; Revocation of Registration

On March 11, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Therial L. Bynum, M.D., (Respondent) of Murfreesboro, Tennessee, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificates of Registration, BB2042048 and AB8535087, under 21 U.S.C. 824(a), and deny any pending applications for renewal of such registrations as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

[The Respondent] materially falsified required applications as set forth in 21 U.S.C. 824(a)(1); [the Respondent had] been convicted of a felony relating to controlled substances as set forth in 21 U.S.C. 824(a)(2); [the Respondent had] had a state license suspended or revoked by competent State authority and [is] no longer authorized to handle controlled substances in one of the states that [he is] operating as set forth in 21 U.S.C. 824(a)(3); and [the Respondent has] committed acts which render [his] registrations inconsistent with the public interest as set forth in 21 U.S.C. 824(a)(4).

By letter dated April 8, 1994, the Respondent replied to the show cause order, requesting a hearing. On May 16, 1994, Government counsel filed a prehearing statement, and on June 24, 1994, the Respondent filed his prehearing statement. However, on May 4, 1995, Administrative Law Judge Paul A. Tenney issued an order, Notice of Cancellation of Hearing, noting that the Respondent had failed to reply to several of his previous orders, notifying the Respondent that his inaction was being deemed a waiver of his hearing right and an implied withdrawal of his request for a hearing, and giving the Respondent until May 31, 1995, to request reconsiderations of the matter. However, the Respondent failed to reply, and by order dated June 1, 1995, Judge Tenney closed the case file and removed this matter from his active docket. By letter also dated June 1, 1995, Judge Tenney informed the Deputy Administrator of his actions, and the case file was transmitted for issuance of a final order.

The Deputy Administrator has considered the prehearing statements of the parties and the investigative file. Accordingly, he now enters his final order in this matter, without a hearing and based upon this record, pursuant to 21 C.F.R. 1301.54(e) and 1301.57.

Initially, the Deputy Administrator finds that the Respondent has two active DEA Certificates of Registration as a practitioner: BB2042048 for his practice in Murfreesboro, Tennessee, and AB8535087, for his practice in Omaha, Nebraska.

On November 30, 1988, the Respondent was convicted in the Circuit Court, Cook County, State of Illinois, of conspiracy with intent to commit the offense of "[k]ickbacks in the amount of more than $10,000." Specifically, the Respondent, then a Medicaid provider, acted to accept remuneration from an individual representing a laboratory which was also a Medicaid provider, in exchange for referring specimens to this laboratory. Subsequently, effective April 26, 1991, the Department of Professional Regulation, State of Illinois, indefinitely suspended the Respondent's state medical license. Although the Respondent, in his prehearing statement, wrote that he had appealed this suspension, he did not submit any documentation reflecting the appeal, and the investigative record does not contain any such record.

On June 19, 1991, the Respondent submitted an application to renew his Nebraska DEA Certificate of Registration, and in response to a question on that application, indicated that he had never had a state professional license revoked, suspended, restricted or denied, when, in fact, his Illinois medical license had been suspended effective April 26, 1991. That registration was renewed June 27, 1991. In his prehearing statement, the Respondent wrote that he was living in Tennessee at the time he submitted his renewal application, and that he had not received notification of the Illinois action, although he had been represented by legal counsel before that forum.

In March of 1992, the Division of Health Related Boards, Department of Health, State of Tennessee, suspended the Respondent's medical license, and on June 4, 1992, the Tennessee Board of Medical Examiners (Tennessee Board) revoked the Respondent's state medical license. The Tennessee Board found that the Respondent had been treating patients with a "secret drug that [he] claimed can 'cure' AIDS." He sold this "'drug' to patients for an initial payment of $10,000.00, with additional payments of this magnitute (sic.) for treatment of the disease at later stages. * * * Some patients were directed to stop taking AZT while taking the 'drug.' * * * The Respondent[] made representations about the effectiveness of [his] AIDS 'drug' to induce friends and relatives of the AIDS victims to pay for the 'drug.'" During the course of an undercover operation, a dose of this "drug" was obtained and analyzed, and the Tennessee Board found that "[t]he drug does not cure AIDS. There is no known drug which will have the effect on AIDS that the Respondent[] claim[s] for [his] drug. * * * Precluding an AIDS victim from taking AZT would have a harmful effect on that patient's health. Furthermore, the 'drug' contains medications which could be harmful to the immune system of AIDS patients." The Tennessee Board concluded that the Respondent's acts had violated the Tennessee Medical Practice Act. The Respondent appealed the Tennessee Board's action, and the Chancery Court for the State of Tennessee affirmed the Tennessee Board's order.

On June 26, 1992, the Respondent submitted an application to renew his Tennessee DEA Certificate of Registration, and in response to a question on that application, indicated that he was then authorized to prescribe, dispense, conduct research or otherwise handle controlled substances under the laws of the State in which he was operating or proposing to operate, Tennessee, when in fact his Tennessee medical license had been under suspension effective March 16, 1992, and permanently revoked effective June 4, 1992.

On October 27, 1993, the Respondent was convicted based upon a jury verdict in the U.S. District Court, Middle District of Tennessee, of one count of knowingly or intentionally furnishing false or fraudulent material information in, or omitting material information from, a renewal application for a DEA Certificate of Registration, pursuant to 21 U.S.C. 843(a)(4)(A). On October 5, 1994, his appeal of that decision was dismissed by the U.S. Court of Appeals for the Sixth Circuit.

The Drug Enforcement Administration lacks statutory authority to issue or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his practice. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Charles L. Novosad, Jr., 60 Fed. Reg. 47,182 (1995); Dominick A. Ricci, M.D., 58 Fed. Reg. 81,104 (1993); James H. Nickens, M.D., 57 Fed. Reg. 59,847 (1992); Roy E. Hardman, M.D., 57 Fed. Reg. 49,195 (1992). Here, the Respondent's medical license in the State of Tennessee has been revoked, and he is no longer authorized to practice medicine, to include prescribing controlled substances. Therefore, having considered the facts and circumstances in this matter, the Deputy Administrator concludes that Dr. Bynum's DEA Certificate of Registration for Tennessee should be revoked due to his lack of authorization to handle controlled substances in that state.

As for his Certificate of Registration in Nebraska, there is no evidence in the investigative file or in the Respondent's prehearing statement either proving or disproving that the Respondent is still licensed to handle controlled substances in Nebraska. However, assuming he is, then 21 U.S.C. 824(a)(1) is relevant, stating:

(a) A registration pursuant to section 823 of this title to . . . distribute, or dispense a controlled substance may be suspended or revoked . . . upon a finding that registrant—

(1) has materially falsified any application filed pursuant to or required by his subchapter . . .

It has been previously noted that the Deputy Administrator may revoke or suspend the Respondent's registration upon a showing that he "materially falsified" any application filed pursuant to the applicable Controlled Substances Act provisions. See, e.g., Terrence E. Murphy, M.D., Docket No. 94–19, 61 FR 2841, Jan. 29, 1996. The appropriate test for determining whether the Respondent materially falsified any application is whether the Respondent materially falsified any application is whether the Respondent "knew or should have known" that he submitted a false application. See Bobby Watts, M.D., 58 Fed. Reg. 46,995 (1993); accord Herbert J. Robinson, M.D., 59 Fed. Reg. 6,304 (1994).

Here, written on the Respondent's June 1991 DEA renewal application for his Nebraska certificate, was a false answer to the question regarding his state medical licenses. Specifically, the Respondent had failed to acknowledge the adverse action taken in Illinois against his professional license. As has been previously noted, such an omission is material, for "if the Respondent correctly had checked 'YES' to the question, that would have been a red flag to [the] DEA to go check with the [State] licensing authorities . . . Cf. . . . Gonzales v. United States, 286 F.2d 118, 120 (10th Cir. 1960) (addressing a statute concerning "material false statements . . . ., i.e., statements that could affect or influence the exercise of a governmental function"), cert. denied, 365 U.S. 878, 81 S. Ct. 1028, 6 L. Ed. 2d 190 (1961)." Murphy, supra.

The Respondent attempted to mitigate this falsification by writing that he was unaware of the Illinois action at the time he prepared this renewal application. The Deputy Administrator finds this statement, without any corroborating information, incredible, for the Illinois Board order was effective two months before the Respondent's renewal application to DEA was submitted, the Respondent was represented by legal counsel before the Illinois Board, and the Respondent provided no information to show that the Illinois Board failed to provide timely notification of their adverse action.

Further, pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or profession disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 Fed. Reg. 16,422 (1989).

In this case, factors one, three, and five are relevant in determining whether the Respondent's continued registration would be inconsistent with the public interest. As to factor one, "recommendation of the appropriate State licensing board," the Deputy Administrator finds it significant that Illinois has indefinitely suspended the Respondent's medical license for cause, and that Tennessee has revoked the Respondent's medical license for cause.

As to factor three, the Respondent's "conviction record under Federal or State laws relating to the . . . dispensing of controlled substances," the Deputy Administrator finds relevant the Respondent's conviction in Federal Court of knowingly or intentionally furnishing false or fraudulent material information in his application to renew his DEA registration. As noted by the Administrator in Bobby Watts, supra: "Since DEA must rely on the truthfulness of information supplied by applicants in registering them to handle controlled substances, falsification cannot be tolerated."

As to factor five, "[s]uch other conduct which may threaten the public health or safety, the Respondent's acts of Medicaid fraud are relevant. See, Leonard Merkow, M.D., Docket No. 93–62 60 Fed. Reg. 22,075 (1995). Further, the Respondent's actions in Tennessee in prescribing a 'drug', for the payment of $10,000.00, which he falsely claimed was an AID's cure, creates a threat to the public interest inconsistent with his retaining his DEA Certificates of

Registration. Finally, the Respondent has failed to provide any information which would indicate that his future behavior would not continue to be a threat to the public interest.

Therefore, the Deputy Administrator finds that the public interest is best served by revoking the Respondent's DEA Certificates of Registration and denying any pending applications. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificates of Registration BB2042048 and AB8535087, previously issued to Therial L. Bynum, M.D., be, and they hereby are, revoked and any pending applications are denied. This order is effective March 4, 1996.

Dated: January 29, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–2239 Filed 2–1–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State:

Volume IV:

Michigan
MI950063 (Feb. 02, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

New Jersey
NJ950002 (Feb. 10, 1995)
NJ950003 (Feb. 10, 1995)
NJ950004 (Feb. 10, 1995)
NJ950007 (Feb. 10, 1995)
NJ950015 (Feb. 10, 1995)
New York
NY950010 (Feb. 10, 1995)
NY950013 (Feb. 10, 1995)
NY950017 (Feb. 10, 1995)
NY950041 (Feb. 10, 1995)

Volume II:

Pennsylvania
PA950040 (Feb. 10, 1995)
Virginia
VA950015 (Feb. 10, 1995)

Volume III:

Florida
FL950008 (Feb. 10, 1995)
FL950009 (Feb. 10, 1995)
FL950011 (Feb. 10, 1995)
FL950044 (Feb. 10, 1995)
FL950045 (Feb. 10, 1995)

Volume IV:

Michigan
MI950003 (Feb. 10, 1995)
MI950007 (Feb. 10, 1995)
MI950030 (Nov. 03, 1995)

Volume V:

Iowa
IA950001 (Feb. 10, 1995)
IA950002 (Feb. 10, 1995)
IA950016 (Feb. 10, 1995)
IA950031 (Feb. 10, 1995)
IA950037 (Feb. 10, 1995)
Missouri
MO950018 (Feb. 10, 1995)
Nebraska
NE950001 (Feb. 10, 1995)
NE950059 (Apr. 28, 1995)
Texas
TX950018 (Feb. 10, 1995)
TX950057 (Feb. 10, 1995)
TX950114 (Feb. 10, 1995)

Volume VI:

Alaska
AK950001 (Feb. 10, 1995)
Arizona
AZ950004 (Feb. 10, 1995)
Idaho
ID950004 (Feb. 10, 1995)
ID950005 (Feb. 10, 1995)
ID950013 (Jul. 28, 1995)
ID950014 (Jul. 28, 1995)
Oregon
OR950001 (Feb. 10, 1995)
OR950004 (Feb. 10, 1995)
OR950017 (Dec. 15, 1995)
Washington
WA950001 (Feb. 10, 1995)
WA950002 (Feb. 12, 1995)
WA950003 (Feb. 12, 1995)
WA950007 (Feb. 12, 1995)
WA950008 (Feb. 12, 1995)
Wyoming
WY950004 (Feb. 10, 1995)
WY950008 (Feb. 10, 1995)
WY950009 (Feb. 10, 1995)
WY950011 (Feb. 10, 1995)
WY950021 (Feb. 10, 1995)
WY950023 (Feb. 10, 1995)
WY950024 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 26th day of January 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–1913 Filed 2–1–96; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

The Cleveland Electric Illuminating Company, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–58 issued to The Cleveland Electric Illuminating Company, et al. (the licensee), for operation of the Perry Nuclear Power Plant, Unit No. 1 located in Lake County, Ohio.

The proposed amendment would change the Technical Specification surveillance frequency for the drywell bypass leakage rate test from 18 months to 120 months (10 years) with a more frequent testing requirement if performance degrades. Additionally, specific leakage limits would be deleted for the air lock seal and barrel tests. Also, surveillance frequencies for the air lock interlock test and seal pneumatic system leak test would be changed from 18 months to 24 months. Finally, the surveillance frequencies for the air lock barrel test would be changed from "each COLD SHUTDOWN if not performed within the previous 6 months" to "at least once per 24 months" and from 18 months to 24 months. The licensee requested that this amendment be approved for use during the current refueling outage which began on January 27, 1996.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes in frequency for the drywell bypass leakage and drywell air lock surveillances will continue to ensure that no paths exist through drywell boundary components that would permit gross leakage from the drywell to bypass the containment pressure-suppression feature (the suppression pool) and result in exceeding the primary design basis limit. The Mark III primary containment system satisfies General Design Criterion 16 of Appendix A to 10 CFR Part 50. Maximum drywell bypass leakage was determined previously by reviewing the full range of postulated primary system break sizes. The limiting case was a primary system small break LOCA that yielded a design allowable drywell bypass leakage rate limit of approximately 58,000 scfm. The Technical Specification acceptable limit for the bypass leakage following a surveillance is less than 10% of the design basis value. The most recent bypass leakage value was approximately 0.2% of the design allowable leakage rate limit for the limiting event. Programmatic and oversight controls are maintained that ensure drywell bypass leakage remains a fraction of the design allowable leakage limit.

The drywell is exposed to essentially 0 psig during normal plant operation and 2.5 psig during drywell bypass leak rate testing. These pressures are considerably lower than the structural integrity test pressure and are not likely to initiate a crack or cause an existing crack to grow. Visual inspections of the accessible drywell surfaces that have been performed since the structural integrity tests have not revealed the presence of abnormal cracking or other abnormalities. Therefore, drywell degradation is not expected due to testing or operation and it is not considered credible for the passive drywell structure to begin to leak sufficiently to impact the design drywell bypass leakage limit.

The primary containment's ability to perform its safety function is fairly insensitive to the amount of drywell bypass leakage, thereby providing a margin to loss of the drywell safety function that is not normally available for safety systems. This insensitivity is demonstrated by the extremely high limiting event design basis allowable leakage for the drywell (approximately 58,000 scfm as discussed above). An even higher allowable leakage can be accommodated by the primary containment due to containment design margin. It would take valves in multiple penetration flow paths leaking excessively to cause the primary containment to fail as a result of overpressurization. Therefore, the probability that drywell isolation valve leakage will result in primary containment failure due to excessive drywell bypass leakage is not significant and this drywell/primary containment failure mode is not credible.

The proposed Technical Specification changes have no significant impact on the IPE conducted in accordance with NRC Generic Letter 88–20. The IPE considered

primary containment overpressurization failure as part of the primary containment performance assessment. Due to the magnitude of acceptable drywell bypass leakage and the extremely low probabilities of experiencing excessive leakage, preexisting excessive drywell bypass leakage was considered a non-significant contributor to primary containment failure. In a beyond-design-basis "severe accident," the surveillance frequencies for the air lock failure can occur with or without preexisting excessive drywell bypass leakage. This is due to physical phenomena associated with potentially extreme environmental conditions inside primary containment following a severe accident. However, the calculated frequency of such extreme conditions is very small. The proposed changes do not impact the IPE evaluated phenomena causing primary containment overpressurization failure and do not significantly increase the probability that the drywell has preexisting excassive leakage. The proposed changes therefore, would not contribute to these accident scenarios.

The movement of the air lock leakage rate tests to the Drywell Specification and the elimination of the Notes in the Improved Technical Specifications are proposed because drywell leakage rate requirements are the essence of drywell operability. Leakage rates discovered outside limits will always clearly result in entering the actions for drywell inoperability. Additionally, the requirements for the drywell air lock seal and barrel tests to meet specific leakage limits are deleted since the ability of the drywell to perform its safety function is not dependent on the air lock meeting a specific leakage limit. The limiting case for drywell bypass leakage is based on total leakage through all drywell paths other than the suppression pool vents. Total drywell bypass leakage from such paths (including the air lock) should not exceed the acceptable design limit of drywell bypass leakage. The proposed Technical Specifications will still require performance of seal and barrel leak tests. Additionally, the proposed changes include minor administrative changes which clarify the requirement format or change the requirement to match the plant design bases.

For the reasons discussed above, the proposed changes do not have any significant risk impact to accidents previously evaluated and do not significantly increase the consequences of an accident previously evaluated. Additionally, drywell bypass leakage is not the initiator of any accident evaluated; therefore, changes in the frequency of the surveillance for drywell bypass leakage does not increase the probability of any accident evaluated.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will impact the test frequencies and will not result in any change in equipment response in the unlikely event of an accident. The changes do not alter equipment design or capabilities. The changes do not present any new or additional failure mechanisms. The drywell is passive in nature and the surveillance will continue to verify that its integrity has not degraded. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

Drywell integrity and reliability have been demonstrated during past drywell bypass leakage surveillances. Appropriate design basis assumptions will be maintained. Drywell integrity will continue to be tested by the proposed periodic drywell bypass leakage test, the drywell air lock door latching and interlock mechanism surveillance, and additional surveillances including exercising the drywell isolation valves. In combination, these surveillances will provide adequate assurance that drywell bypass leakage will not exceed the design basis limit. Margins of safety will not be reduced. Therefore, the proposed change does not cause a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in preventing startup of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 4, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Gail H. Marcus: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay E. Silberg, Shaw, Pittman, Potts & Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 16, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio.

Dated at Rockville, Maryland, this 29th day of January 1996.

For the Nuclear Regulatory Commission.

Jon B. Hopkins, Sr.,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2206 Filed 2–1–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–331]

IES Utilities, Inc; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–49 issued to IES Utilities Inc. for operation of the Duane Arnold Energy Center (DAEC) located in Palo, Iowa.

The proposed amendment would modify the requirements for testing an emergency diesel generator (EDG) when the other is inoperable. The amendment would correct an editorial error in the DAEC Operating License and would correct an erroneous reference in the Technical Specifications (TS).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed revision does not involve a significant increase in the probability or consequences of an accident previously evaluated. The changes are administrative in nature and are consistent with previously-published NRC guidance. The proposed revision does not change any accident analysis, plant safety analysis or calculations; degrade existing plant programs; or modify any functions of safety related systems or accident mitigation functions for which the DAEC has previously been credited. The proposed revision to the Surveillance Requirements will continue to assure OPERABILITY as required, but eliminate unnecessary operation of an EDG and is consistent with the requirements of the Improved Standard TS, NUREG–1433.

2. The proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed revision does not

alter any plant parameters, revise any safety limit setpoint, or provide any new release pathways. In addition, the proposed revision does not modify the operation or function of any safety-related equipment, nor introduce any new modes of operation, failure modes, or physical changes to the plant.

3. The proposed revision does not involve a significant reduction in a margin of safety. The proposed revision does not alter any plant parameters, revise any safety limit setpoint, or provide any new release pathways. In addition, the proposed revision does not modify the operation or function of any safety-related equipment, nor introduce any new modes of operation, failure modes, or physical changes to the plant.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 4, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Cedar Rapids Public Library, 500 First Street SE, Cedar Rapids, Iowa. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Gail H. Marcus: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack Newman, Kathleen H. Shaw; Morgan, Lewis & Bockius, P.C.; 1800 M Street NW., Washington, DC 20036, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendment dated July 21, 1995, August 8, 1995, and December 15, 1995, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Cedar Rapids Public Library, 500 First Street SE, Cedar Rapids, Iowa.

Dated at Rockville, Maryland, this 29th day of January 1996.

For the Nuclear Regulatory Commission.

Glenn B. Kelly,

Project Manager,

Project Directorate III–3 Division of Reactor Projects—III/IV Office of Nuclear Reactor Regulation.

[FR Doc. 96–2205 Filed 2–1–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36783; File No. SR–NASD–95–53]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Requiring Members That Participate In the Transfer of Limited Partnership Securities to Use Standard Transfer Forms

January 29, 1996.

I. Introduction

On December 15, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change [1] pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [2] and Rule 19b–4 thereunder.[3] The rule change amends Section 1 and adds new Section 73 and Exhibit A to the NASD's Uniform Practice Code ("Code").

Notice of the proposed rule change, together with its terms of substance was provided by issuance of a Commission release [4] and by publication in the **Federal Register**.[5] No comments were received in response to the Commission release. This order approves the proposed rule change.

II. Description

The NASD intends to standardize the format for gathering transfer information by registered representatives and eliminate delays and inefficiencies in the transfer and settlement process by requiring the use of standardized transfer forms.[6] Under new Section 73 of the Code, each member that participates in the transfer of limited partnership securities, as defined in Article III, Section 34 of the NASD's Rules of Fair Practice, will be required to use the forms. This new section will not apply to limited partnership securities which are traded on The Nasdaq Stock Market or a registered national securities exchange. Although only NASD members would be required to use the standardized forms under the proposed amendments, the NASD has worked closely with various transfer agents, and the Investment Program Association, a trade organization for the partnership industry, to build a general consensus favoring the use and recognition of the forms throughout the industry.[7]

The standard transfer forms will be set forth in Exhibit A to new Section 73. The four forms are as follows: (1) the "Transferor's (Seller's) Application For Transfer;" (2) the "Transferee's (Buyer's) Application for Transfer;" (3) the "Registration Confirmation Form;" and (4) the "Distribution Allocation Agreement." The Transferor and Transferee forms are each two pages in length and contain important information, including customer identification, partnership identification, tax identification, quantity transferred, broker-dealer and registered representative identification, and signature execution.

The Registration Confirmation Form acts to confirm to the buyer/transferee that the transfer has been completed. This form contains information including the partnership's NASD symbol, CUSIP number, tax identification number, total number of units transferred, and the effective/admission date.

The Distribution Allocation Agreement is designed to be completed at the time the transfer documents are completed and sent to the general partner of the limited partnership security to be transferred. The agreement contains certain affirmations on which the transferor and transferee agree, and is intended to act as a contract between the buyer and seller setting forth their agreement regarding all unpaid distributions. The agreement specifies when the unitholder of record is entitled to cash distributions and capital distributions, as well as the party

[1] The proposed rule change was initially submitted on November 8, 1995, but was subsequently amended on December 11, 1995, and again on December 15, 1995, in order to clarify that the proposed rule change does not apply to limited partnership securities that are traded on The Nasdaq Stock Market or a registered national securities exchange.

[2] 15 U.S.C. § 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] Securities Exchange Act Release Nn. 36611 (December 20, 1995).

[5] 60 FR 67146 (December 28, 1995).

[6] The NASD has requested an effective date for the proposed rule of 60 days after the date on which SEC approval of the proposed rule is announced in a NASD Notice to Members, which announcement shall be made no later than 45 days after the date of Commission approval.

[7] The NASD's Direct Participation Program Committee and the special Ad Hoc Committee on Uniform Settlement and Transfer Procedures for Direct Participation Program Securities have gathered and assessed information in order to develop forms with universal applicability. In addition, both the NASD staff and the members of the NASD's Direct Participation Program Committee are planning to explore other initiatives designed to develop a broad, accessible framework through which the transfer and distribution process for limited partnership securities will become more efficient and consistent. *See* Securities Exchange Act Release No. 36611 (December 20, 1995) at 9–10.

responsible of correcting a distribution made to the wrong party.

III. Discussion

The Commission has determined to approve the NASD's proposal. The Commission finds that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, including the requirements of Section 15A(b)(6) of the Act.[8] Section 15A(b)(6) requires, in part, that the rules of a national securities association be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

Historically, limited partnership securities were not structured to be transferred freely in secondary market transactions, unless the issuer listed the securities on an exchange or qualified them for inclusion in Nasdaq. Over-the-counter markets now exist, however, for many limited partnership securities, and trading volumes reportedly have increased. As a result, quick and accurate processing of the transfer of limited partnership securities has become even more critical.

Generally, before the transfer of a limited partnership interest may take place, it must be approved by the general partner(s). The elements for a valid transfer are dictated by the terms of partnership agreements under various state limited partnership statutes. As a result, when transferring limited partnership interests, NASD members are currently confronted with transfer requirements unique to each partnership which may vary widely on the type and amount of documentation necessary for the valid transfer of a limited partnership interest. This, in turn, results in non-standardized transfers of limited partnerships that, in some instances, may take many weeks or even months to become finalized.

In addition, partnership terms for record dates and distribution or dividend payment dates are equally varied. Transfer delays and non-standardized payment provisions have caused or contributed to delays or mistakes in the allocation of cash distributions between buyers and sellers. For example, a seller of a limited partnership interest, as the recordholder of the securities until a change is made on the records of the partnership, often receives distributions that rightly should have accrued to the buyer. Particularly problematic are special distributions other than cash distributions (*e.g.*, proceeds from capital transactions, capital distributions, sale or refinancing proceeds, liquidating distributions) which, under many partnership agreements, are paid to the owner of record of the partnership unit in the prior quarter. Thus, under current transfer standards and practices, buyers and sellers of limited partnership securities in the secondary market are unable to protect their rights to such distributions.

The use and recognition of standardized forms will bring greater consistency and certainty in transactions involving limited partnership securities. Such forms should act to significantly reduce the time and effort required by member firms to process the transfer of limited partnership securities. In addition, the use of the Distribution Allocation Agreement will provide certainty to the buyer/transferee and seller/transferor regarding the method for handling various distributions of the limited partnership.

To be effective, however, the forms approved today must meet the legitimate needs of issuers and transfer agents. The Commission encourages the NASD to monitor the currency of the forms on a periodic basis.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change SR–NASD–95–53 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegate authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2221 Filed 2–1–96; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. § 78*o*–3(b)(6).

[9] 17 CFR 200.30–3(a)(12).

[Release No. 34–36782; International Series Release No. 923; File No. SR–Philadep–96–01]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change to Appoint the West Canada Depository Trust Company as a Correspondent Depository

January 26, 1996

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 25, 1996, the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–Philadep–96–01) as described in Items I and II below, which items have been prepared primarily by Philadep. On January 25, 1996, and on January 26, 1996, Philadep filed amendments to the proposed rule change.[2] The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through June 30, 1996.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to allow Philadep to appoint the West Canada Depository Trust Company ("WCDTC") as Philadep's nonexclusive agent and custodian in receiving Philadep.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Philadep included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Philadep has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to allow Philadep to authorize WCDTC to act as a nonexclusive agent and custodian for Philadep in receiving securities deposited by certain WCDTC sponsored participants for credit to their respective subaccounts in WCDTC's omnibus account at Philadep. These participant and custodial arrangements will be effectuated by contracts executed between Philadep and WCDTC and as to the Philadep participant arrangement by the rules and procedures of Philadep.

At or before 12:45 p.m. (Philadelphia time) on any business day Philadep is open, WCDTC will notify Philadep via facsimile transmission or through Philadep's Automated Deposit System of initiated and pending instructions to Canadian transfer agents to transfer various Canadian securities held by WCDTC into Philadep's nominee name. Philadep will credit WCDTC's account(s) for Canadian issues at the time of this notification. Philadep will credit WCDT's account(s) for incoming deposits of U.S. issues (received by WCDTC and designated for physical delivery and deposit to its Philadep account(s)) at the time of physical receipt of the securities by Philadep. Philadep has created a new screen and functionality to reduce the processing time required on the part of WCDTC for U.S. issues. Therefore, this credit upon receipt approach provides a faster and more efficient credit procedure than the former Midwest Securities Trust Company ("MSTC")/WCDTC arrangement approved by the Commission.

With regard to Canadian issues, WCDTC will cause the Canadian transfer agent to reregister the shares in Philadep's nominee name and to deliver them to WCDTC as agent and custodian of Philadep. With respect to acting as Philadep's agent for interfacing with Canadian transfer agents, WCDTC has more direct knowledge of and familiarity with Canadian transfer agents. WCDTC has a Canadian address and is expected to obtain receipt of certificates faster than Philadep would obtain receipt through the international postal system. Earlier receipt of certificates means earlier certainty with respect to the value and validity of deposited certificates. This is a benefit to Philadep because the earlier Philadep receives notice of defects in a certificate the sooner it can reverse the credit to the WCDTC's account and the better it can limit the risk that the securities will have been transferred out of the account before the reversal of the credit can take place.

For Canadian issues returning to WCDTC from the Canadian transfer agent, WCDTC will safeguard the deposited securities and will hold them with deposit tickets attached and segregated from other securities held by WCDTC until forwarded to Philadep via licensed air courier or other carrier agreed upon by the parties. Securities held overnight will be deposited in WCDTC's vault. If WCDTC fails to deliver these securities to Philadep, Philadep will apply a short charge to WCDTC's account for the full value of the fails. For fails to deliver resulting from settled CNS transactions, Philadep will short the participant's CNS account with the Stock Clearing Corporation of Philadelphia ("SCCP"), Philadep's affiliated clearing corporation. SCCP will mark to market all short positions and collect marks daily.

If the deposited securities are U.S. securities, WCDTC will forward the securities directly to Philadep on the day the securities are reported to Philadep. Securities will be shipped to Philadep via licensed air courier or other carrier agreed upon by the parties.

WCDTC and Philadep have agreed that securities placed within the custody and control of WCDTC on behalf of Philadep will not be subject to any right, charge, security interest, lien or claim of any kind in favor of WCDTC or any person claiming through WCDTC. WCDTC and Philadep have further agreed that WCDTC will have no legal or equitable right, title, or interest in or to such securities including but not limited to any right, title, or interest in or to any principal or interest coupons, redemption proceeds, payments or payable amounts relating to any securities. In addition, WCDTC will maintain adequate insurance coverage with respect to any securities which are in its custody on behalf of Philadep. Furthermore, WCDTC will make a participants fund contribution of $750,000, which is in excess of the minimum amount required under the applicable formulae, and WCDTC's parent organization, the Vancouver Stock Exchange, has committed to and is in the process of executing an irrevocable standby letter of credit in the amount of $2 million (Canadian Dollars) to be issued to Philadep securing its guaranty obligations.[3]

Philadep believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the rule proposal fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and further assures the safeguarding of securities and funds in its custody or control or for which Philadep is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Philadep does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received. Philadep will notify the Commission of any written comments received by Philadep.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.[4] The Commission believes that Philadep's designation of WCDTC as a correspondent depository is consistent with Philadep's obligations under Section 17A(b)(3)(F) because the proposed rule change should help foster cooperation and coordination between the U.S. and Canadian clearance and settlement systems by facilitating a link between Philadep and WCDTC.

Philadep has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will allow Philadep to immediately enter into a custodial arrangement with WCDTC thus allowing WCDTC to continue to settle without any disruption securities transactions between U.S. broker-dealers and Canadian broker-dealers. Currently, WCDTC acts as a corresponding depository for and conducts clearance and settlement with the Midwest Securities Trust Company ("MSTC") and the Midwest Clearing Corporation ("MCC"). The arrangement among WCDTC, MSTC, and MCC, including WCDTC's correspondent depository arrangement, will cease on January 26, 1996, as a result of MSTC's and MCC's decision to withdraw from the depository and clearance and settlement business.

The Commission is granting temporary approval of the proposed rule change through June 30, 1996, so that Philadep and the Commission can continue to monitor and analyze the development of WCDTC as a correspondent depository before granting permanent approval. During this period, the Commission will monitor the correspondent depository arrangement between Philadep and WCDTC to ensure that proper risk management procedures are in place. In this regard, the Commission requests that Philadep submit prior to filing for continued approval a report concerning specific surveillance measures that Philadep has implemented with regard

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letters from William W. Uchimoto, General Counsel, Philadep, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (January 25, 1996 and January 26, 1996).

[3] During the temporary approval of the proposed rule change, the current value of WCDTC's participants fund contribution or letter of credit should not be reduced.

[4] 15 U.S.C. § 78q–1(b)(3)(F)(1988).

to the WCDTC account. Such a report should include but should not be limited to a detailed report outlining the risk management procedures implemented specifically to monitor the WCDTC account, including any staff or systems additions, and an analysis of any impact on Philadep's business, including effects on liquidity needs from the acceptance of WCDTC as a participant. Furthermore, Philadep will be required to file monthly reports analyzing activity in WCDTC's omnibus account and subaccounts. In addition, while the Commission believes that approval of the proposed rule change at this time is necessary to prevent the disruption of services for the clearance and settlement of certain transactions between U.S. and Canadian broker-dealers, the Commission recognizes that the period for public comment was brief. Because the Commission is encouraging public comment on these proposals, the Commission believes that it is appropriate to permit additional opportunities for public comment in the future.[5] For these reasons, the Commission is temporarily approving the proposed rule change through June 30, 1996. The staff of the Board of Governors of the Federal Reserve System have concurred with the Commission's granting of accelerated approval.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to the file number SR–Philadep–96–01 and should be submitted by February 23, 1996.

It is therefore ordered, pursuant to Section 19(b) (2) of the Act, that the proposed rule change (File No. SR–Philadep–96–01) be, and hereby is, approved through June 30, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2173 Filed 2–1–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36781; File Nos. SR–Philadep–96–02 and SR–SCCP–96–01]

Self-Regulatory Organizations; Philadelphia Depository Trust Company and Stock Clearing Corporation of Philadelphia; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of Proposed Rule Changes to Provide for the Application of Article 8 of the New York Uniform Commercial Code

January 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 25, 1996, the Philadelphia Depository Trust Company ("PHILADEP") and the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes (File Nos. SR–PHILADEP–96–02 and SR–SCCP–96–01) as described in Items I and II below, which Items have been proposed primarily by Philadep and SCCP. The Commission is publishing this notice to solicit comments from interested persons and to grant accelerated approval of the proposed rule changes on a temporary basis through June 30, 1996.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

Philadep proposes to adopt Rule 32 and to amend Rule 1 of its rules, and SCCP proposes to adopt Rule 41 and to amend Rule 1 of its rules to govern the choice of law to be elected in certain transactions effecting Philadep, SCCP, their participants, and pledgees.

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, Philadep and SCCP included statements concerning the purpose of and the basis for the proposed rule changes and discussed any comments received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. Philadep and SCCP have prepared summaries, as set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

A. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

Philadep and SCCP hereby propose to adopt Rules 32 and Rule 41, respectively, and to amend Rule 1 of their rules to codify their decision to elect certain New York commercial code provisions to govern certain transactions for the purpose of providing a uniform, consistent, and predictable body of law. Specifically, Rule 32[2] and rule 41 will assure that the rights and obligations of Philadep and SCCP, their participants, and their pledgees with respect to transfers and pledges of securities, to the extent Article 8 of the Uniform Commercial Code ("UCC") applies thereto, will be governed by and construed in accordance with Article 8 of the UCC of New York in effect from time to time. The definition of "security" under Rule 1 of the Philadep's and SCCP's rules also will be amended to cite to New York UCC Article 8 as opposed to Pennsylvania UCC Article 8.

Philadep and SCCP note that uncertainty exists whether New York law or Pennsylvania law may apply to any particular transfers and whether some transfers within Philadep's or SCCP's systems may be governed by Pennsylvania's UCC Article 8 while other transaction within such systems may be governed by New York's UCC Article 8. With so many of the transactions for which Philadep and SCCP provide depository, clearance, and settlement services potentially being affected (*e.g.*, those transactions effected through interface with broker-dealers, banks, and other institutions which are participants in The Depository Trust Company ("DTC") and National Securities Clearing Corporation ("NSCC") systems), it is problematic that different rules of law under Article 8 of the UCC may govern the rights and obligations of parties to such transfers. Philadep and SCCP, therefore, have chosen to elect the application of New York's UCC Article 8 rather than Pennsylvania's UCC Article 8. The choice of New York law also assures that DTC, NSCC, and their respective participants and pledgees will find harmonious commercial code provisions governing their extensive dealings with Philadep and SCCP, their participants, and pledgees in this area as the former New York based groups already are subject to New York law.

Philadep and SCCP believe the proposed rule changes are consistent with Section 17A of the Act and the rules and regulations thereunder because the rules are designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, to foster cooperation and coordination with persons engaged in the clearance and settlement of securities, to remove impediments to and perfect the mechanism of a national market system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organizations' Statements on Burden on Competition

Philadep and SCCP do not believe that the proposed rule changes will impact or impose a burden on competition.

C. Self-Regulatory Organization's Statements on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments have been solicited or received. Philadep and SCCP will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Section 17A(b)(3)(F)[3] of the Act requires the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities. The Commission believes the proposed rule changes are consistent with these requirements because adoption of Article 8 of the New York UCC should help provide certainty with respect to the substantive rights and obligations under UCC Article 8 that are applicable to Philadep and SCCP and their participants particularly with respect to transactions with broker-dealers, banks, and other institutions that are participants of DTC and NSCC.

Philadep and SCCP have requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will enable Philadep and SCCP to admit West Canada Clearing Corporation and the West Canada Depository Trust Company (collectively "West Canada") as participants of Philadep and SCCP. With West Canada as participants, transactions in certain Canadian and U.S. securities between Canadian and American brokers can be cleared and settled through the facilities of Philadep and SCCP. Currently, such clearance and settlement is conducted between West Canada and the Midwest Securities Trust Company ("MSTC") and Midwest Clearing Corporation ("MCC"). Because MSTC and MCC are withdrawing from the clearance and settlement business, they will cease providing clearance and settlement services to West Canada on January 26, 1996. SCCP and Philadep's ability to commence clearing and settlement services in an arrangement with West Canada by January 26, 1996, should prevent disruption in the clearance and settlement of transactions by U.S. and Canadian broker-dealers. The staff of the Board of Governors of the Federal Reserve System has occurred with the Commission's granting of accelerated approval.[4]

The Commission is granting temporary approval of the proposed rule changes because the Commission believes the adoption of Article 8 of the New York UCC should continue to be examined, especially in the area of third parties that are not Philadep or SCCP participants, before the selection of such governing law is permanently approved. The Commission is requiring SCCP and Philadep to submit an opinion of counsel to address, among other things, the effect of the choice of law provisions upon third parties. In addition, while the Commission believes that approval of the proposed rule changes at this time is necessary to prevent the disruption of services for the clearance and settlement of certain transactions between U.S. and Canadian broker-dealers, the Commission recognizes that the period for public comment was brief. Because the Commission is encouraging public comment on these proposals, the Commission believes that it is appropriate to permit additional opportunities for public comment in the future.[5] For these reasons, the Commission is temporarily approving the proposed rule changes through June 30, 1996. During this period, the Commission will continue to analyze the developments and the application of Article 8 of the New York UCC and to review and assess public comments concerning the rule changes.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making such submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such findings will also be available for inspection and copying at the principal offices of Philadep and SCCP. All submissions should refer to File Nos. SR–PHILADEP–96–02 SR–SCCP–96–01 and should be submitted by February 23, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–PHILADEP–96–02 and SR–SCCP–96–01) be, and hereby are, approved through June 30, 1996.

For the Commission by the Division of Market Regulation pursuant to delegated authority.[6]

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[5] Prior to June 30, 1996, Philadep will be required to file a proposed rule change pursuant to Section 19(b) (2) of the Act to seek continued approval of the proposed rule change.

[6] Telephone conversation between Don Vinnedge, Manager, Trust Activities Program, Board of Governors of the Federal Reserve Board, and Jonathan Kallman, Associate Director, and Jerry Carpenter, Assistant Director, Division of Market Regulation, Commission (January 26, 1996).

[7] 17 CFR 200.30(a) (12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] In its filing, Philadep mistakenly cites proposed Rule 41. The correct reference is to proposed Rule 32. Telephone conversation between J. Keith Kessel, Compliance Officer, SCCP and Philadep, and Cheryl O. Tumlin, Staff Attorney, Division of Market Regulation ("Division"), Commission (January 25, 1996).

[3] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[4] Telephone conversion between Don Vinnedge, Manager, Trust Activities Program, Board of Governors of the Federal Reserve System, and Jonathan Kallman, Associate Director, and Jerry Carpenter, Assistant Director, Division, Commission (January 26, 1996).

[5] Prior to June 30, 1996, Philadep and SCCP will be required to file proposed rule changes pursuant to Section 19(b)(2) of the Act to seek continued approval of the current changes.

[6] 17 CFR 200.30–3 (a)(12)(1994).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 96–2174 Filed 2–1–96; 8:45 am]
BILLING CODE 8010–01–M

[Rel. No. IC–21712; No. 811–8336]

United of Omaha Separate Account B

January 29, 1996.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: United of Omaha Separate Account B.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on September 20, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 23, 1996, and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission 450 5th Street, NW., Washington, DC 20549. Applicant, Attn: Variable Products Counsel, 3-Law Mutual of Omaha Plaza, Omaha, Nebraska 68175–1008.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is organized as a Nebraska corporation, and is registered under the 1940 Act as a unit investment trust.

2. On February 4, 1994, Applicant filed a notification of registration under Section 8(a) of the 1940 Act and a registration statement on Form N–4 under Section 8(b) of the 1940 Act and under the Securities Act of 1933 (File No. 33–75000) registering an indefinite amount of securities in connection with the offering of a variable annuity contract ("Contract"). The registration statement has not become effective and no securities have been offered or sold.

3. Applicant currently has no assets, has no security holders or shares outstanding, and is in the process of winding up its affairs. Applicant has not issued any Contracts and does not intend to make a public offering of the Contracts.

4. Applicant is not a party to any litigation or administrative proceeding, and is not now engaged, nor does it intend to engage, in any business activities other than those necessary for winding-up of its affairs.[1]

5. Applicant has no liabilities.

6. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust.

7. Applicant does not intend to request that its registration statement be declared effective. The Applicant has not distributed any prospectuses to the public. Applicant intends to make an application under Rule 477 under the 1933 Act to withdraw its registration statement.

8. Applicant states that it is current with all of its filings under the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 96–2222 Filed 2–1–96; 8:45 am]
BILLING CODE 8010–01–M

[1] Applicant will amend the Application during the notice period to make this representation.

SMALL BUSINESS ADMINISTRATION

[(Declaration of Disaster Loan Area #2817)]

Florida; Declaration of Disaster Loan Area (Amendment #1)

The above numbered Declaration is hereby amended, effective January 9, 1996, to extend the deadline for filing applications for physical damage until January 31, 1996. All other information remains the same; i.e., the termination date for filing applications for economic injury is July 29, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 26, 1996.

Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 96–2211 Filed 2–1–96; 8:45 am]
BILLING CODE 8025–01–P

[(Declaration of Disaster Loan Area #2813)]

Florida; Declaration of Disaster Loan Area (Amendment #3)

The above numbered Declaration is hereby amended, effective January 9, 1996, to extend the deadline for filing applications for physical damage until January 31, 1996. All other information remains the same; i.e., the termination date for filing applications for economic injury is July 5, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 26, 1996.

Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 96–2210 Filed 2–1–96; 8:45 am]
BILLING CODE 8025–01–P

[Declaration of Economic Injury Disaster Loan Area #8735]

State of Rhode Island (and a Contiguous County in Connecticut); Declaration of Disaster Loan Area

Washington County and the contiguous counties of Kent and Newport in the State of Rhode Island and New London County in the State of Connecticut constitute an economic injury disaster area as a result of an oil spill which occurred on January 19, 1996 off the shores of Rhode Island. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on October 24, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number assigned to this disaster for the State of Connecticut is 873600.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: January 24, 1996.

Philip Lader,
Administrator.
[FR Doc. 96–2209 Filed 2–1–96; 8:45 am]
BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511, as amended (P.L. 104–13 effective October 1, 1995), The Paperwork Reduction Act. The information collection listed below, which was published in the **Federal Register** on December 8, has been submitted to OMB.

(Call the SSA Reports Clearance Officer on (410) 965–4142 for a copy of the form(s) or package(s), or write to her at the address listed after the information collections.)

SSA Reports Clearance Officer:
Charlotte S. Whitenight

1. Inquiry to File An SSI Child's Application—0960–NEW. The information collected on the form will be used by the Social Security Administration to document the earliest possible filing date and to determine potential eligibility for SSI child's benefits. The respondents are claimants for SSI benefits.

Number of Respondents: 2,100

Frequency of Response: 1

Average Burden Per Response: 10 minutes

Estimated Annual Burden: 350 hours

Written comments and recommendations regarding this information collection should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, Washington, DC 20503

(SSA)

Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235

Dated: January 29, 1996.

Charlotte Whitenight,
Reports Clearance Officer, Social Security Administration.
[FR Doc. 96–2156 Filed 2–1–96; 8:45 am]
BILLING CODE 4190–29–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 1/26/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1018
Date filed: January 22, 1996
Parties: Members of the International Air Transport Association
Subject:
COMP Telex Mail Vote 776 Amend Rounding Units for Mozambique r-1- 024d r-2- 033d Intended effective date: April 1, 1996

Docket Number: OST–96–1024
Date filed: January 24, 1996
Parties: Members of the International Air Transport Association
Subject:
TC3 Telex Mail Vote 777 Korea-Guam/Saipan fares r-1- 072a r-2- 085t Intended effective date: February 15, 1996

Docket Number: OST–96–1027
Date filed: January 24, 1996
Parties: Members of the International Air Transport Association
Subject:
TC12 Fares 0497 dated January 14, 1996 US-UK Add-ons Intended effective date: April 1, 1996

Docket Number: OST–96–1032
Date filed: January 26, 1996
Parties: Members of the International Air Transport Association
Subject:
TC31 Reso/P 1098 dated January 23, 1996 South Pacific Reso 002a Intended effective date: March 1, 1996

Paulette V. Twine,
Chief, Documentary Services Division.
[FR Doc. 96–2195 Filed 2–1–96; 8:45 am]
BILLING CODE 4910–02–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending January 26, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1019
Date filed: January 22, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 19, 1996
Description: Application of Panagra Airways, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing Panagra to conduct interstate charter air transportation operations.

Docket Number: OST–96–1020
Date filed: January 22, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 19, 1996
Description: Application of Panagra Airways, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing Panagra to conduct foreign charter air transportation operations.

Docket Number: OST–96–1023
Date filed: January 24, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 21, 1996
Description: Application of Gulf and Caribbean Cargo, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing Gulf & Caribbean to provide scheduled interstate and overseas air transportation of persons, property and mail.

Docket Number: OST–96–1034
Date filed: January 26, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 23, 1996
Description: Application of DHL Aero Expreso, S.A., pursuant to 49 U.S.C. Section 41302 and Subpart Q of the Regulations, applies for a foreign air carrier permit, to provide scheduled foreign air transportation of property and mail between the Republic of Panama to Miami, Florida, and to provide all-cargo foreign air transportation under charter subject to 14 CFR Part 211.

Paulette V. Twine,
Chief, Documentary Services Division
[FR Doc. 96–2196 Filed 2–1–96; 8:45 am]
BILLING CODE 4910–62–P

Office of the Secretary

Notice of Meeting

AGENCY: Department of Transportation, Office of the Secretary.

SUMMARY: The Department of Transportation (DOT) announces a meeting of the DOT Partnership Council (the Council). Notice of this meeting is required under the Federal Advisory Committee Act.

TIME AND PLACE: The Council will meet on February 14, 1996, at 9 a.m., at the Department of Transportation, Nassif Building, room 10,234–10,238, 400 Seventh Street, SW, Washington, DC 20590. The room is located on the 10th floor.

TYPE OF MEETING: These meetings will be open to the public. Seating will be available on a first-come, first-served basis. Handicapped individuals wishing to attend should contact DOT to obtain appropriate accommodations.

POINT OF CONTACT: John E. Budnik or Jean B. Lenderking, Labor-Employee Relations Office, Department of Transportation, Nassif Building, 400 Seventh Street, SW, room 9107, Washington, DC 20590, (202)-366-9439 or 202-366-8085, respectively.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to brief the Council on recommendations and implementation plans for career transition efforts at DOT consistent with the President's directive. In partnership with labor, DOT is establishing a career transition program to provide assistance to displaced and surplus employees. The Council will review and discuss career transition plans as well as provide recommendations for implementation to the Secretary.

Public Participation

We invite interested persons and organizations to submit comments on the principles and features that should be embodied in DOT career transition plans. We are especially interested in suggestions and ideas that ensure a successful career transition program for all DOT employees. Mail or deliver your comments or recommendations to Mr. John Budnik or Ms. Jean Lenderking at the address shown above. Comments should be received by February 9 in order to be considered at the February 14 meeting.

Issued in Washington, D.C., on January 26, 1996.

For the Department of Transportation.

John E. Budnik,

Chief, Office of Employee and Labor Relations.

[FR Doc. 96–2194 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Cyril E. King Airport; Charlotte Amalie, VI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Cyril E. King Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 4, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gordon A. Finch, Executive Director, of the Virgin Islands Port Authority at the following address: Virgin Islands Port Authority, P.O. Box 1707, St. Thomas, VI 00803–1707.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Virgin Islands Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, P.E. Programs Manager, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827, 407–648–6582. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Cyril E. King Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 26, 1996, the FAA determined that the application to use the revenue from a PFC submitted by Virgin Islands Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 10, 1996.

The following is a brief overview of PFC Application No. 96–04–U–00–STT.

Level of the PFC: $3.00.

Charge effective date: December 1, 1995.

Charge expiration date: July 31, 1997

Estimated PFC revenues to be used on the project for this application: $1,900,000.

Brief description of proposed project(s): Design and build an Aircraft Rescue and Fire-Fighting Facility.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Virgin Islands Port Authority.

Issued in Orlando, Florida on January 26, 1996.

Charles E. Blair,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 96–2252 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 96–003; Notice 1]

Michelin North America, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (Michelin) of Greenville, South Carolina, has determined that some of its tires fail to comply with the labeling requirements of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New Pneumatic Tires," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Michelin has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

In FMVSS No. 109, Paragraph S4.3(b) requires that tires be labeled with the maximum permissible inflation pressure.

From the 27th through the 37th week of 1995, Michelin produced approximately 247 tires which had incorrect maximum inflation pressure information in pounds per square inch (psi) on the label. The subject tire is a P185/75R14 X Radial BW. The label on these tires incorrectly gives the maximum inflation pressure as 33 psi. The maximum inflation pressure should be 35 psi. The tires are correctly labeled with a maximum inflation pressure of 240 kilopascals (kPa). All tires are sold only in the replacement market.

Michelin supports its application for inconsequential noncompliance with the following:

> [Michelin does] not believe that this minor error on the tire sidewall will impact motor vehicle safety since the pressure is correctly marked in kPa on the tire sidewall. Furthermore, the vehicle owners manual and/or vehicle placard, as required by 49 CFR Part 571.111 S4.3(c), instructs the user of the correct pressure to be used in the tire. Additionally, many publications, instructing the user to inflate tires to the recommended inflation found on the placard, are available to the public. Examples of these documents include:
>
> 1. Tire Industry Safety Council (CTG–1/94)—"Motorist's Tire Care and Safety Guide"—"The correct air pressure is shown on the tire placard (or sticker) attached to the vehicle-door edge, door post, glove box, or fuel door."
>
> 2. Tire Industry Safety Council—April 4, 1995 release—"Owners should inflate tires for normal operation to the vehicle manufacturer's recommended inflation pressure found on the door post, glove box, or in the owner's manual."
>
> 3. Rubber Manufacturers Association (ALT 8–87)—"Care and Service of Automobile and Light Truck Tires," "Proper tire inflation is shown on the vehicle's tire placard. If there is no tire placard, consult the vehicle owner's manual or check with the tire or vehicle manufacturer for the proper inflation."

Interested persons are invited to submit written data, views, and arguments on the application of Michelin described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested that ten copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 4, 1996.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: January 30, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2269 Filed 2–1–96; 8:45 am]

BILLING CODE 4910–59–M

Surface Transportation Board [1]

[STB Finance Docket No. 32856]

Burlington Northern Railroad Company—Trackage Rights Exemption—Iowa Interstate Railroad Ltd.

Iowa Interstate Railroad Ltd. has agreed to grant overhead trackage rights to Burlington Northern Railroad Company over 2.24 miles of rail line, (a) between milepost 177.25 and milepost 178.51 at or near Moline, IL, and (b) between milepost 180.42 and milepost 181.40 at or near Rock Island, IL. The trackage rights were to become effective on January 24, 1996.

This notice relates to a function that is subject to the Board's jurisdiction pursuant to 49 U.S.C. 11323. This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Board and served on: Michael E. Roper, Associate General Counsel, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102–5384.

As a condition to use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: January 25, 1996.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board).

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2217 Filed 2–1–96; 8:45 am]

BILLING CODE 4915–00–P

This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

[STB Finance Docket No. 32859]

Wisconsin Central Ltd. and Fox Valley & Western Ltd.—Joint Relocation Project Exemption—Oshkosh, WI

On January 17, 1996, Wisconsin Central Ltd. (WCL) and Fox Valley & Western Ltd. (FVW) jointly filed a notice of exemption under 49 CFR 1180.2(d)(5) to enter into a project to relocate lines of railroad in Oshkosh, WI. Both WCL and FVW are Class II railroads commonly controlled by Wisconsin Central Transportation Company. The proposed transaction is to be consummated on or after January 27, 1996.

WCL and FVW own and operate parallel lines of railroad through Oshkosh, WI. The joint relocation will reroute operations from, and allow removal of, several miles of duplicative rail line. WCL's current rail line runs through Oshkosh from milepost 168.8 near East Fisk Avenue to milepost 176.6 near Harrison Road in north Oshkosh.

Under the terms of joint project, WCL and FVW agree to the following: (1) Crossovers will occur at each end of the segment of the track to be relocated, connecting WCL's rail line to FVW's rail line at FVW milepost 190.00 near East Fish Avenue and at FVW milepost 197.05 near Harrison Road; (2) WCL will acquire trackage rights from FVW between FVW milepost 190.00 and FVW 197.05, a distance of 7.05 miles; and (3) WCL will acquire trackage rights from FVW between FVW milepost 181.6 and 190.00, a distance of 8.4 miles, which will allow WCL to access the relocated track at two connection points. WCL will acquire trackage rights from FVW totaling approximately 15.45 miles.

In addition, two small track segments will remain to allow WCL to serve shippers from the relocated line. One segment runs from approximately WCL milepost 169.36 (FVW milepost 190.52) to WCL milepost 172.05. The other runs from approximately WCL milepost 175.80 to WCL milepost 176.32 (FVW milepost 196.85).

The notice states that the joint relocation project will simplify rail operations within Oshkosh and will accommodate the efforts of the City of Oshkosh to reduce interference with

vehicular traffic. It also states that no shippers are located on the rail line that will be removed as part of this joint project.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. See *City of Detroit* v. *Canadian National Ry. Co., et al*, 9 I.C.C.2d 1208 (1993), aff'd, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. See *D.T.&I.R.—Trackage Rights*, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Any pleadings must be filed with the Board and served on: Janet H. Gilbert, Assistant General Counsel, Wisconsin Central Ltd. and Fox Valley & Western Ltd., 6250 North River Road, Suite 9000, Rosemont, IL 60018.

Decided: January 29, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2216 Filed 2–1–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Domestic Finance; Notice of Open Meeting of the Advisory Committee U.S. Community Adjustment and Investment Program

The Department of the Treasury, pursuant to the North American Free Trade Agreement ("NAFTA") Implementation Act (Pub. L. No. 103–182), established an advisory committee (the "Advisory Committee") for the community adjustment and investment program (the "Program"). The Program will provide financing to businesses and individuals in communities adversely impacted by NAFTA to create new jobs. The charter of the Advisory Committee has been filed in accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. No. 92–463), with the approval of the Secretary of the Treasury.

The Advisory Committee consists of nine members of the public, appointed by the President, who collectively represent: (1) Community groups whose constituencies include low-income families; (2) scientific, professional, business, nonprofit, or public interest organizations or associations, which are neither affiliated with, nor under the direction of, a government; and (3) for-profit business interests.

The objectives of the Advisory Committee are to: (1) Provide informed advice to the President regarding the implementation of the Program; and (2) review on a regular basis, the operation of the Program, and provide the President with the conclusions of its review. Pursuant to Executive Order No. 12916, dated May 13, 1994, the President established an interagency committee to implement the Program and to receive, on behalf of the President, advice of the Advisory Committee. The committee is chaired by the Secretary of the Treasury.

A meeting of the Advisory Committee, which will be open to the public, will be held in Los Angeles, California, at the Whittier Hilton Convention Center, 7320 Greenleaf Avenue, Whittier, California , from 9 a.m. to 3 p.m. on Friday, February 23, 1996. The room will accommodate approximately 75 persons and seating is available on a first-come, first-serve basis, unless space has been reserved in advance. Due to limited seating, prospective attendees are encouraged to contact the person listed below prior to February 20, 1996.

If you would like to have the Advisory Committee consider a written statement, material must be submitted to the U.S. Community Adjustment and Investment Program, Advisory Committee, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Room 1124, Washington, DC 20220 no later than February 16, 1996. If you have any questions, please call Dan Decena at (202) 622–0637. (Please note that this telephone number is not toll-free.)

Mozelle W. Thompson,

Deputy Assistant Secretary, Government Financial Policy.

[FR Doc. 96–2172 Filed 2–1–96; 8:45 am]

BILLING CODE 4810–15–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Sacred Realm: The Emergence of the Synagogue in the Ancient World" (see list),[1] imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed objects at Yeshiva University Museum, New York, New York, from on or about February 18, 1996, to on or about February 28, 1997, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: January 30, 1996.

Les Jin,

General Counsel.

[FR Doc. 96–2301 Filed 2–1–96; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. Paul W. Manning of the Office of the General Counsel of USIA. The telephone number is 202/619–5997, and the address is Room 700, United States Information Agency, 301 4th Street, SW, Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 61, No. 23
Friday, February 2, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, February 6, 1996, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Reports of actions approved by an officer of the Corporation pursuant to authority delegated by the Board of Directors.

Corporate Investment Portfolio Status Report.

Memorandum and resolution re: Final amendments to Part 353 of the Corporation's rules and regulations, entitled "Reports of Apparent Crimes Affecting Insured Nonmember Banks," concerning the reporting of known or suspected criminal and suspicious activities by insured state nonmember banks.

Discussion Agenda

Memorandum and resolution re: Interim final amendments to the Corporation's rules and regulations in the form of a new Part 366, entitled "Contractor Conflicts of Interest," which are applicable to private sector contractors, including law firms, which submit offers to provide services to the Corporation; would govern conflicts of interest, ethical responsibilities, and the use of confidential information by such contractors; and provide guidance to Corporation contracting personnel.

Memorandum and resolution re: Proposed amendments to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct," which would implement the requirements contained in section 19 of the Resolution Trust Corporation Completion Act, which amended the Federal Deposit Insurance Act, to prohibit any person from becoming employed or providing services to or on behalf of the Corporation who does not meet minimum standards of competence, experience, integrity, and fitness.

Memorandum and resolution re: Final Policy Statement on the Fitness and Integrity of Lessors of Real Property to the Corporation, which establishes the standards of fitness and integrity for lessors who lease space to the Corporation.

Memorandum and resolution re: Final Policy Statement on Securing Leased Space, which establishes the procedures that the Corporation will use when it leases space.

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations in the form of a new Part 359, to be entitled "Golden Parachute and Indemnification Payments," and final amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices Required to be Filed by Statute or Regulation," which limit the golden parachute and indemnification payments to institution-affiliated parties by insured depository institutions and depository institution holding companies; and (2) delegate to the Director of the Division of Supervision, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, the authority to approve or deny certain requests.

Memorandum and resolution re: Final amendments to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks," which restrict the amount and types of initial deposits of less than $100,000 which could be accepted by an uninsured state-licensed branch of a foreign bank.

Memorandum and resolution re: Final amendments to Part 363 of the Corporation's rules and regulations, entitled "Annual Independent Audits and Reporting Requirements," in order to conform the rule with the Riegle Community Development and Regulatory Improvement Act of 1994.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 942–3132 (Voice); (202) 942–3111 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Jerry L. Langley, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: January 30, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–2320 Filed 1–31–96; 11:13 am]

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, February 7, 1996.

PLACE: Marriner S. Eccles Federal Reserve Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Consideration of a possible approach to setting capital requirements for market risk (proposed earlier for public comment; Docket No. R–0886).

2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 31, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2320 Filed 1–31–96; 10:19 am]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Wednesday, February 7, 1996, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 31, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2321 Filed 1–31–96; 10:19 am]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the February 13, 1996 special meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Wednesday, February 21, 1996 at 10:00 a.m. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: January 30, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–2308 Filed 1–30–96; 5:13 am]

BILLING CODE 6705–01–P

Corrections

Federal Register

Vol. 61, No. 23

Friday, February 2, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[RP95-396-004]

Tennessee Gas Pipeline Company; Notice of Motion to Place Tariff Sheets Into Effect

Correction

In notice document 96–936, beginning on page 1918, in the issue of Wednesday, January 24, 1996, the Docket Number should read as cited above.

BILLING CODE 1505–01–D

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

Correction

In notice document 96–918 beginning on page 1934 in the issue of Wednesday, January 24, 1996, make the following correction:

On page 1934, in the second column, in the second paragraph, *Agreement No.:* "202–011497–001" should read "202–011407–001".

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36730; File No. SR-CHX-95-18]

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Relating to Priority and Precedence of Agency and Professional Orders

Correction

In notice document 96–1032, beginning on page 1958, in the issue of Wednesday, January 24, 1996, make the following corrections:

1. On page 1959, in the third column, before the FR document line, the signature line was omitted and should have appeared as follows:

Margaret H. McFarland,

Deputy Secretary.

2. On the same page, in the same column, in the FR document line, "95-1032" should read "96-1032".

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36714; File No. SR-NSCC-95-13]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change Enabling Members Settling Mutual Fund Transactions in Same Day Funds to Settle Through a Settling Bank

Correction

In notice document 96–793 beginning on page 1807, in the issue of Tuesday, January 23, 1996, make the following correction:

On page 1806, in the first column, before the FR document line, the signature line was omitted and should have appeared as follows:

Margaret H. McFarland,

Deputy Secretary.

BILLING CODE 1505–01–D

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Federal Register

Friday
February 2, 1996

Part II

Department of Justice

Antitrust Division

Public Comments and Response on Proposed Final Judgment, United States v. Sprint Corporation and Joint Venture Company; Notice

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 95–1304]

Public Comments and Response on Proposed Final Judgment, United States v. Sprint Corporation and Joint Venture Company

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States of America hereby publishes below the comments received on the proposed Final Judgment in *United States* v. *Sprint Corporation, et. al.*, Civil Action No. 95–1304, filed in the United States District Court for the District of Columbia, together with the United States' response to the comments.

Copies of the comments and response are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW., Washington, DC 20530, telephone: (202) 514–2481, and at the office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division.

Comments Relating to Proposed Final Judgment and Response of the United States to Comments

United States of America, Plaintiff, v. *Sprint Corporation and Joint Venture Company,* Defendants.

[Civil Action No. 95–1304 (TPJ)]

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)–(h)) ("APPA"), the United States of American hereby files the public comments it has received relating to the proposed Final Judgment in this civil antitrust proceeding, and herein responds to the public comments. The United States has carefully reviewed the public comments on the proposed Final Judgment. While the United States remains convinced that entry of the proposed Final Judgment is in the public interest, in this Response the United States clarifies the meaning of several provisions of the proposed Final Judgment in response to issues raised by the public comments to ensure that there is no uncertainty as to how the proposed Final Judgment will operate. The United States also explains why other provisions of the proposed Final Judgment that were questioned or criticized in the public comments need not be changed in light of the factual circumstances, including developments in France and Germany and actions taken by the European Commission and the Federal Communications Commission.

At this time, it would be premature for the Court to render a decision on entry of the proposed Final Judgment. The Joint Venture must first be made a party to the Stipulation consenting to entry of judgment, and the United States must have this Response and the public comments published in the **Federal Register**, certify that all of the requirements of the Tunney Act have been met, and move for entry of judgment. It is anticipated that these steps will be completed in a period between two weeks to a month from this filing. The filing of this Response has been delayed as a result of the shutdown of government functions in December and early January due to lack of funding. Before the United States moves to enter the Final Judgment, the United States and defendants expect to arrange with the Court for the scheduling of a status conference, in order to determine what further procedures the Court may wish to follow to complete the proceedings under the Tunney Act.

I

Background

A. The Proceedings in This Case

This action was commenced on July 13, 1995, when the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, alleging that the proposed acquisition of 20% of the stock of Sprint Corporation ("Sprint") by France Telecom ("FT") and Deutsche Telekom AG ("DT"), and the proposed formation by Sprint, FT and DT of a joint venture to provide international telecommunications services, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18. The Complaint alleges that because of the market power held by FT and DT in telecommunications services in France and Germany, the acquisition and the joint venture may substantially lessen competition in two markets: (1) provision of international telecommunications services between the United States and France, and between the United States and Germany, and (2) provision of seamless international telecommunications services.

Also on July 13, 1995, the United States submitted a proposed Final Judgment and a Stipulation, and this Court subsequently approved the Stipulation for filing. In the Stipulation, defendant Sprint and the United States have consented to entry of the proposed Final Judgment by the Court after completion of the procedures required by the APPA, and agreed to certain other preconditions for consummation of the transactions between Sprint, France Telecom and Deutsche Telekom.[1] After the Joint Venture has been formed, and before the Court is requested to enter the proposed Final Judgment, the United States and all defendants expect to file an amended version of the Stipulation including consent to entry of judgment by the Joint Venture.[2]

On August 14, 1995, the United States filed a Competitive Impact Statement explaining the basis for the Complaint and the provisions of the proposed Final Judgment, including their anticipated effect on competition in relevant markets. The terms and conditions imposed by the Final Judgment are intended to safeguard against discriminatory and other anticompetitive practices that would favor the defendants over competing United States providers of international telecommunications services and harm competition. The Competitive Impact Statement addresses the reasons why entry of the proposed Final Judgment would be in the public interest.

The proposed Final Judgment would subject Sprint and the Joint Venture to various restrictions affecting their relationship with FT and DT. These restrictions operate in two distinct phases, lessening over time as

[1] The United States has been advised by FT and DT that one of those preconditions, the divestiture of the Initial Tranche of FT's and DT's shares of Infonet Services Corporation, has now been completed.

[2] Paragraph 6 of the July 13, 1995 Stipulation signed by the United States and Sprint provides that "Joint Venture Co. is necessary as a defendant in this action, together with Sprint, for the relief specified in the proposed Final Judgment to be effective." It further sets out required conditions pertaining to Joint Venture Co. including "that Joint Venture Co. (i) has been created as a legal entity, (ii) is subject to suit and is within the reach of the jurisdiction of the United States courts, and (iii) will have full authority and power to carry out all of the obligations imposed upon it by the proposed Final Judgment as those obligations take effect, and Joint Venture Co. has consented to and executed this Stipulation on the same terms as Sprint, without reservation or qualification, • • •" The stipulation further provides that until these conditions pertaining to Joint Venture Co. are satisfied, the United States "shall be under no obligation to move for entry of the Final Judgment and may withdraw its consent to entry of the Final Judgment, and defendants shall not move for entry of the Final Judgment." The original stipulation signed by both Sprint and the United States essentially makes the formation of the joint venture and its execution of the Stipulation consenting to entry of the proposed Final Judgment preconditions for entry of the Final Judgment.

competition develops in France and Germany. During Phase I, while DT and FT still have monopoly rights in Germany and France and competitors have not been licensed, Sprint and the Joint Venture may not acquire ownership or control of certain types of facilities from FT and DT, may not provide services in which FT or DT have special rights except in limited, non-exclusive circumstances, and may not benefit from discriminatory treatment, disproportionate allocation of international traffic, or cross-subsidization by FT and DT. In addition, access to the French and German public switched networks and public data networks cannot be limited in such a way as to exclude competitors of Sprint and the Joint Venture.

During both Phase I and Phase II, after FT and DT face licensed competitors in all areas of services and facilities in France and Germany, Sprint and the Joint Venture must make certain information on their relationships with FT and DT available to competitors, will be precluded from receiving competitively sensitive information that FT and DT obtain from the competitors of Sprint and the Joint Venture, and may not offer particular services between the United States and France and Germany unless other United States providers also have or can readily obtain licenses from the French and German governments to offer the same services. These provisions of the decree will remain in effect for five years beyond the end of the first phase.

B. Other Significant Developments Affecting These Transactions

In the Competitive Impact Statement, the United States noted that both the competition authorities of the Commission of the European Union, and the Federal Communications Commission in the United States, had pending investigations of these transactions. See *Competitive Impact Statement*, 60 Fed. Reg. 44049, at 44065 (Aug. 24, 1995). The issues in these separate investigations overlapped to a certain extent with those considered by the United States under the Clayton Act, but also differed significantly in some respects, both for jurisdictional and substantive reasons. The European Commission and the FCC now have both resolved their separate investigations of these transactions. Both of these authorities have determined that the transactions should be allowed to proceed, subject to various modifications, limitations and safeguards addressing the concerns within their areas of responsibility. Other relevant developments have also taken place in the European Union and in France and Germany indicating further progress toward removal of legal barriers to competition and the establishment of effective regulatory regimes to protect competition.

1. The European Commission Decision

The competition authorities of the European Commission considered not only the transactions between Sprint, France Telecom and Deutsche Telekom leading to the formation of the "Phoenix" alliance referred to in the proposed Final Judgment as Joint Venture Co., but also the formation of the strategic alliance between France Telecom and Deutsche Telekom in Europe known as "Atlas," which was outside the scope of U.S. antitrust review. Their decision, first reached and announced in October 1995 shortly before the end of the public comment period on the proposed Final Judgment, was officially published on December 15, 1995.[3] It is subject to an ongoing public comment period before it is finalized, which will likely occur sometime in the first half of 1996.

The European Commission recognizes in its decision that other competitors of the Atlas and Phoenix ventures will be dependent in France and Germany on the monopoly services of FT and DT, including the public switched telephone network (PSTN) and other reserved services such as leased lines. Moreover, FT and DT already have very high market shares in various types of services in their home countries that the parties had planned to provide through Atlas and Phoenix, including standardized low-level packet-switched data communications services. The European Commission gives DT's share of data communications services in Germany as 79%, and FT's share of data communications services in France as 77%. In order for the Atlas and Phoenix transactions to be exempted from the prohibitions of European competition law and enabled to proceed, FT and DT accepted various conditions and modifications to the transactions, while the French and German governments also committed to make important changes in their national laws.

First, the French and German governments have made a written commitment to the European Commission to permit competition in the provision of telecommunications infrastructure for services other than public switched voice by July 1, 1996, and to permit full competition for voice telephone services and all types of telecommunications infrastructure by January 1, 1998. This early liberalization for infrastructure used for services other than public switched voice will authorize competitors in France and Germany to begin developing and operating alternative telecommunications networks a year and a half before the date of full liberalization in France and Germany, and also considerably before the earliest time that a shift from Phase I to Phase II could occur under the proposed Final Judgment. For Phase II to begin in either France or Germany, there must have been, among other things, complete removal of all legal prohibitions on competition, which would not occur before January 1, 1998 at the earliest based on current schedules for liberalization in France and Germany.

Second, FT is precluded from integrating its Transpac public switched X.25 data network in France into Atlas, and DT similarly is precluded from integrating its Datex-P public switched X.25 data network in Germany into Atlas, until January 1, 1998, the planned date of full liberalization. Atlas may not acquire any form of legal ownership or control over the Transpac network in France or the Datex-P network in Germany before that date, although certain international operations of Transpac outside of France can be contributed to Atlas. In essence, the European competition authorities have extended to Atlas the prohibition on integrating the Public Data Networks into Phoenix during Phase I that is contained in Section III.B of the proposed Final Judgment.[4] The Transpac and Datex-P networks in France and Germany are to be wholly owned subsidiaries of FT and DT during the period before they can be integrated into Atlas, while Atlas will have subsidiaries of its own in France and

[3] Case No. IV/33,337—Atlas, *Notice pursuant to Article 19(3) of Council Regulation No. 17 and Article 3 of Protocol 21 of the European Economic Area Agreement concerning a request for negative clearance or an exemption pursuant to Article 85(3) of the EC Treaty and Article 53(3) of the EEA Agreement*, 1995 O.J. No. C 337/2 (Dec. 15, 1995), and Case No. IV/35,617—Phoenix, *Notice pursuant to Article 19(3) of Council Regulation No. 17 and Article 3 of Protocol 21 of the European Economic Area Agreement concerning a request for negative clearance or an exemption pursuant to Article 85(3) of the EC Treaty and Article 53(3) of the EEA Agreement*, 1995 O.J. No. C 337/13 (Dec. 15, 1995). For convenience these decisions have been attached to this Response as Exhibit H.

[4] There are minor differences between these integration prohibitions. The European authorities have opted for a fixed date on which the prohibition terminates, whereas the termination of Phase I is flexible and depends on the satisfaction of certain conditions, and also can differ for France and for Germany. Also, the definition of the Public Data Networks in Section V.S. of the proposed Final Judgment, with respect to Germany, is broader than the Datex-P network and also includes some other data services.

Germany to provide its other services. FT and DT will have the ability to cooperate with respect to Transpac and Datex-P, using Atlas as a manager, only in certain specified areas involving the development of common products and technical network elements, including network planning and information systems.

Third, FT has committed to divest its Info AG data network in Germany, instead of integrating it into Atlas. This responds to concerns on the part of the EU competition authorities about loss of horizontal competition between Info AG and DT in Germany in data services, similar to the concern of the United States about the loss of competition between Sprint and Infonet Services Corporation in the U.S., which was addressed by FT's and DT's agreement to divest their interest in Infonet.

Fourth, Atlas and Phoenix will not act as agents for the international half-circuits of DT and FT, a change to the original agreements of the parties. These international half-circuits will continue to be sold by DT and FT directly.

Fifth, the non-compete agreements of the parties to the Phoenix joint venture will not apply to long distance services, except for competition with entities providing long distance services that are controlled by Phoenix.

Sixth, Atlas, Phoenix, DT, FT and Sprint and their affiliates are precluded from making a telecommunications operator's ability to use the Phoenix international carrier services (*i.e.*, sales of switched transit capacity to other telecommunications carriers), or the commercial terms on which such services are offered, conditional upon use or distribution by that telecommunications operator of services of Atlas, Phoenix, DT, FT or Sprint.

Seventh, DT and FT have committed directly for Atlas, and DT, FT and Sprint have committed for Phoenix, to certain undertakings regarding forms of behavior that could have anticompetitive effects. These undertakings, enforceable by the European competition authorities, are similar in many respects to the obligations that would be made binding on Sprint and the Joint Venture directly, and indirectly affect FT's and DT's conduct, under the terms of the proposed Final Judgment. They do not conflict with the proposed Final Judgment in any way.

Several of these undertakings are directed at preventing discrimination in public switched telephone network (PSTN) and reserved services, such as leased lines. FT and DT will be required to give similar terms and conditions of service (including availability, price, quality of service, usage conditions, delays for installation and repair and maintenance) to Atlas and Phoenix and other providers of similar services, with respect to FT's and DT's PSTN services and other reserved services. Atlas and Phoenix are not to be granted terms and conditions or to be exempted from usage restrictions regarding the PSTN and other reserved services that would enable them to offer services that competing providers are prevented from offering. DT and FT are prohibited from discriminating between Atlas and Phoenix and any competing service provider in connection with substantial modifications to interfaces for reserved services or the disclosure of technical information relating to the operation of the PSTN. DT and FT also are prohibited from discriminating between Atlas and Phoenix and other competitors regarding the disclosure of commercial information, including customer information derived from operating the PSTN or providing reserved services, that would confer a substantial competitive advantage and is not readily available elsewhere. While these restrictions presumably would cease to apply to particular services as they lose their reserved status, they would continue to apply to the PSTN with no specific time limit.

Other undertakings are intended to ensure that access to the DT and FT national public switched data networks remains available to competitors. These services, though not considered to be PSTN or reserved services, nonetheless are ones for which DT and FT remain the dominant providers in their home countries. DT and FT will be required, as of January 1, 1996, to establish and maintain third-party access to their public switched data networks in Germany and France on a non-discriminatory, open, and transparent basis, for all other providers of X.25 packet-switched data communications services. In order to ensure such non-discriminatory access to their national public switched data networks, DT and FT will be required to establish and maintain interfaces based on the X.75 standard (a form of protocol for interconnection between data networks that is commonly used as an international standard and is suitable for the provision of end-to-end X.25 services) or any other generally used standard interconnection protocol that may modify, replace or co-exist with the X.75 standard. Access based on such protocols is to be offered on publicly available standard non-discriminatory terms including price, availability of volume or other discounts, and quality of interconnection, and FT and DT are required to make available to the European competition authorities the terms of any agreements concerning access. Atlas, Datex-P and Transpac will not be prohibited, however, from developing additional proprietary interfaces between their networks, provided that access granted to Atlas through such interfaces is economically equivalent to the access that third parties are able to obtain. Apart from a prohibition on the sharing of customers' confidential interconnection information between Transpac, Datex-P and Atlas, which would be lifted once these networks can be combined into Atlas, the obligations regarding access to the public data networks do not expire at any predetermined time.

Further undertakings are directed at preventing cross-subsidization by FT and DT of the Atlas and Phoenix ventures as well as Datex-P and Transpac. These obligations last until the telecommunications infrastructure and service markets in France and Germany are fully liberalized, as is expected to occur by January 1, 1998. All entities formed pursuant to the Atlas and Phoenix ventures must be distinct and separate from DT and FT. Atlas, Phoenix, Datex-P and Transpac must obtain their own debt financing, with certain exceptions similar to those in the proposed Final Judgment. They are also prohibited from allocating directly or indirectly any part of their operating expenses, costs, depreciation, or other business expenses to any parts of FT's or DT's business units, again with provisos similar to the proposed Final Judgment. They are required to keep separate accounting records identifying payments and transfers to and from FT and DT, and are prohibited from receiving any material subsidy or any investment or payment from FT or DT that is not recorded in their books as an investment in debt or equity.

Atlas, Transpac and Datex-P will be subject to regular auditing obligations to ensure that any transactions between them and FT or DT are on an arm's length basis. FT, DT, Phoenix and Atlas will also be subject to recording and reporting obligations, in order to enable FT's and DT's undertakings not to discriminate or cross-subsidize to be effectively monitored by the European Commission competition authorities. These conditions will last until full telecommunications liberalization takes place in France and Germany.

2. The FCC Decision

On December 15, 1995, the Federal Communications Commission announced its decision on the proposed acquisition by FT and DT of 20% of the equity of Sprint, and the formation of the "Phoenix" joint venture between these three companies, under the "public interest" standard of the Communications Act of 1934 and relevant provisions of that statute, including 47 U.S.C. §§ 214 and 310(b).[5] The FCC, similarly to the United States, has recognized in its decision that the 20% investment in Sprint and formation of the Joint Venture will give FT and DT incentives that they would not otherwise have to engage in various types of anticompetitive behavior favoring Sprint and the Joint Venture over other U.S. competitors, potentially raising prices and reducing service quality and innovation.[6] Based on the recent policy shift by the French and German governments toward competitive telecommunications markets and the potential benefits of the transactions for consumers, the FCC has determined that allowing these transactions to be consummated would be in the public interest notwithstanding the present lack of "effective competitive opportunities" for U.S. providers in France and Germany. However, it has also imposed several significant conditions on the transactions.

First, the FCC has restricted Sprint's ability to operate new international circuit capacity to France and Germany for either its own use or that of the Joint Venture, beyond the existing and idle capacity it already has to those countries on several submarine cables, until (1) infrastructure liberalization for facilities used to provide services other than public switched voice has actually occurred in France and Germany (as the European Commission's settlement requires to take place by July 1, 1996), and (2) opportunities exist in France and Germany for basic public switched voice resale services to be provided on a competitive basis, including international traffic between France and Germany and the U.S.[7]

Second, Sprint will be subject to regulation as a "dominant carrier" with respect to traffic between the U.S. and France and Germany, due to its relationship with FT and DT, which are considered to be dominant carriers in their home markets, until Sprint demonstrates that there is no longer a substantial risk of anticompetitive effects in the U.S. arising from its relationship with FT and DT. This would mean that Sprint would be required to notify the FCC and obtain approval whenever it seeks to add new circuits to those countries, either for itself or the Joint Venture, whereas nondominant carriers only need obtain approval when first commencing service to a particular country and can thereafter add capacity freely. It would also mean that Sprint's tariffs filed with the FCC for basic telecommunications services, such as switched voice, to France and Germany would be subject to longer waiting periods before taking effect, and that Sprint would have to file quarterly traffic and revenuer reports.[8]

Third, Sprint will be obligated not to accept any "special concessions" directly or indirectly from any foreign carrier or administration, including FT or DT, with respect to traffic or revenue flows between the United States and any foreign country, including France or Germany. Other U.S. carriers that are considered to be affiliated with a foreign telecommunications carrier under 47 C.F.R. § 63.14 have a similar obligation. This requirement will remain in place indefinitely, unless removed by the FCC. "Special concessions" are defined by the FCC to include any arrangements that affect traffic or revenue flows to or from the United States that are offered to a particular U.S. carrier but not to other similarly situated U.S. carriers that are authorized to serve a particular route. 47 C.F.R. § 63/01(r)(3)(1). The FCC's decision illustrates the effect of this prohibition with detailed examples. Sprint would be precluded from accepting disproportionate amounts of return traffic, preferential changes in methods of allocating traffic, or discriminatory accounting rates from FT or DT.

Furthermore, if FT or DT were to grant an operating agreement or marketing arrangement to Sprint for a particular type of basic service but to withhold such agreements from other similarly situated U.S. carriers, or only offer agreements on discriminatory terms, Sprint would be in violation of the "no special concessions" requirement were it to offer service under the special operating agreement or marketing arrangement. Sprint will also be precluded from accepting any discriminatory interconnection or distribution arrangements from FT or DT, or arrangements for the joint handling of basic traffic involving third countries that are not available to other U.S. carriers. Sprint could not receive directly or through the Joint Venture (i) information about FT's or DT's basic network services that had not been publicly disclosed and that would affect U.S. carriers' provision of service, (ii) proprietary or confidential information that FT or DT have obtained from other competing U.S. carriers, or (iii) FT's or DT's telephone customer information that is not also available to U.S. competitors. In furtherance of this obligation not to accept special concessions, Sprint will also have to obtain a written commitment from FT and DT not to offer or provide any special concessions to Sprint or the joint venture relating to the provision of basic telecommunications services or facilities. Sprint also will be obligated to maintain records on its provisioning and maintenance of network facilities and services with FT and DT (including services or facilities procured on behalf of Joint Venture customers), to file various types of reports with the FCC on its numbers of circuits, revenues, numbers of messages and minutes for originating and terminating traffic between the U.S. and France and Germany, and to make available its contracts and agreements with FT and DT relating to routing of traffic and settlement of accounts on the U.S.-France and U.S.-Germany routes.[9] These conditions are similar to the obligations the FCC imposed on MCI in connection with its sale of 20% of its equity to British Telecommunications plc and formation of a joint venture in 1994.[10]

Fourth, Sprint will have to obtain a written commitment from France Telecom to lower its accounting rates for U.S.-France traffic within two years to the levels of the lower accounting rates between U.S. carriers and British carriers for U.S.-U.K. traffic, and between U.S. carriers and DT for U.S.-Germany traffic. The FFC has found that the U.S.-France rates are 28% above the level of the others and that this difference is unjustified.[11]

Fifth, Sprint will have to file annual reports, beginning in 1996, concerning the status of telecommunications markets and regulatory regimes in France and Germany.[12] These reports are intended to enable the FCC to evaluate how far France and Germany have progressed toward meeting the

[5] *In the motter of Sprint Corporation Petition for Declaratory Ruling Concerning Section 310(b)(4) and (d) and the Public Interest Requirements of the Communications Act of 1934, as amended*, File No. ISP–95–002, FCC 95–498 (released January 11, 1996) (hereinafter "FCC Sprint Order"). Because this document is lengthy and is publicly available in the U.S., it has not been attached as an exhibit to this Response.

[6] *Id.*, ¶¶ 56–57.

[7] *Id.*, ¶¶ 109–115.

[8] *Id.*, ¶¶ 103–108.

[9] *Id.*, ¶¶ 116–127.

[10] *MCI Communications Corporation/British Telecommunications plc, Joint Petition for Declaratory Ruling Concerning Section 310(b)(4) and (d) of the Communications Act of 1934, as amended*, 9 FCC Rcd 3960, 3973 (released July 25, 1994).

[11] FCC Sprint Order, ¶¶ 90–92, 131.

[12] *Id.*, ¶¶ 128–29.

"effective competitive opportunities" criteria that the FCC has announced it will apply generally to foreign telecommunications carrier acquisitions of over 25% of the equity in U.S. telecommunications carriers leading to affiliation, or other investments likely to have competitive significance.[13] The reports will continue until the FCC finds that "effective competitive opportunities" exist in France and Germany, and the FCC has said that it will reconsider whether the public interest continues to be served by Sprint's authority to provide facilities to France and Germany if effective competitive opportunities are not available by 1998.[14]

3. Other Significant Actions by European Union Authorities

The Competitive Impact Statement addresses the European Union's overall plans for the introduction of full telecommunications competition by January 1, 1998, and infrastructure competition for services other than public switched voice in 1996. 60 Fed. Reg. at 44062. Over the past few months, the Commission of the European Union has proposed several other major directives, all of which are necessary steps on the road to full competition and an effective regulatory framework, and together indicate the substantial progress that is now being made toward telecommunications competition.

On July 19, 1995, the European Commission issued a proposed draft directive governing interconnection in telecommunications, which has now been submitted to the Parliament and the Council of Ministers who are responsible for adopting it.[15] This directive comprehensively addresses the manner in which Member States of the European Union, including France and Germany, would be required to ensure that telecommunications operators such as France Telecom and Deutsche Telekom provide interconnection to their networks for other telecommunications network and service providers. Under the terms of this directive, FT and DT, as entities with significant market power, would have to establish transparent, unbundled, cost-oriented interconnection charges, and would not be able to discriminate among providers in interconnection. They would have to publish tariffs for their standardized interconnection services, and not simply establish interconnection terms through commercial negotiation as is more typical today. Moreover, where any interconnection arrangements are negotiated, regulatory authorities would have to ensure that agreements are reached within specified times and provide for review with published decisions. This directive is scheduled for final adoption by the end of 1996, and member States, including France and Germany, would have to take the measures necessary to bring themselves into compliance before the end of 1997, so as to have an interconnection regulatory regime in place prior to the start of full competition.

On November 14, 1995, the European Commission also adopted a proposed draft directive, to be acted upon by the Parliament and Council of Ministers, to ensure a common framework in the European Union for the grant of general authorizations and individual licenses to provide telecommunications services by the Member States, including France and Germany.[16] This directive would apply to all types of telecommunications services as they become open to competition. Under this proposed directive, Member States would not be permitted to impose limits on the number of licenses granted to provide particular services or facilities, except as necessary in the case of radio-based services because of limits on the availability of spectrum. Licensing procedures would have to be open, transparent and nondiscriminatory, and any denials of licenses would have to be justified and subject to appeal. This directive is scheduled for final adoption by the fall of 1996, and Member States would have to take measures to bring themselves into compliance by July 1, 1997, six months before the start of full competition, so as to enable competitors to be licensed in a timely manner.

Other existing European Union directives governing telecommunications services are also being updated to account for the plans for full introduction of competition by 1998. Under proposed changes to the existing directive governing the framework for open network provision, announced on November 14, 1995 by the European Commission, Member States that retain a significant degree of ownership or control of a telecommunications provider, as France and Germany both still do, would have to take additional measures to ensure the effective separation of regulatory activities from activities of the government related to ownership or control of the telecommunications provider.[17] The regulatory authorities would have to be both legally distinct from and functionally independent of all organizations providing telecommunications networks or services, effective structural separation from any activities associated with ownership or control of such organizations would have to exist, and rights of appeal from the regulator to an independent body would have to be provided. These changes to the framework directive are also scheduled for final adoption by the fall of 1996, and Member States would have to take the measures needed to bring themselves into compliance by the end of 1997.

[13] The "effective competitive opportunities" criteria are explained fully in the FCC's decision in *Market Entry and Regulation of Foreign-affiliated Entities*, IB Docket No. 95–22, Report and Order (released Nov. 30, 1995). In summary, they are: (1) whether U.S. carriers can, as a matter of law, offer in the foreign country international facilities-based services, including the ability to obtain a controlling interest in a facilities-based provider and to offer basic International Message Telephone Service traffic; (2) the availability of reasonable and nondiscriminatory published charges, terms and conditions for interconnection to foreign domestic carriers' facilities for termination and origination of international services; (3) whether competitive safeguards exist in the foreign country to protect against anticompetitive conduct, including cost-allocation rules to prevent cross-subsidization, timely and nondiscriminatory disclosure of technical information needed to use or interconnect with carriers' facilities, and protection of carrier and customer proprietary information; and (4) whether there is an effective regulatory framework in the foreign country to develop, implement and enforce legal requirements, interconnection arrangements and other competitive safeguards, including separation between the regulator and the foreign operator of international facilities-based services, and the existence of fair and transparent regulatory procedures. A favorable competitive opportunities finding can be made if effective competitive opportunities currently exist or it is reasonably certain that they will be available in the near future. The FCC places greatest emphasis on the legal ability to provide international facilities-based service, but if any of the factors of the test are completely absent, the FCC will deny authority to provide facilities-based service on an international route where the foreign carrier is dominant at its end, unless other public interest factors lead to a different result. *Id.* at ¶¶ 42–55.

[14] FCC Sprint Order, ¶ 132.

[15] Commission of the European Communities, *Proposal for a European Parliament and Council Directive on Interconnection in Telecommunications*, COM (95) 379 final, O.J. No. C 313/7, November 24, 1995. Although only recently published, this directive was submitted by the Commission on August 31, 1995, shortly after the Competitive Impact Statement was filed in this case.

[16] Commission of the European Communities, *Proposal for a European Parliament and Council Directive on a Common Framework for General Authorizations and Individual Licenses in the Field of Telecommunications Services*, COM (95) 545, Nov. 14, 1995.

[17] Commission of the European Communities, *Proposal for a European Parliament and Council Directive amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaption to a competitive environment in telecommunications*, COM (95) 543 final, Nov. 11, 1995.

4. Progress Toward Competition in Germany and France

Notwithstanding these important developments at the level of the European Union, it is also necessary to consider actions taken by the German and French governments to move towards a competitive telecommunications environment. European Union measures must be transposed into law at the national level, and national regulatory authorities have the primary responsibility for implementing and enforcing them. Even though the European Union telecommunications directives do not discriminate among European and U.S.-owned providers in the rights that would be accorded to firms doing business in Europe, the Member States retain the authority to establish the terms on which international services to countries outside the European Union will be provided, as discussed in the Competitive Impact Statement, 60 Fed. Reg. at 44063. They may elect to liberalize these services partly or entirely on their own now, or to await the results of ongoing multilateral trade negotiations on telecommunications services.

a. *Germany.* The German government set out its proposals for liberalization in March 1995,[18] and these proposals are generally in line with the approach being taken by the European Union. Draft legislation for a new Telecommunications Act was to be prepared by fall 1995, and the United States understands that this process is on schedule. Draft legislation was in fact released by the German Post and Telecommunications Minister in June 1995 and now is under consideration at the highest levels of the German government. The legislation originally was scheduled to be adopted by both houses of the German federal legislature by summer 1996, and now is expected to be passed even earlier, in the late spring of 1996. By the spring of 1997, even more rapidly than the European Union would require, the German telecommunications regulator expects to have awarded licenses to applicants, and it will not restrict the numbers of licenses made available, except where necessary due to scarcity of resources such as frequencies, nor will it impose restrictions on foreign investment in licensees. The new telecommunications law will take effect by January 1, 1998. As part of the new legislation, the German government also is considering various alternatives to create a more independent telecommunications regulator.

Having agreed to authorize competition for infrastructure used to provide services other than public switched voice, the German government is also preparing legislation for this partial early liberalization, which is planned to be adopted by the German federal legislature by the spring of 1996, apparently as part of the larger telecommunications reform law. The German government informed the FCC by letter on October 17, 1995 that it is committed to allowing alternative facilities providers to commence operations as of July 1, 1996.[19] Also, in October 1995, the German telecommunications regulator adopted a licensing regulation, which is to be used to consider applications to operate competing telecommunications systems pending the enactment of the new law.[20]

The German government has confirmed, in a letter from the Bundesministerium für Post und Telekommunikation (BMPT), the German telecommunications regulator, to the Department of Justice,[21] that international telecommunications infrastructure, including submarine cable ownership interests, will be included within the partial liberalization of infrastructure planned to occur by July 1, 1996. At that time, providers other than Deutsche Telekom will acquire the right to set up and operate transmission lines for all services other than public voice telephony. The BMPT has stated that Germany does not require special licenses for submarine cable landing rights, and there will be "non-discriminatory, open and transparent access regulation in Germany for submarine cables," without regard to the nationality of the operator or owner of the cable. Thus, U.S. firms should lawfully be able to acquire interests in the German end of submarine cables by mid-1996 and use such facilities for services other than public switched voice. The BMPT also has informed the Department that it intends to issue a draft regulation governing interconnection with public telecommunications networks immediately following the entry into force of the proposed new Telecommunications Act in 1996, although the draft of this regulation is not yet prepared and the exact date of its submission has not yet been scheduled.

In Germany, there are several large firms that are already providing some types of telecommunications services now open to competition, and have announced plans to become telecommunications carriers once they are able to obtain licenses, including Mannesmann/CNI, Thyssen, Vebacom, RWE and VIAG. Mannesmann is the major competing cellular radio provider and Thyssen also has a mobile radio license, while the other firms all have some amount of wireline and fiber-optic infrastructure that is used for their own internal or separate business purposes today and might be offered for telecommunications networks were they permitted to compete in this area. The German national railway, Deutsche Bahn, also has internal telecommunications capabilities and rights of way that it plans to make available to others for telecommunications networks. Vebacom and VIAG have already formed international alliances with the principal British telecommunications carriers, British Telecom and Cable & Wireless. In some major German cities, such as Frankfurt and Cologne, authorization has already been granted for firms other than Deutsche Telekom, including U.S. providers such as MFS, to establish local telecommunications networks serving business users.[22] These developments do not mean that Deutsche Telekom is in imminent danger of losing its dominant position in German telecommunications markets. For the reasons indicated in the Complaint and Competitive Impact Statement in this case, it is reasonable to expect that DT will continue to exercise market power for some time. But these developments do indicate that actual and potential competitors exist that may be willing to take advantage of early infrastructure liberalization in Germany and begin to develop alternative networks in advance of full liberalization.

b. *France.* Progress toward liberalization in France has not been as

[18] Federal Ministry for Post and Telecommunications, *Corner Stones of a Future Regulation Framework in the Telecommunications Sector*, March 27, 1995.

[19] FCC Sprint Order, ¶ 67, citing Letter from Dr. Wolfgang Boetsch, Federal Minister for Posts and Telecommunications, to Reed E. Hundt, Chairman, Federal Communications Commission (Oct. 17, 1995).

[20] Regulation on the Opening of Markets for Services as well as on the Content, Scope and Procedure of Licensing in the Telecommunications Sector, October 31, 1995.

[21] Letter from Dr. Witte, BMPT, to Carl Willner, Department of Justice (December 13, 1995). This letter is attached to this Response as Exhibit I.

[22] These networks are being established under an exception to the general DT monopoly still in effect on telecommunications infrastructure that permits separate facilities to be established to provide non-monopoly services, but only with a 25 kilometer limit. At present they must use DT leased lines for interconnections outside the 25 kilometer area.

rapid as in Germany. Privatization of FT, if it occurs at all, will only be partial, with the French government retaining a controlling interest. Unlike Germany, no privatization legislation has been introduced let alone enacted. Nor has the process of adopting legislation governing the transition to full competition progressed as rapidly as in Germany.

An important step, however, has been taken with the publication by the French Ministry of Information Technologies and Postal Services and the French telecommunications regulator, Direction Generale des Postes et Telecommunications (DGPT), in October 1995, of a consultative document outlining the steps to be taken and the timetable planned for introduction of competition.[23] This document indicates that the French government plans in March 1996 to introduce telecommunications reform legislation for the full introduction of competition by January 1, 1998, with passage of the legislation by Parliament expected during the spring of 1996. By the end of 1996, regulations reflecting the new law are to be established, along with the principles for interconnection and licensing of competitors. Licenses are to be issued to competing telecommunications operators in the spring of 1997. The consultative document outlines the types of services for which individual licenses, as opposed to general authorizations, will be required. According to the DGPT, the number of licenses for services or facilities should not be limited, unless this is justified by scarcity of resources such as frequencies. Some telecommunications operators, including France Telecom, will be required to publish their interconnection terms in advance, rather than relying merely on commercial negotiation, and the structure and pricing of their interconnection terms will be subject to regulatory approval based on auditable cost accounts. France Telecom will be expected to issue its interconnection tariffs by July 1997, according to the consultative document. This document also addresses the need for changes to give the telecommunications regulator greater independence as part of the opening of the French telecommunications markets to full competition and considers options to do so, suggesting that this could be done as early as January 1, 1997.

In one important respect, partial liberalization of infrastructure for services other than public switched voice, France is able to move more rapidly than Germany, since the regulator already has some statutory authority to permit greater competition without the need to pass new legislation as in Germany. The regulator has already granted experimental licenses for some competitive pilot projects, and one U.S. firm, MFS, has been authorized to establish competing local fiber-optic infrastructure for closed groups of business users in Paris. The French government has informed the FCC, by letter of October 20, 1995, that legislation to provide for alternative infrastructure liberalization for services other than public switched voice will be introduced in the French Parliament in the spring of 1996 and will take effect by July 1, 1996.[24]

To date, not as many large potential providers of competing telecommunications networks have emerged in France as in Germany. The French telecommunications regulator anticipates that France Telcom's dominant position will continue for some time.[25] One major firm that plans full-scale entry into liberalized telecommunications services and infrastructure, however, is Compaignie Generale des Eaux (CGE). This firm is already a provider of cable television infrastructure as well as the largest shareholder of France's principal competing mobile telephone services provider, SFR, and provides various types of business telecommunications services that are already open to competition in France. AT&T and the Unisource partners (the principal telecommunications providers in Sweden, the Netherlands, Spain and Switzerland) have reached an agreement to form a strategic alliance with CGE's telecommunications subsidiary IRIS, much as British Telecom has done with VIAG and Cable & Wireless with Vebacom in Germany. There are other cable television companies in France such as Lyonnaise Communications that are considering entering the telephone business using their networks, and the French national railroad, SNCF, also has an internal telecommunications network including fiber-optic cable that it plans to make available to telecommunications network providers.

In France, unlike Germany, it appears that international telecommunications facilities to the United States may not be liberalized automatically with the rest of the opening to partial infrastructure competition due to take place on July 1, 1996 under the agreement with the European Union. Although the French government has stated in a letter from DGPT to the Department of Justice[26] that it "fully supports opening up all telecommunications services in all markets," whether this liberalization actually occurs in the case of international half-circuits and submarine cable landing rights for competing providers on the France—U.S. route will depend on the outcome of ongoing multilateral trade negotiations or separate bilateral agreements. However, draft legislation in France that will permit the granting of various experimental telecommunications service licenses in 1996, including public voice telephony services in geographically limited areas, does not contain any foreign ownership restrictions for wireline networks.

II

Compliance with the APPA

The APPA requires a sixty-day period for the submission of public comments on the proposed Final Judgment, 15 U.S.C. § 16(b). In this case, the sixty-day comment period commenced on August 24, 1995, and terminated on October 23, 1995. During this period, the United States received comments by seven competitors of Sprint and the proposed joint Venture or other interested persons, including AT&T Corporation, MCI Communications Corporation, BT North America Inc., Cable & Wireless Europe, ACC Corp., Esprit Telecom United Kingdom Limited, and Prof. Charles M. Haar of the Harvard University Law School.[27] The United States responds herein to these comments. Upon publication in the **Federal Register** of these comments and the following response of the United States to these comments, pursuant to 15 U.S.C. § 16(d) of the APPA, the procedures required by the APPA prior to entry of the proposed Final Judgment will be completed. The United States expects to move for entry of the proposed Final Judgment after the public comments and this response of

[23] Ministry of Information Technology and Postal Services, *New Ground Rules for Telecommunications in France*, October 1995.

[24] FCC Spring Order, ¶65, citing Letter from Bruno Lasserre, Director General, DGPT, to Reed E. Hundt, Chairman, Federal Communications Commission, at 2 (Oct. 20, 1995).

[25] The October 1995 consultative document states that France Telecom will continue to have "strong dominant market positions" after 1998 in several important telecommunications market sectors and indicates that there may even be *de facto* monopolies in certain services or market segments. Ministry of Information Technology and Postal Services, *New Ground Rules for Telecommunications in France*, at 24.

[26] Letter from M. Bruno Lasserre, Director General of DGPT, to Carl Willner, December 8, 1995. This letter is attached to this Response as Exhibit J.

[27] These comments are attached as Exhibits A–G.

the United States have been published in the **Federal Register** and the Joint Venture has been formed and has executed the Stipulation, binding it as a party to the proposed Final Judgment under the terms specified in the Stipulation.[28]

III

Response to Public Comments

In consenting to the entry of the proposed Final Judgment in this case, the United States took into account various considerations bearing on the risks of competitive harm affecting U.S. consumers and the desirability of further litigation. These included the size of the planned 20% investment by Deutsche Telekom and France Telecom in Sprint, the potential for new services to be offered and other efficiencies realized by the Joint Venture, the increasing progress toward removal of legal and practical barriers to telecommunications competition in France and Germany, and the involvement of foreign telecommunications providers subject to distinct regulatory regimes in their home countries. Competitive Impact Statement, 60 Fed. Reg. at 44075.

The public comments express various types of concerns about the interpretation or the adequacy of the proposed Final Judgment, and several contend that the Final Judgment should not be entered unless substantial changes are made. It appears that many of these concerns are based on misunderstandings or uncertainties on the part of the commenters about the meaning of provisions of the proposed Final Judgment or their application to the agreements between Sprint, FT and DT, and conduct in which they might engage. The United States accordingly provides further clarification of the meaning and application of several provisions of the proposed Final Judgment below.

Some other concerns expressed in the public comments are simply not germane to the problems associated with these transactions that are identified in the Complaint and Competitive Impact Statement in this case. It is not the role of the Court, in a proceeding under the Tunney Act to approve an antitrust consent decree, to each beyond the terms of the complaint and consider whether other cases might have been brought and other violations alleged. *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1459–60 (D.C. Cir. 1995).

A number of the comments question whether there is sufficient relief in the proposed Final Judgment to remedy the problems alleged by the United States, contending that further modifications should be made. These commenters overlook, however, the context in which these transactions take place. Two other government agencies in addition to the United States Department of Justice have reviewed these transactions, and have imposed additional relief that complements and reinforces in important respects the terms of the proposed Final Judgment. Moreover, an ongoing process of telecommunications reform and opening to competition is taking place in the European Union, France and Germany. In ruling whether this proposed Final Judgment is sufficient to satisfy the "public interest" standard of the Tunney Act, the Court should not limit its consideration to whether all of the potential competitive problems arising from the monopoly rights and market power of Deutsche Telekom and France Telecom in their home countries are fully corrected within the four corners of the proposed Final Judgment alone. Rather, it should ask whether the proposed Final Judgment satisfies the "public interest" bearing in mind that it will operate together with all of the other relief imposed by the European Union competition authorities and the FCC, and with the liberalization measures now planned in Germany and France. When the issue is properly understood in these terms, it is apparent that the proposed Final Judgment does indeed promote the "public interest."

Because the same types of issues are raised by many of the commenters, this Response is structured in terms of the issues raised rather than separately addressing each of the comments filed.

A. Transition from Phase I to Phase II of the Proposed Final Judgment

Several commenters, including AT&T, MCI, BT North America, Esprit Telecom and Cable & Wireless, raise the issue of whether the proposed Final Judgment will be effective in light of the possibility that the transition from Phase I to Phase II could occur while DT and FT, though deprived of their legal monopolies, still have *de facto* market power in Germany and France. They point out that effective competition could take substantial time to develop after removal of the monopoly rights and licensing of competitors. Some, including BT, Cable & Wireless and Esprit Telecom, are also concerned that the decree would not ensure that effective regulatory regimes are in effect in France and Germany at the time the transition to Phase II takes place to ensure rights such as interconnection with the networks of the dominant carriers. AT&T and MCI favor modifying the decree to keep the Phase I restrictions in effect until "actual" or "effective" competitive alternatives are found to exist in France and Germany, while BT proposes keeping the various Phase I restrictions in effect for the entire duration of the decree, essentially eliminating the distinction between Phase I and Phase II.[29] Esprit and Cable & Wireless also take the position that alternative infrastructure must be in place in France and Germany before these transactions are implemented, or at least before the Joint Venture is formed.

The United States has no fundamental disagreement with the commenters on the importance of effective competitive alternatives, or the crucial significance of the ability of competitors to interconnect their networks and facilities with those of DT and FT on reasonable, transparent and non-discriminatory terms. Nor does it disagree with the desirability of having effective regulatory regimes to complement the protections provided by competition, and afford a recourse to competitors who experience anticompetitive practices by DT and FT. But the United States parts company with the commenters at their evident assumption that all of these protections must be contained within the four corners of the proposed Final Judgment itself for it to be deemed in the "public interest."

The proposed Final Judgment operates in conjunction with the relief imposed by the European Commission and the FCC, and the various liberalization measures in the process of being enacted by the EU and the French and German governments. Early liberalization for provision of competing infrastructure for non-monopoly services, to take effect on July 1, 1996 in France and Germany, will give potential competitors the opportunity to begin establishing alternative networks a year and a half before the earliest time that Phase I is likely to expire, making possible the "actual" or "effective" competition that AT&T and MCI desire.

Because the EU and the German and French governments have all announced that they will be adopting open

[28] Until these events have taken place, and the United States has certified that the requirements of the Tunney Act have been met, the Court should not rule on entry of the proposed Final Judgment.

[29] Because many of BT's observations on the various provisions of the proposed Final Judgment are in fact reiterations of this same argument, not all of BT's comments about particular provisions of the decree are separately discussed in this Response.

licensing policies and will not restrict the numbers of licenses (except where necessary due to limits on radio frequencies, which would not affect landline fiber-optic networks), potential providers of alternative networks should not be deterred from entering the market now by the fear of being denied full use of their network for voice services for want of a license when full liberalization occurs. Moreover, both the German and French telecommunications regulators plan to license competitors during 1997, enabling them to prepare to provide services in advance of full liberalization.

BT is mistaken in believing that Phase I could terminate if only one competitor is allowed to provide competing facilities-based switched voice services in France and Germany. In fact, the definition of Phase II of the proposed Final Judgment is not intended to condone any form of legal duopoly (such as still exists in the U.K. for international facilities-based services but has otherwise been ended there). Section V.Q specifies that among the conditions necessary for Phase II to be reached, France and Germany must have "removed all of the legal prohibitions" on competing provision of public switched domestic and international voice services, and construction, ownership or control of both domestic and international telecommunications facilities and the use of such facilities to provide any services. The existence of artificial restrictions on the numbers of domestic or international licenses available for either telecommunications services or facilities in France or Germany would mean that the conditions for moving from Phase I to Phase II in that country would not be satisfied.[30] Moreover, should either France or Germany decline to remove all of the legal prohibitions on competition in international services and facilities to and from the U.S., even if liberalization within the EU has taken place as required by the planned directives, the transition to Phase II still would not take place for that country. Since both France and Germany have announced that they will grant licenses in 1997 under their planned open policies, and have not shown themselves to date unwilling to license large foreign firms to provide the types of services already open to competition (as evidenced by BT's ability to provide data services in both France and Germany today), BT's suggestion that the French and German governments might in practice license only a small number of ineffectual competitors seems conjectural.

The concerns expressed by commenters about the lack of an effective system of transparent and reasonable interconnection with FT and DT are addressed during Phase I by the nondiscrimination requirements of Section III.D as well as the provisions ensuring standardized access protocols in Sections III.H and III.I. The EU's planned interconnection directive will require Member States, including France and Germany, to have interconnection regimes in place that comply with the directive before January 1, 1998, the earliest that Phase I is likely to expire. Both the French and German telecommunications regulators are planning to have new interconnection regimes based on the EU principles in effect in their countries before that time.

The EU and the French and German governments all have recognized the need for more independent regulatory authorities where state ownership of telecommunications carriers continues, as will be the case for several years in Germany and indefinitely in France. Both France and Germany are contemplating changes to their regulatory systems before 1998 to address this problem. In the interim, the full protections of this decree and the EU settlement dealing with the various risks identified by the commenters, including discrimination and cross-subsidization, will be in effect as independent safeguards against anticompetitive conduct. Some of the EU's safeguards, in particular those involving nondiscrimination in access to and use of the FT and DT PSTNs and availability of standardized interfaces for Transpac and Datx-P, would continue beyond the date of full liberalization in France and Germany as they have no predetermined time limits. The FCC's general prohibition on "special concessions," also will be available to reinforce nondiscriminatory interconnection rights, and the FCC's ability to act under its policy is not time-limited.

It is not practical or necessary for the United States antitrust authorities to maintain indefinitely the degree of oversight of the relationship between DT, FT and the Joint Venture contemplated by Phase I of the proposed Final Judgment, taking into account the clear policies of moving toward full liberalization and more effective regulation within a definite time that have been announced by the EU authorities and the governments of France and Germany, and the existence of other regulatory authorities, including the FCC, BMPT in Germany and DGPT in France, that have ongoing responsibility for regulatory oversight of the telecommunications industry. Fundamentally, what is at stake here is the reasonableness of the United States' judgment under the "public interest" standard that the transition to more effective competition and better regulatory safeguards is likely to continue to move forward in a reasonable time in France and Germany, so that it is not necessary to stop these transactions altogether or substantially alter the terms of the proposed settlement in order to safeguard against DT and FT using their continuing market power in anticompetitive ways to favor Sprint and the Joint Venture. This judgment continues to be reasonable, given that the policies and timetables that the EU and the French and German governments have announced for the transition to full competition include not only removal of legal barriers to competition and licensing of competitors, but also the other key measures such as an interconnection regime that are needed for real competition to develop. Moreover, AT&T, BT and Cable & Wireless all have been forming strategic alliances with the large firms that have entered telecommunications service markets in Germany or France and are planning networks in anticipation of full liberalization and licensing of competing providers. These alliances make available to the German and French partners resources, expertise and international access to customers that can help to make them more effective rivals to DT and FT.

The judgment that these transactions should not be stopped, given the progress of the liberalization process, is shared by the FCC and the European Commission. These authorities have also shared the concern of the United States about the ongoing ability of FT and DT to exercise market power to the detriment of competition, and have imposed their own remedies and safeguards to help ensure both that liberalization advances and that no harm occurs to international telecommunications competition during the transition period. In light of the circumstances of this transaction and the actions taken by other authorities, the United States does not believe that extending Phase I safeguards for several more years, imposing some form of "effective competition" test in the proposed Final Judgment, or precluding the transactions until significant

[30] This would not preclude France or Germany from having a limited number of licenses available for radio-based services justified for objective reasons of spectrum scarcity.

alternative infrastructure competition is ongoing are necessary steps to protect the "public interest." The United States will retain the ability under this Final Judgment, pursuant to Section VIII, to seek modifications should new events, such as any major breakdown of the transition to competition underway in France and Germany, indicate the need for additional measures within the context of the Final Judgment to prevent substantial harm to competition and U.S. consumers.

B. Opening to Voice Resale Competition in France and Germany

ACC contends that entry and the effective date of the Final Judgment in this case should be conditioned on DT and FT agreeing to open their public switched voice services to resale competition. These services currently are provided on a monopoly basis in France and Germany, though DT and FT apparently could voluntarily open these services to some resale competition. The United States agrees with ACC that resale competition at the German and French ends of international routes with the U.S. would likely benefit United States consumers of international services to France and Germany, and indeed the FCC has made this one of the conditions for the removal of the freeze imposed on Sprint's ability to add circuits to France and Germany, in order to limit Sprint's advantage over other U.S. providers from being the only carrier with allies that can provide end-to-end service between the U.S. and France and Germany. But the question for purposes of this Tunney Act proceeding is whether, in light of the other restrictions in the proposed Final Judgment as well as the FCC's action and the announced intention of the European Union, Germany and France to remove all restrictions on voice competition by 1998, it is necessary to impose such a condition as part of this decree to prevent some *lessening* of competition that would otherwise occur. The United States does not view this as necessary for the decree to accomplish its purposes. The transition from Phase I to Phase II cannot occur for either Germany or France under this decree while any form of prohibition on voice competition, resale or facilities-based, remains in effect in that country. During Phase I, ACC and other prospective U.S. international providers of resale services will be able to avail themselves of all the protections against discrimination in Section III.D, if Germany or France permits resale competition (as the FCC's decision indicates is already legally permissible to some extent, based on representations by the German and French governments[31]) but DT or FT acts to favor its own affiliates over competitors in PSTN interconnection, leased lines, or other FT or DT Products and Services that would be used by switched voice resellers.[32] Moreover, during Phase I and Phase II, Section II.C of the proposed Final Judgment will ensure that neither Sprint nor the Joint Venture provide voice resale services, or any other type of services, or make facilities available to FT or DT to do so (other than under existing bilateral correspondent agreements that have also been made available to other U.S. competitors), if competitors cannot obtain licenses in France and Germany.

C. Non-Exclusive Licensing Requirement

BT proposes a number of changes to Section II.C, as does Esprit Telecom. This provision ensures that neither Sprint nor the Joint Venture receive exclusive licensing advantages directly from French or German authorities or indirectly by affiliation with FT or DT, and that neither Sprint nor the Joint Venture provide facilities to FT or DT enabling them to offer to the United States any services for which they have exclusive licenses in France or Germany, other than existing correspondent services that other U.S. providers can also offer under operating agreements with FT and DT. Some of the changes recommended by BT are already addressed implicitly within the language of the existing provision, while the United States believes that the remaining modifications are not necessary for this provision to accomplish its purposes.

A principal concern for BT is the language in Section II.C.3(i) requiring that, before Sprint, the Joint Venture, DT or FT are able to provide an international telecommunications service pursuant to an individual license granted by the French or German governments, "one or more" other U.S. international telecommunications service providers also have received a license. BT would prefer that at least three other licenses be granted before the Joint Venture be allowed to offer a service. However, BT's fear that under this provision the French or German governments might be able to mandate a duopoly, or arbitrarily delay granting licenses to all competitors but one, is not consistent with other language of Section II.C.3 or with the licensing policies announced by the French and German governments. Section II.C.3 also mandates, for any services that require individual licenses in France or Germany, that "established licensing procedures are in effect as of the time of the offering of the service by which other United States international telecommunications providers are also able to secure a license." This means, as the United States and defendants have agreed, that there must be licensing procedures in place that are reasonable and neutral, that do not discriminate among providers or restrict the entry of U.S. providers, and that do not arbitrarily limit the number of licenses available. Clearly a duopoly licensing scheme for international services would not meet the terms of this provision, for once the one other license were awarded to a French or German firm, United States providers would not be able to secure a license. In any event, the EU authorities plan to mandate, and both the French and German governments have indicated that they will adopt, open licensing schemes that would meet the above criteria, and the French and German telecommunications regulators will make their decisions on licensing before 1998. Moreover, under Section II.C.3(ii), which ensures that where Sprint, the Joint Venture, FT or DT applies for a license first other competitors applying later can receive their licenses within no less time than was needed for the first license to be granted, the "reasonable time" provision can mean in particular cases that the time to grant additional licenses should be even less than for the first licensee, whose application presumably raised the most difficult regulatory issues about the service, if any.

BT expresses apprehension that the French or German governments may deny or fail to act on license applications of competitors who seek a license for a particular service before the Joint Venture does, so as to delay their entry until the Joint Venture is ready to enter the market. It does not, however, suggest a practical means of addressing this concern, since United States authorities are not in a position to direct the French or German governments to grant a license to any particular provider, but only to ensure that the parties to the transactions are not given

[31] FCC Sprint Order, ¶ 112.

[32] Contrary to the assertion of Cable & Wireless, the proposed Final Judgment's protections are not limited only to "reserved" monopoly services such as public switched voice. Most of the safeguards are defined in terms of FT and DT Products and Services, and Section V.L. expressly states that the services defined as being within this category will remain so regardless of whether the services are considered to be reserved exclusively to FT or DT under French or German law. Other safeguards, including Sections III.B. and III.I, apply to Public Data Networks, which are legally open to competition in France and Germany and are not even listed as FT and DT Products and Services.

an advantage over others in the timing of their licenses. The United States also believes that Esprit's proposal to require that German and French regulators commit to some expedited schedule for licensing, with suspension of Joint Venture services while any competitor applications have been pending for over 60 days, is impractical and should not be adopted, as it could perpetually postpone the entry of the Joint Venture into the market as each new applicant comes forward. In fact, under the proposals put forward by the EU authorities and the French and German governments, most types of telecommunications services will be subject to class licenses that will not require any individual approval. BT also recommends that the full range of regulatory reforms in France and Germany be in place before activities of the Joint Venture are permitted to commence under this provision. The United States continues to believe, however, that the service-specific approach is preferable. For example, if reasonable, nondiscriminatory open licensing procedures are in effect by which competitors can obtain licenses to operate a data service, it does not appear necessary or desirable to forbid the Joint Venture from offering that service to consumers under II.C. because rules are not yet in place governing a voice service.

D. Facilities Ownership Provisions

BT seeks clarification of the meaning of several aspects of Sections III.A and III.B, which preclude during Phase I any ownership or control by Sprint or the Joint Venture of (i) facilities in France or Germany legally reserved to FT or DT, (ii) international half-circuits terminating in France or Germany used for U.S.-France or U.S.-Germany telecommunications services, or (iii) the Public Data Networks, as defined in Section V.S.

The United States agrees with BT that the concept of ownership and control in this provision includes Indefeasible Rights of Use (IRUs), so that Sprint or the Joint Venture could not acquire IRUs in German or French half-circuits while other providers legally could not do so. The exclusion for "publicly available leases or other publicly available uses" in Section III.A was simply meant to ensure that the definition of "control" was not interpreted here to preclude Sprint or the Joint Venture from such normal forms of generally available usage as leasing a private line under tariff. Moreover, as a general matter, the preclusion on Sprint or the Joint Venture acquiring ownership or control over any facilities legally reserved to FT or DT would mean that Sprint and the Joint Venture could not acquire such interests in a type of facility (*e.g.*, submarine cable) or a form of ownership or control that remained reserved, even if some other type of facility that might compete with it in some respects (*e.g.*, a privately owned satellite) or some other form of ownership or control of the same facility is not reserved. The restriction on ownership of international half circuits, with the "aggregate quantity" exception, under Section III.A(ii) is in addition to the prohibition on ownership or control of reserved facilities, not an alternative to it. The United States does not agree with BT, however, on the interpretation of the "aggregate quantity" exception as limited to the quantity of half-circuits held by any other *single* provider. The FCC's freeze on operation of new capacity by Sprint on the U.S.-France and U.S.-Germany routes will help to counter BT's expressed fear that Sprint or the Joint Venture would be able to use a quantity of circuits far greater than those of any other single provider. Nor does the United States agree with BT that modification of the restriction on international half-circuits "where plaintiff and defendants agree that meaningful competition exists" can only be done after public comment and hearing procedures, but there is nothing to preclude the United States from seeking information from other interested persons before agreeing to a modification.

E. Antidiscrimination Provisions

1. "Steering" of Customers to Phoenix and Sprint

AT&T, MCI and Cable & Wireless all object to a provision of the Joint Venture Agreement between Sprint, FT and DT, Section 10.6(b). They are concerned that this provision would require DT and FT, when customers approach them for international facilities or services over which they have monopolies in their home countries, such as half-circuits, to take measures to "steer" the customers to Sprint or Phoenix to provide the U.S. end of these international facilities or services, *i.e.*, induce them to obtain the service from the Joint Venture and disclose their identities to the Joint Venture, even if they would prefer to use another U.S. carrier. AT&T requests that the anti-discrimination provisions of the proposed Final Judgment in Section III.D be clarified to preclude such activity.

AT&T has correctly understood the intent of Section III.D of the Proposed Final Judgment. Sprint and the Joint Venture are precluded by Section III.D from receiving more favorable terms from FT or DT than other similarly situated United States international telecommunications providers with respect to any FT or DT Products and Services, and are also precluded from benefitting from any more favorable term that FT or DT offer to any customer of FT or DT Products and Services, conditioned on Sprint or the Joint Venture being selected as the United States provider of a telecommunications or enhanced telecommunications service. FT or DT Products and Services, under Section V.L, are defined as correspondent services, transit services, leased lines or international half circuits, and interconnection to the PSTNs provided by FT or DT in France or Germany, or between the United States or France and Germany, regardless of whether the service is exclusively reserved to FT or DT as a matter of law. Accordingly, if FT or DT were to "steer" customers of FT or DT Products and Services to Phoenix or Sprint in the manner originally contemplated by Section 10.6(b), Sprint and the Joint Venture would be placed in violation of Section III.D of the Final Judgment. In order to eliminate any confusion on this point, Sprint, FT and DT have agreed to amend Section 10.6(b) of the Joint Venture Agreement, deleting any requirement that customers of FT or DT Products and Services be "steered" to the Joint Venture.[33] The FCC also has stated that its "no special concessions" requirement would preclude such "steering" with respect to basic services such as private lines.[34]

2. Effect of Exclusion of DT and FT as Parties

BT objects to the exclusion of DT and FT as parties to the proposed Final Judgment, even though BT similarly is excluded as a party under the separate decree governing its joint venture with MCI. BT's particular concern is that if the antidiscrimination provisions of Section III.D are read to include some form of "knowledge" or scienter requirement, it could prove difficult or impossible to enforce them without the ability to get information directly from FT and DT.

BT's concern is based on a misunderstanding of the antidiscrimination provisions of the proposed Final Judgment. There is no requirement that Sprint or the Joint Venture have known of any

[33] Letter from Kevin R. Sullivan to Carl Willner, Nov. 21, 1995, and attached amendment to Phoenix JVA Section 10.6(b). This letter and the modifying language are attached to this Response as Exhibit K.

[34] FCC Sprint Order, ¶ 125.

discrimination, for a violation of Section III.D.1 or III.D.2 to be found. Rather, it is merely necessary that the discrimination have occurred, as defined in Section III.D, for the United States to take action to enforce the decree. Indeed, in the negotiations leading to the proposed Final Judgment, the concept of requiring some knowledge of discrimination on the part of Sprint or the Joint Venture was explicitly rejected.[35] Ordinarily, whether discrimination has occurred would be evaluated by comparing the terms made available by DT or FT to a complaining competitor (with which it would be familiar) with the terms made available to Sprint or the Joint Venture (which could be ascertained using the visitorial and compliance powers of Section VI), and the disclosure requirements of Section II.A would facilitate detection and reporting of such discrimination by competitors. Thus, the United States reasonably concluded that the antidiscrimination provisions of the proposed Final Judgment were adequate without making DT and FT parties to the decree.

3. Other Issues Concerning the Antidiscrimination Provisions

BT recommends that Section III.D.1 be clarified to ensure that the protection against discrimination applies to all similarly situated providers. The United States agrees that the language prohibiting Sprint and the Joint Venture from obtaining FT and DT Products and Services on terms "more favorable * * * than are made available to other similarly situated United States international telecommunications providers" means that no similarly situated provider can be disfavored in any of the ways proscribed by this provision, even if some other similarly situated providers are being treated in the same way as Sprint and the Joint Venture.

BT also proposes that Section III.D.2's prohibition on Sprint or the Joint Venture receiving any "benefit" from more favorable terms offered by FT or DT to customers of FT or DT Products and Services, conditioned on Sprint or the Joint Venture being selected as a service provider, be clarified to apply to situations where FT or DT is acting as the distributor for the Joint Venture, and to cover both implicit and express conditioning. The United States agrees that Section III.D.2 reaches all such conditioning of terms for FT or DT Products and Services, express or implicit, and was intended to apply to situations where FT and DT are distributing Joint Venture products and services.

Esprit Telecom urges that DT and FT should be prohibited from providing leased lines for Joint Venture services unless such lines are provided in a nondiscriminatory manner, including equal treatment on all terms such as price and provisioning intervals, to all competitors. This is already accomplished by Section III.D, since leased lines are expressly treated as FT and DT Products and Services by Section V.L(iii). Esprit also contends that DT and FT should be required to provide leased lines at wholesale, cost-based rates to competing carriers on a priority basis. The proposed Final Judgment does not mandate that leased lines be provided at any particular price level, nor would it be practical to do so for FT's and DT's leased lines, which are located outside the U.S., are under the regulatory supervision of foreign authorities and are also subject to EU directives on open network provision and the terms of provisioning of leased lines. While the United States is cognizant of the evidence that FT's and DT's leased lines are priced far above U.S. levels and are generally provided much more slowly than in the U.S., the concern of the United States in this case is to ensure that neither those nor other potential abuses of FT's and DT's monopoly positions lead to advantages for Sprint or the Joint Venture that could harm competition. This Clayton Act case is not a vehicle for addressing all difficulties that competitors may face in doing business in France or Germany or all harms that U.S. consumers may experience as a result of having to use the services of the DT and FT monopolies. Whatever the prices at which leased lines may be provided in France or Germany, or the time needed to provide them, Sprint and the Joint Venture will not fare better than other competing providers under the terms of this proposed Final Judgment. Moreover, as competition develops in France and Germany due to alternative infrastructure liberalization in 1996 and full liberalization in 1998, leased line prices can be expected to decline substantially and provisioning times improve, as has occurred in the United States and the United Kingdom.

Cable & Wireless has brought to the attention of the United States new evidence that Colisee International, a subsidiary of FT engaged in reselling FT capacity, has behaved in an anticompetitive manner and that complaints about Colisee have been confirmed by findings of the French telecommunications regulator. These complaints and the regulator's findings of FT's noncompliance with French law, according to Cable & Wireless, relate to (i) sales by FT of leased lines and PSTN interconnection at rates below the official tariffs from which other competitors must buy capacity, and (ii) FT's grant of more favorable access arrangements to its International Transit Center for Colisee than for other competitors.[36] The United States has examined substantial information on this allegation, including the regulator's findings of noncompliance and FT's plans to make substantial changes to the Colisee service in response. In addition to being subject to challenge under French law, it appears that the types of discrimination alleged here are of the sort that would be covered by the antidiscrimination provisions of the proposed Final Judgment, if Sprint or the Joint Venture were to receive such favorable treatment through FT or any of its subsidiaries. No modification to the proposed Final Judgment is necessary to deal with this matter, but the Colisee International evidence indicates that the antidiscrimination provisions of the proposed Final Judgment are indeed focused on substantial competitive concerns.

F. Protections Against Cross-Subsidization

BT's principal arguments on this provision, favoring extending it through the life of the decree or until comprehensive protections against cross-subsidization are determined to be part of the French and German telecommunications regulatory systems, do not differ substantially from its general arguments for extending the duration of all of Section III, which the United States has already addressed and declined to accept. Cross-subsidy risks were perceived here, by both the United States and the European Commission competition authorities, to be particularly substantial while DT and FT still have three-quarters of their business legally protected from competition. During this time, DT and FT enjoy a very large base of revenues into which costs could be shifted, or from which subsidies could be obtained, without risk of increasing entry by competitors into the services which provide the subsidies and which would be priced at higher levels to generate them. The evidence of past cross-subsidies of the Datex-P data network by DT on a large scale, and the risk of use of cross-subsidization to put

[35] Issues of knowledge would thus only come into question to the extent that they are relevant under established legal principles to particular forms of culpability or sanctions, *i.e.*, criminal contempt, but would not affect civil enforcement.

[36] Comments of Cable & Wireless Europe, at 6.

competitors in a "price squeeze," Competitive Impact Statement, 60 Fed. Reg. at 44064, 44072, support having these restrictions in the decree during Phase I. However, neither the United States nor the European Commission's competition authorities extended the structural separation of the Public Data Networks, or the specific cross-subsidy safeguards, into the period following full liberalization in France and Germany, when DT and FT will legally be subject to competition in all their areas of business and will face actual licensed competitors. At that point, while cross-subsidization potentially could still occur, the risks of it substantially harming competition over a sustained period will have been reduced owing to the possibility for competitive entry into the markets providing the subsidies, and policing cross-subsidization can with greater confidence be left to the national regulators, who by then should have greater independence as well.

BT also seeks to give competitors and other interested parties access to all of Sprint's and the Joint Venture's records to determine if cross-subsidization has occurred. The United States does not consider a modification of this sort to be necessary or desirable. The disclosure provisions of Section II.A of the proposed Final Judgment strike a careful balance between providing information competitors would need to detect discrimination, and protecting Sprint's and the Joint Venture's confidential business information from disclosure to competitors. BT's disclosure proposal would expose far more of Sprint's and the Joint Venture's business information to their competitors, in a way that if abused could harm rather than help competition. The United States notes, however, that nothing precludes it from using independent auditors under contract to assist in reviewing Sprint's and Joint Venture's documents for cross-subsidization, and that the EU competition authorities have imposed an auditing requirement on Atlas, Transpac and Datex-P during the pre-liberalization period.

Cable & Wireless argues that there should be structural separation between the Atlas and Joint Venture entities and their parents. In fact, the proposed Final Judgment already mandates such separation between FT and DT on the one hand, and the Joint Venture and Sprint on the other, through a combination of the facilities ownership provisions of Sections III.A and III.B, the non-exclusive agency provisions of Section III.C, the prohibitions on cross-subsidization in Section III.F, and the prohibitions on sharing of confidential information in Section II.B. The EU competition authorities have further reinforced this separation through their treatment of Atlas, Transpac and Datex-P.

Esprit Telecom urges that DT and FT be precluded from predatory pricing of end-user services. The cross-subsidization prohibitions of the proposed Final Judgment will help to achieve that objective, as will the EU's complementary safeguards, while predatory pricing remains independently actionable under the antitrust laws as well.

G. Treatment of Operating Agreements

AT&T and BT both have raised issues regarding the operation of Section III.G.1. This provision precludes Sprint from providing any correspondent telecommunications or enhanced telecommunications service between the United States and France or Germany pursuant to any operating agreement with FT or DT, unless at least one other U.S. international telecommunications provider has also obtained an operating agreement with FT and DT for the provision of that service.

AT&T has requested that the interplay of Section III.G and Section III.D.1(v), which prohibits discrimination between Sprint and other similarly situated providers in the "terms of operating agreements for correspondent services and connection of international half-circuits," be clarified to preclude discrimination in the granting of operating agreements by FT and DT. BT is concerned about the risk of allowing Sprint to provide service if FT or DT has granted an operating agreement to only one competitor, particularly if that one competitor is an inadequate alternative.

The United States agrees that operating agreements already granted, or granted in the future, could not thereafter be modified or withdrawn on a discriminatory basis favoring Sprint or the Joint Venture, for to do so would amount to a discrimination in the "terms of operating agreements" prohibited under Section III.D.1(v). Existing operating agreements, particularly those covering International Message Telephone Service (IMTS) switched voice traffic and private lines, account for what will likely continue to be the bulk of telecommunications international traffic for the next several years at least. Moreover, the terms of all operating agreements granted must be nondiscriminatory, whatever the number of carriers that receive them. AT&T is thus correct insofar as it says that Section III.G.1 does not abrogate the requirement of nondiscrimination in the terms of operating agreements under Section III.D.1(v), or any of the other requirements of Section III.D.

Section III.G.1 affords an additional measure of protection with respect to any correspondent services where agreements have not yet been negotiated, or the service itself has not yet been developed, ensuring that Sprint will not be able to obtain the only operating agreement or to go first while entry of competitors is delayed, as a result of its special relationship with FT and DT. It was not written to require that all other carriers receive operating agreements for such new services, since U.S. carriers may vary considerably in traffic volumes and foreign carriers may be reluctant to incur the expense of providing a facilities-based interconnection with a low-volume provider. The counterpart Section III.G.2 provides a mechanism for such smaller carriers to have their traffic delivered at reasonable, nondiscriminatory rates accounting for the value of proportionate return traffic from France and Germany.

It is implicit in the concept of Section III.G.1 that the other U.S. international telecommunications provider that receives an operating agreement not be a sham or subterfuge to circumvent the Final Judgment, but a real provider capable of offering its own alternative service. Should FT or DT grant operating agreements for new correspondent services to Sprint and another alternative provider, but withhold them from other similarly situated U.S. international carriers, those carriers would still be able to complain to the FCC that Sprint was receiving improper "special concessions." The FCC's policy is thus broader in one respect than that in the proposed Final Judgment, but does not explicitly mandate, as does Section III.G.1, that one other carrier already have an operating agreement before Sprint can provide a service. These policies operate together to ensure effective international competition by multiple U.S. carriers notwithstanding the affiliation of FT and DT with Sprint.

The United States understands that there are relatively few issues concerning the grant of operating agreements now outstanding between U.S. international carriers and DT and FT. For the major longstanding services such as IMTS, as well as for relatively new services such as International Virtual Private Networks (IVPNs), FT and DT have now granted operating agreements to multiple U.S. international telecommunications carriers in addition to Sprint. Accordingly, in light of the additional protections afforded by Section III.D.1(v) and the FCC's "special concessions" prohibition, and available evidence on the current practice of FT and DT, the United States does not consider it necessary to modify Section III.G.1.

H. Standardized Interface Requirements

BT takes issue with the provisions ensuring the maintenance of standardized PSTN and data network interfaces by FT and DT, Sections III.H and III.I, which were closely followed by the EU competition authorities in their own settlement. Apart from its general arguments for extending these provisions through the duration of the decree, BT also objects to the opportunity that these provisions give to Sprint and the Joint Venture to develop proprietary interfaces with FT and DT. BT is concerned that this could allow the parties to these transactions to develop certain types of advanced services and interconnection protocols that would not be available to competitors.

To the extent that competitors are similarly situated, of course, the antidiscrimination provisions of Section III.D would remain available to address any handling of interconnection to the FT and DT PSTNs that disfavors competitors of Sprint and the Joint Venture. Sections III.H and III.I go beyond the antidiscrimination provisions in mandating availability of standard interfaces and protocols for FT and DT Products and Services, and for the Public Data Networks, without any proof of discrimination against similarly situated competitors. Neither the United States nor the European Union competition authorities, however, found it desirable to prohibit FT and DT from also developing any proprietary or nonstandardized protocols, in the way BT advocates. The various strategic alliances that have formed or are now forming to provide seamless international telecommunications services, including the BT–MCI partnership, AT&T's alliance with the Unisource partners in Europe, and the FT–DT-Sprint combination, all will be seeking to develop advanced telecommunications services which may require nonstandardized or proprietary protocols not currently available. Some competitive risks inhere in the ability of telecommunications providers with monopoly rights, such as DT and FT, or market power, such as BT in the UK, to develop nonstandardized protocols and interfaces that are not universally available and might be used to favor particular providers. In the case of these international strategic alliances, however, there are also substantial competitive benefits to consumers from the development of advanced seamless telecommunications services, and all of the alliances will be competing with each other to produce the most attractive advanced services and differentiate them from those of the other competitors. These benefits could be reduced if FT and DT were precluded from developing with their Joint Venture and Sprint any proprietary or nonstandardized interfaces and protocols for new services, as BT would have the United States do. Furthermore, the prospect of full liberalization in France and Germany two years from now and liberalization for alternative infrastructure used to provide services other than public switched voice within six months means that BT and other competitors should not remain indefinitely dependent on a single provider in France and in Germany to supply all telecommunications lines and network interconnections. Rather, they will be able to have their local allies in France and Germany adopt whatever proprietary and nonstandardized protocols they may develop that are inconsistent with those used by DT and FT.

I. Access to FT's "Orange List" Customer Information

Charles M. Haar, a professor at Harvard University Law School who is working as an expert for a company named Filetech, which is involved in litigation with France Telecom in the United States District Court for the Southern District of New York,[37] has filed comments requesting that entry of judgment in this case be conditioned on France Telecom making available to competitors certain information about customers, known as the "Orange List," that it acquires in the course of its responsibilities for maintaining the French telephone directory.

The United States expresses no view on the merits of Filetech's litigation with France Telecom, but its allegations did not form any specific part of the complaint in this case. While the complaint is based on France Telecom's ability to use its monopoly rights and dominant position in France to favor Sprint and the Joint Venture over competitors in various ways, it does not appear that France Telecom would be able lawfully to use preferential access to the Orange List to favor Sprint or the Joint Venture, since France Telecom has represented in its litigation with Filetech that this information is confidential and under French law cannot be disclosed to others, except for the limited purpose of publishing telephone directories.[38] Moreover, the FCC has indicated that preferential disclosure of telephone customer information by DT and FT to Sprint would be an impermissible "special concession."[39] Thus, the United States does not believe that any modifications to the proposed Final Judgment are needed to address this issue.

[37] *Filetech S.A.R.L.* v. *France Telecom*, Civil Action No. 95–1848 (CSH) (S.D.N.Y.).

IV

Standard of Review

Pursuant to 15 U.S.C. § 16(e), the proposed Final Judgment cannot be entered unless the Court determines that it is in the public interest. The focus of this determination is whether the relief provided by the proposed Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint. *United States* v. *Bechtel Corp.*, 648 F.2d 660, 665–66 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981), *quoted with approval in United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1457–58, *see also* 56 F.3d at 1459–60 (D.C. Cir. 1995). In the recent *Microsoft* decision by the United States Court of Appeals for the District of Columbia Circuit, which reversed the district court's refusal to enter an antitrust consent decree proposed by the United States, the court of appeals held that the provision in Section 16(e)(1) of the Tunney Act allowing the district court to consider "any other considerations bearing upon the adequacy of such judgment," does not authorize extensive inquiry into the conduct of the case. 56 F.3d at 1458–60. The court of appeals concluded that "Congress did not mean for a district judge to construct his own hypothetical case and then evaluate the decree against that case." *Id.* To the contrary, "[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," and so the district court "is only authorized to review the decree itself," not other matters that the government might have but did not pursue. *Id.*

Under the public interest standard, the Court's role is limited to determining whether the proposed decree is within the "zone of settlements" consistent with the public interest, not whether the settlement diverges from the Court's view of what

[38] *Filetech S.A.R.L.* v. *France Telecom*, Civil Action No. 95–1848 (CSH), Memorandum of Law of France Telecom and France Telecom Incorporated in Support of their Motion to Dismiss the Complaint at 10–15, and Declaration of Jacques Henrot (S.D.N.Y., filed June 2, 1995).

[39] FCC Sprint Order, ¶ 123.

would best serve the public interest. *United States* v. *Western Electric Co.*, 993 F.2d 1572, 1576 (quoting *United States* v. *Western Electric Co.*, 900 F.2d 283, 307 (D.C. Cir. 1990)); *United States* v. *Microsoft Corp.*, 56 F.3d at 1460. Moreover, the Court should give a request for entry of a proposed decree even more deference than a request by a party to an existing decree for approval of a modification, for in dealing with an initial settlement the Court is unlikely to have substantial familiarity with the market involved. *United States* v. *Microsoft Corp.*, 56 F.3d at 1460–61.

Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977). The Court may reject the agreement of the parties as to how the public interest is best served only if it has "exceptional confidence that adverse antitrust consequences will result. * * *" *United States* v. *Western Electric Co.* 993 F.2d at 1577 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993), *quoted with approval in United States* v. *Microsoft Corp.*, 56 F.3d at 1460.

V

Conclusion

After careful consideration of the comments, the United States continues to believe that, for the reasons stated herein and in the Competitive Impact Statement, the proposed Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint. There has been no showing that the proposed settlement constitutes an abuse of the United States' discretion or that it is not within the zone of settlements consistent with the public interest. Therefore, entry of the proposed Final Judgment should be found to be in the public interest, after the Joint Venture has been made a party to the stipulation for entry of judgment and the United States has completed the procedures mandated by the Tunney Act and moved for entry of judgment.

Dated: January 16, 1996.

Respectfully submitted,

Carl Wilner,

Joyce B. Hundley,

Attorneys, U.S. Department of Justice, Antitrust Division.

Certificate of Service

I hereby certify that on this date I have caused to be served by first class mail, postage prepaid, or by hand, if so indicated, a copy of the foregoing Response to Public Comment upon the following person, counsel for defendants in the matter of *United States of America* v. *Sprint Corporation:* Kevin R. Sullivan, Esquire, King & Spalding, 1730 Pennsylvania Avenue, N.W., Washington, D.C. 20006, Counsel for Defendants, Sprint Corporation and Joint Venture Company.

Dated: January 16, 1996.

By Hand:

Carl Willner,

Attorney, Telecommunications Task Force, Antitrust Division, U.S. Department of Justice.

United States of America Plaintiff, v. *Sprint Corporation and Joint Venture Co.*, Defendants

[Civil Action No. 95 CV 1304 (TP)]

Comments of AT&T Corp.

AT&T Corp. ("AT&T), pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (the "Tunney Act"), hereby submits these comments on the proposed Final Judgment in the above-entitled action concerning the planned acquisition by France Telecom ("FT") and Deutsche Telekom A.G. ("DT") of 20 percent of the voting shares of Sprint Corporation ("Sprint"), and the proposed formation of a joint venture among Sprint, FT and DT to provide international telecommunications services (the "Joint Venture").

AT&T will be adversely affected by the proposed acquisition and joint venture. AT&T provides international telecommunications services to customers in the United States in competition with Sprint. Moreover, to provide these services, AT&T is required by law to sue the bottleneck monopoly services of FT and DT to terminate its telecommunications traffic to France and Germany respectively. AT&T and its customers will suffer competitive injury if the proposed transactions are allowed to proceed without the Department of Justice (the "Department") clarifying certain provisions and procedures in the proposed Final Judgment. Specifically, the Department should condition its continuing consent to the proposed Final Judgment on the adoption of clarifying changes making explicit that: (1) Sprint cannot offer a new correspondent service unless other U.S. carriers can provide such service with FT and/or DT on a non-discriminatory basis; (2) Sprint and the Joint Venture cannot provide services to customers who have been "steered" to Sprint or the Joint Venture by FT and/or DT; and (3) the Phase I conditions will not expire until practical alternatives, *i.e.*, competitive networks, exist in France and Germany for the termination of international telecommunications traffic, including basic switched voice services.

Introduction and Summary

The Department has accurately concluded that the proposed acquisition and Joint venture threaten U.S. competition and consumers. As described in the Department's Competitive Impact Statement, the acquisition and the joint Venture would provide FT and DT "increased incentives and the ability using their monopolies and dominant positions in France and Germany respectively, to favor Sprint and Joint Venture Co. and to disfavor that United States competitors in international telecommunications services. * * *"[1] As the Department has elsewhere stated:

> The continued existence of telecommunications monopolies in foreign countries results in higher prices, lower output, inefficient quality of service and slower innovation for U.S. consumers of international telecommunications services. *Facilities-based competition in foreign countries is the best solution to these problems, and neither resale nor regulation is on equally effective substitute.*[2]

AT&T believes that the threat to United States competition and consumers would justify Department action to block the proposed acquisition. In the exercise of prosecutorial discretion, however, the Department has entered into a proposed Final Judgment with Sprint and the Joint Venture containing nondiscrimination and other protections designed to mitigate the competitive harms associated with the Sprint, FT and DT transaction.

Under the Tunney Act, however, the Court must find that the proposed Final Judgment "is in the public interest" in order to enter it. Thus, the Court must determine whether the proposed decree

[1] Competitive Impact Statement ("CIS"), Fed. Register, Vol. 60, No. 164, 44049, 44063 (Aug. 24, 1995).

[2] *Market Entry and Regulation of Foreign-Affiliated Entities*, 10 FCC Rcd. 4844 (1995) ("*Market Entry NPRM*"), Reply Comments of the Department of Justice (filed May 12, 1995) at ii (emphasis added).

"would serve the public interest in free and unfettered competition."[3] This inquiry appropriately involves an analysis of the clarity and adequacy of the decree's essential nondiscrimination provisions and compliance mechanisms, as well as an analysis of the injury that third parties might suffer as a result of the decree.[4]

In determining whether the decree meets the public interest standard, the Court will consider the explanations for the consent decree contained in the Department's Competitive Impact Statement[5] and whether the decree will protect third parties.[6] In this proceeding, the Department has accurately described in its Complaint and the Competitive Impact Statement the monopolistic leveraging in which FT and DT could engage absent the nondiscrimination provisions set forth in Section III of the decree. This leveraging would severely harm the third parties the decree is designed to protect. The clarity and efficacy of the Section III nondiscrimination provisions thus are central to the Court's public interest determination.[7]

AT&T's objections to the proposed Final Judgment all fall within the areas appropriate for review by a court in its determination of whether a proposed consent decree is in the public interest. Accordingly, AT&T believes that the Department should condition its continued support of the proposed Final Judgment on acceptance of the proposed clarifications and change in implementation procedures for the essential nondiscrimination provisions as set forth below.

First, the Department should clarify that the provisions of Section 111.G.1 of the decree do not abrogate the nondiscrimination requirements of Section III.D of the proposed Final Judgment. Section III.D prohibits Sprint and Joint Venture from accepting any FT or DT Products and Services on a discriminatory basis. Section III.G.1 seeks to protect competition further by restricting Sprint from providing a correspondent service with FT or DT unless at least "one" other carrier has reached an agreement with FT or DT to provide such a service as well. The proposed Final Judgment should be clarified to ensure that Section III.G.1 is not interpreted as absolving the parties of their nondiscrimination obligations once one other carrier offers a correspondent service with FT or DT.

The second area requiring clarification involves the Joint Venture Agreement's attempt to require that FT and DT steer business to the Joint Venture. Such a marketing strategy by the parties violates the clear intent of Section III.D because, as noted in the Competitive Impact Statement, the discrimination prohibited by that provision "includ[es] activities involving the sale [sic] marketing, and distribution of Sprint and Joint Venture Co. services by FT and DT."[8] The consent decree should be clarified to prohibit expressly the steering of customers by FT and DT to the Joint Venture because such activity constitutes banned favoritism.

AT&T's final concern rests with the mechanism chosen to trigger the expiration of the nondiscrimination protections in Section III of the decree (the "Phase I Conditions"). The Phase I Conditions for each country expire once France or Germany authorizes domestic and international facilities-based competition in basic telecommunications services and issues one license to a competitor to FT or DT. The Department's rationale for the lifting of the Phase I Conditions upon the authorization of competition and licensing of a competitor in France and Germany is that U.S. carriers will have means other than FT's and DT's bottleneck facilities to terminate their traffic to France or Germany.[9] Yet, the Department's own explanation for why the Phase I Conditions are necessary, coupled with the Department's acknowledgment that mere legal authorization to compete and issuance of one license to do so may not result in a competitive alternative to FT or DT, mandate that the Department ensure continuance of the Phase I protections until FT and DT face actual competition.[10]

The Department Must Clarify the Scope of Certain Conditions and Change Implementation Procedures of the Proposed Final Judgment

As the Department recognizes in its Competitive Impact Statement, FT and DT—the world's largest government-owned monopoly telecommunications carriers—have absolute control over telecommunications services in France and Germany, respectively. FT is the fourth largest provider of telecommunications services in the world, while DT is the second or third largest.[11] FT and DT are each the state authorized monopoly provider of public switched voice service, as well as all transmission facilities for domestic and international telecommunications in their respective home countries.[12] As a result, "[a]ccess to FT's and DT's public switched network and transmission infrastructure is necessary for international telecommunications and enhanced telecommunications services that originate or terminate in France and Germany," and "virtually all international telecommunications traffic between the U.S. and France and between the U.S. and Germany originates or terminates over FT's or DT's public switched networks, their transmission infrastructure, or both."[13]

Under the proposed joint venture, FT and DT are required to refrain from competing with Sprint in the United States in the Joint Venture's services and in other services.[14] FT and DT thus "generally will only be able to participate directly in United States telecommunications markets through their ownership interests in Spring."[15] Moreover, the United States is "by far" the most important location of those customers who desire global seamless telecommunications services, *i.e.*, multinational corporations who seek one stop shopping for their communications needs irrespective of national borders.[16] Because FT and DT can participate in the U.S. market only through the Joint Venture, they will have increased incentives and the ability, using their monopolies and dominant positions in France and Germany, respectively, to favor Sprint and the proposed Joint Venture and to disfavor their United States international telecommunications services competitors and their customers.[17]

The Competitive Impact Statement sets forth in detail the myriad ways that FT and DT could use their control over essential facilities in France and Germany to favor Sprint and to harm Sprint's U.S. competitors and their

[3] CIS at 44077 (citing *United States* v. *Waste Management, Inc.*, 1985–2 Trade Cas. ¶ 66,651, at 63,046 (D.D.C., 1985).

[4] United States v. *Microsoft Corp.*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

[5] *United States* v. *Mid-America Dairymen*, Inc., 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977) (Court carefully considers explanations of the government in the Competitive Impact Statement when determining if decree is in the public interest).

[6] *Microsoft Corp., supra*, at 1462.

[7] *Id.*

[8] CIS at 44071.

[9] See pp. 16–17, *infra*.

[10] CIS at 44074.

[11] CIS at 44060.

[12] *Id.*

[13] *Id.* at 44061.

[14] *Id.* at 44059. Similarly, Sprint must refrain from competing with the Joint Venture anywhere in the world and must refrain from competing with FT and DT in France and Germany. *Id.*

[15] *Id*

[16] *Id.*

[17] *Id.* at 44063

customers.[18] Although this threat to U.S. competition and consumers would justify the Department's blocking of the proposed acquisition, the Department has exercised its prosecutorial discretion and entered into the proposed Final Judgment, which seeks to prevent such anticompetitive conduct through conditions. However, unless the clarifications and change to implementation procedures set forth herein are made, FT and DT will be able to leverage their monopoly power contrary to the Department's intent, and to the public interest test in the Tunney Act.

A. The Department Should Make Clear That Sprint and the Joint Venture Cannot Offer a New Correspondent Service Unless Other U.S. Carriers Can Provide Such Service With FT and/or DT on a Non-Discriminatory Basis

Because FT and DT each has the ability to leverage its monopoly power over telecommunications in France and Germany, respectively, in favor of Sprint or the Joint Venture and against other U.S. carriers, the proposed Final Judgment prohibits any discrimination in favor of Sprint. Section III.D thus explicitly prohibits Sprint and the Joint Venture from accepting any FT or DT Products and Services on a discriminatory basis for the provision of any telecommunications or enhanced telecommunications service in the United States or between the United States and France or the United States and Germany.

As a result of FT's and DT's monopolies over the provision of basic telecommunications services in their countries, U.S. carriers can provide U.S.-to-France service and U.S.-to-Germany service only through agreement with FT and DT for the termination of such calls. Such services are referred to as correspondent services. The provision of correspondent services is included within the nondiscrimination protections of Section III.D. Sprint and the Joint Venture cannot accept "FT or DT Products and Services" that are provided on a discriminatory basis, and "FT or DT Products and Services" are defined to include correspondent services.[19] Further, Sprint and the Joint Venture are specifically prohibited from receiving discriminatory "terms and conditions of operating agreements for correspondent services and international half-circuits." [20] The Final Judgment thus would prohibit Sprint or the Joint Venture from offering correspondent services between the U.S. and France or the U.S. and Germany where FT or DT has not made such correspondent services available to other U.S. carriers on a nondiscriminatory basis.

In order further to protect U.S. competition and consumers from monopoly leveraging, Section III.G.1 of the proposed decree provides that Sprint may not provide a correspondent service with FT or DT unless at least one other carrier has reached agreement with FT or DT, as the case may be, to provide such a correspondent service:

> Sprint may not offer, supply, distribute or otherwise provide any correspondent telecommunications or correspondent enhanced telecommunications service between the United States and France or Germany pursuant to any operating agreement with FT or DT, unless with respect to such service, at least one other United States international telecommunications provider has also obtained an operating agreement with FT and DT for the provision of such service between the United States and France and Germany. This provision will operate separately for France and Germany.

This provision is designed to ensure that Sprint does not have an exclusive or preferential arrangement with FT or DT, which would limit competition in the provision of U.S.-to-France or U.S.-to-Germany services in the U.S. In addition, it balances that interest with the public interest of permitting new services to be offered to U.S. customers on an expedited basis by allowing Sprint to introduce a correspondent service as soon as another U.S. carrier also has reached agreement with FT and DT to do so. Sprint need not wait to offer the service until FT and DT have reached nondiscriminatory operating agreements covering such service with all U.S. carriers.

Section III.G.1 must be interpreted, however, consistent with the antidiscrimination protections of Section III.D. Otherwise, Section III.G.1 could permit FT and DT to introduce a new correspondent service with Sprint once that service is offered by *any* other U.S. carrier selected by FT or DT—without regard to the practical ability of that other carrier to compete effectively with Sprint. Moreover, such an interpretation could be used to limit FT's and DT's obligation to provide the same correspondent service to other U.S. Carriers that today serve the route or that seek to do so in the future. Limiting FT's and DT's nondiscriminatory treatment merely to one other carrier would be inconsistent with Section III.D and clearly was not intended.

The Department thus should clarify that Section III.G.1 does not abrogate any of the nondiscrimination requirements of Section III.D. Specifically, the Department should make clear that the Final Judgment requires FT and DT to offer correspondent services to all U.S. carriers on a nondiscriminatory basis, and prohibits Sprint from offering a correspondent service where FT or DT has discriminated in offering to provide such correspondent services with other U.S. carriers.[21] Further, this obligation should be viewed as a continuing obligation. Were FT or DT has a service arrangement with other U.S. carriers that is later offered with Sprint, FT or DT should be required by Section III.D.1 to extend any different terms and conditions it has offered to Sprint to the other U.S. carriers.

B. The Department Should Make Clear That Sprint and Joint Venture Co. Cannot Provide Services to Customers Who Have Been "Steered" to Sprint or the Joint Venture by FT and/or DT

Section 10.6(b) of the Joint Venture Agreement between Sprint, FT and DT specifically requires FT and DT to steer customers toward Joint Venture services even where the customer has affirmatively requested that another U.S. carrier provide the U.S. half of the service:

> If a Party or any of its Affiliates receives an unsolicited request from a customer of a Party or any of its Affiliates or of the Joint Venture to enter into a Contract to provide to such customer in conjunction with other persons a service that is currently offered by the Joint Venture, such Party or its Affiliates will use commercially reasonable efforts to persuade such customer to purchase such service from the Joint Venture. If despite such Party's efforts, the Customer prefers not to purchase such service from the Joint Venture, such party will refer such matter to the Global Venture Office which, within ten (10) Business Days, will present its observations regarding such matter. * * *

For example, if a customer comes to DT (which the customer must do in Germany) and requests that DT arrange for private line service between Germany and the U.S. and requests that

[18] *Id.* at 44063–64.

[19] Final Judgment, § V.L.(i).

[20] *Id.* § III.D.1(v).

[21] Section II.C of the proposed Final Judgment confirms this reading. That section prohibits Sprint and the Joint Venture from participating in the provision of a service that requires a license in France or Germany unless other carriers can obtain the necessary authorization on the same terms and conditions, including the same time frame as FT or DT. It would be inconsistent to permit Sprint or the Joint Venture to benefit from FT or DT discrimination in providing authorization (via an operating agreement) that is solely under their control, when Sprint and the Joint Venture are not permitted to benefit from discrimination by France or Germany in granting governmental authorization.

MCI provide the U.S. half-circuit, DT must use "commercially reasonable efforts" to persuade MCI's customer instead to use the Joint Venture for such service.[22] Further, DT must refer the customer's request to the Joint Venture (including Sprint's representatives) if it fails to convince the customer to purchase Joint Venture services.[23]

Such discriminatory marketing activity by a company controlling essential facilities in favor of its affiliate is precisely the type of monopoly leveraging that the Final Judgment seeks to prohibit.[24] The Department should clarify that the receipt of such favored treatment by Sprint or the Joint Venture would violate the prohibition against discrimination contained in Section III.D.1 of the proposed Final Judgment.

C. The Department Should Make Clear That the Phase I Conditions Will Not Expire Until Practical Alternatives Exist in France and Germany for the Termination of International Telecommunications Traffic, Including Basic Switched Voice Services

The Final Judgment would impose two sets of conditions on Sprint and the Joint Venture, one set that continues for the term of the decree and one set that expires upon the happening of certain events. The Phase I protections against discrimination will terminate (separately for each country) once France or Germany authorizes domestic and international competition and issues a license to one competitor of FT or DT. The restrictions contained in Section II will continue through the entire term of the consent decree.

As the Department explains, stricter prohibitions during Phase I are necessary "because there is considerably greater potential for competitive abuses to occur in the period while competitors have no legal alternative to using FT's and DT's facilities and services and before the French and German governments finish implementing their program of regulatory reform." [25] Further, in order for Phase II to begin, "the licensed competitors must have authority to construct or own a sufficiently large amount of international capacity that other providers would have a realistic alternative to the use of the international facilities of FT or DT. * * *" [26] In short, the Department's rationale for the lifting of the Phase I Conditions is that, once Phase II begins, U.S. carriers will have means other than FT's or DT's bottleneck facilities to terminate their traffic to France or Germany. Moreover, if "the entry of licensed competitors in France or Germany has been significantly delayed after the granting of licenses, or has otherwise not proven sufficient to provide a competitive alternative [to FT or DT]," the Department would request reinstatement of the Phase I Conditions.[27]

Despite the stated rationale for the Phase I conditions, the Final Judgment appears to provide for their termination upon the mere removal of legal restrictions and the issuance of a license to a potential competitor in France and Germany. There is no demonstration required by the parties that effective competition exists in France and Germany for the termination of international traffic. Thus, the Phase I Conditions, which include the prohibitions against discrimination, would terminate once France and Germany each legally authorizes competition in international and domestic services and issues *one* license to do so, regardless of whether the recipient of that license is capable of providing U.S. carriers any practical alternative to FT or DT for terminating calls to France or Germany. This result would conflict with the Department's own underlying rationale for the proposed two-phased decree. To remedy this problem, the Department should modify the implementation provisions of the decree to require Sprint to demonstrate to the Department that an actual competitive alternative to FT and DT exists in France and Germany, respectively, for the termination of telecommunications traffic, including basic switched voice services, in order for the Phase I Conditions to be lifted.

Conclusion

As set forth above, the application of key provisions of the proposed Final Judgment must be clarified in order for the decree to be applied in the manner intended by the Department and in order to prevent anticompetitive abuse. Unless the Department adopts the clarifications and implementation modification set forth herein, the Final Judgment will not satisfy the Tunney Act's requirement that the decree be in the public interest. The Department therefore should clarify that (1) Sprint cannot offer a new correspondent service unless other U.S. carriers can provide such service with FT and/or DT on a non-discriminatory basis, and (2) Sprint and the Joint Venture cannot provide services to customers who have been "steered" to Sprint or the Joint Venture by FT and/or DT. The Department also should modify the implementation provisions of the decree so that the Phase I Conditions will remain in effect until Sprint demonstrates to the Department that practical alternatives exist in France and Germany for the termination of international telecommunications traffic, including basic switched voice services.

Dated: October 23, 1995.

Respectfully submitted,

Judith A. Maynes,
Mark C. Rosenblum,
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Karen L. Itzkowitz,
Attorneys for AT&T Corp.

[22] It is unclear what would constitute "commercially reasonable efforts" if one is a monopolist to whom all customers must come for service.

[23] Sprint's representative to the Joint Venture thus would be informed of every unsuccessful attempt in Europe to steer global customers to the Joint Venture (*i.e.*, every time a customer wanted to use a U.S. carrier other than Sprint or the Joint Venture). Such market leads obtained solely because of FT's and DT's monopoly status would permit Sprint to target the U.S. offices of these customers for follow-up persuasion.

[24] Sprint does not dispute AT&T's interpretation of FT's and DT's obligation under the Joint Venture Agreement, and does not deny its intent to engage in such steering of customers. Indeed, Sprint argues that the steering of customers by a monopolist to its U.S. affiliate merely reflects "economic self-interest" and is not improper. *Market Entry NPRM*, Sprint Supplemental Reply (filed Sept. 15, 1995) at iv.

[25] CIS at 44066.

[26] *Id.* at 44065.

[27] *Id.* at 44074.

Comments of MCI Communications Corporation on Proposed Consent Judgment

United States of America, Plaintiff, v. *Sprint Corporation and Joint Venture Co.*, Defendants.

[No. 95–CV–1304 (TPJ)]

Dated: October 23, 1995.

Anthony C. Epstein,
J. Paul Oetken,
Jenner & Block, Attorneys for MCI Communications Corporation.

Of Counsel:

Michael H. Salsbury,
Executive Vice President and General Counsel, MCI Communications Corporation.

To: The Department of Justice

Comments of MCI Communications Corporation on Proposed Consent Judgment

United States of America, Plaintiff, v. *Sprint Corporation and Joint Venture Co.*, Defendants.

[No. 95–CV–1304 (TPJ)]

Pursuant to § 2 (b), (d), and (f)(4) of the Antitrust Procedures and Penalties Act (the "Tunney Act"), 15 U.S.C. § 16 (b), (d), and (f)(4), MCI Communications Corporation ("MCI") submits these comments regarding the consent

judgment proposed by the United States Department of Justice ("DOJ") in this proceeding.

I. Introduction and Summary

If the proposed transactions among Sprint Corporation ("Sprint"), France Telecom ("FT"), and Deutsche Telekom A.G. ("DT") are consummated, FT's and DT's monopoly power in France and Germany would pose a serious and long-term threat to U.S. consumers and competition. The heart of DOJ's complaint is that the transactions threaten substantially lessened competition because of the danger that FT and DT will "use their market power over the public switched networks, transmission infrastructure and public data networks in France and Germany to discriminate in favor of Sprint and [Phoenix] vis-a-vis other United States international carriers" and to engage in other anticompetitive conduct.[1] In addition to financial incentives, the proposed transactions would create contractual and corporate duties on the part of FT and DT to discriminate in favor of Sprint and Phoenix.[2]

However, the proposed consent decree falls conspicuously short of alleviating these dangers. Most significantly, it allows the shift from a *de jure* to a *de facto* monopoly in France and Germany to trigger the lifting of its crucial substantive protections against anticompetitive behavior. The critical question is whether FT's and DT's monopoly power persists, not whether their monopolies are *de jure* or *de facto*. Under DOJ's proposed consent decree, however, the substantive protections against abuse of FT's and DT's monopoly power immediately and automatically expire as soon as competition is legally authorized and just one competitor has been licensed in France or Germany. By removing Phase I protections before the development of genuine, effective facilities-based competition in France and Germany, the decree substantially undermines its own force.

The competitive problems posed by these transactions stem mainly from three facts. First, FT and DT have market power in France and Germany, and international telecommunications carriers are completely dependent on them in connection with services to France and Germany. Second, even after effective facilities-based competition is legally permitted in France and Germany, it will take, at a minimum, several years to develop, and effective regulation of FT and DT will be essential during the transition period. And third, as government-owned and government-controlled monopolies, FT and DT lack any independent regulator in their home countries.

The proper benchmark for when such anticompetitive behavior ceases to be a threat is not the *legal possibility* of competition, but rather the *actual development of facilities-based competition*. As DOJ itself recently stated in a related proceeding, "facilities-based competition is by far the best solution to the problems * * * that arise today from [foreign] monopoly provision of key network facilities and services."[3] DOJ recommends the imposition of these restrictions because of FT's and DT's monopoly power, so they should remain in effect as long as that monopoly power persists.

FT's and DT's monopoly power—and hence the anticompetitive threat—will persist for years after the triggering events for termination of the Phase I competitive safeguards (formal authorization of competition and licensure of one competitor). First, new entrants will need time to construct networks and develop a customer base. Second, numerous regulatory implementation issues will have to be resolved by French and German authorities after the formal licensing of competitors. And third, regulation is especially unlikely to be effective when, as in the case of FT and DT, "foreign authorities are regulating government-owned monopoly carriers."[4] There is no basis for equating the elimination of legal entry barriers and the licensing of one competitor with the immediate reduction, much less elimination, of FT's and DT's market power.

DOJ attempts to justify the premature expiration of Phase I's competitive safeguards by relying on the "assumption"[5] that the French and German governments eventually will provide equivalent protection, even though the governments will continue to own FT and DT. As DOJ itself has observed, however, "[f]oreign regulation normally should not be considered a sufficient alternative to protect U.S. consumers in the absence of any meaningful facilities-based competition, however effective that regulation may be represented to be."[6] Such foreign regulation may not be adopted for years in France and Germany and is unlikely effectively to rein in FT's and DT's monopoly power—particularly given that the regulators would also be the owners of the regulated entities. In any event, DOJ's independent responsibility to enforce the U.S. antitrust laws and to protect U.S. consumers is not shared by French and German regulators.

By permitting anticompetitive conduct to occur under the *de facto* monopolies of FT and DT after *de jure* protections have been eliminated, the proposed consent decree fails to prevent serious harms to competition and consumers during a crucial period of years. Therefore, the proposed decree is not in the public interest unless it is modified to provide that the restrictions remain in effect until actual, effective facilities-based competition is found to exist in France and in Germany.

II. Background

A. Legal Standards Under the Tunney Act

The Tunney Act provides that proposed consent judgments in antitrust cases brought by the United States are subject to a 60-day period during which written comments may be filed.[7] The United States is required to "receive and consider" any such comments.[8]

In requiring consideration of public comments, the Act contemplates a critical reexamination of the decree by DOJ in light of the points made in any submitted comments. DOJ has the authority to withdraw its consent to the decree at any time before it is entered.[9] Therefore, if the public comments persuade DOJ that the decree should be modified, it is free to condition its continued consent on these modifications.

If DOJ decides that no modifications are appropriate in light of the public comments, the Court must determine whether entry of the proposed consent judgment "is in the public interest."[10] In making that determination, the Court may consider:

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations

[1] Competitive Impact Statement, 60 Fed. Reg. 44,058, 44,063 (filed Aug. 14, 1995) ("CIS").

[2] *See infra* at 11–12 and n. 29.

[3] Reply Comments of DOJ, at 17, *Market Entry and Regulation of Foreign-affiliated Entities*, IB Docket No. 95–22, RM–8355, RM–8392 (FCC) filed May 12, 1995).

[4] *Id.* at 27.

[5] CIS, 60 Fed. Reg. at 44,066.

[6] Reply Comments of DOJ, at 27.

[7] 15 U.S.C. § 16 (b) and (d).

[8] *Id.* § 16(d).

[9] *See* Stipulation ¶ 2, 60 Fed. Reg. 44,049 ("Plaintiff may withdraw its consent to entry of the Final Judgment at any time before it is entered, by serving notice on the defendants and by filing that notice with the Court.").

[10] 15 U.S.C. § 16(e).

set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.[11]

The Court is specifically authorized in making its public interest determination to review any comments of interested parties and DOJ's response to such comments.[12]

Although an antitrust consent decree proposed by DOJ is entitled to deference, the Tunney Act was "intended to prevent 'judicial rubber stamping'" of such decrees,[13] and to require "an independent determination as to whether or not entry of a proposed consent decree [was] in the public interest."[14] Thus, while the D.C. Circuit made clear in its recent *Microsoft* decision that "Congress did not mean for a district judge to construct his own hypothetical case and then evaluate the decree against that case,"[15] it also reaffirmed the district court's duty to inquire into "the purpose, meaning, and efficacy of the decree,"[16] and to determine whether the remedies proposed are "inconsonant with the allegations."[17]

DOJ accurately describes the character of the "public interest" determination in the context of this case:

> The courts have recognized that the term "public interest" "take[s] meaning from the purposes of the regulatory legislation." *NAACP* v. *Federal Power Comm'n*, 425 U.S. 662, 669 (1976); *United States* v. *American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983), *cert. denied*, 465 U.S. 1101 (1984). Since the purpose of the antitrust laws is to "preserv[e] free and unfettered competition as the rule of trade," *Northern Pacific Railway Co.* v. *United States*, 356 U.S. 1, 4 (1958), the focus of the "public interest" inquiry under the Tunney Act is whether the proposed final judgment would serve the public interest in free and unfettered competition. *United States* v. *Waste Management, Inc.*, 1985–2 Trade Cas. ¶66,651, at 63,046 (D.D.C. 1985).[18]

A proposed consent decree that fails to cure the antitrust violation is not in the public interest.[19]

B. The Proposed Transactions

Two related transactions are the subject of DOJ's antitrust complaint and consent decree. First, Sprint, FT, and DT have entered into an agreement providing for the formation of an international joint venture, now known as "Phoenix," to provide a variety of voice, video, and data services. Under the agreement, each party would contribute most of its existing operations outside its home country to the Phoenix joint venture. FT and DT would hold and manage their interests in Phoenix together through their own proposed two-party joint venture, known as "Atlas." Phoenix would have a board on which FT, DT, and Sprint would be equally represented. Sprint would have the exclusive right to provide Phoenix services in the United States, and FT and DT would not compete with Sprint in the United States with respect to such services. Sprint similarly would not compete with FT and DT in their home countries. None of the three owners would compete against Phoenix.[20]

Second, Sprint, FT, and DT have entered into an agreement entitling FT and DT each to acquire a 10-percent equity interest in Sprint, and thus to become Sprint's largest shareholders. FT and DT would acquire special shareholder rights, including the right to appoint three members of Sprint's 15-member Board of Directors.[21]

C. The Proposed Consent Decree

On July 13, 1995, DOJ filed a civil antitrust complaint alleging that the proposed Sprint-FT-DT transactions would violate § 7 of the Clayton Act[22] by lessening competition in the markets for telecommunications services between the United States and France and between the United States and Germany. On the same date, Sprint and DOJ stipulated to the entry of a proposed consent decree, which purports to remedy the fundamental problem created by an alliance between Sprint and two foreign, government-owned monopoly carriers that are among the largest telecommunications providers in the world. The danger addressed by DOJ's complaint and consent decree is that FT and DT will "use their market power over the public switched networks, transmission infrastructure and public data networks in France and Germany to discriminate in favor of Sprint and [Phoenix] vis-a-vis other United States international carriers" and to engage in other anticompetitive conduct.[23]

The proposed consent decree imposes restrictions and obligations in two separate phases. Phase I terminates, for France and Germany independently, when legal prohibitions on competition against FT and DT have been removed and one or more competitors have been licensed to provide facilities and services in each country.[24] Phase II continues for five years after the end of Phase I.[25]

The provisions of the decree that apply during both Phase I and Phase II include:

- requirements of disclosure of the terms and conditions of dealings among Sprint, FT, DT, and Phoenix (II.A)
- restrictions on the sharing of information (II.B)
- limitations on the ability of Sprint and Phoenix to offer international services involving France or Germany, or to provide facilities to FT or DT for such services, if other United States international telecommunications providers are not permitted to provide the same services (II.C)[26]

The provisions that are applicable only during Phase I include:

- restriction against the acquisition by Sprint or Phoenix of ownership interests in or control over facilities legally reserved to FT or DT, and limitations on their ability to acquire international half-circuits terminating in France or Germany (III.A)
- prohibition of the acquisition by Sprint or Phoenix of ownership interests in or control over FT or DT public data networks (III.B)
- prohibition against Sprint or Phoenix providing FT or DT products and services on an exclusive basis (III.C)
- prohibition against Sprint or Phoenix obtaining FT or DT products and services on a discriminatory basis (III.D)
- prohibition of Sprint's acceptance of correspondent telecommunications traffic on a disproportionate basis (III.E)
- restrictions designed to guard against cross-subsidization of Sprint or Phoenix by FT or DT (III.F)

[11] *Id.*

[12] *Id.* § 16(f)(4).

[13] *United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1458 (D.C. Cir. 1995) (quoting H.R. Rep. No. 1463, 93d Cong., 2d Sess. 8 (1974)).

[14] *Id.* (quoting S. Rep. No. 298, 93d Cong., 1st Sess. 5 (1973)).

[15] *Id.* at 1459.

[16] *Id.* at 1462.

[17] *Id.* at 1461.

[18] CIS, 60 Fed. Reg. at 44,076–44,077; *see also United States* v. *Western Elec. Co.*, 900 F.2d 283, 308 (D.C. Cir.) ("To remain consistent with antitrust policy, the court should revise the decree that is shown to lessen competition substantially in present circumstances.") (quoting 2 P. Areeda & D. Turner, *Antitrust Law* ¶ 330, at 141–42 (1978)), *cert. denied*, 498 U.S. 911 (1990).

[19] *See United States* v. *AT&T*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd mem. sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983).

[20] *See* CIS, 60 Fed. Reg. at 44,058–44,059.

[21] *Id.*

[22] 15 U.S.C. § 18.

[23] CIS, 60 Fed. Reg. at 44,063.

[24] *Id.* at 44,065; Final Judgment V.Q, 60 Fed. Reg. 44,051, 44,056.

[25] CIS, 60 Fed. Reg. at 44,074; Final Judgment X.B, 60 Fed. Reg. at 44,058.

[26] CIS, 60 Fed. Reg. at 44,067–44,070; Final Judgment, 60 Fed. Reg. at 44,051–44,053.

• prohibition of any exclusive operating agreements between Sprint and FT or DT (III.G)

• requirements that Sprint and Phoenix not provide telecommunications or enhanced telecommunications services using FT or DT products and services or public data networks, if FT or DT has established proprietary or nonstandardized protocols or interfaces and has failed to continue to provide other competitors with access to those services and networks on a standardized basis (III.H–I)[27]

III. The Proposed Decree Should be Modified so That its Safeguards Against Abuse of FT's and DT's Monopoly Power Continue as Long as Their Monopoly Power Continues

The proposed transactions pose a well-established threat to U.S. consumers and competition. DOJ recognizes that the transactions threaten substantially lessened competition because they give FT and DT "increased incentives and the ability, using their monopolies and dominant positions in France and Germany respectively, to favor Sprint and [Phoenix] and to disfavor their United States competitors in international telecommunications services in various ways," including discrimination, cross-subsidization, and sharing of confidential information.[28] The proposed transactions also would create contractual and corporate duties on the part of FT and DT to discriminate in favor of Phoenix and Sprint. For example, the Joint Venture Agreement would require FT and DT to "use commercially reasonable efforts to persuade" customers to use Phoenix services when they have requested the services of another U.S. carrier.[29] DOJ does not point to any procompetitive benefits created by the transactions that would mitigate their anticompetitive effects.

The proposed consent decree fails in a basic respect to prevent the injury that DOJ alleges arising from FT's and DT's monopoly power. In particular, it allows the shift from a *de jure* to a *de facto* monopoly in France and Germany to trigger the lifting of its substantive protections against anticompetitive behavior. By providing for the removal of Phase I restrictions before the development of genuine, effective facilities-based competition in France and Germany, the decree fundamentally fails to solve the anticompetitive problems that would result from the transactions.

A. The Proposed Consent Decree Would Permit Anticompetitive Activity to Occur Under De Facto Monopolies in France and Germany

The Phase I restrictions are necessary because of FT's and DT's monopoly power. Under the consent decree as currently proposed, Phase II would begin as soon as France or Germany (1) has legally authorized competition, and (2) has issued *one* license for the construction or ownership of facilities and the provision of services. At that time, Phase I's substantive restrictions intended to prevent misuse of FT's and DT's monopoly power would immediately and automatically end—even if FT's and DT's monopoly power was unabated as a practical matter.[30]

DOJ cannot justify this premature trigger for the lifting of the crucial Phase I restrictions before the advent of effective competition in France and Germany. DOJ states:

> These [Phase I] restrictions * * * are expected to become less necessary once competition has been introduced in France and Germany, which should occur concurrently with the regulatory reform program being undertaken by the EU authorities. At that point, competitors will be less vulnerable to abuses of market power by FT and DT because of the alternatives available for transmission infrastructure, and should be better protected by European regulatory requirements to the extent that they continue to depend on the services and facilities of FT and DT.[31]

But competition is "introduced," and there are "alternatives available for transmission infrastructure," only when competition actually has *developed* in France or Germany—not when it is simply made legally permissible. When France (or Germany) eliminates its *de jure* monopoly and licenses one initial competitor, FT (or DT) will still continue to operate as a *de facto* monopoly for a significant period of time—*i.e.*, until a competitor actually develops its own network sufficient to constitute a realistic alternative to the facilities of FT (or DT). And during this period of time—which is likely to last a number of years—Sprint and Phoenix will be able to benefit from the same discriminatory and other anticompetitive monopolistic conduct that DOJ agrees the judgment should prohibit. Whether FT and DT use *de jure* or *de facto* monopoly power to harm U.S. competition and consumers is irrelevant. The same need for the Phase I restrictions exists regardless of the source of the monopoly power.

DOJ itself has emphasized the essential need for actual (versus potential) facilities-based competition in foreign telecommunications markets. In comments filed with the FCC, the Department states that "facilities-based competition is by far the best solution to the problems" for U.S. consumers created by foreign *de jure* and *de facto* monopolies.[32] DOJ cites the existence of real competition in the U.K. as permitting the particular relief provided in the MCI–BT decree, and as resulting in significantly lower prices.[33] Even parts of its Competitive Impact Statement reveal DOJ's fundamental agreement with the proposition that actual competition—rather than the mere legality of competition—is the *sine qua non* of preventing the harms of monopoly and market power.[34]

In another proceeding in this Court, DOJ also recognized the substantial danger that an incumbent telecommunications monopolist will abuse its monopoly power in favor of an affiliated entity unless and until actual facilities-based competition develops. DOJ has moved to permit one of the Regional Bell Operating Companies ("RBOCs" or "Baby Bells") to provide on a trial basis through a separate affiliate domestic and international long distance service, but only *after* "actual competition (including facilities-based competition)" has developed.[35] FT's and DT's monopoly power in France and Germany over local (and domestic long distance) services is as great as the RBOCs' monopoly power in the U.S. over local services, and FT and DT control the ability of international carriers to reach French and German customers to at least as great an extent as the RBOCs control their ability to reach U.S. customers. Accordingly, decree restrictions involving FT and DT should continue as long as decree restrictions on the RBOCs—until actual facilities-based competition has deve]oped.

For three reasons, it will take time for actual competition to develop after formal legal barriers to entry are eliminated and a competitor is licensed. *First*, after they obtain a license, new entrants will need time to construct alternative networks and develop a customer base. DOJ acknowledges this fact:

> Although some competition to the FT and DT public switched voice services and network would likely emerge were all legal restrictions on competition lifted, replication of the entire public switched network would be prohibitively expensive for any new entrant.[36]

The slow development of competing data services in France and Germany is illustrative: although legal entry barriers were removed a few years ago and competitors have been licensed, FT and DT continue to have considerable market power.[37] DOJ also recognized this problem in discussing economic barriers to competition in local telecommunications markets in the United States—barriers that are comparable to the barriers in France and Germany. In the proceeding in this Court concerning the RBOC waiver, DOJ stated that "even as legal and regulatory barriers come down, a substantial barrier remains if entrants must replicate the entire network of the [local exchange carrier] in order to provide local exchange service."[38]

This Court well understands that the elimination of legal barriers to competition should not be confused with actual competition in telecommunications markets. As the Court explained in rejecting DOJ's attempt to equate elimination of legal entry barriers with effective competition in U.S. telecommunications markets:

> To be sure, as long as states and localities prohibit outsiders from competing with the local Operating Companies, the monopolies will continue to exist. But the reverse is not true. Even if all state and local regulation prohibiting competitive entry into the local exchange market were to be repealed tomorrow, and anyone were free, as a matter of law, to sell local telephone service, the exchange monopolies would still exist substantially in the same form and to the same extent as they do now.[39]

This observation is as true for French and German telecommunications markets as it is for U.S. markets.

Second, a number of regulatory issues critical to the development of effective competition will have to be resolved after French and German regulators formally license potential competitors of FT and DT. The threat of cross-subsidy provides one example. DOJ acknowledges that existing French and German regulations "are very limited and have not prevented instances of massive cross-subsidy."[40] Unless effective regulations to prevent cross-subsidy are both adopted and implemented, would-be competitors of FT and DT will be at an insuperable competitive disadvantage, with FT and DT continuing to have a unique ability to fund competitive services with inflated revenues coerced from captive monopoly customers. If such cross-subsidization is allowed to continue after the removal of legal entry barriers and the licensing of one competitor, it will be impossible for competition to develop. Similarly, French and German regulators will have to resolve issues about the price that FT and DT charge for essential inputs. DOJ acknowledges that even licensed competitors will continue to be dependent on FT and DT for certain inputs for a significant period of time,[41] and if those inputs are overpriced, other firms will not be able to compete effectively.

Regulatory implementation issues following formal liberalization will be a major obstacle to the development of effective competition. DOJ itself recognized the critical importance of these implementation issues in the pending proceeding in this Court concerning the RBOC waiver:

> [T]he transition to competition in local exchange services will be complex. No set of conditions for promoting such competition could hope to address in advance the dozens of complicated implementation issues that will have to be resolved before meaningful competition is a practical reality, rather than merely a theoretical possibility.[42]

DOJ's observations apply with equal force to the introduction of competition in foreign countries. Yet DOJ would allow the Phase I restrictions to be lifted while meaningful competition is only a "theoretical possibility," not a "practical reality."

Third, resolution of these regulatory implementation issues on terms that permit effective competition to emerge will be especially difficult because the French and German governments are both the owners and regulators of FT and DT.[43] So long as those entities are controlled by the French and German government, there will be strong incentives for the governments to favor them, as well as Sprint and Phoenix, in adopting and implementing regulatory reforms. The inherent conflict of interest when the same entity owns and regulates a carrier is certain to retard the development of meaningful competition. Indeed, full privatization

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[27] CIS, 60 Fed. Reg. at 44,070–44,073; Final Judgment, 60 Fed. Reg. at 44,053–44,055.

[28] CIS, 60 Fed. Reg. at 44,064–44,064.

[29] Section 10.6(b) of the Joint Venture Agreement (p. 81) provides:

> If a Party or any of its Affiliates receives an unsolicited request from a customer of a Party or any of its Affiliates or of the Joint Venture to enter into a Contract to provide to such customer in conjunction with other Persons a service that is currently offered by the Joint Venture, such Party or its Affiliates will use commercially reasonable efforts to persuade such customer to purchase such service from the Joint Venture. If despite such Party's efforts, the customer prefers not to purchase such service from the Joint Venture, such Party will refer such matter to the Global Venture Office which, within ten (10) Business Days, will present its observations regarding such matter. * * *

[30] DOJ contemplates that the end of Phase I would be contemporaneous with the EU liberalization reforms currently scheduled for 1998. CIS, 60 Fed. Reg. at 44,066, 44,074.

[31] *Id.* at 44,070.

[32] Reply Comments of DOJ, at 17, *Market Entry and Regulation of Foreign-affiliated Entities*, IB Docket No. 95–22, RM–8355, RM–8392 (FCC) (filed May 12, 1995); *see also id.* at ii ("Facilities-based competition in foreign countries is the best solution to these problems, and neither resale nor regulation is an equally effective substitute."); *id.* at 27 ("the existence of facilities-based competition is the best means of ensuring that U.S. consumers of international services are adequately protected").

[33] *Id.* at 14, 19–21.

[34] *See, e.g.*, 60 Fed. Reg. at 44,071 ("The limitation on ownership or control of international half-circuits can be lifted, if the United States and defendants agree that *meaningful competition exists* to the half-circuits provided by FT or DT.") (emphasis added); *id.* at 44,072 ("Once FT and DT *face competition* in the areas of their business now protected by monopoly rights, and the EU authorities have improved safeguards against cross-subsidy as part of their liberalization program, there is reason to believe that the risks of such conduct should diminish. * * *") (emphasis added).

[35] Memorandum of the United States In Support of Motion for a Modification of the Decree to Permit a Limited Trial of Interexchange Service by Ameritech, at 28–29, *United States* v. *Western Elec. Co.*, No. 82–0192 (D.D.C.) (filed May 1, 1995) ("DOJ Mem. re Competition").

[36] CIS, 60 Fed. Reg. at 44,061–44,062.

[37] *Id.* at 44,060, 44,062.

[38] DOJ Mem. re Competition, at 3.

[39] *United States* v. *Western Elec. Co.*, 673 F. Supp. 525, 544 (D.D.C. 1987) (footnote omitted), *aff'd in relevant part*, 900 F.2d 283 (D.C. Cir.), *cert. denied*, 498 U.S. 911 (1990).

[40] CIS, 60 Fed. Reg. at 44,072. Although section III.F of the decree prohibits FT and DT from cross-subsidizing the international services of Sprint and Phoenix, the proposed decree does not address cross-subsidization of domestic services provided by FT and DT over their domestic networks. The latter is the kind of cross-subsidization that would prevent competition to FT and DT from developing in France and Germany.

[41] *Id.* at 44,061–44,062 (because of the prohibitive cost of constructing a complete competitive network, "any provider of telecommunications or enhanced telecommunications services, or seamless international telecommunications services, whether in the U.S., France, Germany or elsewhere, is and will continue to be dependent to some extent for the foreseeable future on FT for origination and termination of telecommunications between France and anywhere else, and on DT for origination and termination of telecommunications between Germany and anywhere else").

[42] DOJ Mem. re Competition, at 3. The development of domestic long distance competition provides an instructive example. By the early 1970s, the FCC had determined that long distance competition was in the public interest and authorized MCI to compete against the Bell System, which at that time controlled local and long distance telephone service in the United States in much the same way that FT and DT control local and long distance telephone service in France and Germany. It still took MCI years to become a significant competitor because MCI was forced repeatedly to seek relief from the FCC and the courts from the determined efforts of the incumbent monopolist to obstruct MCI's ability to compete. *MCI Communications Corp.* v. *AT&T*, 708 F.2d 1081 (7th Cir.), *cert. denied*, 464 U.S. 891 (1983); *see also United States* v. *AT&T*, 524 F. Supp. 1336, 1353–57 (D.D.C. 1981); *United States* v. *AT&T*, 552 F. Supp. at 160–63. The implementation issues in France and Germany will be at least as difficult as those in the United States.

[43] FT is a 100-percent Government-owned and -operated entity and is expected to remain Government-controlled. Although DT became a private corporation this year, the German Government is its sole shareholder and is expected to retain majority control at least through 1999. *See* CIS, 60 Fed. Reg. at 44,060.

of FT and DT—when private investors, and not the French and German governments, own FT and DT—is likely to be practical prerequisite to effective competition.

For these three reasons, and despite DOJ's apparent recognition that the serious threats to U.S. consumers and competition alleged in the complaint will continue until effective competition in France and Germany develops, the proposed consent decree fails to guard against those threets by terminating the Phase I safeguards when competition is theoretically possible but long before it becomes actually effective. It is plain, therefore, that there is a major gap in the protections afforded by the consent decree. This gap is particularly significant because it will occur during years of crucial development and innovation in telecommunications.[44] As a result, the harms to competition—and ultimately to consumers—will have long-term and extensive consequences.

Accordingly, the transition from Phase I to Phase II under the decree should take place *not* with the elimination of the legal monopolies and licensing of a competitor in France and Germany, but rather upon a *finding that there is actual, effective facilities-based competition* in France and Germany. Such a finding by DOJ—as it has proposed in other contexts[45]—should be included in the consent decree as a prerequisite to the lifting of the Phase I restrictions. Any DOJ decision concerning the state of competition in France and Germany should be preceded by a mandatory public-comment period during which intervenors are given an opportunity to present evidence to DOJ. Following consideration of public comments, the Court should adopt or reject DOJ's finding of actual, effective competition. Only if the Phase I restrictions continue until FT's and DT's monopoly power has ended can the proposed decree be effective.[46]

Extending the Phase I protections as proposed here would neither unduly burden Sprint and Phoenix nor eliminate any possible benefits of the alliance. The defendants have no legitimate interest in being the beneficiaries of discrimination or other anticompetitive behavior, and the Phase I restrictions (such as those prohibiting cross-subsidization and nonstandard interfaces) will not impair Sprint's or Phoenix's ability to compete. If French and Germany regulatory authorities eventually adopt measures parallel to the Phase I restrictions, Sprint and Phoenix would not be prejudiced merely because the same conduct would be prohibited by the consent decree, particularly because DOJ contemplates that the victim of any violation would pursue regulatory remedies in France and Germany before complaining to the Department.[47] In sum, the demonstrable harms resulting from premature expiration of the Phase I safeguards are into outweighed by any offsetting benefits.

B. Conditions Protecting U.S. Competition and Consumers Should Not Be Ended Prematurely on the Assumption That Foreign Regulators Will Provide Equivalent Protection

DOJ states that its acquiescence in the termination of the Phase I restrictions under the terms of the proposed judgment rests in part on the assumption that European regulatory authorities will protect competition from U.S. carriers trying to compete with FT's and DT's affiliates Sprint and Phoenix:

> Generally speaking, during Phase II the proposed Final Judgment relies to a greater extent on enforcement by national regulatory authorities in Europe, the EU itself, and the FCC in the United States to protect competition, while during Phase I the proposed Final Judgment provides for additional types of injunctive relief to ensure that Sprint and [Phoenix] do not benefit from anticompetitive conduct by FT and DT. * * * Although the proposed Final Judgment does not specifically reference all of the directives and measures envisioned by the European authorities, an underlying assumption is that these authorities will carry out their publicly announced intention of having all the key regulatory measures needed for development of effective competition in place by the time full liberalization is to take effect in 1998.[48]

Reliance on such assumptions is misplaced. As DOJ itself has stated, "Foreign regulation normally should not be considered a sufficient alternative to protect U.S. consumers in the absence of any meaningful facilities-based competition, however effective that regulation may be represented to be."[49]

First, for the reasons explained above, even assuming implausibly for purposes of argument that the French and German governments will act affirmatively and aggressively to foster competition against the incumbent monopolists that they own, it will take time for competition to develop, and the threat to U.S. competition and consumers arising out of these monopolies, and the corresponding need for the Phase I protections, will continue until effective competition has taken root.

Second, as also explained above, because they own FT and DT, the French and German governments that also regulate FT and DT and their would-be competitors have an incentive to protect and preserve FT's and DT's monopolies and to maximize their value if their shares are ever sold to private investors. Moreover, the French and German governments have considerable flexibility not to implement procompetitive reforms. DOJ explains why:

> The EU authorities have exercised a very significant role in bringing about telecommunications liberalization in Europe, but there are important limits on the scope of their authority. The decision whether to privatize the government-owned telecommunications carriers, and the pace at which this occurs, [are] wholly at the discretion of the member states. Moreover, the EU's powers to compel liberalization and protect competition relate to activities affecting commerce within or between the member states. The decision of whether and how to regulate the dealings of FT and DT with foreign telecommunications carriers outside the EU, including the terms on which operating agreements and leased lines are made available, has been left to the French and German authorities. It is not yet clear whether the EU's liberalization measures will confer any rights on providers from the United States and other countries outside the EU, or only on firms operating within the EU. The national governments at present are free to limit entry by such non-EU competitors, subject to the results of ongoing multilateral telecommunications trade negotiations.[50]

Even if EU measures are effective in theory in preventing the risks associated with the Sprint–FT–DT transactions, France and Germany can delay adoption of those measures well beyond an EU implementation deadline. Potential regulatory changes in France and Germany are simply too uncertain to serve as the basis for expiration of the fundamental substantive protections of the decree.

Third, DOJ has an independent responsibility to enforce the U.S. antitrust laws to protect U.S. trade and U.S. consumers, and French and German regulators do not share this duty or this commitment. Deferring to the French and German governments while FT's and DT's monopolies persist is inconsistent with the very premise of the proposed judgment: if such deference were appropriate, no decree at all would be necessary or appropriate. DOJ has stated: "Regulation generally is an imperfect substitute for competition, and that is particularly true when foreign authorities are regulating government-owned monopoly carriers."[51] If reliance on French and German regulators to protect U.S. trade and consumers is inappropriate today, it will continue to be inappropriate until effective facilities-based competition has emerged in France and Germany.

Contrary to DOJ's suggestion, its authority to seek modification of the judgment does not solve the problem. DOJ notes that it could seek modification pursuant to section VIII.A "if, after the termination of Phase I, discrimination * * * or other types of conduct occur that would have been prohibited under the Phase I restrictions, resulting in a substantial harm to competition."[52] Before seeking modification, DOJ "would ordinarily inquire at the outset whether injured competitors had availed themselves of existing regulatory remedies, if any, in France or Germany as well as the United States, and what relief had been provided or action taken, if any. * * *"[53] In other words, DOJ recognizes a substantial possibility that the French and German governments will not take the actions necessary to permit effective competition to develop against FT and DT, and if its current hopes thereby turn out to be unfounded, DOJ in effect commits itself to seeking modification of the judgment.

This approach does not protect the public interest. The purpose of the Phase I protections is to prevent competitive harm from occurring, not merely to provide an after-the-fact remedy. Reimposing Phase I protections after protracted modification proceedings would be too little too late, and the judgment would provide no substantive protection for competition by U.S. carriers from the end of Phase I until DOJ prevailed on its modification motion. Moreover, the kind of modification proceeding that DOJ contemplates would put it and the Court in the position of evaluating the efficacy and reasonableness of specific French and German regulations. Such a review would not promote the interests in international comity espoused by DOJ.[54] For these reasons, reliance on possible future modification of the judgment to solve the problem of future anticompetitive conduct would undermine the purposes of the judgment.

The simpler, more direct, and more effective approach is to continue the Phase I protections until effective competition develops. Reliance on a hope that the French and German governments will provide equivalent protection of U.S. trade and consumers once they license one competitor would embroil DOJ and the Court in difficult enforcement and modification issues in the likely (if not inevitable) event that this hope turns out to be unrealistic.

C. Making Termination of Phase I Restrictions Dependent on the Development of Effective Competition Is Consistent With the Decree Entered in Connection With the MCI–BT Alliance

As DOJ acknowledges, there are "crucial differences between this transaction and the BT–MCI alliance."[55] These differences make it clear that modifying the proposed decree to retain the Phase I restrictions until effective competition develops in fact and not merely in theory is entirely consistent with, if not compelled by, the decree entered in connection with the MCI–BT transaction.

At the time of the MCI–BT transaction, BT's position in the United Kingdom's telecommunications market was dramatically different from the current positions of FT and DT in their home markets:

> Although BT continued to have some market power in basic telecommunications services and facilities and control over local bottlenecks in the United Kingdom at the time it formed its alliance with MCI, *all of its lines of business were already open to competition and BT actually faced facilities-based competition to some extent at all levels*, from independent carriers and cable television companies. Moreover, since 1993 BT has ceased to be government-owned, so that it is independent from its government regulator in the United Kingdom.[56]

In stark contrast, FT and DT have legal monopolies over all basic voice services—and over three-quarters of *all* telecommunications business—in their markets; they do not face facilities-based competition in the small segments in which it is legally permitted; and they are government-owned entities with no independent regulators.[57]

The size of the proposed Sprint-FT-DT alliance magnifies its anticompetitive risks. The combined revenues of Sprint, FT, and DT were approximately $85 billion in 1994, more than twice the total revenues of MCI and BT.[58] France and Germany represent two of the three largest telecommunications markets in the European Union; together they are more than twice the size of the U.K. market. The proposed alliance would have a significant portion of the overall European market as a protected base from which to operate.

DOJ purports to provide for these differences between the Sprint-FT-DT alliance and the MCI–BT alliance by imposing the Phase I safeguards until competition is legally permitted in France and Germany and then by imposing Phase II requirements that generally parallel the injunctive provisions in the MCI-Concert decree.[59] However, as explained above, the most significant problem with the proposed decree is that the Phase I restrictions are lifted before the actual development of facilities-based competition in France and Germany. To be consistent with the MCI-Concert decree, the Phase I restrictions on Sprint and Phoenix should continue until there is as much competition in France or Germany as there was in the United Kingdom at the time the MCI-Concert decree was entered. At that time, it would be appropriate to implement the Phase II restrictions comparable to the restrictions in the MCI-Concert judgment.

IV. Conclusion

For the foregoing reasons, the consent decree as currently proposed fails to remedy the antitrust violation alleged in the complaint and therefore is not in the public interest. The decree should be modified to provide that the restrictions imposed in Phase I remain in effect until actual, effective facilities-based competition is found to exist in France and in Germany.

Respectfully submitted,

MCI Communications Corporation.

[44] *see, e.g.*, Reploy Comments of DOJ, at 10.

[45] *See* DOJ Mem. re Competition, at 28. Such a finding would require "more than a single competitor serving niche markets." *ID.* at 33. Indeed, DOJ recognizes in its consent decree that such minimal competition is insufficient to prevent anticompetitive behavior. *See* Final Judgment III.B, III.I, 60 Fed. Reg. at 44,053, 44,054–44,055; CIS, 60 Fed. Reg. at 44,071, 44,073 (applying Phase I restrictions to public data networks despite existence of limited competition).

[46] It is reasonable to expect that such a finding would be possible when, at a minimum, three years have elapsed since full liberalization and privatization in France and Germany.

[47] CIS, 60 FR at 44,074.

[48] *Id.* at 44,066.

[49] Reply Comments of DOJ, at 27.

[50] CIS, 60 Fed. Reg. at 44,063.

[51] Reply Comments of DOJ, at 27.

[52] CIS, 60 Fed. Reg. at 44,074.

[53] *Id.*

[54] *Id.* at 44,076.

[55] *Id.* at 44,065.

[56] *Id.* (emphasis added).

[57] *Id.*

[58] *Id.* at 44,059.

[59] *Id.* at 44,065.

Dated: October 23, 1995.

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Comments of BT North America Inc. to the U.S. Department of Justice Regarding the Proposed Final Judgment

United States of America, Plaintiff, v. *Sprint Corporation and Joint Venture Co.*, Defendants.

[Civil Action No. 95–1304 (TPJ)]

Dated: October 23, 1995.

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Exhibit C

Comments of BT North America Inc. to the U.S. Department of Justice Regarding the Proposed Final Judgment

[Civil Action No. 95–1304 (TPJ)]

United States of America, Plaintiff, v. *Sprint Corporation and Joint Venture Co.*, Defendants.

I. Introduction

A. Background

In response to the public notice [1] issued under the Antitrust Procedures and Penalties Act (or Tunney Act),[2] BT North America Inc. ("BTNA") submits these comments on the proposed Final Judgment or Decree. The Complaint and Decree relate to the proposed twenty percent investment by France Télécom ("FT") and Deutsche Telekom AG ("DT") in Sprint Corporation ("Sprint") and the three companies' proposed formation of a Global Partnership. The Complaint defines their Joint Venture Company ("JVCo") as "all entities to be formed as a joint venture between Sprint, DT, and FT under the terms of the Joint Venture Agreement when that agreement is consummated, including the governing bodies of such venture."[3] The overall set of transactions is sometimes referred to as the Phoenix Alliance, to distinguish it from another proposed alliance between FT and DT called Atlas.

BTNA, a wholly owned subsidiary of British Telecommunications plc ("BT"), is authorized by the Federal Communications Commission to operate as a United States international resale carrier. BT is a domestic and international telecommunications provider in the United Kingdom ("UK") and, through subsidiaries and affiliates, elsewhere in the world. BT has a twenty percent investment in US carrier MCI Communications Corporation ("MCI") and has formed an international joint venture with MCI known as Concert Communications Company ("Concert").[4] MCI and Sprint are facilities-based competitors in the provision of US international telecommunications service, including to France and Germany. As distributors of Concert services, BT (including BTNA as a US reseller) and MCI will be direct competitors of Sprint, FT, and DT as distributors of JVCo services, if the Phoenix Alliance is consummated. Where permitted by law, BT has been endeavoring, directly or through joint ventures, to compete against FT and DT on the European Continent. BTNA qualifies under Section V.F. of the proposed Final Judgment as a US international telecommunications service provider that "directly or through a subsidiary or affiliate" holds or has applied for a US, French, or General license, or actually provides service that does not require a license, involving the US-France or US-Germany route.[5]

B. Overview of the Problems With the Proposed Decree

As explained in considerable detail in Part II of these Comments, the proposed Final Judgment requires clarifications and modifications in many important respects. With respect to the needed modifications, four inter-related themes are paramount.

First, the Final Judgment should be rewritten so that the transactions may not be consummated unless and until certain minimum French and German laws and rules are in place. For example, if France and Germany are actually preparing legislation and regulations allowing alternative infrastructure (such as utility owned private networks owned by railroads and electric utilities) to be used for public telecommunications services other than switched voice,[6] and if (as the parties maintain [7]) those governments are not far behind in preparing laws and regulations allowing facilities-based competition in public switched voice, why not condition consummation of the transactions on the prior completion of those efforts?

Second, excluding FT and DT as parties to the Final Judgment is very problematic. In many cases, defendants Sprint and JVCo will be able to turn a blind eye to discrimination or other impermissible activity by FT and DT toward others that benefits Sprint and JVCo. This is because it is too easy under the Decree for Sprint and JVCo to claim they lacked sufficient information to actually know that something was amiss in FT's or DT's conduct toward others. After all, there is nothing in the proposed Decree binding *FT and DT* to disclose to Sprint, JVCo, or anyone else critical information that would unmask FT's and DT's wrongdoing. Additionally, because FT and DT are not defendants, the Decree focuses upon forbidding Sprint and JVCo to undertake certain activity until FT and DT conduct themselves in a specified way *vis-à-vis* rivals. This backhanded approach, made necessary because FT and DT are not defendants, will tend to postpone desirable technological progress and innovation until Sprint and JVCo have caught up with, and are prepared to compete against, their more pioneering competitors. A direct approach, binding FT and DT as parties to the Decree, would avoid allowing Sprint and JVCo to control the pace of industry progress.

Third, and very important, in several places the proposed Decree improperly assumes that the mere issuance of "one" license (or the execution of "one" operating agreement) evidences so profound a change in competitive circumstances as to justify automatic lifting of key Decree safeguards. (The phrase "one or more" licenses, as used in the proposed Decree, does not disguise the fact that "one" is legally sufficient.) Indeed, there is no Decree requirement that the "one" licensee be

[1] 60 Federal Register (FR) 44049 (August 24, 1995).

[2] 15 U.S.C. 16(b)–(h).

[3] Complaint ¶ 24; see also the definition of "Joint Venture Co." as multiple "entities" in Section V.O. of the proposed Decree. The Stipulation (¶ 6 thereof) filed on July 13, 1995, contemplates that JVCo will be created as "a legal entity" and will execute the Stipulation. 60 FR at 44050.

[4] BT's investment in MCI and their formation of Concert were investigated by the Antitrust Division of the Department of Justice ("DOJ") and were allowed to go forward subject to a consent decree. *See United States* v. *MCI Communications Corp. & BT Forty-Eight Co.*, 1994–2 Trade Cas. (CCH) ¶ 70,730 (D.D.C., final judgment entered September 28, 1994) ("*BT–MCI* Final Judgement").

[5] BTNA is licensed by the FCC, inter alia, to resell switched services and non-interconnected private lines between the US and France and Germany. *See BT North America, Inc.*, FCC File No. I–T–C–93–126, DA 94–1257 (Chief, Int'l Bur., released November 14, 1994).

[6] *See* "Germany, France Agree to Liberalize Phone Markets as Part of Sprint Venture," *Wall Street Journal*, October 13, 1995, at A10.

[7] *See Sprint Corp.*, FCC File No. ISP–95–002, Reply Comments of France Télécom (September 15, 1995) at 17–19; Reply Comments of Deutsche Telekom (September 15, 1995) at 2–3, 25–26.

a major competitor and not a weak neophyte or even a shill. Thus, under Section II.C., the issuance of an individual license to "one or more" other US provider(s) could unleash Sprint and JVCo to offer their US-French/German services even though all other significant US competitors are still knocking on the French and German authorities' doors for essential licenses.[6] And, Section III's crucial provisions restricting unequal access to facilities ownership, prohibiting discrimination and cross-subsidization, mandating proportionate returns, and ensuring equal technical access to public network interconnection, all expire when Phase I of the Decree terminates—which is when, among other things, "one or more" entities is/are licensed to provide facilities-based public switched voice services (Section V.Q.(2)).

Fourth, as noted, Section III's protections automatically expire at the end of Phase I when FT's and DT's public infrastructure and switched voice monopolies formally terminate and "one" competing license issues. Yet, nothing in the definition of Phase II assures that the French and German governments will have in place from that point forward adequate regulations, properly enforced, to prevent discrimination, cross-subsidization, disproportionate returns, etc. DOJ admits the "proposed Final Judgment" rests on the "underlying assumption * * * [that] all the key regulatory measures needed for development of effective competition [will be] in place by the time full liberalization is to take effect in 1998." [9] There is absolutely no warrant for DOJ's giant leap of faith that market-opening measures inevitably will be accompanied by EC and national regulation fully adequate to prevent FT and DT from abusing their enormous market power. Nor, given the persisting government equity interests in FT and DT [and indirectly in Sprint and JVCo], is there any basis to presume that the national regulators will have the full independence or proper inclination to provide sufficiently vigorous and impartial regulation as to adequately replace Section III of the Decree.

C. DOJ's Discretion to Withdraw and Renegotiate the Decree

The proposed Decreed was developed without benefit of the insights of any affected industry members other than Sprint (and presumably FT and DT). Now that it has received this and other Tunney Act comments, DOJ should take a fresh look at the document. Whatever limits the case law may place on a court's ability to reject a proffered antitrust consent decree,[10] those limits do not apply to the Department of Justice. Paragraph 2 of the July 13, 1995 Stipulation says unmistakably: "Plaintiff may withdraw its consent to entry of the Final Judgment at any time before it is entered, by serving notice on the defendants and by filing notice with the Court."

While a reviewing court may have discretion to reject a proposed decree on public interest grounds only if the decree is not "within the reaches of [the] public interest," [11] DOJ has the discretion and the duty, particularly after receiving extensive public comment from expert (albeit interested) industry participants, to determine anew whether the proposed Decree is satisfactory or whether the antitrust laws require additional or changed language. There is ample precedent for DOJ modifying a proposed decree and seeking the defendants' consent to essential changes.[12] If defendants are absolutely unwilling to accept needed changes, that alone may reveal something about defendants' hidden motivations or agenda and reinforce DOJ's conviction that the changes are absolutely vital to protect competition and the public interest. In any case, no harm will come from DOJ proposing further discussions among the Decree parties regarding such possible modifications.

Moreover, the parties to the proposed Decree must recognize that the district court's authority is not zero. "A decree, even entered as a pretrial settlement, is a judicial act, and therefore the district judge is not obliged to accept one that, on its face and even after government explanation, appears to make a mockery of judicial power." [13] This Decree will be reviewed by the court to see whether the remedies proposed are "inconsonant with the allegations." [14] Moreover, in determining whether to approve a proposal, the court is supposed "to pay close attention to the compliance mechanisms in [the] consent decree." [15] The court also "should pay special attention to the decree's clarity" or lack thereof.[16] The judge "is certainly entitled to insist on that degree of precision concerning the resolution of known issues as to make his task, in resolving subsequent disputes, reasonably manageable." [17]

As Part II of these Comments brings out, there are a number of instances in which the remedies proposed fall so far short of correcting or preventing the anticompetitive problems described in the Complaint, that the decree, unless significantly modified, will not be within the broad "reaches" of the public interest. Further, there are major loopholes, gaps in logic, and facial inconsistencies and ambiguities that must be addressed and resolved before the court would be right to approve the proposal.

II. The Proposed Final Judgment Must be Withdrawn and Substantially Modified and Clarified to Come "Within the Reaches of the Public Interest"

A. The Phase I and II Equal Licensing Opportunity Provision (Section II.C.) Requires Modification and Clarification

Section II.C. of the proposed Final Judgment is intended to ensure, throughout Phases I and II, that US international telecommunications service providers receive equal opportunity with Sprint, JVCo, and their affiliates, in access to essential French and German licenses and other forms of governmental authorization. Before discussing several fundamental deficiencies in Section II.C.—which must be corrected, it should be useful to review how central this matter of licensing is to remedying the competitive problems described in the Complaint.

The Complaint asserts that the transactions at issue will substantially lessen competition by giving FT and DT increased incentives and ability to use their government-granted monopolies and market power to discriminate against competitors of Sprint and JVCo.[18] This discrimination, which can take many forms, will raise competitors' costs and diminish the quality and quantity of their services—all to the detriment of consumers.[19] FT and DT have government-granted monopolies encompassing essentially all

[8] *See* pages 18–19, *infra*.

[9] *Id.* at 4406.

[10] *See US* v. *Sprint*, Competitive Impact Statement ("CIS"), 60 F.R. at 44076–78.

[11] *See id.* at 44077, *quoting, United States* v. *AT&T*, 552 F. Supp. 131, 151 (D. D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983).

[12] *See, e.g., United States* v. *United Technologies Corp.*, No. 78 CV 580 (S.D. N.Y.), DOJ Responses to Comments, 46 F.R. 8787, 8789, 8798 n.3 (January 27, 1981) (modifying proposed antitrust consent decree in response to public comments); *United States* v. *National Broadcasting Co.*, Civil Action No. 74–3601–RJK (C.D. Cal.), Stipulation of May 4, 1977 (modifying proposed antitrust consent decree after public comment), 42 F.R. 24996, 24997–98 (May 16, 1977).

[13] *United States* v. *Microsoft Corp.*, 56 F. 3d 1448, 1462 (D.C. Cir. 1995).

[14] *Id.* at 1461.

[15] *Id.* at 1462.

[16] *Id.* at 1461.

[17] *Id.* at 1462.

[18] *Id.* ¶ 40.

[19] *Id.*

international and domestic public telecommunications infrastructure (excluding certain mobile telephone and satellite radio facilities) and the provision of public switched voice services.[20] Although their legal monopolies over international and domestic public data transmission have recently expired, FT's and DT's well-established and ubiquitous public data networks retain nearly 100 percent monopoly market shares.[21]

For the immediate future, then, any competitor wishing to provide public telecommunications voice, data, or other value-added services between the US and France or Germany is dependent upon FT and DT for their cooperation and much more.[22] In the case of bilateral correspondent services where each corresponding carrier is responsible only for its end, US providers need FT and DT to provide the requisite French or German connecting international half-circuits and also domestic circuits terminating communications in those countries or transiting them to third country.[23] For services that do not qualify as traditional bilateral correspondent services, such as seamless end-to-end services, US providers need to obtain from FT and DT leased international half-circuits and domestic French and German private lines, as well as interconnection to each country's public switched telephone network (PSTN) for voice services and public switched data networks for many data services.[24]

The Complaint recognizes that the European Union (EU) may eventually require France and Germany to allow entry by additional providers of public telecommunications infrastructure and switched voice services.[25] The Complaint also notes, however, that the same French and German governments that own FT and DT will have to develop licensing and interconnection regulatory regimes and actually issue licenses and other authorizations before "real competition" truly exists.[26]

Section II.C. purports to address the risk that French and German licensing requirements and processes will be used in ways that discriminate against US competitors of Sprint and JVCo.[27] This is a very substantial risk for two reasons. First, the French and German governments are the sole owners, and are pledged to remain the controlling owners, of FT and DT respectively.[28] These ownership interests give the two governments strong financial incentives to favor FT and DT and the entities those governments will indirectly own in part, i.e., Atlas, JVCo, and Sprint. Second, even if those governments were to drastically revise their laws so as to fully insulate the licensing bodies from such conflicts of interest, FT and DT will have strong incentives to use (or misuse) the licensing requirements and processes to discourage, delay, and defeat the licensing of rivals. Section II.C. falls so far short of the mark in preventing anticompetitive licensing discrimination that it must be modified in several crucial respects and clarified in certain other respects.

Specifically, the situation Section II.C. must more adequately address is when a competitor of Spring or JVCo needs to secure a French or German individual license in order lawfully to offer a particular telecommunications service between the US and France or Germany. For example, suppose MCI seeks to offer an end-to-end Concert-branded service between the US and France that would require MCI or Concert (or BT on behalf of MCI or Concert) to obtain an individual license covering all or part of the French end.[29] It is essential that Section II.C. be modified so that: (1) an individual license will be issued promptly even if Sprint and JVCo are not sufficiently technologically advanced to offer a directly competing service; (2) the individual license is not burdened with discriminatory terms and conditions; (3) unfair delay in issuing the individual license cannot be justified on the ground that French and German authorities have already licensed "one" other unaffiliated US provider, however weak and insignificant that provider may be; and (4) the license-issuing process cannot be skewed to give Sprint and JVCo an unfair headstart.

1. Failure to Precondition Consummation of the Transactions Upon Actual Accomplishment of Regulatory Reforms in France and Germany

A key flaw in Section II.C. is its failure affirmatively to require that, as *a prior condition* of the parties' consummating the FT/DT investments in Sprint and the formation of JVCo, nondiscriminatory requirements and procedures for prompt French and German licensing of US international providers must be established and in place for all services (except, regrettably, still-monopolized public switched voice services). Instead, Section II.C. comes at the problem indirectly and, unfortunately, much less effectively.

Section II.C. bars Sprint and JVCo from offering (or providing facilities enabling FT or DT to offer) "any particular * * * service" between the US and France or Germany unless (1) US competitors seeking to offer "such a service" do not need a license (or other authorization) for any French or German aspect of the service, or (2) the requisite French or German class license is in effect for US providers, or (3) French or German individual licensing procedures are established "as of the time" Sprint and JVCo begin offering "such a service." Given Section II.C.'s oblique approach to the problem, France and Germany (motivated perhaps by their direct ownership interests in FT and DT and indirect interests in Sprint and JVCo) can delay determining whether a license is required, can delay placing a class license in effect, and can delay adopting individual licensing procedures, until FT, DT, Sprint, JVCo, and their affiliates, are ready to offer the "particular * * * service" themselves. Thus, US consumers of US-French/German telecommunications services can be denied the benefits of early innovation and competition from pioneering entities outside the Sprint alliance while French and German authorities postpone essential decisionmaking needed by those entities. In effect, Section II.C. lets FT, DT, and Sprint control the pace of innovation and progress on the US-French/German routes to suit their own parochial economic interests and schedule.[30]

[20] *Id.* ¶¶ 25–26, 31–32, 34–35.

[21] *Id.* ¶¶ 33,36.

[22] *Id.* ¶¶ 31–36

[23] *Id.* ¶¶ 31, 34.

[24] *Id.* ¶¶ 31–36.

[25] *Id.* ¶ 37.

[26] *Id.*

[27] *United States* v. *Sprint Corp.*, Competitive Impact Statement (CIS), 60 F.R. at 44049, 44058, 44069–70.

[28] Complaint ¶¶ 2, 25, 26; CIS, 60 F.R. at 44065; Statement by French Minister Fillon, August 30, 1994 ("a majority of [FT's] capital will remain held by the public sector"), attached to Sprint Corp. *ex parte* letter, *Sprint Corp.*, FCC File No. ISP–95–002 (filed September 28, 1995); Speech and Responses to Questions by German Minister Bötsch, National Press Club, Washington, D.C., April 3, 1995 (German government intends to retain majority control of DT), recorded on Dow Jones Investor Network videotape.

[29] Under the current monopoly regime, the French license might be for the right to offer "bearer services," e.g., packet switched data services over international half-circuits and domestic private lines leased from FT. *See* Complaint ¶ 33. After FT's legal monopoly over public voice and infrastructure is abolished, the French license might be to offer public switched voice services over international and domestic circuits owned by the licensee or leased by the licensee from FT or its new infrastructure competitors.

[30] The problem is exacerbated by Section II.C.'s reliance on the term "particular * * * service." The Section seems to presume that the only competitive alternative to a "particular * * * service" is "*such* a service" (emphasis added), i.e., *an identical type* of service provided by a rival. This creates a serious problem illustrated by the following example. Assume Sprint and its allies are content to offer a certain level of enhanced voice service on a correspondent basis with FT and DT subject to a certain accounting rate that keeps settlement rates and retail prices up. If another US carrier wanted to undercut the Sprint correspondent service by offering an end-to-end enhanced voice service on a non-correspondence or self-correspondence basis, Section II.C. (absent modification or clarification) would seem of no help. This is because the new service probably would not be considered "such a service" as the "particular * * * service" offered by Sprint.

To be sure, US authorities probably lack the authority to impose requirements directly upon foreign states' licensing authorities. But where foreign states own controlling interests in commercial entities that seek to invest in and form a joint venture with a US international carrier (here Sprint), US authorities have the jurisdiction and the statutory obligation to *prevent that investment and joint venture from occurring* unless and until the foreign sovereign authorities have taken adequate legal actions in their own jurisdictions to ensure fair competition.[31] The proposed decree should be modified to accomplish that objective.

2. Failure to Specify That Individual Licensing Must be Nondiscriminatory

A second serious flaw is the failure of subparagraph 3 of Section II.C. to require explicitly that individual licensing procedures be nondiscriminatory, substantively and temporally. The provision says that the Sprint/JVCo "particular * * * service" offering may not proceed unless:

> 3. If an individual license is required in France or in Germany to offer such a service, *established licensing procedures* are in effect as of the time of the offering of the service by which other United States international telecommunications providers are also able to secure such a license * * *. [Emphasis added.]

The provision may intend that the "Licensing procedures" be evenhanded and nondiscriminatory, but it does not unequivocally say so—which it should. The provision needs to be modified to read "established licensing procedures (either the same as, or no more demanding of the prospective licensee than, those procedures applicable to the particular service offering of Sprint, Joint Venture Co., FT, or DT) * * *".

To ensure no temporal discrimination, the phrase "as of the time of the offering of the service" should be modified so that the Sprint group does not receive an unfair headstart. The phrase should read: "as of the time that Sprint, Joint Venture Co., FT, DT, or their affiliate applied for the requisite license * * *." Otherwise the Sprint group could complete the licensing process and be poised to offer the service before rival U.S. providers would even be able to submit their license applications.[32]

Finally, to ensure that rival U.S. providers are not subject to unfair discriminatory conditions, the phrase "such a license" should be rewritten to say: "such a license (with requirements and conditions no more onerous than those imposed on Sprint, Joint Venture Co., FT, DT, or their affiliate)." Without this amendment, the whole provision could be severely undercut, for example, by France or Germany imposing unfairly discriminatory license or interconnection fees, geographic requirements or limitations, service eligibility restrictions (such as satellite-only when terrestrial is needed), universal service obligations or contributions, and the like, upon the other U.S. providers.

3. Failure to Require That More Than One U.S. Provider Besides Sprint and JVCo be Licensed

One of the most troubling loopholes in Section II.C. relates to the second part of subsection 3 which, as now written, can be satisfied in either of two ways: (i) simultaneous or earlier licensing of other U.S. providers(s), or (ii) later licensing. The pertinent language is:

> * * * and (i) *one or more* United States international telecommunications providers other than FT, DT, Sprint or Joint Venture Co. and unaffiliated with FT, DT, Sprint or Joint Venture Co. have secured such a license in France and in Germany, *or* (ii) if Sprint or Joint Venture Co. or FT or DT is the first provider to seek a license to offer such a service, other United States international telecommunications providers are also able to secure such a license *within a reasonable time and in no event longer than the time it took Sprint, Joint Venture Co., FT, or DT* to obtain such a license, *unless* the additional time required is attributable to *delay caused by the applicant.* [Emphasis added.]

Alternative (i) is met if "one or more" US providers other than Sprint, JVCo, *et al.*, actually "have secured a license." Clearly the word "or" in the phrase "one or more" is used here in the disjunctive sense; consequently, the words "or more" add nothing mandatory to Section II.C.3.(i)'s requirement. Doubtless Sprint and JVCo will claim that Section II.C.3(i) is fully satisfied if a license is issued to only "one" unaffiliated US provider, no matter how weak or inconsequential that provider is.[33] Thus, AT&T, BTNA, Concert, MCI, IDB, Worldcom, MFS, ACC, and other significant competitors could find their license applications held up indefinitely, so long as a single heretofore unknown, unaggressive, resource-limited US provider has the one other license besides the Sprint group.

Subsection (i) absolutely must be rewritten to increase significantly the minimal number of required licenses. As the Complaint itself says: "Mere lifting of the legal prohibitions on competition would not alone bring about real competition, since actual *competitors* [sic] must also be licensed to operate."[34] To ensure that the minimal number of licensees includes significant competitors, certainly the major US carriers AT&T and MCI (or their affiliates, such as Concert or BT for MCI) should have to have been proffered licenses before Sprint and JVCo could proceed with their offering.[35] The minimal number should

[31] The situation here is totally distinguishable from that in *United States* v. *MCI Communications Corp. and BT Forty-Eight Company*, Civil Action No. 94–1317 (D. D.C., filed June 15, 1994). At the time of the consent decree settling that matter, the United Kingdom no longer owned a significant interest, much less a controlling interest, in BT. See *U.S.* v. *Sprint Corp.*, CIS, 60 F.R. at 44065. Consequently, the British government and its licensing and regulatory authorities (DTI and OFTEL) had no economic or financial interest in BT, MCI, or their joint venture.

[32] The modification proposed in the text presumes that Sprint, JVCo, FT, or DT, as the case may be, must secure "an individual license" before any Phoenix Alliance entity (including Atlas) may offer the particular U.S.-France/Germany service. DOJ should confirm that, if "an individual license" must be obtained by other U.S. providers (or their affiliates), then the Decree also requires one of the Phoenix entities to apply for and obtain a comparable "individual license." DOJ needs to clarify that the Phoenix entities may not simply operate their service over FT's and DT's pre-existing telecommunications operators' licenses thereby evading the equal opportunity intent of Section II.C.

On the other hand, if the Decree contained a loophole allowing the Phoenix entities to bypass applying for any new French and German licenses and permitting them to rely solely upon FT's and DT's pre-existing operators' licenses, then some modification or clarification of Section II.C. would be essential. First, DOJ would need to clarify that Section III.C.3. applies even when the relevant "individual license[s]" for the Phoenix group are FT's and DT's pre-existing operators' licenses. Second, Section III.C. would need to be revised to impose on the Phoenix group a reasonable moratorium preventing Sprint and JVCo from offering the U.S.-France/Germany service (or providing facilities enabling FT or DT to offer that service) until the requisite "individual licens[ing]" procedures that other U.S. providers must go through had been "established" long enough that any providers applying promptly after those procedures took effect would also be licensed.

[33] Alternative (ii) in Section II.C.3. cannot be relied upon to close any loophole left available under alternative (i). Separated by the disjunctive "or," subsections 3(i) and 3(ii) clearly are alternatives; both need not be satisfied, only one.

[34] Complaint ¶ 37 (emphasis added).

[35] Section II.E. of the Final Judgment in the BT–MCI matter required that the UK grant UK–US

Continued

be *three*.[36] Moreover, Section II.C.3. should be rewritten so that the revised first part of subsection 3 becomes the first requirement, the revised subsection (i) becomes the second requirement, and a revised subsection (ii) (discussed *infra*) becomes the third requirement.[37]

If subsection 3(ii)'s timely future licensing concept were retained as a complete alternative to the concept of simultaneous (or previous) licensing of competitors, it would open a potentially very significant loophole. Subsection 3(ii) requires licensing of Sprint's and JVCo's rivals "within a reasonable time." If it turns out later (after Sprint and JVCo begin offering service) that US rivals remain unlicensed even though a reasonable time has expired,[38] the horse will be long gone from the barn and hardly susceptible to quick capture and return. The prospect that the court would actually order Sprint and JVCo to stop service to customers (and indeed terminate their contracts) seems quite remote—although that would be the correct result under the proposed decree. Thus, there is a substantial practical risk that subsection 3(ii) violations would not be remedied soon enough, if ever. To avoid that problem, it is important that *both* subsections 3(i) *and* 3(ii) be made separate mandatory obligations that stand on their own. In that way, there will be licensed competitors (three under our alternative approach, perhaps only one under the proposed Final Judgment) even if subsequent licensing of others is delayed.

4. Need To Require That All Subsequent License Applications be Processed at Least as Promptly as Sprint's and JVCo's

As explained *supra*, both subsections 3(i) and 3(ii) should be mandatory provisions, not optional alternatives to compliance with each other. Subsection 3(i), after being rewritten in the mandatory language we suggest, would require that at least three US international providers (or their affiliates) be licensed *before* Sprint and JVCo may offer their service. Subsection 3(ii), in turn, would require prompt processing of any *later-filed* applications by additional US providers beyond those licensed in accordance with subsection 3(i).

When rewritten, subsection 3(ii) should also be clarified in one important respect. As now written, the provision requires the license to issue "within a reasonable time * * * unless the additional time is attributable to delay caused by the applicant." The provision should say "*solely* attributable" to take care of the situation where the French or German government imposes unfairly discriminatory conditions or information requirements and the applicant refuses to acquiesce in the discrimination, thus resulting in delay.[39]

* * * * *

To summarize the foregoing points, here is how Section II.C.3. should read in full:

> 3. If an individual license is required in France or in Germany to offer such a service (or one competitive with it),
>
> (i) established licensing procedures (either the same as, or no more demanding of the prospective licensee than, those procedures applicable to the particular service offering of Sprint, Joint Venture Co., FT, or DT) are in effect as of the time that Sprint, Joint Venture Co., FT, DT, or their affiliate applied for the requisite license for the offering of the service, by which procedures other United States international telecommunications providers are also able to secure such a license (with requirements and conditions no more onerous than those imposed on Sprint, Joint Venture Co., FT, DT, or their affiliate); and
>
> (ii) at least three major United States international telecommunications providers (including minimally AT&T and MCI or their affiliates) other than FT, DT, Sprint or Joint Venture Co. and unaffiliated with FT, DT, Sprint or Joint Venture Co. have secured such a license (with requirements and conditions no more onerous than those imposed on Sprint, Joint Venture Co., FT, DT, or their affiliate) in France and in Germany; and
>
> (iii) other United States international telecommunications providers are also able to secure such a license within a reasonable time and in no event longer than it took Sprint, Joint Venture Co., FT or DT to obtain such a license, after having applied for such a license, unless the additional time is solely attributable to delay caused by the applicant.

B. Phase I's Facilities Ownership Prohibitions (Sections III.A.–B.) Must Be Modified and Clarified in Key Respects

Sections III.A.–B. are intended to ensure that, throughout Phase I of the Final Judgment, Sprint and JVCo gain no unfair advantage from FT's and DT's continuing government-protected infrastructure monopolies. Thus, Section III.A.(i) prevents Sprint and JVCo from "acquiring an ownership interest in, or control over," facilities "in" France or Germany that are "legally reserved to FT or DT." Section III.A.(ii) forbids Sprint and JVCo from "acquiring an ownership interest in, or control over," international half-circuits "terminating in France or Germany" that are used for US traffic unless: (1) those half-circuits are "no greater than the aggregate quantity" that "other providers unaffiliated with FT, DT, Sprint, or [JVCo] actually own and control," or (2) DOJ agrees that "meaningful competition exists to such international half-circuits provided by FT or DT." Section III.B. prohibits Sprint and JVCo from investing in or controlling FT's and DT's Public Data Networks.

Phase I (as well as each of the foregoing Section III.A.–B. restrictions) expires on a country-specific basis when the relevant French or German government (1) removes all of the legal prohibitions on public infrastructure and switched voice competition and (2) licenses "one or more" entities unaffiliated with FT, DT, Sprint, and JVCo to (i) construct, own, and control domestic and international infrastructure, and (ii) provide switched domestic long distance voice services "without any limitation on geographic scope or types of services offered" and "international voice service[s]" between the US and that country. *See* Sections V.P.–Q. for definitions of Phases I and II.

To avoid the very sorts of anticompetitive problems described in the Complaint (discussed *supra*), these provisions must be modified and clarified in certain key respects.

1. "Ownership Interest" and "Control" Need Clarification

Section III.A. uses the terms "own," "ownership interest," and "control." "Control" is defined to exclude "publicly available leases or other publicly available uses of such facilities." "[O]wn" and "ownership interest" are not defined.

DOJ should clarify what constitutes an "ownership interest" or "control," as distinguished from "publicly available leases [and] * * * uses." In the case of undersea cables, certainly an entity that holds title to the cable, or owns an equity interest in the corporation, partnership, or venture that holds title to the cable, has an "ownership interest" for purposes of Section III.A. Cable investments in the form of indefeasible rights of use (IRU) are long-term non-management rights generally obtained through private negotiation with the cable owner(s). IRUs provide "control" over half-circuits and should not be excluded from Section III.A. as "publicly available leases or * * * uses." With respect to satellites used for international telecommunications, generally the owner is an international organization of sovereign states. Each member state commonly designates a single signatory carrier to obtain long-term transponder allotments. Surely the entity that either owns the satellite (or transponder) or signs a commitment for the transponder allotment "owns" or "controls" the uplink and downlink half-circuits in its country within the meaning of Section III.A.

Clarification along the foregoing lines is needed so that Sprint and JVCo are not able to find a loophole in Section III.A. that permits them to gain an anticompetitive cost advantage over competitors that lack their close affiliation with FT and DT. FT and DT are the only undersea cable owners (or IRU holders) ad international satellite signatories in France and Germany as of now.[40] Competition would be severely distorted if FT or DT could favor Sprint or JVCo with special cable IRUs and/or satellite circuit allotments priced at book value or some other level far under the long-term lease rates "publicly available" to their competitors.

2. The "Aggregate Quantity" Exception Requires Clarification

The first exception to Section III.A.(ii) says: "except to the extent that, and in no greater than the aggregate quantity that, other providers unaffiliated with FT, DT, Sprint or Joint Venture Co. actually own and control such international half-circuits." The most reasonable reading of this exception is that Sprint and JVCo may own or control only the "aggregate[d] quantity" of half-circuits that any *single* "other provider[]" owns or controls. If, however, the provision enables Sprint and JVCo to own or control as many half-circuits as *all* "other providers" in the "aggregate" own or control, then the provision must be modified for the following reason. If half-circuit ownership is split among many "other providers," Sprint and JVCo with far greater capacity than any other competitive provider will easily be able to divide and conquer. Facilities ownership/control gives a carrier lower costs and greater certainty about its costs than a carrier compelled to rely, in whole or in part, on leasing half-circuits. To be sufficiently attractive from price, technical, or other perspectives to elicit customer orders, a particular service offering may require a substantial number of half-circuits. If that number exceeds the maximum available half-circuits that any individual competitor other than Sprint/JVCo can readily acquire from FT and DT, obviously Sprint/JVCo's advantage deriving from the affiliation with FT and DT would unfairly distort competition. Section III.A.(ii) should be clarified to ensure that this cannot happen.

The first exception in Section III.A(ii) requires further modification or clarification to make clear that the term "such international half-circuits" means that the competitor's half-circuits are comparable and not inferior to Sprint/JVCo's half-circuits. The competitor's half-circuits should have the same technical features (bandwidth transponder power, etc.), belong to the same distribution mode (e.g., submarine cable compared to submarine cable), connect to the same or a commercially equivalent terminus (in the case of cable), and serve the same geographic area (in the case of satellite) as the Sprint/JVCo owned or controlled half-circuits. Otherwise, for example, Sprint/JVCo might be allowed to own/control undersea fiber optic cable half-circuits up to the aggregate number of the competitor's satellite half-circuits even though the former transmission mode is far preferable for trans-Atlantic voice communications. Similarly, Sprint/JVCo might benefit unfairly be being allowed to own/control undersea cable half-circuits that terminate in the most desirable locations whereas the competitor would be relegated to less desirable locations further removed from higher quality gateway switches and larger population centers.

3. The "Meaningful Competition" Exception Requires Clarification

Section III.A. provides a second exception *viz.*: if "plaintiff and defendants agree that meaningful competition exists." DOJ needs to clarify that it will not "agree" unless such a conclusion is fully supported by a factual record developed after reasonable notice and opportunity for public comment.

4. The "One or More Licenses" Concept That Would Terminate the Facilities Ownership Prohibitions of Sections III.A. and B. Needs Revision

Sections III.A. and B. (like Sections III.C.–I.) automatically expire when Phase I, as defined, ends.[41] Under Sections V.P. and V.Q. of the proposed Final Judgment, Phase I terminates on a country-specific basis when (1) all legal prohibitions against entities other than FT and DT providing domestic and international infrastructure and public switched voice are removed, and (2) "one or more licenses or other necessary authorizations" are issued to entities unaffiliated with FT, DT, Sprint, and JVCo. The phrase "one or more" raises the same problem here as it does in Section II.C.3(i) *supra*. In the Section III.A.B. context, the interests of promoting competition would be seriously disserved if Sprint and JVCo could start owning and controlling French and German domestic and international infrastructure even when only a *single* competitor (and quite possibly a weak one or one antagonistic to AT&T, MCI, and US carriers) had been licensed. Section V.Q.(2) should be modified to say, in pertinent part, "issued licenses or other necessary authorizations to at least three entities other than FT, DT, Sprint or Joint Venture Co. and unaffiliated with FT, DT, Sprint or Joint Venture Co. * * *." The provision should go on to say that the three should "minimally include AT&T and MCI or their direct or indirect affiliates," (e.g., a BT joint venture with a German company, an AT&T/Unisource entity, etc.). This modification will provide assurance that the licensees providing alternatives to FT and DT will be vigorous and financially strong competitors and also that Sprint and JVCo will not obtain an anticompetitive advantage over their principal US competitors when Phase I expires.

C. The Principal Provision Prohibiting Discrimination During Phase I (Section III.D.) Requires Modification and Clarification

Although several other provisions are also intended to prevent FT and DT from unfairly favoring Sprint and JVCo,[42] the principal anti-discrimination provision is Section III.D., which has two parts. Section III.D.1. says Sprint and JVCo "shall not purchase, acquire or accept from FT or DT any FT or DT Products and Services on any discriminatory basis for use in

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international simple resale (ISR) licenses to "all qualified United States international telecommunications providers" before MCI or Concert could provide BT facilities or services for a UK–US ISR offering. At the time, *seven* such US providers were identified. See *US v. MCI*, CIS, 59 F.R. 33009, 33021 n.12.

[36] If at least three US competitors or their affiliates do not seek licenses or are "gaming" the process to slow their own applications, presumably DOJ, the other parties, and the Court can agree to waive the requirement-of-three. See Section VIII.A.

[37] To be consistent with the anti-discrimination change that should be made in the first part of subsection 3, the revised second requirement (currently subsection 3(i)) should say: "secured such a license (with requirement and conditions no more onerous than those imposed on Sprint, Joint Venture Co., FT, DT, or their affiliate)."

[38] The delay may be unexplained or may be attributable to various anticompetitive explanations, including the attempted imposition of discriminatory conditions on the rivals of Sprint and JVCo.

[39] DOJ should make clear that, in some situations, a "reasonable time" may actually be shorter than the time taken for processing the application of Sprint, JVCo, FT, or DT. Presumably action on that application will have resolve most or all general regulatory issues, permitting much faster processing of subsequent applications filed by others.

[40] *See* Complaint ¶¶ 32, 35; CIS, 60 F.R. at 44071.

[41] *See* Section X.B. second sentence.

[42] *See e.g.*, Section III.C., III.E., III.I.; *cf.* Sections II.A.–7.

the offer, supply, distribution or other provision by Sprint or [JVCo]" of any US-France/Germany telecommunications service. "[D]iscriminatory basis" means "terms more favorable to Sprint or [JVCo] than are made available to other similarly situated" US providers, i.e., providers "that are generally comparable to Sprint and [JVCo] with respect to volume or type of FT or DT Products and Services purchased, acquired or accepted from FT and DT * * *." Section III.D.2. supplements Section III.D.1. by coming at the anti-favoritism issue from a different angle. Section III.D.2. says "Sprint and [JVCo] may not benefit from any discount or more favorable term offered by FT or DT to any customer for FT or DT Products or Services, that is conditioned on Sprint or [JVCo] being selected" as the US provider. These provisions require modification and clarification to eliminate possible loopholes in interpretation and enforcement.

1. The Failure To Bind FT and DT Directly as Parties to the Decree Is a Significant Flaw That Should Be Corrected

The stated purpose of Section III.D.1 is "to prevent *FT or DT* from using their monopolies and market power in France and Germany to favor Sprint and [JVCo] in the provision of products and services that other providers must also have to compete effectively."[43] A crucial deficiency of Section III.D.1. is that it is framed only in terms of what *Sprint and JVCo* may not "purchase, acquire or accept" from FT and DT but not also in terms of what *FT and DT* may not provide to them. FT and DT are not made defendants and, therefore, are not bound to comply with the prohibition against discrimination.[44] Although on its face Section III.D.1. is not limited to knowing or intentional receipt of discriminatory preferences, there is a substantial risk (absent clarification) that Sprint and JVCo will view their obligations as extending only to situations where they *know* they are beneficiaries of preferential treatment by FT and DT. Moreover, there is no provision expressly requiring Sprint and JVCo affirmatively to inquire of FT and DT in advance to make certain there will be no discrimination if they purchase, acquire or accept a particular FT or DT Product or Service. Instead, Sections II.A.1.–5. only require Sprint or JVCo, as the case may be, to determine and disclose what *it* is receiving from FT and DT in terms of interconnection, other services, accounting and settlement rates, and circuit and service provisioning and restoration (and also, under subsections A.2. and A.4., to disclose what FT and DT are providing to customers "in conjunction with" FT's and DT's distribution of JVCo services). Sprint and JVCo, therefore, will not necessarily know whether they have acquired FT or DT Products and Services on a discriminatory basis because they may not know what prices, terms, and conditions FT and DT have agreed to provide others.

A similar problem exists with respect to Section III.D.2. This provision fails to prohibit FT and DT (because they are not defendants bound by the decree) from offering discounts or other favorable terms to customers conditioned upon the customers using Sprint or JVCo as US provider. Section III.D.2. certainly does not say Sprint or JVCo must *know* of the "discount or more favorable term" and of the "condition[ing]" for the prohibition to come into play. Nonetheless, there is a substantial risk Sprint and JVCo will consider the Section III.D.2. obligation to apply only if they have such knowledge. Nothing in the Section or elsewhere imposes upon Sprint and JVCo an express affirmative obligation to obtain from FT and DT all the information necessary to determine that such conditional discounting (or other favoritism) has not occurred and will not occur. Section II.A.7. requires Sprint and JVCo to make disclosures only when they are in "receipt of any information from FT or DT, or otherwise learn[ ] of any discount or more favorable term" offered to customers by FT or DT on condition that Sprint or JVCo is selected as US provider. Under Section II.A.7., clearly there is no obligation imposed on FT and DT to provide the requisite information to Sprint and JVCo and apparently there is no obligation on Sprint or JVCo to insist that FT and DT provide such information to them.

To be effective, the decree should be revised to include FT and DT as parties and to make the anti-discrimination language apply directly to FT's and DT's actions in creating any discrimination as well as to Sprint's and JVCo's actions in accepting the benefits of discrimination.[45] In the event that cannot be accomplished, at a minimum the decree must be clarified to make certain that Sprint and JVCo understand their obligations apply *strictly* regardless of what facts Sprint and JVCo may or may not actually know or even have reason to know after due inquiry.

2. The Anti-Discrimination Requirements Should Stay in Effect for the Life of the Decree

According to Section X.B. (second sentence), Section III.D. automatically expires when Phase I of the Decree terminates. Under Sections V.P.–Q., Phase I ends when FT's and DT's monopolies lose their formal legal protection and "one or more" competing licenses are issued. Nothing in the Decree requires that France and Germany have in place at that time adequate laws and regulations preventing and remedying discrimination—as Section III.D. is supposed to do during Phase I. The Competitive Impact Statement recognizes that "the [nondiscrimination] provisions of the Final Judgment are considerably more specific and comprehensive than any existing regulatory obligations applicable to Sprint, FT, or DT."[46] Moreover, DOJ is rightly concerned that "regulatory regimes in France and Germany are not fully developed" and that, in any case, "Joint Venture Co. may not be subject to direct or complete oversight by any United States, French or German telecommunications regulator."[47] DOJ effectively acknowledges that the fact

[43] CIS, 60 F.R. at 44071 (emphasis added).

[44] Sprint and JVCo are defined so as not to include FT, DT, Atlas, or each other. *See* Sections V.O. and V.T.

[45] This situation is entirely distinguishable from *US* v. *MCI*, *supra*, where there was no need to make BT a party to the consent decree. The decree there had no substantive anti-discrimination obligation because BT already faced facilities-based and reseller competition, the UK government did not own any significant interest in BT (nor would it have an indirect ownership interest in MCI or the NewCo (Concert) joint venture) and thus had no conflict between its interest as owner and its interest as regulator; and there was an established UK regulatory regime that prevented undue discrimination. *See US* v. *MCI*, CIS, 59 F.R. at 33015, 33016, 33022–23.

DOJ said there: "Persons affected by an undue preference or undue discrimination on the part of BT in violation of Condition 17 of BT's license, or other violation of BT's license, in favor of MCI or NewCo, may complain to the United Kingdom Office of Telecommunications for such relief as OFTEL is authorized to provide under the United Kingdom Telecommunications Act and BT's license. * * * Because * * * the telecommunications regulatory regime in the United Kingdom now embodies or is developing important competitive policies and safeguards, the United States concluded that it is possible to protect competition in these circumstances without placing specific antidiscrimination prohibitions in the proposed Final Judgment * * *." *i.d.* at 33022–23. By contrast, "[h]ere, the competitive concern (particularly about discrimination and cross-subsidization] is * * * that [French and German] regulation is at present insufficiently developed to safeguard competition adequately by itself, in the absence of alternative telecommunications infrastructure that can be used by all competitors in France and Germany." *US* v. *Sprint*, CIS, 60 F.R. at 44076.

[46] CIS, 60 F.R. at 44071.

[47] *Id.*

"FT and DT continue both to be government-owned" is a reason not to rely totally on the French and German governments to prevent discrimination by FT and DT.[48]

DOJ also has no basis at present to presume that European Union ("EU") directives addressed to Member States[49] will somehow ensure by the end of Phase I that France and Germany have adequate anti-discrimination regimes and will deploy sufficient resources to enforce them. First, the proposed market-opening measures that the European Commission ("EC") is considering are draft proposals[50] that may not be adopted in a form which ensures adequate anti-discrimination measures. Second, Member States, including France and Germany, have been tardy in implementing EC directives and have sometimes refused to implement them in full.[51] Third, as the CIS itself cautions, "[i]t is not yet clear whether the EU's liberalization measures will confer any rights on providers from the United States."[52]

In short, there is no basis for trusting to a leap of faith that, when Phase I ends, there will be fully functioning and adequate anti-discrimination regimes in force in France and Germany protecting US and other competitors of FT, DT, Sprint, and JVCo. Section III.D. must be revised so that it runs for the life of the Decree. If France and Germany ultimately put into place sufficient substitutes for Section III.D., the parties could propose, subject to public notice and comment, a waiver or modification under Section VIII.

3. Section III.D.1.'s Definitions of "Discriminatory Basis" and "Similarly Situated" Require Clarification

Section III.D.1. says "'discriminatory basis' shall mean terms more favorable to Sprint or [JVCo] than are made available to other similarly situated United States international telecommunications providers * * *." DOJ should clarify that the word "all" implicitly modifies the phrase "other similarly situated [US] * * * providers" so that *all* such providers are protected against discrimination. In other words, if the favorable terms received by Sprint or JVCo are received by only one "similarly situated" US provider (or fewer than all "similarly situated" US providers), the receipt of such terms by Sprint or JVCo would still be on a "discriminatory basis" because other "similarly situated" US providers were unable to obtain comparable terms. If that were not a correct reading, FT and DT could circumvent the purpose of this provision by granting one (or a few) weak and ineffective US provider(s) the same favorable terms as received by Sprint and JVCo and denying such terms to the US providers that are Sprint and JVCo's principal competitors.

Section III.D.1. defines "similarly situated" to mean providers that are "generally comparable to Sprint and [JVCo] with respect to the volume or type of FT or DT Products and Services purchased * * *, provided that volume and type are relevant distinctions in establishing service conditions."[53] The provision adds: "Defendants shall make available to plaintiff all information that was available to them, whether possessed by them or obtained from FT or DT, in considering the relevance of such distinctions." It is critical that "plaintiff" (DOJ) be able to disclose that information to affected US providers so that they may comment upon whether an impermissible "discriminatory basis" exists. To remove any ambiguity, the beginning of the sentence should be revised to read: "Defendants shall disclose to the United States all information. * * *" By using the defined term "[d]isclose" (see Section V.F.), the sentence would make clear that the information will be disclosed through DOJ to interested US providers. If the sentence is not rewritten in this way, DOJ at least should clarify that the provision as written impliedly permits it to disclose the information to US providers.[54]

4. Section III.D.2. Needs Clarification

Section III.D.2. "is designed to prevent Sprint and [JVCo] from receiving benefits of discrimination indirectly, through special deals or arrangements that FT and DT offer to customers in order to induce them to obtain services from Sprint or [JVCo], rather than through more favorable terms offered directly to Sprint [or JVCo] addressed by [Section] III.D.1."[55] Because FT and DT (or Atlas), rather than JVCo, will interface directly with the customer in the sale of JVCo services, this provision is of paramount importance in guaranteeing that FT and DT do not misuse their dominant home country positions to impair competition in the provision of US-France/Germany telecommunications services. Consequently, it would be helpful for DOJ to clarify that Section III.D.2. governs, inter alia, situations "where FT or DT is acting as the distributor for Joint Venture Co." and FT or DT Products or Services are "provided [to the customer] by FT in France or DT in Germany in conjunction with" the distributed "Joint Venture Co. services."[56] To guard against enforcement loopholes, DOJ should clarify that Section III.D.2's phase "conditioned on" covers not only express conditioning but also situations where the circumstances reasonably imply that the discount in FT or DT Products or Services is available only if the customer selects Sprint or JVCo products or services. DOJ should also make clear that, if the overall circumstances reasonably indicate the availability of the discount or more favorable term increased the customer's willingness to take the Sprint or JVCo product or service, that is enough to establish the proscribed "condition[ing]." DOJ should add that just because the FT or DT item offered to the customer at discount (or with some other preferential term) is formally covered by a different invoice or contract than the Sprint or JVCo product or service, hardly proves there has been no illicit "condition[ing]."

D. The Restrictions Against Cross-Subsidy (Section III.F.) Should Be Extended to the End of Phase II and Strengthened

The stated purpose of Section III.F. is "to ensure that the activities of Joint Venture Co. and Sprint are not subsidized by FT and DT." Yet, these vitally important restrictions

[48] *Id.*

[49] *Id.* at 44062–63.

[50] *See* Proposal for a European Parliament and Council Directive on Interconnection in Telecommunications Ensuring Universal Service and Interoperability through Application of the Principles of Open Network Provision (ONP), COM (95) 379 (July 19, 1995) ("*Draft Interconnection Directive*"); Draft Commission Directive of _____, 1996, amending Commission Directive 90/388/EEC, regarding the implementation of full competition in telecommunications markets (96/_____/EC) (July 19, 1995) (unofficial draft) ("*Draft Voice and Infrastructure Directive*").

[51] *See* EC, DG, IV, *Communication by the Commission to the European Parliament and the Council on the Status and Implementation of Directive 90/388/EEC on Competition in the Markets for Telecommunications Services*, COM (95) 113 final (April 4, 1995) ("*1990 Services Directive Implementation Report*") at 11, 20, 22, 34.

[52] CIS, 60 F.R. at 44063.

[53] DOJ should clarify that if "volume and type of FT or DT Products and Services" are *not* "relevant distinctions in establishing service conditions," then a US provider is "similarly situated" to Sprint or JVCo if the provider and Sprint or JVCo are acquiring the same or "generally comparable" FT or DT Products or Services.

[54] The revision or clarification will also make clear that US providers will have access, through DOJ, to any "justification of costs" which Sprint or JVCo offer "to rebut a claim of discrimination." *See* penultimate sentence of Section III.D.1.

[55] CIS, 60 F.R. at 44071.

[56] The quoted language, containing the "in conjunction with" concept, appears in Sections II.A.2. and II.A.4.

automatically expire at the end of Phase I. The Competitive Impact Statement (CIS) acknowledges that "[e]xisting regulatory safeguards against cross-subsidization in France and German are very limited and have not prevented instances of massive cross-subsidy."[57] Under the decree, Phase I ends when French and German authorities eliminate FT's and DT's legal monopolies over domestic and international infrastructure and public switched voice and issue licenses to "one or more" competitors.[58] There is no requirement that French and German authorities also have in place regulations and enforcement resources adequate to prevent more "instances of massive cross-subsidy."

The formal termination of the legal monopolies and the issuance of one (or more) competitor licenses will not eradicate FT's and DT's incentive and ability to cross-subsidize. FT and DT have retained high market shares and considerable market power in data transmission even though competition has been allowed for a few years.[59] There is no reason to assume that the market power FT and DT have in the currently monopolized segments (such as public switched voice) will dissipate so fast after the arrival of Phase II that a strategy of predatory cross-subsidization will necessarily fail and therefore will not be attempted. The risk of cross-subsidization is not restricted to situations of 100% legal monopoly, but can also materialize where a company has substantial market power in one segment of its operations and the ability to absorb costs properly attributable to a more competitive segment. The type of rate regulatory scheme applicable to the segment where market power is present may actually exacerbate the company's incentive to cross-subsidize,[60] in addition to being ineffective in detecting and preventing cost-shifting by the company.

The CIS assumes that with the arrival of Phase II "the EU authorities [will] have improved safeguards against cross-subsidy."[61] But, as the CIS also recognizes, EU directives are merely an "overlay" of requirements that mean very little unless and until Member States transpose them into national laws and then effectively enforce those laws.[62] Furthermore, "[i]t is not yet clear" whether EU measures (and, therefore, the requisite follow-on national laws) would "confer any rights on providers from the United States."[63] Consequently, there is a significant risk that US providers may lack standing or adequate procedural rights to challenge suspected cross-subsidization. Moreover, FT and DT will remain at least majority-owned by their respective governments beyond the end of Phase I,[64] privatization being "wholly at the discretion of the [M]ember [S]tates" and not something the EU has sought to dictate.[65] As a consequence, there is a substantial risk that the French and German governments' ownership interests in FT and DT will deter those governments (as has happened up to now) from imposing and/or effectively enforcing regulations intended to detect, prevent, and remedy cross-subsidization.

To correct this major flaw, Section III.F. should be modified so that it remains effective for the entire life of the decree. Alternatively, the Section should be revised so that it expires only after the market-opening standards for starting Phase II are satisfied[66] *and* France and Germany have put into effect comprehensive measures for preventing, detection, and remedying cross-subsidization and have granted affected US and other providers adequate rights to complain about and receive prompt and complete injunctive and monetary relief for any cross-subsidization that does occur.

Section III.F.3. says that the required separate "accounting systems and records of Joint Venture Co. will be made available pursuant to the visitorial provisions of Section VI." Section CI bars disclosure to the public, including certainly JVCo's competitors, of any information or documents obtained thereunder by DOJ. By its very nature, cross-subsidization is not something that a competitor can readily infer simply from knowledge of its own costs and what targeted customers may say they are being offered or charged by someone else. Consequently, DOJ cannot assume that JVCo's books will need to be examined only when DOJ receives a credible complaint from a JVCo competitor. Yet, given its limited resources and other priorities, DOJ is hardly in a position regularly to audit JVCo's financial records to discover any cross-subsidization. The decree needs to be revised so that interested parties, pursuant to a confidentiality commitment, many examine the JVCo records and bring any evidence of cross-subsidization to DOJ's attention. A possible (although less effective) alternative would be for the decree to provide that DOJ shall hire an independent auditor for regular audits at JVCo's expense.

E. The Restrictions Regarding Proportionate Returns and Correspondent Operating Agreements (Sections III.E. & G.) Should Be Extended to the End of Phase II and Strengthened

1. Proportionate Returns

Section III.E. is designed to prevent FT and DT from favoring their partially owned affiliate Sprint over other U.S. international carriers in returns of voice correspondent traffic. Because FT and DT are not Decree defendants, the obligation is imposed upon Sprint for the duration of Phase I not to "accept" returns from either FT or DT or "accept or benefit from" any methodology changes inconsistent with FCC proportionate return policies or which "substantially favor[]" Sprint over other U.S. providers. The CIS points out that the French and German regulators "have not imposed any form of proportionate allocation requirement on their national carriers."[67] The Complaint correctly states that "FT and DT, as a result of the proposed [investment and joint venture] agreements, will have an increased incentive and ability to direct their switched telecommunications traffic from France and Germany disproportionately to Sprint rather than other U.S. international carriers, either directly as part of the correspondent system, or outside that system through the Joint Venture Co. backbone network."[68]

As the proposed decree is now drafted, Sprint's Section III.E. obligation automatically expires when the French and German public switched voice and infrastructure markets are first opened to competition. DOJ does not (nor could it) presume that France and Germany will impose proportionate returns obligations to take effect when that happens. In fact, as indirect partial owners of Sprint (through their ownership of FT and DT), the French and German governments would have an interest in Sprint receiving preferential returns over AT&T, MCI, *et al.* It is wrong for the Decree to assume that the formal elimination of FT's and

[57] CIS, 60 F.R. at 44072.

[58] *See* Section V.Q.

[59] *See* Complaint ¶¶ 33, 36.

[60] A rate base, rate of return regulatory scheme would encourage the regulated entity to shift cost of its nonregulated businesses to its regulated business.

[61] CIS, 60 F.R. at 44072.

[62] *Id.* at 44062.

[63] *Id.* at 44063.

[64] *See* page 12, note 28, *supra.*

[65] *Id.*.

[66] The "one or more" licensee portion of the definition of Phase II also must be revised. *See* pages 27–28, *supra.*

[67] CIS, 60 F.R. at 44072.

[68] Complaint ¶ 40(c).

DT's legal monopolies and the mere licensing of "one" competitor (or even "more" competitors) will deter FT and DT from favoring Sprint or diverting correspondent traffic through their JVCo. Newly licensed entrants in public switched voice will need substantial time and effort to build up their international capacity to the point where it becomes a realistic alternative to FT and DT. Until that happens, FT and DT will not avoid favoring Sprint or JVCo because they fear retaliation by other U.S. carriers diverting returns to the new French and German international licensees.

In short, there is no basis for Section III.E. to expire at the end of Phase I. The obligation should be modified to run for the entire life of the decree.[69] Alternatively, the Section could be modified to run until *both* Phase I ends *and* the French and German governments promulgate (and demonstrate the intention to enforce) a proportionate returns requirement comparable to that in Section III.E.

2. Correspondent Operating Agreements

The Complaint says that, as a result of these proposed transactions, "FT and DT will have an incentive to favor Joint Venture Co. and Sprint over their competitors, particularly new entrants and providers of new services, by denying operating agreements * * * or by offering such agreements on discriminatory terms."[70] To address this concern, Section III.G.1. of the proposed Final Judgment forbids Sprint from offering any particular US correspondent service with FT or DT unless "at least one other" US international provider "has also obtained an operating agreement with FT and DT for the provision of such service * * *." Once again, the Decree's failure to require more than "one" competitor is a major problem. Section III.G.2. attempts to remedy that problem by requiring Sprint to carry the correspondent traffic of any US provider that "has requested but has not yet received an operating agreement with FT or DT * * *." Rates and terms and conditions for such substitute carriage by Sprint must be "commercially competitive" with those for the US providers that have operating agreements. The rate schedules must be annually updated to "reflect the estimated value of any adjustments in proportionate return traffic that may be received by Sprint from France or Germany" as a result of carrying the traffic originated by the US provider having no operating agreement. Section III.G.2. is limited to "IDDD voice service or any other [correspondent] services that make use of the FT/DT PSTNs."[71]

Like Section III.E. dealing with proportionate returns, Section III.G. automatically expires once Phase I ends. There is no basis for the apparent assumption that the problem to be remedied by Section III.G. will simply disappear on the day the first facilities-based domestic and international public switched voice competitor for FT and DT is licensed. It will take years for a newly licensed competitor to build up its facilities and geographic service areas to become an adequate and cost-competitive alternative to FT and DT for terminating US correspondent traffic. Given their continuing ownership of FT and DT (and derived ownership interests in Sprint and JVCo), the French and German governments may not impose and enforce a regulatory alternative to Section III.G.

Section III.G. should be modified so that it extends for the life of the decree.[72] As a next best alternative, Section III.G. could be modified so that it expires only when *both* Phase I terminates *and* the French and German governments promulgate (and demonstrate the intention to enforce) requirements that FT and DT not refuse to deal or discriminate in any way against Sprint's rivals in terms of correspondent operating agreements.

F. Provisions Requiring Access to Technical Interfaces (Section III.H.) and Public Data Network Protocols (Section III.I.) Should Be Extended to the End of Phase II and Broadened

As the Complaint explains, the investments in Sprint and JVCo will give FT and DT the incentive to use their market power over voice and data services and facilities to favor Sprint and JVCo.[73] Of particular concern is the danger of favoritism and discrimination "in providing access to [FT's and DT's] local, domestic long distance and international telecommunications services and facilities and to their public data networks * * *."[74] Sections III.H.–I. of the proposed Final Judgment are intended to address the technical side of the access problem, but they apply only during Phase I. The public interest requires that these provisions be strengthened and extended for the life of the Final Judgment.

1. Essential Modifications of Section III.H

Section III.H. in essence prohibits Sprint and JVCo, when providing services in the US that use FT or DT Products or Services, from accessing those Products or Services through "any proprietary or nonstandardized interface or protocol" if competitors cannot access the same Products or Services through "a non-proprietary or standardized interface or protocol." By forbidding "exclusive access," DOJ intends the provision to "have a significant role in ensuring that competitors can obtain interconnection to the public switched [voice] networks in France and Germany."[75]

There are two problems with Section III.H.'s approach. First, it provides no assurance that FT or DT will work cooperatively with Sprint's and JVCo's competitors when those competitors develop innovative services that need to interconnect with FT's and DT's networks through interfaces and protocols that are more technically advanced than FT's and DT's "non-proprietary or standardized interface or protocol." By contrast, Section III.H. allows Sprint and JVCo to interconnect with FT's and DT's networks using "proprietary or nonstandardized interface[s] or protocol[s]." The anti-discrimination language in Section III.D.1.(iii)–(iv) does not expressly address this substantial risk of FT/DT technological favoritism toward Sprint and JVCo.

Second, making matters worse, Section III.H. automatically expires at the end of Phase I. This will occur even though the formal elimination of legal protections for FT's and DT's switched voice and infrastructure monopolies and the grant of "one or more" geographically unlimited voice licenses in each country will not instantaneously (if ever) establish alternative public switched networks as sufficient substitutes for FT's and DT's networks. Moreover, continuing French and German government ownership of FT and DT (and indirectly of Sprint and JVCo) does not augur well for government intervention to assure that

[69] If the French and German governments do in fact promulgate and effectively enforce a proportionate returns requirement, the parties could seek a modification or waiver under Section VIII of the decree, subject to public notice and comment.

[70] Complaint ¶ 40(b).

[71] Given the market power reflected in FT's and DT's public data networks (see Complaint ¶¶ 33, 36), this provision should be modified so as to afford protection for any non-voice correspondent services that are intended to interconnect with the FT and DT public data networks.

[72] The parties can always seek a Section VIII waiver or modification if the respective French and German governments establish and enforce a regulatory regime that accomplishes the same protection of fair competition intended by Section III.G.

[73] Complaint ¶ ¶ 2, 3, 31–36, 40(a)–(e).

[74] *Id* ¶ 3.

[75] CIS, 60 F.R. at 44073.

competitors will have access, not to mention the most technologically advanced access, to FT's and DT's public switched networks.

Plainly, the proper solution is to revise the decree the ensure that FT and DT cannot provide Sprint and JVCo more technologically advanced interconnection to their public networks and access to other FT and DT Products and Services. Further, the modified language should be applicable through the life of the decree, subject to Section VIII. waiver or modification proceedings conducted with adequate public notice and opportunity to comment.

2. Required Modifications of Section III.I

The public data "counterpart" to Section III.H.,[76] Section III.I. requires that FT's and DT's "Public Data Networks that are based on the X.25 or any other protocol, continue to be available to all other United States international telecommunications providers on nondiscriminatory terms to complete data telecommunications between the United States and France and between the United States and Germany, and within France and Germany for traffic originating within the United States, France or Germany, using the X.75 standard protocol for interconnection between data networks, or any generally accepted standard network interconnection protocol that may modify or replace the X.75 standard."

While this provision purports to assure "nondiscriminatory terms," it leaves wide open the possibility that FT and DT will work cooperatively with Sprint and JVCo to develop advanced data services and a superior network interconnection protocol, but refuse to cooperate with their competitors who wish to engage in a similar innovative effort. The provision does not require cooperation nor forbid favoritism toward Sprint and JVCo in the level or degree of cooperation provided. Moreover, Section III.I. permits JVCo and Sprint to use interconnection protocols that may be more advanced than the "X.25/X.75 protocols" unless and until those advanced protocols become the new "generally accepted standard." Of course, they may never become "generally accepted" if they remain proprietary and unavailable to others interconnecting the FT and DT data networks.

As "the principal safeguard in th[e] proposed Final Judgment for competitive access to DT's and FT's public data networks,"[77] Section III.I. falls woefully short. Given that those networks have tremendous market power (although not 100% monopoly shares) because of FT's and DT's infrastructure monopolies and the governments' ineffective regulation,[78] and given the governments' continuing direct and indirect ownership interests, there is no basis for the decree to require anything less than across-the-board nondiscrimination by FT and DT in providing technical access to their data networks and in working to improve interconnection of data networks. Further, because the mere formal elimination of infrastructure monopolies and the issuance of "one or more" licenses at the end of Phase I will not instantly result in fully operating facilities-based alternatives to FT's and DT's public data networks, this Section III.I should be modified so that it runs through the life of the decree. A waiver or modification, pursuant to public notice and comment procedures, can always be sought under Section VIII., if and when conditions become appropriate.

III. Conclusion

DOJ should withdraw the proposed Final Judgment and undertake to negotiate a new decree along the lines of the modifications and clarifications set out in Part II of these Comments.

Dated: October 23, 1995.

Respectfully submitted,

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Cable & Wireless Europe; Comments on Final Judgement of Department of Justice on Sprint Corp. Joint Venture—Phoenix.

Case 95–CV–1304

Exhibit D

Part I

Introduction

The position of Cable & Wireless Europe (C&WE) on the joint venture between Sprint Corporation, Deutsche Telekom AG (DT) and France Telecom (FT) known as "Phoenix", as notified is that it:

- is restrictive of competition
- poses a real risk of eliminating competition
- provides considerable potential to abuse a dominant position
- is not indispensable for addressing the target market

The Phoenix JV is restrictive of competition in that it effectively facilitates;

- the direct fixing of prices and other trading conditions
- the limitating or control of production, markets, technical development and investment
- market sharing between the parents
- discriminatory behaviour in the way the parents treat the JV and all other actual or potential competitors to the disadvantage of the latter.

It is inevitable that the effect of the Phoenix arrangements will be the coordination of prices by Sprint, DT and FT if it is to function as a one-stop-shop. Until now the relevant subsidiaries of DT, FT and Sprint have spearately set prices independently and competitively.

That Phoenix will engage in market sharing is clear from the published announcement of the European Commission (OJ C184 of 18.7.95) where it states:

"Phoenix products will be distributed by DT and FT in France and Germany, by Sprint in the United States and by the "rest of Europe" operating group in Europe".

It is clear from the same published details that no attempt has been made to differentiate DT's and FT's monopoly activities from those activities open to competitive forces. This gives rise to a real threat that the assets of the monopoly will be leveraged into those areas where the notifying parties face competition. Such behaviour would be an abuse of a dominant position.

Section 10.6(b) of the Joint Venture Agreement submitted to the Department of Justice means that if a customer approaches FT and requests a private line service between France and, say the US, then FT should "use commercially reasonable efforts to persuade" the customer to use the JV for such services and must refer the request of the customer to the JV and its members if FT fails to convince the customer to purchase JV services. This is a clear abuse of a dominant position, and a pooling of information.

For example the published notification (OJ C184 of 18.7.95) states "Phoenix products will be distributed by DT and FT in France and Germany * * *" This means that the sales forces of the monopoly will promtoe the products of Phoenix giving the real possibility for illegal bundling and predatory cross-subsidies.

The Final Judgement of the Department of Justice on the JV recognised the substantial threats to competition in international telecommunications posed by the JV. The original structure of the JV provided a set of incentives for the relevant parties to behave in a discriminatory and anti-competitive manner to the advantage of themselves and to the disadvantage of all competitors, actual or potential. The most severe threats to competition posed by the JV are in the two home markets of the participating monopolies—Germany and France.

[76] CIS, 60 F.R. at 44073.

[77] *Id.* Section III.D.'s anti-discrimination language applies to "FT or DT Products and Services," a category that expressly includes products or services needed for interconnection to "FT/DT PSTNs" but excludes "services involv[ing] interconnection to the Public Data Network." Section V.L. (i) & (iv).

[78] *See* Complaint ¶ ¶ 32–36; CIS, 60 F.R. at 44061–62.

Any telecoms operator, from whatever home base, intending to address the global telecoms market must have an effective presence in the European Union. Germany and France in combination account for some 40% of the EU's telecoms market.

A large number of potential corporate customers have sizeable operations in the German and French markets and these potential corporate customers require global communications facilities in order to carry on their businesses. All potential or actual providers of the necessary communications capabilities must be able to offer cost effective and efficient telecoms services to these customers in these two markets if they are to provide a viable product. However in order to do so any competitor operator must deal with the relevant domestic monopolist.

Consequently, the monopolists in these markets could, if the incentives were in place, behave in a manner that would significantly distort competition in a vital part of the global market to the extent that competitors would not only be disadvantaged inside these markets but also be disadvantaged outside these marekts. Quite simply, if a competitor is unable to provide a cost effective solution in one vital segment of the global market it may be handicapped from gaining customers because these customers are seeking global (total) solutions to their communications needs.

Key Issues

In recognition of these conditions the Final Judgement of the Department of Justice proposed various restrictions on the JV, pertaining in particular to the conditions obtaining in Germany and France. Two questions arise:

- Are the restrictions adequate to ensure fair and undistorted competition so that all actual and potential competitors have an equal opportunity of addressing the needs of the target customers in the relevant countries?
- Are the restrictions fully enforceable in the relevant countries?

Given the structure of the telecommunications services supply sector in the United States, the issue of adequacy does not present itself in the US. Furthermore, the question of enforceability does not arise in the United States because first, the parties do not hold monopoly positions in the US market and second, the Department of Justice has sufficient powers to ensure compliance with its decisions. The issues of adequacy and enforceability arise in the EU and in particular Germany and France. The restrictions of the Final Judgement appear to fall on both criteria.

Part III of these comments addresses the issues of adequacy and Part IV addresses the issue of enforceability.

Part II

Conditions in Germany and France

The principal markets of concern with respect to competition and access for competitor operators to the JV are France and Germany. This is clear both from the Final Judgement and from the brief details in the published (OJ C184 of 18.7.95) by the European Commission where it states "Phoenix products will be distributed by DT and FT in France and Germany * * *". This simple statement has ramifications for all actual or potential competitors in the provision of global telecoms services. Given the significance of these markets in the EU and the overall global telecoms market and the fact that the vast majority of the assets of DT and FT are located in Germany and France respectively, it is the conditions in these two markets that are the most relevant to the restrictions in the Final Judgement

(a) The situation in Germany. Self-evidently, DT holds a dominant position in all the most important product and service markets in the German telecommunications sector. The "corporatisation" of Deutsche Telekom AG (DT) into a joint stock company has made no material difference to its position on the German market or its effective relation with the Bundesministerium through the Bundesanstalt fur Post und Telekommunikation.

DT retains the exclusive legal right to supply public voice telephony as defined in the Services Directive (Directive 90/388/EEC), the major piece of specific legislation covering competition in telecoms services in the EU. All other services are legally open to competitive supply.

DT retains the exclusive right over the infrastructure necessary to deliver telecommunications services and, as the European Commission recognised in the *MSG Media Service* (Case IV/M.469) prohibition decision, owns and operates most of Germany's cable TV networks, which could provide an alternative source of infrastructure to competitors to DT.

DT is also the market leader in liberalised telecommunications services in the German market. According to the Services Directive, the monopoly in services only remains over the provision of telephony to the public, all the rest being "liberalised".

This fact is relevant to the restrictions enumerated in the Final Judgement of the Department of Justice. The press release of July 13, 1995 states on page 3 at bullet point 1 that the JV "Cannot own, control or provide certain services until competitors have the opportunity to provide similar services in France and Germany." Under EU law the only service which remains the exclusive right of DT is public voice telephony. This implies that the Department's restrictions only apply to public voice telephony (the market fully controlled by DT). However, this service is not the target of the JV which seeks to attract corporate customers.

Therefore, there is some doubt as to the adequacy of the restrictions of the Department of Justice in its Final Judgement if these restrictions fall only on public voice rather than on liberalised services.

All competitors to DT in the liberalised sector have to lease infrastructure from DT if they wish to offer liberalised services. Equally, all competitors need to use DT for any switched traffic and call termination at interconnection (access) charge rates determined by DT. This state of affairs will continue in the future even when there are alternative providers of infrastructure given the ubiquity of DT. Therefore the costs of all competitors to DT in Germany are, and will continue to be, largely determined by DT.

This state of affairs has a substantial impact on the economics of any competitor to DT. Whereas it may be legally permitted to compete against DT it may not be economically feasible to do so. Again this reflects upon the restrictions of the Final Judgement. The ability of a competitor to gain a licence and to take advantage of the licence in a meaningful way are very different concepts in practice. Unlike the US and British telecommunications markets, there is no history in Germany of rate setting for leased lines and interconnection (access) charges by market mechanisms or developed regulatory intervention.

Also of relevance is the European Commission's "Communication by the Commission to the European Parliament and the Council on the status and implementation of Directive 90/388/EEC on competition in the markets for telecommunications services" (COM(95) 113). This is a status report on the degree of implementation of the Services Directive, which contains a report on conditions in Germany. As noted above this is the key piece of European legislation on liberalisation of telecoms.

In this document the Commission reported that the German Law of 14 September 1994 (*Postneuordnungsgesetz*—PTNeuOG) did not comply in full with the Services Directive. The new law did not reflect the definition of "voice telephony" of the Services Directive.

Consequently, since the new law did not reflect the definition of "voice telephony" of the Services Directive, DT has benefited from a monopoly definition that is wider than that sanctioned by the Services Directive. This has impeded competition in Germany by restricting the range of services competitors could offer to customers. Additionally, competition has been restricted by the failure to implement correctly Article 6 of the Directive causing delays in the use of some terminal equipment. These matters were only resolved following the intervention of the European Commission

Furthermore, the Commission's document found that the German Law did not implement in an appropriate manner Articles 6 and 7 of the Directive, of which the latter is the most important.

Article 7 of the Services Directive (Directive 90/388/EEC) instructs Member States to separate telecommunications regulatory and operational functions so that the regulatory body is independent of the telecommunications organisation.

The issue of Article 7 of the Services Directive does not appear to be fully resolved with the possibility that a regulator that is not independent may not act so as to prevent the restriction or distortion competition. This state of affairs concerning the non-implementation of the Services Directive has implications for the enforceability of the restrictions of the Final Judgement of the Department of Judgement in the Phoenix JV.

The absence of an effective regulator of DT was demonstrated in the case of the cross-subsidy from the monopoly sector into Datex-P. This case and the non-implementation of Article 7 of the Services Directive are

discussed in Part IV. DT has also been accused by its competitors (the Association of Private Telecommunications Operators) of cross subsidizing its leased line business. The draft new German Law for telecommunications is also discussed in Part IV as it has a bearing on the enforceability of the restrictions in the Final Judgement.

(b) The situation in France. The conditions in France are slightly less restrictive than those in Germany in that there has been some limited "experimentation" with alternative infrastructure. Nevertheless FT retains the exclusive legal right to supply public voice telephony as defined in the Services Directive and the exclusive right over the infrastructure necessary to deliver telecommunications services. FT is overwhelmingly dominant on the French market.

FT is the market leader in liberalised telecommunications services in the French market (e.g., paging), a position reinforced by the necessity for competitors to FT in the liberalised sector to have to lease infrastructure from FT and its subsidiaries if they wish to offer liberalised services. Equally, all competitors need to use FT for any switched traffic and call termination at interconnection charge rates determined by FT. The costs of all competitors to FT are largely determined by FT, both now and in the future. As with Germany, there is no history of cost based rate setting for leased lines and interconnection (access) derived from market forces or well developed regulatory intervention.

There is a strong doubt whether Article 7 of the Services Directive (Directive 90/388/EEC) has been implemented. For example, the French Regulator sits on the Board of FT and the regulatory function sits within the same Ministry that acts as the owner of FT. In these circumstances it is doubtful whether the French regulator is independent and there is a clear potential for a conflict of interest between promoting competition (and the interest of competitors) and defending FT from competition.

There are concerns that Colisee International behaves in an anti-competitive manner. The company is a subsidiary of FT which is engaged in reselling of the capacity of FT. Complaints about Colisee have been confirmed by the French regulator. The latter has found that:

- FT sells leased lines and the PSTN to Colisee at tariffs below the official list price whilst competitors to FT are forced to buy these inputs at the official published tariff.
- FT is offering Colisee direct access to its International Transit Centre but does not permit competitors similar access.

This behaviour is clearly abusive but the French regulator has not resolved the issues to the satisfaction of competitors to FT.

Part III

Adequacy of the Restrictions of Final Judgement of the Department of Justice

The restrictions detailed in the Final Judgement represent a sound and justifiable set that are appropriate to the circumstances, particularly on the trans-Atlantic route between the US and the two monopoly markets of Germany ad France.

However, these restrictions apply in part to services that competitors cannot legally supply in Germany and France. In the EU, the only service which remains the exclusive right of the monopolist is public voice telephony. Public voice telephony is supplied by DT and FT. This service is not the target of the Phoenix JV. All of the services of the target corporate customers are open to competition. Consequently, to the extent that the restrictions of the Final Judgement apply to services which are not the target of the JV, the restrictions are not adequate.

In other respects the restrictions contained in the Final Judgement are equivalent to a commitment on the parties to the JV to comply with the competition rules of the US and the EU—something to which the parties must comply in any event.

Whilst the monopoly of infrastructure remains in place in Germany and France, this monopoly can effectively limit access to networks in a way that excludes or severely restricts the possibilities of parties other than Sprint, DT and FT in the Germany and France even when the competition rules are adhered to. For example, DT and FT could charge non-discriminatory interconnection (access) but high charges to themselves and all competitors. As far as DT and FT are concerned, this would merely represent a transfer of funds from one part of the business to another. However, for competitors such charges are real costs that could limit the viability of their offerings.

This implies that the restrictions of the Final Judgement may not be adequate to achieve its objectives.

An adequate environment which would promote effective competition and thereby provide for the conditions in which the JV would not distort competition are listed below.

Legislative Framework

(a) Infrastructure. As has been made clear, the JV through the monopolies of infrastructure in Germany and France determine the costs (leased lines and interconnection) of all competitors on the relevant market. Equally, the monopolies of infrastructure allow the parties to the JV to control the functionality of competitors thereby determining the nature of offerings they can make to the market.

Competitors to the monopolists are at the same time major customers. Furthermore, this competitor/customer relationship means that competitors pass information on their customer to their monopoly competitors. Only the freedom of choice of infrastructure for all competitors would allow for competition to develop by allowing competitors more control over their costs and functionality.

Consequently, any remedy to the real risks to competition posed by the JV must include the acceleration of the liberalisation of infrastructure in Germany and France. Alternative infrastructure is available form cable TV operators and many utilities. The liberalisation of these facilities would enhance the prospects for competition. In this respect cable TV has a particular importance because it would provide an alternative to the local loop bottleneck.

To date both DT and FT (and the respective Governments) have exhibited a reluctance to support any such acceleration of the liberalisation of infrastructure.

(b) Interconnection. Even where alternative infrastructure is found, unavoidably competitors will use the assets of the monopolies for call termination and origination given the ubiquity of the monopolists. In these circumstances the terms for interconnection are of central importance if the access barrier is to

These terms of interconnection cover a wide range of matters, most of which are addressed in the European Commission's "Proposal for a European Parliament and Council Directive on interconnection in telecommunications".

Two issues of particular importance to the promotion of effective competition. There are:

- the points where interconnection is permitted.
- the charges for interconnection at these ponts.

Ideally these matters should be resolved through commercial negotiations. However the UK experience demonstrates that it is extremely difficult, if not impossible, to resolve these matters satisfactorily. Consequently, regulatory intervention is required.

In these circumstances the optimal solutions to these issues are the following:

- interconnection should be permitted at any technically feasible point within the hierarchy in the network rather than at a very limited number of points determined by the monopolist. This allows competitors to make choices and trade offs between functionality and costs
- interconnection must be charged in an unbundled manner, for only those assets or elements used in the network.

Whith respect to these interconnection charges it is appropriate that the competitor pays for the costs if causes. There are two dimensions to cost causality:

- the correct cost basis (level of the charge)
- the appropriate cost drivers (structure of the charge).

The correct cost basis for interconnection charges is Long Rung Average Incremental Costs (LRAIC), which is the methodology accepted by the UK regulator, Oftel.

The appropriate cost driver in telecoms is buy hour capacity. Competitors should therefore pay for the addition to busy hour capacity that they cause—termed Capacity Based charged (CBC).

Consequently, in order to promote effective competition and access the appropriate interconnection regime must be based on the principles of:

- interconnection at any technically feasible point
- LRAIC
- CBC.

Freedom of choice between competing infrastructure for service providers coupled with interconnection based on the principles outlined here would be necessary, though not sufficient, to permit the JV to go ahead. However, a second set of structural conditions also needs to be addressed.

Structural Change

Currently, no distinction has been made by the parties between the activities of the parent monopolies, DT and FT, and those of the JV. This absence of a separation gives rise to the real possibility for cross-subsidies from monopoly to competitive activities. The Datex-P case in Germany demonstrated the reality of this possibility. The absence of any separation also facilitates the pooling or transfer of information concerning customers and competitors.

The Phoenix notification is identical to the Atlas notification with respect to the absence of separation between the activities of the parent monopolies in Europe and Sprint. Consequently, the potential of Phoenix to prevent, restrict or distort competition and to behave abusively in the relevant market is substantial. This issue arises as a result of the absence of separation between monopoly and competitive activities.

The only feasible remedy is to impose the structural separation of Atlas and Phoenix from the parents. Such a structural separation should take the following form.

(a) Separation of monopoly and competitive products and services. Atlas and Phoenix should not be permitted to offer any product or service where there is any impediment (in terms of exclusive or special rights, licensing, authorisation, choice of infrastructure, conditions of interconnection) preventing an efficient competitor from supplying the same products and services. Effectively this condition would separate monopoly provided products and services from those in the competitive sector.

(b) Financial separation. There should be a complete financial structural separation between Atlas, Phoenix and the parents. The purpose is to provide for full transparency of the financial flows between Atlas, Phoenix and its parents and to safeguard against cross-subsidies. All services and products (including interconnection based on the principles outlined above) provided by the parents to the JVs (and vice versa) to be supplied at published tariffs and available to all competitors at identical terms and conditions.

(c) Other separation. The parents should not be permitted to transfer to the JVs any proprietary, customer, competitor or market sensitive information, or any other asset including all types of telephone numbers, which would give the JVs a competitive advantage. Only when the parents give 30 days notice to all competitors of such a transfer, and offer to supply competitors on exactly the same terms and conditions, should such transfers be permitted.

The feature of each of these types of separation is that they facilitate transparency and equality of treatment between the parents, Atlas, Phoenix and all competitors.

Whilst most of these conditions fall outside the jurisdiction of the Department of Justice, the Department should look towards substantial progress on these matters if the JV is not to distort competition and impede competitive entry to the key German and French markets for all potential entrants.

PART IV

Enforceability of the Restrictions of Final Judgement of the Department of Justice

Given that the Department will need to co-operate with the National Regulatory Authorities in Germany and France in order to effectuate an enforcement of its restrictions, it is important that these authorities are appropriately constituted.

It is questionable whether Article 7 of the Services Directive (concerning the independence of the Regulator) has been implemented in either Germany or France with important ramifications for the enforceability of the restrictions contained in the Final Judgement as they impact on the German and French markets.

The judgements of the European Court of Justice (ECJ) of 27 October 1993, the *Taillandier* (C–46/90) and *Decoster* (C–69/91) cases are pertinent to this particular matter. These judgements mean that two different services within the same Ministry performing the regulatory and operational functions does not comply with the requirements of Article 7 of the Services Directive. The judgements of the ECJ mean that there should be a real and not just a formal separation of functions. The ECJ has therefore decided that the operational and regulatory bodies should not both be answerable to the same Minister.

Currently, in both France and Germany the relevant Ministry effectively acts as both owner and regulator (the "corporatisation" of DBPT having no effective meaning in this matter). This condition does not comply with the European Services Directive and can act as a major impediment to the development of competition. There is the potential for a conflict of interest between the Ministry as regulator pursuing polices that promote effective competition and the Ministry as owner pursuing policies that protect the perceived value of the monopoly. Equally, there is a potential for a conflict of interest where the regulatory sits on the board of the monopolist.

Further, the Department of Justice should take particular note of the Datex-P case in Germany.

According to press reports 1994 (see for example *Financial Times* 26-May-94), the Bundeskartellamt (BKA) carried out an investigation into the affairs of Datex-P (which operates in the liberalised telecommunications sector) in Germany. These reports stated that the BKA found a cross-subsidy from the monopoly activities of DT (then called DBP–T) to Datex-P amounting to some DM 2 billion (allegedly a sum that exceeded the turnover of all competitors combined).

Normally, abuse of a dominant position of this magnitude would lead to the imposition of several penalties on the perpetrator and the payment of damages to injured parties. However, this has not occurred in the case of Datex-P. This is because the then DBP–T did not fall under the jurisdiction of the BKA and was therefore not fully subject to Germany's strict competition laws. This situation could only be acceptable if DBP–T was subject to similar controls to those of the BKA being exercised by the National telecommunications regulatory authority (NRA). However, this was not the case.

The NRA in Germany is the Bundesministerium Fur Post und Telekommunikation. The German telecommunications law of 1989, the Postverfassungsgesetz, (PVG) defines the tasks and organisation of this Ministry. Under the PVG, the Minister appoints one third of the members of the Supervisory Board of DBP–T/DT. The approval of the Minister is required for all the important decisions of DBP–T/DT (including presumably the Phoenix and Atlas JVs.). The same Minister defines the long term objectives of DBP–T/DT and earmarks the funds necessary for the development of telecommunications.

The Minister is responsible for the appointment of the official acting as the regulator of the sector, and as events have demonstrated, for the dismissal of the official.

In these circumstances the independent character of the NRA is not fulfilled as required by Article 7 of the Services Directive and the ECJ cases cited. DT is not regulated by an independent NRA neither is it regulated by the competition laws of Germany. In these circumstances it is possible for Datex-P to avoid the normal punishments for such anti-competitive behaviour.

The draft German law on the future regulation of telecommunications (*Diskussionsentwurf für ein Telekommunikationsgesetz* of 31.5.95) is silent or vague on the following key issues:

- equal access
- numbering portability and numbering in general
- licensing processes, appeal procedures, arbitration etc.
- duct/trench-sharing, mandatory or otherwise
- Ministry policy on international voice telephony
- principles applying to tariff policy and proposals for rebalancing.

Decisions on each of these subjects will have a substantial impact on the development of effective competition and access. For example there will be a major difference with respect to effective market access if the Ministry's policy on international voice favours a duopoly or full competition.

A policy on the critical commercial issue of interconnection has yet to be developed and this represents a serious impediment for the prospects for effective competition.

According to § 22 of the German Law against Restraints of Competition licensees which are dominant operators, or have a market share of at least 25%, may be required to provide certain universal services. Again this prospect gives rise to serious doubts concerning the development of effective competition and market access. § 22 could be used as a tax on success and certainly provides an incentive for competitors to stay below the 25% threshold. § 22 is incompatible with the development of effective competition and should be withdrawn.

Interestingly, if an operator cream-skims (*Mehrerlösabschöpfung*) deliberately or out of negligence contrary to a decree under § 32 issued by the NRA, it could be required to pay an equivalent sum to the NRA (§ 33). § 32

works in a manner that distorts the development of effective competition and should be withdrawn.

As yet therefore, there are very serious doubts as to whether the emerging regulatory environment in Germany is appropriate for effective competition and effective market access to all potential entrants. In these conditions it is inappropriate to allow Phoenix to proceed.

The new regulatory environment in France has not yet been defined and we are therefore unable to provide any information on it. A consultation document on the future regulatory environment is anticipated in November 1995. Would be inappropriate to permit Phoenix to proceed before this regulatory environment is known.

It would be instructive for the DoJ to examine the regulatory history and environment in the UK. Here we have a government committed to competition in telecoms, an independent regulator and a liberal regime.

Despite these apparently favourable conditions, over the last decade, Mercury Communications Ltd (the major challenger to BT) has found it extremely difficult to compete on a fair basis with BT. Mercury has never reached an interconnection agreement with BT, even though to do so would benefit Mercury. It has always been forced to seek a determination from the Office of Telecommunications (OFTEL). Interconnection charges have not been based on the correct cost basis. Mercury has had to pay Access Deficit Charges which OFTEL recognise as a severe distortion of the market. This concept is now popular with the monopolists in the rest of Europe. Furthermore, Mercury's functionality has been severely restricted by the limits on the technical point of interconnection with BT.

Consequently, the lesson from the UK is that even under a regime which favours competition the monopolist can substantially impede the process of competition.

Part V

Conclusions

The Final Judgement of the Department of Justice on the JV recognised the substantial threats to competition in international telecommunications posed by the JV.

In recognition of these conditions the Final Judgement of the Department of Justice proposed various restrictions on the JV, pertaining in particular to the conditions obtaining in Germany and France. Two questions arise:

- Are the restrictions adequate to ensure fair and undistorted competition so that all actual and potential competitors have an equal opportunity of addressing the needs of the target customers in the relevant countries?
- Are the restrictions fully enforceable in the relevant countries?

However, it appears that the restrictions are directed at an area of activity which the JV will not address (public voice telephony). In these circumstances the restrictions of the Final Judgement fail the adequacy test. Consequently, the restrictions will not bring about effective competition and effective market access.

There are also doubts with respect to the enforceability of the restrictions because there is a question mark over the independence of the regulators in Germany and France. Furthermore the absence of a regulatory regime, for interconnection and other vital matters, which would foster effective competition and effective market access in either country does not support the need for enforceability.

In Part III of these comments a set of conditions which would promote effective market access were presented. The most important of these concern infrastructure and interconnection. The Department of Justice should look for substantial progress on these matters before permitting the arrangements between Sprint, DT and FT to progress.

The Department of Justice should set the following minimum conditions before allowing Phoenix to proceed:

- the liberalization of alternative infrastructure including cable televisions
- interconnection at any technically feasible point
- interconnection charges based on LRIC and CBC

Additionally the structural issue needs to be addressed. The minimum conditions required in this respect are:

- Phoenix should not be permitted to offer any product or service where there is any impediment (in terms of exclusive or special rights, licensing, authorisation, choice of infrastructure, conditions of interconnection) preventing an efficient competitor from supplying the same products and services.
- there should be a complete financial structural separation between Atlas, Phoenix and the parents.
- the parents should not be permitted to transfer to the JVs any proprietary, customer, competitor or market sensitive information, or any other asset which would give the JVs a competitive advantage which are denied to competitors

Any remedies less demanding than those listed here would not be sufficient to address the ability of the JVs to prevent, restrict or distort competition and to behave abusively in the relevant market.

* * * * *

October 24, 1995.

Donald J. Russell, Esq.,
Chief, Telecommunications Task Force, Antitrust Division, Room 89104, 555 Fourth Street, NW., Washington, DC 20001

Re: United States v. Sprint Corporation and Joint Venture Co., Civil Action No. 95–1304 (D.D.C. filed July 13, 1995)

Dear Mr. Russell: On behalf of ACC Corp., we transmit an original and five (5) copies of its comments in the above-referenced proceeding. We regret that necessary coordination with overseas counsel delayed this filing until today, but we hope that you will be able to consider the comments on their merits. To avoid any prejudice to the defendants, copies of these comments are being sent by facsimile to the counsel identified below.

Should there be any questions concerning this matter, please do not hesitate to contact me.

Very truly yours,

Helen E. Disenhaus,
Counsel for ACC Corp.

Of Counsel:

Francis D.R. Coleman, Esq.,
Secretary and Corporate Counsel, ACC Corp.

October 24, 1995.

Donald J. Russell, Esq.,
Chief, Telecommunications Task Force, Antitrust Division, Room 89104, 555 Fourth Street, NW., Washington, DC 20001

Re: United States v. Sprint Corporation and Joint Venture Co., Civil Action No. 95–1304 (D.D.C. filed July 13, 1995)

Dear Mr. Russell: On behalf of ACC Corp. ("ACC"), a United States international telecommunications common carrier based in Rochester, New York, we submit these comments on the above-referenced proposed Consent Decree. ACC's comments chiefly describe certain initiatives undertaken by its subsidiaries in Germany and France in furtherance of its proposed domestic and international resale service offerings in these countries.

Currently pending before the Federal Communications Commission ("FCC") are applications of ACC's wholly-owned subsidiary, ACC Global Corp., for authority pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, to provide international switched telecommunications services over international private lines on the U.S.-Germany and U.S.-France routes. See FCC File Nos. I–T–C–95–056; I–T–C–95–059. In an effort to keep the FCC apprised of relevant developments in Germany and France, ACC has regularly provided the Commission with updated chronologies reflecting significant contacts with the national regulators in those countries and with Deutsche Telekom ("DT") and France Telecom ("FT"). The most recent chronologies, which are also being filed this day with the FCC by copies of this letter submitted for inclusion in the application dockets and the Sprint/DT/FT docket, are attached. Also attached is a copy of a letter sent to M. Bruno Lassere, of the DGPT in France, that summarizes ACC's analysis of the permissibility under existing French law of resale competition in France.

As a general matter, ACC has been actively pursuing opportunities for resale competition in both Germany and France. With respect to Germany, ACC has confirmed with senior officials of the Ministry of Posts and Telecommunications that resale competition is currently permissible in Germany under certain terms and conditions. ACC has also met with officials of DT to discuss implementation of such resale service in the near-term. While ACC has been encouraged by the recent interest shown by Ministry officials in its proposal, ACC is concerned that DT has been dilatory in scheduling follow-up meetings to address the issue and may be attempting to avoid giving substantive consideration to the proposal.

ACC therefore urges the Department to condition entry and the effective date of the proposed Consent Decree on DT's opening its services to resale competition to the extent permissible under current law in Germany, with DT agreeing to cooperate in the resale service implementation program to the extent necessary.

With respect to France, ACC is still exploring with DGPT officials the feasibility of resale competition under current French law. While ACC has had several productive meetings with regulatory officials, ACC is concerned about the lack of progress in France. As shown by the enclosed summary of the relevant legal issues, however, there should be no legal impediments to implementation of limited resale in the manner proposed by ACC in the near term. ACC also, therefore, urges the Department to condition entry and the effective date of the proposed Consent Decree on FT's opening its services to resale competition to the extent permissible under current law in France, with FT agreeing to cooperate in the resale service implementation program to the extent necessary.

ACC firmly believes that resale competition in domestic and international services abroad as well as in the U.S. is critical to ensuring that competition in the U.S. market is not adversely affected by the formation of global alliances by the world's largest facilities-based carriers. The FCC has long recognized the benefits of resale competition in ensuring that consumers in all market segments receive the economic benefits of a competitive telecommunications market. ACC is not asking for exclusivity with respect to resale competition but merely for a general lowering of unnecessary entry barriers that adversely affect competitive entrants.

ACC therefore urges the Department to condition entry and the effective date of a Consent Decree on the availability of market participation by U.S. carriers in all market segments in which such competitive entry is lawful, even if such entry is dependent upon DT and FT's taking affirmative steps to facilitate such entry before full services and infrastructure competition is lawful in Germany and France.

Very truly yours,

Helen E. Disenhaus,
Counsel for ACC Corp.

Of Counsel:

Francis D. R. Coleman, Esq.,
Secretary and Corporate Counsel, ACC Corp.

October 24, 1995.

Mr. Bruno Lasserre,
Director General of Posts and Telecommunications, Ministry of Industry, Posts and Telecommunications and Foreign Commerce

Dear Mr. Lasserre: As agreed at our September 22 meeting in your Paris office, ACC is pleased to provide you with the following summary of its legal research on the extent to which France Telecom ("FT") may voluntarily delegate part of its telephone service monopoly to ACC under current French law:

- French law gives FT the benefit of a monopoly over the provision of real-time switched voice telephone services over the French PSN. (Articles L32, L33.1, L34.1 of Code of Post & Telecommunications, Article 3 of Law 90–568 of 2 July 1990 and Decree n°90–1213 of 29 December 1990.) Such services constitute, according to a legal tradition in the field of telecommunications in France, a public service mission entrusted to FT.
- To perform its public service mission, FT may form a subsidiary (Article 7 of Law 90–568 of 2 July 1990; Article 32 of Decree 90–1213 of 29 December 1990) which is part of FT's "group of companies" to provide services (as opposed to infrastructure) including switched voice telephone services.
- The concept of a "group of companies" is not defined in French corporate law. Accordingly there is no legal requirement that FT be the sole shareholder of such a subsidiary.
- However, it is reasonable to conclude that under French law the subsidiary would be considered a member of FT's "group of companies" if three criteria were met; (a) if FT owned a majority of the capital and voting rights of the subsidiary; (b) if FT held the power to appoint a majority of the members of the Board of Directors of the subsidiary; and (c) if FT had preponderant control over the management of the subsidiary. It should be possible for these conditions to be met even though ACC had minority ownership, operational involvement, and certain acceptable protective legal mechanisms with regard to the subsidiary.
- Such protective legal mechanisms for ACC could include those which apply now, and those which applied with FT's service monopoly decreased or ceased.
- The provision of public services (on FT's public infrastructure) by such a subsidiary would require the favorable opinion of the Public Service Commission for Posts & Telecommunications and the approvals of the Minister of Post & Telecommunications and the Minister of Economy & Finance (Article 32 of Decree 90–1213 of 29 December 1990).
- Such public support, or the absence of it, by the French government could be highly significant and persuasive in France, Europe, and the United States.

ACC Corp. would welcome an active dialogue with your office and with FT to explore the creation of an FT/ACC subsidiary in accordance with the above research at your earliest convenience.

If you have any questions, please do not hesitate to contact me.

Best personal regards.

Sincerely,

ACC Corp.

Francis D.R. Coleman,
Secretary and Corporate Counsel.

FDRC/csg

cc: Helen Disenhaus, Esq.
Scott Blake Harris, Chief-International Bureau, FCC
Diane J. Cornell, Chief-Telecommunications Division, FCC
Mr. Mickey Kantor-U.S. Trade Representative
Anne K. Bingaman, Esq., Assistant Attorney General, DOJ
Donald J. Russell, Chief-Telecommunications Task Force, DOJ

French Chronology

September 11, 1995

Informal discussion with Monsieur Lasserre at luncheon in Washington, D.C. prior to his remarks on anticipated changes in France's telecommunications regulatory framework. A meeting with ACC in Paris was agreed to for the near future.

September 12, 1995

Letter from ACC Corp. to Monsieur Lasserre requesting a meeting in Paris on September 22 to continue a dialogue on domestic and international resale for France.

September 22, 1995

Meeting at the DGPT with Monsieur Lasserre and Madam Niclot attended for ACC by Mr. Francis Coleman and Mr. Michael Taylor and Mr. Lucien Rapp of the law firm of Serra, Michaud & Associes. Monsieur Lasserre agreed to receive ACC's analysis of the extent to which portions of France Telecom's switched voice telephony monopoly might be delegated to independent third parties such as ACC with regulatory approval. At Monsieur Lasserre's request, ACC outlined the manner in which this issue was moving forward in Germany and agreed to provide copies of relevant correspondence to Monsieur Lasserre. Monsieur Lasserre expressed great interest in ACC's progress with Deutsch Telekom and the German Ministry and indicated that information on such progress could be relevant in France.

September 26, 1995

Letter from ACC Corp. to Monsieur Lasserre thanking him for the September 22, 1995 meeting, confirming that German correspondence would be sent to him shortly, and expressing the desire to continue discussions with him and his staff so that suitable progress could be made.

October 4, 1995

Letter from ACC Long Distance UK Ltd. to Monsieur Lasserre enclosing copies of ACC's correspondence with Deutsch Telekom and the German Ministry.

October 18, 1995

ACC's legal counsel in Paris receives request from Monsieur Lasserre for status of ACC's legal analyses of extent to which portions of France Telecom's service monopoly might be delegated to ACC.

October 24, 1995

Letter to Monsieur Lasserre (with copies to DOJ, FCC, and USTR) summarizing ACC's legal analyses (i.e., extent to which portions of France telephone service monopoly might be delegated to ACC with France governmental approvals) and requesting support for further progress.

Chronology—ACC France International Simple Resale Application

3 November 1994

Meeting between ACC Corp. and France Telecom to discuss the provision of domestic

simple voice resale and international simple voice resale in France.

10 November 1994

Submission of application by ACC Corp. on behalf of ACC France (a company in the process of being registered under French Law) to the French Ministry of Industry Ports, Telecommunications and External Affairs (Direction de la Reglementation Generale des Postes et Telecommunications ("DGPT")) to provide domestic simple resale services in France and international simple resale services on the France-U.S. route, and for commercially reasonable interconnection to the public switched telephone network.

14 November 1994

ACC Corp. letter to France Telecom requesting support for ACC France's domestic simple resale services and international simple resale services application submitted to the DGPT, as well as for ACC France's request for commercially reasonable interconnection to the public switched telephone network.

16 November 1994

Submission of application by ACC Global Corp. to the Federal Communications Commission for authority to resell private lines for the provision of switched services interconnected to the PSN at both ends and at one end only between the United States and France.

18 November 1994

Response from Monsieur Bruno Lasserre, Director General of DGPT, to ACC-France's application for domestic and international simple resale dated 10 November 1994. Response raises public voice telephony regulatory issues and equivalency issues between France and the United States, and invites ACC-France to meet with Ms. Niclot, Head of Network and Fixed Services, DGPT.

2 December 1994

Letter from ACC-France to Monsieur Bruno Lasserre acknowledging letter of the 18th of November and confirming meeting with Ms. Niclot to discuss ACC-France's application of 10 November.

14 December 1994

Meeting with Ms. Claire Niclot, Head of Network and Fixed Services, DGPT, to discuss the parameters of services that ACC Corp. may provide to the general public and interconnection with France Telecom.

23 December 1994

Letter from ACC Corp. to Mr. Guillaume, Directeur Juridique, France Telecom advising him of ACC Corp.'s desire to discuss commercially reasonable interconnection with France Telecom.

23 December 1994

Letter from ACC Corp. to Ms. Claire Niclot seeking interpretation of services that ACC Corp. may provide in France under current French law. ACC Corp. also requests Ms. Niclot's view on when France Telecom's monopoly on voice services to the general public will likely be relaxed.

4 January 1995

Letter from Ms. Claire Niclot in response to ACC's letter of December 23, 1994, discussing regulatory issues and extending an invitation for further discussions.

13 January 1995

Letter from Congressmen Thomas Bliley, Chairman of the House Committee on Commerce; Jack Fields, Chairman of the House Subcommittee on Telecommunications and Finance; and Bill Paxon, House Subcommittee on Telecommunications and Finance member, to FCC Chairman Reed E. Hundt urging Chairman Hundt "to press forward as strongly as possible to open [the French market] to the United States telecommunications providers."

30 January 1995

Letter from ACC in response to Ms. Claire Niclot's letter of January 4, 1995. ACC expresses its pleasure for the opportunity to meet with Ms. Niclot to investigate further the regulatory issues raised in ACC's letter of December 23, 1994, and in Ms. Niclot's letter of January 4, 1995.

2 February 1995

Letter from Monsieur Bruno Lasserre, Director General, DGPT, to ACC inviting ACC to meet with him to discuss ACC's application and the services that ACC would be permitted to offer in France under appropriate interpretations of current French law and regulations. The purpose of the meeting would also enable Monsieur Lasserre to discuss with ACC the steps currently being considered to introduce regulations in contemplation of the liberalization of telecommunications in accordance with EU proposals.

5 February 1995

Monsieur Bruno Lasserre, Director General of DGPT, requests ACC's French counsel to continue discussions with the DGPT and, to this end, to schedule a meeting with Ms. Claire Niclot.

8 February 1995

Letter from ACC's French counsel to Monsieur Bruno Lasserre requesting him to meet with Mr. Francis Coleman, General Counsel of ACC, and Mr. Michael Taylor, Secretary of ACC Long Distance (U.K.) Limited, in Paris during the week of March 13, 1995.

2 March 1995

Letter from ACC Corp. to Monsieur Lasserre confirming a meeting with Monsieur Lasserre on March 15, 1995 and stating ACC's interest in obtaining approval to provide domestic and international simple resale in France. ACC's letter also raises the question of the extent to which France Telecom can voluntarily delegate to ACC any portion of its reserved switched voice telephony service monopoly.

2 March 1995

Letter from ACC Corp. to Monsieur Emmanuel Guillaume, Directeur Juridique, France Telecom, seeking a meeting to explore the extent to which France Telecom can voluntarily delegate any portion of its monopoly to third parties.

15 March 1995

Meeting at the DGPT with Monsieur Lasserre and Madam Niclot attended by Mr. Francis Coleman and Mr. Michael Taylor of ACC. Mr. Coleman reviewed the role of resale as an important and additional way to ensure competition and avoid the pitfalls of duopoly network pricing. Monsieur Lasserre reviewed the scope of France Telecom's switched voice telephony monopoly and the extent, if any, to which France Telecom may delegate portions of that monopoly and stated that France Telecom would not be permitted to delegate any portion of this monopoly. Invitation extended to Monsieur Lasserre and Madam Niclot to visit ACC's operations in the U.K. and the U.S.A.

15 March 1995

Meeting at France Telecom with Monsieur F. Guilbeau and Monsieur Jean-Francis Thomas attended for ACC by Mr. Francis Coleman and Mr. Michael Taylor. Purpose of meeting to discuss the timetable of liberalization of services and infrastructure in France and the benefits to France Telecom and the public of resale as a competitive service. Invitation extended to France Telecom to send a delegation to visit ACC's operations in the U.K. and the U.S.A. in April. The invitation was accepted. Purpose of trip will be to learn more of ACC's activities and ACC's competitive position in relation to other carriers. Future and continuing meetings are anticipated.

September 11, 1995

Informal discussion with Monsieur Lasserre at luncheon in Washington, D.C. prior to his remarks on anticipated changes in France's telecommunications regulatory framework. A meeting with ACC in Paris was agreed to for the near future.

September 12, 1995

Letter from ACC Corp. to Monsieur Lasserre requesting a meeting in Paris on September 22 to continue a dialogue on domestic and international resale for France.

September 22, 1995

Meeting at the DGPT with Monsieur Lasserre and Madam Niclot attended for ACC by Mr. Francis Coleman and Mr. Michael Taylor and Mr. Lucien Rapp of the law firm of Serra, Michaud & Associes. Monsieur Lasserre agreed to receive ACC's analysis of the extent to which portions of France Telecom's switched voice telephony monopoly might be delegated to independent third parties such as ACC with regulatory approval. At Monsieur Lasserre's request, ACC outlined the manner in which this issue was moving forward in Germany and agreed to provide copies of relevant correspondence to Monsieur Lasserre. Monsieur Lasserre expressed great interest in ACC's progress with Deutsch Telekom and the German Ministry and indicated that information on such progress could be relevant in France.

September 26, 1995

Letter from ACC Corp. To Monsieur Lasserre thanking him for the September 22, 1995 meeting, confirming that German correspondence would be sent to him shortly, and expressing the desire to continue discussions with him and his staff so that suitable progress could be made.

October 4, 1995

Letter from A€C Long Distance UK Ltd. to Monsieur Lasserre enclosing copies of ACC's correspondence with Deutsch Telekom and the German Ministry.

October 18, 1995

ACC's legal counsel in Paris receives request from Monsieur Lasserre for status of ACC's legal analyses of extent to which portions of France Telecom's service monopoly might be delegated to ACC.

October 24, 1995

Letter to Monsieur Lasserre (with copies to DOJ, FCC, and USTR) summarizing ACC's legal analyses (*i.e.*, extent to which portions of France telephone service monopoly might be delegated to ACC with France governmental approvals) and requesting support for further progress.

Chronology—ACC Germany International Simple Resale Application

2 November 1994

Meeting between ACC Corp. and Deutsche Bundespost ("DBP") Telekom to discuss the provision of domestic simple voice resale and international simple voice resale in Germany.

2 November 1994

Meeting between ACC Corp. and the Federal Ministry of Posts and Telecommunications ("BMPT") to discuss the provision of domestic simple voice resale and international simple voice resale in Germany.

14 November 1994

Submission of application by ACC Corp. on behalf of ACC Deutschland gmbh (in the process of formation) requesting authority from the BMPT to provide domestic simple resale services and international simple resale services on the Germany-U.S. route.

14 November 1994

ACC Corp. letter to DBP Telekom requesting support for ACC Deutschland's application for authority to provide domestic simple resale services and international simple resale services, submitted to the BMPT, and stating ACC Deutschland's request for commercially reasonable interconnection to the public switched telephone network.

16 November 1994

Submission of application by ACC Global Corp. to the Federal Communications Commission for authority to resell private lines for the provision of switched services interconnected to the PSN at both ends and at one end only between the United States and Germany.

22 December 1994

ACC Corp. letter to DBP Telekom regarding arrangement meeting to commence negotiations for an interconnection agreement.

5 January 1995

Phone conference between ACC Corp. and the BMPT. BMPT noted that ACC Corp.'s German application requesting authority from the BMPT to provide domestic simple resale services and international simple resale services on the Germany-U.S. route is under review.

13 January 1995

Letter from Congressman Thomas Bliley, Chairman of the House Committee on Commerce; Jack Fields, Chairman of the House Subcommittee on Telecommunications and Finance; and Bill Paxon, House Subcommittee on Telecommunications and Finance member, to FCC Chairman Reed E. Hundt urging Chairman Hundt "to press forward as strongly as possible to open [the German market] to the United States telecommunications providers."

5 June 1995

Letter from Francis Coleman to Herr Hefekauser enclosing a paper setting out the key areas that would comprise an arrangement with DBP Telekom providing for commercially reasonable interconnection to the PSN and confirming a meeting with Herr Hefekauser on June 16, 1995.

7 June 1995

Letter from Francis Coleman to Herr Hefekauser setting out a proposed rebiller scenario for discussion at the June 16, 1995 meeting.

7 June 1995

Letter from Francis Coleman to Herr Feier of the BMPT setting out a proposed rebiller scenario for discussion at a meeting scheduled from June 16, 1995.

8 June 1995

Letter from Francis Coleman to Dr. Manfred Witte of the BMPT confirming June 16, 1995 meeting.

16 June 1995

Meeting at the BMPT. Representing the BMPT was Herr Knobloch. Representing ACC were Francis Coleman and Michael Taylor.

The proposed rebiller scenario with DBP Telekom was discussed. Herr Knobloch confirmed that the BMPT did not find the scenario as presented to be contrary to the existing German regulatory framework. Herr Knobloch suggested that ACC, as a next step present the proposed rebiller scenario to DBP Telekom and request a proposed tariff for BMPT review and approval.

16 June 1995

Meeting with Herr Hefekauser, Christophe Dreier and Gerhard Horter of DBP Telekom attended by Francis Coleman and Michael Taylor. ACC and DBP Telekom discussed the proposed rebiller scenario and ACC informed DBP Telekom that the BMPT had found no regulatory prohibitions to prevent DBP Telekom from entering into a rebiller arrangement with ACC subject to BMPT review and approval of terms and tariffs. DBP Telekom and ACC agreed that ACC would provide further details and information requirements to proceed with discussions.

28 June 1995

Meeting with DG IV at the European Commission. Representing DG IV were Dr. Stefan Rating, Madam Suzette Schiff-Cockborne, Mr. Rein Wesseling and Mr. Kevin Coates. Representing ACC were Francis Coleman and Michael Taylor. Francis Coleman spoke about the benefits of resale as a means of introducing switched voice telephony competition prior to January 1, 1998.

Francis Coleman also updated those present on the German Ministry's confirmation of ACC's ability to enter into a rebiller arrangement with DBP Telekom in Germany.

8 August 1995

Letter from Michael Taylor to Herr Hefekauser setting out the benefits to DBP Telekom of appointing ACC as a rebiller and requesting tariff details including payment terms and billing information required for ACC to bill its customers.

9 August 1995

Letter from Michael Taylor to Herr Knobloch confirming ACC's ability to enter into a rebiller arrangement with DBP Telekom in Germany.

22 August 1995

ACC meeting with Bruce Rogers (Telecommunications officer at U.S. Embassy in London reporting directly to the U.S. Ambassador). Michael Taylor of ACC provided an update on ACC's initiatives in Germany.

6 September 1995

Oftel Director General Donald Cruikshank gives speech to Euro-Forum in Dusseldorf entitled "Liberalisation and the Promotion of Competition in Infrastructure and Services: Lessons from the UK Experience." Mr. Cruikshank describes "* * * how the UK opened up [its] regime to U.S. resale companies, starting with ACC back in 1992 * * *" (Page 9) and states that "* * * ACC, our first licensed International Simple Resale company back in 1992, have now applied to engage in resale in Germany. I wish them every success over here and hope that the authorities here will be far-sighted and quick footed enough to recognize the benefits that such foreign investment, experience, and entrepreneurship can bring to the German economy (page 12).

13 October 1995

Francis Coleman of ACC Corp. invited by FCC to October 17 meeting at FCC offices in Washington with Prof. Dr. Stephan Schrader, Telecommunications Advisor to Minister Botsch, following a meeting between the FCC and Minister Botsch in Bonn the week of September 25.

17 October 1995

Francis Coleman of ACC Corp. meets with Prof. Dr. Stephan Schrader to discuss resale in general and ACC's strategy and efforts to become a rebiller under contract to Deutsch Telekom now, as approved in principle by the German Ministry last June. Mr. Coleman requested Dr. Schrader to encourage Minister Botsch's office to strongly support ACC's efforts now.

23 October 1995

As suggested by Dr. Schrader, Mr. Coleman sends letter to Prof. Dr. Eberhard Witte at Ludwig Maximilians Universitat in Munchen, Germany, requesting discussions in furtherance of ACC's efforts to become a

German rebiller. Dr. Witte chairs a seven person Committee reporting to Minister Botsch on German telecommunications deregulation.

October 24, 1995.

Donald J. Russell, Esq.,
Chief, Telecommunications Task Force, Antitrust Division, Room 89104, 555 Fourth Street, N.W., Washington, D.C. 20001

Re: United States v. Sprint Corporation and Joint Venture Co., Civil Action No. 95–1304 (D.D.C. filed July 13, 1995)

Dear Mr. Russell: On behalf of Esprit Telecom United Kingdom Limited, we transmit an original and five (5) copies of its comments in the above-referenced proceeding. We regret that the unexpected absence from his office of the company's European counsel delayed this filing until today, but we hope that you will be able to consider the comments on their merits. To avoid any prejudice to the defendants, copies of these comments are being sent by facsimile to the counsel identified below.

Should there be any questions concerning this matter, please do not hesitate to contact me.

Very truly yours,

Helen E. Disenhaus,

Counsel for Esprit Telecom United Kingdom Limited.

Of Counsel:

David E. Reibel,

Corporate Counsel, Esprit Telecom Benelux B.V., World Trade Center.

October 24, 1995.

Donald J. Russell, Esq.,
Chief, Telecommunications Task Force, Antitrust Division, Room 89104, 555 Fourth Street, N.W., Washington, D.C. 20001

Re: United States v. Sprint Corporation and Joint Venture Co., Civil Action No. 95–1304 (D.D.C. filed July 13, 1995)

Dear Mr. Russell: On behalf of Esprit Telecom United Kingdom Limited ("Esprit"), which recently received from the Federal Communications Commission ("FCC") authority pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, to operate as a United States international facilities-based carrier (see FCC File No. I–T–C–95–435), we submit the following comments on the proposed Consent Decree filed in the above-referenced action.

Esprit and its affiliates have provided value-added and liberalized services in Europe since 1992. As documented in comments filed with the FCC by Esprit and by third parties, Esprit's attempts to enter and compete in the German and French markets have met with serious obstacles imposed by the dominant carriers, Deutsche Telekom ("DT") and France Telecom ("FT"), and their respective national regulatory authorities. Esprit is therefore concerned that the restrictive provisions and reporting conditions of the proposed Consent Decree will be insufficient to prevent DT and FT from continuing to use their monopoly power in the still-reserved leased line and voice services market segments, as well as their dominant positions in all services in their home markets, to impair the ability of new entrants to compete in those markets.

Moreover, as a new entrant in the U.S. international services market, Esprit is particularly concerned that the proposed alliance with Sprint Corporation ("Sprint"), by allowing DT and FT to leverage their market power in their home markets, will limit competition in the U.S. international services market. DT and FT will be uniquely advantaged because their joint venture will be able to provide end-to-end international services (including but not limited to those on the U.S.–Germany and U.S.–France routes) that are foreclosed to their competitors. This advantage is increased by the fact that DT and FT have already stymied many of the efforts of potential competitors to establish themselves in the German and French markets as providers of enhanced and liberalized services. At the very least, German and French regulators should make a commitment to license competitors on an expedited basis, with the implementation of joint venture services suspended while applications from new entrants filed within 60 days of the entry of any Consent Decree in this action remain pending.

Moreover, as a condition of entry of a Consent Decree, DT and FT should be precluded from predatory pricing of end-user services and should be required to provide leased lines at wholesale, cost-based rates on an expedited and priority basis to competing carriers. DT and FT should not be allowed to provide leased lines for end-to-end joint venture services unless they provide leased lines in a non-discriminatory manner, including ensuring that joint venture services are not provisioned while competitors' service orders remain unfilled. Competitors must receive equal treatment with respect to all terms and conditions affecting service, including price and provisioning intervals.

While the Phase I conditions proposed by the Department go farther than the conditions imposed on the British Telecommunications alliance with MCI, they may not go far enough to avoid the alliance's having an adverse impact on competition. The Department acknowledges the current limitations on the effectiveness of the German and French regulators. Because the Department but not competitors will have access to the only information providing any degree of transparency into DT, FT, Sprint, and joint venture costs and prices, the Department must be prepared to thoroughly review on an expedited basis all data filed with it and to utilize such data in promptly considering competitor complaints. When colorable complaints are presented to the Department, it must be prepared to provide complainants the necessary data to support their claims unless the Department immediately implements remedial action. Because of the dependence of competitors on interconnection with the carriers' networks and access to the carriers' facilities, without vigorous oversight and enforcement by the Department, mere reporting conditions and abstract prohibitions against preferential treatment of alliance affiliates are insufficient protection against discrimination. Unless the Department undertakes an aggressive role in entertaining and investigating complaints of anticompetitive conduct, the Consent Decree will be little more than a piece of paper.

Some of Esprit's specific concerns about the anticompetitive conditions in the German and French telecommunications markets are briefly described in Attachment A, which also includes a copy of comments filed by Esprit before the FCC, as well as some recent trade press addressing these issues. Esprit would be pleased to meet with officials of the Department to discuss these concerns and possible additional competitive safeguards that would promote continuation of the vigorous competition now exhibited by the U.S. telecommunications market and promote expanded competition aboard.

Very truly yours,

Helen E. Disenhaus,

Counsel for Esprit Telecom United Kingdom Limited.

Of Counsel:

David E. Reibel,

Esprit Telecom, World Trade Center.

Concerns of Esprit Telecom About the "Phoenix" Alliance Among Sprint Corporation, Deutsche Telekom, and France Telecom

The experiences of the Esprit Telecom ("Esprit") companies in attempting to compete in the French and German telecommunications markets as providers of enhanced and liberalized telecommunications services demonstrate that without regulators committed to a competitive telecommunications market and effective regulatory oversight, Deutsche Telekom ("DT") and France Telecom ("FT") will continue to be able to exercise their market power to forestall effective competition. Moreover, upon consummation of the Phoenix joint venture, their market power will be enhanced by the addition of Sprint Corporation ("Sprint") to their alliance. Unless the Department undertakes an aggressive continuing oversight program, the Phase I restrictions and reporting requirements included in the proposed Consent Decree will be inadequate to prevent anticompetitive conduct that will affect not only the domestic markets in Germany and France, but also the U.S. and worldwide international telecommunications markets.

As the Department recognizes, unlike the situation in the United Kingdom at the time the British Telecom/MCI venture was approved, neither France nor Germany has a well-established, effective regulator committed to a competitive marketplace, and restrictive entry barriers have limited competitors to a few narrow niche services rather than to competition in all service categories. The Department should therefore give serious consideration to expanding the prophylactic measures included in the proposed Consent Decree to ensure that the Phoenix Alliance results in a net increase in telecommunications competition rather than promoting the development of a marketplace composed exclusively of a few international behemoths that function as an oligopoly.

In particular, Esprit's concerns focus on the following issues:

Regulatory Transparency—It is critical that France and Germany implement regulatory systems that provide transparency by affirmatively disseminating information about licensing procedures, cost accounting/orientation, tariffs, interconnection regimes, and infrastructure use and development. Current *ad hoc* procedures disadvantage new entrants by making it difficult for them to find out about, much less take advantage of, market entry opportunities, as well as by limiting their ability to challenge discriminatory conduct by the dominant providers.

Effective Enforcement—The Department has recognized the serious adverse implications of the fact that, while France is planning to establish an independent regulatory body, one is not yet in place. Similarly, as the Department recognizes, the independence of the German regulator is uncertain, especially in light of questions raised about the continuing involvement of key officials with DT.

It is also of major concern that neither DT nor FT has been privatized, raising a substantial conflict of interest for regulators in both countries, who are employed by governments with a vested interest in the profits of DT and FT. Given this motivation for continued preferential regulatory treatment of the state-owned national carriers, the Department must ensure that there are in place effective measures for ensuring a fair hearing of challenges to regulatory actions even when such challenges raise the issue that the regulator has impermissibly favored the dominant carrier.

Esprit's concerns in this area are particularly great because there is considerable doubt as to whether the national carriers and the national regulators in Germany and France have in the past fully complied with European Union and national laws affecting telecommunications regulation and competition. As detailed in the attached letter submitted last November to the EU's Director-General of DG–IV, the Competition Directorate of the European Commission, Esprit strongly opposes rewarding non-compliant national carriers and governments by allowing them to exploit new opportunities while they benefit from violations of existing law. These concerns are particularly relevant here, because the European Commission has itself cited several deficiencies in the implementation by Germany and France of the current Services Directive. Additionally, it appears that neither DT nor FT has complied fully with the Leased Line Directive (94/44/EEC), which, under Article 10(2), required the regulators of Member States to ensure that their telecommunications operators implemented and effective cost accounting system by December 31, 1993. Nor do the regulators appear to have complied even with the requirements of Article 10(1) of that Directive, which required compliance with basic principles of cost orientation and transparency. As a direct result of these deficiencies in regulatory oversight, consumers and competitors have been—and continue to be—overcharged for leased lines, and there is insufficient information to permit effective review of possible occurrences of cross-subsidization.

The Department should therefore ensure, at the very least, that both countries have established independent regulators prior to U.S. approval of Phoenix by the FCC and the District Court. Approval should also be conditioned on the establishment by the countries' competition agencies of procedures for expedited consideration of complaints of anticompetitive conduct, as well as the availability of remedies before the European Union and its regulatory agencies. Additionally, the Department should exercise continuing oversight of the competitive practices of Phoenix and its members. The Department should entertain complaints of, and be prepared to take appropriate remedial actions with respect to, anticompetitive activities by Phoenix members, regardless of whether the challenged activities actually occur within the U.S.

Cross-Subsidization—As a competitor and potential competitor of DT and FT, Esprit is also particularly concerned about the carriers' opportunities for cross-subsidization that can facilitate both unreasonably high wholesale rates and predatory pricing of end-user customer prices. Absent effective national regulators with broad authority and interest in ensuring that such cross-subsidization is both prohibited and prevented, competition will not flourish.

DT and FT must be required to demonstrate that they have priced their services and those of the joint venture on the basis of well-documented costs, without lowering prices to end-users in a predatory manner or discriminatorily raising prices charged competitors. Issues of cross-subsidization arise at both the "macro" and the "micro" levels.

With respect to "macro" cross-subsidization, the marketplace and the regulators must have full information about any start-up investments, transfers of assets, bank guarantees, loans, and other occasions of cross-subsidization. They must receive guarantees and time commitments for implementation of specific measures designed to prevent such cross-subsidization and its anticompetitive consequences, including the provision of sufficient information to allow competitors to challenge pricing effectively. One major concern of many potential new entrants is that Atlas/Phoenix will attempt to increase its market share quickly by "dumping" telecommunications services at prices below their actual costs (*i.e.*, engage in "predatory pricing"). Evidence of such pricing practices has already been apparent to firms that have initiated competition in the limited market segments now open to them.

Similarly, new entrants are at a substantial disadvantage in that in many cases they must lease lines from the dominant operators. Not only does this provide opportunities for carriers with market power to delay provisioning or provide inferior quality circuits, but also it provides an opportunity for the dominant carriers to substantially increase the operating costs of their competitors. For a carrier such as Esprit, leased line costs may account for 40%–50% of the company's operating costs. but such costs may be dramatically changed at the whim (or the will) of the dominant carrier, which has a substantial opportunity for cross-subsidization.

At the "micro" level, both DT and FT have been found to have cross-subsidized their telecommunications services when competition enters a market segment. The record before the Department includes evidence concerning the substantial fine recently imposes on DT for cross-subsidization of its data services, and Worldcomm has been attacking DT cross-subsidization in Germany for some time. Similarly, as indicated in the attached article from La Monde Informatique, French regulators have found FT to be cross-subsidizing with monopoly revenues the activities of FT's competitive subsidiary, Colisée International. In addition to implementation of prophylactic measures to ensure that such activities do not continue, appropriate compensation should be made to adversely affected consumers and competitors as a pre-condition to approval of the Phoenix alliance.

Availability of "Alternative" Infrastructure—While we understand that both Germany and France are accelerating the availability of alternative infrastructure, these market segments should be fully liberalized before Phoenix is implemented. Not only should alternative infrastructure be available from public utilities and cable television operators, as is currently planned in the relatively near-term, but also competitors such as Esprit should be allowed to provide their own infrastructure (and the availability of this option should be made public information, without the necessity of *ad hoc* initiatives and narrow rulings limited to a single operator).

The availability of such alternative sources of circuit capacity will do much to prevent anticompetitive leased line provisioning by dominant carriers, and therefore it is critical that there be written commitments to authorize complete infrastructure competition in the near-term. Moreover, in the meantime, prior to its availability, DT and FT should be required to provide high quality leased lines in timely fashion and at cost-based prices to competitive carriers.

Interconnection Arrangements—Perhaps the greatest obstacle to implementation of a competitive marketplace is the absence of an effective regulatory regime that will ensure that the dominant carriers provide in timely fashion interconnection arrangements that are cost-based, feature-rich, and transparent across networks. Before Phoenix is approved, the Department should insist that, pending publication of the European Commission's forthcoming interconnection directive, both DT and FT publish proposed interconnection plans that include standard terms and conditions, cost-based tariffs, quality standards, and provisioning intervals, and that these proposals are made subject to public comment and scheduled for regulatory consideration on an expedited basis.

Conclusion

The Department is correct in insisting on detailed reporting of information to ensure

that the members of the Phoenix alliance act in a non-discriminatory manner vis-a-vis their competitors. At this time, neither Germany nor France has in place the types of detailed accounting rules established by the Federal Communications Commission to ensure transparency into carrier cost accounting and tariffing. Nor is there any transparency as to the carriers' terms and conditions of service provisioning. Mere reporting, however, is insufficient to address Espirit's substantial concerns about regulatory transparency, effective enforcement, cross-subsidization, availability of alternative infrastructure, and availability of proper interconnection arrangements.

The Department should seriously consider adding to the proposed Consent Decree the described above recommendations of Esprit. Additionally, it should make a clear-cut commitment to vigorous oversight and enforcement of the activities of the Phoenix joint venture and its members. To the extent that the reporting requirements of the Decree deny competitors access to critical information necessary to document the basis of their complaints of discrimination, the Department must assume an active role in reviewing all the data presented to it and must address complaints in timely fashion. Only if the Department undertakes this level of continuing oversight can approval of the alliance increase rather than substantially lessen competition in the international telecommunications services market.

21 November 1994.

Mr. Claus-Dieter Ehlermann,
Director General, DG–IV, Commission of the European Union, Rue de la Loi 200, B–1049 Brussels, Belgium

Re: Telecommunications Alliances

Dear Mr. Ehlermann: I am writing to request that you consider the following principles that Esprit Telecom proposes ought to be used for evaluating telecommunications alliances in Europe prior to Commission approval:

- The Commission should not permit the formation of alliances if a monopoly member is not fully compliant with all aspects of Commission directives. In particular, monopoly members should comply with the Open Network Provision (ONP) and the implementation of related liberalisation legislation. (Even the most basic provisions, such as those requiring cost accounting have not been achieved by many monopoly providers.)
- The Commission should not permit the formation of alliances if a National Regulatory Authority under which a monopoly member operates has not fully complied with Commission directives. Moreover, the Commission should not permit operators to join alliances while continuing to violate their own national regulations and laws.

The failure of Member States to fully implement Commission directives has permitted some monopoly operators to benefit from a protected home market—often with the aid of their national regulatory authorities—while aggressively pursuing opportunities in liberalised markets abroad. Esprit Telecom believes that if the objective criteria outlined above are utilised by the Commission, a more rapid and comprehensive liberalisation of the European market can be achieved. Esprit Telecom believes that liberalisation is a precondition for providing consumers with more choices and lower costs.

Sincerely,

Michael Potter,
President.

Federal Communications Commission

Opposition of Esprit Telecom, U.K., to Sprint Corporation Petition for Declaratory Ruling

In the Matter of: Sprint Corporation Petition for Declaratory Ruling Concerning Sections 310(b)(4) and (d) and the Public Interest Requirements of the Communications Act of 1934, as amended. File No. I–S–P–95–002.

I. Introduction

Esprit Telecom, U.K. ("Esprit"), by its undersigned counsel, submits its Opposition to the Petition for Declaratory Ruling ("Petition") of Sprint Corporation ("Sprint")[1] seeking confirmation that its "Global Partnership" arrangement with France Telecom ("FT") and Deutsche Telekom ("DT") does not violate the Communications Act or the Commission's Rules. Specifically, Sprint seeks confirmation that (1) its formation of a "Global Partnership" with DT and FT and the related investment in Sprint by DT and FT does not involve a transfer of control within the meaning of Section 310(d) of the Communications Act; (2) a level of 28% foreign ownership in Sprint is not inconsistent with the public interest under Section 310(b)(4) of the Communications Act; and (3) the transaction is otherwise consistent with the public interest.

As explained below[2] Esprit strongly opposes approval of Sprint's Petition prior to the introduction of switched voice competition in France and Germany and the establishment of independent regulatory bodies in France and Germany that can and will effectively enforce regulations, including those relating to transparency of cost information and imputation of costs, that are designed to prevent anticompetitive behavior.

II. Statement of Interest

Esprit, owned and controlled by United States citizens, is a wholly-owned subsidiary of Esprit Telecom (Jersey) Limited, which is organized under the law of Jersey, Channel Islands, in the United Kingdom. While it has recently applied for authority to enter the U.S. telecommunications market as a common carrier,[3] Esprit operates primarily as a value-added services provider to large and medium-sized business users in the European telecommunications market. Specifically, in the U.K. Esprit provides to large and medium-sized businesses a wide range of value-added, switched and dedicated, voice and data services liberalized by the U.K. government. In continental Europe, Esprit's affiliates[4] provide value-added private network and facsimile services in Spain, Belgium, the Netherlands, and France, again serving primarily large and medium-sized business users. To date, however, Esprit has made no progress in its efforts to provide in Germany the value-added services liberalized by the European Union ("EU"), and it has experienced increasingly high leased line provisioning rates in both Germany and France.

Esprit is concerned that the proposed alliance among DT, FT, and Sprint will have a substantial adverse impact on Esprit's plans to construct a pan-European network absent commitments by regulators in France and Germany to implement immediately and fully all service and infrastructure liberalization directives promulgated by the EU and, further, to open the infrastructure and services monopolies of DT and FT to competition prior to consummation and implementation of the alliance. As a new entrant into the U.S. international services market, Esprit has a substantial concern that FT and DT will be able to leverage their monopoly positions in their home markets to enhance their position in the U.S. market and reduce the current level of competition here. Accordingly, Esprit has a direct interest in any Commission action that would have the effect of relieving the pressure on FT and DT and the French and German regulators to open the French and German telecommunications markets to competition in order for FT and DT to receive the U.S. regulatory approvals necessary to consummate their proposed investment in Sprint.

III. Approval of Sprint's Proposed Joint Venture Will Retard Rather Than Enhance Competition in the Global Telecommunications Market

Instead of promoting the Commission's articulated goal of fostering a competitive global telecommunications market, approving Sprint's proposed Global Partnership now, prior even to the authorization of resale competition in all service categories, much less full liberalization of the French and German telecommunications markets, would eliminate the chief incentive for the French and German governments to open their telecommunications markets to effective competition. The Commission must consider the potential adverse impact on the continuation of robust competition in the U.S. market, as well as the adverse impact on

[1] See Sprint Corporation Petition for Declaratory Ruling, File No. ISP–95–002 (filed Oct. 14, 1994); FCC Public Notice, Report No. I–8084 (released August 4, 1994).

[2] Esprit is currently the recently-filed "Competitive Impact Statement" of the Department of Justice and may supplement these comments in a reply pleading following its review of those documents.

[3] Application of Esprit Telecom of the United Kingdom Ltd. for Authority Pursuant to Section 214 to Operate as an International Resale Carrier Between the United States and Various Points, File No. I–I–C–95–435.

[4] Services in Belgium and the Netherlands are provided by Esprit Telecom Benelux B.V. Services in France are provided by Esprit Télécom France S.A. Services in Spain are provided by Esprit Telecom de España S.A.

the ability of U.S.-owned carriers to penetrate foreign markets, that would result from permitting the largest U.S. carriers to enter into alliances with the largest foreign monopoly carriers. In addition, while enhancing the competitive positions of the large U.S. carriers through financial investment, such alliances simultaneously deprive the U.S. market of some of its most vigorous new entrants. They also introduce new and unreasonable market distortions to the extent that alliance members are allowed to offer end-to-end services their competitors are foreclosed from providing. Therefore, it is imperative that the Commission permit such alliances to go forward only after it is convinced that any potential adverse impact on the level of competition in the U.S. market is offset by increased global competition that affords new opportunities for U.S.-owned carriers.

Here, the proposed Global Partnership involves three, rather than two, of the world's largest carriers, two of which retain substantial monopolies in their home markets, and competition in the French and German markets is far less extensive than that prevailing in the U.K. at the time the British Telecom /MCI joint venture was approved. Sprint's proposed alliance with FT and DT raises even more serious competitive concerns than did the BT/MCI "Concert" alliance. Moreover, instead of being in the vanguard of liberalization in Europe as is the U.K.'s regulatory regime, both France and Germany are only beginning to develop independent regulatory agencies[5] and regulations designed to ensure that the opportunity for fair competition develops.

Illustrating the magnitude of the problem, despite the EU's mandate, Germany simply has not adopted any laws to implement the EU's Services Directive[6] and authorize the offering of the liberalized services (virtually all services other than switched voice services) in its market. Moreover, neither the French nor the German government has fully implemented the Leased Lines Directive[7] requiring national regulators to obtain and review accounting separations data to ensure that the dominant carriers do not abuse their facilities monopolies or virtual monopolies by cross-subsidization[8] or by imputing lower costs to their competitive operations than they charge their competitors. While France, commendably, has allowed value-added service providers to enter the market without formal application procedures or processing delays,[9] in Germany the regulator's failure to implement European law with respect to liberalized services, leased lines, and open network provisioning[10] has chilled market entry by potential service providers who cannot rely on obtaining the necessary authorizations and leased lines in any predictable time frame. The few competitive authorizations that have been issued to date have, moreover, been issued on an *ad hoc* basis that gives little guidance as to the factors that will be considered in awarding such authorizations. In both countries, the efficient working of the competitive marketplace is already hampered by the regulators' failure to carry out their mandate to implement the EU Directives, and the problem could be worsened if the proposed Sprint/DT/FT alliance is allowed to proceed at this time.

IV. Continued Regulatory Pressure is Critical

In light of the virtually complete monopoly status of FT and DT in their respective markets and the current absence of competition in switched voice services in those markets, approving this alliance would eliminate all incentive for FT and DT to relinquish their respective strangleholds on the French and German telecommunications markets and could sound the death knell for emerging competitive carriers like Esprit. Even if France and Germany were to open their markets to competition, however, the potential and opportunity for anticompetitive behavior and discrimination in favor of Sprint and the joint venture company to be formed with Atlas is great and would likely have a preclusive effect on the entry of any new carriers. Therefore, until the regulator in each country establishes clear and transparent regulations with respect to application procedures, accounting separation procedures and cross-subsidization safeguards, as well as requiring cost-based leased line rates[11] and commercially reasonable interconnection charges, the Commission should not approve the proposed Sprint/DT/FT alliance. Although in recent months the French and German regulatory authorities have appeared to be more favorably disposed to increased telecommunications services competition, neither France nor Germany has yet taken any effective action to open its basic telecommunications services market to competition.

Accordingly, Esprit urges the Commission to deny Sprint's Petition until, at a minimum, concrete steps, such as implementing the European Community's Services, Open Network Provisioning, and Leased Line Directives, are taken in both Germany and France to liberalize their respective telecommunications markets. Given that FT and DT are the two largest telecommunications carriers in Europe, access to the French and German telecommunications markets is critical to successful market penetration by competitive entrants. The Commission should therefore decline to approve the proposed alliance until the French and German regulators adopt (1) transparent application procedures for licensing carriers to provide all services, (2) transparent rules to authorize competitive carriers to construct their own fiber and microwave networks, (3) rules to implement the European Community Leased Lines, Open Network Provisioning, and Services directives,[12] and (4) cost accounting rules to permit cross-subsidization.

V. Conclusion

For the foregoing reasons, Esprit respectfully urges the Commission to deny Sprint's Petition at this time as contrary to the public interest in promoting a competitive global telecommunications market.

Dated: September 1, 1995.

Respectfully Submitted,

Esprit Telecom, U.K.

Margaret M. Charles,

William B. Wilhelm, Jr.,

Swidler & Berlin, Chartered.

Certificate of Service

I hereby certify that, on this 1st day of September 1995, a copy of the Opposition of Esprit Telecom, U.K., to Sprint Corporation Petition for Declaratory Ruling was served by hand delivery to the following:

International Transcription Service, Inc.; 2100 M Street, NW., Suite 140, Washington, DC 20037

International Reference Room, International Bureau, 2000 M Street, Room 102, Washington, DC 20554

Katherine A. Swall.

Harvard University Law School

October 19, 1995.

Mr. Donald Russell,
Chief, Telecommunications Task Force, Antitrust Division, Room 89104, 555 Fourth Street, NW., Washington, DC 20001

Re: Proposed Final Judgment and Competitive Impact Statement; *United States* v. *Sprint Corporation and Joint Venture Co.*

Dear Mr. Russell: The purpose of this letter is to comment on the Proposed Final Judgment and Competitive Impact Statement in *United States* v. *Sprint Corporation and Joint Venture Co.*, Civ. Action No. 95–1304 (D.D.C. July 13, 1995), published at 60 Fed. Reg. 44049 (August 24, 1995). In particular, I want to recommend that the Justice Department require, as a condition for

[5] The Direction Générale des Postes et Télécommunications in France and the Ministry for Post and Telecommunications, assisted by a new Regulierungsrat (Regulation Council), in Germany.

[6] 90/388/EEC: Commission Directive on 28 June 1990 on Competition in the Market for Telecommunications Services, 1990 O.J. (L 192/10).

[7] 92/44/EEC: Council Directive of 5 June 1992 on the Application of Open Network Provision to Leased Lines, 1992 O.J. (L 165).

[8] The substantial governmental investment interest in both European carriers also raises further concerns about the potential for substantial cross-subsidization and the regulatory directives to preclude it.

[9] See Article L. 34 of Law No. 90–1170 of 29 December 1990. (This section modifies the Code des Posts et Télécommunications to provide that the France Telecom monopoly extends only to "services provided to the public, which, in the case of reserved voice telephony is "the commercial provision of a system of direct, real-time voice transmissions between users connected to termination points of a telecommunications network," and establishes a notification procedure for competitive entry into most unreserved service segments.)

[10] 90/387/EEC: Council Directive of 28 June 1990 on the Establishment of the International Market for Telecommunications Services Through the Implementation of Open Network Provision, O.J. (L 192/1).

[11] Critical to Esprit's business plan of providing reliable competitive telecommunications services across Europe is the ability to lease lines at commercially reasonable rates or construct its own network.

[12] *See, supra*, notes 6, 7, and 10.

settling the case, that France Telecom remove all obstacles that hinder or render impossible the use by its competitors whether in the telecommunication sector (fixed telephone or mobile) or in the data processing sector, of public information contained in the French telephone directory it maintains in its capacity as a public utility.

Since 1989, France Telecom has been adamantly refusing to share with its competitors—specifically in the data processing sector—the contents of what has become known as the "Orange List". French regulations promulgated in 1989 have prohibited anyone from soliciting individuals who have informed France Telecom of their request not to be disturbed by commercial solicitations emanating from the telephone directory. France Telecom has created a list of such individuals which it calls the Orange List.

As a result of France Telecom's conduct, the French telephone directory is mixed with Orange List individuals whom no one other than France Telecom can identify. Yet, under French law, it is a crime to solicit such people. France Telecom refuses to share this information with its competitors, subjecting them to the risk of criminal prosecution if they compile their data from the telephone directory, and actually filing criminal complaints with the public prosecutor against its own competitors.

Using regulations intended strictly to protect a small group of individuals who wish not to be disturbed by commercial solicitations, France Telecom has basically made it impossible for any other entity to participate in the data base end of the direct marketing business, a business so crucial to the flow of goods and services from the U.S. to the French consumer market.

Indeed, the Orange List has potential implications beyond the data processing sector. If and when deregulation occurs in France, AT&T and MCI may seek to enter the telecommunication market in France. When they do so, they will, in all likelihood, need to solicit potential customers through direct mail or telemarketing. The only conceivable source of information they can use in such a campaign would be the French telephone directory; no other source would allow them to reach the totality of French households and entities. Unfortunately, because of France Telecom's refusal to share the Orange List with competitors, the U.S. competitors of Sprint would be unable to use the information contained in the directory. Should they do so, France Telecom would surely complain to the authorities which would lead to their criminal prosecution.

On the other hand, France Telecom and Sprint could easily reach the totality of the French population, because unlike its competitors, France Telecom can identify those individuals listed in the telephone directory who have put themselves on the Orange List.

A recent initiative undertaken by France Telecom in the mobile telephone sector will illustrate another aspect of the problem. The mobile telephone sector in France is open to competition and France Telecom has two competitors operating mobile telephone networks. France Telecom has recently informed its mobile telephone subscribers that they may request to be included in the telephone directory, and if they do so they will be automatically put on the Orange List.

The French regulation is clear about the fact that the request to be put on the Orange List must come from the individual and not at the initiative of France Telecom. But in moving to expand the reach of the Orange List, France Telecom has chosen to make it impossible for any of its competitors to solicit its clients, since it is unlawful to solicit individuals who are on the Orange List. Yet if another mobile operator published a directory of its subscribers, nothing could stop France Telecom from soliciting its competitor's clients.

The problem I am focusing on is not at all about protecting privacy, but about how much one is willing to pay France Telecom for the directory information purged of the Orange List. To obtain the entire directory purged of the Orange List would cost between $1.5 million and $3 million, depending on which of France Telecom's departments one buys it from. Paying this price will not get a data processing company or a marketing director of a competing telecommunications company very far because—on the very following day—the directory purchased will not contain the new additions to the Orange List. Since France Telecom does not supply the Orange List, the customer will have to procure the entire directory again and again. Quite frankly, it is just absurd—except for procuring a monopoly position by France Telecom, millions of dollars will have to be spent on nothing more than a telephone directory available on every street corner in Paris and which will be rendered obsolete the next day.

Meanwhile, France Telecom's U.S. operations in the transmission and processing of data are continuing to grow. Its on-line "Minitel" network of services is now available all over the United States to anyone with a modem-equipped personal computer. The France Telecom telephone and business directories are available to U.S. residents by simply dialing a local telephone number. France Telecom can use this access it has to American consumers, not only for direct profit (use of each on-line service generates income for France Telecom) but also to attract clients to its global telecommunications services. No one else can offer data processing services emanating from an all-encompassing and exhaustive data base of French residents.

France Telecom is seeking to profit as a market participation in the United States telecommunications economy, through its involvement in the Joint Venture Co., and must therefore live with the regulatory consequences of making this choice, including complying with applicable United States antitrust laws and policies. Since the preparation and distribution of telephone directories and related information is an integral aspect of the telecommunications business—the "telecommunication service" and the "public data network" that are the subject of the Proposed Final Judgment—that will be pursued by the Joint Venture Co, and since France Telecom's monopoly position has allowed it to limit competition concerning such directories and information to the detriment of United States businesses, the Antitrust Division's authority to require France Telecom to share the Orange List with its competitors for the sole and non-commercial purpose of allowing them to purge their data bases of those individuals who do now wish to be solicited, is not open to serious dispute. France Telecom should also be compelled to make available to its competitors updated versions of the telephone directory at a commercially reasonable price which takes into account the fact that its own data processing divisions obtain it, I presume, at no or little cost. These conditions should be specifically included in the final judgment in *United States* v. *Sprint Corporation and Joint Venture Co.*

My initial interest in this matter stems from consulting work I did for the New York law firm of Fisher and Soffer representing a French data marketing firm and its United States subsidiary in litigation with France Telecom over access to such telephone subscriber lists. My primary motivation for writing to you now, however, is to bring to your attention an important public policy issue within the scope of your mission, and not merely to advocate a position on behalf of a client.

The United States antitrust laws have played an important role in maintaining a level playing field for business competitors, both domestic and foreign, who seek to profit by participating in the United States economy. This role has become more demanding, and crucial, with the growth of our globalized economy. I urge the Antitrust Division to uphold this important role of the antitrust laws, and to require France Telecom to make its telephone directory truly available to competitors.

Respectfully submitted,

Charles M. Haar

Exhibit H

Notice Pursuant to Article 19 (3) of Council Regulation No 17 [1] and Article 3 of Protocol 21 of the European Economic Area Agreement Concerning a Request for Negative Clearance or an Exemption Pursuant to Article 85 (3) of the EC Treaty and Article 53 (3) of the EEA Agreement

Case No IV/35.337—Atlas

(95/C 337/02)

(Text With EEA Relevance)

Introduction

1. Atlas was notified to the Commission on 16 December 1994. This transaction brings about a joint venture owned 50% by France Telecom (FT) and 50% by Deutsche Telekom (DT). Atlas is also the instrument of DT and FT's participation in a second transaction, named Phoenix, with Sprint Corporation [2]. In the course of the procedure before the Commission, FT and DT agreed to modify both the Atlas and the Phoenix agreements. The latter, notified on 29 June 1995, are

[1] OJ No 13, 21. 2 1962, p. 204/62.

[2] Notification announced in OJ No C 184, 18. 7. 1995, p. 11.

described in a separate notice pursuant to Article 19 (3) of Regulation No 17, published in this edition of the *Official Journal of the European Communities*.

2. The Atlas venture will be structured at two levels. A holding company established in Brussels, Atlas SA, will be incorporated as a *société anonyme* under the laws of Belgium. Atlas SA will have three operating subsidiaries, namely one in France (Atlas France), one in Germany (Atlas Germany), and one for the rest of Europe. Atlas France and Atlas Germany will initially provide technical and sales support to FT and DT, i.e. the French and German distributors of Atlas and Phoenix products. After full liberalization of the telecommunications infrastructure and services markets in France and Germany, scheduled to occur by 1 January 1998, DT's subsidiary for the provision of standardized low-level packet-switched X.25 data communications, Datex-P, will be merged with Atlas Germany while FT's subsidiary for the provision of standardized low-level packet-switched X.25 data communications, Transpac France, will be merged with Atlas France.

A. The Parties

3. Deutsche Telekom AG (DT) and France Telecom (FT) are the public TO in Germany and France. Both supply telephone exchange lines to homes and businesses; local, trunk and international communications to and from their respective home country. Worldwide turnover in 1994 was ECU 31,8 billion, a 4,3% increase over 1993, for DT and ECU 21,7 billion, a 1,8% increase over 1993, for the FT group.

B. The Relevant Market

1. Product Markets

4. Atlas will address the markets for the provision of value-added telecommunications services to corporate users both Europe-wide and nationally. Atlas will target two separate product markets for value-added services, namely:

5. *The market for advanced telecommunications services to corporate users*

This market comprises mostly customized combinations of a range of existing telecommunications services, mainly data communications and liberalized voice services including voice communication between members of a closed group of users (virtual private network (VPN) services), high-speed data services and outsourced telecommunications solutions specially designed for individual customer requirements. The market for advanced telecommunications services to corporate users, enhanced by features such as tailored capacity allocation, billing, 24h/24h technical service, etc., is currently changing and evolving rapidly. Whether each of these services constitutes a separate product market can be left open for the purpose of this case, as Atlas and its competitors usually offer customized packages of such services in combination with individual enhanced features.

These services are provided over high-speed large-capacity leased lines linking sophisticated equipment on customer premises to the service provider's nodes. Alternatively, other means of transmission, e.g. satellite or mobile radio capacity, can be used to ensure the geographic coverage demanded from time to time. Such services employ advanced state-of-the-art standards, data compression techniques, equipment and software. In this market, Atlas is expected to offer a portfolio of services including the following:

—date services: high speed packet-switched and Frame Relay services; pre-provisioned, managed and circuit-switched bandwidth,
—value-added application services: value-added messaging and video-conferencing services,
—voice VPN services,
—intelligent network services,
—integrated very small aperture satellite (VSAT) network services, and
—outsourcing: customers are offered to transfer responsibility and ownership of their networks to Atlas. In this connection, Atlas may integrate into its own offerings third-party products already owned by customers who wish to keep such offerings, as the case may be.

6. Due to the high cost of building and operating the networks needed to provide advanced corporate services, such services can be commercially viable only if provided to large businesses and other large telecommunications users who generate continued high traffic volumes [3]. Customers for advanced services targeted by Atlas are multinational corporations, extended enterprises, and other intensive users of telecommunications and notably the largest among these customers. Many of these potential customers have huge telecommunication needs and have often acquired expertise in managing own internal networks; they are not likely to switch to service providers such as Atlas unless doing this proves to be cost-effective. Finally, given their knowledge of the market these customers are in a position to request offers from different competitors.

7. *The market for standardized low-level packet-switched data communications services*

Atlas will also be active on a separate market for packet-switched data communications services. The Commission considers data communications services a distinct telecommunications product market, without prejudice to the existence of narrower markets [4]. One narrower market is that for packet- and circuit-switched services [5]. Packet switching is a means to improve network capacity utilization and consists of splitting data sequences into 'packets', feeding these and other 'packets' into the network optimizing utilization of available capacity, switching the 'packets' to the desired destination and rearranging the 'packets' to obtain the data sequences sent. The most common-standard used for the provision of packet-switched data services is the 'X.25' standard.

Packet-switched data communications services constitute a distinct product market because they are provided over basic terrestrial network infrastructure and based on more mature technology. These services are provided to different customer segments within the same products market, namely:

1. On the one hand, customers who generate mostly erratic and geographically widespread traffic. These features are due either to the specific type of use (e.g. banks operating cash machines nationwide, networks of points-of-sale in shops) or to the size of such customers, i.e. small and medium-sized enterprises (SMEs). Such services are billed according to published tariffs that are proportional to the actual time of use of the network.

All incumbent Member State TOs including DT and FT operate dense public data networks with nationwide coverage providing packet-switched data communications services to this customer segment. In each Member State there is only one public data network built by the respective incumbent TO under a public service obligation before market liberalization.

2. On the other hand, larger corporate customers and other extended users generate more substantial and regular traffic. The requirements of these users justify that either third-party service providers or the potential customer itself assume the high cost of creating customized leased lines circuits to meet individual service demand. Packet-switched data communications services to such users are billed according to negotiated rates that take account of the individual demand features of a particular customer.

8. Virtually all companies active in each individual Member State of the European Union are potential if not actual customers for national standardized low-level packet-switched data communications services. These services are also required by SMEs, albeit in smaller volumes and possibly less regularly than by larger users. Seldom will such volumes justify that service providers invest in leased lines with the specific purpose of reaching these SMEs, which are therefore in a weak negotiating position and hardly capable to date of switching from the current provider, typically the incumbent TO, to a competitor.

9. Standardized low-level packet-switched data communications may also be offered as one service combined with advanced corporate service offerings. However, even as part of such combined offerings packet-switched data communications services are provided over standard terrestrial infrastructure. At the national level, choice from a wider range of offerings than merely standardized low-level packet-switched data communications services may also be available to larger customers that are not using the TO's public data networks but are served over customized leased-line circuits. However, most existing customers for standardized low-level packet-switched data communications currently generate annual

[3] See Commission decision in Case No IV/34.857 (BT–MCI) of 27 July 1994 (OJ No L 223, 27. 8. 1994).

[4] Commission's Guidelines on the application of EC competition rules in the telecommunications sector (OJ No C 233, 6. 9. 1991, p. 2, paragraph 27).

[5] As defined in Article 1 (1), 9th indent of Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services (OJ No L 192, 24. 7. 1990, p. 10), (the 'Services Directive').

turnover of far below ECU 10 000 each and are not therefore potential users of advanced corporate network services. Therefore, packet-switched data communications offered by Atlas constitute a product market separate from the advanced network services market equally targeted by Atlas.

2. Geographic Markets

The markets for advanced telecommunications services to corporate users

10. Given that price differences are quite substantial, demand for these services exists in at least three distinct geographic markets, namely at a global, a cross-border regional and a national level. Atlas will provide advanced telecommunications services to corporate users Europe-wide and nationally. Through Phoenix, advanced telecommunications services offered by Atlas will also have global 'connectivity', i.e. the technical option to extend a given service offering beyond Europe by linking a customer's premises worldwide over the Phoenix 'Global Backbone Network'.

11. Given the considerable costs involved, advanced services are today mainly demanded by large multi-national corporations, extended enterprises, as well as major national and other intensive users of telecommunications. The requirements of such users, that extend to all products or corporate services provided by Atlas, were discussed in detail in the BT–MCI decision [6]. Essentially, customers demand a customized package of sophisticated telecommunications and information services offered by one single provider. This provider is expected to take full responsibility for all services contained in the package from 'end to end'. Accordingly, DT and FT intend to offer such customers through Atlas what existing technology allows to offer from time to time within the applicable regulatory framework. In this regard, the parties have indicated that Atlas will eventually extend to international voice traffic and other basic services, regulation permitting.

12. Due to the cost structure of advanced corporate services, notably the cost of leasing the required infrastructure, prices of such services are related to geographic coverage, as is the cost of additional features (e.g. one-stop-billing, help-desk and technical assistance around the clock, customized billing). There is indication that increasing availability of trans-European networks will ultimately blur the distinction between national and cross-border or ultimately Europe-wide advanced corporate services. However, certain national sophisticated value-added services (e.g. national voice VPN services as well as data communications services based on Asynchronous Transfer Mode (ATM) or equivalent switching technology) currently available from DT and FT in Germany and France respectively will not be integrated into the Atlas offerings. This circumstance illustrates that a distinction between national and cross-border advanced network services remains valid to date.

[6] See footnote 3 above.

The markets for standardized low-level packet-switched data communications services

13. Price differences may be less acute than for advanced corporate services. However, a national, cross-border regional and global geographic level can be distinguished for standardized low-level packet-switched data communications services. In terms of traffic volumes, supply and demand of standardized low-level packet-switched data communications services are mostly national. For instance, in Germany DT's existing Datex-P packet-switched data communications services division hardly ever provides such services across the border while FT's German subsidiary Info AG, in spite of appertaining to FT's seamless cross-border Transpac network, only provides one fifth of its packet-switched data communications services across the border. This assessment was confirmed by interested third parties who submitted observations further to the Commission's notice on the Atlas notification [7].

14. At a global and Europe-wide level, low-level data services and advanced network services may be partly converging to the extent that large customers of the latter do not require separate provision of standardized low-level packet-switched data communications services once such services are available as part of service combinations offered over advanced networks. Accordingly, large European telecommunications users demand services with global 'connectivity', i.e. that may be extended beyond Europe if so required. DT and FT have moved to meet this demand in entering the Phoenix agreements with Sprint. Along with increased availability of advanced cross-border network infrastructure, the market is generally expected to overcome distinctions along national borders in the medium term. However, separate national geographic markets subsist to date for standardized low-level packet-switched data communications services and advanced network services respectively.

C. Market Shares of Atlas

The markets for advanced corporate telecommunications service

15. The parties estimate the European corporate telecommunications services markets (exclusive of data communications services) to be worth approximately ECU 505 million (1993 figures). Of this total, end-to-end services accounted for approximately ECU 15,1 million, VPN services for approximately ECU 220,6 million, VSAT services for approximately ECU 173,2 million and outsourcing services for approximately ECU 96,4 million. According to the notification DT and FT's aggregate market shares (1993 figures) in the European Union were 25% in the end-to-end services market, 27% in the VPN services market and 2,3% in the outsourcing services market. Market shares for VSAT services are difficult to calculate given that TOs mostly use VSAT terminals either as back-up facilities for other services or to extend the geographic scope of services despite terrestrial infrastructure shortcomings; however DT and FT taken together operated 10 907 VSAT terminals by June 1994, equivalent to 29% of the total installed base of interactive, data one-way or business television VSAT terminals in the European Economic Area.

As to different segments of the advanced corporate services market at the national level, DT and FT's aggregate market shares in France and Germany respectively are 93% in the French VPN market (where DT has no presence) against 0% in the German VPN market, and 60% in the French market for end-to-end services against 35% in the equivalent German market. DT and FT's outsourcing joint venture, Eunetcom BV, achieved 36% of total outsourcing turnover generated in France and 29% of total outsourcing turnover generated in Germany. As for VSAT services, DT has installed approximately 25% of all VSAT terminals in Germany; this Member State accounts for 18% of the total installed base of such terminals in the EEA.

The market for standardized low-level packet-switched data communications services

16. DT and FT estimate the European market for data communications services to be worth approximately ECU 2,8 billion (1993 figures). According to the notification DT and FT's aggregate shares (1993 figures) of this market were 35%. Among national markets, Atlas will have a particularly strong position in France and Germany. DT and FT's aggregate market share for all data communications services is 79% in Germany and 77% in France, of which approximately half accounts for services provided by DT's Datex-P division and FT's Transpac France subsidiary, both of which remain outside the scope of Atlas until the French and German telecommunications infrastructure and services markets are fully liberalized as scheduled for 1 January 1998.

D. Main Competitors of Atlas

The markets for advanced corporate telecommunications services

17. Since the Commission's BT–MCI decision many players, acting alone or jointly with partners, have entered or are entering the market for international value-added services. Among the most important of these players, albeit with disparate geographic scope and target customers, are: AT&T WorldPartners, Concert, IBM-Stet, International Private Satellite Partners, Unisource or Uniworld. Some of the above are mere projects of strategic alliances between TOs, others are awaiting regulatory approval. However, all of the above share the aim to position the respective partners in view of the full liberalization to come.

The market for standardized low-level packet-switched data communications services

18. The market for standardized low-level packet-switched X.25 data communications services features a substantially larger number of players than that for customized offerings comprising advanced corporate services. Among the global players in this market are the alliances mentioned at paragraph 17 above competing with providers such as EDS, FNA, Infonet, SITA or SWIFT and operating subsidiaries of large global companies such as AT&T Istel, Cable & Wireless Business Networks, DEC's Easynet, or GEIS.

In addition, a large number of smaller players compete at a cross-border regional or national level in the EEA. For instance, FT's indirect German subsidiary Info AG, that provides most of its data communications services within Germany, is DT's second-largest competitor in the German national market for standardized low-level packet-switched data communications services. None of these smaller players can compare with large alliances in terms of reach, access to transmission capacity and financial backing.

E. The Transaction

19. The Atlas transaction notified to the Commission comprises a set of agreements whose main features are described below.

1. Agreements as Originally Notified

(a) The Atlas Joint Venture Agreement (JV Agreement) is the main agreement providing for the establishment of the Atlas joint venture.

(b) The Intellectual and Industrial Property Transfer and License Agreements will be concluded by each of FT and DT with Atlas SA. Under these agreements FT and DT make available to Atlas SA the intellectual property rights (IPRs) needed to operate the Atlas business.

(c) The Services Agreements will be framework agreements setting forth the basic terms and conditions with respect to the supply by DT and FT of certain services to Atlas SA and the supply by Atlas SA of certain services to FT and DT.

(d) The Distribution Agreements: two substantially similar distribution agreements with FT and DT respectively will lay out, for the home countries (France and Germany respectively), the marketing and sale of Atlas products.

(e) The Agency Agreements under which each parent appoints Atlas SA non-exclusive worldwide agent for the sale of DT and FT's international leased lines (half-circuits) with the territorial exception of Germany as regards DT's half-circuits.

2. Contractual Provisions

20. In particular, the above agreements provide for the following:

1. Structure of the Atlas Venture

Atlas SA will be created as a joint venture between FT and DT, each owning half the share capital. The management structure of Atlas SA will be as follows:

(a) Shareholders' meeting: Prior approval of the shareholders' meeting is necessary for matters such as the amendment of the articles of association, modification of capital, issuance of shares, mergers, sale of all or a substantial part of the assets, and liquidation.

(b) Strategic Board: It is envisaged that the Strategic Board of Atlas SA will have two co-chairmen and eight members, one half appointed by each parent, who may be freely removed and shall meet at least twice a year. The Strategic Board has a quorum of a majority of its members, including at least two members appointed by each party; the co-chairmen do not have a tie-breaking vote. Prior approval by the Strategic Board is required for matters such as the entry into a joint venture or other strategic alliance with a third party, any significant modification of the scope of Atlas's business and such matters as may from time to time be submitted to it by a vote of one half of the members of the Board of Directors. The Strategic Board shall also review all strategic plans of Atlas SA.

(c) The Board of Directors: It is envisaged that Atlas SA's Board of Directors will have nine members, four elected by each of DT and FT and one by Sprint. Prior approval by the Board of Directors is required for a number of important decisions such as the approval of business plans and annual budgets and changes in the scope of Atlas, the conclusion of important contracts, etc. Decisions on changes in the Atlas business, management appointments, and the approval of the business plan, the annual operating plan, and the budget require that at least two directors nominated by each party vote with the majority. Matters on which the Board of Directors fails to reach agreement shall be brought before the Strategic Board.

(d) Chief Executive Officers (CEOs): It is envisaged that Atlas SA will have two CEOs, one nominated by FT among is representatives in the Board of Directors, the other by DT among its representatives in the Board of Directors. The CEOs shall be jointly responsible for day-to-day operations and the management of the business and affairs of Atlas. Approval of both co-CEOs is required for all important decisions including the hiring or dismissal of key employees.

The parties will contribute to Atlas their existing European assets outside France and Germany (as well as some assets in France and Germany) used for the provision of services coming within the scope of Atlas.

2. Purpose and Activities of Atlas

The Atlas venture is to provide seamless national and international end-to-end services to corporate customers (i.e. to multinational companies (MNCs) and SMEs alike). The portfolio of Atlas services comprises data network services, international end-to-end services, (managed links), voice VPN services, customer-defined networks, outsourcing and VSAT services. These services are fully liberalized in the European Union and are widely liberalized worldwide. Atlas will have the responsibility for the services portfolio mentioned above outside of France and Germany.

In France and Germany, Atlas will be providing sales support to FT and DT's sales forces as regards all services mentioned in the Atlas portfolio, with the exception of public X.25 packet-switched network services within France and Germany, which will be provided by FT's Transpac France subsidiary and DT's Datex-P subsidiary respectively until the telecommunications infrastructure and services markets are fully liberalized in France and Germany, as scheduled for 1 January 1998.

Each acting as an exclusive distributor, DT will sell Atlas services in Germany, while FT will sell Atlas services in France. Atlas products will be sold in France and Germany under the common globally used Atlas/Phoenix brands. Passive sales of Atlas services by DT in France, by FT in Germany and by any Atlas operating entity in both Member States will be allowed. Outside France and Germany, Atlas products will be sold by the Atlas operating entity for the rest of Europe.

It is planned that there will be a balancing payment by DT at each closing to equalize the respective contribution values of the two parties. It is further envisaged that certain adjustment payments will be made on the respective net worth of the entities concerned at the time of contribution to Atlas. A separate adjustment payment may be made between FT and DT if the actual performance of the FT contributed businesses in France or the DT contributed businesses in Germany falls significantly short of projections in 1995 (and possibly 1996).

3. Provisions Concerning Dealings With/by Atlas

Mutual service provision between Atlas and FT/DT will be the object of two Services Agreements pursuant to which dealings between FT/DT and Atlas shall be transparent, non-discriminatory and at arm's length.

As for services generally offered by DT or FT, the prices and other terms which DT or FT generally apply from time to time to their customers shall equally apply for Atlas. As for services not generally offered by FT or DT, market prices and terms shall apply and be negotiated between the Parties in good faith at arm's length. Consequently, Atlas will purchase such services from DT or FT at the same prices and conditions that any third party generally offering such services would apply under the same circumstances. If information on relevant market prices is not available, the prices applicable for Atlas shall be determined on the basis of a calculation model that is used, within FT, to make offers to customers with special requests and, within DT, to calculate intra-group transfer prices. Prices resulting from such calculation shall cover, for the relevant period, all costs as well as a reasonable profit margin.

4. Non-Compete Provisions

Pursuant to Article XIII of the Atlas JV Agreement, FT and DT will not engage anywhere in the production of services that are substantially the same or compete directly with the Atlas services, and will not engage outside of France and Germany in the marketing, sale or distribution of services that are substantially the same or compete directly with the Atlas services. Furthermore, FT will not market or distribute Atlas services in Germany and DT will not market and distribute Atlas services in France; passive sales are however permitted by FT outside of France, by DT outside of Germany and by Atlas in both France and Germany.

5. Provisions Relating to Intellectual and Industrial Property

FT and DT will each conclude an Intellectual and Industrial Property Transfer and License Agreement with Atlas SA under

[7] Notification of a joint venture (Case No IV/35.337—Atlas) (OJ No C 377, 31. 12. 1994, p. 9).

which the parties make available to Atlas SA the intellectual property rights ("IPRs") which are needed to operate the Atlas business in accordance with the following principles:

(a) IPRs owned by, or licensed to, the parties that are used exclusively for the Atlas business shall be transferred to Atlas SA;

(b) IPRs owned by, or licensed to, the parties that are used predominantly for the Atlas business shall also be transferred to Atlas SA, and a sub-license shall be granted to the parties (Grant Back License sub-license); and

(c) IPRs owned by, or licensed to, the parties that are used predominantly for the parties' business are (sub-)licensed to Atlas SA.

F. Changes Made and Undertakings Given Further to the Commission's Intervention

21. Certain features of the Atlas transaction as notified appeared to be incompatible with Community competition rules. Consequently, the Commission by letter of 23 May 1995 informed the parties of its concerns. In the course of the notification procedure the parties have amended the original agreements and given undertakings to the Commission.

1. Contractual Changes

22. Non-appointment of Atlas SA as an agent for international half-circuits. Further to the Commission's letter of 23 May 1995, DT and FT abolished the Agency Agreements and amended the original Service Agreements to take account of the non-appointment of Atlas SA as a non-exclusive agent for DT and FT's half-circuits.

23. Non-integration of French and German public data networks before full liberalization of the telecommunications infrastructure and services markets. Atlas SA shall not acquire legal ownership or control within the meaning of Article 3 of Council Regulation 4064/89 [8] of the French and German public X.25 packet-switched data networks, Transpac France and Datex-P respectively, before the telecommunications infrastructure and services markets are fully liberalized in France and Germany, as is scheduled to occur by 1 January 1998. Until then, it is envisaged that:

1. Transpac SA will be split into Transpac France and Transpac Europe;

2. Transpac Europe will be contributed to Atlas;

3. Transpac France will be a wholly owned subsidiary of FT;

4. DT's Datex-P services division will be incorporated as a separate company under German law and become a wholly owned subsidiary of DT;

5. DT and FT's outsourcing joint venture, Eunetcom BV, will be fully contributed to Atlas SA; and

6. Atlas SA will create a subsidiary in France and Germany (Atlas France and Atlas Germany respectively) to provide the following services:

(i) sales support regarding Atlas products to distributors in France and Germany; and

(ii) services within the scope of Atlas other than X.25 packet-switched data network services including:

—VSAT services,
—international end-to-end services,
—voice VPN services,
—customer-defined solutions (excluding national X.25 data communications services in France and Germany), and
—outsourcing services.

Provided the telecommunications infrastructure and services markets are fully liberalized in France and Germany on 1 January 1998, Transpac France and Datex-P will be contributed to Atlas on that date in such a way that Atlas France and Atlas Germany will be merged with Transpac France and Datex-P respectively.

24. Technical cooperation. Ahead of full liberalization of the telecommunications infrastructure and services markets in France and Germany, scheduled to occur by 1 January 1998, DT and FT will cooperate in the development of common technical network elements. This cooperation will comprise only the following areas:

1. FT and DT will cooperate in the development of common products and common technical network elements (i.e. such products and elements that share the same features, yet separately built and owned); such cooperation will extend to the French and German public X.25 packet-switched data communications networks. Only the following functions will be managed by Atlas SA for Transpac France and Datex-P respectively:

(a) product management and development, provided that product branding and pricing as well as product implementation in the network will be managed by Transpac France and Datex-P respectively;

(b) certain network planning functions; and

(c) information systems, provided that central information system functions (e.g. billing information and statistics) will be operated by Transpac France and Datex-P respectively.

The above areas of cooperation shall in no case be tantamount to a *de facto* integration of the French and German public switched data networks, which will be controlled by two separate network management centres; and

2. Atlas may subcontract certain operational functions to Transpac France and Datex-P respectively.

25. Non-integration of assets of FT's indirect German subsidiary. The assets of FT's German corporate telecommunications services provider Info AG shall not be integrated into Atlas save as indicated at paragraph 27 below. Moreover, FT shall divest Info AG.

2. Non-Discrimination

26. In order to provide the services described under paragraph 5 above, Atlas or any other service provider is dependent on the public switched telecommunications network (PSTN) and reserved services. [9] In France and Germany, only FT and DT provide both access to the PSTN and reserved services. Given that FT and DT are indirect shareholders of Atlas it is essential for the safeguarding of fair competition between Atlas and other existing or future telecommunications services providers to eliminate the risk that the former are granted more favourable treatment regarding access and use of the French and German PSTN and reserved services.

The Commission set out in its notice on the Infonet joint venture [10] how prohibition to discriminate must be understood in detail. Accordingly, to ensure the absence of discrimination, the Commission intends to decide that DT, FT and Atlas shall comply with the following:

1. Terms and conditions: The terms and conditions applied by DT and FT to Atlas for access to the PSTN and for the provision of reserved services (e.g. provision of leased lines) in connection with the services described under paragraph 5 above shall be similar to the terms and conditions applied to other providers of similar services. This requirement covers availability price, quality of service, usage conditions, delays for installation of requested facilities, and repair and maintenance services among other services.

2. Scope of services available. Atlas shall not be granted terms and conditions, or be exempt from any usage restrictions regarding the PSTN and reserved services, which would enable it to offer services which competing providers are prevented from offering.

3. Technical information: DT and FT shall not discriminate between Atlas and any other service provider competing with Atlas in connection with either a decision to substantially modify technical interfaces for the access to reserved services or the disclosure of any other technical information relating to the operation of the PSTN.

4. Commercial information: DT and FT shall not discriminate between Atlas and other providers of services as described under paragraph 5 above as regards the disclosure of certain commercial information. This means that DT and FT shall not provide Atlas with systemized and organized customer information derived exclusively from the operation of the PSTN or the provision of reserved services if such information would confer a substantial competitive advantage and is not readily and equally available elsewhere by service providers competing with Atlas.

3. Undertakings Given by the Parties

27. *Divestiture of Info AG.* FT shall divest of its interest in Info AG. To the extent separable from the product divisions of Info AG that shall be divested, advanced network services for multinational clients whose headquarters are outside Germany may be transferred to Atlas.

28. DT and FT have also given the additional undertakings described below.

[8] OJ No. L 395, 30. 12. 1989, p. 1.

[9] Reserved services are services which are provided pursuant to special or exclusive rights granted by the EU Member States to their respective TOs in compliance with EC law.

[10] Notice pursuant to Article 19(3) of Council Regulation No. 17 concerning Case No. IV/33.361—Infonet, (OJ No. C 7, 11. 1. 1992, p. 3, at paragraph 9).

1. Use of DT and FT's Public Data Networks

Each of FT and DT will as of 1 January 1996 establish and thereafter maintain third-party access to their public switched data networks in France and Germany respectively. Non-discriminatory, open and transparent access will be granted to all data services providers that offer X.25 packet-switched data communications services. To ensure non-discriminatory access to their national public X.25 packet-switched data networks, FT and DT shall:

(a) establish and maintain standardized X.75 interfaces to access their national public X.25 packet-switched data networks; this interconnection is suitable for the provision of end-to-end services based on X.25 specifications for end-user access speeds up to 64 kbps; and

(b) offer such access on non-discriminatory terms, including price, availability of volume or other discounts and the quality of interconnection provided.

FT and DT shall further ensure non-discriminatory access by making publicly available the standard terms and conditions for such X.75 interface standards, including, if any, volume and other discounts, as of 1 January 1996. FT and DT will make available for inspection by the Commission any agreements relating to such X.75 interfaces, including all specifically agreed terms. Until such time as Transpac France and Datex–P are integrated into Atlas, neither Transpac France nor Datex-P shall disclose to Atlas any such specifically agreed terms that are identified and maintained as confidential by the party obtaining interconnection through such X.75 interfaces. Finally the above obligations shall likewise apply to any generally used CCITT-standardized interconnection protocol that may modify, replace or co-exist as a standard related to the X.75 standard and is used by FT and DT.

Proprietary interfaces may be retained or established among Transpac France, Datex-P and Atlas; such interfaces are defined by the particular type of technology, hardware and software that a network operator uses to provide advanced or customized services. Atlas will be allowed to access the Transpac France and Datex-P public packet-switched data networks through these proprietary interfaces, also for the provision of X.25 data communications services, provided access granted to Atlas through such interfaces is economically equivalent to third-party access to the Transpac France and Datex-P networks.

2. Cross-Subsidization

DT and FT shall not engage in cross-subsidization within the meaning of the Commission's competition guidelines for the telecommunications sector [11] in connection with the Atlas venture. To avoid that Atlas benefits from cross-subsidies stemming from the operation of public telecommunications infrastructure and of reserved services by either DT or FT, all entities formed pursuant to the Atlas venture will be established as distinct entities separate from DT and FT.

Atlas SA, Datex-P and Transpac France shall obtain their own debt financing on their own credit, provided that FT and DT:

(a) may make capital contributions or commercially reasonable loans to such entities as required to enable Atlas SA, Datex-P and Transpac France to conduct their respective business;

(b) may pledge their venture interests in such entities, in connection with non-recourse financing for such entities; and

(c) may guarantee any indebtedness of such entities, provided that FT and DT may only make payments pursuant to any such guarantee following a default by such entities in respect of such indebtedness.

Atlas SA, Datex-P and Transpac France shall not allocate directly or indirectly any part of their operating expenses, costs, depreciation, or other expenses of their business to any parts of FT or DT's business units (including without limitation the proportionate costs based on work actually performed that are attributable to shared employees or sales or marketing of Atlas products and services by DT or FT employees), provided however that nothing shall prevent Atlas SA, Datex-P and Transpac France from billing DT or FT for products and services provided to DT or FT by such entities on the basis of the same price charged third parties (in the case of products or services sold to third parties in commercial quantities) or full cost reimbursement or other arm's length pricing method (in the case of products and services not sold to third parties in commercial quantities).

Atlas SA, Datex-P and Transpac France shall keep separate accounting records that identify payments or transfers to or from DT and FT. Moreover, Atlas SA, Datex-P and Transpac France shall not receive any material subsidy (including forgiveness of debt) directly or indirectly from DT or FT, or any investment or payment from DT or FT that is not recorded in the books of such entities as an investment in debt or equity.

DT, FT and Atlas shall comply with the above until the telecommunications infrastructure and services markets in France and Germany are fully liberalized, as is scheduled to occur by 1 January 1998.

3. Auditing

Atlas SA (which includes its consolidated subsidiaries), Transpac France and Datex-P shall be audited on a regular and customary basis, and such audit shall confirm from an accounting viewpoint that the transactions between these entities, on the one hand, and FT and DT, on the other hand, have been conducted at arm's length. This obligation shall remain in force until the telecommunications infrastructure and services markets in France and Germany are fully liberalized, as is scheduled to occur by 1 January 1998.

4. Recording and Reporting

To allow the Commission to monitor compliance with the undertakings the parties have agreed the following:

(a) *Recording obligations.* DT, FT and Atlas each undertake to keep records and documents suitable to prove compliance with the terms of the above undertakings ready for inspection by the Commission.

(b) *Inspection of records.* For the purpose of ascertaining and ensuring compliance by DT, FT or Atlas with the above undertakings, DT, FT or Atlas shall, on reasonable notice, during office hours, and without a need for the Commission to invoke the powers of inspection pursuant to Regulation No. 17, give the Commission's Directorate-General for Competition access to DT, FT or Atlas' business premises to inspect records and documents covered by the above recording obligations and to receive oral explanations relating to such documents.

(c) *Reporting obligations.* DT, FT and Atlas also undertake to provide the Commission's Directorate-General for Competition, for the purpose of ascertaining whether DT, FT and Atlas comply with the requirements of the above undertakings, with:

—any records and documents in the possession or control of DT, FT or Atlas necessary for that determination, and
—oral or written complementary explanations.

These recording and reporting obligations will remain in force until the telecommunications infrastructure and services markets in France and Germany are fully liberalized, as is scheduled to occur by 1 January 1998.

29. In so far as related to existing obligations under national or Community law, the above is intended to ensure the parties' firm commitment to comply with the applicable legal framework.

G. The Regulatory Situation

30. In letters sent to the Commission, the French and German Governments have undertaken to take the necessary steps to liberalize alternative infrastructure for the provision of liberalized telecommunications services by 1 July 1996 and to liberalize the voice telephony service and all telecommunications infrastructure fully by 1 January 1998. The availability of alternative telecommunications infrastructure in Germany and France render competitors of Atlas independent of DT and FT's infrastructure for the purposes of creating trunk network infrastructure to provide liberalized services.

Early alternative infrastructure liberalization in France and Germany adds to a regulatory framework in the home countries of the Atlas partners that is designed to ensure a level playing field in the telecommunications markets.

1. France

1. Separation of Regulatory and Operative Functions

Pursuant to French law, the minister for telecommunications shall ensure that regulation of the telecommunications markets is undertaken separately of service provision in these markets. A specific national regulatory authority (NRA), the Direction Générale des Postes et Télécommunications (DGPT), is competent for licensing providers of telecommunications networks and services in France based on objective and transparent

[11] Guidelines on the application of EEC Competition Rules in the Telecommunications Sector (OJ No. C 233, 6. 9. 1991, paragraph 102 *et seq.*).

criteria. The DGPT shall survey FT's market behaviour and approve FT's tariffs for (i) reserved services and leased lines and (ii) such liberalized services that are not in fact provided by a third party active in the French market.

2. Non-Discriminatory Access

Further to the adoption of the Commission's Services Directive and the ONP Framework Directive [12] Article L. 32–1–4° of the French Law of 29 December 1990 grants all users equal access to the public network on objective, transparent and non-discriminatory conditions. FT is under an obligation to effectively grant such access and must publish information on the network (e.g. technical features, tariffs and usage conditions) and on leased line offerings. The DGPT may verify FT's compliance with these obligations and investigate complaints filed against FT for non-compliance with these obligations. The DGPT shall further ensure compliance with FT's obligation to share available transmission capacity for liberalized services with competitors and shall publish annual statistical reports on FT's compliance with these obligations.

3. Prevention of Cross-Subsidies

To allow the DGPT to supervise FT's market behaviour, FT is under the legal obligation to keep an analytical accounting system that relates costs to each individual FT service. Where an offering comprises the provision of both reserved and liberalized services, FT must separate each kind of service in the contract and in the invoice. In this connection, FT's data communications services are already provided by a separate legal entity.

2. Germany

1. Separation of Regulatory and Operative Functions

Pursuant to the German 1989 Poststrukturgesetz, the 1994 Postneuordnungsgesetz and the 1994 Post- und Telekommunikation Regulierungsgesetz, regulatory competencies are assigned to a Federal agency created under the Federal Ministry of Post and Telecommunications (BMPT) while telecommunications operations are undertaken by DT, a fully State-owned joint stock corporation. Regulatory obligations of DT are policed by independent bodies, so-called regulatory chambers.

2. Non-Discriminatory Access

Under the current and future German regulatory framework, DT shall provide third parties with both access to monopoly infrastructure and reserved or mandatory services on a non-discriminatory and transparent basis according to objective criteria. Upon application, DT shall supply state-of-the-art leased lines over service-neutral access points without delay. With the only restriction of voice telephony service provision, leased lines may be freely interconnected and used for any service. Leased lines must meet market demand and DT must publish data concerning availability and quality of such lines.

3. Prevention of Cross-Subsidies

The BMPT (i) shall approve both tariffs and other price-sensitive contractual terms for DT's reserved services and (ii) may object to DT's tariffs for mandatory services. The BMPT may also seize DT's profits stemming from tariffs in excess of the approved amount and take any measure necessary to reestablish a fair competitive environment jeopardized by unlawful cross-subsidization. Moreover, DT's subsidiaries an affiliates shall use reserved services for the provision of competitive services under the same terms as DT's customers and must use such terms to account internal services transfer.

The Commission's Intentions

31. On the basis of the foregoing, the Commission intends to take a favourable position on the notified transactions under the competition rules of the EC Treaty and under Article 53 of the EEA Agreement and to grant Atlas an individual exemption pursuant to Article 85 (3) of the EC Treaty and Article 53 (3) of the EEA Agreement. Before doing so, the Commission invites interested third parties to send their observations within six weeks from the publication of this notice to the following address, quoting the reference 'IV/35.335—Atlas':

European Commission, Directorate-General for Competition (DG IV), Directorate for Information, Communication and Multimedia, Rue de la Loi/Wetstraat 200, B–1049 Brussels. Fax: (32–2) 296 98 19.

Notice Pursuant to Article 19 (3) of Council Regulation No. 17 [1] and Article 3 of Protocol 21 of the European Economic Area Agreement Concerning a Request for Negative Clearance or an Exemption Pursuant to Article 85 (3) of the EC Treaty and Article 53 (3) of the EEA Agreement

Case No IV/35.617—Phoenix

(95/C 337/03)

(Text With EEA Relevance)

Introduction

1. The Phoenix transaction was notified to the Commission on 29 June 1995. The Phoenix transaction is linked to a separate transaction bringing about a joint venture, Atlas, owned 50% by France Telecom (FT) and 50% by Deutsche Telekom (DT), given that Atlas is a parent to the joint venture entities created pursuant to the Phoenix agreements. The Atlas Agreements, notified on 16 December 1994, are described in a separate notice published in this *Official Journal of the European Communities*.

2. The Phoenix agreements comprise two main transactions involving two European Union telecommunications organizations (TO) and one US telecommunications operator:

(i) each of FT and DT is to acquire an equity stake of approximately 10% in Sprint obtain proportionate board representation and investor protection as minority shareholders in Sprint; as detailed below, provisions have been included in the Investment Agreement to prevent DT and/or FT, either separately or jointly, from controlling or influencing Sprint; and

(ii) Atlas and Sprint are to create a joint venture, Phoenix, for the provision of enhanced and value-added global telecommunications services and other telecommunications services to corporate users, carriers and consumers. The Phoenix joint venture will be structured into several operational entities under the strategic supervision of a Global Venture Board (collectively referred to as the 'Phoenix entities'). One such entity will provide Phoenix services worldwide except in Europe and the United States (the 'Rest of World (ROW) entity'), a second entity will provide Phoenix services in Europe except in France and Germany (the 'Rest of Europe (ROE) entity') and a third entity will operate the global backbone network of Phoenix (the 'Global Backbone Network (GBN) entity'). The Global Venture Board shall take decisions on matters of policy only and will not engage in the management of individual operational entities created pursuant to the Phoenix agreements.

A. The Parties

3. Deutsche Telekom AG (DT) and France Telecom (FT) are the German and French public TO respectively. DT is the world's second-largest and FT the world's fourth-largest telecommunications carrier in terms of revenue. Details of both undertakings are provided in the notice on the Atlas venture published in this issue of the Official Journal.

4. Sprint Corporation (Sprint) is a holding company in the United States. The Sprint group of companies is a diversified telecommunications group providing global voice, data and video-conferencing services and related products. Sprint's main subsidiaries provide local (US) exchange, cellular wireless as well as domestic (US) and international long-distance telecommunications services. Other Sprint subsidiaries engage in wholesale distribution of telecommunications products and the publishing and marketing of white and yellow page telephone directories. Worldwide turnover for Sprint in 1994 was ECU 10,9 billion; Sprint is the world's 11th largest telecommunications carrier in terms of revenues.

B. The Relevant Market

1. Creation of the Phoenix Entities

5. The Phoenix entities will address several product and geographic markets, namely (i) the markets for value-added telecommunications network services to corporate users both globally and regionally, (ii) the market for traveller services and (iii) the market for so-called carrier's carrier services.

1. Product Markets

The markets for value-added telecommunications network services

6. The Phoenix entities will be active on the same markets for both advanced telecommunications services to corporate users and standardized low-level packet-switched data communications services described in the separate notice on the Atlas venture published in this issue of the Official Journal.

The market for traveller services

7. The market for traveller telecommunications services comprises offerings that meet the demand of individuals who are away from their normal location, either at home or at work. Among the most relevant of these offerings are those offered by the Phoenix entities, namely calling cards (i.e. prepaid cards with or without a code and postpaid cards), including those in combination with credit cards and other branded service cards ('affinity cards').

8. Customers for traveller services include both business travellers and other travellers. In the card business targeted by Phoenix, the former are by far the largest group of buyers. Business travellers are generally intensive card users, the main incentive for card usage being the possibility to avoid paying hotel telephone surcharges.

The market for carrier's carrier services

9. The market for carrier's carrier services comprises the lease of transmission capacity and the provision of related services to third-party telecommunications traffic carriers. Along with liberalization and globalization of telecommunications markets, demand for efficient, high-quality traffic transportation capacity has risen among old and new carriers. In this connection, the traditional model of separate arrangements with other individual carriers is increasingly challenged by players with global network infrastructure that offer carriers an array of services. The most relevant of such services are:

(a) switched transit, i.e. transport of traffic over bilateral facilities between the originating carrier, the transit carrier and the terminating carrier; neither the originating carrier nor the terminating carrier need bilateral facilities between themselves, but only with the transit carrier;

(b) dedicated transit, i.e. transport of traffic over permanent, dedicated facilities through the domestic network of the transit carrier; facilities used for this purpose may include discrete voice circuits or a highbandwidth digital circuit that can be used for both voice and data services; and

(c) traffic hubbing offerings, where the provider takes care of all or part of international connections; these offerings are typically designed for emerging carriers, who are interconnected with the provider over bilateral facilities and whose international traffic is merged with other traffic on the provider's global network.

As international telecommunications markets are deregulated, demand for carrier's carrier services is increasingly driven by alternative carriers concerned with entrusting the incumbent TO with their international traffic, for reasons such as technical dependency and commercial sensitivity of customer information.

10. Purchasers of carrier's carrier services include established and emerging carriers. Both groups of clients have substantial bargaining power and are highly competition-sensitive. Among the latter group, one may distinguish facilities-based carriers that provide telecommunications services over alternative infrastructure or cable television networks seeking greater efficiency in the transport of international client traffic, while non facilities-based carriers seek to preserve a competitive advantage by avoiding dependence on a local TO for international client traffic.

2. Geographic Markets

11. Along the lines of the Commission's findings in its BT–MCI decision,[2] the geographic scope of certain markets targeted by the Phoenix entities as well as the market that must be considered in respect of the investment of DT and FT in Sprint is international and even global. Although national borders subsist for many services, strategic alliances like Phoenix are built not only in anticipation of a market unaffected by national boundaries but even with the express purpose to offer large global telecommunications users seamless end-to-end services anywhere by overcoming the difficulties inherent in the current market structure split along national borders. However, the service offerings of the Phoenix entities will be relevant to different existing geographic markets.

The markets for value-added telecommunications network services

12. As described in the separate Atlas notice, demand by corporate users for advanced services exists in at least three distinct geographic markets, namely at a global, a cross-border regional and a national level. Phoenix services will have global reach given that each of DT, FT, Sprint and the ROE and ROW entities will be interconnected over the Phoenix global backbone network. In the global market for advanced telecommunications services to corporate users, the Phoenix venture will therefore create competition for instance for BT and MCI's existing Concert venture. In the European Union, the ROE entity will cooperate with DT, FT and ATLAS to provide advanced telecommunications services to corporate users at the cross-border regional level; these services will have 'global connectivity', i.e. allow for an extension beyond the European Union if a customer so requires.

13. Standardized low-level packet-switched data communications services in each geographic market mentioned in the previous paragraph are a part of the Phoenix offerings portfolio. However, such services will be provided at the national level only if so decided by the regional Phoenix operating entity. Therefore, the ROE entity will provide Europe-wide packet-switched data communications services, that will initially be based on the existing Transpac and Sprint networks. The extent to which the ROE entity will provide such services in national markets within the EEA will depend on the coordination between Atlas and the ROE entity as the competent Phoenix entity in that region.

The market for traveller services

14. Along with the globalization of the economy the market for traveller services appears to be increasingly global; worldwide travellers demand offerings which include a single bill and integrated functions such as voice messaging, voice response and information systems. Geographic limitations of current traveller service offerings are generally due to technical shortcomings set to be overcome in the near future, such as the incompatibility of mobile communications systems or differences in prepaid cards without an individual user code. As illustrated at paragraph 7 above, none of the services targeted by the Phoenix entities is affected by these shortcomings; however, the geographic scope of the traveller services offered by Phoenix can be left open for the purposes of this case, as the finding of narrow geographic markets would not affect the assessment of the parties' competitive position.

The market for carrier's carrier services

15. Both supply of and demand for carrier's carrier services are by nature international. Geographic proximity between purchaser and supplier of switched transit capacity is hardly relevant for switched transit which carriers use either as a substitute for operating own international lines or to deal with peak traffic on such lines. Likewise, dedicated transit services offer cable- or satellite-based routing capacity across third countries. Finally, using hubbing services is an alternative to entering into an undetermined number of bilateral agreements with individual carriers.

2. DT and FT's Investment in Sprint

16. The acquisition by DT and FT of new equity equivalent to an approximate 20% stake in Sprint aims at consolidating a strategic alliance to enter the global telecommunications markets, which serves the parties best interest to improve and extend service in new market segments. Telecommunications markets are developing quickly and there is uncertainty about what they will look like in a few years' time: the prospect of full liberalization is pushing TO's to take positions, in order to be in the best possible situation when full liberalization comes. As shown by the BT–MCI alliance, investment in a US carrier offers one efficient way to address multinational companies, i.e. the largest target customer group for global value-added telecommunications network services, notably in the United States.

C. Market Shares of Phoenix

The markets for advanced telecommunications services to corporate users

17. Global market. The parents estimate the global value-added telecommunications network services market addressed by Phoenix (exclusive of data communications services) to be worth approximately ECU 4,8 billion (1993). Of this total, end-to-end services accounted for approximately ECU 37,6 million, VPN services for approximately ECU 2,8 billion, VSAT services for approximately ECU 1,4 billion and outsourcing services for approximately ECU 527 million. In 1993, the aggregate turnover of DT, FT and Sprint in the different market

[12] Council Directive of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (OJ No. L 192, 24.7. 1990, p. 1).

[1] OJ No 13, 21.2. 1962, p. 204/62.

[2] Commission decision of 27 July 1994 (OJ No L 223, 27. 8. 1994, p. 36).

segments amounted to approximately ECU 3,8 million for end-to-end services, approximately ECU 576 million for VPN services and approximately ECU 6 million for outsourcing services, giving Phoenix a theoretical market share of 11,8% in the global market for advanced telecommunications services to corporate users.

18. Cross-border regional market. Services in the European Union (exclusive of data communications services) accounted for approximately ECU 505 million in 1993. According to the notification the Phoenix parents' aggregate market shares in the European Union in 1993 were [. . .]% [3] in the end-to-end services market, [. . .]% [4] in the VPN services market [. . .]% [5] in the outsourcing services market and [. . .]% [6] in the VSAT market. However, market shares for VSAT services are difficult to calculate given that TOs mostly use VSAT terminals as back-up facilities for other services or to extend the geographic scope of services despite terrestrial infrastructure shortcomings.

19. National markets. National markets for advanced telecommunications services to corporate users within the EEA are discussed in the notice on the Atlas venture, published in this issue of the Official Journal. In this regard, Sprint has a significant share of total outsourcing turnover generated in Member States such as the Netherlands [. . .]% [7] and the United Kingdom [. . .]% [8], where DT and FT's outsourcing joint venture, Eunetcom BV, has a lesser presence (5% of total turnover in both Member States). As for France and Germany, adding Sprint to DT and FT brings Phoenix's fictional aggregate share of total turnover generated by outsourcing services to [. . .]% [9] in France and to [. . .]% [10] in Germany, compared with 31% in France and 33% in Germany for the second-largest provider, Concert's Syncordia, in both these national markets. The market for standardized low-level packet-switched data communications services

20. The global market for standardized low-level packet-switched data services was worth approximately ECU 5,3 billion in 1993, while DT, FT and Sprint's aggregate sales were [. . .]% [11] or [. . .]% [12] worldwide. The European market for data communications services is discussed in the separate notice on the Atlas transaction, published in this issue of the Official Journal. Sprint's turnover for standardized low-level packet-switched data services was [. . .] in 1993, bringing DT, FT and Sprint's aggregate shares of that market to [. . .]% [13]. As for national markets, Sprint achieved its highest turnover in France, Germany, Italy and the United Kingdom. Neither DT nor FT have a significant market presence in the latter two Member States, where Sprint has [. . .]% [14] and [. . .]% [15] market share respectively. In turn, Sprint's turnover in France (ECU [. . .]% [16]) and Germany (ECU [. . .]% [17]) equals market shares in these Member States of only [. . .]% and [. . .]% respectively [18]. The market for traveller services

21. Total calling card revenue in the European Union was approximately ECU 120,5 million in 1994, most of which generated by national dialling. In 1993, DT had issued 200,000 cards (all of which in German), equivalent to 2,1% of the total card subscriber base in the European Union; FT had issued 1,5 million cards (all of which in France), equivalent to 15,7% of the card subscriber base in the European Union; and Sprint had issued 12 million cards worldwide, of which 500,000 (equivalent to a 5,2% market share) in the European Union. The aggregate market shares of the parents would therefore make Phoenix the largest calling-card services provider in the European Union (23% market share) in terms of subscriber numbers, ahead of AT&T and BT with 21 and 17,8% market share respectively. In terms of calling card traffic within the European Union, the aggregate market shares of FT (21%) and DT (3%) are equal to BT's market share of 24%.

The market for carrier's carrier services

22. The market for global switched transit services is estimated to be worth approximately ECU 301,1 million, equivalent to 1 500 million minutes of international traffic or approximately 3% of the world's international telephony traffic. Of this total, approximately ECU 165,6 million are services provided by European carriers, of which approximately ECU 30,1 million to other European carriers. Within the global switched transit market (1994), with 5–6% annual growth, DT had a turnover of ECU [. . .] [19], FT of ECU [. . .] [20] and Sprint of ECU [. . .] [21]. The aggregate market shares of DT, FT and Sprint make Phoenix the thrid largest global switched transit provider behind AT&T and BT (20,2% each).

D. Main Competitors of the Phoenix Entities

The market for value-added telecommunications network services

23. The situation in these markets is discussed in the separate notice on the Atlas venture published in this issue of the Official Journal.

The market for traveller services

24. More than one third of calling cards in Europe are issued by US operators. AT&T is estimated to have 2 million postpaid card customers in Europe, equivalent to 21% of all cards issued there. These customers generate 59% of calling card traffic initiated in Europe on the US route. MCI is estimated to have 1 million postpaid card customers in Europe (10,5%), which generate 27% of calling card traffic initiated in Europe on the US route. Executive Telecard International (ETI) markets calling cards in Europe through agreements with local operators or credit card companies; ETI's market position is similar to that of MCI.

The market for carrier's carrier services

25. Major players in the market for carrier's carrier services and notably global switched transit services competing in the EEA include AT&T, BT (each holding approximately one fifth of the market), Cable & Wireless, MCI and Teleglobe Canada. Along with the increasing proliferation of new carriers that seek to be independent of the incumbent TO for their international traffic, new suppliers of such services, some with substantial infrastructure resources, are emerging in the market, e.g. Hermes Europe Railtel.

E. The Transaction

26. The transaction notified to the Commission comprises a set of agreements whose main features are described below.

1. Agreements as Originally Notified

1. Agreements Regarding the Phoenix Joint Venture

The parties have to date submitted one final agreement: the Phoenix Joint Venture Agreement (the 'JV Agreement'), that sets out the parties' essential commitments and business objectives. Attached as annexes to the JV Agreement are detailed term sheets for all agreements described below, which will be submitted upon closing of the Phoenix Transaction. These term sheets detail the agreed content of the following agreements:

(a) the Transfer Agreements will provide for the transfer by Sprint, FT, DT, and Atlas (collectively referred to an the 'parents') of certain basic and related businesses to the relevant ROE, ROW, and GBN entities.

(b) The Intellectual Property and Trademark Licence Agreements will concern the grant by the parents and certain affiliates to the Phoenix entities of non-exclusive, non-transferable licences to use certain of the parents' technical information and trademarks.

(c) The Services Agreements will specify the terms and conditions of trading relationships among Sprint, Atlas, and the ROE and ROW entities, including the supply and support services needed to provide Phoenix services worldwide.

2. Agreements Regarding FT and DT's Investment in Sprint

(a) The Investment Agreement will provide for the purchase by each of FT and DT of approximately 10% of the common stock of Sprint.

(b) The Standstill Agreement will bind FT and DT for a period of 15 years not to acquire additional shares in Sprint which would increase their combined aggregate voting rights to more than 20%.

(c) The Registration Rights Agreement is required in order for each party to consummate the transactions contemplated by the Investment Agreement.

[3] Business secret (less than 30%).
[4] Business secret (less than 30%).
[5] Business secret (less than 5%).
[6] Business secret (less than 25%).
[7] Business secret (less than 10%).
[8] Business secret (less than 10%).
[9] Business secret (less than 45%).
[10] Business secret (less than 40%).
[11] Business secret.
[12] Business secret (less than 25%).
[13] Business secret (less than 40%).
[14] Business secret (less than 5%).
[15] Business secret (less than 5%).
[16] Business secret.
[17] Business secret.
[18] Business secret (less than 5% respectively).
[19] Business secret (market share less than 10%).
[20] Business secret (market share less than 15%).
[21] Business secret (market share less than 5%).

2. Main Contractual Provisions

1. Concerning the Phoenix Entities

(a) Structure of the Phoenix Venture

The JV Agreement provides for the creation of the following operating entities: Phoenix Rest of Europe (ROE), Phoenix Rest of the World (ROW) and Global Backbone Network (GBN). The ROE entity will conduct the Phoenix business within the "rest of Europe" region (i.e. outside of France and Germany), while the ROW entity will conduct the Phoenix business within the "rest of the world" region (i.e. outside Europe and the United States). The GBN entity will own and operate as global transmission network over which Phoenix services and other traffic will be routed.

FT and DT will each be the exclusive distributor of Phoenix services in France and Germany respectively; however, FT and DT will meet unsolicited customer requests for services regardless of the customer's location. Moreover, the French and German subsidiaries of Atlas will provide FT and DT with (i) sales support services regarding Phoenix products to distributors in France and Germany; and (ii) services within the scope of Phoenix other than X.25 packet-switched data network services.

A new, wholly-owned subsidiary of Sprint (the "Sprint Subsidiary") and Atlas will each initially own 50% of the outstanding voting equity of each of the parent entities of the ROW entity and the GBN entity. The Sprint Subsidiary and Atlas will initially own 33⅓ and 66⅔%, respectively, of the voting equity of the parent entity of the ROE entity.

A Global Venture Board will be established to set global policies and monitor compliance of the operating groups with their business plans. Any initiative of the Global Venture Board will generally require a unanimous vote.

Day-to-day operations will be the responsibility of the chief executive officers of the operating entities, who are under the supervision of the governing board of the relevant parent entity of either ROE, ROW, or GBN entity. Most decisions of each governing board will be adapted by simple majority vote of the members present. Unanimous consent is however required for a number of important decisions including final approval of business plans, certain changes in structure and capitalization, and certain decisions on technology and investments.

(b) Purposes and Activities of Phoenix Entities

The business of the joint venture will initially consist of the provision of (i) global international data, voice, and video business services for multinational companies and business customers; (ii) international services for consumers, initially based on card services for travellers, and (iii) carrier services providing certain transport services for the parents and other carriers. The Phoenix entities may also offer telecommunications equipment and invest in national operations.

To market these services the Phoenix joint venture will be responsible for the planning and management functions of operations, as well as marketing and customer support, including the following:

(i) Central coordination of product development and management to ensure seamless global services; the Phoenix entities shall notably define functionality, technical standards, and service level requirements for Phoenix services;

(ii) Implementation of a common global network and information systems platform rationalizing and integrating the currently separate international data, voice, and overlay networks of the parents; the GBN will link overlay and backbone networks in each operating area (i.e. ROE and ROW) while proprietary interfaces will allow provision of seamless services; within its first few years of operating, Phoenix will begin to deploy the next generation of Asynchronous Transfer Mode (ATM) technology, comprising any and all of transmission, switching, signalling, network intelligence, and service management elements;

(iii) Integration and development of information systems for coordinated billing, customer support, and other backoffice functions, supporting national distributors; and

(iv) Development of a sales presence in the ROE and ROW territories either directly or through distribution arrangements using a common "masterbrand"; in particular, national service operations will be established or consolidated in each major country, and will be responsible for distributing Phoenix services within that country; in addition, regional sales offices will be established to provide technical and sales support, including identification of potential customers and assisting in preparation of customer proposals.

(c) Provisions Concerning Dealings With/by Phoenix Entities

Pursuant to the JV Agreement, transactions among the Phoenix entities, on the one hand, and FT, DT, and Atlas, on the other, will generally be conducted on the most favourable terms and conditions that are offered to third parties. If products, services, or facilities relevant to these transactions are not commercially available, such transactions shall be conducted in accordance with an arm's length pricing method, using full-cost reimbursement or such other arm's length pricing method as may be agreed on by the parties. The parents shall have the first right to offer to supply certain products, services, and facilities to the Phoenix entities. Notwithstanding, each Phoenix entity may purchase from a third party which, on otherwise comparable terms and conditions, offers lower prices, either once the parties have been given the opportunity to match such terms and conditions or if a customer so requires.

Each of the Phoenix entities and their parents have the first right to offer to perform in their respective territory any facilities or services required by another party to the Phoenix agreements. Such services may be obtained from a third party at a lower price under comparable terms and conditions, or where a customer so requires. In accordance with this principle, the ROE and ROW entities will be required to purchase telecommunications network transmission capacity from the GBN entity to the extent available.

(d) Non-Compete Provisions; Distribution

Pursuant to the JV Agreement as originally notified, albeit subject to various exceptions, no party or affiliate of a party may distribute any international telecommunications services which are either provided by the Phoenix entities or substitutable for such services. Likewise, no party or affiliate of a party may invest in any entity that offers such services. Moreover, no party or any of its affiliates may offer national long-distance services in competition with either a national operation of Phoenix or a pubic telephone operator affiliated with Phoenix (e.g. a national distributor of Phoenix). Nor may any party or any of its affiliates make investments in any entity offering such competing national long distance services or in any national operation allied with a major competitor of Phoenix.

Outside the parents' home countries exclusivity will be granted to distributors on a case-by-case basis. Passive sales by one distributor to customers in the respective sales territory of any other distributor will be allowed in the EEA.

(e) Licenses to be Granted to Phoenix Entities

Under the Intellectual Property Agreements; each parent will grant each of the Phoenix entities non-exclusive, non-transferable licences to use certain technical information of that parent in the respective territories of such entities to conduct the Phoenix business. Each Phoenix entity shall have the right to sub-license the rights granted to any other Phoenix entity or any affiliated national operation or local partner, to the extent such sub-licence is necessary to conduct the Phoenix business. Likewise, each Phoenix entity shall on request also sub-licence such rights to any parent or affiliate of such parent, to the extent such sub-licence is necessary to conduct the Phoenix business.

Royalties shall be payable as customary in the market and negotiated by the parties on an arm's-length basis. License rights granted to a party under the Intellectual Property Agreements will continue in the event of either termination of the Phoenix venture or transfer of such party's interest in the Phoenix venture.

Similarly, pursuant to the Trademark Licence Agreement each parent grants each of the Phoenix entities non-exclusive, non-transferable rights to use certain trademarks owned by or licensed to such parent in connection with the marketing or sale of certain authorized products and services in the respective territories of such entity.

2. Concerning FT and DT's Investment in Sprint

(a) Restrictions on Transfer of Shares by FT or DT and Limits on Increases of Their Shareholding in Sprint

Pursuant to the Investment Agreement, neither FT or DT may dispose of its shares in Sprint for five years after the closing date. Thereafter restrictions apply to large transfers, which would in most circumstances give Sprint the rights of first refusal.

Pursuant to the Standstill Agreement, FT and DT shall each have the right to acquire additional Sprint shares to reach and

maintain a 10% shareholding, but shall not for 15 years after the closing date acquire additional shares that would increase their aggregate voting rights to more than 20%. Once this initial 'standstill' period has expired, FT and DT may acquire additional shares, but may not increase their aggregate voting rights about 30% nor conduct certain activities intended at taking control of Sprint.

(b) Consent Rights and Board Representation of FT and DT

FT and DT have the right to elect directors to the Sprint board in proportion to their shareholding, provided that each has the right to elect at least one director. Neither FT or DT may have access to confidential, competitive information on Sprint's activities in the EEA through their representation on Sprint's board. Nor may these representatives provide Sprint with confidential information that FT or DT may have obtained from US competitors through correspondent relationships.

As the sole holders of Sprint's class A common stock, FT and DT have been granted substantial consensual rights with respect to certain corporate actions of Sprint, which nevertheless fall considerably short of control. These actions include major equity issuances, disapproval of investments in Sprint by major competitors, participation rights in transactions involving change of control, and other bilateral corporate transactions. FT and DT have a right of first offer with respect to long-distance assets of Sprint for a fixed period of time.

F. Changes Made and Undertakings Given Further to the Commission's Intervention

27. Some features of the agreements as notified appeared to be incompatible with the Community competition rules. In the course of the notification procedure the parties have amended certain clauses in their agreements and given undertakings to the Commission.

1. Contractual Changes

28. Non-appointment of Phoenix as an agent for international half-circuits. Following an announcement made in the Phoenix notification, which did not yet reflect the parties commitments regarding Atlas further to the Commission's intervention, DT, FT, Atlas and Sprint have deleted FT and DT's 'international private lines', i.e. FT and DT's international half-circuits, from the list of products that Phoenix would distribute as agent.

29. Non-compete provisions. The parties have not yet sought an exemption pursuant to Articles 85 (3) of the EC Treaty and 53 (3) of the EEA Agreement for any specific agreements regarding national long-distance services. The non-compete clause in the original JV Agreement has therefore been amended: the parties are now obliged to refrain only from either (i) competing with or (ii) investing in a competitor of entities providing long-distance services provided such entities are controlled by Phoenix.

2. Non-Discrimination

30. Just as DT and FT shall be prohibited from discriminating in favour of the joint venture, as described in the separate notice on the Atlas transaction, the Commission intends likewise to prohibit DT and FT from discriminating in favour of the Phoenix entities. The same is true for the specific elements covered by this requirement.[22]

3. Undertakings Given by the Parties

31. Carrier's carrier services. Neither Atlas, Phoenix, DT, FT, Sprint or any affiliate of these entities shall make a particular telecommunications operator's ability to use Phoenix international carrier services conditional upon use or distribution by that telecommunications operator of services provided by Atlas, Phoenix, FT, DT or Sprint. Neither shall Atlas, Phoenix, DT, FT, Sprint or any affiliate of these entities make its commercial dealings (i.e. terms, conditions, price, discounts) with any telecommunications operator conditional upon use or distribution by that telecommunication's operator of services provided by Atlas, Phoenix, FT, DT or Sprint.

32. DT, FT and Sprint have also given further undertakings that mirror the undertakings given in connection with the Atlas notification; reference is therefore made to the separate notice on the Atlas transaction published in this issue of the Official Journal.

1. Cross-Subsidization

As in the context of the Atlas transaction, DT and FT shall not engage in cross-subsidization within the meaning of the Commission's competition guidelines for the telecommunications sector[23] in connection with the Phoenix venture. To avoid that the Phoenix entities or their distributors benefit from cross-subsidies stemming from the operation of both public telecommunications infrastructure and reserved services by either DT or FT, all entities formed pursuant to the Phoenix venture will be established as distinct entities separate from DT and FT.

The ROE and ROW entities will obtain their own debt financing on their own credit, provided that Sprint, FT and DT:

(a) may make capital contributions or commercially reasonable loans to such entities as required to enable the ROE and ROW entities to conduct the Phoenix business;

(b) may pledge their venture interests in such entities in connection with non-recourse financing for such entities; and

(c) may guarantee any indebtedness of such entities, provided that Sprint, FT and DT may only make payments pursuant to any such guarantee following a default by such entities in respect of such indebtedness.

The ROE and ROW entities shall not allocate directly or indirectly any part of their operating expenses, costs, depreciation, or other expenses of their businesses to any parts of DT or FT's business units (including without limitation the proportionate costs based on work actually performed that are attributable to shared employees or sales or marketing of Phoenix products and services by DT or FT employees). However, nothing shall prevent such Phoenix entities from billing DT or FT for products and services provided to DT or FT by such entities on the basis of the same prices charged to third parties (in the case of products or services sold to third parties in commercial quantities) or full cost reimbursement or other arm's length pricing method (in the case of products and services not sold to third parties in commercial quantities).

The ROE and ROW entities shall keep separate accounting records that identify payments or transfers to or from DT and FT. The ROE and ROW entities shall not receive any material subsidy (including forgiveness of debt) directly or indirectly from DT or FT, or any investment or payment from DT or FT that is not recorded in the books of such entities as an investment in debt or equity.

2. Recording and Reporting

The same undertakings apply as described in the notice on the Atlas transaction published in this issue of the Official Journal.

33. In so far as related to existing obligations under national or Community law, the above is intended to ensure the parties' firm commitment to comply with the applicable legal framework.

G. The Regulatory Situation

34. The regulatory situation in France and Germany is described in the notice on the Atlas transaction. As for the United States, pursuant to the 1934 Communications Act, Sprint shall publish tariff schedules and contracts describing its network arrangements and services. Furthermore, the 1934 Communications Act, enforced by the Federal Communications Commission (FCC), prohibits Sprint from providing services that unjustly or unreasonably discriminate against Sprint's competitors or foreign correspondents, which may lodge a formal complaint before the FCC if Sprint does not comply with these obligations.

35. While the European Commission was assessing the Phoenix notification under Community law, the US Department of Justice has concluded a procedure under US anti-trust law by entering a consent decree. This consent decree spells out undertakings by the parties that largely resemble those described in this notice.

The Commission's Intentions

36. On the basis of the foregoing, the Commission intends to take a favourable position on the notified transaction under the competition rules of the EC Treaty and under Article 53 of the EEA Agreement and to grant Phoenix an individual exemption pursuant to Article 85 (3) of the EC Treaty and Article 53 (3) of the EEA Agreement. Before doing so, the Commission invites interested third parties to send their observations within six weeks from the publication of this notice to the following address, quoting the reference 'IV/35.617—Phoenix':

European Commission,
Directorate-General for Competition (DG IV),
Directorate for Information, Communication and Multimedia,
Rue de la Loi/Wetstraat 200,
B–1049 Brussels.

Fax: (32 2) 296 98 19.

[22] See notice pursuant to Article 19 (3) of Council Regulation No 17 concerning Case No IV/33.361—Infonet (OJ No C7, 11. 1. 1992, p. 3, at paragraph 9).

[23] Guidelines on the application of EEC Competition Rules in the Telecommunications Sector (OJ No C 233, 6. 9. 1991, p. 2, paragraph 102 *et seq.*).

Exhibit I

Federal Republic of Germany Ministry for Post and Telecommunication

United States Department of Justice,
Antitrust Division,
Mr. Carl Willner,
Telecommunications Task Force,
Judiciary Center Building,
555 4th Street, NW,
Washington, DC 20001

Your reference, Your letter of
Your telefax of 29 November 1995

My reference, my letter of 112b B 1311
Bonn 14–11 28

U.S. Antitrust Review of "PHOENIX" Joint Venture including Deutsche Telekom AG

Dear Mr. Willner: Thank you very much indeed for your telefax of 29 November 1995 requesting additional information on the planned legal framework governing telecommunications. I am of course pleased to provide you with such information on specific regulatory issues at short notice. In doing so. I also take account of your intention to use these clarifications in the above antitrust review.

1. Your first question concerns the regulation of ownership and landing rights for submarine cables.

Under the draft Telecommunications Act any company will be allowed to set up and operate transmission lines and offer voice telephony, However, both activities—if offered to the public—will be subject to license and may hence also be subject to certain requirements. The setting up and operation of transmission lines will be permitted as from 1 July 1996 provided that such lines are not used to offer voice telephony for the public (alternative infrastructures); provision of voice telephony to the public will be permitted as from 1 January 1998.

Regulatory intervention through the licensing of operators of transmission lines and voice telephony providers is exclusively limited to German territory which include German coastal waters covering three, in some cases 12, nautical miles.

Unlike US law (Submarine Cable Landing License Act), German law does not provide for the granting of landing licenses for access to the national territory. As a consequence, a particular landing license is neither envisaged for the future nor does it exist under current German law. This regulation is based on the idea that unnecessary state intervention in market developments should be avoided. In addition, the nationality of the operator or owner of the submarine cable is of no legal relevance. This means that we will have a non-discriminatory, open and transparent access regulation in Germany for submarine cables.

In order to preclude possible misunderstandings I wish to point out that the above regulations refer tc the telecommunications market. There are also further legal provisions from other areas such as the environmental and nature protection or marine traffic legislation which must be complied with in respect of submarine cables. Such legislation does not, however, refer to market entry in telecommunications.

2. The second question refers to the regulation of interconnection with public telecommunications networks. A draft ordinance of this Ministry on this issue has not been drawn up as yet. Nor has an exact date for its submission been scheduled at present. It is however intended to issue the relevant ordinance immediately following the entry into force of the Telecommunications Act. This ordinance will also be in line with the targets laid down by the European Union. Might I also request you to consider in this respect that recently, ie on 31 August 1995, the European organs submitted a Proposal for a European Parliament and Council Directive on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network provision (ONP). As regards the legal procedure at European level it is fair to say that to date the EU has not fully determined all details to which further action in Germany will strictly be geared in the future. Some preparatory work has yet to be done in this field.

I hope that this information will be of assistance to you in the above antitrust review. Please do not hesitate to contact me if you require clarification on further aspects of our planned market regulation.

Sincerely yours,

By direction of the Minister

Dr. Witte

Exhibit J

French Republic

Paris, December 8, 1995.

Ministry Delegate of Post, of Telecommunications and of Space
Directorate General of Posts and Telecommunications

The Director General

Dear Mr. Willner, I understand that, in connection with the review by the Department of Justice of the Phoenix transaction, you have asked counsel for France Telecom whether U.S. companies will be able to participate fully in the liberalized French telecommunications market after July 1, 1996. Currently, French law does not limit foreign equity participation in the construction and operation of facilities, or in the provision of liberalized services. Indeed, today, several U.S. companies hold VSAT licenses and MFS has just been granted a license to build a metropolitan fiber network in Paris to provide services that have been liberalized.

The only exception in French law to the general rule is that companies not established in the European Union can own up to 20% of entities providing public wireless services. By law, however, this cap may be lifted if other countries have opened their public wireless markets to French enterprises.

Furthermore, as demonstrated by the very liberal offer of the European Union in the context of the World Trade Organization discussions, France fully supports opening up all telecommunications services in all markets. We hope that agreement can be reached among like-minded countries on the rules for further market liberalization and that, as a consequence of these negotiations or, should the latter fail, on a bilateral basis, any then-existing restrictions in French law on foreign ownership of infrastructure or service providers would be removed for U.S. companies.

As an evidence of this policy, I would like to stress that the Government-sponsored recent draft legislation which will permit the granting in 1996 of experimental licenses for innovative multimedia services, including the provision of public voice telephony services on geographically limited areas does not contain any foreign-ownership limit for wire-line based services.

Very truly yours,

Bruno Lasserre,

Carl Willner, Esq.,

Antitrust Division, Telecommunications Task Force, U.S. Department of Justice.

Exhibit K

November 21, 1995.

Carl Willner, Esq.,
Antitrust Division, United States Department of Justice, 555 4th Street, N.W.,
Washington, D.C. 20001

Re: *U.S. v. Sprint Corp.*

Dear Carl: Enclosed is the text of a revision to Section 10.6(b) of the Joint Venture Agreement among Sprint, FT and DT. The revision to Section 10.6(b) will be part of the closing documentation for the transaction. The attached language has been presented to the European Commission for purposes of their review. It should resolve any confusion by third parties regarding the scope of the Agreement among Sprint, FT and DT. Specifically, I want to assure you that it was never the intent of the parties to cause FT or DT to steer customers of FT and DT reserved services to Phoenix. In order to resolve any doubt on this issues, however, the parties have agreed to the revised language enclosed with this letter.

Sincerely,

Kevin R. Sullivan

KRS:ss
Enclosure
cc: J. Cunard, M. Ryan, J. Hoffman

King & Spalding

November 21, 1995.

Carl Willner, Esq.,
Antitrust Division, United States Department of Justice, 555 4th Street, N.W., Washington, D.C. 20001

Re: *U.S. v. Sprint Corp.*

Dear Carl: Enclosed is the text of a revision to Section 10.6(b) of the Joint Venture Agreement among Sprint, FT and DT. The revision to Section 10.6(b) will be part of the closing documentation for the transaction. The attached language has been presented to the European Commission for purposes of their review. It should resolve any confusion by third parties regarding the scope of the Agreement among Sprint, FT and DT. Specifically, I want to assure you that it was never the intent of the parties to cause FT or DT to steer customers of FT and DT reserved services to Phoenix. In order to resolve any doubt on this issues, however, the parties

have agreed to the revised language enclosed with this letter.

Sincerely,

Kevin R. Sullivan

KRS.ss
Enclosure
cc: J. Cunard, M. Ryan, J. Hoffman
November 21, 1995.

Phoenix JVA Section 10.6(b) [p. 81]; Unsolicited Customer Requests

"(b) If a Party or any of its Affiliates receives an unsolicited request from a customer of a Party or any of its Affiliates or of the Joint Venture to enter into a Contract to provide to such customer in conjunction with other Persons a service that is then currently Offered by the Joint Venture, such Party or its Affiliates will use commercially reasonable efforts to persuade such customer to purchase such service from the Joint Venture. If despite such Party's efforts, the customer prefers not to purchase such service from the Joint Venture, such Party will refer such matter to the Global Venture Office which, within ten (10) Business Days, will present its observations regarding such matter to one of the representatives of such Party on the Global Venture Committee for final resolution by such representative. Not withstanding the foregoing, the Parties agree that the customer's preference will be honored in all cases. *The Parties further agree that, notwithstanding the foregoing, this Section 10.6(b) shall not apply to "FT or DT Products and Services" as defined in Section V.L. of the Final Judgment in U.S. v. Sprint Corporation, Civ. No. 95–1304 (D.D.C. July 17, 1995), provided that, for purposes hereof, such FT or DT Products or Services are agreed to include not only "leased lines or international half circuits between the United States and France or between the United States and Germany" as defined in Subpart V.L. (iii) of such Final Judgment, but also international leased lines or international half circuits between France or Germany and any other country or territory."*

[FR Doc. 96–1742 Filed 2–1–96; 8:45 am]

BILLING CODE 4410–01–M

federal register

Friday
February 2, 1996

Part III

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1904 and 1952

Occupational Injury and Illness Recording and Reporting Requirements; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1904 and 1952

[Docket No. R–02]

Occupational Injury and Illness Recording and Reporting Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of Proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to revise Title 29 of the Code of Federal Regulations Part 1904, Recording and Reporting Occupational Injuries and Illnesses, the supplemental recordkeeping instructions, and replace the recordkeeping forms. This revision is expected to result in: a greatly simplified injury and illness recordkeeping system for employers, improved information concerning occupational injuries and illnesses, increased utility of the injury and illness records at the establishment/site level, increased use of modern technology, including computers and telecommunications equipment, and improved employee awareness and involvement.

This rulemaking is part of the overall effort to simplify and revise Part 1904. One section, Reporting of Fatality or Multiple Hospitalization Incidents, was revised in a separate rulemaking. The text of the revised § 1904.8, which became effective May 2, 1994, is included in this proposal as section 1904.12 due to reorganization of the various sections of Part 1904. However, § 1904.12 in this proposal includes three additional changes which are intended to further clarify the earlier revision.

Also included in this rulemaking is the revision of 29 CFR 1952.4. § 1952.4 establishes the recordkeeping and reporting requirements for States that have their own occupational safety and health programs and have been approved by OSHA to enforce safety and health regulations in their State. The revision of this section is a clarification of the requirements based on the existing interpretation of the current § 1952.4.

DATES: 1. Written comments on the proposed regulation must be postmarked on or before May 2, 1996.

2. A public meeting will be held in Washington, D.C. in the U.S. Department of Labor auditorium at 200 Constitution Avenue NW beginning at 8:30 am on March 26, 1996 and extending through March 28th, if necessary.

ADDRESSES: Comments are to be submitted in writing in quadruplicate, or 1 original (hard copy) and 1 disk (5¼" or 3½") in WP 5.0, 5.1, 5.2, 6.0 or ASCII. Note: Any information not contained on disk; e.g., studies, articles, etc. must be submitted in quadruplicate. All comments shall be submitted to: Docket Officer, Docket No. R–02, Occupational Safety and Health Administration, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 219–7894. Comments of 10 pages or less may be transmitted by facsimile to (202) 219–5046 provided the original and 4 copies of the comment are sent to the Docket Officer thereafter. Notice of intention to appear at the meeting is to be sent to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket No. R–02, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, OSHA, U.S. Department of Labor, Office of Information and Consumer Affairs, Room N–3647, 200 Constitution Ave., NW., Washington DC 20210. Telephone (202) 219–8148.

SUPPLEMENTARY INFORMATION

I. Background

Administrative History

Following the passage of the Occupational Safety and Health (OSH) Act of 1970, the Occupational Safety and Health Administration (OSHA) was formed to promulgate and enforce safety and health regulations and standards. In 1971, OSHA published the occupational injury and illness recording and reporting regulation, 29 CFR Part 1904. During that same year, the Secretary of Labor delegated responsibility for the occupational injury and illness statistical program to the Bureau of Labor Statistics (BLS).

Since 1971, OSHA and BLS have operated the injury and illness recordkeeping system as a cooperative effort. OSHA promulgated and enforced the recordkeeping regulations while BLS prepared survey forms, published recordkeeping forms and supplemental instructions, provided outreach, and conducted the Annual Survey Of Occupational Injuries And Illnesses. In 1990 the agencies decided to reorganize these duties, and the Department of Labor announced that the recordkeeping function was being transferred to OSHA. Pursuant to a memorandum of understanding (MOU), BLS retained responsibility for conducting the Annual Survey Of Occupational Injuries And Illnesses, while responsibility for administering the recordkeeping system was transferred to OSHA (ex. 6). OSHA's responsibility includes developing, publishing, and providing outreach for recordkeeping regulations and instructions. In 1991, OSHA created the Office of Statistics to assume these responsibilities and to meet the data needs of the agency.

Purpose of the Records

The injury and illness records are intended to have multiple purposes. One purpose is to provide information for employers and employees, raising their awareness of the kinds of injuries and illnesses occurring in the workplace and their related hazards. Increased employer awareness should result in the identification and voluntary correction of hazardous workplace conditions. In this role, the records serve as a "management tool" for the administration of company safety and health programs. Likewise, employees who are provided information on injuries and illnesses will be more aware of hazards in the work environment, and therefore more likely to follow safe work practices, and report workplace hazards. This would generally raise the overall level of safety and health in the workplace.

Another purpose for keeping these records is to provide OSHA compliance staff with information which can facilitate safety and health inspections. During the initial stages of an inspection, the inspector reviews the injury and illness data for the establishment and subsequently focuses his or her inspection efforts on the safety and health hazards revealed by the injury and illness records.

Another use of the injury and illness records is to produce statistical data on the incidence of workplace injuries and illnesses, thereby measuring the magnitude of the injury and illness problem across the country. BLS and participating States make the survey data available at an aggregate level by industry group for research purposes and for public information. OSHA also will use employer specific information to help focus its intervention efforts on the most dangerous worksites and the worst safety and health hazards.

Regulatory/Interpretation History

When Part 1904 was first implemented, industry safety experts were concerned that the regulations and the instructions on the forms did not provide adequate guidance for

employers. They requested that the Department of Labor provide additional instructions on employer recordkeeping obligations to clarify several recordkeeping issues. The Bureau of Labor Statistics responded in 1972 by publishing supplemental instructions to the recordkeeping forms, *BLS Report 412, What Every Employer Needs To Know About OSHA Recordkeeping* (ex. 1). These supplemental instructions were designed to meet the needs of employers by providing detailed information on when and how to record injury and illness cases on the recordkeeping forms.

A major concept established in the supplemental instructions was the definition of work relationship. Although the Act and regulations required "occupational" or "work-related" injuries and illnesses to be recorded, neither provided a detailed definition of the terms. The 412 booklet defined work relationship as follows: 1) cases that occurred at the employer's establishment (on premises) were considered work-related; and 2) cases that occurred off the employer's premises were considered work-related if the employee was engaged in a work activity or was present as a condition of employment.

The BLS 412 booklet was updated in 1973 and 1975. In 1978, the booklet was again updated to reflect changes in the regulations exempting small employers from the recordkeeping requirements, and to allow employers to computerize their records. The updated versions of the instructions included lists of first aid and medical treatments, flow charts to describe the recordkeeping decision-making process, and answers to many of the questions most frequently asked by employers.

In response to requests from labor and industry, and after publication in the **Federal Register** and a formal comment period, the BLS 412 report series was replaced in April of 1986 by the *Recordkeeping Guidelines For Occupational Injuries And Illnesses* (ex. 2). The revised version of the supplemental instructions contained an expanded question and answer format similar to the BLS 412 report, but provided additional information on the legal basis of the requirements for recordkeeping under Part 1904. The Guidelines provided clearer definitions of the types of cases to be recorded, discussed employer recordkeeping obligations in greater detail, introduced exceptions to the on-premises presumption of work relationship for instances where the application of the general rule was considered inappropriate or overly burdensome, updated the medical treatment/first aid lists, and addressed new recordkeeping issues. A short version of the Guidelines, *A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses* (ex. 7), was also produced.

While the 1986 guidelines clarified the existing requirements, concerns still persisted about the quality and utility of the injury and illness data. Some employers believed that the guidelines were too long and that some of the recordkeeping concepts were too complex and difficult to understand.

These continued concerns about the injury and illness records and the related statistics led to the 1987 Keystone National Policy Dialogue on Work-related Illness and Injury Recordkeeping (described in the Reports Section below). The Keystone dialogue group identified many problems with the recordkeeping system and provided numerous suggestions for improving the recordkeeping definitions.

Under a Memorandum of Understanding (MOU) dated July 11, 1990 (ex. 6), the responsibility for administering the national injury and illness recordkeeping system was transferred from the Bureau of Labor Statistics to OSHA. As a result, OSHA developed and is now proposing this revision of the regulations, forms, and supplemental instructions.

Compliance Activities

In 1981 OSHA changed its use of employers' injury and illness records in its programmed inspection activity. At the beginning of a planned programmed inspection, the compliance safety and health officer would do a "records-only check" to determine the lost workday injury incidence rate for the establishment. If the establishment had a rate below the national average, the compliance officer would end the inspection.

Beginning in 1986, OSHA discovered numerous instances of significant underreporting of injuries and illnesses. The Agency began issuing large penalties for recordkeeping violations. These highly publicized recordkeeping cases resulted in an even greater awareness of, and sensitivity to, the injury and illness recordkeeping requirements among the safety and health community. In 1989, OSHA discontinued its "records-only check" policy of terminating inspections because of concerns that this policy might have been an incentive to underrecord injuries and illnesses.

Other Criticisms

OSHA enforcement policies of the 1980s led to increased awareness of recordkeeping requirements which resulted in renewed criticisms of the existing recordkeeping system. One persistent objection has been that the current injury and illness recordkeeping guidelines are too lengthy and complex. Another objection is that the current definition of work relationship captures some cases which employers believe should not be considered work-related. Examples include employees injured while participating in voluntary wellness programs, cases related to the consumption of food and drink, and cases involving workers performing personal tasks at the workplace during non-work hours.

Reports

Since the middle 1980s, several studies have evaluated the utility of the current OSHA injury and illness recordkeeping system. The National Research Council (NRC), the Keystone Center, and the General Accounting Office (GAO) each published reports which evaluated the recordkeeping system and generated proposals for improvement.

NRC Report: In 1984, because of concern over the possible underreporting of occupational injuries and illnesses and other issues related to the accuracy of the national data collected by the Bureau of Labor Statistics (BLS), Congress appropriated funds for BLS to conduct a quality assurance study of its Annual Survey on Occupational Injuries and Illnesses. BLS requested the National Research Council to convene an expert panel to address the issue of the validity of employer records and the BLS annual survey, problems related to determining and reporting occupational diseases, and other issues related to the collection and use of data on health and safety in the workplace.

In 1987, the National Research Council issued a report, *Counting Injuries and Illnesses in the Workplace: Proposals for a Better System* (ex. 4), which contains the panel's recommendations. Twenty-four specific recommendations were made (see Ch.8 of ex. 4), which generally were intended to accomplish the following: (1) modify the BLS Annual Survey to provide increased information about the injuries and illnesses recorded; (2) discontinue the supplementary data system and replace it with a grant program for States and individual researchers and include criteria for the detail and quality of data collected; (3) conduct an

ongoing quality assurance program to identify underreporting on the BLS Annual Survey by comparing the information on employers' logs with independent sources; (4) implement occupational disease surveillance, including collection of exposure data; (5) improve the collection of national occupational fatality data; (6) implement an administrative data system which would allow OSHA to be able to obtain individual establishment data to conduct an "effective program for the prevention of workplace injuries and illnesses * * *" (p.10); and (7) implement a thorough evaluation of recordkeeping practices in individual establishments, using additional resources requested from Congress for that purpose so as to avoid reducing the number of OSHA inspections of workplace hazards.

Keystone: In 1987, The Keystone Center, an independent non-profit organization that facilitates national policy consensus-building dialogues, convened 46 representatives from labor unions, corporations, health professions, government agencies, Congressional staff and academia for a year-long dialogue to discuss occupational injury and illness recordkeeping.

In 1989, Keystone issued its final report, *Keystone National Policy Dialogue on Work-related Illness and Injury Recordkeeping, 1989* (ex.5). The report focused on four major topics: (1) recordkeeping criteria; (2) OSHA enforcement procedures; (3) injury and illness data systems; and (4) occupational illnesses. The report detailed issues within each topic and made specific recommendations. By topic and in summary, the Keystone report recommended: (1) revision of various aspects of the recording criteria; (2) use of injury and illness data by OSHA for targeting enforcement and revision of the guidelines to make them easily and uniformly understood; (3) development of a national system for the collection and dissemination of occupational injury and illness information; and (4) broadening the type of information collected concerning occupational illness and making the information available to employees and government agencies for appropriate purposes such as research and study.

In 1995, Keystone reassembled a group of business, labor, and government representatives to discuss draft proposed changes to the recordkeeping system. OSHA shared its draft proposed revision with the participants. The draft was also reprinted in several national safety and health publications. OSHA received feedback on the draft. This document reflects many of the issues and concerns raised. Written comments generated by the on-going dialogue have been entered in the docket (ex. 12).

GAO: An August 1990 report by the United States General Accounting Office, *Options for Improving Safety and Health in the Workplace* (ex. 3), discussed the importance of the employer injury and illness records, including: (1) for many entities, the general descriptive value to better understand the nature and extent of occupational safety and health problems; (2) identification by employers and employees of safety and health problems in the workplace which will enable them to correct the problems; (3) use by OSHA to conduct research, evaluate programs, allocate resources, and set and enforce standards. The report focused on the use of the records in OSHA enforcement, particularly in targeting industries and worksites for inspections and determining the scope of inspections.

The GAO report found "possibly significant injury and illness underrecording and subsequent underreporting" (p.3). Reasons for inaccurate recordkeeping include: (1) intentional underrecording in response to OSHA inspection policies or employer safety competitions; (2) unintentional underrecording because of a lack of understanding of the recording and reporting system; and (3) inaccurate recordkeeping because of the lack of priority placed on recordkeeping by employers which results in lack of appropriate supervision of recordkeepers. The GAO noted that OSHA's revised enforcement procedures, which included increasing the size of the fines for recordkeeping violations and modifying its records-review procedures, should help improve the accuracy of recordkeeping. The GAO recommended that the Department of Labor conduct studies to assess the accuracy of the records using independent data sources, evaluate how well employers understand the revised guidelines [revisions could be tested pre-publication], and utilize a recordkeeping audit program in selected enforcement activities.

Advisory Committee on Construction Safety and Health (ACCSH): OSHA provided the Advisory Committee on Construction Safety and Health (ACCSH) with a written briefing on the draft proposal to revise 29 CFR Part 1904 and made an oral presentation to the Committee on October 13, 1994. During its meeting on December 9, 1994, the Committee presented its recommendations to Assistant Secretary Joseph Dear. The Committee recommended that OSHA "immediately publish the NPRM on recordkeeping for public comment." The Committee reiterated its recommendation in its May, 1995 meeting. In addition, the ACCSH presented OSHA with specific recommendations on particular provisions of the revision which are of significance to the construction industry. OSHA has given the ACCSH recommendations careful consideration and modified the proposal in several areas.

The ACCSH recommendations, OSHA's written briefing, and the relevant portions of the transcripts of the October and December 1994 ACCSH meetings, are part of the public record (ex. 10).

OSHA would like to have the benefit of public comment on the ACCSH recommendations, as well as the specific issues for comment and the provisions of the proposed rule.

Outline

The following is an outline of the remainder of this preamble. The regulatory text and appendices follow the preamble.

II. Summary and Explanation
1. Reorganize sections
2. Definitions (Proposed § 1904.3)
a. lost workday
b. employee
c. establishment
d. first aid
e. health care provider
f. medical treatment
g. responsible company official
h. restricted work activity
i. site controlling employer
j. subcontractor employee
k. work environment
l. work related
3. Recording criteria—(Proposed § 1904.4)
4. New case—(Proposed § 1904.4)
5. 7 days to complete—(Proposed § 1904.4)
6. Computerize/centralize Log—(Proposed § 1904.4)
7. Computerize/centralize Incident Records—(Proposed § 1904.5)
8. Year-end summary—(Proposed § 1904.6)
9. Centralize records—(Proposed § 1904.7)
10. Retention—(Proposed § 1904.9)
11. Access—(Proposed § 1904.11)
12. Fatality/multiple hospitalization reporting—(Proposed § 1904.12)
13. Reports—(Proposed § 1904.13)
14. Exceptions/variance—(Proposed § 1904.15)
15. Subcontractor records—(Proposed § 1904.17)
16. Mandatory Appendix B
a. Blood lead
b. Cadmium
c. Hearing loss
d. Skin disorders
e. Asthma
f. Asbestos
g. Bloodborne
h. Tuberculosis
i. All other
III. Specific Issues for Comment
Issue 1—Exemptions—(Proposed § 1904.2)
Issue 2—Work relationship/severity—(Mandatory Appendix A)
Issue 3—First aid/medical treatment—(Proposed § 1904.3)
Issue 4—Restricted work activity—(Proposed § 1904.3)
Issue 5—Musculoskeletal disorders—(Mandatory Appendix B)
Issue 6—Reluctance to record
Issue 7—Employee involvement
Issue 8—Access/privacy—(Proposed § 1904.11)
Issue 9—Software
IV. Forms
OSHA 300
OSHA 301
V. Legal Authority
VI. State Plans
VII. Regulatory Impact Assessment
VIII. Regulatory Flexibility Certification
IX. Environmental Impact Assessment
X. Federalism
XI. Public Participation
XII. Paperwork Reduction Act of 1995
XIII. List of Subjects
XIV. Authority

II. Summary and Explanation of the Proposed Rule, Supplemental Instructions

The changes to the recordkeeping system are being proposed as regulatory changes in Part 1904. This proposed rule would make 18 significant changes in the requirements of Part 1904:

1. Reorganize the sections within the rule to place the purpose, coverage and definitions for the rule at the beginning, in keeping with the commonly accepted regulatory format. The change would also improve the logical placement of the various sections, provide more meaningful titles for the sections, and combine sections where appropriate. The following table summarizes the proposed reorganization of the rule:

REDESIGNATION TABLE

New section	Old section
1904.1 Purpose	1904.1 Purpose and scope.
1904.2 Coverage and exemptions	1904.15 Small employers and 1904.16 Establishments classified in Standard Industrial Classification codes (SIC) 52–89, (except 52–54, 70, 75, 76, 79, and 80).
1904.3 Definitions	1904.12 Definitions.
1904.4 OSHA Injury and Illness Log and Summary (OSHA Form 300 or equivalent).	1904.2 Log and summary of occupational injuries and illnesses.
1904.5 OSHA Injury and Illness Incident Record (OSHA Form 301 or equivalent).	1904.4 Supplementary record.
1904.6 Preparation, certification and posting of the year-end summary	1904.5 Annual summary.
1904.7 Location of records	1904.14 Employees not in fixed establishments.
1904.8 Period covered	1904.3 Period covered.
1904.9 Retention and updating of occupational injury and illness records.	1904.6 Retention of records.
1904.10 Change of ownership	1904.11 Change of ownership.
1904.11 Access to records	1904.7 Access to records.
1904.12 Reporting of fatality or multiple hospitalization incidents	1904.8 Reporting of fatality or multiple hospitalization incidents.
1904.13 Reports by Employers	1904.20 Description of statistical program, 1904.21 Duties of employers and 1904.22 Effect of State plans.
1904.14 Recordkeeping under approved State plans	1904.10 Recordkeeping under approved State plans.
1904.15 Petitions for recordkeeping exceptions	1904.13 Petitions for recordkeeping exceptions.
1904.16 Falsification of, or failure to keep records or reports	1904.9 Falsification, or failure to keep records or reports.
1904.17 Subcontractor records for major construction projects.	New Section.
Mandatory Appendix A. Work-relatedness	New appendix.
Mandatory Appendix B. Recording of specific conditions	New appendix.
Appendix C. Decision tree for recording occupational injuries and illnesses.	New appendix.

2. Changes in recordkeeping definitions. The recordkeeping system is very dependent on the definitions used to determine the recording of specific cases. Some specific modifications included in the proposed § 1904.3 are to redefine "restricted work activity", "establishment", and "medical treatment"; and provide new definitions for an "employee", "subcontractor employees", "health care provider", and "work environment". The following addresses each proposed change to the definitions:

a. Eliminate the term "lost workdays", by replacing it with a definition of "days away from work". The OSHA recordkeeping system has historically defined lost workdays as involving both days away from work and days of restricted work activity. The proposal would change the system to eliminate the counting of days of restricted work activity altogether and only count the number of days away from work. OSHA has found no evidence that the current restricted work activity day counts are being used in safety and health program evaluation. It therefore sees no purpose in continuing the restricted work activity day count requirement.

Employers will not be required to count days away from work that extend beyond 180 days (six months). OSHA believes day counts greater than 180 days add negligible information for injury and illness case analysis while entailing significant burden when updating the OSHA records. OSHA solicits comment on the appropriateness of the 180 day criteria. Should the days away from work count be capped? Is 180 days too short or long of a period? If so, should the count be capped at 60 days? 90 days? 365 days? or some other time period?

Although not in the proposed rule, OSHA is considering a modification to the concept of days away from work to include days the employee would normally not have worked (e.g. weekends, holidays, etc.). OSHA believes this change to calendar days would greatly simplify the method of counting days away by eliminating the need to keep track of, and subtract out, scheduled days off from the total time between the employee's first day away and the time the employee was able to return to full duty. OSHA asks for

comment on whether the reduction of burden associated with this approach justifies the change in the type of information that will be collected.

Another potential benefit of changing to calendar days would be that the day count would more accurately reflect the severity of the injury or illness. The day count would capture all the days the employee would not have been able to work at full capacity regardless of work schedules. For example, if an employee, who normally does not work weekends, is injured on a Friday and is unable to work until the following Tuesday, the "days away from work" would be three (3), using calendar days, rather than one (1) day, using work days. If the same injury occurred on a Monday, the day count would be three (3) using either calendar or workdays. Changing the day count to calendar days would eliminate discrepancies based upon work schedules. Thus, the day counts would be easier to calculate and potentially more meaningful.

One of the potential problems with this change would be that economic information on lost work time as a measure of the impact of job related injuries and illnesses on work life would no longer be available. Employers could, however, estimate work time lost by applying a work day/calendar day factor to the recorded day counts. OSHA solicits comment on the idea of counting calendar days rather than work days, in particular, what potential do these methods have for overstating (i.e., counting calendar days) or understating (i.e. counting work days) the severity of injuries and illnesses?

b. Clarify "employee". "Employee" is defined in Section 3(6) of the Act. A regulatory note is included within the definition to clarify that for OSHA recordkeeping purposes "employees" include those workers whom the employer supervises on a day-to-day basis. These workers may include workers provided by a temporary help service, a contractor, or a personnel leasing service. This is consistent with case law and the interpretation currently used by OSHA.

c. Redefine "establishment". The definition of an establishment describes the location the records cover. To be most useful the records must be specific to a particular location. "Establishment" means a single physical location that is in operation for 60 calendar days or longer where business is conducted or where services or industrial operations are performed. This definition is a minor modification of the definition of establishment found in the Standard Industrial Classification Manual, 1987. The definition was modified by introducing the 60 day provision. The current injury and illness recordkeeping system defines an establishment as a single physical location that is in operation for 1 year or longer. OSHA believes the proposed shorter time period (60 days) will facilitate the use of information at more transient workplaces, such as construction sites. OSHA requests comment on the costs and benefits of this change.

The proposed definition of establishment includes the primary work facility and other areas such as recreational and storage facilities, restrooms, hallways, etc. The current system excludes both parking lots and recreational facilities from the definition of establishment. OSHA is proposing that the current practice of excluding the company parking lot from the establishment be continued, but is including recreational facilities in the definition (see section below for discussion of exemptions to work-relatedness). OSHA believes that, by including related geographic areas, such as recreational facilities, the recordkeeping system will be simplified. OSHA requests comment on this change.

The concept of separate establishments for separate activities found in the current supplemental instructions will be incorporated into the regulations. When distinct and separate economic activities are performed at a single physical location, each activity may represent a separate establishment. For example, contract construction activities conducted at the same physical location as a lumber yard may be treated as separate establishments. Each distinct and separate activity should be considered an establishment when (1) no one industry description (Standard Industrial Classification, 1987) includes such combined activities, and (2) the employment in each such economic activity is significant, and (3) separate reports can be prepared on the number of employees, their wages and salaries, sales or receipts, or other types of establishment information. This approach is based on the definition of an establishment found in the Standard Industrial Classification Manual, 1987.

d. Redefine "first aid". The definition of first aid has been modified to consist of a comprehensive list of treatments considered first aid. OSHA has attempted to include those treatments that are, in and of themselves, associated with only minor cases. Any treatment or care other than those found on the first aid list would be considered medical treatment for recordkeeping purposes. OSHA believes injuries and illnesses requiring only the treatments listed as first aid would be minor in nature and the recording of them would not be consistent with the intent of the Act. OSHA also believes a finite list will reduce confusion, lead to consistent recordkeeping decisions and greatly simplify the decision-making process.

A treatment may be considered preventive only when there is no work-related injury or illness prior to its use. A treatment may not be defined as preventive when given to stop an existing work-related condition from becoming worse. The only exception to this rule is tetanus/diphtheria shots/boosters. Tetanus/diphtheria shots/boosters will continue to be included as first aid treatment. OSHA seeks comment on whether this approach to recording tetanus/diphtheria shots is appropriate, or whether they should be considered medical treatment.

For further discussion of first aid and medical treatment, see Issue 3 in the Issues for Comment section of this preamble.

e. Define "health care provider". This is a person operating within the scope of his or her health care license, registration or certification. OSHA recognizes that this definition differs from definitions of health care provider found in other government regulations and requests comment on its appropriateness for OSHA injury and illness recordkeeping purposes. OSHA is considering qualifying this definition, for example by limiting it to personnel with specific training. OSHA requests comment on this limitation.

f. Redefine "medical treatment". Medical treatment is defined to include any treatment other than first aid treatment. The definition focuses on the nature of the treatment given and not on the person administering the treatment (e.g. physician, registered health professional, etc.). Any treatment not included in the definition of first aid is considered medical treatment, making the two groups mutually exclusive. This approach provides clear guidance for employers and thus eliminates any "grey areas" that must be interpreted by employers. For further discussion of first aid and medical treatment, see Issue 3 in the Issues for Comment section of this preamble.

g. Define "Responsible Company Official". The definition of responsible company official is central to directing the accountability for the accuracy and completeness of the OSHA records for an establishment to the upper management level of the firm. The proposed definition will place the responsibility to certify the accuracy and completeness of the Log and Summary with an owner of the company, an officer of the corporation, the highest ranking company official at the establishment or his or her supervisor.

OSHA believes that by requiring a higher level employee of the firm to certify the Log, companies will have a greater incentive to take appropriate measures to assure the accuracy and completeness of the information.

h. Define "Restricted Work Activity". The definition of restricted work activity will be modified to include injuries and illnesses where the worker is not capable of performing at full capacity for a full shift (1) the task he or she was engaged in at the time of injury or onset of illness; (2) any activity that he or she performed or was expected to perform on the day of injury or onset of illness. OSHA believes this definition will focus on the hazardous tasks that lead to serious injuries and illnesses and lead to greater consistency in the recording of these more severe cases. For further discussion of restricted work activity, see Issue 4 in the Issues for Comment section of this preamble.

I. Define "site controlling employer". A site controlling employer is an employer in the construction industry (SIC codes 15, 16 and 17) with contractual, legal and/or practical control over the performance, timing, or coordination of other employers' work on the construction project. An employer (such as a general contractor) that retains another employer to work on the project is presumed to have sufficient control over the subcontractor's performance to be considered a site controlling employer. In addition, an employer (such as a construction manager) is a site controlling employer if it has managerial or supervisory authority with respect to employers engaged on the project, regardless of whether it has a contractual relationship with those employers. For further discussion of subcontractor records, see number 15 of this section.

j. Define "subcontractor employees". This proposal requires site controlling employers in the construction industry, for construction projects with an initial total contract value of $1 million or more, to maintain separate injury and illness records for certain on-site employees other than their own, as described in number 15 of this section. Separate records must be kept for those "subcontractor employees" who are present at a construction project in connection with their construction job, and are not employees of the site controlling employer at that construction project.

k. Define "work environment". The definition of work environment is central to determining work-relatedness. The proposed definition is compatible with the definition traditionally used in the supplemental instructions. The work environment is defined as the employer's establishment and other locations where employees are engaged in work-related activities or are present as a condition of their employment.

l. Define "work-related". Although employers are required to record occupational, or work-related injuries and illnesses, the current regulations do not provide a definition of work-related. This proposal includes "work-related" in the definition section of the regulatory text and further clarifies the concept in Mandatory Appendix A. The proposed definition is based on the definition in the current supplemental instructions, but is modified to create several new exceptions to the presumption of work-relatedness, which are explained below. Additionally, for injury and illness recordkeeping purposes, if an event in the work environment either caused or contributed to the case or aggravated a pre-existing condition, then it is considered work-related.

It has also been suggested that work-relationship should be limited to where it is demonstrated that the work environment contributed substantially (fifty percent or more) to the condition. OSHA requests input on the proper level of work-relationship that should be used. OSHA requests input on how work contribution can be objectively measured for such a purpose.

For OSHA injury and illness recordkeeping purposes, the concept of "work-related" has traditionally been based on a geographic concept of the work environment. The presumption has been made that if injuries or illnesses occur at the employer's establishment, then the case is work-related. This includes cases occurring while the employee is on break, in the rest room or in storage areas when located on the employer's premises. Many employers have criticized this policy, citing cases that occur at the establishment that they believe have a limited workplace relationship. As a result, the 1986 guidelines provided for several exceptions to this rule: removing employee parking lots and recreational facilities from the definition of the premises under certain conditions; excluding those cases where symptoms arise at work, but are caused by accidents or exposures away from work; excluding cases where the employee was at the establishment as a member of the general public rather than as an employee; and excluding cases arising solely from pre-existing conditions.

As recommended in the Keystone report, the proposed revision continues to use the geography based presumption of work-relatedness. Parking lots will continue to be excluded from the proposed definition of establishment. Company access roads will be added to the exclusion. By excluding parking lots and access roads, some injuries and illnesses will be excluded while employees are arriving to or leaving from work. OSHA seeks input on whether the exception for parking lots should be continued, and/or whether OSHA should continue to exclude injuries and illnesses that occur while employees are commuting to and from work.

While recreational facilities are being included in the definition of establishment, injuries or illnesses occurring on company recreational facilities may still be excluded by the proposed "voluntary participation in wellness programs" exception explained below. The exception will be based on the activity the employee was engaged in rather than the physical location itself to preserve and simplify the geography based presumption of work-relatedness.

Several new and/or revised activity-based exceptions to the presumption of work-relatedness are being proposed. OSHA requests comment on any and all of the following proposed exceptions:

- Cases resulting solely from voluntary participation in wellness programs, fitness activities, recreational activities, and medical programs. This would include cases occurring during exercise activities, blood donations, physicals, flu vaccination programs, etc. unless the employee was participating as a condition of employment.
- Cases involving eating, drinking, or preparing one's own food when unrelated to occupational factors. This exception would eliminate the recording of cases such as an employee who cuts a finger opening a can of food for lunch or is burned while drinking coffee.
- Cases that are solely the result of employees doing personal tasks (totally unrelated to their job) at the establishment outside of normal working hours. This would exclude those cases where the employee is injured because the employer was allowing the worker to use employer equipment at the establishment for personal uses outside of normal working hours. OSHA requests comment on the appropriateness of this approach,

especially on the limitation that these events occur "outside of normal work hours".

• Cases resulting solely from acts of violence committed by family members, a former spouse, or self-inflicted when unrelated to the employee's work situation. This exemption is based on the Keystone's recommendation that injuries and illnesses involving an intentional act of violence in the work environment should be considered work-related unless it can be clearly established that the act was not related to the employee's work situation. The intent of the Keystone group was to exclude those cases that are clearly related to a domestic dispute that leads to subsequent violence in the workplace, such as a worker who is assaulted by a spouse or ex-spouse.

For situations involving violence committed by individuals other than family members or a former spouse, OSHA believes it would be difficult, if not impossible, to determine if the case was related to work or to a domestic situation. For this reason, the exemption to work-relatedness has been limited to violence committed by family members or former spouses. Personal acts of violence perpetrated by employees, co-workers, customers, or others would not be excluded. OSHA requests comment on whether this exemption should be expanded to other kinds of personal relationships. If so, how should it be defined? Also, should the definition of family be limited or defined? If so, how?

• Cases involving workers who were never engaged in any duty at work that could have placed stress on the affected body part. This would exclude those cases where symptoms arise at work, but are caused by accidents or exposures away from work.

• Cases involving workers who were never exposed to any chemical or physical agent at work that would be associated with the observed injury or illness. This would also exclude those cases where symptoms arise at work, but are caused by accidents or exposures away from work.

• Cases resulting solely from activity in voluntary community or civic projects away from the employer's establishment. This reflects and clarifies the work-relationship criteria of injuries and illnesses occurring away from the employer's establishment. Cases occurring away from the employer's establishment are considered work-related if the employee is engaged in a work activity or is there as a condition of employment.

• Cases that result solely from normal body movements, including walking unencumbered, talking, tying a shoe, sneezing, or coughing, provided the activity does not involve a job-related motion and the work environment does not contribute to the injury or illness. The Keystone report recommended this exemption. The report suggested that injuries and illnesses related to a pre-existing condition should not be recorded if they are not related to an identifiable work activity. The exclusion would not apply if it involved repetitive motion or if the work environment either caused or contributed to the injury/illness.

• A mental illness will not be considered work related, except mental illnesses associated with post-traumatic stress. OSHA seeks input on the following questions:

(A) How should OSHA define mental health conditions for recordkeeping purposes, and when and how should the conditions be entered into the injury and illness records?

(B) How should employers determine the work-relatedness of mental health conditions?

(C) How would employers gain knowledge of mental health conditions, given the issue of patient/doctor confidentiality?

For injury and illness recordkeeping purposes, OSHA has historically evaluated injuries and illnesses experienced by employees working in their homes as cases occurring off the employer's premises. Because alternative work place policies (allowing employees to work out of their homes) are becoming more commonplace, OSHA is incorporating a section within Mandatory Appendix A to address the issue of "work-relatedness" for employees who work at home. An injury or illness will be considered work-related if it occurs while the employee is performing work for pay or compensation in the home, if the injury or illness is directly related to the performance of work rather than the general home environment or setting. OSHA is considering whether this policy should be maintained, or whether work-relatedness should be presumed for injuries and illnesses of these employees. OSHA solicits comment on this issue.

For further discussion of work relatedness, see Issue 2 in the Issues for Comment section of this preamble.

3. Modify the meaning of "recordable occupational injury or illness" (see proposed section 1904.4 in the regulatory text). At the present time certain injuries are to be recorded, namely those which result in death, and injuries other than minor injuries requiring only first aid and which do not involve loss of consciousness, restriction of work or motion, medical treatment, or transfer to another job. Currently, all diagnosed (recognized) occupational illnesses are to be recorded, regardless of severity. The distinction between illnesses and injuries is currently based on the nature of the precipitating event or exposure. Cases which result from instantaneous events are considered injuries, and cases which result from non-instantaneous events are considered illnesses. This current distinction between injuries and illnesses often results in confusion and arbitrary and counter-intuitive decisions on how to record a case. For example, a small cut resulting in an infection would be recorded as an injury, even though infection is commonly considered an illness.

The proposed change would eliminate the need for employers to make a distinction between injuries and illnesses. One set of criteria would be used to evaluate all cases thereby minimizing confusion and inconsistent recording. This proposal represents a major simplification of the recordkeeping system, which would result in more accurate injury and illness data, and reduce the recordkeeping burden for employers who are required to maintain records.

Currently, detailed data for coding cases is collected by BLS only for injuries and illnesses that involve days away from work. If recordkeeping changes are made and no changes are made to the current BLS survey methodology, separate information for injuries and illnesses will no longer be published by BLS for cases that do not result in days away from work. Published information would continue to be available for combined injuries and illnesses, combined injuries and illnesses resulting in days away from work and combined injuries and illnesses without days away from work. In addition, if the survey methodology were modified to collect and code a sample of case characteristics for cases which do not involve days away from work, separate injury and illness information could be published for all cases.

The proposed criteria for recordable occupational injuries and illnesses would require employers to record any case where (1) an injury or illness exists; and (2) is work-related; and (3) meets one or more of the following criteria: (a) involves medical treatment; OR (b) involves death, loss of consciousness, or in-patient hospitalization for treatment; OR (c) involves a day(s) away from work, restricted work activity, or job transfer; OR (d) includes any condition as listed in Mandatory Appendix B.

4. Provide clear guidance for determining when an injury or illness case is resolved. Determination of case resolution is particularly important because employers may be dealing with a reinjury or recurrence of a previous case and must decide whether the recurrence is a "new case" or a continuation of the original case. Historically, the supplemental instructions to the recordkeeping regulations required employers to evaluate previously recorded injuries and illnesses as new cases if they were aggravated by additional work-related events or exposures. OSHA developed and included new guidance for evaluating cumulative trauma disorders as new cases in the *Ergonomics Program Management Guidelines For Meatpacking Plants* (ex. 11) which were published in 1990. The "Meatpacking Guidelines" provide: If and when an employee who has experienced a recordable CTD becomes symptom free (including both subjective symptoms and physical findings), any recurrence of symptoms establishes a new case. Furthermore, if the worker fails to return for medical care within 30 days, the case is presumed to be resolved. Any visit to a health care provider for similar complaints after the 30-day interval "implies reinjury or reexposure to a workplace hazard and would represent a new case."

OSHA is now proposing to expand the use of the criteria found in the "Meatpacking Guidelines" to all cases (including injuries and illnesses of the back and lower extremities), while increasing the number of days to 45. A recurrence of a previous work-related injury or illness will be presumed to be a new case when it either (1) results from a new work accident, or (2) 45 days have elapsed since medical treatment, restricted work activity and days away were discontinued and the last signs or symptoms were experienced. This presumption is rebuttable by medical evidence indicating that the prior case had not been resolved. In doing so, OSHA believes it will simplify the decision-making process for determination of a "new case" and result in more complete and consistent data. This method of defining case resolution/duration should provide better data on the incidence of illness cases that frequently last only 2–3 weeks (e.g. dermatitis, some CTDs, etc.) and recur on a regular basis.

OSHA solicits comment on the appropriateness of the 45-day interval. Is 45 days too short or long of a period? If so, should the period be 30 days? 60 days? 90 days? or some other time period? Should different conditions (e.g., back cases, asthma cases, etc.) have different time intervals for evaluating new cases?

OSHA is also seeking input for an improved way to evaluate new cases. Should a new category of cases be created to capture information on recurring injuries and illnesses? One option is to add an additional "check box" column to the proposed OSHA Form 300 for identifying those cases that are recurrences of previously recorded injuries and illnesses. This would allow employers, employees and OSHA inspectors to differentiate between one time cases and those that are recurrent, chronic conditions. This approach may help to remove some of the stigma of recording these types of disorders and lead to more complete records. OSHA solicits input on this approach. Will a recurrence column reduce the stigma of recording these types of cases? Should recurrences be included in the annual summaries? Should a time limit be used to limit the use of a recurrence column?

5. The proposal will also require that the proposed forms (OSHA 300 and 301) be completed within 7 calendar days, rather than the currently required 6 workdays. OSHA believes this will simplify the requirements by replacing a varying amount of time (depending on the establishment's work schedule) with a standard week.

6. Enhance the ability to computerize/centralize the OSHA 300 Log in proposed § 1904.4. The current regulations and instructions provide for computerization of the OSHA 200 Log, providing that the employer has available at the establishment a paper copy of the Log current within 45 calendar days. This proposal would allow employers to keep their OSHA Log on computer, provided that the employer is able to produce a copy of the Log within 4 hours of a request by an authorized government representative who is permitted access to the Log under proposed § 1904.11. This proposal will reduce the employer's cost of recordkeeping and allows for maximum flexibility when employers choose to computerize their records, without decreasing the access to those records by authorized personnel.

7. Allow for the computerization of Incident Records in proposed § 1904.5. At the present time, the regulations provide for the computerization of the OSHA 200 Log, but not for the computerization of the supplementary record, the OSHA 101. This proposal would allow employers to computerize both of the forms, which may result in less paperwork burden for employers without compromising the quality of those records. The provisions for computerization parallel the proposed changes for computerization of the OSHA 300 Log found in proposed § 1904.4.

8. Modify the proposed § 1904.6 (formerly 1904.5) to provide a new title, require annual average number of employees and total hours worked by all employees to be included in the year-end summary, and require a responsible company official to certify the accuracy and completeness of the records. The section would be titled "Preparation, Certification and Posting of the Year-End Summary". The proposal to require an estimate of the employees' total hours worked to be listed on the year-end summary would facilitate hazard analysis and incidence rate calculation. An injury and illness incidence rate is the number of injuries and/or illnesses related to a common exposure base of 100 full-time workers. The common exposure base enables meaningful comparisons of the data regardless of industry, firm size and time period. Information on annual average employment and total hours worked can be obtained from payroll or other company records, and is often available from other reports required by the government, such as unemployment insurance or workers' compensation reports. For some employers, the added burden will be negligible because of their participation in the BLS Annual Survey of Occupational Injuries and Illnesses which already requires a compilation of this information. Approximately 10 percent of employers who regularly are required to keep records are selected each year to participate in the BLS survey. OSHA requests comment on the costs and benefits associated with this requirement and suggestions for alternative methods for collecting the information necessary to calculate these incidence rates.

The proposal will require the employer to post the year-end summary for the entire year, from February 1 to January 31 of the following year. Because the records are kept on a calendar year basis, OSHA believes one month (January) is a reasonable time period for completing the summary section of the form. The year long posting requirement will impose no additional burden on the employer while presenting employees with the opportunity to examine the totals throughout the year. This requirement will also allow employees hired during any time of the year to gain knowledge

about the safety and health environment of the workplace.

9. Modify the location requirements to provide for enhanced centralization of records. This proposal would combine the current § 1904.14, Employees not in fixed establishments, and some of the provisions for centralization of records found in the current § 1904.2, Log and summary of occupational injury and illness, into the proposed § 1904.7, Location of records. The new section contains criteria for records pertaining to employees who either work at an establishment, or who report to an establishment but work elsewhere, or who are engaged in physically dispersed work activities. Under the current system; (1) records pertaining to employees that report to an establishment must be kept at the establishment, (2) for employees that report to an establishment but work elsewhere, the records must be kept at the establishment where they report, and (3) when employees do not report to a fixed establishment on a regular basis, the records must be kept in a central location with telephone access.

The location requirements will be modified to allow for the maintenance of records at an alternate, centralized location. The current regulations do not provide for centralization of the supplementary records, but do allow centralization of the OSHA 200 Log, providing that the employer has available at the establishment a paper copy of the Log current within 45 calendar days. This proposal would eliminate the need for a current copy of the required records at the establishment, provided the employer is able to produce copies of the records within 4 hours of a request by an authorized government representative who is permitted access to the records under the proposed § 1904.11. The employer can either transmit a copy of the records to the worksite or to the government representative's office. This proposal allows for greater flexibility when employers choose to centralize and/or computerize their records without decreasing the access to those records by authorized individuals and provides for recent and future technological developments. OSHA requests comment on situations where the 4 hour requirement may be infeasible. Should the requirement be restricted to business hours, and if so, to the business hours of the establishment to which the records pertain or the establishment where the records are maintained?

The current system requires a separate set of records for each single physical location of a multi-establishment firm, regardless of employment size of the location. The proposal modifies this requirement by allowing an employer to consolidate its records for all establishments with less than 20 employees as long as the establishment location is specified in the Department column on the proposed OSHA Form 300.

10. Modify the retention of records section (§ 1904.6) by renumbering and retitling it to § 1904.9 Retention and updating of work-related injury and illness records, reducing the retention period from five to three years, and requiring employers to update the injury and illness records during the three year retention period to include newly discovered injuries and illnesses. The employer will be required to revise the Log to reflect changes which occur in previously recorded injuries and illnesses, including changes in the count of days away from work. Employers must also update totals or summaries at least quarterly. OSHA asks whether the summary update should be more or less frequent? Employers will not be required to update the OSHA Form 301 to reflect changes in previously recorded cases.

The current § 1904.2 states that employers shall maintain a Log and summary of injuries and illnesses, which has been interpreted to require the updating of the Log, but not the updating of supplementary records or annual summary, to reflect newly discovered cases or to reflect newly discovered information concerning a case.

The proposed change would clarify the employers' obligations to update these records during the three year retention period, if and when they receive additional or updated information concerning a case.

11. Modify the access to records section, currently § 1904.7 and proposed § 1904.11, to require employers to provide copies of records to government representatives. The current section states that "Each employer shall provide, upon request, records provided for in §§ 1904.2, 1904.4 and 1904.5 for inspection and copying * * *". In some instances, instead of providing copies of the records, some employers have attempted to provide OSHA compliance personnel only with access to the records, with the copying to be done by hand. The proposed change would clearly require employers to provide copies of the records to government personnel authorized to access injury and illness records.

The section, compatible with section 1910.20 Access to Employee Exposure and Medical Records, will also be modified to clarify that the request for access by authorized government representatives can be made in person or in writing. This, in conjunction with proposed § 1904.13, will allow for collection of the records through the mail.

Currently, only government representatives are authorized access to the injury and illness supplementary forms (OSHA No. 101). This proposal will expand the access authorization to employees, former employees, and their designated representatives. OSHA believes this will increase employee and/or labor groups' ability to perform meaningful safety and health program analysis.

The section will also be modified to require employers to provide copies of the OSHA Log to authorized individuals at no cost. This will remove existing barriers to easy access to the forms by employees, former employees and their designated representatives.

The proposal will specify time limits the employer must meet in providing the injury and illness records once a request of access is made. Employers must provide: 1) copies of the OSHA Forms 300 and 301 within 4 hours of a request made in person by an authorized government representative; 2) access to the OSHA Forms 300 and 301 for review by the close of business on the next scheduled workday when a request is made by an employee, former employee or their designated representative(s); 3) copies of the OSHA Forms 300 and 301 within seven calendar days when a request is made by an employee, former employee or their designated representative(s); or 4) within 21 calendar days of a written request received from an authorized government agency. OSHA solicits input on these time limitations. Are they reasonable? Should they be shortened or extended?

12. Clarify the requirements of reporting fatalities and multiple hospitalization incidents, currently § 1904.8 and proposed § 1904.12. As can be seen in Section III. of the preamble to the April 1, 1994 final rule of the reporting requirements (FR Vol. 59, No. 63, 15599), it was OSHA's intent to require employers to make their reports in a manner which allows OSHA immediate access to the information. However, because the regulatory text reads, "shall orally report", there is the possibility that some employers may leave a message on an answering machine during non business hours to satisfy the requirement. Therefore, for clarification purposes, the regulatory text will be changed to read "* * * shall, report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration (OSHA), U. S. Department of Labor, that is nearest to the site of the incident during regular business hours, or by using the OSHA emergency toll-free central telephone number (1–800–321–OSHA [6742]) during non business hours."

OSHA will also clarify the requirement to report three or more in-patient hospitalizations which occur at a single site. The site controlling employer or designee will be responsible for making the report if no more than two employees of a single employer were hospitalized but, collectively, three or more workers were hospitalized as in-patients.

The OSHA toll-free telephone number will also be added to the regulatory text for clarification purposes.

13. Clarify an employer's responsibility to report injury and illness information to the Secretary of Labor and the Secretary of Health and Human Services. The proposed § 1904.13 consolidates current §§ 1904.20, 1904.21, and 1904.22 and reflects the transfer of some responsibilities from the BLS to OSHA. Injury and illness data required to be maintained by employers may be collected periodically by mail or other means. Data could be collected for a variety of purposes, including but not limited to, injury/illness surveillance; development of information for promulgating or revising safety and health standards; evaluating the effectiveness of OSHA's enforcement, training and voluntary programs; public information; and for directing OSHA's program activities, including workplace inspections.

14. Change the procedure for petitioning recordkeeping exceptions. The current variance section will be deleted. Instead, all requests for recording exceptions or variances will be made pursuant to the procedures in 29 CFR 1905. This change eliminates duplicate sets of rules/procedures found in Title 29 of the Code of Federal Regulations. The ability to request an exception or variance to the requirements under Part 1904 will continue using the procedures outlined under Part 1905.

Under the current recordkeeping requirements, one variance has been granted to AT&T, and subsequently expanded to the Bell companies. The variance allows AT&T to keep records of its "field force" by division, rather than by establishment. The centralization of records provision contained in this proposal will eliminate the continued need for this variance. All exemptions granted prior to the publication date of the final rule of revised Part 1904 will be null and void.

15. Require comprehensive records for "subcontractor employees" in the construction industry in proposed § 1904.17. The Keystone report originally proposed the use of "site logs" or comprehensive injury and illness records for major construction activities. The report noted that construction sites are normally composed of multiple contractors and subcontractors, each of which may be present at the site for a relatively short period of time. Under the current regulations there are no records readily available to represent the injury and illness experience for the entire site.

Accordingly, the proposal would require site-controlling employers (or their designees) in the construction industry to maintain a separate record reflecting the injury and illness experience of employees working for construction firms other than their own, working at the construction site when the initial construction contract value exceeds $1,000,000. In addition to the normal OSHA Log entry and Incident Record (OSHA Forms 300 and 301) which must be completed for all injuries and illnesses involving the site controlling employer's own "employees", a separate, additional record requiring an abbreviated entry shall be completed for injuries and illnesses of "Subcontractor employees". ("Subcontractor employees" are defined as employees of construction firms (in SICs 15,16, and 17) who are present at a construction project in connection with their job(s) who are not employees of the site controlling employer at that construction project.) The site controlling employer would only have to record injuries and illnesses of "subcontractor employees" who are employed by construction employers with 11 or more employees at any time during the previous calendar year. The site-controlling employer would only be required to enter the name of the injured "subcontractor employee", his or her company, date, and a brief description of the injury or illness. The site controlling employer has the option of using a separate OSHA Form 300, an equivalent form, or a collection of records obtained from the subcontractor employers (e.g. photocopies of subcontractors' Logs) to satisfy this requirement. The increase in burden for employers is offset for those employers who already maintain information on these cases for liability and other purposes. OSHA invites comment on limiting the requirement to injuries and illnesses experienced by "subcontractor employees" whose employers, because of their size, are covered by the OSHA injury and illness recordkeeping requirements. Should this requirement be expanded to record the injuries and illnesses experienced by all "subcontractor employees" on site, regardless of the employer's status under the recordkeeping requirements coverage?

The site-controlling employer would not be responsible for updating the records or entering counts of days away from work or restricted workdays for these "subcontractor employees". The "actual" employer of the worker (if not otherwise exempt from OSHA recordkeeping requirements) would be responsible for completing in detail any entries on their own OSHA records. Employers covered by the standard for the Process Safety Management of Highly Hazardous Chemicals; Explosives and Blasting Agents, 29 CFR 1910.119, are currently required to keep similar records.

The injuries and illnesses recorded for "subcontractor employees" under this requirement would not be included in the national statistics generated by the BLS Annual Survey. Records for "subcontractor employees" will be kept separately from the OSHA 300 Log; therefore, while site controlling employers and subcontractors with 11 or more employees will both maintain the injury and illness records, there will be no double counting of injuries and illness in the statistical system.

An alternative to this section has been suggested: Each contractor with 11 or more employees in an individual project, shall yearly or upon completion of their work on the project, provide the project owner, or agent for the owner, with a copy of their project specific OSHA 300 Log. The project owner would have the responsibility to collect the data and send it to OSHA, as required. OSHA invites public comment on this alternative.

16. Provide special guidance in a mandatory appendix for the recording of specific types of injuries and illnesses (see proposed Mandatory Appendix B). OSHA believes all of these conditions are recordable under the current recordkeeping requirements. However, in order to capture significant non-fatal cases that may not meet the other general criteria contained in this proposal, OSHA has developed a listing of specific conditions and corresponding recording criteria for each condition, and has incorporated the listing into the proposed regulations as a mandatory appendix. The application of this list will assist in

collecting more timely and complete data on non-minor occupational illnesses and injuries which are serious, significant or disabling but otherwise would not be captured consistently by the other recording criteria discussed in change number 3 above. The application of the list will also provide clear direction that is needed by employers to determine the proper recording of these conditions, and will incorporate the recordkeeping guidance that OSHA has developed in various guidelines, directives and letters of interpretation.

The current recordkeeping system requires "all" occupational illnesses to be recorded. An occupational illness is currently defined as "any abnormal condition or disorder" arising from a non-instantaneous work-related event or exposure. This definition is intended to collect comprehensive information on occupational illnesses as soon as they are detected or recognized. Detection or recognition can result from a clinical diagnosis, or through lab tests, x-rays, or other diagnostic techniques. The language of the current general illness recording criteria is so broad and inclusive that, in theory, it should encompass all illnesses, regardless of severity or duration. However, because there is no specific guidance for individual conditions, employers are often unsure of which diagnostic results constitute detection or recognition of an illness that should be entered into the records.

OSHA believes that by providing specific guidance for specific conditions, even though that guidance may be less inclusive than the general definitions currently in use, employers will be more likely to understand and comply with the recordkeeping requirements and the data will be improved.

In many instances, OSHA standards require employers to conduct certain tests or medical evaluations. In most cases, the lowest test results or medical criteria used as action thresholds within the standards are being proposed as the recording criteria for injury and illness recordkeeping purposes. OSHA does not believe that the recordkeeping criteria are restricted by these action thresholds prescribed in specific standards, but believes that using the same criteria for different standards and regulations improves the simplicity of the overall regulatory system. For example, the lowest biological and other monitoring test results used as threshold levels in the lead and cadmium standards will be used as the recording criteria. Under such circumstances, employers are required to use a single set of criteria to meet the obligations of both rules. The burden on employers may be reduced when parallel requirements exist.

OSHA believes that early recognition and recording of injuries and illnesses promote more timely resolution of the hazardous conditions causing them. The recording of injuries and illnesses in their early stages provides information that would allow the employer to correct hazardous conditions before they result in material impairment or do more serious damage to the employee. For this reason, the proposed criteria for recordable conditions are not limited to clinical diagnosis of an illness or injury by a physician. Recording of conditions listed in the Mandatory Appendix B when the applicable criteria are met will enhance the utility of the log as an information source and management tool.

OSHA selected the conditions listed in Appendix B using multiple criteria, as follows: 1) The condition would not be recorded, or would not be recorded accurately or consistently, using the general criteria, 2) The condition occurs commonly and large numbers of employers need specific guidance, and/or 3) The condition has a history of controversy that warrants specific guidance. If any of these conditions were met, OSHA also considered 1) existing standards covering the condition or hazard, 2) existing interpretations covering the proper recording of the condition, and/or 3) threshold recording criteria that could be developed using objective methods for determining the proper recording of an injury or illness. OSHA asks for input on whether these criteria are appropriate, or whether other criteria should be used for determining which conditions are listed in Appendix B. OSHA also asks for input on the specific criteria that have been chosen for each condition, including the effects of adopting these criteria, possible alternatives, and the potential benefits and costs associated with various alternatives.

The listed conditions must be recorded and entered into the injury and illness records when the proposed criteria are met. Some of these conditions are:

(a.) Elevated blood lead levels. The current recordkeeping system requires employers to record cases where an employee's blood lead level is in excess of 50 micrograms (µg) per 100 grams of whole blood. This has been the criteria in the recordkeeping guidelines since 1986. OSHA is proposing to revise this criteria to 40 micrograms (µg) per 100 grams of whole blood to match the lowest biological monitoring test result used as an action threshold within the lead standard (29 CFR 1910.1025(j)(2)(B)). Employers would record cases where an employee's blood lead level is in excess of 40 micrograms (µg) per 100 grams of whole blood.

OSHA asks for input on what level should be used and any other criteria which could be used to record lead related illnesses.

(b.) Cadmium. Employers would record cases where an employee's cadmium levels are as follows: level of cadmium in urine (CdU) exceeding 3 micrograms per gram of creatinine (µg/g Cr); level beta-2 microglobulin in urine (β2–M) exceeding 300 micrograms per gram of creatinine (µg/g Cr); or level of cadmium in blood (CdB) exceeding 5 micrograms per liter of whole blood (µg/lwb). These criteria are based upon the surveillance levels found in the Cadmium Standard, 1910.1027.

(c.) Hearing loss. Employers would record any work-related case resulting in an average shift of 15 decibels or more at 2000, 3000 and 4000 hertz in one or both ears as measured from the employee's original baseline established under 29 CFR Part 1910.95 Occupational Noise Exposure. The hearing test may be adjusted for aging and the recorded case may be removed if a retest performed within 30 days does not confirm the original shift. A presumption of work-relatedness is used for hearing loss occurring to employees covered by the Occupational Noise Exposure standard, i.e. those who are exposed to noise levels in excess of an 85 dB 8 hour time weighted average.

The lowest action level in the noise standard is an average shift of 10 decibels or more at 2000, 3000 and 4000 hertz. OSHA is proposing the 15 decibel criteria for recordkeeping purposes to account for variations in the reliability of individual audiometric testing results.

OSHA asks for input on which level of a shift in hearing should be used as a recording criteria; 10 decibels? 20 decibels? 25 decibels? For each level, what baseline should be used? Preemployment (original) baseline? Audiometric zero? Is adjusting for presbycusis appropriate?

(d.) Skin disorders. Employers would record skin disorders lasting beyond 48 hours, including, but not limited to, allergic or irritant dermatitis. OSHA asks if there are significant skin disorders, such as urticaria, which may not be captured by this criterion coupled with the general recording criteria (i.e. medical treatment, restricted work activity, days away from work, etc.)?

(e.) Asthma and other obstructive airway disease. Employers would record an initial episode of work-related asthma diagnosed by a health care professional. Employers would also record subsequent work-related episodes that result in the administration of prescription drugs and/or diagnosis by a health care provider. There are an estimated 200,000 cases of occupational asthma every year according to the National Institutes of Health. There are over 250 identified agents found in a diverse range of materials and industrial processes that can cause occupational asthma. OSHA believes it is essential to collect information on episodes of work-related asthma in order to identify and abate workplace conditions which lead to this illness. OSHA is, however, concerned that its proposed policy may result in the over-recording of occupational asthma when employees have chronic, recurrent cases of the disease. OSHA asks for input on possible ways to reduce or eliminate over-recording that will not result in the loss of significant asthma cases. OSHA also requests information on how to differentiate between episodes of asthma that are induced by the work environment and those which are not.

(f.) Asbestos-related disorders. Employers would record any case resulting in a diagnosis by a health care provider of asbestosis or mesothelioma, or the recognition of any other parenchymal or pleural abnormality (e.g. radiograph profusion category of 1/1 or greater by the ILO classification system, pleural plaques and/or pleural thickening). These criteria are based on information found in Appendix D of the asbestos standard (29 CFR Part 1010.1001) which discusses the signs and symptoms of exposure-related disease.

(g.) Bloodborne pathogens diseases (AIDS, HIV infection, Hepatitis B., etc.). OSHA is proposing to require employers to record exposure incidents which result in disease (e.g., HIV, hepatitis B, hepatitis C). Furthermore, OSHA is proposing that employers be required to record lacerations or puncture wounds involving contact with another person's blood or other potentially infectious materials since these are clearly non-minor "injuries". OSHA believes that these criteria meet the Agency's mandate to collect information related to the death, illness, and injury of workers. OSHA requests comment on whether it is appropriate to record these small puncture wounds and lacerations if they do not lead to disease.

The above criteria limit the number of "exposure incidents", as defined in the Bloodborne Pathogens standard, which are to be recorded. Incidents which result in exposures to blood or other potentially infectious materials to the eyes, mouth, other mucous membrane, or non- intact skin would not be OSHA recordable.

OSHA is aware that some health care facilities already collect data on all bloodborne pathogens exposure incidents because these events are believed to be of serious magnitude. For example, many employers collect information about needle punctures, blood splashes to the eyes, and exposures on non-intact skin. In light of this, OSHA is considering other options for the recordability criteria of bloodborne pathogens diseases. One option would require employers to record all "exposure incidents". An "exposure incident", as defined in the Bloodborne Pathogens standard, paragraph (b) of 29 CFR 1910.1030, means "a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties". Using this same definition for the recordability criteria may simplify the task of identifying what events need to be recorded for OSHA recordkeeping.

OSHA believes that the collection of information about "exposure incidents" is useful to employers in the control of bloodborne pathogens hazards. OSHA recognizes, however, that this second option requires the recording of "exposures" rather than strictly illnesses or injuries.

OSHA is seeking comments on this issue. What data is useful to collect? Are there other criteria for the recording of bloodborne infectious diseases which should be considered? What experience do employers have in data collection systems for this hazard?

In an attempt to address the concerns of personal privacy OSHA is additionally proposing that the exposure incidents described above be recorded simply as the type of bloodborne pathogen exposure incident, regardless of the outcome of the incident. In other words, employers shall record occupationally acquired bloodborne pathogen disease, such as Hepatitis B or C, simply as the initial bloodborne exposure incident and note the type of exposure (e.g. needlestick). The seroconversion status and specific type of bloodborne disease need not be entered. This strategy would enable employers to consider data about needle punctures or lacerations (or other bloodborne pathogens exposure incidents) while protecting the privacy of individual employee's medical information. (Please refer to the Issues for Comment section regarding confidentiality for further discussion of the employee privacy concerns.) These recording criteria apply to all employees covered by the Act and are not limited to those covered by the Bloodborne Pathogens Standard.

(h.) Tuberculosis infection or disease. OSHA is proposing that newly detected tuberculosis infections and cases of active tuberculosis in workers with occupational exposure be recorded. The criteria proposed is consistent with that published by previous OSHA directives to the field (Memorandum from Leo Carey to Regional Administrators, February 26, 1993).

Work-relatedness is presumed in work sites where the Centers for Disease Control and Prevention (CDC) has published reports of epidemics among workers resulting from workplace exposures, i.e., correctional facilities; health care facilities; homeless shelters; long-term care facilities for the elderly; and drug treatment centers. The employer can rebut this presumption of work relationship by providing evidence that the employee is known to have had a non-work exposure to active TB. Examples include situations in which (1) an employee is living in a household with a person diagnosed with active TB or (2) the Public Health Department lists the employee as a contact to a case of active TB.

All other industries would record tuberculosis infections or disease only if the employee was exposed to tuberculosis in the worksite. For example, in industries where tuberculosis is not a recognized hazard resulting from work duties, tuberculosis infections or disease would not routinely be recorded. However, if a worker with infectious tuberculosis disease infected their co-workers, the co-workers' infection/disease would be recordable.

OSHA is seeking to learn if there are other industries, aside from those listed in the proposal, where reasonably anticipated occupational exposure to tuberculosis is occurring. Are there other types of worksites where the presumption of work-relatedness should be applied?

(I.) In addition to these conditions, Mandatory Appendix B provides guidance for cases resulting in carbon monoxide poisoning, mercury poisoning, benzene poisoning, UV burning of the eye, lacerations, hepatitis A, mesothelioma, byssinosis, hypersensitivity pneumonitis, toxic inhalation injuries, pneumoconiosis, eye injuries, musculoskeletal disorders, fractures of bones or teeth, and burns.

OSHA asks for input on possible additions, deletions, and revisions to the list, different or additional criteria (e.g. diagnostic test results) or any other information that might be used for establishing the existence of, and lead to the accurate, consistent recording of injuries and illnesses.

III. Specific Issues for Comment

OSHA invites comment on the proposed changes in the regulations, forms and supplemental instructions. OSHA has identified the following nine issues. For some issues, the agency is considering using alternative regulatory text which is included in this "Specific Issues for Comment" section. OSHA would like to receive specific comment on these issues, including any cost and benefit estimates on the various options discussed below:

Issue 1. Exemptions from OSHA injury and illness recordkeeping requirements. The current regulations include exemptions from most of the recordkeeping requirements for small employers (no more than 10 employees) and establishments in specific services and retail standard industrial classifications (SICs 52–89). Industries traditionally targeted for OSHA enforcement, which are those in SICs 01 through 51, are not exempted. (Note the "exemption" is really a partial one because "exempt" employers must still comply with the provisions of the current § 1904.8, Reporting of fatality and multiple hospitalization accidents (proposed § 1904.12) and § 1904.21, Duties of employers (proposed § 1904.13). Because the exemption is a partial one, affected employers are referred to as "partially exempt").

SIC Exemption. In 1983, the industries selected for the partial exemption were chosen from major industry groups within SICs 52–89, at the two 2-digit level, whose average lost workday case injury rate for 1978–80 was at or below 75% of the private sector average. Industries traditionally targeted for OSHA enforcement, which are those in SICs 01 through 51, are not exempted. Application of this formula resulted in the current list of partially exempted industries:

SIC	Industry
55	Automotive dealers and gasoline service stations.
56	Apparel and accessory stores.
57	Furniture, home furnishings, and equipment stores.
58	Eating and drinking places.
59	Miscellaneous retail.
60	Depository institutions.
61	Nondepository institutions.
62	Security and commodity brokers.
63	Insurance carriers.
64	Insurance agents, brokers and service.
65	Real estate.
67	Holdings and other investment offices.
72	Personal services.
73	Business services.
78	Motion pictures.
81	Legal services.
82	Educational services.
83	Social services.
84	Museums, art galleries and botanical & zoological gardens.
86	Membership organizations.
87	Engineering, accounting, research, management and related services.
88	Private Households.
89	Miscellaneous services not elsewhere classified.

Since the partial recordkeeping exemption based on SIC codes was implemented, the injury and illness rates of the major industry groups have changed. If the same formula were applied to the 1990–92 lost workday injury rate statistics for SICs 52–89, at the 2-digit level, no additional industries would be added to the partial exemption. Two industries would lose their partial exemption and be required to keep records: eating and drinking places (SIC 58), and museums, art galleries and botanical & zoological gardens (SIC 84).

Within certain major industry groups (2-digit SICs), there exist high hazard industries and industry groups (4 and 3-digit SICs) (ex.8). To address this "nesting" problem, OSHA applied the 1983 evaluation criteria to the 1990 through 1992 BLS lost workday injury data at the 3-digit SIC level. Where no information was available at the 3-digit level, OSHA used information at the 2-digit level.

The proposed text in this NPRM modifies the partial exemption for industries in Standard Industrial Classifications (SICs) 52 through 89 to reflect this refinement to address the "nesting" problem. Current partially exempt industries which would have to comply are:

SIC 553 Auto and Home Supply Stores,
SIC 555 Boat Dealers,
SIC 571 Home Furniture and Furnishings Stores,
SIC 581 Eating Places,
SIC 582 Drinking Places,
SIC 596 Nonstore Retailers,
SIC 598 Fuel Dealers,
SIC 651 Real Estate Operators and Lessors,
SIC 655 Land Subdividers and Developers,
SIC 721 Laundry, Cleaning, and Garment Services,
SIC 734 Services to Dwellings and Other Buildings,
SIC 735 Miscellaneous Equipment Rental and Leasing,
SIC 736 Personnel Supply Services,
SIC 833 Job Training and Vocational Rehabilitation Services,
SIC 836 Residential Care,
SIC 842 Arboreta and Botanical or Zoological Gardens, and
SIC 869 Membership Organizations Not Elsewhere Classified.

The following industries, currently required to comply with the injury and illness recordkeeping regulation, will be partially exempt:

SIC 525 Hardware Stores,
SIC 752 Automobile Parking,
SIC 764 Reupholstery and Furniture Repair,
SIC 793 Bowling Centers,
SIC 801 Offices and Clinics of Doctors of Medicine,
SIC 807 Medical and Dental Laboratories, and
SIC 809 Miscellaneous Health and Allied Services, Not Elsewhere Classified.

If the same analysis, using data at the 3-digit level where available, were applied to those industries in SICs 01 through 51 (industries not historically exempted from OSHA recordkeeping), the following industries would have lost workday case rates less than 75% of the private sector average:

SIC 074 Veterinary Services,
SIC 131 Crude Petroleum and Natural Gas,
SIC 211 Cigarettes,
SIC 233 Women's and Misses' Outerwear,
SIC 234 Women's and Children's Undergarments,
SIC 272 Periodicals,
SIC 273 Books,
SIC 274 Miscellaneous Publishing,
SIC 281 Industrial Inorganic Chemicals,
SIC 282 Plastics Materials and Synthetics,
SIC 283 Drugs,
SIC 286 Industrial Organic Chemicals,
SIC 291 Petroleum Refining,
SIC 319 Leather Goods, NEC,
SIC 357 Computer and Office Equipment,
SIC 366 Communications Equipment,
SIC 367 Electronic Components and Accessories,
SIC 376 Guided Missiles, Space Vehicles, Parts,
SIC 381 Search and Navigation Equipment,
SIC 382 Measuring and Controlling Devises,
SIC 384 Medical Instruments and Supplies,
SIC 385 Ophthalmic Goods,
SIC 386 Photographic Equipment and Supplies,
SIC 387 Watches, Clocks, Watchcases and Parts,
SIC 391 Jewelry, Silverware, and Plated Ware,
SIC 448 Water Transportation of Passengers,
SIC 461 Pipelines, Except Natural Gas,
SIC 472 Passenger Transportation Arrangement,
SIC 481 Telephone Communications,
SIC 483 Radio and Television Broadcasting,
SIC 489 Communications Services, NEC,
SIC 491 Electric Services,
SIC 504 Professional and Commercial Equipment,
SIC 506 Electrical Goods,
SIC 507 Hardware, Plumbing and Heating Equipment,
SIC 513 Apparel, Piece Goods, and Notions, and
SIC 516 Chemicals and Allied Products.

OSHA solicits comment on the appropriateness of its exemption procedure, expanding it to SICs 01 through 51, or alternative approaches that would reduce employer paperwork burden while retaining needed injury and illness information. Specifically OSHA requests comment on whether to expand the partial exemption to some, all, or none of these industries as classified by SIC code. Please include any estimates of costs and benefits associated with these exemptions.

Small Employer Exemption. The proposed text in this NPRM also modifies the partial exemption for small employers. Employers in the construction industry with 10 or fewer employees, and non-construction employers with 19 or fewer employees will now be exempted from all requirements except the Reporting of Fatality and Multiple Hospitalization Incidents (proposed § 1904.12) and Duties of Employers (proposed § 1904.13). The BLS Annual Survey data show that small employers generally experience much lower patterns of injuries and illnesses than medium and larger size firms. However, the BLS Annual Survey also shows that small employers in the construction industry account for a significant percentage of recordable injuries and illnesses. In 1991, over 66,000 recordable cases occurred in construction firms with 11 to 19 employees. These cases accounted for 13% of the total recordable cases in the construction industry. In contrast, in the manufacturing industry, only 2.4% of the recordable cases were found in firms with 11 to 19 employees. OSHA believes, given these numbers and the transient nature of the construction industry, that employers in the construction industry with 11 or more employees should be required to keep OSHA injury and illness records.

Discussion. The modification of both the small employer and SIC partial exemptions is designed to ensure that OSHA's recordkeeping requirements cover those employers with the highest rates of occupational injuries and illnesses. These changes shift the recordkeeping responsibilities from historically low hazard employers to employers experiencing higher rates of injuries and illnesses. The net effect of these changes in scope will be the recording of more injuries and illnesses, but fewer establishments will be covered by the regulation.

Employers in the proposed partially exempt industries and small employers will be required to maintain the OSHA Injury and Illness Log and Summary (proposed Form 300) when they are notified that they have been selected for the BLS Survey of Occupational Injuries and Illnesses for a given year. Partially exempt employers may also be required to provide reports related to occupational safety and health, as required by the proposed § 1904.13. Additionally, these employers will be required to comply with reporting requirements for Fatality and Multiple Hospitalization Incidents (proposed § 1904.12).

OSHA asks for specific input on the following items:

(1) Should the list of partially exempt industries based on SIC codes remain the same, be eliminated, or be expanded?

(2) How often should the SIC exemption be updated using current data?

(3) What are other options for addressing the SIC exemption issues?

(4) Should the small employer partial exemption remain the same, be eliminated, or be expanded?

(5) What would the cost be (time and money) for keeping the records to employers currently exempt from the recordkeeping requirements but proposed to be covered? and

(6) What benefits would accrue from the proposed changes (monetize or quantify where feasible)?

Issue 2. Case recordability criteria—injury/illness severity and work-relationship. Section 8(c)(2) of the Act, which deals with injury and illness recordkeeping, mandates the maintenance of accurate records of "work-related deaths, illnesses and injuries other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job." Section 24(a), which deals with statistics, mandates the collection of statistics on "work injuries and illnesses which shall include all disabling, serious or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job."

The current recordkeeping system, and the system that is being proposed, consider conditions work-related if the work environment either caused or contributed to the conditions or aggravated a pre-existing condition to the extent that it becomes recordable. This proposal, however, includes the exemption of certain activities to avoid recording cases which OSHA believes add no useful information to the records for surveillance purposes. Appendix A. of this proposal describes these exemptions. For example, employers will consider a case non work-related if "the case results solely from normal body movements, i.e. walking unencumbered, talking, tying a shoe, sneezing, or coughing, provided the activity does not involve a job-related motion and the work environment does not contribute to the injury or illness."

The proposed system requires the recording of all injuries and illnesses with the exclusion of minor injuries and illnesses. OSHA believes that potentially debilitating illnesses should be recorded as early in their development as possible, to promote the early recognition and resolution of problems that could halt the progression of the illnesses. OSHA believes that the records should capture most injuries and illnesses, in order to provide an effective surveillance system for occupational safety and health program development, but exclude minor injuries and illnesses.

Within the occupational safety and health community, there is a variety of views concerning the interpretation of these Sections of the Act and the types of cases the records should capture. The discussion revolves around two questions: (1) What constitutes work-relationship? (2) What is the level of injury/illness seriousness that should be used to determine the proper recording of a case? OSHA has identified the following three alternative views on both work-relatedness and seriousness

that differ from the positions OSHA proposes in this document:

Work-Relatedness

This issue is especially relevant when dealing with conditions where the specific event or exposure that caused the injury or illness cannot be easily identified, or the condition is the result of both work-related and non work-related causes (such as off-the-job activities, aging, prior medical history or work aggravation of off-the-job injuries). Common examples include lower back pain, hearing loss, and asthma.

Alternative 1: Exclude Cases With Any Non-Work Linkage

Those holding this view believe that the work environment should be the sole, obvious cause of the injury or illness before it is recorded. They believe that cases should only be considered work-related if there is concrete evidence that the causal event or exposure occurred while the employee was engaged in work activities. They believe that if there is any evidence of non work-related factors, the case should be excluded.

Alternative 2: Limit to Predominant Workplace Linkage

Those holding this view believe that the work environment should be a major contributor to the injury or illness for the injury or illness to be considered work-related. They believe that OSHA's position is too harsh a test, amounting to zero tolerance for conditions where work is a minor contributor and non-work factors are the predominant cause of the injury or illness. Those holding this view believe that OSHA's current and proposed criteria for work-relationship cause companies to over-record cases, artificially inflate and overstate workplace injuries and illnesses, undermine the credibility of the system, and have led to general resistance to the recordkeeping system. Those holding this view believe the criteria should be modified so that a case would be considered work-related only if work activity(s) or exposure(s) causes or is the predominate contributor to the condition.

Some of those holding this view have proposed an alternative that would allow a documented determination by a health care provider to decide work-relationship for the following types of cases: hernias, cardiovascular disorders, respiratory conditions, hearing loss, skin disorders or musculoskeletal disorders such as back pain, tendinitis and carpal tunnel syndrome. For this purpose, a check list has been suggested, as follows. (note: In the absence of evaluation by a health care provider, the case would be considered work-related if the work environment caused, contributed to or aggravated the condition in any way.)

1. Injury/illness type
   _____Hernia
   _____Musculoskeletal disorder
   _____back pain
   _____tendinitis
   _____other_____
   _____Respiratory condition
   _____Skin disorder
   _____Non-occupational disease
2. How was injury/illness discovered
   _____During occupational medical visit
   _____Routine physical examination
   _____Non-occupational medical visit
   _____Other: _____
3. Applicable medical history

   _____

   _____

   _____
4. Off-the-job activities which may have contributed

   _____

   _____

   _____
5. Work relationship evaluation

a. Injury/illness characteristics
   _____ Degenerative condition due to aging or non-occupational disease
   _____ Congenital condition
   _____ Aggravation of on-the-job injury or illness

b. Possible work contribution
   _____ Workplace event or exposure? _____ yes _____ no
   _____ Workplace aggravation? _____ yes _____ no
   _____ Condition consistent with workplace event or exposure? _____ yes _____ no
   _____ Condition would have occurred without regard to workplace duties or exposures? _____ yes _____ no

c. Exposure factors for this type of injury/illness

On-the-job	Comments	Off-the-job	Comments
_____ High		_____ High	
_____ Medium		_____ Medium	
_____ Low		_____ Low	
_____ Not sure		_____ Not sure	

6. Work relationship determination
   _____ Work-related. On-the-job exposure factors more predominant than off-the-job exposure factors.
   _____ Not work-related. Off-the-job factors more predominant than on-the-job exposure factors.
   _____ Not sure. Assume work-relationship.

Alternative 3: Include Cases With Any Workplace Linkage

Those holding this view believe that injuries and illnesses should be recorded if the worker ever experienced a workplace event or exposure that had any possibility of playing a role in the case. For example, a cancer case, where the worker had at some time in his or her career worked with a carcinogenic substance, would be considered work-related, even though there is no positive link between the case and a workplace exposure.

Seriousness

The concept of seriousness is particularly relevant when dealing with conditions where the worker is not obviously impaired, but is experiencing some subjective symptom (pain, dizziness, etc.) or has an abnormal health test result. For example, a blood test may indicate that a worker has a relatively high level of cadmium in his or her system, but the worker is not experiencing any symptoms that adversely affect either work or lifestyle. The worker has an abnormality, but should it be considered an injury or illness?

Alternative 1: Days Away From Work or Death

Proponents of this view believe that employers should record only those cases that result in days away from work or death. They believe that this will result in the most meaningful and accurate information (because fatalities and days-away-from-work cases are hard to "cover up" and they are unquestionably serious). They also believe that this approach will minimize the burden on employers and focus safety and health efforts on the cases with the greatest impact on both employers and workers.

Alternative 2: Days Away From Work, Impairment, or Death

Proponents of this view agree with across-the-board application of the basic criteria mentioned in Section 8 of the Act, (days away, medical treatment beyond first aid, etc.) but believe the purpose of proposed Mandatory Appendix B should be limited to capturing "serious" cases which may be "missed" because they do not meet the basic criteria. Such cases would include disorders where no lost time occurs, or where medical treatment is not provided at the time the case is diagnosed or discovered because medical treatment would not help, but the case is serious nonetheless. Examples include the current criteria for recording hearing loss (25dB), asbestosis, mesothelioma, silicosis, byssinosis and other similarly serious work-related diseases.

Potential guiding language for recording cases missed by the basic criteria would be "any work-related condition that results in, or is likely to result in, a physical or mental impairment that substantially limits a major life activity." In addition to stating such guiding language in, and as a basis for a Mandatory Appendix, clarifying examples of specific known to be serious conditions such as, but not limited to, those mentioned in the paragraph above could be listed.

Those who support this approach believe it meets the "disabling, serious, or significant" criteria prescribed in Section 24(a) of the Act and that these criteria must be considered carefully, especially if OSHA intends to collect OSHA Logs and use the data for inspection targeting and intervention purposes. Supporters of this approach also believe it will provide the most meaningful data to employers for improving workplace safety and health efforts by helping to allocate resources for preventing injuries and illnesses which are truly serious.

Alternative 3: No Limitations on Seriousness

Proponents of this view believe that all work-related injuries and illnesses should be recorded. They interpret the Act to require the recording of all work-related illnesses, no matter how minor or how short lived they may be, and the recording of all non-minor injuries. They believe the recording criteria should be expanded to include all signs and symptoms experienced by workers, and perhaps even potentially hazardous exposure incidents and near misses. They believe that this alternative provides the employer and the workers at the worksite with the most effective surveillance tool that will lead to the most complete injury and illness prevention efforts. Proponents of this view have provided alternative language for recording cases where "signs, symptoms, and/or laboratory abnormalities last longer than 48 hours (either persistently or intermittently)" excluding minor injuries (minor injuries are minor scratches, abrasions, bruises and first degree burns)."

Implications

The issues of work-relationship and case severity have major implications for all of the parties that use the injury and illness records, including employers, workers and the government. If the criteria are too inclusive, they may appear to overstate the injury and illness experience, undermine the credibility of the system, and fail to focus safety and health efforts on the most serious workplace hazards. If they are too exclusive, they may appear to understate the injury and illness experience, undermine the credibility of the system, and fail to reflect hazardous conditions that require attention. OSHA believes that the OSHA proposal in the NPRM is compatible with the language and intent of the Act, and provides the best way to resolve these issues. OSHA welcomes comment, ideas, and alternative suggestions from the public concerning these issues and the alternatives presented above.

Specifically, OSHA requests input on A) The level of severity and criteria for establishing work-relationship and determining which cases are entered into the records; B) How "significant/serious/disabling" should be defined to result in consistent recording practices and data; C) How work contribution can be objectively measured for such a purpose; D) Does the checklist shown above meet these objectives? F) Should work-relationship be established only where work is the predominant causal factor? G) Should work-relationship be established if work was something less than the predominant cause? or H) If work contributed more than 50% to the injury or illness? 25%? 10%? J) How could any of these percentages be measured/determined?

Issue 3. The definitions of first aid and medical treatment. The distinction between first aid and medical treatment is a critical component in determining whether to record a work-related injury or illness. One criterion in the proposed regulatory text requires any work-related injury or illness involving medical treatment beyond first aid to be recorded. A case which involves first aid only (and does not meet any of the other recording criteria) is not recordable. The intent of this distinction is to capture information on injuries and illnesses which are significant and would provide valuable information for safety and health analysis while excluding minor cases which would not provide necessary or useful information for analysis.

The current recordkeeping system defines first aid as any one-time treatment, and any follow-up visit for the purpose of observation, of minor scratches, cuts, burns, and splinters, and so forth which do not ordinarily require medical care. Medical treatment is defined to include any treatment other than first aid treatment administered to injured employees. The definition focuses on the type of treatment given and not on the person administering the treatment (e.g. physician, registered health professional, etc.). These definitions are further clarified within the *Recordkeeping Guidelines for Occupational Injuries and Illnesses* by lists of examples of treatments which are considered either medical treatment or first aid. These lists are not comprehensive and confusion exists concerning the classification of unlisted treatments.

This proposal attempts to clarify the distinction between first aid and medical treatment by defining the terms in a way that will make them mutually exclusive. The proposed regulatory text defines first aid with a finite list of treatments. Medical treatment is defined as any treatment other than those listed in the first aid definition.

"First aid" means the following treatments for work-related injuries and illnesses:

1. Visit(s) to a health care provider limited to observation
2. Diagnostic procedures, including the use of prescription medications solely for diagnostic purposes
3. Use of nonprescription medications, including antiseptics
4. Simple administration of oxygen
5. Administration of tetanus/diphtheria shot(s) or booster(s)
6. Cleaning, flushing or soaking wounds on skin surface
7. Use of wound coverings such as bandages, gauze pads, etc.
8. Use of any hot/cold therapy (e.g. compresses, soaking, whirlpools non-prescription skin creams/lotions for local relief, etc.) except for musculoskeletal disorders (See Mandatory Appendix B)
9. Use of any totally non-rigid, non-immobilizing means of support (e.g. elastic bandages)

10. Drilling of a nail to relieve pressure for subungual hematoma
11. Use of eye patches
12. Removal of foreign bodies not embedded in the eye if only irrigation or removal with a cotton swab is required
13. Removal of splinters or foreign material from areas other than the eyes by irrigation, tweezers, cotton swabs or other simple means

OSHA asks for comment on the following issues:

(A) Should any treatments on the proposed first aid list be excluded and should any treatments be added?

(B) Should a list of medical treatments also be provided? Which treatments?

(C) Should simple administration of oxygen be defined to exclude more severe procedures such as Intermittent Positive Pressure Breathing (IPPB)? If so, how?

Issue 4. The definition of restricted work. The Keystone Report stated that the recording of restricted work is perhaps the least understood and least accepted concept in the recordkeeping system. Recording cases involving restricted work activity is important because injured or ill employees are unable either to perform all of their normal duties or perform a full day's work. The concept of restricted work activity was included in the Act due to concern that some employers might try to conceal significant injuries and illnesses by temporarily assigning injured or ill workers to other jobs with reduced requirements. This concern still exists today.

The difficulty in determining restricted work lies in the need to determine the employee's "normal duties". In the past, OSHA has broadly defined the employee's normal duties to include any work activity included in the employee's job description, even if the activity is performed infrequently. According to the Keystone Report, this definition is problematic because "(1) few in industry understand the scope of this interpretation; (2) many who do understand it disagree with it; and (3) to maximize productivity, workers are increasingly assigned a wider range of tasks, making it increasingly difficult to measure and/or verify the performance of these greatly divergent and infrequent duties." (ex. 5, p. 17)

The Keystone Report recommended that restricted work activity should be recorded if the employee is 1) unable to perform the task he/she was engaged in at the time of injury or onset of illness or 2) unable to perform any activity that he/she would have performed during the week. OSHA believes that the first criterion will focus on the hazardous tasks that lead to serious injuries and illnesses. OSHA believes, however, that the second criterion is not easily defined and could lead to the recording of inconsistent data. This criterion has been narrowed in the proposed text of the regulation to include activities the employee performed or was expected to perform on the day of injury or onset of illness. OSHA believes these activities will be well known and understood and use of this criterion will lead to greater consistency in the recording of these more severe work-related injuries and illnesses.

This proposal also eliminates the requirement for employers to count the days of restricted work activity. The employer will be required to place a check in the restricted work column if the case involved restricted work activity but not days away from work.

OSHA asks for input on whether the proposed language is too limiting or too broad, on alternative ways to define restricted work activity and/or the usual duties of an employee, along with suggested ways to improve employers' understanding and acceptance of the concept of restricted work activity. OSHA's goal is to have employers consistently record cases that involve restricted work by providing a concept which is widely accepted and easy to interpret.

OSHA asks for input on the following questions: (A) Will the elimination of the restricted work activity day count provide an incentive for employers to temporarily assign injured or ill workers to jobs with little or no productive value to avoid recording a case as one involving days away from work? (B) Will the inclusion of question 13 on the proposed OSHA Form 301, "If the case involved days away from work or restricted work activity, enter the date the employee returned to work at full capacity", help to reduce such an incentive?

Issue 5. The proper recording of musculoskeletal disorders (MSDs). Over the last 10 years, there has been an increased awareness of work-related disorders associated with ergonomic hazards, i.e. hazards associated with lifting, repeated motion, and repetitive strain and stress on the musculoskeletal systems of workers. OSHA labels these injuries and illnesses, which result from ergonomic hazards, "musculoskeletal disorders" (MSDs). MSDs do not include broken bones, chipped teeth, contusions or sprains/strains resulting from falls or being struck.

Although MSDs have always been recordable, OSHA and BLS had not published any specific guidance on how to record them until 1986. The 1986 Recordkeeping Guidelines provided some limited specific guidance by requiring all back cases to be evaluated as injuries using the general injury criteria, and to record carpal tunnel syndrome as an illness. The 1986 Guidelines did not provide specific directions on which criteria to use for recording other types of musculoskeletal disorders.

Historically, for recording purposes, disorders caused by repeated or cumulative trauma were covered by the general illness criteria because these disorders are caused by prolonged exposure to various risk factors, rather than being caused by a single instantaneous event. The existing definition of occupational illness (in place since 1971) is very inclusive: "Any work related abnormal condition or disorder (other than an occupational injury)". (1986 Recordkeeping Guidelines, P 39) Thus, the current criteria for recording illnesses requires the employer to record each and every occupational illness, including MSDs.

Theoretically, all musculoskeletal disorders, even the less severe cases which do not meet the recording criteria for injuries, would be recordable as a result of applying the general illness recording criteria. Despite their recordability, OSHA observed that very few, if any, of these disorders were being recorded on employers' OSHA Logs. As a result, OSHA developed an enforcement policy limiting the issuance of citations and penalties for unrecorded MSDs to those cases which involve:

- a clinical diagnosis by a health care provider; or
- at least one physical finding, (i.e., an objective symptom such as redness or swelling); or
- a subjective symptom, such as pain or numbness, coupled with either medical treatment or lost workdays, (i.e., days away from work and/or days of restricted work activity).

In 1990, OSHA published specific criteria for the proper recording of MSDs in the *Ergonomics Program Management Guidelines For Meatpacking Plants* (Meatpacking Guideline). These criteria have been the basis for all of OSHA's interpretations involving the proper recording of musculoskeletal disorders to the upper extremities (shoulder, arms, wrist and hands) since that time.

Even though the specific criteria in the Meatpacking Guidelines defined fewer recordable cases than the general illness criteria, the number of recorded cases has increased dramatically. While OSHA believes that these types of disorders are increasing in number, OSHA believes that the increase in recorded MSD cases is also the result of OSHA providing employers with specific guidance on the subject, in conjunction with enforcement of the requirements. Compliance with the recordkeeping requirements improved substantially and the resulting data and statistics have reflected that improvement.

One purpose of this proposed revision of 29 CFR Part 1904 is to consolidate in the regulation various criteria, guidelines and interpretations policies which are currently found in a number of different documents. Another purpose is to simplify the recordkeeping requirements, in order to make the system more "user friendly" and to encourage more accurate and consistent recording of injuries and illnesses. Consistent with these purposes, OSHA is proposing to incorporate the criteria for recording MSDs found in the Meatpacking Guidelines in mandatory Appendix B of the proposed regulation, and to simplify the system by applying those criteria equally to cases involving the upper extremities, the back and the lower extremities.

The criteria in proposed Mandatory Appendix B require employers to record new, work-related musculoskeletal disorders: (1) whenever they are diagnosed by a health care provider, or (2) if the employee has objective findings (redness indicative of inflammation, deformity, swelling, etc.). When either of these criteria, or when any of the general criteria for recording illnesses and injuries in § 1904.4(b) (i.e. death, loss of consciousness, days away from work, restricted work activity, job transfer, or medical treatment beyond first aid) is met, the case is required to be recorded on the OSHA Form 300. OSHA's proposal represents a continuation of the current recording policy, and is intended to ensure the early recognition and recording of musculoskeletal disorders so appropriate actions may be taken.

The current recording of these cases is also dependent on the definitions of first aid, medical treatment and restricted work. Because OSHA is proposing to change those definitions, the recording of musculoskeletal disorders will be affected. OSHA recognizes that hot and cold treatments for most injury and illness conditions should be considered first aid treatments, as indicated in the proposed definition of first aid. However, NIOSH (NIOSH, Cumulative trauma disorders: A manual for musculoskeletal diseases of the upper limbs, Taylor and Francis, 1988, p. 125) and other recognized authorities (Hales & Bertsche, "Management of Upper Extremity Cumulative Trauma Disorders", AAOHN Journal, March, 1992, Vol. 40, No. 3; Nanneman, D., "Thermal modalities: Heat and cold: Review of physiological effects with clinical applications", AAOHN Journal, 1991, Vol. 39, No. 2) recognize hot and cold treatments as therapeutic modalities in the conservative, early treatment of MSDs. Because these treatments may cause negative effects if not properly administered, OSHA is proposing that two or more hot and cold treatments be considered medical treatment for MSDs only when directed by a health care professional.

There is a concern that the proposed criteria will result in a situation where workers could be working with significant pain for an extended period of time, without their case being entered into the records. OSHA has been asked to consider an additional recording criterion for these cases: record when the employee reports symptoms (pain, tingling, numbness, etc.) persisting for at least 7 calendar days from the date of onset. OSHA asks for input on this criterion.

OSHA recognizes that its proposed recording policy does not provide a mechanism for excluding cases that involve short term job transfers for minor soreness that commonly occurs to newly hired employees or employees on rehabilitation assignments during a "break in" stage. OSHA asks for input on whether a method for excluding these cases should be developed? If so, what method should be used?

Issue 6. The reluctance of some employers to enter cases into the records. For a variety of reasons, some employers have historically shown a reluctance to enter injuries and illnesses into the OSHA records.

Some employers mistakenly believe that recording a case implies fault on the part of the employer. Some fail to recognize that the requirements of OSHA recordkeeping have nothing to do with workers' compensation insurance or any other system outside of the OSHA requirements. While many OSHA recordable injuries and illnesses may be compensable under an insurance program, others are not. Furthermore, many employers use a workers' compensation or insurance form in lieu of the OSHA supplementary record. However, some employers who use these forms in lieu of the OSHA supplementary record mistakenly believe that completing the forms for OSHA recordkeeping purposes automatically makes the case compensable. While reducing the paperwork burden on employers, perhaps this equivalency option perpetuates this misunderstanding and should be eliminated.

Many companies use the information from the OSHA records to establish "accountability systems" for management as well as their safety and health professionals. Often these systems are linked to performance evaluations of the affected individuals. These performance evaluations may be used to help determine bonuses, promotions, or compensation levels. Affected employees may be discouraged from fully and accurately recording injuries and illnesses in the OSHA records when they may be, or may perceive to be, personally penalized for complying with the OSHA recordkeeping requirements.

The OSHA recordkeeping proposal includes several items intended to reduce the effects of these potential problems on the accuracy of the records. Certification of the accuracy and completeness of the OSHA Log by a responsible company official and disclaimers of a relationship between OSHA injury and illness recordkeeping and implications of fault for insurance systems are included in the regulatory text and on the proposed forms. The "employer use column" can be utilized by companies to indicate those cases that the firm does not wish to include in their internal safety statistics.

OSHA asks for input on (A) ways to encourage accurate injury and illness records, (B) how the confusion between OSHA recordkeeping and workers' compensation/insurance requirements can be minimized, and (C) how the adverse effect of accountability systems on the OSHA records can be reduced.

Issue 7. Improving employee involvement. The Keystone report stated that overall workplace safety and health would benefit if the information in the injury and illness records were more widely known. The report noted that employee involvement and awareness are minimal for three reasons: (1) Lack of knowledge that access is permitted, (2) fear of employer reprisal, and (3) employee apathy. The Keystone report concluded that employee notification could improve employee involvement in recordkeeping and enhance the quality of the data, increase employees' knowledge of hazards, promote better cooperation between employers and employees in reducing hazards, and contribute to safer, more healthful workplaces.

OSHA asks for input on (A) whether employees should be notified that their individual injuries and illnesses have been entered into the records, (B) the

possible mechanisms employers could use to meet such a requirement and the degree of flexibility employers should be given, (C) any other ideas on methods for improving employee involvement in the injury and illness recordkeeping system, and (D) cost (including burden) and benefit information on each alternative.

Issue 8. Access to the OSHA forms and the privacy of injured or ill employees. The current regulation and the proposed regulatory text both require that employees, former employees, and their designated representatives have access to the entire OSHA injury and illness log, which includes personal identifiers. Furthermore, the current regulation does not provide employees or their designated representatives access to the OSHA injury and illness supplementary forms while the proposed regulatory text provides employees or representatives designated by employees access to all OSHA injury and illness supplementary records (proposed OSHA Form 301, Incident Record) of the establishment.

OSHA's historical practice of allowing employee access to all of the information on the log permits employees and their designated representatives to be totally informed about the employer's recordkeeping practices, and the occupational injuries and illnesses recorded in the workplace. However, this total accessibility may infringe on an individual employee's privacy interest. At the same time, the need to access individuals' Incident Records to adequately evaluate the safety and health environment of the establishment has been expressed.

These two interests—the privacy interests of the individual employee versus the interest in access to health and safety information concerning one's own workplace—are potentially at odds with one another. For injury and illness recordkeeping purposes, OSHA has taken the position that an employee's interest in access to health and safety information on the OSHA forms concerning one's own workplace carries greater weight than an individual's right to privacy. More complete access to the detailed injury and illness records has the potential for increasing employee involvement in workplace safety and health programs and therefore has the potential for improving working conditions. Analysis of injury and illness data provides a wealth of information for injury and illness prevention programs. Analyses by workers, in addition to analyses by the employer, lead to the potential of developing methods to diminish workplace hazards through additional or different perspectives.

OSHA is considering alternatives to the existing and proposed regulatory text to address the conflict between the privacy interests of the individual and the interest in total access to health and safety information concerning one's own workplace. One alternative to the regulatory text would be to require the removal of personal identifiers for only certain types of cases that might have higher privacy concerns than others.

The alternative described above raises additional questions to which the public is invited to respond. What other pieces of information, if any, on the currently proposed forms (proposed Forms 300 and 301—see section IV of this preamble) ought to be considered personal identifiers and included on the side of the form which is not disclosed once it is folded over? If only certain types of cases should be shielded, which types of cases ought to be considered "confidential" and subject to having the personal identifiers removed? Should a coding system be used for these cases to enable some people, but not others, to have access to the entry information, and if so, what type of system? Who should have access to the personal identifier information? Should the right to access an individual's Incident Record be limited to that individual?

It is OSHA's intention to make the forms readily accessible to employees and employee representatives who can use the information to affect safety and health conditions at the workplace. OSHA does not intend to provide access to the general public. OSHA asks for input on possible methodologies for providing easy access to workers while restricting access to the general public. OSHA also asks for input on the possible benefits and costs of making the information accessible, and any negative results that could occur from such access. Specifically, for employers who use State workers compensation, insurance, or other forms as equivalents to the OSHA form, are there data elements contained on those forms which could not be released to employees or their designated representatives? If so, what are those data elements? How would this affect the employer's ability to use equivalent forms?

OSHA invites the public to suggest other options or alternative regulatory language which would address this issue of confidentiality and access to information. Please include any information on costs and benefits that will result from these alternatives, including any ideas on how to quantify those costs and benefits.

Issue 9. The development of computer software to assist employers in the task of recordkeeping. To make injury and illness recordkeeping easier for employers, OSHA is considering the development of recordkeeping computer software. Once developed, the program could have the following minimum features:

(a) employ a decision-making logic for determining if an injury or illness is recordable, and if so the proper classification, and include questions to elicit the necessary information to complete and generate the OSHA required records;

(b) automatic form(s) generation;

(c) the ability to assist the employer in evaluating the entered data through several preset analytical tools (e.g. tables, charts, etc.);

(d) contain a tutorial section to assist employers in training employees in proper recordkeeping procedures;

(e) be in the public domain and/or be available at cost to the public.

OSHA is requesting comments on all facets of this approach toward development of software. In addition, OSHA would like to know what percentage of employers have computers to assist them in their business? What percentage of employers currently use computers for tracking employee-related information (payroll, timekeeping, etc.)? Should the distribution be through the Government, public domain shareware distribution, or other channels? Should OSHA develop the software or only provide specifications of its requirements?

IV. Proposed OSHA Forms

In conjunction with this proposed rulemaking, the OSHA recordkeeping forms are also being modified. OSHA is continuing to try to reduce the employer's paperwork burden through these modifications and reducing the number of duplicate questions on the forms. At this point, some duplicate questions remain and are needed for each form to "stand alone". OSHA believes if the duplication were reduced further, employers would be required to refer frequently to both forms at the same time, which would add additional burden. OSHA requests comment on any of these modifications, the remaining duplications, or any other related issues to the proposed forms.

The forms are being included in this preamble for informational purposes.

The OSHA 200 Log will be replaced with the OSHA 300 Log which includes reformatted columns and an additional column for the employer's use. The proposed elimination of the requirement that employers distinguish between injuries and illnesses in order to record a case would eliminate the need for separate groups of columns for injuries and illnesses on the Log. The proposed elimination of the requirement to count days of restricted work activity also eliminates the need for the restricted day count columns found on the OSHA 200 Log. The result is a simplified form that fits on standard size paper which can easily be copied and kept on a personal computer. This also results in space to create an employer use column which can be utilized by employers to tailor the Log to meet the needs of their particular safety and health program. For example, this column could be used by employers to enter causation, or injury and illness codes, or other information useful to the company. This employer use column may provide employers with additional flexibility, reducing their need to maintain multiple sets of records for various purposes.

Cases that end in permanent work restrictions, job transfer, or termination of employment will be noted by placing an asterisk next to the employee's name. This information could provide employers, employees, inspectors and researchers with another measure of severity for injuries and illnesses. A statement will be included on the summary portion informing employees, former employees, and their designated representatives of their right to access the entire Log.

A disclaimer will be included on the Log which states "Cases listed below are not necessarily eligible for Workers' Compensation or other insurance. Listing a case below does not necessarily mean that the employer or worker was at fault or that an OSHA standard was violated". The intent of this disclaimer is to dispel the mistaken belief that recording a case on the Log affects workers' compensation or establishes a finding of fault.

Some stakeholders have expressed the need for a column containing information on cases involving musculoskeletal disorders such as low back pain, tendinitis, and carpal tunnel syndrome. OSHA solicits comment on the inclusion of an MSD column on the form.

The Supplementary Record of Occupational Injuries and Illnesses (OSHA No.101) will be replaced with the OSHA Injury and Illness Incident Record (OSHA Form 301) in order to collect more useful information. Additional questions will be added to gather data on the events leading up to the injury or illness; on the equipment, material, or substance involved; and on the activity taking place when the injury or illness occurred. An employer use section will be added to provide the employer with space to record any additional information that is desired. A statement will be included on the form notifying employees, former employees, and their designated representatives of their right to access all OSHA injury and illness records of the establishment.

While the new OSHA 300 Log presents information on injuries and illnesses in a condensed format, an Incident Record provides more detailed information about the affected worker, the injury or illness, workplace factors associated with the accident, and a brief description of how the injury or illness occurred.

Currently, many employers use their insurance or State workers' compensation forms in place of the supplementary record. This reduces the burden on employers by allowing them to fill out a single form for multiple purposes. Several States have notified OSHA that they intend to modify their forms to qualify as equivalents to the OSHA form. OSHA anticipates that many other States will also modify their forms to qualify as equivalents to the OSHA form so employers may continue to have the benefit of interchangeable forms. OSHA is currently working with the International Association of Industrial Accident Boards and Commissions (IAIABC) to standardize the recording forms for occupational injuries and illnesses.

OSHA also requests comment on the concept of a single form which would meet all of the informational needs of the recordkeeping system. What items would be included? What format would be used? How would the use of a single form, as opposed to two forms, affect the employers ability to use State Workers—Compensation forms as equivalents to the OSHA form?

Information concerning the establishment name and address and the employee's social security number, regular job title, and the department in which the injured person is regularly employed will no longer be requested.

BILLING CODE 4510-26-P

OSHA Injury and Illness Log and Summary

Public Law 91-596 and 29 CFR 1904 require you to:
- Enter all recordable occupational injuries and illnesses. (See instructions on back.)
- Update and retain completed form for three years.

Failure to complete, update and post can result in the issuance of citations and penalties.

This form is not an insurance form. Cases listed below are not necessarily eligible for Workers' Compensation or other insurance. Listing a case below does not necessarily mean that the employer or worker was at fault or that an OSHA Standard was violated.

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved O.M.B. No. 1218-0000
See O.M.B. disclosure statement on back.

For calendar year ____
Page ____ of ____

_____ *Establishment Name*

_____ *Establishment Address*

_____ *Mailing Address if different*

Industry description and Standard Industrial Classification (SIC) if known (*e.g. Manufacture of motor truck trailers, SIC 3715*)

A. Employee's Name (e.g. Doe, Jane B.)	CASE IDENTIFICATION B. Case Number (e.g. 1, 2, 3...)	C. Date of injury or illness (m/d)	D. Department and location where event occurred (e.g. loading dock north end)	E. Regular job title (e.g. Welder)	CASE DESCRIPTION F. Description of injury or illness; part(s) of body affected, and object/substance which directly injured or made employee ill (e.g. Second degree burns on right forearm from acetylene torch)	CASE CLASSIFICATION (Check only one) G. Death (X)	H. Involving Days Away (X)	H. Involving Days Away (# Days)	I. Without Days Away: Restricted Work Activity (X)	I. Without Days Away: Other (X)	OTHER J. Employer Use
						☐	☐		☐	☐	
						☐	☐		☐	☐	
						☐	☐		☐	☐	
						☐	☐		☐	☐	
						☐	☐		☐	☐	
						☐	☐		☐	☐	
						☐	☐		☐	☐	
						☐	☐		☐	☐	
						☐	☐		☐	☐	
						☐	☐		☐	☐	

YEAR END SUMMARY
Complete the year end portion of this form, even if there were no cases during the year. Fold along line to the right and post this form from February 1 to January 31 where

Employees, former employees, and their representatives have the right to review all OSHA injury and illness Records, in their entirety, for this establishment.

Year end totals ____ ____ ____ ____ ____
Annual average number of employees _____
Total hours worked by all employees _____

I have examined this Log and Summary and certify its accuracy and completeness X _____ (Responsible Company Official) Title _____ Phone ( ) _____ Date ___/___/___

Knowingly falsifying this document can result in fine, imprisonment, or both. Draft OSHA Form 300 (10/95)

General Instructions OSHA Form 300

The OSHA regulation, Recording and Reporting Occupational Injuries and Illnesses (29 CFR Part 1904) provides comprehensive instructions and definitions necessary to find out if you need to keep these records, for completing the forms, as well as other detailed recording and reporting requirements. The instructions on this form are intended to supplement the instructions in the regulation. To obtain the regulation and related guidance, contact your local OSHA office.

The Occupational Safety and Health Act of 1970 requires most employers to maintain injury and illness records. One part of the requirements is to keep an OSHA Injury and Illness Log and Summary. In order to fulfill this requirement, the employer may use this form or an equivalent form.

Work Relationship
A case is considered work related if an event in the work environment either causes or contributes to an injury or illness or aggravates a preexisting condition.

Recordable Cases
Work related injuries or illnesses are to be recorded on this form within seven calendar days of receiving information that a recordable injury or illness has occurred. An injury or illness is recordable if it results in death, days away from work, restricted work activity, job transfer, loss of consciousness, medical treatment beyond first aid, or is a condition listed in Mandatory Appendix B of 29 CFR Part 1904.

Restricted work activity means the employee is not capable of performing at full capacity for a full shift: (1) The task he or she was engaged in at the time of injury or onset of illness (the task includes all facets of the assignment the employee was performing); OR (2) his or her daily work activity (daily work activity includes all assignments the employee was expected to perform on the day of injury or onset of illness).

Medical treatment includes any medical care or treatment beyond first aid that is provided, or should have been provided. The distinction between medical treatment and first aid is based solely on the treatment involved, not the person providing the treatment. Health care professionals may provide first aid while non-professionals may provide medical treatment. First aid is defined as the following treatments:
1. Visit(s) to a health care provider limited to observation
2. Diagnostic procedures, including the use of prescription medications solely for diagnostic purposes (e.g. eye drops to dilate pupils)
3. Use of nonprescription medications, including antiseptics
4. Simple administration of oxygen
5. Administration of tetanus or diphtheria shot(s) or booster(s)
6. Cleaning, flushing or soaking wounds on skin surface
7. Use of wound coverings such as bandages, gauze pads, etc.
8. Use of any hot/cold therapy (e.g. compresses, soaking, whirlpools, non-prescription skin creams/lotions for local relief, etc.) except for musculoskeletal disorders (See Mandatory Appendix B)
9. Use of any totally non-rigid, non-immobilizing means of support (e.g. elastic bandages)
10. Drilling of a nail to relieve pressure for subungual hematoma
11. Use of eye patches
12. Removal of foreign bodies not embedded in the eye if only irrigation or removal with a cotton swab is required
13. Removal of splinters or foreign material from areas other than the eyes by irrigation, tweezers, cotton swabs or other simple means

Any treatment not on this list is considered medical treatment.

See Mandatory Appendix B of 29 CFR Part 1904 for a complete listing of additional recordable conditions.

Specific Instructions

Employer Identification
Industry Description: Enter a brief description of the establishment's primary activity, determined by the principal product manufactured or sold, or service rendered. For example, wholesale trade of enamel paints or automotive body shop. Also enter the Standard Industrial Classification (SIC) number if known. For example, SIC 7532.

Employee Identification
A. Enter the employee's last name, first name and middle initial.

Case Identification
B. Enter unique numbers. For example: 1991-1, 1991-2, ... or 1, 2, ... This number must also be entered on the corresponding Incident Record (OSHA Form 301).

C. For injuries, enter the date (month/day) the employee was injured. For illnesses, enter the date the illness was recognized. If there is no definite date of recognition, enter the date the illness was clinically diagnosed.

D. Enter the department and location where the event occurred. For example: maintenance tool room. If the event did not occur at the employer's establishment, enter the specific address or location. For example: client's office at 452 Monroe Street, Washington, DC.

E. Enter the employee's regular job title, not the specific task he/she was performing at the time of the injury or illness.

Case Description
F. Enter a detailed description of the injury or illness, indicating the part(s) of the body affected and the object/substance which directly injured or made the employee ill. For example: cut left index finger with hack saw or carpal tunnel syndrome of the left wrist from using price scanning equipment.

Case Classification Each recordable case must only have one entry in either column G, H or I.
G. Enter a check if the case resulted in death.

H. Enter a check if the case did result in days away from work. Enter the total number of such days. Enter only whole numbers. Do not count the day the employee was injured or the day the employee became ill.

I. Enter a check in the appropriate box if the case resulted in restricted work activity or met the other recording criteria but did not involve days away from work.

NOTE: If a case ends in a permanent work restriction/job transfer, or the employee is terminated after the injury or illness occurred, an asterisk must be entered next to the case number in column B. If the description or outcome of a case changes, remove the original entry, and enter the new information to reflect the more severe consequence. For example: if a case is originally recorded without days away and later results in days away from work, remove or line out the entry in column I, and enter the information in column H.

Other
J. This column is optional and reserved for employer use. The employer may enter additional information, such as whether the case was compensable under Workers' Compensation, etc.

Year End Totals
To prepare the summary, total the number of checks and the number of days for columns G, H, and I for the calendar year. These totals are entered in the "Year-end totals" line of this section. If there were no recordable injuries or illnesses, enter zeroes in the spaces provided.

Annual average number of employees: Enter the average number of employees (full and part-time) who worked during the calendar year. Annual average employment should be computed by summing the employment from all pay periods during the year and then dividing that sum by the total number of pay periods, including periods with no employment.

Total hours worked by all employees: Enter the total number of hours actually worked by all employees during the calendar year. If hours worked are not separately maintained, please enter an estimate based upon total number of employees and average hours worked.

Certified by: An owner of the company, an officer of the corporation, the highest ranking company official working at the establishment, or his or her supervisor must sign and enter title, phone number and the date of completion.

OMB Disclosure Statement
Public reporting burden for this collection of information is estimated to vary from 4 minutes to 30 minutes per line entry with an average of 10 minutes per line entry including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. It is estimated the average firm will require 1 hour and 56 minutes to complete the entire form. If you have any comments regarding this estimate or any other aspect of this collection of information, including suggestions for reducing this burden, please send them to the OSHA Office of Statistics and/or the Office of IRM Policy, Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed form to either of these offices.

OSHA Injury and Illness Incident Record

Public Law 91-596 and 29 CFR 1904 require you to update and retain completed form for three years.

Failure to complete this form can result in the issuance of citations and penalties.

Employees, former employees, and their representatives have the right to review all OSHA injury and illness Records, in their entirety, for this establishment.

This form is not an insurance form. Cases listed below are not necessarily eligible for Workers' Compensation or other insurance. Listing a case below does not necessarily mean that the employer or worker was at fault or that an OSHA Standard was violated.

U.S. Department of Labor
Occupational Safety and Health Administration

Form approved O.M.B. No. 1218-0000
See O.M.B. disclosure statement on back.

_____ Case number from OSHA Form 30

Employee

1. Last name _____ First name _____ MI _____

2. Male ☐ Female ☐ 3. Date of birth / /

4. Home address

5. Date hired / /

Health Care Provider

6. Name of health care provider

7. If treatment off-site, facility name and address

8. Hospitalized overnight as in-patient?
(If emergency room only, mark "no") yes ☐ no ☐

Employer Use (Optional)

Completed by

Name _____ Title _____

Phone ( ) _____ Date _____

Illness or Injury

9. Specific injury or illness
(e.g. Second degree burn or Toxic hepatitis)

10. Body part(s) affected *(e.g. Lower right forearm)*

11. Date of injury or illness: / / 12. If employee died, date of death / /

13. If the case involved days away from work or restricted work activity, enter the date the employee returned to work at full capacity: / /

14. Time of event:
(Specify a.m. or p.m.)

15. Time employee began work:
(Specify a.m. or p.m.)

16. All equipment, materials, or chemicals employee was using when the event occurred.
(e.g. Acetylene cutting torch, metal plate)

17. Specify activity the employee was engaged in when the event occurred
(e.g. Cutting metal plate for flooring) Indicate if activity was part of normal job duties.

18. How injury or illness occurred. Describe the sequence of events and include any objects or substances that directly injured or made the employee ill.
(e.g. Worker stepped back to inspect work and slipped on some scrap metal. As she fell, worker brushed against the hot metal)

Draft OSHA Form 301 (10/95)

BILLING CODE 4510-26-C

General Instructions OSHA Form 301

The OSHA regulation, Recording and Reporting Occupational Injuries and Illnesses (29 CFR Part 1904) provides comprehensive instructions and definitions necessary to find out if you need to keep these records, for completing the forms, as well as other detailed recording and reporting requirements. The istructions on this form are intended to supplement the instructions in the regulation. To obtain the regulation and related guidance, contact your local OSHA office.

Establishments which must maintain the OSHA Injury and Illness Log and Summary (OSHA Form 300) must also complete this form for each case required to be recorded on the OSHA Form 300. This form must be completed within seven calendar days of receiving information that a recordable injury or illness has occurred. Some state workers' compensation, insurance or other reports may be acceptable substitutes. Any substitute form must contain all of the information requested on this form, with questions 16 through 18 being identical in content and order presented to be considered an equivalent. If the alternate form does not contain all of the required information, you must attach an OSHA Form 301 to it and provide all missing information.

The records must be kept for three years following the end of the calendar year to which they relate. For example, a 1990 incident record must be saved until January, 1994.

Specific Instructions

Case Number
Enter the corresponding case number from the OSHA Form 300.

Employee

5* Enter the date the employee was hired by the employer.

Health Care Provider

6 Enter name of primary health care provider (e.g. physician, nurse, etc.) who rendered medical treatment.

7 If the employee received medical treatment off-site, indicate: Health care facility name and address.

8 If employee was treated at a hospital, check whether he/she was admitted as an in-patient. Check no if the employee received emergency room treatment only.

Employer Use (Optional)
This section is optional. The employer may enter additional information, such as whether the case was compensable under Workers' Compensation, etc.

Injury or Illness
Each data element in this section should provide specific information about the event which resulted in the injury or illness and the subsequent outcome. Include as much detail as possible.

9 Describe the injury or illness. Be specific, for example: two inch laceration, carpal tunnel syndrome, or 15 dB shift in hearing threshold.

10 Enter the body part(s) affected. Be specific, for example: right index finger, left wrist, right ear.

11 Date of injury or illness (month/day/year): For injuries, enter the date the employee was injured. For illnesses, enter the date the illness was recognized. If there is no definite date of recognition, enter the date of the clinical diagnosis.

12 If the employee died, enter the date of death (month/day/year).

13 If the case involved one or more days away from work beyond the day of injury or the diagnosis of an illness, or restricted work activity, enter the date the employee returned to work at full capacity.

14 Enter the time of the event which resulted in the injury or illness. Indicate a.m. or p.m. Enter "NA" if no specific time can be determined.

15 Enter the time the employee arrived at his/her initial worksite. Indicate a.m. or p.m.

16 List all of the equipment, materials and chemicals the employee was using, applying, handling or operating when the injury or illness occurred. Be specific, for example: decorator's scaffolding, electric sander, paintbrush, and paint. Enter "NA" for not applicable if no equipment, materials or chemicals were being used. NOTE: The items listed do not have to be directly involved in the employee's injury or illness.

17 Describe the specific activity the employee was engaged in when the event occurred, such as, sanding ceiling woodwork in preparation for painting.

18 Describe how the injury or illness occurred. Include the sequence of events and name any objects or substances that directly injured the employee or made the employee ill. For example: Worker stepped to the edge of the scaffolding to inspect work, lost balance and fell six feet to the floor. The worker's right wrist was broken in the fall.

Completed By
Enter the name of the person who completed the form; title; phone number; and date of completion.

OMB Disclosure Statement
Public reporting burden for this collection of information is estimated to average 17 minutes per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this estimate or any other aspect of this collection of information, including suggestions for reducing this burden, please send them to the OSHA Office of Statistics and/or the Office of IRM Policy, Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed form to either of these offices.

V. Legal Authority

The primary purpose of the Occupational Safety and Health Act (the Act), 29 U.S.C. 651 et seq., is to assure so far as possible, safe and healthful working conditions for every American worker over the period of his or her working lifetime. The Secretary's responsibilities under the Act are defined largely by its enumerated purposes, which include:

Encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions. [29 U.S.C. 651(b)(1)]

Building upon advances already made through employer and employee initiative for providing safe and healthful working conditions. [29 U.S.C. 651(b)(4)]

Providing for research in the field of occupational safety and health * * * developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems. [29 U.S.C. 651(b)(5)]

Exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems *. * * [29 U.S.C. 651(b)6)]

Providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his [or her] work experience. [29 U.S.C. 651(b)(7)]

Providing for appropriate reporting procedures with respect to occupational safety and health which will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problems. [29 U.S.C. 651(b)(12)]

Encouraging joint labor-management efforts to reduce injuries and disease arising out of employment. [29 U.S.C. 651(b)(13)]

Several sections of the Act provide legal authority for promulgation and enforcement of this regulation. A summary of relevant sections is provided below:

Section 8(c)(1) of the Act, requires each employer to "make, keep and preserve, and make available to the Secretary [of Labor] or the Secretary of Health and Human Services, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health and Human Services, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses." Section 8(c)(2) further provides that the "Secretary, in cooperation with the Secretary of Health and Human Services, shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job." Section 8(c)(3) empowers the Secretary to require employers to make, keep, and preserve records regarding activities related to the Act. In particular, section 8(c)(3) gives the Secretary authority to require employers to "maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under Section 6." [29 U.S.C. 657(c)]

Section 8(g)(1) authorizes the Secretary "to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section." Section 8(g)(2) of the Act empowers the Secretary "to prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under the Act." [29 U.S.C. 657(g)]

Section 9 empowers the Secretary to issue a citation to an employer who the Secretary believes "has violated a requirement * * * of any regulations prescribed pursuant to this Act" and may, pursuant to Section 10, assess a penalty under Section 17. [29 U.S.C. 658 and 659]

Section 20 empowers the Secretary of Labor and the Secretary of Health and Human Services to consult on research and related activities, "including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems." The Secretary of HHS, on the basis of such research, "* * * and other information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment, including but not limited to the exposure levels at which no employee will suffer impaired health or functional capacities or diminished life expectancy as a result of his work experience." Also, the Secretary of HHS shall conduct research "to explore new problems, including those created by new technology in occupational safety and health, which may require ameliorative action beyond that which is otherwise provided for in the operating provisions of this Act." Section 20 empowers the Secretary of Labor to disseminate information obtained by the Secretaries of Labor and HHS under this section to employers, employees, and organizations thereof. [29 U.S.C. 669]

Section 24 requires the Secretary to "develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics * * * The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job." Section 24 also empowers the Secretary to "promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics." Finally, Section 24 requires employers to "file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this chapter." [29 U.S.C. 673]

VI. State Plans

The 25 States and territories with their own OSHA approved occupational safety and health plans must adopt a comparable rule. These 25 States are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming; and Connecticut and New York (for State and local Government employees only). The current 29 CFR 1952.4 requires that such States with approved State plans under section 18 of the OSH Act [29 U.S.C. 667), must adopt recordkeeping and reporting regulations which are "substantially identical" to those set forth in 29 CFR Part 1904. Therefore, the definitions used must be identical to ensure the uniformity of collected information. In addition, § 1952.4 provides that employer variances or exceptions to State recordkeeping or reporting requirements in a State plan State must be approved by the Bureau of Labor Statistics. Similarly, a State is permitted to require supplemental reporting or recordkeeping data, but that State must obtain approval from the Bureau of Labor Statistics to insure that the additional data will not interfere with "the primary uniform reporting objectives." The proposed revision of 29 CFR 1952.4 keeps the same substantive requirements for the State Plan States, but reflects the organizational shift of some responsibilities of the Bureau of Labor Statistics to OSHA. See also the memorandum of understanding between OSHA and BLS effective January 1, 1991 (ex. 6).

VII. Regulatory Impact Assessment

The average establishment affected by the proposed changes to the recordkeeping requirements would incur a net reduction in recordkeeping costs. Thus the proposed rule will not impose adverse economic impacts on firms in the regulated community. The proposed exemption from the regulation of all non-construction establishments with fewer than 20 employees will mean that most small entities will experience an even larger cost savings. Nor is any significant international effect expected.

VIII. Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Assistant Secretary certifies that the proposed rule will not have a significant adverse impact on a substantial number of small entities. The proposed rule exempts construction employers with less than eleven employees and non-construction employers with less than twenty employees from most of the requirements, and would not have a differential impact on small businesses.

IX. Environmental Impact Assessment

In accordance with the requirements of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), Council on Environmental Quality NEPA regulations (40 CFR Part 1500 et seq.), and the Department of Labor's NEPA regulations (29 CFR Part 11), the Assistant Secretary has determined that this proposed rule will not have a significant impact on the external environment.

X. Federalism

This proposed rule has been reviewed in accordance with Executive Order 12612 (52 FR 41685), regarding Federalism. Because this rulemaking action involves a "regulation" issued under section 8 of the OSH Act, and not a "standard" issued under section 6 of the Act, the rule does not preempt State law, see 29 U.S.C. § 667 (a). The effect of the proposed rule on States is discussed above in Section VI, *State Plans*.

XI. Public Participation

Interested persons are requested to submit written comments on the issues raised in this proposal. Responses to the questions raised in the proposal are also encouraged. Whenever possible, solutions should be included where the comments are of a critical nature. Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken on each issue.

These comments must be postmarked by May 2, 1996. Comments are to be submitted in writing in quadruplicate, or 1 original (hard copy) and 1 disk(5 ¼ or 3 ½) in WP 5.0, 5.1, 5.2, 6.0 or ascii. Note: Any information not contained on disk; e.g., studies, articles, etc. must be submitted in quadruplicate. Comments of 10 pages or less may be transmitted by facsimile to (202) 219–5046 provided the original and 4 copies of the comment are sent to the Docket Officer thereafter. All comments shall be submitted to: Docket Officer, Docket No. R–02, Occupational Safety and Health Administration, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 219–7894.

All written comments received within the specified comment period will be made a part of the record and will be available for inspection and copying at the above Docket Office address.

A public meeting will be held in Washington, D.C. in the U.S. Department of Labor auditorium at 200 Constitution Avenue, N.W. beginning at 8:30 AM on March 26, 1996 and extending through March 28th, if necessary. The purpose of the meeting is to give the public an opportunity to provide information to OSHA concerning the proposed rule. Notices of intention to appear at the public meeting should identify person and organization, the amount of time requested for presenting views, the subject matter, and a brief summary of the intended presentation. The amount of time available for each presenter may be limited by OSHA, if necessary. Notices to appear must be postmarked on or before March 5, 1996. Notice of intention to appear at the meeting is to be sent to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket No. R–02, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C., 20210.

XII. Paperwork Reduction Act of 1995

The proposed regulation contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The title, summary, description of need, respondent description and estimated reporting and recordkeeping burden are shown below. Included in the estimate of burden is the time and effort for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information, and financial resources expended for developing, acquiring, installing, and utilizing technology and systems to meet the information collection requirements.

Title: Recording and Reporting Occupational Injuries and Illnesses.

Summary: OSHA is revising 29 CFR 1904 and the associated Forms (OSHA No. 200 and OSHA No. 101), and in addition to providing numerous clarifications and minor modifications, this revision makes several major changes as follows:

Concept	Change/requirement
Exemptions	Expand the Small Employer exemption and modify the Low Hazard Industry (SIC) exemption.
Injury and Illness Records for construction subcontractors.	Require site controlling employers in the construction industry to maintain additional records on workers other then their own employees.
Computerization	Allow employers to maintain their OSHA injury and illness records on computer file without corresponding hard copies.
Injury vs Illness	Eliminate the employer responsibility to distinguish between injuries and illnesses.
Recordable condition	Redefine the criteria outlining what is a recordable occupational injury or illness.
Forms	The forms will be requesting modified information and will be renumbered as the OSHA Form 300 (OSHA Injury and Illness Log and Summary) and the OSHA Form 301 (OSHA Injury and Illness Incident Record).

Description of need: The OSHA Form 300, Log and Summary; the OSHA Form 301, Incident Record; and the recordkeeping regulations will provide employers with the means and specific instructions needed to maintain records of work-related injuries and illnesses.

Accurate records are necessary for the optimal prioritization of OSHA's scarce resources. For example, inspection priorities are largely based on estimates of occupational injury and illness data collected from employers. The data also play an important part in the administrative procedures mandated by the Supreme Court that allow OSHA to obtain search warrants to conduct safety and health inspections. Others using the data include State and local government agencies, academia, employers, trade associations, labor, and the general public.

Efforts to the fulfill the Congressional mandate that the Federal government protect employees from safety and health dangers on the job would be severely hampered by incomplete, inconsistent, and inaccurate data. The revision of the recordkeeping requirements is an attempt to improve the accuracy, completeness and consistency of these records, while reducing the paperwork burden to the regulated community.

Respondent description: Approximately 620,000 private sector employer establishments will be required to maintain the OSHA Injury and Illness Log and Summary and Incident Records, though a small number of them will not have a recordable case in any given year and will only have to post the summary part of the OSHA Form 300.

Estimated Burden:

EMPLOYERS' BURDEN FOR THE PROPOSED REVISED REQUIREMENTS

Actions	Number of cases	Unit hours per case	Total burden hours
Complete OSHA 301 (Includes research of instructions and case details to complete the form).	508,895 Forms	.28 (17 min/60 min)	142,490
Complete OSHA 300 (Includes research of instructions and case details to complete the form).	5,088,948 Line entries	.166 (10 min/60 min)	844,765
Injury and illness records for construction subcontract workers	74,822 Line entries	.166 (10 min/60 min)	12,420
Fixed burden (Set-up, Summary, and Posting of OSHA 300)	620,879 Establishments	.30 (18 min/60 min)	186,264
Learning System—Turnover	124,176 Establishments	.42 (25 min/60 min)	52,153
Disclosure burden*	444,222 employee requests	.016 (1 min/60 min)	7,107
	40,000 Inspections	.033 (2 min/60 min)	1,320
Total Annual Burden Hours			1,246,519
Learning New System Implementation year only	458,518 Establishments	.25 (15 min/60 min)	114,629
	162,361 Establishments	.42 (25 min/60 min)	68,192
Total Burden Hours for Implementation Year Only			1,429,340

*Based on estimates of OSHA compliance inspections conducted during 1993.

This is an annual decrease in burden of 246,191 hours from the estimate of the current injury and illness recordkeeping requirements, after a smaller decrease of 63,370 hours in the initial year of implementation due to time required to learn the new system. The decrease in hours is primarily due to the simplification of definitions and the reduction of information required on the OSHA Log and supplementary forms.

The agency has submitted a copy of the proposed rule to OMB in accordance with 44 U.S.C. § 3507(d) of the Paperwork Reduction Act for its review of these information collections. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including (1) an evaluation of whether the proposed collection of information ensures that the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) an evaluation of the accuracy of the agency's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) how to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses. In addition, OSHA requests comment on the nature and extent of any cost burdens, (i.e., monetary costs) that employers would incur due to changes in paperwork requirements that would be necessitated by this proposal. Comments should be sent to OSHA Office of Statistics, 200 Constitution Avenue, N.W., Washington, DC 20210 and to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503, Attn. Desk Officer for OSHA. Comments on the issues covered by the Paperwork Reduction Act are most useful to OMB if received within 30 days of publication of the Notice of Proposed Rulemaking, and no later than within 60 days of publication.

List of Subjects

29 CFR Part 1904

Recording and reporting of occupational injuries and illnesses, statistical surveys of occupational injuries and illnesses, occupational safety and health, State plans.

29 CFR Part 1952

Recording and reporting of occupational injuries and illnesses, variances to State recording and reporting requirements, injury and illness statistics, State plans.

XIII. Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 8(c), 8(g), 20 and 24 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 673), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 5 U.S.C. 553, it is proposed to revise 29 CFR Part 1904 and to amend part 1952 as set forth below.

Signed in Washington, DC., this 26 day of January, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

PART 1904—[AMENDED]

1. 29 CFR Part 1904 would be revised to read as follows:

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Sec.

1904.1 Purpose.
1904.2 Coverage and exemptions.
1904.3 Definitions.
1904.4 OSHA Injury and Illness Log and Summary (OSHA Form 300 or Equivalent).
1904.5 OSHA Injury and Illness Incident Record (OSHA Form 301 or Equivalent).
1904.6 Preparation, certification and posting of the year-end summary.
1904.7 Location of records.
1904.8 Period covered.
1904.9 Retention and updating of occupational injury and illness records.
1904.10 Change of ownership.
1904.11 Access to records.
1904.12 Reporting of fatality or multiple hospitalization incidents.
1904.13 Reports by employers.
1904.14 Recordkeeping under approved State plans.
1904.15 Petitions for recordkeeping exceptions.
1904.16 Falsification of, or failure to keep records or provide reports.
1904.17 Subcontractor records for major construction projects.
Appendix A to Part 1904—Work-Relatedness.
Appendix B to Part 1904—Recording of Specific Conditions.
Appendix C to Part 1904—Decision Tree for Recording Occupational Injuries and Illnesses.

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 1–90 (55 FR 9033), and 5 U.S.C. 553.

§ 1904.1 Purpose.

(a) The purpose of this Part is to require employers to record and report work-related injuries, illnesses and fatalities. The records: assist employers and employees in their efforts to discover, evaluate and address workplace hazards; assist occupational safety and health officials in carrying out enforcement and consultation programs; aid in the development and evaluation of safety and health standards; are used to develop information and conduct research regarding the causes and prevention of occupational injuries and illnesses; and accurately describe the nature of occupational safety and health problems for the Nation, State or establishment.

(b) The records required in this Part provide descriptive information concerning the incidence of occupational injuries and illnesses, regardless of fault or preventability. Recording an injury or illness does not necessarily mean that the employer or employee was at fault, that an OSHA standard was violated, or that the employee is eligible for workers' compensation or other insurance benefits. Recordable workplace injuries and illnesses result from a variety of workplace events or exposures, including but not limited to: accidents, exposure to toxic materials or harmful physical agents, intentional acts of violence, or naturally occurring events such as a tornado or earthquake.

(c) The regulations in this Part were promulgated in consultation with the Secretary of Health and Human Services.

§ 1904.2 Coverage and exemptions.

Coverage and exemptions are summarized below and specified in the following table. See table to determine coverage and exemptions.

(a) *Coverage.* (1) All employers covered by the Act, regardless of size or Standard Industrial Classification (SIC), are required to:

(i) Comply with the reporting requirements of § 1904.12 of this Part, concerning fatalities or multiple hospitalizations; and

(ii) Upon being notified in writing by an authorized government agency, maintain an OSHA Injury and Illness Log and Summary and make reports under § 1904.13 of this Part.

(2) Additionally, employers in specific industries listed in columns A and B on the following table are required to comply with other regulations in this Part 1904, except as provided in paragraph (b) of this section.

(b) *Exemptions.* Exemptions from coverage are based upon size and the Standard Industrial Classification (SIC) of the employer:

(1) *Size.* (i) Construction employers with 10 or fewer employees for the entire previous calendar year are exempt from the regulations of this Part 1904, except as noted in paragraph (a)(1) of this section. See column D of the Coverage and Exemption Table in paragraph (b)(2) of this section.

(ii) Employers in industries other than construction with 19 or fewer employees for the entire previous calendar year are exempt from the regulations of this Part 1904, except as noted in paragraph (a)(1) of this section. See column D of the Coverage and Exemption Table in paragraph (b)(2) of this section.

(2) *Standard Industrial Classification (SIC) code.* Within the covered industries (column B), certain specific industries (at the 3-digit SIC level) are exempt from the regulations of this Part 1904, except as noted in paragraph (a)(1) of this section. See column C for the list of exempt SICs.

Note to paragraph (b)(2): Standard Industrial Classification (SIC) shall be determined using the Standard Industrial Classification Manual, Executive Office of the President, Office of Management and Budget. All size thresholds or exemptions are based on the number of employees of the entire firm or corporation, not the number of employees in an individual establishment.

Coverage and Exemption Table

Note 1 to Coverage and Exemption Table: All employers covered by the OSH Act, regardless of size or SIC code are required to comply with §§ 1904.12 and 1904.13. The following table refers to coverage and exemptions to the other requirements of Part 1904.

Covered employers		Exemptions to employers listed in column B	
(A) Industry division	(B) Specific industry	(C) By SIC	(D) By size
Construction	All Industries (SIC 15–17)		10 or fewer employees for the entire previous calendar year.
Mining	All Industries not covered by MSHA		19 or fewer employees for the entire previous calendar year.
Agriculture	All Industries (SIC 01–09)		
Manufacturing	All Industries (SIC 20–39)		
Transportation & Utilities.	All Industries (SIC 40–49)		
Wholesale	All Industries (SIC 50–51)		

Covered employers		Exemptions to employers listed in column B	
(A) Industry division	(B) Specific industry	(C) By SIC	(D) By size
Retail	SIC 52 Building Materials, Hardware Garden Supply and Mobile Home Dealers,. SIC 53 General Merchandise Stores, SIC 54 Food Stores, SIC 553 Auto and Home Supply Stores, SIC 555 Boat Dealers, SIC 571 Home Furniture and Furnishings Stores, SIC 58 Eating and Drinking Places, SIC 596 Nonstore Retailers, SIC 598 Fuel Dealers.	SIC 525 Hardware Stores.	
Finance, Insurance & Real Estate.	SIC 651 Real Estate Operators and Lessors and SIC 655 Land Subdividers and Developers.		
Services	SIC 70 Hotels, Rooming Houses, Camps and Other Lodging Places;. SIC 721 Laundry, Cleaning, and Garment Services;. SIC 734 Services to Dwellings and Other Buildings;. SIC 735 Miscellaneous Equipment Rental and Leasing;. SIC 736 Personnel Supply Services; SIC 75 Automotive Repair, Services, and Parking; SIC 76 Miscellaneous Repair Services; SIC 79 Amusement and Recreation Services; SIC 80 Health Services; SIC 833 Job Training and Vocational Rehabilitation Services; SIC 836 Residential Care; SIC 842 Arboreta and Botanical or Zoological Gardens; and SIC 869 Membership Organizations Not Elsewhere Classified.	SIC 752 Automobile Parking; SIC 764 Reupholstery and Furniture Repair; SIC 793 Bowling Centers; SIC 801 Offices and Clinics of Doctors of Medicine; SIC 807 Medical and Dental Laboratories; and SIC 809 Miscellaneous Health and Allied Services, Not Elsewhere Classified.	

Note 2 to Coverage and Exemption Table: Some States with their own occupational safety and health programs do not recognize the Federal recordkeeping exemptions. Contact your nearest OSHA office or State agency to find out if State requirements differ.

Note 3 to Coverage and Exemption Table: SICs are from the Standard Industrial Classification Manual, 1987: U.S. Office of Management and Budget. Contact your nearest OSHA office or State agency for help in determining your SIC.

Note 4 to Coverage and Exemption Table: The size exemption is based on the employment of the entire firm, not of an individual establishment. Employees include part-time workers and corporate officers.

Note 5 to Coverage and Exemption Table: Employers normally exempt from the recordkeeping requirements must still comply with the following:

(1) Report any occupational fatality or event resulting in the hospitalization of 3 or more employees as required by Section 1904.12; and

(2) Maintain an OSHA Injury and Illness log and Summary and submit reports if directed in writing to do so by an authorized government agency as required by Section 1904.13.

Note 6 to Coverage and Exemption Table: Example of how to read the Coverage and Exemption Table: Employers in SIC 52 (Building Materials, Hardware Garden Supply and Mobile Home Dealers) are covered by the regulation except for employers with 19 or fewer employees in the previous calendar year and Hardware Stores (SIC 525) of any size.

§ 1904.3 Definitions.

The following definitions apply to employer recording and reporting of occupational fatalities, injuries and illnesses.

Act means the Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S. 651 et seq.). The definitions contained in section (3) of the Act and related interpretations shall be applicable to such terms when used in this Part 1904.

Days away from work means the number of days the employee would have worked but could not because of an occupational injury or illness. Days away from work do not include the day the employee was injured or became ill and days on which the employee would not have worked even though able to work (e.g. weekends, holidays, pre-scheduled vacation days, etc.). The count of days away from work ceases with the termination of employment if the termination is completely unrelated to the employee's injury or illness. If the termination is related to the employee's injury or illness, the employer must enter an estimate of the number of days that would have been missed had the employee not been terminated. For extended cases that result in 180 or more days away from work, an entry of "180" or "180+" in the days away from work column shall be considered an accurate count.

Employee as defined in section 3 of the Act, means an employee of an employer who is employed in a business of his or her employer which affects commerce.

Note to definition of "Employee": There are a variety of circumstances which result in an employee/employer relationship for OSHA recordkeeping purposes. The following is meant to be illustrative only, and not meant to be an exhaustive list. Employees include corporate officers as well as full-time, part-time, temporary and limited service workers who receive any form of compensation for their services. Employees include persons who may be labeled "independent contractors", or migrant workers, and persons who are provided by a temporary help service or personnel leasing agent when they are supervised on a day-to-day basis by the employer utilizing their services. Day-to-day supervision occurs when, in addition to specifying the output, product or result to be accomplished by the person's work, the employer supervises the details, means, methods and processes by which the work is to be accomplished. Employees do not include sole proprietors, partners, family members of farm employers or domestic household workers when employed in the home (baby sitters, housekeepers, gardeners, etc.).

Establishment means:

(1) A single physical location that is in operation for 60 calendar days or longer where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, grocery store, construction site, hotel, farm, ranch, hospital, central administrative office, or warehouse.) The establishment includes the primary work facility and other areas such as recreational and storage facilities, restrooms, hallways, etc. The establishment does not include company parking lots.

(2) When distinct and separate economic activities are performed at a single physical location, each activity may represent a separate establishment. For example, contract construction activities conducted at the same physical location as a lumber yard may be treated as separate establishments. According to the Standard Industrial Classification (SIC) Manual, Executive Office of the President, Office of Management and Budget, (1987) each distinct and separate activity should be considered an establishment when no one industry description from the SIC manual includes such combined activities, and the employment in each such economic activity is significant, and separate reports can be prepared on the number of employees, their wages and salaries, sales or receipts, or other types of establishment information.

First aid means the following treatments for work-related injuries and illnesses. This list is a comprehensive list of all treatments considered first aid for recordkeeping purposes. These treatments are considered "first aid", regardless of the provider, thus they may be provided by a physician, nurse, or other health care provider and are still considered first aid.

(1) Visit(s) to a health care provider limited to observation

(2) Diagnostic procedures, including the use of prescription medications solely for diagnostic purposes (e.g. eye drops to dilate pupils)

(3) Use of nonprescription medications, including antiseptics

(4) Simple administration of oxygen

(5) Administration of tetanus or diphtheria shot(s) or booster(s)

(6) Cleaning, flushing or soaking wounds on skin surface

(7) Use of wound coverings such as bandages, gauze pads, etc.

(8) Use of any hot/cold therapy (e.g. compresses, soaking, whirlpools, non-prescription skin creams/lotions for local relief, etc.) except for musculoskeletal disorders (See Mandatory Appendix B)

(9) Use of any totally non-rigid, non-immobilizing means of support (e.g. elastic bandages)

(10) Drilling of a nail to relieve pressure for subungual hematoma

(11) Use of eye patches

(12) Removal of foreign bodies not embedded in the eye if only irrigation or removal with a cotton swab is required

(13) Removal of splinters or foreign material from areas other than the eyes by irrigation, tweezers, cotton swabs or other simple means

Health care provider is a person operating within the scope of his or her license, registration or certification in health care.

Injury or illness is any sign, symptom, or laboratory abnormality which indicates an adverse change in an employee's anatomical, biochemical, physiological, functional, or psychological condition.

Medical treatment includes any medical care or treatment beyond "first aid".

Responsible Company Official is the person accountable for certifying the accuracy and completeness of the entries on the OSHA Injury and Illness Log and Summary. This person must be either an owner of the company, an officer of the corporation, the highest ranking company official working at the establishment, or the immediate supervisor of the highest ranking company official working at the establishment.

Restricted work activity means the employee is not capable of performing at full capacity for a full shift:

(1) The task he or she was engaged in at the time of injury or onset of illness (the task includes all facets of the assignment the employee was performing); OR

(2) His or her daily work activity (daily work activity includes all assignments the employee was expected to perform on the day of injury or onset of illness).

Site controlling employer is an employer in the construction industry (SIC codes 15, 16 and 17) with contractual, legal and/or practical control over the performance, timing, or coordination of other employers' work on a construction project with an initial total contract value of one million dollars ($1,000,000) or more. An employer (such as a general contractor) that retains another employer to work on the project is presumed to have sufficient control over the subcontractor's performance to be considered a site controlling employer. In addition, an employer (such as a construction manager) is a site controlling employer if it has managerial or supervisory authority with respect to employers engaged on the project, regardless of whether it has a contractual relationship with those employers.

Subcontractor employees are employees of construction firms (in SICs 15, 16, and 17) who are present at a construction project in connection with their job(s) who are not employees of the site controlling employer at that construction project.

Work environment means the establishment and other locations where employees are engaged in work or are present as a condition of their employment.

Work-related. An injury or illness is work-related if an event or exposure in the work environment either caused or contributed to the resulting condition, or aggravated a pre-existing condition. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring at the employer's establishment. Work-relatedness is not presumed for injuries and illnesses resulting from events or exposures away from the employer's establishment; they are considered work-related only if the worker is engaged in a work activity or is present as a condition of employment. See Mandatory Appendix A to part 1904 for a discussion of work-relatedness and criteria for rebutting the presumption of work-relatedness.

§ 1904.4 OSHA Injury and Illness Log and Summary (OSHA Form 300 or Equivalent).

(a) Each employer shall maintain for each establishment an OSHA Injury and Illness Log and Summary [OSHA Form 300 (formerly OSHA No. 200)] or equivalent form for recordable injuries and illnesses experienced by his or her employees. Employers with multiple establishments may maintain a consolidated log for establishments employing no more than 20 employees. Employers who exercise this option must enter the address of the affected employee's establishment in the department column for each recorded injury or illness.

(b) Each employer shall enter every recordable injury and illness within 7 calendar days of receiving information

that a recordable injury or illness has occurred. A recordable injury or illness is one which meets all of the following four criteria:

(1) An injury or illness exists (see the definition of injury or illness for additional information); *and*

(2) The injury or illness is work-related (see the definition of work-related and Appendix A to part 1904 for additional information); *and*

(3) The injury or illness is new. A new injury or illness does not result from the recurrence of a pre-existing condition if no new or additional workplace incident or exposure occurs. A recurrence of a previous work related injury or illness is presumed to be a new case when it either (1) results from a new work event or exposure, or (2) 45 days have elapsed since medical treatment, restricted work or days away from work were discontinued and the last signs or symptoms were experienced;

(Note: This presumption is rebuttable by medical evidence indicating that the prior case had not been resolved.)

and

(4) The injury or illness meets one or more of the following:

(i) results in death or loss of consciousness,

(ii) results in day(s) away from work, restricted work activity or job transfer,

(iii) requires medical treatment beyond first aid, or

(iv) is a recordable condition listed in the Mandatory Appendix B to part 1904.

(5) See Appendix C to part 1904 for a decision tree for recording occupational injuries and illnesses.

(c) Any employer may maintain the OSHA Injury and Illness Log and Summary (OSHA Form 300) on an equivalent form, by means of data processing equipment, or both, when all of the following conditions are met:

(1) The equivalent form or computer printout is as readable and understandable as the OSHA Form 300 to a person familiar with the OSHA Form 300.

(2) The equivalent form or computer printout must contain, at a minimum, the same information as found on the OSHA Form 300.

§ 1904.5 OSHA injury and illness incident Record (OSHA Form 301 or Equivalent).

(a) In addition to the OSHA Injury and Illness Log and Summary (OSHA Form 300) provided for under Section § 1904.4(a) of this Part, each employer, shall complete an OSHA Injury and Illness Incident Record [OSHA Form 301 (formerly OSHA Form 101)] for each recordable injury or illness experienced by employees of that establishment, within 7 calendar days of receiving information that a recordable injury or illness has occurred. Each OSHA Form 301 must contain the unique case or file number relating it to the corresponding case entry on the OSHA Form 300.

(b) An employer may maintain the OSHA Form(s) 301 on an equivalent form(s), by means of data processing equipment, or both, when all of the following conditions are met:

(1) The equivalent form or computer printout is as readable and understandable as the OSHA Form 301 to a person familiar with the OSHA Form 301.

(2) The equivalent form or computer printout must contain, all of the information found on the OSHA Form 301, or must be supplemented by an OSHA Form 301 containing the missing information. The detailed information concerning the injury or illness (questions 16, 17 and 18) must be asked in the same order and using identical language from the Form 301. All other questions may be asked in any manner and in any order.

§ 1904.6 Preparation, certification and posting of the year-end summary.

(a) Each employer shall post a year-end summary of occupational injuries and illnesses for each establishment. This summary shall consist of the year's injury and illness totals from the OSHA Form 300 or equivalent, calendar year covered, company name, establishment name, establishment address, annual average number of employees, the total hours worked by all employees, and the employee access and employer penalty statements as found on the OSHA Form 300. If no injuries or illnesses occurred during the year: Zeroes must be entered on the totals line; annual average number of employees and total hours worked by all employees must be entered; and the form shall be posted. Note: The OSHA 300 Log may be used for the summary. The posting requirement may be met by simply copying and posting the portion of the 300 Log to the right of column A.

(b) A responsible company official (see the definition of responsible company official for further information) shall sign the summary of occupational injuries and illnesses to certify that he or she has examined the OSHA Injury and Illness Log and Summary and that the entries on the form and the year-end summary are true, accurate and complete.

(c)(1) Each employer shall post a copy of the establishment's year-end summary in each establishment in the same manner that notices are required to be posted under 29 CFR 1903.2(a)(1). The summary shall be completed and posted no later than February 1 of the year following the calendar year covered by the summarized records, and shall remain in place until January 31 of the following year.

(2) For employees who do not primarily report to or work at a single establishment, employers shall satisfy this posting requirement by presenting or mailing a copy of the summary to each employee who is on the payroll at any time during the month of January following the calendar year covered by the year-end summary.

(3) For employers who maintain a consolidated log of small establishments under § 1904.4(a), employers shall satisfy this posting requirement by posting a year-end summary based on the consolidated log in each establishment.

(4) Multi-establishment employers do not have to post year-end summaries for establishments that have permanently closed during the calendar year.

§ 1904.7 Location of records.

(a) The records required by §§ 1904.4, 1904.5, 1904.6 and 1904.17 for employees and "subcontractor employees" who report to or work at a single establishment, such as a factory, construction site, grocery store, hospital, warehouse, central administrative office, etc. shall be kept at the establishment.

(b) Records for employees who report to a particular establishment but work elsewhere shall be kept at the establishment where the employees report each day.

(c) For employees who normally report to one establishment but are injured or become ill at another establishment within the same company, a recordable injury or illness shall be entered on the Log of the establishment in which they were injured or became ill.

(d) Records for employees who do not report to any establishment on a regular basis may be kept at the transient work site(s) for each operation or group of operations or they may be kept at an established central location by:

(1) Having the address and telephone number of the central location available at each worksite; and

(2) Having personnel available at the central location during normal business hours to provide information from the records kept there.

(e) Any employer may keep the OSHA Form 300 or OSHA Form(s) 301 at a location other than the establishment, as long as the information is retrievable in accordance with the provisions defined in § 1904.11, Access to records.

§ 1904.8 Period covered.

Records shall be kept on a calendar year basis.

§ 1904.9 Retention and updating of work-related injury and illness records.

(a) *Retention.* OSHA Forms 300 and 301 or equivalents, year-end summaries, and injury and illness records for "subcontractor employees" as required under § 1904.17 of this Part shall be retained for 3 years following the end of the year to which they relate.

(b) *Updating.* During the retention period, employers must revise the OSHA Form 300 or equivalent to include newly discovered recordable injuries or illnesses. Employers must revise the OSHA Form 300 to reflect changes which occur in previously recorded injuries and illnesses. If the description or outcome of a case changes, remove the original entry and enter the new information to reflect the more severe consequence. Employers must revise the year-end summary at least quarterly if such changes have occurred.

Note to § 1904.9: Employers are not required to update OSHA Form 301 to reflect changes in previously recorded cases.

§ 1904.10 Change of ownership.

Where an establishment has changed ownership, each employer shall be responsible for recording and reporting occupational injuries and illnesses only for that period of the year during which he or she owned such establishment, but the new owner shall retain all records of the establishment kept by the prior owner, as required by § 1904.9(a) of this Part.

§ 1904.11 Access to records.

(a) *Government Representatives.* Each employer shall provide, upon a request made in person or in writing, copies of the OSHA Forms 300 and 301 or equivalents, and year-end summaries for their own employees, and injury and illness records for "subcontractor employees" as required under this Part to any authorized representative of the Secretary of Labor or Secretary of Health and Human Services or to any authorized representative of a State accorded jurisdiction for occupational safety and health for the purposes of carrying out the Act.

(1) When the request is made in person, the information must be provided in hard copy (paper printout) within 4 hours. If the information is being transmitted to the establishment from some other location, using telefax or other electronic transmission, the employer may provide a copy to the government representative present at the establishment or to the government representative's office.

(2) When the request is made in writing, the information must be provided within 21 days of receipt of the written request, unless the Secretary requests otherwise.

(b) *Employee(s), former employee(s) and/or their designated representative(s).* (1) Upon request, the employer shall make the OSHA Form 300 or equivalent available for viewing by an employee(s), former employee(s), and/or their designated representative(s) by the close of business on the next scheduled work day. The employee, former employee, and/or their designated representative(s) shall have access to the entire OSHA Form 300 (Log), including personal identifiers, for any establishment in which the employee is or has been employed. This includes access to the current Log and all Logs retained and maintained pursuant to § 1904.9.

(2) Upon request, the employer shall make available to an employee(s) or former employee(s) for viewing his or her OSHA Form(s) 301 or equivalent for his or her own recordable injury or illness by the close of business on the next scheduled workday.

(3) The employer shall also make copies available within 7 calendar days whenever an individual who has a right to view a record(s) listed in paragraphs (b) (1) and (2) of this section requests a copy, either in person or in writing. The employer shall not, in writing or otherwise, attempt to restrict the employees' use of such copies. The employer shall assure that either:

(i) A copy of the record(s) is provided without cost to the individual;

(ii) The necessary copying facilities (e.g., photocopying) are made available without cost to the individual for copying the record(s); or

(iii) The record(s) is loaned to the individual for a reasonable time to enable a copy to be made.

(4) Whenever a record has been previously provided without cost to an employee(s), former employee(s) and/or their designated representative(s), the employer may charge reasonable, non-discriminatory administrative costs (i.e. search and copying expenses but not including overhead expenses) for a request by the same person for additional copies of the record, except that an employer shall not charge for an initial request of a copy of an updated or corrected record.

(5) Upon request, the employer shall make available to an employee(s), former employee(s) or his or her designated representative access to all OSHA Form(s) 301 or equivalent. Access shall be provided in a reasonable time. The employer may charge a reasonable fee for searching and copying expenses.

(c) Nothing in this section shall be deemed to preclude employees and their designated representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

(d) In the case of a deceased or legally incapacitated employee, the employee's legal representative(s) may directly exercise all the employee's rights under this section.

§ 1904.12 Reporting of fatality or multiple hospitalization incidents.

(a) Within 8 hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, the employer(s) of each employee so affected shall, report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, that is nearest to the site of the incident during regular business hours, or by using the OSHA emergency toll-free central telephone number (1–800–321–OSHA [6742]) during non business hours. Note: The site controlling employer or designee will be responsible for making the report if no more than two employees of a single employer were hospitalized but, collectively, three or more workers were hospitalized as in-patients.

(b) This requirement applies to each such fatality or hospitalization of three or more employees which occurs within thirty (30) days of an incident.

(c) *Exception:* If the employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under paragraphs (a) and (b) of this section, the employer shall make the report within 8 hours of the time the incident is reported to any agent or employee of the employer.

(d) Each report required by this section shall relate the following information: establishment name, location of incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

§ 1904.13 Reports by employers.

(a) Section 24 of the Act, 29 U.S.C. 673, directs the Secretary of Labor, in consultation with the Secretary of Health and Human Services, to develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. Section 24 also requires employers to file reports with the Secretary on "the basis of records made and kept pursuant to Section 8(c) of this Act." Section 8(c), 29 U.S.C. 657(c), requires each employer to "make, keep and preserve, and make available to the Secretary or the Secretary of Health and Human Services, such records regarding his activities relating to this Act" as prescribed by regulation for enforcement of the Act or "for developing information regarding the causes and prevention of occupational accidents and illnesses." Section 8(c) also directs the Secretary of Labor, in cooperation with the Secretary of Health and Human Services, to prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on work-related deaths, injuries, and illnesses.

(b) Pursuant to the statutory authority described above, the Secretary of Labor and Secretary of Health and Human Services may request reports from employers regarding the employers' activities relating to the Act. These requests for reports shall be in writing, shall describe what information must be reported, and may include a request for copies of records kept pursuant to 29 CFR Part 1904, information that the employer is required to maintain by regulations or standards promulgated pursuant to the Act, information required to participate in periodic surveys of occupational injuries and illnesses, and/or information necessary to determine rates of injury, illness or exposure, such as employment and hours of work. Note: Employers who are otherwise exempted under § 1904.2 of this Part, shall upon notification by the Secretary of Labor or Secretary of Health and Human Services, maintain the OSHA Log and Summary on Injuries and Illnesses for any year in which they are notified that they have been selected for participation in a data collection program of occupational injuries and illnesses.

(c) The employer shall file the requested reports with the Secretary within 21 calendar days of receipt of the request, unless the Secretary requests otherwise.

(d) Nothing in any State plan approved under section 18(c) of the Act shall affect the duties of employers to submit required reports.

§ 1904.14 Recordkeeping under approved State plans.

(a) Recordkeeping and reporting requirements promulgated by State plans are required to be substantially identical to this Part (see 29 CFR 1902.3(k) and 29 CFR 1952.4). State plans shall promulgate recordkeeping and reporting requirements that are identical to the Federal requirements for determining the types of injuries and illnesses that will be entered into the records and the manner in which they are entered. All other recordkeeping and reporting requirements that are promulgated by State plans shall be at least as effective as the Federal requirements.

(b) Records maintained by an employer and reports submitted, pursuant to and in accordance with the requirements of an approved State plan under section 18 of the Act, shall be regarded as compliance with this Part.

(c) State and local government agencies are exempt from Federal OSHA recordkeeping in States under the jurisdiction of Federal OSHA. However, in States with their own OSHA approved safety and health programs, State and local government agencies must keep injury and illness records in accordance with State law and 29 CFR 1952.4.

§ 1904.15 Petitions for recordkeeping exceptions.

All requests or variances for recordkeeping exceptions shall be made in accordance with the procedures set forth in 29 CFR 1905. Any exception granted prior to [Effective date of final rule] is null and void.

§ 1904.16 Falsification of, or failure to keep records or provide reports.

(a) Section 17(g) of the Act provides that "Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment, for not more than 6 months or both."

(b) Failure to maintain records or file reports as required by Part 1904, or as required by the forms and instructions issued under Part 1904, may result in the issuance of citations and assessment of penalties as provided for in sections 9, 10, and 17 of the Act.

(c) An employee who is subject to retaliatory discrimination by his or her employer for filing a report of a work-related injury or illness is protected by Section 11(c) of the OSH Act and 29 CFR 1977 Discrimination Against Employees Exercising Rights Under the Williams-Steiger Occupational Safety and Health Act of 1970. An employer who violates section 11(c) may be required to reinstate or rehire a fired employee with back pay.

§ 1904.17 Subcontractor records for major construction projects.

(a) Any site controlling employer in the construction industry (SICs 15, 16 and 17), for construction projects with an initial total contract value of one million dollars ($1,000,000) or more, shall maintain a separate occupational injury and illness record (subcontractor record) for recordable injuries and illnesses sustained by "subcontractor employees" (not considered employees of the site controlling employer) while working at the construction project. On the subcontractor record, the site controlling employer is only required to record occupational injuries and illnesses of "subcontractor employees" who are employed by a construction firm who had eleven (11) or more full and/or part-time employees at any one time during the calendar year immediately preceding the current calendar year. (Note: The size threshold is based on the number of employees of the entire firm or corporation, not of an individual establishment.)

(b) The site controlling employer shall comply with the requirements of § 1904.4(b) in determining which injuries and illnesses are recordable on the subcontractor record, and when to record them. The injury and illness information for each recordable case occurring to "subcontractor employees" shall include the person's name, company, date of the event which resulted in the injury or illness, and a brief description of the injury or illness. The site controlling employer shall also include the location of the site and the period of time covered on the record. The site controlling employer shall maintain all subcontractor records pertaining to one construction site in a consolidated file by calendar year. The site controlling employer has the option of using a separate OSHA Form 300, an equivalent form, or a collection of records to satisfy this requirement. Note: The employer of the "subcontractor employee" is not relieved of the responsibility of completing the OSHA Form 300 or equivalent as required by § 1904.4(a).

(c) For those construction projects where there is more than one site controlling employer, those employers may agree to assign the responsibility for maintaining the subcontractor records to one of the site controlling employers by means of a written agreement. When such a written agreement exists, the other site controlling employers on the project are not required to maintain the subcontractor record regardless of whether they may be deemed to be site controlling employers.

(d) The site controlling employer is not required to complete an OSHA Form 301 for injuries or illnesses experienced by "subcontractor employees". Note: The employer of the "subcontractor employee" is not relieved of the responsibility of completing the OSHA Form 301 or equivalent as required by § 1904.5(a).

(e) The site controlling employer is not required to prepare a year-end summary for injuries and illnesses experienced by "subcontractor employees". Note: The employer of the "subcontractor employee" is not relieved of the responsibility of completing the year-end summary as required by § 1904.6(a).)

(f) The site controlling employer is not required to update the injury and illness records for "subcontractor employees". Note: The employer of the "subcontractor employee" is not relieved of the responsibilities to update the injury and illness records as required by § 1904.9(a).

Appendix A to Part 1904—Work-Relatedness (Mandatory)

If an event or exposure in the work environment either caused or contributed to an injury or illness, or aggravated a pre-existing condition, then the case is considered work-related. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring at the employer's establishment. Injuries or illnesses occurring away from the establishment are considered work-related only if the worker is engaged in a work activity or is present as a condition of his or her employment.

A. *Work-Related Injuries and Illnesses—Special Situations:* Injuries or illnesses are considered to be work-related if they occur in the following situations:

1. While the employee is engaged in work activity or apprenticeship/vocational training required by the employer.

2. While the employee is on break, in the rest room or in storage areas when located on the employer's premises.

3. While the employee is performing work for pay or compensation at home, if the injury or illness is directly related to the performance of work rather than the general home environment or setting.

4. While the employee is traveling on business, including to and from customer contacts.

5. While the employee is engaged in work activity where a vehicle is considered the work environment (e.g. truck, taxi, etc.).

B. *Non Work-Related Injuries and Illnesses.* The following injuries and illnesses are not considered work-related. Only the following may be used to rebut the presumption of work-relatedness that applies to injuries and illnesses occurring at the employers' establishment:

1. Injuries or illnesses will not be considered work-related if they occur to individuals present at their employer's establishment as a member of the general public rather than as a worker.

2. Injuries or illnesses will not be considered work-related if they involve symptoms that surface at work but solely result from a non-work-related event or exposure outside of the work environment.

3. Injuries or illnesses will not be considered work-related if they result solely from voluntary participation in wellness programs, medical, fitness and recreational activities (e.g. exercise classes, blood donations, physicals, flu shots, racquetball, baseball, etc.).

4. Injuries or illnesses will not be considered work-related if they solely result from a worker eating, drinking or preparing his or her own food when unrelated to occupational factors.

5. Injuries or illnesses will not be considered work-related if they are solely the result of workers doing personal tasks (unrelated to their employment) at the establishment outside of normal working hours.

6. Cases will not be considered work-related if they result solely from acts of violence committed by one's family or ex-spouse when unrelated to the worker's employment, including intentionally self-inflicted injuries.

7. Injuries or illnesses will not be considered work-related if they occur on company parking lots and access roads while employees are arriving at or leaving work.

8. An injury or illness will not be considered work-related if the worker was never engaged in any duty at work that could have placed stress on the affected body part or was never exposed to any chemical or physical agent at work that could be associated with the observed injury or illness.

9. An injury or illness will not be considered work-related if the case results solely from activity in voluntary community or civic projects away from the employer's establishment.

10. An injury or illness will not be considered work-related if the case results solely from normal body movements, i.e. walking unencumbered, talking, tying a shoe, sneezing, coughing, provided the activity does not involve a job-related motion and the work environment does not contribute to the injury or illness.

11. Mental illness will not be considered work-related; except mental illnesses associated with post-traumatic stress.

C. *Travel Status.*

1. Employees in travel status (i.e. traveling on company business) should be considered engaged in work-related activities during all of their time spent in the "interest of their company". This includes, but is not limited to, travel to and from customer contacts, conducting job tasks, and entertaining or being entertained for the purpose of transacting, discussing, or promoting business.

2. When traveling employees check into a hotel, motel or other lodging, they establish a "home away from home". Thereafter, their activities are evaluated in the same manner as for non-traveling employees. For example, injuries sustained when commuting from a hotel to a temporary work site are not work-related, just as injuries sustained during an employee's normal commute from a permanent residence to an office would not be considered work-related.

3. While an employee is in travel status, the following situations are not considered work-related:

i. Normal commuting between the employee's temporary residence and his or her job; and

ii. Situations where the employee departs from a reasonably direct route of work-related travel for personal reasons (e.g., a side trip for a vacation).

D. *Employees who work in their own home.* An injury or illness will be considered work-related if it occurs while the employee is performing work for pay or compensation in the home, if the injury or illness is directly related to the performance of work rather than the general home environment or setting.

E. *Employees who live at the employer's establishment.*

1. Some workplaces provide living quarters for employees. Off-shore oil rigs, ships and construction sites at remote locations commonly provide their employees with living accommodations.

2. In these workplaces, injuries or illnesses are presumed to be work-related if the employee is on-duty or engaged in a work activity. The injury or illness is also considered work-related if the employee was harmed as a result of a serious workplace accident such as a chemical release, fire, explosion, shipwreck, steam release, or building collapse.

3. All other injuries and illnesses occurring during off-duty hours are considered non-work-related.

Appendix B to Part 1904—Recording of Specific Conditions (Mandatory)

The purpose of this appendix is to provide information for the recording of specific conditions which may not be captured by the other recordability criteria. For purposes of OSHA-mandated recordkeeping, the conditions listed in this appendix are considered Recordable Injuries and Illnesses when the condition listed is work-related. The employer shall evaluate, for OSHA injury and illness recordkeeping purposes, all information received as a result of medical surveillance required by an OSHA standard.

Conditions not included in this Appendix that otherwise meet the criteria in the § 1904.4.(c) must be recorded.

TABLE OF SPECIFIC CONDITIONS

System	Condition	Recording criteria
Multi-system	Carbon monoxide poisoning.	Elevated carboxyhemoglobin levels and/or diagnosis by a health care provider.
	Mercury	15 micrograms or greater per liter (μg/L) of whole blood or 35 micrograms or greater per gram (μg/g) creatinine in urine and/or diagnosis of mercury poisoning by a health care provider.
	Lead	40 micrograms or greater per 100 grams (μg/100g) of whole blood and/or diagnosis of lead poisoning by a health care provider.
	Cadmium	—3 micrograms or greater per gram (μg/g) creatinine in urine; or —B2-microglobulin 300 micrograms or greater per gram (μg/g) creatinine in urine; or —5 micrograms of cadmium or greater per liter (μg/L) of whole blood.
	Benzene	Phenol level of 75 milligrams or greater per liter (mg/L) of urine or abnormal blood counts.
Musculo-skeletal system	Fractures of the bones or teeth.	Positive X-ray and/or diagnosis by a health care provider.
	Musculoskeletal disorders.	Diagnosis by a health care provider and/or objective finding(s) (e.g. positive Tinel's, Phalen's or Finkelstein's test; or swelling, redness indicative of inflammation, deformity, loss of motion, etc.) Musculoskeletal disorders may occur in the neck, back, shoulder, arm, hand, fingers, leg and/or foot. Examples of musculoskeletal disorders include but are not limited to carpal tunnel syndrome, tendinitis, epicondylitis, synovitis, thoracic root lesions, Raynaud's syndrome, and tarsal tunnel syndrome. For musculoskeletal disorders only, medical treatment shall include two or more applications of hot/cold therapy as directed by a health care provider.
Sensory organs	UV burning of the cornea or retina.	Recognition/diagnosis of welder's flash or flashburn.
	Hearing loss	An average shift of 15 decibels (dB) or more at 2000, 3000, and 4000 hertz in one or both ears. The change in hearing may be adjusted for presbycusis (age related hearing loss). The record of the injury or illness may be deleted if a retest performed with 30 days disproves the original shift. Once a 15 dB shift has occurred, the baseline (for recordkeeping purposes) should be adjusted to reflect this result. A subsequent test revealing an additional 15 dB shift from this new or revised baseline value is a new injury or illness. Work-relationship is presumed if an employee is exposed to an 8 hour time weighted average sound level of noise equaling or exceeding 85 dB(A).
Skin	Burns (heat, chemical and radiation burns).	Third degree burns (and first and second degree burns requiring medical treatment beyond first aid, restricted work activity, days away from work, loss of consciousness or death).
	Skin disorders	Lasting beyond 48 hours, including but not limited to allergic or irritant contact dermatitis.
	Lacerations	Requiring closure including but not limited to the use of sutures, adhesive closures and staples.
Respiratory system	Asthma and other obstructive airway diseases.	—Initial episode, regardless of duration, diagnosed by a health care provider. Or —Any recurrent episode, regardless of duration, that results in the administration of prescription drugs and/or diagnosis by a health care provider. Note: Obstructive airway diseases include but are not limited to reactive airways dysfunction syndrome (RADS), chronic obstructive pulmonary disease (COPD), and chronic obstructive bronchitis.
	Pneumoconiosis (e.g. asbestosis, silicosis, coal worker's pneumoconiosis, beryllium disease, etc.).	Diagnosis by a health care provider, radiography profusion category of 1/1 or greater by the International Labor Organization (ILO) classification system.
	Mesothelioma	Diagnosis by a health care provider, pleural plaques and/or pleural thickening.
	Byssinosis	Diminished pulmonary function (an FEV1 of less than 80% of the predicted value)and/or diagnosis by a health care provider when worker has been exposed to dust from cotton or flax which has not undergone wet treatments.
	Tuberculosis infection or disease.	First positive tuberculin skin test reaction indicative of new infection, except pre-placement; Or Diagnosis of active tuberculosis by a health care provider. A case of tuberculosis disease or tuberculosis infection is presumed to be work-related in the following industries: correctional facilities; health care facilities; homeless shelters; long-term care facilities for the elderly; and drug treatment centers. The employer may rebut this presumption of work relationship by providing evidence that the employee is known to have had a non-work exposure to active TB. Examples include situations in which (1) An employee is living in a household with a person diagnosed with active TB or (2) the Public Health Department lists the employee as a contact to a case of active TB. For all other industries a case would be considered work-related under the following circumstance: An employee tests positive for tuberculosis infection after being exposed to a person within the work environment known to have tuberculosis disease. The case of the person with TB disease, however, would not be presumed work-related if there was no known exposure within the work environment.

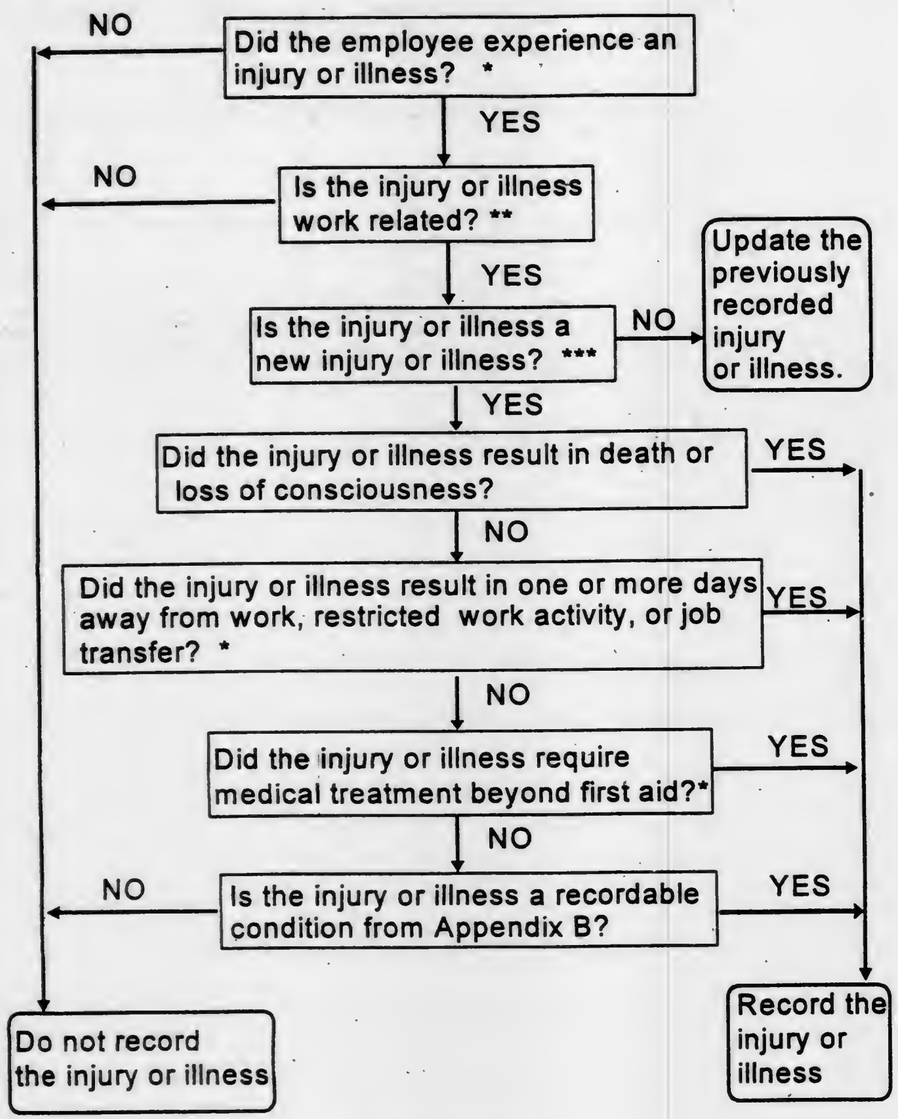
TABLE OF SPECIFIC CONDITIONS—Continued

System	Condition	Recording criteria
Respiratory system	Hypersensitivity pneumonitis (non-asthmatic allergic breathing disorders caused by organic dust and other antigenic aerosols).	Diagnosis by a health care provider of woodworker's lung, farmer's lung, malt worker's lung, mushroom worker's lung, cheese washer's lung, miller's lung, etc. when the worker has been exposed to the relevant substance.
	Toxic inhalation injury—breathing disorders (such as Metal Fume Fever)due to inhaling chemicals.	Diagnosis by a health care provider and/or respiratory distress requiring overnight hospitalization.
Miscellaneous	Bloodborne pathogen diseases.	Any workplace bloodborne pathogen exposure incident (as defined in 1910.1030(b)) that results in a positive blood test or diagnosis by a health care provider indicating AIDS, HIV seroconversion, hepatitis B or hepatitis C; Or Any laceration or puncture wound that involves contact with another person's blood or other potentially infectious materials. Note: to protect employee confidentiality, employers shall record occupationally acquired bloodborne pathogen diseases, such as hepatitis B, simply as the initial bloodborne exposure incident and note the exposure type (e.g. needlestick). Seroconversion and specific type of bloodborne disease shall not be recorded.
	Hepatitis (toxic or infectious).	Positive blood test and/or diagnosis by a health care provider.

Work-related injuries and illnesses are recorded if they result in death, loss of consciousness, days away from work, restricted work activity, medical treatment beyond first aid, or the criteria in this table.

BILLING CODE 4510–26–P

Appendix C to Part 1904—Decision Tree for Recording Occupational Injuries and Illnesses



* See Definitions ** See Definitions and Appendix A *** See 1904.4(c)

BILLING CODE 4510–26–C

PART 1952—[AMENDED]

2. The authority citation for Part 1952 continues to read as follows:

Authority: 29 U.S.C. 667; 29 CFR Part 1902, Secretary of Labor's Order No. 1–90 (55 FR 9033).

3. Section 1952.4 would be revised to read as follows:

§ 1952.4 Injury and illness recordkeeping and reporting requirements.

(a) Injury and illness recordkeeping and reporting requirements promulgated by State plans are required to be substantially identical to 29 CFR Part 1904. State plans shall promulgate recordkeeping and reporting requirements that are identical to the Federal requirements for determining the types of injuries and illnesses that will be entered into the records and the manner in which they are entered. All other recordkeeping and reporting requirements that are promulgated by State plans shall be at least as effective as the Federal requirements.

(b) A State is not prohibited from requiring supplementary reporting or recordkeeping data, but such additional data must be approved by the Occupational Safety and Health Administration to insure that there will be no interference with the uniform reporting objectives.

(c) Variances to State injury and illness recordkeeping and reporting requirements under an approved plan must be obtained from the Occupational Safety and Health Administration of the U.S. Department of Labor. Therefore, a State may not grant a variance to recordkeeping and reporting requirements under their own procedures.

(d) In order to insure the uniformity of the injury and illness statistics, a State must recognize all variances granted by the Occupational Safety and Health Administration.

[FR Doc. 96–1942 Filed 2–1–96; 8:45 am]

BILLING CODE 4510–26–P

Federal Register

Friday
February 2, 1996

Part IV

Office of Personnel Management

Report on Winter 1995 Surveys Used to Determine Cost-of-Living Allowances in Alaska; Notice

OFFICE OF PERSONNEL MANAGEMENT

Report on Winter 1995 Surveys Used to Determine Cost-of-Living Allowances in Alaska

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice publishes the "Report To OPM On Living Costs In Anchorage, Fairbanks, Juneau, The Rest Of The State Of Alaska, And In The Washington, DC, Area, November 6, 1995," prepared by Jack Faucett Associates under Government contract OPM–94–BP–3816.

DATES: Comments must be received on or before April 2, 1996.

ADDRESSES: Send or deliver comments to Allan G. Hearne, Salary Systems Division, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or FAX to (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Allan G. Hearne, (202) 606–2838.

SUPPLEMENTARY INFORMATION: Sections 591.205(d) and 591.206(c) of title 5, Code of Federal Regulations, require that nonforeign area cost-of-living allowance (COLA) survey summaries and calculations be published in the **Federal Register**. Accordingly, OPM is publishing the complete "Report To OPM On Living Costs In Anchorage, Fairbanks, Juneau, The Rest Of The State Of Alaska, And In The Washington, DC, Area, November 6, 1995," produced by Jack Faucett Associates under contract with OPM. This report explains in detail the methodologies, calculations, and findings of the winter 1995 living-cost surveys.

Survey Results. Jack Faucett Associates computed index values of relative living costs in the allowance areas using an index scale where the living costs in the Washington, DC, area equal 100. (See the Executive Summary of the report.) OPM notes that the winter survey indices showed that the COLA rate for the Rest of the State of Alaska is currently set at the proper level but that the rates authorized for all of the other Alaska allowance areas are above levels warranted by the indices. However, the Treasury, Postal Service and General Government Appropriations Act, 1992 (Pub. L. 102–141), as amended, prohibits reductions in COLA rates through December 31, 1998. Therefore, OPM is *not* proposing any adjustments in the COLA rates in these allowance areas at this time.

Office of Personnel Management.

James B. King,

Director.

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Executive Summary

This report provides the results of the winter 1995 living-cost surveys and compares living costs in Alaska nonforeign cost-of-living allowance (COLA) areas relative to the Washington, DC area.

The surveys and analyses were conducted by Jack Faucett Associates (JFA), an economics consulting firm located in Bethesda, Maryland, and its subcontractor, Runzheimer International, a Wisconsin-based firm, specializing in the collection and analysis of cost-of-living information. The study was conducted for the Office of Personnel Management (OPM) under contract OPM–94–BP–3816. The contract requires JFA to:

(1) Survey living costs in four allowance areas and in the Washington, DC area, and

(2) Compare living costs between the allowance areas and the DC area.

For this study, JFA and Runzheimer researched more than 1,000 outlets and gathered more than 5,500 prices on more than 200 items representing typical consumer purchases. These prices were then combined using consumer expenditure information developed by the Bureau of Labor Statistics. The final result of the study is a series of living-cost indexes, shown in the table below, which show the living-costs in each of the allowance areas relative to the Washington, DC area. The index for the DC area (not shown) is 100.00 because it is, by definition, the reference area.

TABLE E–1.—FINAL COST COMPARISON INDEXES

Allowance area	Index
Anchorage, Alaska	105.14
Fairbanks, Alaska	108.64
Juneau, Alaska	108.33
The rest of the State of Alaska	126.19

OPM implemented a number of improvements for the winter 1995 survey. These improvements included:

—Using a moving average to introduce new weights based on the results of the Bureau of Labor Statistics' Consumer Expenditure Surveys;

—Using new representative income levels based on the 1994 distribution of salaries of Federal employess in the allowance areas;

—Selecting new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey;

—Incorporating historical housing data to reflect both newly purchased and previously purchased homes;

—Using the median home value in place of trimming and trend analyses used in previous surveys; and

—Using the Goods and Services index to reflect relative expenditures for cash contributions.

These changes as well as the data collection and analysis procedures already employed in the survey are discussed in the various sections of this report.

1. Introduction

1.1 Report Objectives

This comprehensive report culminates data collection and research work undertaken in winter 1995 as required by Tasks 1 and 2 of contract OPM–94–BP–3816 between the Office of Personnel Management (OPM) and Jack Faucett Associates (JFA). This report only provides the results of the winter 1995 surveys. A listing of earlier reports that provided the results of previous surveys is shown in Appendix 1.

The analyses show the comparative living-cost differences between the Washington, DC area and the following allowance areas:

1. City of Anchorage, Alaska
2. City of Fairbanks, Alaska
3. City of Juneau, Alaska
4. The rest of the State of Alaska

By law, Washington, DC is the base of "reference" area for the nonforeign area cost-of-living allowance (COLA) program.

1.2 Changes in This Year's Survey

One of the obvious changes this year was OPM's selection of a new contractor for living-cost surveys and analyses: JFA. JFA subcontracted a substantial portion of the work to Runzheimer International, OPM's previous contractor for the COLA program.

OPM directed JFA to make several changes to the survey and analyses. Some of the key changes this year included:

—Using a moving average to introduce new weights based on the results of the Bureau of Labor Statistics' Consumer Expenditure Surveys (CES);

—Using new representative incomes based on the 1994 distribution of salaries of Federal employees in the allowance areas;

—Selecting new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey;

—Incorporating historical housing data to reflect both newly purchased and previously purchased units;

—Using the median home value in place of trimming and trend analyses used in previous surveys; and

—Using the Goods and Services index to reflect relative expenditures for cash contributions.

Three of these changes are discussed further below. The other changes are discussed where applicable in the report.

1.2.1 Three-Year CES Moving Average

One change was the introduction of a three-year moving average of CES data in calculating the weights used to combine price indexes. In prior years, expenditure weights were based on the 1988 CES, and OPM wanted to use more current CES information.

Rather than simply replacing the 1988 CES data with the most recent (1992) CES data, OPM implemented a system that would allow the gradual introduction of new CES data over time, thereby reducing the impact that short-term changes in CES might have on the living-cost indexes. In future surveys, OPM plans to include current CES information and drop the oldest CES data to maintain a three-year moving average. Appendices 3 and 4 show the CES data used in this study.

1.2.2 New Living Communities

Another change was the selection of new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey. In that survey, employees were asked to provide their residential zip codes. OPM used this information to refine community selection.

Two types of changes were made. In areas with relatively large concentrations of Federal employees and sufficient housing data, OPM selected communities to reflect the areas where Federal employees typically lived.

The updated list of communities is provided in Appendix 9. These are the communities in which house sales and rental rates were collected. The communities were also used to determine the normal shopping radius and the outlets at which price were collected.

1.2.3 Historical Housing Data

A third change was the incorporation of historical housing data to reflect not only the prices paid for recent home purchases but also for homes purchased in prior years. Appendix 10 shows the home market values, interest rates, and annual principal and interest payments for each area by year and income level. Appendix 11 shows how the principal and interest payments were combined using weights based on the percent of Federal employees presumed to have purchased their homes in each given year. The weights were derived from the results of the 1992 Federal Employee Housing and Living Patterns Survey.

1.3 Pricing Period

The prices were collected in the allowance areas and in the Washington, DC area in February 1995. As with the previous surveys, the prices of some items—those dependent upon the pricing of other items—were collected slightly later (i.e., in March and April 1995) In addition, individual item prices not meeting OPM's quality control procedures were resurveyed in April and used to verify or replace the original prices.

As done in previous surveys, JFA included some catalog sales in its survey. Only catalogs that sell merchandise in both the allowance areas and the Washington, D.C. area, were used. To ensure consistent seasonal catalog pricing, JFA used winter catalogs for the catalog items surveyed.

2. The COLA Model

2.1 Measurement of Living-Cost Differences

A common and widely accepted way to measure living-cost differences between and among locations is to select representative items that people purchase in these locations and to calculate the respective cost differences, combining them according to their importance to each other (as measured by relative percentage of expenditures). The COLA model applies this methodology to compare the living costs in each of the allowance areas with the living costs in Washington, DC area.

Moving from this basic concept to computing comparative living costs between each allowance area and the Washington, DC area involves five main steps:

Step 1: Identify the segment of the population for which the analysis is targeted (i.e., the target population).

Step 2: Estimate how these people spend their money.

Step 3: Select items to represent the types of expenditures people usually make and outlets at which people typically make purchases.

Step 4: Conduct pricing surveys of the selected items in each area.

Step 5: Analyze cost ratios for the selected items and aggregate them according to the relative importance of each item.

2.2 Step 1: Identifying the Target Population

The study estimates living-cost differences for nonmilitary Federal employees who have annual base salaries between approximately $12,000 and $87,000, the range of the General Schedule. Because living costs may vary depending on an employee's income level, living costs are analyzed at three income levels.

2.2.1 Federal Salaries

To determine the appropriate income levels, OPM analyzed the 1994 distribution of salaries for all General Schedule employees in all of the allowance areas combined. OPM divided this distribution into three groups of equal size and identified the median salary in each of the groups. These values were then rounded to the nearest $100 to produce the three representative income levels of $20,800, $31,500, and $48,300.

The study analyzes living costs at each of these three income levels. The results are three sets of estimated expenditures for each allowance area and for the Washington, DC area. To combine these estimated expenditures into a single overall index for the area, JFA used employment weights provided by OPM.

2.2.2 Federal Employment Weights

As with the income levels, the OPM employment weights were derived from the distribution of General Schedule employees by salary level. Using the salary parameters identified in the income analysis described above, OPM determined the number of General Schedule employees in each salary group in each allowance area. Using a moving average similar to that used with the CES data (see section 1.2.1), OPM combined these data with the same type of information for the previous two years and calculated the percent of the General Schedule workforce in each income group in each area. These percentages were the weights that JFA used. Appendix 2 shows the General Schedule employment distribution and how the percentage weights were derived.

2.3 Step 2: Estimating How People Spend Their Money

2.3.1. Consumer Expenditure Survey (CES)

Expenditure patterns for employees for all areas, including the Washington, D.C. area, are based on national data from the CES. OPM obtained from the Bureau of Labor Statistics "prepublished" CES results for 1988, 1991, 1992. As discussed in section 1.2.1, these three years of CES data were combined using a moving average.

CES data are used in two ways: to identify appropriate items for the survey and to derive item, category, and component weights. The item weights are not income-sensitive. However, aggregated CES data are analyzed by income level to derive category and component weights. These weights are income-sensitive. The CES data used in this study are shown in Appendix 3 and 4.

The Bureau of Labor Statistics has advised OPM that "prepublished" CES data may not be statistically significant. To OPM's knowledge, however, it is the only source of comprehensive consumer expenditure information by income level. Therefore, it is used in the model.

2.3.2 Expenditure Categories and Components

The CES groupings expenses into small, logical families of items. For example, the report divided money spent by families on beef into four groups: ground beef, roast, steak and other beef. The steak and roast groupings were further separated into smaller clusters of items (e.g., sirloin and round steak, chuck and round roast).

Using the CES data, the items were sorted into the four main cost components specified in OPM regulations: Consumption Goods and Services, Transportation, Housing, and Miscellaneous Expenses. To develop weighting patterns for the three income levels, JFA performed linear regression analyses on the CES data shown in Appendix 3.[1] These analyses produced estimated expenditures at the three income levels identified in section 2.2.1 above. JFA converted these expenditures to percentages of total expenditures for the four components to produce the values shown in the table below. The values were the weights JFA used to combine the expenditures for each of the components into an overall value for each income level in each allowance area and the Washington, DC area.

[1] The midpoint of the moving average of CES data was 1991. Therefore, for the purposes of these regressions, OPM provided adjusted Federal salaries to reflect 1991 pay rates. OPM used the pay increases for 1992 (4.2%), 1993 (3.7%), and 1994 (0.0%) to deflate the 1994 salaries. This produced adjusted Federal salaries of $19,250, $29,150, and $44,700 for use in the regression equations.

TABLE 2–1.—COMPONENT EXPENSES EXPRESSED AS A PERCENTAGE OF TOTAL EXPENSES

Income level 1994	Income level 1991 adjusted	Goods and services (percent)	Housing (percent)	Transportation (percent)	Misc. (percent)	Total (percent)
$20,800	$19,250	40.10	25.01	18.93	15.96	100.00
31,500	29,150	39.47	23.98	18.66	17.88	100.00
48,300	44,700	38.87	23.01	18.41	19.71	100.00

(Values may not total because of rounding.)

Goods and services items were further sorted into ten categories and linear regression techniques were used to estimate expenditures on these ten categories by income level. The weights for these categories are shown in section 3.1. The same technique was also used to compute category weights for the Transportation and Miscellaneous Components and to produce ratios of renters to homeowners at each income level.

2.4 Step 3: Selecting Items and Outlets

2.4.1 Item Selections—The Market Basket

As noted above, CES items were grouped into "clusters" of expenses to determine which items to survey. These clusters were chosen so that no market basket item would have overwhelmingly large or insignificantly small item weight.

For each of these clusters, a set of items to price was identified. Collectively, these items are called a "market basket." Because it would have been impractical to survey all of the thousands of items consumers might buy, the market basket contains representative items, such as cheddar cheese, that represents itself and the many other related items that consumers purchase (e.g., Edam, Gouda, Jack, Swiss, et cetera). JFA's market basket had more than 200 items ranging from table salt to new cars to home purchases.

The items selected were representative of other similar items, commonly purchased, and readily available in all areas. For example, a 10.5-ounce can of Campbell's vegetable soup was selected for the survey because it is representative of canned and packaged soups, is a commonly-purchased brand, and is found in all areas. Whenever practical, the item description included the exact brand, model, type, and size, so that exactly the same items could be priced in all areas if possible. Appendix 5 provides a list of the items surveyed and their descriptions.

Changes to the item list and descriptions are an important aspect of the COLA survey. These changes are necessary to improve the survey and keep the items' descriptions current. For this survey, JFA changed several of the items or descriptions. The changes and the reasons for each are listed in Appendix 6.

2.4.2 Geographic Coverage and Outlet Selection

Just as it was important to select commonly-purchased items and survey the same items in all areas, it was important to select outlets frequented by consumers and find equivalent outlets in all areas. This involved deciding which geographic areas to survey and which outlets to survey within these geographic areas.

2.4.2.1 Geographic Areas

For some areas, the choice of which area(s) to survey was obvious. In Nome, for example, the whole city is surveyed because Nome is a relatively small city and Federal employees live throughout the city.

For other areas, specific communities had to be identified. To do this, OPM used the results of the 1992 Federal Employee Housing and Living Patterns Survey. Among other things, that survey obtained information on where Federal employees lived. OPM used this information to select the communities in which housing costs would be priced. JFA then identified outlets within a normal shopping radius of these housing communities.

2.4.2.2 Similarity of Outlets

Whenever possible, JFA selected popular outlets that were comparable to outlets in all areas. For example, JFA surveyed the price of grocery items at supermarkets in all areas because most people purchase their groceries at such stories and because supermarkets are found in all areas.[2] The selection of comparable outlets was particularly important because comparing the prices of items purchased at dissimilar outlets would be inappropriate (e.g., comparing the price of a box of cereal at a supermarket with one sold at a convenience store).

Although major supermarkets, department stores, and discount stores represented a sizable portions of the survey, JFA also selected outlets to represent the diversity of consumer shopping. For example, JFA could have used department stores for pricing all clothing items surveyed. This would not have reflected, however, the range of consumer choices. Therefore, JFA also priced some clothing items in men's and women's clothing stores, other clothing items in department stores, others in shoe stores, and still others in discount stores. For each item, the same type of outlet (e.g., clothing store, discount store, department store) was selected in each area whenever possible.

2.4.2.3 Catalog Pricing

A limited amount of catalog pricing was included in the survey to reflect this common purchasing option. Eight item prices were surveyed by catalog. OPM selected these items based on comments it received from Federal employees. Catalog pricing also allowed the comparison of comparable items that would have been difficult to price otherwise. Of course, all catalog prices included any charges for shipping and handling and all applicable taxes.

2.5 Step 4: Surveying Prices

As noted earlier, JFA obtained approximately 5,500 prices on more than 200 items from 1,000 outlets. In each survey area, JFA attempted to get at least three price quotes for each item, with certain exceptions. For example, essentially all of the available home sales and rental data meeting the specifications were obtained. For other items, such as utilities and real estate tax rates, only one quote was obtained in each area because these items have uniform rates within an area. Because the Washington, DC area has six survey communities, JFA attempted to get at least 18 price quotes for most items in this area.

[2] In the Washington, DC, area, JFA surveyed groceries at two kinds of supermarkets (i.e., full-service supermarkets and "warehouse-type" supermarkets) because both types of grocery stores are common in this area. JFA did not survey "warehouse-type" grocery stores in any other area because they are relatively uncommon and not frequented by most Federal employees.

To accomplish this, JFA used various information-gathering approaches. These are described below.

2.5.1 In-House Research Staff

JFA's research personnel, and those of Runzheimer, its subcontractor, played a major role in all data-collection activities. These professionals:

—Contacted manufacturers, trade associations, governmental agencies, and retail establishments to ensure that suitable items were selected and priced at common types of outlets;
—Contacted real estate professionals in each survey area to obtain general information as well as specific rental rates and home market values;
—Conducted pricing surveys, onsite and by telephone;
—Served as a liaison for field researchers who collected price information onsite;
—Performed hundreds of quality control checks, often verifying survey data through telephone calls and comparing current data-gathering results with those from earlier surveys; and
—Analyzed and computed the item, category, component, and total comparative cost indexes.

2.5.2 Field Researchers—"Research Associates"

Most of the price data were collected onsite by Research Associates (RA's). The RA's were independent contractors, hired by JFA to visit retail outlets in each area and collect prices. All of these RA's were residents of the area. To avoid any real or perceived conflicts of interest, JFA refrained from hiring research associates who were either employees of the Federal government or who had immediate family who were employees of the Federal government.

2.5.3 Data Collection Materials

The living-cost surveys conform with the provisions of the Paperwork Reduction Act and are approved by the Office of Management and Budget (OMB). The OMB-approved survey collection materials are found in Appendix 7. All JFA-developed worksheets or other survey materials conformed with those approved by OMB.

2.5.4 Inclusion of Sales and Excise Taxes

For all items subject to sales and/or excise tax, the appropriate amount of tax was added prior to analysis. JFA gathered applicable information on taxes by contacting appropriate sources of information in the allowance areas and the Washington, DC area. JFA also used appropriate tax publications, such as the State of Maryland's *Sales and Use Tax Laws and Regulations* and the "Uniform Sales Tax" (Ordinance Section 69.05) of the City and Borough of Juneau.

2.5.5 JFA's Onsite Visits

Full-time JFA research professionals traveled to each allowance area to supervise data collection activities and perform various quality control checks as necessary. These visits all occurred during the pricing period so that these professionals could answer any of the RA's data collection questions or provide additional training and instruction if necessary.

The researchers visited living communities within the allowance areas to look at housing and to talk with local real estate professionals. They also visited numerous retail outlets to verify that comparable items were being priced at comparable outlets. In addition, they obtained general information about the local economy.

2.5.6 Special Considerations in Selected Areas

2.5.6.1 Surveying the Washington, DC Area

As noted earlier, JFA attempted to get more price quotes in the DC area than in the allowance areas because of the size and diversity of the Washington metropolitan area. For the purposes of the COLA surveys, the DC area was divided into six survey areas: two in the District of Columbia, two in Maryland, and two in Virginia. The specific areas surveyed were within a normal shopping radius of the housing communities identified in Appendix 9. Survey data from each of the six DC survey areas were combined using equal weights.

2.6 Step 5: Analyzing Data and Computing Indexes

2.6.1 General Formulae

2.6.1.1 Indexes

Nonforeign area COLAs are derived from the living-cost indexes. These indexes are mathematical comparisons of living costs in the allowance areas compared with living costs in the Washington, DC area.

At the most fundamental level, an index is a way to state the difference between two prices (or sets of prices). For example, if a can of green beans costs $1.00 in the allowance area and 80 cents in the DC area, green beans are 25 percent more expensive in the allowance area than in DC. That difference can also be stated as a price index of 125.

2.6.1.2 Item Weights

JFA computed indexes for hundreds of items. To combine these indexes, JFA used weights derived from the CES. These weights reflected the relative amount consumers normally spend on different items. For example, the price of a can of green beans has a lower weight than the price of a pound of apples because, according to the CES, people generally spend less on green beans than on apples.

The COLA model uses a fixed-weight indexing methodology. This means that the same expenditure weights are used in the reference area (i.e., the DC area) and in the allowance areas. The weights used are based on the expenditure patterns of consumers nationwide as reported by the CES. This is the only source, of which OPM is aware, that provides expenditure information by income level.

2.6.1.3 Category and Component Weights

As described in section 2.3.2, JFA also computed income sensitive category and component weights. This allowed the combination of item prices in a manner that reflected the different spending patterns of people at different income levels. How this was accomplished, differed among the components.

For the Goods and Services and Miscellaneous Expense components, JFA simply combined indexes within each category using the CES weights to derive an overall index for the category. The category indexes were then combined into an overall component index using the income-sensitive category weights described above.

For the Transportation and Housing Components, JFA used the above approach in combination with a cost-build-up approach. For example, for each area the annual cost of owning and operating an automobile was computed by taking individual prices (e.g., automobile financing, insurance, gas and oil, and maintenance) and computing an overall dollar cost for each area. These costs were compared with those in the DC area to compute the Private Transportation Category index. This index was then combined with the Other Transportation Category index using income sensitive category weights to compute an overall Transportation Component index for each area.

2.6.2 Computing the Overall Index

The item, category, and component indexes were combined using the process prescribed in Section

591.205(c), title 5, Code of Federal Regulations. That is a five-step process that involves converting the indexes to dollar values and weighting these, combining them, and comparing them to compute a final weighted-average index. The process is described below.

First, JFA used the CES data and the income ranges described in section 2.2.1 to determine the quantity of money consumers typically spend on each component at each income level. These amounts appear in the table below and in Appendix 19. They were derived by taking the component weights shown in Table 2–1 times the representative income levels described in section 2.2.1.

TABLE 2–2.—TYPICAL CONSUMER EXPENDITURES BY INCOME LEVEL AND COMPONENT

Income level	Goods and services	Own/rent	Transportation	Misc.	Total
Lower	$8,341	$5,202	$3,938	$3,320	$20,800
Middle	12,433	7,555	5,879	5,634	31,500
Upper	18,775	11,114	8,892	9,520	48,300

(Note: Values may not total because of rounding.)

Second, for each allowance area, JFA multiplied the dollar values above by the component indexes for the allowance area. Because the housing component consisted of two indexes (one for owners and another for renters), two sets of total relative costs were produced—one for owners and another for renters.

Third, for each allowance area and income level, JFA combined the total relative costs for owners and renters using as weights the proportion of owners and renters as identified in the CES. (See section 4.2.1.) This produced an overall expenditure dollar amount for each income level in each allowance area.

Fourth, JFA computed a single overall average expenditure for each allowance area by combining the income level expenditures and using the allowance area General Schedule employment distribution as weights. This produced a single overall dollar expenditure value for the allowance area. Using the same General Schedule employment weights, JFA also computed a single overall dollar expenditure value for the DC area.

The final step was to divide the overall average dollar expenditure for the allowance area by the overall average dollar expenditure for the DC area to compute a final index. These indexes are shown in the last section of this report and in Appendix 19.

3. Consumption Goods and Services

3.1 Categories and Category Weights

Based on the CES data, JFA identified ten categories of expenses within the Goods and Services Component. Using linear regression analyses and the CES data, JFA identified the portion of total Goods and Services expenditures that the typical consumer spends in each category at various income levels. The categories and the relative expenditures are shown in the table below:

TABLE 3–1.—CATEGORY WEIGHTS EXPRESSED AS A PERCENTAGE OF GOODS AND SERVICES EXPENDITURES BY INCOME LEVEL

Category	Income levels		
	Lower	Middle	Upper
Food at Home	26.40	23.49	20.65
Food Away from Home	14.42	14.73	15.04
Tobacco	3.15	2.59	2.05
Alcohol	2.77	2.73	2.69
Furnishings and Hsld. Op.	14.71	15.79	16.85
Clothing	13.97	14.65	15.30
Domestic Service	1.76	1.90	2.04
Professional Services	6.48	6.65	6.82
Personal Care	3.62	3.52	3.43
Recreation	12.72	13.94	15.14
Totals	100.00	100.00	100.00

(Note: Values may not total because of rounding.)

3.2 Goods and Services Data Collection—Special Considerations

3.2.1 Restaurant Pricing

To ensure comparison of prices at comparable restaurants among areas, OPM asked JFA to survey only three restaurant chains: Dennys, Sizzler, and Pizza Hut (or their equivalents). This allowed for the comparison of meal prices at a comparable mix of restaurants in all areas.

3.3 Goods and Services Survey Results

Section 2.6 of this report provides a detailed explanation of the economic model used to analyze the price data. As it applies to Goods and Services, the approach involved comparing the average prices of market basket items in each allowance area with those in the Washington, DC area. The resulting price ratios were aggregated into subcategory and then category indexes using the moving-average expenditure weights derived from the CES data.

Appendix 8 shows for each allowance area ten category indexes, the weights used at each of the three income levels, and the overall Goods and Services indexes. The Washington, DC area is not shown because it is, by definition, the reference area. Therefore, the DC indexes are 100.

4. Housing

4.1 Component Overview

The Housing component consists of expenses related to owning or renting a dwelling. These are—

—Mortgage or rent payments,
—Utilities,
—Real estate taxes,
—Homeowner's or renter's insurance,
—Home maintenance, and
—Telephone.

At each of the three income levels, JFA measured separately the annual housing costs for homeowners and renters. The results were then combined using as weights the percentages of owners and renters reported by the CES.

4.2 Housing Model

4.2.1 Expenditure Research

The CES was used to determine the national average ratio of families who own, as opposed to renting, their residences. Using the expense data by income range as input into a linear regression analysis, JFA calculated the owner and rent weights shown below. JFA excluded expenditure data for home owning families without a mortgage because they were not typical of homeowners in the base area or in the allowance areas.

TABLE 4–1.—OWNER/RENTER WEIGHTS

Category	Income levels		
	Lower (percent)	Middle (percent)	Upper (percent)
Homeowner with mortgage	38.41	47.46	61.67
Renter	61.59	52.54	38.33
Totals	100.00	100.00	100.00

The CES data were also used to identify which home-maintenance items to price and to establish the relative importance of those items.

4.2.2 Housing Profiles

To compare housing costs in all locations, six typical housing profiles are used and are assigned to the three income levels, as shown in the table below. OPM requested that at least one criterion for the owner profile be the square footage of the home and at least one criterion for the renter profile be the number of bedrooms in the rental unit.

TABLE 4–2.—HOUSING PROFILES

Income level	Renter profile	Owner profile
Lower	3 rooms, 1 BR, 1 bath, 600 sq. ft. apartment	4 rooms, 2 BR, 1 bath, 900 sq. ft. condo or detached house.
Middle	4 rooms, 2 BR, 1 bath, 900 sq. ft. apartment	5 rooms, 3 BR, 1 bath, 1,300 sq. ft. detached house (rowhouse in NE DC).
Upper	4 rooms, 2 BR, 2 baths, 1,100 sq. ft. townhouse or detached house.	7 rooms, 3 BR, 2 baths, 1,700 sq. ft. detached house.

The home sizes stated above are the representative sizes used for certain calculations in the model. They are not, however, the only size surveyed for each profile. For rentals, JFA obtained rental rates on any unit, regardless of its size, that otherwise met the profile characteristics. For home sales, JFA obtained the prices of homes within size range and otherwise meeting the profile specifications. The size ranges are shown below:

TABLE 4–3.—HOME SIZES SURVEYED

Income level	Range
Lower	600 to 1,200 sq. ft.
Middle	1,000 to 1,600 sq. ft.
Upper	1,400 to 2,300 sq. ft.

It should be noted that although the size ranges overlap, no home sale observation could be used at more than one income level. Application of the other criteria (i.e., number and type of rooms) ensured that each observation was assigned to the appropriate income level even though its size was common to two income levels.

4.2.3 Living Community Selection

As discussed briefly in sections 1.2.2 and 2.4.2.1, OPM identified the living communities to be surveyed based on the results of the 1992 Federal Employee Housing and Living Patterns Survey. This resulted in many survey community changes in both the allowance areas and in the Washington, DC area. The communities surveyed are identified in Appendix 9.

As with previous surveys, nine homeowner and nine renter communities were identified for the Washington, DC area—one for each income level in each of the three areas (DC, Maryland, and Virginia). In the allowance areas, up to three homeowner and three renter communities were identified—one for each income level.

The three-community owner/renter goal was not achievable in many of allowance areas due to the relatively few home sales and rental opportunities in these areas. In such areas, OPM directed JFA to collect prices for the entire survey area or allowance area rather than in specific communities. This was done in Fairbanks, Juneau, and Nome. In these areas, all home sales and/or rental rates meeting the housing profile characteristics for the particular income group were included in the analysis.

4.2.4 Housing-Related Expenses

Based on the CES data, housing-related expense items are categorized into one of five groups in the COLA model. These groups are—

—Utilities,
—Real estate taxes,
—Owners/renters insurance,
—Maintenance, and
—Telephone.

4.2.4.1 Utilities

Electricity, oil, gas, water, and sewer are the utilities used in the model. Most utility companies are able to provide current charges per unit of consumption and average consumption patterns for all households. The companies were not, however, able to provide separate consumption patterns by the size or type of housing.

Because many utility costs vary by size of house, a factor is needed to derive the utility rates at each of the home profiles. The table below shows the standard square foot sizes and utility factors used for each home profile. The factors are calculated by assuming that utility use increases or decreases at half the rate that square footage increases or decreases.

TABLE 4–4.—UTILITY FACTORS

Income level	Renter profile		Owner profile	
	Sq. ft.	Factor	Sq. ft.	Factor
Lower	600	.73	900	.85
Middle	900	.85	1,300	1.00
Upper	1,100	.92	1,700	1.15

In each area, JFA obtained the price of each of the types of utilities noted above. JFA used average annual consumption per household information gathered from utility companies serving each area to compute average annual utility costs. The above factors were then used to adjust the total annual utility costs for each of the various housing profiles.

4.2.4.2 Real Estate Taxes

For this study, JFA contacted the city assessors in each allowance area and in the Washington, DC area to obtain real estate tax information on the living communities surveyed. Real estate tax formulas were obtained for all living communities and applied to the home values, for each income level, resulting from the homeowner data analysis discussed in section 4.4.1.

4.2.4.3 Owners/Renters Insurance

Homeowners' insurance rates are gathered for each of the survey areas for both renter and owner profiles. For renters, the following estimated content values were used: $20,000 at the lower and middle income levels and $30,000 at the upper income level.

For homeowners, the cost of insurance was dependent on the average home values calculated as part of this survey. In all areas, it was assumed that the structure was equal to 80 percent of the total home value.

Previous research, conducted by Runzheimer International for OPM, found that insurance coverage for disasters, such as floods and earthquakes, were not widely purchased in the allowance areas. Therefore, the COLA model does not include these additional riders. (See Report to OPM on Living Costs in Selected NonForeign Areas and in the Washington, DC Area, June 1992 at 57 FR 58556).

A comparison of homeowner insurance data previously collected for the Alaska areas with the premiums collected for this survey, showed several inconsistencies. For example, premiums for all income levels for Anchorage, Fairbanks and Nome were significantly lower, even in areas where the home market values had increased. In Juneau, the insurance data was significantly higher than premiums collected for the previous survey. Because of these inconsistencies and the refusal of most outlets contacted to participate in the survey, the insurance data collected in the Alaska allowance areas for the previous survey, adjusted for inflation, were used for the homeowner and renter insurance portion of the housing-related expenses analysis. The previously published data in 59 FR 45066 was adjusted by the annual rate of change in the Consumer Price Index for All Urban Consumers (CPI–U) for homeowner's insurance, 3.3%, and renter's insurance, 3.6%, as reported in the Bureau of Labor Statistics' *CPI Detailed Report Data for July 1995.*

4.2.4.4 Home Maintenance

Estimated home maintenance expense was computed for each of the homeowner profiles. Maintenance costs were not added in the three renter profiles because most, if not all, maintenance expenses are covered by the landlord.

As done in previous surveys, JFA priced both home maintenance services as well as home maintenance commodities, using the CES information to identify items to price and the weights associated with these items. The maintenance service items priced were interior painting, plumbing repair, electrical repair, and pest control. In the Nome area, however, pest control was not priced because local sources indicated it is not necessary. The maintenance commodities priced were bathroom caulking, a kitchen faucet set, an electrical outlet, latex interior paint, and a fire extinguisher.

To compute home maintenance cost differences between each allowance area and the Washington, DC area for the homeowner profiles, an index was computed for each maintenance item by comparing the allowance area price to the DC area price. As with the Goods and Services Component items, the CES data were used to weight these maintenance indexes into an overall home maintenance index for each area.

To combine the maintenance indexes with the other homeowner costs, which were expressed in dollar amounts, JFA converted the indexes to dollars by multiplying the index for each area by the average maintenance expense reported in the CES. This cost was assigned to the middle-income homeowner profile.

Logically, maintenance costs for larger homes would generally be greater than costs for middle-sized homes, while costs for smaller homes would generally be less. Therefore, the same homeowner multipliers used in the utilities model for the lower and upper income profiles (.85 and 1.15 respectively) are applied to recognize differences in maintenance costs due to house size.

4.2.4.5 Telephone

Telephone expense consisted of local service charges, additional charges for local calls (if applicable), and charges for long distance calls. To measure estimated expenses for local service and local calls, JFA surveyed the cost of touch-tone service with unlimited calling in each area.

To estimate long distance charges in all areas, JFA surveyed the cost of three, ten-minute direct dial calls per month to large U.S. mainland cities (i.e., Los Angeles, Chicago, and New York City). JFA measured the price of a call placed in the survey area at the time of day necessary to be received in the respective city at 8 p.m. local time. In many areas, this resulted in pricing a combination of daytime and evening-rate calls.

4.3 Housing Data Collection Procedures

As done in previous years, JFA collected housing information mainly from real estate professionals, various listing services, and advertisements. In addition, JFA personnel traveled to each of the surveyed communities to assess the compatibility of the housing community with the income level for which the data were used and to ensure that homes in these communities were comparable to those in the Washington, DC area.

4.3.1 Homeowner Data Collection

JFA obtained selling prices of homes that matched the housing profiles in each living community. JFA obtained as many of these selling prices as possible for sales that occurred during the 6-month period prior to the date of the survey.

The amount of data obtained depended on the number of home sales

in the community and the availability of square footage and other housing profile information. This in turn depended on the size of the community, economic conditions, quality and quantity of the realty data available, and the willingness and ability of local realty professionals and assessor offices to provide data.

If sales data obtained from the preliminary data sources did not meet specified contract minimums, JFA contacted additional data sources in the area to attempt to secure more sales data, if practical. In this manner, either all were or a sizeable portion of the home sales in each area was surveyed.

4.3.2 Renter Data Collection

Rental data also were obtained from a variety of sources, e.g., brokers, rental management firms, property managers, newspaper advertisements, and other listings. Analyses of these data revealed what appeared to be two separate rental markets: a broker market and a non-broker market. Rental rates and estimates provided by brokers generally exceeded those obtained from other sources. The methodology used to analyze these two data sets is discussed in section 4.4.2.

4.4 Housing Analysis

4.4.1 Homeowner Data Analysis

One of the most important factors relating to the price of a home is the number of square feet of living space. In the past, OPM directed the contractor to rank housing data high to low and trim equal numbers of observations from both ends of the data. The average of the remaining values was then used. This year, OPM changed the methodology and used the median home value rather than trimming and averaging. The median is the middle value in a rank-ordered set of observations. The purpose of either approach is to reduce the volatility of the housing data from one survey to the next because a relatively few extremely high or low home prices could significantly influence average housing costs.

For each income profile in each allowance area and the Washington, DC area, JFA computed the median price per square foot for the comparables. This value was then multiplied by the reference square footage for the profile to determine the average home value for the profile.

Another change that OPM made this year was to ask JFA to use historical housing data in addition to data collected this year. These data are found in Appendix 10 of this report. The historical data are from previous living-cost surveys that were published in the **Federal Register** beginning with the 1990 report. (See Appendix 1 for a listing of these publications). The data for the period prior to 1990 were published with the results of the 1991–1992 living cost surveys at 57 FR 58618. All housing values are based on the community selections and analytical methodologies used at the time of each respective survey.

The historical housing data used were estimated annual principal plus interest payments by income level in each area. To combine these data, OPM supplied JFA with weights that were derived from the 1992 Federal Employee Housing and Living Patterns Survey. These weights reflect the proportion of Federal employee homeowners by year of purchase or acquisition in all allowance areas and in the Washington, DC area. The historical housing weights and analyses are shown in Appendix 11.

4.4.2 Rental Data Analysis

JFA assigned each rental quote data point to a single income level, based on the following criteria:

—One bedroom apartments: Lower Income Level,
—Two bedroom apartments: Middle Income Level, and
—Townhouses and detached houses with a minimum of two bedrooms: Upper Income Level.

As discussed earlier, there were essentially two sources of rental information: broker and non-broker sources. In each area, the quantity of data obtained from either source-type varied significantly. Therefore, analyzing all of the rental data (both broker and non-broker) together for an area and income level was undesirable.

Instead, OPM instructed JFA to analyze broker and non-broker data separately by income level. As with the housing data analyses, OPM changed from the use of trimming and averaging to the use of the median. Therefore, for each income level, JFA separately ranked rental rates from low to high for broker and non-broker data. The median values for broker and non-broker data for each group were determined and then averaged to compute a single rental value for each income level. Because OPM has no information on how the Federal employees who rent generally secure their lodgings, OPM requested that JFA apply equal weights to the broker and non-broker data to compute an overall average rental rate for the area and income level. The broker and non-broker medians and final results are shown in Appendix 12.

4.5 Housing Survey Results

In the above sections, the processes used for determining the costs for maintenance, insurance, utilities, real estate taxes, rents, and homeowner mortgages were described. Appendix 13 shows the cost of each of these items for renters and homeowners in each allowance area and in the Washington, DC area.

Appendix 14 compares the total cost of these items by income level in each allowance area with the total cost of the same items by income level in the Washington, DC area. Again, there are separate comparisons for renters and homeowners.

The final housing-cost comparisons take the form of indexes that are used in Appendix 19 to derive the total, overall index for owners and renters. (Refer to Section 2.6 for a discussion of the general formulae and how the component indexes are combined.)

5. Transportation

5.1 Component Overview

The transportation component consists of two categories: Automobile Expense and Other Transportation Costs. The Automobile Expense Category reflects costs relating to owning and operating a car in each area. The Other Transportation Costs Category is represented by the cost of air travel from each location to a common point within the contiguous 48 states.

5.2 Private Transportation Methodology

As done in previous surveys, JFA analyzed automobile transportation costs for three commonly purchased vehicles: a domestic auto, an import auto, and a utility vehicle. New car costs were used for these analyses because it was believed that pricing used vehicles of equivalent quality in each area could introduce inconsistencies because of the value judgments that would be required.

5.2.1 Vehicle Selection and Pricing

The three vehicles selected for analysis were:

Domestic—Ford Taurus GL 4-door sedan 3.0L 6 cyl,
Import—Honda Civic DX 4-door sedan 1.5L 4 cyl, and
Utility—Chevrolet S10 Blazer 4X4 2 door 4.3L 6 cyl.

These are the same models that were surveyed in previous years and were selected based on their popularity in the United States as demonstrated by owner registration data.

For each model car, JFA collected new vehicle prices at dealerships in each area and from secondary sources, such as the *Kelly Blue Book*. All prices were based on the manufacturers' suggested retail prices (MSRP) for 1995. (OPM did not believe it was feasible to collect information on the negotiated price for these vehicles.) All vehicles were equipped with standard options, such as automatic transmission, AM/FM stereo radio and air conditioning. In Alaska locations, special additional equipment was included in new-vehicle prices (e.g., snow tires, engine-block heaters, and heavy-duty batteries).

In addition to the MSRP, the price included additional charges such as shipping, dealer preparation, additional dealer markup, excise tax, sales tax, and any other one-time taxes or charges. In each Alaska allowance area, for example, documentation fees were also included as part of the new-vehicle costs.

Rustproofing was priced in all areas, including the Washington, DC area. In previous surveys, the contractor found that auto dealers in the DC area did not recommend vehicle rustproofing, although it was a commonly suggested option in the allowance areas. This year, the information collected suggested that rustproofing was a commonly offered option in all areas. Therefore, OPM directed JFA to include the cost of rustproofing in the DC area as well as the allowance areas.

5.2.2 Vehicle Trade Cycle

Calculating the cost of owning and operating a vehicle requires knowing the miles driven and how long the car is owned. In the automobile industry, these two factors are known collectively as a vehicle's "trade cycle." The trade cycle is stated as a length of time (in months or years) and the total number of miles driven in that time period. This information is used in the model to compute annual costs related to fuel, oil, tires, maintenance, and depreciation.

As with the previous living-cost analyses, JFA used a four-year, 60,000-mile trade cycle in all areas. This was based upon the following information:

—The Internal Revenue Service uses this trade cycle to compute the allowable cents-per-mile reimbursement rate for persons who drive their personal vehicle for business purposes;
—The four-year time period coincides with the typical length of a vehicle loan; and
—U.S. Department of Energy statistics for 1988 show that the annual average for number of vehicle miles driven in the United States was 18,595 per household and 10,246 miles per vehicle.

5.2.3 Fuel Performance and Type

All vehicles included in this study used regular unleaded fuel. JFA surveyed self-service cash prices of unleaded regular gasoline at name-brand gas stations in the Washington, DC area. In consideration of the harsh climate in the Alaska allowance areas, full-service cash prices were surveyed.

To establish average fuel-performance ratings, the COLA model uses the "city driving" figures published by the U.S. Environmental Protection Agency (EPA). The "city" figures instead of "highway" figures are used because all locations contained considerable stop-and-go driving conditions.

As in previous COLA surveys, JFA included in its analysis the following fuel-performance factors: temperature, road surface, and gradient. These factors are based on research previously conducted for OPM. This research and the factors are discussed below.

5.2.3.1 Impact of Temperature upon Fuel Performance

Gas mileage is affected by temperature. The lower the temperature, the fewer miles-per-gallon achieved and vice versa. According to the EPA's *Passenger Car Fuel Economy: EPA and Road*, the temperature at which no adjustments to fuel performance occur is 77 °F; below that temperature, miles-per-gallon achieved drops, above 77 °F miles-per-gallon achieved improves. The model uses the average monthly temperatures for each allowance area and the Washington, D.C., area as reported in *The Weather Almanac*, published by Ruffner and Blair.

For each location and month, the model uses the appropriate factor from the EPA study based on the average monthly temperature for the area. These factors are then averaged to derive a single overall factor for each location. The results of these calculations are shown in Section 5.2.3.4.

5.2.3.2 Impact of Road Surfaces upon Fuel Performance

For the model, it is assumed that Federally controlled roadways are typically composed of concrete and/or high-load asphalt and that locally controlled roadways are typically composed of low-load asphalt. EPA's research indicates that cars are generally more fuel-efficient on the firmer, high-load surfaces than on the softer, low-load surfaces.

Although traffic patterns and road usage vary among areas, previous research conducted for OPM produced no relevant findings regarding this issue. Therefore, the model uses the assumption that Federally-controlled roadways generally support twice the traffic of, or are used at least twice as much as, locally controlled roadways.

In each allowance area, the total mileage falling into either the Federal or local categories are collected. For example, Alaska contains 5,512 miles of Federally controlled roads and 7,120 miles of locally controlled roadways. The usage consumption increased Federal road mileage by a factor of two.

The average low-load asphalt factor (which reflects dry, wet, and snowy conditions) is applied to the local mileage percentage, and the average concrete and/or high-load asphalt factor is applied to the Federal mileage percentage to produce a weighted average factor for each area. The weighted factor is 0.96 for the allowance areas. The Washington, DC area is assigned a factor of 1.00 on the premise that the vast majority of traffic in that area travels on dry, high-load surfaces. The application of these factors is described in Section 5.2.3.4.

5.2.3.3 Impact of Gradient Upon Fuel Performance

The effect of gradient on gas mileage is also estimated from EPA's *Passenger Car Fuel Economy: EPA and Road*. Local topography (i.e., gradient) affects fuel efficiency. EPA provides mileage factors based upon various gradients ranging from less than 0.5% (essentially flat) to greater than 6% (steep).

In research previously conducted for OPM, the contractor reviewed the topographic features of each area and found a wide range of road conditions. However, the contractor was unable to find relevant information on the types of terrain drivers typically encounter in each area or the number of miles drivers travel in each type of terrain. Lacking such information, the contractor assumed that drivers in the allowance areas generally traveled roads having approximately the same gradients that are found on average in the United States.

Applying the information from EPA's research, a fuel-performance factor of 0.98 was computed for this type of driving. This factor was assigned to each allowance area. For the Washington, DC area, a factor of 1.00 was used on the premise that the vast majority of traffic in that area travels on major freeways and highways that are relatively flat. The application of these factors is described in the next section.

5.2.3.4 Overall Impact Upon Fuel Performance

JFA applied the factors described above to make adjustments to the

average gas mileage ratings for each type of automobile surveyed for each allowance area and for the Washington, DC area. The adjustment factors compound—that is, the total adjustment is the result of multiplying the three individual factors together for each area.

In the table below, the factor 1.00 means that no adjustment to EPA fuel performance is appropriate. A factor of less than 1.00 means that the estimated gasoline mileage in the area is less than the EPA average. For example, the total adjustment factor for Juneau is 0.84. This means that the estimated gasoline mileage in Juneau is 84% of the EPA estimated average. Note that the adjustment factor for the DC area (0.94) indicates that average gasoline mileage in that area is also below the EPA estimate.

TABLE 5–1.—SUMMARY OF FUEL-PERFORMANCE ADJUSTMENTS

Location	Temperature	Road surface	Gradient	Total
Anchorage	0.88	0.96	0.98	0.83
Fairbanks	0.85	0.96	0.98	0.80
Juneau	0.89	0.96	0.98	0.84
Nome	0.85	0.96	0.98	0.80
Washington, DC	0.94	1.00	1.00	0.94

5.2.4 Vehicle Maintenance

As done in the previous surveys, JFA surveyed the cost of five common maintenance services and repairs performed on the vehicles surveyed. The services and repairs were—

—Tuneup,
—Oil change,
—Automatic transmission fluid change,
—Flush/fill coolant, and
—Muffler/exhaust pipe replacement.

Where appropriate, the automobile manufacturers' recommended maintenance schedules were used to determine the frequency of performing each of these maintenance jobs. Maintenance schedules vary, depending on the driving conditions typically encountered. Consistent with the assumptions used for fuel economy and tire mileage, it was assumed that driving conditions in the allowance areas are generally severe, and the maintenance schedules used reflected that kind of driving. For the DC area, it was assumed that driving conditions were normal, and the maintenance schedules used for that area reflected that kind of driving.

The recommended frequency of performing each of these jobs was combined with the prices charged by local dealers and service stations to compute an estimated annual maintenance expense. Unlike previous surveys, JFA collected the cost of the complete maintenance service or repair job for each vehicle. For example, the cost of a complete oil change was collected for each vehicle including the total charge for parts and the total charge for labor.

In the Alaska and Washington, DC areas, constant velocity joint (CVJ) boots replacement was also included in the cost of vehicle maintenance. Previous research conducted for OPM revealed varying replacement cycles between the Alaska allowance areas and between the Alaska areas and the Washington, DC area: Anchorage and Juneau—every 45,000 miles (3 years), Nome—every 30,000 miles (2 years), Fairbanks—every 15,000 miles (1 year), and Washington, DC—every 60,000 miles (4 years). The cost of replacement for all three vehicle types was factored into the indexes based upon the life cycle of the replacement. In Fairbanks, for example, 100% of the cost was included because previous research indicated annual replacement was the norm.

5.2.5 Tires

Research previously conducted for OPM revealed that various factors (e.g., road quality/state of repair, road composition) appeared to reduce tread life (i.e., the average number of miles a tire is expected to last) in the allowance areas compared with the Washington, DC area. Based on this research, the model uses tire expense based on a 40,000-mile tread life in allowance areas and a 55,000-mile tread life in the DC area.

JFA priced the cost of a new set of tires, including mounting and balancing and all applicable taxes, in each area. This cost was converted into an annual cost by dividing the estimated number of annual miles driven by the expected tread life and multiplying this by the new tire price.

Current research indicated that four extra studded snow tires would be required for all three vehicles in the Alaska allowance areas. JFA surveyed the cost of extra wheels, extra tires, and installing studs for all vehicles in Anchorage, Fairbanks, Juneau and Nome.

5.2.6 License and Registration Fees, and Miscellaneous Tax

JFA obtained information regarding license registration fees and personal property tax (where applicable). License and registration fees were included as part of the annual cost of owning an automobile. Personal-property tax was computed for each year of the vehicle's four-year trade cycle using the vehicle's estimated used-car value for each year. The resulting four personal property tax values were then averaged, and that average was included as part of the annual cost of owning an automobile.

As stated in section 5.2.1, sales and excise taxes were included in the purchase price of the vehicle and were accounted for under the annual vehicle purchase and finance costs.

5.2.7 Depreciation

The single largest annual expense related to owning and operating a new car is depreciation—the lost value of the vehicle as it ages and is driven. Total depreciation is calculated by subtracting from the purchase the estimated residual value (used car value) four years later. This value is then divided by 4 to produce an annual depreciation amount.

As described earlier, the new car price is the manufacturer's suggested retail price plus any additional charges such as shipping, dealer prep, additional dealer markup, excise tax, and sales tax. As done in previous surveys, the used car value was based on information from the *Black Book Official Finance/Lease Guide for 1994*. Although this source only tracks prices or vehicles sold in the contiguous 48 states, research performed by the previous OPM contractor did not indicate that used cars in allowance areas were (on average) worth more or less than used cars in the DC area, except for Fairbanks and Nome. For Fairbanks and NOME, 90% of the *Black Book* projected residual values were used to reflect the more severe conditions.

It should be noted that identical residual values did not result in identical depreciation amounts. Depreciation amounts were higher in the allowance areas than in the Washington, DC area because new car prices are higher in the allowance areas.

5.2.8 Finance Expense

For the model, it is assumed that new car purchases are financed. Therefore, JFA surveyed banks in all areas to obtain their auto-loan interest rates for a 48-month loan with 80 percent financing. The financing cost for each vehicle in each area was computed and included in the annual cost of owning and operating an automobile.

5.2.9 Vehicle Insurance

JFA surveyed the cost of car insurance in each location. Consistent with the previous year's survey, JFA used the following coverages, limits, and deductibles:

Bodily Injury	$100,000/$300,000.
Property Damage	$50,000.
Medical	$5,000.
Uninsured Motorist	$100,000/300,000.
Comprehensive	$100 Deductible.
Collision	$250 Deductible.

In each survey area, JFA identified the common automobile insurance companies and attempted to obtain three insurance price quotes for each type of car surveyed. These quotes were averaged by type of car to produce estimated insurance costs for each area.

5.2.10 Overall Annual Costs

As described above, JFA measured the annual costs for fuel, maintenance and oil, tires, licensing, taxes, depreciation, finance, and insurance for three types of automobiles in each allowance area and in the Washington, DC area. These costs were then summed to determine the overall annual costs by area for owning and operating each type of automobile. Appendix 15 shows these costs for each area by type of vehicle.

5.3 Other Transportation Costs—Air Fares

Air fare is the only item priced for the Other Transportation Costs Category. For this item, JFA priced the lowest available round-trip air fare from each allowance area and the Washington, DC area to Los Angeles, California. Los Angeles was selected because it is a common point approximately equidistant from most of the allowance areas and the Washington, DC area. The cost of the trip from each allowance area to Los Angeles was compared with the cost of the trip from the DC area to Los Angeles to compute the category indexes. These fares are shown in Appendix 16.

5.4 Transportation Component Analyses

JFA compared the total cost of private auto transportation for each vehicle in each allowance area with the total cost for the same vehicle in the DC area. These comparisons are expressed as indexes and are shown in Appendix 17. The indexes were then averaged to produce a single Automobile Expense Category index for each allowance area.

Likewise, JFA compared the cost of air fares for each area with those for the DC area and computed a cost index. These indexes are also shown in Appendix 17. That appendix also shows how the auto and air transportation indexes are combined using expenditure weights derived from the CES data to produce final transportation indexes.

JFA used national average expenditure data to derive weights that reflected how much consumers typically spend to own and operate an automobile versus other transportation expenses. These weights were used to combine the Automobile Expense Category index with the Other Transportation Cost index by area to derive the overall Transportation Component index for the area. The weights, computations, and final indexes are also shown in Appendix 17. The Transportation Component indexes are used in Appendix 19 to derive the total overall index.

6. Miscellaneous Expenses

6.1 Component Overview

The Miscellaneous Expense component consists of three categories of expenses:

—Medical care,
—Contributions (including gifts to non-family members),
—Personal insurance and retirement contributions/investments.

JFA used an approach similar to that used for the Goods and Services Component to derive the indexes for each of these categories and the Miscellaneous Component overall.

6.2 Component Weights

JFA used CES data to determine the appropriate weights for each of the items and categories in the Miscellaneous Component. The following table shows the category weights. Item weights are shown in Appendix 18.

TABLE 6–1.—MISCELLANEOUS EXPENSE CATEGORIES AND WEIGHTS

Categories	Income level		
	Lower (percent)	Middle (percent)	Upper (percent)
Medical Care	41.50	31.33	23.51
Contributions	15.80	16.85	17.65
Personal Insurance and Retirement Contributions	42.70	51.82	58.83
Totals	100.00	100.00	100.00

NOTE: Values may not total because of rounding.

6.3 Component Categories

6.3.1 Medical Expense Category

JFA surveyed the price of medical care items using essentially the same approach it used for the Goods and Services Component items. The following medical-care items were priced in each allowance area and in the Washington, DC area. (See Appendix 5 for item descriptions).

—Nonprescription pain reliever
—Prescription drugs
—Vision check
—Dental service
—Doctor visit
—Hospital room
—Health insurance

JFA surveyed the cost of these items in both the allowance areas and in the Washington, DC area and compared the prices to produce an index for each item in each area. JFA combined these indexes using CES weights to produce a single Medical Care Category index for each area.

It should be noted that for the model, it is assumed that the cost of health

insurance is constant among areas because the choice of Federal health coverage is to a large extent a matter of personal preference. Therefore, the index for this item is 100.00.

6.3.2 Contributions Category

The index for the Contributions Category is the Goods and Services Component index for the area. The Goods and Services index is used based on the assumption that the relative level of contribution is roughly equivalent to that reflected by the Goods and Services index.

6.3.3 Personal Insurance and Retirement Category

The index for personal insurance and retirement contributions and investments is assumed to be constant among areas. The cost of Federal Employees Group Life Insurance is a matter of personal preference and is constant in all areas for the same age, salary, and benefit option combinations. Likewise, retirement contributions are a matter of personal preference and the minimum contribution requirements are constant among areas for equivalent salary levels.

6.4 Miscellaneous Expense Analyses

As with the Goods and Services Component, the indexes for each of the Miscellaneous Component categories are combined using CES weights to produce a single component index for each area. These indexes are shown in Appendix 18.

Section 2.5 describes how the miscellaneous expense component indexes are combined with the other component indexes to derive the final index for each area.

7. Final Results

7.1 Total Comparative Cost Indexes

The total comparative cost indexes appear below. Appendix 19 shows how each index was derived from the component indexes.

TABLE 7–1.—FINAL COST COMPARISON INDEXES

Allowance area	Index
Anchorage, Alaska	105.14
Fairbanks, Alaska	108.64
Juneau, Alaska	108.33
The rest of Alaska	126.19

APPENDIX 1.—PUBLICATION IN THE FEDERAL REGISTER OF RESULTS OF NONFOREIGN AREA LIVING-COST SURVEYS: 1990–1995

Citation	Title	Contents
56 FR 7902	Office of Personnel Management: Cost-of-Living Allowances and Post Differentials (Nonforeign Areas).	Results of summer 1990 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
57 FR 58556	Office of Personnel Management: Report on 1991/1992 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1991 and winter 1992 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 45558	Office of Personnel Management: Report on 1992/1993 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1992 and winter 1993 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 27316	Office of Personnel Management: Report on Summer 1993 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1993 living-cost surveys conducted in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
59 FR 45066	Office of Personnel Management: Report on Winter 1994 Surveys Used to Determine Cost-of-Living Allowances in Alaska.	Results of winter 1994 living-cost surveys conducted in Alaska.
60 FR 61332	Office of Personnel Management: Report on Summer 1994 Surveys Used to Determine Cost-of-Living Allowances in Selected Nonforeign Areas.	Results of summer 1994 living-cost surveys conducted in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.

APPENDIX 2.—MULTIPLE INCOME LEVELS: WINTER 1995 SURVEY

[Federal Employment Weights Within a Single Allowance Area]

Location and income level	1992	1993	1994	Average	Weights
Anchorage, AK:					
Low	$1,708	$1,638	$1,609	$1,652	27.09
Middle	2,048	2,090	1,971	2,036	33.39
Upper	2,247	2,400	2,583	2,410	39.52
Total	$6,003	$6,128	$6,163	$6,098	100.00
Fairbanks, AK:					
Low	$406	$400	$444	$417	34.98
Middle	415	467	442	441	37.00
Upper	292	318	392	334	28.02
Total	$1,113	$1,185	$1,278	$1,192	100.00
Juneau, AK:					
Low	$139	$139	$145	$141	19.91
Middle	230	245	220	232	32.77
Upper	310	334	360	335	47.32
Total	$679	$718	$725	$708	100.00

APPENDIX 2.—MULTIPLE INCOME LEVELS: WINTER 1995 SURVEY—Continued

[Federal Employment Weights Within a Single Allowance Area]

Location and income level	1992	1993	1994	Average	Weights
Rest of Alaska:					
Low	$460	$444	$414	$439	28.07
Middle	710	759	722	730	46.67
Upper	348	391	445	395	25.26
Total	$1,518	$1,594	$1,581	$1,564	100.00

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Average Before Tax income	$28,540.00	$33,901.00	$33,854.00	$32,098.33
Average annual expenditures	26,389.07	30,487.29	30,527.49	29,134.62
Food	3,804.39	4,366.88	4,358.56	4,176.61
Food at home	2,176.94	2,724.89	2,684.35	2,528.73
Cereals and bakery products*	317.03	413.81	418.15	383.00
Cereals and cereal products*	111.15	149.01	144.15	134.77
Flour*	4.83	6.61	7.21	6.22
Prepared flour mixes*	9.88	14.67	13.62	12.72
Ready-to-eat and cooked cereals*	73.49	90.13	88.39	84.00
Rice*	7.98	14.49	12.67	11.71
Pasta, cornmeal and other cereal products*	14.97	23.11	22.27	20.12
Bakery products*	205.88	264.80	274.00	248.23
Bread*	65.72	76.98	77.58	73.43
White bread*	35.48	38.93	38.04	37.48
Bread, other than white*	30.24	38.04	39.54	35.94
Crackers and cookies*	51.76	65.09	67.10	61.32
Cookies*	32.19	41.15	40.75	38.03
Crackers*	19.57	23.94	26.34	23.28
Frozen and refrigerated bakery products*	13.55	19.33	21.06	17.98
Other bakery products*	74.84	103.40	108.27	95.50
Biscuits and rolls*	26.62	34.12	35.55	32.10
Cakes and cupcakes*	20.31	29.49	31.67	27.16
Bread and cracker products*	2.82	4.14	4.70	3.89
Sweetrolls, coffee cakes, doughnuts*	19.60	24.05	24.93	22.86
Pies, tarts, turnovers*	5.48	11.61	11.41	9.50
Meats, poultry, fish, and eggs*	560.01	725.06	687.17	657.41
Beef*	193.66	238.59	210.36	210.87
Ground beef*	79.09	89.66	87.67	85.47
Roast*	33.40	42.62	37.74	37.92
Chuck roast*	13.23	16.81	13.48	14.51
Round roast*	9.13	12.63	12.96	11.57
Other roast*	11.04	13.18	11.30	11.84
Steak*	59.01	87.83	69.00	71.95
Round steak*	11.62	16.56	14.63	14.27
Sirloin steak*	12.96	23.58	17.72	18.09
Other steak*	34.42	47.68	36.65	39.58
Other beef*	12.17	18.47	15.95	15.53
Pork*	114.19	146.62	155.56	138.79
Bacon*	20.23	21.28	20.47	20.66
Pork chops*	27.10	35.26	34.88	32.41
Ham*	27.43	38.92	42.73	36.36
Ham, not canned*	24.47	35.84	38.98	33.10
Canned ham*	2.96	3.08	3.75	3.26
Sausage*	16.60	21.01	23.29	20.30
Other pork*	22.83	30.15	34.19	29.06
Other meats*	83.61	102.91	94.58	93.70
Frankfurters*	17.37	23.87	21.19	20.81
Lunch meats (cold cuts)*	58.88	70.13	63.56	64.19
Bologna, liverwurst, salami*	19.11	23.75	22.91	21.92
Other lunchmeats*	39.78	46.39	40.65	42.27
Lamb, organ, meats and others*	7.36	8.91	9.84	8.70
Lamb and organ meats*	6.17	7.89	8.74	7.60
Mutton, goat and game*	1.19	1.02	1.10	1.10
Poultry*	85.49	123.67	123.39	110.85
Fresh and frozen chickens*	66.41	92.17	91.28	83.29
Fresh whole chicken*	17.24	24.27	19.61	20.37

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Fresh and frozen chicken parts *	49.17	67.90	71.67	62.91
Other poultry, incl. whole frozen chickens *	19.08	31.50	32.10	27.56
Fish and seafood *	65.24	81.51	74.99	73.91
Canned fish and seafood *	17.95	18.40	17.46	17.94
Fresh and frozen shellfish *	14.98	25.27	21.36	20.54
Fresh and frozen finfish *	32.31	37.83	36.17	35.44
Eggs *	27.83	31.77	28.30	29.30
Dairy products *	277.91	306.57	307.10	297.19
Fresh milk and cream *	134.41	134.72	136.59	135.24
Whole milk *	52.12	49.88	47.69	49.90
Other milk and cream *	82.29	84.84	88.90	85.34
Other dairy products *	143.50	171.85	170.52	161.96
Butter *	8.89	10.62	9.71	9.74
Cheese *	79.01	90.15	87.72	85.63
Ice cream and related products *	41.68	50.47	51.93	48.03
Miscellaneous dairy products *	13.93	20.61	21.16	18.57
Fruits and vegetables *	376.38	437.70	435.20	416.43
Fresh fruits *	120.98	132.65	129.17	127.60
Apples *	21.57	26.69	26.64	24.97
Bananas *	20.65	27.62	26.48	24.92
Oranges *	10.98	12.28	13.23	12.16
Other fresh fruits *	67.78	66.06	62.82	65.55
Fresh vegetables *	110.67	131.09	127.84	123.20
Potatoes *	16.61	25.25	24.56	22.14
Lettuce *	13.73	15.51	16.33	15.19
Tomatoes *	14.87	21.64	19.85	18.79
Other fresh vegetables *	65.47	68.69	67.10	67.09
Processed fruits *	86.81	99.35	102.67	96.28
Frozen fruits and fruit juices *	19.59	22.09	21.35	21.01
Frozen orange juice *	14.43	14.09	13.34	13.95
Other frozen fruits and juices *	5.16	7.99	8.01	7.05
Canned and dried fruits *	21.22	24.23	23.48	22.98
Fresh, canned or bottled fruit juice *	46.00	53.03	57.83	52.29
Processed vegetables *	57.92	74.61	75.53	69.35
Frozen vegetables *	21.30	26.45	25.46	24.40
Canned and dried vegetables and juices *	36.62	48.16	50.07	44.95
Canned beans *	6.64	9.26	10.09	8.66
Canned corn *	4.21	6.29	7.40	5.97
Other canned and dried veg. and juices *	25.77	32.61	32.59	30.32
Other food at home *	645.61	841.75	836.73	774.70
Sugar and other sweets *	80.66	104.62	106.24	97.17
Candy and chewing gum *	45.41	59.10	62.86	55.79
Sugar *	17.07	20.80	18.12	18.66
Artificial sweetners *	2.36	3.23	3.24	2.94
Jams, preserves, other sweets *	15.82	21.48	22.02	19.77
Fats and oils *	56.65	73.12	73.79	67.85
Margarine *	11.96	14.31	14.56	13.61
Other fats, oils, and salad dressing *	31.66	39.96	40.94	37.52
Nondairy cream and imitation milk *	4.49	6.56	6.75	5.93
Peanut butter *	8.54	12.30	11.53	10.79
Miscellaneous foods *	272.98	387.81	393.26	351.35
Frozen prepared foods *	46.13	71.21	73.99	63.78
Frozen meats *	16.75	25.00	22.99	21.58
Other frozen prepared foods *	29.39	46.21	51.01	42.20
Canned and packaged soups *	21.41	26.23	25.44	24.36
Potato chips, nuts and other snacks *	59.78	78.66	78.63	72.36
Potato chips and other snacks *	46.79	62.03	62.34	57.05
Nuts *	12.99	16.63	16.29	15.30
Condiments and seasonings *	61.52	87.93	90.44	79.96
Salt, spices, other seasonings *	12.31	19.15	20.79	17.42
Olives, pickles, relishes *	7.62	11.05	10.82	9.83
Sauces and gravies *	31.62	42.03	43.55	39.07
Baking needs and misc. products *	9.97	15.71	15.29	13.66
Other canned and packaged prepared foods *	84.14	123.78	124.75	110.89
Salads and desserts *	13.23	17.87	20.42	17.17
Baby foods *	16.25	23.56	24.11	21.31
Miscellaneous prepared foods *	54.66	82.35	80.22	72.41
Nonalcoholic beverages *	204.37	233.06	219.33	218.92
Cola *	92.19	92.26	86.71	90.39

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Other carbonated drinks *	32.62	39.32	40.41	37.45
Coffee *	40.93	42.59	40.13	41.22
Roasted coffee *	25.27	25.35	24.56	25.06
Instant and freeze dried coffee *	15.66	17.24	15.57	16.16
Noncarbonated fruit flavored drinks *	16.30	25.74	20.15	20.73
Tea *	11.18	14.66	14.26	13.37
Nonalcoholic beer *	NA	NA	NA	NA
Other nonalcoholic beverages *	11.15	18.51	17.68	15.78
Food prepared by consumer unit on out-of-town trips	30.94	43.13	44.12	39.40
Food away from home	1,627.45	1,641.99	1,674.21	1,647.88
Meals at restaurants, carry-outs and other *	1,275.77	1,300.05	1,344.40	1,306.74
Lunch *	499.88	463.89	476.89	480.22
Dinner *	459.30	601.50	619.67	590.16
Snacks and nonalcoholic beverages *	142.56	133.59	141.35	139.17
Breakfast and brunch *	84.04	101.08	106.49	97.20
Board (including at school)	43.62	43.00	46.92	44.51
Catered affairs	41.27	46.07	40.77	42.70
Food on out-of-town trips	195.31	178.84	167.14	180.43
School lunches	42.24	46.89	47.40	45.51
Meals as pay	29.24	27.13	27.58	27.98
Alcoholic beverages	281.70	313.94	321.12	305.59
At home *	148.36	166.77	177.01	164.05
Beer and ale *	89.05	87.98	99.54	92.19
Whiskey *	12.73	17.07	14.23	14.68
Wine *	32.15	45.33	43.11	40.20
Other alcholic beverages *	14.43	16.38	20.13	16.98
Away from home	133.34	147.17	144.11	141.54
Beer and ale *	37.50	46.76	48.77	44.34
Wine *	18.54	25.57	22.95	22.35
Other alcoholic beverages *	58.12	46.66	47.06	50.61
Alcoholic beverages purchased on trips	19.17	28.19	25.34	24.23
Housing	8,069.13	9,325.13	9,528.41	8,974.22
Shelter	4,470.25	5,208.28	5,431.78	5,036.77
Owned dwellings	2,554.04	3,279.50	3,307.24	3,046.93
Mortgage interest and charges	1,560.48	1,951.95	1,984.40	1,832.28
Mortgage interest	1,560.38	1,880.31	1,856.78	1,765.82
Interest paid, home equity loan	NA	33.34	63.99	48.67
Interest paid, home equity line of credit	NA	37.94	63.32	50.63
Prepayment penalty charges	0.10	0.36	0.31	0.26
Property taxes	496.08	767.69	760.97	674.91
Maintenance, repairs, insurance, other expenses	497.48	559.86	561.86	539.73
Homeowners and related insurance	151.74	164.20	176.37	164.10
Fire and extended coverage	4.98	3.84	5.02	4.61
Homeowners insurance	146.76	160.36	171.35	159.49
Ground rent	26.88	33.78	33.40	31.35
Maintenance and repair services	252.68	278.55	268.09	266.44
Painting and papering	52.01	39.24	37.27	42.84
Plumbing and water heating	23.06	31.48	34.02	29.52
Heat, a/c, electrical work	42.03	45.96	53.14	47.04
Roofing and gutters	46.96	54.11	40.98	47.35
Other repair and maintenance services	78.78	99.93	91.16	89.96
Repair and replacement of hard surface flooring	8.14	6.47	10.16	8.26
Repair of built-in appliances	1.68	1.36	1.36	1.47
Maintenance and repair commodities	65.41	69.18	63.89	66.16
Paints, wallpaper and supplies	17.47	16.27	16.50	16.75
Tools and equipment for painting and wallpapering	1.88	1.75	1.77	1.80
Plumbing supplies and equipment	5.65	7.65	5.96	6.42
Electrical supplies, heating and cooling equipment	3.76	3.44	7.13	4.78
Materials for hard surface flooring, repair and replac	1.85	2.17	3.13	2.38
Materials and equipment for roof and gutters	5.18	6.61	6.20	6.00
Materials for plaster., panel., siding, wind., doors, screens, awn	11.08	10.86	7.29	9.74
Materials for patio, walk, fence, drive., mason., brick, stucco work	2.12	0.55	0.67	1.11
Materials for landscaping maintenance	2.52	1.77	1.15	1.81
Miscellaneous supplies and equipment	13.89	18.11	14.08	15.36
Material for insulation, other maint. and repair	7.87	12.55	7.84	9.42
Materials to finish base., remodel rooms or build patios, walks, etc	6.02	5.56	6.24	5.94

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Property management and security	0.74	13.44	20.12	11.43
Property management	0.64	8.61	13.24	7.50
Management and upkeep services for security	0.10	4.84	6.88	3.94
Parking	0.04	0.70	NA	0.37
Rented dwellings	1,469.41	1,609.43	1,787.19	1,622.01
Rent	1,428.30	1,538.23	1,714.30	1,560.28
Rent as pay	17.34	44.87	37.09	33.10
Maintenance, insurance and other expenses	23.76	26.33	35.80	28.63
Tenant's insurance	8.68	9.76	9.16	9.20
Maintenance and repair services	9.01	9.96	11.88	10.28
Repair or maintenance services	8.62	9.49	11.52	9.88
Repair and replacement of hard surface flooring	0.36	0.38	0.29	0.34
Repair of built-in appliances	0.03	0.08	0.07	0.06
Maintenance and repair commodities	6.07	6.61	14.76	9.15
Paint, wallpaper, and supplies	1.19	2.07	1.70	1.65
Tools and equipment for painting and wallpapering	0.13	0.22	0.18	0.18
Materials for plastering, panels, roofing, gutters, etc	0.68	0.43	2.86	1.32
Materials for patio, walk, fence, drive., masonry, brick and stucco work	0.02	0.02	0.04	0.03
Plumbing supplies and equipment	0.38	0.25	0.55	0.39
Electrical supplies, heating and cooling equipment	0.92	0.34	0.26	0.51
Miscellaneous supplies and equipment	1.84	2.17	7.71	3.91
Material for insulation, other maintenance and repair	0.58	0.82	1.51	0.97
Termite and pest control (capital improvement)	0.00	NA	NA	0.00
Materials for additions, finishing base., remodeling rooms	1.08	1.34	5.90	2.77
Construction materials for jobs not started	0.18	0.01	0.30	0.16
Material for hard surface flooring	0.14	0.59	0.90	0.54
Material for landscape maintenance	0.76	0.53	0.55	0.61
Other lodging	446.79	319.35	337.35	367.83
Owned vacation homes	78.26	92.13	115.29	95.23
Mortgage interest and charges	NA	39.20	54.55	46.88
Mortgage interest	48.65	38.93	50.60	46.06
Interest paid, home equity loan	NA	0.02	1.06	0.54
Interest paid, home equity line of credit	NA	0.26	2.88	1.57
Prepayment penalty charge	0.00	NA	NA	0.00
Property taxes	16.90	37.77	42.04	32.24
Maintenance, insurance, and other expenses	12.71	15.17	18.70	15.53
Homeowners and related insurance	3.07	3.79	4.10	3.65
Homeowners insurance	3.04	3.65	3.86	3.52
Fine and extended coverage	0.03	0.14	0.24	0.14
Ground rent	3.33	2.32	1.75	2.47
Maintenance and repair services	5.52	5.25	7.53	6.10
Repair and remodeling services	5.52	5.14	7.39	6.02
Repair and replaement of hard surface flooring	0.00	0.11	0.15	0.09
Maintenance and repair commodities	0.39	0.53	1.97	0.96
Paints, wallpaper, supplies	0.08	0.15	1.31	0.51
Tools and equipment for painting and wallpapering	0.01	0.02	0.14	0.06
Materials for plaster., panel., roof., gutters, downspouts, sid., wind., door	0.05	0.05	0.07	0.06
Material for patio, walk, fence, drive, masonry, brick, stucco	0.00	0.00	0.01	0.00
Plumbing supplies and equipment	0.02	0.05	0.32	0.13
Eletrical supplies, heating and cooling equipment	0.01	0.09	0.03	0.04
Miscellaneous supplies and equipment	0.01	0.12	0.09	0.07
Material for insulation, other maintenance and repair	0.01	0.04	0.09	0.05
Material for finishing basements and remodeling rooms	0.00	0.08	NA	0.04
Materials for hard surface flooring	0.20	NA	NA	0.20
Materials for landscaping maintenance	0.00	0.06	NA	0.03
Property management and security	0.40	3.19	3.35	2.31
Property management	0.40	1.96	2.25	1.54
Management and upkeep services for security	0.00	1.23	1.10	0.78
Parking	0.00	0.09	NA	0.05
Housing while attending school	35.48	59.66	54.71	49.95
Lodging on out-of-town trips	178.58	167.56	167.34	171.16
Utilities, fuels, and public services	1,726.29	1,961.13	1,962.49	1,883.30
Natural gas	232.22	240.89	246.97	240.03
Utility—natural gas (renter)	50.85	59.96	55.98	52.60
Utility—natural gas (owned home)	180.07	189.11	189.86	186.35
Utility—natural gas (owned vacation)	1.22	0.82	1.07	1.04
Utility—natural gas (rented vacation)	0.08	NA	0.06	0.07

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Electricity	700.08	791.57	770.65	754.10
Electricity (renter)	169.94	189.36	201.59	186.96
Electricity (owned home)	524.87	595.84	562.26	560.99
Electricity (owned vacation)	5.03	6.00	6.59	5.87
Electricity (rented vacation)	0.25	0.37	0.20	0.27
Fuel oil and other fuels	94.02	103.30	93.93	97.08
Fuel oil	55.60	62.83	55.61	58.01
Fuel oil (renter)	5.21	5.61	7.00	5.94
Fuel oil (owned home)	49.96	56.67	48.25	51.63
Fuel oil (owned vacation)	0.38	0.51	0.36	0.42
Fuel oil (rented vacation)	0.06	0.04	NA	0.05
Coal	3.50	4.66	2.50	3.55
Coal (renter)	0.55	0.26	0.05	0.29
Coal (owned home)	2.95	4.38	2.44	3.26
Coal (owned vacation)	0.00	0.02	0.02	0.01
Coal (rented vacation)	0.00	NA	NA	0.00
Bottled gas	24.48	27.47	27.18	26.38
Gas, btld/tank (renter)	3.78	4.19	4.79	4.25
Gas, btld/tank (owned home)	18.58	21.14	20.75	20.16
Gas, btld/tank (owned vacation)	2.12	2.11	1.64	1.96
Gas, btld/tank (rented vacation)	0.00	0.02	NA	0.01
Wood and other fuels	10.43	8.35	8.64	9.14
Wood/other fuels (renter)	1.31	1.37	1.59	1.42
Wood/other fuels (owned home)	9.05	6.92	6.71	7.56
Wood/other fuels (owned vacation)	0.06	0.05	0.34	0.15
Wood/other fuels (rented vacation)	0.00	NA	NA	0.00
Telephone services	528.79	608.50	619.87	585.72
Telephone (old)	NA	48.22	0.00	24.11
Telephone services in home city, excluding mobile car phones	NA	560.28	619.87	590.08
Telephone services for mobile car phones	NA	NA	NA	NA
Water and other public services	171.19	216.87	231.08	206.38
Water and sewerage maintenance	131.02	159.33	160.22	150.19
Water/sewer maint. (renter)	18.53	22.04	24.38	21.65
Water/sewer maint. (owned home)	111.57	136.19	133.69	127.15
Water/sewer maint. (owned vacation)	0.83	1.09	2.10	1.34
Water/sewer maint. (rented vacation)	0.09	0.01	0.05	0.05
Trash and garbage collection	38.67	55.90	69.38	54.65
Trash/garb. coll. (renter)	5.28	7.26	7.37	6.64
Trash/garb. coll. (owned home)	33.31	47.64	59.92	46.96
Trash/garb. coll. (owned vacation)	0.08	1.00	2.09	1.06
Trash/garb. coll. (rented vacation)	0.00	NA	0.01	0.01
Septic tank cleaning	1.50	1.65	1.47	1.54
Septic tank clean. (renter)	0.01	0.07	0.11	0.06
Septic tank clean. (owned home)	1.48	1.57	1.29	1.45
Septic tank clean. (owned vacation)	0.00	0.01	0.07	0.03
Septic tank clean. (rented vacation)	0.00	NA	NA	0.00
Household operations	387.45	451.97	487.20	442.21
Personal services	176.53	224.86	253.05	218.15
Babysitting	74.62	83.78	85.92	81.44
Care for elderly, invalids, handicapped, etc	11.66	26.56	43.92	27.38
Day-care centers, nursery, and preschools	90.25	114.51	123.21	109.32
Other household expenses	210.92	227.11	234.15	224.06
Household services	67.76	77.46	71.70	72.31
Gardening, lawn care services	49.60	60.85	64.99	58.48
Water softening service	2.81	2.72	3.28	2.94
Household laundry, dry cleaning, sent out (nonclothing) not coin operated	1.63	2.21	2.32	2.05
Coin-operated household and dry cleaning (nonclothing)	4.78	4.91	5.58	5.09
Other home services	17.86	16.79	18.38	17.68
Termite/pest control products	0.20	0.22	0.29	0.24
Moving, storage, freight express	26.46	22.73	24.37	24.52
Appliance repair, including service center	16.44	16.96	15.88	16.43
Reupholstering, furniture repair	13.85	11.51	18.56	14.64
Repair/rental of lawn/garden equip., hand/power tools, other house. equip	5.92	5.78	3.74	5.15
Appliance rental	2.08	1.28	1.86	1.74
Rental of office equipment for nonbusiness use	0.17	0.17	0.13	0.16
Repair of miscellaneous household equipment and furnishings *	0.48	2.34	1.89	1.57
Repair of computer systems for nonbusiness use	0.88	1.19	1.19	1.09

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Rental/installation of dishwashers, range hoods, and garbage disposals	0.00	NA	NA	0.00
Housekeeping supplies *	382.82	451.34	462.61	432.26
Laundry and cleaning supplies *	106.44	123.66	123.97	118.02
Soaps and detergents *	62.10	73.49	70.41	68.67
Other laundry cleaning products *	44.33	50.17	53.56	49.35
Other household products *	157.48	197.81	211.79	189.03
Cleansing and toilet tissue, paper towels and napkins *	52.12	62.60	60.52	58.41
Miscellaneous household products *	67.89	91.22	94.75	84.62
Lawn and garden supplies *	37.47	44.00	56.52	46.00
Postage and stationery *	118.89	129.87	126.85	125.20
Stationery, stationery supplies, giftwraps *	54.40	66.09	62.59	61.03
Postage *	64.49	63.78	64.26	64.18
Household furnishings and equipment	1,102.32	1,252.41	1,184.33	1,179.69
Household textiles	97.11	107.35	94.56	99.67
Bathroom linens *	13.69	24.61	15.62	17.97
Bedroom linens *	38.11	39.34	43.17	40.21
Kitchen and dining room linens *	5.74	4.76	7.84	6.11
Curtains and draperies	26.56	18.09	19.11	21.25
Slipcovers, decorative pillows	1.64	1.36	1.42	1.47
Sewing material for slipcovers, curtains, other sewing matter, for the home	10.32	18.17	6.54	11.68
Other linens	1.05	1.04	0.86	0.98
Furniture	319.44	297.24	316.15	310.94
Mattress and springs	41.86	35.82	38.97	38.88
Other bedroom furniture	39.75	46.24	57.57	47.85
Sofas	65.44	65.48	70.67	67.20
Living room chairs	35.91	34.99	30.70	33.87
Living room tables	20.16	14.24	17.63	17.34
Kitchen, dining room furniture	58.64	46.11	42.37	49.04
Infants' furniture	7.01	7.58	6.74	7.11
Outdoor furniture	12.57	13.59	11.02	12.39
Occasional furniture	38.12	33.18	40.48	37.26
Floor coverings	70.23	128.97	61.08	86.76
Wall-to-wall carpeting (renter)	2.41	2.02	2,57	2.33
Wall-to-wall carpet, installed (renter)	1.73	1.56	2.05	1.78
Wall-to-wall carpet, not installed carpet squares (renter)	0.68	0.46	0.52	0.55
Wall-to-wall carpet (replacement) (owned home)	42.57	34.99	29.06	35.54
Wall-to-wall carpet, not installed (replace.), carpet squares (owned home)	3.04	2.91	1.89	2.61
Wall-to-wall carpet, installed (replacement) (owned home)	39.53	32.08	27.17	32.93
Room size rugs and other floor covering, nonpermanent	25.25	91.96	29.45	48.89
Major appliances	172.90	131.98	144.89	149.92
Dishwashers (built-in), garbage disposals, range hood, (renter)	0.24	0.98	0.16	0.46
Dishwashers (built-in), garbage disposals, range hoods (owned home)	10.05	9.54	7.21	8.93
Refrigerators, freezers (renter)	11.18	7.51	8.38	9.02
Refrigerators, freezers (owned home)	39.29	25.85	33.30	32.81
Washing machines (renter)	6.56	4.28	6.28	5.71
Washing machines (owned home)	17.96	17.22	15.85	17.01
Clothes dryers (renter)	4.18	2.34	3.35	3.29
Clothes dryers (owned home)	10.35	7.05	9.78	9.06
Cooking stoves, ovens (renter)	2.87	2.18	3.11	2.72
Cooking stoves, ovens (owned home)	19.55	13.20	14.81	15.85
Microwave ovens (renter)	4.47	2.09	3.09	3.22
Microwave ovens (owned home)	9.81	4.85	4.74	6.47
Portable dishwasher (renter)	0.31	0.14	0.11	0.19
Portable dishwasher (owned home)	1.33	0.24	1.15	0.91
Window air conditioners (renter)	2.43	1.12	1.18	1.58
Window air conditioners (owned home)	8.23	7.61	3.31	6.38
Electric floor cleaning equipment	14.62	15.03	13.63	14.43
Sewing machines	6.08	5.19	5.15	5.47
Miscellaneous household appliances *	3.39	5.56	10.29	6.41
Small appliances, miscellaneous housewares	60.51	83.38	86.46	76.78
Housewares	39.14	57.82	62.47	53.14
Plastic dinnerware	1.83	1.79	1.61	1.74
China and other dinnerware	10.31	11.56	11.60	11.16
Flatware	3.44	4.07	3.97	3.83
Glassware *	9.79	7.08	13.59	10.15

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Silver serving pieces *	0.27	3.83	1.35	1.82
Other serving pieces	1.36	1.78	1.59	1.58
Nonelectric cookware *	12.14	11.67	11.66	11.82
Tableware, nonelectric kitchenware *	NA	16.02	17.08	16.55
Small appliances	21.37	25.56	23.99	23.64
Small electric kitchen appliances	14.17	18.05	18.75	16.99
Portable heating and cooling equipment	7.20	7.52	5.23	6.65
Miscellaneous household equipment	382.11	503.48	481.19	455.59
Window coverings	13.72	12.79	17.37	14.63
Infants' equipment *	3.77	10.62	5.52	6.64
Laundry and cleaning equip *	8.52	9.19	10.99	9.57
Outdoor equipment	4.73	6.20	4.83	5.25
Clocks	5.46	4.45	3.38	4.43
Lamps and lighting fixtures *	28.40	22.80	26.10	25.77
Other household decorative items *	80.30	107.69	111.16	99.72
Telephones and accessories *	7.25	62.21	20.55	30.00
Lawn and garden equipment	49.12	39.58	43.15	43.95
Power tools	14.39	13.25	16.15	14.60
Small miscellaneous furnishings *	3.39	5.23	1.15	3.26
Hand tools *	13.67	11.71	14.07	13.15
Indoor plants, fresh flowers *	41.42	57.80	53.49	50.90
Closet and storage items *	4.62	6.99	12.21	7.94
Rental of furniture	3.20	3.36	3.67	3.35
Luggage	8.72	7.49	7.04	7.75
Computers and computer hardware nonbusiness use	39.66	63.64	63.66	55.72
Computer software and accessories for nonbusiness use	7.36	8.69	9.48	8.51
Telephone answering devices	4.23	5.00	4.64	4.62
Calculators	1.99	2.56	1.57	2.04
Business equipment for home use	6.20	5.02	4.23	5.15
Other hardware *	6.95	11.83	13.74	10.84
Smoke alarms (owned home)	0.54	0.38	0.47	0.46
Smoke alarms (renter)	0.15	0.09	0.06	0.10
Smoke alarms (owned vacation)	0.00	NA	NA	0.00
Other household appliances (owned home)	4.25	4.63	4.40	4.43
Other household appliances (renter)	1.35	0.87	0.99	1.07
Miscellaneous household equipment and parts *	18.73	19.42	27.08	21.74
Apparel and services	1,537.27	1,801.23	1,732.90	1,690.47
Men and boys	400.67	448.88	436.86	428.80
Men, 16 and over	318.80	357.81	353.05	343.22
Men's suits	41.20	39.20	43.98	41.46
Men's sportcoats, tailored jackets	15.57	13.84	12.04	13.82
Men's coats and jackets *	29.30	30.48	26.12	28.63
Men's underwear *	9.72	12.26	14.13	12.04
Men's hosiery *	10.34	12.60	13.73	12.22
Men's nightwear *	2.89	6.24	5.84	4.99
Men's accessories *	22.88	34.42	33.64	30.31
Men's sweaters and vests	17.65	13.47	13.11	14.74
Men's active sportswear	12.10	12.15	11.96	12.07
Men's shirts *	74.17	87.10	87.25	82.84
Men's pants *	70.76	77.09	70.18	72.68
Men's shorts, shorts sets *	8.29	13.53	16.40	12.74
Men's uniforms	3.16	5.00	3.70	3.95
Men's costumes	0.77	0.42	0.98	0.72
Boys 2 to 15	81.86	91.07	83.82	85.58
Boys' coats and jackets *	9.48	4.36	5.73	6.52
Boys' sweaters	3.73	3.09	2.70	3.17
Boys' shirts *	20.55	21.80	19.50	20.62
Boys' underwear *	1.55	4.96	4.89	3.80
Boys' nightwear *	2.79	2.21	2.83	2.61
Boys' hosiery *	3.99	4.97	4.26	4.41
Boys' accessories *	2.77	4.58	5.19	4.18
Boys' suits, sportcoats, vests *	3.00	0.51	2.13	1.88
Boys' pants *	24.70	24.72	19.41	22.94
Boys' shorts, shorts sets *	3.91	11.51	9.03	8.15
Boys' uniforms, active sportswear	5.10	7.43	7.30	6.61
Boys' costumes	0.29	0.93	0.85	0.69
Women and girls	608.90	724.73	703.40	679.01
Women, 16 and over	509.83	624.19	607.23	580.42
Women's coats and jackets *	33.49	40.55	58.80	44.28

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued
[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Women's dresses *	83.27	118.10	89.96	97.11
Women's sportcoats, tailored jackets *	0.84	6.02	3.90	3.59
Women's vests and sweaters *	36.74	46.00	40.43	41.06
Women's shirts, tops, blouses *	85.55	114.03	106.20	101.93
Women's skirts *	29.28	28.63	21.52	26.48
Women's pants *	66.85	69.35	79.18	71.79
Women's shorts, shorts sets *	14.23	20.40	23.33	19.32
Women's active sportwear *	23.13	28.54	32.91	28.19
Women's sleepwear *	22.57	20.98	25.33	22.96
Women's undergarments *	24.38	27.53	33.13	28.35
Women's hoisery	25.85	27.13	25.01	26.00
Women's suits	28.04	33.54	30.71	30.76
Women's accessories *	34.46	38.59	33.98	35.68
Women's uniforms *	1.15	1.47	1.82	1.48
Women's costumes	0.00	3.34	1.01	1.45
Girls, 2 to 15	99.08	100.53	96.17	98.59
Girls' coats and jackets	7.95	6.71	7.66	7.44
Girls' dresses, suits	12.02	13.87	13.23	13.04
Girls' shirts, blouses, sweaters *	30.19	23.20	22.42	25.27
Girls' shirts and pants	16.37	15.56	14.87	15.60
Girls' shorts, shorts sets	6.41	8.41	9.83	8.22
Girls' active sportwear *	9.32	10.66	8.41	9.46
Girls' underwear and sleepwear	5.92	6.16	6.26	6.11
Girls' hoisery *	4.88	6.09	5.05	5.34
Girls' accessories *	4.08	5.49	4.50	4.69
Girls' uniforms	1.46	2.26	1.86	1.86
Girls' costumes	NA	2.12	2.08	2.10
Children under 2	63.60	85.67	80.39	76.55
Infant coat, jacket, snowsuit	3.17	2.99	3.25	3.14
Infant dresses, outerwear	14.98	17.87	20.75	17.87
Infant underwear *	36.68	51.00	46.85	44.84
Infant nightwear, loungewear	3.19	3.11	4.26	3.52
Infant accessories	3.06	5.15	5.28	4.50
Infant hoisery	0.41	0.10	NA	0.10
Footwear *	204.13	258.04	243.05	235.07
Men's footwear *	62.95	72.47	73.53	69.65
Boys' footwear *	18.19	29.42	31.65	26.42
Women's footwear *	104.54	128.82	115.47	116.28
Girls' footwear *	18.46	27.33	22.41	22.73
Other apparel products and services	259.97	283.91	269.19	271.02
Material for making clothes	8.12	9.10	8.58	8.60
Sewing patterns and notions	2.15	3.00	2.56	2.57
Watches	21.65	20.45	20.47	20.86
Jewelry	110.35	121.45	108.73	113.51
Shoe repair and other shoe service	3.46	4.27	3.47	3.73
Coin-operated apparel laundry and dry cleaning	34.25	37.63	38.61	36.83
Apparel alteration and repair	6.05	6.23	6.02	6.10
Clothing rental	4.77	4.02	3.56	4.12
Watch and jewelry repair	5.72	6.94	5.54	6.07
Apparel laundry and dry cleaning not coin operated	62.72	69.99	70.94	67.88
Clothing storage	0.75	0.83	0.71	0.76
Transportation	5,140.21	5,235.41	5,232.14	5,202.59
Vehicle purchases (net outlay)	2,388.19	2,154.04	2,167.03	2,236.42
Cars and trucks, new	1,391.73	1,072.55	1,095.97	1,186.75
New cars	991.60	749.65	749.56	830.27
New trucks	400.13	322.90	346.42	356.48
Car and trucks, used	971.12	1,060.67	1,033.39	1,021.73
Used cars	754.27	742.29	737.98	744.85
Used trucks	216.85	318.39	295.42	276.89
Other vehicles	25.34	20.82	37.66	27.94
New motorcycles	5.21	2.87	18.06	8.71
New aircraft	0.00	NA	NA	0.00
Used motorcycles	15.86	17.95	9.04	14.28
Used aircraft	4.27	NA	10.57	7.42
Gasoline and motor oil	933.90	998.10	972.68	968.23
Gasoline	812.03	884.83	868.13	855.00
Diesel fuel	12.01	9.23	9.86	10.37
Gasoline on out-of-town trips	96.47	91.98	82.43	90.29
Gasahol *	0.00	NA	NA	0.00

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued
[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Motor oil	12.55	11.31	11.44	11.77
Motor oil on out-of-town trips	0.85	0.74	0.83	0.81
Other vehicle expenses	1,552.56	1,775.67	1,805.62	1,711.28
Vehicle finance charges	284.70	280.20	258.96	274.62
Automobile finance charges	196.25	190.05	169.13	185.14
Truck finance charges	71.94	75.90	71.72	73.19
Motorcycle and plane finance charges	1.67	0.50	1.93	1.37
Other vehicle finance charges	14.85	13.76	16.18	14.93
Maintenance and repairs	568.66	641.71	627.51	612.63
Coolant, additives, brake, transmission fluids	7.15	6.94	6.77	6.95
Tires—purchased, replaced, installed	86.22	85.76	92.70	88.23
Parts, equipment, and accessories *	86.80	100.00	75.83	87.48
Vehicle products *	3.92	3.19	3.14	3.42
Misc. auto repair, servicing *	17.18	22.31	20.13	19.87
Body work and painting	34.71	30.35	32.21	32.42
Clutch, transmission repair	34.54	35.98	34.71	35.08
Drive shaft and rear-end repair	7.58	6.97	7.96	7.50
Brake work	33.05	42.57	43.87	39.83
Repair to steering or front-end	11.64	12.69	15.62	13.32
Repair to engine cooling system	22.87	24.02	24.59	23.83
Motor tune-up	40.07	46.97	46.95	44.66
Lube, oil change, and oil filters	24.67	33.01	35.54	31.07
Front-end alignment, wheel balance	9.30	11.64	12.40	11.11
Shock absorber replacement	6.01	9.13	8.25	7.80
Brake adjustment	4.75	6.83	5.13	5.57
Gas tank repair, replacement *	0.09	1.18	1.60	0.96
Repair tires and other repair work	29.23	33.15	33.63	32.00
Exhaust system repair	14.55	18.36	18.29	17.07
Electrical system repair	20.35	26.00	28.19	24.85
Motor repair, replacement	63.53	79.50	73.60	72.21
Auto repair service policy	8.54	5.18	6.60	6.77
Vehicle insurance	515.06	619.68	638.83	591.19
Vehicle rental, leases, licenses, other charges	184.14	234.08	280.31	232.84
Leased and rented vehicles	68.54	95.89	125.45	96.63
Rented vehicles	NA	33.77	32.93	33.35
Auto rental	44.36	12.42	8.36	21.71
Auto rental, out-of-town trips	6.78	15.41	16.16	12.78
Truck rental	12.51	2.10	2.71	5.77
Truck rental, our-of-town trips	3.99	2.49	5.20	3.89
Motorcycle rental	0.00	NA	NA	0.00
Aircraft rental	0.47	0.27	0.24	0.33
Motorcycle rental, out-of-town trips	0.04	0.50	0.07	0.20
Aircraft rental, out-of-town trips	0.40	0.58	0.20	0.39
Leased vehicles	NA	62.11	92.52	77.32
Car lease payments	NA	47.74	69.08	58.41
Cash downpayment (car lease)	NA	2.12	8.22	5.17
Termination fee (car lease)	NA	0.16	0.14	0.15
Truck lease payments	NA	11.01	12.47	11.74
Cash downpayment (truck lease)	NA	1.09	1.52	1.31
Termination fee (truck lease)	NA	NA	1.08	1.08
State and local registration	67.04	75.17	87.09	76.43
Driver's license	6.59	7.27	7.41	7.09
Vehicle inspection	6.33	8.31	9.03	7.89
Parking fees	20.50	23.86	23.01	22.46
Parking fees (old)	NA	1.34	0.00	0.67
Parking fees in home city, excluding residence	NA	19.97	20.52	20.25
Parking fees, out-of-town trips	NA	2.54	2.49	2.52
Tolls *	5.96	8.71	10.98	8.55
Tolls on out-of-town trips	4.12	4.51	4.18	4.27
Towing charges	5.05	4.89	5.02	4.99
Automobile service clubs	NA	5.48	8.14	6.81
Public transportation	265.56	307.60	286.82	286.66
Airline fares	176.01	183.39	173.89	177.76
Intercity bus fares	14.30	7.84	10.90	11.01
Intracity mass transit fares	41.07	54.01	48.57	47.88
Local trans. on out-of-town trips	0.54	3.34	8.74	4.21
Taxi fares on trips	4.86	17.17	5.14	9.06
Taxi fares	5.89	6.78	6.46	6.38
Intercity train fares	9.04	14.66	17.38	13.69

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Ship fares	13.00	19.63	14.54	15.72
School bus	0.86	0.77	1.21	0.95
Health care	1,282.43	1,563.01	1,653.66	1,499.70
Health insurance	473.36	652.12	727.65	617.71
Commercial health insurance	165.28	213.85	232.16	203.76
Blue Cross, Blue Shield	116.52	148.51	173.35	146.13
Health maintenance plans (HMO's)	48.48	95.76	90.57	78.27
Medicare payments	78.60	101.70	111.33	97.21
Commercial medicare supplements	64.48	92.29	120.24	92.34
Medical services	512.73	561.20	546.03	539.99
Physician's services	149.19	179.39	170.75	166.44
Dental services	150.89	179.38	174.32	168.20
Eyecare services	22.70	25.60	29.20	25.83
Nursing, therapy, and misc. medical services (old)	4.21	0.44	NA	2.33
Service by professionals other than physician	22.62	29.39	32.66	28.22
Lab tests, x-rays	26.78	25.91	31.35	28.01
Hospital room	54.96	36.47	37.42	42.95
Hospital service other than room	26.61	53.30	44.63	41.51
Medical care in retirement community	NA	NA	NA	NA
Care in convalescent or nursing home	40.86	21.05	13.48	25.13
Repair of medical equipment *	0.05	NA	NA	0.05
Other medical care services	13.86	8.07	12.24	11.39
Drugs	225.28	258.20	284.99	256.16
Nonprescription drugs *	65.79	73.86	80.16	73.27
Prescription drugs	159.49	184.34	204.83	182.89
Medical supplies	71.06	91.49	94.98	85.84
Eyeglasses and contact lenses	45.18	59.02	57.35	53.85
Hearing aids *	.0..	3.50	7.13	3.54
Topicals and dressings *	14.40	21.63	24.32	20.12
Medical equipment for general use	5.29	2.32	2.25	3.29
Supportive and convalescent medical equipment	5.70	3.48	2.85	4.01
Rental of medical equipment	0.50	0.35	0.35	.040
Rental of supportive, convalescent medical equipment	NA	1.19	0.74	0.97
Entertainment	1,348.90	1,523.49	1,525.52	1,465.97
Fees and admissions	351.99	384.49	375.11	370.53
Recreation expenses, out-of-town trips	17.85	16.61	15.32	16.59
Club membership dues and fees (old)	76.68	24.30	NA	50.49
Social, recreation, civic club membership	NA	59.85	85.24	72.55
Fees for participation sports	46.90	69.06	61.15	59.04
Participation sports, out-of-town trips	18.96	20.12	21.17	20.08
Movie, theater, opera, ballet	61.08	66.54	64.92	64.18
Movie, other admissions, out-of-town trips	25.91	19.72	27.20	24.28
Admission to sporting events	19.63	20.69	22.94	21.09
Admission to sports events, out-of-town trips	25.91	17.42	9.08	17.47
Fees for recreational lessons	41.23	53.57	52.76	49.19
Other entertainment services, out-of-town trips	17.85	16.61	15.32	16.59
Television, radios, sound equipment	422.50	476.38	493.86	464.25
Televisions	295.95	328.75	331.31	318.67
Community antenna or cable tv	137.94	180.20	188.40	168.85
Black and white tv *	2.84	1.81	3.06	2.57
Color tv—console	23.60	18.13	21.37	21.03
Color tv—portable, table model	43.50	44.32	41.51	43.11
VCR's and video disc players	47.70	40.40	31.41	39.84
Video cassettes, tapes, and discs	13.44	17.60	18.88	16.64
Video game hardware and software	14.88	15.04	16.25	15.39
Repair of tv, radio, and sound equipment	10.43	10.23	9.60	10.09
Rental of televisions	1.61	1.03	0.81	1.15
Radios, sound equipment	126.55	147.62	162.55	145.57
Radios *	4.84	10.24	10.71	8.60
Phonographs *	0.53	0.60	0.87	0.67
Tape recorders and players *	10.50	5.75	5.32	7.19
Sound components and component systems	28.64	30.53	35.56	31.58
Miscellaneous sound equipment	0.16	0.34	1.68	0.73
Sound equipment accessories *	4.29	3.22	4.28	3.93
Compact disc, tape, record and video mail order clubs	4.17	8.04	8.97	7.06
Records, CDs, audio tapes, needles	25.86	29.54	31.01	28.80
Rental of VCR, radio, and sound equipment	1.59	0.70	0.79	1.03
Musical instruments and accessories	20.58	16.03	20.45	19.02
Rental and repair of musical instruments	2.12	2.42	2.11	2.22

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Rental of video cassettes, tapes, films, and discs	23.27	40.22	40.79	34.76
Pets, toys, and playground equipment	242.26	286.11	281.46	269.94
Pets	136.31	168.99	167.12	157.47
Pet food *	66.61	85.02	84.94	78.86
Pet purchase, supplies, medicine	25.23	23.73	24.72	24.56
Pet services	10.64	16.52	13.87	13.68
Vet services	33.84	43.72	43.58	40.38
Toys, games, hobbies, and tricycles	102.96	112.46	112.38	109.27
Playground equipment	2.98	4.66	1.96	3.20
Other entertainment supplies, equipment, and services	332.16	376.51	375.10	361.26
Unmotored recreational vehicles	24.02	41.05	33.20	23.76
Boat without motor and boat trailers	18.32	3.85	14.72	12.30
Trailer and other attachable campers	5.70	10.20	18.48	11.46
Motorized recreational vehicles	137.44	154.19	142.45	144.69
Motorized camper coaches and other vehicles	38.79	75.13	77.70	63.87
Purchase of boat with motor	98.65	79.05	64.75	80.82
Rental of recreational vehicles	2.33	3.71	1.90	2.65
Rental noncamper trailer	0.06	0.03	0.05	0.05
Boat and trailer, out-of-town trips	0.94	2.13	0.47	1.18
Rental of campers and other vehicles on out-of-town trips (old)	0.58	NA	NA	0.58
Rental of campers on out-of-town trips	NA	0.17	0.54	0.36
Rental of other vehicles on out-of-town trips	NA	1.09	0.40	0.75
Rental of boat	0.23	0.02	0.05	0.10
Rental of campers, other r.v.'s	0.52	0.27	0.39	0.39
Outboard motors	1.28	1.91	2.17	1.79
Docking and landing fees	5.33	4.50	5.77	5.20
Sports, recreation and exercise equipment	86.67	111.11	102.67	100.15
Athletic gear, game tables, and exercise equipment	34.85	45.33	45.98	42.05
Bicycles	12.28	19.23	16.46	15.99
Camping equipment	3.26	4.50	3.77	3.84
Hunting and fishing equipment	15.91	20.54	16.92	17.79
Winter sports equipment	4.86	5.30	3.19	4.45
Water and miscellaneous sports equipment	13.20	14.50	14.68	14.13
Rental and repair of misc. sports equipment	2.31	1.70	1.68	1.90
Photographic equipment and supplies	69.61	81.69	81.66	77.65
Film	19.96	21.01	20.32	20.43
Other photographic supplies *	0.64	1.43	0.17	0.75
Film processing	25.21	28.58	27.09	26.96
Repair and rental of photographic equipment	0.24	0.55	0.39	0.39
Photographic equipment	15.43	14.65	13.47	14.52
Photographic fees *	8.12	15.47	20.23	14.61
Fireworks *	0.51	1.08	0.63	0.74
Souvenirs *	0.44	0.45	1.21	0.70
Visual goods *	0.76	1.09	0.57	0.81
Pinball, electronic video games *	3.78	2.72	2.88	3.13
Personal care products and services	345.68	418.96	408.21	390.95
Personal care products	179.05	228.19	223.41	210.22
Hair care products *	40.57	45.03	42.44	42.68
Nonelectric articles for the hair *	4.26	6.41	5.35	5.34
Wigs and hairpieces	1.07	1.77	1.23	1.36
Oral hygiene products, articles *	18.16	27.93	28.07	24.72
Shaving needs *	8.49	10.65	9.46	9.53
Cosmetics, perfume, bath preparation *	77.63	98.28	103.29	93.07
Deodorants, feminine hygiene, misc. personal care *	23.52	32.28	28.78	28.19
Electric personal care appliances	5.35	5.85	4.80	5.33
Personal care services	166.63	190.77	184.80	180.73
Personal care service for females *	89.35	103.69	98.60	97.21
Personal care service for males	77.12	86.99	86.08	83.40
Repair of personal care appliances	0.16	0.09	0.12	0.12
Reading	152.49	168.07	165.57	162.04
Newspapers	63.99	70.41	70.60	68.33
Magazines	38.92	39.74	38.78	39.15
Newsletters *	0.04	0.27	0.67	0.33
Books thru book clubs	10.63	12.22	10.56	11.14
Books not thru book clubs	35.24	40.22	41.38	38.95
Encyclopedia and other sets of reference books	3.67	5.21	3.58	4.15
Education	324.43	433.88	423.79	394.03
College tuition	176.75	230.54	237.86	215.05
Elementary and high school tuition	53.20	65.77	69.99	62.99

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	Total complete reporting			
	1988	1991	1992	Average
Other school tuition	15.29	39.08	16.39	23.59
Other school expenses including rentals	15.78	17.66	18.40	17.28
School books, supplies, equipment for college	26.56	37.22	36.94	33.57
School books, supplies, equipment for elementary high school	6.23	6.41	6.89	6.51
School books, supplies, equipment for day care, nursery, other	2.52	3.11	3.64	3.09
School supplies, etc.—unspecified *	28.10	34.10	33.67	31.96
Tobacco products and smoking supplies	242.33	277.79	278.59	266.24
Cigarettes	224.61	255.97	256.67	245.75
Other tobacco products	15.28	18.68	19.51	17.82
Smoking accessories *	2.44	3.14	2.41	2.66
Miscellaneous	597.58	877.79	794.63	756.67
Miscellaneous fees, pari-mutuel losses *	38.61	48.28	60.93	49.27
Legal fees	104.50	80.65	88.62	91.26
Funeral expenses	49.32	54.07	51.73	51.71
Safe deposit box rental	5.69	6.18	5.88	5.92
Checking accounts, other bank service charges	25.19	25.63	26.45	25.76
Cemetary lots, vaults, maintenance fees	17.66	15.42	16.64	16.57
Accounting fees	39.87	46.16	47.58	44.54
Miscellaneous personal services *	23.02	32.25	41.90	32.39
Finance charges excluding mortgage and vehicle	203.45	253.58	227.00	228.01
Occupational expenses	90.26	99.47	109.07	99.60
Expenses for other properties	NA	207.48	110.86	159.17
Interest paid, home equity line of credit (other property)	NA	1.77	0.80	1.29
Credit card memberships	NA	6.86	7.17	7.02
Cash contributions	730.19	1,040.14	1,020.99	930.44
Cash contributions to non-CU memo., incl. stud., alim., and child sup	179.06	277.71	240.72	232.50
Gifts of cash, stocks and bonds to non-CU members	149.99	219.98	249.31	206.43
Contributions to charity	69.16	97.36	105.65	90.72
Contributions to church	295.54	407.43	378.37	360.45
Contributions to educational organizations	17.97	21.71	31.50	23.73
Contributions to political organizations	7.29	7.64	7.22	7.38
Other contributions	11.18	8.31	8.21	9.23
Personal insurance and pensions	2,532.36	3,141.56	3,083.40	2,919.11
Life and other personal insurance	324.17	353.85	354.24	344.09
Life, endowment, annuity, other personal insurance	312.04	340.55	342.74	331.78
Other nonhealth insurance	12.13	13.30	11.50	12.31
Pensions and Social Security	2,208.19	2,787.71	2,729.16	2,575.02
Deductions for government retirement	65.36	80.17	77.00	74.18
Deductions for railroad retirement	6.23	4.55	3.03	4.60
Deductions for private pensions	156.10	268.34	264.82	229.75
Non-payroll deposit to retirement plans	297.28	334.61	337.62	323.17
Deductions for Social Security	1,683.21	2,100.03	2,046.70	1,943.31

* Data may not be statistically significant.
Source: Bureau of Labor Statistics.

APPENDIX 4.—CONSUMER EXPENDITURE SURVEYS

[Pre-published Data for All Consumer Units Nationwide *]

	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 and over
Average Income Before Taxes:						
1988	$12,320	$17,373	$24,591	$34,375	$44,331	$74,234
1991	12,430	17,301	24,816	34,402	44,548	79,902
1992	12,437	17,420	24,560	34,439	44,442	81,602
Average	12,396	17,365	24,656	34,405	44,440	78,579
Goods and Services:						
1988	6,597.54	7,756.96	9,611.82	12,243.04	14,412.54	19,712.67
1991	7,262.65	8,319.82	9,715.90	13,134.61	14,944.06	21,598.60
1992	6,735.63	8,878.05	10,200.76	12,021.89	15,600.83	20,967.28
Average	6,865.27	8,318.28	9,842.83	12,466.51	14,985.81	20,759.52
Food at Home:						
1988	1,809.23	1,954.49	2,174.01	2,556.74	2,906.55	3,109.86
1991	2,267.82	2,379.01	2,517.57	2,959.22	3,321.94	3,841.29
1992	2,060.61	2,473.08	2,558.40	2,785.24	3,265.99	3,799.25
Average	2,045.89	2,268.86	2,416.66	2,767.07	3,164.83	3,583.47

APPENDIX 4.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 and over
Food Away from Home:						
1988	968.10	1,240.03	1,591.02	2,030.75	2,375.06	3,186.24
1991	945.30	1,084.27	1,316.78	1,803.69	2,316.13	3,113.47
1992	841.79	1,201.22	1,405.80	1,771.87	2,354.17	3,131.93
Average	918.40	1,175.17	1,437.87	1,868.77	2,348.45	3,143.88
Alcohol:						
1988	182.87	235.22	290.56	343.77	352.96	506.47
1991	140.42	248.53	270.50	389.51	404.39	563.87
1992	200.85	223.45	324.37	313.65	374.96	590.09
Average	174.71	235.73	295.14	348.98	377.44	553.48
Domestic Services:						
1988	82.78	119.28	166.06	275.08	311.41	321.27
1991	170.38	109.83	174.63	229.79	273.86	469.21
1992	151.62	129.29	147.99	222.40	398.61	559.53
Average	134.93	119.47	161.89	242.42	327.96	450.00
Furnishings & Household Operations:						
1988	956.43	1,145.52	1,509.87	2,010.78	2,306.76	3,895.22
1991	1,009.62	1,125.48	1,466.95	2,104.83	2,361.30	3,924.40
1992	970.65	1,370.53	1,587.26	1,932.32	2,427.52	3,651.88
Average	978.90	1,213.84	1,521.36	2,015.98	2,365.19	3,823.83
Clothing:						
1988	886.12	1,085.66	1,406.15	1,847.24	2,396.00	3,154.03
1991	1,093.80	1,178.28	1,325.86	1,951.82	2,186.30	3,520.50
1992	889.14	1,093.68	1,563.66	1,603.41	2,267.24	3,394.31
Average	956.35	1,119.21	1,431.89	1,800.82	2,283.18	3,356.28
Recreation:						
1988	895.72	969.87	1,333.56	1,695.89	2,224.56	3,435.75
1991	723.92	980.12	1,270.25	1,908.30	2,058.64	3,485.92
1992	755.24	1,146.23	1,302.99	1,726.85	2,558.20	3,374.39
Average	791.63	1,032.07	1,302.23	1,777.01	2,280.47	3,432.02
Personal Care:						
1988	249.04	282.21	324.70	420.30	478.79	651.43
1991	288.37	304.89	364.44	450.76	527.30	722.72
1992	229.68	340.56	376.85	405.19	528.27	702.54
Average	255.70	309.22	355.33	425.42	511.45	692.23
Tobacco:						
1988	221.48	250.05	262.82	292.87	249.43	270.28
1991	257.39	306.61	291.80	323.27	355.15	293.08
1992	242.99	287.66	296.57	321.75	321.76	300.33
Average	240.62	281.44	283.73	312.63	308.78	287.90
Professional Services:						
1988	345.77	474.63	553.17	769.62	811.02	1,182.12
1991	365.63	602.80	720.12	1,013.42	1,139.05	1,664.14
1992	393.06	612.35	636.87	939.21	1,104.11	1,463.01
Average	368.15	563.26	636.72	907.42	1,018.06	1,436.42
Housing:						
1988	4,455.88	4,682.00	5,835.92	6,974.54	7,990.62	11,502.63
1991	4,700.82	5,318.86	6,091.15	7,384.48	8,488.72	12,253.50
1992	5,063.74	5,566.03	6,434.77	7,383.31	9,071.67	12,721.51
Average	4,740.15	5,188.96	6,120.61	7,247.44	8,517.00	12,159.21
Transportation:						
1988	3,127.01	3,840.91	5,302.92	6,704.50	7,779.21	9,714.71
1991	3,130.14	3,362.28	4,700.00	5,872.44	7,226.89	9,442.91
1992	2,853.92	3,398.88	4,905.01	5,824.45	7,113.95	9,664.47
Average	3,037.02	3,534.02	4,969.31	6,133.80	7,373.35	9,607.36
Private Transportation:						
1988	2,949.99	3,657.04	5,020.99	6,314.44	7,333.94	8,884.42
1991	2,952.36	3,118.89	4,434.71	5,473.96	6,809.12	8,535.49
1992	2,704.31	3,171.96	4,570.31	5,504.80	6,638.47	8,663.84
Average	2,868.89	3,315.96	4,675.34	5,764.40	6,927.18	8,694.58
Air Fares and Other Transportation Expenses:						
1988	177.02	183.87	281.93	390.06	445.27	830.29
1991	177.78	243.39	265.29	398.48	417.77	907.42
1992	149.61	226.92	334.70	319.65	475.46	1,000.63
Average	168.14	218.06	293.97	369.40	446.17	912.78
Miscellaneous:						

APPENDIX 4.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide *]

	$10,000 to $14,999	$15,000 to $19,999	$20,000 to $29,999	$30,000 to $39,999	$40,000 to $49,999	$50,000 and over
1988	2,421.18	3,159.62	3,955.36	5,414.71	7,030.39	10,554.42
1991	2,831.11	3,165.50	4,318.05	5,771.11	7,086.75	12,656.03
1992	2,530.29	3,280.40	4,349.33	5,801.25	7,754.49	12,924.24
Average	2,594.19	3,201.84	4,207.58	5,662.36	7,290.54	12,044.90
Health Care:						
1988	1,385.50	1,299.71	1,328.49	1,367.25	1,531.77	1,568.44
1991	1,350.11	1,422.83	1,559.13	1,612.87	1,690.72	2,137.27
1992	1,409.04	1,652.24	1,647.83	1,711.96	1,953.77	2,262.82
Average	1,381.55	1,458.26	1,511.82	1,564.03	1,725.42	1,989.51
Cash Contributions:						
1988	352.83	486.72	529.28	781.16	956.30	2,102.92
1991	764.72	647.89	728.00	863.26	986.19	2,418.40
1992	509.71	515.63	688.17	834.21	1,424.12	2,515.30
Average	542.42	550.08	648.48	826.21	1,220.20	2,345.54
Personal Insurance:						
1988	682.85	1,373.19	2,097.59	3,266.30	4,542.32	6,883.06
1991	716.28	1,094.78	2,030.92	3,294.98	4,409.84	8,100.36
1992	611.54	1,112.53	2,013.33	3,255.08	4,376.60	8,146.12
Average	670.22	1,193.50	2,047.28	3,272.12	4,442.92	7,709.85

* Data may not be statistically significant.
Source: Bureau of Labor Statistics.

APPENDIX 5.—ITEM DESCRIPTIONS

Food at Home:	
Ground Beef	Price per lb. of regular ground beef. Average size package. Loose, prepackaged. Do not price lean, ground chuck, or ground round.
Round Steak, boneless	Price per lb. Average size package. 1st choice: Boneless top round steak. 2nd choice: Boneless bottom round steak.
Round Roast, boneless	Price per lb. Average size package. 1st choice: Boneless top round roast. 2nd choice: Boneless rolled rump roast.
Pork Chops, bone in	Price per lb. Average size package. 1st choice: Center cut, rib chops with bone. 2nd choice: Loin chops with bone.
Bacon, sliced	Price for 16 oz. (1 lb.) package *Oscar Mayer* regular sliced bacon.
Chicken, whole	Price per lb. of 1 whole fryer chicken. If whole fryer not available, price a whole fryer chicken, cut up.
Fish Filet, frozen	Price per lb of frozen ocean whitefish filet. 1st choice: Cod. 2nd choice: Haddock.
Tuna, canned	Price for 6.13 oz. can chunk light, packed in water. (Not fancy style.) 1st choice: *Star Kist.* 2nd choice: *Chicken of the Sea.*
Lunch Meat	Price for 8 oz. pkg., *Oscar Mayer.* 1st. choice: Bologna. 2nd choice: Cotto salami or all-beef bologna.
Ham, canned	Price for 3 lb. tin of canned ham. 1st choice: *Hormel.* 2nd choice: *Dubuque.* Do not price *Hormel's* Supreme Cut ham.
Frankfurters	Price for 16 oz. (1 lb.) package, *Oscar Mayer* all beef frankfurters.
Eggs, large	Price for one dozen.
Fish, fresh	Price per lb. of a salmon steak.
Milk, 2%	Price for one gallon (128 fluid oz.), 2% store brand.
Cheddar Cheese	Price for 10 oz. package. 1st choice: *Kraft Cracker Barrel* mild cheddar cheese. 2nd choice: *Kraft Cracker Barrel* sharp yellow cheddar cheese.
Ice Cream	Price for ½ gallon of the store brand vanilla ice cream. Do not price ice milk.
Bread, white	Price for 16 oz. loaf of sliced, white bread. Do not price store brand. 1st choice: Wonder. 2nd choice: A regional brand.
Spaghetti, dry	Price for 16 oz. box or bag of spaghetti. 1st choice: *Creamettes.* 2nd choice: *Muehler's.* 3rd choice: *Golden Grain.* 4th choice: *American Beauty.*

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Cereal	Price for 20 oz. box of Raisin Bran. 1st choice: *Post Raisin Bran.* 2nd choice: *Kelloggs Raisin Bran.* 3rd choice: *Cheerios.* Do not price a size significantly different from 20 oz.
Cookies	Price for 20 oz. package of *Nabisco Oreo Cookies.*
Frozen Waffles	Price *Kellog's Eggo Waffles*, price 12 waffle package. Do not price a smaller size if a substitute brand is available of the equivalent size.
Hamburger Buns	Price for 12 ox. (340 grams) package of 8 sliced regional brand enriched white hamburger buns. Do not Price store brand. 1st choice: Wonder. 2nd choice: A regional brand.
Donuts	Price for box of 10 donuts weighing approximately 14 oz. Do not price fresh donuts from in-store bakery. 1st choice: *Hostess* chocolate-covered donuts. 2nd choice: Some other type of *Hostess* boxed donuts.
Apples, fresh	Price per lb. of apples, loose (not in bag). If only bagged apples are available, report the weight of the bag. 1st choice: Red delicious apples. 2nd choice: Golden delicious.
Bananas, fresh	Price per lb. If bananas are priced by the bunch, report the price and weight of the bunch-use the store's scale if necessary.
Tomatoes, fresh	Price per lb. Price medium-size tomatoes if possible. Do not price organic or 'hydro' fresh tomatoes.
Potatoes	Price of 10 lb. bag of Russet baking potatoes. Do not price loose potatoes. If 10 lb. bag is not available, substitute nearest size bag.
Frozen Orange Juice	Price for 12 fluid oz. (makes 48 fluid oz.) can of *Minute Maid* frozen orange juice concentrate.
Tomatoes Juice	Price for 46 fluid oz. can of tomato juice. 1st choice: *Campbell's.* 2nd choice: *Libby's.*
Peaches, canned	Price for 16 oz. can of sliced yellow cling peaches. 1st choice: *Del Monte.* 2nd choice: *Libby's.*
Peas, frozen	Price for 16 oz. pkg. of *Green Giant* frozen peas. Do not price peas with sauce. 1st choice: *Green Giant.* 2nd choice: *Hanover.*
Green Beans, canned	Price for 16 oz. can of cut green beans. 1st choice: *Del Monte.* 2nd choice: *Green Giant.*
Oranges, fresh	Price per lb. of loose navel oranges. If only bagged oranges are available, report the weight of the bag. 1st choice: California navel oranges. 2nd choice: Florida navel oranges.
Lettuce, fresh	Price per lb. of iceberg lettuce. If lettuce is sold by the head, report the *price* and the *weight* of an average head and try to find equivalent size heads at each store.
Celery, fresh	Price per lb. for celery. Do not price celery hearts. If celery is only sold by the bunch, report the *price* and *weight* of an average bunch, and try to find equivalent size bunches at each store.
Fruit Drink	Price for 46 fluid oz. can. 1st choice: *Hawaiian Punch.* 2nd choice: *Hi-C*, regular.
Soft Drink	Price of 2 L (liter) plastic bottle. 1st choice: *Coca-Cola.* 2nd choice: *Pepsi.*
Coffee, ground	Price for 13 oz. can of ground coffee. 1st choice: *Folger's Drip Grind.* 2nd choice: *Maxwell House.*
Canned Soup	Price for one can *Campbell's soup.* 1st choice: Vegetable 10½ oz. 2nd choice: Chicken Noodle 10¾ oz.
Snack Food	Price for 6 oz. bag or box of potato chips. 1st choice: *Ruffles.* 2nd choice: *Lays Dip Chips.*
Salt	Price for 26 oz. box of iodized salt. 1st choice: Morton. 2nd choice: Ivory. 3rd choice: Private Label.
Ketchup	Price for 28 oz. plastic squeeze bottle of ketchup. 1st choice: Heinz. 2nd choice: Del Monte.
Cooking Oil	Price for 48 fluid oz. bottle. 1st choice: Crisco. 2nd choice: Wesson.
Margarine	Price for 1 lb., four sticks. 1st choice: Blue Bonnet.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

	2nd choice: Parkay.
Frozen Dinner	Price for 11.5 oz. (326 grams) Swanson-Turkey, whipped potatoes, peas, and fruit compote, frozen dinner.
Jello Gelatin	Price for 3 oz. box of Jello Gelatin dessert.
Baby Food	Price for one 4.0 oz. jar of Gerber Second Foods strained vegetable or fruit.
Candy Bar	Price for one regular size candy bar. Do not price king-size or multipack candy bars.
	1st choice: 2.07 oz. Snickers.
	2nd choice: 1.55 oz. Hersheys.
Sugar, granulated	Price for 5 lb. bag of granulated cane or beet sugar. Do not price generic sugar.
	1st choice: Nonstore brand.
	2nd choice: Store brand.
Bottled Water	Price for one gallon (store brand) (128 fluid oz.) bottled spring water. Do not price sparkling or distilled water.
Food Away from Home:	
Breakfast	Price for breakfast consisting of 2 strips of bacon or 2 sausages, 2 eggs, toast, and coffee or juice. Report percentages added for tax, tip and service charge.
Lunch	Price for lunch consisting of a cheeseburger platter with fries and small soft drink. Report percentages added for tax, tip and service charge.
	One personal-size cheese pizza (or one slice of cheese pizza). Do not price salad or drink. Include gratuity.
Dinner	Price for a dinner consisting of a New York strip, small side dish (e.g., rice or potato), side salad or salad bar, and coffee. Meal should not include dessert. Report percentages added for tax, tip and service charge.
	One medium cheese pizza with regular crust (not thin or extra thick) and no extra toppings. Do not price salad or drink. Include gratuity.
Fast Food Lunch/Diner	Price of a meal at a fast food establishment. Price for a Big Mac or Whopper, medium french fries and medium coke. Price a combo meal, if a suitable one is offered.
Ice Cream Cone	Price for regular (one scoop) vanilla ice cream cone.
Tobacco:	
Cigarettes, king size	Price for 1 carton (200 cigarettes) of Winston filter kings soft pack. Do not include sales tax.
Alcohol:	
Beer at Home	Price for a six-pack of 12 oz. cans of Budweiser (Puerto Rico—10 oz). Do not price refrigerated beer.
Wine at Home	Price for 750 ml. of Gallo white Chablis blanc.
Beer Away	Price for glass of *Budweiser/Miller Lite* beer. List percent for tax.
Wine Away	Price of house white wine. List percent for tax.
Furnishings, Households Operations:	
Appliance Repair	Price to replace digital clock and heating probe for *Maytag* oven Model #CRE9400ACL, Serial #1000100HB, Series #10. Include hourly rate, trip charge and parts cost.
Housekeeping Services	Price per hour for biweekly cleaning. House approximately 2,000 sq. ft. Family size four. Please complete items in the Comment Section. Services include the following: Bathroom(s)—Sanitize walls, floor, counter tops, bathtub, stool Kitchen—Sanitize walls, floor, counter tops, cabinets, appliances Living Room & Dining Room—Dust, polish furniture and vacuum Bedrooms—Dust, polish furniture and vacuum. If other services are included, please note.
Moving	Price per hour for a within-city move, two men with enclosed van. Include any van rental fees.
Toilet Tissue	Price for a 4 roll pack.
	1st choice: *Cottonelle*.
	2nd choice: *Northern*.
Pen	Price for 10 pack *Bic* round stick medium pen.
Postage	Price for First Class postage for a letter.
Laundry Soap	Price for 100 fluid oz. of liquid household laundry detergent.
	1st choice: *Tide*.
	2nd choice: *Cheer*.
Plant Food	Price for 8 oz. container of indoor plant food.
	1st choice: *Miracle Grow*.
	2nd choice: *Peters*.
Bed Sheet Set	Price for one set queen-size no-iron cotton & polyester percale sheets (180 thread count). One set consists of one fitted sheet, one flat sheet and two pillowcases. Do not price designer sheet sets. Price sheet sets with minimum design.
Bath Towel	Price for a 2750 inch *Cannon* Portofino bath towel made of 100% cotton.
Living Room Chair	Use catalog descriptions and stock numbers. Note that shipping is to be included.
Bedroom Group	Use catalog descriptions and stock numbers. Note that shipping is to be included.
Dining Room Table	Use catalog descriptions and stock numbers. Note that shipping is to be included.
Washing Machine	Price for large capacity washing machine with 4 water temperatures, 8 wash cycles, 4 water levels, white porcelain tub, self-clean lint filter, fabric softener dispenser and 2 speed combinations.
	1st choice: *Maytag* Model #LAT9604.
	2nd choice: *General Electric* Model #WWA8600.
	3rd choice: *Whirlpool* Model #LLR6233B.
Kitchen Range	Price for 30-inch electric range with upswept cooktop, removable coil elements, electronic clock with timer, oven light, delay-start cook control, storage drawer, self-cleaning oven with two oven racks and a porcelain enamel broiler pan.
	1st choice: *Maytag* Model #CRE9400.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

	2nd choice: *General Electric* Model #JBP55GS.
	3rd choice: *Whirlpool* Model #RF385PXYW.
Refrigerator	Price for no-frost top-mount 21 cubit ft. refrigerator with reversible doors and energy saver switch, 4 split glass shelves, sealed/moisture controlled crisper drawers, and double wall meat drawer. Door contains covered compartments and adjustable bins. Freezer has adjustable wire shelves, door bins and ice trays. Do not price models with ice cube makers, chilled water dispensers, or other extras.
	1st choice: *Maytag* Model #RTD2100CAE.
	2nd choice: *General Electric* Model #TBX22PAS.
	3rd choice: *Whirlpool* Model #ET22PKXB.
Vacuum	Price for upright vacuum cleaner with 6.5 amps, 120 volts, six above-the-floor attachments, height adjustment, regular bag and 20-foot cord.
	1st choice: *Ereka* Model #9334AT.
	2nd choice: *Hoover* model #U4671–930.
Two-Slice Toaster	Price for two-slice toaster, chrome body, wide slot with pastry defrost setting.
	1st choice: *Proctor-Silex* Model #T620B.
	2nd choice: *Black Decker* Model #T200.
Casserole Dish Set	Price for *Corning-Ware* trio casserole set with 1 qt., 1.5 qt., and 2 qt. dishes and 3 covers (two plastic covers and one glass).
China	Price for the *Corelle Impressions* line *Abundance* pattern tableware set. Set consists of 20 pieces: 4 dinner plates, 4 luncheon plates, 4 bowls, 4 cups, and 4 saucers. The pattern is beige with a fruit and flower motif.
Electric Drill	Price for 6.0 volt reversible cordless electric drill with overnight recharge.
	1st choice: *Black & Decker* Model #CD2000.
	2nd choice: *Skil* Model #2305
Red Roses, fresh cut	Price for one dozen long stemmed, fresh cut red roses.
Hammer	Price for *Stanley* curved claw hammer with a 16 oz. head, wood handle, high carbon steel head, black finish. Overall length 13 ¼". Do not price hammers with nonwooden handle or hammers typically used by carpenters or cabinet makes.
	1st choice: Model #51616.
	2nd choice: Model #51416.
Window Shade	Use catalog descriptions and stock numbers. Note that shipping is to be included, if charged.
Toilet Lid Cover	Price for *Cannon* Portofino standard toilet lid cove made of 100% nylon.
Snow Blower	Price for a *Honda* Model H5825 (or this year's equivalent) 8 HP two-stage gas snow thrower with rubber tracks and hydrostatic transmission.
Clothing:	
Man's Suit	Use catalog descriptions and stock numbers. Note that shipping is to be included, if charged.
Man's Jeans	Price of straight leg regular fit jeans. Do not price bleached jeans.
	1st choice: *Levi's* #505.
	2nd choice: *Lee* regular fit.
Man's Dress Shirt	Price for white or solid color, long sleeve, button cuff, plain collar dress shirt, approximately 35% cotton, 65% polyester. A dress shirt will have exact collar and sleeve sizes. Example: 15½ collar, 34 sleeve.
	Possible brands: *Arrow, Van Heusen*.
Man's Parka	Use catalog descriptions and stock numbers. Note that shipping is to be included, if charged.
Boy's Jeans	Price of loose fit jeans (size 8–14).
	1st choice: *Levi's* #560.
	2nd choice: *Lee* loose fit.
Boy's Shirt	Price for screen-printed T-shirt commonly worn by boys age 8 through 10 years (size 7–14). Pullover with crew neck, short sleeves and polyester/cotton blend.
	Possible brand: *Ocean Pacific*.
Man's Insulated Underwear	Price for white light weight, crew neck thermal underwear top of cotton and polyester.
	Possible brands: *J. E. Morgan, Hanes*.
Woman's Dress	Price for misses mid-sleeve shirt waist dress appropriate for office attire. Exclude any unusual ornamentation. The dress should be unlined and 100% rayon.
	Possible brands: *Stewart Allen, Lesley Fay*.
Woman's Blouse	Price of 100% polyester, white, long sleeve, button front, blouse with minimum trim.
	Possible brands: *Wrapper, Girls, Girls, Girls*.
Woman's Slacks	Price for misses unlined slacks appropriate for office attire. The slacks should be a blend of cotton and polyester without a belt.
	Possible brands: *Donnkenny, Alfred Dunner*.
Woman's Sweater	Use catalog descriptions and stock numbers. Note that shipping is to be included, if charged.
Woman's Coat	Use catalog descriptions and stock numbers. Note that shipping is to be included, if charged.
Woman's Accessories	Price for split-grain, cowhide leather, checkbook clutch wallet.
	Possible brands: *Michael Stevens, Mundi*.
Girl's Dress	Price of cotton blend long-sleeve appropriate for school. Exclude extra ornamentation. For girls ages 8 through 10 (size 7–14).
	Possible brand: *Carter's*.
Girl's Jeans	Price of *Levi's* #550 jean. For girls ages 8 through 10 years (size 7–14).
Girl's Blouse	Price of cotton blend, white or solid color, long sleeve, button front blouse. For girls ages 8 through 10 years, (size 7–14).
	Possible brand: *This Side Up*.
Infant's Sleeper	Price for one-piece sleeping garment with legs, covering the body including the feet.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Disposable Diaper	Possible brands: *Gerber, Playskool.* Price for 40 count package *Pampers,* (child 12–18 lbs.). Do not price larger size diapers.
Man's Boots	Price for 8 inch waterproof, insulated leather boot with cambrelle lining. Possible brands: *Timberland, Hermam.*
Woman's Boots	Price for calf height boot with pile or fleece lining, urethane upper, side zipper, broad-based one-inch heel, and non-skid traction sole. Possible brand: *Naturalizer.*
Jewelry	Price for one pair 6mm 14K gold ball earrings for pierced ears.
Coin Laundry	Price for one load of laundry using a regular size, top loading commercial washing machine. Do not include cost of drying.
Dry Clean Man's Suit	Price to dry clean a man's 2-piece business suit of typical fabric.
Domestic Service:	
Day-Care	Price for one *month* of day-care for a three-year-old child (5 days a week, about 8 hours per day). If monthly rate is not available, price per week.
Babysitter, per hour	Average hourly rate for one child, age four years, evening, before midnight. (Teenager in your home.) Do not price babysitting service. Special Instructions: If typical for your area, you may wish to obtain quotes from friends/acquaintances in your area who use teenage babysitters.
Professional Services:	
Legal Services	Hourly rate for general counsel.
Accounting Services.	Hourly rate for individual tax work (not business). Price rate for Federal 1040 tax form service with typical itemized deductions.
Personal Care:	
Woman's Cut and Styled Blow Dry	"Regular service" price for a woman's cut and styled blow dry. Include wash. No curling iron if extra charge.
Man's Haircut	Price of a man's typical haircut. Do *not* include wash.
Lipstick	Price for one tube of *Revlon* lipstick. 1st choice: *Super Lustrous.* 2nd choice: *Moondrops.*
Shampoo	Price for 15 fluid oz. bottle of *Revlon Flex* shampoo for normal hair.
Recreation:	
Bowling	Price for 1 game of open (or nonleague) bowling on Saturday night. Exclude cost of shoe rental.
Movie Theater	Typical adult price for regular length, *currently release,* evening film. Report weekend evening price if different from weekday.
Health Club	Price for regular individual membership for 1 year for existing member. Do not include any initial fees assessed only to new members. If yearly rate is not available, price per month.
Piano Lessons	Price for private lessons for a beginner one-half hour in length.
Downhill Skiing	Price for one lift ticket on Saturday.
Roller Skating	Price for one session of open skating on Saturday night. Include the cost of skate rental.
Video Rental	Price to rent one video tape of recently released movie, Saturday night (1 day) rate. Nonmember fee.
Video Recorder	Price for VCR with 4 video heads, double azimuth, unified TV/VCR remote, one-year eight event timer, auto tracking, LED display, and HI-FI stereo. 1st choice: *Zenith* Model #VRM4120 2nd choice: *Sony* Model #SLV720HF
Compact Disc	Regular price for a current best-selling CD. Not sale price. Do not price double CD. Please record title in comment section. Example: *VS,* by Pearl Jam, *Purple* by Stone Temple Pilots.
Compact Disc Player	Price 5 disc CD player with rotary changer system, 10 key access, 32 track programming, 8 times oversampling, and a remote. 1st choice: *Sony* Model #CDPC545 2nd choice: *Panasonic-Technics* Model #SLPD867
Color Television	Price for 20" table model color TV with a remote, auto channel search, closed captions, sleep timer, on-screen channel/time and menus, channel flashback, and 181 channel tuning. 1st choice: *Zenith* Model #SM52049. 2nd choice: *Sony* Model #KV20TS29.
Basic Cable Service	Price for one month of basic cable channel TV. Record the number of channels offered. If basic service provides 12 or fewer channels, price the next level of service. Do not include hookup charges or premium (e.g., "movie") channels.
Veterinary Services	Typical fee for general office visit for a heartworm test for a small dog. Include the cost of the office visit.
Pet Food	Price for 5.5 oz. can of cat food. 1st choice: *Purina.* 2nd choice: *9 Lives.*
Film Developing	Price to process and print 35 millimeter, 24 exposure, 100 ASA color. Single prints only please.
Camera Film	Price for 35 millimeter, 24 exposure, 100 ASA *Kodak* camera film.
Tennis Balls	Price for can of three heavy-duty felt, yellow, tennis balls. 1st choice: *Wilson.* 2nd choice: *Penn.*
Board Game	Price for Monopoly board game by *Parker Brothers.* Do not price deluxe edition.
All-Terrain Vehicle	Price for Honda 300EX, 2-wheel drive all-terrain vehicle.
Book	Price for top ten best selling paperback book.
Magazine	Price for a single copy of *Time* magazine.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Local Newspaper	Price for one year of the most common daily paper (including Sunday edition) distributed in the area. Report the name of the newspaper in the comment section.
Miscellaneous Expense Component:	
Pain Reliever	Price for 60 tablets of extra-strength *Tylenol.* Do not price caplets or gelcaps.
Tetracycline, prescription	Price of 40 capsules of generic tetracycline, 250 milligram strength.
Optometrist, office visit	Typical fee for visual analysis including tonometry, refraction and glaucoma screening.
Dentist, clean and check teeth	Charge for x-rays, exam and prophylaxis (light scaling and polishing) or "cleaning of teeth" without special treatment of gums or teeth. Do not price initial visit.
Doctor, office visit	Typical fee, after the initial visit, for an office visit when medical advice or simple treatment is needed. Do *not* include the charge for a regular physical examination, injections, medication or lab tests (routine brief visit). Price general practitioner, do not price specialist.
Hospital Room	Daily charge for a private room. Include food and routine care. *Exclude* cost of operating room, surgery, medicine and lab fees.
Housing-Related Component:	
Bathroom Caulking	Price a 5.5 ounce plastic tube of latex white bathroom caulking. Do not price caulking gun cartridge. 1st choice: *DAP Kwik Seal Tube & Tile.* 2nd choice: An equivalent size and quality caulk.
Computation of Electric Bill	Average monthly consumption: Customer service charge (single phase service): Cost for first KWH: Cost for over first KWH: Other items included on bill: Comments:
Computation of Gas Bill	Average monthly consumption: Customer service charge: Cost for first Cu. Ft.: Cost for over first Cu. Ft.: Other items included on bill: Comments:
Computation of Water Bill	Average monthly consumption: Customer service charge: Cost for first _____ Gallons: Cost for over _____ Gallons: Other items included on bill: Comments:
Electrical Outlet	Price of a 2-plug grounded electrical outlet. Price blister pack or cardboard mounted (individually packaged). Do not price loose electric outlet. 1st choice: *GE.* 2nd choice: *Levitron.*
Electrical Work	Price of labor to add circuit breaker for dishwasher. Cut ¾-inch hole in wooden floor cable. Connect dishwasher directly to power box (power box is easy to reach). Exclude cost of materials.
Fire Extinguisher	Please price a fire extinguisher with a UL rating of 10BC, 2.5 pound size. 1st choice: *Kidde.* 2nd choice: An equivalent size and quality 10BC fire extinguisher.
Interior Painting	Price of labor to paint 12' 14' living room with 8' ceilings. Walls are plaster or drywall in good repair. Two standard sized sash windows, one picture window, one standard wood door. Rooms have simple wood baseboards and trim. Existing paint is latex, flat white, smooth finish, about three years old. Trim paint is latex, white, gloss enamel, about three years old. Walls and trim require no surface preparation. Obtain labor rate per hour, flat charge if any, and estimated time to complete job. Assume job takes 8 hours. Exclude cost of materials.
Latex Interior Paint	Please price one gallon white, interior flat latex paint. Price a national brand with one coat coverage. 1st choice: *Dutch Boy.* 2nd choice: *Glidden.*
Pest Control	Price for basic pest control maintenance (one visit to control crawling insects, not wood eating), based on the inside of a 1,200 sq. ft. single story home. Price followup maintenance only, *not* the initial application.
Unclog Drain	Price of labor to unclog kitchen sink drain by mechanical means (snake, auger, etc.). Only include pipe removal to access trap if necessary. Assume clog is in the plumbing inside the house, not in the yard. Exclude cost of material, if any.
Kitchen Faucet	Price a *Peerless* single control chrome-plated faucet *with* spray. Faucet is solid brass and stainless steel quality construction with copper waterways, washerless design and triple chrome plating. Warrantied for as long as the home is owned.
Real Estate Taxes	Call the local tax assessor office and/or local tax collector/treasurer for each living community in the report. Request the current real property tax rate, any special charges that are added to the tax bill and any homestead credits that might be deducted from the bill. Ask when properties were last assessed and what base year tax rate should be applied to. Request information as to what month rates are certified and when bills are mailed. Verify any significant increases or decreases from previous records.
Long Distance Telephone	Price the cost of a 10-minute call using AT&T, received on a weekday, at each location at 8:00 p.m. (local time); direct dial from the location being surveyed to each of the following cities: New York, Chicago and Los Angeles. Include any federal, state, local or excise tax that is applicable.
Telephone Service	Obtain monthly cost for unmeasured service, for touchtone service, and for tax.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Homeowner Insurance	For each community surveyed, secure the annual *renewal* premium for HO–2 type coverage. If the company does not refer to the coverage as HO–2, obtain the cost of a comprehensive coverage that covers "all risk for dwelling and named peril for contents" with contents at replacement value.
Renter Insurance	For each living community surveyed, provide renter housing profile and insurance cost (semiannual or other). Assume HO–4-type coverage.
Homeowners:	
The profiles for each of the home sizes costed are as follows:	
Low	900 (Sq. Ft.)
Mid	1,300 (Sq. Ft.)
High	1,700 (Sq. Ft.)
The worksheet components for data collection are as follows:	
(1) Address	
(2) Selling Price	
(3) Sale Date	
(4) Age	
(5) Room Count (broken down into bedrooms and baths)	
(6) Square Footage	
(7) Price Per Square Foot	
Information was collected through various sources—Real Estate Professionals, Appraisers, MLS data, assessors' offices and private sources.	
Data Collection for Aged Mortgages:	
The worksheet components for data collection for aged mortgages are as follows:	
(1) Address	
(2) Selling Price	
(3) Sale Date	
(4) Age	
(5) Room Count (broken down into bedrooms and baths)	
(6) Square Footage	
(7) Price Per Square Foot	
Transportation Component:	
Vehicles	1995 Honda Civic DX four door sedan, 1.5 Liter 4 Cylinder. 1995 Ford Taurus GL four door sedan, 3.0 Liter 6 Cylinder. 1995 Chevrolet S10 Blazer Two Door, four wheel drive, 4.3 Liter 6 Cylinder.
Base Price	Obtain the base price (Manufacturer's Suggested Retail Price) for each vehicle.
Options	For each vehicle, price the following options: air conditioning, AM/FM stereo radio, power steering, tinted glass, power disc brakes, rustproofing, heavy duty battery (Alaska only), and engine block heater (Alaska only).
Fees	For each vehicle, price the following options: destination charge, shipping charge, dealer markup, documentation fees and other one-time fees.
Taxes	For each vehicle, price the following taxes: excise tax, import/customs tax, use tax, sales tax and other one-time taxes.
Specifications	For each vehicle, obtain the following information: length, wheelbase, tires, curb weight, horsepower, fuel type and fuel performance (mpg).
Depreciation	For each vehicle, compute the residual value after 12, 24, 36 and 48 months respectively.
Gasoline	For each station name/brand, price regular unleaded self-service in the Washington, DC area surveys and full service in the Alaska area surveys.
Tuneup	For each vehicle, price a basic tuneup. Include parts and labor for the following: replace spark plugs, PCV valve, fuel filter, air filter, and breather filter. Check distributor cap, rotor, timing, and idle.
Oil Change	For each vehicle, price an oil change. Include parts and labor for the following: drain old oil, replace oil filter and refill with five quarts of 10W30 SG grade oil. If SG grade is unavailable, price SF grade oil.
Change Automatic Transmission Fluid.	For each vehicle, price to change automatic transmission fluid. Include parts and labor for the following: remove transmission pan, drain transmission fluid, replace transmission filter, replace transmission pan gasket, replace transmission fluid, and test vehicle.
Coolant Flush and Fill	For each vehicle, price to flush and fill engine coolant. Include parts and labor for the following: remove old coolant, flush contaminants, and replace with new coolant.
Muffler System	For each vehicle, price a complete muffler system for a 3-year-old vehicle. Include parts and labor for the following: install all parts after the catalytic converter. These parts include mid pipes, clamps, muffler, and tail pipes.
CVJ Boot Replacement	For each vehicle, price the replacement of all four constant velocity joint (CVJ) boots on the front of the vehicle, for a 3-year-old vehicle.
Miscellaneous Tax	For each vehicle, price miscellaneous tax. Tell how rate is determined, give formula for new vehicle purchase, give formula for subsequent year (2 to 5) and explain billing.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Regular Tires	Price for a Black Side Wall (BSW) P175/70R13 tire for the Honda Civic, a BSW P205/65R15 for the Ford Taurus L, and a BSW P205/75R15 for the Chevrolet S10 Blazer in DC area. In Alaska, same tire sizes, but Goodyear brand not always available due to limited outlet selection. If suggested brand tires are not available, price comparable brand tire. Tire retailer should provide comparable tire, given the suggested tire brands and models. Suggested brands: *Goodyear Invictia GL* (Honda, Ford), *Goodyear Wrangler AT* (Chevrolet). Comparable brands: *Michelin LX1* (Honda), *Michelin XW4* (Ford), *Michelin XCHF* (Chevrolet), *B.F. Goodrich Touring TA* (Honda, Ford), *B.F. Goodrich Radial TA* (Chevrolet).
Studded Snow Tires	Price for a studded snow tire. Price for a P175/70R13 tire for the Honda Civic (Anchorage, Fairbanks, and Juneau); a P205/65R15 for the Ford Taurus L (Anchorage, Fairbanks, and Juneau); and a P205/75R15 for the Chevrolet S10 Blazer (Anchorage, Fairbanks, Juneau and Nome). If suggested brand tires are not available, price comparable brand tire. Tire retailer should provide comparable tire, given the suggested tire brands and models. Suggested brands: *Goodyear Ultra Grip.*
License and Registration	For each vehicle, price title fee, passenger vehicle registration fees, plate fees, inspection fees, administration/clerical/other fees and local added fees. Specify if one-time or annual. List any exceptions if the Blazer is not registered as a passenger vehicle.
Automobile Finance	Obtain the rate for a four-year loan based on a down payment of 20 percent. Assume the loan applicant is a current bank customer who will make payments by cash/check and not by automatic deduction from the account.
Automobile Insurance	For each vehicle, price insurance coverage identified below. Assume the vehicles are used in commuting 15 miles/day, 12,000 miles/year and that the driver is a 35-year-old married male with no accidents or violations in the last five years. When there is a geographic difference, obtain rates for two different living communities. Include related expense fees taxes. Bodily Injury: $100,000/$300,000 Property Damage: $25,000 Medical $15,000 or Personal Injury Protection: $50,000 Uninsured Motorist: $100/$300,000 Comprehensive: $100 Deductible Collision: $250 Deductible
Round-Trip Airfare	Price for lowest cost round trip ticket to Los Angeles, CA. Disregard restrictions.

APPENDIX 6.—PRICING CHANGES

[Goods and Services/Miscellaneous Expense/Housing Related]

Previous	Current	Reason
1. Cheddar Cheese:		
Per pound	10 oz. package	New packaging.
2. Ice Cream:		
Half gallon of Sealtest vanilla ice cream	Half gallon of store brand vanilla ice cream.	Specific brand not available in all areas.
3. Cereal:		
18 oz. box of Kellogg's Corn Flakes	20 oz. box of Raisin Bran	Item change per OPM request.
4. Donuts:		
12 glazed	10 chocolate covered	Discontinued.
5. Potatoes:		
10 lb. bag of white potatoes	10 lb. bag of Russet baking potatoes	More specific item.
6. Pizza Lunch:		
Not surveyed	One personal-size cheese pizza (or one slice of cheese pizza).	New item per OPM request.
7. Pizza Dinner:		
Not surveyed	One medium cheese pizza with regular crust (not thin or extra thick) and no extra toppings.	New item per OPM request.
8. Appliance Repair:		
Price to replace oven thermostat control for *Maytag* Model #CRE9400. Include hourly rate, trip charge, and parts cost. Part Number #7430P010–60.	Price to replace digital clock and heating probe for *Maytag* Model #CRE9400 ACL, Serial #1000100HB, Series #10. Include hourly rate, trip charge and parts cost.	More comparable item.
9. Washing Machine:		
3 wash cycles	8 wash cycles	Better description.
Maytag #LAT7793	Maytag #LAT9604	New model number.
General Electric #WWA7600R	General Electric #WWA8600	New model number.
Whirlpool #LLR6233A	Whirlpool #LLR6233B	New model number.
10. Kitchen Range:		
General Electric #JBP5565	General Electric #JBP55GS	Model number clarification.
11. Refrigerator:		
Whirlpool #ET22RKXZ	Whirlpool #ET22PKXB	New model number.
12. Vacuum:		
Hoover #U4671–910	Hoover #U4671–930	New model number.

APPENDIX 6.—PRICING CHANGES—Continued

[Goods and Services/Miscellaneous Expense/Housing Related]

Previous	Current	Reason
13. Snow Blower: Price for 8 HP two-stage gas snow thrower with rubber tracks, 6 forward, 2 reverse speeds and adjustable snow chute.	Price for a Honda, Model H5825 (or its this year's equivalent) 8 HP two-stage gas snow thrower with rubber tracks and hydrostatic transmission.	More specific item.
14. Girl's Jeans: Price of Levi's #902 basic relaxed taper jean, two back pockets and two front pockets.	Price of Levi's #550	Discontinued.
15. Disposable Diapers: 44 count	40 count	Product marketing change.
16. Video Recorder: Zenith #VRL4110	Zenith #VRM4120	New model number.
Sony #SLV700HF	Sony #SLV720HF	New model number.
17. Compact Disc:. "Janet" by Janet Jackson	"VS." by Pearl Jam	Current bestselling titles.
"Unplugged" by Rod Steward	"Purple" by Stone Temple Pilots.	
18. Compact Disc Player: Sony #CDPC535	Sony #CDPC545	New model number.
Panasonic-Technics #SLPD847	Panasonic-Technics #SLPS867	New model number.
19. Color Television: Zenith #SLS2049	Zenith #SMS2049	New model number.
20. Bathroom Caulking: Price an 8 ounce tube of specific white bathroom caulking, most popular brand.	Price a 5.5 ounce plastic tube of latex white bathroom caulking. (Not a caulk gun cartridge.) Suggested brand: DAP KWIK SEAL Tub and Tile.	New size and more description.

Appendix 7.—Nonforeign Area Cost-of-Living Allowances Price Survey Data Collection Procedures

Survey Description

The following information will be provided to the participants verbally or in writing. Participants who are familiar with the program and the survey may be provided with less information as appropriate.

Purpose

The Federal Government pays cost-of-living allowances (COLA) in Alaska, Hawaii, and certain U.S. territories and possessions. Living cost differences are determined by comparing costs of goods, services, housing, transportation, and other items in the allowance area with the cost of the same or similar items and services in the Washington DC area. The U.S. Office of Personnel Management (OPM) is responsible for the operation of the COLA program.

Data Collection

OPM, or its representative, conducts annual Price Surveys to determine living cost differences. Local governments, retail outlets, realty firms, and businesses providing professional and other services to be surveyed are identified through the use of full-scale Background Surveys, conducted approximately once every five years. Participation in the Price Surveys is voluntary. Data are collected by telephone and/or personal interview.

Wherever practical and appropriate, the price of each good or service is obtained from at least three outlets in each allowance area and at least six outlets in the reference area (i.e., the Washington, DC, area). Realty data may be obtained from one or multiple sources, as appropriate.

Release of Information

The price data collected from participating firms may be made available to Congress or to the general public upon request. This includes the name of the company and prices of items or services surveyed. The names of proprietors, managers, or other individuals who provide price information generally will not be made public. However, the Government may release the names of individuals who, on the basis of their expertise, provide opinions or estimates.

Public Burden Information

Public burden reporting for this collection of information is estimated to vary from 1 to 20 minutes per response. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestion for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room CHP 500, Washington, DC 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206–0199), Washington, DC 20503.

Nonforeign Area Cost-of-Living Allowances Price Survey Data Collection Procedures

Interview Guidelines

Three types of information are collected in price surveys: price of goods and services, rental rates and related information, and home prices and related information. The following are the typical interview questions used to collect these data.

Price Information Collection

1. What is the regular (non-sale) price of _____ (a specific item or service)?

Examples of items include, but are not limited to:

Chuck Roast, Bone In.
Price per pound. Average size package (e.g., not a 'family' or 'bonus' pack).
1st Choice: Arm pot roast.
2nd Choice: Eye roast.

Peas, Frozen.
Price for 10 ounce package.
1st Choice: Bird's Eye.
2nd Choice: Major brand of equivalent quality.

Men's Jeans.
Price for one pair of blue jeans.
1st Choice: Levi's #501 jeans.
2nd Choice: Equivalent quality jeans.

Automobile, New.
'Sticker' price of current year model Honda Civic, DX, four door sedan, 1.5 liter, four cylinder engine. (Price options, fees, financing, and taxes separately.)

Example of services include, but are not limited to:

Woman's Haircut and Styling.
'Regular service' price for a woman's cut and styled blow dry. Include wash, but do not include use of curling iron if there is an extra charge.

Unclog Drain.
Price to unclog kitchen drain by mechanical means (snake, auger, etc.). Only include pipe removal if necessary to access trap.

Film Developing.
Price to process and print 35 millimeter, 24 exposure, 100 ASA color roll film. Single prints only, standard size and finish.

Doctor, Office Visit.
Typical fee, after the initial visit, for an office visit when medical advice or simple treatment is all that is needed. Do not include the charge for a complete physical examination, injections, medication, laboratory tests, or similar services.

Oil Change.
Price of a regular oil change including oil and filter for a current year model Honda Civic DX sedan, 1.5 liter, 4 cylinder engine.

2. Prices of many of the items can be obtained "off-the-shelf" without assistance. Occasionally, when a specific item is not available, assistance from sales or other personnel may be required to identify and price substitution items of comparable quality and quantity.

3. Prices of most services are obtained by telephone or personal interview. A few services are priced with little or no assistance. For example, prices may be obtainable from a displayed price schedule, list, or menu.

Housing Component—Rental Informotion Collection

1. Describe the location, size, layout, number and types of rooms, and square footage or your rental units.

2. Are they apartments, duplexes, town houses, detached houses, or other types of units? Describe.

3. Are there additional amenities (e.g., pool, sauna, tennis courts, gym)? If so, describe.

4. What is the monthly rent? What is the amount of the security deposit (if any)? What other kinds of fees or assessments are there?

5. Are utilities included? Which ones? If you can, please provide information on average monthly or annual costs of utilities paid by tenants.

6. Are term leases usually required? What are the conditions and penalties associated with the lease?

7. Are there any special restrictions or other factors we should know about (e.g., seasonal tourist trade)?

Housing Component—Information Collection for Comparable Sales

1. Describe the location, size, layout, number and types of rooms, and square footage of some of your recent home sales.

2. Were they condominiums, duplexes, town houses, detached houses, or other types of dwellings? Describe.

3. Were there any atypical characteristics (e.g., extra large lot sizes, beach front, desirable/undesirable locations)?

4. Are there additional amenities provided by the developer, homeowners association, or similar community group (e.g., pool, sauna, tennis courts, gym)? If so, describe facilities and charges.

5. What was the selling price and date of sale?

6. What are the real estate taxes?

7. Do you have any data on utilities relating to these homes?

8. In the past year or so, what has been the average appreciation rate of property in this community? Looking back over the past six years, has this rate changed? How?

9. Describe current market conditions (e.g., soft, booming, so-so). How has this affected housing prices? Describe the housing market over the past six years.

10. Are there any special considerations or other factors we should know about (e.g., retirement/tourist trade) that might affect the housing market in this community?

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Nonforeign Area Cost-of Living
Price Information Collection

Survey Date: _____ Survey Area: _____ Data Collector: _____

Survey Item/Description	Outlet	Price	Wgt/Cnt	Remarks

Nonforeign Area Cost-of-Living
Housing Component - Information Collection for Comparable Sales

Survey Area: _____ Community: _____ Survey Date: _____ Data Collector: _____

Address	Selling Price	Sale Date	Room Count			Square Feet	Taxes	Other	Remarks
			Total	Bed	Bath				

Comments *(include appreciation/depreciation rate and general market conditions):*

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

BILLING CODE 6325-01-C

Nonforeign Area Cost-of-Living
Housing Component - Rental Information Collection

Survey Area: _____ Community: _____ Survey Date: _____ Data Collector: _____

Complex Address Phone #	Rental Type	Bedroom Count	Monthly Rent	Total Room Count	Square Feet	Security Deposit	Utilities	Monthly Heating Cost	Amenities	Restrictions	Total Units	Other

Remarks:

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

Nonforeign Area Cost-of-Living Allowances Background Survey Data Collection Procedures

Survey Description

The following information will be provided to the participants verbally or in writing. Participants who are familiar with the program and the survey may be provided with less information as appropriate.

Purpose

The Federal Government pays cost-of-living allowances (COLA) in Alaska, Hawaii, and certain U.S. territories and possessions. Living cost differences are determined by comparing costs of goods, services, housing, transportation, and other items in the allowance area with the cost of the same or similar items and services in the Washington, DC, area. The U.S. Office of Personnel Management (OPM) is responsible for the operation of the COLA program. OPM, or its representative, conducts annual surveys to determine living cost differences. OPM conducts full-scale Background Surveys approximately once every five years to review the appropriateness of items, services, and businesses covered in the annual Price surveys. Elements of the Background Survey may be repeated annually on a limited basis as part of the maintenance of and preparation for the annual Price Surveys.

OPM uses the Background Survey to identify the services, items, quantities, outlets, and locations that will be surveyed to collect living cost data within the allowance areas and the Washington, DC, area. The Background Survey also is used to collect information on local trade practices, consumer buying patterns, taxes and fees, and other economic characteristics related to living costs.

Data Collection

Full-scale Background Surveys are conducted approximately once every five years. OPM identifies major manufacturers, local governments, retail outlets, realty firms, and businesses providing professional services to be surveyed on the basis of business volume and local prominence. Participation is voluntary. Data are collected by telephone and/or personal interview.

Confidentiality

All data collected are used only for the purposes described above. The Government pledges to hold all micro or "raw" data collected in confidence. Names of participating businesses and institutions may be released. Names of individuals are not released. Summary data will be made available to the public only to the extent that micro data cannot be associated with data sources.

Public Burden Information

Public burden reporting for this collection of information is estimated to vary from 5 minutes to 30 minutes per response. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestion for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room CHP 500, Washington, DC 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206–0199), Washington, DC 20503.

Nonforeign Area Cost-of-Living Allowances Background Survey Data Collection Procedures

Interview Guidelines

Seven types of information are collected in background surveys. Information is collected on products and services, outlet availability and usage, transportation, local taxes and fees, mortgage, real estate, and other topics related to the measurement of living costs (e.g., specialized information from local chambers of commerce, colleges, and universities). The following are the typical interview questions used to collect these data.

Product or Service Information

1. As a major manufacturer/supplier of _____ (a specific product or service, e.g., women's apparel), please identify your items/services that are most popular (e.g., your 'volume sellers').
2. Which of these items are apt to be readily available in the following geographic locations: Alaska (i.e., Anchorage, Fairbanks, and Juneau); Hawaii; Guam; Puerto Rico; the Virgin Islands; and Washington, DC, and suburbs?
3. If the items or services are not universally available, are there other items or services that are of similar function, quality, quantity, size, and type that can be substituted?
4. Is there anything else we should know about your product or service? Are there recommendations you wish to make that would help us in our data collection?

Outlet Availability and Usage (Retail)

1. What is your product or service? What is the address(es) of your establishment(s)? If you have multiple locations, which locations have the greatest sales volumes (i.e., are most utilized by consumers)?
2. What are your store/office hours? Do these vary by location?
3. Is your full line of products or services available at all locations?
4. Is there anything else we should know about your outlet(s) or recommendations you wish to make?

Transportation Information—Private and Public Services

1. What type of transportation services do you provide (e.g., taxi, bus, subway)?
2. What geographic areas do you service? Which routes are 'typical' or most heavily utilized?
3. What is your rate structure? Does it vary by time of day or season?
4. Is there anything else we should know about transportation usage and services in your area? Are there recommendations you wish to make about our data collection?

Transportation Information—Private Use and Maintenance

1. What types of driving are most common in your area? What is the annual distance driven?
2. What types of roads and highways are common in your area? What are the road surfaces and conditions?
3. Are there unusual climatic or other factors that affect the fuel economy, maintenance, and depreciation of vehicles?
4. Is there anything else we should know about private transportation usage and maintenance in your area? Are there suggestions or recommendations you wish to make?

Local Taxes and Fees

1. What types of taxes, licenses, or fees does your State, territory, or local jurisdiction levy on real estate; personal property; sales (including sales of property); automobiles; utilities; or other goods, services, or transactions?
2. Who levies these taxes, licenses or fees (i.e., State, territory, county, city, other jurisdiction)?
3. What are the rates or schedules for these? How often and when are they levied? Do the rates/schedules vary by location, season, or other factors?
4. Is there anything else we should know about taxes and fees in your area? Are there suggestions or recommendations you wish to make?

Mortgage Information

1. What forms of home financing are most common in _____ (the allowance area or Washington DC metropolitan area)? (Do not include second mortgages.)
2. What are the typical conditions and limitations on loans?
3. What is the typical amount(s) of down payment required? What are the terms and rates?
4. Are there special subsidies or other practices that influence home financing in your area?
5. Looking back six years, what types of changes have occurred that affect home financing?
6. Is there anything else we should know about home financing in your area? Are there suggestions or recommendations you wish to make that would help us in our data collection?

Real Estate Information

1. What is the availability of housing in _____ (the allowance area or Washington DC metropolitan area)? Of principal interest is housing for typical salary and wage earners (as distinguished from retirees, tourists, or other special groups) for persons with low, moderate, and high incomes.
2. Describe the communities within your area in which persons _____ (specify occupation/income characteristics) typically live. If appropriate, identify separate communities for renters and home owners. Where are these communities located relative to the major Federal activities in the area?
3. Describe the type of housing (e.g., apartment, condominium, town house, detached house).

4. For each type of housing, what are the usual number of rooms, bedrooms, baths, total square footage, lot size, type of construction, and similar characteristics?
5. What types of utilities are available and typically used in these communities: sewer, water, natural gas, electricity, other?
6. Are there any unusual factors that might affect maintenance requirements in your area?
7. Looking back 6 years, describe the changes that significantly affected the housing market (both rental and owner markets).
8. Is there anything else we should know about the housing market in your area? Are there suggestions or recommendations you wish to make concerning our data collection?

Other Types of Information

Occasionally, it is necessary to collect information from colleges, universities, chambers of commerce, trade associations, and other groups on specific subjects relating to the analysis of living costs. For example, a university known to be involved in home energy research may be contacted to determine whether there are consumption data by region or allowance area that could have application in the COLA program.

When such data are collected, the purpose and basic structure of the interview will follow the patterns shown above. The substance, however, will vary with the subject matter.

BILLING CODE 6325–01–M

Nonforeign Area Cost-of-Living
Background Survey Information Collection

Contact Date: _____ Survey Area: _____ Data Collector: _____

Contact
Name:
Address:
Phone #:

Purpose of Contact	
Product/Service Info.	
Outlet Availability/Usage	
Transportation Info.	
Local Taxes and Fees	
Mortgage Information	
Real Estate Information	
Other: (specify)	

Findings:

Remarks:

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

BILLING CODE 6325-01-C

APPENDIX 8.—CONSUMPTION GOODS AND SERVICES ANALYSIS
[Location: Anchorage, AK; Winter 1995 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	111.65	26.40	29.48	23.49	26.23	20.65	23.05
2. Food Away From Home	106.62	14.42	15.38	14.73	15.71	15.04	16.03
3. Tobacco	86.98	3.15	2.74	2.59	2.25	2.05	1.78
4. Alcohol	121.20	2.77	3.35	2.73	3.31	2.69	3.26
5. Furnishings & Household Operations	96.07	14.71	14.13	15.79	15.17	16.85	16.18
6. Clothing	99.33	13.97	13.88	14.65	14.55	15.30	15.20
7. Domestic Services	92.05	1.76	1.62	1.90	1.75	2.04	1.87
8. Professional Services	114.23	6.48	7.40	6.65	7.60	6.82	7.80
9. Personal Care	105.43	3.62	3.82	3.52	3.72	3.43	3.62
10. Recreation	103.41	12.72	13.16	13.94	14.42	15.14	15.66
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	104.96	.....	.....	.....	.....
Middle	.....	.....	.....	.....	104.71	.....	.....
Upper	.....	.....	.....	.....	.....	.....	104.45

CONSUMPTION GOODS AND SERVICES ANALYSIS
[Location: Fairbanks, AK; Winter 1995 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	115.65	26.40	30.54	23.49	27.17	20.65	23.88
2. Food Away From Home	109.66	14.42	15.81	14.73	16.16	15.04	16.49
3. Tobacco	88.55	3.15	2.79	2.59	2.30	2.05	1.81
4. Alcohol	115.61	2.77	3.20	2.73	3.15	2.69	3.11
5. Furnishings & Household Operations	106.03	14.71	15.59	15.79	16.74	16.85	17.86
6. Clothing	103.74	13.97	14.50	14.65	15.19	15.30	15.88
7. Domestic Services	87.26	1.76	1.53	1.90	1.66	2.04	1.78
8. Professional Services	103.80	6.48	6.72	6.65	6.91	6.82	7.08
9. Personal Care	107.81	3.62	3.91	3.52	3.80	3.43	3.70
10. Recreation	108.49	12.72	13.80	13.94	15.13	15.14	16.43
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	108.39	.....	.....	.....	.....
Middle	.....	.....	.....	.....	108.21	.....	.....
Upper	.....	.....	.....	.....	.....	.....	108.02

CONSUMPTION GOODS AND SERVICES ANALYSIS
[Location: Juneau, AK; Winter 1995 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	123.19	26.40	32.53	23.49	28.94	20.65	25.43
2. Food Away From Home	116.57	14.42	16.81	14.73	17.17	15.04	17.53
3. Tobacco	85.25	3.15	2.68	2.59	2.21	2.05	1.75
4. Alcohol	127.96	2.77	3.54	2.73	3.49	2.69	3.44
5. Furnishings & Household Operations	104.56	14.71	15.38	15.79	16.51	16.85	17.61
6. Clothing	107.88	13.97	15.07	14.65	15.80	15.30	16.51
7. Domestic Services	90.98	1.76	1.60	1.90	1.73	2.04	1.85
8. Professional Services	95.03	6.48	6.16	6.65	6.32	6.82	6.49
9. Personal Care	125.02	3.62	4.53	3.52	4.41	3.43	4.29
10. Recreation	98.72	12.72	12.56	13.94	13.77	15.14	14.95
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	110.86	.....	.....	.....	.....
Middle	.....	.....	.....	.....	110.35	.....	.....
Upper	.....	.....	.....	.....	.....	.....	109.85

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Nome, AK; Winter 1995 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	154.45	26.40	40.78	23.49	36.29	20.65	31.89
2. Food Away From Home	140.54	14.42	20.27	14.73	20.70	15.04	21.13
3. Tobacco	94.48	3.15	2.97	2.59	2.45	2.05	1.94
4. Alcohol	162.60	2.77	4.50	2.73	4.44	2.69	4.37
5. Furnishings & Household Operations	126.58	14.71	18.62	15.79	19.98	16.85	21.32
6. Clothing	113.86	13.97	15.91	14.65	16.68	15.30	17.42
7. Domestic Services	108.02	1.76	1.90	1.90	2.05	2.04	2.20
8. Professional Services	103.62	6.48	6.71	6.65	6.89	6.82	7.07
9. Personal Care	102.94	3.62	3.73	3.52	3.63	3.43	3.53
10. Recreation	126.58	12.72	16.11	13.94	17.65	15.14	19.16
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			131.50				
Middle					130.76		
Upper							130.03

APPENDIX 9.—OPM LIVING COMMUNITY LIST

	Low	Middle	High
Washington, DC DC:			
Homeowner	Southeast DC	Northeast DC	Northwest DC.*
Renter	Southeast DC	Northeast DC	Northwest DC.*

*Northwest DC excludes Georgetown, but includes Dupont Circle, Cleveland Part, and Adams Morgan.

Washington, DC MD:			
Homeowner	Capitol Heights/Suitland	Gaithersburg/Silver Spring	Rockville.
Renter	Capitol Heights/Suitland	Hyattsville/College Park	Rockville.
Washington, DC VA:			
Homeowner	Woodbridge/Dale City	Springfield	Alexandria.
Renter	Woodbridge/Dale City	Alexandria	Arlington.
Anchorage, AK:			
Homeowner	North Anchorage	North Anchorage	South Ancohorage.*
Renter	North Anchorage	North Anchorage	South Anchorage.*

*The line between North and South Anchorage is set by Tudor Road.

Fairbanks, AK:			
Homeowner	Fairbanks	Fairbanks	Fairbanks.
Renter	Fairbanks	Fairbanks	Fairbanks.
Juneau, AK:			
Homeowner	Juneau/Mendenhall	Juneau/Mendenhall	Juneau/Mendenhall.
Renter	Juneau/Mendenhall	Juneau/Mendenhall	Juneau/Mendenhall.
Nome, AK:			
Homeowner	Nome	Nome	Nome.
Renter	Nome	Nome	Nome.

Appendix 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
Anchorage, AK	1985	10.875	Lower	$95,004	$8,600
			Middle	124,840	11,300
			Upper	156,302	14,148
	1986	10.000	Lower	87,974	7,412
			Middle	116,993	9,856
			Upper	143,284	12,071
	1987	9.375	Lower	81,024	6,470
			Middle	109,147	8,715
			Upper	130,227	10,398
	1988	10.500	Lower	74,218	6,517
			Middle	101,300	8,896
			Upper	117,190	10,291

Appendix 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
	1989	11.125	Lower	67,538	6,236
			Middle	93,454	8,629
			Upper	112,532	10,390
	1990	10.250	Lower	60,784	5,229
			Middle	87,071	7,490
			Upper	114,783	9,874
	1992	9.000	Lower	65,700	5,075
			Middle	96,200	7,431
			Upper	139,400	10,768
	1993	8.125	Lower	70,902	5,054
			Middle	99,073	7,062
			Upper	130,815	9,324
	1994	7,625	Lower	72,216	4,907
			Middle	99,099	6,734
			Upper	124,780	8,479
	1995	8.625	Lower	83,286	6,219
			Middle	102,089	7,623
			Upper	134,580	10,049
Fairbanks, AK	1985	10.875	Lower	86,124	7,796
			Middle	107,493	9,730
			Upper	148,566	13,448
	1986	10.000	Lower	78,982	6,654
			Middle	102,726	8,654
			Upper	140,199	11,811
	1987	9.375	Lower	71,839	5,736
			Middle	97,958	7,822
			Upper	131,833	10,527
	1988	10.500	Lower	64,696	5,681
			Middle	93,191	8,184
			Upper	123,467	10,842
	1989	11.125	Lower	57,553	5,314
			Middle	88,424	8,164
			Upper	115,101	10,627
	1990	10.250	Lower	50,604	4,353
			Middle	83,619	7,193
			Upper	107,143	9,217
	1992	9.000	Lower	70,851	5,473
			Middle	101,400	7,833
			Upper	137,000	10,582
	1993	8.125	Lower	69,498	4,954
			Middle	101,478	7,233
			Upper	115,787	8,253
	1994	7.625	Lower	76,302	5,185
			Middle	112,580	7,650
			Upper	127,829	8,686
	1995	8.708	Lower	68,940	5,187
			Middle	84,240	6,338
			Upper	108,426	8,157
Juneau, AK	1985	10.875	Lower	97,228	8,801
			Middle	112,929	10,222
			Upper	132,687	12,010
	1986	10.000	Lower	90,811	7,651
			Middle	107,283	9,038
			Upper	127,114	10,709
	1987	9.375	Lower	83,909	6,700
			Middle	100,846	8,052
			Upper	120,885	9,652
	1988	10.500	Lower	76,441	6,713
			Middle	93,787	8,236
			Upper	113,874	10,000
	1989	11.125	Lower	68,797	6,352
			Middle	86,284	7,967
			Upper	106,131	9,799
	1990	10.250	Lower	78,429	6,747
			Middle	99,227	8,536
			Upper	123,324	10,609
	1992	9.000	Lower	89,470	6,911
			Middle	114,400	8,837
			Upper	146,300	11,301
	1993	8.125	Lower	87,570	6,242
			Middle	115,518	8,234

Appendix 10.—Historical Home Market Values and Interest Rates—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
			Upper	134,232	9,568
	1994	7.625	Lower	92,826	6,307
			Middle	117,364	7,975
			Upper	140,760	9,564
	1995	8.625	Lower	102,879	7,682
			Middle	138,723	10,358
			Upper	163,812	12,231
Nome, AK	1985	10.875	Lower	86,836	7,860
			Middle	114,834	10,394
			Upper	138,156	12,506
	1986	10.00	Lower	84,057	7,082
			Middle	111,159	9,365
			Upper	133,735	11,267
	1987	9.375	Lower	81,367	6,497
			Middle	107,602	8,592
			Upper	129,445	10,337
	1988	10.500	Lower	78,763	6,917
			Middle	104,159	9,147
			Upper	125,312	11,004
	1989	11.125	Lower	76,243	7,040
			Middle	100,826	9,309
			Upper	121,302	11,200
	1990	10.250	Lower	73,803	6,349
			Middle	97,600	8,396
			Upper	117,420	10,101
	1992	9.000	Lower	71,100	5,492
			Middle	97,500	7,531
			Upper	122,400	9,455
	1993	8.125	Lower	56,453	4,024
			Middle	77,415	5,518
			Upper	97,186	6,927
	1994	7.625	Lower	82,365	5,597
			Middle	112,948	7,675
			Upper	141,794	9,635
	1995	8.625	Lower	81,711	6,101
			Middle	118,027	8,813
			Upper	154,343	11,524
Washington, DC (DC)	1985	10.250	Lower	58,996	5,075
			Middle	90,194	7,759
			Upper	160,600	13,816
	1986	10.250	Lower	64,778	5,573
			Middle	99,213	8,535
			Upper	173,448	14,921
	1987	10.205	Lower	70,543	6,069
			Middle	113,015	9,722
			Upper	187,324	16,115
	1988	10.500	Lower	76,327	6,703
			Middle	126,817	11,136
			Upper	202,310	17,766
	1989	9.625	Lower	82,128	6,702
			Middle	140,619	11,474
			Upper	218,495	17,829
	1990	9.875	Lower	87,877	7,326
			Middle	140,974	11,752
			Upper	235,975	19,671
	1992	9.250	Lower	92,007	7,266
			Middle	147,600	11,657
			Upper	247,100	19,515
	1993	8.125	Lower	88,083	6,279
			Middle	115,960	8,266
			Upper	250,512	17,856
	1994	7.625	Lower	91,431	6,213
			Middle	104,572	7,105
			Upper	302,073	20,525
	1995	8.646	Lower	79,326	5,934
			Middle	105,196	7,870
			Upper	326,995	24,463
Washington, DC (MD)	1985	10.250	Lower	54,572	4,695
			Middle	84,505	7,270
			Upper	100,545	8,649
	1986	10.250	Lower	60,029	5,164

Appendix 10.—Historical Home Market Values and Interest Rates—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P&I*
			Middle	92,955	7,997
			Upper	110,600	9,514
	1987	10.125	Lower	66,032	5,622
			Middle	102,250	8,705
			Upper	121,660	10,358
	1988	10.375	Lower	73,295	6,371
			Middle	113,498	9,865
			Upper	135,043	11,738
	1989	10.000	Lower	81,357	6,854
			Middle	125,983	10,614
			Upper	149,898	12,628
	1990	9.875	Lower	89,493	7,460
			Middle	138,581	11,552
			Upper	164,888	13,745
	1992	8.750	Lower	96,115	7,259
			Middle	148,836	11,241
			Upper	172,555	13,032
	1993	8.250	Lower	104,832	7,561
			Middle	125,723	9,067
			Upper	211,667	15,266
	1994	7.500	Lower	90,279	6,060
			Middle	121,527	8,157
			Upper	208,777	14,014
	1995	8.542	Lower	89,532	6,634
			Middle	150,449	11,149
			Upper	205,683	15,241
Washington, DC (VA)	1985	10.250	Lower	65,608	5,644
			Middle	74,031	6,369
			Upper	122,748	10,559
	1986	10.250	Lower	70,857	6,096
			Middle	79,954	6,878
			Upper	132,568	11,404
	1987	10.125	Lower	76,526	6,515
			Middle	86,350	7,351
			Upper	143,173	12,189
	1988	10.500	Lower	83,413	7,325
			Middle	94,122	8,265
			Upper	156,059	13,704
	1989	9.500	Lower	90,086	7,272
			Middle	101,652	8,206
			Upper	168,544	13,605
	1990	10.000	Lower	97,293	8,197
			Middle	109,784	9,249
			Upper	182,028	15,335
	1992	9.000	Lower	107,100	8,273
			Middle	120,900	9,339
			Upper	190,400	14,707
	1993	8.125	Lower	95,184	6,785
			Middle	125,047	8,913
			Upper	182,325	12,996
	1994	7.750	Lower	95,247	6,551
			Middle	126,763	8,718
			Upper	181,492	12,482
	1995	8.604	Lower	103,266	7,696
			Middle	166,673	12,421
			Upper	216,274	16,118

* Principal and interest assumes 80% financing.

Appendix 11.—Historical Housing Data

[Winter 1995 Survey]

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
Anchorage:							
1985	6.31	$8,600	542.66	$11,300	713.03	$14,148	892.74
1986	6.77	7,412	501.79	9,856	667.25	12,071	817.21
1987	8.19	6,470	529.89	8,715	713.76	10,398	851.60
1988	7.03	6,517	458.15	8,896	625.39	10,291	723.46
1989	7.72	6,236	481.42	8,629	666.16	10,390	802.11

APPENDIX 11.—HISTORICAL HOUSING DATA—Continued
[Winter 1995 Survey]

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
1990	8.32	5,229	435.05	7,490	623.17	9,874	821.52
1992	10.08	5,075	511.56	7,431	749.04	10,768	1,085.41
1993	12.92	5,054	652.98	7,062	912.41	9,324	1,204.66
1994	13.78	4,907	676.18	6,734	927.95	8,479	1,168.41
1995	18.88	6,219	1,174.15	7,623	1,439.22	10,049	1,897.25
Totals	100.00	.....	5,964	.....	8,037	.....	10,264
Fairbanks:							
1985	6.31	$7,796	491.93	$9,730	613.96	$13,448	848.57
1986	6.77	6,654	450.48	8,654	585.88	11,811	799.60
1987	8.19	5,736	469.78	7,822	640.62	10,527	862.16
1988	7.03	5,681	399.37	8,184	575.34	10,842	762.19
1989	7.72	5,314	410.24	8,164	630.26	10,627	820.40
1990	8.32	4,353	362.17	7,193	598.46	9,217	766.85
1992	10.08	5,473	551.68	7,833	789.57	10,582	1,066.67
1993	12.92	4,954	640.06	7,233	934.50	8,253	1,066.29
1994	13.78	5,185	714.49	7,650	1,054.17	8,686	1,196.93
1995	18.88	5,187	979.31	6,338	1,196.61	8,157	1,540.04
Totals	100.00	.....	5,470	.....	7,619	.....	9,730
Juneau:							
1985	6.31	$8,801	555.34	$10,222	645.01	$12,010	757.83
1986	6.77	7,651	517.97	9,038	611.87	10,709	725.00
1987	8.19	6,700	548.73	8,052	659.46	9,652	790.50
1988	7.03	6,713	471.92	8,236	578.99	10,000	703.00
1989	7.72	6,352	490.37	7,967	615.05	9,799	756.48
1990	8.32	6,747	561.35	8,536	710.20	10,609	822.67
1992	10.08	6,911	696.63	8,837	890.77	11,301	1,139.14
1993	12.92	6,242	806.47	8,234	1,063.83	9,568	1,236.19
1994	13.78	6,307	869.10	7,975	1,098.96	9,564	1,317.92
1995	18.88	7,682	1,450.36	10,358	1,955.59	12,231	2,309.21
Totals	100.00	.....	6,968	.....	8,830	.....	10,618
Nome:							
1985	6.31	$7,860	495.97	$10,394	655.86	$12,506	789.13
1986	6.77	7,082	479.45	9,365	634.01	11,267	762.78
1987	8.19	6,497	532.10	8,592	703.68	10,337	846.60
1988	7.03	6,917	486.27	9,147	643.03	11,004	773.58
1989	7.72	7,040	543.49	9,309	718.65	11,200	864.64
1990	8.32	6,349	528.24	8,396	698.55	10,101	840.40
1992	10.08	5,492	553.59	7,531	759.12	9,455	953.06
1993	12.92	4,024	519.90	5,518	712.93	6,927	894.97
1994	13.78	5,597	771.27	7,675	1,057.62	9,635	1,327.70
1995	18.88	6,101	1,151.87	8,813	1,663.89	11,524	2,175.73
Totals	100.00	.....	6,062	.....	8,247	.....	10,229
DC–DC:							
1985	6.31	$5,075	320.23	$7,759	489.59	$13,816	871.79
1986	6.77	5,573	377.29	8,535	577.82	14,921	1,010.15
1987	8.19	6,069	497.05	9,722	796.23	16,115	1,319.82
1988	7.03	6,703	471.22	11,136	782.86	17,766	1,248.95
1989	7.72	6,702	517.39	11,474	885.79	17,829	1,376.40
1990	8.32	7,326	609.52	11,752	977.77	19,671	1,636.63
1992	10.08	7,266	732.41	11,657	1,175.03	19,515	1,967.11
1993	12.92	6,279	811.25	8,266	1,067.97	17,856	2,307.00
1994	13.78	6,213	856.15	7,105	979.07	20,525	2,828.35
1995	18.88	5,934	1,120.34	7,870	1,485.86	24,463	4,618.61
Totals	100.00	.....	6,313	.....	9,218	.....	19,185
DC–MD:							
1985	6.31	$4,695	296.25	$7,270	458.74	$8,649	545.75
1986	6.77	5,164	349.60	7,997	541.40	9,514	644.10
1987	8.19	5,622	460.44	8,705	712.94	10,358	848.32
1988	7.03	6,371	447.88	9,865	693.51	11,738	825.18
1989	7.72	6,854	529.13	10,614	819.40	12,628	974.88

APPENDIX 11.—HISTORICAL HOUSING DATA—Continued
[Winter 1995 Survey]

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
1990	8.32	7,460	620.67	11,552	961.13	13,745	1,143.58
1992	10.08	7,259	731.71	11,241	1,133.09	13,032	1,313.63
1993	12.92	7,561	976.88	9,067	1,171.46	15,266	1,972.37
1994	13.78	6,060	835.07	8,157	1,124.03	14,014	1,931.13
1995	18.88	6,634	1,252.50	11,149	2,104.93	15,241	2,877.50
Totals	100.00	.....	6,500	.....	9,721	.....	13,076
DC–VA:							
1985	6.31	$5,644	356.14	$6,369	401.88	$10,559	666.27
1986	6.77	6,096	412.70	6,878	465.64	11,404	772.05
1987	8.19	6,515	533.58	7,351	602.05	12,189	998.28
1988	7.03	7,325	514.95	8,265	581.03	13,704	963.39
1989	7.72	7,272	561.40	8,206	633.50	13,605	1,050.31
1990	8.32	8,197	681.99	9,249	769.52	15,335	1,275.87
1992	10.08	8,273	833.92	9,339	941.37	14,707	1,482.47
1993	12.92	6,785	876.62	8,913	1,151.56	12,996	1,679.08
1994	13.78	6,551	902.73	8,718	1,201.34	12,482	1,720.02
1995	18.88	7,696	1,453.00	12,421	2,345.08	16,118	3,043.08
Totals	100.00	.....	7,127	.....	9,093	.....	13,651

APPENDIX 12.—SUMMARY OF RENTAL ANALYSES

	1995 Data medians								
	B&NB			Non-Brkr			Broker		
	#	$	Change (percent)	#	$	Change (percent)	#	$	Change (percent)
Anchorage:									
Low	117	594	4.0	111	575	6.3	6	613	2.2
Middle	176	688	−0.6	170	663	−1.0	6	713	0.0
High	133	1,100	4.9	121	,1000	0.2	12	1,200	9.1
Fairbanks:									
Low	112	527	5.0	105	520	5.3	7	533	4.7
Middle	144	700	10.6	137	650	3.2	7	750	18.1
High	183	927	9.1	169	875	7.8	14	978	10.3
Juneau:									
Low	32	694	1.8	26	700	−0.4	6	688	4.2
Middle	51	863	0.5	45	900	2.4	6	825	−1.6
High	47	1175	6.9	35	1,200	5.7	12	1,150	8.2
Nome:									
Low	12	663	−2.1	4	650	−5.8	8	675	1.8
Middle	18	825	−2.6	10	800	−4.1	8	850	−1.2
High	8	1,038	−0.9	0	0	NA	8	1,038	−2.1
DCDC:									
Low	205	413	−10.8	199	400	−10.5	6	425	−11.3
Middle	172	548	−10.7	166	545	−13.2	6	550	−8.3
High	125	1238	−15.2	107	1,025	−10.1	18	1,450	−18.5
DCMD:									
Low	71	524	−4.6	65	510	−2.5	6	538	−6.4
Middle	97	643	−18.6	91	635	−20.5	6	650	−16.8
High	136	995	−3.5	124	990	−3.0	12	1,000	−3.9
DCVA:									
Low	40	584	−2.2	34	592.5	−0.3	6	575	−4.2
Middle	188	855	10.5	182	759	−5.9	6	950	28.4
High	195	1,175	14.7	183	1,150	16.8	12	1,200	12.9

APPENDIX 13.—HOUSING COST ANALYSIS
[Location: Anchorage, AK, Winter 1995 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$559		$658		$757	
Insurance	388	$149	428	$149	456	$189
Utilities	2,093	1,840	2,410	2,093	2,726	2,241
Real Estate Taxes	1,477		1,811		2,387	
Housing	5,964	7,128	8,037	8,256	10,264	13,200
Total Annual Cost	$10,481	$9,117	$13,344	$10,498	$16,590	$15,630

HOUSING COST ANALYSIS
[Location: Fairbanks, AK, Winter 1995 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$461		$542		$623	
Insurance	428	$189	522	$189	968	$250
Utilities	2,732	2,393	3,155	2,732	3,579	2,929
Real Estate Taxes	1,319		1,612		2,074	
Housing	5,470	6,324	7,619	8,400	9,730	11,124
Total Annual Cost	$10,410	$8,906	$13,450	$11,321	$16,974	$14,303

HOUSING COST ANALYSIS
[Location: Juneau, AK, Winter 1995 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$441		$519		$597	
Insurance	273	$164	310	$150	346	$191
Utilities	2,954	2,578	3,424	2,954	3,893	3,173
Real Estate Taxes	1,449		1,953		2,306	
Housing	6,968	8,328	8,830	10,356	10,618	14,100
Total annual cost	$12,085	$11,070	$15,036	$13,460	$17,760	$17,464

HOUSING COST ANALYSIS
[Location: Nome, AK, Winter 1995 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$359		$422		$485	
Insurance	440	$224	493	$224	571	$309
Utilities	3,960	3,438	4,613	3,960	5,266	4,265
Real Estate Taxes	878		1,269		1,659	
Housing	6,062	7,956	8,247	9,900	10,229	12,456
Total annual cost	$11,699	$11,618	$15,044	$14,084	$18,210	$17,030

HOUSING COST ANALYSIS
[Location: Washington DC, DC, Winter 1995 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$302		$355		$408	
Insurance	321	$147	363	$147	905	$189
Utilities	1,932	1,705	2,217	1,932	2,501	2,965
Real Estate Taxes	474		722		2,851	
Housing	6,313	4,956	9,218	6,576	19,185	14,856
Total annual cost	$9,342	$6,808	$12,875	$8,655	$25,850	$17,110

HOUSING COST ANALYSIS
[Location: Washington DC, MD, Winter 1995 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$315		$371		$427	
Insurance	242	$89	232	$82	305	$116
Utilities	2,048	1,809	2,346	2,048	2,644	2,187
Real Estate Taxes	1,215		2,042		2,792	
Housing	6,500	6,288	9,721	7,716	13,076	11,940
Total annual cost	$10,320	$8,186	$14,712	$9,846	$19,244	$14,243

HOUSING COST ANALYSIS
[Location: Washington DC, VA, Winter 1995 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$298		$351		$404	
Insurance	166	$102	200	$100	244	$122
Utilities	2,102	1,853	2,413	2,102	2,724	2,247
Real Estate Taxes	1,302		2,101		2,727	
Housing	7,127	7,008	9,093	10,260	13,651	14,100
Total annual cost	$10,995	$8,936	$14,158	$12,462	$19,750	$16,469

HOUSING COST ANALYSIS—WASHINGTON DC COMPOSITE
[Winter 1995 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
Washington DC, DC	33.34	$9,342	$6,808	$12,875	$8,655	$25,850	$17,110
Washington DC, MD	33.33	10,320	8,186	14,712	9,846	19,244	14,243
Washington DC, VA	33.33	10,995	8,963	14,158	12,462	19,750	16,469
Total weight	100.00						
Composite cost		$10,219	$7,986	$13,915	$10,321	$21,615	$15,941

APPENDIX 14.—HOUSING ANALYSIS

[Location: Anchorage, AK, Winter 1995 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$10,481	$10,219	102.56	$9,117	$7,986	114.16
Middle income	13,344	13,915	95.90	10,498	10,321	101.71
Upper income	16,590	21,615	76.75	15,630	15,941	98.05

HOUSING ANALYSIS

[Location: Fairbanks, AK, Winter 1995 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$10,410	$10,219	101.87	$8,906	$7,986	111.52
Middle income	13,450	13,915	96.66	11,321	10,321	109.69
Upper income	16,974	21,615	78.53	14,303	15,941	89.72

HOUSING ANALYSIS

[Location: Juneau, AK, Winter 1995 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$12,085	$10,219	118.26	$11,070	$7,986	138.62
Middle income	15,036	13,915	108.06	13,460	10,321	130.41
Upper income	17,760	21,615	82.17	17,464	15,941	109.55

HOUSING ANALYSIS

[Location: Nome, AK, Winter 1995 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$11,699	$10,219	114.48	$11,618	$7,986	145.48
Middle income	15,044	13,915	108.11	14,084	10,321	136.46
Upper income	18,210	21,615	84.25	17,030	15,941	106.83

APPENDIX 15.—PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Anchorage, AK, Winter 1995 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$982	$1,423	$1,779
Maintenance/oil	645	549	581
Tires	122	177	189
License and registration	118	118	118
Miscellaneous tax	66	66	66
Depreciation	3,106	3,241	2,438
Finance expense	803	829	930
Insurance	1,092	1,092	1,284
Total annual costs	$6,934	$7,495	$7,385

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Fairbanks, AK, Winter 1995 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$963	$1,396	$1,745
Maintenance/oil	782	795	782
Tires	131	173	172
License and registration	52	52	52
Miscellaneous tax	0	0	0
Depreciation	3,096	3,580	3,456
Finance expense	786	873	1,067
Insurance	1,062	992	1,253
Total annual cost	$6,872	$7,861	$8,527

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Juneau, AK, Winter 1995 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$785	$1,138	$1,423
Maintenance/oil	698	633	671
Tires	107	171	145
License and registration	52	52	52
Miscellaneous tax	0	0	0
Depreciation	2,595	3,242	2,445
Finance expense	743	859	964
Insurance	831	831	935
Total annual cost	$5,811	$6,926	$6,635

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Nome, AK, Winter 1995 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$1,351	$1,959	$2,449
Maintenance/oil	664	667	705
Tires	142	201	210
License and registration	118	118	118
Miscellaneous tax	0	0	0
Depreciation	3,819	4,142	3,155
Finance expense	780	831	871
Insurance	976	976	1,110
Total annual cost	$7,850	$8,894	$8,618

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Washington, DC, DC, Winter 1995 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$687	$996	$1,245
Maintenance/oil	475	455	346
Tires	78	102	117
License and registration	69	69	102
Miscellaneous tax	0	0	0

PRIVATE TRANSPORTATION COST ANALYSIS—Continued
[Location: Washington, DC, DC, Winter 1995 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Depreciation	2,542	3,233	3,040
Finance expense	704	824	1,025
Insurance	1,170	1,197	1,355
Total annual cost	$5,725	$6,876	$7,230

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Washington, DC, MD, Winter 1995 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$650	$943	$1,179
Maintenance/oil	395	345	346
Tires	78	91	107
License and registration	39	39	39
Miscellaneous tax	0	0	0
Depreciation	2,414	3,058	2,849
Finance expense	638	743	928
Insurance	884	986	935
Total annual costs	$5,098	$6,205	$6,383

PRIVATE TRANSPORTATION COST ANALYSIS
[Location: Washington, DC, VA, Winter 1995 Survey]

Categroy	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$641	$930	$1,162
Maintenance/oil	385	365	349
Tires	73	89	105
License and registration	52	52	52
Miscellaneous tax	297	340	491
Depreciation	2,304	3,154	2,667
Finance expense	619	755	897
Insurance	723	731	791
Total annual cost	$5,094	$6,416	$6,514

PRIVATE TRANSPORTATION COST ANALYSIS—WASHINGTON DC COMPOSITE
[Winter 1995 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Washington DC, DC	33.34	$5,725	$6,876	$7,230
Washington DC, MD	33.33	5,098	6,205	6,383
Washington DC, VA	33.33	5,094	6,416	6,514
Total weight	100.00			
Composite cost		$5,306	$6,499	$6,709

APPENDIX 16.—AIR FARES AND OTHER TRANSPORATION EXPENSES COST ANALYSIS SUMMARY PROGRAM
[Winter 1995 Survey]

Location	Air fares and other transportation expenses cost	Total cost DC area	Index
Anchorage, AK	$498	$400	124.43
Fairbanks, AK	608	400	151.92
Juneau, AK	522	400	130.43
Nome, AK	882	400	220.38

APPENDIX 17.—TRANSPORTATION ANALYSIS
[Location: Anchorage, AK, Winter 1995 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$6,934	$5,306	130.69
2. Ford Taurur GL 4 dr sedan 3.0L 6 cyl	7,495	6,499	115.33
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	7,385	6,709	110.08
Average index			118.70

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	118.70	94.64	112.34	93.54	111.04	92.47	109.76
Air fares and other transportation expenses	124.43	5.36	6.66	6.46	8.03	7.53	9.37
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			119.00				
Middle					119.07		
Upper							119.13

TRANSPORTATION ANALYSIS
[Location: Fairbanks, AK, Winter 1995 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4cyl	$6,872	$5,306	129.52
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,861	6,499	120.96
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	8,527	6,709	127.10
Average index			125.86

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	subtotal
Private transportation	125.86	94.64	119.12	93.54	117.73	92.47	116.38
Air fare and other transportation expenses	151.92	5.36	8.14	6.46	9.81	7.53	11.44
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			127.26				
Middle					127.54		
Upper							127.82

TRANSPORTATION ANALYSIS
[Location: Juneau, AK, Winter 1995 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$5,811	$5,306	109.53
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	6,926	6,499	106.58
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	6,635	6,709	98.89
Average index			105.00

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	105.00	94.64	99.38	93.54	98.22	92.47	97.09
Air fares and other transportation expenses	130.43	5.36	6.99	6.46	8.42	7.53	9.82
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			106.37				
Middle					106.64		
Upper							106.91

TRANSPORTATION ANALYSIS
[Location: Nome, AK, Winter 1995 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$7,850	$5,306	147.94
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,894	6,499	136.84
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	8,618	6,709	128.45
Average index			137.74

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	137.74	94.64	130.36	93.54	128.85	92.47	127.37
Air fares and other transportation expenses	220.38	5.36	11.80	6.46	14.23	7.53	16.59
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			142.16				
Middle					143.08		
Upper							143.96

APPENDIX 18.—MISCELLANEOUS EXPENSE ANALYSIS
[Location: Anchorage, AK; Winter 1995 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Category Index Development						
Medical Care						122.98
Nonprescription pain reliever	5.00	5.59	0.8942	4.9	4.38	
Tetracycline	6.28	5.31	1.1811	12.2	14.44	
Vision Check	78.33	52.56	1.4905	5.5	8.14	
Dental Service	171.67	89.33	1.9216	16.1	30.92	
Doctor Visit	61.67	53.61	1.1503	15.9	18.31	

APPENDIX 18.—MISCELLANEOUS EXPENSE ANALYSIS—Continued
[Location: Anchorage, AK; Winter 1995 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Hospital Room	699.00	523.45	1.3354	4.1	5.49	
Health Insurance	1.0000	1.0000	1.0000	41.3	41.30	

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total Index Development							
1. Medical Care	122.98	41.50	51.03	31.33	38.53	23.51	28.92
2. Cash Contributions:							
Lower Income	104.96	15.80	16.58	0.00	0.00	0.00	0.00
Middle Income	104.71	0.00	0.00	16.85	17.64	0.00	0.00
Upper Income	104.45	0.00	0.00	0.00	0.00	17.65	18.44
3. Personal Insurance/Pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			110.31				
Middle					107.99		
Upper							106.19

MISCELLANEOUS EXPENSE ACCOUNT
[Location: Fairbanks, AK; Winter 1995 Survey]

Category/Item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Category Index Development						
Medical Care						117.37
Nonprescription pain reliever	4.49	5.59	8.030	4.9	3.93	
Tetracycline	6.14	5.31	1.1560	12.2	14.14	
Vision Check	80.33	52.56	1.5285	5.5	8.35	
Dental Service	159.67	89.33	1.7873	16.1	28.76	
Doctor Visit	57.67	53.61	1.0757	15.9	17.13	
Hospital Room	479.00	523.45	0.9151	4.1	3.76	
Health Insurance	1.0000	1.0000	1.0000	41.3	41.30	

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total Index Development							
1. Medical Care	117.37	41.50	48.71	31.33	36.77	23.51	27.60
2. Cash Contributions:							
Lower Income	108.39	15.80	17.13	0.00	0.00	0.00	0.00
Middle Income	108.21	0.00	0.00	16.85	18.23	0.00	0.00
Upper Income	108.02	0.00	0.00	0.00	0.00	17.65	19.07
3. Personal Insurance/Pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			108.54				
Middle					106.82		
Upper							105.50

MISCELLANEOUS EXPENSE ANALYSIS

[Location: Juneau, AK; Winter 1995 Survey]

Category/Item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Category Index Development						
Medical Care						132.32
Nonprescription pain reliever	5.09	5.59	0.9101	4.9	4.46	
Tetracycline	10.56	5.31	1.9877	12.2	24.31	
Vision Check	105.00	52.56	1.9979	5.5	10.91	
Dental Service	180.33	89.33	2.0187	16.1	32.48	
Doctor Visit	47.67	53.61	0.8891	15.9	14.15	
Hospital Room	600.00	523.45	1.1462	4.1	4.71	
Health Insurance	1.0000	1.0000	1.0000	41.3	41.30	

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total Index Development							
1. Medical Care	132.32	41.50	54.91	31.33	41.45	23.51	31.11
2. Cash Contributions:							
Lower Income	110.66	15.80	17.52	0.00	0.00	0.00	0.00
Middle Income	110.35	0.00	0.00	16.85	18.59	0.00	0.00
Upper Income	109.85	0.00	0.00	0.00	0.00	17.65	19.39
3. Personal Insurance/Pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			115.13				
Middle					111.86		
Upper							109.33

MISCELLANEOUS EXPENSE ANALYSIS

[Location: Nome, AK; Winter 1995 Survey]

Category/Item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Category Index Development						
Medical Care						132.56
Nonprescription pain reliever	7.92	5.59	1.4172	4.9	6.94	
Tetracycline	14.75	5.31	2.7755	12.2	33.94	
Vision Check	70.00	52.56	1.3319	5.5	7.27	
Dental Service	125.00	89.33	1.3993	16.1	22.51	
Doctor Visit	50.00	53.61	0.9327	15.9	14.85	
Hospital Room	732.00	523.45	1.3984	4.1	5.75	
Health Insurance	1.0000	1.0000	1.0000	41.3	41.30	

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total Index Development							
1. Medical Care	132.56	41.50	55.01	31.33	41.53	23.51	31.17
2. Cash Contributions:							
Lower income	131.50	15.80	20.78	0.00	0.00	0.00	0.00
Middle income	130.76	0.00	0.00	16.85	22.03	0.00	0.00
Upper income	130.03	0.00	0.00	0.00	0.00	17.65	22.96
3. Personal Insurance/Pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			118.49				
Middle					115.38		
Upper							112.96

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Appendix 19

Component Expenditure Amounts

	Incomes	Indexes					Amounts				
		CG&S	Own	Rent	Trn	Misc	CG&S	Own	Rent	Trn	Misc
Reference Wts/Amts...	20800	40.10	25.01	25.01	18.93	15.96	8341	5202	5202	3938	3320
	31500	39.47	23.98	23.98	18.66	17.88	12433	7555	7555	5879	5634
Location	48300	38.87	23.01	23.01	18.41	19.71	18775	11114	11114	8892	9520
Anchorage, AK	Lower	104.96	102.56	114.16	119.00	110.31	8755	5335	5939	4686	3662
	Middle	104.71	95.90	101.71	119.07	107.99	13019	7245	7684	7000	6084
	Upper	104.45	76.75	98.05	119.13	106.19	19610	8530	10897	10593	10109
Fairbanks, AK	Lower	108.39	101.87	111.52	127.26	108.54	9041	5299	5801	5011	3604
	Middle	108.21	96.66	109.69	127.54	106.82	13454	7303	8287	7498	6018
	Upper	108.02	78.53	89.72	127.82	105.50	20281	8728	9971	11366	10044
Juneau, AK	Lower	110.86	118.26	138.62	106.37	115.13	9247	6152	7211	4189	3822
	Middle	110.35	108.06	130.41	106.64	111.86	13720	8164	9852	6269	6302
	Upper	109.85	82.17	109.55	106.91	109.33	20624	9132	12175	9506	10408
Nome, AK	Lower	131.50	114.48	145.48	142.16	118.49	10968	5955	7568	5598	3934
	Middle	130.76	108.11	136.46	143.08	115.38	16257	8168	10310	8412	6501
	Upper	130.03	84.25	106.83	143.96	112.96	24413	9364	11873	12801	10754

Total Comparative Cost Indexes

	Income	Income Weights	Own	Rent	Total	WDC	Index
	Lower	20800	38.41	61.59			
	Middle	31500	47.46	52.54			
Location	Upper	48300	61.67	38.33			
Anchorage, AK	Lower	27.09	22438	23042	22810	20800	
	Middle	33.39	33348	33787	33579	31500	
	Upper	39.52	48842	51209	49749	48300	
		100.00			37052	35241	105.14
Fairbanks, AK	Lower	34.98	22955	23457	23264	20800	
	Middle	37.00	34273	35257	34790	31500	
	Upper	28.02	50419	51662	50895	48300	
		100.00			35271	32465	108.64
Juneau, AK	Lower	19.91	23410	24469	24062	20800	
	Middle	32.77	34455	36143	35342	31500	
	Upper	47.32	49670	52713	50836	48300	
		100.00			40428	37319	108.33
Nome, AK	Lower	28.07	26455	28068	27448	20800	
	Middle	46.67	39338	41480	40463	31500	
	Upper	25.26	57332	59841	58294	48300	
		100.00			41314	32740	126.19

[FR Doc. 96–2080 Filed 2–1–96; 8:45 am]
BILLING CODE 6325–01–C

Federal Register

Friday
February 2, 1996

Part V

Department of Transportation

Coast Guard

46 CFR Part 108, et al.
Electrical Engineering Requirements for Merchant Vessels; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 108, 110, 111, 112, 113, and 161

[CGD 94–108]

RIN 2115–AF24

Electrical Engineering Requirements for Merchant Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of the President's Regulatory Reinvention Initiative, the Coast Guard proposes to amend its electrical engineering regulations to reduce the regulatory burden on the marine industry, purge obsolete and out-of-date regulations, and eliminate requirements that create an unwarranted differential between domestic rules and international standards. This proposed rulemaking would harmonize, where possible, the electrical engineering regulations with recent amendments to the International Convention for the Safety of Life at Sea, 1974, as amended. Additionally, this proposed rulemaking would dramatically revise certain prescriptive electrical equipment design, specification, and approval requirements and replace them with performance-based requirements that incorporate international standrds.

DATES: Comments must be received on or before March 18, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–108), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

A copy of the material listed in "Incorporation by Reference" of this preamble is available for inspection at room 1300, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald P. Miante, Project Manager, or LTJG Jacqueline M. Twomey, Project Engineer, Design and Engineering Standards Division (G–MMS), (202) 267–2206.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 94–108) and the specific section of the proposal to which each coment applies, and give the reason for each comment. Please submit two copies of all comments and attchments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On March 30, 1995, the Coast Guard published a notice of a public meeting in the **Federal Register** (60 FR 16423) and solicited written comments on the President's recently announced Regulatory Reinvention Initiative as well as the Coast Guard's regulatory development process. The meeting was held on April 20, 1995, with a written comment period extended from May 1 to December 8, 1995.

On May 31, 1995, the Coast Guard published a notice in the **Federal Register** (60 FR 28376) that stated that the Coast Guard has established a goal of eliminating any regulatory differential between requirements that apply to U.S. vessels in international trade and those that apply to similar vessels in international trade that fly the flag of responsible foreign nations. To the maximum extent possible, requirements that create an unwarranted differential between U.S. and internationally recognized standards will be eliminated. This revision of the electrical engineering regulations is, in part, part of this project.

The Coast Guard's electrical safety regulations are based on statutory authority provided in 46 U.S. Code (U.S.C.) 3306 and 3703. The existing regulations for inspected vessels are contained in chapter I, subchapter J, of title 46 of the Code of Federal Regulations (46 CFR chapter I, subchapter J). This proposal is mainly concerned with changes to this subchapter but associated changes in subchapters I–A and Q also are being proposed. All cites in this proposal, unless otherwise indicated, are to title 46 CFR.

This project proposes to revise technical areas of subchapter J to address comments received from Coast Guard field and inspection offices and the marine industry; to clarify requirements where confusion has been shown to exist; to delete or significantly modify obsolete requirements; to reflect experiences with vessel reflaggings; and to more closely parallel international standards. The revision also proposes to incorporate the latest International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) amendments (up to and including 1992), elements of the Coast Guard Regulatory Reform (CGRR) initiative, and industry standards.

The increased frequency of overseas construction of U.S. flag vessels has created a need for the Coast Guard to recognize equipment designed and installed in accordance with international standards. The implementation of SOLAS 74 by the international maritime community has promulgated requirements which closely parallel existing Coast Guard regulations. Subchapter J will be revised to facilitate U.S. acceptance of electrical equipment constructed in accordance with other international standards.

To eliminate needless regulatory burden, the Coast Guard is proposing to delete and extensively revise obsolete or confusing regulations. For example, the entries for Engine Order Telegraphs are proposed to be consolidated and updated. Additionally, the necessary degree of safety and reliability for sound powered telephones can be maintained with minor additions to subchapter J. This proposal would encompass the changes which would make type approval by the Government unnecessary. Therefore, in conjunction with these proposed changes, the Coast Guard would remove the approval requirement for sound powered telephone equipment (now in subchapter Q) and adopt minimum

performance requirements in subchapter J. Similar treatment is being given Fire Protective Systems. A wide variety of national and international standards covering different types of equipment are also proposed for incorporation by reference. Also under the proposal, the equipment manufacturer would be afforded a choice of Independent Laboratories versus the old single-point of testing. Modification of current requirements is allowed under existing U.S. statutes, as 46 U.S.C. 3306 and 3703 provide broad authority to the Secretary to prescribe safety regulations. Presently in the regulations, a Fire Protection Equipment manufacturer is required to provide a sample of its system, built only to the rigid specifications in part 161, subpart 161.002, to the National Bureau of Standards for testing. The Coast Guard would allow equipment to be constructed to several domestic and an internationally recognized standards. Also, the Coast Guard continues to process applications from a variety of third party testing institutions and Commandant (G–MMS) maintains a list at Coast Guard headquarters of Independent Laboratories recognized by the Commandant.

The use of large industrial systems independent of a traditional ship's service and propulsion functions are becoming increasingly popular. These types of systems provide power to systems that are vital to a vessel's mission but not necessarily to its safety. Industrial systems would include drilling, manufacturing and scientific research. Due to the industrial nature of these systems, it is not necessary for them to meet the requirements in subchapter J which are intended to provide for reliable ship's service and electrical propulsion systems. New requirements, therefore, are being proposed which would permit the use of standard industrial equipment without requiring them to meet many of the requirements of subchapter J. Electrical installations in hazardous locations will continue to meet explosion-proof/intrinsically-safe requirements. This action serves the needs of industry while ensuring a comparable level of safety.

On November 1, 1974, the Assembly of the International Maritime Organization (IMO) adopted the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74). To date, IMO has adopted seven sets of amendments to the convention pursuant to Article VIII of SOLAS 74. The United States has played an instrumental role in the development of the Convention and its amendments. As a signatory nation to this international treaty, the United States has embraced these amendments and periodically upgrades existing regulations, as necessary, to bring it into alignment with the SOLAS 74 requirements.

The Coast Guard's electrical engineering regulations were last updated in 1982. In that rulemaking, the Coast Guard reorganized its regulations and incorporated the first set of amendments to SOLAS 74. This rulemaking proposes incorporating the second through seventh sets of amendments to SOLAS 74 (those of 1983, 1988, 1989, 1990, 1991, and 1992.) In doing so, the Coast Guard inspected vessels' electrical safety regulations would be aligned with the international standards for safety which are accepted for merchant ships around the world.

Discussion of Proposed Rules

The proposed revisions to 46 CFR chapter I, subchapter J, would clarify and condense, in technically correct language, the Electrical Engineering Regulations applicable to U.S. Coast Guard certificated vessels. The objective of these revisions is to further reduce the regulatory burden on the industry, eliminate misinterpretation of the regulations by all affected parties, and bring the regulations in line with the state of the art technology in the industry as well as with standards accepted by the international maritime community.

The major changes to subchapter J are discussed below. Other changes which are editorial and do not affect the technical content of this subchapter are not addressed. The editorial corrections are to help the reader understand the intent of the requirements.

As part of the associated changes, the Coast Guard is also proposing to revise 46 CFR 108.170, Definitions, and § 108.181, Ventilation for enclosed spaces, to refer to the appropriate sections of subchapter J.

In addition to updating subchapter J to reflect the most recent amendments to SOLAS 74, the Coast Guard is also proposing to revise subchapter J to incorporate by reference numerous internationally recognized marine electrical standards which address construction, installation, testing, and safety.

Part 110—General Provisions

Section 110.01–1. The Coast Guard would revise § 110.1–1, General, to add 46 CFR chapter I, subchapter K, Small Passenger Vessels Carrying more than 150 Passengers or with Overnight Accommodations for more than 49 Passengers, subchapter L, Offshore Supply Vessels, subchapter R, Nautical School Vessels, and subchapter W, Lifesaving Appliances and Arrangements, to the list of subchapters which require electrical installations in accordance with subchapter J. This is not additional regulation; but an entry to correct a prior omission such as with subchapter R since § 167.40–1(a)(2) already requires such compliance; and cross-reference to new subchapters.

Section 110.01–3. The Coast Guard would revise § 110.01–3, Repairs, to address alterations as well as repairs. It is proposed that minor alterations on vessels meet the requirements of the regulations in effect on the contract date for the original installation, or the contract date for the alteration. Unlike minor repairs and alterations, major conversions, such as adding a large section to the midbody of the vessel or changing the type or size of the main propulsion engine are considered, under Coast Guard policy, on a case-by-case basis by Commandant (G–MCO). Having a single point of review for these situations ensures consistency in application of statutes and regulations.

Section 110.10–1. The Coast Guard would update § 110.10–1, Incorporation by reference, to reflect new standards and to update the editions of references already incorporated. This section provides the addresses of organizations which publish the referenced standards. Additionally, the sections affected by the incorporation of standards are identified in § 110.10–1.

Section 110.15–1. The Coast Guard would revise § 110.15–1, Definitions, to reflect new and modified terms and definitions used in the subchapter. These minor word changes would bring our regulation terminology in line with internationally accepted language. The proposed changes would remove the reference from "lifeboats" and replace it with the SOLAS 74 term "survival craft" and would replace the current definition for dead ship with the SOLAS 74 definition, (i.e., remove reference from "ship service generators" and replace it with "auxiliaries"). The definition for "flashpoint" would be revised to reflect the current industry definition. Definitions for "waterproof", "watertight", and "dripproof" would be modified with reference to the text in the National Electrical Manufacturers Association (NEMA) and the International Electrotechnical Commission (IEC) enclosure categories for the proposed § 111.01–9, Degree of protection. Proper training and licensing would be added to the list of criteria under the definition for qualified person. This is proposed in order to

quantify the definition since Certificates of Inspection require a vessel to be manned by personnel holding certain licensed and unlicensed ratings. Parts 10 and 12 of 46 CFR detail the training, experience and testing procedures needed to obtain these licenses and documents. On the face of the merchant marine license it states that the holder has been duly examined and found competent.

Section 110.20–1. The Coast Guard would revise § 110.20–1, Conditions under which equivalencies may be used, to allow the Commanding Officer, Marine Safety Center (MSC) to accept equivalencies for fittings, materials, apparatus, equipment, or arrangements required by this subchapter. With the consolidation of the Coast Guard's three former merchant marine technical offices into one central location, the opportunity for different interpretations of equivalencies by different Coast Guard offices no longer presents a problem. Allowing the Marine Safety Center to accept equivalencies enables the submitter to send all plans to one point of contact within the Coast Guard. This procedural change would not alter the appeal procedures already contained in 46 CFR 1.03, Rights of appeal.

Subpart 110.25. The Coast Guard would revise various paragraphs of subpart 110.25, Plan Submittal, to remove Commandant (G–MMS) as one of the offices to which plans may be submitted. Commandant (G–MMS) does not perform plan review for specific vessels. All vessel plan review is now conducted by the U.S. Coast Guard Marine Safety Center (MSC). Also, several terms in § 110.25–1(c) will be changed to reflect the wording found in SOLAS 74 and other international standards.

Section 110.30–7. The Coast Guard would revise § 110.30–7, Repairs or alterations, to clarify the material. This section complements § 110.01–3, Repairs, regarding minor and major repairs and alterations. This has been the long-standing regulation in subchapter D: 46 CFR 30.01–10, Application of regulations governing alterations or repairs. Although the application of these regulations has become standard practice for all types of vessels, the Coast Guard now proposes to repeat it in the electrical engineering regulation subchapter to remove any misunderstanding and clarify that this requirement applies to electrical systems on all vessels subject to subchapter J.

Subpart 110.35. The Coast Guard would add a new subpart 110.35, Independent Laboratories, which would define Independent Laboratories. An Independent Laboratory will be a laboratory which has been accepted by the Commandant under part 159 of this chapter for the testing of electrical and electronic equipment and other related apparatus. Paragraph (j) of § 110.25–1 would be changed to refer to an Independent Laboratory instead of specifically named laboratories.

Part 111—Electric Systems—General Requirements

Section 111.01–5. The Coast Guard would add electrical cable to the list of equipment in § 111.01–5, Protection from bilge water. In addition to being sound engineering practice, the American Bureau of Shipping (ABS) Rules for Building and Classing Steel Vessels prohibit generator cable installation in the bilge and the Institute of Electrical and Electronic Engineers (IEEE) Standard 45 (Recommended Practice for Electric Installations on Shipboard) recommend not installing any cable in the bilge.

Section 111.01–7. The Coast Guard would revise § 111.01–7, Accessibility, to remove specific references, throughout the subchapter, to detailed construction requirements. A new paragraph (b) would be added which would provide general performance and safety guidelines. These revisions would set standards for equipment based on performance criteria and therefore allow the removal of more detailed construction specifications.

Section 111.01–9. The Coast Guard would change the title of § 111.01–9, Watertight, waterproof, and dripproof equipment, to Degrees of protection, and revise the section to reflect the revision of § 110.15–1, Definitions. These changes now bring the regulations on enclosures in line with IEC standards while allowing the option of National Electrical Manufacturers Association (NEMA) enclosure selection.

Section 111.01–15. The Coast Guard would revise § 111.01–15, Temperature ratings, to require an ambient temperature of 45 °C for most electrical equipment in machinery spaces instead of the currently required 50 °C. The international community has established 45 °C as the standard ambient temperature for these shipboard applications. Rotating machinery would still be required to be rated for 50 °C because of its inherent heating characteristics, but cable installed in machinery spaces would be rated at 45 °C. Control and instrumentation equipment would be rated at 55 °C in order to comply with the international requirements. The proposed changes would still allow for derating equipment based on the actual ambient temperature of the space.

Section 111.01–17. The Coast Guard would revise § 111.01–17, Nature of electric supply, by renaming the section, Voltage and frequency variations, and deleting specific reference to restrictive standard voltages and frequency as well as deleting table 111.01–17(b), Standard Voltages. The revision would instead reference industry standard operating parameters for electrical machines and apparatus.

Sections 111.01–19, 111.01–21, and 111.01–23. The Coast Guard would add three new sections: § 111.01–19, Inclination of the ship, § 111.01–21, Vibration, and § 111.01–23, Humidity. These sections would include requirements for the electrical systems in relation to the inclination of a vessel and those for conditions of vibration and humidity.

Section 111.05–1. The Coast Guard would revise § 111.05–1, Purpose, with a minor addition to include "systems" as stated in the subpart title.

Section 111.05–07. The Coast Guard would revise § 111.05–7, Armored and metallic-sheathed cable, in order to align installation requirements of armor sheathed cable with international standards.

Section 111.05–9. The Coast Guard would revise § 111.05–9, Masts, to address lightning protection for vessels with nonmetallic masts. This proposed revision would account for the expanded use of lighter weight composite materials for masts.

Section 111.05–19. The Coast Guard would revise § 111.05–19, Tank vessels; grounded distribution systems, to align the systems' voltage limits with the IEC (1000 volts) vice 3000 volts currently mandated in the regulations. This gives the designer of nominal 2400 volt plants the option of a grounded distribution system.

Section 111.05–23. The Coast Guard would revise § 111.05–23, Location of ground indicators, to include requirements for branch circuit detection indicators where the circuit is isolated from the main source by a transformer or other device. Normal ground detector indication at the distribution switchboard is required in paragraph (a) for conventional feeder circuits. This proposal extends indication coverage to the load side of isolation devices whose circuits would not be otherwise monitored. Also, this proposal brings to one central location all ground detection device requirements and relieves the engineer of the burden, especially in an emergency, of visiting each transformer

or isolation device to ascertain the ground condition of the branch circuit.

Sections 111.05–25, 111.05–27, and 111.05–29. The Coast Guard would revise § 111.05–25, Ungrounded systems, § 111.05–27, Grounded neutral alternating-current systems, and § 111.05–29, Dual voltage direct-current systems, to offer a greater number of options in ground detection circuitry. The proposed revision would remove restrictive wattage and current limitations on detection circuit components thereby allowing for innovative design and would replace them with performance parameters.

Section 111.05–33. The Coast Guard would revise § 111.05–33, Equipment grounding conductors, to require that each equipment grounding conductor be insulated and be of a size at least equal to current carrying conductor. This proposal would align our regulations with the National Electrical Code (NEC).

Sections 111.05–37 and 111.05–39. The Coast Guard would consolidate § 111.05–39, Switches and circuit breakers, into § 111.05–37, Overcurrent device. Both sections presently address overcurrent protection devices.

Section 111.10–1. The Coast Guard would revise paragraph (a) of § 111.10–1, Definitions, to remove certain cargo refrigeration systems from the list of ship's service electrical loads. These loads are industrial in nature and are not directly related to the safety of the vessel. These refrigeration systems are added to the list of industrial type loads in the same section.

Section 111.10–3. The Coast Guard would revise § 111.10–3, Two generating sets, to add the requirement that a Mobile Offshore Drilling Unit (MODU) must have at least two ship's service generating sets. This is presently a requirement of the International Maritime Organization (IMO) MODU Code. The Coast Guard proposes the inclusion since subchapter I–A for MODU Inspection and Certification references subchapter J for their electrical systems.

Section 111.10–4. The Coast Guard would revise § 111.10–4, Power requirements; generating sets, to define the required generating capacity. The changes would result in regulations which mirror the requirements of SOLAS 74. The Coast Guard would revise paragraph (b) to clarify the fact that the capacity of the ship's service generating set or sets must be sufficient to carry the ship's service loads with the largest ship's service generator stopped. The Coast Guard would revised paragraph (d) to ensure that propulsion-plant loads do not impact on ship's service loads when these loads are supplied by a common generator. New paragraphs (e) and (f) would be added specifically to address main-engine-dependent generators. The proposed regulation reflects a harmonization with international standards, recognized classification society requirements, and present industry practice for these types of generators.

Section 111.10–7. The Coast Guard would revised paragraph (b) of § 111.10–7, Dead ship, by adding a sentence referencing additional existing requirements contained in § 112.05–3 of this chapter. These requirements refer to the main and emergency bus-tie.

Sections 111.10–9 and 111.10–11. The Coast Guard would revise § 111.10–9, Ship's service supply transformers; 2 required, to clarify the intent of the requirement and bring the requirements of § 111.10–11, Power requirements; transformers under this one section.

Section 111.12–1. The Coast Guard would revised paragraph (a) of § 111.12–1, Prime movers, to incorporate American Bureau of Shipping (ABS) Rules for prime movers, paragraph (b) to clarify that all generator prime movers need a governor, and paragraph (c) to remove the exemption from the automatic shut down in case of loss of lubricating oil.

Section 111.12–5. The Coast Guard would revise paragraph (a) of § 111.12–5, Generator construction and testing, to reflect a change in the ABS Rules numbering system and would remove the designation "(a)" from the paragraph. Paragraphs (b), (c), and (d) would be removed.

Section 111.12–7. The Coast Guard would revise paragraph (a) of § 111.12–7, Voltage regulation and parallel operation, to reflect a change in ABS Rules numbering system.

Sections 111.15–1, 111.15–2, and 111.15–3. The Coast Guard would revise § 111.15–1, General § 111.15–2, Battery construction, and § 111.15–3, Battery categories, to eliminate restrictive construction details and to allow the use of different types of batteries, including sealed batteries and other designs. The specific size requirement in paragraph (c) of § 111.15–2 would be removed and reclassification would be allowed under paragraph (d) of § 111.15–3. Additionally, the Coast Guard proposes a new paragraph (d) in § 111.15–2 be added as a performance measure to address a battery's suitability for installation in the marine environment.

Section 111.15–5. The Coast Guard would revised paragraph (a) in § 111.15–5, Battery installations, by deleting the reference to specific test laboratories. All electrical equipment and laboratory testing requirements for hazardous locations would be addressed in subpart 111.105, Hazardous Locations. Additionally, the Coast Guard would allow for the expanded use of internationally available electrical equipment by providing reference to IEC hazardous location classifications. The Coast Guard would amend § 111.15–5(c), Small batteries, to allow liberal storage of small-size sealed batteries. This is possible due to the reduced hazard associated with sealed equipment. The Coast Guard would eliminate paragraph 111.15–5(e), Tiers. This requirement is redundant with the spacing requirement specified in paragraph 111.15–5(d), Battery trays. The remaining paragraphs (f), (g) and (h) would be renamed (e), (f) and (g).

Section 111.15–10. The Coast Guard would revise paragraph (g) of § 111.15–10, Ventilation, to explain the intent of ventilation requirements for small battery installations. If the battery box were in a non-environmentally-controlled location, simple vent openings may allow the ingress of water. A statement on preventing ingress would be added.

Section 111.15–20. The Coast Guard would revise § 111.15–20, Conductors, to put the accepted installation practices presently included in this section into proper terminology. The requirements in paragraphs (b) and (c) would be combined into one paragraph.

Section 111.15–30. The Coast Guard would revise § 111.15–30, Battery chargers, to eliminate specific construction requirements for battery chargers. In their place, the Coast Guard proposes certain performance requirements.

Section 111.20–1. The Coast Guard would revise § 111.20–1, General requirements, to reflect internationally accepted practices for transformer construction, installation and protection by allowing not only the winding but also the enclosure to provide the necessary protection.

Section 111.20–15. The Coast Guard would revise § 111.20–15, Transformer overcurrent protection, to reflect internationally accepted practices for transformer overcurrent protection by allowing a choice of standards.

Section 111.25–5. The Coast Guard would revise paragraph (a) of § 111.25–5, Marking, to allow nameplate markings in accordance with the practices of the IEC as an alternative to the present National Electrical Code requirement.

Section 111.30–1. The Coast Guard would revise § 111.30–1, Location and installation, to require switchboard installation to follow industry practice by removing specific construction

detailed regulatory language and instead referring to the appropriate guidance of IEEE Standard 45.

Section 111.30–4. The Coast Guard would revise § 111.30–4, Circuit breakers removable from front, to allow an alternative method of circuit breaker installation. This would permit the circuit breaker to be hard-wired to the switchboard if: (1) The switchboard is divided into two or more sections that can be split by disconnecting a link between a section of the switchboard, and (2) the connection of generators and duplicated equipment is equalized between the sections of the main bus. This allows for the capability of de-energizing a section of the switchboard without shutting down the power supply or degrading the continuity of power supply to vital loads.

Section 111.30–5. The Coast Guard would revise § 111.30–5, Construction, to remove detailed switchboard construction requirements and incorporate international consensus standards (IEEE Standard 45 and IEC Publications 92–302/92–503).

Sections 111.30–9, 111.30–11, and 111.30–13. The Coast Guard would eliminate § 111.30–9, Mechanical protection, § 111.30–11, Mats or gratings, and § 111.30–13, Grounding. The requirements of these sections are included in the industry practices of the IEEE Standard 45 and the IEC Publications.

Section 111.30.–19. The Coast Guard would revise § 111.30–19 Buses and wiring. Paragraph (a) would be revised to allow for the guidance of international performance standards instead of the present detailed technical requirements. Paragraphs (b) through (e) would be deleted because the information they contain is covered by proposed paragraph (a). Paragraph (f) would be renamed paragraph (b) and would be revised to allow for the use of small-conductor-size cable, such as ribbon cable, for instrumentation and control circuitry, as is common industry practice.

Section 111.30–21. The Coast Guard would eliminate § 111.30–21, High temperature devices. This design specification would be addressed in the requirements of the appropriate industry standards of the IEEE and IEC and need not be repeated here.

Section 111.30–23. The Coast Guard would eliminate § 111.30–23, Medium voltage switchboards. These requirements will be part of the proposed revision of § 111.30–5, Construction.

Section 111.30–24. The Coast Guard would revise § 111.30–24, Generation systems greater than 3000 kw, to modify the exemption for MODUs to split the switchboard when the total generator power exceeds 3000 kw. The IMO MODU Code requires self-propelled MODUs to have a split switchboard when the total installed generator capacity exceeds 3 Megawatts (3000 kw). Therefore the exemption will apply only to nonself-propelled MODUs.

Section 111.30–29. The Coast Guard would revise § 111.30–29, Emergency switchboards, by adding paragraphs (g), (h) and (i). These paragraphs are presently contained in part 112. The purpose of this change is to consolidate all of the requirements for the emergency-switchboard instrumentation and equipment into one section.

Section 111.30–31. The Coast Guard would delete § 111.30–31, Tests. Presently this section requires switchboards to be tested to an American Bureau of Shipping requirements. American Bureau of Shipping Rules do not address the testing of switchboards.

Section 111.33–3. The Coast Guard would replace the descriptive nameplate requirements of § 111.33–3, Nameplate data, for semiconductor rectifier systems with industry practice according to international standards.

Section 111.33–5. The Coast Guard would replace the descriptive installation requirements of § 111.33–5, Installation, for semiconductor rectifier systems with industry practice according to international standards.

Section 111.33–11. The Coast Guard would revise § 111.33–11, Propulsion systems, to reflect the current American Bureau of Shipping numbering system regarding semiconductor rectifier systems.

Section 111.35–1. The Coast Guard would revise § 111.35–1, Electrical propulsion installations, to reflect the current American Bureau of Shipping numbering system.

Section 111.40–1, 111.40–5, and 111.40–7. The Coast Guard would remove § 111.40–1, Panelboard, standard, to eliminate the requirement of meeting a specific standard and thereby allowing the use of panelboards which are designed and constructed according to sound engineering practice. Likewise, the Coast Guard would revise § 111.40–5, Enclosure, and § 111.40–7, Location, to allow the installation of panelboards with a suitable degree of protection to be installed in the weather. This change allows more latitude in the electrical arrangement on the ship without reducing personnel safety requirements.

Section 111.50–2. The Coast Guard would add a new § 111.50–2, Systems integration. This new section would reflect the need to consider component compatibility within each overcurrent protection system.

Section 111.50–3. The Coast Guard would revise paragraphs (c), (d), (f) and (h)(2) of § 111.50–3, Protection of conductors, to allow the use and incorporate the requirements of the IEC for fuses, circuit breakers, thermal devices and ground conductors.

Section 111.52–1. The Coast Guard would correct § 111.52–1, General, to identify the physical unit (i.e., "current") needed to be calculated when performing short-circuit current calculations.

Section 111.52–5. The Coast Guard would revise § 111.52–5, Systems 1500 kilowatts or above, to allow several additional methods of short-circuit current calculations. This would ensure that the appropriate method of short-circuit current calculation is available to the designer as well as the plan reviewer.

Section 111.53–1. The Coast Guard would revise paragraph (a)(1) of § 111.53–1, General, to eliminate specific reference to parts E and F of the National Electrical Code relative to fuses. The revision would add the option of meeting the general provisions of IEC internationally recognized standards. Additionally, the Coast Guard would revise paragraph (a)(3) to eliminate restrictive reference to Underwriters Laboratories, Inc. This would expand industry's options to list fuses with any Independent Laboratory. The Coast Guard would revise paragraph (b) to eliminate prohibitive reference to Edison-base fuses. The Coast Guard recognizes that systems designed and built to IEC and/or CEN standards may contain these fuses. It is also recognized that many Maritime Administration (MARAD) Ready Reserve Force reflagged vessels have been operating with such equipment for years. The Coast Guard, however, maintains its prohibition of renewable-link cartridge fuses because it is considered a severe safety hazard in that a link of a higher than recommended current value might be placed in a jacket marked with a lower value and the fault be undetectable. The Coast Guard would add a new paragraph (c) to provide for the ability to test for fuse condition, particularly for installations utilizing Edison-base fuses, since the glass or plastic link protector inhibits the readily available test points offered by a more common cartridge fuse.

Section 111.54–1. The Coast Guard would revise § 111.54–1, Circuit breakers, to include reference to and the allowance of internationally recognized standards and at the same time eliminate reference to restrictive and specific construction standards.

Section 111.55–1, 111.55–5, 111.55–7, and 111.55–9. The Coast Guard would delete § 111.55–5, Knife switches, § 111.55–7, Snap switches, and § 111.55–9, Enclosed switches. These requirements do not provide an additional level of safety beyond that ensured by compliance with § 111.55–1, General.

Subpart 111.57. The Coast Guard would eliminate subpart 111.57, Current-Limiting Devices. The operating and design characteristics of current limiting devices would be included in the revision of subpart 111.53, Fuses, and subpart 111.54, Circuit Breakers. This, in turn, reduces repetitive and unnecessary regulation.

Section 111.59–1. The Coast Guard would rewrite § 111.59–1, General, to eliminate paragraph (b) and the requirement that busways meet a specific construction standard, as the performance of the component is established by compliance with paragraph (a).

Section 111.59–3. The Coast Guard would revise § 111.59–3, No mechanical cooling, to correct an omission. In the present version, the regulations state that "A busway must need mechanical cooling * * *" which is opposite to the intent of this section.

Section 111.60–1. The Coast Guard would revise § 111.60–1, Cable construction and testing, to align our regulation language with that of the 1983 edition of IEEE Standard 45. Additionally, the Coast Guard would propose to include, as acceptable, cable that is designed, constructed, tested and installed in accordance with the international standards of IEC Publications 92–3 and certain 92–350 series as well as several MIL Specification cables.

Sections 111.60–2 and 111.60–6. The Coast Guard would add new § 111.60–2, Specialty cable for communication and RF applications, and § 111.60–6, Fiber optic cable, to include requirements for specialty electrical cables and optical fiber cables. The proposed requirements address installation and flammability characteristics for these cables. The Coast Guard feels this is necessary because of the present lack of guidance for this relatively new equipment now on board or contemplated for installation on board certificated vessels and because of the larger fire load the cable represents.

Section 111.60-3. The Coast Guard would revise § 111.60–3, Cable application, to include the applicable requirements of IEC Publication 352 and to assure proper derating of cables according to type construction.

Section 111.60–4. The Coast Guard would revise § 111.60–4, Minimum cable conductor size, to include instrumentation cable with the thermocouple and pyrometer group. Mention of general instrumentation cable was unintentionally omitted from the regulations during the last revision.

Section 111.60–5. The Coast Guard would revise § 111.60–5, Cable installation, to include reference to the installation of cables constructed in accordance with the international standard IEC Publication 92–3 and the IEC 92–350 series.

Section 111.60–11. The Coast Guard would revise § 111.60–11, Wire, to expand the choices available for shipboard wiring. The current requirements are too restrictive and do not constitute an appreciable increase in safety beyond the proposed reduction in those requirements.

Section 111.60–13. The Coast Guard would revise paragraph (a) of § 111.60–13, Flexible electric cord and cables, to remove the restrictions presently governing the use of flexible cord and cables. The proposed change allows compliance with a larger number of nationally-recognized standards.

Section 111.60–17. The Coast Guard would revise § 111.60–17, Connections and terminations. The current regulations are merely a narrative describing standard marine practice. The proposed revision would outline specific installation criteria for connectors and terminals.

Section 111.60–19. The Coast Guard would revise § 111.60–19, Cable splices, to reflect current industry practice as outlined in the internationally accepted IEEE Standard 45.

Section 111.60–21. The Coast Guard would revise § 111.60–21, Cable insulation tests, to reflect a change in numbering system of the referenced IEEE standard.

Section 111.60–23. The Coast Guard would add a new § 111.60–23, Type MC cable, to address the lack of requirements primarily on offshore production platforms. However, the installation of this cable is not limited to offshore platform applications and may be used as shipboard cable provided certain installation requirements are followed.

Subpart 111.70. The Coast Guard would revise subpart 111.70, Motor Circuits, Controllers and Protection, to reflect internationally recognized classification society standards, practices and requirements which do not rely solely on the shoreside code of the National Electrical Code. Additionally, the revision will eliminate obsolete requirements.

Section 111.75–1. The Coast Guard would revise paragraph (a) of § 111.75–1, Lighting feeders, to replace the term "fire screen" with the term "fire" to agree with SOLAS 74, and include reference to low location egress lighting. The Coast Guard would eliminate paragraph (c). This requirement does not elevate the overall safety level of the vessel. The Note, however, is part of the section and is retained.

Section 111.75–5. The Coast Guard would delete the voltage specific requirements of lighting circuits by deleting paragraph (b), Voltages, in § 111.75–5, Lighting branch circuits, and the remaining paragraphs would be re-lettered and re-numbered accordingly. The Coast Guard would redesignate paragraph (c), Connected load, as paragraph (b) and revise the narrative concerning connected loads. The removed narrative is standard electrical practice and need not be specified in the regulations. The Coast Guard would redesignate paragraph (e), overcurrent protection, as paragraph (d), redesignate paragraph (f), 25 or 30 ampere lighting branch circuits, as paragraph (e), and revise the new paragraph (d) to remove the specifications for the minimum conductor sizes. The requirements for these loads required by proposed revisions of § 111.60–3, Cable application, and § 111.60–4, Minimum cable conductor size, are adequate. The Coast Guard would eliminate paragraph (g), connections to screw-shell lampholders, as it is considered standard practice and need not appear in regulation.

Section 111.75–15. The Coast Guard would revise paragraph (c), Illumination of passenger and crew spaces, in § 111.75–15 to eliminate restrictive wording and replace this requirement with a performance requirement concerning normal habitability and safe egress under emergency conditions.

Section 111.75–16. The Coast Guard would revise § 111.75–16, Lifeboat and liferaft floodlights, to replace the terms "lifeboat" and "liferaft" with the term "survival craft" to agree with SOLAS 74 terminology.

Section 111.75–17. The Coast Guard would delete paragraph (d)(1) of § 111.75–17, Navigation lights, which requires navigation light fixtures to be approved by the Commandant, as this would no longer be required. The Coast Guard proposes instead that paragraph (d) be further revised to incorporate lebeling requirements to show compliance with UL 1104 by an Independent Laboratory. The Coast

Guard would delete paragraph (f), Light screens. This requirement is clearly stated in the COLREGS Annex I Rule 5 and in 33 U.S.C. 1602 and need not be repeated here.

Section 111.75–18. The Coast Guard would revise § 111.75–18, Signaling lights, to reflect SOLAS 74 Regulation V/11 for applicability and to reduce specific construction details.

Section 111.75–20. The Coast Guard would revise § 111.75–20, Lighting fixtures, to modify paragraph (a) to include UL's deleting UL 595 (Marine-Type Electric Lighting Fixtures) and incorporating specific Marine requirements into the respective fixture type standards (i.e., UL 1570 is for Fluorescent Lighting Fixtures, UL 1571 is for Incandescent Lighting Fixtures, etc.). Also, the Coast Guard would add an additional paragraph (e) which would address the installation of non-emergency interior and decorative lighting in environmentally-controlled spaces. Also, requirements related to shock and vibration which may be encountered in the marine environment will be addressed. Both paragraphs will reference additional international standard options.

Sections 111.77–3, 111.77–5, 111.77–7, 111.77–9, and 111.77–11. The Coast Guard would eliminate § 111.77–3, Electric cooking equipment, § 111.77–5, Electric motor-operated appliances, § 111.77–7, Dishwashers, § 111.77–9, Refrigerators, and § 111.77–11, Refrigerated drinking water coolers, and replace them with internationally recognized safety standards. Selection of safe appliances, based on industry construction and testing standards for use on commercial vessels, is at the option of the vessel owner.

Section 111.79–1. The Coast Guard would revise § 111.79–1, Receptacle outlets; general, to remove specific construction requirements and to allow for more flexibility in installations.

Section 111.79–5. The Coast Guard would eliminate § 111.79–5, Damp or wet locations and weather locations, and incorporate more general industry standards and practices under § 111.79–1, Receptacle outlets; general, in the proposed revision of paragraphs (c) and (d).

Section 111.79–7. The Coast Guard would remove the detailed construction requirements for receptacle components in § 111.79–7, No live parts, and replace them with performance requirements.

Section 111.79–13. The Coast Guard would revise and rename § 111.79–13, Different potentials on a vessel, to read, Different voltages and power types, to remove any ambiguity and more clearly explain the intent of the regulation.

Sections 111.81–1 and 111.81–5. The Coast Guard would delete § 111.81–5, National Electrical Code, and the text, which addresses the NEC requirements for outlet boxes and junction boxes, would be relocated to new paragraph (d) in § 111.81–1, Outlet boxes and junction boxes: General. The new § 111.81–1(d) would address the general requirements for junction boxes in terms of U.S. national standards and introduce the option of international standards as well. This change would also consolidate the requirements for junction boxes into one section.

Section 111.81–7. The Coast Guard would rename § 111.81–7, Degree of protection. The Coast Guard would also propose to revise this section by incorporating industry accepted standards and terminology, both domestic and international.

Section 111.81–9. The Coast Guard would revise § 111.81–9, Mounting, to remove specific installation restrictions and replace them with performance requirements.

Section 111.81–11. The Coast Guard would eliminate § 111.81–11, Penetration of walls. This regulation is unnecessary since, by definition, a watertight enclosure must retain its integrity to be considered watertight.

Section 111.81–13. The Coast Guard would eliminate § 111.81–13, Construction. General construction requirements for outlet and junction boxes are now addressed in proposed paragraphs 111.81–7(a) and (b).

Section 111.83–3. The Coast Guard would remove § 111.83–3, Spacing: Live parts and live parts and ground, as the subject is addressed in § 111.01–7, Accessibility.

Subpart 111.85. The Coast Guard would revise subpart 111.85, Electric Oil Immersion Heaters, to exempt oil immersion heaters where it can be shown that the operating temperature of the heater can never reach the ignition temperature of the oil or vapor with which it is in contact.

Section 111.87–3. The Coast Guard would revise paragraph (a) of § 111.87–3, General requirements, to remove construction requirements to specific standards and replace them with reference to more general safety related requirements.

Subpart 111.89. The Coast Guard would eliminate subpart 111.89, Motion Picture Projectors. This regulation references a standard that is no longer pertinent to the marine environment. State-of-the-art technology has substituted video tape and laser disk players which do not present the same level of risk as projectors.

Section 111.91–1. The Coast Guard would revise and rename § 111.91–1, Control and interlock circuits, to require elevator and dumbwaiter power, control, interlock, and switch circuitry to meet the requirements of American National Standards Institute, Inc. (ANSI A17.1).

Section 111.91–3. The Coast Guard would eliminate § 111.91–3, Control switches. This design standard is not pertinent to the performance of the device.

Section 111.95–3. The Coast Guard would eliminate the detailed construction requirements of paragraphs (a) through (e) of § 111.95–3, General requirements. Paragraph (f) would be renamed (b) and retained. New general requirements will be set forth in a proposed revision to reference industry accepted standards (both national and international) and other proposed requirements for Degree of Protection and Accessibility.

Section 111.95–5. The Coast Guard would eliminate the detailed requirements of § 111.95–5, Detail construction requirements. Sufficient guidance is afforded in the proposed revision of § 111–95–3, General requirements.

Section 111.95–7. The Coast Guard would delete figures 111.95–7 (e)(1) through (e)(5), which address typical boat winch wiring diagrams and arrangement drawings. The figures create confusion in the application of lifeboat davit switches and serve no useful or safety purpose.

Section 111.97–5. The Coast Guard would revise paragraph (c) of § 111.97–5, Electric and hydraulic power supply, to reduce the required capacity of an accumulator tank on a hydraulic system common to more than one power-operated watertight door. The present regulation requires the tank to have sufficient capacity to open and close all doors three times. Consistent with SOLAS 74, the proposed requirement states that the capacity must be sufficient to close all doors two times and open all doors once.

Subpart 111.99. The Coast Guard would revise subpart 111.99, Firescreen Door Holding and Release Systems, to replace the term "fire screen" with the term "fire" to provide consistency with the terminology of SOLAS 74, Regulation II–2/47.

Section 111.99–1. The Coast Guard would expand the scope of § 111.99–1, Applicability, to address fire doors installed on all vessels which require fire doors. The subchapters in 46 CFR containing requirements for specific vessel types all require fire doors to meet subpart 111.99.

Subpart 111.105. The Coast Guard would add, delete and revise sections of subpart 111.105, Hazardous Locations, to reflect current national standards and recognized classification society rules. Additionally, means of alternative compliance to these particulars will be provided by incorporating by reference international standards (i.e., IEC, CEN and IEEE). Specific paragraphs and sections affected follow.

Section 111.105–1. The Coast Guard would revise § 111.105–1, Applicability, to remove the restriction to the National Electrical Code references to hazardous locations and provide options from IEC Publication 79 series.

Section 111.105–3. The Coast Guard would add a new § 111.105–3, General requirements, to provide basic guidance to hazardous location information and to set forth the appropriate standards.

Section 111.105–5. The Coast Guard would rename the section and delete the subject material of § 111.105–5, National Electrical Code, whose guidance has been superseded by proposed new § 111.105–3. Proposed § 111.105–5, System integrity, would now address the prohibition of mixing the requirements of the NEC with IEC equipment and systems since, although equivalent in level of safety, they differ in the manner by which this is achieved.

Section 111.105–7, 111.105–9, 111.105–11, and 111.105–23. The Coast Guard would revise § 111.105–7, Approved equipment, § 111.105–9, Explosionproof equipment, § 111.105–11, Intrinsically safe systems, and § 111.105–23, Fan motors, to replace the specifically mentioned test facilities with phraseology that will provide industry with a greater number of options for product testing.

Section 111.105–10. The Coast Guard would eliminate § 111.105–10, Purged and pressurized equipment. Its content, with options, would be sufficiently presented in proposed § 111.105–7, Approved equipment.

Section 111.105–11. The Coast Guard would revise paragraph (a) of § 111.105–11, Intrinsically safe systems, to remove the restriction of specific test laboratories and to add additional accepted international standards to which equipment may be tested.

Section 111.105–11. The Coast Guard would add paragraphs (b)(3) and (b)(4) in § 111.105–11, Intrinsically safe systems, as an additional safety measure and to conform with accepted industry practices as stated in the IEEE Standard 45. Also, the requirements in § 111.105–11(e) are to be relocated to proposed § 110.25–1(c)(12) to consolidate the requirements relating to plan submittal.

Sections 111.105–15 and 111.105–17. The Coast Guard would delete § 111.105–15, Wiring methods for Class I hazardous locations, and § 111.105–17, Wiring methods for Class II and Class III hazardous locations. A new § 111.105–15 entitled, Additional methods of protection, and a new § 111.105–17 entitled, Wiring methods for hazardous locations, are proposed. These would permit the use of conduit systems as allowed by the National Electrical Code and afford a greater variety of equipment complying with internationally accepted standards.

Section 111.105–19. The Coast Guard would revise § 111.150–19, Switches, to conform with reference to proposed revisions which reflect the acceptance of equipment meeting international standards.

Sections 111.105–21, 111.105–23, and 111.105–25. The Coast Guard would revise the title and text of § 111.105–21, Fans, to consolidate the guidance in § 111.105–23, Fan motors, and § 111.105–25, Ventilation ducts, thereby eliminating those two sections.

Section 111.105–29. The Coast Guard would revise paragraph (a) In § 111.105–29, Combustible liquid cargo carriers, to include requirements for submersible pumps on vessels with combustible liquid cargoes having flashpoints 60 °C or higher. This reflects the requirements of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code), which allows for submersible cargo pumps to be used on vessels with a cargo having a flashpoint exceeding 60 °C. The Coast Guard would add paragraph (c) to include hazardous area classification requirements for vessels carrying a cargo with a flashpoint of 60 °C or higher which is heated to within 15 °C of its flashpoint. This reflects the requirements of the IBC Code.

Section 111.105–31. The Coast Guard would revise § 111.105–31, Flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F), liquid sulfur and inorganic acid carriers, to include information in agreement with the wording and guidance in 33.14 (Electrical Installations on Tank Vessels) of IEEE Standard 45. The Coast Guard would revise paragraph (e) to include internationally accepted terminology of the IEC concerning zone descriptions of hazardous locations. The Coast Guard would revise paragraph (l) by adding new paragraphs (l)(3) and (l)(4) to include requirements for electrical installations in hazardous locations on board vessels with cargoes with flashprints below 60 °C in accordance with international standards.

Section 111.105–32. The Coast Guard would revise the title of § 111.105–32, Bulk liquefied gas and ammonia carriers, and paragraph (e), which addresses the requirements for submersible cargo pumps in bulk liquefied flammable gas and ammonia carriers, and would reference the requirements of § 111.105–31(d) for submersible pumps.

Section 111.105–35. Presently, when a vessel is issued a Certificate of Inspection to carry coal, the certificate does not differentiate between the types of coal. This allows a vessel to carry both types, bituminous and anthracite coal. The Coast Guard would revise § 111.105–35 to require that vessels carrying coal of any type be subject to the same hazardous area classification requirements. Therefore, the vessel's hazardous area plan should address the worst case scenario.

Section 111.105–37. The Coast Guard would revise § 111.105–37, Flammable anesthetics, to reflect a change in name and number of the referenced NFPA standard.

Section 111.105–39. The Coast Guard would revise and rename § 111.105–39, Gasoline or other highly volatile motor fuel carried in vehicles, to reflect current recognized classification society rules regarding requirements for vessels carrying vehicles with fuel in their tanks. Additionally, means of alternative compliance to classification society rules is provided by citing IEC Zone classification.

Section 111.105–40. The Coast Guard would introduce a new § 111.105–40, Additional requirements for RO/RO vessels, to reflect current international classification society rules regarding RO/RO vessels. Additionally, means of alternative compliance is provided by citing IEC Zone classification.

Section 111.105–41. The Coast Guard would revise § 111.105–41, Battery rooms, to incorporate the provisions of internationally recognized IEEE Standard 45.

Section 111.105–45. The Coast Guard would add § 111.105–45, Vessels carrying agricultural products, to identify hazardous locations on vessels carrying certain agricultural products in bulk due to the hazards associated with grain dust. The proposed requirements are identical to the information published in Navigation and Vessel Inspection circular (NVIC) 9–84 "Electrical Installations in Agricultural Dust Locations" which has been Coast Guard policy since this subchapter was last revised.

Section 111.105–47. The Coast Guard would add a new § 111.105–47, Duct keel ventilation or lighting, to reflect

international practice by citing recognized classification society rules for ventilation, lighting and gas detection in special areas such as pipe tunnels, double bottoms and duct keels.

Subpart 111.107. The Coast Guard would revise subpart 111.107, Industrial Systems, to define the subject term. The proposed definition would expand the applicability of industrial systems to vessel types other than Mobile Offshore Drilling Units. Additionally, the Coast Guard proposes the general safety requirements of §§ 111.12–1(b) and 111.12–1(c) for generator prime movers be applied to industrial system prime movers.

Part 112—Emergency Lighting and Power Systems

Section 112.05–1. The Coast Guard would revise paragraph (a) in § 112.05–1, Purpose, to remove ambiguity with regard to the purpose and intent of ensuring a dependable, independent and dedicated emergency power source. The Coast Guard would add a new paragraph (c) to allow the Commanding Officer, Marine Safety Center, to authorize certain electrical loads be connected to the emergency power source. These include loads that may be required in an emergency due to the particular mission or configuration of the vessel. When these additional loads are connected to the emergency power source, the emergency power source must be sized to handle these loads using a unity (1.0) service factor or an automatic load shedding scheme which removes these loads before overloading the emergency source of power.

Section 112.05–5. The Coast Guard would revise paragraph (a) of § 112.05–5, Emergency power source, to reference possible additional loads allowed by the Commanding Officer, Marine Safety Center in accordance with the proposed addition of § 112.05–1(c) above. The Coast Guard would revise note 1 of Table 112.05–5(a) to be consistent with ABS rule 4/5.40.4. The Coast Guard would revise paragraph (c), which addresses the requirements for emergency power installations, to incorporate a reference to subchapter S (Stability). This would require a vessel's emergency power installation to function at specific angles of heel and trim, depending on the vessel type. The Coast Guard would revise paragraph (d), which addresses the requirements for the emergency power source, by adding associated transforming equipment and the emergency switchboard to the list of equipment required to be located aft of the collision bulkhead, outside the machinery space, and above the uppermost continuous deck. The Coast Guard interprets SOLAS 74 as requiring the "emergency source of power" to include the power source, any associated transforming equipment, and the emergency switchboard. This proposed change also prohibits any other equipment from being located in the same space as the emergency power source and its associated equipment. The Coast Guard would revise paragraph (e) to conform with the requirements imposed by SOLAS 74 II–1/43–1.3.

Section 112.15–1. The Coast Guard would revise paragraphs (c), (g), (j), and (k) of § 112.15–1, Temporary emergency loads, to incorporate the semantics used in SOLAS 74. Paragraph (p) would be revised to include gas detection systems. New paragraph (q) would be added to include lighting for helicopter operations, if installed. New paragraph (r) would be added to include general emergency alarm power, reflecting SOLAS 74 requirements in Regulation III/50.

Section 112.15–5. The Coast Guard would revise paragraph (b) in § 112.15–5, Final emergency loads, to identify the circuits of a passenger elevator that must be powered from the final emergency power source regardless of the type of vessel. The Coast Guard would also revise paragraph (f) to require electrically-driven sprinkler systems, water-spray extinguishing systems, and the foam system pump to be powered from the final emergency source of power, paragraph (g) to include a geared diesel's lube oil pump which was unintentionally omitted at the last revision of this section, and paragraph (i) to specifically mention new Global Marine Distress Safety System installations (GMDSS). The Coast Guard would combine paragraphs (j), (k), (l), (m), and (n) into a single paragraph concerning navigation aids, all of which are either required or recommended by international practice. This change will allow a degree of latitude in eliminating unnecessary navigation equipment from that required to be powered from the final emergency power source. As a result of this change, paragraphs (o), steering gear feeders, (p), general alarm, (q), blow-out preventer, (r), diving systems, (s), emergency generator starting air compressor, and (t), steering gear failure alarm, of this section would be re-lettered as paragraphs (k), (l), (m), (n), (o), and (p). The Coast Guard would add paragraphs (q), (r), (s), (t), (u), and (v) to require that the following be powered from the final emergency source: the ballast control systems on column-stabilized MODUs, the automation loads required by part 62 of this chapter, motor-operated valves for cargo and fuel oil systems if the emergency source of power is their source of power to meet § 56.50–60(d), stabilizer wing positioning motors and indicators and smoke extraction fans and CO_2 exhaust fans.

Section 112.39–1 and 112.39–3. The Coast Guard would eliminate paragraph (a)(4) of § 112.39–1, General, as § 112.39–3, Operations, sufficiently defines the performance requirements of the lanterns. The Coast Guard would revise paragraph (a) of § 112.39–3, Operation, to conform with SOLAS 74 Regulation II–1/42–1.

Section 112.43–1. The Coast Guard would revise paragraph (b) of § 112.43–1, Switches, to change a reference from a deleted section to an active section.

Sections 112.43–3 and 112.43–7. The Coast Guard would delete § 112.43–3, Controls; general, and rename § 112.43–7, Navigating bridge distribution panel. The Coast Guard would revise certain entries in paragraph (a) to make terminology consistent with SOLAS 74. The present § 112.43–3 repeats the requirements of § 112.43–7.

Section 112.43–5. The Coast Guard would revise § 112.43–5, Controls on island type vessels, to replace the terms "lifeboat" and "liferaft" with the term "survival craft" to agree with SOLAS 74.

Section 112.43–11. The Coast Guard would revise § 112.43–11, Illumination for launching operations, to replace the terms "lifeboat" and "liferaft" with the term "survival craft" to agree with SOLAS 74.

Section 112.43–15. The Coast Guard would revise § 112.43–15, Emergency lighting feeders, to replace the term "firescreen" with the term "fire" to agree with SOLAS 74.

Section 112.43–17. The Coast Guard would delete § 112.43–17, Emergency light markers. The requirement that all emergency lights be individually marked is overly restrictive and does not provide a significant safety feature.

Section 112.45–5. The Coast Guard would relocate the requirements of § 112.45–5, Test switch, to subpart 111.30, Switchboards. This proposed change would consolidate the requirements for equipment required to be on the emergency switchboard in one section.

Section 112.50–1. The Coast Guard would combine paragraphs (d) and (e) in § 112.50–1, General, to clarify that diesel or gas turbine engines used to power emergency generators must not have any starting aids, except a thermostatically-controlled electric water-jacket heater connected to the final emergency bus. Additionally, the time for the emergency generator to be capable of carrying its full load is increased from 20 to 45 seconds to agree with SOLAS 74.

Sections 112.50–1, 112.50–3, 112.50–5, and 112.50–7. The Coast Guard would add new paragraph (k) of § 112.50–1 to include requirements for starting devices on emergency generating sets. SOLAS 74, Regulation II–1/44, requires that "Each emergency generating set arranged to automatically start shall be equipped with starting devices approved by the administration with a stored energy capability of at least three consecutive starts. A second source of energy shall be provided for an additional three starts within 30 minutes unless manual starting can be demonstrated to be effective." The proposed change parallels the International Association of Classification Societies (IACS) interpretation and affects § 112.50–3, Hydraulic starting; § 112.50–5, Electric starting; and § 112.50–7, Compressed air starting which are therefore being revised.

Section 112.55–15. The Coast Guard would revise § 112.55–15, Capacity of storage batteries, to reflect the requirements of SOLAS 74 regarding opening and closing of watertight doors. This is similar to the change proposed to subpart 111.97, Electric Power-Operated Watertight Door Systems, which addresses hydraulic opening and closing of watertight doors.

Part 113—Communication and Alarm Systems and Equipment

Subpart 113.10. The Coast Guard would revise the title of subpart 113.10, Fire Detecting and Alarm Systems and Manual Fire Alarm Systems, to include smoke detecting systems.

Section 113.10–7. The Coast Guard would revise § 113.10–7, Connection boxes, to introduce alternative methods of compliance by referencing standards of construction of the IEC.

Section 113.10.9. The Coast Guard would revise paragraph (a) of § 113.10–9, Power supply, to align fire detection system equipment requirements according to international practice, and remove paragraph (c).

Section 113.20–3. The Coast Guard would change the title of § 113.20–3, Watertight equipment, to a more general term, Connection boxes, to introduce alternative methods of compliance by referencing the construction standards of the IEC.

Section 113.25–6. The Coast Guard would revise paragraphs (d) and (e) of § 113.25–6, Power supply. In view of technological advances in electronic simulation and our acceptance of IEC voltages, the 6–120 volt requirement is unnecessarily restrictive. Additionally, since SOLAS 74 Regulation III/50 requires the general emergency alarm to be powered from the main and emergency source, the Coast Guard proposes to refer to that regulation in this paragraph instead. Paragraph (e) would contain wording to retain battery, temporary emergency bus and communication switchboard options.

Section 113.25–8. The Coast Guard would revise paragraphs (b), (c), (f) and (g) in § 113.25–8, Distribution of general alarm system feeders and branch circuits, to remove the restriction of having only five general alarm bells on a branch circuit. The existing regulation used an arbitrary number to ensure that the branch circuit was not overloaded. The specific reference to fuses will be replaced by a general statement regarding overcurrent protection. The remaining requirements ensure that a circuit is not compromised by a fault in another part of the vessel. Additionally, the size of vertical zones, mentioned in paragraph (g), is changed to meet the accepted main vertical fire zone dimension.

Section 113.25–9. The Coast Guard would revise paragraph (b) of § 113.25–9, Location of general alarm bells, to remove the detailed acoustic specifications. These specifications are replaced with more general performance requirements in proposed new paragraph (c).

Section 113.25–10. The Coast Guard would revise § 113.25–10, Location of flashing red lights, to include existing policy that only general alarm beacons, used in high noise areas, be red. This is required so that personnel are not confused by the use of the same visual signal to indicate a number of conditions.

Section 113.25–11. The Coast Guard would revise § 113.25–11, Contact makers, to remove the detailed construction requirements for the general alarm contact maker. The performance requirements for this component remain in effect.

Section 113.25–12. The Coast Guard would revise § 113.25–12, Vibrating bells, to allow the use of electronic devices to simulate the sound produced by a vibrating bell.

Section 113.25–16. The Coast Guard would revise § 113.25–16, Fuses, to have this regulation apply to circuit breakers and fuses, both of which are allowable overcurrent devices.

Subpart 113.30. The Coast Guard would revise subpart 113.30, Sound Powered Telephone and Voice Tube Systems. Voice tubes will be eliminated and, owing to today's technology, the Coast Guard will allow for choices by recognizing systems of communications other than sound powered phones that are accepted by recognized classification society rules.

Section 113.30–1. The Coast Guard would revise § 113.30–1, Applicability, to require self-propelled Mobile Offshore Drilling Units meet the same requirements as other self-propelled vessels.

Section 113.30–5. The Coast Guard would revise paragraphs (a), (d), (g), (h), and (i) of § 113.30–5, Requirements, to generalize communication systems and to incorporate the necessary clarifications pertinent to Mobile Offshore Drilling Unit applications. The Coast Guard would add new paragraph (j) to the list of locations where common means of voice communication and calling are required. This requirement increases the level of safety aboard the vessel and is consistent with the requirements of SOLAS 74.

Section 113.30–20. The Coast Guard would revise paragraphs (a), (b), and (d) (paragraph (d) will be relettered as (c)) of § 113.30–20, Sound-powered telephone systems: General requirements, to correct the semantics of referencing "communications systems" versus only "sound-powered phones".

Section 113.30–25. The Coast Guard would revise paragraph (a) of § 113.30–25, Sound-powered telephone system; detailed requirements, to remove the requirement that sound-powered telephones be approved by the Commandant. The remaining regulations are sufficient to ensure proper installation and operation of sound-powered telephones, or other reliable means of voice communications and calling.

Section 113.35–3. The Coast Guard would revise paragraph (e)(3) of § 113.35–3, General requirements, to reflect the above change in interior communications terminology.

Sections 113.35–5 and 113.35–7. The Coast Guard would revise § 113.35–5, Electric engine order telegraph systems; general requirements, and § 113.35–7, Electric engine order telegraph systems; detailed requirements, to eliminate the detailed design specifications for electric engine-order telegraph systems. These two sections are combined under § 113.35–5 to produce a single section addressing performance requirements.

Sections 113.35–9 and 113.35–11. The Coast Guard would revise § 113.35–9, Mechanical engine order telegraph systems; general requirements, and § 113.35–11, Mechanical engine order telegraph systems; detailed requirements, to eliminate the detailed design specification for mechanical

engine-order telegraph systems. These two sections are combined under § 113.35–9 to produce a single section addressing performance requirements.

Section 113.37–5. The Coast Guard would correct semantics concerning "navigating bridge" versus "wheelhouse" in § 113.37–5, General requirements.

Section 113.37–10. The Coast Guard would remove paragraphs (b), (c), and (d) in § 113.37–10, Detailed requirements. Most of these requirements represent standard marine practice, thereby making regulation unnecessary. New paragraph (b) would restate present paragraph (c)'s watertight requirement with international standard option.

Section 113.40–10. The Coast Guard would revise § 113.40–10, Detailed requirements, to add clarifying language that rudder-angle indicator circuits must be separate and independent from the autopilot and the dynamic positioning system as well as the steering gear control system. The Coast Guard would also remove paragraphs (b), (c), (d), (e), and (f) in this section. Most of these requirements represent standard marine practice, thereby making regulation unnecessary. New paragraph (b) would restate present paragraph (e)'s watertight requirement with international standard options.

Sections 113.43–3 and 113.43–5. The Coast Guard would revise paragraph (a) of § 113.43–3, Alarm system, and (b) of § 113.43–5, Power supply, by substituting "navigating bridge" for "pilothouse" or "wheelhouse".

Subpart 113.50. The Coast Guard would revise and rename subpart 113.50, Emergency Loudspeaker Systems, to read, Public Address Systems, in order to incorporate performance requirements which are now in subchapter Q, subpart 161.004. The Coast Guard would eliminate subchapter Q, subpart 161.004. These proposals are consistent with SOLAS 74 III/6.4.

Subpart 113.65. The Coast Guard would revise subpart 113.65, Whistle Operators, to correct the reference to IEEE Standard 45.

Subpart 113.70. The Coast Guard would eliminate subpart 113.70, Smoke Detector Systems. This equipment is now included with Fire Detecting Systems in the proposed revision to § 113.10.

Part 161—Electrical Equipment

Subpart 161.002. The Coast Guard would extensively revise subpart 161.002, Fire-Protective Systems, in order to eliminate overly restrictive construction requirements and to provide for options in the manufacture and testing of fire and smoke detecting and alarm systems via internationally accepted standards.

Subpart 161.004. The Coast Guard would delete subpart 161.004, Emergency Loudspeaker System. The performance requirements would be incorporated into subpart 113.50, which would be renamed Public Address Systems. SOLAS 74 Regulation III/6–4.2 requires every vessel that has a general alarm to have a public address system (or other suitable means of communications) to supplement the general alarm.

Incorporation by Reference

Material that would be incorporated by reference throughout subchapter J is listed in § 110.10–1. Copies of the material are available for inspection where indicated under **ADDRESSES.** Copies of the material are available from the sources listed in § 110.10–1.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The Coast Guard has found that most of the changes to the Electrical Engineering Regulations are either editorial or they update technical specifications to reflect the latest practices. There are some regulatory changes that will require different construction. Although some of these changes will cause minor cost increases for shipbuilders, others will result in substantial savings. Many of the proposed rulemaking changes causing cost increases are already current marine industry practice. The remaining changes causing cost increases are more than offset by the cost savings offered by several relaxations in the regulations.

Overall, it is anticipated that there will be a net cost reduction offered for vessels constructed under these rules, but the exact impact is difficult to determine accurately since it may vary from vessel to vessel. For certain vessels, new requirements may increase costs, but the application of national and international industry consensus standards should enhance performance and thus increase the level of safety. Additionally, due to cost decreases that may result from the removal of the requirements for armor on cable, allowance of the use of NEC and IEC motors, and a variety of circuit breakers conforming to international standards in panelboards, it may be possible to significantly lower costs for each vessel. Actual savings will depend upon the industry practices followed by each vessel designer/shipyard before and after the effective date of these regulations.

In addition to the savings in material costs, there are several intangible benefits. Due to the increased reference to national and international standards other than the National Electrical Code and Underwriters Laboratories Inc., certain equipment items will now be more readily available "off the shelf" for marine use. The proposed regulations will reduce the regulatory burden on the marine industry, purge obsolete and out-of-date regulations, and eliminate requirements that create an unwarranted differential between domestic rules and international standards.

The Coast Guard expects that significant economic savings will result from the ability of equipment manufacturers, in many cases, to meet performance specifications instead of design standards and the elimination of the need to submit to the U.S. Coast Guard detailed plans and specifications for approval for equipment such as sound powered telephones, emergency loudspeaker systems, and navigation lights.

The Coast Guard solicits cost data and comments regarding the economic impact of these proposed requirements from all interested parties.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small Entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The Coast Guard believes it has addressed the concerns of many small entities by the adoption of wide variety of national and international standards regarding system arrangement. Additionally, the proposed regulations will dramatically revise certain prescriptive electrical equipment design, specification, and approval requirements, and replace them with performance-based requirements that incorporate international standards.

Whenever possible, requirements have been adjusted to the size of the vessel and in some cases a relaxation of requirements for smaller vessels has been offered. Due to the flexibility of requirements in these proposed rules and the eliminating of regulatory burden, small entities involved in the building or ownership of vessels should experience increasing business opportunities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), the Office of Management and Budget (OMB) reviews each proposed rule which contains a collection-of-information requirement to determine whether the practical value of this information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposed rule contains collection-of-information requirements in the following subparts: subpart 110.25 in subchapter J and subparts 161.002 and 161.010 in subchapter Q. The following particulars apply to subpart 110.25:

DOT No.: 2115.

OMB Control No.: 2115–0115.

Administration: U.S. Coast Guard.

Title: Electrical Engineering Regulations—Subchapter J.

Need for Information: This proposed rule would require amendments to the regulations, clarify the regulations, bring them up to date, and delete unnecessary requirements. The revisions to subchapter J will reduce the reliance on domestic standards and will adopt SOLAS 74 and other international standards developed through consensus by the international maritime community.

Proposed § 110.25–1 would require industry to complete electrical engineering plans to meet performance requirements on new-built vessels and modifications of current vessels. These requirements will help resolve much of the confusion during inspections which has risen due to the complexity of electrical system arrangements on modern merchant vessels.

Proposed Use of Information: The reporting of this information is necessary to ensure compliance with electrical engineering safety regulations. Through the review of the design plans prior to construction, the vessel owner or builder may be assured that the vessel, if built in accordance with the plans, will meet regulatory standards.

Frequency of Response: The various information called for in § 110.25 would be reported on occasion. Design plans will only be submitted when there is construction of new-built vessels or modification of current vessels.

Burden Estimate: 478 hours.

Respondents: 175 owners or operators.

Average Burden Hours per Respondent: 1 hour per submission.

The following particulars apply to subparts 161.002 and 161.010:

DOT No.: 2115.

OMB Control No.: 2115–0121.

Administration: U.S. Coast Guard.

Title: Equipment, Construction, and Materials: Specifications and Approval—Subchapter Q.

Need for Information: This proposed rule world require amendments to the regulations, clarify the regulations, bring them up to date, and delete unnecessary requirements. The revisions to subchapter Q will required industry to maintain records of production tests for some fire protection systems. These plans consist mainly of system/material tests that are necessary to determine that the equipment being used in the construction of a fire protection system meets the minimum performance requirements.

The following is a section-by-section justification of the collection requirements.

Proposed subpart 161.002 would require manufacturers to complete electrical specifications to meet performance requirements for fire protection systems. This requirement will help identify specific equipment approved and to permit the production of equipment identical to the equipment samples originally tested.

Proposed Use of Information: The reporting of this information is necessary to ensure compliance with electrical system arrangement/equipment and fire protection system regulations. Through the review of approval plans, the manufacturer may be assured that the material or device, if manufactured in accordance with the material specifications, will meet regulatory standards.

Frequency of Response: The various information called for in subpart 161.002 would be reported on occasion. Approval for equipment will only be submitted when production tests are required.

Burden Estimate: 60 hours.

Respondents: 6 manufacturers.

Average Burden Hours Per Respondent: 10 hours per respondent.

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES.**

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under paragraphs 2.B.2e(34)(d) and (e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule concerns only system arrangement and equipment approval. The approved system arrangement and equipment required by this rule should contribute in the enhancement of vessel safety, and thereby help to minimize any impact to the marine environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 110

Reporting and recordkeeping requirements, Vessels.

46 CFR Parts 111 and 112

Vessels.

46 CFR Part 113

Communications equipment, Fire prevention, Vessels.

46 CFR Part 161

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Coast Guard proposes to amend 46 CFR parts 108, 110, 111, 112, 113, and 161 as follows:

PART 108—DESIGN AND EQUIPMENT

1. The authority citation for part 108 is revised to read as follows:

2. In § 108.170, in the notes following paragraph (b), note 1 is revised to read as follows:

§ 108.170 Definitions.

* * * * *

Notes: 1. Hazardous atmospheres are further defined in part 111, subpart 111.105, of this chapter.

* * * * *

3. In § 108.181, paragraph (c) is revised to read as follows:

§ 108.181 Ventilation for enclosed spaces.

* * * * *

(c) Each fan in a ventilating system must have remote controls installed in accordance with part 111, subpart 111.103, of this chapter.

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PART 110—GENERAL PROVISIONS

4. The authority citation for part 110 is revised to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 110.01–2 also issued under 44 U.S.C. 3507.

5. In § 110.01–1, paragraphs (a), (b), and (d) are revised to read as follows:

§ 110.01 General.

(a) This subchapter applies to all electrical equipment and systems wherever subchapters D, H, I, I–A, K, L, O, R, T, U, and W of this chapter requires an installation to be in accordance with this subchapter.

(b) This subchapter applies to vessels and installations contracted for or major alternations contracted for after [Insert date 90 days after date of publication in the **Federal Register**].

* * * * *

(d) Requirements in this subchapter revised or added after [Insert date 90 days after date of publication in the **Federal Register**] apply to installation contracted for after the effective date of the requirements or as specified in the regulation.

* * * * *

6. Section 110.01–3 is revised to read as follows:

§ 110.01–3 Repairs and alterations.

(a) Minor alternations may comply with the regulations in effect when the vessel was built; major modifications must comply with any regulations in effect at the time such major alterations are made.

(b) When repairs or alterations are major, such as the addition of a midbody; re-enginging; re-powering; upgrading of the main propulsion control system; or the replacement of extensive amounts of cabling, work must comply with any regulations in effect at the time such major alterations are made. Determinations on major conversions are considered on a case-by-case basis by the Commandant (G–MCO).

7. In § 110.10–1, paragraphs (a) and (b) are revised to read as follows:

§ 110.10–1 Incorporation by reference.

(a) Certain material] is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard, (G–MMS), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS), Two World Trade Center, 106th Floor, New York, NY 10048:	
Rules for Building and Classing Steel Vessels, 1994	111.12–1(a); 111.12–3; 111–12–5; 111.12–7(a); 111.33–11(a); 111.35–1; 111.70–1(a); 111.105–39(a); 111.105–39 (Note); 111.105–40(a); 111.105–47(a).
American National Standards Institute (ANSI), 1430 Broadway, New York, NY 10018:	
ANSI/IEEE C37.04, Rating Structure for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis, 1979.	111.54–1(c).
ANSI C37.12, AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis—Specifications Guide, 1991.	111.54–1(c).
ANSI/IEEE C37.13, Standard for Low-Voltage AC Power Circuit Breakers Used in Enclosures, 1990.	111.54–1(c).
ANSI/IEEE C37.14, Low-Voltage DC Power Circuit Breakers Used in Enclosures, 1993	111.54–1(c).
ANSI/ASME A17.1, Safety Code for Elevators and Escalators, 1993	111.91–1.
ANSI/ASME A17.1A, Safety Code for Elevators and Escalators (Addenda to ANSI/ASME A17.1–1993), 1994.	111.91–1.
American Society for Testing and Materials (ASTM), ASTM International Headquarters, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959:	
ASTM B 117, Standard Method of Salt Spray (Fog) Testing, 1990	110.15–1(b).
ASTM D 789, Standard Specification for Nylon Injection Molding and Extrusion Materials, 1978.	111.60–1(a).
International Electrotechnical Commission (IEC), 1, Rue de Varembe; Geneva, Switzerland:	
IEC 68–2–52, Basic Environmental Testing Procedures, Part 2; Tests. Test KB: Salt Mist, Cyclic (Sodium Chloride Solution), 1984.	110.15–1(b).
IEC 79–0, Electrical Apparatus for Explosive Gas Atmospheres, Part 0: General Requirements, 1983 (Including Amendment 2, 1991).	111.105–1; 111.105–3; 111.105–5; 111.105–7; 111.105–15(b); 111.105–17(b).
IEC 79–1, Electrical Apparatus for Explosive Gas Atmospheres, Part 1: Construction and Test of Flameproof Enclosures of Electrical Apparatus, 1990 (Including Amendment 1, 1993).	111.105–3; 111.105–5; 111.105–9; 111.105–15(b); 111.105–17(b).
IEC 79–2, Electrical Apparatus for Explosive Gas Atmospheres, Part 2: Electrical Apparatus—Type of Protection "P", 1983.	111.105–3; 111.105–5; 111.105–7(b); 111.105–15(b); 111.105–17(b).
IEC 79–5, Electrical Apparatus for Explosive Gas Atmospheres, Part 5: Sand-Filled Apparatus. First Edition (1967) Incorporating the First Supplement, (1969).	111.105–3; 111.105–5; 111.105–15(a); 111.105–15(b); 111.105–17(b).
IEC 79–6, Electrical Apparatus for Explosive Gas Atmospheres—Part 6: Oil-Immersion "O", 1995.	111.105–3; 111.105–5; 111.105–15(a); 111.105–15(b); 111.105–17(b).

IEC 79–7, Electrical Apparatus for Explosive Gas Atmospheres—Part 7: Increased Safety ("E"), 1990.	111.105–3; 111.105–5; 111.105–15(a); 111.105–15(b); 111.105–17(b).
IEC 79–11, Electrical Apparatus for Explosive Gas Atmospheres—Part 11: Intrinsic Safety "I", 1991.	111.105–3; 111.105–5; 111.105–11(a); 111.105–15(b); 111.105–17(b).
IEC 79–15, Electrical Apparatus for Explosive Gas Atmospheres—Part 15: Electrical Apparatus, With Type of Protection "N", 1987.	111.105–3; 111.105–5; 111.105–15; 111.105–17(b).
IEC 79–18, Electrical Apparatus for Explosive Gas Atmospheres—Part 18: Encapsulation "M", 1992.	111.105–3; 111.105–5; 111.105–15(a); 111.105–15(b); 111.105–17(b).
IEC 92–3 Electrical Installation In Ships, Part 3: Cables (construction, testing and installations) Second Edition, 1965 as amended.	111.60–1(a); 111.60–3(a); 111.60–3(c); 111.81–1(d).
IEC 92–101, Electrical Installations in Ships, Part 101: Definitions and General Requirements, 1994.	110.15–1(a); 111.81–1(d).
IEC 92–101—Amendment No. 1, Electrical Installations in Ships—Part 101: Definitions and General Requirements, 1995 (Including Amendment 1, 1995).	110.15–1(a); 111.81–1(d).
IEC 92–201, Electrical Installations in Ships, Part 201: System Design-General, 1994	111.70–3(a); 111.81–1(d).
IEC 92–202, Electrical Installations in Ships Part 202: System Design-Protection, 1994	111.50–3(c); 111.50–3(e); 111.50–3(g); 111.53–1(a); 111.54–1(a); 111.81–1(d).
IEC 92–301—Amendment No. 1, Electrical Installations in Ships, Part 301: Equipment—Generators and Motors, 1994.	111.25–5(a); 111.70–1(a); 111.81–1(d).
IEC 92–302—Amendment No. 2, Electrical Installations, Part 302: Equipment Switchgear and Controlgear Assemblies, 1994.	111.30–5(a); 111.30–19(a); 111.81–1(d).
IEC 92–303, Electrical Installations in Ships, Part 303: Equipment—Transformers for Power and Lighting, 1980.	111.20–15; 111.81–1(d)
IEC 92–304, Electrical Installations in Ships, Part 304: Equipment—Semiconductor Convertors, 1980.	111.33–3(a); 111.33–5(b); 111.81–1(d).
IEC 92–306, Electrical Installations in Ships, Part 306: Equipment-Luminaires and Accessories, 1980.	111.75–20(a); 111.81–1(d).
IEC 92–352, Electrical Installations in Ships, Part 352: Choice and Installation of Cables for Low-Voltage Power Systems, 1979.	111.05–7; 111.81–1(d).
IEC 92–352–Amendment No. 2, Electrical Installations in Ships—Part 352: Choice and Installations of Cables for Low-Voltage Power Systems, 1994.	111.05–7; 111.60–3(a); 111.60–3(c); 111.60–5; 111.81–1(d).
IEC 92–501, Electrical Installations in Ships, Part 501: Special Features—Electrical Propulsion Plant, 1984.	111.81–1(d).
IEC 92–502, Electrical Installations in Ships, Part 502: Tankers—Special Features 1994	111.81–1(d).
IEC 92–503, Electrical Installations in Ships, Part 503: Special Features—A.C. Supply Systems with Voltages in the Range Above 1KV up to and Including 11KV, 1975.	111.30–5(a); 111.81–1(d).
IEC 92–504, Electrical Installations in Ships, Part 504: Special Features: Control and Instrumentation, 1994.	111.81–1(d).
IEC 332–1, Tests on Electric Cables Under Fire Conditions, Part 1: Test on a Single Vertical Insulated Wire or Cable, 1993.	111.30–19(b).
IEC 332–3, Tests on Electric Cables Under Fire Conditions, Part 3: Test on bunched wires or cables, 1992.	111.60–1(a); 111.60–2(a); 111.60–6(a); 111.107–1(c).
IEC 363, Short Circuit Current Evaluation with Special Regard to Rated Short-Circuit Capacity of the Circuit Breakers in Installations in Ships, 1972.	111.52–5(c).
IEC 529, Degrees of Protection Provided by Enclosures (IP Code), 1989	111.01–9(a); 111.01–9(b); 111.01–9(c); 111.01–9(d); 111.01–9 (Note); 113.10–7; 113.20–3; 113.25–11; 113.30–25(c); 113.30–25(h); 113.40–10(b).
IEC 533, Electromagnetic compatibility of Electrical and Electronic Installations in Ships, 1977.	111.81–1(d).
IEC 947–2, Low-Voltage Switchgear and Controlgear, Part 2: Circuit Breakers, 1989	111.54–1(b); 111.54–1(c).
Institute of Electrical and Electronic Engineers (IEEE), IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08854:	
IEEE Std 45, IEEE Recommended Practice for Electric Installations on Shipboard, 1983	111.15–2(b); 111.30–1; 111.30–5(a); 111.30–19(a); 111.33–3(a); 111.33–5(a); 111.60–1(a); 111.60–2(a); 111.60–3(a); 111.60–3(b); 111.60–3(c); 111.60–5; 111.60–6(a); 111.60–11(c); 111.60–13(a); 111.60–19; 111.60–21; 111.105–3; 111.105–31(e); 111.105–41; 111.107–1(c); 113.65–5.
IEEE Std 100, Dictionary of Electrical and Electronics Terms, 1992	110.15–1(a).
IEEE Std 320, Application Guide for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis (ANSI/IEEE C37.010–79), 1979.	111.54–1(c).
IEEE Std 331, Low-Voltage AC Non-Integrally Fused Power Circuit Breakers (Using Separately Mounted Current-Limiting Fuses) (ANSI/IEEE C37.27–72), 1972.	111.54–1(c).
IEEE Std 383, Type Test of Class 1E Electric Cables, Field Splices, and Connections of Nuclear Power Stations, 1974.	111.107–1(c).
IEEE Std 538, Low-Voltage Integrally Fused Power Circuit Breakers (ANSI/IEEE C37.13a–75), 1976.	111.54–1(c).
IEEE Std 1202, IEEE Standards on Flame Testing of Cables for Use in Cable Tray and Industrial and Commercial Occupancy, 1991.	111.60–1(a); 111.60–2(a); 111.60–6(a).
International Society of Measurement and Control (ISA), 67 Alexander Drive, P.O. Box 12277, Research Triangle Park, NC 27709:	
RP 12.6, Installation of Intrinsically Safe Instruments Systems in Class I Hazardous Locations, 1976.	111.105–17(c).

International Association of Drilling Contractors (IADC), P.O. Box 4287, Houston, TX 77210:	
IADC–DCCS–1, Guidelines for Industrial System DC Cable for Mobile Offshore Drilling Units.	111.60–1(a).
International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR:	
Consolidated Text of the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) (Including Amendments through 1994), 1994.	111.93–9(k); 112.15–1(r); 113.25–6(d).
National Electrical Manufacturers Association (NEMA), 2101 L Street, NW, Washington, DC 20036:	
NEMA WC 30, Color Coding of Wires and Cables, 1976	11.70–3(a).
NEMA 250, Enclosures for Electrical Equipment (1000 Volts Maximum), 1991	111.01–9(a); 111.01–9(b); 111.01–9(c); 111.01–(d); 111.01–9 (Note); 111.10–7; 113.20–3; 113.25–11; 113.30–25(c); 113.30–25(h); 113.40–10(b).
WC–3, Rubber Insulated Wire and Cable for Transmission of Electrical Energy, 1980	111.60–13(a); 111.60–13(c).
WC–8, Ethylene-Propylene–Rubber–Insulated Wire and Cable for the Transmission of Electrical Energy, 1980.	111.60–13(a); 111.60–13(c).
National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA 02269:	
NFPA 99, Standards for Health Care Facilities, 1993	111.105–37.
NFPA 70, The National Electrical Code, 1996	111.05–33(b); 111.20–15; 111.25–5(a); 111.50–3(c); 111.50–9; 111.53–1(a); 111.54–1(a); 111.55–1(a); 111.59–1; Table 111.60–7; 111.60–11(f); 111.60–13(b); 111.60–13(c); 111.81–1(d); 111.83–3(a); 111.105–1; 111.105–1 (note); 111.105–3; 111.105–5; 111.105–7; 111.105–9; 111.105–17(b); 111.105–39(b); 111.107(a); 111.107–1(b).
NFPA 77, Recommended Practice for Static Electricity, 1977	111.105–27.
NFPA 496, Standard for Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations, 1986.	111.105–7(b).
Naval Publications and Forms Center (NPFC), Customer Service—Code 1052, 5801 Tabor Ave Philadelphia, PA 19120:	
MIL–W–76B, Wire and Cable, Hook-up, Electrical, 1962	111.60–11(e).
MIL–C–915, Cable and Cord for Shipboard Use (including Amendment 2), 1980	111.60–1(a); 111.60–13(a).
MIL–W–16878D, Wire Electrical (Insulated High Temperature), 1967	111.60–11(e).
MIL–C–24640, Cable, Electrical, Lightweight, For Shipboard Use, General Specification For, 1984.	111.60–1(a);
MIL–C–24643, Cable and Cord, Electrical, Low Smoke, For Shipboard Use, General Specification For, 1984.	111.60–1(a).
Naval Sea Systems Command (NAVSEA), Code 55Z; Department of Navy, Washington, DC 20362:	
DDS 300–2, A.C. Fault Current Calculations, 1988	111.52–5.
MIL–HDBK–299 (SH), Cable Comparison Handbook, Data Pertaining to Electric Shipboard Cable, 1989.	111.60–1(a); 111.60–3(c).
Underwriters Laboratories Inc. (UL), Standards Department, 333 Pfingsten Rd., Northbrook, IL 60062–2096:	
UL 44, Rubber-Insulated Wire and Cable, 1983	111.60–11(e).
UL 50, Electrical Cabinets and Boxes, 1980 (revisions through Feb. 1982(	111.81–13(a).
UL 62, Flexible Cord and Fixture Wire, 1983 (revisions through Sept. 1984)	111.13(a)(1).
UL 83, Thermoplastic-Insulated Wires, 1991	111.60–1(a); 111.60–11(e).
UL 489, Molded Case Circuit Breakers and Circuit Breaker Enclosures, 1991	111.54–1(b).
UL 514, Electrical Outlet Boxes and Fittings, 1983 (revisions through October 1984)	111.81–13(a).
UL 595, Marine Type Electric Lighting Fixtures, 1985	111.60–11(c); 111.75–20(a); 111.75–20(e).
UL 913, Intrinsically Safe Apparatus and Associated Apparatus for Use in Class 1, 2, and 3 Division 1 Hazardous Classified Locations, 1988.	111.105–11(a).
UL 1042, Electric Baseboard Heating Equipment, 1994	111.87–3(a).
UL 1072, Medium-Voltage Cables, 1986	111.60–1(a).
UL 1096, Electrical Central Air Heating Equipment, 1986	111.87–3(a).
UL 1104, Marine Navigation Lights, 1981 (revisions through Jan. 1984)	111.75–17(d).
UL 1203, Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations, 1994.	111.105–9.
UL 1570, Fluorescent Lighting Fixtures, 1988	111.75–20(a); 111.75–20(e).
UL 1571, Incandescent Lighting Fixtures, 1991	111.75–20(a); 111.75–20(e).
UL 1572, High Intensity Discharge Lighting Fixtures, 1991	111.75–20(a); 111.75–20(e).
UL 1573, Stage and Studio Lighting Units, 1994	111.75–20(a); 111.75–20(e).
UL 1574, Track Lighting Systems, 1987	111.75–20(a); 111.75–20(e).
ANSI/UL 1581 (VW–1), Reference Standard for Electrical Wires, Cables, and Flexible Cords, 1991.	111.30–19(b); 111.60–2(a); 111.60–6(a).

* * * * *

8. Section 110.15–1 is revised to read as follows:

§ 110.15–1 Definitions.

As used in this subchapter—

(a) The electrical and electronic terms are defined in IEEE Std 100 or IEC Publication 92–101.

(b) In addition to the definitions in paragraph (a) of this section—

Coastwise Vessel means a vessel that normally navigates the waters of any ocean or the Gulf of Mexico 20 nautical miles or less offshore and is certificated for coastwise navigation by the U.S. Coast Guard.

Commandant means the Commandant of the U.S. Coast Guard (see § 1.01 of this chapter for delegation of authority).

Corrosion resistant material or finish means any material or finish which meets the testing requirements of ASTM B–117 or test Kb in IEC 68–2–52 for 200 hours and does not show pitting, cracking or other deterioration more severe than that resulting from a similar test on passivated AISI Type 304 stainless steel.

Corrosive location means any location exposed to the weather on vessels operating in salt water or locations onboard which may be exposed to the corrosive effects of the cargo carried or by any of the vessel's systems.

Dead ship condition is the condition in which the main propulsion plant, boilers and auxiliaries are not in operation due to the absence of power.

Dripproof means enclosed so that equipment meets at least a NEMA Type 1 with dripshield, NEMA Type 2 or an IEC IP 32 rating.

Embarkation deck means a deck from which persons embark into survival craft or are assembled before embarking into survival craft.

Emergency squad means the crew designated on the station bill as the nucleus of a damage control party.

Exterior location requiring an exceptional degree of protection means a location exposed to the weather.

Flashpoint means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to form an ignitable mixture with air near the surface of the liquid, as specified by the appropriate test procedure and apparatus.

Great Lakes vessel means a vessel that navigates exclusively on the Great Lakes.

Interior location requiring an exceptional degree of protection means a location requiring equipment to meet the protection requirements of § 111.01–9(a) of this chapter and include—

(1) A machinery space;

(2) A cargo space;

(3) A location within a galley or pantry area, laundry, or water closet which contains a shower or bath; and

(4) Other spaces with similar environmental conditions.

Location not requiring an exceptional degree of protection means a location which is not exposed to the environmental conditions outlined in the previous definition. This location requires the degree of protection of § 111.01–9(c) or (d) of this chapter. These locations include—

(1) An accommodation space;

(2) A dry store room;

(3) A passageway adjacent to quarters;

(4) A water closet without a shower or bath;

(5) A radio, gyro and chart room; and

(6) A location with similar environmental conditions.

Marine inspector or *inspector* means any person from the Coast Guard assigned under an Officer in Charge, Marine Inspection, or any other person who is designated for the duties of inspection, enforcement, and administration of Title 46 U.S.C. and the rules and regulations promulgated under its authority.

Nonsparking fan means a fan that cannot produce sparks that ignite an ignitable mixture with air and has—

(1) Blades or housing of nonmetallic construction;

(2) Blades and housing of nonferrous material;

(3) Blades and housing of corrosion resistant steel;

(4) Ferrous blades and a housing with 13 mm (0.5 inch) or more design tip clearance; or

(5) Blades of aluminum or magnesium alloy and a ferrous housing with a nonferrous insert ring at the peripheral of the impeller. The term *nonsparking fan* does not include any combination of aluminum alloy or a magnesium alloy component and a ferrous component which is considered by the Coast Guard to be a sparking hazard regardless of the material that is used as the fixed or rotating component.

Ocean vessel means a vessel that navigates the waters of any ocean or the Gulf of Mexico more than 20 nautical miles offshore and is certificated by the U.S. Coast Guard for ocean navigation.

Qualified person means a person who by virtue of that person's knowledge, ability, experience, specialized training, or licensing can competently and safely perform required duties or functions.

Waterproof means enclosed so that equipment meets at least a NEMA Type 6, 6P, or an IEC IP 56 rating.

Watertight means enclosed so that equipment meets at least a NEMA Type 4, 4X, or an IEC IP 66 or 67 rating.

§ 110.20–21 [Amended]

9. In § 110.20–1, remove the words "Commandant (G–MTH)" and add, in their place, the words "Commanding Officer of the Marine Safety Center (MSC)".

10. In § 110.25–1, paragraphs (c)(8) through (c)(11) are revised; paragraph (c)(12) is added; and paragraphs (j), (l), and the notes to paragraphs (m) and (n) are revised to read as follows:

§ 110.25–1 Plans and information required for new construction.

* * * * *

(c) * * *

(8) Fire door holding systems;

(9) Public address system;

(10) Manual alarm system;

(11) Supervised patrol system; and

(12) Each electrical component installed in a hazardous location defined in part 111, subpart 111.105, of this chapter, with the following information identified as appropriate:

(i) System identification by manufacturer's model number;

(ii) System use;

(iii) Cable parameters;

(iv) Equipment locations;

(v) Installation details; and

(iv) Independent laboratory certificate of testing.

* * * * *

(j) Plans and installation instructions for each intrinsically safe system approved by an independent laboratory as indicated in subpart 110.35 of this part (see § 111.105–11 of this chapter).

* * * * *

(l) Plans and information sufficient to evaluate equipment to be considered for equivalency under § 110.20–1.

(m) * * *

Note to paragraph (m): This equipment evaluation is generally performed by the Commanding Officer, Marine Safety Center and includes items such as cable splices, signalling lights, shore connection boxes, submersible pumps, engine order telegraph systems, shaft speed and thrust indicator systems, and steering gear failure alarm systems.

(n) * * *

Note to paragraph (n): This equipment evaluation is generally performed by the Commanding Officer, Marine Safety Center and includes items such as circuit breakers, switches, lighting fixtures, air heeting equipment, busways, and outlet and junction boxes. Items required to meet an IEEE, IEC, NEMA, UL, ANSI, other industry standard, or a military specification are considered acceptable if manufacturer's certification of compliance is indicated on a material list or plan.

§ 110.25–3 [Amended]

11. In § 110.25–3, remove "(G–MSC)" in paragraph (a)(1) and add, in its place, "(MSC)"; and paragraph (a)(3) is removed.

12. Section 110.30–7 is revised to read as follows:

§ 110.30–7 Repairs or alterations.

(a) The Officer in Charge, Marine Inspection must be notified prior to—

(1) Modifications or minor alterations that deviate from approved plans,

(2) Extensive repairs or alterations, and

(3) Any repair or alteration that affects the safety of the vessel.

13. Subpart 110.35, consisting of § 110.35–1, is added to read as follows:

Subpart 110.35—Independent Laboratories

§ 110.35–1 General.

Independent Laboratories are accepted by the Commandant under part 159 of this chapter for the testing and listing or certification of electrical equipment.

PART 111—ELECTRICAL SYSTEMS—GENERAL REQUIREMENTS

14. The authority citation for part 111 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

15. Section 111.01–5 is revised to read as follows:

§ 111.01–5 Protection from bilge water.

Each of the following must be arranged or constructed so that it cannot be damaged by bilge water:

(a) Generators.

(b) Motors.

(c) Electric coupling.

(d) Electric cable serving an electrical component in or around the bilge area.

16. Section 111.01–7 is revised to read as follows:

§ 111.01–7 Accessibility.

(a) The design and arrangement of electric apparatus must afford accessibility to each part as needed to facilitate proper inspection, adjustment, maintenance, or replacement.

(b) Within an enclosure, the spacing between energized components (or between an energized component and ground) must be to the appropriate industry standard for the voltage and current utilized in the circuit. Additionally, spacing within any enclosure must be sufficient to facilitate servicing.

17. Section 111.01–9 is revised to read as follows:

§ 111.01–9 Degrees of protection.

(a) Interior electrical equipment exposed to dripping liquids or falling solid particles must be manufactured to at least NEMA Type 2, 12, 12K, or 13 or IEC IP 11, 52, or 54 degree of protection as appropriate for the service intended. For interior locations which may be exposed to water, electrical equipment must be constructed to at least NEMA Type 4 or 4X; or IEC IP 56.

(b) On deck, electric equipment that may be exposed to seas, the weather, splashing, or similar moisture conditions must be enclosed or meet at least a NEMA Type 4, 4X, 6, or 6P or IEC IP 56 or 67 degree of protection as appropriate for the service intended. Each enclosure must be designed in such a way that the total rated temperature of the equipment inside the enclosure is not exceeded.

(c) Central control consoles and similar control enclosures must be manufactured to at least NEMA Type 2, 12, or 12K or IEC IP 11 or 52 degree of protection regardless of location.

(d) Equipment for interior locations not requiring exceptional degrees of protection must be manufactured to at least NEMA Type 2 or IEC IP 11.

Note to § 111.01–9: The degrees of protection designated in this section are described in NEMA Standards Publication No. 250 and IEC IP Code Publication 529.

18. Section 111.01–15 is revised to read as follows:

§ 111.01–15 Temperature ratings.

(a) In this subchapter, an ambient temperature of 40°C is assumed except as otherwise stated.

(b) A 50°C ambient temperature is assumed for all rotating electrical machinery in boilerrooms, enginerooms, auxiliary machinery rooms, and weather decks unless it can be shown that a 45°C ambient temperature will not be exceeded in these spaces.

(c) A 45°C ambient temperature is assumed for cable and all other (non-rotating) electrical equipment in boilerroooms, enginerooms, auxiliary machinery rooms, and weather decks.

(d) Unless otherwise indicated in this subchapter, a 55°C ambient temperature is assumed for all control and instrumentation equipment.

(e) Electrical equipment utilized in a space in which the equipment's rated ambient temperature is below the assumed ambient temperature of the space, must be used at a derated load. The assumed ambient temperature of the space plus the equipment's actual temperature rise at its derated load must not exceed the equipment's total rated temperature (equipment's rated ambient temperature plus its rated temperature rise).

19. Section 111.01–7 is revised to read as follows:

§ 111.01–17 Voltage and frequency variations.

Unless otherwise stated, electrical equipment must function at variations of at least ±5 percent of rated frequency and +6 percent to −10 percent of rated voltage. This limitation does not address transit conditions.

20. Section 111.01–19 is added to read as follows:

§ 111.01–19 Inclination of the ship.

(a) All electrical equipment must be designed and installed to operate under any combination of the following conditions:

(1) 15 degrees static list, 22.5 degrees dynamic roll; and

(2) 7.5 degrees static trim.

(b) All emergency installations must be designed and installed to operate when the ship is at 22.5 degrees list and 10 degrees trim.

21. Section 111.01–21 is added to read as follows:

§ 111.01–21 Vibration.

All electrical control equipment must be designed to operate under the following vibration conditions:

(a) 2 Hz to 13 Hz, displacement amplitude +/−1.5 mm.

(b) 13 Hz to 100 Hz, maximum acceleration 1 g.

22. Section 111.01–23 is added to read as follows:

§ 111.01–23 Humidity.

Electrical control equipment must be designed to operate in 0 to 95 percent noncondensing relative humidity.

23. The text of Section 111.05–1 is revised to read as follows:

§ 111.05–1 Purpose.

This subpart contains requirements for the grounding of electric systems, circuits, and equipment.

* * * * *

24. Section 111.05–7 is revised to read as follows:

§ 111.05–7 Armored and metallic-sheathed cable.

When installed, the metallic armor or sheath must meet the installation requirements of IEC Publication 92–352 (clause 18).

25. Section 111.05–9 is revised to read as follows:

§ 111.05–9 Masts.

Each nonmetallic mast and topmast must have a lightning ground conductor.

26. Section 111.05–19 is revised to read as follows:

§ 111.05–19 Tank vessels; grounded distribution systems.

(a) If the voltage of a distribution system is less than 1,000 volts, line to line, a tank vessel must not have a grounded distribution system.

(b) If the voltage of a distribution system on a tank vessel is 1,000 volts or greater, line to line, and the distribution system is grounded, any resulting current must not flow through a hazardous (classified) location.

27. In § 111.05–23, paragraph (d) is added to read as follows:

§ 111.05–23 Location of ground detection indicators.

* * * * *

(d) Be provided at the distribution switchboard for each branch circuit isolated from the main source by a transformer or other device.

28. Section 111.05–25 is revised to read as follows:

§ 111.05–25 Ungrounded systems.

Each ungrounded system must be provided with a suitably sensitive ground detection system located at the respective switchboard which provides continuous indication of circuit status to ground with a provision to momentarily remove the indicating device from the reference ground.

29. Section 111.05–27 is revised to read as follows:

§ 111.05–27 Grounded neutral alternating current systems.

Each system must have a suitably sensitive ground detection system which indicates current in the ground connection, be able to withstand the maximum available fault current without damage, and provides continuous indication of circuit status to ground with a provision to momentarily remove the indicating device from the reference ground.

30. Section 111.05–29 is revised to read as follows:

§ 111.05–29 Dual voltage direct current systems.

Each dual voltage direct current system must have a suitably sensitive ground detection system which indicates current in the ground connection, has a range of at least 150% of neutral current rating and indicates the polarity of the fault.

31. Section 111.05–33 is revised to read as follows:

§ 111.05–33 Equipment grounding conductors.

(a) Each equipment grounding conductor must be insulated and be at least as large as any conductor supplying the equipment.

(b) Each insulated grounding conductor of a cable must be permanently identified as a grounding. conductor in accordance with the requirements of section 310–12(b) of the National Electrical Code (NEC).

(c) Cable armor must not be used as the grounding conductor.

32. Section 111.05–37 is revised to read as follows:

§ 111.05–37 Overcurrent devices.

(a) A permanently grounded conductor must not have an overcurrent device unless the overcurrent device simultaneously opens each ungrounded conductor of the circuit.

(b) The neutral conductor of the emergency-main switchboard bus-tie must not have a switch or circuit breaker.

§ 111.05–39 [Removed]

33. Section 111.05–39 is removed.

34. In § 111.10–1, paragraph (a) is revised to read as follows:

§ 111.10–1 Definitions.

* * * * *

(a) *Ship's service loads* mean all auxiliary services necessary for maintaining the ship or drilling unit in normal operational and habitable condition. Ship's service loads include, but are not limited to, all safety, lighting, ventilation, navigational, communications, habitability, and auxiliary propulsion loads. Electrical propulsion motor, bow thruster motor, cargo transfer, drilling, cargo refrigeration for other than Class 5.2 organic peroxides and Class 4.1 self-reactive substances, and other industrial type loads are not included.

* * * * *

35. Section 111.10–3 is revised to read as follows:

§ 111.10–3 Two generating sources.

In addition to the emergency power sources required under part 112 of this chapter, each self-propelled vessel and each mobile offshore drilling unit must have at least two electric generating sources.

36. Section 111.10–4 is revised to read as follows:

§ 111.10–4 Power requirements; generating sources.

(a) The aggregate capacity of the electric ship's service generating sources required in § 111.10–3 must be sufficient for the ship's service loads.

(b) With the ship's service generating source of the largest capacity stopped, the combined capacity of the remaining electric ship's service generating source or sources must be sufficient to supply those services necessary to provide normal operational conditions of propulsion and safety, and minimum comfortable conditions of habitability. Habitability services include cooking, heating, air conditioning (where installed), domestic refrigeration, mechanical ventilation, sanitation, and fresh water.

(c) The capacity of the ship's service generating sources must be sufficient for supplying the ship's service loads without the use of a generating source which is dependent upon the speed or direction of the main propelling engines or shafting.

(d) Operating generators must provide a continuous and uninterrupted source of power for the ship's service load under normal operational conditions. Any vessel speed change or throttle movement must not cause a ship's service load power interruption.

(e) Vessels with electric propulsion that have two or more constant-voltage generators which supply both ship's service and propulsion power do not need additional ship's service generators provided that with any one propulsion/ship's service generator out of service the capacity of the remaining generator(s) is sufficient for the electrical loads necessary to provide normal operational conditions of propulsion and safety, and minimum comfortable conditions of habitability.

(f) A generator driven by a main propulsion unit (such as a shaft generator) which is capable of providing electrical power continuously, regardless of the speed and direction of the propulsion shaft, may be considered one of the ship's service generating sets required by § 111.10–3. A main-engine-dependent generator which is not capable of providing continuous electrical power may be utilized as a supplemental generator provided that a required ship's service generator or generators having sufficient capacity to supply the ship's service loads can be automatically brought on line prior to the main-engine-dependent generator tripping off-line due to a change in the speed or direction of the main propulsion unit.

37. In § 111.10–7, paragraph (b) is revised to read as follows:

§ 111.10–7 Dead ship.

* * * * *

(b) If the emergency generator is used for part or all of the electric power necessary to start the main propulsion plant from a dead ship condition the emergency generator must be capable of providing power to all emergency lighting, emergency internal communications systems, and fire detection and alarm systems in addition to the power utilized for starting the main propulsion plant. Additional requirements are in § 112.05–3(c) of this chapter.

38. Section 111.10–9 is revised to read as follows:

§ 111.10–9 Ship's service supply transformer; 2 required.

If transformers are used to supply the ship's service distribution system required by this subpart for ships and mobile offshore drilling units, there must be at least two installed, independent power transformers. With the largest transformer out of service, the capacity of the remaining units must be sufficient to supply the ship service loads.

Note to § 111.10–9: A ship's service supply system would consist of transformers, overcurrent protection devices, and cables, and would normally be located in the system between a medium voltage bus and a low voltage ship's service switchboard.

§ 111.10–11 [Removed]

39. Section 111.10–11 is removed.

40. Section 111.12–1 is revised to read as follows:

§ 111.12–1 Prime movers.

(a) Prime movers must meet part 58, subpart 58.10, of this chapter and section 4/5.21 of the ABS Rules. Additional requirements for prime movers for emergency generators are in part 112, subpart 112.50, of this chapter.

(b) Each generator prime mover must have an overspeed device that is independent of the normal operating governor and adjusted so that the speed cannot exceed the maximum rated speed by more than 15 percent.

(c) Each prime mover must shut down automatically upon loss of lubricating pressure to the generator bearings if the generator is directly coupled to the engine. If the generator is operating from a power take-off, such as a shaft driven generator on a main propulsion engine, the generator must automatically declutch (disconnect) from the prime mover upon loss of lubricating pressure to generator bearings.

41. Section 111.12–5 is revised to read as follows:

§ 111.12–5 Generator construction and testing.

Each generator must meet the applicable construction and test requirements of section 4/5 of the ABS Rules.

42. Section 111.12–7 is revised to read as follows:

§ 111.12–7 Voltage regulation and parallel operation.

Voltage regulation and parallel operation must meet sections 4/5.31 and 4/5.33 of the ABS Rules.

§ 111.12–11 [Amended]

43. In § 111.12–11, in the heading to paragraph (d), remove the words "inverse time" and add, in their place, the words "longtime overcurrent".

44. Section 111.15–1 is revised to read as follows:

§ 111.15–1 General.

Each battery must meet the requirements of this subpart.

45. Section 111.15–2 is revised to read as follows:

§ 111.15–2 Battery construction.

(a) A battery cell, when inclined at 40 degrees from the vertical, must not spill electrolyte.

(b) Each fully charged lead-acid battery must have a specific gravity that meets section 16 of IEEE Std 45 (clause 6).

(c) Batteries must not evolve hydrogen at a rate exceeding that of a similar size lead-acid battery under similar charging condition.

(d) Batteries must be constructed to take into account the environmental conditions of a marine installation, including temperature, vibration, and shock.

46. In § 111.15–3, the introductory text and paragraphs (a), (b), and (c) are redesignated as paragraphs (a) introductory text, (a)(1), (a)(2), and (a)(3) and paragraph (b) is added to read as follows:

§ 111.15–3 Battery categories.

* * * * *

(b) Batteries that generate less hydrogen under normal charging and discharging conditions that an equivalent category of lead-acid batteries (e.g., sealed batteries) may have their battery category reduced to an equivalent category of lead-acid batteries.

47. In § 111.15–5, paragraphs (a), (c), (e), (f), and (g) are revised to read as follows and paragraph (h) is removed:

§ 111.15–5 Battery installation.

(a) *Large batteries.* Each large battery installation must be in a room that is only for batteries or a box on deck. Installed electrical equipment must meet the hazardous location requirements in subpart 111.105 of this part.

* * * * *

(c) *Small batteries.* Small size battery installations must be located in well-ventilated spaces. They must not be located in closets, staterooms, or similar spaces, unless the batteries are sealed.

* * * * *

(e) *Nameplates.* Each battery must be provided with the name of its manufacturer, model number, type designation, cold cranking amp rating, amp-hour rating at a specific discharge and fully charged specific gravity value for a lead-acid battery. This information must be permanently fixed to the battery.

(f) *Lining in battery rooms and lockers.* (1) Each battery room and locker must have a watertight lining that is—

(i) On each shelf to a height of at least 76 mm (3 inches); or

(ii) On the deck to a height of at least 152 mm (6 inches).

(2) For lead-acid batteries, the lining must be 1.6 mm (1/16 inch) thick lead or other material that is corrosion-resistant to the electrolyte of the battery.

(3) For alkaline batteries, the lining must be 0.8 mm (1/32 inch) thick steel or other material that is corrosion-resistant to the electrolyte of the battery.

(g) *Lining of battery boxes.* Each battery box must have a watertight lining to a height of at least 76 mm (3 inches) that meets paragraphs (f)(2) and (f)(3) of this section.

48. In § 111.15–10, paragraph (g) is revised to read as follows:

§ 111.15–10 Ventilation.

* * * * *

(g) *Boxes for small battery installations.* Each box for a small battery installation must have openings near the top to allow escape of gas. If the installation is in a non-environmentally-controlled location, the installation must prevent the ingress of water.

49. Section 111.15–20 is revised to read as follows:

§ 111.15–20 Conductors.

(a) Each conductor penetration to a battery room must be made watertight.

(b) The termination of each cable must be sealed to prevent the entrance of electrolyte by spray or creepage.

(c) The current carrying capacity of a connecting cable must be sized to carry the maximum charging current or maximum discharge current, whichever is greater.

50. Section 111.15–30 is revised to read as follows:

§ 111.15–30 Battery chargers.

Each battery charger enclosure must meet § 111.01–9. Additionally, each battery charger must be suitable for the size and type of battery installation which it serves. Except for rectifiers, battery chargers with a voltage exceeding 20 percent of the line voltage must be provided with automatic protection against reversal of current.

51. Section 111.20–1 is revised to read as follows:

§ 111.20–1 General requirements.

Each transformer winding must be resistant to moisture, sea atmosphere, and oil vapor, unless special precautions are taken, such as enclosing the winding in an enclosure with a high degree of ingress protection.

52. Section 111.20–15 is revised to read as follows:

§ 111.20–15 Transformer overcurrent protection.

Each transformer must have protection against overcurrent that meets article 450 of the NEC or IEC Publication 92–303.

53. In § 111.25–5, paragraph (a) is revised to read as follows:

§ 111.25–5 Marking.

(a) Each motor must have a marking or nameplate which meets either section 430–7 of the NEC or IEC Publication 92–301 (clause 16).

* * * * *

54. Section 111.30–1 is revised to read as follows:

§ 111.30–1 Location and installation.

Each switchboard must meet the location and installation requirements of section 17.1 (clause 7.1) of IEEE Std 45.

55. Section 111.30–4 is revised to read as follows:

§ 111.30–4 Circuit breakers removable from the front.

Circuit breakers, when installed on generator or distribution switchboards, must be mounted or arranged in such a manner that the circuit breaker may be removed from the front without unbolting bus or cable connections or deenergizing the supply, unless the switchboard is divided into sections, such that each section is capable of providing power to maintain the vessel in a navigable condition, and meets § 111.30–24(a) and (b).

56. Section 111.30–5 is revised to read as follows:

§ 111.30–5 Cosntruction.

(a) All low voltage and medium voltage switchboards must meet the requirements of either—

(1) Section 17.2 or 17.3 (clause 7.2 or 7.3) of IEEE Std 45, respectively; or

(2) IEC Publication 92–302 (clause 6) (and IEC Publication 92–503; medium voltage).

(b) Each switchboard must be fitted with a dripshield unless the switchboard is a deck-to-overhead mounted type which can not be subjected to leaks or falling objects.

§§ 111.30–9, 111.30–11, and 111.30–13 [Removed]

57. Sections 111.30–9, 111.30–11, and 111.30–13 are removed.

58. Section 111.30–19 is revised to read as follows:

§ 111.30–19 Buses and wiring.

(a) *General.* Each bus must meet the requirements of either—

(1) Section 17.11 (clause 7.11) of IEEE Std 45; or

(2) IEC Publication 92–302 (clause 6).

(b) *Wiring.* Instrumentation and control wiring must be—

(1) Suitable for installation within in a switchboard enclosure and be rated at 90°C or higher;

(2) Stranded copper;

(3) No. 18 AWG (0.82 mm ^{2}) or larger or be ribbon cable or similar smaller conductor size cable recommended for use in low-power instrumentation, monitoring, or control circuits by the equipment manufacturer;

(4) Flame retardant meeting VW–1 or IEC 332–1;

(5) Extra flexible, if used on a hinged panel; and

(6) In compliance with § 111.60–11.

§§ 111.30–21 and 111.30–23 [Removed]

59. Sections 111.30–21 and 111.30–23 are removed.

60. In § 111.30–24, the introductory text is revised to read as follows:

§ 111.30–24 Generation systems greater than 3,000 kW.

Except on a non-self-propelled mobile offshore drilling unit (MODU), when the total installed electric power of the ship's service generation system is more than 3,000 kW, the switchboard must have the following:

* * * * *

61. In § 111.30–29, paragraphs (g), (h), and (i) are added to read as follows:

§ 111.30–29 Emergency switchboards.

* * * * *

(g) There must be a test switch at the emergency switchboard to simulate a failure of the normal power source and cause the emergency loads to be supplied from the emergency power source.

(h) The emergency switchboard must be as near as practicable to the emergency power source but not in the same space as a battery emergency power source.

(i) If the emergency power source is a generator, the emergency switchboard must be in the same space as the generator.

§ 111.30–31 [Removed]

62. Section 111.30–31 is removed.

63. In § 111.33–3, redesignate paragraphs (a) and (b) as paragraphs (b) and (c) and add a new paragraph (a) to read as follows:

§ 111.33–3 Nameplate data.

(a) Each semiconductor rectifier system must have a nameplate of durable material affixed to the unit which meets the requirements of—

(1) Section 45.11 (clause 34.11) of IEEE Std 45; or

(2) IEC Publication 92–304 (clause 8).

* * * * *

64. Section 111.33–5 is revised to read as follows:

§ 111.33–5 Installation.

Each semiconductor rectifier system must meet the installation requirements of—

(a) Sections 45.2, 45.7 and 45.8 (clauses 34.2, 34.7 and 34.8) of IEEE Std 45; or

(b) IEC Publication 92–304 as appropriate.

65. Section 111.33–11 is revised to read as follows:

§ 111.33–11 Propulsion systems.

Each power semiconductor rectifier system in a propulsion system must meet section 4/5.84 of the ABS Rules.

66. Section 111.35–1 is revised to read as follows:

§ 111.35–1 Electrical propulsion installations.

Each electric propulsion system installation must meet sections 4/5.79, 4/5.81, 4/5.83 and 4/5.84 of the ABS Rules.

§ 111.40–1 [Removed]

67. Section 111.40–1 is removed.

68. Section 111.40–5 is revised to read as follows:

§ 111.40–5 Enclosure.

(a) Each panelboard must have a noncombustible enclosure that meets § 111.01–7.

(b) Each panelboard must meet either of the following:

(1) Section 111.01–9(a), if installed in an interior location.

(2) Section 111.01–9(b), if installed in the weather.

69. Section 111.40–7 is revised to read as follows:

§ 111.40–7 Location.

Each panelboard must be accessible but not in a cargo hold, except a cargo hold on a roll-on/roll-off ship and not in a bunker.

70. Section 111.50–2 is added to read as follows:

§ 111.50–2 Systems integration.

The electrical characteristics of each overcurrent protective device must be compatible with other devices and its coordination must be considered in the design of the entire protective system.

Note to § 111.50–2: The electrical characteristics of overcurrent protective devices may differ between standards. The

interchangeability and compatibility of components complying with differing standards cannot be assumed.

71. In § 111.50–3, paragraph (c) is revised to read as follows; paragraph (d) is removed; paragraphs (e), (f), (g), and (h) are redesignated as paragraphs (d), (e), (f), and (g); and, at the end of redesignated paragraphs (e) and (g)(2), add the words "or in IEC Publication 92–202":

§ 111.50–3 Protection of conductors.

* * * * *

(c) *Fuses and circuit breakers.* If the allowable current carrying capacity of the conductor does not correspond to a standard fuse or circuit breaker rating which meets section 240–6 of the NEC or IEC Publication 92–202 and the next larger rating is used, it must be larger than 150 percent of the current carrying capacity of the conductor. The effect of heat on the operation of fuses and thermally controlled circuit breakers must be taken into consideration in the application of these devices if they are subjected to extremely low or extremely high temperatures.

* * * * *

72. In § 111.52–1, the introductory text is revised to read as follows:

§ 111.52–1 General.

The available short-circuit current must be computed—

* * * * *

73. Section 111.52–5 is revised to read as follows:

§ 111.52–5 Systems 1500 kilowatts or above.

Detailed short-circuit calculations must be submitted for systems with an aggregate generating capacity of 1500 kilowatts or more by utilizing one of the following methods:

(a) Exact calculations using actual impedance and reactance values of system components.

(b) Estimated calculations using the Naval Sea Systems Command Design Data Sheet DDS 300–2.

(c) Estimated calculations using the IEC Publication 363.

(d) The estimated calculations using a commercially established analysis procedure for utility or industrial applications.

74. Section 111.53–1 is revised to read as follows:

§ 111.53–1 General.

(a) Each fuse must—

(1) Meet the general provisions of article 240 of the NEC or IEC Publication 92–202 as appropriate;

(2) Have an interrupting rating sufficient to interrupt the asymmetrical RMS short circuit current at the point of application; and

(3) Be listed by an independent laboratory accepted by the Commandant under § 110.35–1 of this chapter.

(b) Renewable link cartridge-type fuses must not be used.

(c) Each fuse installation must provide for ready access to test fuse condition.

75. In § 111.54–1, paragraphs (a), (b), and (c) are revised to read as follows:

§ 111.54–1 Circuit breakers.

(a) Each circuit breaker must—

(1) Meet the general provision of article 240 of the NEC or IEC Publication 92–202, as appropriate;

(2) Meet subpart 111.55 of this part; and

(3) Have an interrupting rating sufficient to interrupt the maximum asymmetrical short-circuit current available at the point of application.

(b) Molded case circuit breakers must not be used in circuits having a nominal voltage of more than 600 volts (1,000 volts for circuits containing circuit breaks manufactured to IEC requirements). Each molded case circuit breaker must meet UL 489 and its marine supplement 489 SA or IEC Publication 947–2 Part 2, except as noted in paragraph (e) of this section.

(c) Circuit breakers, other than the molded case type, that are for use in one of the following systems must meet the following requirements:

(1) An alternating current system having a nominal voltage of 600 volts or less, or 1,000 volts for IEC standard circuit breakers must meet—

(i) ANSI/IEEE Std C37.13;

(ii) IEEE Std 538;

(iii) IEEE Std 331; or

(iv) IEC Publication 947–2, part 2.

(2) A direct current system of 3,000 volts or less must meet ANSI C37.14 or IEC Publication 947–2, part 2.

(3) An alternating current system having a nominal voltage greater than 600 volts, or greater than 1,000 volts for IEC standard circuit breakers must meet—

(i) ANSI C37.04 including all referenced supplements, IEEE Std 320 including all referenced supplements, and ANSI C37.12; or

(ii) IEC Publication 947–2, part 2.

* * * * *

§§ 111.55–5, 111.55–7, and 111.55–9 [Removed]

76. Sections 111.55–5, 111.55–7, and 111.55–9 are removed.

§ 111.57–1 (Subpart 111.5) [Removed

77. Subpart 111.57, consisting of § 111.57–1, is removed.

78. Section 111.59–1 is revised to read as follows:

§ 111.59–1 General.

Each busway must meet article 364 of the NEC.

79. Section 111.59–3 is revised to read as follows:

§ 111.59–3 No mechanical cooling.

A busway must not need mechanical cooling to operate within its rating.

80. Section 111.60–1 is revised to read as follows:

§ 111.60–1 Cable construction and testing.

(a) Each cable must meet the construction and identification requirements of IEEE Std 45, IEC Publication 92–3, MIL–C–915 (Amendment 2), MIL–C–24640 or MIL–C–24643 and the flammability tests contained therein and be of a copper stranded type.

(b) Each cable constructed to IEC Publication 92–3 must meet the flammability requirements of IEC Publication 332–3 Category A.

(c) Electric cable constructed in accordance with Military Specification MIL–C–915 (amendment 2) must—

(1) Pass the flammability test contained in IEEE Std 45, IEEE Std 1202 as modified by IEEE Std 45, or IEC Publication 332–3, Category A; and

(2) Be sized to ensure the maximum current for any conductor does not exceed the current carrying capacities specified in NAVSEA MIL–HDBK–299(SH).

(d) Electric cable that has a polyvinyl chloride insulation with a nylon jacket (Type T/N) must meet the requirements for polyvinyl chloride insulated cable in section 18 (clause 8) of IEEE Std 45, except—

(1) The thickness of the polyvinyl chloride insulation must meet UL 83 for type THWN wire;

(2) Each conductor must have a nylon jacket;

(3) The thickness of the nylon jacket must meet UL 83 for type THWN wire;

(4) The material of the nylon jacket must meet ASTM D789 Type VIII;

(5) The cable must have identification provided by a durable printing or embossing on the cable jacket, or a marker under the cable jacket that, at intervals not exceeding 610 mm (24 inches), gives the information required by section 18.8 (clause 8.8) of IEEE Std 45; and

(6)Type T (T/N) insulations are limited to a 75°C maximum conductor temperature rating.

(e) Each cable regardless of construction must meet, as a minimum, the physical testing requirements of section 18 (clause 8) of IEEE Std 45.

(f) Medium voltage electric cable must meet the requirements of IEEE Std 45 and UL 1072 where applicable for cables rated above 5,000 volts.

(g) Direct current electric cable for industrial applications only must be constructed and labeled in accordance with IADC DCCS–1.

81. Section 111.60–2 is added to read as follows:

§ 111.60–2 Specialty cable for communication and RF applications.

Specialty cables that cannot pass the flammability test contained in IEEE Std 45, IEEE Std 1202 as modified by IEEE Std 45, VW–1 or IEC Publication 332–3, Category A due to unique construction properties, such as certain coaxial cable's must—

(a) Be installed physically separate from all other cable; and

(b) Have fire stops installed—

(1) At least every 7 meters (21.5 feet) vertically, up to a maximum of 2 deck heights;

(2) At least every 15 meters (46 feet) horizontally;

(3) At each penetration of an A or B Class boundary;

(4) At each location where the cable enters equipment; or

(5) Be installed in a cableway that has an A–60 fire rating.

82. Section 111.60–3 is revised to read as follows:

§ 111.60–3 Cable application.

(a) Cable constructed in accordance IEEE Std 45 must meet the cable application section 19 (clause 9) of IEEE Std 45. Cable constructed in accordance with IEC Publication 92–3 must meet the requirements of section 19 (clause 9) of IEEE Std 45 except 19.6.1, 19.6.4, and 19.8 (9.6.1, 9.6.4, and 9.8). Cable constructed in accordance with IEC Publication 92–3 must comply with the ampacity values of IEC Publication 352, Table 1.

(b) Type T/N cables must meet section 19 (clause 9) of IEEE Std 45 for Type T insulation.

(c) Cables constructed in accordance with IEEE Std 45 must be derated in accordance with Table A6, Note 6 of IEEE Std 45. Cables constructed in accordance with IEC Publication 92–3 must be derated in accordance with IEC Publication 352, paragraph 8. MIL–C–914 cable must be rated in accordance with MIL–HDBK–299(SH).

83. Section 111.60–4 is revised to read as follows:

§ 111.60–4 Minimum cable conductor size.

Each cable conductor must be #18 AWG (0.82 mm ^{2}) or larger except—

(a) Each power and lighting cable conductor must be#14 AWG (2.08 mm^2) or larger; and

(b) Each thermocouple, pyrometer, or instrumentation cable conductor must be #22 AWG (0.33 ^{2}) or larger.

84. In § 111.60–5, paragraph (a) is revised; paragraph (b) is redesignated as paragraph (c); and a new paragraph (b) is added to read as follows:

§ 111.60–5 Cable installation.

(a) Each cable installation must meet—

(1) Sections 20 and 22, (clauses 10 and 12), except 20.11 (clause 12.11), of IEEE Std 45; or

(2) IEC Publication 92–3 and paragraph 8 of IEC Publication 92–352.

(b) Each cable installation made in accordance with paragraph 8 of IEC Publication 92–352 must utilize the conductor ampacity values of Table I of IEC Publication 92–352.

* * * * *

85. Section 111.60–6 added to read as follows:

§ 111.60–6 Fiber optic cable.

Each fiber optic cable must—

(a) Be constructed to pass the flammability test contained in IEEE Std 45, IEEE Std 1202 as modified by IEEE Std 45, VW–1, or IEC Publication 332–3 Category A; or

(b) Be installed in accordance with § 111.60–2.

86. Section 111.60–11 is revised to read as follows:

§ 111.60–11 Wire.

(a) Wire must be in an enclosure.

(b) Wire must be component insulated.

(c) Wire, other than in switchboards, must meet the requirements in sections 19.6.4 and 19.8 (clauses 9.6.4 and 9.8) of IEEE Std 45.

(d) Switchboard wire must meet subpart 111.30 of this part.

(e) Wire must be of the copper stranded type.

87. In § 111.60–13, paragraph (a) is revised to read as follows:

§ 111.60–13 Flexible electric cord and cables.

(a) *Construction and testing.* Each flexible cord and cable must meet the requirements in section 19.6.1 (clause 9.6.1) of IEEE Std 45, NEMA WC 3 and NEMA WC 8.

* * * * *

88. Section 111.60–17 is revised to read as follows:

§ 111.60–17 Connections and terminations.

(a) In general, connections and terminations to all conductors must retain the original electrical, mechanical, flame-retarding, and where necessary, fire-resisting properties of the cable.

(b) With the exception of the thread-cutting type of connectors, twist-on type of connectors—

(1) May not be used for making joints in cables, facilitating a conductor splice or extending the length of a circuit; and

(2) Must be suitable for copper stranded conductors.

(c) If twist-on type of connectors are used, the connections must be made within an enclosure and secured to prevent loosening due to vibration.

89. Section 111.60–19 is revised to read as follows:

§ 111.60–19 Cable splices.

(a) A cable must not be spliced in a hazardous location except in intrinsically safe systems.

(b) Each cable splice must be made in accordance with section 20.11 (clause 10.11) of IEEE Std 45.

90. In § 111.60–21, the last sentence is revised to read as follows:

§ 111.60–21 Cable insulation tests.

* * *. The insulation resistance must not be less than that in paragraph 46.2.1 (36.2.1) of IEEE Std 45.

91. Section 111.60–23 is added to read as follows:

§ 111.60–23 Type MC cable.

(a) Type MC cables are allowed in—

(1) All applications aboard vessels, Mobile Offshore Drilling Units (MODUs), Tension Leg Platforms (TLPs) or any other type of Floating Production Systems (FPSs), not exposed to vibration of a destructive nature, festooning, or repeated flexing (typically these applications are associated with all interconnect circuits serving, but not limited to, the drilling portion of the platform, e.g., drill floor, draw works, shaker areas, and pits, etc.); interface installations on MODUs, TLPs or FPSs physically located within the modules, such as generator to switchboard or within living quarters;

(2) Class I, or Zone 0 and 1, hazardous (classified) locations provided cable glands for use with Type MC cable are specifically listed/certified by an US Coast Guard accepted independent testing laboratory as an assembly (consisting of the enclosure, cable gland and cable) for use in the installed Class I, or Zone 0 and 1, hazardous (classified) locations; and

(3) Class II and Zone 2 hazardous (classified) locations provided the associated fittings meet the criteria of the NEC.

(b) The installation of Type MC must—

(1) Follow the sizing and installation criteria of the NEC, and if used in Class I, Class II and Zone 0, 1, and 2 hazardous (classified) locations, follow the applicable installation criteria of the NEC; and

(2) Not allow the metal sheath to be used as the grounding conductor required by § 111.05–7 of this chapter. The system grounding conductors must be of a cross sectional area not less than that of the normal current carrying conductors in the cable. Equipment grounding conductors must be sized in accordance with § 111.05–33(a).

92. In § 111.70–1, paragraphs (a) and (b) are revised to read as follows:

§ 111.70–1 General.

(a) Each motor circuit, controller, and protection must meet the requirements of the ABS Rules, Part 4/5.87–94 through 4/5.94, or IEC Publication 92–301, except the following circuits:

(1) Each steering gear motor circuit and protection must meet subpart 58.25 of this chapter.

(2) Each propulsion motor circuit and protection must meet subpart 111.35 of this part.

(b) In ungrounded three-phase alternating current systems, only two motor-running protective devices need be utilized in any two ungrounded conductors, except when a wye-delta or a delta-wye transformer is utilized.

* * * * *

93. Section 111.70–3 is revised to read as follows:

§ 111.70–3 Motor controllers and motor control centers.

(a) *General.* The enclosure for each motor controller or motor control center must meet the requirements of the NEMA Standard 30 or Table 5 of IEC Publication 92–201, as appropriate, for the location where it is installed, except each enclosure in a hazardous location must meet the requirements of subpart 111.105 of this part.

(b) *Low-voltage release.* Each motor controller for a fire pump, elevator, steering gear, or auxiliary which is vital to the vessel's propulsion system, except a motor controller for a vital propulsion auxiliary which can be restarted from a central control station, must have low-voltage release if automatic restart after a voltage failure or its resumption to operation is not hazardous. If automatic restart is hazardous, the motor controller must have low-voltage protection. Motor controllers for other motors must not have low-voltage release unless the starting current and the short-time sustained current of the additional low-voltage release load is within the capacity of one ship's service generator. Automatic sequential starting of low-voltage release controllers is acceptable to meet this paragraph.

(c) *Low-voltage protection.* Each motor controller must have low-voltage protection, except for the following motor controllers:

(1) A motor controller that has low-voltage release under paragraph (b) of this section.

(2) A motor controller for a motor of less than 2 horsepower (1.5 kw).

(d) *Identification of controllers.* (1) Each controller and motor control center must be marked externally with the following information:

(i) Manufacturer's name or identification.

(ii) Voltage.

(iii) Number of phases.

(iv) Current.

(v) kW (Horsepower).

(vi) Identification of motor being controlled.

(vii) Current rating of trip setting.

(2) Each controller must be provided with heat durable and permanent elementary wiring/schematic diagram of the controller located on the door interior.

94. In § 111.70–5, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 111.70–5 Heater circuits.

(a) If an enclosure for a motor, master switch, or other equipment has an electric heater inside that enclosure which is energized from a separate circuit, the heater circuit must be disconnected from its source of potential by a disconnect device independent of the enclosure containing the heater. The heater disconnecting device must be adjacent to the equipment disconnecting device; a fixed sign, warning the operator to open both devices, must be on the enclosure of the equipment disconnect device, except as in paragraph (b) of this section.

* * * * *

(c) Electric heaters installed within motor controllers and energized from a separate circuit shall be disconnected in the same manner as required by paragraph (a) of this section or as required by § 111.70–7(d).

95. In § 111.70–7, paragraphs (d) introductory text and (d)(2) are revised to read as follows:

§ 111.70–7 Remote control, interlock, and indicator circuits.

* * * * *

(d) *Switching.* In the design of a control, interlock, or indicator circuit, all practicable steps must be taken to eliminate all but one source of power in an enclosure. If the control functions make it impracticable to energize a control interlock or indicator circuit from the load side of a motor and controller disconnect device and the voltage of the control, interlock, or indicator circuit is more than 24 volts, there must be one of the following alternative methods of switching:

* * * * *

(2) Each conductor of a control, interlock, or indicator circuit must be disconnected from all sources of power by a disconnect device actuated by the opening of the controller door, or the power must first be disconnected to allow opening of the door. THe disconnect device and its connections, including each terminal block for terminating the vessel's wiring, must not have any electrically uninsulated or unshielded surface. When this type of disconnect device is used for vital auxiliary circuits, a nameplate shall be affixed to the vital auxiliary motor controller door which warns that opening of the door will trip a vital auxiliary off-line.

96. In § 111.75–1, paragraph (a) is revised to read as follows and paragraph (c) is removed:

§ 111.75–1 Lighting feeders.

(a) *Passenger vessels.* On a passenger vessel with fire bulkheads forming main vertical and horizontal fire zones, the lighting distribution system, including low location egress lighting where installed, must be arranged so that, to the maximum extent possible, a fire in any main vertical and horizontal fire zone does not interfere with the lighting in any other fire zone. This requirement is met if main and emergency feeders passing through any zone are separated both vertically and horizontally as widely as practicable.

* * * * *

97. In § 111.75–5, paragraphs (b) and (g) are removed; paragraphs (c) through (f) are redesignated as paragraphs (b) through (e); and newly redesignated paragraphs (b) and (d) are revised to read as follows:

§ 111.75–5 Lighting branch circuits.

* * * * *

(b) *Connected load.* The connected load on a lighting branch circuit must not be more than 80 percent of the rating of the overcurrent protective device, computed on the basis of the lamp sizes.

* * * * *

(d) *Overcurrent protection.* Each lighting branch circuit must be protected by an overcurrent device rated at 20 amperes or less, except as allowed under paragraph (e) of this section.

* * * * *

§ 111.75–15 [Amended]

98. In § 111.75–15, paragraph (c) is revised to read as follows:

* * * * *

(c) *Illumination of passenger and crew spaces.* Each space used by passengers or crew must be fitted with lighting which provides for a safe habitable and working environment under normal conditions. Sufficient illumination must be provided by the emergency lighting source under emergency conditions in order to effect damage control procedures and to provide for safe egress from each space.

* * * * *

99. In § 111.75–16, the introductory text is revised and paragraph (c) is added to read as follows:

§ 111.75–16 Survival craft floodlights.

Each vessel must have floodlights for illumination of survival craft launching that meet the following requirements:

* * * * *

(c) The arrangement of circuits must be such that the floodlights at adjacent survival craft locations are supplied by different branch circuits.

100. In § 111.75–17, paragraphs (d) introductory text, (d)(1), (d)(2), and (d)(3) are revised to read as follows and paragraph (f) is removed:

§ 111.75–17 Navigation Lights.

* * * * *

(d) *Navigation lights.* Each navigation light must meet the following:

(1) Meet the technical details of the applicable navigation rules.

(2) Be certified by an independent laboratory to the requirements of UL 1104.

(3) Be labeled with a label stating the following:

(i) "MEETS UL 1104. TESTED BY _____" (Insert the name of the independent laboratory, accepted by the Commandant, which tested the fixture to UL 1104);

(ii) Manufacturers name; and

(iii) Model number.

* * * * *

101. Section 111.75–18 is revised to read as follows:

§ 111.75–18 Signaling lights.

Each self-propelled vessel over 150 gross tons which engaged on an international voyage must have onboard an efficient daylight signaling lamp which may not be solely dependent upon the ship's main source of electrical power and meets the following:

(a) The axial luminous intensity of the beam must be at least 60,000 candelas.

(b) The luminous intensity of the beam in every direction within an angle of 0.7 degrees from the axial must be at least 50 percent of the axial luminous intensity.

102. In § 111.75–20, paragraph (a) is revised and paragraph (e) is added to read as follows:

§ 111.75–20 Lighting fixtures.

(a) The construction of each lighting fixture must be certified to meet UL 595 or IEC Publication 92–306.

* * * * *

(e) Non-emergency and decorative interior lighting fixtures in environmentally protected, non-hazardous locations require only manufacturers' self-certification to the applicable UL type-fixture standard (UL 1570–1574) in addition to the general requirements of its marine supplement, or UL 595, (whichever is in effect at the time of manufacture). Such fixtures must have vibration clamps on fluorescent tubes longer than 102 cm (40 inches), secure mounting of glassware, and rigid mounting ("Listing" is not required).

103. Section 111.77–3 is revised to read as follows:

§ 111.77–3 Appliances.

All electrical appliances including, but not limited to, cooking equipment, dishwashers, refrigerators, and refrigerated drinking water coolers must meet internationally recognized construction and safety standards. Also, this equipment must be suitably installed for the location and service intended.

§§ 111.77–5, 111.77–7, 111.77–9, and 111.77–11 [Removed]

104. Sections 111.77–5, 111.77–7, 111.77–9 and 111.77–11 are removed.

105. Section 111.79–1 is revised to read as follows:

§ 111.79–1 Receptacle outlets; general.

(a) There must be a sufficient number of receptacle outlets in the crew accommodations for an adequate level of habitability.

(b) There must be a sufficient number of receptacle outlets throughout the machinery space so that any location can be reached by a portable power cord having a length not greater than 15 meters (50 feet).

(c) Each receptacle outlet must be compatible with the voltage and current of the circuit in which it is installed.

(d) Each receptacle outlet must be suitable for the environment in which it is installed and constructed to the appropriate NEMA or IEC protection standard. Special attention must be given to outlets in hazardous locations. Receptacles must be suitably protected against corrosion when installed in corrosive environments.

§ 111.79–5 [Removed]

106. Section 111.79–5 is removed.

107. Section 111.79–7 is revised to read as follows:

§ 111.79–7 · No live parts.

A receptacle outlet must not have any exposed live parts with the plug opening uncovered.

108. Section 111.79–13 is revised to read as follows:

§ 111.79–13 Different voltages and power types.

If receptacle outlets on a vessel are supplied by different voltages (e.g., 110 volts and 220 volts) or by different types of power (e.g., AC and DC), each receptacle outlet must preclude the plugging of a portable device into a receptacle outlet of an incompatible voltage or type of power.

109. In § 111.81–1, paragraph (d) is added to read as follows:

§ 111.81–1 Outlet boxes and junction boxes; general.

* * * * *

(d) Each outlet box and junction box installation must meet section 370 of the NEC or IEC Series 92 Publications (e.g., IEC Publication 92–306) as appropriate.

§ 111.81–5 [Removed]

110. Section 111.81–5 is removed.

111. Section 111.81–7 is revised to read as follows:

§ 111.81–7 Degree of protection.

(a) Each enclosure or junction box must be suitable for the environment in which it is installed and must be constructed to the appropriate NEMA or IEC construction standard.

(b) Each enclosure or junction box installed in a corrosive environment must be suitably protected against damage by the environment.

112. Section 111.81–9 is revised to read as follows:

§ 111.81–9 Mounting.

(a) Each outlet or junction box must be fixed.

(b) Each outlet or junction box must be installed as to maintain its designated degree of protection, as appropriate.

§§ 111.81–11, 111.81–13, and 111.83–3 [Removed]

113. Sections 111.81–11, 111.81–13 and 111.83–3 are removed.

114. In § 111.85–1, introductory text and paragraphs (a), (b), and (c) are redesignated as paragraphs (a), (a)(1), (a)(2), and (a)(3); new paragraphs (a)(4) and (b) are added to read as follows; and paragraph (d) is removed:

§ 111.85–1 Electric oil immersion heaters.

* * * * *

(a) * * *

(4) Either—

(i) A low-fluid-level device that opens all conductors to the heater if the operating level drops below the manufacturer's recommended minimum safe level; or

(ii) A flow device that opens all conductors to the heater if there is inadequate flow.

(b) If a heater is designed so that it could never reach the ignition temperature of the oil or vapor which it serves, it need not meet the requirements of paragraph (a) of this section.

115. In § 111.87–3, paragraph (a) revised to read as follows:

§ 111.87–3 General requirements.

(a) Each electric heater must be tested to a recognized national or international safety standard by an independent laboratory.

* * * * *

§ 111.89 (Subpart 111.89) [Removed]

116. Subpart 111.89, consisting of § 111.89–1, is removed.

§ 111.91–1 [Amended]

117. In § 111.91–1 and the section heading, add the word "power," before the word "control".

§ 111.91–3 [Removed]

118. Section 111.91–3 is removed.

119. Section 111.95–3 is revised to read as follows:

§ 111.95–3 General requirements.

(a) Each electrical component (e.g. enclosure, motor controller, or motor) must be constructed to the appropriate NEMA or IEC degree of protection requirement for the service and environment in which it is installed.

(b) Each main line emergency disconnect switch, if accessible to an unauthorized person, must have a means to lock the switch in the open-circuit position with a padlock or its equivalent. The switch must not lock in the closed-circuit position.

§ 111.95–5 [Removed]

120. Section 111.95–5 is removed.

§ 111.95–7 [Amended]

121. In § 111.95–7, the Note and Figures 111.95–7(e)(1) through 111.95(e)(5) are removed.

§ 111.97–5 [Amended]

122. In § 111.97–5, in paragraph (c), remove the word "twice" and add, in its place, the word "once" and remove the word "three" and add, in its place, the word "two".

§ 111.97–5 Electric and hydraulic power supply.

* * * * *

(c) The power supply for each hydraulically-operated watertight door system which uses a hydraulic system common to more than one watertight door must be an accumulator tank with enough capacity to open all doors once and to close all doors two times and must be supplied by one or more motor-driven hydraulic pumps which can operate from the final source of the emergency lighting and power system.

* * * * *

Subpart 111.99 [Amended]

123. In subpart 111.99, in the subpart heading, remove the word "Firescreen" and add, in its place, the word "Fire".

§ 111.99–1 [Amended]

124. In § 111.99–1, remove the words "firescreen doors on passenger vessels" and add, in their place, the words "fire doors".

125. Section 111.99–3 is revised to read as follows:

§ 111.99–3 Definitions.

As used in this subpart—

Central control station means a manually-operated device on the navigating bridge or in the fire control room for releasing one or more fire doors;

Fire door means a door that is in a fire boundary, such as a stairway enclosure or main vertical zone bulkhead, that is not usually kept closed.

Fire door holding magnet means an electromagnet for holding a fire door open.

Local control station means a manually-operated device next to a fire door for releasing the door so that the fire door self-closing mechanism may close the door.

126. In § 111.99–5, remove the word "firescreen" wherever it appears and add, in its place, the word "fire" and revise paragraphs (a), (b), (d), and (e) to read as follows:

§ 111.99–5 General.

(a) Each fire door holding and release system must have a central control station and the following for each fire door:

(1) One or more fire door holding magnets.

(2) A self-aligning armature plate on the door to be seized and held by the magnet(s) when the fire door is fully open.

(3) A local control station.

(b) Each fire door holding circuit must be arranged so that loss of power for any cause releases the door, except that a momentary interruption of the circuit that results from the operation of an automatic bus-transfer device in connection with the emergency power and lighting system must not release the door.

* * * * *

(d) The local control station must be an enclosed, externally-operable, overcurrent-protected switching device having a rating of not less than 125 percent of rated system current and voltage, and may be either the momentary contact type or the maintaining contact type. The holding magnet(s) for a single fire door must be connected to the overcurrent-protected end of this local control except that, if several doors are near each other, a single local control station switch of ample rating may be used to release these doors simultaneously.

(e) Each fire door's holding magnet(s) must be designed to hold with an aggregate pull of 90 kg (200 pounds). If the arrangement of the electrical supply involves transfer relays to transfer the supply from a normal to a temporary source, the fire door holding magnet(s) must be designed so that, with a pull on the armature of 50 kg (110 pounds), the armature is held in the sealed position for at least one-fourth of a second after the circuit to the magnet is opened. Each fire door holding magnet must be designed for continuous duty in an ambient temperature of 40°C with a total temperature rise that does not exceed the insulation rating. The electromagnet coil must be vacuum-pressure impregnated and the magnet enclosure must meet the NEMA or IEC requirements for the environment in which it is installed.

* * * * *

127. Section 111.105–1 and its note are revised to read as follows:

§ 111.105–1 Applicability.

This subpart applies to installations in hazardous locations as defined in the NEC, and in the IEC Publication 79–0.

Note to § 111.105–1: Chemicals and materials in addition to those listed in Table 500–2 of the NEC and IEC Publication 79–12 are listed in subchapter O of this chapter.

128. Section 111.105–3 is added to read as follows:

§ 111.105–3 General requirements.

All electrical installations in hazardous locations must comply with the general requirements of section 43 (clause 33) of IEEE Std 45 and either NEC articles 500–505 or IEC series 79 publications. When installations are made in accordance with the NEC articles, marine shipboard cable that complies with subpart 111.60 of this part may be used instead of rigid metal conduit, if installed fittings are approved for the specific hazardous location and the cable type.

129. Section 111.105–5 is revised to read as follows:

§ 111.105–5 System integrity.

In order to maintain system integrity, electrical installations in a hazardous location must comply specifically with NEC articles 500–505, as amended by § 111.105–3, or the IEC series 79 publications, but not a combination of both. Non-approved equipment or hazardous equipment not approved for the specific system installed is also prohibited.

130. Section 111.105–7 is revised to read as follows:

§ 111.105–7 Approved equipment.

If the NEC states that an item of electrical equipment must be approved or if IEC Publication 79–0 states that an item of electrical equipment must be tested in order to comply with the IEC 79 series publications, that item must be—

(a) Listed or certified by an independent laboratory recognized by the Commandant for use in the hazardous location in which it is installed; or

(b) Purged and pressurized equipment which meets NFPA No. 496 or IEC Publication 79–2.

131. Section 111.105–9 is revised to read as follows:

§ 111.105–9 Explosionproof and flameproof equipment.

Each item of electric equipment that is required under this subpart to be explosionproof is defined by the NEC as tested to meet UL 1203. Each item of electrical equipment that is required under this subpart to be flameproof is defined as tested to comply with IEC Publication 79–1. Each explosionproof or flameproof device must meet the requirements of § 111.105–7(a).

§ 111.105–10 [Removed]

132. Section 111.105–10 is removed.

133. Section 111.105–11 is revised to read as follows:

§ 111.105–11 Intrinsically safe systems.

(a) Each system required under this subpart to be intrinsically safe is defined as meeting UL 913 or IEC Publication 79–11. Each intrinsically safe system must also meet § 111.105–7(a) for use in the hazardous location in which it is installed.

(b) Each electric cable of an intrinsically safe system must—

(1) Be 50 mm (2 inches) or more from cable of non-intrinsically safe circuits;

(2) Be partitioned by a grounded metal barrier from other non-intrinsically safe electric cables, or be a shielded cable;

(3) Not contain conductors for non-intrinsically safe systems; and

(4) Not contain conductors for other intrinsically safe circuits unless specifically approved for that arrangement.

(c) The manufacturer must submit installation instructions and restrictions on the approved system. Typical restrictions include—

(1) Voltage limitations;

(2) Allowable cable parameters;

(3) Maximum length of cable permitted; and

(4) Ability of system to accept passive devices.

(d) Intrinsically safe systems must not be interconnected unless the systems were approved for the particular combined arrangement.

(e) Each intrinsically safe system must meet ISA RP 12.6, "Installation of Intrinsically Safe Instruments in Class I Hazardous Locations," except Appendix A.1.

134. Section 111.105–15 is revised to read as follows:

§ 111.105–15 Additional methods of protection.

(a) Each item of electrical equipment that is—

(1) A sand-filled apparatus must meet IEC Publication 79–5;

(2) An oil-immersed apparatus must meet IEC Publication 79–6;

(3) Type of protection "e" must meet IEC Publication 79–7;

(4) Type of protection "n" must meet IEC Publication 79–15; and

(5) Type of protection "m" must meet IEC Publication 79–18.

(b) When suitable for installation in certain hazardous locations, each item of electrical equipment identified in paragraph (a) of this section must also comply with—

(1) Section 111.105–7;

(2) Section 111.105–17; and

(3) The general guidance provided by IEC 79 series publications.

135. Section 111.105–17 is revised to read as follows:

§ 111.105–17 Wiring methods for hazardous locations.

(a) Marine shipboard cable meeting subpart 111.60 of this part is required for all location installations, except where MI or SI type or other specialty cable or wire is required by this subpart.

(b) Where conduit is installed, the applicable requirements of either the NEC or IEC Publication 79 must be followed.

(c) Each cable entrance into explosionproof or flameproof equipment must be made with a fitting, termination, or gland which meets the requirements of § 111.105–9.

(d) Each cable entrance into a Class II or Class III or Zone 10 or Zone 11 equipment must be made with a fitting, termination, or gland approved for the installation.

136. Section 111.105–19 is revised to read as follows:

§ 111.105–19 Switches.

A switch that is explosionproof or flameproof, or that controls any explosionproof or flameproof equipment, under § 111.105–9 must have a pole for each ungrounded conductor.

137. Section 111.105–21 is revised to read as follows:

§ 111.105–21 Ventilation.

A ventilation duct which ventilates a hazardous location has the classification of that location. Each fan for ventilation of a hazardous location must be nonsparking.

§§ 111.105–23 and 111.105–25 [Removed]

138. Sections 111.105–23 and 111.105–25 are removed.

139. In § 111.105–29, the introductory text and paragraphs (a) and (b) are redesignated as paragraphs (a), (a)(1), and (a)(2); and paragraphs (b) and (c) are added to read as follows:

§ 111.105–29 Combustible liquid cargo carriers.

* * * * *

(b) If a submerged cargo pump motor is in a cargo tank, it must meet the requirements of § 111.105–31(d).

(c) Where the cargo is heated to within 15° C of its flashpoint, the cargo pumproom must meet the requirements of § 111.105–31(f) and the weather locations must meet § 111.105–31(1).

140. In § 111.105–31, paragraphs (e) and (l) introductory text are revised and paragraphs (l)(3) and (l)(4) are added to read as follows:

§ 111.105–31 Flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F), liquid sulfur and inorganic acid carriers.

* * * * *

(e) *Cargo tanks.* A cargo tank is a Class I, Division 1 (IEC Zone 0) location which has additional electrical

equipment restrictions outlined in IEEE Std 45, Appendix B. Cargo tanks must not contain any electrical equipment except the following:

(1) Intrinsically safe equipment; and

(2) Submerged cargo pumps and their associated cable.

* * * * *

(l) *Weather locations.* The following locations in the weather are Class I, Division 1 (Zone 1) locations (except the open deck area on an inorganic acid carrier which is considered a non-hazardous location) and may have only explosionproof electrical equipment, purged and pressurized equipment, and through runs of armored or MI type cable if the location is—

* * * *

(3) Within 5 meters (16 ft) of cargo pressure/vacuum valves with an unlimited height; or

(4) Within 10 meters (33 ft) of vent outlets for free flow of vapor mixtures and high velocity vent outlets for the passage of large amounts of vapor, air or inert gas mixtures during cargo loading and ballasting or during discharging.

* * * * *

141. In § 111.105–32, the section heading and paragraph (e) are revised to read as follows:

§ 111.105–32 Bulk liquefied flammable gas and ammonia carriers.

* * * * *

(e) A submerged cargo pump motor, if installed in a cargo tank, must meet § 111.105–31(d).

* * * * *

142. Section 111.105–35 is revised to read as follows:

§ 111.105–35 Vessels carrying coal.

(a) The following are Class II, Division 1 locations on a vessel that carries coal:

(1) The interior of each coal bin and hold.

(2) Each compartment that has a coal transfer point where coal is transferred, dropped, or dumped.

(3) Each open area within 3 meters (10 ft) of a coal transfer point where coal is dropped or dumped.

(b) Each space that has a coal conveyer on a vessel that carries coal is a Class II, Division 2 space.

(c) A space that has a coal conveyer on a vessel that carries coal must have electrical equipment approved for Class II, Division 2 hazardous locations, except watertight general alarm bells.

§ 111.105–37 [Amended]

143. In § 111.105–37, remove the words "NFPA No. 56A" and add, in their place, the words "NFPA No. 99".

144. Section 111.105–39 is revised to read as follows:

§ 111.105–39 Additional requirements for vessels carrying vehicles with fuel in their tanks.

Each vessel which carries vehicles with fuel in their tanks must meet the requirements of ABS Rule 4/5.157, except as follows:

(a) If the ventilation requirement of ABS Rule 4/5.157 is not met, all installed electrical equipment must be suitable for a Class I, Division 1; Zone 0; or Zone 1 hazardous location.

(b) If the vessel is fitted with an approved fixed gas detection system set at 25 percent the LEL, each item of the installed electrical equipment must meet the requirements for a Class I, Division 1; Class I, Division 2; Zone 0; Zone 1; or Zone 2 hazardous location.

Note to § 111.105–39: The term "explosionproof" is internationally recognized as meaning electrical equipment certified suitable for a Class I, Division 1; Zone 0; or Zone 1 hazardous location.

145. Section 111.105–40 is added to read as follows:

§ 111.105–40 Additional requirements for RO/RO vessels.

(a) Each RO/RO vessel must meet ABS Rule 4/5.160.

(b) Each item of installed electrical equipment must meet the requirements for a Class I, Division 1; Class I, Division 2; Zone 0; Zone 1; or Zone 2 hazardous location when installed 450 mm (18 inches) or more above the deck. Electrical equipment installed within 450 mm (18 inches) of the deck must be suitable for either a Class I, Division 1; Zone 0; or Zone 1 hazardous location.

(c) Where the ventilation requirement as ABS Rule 4/5.160 is not met—

(1) All installed electrical equipment must be suitable for a Class I, Division 1; Zone 0; or Zone 1 hazardous location; or

(2) If fitted with an approved fixed gas detection system (set at 25 percent of the LEL), each item of installed electrical equipment must meet the requirements for either a Class I, Division 1; Class I, Division 2; Zone 0; Zone 1; or Zone 2 hazardous location.

146. Section 111.105–41 is revised to read as follows:

§ 111.105–41 Battery rooms.

Each electrical installation in a battery room must meet subpart 111.15 of this part and section 43.11 (clause 33.11) of IEEE Std 45.

147. Section 111.105–45 is added to read as follows:

§ 111.105–45 Vessels carrying agricultural products.

(a) The following areas are Class II, Division 1, locations on vessels carrying bulk agricultural products that may produce dust explosion hazards:

(1) The interior of each cargo hold or bin.

(2) Areas where cargo is transferred, dropped, or dumped and locations within 1 meter (3 feet) of the outer edge of these areas in all directions.

(b) The following areas are Class II, Division 2, locations on vessels carrying bulk agricultural products that may produce dust explosion hazards:

(1) All areas within 2 meters (6.5 feet) of a Division 1 location in all directions except when there is an intervening barrier such as a bulkhead or deck.

Note to § 111.105–45: Information on the dust explosion hazards associated with the carriage of agricultural products is contained in Coast Guard Navigation and Vessel Inspection Circular 9–84 (NVIC 9–84) "Electrical Installations in Agricultural Dust Locations."

148. Section 111.105–47 is added to read as follows:

§ 111.105–47 Duct keel ventilation or lighting.

(a) Each pipe tunnel, double bottom or duct keel ventilation and lighting system must meet ABS Rule 4/5.151.7.

(b) If a fixed gas detection system is installed, it must meet the requirements of SOLAS 74 and ABS Rules section 4/5.

149. Section 111.107–1 is revised to read as follows:

§ 111.107–1 Industrial systems.

(a) For the purpose of this subpart, an industrial system is a system that—

(1) Is not a ship's service load, as defined in § 111.10–1;

(2) Is used only for the industrial function of the vessel;

(3) Is not connected to the emergency power source; and

(4) Does not have specific requirements addressed elsewhere in this subchapter.

(b) An industrial system that meets the applicable requirements of the NEC must meet only the following:

(1) The switchgear standards in part 110, subpart 110.10, of this chapter.

(2) Part 110, subpart 110.25, of this chapter—Plan Submittal.

(3) Subpart 111.01 of this part—General.

(4) Subpart 111.05 of this part—Equipment Ground, Ground Detection, and Grounded Systems.

(5) Sections 111.12–1(b) and 111.12–1(c)—Prime movers.

(6) Subpart 111.105 of this part—Hazardous Locations.

(c) Cables that penetrate a watertight or fire boundary deck or bulkhead must meet the following:

(1) Be installed in accordance with § 111.60–5.

(2) Meet the flammability test requirements of—

(i) Section 18.13.5 (clause 8.13.5) of IEEE Std 45 and IEEE Std 383; or

(ii) IEC Publication 332–3, Category A.

(3) Be specialty cable installed in accordance with § 111.60–2.

PART 112—EMERGENCY LIGHTING AND POWER SYSTEMS

150. The authority citation for part 112 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

151. In § 112.05–1, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 112.05–1 Purpose.

(a) The purpose of this part is to ensure a dependable, independent, and dedicated emergency power source with sufficient capacity to supply only those services that are necessary for the safety of the passengers, crew, and other persons in an emergency.

* * * * *

(c) Other loads may be authorized by the Commanding Officer, U.S. Coast Guard Marine Safety Center (MSC), to be connected to the emergency source of power to provide an increased level of safety in recognition of a unique vessel mission or configuration. When these loads are authorized, the emergency power source must—

(1) Be sized to supply these loads using a unity (1.0) service factor; or

(2) Be provided with automatic load shedding that removes these loads and operates before the emergency generator trips due to overload. The automatic load shedding circuit breakers must be manually reset.

152. In § 112.05–5, paragraph (a), footnote 1 to table 112.05–5(a), and paragraphs (c), (d), and (e) are revised to read as follows:

§ 112.05–5 Emergency power source.

(a) The emergency power source must meet table 112.05–5(a) and have the capacity to supply all loads that are simultaneously connected to it, except a load on a bus-tie to the main switchboard or non-required loads that are connected in accordance with § 112.05–1(c).

Table 112.05–5(a)

* * * * *

[1] A 12-hour power supply may be especially considered for vessels engaged regularly in voyages of short duration.

* * * * *

(c) The complete emergency installation must function at full rated power when the ship is upright or inclined to the maximum angle of heel which results from the assumed damage defined in 33 CFR part 155 or by subchapter S of this chapter for the specific vessel type, or 22.5 degrees, whichever is greater; when the trim of the ship is 10 degrees, either in the fore or aft direction, or is in any combination of angles within those limits.

(d) The emergency power source, associated transforming equipment, and the emergency switchboard must be located aft of the collision bulkhead, outside the machinery casing, and above the uppermost continuous deck. Each compartment containing the emergency power source, associated transforming equipment, and the emergency switchboard must be readily accessible from the open deck and must not contain any other machinery.

(e) No compartment that has an emergency power source or its vital components may adjoin a Category A machinery space or those spaces containing the main source of electrical power and its vital components.

* * * * *

153. In § 112.15–1, paragraphs (c), (g), (j), (k), and (p) are revised and paragraphs (q) and (r) are added to read as follows:

§ 112.15–1 Temporary emergency loads.

* * * * *

(c) Lighting, including low location lighting if installed, for passageways, stairways, and escape trunks in passenger quarters, crew quarters, public spaces, machinery spaces, damage control lockers, emergency equipment lockers, and work spaces sufficient to allow passengers and crew to find their way to open decks and to survival craft, muster stations, and embarkation stations with all watertight doors and fire doors closed.

* * * * *

(g) Lighting for survival craft launching, including muster stations, embarkation stations, the survival craft, its launching appliances and the area of the water where it is to be launched. Lights must meet the requirements of § 111.75–16 of this chapter, § 112.43–7 and § 112.43–11.

* * * * *

(j) All shipwide communications systems necessary for the transmittal of information during an emergency.

(k) Each fire door holding and release system.

* * * * *

(p) Each fire detection system; and gas detection system if installed.

(q) All lighting relative to helicopter operations and landing if installed, unless provided for by another source of power (such as independent batteries separately charged by solar cells).

(r) Each general emergency alarm system required by SOLAS 74.

154. In § 112.15–5, paragraphs (b), (f), (q), and (i) through (t) are revised and new paragraphs (u) and (v) are added to read as follows:

§ 112.15–5 Final emergency loads.

* * * * *

(b) The machinery, controls, and alarms for each passenger elevator.

* * * * *

(f) A sprinkler system, water spray extinguishing system, or foam system pump.

(g) If necessary, the lube oil pump for each propulsion turbine and reduction gear, propulsion diesel reduction gear, and ship's service generator turbine which needs external lubrication.

* * * * *

(i) Each radio or global marine distress safety system (GMDSS).

(j) Each radio direction finder, loran, radar, gyrocompass, depth sounder, global positioning system (GPS), satellite navigation system (SATNAV), speed log, rate-of-turn indicator and propeller pitch indicator.

(k) A steering gear feeder if required by part 58, subpart 58.25, of this chapter.

(l) General alarm flashing lights required by § 113.25–10 of this chapter.

(m) Each electric blow-out-preventer control system on a mobile offshore drilling unit.

(n) Any permanently installed diving equipment that is dependent upon the vessel's or drilling unit's power.

(o) An emergency generator starting compressor as allowed by § 112.50–7(c)(3)(ii).

(p) Each steering gear failure alarm required by part 113, subpart 113.43, of this chapter.

(q) The ballast control system on a column-stabilized mobile offshore drilling unit.

(r) The vital system automation loads required by part 62 of this chapter.

(s) Motor-operated valves for the cargo oil and fuel oil systems if the emergency power source is the source of power to meet § 56.50–60(d) of this chapter.

(t) The ship's stabilizer wings, unless a separate source of emergency power is supplied.

(u) The indicator which shows the position of the stabilizer wings, if the emergency power source is their emergency source of power.

(v) Smoke extraction fans (not including smoke detector sampling), and CO_2 exhaust fans for spaces.

115. In § 112.39–1, paragraphs (a)(2) and (a)(3) are revised to read as follows and paragraph (a)(4) is removed:

§ 112.39–1 General.

(a) * * *

(2) Have an automatic battery charger that maintains the battery in a fully charged condition; and

(3) Not be readily portable.

§ 112.39–3 [Amended]

156. In § 112.39–3(a), remove the words "at least 6" and add, in its place, the words "for at least 3".

§ 112.43–1 [Amended]

157. In § 112.43(b), remove "§ 112.43–3" and add, in its place, "§ 112.43–7".

§ 112.43–3 [Removed]

158. Section 11243–3 is removed.

§ 112.43–5 [Amended]

159. In § 112.43–5, remove the words "lifeboat and liferaft" and add, in their place, the words "survival craft" and remove and word "wheelhouse" and add, in its place, the words "navigating bridge".

160. In § 112.43–7, paragraphs (a) introductory text, (a)(1), (a)(2), (a)(4)(ii), and (b) are revised; and paragraph (a)(4)(v) is added to read as follows:

§ 112.43–7 Navigating bridge distribution panel.

(a) Except as allowed in paragraph (b) of this section, the following emergency lights must be supplied from a distribution panel on the navigating bridge:

(1) Navigation lights not supplied by the navigation light indicator panel.

(2) Floodlights for survival craft launching operations, except as followed in § 112.43–5.

* * * * *

(4) * * *

(ii) On the navigating bridge;

* * * * *

(v) For navigation equipment.

(b) On a mobile offshore drilling unit, the distribution panel required in paragraph (a) of this section must be in the control room.

* * * * *

161. Section 112.43–11 is revised to read as follows:

§ 112.43–11 Illumination for launching operations.

Branch circuits for floodlights for survival craft launching operations must supply no other equipment and meet § 111.75–16(c) of this chapter.

§ 112.43–15 [Amended]

162. In § 112.43–15, remove the word "firescreen" and add, in its place, the word "fire".

§ 112.43–17 and 112.45–5 [Removed]

163. Sections 112.43–17 and 112.45–5 are removed.

164. The heading to subpart 112.45 is revised to read as follows:

Subpart 112.45—Visible Indicators

165. In § 112.50–1, paragraph (d) is revised; paragraph (e) is removed, paragraphs (f) through (k) are redesignated as paragraphs (e) through (j); newly redesignated paragraph (f) is revised; and a new paragraph (k) is added to read as follows:

§ 112.50–1 General.

* * * * *

(d) The generator set must be capable of carrying its full rated load within 45 seconds after cranking is started with the intake air, room ambient temperature, and starting equipment at 0° C. The generator's prime mover must not have a starting aid to meet this requirement, except that a thermostatically-controlled electric water-jacket heater connected to the final emergency bus is permitted.

* * * * *

(f) The generator set must maintain proper lubrication when inclined to the angles specified in § 112.05–5(c), and must be arranged so that it does not spill oil under a vessel roll of 30 degrees to each side of the vertical.

* * * * *

(k) Each emergency generator that is arranged to be automatically started is to be equipped with a starting device with an energy-storage capability of at least six consecutive starts. A second, separate source of starting energy may provide three of the required six starts. If a second source is provided, the system need only provide three consecutive starts.

166. In § 112.50–3, paragraph (a) is revised to read as follows:

§ 112.50–3 Hydraulic starting.

* * * * *

(a) The hydraulic starting system must be a self-contained system that provides the cranking torque and engine starting RPM recommended by the engine manufacturer. The hydraulic starting system shall be capable of six consecutive starts, unless a second, separate source of starting energy capable of three consecutive starts is provided. A second, separate source of starting energy may provide three of the required six starts. If a second source is provided, the hydraulic system need only provide three consecutive starts.

* * * * *

167. Section 112.50–5 is revised to read as follows:

§ 112.50–5 Electric starting.

An electric starting system must have a starting battery with sufficient capacity for at least six consecutive starts. A second, separate source of starting energy may provide three of the required six starts. If a second source is provided, the electrical starting system need only provide three consecutive starts.

168. In § 112.50–7, paragraph (c)(1) is revised to read as follows and paragraph (d) is removed:

§ 112.50–7 Compressed air starting.

* * * * *

(c) * * *

(1) Has a capacity for at least six consecutive starts. A second, separate source of starting energy may provide three of the required consecutive starts. If a second source is provided, the compressed air starting system need only provide three consecutive starts;

* * * * *

169. In § 112.55–15, paragraph (a) is revised to read as follows:

§ 112.55–15 Capacity of storage batteries.

(a) A storage battery for an emergency lighting and power system must have the capacity—

(1) To close all watertight doors two times;

(2) To open all watertight doors once; and

(3) To carry the remaining emergency loads continuously for the time prescribed in table 112.05–5(a).

* * * * *

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

170. The authority citation for part 113 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

171. The heading to subpart 113.10 is revised to read as follows:

Subpart 113.10—Fire and Smoke Detecting and Alarm Systems and Manual Fire Alarm Systems

172. Section 113.10–7 is revised to read as follows:

§ 113.10–7 Connection boxes.

Each connection box must be constructed in accordance with NEMA Type 4 or 4X or IEC IP 56 requirements.

173. In § 113.10–9, in paragraph (a), the third sentence is revised, paragraph (c) is removed; and paragraph (d) is redesignated as paragraph (c):

§ 113.10–9 Power supply.

(a) * * *. The other source must be an automatically charged battery from the final emergency power source.

* * *

* * * * *

174. Section 113.20–3 is revised to read as follows:

§ 113.20–3 Connection boxes.

Each connection box and each switch enclosure in an automatic sprinkler system must be constructed in accordance with NEMA Type 4 or 4X, or IEC IP 56 requirements.

175. In § 113.25–6, paragraph (d) and paragraph (e) introductory text are revised to read as follows:

§ 113.25–6 Power supply.

* * * * *

(d) Meet the requirements of SOLAS 74;

(e) If using one of the following methods, be—

* * * * *

§ 113.25–8 [Amended]

176. In § 113.25–8, in paragraph (b), remove the word "fuses" and add, in its place, the words "overcurrent protection"; in paragraph (c), remove the words "battery enclosure" and add, in their place, the words "power supply"; in paragraph (f), remove the first sentence; and, in paragraph (g), remove the words "the vessel must be divided into vertical" and add, in their place, the words "the general alarm system must be arranged into vertical service" and remove "150 feet (45.7 meters)" and add, in its place, "40 meters (131 feet)".

177. In § 113.25–9, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 113.25–9 Location of general alarm bells.

* * * * *

(b) The general alarm must be audible in the spaces identified in paragraph (a) of this section with all normally closed doors and accesses closed.

(c) The general alarm's sound pressure levels one meter (3 feet) from the source must be 10 dB(A) above normal ambient noise levels. The audible general alarm sound pressure level in any space must not exceed 120 dB(A).

178. In § 113.25–10, the introductory text and paragraphs (a), (b), and (c) are redesignated as paragraphs (a), (a)(1), (a)(2), and (a)(3); in redesignated paragraph (a), remove the word "light" and add, in its place, the word "beacon"; redesignated paragraph (a)(3) is revised; and new paragraphs (b) and (c) are added to read as follows:

§ 113.25–10 Location of flashing red beacons.

(a) * * *

* * * * *

(3) Is supplied by the general alarm system power supply or the vessel emergency power source through a relay that is operated by the general alarm system.

(b) A flashing red beacon must be installed so that it is visible in the cargo pump rooms of vessels that carry combustible liquid cargoes. The installation must be in accordance with the requirements in part 111, subpart 111.105, of this chapter.

(c) A flashing or rotating red beacon must not be used for any other purpose.

179. Section 113.25–11 is revised to read as follows:

§ 113.25–11 Contact makers.

Each contact maker must—

(a) Be normally open and be constructed in accordance with NEMA Type 4 or 4X, or IEC IP 56 requirements;

(b) Have a switch handle that can be maintained in the "on" position;

(c) Have the "off" and "on" positions of the operating handle permanently marked; and

(d) Have an inductive load rating not less than the connected load or, on large vessels, have auxiliary devices to interrupt the load current.

180. Section 113.25–12 is revised to read as follows:

§ 113.25–12 Bells.

(a) Each general alarm bell must produce a signal or tone distinct from any other audible signal on the vessel.

(b) For the purpose of this subpart, a device that produces a bell-like general alarm signal is accepted instead of a bell.

(c) Electronic devices used to produce the general alarm signal must meet the requirements of subpart 113.50 of this part.

181. Section 113.25–16 is revised to read as follows:

§ 113.25–16 Overcurrent protection.

(a) Each fuse in a general alarm system must meet the requirements of part 111, subpart 111.53 of this chapter.

(b) Each overcurrent protection device must cause as wide a differential as possible between the rating of the branch circuit overcurrent protection device and that of the feeder overcurrent protection device.

(c) The capacity of the feeder overcurrent device must be as near as practicable to 200 percent of the load supplied. The capacity of a branch circuit overcurrent device must not be higher than 50 percent of the capacity of the feeder overcurrent device.

§ 113.30–1 [Amended]

182. In § 113.30–1, at the end of the sentence, add the words "and each self-propelled mobile offshore drilling unit".

183. Section 113.30–3 is revised to read as follows:

§ 113.30–3 Means of communications.

The common talking means of communication and calling required by this subpart must be a sound-powered telephone or other reliable voice communication method. These systems must be independent of the ship's electrical system.

184. In § 113.30–5, paragraphs (a) introductory text, (d), (g), (h), and (i) are revised and paragraph (j) is added to read as follows:

§ 113.30–5 Requirements.

(a) *Communication.* Each vessel must have a reliable, common talking means of voice communication and calling among the following:

* * * * *

(d) *Emergency lockers.* If the emergency equipment lockers or spaces are not next to the navigating bridge, or control room on a mobile offshore drilling unit, there must be a reliable, common talking system between the navigating bridge or control room and the emergency equipment lockers or spaces.

* * * * *

(g) *Lookout.* Each vessel must have a reliable means of voice communication and calling between the navigating bridge and the bow or forward lookout station unless direct voice communication is possible.

(h) *Engine room local control station.* On a self-propelled vessel equipped with pilothouse control, each local station for the control of the speed or direction of thrust of the propulsion machinery must have a reliable means of voice communication and calling for communication to the engine control room or maneuvering platform, unless an engine order telegraph is installed in accordance with § 113.35–3. Each communications station at a local control station must—

(1) Not be on the same circuit as any other station required by this section; and

(2) Provide the capability of reliable voice communication during vessel operations.

(i) *Mobile offshore drilling units.* Non-self-propelled mobile offshore drilling units must have a reliable common talking means of voice communication and calling system interconnecting the control room, drill floor, machinery space, and silicon controlled rectifier (SCR) room (if installed). Each column-

stabilized mobile offshore drilling unit must have such communication between the ballast control room and the spaces which contain the ballast pumps and valves.

(j) *Survival craft.* Each vessel must have a reliable common talking means of voice communication for calling between the navigating bridge, each survival craft location, and each muster station.

§ 113.30–10 [Removed]

185. Section 113.30–10 is removed.

186. Section 113.30–20 is revised to read as follows:

§ 113.30–20 General requirements.

(a) The communications stations listed in § 113.30–5 (a) through (d), (f), (g), (i), and (j), and other stations for the operation of the vessel, such as the captain's and chief engineer's offices and staterooms, emergency power room, carbon dioxide (or other extinguishing agent) control room, and firepump room, must not be on the same circuit as communications stations installed to meet the requirements of §§ 113.30–5(e) and 113.30–5(h).

(b) If a communications station is in the weather and on the same circuit as other required stations, there must be a cut-out switch on the navigating bridge which can isolate this station from the rest of the stations.

(c) Jack boxes or headsets must not be on a communications system which includes any station required by this subpart, except for a station installed to meet §§ 113.30–5(h) or 113.30–25(d).

187. Section 113.30–25 is revised to read as follows:

§ 113.30–25 Detailed requirements.

(a) Each sound-powered telephone station must include a permanently-wired handset with a push-to-talk button and a hanger for the handset, except those stations detailed in § 113.30–25(d). The hanger must be constructed in such a way to hold the handset away from the bulkhead and such that the handset will not be dislodged by the motion of the vessel.

(b) Each voice communication station device in the weather must be in a proper enclosure as required in § 111.01–9 of this chapter. The audible signal device must be outside the station enclosure.

(c) Each station in a navigating bridge or a machinery space must be in an enclosure meeting at least NEMA Type 2 or IP 11 requirements.

(d) In a noisy location, such as an engine room, there must be a booth or other equipment to permit reliable voice communication during vessel operation.

(e) In a location where the voice communication station audible signal device cannot be heard throughout the space, there must be an additional audible signal device or visual device, such as a light, which is energized from the vessel's electric system.

(f) If two or more voice communication stations are near each other, there must be a means which indicates the station called.

(g) Each voice communication talking circuit must be electrically independent of each calling circuit. A short circuit, open circuit, or ground on either side of a calling circuit must not affect a talking circuit. Circuits must be insulated from ground.

(h) Each connection box must meet at least NEMA Type 4 or 4X, or IP 56 requirements.

(i) Voice communication cables must be run as close to the fore and aft centerline of the vessel as practicable. Cables must not run through high fire risk spaces such as machinery rooms and galleys.

188. Section 113.35–3(e)(3) is revised to read as follows:

§ 113.35–3 General requirements.

* * * * *

(e) * * *

(3) Reliable voice communication and calling which meets the requirements of § 113.30–5(h) is not provided.

* * * * *

189. In § 113.35–5, the section heading and paragraphs (b) through (e) are revised to read as follows and paragraphs (f) through (g) are removed:

§ 113.35–5 Electric engine order telegraph systems.

* * * * *

(b) Each engineroom indicator must be capable of acknowledgment of orders.

(c) There must be an audible signal at each instrument. The signal at both locations must sound continuously when the transmitter and the indicator do not show the same order.

(d) Each telegraph instrument must meet the protection requirements of § 111.01–9 of this chapter.

(e) Each system must have an alarm which—

(1) Automatically sounds and visually signals a loss of power to the system;

(2) Is on the navigating bridge; and

(3) Has a means to silence the audible signal.

§ 113.35–7 [Removed]

190. Section 113.35–7 is removed.

191. In § 113.35–9, the section heading is revised; in paragraph (a) following the word "other", add the word ", as"; paragraph (b) is revised to read as follows; and paragraphs (c) through (g) are removed:

§ 113.35–9 Mechanical engine order telegraph systems.

* * * * *

(b) Each transmitter and each indicator must have an audible signal device to indicate, in the case of an indicator, the receipt of an order, and in the case of a transmitter, the acknowledgment of an order. The audible signal device must not be dependent upon any source of power for operation other than that of the movement of the transmitter or indicator handle.

§ 113.35–11 [Removed]

192. Section 113.35–11 is removed.

§ 113.37–5 [Amended]

193. In § 113.37–5, remove the words "in the wheelhouse" wherever they appear and add, in their place, the words "on the navigating bridge".

194. In § 113.37–10, paragraph (b) is revised to read as follows and paragraphs (c) and (d) are removed:

§ 113.37–10 Detailed requirements.

* * * * *

(b) Each electrical component or its enclosure must meet NEMA Type 4 or 4X or IP 56 requirements.

195. In § 113.40–10, in paragraph (a), the second sentence is revised; paragraph (b) is revised; and paragraphs (c) through (f) are removed as follows:

§ 113.40–10 Detailed requirements.

(a) * * *. This system must be electrically and otherwise independent of all other systems, including the steering gear control system, autopilot, or dynamic positioning system.

(b) Each electric component or its enclosure must meet NEMA Type 4 or 4X or IP 56 requirements.

§ 113.43–3 [Amended]

196. In § 113.43–3(a) introductory text, remove the words "in the pilothouse" and add, in their place, the words "on the navigating bridge"; and remove the words "§ 58.25–45 and § 111.93–9" and add, in its place, the words "subpart 58.25".

§ 113.43–5 [Amended]

197. In § 113.43–5(b), remove the words "in the wheelhouse" and add, in their place, the words "on the navigating bridge".

198. The heading to subpart 113.50 is revised to read as follows:

Subpart 113.50—Public Address Systems

199. Section 113.50–1 and 113.50–5 are revised to read as follows:

§ 113.50–1 Applicability.

This subpart applies to each vessel required to have a general alarm system in accordance with § 113.25–1.

§ 113.50–5 General requirements.

(a) Each vessel must have a central-amplifier-type announcing system that will supplement the general alarm. This system must provide for the transmission of orders and information throughout the vessel by means of microphones and loudspeakers connected through a central amplifier.

(b) The announcing station must be located adjacent to the general alarm contact maker on the navigating bridge.

(c) There must be a means to silence all other audio distribution systems at the announcing station.

(d) The system may be arranged to allow broadcasting separately to, or to any combination of, various areas on the vessel. If the amplifier system is used for the general alarm required by subpart 113.25 of this part, the operation of a general alarm contact maker must activate all speakers in the system, except that a separate crew alarm may be used as allowed by § 113.25–5(e)(2).

(e) The amplifier, and the devices used to produce the general alarm signals if used, must be provided in duplicate.

(f) The power supply must be in accordance with the requirements of §§ 113.25–6 and 113.25–7.

(g) Each electrical subsystem in a weather location must be watertight or in a watertight enclosure (NEMA Type 4, 4X or IP 56).

200. Section 113.50–10 is added to read as follows:

§ 113.50–10 Additional requirements for passenger vessels.

(a) Each passenger vessel must have a public address system that enables an officer on the bridge to broadcast separately or collectively to the following stations:

(1) Survival craft stations, port.

(2) Survival craft stations, starboard.

(3) Survival craft embarkation stations, port.

(4) Survival craft embarkation stations, starboard.

(5) Public spaces used for passenger assembly points.

(6) Crew quarters.

(7) Accommodation spaces and service spaces.

(b) Each loudspeaker at a survival craft or embarkation station must allow for two-way conversation with the navigating bridge.

201. In § 113.50–15, the section heading and paragraphs (a) through (d) are revised to read as follows, and Table 113.50–15 is transferred to the end of the section.

§ 113.50–15 Location of loudspeakers.

(a) Loudspeakers must be located to eliminate feedback or other interference which would degrade communication.

(b) Loudspeakers must be located to provide intelligible and audible one-way communication throughout the vessel. Weatherdeck loudspeakers must be watertight and directed aft.

(c) There must be a sufficient number of loudspeakers throughout the vessel to provide the sound level prescribed in table 113.50–15.

(d) Loudspeakers must not have external volume controls or local cutout switches.

* * * * *

202. Section 113.50–20 is revised to read as follows:

§ 113.50–20 Distribution of cable runs.

(a) Each system must have a feeder distribution panel to divide the system into the necessary number of zone feeders, except where, because of the arrangement of the vessel, only one zone feeder is necessary; then a branch circuit distribution panel must be used.

(b) The feeder distribution panel must be in an enclosed space next to the public address system power supply.

(c) Each system must have at least one feeder for each vertical fire zone.

(d) Each system must have one or more branch circuit distribution panels for each zone feeder, with at least one branch circuit for each deck level. The distribution panel must be above the uppermost continuous deck, in the zone served, and there must be no disconnect switches for the branch circuits.

(e) A branch circuit must not supply speakers on more than one deck level, except for a single branch circuit supplying all levels of a single space containing more than one deck level if all other requirements of this section are met.

(f) On a vessel not divided into vertical fire zones by main vertical fire bulkheads, the vessel must be divided into vertical zones not more than 40 meters (131 feet) long, and there must be a feeder for each of these zones.

(g) Feeders and branch circuit cables must be in passageways and must not be in staterooms, lockers, galleys, or machinery spaces unless it is necessary to supply public address speakers in those spaces.

§ 113.50–25 [Removed]

203. Section 113.50–25 is removed.

§ 113.65–5 [Amended]

204. In § 113.65–5, remove the words "Section 37.25" and add, in their place, the words "section 37.19 (clause 27.19)".

Subpart 113.70 [Removed]

205. Subpart 113.70 is removed.

PART 161—ELECTRICAL EQUIPMENT

206. The authority citation for part 161 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

207. In § 161.002–1, paragraphs (a)(1) through (a)(4) are revised, paragraphs (a)(5) through (a)(9) are added, and paragraph (c) is revised to read as follows:

§ 161.002–1 Applicable specifications, standards, and regulations.

(a) * * *

(1) American Society for Testing and Materials (ASTM) Test Method of Salt Spray (Fog) Testing; B 117–94.

(2) Coast Guard Regulations: Electrical Engineering Regulations, (46 CFR (subchapter J) parts 110 to 113 inclusive).

(3) Comite European de Normalisation (CEN) standard:

EN54 series: Components of automatic fire detection systems—

EN54 Part 1 (1987) Introduction.

EN54 Part 2 (1992) Control and indicating equipment.

EN54 Part 3 (1995) Alarm devices.

EN54 Part 4 (1989) Power supply equipment.

EN54 Part 5 (1994) Heat sensitive detectors: Point detectors, including Amendment 1 (1988).

EN54 Part 6 (1982) heat-Sensitive detectors: Rate-of-Rise point detectors without a static element; including Amendment 1 (1988).

EN54 Part 7 (1994) Smoke detectors: Point detectors using scattered light transmitted light or ionisation.

EN54 Part 8 (1988) High temperature heat detectors.

EN54 Part 9 (1982) Fire sensitivity test.

EN54 Part 10 (1991) Flame detectors.

EN54 Part 11 (1991) Manual call points.

(4) Factory Mutual Engineering and Research standards:

Class Number 3230–3250 (1976): Smoke Actuated Detectors for Automatic Fire Alarm Signaling.

Class Number 3210 (1978): Thermostats for Automatic Fire Detection.

Class Number 3260 (1994): Flame Radiation Detectors for Automatic Fire Alarm Signaling.

Class Number 3820 (1974): Electrical Utilization Equipment.

Class Number 3150 (1974): Audible Signal Devices.

(5) International Electrotechnical Commission (IEC) IEC 533: Electromagnetic Compatibility of Electrical and Electronic Installations in Ships and of Mobile and Fixed Offshore Units, First Edition, (1977).

(6) International Maritime Organization: International Convention for the Safety of Life at Sea, 1974 (SOLAS); (as amended through 1994).

(7) National Fire Protection Association standard: NFPA 72: national Fire Alarm Code (1993).

(8) Lloyd's Register of Shipping: LR Type Approval System; Test Specification Number 1 (1990).

(9) Underwriters Laboratories Inc. standards:

UL 846 (1991)—Control Units for Fire-Protective Signaling Systems.

UL 521 (1993)—Heat Detectors for Fire-Protective Signaling Systems.

UL 268 (1989)—Smoke Detectors for Fire-Protective Signaling Systems.

UL 38 (1994)—Manually Actuated Signaling Boxes for Use with Fire-Protective Systems.

* * * * *

(c) The ASTM standard may be purchased from the American Society for Testing and Materials; 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. The Coast Guard publication may be purchased from the U.S. Government Printing Office; Superintendent of Documents; Mail Stop: SSOP; Washington, DC 20402–9328. The CEN standards may be purchased from the Central Secretariat; Rue de Brederode 2, B–1000 Brussels; Belgium. The Factory Mutual standards may be obtained from Factory Mutual Engineering and Research; ATTN: Librarian; 1151 Boston-Providence Turnpike; Norwood, MA 02062. The IEC Standard may be purchased from the International Electrotechnical Commission; 1, Rue de Varembe, Geneva, Switzerland. SOLAS may be purchased from the International Maritime Organization; 4 Albert Embankment; London, SE1 7SR; U.K. The NFPA standard may be purchased from the National Fire Protection Association; Batterymarch Park; Quincy, MA 02269. The Lloyd's standard may be obtained from Lloyd's Register of Shipping; 17 Battery Place; ATTN: Publications; New York, NY 10004–1195. The UL standards may be purchased from Underwriters Laboratories Inc.; Publications Stock; 333 Pfingsten Road; Northbrook, IL 60062–2096.

§ 161.002–2 [Amended]

209. In § 161.002–2, in paragraph (a), remove the words "smoke detector systems" and add, in their place, the words "sample extraction smoke detection systems"; in paragraphs (b) and (c), remove the words "vibrating bells" and add, in their place, the words "suitable annunciating devices"; and, in paragraph (d), remove the words "smoke detector systems" and add, in their place, the words "sample extraction smoke detection systems".

§ 161.002–3 [Amended]

210. In § 161.002–3, paragraphs (c), (d), and (e) are removed.

211. In § 161.002–4, paragraph (b) is added to read as follows:

§ 161.002–4 General requirements.

* * * * *

(b) *Standards.* (1) All fire protection systems must be designed, constructed, tested, and marked according to the applicable standards under § 161.002–1.

(2) All systems must be listed or certified as meeting these standards by an independent laboratory accepted by the Commandant under § 110.35–1 of this chapter.

(3) All parts of the system must pass the environmental tests of Category ENV3 of Lloyd's Register Type Approval System, Test Specification Number 1.

(4) Those parts of the system that are to be installed in interior or exterior locations requiring exceptional degrees of protection must also pass the salt spray test in Category ENV3 of Lloyd's Register Type Approval System, Test Specification No. 1 or in ASTM B–117.

§§ 161.002–5, 161.002–6, and 161.002–7 [Removed]

212. Sections 161.002–5, 161.002–6, and 161.002–7 are removed.

§ 161.002–8 [Amended]

213. In § 161.002–8, paragraph (b) is removed.

214. In § 161.002–10, paragraphs (b)(1) (i) and (ii) are revised to read as follows; and paragraphs (i) through (m) are removed:

§ 161.002–10 Automatic fire detecting system control unit.

(b) * * *

(1) * * * (i) the sounding of a vibrating type fire bell with a gong diameter not smaller than 15 cm (6 inches) or similar annunciating device nippled to or mounted on or within the control unit and at the remote annunciator panel when provided; (ii) the sounding of a vibrating type fire bell with a gong diameter not smaller than 20 cm (8 inches) or similar annunciating device located in the engine room; and * * *.

* * * * *

§§ 161.002–11 and 161.002–13 [Removed]

215. Sections 161.002–11 and 161.002–13 are removed.

216. Section 161.002–15 is revised to read as follows:

§ 161.002–15 Sample extraction smoke detection systems.

(a) *General.* The smoke detecting system must consist of a means for continuously exhausting an air sample from the protected spaces and testing the air for contamination with smoke, together with visual (alarm indicating lights) and aural (sound signaling device) means for indicating the presence of smoke.

(b) In addition to compliance with § 161.002–1, the system must meet the general, installation, and design requirements of SOLAS, Chapter II–2 regulation 13–1.

§ 161.002–16 [Removed]

217. Section 161.002–16 is removed.

218. Section 161.002–18 is added to read as follows:

§ 161.002–18 Method of application for type approval.

(a) The manufacturer must submit the following material to Commandant (G–MMS–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001:

(1) A formal written request that the system be reviewed for approval.

(2) Three copies of the system's instruction manual, including information concerning installation, programming, operation, and troubleshooting.

(3) One copy of the complete test report generated by the independent laboratory recognized by the Commandant for the testing of fire protective systems. A current list of these facilities may be obtained from the address in this section.

(4) Three copies of a list prepared by the manufacturer that contains the name, model number, and function of each major component and accessory, such as the main control cabinet, remote annunciator cabinet, detector, zone card, isolator, central processing unit, zener barrier, special purpose module, or power supply. This list must be identified by the following information assigned by the manufacturer.

(i) A document number.

(ii) A revision number—(the first submission being revision number 0).

(iii) The date the particular revision was issued.

(b) The Coast Guard distributes a copy of the approved instruction manual to the manufacturer and to the Coast Guard Marine Safety Center (MSC).

(c) The manufacturer shall maintain an account of the equipment offered for approval. The list identification information in paragraph (a)(4) (i) through (iii) of this section will appear on the Certificate of Approval and will designate the official compilation of components for the approved system. If the manufacturer seeks to apply subsequently for an approval of a revision (because of, for example, additional accessories becoming available, replacements to obsolete components, or a change in materials or standards of safety), changes to the approved list must be submitted for review and approval.

(d) To apply for a revision, the manufacturer must submit a written request under paragraph (a) of this section, the updated list under paragraph (b) of this section, and the testing laboratory report of proper compliance with the standards and compatibility with the system. A new certificate, normally valid for a full 5 year term, will be issued bearing the updated list data and a revision number.

§§ 161.004–2—161.004–7 (Subpart 161.004) [Removed]

219. Subpart 161.004, consisting of §§ 161.004–2 through 161.004–7, is removed.

Dated: January 29, 1996.

Joseph J. Angelo,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–2149 Filed 2–1–96; 8:45 am]

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February 2, 1996

Part VI

Department of Education

Individuals With Disabilities Education Programs; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Notice of Final Priorities

AGENCY: Department of Education.

ACTION: Notice of final priorities.

SUMMARY: The Secretary announces final priorities for six programs administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act. The Secretary may use these priorities in Fiscal Year 1996 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve outcomes for children with disabilities. The final priorities are intended to ensure wide and effective use of program funds.

EFFECTIVE DATE: These priorities take effect on March 4, 1996.

FOR FURTHER INFORMATION CONTACT: The name, address, and telephone number of the person at the Department to contact for information on each specific priority is listed under that priority.

SUPPLEMENTARY INFORMATION: This notice contains ten priorities under six programs authorized by the Individuals with Disabilities Education Act, as follows: Early Education Program for Children with Disabilities (four priorities); Educational Media Research, Production, Distribution, and Training Program (one priority); Postsecondary Education Program for Individuals with Disabilities (one priority); Program for Children with Severe Disabilities (one priority); Secondary Education and Transitional Services for Youth with Disabilities Program (two priorities); and the Program for Children and Youth with Serious Emotional Disturbance (one priority). The purpose of each program is stated separately under the title of that program.

On November 7, 1995, the Secretary published a notice of proposed priorities for these programs in the **Federal Register** (60 FR 56192–56203).

These final priorities support the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement.

The publication of these priorities neither precludes the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements. Funding of particular projects depends on the availability of funds, and the quality of the applications received. Further, Fiscal Year 1996 priorities could be affected by enactment of legislation reauthorizing these programs.

Note: This notice of final priorities does not solicit applications. A notice inviting applications under these competitions is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, ten comments were received across all of the proposed priorities. Analysis of the comments and of the changes in the proposed priorities follows. Suggested changes the Secretary is not legally authorized to make under the applicable statutory authority are not addressed.

Priority—Early Childhood Research Institutes

Comment: One commenter submitted a suggestion regarding one of the three institutes proposed under this priority, the Institute on Culturally and Linguistically Competent Services. The commenter suggested that the word "competent" in the title of this priority be replaced by "appropriate" or "sensitive." The commenter also suggested that the institute funded under this priority be required to work with similar initiatives funded by other offices in the U.S. Department of Education or by the U.S. Department of Health and Human Services.

Discussion: The Secretary agrees with both suggestions. The word "appropriate" is a less ambiguous term and its usage in the title would be consistent with language in the text of the priority. In addition to the requirement of coordination with other relevant efforts sponsored by the U.S. Department of Education such as clearinghouses, technical assistance providers, and research centers, requiring collaboration by all three institutes with relevant efforts sponsored by the U.S. Department of Health and Human Services would avoid duplication of efforts with initiatives funded by Federal agencies.

Change: The word "competent" has been replaced by "appropriate" in the title of the priority. Language requiring each institutes to coordinate its activities with other relevant efforts supported by the U.S. Department of Health and Human Services has been added to the priority.

Priority—National Early Childhood Technical Assistance Center Technical Changes

Under the background section, replace "(2) help entities respond to needs identified through their self-assessment and State monitoring activities" with "(2) help entities respond to needs identified through their self-assessment and through Federal and State monitoring activities".

Also under the background section, replace the sentence "The center will also provide technical assistance to early childhood projects funded by the Office of Special Education Program (OSEP) under the IDEA" with "The center will also provide technical assistance to early childhood model demonstration and outreach projects * * *"

Under the priority section, replace "(b) Provide technical assistance to all early childhood projects funded by OSEP" with "(b) Provide technical assistance to all early childhood model demonstration and outreach projects funded by OSEP". Also replace "(4) conduct an annual meeting for directors of early childhood discretionary projects funded by OSEP" with "(4) conduct an annual meeting for directors of early childhood research, model demonstration, and outreach projects funded by OSEP".

Priority—Closed-Captioned Television Programs

Comment: One commenter expressed general support for all of the activities proposed under this priority, but also suggested that the priority be extended to include funding for local television news programs. The commenter further suggested a priority for captioning more video and information productions for elementary and secondary education.

Discussion: The Secretary agrees that the captioning of local television news programs is important. However, with the limited amount of Federal dollars, it is deemed advantageous to the larger population to spend them on national level programming.

Captioned videos and informational productions for elementary and secondary education are funded through other activities under the Educational Media Research, Production, Distribution and Training Program. Also, education telecasts can be captioned under some of the Children's Programs.

Changes: None.

Comment: One commenter urged the Department to fund a minimum of four applications in order to continue to increase competition.

Discussion: In announcing proposed priorities, the Secretary does not establish numbers of awards or funding levels for projects. Information about the anticipated number of awards and about funding levels is provided in the notice inviting applications published separately in this issue of the **Federal Register**. In the notice of proposed priorities, however, the Secretary did indicate that a minimum of four awards would be made under this priority, at least one in each of the four areas of activity identified in the priority.

Changes: None.

Comment: One commenter suggested that if the Secretary required matching funding under the priority for National News and Public Information and for Movies, Mini-Series, and Specials, this policy should be consistent across the board for all of the captioning priorities.

Discussion: While the Secretary requires matching funding for programs to be captioned under the priority for National News and Public Information and under Movies, Mini-Series, and Specials, and strongly encourages funding partnerships with the private sector for captioning of Syndicated Television Programming and Children's Programs, the Secretary believes that no funding match should be required at this time for these two priorities because experience has shown that private sector funding may not be as readily available for these types of programs.

Changes: None.

Comment: One commenter also indicated that networks which have had their programming captioned under previous awards for closed-captioning of national news and public information programs should be subject to a 50 percent maximum use of Federal funds for captioning, but suggested that networks which have not had the benefit of Federal support for captioning should be subject to a lesser standard. For networks that have not had their national news and public information programming captioned, the commenter suggested a 25 percent non-Federal funding requirement in the first year and a 33 percent non-Federal funding requirement for subsequent years.

Discussion: National news and public information programs that would be eligible for only limited Federal support for captioning are those that have been previously captioned, regardless of the network or the source of captioning funds. The Secretary has found that a program-based approach to captioning has been effective in efficiently allocating resources to the areas with the greater demand for captioning. In addition, the Secretary recognizes the importance of, and encourages expanded private sector support for, all previously closed-captioned news programs, whether or not they have been previously captioned with Federal funds. However, the Secretary agrees with the commenter on the idea of a progressive shift to greater non-Federal participation in the closed-captioning of national news and public information programming.

Changes: The priority has been modified to indicate that funds provided under this competition for news and public information programs that have been previously captioned may be used to support no more than 60 percent of the captioning costs for year one of the project, 55 percent for year two, and 50 percent for year three.

Comment: The commenter also suggested that no more than 50 percent of the awards should be given to nonprofit concerns.

Discussion: Entities eligible to compete for awards are profit and non-profit public and private agencies, organizations, and institutions. Since awards are made on a competitive basis, according to selection criteria published in the **Federal Register**, these criteria ensure that grants are awarded to entities best able to meet the Secretary's priorities.

Change: None.

Priority—Model Demonstration Projects To Improve the Delivery and Outcomes of Secondary Education Services for Individuals With Disabilities

Comment: One commenter suggested that placement strategies should be emphasized in the priority.

Discussion: The priority currently emphasizes the need for "cooperative efforts among representatives of the services responsible for successful vocational placements for people with disabilities. These collaborative efforts must include extensive involvement of representatives from an institution's program that provides support services to students with disabilities, the institution's career placement office, the State vocational rehabilitation (VR) agency (for VR-sponsored students), and business and industry." Since such cooperative efforts must include placement strategies, the Secretary believes that such strategies are sufficiently emphasized.

Change: None.

Priority—Model Demonstration Projects To Improve the Delivery and Outcomes of Secondary Education for Students With Disabilities

Comment: One commenter suggested that the phrase "providing counseling" in service issue (a) should be further qualified as "providing academic and rehabilitation counseling."

Discussion: Since the requirement for "providing counseling" is in the context of being one of the "support strategies to prevent course failure among students with disabilities", it would appear that the counseling focus already includes academic issues. In terms of providing rehabilitation counseling, all students who are participating in the project should be receiving special education and have individualized education programs (IEPs). The IEP requirements contained in the regulations implementing Part B of the Individuals with Disabilities Education Act (IDEA) emphasize the need for other public agencies (usually the rehabilitation agency) to participate in the development of the statement of transition services which must be included in the IEPs for all students 16 and older and who are receiving special education. Therefore, the Secretary believes that to qualify counseling as "academic and rehabilitation" would be redundant and would needlessly exclude other important types of counseling, such as career and personal counseling.

Change: None.

Comment: One commenter suggested that service issue (b) should include references to work-based learning and connecting services when addressing the restructuring of academic and/or vocational course offerings.

Discussion: The Secretary agrees that such references should be made to emerging School-to-Work Opportunities Systems and other educational reform movements.

Change: Work-based learning and connecting activities have been added to parenthetical information in the description of the service issue (b).

Comment: One commenter suggested that service issue (c) should emphasize the relationship among academic courses, career awareness, and skills taught in vocational education programs.

Discussion: The Secretary agrees that the additional emphasis on career awareness will improve the linkage between academic courses and vocational skills.

Change: Service issue (c) has been changed to read "revising academic courses in a manner that includes career awareness and directly complements skills taught in vocational education programs and in other courses."

Early Education Program for Children With Disabilities Program

Purpose of program: To support activities that are designed (a) to address

the special needs of children with disabilities, birth through age eight, and their families; and (b) to assist State and local entities in expanding and improving programs and services for these children and their families.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet any one of the following priorities. The Secretary funds under these competitions only applications that meet any one of these absolute priorities:

Absolute Priority 1—National Early Childhood Technical Assistance Center

Background: This priority would support a national early childhood technical assistance center that will provide technical assistance to all States, outlying areas and the Bureau of Indian Affairs, in order to (1) assist each entity in implementing comprehensive and quality early intervention services under Part H for children ages birth through two and their families, and educational and related services for young children with disabilities (ages three through five) including minority children and children with limited English proficiency, and (2) help entities respond to needs identified through their self-assessment and through Federal and State monitoring activities. The center will also provide technical assistance to early childhood model demonstration and outreach projects funded by the Office of Special Education Programs (OSEP) under the IDEA. Utilizing State technical assistance systems, national organizations and their State divisions, other technical assistance and clearinghouse projects, the center will provide mechanisms to link professionals who are involved in producing new knowledge and products with program administrators and service providers.

Priority: The Secretary establishes an absolute priority to support a national early childhood technical assistance center. The center must:

(a) Provide technical assistance to all States, outlying areas, and the Bureau of Indian Affairs as they implement early intervention services under Part H, and educational and related services for young children with disabilities. At a minimum, the center must (1) conduct annual needs assessments; (2) develop technical assistance agreements for each entity; (3) provide technical assistance, training, and on-going consultation based on the technical assistance agreements; (4) conduct annual meetings for Part H clients and for Section 619 clients; and (5) assist States in coordinating early intervention services and preschool services with IDEA school-age programs.

(b) Provide technical assistance to all early childhood model demonstration and outreach projects funded by OSEP. At a minimum, the center must (1) conduct annual needs assessments; (2) develop technical assistance agreements for each project; (3) provide technical assistance, training, and on-going consultation based on the technical assistance agreements; and (4) conduct an annual meeting for directors of early childhood research, model demonstration, and outreach projects funded by OSEP;

(c) Establish an advisory group of persons with complementary expertise in the content and provision of technical assistance, e.g., State issues, project issues, family issues, parenting, evaluation, and needs of underrepresented children and families; to advise the center on its technical assistance activities;

(d) Link entities and OSEP-funded early childhood projects with national experts knowledgeable about best practice for young children with disabilities and their families, including children and families from cultural and linguistic minority groups;

(e) Develop informational exchanges between the center and State technical assistance systems; and among States with technical assistance systems;

(f) Develop an information system, current in content and technological accessibility, that contains data and materials to meet the technical assistance needs of the center's clients;

(g) Conduct at least two national forums that identify persistent problems, propose solutions, and respond to emerging issues and trends in early intervention and preschool;

(h) Facilitate exchanges of information among Federal and State programs regarding funding and policy practices and implications for young children with disabilities and their families;

(i) Provide logistical and technical support to the Federal Interagency Coordinating Council;

(j) Compile and disseminate information about (1) early childhood projects funded by OSERS, (2) effective practices for early intervention and preschool programs, (3) major State activities related to implementing Section 619—Preschool Grants Program, (4) major State activities related to implementing the Infant and Toddler Program—Part H program, and (5) successful linkage activities and practices;

(k) Coordinate with other technical assistance networks to sponsor a forum that addresses model practices for national and State technical assistance provision;

(l) Evaluate the impact of the center's technical assistance system and its components relative to (1) the assessed needs of States, jurisdictions and early childhood projects; and (2) the national needs of young children with disabilities and their families.

The Secretary anticipates funding one cooperative agreement for a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the center for the fourth and fifth years of the project period, in addition to applying the requirements of 34 CFR 75.253(a), the Secretary will consider the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the center, are to be performed during the last half of the center's second year and must be included in that year's evaluation required under 34 CFR 75.590. Funds to cover the costs of the review team must be included in the center's budget for year two. These costs are estimated to be approximately $4000.

The Secretary particularly encourages applicants for this cooperative agreement to incorporate technologically innovative approaches in all aspects of center activities, to improve their efficiency and impact.

Selection Criteria for Evaluating Applications. The Secretary will use the following criteria to evaluate an application under the national early childhood technical assistance center competition. The maximum score for all the criteria is 100 points.

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary considers—

(i) The extent to which the management plan will ensure proper and efficient administration of the project;

(ii) The quality of the activities proposed to accomplish the goals and objectives;

(iii) The adequacy of proposed timelines for accomplishing those activities; and

(iv) Effectiveness in the ways in which the applicant plans to use the resources and personnel to accomplish the goals and objectives.

(3) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disability.

(b) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use.

(2) The Secretary considers—

(i) The qualifications of the project director and project coordinator (if one is used);

(ii) The qualifications of each of the other key project personnel;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section will commit to the project; and

(iv) How the applicant will ensure that personnel are selected for employment without regard to race, color, national origin, gender, age, or disability.

(3) To determine personnel qualifications under (b)(2)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to support project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application to determine the quality of the evaluation plan for the project.

(2) The Secretary considers—

(i) The extent to which the applicant's methods of evaluation are appropriate to the project; and

(ii) To the degree possible, the extent to which the applicant's methods of evaluation are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application to determine adequacy of resources allocated to the project.

(2) The Secretary considers the adequacy of the facilities and the equipment and supplies that the applicant plans to use.

(f) *Evidence of need.* (10 points)

(1) The Secretary reviews each application to assess whether the need for the proposed technical assistance has been adequately justified.

(2) The Secretary determines the extent to which the application—

(i) Describes the technical assistance needs to be addressed by the project;

(ii) Describes how the applicant identified those needs;

(iii) Describes how those needs will be met by the project; and

(iv) Describes the benefits to be gained by meeting those needs.

(g) *Project design.* (40 points)

(1) The Secretary reviews each application to evaluate the quality of the proposed technical assistance project design.

(2) The Secretary determines the extent to which—

(i) The technical assistance objectives are designed to meet the identified needs and are clearly defined, measurable, and achievable;

(ii) The content of the proposed technical assistance is appropriate for all clients.

(3) The Secretary determines the extent to which each application provides for—

(i) Use of current research findings and information on model practices in providing the technical assistance;

(ii) Methods for linking all clients in need of technical assistance;

(iii) Innovative procedures for disseminating information and imparting skills to all clients; and

(iv) Innovative procedures for collaborating and coordinating with other entities that are involved with broader technical assistance efforts.

For further information contact: Peggy Cvach, U.S. Department of Education, 600 Independence Avenue, SW., Room 4609, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–9807. FAX: (202) 205–8971. Internet: Peggy_Cvach@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Absolute Priority 2—Model Demonstration Projects for Young Children With Disabilities

Background: This priority supports projects that develop, implement, evaluate, and disseminate new or improved approaches for serving young children with disabilities (infants, toddlers, and children ages birth through eight) and their families, including minority children and children with limited English proficiency. Projects supported under this priority are expected to be major contributors of models or components of models for service providers and for outreach projects funded under the Individuals with Disabilities Education Act.

The Secretary anticipates funding projects for a project period of up to 60 months. Projects supported for an initial three-year period may be eligible for an additional two years of funding to field test the viability of their models at other site locations. In determining whether to continue funding for the fourth and fifth years of the project period, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), considers the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day site visit, are to be performed during a project's third year and may be included in that year's annual evaluation. The three-plus-two-year funding period is expected to determine whether models yielding positive results at an original site can be successfully replicated at other locations.

Priority: A model demonstration project must—

(a) Develop and implement programs that address a service problem or issue in the most natural or least restrictive environment;

(b) Develop and implement programs with specific components or strategies that are based on theory, research, or evaluation data;

(c) Produce detailed procedures and materials that enable others to replicate the model as implemented at the original site; and,

(d) Evaluate the model at the original model development site and—if approved for funding beyond the initial three years of the project period—at other sites to determine whether the model can be adopted by other sites and yield similar positive results. In its evaluation, a project must use multiple outcome measures to determine the effectiveness of the model and its components or strategies, including measures of multiple, functional child and family outcomes, other indicators of the effects of the model, and cost data associated with implementing the model.

In determining whether to continue a project for the fourth and fifth years of the project period, in addition to considering factors in 34 CFR 75.253(a), the Secretary considers the following:

(a) The degree to which the model developed by the project is, or would be by the end of year three, viable and replicable by other agencies, and provides state-of-the-art interventions.

(b) The extent to which dissemination of the model would meet a significant or unique service need in other geographic locations.

(c) Compelling, quantifiable evidence of the effectiveness of the model as

implemented at the original development site.

(d) Availability of funding for the model from sources other than discretionary grants under the Individuals with Disabilities Education Act to support the operation of the model at the original development site during years four and five.

(e) Evidence of the commitment of other agencies not affiliated with the original project to adopt its model and participate in evaluation of the model during years four and five of the project period.

(f) The extent to which the project has sound plans for aiding in replication and for evaluating its model at replication sites during years four and five of the project period.

A project that applies for funding for the fourth and fifth years must set aside in its budget for the third year funds to cover costs associated with the services to be performed by the review team appointed by the Secretary to evaluate the project in the third year. These funds are estimated to be approximately $4,000.

For further information contact: Patricia Wright, U.S. Department of Education, 600 Independence Avenue, SW., Room 4623, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–9377. FAX: (202) 205–8971. Internet: Patricia_Wright@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Absolute Priority 3—Outreach Projects for Young Children With Disabilities

Background: This priority supports projects that assist educational and other agencies in implementing proven models, components of models, and other exemplary practices, to improve services for young children with disabilities (infants, toddlers, and children ages birth through eight) and their families, including minority children and children with limited English proficiency. To accomplish this goal, State agencies and local service agencies need information about and assistance in accessing the range of available, successful practices, curricula, and products.

The models, components of models, or exemplary practices selected for outreach need not have been developed through the Early Education Program for Children with Disabilities under the Individuals with Disabilities Education Act (IDEA), or by the applicant.

To increase the impact of outreach activities, projects are encouraged to select sites in multiple States. The Department of Education funds an Early Childhood Technical Assistance Center under IDEA to assist outreach projects in addressing the needs of States. This Center will help projects match their resources to identified States' needs for years two and three. Therefore, the plan of operation for projects planning to conduct outreach activities in multiple States should include plans concerning specific sites and activities for the initial year only.

Priority: An outreach project must—

(a) Disseminate information about and assist in replicating proven models, components of models, or exemplary practices that provide or improve services for young children with disabilities and their families in the most natural or least restrictive environment;

(b) Coordinate its dissemination and replication activities with the lead agency for Part H of the IDEA for early intervention services or the State educational agency for special education, as well as with technical assistance, information, and personnel development networks within the State;

(c) Involve families in the design, implementation, and evaluation of project activities;

(d) Ensure interagency coordination if multiple agencies are involved in the provision of services;

(e) Ensure that the model, components of models, or exemplary practices are consistent with Part B and Part H of IDEA, are state-of-the-art, match the needs of the proposed sites, and have evaluation data supporting their effectiveness;

(f) Include public awareness, product development and dissemination, training, and technical assistance activities, and written plans for site development;

(g) Describe criteria for selecting implementation sites and, for potential users, the expected costs, needed personnel, staff training, equipment, and sequence of implementation activities; and

(h) Evaluate the outreach activities to determine their effectiveness. The evaluation must include the types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of children and families served at the site where models were adopted or adapted, child progress and family satisfaction, and changes in the model or practice made by sites.

For further information contact: Lee Coleman, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4615, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8166. FAX: (202) 205–8971. Internet: Lee_Coleman@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Absolute Priority 4—Early Childhood Research Institutes

Background: The purpose of this priority is to support three early childhood research institutes, each of which will carry out research, development, evaluation and dissemination activities to improve early intervention and preschool services for children with disabilities and their families. One award will be made in each of the following three areas:

(1) *Early Childhood Research Institute on Culturally and Linguistically Appropriate Services.* This institute's program of research will focus on creating a resource bank of validated, culturally and linguistically appropriate materials and documented strategies (including child find and child instructional materials, personnel training manuals, family services materials) that can be used by service providers to work effectively with infants, toddlers, and preschool age children with disabilities and their families who have special needs because of their cultural or linguistic backgrounds. In addition to developing and field testing new materials and documented strategies to fill gaps, the institute will collect and catalog already existing materials, conduct reviews and field testing of selected materials, and broadly disseminate information about how to access materials collected or created by the institute.

(2) *Early Childhood Research Institute on Increasing Learning Opportunities for Children through Families.* The purpose of this institute is to identify, develop and evaluate strategies that will increase the number and intensity of planned learning activities that parents, and other care-givers can implement in structured and unstructured settings for infants, toddlers, and preschool age children with disabilities to prepare these children to enter school ready to learn, including those who are members of racial minority groups and individuals with limited English proficiency. These strategies (such as incidental teaching, use of educational games and toys, technology applications, evening and weekend activities) must be designed in a way that will complement services that are specified on Individualized Family Service Plans and Individual Education Programs and promote further skill acquisition, generalization and child growth and development. The institute will conduct a series of investigations to determine the effects and costs of various strategies that are developed in each of the following areas of child development: cognitive development, communication development, physical development, and social and emotional development. The institute's dissemination efforts will include the preparation of manuals for professionals, parents, and other care-givers that describe (a) procedures to determine additional learning opportunities for individual children, and (b) how to implement the strategies in a variety of settings and in a manner that complements other early intervention and preschool services.

(3) *Early Childhood Research Institute on Program Performance Measures.* The purpose of this institute is to develop, evaluate, and disseminate a program performance measurement system for early intervention, preschool, and primary-grade programs serving children with disabilities (birth through eight years) and their families. The performance measurement system will consist of child and family outcomes for different child ages within the early childhood age range as well as indicators and sources of data corresponding to each outcome. These child and family outcomes, indicators, and sources of data must be useful for tracking the progress of a broad range of children and families with different disabilities and characteristics and for measuring the impact and effectiveness of early childhood programs. For the performance measurement system to be useful at Federal, State, and local levels, it will include child and family outcomes of a general nature (i.e., outcomes appropriate for tracking the progress of all young children with disabilities and their families, including those who are members of cultural, linguistic, or racial minority groups) as well as sets of more specific outcomes. Each of the sets of more specific outcomes should correspond with a particular subgroup of children and families (e.g., children who are visually-impaired; families with incomes below the poverty level) that have characteristics unique to that subgroup, and that are appropriately separated from other subgroups for more precise and relevant measurement purposes.

In carrying out the developmental work, which will include consensus development activities based on input from a variety of professionals and parents, the institute will build upon other relevant efforts, including the work of the National Center on Educational Outcomes and the National Goals Panel on School Readiness. Once the initial developmental work is complete, the institute will conduct research activities to determine the feasibility, usefulness and appropriateness of the outcomes, indicators, and data sources in a variety of programs serving young children with disabilities and their families. The results of the research will include a system for measuring child and family attainment of outcomes, indicators of outcomes that are written in operational terms, and instruments and other data sources for each outcome. The measurement system must be designed in a manner that captures partial attainment or progress toward attainment of each outcome, and a method of using the results of the measurement system for program improvement.

Priority: Each institute considered for funding under this priority must—

(a) Conduct a program of research and development that addresses one of the issues identified above;

(b) Identify specific strategies and procedures that will be investigated;

(c) Carry out the research within a conceptual framework, based on previous research or theory, that provides a basis for the strategies and procedures to be studied, the research methods and instrumentation that will be used, and the specific target populations and settings that will be studied;

(d) Collect, analyze, and report a variety of data, including (1) Information on the settings, the service providers, the children and families targeted by the institute (e.g., age, disability, level of functioning and membership in a special population, if appropriate), (2) outcome data from multiple measures for the children and families who are the focus of the strategies and procedures; and (3) implementation data from the service providers, administrators and others involved in the research;

(e) Conduct the research with a broad range of children with disabilities and their families who are receiving early intervention and preschool services in typical service delivery settings;

(f) Conduct the research using methodological procedures that are designed to produce unambiguous findings regarding the effects of the strategies and procedures, as well as any findings on interaction effects between particular strategies and particular characteristics of participants or settings. These findings will be obtained through appropriate sample selection and adequate sample size to permit use of the findings in policy analyses;

(g) Design research activities that lead to improved services for children with disabilities and their families;

(h) Develop and field test products that can be used for training and technical assistance activities with policy makers, administrators, school board members, parents, and service providers that are likely to facilitate the implementation of the institute's findings and products in a variety of early intervention and preschool settings;

(i) Coordinate the research activities with other relevant efforts sponsored by the U.S. Department of Education and the U.S. Department of Health and Human Services, including other research institutes, technical assistance entities, and information clearinghouses;

(j) Provide training and research opportunities for a limited number of graduate students.

The Secretary anticipates funding three cooperative agreements with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue an institute for the fourth and fifth years of the project period, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), will consider the following:

(1) The recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the Institute, are to be performed during the last half of the Institute's second year and must be included in that year's evaluation required under 34 CFR 75.590. In its budget for the second year, the Institute must set aside funds to cover the costs of the review team. These funds are estimated to be approximately $4,000; (2) the timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Institute; and (3) the degree to which the Institute's research designs and methodological procedures demonstrate the potential for producing significant new knowledge and products.

For further information contact: Patricia Wright, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4623, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9377. FAX: (202) 205–8971. Internet: Patricia_Wright@ed.gov

Individuals who use a telecommunications device for the deaf

(TDD) may call the TDD number: (202) 205–8169.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 309.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Program authority: 20 U.S.C. 1423.

Educational Media Research, Production, Distribution, and Training Program

Purpose of program: To promote the general welfare of deaf and hearing-impaired individuals and individuals with visual impairments, and to promote the educational advancement of individuals with disabilities.

Priority

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Absolute Priority—Closed-Captioned Television Programs

Background: This priority supports cooperative agreements to provide closed-captioning of television programs in a variety of areas: (1) national news and public information programs; (2) movies, mini-series, special programs, and other programs broadcast during prime-time; (3) children's programs; and (4) syndicated television programs.

National News and Public Information. This activity will continue and expand closed-captioned national news, public information programs, and emergency programming, so that persons with hearing impairments can have access to up-to-date national morning, evening, and weekend news, as well as information concerning current events and other significant public information. In making awards the Secretary will consider the extent to which programs on each major national commercial and public broadcast network continue to be captioned. For news and public information programs that have previously been captioned, funds provided under this category may be used to support no more than 60 percent of the captioning costs for the first year of the project, 55 percent for the second year, and 50 percent for the third year. Funds provided under this category also may be used to support the captioning of emergency programming.

Movies, Mini-Series, and Special Programs. This activity will continue and expand the closed-captioning of movies, mini-series, and special programs available on major national broadcast networks or basic cable networks. In making awards the Secretary will consider the extent to which prime-time movies and other programs on each major national commercial broadcast network continue to be closed-captioned. For movies, mini-series, and special programs that have previously been captioned, funds provided under this category may be used to support no more than 60 percent of the captioning costs for the first year of the project, 55 percent for the second year, and 50 percent for the third year.

Children's Programs. This activity will provide closed-captioning of children's programs shown on national commercial and public broadcast networks, as well as syndicated and basic cable programs shown nationally, so that children who are deaf or hard of hearing will have access to popular children's programs. In making awards the Secretary will consider the extent to which children's programs on each major national commercial and public broadcast network, syndicated children's programs, and basic cable children's programs continue to be captioned.

Syndicated Television Programming. This activity will provide closed-captioning of syndicated television programs, thereby making a variety of programs available at different times, depending on local distribution. Syndicated programming includes both evergreen programming (popular previously-broadcast programs or series), and new programs distributed for showing on individual stations. In making awards, the Secretary considers the anticipated shelf-life and the range of distribution of the captioned programs possible without further costs to the project beyond the initial captioning costs, as well as the extent to which programs currently captioned may continue to be captioned.

Priority

Under this competition, the Secretary intends to make one or more awards in each of the four areas of activity identified above. Each application may address only one of the areas of activity.

Projects must—

(a) Include procedures and criteria for selecting programs for captioning that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational and cultural experiences of individuals with hearing impairments;

(b) Provide a flexible plan to assure closed-captioning of television programs without interruption, while accommodating last-minute program substitutions and new programs;

(c) Identify the total number of hours and the projected cost per hour for each of the programs to be captioned;

(d) Identify for each proposed program to be captioned the source of private or other public support and the projected dollar amount of that support;

(e) Identify the methods of captioning to be used for each program—indicating whether captioning is provided in real-time, live display, off-line, or reformatted—and the projected cost per hour for each method used;

(f) For national news and public information, provide and maintain back-up systems that will ensure successful, timely captioning service, despite national or regional emergency situations;

(g) Demonstrate the willingness of each major network or providers of syndicated programs included in the project to permit captioning of their programs;

(h) Implement procedures for monitoring the extent to which full and accurate captioning is provided and use this information to make refinements in captioning operations; and

(i) Identify the anticipated shelf-life, and the range of distribution of the programs captioned without further costs to the project beyond the initial captioning costs. (Syndicated programs only.)

For further information contact: Ernest Hairston, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4629, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9172. FAX: (202) 205–8971. Internet: Ernest—Hairston@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Parts 330, 331, and 332.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Program authority: 20 U.S.C. 1451, 1452.

Postsecondary Education Programs for Individuals With Disabilities Program

Purpose of program: To provide assistance for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities.

Priority

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Absolute Priority—Model Demonstration Projects to Improve the Delivery and Outcomes of Postsecondary Education for Individuals With Disabilities

Background: This priority supports projects that develop, implement, evaluate, and disseminate new or improved approaches for serving the needs of students with disabilities in postsecondary settings. Projects supported under this priority are expected to be major contributors of models or components of models for service providers in the field and for outreach projects funded under the Individuals with Disabilities Education Act.

Although institutions of higher education have implemented measures to accommodate students with disabilities since the 1970's, longitudinal and follow-up studies of students exiting from secondary schools consistently show that proportionately fewer students with disabilities receive any type of postsecondary education than students without disabilities. Further, those students with disabilities who do attend postsecondary institutions are significantly less likely to complete their studies or to be employed following their postsecondary experience. To change these outcomes, a number of specific barriers must be addressed, including the following:

Improving student potential for successful postsecondary experiences. Some students with disabilities and their families may be unaware of the range of available postsecondary opportunities. Other students may be aware of these options but may not be prepared to benefit from postsecondary education. To increase the number of students with disabilities entering and successfully completing postsecondary education, there is a need to develop strategies for outreach activities to inform secondary special education teachers and counselors in secondary schools about the range of postsecondary opportunities available and how to work with students and families to understand and access these opportunities. Further, there is a need to develop or adapt programs such as Upward Bound and Talent Search that assist potential candidates to access postsecondary education.

Accommodating diverse learning styles in a range of academic settings. As the number and range of students with disabilities entering postsecondary institutions increase, there will be a continuing need for an institution's administration to accommodate or modify instructional strategies and classroom environments to promote improved participation and performance for these students. Thus, postsecondary institutions will have to work with individual faculty members and staff to implement the accommodations needed by particular students. This is likely to require institutional strategies (1) to understand state-of-the-art practice in accommodating the full range of students with disabilities in traditional and emerging learning environments, and (2) to provide training on an on-going, as well as student-specific, basis to faculty or staff.

Transferring of student accommodations to the employment setting. Students with disabilities who require classroom accommodations and adaptations to improve academic performance may require similar types of accommodations or adaptations on the job. In addition, specific jobs or professions may need additional accommodations or adaptations to successfully employ particular students with disabilities. Thus, there is a need to develop strategies for helping students, placement specialists, and employers determine the accommodations or adaptations that would be required for professions or employment settings of interest to the student, and for transferring or arranging for those accommodations. This is likely to require cooperative efforts among representatives of the services responsible for successful vocational placements for people with disabilities. These collaborative efforts must include extensive involvement of representatives from an institution's program that provides support services to students with disabilities, the institution's career placement office, the State vocational rehabilitation (VR) agency (for VR-sponsored students), and business and industry.

Priority: A model demonstration project must—

(a) Develop and implement programs that address at least one of the three specific service issues described in the background of this proposed priority;

(b) Develop and implement programs with specific components or strategies that are based on theory, research, or evaluation data;

(c) Produce detailed procedures and materials that enable others to replicate the model as implemented in the original site; and,

(d) Evaluate the model by using multiple outcome measures to determine the effectiveness of the model and its components or strategies, including measures of multiple, functional student outcomes, other indicators of the effects of the model, and cost data associated with implementing the model.

For further information contact: Michael Ward, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4624, Switzer B Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8163. FAX: (202) 205–8971. Internet: Michael__Ward@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 338.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Program authority: 20.U.S.C. 1424a.

Program for Children With Severe Disabilities

Purpose of program: To provide Federal assistance to address the special needs of infants, toddlers, children, and youth with severe disabilities—including children with deaf-blindness—and their families.

Priority

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Absolute Priority—Outreach Projects: Serving Children With Severe Disabilities in General Education and Community Settings

Background: This priority supports projects that assist educational and other agencies in implementing proven models, components of models, and exemplary practices to improve services for children and youth with severe disabilities and their families. State and

local education agencies are engaged in systemic educational reform efforts emphasizing development of teaching and learning standards, student assessment, mobilizing community and parental support, technology, and school to work initiatives for all students. To support these efforts, State agencies and local service agencies need information on successful practices, curricula, and products that have proven effective in including students with severe disabilities in social and academic settings and activities.

The models, components of models, or exemplary practices selected for outreach activities need not have been developed through the Program for Children with Severe Disabilities under the Individuals with Disabilities Education Act, or by the applicant.

The practices to be implemented during the outreach activities may focus on, but are not limited to, transition from school to adult life, behavior management, coordination of services, or strategies that facilitate the inclusion of children with severe disabilities into their neighborhood schools and local communities. To increase their visibility and to enhance the impact of outreach activities, projects are encouraged to establish adoption sites in multiple States.

Priority: An outreach project must—

(a) Disseminate information about and assist in replicating proven models, components of models, or exemplary practices that provide or improve services for children with severe disabilities and their families in general education and community settings;

(b) Coordinate its dissemination and replication activities with the lead agency for Part H of the IDEA for early intervention services or the State educational agency for special education, as well as technical assistance, information, and personnel development networks within the State;

(c) Involve children, as appropriate, and their families in the design, implementation, and evaluation of project activities;

(d) Ensure interagency coordination if multiple agencies are involved in the provision of services;

(e) Ensure that the models, components of models, or exemplary practices are consistent with Parts B and H of the IDEA, are state-of-the-art, match the needs of the proposed sites, and have evaluation data supporting their effectiveness;

(f) Include public awareness, product development and dissemination, training, and technical assistance activities, and written plans for site development;

(g) Describe criteria for selecting implementation sites and, for potential users, the expected costs, needed personnel, staff training, equipment, and the sequence of implementation activities;

(h) Evaluate the outreach activities to determine their effectiveness. The evaluation must include the types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of children and families served at the site where models or practices were adopted or adapted, child progress and family satisfaction, and changes in the model or practices made by sites.

For further information contact: Anne Smith, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4621, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8888. FAX: (202) 205–8971. Internet: Anne—Smith@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 315.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Program authority: 20 U.S.C. 1424.

Secondary Education and Transitional Services for Youth With Disabilities Program

Purpose of program: To (1) assist youth with disabilities in the transition from secondary school to postsecondary environments, such as competitive or supported employment, and (2) ensure that secondary special education and transitional services result in competitive or supported employment for youth with disabilities.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet any one of the following priorities. The Secretary funds under these competitions only applications that meet any one of these absolute priorities:

Absolute Priority 1—Outreach Projects for Services for Youth With Disabilities

Background: This priority supports projects that assist educational and other agencies in implementing proven models, components of models, or other exemplary practices to improve secondary education and transitional services for youth with disabilities in areas such as continuing education, self-determination, vocational education and training, supported competitive employment, leisure and recreation, and independent living.

Data from the National Longitudinal Transition Study (NLTS) indicated that secondary education students with disabilities averaged 70 percent of their time in regular education settings. The study also suggests that 38 percent of students with disabilities drop out before their completion, with repeated course failure a strong predictor of dropping out. Many of these students were in regular education classes without the help of academic support services (e.g., tutors, study skills and test-taking preparation classes, learning labs). The provision of these services and enrollment in vocational training courses had significant "holding power" for those students who had the potential for dropping out. The NLTS also found that youth who belonged to school or community groups did better in school, were less likely to drop out, and experienced a higher probability of entering postsecondary education. Thus, there is a critical need for secondary schools to accommodate or modify instructional strategies and classroom environments to promote improved participation and performance of students with disabilities.

The Individuals with Disabilities Education Act (IDEA) requires that a statement of needed transition services be included in the individualized education program (IEP) for each student beginning no later than age 16, and at a younger age, if determined appropriate, and that the services be updated on an annual basis (20 U.S.C. 1401(a)(20)(D)). To effectively meet this requirement, State agencies and local service agencies need information on successful practices, curricula, and products.

The models, components of models, or exemplary practices selected for outreach need not have been developed through the Secondary and Transitional Services Program under the IDEA, or by the applicant. To increase the impact of outreach activities, projects are encouraged to select sites in multiple regions or States.

Priority: An outreach project must—

(a) Disseminate information about and assist in replicating proven models, components of models, or exemplary practices that provide or improve secondary and transitional services for students with disabilities in

community-based settings or the least restrictive environment, as appropriate;

(b) Coordinate its dissemination and replication activities with relevant State and local educational agencies, consumer organizations, administrative entities established in the service delivery area under the Job Training Partnership Act, and, if appropriate, other systems for transitional services for youth with disabilities as well as with technical assistance, information, and personnel development networks within the State;

(c) Involve students and adults with disabilities in the design, implementation, and evaluation of project activities;

(d) Ensure coordination with schools, vocational rehabilitation agencies, adult service providers, and potential employers, if appropriate;

(e) Ensure that the model, components of models, or exemplary practices are consistent with Part B of the IDEA, are state-of-the-art, match the needs of proposed sites, and have evaluation data supporting their effectiveness;

(f) Include public awareness, product development and dissemination, training, and technical assistance activities, and written plans for site development;

(g) Describe criteria for selecting implementation sites and, for potential users, the expected costs, needed personnel, staff training, equipment, and the sequence of implementation activities;

(h) Evaluate the outreach activities to determine their effectiveness. The evaluation must include the types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of youth and families served at the site where models were adopted or adapted, youth progress and satisfaction, and changes in the model or practice made by sites.

For further information contact: Michael Ward, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4624, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8163. FAX: (202) 205–8971. Internet: Michael—Ward@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Absolute Priority 2—Model Demonstration Projects To Improve the Delivery and Outcomes of Secondary Education Services for Students With Disabilities

Background: This priority supports projects that develop, implement, evaluate, and disseminate new or improved approaches for serving the needs of students with disabilities in secondary school settings. Projects must coordinate their activities with State and local partnerships developed under the School-to-Work Opportunities Act to prepare all students for high-skill, high-wage jobs or further education and training. In particular, the school-based learning activities must be tied to occupational skills standards and challenging academic standards. Projects supported under this priority are expected to be major contributors of models or components of models for secondary school services providers in the field and for outreach projects funded under the Individuals with Disabilities Education Act.

Data from the National Longitudinal Transition Study (NLTS) indicated that secondary education students with disabilities averaged 70 percent of their time in regular education settings. The study also suggests that 38 percent of students with disabilities drop out before their completion, with repeated course failure a strong predictor of dropping out. Many of these students were in regular education classes without the help of academic support services (e.g., tutors, study skills and test-taking preparation classes, learning labs). The provision of these services and enrollment in vocational training courses had significant "holding power" for those students who had the potential for dropping out. The NLTS also found that youth who belonged to school or community groups did better in school, were less likely to drop out, and experienced a higher probability of entering postsecondary education. Thus, there is a critical need for secondary schools to accommodate or modify instructional strategies and classroom environments to promote improved participation and performance for students with disabilities.

In order to meet the needs of students with disabilities in secondary settings, a number of service issues need to be addressed: (a) providing counseling, tutoring, assistive technology and other support strategies to prevent course failure among students with disabilities; (b) restructuring academic and/or vocational course offerings (e.g., content, instructional procedures, sequencing, and work-based learning and connecting activities) to accommodate students with disabilities with diverse learning needs and styles; (c) revising academic courses in a manner that includes career awareness and directly complements skills taught in vocational education programs and in other courses; and (d) developing extracurricular activities for students with disabilities that promote the retention and generalization of academic and vocational skills in a variety of settings.

In order to implement the accommodations needed by particular students, it is important that strategies be developed in coordination with individual teachers and related services personnel. These linkages are likely to result from institutional strategies that (a) are based on an understanding of state-of-the-art practice in accommodating the full range of students with disabilities in traditional and emerging learning environments, and (b) provide training on an on-going, as well as student-specific, basis to teachers and other personnel.

Priority: A model demonstration project must—

(1) Develop and implement programs that address at least one of the specific service issues described in the background of this proposed priority;

(2) Develop and implement programs with specific components or strategies that are based on theory, research, or evaluation data;

(3) Produce detailed procedures and materials that would enable others to replicate the model as implemented in the original site; and,

(4) Evaluate the model by using multiple outcome measures to determine the effectiveness of the model and its components or strategies, including measures of multiple, functional student and family outcomes, other indicators of the effects of the model, and cost data associated with implementing the model.

For further information contact: Michael Ward, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4624, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8163. FAX: (202) 205–8971. Internet: Michael ____ Ward@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 326.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Program authority: 20 U.S.C. 1425.

Program for Children and Youth With Serious Emotional Disturbance

Purpose of program: To support projects designed to improve special education and related services to children and youth with serious emotional disturbance. Types of projects that may be supported under the program include, but are not limited to, research, development, and demonstration projects. Funds may also be used to develop and demonstrate approaches to assist and prevent children with emotional and behavioral problems from developing serious emotional disturbance.

Priority

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Absolute Priority—Developing Effective Secondary School-Based Practices for Youth With Serious Emotional Disturbance

Background: Recent nationwide research on secondary school experiences and post-school outcomes for students with disabilities finds that youth with serious emotional disturbance (SED) are at particularly high risk for school failure and for poor post-school outcomes. While the majority of secondary age students with SED attend regular high schools, most of these students receive special education and related services outside the regular classroom for a substantial part, or all, of their school day. SED students attending regular secondary schools tend, as a group: to display erratic school attendance patterns; to achieve low levels of academic success despite generally normal-and-above ability levels; to be minimally involved in the social milieu of their schools; and to drop out of school at alarming rates. Fifty percent drop out of school, most by the tenth grade.

Poor adjustment and behavioral concerns are common during and beyond high school among these students. Data from the National Longitudinal Transition Study show that only one in ten students with serious emotional disturbance have behavior management plans. They tend to be under- or un-employed, are rarely involved in post-secondary education, and are at high risk for engaging in activities and behaviors outside the bounds of the law.

While fairly substantial recent and current efforts are focusing on improving results for younger students with SED, little attention is being directed toward their secondary-age counterparts. This priority is intended to address this critical need.

Priority: The Secretary establishes an absolute priority for projects to develop, implement, test the efficacy of, and disseminate practices for improving academic, vocational, personal, social, and behavioral results for students with SED in regular high schools, including consideration of the most appropriate and least restrictive placements.

Under this priority, projects must—

(1) Develop practices with sound conceptual bases that are designed to improve critical academic, vocational, personal, social, and behavioral outcomes for SED students;

(2) Apply rigorous research standards in testing the efficacy of practices developed;

(3) Develop products that include clear, comprehensive descriptions of tested practices, test site contexts, and target student characteristics, and disseminate these products to appropriate research institutes, clearinghouses, and technical assistance providers.

A project must budget for two trips annually to Washington, D.C. for: (1) A two-day Research Project Directors' meeting; and (2) another meeting to meet and collaborate with the OSEP project officer and with other relevant OSEP funded projects.

For further information contact: Helen Thornton, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3520, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5910. FAX: (202) 205–8105. Internet: Helen____Thornton@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 328.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Program authority: 20 U.S.C. 1423.

Intergovernmental Review

All programs included in this notice are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Dated: January 29, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

(Catalog of Federal Domestic Assistance Numbers: Early Education Program for Children with Disabilities, 84.024; Media Research, Production, Distribution, and Training Program, 84.026; Postsecondary Education Program for Individuals with Disabilities Program, 84.078; Program for Children with Severe Disabilities, 84.086; Secondary Education and Transitional Services Program for Youth with Disabilities, 84.158; and Program for Children and Youth with Serious Emotional Disturbance, 84.237)

[FR Doc. 96–2199 Filed 2–1–96; 8:45 am]

BILLING CODE 4000–01–P

Office of Special Education and Rehabilitative Services; Individuals With Disabilities; Notice Inviting Applications

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1996.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for fiscal year 1996 competitions under six programs authorized by the Individuals with Disabilities Education Act. This notice supports the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement.

[CFDA No. 84.024]

Early Education Program for Children With Disabilities Program

Purpose of Program: To support activities that are designed (a) to address the special needs of children with disabilities, birth through age eight, and their families; and (b) to assist State and local entities in expanding and improving programs and services for these children and their families.

Eligible Applicants: Public agencies and private nonprofit organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 309.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Absolute Priority 1—National Early Childhood Technical Assistance Center (84.024A). The priority for National Technical Assistance Center in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications available: February 16, 1996.

Deadline for Transmittal of Applications: May 31, 1996.

Deadline for Intergovernmental Review: July 30, 1996.

Estimated Average Size of Award: $4,000,000.

Estimated number of awards: One.

Project period: 60 months.

Available funds: $4,000,000.

Absolute Priority 2—Model Demonstration Projects for Young Children with Disabilities (84.024B). The priority for Model Demonstration Projects for Young Children with Disabilities in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications available: February 16, 1996.

Deadline for Transmittal of Applications: April 10, 1996.

Deadline for Intergovernmental Review: June 9, 1996.

Estimated Average Size of Award: $137,000.

Estimated Number of awards: Eight.

Project Period: 60 months.

Available Funds: $1,100,000.

Absolute Priority 3—Outreach Projects for Young Children with Disabilities (84.024D). The priority for Outreach Projects for Young Children with Disabilities in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Competitive Priority

Under 34 CFR 75.105(c)(2) the Secretary gives a competitive preference to applications that are otherwise eligible for funding under this priority and that meet the following competitive priority:

Propose to provide services to one or more Empowerment Zones or Enterprise Communities that are designated within the areas served by the projects. To meet this priority an applicant must indicate that it will:

- Design a program that includes special activities focused on the unique needs of one or more Empowerment Zones or Enterprises Communities; or
- Devote a substantial portion of program resources to providing services within, or meeting the needs of residents of these zones and communities.

As appropriate, the proposed project under the Individuals with Disabilities Education Act must contribute to the strategic plan of the Empowerment Zones or Enterprise Communities and be made an integral component of the Empowerment Zone or Enterprise Community activities.

The Secretary awards 5 points to an application that meets the competitive priority relating to Empowerment Zones and Enterprises Communities published in the **Federal Register** on November 7, 1994 (59 FR 55534). These points are in addition to any points the application earns under the selection criteria for the program.

A listing of areas that have been selected as Empowerment Zones or Enterprises Communities is included in an appendix to a notice published in the **Federal Register** on December 6, 1995 (60 FR 62699).

Applications Available: February 16, 1996.

Deadline for Transmittal of Applications: April 12, 1996.

Deadline for Intergovernmental Review: June 11, 1996.

Estimated Average Size of Award: $133,000.

Estimated Number of Awards: 15.

Project Period: 36 months.

Available Funds: $2,000,000.

Absolute Priority 4—Early Childhood Research Institutes (84.024S). The priority for Early Childhood Research Institutes in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: February 16, 1996.

Deadline for Transmittal of Applications: May 10, 1996.

Deadline for Intergovernmental Review: July 9, 1996.

Estimated Average Size of Award: $833,000.

Estimated Number of Awards: Three.

Project Period: 60 months.

Available Funds: Approximately $2,500,000 is expected to be available for this competition. The anticipated award is $1,000,000 for the Institute on Culturally and Linguistically Appropriate Services; $750,000 for the Institute on Increasing Learning Opportunities for Children through Families; and $750,000 for the Institute on Program Performance Measures.

FOR APPLICATIONS AND GENERAL INFORMATION CONTACT: Patricia Wright, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4623, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9377. Fax: (202) 205–8971. Internet: Patricia__Wright@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

FOR TECHNICAL INFORMATION CONTACT: For the National Early Childhood Technical Assistance Center (84.024A): Peggy Cvach, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4609, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9807. Fax: (202) 205–8971. Internet: Peggy__Cvach@ed.gov

For Model Demonstration Projects for Young Children with Disabilities (84.024B): Gail Houle, U.S. Department of Education. 600 Independence Avenue, S.W., Room 4613, Switzer Building, Washington D.C. 20202–2641. Telephone: (202) 205–9045. Fax: (202) 205–8971. Internet: Gail__Houle@ed.gov

For Outreach Projects for Young Children with Disabilities (84.024D): Lee Coleman, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4615, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8166. Fax: (202) 205–8971. Internet: Lee__Coleman@ed.gov

For Early Childhood Research Institutes (84.024S): Gail Houle, U.S. Department of Education. 600 Independence Avenue, S.W., Room 4613, Switzer Building, Washington D.C. 20202–2641. Telephone: (202) 205–9045. Fax: (202) 205–8971. Internet: Gail__Houle@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Program Authority: 20 U.S.C. 1423.

[CFDA No. 84.026]

Educational Media Research, Production, Distribution, and Training Program

Purpose of Program: To promote the general welfare of deaf and hearing-impaired individuals and individuals with visual impairments, and to promote the educational advancement of individuals with disabilities.

Eligible Applicants: Profit and nonprofit public and private agencies, organizations, and institutions.

Applicable Regulations: (a) The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 330, 331, and 332.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority

Absolute Priority—Closed-Captioned Television Programs (84.026U). The priority for Closed-Captioned Television Programs in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: February 16, 1996.

Deadline for Transmittal of Applications: April 1, 1996.

Deadline for Intergovernmental Review: May 31, 1996.

Estimated Average Size of Award: $605,000.

Estimated Number of Awards: 10.

Project Period: 36 months.

Available Funds: $6,050,000.

FOR APPLICATIONS AND INFORMATION CONTACT: JoAnn McCann, U.S. Department of Education, 600 Maryland Avenue, S.W., Room 4629, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8475. Fax: (202) 205–8971. Internet: JoAnn__McCann@Ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Program Authority: 20 U.S.C. 1451, 1452.

[CFDA No. 84.078]

Postsecondary Education Programs for Individuals With Disabilities Program

Purpose of Program: To provide assistance for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities.

Eligible Applicants: State educational agencies, institutions of higher education; junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 338.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority

Absolute Priority—Model Demonstration Projects to Improve the Delivery and Outcomes of Secondary Education for Individuals with Disabilities (84.078C). The priority for Model Demonstration Projects to Improve the Delivery and Outcomes of Secondary Education for Individuals with Disabilities in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: February 16, 1996.

Deadline for Transmittal of Applications: April 5, 1996.

Deadline for Intergovernmental Review: June 4, 1996.

Estimated Average Size of Award: $110,000.

Estimated Number of Awards: 14.

Project Period: 36 months.

Available Funds: $1,540,000.

FOR APPLICATIONS AND GENERAL INFORMATION CONTACT: Patricia Wright, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4623, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9377. Fax: (202) 205–8971. Internet: Patricia___Wright@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

FOR TECHNICAL INFORMATION CONTACT: Michael Ward, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4624, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8163. Fax: (202) 205–8971. Internet: Michael___Ward@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Program Authority: 20 U.S.C. 1424a.

[CFDA No. 84.086]

Program for Children With Severe Disabilities

Purpose of Program: To provide Federal assistance to address the special needs of infants, toddlers, children, and youth with severe disabilities, including children with deaf-blindness and their families.

Eligible Applicants: Public or nonprofit private organizations and institutions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 315.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority

Absolute Priority—Outreach Projects: Serving Children with Severe Disabilities in General Education and Community Settings (84.086U). The priority for Outreach Projects: Serving Children with Severe Disabilities in General Education and Community Settings in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: February 16, 1996.

Deadline for Transmittal of Applications: May 24, 1996.

Deadline for Intergovernmental Review: July 23, 1996.

Estimated Average Size of Award: $148,000.

Estimated Number of Awards: 9.

Project Period: 36 months.

Available Funds: $1,330,000.

FOR APPLICATIONS AND GENERAL INFORMATION: Robin Murphy, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4617, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9884. Fax: (202) 205–8971. Internet: Robin___Murphy@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

FOR TECHNICAL INFORMATION CONTACT: Anne Smith, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4621, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8888. Fax: (202) 205–8971. Internet: Anne___Smith@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Program Authority: 20 U.S.C. 1424.

[CFDA No. 84.158]

Secondary Education and Transitional Services for Youth With Disabilities Program

Purpose of Program: To (1) assist youth with disabilities in the transition from secondary school to postsecondary environments, such as competitive or supported employment, and (2) ensure that secondary special education and transitional services result in competitive or supported employment for youth with disabilities.

Eligible Applicants: Institutions of higher education, State educational agencies, local educational agencies, and other public and nonprofit private institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 326.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priorities

Absolute Priority 1—Outreach Projects for Services for Youth with Disabilities (84.158Q). The priority for Outreach Projects for Services for Youth with Disabilities in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: February 16, 1996.

Deadline for Transmittal of Applications: April 1, 1996.

Deadline for Intergovernmental Review: May 31, 1996.

Estimated Average Size of Award: $110,000.

Estimated Number of Awards: Nine.

Project Period: 36 months.

Available Funds: $1,000,000.

Absolute Priority 2—Model Demonstration Projects to Improve the Delivery and Outcomes of Secondary Education Services for Students with Disabilities (84.158V). The priority for Model Demonstration Projects to Improve the Delivery and Outcomes of Secondary Education Services for Students with Disabilities in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: February 16, 1996.

Deadline for Transmittal of Apllications: May 1, 1996.

Deadline for Intergovernmental Review: June 30, 1996.

Estimated Average Size of Award: $130,000.

Estimated Number of Awards: Eight.

Project Period: 36 months.

Available Funds: $1,040,000.

FOR APPLICATIONS AND GENERAL INFORMATION CONTACT: Patricia Wright, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4623, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9377. Fax: (202) 205–8971. Internet: Patricia___Wright@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

FOR TECHNICAL INFORMATION CONTACT: Michael Ward, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4624, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8163. Fax: (202) 205–8971. Internet: Michael___Ward@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8169.

Program Authority: 20 U.S.C. 1425.

[CFDA No. 84.237H]

Program for Children and Youth With Serious Emotional Disturbance

Purpose of Program: To support projects designed to improve special education and related services to children and youth with serious emotional disturbance. Types of projects that may be supported under the program include, but are not limited to, research, development, and demonstration projects. Funds may also be used to develop and demonstrate approaches to assist and prevent children with emotional and behavioral problems from developing serious emotional disturbance.

Eligible Applicants: Institutions of higher education, State educational agencies, local educational agencies, and other appropriate public and nonprofit private institutions or agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 328.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Priority

Absolute Priority—Developing Effective Secondary School-Based Practices for Youth with Serious Emotional Disturbance (84.237H). The priority Developing Effective Secondary School-Based Practices for Youth with Serious Emotional Disturbance in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: February 16, 1996.

Deadline for Transmittal of Applications: April 30, 1996.

Deadline for Intergovernmental Review: June 29, 1996.

Estimated Average Size of Award: $167,000.

Estimated Number of Awards: Three

Project Period: Up to 48 months.

Available Funds: In fiscal year 1996, approximately $500,000 will be available to support an estimated 3 projects. The estimated average size of award is $167,000 for the first 12 months of the project. Multi-year projects will be level funded unless there are increases in costs attributable to significant changes in activity level.

FOR APPLICATIONS AND GENERAL INFORMATION CONTACT: Claudette Carey, U.S. Department of Education, 600 Independence Avenue, S.W., room 3525, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9864. Fax: (202) 20508105. Internet: Claudette___Carey@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

FOR TECHNICAL INFORMATION CONTACT: Helen Thornton, U.S. Department of Education, 600 Independence Avenue, SW., room 3520, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–5910. Fax: (202) 205–8105. Internet: Helen__Thornton@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 1426.

Dated: January 29, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–2198 Filed 2–1–96; 8:45 am]

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federal register

Friday
February 2, 1996

Part VII

Department of Education

Office of Postsecondary Education

Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions to submit a request for a waiver of the allocation reduction for the underuse of funds under the Federal Perkins Loan, Federal Work-Study (FWS), or Federal Supplemental Educational Opportunity Grant (FSEOG) programs (known collectively as the campus-based programs).

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to submit a written request for a waiver of the allocation reduction being applied to its Federal Perkins Loan, FWS, or FSEOG allocation for the 1996–97 award year (July 1, 1996 through June 30, 1997) because the institution returned more than 10 percent of its allocation for that program for the 1994–95 award year (July 1, 1994 through June 30, 1995).

DATES: *Closing Date for Submitting a Waiver Request and any Supporting Information or Documents.* For an institution that returned more than 10 percent of its Federal Perkins Loan, FWS, or FSEOG allocation for the 1994–95 award year to be considered for a waiver of the allocation reduction for its 1996–97 award year allocation, it must mail or hand-deliver its waiver request and any supporting information or documents on or before March 4, 1996. The Department will not accept a waiver request submitted by facsimile transmission. The waiver request must be submitted to the Campus-Based Programs Financial Management Division at one of the addresses indicated below.

ADDRESSES: *Waiver Request and any Supporting Information or Documents Delivered by Mail.* The waiver request and any supporting information or documents delivered by mail must be addressed to Sandra Donelson, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, P.O. Box 23781, Washington, D.C. 20026–0781. An applicant must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education.

If a waiver request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office.

An institution is encouraged to use certified or at least first class mail. Institutions that submit waiver requests and any supporting information or documents after the closing date will not be considered for a waiver of the allocation reduction being applied to its allocation under any of the campus-based programs for award year 1996–97.

Waiver Requests and any Supporting Information or Documents Delivered by Hand. A waiver request and any supporting information or documents delivered by hand must be taken to Sandra Donelson, Financial Management Specialist, Campus-Based Financial Operations, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, Room 4714, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. Hand-delivered waiver requests will be accepted between 8:00 a.m. and 4:30 p.m. (Eastern time) daily, except Saturdays, Sundays, and Federal holidays. A waiver request for the 1996–97 award year that is delivered by hand will not be accepted after 4:30 p.m. on the closing date.

SUPPLEMENTARY INFORMATION: Under sections 413D(e)(2), 442(e)(2), and 462(j)(4) of the Higher Education Act of 1965, as amended, if an institution returns more than 10 percent of its Federal Perkins Loan, FWS, or FSEOG allocation for an award year, the institution will have its allocation for the second succeeding award year for that program reduced by the dollar amount returned. The Secretary may waive this requirement for a specific institution if the Secretary finds that enforcement of the requirement would be contrary to the interest of the affected campus-based program. The institution must provide a written waiver request and any supporting information or documents by the established March 4, 1996 closing date. The waiver request must be signed by an appropriate institutional official and above the signature the official must include the statement: "I certify that the information the institution provided in this waiver request is true and accurate to the best of my knowledge. I understand that the information is subject to audit and program review by representatives of the Secretary of Education." If the institution submits a waiver request and any supporting information or documents after the closing date, the request will not be considered.

Applicable Regulations

The following regulations apply to the campus-based programs:

(1) Student Assistance General Provisions, 34 CFR Part 668.

(2) Federal Perkins Loan Program, 34 CFR Part 674.

(3) Federal Work-Study Program, 34 CFR Part 675.

(4) Federal Supplemental Educational Opportunity Grant Program, 34 CFR Part 676.

(5) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR Part 600.

(6) New Restrictions on Lobbying, 34 CFR Part 82.

(7) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.

(8) Drug-Free Schools and Campuses, 34 CFR Part 86.

FOR FURTHER INFORMATION CONTACT: For technical assistance concerning the waiver request or other operational procedures of the campus-based programs, contact: Sandra Donelson, Financial Management Specialist, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, Room 4714, Regional Office Building 3, 600 Independence Avenue SW., Washington, D.C. 20202–5458, Telephone (202) 708–9751. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

(Authority: 20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*)

Dated: January 30, 1996.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program)

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–2197 Filed 2–1–96; 8:45 am]

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federal register

Friday
February 2, 1996

Part VIII

Environmental Protection Agency

Thirty-Seventh Report of the TSCA Interagency Testing Committee to the Administrator; Receipt of Report, Request for Comments, Solicitation of Use and Exposure Data; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–41044; FRL–4991–6]

Thirty-Seventh Report of the TSCA Interagency Testing Committee to the Administrator; Receipt of Report, Request for Comments, Solicitation of Use and Exposure Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The TSCA Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its 37th Report to the Administrator of the EPA on November 22, 1995. In its 37th Report, which is included with this notice, the ITC revised the *Priority Testing List* by adding a group of 28 alkylphenols and alkylphenol ethoxylates to the List for consideration by the EPA Administrator for promulgation of test rules under section 4(a) of the Act. The ITC also removed 43 previously-recommended silicone chemicals and 5 isocyanates. The ITC's reasons for removing these chemicals from the List are described in the 37th Report. As noted in this Report, the ITC is soliciting use and exposure data for 9 of the 12 High Production Volume Chemicals that were recommended in its 36th Report (60 FR 42982, August 17, 1995) and consumer use and data for the 10 isocyanates remaining on the List. There are no designated or recommended with intent-to-designate chemicals or chemical groups in the 37th Report. EPA invites interested persons to submit written comments on the Report.

DATES: Written comments on the 37th ITC Report should be submitted by March 4, 1996.

ADDRESSES: Comments on the 37th Report should be submitted to both the ITC and the TSCA Public Docket. Send one copy of written submissions to: John Walker, ITC Director, U.S. EPA (7401), 401 M St. SW., Washington, DC 20016. Send six copies of written submissions to: TSCA Public Docket Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. B-607 NEM, 401 M St. SW., Washington, DC 20460. Submissions should bear the document control number (OPPTS–41044; FRL–4991–6).

The public record supporting this action, including comments, is available for public inspection in Rm. B–607 NEM at the address noted above from 12:00 noon to 4 pm Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St. SW., Rm. ET–543B,Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: EPA has received the TSCA Interagency Testing Committee's 37th Report to the Administrator.

I. Background

TSCA (Pub. L. 94–469, 90 Stat. 2003 et seq; 15 U.S.C. 260l et seq.) authorizes the Administrator of the EPA to promulgate regulations under section 4(a) requiring testing of chemicals and chemical groups in order to develop data relevant to determining the risks that such chemicals and chemical groups may present to health or the environment. Section 4(e) of TSCA established the Interagency Testing Committee (ITC) to recommend chemicals and chemical groups to the Administrator of the EPA for priority testing consideration. Section 4(e) directs the ITC to revise the TSCA section 4(e) *Priority Testing List* at least every 6 months. The most recent revisions to this List are included in the ITC's 37th Report. The Report was received by the Administrator on November 22, 1995, and is included in this Notice. The Report recommends a group of 28 alkylphenols and alkylphenol ethoxylates, removes 43 silicone chemicals and 5 isocyanates previously recommended for testing and solicits use and exposure data for 9 High Production Volume Chemicals (HPVCs) and 10 isocyanates from the TSCA section 4(e) *Priority Testing List.*

II. Status of List

The ITC's 37th Report requests use and exposure data for 9 HPVCs and 10 isocyanates, adds 28 chemicals to and removes 48 chemicals from the *Priority Testing List.* The current TSCA section 4(e) *Priority Testing List* contains 5 chemicals and 9 chemical groups; of these 3 chemical groups and 3 chemicals were designated for testing.

A notice will be published at a later date in the **Federal Register** adding certain of the substances recommended in the ITC's 37th Report to the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716), which requires the reporting of unpublished health and safety studies on the listed chemicals. That notice will also add some of the chemicals to the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). The section 8(a) rule requires the reporting of production volume, use, exposure, and release information on the listed chemicals.

III. Electronic and Oral Comments

The EPA invites interested persons to submit detailed comments on the ITC's Report. A record has been established for this notice under docket number [OPPTS–41044]. A public version of this record including printed paper versions of electronic comments, which does not contain any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Non-confidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460. Electronic comments can be sent directly to the ITC at

Walker.johnd@epamail.epa.gov and to the EPA at:

ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of ecryption.

The official record for the 37th report, as well as the public version as described above, will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the EPA address in **ADDRESSES** at the beginning of this document.

Authority: 15 U.S.C. 2603.

Dated: January 22, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Thirty-Seventh Report of the TSCA Interagency Testing Committee to the Administrator, U.S. Environmental Protection Agency

Summary

This is the 37th Report of the TSCA Interagency Testing Committee (ITC) to the Administrator of the U.S. Environmental Protection Agency (EPA). In this Report, the ITC is revising its TSCA section 4(e) *Priority Testing List* by recommending 28 alkylphenols and alkylphenol ethoxylates and removing 43 previously-recommended silicone chemicals and 5 isocyanates. As noted in this Report, the ITC is soliciting use and exposure data for 9 of the 12 High Production Volume Chemicals that were recommended in its 36th Report (60 FR 42982, August 17, 1995) and consumer use and exposure data for the 10 isocyanates remaining on the *List.* Comments on this Report should be submitted both to the ITC and the TSCA Public Docket. The revised TSCA section 4(e) *Priority Testing List* follows as Table 1.

TABLE 1.—THE TSCA SECTION 4(E) PRIORITY TESTING LIST (NOVEMBER 1995)

Report	Date	Chemical/Group	Action
26	May 1990	Isocyanates	Recommended with intent-to-designate.
27	November 1990	62 Aldehydes	Recommended with intent-to-designate.
28	May 1991	Acetone	Designated.
28	May 1991	Thiophenol	Designated.
29	November 1991	10 Alkyl-, bromo-, chloro-, hydroxymethyl diaryl ethers	Recommended.
30	May 1992	13 Silcxanes	Recommended.
31	January 1993	24 Chemicals with no dermal toxicity data	Designated.
32	May 1993	32 Chemicals with insufficient dermal absorption data	Designated.
34	May 1994	White phosphorus	Designated.
34	May 1994	Ethyl tert-butyl ether	Recommended.
34	May 1994	Tert-amyl methyl ether	Recommended.
35	November 1994	24 Chemicals with insufficient dermal absorption data	Designated.
36	May 1995	12 High Production Volume Chemicals	Recommended.
37	November 1995	28 Alkylphenols and alkylphenol ethoxylates	Recommended.

I. Background

The TSCA Interagency Testing Committee (ITC) was established by section 4(e) of the Toxic Substances Control Act (TSCA) "to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule for testing under section 4(a).... At least every 6 months..., the Committee shall make such revisions in the *List* as it determines to be necessary and to transmit them to the Administrator together with the Committee's reasons for the revisions" (Pub. L. 94–469, 90 Stat. 2003 et seq., 15 U.S.C. 2601 et seq.). Since its creation in 1976, the ITC has submitted 36 semi-annual Reports to the EPA Administrator transmitting the *Priority Testing List* and its revisions. These Reports have been published in the **Federal Register** and are also available from the ITC. The ITC meets monthly and produces its revisions of the *List* with the help of staff and technical contract support provided by EPA. ITC membership and support personnel are listed at the end of this Report.

Following receipt of the ITC's Report and the addition of chemicals to the *Priority Testing List*, EPA's Office of Pollution Prevention and Toxics adds new chemicals from the *List* to TSCA section 8(a) and 8(d) rules that require manufacturers and importers of these chemicals to submit TSCA section 8(a) production and exposure data and manufacturers, importers and processors of the listed chemicals to submit TSCA section 8(d) health and safety studies within 60 days of the rule's effective date. The submissions are indexed and maintained by EPA. The ITC reviews the TSCA section 8(a) and 8(d) information and other available data on chemicals and chemical groups (e.g., TSCA section 8(e) "substantial risk" studies, "For Your Information" (FYI) submissions to EPA, and published papers) to determine if revisions to the *List* are necessary. Revisions can include changing a general recommendation to a specific designation for testing action by the EPA Administrator within 12 months, modifying the recommended testing, or removing the chemical or chemical group from the *List.*

II. Revisions to the TSCA Section 4(e) Priority Testing List

Revisions to the TSCA section 4(e) *Priority Testing List* are summarized in Table 2.

TABLE 2.—REVISIONS TO THE TSCA SECTION 4(E) PRIORITY TESTING LIST

CAS No.	Chemical Name	Action	Date
	Alkylphenols and alkylphenol ethoxylates	Recommended	11/95
	Butylphenols		
88–18–6	2-tert-Butylphenol[a]		
98–54–4	4-tert-Butylphenol[a].		
99–71–8	4-sec-Butylphenol[a].		
1638–22–8	4-*n*-Butylphenol[b].		
3180–09–4	2-Butylphenol[b].		
27178–34–3	tert-Butylphenol (mixed isomers)[b]		
31195–95–6	Isobutylphenol (mixed isomers)[b]		
	Pentylphenols		
80–46–6	4-tert-Pentylphenol[a]		
94–06–4	4-(1-Methylbutyl)phenol[b]		
14938–35–3	4-Pentylphenol[b]		

TABLE 2.—REVISIONS TO THE TSCA SECTION 4(E) PRIORITY TESTING LIST—Continued

CAS No.	Chemical Name	Action	Date
	Octylphenols		
949–13–3	2-Octylphenol[b]		
1806–26–4	4-Octylphenol[b]		
3884–95–5	2-(1,1,3,3-Tetramethylbutyl)phenol[b]		
27193–28–8	(1,1,3,3-Tetramethylbutyl)phenol (mixed isomers)[a,c]		
1322–69–6			
29932–96–5			
30105–54–5			
62744–41–6			
27985–70–2	(1-Methylheptyl)phenol (mixed isomers)[b]		
54932–78–4	4-(2,2,3,3-Tetramethylbutyl)phenol[b]		
	Nonylphenols		
104–40–5	4-Nonylphenol[b]		
11066–49–2	Isononylphenol (mixed isomers)[b]		
17404–66–9	4-(1-Methyloctyl)phenol[b]		
25154–52–3	Nonylphenol (mixed isomers)[a,c]		
1300–16–9			
84852–15–3	Branched 4-nonylphenol (mixed isomers)[a]		
	Dodecylphenols		
104–43–8	4-Dodecylphenol[b]		
27193–86–8	Dodecylphenol (mixed isomers)[a,c]		
1331–57–3			
	Octylphenol ethoxylates		
2315–66–4	Decaethylene glycol 4-isooctylphenyl ether[b]		
2497–58–7	Hexaethylene glycol 4-isooctylphenyl ether[b]		
9002–93–1	Polyethylene glycol 4-(tert-octyl)phenyl ether[b]		
9036–19–5	Polyethylene glycol mono(octyl)phenyl ether[b]		
68987–90–6	Poly(oxy-1,2-ethanediyl),α-(octylphenyl)-ω-hydroxy-, branched[a]		
	Silicone Chemicals	Remove previously recommended chemicals	11/95
107–50–6	Tetradecamethylcyloheptasiloxane		
107–52–8	Tetradecamethylhexasiloxane		
107–53–9	Tetracosamethylundecasiloxane		
541–01–5	Hexadecamethylheptasiloxane		
541–05–9	Hexamethylcyclotrisiloxane		
546–56–5	Octaphenylcyclotetrasiloxane		
556–68–3	Hexadecamethylcyclooctasiloxane		
556–69–4	Octadecamethyloctasiloxane		
556–70–7	Docosamethyldecasiloxane		
556–71–8	Octadecamethylcyclononasiloxane		
999–97–3	Hexamethyldisilazane		
2370–88–9	Tetramethylcyclotetrasiloxane		
2374–14–3	Trifluoropropylmethylcyclotrisiloxane		
2471–08–1	Hexacosamethyldodecasiloxane		
2471–09–2	Octacosamethyltridecasiloxane		
2471–10–5	Triacontamethyltetradecasiloxane		
2471–11–6	Dotriacontmethylpentadecasiloxane		
2554–06–5	Methylvinylcyclosiloxane		
2627–95–4	Tetramethyldivinyldisiloxane		
2652–13–3	Eicosamethylnonasiloxane		

TABLE 2.—REVISIONS TO THE TSCA SECTION 4(E) PRIORITY TESTING LIST—Continued

CAS No.	Chemical Name	Action	Date
9004–73–3	Methylpolysiloxane		
9006–65–9	Dimethicone		
9016–00–6	Polydimethylsiloxane		
18766–38–6	Docosamethylcycloundecasiloxane		
18772–36–6	Eicosamethylcyclodecasiloxane		
18844–04–7	Hexatriacontamethylheptadecasiloxane		
18919–94–3	Tetracosamethylcyclododecasiloxane		
23523–12–8	Hexatriacontamethylcyclooctadecasiloxane		
23523–14–0	Triacontamethylcyclopentadecasiloxane		
23732–94–7	Hexacosamethylcyclotridecasiloxane		
36938–50–8	Tetratriacontamethylhexadecasiloxane		
36938–52–0	Octatriacontamethyloctadecasiloxane		
67762–94–1	Dimethylmethylvinylsiloxane		
68037–59–2	Dimethylhydropolysiloxane		
68607–75–0	Polymethyloctadecylsiloxane		
115631–68–7	Siloxanes and silicones, dimethylmethyl 3,3,3-trifluoropropyl[d]		
149050–40–8	Octacosamethylcyclotetradecasiloxane		
150026–95–2	Dotriacontamethylcyclohexadecasiloxane		
150026–96–3	Tetratriacontamethylcycloheptadecasiloxane		
150026–97–4	Octatriacontamethylcyclononadecasiloxane		
150026–98–5	Tetracontamethylcycloeicosasiloxane		
150026–99–6	Tetracontamethylnonadecasiloxane		
150027–00–2	Dotetracontamethyleicosasiloxane		
	Isocyanates	Remove previously recommended chemicals	11/95
102–36–3	3,4-Dichlorophenyl isocyanate		
104–71–9	Phenyl isocyanate		
104–12–1	*p*-Chlorophenyl isocyanate		
111–36–4	*n*-Butyl isocyanate		
3173–53–3	Cyclohexyl isocyanate		

[a] Chemicals with production or importation volumes > 1 million pounds that are being considered for designation.
[b] Chemicals with production or importation volumes < 1 million pounds that are being recommended because they are structurally related to alkylphenols or alkylphenol ethoxylates being considered for designation.
[c] Alternate CAS numbers are listed for these chemicals.
[d] Listed as dimethylmethyltrifluoropropylsiloxane with no CAS number in ITC's 30th Report (57 FR 30608, July 9, 1992).

III. Rationale for the Revisions

A. ITC's Activities During this Reporting Period

During the 6 months covered by this Report, the ITC evaluated several chemical groups. For alkylphenols and alkylphenol ethoxylates, 1989 and 1993 TSCA production and importation volume data were reviewed and online toxicology databases were searched. For silicone chemicals, unpublished chemistry, toxicology, use and exposure data were reviewed; these data were submitted in response to the ITC's 30th Report (57 FR 30608, July 9, 1992). For the isocyanates recommended in the ITC's 26th Report (55 FR 23050, June 5, 1990), published and unpublished toxicology, use and exposure data were reviewed.

B. Specific Rationales

1. *Recommended chemicals—Alkylphenols and alkylphenol ethoxylates—Recommendation.* Alkylphenols and alkylphenol ethoxylates are being added to the *Priority Testing List* to obtain unpublished TSCA section 8(d) studies and to determine if these studies meet U.S. Government data needs.

Rationale for recommendation. Alkylphenols and alkylphenol ethoxylates are being recommended to determine if there are unpublished studies that contain data to meet the needs of the Department of the Interior (DoI), the EPA and other U.S. Government organizations represented on the ITC. The ITC wants to review these unpublished data before determining if these chemicals should be designated for testing to meet U.S. Government data needs. Alkylphenols and alkylphenol ethoxylates are being recommended at this time because: (1) 1989 and 1993 TSCA production and importation volumes are in the multimillion pound range, (2) releases to the environment can occur through wastewater treatment systems and from agricultural runoff, (3) alkylphenol ethoxylates can degrade to alkylphenols, (4) alkylphenols can persist in the environment and be highly toxic to aquatic organisms and (5) exposure to

alkylphenols and alkylphenol ethoxylates may result in estrogenic, reproductive or other adverse effects.

Supporting information. The Substructure-based Computerized Chemical Selection Expert System (*SuCCSES*) is used to identify chemicals with shared substructures and associated health or ecological effects and similar TSCA production or importation volumes (Walker, Refs. 4 and 6). *SuCCSES* was used to identify the alkylphenols and alkylphenol ethoxylates listed in Table 2. As indicated in Table 2, nine of the alkylphenols and alkylphenol ethoxylates have 1989 and 1993 TSCA production and importation volumes greater than 1 million pounds and are being considered for designation. The ITC is listing alternate CAS numbers for some of these alkylphenols and alkylphenol ethoxylates to increase the possibility of retrieving a study because it is filed under a different CAS number. Table 2 also indicates that 19 alkylphenols and alkylphenol ethoxylates are being recommended because they are structurally related to those being considered for designation. Relevant data from these additional 19 chemicals will be used to predict or gain insight into the activity of the 9 alkylphenols and alkylphenol ethoxylates being considered for designation when no data are available for those 9 chemicals. The ITC is recommending structurally-related chemicals and alternate CAS-numbered chemicals to increase the possibility of obtaining unpublished studies on alkylphenols and alkylphenol ethoxylates that are related to those being considered for designation.

Existing U.S. Government data needs. The ITC has identified several data needs for alkylphenols and alkylphenol ethoxylates: (1) chemical composition (major components and impurities), (2) environmental fate of components and impurities and (3) health and ecological effects, including toxicokinetics and endocrine-modulating effects.

Completed activities of the ITC, EPA and alkylphenol manufacturers. The ITC is aware that for a few alkylphenols and alkylphenol ethoxylates there are numerous studies including those already developed under TSCA section 4 (Talmage, Ref. 3). The ITC is also aware that for some of these chemicals, few health effects, environmental fate and ecological effects data are available. The ITC reviews of butylphenols, pentylphenols, octylphenols, and nonylphenols suggested that these chemicals had potential to cause biological effects. Studies by Soto et al. (Ref. 2), White et al. (Ref. 10) and Purdom et al. (Ref. 1) suggest that alkylphenols and alkylphenol ethoxylates may cause endocrine-modulating effects. Soto et al. (Ref. 2) reported that nonylphenol and 4-tert-butylphenol caused proliferation of human estrogen-sensitive MCF_7 breast tumor cells. White et al. (Ref. 10) reported that 4-octylphenol, 4-nonylphenol and 4-nonylphenol diethoxylate were capable of stimulating vitellogenin gene expression in trout hepatocytes. Vitellogenin is a protein synthesized by the liver of oviparous fish in response to stimulation by estradiol or estrogenic compounds. Purdom et al. (Ref. 1) suggested that alkylphenols or alkylphenol ethoxylates may have been responsible for elevated vitellogenin concentrations in fish exposed to effluents from 15 sewage-treatment works.

The ITC previously designated three alkylphenols for testing. 2-sec-Butylphenol was designated in the 32nd Report (58 FR 38490, July 16, 1993). In response to this designation, the EPA solicited parties that would be interested in developing consent agreements for dermal absorption testing. The ITC designated 4-(1,1,3,3-tetramethylbutyl)phenol in its 11th Report (47 FR 54625, December 3, 1982) and 2,6-di-tert-butylphenol in its 18th Report (51 FR 18368, May 19, 1986). In response to these designations, the EPA implemented testing and the alkylphenol manufacturers developed the TSCA section 4 chemical fate and aquatic toxicity data. These data have been published (Walker, Refs. 5, 7, and 8).

The EPA has pursued testing for two other alkylphenols. The EPA published a TSCA section 4 notice proposing reproductive effects and developmental toxicity testing for dodecylphenol (56 FR 9092, March 4, 1991). The EPA worked with the alkylphenol manufacturers to develop chemical fate and aquatic toxicity data for branched 4-nonylphenol under a TSCA section 4 Enforceable Consent Agreement/Order (55 FR 5991, February 21, 1990). These data for branched 4-nonylphenol have been published (Walker, Ref. 8).

The TSCA section 8(d) rule that EPA promulgated for 2-sec-butylphenol did not require submission of ecological effects data (59 FR 5956, February 9, 1994). The ITC is recommending that the EPA amend this rule to require submission of ecological effects data in response to the data needs of the DoI and EPA. In response to the ITC's designations of 4-(1,1,3,3-tetramethylbutyl)phenol and 2,6-di-tert-butylphenol, the EPA promulgated TSCA section 8(d) rules. The ITC will include studies that were submitted in response to these rules in its review of other unpublished studies that are submitted in response to the TSCA section 8(d) rules that the EPA will promulgate for the other alkylphenols or alkylphenol ethoxylates listed in Table 2. The ITC is not recommending these three alkylphenols because TSCA section 8(d) studies were previously submitted in response to these designations.

Related activities. The Organisation for Economic Cooperation and Development (OECD) has three of the recommended and two of the previously-designated alkylphenols in its Screening Information Data Sets (SIDS) program. The recommended alkylphenols with their sponsoring countries listed in parentheses are 4-tert-butylphenol (Japan), nonylphenol (mixed isomers) (United Kingdom and United States) and branched 4-nonylphenols (mixed isomers) (United Kingdom). The previously-designated alkylphenols are 4-(1,1,3,3-tetramethylbutyl)phenol and 2,6-di-tert-butylphenol (both the United States). The National Toxicology Program has scheduled branched 4-nonylphenols (mixed isomers) for a multigeneration reproductive effects and developmental toxicity test. The National Academy of Sciences is planning to review published data on hormone-related chemicals in the environment and alkylphenols is one chemical group for which they will be reviewing data. Industry convened the Endocrine Issues Coalition in 1995 to address scientific issues related to subtances in the environment that potentially may modulate the endocrine system. The CMA's Alkylphenols and Ethoxylates Panel is a member of this Coalition.

2. *Removal of chemicals from the Priority Testing List—a. Silicone chemicals.* Fifty-six silicone chemicals were recommended for health effects testing in the ITC's 30th Report to meet the data needs of the Food and Drug Administration (57 FR 30608, July 9, 1992). In response to this recommendation, the Silicones Environmental Health and Safety Council (SEHSC) met with the ITC and the EPA to discuss unpublished toxicity, use and exposure data. Most of the unpublished toxicity and exposure data were submitted in response to the TSCA section 8(d) reporting rule that was promulgated in response to the ITC's 30th Report recommendations (58 FR 28511, May 15, 1993) and the technical amendments to that rule (58 FR 47647, September 10, 1993). All of the use data and some of the exposure data were submitted voluntarily to the ITC by the SEHSC. Interactions with the SEHSC facilitated information exchange and data development for a previously-designated siloxane, octamethylcyclotetrasiloxane (Walker and Smock, Ref. 9). The SEHSC worked with the ITC and the EPA to develop a computerized system of physical properties, effects and use data for the 56 recommended silicone chemicals. The ITC has used the information in this system, the TSCA section 8(a) production and exposure data, and the information submitted voluntarily by the SEHSC to determine that, at this time, 43 of the previously-recommended silicone chemicals should be removed from the *Priority Testing List* (Table 2). The specific rationales for removing these chemicals are listed in the following Table 3.

TABLE 3.—PREVIOUSLY RECOMMENDED SILICONE CHEMICALS BEING REMOVED FROM THE PRIORITY TESTING LIST

CAS No.	Chemical Name	Removal rationale
999–97–3	Hexamethyldisilazane	
9006–65–9	Dimethicone	Highly reactive with moisture and therefore difficult to test for health effects
9016–00–6	Polydimethylsiloxane	Highly reactive with moisture and therefore difficult to test for health effects
9004–73–3	Methylpolysiloxane	
115631–68–7	Siloxanes and silicones, dimethylmethyl 3,3,3-trifluoropropyl[a]	Synonyms for dimethyl silicones and siloxanes that remains on the Priority Testing List
67762–94–1	Dimethylmethylvinylsiloxane	Site-limited intermediates used in the production of siloxane polymers
68037–59–2	Dimethylhydropolysiloxane	Site-limited intermediates used in the production of siloxane polymers
68607–75–0	Polymethyloctadecylsiloxane	Siloxane polymers that are consumed in their end use
546–56–5	Octaphenylcyclotetrasiloxane	Siloxane that has no commercial sales or applications at this time
2370–88–9	Tetramethylcyclotetrasiloxane	Siloxane that has no commercial sales or applications at this time
2374–14–3	Trifluoropropylmethylcyclotrisiloxane	Siloxane that has no commercial sales or applications at this time
2554–06–5	Methylvinylcyclosiloxane	Siloxane that has no commercial sales or applications at this time
2627–95–4	Tetramethyldivinyldisiloxane	Siloxane that has no commercial sales or applications at this time
	Linear Siloxanes	
107–52–8	Tetradecamethylhexasiloxane (L_6)[b]	Siloxanes that are limited to industrial applications and transformed to polymers during processing
541–01–5	Hexadecamethylheptasiloxane (L_7)	Siloxanes that are limited to industrial applications and transformed to polymers during processing
556–69–4	Octadecamethyloctasiloxane (L_8)	Siloxanes that are limited to industrial applications and transformed to polymers during processing
2652–13–3	Eicosamethylnonasiloxane (L_9)	Siloxanes that are limited to industrial applications and transformed to polymers during processing
556–70–7	Docosamethyldecasiloxane (L_{10})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
107–53–9	Tetracosamethylundecasiloxane (L_{11})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
2471–08–1	Hexacosamethyldodecasiloxane (L_{12})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
2471–09–2	Octacosamethyltridecasiloxane (L_{13})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
2471–10–5	Triacontamethyltetradecasiloxane (L_{14})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
2471–11–6	Dotriacontmethylpentadecasiloxane (L_{15})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
36938–50–8	Tetratriacontamethylhexadecasiloxane (L_{16})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
18844–04–7	Hexatriacontamethylheptadecasiloxane (L_{17})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
36938–52–0	Octatriacontamethyloctadecasiloxane (L_{18})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
150026–99–6	Tetracontamethylnonadecasiloxane (L_{19})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
150027–00–2	Dotetracontamethyleicosasiloxane (L_{20})	
	Cyclic Siloxanes	
541–05–9	Hexamethylcyclotrisiloxane (D_3)[c]	Siloxanes that are limited to industrial applications and transformed to polymers during processing
107–50–6	Tetradecamethylcyloheptasiloxane (D_7)	Siloxanes that are limited to industrial applications and transformed to polymers during processing

TABLE 3.—PREVIOUSLY RECOMMENDED SILICONE CHEMICALS BEING REMOVED FROM THE PRIORITY TESTING LIST—Continued

CAS No.	Chemical Name	Removal rationale
556–68–3	Hexadecamethylcyclooctasiloxane (D_8)	Siloxanes that are limited to industrial applications and transformed to polymers during processing
556–71–8	Octadecamethylcyclononasiloxane (D_9)	Siloxanes that are limited to industrial applications and transformed to polymers during processing
18772–36–6	Eicosamethylcyclodecasiloxane (D_{10})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
18766–38–6	Docosamethylcycloundecasiloxane (D_{11})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
18919–94–3	Tetracosamethylcyclododecasiloxane (D_{12})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
23732–94–7	Hexacosamethylcyclotridecasiloxane (D_{13})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
149050–40–8	Octacosamethylcyclotetradecasiloxane (D_{14})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
23523–14–0	Triacontamethylcyclopentadecasiloxane (D_{15})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
150026–95–2	Dotriacontamethylcyclohexadecasiloxane (D_{16})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
150026–96–3	Tetratriacontamethylcycloheptadecasiloxane (D_{17})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
23523–12–8	Hexatriacontamethylcyclooctadecasiloxane (D_{18})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
150026–97–4	Octatriacontamethylcyclononadecasiloxane (D_{19})	Siloxanes that are limited to industrial applications and transformed to polymers during processing
150026–98–5	Tetracontamethylcycloeicosasiloxane (D_{20})	Siloxanes that are non-isolated components of dimethyl siloxanes

[a] Listed as dimethylmethyltrifluoropropylsiloxane with no CAS number in ITC's 30th Report (57 FR 30608, July 9, 1992).
[b] L followed by a number refers to the number of repeating dimethyl siloxanes in a linear chain.
[c] D followed by a number refers to the number of repeating dimethyl siloxanes in a cyclic chain.

There are 13 siloxanes remaining on the *Priority Testing List* as shown in the following Table 4:

TABLE 4.—SILOXANES REMAINING ON THE PRIORITY TESTING LIST

CAS No.	Chemical Name
	Cyclic Siloxanes
556–67–2	Octamethylcyclotetrasiloxane (D_4)
541–02–6	Decamethylcyclopentasiloxane (D_5)
540–97–6	Dodecamethylcyclohexasiloxane (D_6)
69430–24–6	Cyclopolydimethylsiloxane (D_n)
	Linear Siloxanes
107–46–0	Hexamethyldisiloxane (L_2)
107–51–7	Octamethyltrisiloxane (L_3)
141–62–8	Decamethyltetrasiloxane (L_4)
141–63–9	Dodecamethylpentasiloxane (L_5)
	Phenyl Siloxanes
68083–14–7	Dimethyldiphenylsiloxane[a]
	Polymers
63148–62–9	Dimethyl silicones and siloxanes[a]
9006–65–9	
9016–00–6	
67762–90–7	Dimethyl silicones and siloxanes, reaction products with silica
68037–74–1	Dimethylmonomethylpolysiloxanes

TABLE 4.—SILOXANES REMAINING ON THE PRIORITY TESTING LIST—Continued

CAS No.	Chemical Name
70131–67–8	Dimethyl silicones and siloxanes hydroxy terminated

[a] Alternate CAS numbers are listed for this chemical.

b. Isocyanates.

In its 26th Report, the ITC recommended a group of 43 isocyanates for physical and chemical property testing in response to a nomination from the EPA to support its TSCA New Chemicals Program (55 FR 23050, June 5, 1990). The ITC removed 28 of these isocyanates from the *Priority Testing List* in its 35th Report 59 FR 67596, December 29, 1994). The ITC is removing 5 more isocyanates from the *List* in this Report (Table 2). 3,4-Dichlorophenyl isocyanate and *p*-chlorophenyl isocyanate are being removed because 1993 production volumes were less than 10,000 pounds. Phenyl isocyanate is being removed because 1993 production volumes were less than 1,000,000 pounds and there are no currently identified U.S. Government data needs. *n*-Butyl isocyanate and cyclohexyl isocyanate are being removed because there are no currently identified U.S. Government data needs.

IV. Activities Related to Previously-Recommended Chemicals

A. High Production Volume Chemicals

The ITC solicited use and exposure data for 12 High Production Volume Chemicals (HPVCs) in its 36th report (60 FR 42982, August 17, 1995) and suggested a 60–day submission deadline from the FR publication date (October 17, 1995). In response to that solicitation, the ITC received a September 15, 1995, submission from Eastman Chemical Company for diethylene glycol monoethyl ether acetate (CAS No. 112–15–2), a September 19, 1995, offer from the Zeneca Corporation to provide use and exposure data for trichloromethane sulfenyl chloride (CAS No. 594–42–3) and an October 12, 1995, submission from Ferro Corporation for diethylene glycol dimethyl ether (CAS No. 111–96–6). The ITC will review the use and exposure data for these three HPVCs. The ITC appreciates these timely responses and encourages the manufacturers, processors, and users of the other nine HPVCs to contact the ITC with offers to provide use and exposure data.

B. Isocyanates

The ITC is soliciting consumer use data for the nine diisocyanates remaining on the *Priority Testing List* (Table 5). The data are being solicited to address the information needs of the Consumer Product Safety Commission (CPSC). For several of these isocyanates, the ITC is continuing its review of exposure, health effects and chemical fate information, including information based on structure-activity relationships (SARs), in response to concerns of the Department of Defense (DoD) and the EPA.

In its 26th Report, the ITC recommended a group of 43 isocyanates for physical and chemical property testing in response to a nomination from the EPA to support its TSCA New Chemicals Program (55 FR 23050, June 5, 1990). As noted above in section III(B)(2)(b) of this ITC Report, 33 of these isocyanates have been removed from the *Priority Testing List*. The 10 remaining isocyanates are listed in the following Table 5.

TABLE 5.—ISOCYANATES REMAINING ON THE PRIORITY TESTING LIST

CAS No.	Chemical Name
	Monoisocyanate
329–01–1	(α,α,α-Trifluoro-*m*-tolyl)isocyanate
	Diisocyanates
91–08–7	2,6-Toluene diisocyanate (2,6-TDI)
101–68–8	4,4′-Diphenylmethane diisocyanate (MDI)
584–84–9	2,4-Toluene diisocyanate (2,4-TDI)
4035–89–6	Tris(isocyanatohexyl)biuret
4098–71–9	Isophorone diisocyanate
5124–30–1	1,1′-Methylenebis(4-isocyanatocyclohexane)
5873–54–1	1-Isocyanato-2-((4-isocyanatophenyl)methyl)benzene
26447–40–5	1,1′-Methylenebis(isocyanatobenzene)
26471–62–5	Toluene diisocyanate (80% 2,4-TDI; 20% 2,6-TDI)

For these 10 isocyanates, the ITC is reviewing data on 1993 TSCA production and importation volumes, as well as published and unpublished (TSCA section 8(d), 8(e), FYI, etc.) data on physical and chemical properties, environmental fate and releases, health effects, occupational exposures and uses. For each of these isocyanates, the ITC is monitoring ongoing testing, including any testing that might be considered by the International Isocyanates Institute, the CMA or the OECD.

At this time, the ITC has determined that there are insufficient consumer use and exposure data to permit an accurate assessment of exposure or the need for additional testing of the diisocyanates listed in Table 5. The ITC is soliciting consumer use data on these as well as

any other commercially relevant diisocyanates (e.g., hexamethylene diisocyanate, CAS No. 822–06–0). Information on the presence of diisocyanates in commercially available products is needed as well as information on exposures that result from their use. The following specific information is solicited:

- Category of products in which diisocyanates (all forms) are present, such as rigid and flexible foams, coatings, and adhesives
- Specific diisocyanate present, by product category
- Chemical form of the diisocyanate (monomer, prepolymer, oligomer, polymer, etc.)
- Weight fraction of diisocyanate in the product and the relative amount of the different diisocyanate forms, particularly free monomer, oligomer, and prepolymer (a rough range of weight fraction is sufficient)
- Percent of total manufactured/imported volume (rough estimate is sufficient)
- Form of the product (liquid, aerosol, foam, etc.)
- General application of the product (sealant, paint, adhesive, insulation, etc.)
- Air monitoring or exposure simulation data for diisocyanates resulting from use of any of the indicated product categories

References

(1) Purdom, C.E., Hardiman, P.A., Bye, V.J., Eno, N.C., Tyler, C.R., and Sumpter, J.P. Estrogenic effects of effluents from sewage treatments works. *Chemical Ecology.* 8:275–285 (1994).

(2) Soto, A.M., Justicia, H., Wray, J.W., and Sonnenschein, C. *p*-Nonylphenol: an estrogenic xenobiotic released from "modified" polystyrene. *Environmental Health Perspectives.* 92:167–173 (1991).

(3) Talmage, S.S. Environmental and human safety of major surfactants: Alcohol ethoxylates and alkylphenol ethoxylates. A report to the Soap and Detergent Association. Lewis Publishers, Boca Raton, FL (1994), 374pp.

(4) Walker, J.D. Chemical selection by the TSCA Interagency Testing Committee: Use of computerized substructure searching to identify chemical groups for health effects, chemical fate and ecological effects testing. *Sci. Total Environ.* 109/110:691–700 (1991).

(5) Walker, J.D. Review of ecological effects and bioconcentration testing recommended by the TSCA Interagency Testing Committee and implemented by EPA under the Toxic Substances Control Act: Chemicals, tests and methods. pp. 92–115. In W.G. Landis, J.S. Hughes and M.A. Lewis (eds.), *Environmental Toxicology and Risk Assessment*, ASTM STP 1179. ASTM, Philadelphia, PA (1993).

(6) Walker, J.D. Estimation Methods Used by the TSCA Interagency Testing Committee to Prioritize Chemicals for Testing: Exposure and Biological Effects Scoring and Structure Activity Relationships. *Toxicol. Model.* 1:123–141 (1995a).

(7) Walker, J.D. Testing Decisions of the TSCA Interagency Testing Committee for Chemicals on Canada's Domestic Substances List and Priority Substances List: Di-tert-butylphenol, ethyl benzene, brominated flame retardants, phthalate esters, chloroparaffins, chlorinated benzenes and anilines. In T.W. LaPoint, F.T. Price, and E.E. Little (eds), *Environmental Toxicology and Risk Assessment*: Fourth Volume, ASTM STP 1262, ASTM, Philadelphia. In Press (1995b).

(8) Walker, J.D. Recommendations of the TSCA Interagency Testing Committee: Aquatic toxicity, bioconcentration and chemical fate data developed under section 4 of the Toxic Substances Control Act. pp. 669–701. In G.M. Rand (ed), *Fundamentals of Aquatic Toxicology II*, Taylor Francis Publishers, Washington, DC (1995c).

(9) Walker, J.D. and W.H. Smock. Chemicals recommended for testing by the TSCA Interagency Testing Committee: A case study of octamethylcyclotetrasiloxane. *Environmental Toxicology and Chemistry* 14:1631–1634 (1995).

(10) White, R., Jobling, S., Hoare, S.A., Sumpter, J.P., and Parker, M.G. Environmentally persistent alkylphenol compounds are estrogenic. *Endocrinology* 135:175–182 (1994).

TSCA Interagency Testing Committee

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[FR Doc. 96–1721 Filed 2–1–96; 8:45 am]
BILLING CODE 6560–50–F

federal register

Friday
February 2, 1996

Part IX

Department of Education

34 CFR Chapter VI
Federal Student Assistance Programs; Improved Oversight; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

Federal Student Assistance Programs Under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Secretary invites comments on the Department of Education's proposal for improved oversight of the student aid programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). An early draft of the proposal was posted on the World Wide Web on December 6, 1995. The Secretary particularly invites comments on the Department's plans to provide regulatory relief to institutions of higher education that have consistently demonstrated a very high level of performance in administering Title IV programs and strong financial responsibility.

The Secretary intends to develop a notice of proposed rulemaking, with an opportunity for further public comment, to implement parts of the draft proposal after considering the comments received in response to this advance notice. Other parts of the proposal may be implemented through administrative actions by the Department. Still others may require statutory changes.

DATES: Comments may be submitted until March 4, 1996.

ADDRESSES: Adam Ochlis, U.S. Department of Education, 600 Independence Avenue, SW (Room 4050, ROB–3), Washington, DC 20202 or, by e-mail, adam__ochlis@ed.gov

FOR FURTHER INFORMATION CONTACT: Adam Ochlis, telephone (202) 708–9104. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Department of Education has recently undertaken a series of initiatives to simplify regulations and administrative processes for the Federal student aid programs authorized by Title IV of the HEA and to ensure compliance with the requirements of those programs. In an effort to provide regulatory relief, on April 25, 1995, the Secretary invited institutions of higher education to submit proposals to reinvent the administration of those programs through the use of the experimental sites authority in section 487A(d) of the HEA. 60 FR 20326. In June 1995, the Secretary completed a page-by-page review of all student financial aid regulations to identify those that should be eliminated or improved and reported the results of the review to the President.

On August 8, 1995, the Secretary announced his intention to expand the Quality Assurance Program under section 487A of the HEA by increasing the number of participating institutions and using the experimental sites authority to encourage management innovation. 60 FR 40446.

In late November and early December 1995, the Secretary published several sets of regulations that will (1) reduce administrative and paperwork burdens on schools, students, and their families; (2) strengthen the Department's oversight of the student aid programs by focusing compliance efforts; (3) ensure that better consumer information is disclosed by schools to students and their families; and (4) make further improvements in the William D. Ford Federal Direct Loan Program. The Secretary will also consider whether to develop proposals for statutory amendments to eliminate unnecessary administrative burden.

At the same time, the Department has undertaken management initiatives to ensure that institutions participating in the student aid programs comply with administrative and fiscal requirements. Since January 1993, the Department has terminated the participation of more than 300 institutions—nearly twice the number of the previous seven years combined. The Secretary believes the Department's strengthened enforcement has both deterred unqualified institutions from applying to participate and improved compliance by participating institutions. The Department is developing a risk analysis system and case management techniques to further improve its ability to focus its monitoring and enforcement activities on institutions that pose the greatest risk to Federal funds.

Proposal for Improved Oversight in Federal Student Aid

The draft proposal on which the Secretary invites comments builds upon the Department's actions to date. Under the proposal, the Department would adopt regulations to provide further relief from administrative burden, particularly to institutions that have records of outstanding performance in administering Title IV programs and strong financial responsibility. Because such regulatory relief would permit a redeployment of resources, the Department would focus its monitoring and oversight activities on institutions that present a high risk to Federal funds. Finally, the Department would work to improve the ability of students to obtain information about the educational programs they are considering for enrollment.

On December 6, 1995, the Department posted the draft proposal on its World Wide Web home page under the subheading of the Office of Postsecondary Education. The Department has also presented the proposal to some national higher education associations and the National Advisory Committee on Institutional Participation and Oversight. Further presentations are planned for the National Advisory Committee on Student Financial Assistance and representatives of institutions, States, accrediting agencies, national higher education associations, and other members of the higher education community.

The Secretary welcomes comments on all aspects of the *Proposal for Improved Oversight in Federal Student Aid*. An updated version of the proposal appears immediately after the questions below. In particular, the Secretary requests comments on the following questions:

1. The proposal states the Department's intention to provide extensive regulatory relief to institutions that have consistently demonstrated outstanding administration of Title IV programs and strong financial responsibility.

(a) What criteria should the Department use to determine that an institution has consistently demonstrated outstanding administration of Title IV programs?

(b) What criteria should the Department use to determine that an institution is financially strong? How should the criteria for financial strength vary by sector (public institutions, private non-profit institutions, and private for-profit institutions)?

2. The proposal suggests examples of areas in which regulatory relief could be provided to institutions with outstanding records in administering Title IV programs and strong financial responsibility. In what other areas could administrative burden on these institutions be eased? How much lead time would institutions need before this relief was provided?

3. How should the Department ensure the continued administrative excellence and financial strength of the institutions that are provided extensive regulatory relief?

4. The proposal cites examples of administrative relief that the Department has provided and will provide to all participating institutions. In what other areas could administrative burden be reduced without statutory change or diminished accountability for Federal funds?

5. The proposal describes the Department's efforts to provide regulatory relief to institutions participating in the Quality Assurance program. Should the Department propose regulations to set eligibility criteria for specific forms of relief related to institutional performance in specific administrative areas?

6. The proposal describes management practices and possible statutory changes that the Department is considering to improve its oversight of institutions that pose a high risk to Federal funds. What other administrative and regulatory measures within current statutory authority should the Department consider to prevent unqualified institutions from participating in Title IV programs in the first instance and to terminate the participation of those that should not continue? What additional statutory changes should the Department consider for these purposes?

7. The proposal describes some characteristics of an institution that might indicate that it should be subjected to greater monitoring and oversight. Are there other indicators (for example, an adverse opinion on a financial statement, or a material finding on a compliance audit) that the Department should consider for this purpose?

8. The proposal describes efforts undertaken by the Department to improve students' access to information about educational programs. What other steps should the Department take to accomplish this objective? Should the Department use such student consumer information about performance, such as completion and graduation rates, in identifying institutions for regulatory relief or for heightened scrutiny?

An updated version of the draft proposal follows.

Proposal for Improved Oversight in Federal Student Aid (Draft—Updated January 1996)

The Department of Education is proposing to strengthen and restructure its oversight of institutions that are participating in Title IV student aid programs. Under this proposal, the Department would continue to increase its oversight of institutions that pose significant risks to Federal funds and of new institutions, which may experience problems in administering Title IV programs. The Department would also provide regulatory relief to institutions that have consistently demonstrated a very high level of performance in administering Title IV programs and strong financial responsibility. Because increased regulatory relief would reduce the Departmental resources needed to monitor institutions that pose little risk to Federal funds, the Department could concentrate its monitoring resources on institutions that pose greater risk. This proposal builds upon regulatory relief initiatives and efforts to strengthen the monitoring and oversight of at-risk institutions that are already underway in the Department.

The Department will use this proposal to advance discussions with Congress and the higher education community on the role of the Federal government in managing Title IV programs and providing better information to students. The Department requests comments and suggestions on this proposal and other ideas for improving the system of oversight of Federal student aid programs. The Department will work closely with the higher education community to develop the specifics of the proposal, including administrative and financial performance criteria to identify institutions eligible for regulatory relief and institutions needing increased oversight and support.

Regulatory Relief

Under the proposal, the Department would engage in regulatory relief on two levels. First, the Department would continue to reinvent its regulations to reduce administrative and paperwork burden on all institutions where overly restrictive requirements do not improve accountability or protect the Federal fiscal interest. The Department has already streamlined the recertification application and revised the FAFSA form to include all statutorily-required student certifications that were previously on separate forms. The Department is also developing a less complex refund policy for all institutions; ultimately, statutory changes would be necessary to simplify the refund policy to the extent desired.

Second, under this proposal, institutions that have consistently demonstrated outstanding administration of Title IV programs and strong financial responsibility would be eligible for additional regulatory relief. The Department would use its experimental sites authority to provide this flexibility.

Possible criteria for determining that an institution has demonstrated outstanding administration of Title IV programs could include—

- An unqualified opinion on financial statements;
- No material findings in compliance audits for the previous five years;
- Demonstrably sound internal controls (such as accounting, financial, and internal management controls);
- Low default rates (adjustments would be made for institutions with a small percentage of students borrowing);
- A history of successful participation in Title IV programs, as indicated by such factors as the duration and extent of participation in different kinds of Title IV programs (such as the student loan, Pell grant, and campus-based programs) and the quality of administrative performance in those programs;
- Full unqualified certification; and
- No adverse actions by accrediting agencies during the institution's last two full accreditation reviews.

To assess financial responsibility, the Department would develop different financial responsibility standards for different sectors. Because different accounting standards are applicable to different sectors, financial statements are not consistent across sectors. The Department would develop financial indicators that, although different, nevertheless measure financial health across all three sectors.

Institutions that met the criteria for strong administrative and financial performance would be eligible for such regulatory relief as less frequent recertification, less frequent submission of compliance audits, and exemption from certain regulatory requirements (such as those relating to multiple and delayed disbursement, verification, and entrance and exit counseling). A significant percentage of the departmental resources currently used to oversee and monitor the requirements for strong institutions would be used to focus more resources on at-risk institutions.

Institutions that did not meet all the criteria for strong Title IV administrative and financial performance would still be able to apply for selective regulatory relief. The Department is already providing regulatory relief on a case-by-case basis to a large number of institutions under the April 25, 1995 experimental sites initiative referred to earlier in this notice. Under the August 8, 1995 Quality Assurance Program initiative, also referred to earlier, participating institutions may request specific regulatory relief on the basis of their improved administrative capability.

Increased Monitoring and Oversight of At-Risk Institutions

Under the proposal, the Department would increase monitoring and oversight of at-risk institutions. At-risk institutions might include those subjected to a limitation, suspension, or termination action in the previous several years; those on provisional certification (including all new institutions); those on reimbursement; or those subject to termination because of high default rates (including institutions appealing these rates). At-risk institutions would be subject to the full set of Department regulations and increased oversight and would receive increased technical assistance from the Department. Examples of increased regulation and oversight for at-risk institutions that the Department could implement through changes in administrative practices include—

- At-risk institutions would face a higher probability of intensive program reviews by the Department;
- At-risk institutions with a history of deficiencies would be subject to termination actions by the Department unless they improved their performance in the administration of Title IV programs to adequate levels within specific time frames;
- At-risk institutions that had two or three major program review findings, such as failure to implement satisfactory progress standards or failure to adhere to the refund policy, would be terminated from participation in all Title IV programs; and
- New institutions that did not demonstrate good performance would remain on provisional certification for five years rather than for three years, as is currently required.

Some changes could be effected only by statutory amendments. Possible statutory changes that the Department is considering include—

- Requiring a personal financial guarantee against liabilities from the owner of any proprietary institution placed on provisional certification and holding individuals with financial authority and responsibility at proprietary institutions personally liable for an institution's unpaid refunds;
- Holding institutions that unsuccessfully appeal high default rates liable for the default costs and subsidies that are paid by the Department on loans to that school during the appeal process. The Department could also require a school that chooses to receive loans during the appeal process to post surety in an amount sufficient to cover these costs;
- Extending to all non-degree vocational programs the current requirement that short-term vocational programs graduate and place 70 percent of their students; and
- Permitting the Department to establish a new expiration date for a Program Participation Agreement for at-risk institutions and thus require a full application for recertification and enable the Department to make decisions based on current information.

The Department is developing the administrative and information systems needed to carry out the improved oversight of at-risk institutions. These will include a system of risk analysis incorporating a variety of factors (for example, high default rates and material findings in compliance audits or program reviews) that will help identify administrative and financial problems. The risk analysis system will enable the Department to improve its targeting of institutions for compliance reviews based on administrative and financial performance and concentrate resources on institutions with potentially serious problems. Making this system viable will require improvement of information in the Department's databases such as the National Student Loan Data System, the full development of the Postsecondary Education Participants System, and the development of good tracking systems. The Department is taking steps to increase data integrity and is committed to providing the systems required.

To improve its oversight of at-risk institutions, the Department is moving toward a new approach for monitoring institutional performance in Title IV programs. Currently, the Department reviews institutional performance through four largely independent processes—recertification, analysis of financial statements, review of compliance audits, and program review. While recertification requires some cross-analysis of these different areas, the system does not otherwise facilitate decisions based on all the information the Department has concerning an institution. The new system will consolidate these processes as much as possible by using case management as the core process. This will allow decision-making based on all information concerning a school that may be relevant to Title IV compliance, including information supplied by outside entities such as accrediting agencies.

Student Information

The improved oversight system would also ensure that institutions provide better information about educational programs for students to use in making informed decisions about where to enroll. This information would help ensure that market forces work better to eliminate inadequate institutions and programs from participation in Title IV programs and help students make better decisions.

Under the Student Right to Know Act, all institutions must make their completion and graduation rates available in their catalogs or other material readily available to all prospective students who request this information. The provision of this information should allow a prospective student to consider the likelihood of completing the program at an institution, the potential benefit to be derived from investing the required time and money in that program, and similar information about programs at other institutions. Final regulations to implement the Student Right to Know Act were published on December 1, 1995. 60 FR 61776. These regulations require institutions to begin disclosing completion and graduation rates for students who enter the institution after July 1, 1996. Completion and graduation rates will be calculated for full-time, undergraduate certificate- or degree-seeking students.

In addition to information required under the Student Right to Know Act, the Administration has proposed legislation that would require institutions that offer non-degree programs to report information about these programs and information on the outcomes of previous students to one-stop career centers that would provide this information to prospective students. This information could include completion rates, placement rates, licensure exam pass rates, or the percentage of graduates that meet certain skill standards. Although the specific provisions included in the Administration bill were not passed, the two versions of the job training bill being discussed by the Congress in late January included related provisions.

The Department will continue to develop and support legislation and efforts to improve information for students and families on the outcomes of both degree and non-degree programs at institutions participating in the Title IV student aid programs. The Department plans to continue this focus in specific proposals included in the next reauthorization of the HEA.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this draft proposal. Comments will be available for public inspection, during and after the comment period, in Room 4050, Regional Office Building 3,

7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Dated: January 29, 1996.

Richard W. Riley,

Secretary of Education.

[FR Doc. 96–2262 Filed 2–1–96; 8:45 am]

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Friday
February 2, 1996

Part X

The President

Executive Order 12987—Amendment to Executive Order No. 12964

Federal Register
Vol. 61, No. 23
Friday, February 2, 1996

Presidential Documents

Title 3—

The President

Executive Order 12987 of January 31, 1996

Amendment to Executive Order No. 12964

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and to facilitate the work of the Commission on United States-Pacific Trade and Investment Policy, it is hereby ordered that Executive Order No. 12964 of June 21, 1995, is amended (i) in section 1(a) by inserting in the second sentence "up to 20" in place of "15", and (ii) in section 2(a) by inserting in the first sentence "about December 31, 1996," in place of "before February 1, 1996,".

William J. Clinton

THE WHITE HOUSE,
January 31, 1996.

[FR Doc. 96-2407
Filed 2-1-96; 8:45 am]
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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A cumulative list of Public Laws for the First Session of the 104th Congress was published in Part II of the **Federal Register** on February 1, 1996.

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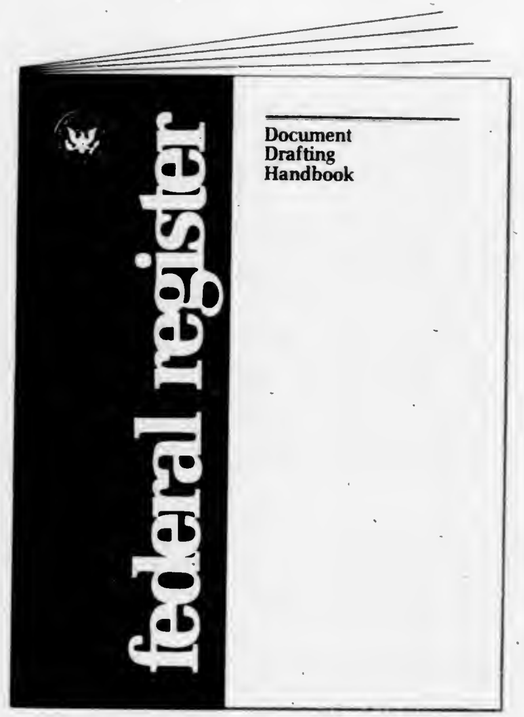
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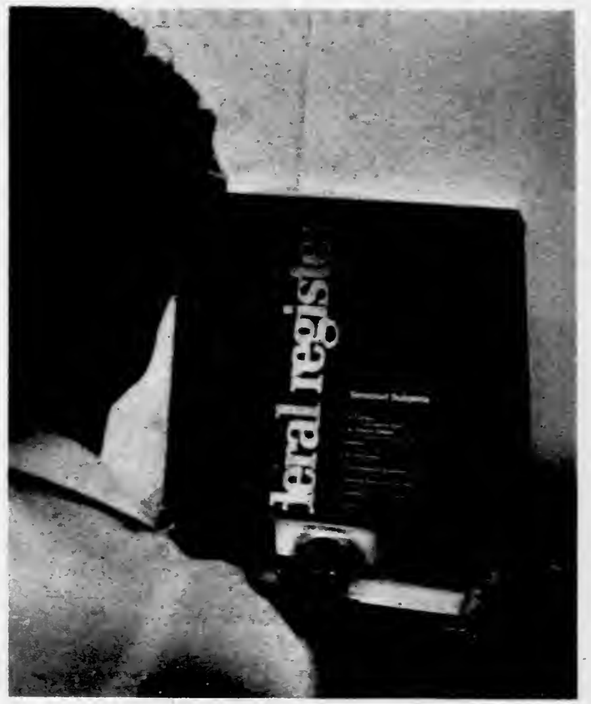
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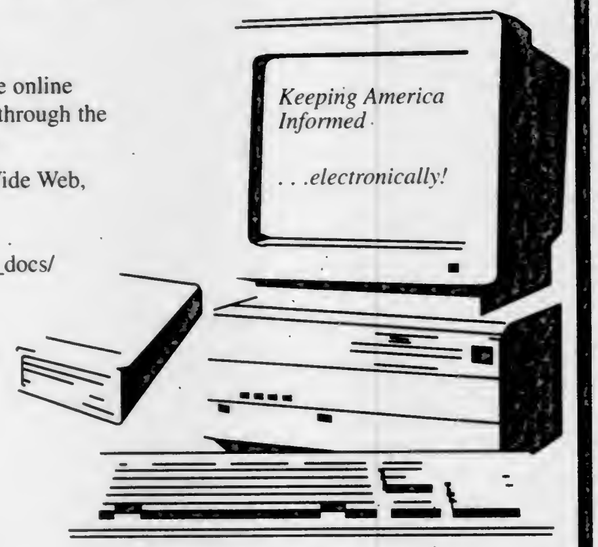
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New Feature in the Reader Aids!
Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the **Federal Register** called "Reminders". The Reminders will have two sections: "Rules Going Into Effect Today" and "Comments Due Next Week". Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect "today". Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the **Federal Register** will be eligible for inclusion in the Reminders.
The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.
The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 96–9 of January 22, 1996

Presidential Determination on Food Security Wheat Reserve Release

Memorandum for the Secretary of Agriculture

By virtue of the authority vested in me as President by the Constitution and laws of the United States, including the Food Security Wheat Reserve Act of 1980 (the "Act") (7 U.S.C. 1736f–1) and section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Agriculture the authority to release up to 1,500,000 metric tons of wheat from the reserve established under the Act (the "reserve"). Wheat released from the reserve will be used to provide, on a sale or donation basis, emergency food assistance to developing countries during fiscal year 1996 under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691, 1701 *et seq.*) to the extent that the Secretary of Agriculture determines that the domestic supply of wheat is so limited that quantities of wheat could not otherwise be made available for disposition consistent with the criteria set forth in the Agricultural Trade Development and Assistance Act of 1954, except for urgent humanitarian purposes.

Nothing in the delegation should be interpreted as affecting the coordination requirements of Executive Order 12752.

You are authorized and directed to publish this determination in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, January 22, 1996.

[FR Doc. 96–2499
Filed 2–2–96; 8:45 am]
Billing code 3410–10–M

Rules and Regulations

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

7 CFR Part 2903

Office of Energy; Availability of Information

AGENCY: Office of Energy, USDA.

ACTION: Final rule.

SUMMARY: This document removes the regulations of the Office of Energy (OE) regarding the availability of information to the public in accordance with the Freedom of Information Act (FOIA) to reflect an internal reorganization of the Department of Agriculture (USDA).

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Stasia A.M. Hutchison, FOIA Coordinator, Information Staff, Agricultural Research Service, USDA, 6303 Ivy Lane, Room 456, Greenbelt, MD 20770, Telephone (301) 344–2207.

SUPPLEMENTARY INFORMATION: The FOIA (5 U.S.C. 552(a)(1)) requires Federal agencies to publish in the **Federal Register** regulations describing how the public may obtain information from the agency. Part 2903 of Title 7, Code of Federal Regulations, was issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR Part 1, Subpart A, implementing FOIA.

Pursuant to an internal reorganization of USDA, OE has been integrated into the Economic Research Service (ERS), USDA. This document removes 7 CFR Part 2903. Requests for information relating to OE may be obtained through the FOIA Coordinator for ARS pursuant to 7 CFR Part 1, Subpart A, and 7 CFR Part 3701.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Orders 12778 and 12866. Also, this rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., do not apply.

List of Subjects in 7 CFR Part 2903

Freedom of Information.

Accordingly, under the authority of 5 U.S.C. 301 & 552, Part 2903 is removed.

Done at Washington, DC, this 26th day of January, 1996.

Susan Offutt,

Administrator, Economic Research Service.

[FR Doc. 96–2351 Filed 2–2–96; 8:45 am]
BILLING CODE 3410–18–M

DEPARTMENT OF ENERGY

10 CFR Parts 830 and 835

Office of the General Counsel; Ruling 1995–1; Ruling Concerning 10 CFR Parts 830 (Nuclear Safety Management) and 835 (Occupational Radiation Protection)

AGENCY: Department of Energy.

ACTION: Notice of Ruling 1995–1.

SUMMARY: The Department of Energy (DOE) has issued Ruling 1995–1 which interprets certain regulatory provisions relating to DOE's nuclear safety requirements. This Ruling is intended to be a generally applicable clarification that addresses questions concerning the applicability and effect of these provisions.

FOR FURTHER INFORMATION CONTACT: Ben McRae, Office of the Assistant General Counsel for Civilian Nuclear Programs, Room 6A 167, Forrestal Building, 1000 Independence Ave., SW., Washington DC 20585; telephone (202) 586–6975.

SUPPLEMENTARY INFORMATION:

Department of Energy's Ruling 1995–1

A. Introduction

The Assistant Secretary for Environment, Safety and Health has requested that the General Counsel respond to several questions regarding nuclear safety regulations 10 CFR Parts 830 (Nuclear Safety Management) and 835 (Occupational Radiation Protection).

This ruling responds to those questions and constitutes an interpretation under Subpart D of 10 CFR Part 820.[1]

B. Questions and Responses

1. Is the scope of either Part 830 or Part 835 limited to those facilities or activities involving byproduct, source, or special nuclear materials, as defined in the Atomic Energy Act?

No, neither Part 830 nor 835 is limited to activities or facilities involving byproduct, source, or special nuclear material. The requirements in Parts 830 and 835 cover all activities under DOE's auspices with the potential to cause radiological harm. These rules are promulgated pursuant to section 161 of the Atomic Energy Act of 1954, as amended (AEA). Section 161b. of the AEA authorizes the Department to promulgate rules "to govern the possession and use of special nuclear material, source material, and byproduct material" and section 161i. authorizes the Department to prescribe such regulations as it deems necessary to govern *any* activity authorized pursuant to the AEA, specifically including standards for the protection of health and minimization of danger to life or property.

Although most sources of ionizing radiation are encompassed by the terms "byproduct material," "source material" and "special nuclear material," some sources, such as machine-produced radioactive material, are not. Because all ionizing radiation has the potential to cause harm, the Department did not limit the application of the nuclear safety requirements in Parts 830 and 835

[1] Subpart D of Part 820 sets forth the procedural framework for issuing an interpretation, which is defined in Part 820.2(a) to mean:

A statement by the General Counsel concerning the meaning or effect of the [Atomic Energy] Act, a Nuclear Statute, or a DOE Nuclear Safety Requirement which relates to a specific factual situation but may also be a ruling of general applicability where the General Counsel determines such action to be appropriate.

Sections 820.50, .51 and .52 state:

The General Counsel shall be * * * responsible for formulating and issuing any interpretation * * * [and] may utilize any procedure which he deems appropriate to comply with his responsibilities under this subpart. * * * Any written or oral response to any written or oral question which is not provided pursuant to this subpart does not constitute an interpretation and does not provide any basis for action inconsistent with the [Atomic Energy] Act, a Nuclear Statute, or a DOE Nuclear Safety Requirement.

to situations involving byproduct, source and special nuclear material.

Part 830 covers activities at facilities even where no nuclear material is present such as facilities that prepare the nonnuclear components of nuclear weapons, but which could cause radiological damage at a later time. 10 CFR 830.3(a)(6).

2. Do Parts 830 and 835 apply to Government employees in general and to the Department's Government-owned, Government-operated facilities specifically?

Part 830. Part 830.1 states that it governs the conduct of the Department's "management and operating contractors and other persons at DOE nuclear facilities."[2] Section 830.4(a) provides that no *person* shall take or cause to be taken any action inconsistent with Part 830 or any document implementing Part 830. The definition of "person" in Part 830 excludes the Department, the Nuclear Regulatory Commission (NRC), as well as their employees when these employees are acting within the scope of their employment.[3] Therefore, the requirements in Part 830 do not apply to DOE employees.[4]

The preamble to the final Part 830 rule explained that the Department rejected comments that Part 830 be expanded to include DOE employees. The Department found that equivalent requirements were imposed on its employees through DOE directives.[5]

The requirements in Part 830 do not apply to the Department's Government-owned, Government-operated (GOGOs) facilities.[6] While the definition of nuclear facility in Part 830 does not contain an explicit exclusion for facilities operated by the Department, Part 830 only covers nuclear facilities operated and managed by a contractor. GOGOs are governed by the nuclear safety provisions contained in DOE directives.

Part 835. The requirements in Part 835 apply to DOE employees. The scope provision, section 835.1(a), does not limit its applicability to contractors.[7] Moreover, the general rule provision of section 835.3(a) explicitly provides that DOE personnel shall act consistently with the requirements of Part 835.[8]

The requirements in Part 835 also apply to activities at the Department's Government-owned, Government-operated facilities. Unlike Part 830, the general rule provision of Part 835 explicitly provides that, where there is no contractor responsible for a DOE activity, the Department shall ensure the implementation of and compliance with the requirements of Part 835.[9]

3. Is the scope of either Part 830 or Part 835 limited to those facilities or activities subject to civil penalties?

No, neither Part 830 nor 835 is not limited to those facilities or activities subject to civil penalties. The Department's authority to regulate its activities and those of its contractors derives from section 161 of the AEA. Section 161i. extends this authority to all activities undertaken by or for the Department pursuant to the AEA. The Price-Anderson Amendments Act of 1988 added section 234A to the Atomic Energy Act to provide the Department with authority to assess civil penalties for violations of rules, regulations or orders relating to nuclear safety by contractors and subcontractors who are indemnified by the Department pursuant to the Price-Anderson Act.[10] Section 234A did not limit the Department's regulatory authority under the Atomic Energy Act to those situations where the Department can assess civil penalties (that is, situations where there is a Price-Anderson indemnity agreement). Nor does Part 820, 830, or 835 contain any provision that would limit the exercise of this authority to only those facilities or activities subject to civil penalties.

4. To what extent do Parts 830 and 835 apply to subcontractors and suppliers, and is applicability dependent upon indemnification under the Price-Anderson provisions of the Atomic Energy Act?

Both Parts 830 and 835 apply to subcontractors and suppliers. As discussed in the response to question 3, there is no provision in the AEA or in 10 CFR Part 820, 830, or 835 that would limit the applicability of the requirements in Parts 830 and 835 to persons indemnified under the Price-Anderson provisions of the Atomic Energy Act.[11] Both parts provide that "no person shall take or cause to be taken any action inconsistent with the requirements of the[ese] Part[s] or any program, plan, schedule, or other process established by the[ese] Part[s]."[12] As discussed in the response to question 2, the definition of "person" in Parts 830 and 835 covers all individuals and entities other than the Department, the Commission and their employees. Thus, Parts 830 and 835 and implementation plans adopted thereunder apply to all contractors, subcontractors, suppliers and their employees. Even a visitor to a facility is obligated to comply with applicable requirements in these rules.

5. To what extent are activities performed on a DOE site subject to Parts 830 and 835 if they are regulated by the Nuclear Regulatory Commission (including activities certified by the NRC under section 1701 of the Atomic Energy Act) or by a State under an agreement with the NRC?

Both Parts 830 and 835 contain an explicit exclusion for activities regulated through a license by the Nuclear Regulatory Commission or a State under an Agreement with the NRC[13] (or certified by the NRC under section 1701 of the Atomic Energy Act).[14] This exclusion is intended to prevent an activity from being subject to dual regulation under the Atomic Energy Act. The exclusion is not intended to permit activities to escape regulation and thus applies only to the portion of a facility or activity conducted pursuant to a NRC license or certification or state authorization derived from an agreement with the NRC.

6. To what extent are DOE activities performed off a DOE site subject to Parts 830 and 835, and what is the effect if these activities are performed on a site regulated by the Nuclear Regulatory Commission or by an Agreement State?

Part 830/Offsite Activities. Part 830 provides that it "governs the conduct of the Department of Energy (DOE) management and operating contractors and other persons at DOE nuclear facilities." 10 CFR 830.1 (emphasis added) Section 830.3 provides that a "nuclear facility" may be either a "reactor" or a "nonreactor nuclear facility."[15] "Nonreactor nuclear facility means those activities or operations that involve radioactive or fissionable material in such form and quantity that a nuclear hazard potentially exists to the employees or the general public."[16] Thus, nonreactor facility includes not just facilities but activities and operations. However, because Part 830 applies only *at a DOE* nuclear facility, Part 830 applies only at DOE operations and activities and would not apply, for example, at a supplier's facility.[17]

Part 835/Offsite Activities. Part 835 is not limited to DOE activities at a DOE facility. Part 835 applies to the "conduct of DOE activities."[18] "DOE activities" include "an activity taken for or by the DOE that has the potential to result in * * * exposure * * * to radiation or radioactive material."[19] Thus, Part 835 covers activities performed off a DOE site and would include, for example, an action taken for DOE by a supplier at the supplier's facilty.[20]

Effect of NRC or State Licensing on Applicability of Parts 830 and 835. DOE activities that are subject to Nuclear Regulatory Commission licensing or certification or to Agreement State regulation are excluded from regulation under Parts 830 and 835. See answer to Question 5 above. With respect to activities regulated by a State, this exclusion only applies to the extent the State is regulating pursuant to AEA authority derived through an Agreement with the NRC.

7. To what extent do Parts 830 and 835 apply to activities performed under cooperative agreements, grants, and work-for-others?

Parts 830 and 835 apply to activities undertaken pursuant to the Department's authority under the Atomic Energy Act, including arrangements involving activities under cooperative agreements, grants, and work-for-others pursuant to its authority under section 31 (Research Assistance) and section 33 (Research For Others) of the AEA. Because neither Part 830 nor Part 835 contain any explicit exclusion of activities performed under work-for-others arrangements, cooperative agreements, or grants, the requirements in Parts 830 and 835 apply to such activities to the same extent the requirements apply to other activities undertaken pursuant to the Department's authority under the AEA.

Section 31d. of the Atomic Energy Act provides that arrangements under that section (cooperative agreements and grants) "shall contain such provisions (1) to protect health [and] (2) to minimize danger to life and property * * * as the [Department] may determine." Thus, the Department has discretion to exclude from a particular arrangement some or all of the requirements in Parts 830 and 835.

Although the requirements of Parts 830 and 835 apply to arrangements other than contracts, civil penalty assessments are authorized only for a

---

[2] Section 830.1 states:

This part governs the conduct of the Department of Energy (DOE) management and operating contractors and other persons at DOE nuclear facilities.

[3] Sections 830.3(a) and 835.2(a) state:

Person means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency, any State or political subdivision of, or any political entity within a State, any foreign government or nation or other entity and any legal successor, representative, agent or agency of the foregoing; *provided that person does not include the Department or the United States NRC.* (emphasis added)

The only government agencies and employees thereof excluded from this definition are the Department and the NRC.

[4] Section 830.4(b) states:

With respect to a particular DOE nuclear facility, the contractor responsible for the design, construction, operation, or decommissioning of that facility shall be responsible for implementation of, and compliance with, the requirements of this part.

Section 830.4(a) states:

No person shall take or cause to be taken any action inconsistent with the requirements of this part or any program, plan, schedule, or other process established by this part.

[5] 59 FR 15845 (1994).

[6] DOE is considering expanding the scope of 830 to cover GOGOs and has requested comments on this issue in its Notice of limited reopening of comment periods published on August 31, 1995, 60 FR 45381.

[7] Section 835.1(a) states:

The rules in this part establish radiation protection standards, limits, and program requirements for protecting individuals from ionizing radiation resulting from the conduct of DOE activities.

[8] Section 835.3(a) states:

No person or *DOE personnel* shall take or cause to be taken any action inconsistent with the requirements of:

(1) This part; or

(2) Any program, plan, schedule, or other process established by this part. (emphasis added)

[9] Section 835.3(c) states:

Where there is no contractor for a DOE activity, DOE shall ensure implementation of and compliance with the requirements of this part.

[10] Section 234A.a. states:

Any person who has entered into an agreement of indemnification under subsection 170d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any applicable rule, regulation, or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act * * * shall be subject to a civil penalty, * * *

[11] Section 11 of the Atomic Energy Act defines "person indemnified" as "the person with whom an indemnity agreement is executed * * * and *any other person* who may be liable for public liability. * * *" (emphasis added)

[12] Sections 830.4(a) and 835.3(a) are set forth in footnotes 4 and 8, *supra*.

[13] Section 274 of the Atomic Energy Act provides that the NRC can enter into an agreement with a State to permit the State to regulate byproduct, special nuclear, and source material in certain specified situations. To the extent the NRC exercises this provision to transfer authority to a State, the State is considered an "Agreement State."

[14] Section 830.2 states:

This part does not apply to:

(a) Activities that are regulated through a license by the Nuclear Regulatory Commission (NRC) or a State under an Agreement with the NRC, including activities certified by the NRC under section 1701 of the Atomic Energy Act.

Section 835.1(b) states:

The requirements in this part do not apply to:

(1) Activities that are regulated through a license by the Nuclear Regulatory Commission or a State under an Agreement with the Nuclear Regulatory Commission, including activities certified by the Nuclear Regulatory Commission under section 1701 of the Atomic Energy Act.

[15] Section 830.3(a) states:

Nuclear facility means reactor and nonreactor nuclear facilities.

* * * * *

Non-reactor nuclear facility means those activities or operations that involve radioactive and/or fissionable materials in such form and quantity that a nuclear hazard potentially exists to the employees or the general public. Incidental use and generating of radioactive materials in a facility operation (e.g., check and calibration sources, use of radioactive sources in research and experimental and analytical laboratory activities, electron microscopes, and X-ray machines) would not ordinarily require the facility to be included in this definition. Transportation of radioactive materials, accelerators and reactors and their operations are not included. The application of any rule to a nonreactor nuclear facility shall be applied using a graded approach. Included are activities or operations that:

(1) Produce, process, or store radioactive liquid or solid waste, fissionable materials, or tritium;

(2) Conduct separations operations;

(3) Conduct irradiated materials inspections, fuel fabrication, decontamination, or recovery operations;

(4) Conduct fuel enrichment operations;

(5) Perform environmental remediation or waste management activities involving radioactive materials; or

(6) Design, manufacture, or assemble items for use with radioactive materials and/or fissionable materials in such form or quantity that a nuclear hazard potentially exists.

* * * * * *

Reactor means * * * the entire nuclear reactor facility, including the housing, equipment, and associated areas devoted to the operation and maintenance of one or more reactor cores. * * *

[16] 10 CFR Part 830.3(a). Neither the AEA nor Part 830 limits the meaning of radioactive or fissionable material. In the preamble to the final rule that adopted Part 830, the Department rejected comments that requested a thresbold to exclude coverage of low hazard facilities and reaffirmed its intent to cover all facilities that involve radioactive material in such form end quantity that a nuclear hazard potentially exists. See comment 9 end the response thereto, 59 FR 15844 (1994). In the same preamble, the Department stated that the definition of hazard in Part 830 is intended to cover "all situations with any potential to cause harm to people, facilities, or the environment." See comment 7 and the respose thereto, 59 FR 15488 (1994). We are considering limiting the scope of Part 830 to those nuclear facilities classified as category 3 or higher in DOE Standard 1027. See Notice of Limited Reopening of Comment Periods, 60 FR 45381, August 31, 1995.

The only activities involving radioactive or fissionable materials not covered are those explicitly excluded by the definition of "nonreactor nuclear facility," that is, activities that involve (1) transportation of radioactive material, (2) accelerators, or (3) the incidental use or generation of radioactive material associated with devices such as check and calibration sources, electron microscopes, and X-ray machines. While some activities at nuclear weapons facilities are excluded from coverage pursuant to section 830.2, these facilities are nonetheless nuclear facilities for purposes of section 830.3 and most activities at these facilities are covered by Part 830.

[17] DOE is considering expanding the scope of 830 to include those off-site activities that may effect the safe management of DOE sites and has requested comments on this issue in its Notice of Limited Reopening of Comment Periods published on August 31, 1995 in the **Federal Register**, 60 FR 45381.

[18] See footnote 7.

[19] Section 835.2(a) states:

DOE activities means an activity [sic] taken for or by the DOE that has the potential to result in the occupational exposure of an individual to radiation or radioactive material. The activity may be, but is not limited to, design, construction, operation, or decommissioning. To the extent appropriate, the activity may involve a single DOE facility or operation or a combination of facilities and operations, possibly including an entire site.

[20] The scope of Part 835 is also broader than 830 in that it does not exclude accelerators, transportation activities or incidental use of radioactive materials that are excluded from the definition of nonreactor nuclear facility in 830. See comment 11 and response thereto in the preamble to the final Part 835 rule, 59 FR 15845 (1994).

"person who may conduct activities under a contract with the Department of Energy * * *" and any subcontractor or supplier thereto. Civil penalties are not authorized for activities conducted under a cooperative agreement, grant, or work-for-others arrangement, as distinguished from a contract. See Sections 234Aa. and 170d.(1)(A) of the AEA and the answer to question 8 below.

8. May DOE assess civil penalties against persons other than contractors indemnified under the Price-Anderson provisions of the Atomic Energy Act?

Civil penalties apply only to contractors who are indemnified under the Price-Anderson Act and any subcontractors and suppliers thereto.

Section 234A of the AEA authorizes civil penalties assessment for contractors of the Department (or any subcontractor or supplier thereto) that have entered into a Price-Anderson indemnity agreement with the Department. Section 170d.(1)(A) of the AEA mandates a Price-Anderson indemnity agreement between the Department and a contractor if activities by the contractor for the Department involve the risk of public liability.[21] Section 11 of the Atomic Energy Act defines public liability as "any legal liability arising out of or resulting from a nuclear incident" and defines nuclear incident as "any occurrence * * * causing [damage or injury] * * * arising out of or resulting from * * * source, special nuclear, or byproduct material."

Section 234A further limits civil penalties to situations where a contractor (or any subcontractor or supplier thereto) violates any applicable rule, regulation, or order of the Secretary of Energy relating to nuclear safety. 10 CFR Part 820 sets forth the procedural rules for DOE nuclear activities, including the procedures for assessing civil penalties. Part 820 defines nuclear safety requirement broadly to include all "enforceable rules, regulations, or orders relating to nuclear safety adopted by DOE.* * *"[22] Section 820.20(b) limits the basis for assessment of civil penalties to violations of a DOE Nuclear Safety Requirement, *i.e.*, one set forth in the Code of Federal Regulations, a Compliance Order under part 820, or a plan or program implementing those provisions.[23] Thus, the requirements in Parts 830 and 835 form part of the set of nuclear safety requirements which, if violated, provide a basis for the assessment of civil penalties.

Therefore, only a Price-Anderson indemnified DOE contractor, and any subcontractor or supplier thereto, who violates a nuclear safety requirement of the type listed in section 820.20(b), may be assessed a civil penalty by the Department.

9. Are there any indemnification provisions other than the Price-Anderson provisions that apply to DOE facilities and activities and, if so, could such indemnification be used to invoke civil penalties for violations of Parts 830 and 835 or the applicability of the requirements in Parts 830 and 835?

Although there are other indemnification provisions that could be applied to DOE facilities and activities, there are no other indemnification provisions that could be used to invoke civil penalties under section 234A of the AEA. Section 170d.(1)(B)(i)(I) of the Atomic Energy Act provides that agreements of indemnification under the Price-Anderson provisions of that Act shall be the "exclusive means of indemnification for public liability arising from activities" conducted under a contract with the Department. This restriction on the Secretary's use of indemnity authority is directed to indemnification for public liability. With respect to situations involving liability other than public liability as defined in section 11 of the AEA,[24] other indemnification provisions (such as Public Law 85–804) may be available.

As discussed in the response to question 8, civil penalties under section 234A may be assessed only with respect to contractors indemnified under the Price-Anderson provisions of the AEA. The requirements of Parts 830 and 835, however, may be applied to DOE facilities or activities whether or not such facilities or activities are covered by DOE indemnification. As discussed in the response to question 3, section 161 of the AEA is the authority for the requirements in Parts 830 and 835 and the exercise of this authority is not dependent on whether the Department provides an indemnification for liability resulting from the activities to which the requirements apply.

10. What is the purpose of the exclusion in Parts 830 and 835 for activities conducted under the Nuclear Explosives and Weapons Safety Program relating to the prevention of accidental or unauthorized nuclear detonations and what activities are intended to be included within the scope of this exclusion?

Parts 830 and 835 contain identical exclusions for "[a]ctivities conducted under the Nuclear Explosives and Weapons Safety Program relating to the prevention of accidental or unauthorized nuclear detonations."[25] This exclusion is drafted narrowly to cover only those activities necessary to prevent an accidental or unauthorized nuclear detonations (that is, where the component parts of a nuclear weapon have been assembled in a manner such that a nuclear detonation could take place). The basis for this exclusion is the paramount importance of preventing accidental or unauthorized nuclear detonations and ensuring that the requirements in Parts 830 and 835 do not come into conflict with activities necessary to prevent any such detonation.

However, these exclusions are not intended to relieve the person responsible for a DOE nuclear facility or a DOE activity from complying with the requirements in Parts 830 and 835 to the extent they do not interfere with the conduct of activities undertaken to prevent an accidental or unauthorized nuclear detonation. For example, under Part 830, a contractor must develop and implement a Quality Assurance Program for a nuclear facility where nuclear weapons are or may be present. A provision within the Quality Assurance Program may be disregarded, however, to the extent it limits the conduct of an activity to prevent the detonation of a nuclear weapon. Under Part 835, for example, a contractor must implement and comply with the radiological posting requirements with respect to a DOE activity that involves or may involve nuclear weapons. These posting requirements may be disregarded, however, to the extent they limit the conduct of a particular activity to prevent the detonation of a nuclear weapon, such as moving the weapon to an area that is not posted correctly for the presence of a nuclear weapon.

The Department, recognizes that the exclusion could be interpreted more broadly than intended and therefore may adopt a clarifying amendment to the exclusions stated in 10 CFR 830.2(c) and 835.1(b)(3).[26]

Robert R. Nordhaus,

General Counsel.

[FR Doc. 96–2345 Filed 2–2–96; 8:45 am]

BILLING CODE 6450–01–P

[21] Section 170d.(1)(A) states:

[T]he Secretary shall * * * enter into agreements of indemnification * * * with any person who may conduct activities under a contract with the Department of Energy that involve the risk of public liability.* * *

[22] Part 820.2(a) states:

DOE Nuclear Safety Requirements means the set of enforceable rules, regulations, or orders relating to nuclear safety adopted by DOE (or by another agency if DOE specifically identifies the rule, regulation, or order) to govern the conduct of persons in connection with any DOE activity and includes any programs, plans, or other provisions intended to implement these rules, regulations, orders, a Nuclear Statute (that is, any statute or provision of a statute that relates to a DOE nuclear activity and for which DOE is responsible), the [Atomic Energy] Act, including technical specifications and operational safety requirements for DOE nuclear facilities. For purposes of the assessment of civil penalties, the definition of DOE Nuclear Safety Requirements is limited to those set forth in 10 CFR section 820.20(b). (emphasis added)

[23] Section 820.20(b) provides that the basis for the assessment of civil penalties is a violation of:

(1) Any DOE Nuclear Safety Requirement set forth in the Code of Federal Regulations;

(2) Any Compliance Order issued pursuant to subpart C of this part; or

(3) Any program, plan, or other provision required to implement any requirement or order identified in paragraphs (b)(1) or (b)(2) of this section.

[24] See discussion in the answer to Question 8 above, regarding the definition of public liability.

[25] Sections 830.2(c) and 835.1(b)(3).

[26] See Notice of Limited Reopening of Comment Periods, 60 FR 45381, 45384 (1995) for a discussion of the weapons exclusion.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The current 18 percent per year federal credit union loan rate ceiling is scheduled to revert to 15 percent on March 9, 1996, unless otherwise provided by the NCUA Board (Board). A 15 percent ceiling would restrict certain categories of credit and adversely affect the financial condition of a number of federal credit unions. At the same time, prevailing market rates and economic conditions do not justify a rate higher than the current 18 percent ceiling. Accordingly, the Board hereby continues an 18 percent federal credit union loan rate ceiling for the period from March 9, 1996 through September 8, 1997. Loans and lines of credit balances existing prior to May 15, 1987, may continue to bear their contractual rate of interest, not to exceed 21 percent. The Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

EFFECTIVE DATE: March 9, 1996.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314–3428.

FOR FURTHER INFORMATION CONTACT: James F. Feeney, Office of Investment Services, Senior Investment Officer, at the above address. Telephone number: (703) 518–6620.

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–221, enacted in 1979, raised the loan interest rate ceiling for federal credit unions from 1 percent per month (12 percent per year) to 15 percent per year. It also authorized the Board to set a higher limit, after consulting with Congress, the Department of the Treasury and other federal financial agencies, for a period not to exceed 18 months, if the Board should determine that: (1) money market interest rates have risen over the preceding 6 months; and (2) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in growth, liquidity, capital and earnings.

On December 3, 1980, the Board determined that the foregoing conditions had been met. Accordingly, the Board raised the loan ceiling for 9 months to 21 percent. In the unstable environment of the first-half of the 1980s, the Board extended the 21 percent ceiling four times. On March 11, 1987, the Board lowered the loan rate ceiling from 21 percent to 18 percent effective May 18, 1987. This action was taken in an environment of falling market interest rates from 1980 to early 1987. The ceiling has remained at 18 percent to the present.

The Board felt, and continues to feel, that the 18 percent ceiling will fully accommodate an inflow of liquidity into the system, preserve flexibility in the system so that credit unions can react to any adverse economic developments, and will ensure that any increase in the cost of funds would not impinge on earnings of federal credit unions.

The Board would prefer not to set loan interest rate ceilings for federal credit unions. In the final analysis, the market sets the rates. The Board supports free lending markets and the ability of federal credit union boards of directors to establish loan rates that reflect current market conditions and the interests of credit union members. Congress has, however, imposed loan rate ceilings since 1934. In 1979, Congress set the ceiling at 15 percent but authorized the Board to set a ceiling in excess of 15 percent if the Board can justify it. The following analysis justifies a ceiling above 15 percent, but at the same time does not support a ceiling above the current 18 percent. The Board is prepared to reconsider this action at any time should changes in economic conditions warrant.

Justification for a Ceiling No Higher Than 18 Percent

Money Market Interest Rates

During the six-month period following the Board's July 1994 decision to continue the 18 percent ceiling, short-term money market rates increased about 150 basis points. For example, the two-year treasury note increased in yield from 6.15 percent to 7.69 percent for a gain of 154 basis points and a 25 percent change (see table 1).

TABLE 1.—MONEY MARKET INTEREST RATES

Maturity	Yields as of July 1, 1994	Yields as of December 30, 1994	Change in basis points
3-month	4.29	5.68	139
6-month	4.82	6.50	168
1-year	5.49	7.16	167
2-year	6.15	7.69	154
3-year	6.46	7.78	132
5-year	6.94	7.83	89

During the recent six-month period from July through December 1995, short-term money market rates decreased about 50 basis points. For example, the rate on the two-year treasury note dropped 60 basis points from 5.79 percent to 5.19 percent for a 10 percent change (see table 2). Although interest rates have fallen since July 1995, there is no assurance that they will remain at current levels during the period of this extension (from March 9,1996 through September 8, 1997). Most economists believe that rates will fall a bit further in early 1996 and then rise in the fourth quarter of 1996 or early in 1997.

Despite the market improvement in interest rates in the last six months, the NCUA board believes that, in view of the uncertain outlook for interest over the next 18 months, lowering the interest rate ceiling at this time could cause an unnecessary burden on credit unions, especially those with 20% or more of their assets in high-interest rate loans.

TABLE 2.—MONEY MARKET INTEREST RATES

Maturity	Yields as of July 1, 1995	Yields as of December 30, 1995	Change in basis points
3-month	5.60	5.12	48
6-month	5.60	5.18	42
1-year	5.62	5.16	46
2-year	5.79	5.19	60

TABLE 2.—MONEY MARKET INTEREST RATES—Continued

Maturity	Yields as of July 1, 1995	Yields as of December 30, 1995	Change in basis points
3-year	5.85	5.25	60
5-year	5.96	5.41	55

Liquidity, Capital, Earnings and Growth of Individual Credit Unions

For at least 1,673 (14%) credit unions, market conditions call for rates on unsecured loans to be above 15%. For some of these credit unions, three factors combine to require interest rate charges above 15 percent in order to maintain liquidity, capital, earnings and growth. The first factor is low average loan balance. For example, credit unions with under $2 million in assets have many unsecured loans with loan balances below $1000.

There are fixed costs of granting and processing a loan. Many of these costs are incurred regardless of the size of the loan. Expressed as a percentage of loan balance on which interest will be collected, these costs can be very high on small loans.

Many other types of financial institutions will not even consider loan applications for less than $1000. Lowering the interest rate ceiling for credit unions will discourage credit unions, too, from making these loans. Credit seekers' options will be reduced, with most of the affected members having no alternative but to turn to neighborhood lenders.

The second factor is credit risk. Loans to young members who have not yet established a credit history and loans to those who have built weak credit histories both carry high credit risk. Credit unions must charge rates sufficiently high enough to cover higher-than usual losses for such loans. There are undoubtedly more than 1,673 credit unions charging over 15 percent for unsecured loans to such members. Many credit unions have "Credit Builder" or "Credit Rebuilder" loans but must report the "most common" rate on the Call Report for unsecured loans.

The third factor is credit union size. Small credit unions have fewer loans over which to distribute their overhead costs. Thus, small credit unions making small loans to members with poor or no credit histories are struggling with far higher costs than the typical credit union. Both young people and lower income households have limited access to credit and, absent a credit union, often pay rates of 24 to 30 percent to small loan companies. Rates between 15 and 18 percent are attractive to such members. The higher rates are necessary to help cover the credit unions' costs of providing this kind of credit.

Table 3 shows the number of credit unions in each asset group that charge more than 15 percent for unsecured loans. It also shows the percent of credit unions in each group that do so. NCUA staff is not aware of any complaints from members of those credit unions offering high-risk, high-interest rate loans.

TABLE 3.—CREDIT UNIONS CHARGING MORE THAN 15 PERCENT ON UNSECURED LOANS AS OF JUNE 1995

Asset size group	Count of all CUs this asset size	Charging more than 15% on unsecured loans	
		Number	Percent
Less than $2MM	3,666	386	10.5
$2MM to $10MM	4,157	613	14.7
$10MM to $50MM	2,813	459	16.3
Over $50MM	1,200	215	17.9
Total .	11,836	1,673	14.1

Among the 1,673 credit unions charging more than 15 percent for unsecured loans, there are 367 credit unions with 20 percent or more of their assets in this kind of loan. For these credit unions, lowering their rates would damage their liquidity, capital, earnings and growth. Table 4 shows credit unions charging more than 15 percent that have more than 20 percent of their assets in these loans.

TABLE 4.—CREDIT UNIONS WITH MORE THAN 20 PERCENT OF ASSETS IN UNSECURED LOANS AS OF JUNE 1995

Asset size group	Number of CUs	Percent of size group	Average percent of assets in unsecured loans
Less than $2MM	152	4.1	381.1
$2MM to $10MM	133	3.2%	26.9
$10MM to $50MM	65	2.3	26.7
Over $50MM	17	1.4	25.5
Total .	367	3.1	31.4

In conclusion, the Board has continued the federal credit union loan interest rate ceiling of 18 percent per year for the period from March 9, 1996 through September 8, 1997. Loans and line of credit balances existing on May 15, 1987 may continue to bear interest at their contractual rate, not to exceed 21 percent. Finally, the Board is prepared to reconsider the 18 percent ceiling at any time during the extension period, should changes to economic conditions warrant it.

Regulatory Procedures

Administrative Procedure Act

The Board has determined that notice and public comment on this rule are impractical and not in the public interest, 5 U.S.C. 553(b)(B). Due to the need for a planning period prior to the March 8, 1996 expiration date of the current rule, and the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, final action on the loan rate ceiling is necessary.

Regulatory Flexibility Act

For the same reasons, a regulatory flexibility analysis is not required, 5 U.S.C. 604(a). However, the Board has considered the need for this rule, and the alternatives, as set forth above.

Paperwork Reduction Act

There are no paperwork requirements.

Executive Order 12612

The final rule does not affect state regulation of credit unions. It implements provisions of the Federal Credit Union Act applying only to federal credit unions.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Loan interest rates.

By the National Credit Union Administration Board on January 25, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR part 701 as follows:

PART 701—[AMENDED]

1. The authority citation for part 701 is revised to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, 1798. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.21(c)(7)(ii)(C) is revised to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(7) * * *

(ii) * * *

(C) *Expiration.* After September 8, 1997, or as otherwise ordered by the NCUA Board, the maximum rate on federal credit union extensions of credit to members shall revert to 15 percent per year. Higher rates may, however, be charged, in accordance with paragraphs (c)(7)(ii) (A) and (B) of this section, on loans and line of credit balances existing on or before September 8, 1997.

* * * * *

[FR Doc. 96–2016 Filed 2–2–96; 8:45 am]

BILLING CODE 7535–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 37–3–7203; FRL–5329–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Butte County Air Pollution Control District, Mojave Desert Air Quality Management District, Monterey Bay Unified Air Pollution Control District, Santa Barbara County Air Pollution Control District, and Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on July 27, 1995. The revisions concern rules from Butte County Air Pollution Control District (BCAPCD), Mojave Desert Air Quality Management District (MDAQMD), Monterey Bay Unified Air Pollution Control District (MBUAPCD), Santa Barbara County Air Pollution Control District, and Yolo-Solano Air Quality Management District (YSAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from the manufacture and application of cutback and emulsified asphalt materials. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on March 6, 1996.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814

Butte County Air Pollution Control District, 9287 Midway, Suite 1A, Durham, CA 95938

Mojave Desert Air Quality Management District, 15428 Civic Drive, Victorville, CA 92392

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1995 in 60 FR 38535, EPA proposed to approve the following rules into the California SIP: BCAPCD Rule 241, Cutback and Emulsified Asphalt; MDAQMD Rule 1103, Cutback and Emulsified Asphalt; MBUAPCD Rule 425, Use of Cutback Asphalt; SBCAPCD Rule 329, Cutback and Emulsified Asphalt Paving Materials; and YSAQMD Rule 2.28, Cutback and Emulsified Asphalts. The BCAPCD adopted Rule 241 on January 12, 1993; the MDAQMD adopted Rule 1103 on December 21, 1994; the MBUAPCD adopted Rule 425 on August 25, 1993; the SBCAPD adopted rule 329 on February 25, 1992; and the YSAQMD adopted Rule 2.28 on May 25, 1994. These rules were submitted by the California Air Resources Board (CARB) to EPA on May 13, 1993; December 22, 1994; November 18, 1993; June 19, 1992; and November 30, 1994 respectively. These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the NPRM cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 60 FR 38535 and in technical support documents (TSDs) available at EPA's Region IX office.

Response to Public Comments

A 30-day public comment period was provided in 60 FR 38535. EPA received no comments regarding the NPRM.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittals under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules

that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 31, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(188)(i)(A)(*4*), (193)(i)(C)(*1*), (194)(i)(F)(*2*), (207)(i)(C)(*2*), (210)(i)(C)(*1*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(188) * * *

(i) * * *

(A) * * *

(*4*) Rule 329, adopted on February 25, 1992.

* * * * *

(193) * * *

(i) * * *

(C) Butte County Air Pollution Control District.

(*1*) Rule 241, adopted on January 12, 1993.

* * * * *

(194) * * *

(i) * * *

(F) * * *

(*2*) Rule 425, adopted on August 25, 1993.

* * * * *

(207) * * *

(i) * * *

(C) * * *

(*2*) Rule 2.28, adopted on May 25, 1994.

* * * * *

(210) * * *

(i) * * *

(C) Mojave Desert Air Quality Management District.

(*1*) Rule 1103, adopted on December 21, 1994.

* * * * *

[FR Doc. 96–2141 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WV035–6001; FRL–5416–6]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Interim Final Determination That West Virginia Has Corrected the Deficiencies in the Plan for the Follansbee PM–10 Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim Final Rule.

SUMMARY: In the Proposed Rules section of today's **Federal Register**, EPA has published a notice proposing to fully approve the State of West Virginia's submittal of revisions to its demonstration that its SIP is sufficient to attain national ambient air quality standards (NAAQS) for particulate matter with aerodynamic diameter less than or equal to 10 micrometers (PM–10) in the Follansbee, West Virginia area. Based on the proposed full approval, EPA is making an interim final determination by this notice that the State has corrected the deficiencies for which a sanctions clock began on August 24, 1994. This action will defer the application of the offset sanction and defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment on this interim final determination as well as EPA's proposed approval of the State's submittal. If no comments are received on EPA's proposed approval of the State's submittal, EPA will take final approval action which will also finalize EPA's determination that the State has corrected the deficiency that started the sanctions clock. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final notice taking into consideration any comments received.

DATES: Effective February 5, 1996.

Comments on this interim final determination must be received by March 6, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia.

FOR FURTHER INFORMATION CONTACT: Thomas A. Casey, (215) 597–2746, at the EPA Region III address above (Mailcode 3AT22) or via e-mail at casey.thomas@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1991, West Virginia submitted an attainment SIP for the Follansbee nonattainment area. The submittal contained bilateral consent orders between the State of West Virginia and six companies requiring reductions in PM–10 emissions from six sources in the Follansbee area; an air quality modeling analysis intended to demonstrate that West Virginia's SIP, once revised to include the consent orders, would be sufficient to attain the PM–10 NAAQS in the Follansbee area; and other supporting information. EPA took final limited approval and final limited disapproval action on West Virginia's 1991 submittal on July 25, 1994 (59 FR 37696). EPA's disapproval action started an 18-month clock for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (Act) and a 24-month clock for promulgation of a Federal implementation plan under section 110(c)(1) of the Act. The State submitted revisions to its attainment demonstration and emissions inventory on November 22, 1995 that correct the deficiencies in the original submittal. In a separate notice in the Proposed Rules today's **Federal Register**, EPA proposed full approval of this submittal.

II. EPA Action

Based on the proposed full approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies that started the sanction clock. Therefore, EPA is taking this interim final action that finds that the State has corrected the disapproval deficiencies. This determination is effective on publication. This action does not stop the sanction clock that started under section 179 for this area on August 24, 1994. However, this action will defer the application of the offset sanction and will defer the application of the highway sanction. *See* 59 FR 39832 (Aug. 4, 1994) to be codified at 40 CFR 52.31. If EPA's proposal to fully approve the State's submittal becomes effective, such action will permanently stop the sanction clock and will permanently lift any applied, stayed or deferred sanctions.

Today, EPA is also providing the public with an opportunity to comment on this interim final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will take further action to disapprove the State's submittal and to find that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. In addition, the sanctions consequences described in the sanctions rule will also apply. *See* 59 FR 39832.

III. Administrative Requirements

Because EPA has preliminarily determined that the State has an approvable plan, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.[1] *See* 5 U.S.C. 553(b)(B). EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiency that started the sanctions clock. Therefore, it is not in the public interest to initially apply sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily stay or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. In addition, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. *See* 5 U.S.C. 553(d)(1).

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. *See* 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action, pertaining to the interim final determination for approval of corrections to the West Virginia's PM–10 attainment demonstration and emissions inventory for the Follansbee area, temporarily relieves sources of an additional burden potentially placed on them by the sanction provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Particulate matter.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 25, 1996.

W. Michael McCabe,

Regional Administrator.

[FR Doc. 96–2251 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

[1] As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

40 CFR Parts 52 and 70

[CA 147–2–7201; AD-FRL–5330–3]

Clean Air Act Final Interim Approval of the Operating Permits Program; Approval of State Implementation Plan Revision for the Issuance of Federally Enforceable State Operating Permits; Mojave Desert Air Quality Management District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the California Air Resources Board on behalf of the Mojave Desert Air Quality Management District (AQMD), California (district) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In addition, EPA is promulgating final approval of a revision to Mojave Desert's portion of the California State Implementation Plan (SIP) regarding synthetic minor regulations for the issuance of federally enforceable state operating permits (FESOP). In order to extend the federal enforceability of state operating permits to hazardous air pollutants (HAP), EPA is also finalizing approval of Mojave Desert's synthetic minor regulations pursuant to section 112(l) of the Clean Air Act (CAA or Act). Finally, today's action grants final approval to Mojave Desert's mechanism for receiving delegation of section 112 standards as promulgated.

EFFECTIVE DATE: March 6, 1996.

ADDRESSES: Copies of the district's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Operating Permits Section, A–5–2, Air

and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Sara Bartholomew (telephone 415/744–1170), Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Act), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On July 3, 1995, EPA proposed interim approval of the operating permits program for Mojave Desert AQMD, California. See 54 FR 34488. The **Federal Register** document also proposed approval of the district's interim mechanism for implementing section 112(g) and program for delegation of section 112 standards as promulgated. Public comment was solicited on these proposed actions. EPA received no public comment on the proposal. In this notice, EPA is promulgating interim approval of Mojave Desert's operating permits program and approving the section 112(g) and section 112(l) mechanisms noted above.

On June 28, 1989 (54 FR 27274), EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of federally enforceable state operating permits. Permits issued pursuant to a program meeting the June 28, 1989 criteria and approved into the SIP are considered federally enforceable for criteria pollutants. The synthetic minor mechanism may also be used to create federally enforceable limits for emissions of HAP if it is approved pursuant to section 112(l) of the Act.

In the July 3, 1995 **Federal Register** document, EPA also proposed approval of Mojave Desert's synthetic minor program for creating federally enforceable limits in District operating permits. In this document, EPA is promulgating approval of the synthetic minor program for Mojave Desert as a revision to the district's SIP and pursuant to section 112(l) of the Act.

II. Final Action and Implications

A. Analysis of State Submission

Comments

On July 3, 1995, EPA proposed interim approval of Mojave Desert's title V operating permits program as it was submitted on March 10, 1995. Since the time that EPA proposed interim approval, Mojave Desert adopted regulations to implement title IV of the Act. On June 28, 1995, Mojave Desert incorporated part 72 by reference into District Rule 1210. Rule 1210 was submitted to EPA on August 3, 1995, and it corrects the third program deficiency identified in the proposed interim approval notice by adopting regulations to implement title IV of the Act.

EPA received no adverse public comment on Mojave Desert's title V operating permits program, the proposed approval of Mojave Desert's synthetic minor program, or program for receiving section 112(l) standards as promulgated.

B. Final Action

1. Title V Operating Permits Program

The EPA is promulgating interim approval of Mojave Desert's title V operating permits program as submitted on March 10, 1995. EPA did not receive any comments on the changes that were outlined as necessary for full approval. Therefore, the program deficiencies described in the proposed rulemaking, under II.B.1.(a), *Proposed Interim Approval*, and the legislative deficiency outlined under II.B.1.(b), *Legislative Source Category-Limited Interim Approval Issue*, must be corrected in order for the district to be granted full approval.

The scope of the Mojave Desert's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the district, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, *e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." *See* section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until March 5, 1998. During this interim approval period, Mojave Desert is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in this district. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If Mojave Desert fails to submit a complete corrective program for full approval by September 5, 1997, EPA will start an 18-month clock for mandatory sanctions. If the district then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the district has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of Mojave Desert, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the district has come into compliance. In any case, if, six months after application of the first sanction, Mojave Desert still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves Mojave Desert's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the district has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of Mojave Desert, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the district has come into compliance. In all cases, if, six months after EPA applies the first sanction, Mojave Desert has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if Mojave Desert has not submitted a timely and complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the district's program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for Mojave Desert upon interim approval expiration.

2. District Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Mojave Desert's preconstruction review program found in Regulation XIII (New Source Review) as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and adoption by Mojave Desert of rules specifically designed to implement section 112(g). EPA is limiting the duration of this approval to 18 months following promulgation by EPA of the section 112(g) rule.

3. Program for Delegation of Section 112 Standards as Promulgated

Requirements for part 70 program approval, specified in 40 CFR section 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the District's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR section 63.91 of Mojave Desert's program for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated. This program for delegations applies to both existing and future standards but is limited to sources covered by the part 70 program.

4. State Operating Permit Program for Synthetic Minors

EPA is promulgating full approval of Mojave Desert's synthetic minor operating permit program, adopted by the district on December 21, 1994, and submitted to EPA by the California Air Resources Board, on behalf of the Mojave Desert, on March 31, 1995. The synthetic minor operating permit program is being approved into Mojave Desert's SIP pursuant to part 52 and the five approval criteria set out in the June 28, 1989 **Federal Register** document (54 FR 27282). EPA is also promulgating full approval pursuant to section 112(l)(5) of the Act so that HAP emission limits in synthetic minor operating permits may be deemed federally enforceable.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Docket

Copies of Mojave Desert's submittal and other information relied upon for the final interim approval are contained in docket number CA–MJ–95–01–OPS, maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under sections 502, 110, and 112 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because these actions do not impose any new requirements, they do not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection, Hazardous substances, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 31, 1995.

Felicia Marcus,

Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(216)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(216) * * *

(i) * * *

(A) * * *

(2) Rule 221, adopted December 21, 1994.

* * * * *

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (q) to the entry for California to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

(q) *Mojave Desert AQMD* (complete submittal received on March 10, 1995); interim approval effective on March 6, 1996; interim approval expires March 5, 1998.

* * * * *

[FR Doc. 96–2247 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[OK–FRL–5407–9]

Clean Air Act Final Interim Approval of Operating Permits Program; the State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final source category-limited interim approval.

SUMMARY: The EPA is promulgating source category-limited interim approval of the Operating Permits Program submitted by the Oklahoma Department of Environmental Quality (ODEQ) for the State of Oklahoma for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, except any sources of air pollution over which an Indian Tribe has jurisdiction, and to certain other sources.

EFFECTIVE DATE: March 6, 1996.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing this source category-limited interim approval are available for inspection during normal business hours at the following location:

U. S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–AN), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Oklahoma Department of Environmental Quality, Air Quality Program, 4545 North Lincoln Blvd, Suite 250, Oklahoma City, Oklahoma 73105–3483.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wm. Nicholas Stone, New Source Review Section (6T-AN), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7226.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (CAA or "the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, the EPA may grant the program interim approval for a period of up to two years. If the EPA has not fully approved a program by two years after November 15, 1993, or by the end of an interim program, it must establish and implement a Federal program.

On March 10, 1995, the EPA proposed source category-limited interim approval of the operating permits program for the State of Oklahoma. *See* 60 **Federal Register** (FR) 13088 (March 10, 1995). The EPA received comments on the proposal and compiled a Technical Support Document which describes the operating permits program in greater detail. In this document, the EPA is taking final action to promulgate source category-limited interim approval of the operating permits program for the State of Oklahoma.

II. Final Action and Implications

A. Analysis of State Submission

The State of Oklahoma submitted to the EPA, under a cover letter from the Governor dated January 7, 1994, the State's operating permits program. The submittal has adequately addressed all sixteen elements required for full approval as discussed in part 70, with the exception of seven interim issues listed in the proposal: (1) Revision of Subchapter 8 to incorporate the new transition schedule included in the Governor's request for source category-limited interim approval, (2) regulation revision to make the definition of "major source" consistent with part 70, (3) revision of the regulation to make the provisions for insignificant activities consistent with part 70, (4) revision of the regulation to make the permit content provisions consistent with part 70, (5) revision of the regulation to make the provisions regarding standing for judicial review consistent with part 70, (6) revision of the regulation to make the administrative amendments provisions consistent with part 70, and (7) submission of a State Implementation Plan (SIP) revision for Subchapter 7 consistent with Subchapter 8 and 40 CFR part 70.

The proposal noted three conditions that had to be met before the EPA could complete the approval process. The State of Oklahoma has adequately addressed each of these issues as shown below:

1. Acid Rain Incorporation by Reference

The State had not completed the rulemaking process for the acid rain rules when the proposal was sent to publication. The State of Oklahoma incorporated the acid rain rules by reference as an emergency rule signed January 5, 1995. This provision appears at Oklahoma Administrative Code (OAC) 252:100–8–6(i)(8) and became a permanent rule, due to inaction by the Legislature, on March 29, 1995.

2. Request for Source Category-Limited Interim Approval

The Governor of Oklahoma, in a letter dated May 26, 1995, requested source category-limited approval for the operating permits program. The Executive Director of the ODEQ submitted a detailed transition schedule in a letter dated January 23, 1995, for the source category-limited interim approval.

3. Supplemental Attorney General's Opinion

The State of Oklahoma provided the EPA with a supplemental Attorney General Opinion, dated June 23, 1995, which clarified the State's interpretation of the criminal liability statute. The EPA required this clarification to ensure that the criminal liability provision in the State statute would not preclude daily fines up to $10,000 for on-going violations.

The State of Oklahoma appropriately addressed all requirements necessary to receive source category-limited interim approval of the State operating permits program pursuant to title V of the Act and 40 CFR part 70.

B. Response to Comments

Comments were received from six parties during the comment period that ran from March 10, 1995, until April 10, 1995. Several of the comments requested additional time so that comments could be made after the Air Quality Council meeting on April 18, 1995. The EPA extended the comment period until May 10, 1995, in a **Federal Register** document published April 26, 1995. Three additional parties submitted comments during the extension. Below is the EPA's response to comments received on the proposed source category-limited interim approval for the Oklahoma Operating Permits Program.

1. Section 112(g) Implementation

Comments were made that the EPA should reiterate its present interpretation of section 112(g) as published in the **Federal Register** on February 14, 1995.

The EPA concurs with the comment. The EPA proposed to approve the State's preconstruction review program for the purpose of implementing section 112(g) during the transition period before promulgation of a Federal rule implementing section 112(g). This proposal was based in part on an interpretation of the Act that would require sources to comply with section 112(g) beginning on the date of approval of the title V program, regardless whether the EPA had completed its section 112(g) rulemaking. The EPA has since revised this interpretation of the Act in a **Federal Register** document published on February 14, 1995, 60 FR 8333. The revised interpretation postpones the effective date of section 112(g) until after the EPA has promulgated a rule addressing that provision. The revised notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretive notice explains that the EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States time to adopt rules implementing the Federal rule, and that the EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until the EPA provides for such an additional postponement of section 112(g), Oklahoma must be able to implement section 112(g) during the transition period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations.

For this reason, the EPA is finalizing its approval of Oklahoma's preconstruction review program. This approval clarifies that the preconstruction review program is available as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by Oklahoma of rules established to implement section 112(g). However, since the approval is for the single purpose of providing a mechanism to implement section 112(g) during the transition period, the approval itself will be without effect if the EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. Further, the EPA is limiting the duration of this approval to 18 months following promulgation by the EPA of the section 112(g) rule.

The EPA believes that, although Oklahoma currently lacks a program designed specifically to implement section 112(g), the State's preconstruction review program will serve as an adequate implementation vehicle during a transition period because it will allow Oklahoma to select control measures that would meet the maximum achievable control technology, as defined in section 112, and incorporate these measures into a federally enforceable preconstruction permit.

2. Major Source Definition

Several comments questioned the EPA's position on the State's definition of "major source" because it requires the State to revise its definition to delete the non-aggregation provision for criteria pollutants at oil & gas facilities. Some of the comments cited section 112(n)(4) of the Act and interpreted the Federal statute to mean that emissions at oil and gas facilities cannot be aggregated.

The EPA does not agree with these comments. The EPA has required the State to revise the non-aggregation provision for criteria pollutants because, as written, the regulation could be interpreted to allow non-aggregation of criteria pollutants at oil and gas facilities. Section 112 of the Act applies only to hazardous air pollutants and no similar non-aggregation provision is found in title V of the Clean Air Act Amendments of 1990 for criteria pollutants at oil and gas facilities. Without this required change, the definition of "major source" will also be inconsistent with the definition of "major source" at 40 CFR 52.21 which contains the Prevention of Significant Deterioration (PSD) requirements.

3. Insignificant Activities

Several comments complained that EPA's approval of an insignificant activities list would limit State discretion. The comments also noted that the State should maintain this list as a guidance document and not as a part of the regulations. Further, comments were made that the insignificant emissions level of 10% of the permit limit or major source threshold was consistent with State law. Some of the comments noted that measurement equipment often has a 10% margin of error and that the current regulation is consistent with the limits of the equipment used. One comment suggested that the EPA complete formal rulemaking before imposing an insignificant emissions level.

The EPA does not agree with these comments. Regarding the need for prior approval by the EPA, the rule at 40 CFR 70.5(c) clearly requires the Administrator's approval of the State's insignificant activities list. Contrary to one individual's comment, even though insignificant activities are not a required element of a part 70 program, a State that opts to establish such activities must nevertheless meet certain requirements, including prior approval by the EPA. Though this list does not have to be a part of the regulations, the EPA must approve it to assure that all applicable requirements are met and that consistency among the various states is maintained. The insignificant activities list may exist as a guidance document and not as part of the State regulations, provided, of course, that this will allow for its effective implementation as a matter of State law. However, the list and any changes to the list must be submitted to the EPA for review and approval before they can be federally recognized.

The EPA plans to issue guidance addressing activities that it considers "trivial" in the sense that they never implicate applicable requirements. Such activities can be exempted from permit applications without the need for prior EPA approval. The State may act consistent with this guidance. However, activities that are "insignificant" (as opposed to "trivial") because they are not clearly unrelated to applicable requirements, must first be approved by the EPA.

Another element of the EPA's proposed approval was that the State eliminate the provision defining as insignificant increases in emissions less than 10 percent of a permit limit or 10

percent of the baseline potential to emit. The EPA continues to believe that defining insignificance levels relative to percentages of permitted limits or potential emissions is inappropriate, because it can result in increases being deemed insignificant that are large enough to trigger New Source Review (NSR) or other applicable requirements. In addition, use of a percentage of permit limits could be read to imply that sources may exceed those limits without incurring liability. Title V provides no authorization for this.

Several comments suggested that the State's insignificance levels should be approved because the equipment used to monitor emissions has a 10 percent margin of error. These comments misunderstand the role of insignificant activities. Insignificant activities or levels are not relevant to determining compliance with applicable requirements. The limits of verifiability for any particular emissions limits are therefore irrelevant to the EPA's approval of insignificant emissions limits.

Comments also asserted, with regard to the 10% levels discussed above, that these limits are additive to the 1 pound per hour (lb/hr) limits established for individual emissions units, and serve to limit the accumulation of exempted emissions units across an entire facility. While the establishment of "tiered" insignificance levels at the emissions unit and facility-wide level could be approvable (provided the levels were acceptable), the EPA does not read the State's rule to effect this result. Section 252:100–8–3(e)(3) defines as insignificant, "in addition" to units qualifying under 252:100–8–3(e) (1) or (2), any "individual or combination of air emissions sources" that is below the 10 percent levels. This provision might be redrafted to make clear that the 10 percent level does not supersede the 1 lb/hr and de minimis levels for individual emissions units. However, the EPA maintains that use of percentage levels for determining insignificant activities is inappropriate.

The EPA proposed that the 1 lb/hr level on insignificant activities for individual emissions units was excessive, and further proposed that the State could obtain full approval by changing this to a limit on potential, rather than actual emissions. One comment stated that the EPA lacks authority to reject the State's limits, and moreover cannot impose a specific emissions level except through rulemaking.

The EPA has authority under part 70 to reject insignificance levels that will interfere with the permitting authority's ability to determine and impose applicable requirements. Oklahoma has not attempted to show that the 1 lb/hr limit will not so interfere with this obligation. In the absence of such a demonstration, the EPA must exercise its judgement in light of applicable requirements. The EPA has serious concerns in this regard with the 1 lb/hr limit. The EPA agrees that it cannot impose a specific limit except through rulemaking. The EPA is stating here that it will fully approve a 1 lb/hr limit based on potential to emit. No comments objected to this. It will also approve a higher threshold if the State demonstrates that the level is in fact insignificant.

4. Permit Content Language

Some comments questioned the EPA's requirement that the State delete the phrase "to the extent practicable" from the regulation's requirement at OAC 252:100–8–6 that the permit include all applicable requirements. It was noted that some industries are concerned about applicable requirements which become effective after the application but before permit issuance would be included in the permit.

The EPA does not agree with these comments. The rule at 40 CFR 70.6(a)(1) requires the permit to contain emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance. Therefore, if an applicable requirement becomes effective after the application is determined complete, the draft permit must reflect the new requirement.

The EPA notes that it has proposed a revision to part 70 which would allow States flexibility in dealing with requirements promulgated near permit issuance. *See* 59 FR 44519 (August 29, 1994). Even under this proposed approach, however, the State rule would not be fully approvable, because the phrase "to the extent practicable" is unbounded.

5. Administrative Amendment Language

Comments were made that it was inappropriate for the EPA to disallow less frequent monitoring than was originally in the permit via the State's administrative amendment procedure at OAC 252:100–8–7(d)(1)(C).

The EPA does not agree with these comments. Although section 70.7(d)(1)(vi) allows the EPA to approve provisions for administrative amendments similar to those specified in part 70, less frequent monitoring is not sufficiently similar. Administrative amendments are appropriate for incorporation of actions that do not require a case by case judgement. Switching to more frequent monitoring or reporting will always be more stringent, and therefore does not require case by case approval. However, switching to less frequent monitoring has the potential to adversely impact the enforceability of a requirement, and would therefore need to be reviewed on a case by case basis through a minor or significant permit modification.

Another comment noted that the proposed revisions to part 70, *see* FR 44519 (August 29, 1994), would allow changes using the Oklahoma NSR procedures that would satisfy the requirements of part 70. If the Oklahoma regulation meets the requirements of part 70 after the revision is promulgated, then the State would not be required to change the regulation.

6. Judicial Review for Oral Comments

One comment was made requesting clarification of the EPA's requirement that the State regulations assure that review is available for comments made at hearings. The comment asserted that the State's rule is consistent with general administrative law, which the individual commenting believes requires a written record of oral comments.

The EPA disagrees with this comment. Section 502(b)(6) of the Act and section 70.4(b)(3)(x) do not distinguish participation in a public comment period through oral as opposed to written comments. The requirement that Oklahoma delete the word "written" from OAC 252:100–8–7(j)(2)(A) was made to ensure that all comments would be covered under the judicial review provisions of subchapter 8 of the State's regulations. Though written records of comments made at public hearings are normally made in Oklahoma, removal of the word "written" will make the regulation clear so that judicial review is available to all those who comment.

The EPA has elsewhere found a lack of standing to be grounds for program disapproval. *See* 59 FR 62324, December 5, 1994, (Virginia). The standing deficiency in the Virginia title V program is considerably more far-reaching than that noted here. Regarding the need for written comments, citizens wishing to comment on permits in Oklahoma, if they are aware of the provision at issue, may reduce their comments to writing so as to avoid the potential bar to judicial review. The bar to standing in the Virginia program is not so easily avoided.

Oklahoma's other judicial review deficiency is that the State's regulations

are unclear as to whether judicial review is available for minor modifications and administrative amendments. The EPA is requiring the State to clarify that such review is available.

The seriousness of the deficiencies regarding judicial review in Oklahoma is minor relative to those identified for Virginia, and so does not merit full disapproval. In addition, Oklahoma has not indicated any reluctance to change its rules as necessary to obtain full approval on these issues. Therefore, the EPA is granting interim approval for the Oklahoma program.

7. Variance Provisions

A comment was made objecting to the EPA's position that variance provisions under State statute may not apply to title V permits unless title V processes are followed.

The EPA does not agree with this comment. As discussed in the proposed notice, the EPA recognizes the State's statutory authority to grant variances as a matter of State law. However, 40 CFR part 70 does not allow States to grant variances from title V requirements. The EPA recognizes that title V permits may include compliance schedules for sources which are out of compliance with applicable requirements. However, such measures to bring a source into compliance are not the same as variances, which normally provide a complete exemption from a requirement. The EPA also recognizes that Oklahoma may exercise enforcement discretion when addressing permit violations, but this, likewise, is not analogous to the issuance of variances.

8. Fee Demonstration

One comment was received in support of the proposed annual fee of $15.19 per ton. No adverse comments were received on the proposed fee. The EPA has concluded that the fee proposed in the workload analysis and fee demonstration of $15.19 per ton per year will be adequate to fund the title V program in the State of Oklahoma. The EPA will, as part of its oversight role, review the program periodically to ensure that adequate funding is maintained.

9. Phased Application Schedule

Several comments requested that the State of Oklahoma utilize a phased application schedule during the transition period.

The EPA concurs with these comments. The State has, under the signature of the Governor, requested source category-limited interim approval. This form of approval provides a one-year time period for the submission of applications to be permitted during the two year interim approval period. Then, the State has another one-year time period for the submission of all other applications to be permitted during the first three years of full approval. In this way, all sources will be permitted within five years after approval with the sources submitting applications in two phases.

C. Final Action

The EPA is promulgating source category-limited interim approval of the operating permits program submitted by the State of Oklahoma on January 12, 1994. The State must make the following changes to receive full approval:

1. Revise Subchapter 8 To Include Transition Schedule

The State must revise subchapter 8 to reflect a transition schedule providing for permitting certain sources during the two year interim approval period and then permitting all other sources during the first three years of full approval. This revision was signed by the Governor as an emergency and permanent rule on November 4, 1995. During the interim approval period the State will submit the revised regulation as part of the corrected program.

2. Revise Subchapter 8 Definition of "Major Source"

The language at OAC 252:100–8–2 must be revised to clarify that for criteria pollutants, units cannot be considered separately at a facility when determining a source is major.

3. Revise Subchapter 8 Insignificant Activities Provisions

The State must revise OAC 252:100–8–3(e) to reflect an insignificant emissions level of 1 lb/hr of operation, based on potential to emit, or such other level as the State may demonstrate is insignificant with respect to applicable requirements.

4. Revise Subchapter 8 Permit Content Language

The language at OAC 252:100–8–6(a) must be revised to delete the phrase, "to the extent practicable."

5. Revise Subchapter 8 Judicial Review Provisions

The language at OAC 252:100–8–7(j) must be revised to provide judicial review for comments made during public review and provide judicial review for all final permit actions.

6. Revise Subchapter 8 Administrative Amendment Provisions

The language at OAC 252:100–8–7(d) must be revised to delete the phrase "or less" from subpart (1)(d) and be amended to define the term "Enhanced NSR procedures" consistent with part 70.

7. Submission of a SIP Revision for Subchapter 7

The State must revise subchapter 7 consistent with subchapter 8 and 40 CFR part 70. This revised regulation must be submitted as a SIP revision within 18 months after interim approval is granted to ensure consistency between the SIP and title V for major sources.

The scope of the Oklahoma part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the State of Oklahoma, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (November 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (August 25, 1994); 58 FR 54364 (October 21, 1993).

This interim approval, which may not be renewed, extends until March 5, 1998. During this interim approval period, the State of Oklahoma is protected from sanctions, and the EPA is not obligated to promulgate, administer, and enforce a Federal operating permits program in the State of Oklahoma. Permits issued under a program with source category-limited interim approval have full standing with respect to part 70, and the one year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval. The State will issue permits to these sources during the interim approval period and then have an additional one year time period for application submittal of all remaining sources. The State will issue permits to all remaining sources during the first three years after full approval.

If Oklahoma fails to submit a complete corrective program for full approval by September 5, 1997, the EPA will start an 18-month clock for mandatory sanctions. If Oklahoma then fails to submit a corrective program that the EPA finds complete before the

expiration of that 18-month period, the EPA will apply sanctions as required by section 502(d)(2) of the Act, which will remain in effect until the EPA determines that the State of Oklahoma has corrected the deficiency by submitting a complete corrective program.

If the EPA disapproves Oklahoma's complete corrective program, the EPA will apply sanctions as required by section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date Oklahoma has submitted a revised program and the EPA has determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the State of Oklahoma has not timely submitted a complete corrective program or the EPA has disapproved its submitted corrective program. Moreover, if the EPA has not granted full approval to the Oklahoma program by the expiration of this interim approval and that expiration occurs after November 15, 1995, the EPA must promulgate, administer and enforce a Federal permits program for the State of Oklahoma upon interim approval expiration.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by the EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final source category-limited interim approval, including the thirteen public comment letters received and reviewed by the EPA on the proposal, are contained in docket number OPP–6–9–1 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, the EPA in the development of this final source category-limited interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: January 11, 1996.

Jane N. Saginaw,

Regional Administrator (6A).

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

2. Appendix A to part 70 is amended by adding the entry for the State of Oklahoma in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Oklahoma

(a) The Oklahoma Department of Environmental Quality submitted its operating permits program on January 12, 1994, for approval. Source category—limited interim approval is effective on March 6, 1996. Interim approval will expire March 5, 1998. The scope of the approval of the Oklahoma part 70 program excludes all sources of air pollution over which an Indian Tribe has jurisdiction.

(b) Reserved

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[FR Doc. 96–2358 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 282

[FRL–5331–9]

Underground Storage Tank Program: Approved State Program for Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of Georgia's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective March 4, 1996, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of Georgia's underground storage tank program must be received by the close of business February 1, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of March 4, 1996, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Underground Storage Tank Section (GWP–15), U.S. EPA Region 4, 345 Courtland St., Atlanta, GA 30365. Comments received by EPA may be inspected in the public docket, located in the Water Management Division, 345 Courtland Street NE., Atlanta, GA 30365 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: John Mason, Chief, Underground Storage Tank Section, U.S. EPA Region 4, 345 Courtland Street NE., Atlanta, GA 30365. Phone: (404) 347–3866, ext. 6672.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows EPA to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a **Federal Register** document announcing its decision to grant approval to Georgia. (56 FR 91, May 10, 1991). Approval was effective on July 9, 1991.

EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Georgia underground storage tank program. This codification reflects the state program currently in effect (including statutory and regulatory updates made since the time EPA granted Georgia approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program). Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Georgia program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Georgia program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Georgia, the status of federally approved requirements of the Georgia program will be readily discernible. Only those provisions of the Georgia underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Georgia's underground storage tank program, EPA has added section 282.60 to title 40 of the CFR. Section 282.60 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.60 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Georgia enforcement authorities will not be incorporated by reference. Section 282.60 lists those approved Georgia authorities that would fall into this category.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (56 FR 91, May 10, 1991) to approve the Georgia underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: October 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR Part 282 is proposed to be amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

2. Subpart B is amended by adding § 282.60 to read as follows:

Subpart B—Approved State Programs

§ 282.60 Georgia State-Administered Program.

(a) The State of Georgia is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Georgia Department of Natural Resources, Environmental Protection Division, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Georgia program on April 29, 1991 and it was effective on July 9, 1991.

(b) Georgia has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Georgia must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c,

and 40 CFR part 281, subpart E. If Georgia obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) Georgia has final approval for the following elements submitted to EPA in Georgia's program application for final approval and approved by EPA on April 29, 1991. Copies may be obtained from the Underground Storage Tank Management Program, Georgia Environmental Protection Division, 4244 International Parkway, Suite 100, Atlanta, GA 30354.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Georgia Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Georgia Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include the following sections of the Georgia Underground Storage Tank Act:

12–13–5—Rules and regulations; enforcement powers,
12–13–8—Investigations,
12–13–14—Corrective action for violations of chapter, rules, etc., and for release of regulated substance into environment,
12–13–15—Injunctions and restraining orders,
12–13–16—Hearings and review,
12–13–17—Judgement by superior court,
12–13–19—Violations; imposition of penalties,
12–13–20—Action in emergencies, and
12–13–22—Representation by Attorney General

(B) The regulatory provisions include the following sections of Rules of Georgia Department of Natural Resources, Environmental Protection Division, Underground Storage Tank Management:

391–3–15–.01(2)—Authority, and
391–3–15–.14—Enforcement

(2) *Statement of legal authority.* (i) "Attorney General's Certification of 'No Less Stringent' Objectives And 'Adequate Enforcement' Authorities Implementing The Underground Storage Tank Program", signed by the Attorney General of Georgia on February 20, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application on February 20, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application in February 1990, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the Georgia Department of Natural Resources, signed by the EPA Regional Administrator on July 10, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to part 282 is amended by adding in alphabetical order "Georgia" and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Georgia

(a) The statutory provisions include the Georgia Underground Storage Tank Act (GUSTA) (O.C.G.A. § 12–13–1, *et seq.*):

Section 12–13–2—Public policy.
Section 12–13–3—Definitions.
Section 12–13–4—Exceptions to chapter.
Section 12–13–5—Rules and regulations; enforcement powers.
Section 12–13–6—Powers and duties of director.
Section 12–13–7—Performance standards applicable until rules and regulations effective.
Section 12–13–8—Investigations.
Section 12–13–9—Establishing financial responsibility; claims against guarantor; Underground storage Trust Fund.
Section 12–13–10—Environmental assurance fees.
Section 12–13–11—Corrective action for release of petroleum product into environment.
Section 12–13–12—Recovery in event of discharge or threat of discharge of regulated substance.
Section 12–13–13—Notice by owner of underground storage tank.
Section 12–13–14—Corrective action for violations of chapter, rules, etc., and for release of regulated substance into environment.
Section 12–13–15—Injunctions and restraining orders.
Section 12–13–16—Hearings and review.
Section 12–13–17—Judgement by superior court.
Section 12–13–18—Required compliance with chapter; proof that petroleum subjected to environmentel fee.
Section 12–13–19—Violations; imposition of penalties.
Section 12–13–20—Action in emergencies.
Section 12–13–21—Public access to records.
Section 12–13–22—Representation by Attorney General.

(b) The regulatory provisions include the Rules of Georgia Department of Natural Resources, Environmental Protection Division, Underground Storage Tank Management:

Section 391–3–15–.01—General provisions. Amended.
Section 391–3–15–.02—Definitions, UST Exclusions, and UST Deferrals. Amended.
Section 391–3–15–.03—Confidentiality of Information. Amended.
Section 391–3–15–.04—Interim Prohibition for Deferred UST Systems. Amended.
Section 391–3–15–.05—UST Systems: Design, Construction, Installation and Notification. Amended.
Section 391–3–15–.06—General Operating Requirements. Amended.
Section 391–3–15–.07—Release Detection. Amended.
Section 391–3–15–.08—Release Reporting, Investigation, and Confirmation. Amended.
Section 391–3–15–.09—Release Response and Corrective Action for UST Systems Containing Petroleum. Amended.
Section 391–3–15–.10—Release Response and Corrective Action for UST Systems Containing Hazardous Substances. Amended.
Section 391–3–15–.11—Out-of-Service UST Systems and Closure. Amended.
Section 391–3–15–.12—UST Systems Containing Petroleum; Financial Responsibility Requirements. Amended.
Section 391–3–15–.13—Georgia Underground Storage Tank (GUST) Trust Fund. Amended.
Section 391–3–15–.14—Enforcement.
Section 391–3–15–.15—Variances.

[FR Doc. 96–2225 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

[WO–330–1020–00–24 1A]

RIN 1004–AB89

Grazing Administration, Exclusive of Alaska; Amendments to the Grazing Regulations; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correcting amendments.

SUMMARY: This document contains correcting amendments to the final amendments to the grazing regulations of the Bureau of Land Management, published on February 22, 1995, in the **Federal Register** [60 FR 9960], and to the pre-existing grazing regulations not affected by the 1995 amendments.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Reed, 202–452–5069.

SUPPLEMENTARY INFORMATION: The Department of the Interior is making correcting amendments to the final regulations pertaining to livestock grazing published in the **Federal Register** on February 22, 1995 [60 FR 9960], and to the pre-existing grazing regulations not affected by the 1995 amendments. The following revisions are made as editorial, and not substantive, changes. The changes include correction of erroneous cross-references, removal of an unnecessary and inaccurate paragraph and removal/replacement of several inaccurate or unnecessary acronyms, words and phrases.

The Department of the Interior has determined that, because this rulemaking makes only correcting amendments to the final rulemaking published on February 22, 1995, it is a rule of organization, procedure and practice and does not require notice and an opportunity for public comment pursuant to the Administrative Procedure Act (5 U.S.C. 553(b)(A)). Therefore, these correcting amendments are published as a final rulemaking effective February 5, 1996. The Department of the Interior has determined that this rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. Neither an environmental impact analysis nor a regulatory flexibility analysis is required. This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The principal author of this final rulemaking is Matthew Reed, Regulatory Management Team, Bureau of Land Management.

List of Subjects in 43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management, Reporting and record-keeping requirements.

For the reasons stated in the preamble and under the authority of 43 USC 1740, part 4100, group 4100, subchapter D, of subtitle B of chapter II of title 43 of the Code of Federal Regulations is amended as set forth below:

PART 4100—[AMENDED]

1. The authority citation for part 4100 continues to read as follows:

Authority: 43 U.S.C. 315, 315a–315r, 1181d, 1740.

1A. Section 4100.0–3(g) is removed.

2. In § 4110.2–2(b), the phrase "grazing preference" is revised to "permitted use."

3. In § 4110.2–3(a)(2), the phrase "cooperative agreements" is revised to "cooperative range improvement agreements."

4. In § 4120.2(e), the word "multiple" is removed.

5.–6. In § 4120.3–1(c), the section reference "§ 4130.6–2" is revised to read "§ 4130.3–2."

7.–8. In § 4120.3–2 (a), (b) & (d), the acronym "BLM" is revised to read "the Bureau of Land Management."

9. In § 4120.3–4, the phrase "cooperative agreements" is revised to read "cooperative range improvement agreements".

10. In § 4120.3–6(d), the phrase "cooperative agreement" is revised to "cooperative range improvement agreement."

11. In § 4120.3–8(b), the acronym "BLM" is revised to read "the Bureau of Land Management."

12. In § 4130.1–2(a), the section reference "§ 4130.2(d)" is revised to read "§ 4130.2(e)."

13. In § 4130.2(g) introductory text, the acronym "AMP" is revised to read "allotment management plan."

14. In § 4130.2(g)(1), the word "nonuse" is revised to "use."

15. In § 4130.2(i), the section reference "§ 4130.6–2" is revised to read "§ 4130.3–2."

16. In § 4130.2(i), the section reference "§ 4130.4–1" is revised to read "§ 4130.6–1."

17. In § 4130.4(a), the section reference "§ 4130.7–3" is revised to read "§ 4130.8–3."

18. In § 4130.8–1(c), the acronyms "BLM" and "AUMs" are revised to read "the Bureau of Land Management" and "animal unit months" respectively.

19. In § 4130.8(d), the acronym "AUM" is revised to read "animal unit month."

20. In § 4140.1(a)(4), the phrase "range improvement cooperative agreements" is revised to read "cooperative range improvement agreements."

21. In § 4140.1(b) introductory text, the phrase "shall be subject" is inserted after the word "rangelands" and prior to the phrase "to civil and criminal penalties."

22. In § 4140.1(b)(1)(iv), the section reference "§ 4130.5(c)" is revised to read "§ 4130.7(c)."

23. In § 4140.1(b)(8), the phrase "cooperative agreements" is revised to read "cooperative range improvement agreements".

24. In § 4150.3(e), the section reference "§ 4160.1–2" is revised to read "§ 4160–1."

25. In § 4160.2, the phrase "affected interests" is revised to read "interested public."

26. In § 4160.3(b), the pronoun "his" is revised (four times) to read "her/his."

27. In § 4160.4, the word "decision" is revised to read "appeal" the first time it appears in the second sentence.

Dated: January 26, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–2193 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 10

RIN 3067–AC41

Environmental Considerations/ Categorical Exclusions

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule revises the categories of actions or categorical exclusions that normally would not require an environmental impact statement or environmental assessment. These changes are intended to reduce the administrative processes and decrease the time required for project funding and implementation, while still ensuring that FEMA satisfies

environmental concerns and issues. The changes are consistent with Federal directives, regulations and statutes.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Rick Shivar, Office of Policy and Regional Operations, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, or phone (202) 646–3610.

SUPPLEMENTARY INFORMATION: On August 3, 1995, FEMA published a proposed rule for comment in the **Federal Register**, 60 FR 39694. The proposed rule contained changes responding to numerous suggestions for additional exclusion categories and for modifications to existing exclusion categories. They reflect several years' experience on the types of actions that generally receive a finding of no significant impact after FEMA makes an environmental assessment. These changes are intended to speed the approval of those projects with no potential for significant environmental effects and to allow attention to be focused on those projects with potential environmental concerns. The publication of the proposed rule allowed for a 45-day comment period ending on September 18, 1995. During this period, comments were received from one state, two Federal agencies, an environmental group and from within FEMA. The concerns identified in these comments are addressed later in this section.

In order to produce a complete and effective update of exclusion categories, we conducted a review of the environmental assessments (EA) and the findings of no significant impact (FONSI) that FEMA has issued. In the last few years we have completed over 340 EAs, but there is only one case where an environmental impact statement (EIS) was written. While many EAs identified impacts that were able to be mitigated below the level of significance, we found that the clear majority of actions have no significant impact. Reviewing this last group revealed specific types of projects that historically did not produce significant environmental effects. In conjunction with the review of FEMA's EAs, we conducted a literature review of other Federal documents containing similar types of exclusions to ensure consistency of FEMA's exclusions with other Federal agencies' regulations. The results of these two reviews are the basis for these changes to FEMA's list of exclusion categories.

These changes are also in keeping with the Council on Environmental Quality's guidance to Federal agencies on this subject (48 FR 34263, July 28, 1983). That guidance encourages Federal agencies to add flexibility to implementing procedures to allow new types of actions to be classified as categorical exclusions (CATEXs) with minimal documentation required. This is done by developing more broadly defined categories as well as providing examples of typical CATEXs, rather than a comprehensive list, so that specific actions not previously listed by an agency can be considered for CATEX status on a case-by-case basis.

These revised exclusion categories will not affect FEMA's responsibility to comply with all other applicable local, state, and Federal laws and regulations relating to health, safety and the environment. This encompasses Federal environmentally oriented statutes including, among others: the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Coastal Zone Management Act, the Coastal Barrier Resources Act, the Endangered Species Act, the National Historic Preservation Act, and the Archaeological and Historic Preservation Act. It would not affect FEMA's responsibilities under Executive Orders 11988, 11990, and 12898. Nor would it affect FEMA's implementing regulations at 44 CFR part 9, or FEMA's National Flood Insurance Program rules at 44 CFR parts 59 through 77.

A point of clarification of the term "categorical exclusion" is necessary in the discussion of this revised rule. Section 316 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Pub. L. 93–288, as amended, 42 U.S.C. 5159, provides (1) for a statutory exclusion from NEPA requirements for certain actions taken under specific sections of that Act (§§ 402, 403, 407 and 502), and (2) for those actions under § 406 of the Stafford Act that have "the effect of restoring a facility substantially to its condition prior to the disaster or emergency." While statutory exclusions are exempted from all NEPA documentation, actions that are categorically excluded from preparation of an EA or an EIS must be documented by FEMA under this part. However, as with actions categorically excluded, an action statutorily excluded from NEPA is *not* exempt from the requirements of the other environmentally oriented statutes indicated above. To help determine the level of environmental review required and, specifically, when neither an EA nor an EIS is likely to be required for a proposed action, the list of exclusion categories presented by this rule is comprehensive in that it includes both categorical exclusions and those actions that are statutorily excluded (denoted by [SE]).

The list of exclusion categories is presented with administrative type actions appearing first followed by emergency and other actions. The administrative actions relate mainly to activities that in and of themselves do not normally impact the environment, such as: planning, design, procurement, acquisition, training, studies and other administrative processes. The emergency and other actions mainly address emergency, disaster-related, or other activities that could impact features of the human and natural environment, such as: construction; maintenance or repair of facilities or vegetation; relocation of structures; floodproofing; emergency response and deployment; physical and other assistance.

Since this revision republishes and redesignates some paragraphs, and modifies other paragraphs, the following discussion is directed only at those items that are added, removed, or revised from the current 44 CFR § 10.8.

44 CFR § 10.8 is revised to redesignate and revise the discussion of statutory exclusions to recognize the difference between the basic nature of the statutory exclusion and of the CATEX. We also updated references to sections of the Stafford Act.

New paragraph (d)(2) modifies the nomenclature "List of categorical exceptions" to "List of exclusion categories" to reflect the categorical nature of the list as opposed to a list of exceptions. This change is also reflected in new paragraph (d)(6).

New paragraphs (d)(2) (i), (ii), (iii), (v), (vii), and (x) make minor wording revisions and clarify the language of existing categories but do not change their general substance.

New paragraph (d)(2)(iv) addresses inspection and monitoring processes that are part of the compliance requirements for various programs. These activities are passive as to the environment. Any federally funded action that the inspections or monitoring might recommend is subject to the NEPA process.

New paragraph (d)(2)(vi) expands the scope of the old paragraph (d)(2)(iii) on procurement of goods and services for operational support of facilities to include support of emergency operations together with temporary storage of those goods.

Paragraph (d)(2)(viii) addresses the purchase or leasing of existing facilities when land use requirements allow the proposed use.

Paragraph (d)(2)(ix) covers the acquisition, installation, or operation of utilities, gauges, communication and warning systems when using existing systems or facilities, or currently utilized infrastructure rights-of-way.

Paragraph (d)(2)(xi) would allow for the planting of indigenous vegetation, for example, to reduce erosion or fire hazard.

Paragraph (d)(2)(xii) applies to the removal of uncontaminated structures, improvements or debris to sites permitted for such material. The paragraph also applies to the demolition associated with the removal of structures or improvements.

Paragraph (d)(2)(xiii) applies to small, individual structures that are to be relocated to a new site, where FEMA is not involved in the selection or development of the new site.

Paragraph (d)(2)(xiv) excludes the act of granting a community exception for residential basement floodproofing pursuant to the National Flood Insurance Program.

Paragraph (d)(2)(xv) provides to actions under the mitigation and other programs a slightly broader exclusion than that available by statute to actions funded pursuant to § 406 of the Stafford Act whereby a facility can be restored to its approximate preexisting design, function and location. The broader interpretation also applies to § 406 actions. Some existing statutory exclusions are incorporated into the CATEX list in this paragraph and in paragraph (d)(2)(xix).

Paragraph (d)(2)(xvi) allows for improvements to an existing facility or for the construction of small scale mitigation measures in an already developed and appropriately zoned area on previously disturbed or graded lot(s). This includes improvements in the disturbed portion of a lot of an existing building, culverts, and berms within the previously disturbed perimeter of a road, storm drainage or utility system or existing facility. Any action covered by this category cannot change the basic function, exceed the capacity of other system components, violate land use requirements, or operate in a way as to affect the environment adversely.

Paragraph (d)(2)(xvii) permits actions within enclosed facilities which comply with local construction, noise, pollution and waste disposal regulations.

Paragraph (d)(2)(xviii) excludes, in addition to the existing category for the deployment and support of Emergency Support Teams, direct response activities including activation and support of the Catastrophic Disaster Response Group, Regional Operations Centers, Emergency Response Teams, Urban Search and Rescue Teams, and situation assessment, reconnaissance and other data gathering efforts in response to and for recovery from a disaster.

Paragraph (d)(2)(xix) excludes emergency assistance and relief activities and rephrases terminology to reflect the amended Stafford Act. This includes general Federal and essential assistance (Stafford Act §§ 402 and 403), food coupons and commodities (§§ 412 and 413), and Federal emergency assistance (§ 502). Debris removal (§ 407) becomes less restrictive. The temporary housing definition (§ 408) is simplified as are the definitions of the individual and family grant (§ 411) and community disaster loan (§ 417) exclusions.

In paragraph (d)(3) the list of Extraordinary Circumstances, which was § 10.8(e), is updated to clarify the circumstances that may cause an action that is normally categorically excluded to have the potential for significant environmental impact. The previous paragraph (e)(2) describing "actions in highly populated or congested areas" is replaced in paragraph (d)(3)(ii) with a more workable "actions with a high level of controversy." In paragraph (d)(3)(iv) clarifying language is added to the term "unproven technology." In paragraph (d)(3)(vi) the hazardous substance condition was changed from "use" to "presence" and linked to levels that would trigger local, state, or Federal requirements. Paragraph (d)(3)(vii), which addresses flood plains or wetlands, is expanded to include other special or critical resources, i.e., coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, sole or principal drinking water aquifers, etc.

Three new categories are added to insure that adverse health and safety effects, paragraph (d)(3)(viii); the potential violation of Federal, state, local or tribal requirements, paragraph (d)(3)(ix); and cumulative impacts, (d)(3)(x); will now be considered as extraordinary circumstances.

Paragraph (d)(5), Revocation, is added to assure that if the conditions upon which a categorical exclusion was granted have changed or new information is discovered indicating that the action no longer meets the conditions of the categorical exclusion, the responsible official must revoke the exclusion and ask for a full environmental review.

Paragraphs (d)(6)(i) and (d)(6)(ii), which address changes to the list of exclusion categories, adds "directorates" to "offices and administrations" to more correctly reflect all the organizational entities in FEMA.

The comments received during the comment period centered on four areas: (1) hazardous materials; (2) exception categories being too expansive; (3) extraordinary circumstances; and (4) clarification of terms and the scope of several of the proposed categories. In addition, it has been suggested that some of the categories could be combined and that some could be eliminated because they were not germane to FEMA activities. The following discussion addresses those comments directed at the substance of the proposed rule.

Several comments expressed concern about the integration of hazardous waste requirements into the categories, specifically the original sections (d)(2)(viii), (x), (xiv), and (xv). That integration already exists in the form of the extraordinary circumstance defined in (3)(vi) and in general FEMA policy regarding hazardous materials. The extraordinary circumstance would override the categorical exclusion if special hazardous material situations were identified associated with any categorically excluded action. In addition, it is FEMA policy that before the acquisition of property all state and local hazardous material ordinances must be adhered to and that the property itself must be free of contaminates. Original sections (d)(2)(vii) and (d)(2)(x) have been dropped and sections (d)(2)(xiv) and (d)(2)(xv) are adequately covered by existing policy and the extraordinary circumstance.

Commenters felt that the proposed (d)(2)(xvii) was too expansive in what it could include and that it went beyond the definition used to describe what was allowed by the statutory exclusion of the Stafford Act, 42 U.S.C. 5159. The new wording intentionally goes beyond that of the statutory exclusion. Our experience in working with this type of project indicates that many projects that truly fit the categorical exemption criteria were not covered and this language now includes them for all FEMA programs. Any project qualifying for this exclusion that is not covered by the statutory exclusion will still be evaluated for extraordinary circumstances and will lose its categorical exclusion if any of those circumstances apply.

One comment suggested adding a new extraordinary circumstance to section (d)(3) that could override the categorical exclusion of an action if that action impacted the recovery of an endangered species or could be used be

affirmatively used in that recovery. It was felt that the existing endangered species extraordinary circumstance, (d)(3)(v), would be invoked by the mere presence of a protected species and once the environmental assessment was required the opportunity for affirmatively considering recovery efforts would be available.

A suggestion was made to modify the wording of the extraordinary circumstance (d)(3)(vii) which addresses "special status areas or other critical resources" to include rare habitat that may not be on the critical list. This modification has been made by adding the quality of "uniqueness", i.e., "special status areas or other unique or critical resources."

The addition of a new extraordinary circumstance, (d)(3)(x) was suggested to address situations where normally excludable actions have impacts which by themselves are not significant, but when combined with impacts of other past, present, or foreseeable future activities have the potential for significant impact.

Two proposed categories addressing the acquisition of real property for future use, (d)(2)(viii), and the transfer of administrative control, (d)(2)(x), were eliminated as not germane to normal FEMA activities.

Newly designated sections (c)(1), (c)(2), (d)(2), (d)(2)(vi), (d)(2)(vii), (d)(2)(ix), (d)(2)(x), (d)(2)(xii), (d)(2)(xiii), (d)(2)(xv), (d)(2)(xvi), (d)(2)(xix)(F), (d)(3)(v), (d)(3)(vi), and (d)(5) have been modified from the corresponding proposed sections in response to specific suggestions to improve clarity and definition. The explanation presented above which addresses any of these modified sections reflects the new changes since the proposed rule was published.

National Environmental Policy Act

The requirements of 44 CFR part 10, Environmental Consideration, exclude this rule according to § 10.8(c)(2)(i). FEMA has not prepared an environmental impact statement.

Regulatory Flexibility Act

I certify that this rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The rule adds eight categories to FEMA's categorical exclusions from reviews under the National Environmental Policy Act, and FEMA does not expect the rule (1) will affect adversely the availability of disaster assistance funding to small entities, (2) will have significant secondary or incidental effects on a substantial number of small entities, or (3) will create any additional burden on small entities.

Regulatory Planning and Review

This rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, Regulatory Planning and Review, 3 CFR, 1994 Comp., p. 638. To the extent possible this proposed rule adheres to the regulatory principles set forth in E.O. 12866, but has not been reviewed by the Office of Management and Budget under E.O. 12866.

Paperwork Reduction Act

This rule does not involve any collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 10

Environmental impact statements.

Accordingly, 44 CFR part 10 is amended as follows:

PART 10—ENVIRONMENTAL CONSIDERATIONS

1. The authority citation for Part 10 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; E.O. 11514 of March 7, 1970, 35 FR 4247, as amended by E. O. 11991 of March 24, 1977, 3 CFR, 1977 Comp., p. 123; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of March 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412, as amended.

2. Section 10.8 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 10.8 Determination of requirement for environmental review.

* * * * *

(c) *Statutory exclusions.* The following actions are statutorily excluded from NEPA and the preparation of environmental impact statements and environmental assessments by section 316 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. 5159;

(1) Action taken or assistance provided under sections 403, 407, or 502 of the Stafford Act; and

(2) Action taken or assistance provided under section 406 of the Stafford Act that has the effect of restoring facilities substantially as they existed before a major disaster or emergency.

(d) *Categorical Exclusions (CATEXs).* CEQ regulations at 40 CFR 1508.4 provide for the categorical exclusion of actions that do not individually or cumulatively have a significant impact on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Full implementation of this concept will help FEMA avoid unnecessary or duplicate effort and concentrate resources on significant environmental issues.

(1) *Criteria.* The criteria used for determination of those categories of actions that normally do not require either an environmental impact statement or an environmental assessment include:

(i) Minimal or no effect on environmental quality;

(ii) No significant change to existing environmental conditions; and

(iii) No significant cumulative environmental impact.

(2) *List of exclusion categories.* FEMA has determined that the following categories of actions have no significant effect on the human environment and are, therefore, categorically excluded from the preparation of environmental impact statements and environmental assessments except where extraordinary circumstances as defined in paragraph (d)(5) of this section exist. If the action is of an emergency nature as described in § 316 of the Stafford Act (42 U.S.C. 5159), it is statutorily excluded and is noted with [SE].

(i) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of normal day-to-day activities and disaster related activities;

(ii) Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions;

(iii) Studies that involve no commitment of resources other than manpower and associated funding;

(iv) Inspection and monitoring activities, granting of variances, and actions to enforce Federal, state, or local codes, standards or regulations;

(v) Training activities and both training and operational exercises utilizing existing facilities in accordance with established procedures and land use designations;

(vi) Procurement of goods and services for support of day-to-day and emergency operational activities, and the temporary storage of goods other than hazardous materials, so long as storage occurs on previously disturbed land or in existing facilities;

(vii) The acquisition of properties and the associated demolition/removal [see paragraph (d)(2)(xii) of this section] or relocation of structures [see paragraph (d)(2)(xiii) of this section] under any applicable authority when the acquisition is from a willing seller, the buyer coordinated acquisition planning with affected authorities, and the acquired property will be dedicated in perpetuity to uses that are compatible with open space, recreational, or wetland practices.

(viii) Acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements;

(ix) Acquisition, installation, or operation of utility and communication systems that use existing distribution systems or facilities, or currently used infrastructure rights-of-way;

(x) Routine maintenance, repair, and grounds-keeping activities at FEMA facilities;

(xi) Planting of indigenous vegetation;

(xii) Demolition of structures and other improvements or disposal of uncontaminated structures and other improvements to permitted off-site locations, or both;

(xiii) Physical relocation of individual structures where FEMA has no involvement in the relocation site selection or development;

(xiv) Granting of community-wide exceptions for floodproofed residential basements meeting the requirements of 44 CFR 60.6(c) under the National Flood Insurance Program;

(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location; [SE, in part]

(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment;

(xvii) Actions conducted within enclosed facilities where all airborne emissions, waterborne effluent, external radiation levels, outdoor noise, and solid and bulk waste disposal practices comply with existing Federal, state, and local laws and regulations;

(xviii) The following planning and administrative activities in support of emergency and disaster response and recovery:

(A) Activation of the Emergency Support Team and convening of the Catastrophic Disaster Response Group at FEMA headquarters;

(B) Activation of the Regional Operations Center and deployment of the Emergency Response Team, in whole or in part;

(C) Deployment of Urban Search and Rescue teams;

(D) Situation Assessment including ground and aerial reconnaissance;

(E) Information and data gathering and reporting efforts in support of emergency and disaster response and recovery and hazard mitigation; and

(xix) The following emergency and disaster response, recovery and hazard mitigation activities under the Stafford Act:

(A) General Federal Assistance (§ 402); [SE]

(B) Essential Assistance (§ 403); [SE]

(C) Debris Removal (§ 407) [SE]

(D) Temporary Housing (§ 408), except locating multiple mobile homes or other readily fabricated dwellings on sites, other than private residences, not previously used for such purposes;

(E) Unemployment Assistance (§ 410);

(F) Individual and Family Grant Programs (§ 411), except for grants that will be used for restoring, repairing or building private bridges, or purchasing mobile homes or other readily fabricated dwellings;

(G) Food Coupons and Distribution (§ 412);

(H) Food Commodities (§ 413);

(I) Legal Services (§ 415);

(J) Crisis Counseling Assistance and Training (§ 416);

(K) Community Disaster Loans (§ 417);

(L) Emergency Communications (§ 418);

(M) Emergency Public Transportation (§ 419);

(N) Fire Suppression Grants (§ 420); and

(O) Federal Emergency Assistance (§ 502) [SE].

(3) *Extraordinary circumstances.* If extraordinary circumstances exist within an area affected by an action, such that an action that is categorically excluded from NEPA compliance may have a significant adverse environmental impact, an environmental assessment shall be prepared. Extraordinary circumstances that may have a significant environmental impact include:

(i) Greater scope or size than normally experienced for a particular category of action;

(ii) Actions with a high level of public controversy;

(iii) Potential for degradation, even though slight, of already existing poor environmental conditions;

(iv) Employment of unproven technology with potential adverse effects or actions involving unique or unknown environmental risks;

(v) Presence of endangered or threatened species or their critical habitat, or archaeological, cultural, historical or other protected resources;

(vi) Presence of hazardous or toxic substances at levels which exceed Federal, state or local regulations or standards requiring action or attention;

(vii) Actions with the potential to affect special status areas adversely or other critical resources such as wetlands, coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, sole or principal drinking water aquifers;

(viii) Potential for adverse effects on health or safety; and

(ix) Potential to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

(x) Potential for significant cumulative impact when the proposed action is combined with other past, present and reasonably foreseeable future actions, even though the impacts of the proposed action may not be significant by themselves.

(4) *Documentation.* The Regional Director will prepare and maintain an administrative record of each proposal that is determined to be categorically excluded from the preparation of an environmental impact statement or an environmental assessment.

(5) *Revocation.* The Regional Director shall revoke a determination of categorical exclusion and shall require a full environmental review if, subsequent to the granting an exclusion, the Regional Director determines that due to changes in the proposed action or in light of new findings, the action no longer meets the requirements for a categorical exclusion.

(6) *Changes to the list of exclusion categories.*

(i) The FEMA list of exclusion categories will be continually reviewed and refined as additional categories are

identified and experience is gained in the categorical exclusion process. An office, directorate, or administration of FEMA may, at any time, recommend additions or changes to the FEMA list of exclusion categories.

(ii) Offices, directorates, and administrations of FEMA are encouraged to develop additional categories of exclusions necessary to meet their unique operational and mission requirements.

(iii) If an office, directorate, or administration of FEMA proposes to change or add to the list of exclusion categories, it shall first:

(A) Obtain the approval of the Environmental Officer and the Office of the General Counsel; and

(B) Publish notice of such proposed change or addition in the **Federal Register** at least 60 days before the effective date of such change or addition.

(e) *Actions that normally require an environmental assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify as a categorical exclusion, the Regional Director shall prepare an environmental assessment.

Dated: January 26, 1996.

Harvey G. Ryland,

Deputy Director.

[FR Doc. 96–2087 Filed 2–2–96; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–32; RM–8545]

Radio Broadcasting Services; Parker and Port St. Joe, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Southern Broadcasting Companies, Inc., reallots Channel 233C from Port St. Joe, Florida to Parker, Florida, and modifies Station WPBH(FM)'s license accordingly. *See* 60 FR 15275, March 23, 1995. Channel 233C can be allotted to Parker in compliance with the Commission's minimum distance separation requirements with a site restriction of 47.9 kilometers (29.8 miles) southeast at Station's WPBH(FM)'s presently licensed transmitter site. The coordinates for Channel 233C at Parker, Florida, are North Latitude 29–49–09 and West Longitude 85–15–34. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–32, adopted December 15, 1995, and released January 30, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 233C at Port St. Joe, and by adding Parker, Channel 233C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2280 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–79; RM–8620]

Radio Broadcasting Services; De Kalb, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Choctaw Broadcasting, allots Channel 289C2 to De Kalb, Mississippi, as the community's first local aural transmission service. *See* 60 FR 31277, June 14, 1995. Channel 289C2 can be allotted to De Kalb, Mississippi, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 289C2 at De Kalb are 32–46–03 and 88–39–03. With this action, this proceeding is terminated.

DATES: Effective March 15, 1996. The window period for filing applications will open on March 15, 1996, and close on April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–79, adopted January 16, 1996, and released January 30, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding De Kalb, Channel 289C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2279 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–136; RM–8682]

Television Broadcasting Services; Sioux Falls, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Red River Broadcast Corp., allots UHF Television Channel 46 at Sioux Falls, South Dakota, as potentially the community's sixth local television broadcast service. *See* 60 FR 45390, August 31, 1995. We will also allow petitioner to amend its application (BPCT–941227KI) to specify operation on Channel 46 in lieu of Channel 36+ and retain its cut-off protection. Channel 46, with zero offset, can be allotted at Sioux Falls in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 46 are North Latitude 43–32–30 and West Longitude 96–44–00. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–136, adopted October 15, 1995, and released January 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under South Dakota, is amended by adding Channel 46 at Sioux Falls.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2275 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–151; RM–8695]

Radio Broadcasting Services; Snyder, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mark C. Nolte, allots Channel 246A to Snyder, Texas, as the community's second local FM service. *See* 60 FR 49541, September 26, 1995. Channel 246A can be allotted to Snyder in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 246A at Snyder are 32–43–04 and 100–55–02. With this action, this proceeding is terminated.

DATES: Effective March 11, 1996. The window period for filing applications will open on March 11, 1996, and close on April 11, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–151, adopted December 14, 1995, and released January 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 246A at Snyder.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2278 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–138; RM–8684]

Radio Broadcasting Services; Casper, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Bruce L. Erickson, Hart Mountain Media, Inc. and Rule Communications, allots Channels 273A and 284A at Casper, Wyoming, as potentially the community's sixth and seventh local commercial FM transmission services. *See* 60 FR 45391, August 31, 1995. We will also permit Rule (BPH–950105ME) and Hart (BPH–950104MD) to amend their pending applications to specify operation on Channels 273A and 284A, respectively, in lieu of Channel 247A at Casper and retain cut-off protection. An engineering analysis has determined that Channels 273A and 284A can be allotted at Casper in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channels 273A and 284A at Casper are North Latitude 42–50–48 and West Longitude 106–18–48. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–138, adopted December 15, 1995, and released January 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channels 273A and 284A at Casper.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2276 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–98; RM–8603]

Radio Broadcasting Services; Cheyenne and Saratoga, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Rule Communications and KRAE, Inc., allots Channel 260A at Cheyenne, Wyoming, as potentially the community's fifth local FM transmission service. *See* 60 FR 33398, June 28, 1995. We will also permit Rule to amend its pending application (BPH–930923ME) to specify operation on Channel 260A in lieu of Channel 285A and retain its cut-off protection. To accommodate the allotment, we will delete vacant Channel 260C at Saratoga, Wyoming, since no party has expressed an interest in the channel. An engineering analysis has determined that Channel 260A can be allotted at Cheyenne in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, provided Channel 260C at Saratoga is deleted. The coordinates for Channel 260A at Cheyenne are North Latitude 41–08–18 and West Longitude 104–48–48. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–98, adopted December 15, 1995, and released January 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channel 260A at Cheyenne, and by deleting Channel 260C at Saratoga.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2277 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 90

[PR Docket No. 92–235, DA 95–2217]

Private Land Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains corrections to the final regulations (PR Docket No. 92–235, FCC 95–255), which were published Wednesday, July 19, 1995 (60 FR 37152). The regulations related to revisions of the private land mobile radio spectrum below 800 MHz.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Ira Keltz of the Wireless Telecommunications Bureau at (202) 418–0616.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections, revised the private land mobile radio (PLMR) spectrum below 800 MHz to promote highly effective and efficient use of the PLMR spectrum and to facilitate the introduction of advanced technologies.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading to some applicants and manufacturers and are in need of correction.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

Accordingly, 47 CFR Part 90 is corrected by making the following correcting amendments:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, and 332, unless otherwise noted.

§ 90.19 [Amended]

2. Section 90.19 is amended by removing the entries for 851 to 856 kHz, 928 kHz and above, 929 to 930 kHz, and 1427 to 1435 kHz from the table in paragraph (d).

3. Section 90.75 is amended by revising the entries for 462.7625 MHz, 462.7875 MHz, 462.8125 MHz, 462.8375 MHz, 462.8625 MHz, 462.8875 MHz, 462.9125 MHz, 467.8625 MHz, 467.8875 MHz, 467.9125 MHz, and 469.8625 MHz, and adding entries for 469.850 MHz, 469.85625 MHz, and 469.86875 MHz in the table in paragraph (b), and adding limitation (52) in paragraph (c) to read as follows:

§ 90.75 Business Radio Service.

* * * * *

(b) * * *

Frequency or band	Class of station(s)	Limitations
Megahertz:		
462.7625 ...	Mobile	52
462.7875 ...	Mobile	52
462.8125 ...	Mobile	52
462.8375 ...	Mobile	52
462.8625 ...	Mobile	52
462.8875 ...	Mobile	52
462.9125 ...	Mobile	52
467.8625 ...	.....do	52
467.8875 ...	.....do	52
467.9125 ...	.....do	52
469.850	.....do	1, 2, 26
469.85625 .	.....do	1, 2, 26, 46
469.8625 ...	.....do	1, 2, 24, 26
469.86875 .	.....do	1, 2, 26, 46

* * * * *

(c) * * *

(52) Use of this frequency is on a secondary basis and subject to the provisions of § 90.267(a)(3), (a)(4), (a)(5), and (a)(7).

* * * * *

4. Section 90.210 is amended by revising the second sentence in the introductory text, the fifth sentence in paragraph (d)(4), and the fifth sentence in paragraph (e)(4), and by revising the second sentence in paragraph (m) to read as follows:

§ 90.210 Emission Masks.

* * * Unless otherwise stated, per paragraphs (d)(4), (e)(4), and (m) of this section, measurements of emission power can be expressed in either peak or average values provided that emission powers are expressed with the same parameters used to specify the unmodulated transmitter carrier power.

* * *

(d) * * *

(4) * * * For emissions beyond 50 kHz from the edge of the authorized bandwidth, see paragraph (m) of this section. * * *

* * * * *

(e) * * *

(4) * * * For emissions beyond 50 kHz from the edge of the authorized bandwidth, see paragraph (m) of this section. * * *

* * * * *

(m) * * * When measuring emissions in the 150–174 MHz and 421–512 MHz the following procedures will apply.

* * *

* * * * *

5. Section 90.213 is amended by revising the entries for 220–222 MHz and 421–512 MHz, and by adding footnote 12 to the table in paragraph (a) to read as follows:

§ 90.213 Frequency stability.

(a) * * *

MINIMUM FREQUENCY STABILITY

[Parts per million (ppm)]

Frequency range (MHz)	Fixed and base stations	Mobile stations	
		Over 2 watts output power	2 watts or less output power
220–222 [12]	0.1	1.5	1.5
421–512	[7] [11] 2.5	[8] 5	[8] 5

[7] In the 421–512 MHz band, fixed and base stations with a 12.5 kHz channel bandwidth must have a frequency stability of 1.5 ppm. Fixed and base stations with a 6.25 kHz channel bandwidth must have a frequency stability of 0.1 ppm.

[8] In the 421–512 MHz band, mobile stations designed to operate with a 12.5 kHz channel bandwidth or designed to operate on a frequency specifically designated for itinerant use or designed for low-power operation of two watts or less, must have a frequency stability of 2.5 ppm. Mobile stations designed to operate with a 6.25 kHz channel bandwidth must have a frequency stability of 0.5 ppm.

[11] Paging transmitters operating on paging-only frequencies must operate with frequency stability of 5 ppm in the 150–174 MHz band and 2.5 ppm in the 421–512 MHz band.

[12] Mobile units may utilize synchronizing signals from associated base stations to achieve the specified carrier stability.

* * * * *

6. Section 90.267 is amended by revising paragraph (a)(3) and adding paragraph (a)(7) to read as follows:

§ 90.267 Assignment and use of frequencies in the 450–470 MHz band for low-power use.

* * * * *

(a) * * *

(3) Stations are limited to 2 watts output power and will be licensed as mobile, but may serve the functions of base, fixed, or mobile relay stations.

* * * * *

(7) Antennas of mobile stations used as fixed stations communicating with one or more associated stations located within 45 degrees of azimuth shall be directional and have a front to back ratio of at least 15 dB. Except as provided in this paragraph (b)(7), the height of the antenna used at any mobile station serving as a base, fixed or mobile relay station may not exceed 7 m. (20 ft) above the ground level.

(i) No limit shall be placed on the length or height above ground level of any commercially manufactured radiating transmission line when the transmission line is terminated in a non-radiating load and is routed at least 7 m. (20 ft) interior to the edge of any structure or is routed below ground level.

(ii) Only sea-based stations, and central alarm stations operating on frequencies allocated for central station protection operations, may utilize antennas mounted not more than 7 m. (20 ft.) above a man-made supporting structure, including antenna structures.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 96–2202 Filed 2–2–96; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed rule would amend the existing NCUA Regulation regarding the filing of Financial and Statistical Reports, Form 5300 (the "5300 Report") by adding a provision to allow the NCUA to directly assess federally-insured credit unions for the actual cost of repeated incidents of filing inaccurate or late 5300 Reports.

DATES: Comments must be received on or before April 5, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Herbert S. Yolles, Director, Division of Risk Management, (703) 518–6363, or Jeffrey Mooney, Staff Attorney, (703) 518–6563, at the above address.

SUPPLEMENTARY INFORMATION: Section 741.6 of NCUA Regulations, 12 CFR § 741.6, requires that federally-insured credit unions with assets in excess of $50 million file a quarterly 5300 Report (or "call report") with NCUA and that all federally-insured credit unions file semiannually. Each quarter, a significant number of these reports are submitted late or inaccurately. As a result, NCUA is required to undertake review and collection efforts that include: identifying those federally-insured credit unions that have not submitted their call reports; correcting errors; sending notices to federally-insured credit unions advising them of errors contained in their 5300 Report; asking federally-insured credit unions why they have not submitted a 5300 Report; requiring federally-insured credit unions to submit amended call reports or additional information; and as necessary in some cases, making personal contact with federally-insured credit unions through telephone calls and/or on-site visits to correct the errors or simply to obtain the 5300 Report. NCUA regional offices have indicated that each year an additional 4,000 hours are spent by federal examiners attempting to correct or obtain late call reports.

Sections 120 of the Federal Credit Union Act provides the NCUA Board general rulemaking authority to "prescribe rules and regulations for the administration of this chapter," and, under Section 209 of the Federal Credit Union Act to, "prescribe such regulations as it may deem necessary or appropriate to carry out the provisions of this title." 12 U.S.C. 1766 and 1789. All federally-insured credit unions are required to file call reports with the NCUA. 12 U.S.C. 1782(a)(2) and 12 CFR 741.6. The Board has determined that the cost of correcting or obtaining repeatedly inaccurate or late reports from federally-insured credit unions should be charged to the federally-insured credit unions responsible rather than borne as a shared costs by the vast majority of federally-insured credit unions which routinely comply with the filing requirement. As a result, the Board proposes to assess the agency's actual costs to federally-insured credit unions that cause this unnecessary expense.

The costs will be calculated using the staff time and costs of identifying federally-insured credit unions that have not filed their 5300 Report or corrected inaccurate information. NCUA will multiply the actual NCUA staff time expended to obtain or correct the 5300 Report by the average hourly compensation rate for field staff rate to determine the assessed amount.

Prior to assessing costs for a late call report, the appropriate NCUA regional office will notify the federally-insured credit union in writing that their call report is late, that the federally-insured credit union has in at least one of the three reporting periods prior to the subject call report also filed their report late, and that the NCUA will assess costs on the federally-insured credit union if the report is not promptly received. The regional office will also inform the federally-insured credit union of the potential costs associated with processing the late submission.

The report is deemed inaccurate if it: (1) Contains a substantive error requiring the federally-insured credit union to submit an amended 5300 Report or (2) when substantive errors are found during the 5300 Report editing process that require correction and verification by the federally-insured credit union, and (3) the federally-insured credit union has, at least twice during four continuous reporting periods to include the report at issue, produced a 5300 Report with substantive errors that require the region's direct efforts to correct. A 5300 Report can also be considered inaccurate if numerous nonsubstantive errors affect the integrity of the submitted data and correction is required in at least two of the past four reporting periods to include the period at issue. A substantive error is one where a correction would result in changing any amount reported in the 5300 Report by one or more percent or $5,000, whichever is less.

If a 5300 Report is inaccurate, the NCUA regional office will notify the federally-insured credit union in writing accordingly, describe the substantive errors and suggest steps on how to avoid committing similar errors, request a response, and advise the federally-insured credit union that the NCUA will assess costs if the error(s) are not promptly corrected without further NCUA involvement. The regional office will also inform the federally-insured credit union of NCUA's estimate costs associated in obtaining a corrected submission.

NCUA will assess and recover the costs in the quarter immediately following the call report's filing date. NCUA examiners will recommend the assessment of costs to their supervisors by describing the facts and circumstances surrounding the call report's deficiencies or lateness. The examiner will itemize the time and expense used resolving the matter. The examiner will also provide any prior recent history where the federally-insured credit union has filed late or inaccurate call reports. The regional director will issue the final assessment. The regional director may decide to waive or abate cots after taking into account the size of a federally-insured credit union, the gravity of the error, the federally-insured credit union's efforts in correcting the error or the promptness in responding to the request for the late call report and reviewing any submissions from the federally-insured credit union that sets forth a reasonable basis for waiving or abating the costs. Costs will not be assessed unless the assessment is based on the same type of error, repeated numerous errors, or repeated lateness. For example, a federally-insured credit union may not be assessed costs if in the first reporting period it files a late 5300 Report and during the fourth reporting period it files an inaccurate 5300 Report.

A federally-insured credit union may appeal a cost assessment by a regional director by submitting written reasons why the assessment should be abated to the NCUA Board within 30 days of receiving the final assessment from the region. The Board may delegate the authority to determine appeals. The Board or its designee will review all of the relevant facts, consult with the regional director involved and any other appropriate party including the affected federally-insured credit union and issue a final agency determination. There is no right to a hearing.

In order to assure uniformity, the regional offices will inform the Director of the Office of Examination and Insurance of the facts and circumstances surrounding each assessment of costs during the prior quarter, including those circumstances that warranted waiver or abatement.

These costs are not being assessed as part of an administrative action or civil money penalty as defined by the Federal Credit Union Act, 12 U.S.C. 1786(k)(2). The costs are assessed to recover the agency's expenses based upon the amount of additional time and resources that NCUA must devote to a particular federally-insured credit union's 5300 Report. NCUA may choose to seek civil money penalties or take other administrative actions against the federally-insured credit union for violating the regulatory requirement to file timely and accurate call report. The purpose of the proposed rule is to recover the additional costs the NCUA incurs when collecting late and correcting inaccurate call reports.

The NCUA requests comment on any aspect of this proposal.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certifies that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small federally-insured credit unions, primarily those under $1 million in assets. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The collection of information requirements contained in this notice of proposed rulemaking will be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. Written comments on the collection of information should be forwarded directly to the OMB Desk Officer indicated below at the following address: OMB Reports Management Branch, New Executive Office Building, Room 1020, Washington, DC 20503. Attn: Milo Sunderhauf. NCUA will publish a notice in the **Federal Register** once OMB action is taken on the submitted request.

The collection of information requirements in this proposed regulation are found in 12 CFR 741.6 (c)(4)(f), (c)(6) and (c)(7). This information is required to proposed implementing procedures that will enable the federally-insured credit union to comply with the requirements of this section, and to challenge the assessment of costs. The likely respondents/recordkeepers are federally insured credit unions.

Estimated number of respondents and/or recordkeepers: 630.

Estimated average annual burden hours per respondent/recordkeeper: 2 hours.

Estimated total annual reporting and recordkeeping burden: 1260 hours.

Start up cost to respondents: $29.76.

Executive Order 12612

The proposed change in § 741.6 will apply to both federal credit unions and federally-insured, state chartered credit union. The NCUA Board, pursuant to Executive Order 12612, has determined that the proposed amendment will not have substantial direct effect on the states, on the relationship between hat national government and the states, or on the distribution of power and responsibilities among the various levels of government. Further, the proposed rule will not preempt provisions of state law or regulation.

List of Subjects in 12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on January 25, 1966.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 741 as follows:

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1766, and 1781 through 1790.

2. Section 741.6 is amended by adding paragraph (c):

§ 741.6 Financial and statistical and other reports.

* * * * *

(c) If NCUA incurs costs due to a federally-insured credit union's failure to file an accurate or timely Financial and Statistical Report on Form 5300 (5300 Report), the federally-insured credit union involved will be assessed those costs if during any of the prior three reporting periods the federally-insured credit union has also filed its 5300 Reports late, or during any of the prior three reporting periods the federally-insured credit union has also filed the 5300 Report with substantive or numerous inaccuracies.

(1) A 5300 Report is considered late if it is postmarked after the date prescribed in paragraph (a) above.

(2) A 5300 Report is inaccurate if it contains one or more substantive errors or numerous nonsubstantive errors requiring an amended report or when substantive errors or numerous nonsubstantive errors are found during the editing process that require correction and verification by the federally-insured credit union.

(i) A substantive error exists if correction would result in changing any amount reported in the 5300 Report by more than one percent of the correctly reported amount or $5,000, whichever is less.

(3) The appropriate NCUA regional office will provide written notice to the federally-insured credit union if the federally-insured credit union will be assessed a fee for late or inaccurate filing under this section. The NCUA will provide the federally-insured credit union with the following information:

(i) whether the federally-insured credit union has filed its 5300 Report inaccurately or late;

(ii) a recent history of the accuracy or timeliness of the federally-insured credit union's prior 5300 Reports;

(iii) the estimated costs to NCUA as a result of the inaccuracy or late filing;

(iv) whether the errors, if any, were substantive and why and;

(v) steps that the federally-insured credit union could take to avoid filing future inaccurate or late 5300 reports.

(vi) request that the federally-insured credit union respond within 30 days with a written proposal that describes how it intends to avoid submitting another late or inaccurate 5300 Report, seeks a waiver or abatement of the assessment or states why the federally-insured credit union's 5300 Reports is not inaccurate or late.

(4) The costs for a late or inaccurate 5300 Report shall be calculated based on the actual hours expended by NCUA personnel multiplied by the average hourly cost of the salaries and benefits of such personnel.

(5) Prior to making a final assessment determination, the NCUA regional director may waive or abate any costs assessed against a federally-insured credit union after taking into account the size of federally-insured credit union that sets forth a reasonable basis for waiving or abating the costs.

(6) A federally-insured credit union may challenge a final assessment by submitting written reasons why the assessment should waived or abated to the NCUA Board within 30 days of receiving the final assessment from the region. The Board may delegate the authority to determine an appeal of an assessment. The Board or its designee shall consider all relevant facts and consult with any relevant parties prior to making a final agency determination.

[FR Doc. 96–2017 Filed 2–2–96; 8:45 am]
BILLING CODE 7535–01–M

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12 CFR Parts 701 and 705

Community Development Revolving Loan Program For Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed Amendments.

SUMMARY: The purpose of the Community Development Revolving Loan Program for Credit Unions is to make reduced rate loans and provide technical assistance to both federal and state-chartered credit unions serving low-income communities. The Board is proposing to modify this regulation to: eliminate the limits on technical assistance that may be provided per year to participating credit unions; clarify that student credit unions may not participate in the Program; clarify that credit unions may receive up to $300,000 in loans in the aggregate at any one time; and require additional documentation from nonfederally insured credit unions that may wish to participate in the Program. Finally, the Board is requesting comment on updating the percentage of the differentials used to calculate the low-income levels.

DATES: Comments must be received on or before April 5, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Joyce Jackson, Special Assistant, Office of Community Development Credit Unions, at the above address or telephone (703) 518–6610 or Michael J. McKenna, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION: The purpose of the Community Development Revolving Loan Program ("Program") is to make reduced rate loans and provide technical assistance to federal and state-chartered credit unions serving low-income communities so that they may provide needed financial services and help to stimulate the economy in the community served.

Although the Program has functioned well, the Board is proposing five amendments to improve and clarify certain aspects of the Program.

Section 705.3 Definitions

This section, among other things, defines the term low-income members. In documenting its low-income membership, a credit union that serves a geographic area where a majority of residents fall at or below the annual income standard is presumed to be serving predominantly low-income members. In applying the low-income standard the Regional Director must use specifically defined differentials for geographical areas with a higher cost of living. These differentials were originally obtained from a list maintained by the Bureau of Labor Statistics, as updated by the Employment and Training Administration. In order to recognize geographic economic differences, cities that were above the national average for the lower level standard of living numbers for the 25 largest metropolitan areas were provided differentials to be applied by the Regional Director. Since the differentials were added to the regulation in April 1993, there have been changes in economic conditions in many cities. NCUA is studying how the differentials should be adjusted and invites comment on how they should be updated.

Some in the credit union community have questioned whether student credit unions are eligible to participate in the Program. The preamble to the final 1993 amendments stated that although "student federal credit unions are 'low-income credit unions' for purposes of receiving nonmember deposits, they do not qualify for participation in the Program because they are not specifically involved in the stimulation of economic development activities and community revitalization efforts." 58 FR 21642, 21645 (April 23, 1993). The Board proposes to amend Section 705.3(b) to clarify that student credit unions may not participate in the Program.

Section 705.5 Application for Participation

The Board is proposing that a nonfederally insured credit union that wishes to participate in the Program provide additional documentation during the application process. Because NCUA neither regulates nor insures nonfederally insured state chartered credit unions, additional information is required so that NCUA may properly consider the application. This change would provide documentation that is comparable to the information accessible to NCUA for federally insured credit unions. Accordingly, the Board is proposing that Section 705.5(b)(1) be amended to require non federally insured credit union to provide in its application for Program participation a copy of its most recent outside audit report and proof of deposit and surety bond insurance which states the maximum insurance levels permitted by the policies.

Section 705.7 Loans to Participating Credit Unions

Section 705.7 states that a participating credit union is eligible "to receive up to $300,000, as determined by the NCUA Board, in the form of a loan from the Community Development Revolving Loan Fund for Credit Unions." Some have questioned whether this means that a credit union may receive more than one $300,000 loan under the Program. The Board does not believe it is appropriate to grant loans in excess of $300,000 to one credit union considering the Program's limited funds. Accordingly, the proposed amendment to Section 705.7(a) clarifies that the aggregate dollar amount of outstanding loans to one credit union is limited to $300,000.

Section 705.10 Technical Assistance

Under the current Section 705.10, technical assistance may not exceed $120,000 per year. The Board believes that technical assistance is a vital component of the Program and anticipates that available earnings may soon exceed $120,000. As a result, the Board is proposing to eliminate the dollar threshold on technical assistance. This change will provide NCUA greater flexibility in providing technical assistance.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The proposed amendments generally clarify operational issues. The one significant change regarding technical assistance is expected to benefit credit unions by increasing the available pool of funds for technical assistance. Accordingly, the Board determines and certifies that this proposed rule does not have a significant impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed amendments do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB). 60 FR 44978 (August 29, 1995).

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its action on state interests. The Program is implemented in its entirety by the NCUA. The proposed rule will permit more funds to be available for technical assistance to all credit unions, including state-chartered credit unions. The proposed amendments impose a minimal burden on nonfederally insured state chartered credit unions that wish to participate in the Program. The amendments will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of powers among the various levels of government.

List of Subjects

12 CFR Part 701

Credit, Credit unions.

12 CFR Part 705

Community development, Credit unions, Loans programs-housing and community development, Reporting and recordkeeping requirements, Technical assistance.

By the National Credit Union Administration Board on January 25, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR parts 701 and 705 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C 1601 *et seq.*; 42 U.S.C. 1861 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.34 is amended by revising paragraph (a)(1) to read as follows:

§ 701.34 Designation of Low-Income Status; Receipt of Secondary Capital Accounts by Low-Income Designated Credit Unions.

(a) *Designation of low-income status.* (1) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) authorizes federal credit unions serving predominantly low-income members to receive shares, share drafts and share certificates from nonmembers. In order to utilize this authority, a federal credit union must receive a low-income designation from its Regional Director. The designation may be removed by the Regional Director upon notice to the federal credit union if the definition set forth in paragraphs (a)(2) and (3) of this section are no longer met. Removals may be appealed to the NCUA Board within 60 days. Appeals should be submitted through the Regional Director.

* * * * *

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

3. The authority citation for part 705 is revised to read as follows:

Authority: 12 U.S.C. 1772c–1; 42 U.S.C 9822 and 9822 note.

4. Section 705.3 is amended by revising paragraph (b) to read as follows:

§ 705.3 Definitions.

* * * * *

(b) For purposes of this part, a *participating credit union* means a state- or federally chartered credit union that is specifically involved in the stimulation of economic development activities and community revitalization efforts aimed at benefiting the community it serves; whose membership consists of predominantly low-income members (excluding students) as defined in paragraph (a) of this section or applicable state standards as reflected by a current low-income designation pursuant to § 701.34(d)(1) or § 741.204 of this chapter or, in the case of a state-chartered nonfederally insured credit union, under applicable state standards; and has submitted an application for a loan and/or technical assistance and has been selected for participation in the Program in accordance with this Part.

5. Section 705.5 is amended by revising paragraph (b)(1) to read as follows:

§ 705.5 Application for participation.

* * * * *

(b) * * *

(1) Information demonstrating a sound financial position and the credit union's ability to manage its day-to-day business affairs, including the credit union's latest financial statement. Nonfederally insured credit unions must include the following:

(i) A copy of its most recent outside audit report;

(ii) Proof of deposit and surety bond insurance which states the maximum insurance levels permitted by the policies;

(iii) A balance sheet for the most recent month-end and each of the twelve months preceding that month-end;

(iv) An income and expense statement for the most recent month-end and each of the twelve months preceding the month-end;

(v) A delinquent loan list for the most recent month-end and each of the twelve months preceding the month-end.

* * * * *

§ 705.7 [Amended]

5. Section 705.7 is amended in paragraph (a) by adding "in the aggregate" after the number "$300,000".

6. Section 705.10 is revised to read as follows:

§ 705.10 Technical assistance.

Based on available earnings, NCUA may contract with outside providers to render technical assistance to participating credit unions. Participating credit unions can be provided with technical assistance without obtaining a Program loan. Technical assistance provided will aid participating credit unions in providing services to their members and in the efficient operation of such credit unions.

[FR Doc. 96–2019 Filed 2–2–96; 8:45 am]
BILLING CODE 7535–01–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 228

Rules on Source, Origin and Nationality for Commodities and Services Financed by the Agency for International Development

AGENCY: United States Agency for International Development (USAID), IDCA.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would add a new Part 228 to Title 22 of the CFR which would codify the rules on source, origin and nationality for commodities and services financed by USAID.

DATES: Comments on this proposed rule must be submitted on or before April 5, 1996.

ADDRESSES: Comments should be mailed to the Procurement Policy Division (M/OP/P), Office of Procurement, USAID, SA–14, Room 1600I, 320 21st Street, NW., Washington, DC 20523–1435.

FOR FURTHER INFORMATION CONTACT: Kathleen J. O'Hara, Office of Procurement, Procurement Policy Division (M/OP/P), USAID, SA–14, Room 1600I, USAID, Washington, DC 20523–1435. Telephone (703) 875–1534, Facsimile (703) 875–1243.

SUPPLEMENTARY INFORMATION: This proposed rule would codify USAID's current rules (published as internal agency policy) on source, origin and nationality for commodities and services with a few changes which are explained below.

USAID's rules currently include a limitation on the value of components from countries which are not authorized sources for procurement which may be included in a produced commodity. The total cost of such components to the producer of the commodity (delivered at the point of production of the commodity) may not exceed 50 percent of the lowest price (excluding the cost of ocean transportation and marine insurance) at which the supplier makes the commodity available for export sale (whether or not financed by USAID). As the U.S. economy has become more global, this requirement concerning componentry has become substantially more complex, and internal USAID audits have essentially found it to be impracticable to implement and enforce.

Further, USAID has determined that the test of origin of the commodity (i.e., the requirement that a commodity be mined, grown, or produced in an authorized source country) provides sufficient assurance that economic benefits will accrue to the country from which the commodity is purchased. Therefore, for purposes of streamlining USAID rules, removing unnecessary compliance burdens for government contractors and ensuring that the government buys at the lowest available price, the componentry requirement has been deleted from this proposed rule.

Additionally, this proposed rule specifically excludes the applicability of USAID's rules on nationality to commissions paid by suppliers, bonds and guarantees, and liability insurance under construction contracts, with the exception that no payments shall be made to suppliers designated as ineligible in Section 228.36 of the proposed regulation. These are considered miscellaneous services transactions, which can be commodity-related, but may also be related to contracts for professional, technical, or construction services. By the nature of the services involved, it is not considered practical to apply the nationality requirements to these services.

Public comments on this proposed rule are welcome.

USAID has determined that this proposed rule is not a significant regulatory action under Executive Order 12866. The proposed rule has been reviewed in accordance with the requirement of the Regulatory Flexibility Act. USAID has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities, and, therefore, a Regulatory Flexibility Analysis is not required. There are no information collection requirements in this proposed rule as contemplated by the Paperwork Reduction Act.

Lists of Subjects in 22 CFR Part 228

Commodity procurement, Grant programs—foreign relations, Administrative practice and procedures.

Accordingly, Part 228 of Title 22 of the Code of Federal Regulations is proposed to be added, consisting of Subparts A through F, to read as follows:

PART 228—RULES ON SOURCE AND NATIONALITY FOR COMMODITIES AND SERVICES FINANCED BY USAID

Subpart A—Definitions and Scope of This Part

Sec.
228.01 Definitions.
228.02 Scope and application.
228.03 Identification of principal geographic code numbers.

Subpart B—Conditions Governing Source and Nationality of Commodity Procurement Transactions for USAID Financing

228.10 Purpose.
228.11 Source and origin of commodities.
228.12 Long-term leases.
228.13 Special source rules requiring procurement from the United States.
228.14 Nationality of suppliers of commodities.

Subpart C—Conditions Governing the Eligibility of Commodity-Related Services for USAID Financing

228.20 Purpose.
228.21 Ocean transportation.
228.22 Air transportation.
228.23 Eligibility of marine insurance.
228.24 Other delivery services.
228.25 Incidental services.

Subpart D—Conditions Governing the Nationality of Suppliers of Services for USAID Financing

228.30 Purpose.
228.31 Privately owned commercial suppliers.
228.32 Nonprofit organizations.
228.33 Foreign government-owned organizations.
228.34 Joint ventures.
228.35 Construction services from foreign-owned local firms.
228.36 Ineligible suppliers.
228.37 Nationality of employees under contracts or subcontracts for services.
228.38 Miscellaneous service transactions.

Subpart E—Conditions Governing Source and Nationality of Local Procurement Transactions for USAID Financing

228.40 Local procurement.

Subpart F—Waivers

228.50 General.
228.51 Commodities.
228.52 Suppliers of commodities.
228.53 Suppliers of services—privately owned commercial suppliers and nonprofit organizations.
228.54 Suppliers of services—foreign government-owned organizations.
228.55 Delivery services.
228.56 Authority to approve waivers.

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163 of Sept. 29, 1979, (3 CFR, 1979 Comp., p. 435).

Subpart A—Definitions and Scope of This Part

§ 228.01 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) *Commodity* means any material, article, supply, goods, or equipment.

(b) *Commodity-related services* means delivery services and/or incidental services.

(c) *Component* means any good that goes directly into the production of a produced commodity.

(d) *Cooperating country* means the country receiving the USAID assistance subject to this part 228.

(e) *Delivery* means the transfer to, or for the account of, an importer of the right to possession of a commodity, or, with respect to a commodity-related service, the rendering to, or for the account of, an importer of any such service.

(f) *Delivery service* means any service customarily performed in a commercial export transaction which is necessary to effect a physical transfer of commodities to the cooperating country. Examples of such services are the following: export packing, local drayage in the source country (including waiting time at the dock), ocean and other freight, loading, heavy lift, wharfage, tollage, switching, dumping and trimming, lighterage, insurance, commodity inspection services, and services of a freight forwarder. "Delivery services" may also include work and materials necessary to meet USAID marking requirements.

(g) *Implementing document* means any document, including a letter of commitment, issued by USAID which authorizes the use of USAID funds for the procurement of services or commodities and/or commodity related services, and which specifies conditions which apply to such procurement.

(h) *Incidental services* means the installation or erection of USAID-financed equipment, or the training of personnel in the maintenance, operation and use of such equipment.

(i) *Mission* means the USAID Mission or representative in a cooperating country.

(j) *Origin* means the country where a commodity is mined, grown or produced. A commodity is produced when, through manufacturing, processing, or substantial and major assembling of components, a commercially recognized new commodity results that is significantly different in basic characteristics or in purpose or utility from its components.

(k) *Services* means the performance of identifiable tasks, rather than the delivery of an end item of supply.

(l) *Source* means the country from which a commodity is shipped to the cooperating country, or the cooperating country if the commodity is located therein at the time of the purchase. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, "source" means the country from which the commodity was shipped to the free port or bonded warehouse.

(m) *State* means the District of Columbia or any State, Commonwealth, territory or possession of the United States.

(n) *Supplier* means any person or organization, governmental or otherwise, who furnishes services, commodities and/or commodity related services financed by USAID.

(o) *United States* means the United States of America, any State(s) of the United States, the District of Columbia, and areas of U.S. associated sovereignty, including commonwealths, territories and possessions.

(p) *USAID* means the U.S. Agency for International Development or any successor agency, including when applicable, each U.S.AID Mission abroad.

(q) *USAID Geographic Code* means a code in the USAID Geographic Code Book which designates a country, a group of countries, or an otherwise defined area. The principal USAID geographic codes are described in § 228.03.

(r) *USAID/W* means the USAID in Washington, DC 20523, including any office thereof.

§ 228.02 Scope and application.

This part is applicable to goods and services financed with USAID project and program funds. The appropriate implementing documents will indicate the authorized sources of procurement. Whenever this part 228 is applicable, those terms and conditions which are in effect on the date of issuance of the contract or placement of an order will govern for all procurements under that contract or order.

§ 228.03 Identification of principal geographic code numbers.

The USAID Geographic Code Book sets forth the official description of all geographic codes used by USAID in authorizing or implementing documents, to designate authorized source countries or areas. The following are summaries of the principal codes:

(a) Code 000—*The United States:* The United States of America, any State(s) of the United States, the District of Columbia, and areas of U.S.-associated sovereignty, including commonwealths, territories and possessions.

(b) Code 899—*Free World:* Any area or country, except the cooperating country itself and the following countries: Afghanistan, Libya, Vietnam, Cuba, Cambodia, Laos, Iraq, Iran, North Korea, Syria and the People's Republic of China.

(c) Code 935—*Special Free World:* Any area or country in the Free World, including the cooperating country.

(d) Code 941—*Selected Free World:* The United States and any independent country in the Free World, except the cooperating country itself and the following: Albania, Andorra, Angola, Armenia, Austria, Australia, Azerbaijan, Bahamas, Bahrain, Belgium, Bosnia and Herzegovina, Bulgaria, Byelarus, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia*, Malta, Moldova, Monaco, Mongolia, Montenegro*, Netherlands, New Zealand, Norway, Poland, Portugal, Qatar, Romania, Russia, San Marino, Saudi Arabia, Serbia*, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Taiwan*, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, Uzbekistan, and Vatican City.

* Has the status of a "Geopolitical Entity", rather than an independent country.

Subpart B—Conditions Governing Source and Nationality of Commodity Procurement Transactions for USAID Financing

§ 228.10 Purpose.

Sections 228.11 through 228.14 set forth the rules governing the eligible source of commodities and nationality of commodity suppliers for USAID financing. These rules may be waived in accordance with the provisions in subpart F of this part.

§ 228.11 Source and origin of commodities.

(a) The source and origin of a commodity shall be a country or countries authorized in the

implementing document by name or by reference to a USAID geographic code.

(b) Any component from a non-Free World country makes the commodity ineligible for USAID financing.

(c) When the commodity being purchased is a kit (e.g., scientific instruments, tools, or medical supplies packaged as a single unit), the kit will be considered a produced commodity.

(d) When spare parts for vehicles or equipment are purchased, each separate shipment will be considered a produced commodity, rather than each individual spare or replacement part. The parts must be packed in and shipped from an eligible country.

(e) When a package installation is procured as a single entity, USAID may determine that the installation as a whole should be considered a produced commodity.

§ 228.12 Long-term leases.

Any commodity obtained under a long-term lease agreement is subject to the source and origin requirements of this subpart B. For purposes of this subpart B, a long-term lease is defined as a single lease of more than 180 days, or repetitive or intermittent leases under a single project or program within a one-year period totalling more than 180 days, for the same type of commodity.

§ 228.13 Special source rules requiring procurement from the United States.

(a) Agricultural commodities and products thereof must be procured in the United States domestic price is less than parity, unless the commodity cannot reasonably be procured in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed. (22 U.S.C. 2354)

(b) Motor vehicles must be manufactured in the United States to be eligible for USAID financing. Also, any vehicle to be financed by USAID under a long-term lease or where the sale is to be guaranteed by USAID must be manufactured in the United States. (22 U.S.C. 2396) For purposes of this section, motor vehicles are defined as self-propelled vehicles with passenger carriage capacity, such as highway trucks, passenger cars and buses, motorcycles, scooters, motorized bicycles and utility vehicles. Also, for purposes of this section, a long-term lease is defined as a single lease of more than 180 days, or repetitive or intermittent leases under a single project or program within a one-year period totalling more than 180 days. In addition to the above requirements, passenger cars, light trucks, vans, minivans and utility vehicles must be manufactured by either Chrysler, Ford or General Motors and bear their nameplates, brand names or logos, to be eligible for financing by USAID. The nameplate, brand name or logo requirements do not apply when vehicles are procured under a source waiver.

(c) Pharmaceutical products must be manufactured in the United States in order to be eligible for USAID financing.

§ 228.14 Nationality of suppliers of commodities.

(a) The rules on nationality of suppliers of commodities relate only to the suppliers, and not to the commodities they supply. The nationality of the supplier is an additional eligibility criterion to the rules on source, origin and componentry.

(b) A supplier providing commodities must fit one of the following categories for the transaction to be eligible for USAID financing:

(1) An individual who is a citizen or a lawfully admitted permanent resident of a country or area included in the authorized geographic source code, except as provided in paragraph (c) of this section;

(2) A corporation or partnership organized under the laws of a country or area included in the authorized geographic source code and with a place of business in such country;

(3) A controlled foreign corporation (within the meaning of section 957 et seq. of the Internal Revenue Code) as attested by current information on file with the Internal Revenue Service of the United States (on IRS Form 959, 2952, 3646, or on substitute or successor forms) submitted by shareholders of the corporation; or

(4) A joint venture or unincorporated association consisting entirely of individuals, corporations, or partnerships which are eligible under either paragraph (b) (1), (2) or (3) of the section.

(c) Citizens of any country or area, or firms or organizations located in, organized under the laws of, or owned in any part by citizens or organizations of any country or area not included in Geographic Code 935 are ineligible for financing by USAID as suppliers of commodities. Limited exceptions to this rule are:

(1) Individuals lawfully admitted for permanent residence in the United States are eligible, as individuals or owners, regardless of their citizenship; and

(2) The USAID Deputy Assistant Administrator for Management (DAA/M) may authorize the eligibility of organizations having minimal ownership by citizens or organizations of non-Geographic Code 935 countries.

Subpart C—Conditions Governing the Eligibility of Commodity-Related Services for USAID Financing

§ 228.20 Purpose.

Sections 228.21 through 228.25 set forth the rules governing the eligibility of commodity-related services, both delivery services and incidental services, for USAID financing. These rules may be waived in accordance with the provisions in subpart F of this part. The rules on delivery services apply whether or not USAID is also financing the commodities being transported. In order to be identified and eligible as incidental services, such services must be connected with a USAID-financed commodity procurement.

§ 228.21 Ocean transportation.

The eligibility of ocean transportation services is determined by the flag registry of the vessel.

(a) When the authorized source for procurement is Geographic Code 000 (U.S.A.), USAID will finance ocean transportation only on U.S. flag vessels.

(b) When the authorized source for procurement is Geographic Code 941 (selected Free World), USAID will finance ocean transportation on vessels under flag registry of the United States, other countries in Geographic Code 941, and the cooperating country.

(c) When commodities whose eligibility is restricted to Geographic Code 000 are purchased under agreements which authorize Geographic Code 941 for the procurement of all other commodities, USAID will finance the ocean transportation in accordance with paragraph (b) of this section.

(d) USAID will finance costs incurred on vessels under flag registry of any Geographic Code 899 (Free World) country if the costs are part of the total cost on a through bill of lading that is paid to a carrier for initial carriage on a vessel which is eligible in accordance with paragraphs (a), (b) or (c) of this section.

§ 228.22 Air transportation.

(a) The eligibility of air transportation is determined by the flag registry of the aircraft. The term "U.S." flag air carrier" means one of a class of air carriers holding a certificate under Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) authorizing operations between the United States or its territories and one or more foreign countries.

(b) For air transport financed under USAID grants, there is a U.S. Government statute that requires the use of U.S. flag air carriers for all international air travel and transportation, unless such service is not available. When U.S. flag air carriers are not available, any Geographic Code 935 flag air carrier may be used.

(c) Different requirements may be authorized in the implementing document if the transaction is financed under a USAID loan.

(d) The Comptroller General's memorandum (B–138942), dated March 31, 1981, entitled "Revised Guidelines for Implementation of the Fly America Act", established criteria for determining when U.S. flag air carriers are unavailable. See 48 CFR 47.403–1, or USAID Optional Standard Provision on "Air Travel and Transportation" for grants and cooperative agreement.

(e) While the Comptroller General's memorandum does not establish specific criteria for determining when freight service is unavailable, it is USAID's policy that such service is not available when the following criteria are met:

(1) When no U.S. flag air carrier provides scheduled air freight service from the airport serving the shipment's point of origin and a non-U.S. flag carrier does;

(2) When the U.S. flag air carrier(s) serving the shipment's point of origin decline to issue a through air waybill for transportation at the shipment's final destination airport;

(3) When use of a U.S.-flag air carrier would result in delivery to final destination at least seven days later than delivery by means of a non-U.S. flag carrier;

(4) When the total weight of the consignment exceeds the maximum weight per shipment which the U.S. flag air carrier will accept and transport as a single shipment and a non-U.S. flag air carrier will accept and transport the entire consignment as a single shipment;

(5) When the dimensions (length, width, or height) of one or more of the items of a consignment exceed the limitations of the U.S. flag aircraft's cargo door opening, but do not exceed the acceptable dimensions for shipment on an available non-U.S. flag scheduled air carrier.

§ 228.23 Eligibility of marine insurance.

The eligibility of marine insurance is determined by the country in which it is "placed". Insurance is "placed" in a country if payment of the insurance premium is made to, and the insurance policy is issued by, an insurance company office located in that country. Eligible countries for placement are governed by the authorized geographic code. However, if Geographic Code 941 is authorized, the cooperating country is also eligible to provide such services, unless the implementing document specified otherwise based on the following:

(a) If a cooperating country discriminates against marine insurance companies authorized to do business in any State of the United States, then all USAID-financed goods for that country must be insured in the United States against marine risk. The term "authorized to do business in any State of the United States" means that foreign-owned insurance companies licensed to do business in the United States (by any State) are treated the same as comparable U.S.-owned companies.

(b) The prima facie test of discrimination is that a cooperating country takes actions which hinder private importers in USAID-financed transactions from making cost, insurance and freight (C.I.F.) or cost and insurance (C.&I.) contracts with United States commodity suppliers, or which hinder importers in instructing such suppliers to place marine insurance with companies authorized to do business in the United States.

(c) When discrimination is found to exist and the cooperating country fails to correct the discriminatory practice, USAID requires that all commodities procured with USAID funds be insured in the United States against marine loss. The decision of any cooperating country to insure all public sector procurements locally with a government-owned insurance agency is not considered discrimination.

§ 228.24 Other delivery services.

No source or nationality rules apply to other delivery services, such as export packing, loading, commodity inspection services, and services of a freight forwarder. Such services are eligible in connection with a commodity which is financed by USAID.

§ 228.25 Incidental services.

Source and nationality rules do not apply to suppliers of incidental services specified in a purchase contract relating to equipment. However, citizens or firms of any country not included in USAID Geographic Code 935 are ineligible to supply incidental services, except that individuals lawfully admitted for permanent residence in the U.S. are eligible regardless of their citizenship.

Subpart D—Conditions Governing the Nationality of Suppliers of Services for USAID Financing

§ 228.30 Purpose.

Sections 228.31 through 228.37 set forth the nationality rules governing the eligibility for USAID financing of services which are not commodity-related. These rules may be waived in accordance with the provisions in subpart F of this part.

§ 228.31 Privately owned commercial suppliers.

(a) A supplier providing services must fit one of the following categories to be eligible as a contractor (personal services contractors are not included under the term "contractor" in this section) or as a subcontractor. In the case of the categories described in paragraphs (a)(2) (i) and (ii) of this section, the certification requirements in paragraph (b) of this section must be met.

(1) The supplier is an individual who is a citizen of and whose principal place of business is in a country or area included in the authorized geographic code, or a non-U.S. citizen lawfully admitted for permanent residence in the United States whose principal place of business is in the United States;

(2) The supplier is a privately owned commercial (i.e., for profit) corporation or partnership that is incorporated or legally organized under the laws of a country or area included in the authorized geographic code, has its principal place of business in a country or area included in the authorized geographic code, and meets the criteria set forth in either paragraph (a)(2) (i) or (ii) of this section.

(i) The corporation or partnership is more than 50 percent beneficially owned by individuals who are citizens of a country or area included in the authorized geographic code or non-U.S. citizens lawfully admitted for permanent residence in the United States. In the case of corporations, "more than 50 percent beneficially owned" means that more than 50 percent of each class of stock is owned by such individuals; in the case of partnerships, "more than 50 percent beneficially owned" means that more than 50 percent of each category of partnership interest (e.g., general, limited) is owned by such individuals. (With respect to stock or interest held by companies, funds or institutions, the ultimate beneficial ownership by individuals is controlling.)

(ii) The corporation or partnership:

(A) Has been incorporated or legally organized in the United States for more

than 3 years prior to the issuance date of the invitation for bids or request for proposals,

(B) Has performed within the United States administrative and technical, professional, or construction services, similar in complexity, type and value to the services being contracted (under a contract, or contracts, for services) and derived revenue therefrom in each of the 3 years prior to the date described in the paragraph (a)(2)(i)(A) of this section,

(C) Employs United States citizens and non-U.S. citizens lawfully admitted for permanent residence in the United States in more than half its permanent full-time positions in the United States and more than half of its principal management positions, and

(D) Has the existing technical and financial capability in the United States to perform the contract.

(3) The supplier is a joint venture or an unincorporated association consisting entirely of individuals, corporations, partnerships, or nonprofit organizations which are eligible under paragraphs (a) or (b) of this section or § 228.32.

(b) A duly authorized officer of a firm or nonprofit organization shall certify that the participating firm or nonprofit organization meets either the requirements of paragraphs (a)(2)(i) or (ii) of this section or § 228.32. In the case of corporations, the certifying officer shall be the corporate secretary. With respect to the requirements of paragraph (a)(2)(i) of this section, the certifying officer may presume citizenship on the basis of the stockholders' record address, provided the certifying officer certifies, regarding any stockholder (including any corporate fund or institutional stockholder) whose holdings are material to the corporation's eligibility, that the certifying officer knows of no fact which might rebut that presumption.

§ 228.32 Nonprofit organizations.

(a) Nonprofit organizations, such as educational institutions, foundations, and associations, must meet the criteria listed in this section and the certification requirement in § 228.31(b) to be eligible as contractors or subcontractors for services. Any such institution must:

(1) Be organized under the laws of a country or area included in the authorized geographic code;

(2) Be controlled and managed by a governing body, a majority of whose members are citizens of countries or areas included in the authorized geographic code; and

(3) Have its principal facilities and offices in a county or area included in the authorized geographic code.

(b) International agricultural research centers and such other international research centers as may be, from time to time, formally listed as such by the USAID Assistant Administrator, Global Bureau, are considered to be of U.S. nationality.

§ 228.33 Foreign government-owned organizations.

Firms operated as commercial companies or other organizations (including nonprofit organizations other than public educational institutions) which are wholly or partially owned by foreign governments or agencies thereof are not eligible for financing by USAID as contractors or subcontractors, except if their eligibility has been established by a waiver approved by USAID in accordance with § 228.54. This does not apply to foreign government ministries or agencies.

§ 228.34 Joint ventures.

A joint venture or unincorporated association is eligible only if each of its members is eligible in accordance with § 228.31, § 228.32, or § 228.33.

§ 228.35 Construction services from foreign-owned local firms.

(a) When the estimated cost of a contract for construction services is $5 million or less and only local firms will be solicited, a local corporation or partnership which does not meet the test in § 228.31(b)(1) for eligibility based on ownership by citizens of the cooperating country (i.e., it is a foreign-owned local firm) will be eligible if it is determined by USAID to be an integral part of the local economy. However, such a determination is contingent on first ascertaining that no United States construction company with the required capability is currently operating in the cooperating country or, if there is such a company, that it is not interested in bidding for the proposed contract.

(b) A foreign-owned local firm is an integral part of the local economy provided:

(1) It has done business in the cooperating country on a continuing basis for not less than three years prior to the issuance date of invitations for bids or requests for proposals to be financed by USAID;

(2) It has a demonstrated capability to undertake the proposed activity;

(3) All, or substantially all, of its directors of local operations, senior staff and operating personnel are resident in the cooperating country;

(4) Most of its operating equipment and physical plant are in the cooperating country.

§ 228.36 Ineligible suppliers.

Citizens of any country or area not included in Geographic Code 935, and firms and organizations located in, organized under the laws of, or owned in any part by citizens or organizations of any country or area not included in Geographic Code 935 are ineligible for financing by USAID as suppliers of services, or as agents in connection with the supply of services. The limited exceptions to this rule are:

(a) Individuals lawfully admitted for permanent residence in the United States are eligible, as individuals or owners, regardless of their citizenship, and

(b) The USAID Deputy Assistant Administrator for Management (DAA/M) may authorize the eligibility of organizations having minimal ownership by citizens or organizations of non-Geographic Code 935 countries.

§ 228.37 Nationality of employees under contracts or subcontracts for services.

(a) The rules set forth in §§ 228.31 through 228.36 do not apply to the employees of contractors or subcontractors. Such employees must, however, be citizens of countries included in Geographic Code 935 or, if they are not, have been lawfully admitted for permanent residence in the United States.

(b) When the contractor on a USAID-financed construction project is a United States firm, at least half of the supervisors and other specified key personnel working at the project site must be citizens or permanent legal residents of the United States. Exceptions may be authorized by the USAID Mission in writing if special circumstances exist which make compliance impractical.

§ 228.38 Miscellaneous service transactions.

This section sets forth rules governing certain services which may be considered commodity-related, but may also relate to contracts for professional, technical, or construction services.

(a) *Commissions.* The nationality rules in subparts C and D of this part, with the exception of § 228.36, do not apply to the payment of commissions by suppliers. A commission is defined as any payment or allowance by a supplier to any person for the contribution which the person has made to securing the sale or contract for the supplier or which that person makes to securing on a continuing basis similar sales or contracts for the supplier.

(b) *Bonds and guarantees.* The nationality rules in subparts C and D of this part, with the exception of § 228.36, do not apply to surety companies, insurance companies or banks who issue bonds or guarantees under USAID-financed contracts.

(c) *Liability insurance under construction contracts.* The nationality rules in subparts C and D of this part, with the exception of § 228.36, do not apply to firms providing liability insurance under construction contracts.

Subpart E—Conditions Governing Source and Nationality of Local Procurement Transactions for USAID Financing

§ 228.40 Local procurement.

Local procurement in the cooperating country involves the use of appropriated funds to finance the procurement of goods and services supplied by local businesses, dealers or producers, with payment normally being in the currency of the cooperating country. Unless otherwise specified in an implementing document, or a waiver is approved by USAID in accordance with subpart F of this part, local procurement is eligible for USAID financing only in the following situations:

(a) Locally available commodities of U.S. origin, which are otherwise eligible for financing, if the value of the transaction is estimated not to exceed the local currency equivalent of $100,000 (exclusive of transportation costs).

(b) Commodities of Geographic Code 935 origin if the value of the transaction does not exceed $5,000.

(c) Professional services contracts estimated not to exceed the local currency equivalent of $250,000.

(d) Construction services contracts, including construction materials required under the contract, estimated not to exceed the local currency equivalent of $5,000,000.

(e) Under a fixed-price construction contract of any value, the U.S. prime contractor may procure locally produced goods and services under subcontracts.

(f) The following commodities and services which are only available locally:

(1) Utilities, including fuel for heating and cooking, waste disposal and trash collection;

(2) Communications—telephone, telex, facsimile, postal and courier services;

(3) Rental costs for housing and office space;

(4) Petroleum, oils and lubricants for operating vehicles and equipment;

(5) Newspapers, periodicals and books published in the cooperating country;

(6) Other commodities and services (and related expenses) that, by their nature or as a practical matter, can only be acquired, performed, or incurred in the cooperating country, e.g., vehicle maintenance, hotel accommodations, etc.

Subpart F—Waivers

§ 228.50 General.

USAID may expand the authorized source in order to accomplish project or program objectives by processing a procurement source waiver. When a waiver is processed to include a new source, procurement is not limited to the added source, but may be from any country included in the authorized source. All waivers must be in writing.

§ 228.51 Commodities.

(a) *Waiver criteria.* Any waiver must be based upon one of the criteria listed below. Waivers to Geographic Code 899 or Code 935 which are justified under paragraph (a) (2) or (3) of this section may only be authorized on a case-by-case basis.

(1) Commodities required for assistance are of a type that are not produced in and available for purchase in the United States, and for waivers to Code 899 or Code 935, also not in the cooperating country, or any country in Code 941.

(2) It is necessary to permit procurement in a country not otherwise eligible in order to meet unforeseen circumstances, such as emergency situations.

(3) It is necessary to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(4) For waivers to authorize procurement from Geographic Code 941 or the cooperating country:

(i) For assistance other than commodity import programs, when the lowest available delivered price from the United States is reasonably estimated to be 50 percent or more higher than the delivered price from a country or area including in Geographic Code 941 or the cooperating country.

(ii) For assistance other than commodity import programs, when the estimated cost of U.S. construction materials (including transportation and handling charges) is at least 50 percent higher than the cost of locally produced materials.

(iii) For commodity import programs or similar sector assistance, an acute shortage exists in the United States for a commodity generally available elsewhere.

(iv) Persuasive political considerations.

(v) Procurement in the cooperating country would best promote the objectives of the foreign assistance program.

(vi) Such other circumstances as are determined to be critical to the success of project objectives.

(b) *Additional requirements.* A waiver to authorize procurement from outside the United States of agricultural commodities, motor vehicles, or pharmaceuticals (see § 228.13, "Special source rules requiring procurement from the United States,") must also meet requirements established in USAID directives on commodity eligibility.

§ 228.52 Suppliers of commodities.

Geographic code changes authorized by waiver with respect to the source of commodities automatically apply to the nationality of their suppliers. A waiver to effect a change in the geographic code only with respect to the nationality of the supplier of commodities, but not in the source of the commodities, may be sought if the situation requires it based on the appropriate criteria in § 228.51.

§ 228.53 Suppliers of services—privately owned commercial suppliers and nonprofit organizations. Waiver criteria.

Any waiver must be based upon one of the criteria listed in this section. Waivers to Geographic Code 899 or Code 935 which are justified under paragraphs (b) or (c) of this section may only be authorized on a case-by-case basis.

(a) Services required for assistance are of a type that are not available for purchase in the United States, and for waivers to Code 899 or Code 935, also not in the cooperating country, or any country in Code 941.

(b) It is necessary to permit procurement in a country not otherwise eligible in order to meet unforeseen circumstances, such as emergency situations.

(c) It is necessary to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(d) For waivers to authorize procurement from Geographic Code 941 or the cooperating country:

(1) There is an emergency requirement for which non-USAID funds are not available and the requirement can be met in time only from suppliers in a country or area not included in the authorized geographic code.

(2) No suppliers from countries or areas included in the authorized geographic code are able to provide the required services.

(3) Persuasive political considerations.

(4) Procurement of locally available services would best promote the objectives of the foreign assistance program.

(5) Such other circumstances as are determined to be critical to the achievement of project objectives.

§ 228.54 Suppliers of services—foreign government-owned organizations.

A waiver to make foreign government-owned organizations, described in § 228.33, eligible for financing by USAID must be justified on the basis of the following criteria:

(a) The competition for obtaining a contract will be limited to cooperating country firms/organizations meeting the criteria set forth in § 228.31 or § 228.32.

(b) The competition for obtaining a contract will be open to firms from countries or areas included in the authorized geographic code and eligible under the provisions of § 228.31 or § 228.32, and it has been demonstrated that no U.S. firm is interested in competing for the contract.

(c) Services are not available from any other source.

(d) Foreign policy interests of the United States outweigh any competitive disadvantage at which United States firms might be placed or any conflict of interest that might arise by permitting a foreign government-owned organization to compete for the contract.

§ 228.55 Delivery services.

(a) *Ocean transportation.* A waiver to expand the flag eligibility requirements to allow the use of vessels under flag registry of the cooperating country, Geographic Code 941, 899 or 935 countries may be authorized when:

(1) It is necessary to assure adequate competition in the shipping market in order to obtain competitive pricing, particularly in the case of bulk cargoes and large cargoes carried by liners;

(2) Eligible vessels provide liner service, only by transshipment, for commodities that cannot be containerized, and vessels under flag registry of countries to be authorized by the waiver provide liner service without transshipment;

(3) Eligible vessels are not available, and cargo is ready and available for shipment, provided it is reasonably evident that delaying shipment would increase costs or significantly delay receipt of the cargo;

(4) Eligible vessels are found unsuitable for loading, carriage, or unloading methods required, or for the available port handling facilities;

(5) Eligible vessels do not provide liner service from the port of loading stated in the procurement's port of export delivery terms, provided the port is named in a manner consistent with normal trade practices; or

(6) Eligible vessels decline to accept an offered consignment.

(b) *Air transportation.* The preferences for use of United States flag air carriers or for use of United States, other Geographic Code 941 countries, or cooperating country flag air carriers are not subject to waiver. Other free world air carriers may be used only as provided in § 228.05(b).

§ 228.56 Authority to approve waivers.

The authority to approve waivers of established policies on source, origin and nationality are delegated authorities within USAID, as set forth in its Handbooks.

Dated: December 6, 1995.

Michael D. Sherwin,

Deputy Assistant Administrator for Management.

[FR Doc. 96–2288 Filed 2–2–96; 8:45 am]

BILLING CODE 6116–01–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Appropriateness of Requested Single Location Bargaining Units in Representation Cases

AGENCY: National Labor Relations Board.

ACTION: Notice of extension of time for filing comments to proposed rulemaking.

SUMMARY: The National Labor Relations Board gives notice that it is extending the time for filing comments on the proposed rulemaking on the appropriateness of requested single location bargaining units in representation cases.

DATES: The comment period which presently ends at the close of business on February 8, 1966, is extended to the close of business on March 15, 1996.

ADDRESS: Comments on the proposed rulemaking should be sent to: Office of the Executive Secretary, 1099 14th Street NW., Room 11600, Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: The Board's notice of proposed rulemaking on the appropriateness of requested single location bargaining in representation cases was published in the **Federal Register** on September 28, 1995 (60 FR 50146). The notice provided that all responses to the notice of proposed rulemaking must be received on or before November 27, 1995. On November 20, 1995 the Board extended the time to January 22, 1996. Because of the recent shutdown of operations due to lack of appropriated funds, the Board extended the time to February 8, 1996. In view of public interest, the Board has decided to further extend the period for filing responses to the notice of proposed rulemaking until the close of business on Friday March 15, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 96–2360 Filed 2–2–96; 8:45 am]

BILLING CODE 7545–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV035–6001; FRL–5416–5]

Approval and Promulgation of Implementation Plans; West Virginia: Approval of PM–10 Implementation Plan for the Follansbee Area

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 22, 1995, the State of West Virginia submitted to EPA a revised attainment demonstration for the Follansbee, West Virginia nonattainment area for particulate matter with an aerodynamic diameter less than or equal to 10 micrometers (PM–10). West Virginia submitted these revisions to address deficiencies identified by EPA in a final limited disapproval of the particulate matter plans published in the **Federal Register** on July 25, 1994 (59 FR 37696). Today, EPA is proposing to approve West Virginia's demonstration. By separate notice today, EPA is making an interim final determination that the revised demonstration remedies the deficiencies identified in the rulemaking of July 25, 1994. As a result, the sanctions which could have resulted from the July 1994 rulemaking shall not apply.

DATES: Comments on this proposed action must be received by March 6, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia.

FOR FURTHER INFORMATION CONTACT: Thomas A. Casey, (215) 597–2746, at the EPA Region III address above (Mailcode 3AT22) or via e-mail at casey.thomas@epamail.epa.gov.

While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

Requirements for PM–10 Nonattainment Areas

The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Title I of the Clean Air Act (Act). EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

Upon enactment of the Clean Air Act Amendments of 1990, all Group I areas (and Group II areas that had monitored violations before January 1, 1989) were designated nonattainment by operation of law. A list of these initial nonattainment areas, including the Follansbee area in Brooke County, West Virginia and the adjacent Steubenville area in neighboring Jefferson County, Ohio, was published on March 15, 1991 (56 FR 11101) with corrections on May 20, 1991 (56 FR 23105).[1]

Those States containing initial moderate PM–10 nonattainment areas were required to submit to EPA, among other things, the following by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the national ambient air quality standards (NAAQS) in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions were due at later dates. States with initial moderate PM–10 nonattainment areas were required to submit permit programs for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline. See section 172(c)(9) and 57 FR 13543–44.

West Virginia's 1991 Submittal

Pursuant to these requirements, West Virginia submitted a SIP revision request for the Follansbee area on November 15, 1991. The submittal contained bilateral consent orders between the State of West Virginia and six companies requiring reductions in PM–10 emissions from six sources in the Follansbee area; an air quality modeling analysis intended to demonstrate that West Virginia's SIP, once revised to include the consent orders, would be sufficient to attain the PM–10 NAAQS in the Follansbee area; and other supporting information, such as RACT analyses and an analysis of PM–10 precursors.

On July 25, 1994, EPA took final limited approval and limited disapproval actions on West Virginia's 1991 submittal (59 FR 37696). EPA approved the six consent orders for incorporation into the SIP and determined, among other things, that the revised SIP provided for RACM. EPA disapproved certain elements of the attainment demonstration because of technical inadequacies. Specifically, there were errors in estimates of emissions from coke oven batteries; there was no analysis of intermediate terrain (terrain between stack height and plume height); and the demonstration included non-guideline use of the Gaussian-Plume Multiple Source Air Quality Algorithm (RAM) dispersion model in a meteorologically rural area. The notice of proposed rulemaking (59 FR 988) and Technical Support Document to that rulemaking provides detailed descriptions of these deficiencies and documents other deficiencies that are more directly related to sources in Ohio, such as the underestimation of emissions from basic oxygen furnaces.

EPA took no action on the contingency measures contained in the 1991 SIP submittal with respect to the requirements of 179(c)(9) of the Act. The General Preamble to Title I of the Clean Air Act Amendments of 1990 established a November 15, 1993 deadline for State submittal of contingency plans. EPA will take action on the contingency measures in a separate rulemaking.

West Virginia's 1995 Submittal

On November 22, 1995, West Virginia submitted to EPA additions to its 1991 attainment demonstration and emissions inventory for the Follansbee area. While the revised demonstration and inventory rest largely on the same data as the 1991 submittal, several changes were made. Specifically, coke oven battery emission estimates were corrected; the entire emissions inventory was remodeled using EPA's newly available ISC3 (Industrial Source Complex) model (incorporating an intermediate terrain analysis and a revised area source algorithm); the meteorological data were reprocessed using the Meteorological Processor for Regulatory Models (MPRM); the coordinates of several sources, which were in error in the original submittal, were corrected; and certain annual emission rate estimates were refined.

The result of the revised modeling is that West Virginia's SIP (as revised in 1991), along with Ohio's SIP, is sufficient to attain the NAAQS. The analysis shows that, even if all sources emit at their maximum allowable emission rates, the 24-hour PM–10

[1] The Follansbee, West Virginia nonattainment area was defined in this notice as the area bounded on the north by the Market Street Bridge, on the east by West Virginia Route 2, on the south by the extension of the southern boundary of Steubenville Township, Jefferson County, Ohio, and on the West by the Ohio/West Virginia border.

concentration will not exceed 150 μg/m³ more than once per year in any location in the area. Similarly, the demonstration shows that, in the attainment year, the annual PM–10 concentration will not exceed the annual PM–10 NAAQS of 50 μg/m³. The analysis is also sufficient to demonstrate that the PM–10 NAAQS will be maintained in future years because the population the area not increasing. The analysis was performed in a manner that is consistent with the Guideline on Air Quality Models (40 CFR 51 Appendix W). For more details regarding the attainment demonstration, see the Technical Support Document.

These revisions correct the deficiencies that resulted in EPA's limited disapproval of the attainment demonstration and emissions inventory.

II. Today's Proposal

Today, EPA is proposing to approve West Virginia's November 22, 1995 additions to its attainment demonstration and to approve the demonstration as meeting the requirements of section 189(a)(1)(B) for an attainment demonstration and the 172(c)(3) requirement for an accurate emissions inventory. By separate notice today, EPA is making an interim final determination that the revised demonstration remedies the deficiencies identified in the rulemaking of July 25, 1994. As a result, the sanctions which could have resulted from the July 1994 rulemaking shall not apply.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove West Virginia's PM–10 attainment demonstration and emissions inventory for the Follansbee area will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 25, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96–2250 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[AD–FRL–5417–4]

Approval and Promulgation of Implementation Plans; State of Missouri;

AGENCY: Environmental Protection Agency.(EPA).

ACTION: Notice of extension of the public comment period.

SUMMARY: EPA is giving notice that the public comment period for a notice of proposed rulemaking published December 15, 1995 (60 FR 64404), has been extended 30 days. The December 15, 1995, notice proposed interim approval of the operating permits program and delegation 112(l) authority for the state of Missouri. EPA is extending the comment period based on an extension request by a Missouri industry. The request is based on the fact that EPA was unavailable, during the government shutdown, to provide necessary information to the public.

DATES: Comments are now due on or before February 13, 1996.

ADDRESSES: Comments may be mailed to Joshua A. Tapp, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Joshua Tapp at (913) 551–7606 or at the aforementioned address.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 29, 1996.

Dennis Grams,

Regional Administrator.

[FR Doc. 96–2354 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 100

RIN 0906–AA36

National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table—II

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: This document announces a public hearing to receive information and views on the Notice of Proposed Rulemaking (NPRM) entitled "National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table—II."

DATES: The public hearing will be held on February 29, 1996, from 1:00 p.m. to 5:00 p.m.

ADDRESSES: The public hearing will be held in Conference Room D in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, at (301) 443–6593.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act (Public Law 99–660, as amended, Title XXI of the Act) provides a system of no-fault compensation for certain individuals who have been injured by specific childhood vaccines: namely, diphtheria, tetanus, pertussis, polio, measles, mumps or rubella vaccines. Section 2114 of the Act contains a Vaccine Injury Table (the Table) which lists these vaccines and the time periods in which certain adverse events, e.g., injuries, disabilities, illnesses, or death, must occur in order for claimants to be entitled to a presumption that the event was vaccine-related. The Table was amended by regulation pursuant to Section 312 of the Act in the Final Rule published in the **Federal Register** on February 8, 1995 (60 FR 7678). The Secretary has proposed further revisions of the Vaccine Injury Table and accompanying Qualifications and Aids to Interpretation based on the findings of an Institute of Medicine report, which was released in late 1993, and the recommendations made by two advisory bodies, the National Vaccine Advisory Committee and the Advisory Commission on Childhood Vaccines. Among other changes, this proposed rule will add vaccines against Hepatitis B and hemophilus influenzae type b to the Table. The NPRM was published in the **Federal Register**, November 8, 1995: Vol. 60, No. 216, Pages 56289–56300. The public comment period closes May 6, 1996.

In view of the importance of the Vaccine Injury Compensation Program and the effect of the NPRM, the Secretary has determined that, in addition to the 180-day period for written comments on the NPRM, an informal public hearing will be held. This hearing is to provide an open forum for the presentation of information and views concerning all aspects of the NPRM by interested persons.

In preparing a final regulation, the Secretary will consider the administrative record of this hearing along with all other written comments received during the comment period specified in the NPRM. Individuals or representatives of interested organizations are invited to participate in the public hearing in accord with the schedule and procedures set forth below.

The hearing will be held on February 29, 1996, beginning at 1:00 p.m., in Conference D in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. The hearing will be held following the noon adjournment of the February 28–29 meeting of the Advisory Commission on Childhood Vaccines.

The presiding officer representing the Secretary, HHS, will be Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, Bureau of Health Professions (BHPr), Health Resources and Services Administration.

Persons who wish to participate are requested to file a notice of participation with the Department on or before February 15, 1996. The notice should be mailed to Division of Vaccine Injury Compensation, BHPr, Room 8A–35, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. To ensure timely handling any outer envelope should be clearly marked "NPRM Hearing." The notice of participation should contain the interested person's name, address, telephone number, any business or organizational affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. Groups that have similar interests should consolidate their comments as part of one presentation. Time available for the hearing will be allocated among the persons who properly file notices of participation. If time permits, interested parties attending the hearing who did not submit a notice of participation in advance will be allowed to make an oral presentation at the conclusion of the hearing.

Persons who find that there is insufficient time to submit the required information in writing may give oral notice of participation by calling Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, at (301) 443–6593 no later than February 15, 1996. Those persons who give oral notice of participation should also submit written notice containing the information described above to the Department by the close of business February 22, 1996.

After reviewing the notices of participation and accompanying information, the Department will schedule each appearance and notify each participant by mail or telephone of the time allotted to the person(s) and the approximate time the person's oral presentation is scheduled to begin.

Written comments and transcripts of the hearing will be made available for public inspection as soon as they have been prepared, on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m. at the Division of Vaccine Injury Compensation, Room 8A–35, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: January 30, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–2322 Filed 2–2–96; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 525, 541, 555, 571, and 581

[Docket No. 95–95, Notice 1]

Exemptions From Average Fuel Economy Standards; Federal Motor Vehicle Theft Prevention Standard; Federal Motor Vehicle Safety Standards; Bumper Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of public meeting; request for comments.

SUMMARY: This notice announces a public meeting at which NHTSA will seek information from small volume manufacturers and the public on regulatory problems of such manufacturers. Previously, NHTSA announced that it is interested in developing a legislative package tailored to reduce the burden of its requirements

on small businesses and manufacturers. NHTSA is requesting suggestions for actions with respect to NHTSA's Corporate Average Fuel Economy (CAFE) regulations, Theft Prevention Standard, Federal Motor Vehicle Safety Standards, and Bumper Standard, that govern the compliance and exemption of such vehicles. This notice also invites written comments on the same subjects.

DATES: The public meeting will be held on Wednesday, March 13, 1996, at 9:00 a.m. An agenda for the meeting will be made based on the number of persons wishing to make oral presentations and will be available on the day of the meeting. Those wishing to make oral presentations at the meeting should contact Taylor Vinson, at the address or telephone number listed below, by the close of business Monday, February 26, 1996. Written comments may be submitted at any time before or after the meeting, but not later than April 4, 1996.

ADDRESSES: *Public meeting:* The public meeting will be held in Rooms 6244–6248, Nassif Building (DOT headquarters), 400 Seventh Street, SW, Washington, DC.

Written comments: Written comments should be sent to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW., Washington, DC 20590, ATTN: Docket No. 95–95; Notice 1.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, 400 7th Street, SW, Washington, DC 20590 (telephone 202–366–5263).

SUPPLEMENTARY INFORMATION:

Regulatory Reform

Calling for a new approach to the way Government regulates the private sector, President Clinton has asked Executive Branch agencies to improve the regulatory process. Specifically, the President requested that agencies (1) cut obsolete regulations; (2) create grassroots partnerships by meeting with those affected by regulations and other interested parties; and (3) make more frequent use of consensual rulemaking such as regulatory negotiation.

This is the second of NHTSA's announced meetings to create grassroots partnerships with regulated industries that do not deal with NHTSA on a daily basis. By meeting with these groups, NHTSA believes that it can derive a better understanding of their needs and concerns. Other groups that the agency plans to meet with are manufacturers of school buses, heavy trucks, child seats, and lamps and reflectors. The agency met on December 12, 1995, with manufacturers of multistage vehicles.

As part of its contribution towards regulatory reform to reduce unnecessary regulatory burdens, NHTSA has announced that it plans to develop a legislative package tailored to reduce the burden of its requirements on small manufacturers. Such a package could include longer leadtimes for small manufacturers and greater flexibility in granting small-manufacturer exemptions. NHTSA recognizes that small volume manufacturers are faced with somewhat different problems than manufacturers who produce in larger quantities. Therefore, the agency has decided to hold a public meeting to receive the comments of this group and the public on how the regulatory process might be improved without any diminution of regulatory goals.

Small-Volume Manufacturers

Under the current statutes and regulations administered by NHTSA, there is no specific definition of "small-volume manufacturer". However, eligibility for application for exemption from average fuel economy standards and motor vehicle safety standards is statutorily predicated upon the volume of production. This statutory criterion is reflected in the agency's regulations. Under 49 CFR Part 525 *Exemptions From Average Fuel Economy Standards*, a manufacturer who produces fewer than 10,000 passenger automobiles may apply for an exemption. Similarly, under 49 CFR Part 555 *Temporary Exemption From Motor Vehicle Safety Standards*, a manufacturer whose total motor vehicle production (passenger cars and all other types) does not exceed 10,000 may apply for an exemption on grounds that compliance would cause it substantial economic hardship. Thus, at present, a manufacturer whose annual motor vehicle production does not reach 10,000 units can apply for regulatory relief that is not available to manufacturers whose yearly production is greater. NHTSA, therefore, considers any manufacturer of motor vehicles that which fabricates not more than 10,000 units a year to be a "small-volume manufacturer" within the meaning of its outreach program, regardless of whether it has petitioned for exemption under Part 525 or Part 555.

Importers of vehicles for resale are statutorily treated as "manufacturers" for most purposes and required to comply with obligations of fabricating manufacturers. Aside from factory-owned U.S.-based concerns importing certified vehicles, importers of vehicles for resale generally import vehicles originally intended for sale in a country other than the United States and thus not manufactured to conform to Federal requirements. Such importers are treated as "registered importers" (RIs) in the agency's authorizing statute and under 49 CFR Part 592. None imports more than 10,000 units a year. The agency is well aware of the problems faced by RIs in qualifying nonconforming vehicles for entry and modifying them after entry. However, these problems are of a different nature than those faced by small manufacturers actually involved in fabrication. For this reason, the agency does not intend to include non-fabricating small-volume manufacturers in the agenda for this meeting.

The following paragraphs briefly describe the existing statutory provisions regarding the establishing of standards and the NHTSA regulations implementing those provisions.

Corporate Average Fuel Economy (CAFE)

The CAFE standards originate in 49 U.S.C. Chapter 329—*Automobile Fuel Economy*. This chapter requires passenger automobiles to meet a CAFE standard of 27.5 miles per gallon for each model year. Under 49 U.S.C. 32902(d)(1), a manufacturer may apply for a CAFE exemption if it produced less than 10,000 passenger automobiles in the model year 2 years before the model year for which application is made. An exemption for the model year may be granted if the agency finds that the applicable CAFE standard is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve, and then prescribes an alternative standard that is based upon the finding.

The exemption provisions of Chapter 329 have been implemented by 49 C.F.R. Part 525 *Exemptions From Average Fuel Economy Standards*. This regulation sets out the contents of applications and the application procedures. Exempted manufacturers and their individual CAFE standards are listed at 49 C.F.R. 531.5(b).

Theft Prevention Standard

The agency's efforts to reduce the theft of motor vehicles are governed by 49 U.S.C. Chapter 331—*Theft Prevention*. Under Sec. 33102, NHTSA is required to issue a theft prevention standard that applies to parts of vehicles that have been designated high theft lines. Sec. 33103 requires NHTSA to extend the standard to vehicle lines that have not been designated high theft. Sec. 33106 allows manufacturers to apply for exemption for passenger motor vehicles equipped with antitheft devices. However, the right to apply is independent of the quantity of vehicles produced by the applicant. Sec. 33114 prohibits the importation of either a motor vehicle or replacement part covered by a theft standard unless it conforms to the standard. The prohibition is absolute and does not provide for importing noncomplying vehicles or parts and subsequently bringing them into compliance with the theft prevention standard.

Chapter 331 has been implemented in pertinent part by 49 C.F.R. Part 541 *Federal Motor Vehicle Theft Prevention Standard* and Part 543 *Exemption From Vehicle Theft Prevention Standard*. Part 541 requires the marking of parts in the manner prescribed. Part 543 contains the procedures for applying for theft prevention standard exemptions. Vehicles with antitheft devices that are exempted in their entirety from the standard are listed in Appendix A of Part 541. Some of them are produced by small-volume manufacturers within the meaning of this notice.

Federal Motor Vehicle Safety Standards

49 U.S.C. Chapter 301—*Motor Vehicle Safety* is the authority for the regulations published under 49 C.F.R. Part 571 *Federal Motor Vehicle Safety Standards*. Every motor vehicle must meet all applicable Federal motor vehicle safety standards by virtue of Sec. 30112(a), except as provided elsewhere in Sec. 30112, and in Secs. 30113 and 30114. Sec. 30113(d) provides that a manufacturer whose annual motor vehicle production is 10,000 units or less is eligible to apply for an exemption under Sec. 30113(b)(3)(B)(i), on the basis that compliance would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

Some small-volume manufacturers have petitioned for temporary exemption from the safety standards on grounds other than substantial economic hardship, principally electric vehicle manufacturers who argue that an exemption would facilitate the development and field evaluation of a low-emission vehicle, a basis allowed by Sec. 30113(b)(3)(B)(iii). Eligibility to apply is not predicated upon limited production volume. This and the remaining categories of exemptions (innovative safety devices, equivalent overall level of safety) are available to all manufacturers regardless of production (though only 2,500 vehicles per year can be exempted). Nevertheless, the agency intends to include all four categories of statutory exemption in this review, even though they affect all manufacturers and not just those whose volume is limited.

Sec. 30113 *General exemptions* has been implemented by 49 C.F.R. Part 555 *Temporary Exemption From Motor Vehicle Safety Standards*. Under the authority of this regulation, in effect since 1973, over 100 applications have been considered, and the greater part of them granted.

Sec. 30114 *Special exemptions* provides NHTSA with the authority to exempt a motor vehicle or an item of motor vehicle equipment on terms that the agency decides are necessary "for research, investigations, demonstrations, training, or competitive racing events." Since its original enactment in P.L. 100–562, *The Imported Vehicle Safety Act of 1988*, Sec. 30114 has been implemented solely with respect to the importation of vehicles and equipment, in 49 C.F.R. Sec. 591.5(j)(i). However, that statutory provision appears to have other applications as well, such as permitting manufacturers to operate non-conforming prototype vehicles on the public roads.

Bumper Standards

Reduction of damage from motor vehicle accidents is the purpose of 49 U.S.C. Chapter 325—*Bumper Standards*. Sec. 32502 requires NHTSA to promulgate bumper standards for passenger motor vehicles as defined by the statute. A limited exemption authority is provided to NHTSA by Sec. 32502(c) to exempt from any part of a standard a multipurpose passenger vehicle or a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle. However, this exemption authority is silent as to the right of a manufacturer to petition for relief. At the most, a manufacturer could petition only for relief of a class and not for relief on an individual basis, no matter what the volume of the manufacturer's production.

The statutory requirement for a standard has been implemented by 49 C.F.R. Part 581—*Bumper Standard*. The regulation is silent on exemption procedures.

Comments

The agency believes that it would be helpful to have comments on the following topics, with respect to the statutory authority and regulations discussed above—

- Expansion or addition of exemption authority.
- Administrative/compliance burdens.
- Deferred compliance until end of phase-in period for phased-in regulations.
- Cost effectiveness.
- Costs to consumers of the existing regulation and the changes suggested by the commenter.
- Costs to regulated parties of testing or certification.
- Effects on fuel economy, theft prevention, safety, or property damage.
- Effects on small business.
- Enforceability.
- Whether the statute or regulation reflects a "common sense" approach to solving the problem.

Written statements should be arranged by the CFR Part numbers addressed, be as specific as possible and provide the best available supporting information. Suggestions should be accompanied by a rationale for the suggested action and a forecast of the expected consequences of that action. Statements also should specify whether any change recommended in the regulatory process would require a legislative change in NHTSA's authority.

Procedural Matters

The agency intends to conduct the meeting informally so as to allow for maximum participation by all who attend. Interested persons may ask questions or provide comments during any period after a person has completed his or her presentation on a time allowed basis, as determined by the presiding official. If time permits, persons who did not ask prior to the meeting for an opportunity to speak, but would like to make a statement, will be afforded an opportunity to do so.

Those speaking at the public meeting should limit their presentations to 20 minutes. If the presentation will include slides, motion pictures, or other visual aids, please so inform the contact person identified above so that the proper equipment may be made available. Presenters should bring at least one copy of their presentation to the meeting so that NHTSA can readily include the material in the public record.

A schedule of participants making oral presentations will be available in the designated meeting room before the beginning of the meeting. NHTSA will place a copy of any written statement in Docket No. 95–95; Notice 1. The public may inspect the Docket for comments and statements which may be received before or after the meeting. A verbatim transcript of the meeting will be prepared and also placed in the NHTSA docket as soon as possible after the meeting.

Participation in the meeting is not a prerequisite for the submission of written comments. NHTSA invites written comments from all interested parties. It is requested but not required that 10 copies be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, Room 5219, at the street address given above, and copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512.)

All comments received before the close of business on March 21, 1996, will be considered in formulating a decision on the issues raised. After the closing date, NHTSA will continue to file relevant comments and information in the docket as it becomes available. It is therefore recommended that interested persons continue to examine the docket for new material.

Issued: January 30, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2330 Filed 2–2–96; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 61, No. 24

Monday, February 5, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Modification of Total Amount of Tariff-rate Quota for Imported Raw Cane Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice modifies the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 of the Harmonized Tariff Schedule of the United States (HTS) during fiscal year 1996 (FY 96). As modified, such aggregate quantity is 1,817,195 metric tons, raw value.

EFFECTIVE DATE: January 17, 1996.

ADDRESSES: Inquiries may be mailed or delivered to the Sugar Team Leader, Import Policy and Programs Division, Foreign Agricultural Service, Room 5531, South Building, U.S. Department of Agriculture, Washington, D.C. 20250–1000.

FOR FURTHER INFORMATION CONTACT: Stephen Hammond (Sugar Team Leader); telephone: 202–720–1061.

SUPPLEMENTARY INFORMATION: Paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS provides, in part that "* * * the aggregate quantity of raw cane sugar entered, or withdrawn from warehouse for consumption, under subheading 1701.11.10, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than, 1,117,195 metric tons, as shall be established by the Secretary of Agriculture (hereinafter referred to as "the Secretary"), and the aggregate quantity of sugars, syrups and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than 22,000 metric tons, as shall be established by the Secretary." On August 3, 1995, the Secretary established the aggregate quantity of 1,117,195 metric tons, raw value, of raw cane sugar that may be entered under subheading 1701.11.10 of the HTS and the aggregate quantity of 22,000 metric tons (raw value basis) for certain sugars, syrups and molasses that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS during FY 96 (60 FR 42142). On November 9, 1995, the Secretary increased the aggregate quantity of raw cane sugar that may be entered under subheadings 1701.11.10 to 1,417,195 metric tons.

Paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS provides that "[w]henever the Secretary believes that domestic supplies of sugars may be inadequate to meet domestic demand at reasonable prices, the Secretary may modify any quantitative limitations which have previously been established * * *." The U.S. sugar production forecast for FY 96 released on January 16, 1995, in the World Agricultural Supply and Demand Estimates (WASDE) was reduced by 90,000 short tons raw value (STRV) to 7.510 million STRV from the WASDE production forecast released on November 9, 1995. The domestic wholesale refined sugar prices in the midwest market have been increasing since the tariff-rate quota increase was announced by the Secretary. During the first week of November 1995 the refined sugar price was 26.50 cents per pound. The refined sugar price during the first week of January 1996 was 28.75–29.25 cents per pound, which represents a 2.25 cent per pound increase.

Paragraph (b)(1) of U.S. additional note 5 provides that "[t]he quota amounts established [by the Secretary] may be allocated among supplying countries and areas by the United States Trade Representative."

Notice

Notice is hereby given that I have determined, in accordance with paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS, that an aggregate quantity of up to 1,817,195 metric tons, raw value, of raw cane sugar described in subheading 1701.11.10 of the HTS may be entered or withdrawn from warehouse for consumption during the current tariff-rate quota entry period through September 30, 1996.

This modified quota quantity will be allocated among supplying countries and areas by the United States Trade Representative.

Signed at Washington, D.C. on January 25, 1996.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 96–2350 Filed 2–2–96; 8:45 am]

BILLING CODE 3410–10–M

Natural Resources Conservation Service

Fall River Water Users System—South Unit, Fall River County, South Dakota

AGENCY: Natural Resources Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Fall River Water Users System—South Unit Project, Fall River County, South Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Fisher, State Conservationist, USDA, Natural Resources Conservation Service, Federal Building, Room 203, 200 4th Street SW., Huron, South Dakota, 57350–2475. Telephone (605) 352–1200.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Dean Fisher, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement is not needed for this project.

The project purpose is the establishment of a dependable livestock water supply to provide water of good quality in adequate quantity for livestock. The installation of this project

will improve the health of the watershed through the implementation of better range management practices, reduced soil erosion, and improved wildlife habitat.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, and to various federal, state, and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single-copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Mr. Dean Fisher, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials)

Dated: January 26, 1996.

Dean Fisher,

State Conservationist.

[FR Doc. 96–2357 Filed 2–2–96; 8:45 am]

BILLING CODE 3410–16–M

Fall River Water Users System—North Unit, Fall River County, South Dakota

AGENCY: Natural Resources Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Fall River Water Users System—North Unit Project, Fall River County, South Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Fisher, State Conservationist, USDA, Natural Resources Conservation Service, Federal Building, Room 203, 200 4th Street SW, Huron, South Dakota, 57350–2475. Telephone (605) 352–1200.

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The project purpose is the establishment of a dependable livestock water supply to provide water of good quality in adequate quantity for livestock. The installation of this project will improve the health of the watershed through the implementation of better range management practices, reduced soil erosion, and improved wildlife habitat.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, and to various federal, state, and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single-copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Mr. Dean Fisher, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials.)

Dated: January 26, 1996.

Dean Fisher,

State Conservationist.

[FR Doc. 96–2356 Filed 2–2–96; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket A(32b1)–2–96]

Foreign-Trade Zone 9—Honolulu, Hawaii; Request for Manufacturing Authority, NIC Americas Inc. (Medical Devices)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Department of Business, Economic Development & Tourism of the State of Hawaii, grantee of FTZ 9, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of NIC Americas Inc. (NIC) (wholly-owned subsidiary of Needle Incinerator Company Ltd. (UK)) to manufacture for export a certain medical device under zone procedures within FTZ 9. It was formally filed on January 25, 1996.

NIC is planning to establish manufacturing and distribution facilities within FTZ 9 at sites in Hilo and Honolulu (Pier 2), Hawaii. The facilities (100–150 employees) would be used to produce a device that incinerates used hypodermic needles and seals them in a disposable cartridge (HTSUS 8419.89.9085). At the outset, the majority of the materials would be sourced from abroad, including: printed circuit board assemblies, electromagnets/solenoids, transformers, fuses, switches, piezo electric crystals, plastic parts, diaphragm and fasteners (duty rates: zero to 6.6%).

Zone procedures would exempt NIC from Customs duty payments on the foreign materials used in export manufacture. The application indicates that zone procedures for this activity would contribute to the company's export competitiveness.

Public comments on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period of their receipt is April 6, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 22, 1996.

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: January 25, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–2319 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review, Application No. 86–3A011.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the Millers National Federation ("MNF") on October 18, 1995. Notice of the original Certificate was published in the **Federal Register** on July 8, 1987 (52 FR 25621).

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Millers National Federation's (MNF) original Certificate was issued on June 30, 1987 (52 FR 25621). Previous amendments to the Certificate were issued on October 31, 1988 (53 FR 44639, November 4, 1988) and February 21, 1990 (55 FR 21766, May 29, 1990.

MNF's Export Trade Certificate of Review has been amended to:

1. Add one company, Fisher Mills Inc. of Seattle, Washington as a new "Member" of the Certificate within the meaning of section 325.21 of the Regulations (15 C.F.R. 325.2(1)):

2. Delete The Pillsbury Company as a "Member" of the Certificate.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Dated: January 30, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–2318 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–DR–P

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended Export Trade Certificate of Review, Application No. 94–A0007.

SUMMARY: On January 16, 1996, the Department of Commerce issued an amendment to the Export Trade Certificate of Review granted to Florida Citrus Exports, L.C. The originial Certiciate was issued on February 23, 1995 and notice of issuance was published in the **Federal Register** on March 8, 1995 (60 FR 12735).

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Florida Citrus Exports, L.C.'s Export Trade Certificate of Review has been amended to:

Add A. Duda & Sons, Inc. of Ft. Pierce, Florida as a new "member" of the Certificate within the meaning of section 325.21 of the Regulations (15 C.F.R. 325.2(1)):

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: January 30, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–2317 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–DR–P

Environmental Technologies Trade Advisory Committee (ETTAC); Meeting

AGENCY: International Trade Administration, U. S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Environmental Technologies Trade Advisory Committee will hold its sixth plenary meeting. The ETTAC was created on May 31, 1994, to promote a close working- relationship between government and industry and to expand export growth in priority and emerging markets for environmental products and services.

Dates and Place: February 13, 1996, from 8:30 a.m to 5:00 p.m. and February 14, 1996, from 8:30 a.m. to 12:00 noon. The meeting will take place in Room 6808 of the Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230.

The Committee will discuss and vote on four Interim Recommendations: Finance, Privatization, Interagency Coordination and Communication. In addition, there will also be two brief presentations starting at 11:30 on February 13, one on the Environmental Industry Classification System now being developed by the Department of Commerce and the other on a new Center for Environmental Technology Cooperation.

This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jane Siegel, Department of Commerce, Room 1002, Washington DC 20230. Seating is limited and will be on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: The Office of Environmental Technologies Exports, Room 1003, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, phone (202) 482–5225, facsimile (202) 482–5665 TDD 1–800–833–8723.

Date: January 29, 1996.

Anne Alonzo,

Deputy Assistant Secretary for Environmental Technologies Exports.

[FR Doc. 96–2316 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–DR–P

National Institute of Standards and Technology

Announcement of the American Petroleum Institute's Standards Activities

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of intent to develop or revise standards and request for public comment and participation in standards development.

SUMMARY: The American Petroleum Institute, with the assistance of other interested parties, continues to develop standards, both national and international, in several areas. This notice lists the standardization efforts currently being conducted. The publication of this notice by the National Institute of Standards and

Technology (NIST) on behalf of API is being undertaken as a public service. NIST does not necessarily endorse, approve, or recommend the standards referenced in this notice.

SUPPLEMENTARY INFORMATION:

Background

The American Petroleum Institute develops and publishes voluntary standards for equipment, operations, and processes. These standards are used by both private industry and by governmental agencies. All interested persons should contact in writing the appropriate source as listed for further information. Currently the following efforts are being conducted:

• *General Committee on Pipelines*

Risk Management for Pipelines

500 Classification of Locations for Electrical Installations at Petroleum Facilities, Recommended Practice for
1110 Pressure Testing of Liquid Petroleum Pipelines
1117 Lowering In-Service Pipelines
1123 Development of Public Education Programs by Hazardous Liquid Pipeline Operators
1129 Pipeline Integrity Standard

For Further Information Contact

Douglas Read, Manufacturing, Distribution, and Marketing, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *General Committee on Marketing*

Pipeline Meter Provers

Recommended Practice for Installation of Service Station CNG Equipment
1509 Engine Oil Licensing and Certification System
1529 Aviation Fueling Hose
1542 Airport Equipment Marking for Fuel Identification
1581 Specifications and Qualifications Procedures for Aviation Jet Fuel/ Separators
1632 Cathodic Protection of Underground Storage Tanks and Piping Systems

For Further Information Contact

Douglas Read, Manufacturing, Distribution, and Marketing, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *General Committee on Refining*

Technical Data Book, Petroleum Refining

500 Classification of Locations for Electrical Installations at Petroleum Facilities
510 Pressure Vessel Inspection Code
530 Calculation of Heater Tube Thickness in Petroleum Refineries
536 Post Combustion NO_X Control for Fired Heaters
546 Form-Wound Brushless Synchronous Motors—500 Horsepower and Larger
553 Control Valve Applications
556 Fired Heaters and Steam Generators
571 Recognition of Conditions Causing Deterioration or Failure
572 Inspection of Pressure Vessels
574 Inspection of Piping, Tubing, Valves, and Fittings
576 Inspection of Pressure-Relieving Devices
577 Inspection of Welding
578 Construction Material Quality Assurance
579 Fitness-for-Service
580 Risk-Based Inspection
591 User Acceptance of Refinery Valves
594 Water and Wafer-Lug Check Valves
598 Valve Inspection and Testing
600 Steel Gate Valves—Flanged and Butt-Welding Ends
602 Compact Steel Gate Valves
607 Fire Test for Soft-Seated Quarter-Turn Valves
609 Butterfly Valves: Double Flanged, Lug and Wafer-Type
611 General Purpose Steam Turbines
614 Lubrication, Shaft-Sealing and Control-Oil Systems for Special Applications
616 Gas Turbines for Refinery Services
619 Rotary-Type Positive Displacement Compressors for General Refinery Services
620 Design and Construction of Large, Welded, Low-Pressure Storage Tanks
650 Welded, Steel Tanks for Oil Storage
653 Tank Inspection, Repair, Alt. & Reconstruction
660 Shell and Tube Heat Exchangers
661 Air-Cooled Heat Exchangers
671 Special Purpose Couplings
673 Special Purpose Fans
685 Sealless Centrifugal Pumps
938 Inspection and Testing Monolithic Refractory Linings and Materials
941 Steels for Hydrogen Service at Elevated Temperatures and Pressures in Petroleum Refineries and Petrochemical Plants
945 Avoiding Environmental Cracking in Amine Units
1200 Federally Mandated Training and Information
2000 Venting Atmospheric and Low-Pressure Storage Tanks: Nonrefrigerated and Refrigerated

For further Information Contact

Douglas Read or Prentiss Searles, Manufacturing, Distribution, and Marketing, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *General Committee on Marine Transportation*

1139 Training Guidelines for Tank Ship Personnel
1140 Guidelines for Developing Bridge Management Teams

For Further Information Contact

Douglas Read, Manufacturing, Distribution, and Marketing, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *Safety and Fire Protection Subcommittee*

2021 Fire Fighting in and around Flammable and Combustible Liquid Atmospheric Storage Tanks
2023 Guide for Safe Storage and Handling of Heated Petroleum Derived Asphalt Products and Crude Oil Residue
2202 Dismantling and Disposing of Steel From Above-Ground Leaded Gasoline Storage Tanks
2207 Preparing Tank Bottoms for Hot Work
2218 Fire Proofing in Refineries
2219 Safe Operating Guidelines for Vacuum Trucks in Petroleum Service

For Further Information Contact

Andrew Jaques or Ken Leonard, Health and Environmental Affairs, Safety and Fire Protection, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *Committee on Petroleum Measurement*

MPMS Chapter 4.2—Conventional Pipe Provers
MPMS Chapter 4.3—Small Volume Provers
MPMS Chapter 4.4—Tank Provers
MPMS Chapter 4.5—Master-Meter Provers
MPMS Chapter 4.6—Pulse Interpolation
MPMS Chapter 3.X—Guidelines for Level Measurement of LPG
MPMS Chapter 5.1—General Consideration for Measurement by Meters
MPMS Chapter 5.3—Measurement of Liquid Hydrocarbons by Turbine Meters
MPMS Chapter 5.4—Accessory Equipment for Liquid Meters
MPMS Chapter 10.4—Determination of Sediment and Water in Crude Oil by the Centrifuge Method (Field Procedure)
MPMS Chapter 12.2 (Parts 3–5)—Calculation of Petroleum Quantities Using Dynamic Measurement Methods and Volumetric Correction Factors
MPMS Chapter 12.3—Volumetric Shrinkage Resulting from Blending Light Hydrocarbons with Crude Oils
MPMS Chapter 14.3 Part 2—Specification and Installation Requirements for Orifice Plates, Meter Tubes and Associated Fittings
MPMS Chapter 17.X—Marine Vessel Preloading Tank Inspection Guidelines
MPMS Chapter 17.2—Measurement of Cargoes on Board Tank Vessels
MPMS Chapter 21.2—Liquid Flow Measurements Using Electronic Metering Systems

For Further Information Contact

J.C. Beckstrom or Steve Chamberlain, Exploration & Production Department, American Petroleum Institute, 1220 L Street NW., Washington, DC 20005

• *General Committee on Exploration and Production*

Central Committee on Training and Development

T–1 Orientation Programs for Personnel Going Offshore for the First Time
T–2 Training of Offshore Personnel in nonoperating Emergencies
T–7 Training of Personnel in Rescue of Persons in Water
10F Performance Testing of Cementing Float Equipment

Oilfield Equipment and Materials Standards

1B Oil Field V-Belting
2T Planning, Designing and Constructing Tension Leg Platforms
4F Drilling and Well Servicing Structures
5A5 Field Inspection of New Casing, Tubing, and Plain End Drill Pipe
5B Threading, Gaging, and Thread Inspection of Casing, Tubing, and Line Pipe Threads
5C6 Welding Connectors to Pipe (under development)
5C7 Recommended Practice for Coiled Tubing Operations in Oil & Gas Well Service (under development)
5D Drill Pipe
5L Line Pipe
5LC CRA Line Pipe
5LD CRA Clad or Lined Steel Pipe
5L9 Unprimed External Fusion Bonded Epoxy Coating of Line Pipe (under development)
6A Valves and Wellhead Equipment
6D Pipeline Valves (Steel Gate, Plug, Ball and Check Valves)
7 Rotary Drill Stem Elements
7A1 Testing of Thread Compound for Rotary Shouldered Connections
7G Drill Stem Design and Operating Limits
8A Drilling and Production Hoisting Equipment
8B Procedures for Inspection, Maintenance Repair, and Remanufacture of Hoisting Equipment
8C Drilling and Production Hoisting Equipment (PSL 1 and PSL 2)
9B Application, Care, and Use of Wire Rope for Oil Field Services
10B Cement Testing (under development)
11AR Care and Use of Subsurface Pumps
11B Sucker Rods
11BR Care and Handling of Sucker Rods
11IW Independent Wellhead Equipment (underdevelopment)
11E Pumping Units
11S3 Electric Submersible Pump Installations
11S4 Sizing and Selection of Electric Submersible Pump Installations
11S9 Rating and Testing Electrical Submersible Pump Motors (under development)
11V1 Gas Lift Valves, Orifices, Reverse Flow Valves and Dummy Valves
11V2 Gas lift Performance
11V5 Operation, Maintenance and Trouble Shooting of Gas Lift Installations
500 Classification of Locations for Electrical Installations at Petroleum Facilities
xxx Inspection and Maintenance of Production Piping (under development)
13B–1 Standard Procedure for Field Testing Water-Based Drilling Fluids
13B–2 Standard Procedure for Field Testing Oil-Based Drilling Fluids
13C Drilling Fluid Processing Equipment (under development)
13I Standard Procedure for Laboratory Testing Drilling Fluids
14F Design and Installation of Electrical Systems for Offshore Production Platforms
15TR Fiberglass Tubing (under development)
16A Specification for Drill Through Equipment
16F Marine Drilling Riser Equipment (under development)
16R Design, Rating and Testing Marine Drilling Riser Couplings (under development)
17F Subsea Control Systems (under development)
17H ROV Interface with Subsea Equipment (under development)
17J Specification for Flexible Pipe (under development)

Drilling and Production Practices

27 Determining Permeability of Porous Media (to be combined with API 40)
31 Standard Format for Electromagnetic logs
33 Standard Calibration & Format for Gamma Ray & Neutron Logs
40 Core Analysis Procedures (to be combined with API 27)
43 Evaluation of Well Perforator Systems
44 Sampling Petroleum Reservoir Fluids
45 Analysis of Oilfield Waters
49 Drilling & Drill Stem Testing of Wells Containing Hydrogen Sulfide
53 Blowout Prevention Equipment Systems for Drilling Wells
59 Well Control Operations
64 Diverter System Equipment and Operations
65 Standard Calibration of Gamma Ray Spectroscopy Logging Instruments and Format for K–U–Th Logs
66 Exploration and Production Data Digital Interchange

D12A API Well Number & Standard State, County, Offshore Area Codes

xx Well Servicing/Workover Operations Involving Hydrogen Sulfide (under development)
xx Rheology of Cross Linked Fracturing Fluids (under development)
xx Cargo Handling at Offshore Facilities (under development)
xx Long Term Conductivity Testing of Proppants (under development)

For Further Information Contact

David Miller/Tim Sampson, Exploration & Production Department, American Petroleum Institute, 1220 L Street, NW., Washington, DC 20005.

Authority: 15 U.S.C. 272.

Dated: January 30, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–2339 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–13–M

Announcement of a Meeting To Discuss an Opportunity To Join a Cooperative Research and Development Consortium on Fire-Retardant and Environmentally-Safe Materials

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on February 23, 1996 to discuss the possibility of setting up a cooperative research consortium on new Environmentally Safe Fire Retardant technology. The Consortium is dedicated to further research on the basic science of the technology as applied to specific applications.

Any program undertaken will be within the scope and confines of The

Federal Technology Transfer Act of 1986 (Pub. L. 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may provide "personnel, service, facilities, equipment or other resources with or without reimbursement (but not funds to non-federal parties)"—to the cooperative research program.

The meeting will be held on Friday February 23, 1996 from 9:00 a.m. to 3:00 p.m., Room A149, Building 224, at NIST in Gaithersburg, MD, for interested parties. The meeting will discuss the possible formation of a research consortium including NIST and manufacturing industry to conduct research in this area. This is not a grant program.

DATES: The meeting will be held on February 23, 1996. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than February 16, 1996.

ADDRESSES: The meeting will be held at 9:00 a.m., Room A149, Building 224, National Institute of Standards and Technology, Gaithersburg MD.

FOR FURTHER INFORMATION CONTACT: Dr. Takashi Kashiwagi, Building 224, Room B–258, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–6699; FAX: 301–975–4052; e-mail: tkfire@enh.nist.gov.

Dated: January 30, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–2340 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–13–M

Announcement of a Meeting To Discuss an Opportunity To Join a Cooperative Research and Development Consortium for the NIST–EPRI Ultrasonic Flow Meter Test Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on March 22, 1996 to discuss the possibility of setting up a cooperative research consortium with the purpose of evaluating clamp-on time-of-travel ultrasonic flow meters. Parties interested in participating in the consortium should be prepared to invest adequate resources in the collaboration and be firmly committed to the goal of developing performance evaluation.

Any program undertaken will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Public Law 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may provide "personnel, service, facilities, equipment or other resources with or without reimbursement (but not funds to non-federal parties)"—to the cooperative research program.

The meeting will be held on March 22, 1996 at 9 a.m., lecture room D, Building 101, at NIST in Gaithersburg, MD, for interested parties. The meeting will discuss the possible formation of a research consortium including NIST and industry to conduct research in this area. This is not a grant program.

DATES: The meeting will be held on March 22, 1996. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than February 22, 1996.

ADDRESSES: The meeting will be held at 9 a.m., lecture room D, Building 101, National Institute of Standards and Technology, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Dr. George Mattingly, Fluid Mechanics Building, room 105, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–5939; FAX: 301–258–9201.

Dated: January 30, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–2338 Filed 2–2–96; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 13 & 14 February 1996.

Time of Meeting: 0800–1600, 13 & 14 February 1996.

Place: Pentagon—Washington, DC.

Agenda

The Army Science Board (ASB) C4I Issue Group Study on "The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems" will meet for two days to hear selected briefings on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–2388 Filed 2–2–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 15 & 16 February 1996.

Time of Meeting: 0900–1700, 15 February 1996. 1000–1700, 16 February 1996.

Place: Pentagon—Washington, DC.

Agenda

The Army Science Board (ASB) Summer Study on "Technical Architecture on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems" will meet for two days to hear selected briefings on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–2399 Filed 2–2–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 7 & 8 February 1996.

Time of Meeting: 0900–1700, 7 February 1996; 0930–1700, 8 February 1996.

Place: Pentagon—Washington, DC.

Agenda

The Army Science Board (ASB) Ad Hoc Study on "Army Digitization Information Systems Vulnerabilities and Security" will meet for two days to hear selected briefings on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

FR Doc. 96–2398 Filed 2–2–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Notice of Restricted Eligibility Support of Fossil Resource Utilization by Historically Black Colleges and Universities

AGENCY: U.S. Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC).

ACTION: Notice of Restricted Eligibility.

SUMMARY: The Department of Energy announces that it intends to conduct a competitive Program Solicitation and award financial assistance (grants) to U.S. Historically Black Colleges and Universities who can show evidence of a collaborative effort with industry, in support of innovative research and development of advanced concepts pertinent to fossil resource conversion and utilization. Applications will be subjected to a technical merit review by a DOE technical panel, and awards will be made to a limited number of applicants on the basis of the scientific merit of the application, application of relevant program policy factors, and the availability of funds.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Columbia, U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–143, Pittsburgh, PA 15236–0940, Telephone: (412) 892–6219, FAX: (412) 892–6216. The solicitation will be provided on a 3.5", double sided/high density diskette, using Word Perfect 5.1 for DOS, and the solicitation will also be made available on DOE's PETC World Wide Web Server Internet System (http://www.petc.doe.gov/business). If the diskette version of the solicitation is incompatible with the applicant's computer system, or if applicants are unable to access the Internet System, a paper copy of the solicitation will be available, upon receipt of a written request submitted via facsimile (fax) at (412) 892–6216.

SUPPLEMENTARY INFORMATION:

Title of Solicitation

"Support of Fossil Resource Utilization by Historically Black Colleges and Universities"

Objectives

Through Program Solicitation No. DE–PS22–96PC96201, the Department of Energy seeks applications from Historically Black Colleges and Universities (HBCUs) and HBCU-affiliated research institutes in collaboration with the private sector for innovative research and development of advanced concepts pertinent to fossil resource conversion and utilization. The resultant grants are intended to maintain and upgrade educational, training, and research capabilities of our HBCUs in the fields of science and technology related to fossil energy resources; to foster private sector participation, collaboration, and interaction with HBCUs; and to provide for the exchange of technical information and to raise the overall level of HBCU competitiveness with other institutions in the field of fossil energy research and development. Thus, the establishment of linkages between the HBCU and private sector fossil energy community is critical to the success of this program, and consistent with the Nation's goal of ensuring a future supply of fossil fuel scientists and engineers from a previously under-utilized resource.

Eligibility

Eligibility for participation in this Program Solicitation is restricted to Historically Black Colleges and Universities (HBCUs) and HBCU-affiliated research institutes, and only those that meet all of the following criteria may submit applications in response to this solicitation: The Principal Investigator or a Co-Principal Investigator must be a teaching professor at the submitting university listed in the application; and at least one student registered at the university is to be compensated for work performed in the conduct of research proposed in the application; and each HBCU applicant must reflect collaboration with industry, i.e., the private sector. Applications from HBCU-affiliated research institutes must be submitted through the college or university with which they are affiliated. The university (not the university-affiliated research institute) will be the recipient of any resultant DOE grant award. A small or large business enterprise will qualify as a "private" sector entity; however, the following are specifically excluded from recognition as private sector collaborators: Federal, state and/or local government agencies and non-HBCU colleges and universities. Collaboration by the private sector with the HBCU may be in the form of cash cost sharing, consultation, HBCU access to industrial facilities or equipment, experimental data and/or equipment not available at the university, or as a subgrantee/subcontractor to the HBCU.

Areas of Interest

In order to develop and sustain a national program of HBCU research in advanced and fundamental fossil fuels studies, the Department is interested in innovative research and development of advance concepts pertinent to fossil fuel conversion and utilization limited to the following eight (8) technical topics:

Topic 1—Advanced Environmental Control Technology for Coal
Topic 2—Advanced Coal Utilization
Topic 3—Coal Liquefaction Technology
Topic 4—Heavy Oil Upgrading and Processing
Topic 5—Advanced Environmental and Recovery Technologies for Oil
Topic 6—Advanced Environmental and Recovery Technologies for Natural Gas
Topic 7—Environmental Issues Related to Oil and Gas Exploration and the Disappearance of the Wetlands
Topic 8—Faculty/Student Exploratory Grants

Note: This is the only topic (Topic eight (8)) under this Program Solicitation that does not require initial private sector collaboration for an application to be considered for selection.

Awards

DOE anticipates issuing financial assistance (grants) for each project. DOE reserves the right to support or not support any or all applications received in whole or in part, and to determine how many awards may be made through the solicitation subject to funds available in this fiscal year. The limitation on the maximum DOE funding for each selected grant to be awarded under this Program Solicitation is as follows:

	Maximum award
Topics 1–7: To 12 months grant duration	$80,000.00

	Maximum award
13–24 months grant duration	140,000.00
25–60 months grant duration	200,000.00
Topic 8: To 12 months grant duration	10,000.00

Approximately $860,000.00 is planned for this solicitation; however, at the present time, in the absence of a signed approved Appropriations Bill, funds are not yet available. The total should provide support for approximately four to six R&D application selections (Topics 1–7), and approximately two to four facility/student exploratory application selections (Topic 8).

Solicitation Release Date

The Program Solicitation is expected to be ready for release on or about February 7, 1996. Applications must be prepared and submitted in accordance with the instructions and forms contained in the Program Solicitation. To be eligible, applications must be submitted to the designated DOE office by the closing date specified in the Program Solicitation (anticipated to be on or about March 22, 1996).

Dale A. Siciliano,

Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 96–2346 Filed 2–2–96; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted energy information collections to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION: Requests for additional information or copies of the forms and instructions should be directed to Herbert Miller, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Miller may be telephoned at (202) 426–1103; e-mail: hmiller@eia.doe.gov; (FAX 202–426–1081).

SUPPLEMENTARY INFORMATION: The Energy Information Administration (EIA) has submitted the energy information collections listed below to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor; i.e., the DOE component), current OMB document number (if applicable), response obligation (mandatory, voluntary, or required to obtain or retain benefits), and type of request (new, revision, extension, or reinstatement); (3) a description of the need and proposed uses of the information; (4) a description of the likely respondents; and (5) an estimate of the total annual reporting and recordkeeping burden (number of respondents per year times the average number of responses per respondent annually times the average burden per response).

The energy information collections submitted to OMB for review were:

1. Forms EIA–1, 3, 3A, 4, 5, 5A, 6, 7A, and 20, "Coal Program Package"

2. Energy Information Administration; Docket Number 1905—0167; Response Obligation—Mandatory; and Revision—Significant changes in the Coal Program Package since the EIA requested comments earlier this year are: The frequency of the EIA–6 will be reduced from quarterly to annual. Additionally, a supplemental schedule, designated Schedule Q, will collect quarterly data on coal production and stocks from coal-producing companies that produce more than 30,000 short tons annually, and coal stocks from non-producing coal distributors that maintain coal stocks averaging more than 10,000 short tons per quarter. It is anticipated that these revisions to the EIA–6 will reduce respondent reporting burden by 5,900 hours, while maintaining the quarterly coal production and stock data.

3. The Coal Program Package surveys collect data on coal production, consumption, stocks, prices, imports and exports. EIA coal data and analyses are used by Congress, Federal agencies, and State and local governments to reach decisions on national and local policies and a variety of important coal-related issues. These include energy development and use, environmental protection, domestic welfare, and the health of the coal industry. Respondents are manufacturing plants, producers of coke, purchasers and distributors of coal, coal mining operators, and coal-consuming electric utilities.

4. Business or other for-profit; Federal Government, and State, Local, or Tribal Government

5. 12,492 total annual burden hours (6,733 respondents × 1.73 responses per respondent × 1.06 hours per response).

Statutory Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, DC, January 30, 1996.

John Gross,

Acting Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 96–2348 Filed 2–2–96; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP96–154–000]

K N Interstate Gas Transmission Co.; Notice of Request Under Blanket Authorization

January 30, 1996.

Take notice that on January 24, 1996, K N Interstate Gas Transmission Co. (K N Interstate), P.O. Box 281304, Lakewood, Colorado, 80228, filed, in the above docket a request pursuant to Sections 157.205(b) and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205(b) and 157.212), for authorization to install and operate a new delivery tap located in Yuma County, Colorado. The proposed tap will be added as a new delivery point under an existing transportation agreement between K N Interstate and K N Energy, Inc. (K N) and will be used by K N to provide natural gas to a new rural distribution lateral which will be used to provide natural gas service to new direct retail customers, all as more fully set for in the application which is on file with the Commission and open to public inspection.

Specifically, K N Interstate indicates that K N, as a local distribution company, has requested the addition of a new delivery point under its existing transportation service agreement with K N Interstate. This proposed delivery point would be located on K N Interstate's main transportation system in the northwest quarter of Section 32 or the northeast quarter of Section 31, Township 2 North, Range 47 West in Yuma County, Colorado. The exact location has not yet been determined and is dependent upon the acquisition of right-of-way for the tap site. The proposed delivery point will facilitate the delivery of natural gas by K N Interstate to K N for sale to new direct retail customers located along a new rural distribution lateral to be constructed by K N.

K N Interstate further indicates that the quantities of gas to be delivered through this proposed point will be approximately 3,400 Mcf on a peak day and 105 MMcf annually. K N Interstate states that (1) the volumes of gas which will be delivered at this proposed delivery point will be within the current maximum transportation quantities set forth in its transportation service agreement with K N; (2) the addition of the proposed delivery point is not prohibited by its existing FERC Gas Tariff; and (3) the addition of the proposed delivery point will not have any adverse impact, on a daily or annual basis, upon its existing customers.

The cost of the facilities installed by K N Interstate will be reimbursed by K N.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2305 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–159–000]

Shell Gas Pipeline Company; Notice of Application

January 30, 1996.

Take notice that on January 29, 1996, Shell Gas Pipeline Company (Shell), 200 North Dairy Ashford, Houston, Texas 77079, filed an application with the Commission in Docket No. CP96–159–000 pursuant to Section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate a natural gas pipeline and appurtenant facilities, offshore Louisiana, and for a blanket transportation certificate pursuant to Part 284 of the Commission's Regulations, all as more fully set forth in the application which is open to the public for inspection.

Shell proposes to construct and operate approximately 45 miles of 30-inch diameter pipe and related facilities which would deliver natural gas from a West Delta Block 143 to the Venice Gas Processing Plant in Plaquemines Parish, Louisiana. Shell states that the gas and condensate would be separated at Venice, where the gas would then be delivered either as processed or unprocessed gas to one or more interstate pipelines downstream of the Venice Plant. Shell also states that the proposed facilities would cost approximately $75,000,000 to construct.

Shell asserts that it has filed the instant proposal under protest and requests that the Commission affirm that neither issuance of the requested certificate nor the operations described in the proposal would subject any of Shell's other facilities or operations to the Commission's jurisdiction under the NGA. Shell also asserts that it has requested authorization conditioned upon the ultimate resolution of Shell's petition for a declaratory order in Docket No. CP96–9–000, wherein Shell has requested that the proposed pipeline be declared a nonjurisdictional gathering line.[1]

Any person desiring to be heard or to make any protest with reference to said application should on or before February 6, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Shell to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2306 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

[1] This application does not cover the pipeline facilities extending from the Mars Field to West Delta Block 143 and the related interconnection facilities with Texas Eastern Transmission Corporation at West Delta Block 143 because those facilities were previously determined to be nonjurisdictional gathering facilities. [*Shell Gas Pipeline Co.*, 69 FERC ¶61,271 (1994)]

Notice of Amendment of License

January 30, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application: Amendment of License.*

b. *Project No.:* 2114–044, 045.

c. *Date Filed:* January 11, 1996.

d. *Applicant:* Public Utility District No. 2 of Grant, County, Washington.

e. *Name of Project:* Priest Rapids Project.

f. *Location:* On the Columbia River in Grant County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. Don Godard, Public Utility District No. 2 of Grant County, P.O. Box 878, Ephrata, WA 98823, (509) 754–3451.

i. *FERC Contact:* Timonthy Welch, (202) 219–2666.

j. *Comment Date:* February 26, 1996.

k. *Description of Amendment:* Grant County Public Utility District No. 2 (Licensee) requests authorization to modify and test an attraction flow prototype designed to facilitate downstream fish passage at the Wanapum Development. Currently, the prototype consists of a rectangular steel channel placed in the forebay and attached to the dam in front of Units 7; 8, 9 and a portion of Unit 10. The licensee wishes to extend the channel another 300 feet in front of Units 4, 5, and 6. The licensee also proposes to construct an overflow gate at spillway 12 for the development of a method of passing fish through the spillway that more effectively uses water. The overflow gate would be a bulkhead type steel structure approximately 57 feet wide by 79 feet tall. Finally, the licensee wishes to construct a deflector at spillway 2 for the development of such a device to reduce the level of dissolved gasses in the spilled water. The deflector would consist of a triangular structural steel section with concrete ballast, 32 feet below the spillway crest. The deflector's horizontal surface would be approximately 12 feet and would run the full width of the spillway slot, approximately 50 feet.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2307 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Efficiency and Renewable Energy

[Case No. F–082]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Consolidated Industries

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–082) granting a Waiver to Consolidated Industries (Consolidated) from the existing Department of Energy (DOE or Department) test procedure for furnaces. The Department is granting Consolidated's Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its USA and UCA series furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–9138

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–9507

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Consolidated has been granted a Waiver for its USA and UCA series furnaces permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on January 30, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

DECISION AND ORDER

In The Matter of: Consolidated Industries. (Case No. F–082)

BACKGROUND

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94–163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Consolidated filed a "Petition for Waiver," dated April 26, 1995, in accordance with section 430.27 of 10 CFR Part 430. The Department published in the **Federal Register** on November 22, 1995, Consolidated's Petition and solicited comments, data and information respecting the Petition. 60 FR 57854, November 22, 1995. Consolidated also filed an "Application for Interim Waiver" under section 430.27(b)(2), which DOE granted on November 13, 1995. 60 FR 57854, November 22, 1995.

No comments were received concerning either the "Petition for Waiver" or the "Application for Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Consolidated Petition. The FTC did not have any objections to the issuance of the waiver to Consolidated.

Assertions and Determinations

Consolidated's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Consolidated requests the allowance to test using a 30-second blower time delay when testing its USA and UCA series furnaces. Consolidated states that since the 30-second delay is indicative of how these models actually operate, and since such a delay results in an average furnace AFUE improvement of 1.0 percent, the Petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Consolidated indicates that it is unable to take advantage of any of these exceptions for its USA and UCA series furnaces.

Since the blower controls incorporated on the Consolidated furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current test procedure provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Consolidated USA and UCA series furnaces. Accordingly, with regard to testing the USA and UCA series furnaces, today's Decision and Order exempts Consolidated from the existing test procedure provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered That:

(1) The "Petition for Waiver" filed by Consolidated Industries. (Case No. F–082) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR Part 430, Subpart B, Consolidated Industries, shall be permitted to test its USA and UCA series furnaces on the basis of the test procedure specified in 10 CFR Part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Consolidated Industries shall comply in all respects with the test procedures specified in Appendix N of 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the USA and UCA series furnaces manufactured by Consolidated Industries.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition is incorrect.

(5) Effective 1/30/96, this Waiver supersedes the Interim Waiver granted Consolidated Industries on November 13, 1995. 60 FR 57854, November 22, 1995 (Case No. F–082).

Issued In Washington, DC, on January 30, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 96–2349 Filed 2–2–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

High Energy Physics Advisory Panel; Notice of Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is given of a meeting of the High Energy Physics Advisory Panel.

DATES: Tuesday, February 27, 1996; 9 a.m. to 6 p.m.; and Wednesday, February 28, 1996; 9 a.m.–4 p.m.

ADDRESSES: Radisson Barcelo Hotel, 2121 P Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221, GTN, Germantown, Maryland 20874, Telephone: (301) 903–4829.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda:

Tuesday, February 27, 1996 and Wednesday, February 28, 1996:

Discussion of Department of Energy High Energy Physics Programs and FY 1997 Presidential Budget Request

Discussion of National Science Foundation Elementary Particle Physics Programs and FY 1997 Presidential Budget Request

Presentation of Report on Composite Subpanel for the Assessment of the Status of Accelerator Physics and Technology

Discussion of Status of Large Hadron Collider Project and U.S. Participation
Discussion of Technology R&D Program
Discussion of University-based High Energy Physics Programs
Reports on and Discussions of Topics of General Interest in High Energy Physics
Public Comment (10 minute rule)

Public Participation: The two-day meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 29, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–2347 Filed 2–2 –96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP90–137–027]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

January ?4, 1996.

Take notice that on September 15, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Commission, under protest, its Refund Report made in compliance with Ordering Paragraph (C) of the Commission's "Order on Technical Conference" issued August 2, 1995 in the above-referenced docket.

Williston Basin states that on September 1, 1995, a total refund of $391,628.19 was sent to Western Gas Resources, Inc. (Western) for the take-or-pay volumetric surcharge amounts previously collected through transportation rates charged for the gas placed in storage in accordance with a Rate Schedule S–2 Service Agreement between Williston Basin and Chevron U.S.A. Inc. with Western acting as its agent. This refund, for the period January 1, 1991 through September 1, 1995, also includes interest in accordance with Section 154.67(c) of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed on or before January 31, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2445 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–137–029]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

January 24, 1996.

Take notice that on January 5, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Commission, under protest, its Refund Report made in compliance with ordering Paragraph (D) of the Commission's "Order Denying Rehearing, Granting Requests for Exemptions and Ordering Refunds" issued December 6, 1995 in Docket Nos. RP90–137–020, RP90–137–021, RP90–137–022, RP90–137–023, RP90–137–025 and RP90–137–026.

Williston Basin states that on December 22, 1995, refunds were sent to applicable shippers for the take-or-pay volumetric surcharge amounts previously collected through transportation rates charged for the gas placed in storage in accordance with Rate Schedule S–2 Service Agreements between Williston Basin and such applicable shippers. These refunds, for the period November 1, 1990 through August 31, 1995, also include interest through December 22, 1995, in accordance with Section 154.501 of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 31, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2446 Filed 2–2–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5417–1]

Agency Information Collection Activities Under OMB Review; Information Requirements for Petitions To Modify the List of Regulated Substances Under Section 112(r) of the Clean Air Act, as Amended (EPA # 1606.02)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) for "Information Requirements for Petitions to Modify the List of Regulated Substances Under Section 112(r) of the Clean Air Act, as Amended" described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 6, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1606.02.

SUPPLEMENTARY INFORMATION:

Title: Information Requirements for Petitions to Modify the List of Regulated Substances Under Section 112(r) of the Clean Air Act, as Amended (OMB Control No. 2050–0127; EPA ICR No. 1606.02). This is a request for extension of a currently approved collection.

Abstract: This information collection addresses the requirements for submitting petitions to modify the list of regulated substances under section 112(r) of the CAA. CAA section 112(r) requires EPA to promulgate a list of a least 100 substances ("regulated substances") that are known to cause, or may be reasonable anticipated to cause, death, injury, or serious adverse effects to human health or the environment. EPA is also required to set threshold quantities for each list substance. The list and threshold quantities will determine the need for owners and operators of facilities to comply with subsequent regulations addressing the prevention and detection of accidental releases. The act also requires the Agency to develop procedures for the addition and deletion of substances from the list. Accordingly, EPA has published a list of regulated substances and threshold quantities and also the requirements for the petition process that will be use to add or delete chemicals from the final list.

The listing rule requires the petitioner to submit information in support of a petition to modify the list of regulated substances. The petitioner must provide EPA with sufficient information to specifically support the request to add or delete a substance from the list of regulated substances. The Agency will use this information in making the decision to grant or deny a petition. The information collection addresses the burden of collecting and submitting supporting information in accordance with EPA's proposed petition process. Information will be collected on a voluntary basis, and all the information collected requesting modification of the substance listings will be stored in a docket created for that purpose.

This information collection is authorized under CAA section 112(r), 42 U.S.C. 7412(r). CAA section 112(r)(3) states, in relevant part, "The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b)." The information collected during the petition process will provide the primary basis for EPA to determine if it is appropriate to add or delete the substance from the list. To be consistent with the petition process under CAA section 112(b), EPA is required to consider and respond to petitions to modify the list of regulated substances for accidental release prevention within 18 months of submission of the petition; complete data supporting the petition are necessary to allow EPA to complete its review within that time period. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 9/29/95 (60 FR 50574).

Burden Statement: The annual public reporting and recordkeeping burde for this collection of information is estimated to average 138 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Voluntary.

Estimated Number of Respondents: 11/year.

Frequency of Response: Voluntary/ Once per petition.

Estimated Total Annual Hour Burden: 1,518 hours.

Estimated Total Annualized Cost Burden: $67,624.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1606.02 and OMB Control No. 2050-0127 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: January 29, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–2355 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5417–2]

Proposed Settlement Agreement, Clean Air Act Petition for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), notice is hereby given of a proposed settlement agreement in the following cases: *National Tank Truck Carriers, Inc.* versus *U.S. Environmental Protection Agency,* No. 94–1323 (D.C. Cir.). This petition for review was filed under § 307(b) of the Act, 42 U.S.C. 7607(b), contesting various aspects of the regulations issued by EPA on December 15, 1993 for reformulated and conventional gasoline.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed agreement if the comments disclose facts or circumstances that indicate that such agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

A copy of the proposed settlement agreement is available from Phyllis J. Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7606. Written comments should be sent to Susmita Dubey, Esq. at the above address and must be submitted on or before March 6, 1996.

Dated: January 30, 1996.

Scott Fulton,

Principal Deputy General Counsel.

[FR Doc. 96–2352 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5412–4]

The Pribilof Seafood Processors General NPDES Permit (General NPDES Permit No. AK–G52–P000)

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Notice of Final General NPDES Permit.

SUMMARY: The Director, Office of Water, EPA Region 10, is issuing General National Pollutant Discharge Elimination System (NPDES) permit no.

AK-G52–P000 for seafood processors discharging within three nautical miles of the Pribilof Islands, Alaska, pursuant to the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq. The final Pribilof seafood processors general NPDES permit authorizes discharges from facilities discharging through stationary outfalls on St. Paul and St. George Islands, and from mobile vessel discharging within the three nautical mile coastal zone of the Pribilof Islands. These facilities are engaged in the process of fresh, frozen canned, smoked, salted and pickled seafoods. Discharges authorized by the proposed permit include seafood processing wastes, process disinfectants, sanitary wastewater and other wastewaters, including domestic wastewater, cooling water, gray water (vessels only) freshwater pressure relief water, refrigeration condensate, water used to transfer seafood to a facility, and live tank water. The permit will authorize discharges to waters of the United States in and contiguous to the State of Alaska within three nautical miles of the Pribilof Islands.

The permit does not authorize the discharge of processing wastes and wastewaters from the production of surimi or fish paste that is washed repeatedly in water then pressed to remove residual water or the processing of finfish wastes into fish or bone meal. The permit does not authorize discharges of petroleum hydrocarbons, toxic pollutants, or other pollutants not specified in the permit. The permit does not authorize discharges to waters with poor flushing or areas of special concern. The areas of special concern include: within three nautical miles of Walrus Island year-round, a designated rookery and critical habitat of the Steller sea lion; within one-half nautical mile of land owned and managed by the U.S. Fish and Wildlife Service (USFWS) for the protection of birds and bird nesting areas during the period May 1 through September 30; within one-half nautical mile of land owned and managed by the National Marine Fisheries Service (NMFS) for the protection of the northern fur seal rookeries and haulout areas during the period May 1 through December 1; and within one-half nautical mile of designated Steller sea lion haulouts areas year-round (Seal Lion Rock and Northeast Point on St. Paul and Dalnoi Point and South Rookery on St. George; and within one-half nautical mile of the Alaska Maritime National Wildlife Refuge, Bering Sea Unit.

This final Pribilof seafood processors general NPDES permit is an "interim " period for two years to provide time to collect field data and conduct an effluent monitoring program to determine the impact of seafood processing wastes on the marine environment. EPA has determined that, on the basis of available information, there will be no unreasonable degradation during the two year interim period. Facilities authorized to discharge under this final permit will participate in the data collection and monitoring program as well as being required to comply with all conditions of the permit.

Notice of the draft Pribilof seafood processors general NPDES permit was published October 10, 1995 in the **Federal Register** [60 FR 52677] and the Anchorage Daily News and the Dutch Harbor Fisherman.

The final permit is printed below and establishes effluent limitations, standards, prohibitions, monitoring requirements and other conditions on discharges from seafood processors in the area of coverage. The conditions are based on material contained in the administrative record, including an ocean discharge criteria evaluation, an environmental assessment, a finding of no significant impact, and a biological evaluation of potential effects on threatened and endangered species. Changes made in response to public comments are addressed in full in a document entitled "Responses to Public Comments on the Proposed Issuance of the Pribilof Seafood Processors General NPDES Permit." This document is being sent to all commenters, current permittees and applicants and is available to other parties from the address below upon request.

ADDRESSES: Unless otherwise noted in the permit, correspondence regarding this permit should be sent to Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Florence Carroll of EPA Region 10, at the address listed above or telephone (206) 553–1760. Copies of the final Pribilof Seafood Processors General NPDES Permit will be provided upon request to the Region 10 Public Information Center at (206) 552–1200 or 1–800–424–4372 (available only from the states of Oregon, Washington, Idaho, and Alaska).

SUPPLEMENTARY INFORMATION: EPA issues this Pribilof seafood processors general NPDES permit pursuant to its authority under Sections 301(b), 304, 306, 307, 308, 401, 403 and 501 of the Clean Water Act. The fact sheet for the draft permit, the response to comments document, the ocean discharge criteria evaluation, the biological evaluation, the environmental assess, the 401 certification issued by the State of Alaska, and the coastal zone management plan consistency determination issued by the State of Alaska set forth the principal facts and the significant factual, legal and policy questions considered in the development of the terms and conditions of the final permit presented below.

The state of Alaska, Department of Environmental Conservation, has issued a Certificate of Reasonable Assurance that the subject discharges comply with the Alaska State Water Quality Standards.

The State of Alaska, Office of Management and Budget, Division of Governmental Coordination, has certified that the Pribilof seafood processors general NPDES permit is consistent with the approved Alaska Coastal Management Program.

Changes have been made from draft permit to the final permit in response to public comments received on the draft permit and the final coastal management plan consistency determination from the State of Alaska.

The following identifies several specific areas of change, among others, which have been embodied in the final permit: applicants for new shore-based facilities may apply for a waiver to discharge within the one-half mile exclusion zone during the period of May 1 through December 1; the limit of production to 1995 levels was changed to Notice of Intent projection production levels; the four-hour restriction on processing within the exclusion zone was changed to allowing mobile vessels to enter the exclusion zone during the period of May 1 through December 1 only for safety reasons and to make all efforts to avoid any discharges of any pollutants while in the exclusion zone; permittees may participate in joint monitoring programs as appropriate; and include video or photographic documentation of seafloor, sea surface and shoreline monitoring.

Appeal of Permit

Within 120 days following this service of notice of EPA's final permit decision under 40 CFR 124.15, any interested person may appeal the Pribilof seafood processors general NPDES in the Federal Court of Appeals in accordance with Section 509(b)(1) of the Clean Water Act. Persons affected by a general NPDES permit may not challenge the conditions of the permit as a right of further EPA proceedings. Instead, they may either challenge this permit in court or apply for an individual NPDES permit and then request a formal hearing on the issuance or denial of an individual permit.

Dated: January 23, 1996.

Philip G. Millam,

Acting Director, Office of Water.

Authorizations To Discharge Under the National Pollutant Discharge Elimination System for Seafood Processors Within Three Nautical Miles of the Pribilof Islands

[General Permit No. AK–G52–P000]

In compliance with the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq. (hereafter, CWA or the Act), the owners and operators of seafood processing facilities engaged in the processing of seafood, both mobile vessels and shore-based facilities are authorized to discharge seafood processing wastes and other designated wastewaters within three nautical miles of St. Paul and St. George Islands, in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

Upon the effective date of this Permit, it is the controlling document for regulation of seafood processing wastes and other designated wastewaters discharged within three nautical miles of the Pribilof Islands. The General NPDES Permit for Seafood Processors in Alaska (AK-G52–0000) which became effective August 4, 1995, is the controlling document for applicable waste discharges to waters of the United States which surround Alaska and are further than three nautical miles from the Pribilof Islands. The former administratively continued general permit which expired on October 31, 1994, is no longer valid for facilities discharging within three nautical miles of the Pribilof Islands as of the effective date of this general permit and receipt of authorization to discharge.

A copy of this General Permit must be kept at the Plant or on the vessel where discharges occur.

This permit becomes effective 30 days after issuance.

This permit and the authorization to discharge shall expire at midnight two years from the effective date of the permit.

Signed this 23rd day of January, 1996.

Philip G. Millam,

Acting Director, Office of Water, Region 10, U.S. Environmental Protection Agency.

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1.0. Basis for Issuing This Permit

1.1. Ocean Discharge Criteria

The Ocean Discharge Criteria establishes guidelines for issuance of NPDES permits for the discharge of pollutants from a point source into the territorial seas, the contiguous zone, and the oceans (40 CFR 125 Subpart M).

EPA must determine whether a discharge will cause unreasonable degradation of the marine environment based on various considerations including bioaccumulation or persistence of pollutants to be discharged; the potential transport of such pollutants by biological, physical, or chemical processes; the composition and vulnerability of the biological communities which may be exposed to such pollutants; the importance of the receiving water area to the surrounding biological community; the existence of special aquatic sites * * * any. applicable requirements of an approved Coastal Zone Management plan. * * *

1.2. Permit Issuance.

If EPA has insufficient information to determine prior to permit issuance that there will be no unreasonable degradation of the marine environment, there shall be no discharge of pollutants to the marine environment unless, on the basis of available information, EPA determines that:

Such discharge will not cause irreparable harm to the marine environment during the period in which monitoring is undertaken, and

There are no reasonable alternatives to on-site disposal of materials, and

The discharge will be in compliance with all permit conditions.

In addition, all permits which authorize the discharge of pollutants into the marine environment shall:

Require that a discharge of pollutants will be in compliance at the edge of any mixing zone and not exceed the Ocean Dumping Criteria;

Specify a monitoring program which is sufficient to assess the impact of the discharge on water, sediment and biological quality;

Contain any other conditions including bioaccumulation tests, seasonal discharge, process modification, or dispersion of pollutants.

1.3. Issuance of this Permit

EPA has determined that this Permit can be issued based on the available information that there will be no unreasonable degradation of the marine environment. The monitoring program, including sea floor, sea surface and shoreline, and effluent sampling in this

Permit will allow for data to be gathered and the Permit conditions will protect the marine environment during the two years this Permit will be in effect.

1.4. Special Condition for Modifying or Revoking this Permit

This Permit shall be modified or revoked at any time if, on the basis of any new data, EPA determines that continued discharges may cause unreasonable degradation of the marine environment.

2.0. Authorized Facilities, Authorized Discharges, and Excluded Areas

2.1. Authorized Facilities

The following facilities, upon receipt and approval of complete and timely NOIs, are authorized to discharge under this general permit:

.2.1.1. Shore-based. Owners and operators of the seafood processing facilities including moored floating or mobile barges that currently discharge through stationary outfalls on St. Paul and St. George Islands, provided they comply with the requirements of Section 7.2 and all other applicable conditions of this Permit.

2.1.2. Vessels. Owners and operators of mobile seafood processing vessels that operate within three nautical miles of St. Paul, St. George, or Otter Islands (*see* Section 2.4.2.1 for restrictions around Walrus Island), provided they comply with all applicable conditions of this Permit.

2.2. Authorized Discharges

This Permit authorizes the discharge of the following pollutants subject to the limitations and conditions set forth herein:

2.2.1. Seafood processing wastes, except wastes from the production of surimi and/or fish paste that is washed repeatedly in water then pressed to remove residual water or the processing of seafood wastes into fish or bone meal;

2.2.2. Process disinfectants:

2.2.3. Sanitary wastewaters: and

2.2.4. Other wastewaters, including domestic wastewater, cooling water, boiler water, gray water (vessels only), freshwater pressure relief water, refrigeration condensate, water used to transfer seafood to the facility, and live tank water.

2.3. Unauthorized Discharges

The discharges of wastes and pollutants not specifically set out above are not authorized under this Permit.

2.4. Excluded Areas

This Permit does not authorize the discharge of pollutants in the following circumstances and areas:

2.4.1. Poor Flushing. Areas that are likely to have poor flushing (*see* definition in Section 11), including, but not limited, to sheltered water bodies such as bays, harbors, inlets, coves, and lagoons.

2.4.2. Areas of Special Concern. These areas include rookeries, haulout areas and designated critical habitat, including, but not limited to, the following:

2.4.2.1. Within three nautical miles of Walrus Island, a designated rookery and critical habitat of the Steller sea lion;

2.4.2.2. Within one-half nautical mile of the following:

- land owned and managed by the U.S. Fish & Wildlife Service (USFWS) for the protection of birds and bird nesting areas during the period May 1 through September 30;
- land owned and managed by the National Marine Fisheries Service (NMFS)) for the protection of the northern fur seal rookeries and haulout areas during the period May 1 through December 1; and
- designated Steller sea lion haulout areas year-round (Sea Lion Rock and Northeast Point on St. Paul and Dalnoi Point and South Rookery on St. George); and the
- Alaska Maritime National Wildlife Refuge, Bering Sea Unit.

3.0. Application to be Covered Under This General NPDES Permit

In order to be authorized to discharge any of the pollutants set out in Section 2.2 to waters of the St. Paul and St. George coastal zones under this general permit, seafood processors must apply for coverage. This general NPDES permit does not authorize any discharges from facilities that have not applied for and received authorization to discharge within three nautical miles of St. Paul and St. George Islands.

3.1. Submittal of a Notice of Intent

An applicant wishing authorization to discharge under this Permit shall submit a timely and complete Notice of Intent (NOI) to EPA and ADEC in accordance with the requirements listed below. A qualified applicant will be authorized to discharge under this Permit upon written notification from EPA and the returned receipt of the signed U.S. Postal Certified Mail card. EPA's written notification will include assignment of an NPDES permit number designating coverage under the Pribilof Seafood General Permit.

Coverage under the Alaska Seafood General Permit No. AK–G52–0000, effective August 4, 1995, does not extend to operations and discharges within three nautical miles of the Pribilof Islands.

In compliance with the Paperwork Reduction Act, 44 U.S.C. § 1501 et. seq., the Office of Management and Budget has approved the information in a Notice of Intent for permit application (OMB 2040–008).

3.1.1. Timely NOI. Permittees previously permitted under the Seafood General Permit AK–G52–0000 must submit a timely and complete NOI for coverage under the Pribilof Seafood General Permit within 30 days after the issuance date of this Permit.

3.1.2. New Applicant. A new applicant must submit an NOI at least 60 days prior to commencement of operating and discharging within the coastal zones of St. Paul and St. George Islands. (See also Section 7.4.)

3.1.3. NOI Update. A permittee authorized to discharge under this Permit shall submit to EPA and ADEC an updated NOI when there is any material change in the information submitted in the original NOI including a proposed increase in the amount of production, additional species of seafood to be processed, and additional types of finished product. Any changes to the original NOI requires a 60 day prior notice period to EPA and ADEC. After consultation with ADEC and the Coastal Zone Management Program EPA will notify the permittee of approval or disapproval.

3.1.4. Individual Permit Requirement. EPA may require any discharger applying for coverage under this general NPDES permit to apply for and obtain an individual NPDES permit in accordance with the 40 CFR 122.28(b)(3).

3.1.5. Submittal. An applicant shall submit the NOI to:

U.S. Environmental Protection Agency, Region 10, NPDES Compliance Unit OW–135, 1200 Sixth Avenue, Seattle, Washington 98101, and

Alaska Department of Environmental Conservation,Attn: Water Permits,555 Cordova Street,Anchorage, Alaska 99501

3.2. Information to be Submitted in the Notice of Intent

3.2.1. Previous NPDES Number. The NOI shall include any previous NPDES number(s) assigned to the facility or vessel and the ADEC seafood processor license number.

3.2.2. Owner Information. The NOI shall include the name and the complete address and telephone number of the owner of the facility or vessel and the name of its duly authorized representative. If a FAX machine is available at this address, it is useful to provide a FAX number.

3.2.3. Managing Company. The NOI shall include the name and the complete address and telephone number of the managing company of the facility or vessel and the name of its duly authorized representative. If a FAX machine is available at this address, it is useful to provide a FAX number.

3.2.4. Facility or Vessel Information. The NOI shall include the name, address, and telephone number of the facility or vessel. If the name of the facility or vessel has changed during the last five years, the NOI shall include the previous name(s) of the facility and the date(s) of these changes. If a FAX machine is available at this address, it is useful to provide a FAX number.

3.2.4.1. For a shore-based facility, the NOI shall include a description of the physical location of the facility, the location of the outfall terminus using the Global Positioning System (GPS), and the length of the outfall from shoreline to terminus.

3.2.4.2. For a mobile facility, the NOI shall include the U.S. Coast Guard (USCG) vessel number, the type, length and date of purchase of the vessel.

3.2.4.3. The NOI shall include and estimate of the number of seasonal and annual employees of the facility or on the vessel.

3.2.5. Projected Production. The NOI shall include projected production data based upon historical operations and design capacity on a daily and annual basis. Production data includes an identification of the process applied to the product, the name and quantity of the raw product(s) by species, the type of the finished product(s), the amount of the finished product(s), and the maximum quantity of each raw product which can be processed in a 24-hour day. The NOI shall also include the projected number of operating days by month for the facility or vessel.

3.2.6. Discharge Information. The NOI shall include information concerning all the discharges from the facility or vessel.

3.2.6.1. The NOI shall identify the type and capacity (by gallons) of the sanitary wastewater treatment system (other than a municipal system) on site or on the vessel.

3.2.6.2. The NOI shall include a list of the number, type, waste solids weights, and wastewater volumes of each discharge and the maximum quantity of process wastes which can be produced in a 24-hour day.

3.2.6.3. The NOI shall include specific information on type and amounts of process disinfectants, domestic wastewater cooling water, boiler water, refrigeration condensate, transfer water, gray water, live tank water, and freshwater pressure relief water.

3.2.7. Signatory Requirement. All NOIs shall be signed by a principal corporate officer or duly appointed representative according to Section 10.5.

4.0. Effluent Requirements

4.1. Seafood Wastes and Wastewater Limitations

4.1.1. Amount of Seafood Waste Discharged. The volume or weight of seafood process wastes discharged on a daily or annual basis shall not exceed the amount reported in the Notice of Intent to be Covered under this Permit.

4.1.2. Treatment and Limitation of Seafood Wastes. All seafood process wastes shall be routed through a waste-handling system which prevents the discharge of waste solids of greater than one-half (0.5) inch in any dimension.

4.1.2.1. Incidental discharges from scuppers or floor drains must be routed through the waste-handling system or screened to 0.5 inch in any dimension.

4.1.2.2. Each permittee shall conduct a daily visual inspection of the waste-handling system, including a close observation of the sump or other place of observation for, and removal of, gloves, earplugs, rubber bands, or other equipment used in processing seafood that may be discharged through the outfall. Discharge of such items is prohibited. Logs of this daily inspection are to be kept at the facility or on board the vessel. Summaries of positive reports shall be submitted with the quarterly report.

4.1.2.3. There shall be no discharge of oily water or oily wastes that may or may not produce a sheen on the water surface, grease, foam, or floating solids.

4.1.2.4. No wastes shall accumulate on the shoreline nor float on the receiving water surface.

4.2. Sanitary Wastes

All sanitary wastes shall be routed through a sanitary waste treatment system. Sanitary wastes must be either:

4.2.1. Discharged to a shore-based septic system or a municipal wastewater treatment system, provided that the system is designed and capable of properly treating and handling the type and volume of sanitary wastes generated by seafood processing operations; or

4.2.2. If a USCG-licensed vessel, routed through a sanitary waste system that meets the applicable Coast Guard pollution control standards then in effect [33 CFR 159: "Marine sanitary devices"] and discharged in accordance with Coast Guard regulations. Malfunctioning and undersized systems are prohibited.

4.3. Other Wastewaters

There shall be no discharge of any other such wastewaters that contain foam, floating solids, grease, or oily wastes which may or may not produce a sheen on the water surface, no wastes which deposit residues which accumulate on the shoreline or seafloor. Wastewaters that have not had contact with seafood processing wastes are not required to be discharged through the seafood processing waste-handling system. However, all discharges of transfer water, refrigerated sea water, and live tank water shall be discharged below the surface of any receiving waters.

4.4. State Water Quality Standards

Discharges shall not violate Alaska Water Quality Standards [18 ACC Part 70] including, but not limited to, floating or suspended residues, dissolved oxygen, oil and grease, fecal coliform, pH, temperature, color, turbidity, and total residual chlorine.

4.5. Vessel Wastes

Vessels must comply with 33 CFR 151 ("Vessels carrying oil, noxious liquid substances, garbage, municipal or commercial wastes, and ballast water").

4.6. Discharge Pipe Location and Condition

4.6.1. Process wastes from shore-based facilities or vessels discharging through stationary outfalls shall be discharged at least twenty (20) feet at MLLW below the sea surface.

4.6.2. Process wastes from mobile vessels shall be discharged at least three (3) feet below the sea surface at MLLW (except for mobile vessels that have through-the-hull discharge points).

4.6.3. There shall be no discharge if the outfall line is severed, fails, leaks, or is displaced from designed specifications or location.

5.0. Monitoring

5.1. Reporting

5.1.2. Purpose. Discharges shall be monitored to the extent necessary to develop and submit timely and accurate quarterly reports. (*See* Section 6.1.)

5.2. Seafloor Monitoring

5.2.1. Purpose. The seafloor monitoring program is to determine compliance with the Alaska water quality standards for settleable residues in marine waters. Alaska Administrative Code Part 18—70.020 states that "(settleable residues) shall not * * * cause a sludge, solids, or emulsion to be deposited * * * on the bottom."

5.2.2. Objective. The seafloor monitoring program shall determine the

areal extent (in square feet) of the continuous deposit of sludge, solids, or emulsion from seafood processing wastes on the seafloor bottom that persists through a year.

5.2.3. Applicability. All permittees covered under this Permit shall participate in a seafloor survey at least once during the period this Permit is in effect.

5.2.4. Method. The seafloor survey shall include the following elements:

5.2.4.1. Areal extent in square feet of any accumulation of seafood wastes;

5.2.4.2. Description of the size of particles making up the waste pile, the percentage of particles exceeding 0.5 inch in any dimension, and kind of wastes;

5.2.4.3. Description of the methodology used by the surveyor including transects and location devices;

5.2.4.4. Description of marine fauna and flora near the survey area;

5.2.4.5. Dates, time, tidal movements, weather conditions, name and signature of surveyor, name of company, the name of the mobile vessel, and NPDES permit number(s); and

5.2.4.6. Video and/or other photographic documentation of any findings.

5.2.5. Stationary Outfalls. Shore-based facilities or vessels discharging through stationary outfalls shall conduct an annual survey after April 1 but no later than May 15.

5.2.6. Mobile Vessels. Within 18 months from the effective date of this Permit, mobile vessels that have anchored and operated in the following areas shall conduct a survey after April 1 but no later than May 15:

5.2.6.1. The survey shall include the following areas on St. Paul: approximately 0.5 nautical mile from shoreline of Lukanin Bay from Stony Point to Reef Point, Zolotoi Bay, Village Cove, English Bay from Tolstoi Point to Zapadni Point, and southwestward on the northern side of Northeast Point. Identification of where mobile vessels have been anchored for processing shall be done during the survey design to focus on the specific areas of discharge.

5.2.6.2. This requirement for mobile vessels to conduct a seafloor survey may be satisfied by arranging with others to participate in a joint survey.

5.2.6.3. If no wastes have accumulated in the designated survey areas (*see* Section 5.2.6.1), EPA in consultation with ADEC and the Coastal Zone Management Program may consider whether subsequent surveys by the mobile vessels will be necessary.

5.2.7. Submittal. The seafloor survey report signed by the diver and company representative shall be submitted 30 days following the completion of the survey but no later than June 30 of each year.

5.3. Sea Surface and Shoreline Monitoring

5.3.1. Purpose. The sea surface and shoreline monitoring program is to determine compliance with the Alaska water quality standards for floating residues in marine waters. Alaska Administrative Code Part 18—70.020 states that "(floating solids, debris, foam and scum) shall not * * * cause a film, sheen, or discoloration on the surface of the water * * * or cause a sludge, solid or emulsion to be deposited * * * upon adjoining shorelines.

5.3.2. Objective. The sea surface and shoreline monitoring program is to provide daily assessment during periods of operation and discharge: for the sea surface monitoring an estimate of the areal extent of continuous films, sheens, or persistent mats of foam; for the shoreline an estimate of the areal extent of deposits of seafood waste solids on the adjacent shore.

5.3.3. Applicability. All permittees covered under this Permit shall participate in a sea surface and shoreline monitoring program during all periods of operation and discharge.

5.3.3.1. Shore-based facilities shall include the harbor areas that are adjacent to their facilities as well as observations of the shorelines nearest to outfall location.

5.3.3.2. Mobile vessels shall conduct sea surface monitoring around and adjacent to their individual vessels.

5.3.3.3. Shore-based facilities and mobile vessels may participate in a joint survey of appropriate shoreline areas adjacent to where mobile vessels are anchored.

5.3.4. Method. This monitoring program shall include a description of the observation method and equipment used, the name of the surveyor, and points of observation. The report of positive observations shall include the date and time of observation, an estimate of the area of scum, sheen, film or foam on the sea surface, and/or the area of sludge, solids, emulsion or scum deposited on the shoreline. Photographs, video, or other visual documentation of positive observations are required.

5.3.5. Submittal. The report of any positive observations shall be submitted to EPA and ADEC with the quarterly report described in Section 6 and also reported as noncompliance according to Section 8.3.

5.3.6. Waiver. Individual monitoring days may be waived upon notification by FAX to EPA and ADEC (*see* Section 6.4 below) due to conditions (e.g., weather or sea conditions) which make this monitoring hazardous to human health and safety.

6.0. Quarterly Reporting Requirements

6.1. Schedule

Reporting shall be on a calendar quarter basis; reports are due by the end of the month following any quarter processing occurs in the Pribilof Islands (e.g., January–March report due no later than the 30th of April).

6.1.1. No Processing. Permittee shall notify EPA and ADEC when no processing occurs during any quarter in the Pribilof Islands, either with the most recent quarterly report or at the end of each quarter.

6.2. Facility Reporting

6.2.1. Mobile vessels shall report the following:

6.2.1.1. Daily GPS log of anchored location or locations while processing; this log to be submitted in both map-charted and written form;

6.2.1.2. Processing data including number of pounds of raw product processed per day, number of pounds of finished product, and number of pounds of unused seafood returned to the waters or otherwise disposed of (i.e., ocean disposal); and

6.2.1.3. Positive observations of the sea surface and shoreline monitoring program as described in Section 5.3. above.

6.2.2. Shore-based facilities or vessels discharging through stationary outfalls shall report the following:

6.2.2.1. Processing data including number of pounds of raw product processed per day, number of pounds of finished product, and number of pounds of unused seafood and by-catch discharged through the outfall;

6.2.2.2. Positive observations of the sea surface and shoreline monitoring program as described in Section 4.3.2 above; and

6.2.2.3. Amount, type, and location of wastes disposed of by ocean dumping as described in Section 7.2.3.

6.3. Signatory Requirement

A permittee shall ensure that the quarterly report is signed by a principal officer or a duly appointed company representative according to Section 10.5.

6.4. Submittal

The quarterly reports shall be submitted to EPA and ADEC. Reports may sent via FAX or mailed to the locations below:

Environmental Protection Agency, Region 10, NPDES Compliance Unit OW–135, 1200 Sixth Avenue, Seattle, Washington 98101, FAX 206–553–1280, Attn: NPDES Compliance Unit and

Alaska Department of Environmental Conservation, Attn: Major Facilities, 555 Cordova Street, Anchorage, Alaska 99501, FAX 907–269–7652, Attn: Water Permits

7.0. Special Conditions and Requirements

7.1. Discharges from Mobile Vessels

During the period of May 1 to December 1, no discharge of seafood wastes or any other wastewaters authorized by this Permit shall occur within the one-half nautical mile of the exclusion zone described in Section 2.4.2.2 except as provided by Section 7.1.1.

7.1.1. Safety Exception. Notwithstanding the provisions of Section 2.4.2.2, mobile processing vessels may anchor within the one-half nautical mile exclusion zone when conditions exist that would threaten the safety of the vessel or there is no other location that is reachable for safety of the vessel.

7.1.2. Processing and Transit in the Exclusion Zone. Mobile vessels shall make all efforts to halt discharge of seafood wastes, wastewaters including sewage, gray water, deck or processing area wash down, net washing, bilge water, and other unnecessary materials to avoid unwanted or accidental discharges. Mobile vessels shall also avoid refueling within the exclusion zone except for emergency conditions.

7.1.3. Location Reporting. When any processing vessel enters the one-half nautical mile exclusion zone, the permittee must report their location by GPS and the reason for being in the exclusion zone to each of the following: EPA—FAX (206) 553–1280 or telephone (206) 553–1846; ADEC—FAX (907) 269–7652 or telephone (907) 269–7500; St. Paul—FAX (907) 546–3194 or telephone (907) 546–3179; or St. George—FAX (907) 829–2212 or telephone (907) 859–2263; and Local harbor master/public safety office by radio.

7.1.4. Excluded Area Discharge. Mobile vessels must notify EPA and ADEC within 24 hours, either by telephone (206) 553–1846 or (907) 269–7500, respectively) or by FAX (see Section 7.1.3 above) if any discharge of seafood wastes or any other discharge authorized or not, occurs during the period of May 1 through December 1 within the one-half nautical mile exclusion zone. Any such report must conform to the requirements in Section 8.3 below, and include an official Bering Sea weather report.

7.2. Discharges from Stationary Outfalls

Notwithstanding the provisions of Section 2.4.2.2, the facilities previously permitted (under the Alaska Seafood General Permit AK-G52–0000 issued October 1989) to discharge from the three existing stationary outfalls on St. Paul and the one existing stationary outfall on St. George will be allowed, provided that each facility submit a complete and timely NOI and receive approval from EPA for the continuing discharge and comply with the following conditions:

7.2.1. Sea Surface and Shoreline Monitoring. There shall be no evidence of wastes on the sea surface or shoreline and that the sea surface and shoreline monitoring program is conducted according to Section 5.3 during the period of May 1 though December 1.

7.2.2. Exceedance of Discharge Levels. Discharges resulting from processing of wastes through the stationary outfalls during the period of May 1 and December 1 shall not exceed the daily projected production levels submitted in the NOI and authorized by EPA. Processing waste solids exceeding this limitation shall be barged to an acceptable ocean dumping area.

7.2.3. Ocean Disposal. Finfish and crab wastes ground to 0.5 inch and unground snail wastes and shells may be disposed of by dumping the wastes into depths of at least 45–50 fathoms and at least 7 nautical miles west of St. Paul and at least 3 miles west of St. George.

7.2.3.1. Disposal must be done while the vessel is underway. No disposal shall occur if marine mammals are observed in the disposal area.

7.2.3.2. A log shall be kept of the disposal operations and include the following information:

- dates and start/stop time of each disposal occurrence,
- description and approximate volume of the material being dumped,
- the location (GPS) where dumped, and
- notation of weather and wind conditions in the area and Beaufort Sea state.

7.2.3.3. A copy of the log is to be submitted to EPA with the quarterly report.

7.3. New Shore-Based Facilities

Any new applicants seeking authorization under this Permit to discharge seafood wastes and other designated wastewaters from a shore-based facility must meet the requirements of Section 2.4 or submit the following information in a request for a waiver of Section 2.4:

7.3.1. Submit a Notice of Intent to be covered under this Permit in accordance with Section 3, including a detailed map showing the proposed facility's precise location of the outfall, engineering design of the outfall, receiving water bathymetry, any tidal or current information, surrounding upland topography and any protected water resources and special habitats.

7.3.2. Describe in detail the circumstances requiring discharges to the exclusion zone; the alternatives to discharging within the exclusion zone; and a detailed description of the nature, magnitude and duration of the seafood processing operation and its discharges.

7.3.3. Complete the Inventory of Waste Streams.

7.3.4. Develop a pollution prevention plan covering all aspects of pollution potential of the facility.

7.3.5. Develop and commit to best management practices for seafood waste minimization, water usage reduction, and pollution control.

7.3.6. Prepare a proposed seafloor, sea surface and shoreline monitoring program and an effluent sampling plan.

7.3.7. Consult (in writing) with NMFS and USFWS about areas of concerns and critical habitats.

A waiver to Section 2.4 will not be granted until after EPA consults with ADEC and other appropriate government offices to determine that the proposed discharge will comply with applicable state and federal laws and regulations and the State-approved Coastal Zone Management Plan.

7.4. Inventory of Waste Streams

7.4.1. Purpose. The inventory is to determine all of the waste streams generated by operating and maintaining a seafood processing facility or processing vessel that could potentially be discharged within the coastal zone of the Pribilof Islands.

7.4.2. Objective. The inventory shall identify the waste streams, which are a result of receiving and processing seafood, providing dormitory and galley services, and also the products used in the maintaining facility or the vessel. These products may include, but not be limited to, sanitizing chemicals, general cleaning detergents (including laundry and kitchen) and solvents, engine room chemicals, painting wastes, hazardous materials, machine shop solvents, and stormwater runoff. Waste reduction and pollution prevention are the ultimate objectives of this activity. The inventory shall also include the identification of environmentally safe products that

could be substituted for those that may pose a threat to the environment.

7.4.3. Applicability. All permittees covered under this Permit shall participate in the inventory of waste streams. This requirement is on a facility by facility or vessel by vessel basis.

7.4.4. Schedule. The inventory of waste streams shall be completed 90 days after this Permit is effective.

7.4.5. Submittal. A permittee shall submit to EPA a written summary of the waste streams examined, a list of products found in each waste stream along with any identified hazardous substance used in the facility or on the vessel, and the substitution of environmentally safe products for those identified as potentially detrimental products. This summary shall be accompanied by written certification, signed by the principal officer or a duly appointed representative of the permittee, of the completion of the inventory and the substitution or changes to more environmentally safe products.

7.5. Pollution Prevention Plan and Implementation

7.5.1. Purpose. Pollution prevention is to minimize any and all of the undesirable effects a processing facility or vessel may have on the environment of the water and air and the birds and animals sharing the marine and terrestrial habitats within the coastal zone of the Pribilof Islands.

7.5.2. Objective. Pollution prevention is for maximum reduction of waste streams including recycling, responsible disposal, and use and substitution of environmentally safe products when and where ever possible.

7.5.3. Applicability. All permittees covered under this Permit shall participate in preparing and implementing a pollution prevention plan. Companies with multiple facilities or vessels operating in the Pribilof Islands may fulfill this requirement by preparing one plan to cover their Pribilof facilities or vessels; but must certify that each facility or vessel has implemented the plan. Records of pollution prevention must be kept at each facility or on board each vessel.

7.5.4. Schedule. The pollution prevention plan shall be completed 120 days after this Permit is effective and implemented 180 days after this Permit is effective.

7.5.5. Documentation. Each facility or vessel shall have a copy of the pollution prevention plan at each facility or on board each vessel. Implementation records shall be available to EPA and ADEC upon request.

7.5.6. Submittal. A permittee shall submit to EPA written certification, signed by principal officer or a duly appointed representative of the permittee, of the completion and implementation of the pollution prevention plan.

7.6. Discharge Effluent Sampling

All facilities that are authorized to discharge under this Permit shall be required to sample their discharge effluent at least once during the effective period of this Permit,

Selection of what will be sampled will be based on pollutants that may be identified through the inventory of waste streams, the known pollutants found in seafood processing and associated wastewaters, and other identified pollutants of concern. Protocols, procedures, and methods for sampling, analysis, and submittal of results will be relayed to each permittee under the requirements of 33 U.S.C. § 1318 (Request for Information).

8.0. Reporting and Recording Requirements

8.1. Records Contents

8.1.1. Effluent Monitoring Records. All effluent monitoring records shall bear the hand-written signature of the person who prepared them. In addition, all records of monitoring information shall include:

8.1.1.1. The date, exact place, and time of sampling or measurements;

8.1.1.2. The names of the individual(s) who performed the sampling or measurements;

8.1.1.3. The date(s) analyses were performed;

8.1.1.4. The names of the individual(s) who performed the analyses;

8.1.1.5. The analytical techniques or methods used; and

8.1.1.6. The results of such analyses.

8.2. Retention of Records

8.2.1. Monitoring Information. A permittee shall retain records of all monitoring information, including but not limited to, all calibration and maintenance records, copies of all reports required by this Permit, a copy of the NPDES Permit, and records of all data used to complete the application for this Permit, for a period of at least five years from the date of the sample, measurement, report or application, or for the term of this Permit, whichever is longer. This period may be extended by request of the Director or ADEC at any time.

8.3. Twenty-four Hour Notice of Noncompliance Reporting

8.3.1. Telephone or FAX. A permittee shall report the following occurrences of noncompliance to the NPDES Compliance Unit by telephone (206) 553–1846 or FAX (206) 553–1280 within 24 hours from the time a permittee becomes aware of the circumstances:

8.3.1.1. Any noncompliance that may endanger health or the environment;

8.3.1.2. Any unanticipated bypass that results in or contributes to an exceedance of any effluent limitation in this Permit;

8.3.1.3. Any upset that results in or contributes to an exceedance of any effluent limitation in this Permit; or

8.3.1.4. Any violation of a maximum daily discharge limitation for any of the pollutants listed in this Permit.

8.3.2. Written Report. A permittee shall also provide a written submission within five days of the time that a permittee becomes aware of any event required to be reported under Section 8.3.1. above. The written submission shall contain:

8.3.2.1. A description of the noncompliance and its cause;

8.3.2.2. The period of noncompliance, including exact dates and times;

8.3.2.3. The estimated time noncompliance is expected to continue if it has not been corrected; and

8.3.2.4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

8.3.3. Written Report Waiver. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Unit in Seattle, Washington, by telephone or FAX.

8.3.4. Submittal. Written reports shall be submitted to:

U.S. Environmental Protection Agency, Region 10, NPDES Compliance Unit OW–135, 1200 Sixth Avenue, Seattle, Washington 98101 and

Alaska Department of Environmental Conservation, Attn: Water Permits, 555 Cordova Street, Anchorage, Alaska 99503

8.4. Other Noncompliance Reporting

A permittee shall document all instances of noncompliance, other than those specified in Section 8.3.1, and submit a written report with the quarterly report.

9.0. Compliance Responsibilities

9.1. Duty To Comply

A permittee shall comply with all conditions of this Permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application. A permittee shall give reasonable advance notice to the Director and ADEC of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

9.2. Penalties for Violations of Permit Conditions

9.2.1. Civil and Administrative Penalty. Sections 309(d) and 309(g) of the Act provide that any person who violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be subject to a civil or administrative penalty, not to exceed $25,000 per day for each violation.

9.2.2. Criminal Penalties:

9.2.2.1. Negligent violations. Section 309(c)(1) of the Act provides that any person who negligently violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.

9.2.2.2. Knowing violations. Section 309(c)(2) of the Act provides that any person who knowingly violates a permit condition implementing CWA §§ 301, 302, 306, 307, 308, 318, or 405 shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.

9.2.2.3. Knowing endangerment. Section 309(c)(3) of the Act provides that any person who knowingly violates a permit condition implementing CWA §§ 301, 302, 303, 306, 307, 308, 318, or 405, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person that is an organization shall be subject to a fine of not more than $1,000,000.

9.2.2.4. False statements. Section 309(c)(4) of the Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both.

Except as provided in Permit conditions in Section 8.6 ("Bypass of Treatment Facilities") and Section 8.7 ("Upset Conditions"), nothing in this Permit shall be construed to relieve a permittee of the civil or criminal penalties for noncompliance.

9.3. Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

9.4. Duty To Mitigate

A permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this Permit that has a reasonable likelihood of adversely affecting human health or the environment.

9.5. Proper Operation and Maintenance

A permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by a permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of this Permit.

9.6. Bypass of Treatment Facilities

9.6.1. Bypass not exceeding limitations. A permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of the following sections.

9.6.2. Notice.

9.6.2.1. Anticipated bypass. If a permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.

9.6.2.2. Unanticipated bypass. A permittee shall submit notice of an unanticipated bypass as required under Section 8.3 ("Twenty-four hour notice of noncompliance reporting").

9.6.3. Prohibition of bypass.

9.6.3.1. Bypass is prohibited, and the Director or ADEC may take enforcement action against a permittee for a bypass, unless:

- The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- A permittee shall submit notices as required under Section 9.6.2.

9.6.3.2. The Director and ADEC may approve an anticipated bypass, after considering its adverse effects, if the Director and ADEC determine that it will meet the three conditions listed above in this Section.

9.7. Upset Conditions

9.7.1. Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if a permittee meets the requirements of Section 9.7.2. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

9.7.2. Conditions Necessary for a Demonstration of Upset. To establish the affirmative defense of upset, a permittee shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

9.7.2.1. An upset occurred and that a permittee can identify the cause(s) of the upset;

9.7.2.2. The permitted facility was at the time being properly operated;

9.7.2.3. A permittee submitted notice of the upset as required under Section 8.3 ("Twenty-four hour notice of noncompliance reporting); and

9.7.2.4. A permittee complied with any remedial measures required under Section 9.4 ("Duty to Mitigate").

9.7.3. Burden of Proof. In any enforcement proceeding, a permittee seeking to establish the occurrence of an upset has the burden of proof.

9.8. Planned Changes

A permittee shall give notice to the Director and ADEC as soon as possible of any planned physical alterations or

additions to the permitted facility whenever:

9.8.1. Alteration or Addition. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this Permit.

A permittee shall give notice to the Director and ADEC as soon as possible of any planned changes in process or chemical use whenever such change could significantly change the nature or increase the quantity of pollutants discharged.

9.9. Anticipated Noncompliance

A permittee shall also give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity that may result in noncompliance with this Permit.

10.0. General Provisions

10.1. Permit Actions

This Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by a permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

10.2. Duty To Reapply

If a permittee intends to continue an activity regulated by this Permit after the expiration date of this Permit, a permittee must apply for and obtain a new permit.

10.3. Duty to Provide Information

A permittee shall furnish to the Director and ADEC, within the time specified in the request, any information that the Director or ADEC may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. A permittee shall also furnish to the Director or ADEC, upon request, copies of records required to be kept by this Permit.

10.4. Other Information

When a permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the Director or ADEC, it shall promptly submit the omitted facts or corrected information.

10.5. Signatory Requirements

All NOIs, reports or information submitted to the Director and ADEC shall be signed and certified as follows:

10.5.1. NOIs. All NOIs shall be signed as follows:

10.5.1.1. For a corporation: by a principal corporate officer.

10.5.1.2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

10.5.1.3. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

10.5.2. Required Reports. All reports required by this Permit and other information requested by the Director or ADEC shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

10.5.2.1. The authorization is made in writing by a person described above and submitted to the Director and ADEC, and

10.5.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

10.5.3. Changes to Authorization. If an authorization under Section 10.5.2.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Section 10.5.2.2 above must be submitted to EPA and ADEC prior to or together with any reports, information, or applications to be signed by an authorized representative.

10.5.4. Certification. Any person signing a document under this Part shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

10.6. Availability of Reports

Except for data determined to be confidential under 40 CFR 2, all reports prepared in accordance with this Permit shall be available for public inspection at the offices of the Director and ADEC. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

10.7. Inspection and Entry

A permittee shall allow the Director, ADEC, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

10.7.1. Enter upon a permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;

10.7.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;

10.7.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

10.7.4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

10.8. Oil and Hazardous Substance Liability

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve a permittee from any responsibilities, liabilities, or penalties to which a permittee is or may be subject under Section 311 of the Act.

10.9. Property Rights

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

10.10. Severability

The provisions of this Permit are severable. If any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Permit, shall not be affected thereby.

10.11. Transfers

This Permit may be automatically transferred to a new permittee if:

10.11.1. The current permittee notifies the Director at least 60 days in advance of the proposed transfer date;

10.11.2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

10.11.3. The Director does not notify the existing permittee and the proposed new permittee of any intent to modify, or revoke and reissue the permit.

10.11.4. If the notification from the Director (Section 10.11.3.) is not received, the transfer is effective on the date specified in the agreement between the existing and new permittee (Section 10.11.2).

10.12. State Laws

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve a permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

10.13. Reopener Clause

10.13.1. This Permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under §§ 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the Act, as amended, if the effluent standard, limitation, or requirement so issued or approved:

10.13.1.1. Contains different conditions or is otherwise more stringent than any condition in this Permit; or

10.13.1.2. Controls any pollutant or disposal method not addressed in this Permit.

10.13.2. This Permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable. This Permit may be reopened to adjust any effluent limitations if future water quality studies, waste load allocation determinations, or changes in water quality standards show the need for different requirements.

11.0. Definitions and Acronyms

AAC means Alaska Administrative Code.

ADEC means Alaska Department of Environmental Conservation.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

CFR means the Code of Federal Regulations.

Coastal zone means the waters within three nautical miles of the Pribilof Islands.

Cooling water means once-through non-contact cooling water.

CWA means the Clean Water Act.

Discharge of a pollutant means any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source".

Domestic wastes means materials discharged from showers, sinks, safety showers, eye-wash stations, hand-wash stations, galleys, and laundries.

EPA means the United States Environmental Protection Agency.

Exclusion zone means within one-half nautical mile of areas of special concerns.

Garbage means all kinds of victual, domestic, and operational waste, excluding fresh fish and part thereof, generated during the normal operation and liable to be disposed of continuously or periodically except dishwater, gray water, and those substances that are defined or listed in other Annexes to MARPOL 73/78.

GPS means Global Positioning System.

Gray water means galley, bath and shower wastewater.

Irreparable harm means significant undesirable effects occurring after the date of permit issuance which will not be reversed after cessation or modification of the discharge.

Marine environment means that territorial seas, the contiguous zone and the oceans.

Marine sanitation device includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, or any process to treat such sewage.

MLLW means mean lower low water.

MSD means marine sanitation device.

NMFS means United States National Marine Fisheries Service.

NOI means a "Notice of Intent," that is, an application, to be authorized to discharge under a general NPDES permit.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Poor flushing means average currents or turbulence of less than one-third (0.33) of a knot at any point in the receiving water within 300 feet of the outfall.

Sanitary wastes means human body waste discharged from toilets and urinals.

Seafood means the raw material, including freshwater and saltwater fish and shellfish, to be processed, in the form in which it is received at the processing plant.

Seafood process waste means the waste fluids, organs, flesh, bones, woody fiber and chitinous shells produced in the conversion of aquatic animals and plants from a raw form to a marketable form.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

Unreasonable degradation of the marine environment means: (1) Significant adverse changes in ecosystem diversity, productivity and stability of the biological community within the area of discharge and surrounding biological communities, (2) Threat to human health through direct exposiure to pollutants or through consumption of exposed aquatic organisms, or (3) Loss of esthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

U.S.C. means United States Code.

USFWS means United States Fish and Wildlife Service.

Water depth means the depth of the water between the surface and the seafloor as measured at mean lower low water (0.0).

[FR Doc. 96–2224 Filed 2–2–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Beulah Bancorporation, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Beulah Bancorporation, Inc., Sioux Falls, South Dakota; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. Lake Benton Bancorporation, Inc., Sioux Falls, South Dakota; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2310 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

Prairieland Employee Stock Ownership Plan; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company also has given notice under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal to acquire the non-banking subsidiaries can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 26, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Prairieland Employee Stock Ownership Plan, Bushnell, Illinois; to become a bank holding company by acquiring 30 percent of the voting shares of Prairieland Bancorp, Inc., Bushnell, Illinois, and thereby indirectly acquire Farmers & Merchants State Bank, Waunakee, Wisconsin.

In connection wit this application, Prairieland Employee Stock Ownership Plan, Bushnell, Illinois, and Prairieland Bancorp, Inc., Bushnell, Illinois, also have applied to engage in the activities of (i) making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y, and (ii) in providing tax services, pursuant to § 225.25(b)(21) of the Board's Regulation Y.The Geographic scope for these activities is Bushnell, Illinois.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2311 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

Miles Jeffrey Qvale, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 15, 1996.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Miles Jeffrey and Paige Qvale, to acquire an additional 10.69 percent, for a total of 34.36 percent, of the voting shares of Marin National Bancorp, San Rafael, California, and thereby indirectly acquire First National Bank of Marin, San Rafaell, California.

In connection with this application, Bruce Hammond and Kathryn Qvale, have also applied to acquire an additional 10.68 percent, for a total of 32.17 percent, of the voting shares of Marin National Bancorp, San Rafael, California.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2312 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

United Bankshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has given notice under § 225.23(a)(2) or (e) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (e)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than February 20, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. United Bankshares, Inc., Charleston, West Virginia; to acquire Eagle Bancorp, Inc., Charleston, West Virginia, and thereby indirectly acquire First Empire Federal Savings and Loan Association, Charleston, West Virginia, and thereby engage in the operation of a savings and loan association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2313 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

Westwood Financial Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 26, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Westwood Financial Corporation, Westwood, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Westwood Savings Bank, Westwood, New Jersey.

Board of Governors of the Federal Reserve System, January 30, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2314 Filed 2–2–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:30 a.m.–6 p.m., February 21, 1996; 8:30 a.m.–2:45 p.m., February 22, 1996.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents.

Matters To Be Discussed: The Committee will discuss issues regarding use of a cellular pertussis vaccines in infants; polio vaccination recommendation and schedule; approval of pneumococcal vaccination recommendation; harmonization schedule; update on the Vaccine Injury Compensation Program; update on the National Vaccine Program Office; vaccination of HIV-infected persons; update on the influenza season; influenza vaccination in HIV-infected persons; influenza vaccine strain selection for 1996–1997; proposed modifications in the ACIP influenza statement; timing of vaccination campaigns: influenza vaccine and pregnancy; review of measles, mumps, rubella policy statement; programmatic strategies to increase immunization coverage; varicella update; update on progress towards disease elimination goals; CDC working group on new vaccines; update on the National Immunization Survey; and new rabies vaccine: modification of guidelines for treatment of bat rabies. Other matters of relevance among the Committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria A. Kovach, Committee Management Specialist, CDC, 1600 Clifton Road, NE., Mailstop A20, Atlanta, Georgia 30333, telephone 404/639–3851.

Dated: January 31, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2423 Filed 2–2–96; 8:45 am]

BILLING CODE 4163–18–M

National Center for Environmental Health Strategic Directions; Public Meeting

The National Center for Environmental Health (NCEH) and the Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: National Center for Environmental Health (NCEH) Strategic Directions—Public Meeting.

Time and Date: 8 a.m.–5 p.m., February 13, 1996.

Place: CDC, 4770 Buford Highway, NE, Building 101, Rooms 1301A and 1301B, Chamblee, Georgia 30341–3724, telephone 770/488–7020.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50.

Purpose: The purpose of this meeting is to provide a forum for individuals and organizations interested in NCEH's activities to provide feedback on the future direction of NCEH programs.

Matters To Be Discussed: NCEH is embarking on a planning effort to determine priorities and set the direction for future activities. Current NCEH program activities include the broad categories of birth defects and developmental disabilities surveillance and prevention; disabilities prevention; emergency response; environmental epidemiology; and environmental health laboratory sciences.

This individual feedback will be used by NCEH in its strategic planning efforts as dictated by the Government Performance and Results Act and as requested by Congress in fiscal year 1996 appropriations language.

Contact Person for Additional Information: Alison E. Kelly, Public Health Analyst, Office of Planning, Evaluation and Legislation (F29), NCEH, CDC, 4770 Buford Highway NE., Chamblee, Georgia 30341–3724, telephone 770/488–7250, fax 770/488–7024.

Dated: January 30, 1996.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2362 Filed 2–2–96; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics: Meeting

Pursuant to Pub. L. 92–463, The National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates: 9 a.m.–5 p.m., March 12, 1996; 9 a.m.–5 p.m., March 13, 1996.

Place: Room 503A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201

Status: Open.

Purpose: The purpose of this meeting is for the Committee to discuss its draft recommendations for core health data elements and definitions for enrollment and encounters, and its plans to submit them to the field for comment; to discuss the Committee's work plan for the coming year; to consider reports from each NCVHS subcommittee; to receive reports form offices of the Department of Health and Human Services and department-wide Data Council; and to address new business as appropriate.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8:30 and 9:00 a.m. or 12:30 and 1:00 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belecrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: January 30, 1996.

John C. Burchkhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2361 Filed 2–2–96; 8:45 am]

BILLING CODE 4163–18–M

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS), has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New; *Title of Information Collection:* National Provider System (NPS); *Form No.:* HCFA–R–187; *Use:* HHS is consolidating provider enumeration across programs. The NPS will be used in program operations and management to assign provider identification numbers; i.e., billing numbers for claims processing and payment. It will replace the current Medicare Physician and Eligibility System and Unique Physician Identifier Number; it will replace the enumeration functions of the Medicare Online Survey, Certification and Reporting System, Clinical Laboratories Improvement Amendments of 1988, and National Supplier Clearing House provider numbering systems. *Frequency:* On occasion; *Affected Public:* Business or other for-profit, not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of Respondents:* 45,000; *Total Annual Hours Requested:* 23,000. To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 30, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2289 Filed 2–2–96; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Demonstration and Education Research Applications.

Date: February 27–28, 1996.

Time: 9:00 a.m.

Place: Washington National Airport Hilton (formerly Stouffer Concourse Hotel) Arlington, VA.

Contact Person: Louise P. Corman, Ph.D., Two Rockledge Center, Room 7180, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0270.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs 552b(c)(4) and 552b(c)(6, Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2303 Filed 2–2–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Purpose: To review grant applications.

Committee Name: National Institute of General Medical Sciences Special Emphasis Panel—Trauma and Burn.

Date: February 1, 1996.

Time: 10:30 a.m.–12 p.m.

(TELECONFERENCE).

Place: 45 Center Drive, Conference Room 1AS–19K, Bethesda, Maryland 20892–6200.

Contact Person: Dr. Bruce Wetzel, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19K, Bethesda, MD 20892–6200.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93;880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS]).

Dated: January 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2304 Filed 2–2–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration; Proposed Data Collection Available for Public Comment

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 to provide the opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration publishes periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Revised Notice

On Wednesday, November 29, 1995 SAMHSA published a notice in the **Federal Register** inviting public comment on the FY 1997 Substance Abuse Prevention and Treatment (SAPT) Block Grant Application Format. The Public Health Service Act (42 U.S.C. 300x 21–35 & 51–64) authorizes block grants to States for the purpose of providing substance abuse prevention and treatment services. Under the provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary, DHHS. The notice of November 29 stated that the block grant application format SAMHSA proposed to distribute to States for FY 1997 would be the same as the FY 1996 format. (The FY 1996 SAPT Block Grant Application Format was approved under OMB No. 0930–0080.) This notice amends the earlier notice. On Friday, January 19, the Tobacco Regulation for Substance Abuse Prevention and Treatment Block Grant (45 CFR Part 96) was issued as a final rule. (See **Federal Register** Vol. 61, No. 13.) This final rule requires States applying for a block grant to report annually on their activities and plans related to enforcing State laws prohibiting the sale or distribution of tobacco products to minors. The report is to be submitted as part of the block grant application. The addition of the forms and narrative implementing this reporting requirement is the only substantive change that SAMHSA plans to make to the FY 1997 block grant application format. It is estimated that the additional response burden will average 24 hours per State. The total annual burden estimate is shown below:

No. of Respondents	No. of responses per respondent	Avg. burden per response	Total annual burden
60	1	554 hours	33,240 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 30, 1996.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 96–2333 Filed 2–2–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–810396

Applicant: Dr. Patrick Redig, The Raptor Center, University of Minnesota, St. Paul, Minnesota.

The applicant requests a permit to take (capture and release, handle, temporarily hold) Peregrine Falcons (*Falco peregrinus*) in Indiana, Iowa, Illinois, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. The permit is sought for activities proposed to aid sick and injured specimens, study effects of contaminant exposure, monitor behavior and population dynamics, rear Peregrine Falcons and release them into the wild. Activities will aid in recovery of the species.

PRT–810469

Applicant: Dr. James R. Curry, Franklin College, Franklin, Indiana.

The applicant requests a permit to take (capture and release, collect to document species' presence) Hine's Emerald Dragonflies (*Somatochlora hineana*) throughout the State of Indiana. The permit is sought for the purpose of documenting presence/absence of the species within Indiana, which is in its historic range. The species is believed to be extirpated.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x 250); FAX: (612/725–3526).

Dated: January 30, 1996.

John A. Blankenship,

Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

FR Doc. 96–2336 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[OR–015–96–3809–00: GP6–0051]

Tucker Hill Perlite Mining Plan of Operations Final Environmental Impact Statement

AGENCY: Bureau of Land Management.

ACTION: Notice of Availability, Tucker Hill Perlite Mining Plan of Operations Final Environmental Impact Statement (FEIS).

SUMMARY: In accordance with section 102(c) of the National Environmental Policy Act, the Lakeview District has prepared an abbreviated FEIS analyzing the environmental impacts of a perlite quarry in Lake County, Oregon, which outlines the BLM's intent to adopt alternative C as the preferred alternative. The FEIS is expected to be available for review on or about February 9, 1996.

Atlas Perlite, Inc. proposes to develop a 15–20 acre perlite quarry and associated temporary waste rock dump on Tucker Hill located approximately 35 miles northwest of the town of Lakeview, Oregon. The total area of disturbance is estimated to be about 32 acres. The ore would be hauled from Tucker Hill to Lakeview where it would be crushed and transported via truck or rail to markets mainly in the northwest.

DATES: This notice announces the beginning of the public review period which officially closes 30 days from the date the U.S. Environmental Protection Agency publishes its notice of availability of the FEIS in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Those individuals, organizations, native American tribes, agencies, and other governments with a known interest in the proposal were sent a copy of the DEIS. Comments received on the DEIS have been addressed within the FEIS. These same individuals, groups, tribes, and agencies were sent a copy of the FEIS. Reading copies of the document are available at the Lake, Klamath, and Harney County, Oregon, libraries and at the Public Room, Oregon State Office, 1515 SW 5th, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Copies of the FEIS may be requested and/or comments directed to Ted Davis or Paul Whitman at Lakeview District, BLM, P.O. Box 151, Lakeview, OR 97630 or by telephone at (541) 947–2177.

Edwin J. Singleton,

District Manager.

[FR Doc. 96–2293 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–33–P

[NV–040–1020–001]

Northeastern Great Basin Resource Advisory Council; Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, DOI.

ACTION: Resource Advisory Council Meeting Location and Time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. the Department of the Interior, Bureau of Land Management (BLM) Council meeting will be held as indicated below. The agenda for the meeting includes approval of minutes of the previous meeting, continuation of Council orientation, initial discussion of Standards and Guidelines for management of the public lands within the jurisdiction of the Council, and determination of the subject for future meetings.

This meeting is open to the public. The public may present written comments to the Council. The Council meeting will also have time allocated for hearing public comments. The public comment period for the meeting is listed below. Depending on the number of persons wishing to comment and time available, the time for individual comments may be limited. Individuals who plan to attend and need information about the meetings, or need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Public Affairs at the Ely District Office, 702 North Industrial Way, Ely, NV 89301, telephone 702–289–1920.

The time and location of the meeting is as follows: Northeastern Great Basin Resource Advisory Council, Holiday Inn Prospector Casino, 1501 Ave. F, Ely, NV 89301; February 21–22, 1996, start time 8:30 a.m.; public comment period February 22 at 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Bill Dunn HC 33 Box 33500, Ely, Nevada, 702–289–1920.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM on a variety of planning and management issues associated with the management of the public lands.

Gene Kolkman,

District Manager.

[FR Doc. 96–2166 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–HC–M

Bureau of Reclamation

Quarterly Status Report of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions pending through December 31, 1996, and contract actions that have been completed or discontinued since the last publication of this notice on September 29, 1995. From the date of this publication, future quarterly notices during this calendar year will be limited to modified, new, completed or discontinued contract actions. This annual notice should be used as a point of reference to identify changes in future notices. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities. Additional Bureau of Reclamation (Reclamation) announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identify of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Alonzo Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone 303–236–1061 extension 224.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and 43 CFR 426.20 of the rules and regulations published in *52 FR 11954*, Apr. 13, 1987, Reclamation will publish notice of the proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the "Final Revised Public Participation Procedures" for water resource-related contract negotiations, published in *47 FR 7763*, Feb. 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. Each proposed action is, or is expected to be, in some stage of the contract negotiation process in 1996. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) The significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the regional director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BCP)	Boulder Canyon Project
(CAP)	Central Arizona Project
(CUP)	Central Utah Project
(CVP)	Central Valley Project
(CRSP)	Colorado River Storage Project
(D&MC)	Drainage and Minor Construction
(FR)	Federal Register
(IDD)	Irrigation and Drainage District
(ID)	Irrigation District
(M&I)	Municipal and Industrial
(O&M)	Operation and Maintenance
(P–SMBP)	Pick-Sloan Missouri Basin Program
(R&B)	Rehabilitation and Betterment
(PPR)	Present Perfected Right
(RRA)	Reclamation Reform Act
(NEPA)	National Environmental Policy Act
(SRPA)	Small Reclamation Projects Act
(WCUA)	Water Conservation and Utilization Act
(WD)	Water District

Pacific Northwest Region

Bureau of Reclamation, 1150 North Curtis Road, Boise, Idaho 83706–1234, telephone 208–378–5346.

1. Irrigation, M&I, and Miscellaneous Water Users; Columbia Basin, Crooked River, Deschutes, Minidoka, Rathdrum Prairie, Rogue River Basin, and Umatilla Projects; Idaho, Oregon, and Washington: Temporary or interim repayment and water service contracts for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Rogue River Basin Water Users, Rogue River Basin Project, Oregon: Water service contracts; $8 per acre-foot per annum.

3. Willamette Basin Water Users, Willamette Basin Project, Oregon: Water service contracts; $8 per acre-foot per annum.

4. American Falls Reservoir District Number 2, Burgess Canal Company, Clark and Edwards Canal and Irrigation Company, Craig-Mattson Canal Company, Danskin Ditch Company, Enterprise Canal Company, Ltd., Farmers Friend Irrigation Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company, Long Island Irrigation Company, Parks and Lewisville Irrigation Company, Ltd., Parsons Ditch Company, Peoples Canal and Irrigation Company, Poplar ID, Rigby Canal and Irrigating Company, Rudy Irrigation Canal Company, Ltd., Wearyrick Ditch Company, all in the Minidoka Project, Idaho; Juniper Flat ID, Wapinitia Project, Oregon; Roza ID, Yakima Project, Washington: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Willow Creek Water Users, Willow Creek Project, Oregon: Repayment or water service contracts for a total of up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

6. Bridgeport ID, Chief Joseph Dam Project, Washington: Warren Act contract for the use of an irrigation outlet in Chief Joseph Dam.

7. Ochoco ID and Various Individual Spaceholders, Crooked River Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Arthur R. Bowman and Ochoco Dams.

8. Sidney Irrigation Cooperative, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 2,300 acre-feet.

9. Douglas County, Milltown Hill Project, Oregon: SRPA loan repayment contract; proposed combination loan and grant obligation of approximately $31 million.

10. Palmer Creek Water District Improvement Company, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 13,000 acre-feet.

11. U.S. Fish and Wildlife Service, Boise Project, Idaho: Irrigation water service contract for the use of approximately 200 acre-feet of storage space annually in Anderson Ranch Reservoir. Water to be used on crops for wildlife mitigation purposes.

12. City of Madras, Deschutes Project, Oregon: Renewal or replacement of municipal water service contract for approximately 125 acre-feet annually from the project water supply.

13. Willamette Basin water users, Willamette Basin Project, Oregon: Two water service contracts for the exchange of up to 225 acre-feet of water for diversion above project reservoirs.

14. Lewiston Orchards ID, Lewiston Orchards Project, Idaho: Repayment contract for reimbursable cost of dam safety repairs to Reservoir "A."

15. North Unit ID, Deschutes Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Wickiup Dam.

16. Stanfield and Westland Irrigation Districts, Umatilla Project, Oregon: Repayment contracts for reimbursable cost of dam safety repairs to McKay Dam.

17. Fremont-Madison Irrigation District, Minidoka Project, Idaho-Wyoming: Supplemental and amendatory contract providing for the transfer of operation and maintenance for the remaining reserved works of the Upper Snake Storage Division (including Cascade Creek Diversion Dam, Grassy Lake Dam and Reservoir, and Island Park Dam and Reservoir).

18. North Unit Irrigation District, Deschutes Project, Oregon: Warren Act contract with cost of service charge to allow for use of project facilities to convey nonproject water.

19. Hermiston, Stanfield, Westland, and West Extension Irrigation Districts, Umatilla Project, Oregon: Temporary contracts to provide water service for 1996 to lands lying outside of their boundaries.

Mid-Pacific Region

Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–979–2401.

1. Tuolumne Utility District (formerly Tuolumne Regional WD), CVP, California: Water service contract for up to 9,000 acre-feet from New Melones Reservoir.

2. Irrigation water districts, individual irrigators, M&I and miscellaneous water users, Mid-Pacific Region projects other than CVP: Temporary (interim) water service contracts for available project water for irrigation, M&I, or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts for use of project facilities for terms up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet annually. Note. Copies of the standard forms of temporary water service contracts for the various types of service are available upon written request from the Regional Director at the address shown above.

3. Contractors from the American River Division, Buchanan Division, Cross Valley Canal, Delta Division, Friant Division, Hidden Division, Sacramento River Division, Shasta Division, and Trinity River Division, CVP, California: Renewal of existing long-term water service contracts with contractors whose contracts expire between 1995 and 1998; water quantities for these contracts total in excess of 1.7M acre-feet. These contract actions will be accomplished through interim renewal contracts pursuant to Pub. L. 102–575.

4. Redwood Valley County WD, SRPA, California: District is considering restructuring the repayment schedule pursuant to Pub. L. 100–516 or initiating new legislation to prepay the loan at a discounted rate. Prepayment option under Pub. L. 102–575 has expired.

5. Truckee Carson ID, Newlands Project, Nevada: New contract for the operation and maintenance of Newlands Project facilities and the collection of the unpaid construction costs for the original contract. The United States terminated the original contract, and this was upheld by the U.S. District Court in Nevada on August 17, 1983.

6. Sacramento River water rights contractors, CVP, California: Contract amendment for assignment under voluntary land ownership transfers to provide for the current CVP water rates and update standard contract articles.

7. Naval Air Station and Truckee Carson ID, Newlands Project, Nevada: Amend water service Agreement No. 14–06–400–1024 for the use of project water on Naval Air Station land.

8. El Dorado County Water Agency, San Juan WD, and Sacramento County Water Agency, CVP, California: M&I water service contract aid supplement existing water supply: 15,000 acre-feet for El Dorado County Water Agency 13,000 acre-feet for San Juan WD, and 22,000 acre-feet for Sacramento County Water Agency, authorized by Pub. L. 101–514.

9. U.S. Fish and Wildlife Service, California Department of Fish and Game, Grassland WD, CVP, California: Water service contracts to provide water supplies for refuges within the CVP pursuant to Federal Reclamation Laws; exchange agreements and wheeling contracts to deliver some of the increased refuge water supplies; quantity to be contracted for is approximately 450,000 acre-feet.

10. San Juan Water District, CVP, California: Execute Warren Act contract to replace expiring long-term wheeling contract with San Juan WD and the Placer County Water Agency allowing the Agency to use CVP facilities to deliver its water to the District for use on District land within Placer County.

11. Mountain Gate CSD, CVP, California: Amendment of existing long-term water service contract to include right to renew. This amendment will also conform the contract to current Reclamation law, including Pub. L. 102–575.

12. Pershing County Water Conservation District, Nevada: Repayment contract for Safety of Dams work on Rye Patch Dam.

13. Santa Barbara County Water Agency: Repayment contract for Safety of Dams work on Bradbury Dam.

14. Central Valley Project Service Area, California: Temporary water purchase agreements for acquisition of 20,000 to 200,000 acre-feet of water for fish and wildlife purposes as authorized by the Central Valley Project Improvement Act for terms of up to 3 years.

15. City of Folsom, CVP, California: Amendment of existing water rights conveyance contract to allow delivery of an additional 5,000 acre-feet of water from Folsom Reservoir that has been acquired from the Southern California Water Company.

16. Napa County Flood Control and Water Conservation District, Solano Project, California: Amend water service contract to decrease quantity.

17. City of Roseville, CVP, California: Execution of long-term Warren Act contract for conveyance of non-project water provided from the Placer County Water Agency. This contract will allow CVP facilities to be used to deliver non-project water to the City of Roseville for use within their service area.

18. Sacramento Municipal Utility District, CVP, California: Amendment of existing water service contract to allow for additional points of diversion, and assignment of up to 15,000 acre-feet of project water to the Sacramento County Water Agency. The amended contract will conform to current Reclamation law.

Lower Colorado Region:

Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

1. Milton and Jean Phillips, Kenneth or Ann Easterday, Robert E. Harp, Cameron Brothers Construction Co., Ogram Farms, Bruce Church, Inc., Sturges Farms, Inc., Sunkist Growers, Inc., Clayton Farms, BCP, Arizona: Water service contracts, as recommended by Arizona Department of Water Resources, with agricultural entities located near the Colorado River for up to an additional 15,557 acre-feet per year total.

2. Arizona State Land Department, State of Arizona, BCP, Arizona: Contract for 6,607 acre-feet per year of Colorado River water for agricultural use and related purposes on State-owned land. This contract action reflects an increase in prior contract recommendation in the amount of 6,292 acre-feet per year.

3. Armon Curtis, Arlin Dulin, Jacy Rayner, Glen Curtis, Jamar Produce Corporation, and Ansel T. Hall, BCP, Arizona: Water service contracts; purpose is to amend their contracts to exempt them from the Reclamation Reform Act of 1982 (Pub. L. 97–293).

4. Cibola Valley IDD, BCP, Arizona: Cibola Valley IDD is looking at the possibility of transferring, leasing, selling, or banking its entitlement of 22,560 acre-feet, for use in Arizona, California, or Nevada.

5. Consolidated Water Co., Havasu Water Co., Quartzsite, McAllister Subdivision, City of Parker, and Arizona State Land Department, BCP, Arizona: Contracts for additional M&I allocations of Colorado River water to entities located along the Colorado River in Arizona for up to 3,759 acre-feet per year as recommended by the Arizona Department of Water Resources.

6. National Park Service for Lake Mead National Recreation Area, Supreme Court Decree in *Arizona* v. *California*, and BCP in Arizona and Nevada: Memorandum of Understanding for delivery of Colorado River water for the National Park Service's Federal Establishment (PPR) of 500 acre-feet of diversions annually, and the National Park Service's Federal Establishment perfected right pursuant to Executive Order No. 5125 (April 25, 1930).

7. Mohave Valley ID, BCP, Arizona: Amendment of current contract for additional Colorado River water, change in service areas, diversion points, and RRA exemption.

8. Kent Sea Farms, Yuma, AZ: Contract to divert and return 32,000 acre-feet of water per year from and to, respectively, the Main Outlet Drain Extension for one or more fish farms.

9. Miscellaneous PPR entitlement holders, BCP, Arizona and California: New contracts for entitlements to Colorado River water as decreed by the U.S. Supreme Court in *Arizona* v. *California*, as supplemented or amended, and as required by Section 5 of the BCPA. Miscellaneous PPR holders are listed in the *Arizona* v. *California* settlement. Also, conversion of PPR entitlements for irrigation water to M&I water entitlements.

10. W.F. West, BCP, California: Miscellaneous PPR contract for 0.8774 acre-feet of domestic water.

11. Julia Soto Zozaya and Steve M. Zozaya, Mohave County, BCP, Arizona: Miscellaneous PPR contract for 720 acre-feet of irrigation water.

12. Holpal Miscellaneous PPR, BCP, AZ: Assign a portion of the PPR to Mr. McNutly.

13. Atchison, Topeka and Santa Fe Railway Company, BCP, California: The company intends to transfer its miscellaneous PPR for the diversion of 1,260 acre-feet and consumptive use of 273 acre-feet of Colorado River water to the City of Needles.

14. Federal Establishment PPR entitlement holders, BCP; Individual contracts for administration of Colorado River water entitlements of the Colorado River, Fort Mojave, Quechan, Chemehuevi, and Cocopah Indian Tribes.

15. United States facilities, BCP, Arizona, California, and Nevada: Reservation of Colorado River Water for use at Federal facilities and lands administered by Reclamation.

16. Windsor Beach State Park, Lake Havasu City, AZ: Contract for 130 acre-feet entitlement to Colorado River domestic water.

17. Crystal Beach Water Conservation District, BCP, Arizona: Contract for delivery of 132 acre-feet per year of Colorado River water for domestic use, as recommended by the Arizona Department of Water Resources.

18. Bureau of Land Management, BCP, Arizona: Contract for 1,176 acre-feet per year, for irrigation use, of Arizona's Colorado River water that is not used by higher priority Arizona entitlement holders.

19. Curtis Family Trust et al., BCP, Arizona: Contract for 2,100 acre-feet per year of Colorado River water for agricultural water.

20. Beattie Farms SW, BCP, Arizona: Contract for 1,890 acre-feet per year of unused Arizona entitlement for agricultural use.

21. Section 10 Backwater, BCP, Arizona: Contract for 250 acre-feet per year of unused Arizona entitlement for environmental use until a permanent water supply can be obtained.

22. U.S. Fish and Wildlife Service, Lower Colorado River Refuge Complex, BCP, Yuma, Arizona: Proposed agreement to pool existing Arizona refuge water rights, resolve water rights coordination issues, and to provide for nonconsumptive use flow through water.

23. Yuma County Water Users' Association, Yuma Project, Arizona: Supplementary contract to convert irrigation use water to domestic use water within the Valley Division of the Yuma Project.

24. Yuma Mesa Irrigation and Drainage District, Gila Project, Arizona: Amendment to provide for increase in domestic water allocation (from 10,000 to 20,000 acre-feet) within its overall use in the district.

25. Hilander C Irrigation District, Colorado River Basin Salinity Control Project, AZ: Water delivery contract for 4,500 acre-feet.

26. Kent Sea Farms, Yuma, Arizona: Contract to divert and return 32,000 acre-feet of water per year from and to, respectively, the Main Outlet Drain Extension for one or more fish farms.

27. Central Arizona Water Conservation District, CAP, Arizona: Amend or supplement the master repayment contract between the United States to reflect a pending settlement of certain CAP financial and ancillary issues.

28. Maricopa-Stanfield Irrigation & Drainage District, Stanfield, AZ: District has requested the United States to defer payments and restructure its $78 million distribution system repayment obligation.

29. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts for percentages of available supply reallocated in 1992 for irrigation entities and up to 640,000 acre-feet per year allocated in 1983 for M&I use.

30. Indian and non-Indian agricultural and M&I water users, CAP, AZ: New and amendatory contracts for repayment of Federal expenditures for construction of distribution systems.

31. Gila River Indian Community, CAP, AZ: Master repayment/O&M contract for distribution system to serve up to 77,000 acres.

32. McMicken ID/City of Surprise, AZ: Amend McMicken's CAP subcontract to reduce its entitlement by 4,500 acre-feet and execute a CAP water service subcontract with the City of Surprise for 4,500 acre-feet of CAP water.

33. McMicken ID/Avondale, AZ: Amend McMicken's CAP subcontract to reduce its entitlement by 647 acre-feet and amend Avondale's CAP water service subcontract to increase its entitlement by 647 acre-feet of CAP water.

34. City of Scottsdale and other M&I water subcontractors, CAP, AZ: Subcontract amendments associated with assignment of M&I water service subcontracts from Camp Verde Water System, Inc., Cottonwood Water Works, Inc., Mayer Domestic Water Improvement District, City of Prescott, City of Nogales, Rio Rico Utilities', Inc., and the Yavapai-Prescott Indian Tribe to provide the City of Scottsdale with an additional 17,823 acre-feet of CAP water.

35. Tohono O'odham Nation, SRPA, AZ: Repayment contract for a $7.3 million loan for the Schuk Toak District.

36. San Tan Irrigation District, Chandler Heights, AZ, CAP: Amend distribution system repayment Contract No. 6–07–30–W0120 to increase the repayment obligation approximately $168,000.

37. Chandler Heights Citrus Irrigation District, Chandler Heights, AZ, CAP: Amend distribution system repayment Contract No. 6–07–30–W0119 to increase the repayment obligation approximately $114,000.

38. Central Arizona Drainage and Irrigation District, Phoenix, Arizona, CAP, Amend distribution system repayment Contract No. 4–07–30–W0048 to reschedule repayment terms pursuant to U.S. Bankruptcy Court, District of Arizona.

39. Arizona Sierra Utility Company, Phoenix, AZ, CAP: Assignment to the Town of Florence of 407 acre-feet of CAP municipal and industrial water allocation under subcontract from the Central Arizona Water Conservation District.

40. San Diego County Water Authority, San Diego, California, San Diego Project: Title transfer to the Second Barrel, San Diego Aqueduct composed of over 70 miles of pipeline 4.5 to 8 feet in diameter and related facilities and rights of way.

41. Lower Colorado Water Supply Project, California: Water service and repayment contracts with nonagricultural water users in California adjacent to the Colorado River for an aggregate consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the All-American Canal from a well field to be constructed adjacent to the canal.

42. The Southern California Gas Company, BCP, California: Short-term water delivery contract for 125 acre-feet of surplus Colorado River water for domestic and industrial water users near the City of Needles, California.

43. County of San Bernardino, San Sevaine Creek Water Project, SRPA, California: Project and loan repayment contracts are under reformulation.

44. Imperial ID/Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve All-American Canal seepage water in accordance with Title II of the San Luis Rey Indian Water Rights Settlement Act, dated November 17, 1988.

45. Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Contract to fund the Department of the Interior's expenses to conserve seepage water from the Coachella Branch of the All-American Canal in accordance with Title II of the San Luis Rey Indian Water Rights Settlement Act, dated November 17, 1988.

46. United States Navy, BCP, Niland, California: Contract for 22 acre-feet of surplus Colorado River water for domestic use delivered through the Coachella Canal.

47. Southern Nevada Water Authority, BCP, Nevada: Contract to use Federal facilities and land to divert water from Lake Mead at non-Federal expense.

48. Colorado River Commissioner of Nevada, Robert B. Griffith Water Project, BCP, Nevada: Amend the repayment contract to provide for funding of additional facilities by Southern Nevada Water Authority to divert, treat, and convey water out of Lake Mead.

Contract Actions Completed

1. Fort Yuma Indian Reservation (Quechan Indian Reservation), Yuma Project, AZ and CA: Surplus water contract to receive Colorado River Water in the states of AZ and CA. The contract may include surplus and unused apportionment entitlements (51,616 acre-feet or 7,743 acres, whichever is less) and wheeling arrangements with Bard ID. Completed by letter dated May 18, 1995.

2. Imperial ID, Lower Colorado Water Supply Project, CA: Contract providing for administration, operation, maintenance, and replacement of the project well field was executed October 13, 1995.

3. Lake Havasu City and Marble Canyon from item 12 above. Lake Havasu City contract was executed October 4, 1995. Execution of the Marble Canyon contract is in progress.

4. Elsinore Valley Municipal WD, Temescal Valley Project, SRPA, CA: Repayment contract for a $22.3 million loan was executed April 24, 1995.

5. Imperial ID and The Metropolitan WD of Southern California, BCP, California: Temporary contract to store approximately 200,000 acre-feet of water that is expected to be saved over a 2-year period under a test water savings program that involves land fallowing and a modified irrigation plan for alfalfa. Inactive for the foreseeable future.

6. Santa Ana Watershed Project Authority, SRPA, CA: Chino Basin Desalination Program, environmental cleanup to remove salt from groundwater, $32 million loan. Contract executed May 1, 1995.

7. Gila River Indian Community/Gila River Farms, CAP, Arizona: Repayment/deferment/O&M contract for distribution system not to exceed $4 million. Execution of this contract on September 15, 1995 facilitates construction under Pub. L. 93–638 funding and work performance contract.

8. Gila River Farms, SRPA, AZ: Amendatory contract to reschedule payments due in 1991, 1992, and subsequent years in line with payment capacity. Execution is in progress and is expected to be completed by the end of February 1996.

9. Mohave County, BCP, AZ: Assignment, transfer, or reallocation of 18,500 acre-feet of water from the City of Kingman to a new water authority being formed to serve Mohave County. Assignment accomplished and new contract executed with newly formed Mohave County Water Authority on December 8, 1995.

10. Central Arizona Water Conservation District and the Metropolitan Water District of Southern California, CAP/BCP, Arizona/California: Amendatory Agreement for a demonstration project on underground storage of Colorado River Water in Arizona to increase the project from up to 100,000 acre-feet to 300,000 acre-feet. Action approved May 18, 1995.

11. New Magma Irrigation and Drainage District, Phoenix, Arizona, CENTRAL ARIZONA PROJECT: Amend and Supplement distribution system repayment Contract No. 4–07–30–W0049 to reschedule repayment terms pursuant to U.S. Bankruptcy Court, District of Arizona, Judgement No. B–94–00211–TUC-JMM, June 20, 1995. Execution of restructured repayment contract is in progress.

Upper Colorado Region

Bureau of Reclamation, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone 801–524–4419.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 10 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico: Navajo Reservoir water service contract; 20 acre-feet per year for municipal use.

2. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 700 acre-feet in Phase Two; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

3. Ute Mountain Ute Tribe, Animas-Law Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year for irrigation use in Colorado; 900 acre-feet per year for irrigation use in New Mexico; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

4. Navajo Indian Tribe, Animas-La Plata Project, New Mexico: Repayment contract for 7,600 acre-feet per year for M&I use.

5. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract for 9,900 acre-feet per year for irrigation use.

6. Vermejo Conservancy District, Vermejo Project, New Mexico: Amend contract pursuant to Pub. L. 96–550 to relieve the district of the requirement to make annual payments until the Secretary of the Interior determines that further payments are feasible; the current obligation exceeds $2 million.

7. San Juan Pueblo, San Juan-Chama Project, New Mexico: Repayment contract for up to 2,000 acre-feet of project water for irrigation purposes.

8. City of El Paso, Rio Grande Project, Texas and New Mexico: Amendment to aid the 1941 and 1962 contracts to expand acreage owned by the City to 3,000 acres; extend terms of water rights assignments; and allow assignments outside City limits under authority of the Public Service Board.

9. The National Park Service, Bureau of Land Management, Colorado Water Conservation Board, Wayne N. Aspinall Unit, CRSP, Colorado; Contract for between 180,000 to 740,000 acre-feet of project water to provide specific river flow patterns in the Gunnison River through the Black Canyon of the Gunnison National Monument.

10. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Water service contract for 500 acre-feet for 1 year for municipal and domestic use.

11. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Substitute supply plan for the administration of the Gunnison River.

12. Collbran Conservancy District, Collbran Project, Colorado: Amendatory contract defining priority of use of project water.

13. U.S. Fish and Wildlife Service, North Fork Water Conservancy District, Paonia Project, Colorado: Contract for releases to support endangered fish in the Gunnison and Colorado Rivers; water available for releases will come from reserve capacity held by Reclamation as a sediment pool, estimated to be 1,800 acre-feet annually; contract will define the terms and conditions associated with delivery of this water.

14. Rio Grande Water Conservation District, Closed Basin Division, San Luis Valley Project, Colorado: Water service contract for furnishing priority 4 water to third parties; contract will allow District to market priority water, when available, for agricultural, municipal and/or industrial use.

15. Uncompahgre Valley Water Users Association, Upper Gunnison River Water Conservancy District, Colorado River Water Conservation District, Uncompahgre Project, Colorado: Water management agreement for water stored at Taylor Park Reservoir and the Wayne N. Aspinall Storage Units to improve water management.

16. Florida Water Conservancy District, Florida Project, Colorado: Water service contract to market for municipal and industrial use 114 acre-feet of water rights held by the United States.

17. Salt Lake County Water Conservancy District and Central Utah Water Conservancy District, Central Utah Project, Utah. Contract to provide the Bureau of Reclamation with perpetual use of 7,900 acre-feet of water annually for storage in the Jordanelle Reservoir.

18. Grand Valley Water Users Association, Orchard Mesa Irrigation District, and Public Service Company of Colorado, Grand Valley Project, Colorado. Water service contract for the utilization of project water for cooling purposes for a steam electric generation plant.

19. Public Service Company of New Mexico, Colorado River Storage Project, Navajo Unit, New Mexico. Amendatory water service contract for diversion of 20,200 acre-feet, not to exceed a depletion of 16,200 acre-feet of project water for cooling purposes for a steam electric generation plant.

20. Provo Reservoir Water Users Company, Wasatch Irrigation Company, Timpanogas Irrigation Company, Exchange Irrigation Company, Washington Irrigation Company, and the City of Provo; Central Utah Project, Utah: Water exchange contracts, water rights in several mountain lakes and

reservoirs are being exchanged for equivalent contract water rights in Jordanelle Reservoir.

21. Sanpete County Water Conservancy District, Narrows Project, Utah: Application for a Small Reclamation Project Act loan and grant to construct a dam, reservoir and pipeline to annually supply approximately 5,000 acre-feet of water through a transmountain diversion from Upper Gooseberry Creek in the Price River drainage (Colorado River Basin) to the San Pitch—Sever River (Great Basin).

22. Highland Conservation District, Provo River Project, Utah: Water transfer agreement between District and Highland City involving change of use from irrigation to municipal and industrial.

Great Plains Region

Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–247–7730.

1. Individual irrigators, M&I, and miscellaneous water users: Colorado, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Temporary (interim) water service contracts for the conveyance, storage, and exchange of surplus project water and nonproject water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for a term up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado: Water service contracts for irrigation, municipal, and industrial; contract negotiations for sale of water from the marketable yield to water users within the Colorado River Basin of Western Colorado.

3. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Repayment contracts; second round contract negotiations for municipal, domestic, and industrial water from the regulatory capacity of Ruedi Reservoir.

4. Cedar Bluff Irrigation District No. 6, Cedar Bluff Unit, P–SMBP, Kansas: In accordance with Section 901 of Pub. L. 102–575, 106 Stat. 4600, terminate the Cedar Bluff Irrigation District's repayment contract and transfer use of the District's portion of the reservoir storage capacity to the State of Kansas for fish, wildlife, recreation, and other purposes.

5. Garrison Diversion Unit, P–SMBP, North Dakota: Renegotiation of the master repayment contract with Garrison Diversion Conservancy District to conform with the Garrison Diversion Unit Reformulation Act of 1986; negotiation of repayment contracts with irrigators and M&I users.

6. Corn Creek Irrigation District, Glendo Unit, P–SMBP, Wyoming: Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir pending completion of NEPA review.

7. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

8. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs of the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

9. Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas: Pursuant to Section 501 of Pub. L. 101–434, negotiate amendatory contract to increase irrigable acreage within the project.

10. Lakeview Irrigation District, Shoshone Project, Wyoming: New long-term water service contract for up to 3,200 acre-feet of firm water supply annually and up to 11,800 acre-feet of interim water from Buffalo Bill Reservoir. Pursuant to Section 9(e) of the Reclamation Project Act of 1939 (Pub. L. 260).

11. City of Rapid City and Rapid Valley Water Conservancy District, Rapid Valley Unit, P–SMBP, South Dakota: Contract renewal for up to 55,000 acre-feet of storage capacity in Pactola Reservoir.

12. Belle Fourche Irrigation District, Belle Fourche Unit, P–SMBP, South Dakota: Amendment to Contract No. 5–07–60–WR170. The amendment will initiate the repayment period for the rehabilitation and betterment work to begin June 30, 1996. The amendment will also provide an additional $10.5 million for additional rehabilitation and betterment work.

13. North Platte Project, Pathfinder Irrigation District: Negotiation of contract, Pathfinder Irrigation District: Negotiation of contract regarding Safety of Dams Program modification of Lake Alice Dam.

14. Bostwick Irrigation District in Nebraska and Kansas-Bostwick Irrigation District, Ainsworth Irrigation District, Farwell Irrigation and Sargent Irrigation District, Frenchman-Cambridge Irrigation District, Frenchman Valley Irrigation District, Almena Irrigation District, Webster Irrigation District, and Kirwin Irrigation District, P–SMBP, Kansas and Nebraska: Renewal of existing water service and repayment contracts for irrigation water supplies, pending completion of NEPA review.

15. Mountain Park Master Conservancy District, Mountain park Project, Oklahoma: Pursuant to Title IV of Pub. L. 103–434, amend the District's contract to reallocate the project costs to reflect the environmental activities authorized by Title IV and provide for a discounted prepayment of all or a portion of the reimbursable costs allocated for its M&I water supply.

16. Northern Cheyenne Indian Reservation, Montana: In accordance with Section 9 of the Northern Cheyenne Reserved Water Rights Settlement Act of 1992, the United States and the Northern Cheyenne Indian Tribe are proposing to contract for 30,000 acre-feet per year of stored water from Bighorn Reservoir, Yellowtail Unit, Lower Bighorn Division, P–SMBP, Montana. The Tribe will pay the United States both capital and O&M costs associated with each acre-foot of water the Tribe sells from this storage for M&I purposes.

17. Canadian River Municipal Water Authority, Canadian River Project, Texas: Contract for the United States to pay up to 33 percent of the costs of the salinity control project. These costs are to be used for the design and construction management of the project facilities.

18. Angostura Irrigation District, Angostura Unit, P–SMBP, South Dakota: The District's current contract for water service expired on December 31, 1995. The current contract also provided for the District to operate and maintain the dam and reservoir. The proposed contract would provide a continued water supply for the District and the District's continued operation and maintenance of the facility.

19. Shadehill Water User District, Shadehill Unit, P–SMBP, South Dakota: Water service contract expired June 10, 1995. The proposed contract would provide irrigation water to the District pursuant to terms acceptable to both the United States and the District.

20. Enders Dam, Frenchman-Cambridge Division, Frenchman Unit, Nebraska: Repayment contract for proposed Safety of Dams modifications to Enders Dam for repaid of seeping drainage features. Estimated cost of the repairs is $632,000.

21. Belle Fourche Irrigation District, Belle Fourche Unit, P–SMBP, South Dakota: D&MC contract for rehabilitation work on water control structures, lining additional canals, and rehabilitation of bridges and laterals. Pub. L. 103–434, enacted October 31, 1994, authorized an additional $10.5 million in Federal funds and $4 million in non-Federal cost share for completion of the minor construction.

22. Cities of Loveland and Berthoud, Colorado, Colorado-Big Thompson Project, Colorado: Long-term contracts for conveyance of nonproject M&I water through Colorado-Big Thompson Project facilities pursuant to the Town Sites and Power Development Act of 1906.

Dated: January 24, 1996.

Wayne O. Deason,

Assistant Director, Program Analysis Office.

[FR Doc. 96–2300 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–49–P

National Park Service

60 Day Notice of Intention to Request Clearance of Information Collection; Opportunity for Public Comment

AGENCY: Guadalupe Mountains National Park, National Park Service (NPS).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on a proposed information collection request (ICR).

Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The primary purpose of the proposed ICR is to compare and contrast any significant differences between park users from three apparently different visitor use seasons of spring, summer, and fall. This proposed collection of information will be accomplished using a mail-back questionnaire focusing on information that is not readily available from registers at visitor centers, trailheads, or camping permits. The range of issues in the questionnaire will assess (1) visitor information sources inside and outside the park, (2) visitor travel flow within the park, (3) visitor evaluation of existing and desired facilities, programs or activities, and (4) visitor perceptions of crowding or solitude in wilderness and developed areas. This data is needed to plan for future management actions that would protect park resources and provide visitor services.

DATES: Written comments will be accepted until April 5, 1996.

SEND COMMENTS TO: Superintendent, Guadalupe Mountains National Park, HC 60 Box 400, Salt Flat, TX 79847–9801.

FOR FURTHER INFORMATION CONTACT: Fred Armstrong, Resource Management Specialist, at (915) 828–3251 extension 132.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

SUPPLEMENTARY INFORMATION:

Title: Visitor Use Survey—Guadalupe Mountains National Park.

Form: Not applicable.

OMB Number: To be assigned.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: To evaluate significant differences in visitor activities and visitor perceptions during three apparently different visitor use seasons of spring, summer and fall. The proposed information to be collected is not available from existing records, sources, or observations.

Description of Respondents: Individuals or groups of park visitors.

Estimated Annual Reporting Burden: 800 hours.

Estimated Average Burden Hours Per Response: 12 minutes.

Estimated Average Number of Respondents: 4,000.

Estimated Frequency of Response: For a 7-day period each during the visitor use seasons of spring, summer, and fall, for a total of 21 days of survey.

Terry N. Tesar,

Information Collection Clearance Officer, Management Services Division, National Park Service.

[FR Doc. 96–2282 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–70–M

Gettysburg National Military Park Advisory Commission; Meeting

AGENCY: National Park Service.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the seventeenth meeting of the Gettysburg National Military Park Advisory Commission.

Date: The Public meeting will be held on February 15, 1996, from 2:00 p.m.–5:00 p.m.

Location: The meeting will be held at Gettysburg Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

Agenda: Sub-Committee Reports, Facilities Development Planning Process, Deer Management, Operational Update on Park Activities, and Election of Officers.

For Further Information Contact: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Supplementary Information: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: January 24, 1996.

Warren D. Beach,

Field Director, Northeast Field Area.

[FR Doc. 96–2283 Filed 2–2–96; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. First Hawaiian, Inc. and First Interstate of Hawaii, Inc.; Proposed Modification of the Final Judgment, Notice

Please take notice that First Hawaiian, Inc. ("First Hawaiian"), defendant in the above-captioned action, has filed a motion for an order modifying the Final Judgment entered on May 29, 1991 in this antitrust action. Plaintiff, the United States of America, has tentatively consented to the entry of such an order, but it has reserved the right to withdraw its consent within 30 days after the last day of publication of this Notice.

The Complaint in this case was filed on December 28, 1990, and alleged that the acquisition of Defendant First Interstate of Hawaii, Inc. ("First Interstate") by Defendant First Hawaiian would violate Section 7 of the Clayton Act (15 U.S.C. § 18) by substantially lessening competition in business banking services in several geographic markets in the State of Hawaii. After the Complaint was filed, the parties agreed to a stipulated Final Judgment that allowed the acquisition to proceed provided that First Hawaiian, *inter alia*, divested seven branches. The Final Judgment was entered by the Court on May 29, 1991, after an appropriate public notice and comment period under the Tunney Act (15 U.S.C. § 16(b) *et seq.*).

To date, First Hawaiian has divested four branches, but has yet to divest three more: The Kuapa Kai branch located at

377 Keahole Street, Honolulu, Hawaii 96825; the Lahaina—Pakui branch located at 135 Papalaua Street, Lahaina, Hawaii 96761; and the Market branch located at 2005 Main Street, Wailuku, Hawaii 96793 (collectively the "divestiture branches").

The proposed modification of the Final Judgment is limited to Section V.A., which requires First Hawaiian to divest the divestiture branches to federally insured financial institution(s) that offer customers, at a minimum, transaction account deposits and commercial loans. Despite its best efforts over a four-year period, First Hawaiian has been unsuccessful in finding a qualified purchaser for the divestiture branches within the meaning of the Final Judgment. Finance Factors, Ltd., a company not authorized to offer transaction account deposits, has now offered to acquire the divestiture branches' outstanding loans and other assets, as well as the non-transaction account deposits. The proposed modification would allow First Hawaiian to satisfy the divestiture requirements of the Final Judgment by allowing First Hawaiian to sell the loans and other assets, and the non-transaction account deposits, of the divestiture branches to Finance Factors, or a similar business, with the prior approval of the Department of Justice.

First Hawaiian and the United States have filed memoranda with the Court setting forth why the proposed modification is in the public interest. Copies of the Complaint, Final Judgment, motion papers, the modification memoranda, all comments submitted and all further papers filed with the Court will be available for inspection at Room 200, Antitrust Division, United States Department of Justice, 325 Seventh Street, N.W., Washington, D.C. 20530 (telephone: 202/514–2481), and at the Office of the Clerk of the United States District Court for the District of Hawaii. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit to the United States comments regarding the proposed modification. Comments must be received on or before February 18, 1996, by sending them to Mr. Ian Simmons, Computers and Finance Section, Antitrust Division, Department of Justice, 555 Fourth Street, N.W., Room 9903, Washington, D.C. 20001 (telephone: 202/307–6164). Copies of, and its responses to, if any, any comments will be filed with the Court by the Government.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 96–2298 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CAD Framework Initiative, Inc.

Notice is hereby given that, on October 11, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, these changes are as follows: (1) SEMI/Sematech, Austin, TX; IKOS Systems, Inc., Cupertino, CA; Duet Technologies, Inc., Santa Clara, CA; and High Level Design Systems, Inc., Santa Clara, CA; have joined as new Corporate Members; (2) Earl F. Ecklund, Jr., Beaverton, OR, has joined as a new Individual Member; (3) GenRad, Ltd., Fareham, Hampshire, UNITED KINGDOM, is now listed as Veda Design Automation Limited; (4) Harris Corporation; Philips Semiconductor; Racal Redac, Inc.; SGS Thompson; and Telefonaktiebolaget LM Ericsson, have not renewed their Corporate Memberships in CFI; (5) CPQD Telebras; Mayo Foundation; and Nanyang Technological University, have not renewed their Associate Memberships in CFI; and (6) John Chilton; Prem Jain; and Andrew Scott, have not renewed their Individual Memberships in CFI.

On December 30, 1988, CFI filed its original notification pursuant to Section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the **Federal Register** pursuant to Section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction notice was published on April 20, 1989 (54 FR 16013).

The last notification was filed with the Department on September 1, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 26, 1994 (59 FR 49084).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2296 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Chemical Industry Environmental Technology Projects, L.L.C.

Notice is hereby given that, on June 13, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Chemical Industry Environmental Technology Projects, L.L.C., has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Air Products and Chemicals, Inc., Allentown, PA; Akzo Nobel Inc., Dobbs Ferry, NY; Battelle Memorial Institute, Columbus, OH; and E.I. du Pont de Nemours and Company, Inc., Wilmington, DE. The nature and purpose of the venture is to develop, promote and conduct cooperative research and development to address environmental issues in the chemical and process technology industries.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2295 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on September 15, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), The Frame Relay Forum ("FRF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identity of the new members of FRF are: Micom Communications, Simi Valley, CA; Inchcape Testing Services, Lexington, KY; Jupiter Technology Inc., Waltham, MA; Xylan Corporation, Irvine, CA; Level One Communications, Inc., Sacramento, CA; and Presticom Inc., St-Hubert, PQ CANADA. Name changes include: Wiltel to LDDS Worldcom, and Transpac to France Telecom/Transpac.

No other changes have been made in either the membership or planned activities of FRF. Membership remains open, and FRF intends to file additional written notifications disclosing all changes in membership.

On April 10, 1992, FRF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 2, 1992 (57 Fed. Reg. 29537).

The last notification was filed with the Department on June 16, 1995. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2297 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Semiconductor Research Corporation

Notice is hereby given that, on December 11, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Semiconductor Research Corporation ("SRC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, SRC has added IntelliSense Corporation, Wilmington, MA; Solid State Systems, Inc., Santa Clara, CA; Cadence Designs Systems, San Jose, CA; Dupont, Wilmington, DE; Ford Motor Company, Dearborn, MI; and Novellus Systems, Inc., San Jose, CA. The following companies have been deleted from SRC membership: DTX Corporation, Lancaster, PA; M/A COM, Inc., Lowell, MA; Matrix Integrated Systems, Inc., Richmond, CA; Praxair, Inc., Tarrytown, NY, Prometrix Corporation, Santa Clara, CA; and Sunrise Test Systems, Inc., Santa Clara, CA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SRC intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, SRC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 30, 1985 (50 FR 4281).

The last notification was filed with the Department on March 7, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 5, 1995 (60 FR 62261).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2294 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 21, 1995, and published in the **Federal Register** on August 30, 1995, (60 FR 45169), Celgene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
2, 5-Dimethoxyamphetamine (7396).	I
Amphetamine (1100)	II

A registered manufacturer filed an objection dated October 16, 1995, to the registration of Celgene Corporation as a bulk manufacturer of amphetamine stating that they do not believe there is need for another manufacturer. They also requested a hearing if DEA would not deny the application. Under Title 21, Code of Federal Regulations, Section 1301.43(b), DEA is not required to limit the number of manufacturers solely because a smaller number is capable of producing an adequate supply provided effective controls against diversion are maintained. DEA has conducted an investigation of Celgene Corporation, and determined that effective controls against diversion will be maintained. The request for a hearing is not valid since it was received after July 20, 1995, the date Title 21, Code of Federal Regulations, Section 1304.43(a) was amended to eliminate the third-party manufacturer hearing requirement for objections to certain bulk manufacturers.

Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Codo of Federal Regulations, Section 1301.54(e), Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 15, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–2315 Filed 2–2–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

[Secretary's Order 1–96]

Time Extension of Secretary's Order 6–94, Establishing Pilot Project to Create Concurrent Authorities and Responsibilities for the Assistant Secretary for Occupational Safety and Health and the Assistant Secretary for Employment Standards With Respect to Certain Whistleblower Protection Laws and Certain Laws Establishing Labor Standards Affecting Field Sanitation and Migrant Housing

January 26, 1996.

1. *Purpose.* Secretary's Order 6–94 (published in the **Federal Register** at 60 F.R. 3655, January 18, 1995) established a pilot program to test the efficacy of a limited exchange of enforcement responsibilities for certain whistleblower and agriculture safety and health programs, by granting to the Assistant Secretary for Occupational Safety and Health and to the Assistant Secretary for Employment Standards limited concurrent authority to enforce the whistleblower protections and agricultural safety and health laws enumerated in sections 4.a. and 4.b. of that Order. Section 7 of Secretary's Order 6–94 provided that the pilot program would commence in the Dallas Region, Southwest Division (excluding New Mexico), and authorized the two Assistant Secretaries to modify the geographic scope of the program by written agreement approved by the Secretary. Section 2 of Secretary's Order 6–94 provided that the delegations of authority and responsibility established by the Order would expire at the end of the calendar year 1995.

The purpose of this Secretary's Order is to amend the latter provision to

provide that the one-year pilot project and the delegations of authority and responsibility established by Secretary's Order 6–94 are hereby extended until further Order of the Secretary.

2. *Directives Affected.* Section 2 of Secretary's Order 6–94 is hereby superseded to the extent that it provides that the authority and responsibilities established by the Order expire at the end of the calendar year 1995. Under the terms of this Order, the pilot project and the delegations of authority and responsibility established by Secretary's Order 6–94 are hereby extended until further Order of the Secretary.

3. *Effective date.* This Order is effective immediately.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96–2342 Filed 2–2–96; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Job Search Assistance Demonstration Followup Survey; Notice

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed new collection of the Job Search Assistance Demonstration Followup Survey. A copy of the proposed information collection request can be obtained by contacting the employee listed below in the addressee section of this notice.

DATES: Written comments must be submitted on or before April 5, 1996. The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* Enhance the quality, utility, and clarity of the information to be collected; and
* Minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Wayne S. Gordon, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–4231, Washington, DC 20210, (202) 219–5922 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Public Law 102–164, the Emergency Unemployment Compensation Act of 1991, authorized USDOL to carry out a demonstration program to determine the feasibility and effectiveness of implementing job search programs for Unemployment Insurance (UI) claimants. The legislation specified that eligible claimants were to be offered intensive job search services including basic employment services such as orientation, testing, a job-search workshop, and an individual assessment-counseling interview, and additional services such as ongoing contact with program staff, followup assistance, resource centers, and job search materials and equipment. The demonstration is currently being conducted in the District of Columbia and Florida.

The legislation authorizing the demonstration requires USDOL to submit a final evaluation report that examines the impacts of job search services on UI benefit receipt and on UI claimants' labor market outcomes—the duration of unemployment, earnings and hours worked. The legislation also specified that the evaluation was to estimate the net social benefits and costs of the program. The survey of claimants, which is the subject of this **Federal Register** notice, is intended to support this legislated evaluation.

II. Current Actions

The proposed survey will collect information from a sample of UI claimants who were offered demonstration services and, for comparison purposes, from a sample of claimants who were not offered services. It will collect information on the background characteristics of sample members, including the characteristics of their pre-UI occupation, information on their employment and earnings and job characteristics following receipt of UI, and information on job search services including their satisfaction with the services.

The sample for the survey will be collected from the District of Columbia and Florida state data systems as will administrative records data on UI receipt, job search service receipt, and earnings. Information on job characteristics, the timing of employment and earnings, and claimants satisfaction with the services they receive are unavailable from administrative records, however, and must be collected through a survey of claimants.

The survey will be conducted through a computer-assisted telephone interviewing system with automatic call scheduling. This system is designed to minimize the burden on respondents by minimizing time on the telephone and by providing a mechanism for respondents to schedule calls. Participation is voluntary and confidential.

Type of Review: New.

Agency: United States Department of Labor, Employment and Training Administration.

Title: Job Search Assistance Demonstration Followup Survey.

Agency Number: 1205.

Affected Public: Unemployment Insurance claimants.

Total Respondents: 4,500.

Frequency: One time.

Total Responses: 4,500.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 2,250 hours.

Estimated Cost to the Federal Government: $240,340.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 30, 1996.

Mary Ann Wyrsch,

Director, Unemployment Insurance Service.

[FR Doc. 96–2341 Filed 2–2–96; 8:45 am]

BILLING CODE 4510–30–M

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Unemployment Insurance Benefits Quality Control Program; Notice

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed revision of the collection of the Unemployment Insurance Benefits Quality Control program data.

A copy of the proposed changes to the information collection Handbook (ETA Handbook 395) can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before April 5, 1996. Written comments should:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: Burman H. Skrable, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S–4015, 200 Constitution Avenue, NW., Washington, DC 20210, 202–219–5220 (this is not a toll-free number); FAX, 202–219–8506; Internet: eta.sao.skrableb@doleta.gov.

SUPPLEMENTARY INFORMATION

I. Background

Since 1987, all State Employment Security Agencies (SESAs) except the Virgin Islands have been required by regulation at 20 CFR 602 to operate a Benefits Quality Control (BQC) program to assess the accuracy of their Unemployment Insurance (UI) benefit payments. The Department's authority is found at Sections 303(a)(1) and 303(b)(1) of the Social Security Act. The BQC programs operate as follows. Each State draws a weekly sample of payments; annual samples presently average slightly over 800 cases per State, with a range of 480 to 1800. A specially trained staff reviews agency records and contacts the claimant, employers and third parties to verify all the information pertinent to the benefit amount for the sampled week. Since July 1993, investigators have been able to use a mix of in-person and telephone/fax contacts. Using the verified information, they determine what the benefit payment should have been to accord fully with State law and policy. Any differences between the actual and reconstructed payment are underpayment or overpayment errors and are coded into a specially-provided computer along with their types, causes and responsibilities. This information is used by the State and the Department of Labor to estimate the extent of mispayments to monitor program quality, guide possible future program improvements, inform system stakeholders and perform various policy analyses. The program costs approximately $26 million each year to operate.

The typical investigation requires about 10.5 hours per case and in total the 42,240 cases are estimated to impose a paperwork burden of 133,900 hours. The program is operated under OMB approval number 1205–0245; approval expires 8/31/96.

This fall, as part of a larger effort to put UI performance improvement systems on a consistent basis, a joint workgroup of senior State Employment Security Agency (SESA) managers and Federal staff developed a proposal for modifying BQC to bring it into better balance with other UI performance measurement systems. This proposal also responds to the Department's commitment to the Vice President's National Performance Review (NPR) to "reexamine . . . the BQC program" and determine how BQC's resources can "best be divided between measurement, analysis and direct support for program improvement" in the context of the larger UI Performance system.

II. Current Actions

This is a request for OMB approval [under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)] to revise an existing collection of information previously approved and assigned OMB Control No. 1205–0245. The proposed revision would reduce burden hours by 58,581.

The following changes in BQC are proposed:

• Reductions in sample sizes to 360 cases in the 10 smallest SESAs and 480 in the remainder. This change will cut the annual paperwork burden from 133,900 hours to 75,319. It will also reduce precision: standard errors will increase, ranging from about 10 percent in the smallest States to as much as 100 percent in the largest.

• Greater flexibility in how States verify claims data. Instead of being required to investigate certain portions of UI claims in person, they will have the option of using whatever method is appropriate in the circumstances—in-person, mail, phone, or fax. This should reduce average time to complete a case to about 7.5 hours. It is estimated, however, that if States completely cease in-person investigations, BQC will detect up to 14 percent less dollars overpaid compared with the present protocol.

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Unemployment Insurance Benefits Quality Control Program.

OMB Number: 1205–0245.

Frequency: Weekly.

Recordkeeping: States are required to follow their State laws regarding public record retention in retaining BQC records.

Affected Public: Individuals; Business; other for-profit/Not-for-profit institutions; Farms; Federal, State, Local, or Tribal Governments.

Number of Respondents: 52.

Estimated Time Per Respondent: 3.17 hours.

Total Estimated Cost: $26 million.

Total Burden Hours: 75,319 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 30, 1996.

Mary Ann Wyrsch,

Director, Unemployment Insurance Service.

[FR Doc. 96–2343 Filed 2–2–96; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notice

In the matter of: 1. Payment of Compensation Without Award (LS–206); 2. Certification of Funeral Expenses (LS–265); 3. Notice of Controversion of Right to Compensation (LS–207); 4. Application for Authority to Employ Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture (WH–200–MIS).

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension collection of: (1) Payment of Compensation Without Award; (2) Certification of Funeral Expenses; (3) Notice of Controversion of Right to Compensation; (4) Application for Authority to Employ Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture. Copies of the proposed information collection requests can be obtained by contacting the employee listed below in the addressee section of this notice.

DATES: Written comments must be submitted on or before April 8, 1996. The Department of Labor is particularly interested in comments which:

* evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSEE: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 219–7601 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

Payment of Compensation Without Award

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act, which provides benefits to certain workers injured in maritime employment or the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. Under the Act, a self-insured employer or insurance carrier is required to pay compensation within 14 days after the employer has knowledge of the injury or death. Upon making the first payment, the employer or carrier must immediately notify the deputy commissioner of the payment. This form has been designated as the form on which report of first payment is to be made.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to carry out its responsibility to monitor the payment status of a given case.

Certification of Funeral Expenses

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act, which provides benefits to certain workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. The Act provides that reasonable funeral expenses not to exceed $3,000 shall be paid in all compensable death cases. Form LS–265 has been provided for use in submitting the funeral expenses for payment.

II. Current Actions

The Department of Labor seeks the extension of this information collection in order to carry out its responsibility for monitoring and processing death cases. It is used to certify the amount of funeral expenses incurred in the case.

Notice of Controversion of Right to Compensation

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act, which provides benefits to certain workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. Pursuant to the Act, if an employer controverts the right to compensation he/she shall file with the deputy commissioner in the affected compensation district on or before the fourteenth day after he has knowledge of the alleged injury or death, a notice, in accordance with a form prescribed by the Secretary of Labor, stating that the right to compensation is controverted. This form is used for that purpose.

II. Current Actions

The Department of Labor seeks the extension of this information in order to determine the basis for not paying benefits in a case, and to inform the injured claimant of the reason(s) for not paying compensation benefits.

Application for Authority to Employ Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture

I. Background

The Fair Labor Standards Act (FLSA) requires the Secretary of Labor to provide certificates authorizing the employment of full-time students at 65% of the applicable minimum wage in retail or service establishments and in agriculture to the extent necessary to prevent curtailment of opportunities for employment. These provisions set limits on such employment and prescribe safeguards to protect full-time students so employed and full-time employment opportunities of other workers. 29 CFR Part 519 sets forth the application requirements, the terms and conditions for the employment of students at subminimum wages.

This voluntary use form is prepared and signed by an authorized representative of an employer applying for authorization to employ full-time students at subminimum wages. The completed form is reviewed by the Wage and Hour Division of the Department of Labor to determine whether to grant or to deny subminimum wage authority to the applicant.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to provide employers with the certification necessary to pay students at subminimum wages, to protect full-time students so employed, and to protect the full-time opportunities of other workers.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Payment of Compensation Without Award.
OMB Number: 1215–0022.
Agency Number: LS–206.
Affected Public: Businesses or other for-profit.
Total Respondents: 900.
Frequency: On occasion.
Total Responses: 34,200.
Average Time per Response: 15 minutes.
Estimated Total Burden Hours: 8,550.
Estimated Total Burden Cost: $10,944.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Certification of Funeral Expenses.
OMB Number: 1215–0027.
Agency Number: LS–265.
Affected Public: Businesses or other for-profit.
Total Respondents: 195.
Frequency: On occasion.
Total Responses: 195.
Average Time per Response: 15 minutes.
Estimated Total Burden Hours: 49.
Estimated Total Burden Cost: $68.00.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Notice of controversion of Right to Compensation.
OMB Number: 1215–0023.
Agency Number: LS–207.
Affected Public: Businesses or other for-profit.
Total Respondents: 900.
Frequency: On occasion.
Total Responses: 18,900.
Average Time per Response: 15 minutes.
Estimated Total Burden Hours: 4,725.
Estimated total Burden Cost: $7,040.00.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Application for Authority to Employ Full-Time Students at Subminimum Wage in Retail or Service Establishments or Agriculture.
OMB Number: 1215–0032.
Agency Number: WH–200–MIS.
Affected Public: Individuals or households; Businesses or Other For-Profit; Not-for-Profit Institutions; Farms.
Total Respondents: 5,000.
Frequency: Annually.
Total Responses: 5,000.
Average Time per Response: 10–30 minutes.
Estimated Total Burden Hours: 1,100.
Estimated Total Burden Cost: $1,600.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 30, 1996.

Cecily A. Rayburn,

Chief, Division of Financial Management, Office of Management, Administration and Planning Employment Standards Administration.

[FR Doc. 96–2344 Filed 2–2–96; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Council on the Arts 127th Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on February 13, 1996, from 9:00 a.m. to 5:15 p.m., in Room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

This meeting will be open to the public. Topics for discussion will include a legislative update, a budget discussion, an update on the reinvented agency, American Canvas, guidelines and/or application review for the Partnership Agreements, the Literature, Jazz Masters and National Heritage Fellowships, and the Arts in Education, Challenge, Expansion Arts, Folk and Traditional Arts, Literature, Media Arts, Museum, Music, Opera-Musical Theater, State and Regional, Theater, and Visual Arts Programs.

If, in the course of discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532 TTY–TDD 292/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, D.C. 20506, at 202/682–5570.

Dated: January 30, 1996.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 96–2281 Filed 2–2–96; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical & Transport Systems (#1190).
Date: February 20, 1996; 8:30 am to 5:00 pm.
Place: Room 580, National Science Foundation 4201 Wilson Boulevard, Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Farley Fisher, Program Director, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: 703/306–1370.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate Engineering Research Equipment proposals submitted to the Kinetics and Catalysis Program as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information

concerning individuals associated with the proposals. The matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government Sunshine Act.

Dated: January 31, 1996

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2334 Filed 2–2–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Final Report on Responsiveness to the Public; Availability

The Nuclear Regulatory Commission has published its Final Report on Responsiveness to the Public, NUREG/BR–0199. The Draft Report was published for comment on March 31, 1995. Thirty-two comments were received in written and electronic format. Where feasible, comments have been incorporated into the final report.

Single copies of the Final Report will be provided to each individual or group that provided comments on the draft report. Other interested parties may purchase a copy of NUREG/BR–0199 from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

In addition, the final report is available through the Internet World Wide Web server, which can be accessed by using the Uniform Resource Locator, (URL)http:\ww.nrc.gov. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20555–0001. Copies of comments received and responses thereto are also available in the NRC Public Document Room.

Dated at Rockville, Maryland, this 29th day of January, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–2325 Filed 2–2–96; 8:45 am]

BILLING CODE 7590–01–P

Northeast Utilities; Notice of Informal Public Hearing

The U.S. Nuclear Regulatory Commission (NRC) will hold an informal public hearing regarding a petition submitted pursuant to 10 CFR 2.206 involving Millstone Units 1, 2, and 3 and Seabrook Unit 1 of Northeast Utilities (NU/the licensee). The hearing will be held on March 7, 1996, at the Waterford Townhall in Waterford, Connecticut. The hearing will be open to public attendance and will be transcribed. The NRC has elected to hold such a hearing because of the complexity of the issues involved and the public's interest.

The structure of the hearing shall be as follows:

Thursday, March 7, 1996

6:00 p.m.—NRC opening remarks
6:15 p.m.—Petitioner's presentation
7:00 p.m.—NRC questions
7:15 p.m.—Licensee's presentation
8:00 p.m.—NRC questions
8:15 p.m.—Public comments
9:45 p.m.—Licensee/Petitioners' final statements
10:00 p.m.—Meeting concludes

A Petition pursuant to 10 CFR 2.206 was submitted to the NRC by Mr. Ernest C. Hadley on behalf of Mr. George Galatis and the Citizens Group, We the People (Petitioners) on August 21, 1995, as supplemented August 28, 1995. The Petitioners allege that NU has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of its operating license for approximately 20 years; that it obtained previous licensing amendments through the use of material false statements; and that it presently proposes to continue operating under unsafe conditions rather than comply with the mandates of its license. Specifically, the Petitioners allege that NU has offloaded more fuel assemblies into the spent fuel pool than permitted under License Amendment No. 39 to the Millstone Unit 1 Provisional Operating License and License Amendment No. 40 to the Millstone Unit 1 Full-Term Operating License. The Petitioners further allege that License Amendments Nos. 39 and 40 were based upon material false statements made by NU in documents submitted to the NRC. The Petitioners refer to certain NU submittals allegedly containing the false information, such as NU Safety Assessment Reports associated with License Amendments Nos. 39 and 40 and with Systematic Evaluation Program Topics IX–1 (fuel storage), IX–5 (ventilation systems), and III–7.B (design codes, design criteria, load combinations, and reactor cavity design criteria).

In the Supplement, Mr. Galatis alleges that NU also committed violations by offloading more than one-third of a core of fuel at Millstone Units 2 and 3 and Seabrook Unit 1. In addition, Mr. Galatis alleged with regard to Millstone Unit 3 that NU submitted a material false statement to the NRC associated with a license amendment and that an unanalyzed condition exists with regard to system piping for full-core offload events. With regard to Seabrook Unit 1, Mr. Galatis alleged technical specification violations associated with a criticality analysis.

The purpose of this informal public hearing is to obtain additional information from the Petitioners, NU, and the public for NRC staff use in evaluating the Petition. Therefore, this informal public hearing will be limited to information relevant to issues raised in the Petition and its Supplement. The staff will not offer any preliminary views on its evaluation of the Petition. The informal public hearing will be chaired by a senior NRC official who will limit presentations to the above subject.

The format of the informal public hearing will be as follows: opening remarks by the NRC regarding the general 10 CFR 2.206 process, the purpose of the informal public hearing, and a brief summary of the Petition and its Supplement (15 minutes); time for the Petitioners to articulate the basis for the Petition (45 minutes); time for the NRC to ask the Petitioners questions for purposes of clarification (15 minutes); time for NU to address the issues raised in the Petition (45 minutes); time for the NRC to ask NU questions for purposes of clarification (15 minutes); time for public comments relative to the Petition (90 Minutes); and time for licensee and Petitioners' final statements (15 minutes).

Members of the public who are interested in presenting information relative to the Petition should notify the NRC official, named below, 5 working days prior to the hearing. A brief summary of the information to be presented and the time requested should be provided in order to make appropriate arrangements. Time allotted for presentations by members of the public will be determined based upon the number of requests received and will be announced at the beginning of the hearing. The order for public presentations will be on a first received first to speak basis. Written statements will also be accepted and included in the record of the hearing. Written statements should be mailed to the U.S. Nuclear Regulatory Commission, Mailstop O–14H3, Attn: Stephen Dembek, Washington, DC 20555.

Requests for the opportunity to present information can be made by contacting Stephen Dembek, Project Manager, Division of Reactor Projects—I/II (telephone 301–415–1455) between 8:30 a.m. to 5:00 p.m. (EST). Persons planning to attend this informal public hearing are urged to contact the above 1 or 2 days prior to the informal public hearing to be advised of any changes that may have occurred.

Dated at Rockville, Maryland this 1st day of February, 1996.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Deputy Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2438 Filed 2–2–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Accounting for Liabilities of the Federal Government

AGENCY: Office of Management and Budget.

ACTION: Notice of Document Availability.

SUMMARY: This Notice indicates the availability of the fifth Statement of Federal Financial Accounting Standards, "Accounting for Liabilities of the Federal Government," adopted by the Office of Management and Budget (OMB). The statement was recommended by the Federal Accounting Standards Advisory Board and adopted in its entirety by OMB.

ADDRESSES: Copies of the Statement of Federal Financial Accounting Standards No. 5, "Accounting for Liabilities of the Federal Government," may be obtained for $5.50 each from the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202–783–3238), Stock No. 041–001–00463–7.

FOR FURTHER INFORMATION CONTACT: Ronald Longo (telephone: 202–395–3993), Office of Federal Financial Management, Office of Management and Budget, 725–17th Street NW., Room 6025, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: This Notice indicates the availability of the fifth Statement of Federal Financial Accounting Standards, "Accounting for Liabilities of the Federal Government." The standard was recommended by the Federal Accounting Standards Advisory Board (FASAB) in September 1995, and adopted in its entirety by the Office of Management and Budget (OMB).

Under a Memorandum of Understanding among the General Accounting Office, the Department of the Treasury, and OMB on Federal Government Accounting Standards, the Comptroller General, the Secretary of the Treasury, and the Director of OMB decide upon principles and standards after considering the recommendations of FASAB. After agreement to specific principles and standards, they are to be published in the **Federal Register** and distributed throughout the Federal Government.

G. Edward DeSeve,

Controller.

[FR Doc. 96–2359 Filed 2–4–96; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

TIME AND DATE: 1:00 p.m., February 14, 1996.

PLACE: U.S. Office of Personnel Management Auditorium, Theodore Roosevelt Building, 1900 E Street NW., Washington, DC 20415–0001.

STATUS: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

MATTERS TO BE CONSIDERED: This meeting will consist of an awards ceremony. The winners of the NPC Partnership Award will be announced; and the winners will receive their awards. The NPC Partnership Award is given in recognition of outstanding labor-management partnership activities. These will be the first NPC Partnership Awards given out.

CONTACT PERSON FOR MORE INFORMATION: Douglas K. Walker, National Partnership Council, Executive Secretariat, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street NW., Room 5315, Washington, DC 20415–0001, (202) 606–1000.

James B. King,

Director.

[FR Doc. 96–2284 Filed 2–2–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21722; 812–9884]

First American Investment Funds, Inc., et al.; Notice of Application

January 30, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: First American Investment Funds, Inc. ("FAIF"), First American Funds, Inc. ("FAF"), each existing and future series of FAIF and FAF, and existing and future registered investment companies or series thereof that, now or in the future, are advised by First Bank National Association (collectively, the "Funds"); and First Bank National Association ("First Bank").[1]

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 12(d)(1)(A)(ii), under sections 6(c) and 17(b) for an exemption from section 17(a)(1) and 17(a)(2), and under rule 17d–1 to permit certain transactions in accordance with section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order that would permit certain Funds to use their cash reserves to purchase shares of affiliated money market funds.

FILING DATE: The application was filed on December 8, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 26, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. FAIF and FAF, 680 East Swedesford Road, Wayne, Pennsylvania 19087; First Bank, 601 Second Avenue South, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Alison E. Baur, Branch Chief, at (202) 942–0464 (Division of Investment Management, Office of Investment Company Regulation).

[1] All existing Funds that presently intend to rely on the requested order are named as applicants. Any Funds that may, in the future, rely on the requested order will only do so in accordance with the terms and conditions thereto.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. FAIF is an open-end management investment company that currently offers twenty series, each of which is a variable net asset value fund (a "Non-Money Market Fund"). FAF is an open-end management investment company that currently offers three series, each of which is a money market fund subject to the requirements of rule 2a–7 under the Act (a "Money Market Fund").

2. First Bank serves as investment adviser to each series of FAIF and FAF. Marvin & Palmer Associates, Inc. serves as subadviser to the International Fund, a series of FAIF (together with First Bank and any future sub-adviser to a Fund, the "Advisers"). First Trust National Association (the "Custodian") serves as custodian for the assets of each series of FAIF and FAF.

3. The Money Market Funds seek current income, liquidity, and capital preservation by investing exclusively in short-term money market instruments, such as U.S. government securities, bank obligations, commercial paper, municipal obligations, and repurchase agreements secured by government securities. These short-term debt securities are valued at their amortized cost in accordance with the requirements of rule 2a–7. The Non-Money Market Funds invest in a variety of debt and/or equity securities in accordance with their respective objectives and policies.

4. Applicants request an order that would permit each of the Funds to utilize cash reserves that have not been invested in portfolio securities ("Uninvested Cash") to: (a) Purchase shares of one or more of the Money Market Funds (each such Fund, including Money Market Funds, purchasing shares of a Money Market Fund is an "Investing Fund"), and (b) each Money Market Fund to sell shares to, and redeem such shares from, an Investing Fund. Applicants also request relief that would permit the Funds to invest Uninvested Cash in a Money Market Fund in excess of the percentage limitations set out in section 12(d)(1)(A)(ii) of the Act. Applicants propose that each Fund be permitted to invest in shares of a Money Market Fund provided that each Fund's aggregate investment in such Money Market Fund does not exceed the greater of 5% of such Fund's total net assets or $2.5 million. Applicants will comply with all other provisions of section 12(d)(1).

5. By investing Uninvested Cash in the Money Market Funds, applicants believe that the Investing Funds will be able to combine these cash balances and thereby reduce their transaction costs, create more liquidity, enjoy greater returns, and further diversify their holdings. The policies of the Funds either now permit, or will be amended to permit (pursuant to any required shareholder vote), the Funds to purchase money market instruments, including shares of a Money Market Fund.

6. The shareholders of the Investing Funds would not be subject to the imposition of double advisory fees. Each Adviser will remit to the respective Investing Fund or waive the investment advisory fees that it earns as a result of the Investing Fund's investments in the Money Market Funds, to the extent such fees are based upon the Investing Fund's assets invested in shares of the Money Market Funds. Further, the Money Market Funds, or any underwriter, will not charge a sales charge, contingent deferred sales charge, a distribution fee under a plan adopted in accordance with the requirements of rule 12b–1 under the Act, or other underwriting or distribution fees to the Investing Funds with respect to the purchase or redemption of Money Market Fund shares. If a Money Market Fund offers more than one class of shares, each Investing Fund will invest only in the class with the lowest expense ratio at the time of the investment.

7. Several of the Funds have voluntary expense cap arrangements with First Bank for the purpose of keeping each Fund's total expenses below a certain predetermined percentage amount (an "Expense Waiver"). To the extent actual expenses of the Funds exceed these caps, First Bank waives or reimburses a Fund in the amount of the excess. Any applicable Expense Waiver will not limit the advisory fee waiver or remittance discussed above.

Applicants' Legal Analysis

1. Section 17(a)(1) and 17(a)(2) makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of such affiliated person, acting as principal, to sell any security to, or purchase any security from, such investment company. Because each Fund may be deemed to be under common control with the other Funds, it is an "affiliated person," as defined in section 2(a)(3) of the Act, of the other Funds. Accordingly, the sale of shares of the Money Market Funds to the Investing Funds and the redemption of such shares of the Money Market Funds from the Investing Funds, would be prohibited under section 17(a).

2. Section 17(b) authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Under section 6(c), the SEC may exempt a series of transactions from any provision of the Act or any rule or regulation thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Thus, applicants request relief under sections 6(c) and 17(b) because they wish to engage in a series of transactions rather than a single transaction.

3. The Investing Funds will retain their ability to invest their cash balances directly in money market instruments if they believe they can obtain a higher return. Each of the Money Market Funds has the right to discontinue selling shares to any of the Investing Funds if its board of directors determines that such sales would adversely affect the portfolio management and operations of such Money Market Fund. Therefore, applicants believe that the proposal satisfies the standards for relief.

4. Section 17(d) and rule 17d–1 prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Each Investing Fund, each Investment Adviser of an Investing Fund, and each of the Money Market Funds could be considered participants in a joint enterprise or other joint arrangement within the meaning of section 17(d)(1) and rule 17d–1.

5. Under rule 17d–1, the SEC may permit a proposed joint transaction if participation by a registered investment company is consistent with the provisions, policies, and purposes of the Act, and not on a basis different from or less advantageous than that of the other participants. Applicants believe that their proposal satisfies these standards.

6. Section 12(d)(1)(A)(ii) prohibits a registered investment company from acquiring the securities of another investment company if, immediately thereafter, the acquiring company would have more than 5% of its total assets invested in the securities of the selling company. Applicants request an exemption from section 12(d)(1)(A)(ii) to permit each Fund to invest in a Money Market Fund the greater of 5% of such Fund's total net assets or $2.5 million. The perceived abuses section 12(d)(1) sought to address include undue influence by an acquiring fund over the management of an acquired fund, layering of fees, and complex structures. Applicants believe that none of these concerns are presented by the proposed transactions and that the proposed transactions meet the section 6(c) standards for relief.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The shares of the Money Market Fund sold to and redeemed from the Investing Funds will not be subject to a sales load, redemption fee, or distribution fee under a plan adopted in accordance with rule 12b–1.

2. Applicants will cause the Investment Advisers, in their capacities as advisers for the Money Market Funds, to remit to the respective Investing Fund or waive an amount equal to all investment advisory fees received by them under their respective advisory agreements with the Money Market Funds to the extent such fees are based upon the Investing Fund's assets invested in shares of the Money Market Funds. Any of these fees remitted or waived will not be subject to recoupment by the Funds' Investment Advisers at a later date.

3. For the purpose of determining any amount to be waived and/or expenses to be borne to comply with any Expense Waiver, the adjusted fees for an Investing Fund (gross fees minus Expense Waiver) will be calculated without reference to the amount waived or remitted pursuant to condition 2. Adjusted fees will then be reduced by the amount waived pursuant to condition 2. If the amount waived pursuant to condition 2 exceeds adjusted fees, the applicable Money Market Fund's Investment Adviser also will reimburse the Investing Fund in an amount equal to such excess.

4. Each of the Investing Funds will be permitted to invest Uninvested Cash in, and hold shares of, a Money Market Fund only to the extent that the Investing Fund's aggregate investment in the Money Market Fund does not exceed the greater of 5% of the Investing Fund's total net assets or $2.5 million.

5. The Investing Funds will vote their shares of each of the Money Market Funds in the same proportion as the votes of all other shareholders in such Money Market Funds.

6. The Investing Funds will receive dividends and bear their proportionate share of expenses on the same basis as other shareholders of such Money Market Funds. A separate account will be established in the shareholder records of each of the Money Market Funds for each of the acquiring Investing Funds.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2327 Filed 2–2–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21713; 812–9926]

Lexington Growth and Income Fund, Inc., et al.; Notice of Application

January 30, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Lexington Crosby Small Cap Asia Growth Fund, Inc., Lexington Emerging Markets Fund, Inc., Lexington Global Fund, Inc., Lexington GNMA Income Fund, Inc., Lexington Goldfund, Inc., Lexington Growth and Income Fund, Inc., Lexington International Fund, Inc., Lexington Money Market Trust, Lexington Natural Resources Trust, Lexington Ramirez Global Income Fund, Lexington SmallCap Value Fund, Inc., Lexington Strategic Investments Fund, Inc., Lexington Strategic Silver Fund, Inc., Lexington Tax Free Money Fund, Inc., and Lexington Worldwide Emerging Markets Fund, Inc., (collectively, the "Investment Companies"); and Lexington Management Corporation (the "Adviser").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1), and pursuant to rule 17d–1 under the Act to permit certain joint arrangements in accordance with section 17(d) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain investment companies to enter into deferred compensation arrangements with their trustees.

FILING DATE: The application was filed on December 26, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 26, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Lawrence Kantor, Park 80 West, Plaza Two, Saddle Brook, New Jersey 07662.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Investment Companies are registered under the Act as open-end management investment companies. The Adviser serves as the investment adviser for the Investment Companies and Lexington Funds Distributor, Inc. serves as their distributor.

2. Applicants request that relief granted pursuant to the application also apply to any subsequently registered open-end investment company, or series thereof, advised by the Adviser (together with the Investment Companies, the "Funds").

3. Each Investment Company has a board of trustees, a majority of the members of which are not "interested persons" of such Investment Company within the meaning of section 2(a)(19) of the Act. Each of the trustees who is not an employee of the Adviser, or of any of the Investment Companies, or any of their affiliates ("Eligible Trustees") receives annual fees. Applicants request an order to permit the Eligible Trustees to elect to defer receipt of all or a

portion of their fees pursuant to a deferred compensation plan (the "Plan"). Under the Plan, the Eligible Trustees could defer payment of trustees' fees (the "Deferred Fees") in order to defer payment of income taxes or for other reasons.

4. Under the Plan, the deferred fees payable by a Fund to a participating Eligible Trustee will be credited to a book reserve account established by the Fund (a "Deferred Account"), as of the first business day following the date such fees would have been paid to the Eligible Trustee. The trustee may select one or more Investment Companies from a list of available Investment Companies that will be used to measure the hypothetical investment performance of the trustee's Deferred Account. The value of a Deferred Account will be equal to the value such account would have had if the amount credited to it had been invested and reinvested in shares of the investment portfolios designated by the trustee (the "Designated Shares").

5. Each Investment Company generally intends to purchase and maintain Designated Shares in an amount equal to the deemed investments of the Deferred Accounts of its trustees. Any participating money market series of a Fund that values its assets by the amortized cost method will buy and hold the Designated Shares that determine the performance of the Deferral Accounts in order to achieve an exact match between such series' liability to pay deferred fees and the assets that offset such liability.

6. The Funds' respective obligations to make payments of amounts accrued under the Plan will be general unsecured obligations, payable solely from their respective general assets and property. The Plan provides that the Funds will be under no obligation to purchase, hold or dispose of any investments under the Plan, but, if one or more of the Funds choose to purchase investments to cover their obligations under the Plan, then any and all such investments will continue to be a part of the respective general assets and property of such Funds.

7. When the deferred fees are paid, payment will be made to Eligible Trustees in a lump sum or in generally equal annual installments over a period of no more than 10 years as selected by the Eligible Trustee at the time of deferral. In the event of death, amounts payable to the Eligible Trustee under the Plan will become payable to a beneficiary designated by the Eligible Trustee. In all other events, the Eligible Trustee's right to receive payments is non-transferable.

8. The Plan was adopted prior to receipt of the requested relief. Pending receipt of SEC approval, the Plan provides that the compensation deferred by an Eligible Trustee will be credited to a Deferral Account in the form of cash and credited with an amount equal to the yield on 90-day U.S. Treasury Bills.[1]

Applicants' Legal Analysis

1. Applicants request an order which would exempt the Funds: (a) under section 6(c) of the Act from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, to the extent necessary to permit the Funds to adopt and implement the Plan; (b) under sections 6(c) and 17(b) of the Act from section 17(a)(1) to permit the Funds to sell securities for which they are the issuer to participating Funds in connection with the Plan; and (c) under section 17(d) of the Act and rule 17d–1 thereunder to permit the Funds to effect certain joint transactions incident to the Plan.

2. Section 18(f)(1) generally prohibits a registered open end investment company from issuing senior securities. Section 13(a)(2) requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Applicants state that the Plan possesses none of the characteristics of senior securities that led Congress to enact section 18(f)(1). The Plan would not: (a) Induce speculative investments or provide opportunities for manipulative allocation of any Fund's expenses or profits; (b) affect control of any Fund; or (c) confuse investors or convey a false impression as to the safety of their investments. All liabilities created under the Plan generally would be offset by equal amounts of assets that would not otherwise exist if the fees were paid on a current basis.

3. Section 22(f) prohibits undisclosed restrictions on transferability or negotiability of redeemable securities issued by open-end investment companies. Applicants state that such restrictions are set forth in the Plan, which would be included primarily to benefit the Eligible Trustees and would not adversely affect the interests of the trustees or of any shareholder.

4. Section 22(g) prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. This provision prevents the dilution of equity and voting power that may result when securities are issued for consideration that is not readily valued. Applicants believe that the Plan would merely provide for deferral of payment of such fees and thus should be viewed as being issued not in return for services but in return for a Fund not being required to pay such fees on a current basis.

5. Section 13(a)(3) provides that no registered investment company shall, unless authorized by the vote of a majority of its outstanding voting securities, deviate from any investment policy that is changeable only if authorized by shareholder vote. The relief requested from section 13(a)(3) would extend only to existing Investment Companies. Applicants believe that relief from the section is appropriate to enable the affected Investment Companies to invest in Designated Shares without a shareholder vote. Applicants will provide notice to shareholders in the prospectus of each affected Investment Company of the Deferred Fees under the Plan. The value of the Designated Shares will be *de minimis* in relation to the total net assets of the respective Investment Company, and will at all times equal the value of the Investment Company's obligations to pay deferred fees.

6. Rule 2a–7 imposes certain restrictions on the investments of "money market funds," as defined under the rule, that would prohibit a Fund that is a money market Fund from investing in the shares of any other Fund. Applicants believe that the requested exemption would permit the Funds to achieve an exact matching of Designated Shares with the deemed investments of the Deferral Accounts, thereby ensuring that the deferred fees would not affect net asset value.

7. Section 6(c) provides, in relevant part, that the SEC may, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the relief requested from the above provisions satisfies this standard.

8. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company from selling any security to such registered investment company. Each portfolio may be an affiliated person of each other portfolio by reason of being under the common control of the Adviser.[2] The sale by a portfolio of any security to any other portfolio of any Fund would therefore be subject to the prohibitions of section 17(a)(1). Applicants assert that section 17(a)(1) was designed to prevent, among other things, sponsors of investment companies from using investment company assets as capital for enterprises with which they were associated or to acquire controlling interest in such enterprises. Applicants submit that the sale of securities issued by the Funds pursuant to the Plan does not implicate the concerns of Congress in enacting this section, but merely would facilitate the matching of each Fund's liability for deferred trustees' fees with the Designated Shares that would determine the amount of such Fund's liability.

9. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the transaction is consistent with the policies of the registered investment company, and the general purposes of the Act. Applicants assert that the proposed transaction satisfies the criteria of section 17(b). The finding that the terms of the transaction are consistent with the policies of the registered investment company is predicated on the assumption that relief is granted from section 13(a)(3). Applicants also request relief from section 17(a)(1) under section 6(c) to the extent necessary to implement the Deferred Fees under the Plan on an ongoing basis.[3]

10. Section 17(d) and rule 17d–1 generally prohibit a registered investment company's joint or joint and several participation with an affiliated person in a transaction in connection with any joint enterprise or other joint arrangement without SEC approval. Eligible Trustees will not receive a benefit that would otherwise inure to a Fund or its shareholders. Eligible Trustees will receive tax deferral but the Plan otherwise will maintain the parties, viewed both separately and in their relationship to one another, in the same position as if the deferred fees were paid on a current basis.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. With respect to the requested relief from rule 2a–7, any money market Fund that values its assets by the amortized cost method will buy and hold Designated Shares that determine the performance of Deferral Accounts to achieve an exact match between the liability of any such Fund to pay compensation deferrals and the assets that offset that liability.

2. If a Fund purchases Designated Shares issued by an affiliated Fund, the Fund will vote such shares in proportion to the votes of all other shareholders of such affiliated Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2328 Filed 2–2–96; 8:45 am]

BILLING CODE 8010–01–M

[1] *See, e.g.*, American Balanced Fund, Inc. (pub. avail. Feb. 13, 1984) (no-action assurances given for deferred compensation plan in which the value of the deferred amounts did not depend upon the investment company's performance).

[2] Section 2(a)(3)(C) of the Act defines the term "affiliated person" of another person to include any person directly or indirectly controlling, controlled by, or under common control with such other person.

[3] Section 17(b) may permit only a single transaction, rather than a series of on-going transactions, to be exempted from section 17(a). *See Keystone Custodian Funds, Inc.*, 21 S.E.C. 295 (1945).

SMALL BUSINESS ADMINISTRATION

[Application No. 99000176]

Regent Capital Partners, L.P.; Notice of Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Regent Capital Partners, L.P., at 505 Park Avenue, Suite 1700, New York, New York 10022 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. §§661 et. seq.), and the Rules and Regulations promulgated thereunder.

Regent Capital Partners, L.P., is a Delaware limited partnership, of which Regent Capital Holdings, Inc. is the sole general partner.

The individual General Partners of Regent Capital Partners, L.P. are Richard H. Hochman, Nina E. McLemore and John Oliver Maggard. All three of these individuals have extensive experience in banking, finance, and investment analysis.

Regent Capital Partners, L. P. will begin operations with committed capital of $18.7 million and will be a source of equity and debt financings for qualified small business concerns.

The following partner will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
Alan Meltzer	10.7

The applicant intends to focus on subordinated debt and equity investments in small to medium size companies across a variety of industries. The applicant anticipates making portfolio investments in various industries including, consumer products and services, media and communications, and distribution.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: January 30, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–2309 Filed 2–2–96; 8:45 am]

BILLING CODE 8025–01–P

[Application No. 99000194]

Toronto Dominion Capital (U.S.A.), Inc.; Notice of Filing of Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Toronto Dominion Capital (U.S.A.), Inc., 31 West 52nd Street, 20th Floor, New York, New York, 10019 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. Seq.), and the Rules and Regulations promulgated

there under. Toronto Dominion Capital (U.S.A.), Inc., is a Delaware corporation. The applicant is based in New York, New York, and intends to make investments in small business concerns throughout the United States.

The applicant's only stockholder is Toronto Dominion Holdings (U.S.A.), Inc., a Delaware corporation and a 100% owned subsidiary of The Toronto-Dominion Bank, a publicly held Canadian financial institution. There is only one class of Common Stock. All shares of Common Stock are entitled to an equal portion of any dividends on the Common Stock which may from time to time be declared by the Board of Directors out of assets legally available. The Board of Directors has not adopted a dividend policy. The Common Stock is not subject to any provisions respecting conversion, redemption or assessment. The responsible managers of the applicant are Brian A. Rich, President; Stephen A. Reinstadtler, Vice President—Investment; and Eric D. Rindahl, Assistant Vice President—Investment. Mr. Rich is a recognized leader in media and communications financings and is a regular speaker at industry conferences. Mr. Reinstadtler specializes in health care and manufacturing financings. Mr. Rindahl has specialized in a number of transactions within the media and communications industries providing advisory services and tax analysis on various transactions.

The initial capitalization of $5,000,000 has been provided by Toronto Dominion Holdings (U.S.A.), Inc., a Delaware corporation and the applicant's parent. The applicant will operate without SBA leverage. The following shareholders will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
Toronto Dominion Holdings (U.S.A.), Inc., 31 West 52nd Street, 20th Floor, New York, New York 10019	100

The applicant intends to invest in small business concerns which have a capacity for significant growth. Although the applicant will focus on growth equity investments, its portfolio companies will not necessarily be in so-called "high technology" industries. Because the applicant's managers have extensive experience in raising and providing capital to companies in the media and communications industries, a large percent of the applicant's initial investments may be concentrated in these industries. The applicant, however, also intends to focus on small business concerns in other industries.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later that 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: January 29, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–2332 Filed 2–2–96; 8:45 am]

BILLING CODE 8025–01–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:35 a.m. on Monday, January 29, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: January 30, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–2444 Filed 2–1–96; 11:27 am]

BILLING CODE 6714–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 61 FR 3088, Tuesday, January 30, 1996.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, February 8, 1996—2:00 P.M. (Eastern Time).

CHANGE IN THE MEETING: The following item has been added:

4. Recommended FY 1996 State and Local Allocations.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

This Notice Issued February 1, 1996.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 96–2533 Filed 2–1–96; 3:14 pm]

BILLING CODE 6750–06–M

NATIONAL LABOR RELATIONS BOARD

Notice of Meeting

TIME AND DATE: 2:00 p.m., Tuesday, January 16, 1996.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (matters relating solely to internal personnel rules and practices); 9(B) (disclosure would significantly frustrate implementation of a proposed Agency action * * *), and (c)(10) (deliberations concern * * * the Board's participation in a civil action).

MATTERS TO BE CONSIDERED: Personnel.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 273–1940.

Dated: Washington, DC, January 30, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 96–2537 Filed 2–1–96; 3:48 pm]

BILLING CODE 7545–01–M

Corrections

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP90-137-029]

Williston Basin Interstate Pipeline Company; Notice of Refund Report

Correction

FR notice documents 96-1696 and 96-1697 beginning on page 3022, in the issue of Tuesday, January 30, 1996, were published in error and should be removed.

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 106, 109 and 114

Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures

Correction

In rule document 95–16502 beginning on page 35292 in the issue of Thursday, July 6, 1995, make the following correction:

On page 35303, in the second column, in the second paragraph, in the fourth line, after "reporting" insert "requirements set out in 11 CFR 109.2. Section 109.2 requires".

BILLING CODE 1505–01–D

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 102, 109, 110 and 114

[Notice 1995-23]

Corporate and Labor Organization Activity; Express Advocacy and Coordination With Candidates

Correction

In rule document 95–30381 beginning on page 64260 in the issue of Thursday, December 14, 1995, make the following corrections:

1. On page 64261, in the 3rd column, in the 1st full paragraph, in the 14th line from the bottom, "favorably" should read "unfavorably".

2. On page 64267, in the first column, in the third full paragraph, in the seventh line from the bottom, "driver" should read "drive".

3. On page 64268, in the second column, in the second full paragraph, in the fifth line from the bottom, "even" should read "event".

PART 110—[CORRECTED]

4. On page 64273, in the second column, in the Authority citation to Part 110, in the second line, "438(a)(98)" should read "438(a)(8)".

BILLING CODE 1505–01–D

federal register

Monday
February 5, 1996

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 611, et al.
Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands; Final Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 676

[Docket No. 960129018–6018–01; I.D. 110295B]

Groundfish of the Gulf of Alaska; Limited Access; Foreign Fishing; Final 1996 Harvest Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 1996 harvest specifications for groundfish and associated management measures; closures.

SUMMARY: NMFS announces final 1996 harvest specifications for Gulf of Alaska (GOA) groundfish and associated management measures. This action is necessary to establish harvest limits and associated management measures for groundfish during the 1996 fishing year. NMFS is also closing fisheries as specified in the final 1996 groundfish specifications. These measures are intended to carry out management objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

EFFECTIVE DATES: The final 1996 harvest specifications are effective at 12 noon Alaska local time (A.l.t.) on January 30, 1996, through 24:00 A.l.t. December 31, 1996, or until changed by subsequent notification in the **Federal Register**. The closures to directed fishing are effective January 30, 1996, through 24:00 A.l.t., December 31, 1996, or until changed by subsequent notification in the **Federal Register**.

ADDRESSES: Copies of the Environmental Assessment (EA) for 1996 Total Allowable Catch Specifications for the GOA, dated January 1996, may be obtained from Ronald J. Berg, Chief, Fisheries Management Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668. The Final Stock Assessment and Fishery Evaluation Report (SAFE report), dated November 1995, is available from the North Pacific Fishery Management Council, 605 W 4th Ave Suite 306, Anchorage, AK 99501–2252, or by calling 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS announces for the 1996 fishing year: (1) Total allowable catch (TAC) amounts for each groundfish species category in the GOA and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and reserves; (2) apportionments of reserves to DAP; (3) assignments of the sablefish TAC to authorized fishing gear users; (4) apportionments of pollock TAC among regulatory areas, seasons, and between inshore and offshore components; (5) apportionment of Pacific cod TAC between inshore and offshore components; (6) "other species" TAC; (7) prohibited species catch (PSC) limits relevant to fully utilized groundfish species; (8) closures to directed fishing; (9) Pacific halibut PSC mortality limits; and (10) seasonal apportionments of the halibut PSC limits. A discussion of each of these measures follows.

The process of determining TACs for groundfish species in the GOA is established in regulations implementing the FMP, which was prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act. The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR parts 672, 676, and 677. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

Pursuant to § 672.20(a)(2)(ii), the sum of the TACs for all species must fall within the combined optimum yield (OY) range of 116,000–800,000 metric tons (mt) established for these species in § 672.20(a)(1). Under §§ 611.92(c)(1) and 672.20(a)(2)(i), TACs are apportioned initially among DAP, JVP, TALFF, and reserves. The DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen typically deliver their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen.

Regulations at § 672.20(a)(2)(ii) establish initial reserves equal to 20 percent of the TACs for pollock, Pacific cod, flatfish species categories, and "other species." NMFS has apportioned all of the reserves to DAP in the final harvest specifications. Reserves that are not reapportioned to DAP or JVP may be reapportioned to TALFF according to § 672.20(d)(2).

The Council met from September 27 through October 2, 1995, and developed recommendations for proposed 1996 TAC specifications for each species category of groundfish on the basis of the best available scientific information. The Council also recommended other management measures pertaining to the 1996 fishing year. Under § 672.20(c)(1)(ii), the proposed GOA groundfish specifications and specifications for prohibited species bycatch allowances for the groundfish fishery of the GOA were published in the **Federal Register** on November 30, 1995 (60 FR 61514). Interim amounts of one-fourth the TAC were published in the **Federal Register** on November 30, 1995 (60 FR 61492). The final 1996 initial groundfish harvest specifications and prohibited species bycatch allowances implemented under this action supersede the interim 1996 specifications.

The Council met December 6 through 10, 1995, to review the best available scientific information concerning groundfish stocks, and to consider public testimony regarding 1996 groundfish fisheries. Scientific information is contained in the November 1995 SAFE report for the GOA. The SAFE report was prepared and presented by the GOA Plan Team to the Council and the Council's Scientific and Statistical Committee (SSC) and Advisory Panel (AP) and includes the most recent information concerning the status of groundfish stocks based on the most recent catch data, survey data, and biomass projections using different modeling approaches or assumptions.

For establishment of the acceptable biological catches (ABCs) and TACs, the Council considered information in the SAFE report, recommendations from its SSC and AP, as well as public testimony. The SSC adopted the ABC recommendations from the Plan Team, which were provided in the SAFE report, for all of the groundfish species categories, except Pacific ocean perch (POP) and pelagic shelf rockfish.

The Plan Team separated dusky rockfish from the pelagic shelf rockfish assemblage and recommended an ABC for dusky rockfish of 5,090 mt and an ABC of 340 mt for the remainder of the pelagic shelf rockfish complex. The Plan Team recommended this action because adult dusky rockfish reside in habitats different from other species in the pelagic shelf rockfish assemblage. Adult dusky rockfish are commonly found on deeper offshore banks with smooth bottoms and are susceptible to trawl-gear operations. Conversely, most other rockfish in the assemblage inhabit shallow, rocky, nearshore areas and are usually taken in jig fisheries. Furthermore, concerns exist about localized over-exploitation of black rockfish and other near-shore species in the Central GOA as a result of the developing rockfish jig fishery in that area.

The SSC did not believe adequate biological information is available to separate dusky rockfish from the pelagic shelf rockfish assemblage. Concern was also expressed that the small ABC for the remaining pelagic shelf complex could cause these species to be placed on a prohibited species status to avoid reaching the overfishing limit and result in closure of other fisheries. For these reasons the SSC did not recommend separating dusky rockfish from the pelagic shelf rockfish complex. The Council accepted the SSC's recommendation.

The SSC also did not accept the Plan Team's ABC (8,060 mt) for POP. As in previous years, the Plan Team adjusted the POP ABC by a ratio of $F_{35\%}/F_{30\%}$ to provide a buffer between ABC and the overfishing limit. The SSC does not agree with this adjustment and, as it did in 1994 and 1995, recommended that the ABC equal the overfishing limit (10,165 mt). However, the Council adopted the recommendations of the Plan Team and set the ABC at 8,060 mt.

The ABC for demersal shelf rockfish (DSR) increased significantly over the 1995 estimates. This increase is mainly due to improvements in the assessment methodologies involving surveys using research submarines.

The Council adopted the SSC ABC recommendations for each species category, except for POP. The Council's recommended ABCs, listed in Table 1, reflect harvest amounts that are less than the specified overfishing amounts (Table 1). The sum of 1996 ABCs for all groundfish is 475,170 mt, which is lower than the 1995 ABC total of 492,780 mt.

1. Specifications of TAC and Apportionments Thereof Among DAP, JVP, TALFF, and Reserves

The Council recommended TACs equal to ABCs for pollock, Pacific cod, sablefish, shortraker/rougheye rockfish, pelagic shelf rockfish, demersal shelf rockfish, Atka mackerel and northern rockfish. The Council recommended TACs less than the ABC for shallow-water and deep-water flatfish, other slope rockfish, rex sole, flathead sole, arrowtooth flounder, and thornyhead rockfish (Table 1).

The TAC for pollock is continuing to decline, following a downward trend in the ABC for this species. The 1996 sablefish TAC is also lower than the 1995 amount. For 1996 the SSC recommended that the ABC for Atka mackerel be reduced by one-half, from 6,480 mt to 3,240 mt, consistent with last year's recommendation. This conservative approach is recommended because of uncertainty in the abundance of Atka mackerel and because of concerns for marine mammals. Atka mackerel is an important prey species for sea lions and occurs in abundance near sea lion rookeries.

For other slope rockfish the AP recommended increases in all regulatory areas to allow these species, which are primarily taken as bycatch, to be processed and marketed instead of being discarded. The Council accepted the AP recommendation for the Central Gulf Regulatory Area of 1,170 mt, which should provide enough for bycatch needs. The Council, however, reduced the AP's recommended amounts in the Western and Eastern Regulatory Areas to levels that should also be enough for bycatch needs.

The TAC for thornyhead rockfish was also reduced by the Council from 1,560 mt to 1,248 mt to create a buffer between the TAC and ABC.

The sum of the TACs for all GOA groundfish is 260,207 mt, which is within the OY range specified by the FMP. The sum of the TACs is lower than the 1995 TAC sum of 279,463 mt. The Council, after adopting the TACs, recommended 1996 apportionments of the TACs for each species category among DAP, JVP, TALFF, and reserves. Existing harvesting and processing capacity of the U.S. industry is capable of utilizing the entire 1996 TAC specification for GOA groundfish; therefore, the Council recommended that the DAP allowance equal the TAC for each species category, resulting in no TALFF or JVP apportionments for the 1996 fishing year.

NMFS has reviewed the Council's recommendation for TAC specifications and apportionments and hereby approves these specifications under § 672.20(c)(1)(ii)(B). The TAC for "other species" is calculated as 5 percent of the sum of TACs for the other groundfish species categories, or 12,390 mt.

The 1996 ABCs, TACs, and overfishing levels are shown in Table 1.

TABLE 1

[1996 ABCs, TACs (=DAP), and Overfishing Levels of Groundfish (Metric Tons) for the Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYK), Southeast Outside (SEO), and Gulf-Wide (GW) Districts of the Gulf of Alaska. Amounts Specified as Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF) are Proposed to be Zero and are not Shown in This Table. Reserves are Apportioned to DAP. Values are in Metric Tons (mt)]

Species	Area[1]	ABC	TAC	Overfishing
Pollock:[2]				
Shumagin	(61)	25,480	25,480	
Chirikof	(62)	12,840	12,840	82,000
Kodiak	(63)	13,680	13,680	
Subtotal	W/C	52,000	52,000	
	E	2,810	2,810	4,400
Total		54,810	54,810	86,400
Pacific cod:[3]				
	W	18,850	18,850	
	C	42,900	42,900	
	E	3,250	3,250	
Total		65,000	65,000	88,000
Flatfish[4] (deepwater):				
	W	670	460	
	C	8,150	7,500	

TABLE 1—Continued

[1996 ABCs, TACs (=DAP), and Overfishing Levels of Groundfish (Metric Tons) for the Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYK), Southeast Outside (SEO), and Gulf-Wide (GW) Districts of the Gulf of Alaska. Amounts Specified as Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF) are Proposed to be Zero and are not Shown in This Table. Reserves are Apportioned to DAP. Values are in Metric Tons (mt)]

Species	Area [1]	ABC	TAC	Overfishing
	E	5,770	3,120	
Total		14,590	11,080	17,040
Rex sole:[4]				
	W	1,350	800	
	C	7,050	7,050	
	E	2,810	1,840	
Total		11,210	9,690	13,091
Flathead sole:				
	W	26,280	2,000	
	C	23,140	5,000	
	E	2,850	2,740	
Total		52,270	9,740	31,557
Flatfish[5] (shallow-water):				
	W	8,880	4,500	
	C	17,170	12,950	
	E	2,740	1,180	
Total		28,790	18,630	60,262
Arrowtooth flounder:				
	W	28,400	5,000	
	C	141,290	25,000	
	E	28,440	5,000	
Total		198,130	35,000	231,416
Sablefish:[6]				
	W	2,200	2,200	
	C	6,900	6,900	
	WYK	3,040	3,040	
	SEO	4,940	4,940	
Total		17,080	17,080	22,800
Pacific ocean perch:[7]				
	W	1,460	1,260	1,840
	C	3,860	3,333	4,870
	E	2,740	2,366	3,455
Total		8,060	6,959	10,165
Short raker/rougheye:[8]				
	W	170	170	
	C	1,210	1,210	
	E	530	530	
Total		1,910	1,910	2,925
Other rockfish:[9 10 11]				
	W	180	100	
	C	1,170	1,170	
	E	5,760	750	
Total		7,110	2,020	8,395
Northern Rockfish:[12]				
	W	640	640	
	C	4,610	4,610	
	E	20	20	
Total		5,270	5,270	9,926

TABLE 1—Continued

[1996 ABCs, TACs (=DAP), and Overfishing Levels of Groundfish (Metric Tons) for the Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYK), Southeast Outside (SEO), and Gulf-Wide (GW) Districts of the Gulf of Alaska. Amounts Specified as Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF) are Proposed to be Zero and are not Shown in This Table. Reserves are Apportioned to DAP. Values are in Metric Tons (mt)]

Species	Area [1]	ABC	TAC	Overfishing
Pelagic shelf rockfish:[13]				
	W	910	910	
	C	3,200	3,200	
	E	1,080	1,080	
Total		5,190	5,190	8,704
Demersal shelf rockfish:[11]				
	SEO	950	950	1,702
Thornyhead rockfish:				
	GW	1,560	1,248	2,200
Atka mackerel:				
			2,310	
	C		925	
	E		5	
Total		3,240	3,240	9,800
Other species:[14]				
	GW	N/A[15]	12,390	
Total:[16]		475,170	260,207	604,383

[1] Regulatory areas and districts are defined at § 672.2.
[2] Pollock is apportioned to three statistical areas in the combined Western/Central Regulatory Area (Table 3), each of which is further divided into equal quarterly allowances. In the Eastern Regulatory Area, pollock is not divided into quarterly allowances.
[3] Pacific cod is allocated 90 percent to the inshore, and 10 percent to the offshore component. Component allowances are shown in Table 4.
[4] "Deep water flatfish" means Dover sole and Greenland turbot.
[5] "Shallow water flatfish" means flatfish not including "deep water flatfish," flathead sole, rex sole, or arrowtooth flounder.
[6] Sablefish is allocated to trawl and hook-and-line gears (Table 2).
[7] "Pacific ocean perch" means *Sebastes alutus*.
[8] "Shortraker/rougheye rockfish" means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).
[9] "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District means Slope rockfish.
[10] "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegates* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and *S. reedi* (yellowmouth).
[11] "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).
[12] "Northern rockfish" means *Sebastes polyspinis*.
[13] "Pelagic shelf rockfish" means *Sebastes melanops* (black), *S. mystinus* (blue), *S. ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).
[14] "Other species" means sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC for "other species" equals 5 percent of the TACs of target species.
[15] N/A means not applicable.
[16] The total ABC is the sum of the ABCs for target species.

2. Apportionment of Reserves to DAP

Regulations implementing the FMP require that 20 percent of each TAC for pollock, Pacific cod, flatfish species, and the "other species" category be set aside in reserves for possible apportionment at a later date (§ 672.20(a)(2)(ii)). For the preceding 8 years, including 1995, NMFS has apportioned all of the reserves to DAP in the final harvest specifications. NMFS proposed apportionment of reserves for 1996 in the proposed GOA groundfish specifications published in the **Federal Register** on November 30, 1995 (60 FR 61514). NMFS received no public comments on the proposed apportionments. For 1996, NMFS apportions reserves for each species category to DAP, anticipating that domestic harvesters and processors will need all the DAP amounts.

3. Assignment of the Sablefish TACs to Authorized Fishing Gear Users

Under § 672.24(c), sablefish TACs for each of the regulatory areas and districts are assigned to hook-and-line and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is assigned to hook-and-line gear and 20 percent to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is assigned to hook-and-line gear and 5 percent is assigned to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used as bycatch to support directed fisheries for other target species. Sablefish caught in the GOA with gear other than hook-and-line or trawl gear must be treated as prohibited species and may not be retained. Table 2 shows the assignments of the 1996 sablefish TACs between hook-and-line and trawl gear.

TABLE 2

[1996 Sablefish TAC Specifications in the Gulf of Alaska and Assignments Thereof to Hook-and-Line and Trawl Gear. Values are in metric tons]

Area/District	TAC	Hook-and-line share	Trawl share
Western	2,200	1,760	440
Central	6,900	5,520	1,380
West Yakutat	3,040	2,888	152
Southeast Outside	4,940	4,693	247
Total	17,080	14,861	2,219

4. Apportionments of Pollock TAC Among Regulatory Areas, Seasons, and Between Inshore and Offshore Components

In the GOA, pollock is apportioned by area, season, and inshore/offshore components. Regulations at § 672.20(a)(2)(iv) require that the TAC for pollock in the combined W/C GOA be apportioned among statistical areas Shumagin (61), Chirikof (62), and Kodiak (63) in proportion to known distributions of the pollock biomass. This measure was intended to provide spatial distribution of the pollock harvest as a sea lion protection measure. Each statistical area apportionment is further divided equally among the four quarterly reporting periods of the fishing year (Table 3). Within any fishing year, any unharvested amount of any quarterly allowance of pollock TAC is added in equal proportions to the quarterly allowance of following quarters, resulting in a sum for each quarter that does not exceed 150 percent of the initial quarterly allowance. Similarly, harvests in excess of a quarterly allowance of TAC are deducted in equal proportions from the remaining quarterly allowances of that fishing year. As specified at § 672.23(e), directed fishing for the four quarterly allowances will start on January 1, June 1, July 1, and October 1. The Eastern Regulatory Area pollock TAC of 2,810 mt is not allocated among smaller areas, or quarters.

The Council is expected to take final action in January 1996 on a proposed amendment, which, if approved by NMFS, would combine the third and fourth quarters into a final season with a start date in September or October. This would change the pollock seasonal apportionments from four seasons to three seasons. Should the Council recommend this change and NMFS approve it, any ensuing changes to the 1996 seasonal apportionment of pollock TACs would be implemented under a separate rulemaking.

Regulations at § 672.20(a)(2)(v)(A) require that the DAP apportionment for pollock in all regulatory areas and all quarterly allowances thereof be divided into inshore and offshore components. One hundred percent of the pollock DAP in each regulatory area is apportioned to the inshore component after subtraction of amounts that are determined by the Director, Alaska Region, NMFS (Regional Director) to be necessary to support the bycatch needs of the offshore component in directed fisheries for other groundfish species. The amount of pollock available for harvest by vessels in the offshore component is that amount actually taken as bycatch during directed fishing for groundfish species other than pollock, up to the maximum retainable bycatch amounts allowed under regulations at § 672.20(g).

TABLE 3

[Distribution of Pollock in the Western and Central Regulatory Areas of the Gulf of Alaska (W/C GOA); Biomass Distribution, Area Apportionments, and Quarterly Allowances. ABC for the W/C GOA is 52,000 Metric Tons (mt). Biomass Distribution is Based on 1993 Survey Data. TACs are Equal to ABC. Inshore and Offshore Allocations of Pollock are not Shown. ABCs and TACs are Rounded to the Nearest 10 mt]

Statistical area	Biomass percent	1996 TAC	Quarterly allowance
Shumagin (61)	49.0	25,480	6,370
Chirikof (62)	24.7	12,840	3,210
Kodiak (63)	26.3	13,680	3,420
Total	100.0	52,000	13,000

5. Apportionment of Pacific Cod TAC Between Inshore and Offshore Components

Regulations at § 672.20(a)(2)(v)(B) require that the DAP apportionment of Pacific cod in all regulatory areas be allocated to vessels catching Pacific cod for processing by the inshore and offshore components. The inshore component is equal to 90 percent of the Pacific cod TAC in each regulatory area. The remaining 10 percent of the TAC is assigned to the offshore component. Inshore and offshore allocations of the 65,000 mt Pacific cod TAC for 1996 are shown in Table 4.

TABLE 4

[1996 Allocation (metric tons) of Pacific Cod in the Gulf of Alaska; Allocations to Inshore and Offshore Components]

Regulatory area	TAC	Component allocation	
		Inshore (90%)	Offshore (10%)
Western	18,850	16,965	1,885
Central	42,900	38,610	4,290
Eastern	3,250	2,925	325
Total	65,000	58,500	6,500

6. PSC Limits Relevant to Fully Utilized Species

Under § 672.20(b)(1), if NMFS determines, after consultation with the Council, that the TAC for any species or species group will be fully utilized in the DAP fishery, a groundfish PSC limit applicable to the JVP fisheries may be specified for that species or species group.

The Council recommended that DAP equal TAC for each species category. NMFS concurs with the Council's recommendation, and has not established any JVP amounts; therefore, no groundfish PSC limits under § 672.20(b)(1) are necessary.

7. Closures to Directed Fishing

The "interim 1995 initial specifications of groundfish, associated management measures, and closures" for the GOA (60 FR 61492, November 30, 1995) contained several closures to directed fishing for groundfish during 1996. The closures for the final specifications, which supersede the closures announced in the interim specifications, are listed in Table 5.

Under § 672.20(c)(2)(ii), the Regional Director determined that the entire TACs or allocations of TAC of groundfish species and species groups listed in Table 5 will be needed as incidental catch to support other anticipated groundfish fisheries during 1996. The Regional Director is establishing directed fishing allowances of zero mt and prohibiting directed fishing for the remainder of the year for the fisheries listed in Table 5. Maximum retainable bycatch amounts for the aforementioned closures may be found at § 672.20(g).

In addition to the above closures, NMFS closed Statistical Area 61 to directed fishing for pollock effective 12 noon, A.l.t., January 28, 1996 (Action filed by the Office of the Federal Register on January 26, 1996.) and Statistical Area 62 to directed fishing for pollock effective 12 noon, A.l.t., January 29, 1996 (Action filed by the Office of the Federal Register on January 26, 1996.) under authority of the interim 1996 specifications. In accordance with § 672.20(c)(2)(ii) and § 672.23(e), the closures for Statistical Areas 61 and 62 will remain in effect until the second quarter directed fishery opens at noon, A.l.t., June 1, 1996, or until changed by subsequent notification in the **Federal Register**. Under authority of the interim 1996 specifications, NMFS closed Statistical Area 63 to directed fishing for pollock effective 12 noon, A.l.t., January 23, 1996 (61 FR 2457, January 26, 1996) in order to reserve amounts anticipated to be needed for incidental catch in other fisheries. The Regional Director determined that the first quarterly TAC for pollock in Statistical Area 63 had not been reached. On January 29, 1996, NMFS terminated the closure and opened directed fishing for pollock (Action filed with the Office of Federal Register on January 29, 1996.). Under the final 1996 specifications, the directed fishery for pollock in Statistical Area 63 will remain open until 12 noon, A.l.t., April 1, 1996, or until changed by subsequent notification in the **Federal Register**.

TABLE 5.—CLOSURES TO DIRECTED FISHING FOR TOTAL ALLOWABLE CATCHES IMPLEMENTED BY THIS ACTION.[1] OFFSHORE=THE OFFSHORE COMPONENT; TRW=TRAWL; ALL=ALL GEARS; WG=WESTERN REGULATORY AREA; CG=CENTRAL REGULATORY AREA; EG=EASTERN REGULATORY AREA; GOA=ENTIRE GULF OF ALASKA.

Fishery	Component	Gear	Closed areas
Atka mackerel		ALL	GOA
Northern rockfish		ALL	WG, EG
Deep-water flatfish		ALL	WG
Other rockfish[2]		ALL	GOA
Pacific cod	Offshore	ALL	EG
Sablefish		TRW	GOA
Shortraker/rougheye rockfish		ALL	GOA
Thornyhead rockfish		ALL	GOA

[1] These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 672.
[2] Other rockfish includes slope and demersal shelf rockfish in the WG and CG.

8. Halibut Prohibited Species Catch (PSC) Mortality Limits

Under § 672.20(f)(2), annual Pacific halibut PSC limits are established and apportioned to trawl and hook-and-line gear and are established for pot gear.

Regulations at § 672.20(f)(1)(ii) authorize the exemption of specified non-trawl fisheries from the halibut PSC limit. As in 1995 the Council exempted pot gear and the hook-and-line sablefish fishery from the non-trawl halibut limit for 1996. The Council recommended these exemptions because of the low halibut bycatch mortality experienced in the pot gear fisheries (16 mt in 1995) and because of the 1995 implementation of the sablefish and halibut Individual Fishing Quota program, which allows legal-sized halibut to be retained in the sablefish fishery.

As in 1995, the Council recommended a hook-and-line halibut PSC mortality limit of 300 mt. Ten mt of this limit are apportioned to the DSR fishery. The remainder is seasonally apportioned among the non-sablefish hook-and-line fisheries as shown in Table 6.

The Council continued to recommend a trawl PSC mortality limit of 2,000 mt. The PSC limit has remained unchanged since 1989. Regulations at § 672.20(f)(1)(i) authorize separate apportionments of the trawl halibut bycatch mortality limit between trawl fisheries for deep-water and shallow-water species fisheries. These apportionments are divided seasonally to avoid seasonally high halibut bycatch rates.

NMFS concurs with the Council's recommendations listed above. The following types of information as presented in, and summarized from, the 1995 SAFE report, or as otherwise available from NMFS, Alaska Department of Fish and Game, the International Pacific Halibut Commission (IPHC) or public testimony were considered:

(A) Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is available from 1995 observations of the groundfish fisheries as a result of the NMFS Observer Program. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through December 31, 1995, is 2,065 mt, 325 mt, and 16 mt, respectively, for a total of 2,406 mt.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries throughout the year. Trawling for the deep-water fishery complex was closed during the first quarter on March 27 (60 FR 16587, March 31, 1995), for the second quarter on April 22 (60 FR 20658, April 27, 1995) and for the third quarter on July 21 (60 FR 37601, July 21, 1995). The shallow-water fishery complex was closed in the second quarter on May 8 (60 FR 25623, May 12, 1995) and in the third quarter on July 17 (60 FR 37600, July 21, 1995). All trawling was closed in the fourth quarter on October 23.

The amount of groundfish that trawl or hook-and-line gear might have harvested if halibut had not been seasonally limiting in 1995, is unknown. However, lacking market incentives, some amounts of groundfish will not be harvested, regardless of halibut PSC bycatch availability.

(B) Expected Changes in Groundfish Stocks

At its December 1995 meeting, the Council adopted lower ABCs for pollock, Pacific cod, sablefish, and thornyhead rockfish than those established for 1995. The Council adopted higher ABCs for DSR and POP than those established for 1995. More information on these changes is included in the Final SAFE Report dated November 1995 and in the Council and SSC minutes.

(C) Expected Changes in Groundfish Catch

The total of the 1996 TACs for the GOA is 260,207 mt, a slight decrease from the 1995 TAC total of 279,463 mt. At its December 1995 meeting, the Council changed the 1996 TACs for some fisheries from the 1995 TACs. Those fisheries for which the 1996 TACs are lower than in 1995 are pollock (decreased to 54,810 mt from 65,360 mt), Pacific cod (decreased to 65,000 mt from 69,200 mt), sablefish (decreased to 17,080 mt from 21,500 mt), other slope rockfish (decreased to 2,020 mt from 2,235 mt), and thornyhead rockfish (decreased to 1,248 mt from 1,900 mt). Those species for which the 1996 TAC

is higher than in 1995 are POP (increased to 6,959 mt from 5,630 mt) and DSR (increased to 950 mt from 580 mt).

(D) Current Estimates of Halibut Biomass and Stock Condition

The stock assessment for 1995 conducted by the IPHC indicates that the total exploitable biomass of Pacific halibut in the BSAI management area and the GOA together was 166.85 million lbs (75,700 mt). Biomass declined 18 percent between 1993 and 1994, and indicates a decline of 14 percent between 1994 and 1995. These rates are high relative to the 5–15 percent declines observed in previous years.

Recruitment of 8-year-old halibut appears again to have dropped off in all areas. Recruitment in 1995 represents the lowest recruitment of 8-year-old fish observed in nearly two decades. The low recruitment of recent years indicates that the stock will continue its decline at a rate of about 10–15 percent per year over the next several years.

(E) Other Factors

Potential impacts of expected fishing for groundfish on halibut stocks and U.S. halibut fisheries and methods available for, and costs of, reducing halibut bycatches in the groundfish fisheries were discussed in the proposed 1996 specifications (60 FR 61514, November 30, 1995). That discussion is not repeated here.

9. Seasonal Allocations of the Halibut PSC Limits

Under § 672.20(f)(1)(iii), NMFS seasonally allocates the halibut PSC limits based on recommendations from the Council. The FMP requires that the following information be considered by the Council in recommending seasonal allocations of halibut: (a) Seasonal distribution of halibut, (b) seasonal distribution of target groundfish species relative to halibut distribution, (c) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catches of target groundfish species, (d) expected bycatch rates on a seasonal basis, (e) expected changes in directed groundfish fishing seasons, (f) expected actual start of fishing effort, and (g) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

The notices publishing the final 1995 initial groundfish and PSC specifications (60 FR 3470, February 14, 1995, as amended by 60 FR 12149, March 6, 1995) summarize Council findings with respect to each of the FMP considerations set forth above. At this time, the Council's findings are unchanged from those set forth for 1995. Pacific halibut PSC limits, and apportionments thereof, are presented in Table 6. Regulations specify that any overages or shortfalls in a seasonal apportionment of a PSC limit will be deducted from or added to the next respective seasonal apportionment within the 1996 season.

TABLE 6.—FINAL 1996 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR. VALUES ARE IN METRIC TONS

Trawl gear		Hook-and-line gear			
		Other than DSR		DSR	
Dates	Amount	Dates	Amount	Dates	Amount
Jan 1–Mar 31	600 (30%)	Jan 1–May 17	250 (86%)	Jan 1–Dec 31	10 (100%)
Apr 1–Jun 30	400 (20%)	May 18–Aug 31	15 (5%)		
Jul 1–Sep 30	600 (30%)	Sep 1–Dec 31	25 (9%)		
Oct 1–Dec 31	400 (20%)				
Total	2,000 (100%)		290 (100%)		10 (100%)

Regulations at § 672.20(f)(1)(i) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to a deep-water species fishery category, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder; and a shallow-water species fishery category, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and other species. The apportionment for these two fishery categories is presented in Table 7.

TABLE 7.—FINAL 1996 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX. VALUES ARE IN METRIC TONS

Season	Shallow-water	Deep-water	Total
Jan. 20–Mar. 31	500	100	600
Apr. 1–Jun. 30	100	300	400
Jul. 1–Sep. 30	200	400	600
Oct. 1–Dec. 31—No apportionment between shallow-water and deep-water fishery categories during the 4th quarter.			

The Council recommended that the revised halibut discard mortality rates recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 1996 groundfish fisheries. NMFS concurs with the Council's recommendation. The IPHC's assumed halibut mortality rates are based on an average of mortality rates determined from NMFS-observer data collected during 1993 and 1994. Two separate mortality rates are established for the GOA bottom trawl pollock fishery: 54 percent for shoreside processors and 74 percent for at-sea processors. The rate differences for at-sea and shoreside processors result from analyses by the IPHC, which showed that at-sea processing vessels had a significantly higher discard mortality rate than the shorebased operators. However, NMFS notes that directed fishing for GOA pollock by the offshore component is prohibited under § 672.20(a)(2)(v) and that at-sea processing of pollock would be unlikely.

Based on new information the IPHC also recommended different seasonal rates for deep-water flatfish of 60 percent for the spring/summer and 52 percent for the fall/winter. For purposes of this notice, NMFS defines spring/summer to mean April 1–September 30, and fall/winter to mean October 1–March 31. The IPHC also recommended a new rate for the Atka mackerel fishery of 48 percent, a rate of 57 percent for trawl sablefish and a rate of 47 percent for other species.

The halibut mortality rates are listed in Table 8.

TABLE 8.—1996 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA. TABLE VALUES ARE PERCENT OF HALIBUT BYCATCH ASSUMED TO BE DEAD

Gear and Target	
Hook-and-line:	
Sablefish	23
Pacific cod	12
Rockfish	18
Trawl:	
Midwater pollock	72
Rockfish	57
Shallow-water flatfish	67
Pacific cod	56
Deep-water flatfish—April 1–Sept. 30	60
Deep-water flatfish—Oct. 1–March 31	52
Bottom pollock	
Shoreside	54
At-sea	74
Atka mackerel	48
Sablefish	57
Other species	47
Pot:	
Pacific cod	17

Responses to Comments

Written comments on the proposed 1996 specifications and other management measures were requested until December 29, 1995 (60 FR 61514; November 30, 1995). No written comments were received.

Classification

This action is authorized under 50 CFR 611.92 and 672.20; and is exempt from review under E.O. 12866.

This action adopts final 1996 harvest specifications for the GOA, revises associated management measures, and closes specified fisheries. Generally, this action does not significantly revise management measures in a manner that would require time to plan or prepare for those revisions. In some cases, such as closures, action must be taken immediately to conserve fishery resources. Without these closures, specified TAC amounts will be overharvested and retention of these species will become prohibited, which would disadvantage fishermen who could no longer retain bycatch amounts of these species. The immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources. Accordingly, the Assistant Administrator for Fisheries, NOAA (AA) finds there is good cause to waive the 30-day delayed effectiveness period under 5 U.S.C. 553(d)(3) with respect to such provisions and to the apportionment discussed above. In some cases, the interim specifications in effect would be insufficient to allow directed fisheries to operate during a 30-day delayed effectiveness period, which would result in unnecessary closures and disruption within the fishing industry; in many of these cases, the final specifications will allow the fisheries to continue, thus relieving a restriction. Provisions of a rule relieving a restriction under 5 U.S.C. 553(d)(1) are not subject to a delay in effective date.

Pursuant to section 7 of the Endangered Species Act, NMFS and the Fish and Wildlife Service have determined that the groundfish fishery operating under the 1996 GOA TAC specifications is unlikely to jeopardize the continued existence or recovery of species listed as endangered or threatened or to adversely modify critical habitat.

NMFS prepared an EA on the 1996 TAC specifications. The AA concluded that no significant impact on the environment will result from their implementation. A copy of the EA is available (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 30, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–2292 Filed 1–30–96; 4:56 pm]

BILLING CODE 3510–22–W

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 675, and 676

[Docket No. 960129019–6019–01; I.D. 111495A]

Groundfish Fishery of the Bering Sea and Aleutian Islands; Foreign Fishing; Limited Access; Final 1996 Harvest Specifications for Groundfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 1996 specifications of groundfish and associated management measures; closures.

SUMMARY: NMFS announces final 1996 harvest specifications of total allowable catches (TACs), initial apportionments of TACs for each category of groundfish, and associated management measures in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits and associated management measures for groundfish during the 1996 fishing year. NMFS also is closing specified fisheries consistent with the final 1996 groundfish specifications and fishery bycatch allowances of prohibited species. These measures are intended to conserve and manage the groundfish resources in the BSAI.

EFFECTIVE DATE: The final 1996 harvest specifications are effective at noon, Alaska local time (A.l.t.), January 30, 1996, through 2400 A.l.t., December 31, 1996, or until changed by subsequent notification in the **Federal Register**. The closures to directed fishing are effective noon, A.l.t., January 30, 1996, through 2400 A.l.t., December 31, 1996.

ADDRESSES: The final Environmental Assessment (EA) prepared for the 1996 Total Allowable Catch Specifications may be obtained from the Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel, or by calling 907–586–7229. The final Stock Assessment and Fishery Evaluation (SAFE) report is available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252 (907–271–2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 675 that implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Island area (FMP). Other applicable regulations are found at 50 CFR 611.93 (foreign fishing) and 50 CFR part 676 (Limited Access Management of Federal Fisheries In and Off of Alaska). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the Magnuson Fishery Conservation and Management Act.

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify annually the apportionments of prohibited species catch (PSC) limits among fisheries and seasons (§ 675.21(b)), the TAC, initial TAC (ITAC), initial domestic annual harvest (DAH), and initial total allowable level of foreign fishing (TALFF) for each target species and the "other species" category (§ 675.20(a)(2)). The sum of the TACs must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). Specifications set forth in Tables 1–9 of this action satisfy these requirements. For 1996, the sum of TACs is 2,000,000 mt.

The proposed BSAI groundfish specifications and specifications for prohibited species bycatch allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 6, 1995 (60 FR 62373). Comments were invited through January 4, 1996. No written comments were received within the comment period. Public consultation with the Council occurred during the December 6–10, 1995, Council meeting in Anchorage, AK. Biological and economic data that were available at the Council's December meeting were considered by NMFS when it approved the final 1996 specifications as recommended by the Council.

Interim Specifications

Regulations under § 675.20(a)(7)(i) authorize one-fourth of each proposed ITAC and apportionment thereof, one-fourth of each PSC allowance, and the first proposed seasonal allowance of pollock to be in effect on January 1 on an interim basis and to remain in effect until superseded by final initial specifications. NMFS published the interim 1996 specifications in the **Federal Register** on December 6, 1995 (60 FR 62339). The final 1996 initial groundfish harvest specifications and prohibited species bycatch allowances contained in this action supersede the interim 1996 specifications. TAC Specifications and Acceptable Biological Catch (ABC)

The specified TAC for each species is based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC) reviewed current biological information about the condition of groundfish stocks in the BSAI at their September and December 1995 meetings. This information was compiled by the Council's BSAI Groundfish Plan Team and is presented in the final 1996 SAFE report for the BSAI groundfish fisheries, dated November 1995. The Plan Team annually produces such a document as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters. From these data and analyses, the Plan Team estimates an ABC for each species category.

A summary of the preliminary ABCs for each species for 1996 and other biological data from the September 1995 draft SAFE report were provided in the discussion supporting the proposed 1996 specifications (60 FR 62373, December 6, 1995). The Plan Team's recommended ABCs were reviewed by the SSC, AP, and Council at their September 1995 meetings. Based on the SSC's comments concerning technical methods and new biological data not available in September, the Plan Team revised its ABC recommendations in the final SAFE report, dated November 1995. The revised ABC recommendations were again reviewed by the SSC, AP, and Council at their December 1995 meetings. While the SSC endorsed most of the Plan Team's recommendations for 1996 ABCs set forth in the final SAFE report, the SSC recommended revisions to ABC amounts calculated for pollock, Greenland turbot, Pacific cod, and sablefish. The Council adopted the SSC's recommendations for the 1996 ABCs. The final ABCs are listed in Table 1.

The Council developed its TAC recommendations based on the final ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC in the required OY range of 1.4–2.0 million mt. None of the Council's recommended TACs for 1996 exceeds the final 1996 ABC for each species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks. The final TACs and overfishing levels for groundfish in the BSAI area for 1996 are given in Table 1 of this action.

Apportionment of TAC

Except for the hook-and-line and pot gear allocation of sablefish, each species' TAC initially is reduced by 15 percent to establish the ITAC for each species, as required by § 675.20(a)(3) and § 675.20(a)(7)(i). The sum of the 15-percent amounts is the reserve. One half of the pollock TACs placed in reserve is designated as a community development quota (CDQ) reserve for use by CDQ participants. The remainder of the reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing.

The ITAC for each target species and the "other species" category at the beginning of the year is apportioned between the DAH and TALFF, if any. Each DAH amount is further apportioned between two categories of U.S. fishing vessels. The domestic annual processing (DAP) category includes U.S. vessels that process their catch on board or deliver it to U.S. fish processors. The joint venture processors (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels authorized to receive catches in the U.S. exclusive economic zone.

In consultation with the Council, the initial amounts of DAP and JVP are determined by the Director, Alaska Region, NMFS (Regional Director). Consistent with the final 1991–95 initial specifications, the Council recommended that 1996 DAP specifications be set equal to ITAC and that zero amounts of groundfish be allocated to JVP and TALFF. In making this recommendation, the Council considered the capacity of DAP harvesting and processing operations and anticipated that 1996 DAP operations will harvest the full TAC specified for each BSAI groundfish species category. The ABCs, TACs, ITACs, specified overfishing levels (OFLs), and initial apportionments of groundfish in the BSAI for 1996 are set out in Table 1.

TABLE 1.—FINAL 1996 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND OVERFISHING LEVELS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA [1,2]

Species	ABC	TAC	ITAC DAP[3,4]	Over-fishing level
Pollock:				
Bering Sea (BS)	1,190,000	1,190,000	1,011,500	1,460,000
Aleutian Islands (AI)	35,600	35,600	30,260	47,000
Bogoslof District	121,000	1,000	850	121,000
Pacific cod	305,000	270,000	229,500	420,000
Sablefish total:				3,300
BS	1,200	1,100	468	
AI	1,300	1,200	255	
Atka mackerel total:	116,000	106,157	90,233	164,000
Western AI	55,700	45,857	38,978	
Central AI	33,600	33,600	28,560	
Eastern AI/BS	26,700	26,700	22,695	
Yellowfin sole	278,000	200,000	170,000	342,000
Rock sole	361,000	70,000	59,500	420,000
Greenland turbot total:	10,300	7,000	5,950	25,100
BS	6,900	4,667	3,967	
AI	3,400	2,333	1,983	
Arrowtooth flounder	129,000	9,000	7,650	162,000
Flathead sole	116,000	30,000	25,500	140,000
Other flatfish[5]	102,000	35,000	29,750	120,000
Pacific ocean perch:				
BS	1,800	1,800	1,530	2,860
AI total	12,100	12,100	10,285	25,200
Western AI	6,050	6,050	5,143	
Central AI	3,025	3,025	2,571	
Eastern AI	3,025	3,025	2,571	
Other red rockfish:[6]				
BS	1,400	1,260	1,071	1,400
Sharpchin/Northern:				
AI	5,810	5,229	4,445	5,810
Shortraker/Rougheye:				
AI	1,250	1,125	956	1,250
Other rockfish:[7]				
BS	497	447	380	497
AI	952	857	728	952
Squid	3,000	1,000	850	3,000
Other species:[8]	27,600	20,125	17,106	137,000
Totals	2,820,809	2,000,000	1,698,767	

[1] Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified. With the exception of pollock, and for the purpose of these specifications, the BS includes the Bogoslof District.

[2] Zero amounts of groundfish are specified for Joint Venture Processing and Total Allowable Level of Foreign Fishing.

[3] Except for the portion of the sablefish TAC allocated to hook-and-line and pot gear, 0.15 of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of these reserves. One half of the amount of the pollock TACs placed in reserve, or 7.5 percent of the TACs, is designated as a CDQ reserve for use by CDQ participants (See § 675.20(a)(3)(ii)).

[4] Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear is reserved for use by CDQ participants (See § 676.24(b)). Regulations at § 675.20(a)(3) do not provide for the establishment of an ITAC for the hook-and-line and pot gear allocation for sablefish. The ITAC for sablefish reflected in Table 1 is for trawl gear only.

[5] "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

[6] "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern.

[7] "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye.

[8] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

The SSC's revisions to the ABCs recommended by the Plan Team for pollock, Greenland turbot, Pacific cod, and sablefish are discussed below.

Eastern Bering Sea pollock. The SSC believed that the Plan Team's projected 1996 biomass and ABC for eastern Bering Sea pollock (7.36 million mt and 1.29 million mt, respectively) were overestimated. The Plan Team's recommended biomass level was based on a prediction of a strong 1992 year class. However, the SSC expressed concerns about the assumed strength of the 1992 year class that include: (1) The possibility that the rate of exploitation on the year class is underestimated, (2) recent fishery independent indicators of abundance have not corroborated the earlier observations of year class strength, (3) the 1992 year class has experienced an undocumented rate of exploitation in the Russian fishery operating along the U.S./Russia provisional boundary northwest of the Pribilof Islands, and (4) the 1992 year class did not show strongly in the 1995 bottom trawl survey. The SSC recommended that the predicted strength of the 1992 year class should be demonstrated by observing its contribution to the 1996 fishery.

The Plan Team also reviewed an alternative estimate of stock abundance and ABC based on lower recruitment and exploitation rate assumption. The resulting 1996 stock abundance and ABC were 6.0 million mt and 1.09 million mt, respectively. The SSC

recommended adopting a midpoint estimate of ABC at 1,190,000 mt to account for alternative interpretations of 1996 recruitment. The associated midpoint biomass is 6,672,000 mt.

Aleutian Islands pollock. The SSC revised the 1996 Aleutian Islands pollock biomass to 142,505 mt from the Plan Team's 87,200 mt. This increase was based on the SSC's recommendation that biomass estimated for the eastern Aleutian Islands (Unalaska-Umnak area) be included in the Aleutian Islands biomass estimate, as done in previous years. In the past, the Plan Team included biomass from the Unalaska-Umnak islands area in the Aleutian Islands area estimate because this area was surveyed as part of the Aleutian Islands survey and was never included in the eastern Bering Sea trawl survey. The Plan team excluded the eastern extension of the Aleutian Islands area from its 1996 biomass estimate because these fish likely are not a discrete stock given that pollock are continuously distributed from the eastern Bering Sea. Furthermore, a portion of the pollock harvested in the eastern Aleutian Islands (area 541) likely are Aleutian Basin fish because a substantial portion of the commercial catch is from deep-water areas adjacent to the Bogoslof area during the first half of the year. Nonetheless, because the Plan team did not include the eastern Aleutian biomass in either the Aleutian Basin or eastern Bering Sea areas for the purpose of assessing ABC, the SSC determined that no compelling reason exists for excluding an allowable catch from this area. Therefore, the SSC recommended that the Council revert to historical practice and include the Unalaska-Umnak area in the estimate of Aleutian Islands ABC. Given the SSC's revised biomass of 142,505 mt, the SSC recommended an ABC of 35,600 mt using an exploitation rate of 25 percent and an overfishing level (OFL) of 47,000 mt.

Bogoslof pollock. The SSC concurred with the Plan Team's estimate for Bogoslof area pollock biomass (1.1 million mt) based on the 1995 hydroacoustic survey. This level of biomass is twice that estimated for 1995. This increase is believed to be the result of a large increase in the 1989 year class, as well as an increase in the abundance of older pollock in the Bogoslof area. These older fish could have migrated from the eastern Bering Sea or Aleutian Island shelf areas; however, little is understood of the relationship of the Bogoslof pollock population to the adjacent eastern BSAI population. In view of this uncertainty, the SSC recommended a more conservative exploitation rate for the Bogoslof area than that recommended by the Plan Team. The SSC recommended an ABC of 121,000 mt based on an $F_{40\%}/2$ exploitation rate (0.11) applied to the current biomass (1.1 million mt). This level of ABC is reduced from the Plan Team's recommendation of 286,000 mt based on an $F_{35\%}$ exploitation rate (.26). The SSC considered its ABC calculation to be consistent with the overfishing definition so that OFL=ABC=121,000.

The Council recommended that pollock be closed to directed fishing in the Bogoslof District and that a TAC of 1,000 mt be established to provide for bycatch in other groundfish fisheries. This recommendation was intended to accommodate uncertainty about whether or not Bogoslof pollock are a distinct self-sustaining population or surplus fish from the shelf populations. The Council's TAC recommendation also addresses concerns about the potential impacts of undocumented fishing effort in the Russian zone on young pollock that are primarily considered to be of U.S. origin. The Council's TAC recommendation is adopted in these final specifications (Table 1).

Greenland turbot. The SSC endorsed the Plan Team's ABC for Greenland turbot (17,000 mt). However, the SSC recommended that this ABC amount be phased in over a 3-year period to allow the possibility of conducting joint industry/NMFS assessment surveys of the Bering Sea slope and Aleutian Islands. Results of these surveys would allow for a refinement of the stock abundance estimates prior to fully increasing the ABC to 17,000 mt. Given a 3-year phasing in period, the SSC recommended a 1996 ABC of 10,300 mt based on the estimated biomass of 67,000 mt and an exploitation rate of 0.154. The SSC concurred with the Plan Team's recommendation that the ABC be split so that two-thirds of the TAC is apportioned to the eastern Bering Sea and one-third is apportioned to the Aleutian Islands. The intent of this apportionment is to spread fishing effort over a larger area and to avoid localized depletion. Using the SSC's recommended ABC, this apportionment scheme results in eastern BSAI ABCs of 6,900 mt and 3,400 mt, respectively. The Council concurred with the SSC's recommendation for ABC and adopted a 7,000-mt TAC, as recommended by the AP.

Pacific cod. The SSC applied a harvest strategy of $F_{40\%}$ yielding an ABC of 305,000 mt, compared to the Plan Team's ABC of 357,000 using $F_{35\%}$. The SSC recommended a more conservative exploitation strategy because of recruitment variability and the unknown impact of increased use of larger-sized trawl mesh on gear selectivity.

Sablefish. The SSC recommended that the sablefish ABCs be set at the level recommended in the 1996 SAFE report (1,200 mt for the Bering Sea and 1,300 mt for the Aleutian Islands). The recommended ABCs are slightly higher than the levels recommended by the Plan Team (1,100 mt for the Bering Sea and 1,200 mt for the Aleutian Islands), yet they represent a substantial reduction from 1995 levels. This reduction reflects biomass declines due to continuing low recruitment. The slightly higher ABCs recommended by the SSC are based on a $F_{35\%}$ exploitation rate, rather than the $F_{40\%}$ used by the Plan Team.

Seasonal Allowances of Pollock TACs

Under § 675.20(a)(2)(ii), the pollock TAC for each subarea or district of the BSAI is divided, after subtraction of reserves (§ 675.20(a)(3)), into two seasonal allowances. The first allowance is available for directed fishing from January 1 to April 15 (roe season) and the second allowance is available from August 15 through the end of the fishing year (non-roe season).

The Council recommended that the seasonal allowances for the Bering Sea pollock roe and non-roe seasons be specified at 45 percent and 55 percent of the ITAC amounts, respectively (Table 2). These percentages are unchanged since 1993. As in past years, the pollock TAC amounts specified for the Aleutian Islands subarea and the Bogoslof District are not seasonally apportioned.

When specifying seasonal allowances of the pollock TAC, the Council and NMFS considered the factors specified in section 14.4.10 of the FMP and listed in the proposed specifications (60 FR 62373, December 6, 1995). A discussion of these factors relative to the roe and non-roe seasonal allowances was presented in the final 1993 specifications for BSAI groundfish (58 FR 8703, February 17, 1993). Consideration under these factors remains unchanged from 1993 given that the relative seasonal allowances for 1993–96 are the same.

Apportionment of the Pollock TAC to the Inshore and Offshore Components

Regulations at § 675.20(a)(2)(iii) require that the proposed pollock ITAC amounts specified for the BSAI be allocated 35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the offshore component. Definitions of these components are found at § 675.2. The 1996 ITAC specifications are consistent with these requirements (Table 2).

TABLE 2.—SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS [1, 2]

Subarea	TAC	ITAC [3]	Roe season [4]	Non-roe season [5]
Bering Sea:				
Inshore	.....	354,025	159,311	194,714.
Offshore	.....	657,475	295,864	361,611.
	1,190,000	1,011,500	455,175	556,325.
Aleutian Islands:				
Inshore	.....	10,591	10,591	Remainder.
Offshore	.....	19,669	19,669	Remainder.
	35,600	30,260	30,260	Remainder.
Bogoslof:				
Inshore	.....	298	298	Remainder.
Offshore	.....	552	552	Remainder.
	1,000	850	850	Remainder.

[1] TAC = total allowable catch.
[2] Based on an offshore component allocation of 0.65 (ITAC) and an inshore component allocation of 0.35 (ITAC).
[3] ITAC = initial TAC = 0.85 of TAC.
[4] January 1 through April 15—based on a 45/55 split (roe = 45 percent).
[5] August 15 through December 31—based on a 45/55 split (non-roe = 55 percent).

Apportionment of the Pollock TAC to the Western Alaska Community Development Quota

Regulations at § 675.20(a)(3)(ii) require one-half of the pollock TAC placed in the reserve for each subarea or district, or 7.5 percent of each TAC, be assigned to a CDQ reserve for each subarea or district. The 1996 CDQ reserve amounts for each subarea are as follows:

BSAI Subarea	Pollock CDQ (mt)
Bering Sea	89,250
Aleutian Islands	2,670
Bogoslof	75
Total	91,995

Under regulations governing the CDQ program at § 675.27, NMFS may allocate the 1996 pollock CDQ reserves to eligible Western Alaska communities or groups of communities that have an approved community development plan (CDP). NMFS has approved six CDP's and associated percentages of the CDQ reserve for each CDP recipient for 1996–98 (60 FR 66516, December 22, 1995). Table 3 lists the approved CDP recipients, and each recipient's allocation of the 1996 pollock CDQ reserve for each subarea.

TABLE 3.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS AND SEASONAL ALLOWANCES (METRIC TONS) OF THE 1996 POLLOCK CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS, AND THE BOGOSLOF DISTRICT (BD) AMONG APPROVED CDP RECIPIENTS

CDP recipient	Percent	Area	Allocation	Roe-season allowance [1]
Aleutian Pribilof Island Community Development Assn	16	BS	14,280	6,426
	.....	AI	427	.....
	.....	BD	12	.....
Total	.....	.....	14,719	.....
Bristol Bay Economic Development Corp	20	BS	17,850	8,033
	.....	AI	534	.....
	.....	BD	15	.....
Total	.....	.....	18,399	.....
Central Bering Sea Fishermen's Assn	4	BS	3,570	1,607
	.....	AI	107	.....
	.....	BD	3	.....
Total	.....	.....	3,680	.....
Coastal Villages Fishing Coop	25	BS	22,312	10,040
	.....	AI	668	.....
	.....	BD	19	.....
Total	.....	.....	22,999	.....
Norton Sound Fisheries Development Corp	22	BS	19,635	8,836
	.....	AI	587	.....

TABLE 3.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS AND SEASONAL ALLOWANCES (METRIC TONS) OF THE 1996 POLLOCK CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS, AND THE BOGOSLOF DISTRICT (BD) AMONG APPROVED CDP RECIPIENTS—Continued

CDP recipient	Percent	Area	Allocation	Roe-season allowance [1]
		BD	16	
Total			20,238	
Yukon Delta Fisheries Development Corp	13	BS	11,603	5,221
		AI	347	
		BD	10	
Total			11,960	
Total	100		91,995	40,163

[1] No more than 45 percent of a CDP recipient's 1996 pollock allocation may be harvested during the pollock roe season, January 1 through April 15.

Allocation of the Pacific Cod TAC

Under § 675.20(a)(2)(iv), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 44 percent to vessels using hook-and-line or pot gear, and 54 percent to vessels using trawl gear. At its December 1995 meeting, the Council recommended a seasonal apportionment of the portion of the Pacific cod TAC allocated to vessels using hook-and-line or pot gear. The seasonal apportionments are authorized under § 675.20(a)(2)(v) to provide for the harvest of Pacific cod when flesh quality and market conditions are optimum and Pacific halibut bycatch rates are low. The Council's recommendations for seasonal apportionments are based on: (1) Seasonal distribution of Pacific cod relative to prohibited species distributions, (2) expected variations in prohibited species bycatch rates experienced in the Pacific cod fisheries throughout the year, and (3) economic effects of seasonal apportionment of Pacific cod on the hook-and-line and pot gear fisheries. The seasonal allocation of the Pacific cod ITAC is specified in Table 4.

TABLE 4.—1996 GEAR SHARES OF THE BSAI PACIFIC COD INITIAL TAC

Gear	Percent TAC	Share ITAC (mt)	Seasonal apportionment		
			Date	Percent	Amount (mt)
Jig	2	4,590	Jan. 1–Dec. 31 .	100	4,590
Hook-and-line/pot gear	44	100,980	Jan. 1–Apr. 30 ..	79	80,000
			May 1–Aug. 31 .	18	18,000
			Sep. 1–Dec. 31	3	2,980
Trawl gear	54	123,930	Jan 1–Dec 31 ...	100	123,930
Total	100	229,500			

Sablefish Gear Allocation and CDQ Allocations for Sablefish

Regulations at § 675.24(c)(1) require that sablefish TACs for BSAI subareas be divided between trawl and hook-and-line/pot gear types. Gear allocations of TACs are established in the following proportions: Bering Sea subarea: Trawl gear—50 percent; hook-and-line/pot gear—50 percent; and Aleutian Islands subarea: Trawl gear—25 percent; hook-and-line/pot gear—75 percent. In addition, regulations under § 676.24(b) require NMFS to withhold 20 percent of the hook-and-line and pot gear sablefish allocation as sablefish CDQ reserve. Gear allocations of sablefish TAC and CDQ reserve amounts are specified in Table 5.

TABLE 5.—1996 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

Subarea	Gear	Percent of TAC (mt)	Share of TAC (mt)	Initial TAC (mt) [1]	CDQ reserve
Bering Sea	Trawl	50	550	468	N/A
	Hook-and-line/pot gear [2]	50	550	N/A	110
Total			1,100	468	
Aleutian Islands	Trawl	25	300	255	N/A
	Hook-and-line/pot gear [2]	75	900	N/A	180
Total			1,200	255	290

[1] Except for the sablefish hook-and-line and pot gear allocation, 0.15 of TAC is apportioned to reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. Regulations at § 675.20(a)(3) do not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

Under regulations governing the sablefish CDQ program at § 676.24, NMFS may allocate the 1996 sablefish CDQ reserve to eligible Western Alaska communities or groups of communities that have an approved CDP. NMFS has approved seven CDP's and associated percentages of the sablefish CDQ reserve for each CDP recipient for 1995–97 (59 FR 61877, December 2, 1994). Table 6 lists the approved CDP recipients, and each recipient's allocation of the 1996 sablefish CDQ reserve for each subarea.

TABLE 6.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS (MT) OF THE 1996 SABLEFISH CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS AMONG APPROVED CDP RECIPIENTS

Sablefish CDP recipient	Area	Percent	Allocation (mt)
Atka Fishermen's Association	BS	0	0
	AI	0	0
Bristol Bay Economic Development Corp	BS	0	0
	AI	25	45
Coastal Villages Fishing Cooperative	BS	0	0
	AI	25	45
Norton Sound Economic Development Corporation	BS	25	28
	AI	30	54
Pribilof Island Fishermen	BS	0	0
	AI	0	0
Yukon Delta Fisheries Development Association	BS	75	82
	AI	10	18
Aleutian Pribilof Islands Community Development Association	BS	0	0
	AI	10	18
Total	BS	100	110
	AI	100	180

Allocation of Prohibited Species Catch (PSC) Limits for Crab, Halibut, and Herring

PSC limits of red king crab and *C. bairdi* Tanner crab in Bycatch Limitation Zones (50 CFR 675.2) of the Bering Sea subarea, and for Pacific halibut throughout the BSAI specified under § 675.21(a). The PSC limits are:

—Zone 1 trawl fisheries, 200,000 red king crabs;
—Zone 1 trawl fisheries, 1 million *C. bairdi* Tanner crabs;
—Zone 2 trawl fisheries, 3 million *C. bairdi* Tanner crabs;
—BSAI trawl fisheries, 3,775 mt mortality of Pacific halibut;
—BSAI nontrawl fisheries, 900 mt mortality of Pacific halibut; and
—BSAI trawl fisheries, 1,697 mt Pacific herring.

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 1996 herring biomass is 169,700 mt. This amount was derived using 1995 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 1996 is 1,697 mt.

Regulations under § 675.21(b) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories. Regulations at § 675.21(b)(1)(iii) specify seven trawl fishery categories (midwater pollock, Greenland turbot/arrowtooth flounder/sablefish, rock sole/flathead sole/other flatfish, yellowfin sole, rockfish, Pacific cod, and bottom pollock/Atka mackerel/"other species"). Regulations at § 675.21(b)(2) authorize the apportionment of the non-trawl halibut PSC limit among five fishery categories (Pacific cod hook-and-line, sablefish hook-and-line, groundfish pot gear, groundfish jig gear, and other non-trawl fishery categories). The fishery bycatch allowances for the trawl and nontrawl fisheries are listed in Table 7.

The fishery bycatch allowances listed in Table 7 reflect the recommendations made to the Council by its AP. These recommendations generally reflect those established for 1995 except for the halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish fishery category. A halibut bycatch allowance equal to zero is specified for this fishery category in 1996. This means that directed fishing for these species by vessels using trawl gear is prohibited. The reasons for this action were discussed in the December 6, 1995, publication of the proposed 1996 specifications (60 FR 62373). The remainder of the prohibited species bycatch allowances were based on 1995 bycatch amounts, anticipated 1996 harvest of groundfish by trawl gear and fixed gear, and assumed halibut mortality rates in the different groundfish fisheries.

Regulations at § 675.21(b)(2) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in 1995, the Council recommended that the pot gear, jig gear, and sablefish hook-and-line gear fishery categories be exempt from the halibut bycatch restrictions.

The Council recommended that the pot and jig gear fisheries be exempt from halibut-bycatch restrictions because these fisheries use selective gear types that experience low halibut bycatch mortality. In 1995, total groundfish catch for the pot gear fishery in the BSAI was approximately 21,000 mt with an associated halibut bycatch mortality of less than 15 mt. The 1995 groundfish jig gear fishery harvested about 700 mt of groundfish. The jig gear fleet is comprised of vessels less than 60 ft (18.3 m) length overall that are exempt from observer coverage requirements. As a result, no observer data are available on halibut bycatch in the BSAI

jig gear fishery. Nonetheless, the selective nature of this gear type and the relatively small amount of groundfish harvested with jig gear likely results in a negligible amount of halibut bycatch mortality.

As in 1995, the Council recommended that the sablefish Individual Fishing Quota (IFQ) fishery be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (50 CFR part 676). The IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard. The best available information on the 1995 sablefish IFQ fishery indicates that less than 40 mt of halibut discard mortality was associated with this fishery.

TABLE 7.—FINAL 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

Trawl fisheries	Zone 1	Zone 2	BSAI-wide
Red king crab, number of animals:			
Yellowfin sole	50,000		
Rcksol/flatsol/othflat [1]	110,000		
Turb/arrow/sab [2]	0		
Rockfish	0		
Pacific cod	10,000		
Plck/Atka/othr [3]	30,000		
Total	200,000		
C. Bairdi tanner crab, number of animals:			
Yellowfin sole	250,000	1,530,000	
Rcksol/flatsol/othflat	425,000	510,000	
Turb/arrow/sab	0	0	
Rockfish	0	10,000	
Pacific cod	250,000	260,000	
Plck/Atka/othr	75,000	690,000	
Total	1,000,000	3,000,000	
Pacific halibut, mortality (MT):			
Yellowfin sole			820
Rcksol/flatsol/othflat			730
Turb/arrow/sab			0
Rockfish			110
Pacific cod			1,685
Plck/Atka/othr			430
Total			3,775
Pacific herring (MT):			
Midwater pollock [4]			1,227
Yellowfin sole			287
Rcksol/flatsol/othflat			0
Turb/arrow/sab			0
Rockfish			7
Pacific cod			22
Plck/Atka/othr [4]			154
Total			1,697
Non-Trawl Fisheries			
Pacific halibut, mortality (MT):			
Pacific cod hook-and-line			800
Sablefish hook-and-line			(5)
Groundfish pot gear			(5)
Groundfish jig gear			(5)
Other non-trawl			100
Total			900

[1] Rock sole, flathead sole, and other flatfish fishery category.
[2] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[3] Pollock, Atka mackerel, and "other species" fishery category.
[4] Pollock other than midwater pollock, Atka mackerel, and "other species" fishery category.
[5] Exempt.

Seasonal Apportionments of PSC limits

Regulations at § 675.21(b)(3) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of prohibited species bycatch allowances. At its December 1995 meeting, the Council recommended that certain crab bycatch allowances apportioned to the yellowfin sole fishery, the trawl fishery halibut bycatch allowances, and the halibut bycatch allowance apportioned to the Pacific cod hook-and-line gear fishery be seasonally apportioned as shown in Table 8. The recommended seasonal apportionments reflect recommendations made to the Council by its AP.

The Council recommended a seasonal apportionment of the Zone 1 red king crab and Zone 1 *C. bairdi* bycatch allowances apportioned to the yellowfin sole fishery. This recommendation was intended to balance concerns about undesirable high bycatch rates of red king crab in Zone 1 with the recognition that Zone 1 provides desirable fishing grounds for the yellowfin sole fleet during the time of the year when trawl closure areas and ice cover in more northern waters restrict fishing opportunities. Furthermore, halibut and *C. bairdi* bycatch rates experienced in Zone 1 tend to be lower than those encountered on other fishing grounds in the Bering Sea.

The Council recommended seasonal apportionments of the halibut bycatch allowances specified for the trawl flatfish and rockfish fisheries to provide additional fishing opportunities in the BSAI early in the year and to reduce the incentive for trawl vessel operators to move from the BSAI to the Gulf of Alaska after the rock sole roe fishery is closed, typically by the end of February.

The seasonal apportionment of the halibut bycatch allowance specified for the Pacific cod trawl fishery is intended to provide the opportunity for a late fall fishery in the event that sufficient amounts of the Pacific cod TAC allocated to vessels using trawl gear remain.

The recommended seasonal apportionment of the halibut bycatch allowance for the pollock/Atka mackerel/"other species" fishery category is based on the seasonal allowances of the Bering Sea pollock ITAC recommended for the roe and non-roe seasons, and the assumption that most of the pollock taken during the roe season will be taken with pelagic trawl gear with reduced halibut bycatch rates.

The Council recommended three seasonal apportionments of the halibut bycatch allowance specified for the Pacific cod hook-and-line fishery. The intent of this recommendation was to provide amounts of halibut necessary to support the harvest of the seasonal apportionments of Pacific cod TAC listed in Table 4, as well as limit a hook-and-line fishery for Pacific cod during summer months when halibut bycatch rates are high. As authorized under § 675.21(b)(3)(iii), the Council further recommended that any unused portion of the first seasonal halibut bycatch allowance specified for the Pacific cod hook-and-line fishery be reapportioned to the third seasonal allowance to avoid opportunity for additional fishing for Pacific cod during summer months. Any overage of a halibut bycatch allowance would be deducted from the remaining seasonal bycatch allowances specified for 1996 in amounts proportional to those remaining seasonal bycatch allowances.

TABLE 8.—FINAL SEASONAL APPORTIONMENTS OF THE 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

Trawl fisheries	Seasonal bycatch allowance
Pacific halibut, mortality (mt):	
Yellowfin sole:	
Jan. 20–Mar. 31	160
Apr. 01–May 10	150
May 11–Aug. 14	100
Aug. 15–Dec. 31	410
Total	820
Rock sole/flathead sole/"other flatfish":	
Jan. 20–Mar. 31	453
Apr. 01–Jun. 30	139
Jul. 01–Dec. 31	138
Total	730
Rockfish:	
Jan.20–Mar. 31	30
Apr.01–Jun. 30	50
Jul.01–Dec. 31	30
Total	110
Pacific cod:	
Jan. 20–Oct. 24	1,585
Oct. 25–Dec. 31	100
Total	1,685
Pollock/Atka mackerel/"other species":	
Jan. 20–Apr. 15	330
Apr. 16–Dec. 31	100
Total	430
Zone 1 Red king crab, Number of animals:	
Yellowfin sole:	
Jan. 20–Mar. 31	5,000
Apr. 01–May 10	15,000
May 11–Aug. 14	10,000
Aug. 15–Dec. 31	20,000
Total	50,000
Zone 1 C. Bairdi crab, number of animals:	
Yellowfin sole:	
Jan. 20–Mar. 31	50,000
Apr. 01–Dec 31	200,000

TABLE 8.—FINAL SEASONAL APPORTIONMENTS OF THE 1996 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES—Continued

Trawl fisheries	Seasonal bycatch allowance
Total	250,000
Non-Trawl Gear:	
Pacific halibut mortality (mt):	
Pacific cod hook-and-line: [1].	
Jan. 01–Apr. 30	475
May 01–Aug. 31	40
Sep. 01–Dec. 31	285
Total	800

[1] Any unused portion of the first seasonal halibut bycatch allowance specified for the Pacific cod hook-and-line fishery will be reapportioned to the third seasonal allowance. Any overage of a seasonal halibut bycatch allowance would be deducted from the remaining seasonal bycatch allowances specified for 1996 in amounts proportional to those remaining seasonal bycatch allowances.

For purposes of monitoring the fishery halibut bycatch mortality allowances and apportionments, the Regional Director will use observed halibut bycatch rates and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The Regional Director monitors the fishery's halibut bycatch mortality allowances using assumed mortality rates that are based on the best information available, including information contained in the final annual SAFE report.

The Council recommended that the assumed halibut mortality rates developed by staff of the International Pacific Halibut Commission (IPHC) for the 1996 BSAI groundfish fisheries be adopted for purposes of monitoring halibut bycatch allowances established for the 1996 groundfish fisheries. NMFS concurs with the Council's recommendation. The IPHC's assumed halibut mortality rates generally are based on an average of mortality rates determined from NMFS observer data collected during 1993 and 1994. Assumed Pacific halibut mortality rates for BSAI fisheries during 1996 are specified in Table 9.

TABLE 9.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1996

Fishery	Assumed mortality (percent)
Hook-and-line gear fisheries:	
Rockfish	24
Pacific cod	11.5
Greenland turbot	22
Sablefish	17
Trawl gear fisheries:	
Midwater pollock	88
Non-pelagic pollock	78
Yellowfin sole	73
Rock sole, flathead sole, other flatfish	73
Rockfish	75
Pacific cod	63
Atka mackerel	63
Arrowtooth flounder	49
Greenland turbot	49
Sablefish	49
Other species	82
Pot gear fisheries:	
Pacific cod	7

Groundfish PSC Limits

No PSC limits for groundfish species are specified in this action. Section 675.20(a)(6) authorizes NMFS to specify PSC limits for groundfish species or species groups for which the TAC will be completely harvested by domestic fisheries. These PSC limits apply only to JVP or TALFF fisheries. At this time, no groundfish are allocated to either JVP or TALFF and specifications of groundfish PSC limits are unnecessary.

Closures to Directed Fishing

Under § 675.20(a)(8), if the Regional Director determines that the amount of a target species or "other species" category apportioned to a fishery or, with respect to pollock, to an inshore or offshore component allocation, is likely to be reached, the Regional Director may establish a directed fishing allowance for the species or species group. If the Regional Director established a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district. Similarly, under §§ 675.21(c) and 675.21(d), if the Regional Director determines that a fishery category's bycatch allowance of halibut, red king crab, or *C. bairdi* tanner crab for a specified area has been reached, the Regional Director will prohibit directed fishing for each species in that category in the specified area.

The Regional Director has determined that the TAC amounts of pollock in the Bogoslof District, Pacific ocean perch in the Bering Sea subarea and in the Eastern and Central Aleutian Islands districts, shortraker/rougheye rockfish in the Aleutian Islands subarea, other rockfish in the BSAI subareas, and other red rockfish in the Bering Sea will be necessary as incidental catch to support other anticipated groundfish fisheries. Therefore, NMFS is prohibiting directed fishing for these target species in the specified area identified in Table 10 to prevent exceeding the groundfish TACs specified in Table 1 of this document.

A Zone 1 red king crab bycatch allowance of zero crab is specified for the rockfish trawl fishery, which is defined at § 675.21(b)(1)(iii)(D). Similarly, the BSAI halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category, defined at § 675.21(b)(1)(iii)(C), is 0 mt. The Regional Director has determined, in accordance with §§ 675.21(c)(1)(i) and 675.21(c)(1)(iii), that the red king crab bycatch allowance specified for the trawl rockfish fishery in Zone 1 and the halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category has been caught. Therefore, NMFS is prohibiting directed fishing for rockfish in Zone 1 by vessels using trawl gear, and for Greenland turbot, arrowtooth flounder, and sablefish in the BSAI by vessels using trawl gear (Table 10).

The closures listed in Table 10 supersede the closures announced in the 1996 interim specifications (60 FR 62339, December 6, 1996). In accordance with § 675.20(a)(7)(ii), these closures will remain in effect until 12 midnight, A.l.t., December 31, 1996. While these closure are in effect, the maximum retainable bycatch amounts at § 675.20(h) apply at any time during a fishing trip. Additional closures and restrictions may be found in existing regulations at 50 CFR part 675.

Under the 1996 interim specification, NMFS closed directed fishing for Pacific ocean perch in the Western Aleutian Islands District. The final 1996 specifications contained in this action supersede the interim 1996 specifications. Therefore, directed fishing for Pacific ocean perch is authorized in the Western Aleutian Islands District under the final 1996 specifications.

TABLE 10.—CLOSURES TO DIRECTED FISHING UNDER 1996 TACS [1]

Fishery (all gear)	Closed area [2]
Pollock in Bogoslof District.	Statistical Area 518.
Pacific ocean perch	Bering Sea.
	Eastern AI.[3]
	Central AI.
Shortraker/rougheye rockfish.	AI.
Other rockfish [4]	BSAI.
Other red rockfish [5]	Bering Sea.
Rockfish (trawl only)	Zone 1.
Greenland turbot/ arrowtooth/sablefish (trawl only).	BSAI.

[1] These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 675.

[2] Refer to § 675.2 for definitions of areas.

[3] "AI" means Aleutian Islands area.

[4] In the BSAI, "Other rockfish" includes *Sebastes* and *Sebastolobus* species except for Pacific ocean perch and the "other red rockfish" species.

[5] "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern.

Classification

This action is authorized under 50 CFR 611.93(b), 675.20, and 676; and is exempt from review under E.O. 12866.

This action adopts final 1996 harvest specifications for the BSAI, revises associated management measures, and closes specified fisheries. Generally, this action does not significantly revise management measures in a manner that would require time to plan or prepare for those revisions. In some cases, such as closures, action must be taken immediately to conserve fishery resources. Without these closures, specified prohibited species bycatch allowances will be exceeded, established TAC amounts will be overharvested, and retention of some groundfish species will become prohibited, which would disadvantage fishermen who could no longer retain bycatch amounts of these species. The immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources. Accordingly, the Assistant Administrator for Fisheries, NOAA (AA), finds good cause exists to waive the 30-day delayed effectiveness period under 5 U.S.C. 553(d)(3) with respect to such provisions. In some cases, the interim specifications in effect would be insufficient to allow directed fisheries to operate during a 30-day delayed effectiveness period, which would result in unnecessary closures and disruption within the fishing industry; in many of these cases, the final specifications will allow the fisheries to continue, thus relieving a restriction. Provisions of a rule relieving a restriction under 5 U.S.C. 553(d)(1) are not subject to a delay in the effective date.

Pursuant to section 7 of the Endangered Species Act, NMFS and the U.S. Fish and Wildlife Service have determined that the groundfish fisheries operating under the 1996 BSAI TAC specifications are unlikely to jeopardize the continued existence or recovery of species listed as endangered or threatened or to adversely modify critical habitat of these species.

NMFS prepared an EA on the 1996 TAC specifications. The AA concluded that no significant impact on the environment will result from their implementation. A copy of the EA is available (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 30, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–2291 Filed 1–30–96; 4:56 pm]

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Federal Register

Monday
February 5, 1996

Part III

Department of Education

Impact Aid; Notice

DEPARTMENT OF EDUCATION

Impact Aid

AGENCY: Department of Education.

ACTION: Notice extending the application deadline date for Impact Aid fiscal year 1996 section 8002 grants and fiscal year 1997 section 8003 grants.

SUMMARY: The Secretary extends the deadline date for the submission of applications for Impact Aid fiscal year 1996 section 8002 grants and fiscal year 1997 section 8003 grants to March 15, 1996. Impact Aid regulations at 34 CFR 222.3 specify that the annual application deadline is January 31. Due to a lack of appropriated funds in November and December resulting in the furlough of Department employees and inclement weather in January, the Department of Education, like many other Federal agencies, was closed for approximately five weeks. As a result, application packages could not be mailed until the week of January 15, 1996. Consequently, an extension is being granted to potential applicants under sections 8002 and 8003 for Impact Aid assistance for the respective years specified. Section 8003 applicants should use a survey date for their student counts that is at least three days after the start of the 1995–96 school year and before the extended deadline of March 15, 1996.

EFFECTIVE DATE: This notice extending the application deadline date to March 15, 1996, for Impact Aid fiscal year 1996 section 8002 grants and fiscal year 1997 section 8003 grants is effective February 5, 1996. The deadline date for the transmittal of comments by State Educational Agencies is March 30, 1996. The Secretary will also accept and approve for payment any otherwise approvable application that is received on or before the sixtieth calendar day after March 15, 1996, which is May 14, 1996. However, any applicant meeting the conditions of the preceding sentence will have its payment reduced by 10 percent of the amount it would have received had its application been filed by March 15, 1996.

FOR APPLICATIONS OR INFORMATION CONTACT: Impact Aid Program, U.S. Department of Education, 600 Independence Avenue SW., Room 4200 Portals, Washington, DC 20202–6244. Telephone: (202) 260–3907. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Waiver of rulemaking. Section 222.3, which establishes the annual January 31 Impact Aid application deadline, is currently in effect. However, due to the government furloughs affecting the Department and inclement weather, the applications could not be mailed to applicants on a timely basis, and applicants may not have sufficient time to comply with the annual deadline. Because this amendment makes a procedural change for this year only as a result of unique circumstances, proposed rulemaking is not required under 5 U.S.C. 553(b)(A). In addition, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on this one-time suspension of the regulatory deadline date is impracticable, unnecessary, and contrary to the public interest.

Program Authority: 20 U.S.C. 7705.

(Catalog of Federal Domestic Assistance Number 84.041)

Dated: January 31, 1996.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 96–2326 Filed 2–2–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Monday
February 5, 1996

Part IV

Department of the Treasury
31 CFR Part 103
Department of the Treasury
Office of the Comptroller of the Currency
12 CFR Part 21
Federal Reserve System
12 CFR Part 208, et al.

Suspicious Transactions Reporting Requirements; Final Rules

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA13

Amendment to the Bank Secrecy Act Regulations; Requirement To Report Suspicious Transactions

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule.

SUMMARY: This document contains a final rule requiring banks and other depository institutions to report to the Department of the Treasury under the Bank Secrecy Act any suspicious transactions relevant to possible violations of federal law or regulation. The rule is adopted by the Financial Crimes Enforcement Network ("FinCEN") to implement the authority granted to the Secretary of the Treasury by the Bank Secrecy Act. The rule is a key to the creation of a new method for the reporting by depository institutions, on a uniform "Suspicious Activity Report," of suspicious transactions and known or suspected criminal violations; related rules have been or will be adopted by the five federal financial supervisory agencies that examine and regulate the safety and soundness of depository institutions.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Pamela Johnson, Assistant Director, Office of Financial Institutions Policy, FinCEN (703) 905–3920; Charles Klingman, Office of Financial Institutions Policy, FinCEN (703) 905–3920; Stephen R. Kroll, Legal Counsel, FinCEN (703) 905–3590; or Joseph M. Myers, Attorney-Advisor, Office of Legal Counsel, FinCEN, at (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

The Bank Secrecy Act, Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330), appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The provisions of 31 U.S.C. 5318(g) deal with the reporting of suspicious transactions by financial institutions subject to the Bank Secrecy Act and the protection from liability to customers of persons who make such reports.[1] Subsection (g)(1) states generally:

> The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2) provides further:

> A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

Subsection (g)(3) provides that neither a financial institution, nor any director, officer, employee, or agent

> that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority . . . shall . . . be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

Finally, subsection (g)(4) requires the Secretary of the Treasury, "to the extent practicable and appropriate," to designate "a single officer or agency of the United States to whom such reports shall be made." This designation is not to preclude the authority of supervisory agencies to require financial institutions to submit other reports to the same agency "under any other applicable provision of law." 31 U.S.C. 5318(g)(4)(C). The designated agency is in turn responsible for referring any report of a suspicious transaction to "any appropriate law enforcement or supervisory agency." *Id.*, at subsection (g)(4)(B).

II. Notice of Proposed Rulemaking

On September 7, 1995, a notice of proposed rulemaking (the "Notice"), under the authority contained in 31 U.S.C. 5318(g), relating to the reporting of suspicious transactions by banks and other depository institutions,[2] was published in the **Federal Register** (60 FR 46,556). Like this final rule, the Notice was published in coordination with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration (collectively, the "Supervisory Agencies"). An announcement that the time to comment on the Notice had been extended until November 13, 1995, was published in the **Federal Register** on October 13, 1995, 60 FR 53,316.

The final rule is a key to the creation of a single reporting form, filing point, and data base for all reports of suspicious activity made by depository institutions. (The background of the new system is explained in greater detail in the Notice, *see* 60 FR at 46557–46558 (September 7, 1995).) The sifiling point not only eliminates the need for multiple copies but also permits magnetic filing of reports by most institutions capable of and accustomed to making such filings with the Internal Revenue Service. Finally, the single data base will permit rapid dissemination of reports to appropriate law enforcement agencies, more thorough analysis and tracking of those reports, and, in time, the provision to the financial community of information about trends and patterns gleaned from the information reported.

Each Supervisory Agency involved has issued or shortly will issue a final rule requiring reporting under its respective authority. The final rules have been conformed to one another, so that a bank will file a suspicious activity report in satisfaction of both the rules of FinCEN and the rules of the applicable Supervisory Agency or Agencies. A significant group of activities are required to be reported both under the authority of 31 U.S.C. 5318(g) and under the Supervisory Agencies' own administrative requirements, but a single filing will suffice to comply with all requirements.

As indicated above, this final rule becomes effective on April 1, 1996, as do the final rules issued by the Supervisory Agencies.

[1] The authority to require reporting of suspicious transactions was added to the Bank Secrecy Act by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act ("Annunzio-Wylie"), Title XV of the Housing and Community Development Act of 1992, Pub. L. 102–550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994 (the "Money Laundering Suppression Act"), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, to require designation of a single government recipient for reports of suspicious transactions.

[2] References to "bank" include not only commercial banks, but also thrift institutions, credit unions, other types of depository institutions, and certain other institutions. *See* 31 CFR 103.11(c) (defining "bank" for purposes of 31 CFR Part 103).

III. Explanation of Revisions and Summary of Comments

A. Comments on the Notice—Overview

FinCEN received 30 written comments on the Notice. Of these, 14 comments were submitted by banks or bank holding companies, seven by banking trade associations, one by a credit union, three by credit union trade associations, three by non-bank financial institutions, one by an *ad hoc* association of non-bank financial institutions, and one by a practicing attorney on his own behalf.

The commenters generally applauded the decision to reduce reporting burdens on banks and eliminate the confusion caused by duplicate filing requirements. They also supported efforts to enhance the use of the information submitted by banks about suspicious transactions and noted favorably Treasury's general efforts to work with the financial sector to fashion reasonable and cost-effective rules to prevent money laundering.

Commenters expressed a variety of concerns relating to five subjects. Four of the subjects—the definition of "transaction" (especially the treatment of safe deposit box use), the time for filing of suspicious activity reports, the nature of the records required to be retained by institutions in connection with particular suspicious activity reports and the manner and time period for their retention, and the confidentiality rules for such reports—concerned the operational details of the rule outlined in the Notice. The specifics of the comments are outlined below; suggestions made in the comments on those subjects have been adopted in large part.

The fifth subject addressed in the comments was the appropriateness of the proposed definition of suspicious transaction itself, especially the provisions of proposed 31 CFR 103.21(a)(2)(iii), which would require reporting generally of transactions that appear to have no business purpose and for which the reporting institution knew of no reasonable explanation. This provision has been retained, with revision, in the final rule. Specific comments on the provision are also discussed below.

After consideration of all the comments, 31 CFR 103.21, proposed in the Notice, is adopted as revised herein.

B. The Final Rule

While the final rule reflects numerous modifications in response to the comments received on the Notice, the format and substance of the final rule are generally consistent with the rule proposed in the Notice. The changes adopted are intended to improve, clarify, and refine the provisions of the proposed rule that required such modifications, without fundamentally altering the basic policies described in the Notice and reflected in the proposed rule.

The Notice outlined the importance of the reporting of suspicious transactions to Treasury's anti-money laundering and anti-financial crime programs. *See* 60 FR at 46,558–59 (September 7, 1995). Treasury is reconfirming, in issuing the final rule, its judgment that reporting of suspicious transactions in a timely fashion is a key component of the flexible and cost-efficient compliance system required to prevent the use of the nation's financial system for illegal purposes. The same judgment underlies Treasury's initiatives to sharply reduce the extent to which ordinary currency transactions are required to be reported with respect to ongoing businesses with a significant business history. Reporting of suspicious transactions is also required by the emerging international consensus defining the most effective methods for fighting international organized crime.

IV. Section-by-Section Analysis

A. 31 CFR 103.11—Definitions

1. *31 CFR 103.11 (qq)—FinCEN.* The definition of FinCEN is adopted without change.

2. *31 CFR 103.11(ii)—Transaction.* The Notice proposed to replace the definition of "transaction in currency" in the Bank Secrecy Act regulations with a definition of "transaction" that reflected the definition of transaction in 18 U.S.C. 1956 (laundering of monetary instruments). The Notice specifically requested comments on the treatment of the use of safe deposit boxes that would result from the proposed change and noted that the proposal was not intended to vary the substance of the requirement to report currency transactions under 31 CFR 103.22, other than in the case of deposits of cash in safe deposit boxes.

a. *Appropriateness of New Definition Generally.* One group of commenters questioned the appropriateness generally of the adoption for this rule of a definition of transaction based on the definition in the money laundering statute. Those commenters noted that "Congress drafted this statutory definition broadly in order to criminalize every conceivable type of criminally-derived property [sic] but not with the expectation that it would be used as the basis for imposing a positive reporting obligation on financial institutions." They asserted that "[s]uch a definition simply would not be workable for financial institutions that must comply with regulatory requirements."

Treasury believes there is a necessary relationship between the anti-money laundering statute and the Bank Secrecy Act. The extent to which banks should be required to track or monitor certain sorts of transactions will also be addressed in the know-your-customer rules expected to be proposed later this year. Moreover, the "transaction" definition in the federal money laundering statute is already necessarily embraced in the existing criminal referral rules.

b. *Treatment of Safe Deposit Boxes.* The Notice had specifically requested comment on the decision to include use of a safe deposit box in the definition of transaction. The Notice explained that the definition was included to reflect the fact that in appropriate cases use of a safe deposit box may constitute a transaction under 18 U.S.C. 1956, following that statute's amendment to reverse the decision in *United States v. Bell*, 936 F.2d 337 (7th Cir. 1991).

Commenters strongly felt that a blanket inclusion of safe deposit box transactions within the ambit of the rule was inadvisable, potentially contrary to state law, and in any event contrary to a long established banking practice that a customer's use of a safe deposit box was a private transaction in which bank employees studiously sought not to interfere. After consideration of the comments, FinCEN has excluded use of a safe deposit box from the transaction definition. Based on present experience, the risk of the use of a safe deposit box by itself as part of a money laundering or similar offense is sufficiently rare that a rule mandating blanket changes in long-established banking practices is uncalled for. At the same time, a transaction that involved both the use of a safe deposit box and a use of other banking facilities would be included in the transaction definition to the extent it involved such other facilities. (Of course, use of a safe deposit box by a customer that came to a bank's attention, for example, when a box was entered by a bank pursuant to accepted procedures, would be a candidate for the voluntary reporting contemplated by the second sentence of section 103.21(a).)

c. *Definition of Transaction in Currency.* Several commenters requested that the definition of "transaction in currency" be retained in 31 CFR 103.11, in order to avoid confusion in the administration of the currency transaction reporting requirement. That definition has been

retained, solely for purposes of the reporting rule in 31 CFR 103.22.

d. *Investment Securities.* One commenter pointed out that the proposed definition failed to take account of the fact that the Bank Secrecy Act definition of monetary instrument, unlike the 18 U.S.C. 1956 definition, includes only bearer instruments. The final rule adds the term "investment security" to the definition of transaction, as a cross reference to the definition of investment security in 31 CFR 103.11(t).

B. 31 CFR 103.21—Reports of Suspicious Transactions

1. *31 CFR 103.21(a).* Subsection (a) contains the general statement of the obligation to file a suspicious activity report, and a general definition of the term "suspicious transaction." The obligation extends only to transactions conducted or attempted by, at, or through a bank; transactions are reportable under this rule and 31 U.S.C. 5318(g) whether or not they involve currency.

Paragraph (a)(1) states, in its first sentence, that section 103.21 implements the regulatory authority granted to the Secretary of the Treasury by 31 U.S.C. 5318(g). Language has been added to the sentence to make it clear that the reporting of transactions "relevant to a possible violation of law or regulation" is required only to the extent specified in the rule. A second sentence has been added to encourage the reporting of transactions as so relevant, even in cases in which the rule does not explicitly so require, for example in the case of use of a safe deposit box or with respect to a transaction below the $5,000 threshold added to the rule, as discussed below. As also discussed below, such a voluntary report (that is, the report of a suspicious transaction relevant to a possible violation of law or regulation, in circumstances not required by the rule) is fully covered by the rules relating to non-disclosure and protection against liability specified in 31 U.S.C. 5318 (g)(2) and (g)(3) and in 31 CFR 103.21(e) (added by the final rule).

The proposed rule designated three classes of transactions as requiring reporting. The first class, described in subparagraph (a)(2)(i), includes transactions either involving funds derived from illegal activity or intended or conducted in order to hide or disguise funds or assets derived from illegal activity. The second class, described in subparagraph (a)(2)(ii), involves transactions designed to evade the requirements of the Bank Secrecy Act. The third class, described in subparagraph (a)(2)(iii), involves transactions that appear to have no business purpose or that vary so substantially from normal commercial activities or activities appropriate for the particular customer or class of customer as to have no reasonable explanation.

Commenters raised a number of questions about the terms of the proposed definition in paragraph (a)(2). First, they sought to limit the terms in which knowledge would be ascribed to a bank by questioning a standard that called for reporting when a bank "knows, suspects, or has reason to suspect" that a transaction requires reporting. The use of the term is intended to introduce a concept of due diligence into the reporting procedures. As part of the general conforming of the rules of FinCEN and the Supervisory Agencies, the same standards have been adopted by each agency.

Second, the Notice asked for the industry's position as to whether monetary thresholds should be created for reporting Bank Secrecy Act and money laundering violations. Many commenters sought the addition of a threshold for reporting transactions, while several other commenters argued against thresholds. FinCEN has determined to add a $5,000 threshold to the reporting rule, so that reports are now required only for a transaction (or, as explained below, a series of transactions) that involve at least that amount in funds or assets and that otherwise satisfy the terms of the rule. Adoption of this threshold is intended to reduce the burden of reporting and to conform the treatment of money laundering and related transactions to that of other situations in which reporting is required by the Supervisory Agencies. As a concomitant to the creation of a threshold, language has been added to make it clear that related transactions "aggregating" $5,000 or more may be reportable.

Several commenters also objected to the requiring of reports of "attempted" transactions, on the ground that an attempted transaction may neither be sufficiently obvious to draw a bank's attention nor to generate the sorts of records necessary to complete the report. FinCEN recognizes that these situations may arise and that the standards applied to reporting of attempts must necessarily be somewhat more flexible than those requiring reporting of completed transactions. However, the reporting of "attempts" has been required in the criminal referral reports that have evolved into the suspicious activity report, and the requirement to report attempts has been retained in the final rule.

The proposed rule required reporting of transactions conducted or attempted "by, at, or through, or otherwise involving" a bank. Several commenters objected to the inclusion in the rule of the words "otherwise involving" because their meaning was unclear and provided insufficient guidance for bank officials. The phrase has been deleted.

2. *Subparagraph (a)(2)(i).* Several commenters questioned whether the requirement to report transactions involving funds derived from illegal activity that are conducted in order to hide or disguise funds or assets derived from illegal activity extended to all illegal activity or only to activity that was illegal under federal law. Language has been added to specify plainly that only activity that is in violation of federal law or regulation is covered by the requirement. Such a limitation does not, of course, make violation of state law irrelevant, especially in the many cases under 18 U.S.C. 1956, 1957 or 1960 in which violations of state law can serve as a predicate for a federal offense.

3. *Subparagraph (a)(2)(ii).* No comments were directed specifically toward subparagraph (a)(2)(ii), and that subparagraph is unchanged, except for a revised reference to the Bank Secrecy Act.

4. *Subparagraph (a)(2)(iii).* As proposed in the Notice, subparagraph (a)(2)(iii) required reporting of a transaction if:

> the transaction appears to have no business purpose, the transaction varies from the normal methods of financial commerce, or the transaction is not the sort in which the particular customer or class of customer would normally be expected to engage, and, in each case, the bank knows of no reasonable explanation for the transaction.

Although a number of commenters opposed the reporting of transactions that could not definitively be linked to wrongdoing, FinCEN believes that a suspicious transaction reporting rule appropriately can and indeed must include a requirement for the reporting of transactions that vary so substantially from normal practice that they legitimately can and should raise suspicions of possible illegality. Unlike many criminal acts, money laundering involves the taking of apparently lawful steps—opening bank accounts, wiring funds, or investing or reinvesting assets—for an unlawful purpose. A skillful money launderer will often split the movement of funds between several institutions so that no one institution can have a complete picture of the transactions or funds movement involved. Although a number of commenters objected to the standard, others viewed the standard as a workable compromise between the competing needs of enforcement and the financial system and, in one case, as consistent with the advice and training already given to line staff at the commenter's money center bank.

In addition, as indicated in the Notice, subparagraph (a)(2)(iii) recognizes the emerging international consensus that efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted by the reporting of suspicious transactions by banks. The requirements of this section comply with the recommendations adopted by multilateral organizations in which the United States is an active participant, including the Financial Action Task Force of G–7 nations and the Organization of American States, and are consistent with the European Community's directive on preventing money laundering through financial institutions.

Although the basic standard has been retained, a number of changes have been made in response to specific comments on the Notice. First, the structure of the paragraph (a)(2) now makes it clear that all three subparagraphs in the suspicious transaction definition are qualified by the standard that the bank must "know, suspect, or have reason to suspect" that the reportable events have occurred. Second, the description of transactions that "vary from the normal methods of financial commerce" has been deleted because the phrase provided insufficient guidance to reporting institutions and was comprehended to the extent relevant by the "no business purpose" language of the preceding clause. Third, the specification of transactions in which the "class of customer" involved would not be expected to engage has been deleted, in response to concerns that the language unintentionally created a need for comparisons among groups of customers based on their personal characteristics. Fourth, the language has been altered to require reporting of transactions that appear to have no business "or apparent lawful purpose"; the exception for transactions for which the bank knows of a reasonable explanation has been clarified to specify that knowledge of such an explanation requires an examination by the bank of the available facts, including factors such as the background and possible purpose of the transaction.

It remains true, as indicated in the Notice, that determinations as to whether a report is required must be based on all the facts and circumstances relating to the transaction and bank customer in question. Different fact patterns will require different types of judgments. In some cases, the facts of the transaction may clearly indicate the need to report. For example, continued payments or withdrawals of currency in amounts each beneath the currency transaction reporting threshold applicable under 31 CFR 103.22, or multiple exchanges of small denominations of currency into large denominations of currency, can indicate that a customer is involved in suspicious activity. Similarly, the fact that a customer refuses to provide information necessary for the bank to make reports or keep records required by this Part or other regulations, provides information that a bank determines to be false, or seeks to change or cancel the transaction *after* such person is informed of reporting requirements relevant to the transaction or of the bank's intent to file reports with respect to the transaction, would all indicate that a Suspicious Activity Report ("SAR") should be filed.

In other situations a more involved judgment may need to be made whether a transaction is suspicious within the meaning of the rule. Transactions that raise the need for such judgments may include, for example, (i) funds transfers, payments or withdrawals that are not commensurate with the stated business or other activity of the person conducting the transaction or on whose behalf the transaction is conducted; (ii) transmission or receipt of funds transfers without normal identifying information or in a manner that indicates an attempt to disguise or hide the country of origin or destination or the identity of the customer sending the funds or of the beneficiary to whom the funds are sent; or (iii) repeated use of an account as a temporary resting place for funds from multiple sources without a clear business purpose therefor. The judgments involved will also extend to whether the facts and circumstances and the institution's knowledge of its customer provide a reasonable explanation for the transaction that removes it from the suspicious category.

5. *31 CFR 103.21(b).* Subsection (b) sets forth the filing procedures to be followed by banks making reports of suspicious transactions. Reports are to be made within 30 calendar days of the initial detection of the suspicious transaction, by completing a SAR and filing it in a central location, to be determined by FinCEN. An additional 30 days is permitted in order to enable a bank to identify a suspect, but in no event may a SAR be filed after 60 days after the initial detection of the reportable transaction. The general timing rule has been changed so that the period for filing runs not from the date of the transaction being reported, but from the date of the "initial detection" of facts that may constitute a basis for the filing of a SAR; in many cases the two dates will be the same, but in others, where the transaction is detected by the bank's compliance screening systems, the dates may differ. If the bank's own internal investigation is still ongoing when filing is required the form filed may so indicate, but the form must nonetheless be filed within the periods specified in the rule. FinCEN recognizes that it is always difficult to apply general timing rules to every possible situation in which reporting may be required or reportable activity detected, and it believes that the change made in the rule adequately balances the need to recognize the crucial importance of bank screening systems and to provide clear deadlines for reporting. FinCEN is prepared to consider further changes in the timing rules if experience dictates a need therefor, but it also believes that timely reporting is essential.

Several commenters requested that a change be made in the requirement in the Notice that banks provide immediate telephone notice of ongoing violations to "the" appropriate law enforcement agency (in addition to filing the form as required). As requested, the language has been revised to require notice to "an" appropriate law enforcement agency.

The new filing procedures represent a significant improvement over the procedures currently followed by banks filing criminal referral forms. There is no longer any requirement to file multiple copies of forms with multiple agencies, and no requirement to file supporting documentation with the SAR itself.

6. *31 CFR 103.21(c).* Subsection (c) continues in effect the longstanding exception from the obligation to file in the case of a robbery or burglary that is otherwise reported to appropriate law enforcement authorities. In response to a comment, the second longstanding exception contained in the rules of the Supervisory Agencies for reports of stolen securities has also been repeated in this rule. Treasury and the Supervisory Agencies recognize that bank robbery and burglary require the immediate attention of the appropriate police authorities, and are not the types of crimes about which this regulation is directly concerned.

7. *31 CFR 103.21(d).* Subsection (d) states the obligation of filing banks to maintain copies of SARs and their

supporting documentation following the date of filing. This provision is intended to relieve banks of the need physically to transmit supporting documentation previously required to be filed with criminal referral reports *without* altering the utility or availability of the supporting documentation to the Supervisory Agencies or law enforcement agencies as needed. The supporting documentation is a part of the SAR and is held by the bank (in effect as agent for the Supervisory Agencies and FinCEN), to avoid requiring often significant masses of paper immediately to be transmitted to investigators or examiners. Thus, identification of supporting documentation must be made at the time the SAR is filed, and such supporting documentation is deemed filed with a SAR in accordance with this paragraph of the final rule; as such, FinCEN, the Supervisory Agencies, and law enforcement authorities need not make their access requests through subpoena or other legal processes.

Several significant changes requested by commenters in the record retention requirements have been made. First, the time for which retention is required has been reduced from 10 years to five years (the general period for record retention required under the Bank Secrecy Act); a provision authorizing FinCEN to permit earlier destruction has been deleted as unnecessary in light of the reduction of the retention period to five years generally. Second, the wording has been changed to permit record retention in either paper form or in accordance with the bank's general recordkeeping procedures, even if those procedures call for record maintenance in electronic rather than paper form. FinCEN recognizes that a bank will not always have custody of the originals of documents and that some documents will not exist at the bank in paper form. In those cases, preservation of the best available evidentiary documents (for example, computer disks or photocopies) should be acceptable. This has been reflected in the final rule by changing the reference to original documents to "original document or business record equivalents."

The Notice referred both to documents "supporting" and documents "related" to the SAR. Many commenters found this dual reference confusing. FinCEN believes that the use of the word "supporting" is more precise and limits the scope of the information which must be retained to that which would be useful in explaining the terms of and parties to any suspicious transaction reported on a SAR. It is anticipated that banks will use their judgment in determining the information to be retained in light of the purposes of the reporting requirement. It is impossible to catalogue the precise types of information covered by this requirement, as the nature of the documentation that will "support" the determination embodied in a SAR necessarily depends upon the facts of a particular case.

8. *31 CFR 103.21(e).* Subsection (e) incorporates the terms of 31 U.S.C. 5318 (g)(2) and (g)(3). This subsection thus specifically prohibits those filing SARs from making any disclosure, except to authorized law enforcement and regulatory agencies, about either the reports themselves, the information contained therein, or the supporting documentation (in the latter case if the supporting documentation indicates in any way that it is related to a SAR). This subsection thus also restates the broad protection from liability for making reports of suspicious transactions, and for failures to disclose the fact of such reporting, contained in the statute. As pointed out in the Notice, the regulatory provisions do not extend the scope of either the statutory prohibition or the statutory protection; however, because Treasury recognizes the importance of these statutory provisions to the overall effort to encourage meaningful reports of suspicious transactions, they are described in the regulation in order to remind compliance officers and others of their existence. The terms of subsection (e) have been revised to clarify that the protection of the statute, as well as the statutory prohibition against disclosures of filing, extends to voluntary reports of suspicious activity as well as those reports required by the final rule.

A number of commenters sought guidance about whether the statutory prohibitions against disclosure extended to subpoenas from third parties in civil litigation. FinCEN believes that the nondisclosure provisions of the statute extend to requests via subpoenas seeking SARs; as noted, the nondisclosure rule does not apply to supporting documentation, *so long as* no material in the supporting documentation produced in response to a subpoena or other process indicates its relationship to a SAR. The final rule adds a requirement that requests for a SAR or the information contained therein should be reported to FinCEN. (Under the rules of the Supervisory Agencies, reporting of such requests to those Agencies is also required.)

9. *31 CFR 103.21(f).* Subsection (f) notes that compliance with the obligation to report suspicious transactions will be audited, and provides that failure to comply with the rule may constitute a violation of the Bank Secrecy Act and the Bank Secrecy Act regulations. The substitution of the word "may" for the word "shall" is intended to indicate that the decision whether a failure to report a transaction in fact constitutes a Bank Secrecy Act violation will necessarily depend upon the facts of each situation. FinCEN anticipates that in general the area for inquiry in the case of failure to report will center upon both the facts of the particular failure and what the failure indicates about the bank's compliance systems and attention to the Bank Secrecy Act rules generally.

The Notice also stated that compliance with the obligation to report suspicious transactions would have no direct bearing on a bank's potential exposure under the criminal provisions of Title 18 of the U.S. Code. One commenter argued that any such statement was a bar to cooperation and urged the Department of the Treasury and the Justice Department to create safe harbors from criminal liability in cases in which SARs are filed.

The sentence questioned by the commenter was intended simply as a reminder that the language of the "safe harbor" provisions of 31 U.S.C. 5318(g) does not by its terms protect against criminal prosecutions. The sentence has been deleted in response to the comment, but its deletion in no way alters the scope of the statute.

Finally, a mistaken reference to Title 15 of the Code of Federal Regulations has been deleted.

C. Other Comments

1. *Closing Accounts.* FinCEN invited comment concerning the guidance that is appropriate in connection with a bank's decision, after filing a report concerning a particular customer, whether to terminate its relationship with that customer. Treasury continues to believe that unless instructed by an authorized official in writing, this is a decision which must be made by the financial institution.

2. *Non-Bank Financial Institutions.* Several comments were filed on behalf of non-bank financial institutions concerned that the rules embodied in the Notice would be extended to such institutions. Those comments were considered to the extent relevant to the Notice and will be held for consideration when rules are proposed governing such institutions.

V. Regulatory Flexibility Act.

FinCEN certifies that this regulation will not have a significant financial impact on a substantial number of small depository institutions.

VI. Paperwork Reduction Act

The collection of information contained in this rule has been reviewed by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d).

The collection of information requirements in this rule are found in 31 CFR 103.21, as issued in final form herein. This information is mandatory and is necessary to inform appropriate law enforcement and bank supervisory agencies of suspicious transactions involving or that take place at or through depository institutions. Information collected hereunder is confidential, *see* 31 U.S.C. 5318(g), and may be used by FinCEN, the federal financial institution regulatory agencies, federal law enforcement agencies and, where appropriate, state law enforcement and bank supervisory agencies. The respondent recordkeepers are for-profit financial institutions, including small businesses.

FinCEN may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 1506–0001.

No comments specifically addressing the hour burden for filing the SAR were received.

FinCEN estimates that there will be 15,000 responses from banks subject to the Bank Secrecy Act.

The revisions made to the final rule from the proposed rule published in the Notice simplify the submission of the reporting form and shorten the records retention period. However, the same amount of information will be collected under the final rule as under the proposed rule published in the Notice. The burden per respondent varies depending on the nature of the suspicious transaction being reported. FinCEN estimates that the average annual burden for reporting and recordkeeping per response will be 1 hour. Thus, FinCEN estimates the total annual hour burden to be 15,000 hours. However, this burden will not result in additional cost to the public because the same information is required to be filed by one or more of the Supervisory Agencies, and a single filing will satisfy all filing requirements.

Comments regarding the burden estimate, or any aspect of this collection of information, including suggestions for reducing the burden, should be sent to Office of Regulatory Policy and Enforcement, FinCEN, and to the Office of Management and Budget, Paperwork Reduction Project (7100–0212), Washington, D.C. 20503.

VII. Executive Order 12866

The Department of the Treasury has determined that this rule is not a significant regulatory action under Executive Order 12866.

VIII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act), March 22, 1995, requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance this rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks, banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Amendment

For the reasons set forth above in the preamble, 31 CFR Part 103 is amended as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

2. Section 103.11 as amended at 60 FR 228 and 44144 effective April 1, 1996, is further amended by revising paragraph (ii) and adding paragraph (qq) to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(ii) *Transaction.* (1) Except as provided in paragraph (ii)(2) of this section, transaction means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other investment security or monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(2) For purposes of § 103.22, and other provisions of this part relating solely to the report required by that section, the term "transaction in currency" shall mean a transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order, and which does not include the physical transfer of currency, is not a transaction in currency for this purpose.

* * * * *

(qq) *FinCEN.* FinCEN means the Financial Crimes Enforcement Network, an office within the Office of the Under Secretary (Enforcement) of the Department of the Treasury.

§ 103.21 [Redesignated as § 103.20]

3. Section 103.21 is redesignated as § 103.20.

4. New § 103.21 is added to read as follows:

§ 103.21 Reports by banks of suspicious transactions.

(a) *General.* (1) Every bank shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A bank may also file with the Treasury Department by using the Suspicious Activity Report specified in paragraph (b)(1) of this section or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section.

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through the bank, it involves or aggregates at least $5,000 in funds or other assets, and the bank knows, suspects, or has reason to suspect that:

(i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such

funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(ii) The transaction is designed to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330; or

(iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(b) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report ("SAR"), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file.* The SAR shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR.

(3) *When to file.* A bank is required to file a SAR no later than 30 calendar days after the date of initial detection by the bank of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of the detection of the incident requiring the filing, a bank may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations that require immediate attention, such as, for example, ongoing money laundering schemes, the bank shall immediately notify, by telephone, an appropriate law enforcement authority in addition to filing timely a SAR.

(c) *Exceptions.* A bank is not required to file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities, or for lost, missing, counterfeit, or stolen securities with respect to which the bank files a report pursuant to the reporting requirements of 17 CFR 240.17f–1.

(d) *Retention of records.* A bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR. Supporting documentation shall be identified, and maintained by the bank as such, and shall be deemed to have been filed with the SAR. A bank shall make all supporting documentation available to FinCEN and any appropriate law enforcement agencies or bank supervisory agencies upon request.

(e) *Confidentiality of reports; limitation of liability.* No bank or other financial institution, and no director, officer, employee, or agent of any bank or other financial institution, who reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported. Thus, any person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR, except where such disclosure is requested by FinCEN or an appropriate law enforcement or bank supervisory agency, shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed, citing this paragraph (e) and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto. A bank, and any director, officer, employee, or agent of such bank, that makes a report pursuant to this section (whether such report is required by this section or is made voluntarily) shall be protected from liability for any disclosure contained in, or for failure to disclosure the fact of such report, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).

(f) *Compliance.* Compliance with this section shall be audited by the Department of the Treasury, through FinCEN or its delegees under the terms of the Bank Secrecy Act. Failure to satisfy the requirements of this section shall be a violation of the reporting rules of the Bank Secrecy Act and of this part. Such failure may also violate provisions of Title 12 of the Code of Federal Regulations.

Dated: January 30, 1996.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 96–2272 Filed 2–2–96; 8:45 am]

BILLING CODE 4820–03–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 21

[Docket No. 96–02]

RIN 1557–AB19

Minimum Security Devices and Procedures, Reports of Suspicious Activities, and Bank Secrecy Act Compliance Program

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulations that require national banks to file criminal referral and suspicious transaction reports. This final rule streamlines reporting requirements by providing that national banks file a new Suspicious Activity Report (SAR) with the OCC and the appropriate Federal law enforcement agencies by sending SARs to the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN) to report a known or suspected criminal offense or a transaction that a bank suspects involves money laundering or violates the Bank Secrecy Act (BSA).

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Robert S. Pasley, Assistant Director, or Neil M. Robinson, Senior Attorney, Enforcement and Compliance Division, (202–874–4800), or Daniel L. Cooke, Attorney, Legislative and Regulatory Activities Division (202–874–5090).

SUPPLEMENTARY INFORMATION:

Background

The OCC, the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) issued for public comment substantially similar proposals to revise their rules that require the institutions under their supervision to report known or suspected criminal conduct and suspicious transactions. *See* 60 FR 34476 (July 3, 1995) (OCC); 60 FR 34481 (July 3, 1995) (Board); 60 FR 36366 (July 17, 1995) (OTS); 60 FR 47719 (September 14, 1995) (FDIC). The Department of the Treasury, through FinCEN, has issued for public comment a substantially similar proposal to require the reporting of suspicious activities. *See* 60 FR 46556 (September 7, 1995).

As noted in the OCC's proposed regulation, the interagency Bank Fraud Working Group, consisting of representatives from the Agencies, law enforcement agencies, and FinCEN, has been working on the development of a single form, the SAR, for the reporting of known or suspected Federal criminal law violations and transactions that an institution suspects involve money laundering or violate the BSA. The SAR will be available to national banks both in paper form and as a computer software shell. SARs can be obtained from the appropriate OCC District Office listed in 12 CFR part 4.[1]

The new SAR reporting system will: (1) Combine the current criminal referral rules of the Federal financial institutions regulatory agencies with the Department of the Treasury's suspicious activity reporting requirements; (2) create a uniform reporting form, the new SAR, for use by financial institutions in reporting known or suspected criminal offenses and transactions that an institution suspects involve money laundering or violate the BSA; (3) provide a system whereby a financial institution need only refer to the SAR and its instructions in order to complete and file the form in conformance with the Agencies' and FinCEN's reporting regulations; (4) require the filing of only one form with FinCEN; (5) eliminate the need to file supporting documentation with a SAR; (6) enable a filer, through computer software that the OCC will provide to all national banks, to prepare a SAR on a computer and file it by mailing a computer disc or tape; (7) establish a database that will be accessible to Federal and state financial institution regulators and law enforcement agencies; (8) raise the thresholds for mandatory reporting in two categories and create a threshold for the reporting of transactions that an institution suspects involve money laundering or violate the BSA in order to reduce unnecessary reporting burdens on banking organizations; and (9) emphasize recent changes in the law that provide (a) a safe harbor from civil liability to financial institutions and their employees when they report known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, and (b) criminal sanctions for the disclosure of such a report to any party involved in the reported transaction.

[1] The OCC recently revised Part 4. *See* 60 FR 57315 (November 15, 1995). The geographical composition of each OCC District Office is listed at 12 CFR 4.5. *See* 60 FR at 57322.

Comments Received

The OCC received letters from 33 public commenters, including 26 banks, five trade and industry research groups, and two law firms.

The large majority of commenters expressed general support for the proposal. None of the commenters opposed the proposed new suspicious activity reporting rules although, as discussed below, a number of commenters made suggestions for improving the rule and requests for clarification.

Description of the Final Rule and Responses to Comments Received

After consideration of the public comments received, the Agencies are each promulgating a substantially identical final rule on the filing of SARs. Under the OCC's final rule, national banks need only follow SAR instructions for completing and filing the SAR to be in compliance with the OCC's and FinCEN's reporting requirements.

The final rule adopts the proposal with a few additional changes that are made in response to the comments received. The final rule makes several changes that reduce unnecessary regulatory burden in addition to those that were proposed. In particular, the final rule further reduces burden by: (1) Adding a $5,000 threshold for reporting transactions that an institution suspects involve money laundering or violate the BSA; (2) eliminating the requirement that banks report a transaction that is "suspicious for any reason" by modifying the description of the types of suspicious activity that must be reported; (3) reducing the record retention period from ten years to five; and (4) permitting banks to maintain the business record equivalent of a document rather than requiring the bank to maintain the original.

Purpose and Scope (§ 21.11(a))

The proposal clarified the scope of the current rule. The OCC received no comments on this section, and it is adopted as proposed.

Definitions (§ 21.11(b))

The proposal added definitions for several terms used in the operative provisions of the rule. The OCC received one comment on this section. The commenter stated that the definition of "known or suspected violation" was too broad because it included violations that have been attempted or may occur. The OCC has concluded, however, that attempted and potential crimes must be reported in order to maintain effective law enforcement. The definition has been incorporated into each of the reporting requirement provisions in § 21.11(c). This definitions section is otherwise adopted as proposed, with minor technical changes.

SARs Required (§ 21.11(c))

The proposal clarified and revised the provision in the former rule that requires a bank to file a criminal referral report. The proposal raised the dollar thresholds that trigger filing requirements and modified the scope of events that a national bank must report.

Most of the comments received by the OCC addressed this section. Approximately one-third of the commenters encouraged the OCC to change proposed § 21.11(c)(4), which required banks to report all financial transactions that are suspicious "for any reason." The commenters stated that this language was too broad and made meaningless the $5,000 reporting threshold of § 21.11(c)(2) (requiring banks to report suspected crimes committed by an identifiable suspect) and the $25,000 reporting threshold of § 21.11(c)(3) (requiring banks to report suspected crimes for which no suspect is identified). These commenters asserted that requiring banks to report all financial transactions that are suspicious for any reason required banks to report transactions that would otherwise fall under the appropriate threshold and would therefore be exempt from mandatory reporting. Several commenters also encouraged the Agencies to adopt a threshold for reporting transactions that are suspicious.

The OCC and the other Agencies agree with the concerns expressed by these commenters. Accordingly, the OCC has substantially revised § 21.11(c)(4) to add a $5,000 reporting threshold for transactions that are suspicious and to clarify that this section of the rule requires banks to report only transactions that a bank suspects involve money laundering or violate the BSA. Under the final rule, a national bank must file a SAR for any transaction of $5,000 or more if the bank knows, suspects, or has reason to suspect that the transaction: (i) Involves funds derived from illicit activities or is intended to hide or disguise funds derived from illicit activities; (ii) is part of a plan to evade any reporting requirement, including those under the BSA, or (iii) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after

examining the available facts, including the background and possible purpose of the transaction. For purposes of this subsection, the term "transaction" means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, or purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

The text of § 21.11(c)(4) in the final rule recognizes that efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted when financial institutions report transactions that they suspect may involve money laundering or violate the BSA. The requirements of this section comply with the recommendations adopted by multi-country organizations in which the United States is an active participant, including the Financial Action Task Force of the G–7 nations and the Organization of American States, and are consistent with European Community's directive on preventing money laundering through financial institutions.

A few commenters encouraged the Agencies to raise the dollar thresholds for known or suspected criminal conduct by non-insiders, and several commenters urged the Agencies to establish a dollar threshold for insiders.

The Agencies considered these comments, but concluded that the thresholds, as proposed, properly balance the dual concerns of prosecuting criminal activity involving national banks and minimizing the burden on national banks. With respect to the suggestion that the OCC adopt a dollar threshold for insider violations, the OCC notes that insider abuse has long been a key concern and focus of enforcement efforts at the OCC. With the development of a new sophisticated and automated database, the OCC and law enforcement agencies will have the benefit of a comprehensive and easily accessible catalogue of known or suspected insider wrongdoing. When insiders are involved, even small-scale offenses—for example, repetitive thefts of small amounts of cash by an employee who frequently moves between banking organizations—may undermine the integrity of banking institutions and warrant enforcement action or criminal prosecution. Therefore, the OCC does not wish to limit the information it receives regarding insider wrongdoing.

One commenter suggested an indexed threshold, based on the regional differences in the various dollar thresholds below which the Federal, state, and local prosecutors generally decline criminal prosecution.

Any regional variations in the dollar amount of financial crimes generally prosecuted involve issues pertaining to the exercise of prosecutorial discretion that are not within the OCC's province to resolve. The OCC's objective is to ensure that banks place the relevant information in the hands of the investigating and prosecuting authorities. In the OCC's view, the dollar thresholds proposed and adopted in this final rule best balance the interests of law enforcement authorities and national banks. The OCC also believes that indexed thresholds could generate additional burden for banks by creating a standard that is unclear and confusing.

One commenter noted that the OCC and OTS proposals keyed the reporting thresholds to the amount of loss or potential loss to the institution, while the Board keyed its reporting thresholds to events that "involve or aggregate" more than the appropriate threshold. The commenter urged all agencies to use the OCC and OTS standard.

The OCC observes that its former provision used the same language that the Board used in its proposal and required reporting of all events that "involve or aggregate" more than the appropriate threshold. The OCC has concluded that this language provides greater predictability in determining when to file a SAR because the amount of loss or potential loss may differ from the actual sum involved and may be difficult to calculate in many instances. The OCC believes that, were the Agencies to rely on the amount of loss or potential loss, a national bank might consider the potential for recovery of funds to estimate loss.

To avoid potential uncertainty, the OCC's final rule conforms to the OCC's former rule by requiring national banks to file SARs whenever a bank detects a known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank that involves or aggregates more than the appropriate threshold.

One commenter expressed the concern that a banking organization would need to establish probable cause before reporting crimes for which an essential element of the proof of the crime was the intent of the actor.

This is not the case, however. Nothing in the rule requires that national banks assume the burden of proving illegal conduct; rather, banks are required only to report actual or suspected crimes or suspicious activities for possible action by the appropriate authorities.

A few commenters requested clarification of whether the proposal required a national bank to file multiple SARs for a crime committed by several individuals or multiple related crimes by the same individual.

Financial institutions should complete one SAR to describe a suspected or known criminal offense committed by several individuals. The instructions to the SAR permit banks to report additional suspects by means of a supplemental page. A financial institution should file a separate SAR whenever an individual commits a suspected or known crime. If the same individual commits multiple or related crimes within the same reporting period, the financial institution may consider reporting the crimes on one SAR, but only if doing so will present clearly what has occurred.

National banks are encouraged to file the SAR via magnetic media using the computer software to be provided to all national banks by the OCC. National banks that currently file currency transaction reports via magnetic tape with FinCEN may also file SARs by magnetic tape. FinCEN has advised the Agencies that it will be unable to accept filings via telecopier/FAX.

Time for Reporting (§ 21.11(d))

Proposed section 21.11(d) did not substantively change the current requirements with respect to the timing of the reporting of known or suspected criminal offenses and transactions that a bank suspects involve money laundering or violate the BSA.

Several commenters requested that the OCC clarify the application of the filing deadline for SARs when no suspect is identified at the initial detection of the suspicious activity, the amount of the transaction is less than the applicable $25,000 mandatory reporting threshold, and the institution later identifies a suspect. For example, some commenters wondered if they would be in violation of the rule if a suspect were identified after 60 days had past.

These comments reflect a misunderstanding of how the filing requirements operate. The time period for reporting commences only when a bank identifies a known or potential violation that fits within the thresholds. Therefore, if a bank uncovers a transaction involving less than $25,000 (but more than $5,000), but does not identify a potential suspect until after the passage of 60 days, the 30-day period for filing a SAR would begin to run only as of the time the suspect is identified. To make this point clear, the final rule inserts the word "reportable" and states that in no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a *reportable* transaction.

Section 21.11(d) also requires a bank to notify law enforcement authorities immediately in the event of an on-going violation. The OCC wishes to clarify that immediate notification is limited to situations involving on-going violations, for example, when a check kite or money laundering has been detected and may be continuing. It is not feasible, however, for the OCC to contemplate all of the circumstances in which it might be appropriate for a financial institution immediately to advise state and local law enforcement authorities. National banks should use their best judgment regarding when to alert these authorities regarding on-going criminal offenses or suspicious activities that involve money laundering or violate the BSA.

Reports to State and Local Authorities (§ 21.11(e))

The proposal encouraged national banks to file SARs with state and local law enforcement agencies when appropriate. Some commenters expressed the concern that national banks and their institution-affiliated parties could be liable under Federal and state laws, such as the Right to Financial Privacy Act (12 U.S.C. § 3401 *et seq.*) (RFPA), for filing SARs with respect to conduct that is later found not to have been criminal. Another concern was that the filing of SARs with state and local law enforcement agencies would subject filers to claims under state law. Both of these concerns are addressed by the scope of the safe harbor protection provided in 31 U.S.C. 5318(g) and, as discussed below, stated in new paragraph 21.11(l) of this section.

Exceptions (§ 21.11(f))

Proposed § 21.11(g) set forth two exceptions to the SAR filing requirement, which did not substantively change its predecessor provision. Under the proposal, a national bank was not required to file a SAR for a robbery or burglary that the bank reported to appropriate law enforcement authorities or to file a SAR for lost, missing, counterfeit, or stolen securities for which the bank filed a report pursuant to 17 CFR 240.17f–l.

The OCC received no comments on this section and adopts it as proposed. The final rule, however, reverses the order of proposed paragraphs (g) and (f) to conform with the other Agencies' rules.

Retention of Records (§ 21.11(g))

The proposal required a bank to retain a copy of the SAR and the original of any underlying documentation relating to the SAR for ten years.

Approximately one-third of the commenters expressed the view that the ten-year period for the retention of records in proposed 21.11(f) was excessive, especially in light of the five-year record retention requirement that is contained in the BSA. Several commenters recommended that the Agencies adopt a five-year requirement. The Agencies agree, and the OCC's final rule reduces the required record retention period to five years.

Many commenters asserted that the provision that required banks to disclose supporting documentation to law enforcement agencies upon their request was either unclear or posed potential RFPA liability. Some therefore questioned whether law enforcement agencies would still need to subpoena relevant documents from a financial institution.

The final rule requires national banks filing SARs to identify, maintain, and treat the documentation supporting the report as if it were actually filed with the SAR. This means that subsequent requests from law enforcement authorities for the supporting documentation relating to a particular SAR do not require the service of a subpoena or other legal processes normally associated with providing information to law enforcement agencies. This treatment of supporting documentation is not a substantive change from the current rule's requirement that supporting documentation be filed with each referral, since it only changes the timing of when an agency will have access to the supporting documentation, not the fact that the information needs to be assembled and made available for law enforcement purposes. The Agencies are therefore of the opinion that the final rule's treatment does not give rise to RFPA liability.

Proposed section 21.11(f) required the maintenance of supporting documentation in its original form. A number of commenters noted that electronic storage of documents is becoming the rule rather than the exception, and that requiring the storage of paper originals would impose undue burdens on financial institutions. Moreover, some records are retained only in a computer database.

The proposal reflected the concerns of the law enforcement agencies that the best evidence be preserved. However, this can include electronic storage of original documentation related to the filing of an SAR. The OCC recognizes that a banking organization will not always have custody of the originals of documents and that some documents will not exist at the organization in paper form. In those cases, preservation of the best available evidentiary documents, for example, computer disks or photocopies, will be acceptable. The final rule reflects these changes by allowing banks to retain business record equivalents of supporting documentation.

Several commenters criticized as inconsistent and vague the proposed requirements that an institution maintain "related" documentation and make "supporting" documentation available to the law enforcement agencies upon request. One commenter questioned whether the OCC intended a substantive difference in meaning between "related" and "supporting."

Because a substantive difference is not intended, the OCC has referred to "supporting" documentation in the final rule in stating both the maintenance and production requirements. The OCC believes that the use of the word "supporting" is more precise and limits the scope of the information that must be segregated and retained to information that would be relevant in proving the crime and the individuals who committed the crime.

The OCC anticipates that banks will use their best judgment in determining the scope of the information to be retained. It is not feasible for the OCC to catalogue the precise types of information covered by this requirement because the scope necessarily depends upon the facts of a particular case.

Notification to Board of Directors (§ 21.11(h))

The proposal reduced the burden on boards of directors to review criminal referrals by allowing the management of a bank promptly to notify either the board of directors or a committee of directors or executive officers designated by the board to receive notice of the filing of an SAR. The proposal prohibited a bank from giving notice of an SAR filing to any director or officer who is a suspect in the known or suspected violation. The proposal also required management to notify the entire board of directors, except the suspect, when an executive officer or director is a suspect.

Most commenters supported this provision of the proposal. One commenter, however, questioned whether the provision that required

prompt notification of the board of directors required notice prior to the next board meeting. This commenter said that a requirement to provide notice between board meetings would be more burdensome than the former rule, which required notification not later than the next board meeting.

The OCC did not intend for the rule as proposed to be more burdensome than the former rule and does not construe the requirement for prompt notification to mean that notice must be provided before the next board meeting. The final rule is intended to be flexible. For example, the OCC expects that, with respect to serious crimes, the appointed committee may consider it appropriate to make more immediate disclosure to the full board. The final rule does not dictate the content of the board or committee notification, and, in some cases, such as when relatively minor non-insider crimes are to be reported, it may be completely appropriate to provide only a summary listing of SARs filed.

Compliance (§ 21.11(i))

The proposal clarified that the OCC treats a national bank's failure to comply with reporting requirements like any other violation of law or regulation, which may result in supervisory actions, including enforcement action. The proposal also conformed the OCC's penalty standard with the rules of the Board and the FDIC by removing the requirement that the failure to file had to be the result of a willful failure or careless disregard of applicable filing obligations.

The OCC received no comments on this section and adopts it as proposed.

Obtaining SARs (§ 21.11(j))

The proposal added section 21.11(j), which provides national banks with information on how to obtain SARs. The OCC received no comments on this section and adopts it as proposed.

Confidentiality of SARs (§ 21.11(k))

The proposal preserved the confidential nature of criminal referral reports by stating that a SAR and the information contained in a SAR are confidential.

One commenter correctly noted that the proposed regulation is unclear as to whether the confidential treatment applies only to the information contained on the SAR itself or also extends to the "supporting" documentation. The OCC takes the position that only the SAR and the information on the SAR are confidential under 31 U.S.C. 5318(g). However, as stated below in the discussion of new § 21.11(*l*), the safe harbor provisions of 31 U.S.C. 5318(g) for disclosure of information to law enforcement agencies apply to both SARs and the supporting documentation.

Several commenters urged the OCC to adopt regulations that would make SARs undiscoverable in civil litigation, in order to avoid situations in which a financial institution could be ordered by a court to produce a SAR in civil litigation and could be confronted with the prospect of having to choose between being found in contempt or violating the OCC's rules. In the opinion of the OCC, 31 U.S.C. 5318(g) precludes the disclosure of SARs in discovery.[2] However, the final rule requires a bank that receives a subpoena or other request for a SAR to notify the OCC so that the OCC may intervene in litigation if appropriate.

This notification requirement is consistent with the approach the OCC has recently taken in the final revisions to part 4 of its regulations. In part 4, the OCC requires that a person or entity served in civil litigation with a subpoena provide non-public OCC information notify the OCC so that the OCC can determine whether it should intervene in the proceedings. *See* 60 FR 57315 (November 15, 1995).

Right to Financial Privacy Act Safe Harbor (§ 21.11(l))

Several commenters expressed concern that disclosure of SARs and supporting documentation to law enforcement agencies could give rise to potential RFPA liability. In particular, the commenters questioned the permissibility of voluntarily filing SARs with state agencies or in situations in which the amount of a transaction falls below the appropriate minimum threshold for the known or suspected criminal conduct, or when a transaction involving money laundering or the BSA does not meet the requisite standards or thresholds.

The Agencies are of the opinion that the broad safe harbor protection of 31 U.S.C. 5318(g)(3) includes any reporting of known or suspected criminal offenses or suspicious activities with state and local law enforcement authorities or with the Agencies and FinCEN, regardless of whether such reports are filed pursuant to the mandatory requirements of the OCC's regulations or are filed on a voluntary basis.[3] The OCC takes the same position with regard to the disclosure of documentation supporting a report.

The OCC's final rule adds new paragraph 21.11(*l*), which states this position.

Comments on Information Sharing

Several commenters suggested that the final rule should facilitate the sharing of information among banking organizations in order to better detect new fraudulent schemes. It is anticipated that the Treasury Department, through FinCEN, and the Agencies, will keep reporting entities apprised of recent developments and trends in banking-related crimes through periodic pronouncements, meetings, and seminars.

Effective Date

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 delays the effective date of regulations promulgated by the Federal banking agencies that impose additional reporting, disclosure, or other new requirements to the first day of the first calendar quarter following publication of the final rule. The OCC believes that Section 302 is not applicable to this final rule, because the effect of the regulation is to reduce reporting burdens on national banks. The final regulation does not impose any additional reporting or other requirements not already contained in the current version of the OCC's criminal referral regulations. The effective date of this final rule is April 1, 1996.

DERIVATION TABLE FOR 12 CFR PART 21

[This table directs readers to the provisions of the current 12 CFR part 21.11 on which the revised 12 CFR part 21.11 is based]

Revised provision	Current provision	Comments
§ 21.11(a)	§ 21.11(a)	Modified.
§ 21.11(b)(1)		Added.
§ 21.11(b)(2)		Added.
§ 21.11(b)(3)		Added.
§ 21.11(c)(1)	§ 21.11(b)(2)	Modified.
§ 21.11(c)(2)	§ 21.11(b)(3)	Modified.
§ 21.11(c)(3)	§ 21.11(b) (1) & (4).	Modified.

[2] Section 5318(g)(2) prohibits financial institutions and directors, officers, employees, or agents of financial institutions from notifying any person involved in a suspicious transaction that the transaction has been reported.

[3] Section 5318(g)(3) states that a financial institution will not be held liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any state for making a disclosure of any possible violation of law or regulation.

DERIVATION TABLE FOR 12 CFR PART 21—Continued

[This table directs readers to the provisions of the current 12 CFR part 21.11 on which the revised 12 CFR part 21.11 is based]

Revised provision	Current provision	Comments
§ 21.11(c)(4)	Derived in part from the OCC's current criminal referral forms.	Added.
§ 21.11(d)(1)	§ 21.11(c) (1) & (3).	Modified.
§ 21.11(d)(2)	§ 21.11(c)(2)	Modified.
§ 21.11(e)	§ 21.11(d)	Modified.
§ 21.11(f)(1)	§ 21.11(f)(1)	Modified.
§ 21.11(f)(2)	§ 21.11(f)(2)	Modified.
§ 21.11(g)		Added.
§ 21.11(h)(1)	§ 21.11(g)	Modified.
§ 21.11(h)(2)		Added.
§ 21.11(i)	§ 21.11(h)	Modified.
§ 21.11(j)		Added.
§ 21.11(k)		Added.
§ 21.11(*l*)		Added.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This rule primarily reorganizes the process for making criminal referrals and reduces administrative and cost burdens on national banks. It has no material economic impact on national banks, regardless of size. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

The OCC has determined that this document is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act) (signed into law on March 22, 1995) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this final rule will not result in an expenditure by national banks of $100 million or more and has concluded that, on balance, this final rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule. The OCC has therefore determined that it is not required to prepare a written statement under section 202.

List of Subjects in 12 CFR Part 21

Bank Secrecy Act, Crime, Currency, National banks, Reporting and recordkeeping requirements, Security measures.

Authority and Issuance

For the reasons set out in the preamble, part 21 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF SUSPICIOUS ACTIVITIES, AND BANK SECRECY ACT COMPLIANCE PROGRAM

1. The heading of part 21 is revised to read as set forth above.

2. The authority citation for part 21 is revised to read as follows:

Authority: 12 U.S.C. 93a, 1818, 1881–1884, and 3401–3422; 31 U.S.C. 5318.

3. Subpart B, consisting of § 21.11, is revised to read as follows:

Subpart B—Reports of Suspicious Activities

§ 21.11 Suspicious Activity Report.

(a) *Purpose and scope.* This section ensures that national banks file a Suspicious Activity Report when they detect a known or suspected violation of Federal law or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act. This section applies to all national banks as well as any Federal branches and agencies of foreign banks licensed or chartered by the OCC.

(b) *Definitions.* For the purposes of this section:

(1) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(2) *Institution-affiliated party* means any institution-affiliated party as that term is defined in sections 3(u) and 8(b)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u) and 1818(b)(5)).

(3) *SAR* means a Suspicious Activity Report on the form prescribed by the OCC.

(c) *SARs required.* A national bank shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury in accordance with the form's instructions, by sending a completed SAR to FinCEN in the following circumstances:

(1) *Insider abuse involving any amount.* Whenever the national bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying one of its directors, officers, employees, agents or other institution-affiliated parties as having committed or aided in the commission of a criminal act, regardless of the amount involved in the violation.

(2) *Violations aggregating $5,000 or more where a suspect can be identified.* Whenever the national bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $5,000 or more in funds or other assets where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations or that it was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an alias, then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported.

(3) *Violations aggregating $25,000 or more regardless of potential suspects.* Whenever the national bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $25,000 or more in funds or other assets where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

(4) *Transactions aggregating $5,000 or more that involve potential money laundering or violate the Bank Secrecy Act.* Any transaction (which for purposes of this paragraph (c)(4) means a deposit, withdrawal, transfer between

accounts, exchange of currency, loan, extension of credit, or purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the national bank and involving or aggregating $5,000 or more in funds or other assets, if the bank knows, suspects, or has reason to suspect that:

(i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under Federal law;

(ii) The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

(iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(d) *Time for reporting.* A national bank is required to file a SAR no later than 30 calendar days after the date of the initial detection of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of detection of the incident requiring the filing, a national bank may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations requiring immediate attention, such as when a reportable violation is ongoing, the financial institution shall immediately notify, by telephone, an appropriate law enforcement authority and the OCC in addition to filing a timely SAR.

(e) *Reports to state and local authorities.* National banks are encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(f) *Exceptions.* (1) A national bank need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(2) A national bank need not file a SAR for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f–1.

(g) *Retention of records.* A national bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of the filing of the SAR. Supporting documentation shall be identified and maintained by the bank as such, and shall be deemed to have been filed with the SAR. A national bank shall make all supporting documentation available to appropriate law enforcement agencies upon request.

(h) *Notification to board of directors*—(1) *Generally.* Whenever a national bank files a SAR pursuant to this section, the management of the bank shall promptly notify its board of directors, or a committee of directors or executive officers designated by the board of directors to receive notice.

(2) *Suspect is a director or executive officer.* If the bank files a SAR pursuant to paragraph (c) of this section and the suspect is a director or executive officer, the bank may not notify the suspect, pursuant to 31 U.S.C. 5318(g)(2), but shall notify all directors who are not suspects.

(i) *Compliance.* Failure to file a SAR in accordance with this section and the instructions may subject the national bank, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

(j) *Obtaining SARs.* A national bank may obtain SARs and the Instructions from the appropriate OCC District Office listed in 12 CFR part 4.

(k) *Confidentiality of SARs.* SARs are confidential. Any national bank or person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed, citing this section, applicable law (e.g., 31 U.S.C. 5318(g)), or both, and shall notify the OCC.

(l) *Safe harbor.* The safe harbor provision of 31 U.S.C. 5318(g), which exempts any financial institution that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law, or regulation of any state or political subdivision, covers all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are required to be filed pursuant to this section or are filed on a voluntary basis.

Dated: January 30, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–2246 Filed 2–2–96; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208, 211 and 225

[Regulations H, K and Y; Docket No. R–0885]

Membership of State Banking Institutions in the Federal Reserve System; International Banking Operations; Bank Holding Companies and Change in Control; Reports of Suspicious Activities Under Bank Secrecy Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is amending its regulations on the reporting of known or suspected criminal and suspicious activities by the domestic and foreign banking organizations supervised by the Board. This final rule streamlines reporting requirements by providing that such an organization file a new Suspicious Activity Report (SAR) with the Board and the appropriate federal law enforcement agencies by sending a SAR to the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN) to report a known or suspected criminal offense or a transaction that it suspects involves money laundering or violates the Bank Secrecy Act (BSA).

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Herbert A. Biern, Deputy Associate Director, Division of Banking Supervision and Regulation, (202) 452–2620, Richard A. Small, Special Counsel, Division of Banking Supervision and Regulation, (202) 452–5235, or Mary Frances Monroe, Senior Attorney, Division of Banking Supervision and Regulation, (202) 452–5231. For the users of Telecommunications Devices for the Deaf (TDD) *only*, contact Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) have issued for public comment substantially similar proposals to revise their regulations on the reporting of known or suspected criminal conduct and suspicious activities. The Department of the Treasury, through FinCEN, has issued for public comment a substantially similar proposal to require the reporting of suspicious transactions relating to money laundering activities.

The Board's proposed regulation (60 FR 34481, July 3, 1995) noted that the interagency Bank Fraud Working Group, consisting of representatives from the Agencies, the National Credit Union Administration, law enforcement agencies, and FinCEN, has been working on the development of a single form, the SAR, for the reporting of known or suspected federal criminal law violations and suspicious activities. The Board's proposed regulation, as well as those proposed by the OCC, FDIC, OTS and FinCEN, attempted to simplify and clarify reporting requirements and reduce banking organizations' reporting burdens by raising mandatory reporting thresholds for criminal offenses and by requiring the filing of only one report with FinCEN.

The Board's final rule adopts its proposal with a few additional changes that have been made in response to the comments received. The changes will result in burden reductions even greater than those that were proposed. The Board's, the other Agencies', and FinCEN's final rules relating to the reporting of suspicious activities are now substantially identical, and they:

(1) Combine the current criminal referral rules of the federal financial institutions regulatory agencies with the Department of the Treasury's suspicious activity reporting requirements;

(2) Create a uniform reporting form, the new Suspicious Activity Report or SAR, for use by banking organizations in reporting known or suspected criminal offenses, or suspicious activities related to money laundering and violations of the BSA;

(3) Provide a system whereby a banking organization need only refer to the SAR and its instructions in order to complete and file the form in conformance with the Agencies' and FinCEN's reporting regulations;

(4) Require the filing of only one form with FinCEN;

(5) Eliminate the need to file supporting documentation with a SAR;

(6) Enable a filer, through computer software that will be provided by the Board to all of the domestic and foreign banking organizations it supervises, to prepare a SAR on a computer and file it by magnetic media, such as a computer disc or tape;

(7) Establish a database that will be accessible to federal and state financial institutions regulators and law enforcement agencies;

(8) Raise the thresholds for mandatory reporting in two categories and create a threshold for the reporting of suspicious transactions related to money laundering and violations of the BSA in order to reduce the reporting burdens on banking organizations; and

(9) Emphasize recent changes in the law that provide a safe harbor from civil liability to banking organizations and their employees for reporting of known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, and provide criminal sanctions for the unauthorized disclosure of such report to any party involved in the reported transaction.

Section-by-Section Analysis

Under the Board's final rule, state member banks, bank holding companies and their nonbank subsidiaries, most U.S. branches and agencies and other offices of foreign banks, and Edge and Agreement corporations need only follow SAR instructions for completing and filing the SAR to be in compliance with the Board's and FinCEN's reporting requirements. The following section-by-section analysis correlates the specific SAR instruction number with the applicable section of the Board's final rule:

Section 208.20(a) (Instruction No. 1 on the SAR) provides that a state member bank must file a SAR when it detects a known or suspected violation of federal law or a suspicious activity pertinent to a money laundering offense.

Section 208.20(b) provides pertinent definitions.

Sections 208.20(c) (1), (2), and (3) (Instructions 1 a., b., and c. on the SAR) instruct a state member bank to file a SAR with FinCEN in order to comply with the requirement to notify federal law enforcement agencies if the bank detects any known or suspected federal criminal violation, or pattern of violations, committed or attempted against the bank, or involving one or more transactions conducted through the bank, and the bank believes it was an actual or potential victim of a crime, or was used to facilitate a crime. If the bank has a substantial basis for identifying one of its insiders or other institution-affiliated parties in connection with the known or suspected crime, reporting is required regardless of the dollar amount involved. If the bank can identify a non-insider suspect, the applicable transaction threshold is $5,000. In cases in which no suspect can be identified, the applicable transaction threshold is $25,000. These sections were not changed from the proposed regulations published for public comment in July 1995.

Section 208.20(c)(4) (Instruction 1 d. on the SAR) instructs a state member bank to file a SAR with FinCEN in order to comply with the requirement to notify federal law enforcement agencies and the Department of the Treasury of transactions involving $5,000 or more in funds or other assets when the bank knows, suspects or has reason to suspect that the transaction: (i) Involves money laundering, (ii) is designed to evade any regulations promulgated under the Bank Secrecy Act, or (iii) has no business or apparent lawful purpose or is not the sort in which the particular customer normally engages and, after examining the available facts, the bank knows of no reasonable explanation for the transaction. Section 208.20(c)(4) has been modified in the final rule to reflect comments received on the proposal. Most notably, the circumstances under which a transaction should be reported under this section were clarified, and a reporting threshold of $5,000 was added.

Section 208.20(c)(4) recognizes the emerging international consensus that the efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted by the reporting of suspicious transactions by banking organizations. The requirements of this section comply with the recommendations adopted by multi-country organizations in which the United States is an active participant, including the Financial Action Task Force of G–7 nations and the Organization of American States, and are consistent with the European Community's directive on preventing money laundering through financial institutions.

Section 208.20(d) (Instruction 2 on the SAR) provides that SARs must be filed within 30 calendar days of the initial detection of the criminal or suspicious activity. An additional 30 days is permitted in order to enable a bank to identify a suspect, but in no event may a SAR be filed later than 60 days after the initial detection of the reportable conduct. The Board and law enforcement must be notified in the case of a violation requiring immediate action, such as an on-going violation. These reporting requirements were not changed from the July 1995 proposal,

with the exception of the addition of the requirement that the Board be notified about on-going offenses requiring immediate notification to law enforcement authorities.

Section 208.20(e) encourages a state member bank to file a SAR with state and local law enforcement agencies. This section is unchanged from the July 1995 proposal.

Section 208.20(f) (Instruction 3 on the SAR) provides that a state member bank need not file a SAR for an attempted or committed burglary or robbery reported to the appropriate law enforcement agencies. In addition, a SAR need not be filed for missing or counterfeit securities that are the subject of a report pursuant to Rule 17f–1 under the Securities Exchange Act of 1934. This section of the final rule was not modified from the version published for public comment in July 1995.

Section 208.20(g) requires that a state member bank retain a copy of the SAR and the original or business record equivalent of supporting documentation for a period of five years. The section also requires that a state member bank identify and maintain supporting documentation in its files and that the bank make available such documentation to law enforcement agencies upon their request. The Board made three changes to this section from the version published for public comment in July 1995. First, the record retention period was shortened from 10 years to five years. Second, provision was made for the retention of business record equivalents of original documents, such as microfiche and computer imaged record systems, in recognition of modern record retention technology. The third change involves the clarification of a state member bank's obligation to provide supporting documentation upon request to law enforcement officials. Supporting documentation is deemed filed with a SAR in accordance with this section of the Board's final rule; as such, law enforcement authorities need not make their access requests through subpoena or other legal processes.

Section 208.20(h) requires the management of a state member bank to report the filing of all SARs to the board of directors of the bank, or a designated committee thereof. No change was made from the July 1995 proposal.

Section 208.20(i) reminds a state member bank and its institution-affiliated parties that failure to file a SAR may expose them to supervisory action. No change from the July 1995 proposal was made.

Section 208.20(j) provides that SARs are confidential. Requests for SARs or the information contained therein should be declined. The final rule also adds a requirement that a request for a SAR or the information contained therein should be reported to the Board. With the exception of the added requirement that requests for SARs be reported to the Board, no changes were made to this section from the July 1995 proposal.

Section 208.20(k) sets forth the safe harbor provisions of 31 U.S.C. 5318(g). This new section, which was added to the final rule as the result of many comments concerning this important statutory protection for banking organizations, states that the safe harbor provisions of the law are triggered by a report of known or suspected criminal violations or suspicious activities to law enforcement authorities, regardless whether the report is made by the filing of a SAR in accordance with the Board's rules or for other reasons by different means.

Sections 211.8, 211.24(f), and 225.4(f) of the Board's rules relating to the activities of foreign banking organizations and bank holding companies have not been changed in a substantive manner. Only the references in the sections to "criminal referral forms" have been changed to reflect the new name for the reporting form, the SAR. The SAR filing requirements, as well as the safe harbor and notification prohibition provisions of 31 U.S.C. 5318(g), continue to be applicable to all foreign banking organizations and bank holding companies and their nonbank subsidiaries supervised by the Federal Reserve through these provisions.

Comments Received

The Board received letters from 44 public commenters. Comments were received from 15 community banks, 13 multinational or large regional banks, eight trade and industry research groups, seven Federal Reserve Banks and one law firm.

The large majority of commenters expressed general support for the Board's proposal. None of the commenters opposed the proposed new suspicious activity reporting rules. A number of suggestions and requests for clarification were received. They are as follows.

Criminal Versus Suspicious Activities

Many commenters expressed confusion over the difference between the known or suspected criminal conduct that would be subject to the dollar reporting thresholds (provided such conduct does not involve an institution-affiliated party of the reporting entity) and the suspicious activities that would be reported regardless of dollar amount. Section 208.20(c)(4) has been revised to add a $5,000 reporting threshold and to clarify that the suspicious activity must relate to money laundering and Bank Secrecy Act violations. A threshold for the reporting of suspicious activities was added to reduce further the reporting burdens on banking organizations.

Reporting of Crimes Under State Law

A number of commenters requested clarification of whether activities constituting crimes under state law, but not under federal law, should be reported on the SAR. The Board continues to encourage banking organizations to refer criminal and suspicious activities under both federal and state law by filing a SAR. Under the new reporting system designed by the Board, the other Agencies, and FinCEN, state chartered banking organizations should be able to fulfill their state reporting obligations by filing a SAR with FinCEN.

Safe Harbor Protections; Potential Liability Under Federal and State Laws

Some commenters expressed the concern that banking organizations and their institution-affiliated parties could be liable under federal and state laws, such as the Right to Financial Privacy Act, for filing SARs with respect to conduct that is later found not to have been criminal. Another concern was that the filing of SARs with state and local law enforcement agencies would subject filers to claims under state law. Both of these concerns are addressed by the scope of the safe harbor protections provided in 31 U.S.C. 5318(g).

The Board is of the opinion that the safe harbor statute is broadly defined to include the reporting of known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, with state and local law enforcement authorities, as well as with the Agencies and FinCEN.

A few commenters requested that the Board make explicit the safe harbor protections of 31 U.S.C. 5318(g)(2) and (3) on the SAR. They are included in new Section 208.20(k) of this rule and on the form.

Record Retention

Several commenters expressed the view that the 10-year period for the retention of records in Section 208.20(g) was excessive, especially in light of a five-year record retention requirement for records that is contained in the Bank Secrecy Act. The 10-year period in the Board's proposed regulation would have continued the Board's existing record retention requirement for criminal referral forms. However, in recognition of the potential burden of document retention on financial institutions, the Board has limited the record retention period to five years.

Dollar Thresholds

A few commenters encouraged the Board to raise the dollar thresholds for known or suspected criminal conduct by non-insiders, or to establish a dollar threshold for insiders. The Board has considered these comments, but at this time it believes that the thresholds meet and properly balance the dual concerns of prosecuting criminal activity involving banking organizations and minimizing the burden on banking organizations. With respect to the suggestion that the Board adopt a dollar threshold for insider violations, it is noted that insider abuse has long been a key concern and focus of enforcement efforts at the Board. With the development of a new sophisticated automated database, the Board and law enforcement agencies will have the benefit of a comprehensive and easily accessible catalogue of known or suspected insider wrongdoing. The Board does not wish to limit the information it receives regarding insider wrongdoing. Some petty crimes, for example, repetitive thefts of small amounts of cash by an employee who frequently moves between banking organizations, may warrant enforcement action or criminal prosecution.

One commenter suggested an indexed threshold, based on the regional differences in the various dollar thresholds below which the federal, state, and local prosecutors generally decline prosecution. While the Board recognizes that there may be regional variations in the dollar amount of financial crimes generally prosecuted, the Board's concern is to place the relevant information in the hands of the investigating and prosecuting authorities. The prosecuting authorities then may consider whether to pursue a particular matter. In the Board's view, the dollar thresholds proposed and adopted in this final rule best balance the interests of law enforcement and banking organizations. The Board also believes that indexed thresholds could create more confusion than benefit to banking organizations.

Commenters also suggested the creation of a dollar threshold for the reporting of suspicious activities relating to money laundering offenses. A $5,000 threshold has been established for reporting of such suspicious activities.

Questions were raised regarding the permissibility of filing SARs in situations in which the dollar thresholds for known or suspected criminal conduct or suspicious activity are not met and the applicability of the safe harbor provisions of 31 U.S.C. 5318(g) to such non-mandatory filings. It is the opinion of the Board that the safe harbor provisions of 31 U.S.C. 5318(g) cover all reports of suspected or known criminal violations and suspicious activities to law enforcement authorities, regardless of whether such reports are filed pursuant to the mandatory requirements of the Board's regulations or are voluntary.

Notification of On-Going Violations and of State and Local Law Enforcement Authorities

Proposed Section 208.20(d) required a banking organization to notify immediately the law enforcement authorities in the event of an on-going violation. Section 208.20(e) encourages the filing of a copy of the SAR with state and local law enforcement agencies in appropriate cases. This requirement and guidance were found by some commenters to be unclear as to when immediate notification or the filing of the SAR with state and local authorities would be required. The Board wishes to clarify that immediate notification is limited to situations involving on-going violations, for example, when a check kite or money laundering has been detected and may be continuing. It is impossible for the Board to contemplate all of the possible circumstances in which it might be appropriate for a banking organization to advise state and local law enforcement authorities. Banking organizations should use their best judgment regarding when to alert them regarding on-going criminal offenses or suspicious activities.

Supporting Documentation

The proposed requirements that an institution maintain "related" documentation and make "supporting" documentation available to the law enforcement agencies upon request were criticized as inconsistent and vague. One commenter questioned whether the Board intended a substantive difference in meaning between "related" and "supporting." As a substantive difference is not intended, the Board has referred to "supporting" documentation in the final rule in reference both to the maintenance and production requirements. The Board believes that the use of the word "supporting" is more precise and limits the scope of the information which must be retained to that which would be useful in proving that the crime has been committed and by whom it has been committed. As to the criticism that the meaning of "related" or "supporting" documentation is vague, it is anticipated that banking organizations will use their judgment in determining the information to be retained. It is impossible for the Board to catalogue the precise types of information covered by this requirement, as it necessarily depends upon the facts of a particular case.

Scope of Confidentiality Requirement

One commenter correctly noted that the proposed regulation is unclear as to whether the confidentiality requirement applies only to the information contained on the SAR itself, or whether the requirement extends to the "supporting" documentation. The Board takes the position that only the SAR and the fact that supporting documentation to a SAR exists are subject to the confidentiality requirements of 31 U.S.C. 5318(g). The supporting documentation itself is not subject to the confidentiality provisions of 31 U.S.C. 5318(g). The safe harbor provisions of 31 U.S.C. 5318(g), however, apply to the SAR and supporting documentation, as set forth in Section 208.20(k).

Provisions of Supporting Documentation to Law Enforcement Authorities Upon Request

Many commenters noted that the guidance provided in the Board's proposed regulation regarding giving supporting documentation to law enforcement agencies upon their request after the filing of a SAR was unclear or contrary to law. Some questioned whether law enforcement agencies would still need to subpoena relevant documents from a banking organization. The Board's regulation requires banking organizations filing SARs to identify, maintain and treat the documentation supporting the report as if it were actually filed with the SAR. This means that subsequent requests from law enforcement authorities for the supporting documentation relating to a particular SAR does not require the service of a subpoena or other legal processes normally associated with providing information to law enforcement agencies.

Civil Litigation

The Board was encouraged to adopt regulations that would make SARs undiscoverable in civil litigation in order to avoid situations in which a banking organization could be ordered by a court to produce a SAR in civil

litigation and could be confronted with the prospect of having to choose between being found in contempt or violating the Board's rules. In the opinion of the Board, 31 U.S.C. 5318(g) precludes the disclosure of SARs. The final rule requires a banking organization that receives a subpoena or other request for a SAR to notify the Board so that the Board may, if appropriate, intervene in litigation or seek the assistance of the U.S. Department of Justice.

Maintenance of Originals

Proposed Section 208.20(g) required the maintenance of supporting documentation in its original form. A number of commenters noted that electronic storage of documents is becoming the rule rather than the exception, and that requiring the storage of paper originals would impose undue burdens on financial institutions. Moreover, some records are retained only in a computer database. The proposed regulation reflected the concerns of the law enforcement agencies that the best evidence be preserved. However, upon further consideration, the Board wishes to clarify that the electronic storage of original documentation related to the filing of a SAR is permissible. In addition, the Board recognizes that a banking organization will not always have custody of the originals of documents and that some documents will not exist at the organization in paper form. In those cases, preservation of the best available evidentiary documents, for example, computer disks or photocopies, should be acceptable. This has been reflected in the final rule by changing the reference to original documents to "original documents or business record equivalents."

Investigation and Proof Burdens

One commenter expressed the concern that a banking organization would need to establish probable cause before reporting crimes for which an essential element of the proof of the crime was the intent of the actor. The Board does not intend that banking organizations assume the burden of proving illegal conduct; rather, banking organizations are required to report known or suspected crimes or suspicious activities in accordance with this final rule.

Supplementary or Corrective Information; Reporting of Multiple Crimes or Suspects

Material information that supplements or corrects a SAR should be filed with FinCEN by means of a subsequent SAR. The first page of the SAR provides boxes for the reporter to indicate whether the report is an initial, a corrected or a supplemental report.

One commenter requested guidance on the reporting of multiple crimes or related crimes committed by more than one individual. The instructions to the SAR contemplate that additional suspects may be reported by means of a supplemental page. Likewise, multiple crimes committed by a suspect may be reported by means of multiple check-offs on the SAR, or if needed, by a written addendum to the SAR. In the event that related crimes have been committed by more than one person, a description of the related crimes may be made by addendum to the SAR. The Board encourages filers to make a complete report of all known or suspected criminal or suspicious activity. The SAR may be supplemented in order to facilitate a complete disclosure.

Calculation of Time Frame for Reporting

A number of commenters requested that the Board clarify the application of the deadline for filing SARs. The Board's proposed regulation used the broadest possible language to set the time frames for the reporting of known or suspected criminal offenses and suspicious activities in order to best guide reporting institutions. Absolute deadlines for the filing of SARs are important to the investigatory and prosecutorial efforts of law enforcement authorities. It is expected that banking organizations will meet the filing deadlines once conduct triggering the reporting requirements is identified. Further clarification of the time frames is not needed in the Board's view.

Board Notification Requirements

Several commenters expressed general support for the modification of the reporting requirement that permits reporting of SARs to a committee of the board. As a matter of clarification, notification of a committee of the board relieves the banking organization of the obligation to disclose the SARs filed to the entire board. It would be expected, however, that the appointed committee, such as the audit committee, would report to the full board at regular intervals with respect to routine matters in the same manner and to the same extent as other committees report at board meetings. With respect to serious crimes or insider malfeasance, the appointed committee likely should consider it appropriate to make more immediate disclosure to the full board.

Some larger banking organizations expressed the view that prompt disclosure of SARs to the board or a committee would impose a serious burden because larger organizations typically file a larger number of criminal referral forms (now, SARs). While the Board acknowledges that larger institutions may have more SARs to report to the board or a committee, this does not alter the directors' fiduciary obligation to monitor, for example, the condition of the institution and to take action to prevent losses. The final regulation does not dictate the content of the board or committee notification, and, in some cases, such as when relatively minor non-insider crimes are to be reported, it may be completely appropriate to provide only a summary listing of SARs filed. The Board expects the management of banking organizations to provide a more detailed notification to the boards or committees of SARs involving insiders or a potential material loss to the institutions.

Information Sharing

Commenters suggested that the final regulations should somehow facilitate the sharing of information among banking organizations in order to better detect new fraudulent schemes. It is anticipated that the Treasury Department, through FinCEN, and the Agencies, will keep reporting entities apprised of recent developments and trends in banking-related crimes through periodic pronouncements, meetings, and seminars.

Single Filing Requirement; Acknowledgement of Filings

Some commenters requested clarification of the single form filing requirement. The Board reiterates that the filing of a SAR with FinCEN is the only filing that is required. Federal and state law enforcement and bank supervisory agencies will have access to the database created and maintained by FinCEN on behalf of the Agencies and the Department of Treasury; thus, a single filing with FinCEN is all that is required under the new reporting system.

Commenters also requested that the final rule permit the filing of SARs via telecopier. Such filings are not compatible with the system developed by the Agencies and FinCEN. Banking organizations can file the SAR via magnetic media using the computer software to be provided to all banking organizations by the Board and each of the other Agencies with respect to the institutions they supervise. Larger banking organizations that currently file currency transaction reports via magnetic tape with FinCEN may also file SARs by magnetic tape.

Regulatory Flexibility Act

The Board certifies that this final regulation will not have a significant financial impact on a substantial number of small banks or other small entities.

Paperwork Reduction Act

In accordance with Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget.

The collection of information requirements in this regulation are found in 12 CFR 208.20, 211.8, 211.24, and 225.4. This information is mandatory and is necessary to inform appropriate law enforcement agencies of known or suspected criminal or suspicious activities that take place at or were perpetrated against financial institutions. Information collected on this form is confidential (5 U.S.C. 552(b)(7) and 552a(k)(2), and 31 U.S.C. 5318(g)). The federal financial institution regulatory agencies and the U.S. Department of Justice may use and share the information. The respondents/recordkeepers are for-profit financial institutions, including small businesses.

The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 7100–0212.

No comments specifically addressing the hour burden estimate were received.

It is estimated that there will be 12,000 responses from state member banks, bank holding companies, Edge and agreement corporations, and U.S. branches and agencies of foreign banks.

Both the new regulation and revisions made to the proposed regulation and reflected in this final rule simplify the submission of the reporting form and shorten the records retention requirement. However, the same amount of information will be collected under the new rule. The burden per respondent varies depending on the nature of the criminal or suspicious activity being reported. The Federal Reserve estimates that the average annual burden for reporting and recordkeeping per response will remain .6 hours. Thus the Federal Reserve estimates the total annual hour burden to be 7,200 hours. Based on an hourly cost of $20, the annual cost to the public is estimated to be $144,000.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551 and to the Office of Management and Budget, Paperwork Reduction Project (7100–0212), Washington, D.C. 20503.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Flood insurance, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 225

Administrative practice and procedures, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, Parts 208, 211 and 225 of chapter II of title 12 of the Code of Federal Regulations are amended as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for 12 CFR Part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p–1, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o–4(c)(5), 78q, 78q–1 and 78w; 31 U.S.C. 5318; 42 U.S.C. 4102a, 4104a, 4104b, 4106, and 4128.

2. Section 208.20 is revised to read as follows:

§ 208.20 Suspicious Activity Reports.

(a) *Purpose.* This section ensures that a state member bank files a Suspicious Activity Report when it detects a known or suspected violation of Federal law, or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act. This section applies to all state member banks.

(b) *Definitions.* For the purposes of this section:

(1) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(2) *Institution-affiliated party* means any institution-affiliated party as that term is defined in 12 U.S.C. 1786(r), or 1813(u) and 1818(b) (3), (4) or (5).

(3) *SAR* means a Suspicious Activity Report on the form prescribed by the Board.

(c) *SARs required.* A state member bank shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury in accordance with the form's instructions by sending a completed SAR to FinCEN in the following circumstances:

(1) *Insider abuse involving any amount.* Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying one of its directors, officers, employees, agents or other institution-affiliated parties as having committed or aided in the commission of a criminal act regardless of the amount involved in the violation.

(2) *Violations aggregating $5,000 or more where a suspect can be identified.* Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $5,000 or more in funds or other assets, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an "alias," then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported.

(3) *Violations aggregating $25,000 or more regardless of a potential suspect.* Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $25,000 or more in funds or other assets, where the bank believes that it was either an actual or potential

victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

(4) *Transactions aggregating $5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act.* Any transaction (which for purposes of this paragraph (c)(4) means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the state member bank and involving or aggregating $5,000 or more in funds or other assets, if the bank knows, suspects, or has reason to suspect that:

(i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under federal law;

(ii) The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

(iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(d) *Time for reporting.* A state member bank is required to file a SAR no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of detection of the incident requiring the filing, a state member bank may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations requiring immediate attention, such as when a reportable violation is on-going, the financial institution shall immediately notify, by telephone, an appropriate law enforcement authority and the Board in addition to filing a timely SAR.

(e) *Reports to state and local authorities.* State member banks are encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(f) *Exceptions.* (1) A state member bank need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(2) A state member bank need not file a SAR for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f–1.

(g) *Retention of records.* A state member bank shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of the filing of the SAR. Supporting documentation shall be identified and maintained by the bank as such, and shall be deemed to have been filed with the SAR. A state member bank must make all supporting documentation available to appropriate law enforcement agencies upon request.

(h) *Notification to board of directors.* The management of a state member bank shall promptly notify its board of directors, or a committee thereof, of any report filed pursuant to this section.

(i) *Compliance.* Failure to file a SAR in accordance with this section and the instructions may subject the state member bank, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

(j) *Confidentiality of SARs.* SARs are confidential. Any state member bank subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed citing this section, applicable law (e.g., 31 U.S.C. 5318(g)), or both, and notify the Board.

(k) *Safe harbor.* The safe harbor provisions of 31 U.S.C. 5318(g), which exempts any state member bank that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law or regulation of any state or political subdivision, covers all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are filed pursuant to this section or are filed on a voluntary basis.

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for 12 CFR Part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*

§§ 211.8 and 211.24 [Amended]

2. In §§ 211.8 and 211.24(f), remove the words "criminal referral form" and add, in their place, the words "suspicious activity report".

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for 12 CFR Part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

§ 225.4 [Amended]

2. In § 225.4, the heading of paragraph (f) is revised to read "*Suspicious Activity Report.*".

3. In § 225.4(f), remove the words "criminal referral form" and add, in their place, the words "suspicious activity report".

By order of the Board of Governors of the Federal Reserve System, January 30, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–2271 Filed 2–2–96 8:45 am]

BILLING CODE 6210–01–P

federal register

Monday
February 5, 1996

Part V

The President

Proclamation 6864—American Heart Month, 1996

Federal Register
Vol. 61, No. 24
Monday, February 5, 1996

Presidential Documents

Title 3—

The President

Proclamation 6864 of February 1, 1996

American Heart Month, 1996

By the President of the United States of America

A Proclamation

There are few among us whose lives have not been touched by the devastating effects of heart disease. Cardiovascular disease, which includes heart disease and stroke, takes one million of our citizens each year, and heart disease remains the single leading cause of death in this country. Millions of Americans suffer from high blood pressure, and millions more have high levels of blood cholesterol. Studies also show sharp increases in the number of people who are overweight and physically inactive.

It is, however, encouraging that public health efforts are raising awareness of the risk factors for cardiovascular disease. Though some—family history and age—are inescapable, the risks posed by high blood pressure and high cholesterol, lack of exercise, smoking, diabetes, and obesity can be greatly reduced through modifications to personal behavior. Advances in research have helped us to gain a better understanding of heart disease, provided new diagnostic methods, and helped develop treatments that save lives and vastly improve the outlook for stricken patients.

We can be proud that the Federal Government has contributed to the fight against heart disease by supporting the efforts of the National Heart, Lung, and Blood Institute, part of the National Institutes of Health, and by promoting new dietary and health guidelines. The American Heart Association, through research, education programs, and the work of its vital network of volunteers, has also played a crucial role.

As we observe American Heart Month, let us build on our achievements by learning more about the causes of heart disease and by making the changes we can to improve our cardiovascular health. Recognizing that even small adjustments to diet and exercise habits can yield significant benefits, we can help those who already suffer from heart disease and encourage those who are taking their first steps toward better, healthier lives.

In recognition of the need for all Americans to become involved in the work to stop heart disease, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested that the President issue an annual proclamation designating February as "American Heart Month."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim February 1996, as American Heart Month. I call upon the Governors of the several States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to combatting cardiovascular disease, including heart disease and stroke.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96–2575
Filed 2–2–96; 8:45 am]
Billing code 3195–01–P

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LIST OF PUBLIC LAWS

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 1606/P.L. 104–100

To designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the "Harry Kizirian Post Office Building". (Feb. 1, 1996; 110 Stat. 48)

H.R. 2061/P.L. 104–101

To designate the Federal building located at 1550 Dewey Avenue, Baker City, Oregon, as the "David J. Wheeler Federal Building". (Feb. 1, 1996; 110 Stat. 49)

Note: A cumulative list of Public Laws for the First Session of the 104th Congress was published in Part II of the **Federal Register** on February 1, 1996.

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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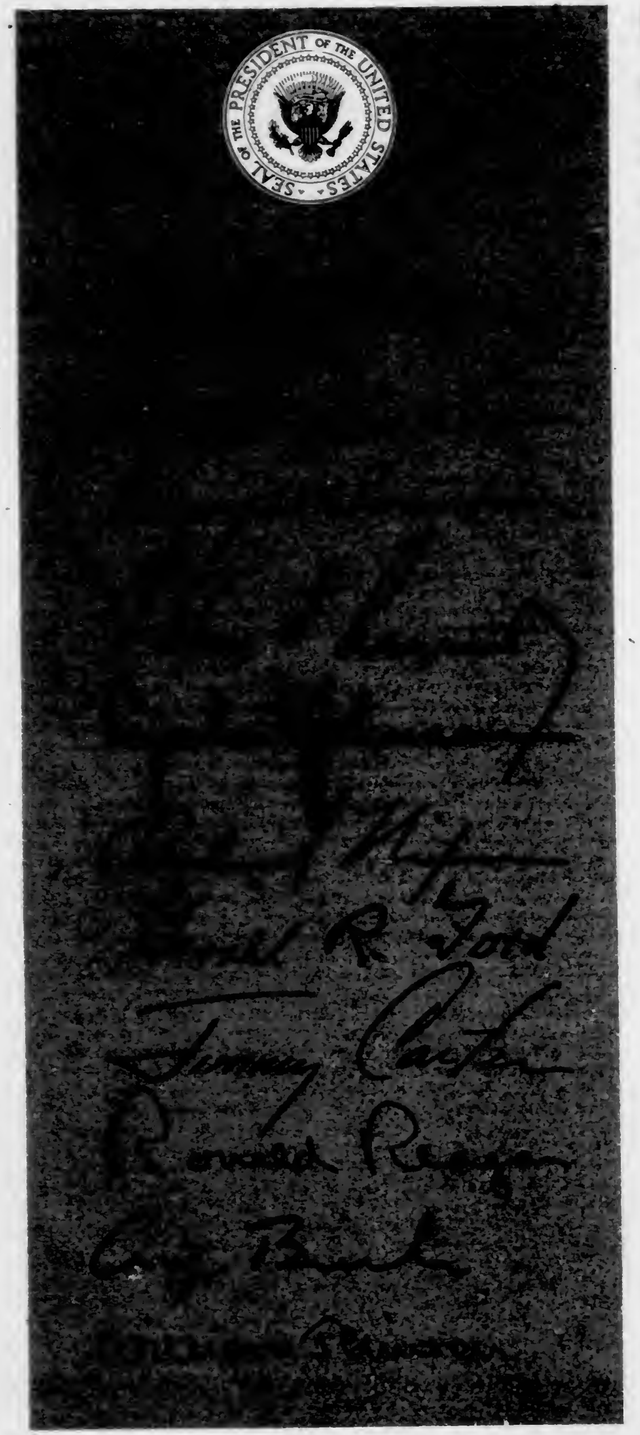
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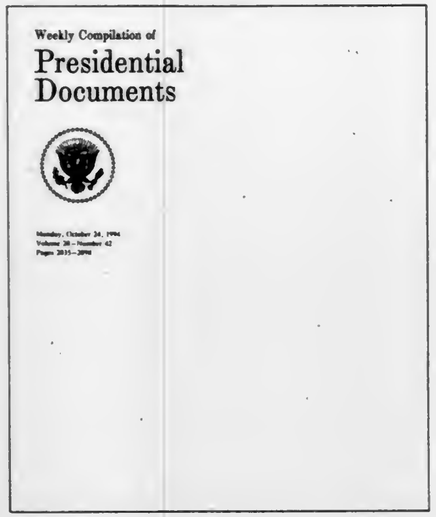
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Tuesday
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2–6–96
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Federal Register

Tuesday
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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FARM CREDIT SYSTEM INSURANCE CORPORATION

5 CFR Chapter XXX and Part 4001

12 CFR Part 1401

RIN 3055–AA03, 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Farm Credit System Insurance Corporation

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation) Board, with the concurrence of the Office of Government Ethics (OGE), adopts as final an interim rule which supplements the Standards of Ethical Conduct for Employees of the Executive Branch (Executive Branch-wide Standards) issued by the Office of Government Ethics. The final rule is a necessary supplement to the Executive Branch-wide Standards because it addresses ethical issues unique to Corporation programs and operations. In addition to this final rule, the Corporation is issuing a single section in its regulations that provides cross-references to the Executive Branch-wide Standards and financial disclosure regulations, as well as these new supplemental regulations.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Wendy R. Laguarda, Senior Attorney and Deputy Ethics Official, Farm Credit System Insurance Corporation, McLean, VA 22102–0826, (703) 883–4234, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On June 12, 1995, the Corporation published, with OGE concurrence and co-signature, an interim rule (60 FR 30773) and requested comments thereon. The interim rule established regulations imposing prohibitions on the ownership of certain financial interests; prohibitions on certain forms of borrowing and extensions of credit; limitations on purchases of assets owned by Farm Credit System institutions, conservatorship or receivership assets, or certain assets held by the Corporation; restrictions arising from the employment of relatives; a prohibition against involvement in Farm Credit System board member elections; and restrictions on outside employment and business activities. The Corporation also issued a single section in its regulations at 12 CFR part 1401 to provide cross-references to the Executive Branch-wide Standards and financial disclosure regulations, as well as these new supplemental regulations codified at 5 CFR part 4001.

The Corporation received no comments on the interim rule.

Accordingly, the Corporation Board, with the concurrence of OGE, adopts the interim rule adding 5 CFR chapter XXX consisting of part 4001 and 12 CFR part 1401 which was published at 60 FR 30773 on June 12, 1995, as a final rule without change.

Dated: January 18, 1996.

Floyd Fithian,

Secretary, Farm Credit System Insurance Corporation.

Approved: January 24, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 96–2460 Filed 2–5–96; 8:45 am]

BILLING CODE 6710–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of November 24, 1995 (60 FR 57928). The document amended the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA 96–298) filed by Hoffmann-La Roche, Inc. The document was published with some errors in the codified section. This document corrects those errors.

EFFECTIVE DATE: November 24, 1995.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1737.

In FR Doc. 95–28599, appearing on page 57928 in the **Federal Register** of Friday, November 24, 1995, the following corrections are made:

§ 558.311 [Corrected]

On page 57929, in the third column, in § 558.311 *Lasalocid*, in paragraph (b)(7)(iii), the phrase "paragraph (e)(1)(xv)" is corrected to read "paragraph (e)(1)(xvi)" and on the same page, in the table, in paragraph (e)(1), under the first column, the entry for "(xv)" is corrected to read "(xvi)".

Dated: January 25, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–2372 Filed 2–5–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8650]

RIN 1545–AS23

Disallowance of Deductions for Employee Remuneration in Excess of $1,000,000; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 8650) which were published in the **Federal Register** on Wednesday, December 20, 1995 (60 FR 65534), and relates to the disallowance of deductions for employee remuneration in excess of $1,000,000.

EFFECTIVE DATE: December 20, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Misner or Charles T. Deliee at (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 162(m) of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 8650) contain errors that are misleading and in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8650), which was the subject of FR Doc. 95–30869, is corrected as follows:

§ 1.162–27 [Corrected]

1. On page 65538, column 1, § 1.162–27 (c)(3)(ii)(A), line 2, the language "3121(a)(1) through section 3121(a)(5)(D)" is corrected to read "3121(a)(5)(A) through section 3121(a)(5)(D)".

2. On page 65543, column 2, § 1.162–27 (e)(4)(i), the last sentence is corrected to read as follows:

* * * * *

(e) * * *

(4) * * * (i) * * * The material terms include the employees eligible to receive compensation; a description of the business criteria on which the performance goal is based; and either the maximum amount of compensation that could be paid to any employee or the formula used to calculate the amount of compensation to be paid to the employee if the performance goal is attained (except that, in the case of a formula based, in whole or in part, on a percentage of salary or base pay, the maximum dollar amount of compensation that could be paid to the employee must be disclosed).

* * * * *

3. On page 65544, column 3, § 1.162–27 (e)(5), second line from the bottom of the paragraph, the language "to the increase in the stock of the" is corrected to read "to the increase in the value of the stock of the".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–2323 Filed 2–5–96; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Parole Date Advancements for Substance Abuse Treatment Program Completion

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is substantially revising the interim rule, published in August of last year, that added to 28 CFR 2.60 a provision whereby a parole-eligible prisoner could qualify for a special advancement of his release date by up to twelve months, if the prisoner completed a residential substance abuse treatment program and was a non-violent offender. The rule was published as an interim rule so as to permit the Commission to determine whether the statutory criteria for parole at 18 U.S.C. 4206 would permit these prisoners to receive an incentive for completion of such programs comparable to the incentive that is available under 18 U.S.C. 3621(e)(2) for prisoners serving sentences for crimes committed after November 1, 1987. (Such prisoners are not eligible for parole, but can qualify for up to twelve months of reduction in custody for completion of residential substance abuse programs). In practice, the Commission has not been able to grant advancements sufficient for the interim rule to provide the desired incentive, because parole-eligible prisoners all too frequently have serious offenses and serious prior records that preclude early release from prison. Accordingly, the interim rule has been substantially revised so that the permissible advancement for residential substance abuse program completion will be determined under the existing schedule for "superior program achievement," and not in addition to it.

EFFECTIVE DATE: March 7, 1996.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of General Counsel, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: The interim regulation was published at 60 FR 40094 (August 7, 1995). The interim rule permitted the advancement of a parole-eligible prisoner's presumptive release date by up to twelve months for successfully completing a residential substance abuse treatment program. However, the interim rule made it clear that the Commission's decision in any case would continue to be governed by the criteria for parole at 18 U.S.C. 4206(a), which requires the Commission to ensure that release will not depreciate the seriousness of the offense or jeopardize the public welfare. The Commission stated that it needed to determine whether the interim rule could be implemented consistently with the criteria at 18 U.S.C. 4206, and that if such did not appear feasible "* * * the Commission may amend or withdraw the interim regulation." 60 FR 40095.

In practice, the Commission has found that the remaining population of parole-eligible prisoners consists of so many offenders with extremely serious offenses, serious prior records, and serious indications of future recidivism, that the advancement authorized by the interim rule could seldom be reconciled with the statutory criteria for parole. For the most part, prisoners in the parole-eligible population who qualify under the interim rule have already received appropriate advancements. The remaining population cannot be expected to produce a sufficient number of qualified applicants to justify the adoption of the interim rule as a final rule. The Commission wishes to avoid the situation in which its regulations appear to promise release date advancements which, in practice, are rarely granted.

On the other hand, the Commission does not wish to withdraw altogether the incentive for substance abuse program participation that the interim rule was intended to provide. The final rule guarantees that, upon receipt of a report from the Bureau of Prisons that the prisoner has successfully completed a residential substance abuse program of at least 500 hours, such a prison will be promptly reviewed for a possible advancement under the schedule set forth in 28 C.F.R. 2.60(e). Although this schedule authorizes advancement of less than twelve months for prisoners whose release dates require service of less than eighty-five months in prison, greater advancements are authorized for prisoners who have been required to serve eighty-five or more months in prison.

Accordingly, by considering substance abuse program completion as "superior program achievement" under § 2.60, the Commission intends to evaluate the appropriateness of such an advancement in the same manner that it considers advancements for other forms of superior program achievement, *i.e.*, by balancing the need for recognition of the prisoner's achievement against the need to avoid a grant of parole that depreciates the seriousness of the offense or jeopardizes the public welfare. The procedural benefit of a prompt review upon program completion as opposed to postponement to the next statutory interim hearing) will constitute the Commission's special response to the completion of residential substance abuse programs. This policy determination recognizes the importance of such programs in contributing to the eventual rehabilitation of prisoners whose criminal behavior can, in some measure, can be attributed to substance abuse addiction.

Implementation

The Commission will apply this rule at any hearing or record review (including appeals submitted to the National Appeals Board) conducted on or after the effective date set forth above. If the prisoner has demonstrated superior program achievement in some other respect, and such achievement has not yet been considered for an advancement under § 2.60, any advancement will be based on the prisoner's overall record of accomplishments. If superior program achievement has already been rewarded, the advancement(s) previously granted plus the advancement for residential substance abuse program completion may not exceed the permissible reduction set forth at § 2.60(e) except in the most clearly exceptional cases (*e.g.*, where substance abuse program completion is found to make the prisoner a more acceptable risk for parole than indicated by the Salient Factor Score).

Executive Order 12866 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this final rule is not a significant rule within the meaning of Executive Order 12866, and the rule has, accordingly, not been reviewed by the Office of Management and Budget. The rule will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

The Amendment

Accordingly, the U.S. Parole Commission is adopting the following amendments to 28 CFR part 2.

PART 2—[AMENDED]

(1) The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

(2) 28 CFR part 2, § 2.60 is amended by removing paragraphs (g) and (h), and by adding a final sentence to paragraph (b) to read as follows:

§ 2.60 Superior program achievement.

* * * * *

(b) * *. A report from the Bureau of Prisons based upon successful completion of a residential substance abuse program of at least 500 hours will be given prompt review by the Commission for a possible advancement under this section.

* * * * *

Dated: January 29, 1996.

Jasper R. Clay, Jr.,

Vice Chairman, U.S. Parole Commission.

[FR Doc. 96–2402 Filed 2–5–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 835

Support of Nongovernmental Test and Evaluation

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule; withdrawal.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by removing Part 835, Support of Nongovernmental Test and Evaluation. The rule is removed since the source document, AFR 80–19, was rescinded.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Patsy Conner, Air Force Federal Register Liaison Officer, SAF/AAIQ, 1610 Air Force Pentagon, Washington, DC 20330–1610.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 835

Federal buildings and facilities, Research.

Authority: 10 U.S.C. 8013

PART 835—[REMOVED]

Accordingly, 32 CFR, Chapter VII, is amended by removing Part 835.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–2517 Filed 2–5–96; 8:45 am]

BILLING CODE 3910–01–P

32 CFR Part 838

Air Force Systems Command Contractor Performance Assessment

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule; withdrawal.

SUMMARY: On August 11, 1988, the Department of the Air Force published (at 53 FR 30253) a final rule to amend 32 CFR by adding Part 838, Air Force Systems Command Contractor Performance Assessment. As a result of an Air Force reorganization, Air Force Systems Command was deactivated. Also an initiative in the Air Force to streamline and reduce Air Force publications resulted in the cancellation of the source document, Air Force Systems Command Regulation 800–54, AFSC Contractor Performance Assessment. On March 31, 1995, a final rule was published in the **Federal Register** entitled Federal Acquisition Regulation; Past Performance Information. On November 17, 1995, a proposed rule was published in the **Federal Register** entitled Defense Federal Acquisition Regulation Supplement; Past Performance. Therefore the Air Force's final rule on contractor performance assessment is withdrawn.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Maj. Bratten, SAF/AQS, 1060 Air Force Pentagon, Washington, DC 20330–1060, telephone (703) 697–6400.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 838

Government contracts.

Authority: 10 U.S.C. 8013.

PART 838—[REMOVED]

Accordingly, 32 CFR, Chapter VII, is amended by removing Part 838.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–2514 Filed 2–5–96; 8:45 am]

BILLING CODE 3910–01–P

32 CFR Part 843

Statutory Reimbursement for Land

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule; withdrawal.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by removing Part 843, Statutory Reimbursement for Land. The Corps of Engineers acts as the Air

Force's real estate agent in acquiring land and routinely exercises the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 et. seq., to authorize payment of relocation costs. Since 32 CFR Part 843 is no longer used for this purpose, it is removed from the Code of Federal Regulations.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Charles G. Skidmore, AFREA/MI, 112 Luke Avenue Room 104, Bolling AFB DC 20332–8020, telephone (202) 767–4033.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 843

Claims.

Authority: 10 U.S.C. 8013

PART 843—[REMOVED]

Accordingly, 32 CFR, Chapter VII, is amended by removing Part 843.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–2519 Filed 2–5–96; 8:45 am]

BILLING CODE 3910–01–P

32 CFR Part 848

Foreign Tax Relief Program

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule; withdrawal.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by removing Part 848, Foreign Tax Relief Program. This rule is removed because it has limited applicability to the general public. This action is the result of departmental review. The intended effect is to ensure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: MsPatsy J. Conner, Air Force Federal Register Liaison Officer, SAF/AAIQ, 1610 Air Force Pentagon, Washington, DC 20330–1610, telephone (703) 614–3488.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 848

Foreign relations, Government contracts, Taxes.

Authority: 10 U.S.C. 8013.

PART 848—[REMOVED]

Accordingly, 32 CFR, Chapter VII, is amended by removing Part 848.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–2518 Filed 2–5–96; 8:45 am]

BILLING CODE 3910–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–24–1–7047a; FRL–5317–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final action approves the State Implementation Plan (SIP) submitted by the state of Missouri. The state's revision expands the types of testing and monitoring data, including stack and process monitoring, which can be used directly for compliance certifications and enforcement.

DATES: This action is effective April 8, 1996 unless by March 7, 1996 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joshua A. Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION: The EPA believes that existing SIPs (nationwide) are inadequate for states or EPA to fully implement the Clean Air Act Amendments, because the SIPs may presently be interpreted to limit the types of testing or monitoring data that may be used for determining compliance and establishing violations. On May 11, 1994, EPA issued a call to the state of Missouri to revise its SIP to clarify that any monitoring approved for the source (and included in a Federally enforceable operating permit) may form the basis of the compliance certification, and that any credible evidence may be used for purposes of enforcement in Federal court.

On March 13, 1995, Missouri made an official plan submission in response to the EPA's SIP call. Missouri submitted a new rule, 10 CSR 10–6.280, which appropriately provides for data which have been collected under the enhanced monitoring and operating permit programs to be used for compliance certifications and enforcement actions. Specifically, section (2) of this rule authorizes these data to be used for compliance certifications, and section (3) authorizes these data to be considered for enforcement actions.

EPA interprets the language in section 2(c) which states, "Any other monitoring methods approved by the Director" to provide the Director with the authority to require "additional" monitoring methods, as necessary. Consistent with past and present EPA policy, the use of substitute sampling methods which are not listed in the rule would require a revision to the SIP.

This revision will enhance the state's capability for determining compliance with, and for establishing violations of, the underlying emission limitations.

EPA Action

EPA is taking final action to approve revisions submitted March 13, 1995, for the state of Missouri.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule, based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. §§ 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (CAA) do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 2, 1995.

William Rice,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart AA—[Missouri]

2. Section 52.1320 is amended by adding paragraph (c)(91) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(91) This revision provides for data which have been collected under the enhanced monitoring and operating permit programs to be used for compliance certifications and enforcement actions.

(i) Incorporation by reference.

(A) 10 CSR 10–6.280 Compliance Monitoring Usage, effective December 30, 1994.

[FR Doc. 96–2379 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[RI–16–01–6673a; A–1–FRL–5337–6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island: Revisions to the Requirements and Procedures for NSR/PSD Permit Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State implementation plan (SIP) revisions submitted by the State of Rhode Island for the purpose of meeting requirements of the Clean Air Act Amendments of 1990 (CAAA) with regard to New Source Review (NSR) in areas that have not attained the National Ambient Air Quality Standards (NAAQS). In addition, EPA is approving revisions to Rhode Island's SIP pertaining to Prevention of Significant Deterioration (PSD) program in attainment areas and other miscellaneous requirements. In general, these revisions make the Rhode Island PSD program more consistent with the current Federal requirements. The intended effect of this action is to approve the State's request to amend its SIP to satisfy the Federal requirements. This action is being taken in accordance with the Clean Air Act.

DATES: This action is effective April 8, 1996, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, (617) 565–3262.

SUPPLEMENTARY INFORMATION: On March 11, 1993, the Rhode Island Department of Environmental Management (DEM) submitted revisions to its SIP pertaining to the requirements and procedures for the processing and approval of permit applications for new or modified stationary sources of air pollution. The revisions consist of modifications to Rhode Island's Air Pollution Control Regulation #9, "Air Pollution Control Permits," and affect the following elements : (1) major source permitting in nonattainment areas, including ozone nonattainment areas: (2) PSD program; (3) minor source construction permitting; and (4) general administrative requirements of the permitting program.

This notice is divided into five sections for clarity. Section I discusses the procedural background concerning Rhode Island's SIP submittal. Section II discusses the revisions to the general requirements for nonattainment NSR. Section III discusses the revisions to the specific requirements for NSR in the ozone nonattainment areas. Section IV discusses the revisions to the general requirements for the PSD program, minor source permitting requirements and general administrative requirements of the permitting program. Section V discusses the EPA's final action.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 8, 1996 unless, by March 7, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 8, 1996.

Section I

Procedural Background

Section 110(k) of the CAA sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–66, April 16, 1992). The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[1] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action [see § 110(k)(1) and 57 FR 13565, April 16, 1992]. The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) if a completeness determination is not made by EPA within 6 months after receipt of the submission.

The State of Rhode Island held a public hearing on October 19, 1992, to entertain public comment on the new source review implementation plan. Following the public hearing, the plan was filed with the Secretary of State on March 4, 1993, and became effective on March 24, 1993. The plan was submitted to EPA on March 11, 1993 as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria referenced above. The submittal was found to be complete on May 6, 1993 and a letter dated May 10, 1993 was forwarded to Steve Majkut, Acting Chief, Division of Air Resources, DEM, indicating the completeness of the submittal and the next steps to be taken in the review process.

Section II

General Requirements for Nonattainment NSR

A. Background

The air quality planning requirements for nonattainment new source review are set out in part D of subchapter I of the Act. The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment area NSR SIP requirements [see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in today's proposal and the supporting rationale.

B. Summary of Rhode Island's Regulation

The general nonattainment NSR requirements are found in §§ 172 and 173 of part D of subchapter I of the Act and must be met by all nonattainment areas. The following paragraphs reference the nonattainment NSR requirements that were required to be submitted to EPA by November 15, 1992 and explain how Rhode Island's rules meet those requirements. Some of these provisions were already contained in Rhode Island's existing SIP while others are being approved today.

a. Rhode Island regulation 9.4.3(a) establishes provisions in accordance with § 173(a)(1)(A) of the CAA to assure that calculations of emissions offsets are based on the same emissions baseline used in the demonstration of Reasonable Further Progress (RFP).

b. Rhode Island regulation 9.4.2(d)(5) establishes provisions in accordance with § 173(c)(1) of the CAA to allow offsets to be obtained in another nonattainment area if: i) the area has an equal or higher nonattainment classification and ii) emissions from the other nonattainment area contribute to a NAAQS violation in the area in which the source would construct.

c. Rhode Island regulation 9.4.2(d)(2–3) establishes provisions in accordance with § 173(c)(1) of the CAA that any emissions offsets obtained in conjunction with the issuance of a permit to a new or modified source must be in effect and enforceable by the time the new or modified source commences operation.

d. Rhode Island regulation 9.4.2(c) establishes provisions in accordance with § 173(c)(1) of the CAA to assure that emissions increases from new or modified sources are offset by real reductions in actual emissions.

e. Rhode Island regulation 9.4.3(a) establishes provisions in accordance with § 173(c)(2) of the CAA to prevent emissions reductions otherwise required by the Act from being credited for purposes of satisfying part D offset requirements.

f. The 1990 CAAA modified the Act's provisions on growth allowances in nonattainment areas by (1) Eliminating existing growth allowances in any nonattainment area that received a notice prior or subsequent to the Amendments that the SIP was substantially inadequate, and (2) restricting growth allowances to only those portions of nonattainment areas formally targeted as special zones for economic growth. Section 173(b) and 173(a)(1)(B) of the CAA. Consistent with these changes, Rhode Island has removed from its SIP NSR regulations the growth allowance provisions. There are no zones currently in Rhode Island that are targeted for economic development.

g. Rhode Island regulation 9.4.2(e) establishes provisions in accordance with § 173(a)(5) of the CAA that, as a prerequisite to issuing any part D permit, require an analysis of alternative sites, sizes, production processes, and environmental control techniques for proposed sources that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

h. Rhode Island and the EPA-New England office have established a mechanism through the Regional grants program to supply information from nonattainment new source review permits to EPA's RACT/BACT/LAER clearinghouse in accordance with § 173(d) of the CAA.

i. Rhode Island regulation 9.1.39 establishes, in accordance with §§ 302(z) and 111(a)(3) of the CAA, a definition of "stationary source" that includes certain internal combustion engines other than the newly defined category of "nonroad engines."

j. Rhode Island regulation 9.4.2(b) establishes provisions in accordance with § 173(a)(3) of the CAA that require owners or operators of each proposed new or modified major stationary source to demonstrate, as a condition of permit issuance, that all other major stationary sources under the same ownership in the State are in compliance with the CAA.

[1] Section 172(c)(7) of the Act provides that plan provisions for nonattainment areas shall meet the applicable provisions of § 110(a)(2).

Section III

General Requirements for Ozone Nonattainment NSR

A. Background

The general nonattainment NSR requirements are found in §§ 172 and 173 of Part D of subchapter I of the Act and must be met by all nonattainment areas. The requirements for ozone that supplement or supersede these requirements are found in subpart 2 of part D. In addition to requirements for ozone nonattainment areas, subpart 2 includes § 182(f), which states that requirements for major stationary sources of VOC shall apply to major stationary sources of oxides of nitrogen (NO_X) unless the Administrator makes certain determinations related to the benefits or contribution of NO_X control to air quality, ozone attainment, or ozone air quality. States were required under section 182(a)(2)(C) to adopt new NSR rules for ozone nonattainment areas by November 15, 1992.

B. Summary of Rhode Islands Submittal

Pursuant to § 172(c)(5) of the CAA, SIPs must require permits for the construction and operation of new or modified major stationary sources. The federal statutory permit requirements for ozone nonattainment areas are generally contained in revised § 173, and in subpart 2 of subchapter I, part D of the CAA. These are the minimum requirements that States must include in an approvable implementation plan. For all classifications of ozone nonattainment areas and for ozone transport regions (OTRs), States must adopt the appropriate major source thresholds and offset ratios, and must adopt provisions to ensure that any new or modified major stationary source of NO_X satisfies the requirements applicable to any major source of VOC, unless a special NO_X exemption is granted by the Administrator under the provision of § 182(f). For serious and severe ozone nonattainment areas, State plans must also implement §§ 182(c) (6), (7) and (8) with regard to modifications. The entire state of Rhode Island is currently classified as a serious ozone nonattainment area.

The following paragraphs reference the ozone nonattainment and OTR NSR requirements that Rhode Island was required to submit to EPA by November 15, 1992 and how Rhode Island has met those requirements.

a. Rhode Island Regulations 9.4.1(b)(1) and 9.4.2 establish, in accordance with §§ 182(c) and 182(f) of the CAA, major source thresholds for serious areas of 50 tons per year (tpy) for VOC and for NO_X.

b. Rhode Island Regulation 9.4.2(d)(4) establishes, in accordance with §§ 183(c)(10) and 182(f) of the CAA, an offset ratio of 1.2 to 1 for major sources or major modifications of VOC or NO_X in serious areas.

c. In combination, Rhode Island Regulations 9.1.25 and 9.1.37 establish provisions that are consistent with the requirements of § 182(c)(6) of the CAA, the De Minimis Ruling.

d. Rhode Island Regulation 9.4.2 (a)(3) and (a)(4) establish provisions which are at least as stringent as the Federal special rules for modifications in § 182(c) (7) and (8) of the CAA.

Section IV

Revisions to PSD Program, Minor Source Permitting, and General Requirements

A. Background

Requirements for attainment NSR are set out in part C of subchapter I of the CAA and in 40 CFR 51.166 and must be met by all State PSD program SIPs. Minor source construction permitting requirements are contained in section 110(a)(2)(c) and 40 CFR 51.100–165. Rhode Island has revised various provisions in its PSD program and in its construction permitting regulation.

B. Summary of Rhode Island's Submittal

In general, the revisions clarified the current procedures used by the DEM or implemented procedures consistent with current federal rules. A brief description of the revisions is as follows:

—The definition of significant net emissions increase for NO_X in NO_X attainment areas has been changed from 40 to 25 tpy.
—The threshold level for municipal incinerators in the definition of major source has been lowered from 250 to 50 tons of charged refuse per day. Municipal incinerators below the threshold level do not include fugitive emissions in determining whether the source is a major source.
—The definition of "significant" has been changed to include the significant net emission threshold levels for municipal waste combustor pollutants.
—The definitions for nonroad engines and nonroad vehicles have been added to the regulation.
—The limits to the percentage of increment consumed by a source or modification now applies only to major sources or major modifications.
—Sources are required to obtain a major source permit or a minor source permit, whichever applies.
—Certain air pollution control equipment have been exempted from minor source permitting requirements.
—The requirements for public participation in the review of major source permit applications have been added to the body of the regulation.
—The requirements for operating permits have been removed from the regulation.
—The time limit for a source to commence construct after issuance of a permit has been increased from 1 year to 18 months.
—The definition for "State recovery facility" has been removed from the regulation.

For further details concerning the revisions to Rhode Island's Air Pollution #9 and EPA's evaluation, please refer to the memorandum entitled "Technical Support Document—Rhode Island New Source Review Revisions."

Section V

Final Action

EPA is approving the revisions to the Rhode Island Air Pollution Control Regulation No. 9, "Air Pollution Control Permits," except for Chapter 9.13, Application for an Air Toxics Operating Permit; Chapter 9.14, Administrative Action: Air Toxics Operating Permits; Chapter 9.15, Transfer of an Air Toxics Operating Permit; and Appendix A, Toxics Air Pollutants, Minimum Quantities. This regulation was effective in the State of Rhode Island on March 24, 1993. These revisions meet the nonattainment area NSR provisions of Part D of the CAA as well as the requirements of the General Preamble and other miscellaneous requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The OMB has exempted this action from review under Executive Order 12866.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: September 11, 1995.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

SUBPART OO—Rhode Island

2. Section 52.2070 is amended by adding paragraph (c)(41) to read as follows:

§ 52.2070 Identification of plan.

* * * * * * *

(c) * * *

(41) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on March 11, 1993.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Management dated March 5, 1993 submitting a revision to the Rhode Island State Implementation Plan.

(B) Rhode Island's Air Pollution Control Regulation No. 9 entitled, "Air Pollution Control Permits," except for Chapter 9.13, Application for an Air Toxics Operating Permit; Chapter 9.14, Administrative Action: Air Toxics Operating Permits; and Chapter 9.15, Transfer of an Air Toxics Operating Permit; and Appendix A, Toxic Air Pollutants, Minimum Quantities. This regulation was effective in the State of Rhode Island on March 24, 1993.

(ii) Additional materials.

(A) A fact sheet on the proposed amendments to Regulation No. 9 entitled, "Approval to Construct, Install, Modify or Operate".

(B) Nonregulatory portions of the State submittal.

3. In § 52.2081 Table 52.2081 is amended by adding new entries to existing state citations for Chapter No. 9, to read as follows:

§ 52.208 EPA-approved EPA Rhode Island State regulations.

TABLE 52.2081.—EPA-Approved Rules and Regulations

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/Unapproved sections
No. 9	Air Pollution Control Permits.	March 4, 1993	February 6, 1996 ..	61 FR 4353	(c)(41)	Addition of NSR and other CAAA requirements under Amended Regulation No. 9 except for Chapters 9.13, 9.14, 9.15, and Appendix A.

[FR Doc. 96–2226 Filed 2–5–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 81

[FRL–5412–5]

Designation of Areas for Air Quality Planning Purposes; South Dakota; Approval of Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is approving an October 12, 1995 request from the designee of the Governor of South Dakota to redesignate the "Rest of State" area designated under section 107 of the Clean Air Act (Act), which includes the entire State of South Dakota except the Rapid City area, from unclassifiable to attainment for PM–10. EPA is approving the redesignation request because the State has adequately demonstrated that the "Rest of State" is in attainment of the PM–10 National Ambient Air Quality Standards (NAAQS) and that it will continue to maintain the PM–10 NAAQS. The requirements that will apply in the "Rest of State" area will not change as a result of this action because, for the purposes of the requirements of the Act, unclassifiable areas and attainment areas are treated the same.

DATES: This action is effective on April 8, 1996 unless adverse or critical comments are received by March 7, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State's submittal and other relevant information are available for inspection during normal business hours at the following locations: Air Program, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and South Dakota Department of Environment and Natural Resources, Division of Environmental Regulation, Joe Foss Building, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART–AP, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 312–6445.

SUPPLEMENTARY INFORMATION:

I. Background

The State of South Dakota has two areas designated under section 107 of the Act for PM–10 in 40 CFR 81.342, both of which are designated as unclassifiable: the "Rapid City Area" and the "Rest of State" (see 60 FR 55800, November 3, 1995, for the initial promulgation of PM–10 table in 40 CFR 81.342). EPA designated these areas as unclassifiable, rather than attainment, to be consistent with section 107(d)(4)(B) of the Act, which states that any area not initially designated as nonattainment for PM–10 shall be designated unclassifiable. Both "unclassifiable" and "attainment" areas have the same status relative to the applicable requirements of the Act.

However, States do have the option of requesting redesignation of such areas from unclassifiable to attaintment for PM–10, if certain requirements are met. In a September 13, 1995 letter to the State of South Dakota, EPA stated that the following requirements needed to be met in order for EPA to redesignate an area from unclassifiable to attainment for PM–10:

A. EPA must receive a request from the Governor (or his/her designee) to redesignate an area from unclassifiable to attainment for PM–10 pursuant to section 107(d)(3)(D) of the Act;

B. The State must have a maintenance plan pursuant to section 175A of the Act which, for redesignation from unclassifiable to attainment, would include the existing State regulations approved in the SIP that control emissions of PM–10 in the area; and

C. Verification of three consecutive years of clean air quality PM–10 data for the area.

With such a submittal showing that the area is in attainment of the PM–10 NAAQS and that the area will maintain attainment based on the PM–10 controls in the SIP, EPA can redesignate an area from unclassifiable to attainment for PM–10.

II. Evaluation of State's Submittal

On October 12, 1995, the designee of the Governor of South Dakota submitted a request pursuant to section 107(d)(3)(D) of the Act for the "Rest of State" area (which includes the entire State except the Rapid City area) to be redesignated from unclassifiable to attainment for PM–10. The State's letter indicated that the air quality monitoring data for the "Rest of State," all of which has been entered into EPA's aerometric information retrieval system (AIRS) database, show levels less than the PM–10 NAAQS. Further, the State indicated that the South Dakota air monitoring network for the "Rest of State" is reviewed annually to ensure that the monitors are measuring maximum PM–10 concentrations, and that the most recent network review was sent to EPA in August of 1995. Last, the State indicated that Article 74:36 of the Administrative Rules of South Dakota (ARSD), which was most recently approved by EPA as part of the SIP on September 6, 1995 (60 FR 46222), will ensure that attainment of the PM–10 NAAQS will be maintained in the "Rest of State" area.

A review of the data entered by the State into the AIRS database found that the "Rest of State" area is in attainment of the PM–10 NAAQS. The State currently has three PM–10 monitoring stations in the "Rest of State" area: two in Sioux Falls and one in Brookings. Based on the information included in the most recent annual network review (which was approved by EPA on August 18, 1995), EPA is confident that these monitors are in the areas of expected maximum PM–10 concentrations in the "Rest of State" area. A review of the data indicates there have been no violations of the PM–10 24-hour or

annual NAAQS at any of these monitors in the last three calendar years (1992 through 1994), and the expected number of PM–10 exceedances is less than 1.0 per year. The PM–10 data currently in AIRS for 1995 also shows no violations. Thus, EPA believes the "Rest of State" area in South Dakota, which includes the entire State except the "Rapid City Area," is in attainment of the PM–10 NAAQS.

The State of South Dakota has many regulations in its SIP which will help to ensure that the "Rest of State" area maintains attainment of the PM–10 NAAQS. First, the State has a construction and operating permit program in ARSD 74:36:04, for minor sources greater than 25 tons per year, and in ARSD 74:36:05, for major sources greater than 100 tons per year. These regulations allow the State to issue a permit for a new source to construct or operate only when it has been shown that the new source will not prevent or interfere with attainment or maintenance of the NAAQS. Further, the State has also been delegated authority to implement the Federal prevention of significant deterioration (PSD) permitting program in 40 CFR 52.21 which includes, among other things, the requirement that new and modified major stationary sources comply with the PM–10 increments and apply best available control technology (BACT). Thus, the State's permitting requirements should ensure that new growth in stationary source emissions does not impact attainment or maintenance of the PM–10 NAAQS in the "Rest of State" area.

In addition to the permitting requirements, the State has specific regulations that control the emissions of particulate matter, including PM–10, in ARSD 74:36:06, 74:36:07, and 74:36:15. These include particulate emission limits for fuel-burning units, process industry units, incinerators, and wood waste burners; a 20% opacity limit that generally applies to all sources; and open burning requirements. Last, the State has adopted most of the Federal new source performance standards (NSPS) of 40 CFR part 60 in ARSD 74:36:07, and many of these regulations also help to reduce PM–10 emissions. Thus, EPA believes these existing State regulations, which have been approved by EPA as part of the SIP, will help to ensure that the "Rest of State" area maintains attainment of the PM–10 NAAQS.

Based on the fact that the "Rest of State" area is in attainment of both the 24-hour and annual PM–10 NAAQS and that the State has controls in place that will help to ensure the "Rest of State" maintains attainment of the PM–10 NAAQS, EPA believes it is appropriate to approve the State's request to redesignate the "Rest of State" from unclassifiable to attainment for PM–10. The State will still be required to conduct annual monitoring network reviews to ensure the PM–10 monitors are measuring maximum concentrations, so EPA will be aware if the attainment status of this area changes in the future and triggers the need for additional PM–10 controls as required by the Act.

Final Action

EPA is approving the State of South Dakota's request to redesignate the "Rest of State" area in 40 CFR 81.342 from unclassifiable to attainment for PM–10.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the State's request should adverse or critical comments be filed. Under the procedures established in the May 10, 1994 **Federal Register** (59 FR 24054), this action will be effective on April 8, 1996 unless, by March 7, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 8, 1996.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Redesignation of an area under section 107(d)(3)(D) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

The State has requested redesignation of the "Rest of State" area from unclassifiable to attainment for PM–10, in accordance with section 107 of the Act. EPA's approval of this redesignation request will impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 23, 1996.

Jack W. McGraw,

Acting Regional Administrator.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.342 is amended by revising the table for "South Dakota—PM–10" to read as follows:

§ 81.342 South Dakota.

* * * * *

SOUTH DAKOTA—PM–10

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Rapid City Area	11/15/90	Unclassifiable		
Rest of State[1]	April 8, 1996	Attainment		

[1] Denotes a single area designation for PSD baseline area purposes.

* * * * *

[FR Doc. 96–2497 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7182

[AK–931–1430–01; F–031676]

Partial Revocation of Public Land Order No. 3689; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order insofar as it affects 18.85 acres of public and nonpublic land withdrawn for use by the military for the Lakeview Pumping Station. The land is no longer needed for the purpose for which it was withdrawn. A portion of the parcel has been deeded to the State of Alaska and is no longer public land. The remainder of the parcel will continue to be withdrawn as part of the Tetlin National Wildlife Refuge, as established and designated by the Alaska National Interest Lands Conservation Act. This action is for record clearing purposes only.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 3689, which withdrew public land for use by the Department of the Army for the Lakeview Pumping Station, is hereby revoked insofar as it affects the following described land:

Copper River Meridian

Located within secs. 28 and 33 of T. 14 N., R. 20 E., currently described as:
U.S. Survey No. 4360, which contains 16.35 acres; and
U.S. Survey No. 2784, lot 1, which contains 2.50 acres.
The areas described contain a total of 18.85 acres.

2. Any of the land described in this order that is part of the Tetlin National Wildlife Refuge will continue to be withdrawn pursuant to Sections 302(8) and 304(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1988), and will continue to be subject to the terms and conditions of any other withdrawal or segregation of record.

3. Any public land affected by this order that may be outside of the Tetlin National Wildlife Refuge will remain withdrawn from all forms of entry, appropriation, or disposal under the public land laws until a further opening order is published.

Dated: January 26, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–2385 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–JA–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 17, 21, 22, 23, 24, 25, 73, 74, 78, 80, 87, 90, 94, 95, and 97

[WT Docket No. 95–5, FCC 95–473]

Streamlining the Antenna Structure Clearance Procedure and Revision of the Rules Concerning Construction, Marking, and Lighting of Antenna Structures

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission has adopted a Report and Order to streamline the Commission's antenna structure clearance process by instituting a uniform registration process for structure owners, revise the current antenna structure painting and lighting requirements in keeping with updated recommendations by the Federal Aviation Administration (FAA), and make antenna structure owners primarily responsible for antenna structures that require painting and/or lighting. These amendments reduce the number of Commission filings, expedite the processing of authorizations involving FAA coordination, and clarify rules concerning the painting and lighting of antenna structures.

DATES: These regulations are effective March 7, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of March 7, 1996. Written comments by the public on the proposed and/or modified information collections are due March 7, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the

information collections on or before April 8, 1996.

ADDRESSES: A copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, room 234, 1919 M Street NW., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street NW., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Roger Noel of the Wireless Telecommunications Bureau at (202) 418–0680, or Robert Greenberg of the Mass Media Bureau at (202) 418–2720. For additional information concerning the information collections contained in this *Report and Order* contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted November 28, 1995, and released November 30, 1995. The full text of this action is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Summary of Report and Order

1. In this action, the Commission made three distinct changes to the rules. First, the Commission replaced the current clearance process with a streamlined procedure for registering each antenna structure which requires FAA notification. The registration process requires the antenna structure owner, not the licensees or permittees using the structure, to (1) Register the antenna structure with the Commission, (2) maintain the structure's painting and lighting in accordance with the Commission's Rules, (3) notify the Commission of changes in height, coordinates, ownership, painting, or lighting of the structure, and (4) notify the Commission upon dismantling the structure. This proposed action does not impose a greater net filing burden on the public, but instead decreases the number of entities affected by these requirements.

2. Second, the Commission incorporated by reference the recommendations found in the following two FAA Advisory Circulars: *Obstruction Marking and Lighting* (AC 70/7460–1H) released August, 1991, and *Specification for Obstruction Lighting Equipment* (AC 150/5345–43D) released July, 1988. This change updates the Commission's Rules in light of the FAA's recent air safety recommendations and would grandfather the present painting and lighting requirements of existing structures indefinately, so long as further FAA coordination is not required. This action serves to streamline the Commission's Rules and increase air safety.

3. Third, the Commission implemented statutory language holding antenna structure owners primarily responsible for compliance with the Commission's painting and lighting requirements. This means that the Commission would first look toward structure owners to ensure that antenna structures are painted and lighted in accordance with the Commission's Rules. In cases where reliance on the owner proves ineffective, the Commission would turn toward the tenant licensees and permittees to ensure that the structure is properly painted and lighted.

4. The rules are set forth at the end of this document.

5. This *Report and Order* is issued under the authority of sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

Final Regulatory Flexibility Analysis

Need and Purpose of This Action

This *Report and Order* seeks to: (1) Reduce the number of filings to the Commission regarding changes to antenna structures, (2) expedite application and notification processing, (3) unify and streamline federal painting and lighting regulations to ease the public and governmental burdens associated with processing certain applications, and (4) increase safety in air navigation.

Summary of the Issues Raised by the Public Comments in Response to the Initial Flexibility Analysis

There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

Significant Alternatives Considered

No significant alternative to this action was contained in the *Notice* or suggested by commenters. The action represents the best means to achieve the regulatory objective of minimizing the regulatory burden on the public.

Paperwork Reduction Act

This *Report and Order* contains information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *Report and Order*, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due 30 days from date of publication of this *Report and Order* in the **Federal Register**; OMB comments are due 60 days from date of publication of this *Report and Order* in the **Federal Register**. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0645
Title: Antenna Registration Part 17
Form No: Not applicable
Type of Review: Revision of existing collection
Respondents: Businesses; not-for-profit institutions; state, local or tribal government
Number of Respondents: 14,965
Estimated Time Per Response: .05
Total Annual Burden: 748

Needs and Uses: The notification requirement requires those licensees who experience antenna structure lighting outages to notify the FAA of improperly functioning antenna structure lights. This information is used by FAA personnel to assure that aviators are aware of unlit antenna structures that would otherwise cause a hazard to air navigation.

OMB Approval Number: 3060–0645
Title: Antenna Registration Part 17
Form No: Not applicable
Type of Review: Revision of existing collection
Respondents: Businesses; not-for-profit institutions; state, local or tribal government
Number of Respondents: 14,965
Estimated Time Per Response: .25
Total Annual Burden: 3,741

Needs and Uses: The recordkeeping requirement requires those licensees who experience problems with the lighting of their antenna structure lighting to keep a record of the malfunction with the station records. This information is used by FCC personnel to ensure that antenna structure lighting systems are properly maintained.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 17

Antennas, Aviation safety, Communications equipment, Incorporation by reference, Radio, Reporting and recordkeeping requirements.

47 CFR Part 21

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 22

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 23

Radio, Reporting and recordkeeping requirements.

47 CFR Part 24

Radio, Reporting and recordkeeping requirements.

47 CFR Part 25

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 74

Radio broadcasting, Television broadcasting.

47 CFR Part 78

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 80

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 87

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 94

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 95

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 97

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rules

Parts 0, 1, 17, 21, 22, 23, 24, 25, 73, 74, 78, 80, 87, 90, 94, 95, and 97 of Title 47 of the Code of Federal Regulations are amended as follows:

I.

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.131 is amended by revising paragraph (j) to read as follows:

§ 0.131 Functions of the Bureau.

* * * * *

(j) Administers the Commission's commercial radio operator program (Part 13 of this chapter) and the Commission's program for registration, construction, marking and lighting of antenna structures (Part 17 of this chapter).

* * * * *

II.

PART 1—PRACTICE AND PROCEDURE

3. The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 503(b)(5); 5 U.S.C. 552, 21 U.S.C. 853a, unless otherwise noted.

4. Section 1.61 is amended by revising paragraphs (a) and (b), removing paragraphs (c), (d), (e), and (f), redesignating paragraph (g) as paragraph (c) and revising its introductory paragraph to read as follows:

§ 1.61 Procedures for handling applications requiring special aeronautical study.

(a) Antenna Structure Registration is conducted by the Wireless Telecommunications Bureau as follows:

(1) Each antenna structure owner that must notify the FAA of proposed construction using FAA Form 7460–1 shall, upon proposing new or modified construction, register that antenna structure with the Wireless Telecommunications Bureau using FCC Form 854.

(2) If an Environmental Assessment is required under § 1.1307, the Bureau will address the environmental concerns prior to processing the registration.

(3) If a final FAA determination of "no hazard" is not submitted along with FCC Form 854, processing of the registration may be delayed or disapproved.

(4) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the first licensee authorized to locate on the structure must register the structure using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing a copy of FCC Form 854R to all tenant licensees on the structure and for posting the registration number as required by § 17.4(g) of this chapter.

(5) Upon receipt of FCC Form 854, and attached final FAA determination of "no hazard," the Bureau prescribes antenna structure painting and/or lighting specifications or other conditions in accordance with the FAA airspace recommendation and returns a completed Antenna Structure Registration (FCC Form 854R) to the registrant. If the proposed structure is disapproved the registrant is so advised.

(b) Each operating Bureau or Office examines the applications for Commission authorization for which it is responsible to ensure compliance with FAA notification procedures as well as Commission Antenna Structure Registration as follows:

(1) If Antenna Structure Registration is required, the operating Bureau reviews the application for the Antenna Structure Registration Number and proceeds as follows:

(i) If the application contains the Antenna Structure Registration Number or if the applicant seeks a Cellular or PCS system authorization, the operating Bureau processes the application.

(ii) If the application does not contain the Antenna Structure Registration Number, but the structure owner has already filed FCC Form 854, the operating Bureau places the application on hold until Registration can be confirmed, so long as the owner exhibits due diligence in filing.

(iii) If the application does not contain the Antenna Structure Registration Number, and the structure

owner has not filed FCC Form 854, the operating Bureau notifies the applicant that FCC Form 854 must be filed and places the application on hold until Registration can be confirmed, so long as the owner exhibits due diligence in filing.

(2) If Antenna Structure Registration is not required, the operating Bureau processes the application.

(c) Where one or more antenna farm areas have been designated for a community or communities (see § 17.9 of this chapter), an application proposing the erection of an antenna structure over 1,000 feet in height above ground to serve such community or communities will not be accepted for filing unless:

* * * * *

III.

PART 17—CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES

5. The authority citation for Part 17 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 309, 48 Stat. 1081, 1085 as amended; 47 U.S.C. 301, 309.

6. Section 17.1 is revised to read as follows:

§ 17.1 Basis and purpose.

(a) The rules in this part are issued pursuant to the authority contained in Title III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to issue licenses to radio stations when it is found that the public interest, convenience, and necessity would be served thereby, and to require the painting, and/or illumination of antenna structures if and when in its judgment such structures constitute, or there is reasonable possibility that they may constitute, a menace to air navigation.

(b) The purpose of this part is to prescribe certain procedures for antenna structure registration and standards with respect to the Commission's consideration of proposed antenna structures which will serve as a guide to antenna structure owners. The standards are referenced from two Federal Aviation Administration (FAA) Advisory Circulars.

7. Section 17.2 is amended by revising paragraph (a) and adding new paragraphs (c) and (d) to read as follows:

§ 17.2 Definitions.

(a) *Antenna structure.* The term antenna structure includes the radiating and/or receive system, its supporting structures and any appurtenances mounted thereon.

* * * * *

(c) *Antenna structure owner.* For the purposes of this part, an antenna structure owner is the individual or entity vested with ownership, equitable ownership, dominion, or title to the antenna structure. Notwithstanding any agreements made between the owner and any entity designated by the owner to maintain the antenna structure, the owner is ultimately responsible for compliance with the requirements of this part.

(d) *Antenna structure registration number.* A unique number, issued by the Commission during the registration process, which identifies an antenna structure. Once obtained, this number must be used in all filings related to this structure.

8. Section 17.4 is revised to read as follows:

§ 17.4 Antenna structure registration.

(a) Effective July 1, 1996, the owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration must register the structure with the Commission. This includes those structures used as part of stations licensed by the Commission for the transmission of radio energy, or to be used as part of a cable television head end system. If a Federal Government antenna structure is to be used by a Commission licensee, the structure must be registered with the Commission.

(1) For a proposed antenna structure or alteration of an existing antenna structure, the owner must register the structure prior to construction or alteration.

(2) For an existing antenna structure that had been assigned painting or lighting requirements prior to July 1, 1996, the owner must register the structure prior to July 1, 1998.

(3) For a structure that did not originally fall under the definition of "antenna structure," the owner must register the structure prior to hosting a Commission licensee.

(b) Except as provided in paragraph (e) of this section, each owner must file FCC Form 854 with the Commission. Additionally, each owner of a proposed structure referred to in paragraphs (a)(1) or (a)(3) of this section must submit a valid FAA determination of "no hazard." In order to be considered valid by the Commission, the FAA determination of "no hazard" must not have expired prior to the date on which FCC Form 854 is received by the Commission. The height of the structure will include the highest point of the structure including any obstruction lighting or lighting arrester.

(c) If an Environmental Assessment is required under § 1.1307 of this chapter, the Bureau will address the environmental concerns prior to processing the registration.

(d) If a final FAA determination of "no hazard" is not submitted along with FCC Form 854, processing of the registration may be delayed or disapproved.

(e) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the first tenant licensee authorized to locate on the structure (excluding tenants that no longer occupy the structure) must register the structure using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing a copy of FCC Form 854R to all tenant licensees on the structure and for posting the registration number as required by paragraph (g) of this section.

(f) The Commission shall issue, to the registrant, FCC Form 854R, Antenna Structure Registration, which assigns a unique Antenna Structure Registration Number. The structure owner shall immediately provide a copy of Form 854R to each tenant licensee and permittee.

(g) Except as described in paragraph (h) of this section, the Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen at the base of the antenna structure.

(h) The owner is not required to post the Antenna Structure Registration Number in cases where a federal, state, or local government entity provides written notice to the owner that such a posting would detract from the appearance of a historic landmark. In this case, the owner must make the Antenna Structure Registration Number available to representatives of the Commission, the FAA, and the general public upon reasonable demand.

9. A new section 17.5 is added to Subpart A to read as follows:

§ 17.5 Commission consideration of applications for station authorization.

(a) Applications for station authorization, excluding services authorized on a geographic basis, are reviewed to determine whether there is a requirement that the antenna structure in question must be registered with the Commission.

(b) If registration is required, the registrant must supply the structure's registration number upon request by the Commission.

(c) If registration is not required, the application for authorization will be processed without further regard to this chapter.

10. A new section 17.6 is added to Subpart A to read as follows:

§ 17.6 Responsibility of Commission licensees and permittees.

(a) The antenna structure owner is responsible for maintaining the painting and lighting in accordance with this part. However, if a licensee or permittee authorized on an antenna structure is aware that the structure is not being maintained in accordance with the specifications set forth on the Antenna Structure Registration (FCC Form 854R) or the requirements of this part, or otherwise has reason to question whether the antenna structure owner is carrying out its responsibility under this part, the licensee or permittee must take immediate steps to ensure that the antenna structure is brought into compliance and remains in compliance. The licensee must:

(1) Immediately notify the structure owner;

(2) Immediately notify the site management company (if applicable);

(3) Immediately notify the Commission; and,

(4) Make a diligent effort to immediately bring the structure into compliance.

(b) In the event of non-compliance by the antenna structure owner, the Commission may require each licensee and permittee authorized on an antenna structure to maintain the structure, for an indefinite period, in accordance with the Antenna Structure Registration (FCC Form 854R) and the requirements of this part.

(c) If the owner of the antenna structure cannot file FCC Form 854 because it is subject to a denial of federal benefits under the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862, the first licensee authorized to locate on the structure must register the structure using FCC Form 854, and provide a copy of the Antenna Structure Registration (FCC Form 854R) to the owner. The owner remains responsible for providing a copy of FCC Form 854R to all tenant licensees on the structure and for posting the registration number as required by § 17.4(g).

11. Subpart B is amended by revising its heading to read as follows:

Subpart B—Federal Aviation Administration Notification Criteria

12. Section 17.10 is amended by revising the introductory paragraph to read as follows:

§ 17.10 Antenna structures over 304.80 meters (1,000 feet) in height.

Where one or more antenna farm areas have been designated for a community or communities (see § 17.9), the Commission will not accept for filing an application to construct a new station or to increase height or change antenna location of an existing station proposing the erection of an antenna structure over 304.80 meters (1,000 feet) above ground unless:

* * * * *

13. Section 17.14 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 17.14 Certain antenna structures exempt from notification to the FAA.

* * * * *

(a) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, *and* would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation. * * *

* * * * *

14. Section 17.17 is amended by revising paragraph (a) to read as follows:

§ 17.17 Existing structures.

(a) The requirements found in § 17.23 relating to painting and lighting of antenna structures shall not apply to those structures authorized prior to July 1, 1996. Previously authorized structures may retain their present painting and lighting specifications, so long as the overall structure height or site coordinates do not change. The Antenna Structure Registration requirements found in § 17.5, however, shall apply to all antenna structures that have been assigned painting or lighting requirements by the Commission, regardless of prior authorization.

* * * * *

15. Section 17.22 is amended by revising the first sentence to read as follows:

§ 17.22 Particular specifications to be used.

Whenever painting or lighting is required, the Commission will generally assign specifications in accordance with the FAA Advisory Circulars referenced in § 17.23.* * *

16. Section 17.23 is revised to read as follows:

§ 17.23 Specifications for painting and lighting antenna structures.

Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after July 1, 1996, must conform to the FAA's painting and lighting recommendations set forth on the structure's FAA determination of "no hazard," as referenced in the following FAA Advisory Circulars: AC 70/7460–1H, "Obstruction Marking and Lighting," August 1, 1991, as amended by Change 2, July 15, 1992, and AC 150/5345–43D, "Specification for Obstruction Lighting Equipment," July 15, 1988. These documents are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The documents contain FAA recommendations for painting and lighting structures which pose a potential hazard to air navigation. For purposes of this part, the specifications, standards, and general requirements stated in these documents are mandatory. The Advisory Circulars listed above are available for inspection at the Commission Headquarters in Washington, DC, 2025 M Street NW., room 8112, or at the Office of the Federal Register, 800 North Capitol Street, NW., room 700, Washington, DC., or may be obtained from Department of Transportation, Utilization and Storage Section (Publications), M443.2, 400 7th Street SW, Washington, DC 20590, telephone (202) 366–0039 or (202) 366–0451.

§§ 17.24 through 17.43 [Removed and reserved]

17. Sections 17.24 through 17.43 are removed and reserved.

18. Section 17.47 is revised to read as follows:

§ 17.47 Inspection of antenna structure lights and associated control equipment.

The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part:

(a)(1) Shall make an observation of the antenna structure's lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or alternatively,

(2) Shall provide and properly maintain an automatic alarm system

designed to detect any failure of such lights and to provide indication of such failure to the owner.

(b) Shall inspect at intervals not to exceed 3 months all automatic or mechanical control devices, indicators, and alarm systems associated with the antenna structure lighting to insure that such apparatus is functioning properly.

19. Section 17.48 is amended by revising the introductory paragraph and the second sentence in paragraph (a) to read as follows:

§ 17.48 Notification of extinguishment or improper functioning of lights.

The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part:

(a) * * * Such reports shall set forth the condition of the light or lights, the circumstances which caused the failure, the probable date for restoration of service, the FCC Antenna Structure Registration Number, the height of the structure (AGL and AMSL if known) and the name, title, address, and telephone number of the person making the report. * * *

* * * * *

20. Section 17.49 is amended by revising the section heading, the introductory paragraph, and paragraph (c) and adding a new paragraph (d) to read as follows:

§ 17.49 Recording of antenna structure light inspections in the owner record.

The owner of each antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part must maintain a record of any observed or otherwise known extinguishment or improper functioning of a structure light and include the following information for each such event:

* * * * *

(c) Date and time of FAA notification, if applicable.

(d) The date, time and nature of adjustments, repairs, or replacements made.

21. Section 17.50 is revised to read as follows:

§ 17.50 Cleaning and repainting.

Antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility.

22. Section 17.51 is amended by revising paragraph (b) to read as follows:

§ 17.51 Time when lights should be exhibited.

* * * * *

(b) All high intensity and medium intensity obstruction lighting shall be exhibited continuously unless otherwise specified.

23. Section 17.57 is revised to read as follows:

§ 17.57 Report of radio transmitting antenna construction, alteration, and/or removal.

The owner of an antenna structure for which an Antenna Structure Registration Number has been obtained must notify the Commission within 24 hours of completion of construction (FCC Form 854–R) and/or dismantlement (FCC Form 854). The owner must also immediately notify the Commission using FCC Form 854 upon any change in structure height or change in ownership information.

IV.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

24. The authority citation for Part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

25. Section 21.11 is amended by adding a new paragraph (g) to read as follows:

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

* * * * *

(g) *Antenna Structure Registration.* FCC Form 854 (Application for Antenna Structure Registration) accompanied by a final Federal Aviation Administration (FAA) determination of "no hazard" must be filed by the antenna structure owner to receive an antenna structure registration number. Criteria used to determine whether FAA notification and registration is required for a particular antenna structure are contained in Part 17 of this chapter.

26. Section 21.15 is amended by revising paragraph (d), redesignating paragraphs (e), (f), and (g) as (f), (g), and (h), respectively, and adding a new paragraph (e), to read as follows:

§ 21.15 Technical content of applications.

* * * * *

(d) *FAA notification.* Before the construction of a new antenna structure or alteration in the height of an existing structure (including a receive-only or passive repeater) is authorized by the FCC, a Federal Aviation Administration (FAA) determination of "no hazard" may be required. To apply for this determination, antenna structure owners must notify the FAA of the planned construction. Criteria used to determine whether FAA notification is required for a particular antenna structure are contained in part 17 of this chapter. Applications proposing construction of a new antenna structure or alteration of the overall height of an existing antenna structure, where FAA notification prior to such construction or alteration is *not* required by part 17 of this chapter, must indicate such and, unless the reason is obvious (*e.g.* structure height is less than 6.1 meters AGL) must state why FAA notification is *not* required. See also § 21.111 if the structure is used by more than one station.

(e) *Antenna Structure Registration Number.* Applications proposing construction of a new antenna structure or alteration of the overall height of an existing antenna structure, where FAA notification prior to such construction or alteration is required by part 17 of this chapter, must include the FCC Antenna Structure Registration Number for the affected structure. If no such number has been assigned at the time the application is filed, the applicant must state in the application whether or not the antenna structure owner has notified the FAA of the proposed construction or alteration and applied to the FCC for an Antenna Structure Registration Number in accordance with Part 17 of this chapter of this structure for the antenna structure in question.

* * * * *

27. Section 21.41 is amended by revising paragraph (c)(3) to read as follows:

§ 21.41 Special processing of applications for minor facility modifications.

* * * * *

(c) * * *

(3) Changes in the geographical coordinates of a transmit station, receive station or passive facility by ten seconds or less of latitude, longitude or both, provided that when notice to the FAA of proposed construction is required by part 17 of this chapter for the antenna structure at the previously authorized coordinates (or will be required at the new location) the applicant must comply with the provisions of § 21.15(e).

* * * * *

28. Section 21.42 is amended by revising paragraph (c)(6) to read as follows:

§ 21.42 Certain modifications not requiring prior authorization.

* * * * *

(c) * * *

(6) Decreases in the overall height of an antenna structure, provided that, when notice to the FAA of proposed construction was required by part 17 of this chapter for the antenna structure at the previously authorized height, the applicant must comply with the provisions of § 21.15 (d) and (e).

* * * * *

29. Section 21.111 is revised to read as follows:

§ 21.111 Use of common antenna structure.

The simultaneous use of a common antenna structure by more than one station authorized under this part, or by one or more stations of any other service may be authorized. The owner, however, of each antenna structure required to be painted and/or illuminated under the provisions of Section 303(q) of the Communications Act of 1934, as amended, shall install and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

30. Section 21.112 is revised to read as follows:

§ 21.112 Marking of antenna structures.

No owner, conditional licensee, or licensee of an antenna structure for which obstruction marking or lighting is required and for which an antenna structure registration number has been obtained, shall discontinue the required painting or lighting without having obtained prior written authorization therefor from the Commission. (For complete regulations relative to antenna marking requirements, see part 17 of this chapter.)

31. Section 21.117 is amended by revising paragraph (b) to read as follows:

§ 21.117 Transmitter location.

* * * * *

(b) The owner of the antenna structure should locate and construct such structure as to avoid making them hazardous to air navigation. (See part 17 of this chapter for provisions relating to antenna structures.) Such installation shall be maintained in good structural condition together with any required painting or lighting.

V.

PART 22—PUBLIC MOBILE SERVICES

32. The authority citation for Part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

33. Section 22.115 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

§ 22.115 Content of applications.

* * * * *

(a) * * *

(2) *Antenna structure registration.* Applications proposing the use of one or more new or existing antenna structures must contain the FCC Antenna Structure Registration Number, if assigned, of each such antenna structure for which Federal Aviation Administration (FAA) notification is or was required by part 17 of this chapter prior to its construction. If, at the time an application is filed, an FCC Antenna Structure Registration Number has not been assigned for any such antenna structure, the applicant must indicate in the application whether or not, as of the date the application is filed, the antenna structure owner has registered the antenna structure with the FCC in accordance with part 17 of this chapter.

(3) *FAA notification.* Before constructing a new antenna structure or increasing the height of an existing structure, an antenna structure owner may be required to obtain an FAA determination of No Hazard to Air Navigation. To obtain this determination, the FAA must be notified of the planned construction or alteration. Criteria used to determine whether FAA notification is required for any particular antenna structure are contained in part 17 of this chapter.

(i) Applications proposing to use a new antenna structure or an existing antenna structure for which the height is increased must indicate whether FAA notification is required by part 17 of this chapter.

(ii) If FAA notification is required by part 17 of this chapter, a copy of the FAA determination should be included in the application. However, if the FAA determination is not available at the time the application is filed, the application must include the following information in regard to the FAA notification: the name of the person that submitted the notification, the date the notification was submitted, and the location of the FAA office to which the notification was submitted.

(iii) If FAA notification is not required by part 17 of this chapter, the application must indicate such and, unless the reason therefor is obvious (e.g. antenna structure height is less than 6.10 meters above ground level), must contain a statement explaining why FAA notification is not required.

* * * * *

34. Section 22.365 is revised to read as follows:

§ 22.365 Antenna structures; air navigation safety.

Licensees that own their antenna structures must not allow these antenna structures to become a hazard to air navigation. In general, antenna structure owners are responsible for registering antenna structures with the FCC if required by part 17 of this chapter, and for installing and maintaining any required marking and lighting. However, in the event of default of this responsibility by an antenna structure owner, each FCC permittee or licensee authorized to use an affected antenna structure will be held responsible by the FCC for ensuring that the antenna structure continues to meet the requirements of part 17 of this chapter. See § 17.6 of this chapter.

(a) *Marking and lighting.* Antenna structures must be marked, lighted and maintained in accordance with Part 17 of this chapter and all applicable rules and requirements of the Federal Aviation Administration.

(b) *Maintenance contracts.* Antenna structure owners (or licensees and permittees, in the event of default by an antenna structure owner) may enter into contracts with other entities to monitor and carry out necessary maintenance of antenna structures. Antenna structure owners (or licensees and permittees, in the event of default by an antenna structure owner) that make such contractual arrangements continue to be responsible for the maintenance of antenna structures in regard to air navigation safety.

VI.

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES

35. The authority citation for Part 23 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303. Interpret or apply sec. 301, 48 Stat. 1081; 47 U.S.C. 301.

36. Section 23.28 is amended by adding a new paragraph (c) to read as follows:

§ 23.28 Special temporary authorization.

* * * * *

(c) Each application proposing construction of one or more new antenna structures or alteration of the overall height of one or more existing antenna structures, where FAA notification prior to such construction or alteration is required by part 17 of this chapter, must include the FCC Antenna Structure Registration

Number(s) for the affected structure(s). If no such number has been assigned at the time the application(s) is filed, the applicant must state in the application whether the owner has notified the FAA of the proposed construction or alteration and applied to the FCC for an Antenna Structure Registration Number in accordance with part 17 of this chapter. Applications proposing construction of one or more new antenna structures or alteration of the overall height of one or more existing antenna structures, where FAA notification prior to such construction or alteration is *not* required by part 17 of this chapter, must indicate such and, unless the structure is 6.10-meters or less above ground level (AGL), must contain a statement explaining why FAA notification is not required.

37. Section 23.39 is revised to read as follows:

§ 23.39 Antenna structures.

(a) *FAA notification.* Before the construction of new antenna structures or alteration in the height of existing antenna structures is authorized by the FCC, a Federal Aviation Administration (FAA) determination of "no hazard" may be required. To apply for this determination, the FAA must be notified of the planned construction. Criteria used to determine whether FAA notification is required for a particular antenna structure are contained in part 17 of this chapter. Applications proposing construction of one or more new antenna structures or alteration of the overall height of one or more existing antenna structures, where FAA notification prior to such construction or alteration is *not* required by part 17 of this chapter, must indicate such and, unless the reason is obvious (e.g. structure height is less than 6.10 meters AGL) must contain a statement explaining why FAA notification is not required.

(b) *Painting and lighting.* The owner of each antenna structure required to be painted and/or illuminated under the provisions of Section 303(q) of the Communications Act of 1934, as amended, shall operate and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

(c) *Antenna Structure Registration Number.* Applications proposing construction of one or more new antenna structures or alteration of the overall height of one or more existing structures, where FAA notification prior to such construction or alteration is required by part 17 of this chapter, must include the FCC Antenna Structure Registration Number(s) for the affected structure(s). If no such number has been assigned at the time the application is filed, the applicant must state in the application whether or not the antenna structure owner has notified the FAA of the proposed construction or alteration and applied to the FCC for an Antenna Structure Registration Number in accordance with part 17 of this chapter for the antenna structure in question.

38. Section 23.40 is removed and reserved.

VII.

PART 24—PERSONAL COMMUNICATIONS SERVICES

39. The authority citation for Part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309, and 332, unless otherwise noted.

40. A new § 24.55 is added to read as follows:

§ 24.55 Antenna structures; air navigation safety.

Licensees that own their antenna structures must not allow these antenna structures to become a hazard to air navigation. In general, antenna structure owners are responsible for registering antenna structures with the FCC if required by part 17 of this chapter, and for installing and maintaining any required marking and lighting. However, in the event of default of this responsibility by an antenna structure owner, each FCC permittee or licensee authorized to use an affected antenna structure will be held responsible by the FCC for ensuring that the antenna structure continues to meet the requirements of part 17 of this chapter. *See* § 17.6 of this chapter.

(a) *Marking and lighting.* Antenna structures must be marked, lighted and maintained in accordance with part 17 of this chapter and all applicable rules and requirements of the Federal Aviation Administration.

(b) *Maintenance contracts.* Antenna structure owners (or licensees and permittees, in the event of default by an antenna structure owner) may enter into contracts with other entities to monitor and carry out necessary maintenance of antenna structures. Antenna structure owners (or licensees and permittees, in the event of default by an antenna structure owner) that make such contractual arrangements continue to be responsible for the maintenance of antenna structures in regard to air navigation safety.

41. Section 24.416 is removed.

42. Section 24.816 is removed.

VIII.

PART 25—SATELLITE COMMUNICATIONS

43. The authority citation for Part 25 continues to read as follows:

Authority: Secs. 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 419–427; 47 U.S.C. 701–744; 47 U.S.C. 554.

44. Section 25.113 is amended by revising paragraph (c), redesignating paragraph (d) as paragraph (f), and adding new paragraphs (d) and (e) to read as follows:

§ 25.113 Construction permits.

* * * * *

(c) *FAA notification.* Before the construction of new antenna structures or alteration in the height of existing antenna structures is authorized by the FCC, a Federal Aviation Administration (FAA) determination of "no hazard" may be required. To apply for this determination, the FAA must be notified of the planned construction. Criteria used to determine whether FAA notification is required for a particular antenna structure are contained in part 17 of this chapter. Applications proposing construction of one or more new antenna structures or alteration of the overall height of one or more existing antenna structures, where FAA notification prior to such construction or alteration is *not* required by part 17 of this chapter, must indicate such and, unless the reason is obvious (*e.g.* structure height is less than 6.10 meters AGL) must contain a statement explaining why FAA notification is not required.

(d) *Painting and lighting.* The owner of each antenna structure required to be painted and/or illuminated under the provisions of Section 303(q) of the Communications Act of 1934, as amended, shall operate and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

(e) *Antenna Structure Registration Number.* Applications proposing construction of one or more new antenna structures or alteration of the overall height of one or more existing structures, where FAA notification prior to such construction or alteration is required by part 17 of this chapter, must include the FCC Antenna Structure Registration Number(s) for the affected structure(s). If no such number has been assigned at the time the application is filed, the applicant must state in the application whether or not the antenna structure owner has notified the FAA of the proposed construction or alteration and applied to the FCC for an Antenna Structure Registration Number in accordance with part 17 of this chapter for the antenna structure in question.

* * * * *

45. Section 25.119 is amended by adding a new paragraph (c) to read as follows:

§ 25.119 Application for special temporary authorization.

* * * * *

(c) Each application proposing construction of one or more earth station antennas or alteration of the overall height of one or more existing earth station antenna structures, where FAA notification prior to such construction or alteration is required by part 17 of this chapter, must include the FCC Antenna Structure Registration Number(s) for the affected satellite earth station antenna(s). If no such number has been assigned at the time the application(s) is filed, the applicant must state in the application whether the satellite earth station antenna owner has notified the FAA of the proposed construction or alteration and applied to the FCC for an Antenna Structure Registration Number in accordance with part 17 of this chapter. Applications proposing construction of one or more earth station antennas or alteration of the overall height of one or more existing earth station antennas, where FAA notification prior to such construction or alteration is *not* required by part 17 of this chapter, must indicate such and, unless the satellite earth station antenna is 6.10 meters or less above ground level (AGL), must contain a statement explaining why FAA notification is not required.

46. Section 25.130 is amended by adding a new paragraph (e) to read as follows:

§ 25.130 Filing requirements for transmitting earth stations.

* * * * *

(e) Each application proposing construction of one or more earth station antennas or alteration of the overall height of one or more existing earth station antennas, where FAA notification prior to such construction or alteration is required by part 17 of this chapter, must include the FCC Antenna Structure Registration Number(s) for the affected satellite earth station antenna(s). If no such number has been assigned at the time the application(s) is filed, the applicant must state in the application whether the satellite earth station antenna owner has notified the FAA of the proposed construction or alteration and applied to the FCC for an Antenna Structure Registration Number in accordance with part 17 of this chapter. Applications proposing construction of one or more earth station antennas or alteration of the overall height of none or more existing earth station antennas, where FAA notification prior to such construction or notification or alteration is *not* required by part 17 of this chapter, must indicate such and, unless the satellite earth station antenna is 6.10 meters or less above ground level (AGL), must contain a statement explaining why FAA notification is not required.

* * * * *

IX.

PART 73—RADIO BROADCAST SERVICES

48. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334.

49. Section 73.1213 is revised to read as follows:

§ 73.1213 Antenna structure, marking and lighting.

(a) The provisions of part 17 of this chapter (Construction, Marking, and Lighting of Antenna Structures), requires certain antenna structures to be painted and/or lighted in accordance with part 17.

(b) The owner of each antenna structure is responsible for ensuring that the structure, if required, is painted and/or illuminated in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be responsible for ensuring that the structure complies with applicable painting and lighting requirements.

50. Section 73.1690 is amended by revising paragraph (b)(1) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(b) * * *

(1) Any change in the location, or directional radiation characteristics of a directional antenna system. (See § 73.45 and § 73.150, AM; § 73.316, FM; or § 73.685, TV.)

* * * * *

51. Section 73.3533 is amended by adding a new paragraph (c) to read as follows:

§ 73.3533 Application for construction permit or modification of construction permit.

* * * * *

(c) In each application referred to in paragraph (a) of this section, the applicant will provide the Antenna Structure Registration Number (FCC Form 854R) of the antenna structure upon which it will locate its proposed antenna. In the event the antenna structure does not already have a Registration Number, either the antenna structure owner shall file FCC Form 854 ("Application for Antenna Structure Registration") in accordance with part 17 of this chapter or the applicant shall provide a detailed explanation why registration and clearance of the antenna structure is not necessary.

X.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

52. The authority citation for Part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, 554.

53. Section 74.22 is revised to read as follows:

§ 74.22 Use of common antenna structure.

The simultaneous use of a common antenna structure by more than one station authorized under this part, or by one or more stations of any other service may be authorized. The owner of each antenna structure is responsible for ensuring that the structure, if required, is painted and/or illuminated in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be responsible for ensuring that the structure complies with applicable painting and lighting requirements.

54. Section 74.551 is amended by adding a new paragraph (c) to read as follows:

§ 74.551 Equipment changes.

* * * * *

(c) Any application proposing a change in the height of the antenna structure or its location must also include the Antenna Structure Registration Number (FCC Form 854R) of the antenna structure upon which it will locate its proposed antenna. In the event the antenna structure does not have a Registration Number, either the antenna structure owner shall file FCC Form 854 ("Application for Antenna Structure Registration") in accordance with part 17 of this chapter or the applicant shall provide a detailed explanation why registration and clearance are not necessary.

55. Section 74.651 is amended by adding a new paragraph (d) to read as follows:

§ 74.651 Equipment changes.

* * * * *

(d) Any application proposing a change in the height of the antenna or its location must also include the Antenna Structure Registration Number (FCC Form 854R) of the antenna structure upon which it will locate its proposed antenna. In the event the antenna structure does not have a Registration Number, either the antenna structure owner shall file FCC Form 854 ("Application for Antenna Structure Registration") in accordance with part 17 of this chapter or the applicant shall provide a detailed explanation why registration and clearance are not necessary.

56. Section 74.1251 is amended by adding a new paragraph (d) to read as follows:

§ 74.1251 Technical and equipment modifications.

* * * * *

(d) Any application proposing a change in the height of the antenna structure or its location must also include the Antenna Structure Registration Number (FCC Form 854R) of the antenna structure upon which it proposes to locate its antenna. In the event the antenna structure does not have a Registration Number, either the antenna structure owner shall file FCC Form 854 ("Application for Antenna Structure Registration") in accordance with part 17 of this chapter or the applicant shall provide a detailed explanation why registration and clearance are not required.

XII.

PART 78—CABLE TELEVISION RELAY SERVICE

57. The authority citation for Part 78 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

58. Section 78.63 is revised to read as follows:

§ 78.63 Antenna structure marking and lighting.

The owner of each antenna structure is responsible for ensuring that the structure, if required, is painted and/or illuminated in accordance with part 17 of this chapter. In the event of default by the owner, each licensee shall be responsible for ensuring that the structure complies with applicable painting and lighting requirements.

59. Section 78.109 is amended by removing paragraph (a)(3), redesignating paragraphs (a)(4), (a)(5), (a)(6), (a)(7), and (a)(8) as (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7) respectively, and adding a new paragraph (c) to read as follows:

§ 78.109 Equipment changes.

* * * * *

(c) Any application proposing a change in the height of the antenna structure or its location shall include the Antenna Structure Registration Number (FCC Form 854R) of the structure upon which it proposes to locate its antenna. In the event the antenna structure does not have a Registration Number, the owner of the antenna structure shall file an FCC Form 854 ("Application for Antenna Structure Registration") in accordance with part 17 of this chapter or the applicant shall provide a detailed explanation as to why registration and clearance are not required.

XIII.

PART 80—STATIONS IN THE MARITIME SERVICES

60. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

61. Section 80.110 is revised to read as follows:

§ 80.110 Inspection and maintenance of antenna structure markings and associated control equipment.

The owner of each antenna structure required to be painted and/or illuminated under the provisions of Section 303(q) of the Communications Act of 1934, as amended, shall operate and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

XIII.

PART 87—AVIATION SERVICES

62. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

63. Section 87.75 is revised to read as follows:

§ 87.75 Maintenance of antenna structure marking and control equipment.

The owner of each antenna structure required to be painted and/or illuminated under the provisions of Section 303(q) of the Communications Act of 1934, as amended, shall operate and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

XIV.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

64. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

65. Section 90.441 is revised to read as follows:

§ 90.441 Inspection and maintenance of antenna structure marking and associated control equipment.

The owner of each antenna structure required to be painted and/or illuminated under the provisions of Section 303(q) of the Communications Act of 1934, as amended, shall operate and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

66. Section 90.443 is amended by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

XV.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

67. The authority citation for Part 94 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 and 332, unless otherwise noted.

68. Section 94.111 is amended by revising the section heading and introductory paragraph to read as follows:

§ 94.111 Inspection and maintenance of antenna structure marking and associated control equipment.

The owner of each antenna structure required to be painted and/or illuminated under the provisions of Section 303(q) of the Communications Act of 1934, as amended, shall operate and maintain the antenna structure painting and lighting in accordance with part 17 of this chapter. In the event of default by the owner, each licensee or permittee shall be individually responsible for conforming to the requirements pertaining to antenna structure painting and lighting.

* * * * *

69. Section 94.113 is removed.

XVI.

PART 95—PERSONAL RADIO SERVICES

70. The authority citation for Part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C 154, 303, unless otherwise noted.

71. Section 95.83 is amended by adding a new paragraph (a)(3) to read as follows:

§ 95.83 Additional information for stations with antennas higher than normally allowed.

(a) * * *

(3) Register the structure by submitting FCC Form 854. The requirements for antenna structure registration, painting, and lighting are found in part 17 of this chapter.

* * * * *

XVII.

PART 97—AMATEUR RADIO SERVICE

72. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 201–609, unless otherwise noted.

73. Section 97.15 is amended by revising paragraph (d) to read as follows:

§ 97.15 Station antenna structures.

* * * * *

(d) Further details as to whether an aeronautical study is required or if the structure must be registered, painted, or lighted are contained in part 17 of this chapter, Construction, Marking, and Lighting of Antenna Structures. To request approval to place an antenna structure higher than the limits specified in paragraphs (a), (b), and (c) of this section, the licensee must notify the FAA using FAA Form 7460–1 and the structure owner must register the structure using FCC Form 854.

* * * * *

[FR Doc. 96–1975 Filed 2–5–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. 95–51; Notice 2]

Passenger Automobile Average Fuel Economy Standards; Final Decision

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; granting an exemption from average fuel economy standard and establishing an alternative standard.

SUMMARY: This decision is issued in response to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for its model year (MY) 1997 passenger automobiles, and that lower alternative standards be established for it. This decision exempts Rolls-Royce and establishes an alternative standard of 15.1 mpg for MY 1997 for Rolls-Royce.

DATES: *Effective date:* March 22, 1996. This exemption and the alternative standards apply to Rolls-Royce for MY 1997.

Petitions for reconsideration: Petitions for reconsideration must be received no later than March 22, 1996.

ADDRESSES: Petitions for reconsideration of this rule should refer to the docket number and notice number cited in the heading of this notice and must be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta Spinner, Office of Market Incentives, NHTSA, 400 Seventh Street, SW, Washington DC 20590. Ms. Spinner's telephone number is: (202) 366–0846.

SUPPLEMENTARY INFORMATION:

Background

NHTSA is exempting Rolls-Royce from the generally applicable average fuel economy standard for 1997 model year (MY) passenger automobiles and establishing alternative standards applicable to Rolls-Royce for each of these model years. This exemption is issued under the authority of section 32902(d) of Chapter 329 of Title 49 of the United States Code (formerly section 502(c) of the Motor Vehicle Information and Cost Savings Act)(49 U.S.C. 32902(d)). Section 32902(d) provides that NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards for passenger automobiles if the agency concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and establishes an alternative standard for that manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one that manufactured (worldwide) fewer than 10,000 passenger automobiles in the second model year before the model year for which the exemption is sought (the affected model year) and that will manufacture fewer than 10,000 passenger automobiles in the affected model year. In determining maximum

feasible average fuel economy, the agency is required by section 32902(f) of the Act to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

Proposed Decision and Public Comment

This final decision was preceded by a proposal announcing the agency's tentative conclusion that Rolls-Royce should be exempted from the generally applicable MY 1997 passenger automobile average fuel economy standard of 27.5 mpg, and that an alternative standard of 15.1 mpg be established for Rolls-Royce for that model year (60 FR 37861; July 24, 1995). The agency did not receive any comments in response to the proposed decision.

NHTSA Final Determination

Therefore, the agency is adopting the tentative conclusions set forth in the proposed decision as its final conclusions, for the reasons set forth in the proposed decision. Based on the conclusions that the maximum feasible average fuel economy level for Rolls-Royce in MY 1997 is 15.1 mpg, that other Federal motor vehicle standards will not affect achievable fuel economy beyond the extent considered in the proposed decision, and that the national effort to conserve energy will not be affected by granting this exemption, NHTSA hereby exempts Rolls-Royce from the generally applicable passenger automobile average fuel economy standard for the 1997 model year and establishes an alternative standard of 15.1 mpg for Rolls-Royce for that year.

Regulatory Impacts

NHTSA has analyzed this decision, and determined that neither Executive Order 12866 nor the Department of Transportation's regulatory policies and procedures apply, because this decision is not a "rule," which term is defined as "an agency statement of general applicability and future effect." This exemption is not generally applicable, since it applies only to Rolls-Royce. If the Departmental policies and procedures were applicable, the agency would have determined that this action is not "significant." The principal impact of this exemption is that Rolls-Royce will not be required to pay civil penalties if it achieves a CAFE level equivalent to the alternative standard established in this notice. Since this decision sets an alternative standard at the level determined to be Rolls-Royce's maximum feasible average fuel economy, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act and determined that this decision will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which limit the amount of emissions per mile traveled. Thus, the quality of the air is not affected by this exemption and alternative standard. Further, since Rolls-Royce's MY 1997 automobiles cannot achieve better fuel economy than 15.1 mpg, granting this exemption will not affect the amount of gasoline consumed.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burdens on Rolls-Royce. It relieves the company from having to pay civil penalties for noncompliance with the generally applicable standard for MY 1997. Since the price of 1997 Rolls-Royce automobiles will not be affected by this decision, the purchasers will not be affected.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 531 is amended to read as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 continues to read as follows:

Authority: 49 U.S.C. 32902, delegation of authority at 49 CFR 1.50.

2. In 49 CFR 531.5, the introductory text of paragraph (b) is republished and paragraph (b)(2) is revised to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * * *

(2) Rolls-Royce Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0
1986	11.0
1987	11.2
1988	11.2
1989	11.2
1990	12.7
1991	12.7
1992	13.8
1993	13.8
1994	13.8
1995	14.6
1996	14.6
1997	15.1

* * * * *

Issued on: January 30, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2331 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies the California Highway Patrol's petition to amend Federal Motor Vehicle Safety Standard (FMVSS) 108, Lamps, reflective devices and associated equipment, to include requirements that no visible color other than white be emitted from headlamps at any axis. NHTSA's analysis of the petition concludes that this action would have no effect upon highway safety and would cause many if not all presently complying headlamps to be non-complying.

FOR FURTHER INFORMATION CONTACT: Richard L. Van Iderstine, Safety Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Van Iderstine's telephone number is: (202) 366–5275. His facsimile number is (202) 366–4329.

SUPPLEMENTARY INFORMATION: By letter dated May 31, 1995, Lt. R.B. Wineinger, Acting Commander, Hazardous Materials Section, Department of California Highway Patrol (CHP) petitioned the agency to amend FMVSS 108 to include requirements that no visible color other than white be emitted from headlamps at any axis.

CHP is concerned about the use of "Color-Clear™" headlamps manufactured and recently introduced by Philips Lighting Company ("the Headlamps"). CHP states that, with the Headlamps, the color red is clearly visible when viewing the lamp from off-axis positions. While CHP agrees that this does not approximate the red light emitted from red authorized emergency vehicle (AEV) warning lamps under static test conditions, it is concerned that such lamps could cause confusion under actual driving conditions where sight recognition time is often restricted to very short periods. CHP is also concerned about the potential for misuse or abuse of these lamps among certain segments of the public. CHP states that it does not wish to unduly restrict or burden the manufacturers of lamps and lighting devices, but does believe that any device which displays any amount of red light to the front of motor vehicles may have a negative impact on highway safety.

CHP states that the lamps are also unlawful under California law. California Vehicle Code Section 25950(a) reads, in part, as follows: "The emitted light from all lamps and the reflected light from all reflectors, visible from the front of the vehicle shall be white or yellow." CHP would like to prohibit the use of the Headlamps and any others that perform similarly, but believes that California is prohibited from doing this because FMVSS No. 108 pre-empts California law and the lamps meet the requirements of FMVSS 108.

Analysis of Petition: NHTSA personnel have viewed the Headlamps when operating and not operating. On April 26, 1995, Philips Lighting Company demonstrated the Headlamps and presented a report from ETL Testing Laboratories (ETL) that showed that the color of light from the Headlamps is identical to that of standard halogen headlamps. In response to a letter requesting an interpretation of the color requirements of FMVSS No. 108, on May 11, 1995, NHTSA wrote to the manufacturer of the Headlamps and agreed with its conclusion that the Headlamps were designed to conform to the FMVSS No. 108. During the demonstration NHTSA observed that the Headlamps are built with an internal honeycomb structure placed between the reflector and the lens. This honeycomb structure can be colored by the lamp manufacturer, and Philips had done so with the colors white, black, red and blue. Other colors appear to be feasible.

The structure appears colorless and almost invisible when viewed "on" axis (from straight ahead), whether the lamp is turned on or not. As the ETL test report stated, the structure appears to have no effect on the formation of the beam and the photometric performance. In the "on" state, the preponderance of light emitted is white when viewed with the human eye. At large off-axis angles to the side, some color does appear, and is noticeable when projected on a white screen. In the "off" state, as the off-axis viewing angle increases, the color of the honeycomb structure becomes apparent because of ambient light that enters the lamp and is reflected off the internal colored structure. In thinking about that demonstration, whether on or off, the agency believes that colored light from the Headlamp's internal structure would be less noticeable than colored light reflected off adjacent colored trim, and painted fenders and hoods of motor vehicles. These are permitted to be any color and as a consequence, may reflect any color as may headlamps without the inserted honeycomb structure.

CHP did not show that the Headlamps could cause onlookers to misidentify the vehicle as an AEV or that the Headlamps could somehow be misused to make onlookers misidentify the vehicle as an AEV. Accordingly, NHTSA is not convinced that the Headlamps present any danger to the public from either a highway safety or misrepresentation perspective.

An additional and very compelling issue is that which results from the specific language that CHP has asked to be incorporated in the FMVSS No. 108. CHP wants the lighting standard "to include requirements that no visible color other than white be emitted from headlamps at any axis." This requirement, if implemented, would have the effect of banning almost all headlamps that are manufactured for the U.S. market. This is because of the physics of light transmission through lenses. As light passes through prisms (the fluting patterns on headlamp lenses), the light path is bent to direct the light in directions chosen by the optical engineer. This is done to form the beam for compliance purposes and for achieving a safe highway beam. As the light is refracted in the prism, the light has the tendency to split into its constituent wavelengths, causing visible colors other than white to appear at the edges of the beam. These are rarely seen in the main part of the beam because of the multiples of light rays adding to each other and achieving white light. Where it can be noticed, however, is at extreme angles where there are large gradients between light and dark areas of the beam. Often red and blue color is visible in these regions. Thus, even headlamps that do not have the special internal features of the Headlamps will emit light in some parts of the beam pattern that is a color other than white. Under the CHP proposed language, most headlamps would be deemed non-complying after a test for emitting only white light.

Finding colors at the periphery of the beam pattern are of no highway safety consequence because the light levels are low, the locations are near the periphery of forward vision, relatively close to the vehicle, and target identification (as opposed to target noticeability) under these circumstances has never been identified as necessary of regulation. There is no safety justification for regulating such performance.

The petitioner believes that California Vehicle Code Section 25950(a) is preempted, and that California is thereby prohibited from enforcing the Code against the Headlamps. Under 49 U.S.C. 30103(b), no State may enact or continue in effect a standard covering the same aspect of performance as a FMVSS unless it is identical to the FMVSS. The purpose of the preemption clause is to relieve the burden on commerce that would ensue were States to have differing safety standards on the same aspect of performance. With respect to the color of headlamps, Section 25950(a) is, on its face, essentially identical to FMVSS No. 108. FMVSS No. 108 specifies white as the color for headlamps, while Section 25950(a) states that "[t]he emitted light from all lamps * * * visible from the front of the vehicle shall be white * * *." However, Section 25950(a), as interpreted by California, is not identical to FMVSS No. 108. While the Headlamps are white and thus meet the color requirement of FMVSS No. 108, they are regarded by California as failing to meet its requirement. The preemption clause requires State standards be identical not only on their face but also as interpreted. Thus, NHTSA concurs with California's conclusion that the preemption clause prohibits that State from prohibiting use of the Headlamps because of their color.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of the rulemaking proceeding. Accordingly, it denies the CHP petition.

Authority: 49 U.S.C. 30103, 30111 30162; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 1, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2492 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB88

Endangered and Threatened Wildlife and Plants; Final Rule To Delist Bidens cuneata (cuneate bidens), a Hawaiian Plant

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines to remove a plant, *Bidens cuneata* (cuneate bidens), from the List of Endangered Plants. This action is based on a review of the best available scientific and commercial data, which indicate that this plant is not a discrete taxonomic entity and therefore does not meet the definition of a species as defined by the Endangered Species Act of 1973, as amended (Act). Extensive studies associated with a recent revision of the Hawaiian members of the genus have concluded that *Bidens cuneata* is an outlying population of *Bidens molokaiensis*, which is common along the windward cliffs of the island of Molokai.

EFFECTIVE DATE: February 6, 1996.

ADDRESSES: The complete file for this final rule is available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Ecoregion, 300 Ala Moana Boulevard, Room 3108, P.O. Box 50088, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, Pacific Islands Ecoregion Manager, at the above address (808/541–2749).

SUPPLEMENTARY INFORMATION:

Background

The type specimen for *Bidens cuneata* was collected on Diamond Head, Oahu, by William A. Bryan on December 6, 1903, and was formally described by Earl E. Sherff in 1920 (Sherff 1920, Takeuchi 1980). Subsequent to its initial discovery, there were no further collections or observations of the species, leading botanists to believe that it could have gone extinct. In 1955, the species was rediscovered in the area where it was collected originally (Takeuchi 1980).

Hybrids of the Hawaiian *Bidens* species can readily be induced experimentally and result in highly fertile progeny, indicating a general lack of genetic barriers within the group. Based upon experimental crosses in the Hawaiian members of the genus, Gillette and Lim (1970) concluded that *Bidens cuneata* was a natural hybrid between *Bidens mauiensis*, native to the island of Maui, and *Bidens molokaiensis*, which is restricted to Molokai Island; however, few botanists accepted this conclusion. Citing the occurrence of natural and experimental hybrids, Gillette (1975) later contended that the 41 species of Hawaiian *Bidens* placed by Sherff in section *Campylotheca* should be considered a single species. Recent systematic studies of the genus (including additional experimental hybridizations) culminated in a revision of the Hawaiian members of the genus (Ganders and Nagata 1990). In this publication, *Bidens cuneata* was considered conspecific with *Bidens molokaiensis*, a common species found along the northern side of Molokai Island. *Bidens molokaiensis* occurs between sea level and 150 meters (500 feet) in elevation along the seashores, sea cliffs, talus slopes, and fields of northern Molokai from Hoolehua to Kaonihu, a distance of about 37 kilometers (23 miles) or about two-thirds the length of the island.

Previous Federal Action

Federal action on *Bidens cuneata* began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document *Bidens cuneata* was considered to be endangered. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act), and giving notice of its intention to review the status of the plant species named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including *Bidens cuneata*. The list of 1,700 plant species was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over two years old be withdrawn. A one-year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired.

Bidens cuneata was proposed for listing as an endangered species on August 23, 1982 (47 FR 36675). The public comment period ended on November 22, 1982. The final rule listing *Bidens cuneata* as an endangered species was published in the **Federal Register** on February 17, 1984 (49 FR 6099). On July 7, 1993, the Service published in the **Federal Register** (57 FR 47028) a proposal to delist *Bidens cuneata*. This proposal was based primarily on information from current taxonomic literature, which is the best scientific and commercial information available. The Service now determines *Bidens cuneata* should be delisted with the publication of this rule.

Summary of Comments and Recommendations

In the July 7, 1993, proposed rule (57 FR 47028) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting public comment was published in the "*Honolulu Advertiser*" on August 6, 1993. The public comment period ended on September 7, 1993. No comments were received.

Summary of Factors Affecting the Species

The Act and its implementing regulations, 50 CFR 424.11, require that certain factors be considered before a species can be listed, reclassified, or delisted. These factors and their application to Bidens cuneata Sherff (cuneate bidens) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Bidens cuneata* has been determined to be no more than an outlying population of *Bidens molokaiensis*, a common species native to the northern part of Molokai. Bidens molokaiensis is not significantly threatened with destruction, modification, or curtailment of its habitat throughout a significant portion of its range. The final rule (49 FR 6099) designating *Bidens cuneata* as an endangered species identified habitat degradation, possible reduction of reproductive success due to a decline of native pollinating insects, and potential fire hazards as threats contributing to the endangerment of that species. If *Bidens cuneata* were a valid taxon and met the definition of a species as described by the Act, then these factors would be relevant. However, since the entity shows no genetic integrity independent of *Bidens molokaiensis*, it cannot be scientifically defended as either a species or subspecies.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Such overutilization is not known to be a factor for *Bidens molokaiensis*, which includes *Bidens cuneata*.

C. *Disease or predation.* Disease or predation is not a threat to *Bidens molokaiensis*, which includes *Bidens cuneata*.

D. *The inadequacy of existing regulatory mechanisms.* Federal listing of a species as endangered or threatened automatically invokes listing under Hawaii State law, which prohibits taking of endangered plants in the state and encourages conservation by State agencies. State regulations prohibit the removal, destruction, or damage of plants found on State lands. This final rule may remove the protection of the State laws that this population presently enjoys as a federally listed species. It also requires the reevaluation of *Bidens cuneata* in the context of its status in State land use planning documents. However, since *Bidens molokaiensis* is a common species, this is not expected to have a detrimental effect.

E. *Other natural or manmade factors affecting its continued existence.* None known.

The regulations at 50 CFR 424.11(d) state that a species may be delisted if: (1) it becomes extinct, (2) it recovers, or (3) the original classification data were in error. The Service believes that the best current scientific information demonstrates that *Bidens cuneata* does not represent a valid taxonomic entity and, therefore, does not meet the definition of species as defined in section 3(15) of the Act.

In accordance with 5 U.S.C. 553(d), the Service has determined that this rule relieves an existing restriction and good cause exists to make the effective date of this rule immediate. Delay in implementation of this delisting would cost government agencies staff time and monies on conducting formal section 7 consultation on actions which may affect a species no longer in need of the protection under the Act. Relieving the existing restriction associated with this listed species will enable Federal agencies to minimize any further delays in project planning and implementation for actions that may affect *Bidens cuneata*.

Effects of Rule

The action to delist *Bidens cuneata* results in the removal of this species from the List of Endangered and Threatened Plants. Federal agencies are no longer required to consult with the Secretary of the Interior to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of *Bidens cuneata*. There is no designated critical habitat for this species. Federal restrictions on taking this species no longer apply. There are no specific preservation or management programs for the species to be terminated.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ganders, F.R., and K.M. Nagata. 1990. *Bidens:* in Wagner, W.L., D.R. Herbst, and S.H. Sohmer, Manual of the flowering plants of Hawai'i. University of Hawaii Press and Bishop Museum Press, Honolulu. Bishop Mus. Spec. Publ. 83:267–283.

Gillette, G.W. 1975. The diversity and history of Polynesian *Bidens*, section *Campylotheca*. Univ. Hawaii Harold L. Lyon Arbor. Lecture 6:1–32.

Gillette, G.W., and E.K.S. Lim. 1970. An experimental study of the genus *Bidens* (Asteraceae) in the Hawaiian Islands. Univ. Calif. Publ. Bot. 56:1–63.

Sherff, E.E. 1920. Studies in the genus *Bidens*. V. Bot. Gaz. 70:89–109.

Takeuchi, W. 1980. Unpublished status survey of *Bidens cuneata* Sherff. U.S. Fish and Wildlife Service, Honolulu, 29 pp.

Author

The author of this final rule is Marie M. Bruegmann, Pacific Islands Ecoregion (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.12 [Amended]

2. Section 17.12(h) is amended by removing the entry "*Bidens cuneata*" under "FLOWERING PLANTS" from the List of Endangered and Threatened Plants.

Dated: November 3, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 96–2488 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 61, No. 25
Tuesday, February 6, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212 and 264

[INS No. 1390–92]

RIN 1115–AD24

Mexican and Canadian Nonresident Alien Border Crossing Cards

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations by revising the guidelines to clarify and standardize procedures for the application and issuance of border crossing cards to citizens and residents of Mexico or Canada, or British subjects residing permanently in Canada who wish to enter the United States for business or pleasure. This proposed rule promotes uniformity and clarity in the application requirements, decision-making process, and issuance of entry documents, while enhancing effective and efficient border enforcement within the border crossing card program.

DATES: Written comments must be submitted on or before April 8, 1996.

ADDRESSES: Please submit written comments, in triplicate, to the Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper and timely handling please reference INS No. 1390–92 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Michael T. Jaromin, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street, NW., Room 7228, Washington, DC 20536, Telephone (202) 514–3275.

SUPPLEMENTARY INFORMATION:

Nonresident Alien Mexican Border Crossing Card

The Nonresident Alien Border Crossing Card, Form I–586 (BCC), is a document of identity issued by the Service at land border Ports-of-Entry (POEs) along the United States and Mexican border to accommodate Mexican nationals residing in the border area. Prevailing United States statutes and regulations require that Mexican nationals be in possession of valid travel documents to prove identity and nationality when applying for admission to the United States. To meet these requirements, the BCC is issued as a service to eligible Mexican citizens who are residents of Mexico for the purpose of facilitating their entry into the United States. A BCC may be used as the sole entry document by a Mexican citizen seeking to enter the United States for business (B–1) or pleasure (B–2) across a land border, or it may be presented in lieu of a B–1/B–2 nonimmigrant visa by a Mexican citizen seeking to enter the United States as a temporary visitor for business or pleasure at POEs other than land border crossings. A BCC holder entering the United States at a southern land border POE who will remain within 25 miles of the Mexican border for 72 hours or less requires no other immigration documentation. A BCC holder who wishes to remain in the United States for longer than 72 hours, or to travel beyond the 25-mile limit, must request permission. Depending on the circumstances of the request, Form I–444 (Mexican Border Visitors Permit) will be issued, or the person's visit to the United States will be controlled by issuing Service Form I–94. Form I–444 conveys permission to remain in the United States for up to 30 days and to travel anywhere within the states of Arizona, California, Nevada, New Mexico or Texas. Form I–94 is used to authorize entry to the United States beyond these states, or for longer periods of time. A BCC holder must remain a resident of Mexico to be eligible to retain and use the card.

The service first began issuing the current Form I–586 BCC in 1980. The previous version of the BCC, Nonresident Alien Mexican Border Crossing Card, Form I–186 BCC, is still in circulation and serves the same purpose. A Form I–186 BCC in the possession of the rightful cardholder remains valid until revoked or voided, and may be replaced by Form I–586 BCC if it becomes lost, stolen or mutilated, or if the applicant requests a new card for other reasons, such as a name change. The current Form I–586 has a 10 year validity.

When the Service originally began issuing BCCs in the early 1950's the BCCs were issued sparingly and with an expiration date. Over the years, an erosion in the original stringent standards for BCC issuance and a lack of uniformity in issuance procedures from one POE to another have resulted in a large expenditure of time and effort in the detection of mala fide applicants and the revocation of BCCs that have been misused or fraudulently obtained. In Fiscal Year 1993, nearly 25,000 BCCs were intercepted by the Service after issuance for reasons of fraud, counterfeiting, alteration, use by impostors, and other improper use.

The lack of uniformity in issuance procedures has been raised periodically over the years. The changes to the Mexican BCC issuance procedures proposed in this rule were recommended at a border crossing card workshop comprised of representatives from Service Headquarters and the Service's Regional Offices, who determined that current regulations should be amended to strengthen and clarify the border crossing card application process. Additional suggestions came from field offices involved in issuance of the BCC.

Requirements and Procedures for Issuance

The documentary evidence necessary for the adjudication of a BCC is similar to that required for a nonimmigrant visa filed at an American Consulate in Mexico. The specific evidentiary requirements may be found at 8 CFR 212.6(b). The purpose of this documentation is to establish that the applicant is a Mexican citizen, has a domicile in Mexico which he or she has no intention of abandoning, and is likely to have adequate funds to pay for all expenses during any proposed visits to the United States. The applicant for a BCC must also meet the definition of a visitor for business or a visitor for pleasure as defined in section 101(a)(15)(B) of the Immigration and Nationality Act (Act). Section 214(b) of the Act also provides that these conditions be met before issuance of an entry document.

Currently, the documents accepted and standards used in the issuance of the BCC vary widely in different areas, causing inconsistencies in the ability to obtain the benefit, and frequent interception and revocation of BCCs that have been misused or fraudulently obtained. This rule proposes to clarify the standards for issuance of border crossing cards by providing a list of documentary evidence that the applicant may present to a Service officer to establish residence and economic solvency. The list of evidence is comprehensive enough to allow for flexibility on the part of both the applicant and the adjudicating officer, and includes documents that may be accepted as primary as well as secondary evidence.

Insufficient personnel resources, seasonal fluctuations in vehicular and pedestrian traffic, and uneven distribution of application workload have all contributed to increased waiting times for appointments, adjudication of applications, and issuance of BCCs. To help alleviate the increased waiting period for BCC applicants, this rule proposes to expedite the process by providing guidelines for issuance of temporary border crossing documents to applicants who have no prior violations and who appear to meet all requirements for issuance.

The BCC is intended for use by Mexicans living in the immediate border area who are frequent crossers. Because of the disparity in population concentration in Mexican border states, it is difficult to uniformly define the term "border area" for purposes of determining who may apply for a BCC at a Port-of-Entry. Currently, some POEs accept applications from residents of area far distant from the border, resulting in overwhelming workload and diversion of staff from the primary function of inspecting vehicular and pedestrian traffic, which is a mandatory, statutory duty that must take precedence over BCC issuance. In attempting to obtain an equitable distribution of workload, neither limiting nor unduly burdening any particular district, the Service conducted a survey of Service districts along the Mexican border for their opinions concerning the distance into Mexico from which to accept applications. Since population distribution varies so greatly, this rule proposes to set a maximum geographical jurisdiction for acceptance of BCC applications by Service districts based upon the corresponding Mexican state boundaries. It also allows some discretion on the part of the district director to account for population concentrations along the border, by permitting further limitation or subdivision within that area. One example of this discretion might be for a district director to limit applications for BCCs to Mexican citizens living within a specified number of miles from the border. Another example might be for the district director to specify which of several Ports-of-Entry will accept applications, according to the place of residence in Mexico.

Canadian Nonresident Alien Border Crossing Card

The Form I–185, Nonresident Alien Canadian Border Crossing Card (CBCC), is an identity document intended to facilitate the entry into the United States of certain Canadian citizens, and British subjects who are lawful permanent residents of Canada. Since the passport and visa requirements are waived by regulation for Canadian citizens and British subjects residing in Canada when crossing the United States-Canadian border, the CBCC is generally issued to an eligible applicant who is inadmissible to the United States pursuant to section 212(a) of the Act, and who has been granted a waiver of that inadmissibility pursuant to section 212(d)(3)(B) of the Act. According, the CBCC acts as evidence of a permanent waiver of inadmissibility for the holder of the document, because the CBCC currently is valid until revoked.

Current regulations relating to the issuance of CBCCs are included in the provisions for issuance of Mexican BCCs. The proposed regulatory language segregates the provisions of issuance of the two documents and separately addresses issues relating to use of the BCC and CBCC, procedures for application, and procedures and grounds for denial. Variances in application procedures are in part made necessary due to differing documentary requirements for entry to the United States for Mexican nationals and Canadian nationals. Additionally, the volume of applications for the BCC far exceeds that of the CBCC. The proposed rule also proposes an expiration date.

The CBCC has traditionally been used by individuals seeking entry as B–1 or B–2 visitors for business or pleasure. While use of the CBCC for entry is not restricted to these nonimmigrant categories, the proposed language specifically includes entry in any nonimmigrant classification for which a visa is not required. This language will allow the holder of a CBCC to seek entry in all nonimmigrant categories except E (Treaty Trader/Investor) and K (Fiance/Fiancee), and will serve to facilitate the entry of business persons and thereby comport with provisions of the North American Free Trade Agreement (NAFTA).

The current regulation contains no provision for denial of an application made on Form I–175, Application for Non-Resident Alien's Canadian Border Crossing Card. The proposed rule addresses both the procedural and substantive aspects of denial of Form I–175. No form is currently in use for denial of Form I–175. The proposed rule allows for denial to be made by letter from the district director, thereby precluding the need for distribution of a new form. No appeal from a denial will be available. In cases where a waiver of excludability has been denied, or where the waiver is valid for a restricted number of entries, the proposed rule provides that the Form I–175 application for a CBCC shall also be denied. When restrictions have been placed on the waiver, the district director has the discretion to deny issuance of the CBCC.

As stated previously, the CBCC is currently valid until revoked or voided. The proposed rule provides for a change in the term of validity of the CBCC and allows for issuance of a card valid for a maximum period of 10 years. Aliens who presently submit Form I–192, Application for Advance Permission to Enter as Nonimmigrant (for advance permission to enter as nonimmigrants) are issued waiver forms valid for 6 months to 1 year. Regulations at 8 CFR 212.4(c) allow for such waivers, if granted in conjunction with issuance of a CBCC, to be valid for the validity period of the border crossing card. The proposed rule will allow for periodic review of the cases of those aliens who have applied for and been granted CBCCs. Limiting the period of validity for the CBCC is consistent with the Service practice of limiting validity of other similar identity documents.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors: The BCCs and CBCCs are applied for by individuals, not small entities; and, the rule simply codifies policies and procedures that have been in place for

many years, imposing no additional burden on applicants or small entities.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulations proposed herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the Provisions of the Paperwork Reduction Act. Clearance numbers for these collection are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 264

Aliens, Registration and fingerprinting, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; and 8 CFR part 2.

2. Section 212.6 is amended by:

a. Revising paragraphs (a) and (b);

b. Removing paragraphs (c) and (f); and by

c. Redesignating paragraphs (d) and (e) as paragraphs (c) and (d) respectively, to read as follows:

§ 212.6 Nonresident alien border crossing cards.

(a) *Mexican.* (1) *Use of Nonresident Alien Border Crossing Cards.* The rightful holder of a Nonresident Alien Mexican Border Crossing Card, Form I–186, or Nonresident Alien Border Crossing Card, Form I–586, applying for admission from contiguous territory as a visitor for business or as a visitor for pleasure, may be admitted under § 235.1(f) and (g) of this chapter if found otherwise admissible. Persons in possession of Form I–186 may continue its use because it serves the same purpose as the Form I–586, which is the card currently issued. The Form I–186 remains valid until revoked or voided, and may be replaced by Form I–586 if it becomes lost, stolen or mutilated, or if the applicant requests a new card. An alien in possession of Form I–186 or Form I–586 seeking entry as a visitor for business or pleasure must also present a valid passport and shall be issued Form I–94 if the alien is applying for admission from:

(i) A country other than Mexico or Canada, or

(ii) Canada if the alien has been in a country other than the United states or Canada since leaving Mexico.

(2) *Application.* A citizen of Mexico must apply for a nonresident border crossing card on Form I–190, Application for Nonresident Alien Mexican Border Crossing Card. To be considered a complete application, the Form I–190, Application must be accompanied by:

(i) Evidence of Mexican citizenship in the form of a valid, unexpired Mexican international passport or a valid Mexican Form 13;

(ii) Three color photographs with a white or off-white background. The photographs must be glossy or matte finish, unretouched, and not mounted. The dimensions of the facial image must be approximately 1 inch from the chin to the top of the hair and from the left cheek to the right ear, and the applicant must be shown in a ¾ frontal view showing the right side of the face with both the right ear and left eye visible; and,

(iii) Proof that the applicant has a foreign residence abroad which he or she has no intention of abandoning. Proof includes but is not limited to evidence of economic solvency and established residence in Mexico for a minimum period of the past 6 months immediately prior to the date of the applicant's interview.

(A) *Primary evidence of employment or economic solvency.* Evidence of employment or economic solvency may consist of but is not limited to: pay checks, salary stubs, or an original pay receipt list (no photocopies) where the employee signed for salary for a minimum period of the last 6 months, or evidence of business ownership and current local government business licenses, and local, state, and Federal tax receipts for the current year. An applicant who is not self-supporting must be accompanied at the time of applicant's interview by the person providing support, or the applicant must provide sufficient documentary proof of support, as previously described, on behalf of the person providing support. In cases where an applicant claims to be married to the person providing support, his or her marriage certificate must be presented.

(B) *Secondary evidence of economic solvency (to overcome deficiencies in primary evidence).* Evidence may consist of but is not limited to: current bank statements or transactions showing continuous solvency for a minimum period of the last 6 months immediately prior to the date of interview, or if the applicant is a member of the Mexican Social Security Health Plan, the most recent payment receipt and/or recent identification showing current membership, showing economic solvency.

(C) *Primary evidence of residence abroad.* If an applicant is renting his or her residence, evidence may consist of but is not limited to: rent receipts, utility receipts, or a rental agreement bearing the applicant's name. If an applicant is the property owner of his or her residence, evidence may consist of the residential property deed, utility receipts for the claimed place of residence bearing the applicant's name, or current property tax receipts. When an applicant resides with relatives, the officer may accept evidence of residence in the relative's name if the residential relationship is established to the satisfaction of the adjudicating officer.

(d) *Other forms of secondary evidence of residence abroad which may be accepted.* Evidence may consist of but is not limited to: a manifest of acreage farmed signed by the Secretary of Agriculture with an official seal from the local government, a letter from the Municipal Inspector of Cattle stating the size of an applicant's herd and/or evidence of brand registration, identification card indicating applicant is a cattle rancher or farmer, bookkeeping records, postmarked correspondence, and, if a student, school records. If applying for a border crossing card during the summer vacation, a student's previous school year documents and evidence of intention to enroll for the following school year are required.

(3) *Submission of Form I–190.* (i) Form I–190, Application for Non-Resident Alien's Mexican Border Crossing Card, shall be properly completed and submitted in accordance with § 212.6(a)(3)(ii) of this part to an immigration officer at a southern land border Port-of-Entry.

(ii) Only residents of the border states in Mexico are eligible to file Form I–190 with an immigration officer at a southern land border Port-of-Entry. District directors may also, at their discretion, further subdivide their area of jurisdiction among specific Port-of-Entry within a district, or further limit the area from which Mexican residents may apply. These limitations may include, but are not restricted to, accepting applications only from residents of a specific municipality with a Mexican border state, or from Mexican nationals residing within a specific distance from the border. The maximum geographical jurisdiction for acceptance of applications for a border crossing card at a Port-of-Entry shall be divided as follows:

(A) The San Diego District may only accept applications from residents of the State of Baja California;

(B) The Phoenix District may only accept applications from residents of the State of Sonora;

(C) The El Paso District may only accept applications from residents of the State of Chihuahua;

(D) The San Antonio District may only accept applications from residents of the States of Coahuila, Nuevo Leon, and the city of Nuevo Laredo;

(E) The Harlingen District may only accept applications from residents of the States of Nuevo Leon and Tamaulipas.

(iii) An applicant who does not reside within this designated border area in Mexico must apply to the American consulate having jurisdiction over his or her place of residence for a nonimmigrant visa or Border Crossing Card.

(4) *Interview.* Each applicant, regardless of age, must appear in person for an interview concerning eligibility for a nonresident alien border crossing card. However, the district director may waive the interview requirement for children under 6 years of age where the parent(s) or legal guardian(s) have a Border Crossing Card.

(5) *Denial of Form I–190.* If the applicant cannot demonstrate that he or she has a foreign residence which he or she has no intention of abandoning, his or her application for a border crossing card shall be denied. If the application is denied, the applicant shall be given a written notice of denial and the reasons for the denial. There is no appeal form the denial of the Form I–586. The applicant is not precluded form filing a new application, however, the applicant may not submit a subsequent application for a border crossing card to the Service for at least 180 days.

(6) *Issuance of temporary card.* Prior to the interview with an applicant, the Service will complete appropriate database inquiries for each applicant over the age of 14. Following adjudication by an immigration officer, if the application is approved, a temporary document shall be issued using the third copy of the Form I–190. A photo of the applicant shall be affixed to the temporary document, with the admission stamp partially covering the photo. A scheduled date for pick up of the Form I–586 BCC shall also be stamped on the form. The temporary document shall be issued for a specified period of time in increments to be determined by the district director, based on the current timeframe needed for card production and mailing from the Immigration Card Facility. However, the district director may decline to issue a temporary document if the timeframe for card production and mailing from the Immigration Card Facility is 30 calendar days or less.

(7) *Validity.* The Form I–586 BCC shall be valid for 10 years from the date of issuance or until revoked or voided by the service. Notwithstanding any expiration date which may appear thereon, Form I–186 BCC is valid until revoked or voided. Any Form I–186 BCC or Form I–586 BCC issued to a minor child must be surrendered within 30 days of the child attaining the age of 14 years, and a new Form I-586 BCC may be issued bearing the holder's signature and fingerprint upon submission of a new Form I–190, without fee, and evidence of continued eligibility.

(b) *Canadian.* (1) *Use of Nonresident Alien Canadian Border Crossing Card, Form I–185.* Any Canadian citizen or lawful permanent resident (landed immigrant) of Canada having a common nationality with nationals of Canada, may use Form I–185 CBCC for entry at a United States Port-of-Entry. Entry may be made in any nonimmigrant classification which does not require prior issuance of a visa pursuant to § 212.1.

(2) *Application.* A citizen of Canada or a lawful permanent resident of Canada having a common nationality with nationals of Canada must apply for a non-resident alien border crossing card on Form I–175, Application for Nonresident Alien's Canadian Border Crossing Card, in duplicate. To be considered a complete application, the Form I–175 must be accompanied by the following:

(i) Evidence of Canadian citizenship, or if a permanent resident of Canada, evidence of valid landed immigrant status and evidence of having common nationality with nationals of Canada;

(ii) Proof that the applicant has a foreign residence abroad which he or she has no intention of abandoning;

(iii) Three color photographs with a white or off-white background. the photographs must be glossy or matte finish, unretouched, and not mounted The dimensions of the facial image must be approximately 1 inch from the chin to the top of the hair and from the left cheek to the right ear, and the applicant must be shown in a ¾ frontal view showing the right side of the face with both the right ear and left eye visible; and,

(iv) A fee as prescribed in § 103.7(b)(1) of this chapter.

(v) Additionally, those applicants who are seeking issuance of Form I–185 to function as a waiver of inadmissibility shall submit, in conjunction with Form I–175, a completed Form I–192, Application for Advance Permission to Enter as a Nonimmigrant, and all required documentation pursuant to § 212.4 of this chapter.

(3) *Submission of Form I–175.* Form I–175 shall be properly completed and submitted to an immigration officer at a Canadian border Port-of-Entry located within the district having jurisdiction over the applicant's residence or intended Port-of-Entry.

(4) *Denial of Form I–175.* In the case of an applicant seeking a waiver of inadmissibility, Form I–175 shall be denied in each case in which the accompanying Form I–192 is denied. In the case of an applicant for whom a Form I–192 has been approved for a restricted number of entries, Form I–175 shall be denied. In the case of an applicant for whom a Form I–192 has been approved for multiple entries, Form I–175 may be denied at the discretion of the district director if the waiver is the first such waiver granted to the applicant, or if the waiver order contains any restrictions or limitations on the alien's entry. If the Form I–175 application is denied, the applicant shall be given written notice of and the reasons for the denial by letter form the district director. There is no appeal from the denial of Form I–175, but the denial is without prejudice to a subsequent

application for admission to the United States. The applicant is not precluded from filing a new application, however, the applicant may not submit a subsequent application for a border crossing card to the Service for at least 180 days.

(5) *Issuance of Form I–185.* Following approval of Form I–175, each applicant is required to appear in person for issuance of Form I–185, Nonresident Alien Canadian Border Crossing Card.

(6) *Validity.* Form I–185 shall be valid for 10 years from date of issuance, or until revoked or voided.

* * * * *

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

3. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301–1305.

4. In § 264.1, paragraph (b) is amended by adding in proper numerical sequence the entry for Form "I–586", to read as follows:

§ 264.1 Registration and fingerprinting.

* * * * *

(b) * * *

* * * * *

I–586, Nonresident Alien Border Crossing Card—Citizens of Mexico residing in Mexico.

* * * * *

5. Section 264.4 is revised to read as follows:

§ 264.4 Application to replace a Nonresident Alien Border Crossing Card.

Pursuant to § 212.6(d) of this chapter, an application for a replacement Nonresident Alien Canadian Border Crossing Card must be filed on Form I–175, and an application for a replacement Nonresident Alien Border Crossing Card for Mexican citizens must be filed on Form I–190. A fee for the filing of either Form I–175 or Form I–190, as prescribed in § 103.7(b) of this chapter, must be submitted at the time of application.

Dated: December 10, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–2453 Filed 2–5–96; 8:45 am]

BILLING CODE 4410–10–M

8 CFR Part 274a

[INS No. 1713–96]

RIN 1115–AB73

Extension of Application Deadline for Participation in the Demonstration Project Concerning Electronic Options for Processing of Forms I–9

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice extending deadline for submission of applications.

SUMMARY: The Immigration and Naturalization Service (Service) published a notice in the **Federal Register** on November 30, 1995 at 60 FR 61630. The notice provided application requirements and guidance to businesses, consortium of businesses, or other employing entities which might be interested in participating in a demonstration project dealing with the electronic production and/or storage of a Form I–9, Employment Eligibility Verification Form. The proposed demonstration project discussed in the notice was the result of numerous inquiries made by members of the business community expressing a desire to electronically produce and/or store the Form I–9.

This subsequent notice serves to inform the public that the Service has decided to extend the deadline for applications for the demonstration project. This extension is in response to the considerable number of requests the Service has received from the business community to allow for additional time to prepare applications.

DATES: Written applications, responding to all of the Application Requirements and Criteria cited in the November 30, 1995 **Federal Register** notice published at 60 FR 61630, or available on the Internet at gopher:justice.usdoj.gov, must be submitted on or before March 8, 1996.

ADDRESSES: Please submit an original application and five copies to the Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536, Attention: Form I–9 Demonstration Project.

FOR FURTHER INFORMATION CONTACT: Robert Atwater, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536, telephone (202) 514–2998.

Dated: February 1, 1996.

Doris Meissner,

Commissioner.

[FR Doc. 96–2486 Filed 2–1–96; 2:12 pm]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AF23

Petition for Rulemaking; Procedure for Submission

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing a notice of proposed rulemaking published in the **Federal Register** on March 28, 1995 (60 FR 15878), pertaining to petitions for rulemaking. The proposed rule would have provided incentive of more expeditious disposition by the NRC to those petitioners who submitted detailed supporting information in their petitions which facilitated NRC review. The proposed rule would also have delineated factors that affect priorities for review of the petitions. In lieu of the proposed rulemaking, the information in the proposed rule together with additional guidance will be provided in a Regulatory Guide to be developed by the NRC and distributed to the industry and the public.

FOR FURTHER INFORMATION CONTACT: T.Y. Chang, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6450.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 1995 (60 FR 15878), the NRC published a notice of proposed rulemaking for public comment in the **Federal Register**, entitled "Petition for Rulemaking; Procedure for Submission", to amend § 2.802, Petition for Rulemaking. The proposed rule would have provided incentive of more expeditious disposition by the NRC to those petitioners who submitted detailed supporting information in their petitions which facilitated NRC review. The proposed rule would also have delineated factors that affect priorities for review of the petitions.

Twelve comment letters were received on the proposed rule. The industry and various Federal and local governmental agencies generally commended the NRC for proposing ways to improve the process of petitioning for rulemaking, but most commenters thought it is unnecessary to codify the criteria for expedited processing of petitions for rulemaking in the Code of Federal Regulations.

Instead, it was suggested that documents such as regulatory guides and information letters, which are guidance rather than rules, were more appropriate vehicles to provide this information.

Three of the four nonnuclear, nongovernment commenters also opposed the proposed rulemaking, on the grounds that (1) the NRC was passing off its responsibilities for analysis and documentation to the public, who could not possibly undertake this type of burden, and (2) the NRC might ignore safety issues raised by the public that might not be thoroughly documented in favor of issues that would be beneficial to the industry and that were well documented but were not real safety issues.

These two aspects were fully discussed in the proposed rule. The proposed rule stated that "The proposed changes would afford any petitioner two options: submit the minimal threshold information in the petition that is required by the current rule and be subject to the regular processing procedures, or submit more detailed supporting information and analyses in the petition in return for a more expeditious processing procedure by the NRC. The proposed revisions would not change any existing provision regarding petitions for rulemaking if they meet the minimum threshold requirement of the current § 2.802(c)." Further, the proposed rule stated that "Consideration of safety significance is the first criterion for prioritizing the review and disposition of petitions. It is the primary concern of the NRC to ensure that design and operation of NRC licensed facilities are carried out in a manner which assures adequate protection of public health and safety, of the environment, and of national security. Therefore, petitions found by the NRC to raise a concern in this regard would receive immediate NRC attention." In addition, the proposed rule stated that "Petitions containing supporting information additional to those currently required would improve their priority for review and receive more expeditious disposition."

The NRC originally proposed to amend the current § 2.802 as a rule change. After reviewing comments on the proposed § 2.802, however, the NRC became convinced that there is strong merit in the comments recommending against codification of the criteria for expedited processing of the petitions for rulemaking, because (1) the proposed procedure does not impose mandatory requirements, and (2) the proposed procedure is clearly of an administrative nature.

Therefore, the proposed rule is not required and is being withdrawn, and the information in the proposed rule will be provided in a Regulatory Guide to be developed by the NRC and distributed to the industry and the public. In addition to the information originally intended to be included in the revised § 2.802, the Regulatory Guide will also provide guidance for preparation of more detailed petitions for rulemaking.

Furthermore, as mentioned in the proposed rule, the NRC has identified a need to establish an administrative framework to facilitate concerned parties submittal of proposals to issue, amend, or rescind any generic regulatory guidance document. Generic regulatory guidance documents are documents such as regulatory guides, bulletins, generic letters and sections of the Standard Review Plan (including Branch Technical Positions), which do not have the force and effect of a regulation, but are used by the NRC to identify or clarify acceptable NRC staff positions which comply with NRC regulations. A formal procedure which enables interested parties to propose changes to these regulatory guidance documents does not now exist. Therefore, a separate Regulatory Guide will be developed by the NRC to provide guidance for preparation and submission of proposals for generic regulatory guidance documents.

Dated at Rockville, Maryland, this 31st day of January, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–2437 Filed 2–5–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASO–7]

Proposed Amendment to Class D Airspace and Establishment of Class E Airspace; Jackson, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class D surface area airspace and establish Class E surface area arrival extension airspace at Jackson, TN. The arrival extension, which is currently part of the Class D airspace area, is greater than 2 miles and must be redesignated as Class E4 airspace.

DATES: Comments must be received on or before March 23, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 96–ASO–7, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96–ASO–7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D surface area airspace and establish Class E surface area arrival extension at Jackson, TN. The arrival extension, which is currently part of the Class D airspace area, is greater than 2 miles and must be redesignated as Class E 4 airspace. Class D airspace designations and Class E airspace designations for airspace areas designated as an extension to a Class D surface area are published in Paragraphs 5000 and 6004 of FAA Order 7400.9C respectively, dated August 17, 1995, and effective September 16, 1995, which are incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO TN D Jackson, TN [Revised]

McKellar-Sipes Regional Airport, TN
(Lat. 35°35′59″N, long. 88°54′56″W)

That airspace extending upward from the surface to and including 2900 feet MSL within a 4.2-mile radius of the McKellar-Sipes Regional Airport. This Class D airspace area is effective during the specific days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * * * *

Paragraph 6004 Class E airspace areas designated as as extension to a Class D surface area.

ASO TN E4 Jackson, TN [New]

McKellar-Sipes Regional Airport, TN
(lat.35°35′59″N, long.88°54′56″W)
McKellar VOR/DME
(lat.35°36′13″N, long.88°54′38″W)

That airspace extending upward from the surface within 3.1 miles each side of the McKellar VOR/DME 206° radial, extending from the 4.2-mile radius of the McKellar-Sipes Regional Airport to 7 miles southwest of the VOR/DME. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * * * *

Issued in College Park, Georgia, on January 25, 1996.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–2511 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–ASO–20]

Proposed Establishment of Federal Colored Airway B–9; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would establish a Colored Federal Airway, Blue-9 (B–9), from the DEEDS Intersection to the Marathon Nondirectional Beacon (NDB), FL. The establishment of B–9 would accommodate the users of that airspace and enhance air traffic service.

DATES: Comments must be received on or before March 21, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 95–ASO–20, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–ASO–20." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Colored Federal Airway, B–9, from the DEEDS Intersection to the Marathon NDB. B–9 would be established as a route preferred by pilots transitioning over water to areas south of Miami. Establishing this route would accommodate the users of that airspace and enhance air traffic service. Colored Federal airways are published in paragraph 6009(d) of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Colored Federal airway listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6009(d)—Blue Federal Airways

* * * * *

B–9 [New]

From INT Pahokee, FL, 211°T(211°M) and Fort Myers, FL, 138°T(140°M) radials; Marathon, FL.

* * * * *

Issued in Washington, DC, on January 26, 1996.

Nancy B. Kalinowski,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 96–2513 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 95–AGL–15]

Proposed Modification of Class E Airspace; Alliance, OH, Salem, OH and Youngstown, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class E5 airspace area at Youngstown-Warren Regional Airport, Youngstown, OH and to revise the exclusionary language in the Class E5 airspace designations for Alliance, OH and Salem, OH, due to the closing of the Youngstown Executive Airport, Youngstown, ON, on August 15, 1995. The intent of this proposal is to provide adequate controlled airspace for the existing procedures at Youngstown, OH and to correct the airspace designations at Alliance and Salem, OH, to reflect the closure of Youngstown Executive Airport.

DATES: Comments must be received on or before March 6, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 95–AGL–15, 2300 East Devon Avenue, Des Plaines, Illinois 60018. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Griffith, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–ALG–15." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specific closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East

Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E5 airspace at Youngstown-Warren Regional Airport, Youngstown, Ohio and to revise the language for the Class E5 airspace designations for Alliance, OH and Salem, OH. The closing of the Youngstown Executive Airport, Youngstown, OH on August 15, 1995 and deletion of the airport's VOR Runway 11/29 Standard Instrument Approach Procedure (SIAP), requires that the FAA modify the airspace to ensure that the procedures at Youngstown-Warren Regional Airport are within controlled airspace. In addition this proposal would appropriately identify the Alliance and Salem, OH, Class E airspace designations by revising the exclusionary language. The modified areas would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the areas or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated, August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Alliance, OH

Alliance, Barber Airport, OH
(Lat. 40°58'54" N, long. 81°02'31" W)
Sebring, Tri-City Airport, OH
(Lat. 40°54'21" N, long. 81°00'00" W)

That airspace extending upward from 700 feet above the surface within a 6.2-mile radius of Barber Airport and within a 6.2-mile radius of the Tri-City Airport.

* * * * *

AGL OH E5 Salem, OH

Salem Airpark Incorporated Airport, OH
(Lat. 40°56'53" N, long. 8°51'43" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Salem Airpark, Inc. Airport, excluding that airspace within the Alliance, OH; North Lima, OH; and Sebring, OH, Class E airspace areas.

* * * * *

AGL OH E5 Youngstown-Warren Regional Airport, OH
(Lat. 41°15'32" N, long. 80°40'34" W)
Youngstown, Landsdowne Airport, OH
(Lat. 41°07'50" N, long. 80° 37'10" W)
Youngstown VORTAC
(Lat. 41°19'52" N, long. 80°40'29" W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Youngstown-Warren Regional Airport and within 3.1 miles each side of the Youngstown VORTAC 358° radial extending from the 6.9-mile radius to 10 miles north of the VORTAC, and within the 6.2-mile radius of the Lansdowne Airport.

* * * * *

Issued in Des Plaines, Illinois on March 7, 1996.

Maureen Woods,

Acting Manager, Air Traffic Division.

[FR Doc. 96–2508 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 409

Trade Regulations Rule Concerning the Incandescent Lamp (Light Bulb) Industry

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Trade Commission ("Commission" or "FTC") announces the commencement of a rulemaking proceeding to consider whether or not the Trade Regulation Rule Concerning the Incandescent Lamp (Light Bulb) Industry ("Light Bulb Rule" or "Rule") should be repealed. This notice includes a description of the procedures to be followed, an invitation to submit written comments, a list of questions and issues upon which the Commission particularly desires comments, and instructions for prospective witnesses and other interested persons who desire to participate in the proceeding.

DATES: Written comments must be submitted on or before March 7, 1996.

Notifications of interest in testifying must be submitted on or before March 7, 1996. If interested parties request the opportunity to present testimony, the Commission will publish a notice in the **Federal Register** stating the time and place when the hearings will be held and describing the procedures that will be followed in conducting the hearings. In addition to submitting a request to testify, interested parties who wish to present testimony must submit, on or before March 7, 1996, a written comment or statement that describes the issues on which the party wishes to testify and the nature of the testimony to be given.

ADDRESSES: Written comments and requests to testify should be submitted to Office of the Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580, telephone number 202–326–2506. Comments and requests to testify should be identified as "16 CFR Part 409—Comment—Light Bulb Rule" and "16 CFR Part 409—Request to Testify—Light Bulb Rule," respectively. If possible, submit comments both in writing and on a personal computer diskette in Word Perfect or other word processing format (to assist in processing, please identify the format and version used). Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton or James G. Mills, Attorneys, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S–4302, 601 Pennsylvania Avenue, N.W., Washington, DC 20580, telephone (202) 326–3013 or (202) 326–3035, respectively.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Purpose of this Proceeding

On April 6, 1995, the Commission published a request for comments concerning the Light Bulb Rule as part of the Commission's regulatory review program for all of its rules and guides.[1] When the Commission issued the lamp amendments to the Appliance Labeling Rule, it announced that, although there were no conflicts between the two Rules, it would decide following the amendment proceeding what further action, if any, it should take concerning the Light Bulb Rule. The April 6, 1995, notice solicited comments about the benefits and burdens of the Light Bulb Rule to consumers and industry, and about whether a need still exists for the Light Bulb Rule in light of the new labeling requirements in the Appliance Labeling Rule.[2] The Commission received nine comments in response to the notice. The comments are discussed in Part II.A, below.

Pursuant to the FTC Act, 15 U.S.C. 41–58, and the Administrative Procedure Act, 5 U.S.C. 551–59, 701–06, by this Notice of Proposed Rulemaking ("NPR") the Commission initiates a proceeding to consider whether the Light Bulb Rule should be repealed, modified, or remain in effect as is.[3] The Commission solicits public comments on these issues. Section 18 of the FTC Act, 15 U.S.C. 57a, authorizes the Commission to promulgate, amend, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1). If the Commission determines, based on the data, views and arguments submitted, that the Commission should consider additional alternatives, it will publish a supplemental notice of proposed rulemaking and will request public comments on those alternatives.

The Commission is undertaking this rulemaking proceeding as part of the Commission's ongoing program of evaluating trade regulation rules and industry guides to determine their effectiveness, impact, cost and need. This proceeding also responds to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations.

B. History and Requirements of the Light Bulb Rule

The Commission promulgated the Light Bulb Rule on July 23, 1970, following a public rulemaking proceeding.[4] The Rule became effective on January 25, 1971. The Light Bulb Rule applies only to general service incandescent electric lamps (commonly referred to as "light bulbs").[5]

Based on the record in the rulemaking proceeding, the Commission made the following factual findings, among others: (1) manufacturers normally marked light bulbs or their containers with only voltage and wattage ratings; (2) a substantial portion of the consuming public believed that all light bulbs of the same wattage would last approximately the same length of time and/or would emit approximately the same amount of light; (3) light bulbs of the same wattage were marketed with different rated lives and varying amounts of lumen output (light output); (4) there is a scientific principle that, for any given wattage, as the design life of a bulb increases, the bulb's light output decreases; (5) a substantial portion of the consuming public preferred purchasing light bulbs for specific purposes such as reading, working, or for convenience; (6) cost savings claims had been made, such as "Save ____ Dollars" or "Outlasts ____ Bulbs," that did not include all of the data essential for consumers to make valid cost comparisons and that resulted in half truths; and (7) claims had been made concerning "more or brighter light" and "longer life" without disclosing the specific comparisons being drawn. 35 FR at 11785.

The Commission concluded that: (1) the failure to disclose lumens, life, cost, and other data can mislead and deceive consumers; (2) cost savings claims that do not tell the complete story are deceptive; (3) unqualified claims such as "long life" or "more light" are inherently deceptive if the lumen and life ratings of the products being advertised and the products being compared are not disclosed; and (4) claims such as "maintain brightness better" are deceptive if not accompanied by a disclosure of lumens maintained over time for both the advertised and compared products. *Id.* at 11788, 11791.

The Commission promulgated the Light Bulb Rule to prevent these misleading and deceptive acts and

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[1] Request for comments, 60 FR 17491. The comment period was scheduled to end on June 6, 1995, but was extended until August 7, 1995, at the request of industry members.

[2] Under section 18(b)(2) of the FTC Act, 15 U.S.C. 57a(b)(2), the Commission must publish an advance notice of proposed rulemaking ("ANPR") prior to initiating a proceeding to promulgate, amend, or repeal a trade regulation rule. The Commission has determined to treat the April 6, 1995, notice as an ANPR because it contained all the elements that section 18(b)(2) requires in an ANPR. Specifically: (1) it contained a brief description of the area of inquiry under consideration, the objectives which the Commission seeks to achieve, and possible regulatory alternatives under consideration; and (2) it invited interested parties to submit comments, including any suggestions or alternative methods for achieving such objectives. To comply with section 18, the Commission subsequently submitted the notice to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate and the Chairman of the Subcommittee on Commerce, Trade and Hazardous Materials, United States House of Representatives.

[3] In accordance with section 18 of the FTC Act, 15 U.S.C. 47a, the Commission submitted this NPR to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate and the Chairman of the Subcommittee on Commerce, Trade and Hazardous Materials, United States House of Representatives 30 days prior to publication of the NPR.

[4] Final Rule and Statement of Basis and Purpose ("Light Bulb Rule SBP"), 35 FR 11784 (1970).

[5] The Rule defines "general service incandescent lamps" as all medium screw base incandescent electric lamps, 15-watt through 150-watt, 115-volt through 130-volt. The term includes lamps in the customary "A" type and other bulb shapes included in Interim Federal Specification W-L–00101G, and lamps that are produced in generally comparable bulb shapes for sale in competition with other general service incandescent lamps. The Rule specifically excludes lamps designed and promoted primarily for decorative applications, appliances, traffic signals, showcases, projectors, airport equipment, trains, and lamps such as color, flood, reflector, rough service, and vibration service. 16 CFR 409.1 n. 3. The lamp products covered by the Light Bulb Rule commonly are referred to as "light bulbs." The term "lamp products," on the other hand, refers more broadly to all types of lighting products. In this notice, the term "light bulb" refers only to those lamp products covered by the Light Bulb Rule.

practices. In summary, the Rule declares it is an unfair method of competition and an unfair and deceptive act or practice, in connection with the sale of general service incandescent light bulbs, to:

(1) fail to disclose clearly and conspicuously on the containers of such light bulbs (or, if there are no containers, on the bulbs themselves) their average initial wattage, average initial lumens, and average laboratory life, 16 CFR 409.1(a)-(b);

(2) fail to disclose clearly and conspicuously on the bulbs themselves their average initial wattage and design voltage, *Id.* at 409.1(b);[6]

(3) represent or imply that savings in light bulb cost or the cost of light output will result from the use of a particular light bulb product because of the bulb's life or light output unless, in computing such savings, the following factors are taken into account and disclosed clearly and conspicuously for the light bulb being sold and the bulb with which the comparison is being made: light bulb cost, electrical power cost, labor cost for bulb replacement (if any), actual light output in average initial lumens, and average laboratory life in hours, *Id.* at 409.1(c); and

(4) represent or imply that a light bulb will give more light, maintain brightness longer, or furnish longer life without clearly and conspicuously disclosing, for both the light bulb being sold and the light bulb with which the comparison is being made: the average initial light output in lumens, the average initial wattage, the laboratory life in hours, and, if there is a claim that the light bulb maintains brightness longer, the light output in lumens at 70% of the bulbs' rated lives ("maintained average lumens"), *Id.* at 409.1(d).

Four notes at the end of the Rule define terms used in the Rule or require certain procedures or tests to be used in making disclosures required by the Rule. Specifically, these notes: (1) state how manufacturers must determine the wattage, lumen, and life rating disclosures required by the Rule, and require these ratings to be determined at the light bulb's stated design voltage, *Id.* at 409.1 n. 1; (2) required for one year following the effective date of the Rule that all light bulb labels explain the meaning of the word "lumen" whenever it was used, *Id.* at 409.1 n. 2; (3) define the term "general service incandescent lamp" to mean all medium screw base incandescent light bulbs, including "A" type bulbs and all other incandescent bulbs that are substantially the same as "A" type bulbs, *Id.* at 409.1 n. 3; and (4) define the meaning of the Rule's term "clear and conspicuous" with respect to the minimum type size and style for required disclosures and state where the required disclosures must be made, *Id.* at 409.1 n. 4.

[6] In the Light Bulb Rule SBP, the Commission explained that industry stressed the need to maintain a prominent wattage disclosure on incandescent light bulbs because the use of excess wattage in fixtures is unsafe and because consumers were accustomed to buying on the basis of wattage. 35 FR at 11786.

C. Comparison to Requirements of the Appliance Labeling Rule

In 1994, pursuant to a directive of the Energy Policy Act of 1992 ("EPA 92"),[7] the Commission amended its Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule"), 16 CFR 305, to specify new labeling requirements for lamp products.[8] EPA 92 directed the Commission to prescribe rules requiring that certain types of lamp products be labeled with "such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements." 42 U.S.C. 6294(a)(2)(C)(i).

In addition to incandescent light bulbs, the Appliance Labeling Rule applies to incandescent reflector lamps, 16 CFR at 305.03(m), medium screw base compact fluorescent lamps, *Id.* at 305.03(l), and general service fluorescent lamps, *Id.* at 305.03(k). Although there are no direct conflicts between the Light Bulb Rule and the Appliance Labeling Rule, there are overlapping requirements for the light bulbs that are covered by both Rules. The discussion in this notice summarizes only the requirements of the two Rules that apply to these light bulbs.

[7] Pub. L. No. 102–486, 106 Stat. 2776, 2817–2832 (Oct. 24, 1992) (codified in 42 U.S.C. 6201, 6291–6309). EPA 92 amended in several respects the Energy Policy and Conservation Act of 1975 ("EPCA"), which requires the Commission to prescribe labeling rules for certain major household appliances and other products.

[8] Final Rule and Statement of Basis and Purpose ("Appliance Labeling Rule/Lamps SBP"), 59 FR 25176 (1994). The lamp labeling requirements of the Appliance Labeling Rule became effective on May 15, 1995. In light of amendments to the Appliance Labeling Rule that the Commission proposed on March 22, 1995, in response to a petition from the National Electrical Manufacturers Association ("NEMA"), and apparent uncertainties among incandescent lamp manufacturers regarding their compliance responsibilities under the combined requirements of the Appliance Labeling Rule and the Light Bulb Rule, the Commission determined, however, that it would not take law enforcement actions until December 1, 1995, against manufacturers of incandescent lamp products not in compliance with the Appliance Labeling Rule. 60 FR 15198 (March 22, 1995).

Like the Light Bulb Rule, the Appliance Labeling Rule requires disclosures on package labels of light output, wattage, and life ratings. 16 CFR 305.11(e)(1) (i)–(ii). As required by EPCA, 42 U.S.C. 6294(a)(2)(C)(i), the Appliance Labeling Rule requires that these disclosures be based on performance at 120 volts input, regardless of the rated lamp voltage (design voltage).[9] The Appliance Labeling Rule, however, allows manufacturers the option of adding disclosures on lamp packages based on the lamp's performance at a different design voltage of 125 volts or 130 volts, if the applicable voltage (*i.e.*, 120, 125, or 130) is disclosed on the label along with each disclosure of light output, wattage, and life. Manufacturers may choose to place the performance information at a design voltage of 125 volts or 130 volts on the primary display panel of the package and place the performance information at 120 volts elsewhere on the package. If they do so, they must add a specific disclosure on the primary display panel that describes the effect on performance of the difference in voltage and where on the package the performance information at 120 volts may be found.[10]

The Appliance Labeling Rule requires that these disclosures appear together in a specified order and be worded in a certain way (*i.e.*, as "Light Output: ___ Lumens; Energy Used: ___ Watts; Life: ___ Hours") on the label's principal display panel. 16 CFR 305.11(e)(1)(ii). The Light Bulb Rule, on the other hand, does not specify any order or wording for its required disclosures. It simply specifies that the three ratings be disclosed in terms of lumens, watts, and hours, and appear together on at least two panels of the label, and on any other panel on which a lumen, wattage, or hours of life claim is made. 16 CFR 409.1(a), 409.1 n. 4.

The Appliance Labeling Rule requires that the disclosures of light output, energy used, and life appear with equal clarity and conspicuousness. 16 CFR 305.11(e)(ii). It does not specify any particular type style or type size, but it requires that certain disclosures be made in the same size print, and that other disclosures be approximately 50% as large. The Light Bulb Rule specifies that both the lumens and hours rating disclosures be in a medium- or bold-face type that is at least two-fifths the height of the wattage rating figure on the same panel or three-sixteenths of an inch in height, whichever is larger. 16 CFR 409.1 n. 4. The Light Bulb Rule also includes similar type size and style requirements for the disclosures for multiple filament (three-way) light bulbs.

[9] 16 CFR 305.11(e)(1) (iii) (1995). The Commission amended this paragraph regarding other requirements on June 13, 1995. Final Rule ("1995 lamp amendments"), 60 FR 31077, 31081 (1995) (to be codified at 16 CFR 305.11(e)(1)(iii)).

[10] *Id.* The specific disclosure is: "This product is designed for [125/130] volts. When used on the normal line voltage of 120 volts, the light output and energy efficiency are noticeably reduced. See (side/back) panel for 120 volt ratings."

The Appliance Labeling Rule specifies two additional disclosures that are not required by the Light Bulb Rule. First, the following statement must appear on the principal display panel of the package label: [11]

> To save energy costs, find the bulbs with the light output you need, then choose the one with the lowest watts.

Second, all cartons of covered lamps that are shipped within or imported into the United States must be marked with the following statement:

These lamps comply with Federal energy efficiency labeling requirements. 16 CFR 305.11(e)(4).

The Light Bulb Rule requires that the disclosures of light output, wattage, and life be determined in accordance with a specific Federal purchase specification and be based upon generally accepted and approved test methods and specifications, at the lamp product's design voltage.[12] The Appliance Labeling Rule requires that disclosures of design voltage, wattage, light output or life be based upon a reasonable basis consisting of competent and reliable scientific tests that substantiate the disclosures. Under the Appliance Labeling Rule, for light output and life ratings the Commission will accept, but does not require, tests conducted according to specific test protocols issued by IES,[13] or testing in accordance with final test procedures issued by the U.S. Department of Energy.[14]

Both Rules contain provisions concerning claims about a lamp product's operating cost. The Appliance Labeling Rule requires that any label, printed material prepared for display or distribution at the point of sale, or catalog from which a covered lamp product may be ordered that contains an operating cost claim clearly and conspicuously disclose, in close proximity to the claim, the assumptions upon which the claim is based, including, *e.g.*, purchase price, unit cost of electricity, hours of use, patterns of use. 16 CFR 305.11(e)(3), 305.13(a)(3), 305.14(c)(2). These Appliance Labeling Rule disclosure requirements do not apply to such claims made in other promotional materials, such as advertisements.

The Light Bulb Rule's provision applies to claims that savings in either light bulb cost or cost of light will result from the use of a particular light bulb because of the bulb's life or light output. It covers all comparative light bulb life, light output, and light bulb cost claims. The Light Bulb Rule specifies additional factors (*e.g.*, labor costs for replacement, light output, life) that, depending on the particular claim being made, must be taken into consideration and clearly and conspicuously disclosed, for both the light bulb being offered for sale and the bulb(s) with which the comparison is being made. 16 CFR 409.1(c). The Light Bulb Rule's requirements apply to these claims made in all types of advertising, as well as on labels, point-of-sale printed materials, and catalogs.

Unlike the Light Bulb Rule, the Appliance Labeling Rule does not include disclosure requirements concerning comparative claims that a lamp product will give more light, maintain brightness longer, or furnish longer life. In addition, the Appliance Labeling Rule does not require that lamp products be marked with any information. The Light Bulb Rule, on the other hand, requires that light bulbs themselves be marked clearly and conspicuously with wattage and design voltage. 16 CFR 409.1(b).

[11] 16 CFR 305.11(e)(1)(vi) (1995). On June 13, 1995, the Commission amended this provision to allow manufacturers of incandescent reflector lamps to add to this advisory statement a reference to selecting a lamp at the beam spread, as well as the light output, that purchasers need. 60 FR at 31081 (1995) (to be codified at 16 CFR 305.11(e)(1)(vi)).

[12] 16 CFR 409.1 n. 1. The Light Bulb Rule states that, for light bulbs covered by that Rule, the "average initial wattage, average initial lumen, and average laboratory life disclosures required by this section shall be in accordance with the requirements of interim Federal Specification, Lamp, Incandescent (Electric, Large, Tungsten-Filament) W–L–00101 G and shall be based upon generally accepted and approved test methods and procedures." In 1977, that specification ceased being interim and is now known as Federal Specification, Lamp, Incandescent (Electric, Large, Tungsten-Filament) W–L–101H/GEN. This specification refers to pertinent American National Standards Institute ("ANSI") test protocols, which are consistent with the Illuminating Engineering Society of North America ("IES") protocols that are cited in the Appliance Labeling Rule, 16 CFR 305.5(b), as an acceptable reasonable basis for determining the light output and life of incandescent light bulbs. 59 FR at 25200 n. 251.

[13] 16 CFR 305.5(b). *See also* note 12, *supra*.

[14] 59 FR et 25200.

II. Discussion and Analysis

A. Regulatory Review Comments

The Commission received nine comments in response to the April 6, 1995, notice.[15] Four comments were submitted by individual consumers, one by an organization that purchases and uses light bulbs ("organization/user comment"), three by lamp product manufacturers, and one by a trade association that represents lamp product manufacturers.[16]

The four individual consumer comments state that the Rule is still needed because the disclosures required by the Rule help consumers make informed purchasing decisions.[17] They want labels to continue to disclose light output, wattage, and life information. These comments do not address whether, if the Commission repealed the Light Bulb Rule, the labeling requirements of the Appliance Labeling Rule would require that manufacturers provide consumers with this information. The organization/user comment also opposes the elimination of the Light Bulb Rule. It contends consumers would lose valuable consumer protections that are only contained in the Light Bulb Rule.[18]

Hytron, a manufacturer of extended-service, long-life incandescent lamp products, including incandescent reflector lamps and traffic signal lamps, supports keeping the Light Bulb Rule, and, instead, eliminating the lamp labeling requirements of the Appliance

[15] Anderson, #1; Raeth, #2; Bowe, #3; McGarry, #4; Hytron Electric Products, a division of Trojan Inc. ("Hytron"), #5; Delta Phi Epsilon, Washington, DC, #6 ("DPE"); Philips Lighting, Philips Elmet, a division of North American Philips Corporation ("Philips"), #7; GE Lighting, General Electric Company ("GE"), #8; and Lamp Section, NEMA, #9. The comments submitted in response to the April 6, 1995, notice are filed as document numbers B17240700001, B17240700002, etc. In today's notice, the comments are cited as #1, #2, etc.

[16] The trade association, NEMA, is the largest U.S. trade association representing manufacturers of products used in the generation, transmission, distribution, control, and end-use of electricity. Member companies in the Lamp Section of NEMA produce more than 90% of general service incandescent and fluorescent lamp products sold in the United States. NEMA Lamp Section members include General Electric Lighting, Osram Sylvania, Inc., Philips Lighting Company, Supreme Corp., Venture Lighting International, Duro-Test Corp. and EYE Lighting International. NEMA, #9, cover letter, comment pg. 1.

[17] Matt Anderson, #1 (Rule very valuable to him as a consumer; reads labels very closely, particularly as to lumens and voltage; label information can be a safety factor since many enclosed fixtures are rated for up to 60W but 75+W bulbs will fit the same sockets); Marilyn Raeth, #2 (eliminating the Rule would be a great disservice to the consumer, who would not know the value of what he or she was purchasing); Madeline Bowe, #3 (maintain Rule requiring packages to show wattage, lumens, and bulb life; consumers have a right to know what they are buying); and James A. McGarry, #4 (do not weaken the labeling requirements; uses information to make comparative decisions when purchasing).

[18] DPE, #6.

Labeling Rule.[19] It appears that Hytron primarily objects to the Appliance Labeling Rule because it requires labeling disclosures of incandescent lamps at 120 volts regardless of the lamp's design voltage, and because it requires the labeling of incandescent reflector lamps.[20]

The comments from two manufacturers (Philips and GE) and the trade association state that the Light Bulb Rule's disclosure requirements of light output, wattage, and life for general service incandescent light bulbs are unnecessary because of the uniform disclosure requirements for various types of competing lamp products in the Appliance Labeling Rule.[21] They recommend that the Commission repeal the Light Bulb Rule's disclosure requirements to avoid conflicts, multiple and overlapping requirements, and inconsistencies with the disclosure requirements of the Appliance Labeling Rule.

GE recommends that the Commission repeal the entire Light Bulb Rule.[22] It believes the Appliance Labeling Rule's requirements are better for today's modern products and consumers' information needs, and for advancing the energy efficiency goals of our modern day workplace. According to GE, retaining the Light Bulb Rule, in addition to the Appliance Labeling Rule, is inefficient and exposes manufacturers to a significant risk that they may fail to comply with both sets of Rules. Further, although the Light Bulb Rule requires that light bulbs be marked clearly and conspicuously with wattage and design voltage and the Appliance Labeling Rule does not, GE believes that such marking is a common industry practice that would not be affected by the rescission of the Light Bulb Rule. It states that this is a "sound business practice that reduces liability and gives consumers important information." Accordingly, GE marks many products that are not covered by the Light Bulb Rule with wattage, and, as appropriate, with design voltage.

NEMA states that lamp product manufacturers should be subject to only one set of lamp labeling and disclosure regulations, which would ensure uniform disclosures of lamp product performance information to consumers. NEMA believes that the Appliance Labeling Rule represents the more comprehensive and modern approach to lamp labeling and that the disclosures required under the Appliance Labeling Rule fully and fairly inform consumers about lamp product performance.[23] It believes that the objectives of the Light Bulb Rule are fully served by the disclosures required by the Appliance Labeling Rule. For these reasons, NEMA recommends that the Commission repeal the Light Bulb Rule and retain the Appliance Labeling Rule as the sole federal labeling and disclosure requirements for lamp products.

NEMA also believes that repealing the Light Bulb Rule would not induce manufacturers to abandon their practice of inscribing wattage and design voltage on incandescent lamps and wattage on fluorescent lamps. NEMA states that manufacturers routinely mark their general service incandescent and fluorescent lamps, even those for which such marking is not required under federal labeling rules. Further, NEMA states that an international safety standard issued by the International Electrotechnical Commission ("IEC") (IEC 432–1, 1993) requires marking of wattage and voltage on general service incandescent lamps. NEMA, therefore, believes that manufacturers generally would continue the marking practices required by the Light Bulb Rule, even if the Commission repealed the Rule.

Philips strongly supports NEMA's position. Philips, however, also states that the best alternative would be for the Commission to repeal the Light Bulb Rule, and to modify the Appliance Labeling Rule to include the requirements of paragraph 409.1(c) (which requires disclosures in connection with product comparison claims about lamp cost or cost of light), but without requiring disclosure of the lamp cost or cost of replacement, and paragraph 409.1(d) (which requires disclosures in connection with claims that a light bulb will give more light, maintain brightness longer or furnish longer life) of the Light Bulb Rule.[24] Philips believes that adding these disclosure requirements would strengthen the Appliance Labeling Rule.

B. Current Need for the Light Bulb Rule

The Commission has compared the requirements of the Light Bulb Rule and the Appliance Labeling Rule, analyzed the bases for both Rules explained in the Light Bulb Rule SBP and the Appliance Labeling Rule/Lamps SBP, and reviewed the comments filed in response to the request for comments in the regulatory review of the Light Bulb Rule. The requirements of the two Rules fall into three categories: (1) basic disclosures of performance information (light output, watts, and life); (2) substantiation based on testing for these disclosures; and (3) additional disclosures that must be made in conjunction with certain performance claims. Based on the Commission's comparison, analysis, and review, the Commission believes there may not be a continuing need for the Light Bulb Rule and proposes repealing the Rule for the following reasons.

First, the requirements in the Light Bulb Rule that the basic disclosures of light output, watts, and life be made on package labels may be unnecessary because they are duplicated by the Appliance Labeling Rule. The Appliance Labeling Rule requires that this information also be disclosed in catalogs from which the products can be ordered. Further, it requires that these disclosures be made on labels and in catalogs for competing medium screw base compact fluorescent lamps and incandescent reflector lamps, as well as for light bulbs covered by the Light Bulb Rule. These disclosures, in conjunction with the required advisory statement about how consumers can select the most energy-efficient lamp that meets their needs, will give consumers the information they need at the point of sale to select the appropriate lamp product.[25]

Second, the requirement in the Light Bulb Rule that manufacturers mark bulbs with wattage and voltage information appears to be unnecessary. According to the comments, currently manufacturers voluntarily mark various types of lamp products with wattage and design voltage information so that consumers can use these lamp products safely. The Commission believes that the marketplace would provide incentives for manufacturers to continue marking this information on lamp products, even if the Commission repealed the Light Bulb Rule. The Commission, however, is particularly interested in receiving public comments concerning the continuing need for the requirement that manufacturers mark light bulbs with wattage and design voltage information, along with additional information regarding the

[19] Hytron, #5.

[20] The Commission does not have the authority to eliminate these requirements from the Appliance Labeling Rule. EPCA requires that labeling information for incandescent lamps under the Appliance Labeling Rule be based on operation at 120 volts. 42 U.S.C. 6294(a)(2)(C)(i). EPCA also defines the lamp products, including incandescent reflector lamps, that are to be covered by the lamp labeling rules under the Appliance Labeling Rule. 42 U.S.C. 6291(30), 6294(a)(2)(C)(i).

[21] Philips, #7; GE, #8; and NEMA, #9.

[22] GE, #8.

[23] NEMA, #9.

[24] Philips, #7.

[25] In addition, the Appliance Labeling Rule's format requirements for the disclosure of basic performance data on labels and in catalogs obviate the need for the specific type size and placement requirements of the Light Bulb Rule for package labels.

specific requirements of IEC international safety standard (IEC 432–1, 1993) and its application.

Third, the Light Bulb Rule's substantiation requirements may be unnecessary because these requirements are duplicated in the Appliance Labeling Rule. The requirement in the Appliance Labeling Rule that the basic disclosures be based on "a reasonable basis consisting of competent and reliable scientific tests substantiating the representation" is sufficient to ensure the accuracy and uniformity of the disclosures for competing lamp products. Further, based on the evidence in the rulemaking proceeding for the Appliance Labeling Rule, it appears that the test protocols required by the Light Bulb Rule are consistent with IES test protocols that the Appliance Labeling Rule recognizes as sufficient to satisfy its reasonable basis standard for the disclosures of light output and life.[26] However, the Appliance Labeling Rule provides manufacturers flexibility to use other scientific test protocols if they are competent and reliable.

Fourth, the Light Bulb Rule requires that labels, ads, and other promotional materials that make comparison claims about savings in light bulb cost or cost of operation,[27] or claims that a light bulb will give more light, maintain brightness longer, or furnish longer life,[28] also include certain disclosures about the advertised light bulb and the bulb to which it is compared. The disclosures may be unnecessary or inappropriate, for the following reasons:

(1) Under the Appliance Labeling Rule, light output and life information must be disclosed in labels and catalogs even if the Light Bulb Rule is repealed. The Appliance Labeling Rule requires that labels and catalogs for incandescent "A" type bulbs, as well as for competing medium screw base compact fluorescent lamps and incandescent reflector lamps, disclose light output, wattage, and life, along with an advisory statement about how the consumer can select the lamp product that will cost the least to operate for a specific light output. This information enables consumers to evaluate comparison light output and lifetime claims for competing products at the point of sale and to select the appropriate lamp that meets their needs.

(2) Under the Appliance Labeling Rule, claims about cost of operation of a covered lamp product in labels, point-of-sale printed materials, and catalogs must be accompanied by disclosures of the assumptions on which the claims are based (e.g., purchase price, unit cost of electricity, hours of use, patterns of use). These disclosures, along with the advisory statement and the disclosures of light output, wattage, and life, for competing lamp products on product labels and in catalogs give consumers the information they need at the point of purchase to evaluate comparison claims about savings in cost of operation.

(3) Purchase price information is readily available to consumers at the point of sale (both in retail stores and in catalogs). Thus, consumers have information at the point of sale to evaluate comparison claims about lamp product purchase costs.

(4) Unit electrical cost information is readily available to consumers on their monthly electric utility bills or from their electrical utility companies. Consumers can use this information, along with the advisory statement and the disclosures of basic performance information on packages and catalogs, to evaluate any comparison operating cost claims.

The Appliance Labeling Rule does not contain a disclosure requirement similar to the Light Bulb Rule covering claims that a light bulb will maintain brightness longer. It also does not require that disclosures about product comparison claims be made in advertisements or promotional materials other than labels, point-of-sale printed materials, or catalogs. The Commission does not currently have information about the occurrence of brightness claims and whether the Light Bulb Rule's requirements continue to be important. In addition, the Commission does not presently have information to evaluate how extensively product comparison claims are made in advertisements and other promotional materials not covered by the Appliance Labeling Rule. Thus, the significance of repealing these portions of the Light Bulb Rule is unclear, and the Commission is particularly interested in comments about the continued need for these requirements.

Repealing these Light Bulb Rule disclosure requirements would prevent the Commission from obtaining civil penalties for the failure to make these disclosures. But, the Commission believes it would not seriously impair the Commission's ability to act effectively. The Commission could address any significant problems that might arise concerning specific performance claims or a failure to disclose material purchase information on a case-by-case basis, administratively, under section 5 of the FTC Act, 15 U.S.C. 45, or through section 13(b) actions, 15 U.S.C. 53(b), filed in federal district court. Prosecuting serious misrepresentations and the failure to disclose material information in district court allows the Commission to obtain injunctive relief as well as equitable remedies, such as redress or disgorgement.

[26] 59 FR at 25200 n. 251.

[27] *See* Part I.B, *supra*.

[28] *Id.*

III. Rulemaking Procedures

The Commission finds that the public interest will be served by using expedited procedures in this proceeding. First, there do not appear to be any material issues of disputed fact that are necessary for the Commission to resolve in determining whether to repeal the Rule. Second, the use of expedited procedures will support the Commission's goal of eliminating obsolete or unnecessary regulations without an undue expenditure of resources, while ensuring that the public has an opportunity to submit data, views and arguments on whether the Commission should repeal the Rule.

The Commission, therefore, has determined, pursuant to 16 CFR 1.20, to use the procedures set forth in this notice. These procedures include: (1) publishing this Notice of Proposed Rulemaking; (2) soliciting written comments on the Commission's proposal to repeal the Rule; (3) holding an informal hearing, if requested by interested parties; (4) obtaining a final recommendation from staff; and (5) announcing final Commission action in a document published in the **Federal Register**.

IV. Request for Comments

Interested persons are requested to submit written data, views or arguments on any issue of fact, law or policy they believe may be relevant to the Commission's decision on whether it should repeal the Light Bulb Rule in its entirety, or, as an alternative, whether it should repeal those portions that are duplicated by the Appliance Labeling Rule and retain some or all of the remaining provisions. The Commission requests that commenters provide representative factual data in support of their comments. Individual firms' experiences are relevant to the extent they typify industry experience in general or the experience of similar-sized firms. Comments opposing the proposed repeal of the Rule should explain the reasons they believe the Rule is still needed and, if appropriate, suggest specific alternatives. Proposals for alternative requirements should include reasons and data that indicate why the alternatives would better protect consumers from unfair or

deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45.

Below, the Commission identifies specific questions for which it solicits public comment. The questions are designed to assist the public and should not be construed as limiting the issues on which public comment may be submitted. All written comments should state clearly the question or issue that the commenter is addressing. The Commission has placed the comments submitted in response to the April 6, 1995, notice on the public record of this proceeding. Commenters whose views have not changed and who wish to rely on their previous comments may do so and need not file an additional comment at this time. Previous commenters who have additional information or views, however, may wish to submit a comment in response to this notice.

Before taking final action, the Commission will consider all written comments timely submitted to the Secretary of the Commission and testimony given on the record at any hearings scheduled in response to requests to testify. Written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, on normal business days between the hours of 8:30 a.m. to 5:00 p.m. at the Federal Trade Commission, Public Reference Room, Room H–130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, telephone number 202/326–2222.

Questions for Comment

(1) In what manner and to what extent would repealing the Light Bulb Rule affect the specific benefits consumers or other purchasers derive from the Light Bulb Rule beyond the benefits they derive from the Appliance Labeling Rule?

(2) In what manner and to what extent would repealing the Light Bulb Rule affect or relieve the specific burdens experienced by manufacturers or other sellers that are due to the Light Bulb Rule beyond any burdens or costs that are incurred in complying with the Appliance Labeling Rule?

(3) Are there any other federal or state laws or regulations, or private industry standards, in addition to the Appliance Labeling Rule, that apply to the labeling, testing, or advertising of lamp products covered by the Light Bulb Rule?

(a) If so, what are those federal or state laws or regulations, or private industry standards, and what do they require?

(b) If so, to whom do they apply?

(4) Are there any current federal, state, or local laws or regulations, or private industry standards, in addition to the Light Bulb Rule, that require lamp products to be marked with wattage or voltage information?

(a) If so, what are these federal, state, or local laws or regulations, or private industry standards, and what specific markings do they require?

(b) If so, to whom do they apply?

(5) Do manufacturers or other sellers currently make comparison claims about lamp product cost, cost of light, cost of operation, amount of light, brightness, or length of life?

(a) If so, who currently makes these claims?

(b) If so, what claims and disclosures do they make?

(c) If so, what medium (*e.g.*, advertisements, point-of-sale printed materials) do they use in making these claims and disclosures?

(d) If so, are the comparisons valid ones?

V. Requests for Public Hearings

Because there does not appear to be any dispute as to the material facts or issues raised by this proceeding and because written comments appear adequate to present the views of all interested parties, a public hearing has not been scheduled. If any person would like the Commission to schedule public hearings, he or she should address a request to present oral testimony to the Office of the Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, telephone number 202–326–2506, as soon as possible but not later than March 7, 1996. All persons wishing to testify also must submit, on or before March 7, 1996, a written comment or statement that describes the issues on which the party wishes to testify and the nature of the testimony to be given.

VI. Preliminary Regulatory Analysis

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–11, requires an analysis of the anticipated impact of the proposed repeal of the Rule on small businesses.[29] The analysis must contain, as applicable, a description of the reasons why action is being considered, the objectives of and legal basis for the proposed action, the class and number of small entities affected, the projected reporting, recordkeeping and other compliance requirements being proposed, any existing federal rules that may duplicate, overlap or conflict with the proposed action, and any significant alternatives to the proposed action that accomplish its objectives and, at the same time, minimize its impact on small entities.

A description of the reasons why action is being considered and the objectives of the proposed repeal of the Rule have been explained elsewhere in this Notice. Repeal of the Rule would appear to have little or no effect on any small business. The Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Rule.

For these reasons, the Commission certifies, pursuant to section 605 of RFA, 5 U.S.C. 605, that if the Commission determines to repeal the Rule that action will not have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission requests comments on this issue. After reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis.

VII. Paperwork Reduction Act

The Light Bulb Rule imposes third-party disclosure requirements, which are described in Part I.B, above, that constitute "information collection requirements" under the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.* Accordingly, repeal of the Rule would eliminate any burdens on the public imposed by these disclosure requirements that are not duplicated by the Appliance Labeling Rule.

VIII. Additional Information for Interested Persons

A. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

B. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission's Rules of Practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the transcript or summary will be placed promptly on the public record.

[29] Section 22 of the FTC Act, 15 U.S.C. 57b-3, also requires the Commission to perform "regulatory impact analyses" of a proposed rule, but only if the rule will have certain "significant" economic or regulatory effects. The Commission has determined that a preliminary regulatory analysis is not required by section 22 in this proceeding because the Commission has no reason to believe that repealing the Rule will have a "significant" economic or regulatory impact, either beneficial or detrimental, upon persons subject to the Rule or upon consumers.

Authority: Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a.

List of Subjects in 16 CFR Part 405

Advertising, Consumer protection, Energy conservation, Labeling, Lamp products, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–2431 Filed 2–5–96; 8:45 am]

BILLING CODE 6750–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

Notice of Briefing on Proposal To Cycle Payment of Social Security Benefits

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Briefing on Proposal to Cycle Payment of Social Security Benefits.

SUMMARY: Historically, Social Security benefits generally have been paid on the 3rd of the month. As a result of SSA's ongoing efforts to improve service to our customers, we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on January 26, 1996 at 61 FR 2654 announcing that the Commissioner of Social Security is proposing to establish additional payment days throughout the month on which Social Security benefits will be paid. Current beneficiaries will not be affected by this proposal. In the NPRM we stated that we planned to host an informational briefing on payment cycling for representatives of groups and organizations, and any others, who are interested in the initiative. This notice announces the time and place of the briefing.

The briefing session will be designed to provide details and to answer questions on how SSA proposes to implement payment cycling. Members of the public who would like to attend the session must reserve space by contacting SSA's Office of Communications ahead of time by calling (410) 965–4001 or telefaxing (410) 966–4871.

The session is not designed to take public comments on the NPRM. Comments on the NPRM should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by E-Mail to "regulations@ssa.gov," or delivered to the Division of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Your comments must be received by March 26, 1996 to be considered.

DATES: February 15, 1996, 1:30 p.m.-3:00 p.m.

ADDRESSES: Social Security Administration, Universal South Building, Room 729, 1825 Connecticut Avenue, N.W., Washington, D.C. 20009.

FOR FURTHER INFORMATION CONTACT: Connee Sheckler, SSA, Office of Communications, (410) 965–1885.

Dated: January 31, 1996.

Joan Wainwright,

Associate Commissioner for Communications.

[FR Doc. 96–2524 Filed 2–5–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF JUSTICE

28 CFR Part 35

Nondiscrimination on the Basis of Disability in State and Local Government Services

AGENCY: Department of Justice.

ACTION: Notice of extension of deadline for public comment.

SUMMARY: On November 27, 1995, the Department of Justice published in the **Federal Register** (60 FR 58462) a proposed rule to amend the Department's regulation implementing title II of the Americans with Disabilities Act to clarify the requirement for installation of curb ramps at existing pedestrian walkways. The period for accepting comments on the proposed rule was to end on January 26, 1996. Due to the government shutdown and the Department's resulting inability to receive and process requests for copies of the proposed rule, the comment period is extended.

DATES: The comment period is extended through March 1, 1996.

ADDRESSES: Written comments on the proposed rule published on November 27, 1995, should be sent to: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, Rulemaking Docket 007, P.O. Box 65485, Washington, DC 20035.

FOR FURTHER INFORMATION CONTACT: Janet Blizard, (202) 307–0663. The ADA Information Line, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, Washington, DC 20530, (800) 514–0301 (voice), (800) 514–0383 (TTY). These telephone numbers are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The proposed rule published in the **Federal Register** on November 27, 1995, (60 FR 58462) would amend the regulation of the Department of Justice implementing title II of the Americans with Disabilities Act to clarify the requirement for installation of curb ramps at existing pedestrian walkways. The proposal would extend the time period for compliance to January 26, 2000, for curb ramps serving State and local government facilities, transportation, places of public accommodation, other places of employment, and at the residences of individuals with disabilities. It would extend the time period for providing curb ramps at existing pedestrian walkways in other areas until January 26, 2005, and it would require public entities to include a schedule for the implementation of these requirements in their transition plans.

The proposed rule provided that comments should be received prior to January 26, 1996, and that comments received after that closing date would be considered only to the extent practicable. From December 16, 1995, through January 5, 1996, Federal government employees were furloughed, which forced the closing of the ADA Information Line and prevented the Disability Rights Section from receiving or processing requests for copies of the proposed rule. Due to the extended furlough, the Department is extending the comment period to ensure

that all interested parties have an adequate opportunity to comment.

To be assured of consideration, comments must be in writing and must be received on or before March 1, 1996. Comments that are received after the closing date will be considered to the extent practicable.

Dated: January 24, 1996.

Deval Patrick,

Assistant Attorney General.

[FR Doc. 96–2299 Filed 2–5–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Chapter II

RIN 1010–AB57

Meetings of the Indian Gas Valuation Negotiated Rulemaking Committee

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The Secretary of the Department of the Interior (Department) has established an Indian Gas Valuation Negotiated Rulemaking Committee (Committee) to develop specific recommendations with respect to Indian gas valuation under its responsibilities imposed by the Federal Oil and Gas Royalty Management Act of 1982, (FOGRMA). The Department has determined that the establishment of this Committee is in the public interest and will assist the Agency in performing its duties under FOGRMA.

DATES: The Committee will have meetings on the dates and the times shown below:

Tuesday, March 12, 1996—9:30 a.m. to 5 p.m.
Wednesday, March 13, 1996—8 a.m. to 5 p.m.
Thursday, March 14, 1996—8 a.m. to 5 p.m. and if needed,
Friday, March 15, 1996—8 a.m. to 3 p.m.

ADDRESSES: The meetings will be held in the Building 85 Auditorium at the Denver Federal Center, located at West 6th Avenue and Kipling Streets, Lakewood, Colorado.

Written statements may be submitted to Mr. Donald T. Sant, Deputy Associate Director for Valuation and Operations, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS–3100, Denver, CO 80225–0165.

FOR FURTHER INFORMATION CONTACT: Mr. Donald T. Sant, Deputy Associate Director for Valuation and Operations, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3100, Denver, CO 80225–0165, telephone number (303) 231–3899, fax number (303) 231–3194.

SUPPLEMENTARY INFORMATION: The location and dates of future meetings will be published in the **Federal Register**. The meetings will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Committee for its consideration.

Written statements should be submitted to the address listed above. Minutes of Committee meetings will be available for public inspection and copying 10 days after each meeting at the Denver Federal Center address. In addition, the materials received to date during the input sessions are available for inspection and copying at the Denver Federal Center address.

Dated: January 29, 1996.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 96–2335 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 838

Air Force Systems Command Contractor Performance Assessment

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule; withdrawal.

SUMMARY: On March 15, 1990, the Department of the Air Force published (at 55 FR 9733) a proposed rule to amend 32 CFR by revising Part 838. This proposed rule is withdrawn. For further information, see Air Force rule on 32 CFR Part 838 published elsewhere in this publication.

FOR FURTHER INFORMATION CONTACT: Maj Bratten, SAF/AQS, 1060 Air Force Pentagon, Washington DC 20330–1060, telephone (703) 697–6400.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–2515 Filed 2–5–96; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF EDUCATION

34 CFR Part 361

RIN 1820–AB12

The State Vocational Rehabilitation Services Program

AGENCY: Department of Education.

ACTION: Notice of public meetings.

SUMMARY: The Assistant Secretary announces a series of public meetings to solicit public comments regarding the proposed regulations published in the **Federal Register** on December 15, 1995 (60 FR 64476) for The State Vocational Rehabilitation Services Program.

The purpose of the meetings is to allow interested parties an opportunity to review and comment on the proposed regulations, especially as these regulations interpret or clarify statutory requirements of the Rehabilitation Act Amendments of 1992 and 1993 pertaining to The State Vocational Rehabilitation Services Program.

DATES: Meetings will be held in Washington, D.C., on February 16, 1996, in San Francisco, California, on February 20, 1996, and in Dallas, Texas, on February 22, 1996.

All written comments must be received on or before February 23, 1996. This is the closing date for comments under the notice of proposed rulemaking published on December 15, 1995 (60 FR 64476).

ADDRESSES: The meetings will be held at the following locations:

1. Washington, D.C.—U.S. Department of Education, Barnard Auditorium, Room 2413, Federal Office Building 10B (FB–10B), 600 Independence Avenue, S.W., Washington, D.C.

2. San Francisco, California—U.S. Department of Education, Federal Office Building, Room 506, 50 United Nations Plaza, San Francisco, California.

3. Dallas, Texas—City of Dallas, Park and Recreation Department, Bachman Recreation Center, 2750 Bachman Drive, Dallas, Texas.

Individuals who cannot attend the meeting are invited to send in written comments regarding the proposed regulations. Comments received after the due date for comments will not be considered.

Written comments should be addressed to Fredric K. Schroeder, Commissioner, Rehabilitation Services Administration, U. S. Department of Education, 600 Independence Avenue, S.W., Room 3028, Mary E. Switzer Building, Washington, D.C. 20202–2531. Comments transmitted by facsimile should be sent to (202) 205–9772 or (202) 260–7527. Comments can be transmitted in an electronic format either through the electronic bulletin board system (BBS) of the Rehabilitation Services Administration (RSA) or through internet. The internet address is "State VR@ed.gov". The access number for the RSA BBS is (202) 205–5574 for low speed (2400 BPS or lower) modems and (202) 401–6174 for high speed (9600 BPS and higher) modems. Comments can also be transmitted to the RSA BBS through Fedworld via internet using the telnet command. Telnet to: "Fedworld.gov". All comments transmitted in an electronic format should be sent to the following RSA BBS mailbox: "RSADPPES". To facilitate the analysis of comments, electronic transmission of comments is preferred. Also, comments should be specific and identified by proposed regulatory citation.

FOR FURTHER INFORMATION CONTACT: Persons desiring to participate in the meetings or seeking additional information should contact Beverlee Stafford, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3014, Mary E. Switzer Building, Washington, D.C. 20202–2531. Telephone (202) 205–8831. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5538.

SUPPLEMENTARY INFORMATION: The State Vocational Rehabilitation Services Program is authorized by Title I of the Rehabilitation Act of 1973, as amended (the Act) (29 U.S.C. 701–744). This program provides support to each State to assist it in operating a comprehensive, coordinated, effective, efficient, and accountable State program to assess, plan, develop, and provide vocational rehabilitation services to individuals with disabilities so that those individuals may prepare for and engage in gainful employment, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, and informed choice. The program supports the National Education Goal that, by the year 2000, every adult American, including individuals with disabilities, will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The proposed regulations published on December 15, 1995, are needed to implement changes to the Act made by the Rehabilitation Act Amendments of 1992, enacted on October 29, 1992, as amended by the 1993 technical amendments. The preamble to the proposed regulations contains a lengthy analysis of the issues addressed by the proposed regulations.

Availability of Copies of the Proposed Regulations: The proposed regulations can be accessed through the RSA Bulletin Board System (BBS) by calling the following access number: (202) 205–9694. If you experience any difficulty in accessing the BBS, please contact either John Chapman at (202) 205–9290 or Teresa Darter at (202) 205–8444, co-system operators (sysops), for assistance. For those individuals unable to access the BBS, copies of the proposed regulations are available in regular print, large print, and computer diskette (WordPerfect 5.1 and ASCII formats) by calling (202) 205–8831. A limited number of copies in braille are also available.

Meeting Information: Meetings will be held in Washington, D.C., San Francisco, California, and Dallas, Texas. Individuals desiring to present comments at the meetings are encouraged to reserve a time on the agenda. Individuals will be allowed between five and seven minutes to present comments. The amount of time available will depend upon the number of individuals who request reservations. Reservations will be accepted on a first-come, first-served basis. Given the level of response expected, individuals should make reservations as soon as possible. When making reservations, individuals must indicate the need for any special accommodations, including sign language interpreters. While reservations are not needed for those individuals who wish to attend the meetings but do not want to make formal comments, reservations are encouraged to facilitate the participant's access into the proceedings held in Federal buildings. The meetings are open to the public, and the meeting rooms and proceedings will be accessible for individuals with disabilities.

The meeting in Washington, D.C., will be held on February 16, 1996, from 10:00 a.m. to 3:00 p.m. The location for the meeting is the U.S. Department of Education, Barnard Auditorium, Room 2413, Federal Office Building 10B (FB–10B), 600 Independence Avenue, S.W., Washington, D.C. Please note that the accessible entrance to the building is located on Maryland Avenue. Photo identification is required to enter the Federal building, and reservations are encouraged to facilitate access. For reservations for the meeting in Washington, D.C., please call Beverlee Stafford at (202) 205–8831.

The meeting in San Francisco, California, will be held on February 20, 1996, from 1:00 p.m. to 6:00 p.m., at the U.S. Department of Education, Federal Office Building, Room 506, 50 United Nations Plaza, San Francisco, California. Photo identification is needed to enter the Federal building, and reservations are encouraged to facilitate access. For reservations for the meeting in San Francisco, California, please call Gilbert "Doc" Williams at (415) 556–7333.

The meeting in Dallas, Texas, will be held on February 22, 1996, from 1:00 p.m. to 6:00 p.m., at the City of Dallas, Park and Recreation Department, Bachman Recreation Center, 2750 Bachman Drive, Dallas, Texas. For reservations for the meeting in Dallas, Texas, please call Loerance Deaver at (214) 767–2961.

(Authority: 29 U.S.C. 701)

Dated: January 31, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–2400 Filed 2–5–96; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–24–1–7047b; FRL–5317–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Missouri submitted a rule which would allow the operating permit monitoring data, including stack, process and ambient monitoring, to be used directly for compliance certifications and enforcement. In the final rules' section of the **Federal Register**, the EPA is approving the state's State Implementation Plan revision as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties

interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 8, 1996.

ADDRESSES: Comments may be mailed to Joshua A. Tapp, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Joshua A. Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: October 2, 1995.

William Rice,

Acting Regional Administrator.

[FR Doc. 96–2378 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[RT–16–01–6673b; A–1–FRL–5337–7]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; NSR and PSD Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island for the purpose of meeting requirements of the Clean Air Act (CAA), as amended in 1990, with regard to New Source Review in areas that have not attained the National Ambient Air Quality Standards (NAAQS). In addition, EPA is proposing to approve revisions pertaining to the State's Prevention of Significant Deterioration (PSD) program and other miscellaneous requirements. In general, these revisions make the Rhode Island PSD program more consistent with current Federal requirements. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received on or before March 7, 1996.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, (617) 565–3566.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C 7401–7671q.

Dated: September 11, 1995.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 96–2227 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 81

[FRL–5412–6]

Designation of Areas for Air Quality Planning Purposes; South Dakota; Approval of Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the EPA is proposing to approve the State of South Dakota's October 12, 1995 request to redesignate the "Rest of State" area designated under section 107 of the Clean Air Act (Act), which includes the entire State of South Dakota except the Rapid City area, from unclassifiable to attainment for PM–10. In the final rules section of this **Federal Register**, the EPA is acting on the State's request in a direct final rule without prior proposal because the Agency views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, then the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received in writing by March 7, 1996.

ADDRESSES: Written comments should be addressed to Vicki Stamper, 8ART–AP, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and South Dakota Department of Environment and Natural Resources, Division of Environmental Regulation, Joe Foss Building, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART–AP, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466, (303) 312–6445.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule of the same title which is located in the Rules Section of this **Federal Register**.

Dated: January 23, 1996.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 96–2498 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–4, RM–8733]

Radio Broadcasting Services; Salem and Cherokee Village, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Bragg Broadcasting Corporation, licensee of Station KSAR(FM), Channel 240A, Salem, Arkansas, and KFCM, Inc., licensee of Station KFCM(FM), Channel 265A, Cherokee Village, Arkansas, proposing the substitution of Channel 265A for Channel 240A at Salem and modification of the license for Station KSAR(FM) accordingly. To accommodate the Salem modification, petitioner requests the substitution of Channel 252A for Channel 265A at Cherokee Village and concomitant modification of the license for its co-owned Station KFCM(FM). Coordinates for Channel 265A at Salem, AR, are 36–25–00 and 91–48–00; coordinates for Channel 252A at Cherokee Village, AR, are 36–16–29 and 91–30–18. As the petitioner's modification proposals seek equivalent channel substitutions, we will not accept competing expressions of interest for the use of Channel 265A at Salem, Arkansas, or for Channel 252A at Cherokee Village, Arkansas.

DATES: Comments must be filed on or before March 21, 1996, and reply comments on or before April 8, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners' counsel, as follows: William J. Pennington, III, Esq., Post Office Box 1447, Mount Pleasant, SC 29464.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–4, adopted December 15, 1995, and released January 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2366 Filed 2–5–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 96–3, RM–8735]

Radio Broadcasting Services; Imboden, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of John J. Shields, requesting the allotment of FM Channel 289A to Imboden, Arkansas, as that community's first local aural transmission service. Coordinates used for this proposal are 36–14–45 and 91–13–09.

DATES: Comments must be filed on or before March 21, 1996 and reply comments on or before April 8, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dan J. Alpert, Law Offices of Dan J. Alpert, 2120 N. 21st Rd., Suite 400, Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–3, adopted December 15, 1995, and released January 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2365 Filed 2–5–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF DEFENSE

Department of the Air Force

48 CFR Chapter 53, Appendix A

Air Force Logistics Command Federal Acquisition Regulation Supplement; Vendor Rating System

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule; withdrawal.

SUMMARY: On October 24, 1990, the Department of the Air Force published (at 55 FR 42863) a proposed rule to amend chapter 53 of title 48 of the Code of Federal Regulations by adding the Air Force Logistics Command (AFLC) Federal Acquisition Regulation Supplement as Appendix A, consisting of parts AFLC 5317 and AFLC 5352, Vendor Rating System. The proposed vendor rating system did not fully comply with Federal Acquisition Regulation (FAR) past performance requirements. To update this system to comply with the FAR would be prohibitively expensive. Based on this, the vendor rating system is canceled and the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Capt D. Behne, HQ AFMC/PKP, 4375 Chidlaw Road, Suite 6, Wright Patterson AFB, OH 45433–5006, telephone (513) 257–6005.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–2516 Filed 2–5–96; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD62

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period for Proposed Establishment of a Nonessential Experimental Population of California Condors in Northern Arizona

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) provides notice that the public comment period is reopened for the proposal to designate a nonessential experimental population of California condors (*Gymnogyps californianus*) in northern Arizona and southern Utah. This population is proposed to be designated as a nonessential experimental population in accordance with section 10(j) of the Endangered Species Act (Act) of 1973, as amended. The reopening of the comment period will allow all interested parties to submit written comments on the proposal.

DATES: The comment period which originally closed February 1, 1996, now closes February 29, 1996.

ADDRESSES: Written comments should be sent to the Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above Service address.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Humphrey, at the above address, telephone 602/640–2720; facsimile 620/640–2730.

SUPPLEMENTARY INFORMATION:

Background

The Service, in cooperation with the Arizona Game and Fish Department, and the U.S. Bureau of Land Management, proposes to reintroduce California condors (*Gymnogyps californianus*) into northern Arizona. This reintroduction will achieve a primary recovery goal for this endangered species, establishment of a second noncaptive population, spatially disjunct from the noncaptive population in southern California. Section 10(j) of the Endangered Species Act of 1973 (Act) enables the Service to designate certain populations of federally-listed species that are released into the wild as "experimental." This designation can increase the Service's flexibility to manage a reintroduced population. Section 10(j) allows an experimental population to be treated as a threatened species regardless of its designation elsewhere in its range and under section 4(d) of the Act. The Service has greater discretion in developing management programs for threatened species than it has for endangered species. Nonessential experimental populations located outside National Wildlife Refuges or National Park Service lands are treated, for the purpose of section 7 of the Act, as if they are proposed for listing. The area proposed for nonessential experimental designation occurs in northern Arizona, southern Utah and southeastern Nevada.

A proposed rule to designate a nonessential experimental population of California condors was published in the **Federal Register** (61 FR 35) on January 2, 1996.

Pursuant to 50 CFR 424.16(c)(2), the Service may extend or reopen a comment period upon finding that there is good cause to do so. Full participation of the affected public in the species listing process, allowing the Service to consider the best scientific and commercial data available in making a final determination on the proposed action, is deemed as sufficient cause.

The previous comment period on this proposal closed on February 1, 1996. With the publication of this notice, the Service reopens the public comment period. Written comments may now be submitted until February 29, 1996, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Jeffrey A. Humphrey (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531–1544).

Dated: January 30, 1996.

Lynn B. Starnes,

Acting Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 96–2471 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

RIN 1018–AD45

Endangered and Threatened Wildlife and Plants; Proposal to Designate the Whooping Cranes of the Rocky Mountains as Experimental Nonessential and to Remove Whooping Crane Critical Habitat Designations From Four Locations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to designate the whooping crane population (*Grus americana*) in the Rocky Mountains as an experimental nonessential population and to remove whooping crane critical habitat designations from four national wildlife refuges; Bosque del Apache in New Mexico, Monte Vista and Alamosa in Colorado, and Grays Lake in Idaho. The private lands involved are holdings inside refuge boundaries and a 1-mile buffer around Grays Lake National Wildlife Refuge. The Service proposes to use this population, and captive-reared sandhill cranes and whooping cranes, in experiments to evaluate methods for introducing whooping cranes into the wild where migration is required.

DATES: Comments from all interested parties must be received by April 8, 1996.

ADDRESSES: Comments and materials concerning this proposal should be sent to Dr. James Lewis, Southwest Regional Office, 500 Gold Avenue SW, Room 4000, Albuquerque, New Mexico 87103–1306. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. James Lewis (See **ADDRESSES** section above) at telephone 505/248–6663; or facsimile 505/248–6922.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act Amendments of 1982, Pub. L. 97–304, added a new section 10(j) to the Endangered Species Act (Act) of 1973 (16 U.S.C. 1531 *et seq.*) that provides for the designation of specific introduced populations of listed species as "experimental populations." Under other authority of the Act, the Service already was permitted to reintroduce populations into unoccupied portions of the historic range of a listed species when it would foster the conservation and recovery of the species. However, local opposition to reintroduction efforts, based on concerns about the restrictions and prohibitions on private and Federal activities contained in sections 7 and 9 of the Act, hampered efforts to use reintroductions as a management tool.

Under section 10(j) of the Act, past and future reintroduced populations established outside the current range of a species may be designated as "experimental." Such designations increase the Service's flexibility to manage such populations because they may be treated as threatened species, which allows more discretion in devising management programs than for endangered species, especially regarding incidental and other takings. Experimental populations "nonessential" to the continued existence of the species are to be treated as if they were only proposed for listing for purposes of section 7 of the Act, except as noted below.

A "nonessential" experimental population is not subject to the formal consultation requirement of section 7(a)(2) of the Act, except that the full protections accorded a threatened species under section 7 apply to individuals found on units of the National Wildlife Refuge System or the National Park System. Section 7(a)(1) of the Act, which requires Federal agencies to carry out programs to conserve listed species, applies to all experimental populations. Individuals to be reintroduced into an experimental population can be removed from an existing source or donor population only if such removal is not likely to jeopardize the continued existence of the species; a permit issued in accordance with 50 CFR 17.22 is also required.

An experiment to reintroduce whooping cranes to historic range in the Rocky Mountains began in 1975, testing the "cross-fostering" technique of placing whooping crane eggs in nests of greater sandhill cranes. On May 15, 1978, whooping crane critical habitat was designated in four areas to benefit the whooping cranes being reintroduced into the Rocky Mountains (43 FR 20938).

Section 10(j) requires the Secretary of the Interior to determine whether populations already reintroduced in 1982 were experimental and essential to the continued existence of the species. The population which migrates between the Gulf Coast of Texas and Northwest Territories, Canada, (Aransas/Wood Buffalo Population) then contained 73 birds (including 17 pairs). The only captive flock (at Patuxent Wildlife Research Center) contained 35 birds but only 5 egg-laying females. The whooping crane population in the Rocky Mountains (Rocky Mountain Population) contained 14 birds, was increasing through releases, and breeding was expected in the near future. It appeared the reintroduction might soon be an operational success rather than an experiment and the Service considered the population essential to existence of the species. Consequently, the Service did not designate the Rocky Mountain Population as experimental when the Act amendments first provided that opportunity.

Since that time, however, the cross-fostering program was terminated because the birds were not pairing and the mortality rate was too high to establish a self-sustaining population. Currently only four nonbreeding adults remain in the Rocky Mountain region. At the same time, the total population of whooping cranes has increased to approximately 260 individuals. The wild population now numbers approximately 163 individuals, including 43 experienced breeding pairs. Four captive populations have also been established with approximately 96 whooping cranes, including 14 breeding pairs and another 21 pairs expected to begin breeding over the next few years. These are among the factors discussed below that allow the Secretary to now find the Rocky Mountain Population no longer essential to the continued existence of the species.

The Service proposes removing whooping crane critical habitat designations from four national wildlife refuges; Bosque del Apache in New Mexico, Monte Vista and Alamosa in Colorado, and Grays Lake in Idaho. The only private lands involved are private holdings inside refuge boundaries and a 1-mile buffer around Grays Lake National Wildlife Refuge. These critical habitats were established to provide food, water and other nutritional or physiological needs of the whooping crane; particularly potential nesting, rearing and feeding habitat at Grays Lake, roosting and feeding habitat during migration through Alamosa and Monte Vista, and winter roosting and feeding habitat at Bosque del Apache. If critical habitat designations are rescinded and the Rocky Mountain Population is designated as nonessential, section 7(a)(1) of the Act will still apply to Federal agencies and both sections 7(a)(1) and 7(a)(2) as required for "threatened species," will apply on National Wildlife Refuges. Federal agencies will still be required to carry out programs to conserve this population and the Act's consultation and the National Wildlife Refuge System Refuge compatibility requirements will still apply on National Wildlife Refuges.

The proposed actions involve the following States and Service Regions—Pacific Region (Idaho), Southwest Region (Arizona and New Mexico), and Mountain-Prairie Region (Colorado, Montana, Utah, and Wyoming). The principal use areas of this population are the middle Rio Grande Valley of New Mexico, the lower San Luis Valley of Colorado, and summering areas in southeastern Idaho and western Wyoming. Southeastern Arizona, northeastern Utah, southwestern Montana, northwestern Colorado, and northern New Mexico are only occupied temporarily during migration or infrequently by a single whooping crane in summer or winter. The portion of the middle Rio Grande Valley involved includes a few miles on either side of the Rio Grande ranging from the town of Belen, New Mexico, to Bosque del Apache National Wildlife Refuge, 15 mines south of Socorro, New Mexico. The portion of the San Luis Valley involved is 15 miles on either side of a line running north-northwest from Capulin, Colorado, to Saguache, Colorado.

On March 11, 1967, (32 FR 4001) and again on June 2, 1970, (35 FR 8495) the whooping crane was listed as endangered. Its status resulted from hunting and specimen collection, human disturbance, and conversion of the primary nesting habitat to hay, pastureland, and grain production (Allen 1952) in the 19th and early 20th centuries. The whooping crane is in the family Gruidae, Order Gruiformes, and is the tallest bird in North America. Males approach 1.5 meters (96 inches) in height and captive adult males average 7.3 kilograms (16 pounds), and females 6.4 kilograms (14 pounds). Adult plumage is snowy white except for black primaries, black or grayish alulae, sparse black bristly feathers on the carmine crown and malar region, and a dark gray-black wedge-shaped patch on the nape.

Adults are potentially long-lived with an estimated maximum longevity in the wild of 22 to 24 years (Binkley and Miller 1980) and 27 to 40 years in captivity (McNulty 1966). Mating is characterized by monogamous life-long pair bonds. Individuals remate following death of a mate. Fertile eggs are occasionally produced at 3 years of age, but more typically at 4 years of age (Ernie Kuyt, Canadian Wildlife Service, pers. comm. 1991). Experienced pairs

may not breed every year, especially when habitat conditions are poor. Whooping cranes ordinarily lay two eggs. They will renest if their first clutch is destroyed or lost before mid-incubation (Kuyt 1981). Although two eggs are laid, whooping cranes infrequently fledge two chicks.

The whooping crane first appeared in fossil records from the early Pleistocene (Allen 1952) and probably was most abundant during that 2-million-year epoch. They once occurred from the Arctic Sea to the high plateau of central Mexico, and from Utah east to New Jersey, South Carolina, and Florida (Allen 1952). In the 19th century, the principal breeding range extended from central Illinois northwest through northern Iowa, western Minnesota, northeastern North Dakota, southern Manitoba, and Saskatchewan to the vicinity of Edmonton, Alberta. Some nesting occurred at other sites such as western Wyoming in the 1900's (Allen 1952, Kemsies 1930). A nonmigratory population still existed in southwestern Louisiana in the 1940's (Allen 1952, Gomez 1992). Through the use of two independent techniques of population estimation, Banks (1978) derived estimates of 500 to 700 whooping cranes in 1870. By 1941, the migratory population contained only 16 individuals.

Whooping cranes currently exist in three wild populations and four captive locations, totalling 260 individuals. The largest captive population of 41 birds, including nine breeding pairs, is located near Laurel, Maryland. Another six pairs here should begin producing eggs in the next 3 years. This site was staffed and administered by the Service as Patuxent Wildlife Research Center until October 1993 when it became part of National Biological Service and was renamed Patuxent Environmental Science Center. A captive flock of 31 birds is maintained by the Service at the International Crane Foundation (Foundation), a private foundation near Baraboo, Wisconsin. The Foundation flock contains five breeding pairs and another five pairs that should enter production in the next 3 years. A third captive site is being developed in Calgary, Alberta, Canada, at the Calgary Zoo Ranch. This flock, under the oversight of the Canadian Wildlife Service, contains 19 cranes transferred from captive flocks in the United States (1991–1995). Ten pairs at Calgary should begin breeding by late this decade. Two pairs are maintained at the San Antonio Zoological Gardens and Aquarium in San Antonio, Texas, and should begin breeding in the next few years.

The Aransas/Wood Buffalo Population, the only self-sustaining natural wild population, contains 133 individuals that nest in the Northwest Territories and adjacent areas of Alberta, Canada, primarily within the boundaries of Wood Buffalo National Park. The migration route is similar in spring and fall. It passes through northeastern Alberta, south-central Saskatchewan, northeastern Montana, western North Dakota, western South Dakota, central Nebraska and Kansas, west-central Oklahoma, and east-central Texas. These birds winter along the central Texas Gulf of Mexico coast at Aransas National Wildlife Refuge and adjacent areas. Whooping cranes adhere to ancestral breeding areas, migratory routes, and wintering grounds, leaving little possibility of pioneering into new regions. The Aransas/Wood Buffalo Population can be expected to continue utilizing its current nesting location with little likelihood of expansion, except on a local geographic scale. The flock recovered from a population low of 16 birds in 1941, and now contains 131 individuals. Forty-five pairs nested in 1993, but of a potential 43–46 pairs, only 28 pairs nested in 1994, due to a late winter and possibly to poor food conditions on their wintering grounds. This was the first time in over 50 years that such a high percentage of the potential pairs failed to nest. This population remains vulnerable to destruction through a natural catastrophe (hurricane), a red tide outbreak, or contaminant spill, due primarily to its limited wintering distribution along the intracoastal waterway of the Texas coast (Service 1994).

The reintroduced population in Florida consists of 26 subadult captive-produced whooping cranes released in 1993–1995, in the Kissimmee Prairie. In this experimental effort designed to develop a nonmigratory self-sustaining population designated as experimental nonessential, annual releases of 20 or more birds have been planned for up to 7 more years. Project success will be evaluated annually (58 FR 5647; January 22, 1993).

The whooping crane population of the Rocky Mountains is proposed to be designated a nonessential experimental population according to the provisions of section 10(j) of the Act. The Service further proposes to rescind the designation of whooping crane critical habitat in Colorado, Idaho, and New Mexico. The Rocky Mountain Population consists only of a male and three female adult cross-fostered cranes surviving from an experiment to establish a migratory, self-sustaining population. These birds are termed cross-fostered because they were reared by sandhill cranes at Grays Lake National Wildlife Refuge, a 8,900-hectare marsh in southeastern Idaho.

These cranes winter in the middle Rio Grande Valley of New Mexico at Belen State Game Refuge and Bosque del Apache National Wildlife Refuge from November-February. In February-March, they migrate north to south-central Colorado where they spend 4–6 weeks in the San Luis Valley before continuing north into southeastern Idaho and western Wyoming. The main crane use area in the valley is Monte Vista National Wildlife Refuge, 10 kilometers south of the town of Monte Vista. The whooping cranes spend April-September on their summer grounds in southeastern Idaho and western Wyoming. In September-October, before migration, they flock with sandhill cranes at Grays Lake and other wetlands and pastures before migrating southeast through northeastern Utah and western Colorado where they remain in the San Luis Valley for 4–6 weeks. They migrate through northern New Mexico and arrive at the wintering area in early November.

From 1975–1988, 289 eggs were transferred in the reintroduction experiment (including 73 eggs from the captive flock at Patuxent); 210 hatched, and 85 chicks fledged (Drewien et el. 1989). Population growth was slow due to small numbers of fertile eggs in some years and high mortality of young before fledging. The losses of chicks and fledged individuals, and the absence of breeding, resulted in a peak population of only 33 individuals in winter 1984–85.

By 1985, biologists began to suspect the absence of pairing might be due to improper sexual imprinting, particularly by female whooping cranes. Sexual imprinting of a foster-reared species on the foster-parent species had been confirmed in raptors, waterfowl, gulls, finches, and gallinaceous birds (Bird et al. 1985, Immelmann 1972). Older female whooping cranes frequently did not return in spring to Grays Lake or other areas occupied by males on their territories. In 1981, 1982, and 1989, captive-reared adult female whooping cranes were released at Grays Lake to enhance pairing activities and determine if adult males recognize conspecifics as mates. These experiments indicated that some cross-fostered males recognized conspecific females as appropriate mates. Improper sexual imprinting behavior seemed to be stronger in the cross-fostered females than in the males.

An experiment to test for improper sexual imprinting due to foster rearing among crane species occurred at the Foundation in 1987 (Mahan and Simmers 1992). Sandhill cranes were foster-reared by red-crowned cranes (sample n=1), white-naped cranes (n=2), and Siberian cranes (n=1). They were then observed from the age of 12 to 24 months, the period when pairing typically begins in sandhill cranes. They were placed in pens adjacent to an opposite-sexed, same-aged bird of the foster species on one side and an opposite-sexed, same-age conspecific on the other side. Each test bird socialized more with the foster species than with a conspecific and the preference was most apparent for females. A cross-fostered young would have to prefer a conspecific in order to obtain an appropriate mate. Thus, the cross-fostering technique does not appear to be suitable for reintroducing a crane to historical habitat.

The cross-fostering experiment was ended because these birds were not pairing and the mortality rate was too high to continue (Garton et al. 1989). Several experiments to encourage pair formation were carried out from 1986 through 1992 without success (Service 1994). By fall of 1994, cross-fostered adult female whooping cranes of ages 4 through 13 years had passed through a nesting season on 42 occasions without pairing. In 1992, a wild male cross-fostered whooping crane and female sandhill crane paired and produced a hybrid chick. This pairing is believed to be a consequence of improper sexual imprinting which resulted from the cross-fostering process. This is the first known instance of cross-species pairing despite frequent association of these two species in North America.

The cross-fostered cranes exhibited various parental behaviors on summer territories at Grays Lake and in a pen nearby. These activities and chick adoptions at the United States captive facilities suggested that some cross-fostered whooping cranes might adopt or bond with and rear a whooping crane chick. Such bonding experiments could occur in open pens with wild-captured adults and would theoretically result in a captive-reared juvenile imprinted on conspecifics and exhibiting some wild qualities. Wild cross-fostered adults were captured and placed with chicks in pens. When the young reached fledging age, all birds were released to the wild to learn from their foster parents where to migrate and spend the winter. This approach was tested without significant success in 1993 and 1994.

The United States Whooping Crane Recovery Plan was approved January 23, 1980, and revised December 23, 1986, and February 11, 1994. In 1985, the Director-General of the Canadian Wildlife Service and the Director of the Service signed a Memorandum of Understanding entitled "Conservation of the Whooping Crane Related to Coordinated Management Activities." The Memorandum of Understanding was revised and signed in 1990, and is scheduled for renewal in 1995. It discusses cooperative recovery actions, dispositions of birds and eggs, population restoration and objectives, new population sites, international management, recovery plans, and consultation and coordination. All captive whooping cranes and their future progeny are jointly owned by the Service and Canadian Wildlife Service and both nations are involved in recovery decisions.

The recovery plan's criteria for downlisting the whooping crane from the endangered to threatened category require maintaining a population level in excess of 40 pairs in the Aransas/Wood Buffalo Population and establishing two additional, self-sustaining populations each consisting of at least 25 nesting pairs (Service 1994). The experimental reintroduction underway in Florida, if successful, would provide the first additional population. The first priority for establishing the second reintroduction population is a migratory flock within historic nesting habitat in the prairie provinces of Canada (Edwards et al. 1994). The Canadian Wildlife Service and provincial wildlife agencies are cooperating in field studies to identify such a release area. By late in this decade the three principal captive flocks should be capable of producing enough whooping cranes to simultaneously support reintroduction in Florida and Canada, but there is no technique for introducing captive-reared cranes in a migratory situation so they will use an appropriate migration route and wintering location.

The Service proposes to use wild whooping cranes of the Rocky Mountain Population and captive-reared sandhill cranes and whooping cranes to evaluate methods of introducing captive-reared whooping cranes into a wild migratory situation. The research proposed within the range of the Rocky Mountain Population is needed to identify a technique for establishing a wild migratory population of whooping cranes in Canada. Such a technique is essential if the Service is to achieve recovery goals for downlisting (Task 31 of the Whooping Crane Recovery Plan; Service 1994—58). The requirements of the National Environmental Policy Act and the section 7 requirements of the Act have been fulfilled for the proposed action.

The Rocky Mountains are the preferred location for research on techniques for establishing a migratory flock because a small experimental population has been present there for 20 years. A large data base on whooping crane and sandhill crane habitats and behaviors exists for this area which provides a comparative baseline for future research in the same geographical area. The Service prefers to avoid experimentation in other United States areas of the historic migratory range until late in this decade when a reintroduction site is selected in Canada. The Act and National Environmental Policy Act requirements are fulfilled for those portions of the United States that would be involved as migration and winter areas.

Adult cranes teach their young where to migrate and spend the winter. A promising topic of research in the Rocky Mountains is the use of ultralight aircraft to teach captive-reared cranes an appropriate migration route and wintering area. In 1993, Mr. Bill Lishman reared Canada geese in Ontario, trained them to follow an ultralight aircraft, and in fall led 18 on a 600 kilometer route to Virginia where they spent the winter. The following spring at least 13 returned to Ontario on their own initiative. In 1994, Mr. Kent Clegg reared six sandhill cranes and taught them to follow an ultralight aircraft in local flights within Idaho. As the next step in this research Mr. Clegg proposes in 1995 to rear a group of sandhill cranes and lead them in fall migration from southeastern Idaho to Bosque del Apache National Wildlife Refuge in New Mexico. If successful with sandhill cranes, the technique would then be tested in 1996, with 6–8 captive-reared whooping cranes. Research may be required on some alternative technique if experimentation with ultralight aircraft indicates it is not a promising reintroduction technique for the Canadian site.

The Rocky Mountain Population qualifies as being nonessential to the continued existence of the whooping crane because:

(1) The four cross-fostered whooping cranes of the Rocky Mountain Population are not breeding and all members will likely die in the next 10 years. They are not contributing to the long-term existence of the species in the wild. None of the cross-fostered whooping cranes have paired and they appear to be behaviorally sexually

neutered. Loss of such individuals will not deter recovery of the species.

(2) There are approximately 110 whooping cranes in captivity at four discrete locations and about 150 whooping cranes elsewhere at two locations in the wild. This species has been protected against the threat of extinction from a single catastrophic event by gradual recovery of the Aransas/Wood Buffalo Population (average increase of 4.6 percent per year for the past 50 years (Mirande *et al.* 1993)), and by increase and management of the cranes at the captive sites. If the average growth rate continues the Aransas/Wood Buffalo Population will reach 500 by about 2020. The standard deviation in growth is almost double the mean growth so in some years the population will decline temporarily, although long-term growth continues to be good. Captive-produced birds which die during the experiments can be replaced through captive breeding or by transfer of eggs from the wild population in Canada. Eggs have been transferred to captivity from the Aransas/Wood Buffalo Population for building the captive flocks or experimental reintroductions since 1967. The wild population has continued to grow during this interval despite the egg transfers. Since 1985, biologists involved in the egg transfer have endeavored to ensure that one viable egg remains in each nest. Such egg switching within the Park provides infertile pairs the opportunity to raise a chick. These egg switches have increased flock growth and the potential for species recovery by an estimated 16–19 percent (Kuyt, pers. comm. 1991). Whooping cranes of the Aransas/Wood Buffalo Population have the highest long-term recruitment rate (13.9 percent) of any North American crane population (Drewien et al. 1995).

Egg and chick production doubled in the captive flocks in 1992, and continued to increase in 1993 and 1994. Production of fertile eggs by captive birds increased 66 percent in 1994. Within the captive population there also are 23 young pairs expected to enter the breeding component of the population over the next 5 years. Wild- and captive-flock increases illustrate the potential of the species to replace individual birds which might die during the experimentation.

(3) The repository of genetic diversity for the species will be the approximately 260 wild and captive whooping cranes mentioned in (2) above. Any birds selected for research on reintroduction techniques in a migratory situation will be as genetically redundant as practical, hence any loss of reintroduced animals in the experiments will not significantly impact the goal of preserving maximum genetic diversity in the species.

(4) Research in the Rocky Mountain Population will further the conservation of the species. Such research is essential to recovery and downlisting the species to threatened status. The beneficial result of identifying a suitable reintroduction technique for placing captive-produced whooping cranes in a migratory circumstance outweigh any negative effects of the experiments. If a suitable reintroduction technique is identified it will expedite recovery and downlisting/delisting of the whooping crane.

Management

Effect on the Rocky Mountain Population

After captive-reared whooping cranes are released to the wild in the proposed experiments, the Service does not propose to recover and return them to captivity. Avian tuberculosis has been a significant disease problem among whooping cranes in the Rocky Mountains and is very difficult to detect. To protect captive flocks from this disease, the Service will not take a whooping crane from the wild and place it in captive flocks. Wild birds also pose a greater danger because; (1) self-inflicted injury may occur as they attempt to escape, (2) potential injury to caretakers, and (3) they are more prone to injury when handled for health checks.

The release of six or more captive-reared whooping cranes in 1996 into this population may slightly prolong its existence. The numbers proposed, including small additional numbers if additional research is required, will be far below the numbers required to have any substantial effect on survival of the population. The additional birds in the wild will provide some viewing opportunities for bird watchers, and some enjoyment for those participating in the annual crane festivals at Monte Vista, Colorado, and Socorro, New Mexico.

Potential Conflicts

The release of additional whooping cranes in the Rocky Mountains will not alter sandhill crane hunting activities along the migration pathway and wintering sites. Sandhill cranes and snow geese (*Chen caerulescens*) are species that look somewhat like whooping cranes. Hunters of these species might misidentify a whooping crane and shoot it, believing it is a legal target. Sandhill cranes are hunted in some areas and precautions are taken to reduce the likelihood that whooping cranes might be mistaken for sandhill cranes and shot. Sandhill crane hunting is not permitted in Idaho and Colorado nor on the national wildlife refuges involved in this proposed rule. Sandhill crane hunting is permitted in the middle Rio Grande Valley of New Mexico, in northeastern Utah, and a small area in southwestern Wyoming and has occurred for these cranes and snow geese for the past decade without causing the known loss of a whooping crane within the Rocky Mountain Population. In New Mexico the whooping cranes generally stay on Bosque del Apache National Wildlife Refuge or State game refuges during fall/winter.

Special Handling

Under the proposed special regulation, which is promulgated under authority of section 4(d) of the Act, and which accompanies this proposed rule for experimental population designation, Federal and State employees and agents would be authorized to relocate whooping cranes to avoid conflict with human activities and relocate whooping cranes that have moved outside the appropriate release areas when removal is necessary or requested. Research activities may require capture in the wild of cross-fostered or captive-reared and released whooping cranes. These individuals will be captured using the night-lighting technique which has been used successfully to capture 269 cranes without injury (Drewien and Clegg 1992). Cranes utilized in the experiments will be equipped with a legband-mounted radio telemetry or satellite transmitter and periodically monitored to assess movements. They will be checked for mortality or indications of disease (listlessness, social exclusion, flightlessness, or obvious weakness).

Mortality

Although efforts will be made to reduce mortality, some will inevitably occur as captive-reared birds adapt to the wild. Collision with powerlines and fences, predators, and disease are known hazards to wild whooping cranes in the Rocky Mountains. Human-caused mortality will be minimized through public education. The Service anticipates the proposed actions may affect the whooping crane due to the potential death of one or more wild, cross-fostered and captive-reared individuals during the experiments. Such losses are not unique to this experiment, but could result during normal life experiences of wild whooping cranes and of whooping cranes retained in captivity. Standard avicultural precautions taken in shipping, handling, and capture, should keep losses to a minimum. Recently released whooping cranes will need protection from natural sources of mortality (predators,disease, inadequate foods) and from human-caused sources of mortality. Natural mortality will be reduced through prerelease conditioning, gentle release, and vaccination. Human-caused mortality will be minimized through conservation education programs.

Health Care

As a consequence of the proposed experiments, disease could be transferred from a captive facility to the wild. Precautions taken to ensure that no disease is transferred will be those measures approved in previous transfers when the captive whooping crane flock was split between Patuxent and the Foundation; when birds were shipped from 1992–1994, to Calgary Zoo Ranch to start the captive flock for Canadian Wildlife Service; and when birds were transferred for the reintroduction to the wild in Florida. Health screening procedures have been developed for release of captive-reared whooping cranes in the wild and have proven effective in avoiding disease or parasite transfers in multiple shipments in 1993 and 1994. Such techniques have proven effective in previous transfers between captive sites and between captive sites and the wild.

Captive Facilities

Facilities for captive maintenance of the birds were constructed for earlier studies and are designed similar to facilities at Patuxent and the Foundation. They conform to standards set forth in Animal Welfare Act. To further ensure the well-being of birds in captivity and their suitability for release to the wild, the pens will include water where the cranes can feed and roost.

Coordination With Agencies and Interested Parties

In October 1992, the Canadian and United States Whooping Crane Recovery Teams recommended uses for the cross-fostered whooping cranes surviving in the Rocky Mountain Population. Both teams suggested using the remaining birds in further experimentation. Information about the recovery teams' recommendations was mailed to the involved Service Regions, States, and special interest groups for their review and comments.

In February 1993, the Southwest Region of the Service sent a memorandum to the State wildlife agency director in each of the affected States; the chairman and members of the Central Flyway Technical Committee; the crane subcommittee of the Pacific Flyway Council; representatives of the National Audubon Society; the president and trustees of the Whooping Crane Conservation Association; to managers of national wildlife refuges involved; and to crane festive groups in Socorro, New Mexico, and Monte Vista, Colorado, requesting their views on actions being considered for the Rocky Mountain Population of whooping cranes. In addition, Technical Committees of the Pacific and the Central Flyway Councils expressed opinions on the actions. Some recipients responded by mail and others provided only verbal comments by telephone.

Refuge managers at the three locations anticipated no problem with removal of the critical habitat designation and changing the designation to experimental nonessential. All involved States, the Pacific Flyway crane subcommittee, the Central Flyway Technical Committee, the Central Flyway Council, and the Pacific Flyway Council favored the change in designation. The Whooping Crane Conservation Association and Chairman of the Crane Festival in Colorado supported the changes. National Audubon Society representatives expressed mild concern about possible increased hazards in whooping cranes as a consequence of the experimental designation but favored additional experimentation.

A majority of the responses supported taking some birds into captivity and endorsed further experimentation. The Service then decided in 1993, to leave all the birds in the wild so there would be a greater likelihood of having sufficient birds for experimentation. Whenever the research is completed, a majority of the respondents favor leaving some of the whooping cranes in the wild for public education, viewing, and research.

The Canadian Wildlife Service endorses the actions described in this proposed rule. The members of the Canadian Whooping Crane Recovery Team and the United States Whooping Crane Recovery Team, professional biologists working with State, provincial, Federal, and private groups have expertise in research or management of cranes, also endorse the changes. The Whooping Crane Conservation Association and World Wildlife Fund-Canada provided funding support for the guide bird experimentation in 1993 and 1994, indicating their endorsement of such experimental efforts and uses of the Rocky Mountain whooping cranes.

On June 24, 1993, the Service announced the availability of the draft revised recovery plan for the whooping crane for review and comment (58 FR 34269). Review copies were mailed to the involved States, Federal agencies, special interest groups, and others. The plan described further proposed experimentation with the Rocky Mountain Population. Favorable comments were received on the plan and all comments were supportive of the proposed research.

Public Comments Solicited

Comments or recommendations concerning any aspect of this proposed rule are hereby invited (see **ADDRESSES** section) from State, public, and government agencies, the scientific community, industry, or any other interested party. Comments should be as specific as possible. Final promulgation of a rule to implement this proposed action will take into consideration the comments for any additional information received by the Service. Such communications may lead to a final rule that differs from this proposal.

National Environmental Policy Act

An Environmental Assessment prepared under the authority of the National Environmental Policy Act of 1969, is available to the public at the Service Office identified in the **ADDRESSES** section. The Service determined that this action is not a major Federal action that would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act (implemented at 40 CFR parts 1500–1508).

Required Determinations

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Based on the information discussed in this rule concerning public projects and private activities within the experimental population area, significant economic impacts will not result from this action. Also, no direct costs, enforcement costs, information collection, or record keeping requirements are imposed on small entities by this action, and the rule contains no record keeping requirements, as defined under the

Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This rule does not require a Federalism assessment under Executive Order 12612 because it would not have any significant federalism effects as described in the order.

The Service has determined that this action would not involve any taking of constitutionally protected property rights that require preparation of a takings implication assessment under Executive Order 12630.

References Cited

Allen, R.P. 1952. The whooping crane. Natl. Audubon Soc. Res. Rept. 3, 246 pp.

Banks, R. 1978. The size of the early whooping crane populations. Unpubl. Rept. U.S. Fish Wildl. Serv. files. 10 pp.

Binkley, C. S., and R. S. Miller. 1980. Survivorship of the whooping crane (*Grus americana*). Ecology 61:434–437.

Bird, D.M., W. Burnham, and R. W. Fyfe. 1985. A review of cross-fostering in birds of prey. ICBP Tech. Publ. 5:433–438.

Drewien, R.C., and K. R. Clegg. 1992. Capturing whooping cranes and sandhill cranes by night-lighting. Proc. North American Crane Workshop 6:43–49.

Drewien, R.C., W. Brown, and E. Bizeau. 1989. Whooping crane cross-fostering experiment. Unpubl. report to U.S. Whooping Crane Recovery Team. 10 pp.

Drewien, R.C., W. Brown, and W. L. Kendall. 1995. Recruitment in Rocky Mountain greater sandhill cranes and comparison with other North American crane populations. J. Wildlife Management (at press).

Edwards, R., S. Brechtel, R. Bromley, D. Hjertas, B. Johns, E. Kuyt, J. Lewis, N. Manners, R. Stardom and G. Tarry. 1994. National recovery plan for the whooping crane. Report No. 6. Ottawa: Recovery of Nationally Endangered Wildlife committee, 39 pp.

Garton, E. O., R. C. Drewien, W. M. Brown, and E. G. Bizeau. 1989. Survival rates and population prospects of whooping cranes at Grays Lake NWR. Final report, in files U. S. Fish and Wildlife Service, Albuquerque, NM. 47 pp.

Gomez, G. M. 1992. Whooping cranes in southwest Louisiana: History and human attitudes. Proc. N. Am. Crane Workshop 6:19–23.

Immelmann, K. 1972. Sexual and other long-term aspects of imprinting in birds and other species. Pages 147–174 in D. S. Lehrman et al. (eds.) Advances in the study of behavior. Vol. 4, Academic Press, New York.

Kemsies, E. 1930. Birds of the Yellowstone National Park, with some recent additions. Wilson Bulletin 42:198–210.

Kuyt, E. 1981. Clutch size, hatching success, and survival of whooping crane chicks, Wood Buffalo National Park, Canada. Pages 126–129 *in* J. C. Lewis and H. Masatomi (eds.), Crane Research Around the World. International Crane Foundation, Baraboo, Wisconsin.

Mahan, T. A., and B. S. Simmers. 1992. Social preference of four cross-foster reared sandhill cranes. Proceedings Sixth North American Crane Workshop 6:114–119.

McNulty, F. 1966. The whooping crane: The bird that defies extinction. E. P. Dutton and Co. Inc., New York, New York. 190 pp.

Mirande C., R. Lacy, and U. Seal (eds.). 1993. Whooping crane (*Grus americana*) conservation viability assessment workshop report. Captive Breeding Specialist Group, International Union for Conservation of Nature, Apple Valley, Minnesota. 119 pp. U.S. Fish and Wildlife Service. 1994. Whooping crane recovery plan. Albuquerque, New Mexico. 92 pp.

Author

The primary author of this document is Dr. James Lewis (See **ADDRESSES** section above) at telephone 505/248–6663; or facsimile 505/248–6922.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by revising the entry for "Crane, whooping" under BIRDS, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules.
Common name	Scientific name						
BIRDS							
Crane, Whooping	*Grus Americanus*	Canada, U.S.A. (Rocky Mountains East to Carolinas) Mexico.	Entire, except where listed as an experimental population.	E	1.3	17.95(b)	NA
Do	.....do	.....do	U.S.A. (FL)	XN	487	NA	17.84(h)
Do	.....do	.....do	U.S.A. (CO, ID, NM, UT, WY).	XN		NA	17.84(h)

3. Section 17.84 is amended by revising paragraphs (h)(1), (h)(3), (h)(4)(ii), and adding paragraphs (h)(8)(i) and (h)(8)(ii) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(h) * * *

(1) The whooping crane populations identified in paragraphs (h)(8)(i) and (h)(8)(ii) of this section are nonessential experimental populations.

* * * * *

(3) Any person with a valid permit issued by the Fish and Wildlife Service (Service) under § 17.32 may take whooping cranes in the wild in the experimental population area for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, and other conservation purposes consistent with the Act and in accordance with applicable State fish and wildlife conservation laws and regulations.

(4) * * *

(ii) Relocate a whooping crane that has moved outside the Kissimmee Prairie or the Rocky Mountain range of the experimental population when removal is necessary or requested;

* * * * *

(8) Geographic areas that nonessential experimental populations inhabit include the following—

(i) The entire State of Florida. The reintroduction site will be the Kissimmee Prairie portions of Polk, Osceola, Highlands, and Okeechobee counties. Current information indicates that the Kissimmee Prairie is within the historic range of the whooping crane in Florida. There are no other extant populations of whooping cranes that could come into contact with the experimental population. The only two extant populations occur well west of the Mississippi River. The Aransas/Wood Buffalo National Park population nests in the Northwest Territories and adjacent areas of Alberta, Canada primarily within the boundaries of the Wood Buffalo National Park, and winters along the Central Texas Gulf of Mexico coast at Aransas National Wildlife Refuge. Whooping cranes adhere to ancestral breeding grounds leaving little possibility that individuals from the extant population will stray into Florida or the Rocky Mountain Population. Studies of whooping cranes have shown that migration is learned rather than innate behavior. The experimental population released at Kissimmee Prairie is expected to remain within the prairie region of central Florida; and

(ii) The State of Colorado, Idaho, New Mexico, Utah, and the western half of Wyoming. Birds in this area do not come in contact with whooping cranes of the Aransas/Wood Buffalo Population.

* * * * *

§ 17.95 [Amended]

4. Section 17.95(b) is amended by deleting the maps and descriptions of critical habitat for the whooping crane in the States of Idaho, Colorado and New Mexico.

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–2485 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AC53

Endangered and Threatened Wildlife and Plants; Withdrawal of the Proposed Rule to List the Fish Virgin Spinedace as Threatened and Withdrawal of the Proposed Rule to Designate Critical Habitat for the Virgin Spinedace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Fish and Wildlife Service (Service) withdraws the May 18, 1994, proposed rule (59 FR 25875) to list the fish Virgin spinedace (*Lepidomeda mollispinis mollispinis*) as a threatened species and also withdraws the portion of the April 5, 1995, proposed critical habitat designation for the Virgin spinedace (60 FR 17296). The Virgin spinedace, a small fish in the minnow family (Cyprinidae), is endemic to the Virgin River drainage of southwestern Utah, northwestern Arizona, and southeastern Nevada. The Virgin spinedace was once common to abundant in clear water tributaries of the Virgin River and in some mainstem reaches above Pah Tempe (La Verkin) Springs near Hurricane, Utah. It was also occasionally found in most reaches of the river below Pah Tempe Springs, with the exception of the mouth of Quail Creek and the mouth of Beaver Dam Wash, where Virgin spinedace were once reported common. Approximately 37 to 40 percent of Virgin spinedace historical habitat has been lost due to human impacts which include the introduction of nonnative fishes, dewatering for agricultural purposes, mining, and urban development. These impacts have resulted in habitat fragmentation and continue to threaten the existence of the Virgin spinedace.

Subsequent to publication of the proposed rule, the State of Utah developed the Virgin Spinedace Conservation Agreement and Strategy (Agreement) for the Virgin spinedace to ensure that conservation measures and recovery actions needed for the fish's continued existence are initiated and carried out. In June 1995, the eight signatory parties to the Agreement began implementation of the Agreement and its associated strategy to reduce threats to the Virgin spinedace that otherwise would warrant its listing as a threatened species under the Endangered Species Act of 1973, as amended (Act). The Agreement will reestablish and maintain water flows required for the Virgin spinedace and will restore 50 percent of its lost historical habitat. On April 10, 1995, the Service's Salt Lake City Field Office received a letter from one of the petitioners, the Bonneville Chapter of the American Fisheries Society, stating that with the implementation of the Agreement the Virgin spinedace no longer warrants listing. The other petitioner, Southern Utah Wilderness Alliance, still supports listing of the Virgin spinedace because of concerns that the Agreement will not be fully implemented or recover the species.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Utah Field Office, Ecological Services, U.S. Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84115. The complete file for this rule also will be available for public inspection at the Washington County Public Library in St. George, Utah.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Williams, Assistant Field Supervisor, Salt Lake City Field Office, at the above address, telephone (801) 524–5001.

SUPPLEMENTARY INFORMATION:

Background

The Virgin spinedace belongs to one of three genera of a unique, endemic tribe of western cyprinids, the Plagopterini. Adult Virgin spinedace measure 80–120 mm (3–5 in) in length and have a broad, flat silvery body with a brassy sheen. They are usually found in clear, cool streams that are interspersed with pools, runs, and riffles. Rinne (1971) found that Virgin spinedace inhabited pools, often with undercut banks, debris, or boulders. The Virgin spinedace feeds primarily on aquatic insect life (Rinne 1971, Gregor and Deacon 1988, Angradi *et al.* 1991), and their feeding habits are dependent upon the types of food available. The Virgin spinedace is endemic to the Virgin River drainage, a tributary to the Colorado River of southwestern Utah, northwestern Arizona, and southeastern Nevada. The historical distribution of the Virgin spinedace is not well documented (Valdez *et al.* 1991). The species was probably common to abundant in tributaries of the Virgin River and some mainstem reaches above

Pah Tempe (La Verkin) Springs, near Hurricane, Utah (Holden *et al.* 1974). The Virgin spinedace was probably less abundant in the mainstem Virgin River below Pah Tempe Springs, with the exception of the mouths of Quail Creek and Beaver Dam Wash, where the Virgin spinedace was a common member of the fauna.

The proposal (59 FR 25875; May 18, 1994) to list the Virgin spinedace as threatened and a subsequent proposal (60 FR 17296; April 5, 1995) to designate critical habitat were based on the decline in the range of and continued threats to the species. The present distribution of Virgin spinedace is substantially smaller than its former range, with approximately 37 to 40 percent (83 kilometers (km) or 52 miles (mi)) of its habitat lost due to human impacts (Valdez *et al.* 1991, Addley and Hardy 1993). Much of this habitat loss has occurred recently. Approximately 60 percent of the habitat loss has occurred since the 1950's and is directly related to construction of dams and diversions in the Virgin River Basin (Dr. Craig Addley, Utah State University, *in litt.* 1994). Stream reaches that historically contained Virgin spinedace (but are now dewatered) include portions of the East Fork of Beaver Dam Wash, the Santa Clara River downstream of Gunlock Reservoir, Mogatsu Creek, Ash Creek near Toquerville, Leeds Creek, North Creek, and the mainstem Virgin River between Quail Creek Diversion and Pah Tempe Springs.

Previous Federal Action

On June 15, 1992, the Fish and Wildlife Service (Service) received a petition from the Bonneville Chapter of the American Fisheries Society to list the Virgin spinedace as an endangered species. On August 17, 1992, another petition to list the Virgin spinedace was received from the Southern Utah Wilderness Alliance. On March 16, 1993, the Service published notice (58 FR 14169) of a finding that the petitions presented substantial information indicating that listing of the Virgin spinedace may be warranted and requested comments and biological data on the status of the fish. On May 18, 1994, the Virgin spinedace was proposed for listing as a threatened species (59 FR 25875). The Service requested independent review of the listing package from three fish specialists. All three reviewers supported the listing of the Virgin spinedace as threatened and that the Service's finding was based on the best scientific information available. On April 5, 1995, the designation of critical habitat was proposed for the Virgin spinedace, Virgin River chub (*Gila seminuda*), and woundfin (*Plagopterus argentissumus*) (60 FR 17296). On April 11, 1995, the Service signed the Agreement developed by the State of Utah.

Summary of Comments and Recommendations

In accordance with the July 1, 1994, **Federal Register** notice (59 FR 34270) which announced a statement of interagency cooperative policy for peer review of activities under the Act (16 U.S.C. 1531 *et seq.*), independent peer review was requested on the proposed listing of the Virgin spinedace as a threatened species. This review process is intended to complement the Service's existing public review process in listing and recovery, and to ensure that the best biological and commercial information is being used in the decision making process. According to policy, when listing a species the Service is required to (1) solicit the expert opinions of three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy, population models, and supportive biological and ecological information for species under consideration for listing; (2) summarize in the final decision document (rule or notice of withdrawal) the opinions of all independent peer reviewers received on the species under consideration; and (3) include all such reports, opinions, and other data in the administrative record of the final decision.

The Service requested assistance in reviewing the listing package on the Virgin spinedace from three independent fish specialists. Specific questions addressed in the review included: (1) Does the listing package present the scientific information correctly?; and (2) Is the listing package biologically supportable? All three reviewers supported the listing of the Virgin spinedace as a threatened species, and agreed that the listing package presented the best scientific information available and that it was biologically supportable. Subsequent to the peer review process, the State of Utah established the Agreement for the Virgin spinedace, including conservation measures and recovery actions that will ensure the fish's survival.

In the May 18, 1994, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule to list the Virgin spinedace as a threatened species. Appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties were contacted and requested to comment. A notice inviting general public comment on the proposed listing was published in the following newspapers: *Salt Lake Tribune/Desert News, St. George Daily Spectrum, Las Vegas Review Journal/Las Vegas Sun, Kingman Daily Miner*, and the *Mesquite Desert Valley Times*. Requests to hold public hearings on the proposed listing were received from the Washington County Water Conservancy District, and from Congressman James H. Hansen's office (1st District, Utah). On June 30, 1994, the Service published a notice in the **Federal Register** (59 FR 33724) announcing the public hearing and extending the comment period until August 17, 1994. In addition to the **Federal Register** notice and announcements in newspapers, a letter was sent to all interested parties announcing the date of the public hearing and the extended closing date for public comment. The Service conducted a public hearing on July 13, 1994, in St. George, Utah and 19 parties presented testimony.

During the comment period, the Service received both written and oral comments from 41 parties, including the testimony presented at the public hearing. Comments were received from 1 Federal agency, 4 State agencies, 11 city or county governments, 22 private individuals or groups, and 3 representatives of the scientific community. Of the 41 comments received, 8 supported the proposed listing of the Virgin spinedace as a threatened species, 32 opposed the listing, and 1 comment was neutral. Written and oral statements from both the public hearing and the comment period are combined in the following discussion. In addition, information submitted by the commentors has been incorporated into this notice of withdrawal. Comments questioning the rule have been organized into specific issues. These issues and the Service's response to each are summarized as follows:

Issue 1: A number of respondents objected to the Service's failure to designate critical habitat concurrently with the listing of the Virgin spinedace, claiming that the requirements set forth in the Act for not designating critical habitat at the time of listing have not been met.

Service Response: Section 4(a)(3) of the Act requires that to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time a species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat at the time when a species is proposed for listing is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and it is expected that identification of critical habitat will increase the degree of threat to the species; or (2) such designation of critical habitat is not beneficial to the survival of the species. The Service found that designation of critical habitat for the Virgin spinedace was not prudent at the time of its original listing (May 18, 1994). The primary intent of the Act is to provide for the conservation and continued existence of wild populations of endangered and threatened species and the ecosystems upon which they depend. The Service believed that an aquatic ecosystem approach to enacting conservation measures for the Virgin spinedace, the woundfin, and the Virgin River chub at the same time would provide greater benefit to each species than treating each species separately. Thus, the Service proposed designation of critical habitat for all three fishes in the same notice since their historical ranges overlap, their life history requirements are similar, the threats to each species are similar, and the economic consequences of designating critical habitat will be similar. On April 5, 1995, the Service proposed the designation of critical habitat for the woundfin, Virgin River chub, and Virgin spinedace (60 FR 17296) with the intention of finalizing this designation by no later than December 1, 1995. Concurrent with this notice withdrawing the proposed listing of the Virgin spinedace, the Service also withdraws that portion of designated critical habitat identified for the species in the April 5, 1995, **Federal Register** notice.

Issue 2: A number of commentors (32) stated that there was insufficient scientific evidence to justify the listing of the Virgin spinedace, and that there were not enough data available to document a true decline in population numbers.

Service Response: Section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the following five factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and (5) other natural or human caused factors affecting its continued existence. Section 4 of the Act also states that after conducting a status review of a species, the determination to list a species must be based on the best available scientific and commercial information. The Service completed a status review of the Virgin spinedace when preparing the proposed rule and found evidence of real threats to the species. Valdez *et al.* (1991) and Addley and Hardy (1993) published their findings on the population status and distribution of the Virgin spinedace and their data were cited by the Service as support for the proposed listing of the Virgin spinedace as a threatened species.

Issue 3: Several commentors stated that listing was not warranted given the current conservation efforts, including the Agreement being developed by the State of Utah, and supported this Agreement in lieu of listing the species.

Service Response: The Service participated in the development of the Agreement and believes that its implementation will assist in the recovery of the species. Conservation measures outlined in the Agreement should help reduce actual and potential threats to the species. Therefore, the listing of the Virgin spinedace is not warranted at this time.

Issue 4: Several commentors stated that there is no evidence that habitat loss, a primary threat to the species, is still occurring and stated that the loss of historical habitat occurred decades ago.

Service Response: There are numerous reaches of the Virgin River within Virgin spinedace historical or current habitat that support existing or proposed commercial and noncommercial activities that may result in future habitat losses to the species. Examples of Federal projects which could have adverse effects upon Virgin spinedace habitat are: the Sandstone Reservoir, Pah Tempe Pipeline, Halfway Wash Project, Lake Powell Pipeline, water wheeling, water leasing, Washington Fields Pumpback, and dewatering of springs for municipal and industrial purposes. An evaluation of habitat loss over time has shown that approximately 68 percent of Virgin spinedace habitat loss has occurred in the last 45 years (Dr. Craig Addley, *in litt.* 1994). Actions, when implemented as part of the Agreement for the Virgin spinedace, will result in restoration of at least 50 percent of its historic habitat. If future projects impact Virgin spinedace habitat, the Agreement puts in place a mechanism for habitat restoration, thus preventing further decrease in Virgin spinedace habitat.

Issue 5: One respondent stated that the decline in Virgin spinedace populations are a natural occurrence due to long term climatic changes. Therefore, the species should be allowed to go extinct since it cannot adapt to changes in the river system.

Service Response: In several reaches of the Virgin River where good habitat remains, there are healthy populations of Virgin spinedace. In the reaches of the river where habitat has been degraded, Virgin spinedace populations have declined. These declines are the result of direct threats to the species rather than due to "long term climatic changes."

Issue 6: One commentor stated that listing the Virgin spinedace would compromise efforts to manage and develop the region's water resources in compliance with State and Federal laws. Also, the "taking" provisions of section 9 of the Act unnecessarily undermine the efforts of local water users and State authorities to manage the waters of the State for the benefit of Utah citizens.

Service Response: The listing of the Virgin spinedace as a threatened species would not have modified or nullified any existing State or Federal water laws, nor would it have "taken" any existing water rights. The Service will consider State and Federal water laws and local water user rights when protecting and recovering the Virgin spinedace. Protective measures for listed species are provided for under sections 7 and 9 of the Act. The section 9 "takings" provisions of the Act are not intended to undermine State and local water usage, but to insure that species are not harmed. Under certain circumstances, section 10(a)(1)(B) of the Act allows permits to be issued to conduct otherwise prohibited activities involving listed species. Such permits provide for incidental taking of a species when in connection with an otherwise lawful activity.

Issue 7: One commentor stated that there is no evidence that Virgin spinedace occurred north of the Narrows on the Virgin River's North Fork or east of Parunaweap Falls on the Virgin River's East Fork. Thus, there is no evidence of Virgin spinedace habitat occurring in Kane County.

Service Response: There is no evidence that Virgin spinedace occurred north of the Narrows in the North Fork or east of Parunaweap Falls in the East Fork of the Virgin River. However, the Virgin spinedace is found in Shunes Creek, a tributary to the North Fork, and also in the East Fork from Parunaweap Falls to the confluence with the North

Fork. Both of these reaches are in Kane County, Utah.

Issue 8: Several commentors stated that, historically, many stretches of the Virgin River dried up during summer, including a stretch of the Virgin River's East Fork near Mt. Carmel Junction, and the Santa Clara River downstream of the St. George-Clara diversion. Consequently, there should be no instream flow requirements for these reaches of the river.

Service Response: Virgin spinedace historically did not occur in the Virgin River's East Fork near Mt. Carmel Junction. Listing of the species would not have dictated instream flow requirements for this juncture of the river. All instream flow requirements are addressed in the Agreement.

Issue 9: Several commentors stated that more research needed to be conducted on the Virgin spinedace before a decision to list the species can be made. Specifically, if the species has declined in numbers, there is insufficient evidence documenting the reasons for this decline. They also stated that no current threats to the species have been identified by researchers.

Service Response: Listing the Virgin spinedace would not have precluded further research efforts. Valdez *et al.* (1991) reported a 40 percent decline in Virgin spinedace habitat along with a reduction in population numbers. Declines in the numbers of Virgin spinedace have resulted from numerous threats to the species. Section 4 of the Act states that the determination to list a species must be based on the best available scientific and commercial information after conducting a status review of the species. The Service completed this review when preparing the proposed rule and found evidence of real threats to the species. Two recent publications (Valdez *et al.* 1991, Addley and Hardy 1993) assessed the population status and distribution of the Virgin spinedace. The Service relied upon this information, in part, to support the proposed listing of the Virgin spinedace as a threatened species.

Issue 10: One commentor suggested that, in lieu of listing, the Service should participate in the *Virgin River Management Plan* (Plan), a cooperative multiagency agreement calling for the maintenance of adequate water levels in the Virgin River, as set forth by the Washington County Water Conservancy District.

Service Response: The Plan addresses only a portion of Virgin spinedace habitat, since it was developed primarily for the Virgin River chub and woundfin habitat in the mainstem Virgin River. Much of the Virgin spinedace habitat occurs in tributaries and subtributaries of the Virgin River which were not addressed in the Plan.

Issue 11: Several commentors stated that the results of the studies cited in the proposed rule are inconsistent, and that the Valdez *et al.* (1991) and Addley and Hardy (1993) studies indicate an upward trend in the Virgin spinedace population.

Service Response: Fish populations are subject to natural fluctuations resulting from many environmental factors. Populations fluctuate seasonally with highly inflated numbers of fishes following the breeding season. Sampling for the two studies was conducted at different times of the year. Addley and Hardy (1993) included larval Virgin spinedace in their population counts while Valdez *et al.* (1991) did not. When these differences are taken into account, the results from the two studies are nearly identical.

Issue 12: Several commentors disagreed that dewatering of portions of the Virgin River was a threat to the Virgin spinedace. They stated that water diverted for irrigation is actually the key to maintaining water further downstream during dry years because return flows feed the river downstream late in summer and early fall, thus enhancing Virgin spinedace habitat.

Service Response: Numerous reports (Cross 1975, Valdez *et al.* 1991, Addley and Hardy 1993) have cited dewatering as a threat to the Virgin spinedace. The reestablishment and maintenance of flows is identified as one of the conservation measures to be implemented by the Agreement. Water diverted for irrigation frequently results in complete dewatering of portions of Virgin spinedace habitat. Historically, when these reaches dried up, Virgin spinedace migrated to more suitable habitats. Today, numerous dams and diversions isolate populations of Virgin spinedace, making them vulnerable to the effects of dewatering. This often translates into a high mortality rate. Return flows from agricultural sources do augment summer flows in the river, but these sources do not eliminate the negative impacts of upstream dewatering.

Issue 13: Several respondents believe that habitat degradation from livestock grazing is not a threat to the species, since the effects of grazing have been reduced since the early 1930's and 1940's.

Service Response: Livestock grazing has decreased along the Virgin River since the early 1930's and 1940's, but there are still 18,000 head of cattle in Washington County alone. Cattle utilize riparian areas, resulting in degraded Virgin spinedace habitat through devegetation, stream bank erosion, siltation, and degraded water quality. Valdez *et al.* (1991) identified 10 of 13 populations of Virgin spinedace that are potentially threatened by grazing within riparian areas and by runoff from nearby cattle feed lots. The Agreement includes habitat enhancement projects such as: constructing and maintaining boundary-line fences between Federal and private lands in order to control unauthorized grazing; establishing intensive grazing management programs for Federal lands along streams; and developing conservation easements and barriers within the Virgin River floodplain to help reduce additional agricultural impacts.

Issue 14: One respondent recommended that the final rule include a special rule allowing for take in accordance with applicable State fish and wildlife conservation laws, and with regulations under the Act for scientific purposes, enhancement of propagation or survival of the species, or other conservation purposes as specified in 50 CFR 17.44. The respondent believed that a special rule would provide greater management flexibility in the recovery of threatened species.

Service Response: The Act allows the Service to write special rules for the conservation of threatened species. The withdrawal of the proposed rule to list the Virgin spinedace as a threatened species precludes any need for a special rule.

Issue 15: Several respondents believed that preserving water for the commercial growth of the St. George area is more advantageous than preserving a small fish in southern Utah.

Service Response: Section 2(a) of the Act states that wildlife and plant species have intrinsic values (aesthetic, ecological, educational, historical, recreational, and scientific) that are worth preserving for the benefit of all citizens. The signing of the Agreement puts in place a mechanism that sufficiently protects the Virgin spinedace and addresses future water needs. Therefore, the listing of the Virgin spinedace is not presently warranted.

Issue 16: Several respondents stated that listing the Virgin spinedace would diminish the water supply now available for agriculture. This, in turn, would decrease the value of private lands, and increase the legal and administrative costs associated with obtaining permits from the Federal bureaucracy. These effects would increase economic and social hardships for the cities of Santa Clara and Virgin. Additionally, the respondents stated this would cause a cultural decay for the city of Santa Clara, whose orchards and tree-lined streets (a city hallmark) would receive decreased amounts of irrigation water.

Service Response: Under the Act, the Secretary shall make determinations on the listing of species solely on the basis of the best available scientific and commercial information without reference to economic or other social impacts. The listing of the Virgin spinedace would not affect existing water rights.

Summary of Factors Affecting the Species

After a thorough review and consideration of all available information, coupled with the development of the Agreement, the Service has concluded that the proposed rule to list the Virgin spinedace and the corresponding portion of the proposed rule to designate critical habitat should be withdrawn. Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to or deleting species from the Federal Lists. The Service finds that evidence now available, as discussed below, does not justify a final determination to add the spinedace to the List. A species may be added or removed from the Lists based upon one or more of the five factors described in section 4(a)(1) of the Act. These five listing criteria are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* While much Virgin spinedace habitat has been destroyed, modified, and/or curtailed in the past, the Agreement calls for enhancement and maintenance of Virgin spinedace habitat. Habitat enhancement will be implemented for approximately 25 km (16 mi) of occupied habitat. Enhancement projects will focus on those specific factors that have contributed to habitat degradation such as agricultural activities, recreational use of riparian zones, and activities that affect water quality. Enhancement projects will include maintenance and construction of boundary-line fences between Federal and private lands in order to control unauthorized grazing and recreational use along the riparian zones. Grazing management programs will be implemented for Federal lands bordering streams. Conservation easements will be developed for the Virgin River floodplain to further reduce habitat degradation. Additionally, mitigation for acceptable future projects in occupied habitat will generally be based on a one to one replacement of historical habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Historically, Virgin spinedace were used as bait fish in the lower Colorado River (Miller 1952). However, overutilization is not reported as a factor in the continuing decline of Virgin spinedace populations, and recent studies (Valdez *et al.* 1991, Addley and Hardy 1993) give no indication that overutilization has negatively impacted Virgin spinedace populations.

C. *Disease or predation.* The introduction of nonnative fishes to the Virgin River system has contributed to the decline of native fish populations (Hardy 1991, U.S. Fish and Wildlife Service 1993). The Agreement specifically addresses this issue. One of the five conservation actions to be implemented by the Agreement is to selectively control nonnative fishes. Management and control of nonnative fishes will focus on stocking and introduction procedures, as well as control and/or eradication of nonnative fishes in the Virgin River basin. Specific management actions to remove the threats to Virgin spinedace associated with nonnative species will be developed on a reach by reach basis. Stocking procedures have been implemented by the Utah Division of Wildlife Resources and the Nevada Division of Wildlife that include prohibitions on: stocking of rainbow trout to establish new self-sustaining populations; and stocking of brown trout, brook trout, and channel catfish. Stocking all nonindigenous aquatic species is prohibited by respective State regulations or is recommended for prohibition by the Colorado River Wildlife Council. In addition, there are restrictions on the stocking of largemouth bass and bluegill sunfish in standing water impoundments, including existing mainstem reservoirs, and other isolated ponds and reservoirs. Species targeted for control and/or eradication include rainbow trout in the upper reaches of Beaver Dam Wash (October 1995); green sunfish in the Santa Clara River; and the red shiner in the mainstem Virgin River below the Washington Fields Diversion (October 1995). The feasibility of engineering fish barrier structures to control nonnative fish is also being developed.

In addition to introduced fish species, several parasites have invaded the Virgin River system, including the Asian tape worm (*Bothriocephalus acheilognathi*) which was introduced to the Virgin River system in 1986. This parasite weakens fish, making the fish more vulnerable to stressful environmental conditions such as low water levels. The Asian tape worm has not, as yet, been identified as a parasite to the Virgin spinedace, but it has been reported from other native fishes in the Virgin River. Addley and Hardy (1993) have identified an unknown parasite infesting Virgin spinedace in the Ash Creek drainage, but they were unable to determine the effects of this parasite on the Virgin spinedace.

D. *Inadequacy of existing regulatory mechanisms.* The Virgin spinedace is listed as State endangered in Utah and Arizona, and State protected in Nevada. These States protect the species from direct take. Although land ownership within the Virgin River Basin is divided and administered among many Federal and State agencies, and also private landowners, cooperation among the various groups is helping to protect the Virgin spinedace. The Agreement is a multiagency agreement whose signatories and participants include the Utah Division of Wildlife Resources, Bureau of Land Management (Utah and Arizona State Offices), National Park Service, Nevada Division of Wildlife, Arizona Game and Fish Department, Washington County Water Conservancy District, and the Service. The Agreement was developed to expedite conservation measures needed for the continued existence and recovery of the Virgin spinedace. It focuses on two objectives: (1) To reduce and eliminate significant threats to the species, and (2) to enhance and/or stabilize specific reaches of occupied and unoccupied historical habitat. These objectives will be met through: reestablishment of population maintenance flows for Virgin spinedace; enhancement and maintenance of habitat; selectively controlling nonindigenous fishes; maintaining genetic viability; monitoring populations and habitat; and developing a mitigation plan and protocol for future activities that may affect Virgin spinedace. When the Agreement is fully implemented, it will provide for the recovery of the Virgin spinedace by establishing a framework for interagency cooperation and coordination on conservation efforts, setting recovery priorities, and estimating costs of various tasks necessary to accomplish the recovery priorities. In addition to the Agreement, other partnerships will be developed on specific actions within the Virgin River basin involving other interested agencies or groups.

E. *Other natural or human caused factors affecting its continued existence.*

Drought directly impacts Virgin spinedace habitat by dewatering some stream reaches, thus reducing the amount of usable habitat and isolating individual populations. Many of the tributaries in the Virgin River drainage have intermittent flows that disappear during drought years. Historically, fish survived drought by following the receding waters. Now, artificial barriers block their paths of retreat and some Virgin spinedace populations may become stranded and die during drought periods. One conservation action called for by the Agreement is the reestablishment and maintenance of required stream flows. These interim fish maintenance flows will be reestablished in approximately 39 km (24 mi) of historical habitat in order to reduce habitat fragmentation and to help restore fish populations. The Washington County Water Conservancy District has agreed to provide population maintenance flows for approximately 5 km (3 mi) of previously dewatered Virgin spinedace habitat below the Quail Creek Diversion. Actions are now underway to provide flows for approximately 31 km (19 mi) of the Santa Clara River.

In addition to drought, other factors such as pollution, livestock water diversions, and mining activities have negatively impacted the Virgin spinedace by degrading its habitat. Under the Agreement, efforts will be made to implement intensive grazing management programs on Federal lands along riparian zones to control unauthorized grazing and recreational use. Conservation easements and barriers within the Virgin River floodplain will be developed to help reduce additional impacts from agriculture, recreation, and development.

Implementation of the Agreement will result in the reestablishment of Virgin spinedace in approximately 39 km (24 mi) of its historical habitat and enhancement of currently occupied habitat. This will involve the reestablishment of fish in areas that have not been occupied for many years, and this effort will be monitored and evaluated to determine the degree of success achieved. Changes in nonnative stocking procedure will also be evaluated to determine the degree of success. Therefore, until these evaluations are completed and the degree of success determined, the Service will consider the Virgin spinedace a species of concern. If the Agreement is successful, the Virgin spinedace will no longer be considered a species of concern. If the Agreement fails, the Virgin spinedace will be reevaluated for possible listing.

The Service has carefully assessed the best scientific and commercial data available regarding the past, present, and future threats faced by this species. As stated in section 4(b)(1)(A) of the Act, the Service shall take into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply or other conservation practices, within any area under its jurisdiction.

The Service has evaluated each one of the five listing factors discussed above after taking into account conservation efforts being implemented on behalf of the Virgin spinedace. Based upon this evaluation, the Service finds that the listing of the species as proposed and the designation of critical habitat are no longer warranted. The Service has determined that the Agreement, when fully implemented, is expected to prevent any of the five listing factors from causing the Virgin spinedace to become endangered in the foreseeable future. Based on this decision, the Service withdraws the proposed rule to list Virgin spinedace as threatened and withdraws that portion of the proposed rule designating critical habitat that addresses the Virgin spinedace.

Available Conservation Measures

An Agreement has been developed for the Virgin spinedace by the Utah Department of Natural Resources in cooperation with the Bureau of Land Management, National Park Service, Nevada Department of Conservation and Natural Resources, Arizona Game and Fish Department, Washington County Water Conservancy District, and the Service. This Agreement focuses on reducing and eliminating significant threats and enhancing and/or stabilizing specific reaches of occupied and unoccupied historical habitats of the Virgin spinedace. When the Agreement is fully implemented, it will provide for recovery of the Virgin spinedace by establishing a framework for cooperation and coordination among State and Federal agencies. It will also establish a framework for conservation efforts, setting recovery priorities, and establishing costs of various tasks necessary to accomplish the recovery priorities.

References Cited

A complete list of all references cited is available upon request from the Salt Lake City Field Office (see **ADDRESSES** above).

Authors

The primary authors of this document are Janet A. Mizzi and Henry R. Maddux (see **ADDRESSES** above).

Authority: The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 7, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–2484 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 61, No. 25
Tuesday, February 6, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Swan Lake–Lake Tyee Intertie Transmission Line, Tongass National Forest, Ketchikan Area and Stikine Area, AK

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of intent to prepare an environmental impact statement.

SUMMARY: Ketchikan Public Utilities proposes to build and operate a 138 kV electric transmission line in Southeast Alaska between the switchyard of the Swan Lake Hydroelectric Station on Revillagigedo Island and the switchyard at the Lake Tyee Hydroelectric Station on the Alaska mainland. The proposed new line would be a single-circuit 138 kV line having three conductors and no shield wire. The proposed action would intertie the electrical systems of Ketchikan Public Utilities, Petersburg Municipal Power and Light, and Wrangell Municipal Light and Power. The Notice of Intent published in the **Federal Register** on Friday, January 6, 1995, (Vol. 60, No. 4, pages 2074–2076) identified Acting District Ranger Linn Shipley, Ketchikan Ranger District, Ketchikan Area of the Tongass National Forest as the responsible official. It also identified the proposed line as a 115 kV line.

This revised Notice of Intent identifies two responsible officials: the Ketchikan District Ranger, Ketchikan Area, Tongass National Forest, and the Wrangell District Ranger, Stikine Area, Tongass National Forest. These responsible officials have been delegated decision-making authority for those segments of the proposed transmission line that would traverse their respective Districts. The responsible officials will coordinate their efforts though the Ketchikan District Ranger will serve as primary liaison with Ketchikan Public Utilities. This revised Notice of Intent also corrects the line voltage to 138 kV for the proposed transmission line.

ADDRESSES: Send written comments and suggestions concerning the scope of this project to Jimmy DeHerrera, District Ranger, Tongass National Forest, Ketchikan Ranger District, 3031 Tongass Avenue, Ketchikan, AK 99901.

FOR FURTHER INFORMATION: Questions about the proposal and the EIS should be directed to Bill Angelus, EIS Liaison, Tongass National Forest, Ketchikan Ranger District, 3031 Tongass Avenue, Ketchikan, AK 99901, phone: (907) 225–2148.

SUPPLEMENTARY INFORMATION: The Draft Environmental Impact Statement is expected to be issued in February 1996. The comment period on the draft environmental impact statement will be a minimum of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register. Subsistence hearings, as required by Section 810 of the Alaska National Interest Lands Conservation Act, are planned during this 45-day comment period.

The Forest Services believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process.

First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).*

Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022, (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act of 40 CFR 1503.3 in addressing these points.

Issuance of the Final Environmental Impact Statement is projected in November 1996. The proposed transmission line would cross two Districts on two Administrative Areas of the Tongass National Forest. The Forest Supervisors for the Ketchikan Area and the Stikine Area have delegated decision authority to the District Rangers for the portions of the proposed transmission line that would cross their respective Ranger Districts. The responsible official for the decision regarding the segment that would cross the Ketchikan Area is the Ketchikan District Ranger, Tongass National Forest, Ketchikan Ranger District, 3031 Tongass Avenue, Ketchika, AK 99901. The responsible official for the decision regarding the segment that would cross the Stikine Area is the Wrangell District Ranger, Tongass National Forest, Wrangell Ranger District, P.O. Box 51, Wrangell, AK 99929.

Dated: December 17, 1995.

Bradley E. Powell,

Ketchikan Area Forest Supervisor.

Dated: January 9. 1996.

Abigail R. Kimbell,

Stikine Area Forest Supervisor.

[FR Doc. 96–2377 Filed 2–5–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Competitive Enhancement and Defense Diversification Needs Assessment; Proposed Collection; Comment Request

ACTION: Notice and Request for Comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 8, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Chief, Information Collection Analysis Division, Office of Management and Organization, Room 5327, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to U.S. Dept of Commerce, Director of Administration for the Bureau of Export Administration (BXA), Room 3889, 14th and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

Commerce/BXA is conducting an assessment of defense subcontractors in order to match appropriate government programs with the needs of firms who seek to diversify their operations. This survey will collect information on the nature of the business performed by each firm; estimated sales and employment data; the nature of any diversification efforts undertaken thus far; and the kinds of diversification.

II. Method of Collection

The information will be collected via a mail survey.

III. Data

OMB Number: 0694–0083.
Form Number: n/a.
Type of Review: Regular submission.
Affected Public: Small and Medium Sized Businesses.
Estimated Number of Respondents: 3,900.
Estimated Time Per Response: 0.5 hours.
Estimated Total Annual Burden Hours: 1,995 for respondents.
Estimated Total Annual Cost: $53,020 for respondents.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection. They also will become a matter of public record.

Dated: January 31, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

FR Doc. 96–2384 Filed 2–5–96; 8:45 a.m.)

BILLING CODE 3510–DT–P

International Trade Administration

[A–580–008]

Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Reviews.

SUMMARY: On February 16, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative reviews of the antidumping duty order on color television receivers (CTVs) from the Republic of Korea covering exports of this merchandise to the United States by certain manufacturers. Based on our preliminary review of these exports during the period April 1, 1988 through March 31, 1989 and April 1, 1989 through March 31, 1990, we found margins for all reviewed companies with the exception of respondent Samsung Electronics Co., Ltd. (Samsung), which has a *de minimis* margin in both of our reviews. We invited interested parties to comment on the preliminary results. We received comments from the Independent Radionic Workers of America; the International Union of Electronic, Electrical, Technical, Salaried, and Machine Workers, AFL-CIO; the International Brotherhood of Electrical Workers of America; and the Industrial Union Department, AFL–CIO (petitioners). We also received comments from Samsung and rebuttals to Samsung's comments from Zenith Electric Corporation (Zenith), a domestic interested party. We have now completed our final results of review and determine that the results with respect to Samsung remain *de miminis*; those with respect to the other manufacturers have not changed from those presented in our preliminary results.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Richard Herring, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 1995 (60 FR 9005), the Department published in the **Federal Register** the preliminary results of its administrative reviews of the antidumping duty order on CTVs from the Republic of Korea (49 FR 18336; April 30, 1984) covering exports of this merchandise to the United States by Samsung, Cosmos Electronics Company Ltd. (Cosmos), Tongkook General Electronics Co., Ltd (Tongkook), and Samwon Electronics, Inc. (Samwon). For administrative convenience, we combined the results of two reviews covering the periods April 1, 1988 through March 31, 1989, and April 1, 1989 through March 31, 1990. We have now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (1988)(the Act).

Scope of the Review

Imports covered by these reviews include CTVs, complete and incomplete, from the Republic of Korea. The order covers all CTVs regardless of tariff classification. During the period of review, the subject merchandise was classified under item numbers 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9263, 684.9270, 684.9275, 684.9655, 684.9656, 684.9658, 684.9660, 684.9663, 684.9864, 684.9866, 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under item numbers 8528.10.0800, 8528.10.11.00, 8528.10.13.00, 8528.10.17, 8528.10.19, 8528.10.24, 8528.10.28, 8528.10.34, 8528.10.38, 8528.10.44, 8528.10.48, 8528.10.54, 8528.10.58, 8528.10.61, 8528.10.63, 8528.10.67, 8528.10.69, 8528.10.71, 8528.10.73, 8528.10.77, 8528.10.79, 8529.90.03, 8529.90.06, and 8540.11.10 of the Harmonized Tariff Schedule (HTS). Although the HTS and TSUSA item numbers are provided for convenience and Customs purposes, our written description of the scope remains dispositive.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results of the reviews. We received comments from the petitioners, and Samsung, and rebuttal comments from Zenith.

Petitioners' Comments With Respect to Both Reviews

Comment 1: Petitioners argue that the Department should deny the Installment Sales Incentive (ISI) rebate claimed by Samsung as a direct selling expense deduction on its home market sales. Petitioner argues that since Samsung failed to report interest received from installment sales, the Department should either request such information or calculate an amount from information currently available in Samsung's submitted questionnaire responses.

Samsung points out that in order to maximize its sales, it did not charge interest to consumers, either directly or indirectly, on installment sales made by its dealers. Samsung states that it merely provided a collection service which Samsung's numerous small distributors were unable to provide on a cost effective basis.

Department's Position: The Department verified the response submitted by Samsung in the 1988–89 (sixth) administrative review and examined the operation of the ISI rebate program. We verified that customers paid Samsung directly in installments and that no interest was earned on these transactions. Therefore, we have allowed the ISI rebate as a direct selling expense.

Comment 2: Petitioners fault the calculation of U.S. indirect selling expenses reported by Samsung Electronics America (SEA) because it included certain unacceptable advertising expenses. As a result of Samsung's inadequate explanation of why it should include such expenses, petitioners advocate that the Department revise the calculation of U.S. indirect selling expenses incurred by SEA by excluding these contested expenses.

Samsung counters that, in the sixth review, the expense in question resulted from an initial bookkeeping error and its subsequent correction. Since the overall advertising expense total remains unchanged, the total advertising expense used for allocation remains unaffected.

In the seventh review, the expense in question was also a correction of an overstatement found to have been made in the sixth review.

Department's Position: We agree with the respondent that the disputed expense in review six does not affect the total allocated amount for advertising included in SEA's indirect selling expense calculation. Similarly, the Department accepts the correction made within the context of the seventh review. Therefore, no changes have been made in these final results with respect to Samsung's reported advertising expenses.

Comment 3: Petitioners argue that the Department should recalculate the interest rate that it used to calculate Samsung's U.S. credit expenses because it included an asset item from its daily loan balance termed "LIBOR & Cash." Petitioners question the inclusion of an asset in the daily loan balance as well as why it should incur interest on an asset. Because these amounts increase the denominator in the interest calculation, the interest rate used to calculate U.S. credit expenses is understated. In addition, the petitioners request the use of 360 days in both calculations used to derive the "rate of credit expense."

Samsung states that petitioners have misinterpreted the line item "LIBOR & Cash", which, in fact, refers to Samsung's LIBOR loans and cash loans. Thus, Samsung did not calculate interest on an asset item. Furthermore, using 360 days in both calculations to derive the rate of credit expense yields the same rate as was originally reported and used by the Department.

Department's Position: We agree with the respondent and have made no changes to Samsung's reported credit expense rate.

Comment 4: Petitioners argue that Samsung has not reported the amount for its imputed cost of carrying inventory on its Exporter Sales Prices (ESP) transactions. Because Samsung should not benefit from its failure to report relevant expenses, petitioners advocate that the Department calculate an amount to account for the inventory carrying expense, and deduct the amount from the price of its ESP sales.

Samsung notes that in its supplemental questionnaire response, Samsung reported inventory carrying costs incurred with respect to its ESP sales. The overall indirect selling expense ratio was increased accordingly to that which was used by the Department in its preliminary results calculations for these reviews.

Department's Position: We agree with Samsung that inventory carrying costs were reported and included in the amount deducted for indirect selling expenses for all ESP sales transactions in both the sixth and seventh reviews (see submissions of Samsung dated March 20, 1991 at 6–7 and August 9, 1991 at 1–3, respectively).

Comment 5: Petitioners state that the Department should calculate an amount for credit expenses based on the estimated credit period for Samsung's purchase price sales which were sold "at sight." Petitioners argue that, since the time between the date that CTVs were shipped from Samsung's factory and the date that Samsung was credited by its bank for payment can easily run as long as 10 to 14 days, Samsung should be required to report this time period and its corresponding credit expense.

Samsung argues that the period from the date the CTVs leave the factory until the date the CTVs are loaded onto a ship is an inventory carrying cost rather than a credit expense. Since inventory carrying costs are indirect selling expenses, and indirect selling expenses are not considered in these purchase price transactions, there is no need for the Department to impute an expense for this portion of the period. Moreover, as clearly set forth in Certain Iron Construction Castings from Brazil (51 FR 9477, 9479; March 19, 1986), it is not the Department's policy to calculate a credit expense when the terms of sale are letter of credit "at sight." Therefore, the Department should also not impute any credit expense for the period from the date when Samsung receives the

carrier's bill of lading until the date when the bank credits the payment.

Department's Position: It is Department policy that the credit period begins with shipment of the merchandise to the customer from the foreign producer's warehouse, whether located on the production site or at an off-site warehouse location, and ends at the time the producer receives payment. We agree with Samsung that it is not the Department's policy to calculate a credit expense for "at sight" sales, since generally for these sales, payment by the bank is effected immediately upon presentation of the sales documentation. We reviewed the sales verification documents collected in the sixth review to determine the actual time between the date of shipment and the date of payment. These documents indicate that there is generally only a one day lag between the two events. Therefore, no credit expense is applicable.

Comment 6: Petitioners state that the Department did not follow its normal practice which is to adjust constructed value (CV) for home market selling expenses based on the weighted-average direct and indirect selling expenses for all home market sales. Instead the Department relied on ratios reported by Samsung for direct and indirect selling expenses which the petitioner alleges that Samsung failed to adequately explain and which differ from that reported in the home market sales tape. Accordingly, petitioners argue the Department should calculate the selling expense adjustments from the reported home market sales tape.

Samsung responds that the methodology for deriving the expense ratios reported for making adjustments to CV were individually explained in its response. In response to petitioners' additional point that the ratios do not correspond to the information contained in the home market sales tape, such a comparison is fundamentally flawed. The home market sales expenses reported in the sales tape are actual and sales-specific whereas the reported CV expense ratio is based on the average expense amount relative to the cost of home market sales. Samsung argues that there is simply no way that this information can be directly or meaningfully compared. Lastly, Samsung states that the underlying methodology was fully reviewed and verified by the Department.

Department's Position: We reviewed, and verified in the sixth administrative review, the methodology used by Samsung for reporting its home market selling expenses for CV. These expense amounts properly reflect Samsung's selling experience for all home market sales of CTVs. As Samsung explained, these ratios were calculated using the cost of sales. Since petitioner compares these average amounts to the sales-specific amounts calculated using sales revenue, it is not surprising that the two results differ. In fact, unless sales are made below the cost of manufacture, an allocation based on the cost of sales would always yield a higher percentage than would an allocation of the same amount based on the value of sales. The Department finds no inaccuracies in Samsung's calculation of the weighted-average direct and indirect selling expenses for all home market sales of CTVs reported for purposes of CV.

Comment 7: Petitioners contend that to the extent that SEA is the importer of record for the CTV entries concerned and consequently is obligated for payment of antidumping duties on those entries, absorption or reimbursement will have occurred contrary to the statute and regulations at 19 CFR section 353.26. Therefore, the antidumping duties should be assessed and collected a second time. According to petitioners, the subsidiary relationship between Samsung and SEA shields the first unrelated buyer in the United States from the remedial mechanism of the antidumping duties and thereby wrongly erodes the purpose of the law.

Petitioners, therefore, ask that the Department reconsider its past reluctance to find absorption or reimbursement when antidumping duties are to be paid by an importing party that is related to the foreign producer. Although one court decision, *Outokumpu Copper Rolled Products AB* v. *United States*, 829 F. Supp. 1371, 1382–84 (CIT 1993), has supported the Department's position, the petitioners argue that the grounds relied upon by the court are not persuasive. First, the court saw the foreign producer and its related party in the United States as having separate corporate identities with no inappropriate financial intermingling, in spite of the fact that these companies were considered a single company in the classification of their United States sales and the computation of dumping margins on those sales. Petitioners ask why a subsidiary of a foreign producer that has been found to be dumping should be permitted to pay antidumping duties as the importer of record and characterized as a separate importer rather than the foreign respondent's controlled subsidiary serving to shield unrelated customers in the United States from antidumping duties. Second, petitioners claim that the court concluded that no absorption or reimbursement had taken place because the cash deposits of estimated duties should not be "recast" into duties actually paid. However, whenever the related party is the importer of record, that related party is ultimately responsible for the payment of any antidumping duties due. Petitioners conclude that, to the extent that the Department calculates margins of dumping on Samsung's CTVs in these reviews, those duties to be paid by SEA should be paid a second time.

Samsung argues that petitioners' attempts at distinguishing the *Outokumpu* decision, which is governing precedent and should be applied here, fails because their analysis is neither grounded in the statute or the regulations. The *Outokumpu* decision held that mere allegations that the foreign producer and the U.S. importer are related and that the importer paid the duties are not sufficient to satisfy 19 CFR section 353.26(a). In order for the reimbursement provision to apply, there must be "evidence on the record that an agreement to reimburse those duties exists," that the foreign producer reimbursed the importer, or that the importer paid duties on behalf of the foreign producer. Samsung asserts that since no such evidence has been provided, the Department should dismiss this argument.

Department's Position: The imposition of antidumping duties is intended to provide relief to U.S. industries injured by unfair trade practices of foreign competitors. In effect, antidumping duties raise prices of subject merchandise to importers, thereby providing a level playing field upon which injured U.S. industries can compete. The remedial effect of the law is defeated, however, where exporters themselves pay antidumping duties, or reimburse importers for such duties. To ensure that the remedial effect of the law is not undermined, the Department has authority to reduce the U.S. price (used to determine dumping) by the amount of any duty paid, or reimbursed, by the producer or reseller, thereby increasing the amount of the duty ultimately collected. *See* 19 CFR 353.26.

The Department's regulation on reimbursement applies to both purchase price and ESP transactions, notwithstanding our statement to the contrary in Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of Antidumping Duty Order, 58 FR 39729 (July 26, 1993) (review of the orders on antifriction bearings (AFBs) from various countries). Contrary to our longstanding interpretation, in that AFBs review we stated that section 353.26 did not apply to ESP transactions because the exporter and related importer are treated as a single entity for margin calculation purposes. We concluded that because the related companies are considered to be a single entity, we could not treat the two companies as separate entities for purposes of duty payment.

We have reconsidered our statement in AFBs and find it to be inconsistent with both the plain language of the regulations and the regulatory history. See, e.g., 19 CFR 353.41 (defining U.S. price as the purchase price or the ESP). We also note that the statement of administrative action of the URAA confirms that the Department has "full authority under its current regulations (19 CFR 353.26) to increase the duty when an importer directly pays the duties due, or reimburses the importer, whether *independent or affiliated*, for the importer's payment of duties." (Emphasis added.) SAA at 216.

The fact that margins are calculated based on prices to the first unrelated party in the United States does not warrant an assumption that there cannot be reimbursement of antidumping duties when the exporter and importer are related. How antidumping duties are calculated and who, under the law, is responsible for paying those duties are separate and distinct issues. The contrary reasoning in AFBs is inconsistent with the underlying policy of the reimbursement regulation. Accordingly, we are reaffirming our original view that reimbursement, within the meaning of the regulation, takes place between related parties if the evidence demonstrates that the exporter directly pays antidumping duties for the related importer or reimburses the importer for such duties. Brass Sheet and Strip from the Netherlands, 57 FR 9534, 9537 (March 19, 1992); Brass Sheet and Strip from the Sweden, 57 FR 2706, 2708 (January 23, 1992); Brass Sheet and Strip from Korea, 54 FR 33257, 33258 (August 14, 1989).

This position has been upheld by the Court of International Trade in *Outokumpu*. This does not imply that foreign exporters automatically will be assumed to have reimbursed related U.S. importers for antidumping duties by virtue of the relationship between them. While we recognize that all transactions between related parties must be scrutinized with care, the relationships between such parties are too complex to justify such an assumption. However, where the exporter directly pays antidumping duties or reimburses the related party importer specifically for such duties, we must conclude that reimbursement has occurred.

In this case, there is no evidence of inappropriate financial intermingling or of an agreement to reimburse antidumping duties between the two related parties. Therefore, the Department has no reason to require payment of twice the amount of any dumping duties owed.

Petitioners' Comments With Respect Only to the 88–89 (Sixth) Review

Comment 8: Petitioners argue that during verification it was noted that Samsung did not claim expenses incurred in certain departments, although expenses incurred in identical- or similarly-named departments were included in the calculation of Samsung's home market indirect selling expenses. Therefore, the Department should recalculate U.S. indirect selling expenses to include the expenses of the noted excluded departments.

Samsung states that petitioners have misinterpreted the verification report's findings. After a thorough examination of the functions of the identical- or similarly-named departments at Samsung, the verifiers concluded that the functions performed by these departments were not the same as those performed by the departments which were included in Samsung's home market indirect selling expenses. Thus, the Department correctly accepted the exclusion of the costs incurred by these departments from Samsung's indirect selling expenses.

Department's Position: Samsung's statement that the Department accepted the exclusion of the costs incurred by these departments from Samsung's indirect selling expenses is only partially correct. During verification, we reviewed Samsung's claimed indirect selling expenses incurred with respect to home market sales and with respect to U.S. sales. During this examination, we noted that Samsung did not claim expenses incurred in certain departments in its calculation of U.S. indirect selling expenses, while expenses incurred in identical- or similarly-named departments were included in its calculation of home market indirect selling expenses. We then collected and reviewed the job descriptions for these various departments to determine whether the tasks performed in the respective home market and export departments were similar.

Based on the examination of the job descriptions, we had Samsung provide us with the expenses for certain additional export departments which were not included in its claimed U.S. indirect selling expenses.

For the other export departments which were examined, we determined during verification that the functions of those export departments were not similar to the corresponding home market sales departments, and were not expenses related to export sales. Therefore, expenses for those departments were not requested. The descriptions of these departments and the additional expenses which were collected during the verification are detailed in Exhibit 39 of the Sales Verification Report for Samsung.

In these final results for the sixth administrative review, we have concluded that the functions of certain export departments are similar to the functions performed in certain domestic sales departments which were included by Samsung in its claimed home market indirect selling expenses. Therefore, we have added the expenses incurred by those export departments to Samsung's U.S. indirect selling expenses.

Comment 9: Petitioners allege that Samsung has not demonstrated that the transfer prices of raw materials it obtained from its related party suppliers reflect the actual market value for these materials, are above cost, or otherwise are arm's length transactions. The Department should request that Samsung provide information regarding its related supplier's fully absorbed manufacturing costs, in order to ensure that any transfer prices used in its CV analysis are at arm's length.

Samsung notes that the Department's verification report confirms that material costs were reported at their fully-absorbed cost. The transfer price was reported only for one related supplier as a matter of convenience since materials purchased from that supplier were so negligible as to comprise approximately one percent of total material purchases.

Department's Position: At verification the Department found that, with the exception of the noted one percent of material purchases from one particular related supplier, all of Samsung's material costs reported for purposes of CV were fully-absorbed costs and not transfer prices (see Report on Verification of Constructed Value and Adjustments for Differences in Merchandise at 11). Therefore, the material costs on purchases from related parties were appropriately reported by Samsung and accepted by the Department.

Petitioners' Comments With Respect to the 89–90 (Seventh) Review

Comment 10: Petitioners state that the Department should apply best information available (BIA), *i.e.*, the

highest calculated margin for any individual sales from this review, for the one purchase price sale for which no contemporaneous foreign market value (FMV) information was supplied by Samsung.

Samsung counters that information on all models requested by the Department was cooperatively supplied and there is no basis whatsoever for use of punitive BIA. In the alternative, the Department can either make a comparison outside the contemporaneous period or make a comparison with an alternative home market model for which information is also available.

Department's Position: The Department has determined that, for the one sale for which it preliminarily failed to calculate FMV and assigned Samsung's weighted-average margin, there is sufficient information on the record to calculate CV. Accordingly, in these final results, the Department has used CV as the basis for FMV in comparison to the one sale.

Samsung's Comments

Comment 11: Samsung objects to the Department's value-added tax adjustment methodology used in its preliminary results of review. Samsung argues that the Department should instead adopt a "tax neutral" methodology.

Petitioners and Zenith counter that the methodology used in these preliminary results is the Department's current administrative practice and has been approved by the Court of International Trade (CIT). Indeed, in litigation involving the eighth review of this order, the Department's remand results involved application of the new tax methodology (remand results filed August 31, 1994 in CIT Ct. No 93–11–00719); those results were sustained by the court on December 28, 1994 (Slip Op. 94–199) and, without an appeal by any party, are now final. Petitioners and Zenith contend that Samsung has raised no basis for reconsideration of the tax methodology.

Department's Position: In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, made since the submission of comments in this case, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The GIT overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the "*Zenith* footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "*Zenith* footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "*Zenith* footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to United States price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum; the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Comment 12: Samsung argues that the Department should classify Samsung's home market bad debt as a direct selling expense. The bad debt expenses claimed by Samsung were owed by CTV purchasers that had declared bankruptcy. Since the bad debt expense was incurred as a direct result of CTV sales, there can be no dispute that the expense was directly linked to sales of the subject merchandise. Furthermore, the Department's treatment in these reviews is inconsistent with the CIT's decision in *Daewoo Electronics Co.* v. *United States*, 712 F. Supp. 931, 938 (1989), *aff'd in part and rev'd in part on other grounds*, 6 F.3d 1511 (Fed. Cir. 1993), *cert. denied*, 114 S. Ct. 2672 (1994) as well as the Department's decision on remand in the second and the fourth reviews of this order to treat bad debt expenses as direct selling expenses.

Petitioner points out that the referenced court decision did not completely foreclose the Department from treating bad debt expenses as indirect expenses. Rather, a respondent must bear the burden of demonstrating that these expenses should be considered direct expenses. Accordingly, the Department should continue to treat Samsung's bad debt expenses as indirect selling expenses.

Zenith argues that the Department has stated that only those bad debt expenses that have been identified, through an analysis of each individual bad debt account, as directly related to the subject merchandise would qualify as a direct selling expense (See Fourth Review Remand Results dated 1/30/95 at 16). Specifically, where an account reflecting receivables from CTV sales is written off as bad, current CTV sales may be adjusted for the expense of the uncollectible CTV receivables, notwithstanding that the receivables may have been booked during a prior period. However, Zenith argues, Samsung has failed to meet the standard for establishing that a direct relationship exists between its sales of CTVs and the bad debt it incurred during the period.

Department's Position: The Department verified the bad debt expenses incurred by Samsung in the context of the sixth review and found these expenses to be incurred with respect to sales to specific distributors which had gone bankrupt and to whom Samsung had sold CTVs. Furthermore, we also reviewed and accepted the allocation used to derive the CTV-specific expense amount. Therefore, we have treated the bad debt expenses reported with respect to CTVs as direct selling expenses in these final results of both reviews.

Comment 13: Samsung argues that the Department should reverse its preliminary decision to deny Samsung's revocation request based on the conclusion that it was untimely. Although the statute authorizes revocation, it says nothing about the procedures which the agency may use to accomplish revocation, including whether a revocation request must be filed at all and certainly not that such a request must be filed on a specified date as a precondition to its consideration. In implementing the statute, the Department issued a regulation that provides that "during the third and subsequent annual anniversary months of the publication of an order or suspension of investigation (the calendar month in which the anniversary of the date of publication of the order or suspension occurs), a producer or reseller *may* request in writing that the Secretary revoke an order * * *." (19 C.F.R. 353.25(b)). The respondent states that the use of the permissive term "may" can only mean that the Department has discretion to accept a revocation request in a month other than the anniversary month of the order. Because, in addition, the regulation does not say that the request must be based on three immediately preceding review periods, Samsung argues that a timely request could be filed in the anniversary month of any year so long as the results of any previous reviews reveal at least three consecutive years of no dumping.

The respondent further argues that the Department's preliminary decision to refuse to consider Samsung's revocation request because it was untimely filed is an abuse of the agency's discretion for four reasons. First, it was not possible for Samsung to file its revocation request in April 1989 (the anniversary month and year for requesting the sixth administrative review) because the Department had not yet issued its preliminary determination in the two immediately preceding reviews of the fourth and fifth periods. Given the substantially above *de minimis* margins determined in the first through third administrative reviews, which were the only reviews completed as of April 1989, Samsung argues that it was not possible at that time for it to form a "reasonable belief" that no dumping occurred in the three consecutive review periods as required by the regulations. Litigation was also then pending on issues arising from the final determinations in the first through third administrative reviews, and the outcome of those issues threatened to have a significant negative impact on the margin in all of the subsequent administrative reviews. Second, Samsung claims that it was not in a position to form that "reasonable belief" in part because the Department itself had breached its own regulatory obligation to complete the fourth and fifth administrative reviews within the required 12-month period. Had that not been the case, Samsung would have known that the fourth and fifth review margins established its eligibility for requesting revocation. Third, Samsung asserts that it submitted its request to the agency within a reasonable time after the date on which it first could reasonably assume that its margins in the fourth through sixth reviews would be *de minimis*. The fourth review final results were issued in June 1990, and the fifth review final results were not issued until March 1991. However, the precedent setting issues in the first, second, and third reviews still remained pending on appeal. Until the resolution of the tax pass through issue in the first administrative review with the issuance by the Court of Appeals for the Federal Circuit (CAFC) of its decision in *Daewoo Electronics Co., Ltd., et al.* v. *United States*, 6 F.3d 1511 (Fed. Cir. 1993), Samsung argues that it remained impossible for it to conclude that the *de minimis* results in the fourth and fifth reviews would remain unaffected by the outcome of this litigation. Fourth, Samsung claims that neither the Department nor the interested parties have been prejudiced by Samsung's 1993 request for revocation.

Before 1984, the statute required the Department to review every antidumping order at least once during each 12-month period. In 1984 when the Act was amended to conduct reviews only upon request by interested parties, the underlying purpose of the change was to reduce the administrative burden on the Department. Samsung states that the Department's position that Samsung should have filed its revocation request in April 1989 to preserve its right to revocation in the sixth review effectively contravenes the purpose of the 1984 amendment. If the Department holds to that position, every respondent in every case will have to file a revocation request as a matter of routine in every anniversary month of an order, beginning with the third anniversary month, to preserve its right to revocation. This in turn means that the Department becomes obligated to conduct a "revocation review" and a "revocation verification" in each review for which a revocation request is submitted. Samsung argues that the goal of reducing the administrative burden of conducting yearly reviews on outstanding dumping orders has been undermined by such a requirement. Furthermore, so long as the issue of whether a final determination will yield a *de minimis* margin in any review upon which revocation depends remains unresolved due either to Departmental delays in completing that review or to a pending judicial appeal, Samsung asserts that the Department legally cannot revoke the underlying antidumping order. Samsung argues that the Department's policy of requiring a revocation request to be filed in the anniversary month of the review period which would potentially complete its revocation eligibility, regardless of ongoing litigation affecting those reviews that could significantly alter the results, serves no purpose, imposes unnecessary burdens on the agency, and may, in fact, void the basis of its revocation decision.

Samsung also states that the Department abused its discretion by failing to revoke the order with respect to Samsung on its own initiative. Given the fact that, with the inclusion of these two review results, Samsung has not been dumping for six years (third through eighth review periods) and significant amounts of time and money have been spent in proving that fact, the Department's failure to initiate revocation proceedings on its own initiative is an abuse of agency discretion.

Samsung claims that because Article 9(1) of the GATT code provides that "[a]n anti-dumping order shall remain in force only as long as, and to the extent necessary to counteract dumping which is causing injury," the Department's failure to revoke the order violates the GATT Antidumping Code. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade (Geneva, 1979). In addition, Samsung argues that the failure of the Department to self initiate a revocation proceeding also violates Article 9(2) which requires investigating authorities to review the need for the continued imposition of the duty on their own initiative.

Lastly, Samsung argues that the present case is distinguishable from the CAFC decision in *Exportaciones Bochica/Floral* v. *United States* 802 F. Supp. 447 (1992) *aff'd without opinion*, 996 F2d 317 (Fed. Cir. 1993) (*Bochica/Floral*). Samsung argues that in that case the Department's reason for rejecting an

untimely filed revocation request was its interest in minimizing the agency's administrative burdens and the need for prompt completion of reviews. Samsung states that this rationale simply does not apply to the factual situation in their case. This is because Samsung's right to revocation based on *de minimis* results in the fourth through sixth reviews depends on the application of methodologies which were not finalized until court litigation involving the first CTV review was resolved by the CAFC. Thus, Samsung concludes that the Department's interests in minimizing administrative burdens and promptly completing its reviews, which were upheld in *Bochica/Floral*, have no relevance here.

Petitioners respond to Samsung's arguments by indicating that the regulations plainly provide that a respondent is required to request revocation during the anniversary month of the order. They claim that Samsung's argument that a revocation request for a particular period can be filed during the anniversary month of any year is a misinterpretation of the regulations. Petitioners state it is clear that a request for a review for the immediately prior period must be made in the immediately following anniversary month. Similarly, the request for revocation applies to the same time period. This regulatory requirement has been upheld by the CIT in *Bochica/Floral* where the court specifically noted that "ITA interprets [19 C.F.R. 353.26(b)] to require that any revocation request be filed on the anniversary month of the order if it is to be considered in the review requested that month." Considering that the Department has been granted the authority to establish implementing regulations, which it is also required to follow, petitioners argue that failure of the Department to require a timely revocation request of Samsung would result in great unfairness to other interested parties and would be contrary to the plain language of the regulations and the supporting CIT decision.

Petitioners disagree with Samsung's claim that its untimeliness causes no prejudice to the Department or domestic interested parties. Petitioners submit that the timing requirement is so important because the request serves as notification of other requirements and other deadlines necessary to the revocation process. Samsung's revocation request filed in November of 1993, over four years late for review six does not allow the Department to base its revocation determination on recent information. If the Department is aware that revocation is at issue and if it is unable to complete the revocation review promptly, then in subsequent reviews it will know at the outset of the review that it must verify the data. Petitioners assert that, if the request for revocation is submitted late in the process, the Department will be unable to conduct its revocation proceedings properly. The Department must also determine that the respondent is not likely to sell at less than FMV in the future. Accordingly, to satisfy the requirements necessary for revocation, Samsung should have timely provided information to demonstrate that there was no likelihood that it would sell its merchandise from Korea at less than FMV.

Petitioners state that having failed to overcome the procedural and substantive barriers to revocation resulting from its untimely request, Samsung tried to excuse itself from its failure by arguing that it was prevented from doing so because it could not form a reasonable belief that there would be no dumping found in the fourth and fifth reviews. Petitioners contend that, based on the Department's established practice during April of 1989, there was a real possibility that the margin results in the fourth and fifth reviews would be *de minimis*, even in the absence of preliminary results. As of November 3, 1993, when Samsung made its request for revocation, litigation on a range of issues was also still continuing in a variety of administrative reviews. Thus, petitioners contend, neither the timing of the publication of the preliminary results nor the pending litigation can excuse Samsung from failing to make a timely revocation request in April 1989. Furthermore, petitioners point out, even if the Department had completed the reviews within a twelve month period, the reviews would have been subject to the same litigation that they were subject to in November 1993. Samsung would have been in no better or worse position in April 1989 than it was when it eventually filed its request.

Zenith submitted rebuttal comments addressing this issue which support those arguments provided by the petitioners and discussed above.

Department's Position: The Department agrees with the petitioner and Zenith and remains unpersuaded by Samsung's arguments regarding its failure to timely file its revocation requests. The Department interprets section 353.25(b) of its regulations to require a producer or reseller to submit its revocation request during the opportunity month for the administrative review which the respondent reasonably believes would establish its eligibility for revocation. This interpretation has been upheld by the CIT in *Bochica/Floral*.

Regardless of Samsung's numerous and varied reasons for its failure to comply, the fact remains that Samsung should have filed its revocation request for the sixth administrative review in April 1989, the opportunity month for the sixth review period. Only by making such a filing could Samsung have preserved its right to revocation in the sixth review.

The Department is also not persuaded by Samsung's argument that the unknown results of ongoing litigation is an acceptable explanation for tardiness. The Department has consistently indicated that it is not its policy to await the results of pending court actions in making revocation decisions. See, Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Review, and Notice of Revocation of Order (in Part) (59 FR 15159; March 31, 1994).

Moreover, Samsung's specific argument that uncertainty concerning the outcome of litigation on prior review periods precluded certification that it had not sold CTVs at less than FMV for three years, is based on an erroneous reading of section 353.25(b)(1) of the regulations. The certification that a party has not sold merchandise at less than FMV, required under 353.25(b)(1), pertains only to the administrative review period being requested for review (and revocation)—*i.e.*, in Samsung's case, for review six. Since the certification concerning the administrative review establishing a respondent's eligibility for revocation is always made in advance of conducting the review, it reflects the respondent's best information and belief concerning it's pricing behavior during the period. Although the Department had not issued preliminary results of review for periods four and five by the time the revocation request was required for period six in April of 1989, no presumption existed that Samsung had been dumping in those earlier periods. Therefore, consistent with its position in prior reviews, Samsung could have provided a certification with respect to the third consecutive review period for which there was as yet no confirmation that it made sales as less than FMV. Even though Samsung could not know at the time whether it would ultimately qualify for revocation, it had a sufficient basis to make the request and could have timely done so.

The requirement that the revocation request be submitted at the time the applicable review is requested is entirely reasonable and is supported by practical considerations. All parties involved in the proceeding are notified and are able to collect information and contribute comments on the merits of the revocation. In addition, the Department can properly plan to examine and verify all necessary U.S. sales and FMV information including the likelihood that the respondent will sell the merchandise at less than FMV in the future (*See* section 353.25(a)(2)(ii)). It is precisely with respect to this last point that the Department has not had the opportunity to gather evidence or solicit comments. The Department received Samsung's revocation request after having completed its verification of information submitted in the sixth review. If the Department had received a timely revocation request from Samsung, it could have planned to gather, analyze, and verify all information necessary for adequately evaluating Samsung's request and making that decision. This, however, is not the situation in this case. For these reasons. the Department is not revoking the order with respect to Samsung in these administrative reviews.

Final Results of the Review

As a result of our review, we determine that the weighted-average dumping margins for the periods are:

Manufacturer/exporter	Margin percentage 04/01/88–03/31/89	Margin percentage 04/01/89–03/31/90
Cosmos	2.24	2.24
Samsung	0.00	0.03
Samwon	16.57	16.57
Tongkook	16.57	16.57

The Department shall instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for all companies will continue to be the company-specific rate published in the final determination covering the most recent period; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original LTFV investigation, the cash deposit rate will continue to be the company-specific rate published in the final determination covering the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will be 13.90 percent, the "all other" rate established in the original LTFV investigation by the Department (49 FR 7620, March 1, 1984), in accordance with the decisions of the CIT in *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993), and *Federal-Mogul Corporation* v. *United States* 822 F. Supp. 782 (CIT 1993).

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibilities concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act, as amended (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 29, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2369 Filed 2–5–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–840]

Notice of Amended Final Determination and Antidumping Duty Order: Manganese Metal From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: David Boyland or Daniel Lessard, Office of Countervailing Duty Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–4198 or (202) 482–1778, respectively.

Amendment to the Final Determination

We are amending the final determination of sales at less than fair value of manganese metal from the People's Republic of China (the PRC) to reflect the correction of ministerial errors made in the margin calculations in that determination. We are publishing this amendment to the final determination in accordance with 19 CFR 353.28(c).

Case History and Amendment of the Final Determination

In accordance with section 735(d) of the Tariff Act of 1930, as amended (the Act), on November 6, 1995, the Department of Commerce (the Department) published its final determination that manganese metal from the PRC was being sold at less than fair value (*see* 60 FR 56045 (November 6, 1995)).

On November 20, 1995, petitioners, Kerr McGee and Elkem Metals Company, and respondents, China National Electronics Import & Export Hunan Company (CEIEC), China Hunan International Economic Development Corporation (HIED), China Metallurgical Import & Export Hunan Corp. and Hunan Nonferrous Metals Import & Export Associated Co. (CMIECHN/CNIECHN), and Minmetals Precious & Rare Minerals Import & Export Co. (Minmetals) made allegations that the Department made ministerial errors in its final determination. On November 22, 1995 and November 28, 1995, rebuttal comments were submitted by petitioners and respondents, respectively.

Because the choice and application of a specific surrogate manganese ore value is not a clerical error pursuant to 19 CFR 353.28(d), as petitioners acknowledged in their submission, the Department has not considered the arguments raised by petitioners or respondents with regard to this issue.

As listed below, Allegations 1 through 5 were made by petitioners and Allegations 6 through 10 were made by respondents. Each summarized allegation, including any comment submitted by petitioners or respondents in response to the allegation, is followed by the Department's response (*see also* November 30, 1995 memorandum to Barbara Stafford, Deputy Assistant Secretary for Investigations).

Allegation 1

According to petitioners, the surrogate ore value used at the final determination requires that the Department adjust the usage levels of direct process chemicals used in the production of subject merchandise.

Respondents argue that petitioners' allegation is not a clerical error, but rather an argument for a methodological change. Respondents also argue that considering this new methodological argument reopens the record and violates respondents' due process rights.

DOC Position

We agree with respondents that petitioners' claim is not a clerical error pursuant to 19 CFR 353.28(d). Furthermore, the information supporting petitioners' clerical error allegation represents untimely-filed new information. Accordingly, the Department has not considered this issue and has removed the information submitted by petitioners in support of this argument, as well as respondents' rebuttal to this information, from the record (*see* 19 CFR 353.31(a)(3)).

Allegation 2

Petitioners allege the following: 1) the calculations of skilled and unskilled labor hours for Producer A were not provided in existing documentation, 2) the allocation of Processor B's skilled versus unskilled labor and direct versus indirect labor was not provided in existing documentation, 3) the verification report for Processor C refers to a July 11, 1995 document regarding labor which is not on the record, and 4) the calculations for Producer D's unskilled labor do not match the documentation provided.

With respect to the above allegation, respondents argue in general that the Department's labor calculations are based on verified information, as stated in the verification reports.

DOC Position

While the calculation of Producer A's skilled and unskilled labor could have been outlined more clearly, the Department does not consider the absence of a full explanation of this producer's labor calculations to be a clerical error.

The verification report of Processor B explains that both the skilled and unskilled labor values were verified from production records which were not taken as verification exhibits. As noted above, the absence of a detailed description of Processor B's labor calculations does not constitute a clerical error.

With respect to Processor C, the verification report was referring to the July 17, 1995 submission by respondents, not to a July 11, 1995 report. This error, in the narrative of the verification report, had no impact on the calculation of labor. When reexamining Processor C's cost of manufacture (COM), however, it was found that estimated indirect labor was omitted. (Note: the final determination stated that indirect labor would be added to the extent that indirect labor could be quantified (*see* 60 FR 56050 (November 6, 1995)). Because the calculation for Processor C's estimated indirect labor yields a positive number, unlike Processor B above, estimated indirect labor has been added to Processor C's COM for the amended final determination.

Finally, although the Department did not outline its calculation of Producer D's unskilled labor, the information necessary to derive this value is contained in the narrative of the verification report and in the referenced exhibit. As indicated above, the Department does not consider the absence of a detailed explanation of Producer D's labor calculations to be a clerical error. The subsequent reexamination of Producer D's labor values, however, has led the Department to revise the original unskilled labor value to include indirect labor inadvertently excluded from the unskilled labor calculation. For the amended final determination, the Department has used a labor value which reflects direct and indirect labor.

Allegation 3

Petitioners allege that, for all respondents, the calculated freight cost is inconsistent with the methodology described in the calculation memorandum. Specifically, the calculated truck rates are lower than the methodology and data would indicate. According to petitioners, the discrepancies do not appear to be explained by rounding errors.

DOC Position

The calculation memorandum inadvertently excluded one element from the explanation of the methodology employed. The calculation memorandum should have stated that, in addition to the distance and transportation rate, the factor usage of each input is multiplied by the relative weight. The calculations for freight costs in the margin calculations were reexamined and determined to be correct.

Allegation 4

Petitioners allege that HIED's margin, as shown on the Department's calculation spreadsheet, does not match the HIED margin published in the Federal Register notice for the final determination. Petitioners also argue that, based on the underlying values in HIED's spreadsheet calculations and supporting data, HIED's margin should be 4.47 percent.

DOC Position

Petitioners are correct. The final margin listed in the final determination notice was incorrect. Additionally, the total value column (TOTVAL) is HIED's margin calculation was incorrectly calculated as gross U.S. price (USP) times quantity. TOTVAL should have been net USP times total quantity. Since this is a clerical error, HIED's TOTVAL has been recalculated using net USP for the amended final determination.

Allegation 5

Petitioners argue that the September 19, 1995 verification report for Producer E indicates that electricity consumption for July 1995 was an amount different than that shown in verification exhibits.

Respondents do not dispute that the Department transposed the July electricity consumption figure. However, they assert that the Department's methodology for deriving Producer E's electricity cost is incorrect and should be corrected using respondents' suggested methodology.

DOC Position

Petitioners are correct. The verification report inadvertently transposed Producer E's electricity usage for July. Since this is a clerical error, the correct number has been used to recalculate Producer E's COM. Because respondents' allegation is based on changing the method by which Producer E's electricity consumption is calculated, the Department considers this to be a methodological argument, as opposed to a clerical error, and has not made the change recommended by respondents.

Allegation 6

Respondents allege that there are a number of mathematical errors in the Department's foreign market value (FMV) calculations.

Petitioners' rebuttal does not substantially deviate from the Department's finding below.

DOC Position

The Department's FMV calculations have been reexamined and compared to the FMV calculation submitted by respondents. The Department has concluded that the mathematical errors cited by respondents are not errors but are due solely to rounding.

Allegation 7

Respondents allege that the Department incorrectly adjusted the content level of a particular input for Producers E and F.

With the exception of indicating that the difference between the input usages for Producer F, as calculated by respondents and the Department, was likely due to a rounding error, petitioners' rebuttal does not deviate substantially from the Department's finding below.

DOC Position

The calculation values provided by respondents for the input adjustment are not correct. Because the Department's adjustment, as outlined in its calculation memorandum, is reflected correctly in the FMV calculation of Producers E and F, no change has been made pursuant to respondents' allegation.

Allegation 8

Respondents allege that a value for "rates and taxes" was incorrectly included in SG&A because, according to the Department's final determination, the FMV was to be "net for all taxes." Additionally, citing the December 19, 1994 calculation memorandum for the final determination of *Coumarin from the People's Republic of China (Coumarin)*, respondents argue that it has been the Department's past practice not to include "rates and taxe" from the Reserve Bank of India Bulletin (RBI) in SG&A.

Citing to *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.*, 60 FR 10900 (February 28, 1995), petitioners assert that respondents' argument that "rates and taxes" should not be included in the FMV is unsupported by precedent. According to petitioners, respondents are incorrect in relying on *Coumarin* because in that case the question of whether to include or exclude "rates and taxes" from SG&A was not raised.

DOC Position

In determining FMV, the Department intended to follow its standard practice, which is to employ tax-exclusive factors of production values and to include a value for "rates and taxes" in the calculation of SG&A. The Department assumes that "rates and taxes" refer to utility costs, such as sewer rates, and property taxes. Such expenses are properly included within the Department's calculation of the FMV because they reflect required expenses incurred in producing the subject merchandise that were not rebated upon export.

Furthermore, whether "rates and taxes" should be included in SG&A was not an issue in *Coumarin*. Therefore, the case provides no guidance or precedent here.

Moreover, while respondents quote the Department as saying in the final determination of this case that the FMV was to be "net of all taxes," the statement was actually "net of taxes" and was referring to the sentence before which specifically addressed the Indian surrogate values used in calculating the factors of production.

Finally, we note that the issue of whether "rates and taxes" should be included within SG&A is substantive, not clerical.

Allegation 9

Respondents allege that in determining SG&A the Department incorrectly used 296 instead of 204 when valuing "rates and taxes" from the RBI. In response, petitioners note that the Department incorrectly calculated SG&A when it used 188 instead of 296 for the "advertisement" expense as listed in the RBI.

DOC Position

Respondents, as well as petitioners, are correct. Using the correct RBI values, SG&A is 19.39 percent, as opposed to the 19.34 percent used in the final determination.

Allegation 10

Respondents assert that the Department incorrectly deducted a value for marine insurance from Minmetal's USP.

Petitioners' rebuttal does not deviate substantially from the Department's finding below.

DOC Position

The verification report of Minmetal states that "we noted no discrepancies with respect to the marine insurance information reported in Minmetal's responses and U.S. sales listing." The verification report also states that the "marine insurance was contracted with a Chinese company" and that "Minmetal was invoiced in U.S. dollars." Accordingly, the Department's deduction of a surrogate value for marine insurance from Minmetal's USP was appropriate and did not represent a clerical error.

Scope of Order

The product covered by this order is manganese metal, which is composed principally of manganese, by weight, but also contains some impurities such as carbon, sulfur, phosphorous, iron and silicon. Manganese metal contains by weight not less than 95 percent manganese. All compositions, forms and sizes of manganese metal are included within the scope of this investigation, including metal flake, powder, compressed powder, and fines. The subject merchandise is currently classifiable under subheadings 8111.00.45.000 and 8111.00.60.00 of the Harmonized Tariff schedule of the United States (HTSUS).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Act, on October 27, 1995, the Department made its final determination that manganese metal from the PRC was being sold at less than fair value (60 FR 56045 (November 6, 1995)). On December 15, 1995, the International Trade Commission notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of imports of the subject merchandise.

Therefore, all unliquidated entries of manganese metal from the PRC entered, or withdrawn from warehouse, for consumption on or after June 14, 1995, which is the date on which the Department published its notice of preliminary determination in the **Federal Register** (see 60 FR 31282 (June 14, 1995)), are liable for the assessment of antidumping duties.

In accordance with section 736(a)(1) of the Act, the Department will direct Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all relevant entries of manganese metal from the PRC. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "PRC-wide" rate applies to all exporters of subject merchandise not specifically listed below.

The *ad valorem* weighted-average dumping margins are as follows:

Manufacture/producer/exporter	Margin Percent
CEIEC	11.77
CMIECHN/CNIECHN	0.97
HIED	4.60
Minmetal	5.88
PRC-wide Rate	143.32

This notice constitutes the antidumping duty order with respect to manganese metal from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: January 19, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2368 Filed 2–5–96; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Exemption of "Fashion Samples" From Visa and Quota Requirements

January 30, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs exempting "fashion samples" from visa and quota requirements for an additional three-month trial period.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Fennessy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A notice published in the **Federal Register** on August 15, 1995 (60 FR 42150) announces a temporary exemption from visa and quota requirements for textile and apparel articles described as "fashion samples."

The Committee for the Implementation of Textile Agreements has determined that, effective on February 1, 1996, textile and apparel articles described as "fashion samples" which are produced or manufactured in various countries and entered into the United States for consumption shall be exempt from quota and requirements for an additional three-month trial period beginning on February 1, 1996 and extending through April 30, 1996.

The term "fashion samples" is limited to wearing apparel and other textile articles purchased at retail and not imported in multiple units, i.e., no more than a single article in a particular style and/or color. These shipments must not be greater than twenty-four (24) pieces and must accompany a returning buyer. Mail and cargo shipments would not be eligible for treatment as "fashion samples."

Troy H. Cribb,

Choirman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 30, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements. This directive also amends, but does not cancel, all visa requirements for all countries for which visa arrangements are in place with the United States.

Effective on February 1, 1996, for a three-month trial, you are directed to no longer require a visa for textile and apparel articles described as "fashion samples" which are produced or manufactured in various countries and entered into the United States for consumption for the period beginning on February 1, 1996 and extending through April 30, 1996. Also for the period February 1, 1996 through April 30, 1996, these textile and apparel articles shall not be subject to existing quota.

These textile and apparel items, frequently called buyers "fashion samples" are limited to textile and apparel items purchased at retail. The "fashion samples" must accompany a buyer returning to the United States, must not be more than a single article in a particular style or color and must not exceed more than 24 pieces total. Mail and cargo shipments would not be eligible for treatment as "fashion samples."

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–2367 Filed 2–5–96; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the Chicago Board of Trade for Designation as a Contract Market in Futures and Options on the CBOT Brazil Brady Bond Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in futures and futures options on the CBOT Brazil Brady Bond Index. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before March 7, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Reference should be made to the CBOT Brazil Brady Bond.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, Washington, DC, 20581, telephone 202–418–5277.

SUPPLEMENTARY INFORMATION: The Exchange's proposed Brady bond contracts are based on indexes representing the sovereign debt of Brazil. The SEC has been petitioned to grant the sovereign debt of Brazil exempt status under SEC Rule 240.3a12–8. The SEC published the proposed amendment to Rule 240.3a12–8 in the **Federal Register** for a 30-day public comment period on December 20, 1995. Should the SEC add the sovereign debt of Brazil to the list of exempted securities, the Commission would then be able to designate futures on such security. *See* Section 2(a)(1)(B)(v) of the Act.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 30, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–2432 Filed 2–5–96; 8:45 am]

BILLING CODE 6351–01–P]

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0064]

Clearance Request Entitled Organization and Direction of Work

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0064).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Organization and Direction of Work. A request for public comments was published at 60 FR 57227, November 14, 1995. No comments were received.

DATES: *Comment Due Date:* March 8, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0064, Organization and Direction of Work, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government awards a cost-reimbursement construction contract, the contractor must submit to the contracting officer and keep current a chart showing the general executive and administrative organization, the personnel to be employed in connection with the work under the contract, and their respective duties. The chart is used in administration of the contract and as an aid in determining cost. The chart is used by contract administration personnel to assure the work is being properly accomplished at reasonable prices.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.75* hours per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *50*; responses per respondent, *1*; total annual responses, *50*; preparation hours per response, *.75*; and total response burden hours, *38*.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0064, Organization and Direction of Work, in all correspondence.

Dated: January 31, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–2434 Filed 2–5–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Unison Industries Limited, a limited partnership, an exclusive license under: United States Patent No. 5,283,488 filed in the name of Rengassamy Ponnappan for a "Rotor Cooling Structure".

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Copies of the patent application may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to: Mr. Samuel B. Smith, Jr., Chief, Intellectual Property Branch, Commercial Litigation Division, Air Force Legal Services Agency, AFLSA/JACNP, 1501 Wilson Blvd., Suite 805, Arlington, VA 22209–2403, Telephone No. (703) 696-9033.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–2456 Filed 2–5–96; 8:45 am]

BILLING CODE 3910–01–P

Department of the Army

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Rodman Dam/Ocklawaha River Restoration Project, Putnam and Marion Counties, FL

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers, along with the Florida Department of Environmental Protection, intends to prepare a Draft Environmental Impact Statement on the feasibility of implementing a plan for

the Rodman Dam/Ocklawaha River Restoration Project in Putnam and Marion Counties, Florida.

ADDRESSES: U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232–0019.

FOR FURTHER INFORMATION CONTACT: Ms. Therese Fretwell, 904–232–3271.

SUPPLEMENTARY INFORMATION: a. The Water Resources Development Act of 1990 (Public Law 101–640) required the U.S. Corps of Engineers to transfers all lands, facilities and management responsibilities associated with Cross Florida Barge Canal Project to the State of Florida. The Florida Department of Environmental Protection (FDEP) is now in the process of developing the Rodman Dam/Ocklawaha River Restoration project for restoring a portion of the Cross Florida Canal to its historic condition. The U.S. Army Corps of Engineers participation will include permitting activities for Section 9 and Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act and NEPA documentation of this project. The FDEP application for a Department of the Army permit includes four alternative plans for dealing with management of the Rodman Dam. These include: Complete Restoration of the Ocklawaha River, Partial Restoration of the Ocklawaha River, Total Retention of the Rodman Reservoir and Partial Retention of the Rodman Reservoir. The FDEP has chosen the Partial Restoration of the Ocklawaha River as its preferred alternative for the Rodman Dam/Ocklawaha River Restoration Project. This plan will be an eleven part process that will restore river hydrology and floodplain function to historic conditions through breaching of the dam, with limited removal and/or alteration of structures and topographical manipulation and allowing for maximum restoration from natural processes to occur. The magnitude and duration of the project is such that the U.S. Army Corps of Engineers determined that an EIS should be prepared for the entire project pursuant to the National Environmental Policy Act (NEPA).

b. Scoping: The scoping process as outlined by the Council on Environmental Quality will be utilized to involve Federal, State, and local agencies; and other interested persons and organizations. A scoping letter will be sent to interested Federal, State, local agencies and interested parties requesting their comments and concerns regarding the issues they think should be included in the EIS. Interested persons and organizations wishing to participate in the scoping process should contact the Corps of Engineers at the above mentioned address. Environmental considerations will include potential presence of historical or archeological resources, aesthetics, recreation demand, water quality, flood control, water supply, land use, wetlands, endangered and threatened species, and fish and wildlife habitats and values. Public meetings may be held in the future, exact dates, times and locations will be published in local papers.

c. It is estimated that the DEIS will be available to the public by mid-1996.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–2381 Filed 2–5–96; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–127–000]

Boundary Gas, Inc.; Notice of Proposed Changes in FERC Gas Tariff

January 31, 1996.

Take notice that on January 26, 1996, Boundary Gas, Inc. (Boundary) tendered for filing, Second Revised Volume No. 1 of its FERC Gas Tariff to become effective February 26, 1996. Second Revised Volume No. 1 supersedes First Revised Volume No. 1 in its entirety. At the same time, Boundary filed its tariff in an electronic format for the first time.

Boundary states that in the process of restating its tariff electronically, it found that numerous pages were shifting. As a result, Boundary decided it would be simpler and cleaner to replace the previous version of its tariff, First Revised Volume No. 1, with a new version, Second Revised Volume No. 1. Second Revised Volume No. 1 is virtually identical to First Revised Volume No. 1. Boundary states that the only substantive changes appear on six pages, Original Sheet Nos. 1, 2, 12, 13, 30 and 31, and these are minor technical revisions made (i) to bring the tariff into compliance with the requirements of Part 154 of the Commission's regulations or (ii) revise cross references to tariff sheets.

Boundary states that copies of this filing were served upon all customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2420 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–126–000]

Sea Robin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 31, 1996.

Take notice that on January 26, 1996, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective February 26, 1996:

First Revised Sheet No. 29
First Revised Sheet No. 31
First Revised Sheet No. 35
First Revised Sheet No. 94

Sea Robin states that the purpose of this filing is to change certain provisions of the General Terms and Conditions of its Tariff to correspond with certain requests that have been made by its shippers. First, Sea Robin proposes to change Section 5.1 of its Tariff to change the deadline for first-of-the-month nominations from 8:00 a.m. Central Time on the fifth business day to 8:00 a.m. Central time on the third business day prior to the beginning of the month effective with nominations for March 1, 1996. Accordingly, Sea Robin has requested that these sheets be made effective as of February 26, 1996, the new nomination deadline for March 1, 1996.

Additionally, Sea Robin proposes to add a new Section 5.9 which would allow Shippers to rank their receipts and deliveries under a Service Agreement in the event receipts are limited, reduced or interrupted. Without such mechanism, Sea Robin must schedule shipper's gas on a prorata basis in the event of a limitation since it has no means to determine and no authorization to prioritize any of a shipper's markets.

Sea Robin also proposes to change Section 4.10 of its Tariff to lower the adjustment factor for measurement errors from 2% to 1%. Finally, Sea Robin proposes an addition to Section 27.1 of its Tariff, the Crediting Flow-through Mechanism, to include the offset to any difference for imbalance entries under an Operational Balancing Agreement which uses a make-up in-kind methodology. Sea Robin states that it has no other means to resolve in-kind imbalances on its books of accounts since it has no storage on its system and does not buy or sell gas. Sea Robin states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211 and 385.214). All such motions and protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2419 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–124–000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 31, 1996

Take notice that on January 26, 1996, Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with the proposed effective date of March 1, 1996:

Title Page
Fifth Revised Sheet No. 2
Second Revised Sheet No. 5
Original Sheet Nos. 5A and 5B
Tenth Revised Sheet No. 6
Eleventh Revised Sheet No. 6A
Original Sheet No. 6B
Third Revised Sheet No. 226
Original Sheet No. 226A
Second Revised Sheet Nos. 223, 244, 249
First Revised Sheet No. 251
Second Revised Sheet No. 252 and 262
First Revised Sheet Nos. 272, and 279
Second Revised Sheet No. 300
Original Sheet Nos. 500–504

WNG states that this filing is being made pursuant to part 154 of the Commission's regulations and in compliance with Commission order (order) issued September 28, 1995 in Docket No. RM95–3–000. Pipelines were directed to revise their tariffs to reflect the changes in part 154 of the Commission's regulations.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2418 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–123–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

January 31, 1996.

Take notice that on January 26, 1996, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective March 1, 1996.

FGT states the instant filing proposes changes to its FERC Gas Tariff which are generally intended to modify or clarify certain provisions in conformance with previous tariff changes filed and accepted by the Federal Energy Regulatory Commission. In addition, minor correction and an updated Receipt Point list are included.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2417 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–115–000]

CNG Transmission Corporation; Notice of Section 4 Filing

January 31, 1996.

Take notice that on January 16 1996, CNG Transmission Corporation (CNG) tendered for filing pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering services currently being provided on specified uncertificated gathering lines. CNG states that the uncertificated lines are being abandoned in place or removed [1] and that no contract for transportation service with CNG will be canceled or terminated.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 5, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a motion to intervene. Copies of this filing are on file with the

[1] CNG indicates that the lines being abandoned either service wells owned by CNG that are being sold to D & G Operating Company and Mountain Reserves Inc. or, in the case of producer Peake Energy (Peake), serve only to transport gas produced by Peake which line is being sold to Peake.

Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2416 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–408–000 and RP95–408–001]

Columbia Gas Transmission Corporation; Notice of Informal Settlement Conference

January 31, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, February 14, 1996, at 10 a.m., at the office of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of exploring the possible settlement of the above referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Thomas J. Burgess or David R. Cain at 208–0917.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2415 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–407–000]

Questar Pipeline Company; Notice of Informal Settlement Conference

January 31, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on February 5, 1996 at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Lorna J. Hadlock (202) 208–0737 or John P. Roddy (202) 208–1176.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2414 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–185–000 and RP95–185–001]

Northern Natural Gas Company; Notice of Informal Settlement Conference

January 31, 1996.

Take notice that an informal settlement conference will convene in this proceeding on February 12, 1996, at 1:30 p.m. The conference will be held in a hearing room at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), may attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214.

For additional information, contact Donald Heydt at (202) 208–0740 or Robert Young at (202) 208–5705.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2413 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–46–000]

Western Transmission Corp.; Notice of Proposed changes in FERC Gas Tariff

January 31, 1996.

Take notice that on January 26, 1996, Western Transmission Company (Western) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1 in electronic format in compliance with the Commission's Final Rule in Docket No. RM95–3–000.

Western states that the purpose of this filing is to comply with the Commission's directive that all companies that have not restated their tariffs in electronic format must do so by January 26, 1996. The content of tariff sheets contained on the disk is identical in all respects to the paper copies that are currently on file with the Commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2411 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–122–000]

CNG Transmission Corporation; Notice of Section 4 Filing

January 31, 1996.

Take notice that on January 25, 1996, CNG Transmission Corporation (CNG) tendered for filing pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering services currently being provided on specified uncertificated gathering lines. CNG states that the uncertificated lines are being abandoned in place and that the receipt point(s) into CNG's system in the case of abandonment in place, have been eliminated. CNG further asserts that no gas is flowing through these facilities.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Pursuant to Section 154.210 of the Commission's Regulations, all such motions or protests must be filed no later than February 6, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2409 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–125–000]

ANR Pipeline Company; Notice of Section 4 Filing Termination

January 31, 1996.

Take notice that on January 26, 1996, ANR Pipeline Company (ANR) tendered for filing under Section 4 of the Natural Gas Act (NGA), notice of the termination of gathering service offered through a 63-foot, 8-inch O.D. pipeline/receipt point (Mutual Interconnection) located at the tailgate of the GPM Gas Corporation (GPM) Cimarron Processing Plant in Woodward County, Oklahoma. ANR requests that the termination of service be effective March 1, 1996.

ANR states that it will abandon this non-certificated gathering facility, which functions as an extension of the nonjurisdictional plant piping owned and operated by GPM, by sales to GPM. ANR asserts that after this Mutual Interconnection is transferred to GPM, shippers will no longer have to pay ANR a gathering fee for gathering transportation service from GPM's Cimarron Processing Plant to ANR's transmission line.

ANR states that no contracts will be terminated as a result of this sale. ANR further states that GPM will continue to deliver gas into ANR's system, however, ANR will receive it at the point where the Mutual Interconnection line meets ANR's transmission system, and that this receipt point will be designed as the Cimarron Interconnection.

ANR states that two customers have made deliveries through the Mutual Interconnection during the 12 months ended December 31, 1995. ANR maintains that these customers have been mailed notification of this change in receipt point, and subject to the Commission approval, the change will be posted on ANR's Electronic Bulletin Board.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Pursuant to Section 154.210 of the Commission's Regulations, all such motions or protests must be filed no later than February 7, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2410 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL96–25–000, et al.]

Arizona Public Service Company, et al. Electric Rate and Corporate Regulation Filings

January 29, 1996

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. EL96–25–000]

Take notice that on December 18, 1995, Arizona Public Service Company (the "Company") tendered for filing a request for waiver of the Commission's Fuel Adjustment Clause (FAC) Regulations as outlined in 18 CFR 35.14, 35.19(a) and to the extent necessary under § 35.3. Additionally, the Company has included a report on the refunds of overbilled amounts to wholesale customers through the FAC, and has filed revised rate sheets reflecting these revisions to the FAC.

Copies of this filing have been served upon the affected parties as follows:

Customer name	APS-FPC/FERC rate schedule
Electrical District No. 3 (ED–3)	12
Tohono O'odham Utility Authority (TOUA)	52
Welton-Mohawk Irrigation and Drainage District (Welton-Mohawk)	58
Arizona Power Authority (APA)	59
Colorado River Indian Irrigation Project (CRIIP)	65
Electrical District No. 1 (ED–1)	68
Town of Wickenburg (Wickenburg)	74
Southern California Edison Company (SCE)	120
Electrical District No. 6 (ED–6)	126
Electrical District No. 7 (ED–7)	128
City of Page (Page)	134
Electrical District No. 8 (ED–8)	140
Aguila Irrigation District (AID)	141
McMullen Valley Water Conservation and Drainage District (MVD)	142
Tonopah Irrigation District (TID)	143
Citizens Utilities Citizens)	149
Harquahala Valley Power District (HED)	153
Buckeye Water Conservation and Drainage District (BID)	155
Roosevelt Irrigation District (RID)	158
Maricopa County Municipal Water Conservation District (MCMWCD)	168
City of Williams (Williams)	192
San Carlos Indian Irrigation Project (SCIIP)	201
The California Public Utilities Commission and the Arizona Corporation Commission.	

Comment date: February 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. El Paso Electric Company

[Docket No. ER89–620–001]

Take notice that December 14, 1995, El Paso Electric Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. MG Electric Power, Inc. Howell Power Systems, Inc. Morgan Stanley Capital Group Inc. Mid-American Resources, Inc. Western States Power Providers and Greenwich Energy Partners L.P.

[Docket No. ER93–839–002, ER94–178–008, ER94–1384–008, No. ER95–78–001, ER95–1459–002 ER96–116–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 17, 1996, MG Electric Power, Inc. filed certain information as required by the Commission's October 19, 1993 order in Docket No. ER93–839–000.

On January 16 1996, Howell Power Systems, Inc. filed certain information as required by the Commission's January 14, 1994 order in Docket No. ER94–178–000.

On January 18 1996, Morgan Stanley Capital Group Inc. filed certain information as required by the Commission's November 8, 1994 order in Docket No. ER94–1384–000.

On December 22, 1995, Mid-American Resources, Inc. filed certain information as required by the Commission's November 21, 1994 order in Docket No ER95–78–000.

On January 16, 1996, Western States Power Providers, Inc. filed certain information as required by the Commission's October 10, 1995 order in Docket No. ER95–1459–000.

On January 18, 1996, Greenwich Energy Partners L.P. filed certain information as required by the

Commission's December 20, 1995 order in Docket No. ER96–116–000.

4. NorAm Energy Services, Inc., Sonat Power Marketing, Inc., J.L. Walker and Associates, National Fuel Resources, Inc., Utility Trade Corporation, Industrial Energy Applications, Inc., and Pennunion Energy Services, L.L.C.

[Docket No. ER94–1247–007, ER95–1050–002, ER95–1261–002, ER95–1374–001, ER95–1382–002, ER95–1465–001, ER95–1511–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 24, 1996, NorAm Energy Services, Inc. filed certain information as required by the Commission's July 25, 1994 order in Docket No. ER94–1247–000.

On January 22, 1996, Sonat Power Marketing, Inc. filed certain information as required by the Commission's August 18, 1995 order in Docket No. ER95–1050–000.

On January 17, 1996, J.L. Walker and Associates filed certain information as required by the Commission's August 7, 1995 order in Docket No. ER95–1261–000.

On January 18, 1996, National Fuel Resources, Inc. filed certain information as required by the Commission's September 7, 1995 order in Docket No. ER95–1374–000.

On January 17, 1996, The Utility Trade Corporation filed certain information as required by the Commission's August 25, 1995 order in Docket No. ER95–1382–000.

On January 22, 1996, Industrial Energy Applications, Inc. filed certain information as required by the Commission's August 25, 1995 order in Docket No. ER95–1465–000.

On January 23, 1996, Pennunion Energy Services, L.L.C. filed certain information as required by the Commission's September 11, 1995 order in Docket No. ER95–1511–000.

5. E Prime Inc.

[Docket No. ER95–1269–000]

Take notice that on January 24, 1996, E Prime Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Arizona Public Service Company

[Docket No. ER96–513–000]

Take notice that on December 29, 1995, Arizona Public Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Century Power Corporation

[Docket No. ER96–768–000]

Take notice that on January 3, 1996, Century Power Corporation tendered for filing a letter confirming that it conveyed its remaining 8.2% ownership interest in San Juan Unit No. 3 to Tri-State Generation and Transmission Association, Inc. on the scheduled date for closing of the sale—January 2, 1996, and that, as of that date, Century's rights under the Assumption Agreement and the Amended and Restated Interconnection Agreement were assigned to Tri-State.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER96–798–000]

Take notice that on January 16, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated January 1, 1996, between Cinergy, CG&E, PSI and Engelhard Power Marketing, Inc. (ENGELHARD).

The Interchange Agreement provides for the following service between Cinergy and ENGELHARD:

1. Exhibit B—Power Sales by ENGELHARD
2. Exhibit C—Power Sales by Cinergy

Cinergy and ENGELHARD have requested an effective date of February 1, 1996.

Copies of the filing were served on Engelhard Power Marketing, Inc., the New Jersey Board of Public Utilities, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: February 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Tucson Electric Power Company

[Docket No. ER96–799–000]

Take notice that on January 16, 1996, Tucson Electric Power Company (Tucson), tendered for filing a Service Agreement (the Agreement), effective as of December 8, 1995 with KN Marketing Inc. (KN). The Agreement provides for the sale by Tucson to KN of economy energy from time to time at negotiated rates in accordance with Service Schedule A of Tucson's Coordination Tariff, Volume 1, Docket No. ER94–1437–000. Tucson requests an effective date of December 8, 1995, and therefore requests all appiicable waivers.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Tucson Electric Power Company

[Docket No. ER96–800–000]

Take notice that on January 16, 1996, Tucson Electric Power Company (Tucson), tendered for filing a Service Agreement (the Agreement), effective as of December 26, 1995 with Industrial Energy Applications, Inc. (IEA). The Agreement provides for the sale by Tucson to IEA of economy energy from time to time at negotiated rates in accordance with Service Schedule A of Tucson's Coordination Tariff, Volume 1, Docket No. ER94–1437–000. Tucson requests an effective date of December 26, 1995, and therefore requests at applicable waivers.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER96–801–000]

Take notice that on January 16, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement and a Certificate of Concurrence with the Washington Electric Cooperative (WEC) under the NU System Companies' System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to WEC.

NUSCO requests that the Service Agreement become effective on February 1, 1996.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Northeast Utilities Service Company

[Docket No. ER96–802–000]

Take notice that on January 16, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement with Rainbow Energy Marketing Corporation (Rainbow) under the NU System Companies' System Power Sales/Exchange Tariff No. 6.

Rainbow also filed a Certificate of Concurrence as it relates to exchange transactions under the Tariff.

NUSCO states that a copy of this filing has been mailed to Rainbow.

NUSCO requests that the Service Agreement become effective sixty (60) days following the Commissions receipt of the filing.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Duke Power Company

[Docket No. ER96–803–000]

Take notice that on January 16, 1996, Duke Power Company (Duke), tendered for filing Transmission Service Agreements (TSAs) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Commonwealth Edison Company (Commonwealth). Duke states that the TSAs set out the transmission arrangements under which Duke will provide Commonwealth firm transmission service and non-firm transmission service under its Transmission Service Tariff.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Power Company

[Docket No. ER96–804–000]

Take notice that on January 16, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Rainbow Energy Marketing Corporation (Rainbow). Duke states that the TSA sets out the transmission arrangements under which Duke will provide Rainbow non-firm transmission service under its Transmission Service Tariff.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Duke Power Company

[Docket No. ER96–805–000]

Take notice that on January 16, 1996, Duke Power Company (Duke or Company), tendered for filing the Fourth Amendments to the Interconnection Agreements (Amendments) dated September 29, 1995, between the Company and North Carolina Municipal Power Agency No. 1 (NCMPA) and Piedmont Municipal Power Agency (PMPA). Duke, NCMPA and PMPA are some of the joint owners of the Catawba Nuclear Station. Under the terms of the Interconnection Agreements, Duke interconnects its generation and transmission system with the Catawba Nuclear Station, wheels electric power and energy to the members of the other joint owners, provides supplemental capacity and energy in excess of that provided by the owners' ownership interest, and provides back-up services. Duke states that these Amendments clarify how certain calculations will be made under the Interconnection Agreements and resolve certain other items of dispute.

Duke states that the Interconnection Agreements are on file with the Commission and have been designated as follows:

Rate Schedule FERC No. 271 (NCMPA)
Rate Schedule FERC No. 276 (PMPA)

Copies of this filing were mailed to NCMPA, PMPA, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Pennsylvania Power & Light Company

[Docket No. ER96–806–000]

Take notice that on January 16, 1996, Pennsylvania Power & Light Company (PP&L), tendered for filing with the Federal Energy Regulatory Commission two Service Agreements (the Agreements) between PP&L and MidCon Power Services Corp., dated December 20, 1995, and (2) Louis Dreyfus Electric Power Inc., dated January 11, 1996.

The Agreements supplement a Short Term Capacity and Energy Sales umbrella tariff approved by the Commission in Docket No. ER95–782–000 on June 21, 1995.

In accordance with the policy announced in *Prior Notice and Filing Requirements Under Part II of the Federal Power Act,* 64 FERC ¶61,139, *clarified and reh'g granted in part and denied in part,* 65 FERC ¶61,081 (1993). PP&L requests the Commission to make the Agreement effective as of the date of execution of each, because service will be provided under an umbrella tariff and each service agreement is filed within 30 days after the commencement of service. In accordance with 18 CFR 35.11, PP&L has requested waiver of the sixty-day notice period in 18 CFR 35.2(e). PP&L has also requested waiver of certain filing requirements for information previously filed with the Commission in Docket NO. ER95–782–000.

PP&L states that a copy of its filing was provided to the customers involved and to the Pennsylvania Public Utility Commission.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. The Washington Water Power Company

[Docket No. ER96–807–000]

Take notice that on January 16, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, Amendment No. 2 to its Agreement with the Public Utility District No. 1 of Clark County, Washington for the sale of 100 MW of firm capacity and energy, and 150 MW of winter season peaking capacity and associated energy.

WWP requests that the Commission accept the Amendment for filing effective January 1, 1996 and waive the 60-day notice requirement. A copy of the filing has been served upon Clark. No other entities are a party to this contract and no customers will be adversely effected by the granting of this waiver.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. The Montana Power Company

[Docket No. ER96–808–000]

Take notice that on January 16, 1996, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, a Service Agreement with Jpower, Inc. (Jpower) under FERC Electric Tariff, Second Revised Volume No. 1, a revised Index of Purchasers under said Tariff, and a Certificate of Concurrence from Jpower.

A copy of the filing was served upon Jpower.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. The Montana Power Company

[Docket No. ER96–809–000]

Take notice that on January 16, 1996, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, as an initial rate schedule, a Unit Contingent Capacity and Associated Energy Sales Agreement Between Montana and Industrial Energy Applications, Inc. (IEA).

A copy of the filing was served upon IEA.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric Company

[Docket No. ER96–810–000]

Take notice that on January 16, 1996, Louisville Gas and Electric Company,

tendered for filing copies of seryice agreements between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Louisville Gas and Electric Company

[Docket No. ER96–811–000]

Take notice that on January 16, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Noram Energy Services, Inc. under Rate GSS.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. New York State Electric & Gas Corporation

[Docket No. ER96–812–000]

Take notice that on January 16, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Long Sault, Inc. (Long Sault). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Long Sault and Long Sault will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on January 17, 1996, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Long Sault.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. The Montana Power Company

[Docket No. ER96–813–000]

Take notice that on January 16, 1996, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, as a change in rate schedule, Supplements to Rate Schedule FERC No. 175, the General Transfer Agreement between The Montana Power Company and the Bonneville Power Administration (Bonneville).

A copy of the filing was served upon Bonneville.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. San Diego Gas & Electric Company

[Docket No. ER96–814–000]

Take notice that on January 16, 1996, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and Eastex Power Marketing, Inc. (Eastex).

SDG&E requests that the Commission allow the Agreement to become effective on the 4th day of March 1996 or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Eastex.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. UtiliCorp United Inc.

[Docket No. ER96–815–000]

Take notice that on January 16, 1996, UtiliCorp United Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with *Cinergy*. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to *Cinergy* pursuant to the tariff.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. UtiliCorp United Inc.

[Docket No. ER96–816–000]

Take notice that on January 16, 1996, UtiliCorp United Inc. tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *Cinergy*. The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Cinergy* pursuant to the tariff.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. The Washington Water Power Company

[Docket No. ER96–817–000]

Take notice that on January 16, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, Amendment No. 1 and Amendment No. 2 to their fifteen year Agreement with Puget Sound Power and Light Company. This agreement, originally executed in 1988, is for the sale of 100 MW of capacity and 75 MW of energy. Also submitted for filing was a revised contract rate to be charged to Puget.

WWP requests that the Commission accept the Amendments and revised contract rate for filing, effective April 1, 1995 and waive the 60-day notice requirement. A copy of the filing has been served upon Puget. No other entities are a party to this contract and no customers will be adversely affected by the granting of this waiver.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2443 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG96–31–000, et al.]

AEP Resources Gippsland Power L.L.C., et al., Electric Rate and Corporate Regulation Filings

January 30, 1996.

Take notice that the following filings have been made with the Commission:

1. AEP Resources Gippsland Power, L.L.C.

[Docket No. EG96–31–000]

On January 19, 1996, AEP Resources Gippsland Power, L.L.C. ("Applicant"), with its principal office at c/o AEP Resources, Inc., 1 Riverside Plaza, Columbus, Ohio 43215, filed with the Federal Energy Regulatory Commission (the "Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it will be engaged directly, or indirectly through one or more affiliates, as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and/or operating, an undivided interest in an eligible facility and selling electric energy at wholesale. The eligible facility consists of a brown coal-fired electric generating facility located in Victoria, Australia.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. CEA (Bermuda) Holdings II, Ltd.

[Docket No. EG96–32–000]

On January 19, 1996, CEA (Bermuda) Holdings II, Ltd. ("Applicant"), with its principal office at Church Street, Clarendon House, Hamilton HM11, Bermuda, filed with the Federal Energy Regulatory Commission (the "Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it will be engaged directly, or indirectly through one or more affiliates, as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and/or operating, an undivided interest in an eligible facility and selling electric energy at wholesale. The eligible facility consists of a brown coal-fired electric generating facility located in Victoria, Australia.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. PMDC Gippsland LDC

[Docket No. EG96–33–000]

On January 19, 1996, PMDC Gippsland LDC ("Applicant"), with its principal office at c/o CITGO Trust Co. (Cayman Islands) Ltd., Corporate Centre, P.O. Box 31106 SMB, Grand Cayman, B.W.I. filed with the Federal Energy Regulatory Commission (the "Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it will be engaged directly, or indirectly through one or more affiliates, as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and/or operating, an undivided interest in an eligible facility and selling electric energy at wholesale. The eligible facility consists of a brown coal-fired electric generating facility and an adjacent brown coal mine located in Victoria, Australia.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. AEP Resources International, Limited

[Docket No. EG96–34–000]

On January 19, 1996, AEP Resources International, Limited ("Applicant"), with its principal office at c/o Calendonian Bank & Trust Limited, Ground Floor, Calendonian House, Mary Street, P.O. Box 1043, Georgetown, Grand Cayman, B.W.I., filed with the Federal Energy Regulatory Commission (the "Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations. Applicant states that it will engage (a) directly, or indirectly through one or more affiliates, as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and/or operating, an undivided interest in an eligible facility and selling electric energy at wholesale; and (b) in the pursuit of project development opportunities relating to the potential acquisition of ownership interests in as-yet-unidentified "eligible facilities", within the meaning of Section 32(a)(2) of PUHCA, and/or EWGs. The eligible facility consists of brown coal-fired electric generating facility located in Victoria, Australia.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. AEP Resources Project Management Company, Limited

[Docket No. EG96–35–000]

On January 19, 1996, AEP Resources Project Management Company, Limited ("Applicant"), with its principal office at c/o Calendonian Bank & Trust Limited, Ground Floor, Calendonian House, Mary Street, P.O. Box 1043, Georgetown, Grand Cayman, B.W.I., filed with the Federal Energy Regulatory Commission (the "Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations. Applicant states that it will engage (a) directly, or indirectly through one or more affiliates, as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and/or operating, an undivided interest in an eligible facility and selling electric energy at wholesale; and (b) in the pursuit of project development opportunities relating to the potential acquisition of ownership interests in as-yet-unidentified "eligible facilities", within the meaning of Section 32(a)(2) of PUHCA, and/or EWGs. The eligible facility consists of a brown coal-fired electric generating facility located in Victoria, Australia.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Gippsland Energy, L.L.C.

[Docket No. EG96–36–000]

On January 19, 1996, Gippsland Energy, L.L.C. ("Applicant"), with its principal office at c/o Corporation Service Company, 1013 Centre Road, Wilmington, Delaware, filed with the Federal Energy Regulatory Commission (the "Commission") an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it will be engaged directly, or indirectly through one or more affiliates, as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and/or operating, an undivided interest in an eligible facility and selling electric energy at wholesale. The eligible facility consists of a brown coal-fired electric generating facility located in Victoria, Australia.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit the consideration of comments to those that concern the adequacy or accuracy of the application.

7. Northern States Power Company

[Docket No. EL91–43–000]

Take notice that on January 19, 1996, Northern States Power Company tendered for filing information pursuant to the Commission's December 20, 1995, order in the above-referenced docket.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Alabama Power Company

[Docket No. ER96–480–000]

Take notice that on January 25, 1996, Alabama Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Montana Power Company

[Docket No. ER96–606–000]

Take notice that on January 16, 1996, Montana Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Northeast Utilities Service Company

[Docket No. ER96–818–000]

Take notice that on January 16, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to Pinetree Power Fitchburg, L.P. (Pinetree) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to Pinetree.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Heartland Energy Services, Inc.

[Docket No. ER96–819–000]

Take notice that on January 16, 1996, Heartland Energy Services, Inc. (Heartland), tendered for filing with the Federal Energy Regulatory Commission information relating to the above docket.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Orange and Rockland Utilities, Inc.

Docket No. ER96–820–000

Take notice that on January 16, 1996, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing pursuant to 18 CFR 35.12 an executed agreement between Orange and Rockland and the New York Power Authority (NYPA) which provides for Orange and Rockland's interconnection with NYPA's 345 kV Marcy South transmission line.

Orange and Rockland respectfully requests waiver of the 120-day notice requirement in order to permit an effective date of April 1, 1996.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Pennsylvania-New Jersey-Maryland Interconnection Association

[Docket No. ER96–821–000]

Take notice that on January 16, 1996, the Pennsylvania-New Jersey-Maryland (PJM) Interconnection Association filed, on behalf of the signatories to the PJM Agreement, a Non-Replacement Energy Agreement between ENRON Power Marketing, Inc. and Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power and Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company. Service is expected to commence 60 days from the date of filing.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Atlantic City Electric Company

[Docket No. ER96–822–000]

Take notice that on January 16, 1996, Atlantic City Electric Company (ACE), tendered for filing an Agreement for Short-Term Energy Transactions between ACE and Tenneco Energy Marketing (TEM) and an Agreement for Short-Term Energy Transactions between ACE and Rainbow Energy Marketing Corporation (REMC). ACE requests that the Agreement be accepted to become effective January 17, 1996.

Copies of the filing were served on TEM and REMC and the New Jersey Board of Regulatory Commissioners.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Electric Power Company

[Docket No. ER96–823–000]

Take notice that on January 16, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and K N Marketing, Inc. (K N). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows K N to receive transmission service under Wisconsin Electric's proposed FERC Point to Point Transmission Tariff, Rate Schedule STNF, currently pending under the Primergy-WMI Settlement, filed December 7, 1995.

Wisconsin Electric respectfully requests waiver of the Commission's notice requirements and requests an effective date of January 19, 1996 in order to facilitate economic transactions under these agreements. Copies of the filing have been served on K N, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Illinois Power Company

[Docket No. ER96–824–000]

Take notice that on January 16, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Louis Dreyfus Electric Power Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of January 9, 1996.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Company Services, Inc.

[Docket No. ER96–825–000]

Take notice that on January 16, 1996, Southern Company Services, Inc. ("SCS"), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as "Southern Companies") filed three (3) service agreements between SCS, as agent of the Southern Companies, and i) Phibro, Inc., ii) Valero Power Services Company and iii) Alabama Municipal Electric Authority for non-firm transmission service under the Point-to-Point Transmission Service Tariff of Southern Companies.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Electric Power Company

[Docket No. ER96–826–000]

Take notice that on January 16, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Network Transmission Service Agreement to provide service for the City of Kiel, Wisconsin (Kiel) under Wisconsin Electric's proposed FERC pro-forma Network Transmission Tariff, currently pending under the Primergy-WMI Settlement, filed December 7, 1995.

Wisconsin Electric requests waiver of the Commission's notice requirements to allow an effective date of December 15, 1995, in order to implement the Agreement's modifications, which do not result in revenue increases.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Universal Power Services, L.L.C.

[Docket No: ER96–827–000]

Take notice that on January 16, 1996, Universal Power Services, L.L.C. (Universal), tendered for filing pursuant to Rule 205, 18 CFR 385.205 an application for a blanket certificate and various other authorizations and waivers from the Commission, including approval of its FERC Electric Rate Schedule No. 1 to be effective upon acceptance by the Commission for filing.

Universal proposes to engage in the wholesale electric power market as a broker, financial optionor and marketer buying and selling electric power. Specifically, Universal proposes to purchase electric energy and transmission capacity from public utilities and other power producers, and resell such energy and capacity to others. Universal anticipates that such transactions will vary in duration and quality of service relative to interruptibility. In addition, the price it proposes to charge for its services shall be negotiated, market-based rates. Universal states that it is not affiliated with any other company providing services to the power industry, nor does it own or operate electric power generation, transmission, or distribution facilities, and therefore, it has no market power in the electric power market.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric Company

[Docket No. ER96–828–000]

Take notice that on January 16, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Electric Clearinghouse, Inc. under Rate GSS.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Commonwealth Edison Company

[Docket No. ER96–834–000]

Take notice that on January 16, 1996 Commonwealth Edison Company (ComEd) submitted three Service Agreements, establishing KN Energy, Inc. (KN Energy), dated December 11, 1995, Sonat Power Marketing Inc. (Sonat), dated December 18, 1995, and Cinergy Services, Inc. (Cinergy), dated November 7, 1995 as customer under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

ComEd requests an effective date of December 13, 1995 for the Service Agreements between ComEd and Kn Energy and Cinergy, and an effective date of December 18, 1995 for the Service Agreement with Sonat and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon KN Energy, Sonat, Cinergy and the Illinois Commerce Commission.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Wisconsin Public Service Corporation

[Docket No. ER96–835–000]

Take notice that on January 16, 1996, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Koch Power Services, Inc. under its CS–1 Coordination Sales Tariff.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. The Washington Water Power Company

[Docket No. ER96–836–000]

Take notice that on January 16, 1996 The Washington Water Power Company (WWP) tendered for filing with the Federal Energy Regulatory Commission two signed service agreements under FERC Electric Tariff Volume No. 4 with Phibro, Inc. and Industrial Energy applications. Also submitted with this filing is a Certificate of Concurrence for each company with respect to exchanges. WWP requests waiver of the prior notice requirement and requests an effective date of February 1, 1996.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Entergy Services, Inc.

[Docket No. ER96–837–000]

Take notice that on January 16, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Gulf States Utilities Company tendered for filing a Letter Agreement between Entergy Services, Inc. and Sam Rayburn Generation and Transportation Electric Cooperative, Inc. (SRG&T), acting as agent for Jasper-Newton Electric Cooperative, Inc. (JNEC). Entergy Services states that the Letter Agreement sets out a new delivery point between Entergy Services and SRG&T. SRG&T has promised a contribution-in-aid-of-construction (CIAC) in return for Entergy Services constructing the structures necessary to loop GSU/Entergy's 138 kV Line No. 455 in and out of the SRG&T/JNEC Holly Springs Substation. The in-service date for this project is estimated to be March 31, 1996. Entergy Services will not collect any monies under this agreement until after work is completed.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Entergy Services, Inc.

[Docket No. ER96–838–000]

Take notice that on January 16, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Gulf States Utilities Company tendered for filing a Letter Agreement between Entergy Services, Inc. and Sam Rayburn Municipal Power Agency (SRMPA). Entergy Services states that the Letter Agreement sets out a new delivery point between Entergy Services and SRMPA. SRMPA has promised a contribution-in-aid-of-construction (CIAC) in return for Entergy Services constructing the new extension of SRMPA's 138 kV Line out of their Livingston substation to serve their proposed Ogletree Substation. Entergy Services has not collected any monies owed it for the construction.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Entergy Services, Inc.

[Docket No. ER96–839–000]

Take notice that on January 16, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Gulf States Utilities Company tendered for filing a Letter Agreement between Entergy Services, Inc. and Sam Rayburn Municipal Power Agency (SRMPA). Entergy states that the Letter Agreement sets out a new delivery point between Entergy Services and SRMPA. SRMPA has promised a contribution-in-aid-of-

construction (CIAC) in return for Entergy Services constructing the new extension of SRMPA's 138 kV line out of their Jason Substation to serve their proposed Lindsey Substation. Entergy Services has not collected any monies owned it for the construction.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Blandin Paper Company

[Docket No. ER96–841–000]

Take notice that on January 16, 1996 Blandin Paper Company tendered for filing initial rates for the sale of capacity and energy to Minnesota Power & Light Company (MP&L).

A copy of the filing has been served on MP&L.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. Entergy Services, Inc.

[Docket No. ER96–842–000]

Take notice that on January 16, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Gulf States Utilities Company tendered for filing a Letter Agreement between Entergy Services, Inc. and Cajun Electric Power Cooperative, Inc. (CAJUN). Entergy Services states that the Letter Agreement calls for Entergy Services to temporarily install a 2,000 Amp 69 kV breaker, as a contingency by-pass, at the Coly Substation. CAJUN has promised a contribution-in-aid-of-construction (CIAC) in return for Entergy Services installing the breaker. Entergy Services has not collected any monies owed it for the construction.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

29. Idaho Power Company

[Docket No. ER96–840–000]

Take notice that on January 16, 1996, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission its Letter Agreement dated November 13, 1995 between IPC and Rainbow Energy Marketing Corporation to supply Rainbow 24 hour day transaction accounting services.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2442 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–P

Notice of Intent To Prepare an Environmental Assessment, Conduct Site Visit, Solicit Interventions, Protests, and Written Scoping Comments

January 31, 1996

This notice was previously published in the **Federal Register** and the Twin Falls Times-News with January 9 and 10 as the dates for the site visit and scoping meetings. However, Commission staff was unable to travel and hold the scoping meeting due to the snow storm. Therefore, this notice is being republished with new dates.

a. *Type of Application:* Minor license (less than 5MW).

b. *Project No:* 11060–001.

c. *Dated filed:* December 9, 1993.

d. *Applicant:* J.M. Miller Enterprises, Inc.

e. *Name of Project:* Sahko Hydroelectric Project.

f. *Location:* In the Kastelu drainage area about 0.5 miles from the confluence with the Snake River in Twin Falls County, Idaho, near the town of Filer.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:*
Donald W. Block, P.E., J–U–B Engineers, Inc., 800 Falls Ave., Twin Falls, ID 83301, (208) 733–2414
Tracy Ahrens, J–U–B Engineers, Inc., 800 Falls Ave., Twin Falls, ID 83301, (208) 733–2414

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Deadline for filing protests, motions to intervene and written scoping comments:* March 22, 1996.

k. *Status of Environmental Analysis:* The application is not ready for environmental analysis at this time—see attached paragraph D8.

1. Intent to Prepare and Environmental Assessment and Invitation for Written Scoping Comments: The Commission staff intends to prepare and Environmental Assessment (EA) on this hydroelectric project in accordance with the National Environmental Policy Act. In the EA, we will consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives, and will include an economic, financial, and engineering analyses.

A draft EA will be issued and circulated for review by all interested parties. All comments filed on the draft EA will be analyzed by the staff and considered in a final EA. The staff's conclusions and recommendations will then be presented for consideration by the Commission in reaching its final licensing decision.

Site Visit: A site visit to the proposed Sahko Hydroelectric Project is planned for February 21, 1996. Those who wish to attend should plan to meet at 8:00 am at the J–U–B Engineers, Inc. Twin Falls Office, 800 Falls Ave., Twin Falls, ID. If you plan to attend, contact Mr. Tracy Ahrens by February 19, 1996, at (208) 733–2414 for directions or additional details.

Scoping Meetings: Staff will hold two scoping meetings. A scoping meeting oriented towards the public will be held on Wednesday, February 21, 1996, at 7:00 p.m., at Filer High School, Highway 30, Filer, Idaho. A scoping meeting oriented towards the agencies will be held on Thursday, February 22, 1996, at 9:00 a.m., at the Filer City Hall, Council Chambers, 300 Main Street, Filer, ID 83328.

Interested individuals, organizations, and agencies are invited to attend either or both meetings and assist the staff in identifying the scope of environmental issues that should be analyzed in the EA.

To help focus discussions at the meetings, a scoping document outlining subject areas to be addressed in the EA will be mailed to agencies and interested individuals on the Commission mailing list. Copies of the scoping document will also be available at the scoping meetings.

Objectives: At the scoping meetings the staff will: (1) identify preliminary issues related to the proposed project; (2) identify issues that are not important and do not require detailed analysis; (3) identify reasonable alternatives to be addressed in the EA; (4) solicit from the meeting participants all available information, especially quantified data, on the resource issues; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA, including points of view in opposition to, or in support of, the staff's preliminary views.

Procedures: The scoping meetings will be recorded by a court reporter and all statements (oral and written) will become a part of the formal record of the Commission's proceedings on the Sahko Hydroelectric Project. Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and assist the staff in defining and clarifying the issues to be addressed in the EA.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meetings. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, until March 22, 1996.

All written correspondence should clearly show the following caption on the first page: Sahko Hydroelectric Project, FERC No. 11060–000.

Intervenors—those on the Commission's service list for this proceeding (parties—are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents with the Commission, to serve a copy of the document on each person whose name appears on the official service list. Further, if a party files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. All entities commenting on this scoping document must file an original and eight copies of the comments with the Secretary of the Commission.

Any questions regarding this notice may be directed to Ms. Deborah Frazier-Stutely, Environmental Coordinator, FERC, at (202) 219–2842.

m. *Description of Project:* The proposed project would consist of: (1) a 12-foot-high, 12-foot-wide, 80-foot-long earthfill sediment collection embankment with a crest at elevation 3,397 feet mean sea level (mSL), containing a broadcrest weir, a 4-foot-high 14-foot-wide overflow spillway, and a bypass pipe; (2) a 500-foot-long bypass ditch to be used during maintenance; (3) a 12-foot-high, 12-foot-wide, 110-foot-long earthfill intake embankment with a crest at elevation 3,394.5 feet msl, containing a concrete overflow spillway, an 8-foot-wide box shaped intake structure, and bypass pipe; (4) two unnamed springs; (5) a 24-inch-diameter, 1,950-foot-long partially buried steel penstock with a butterfly valve; (6) a 25-foot-wide, 50-foot-long masonry block powerhouse containing one pelton turbine and generating unit with an installed capacity of 500 kW; (7) a 6-foot-wide, 3-foot-high, 30-foot-long rock rip-rap tailrace, discharging project flows into the Snake River; (8) a switchyard; (9) a 2,000-foot-long, 34.5-kV transmission line tying into an Idaho Power Company line; and (10) related facilities.

The proposed project would operate run-of-ditch, where the project will use whatever flows enter the sediment impoundment as either irrigation waste flows or as emanating from the two unnamed springs on the applicant's property, and would generate about 1,178,000 kilowatthours of energy annually.

n. *Purpose of Project:* Project power will be sold to a local utility.

o. *This notice also consists of the following standard paragraphs:* A2, A9, B1, D8.

p. *Available Locations of Applications:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) names in this public notice.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

D8. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2412 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10756–001]

Blue Diamond Power Partners; Notice of Public Meeting in Las Vegas, Nevada, To Discuss the Draft Environmental Impact Statement for the Proposed Licensing of the Blue Diamond South Hydroelectric Project

January 31, 1996.

The Federal Energy Regulatory Commission (FERC) issued a Draft Environmental Impact Statement (Draft EIS) for the Blue Diamond South Hydroelectric Project, No. 10756–001, on January 26, 1996. The proposed 200-megawatt pumped storage project would be located about five miles west of Las Vegas in Clark County, Nevada.

Commission staff will conduct a public meeting to: (1) present the Draft EIS finding, (2) solicit public comment on the Draft EIS, and (3) answer questions about the Draft EIS. All interested individuals, organizations, and agencies are invited to attend the meeting.

The public meeting will be conducted on Monday evening, February 26, 1996, from 6:30 p.m. to 8:30 p.m., at the West Charleston Library, 6301 West Charleston Boulevard, in Las Vegas, Nevada.

The public meeting will be recorded by a court reporter, and all meeting statements (oral and written) will become part of the Commission's public record of this proceeding. Individuals presenting statements at the meeting will be asked to sign in before the meeting starts and to identify themselves for the record. Anyone wishing to receive a copy (for a fee) of the transcript of the meeting may contact Ann Riley & Associates by calling (202) 482–0034.

For further information, please contact Dianne Rodman at (202) 219–2830.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2408 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM95–3–000; Docket No. RM95–4–000]

Filing and Reporting Requirements for Interstate Natural Gas Companies Rate Schedules and Tariffs; Revisions to Uniform System of Accounts Forms, Statements, and Reporting Requirements for Natural Gas Companies; Notice of Time and Agenda for Working Groups

January 31, 1996.

Take notice that the dates for the second meetings of the working groups established pursuant to the orders issued in Docket Nos. RM95–3–000 and RM95–4–000 [1] are as follows:

The meeting for WORKING GROUP-FORMS will begin at *9 a.m., Wednesday, February 7, 1996.*

The meeting for WORKING GROUP-FILINGS will begin at *9 a.m., Thursday, February 8, 1996.*

These meetings will take place in a room of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested persons are invited to attend. Participation in the working groups is not limited to those who have already signed up.

The goals for the February 7, 1996 meeting of Working Group-Forms are to:

—Complete work on Form No. 11;
—Discuss the data model for Form No. 2;
—Discuss some of the problem pages in Form No. 2 identified at the last working group meeting.

The goals for the February 8, 1996 meeting of Working Group-Filings are to discuss:

—The test pipelines' experiences creating their sample rate case schedules in tab delimited format;
—File naming conventions;
—Amount of data to be included in each file; and
—Statements G, O, and P.

In order for the meetings to be as productive as possible, the Commission has established a separate menu item on the Gas Pipeline Data (GPD) portion of the Commission's bulletin board system entitled "Order 581/582 Working Groups." This portion of the GPD will be further subdivided into subsections for Form 2, Form 11, rate filings, and comments. The following Information may be found under these subsections:

Comments

—All comments submitted to staff dealing with issues under discussion in the working groups.
—Summaries of the working group meetings.

Form 2; Form 11; Rate Filings

—Items upon which staff wishes working group participants to comment.
—Sample electronic filing specifications.
—Sample delimited files.

Under the subsection for Form 11, staff has made available several items discussed at the working group meeting on December 12, including:

—A *pro forma* file specification for Form 11 for discussion purposes,
—A sample tab delimited file for Form 11, and
—An image of the sample spreadsheet containing the Form 11 data prepared for printing.

The Comments section contains the comments received on December 15, 1995, discussing the appropriate treatment of text in the electronic filings.

The rate filings section contains the test files and related comments of the pipelines who agreed to create tab delimited files for selected cost of service statements. We encourage working group participants to download and review these files prior to our next working group meeting.

Staff is making every effort to complete the Form No. 2 data model so it can be available on GPD prior to the next working group meeting. When available, the file will be found under the Form 2 subsection of the Order 581/582 Working Groups menu. Similarly, staff will attempt to make a more detailed agenda available prior to the meetings. If available in time, this agenda will appear in the Comments subsection of the Order 581/582 Working Groups menu.

The sample spreadsheet and file specifications for Form No. 11 and some of the comments are in a file format produced by Adobe Acrobat software. To read these files, you must download the Acrobat Reader. With this software, you will be able to read or print all files with the extension .pdf. If you experience printing problems, please refer to the file entitled, readme_r.txt, accompanying the Acrobat software.

Staff invites written comments on the above listed issues and topics of discussion. Comments should be addressed to Richard A. White, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments should be received by February 2, 1996. We encourage commenters to submit their comments on a 3½" diskette in Rich Text Format or ASCII so they can be posted on the Commission's bulletin board.

Any parties wishing to make a presentation at the meetings should contact Richard White, PHONE: (202) 208–0491, FAX: (202) 208–0017.

This document is available for inspection or copying by accessing the Commission Issuance Posting System (CIPS). CIPS and GPD are part of the Commission's electronic bulletin board service providing access to documents issued by or available electronically from the Commission. CIPS and GPD are available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397, if local, or 1–800–856–3920, if long distance.

In addition to this notice, the most current list of those that signed up for participation in the working groups will also be posted on CIPS. Information concerning working group meetings will be posted on CIPS on a regular basis. Up-to-date information can be found in bulletin 20 on CIPS or bulletin 9 on GPD. A summary of the meeting held on December 12, 1995, can be found on GPD under the Working Group section of the menu in the Comments subsection.

To access the Commission's bulletin board system, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, 1200, or 300 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 60 days from the date of issuance in ASCII and WordPerfect 5.1 format.

The Commission's bulletin board system can also be accessed through the FedWorld system directly by modem or through the Internet.

By modem:

Dial (703) 321–3339 and logon to the FedWorld system. After logging on, type:

/go FERC

Through the Internet:

Telnet to: fedworld. gov
Select the option: [1] FedWorld
Logon to the FedWorld system
Type: /go FERC

Or:

Point your Web Browser to: http://www.fedworld.gov
Scroll down the page to select FedWorld Telnet Site
Select the option: [1] FedWorld
Logon to the FedWorld system
Type: /go FERC

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–2421 Filed 2–5–96; 8:45 am]

BILLING CODE 6717–01–M

[1] Filing and Reporting Requirements for Interstate Natural Gas Companies Rate Schedules and Tariffs, Order No. 582, 60 FR 52960 (October 11, 1995), 72 FERC ¶ 61,300 (1995); and, Revisions to Uniform System of Accounts Forms, Statements, and Reporting Requirements for Natural Gas Companies, Order No. 581, 60 FR 53019 (October 11, 1995), 72 FERC ¶ 61,301 (1995).

Proposed Rate Adjustment, Public Hearing, and Opportunities for Public Review and Comment

AGENCY: Southeastern Power Administration (Southeastern), Department of Energy.

ACTION: Notice of proposed rate extension, public hearing, and opportunities for public review and comment.

SUMMARY: Southeastern proposes to extend Rate Schedules KP–1–D, JHK–2–B, JHK–3–B, and PH–1–B, currently applicable to Kerr-Philpott Projects' power, October 1, 1996, through September 30, 2001. Opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a hearing and to submit written comments.

Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before May 16, 1996. A public Information and public comment forum will be held in Raleigh, North Carolina, on March 14, 1996. Persons desiring to speak at the forum should notify Southeastern at least 7 days before the forum is scheduled so that a list of forum participants can be prepared. Others present may speak, if time permits. Persons desiring to attend the forum should notify Southeastern at least 7 days before the forum is scheduled. If Southeastern has not been notified by close of business on March 7, 1996, that at least one person intends to be present at the forum, the forum will be cancelled with no further notice.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, 2 South Public Square, Elberton, Georgia 30635. The public comment forum will begin at 10 a.m. on March 14, 1996, in the Sheraton Inn Raleigh at Crabtree Valley, 4501 Creedmoor Road, Raleigh, North Carolina 27612.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant Administrator, Finance & Marketing, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, 2 South Public Square, Elberton, Georgia 30635, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by order issued December 5, 1991, in Docket No. EF91–3041–000, confirmed and approved Wholesale Power Rate Schedules KP–1–D, JHK–2–B, JHK–3–B, and PH–1–B applicable to Kerr-Philpott Projects' power for a period ending September 30, 1996.

Discussion

Existing rate schedules are predicated upon a June 1991 repayment study and other supporting data all of which are contained in EF91–3041–000. A January 1996 repayment study prepared using present rates demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to extend the four present rate schedules. The demand charge applicable to preference customers remains at the $1.86 per kilowatt of monthly demand and the energy charge remains at 7.67 mills per kilowatt-hour.

The referenced January 1996 system repayment study along with previous system repayment studies are available for examination at the Samuel Elbert Building, 2 South Public Square, Elberton, Georgia 30635. Proposed Rate Schedules KP–1–D, JHK–2–B, JHK–3–B, and PH–1–B are also available.

Issued at Elberton, Georgia, January 25, 1996.

Charles A. Borchardt,

Administrator.

[FR Doc. 96–2525 Filed 2–5–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5417–7]

Agency Information Collection Activities Under OMB Review; Used Oil Management Standards Recordkeeping and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Used Oil Management Standards Recordkeeping and Reporting Requirements, ICR No. 128604, OMB No. 2050–0124, expires 3/31/99. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before [Insert date 30 days after publication in the **Federal Register**].

FOR FURTHER INFORMATION OR A COPY CALL:

Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1286.04.

SUPPLEMENTARY INFORMATION:

Title: Used Oil Management Standards Recordkeeping and Reporting Requirements, ICR No. 1286.04, OMB No. 2050–0124, expires 3/31/99. This is a request for reinstatement of a currently approved collection.

Abstract: Under statutory authority found in section 3014 of RCRA, EPA established mandatory regulations (See 40 *CFR* Part 279) that control the storage of used oil in aboveground tanks and containers to minimize potential releases from these units. It establishes notification and testing requirements, and tracking and recordkeeping requirements for used oil transporters, processors, re-refiners, and burners to document the movement of used oil. It also sets standards for the prevention and cleanup of releases to the environment during storage and transit and for the safe closure of storage units and processing and re-refining facilities to mitigate future releases and damages. EPA believes these requirements mitigate potential hazards to human health and the environment from the potential mismanagement of used oils by used oil handlers, while providing for the recycling of used oil. This information will be used to ensure compliance with the Used Oil Management Standards.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 9/1/95 (60 FR 45714); one comment was received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range from eight minutes to 108 hours per response depending on the type of response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondent/Affected Entities: business.

Estimated Number of Respondents: 1,790.

Frequency of Response: biennially.

Estimated Total Annual Hour Burden: 75,618 hours.

Estimated Total Annualized Cost Burden: $2,580,105.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1286.04 and OMB Control No. 2050–0124 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, SW., Washington, DC 20460.
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: January 30, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–2500 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5417–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Action (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before [Insert date 30 days after publication in the **Federal Register**].

FOR FURTHER INFORMATION OR A COPY CALL:

Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 0969.04.

Title: Final Authorization for Hazardous Waste Management Programs, OMB CONTROL NO. 2050–0041, EPA ICR No. 0969.04. This is a request for extension of a currently approved collection.

Abstract: In order for a State to obtain final authorization for a State hazardous waste program or to revise its previously authorized program, it must submit an official application to the EPA Regional office for approval. The purpose of the application is to enable EPA to properly determine whether the State's program meets the requirements of § 3006 of RCRA. As required by § 271.5, the submission for final authorization must contain the following:

(1) A letter from the Governor of the State requesting program approval;

(2) A complete program description, as required by § 271.6 describing how the State intends to carry out its responsibilities under this subpart;

(3) An Attorney General's statement as required by § 271.7;

(4) A Memorandum of Agreement with the Regional Administrator as required by § 271.8;

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures; and

(6) The showing required by § 271.20(c) of the State's public participation activities prior to program submission.

A State with an approved program may voluntarily transfer program responsibilities to EPA by notifying EPA of the proposed transfer, including submission of a plan for the orderly transfer of all relevant program information not in the possession of EPA, as required by section 271.23. Further, EPA may withdraw a State's authorized program under section 271.23.

Either EPA or the approved State may initiate a revision to the authorized program. State program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. In the event that the State is revising its program by adopting new Federal requirements, the State shall prepare and submit modified revisions of the program description, Attorney General's statement, Memorandum of Agreement, or such other documents as EPA determines to be necessary. The State shall inform EPA of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, in accordance with section 271.21. If a State is proposing to transfer all or any part of any program from the approved State agency to any other agency, it must notify EPA in accordance with section 271.21 and submit revised organizational charts as required under section 271.6, in accordance with section 271.21. Further, whenever EPA has reason to believe that circumstances have changed with respect to a State program, EPA may request, and the State shall provide, a supplemental Attorney General's statement, program description, or such other documents or information as are necessary. These paperwork requirements are mandatory under § 3006(a). EPA will use the information submitted by the State in order to determine whether the State's program meets the statutory and regulatory requirements for authorization. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on October 2, 1995 (60 FR 51471); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 293 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: States with authorized State Programs.

Estimated Number of Respondents: 49 per year.

Frequency of Response: 18 per year.

Estimated Total Annual Hour Burden: 5370 hours.

Estimated Total Annualized Cost Burden: $147,776.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following address. Please refer to EPA ICR No. 0969.04 and OMB Control No. 2050–0041 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, SW, Washington, DC 20460.
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: January 31, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–2490 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5417–9]

Science Advisory Board; Notification of Public Advisory Committee Meeting; Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Science Advisory Board's (SAB's) Executive Committee will conduct a public meeting.

The meeting will be held on Thursday and Friday, February 28–29, 1996. On Thursday the meeting will convene at 8:30 a.m., in the Administrator's Conference Room 1103 West Tower of the U.S. Environmental Protection Agency Headquarters Building at 401 M Street, SW., Washington, DC 20460, and adjourn no later than 5:30 a.m. On Friday, the meeting will re-convene at 8:30 a.m., and to adjourn not later than 5 p.m. During the latter part of the second day, the Executive Committee will conduct itself as a "Lookout Panel" in order to discuss environmental problems that may emerge over the next several years. The meetings are open to the public, however, seating is limited and available on a first come basis.

At this meeting, the Executive Committee will receive updates from its standing committees and *ad hoc* subcommittees concerning their recent and planned activities. As part of these updates, some committees will present draft reports for Executive Committee review and approval. Expected drafts include:

1. Executive Committee Subcommittee on Hazardous Waste Identification Rule (HWIR)
   Review of Issues Associated with the Hazardous Waste Identification Rule (HWIR)
2. Drinking Water Committee
   a. Advisory on Heterotrophic Plate Count Bacteria
   b. Advisory on Drinking Water Distribution Systems
3. Radiation Advisory Committee
   Advisory on Environmental Radiation Ambient Monitoring System

Other items on the agenda will likely include:

1. The activities of the Subcommittee on Membership Search
2. Plans for the Board's Reducing Risk-2 study of comparative risk of environmental problems.
3. Discussion with Agency leaders regarding the role of science in various Agency programs

Any member of the public wishing further information concerning either meeting or who wishes to submit comments should contact Dr. Donald G. Barnes, Designated Federal Official for the Executive Committee, Science Advisory Board (1400), U.S. EPA, Washington, DC 20460, phone (202)–260–4126; fax (202)-260–9232; or via the INTERNET at: barnes.don@epamail.epa.gov. Copies of the draft meeting agendas and available draft reports listed above can be obtained from Ms. Priscilla Tillery-Gadson at the above phone and fax numbers.

Dated: January 24, 1996.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 96–2489 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5417–3]

Proposed Second Round De Minimis Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act; In the Matter of Thermo-Chem, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: Notice of *de minimis* Settlement: in accordance with Section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), notice is hereby given of a second round *de minimis* settlement concerning past and estimated future

response actions at the Thermo-Chem, Inc. Site in Muskegon, Michigan. The Department of Justice approved the settlement as set forth in 122(g)(4) of CERCLA.

DATES: Comments must be provided on or before March 7, 1996.

ADDRESSES: Comments should be addressed to James Hahnenberg, Mail Code MFA–10J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and should refer to: In the Matter of Thermo-Chem, Inc., Docket No. V–W–96–C–319.

FOR FURTHER INFORMATION CONTACT: Ignacio L. Arrazola, Mail Code CS–29A, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: The following parties executed binding certifications of their consent to participate in the settlement: Aero Oil Company, Inc.; American National Can Company; American Coils Spring Co.; James River Paper Company, Inc. & James River Corporation of Virginia; Bush Concrete; C.W. Marsh Company; Checker Motors Corporation; Dale Schaap; Caddillac Plastic Group, Inc. f/k/a Day International Corp.; EBW Inc.; Fort Wayne Pools; Georgia Pacific Corporation; Grav-I-Flo; Howmet Corporation; Cooper Industries, Inc.; Labeltape, Inc.; Label Technique, Inc. n/k/a LTI Printing, Inc.; Champion International Corp.; Simpson Industries, Inc.; Port City Paints, Inc.; Robert's Packaging Corporation; Sunstrand Corporation; Wilson Sporting Goods Co.; The Leisure Group, Inc.; and Montgomery Ward & Co. Incorporated;

These parties will pay approximately $2,000,000 in settlement payments for response costs related to the Thermo-Chem, Inc. Site, if the United States Environmental Protection Agency determines that it will not withdraw or withhold its consent to the proposed settlement after consideration of comments submitted pursuant to this notice.

U.S. EPA may enter into this settlement under the authority of Section 122(g) of CERCLA. Section 122(g) authorizes *de minimis* settlements with potentially responsible parties ("PRPs") that contributed hazardous substances to a site where those contributions were small and where the toxicity of the substances contributed is not significantly different from the other substances brought to the site. Pursuant to this authority, the agreement proposes to settle with parties who are responsible for less than 1% of the total volume of hazardous substances sent to the site. Settling *de minimis* PRPs will be required to pay their fair share of the past and estimated future response costs at the site based on a payment of $15.20 per gallon of hazardous substances that the party contributed to the Site. The settlement payment amount includes a premium of 135% against estimated future response costs to account for potential cost overruns, the potential for failure of the remedies selected to clean up the site, other risks, and the failure of settlors to participate in an earlier *de minimis* settlement.

A copy of the proposed administrative order on consent and additional background information relating to the settlement, including a list of parties to the settlement, are available for review and may be obtained in person or by mail from Ignacio L. Arrazola, Mail Code CS–29A, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The U.S. Environmental Protection Agency will receive written comments relating to this settlement for thirty days from the date of publication of this notice.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*

Sally Avervill,

Acting Director, Office of Superfund, Region 5.

[FR Doc. 96–2353 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

January 31, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before [insert date 30 days after date of publication in the Federal Register]. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0446.

Title: Section 1.402 Pioneer's Preference.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 14.

Estimated Time Per Response: 500 hours for new applicants, 10 hours per respondent to amend existing applications.

Total Annual Burden: 1,120 hours.

Needs and Uses: The information will be used to evaluate existing pioneer's preference request in proceedings in which tentative decisions have not been made, as well as any new pioneer's preference requests that may be received. The collection requires that an applicant submit a statement that a new allocation of spectrum is necessary for its innovation to be implemented. Further, if the applicant relied on experimental results to demonstrate the technical feasibility of its innovation, it must submit a summary of those results. Additionally, for pioneer's preference requests filed after September 1, 1994, an applicant must submit a showing demonstrating that the Commission's public rulemaking process inhibits it from capturing the economic rewards of its innovation unless it is grated a pioneer's license.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2435 Filed 2–5–96; 8:45 am]

BILLING CODE 6712–01–F

[Gen. Docket No. 90–498; DA 95–2423]

Private Wireless Division, Louisiana Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief Private Wireless Division and the Deputy Chief, Office of Engineering and Technology released this Order amending the Public Safety Radio Plan for Louisiana (Region 18). As a result of accepting the amendment for the Plan for Region 18, the interests of the eligible entities within the region will be furthered.

EFFECTIVE DATE: December 13, 1995.

FOR FURTHER INFORMATION CONTACT: Deborah A. R. Behlin, Wireless Telecommunications Bureau, Private Wireless Division (202) 418–0680.

SUPPLEMENTARY INFORMATION:

Order

Adopted: December 1, 1995. *Released:* December 13, 1995.

By the Deputy Chief, Office of Engineering and Technology and the Chief, Private Wireless Division, Wireless Telecommunications Bureau:

1. By letter dated May 17, 1995, Region 18 (Louisiana) proposed to amend the Region 18 Public Safety Radio Plan that was accepted under delegated authority, by the Commission on November 8, 1989, 4 FCC Rcd 8352 (1989). The proposed amendment would revise the current channel allotments.

2. On September 8, 1995, the Commission placed the proposed amendment on Public Notice. No comments were received concerning the proposed amendment to the Region 18 Plan.

3. We have reviewed the proposed amendment to the Region 18 Plan and, having received no comments to the contrary, conclude it furthers the interest on the eligible Public Safety entities within the Region.

4. Accordingly, *It is ordered*, that the Public Safety Radio Plan for Region 18 is amended, as set forth in the Region's letter of May 17, 1995. This amendment is effective immediately.

5. For further information, contact Deborah A. Behlin at (202) 418–0680.

Federal Communications Commission.

Robert H. McNamara,

Chief, Private Wireless Division.

[FR Doc. 96–2436 Filed 2–5–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL LABOR RELATIONS AUTHORITY

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

The Federal Labor Relations Authority has submitted the following information collection requirement to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law No. 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Joseph Lackey, Desk Officer for the Federal Labor Relations Authority, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; and to Solly Thomas, Executive Director, Federal Labor Relations Authority, 607 14th St., NW., Washington, DC 20424. Copies of the submission may be obtained by calling Nancy Anderson Speight; Director of Program Development, Office of the General Counsel, (202) 482–6680 ext. 205.

Title: Petition Form.

Summary: Various persons can petition the Authority to take action concerning the determination of appropriate bargaining units in the federal government, and the certification of exclusive bargaining representatives in those units, under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101–7135. The Authority needs information from the petitioning party to begin processing the representation case. The Petition Form includes questions to the filer concerning, among other things, the issues raised by the petition and the results the petitioner seeks as a consequence of the filing the petition; a description of the bargaining unit affected by the petition; the showing of employee interest in support of the petition; and the names, addresses, and telephone numbers of the representatives of the union(s), agency(ies), and activity(ies) affected by the petition.

Need ond Use of the Information: The information provided in the Petition Form will enable the Authority to process and decide these representation cases. The information collected from the petition will be used by Authority staff to contact affected parties in representation case proceedings, and to enable staff to take the necessary steps to begin processing the petition.

Description of Respondents: Federal employees representing federal agencies in their capacity as employer, federal employees and employees of labor organizations that are representing those labor organizations, and federal employees in their individual capacity.

Number of Respondents: Approximately 300 per year.

Proposed Frequency of Response: On occasion, as a petitioner identifies a representation matter for the Authority to resolve.

Total Burden Hours: Approximately one hour per petition (500 total hours per year).

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chap. 35, as amended.

Dated: February 1, 1996.

Solly Thomas,

Executive Director, Federal Labor Relations Authority.

[FR Doc. 96–2487 Filed 2–5–96; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the **Code of Federal Regulations**. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200555–004.

Title: Jacksonville Port Authority/Trailer Bridge, Inc. Terminal Agreement.

Parties: Jacksonville Port Authority Trailer Bridge, Inc.

Synopsis: The proposed amendment addresses annual rate increases.

Dated: January 31, 1996.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2393 Filed 2–5–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Wesbanco, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than March 1, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Wesbanco, Inc., Wheeling, West Virginia; to become a bank holding company by acquiring 12.50 percent of the voting shares of The Heritage Bank of Harrison County, Inc., Clarksburg, West Virginia, a *de novo* bank.

Board of Governors of the Federal Reserve System, January 31, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2392 Filed 2–5–96; 8:45 am]

BILLING CODE 6210–01–F

First Commonwealth Financial Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has given notice under § 225.23(a)(2) or (e) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (e)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than February 20, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Commonwealth Financial Corporation, Indiana, Pennsylvania; to acquire BSI Financial Services, Inc., Titusville, Pennsylvania, and thereby engage in making loans and loan servicing activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y; in leasing activities, pursuant to § 225.25(b)(5) of the Board's Regulation Y; in the operation as a collection agency, pursuant to § 225.25(b)(23) of the Board's Regulation Y; and in collection of troubled portfolios for the Federal Deposit Insurance Corporation as permitted by Board Order for *Dai-Ichi Kangyo Bank, Ltd., and Chemical Banking Corp.*, 78 Fed. Res. Bull. 131, 1993.

Board of Governors of the Federal Reserve System, January 31, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2389 Filed 2–5–96; 8:45 am]

BILLING CODE 6210–01–F

Jerry G. Standridge, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 20, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Helen W. Standridge Revocable Trust, Jerry G. and Helen W. Standridge, Trustees, Chickasha, Oklahoma, to retain a total of 0.02 percent, and Jerry G. Standridge Revocable Trust, Jerry G. and Helen W. Standridge, Trustees, to acquire an additional 0.26 percent, for a total of 10.22 percent, of the voting shares of Chickasha Bancshares, Inc., Chickasha, Oklahoma, and thereby indirectly acquire Chickasha Bank & Trust Company, Chickasha, Oklahoma.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. William David Lacey, Waco, Texas; to retain a total of 30 percent of the voting shares of The Community Company, Waco, Texas, and thereby indirectly retain Community Bank, Waco, Texas.

Board of Governors of the Federal Reserve System, January 31, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2390 Filed 2–5–96; 8:45 am]

BILLING CODE 6210–01–F

The Tampa Banking Company, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Tampa Banking Company, Tampa, Florida; to engage *de novo* through its subsidiary, Florida Investments Advisers, Inc., Tampa, Florida (in organization), in investment advisory services, pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Pembina County Bankshares, Ltd., Cavalier, North Dakota; to engage *de novo* in the extension of credit to borrowers of its subsidiary bank, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The geographic scope for this activity is North Dakota.

Board of Governors of the Federal Reserve System, January 31, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2391 Filed 2–5–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–96–09]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–3453.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Intensive-Care Antimicrobial Resistance Epidemiology (Project ICARE), Phase II—NEW—Antibiotic resistance is estimated to cost as much as 4 billion dollars a year to the health care system in the United States and the number of resistant microorganisms is increasing. For example, data reported to the National Nosocomial Infections Surveillance (NNIS) system demonstrated a 20-fold increase, between January 1989 and March 1993, in the percentage of enterococci associated with nosocomial infections that are resistant to vancomycin (VRE). Additional analysis of NNIS data has demonstrated that other antibiotic resistant nosocomial pathogens have also increased in recent years. One of the major factors limiting the understanding of antibiotic resistance among nosocomial pathogens is the lack of information on the relationship between the amount and kind of antibiotic used in hospitals and the emergence of resistance.

This proposed one year study, called Project ICARE, will collect data on the amount of antibiotics used in 50 NNIS hospitals and the antibiotic susceptibility patterns found in certain bacterial pathogens isolated in these hospitals' microbiology laboratories between June 1996 and June 1997. Further, new mechanisms of resistance will be studied on specific antibiotic-resistant isolates that will be sent to CDC from these laboratories. A successful pilot study involving eight NNIS hospitals was conducted between August 1994 and January 1995 to study the feasibility of collecting such information.

After initially setting up the project with information on the different intensive care units (ICUs) and wards, the hospital will provide three different types of data each month: (1) summary of the amount of parenteral and oral antibiotics, by generic group, reported by the pharmacy, (2) summary of the number of isolates, by species, susceptible, intermediate or resistant to various antibiotics reported by the microbiology laboratory, and (3) actual isolates of resistant pathogens to be sent to by the microbiology laboratory to CDC. For antibiotics used and number of isolates in each of the susceptibility categories, separate data are to be reported for each ICU, all other inpatients, and outpatients (antibiotic use among outpatients is not collected). Data collection forms for summary data from the microbiology laboratory and pharmacy have been created to assist in recording the data; however, the data

will be entered into a computer software created by CDC specifically for Project ICARE. The software will be provided to the hospitals at no cost. Data will be transmitted to CDC by floppy disk or by electronic transfer when it become available in the NNIS system in 1996. The total cost to respondents is estimated at $108,538.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Primary Contact	50	12	1	600
Pharmacist	50	60	1.8	5400
Microbiologist	50	60	0.35	1050
Total	.....	.....	.....	7050

2. Case-control Study of the Effect of Total Dietary Folate Intake on the Clinical Manifestation of Vitamin B 12 Deficiency—New—Fortification of grain products with folic acid has been recommended to increase the intake of folate by women of reproductive age in order to decrease the risk of neural tube birth defects. Fortification high enough to increase the passive consumption of folic acid to the recommended level of 400 µg/day for all women would increase the consumption by some segments of the population to well over the presumed safe upper limit of 1000 µg/day. There is concern, based on case reports, that excess folate consumption may delay the diagnosis of vitamin B 12 deficiency, especially in the elderly. Delayed diagnosis of B 12 deficiency may lead to the development of neuropsychiatric signs and symptoms, some of which may be irreversible. There is no population-based estimate of the prevalence of B 12 deficiency among the elderly, nor is there any population-based data on the frequency with which diagnosis of B 12 deficiency is complicated by folate intake. The Food and Drug Administration has postponed folate fortification pending more data on the potential risks of high levels of folate consumption for the general population.

This is a pilot study to determine the size, feasibility, cost and duration of a population-based survey; the population-based survey would estimate the prevalence of vitamin B 12 deficiency in the general population and estimate the impact of folate intake on its diagnosis. This information is needed to assess the risk that may be posed by high levels of fortification of the food supply with folate.

The proposed pilot study will seek to identify new cases of B 12 deficiency from the computerized laboratory records of a health maintenance organization, determine the nature of the clinical presentation of the cases by medical record review, and evaluate the association of folic acid intake with type of clinical presentation by dietary assessment. 70 individuals with B 12 deficiency and 70 normal controls will participate in a telephone interview about their diet and use of nutritional supplements in the year preceding the diagnosis. The total cost to respondents is $10/respondent × $70 respondents = $700.

Respondents	No. Of respondents	Responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Cases w/B 12 difficiency	70	1	1	70
Normal controls	70	1	1	70
Total	.....	.....	.....	140

3. Examination of Barriers to Participant Compliance in a Flexible Sigmoidoscopy Screening Program, Imperial Cancer Research Fund, United Kingdom—New—As part of an existing screening program, there is significant project savings in this initiative. Colorectal cancer accounts for approximately 9% of all newly diagnosed cancer worldwide. Of all cancer mortality in industrialized nations, colorectal cancer is second only to lung cancer, with the U.S. and Great Britain among the highest in this category. Despite increasing evidence that the early diagnosis of colorectal cancer through screening examination can significantly prevent and/or reduce the burden of mortality, morbidity, and associated costs, rates of participation in screening remain extremely poor. This study, involving investigators at the Imperial Cancer Research Fund (ICRF) of Great Britain, seeks to identify barriers associated with low compliance in a mass, population-based colorectal cancer screening trial utilizing flexible sigmoidoscopy.

The ICRF has a long history of conducting important mass screening trials relative to cancer early detection and their investigators are considered international experts in colorectal cancer screening. Because the ICRF already has an ongoing population-based colorectal screening program, significant project start-up and infrastructure cost savings have been incorporated into this proposal. Subjects will include randomly selected adults age 55–64 with no known history of colorectal cancer in Glasgow.

The study involves assessment of demographic, environmental, and psychosocial factors which may limit screening participation via surveys and interviews. Informed consent will be obtained and a complete explanation of all medical procedures will be given.

Phase I will involve initial identification, survey query, and solicitation for screening. Phase II will involve telephone and personal interviews, and Phase III will involve final data analysis.

Participation in this study is voluntary and subsequent screening, follow-up and treatment, if indicated, will be provided at no cost to participants. Informed consent will be obtained where appropriate and oversight will be provided by federal and local institutional review. The total cost to respondents is estimated at $11,330.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Population-based sample of adults aged 55–64	6,000	1	.016	1000
Phase III	400	1	.0330	133
Total	.....	.....	.....	1133

4. Examination of Barriers to Participant Compliance in a Flexible Sigmoidoscopy Screening Program. Kaiser Foundation, Oakland—New—With colorectal cancer comprising the second highest mortality rate among all U.S. cancers and ranked as the fourth most common form of cancer, the active promotion of population-based screening and early detection is becoming increasingly important. Recognizing the importance of screening, American Cancer Society guidelines and the new US Preventive Services Task Force guidelines recommend colorectal cancer screening for individuals over the age of 50. Still, although early detection of colorectal neoplasms has been effectively demonstrated to significantly reduce morbidity and mortality and associated economic costs, compliance is very low. This three-year study involving investigators at one of the nation's largest Health Maintenance Organizations' research foundation (Kaiser Foundation of Northern California) seeks to identify barriers associated with low compliance in a colorectal cancer screening program utilizing flexible sigmoidoscopy.

Phase I will target and recruit participants from an existing pool of Health Maintenance Organization enrollees who are at a relatively high age-related risk (ages 50–64) for developing colorectal cancers via short survey and invitation to screening. In Phase II, investigators will conduct telephone survey to identify the relative impact of economic, psychological, and related factors on participation and non-participation in the mass screening programs. In phase III, investigators will analyze and widely disseminate results of the study via publication in the professional literature. Results will also be made available to participants upon request. Interventions designed to mitigate the barriers identified through this study will be incorportated into future screening efforts and general health education/health promotion efforts.

Participation in this study is voluntary and subsequent follow-up and treatment, if indicated, will be provided at no cost to participants. Informed consent will be obtained where appropriate and oversight will be provided by federal and institutional review. The total cost to respondents is estimated at $13,330.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
HMO Enrollees	4,000	1	0.33	1320
Total	.....	.....	.....	1320

Wilma G. Johnson,
Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2426 Filed 2–5–96; 8:45 am]
BILLING CODE 4163–18–P

[30DAY–04]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–3453.

The following request have been submitted for review since the last publication date on January 23,1996.

Proposed Project

1. Nationally Sexually Transmitted Disease Morbidity Surveillance System—(0920–0011)—Reinstatement—The purpose of these reports is to collect STD morbidity surveillance data from state health departments nationwide. The data are used by health care planners at the national, state, and local levels to develop and evaluate STD prevention and control programs. In addition there are many other users of the data including scientist, researchers, educators, students and the media.

Respondents	No. of respondents	No. of responses/Respondents	Avg. burden/response (in hrs.)
State and large city health departments	60	4	1.95

Respondents	No. of respondents	No. of responses/ Respondents	Avg. burden/ response (in hrs.)
State and large city health departments	60	12	0.583
State and large city health departments	60	2	3

The total annual burden is 1248. Send comments to Allison Eydt; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2427 Filed 2–5–96; 8:45 am]

BILLING CODE 4163–18–P

[30DAY–03]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–3453.

The following requests have been submitted for review since the last publication date on January 23, 1996.

Proposed Project

1. An Assessment of The National Laboratory Training Network (NLTN)—(New)—The National Laboratory Training Network (NLTN) was established in 1989 to provide education and training to different levels of laboratory personnel in public health, private, independent laboratories and blood banks. Training in testing skills required to diagnose and monitor HIV infected individuals and AIDS-related diseases was the driving force behind its development. However, NLTN staff has responded to other emerging training needs such as those required to test for *Mycobacterium tuberculosis*, Hantaviruses, and other diseases.

The NLTN works primarily with the State Public Health Laboratories forming partnerships that facilitate laboratory training in most laboratory settings. This project is an evaluation of the effectiveness of the NLTN in meeting its goals and in satisfying the needs of its customers. Recipients of training and their supervisors will be the major sources of information. Some assessment of participants that have not attended NLTN courses will be necessary to use as a control group.

Surveys will be directed to all types of laboratories that perform diagnostic testing. Samples will be selected from local health department laboratories, state health department laboratories, microbiology course participants and physician office laboratories. The study was designed in FY 1994 and FY 1995. Data collection should begin late in FY 1995 and be completed in FY 1996.

Respondents	No, of respondents	No. of responses/ respondents	Avg. burden/ response
Laboratories	10,000	1	.5

The total annual burden is 5000. Send comments to Allison Eydt; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2428 Filed 2–5–96; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 95N–0410]

Ivermectin Injection for American Buffalo; Availability of Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of target animal safety and effectiveness data and human food safety data to be used in support of a new animal drug application (NADA) or supplemental NADA for use of 1 percent ivermectin injection in American buffalo. The data, contained in Public Master File (PMF) 5059, were compiled under National Research Support Project No. 7 (NRSP–7), a national agricultural program for obtaining clearances for use of new drugs in minor animal species or in any animal species for the control of a disease that occurs infrequently or in limited geographical areas.

ADDRESSES: Submit NADA's or supplemental NADA's to the Document Control Unit (HFV–199), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–3125.

FOR FURTHER INFORMATION CONTACT: Jean M. Cooper, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1653.

SUPPLEMENTARY INFORMATION: Ivermectin injection for use in American buffalo is a new animal drug under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)). As a new animal drug, ivermectin is subject to section 512 of the act (21 U.S.C. 360b) which requires that its uses in American buffalo be the subject of an approved NADA or supplemental NADA. American buffalo are a minor species under § 514.1(d) (21 CFR 514.1(d)). The NRSP–7 Project, North Central Region, Michigan State University, East Lansing, MI 48824, has provided data and information that demonstrate human food safety and safety and effectiveness to American buffalo subcutaneously administered 1 percent ivermectin injection (200 micrograms of ivermectin per kilogram of body weight) for the treatment and control of hypodermosis caused by *Hypoderma bovis* (grubs).

The data and information are contained in PMF 5059. Sponsors of NADA's or supplemental NADA's may, without further authorization, refer to the PMF to support approval of an application filed under § 514.1(d). An NADA or supplemental NADA must include, in addition to a reference to the PMF, animal drug labeling and other data needed for approval, such as manufacturing methods, facilities and controls, data supporting extrapolation from a major species in which the drug is currently approved, or authorized reference to such data, and information addressing the potential environmental impacts (including occupational) of the manufacturing process and use of the drug product. Persons desiring more information concerning the PMF or requirements for approval of an NADA may contact Jean M. Cooper (address above).

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and 21 CFR 514.11(e)(2)(ii), a summary of target animal safety and effectiveness data and human food safety data submitted to support approval of an application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 25, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–2371 Filed 2–5–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Bureau of Program Operations, Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (60 FR 42888, 42889, 42898, and 42899, Aug. 17, 1995) is amended to reflect a reorganization in the Bureau of Program Operations (BPO).

BPO is moving the Medicare Transaction System (MTS) functions from the MTS Initiative Task Force to the Office of Analysis and Systems (OAS). Expanding OAS's functions to include MTS is necessary because HCFA is transitioning to a new phase in the development of MTS. This phase requires a different management strategy to align the initial planning decisions with the organizational component that will bear responsibility for implementing MTS and ultimately strengthen the overall management of MTS.

The specific amendments to part F are described below:

Section F.10.D., Health Care Financing Administration, Associate Administrator for Operations and Resource Management (FL) (Organization), paragraph 4.b. is amended by adding subparagraphs (5) through (7). Paragraph 4.g. and all the associated subparagraphs are deleted in their entirety.

b. Office of Analysis and Systems (FLG1)

(5) Medicare Transaction System Quality Assurance (FLG15)

(6) Medicare Transaction System Development (FLG16)

(7) Medicare Transaction System Program Planning & Needs Analysis (FLG17)

Section F.20.D, Health Care Financing Administration Associate Administrator for Operations and Resource Management (FL) (Functions), paragraph 4.b. is deleted and replaced with the following new functional statement. In addition, paragraph 4.b. is further amended by adding subparagraphs (5) through (7). Paragraph 4.g. and subparagraphs (1) through (3) are deleted in their entirety.

b. Office of Analysis and Systems (FLG1)

- Provides requirements and specifications for the design, development, and maintenance of reporting and information management systems that generate data reflecting on Medicare program operations.
- Serves as the Agency focal point for the management and coordination of the Medicare Transaction System Initiative (MTSI). Represents HCFA to the Department, other Federal Agencies, and outside organizations.
- Provides direction and technical guidance for the design, development, implementation, verification and validation, and maintenance of the Medicare Transaction System (MTS) to integrate Medicare Part A and Part B claims processing systems.
- Identifies reporting and information needs for data relating to Medicare contractor operations and initiates appropriate action for establishing or modifying the reporting and information systems to satisfy these needs.
- Analyzes a broad range of information, including computer stored data, on operations performed in support of the Medicare program; prepares interpretive reports and recommendations on findings to internal bureau components for purposes of conducting program and performance evaluations.
- Provides overall support to other staff in analyzing and interpreting program and operational data to better understand the program.
- Provides requirements and specifications for the design, development, and management at the national level, activities required to enhance systems for improvement of the Medicare eligibility systems, Part A and Part B claims processing systems, and the Medicare program database.
- Provides direction and guidance to HCFA staff (central office and regional) on improving contractor systems.
- Prepares systems plans and develops policies for the design, implementation, and evaluation of shared systems and standardized modules for use by Medicare carriers, intermediaries, and hosts.
- Directs the design, development testing, and implementation of innovative system enhancements to the Common Working File (CWF) shared claims processing systems resulting in improvements to the national Medicare claims payment process.
- Provides requirements and specifications for the development, implementation, execution, and monitoring of a procedure to provide ongoing testing of national claims processing and information system to detect flaws in the operation of software, hardware, and related operations.
- Provides requirements and specifications for the development and implementation of systems that provide for the creation and maintenance of databases and test files that are required to conduct comprehensive system acceptance testing of a national claims processing and information system.

(5) Medicare Transaction System Quality Assurance (FLG15)

- Develops, implements, directs, and operates activities to assure the quality of Medicare Transaction System (MTS) development throughout the system development life cycle.
- Provides technical management, oversight, coordination and day-to-day monitoring of contract(s) for the independent verification and validation of MTS analysis, design, development, validation, implementation, and maintenance activities.
- Reviews and evaluates the effectiveness of the processes and procedures used to analyze, design, develop, implement, and maintain the MTS.
- Provides the documentation and analysis necessary to initiate and support corrective action resulting from findings of the MTS quality assurance activities.
- Reviews and evaluates quality assurance programs maintained by the MTS design contractor, the independent verification and validation contractor and HCFA to ensure integration of quality assurance activities throughout the MTS development process.
- Recommends alternatives to proposed methodologies for the analysis, design, development, validation, implementation and maintenance of the MTS.

(6) Medicare Transaction System Development (FLG16)

- Develops, implements, and directs activities to assure the development of the Medicare Transaction System (MTS) throughout the system development life cycle.
- Provides technical management, oversight and coordination and day-to-day monitoring of the contract(s) for performing the Medicare Transaction System (MTS) analysis, design, development, validation, implementation, and maintenance activities.
- Provides the inter- and intra-component coordination required to insure appropriate and timely review

and dissemination of the contract work products and other pertinent information.

• Reviews and evaluates the effectiveness of the processes and procedures used to coordinate and facilitate the review of the contract work products.

• Develops, conducts, and coordinates modifications to existing operational procedures, contracts, reporting mechanisms and related materials as required.

• Provides the documentation and analysis necessary to initiate and support corrective action resulting from the findings of the MTS development activities.

(7) Medicare Transaction System Program Planning and Needs Analysis (FLG17)

• Recommends alternatives to existing requirements, operational priorities, processes, procedures, and methods for improvement which will enhance the quality and cost-effectiveness of Medicare operational and administrative procedures and meet the needs of HCFA's internal and external customers.

• Develops, implements, and directs project planning, control and administration procedures, processes, and methods used to determine Medicare Transaction System Initiative (MTSI) program status, assess performance, report progress, and implement changes.

• Maintains the MTSI program schedule and MTSI program management plan and various program management databases.

• Provides advisory and consultative services on project planning to HCFA central and regional office staff and key officials responsible for planning and implementing projects in support of the development and implementation of the Medicare Transaction System.

• Conducts project planning training to HCFA staff responsible for MTSI projects.

Dated: December 21, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 96–2373 Filed 2–5–96; 8:45 am]

BILLING CODE 4120–01–P

Office of the Secretary

Advisory Committees; Notice

ACTION: Notice.

SUMMARY: This notice announces a new charter for the National Committee on Vital and Health Statistics (NCVHS) and solicits nominations for membership on the Committee. The NCVHS is the statutory public advisory body to the Department of Health and Human services in the area of health data and statistics. The Charter has been revised to address emerging issues in health data, including a focus on health data standards and privacy issues.

A number of vacancies will occur on the Committee beginning on March 1, 1996. New members of the Committee will be appointed to four year terms by the Secretary from among persons who have distinguished themselves in the following fields: Health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services.

The Department will give close attention to equitable geographic distribution and to minority and female representation. Appointments will be made without discrimination on the basis of age, race, gender, sexual orientation, HIV status, cultural, religious or socioeconomic status.

DATES: Nominations for new members should include a letter describing the qualifications of the nominee and the nominee's current resume or vitae. The closing date for nominations is March 22, 1996. Nominations previously submitted for vacancies occurring in 1995 automatically will be considered in this solicitation and need not be resubmitted.

Nominations should be sent to the person named below: James Scanlon, Executive Secretary, HHS Data Council, U.S. Department of Health and Human Services, Room 440–D, 200 Independence Avenue SW., Washington, DC 20201, (202) 690–7100.

FOR FURTHER INFORMATION CONTACT: James Scanlon, (202) 690–7100.

SUPPLEMENTARY INFORMATION:

Introduction

The National Committee on Vital and Health Statistics serves as the statutory public advisory body to the Department of Health and Human Services in the area of health data and statistics. In that capacity, the Committee provides advice and assistance to the Department on a variety of key health data issues. Over its forty-five year history, the Committee has stimulated a host of improvements in national and international health data and statistics. The Committee has been associated with groundbreaking contributions in such areas as disease classification, health surveys, health data sets and standards as well as privacy protection for health information.

Over its existence, the Committee has reshaped and redirected its work in response to changing needs and priorities. The 1990's have witnessed striking changes in health and health care and in health data and information systems. Both the national environment for health information systems and the nature of the information systems issues which the Department is confronting have changed dramatically. For example, ten years ago, efforts to improve data compatibility focused on encouraging the use of standard paper forms. Today, public/private compatibility requires coordination of electronic data transmission and coding standards, and compatibility with the evolving national information infrastructure. The new electronic information environment is raising new privacy issues and magnifying the importance of insuring that the Department's current policies are appropriate for new technologies.

The revisions to the NCVHS charter and solicitation for new members announced in this Notice are designed to refocus the NCVHS to reflect these changes. Of particular concern is the lack of shared standards for health data. Consensus on such standards could dramatically reduce paperwork burdens and increase the analytic potential of health data. Today, there is little ability to share; make multiple uses of, or link data. Many electronic data systems cannot communicate with one another, either within the private sector or between public and private data holders. There is a developing consensus that everyone—consumers, industry, policy makers—would be better served by more uniform, voluntary shared standards for collection and transmission of health information.

The NCVHS is in a unique position to serve as a national forum for the collaboration of interested parties, with the long-term goal of improving the compatibility of private sector, state, and federal health information systems. In particular, the new charter will enable the NCVHS to foster collaboration on voluntary means to facilitate and accelerate the development of consensus across the public and private sectors around key data standards and privacy issues.

The Committee will inform HHS data policy decision-making as well as private sector and State data policy decision-making. Participants will bring their expertise, perspectives, and concerns to the Committee, and will bring back to their respective industries and organizations the collective recommendations and rationale of the Committee.

New Charter

Charter National Committee on Vital and Health Statistics

Purpose

Collection, analysis and dissemination of health and health-related information is a crucial aspect of the responsibilities of the Department of Health and Human Services. The Department is charged with monitoring and improving the state of the nation's health and with epidemiological tracking and intervention, and must collect, analyze, and disseminate information on vital events, determinants of health, the extent and nature of illness and disability of the population, and the population's well-being. The Department funds and/or operates health care delivery programs, and must collect and analyze information for billing and payment, quality assessment, utilization tracking, and program evaluation. The Department is one of the most important sources of information about the health resources and the supply of health services in the United States (in underserved areas and more generally) and about health care costs and financing nation-wide. The Department is responsible for biomedical and behavioral research, and is also responsible for turning the results of that research into a public resource, by making the information available to clinicians, consumers, industry, and the research community. The Department also engages in cooperative efforts with other countries and the international community to foster health data standards and comparability and cross-national research.

Pursuant to these and other activities, the Department collects data from and disseminates data to our private sector and state partners, the research community, health care providers and insurers, and consumers. The ability to share, make multiple uses of, or link data is limited and must be continuously improved. The lack of shared standards for health data increases paperwork burdens and reduces the analytic potential of health data.

This Committee shall serve as a national forum on health data and information systems. It is intended to be a forum for collaboration of interested parties to accelerate the evolution of public and private health information systems toward more uniform, shared data standards, operating within a framework protecting privacy and security. A long-term purpose of the Committee is to promote increased interoperability of diverse health information systems. The Committee shall encourage the evolution of a shared, public/private national health information infrastructure that will promote the availability of valid, credible, timely and comparable health data. With sensitivity to policy considerations and priorities, the Committee will provide scientific-technical advice and guidance regarding the design and operation of health statistics and information systems and services and on coordination of health data requirements.

The Committee will inform decision making about data policy by HHS, states, local governments and the private sector. Committee members are expected to bring their expertise, perspectives and concerns to the forum, and to bring back to their respective fields the collective concerns, recommendations, and rationale of the Committee.

Authority

Section 306(k) of the Public Health Service Act, as amended, 42 U.S.C. 242k(k). The Committee is governed by provisions of Public Law 92–463, as amended, (5 U.S.C. App. 2), which sets forth standards for the formation and use of advisory committees.

Function

It shall be the function of the Committee to assist and advise the Secretary through the Department of Health and Human Services Data Council, the Department's internal advisory body for data policy, in the following matters:

(A) Monitor the nation's health data needs and current approaches to meeting those needs; identify emerging health data issues, including methodologies and technologies of information systems, databases, and networking that could improve the ability to meet those needs.

(B) Identify strategies and opportunities to achieve long-term consensus on common health data standards that will promote (i) the availability of valid, credible, and timely health information, and (ii) multiple uses of data collected once; recommend actions the federal government can take to promote such a consensus.

(C) Make recommendations regarding health terminology, definitions, classifications, and guidelines.

(D) Study and identify privacy, security, and access measures to protect individually identifiable health information in an environment of electronic networking and multiple uses of data.

(E) Identify strategies and opportunities for evolution from single-purpose, narrowly focussed, categorical health data collection strategies to more multi-purpose, integrated, shared data collection strategies.

(F) Identify statistical, information system and network design issues bearing on health and health services data which are of national or international interest; identify strategies and opportunities to facilitate interoperability and networking.

(G) Advise the Department on health data collection needs and strategies; review and monitor the Department's data and information systems to identify needs, opportunities, and problems; consider the likely effects of emerging health information technologies on the Department's data and systems, and impact of the Department's information policies and systems on the development of emerging technologies.

(H) Stimulate the study of health data and information systems issues by other organizations and agencies, whenever possible.

(I) Review and comment on findings and proposals developed by other organizations and agencies with respect to health data and information systems and make recommendations for their adoption or implementation.

(J) Assist and advise the Secretary in the development of such reports as the Secretary or Congress may require.

In these matters, the Committee shall consult with all components of the Department, other federal entities, and non-federal organizations, as appropriate.

Structure

The Committee shall consist of 16 members, including the Chair. The members of the Committee shall be appointed by the Secretary from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services

research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. The Secretary shall appoint one of the members to serve a two year, renewable term as the Chair.

Members shall be invited to serve for overlapping four-year terms. Terms of more than two years are contingent upon the renewal of the Committee by appropriate action prior to its termination. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. Members may serve after the expiration of their terms until successors have been appointed.

Standing and ad hoc subcommittees, composed solely of members of the parent Committee, may be established to address specific issues and to provide the Committee with background study and proposals for consideration and action. The Chair shall appoint members from the parent Committee to the subcommittees and designate a Chair for each subcommittee. The subcommittees shall make their recommendations to the parent Committee. Timely notification of the subcommittees, including charges and membership, shall be made in writing to the Department Committee Management Officer by the Executive Secretary of the Committee. Logistical management and support services shall be provided by the Program Support Center, Department of Health and Human Services.

Professional, scientific, and technical staff support shall be provided by all agencies of the Department. The Data Council may establish inter-agency and inter-Departmental, issue-specific working groups to provide staff support to the Committee.

Meetings

Meetings shall be held not less than annually at the call of the Chair, with the advance approval of a Government official, who shall also approve the agenda. A Government official shall be present at all meetings.

Meetings of the subcommittees shall be held at the call of the Chair, with the advance approval of a Government official, who shall also approve the agenda. A Government official shall be present at all subcommittee meetings. All subcommittees shall report their findings to the Committee.

Meetings shall be open to the public except as determined otherwise by the Secretary; notice of all meetings shall be given to the public.

Meetings shall be conducted, and records of the proceedings kept, as required by the applicable laws and departmental regulations.

Compensation

Members who are not full-time Federal employees shall be paid at a rate not to exceed the daily equivalent of the rate in effect for an Executive Level IV of the General Schedule for each day they are engaged in the performance of their duties as members of the Committee. All members, while so serving away from their homes of regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by Section 5703, Title 5, U.S. Code, for employees serving intermittently.

Annual Cost Estimate

Estimated annual cost for operating the Committee, including compensation and travel expenses for members but excluding staff support, is $350,732. Estimated annual person-years of staff support required is 3.1, at an estimated annual cost of $199,600.

Reports

In the event a portion of a meeting is closed to the public, a report shall be prepared which shall contain, as a minimum, a list of members and their business addresses, the Committee's functions, dates and places of meetings, and a summary of Committee activities and recommendations made during the fiscal year. A copy of the report shall be provided to the Department Committee Management Officer.

Termination Date

The duration of the National Committee on Vital and Health Statisticss is continuing, and a new charter shall be filed two years from the date this charter is approved.

Dated: January 31, 1996.

Jack Ebeler,

Dated: January 31, 1996.

Bruce Vladeck,

Cochairpersons, HHS Data Council.

[FR Doc. 96-237♦ Filed 2-5-96; 8:45 am]

BILLING CODE 4151-04-M

Public Health Service

Indian Health Service

Tribal Management Grant Program for American Indians/Alaska Natives: Announcement of Data and Address Changes for Fiscal Year 1996

AGENCY: Indian Health Service, HHS.

ACTION: Notice of Date and Address Changes from the Program Announcement—Application Kit for the Tribal Management Grant Program, dated November 30, 1995.

SUMMARY: The Indian Health Service (IHS) announces changes in dates and the application receipt address for the Tribal Management (TM) grant program for fiscal year (FY) 1996 due to the Federal furlough, weather related shutdowns and pending office moves.

On December 8, 1995, the Grants Management Branch, Division of Acquisition and Grants Operations, IHS, mailed the November 30, 1995, Fiscal Year 1996 Application Kit for Tribal Management Grants for American Indians and Alaska Natives to all federally recognized Indian tribes and Indian tribal organizations. If you do not have the November 30, 1995, application kit, which these changes affects, and are interested in obtaining a copy, please contact Mrs. M. Kay Carpentier, Grants Management Officer, on telephone (301) 443-5204.

DATES ADDRESSES:

a. Pre-applications, although not required, may be received on or before February 16, 1996. The correct address for pre-applications is: Grants Management Branch, IHS, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852.

b. The IHS will facsimile comments regarding pre-applications on or before February 23, 1996.

c. An original and two copies of the completed grant application, including all required documentation is due March 15, 1996. The correct address for completed applications is: Grants Management Branch, Division of Acquisition and Grants Operations, IHS. Note Address Change: Room 6-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by close of business 5 P.M., or (2) postmarked on or before the deadline and received in time to be reviewed along with other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Late applications not accepted for processing will be returned to the applicant and will not be considered for funding.

ADDITIONAL DATES: Application Review: April 29, 1996. Applicants notified or results: on or about July 1, 1996 (approved, recommended for approval but not funded, or disapproved). Anticipated start date: August 1, 1996.

CONTACTS FOR ASSISTANCE: For TM program information, contact Ms. Bea Bowman, Director, Division of Community Services, Office of tribal Activities, Room 6A-05, 5600 Fisher Lane, Rockville, Maryland 20857, (301) 443-6840. For grant application and business management information, contact Mrs. M. Kay Carpentier, Grants Management Office, Division of Acquisition and Grants Operations. Note address change: Room 6-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, (301) 443-5204. (These are not toll-Free numbers.

SUPPLEMENTARY INFORMATION: The Office of tribal activities, Divisions of Community Services; and Division of Acquisition and Grants Operations, Grants Management Branch will provide potential applicants an opportunity to receive technical assistance in developing and submitting competitive proposals through a pre-application review. The purpose of the pre-application will establish communication between the IHS and the applicants; determine the applicants eligibility; and provide technical assistance to increase the ability of an applicant to successfully compete.

Dated: January 25, 1996

Michael H. Trujillo,

Director, Assistant Surgeon General.

[FR Doc. 96-2370 Filed 2-5-96; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR-3822-N-05]

Public and Indian Housing Drug Elimination Program Announcement of Funding Awards for FY 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for Public and Indian Housing Drug Elimination Program. This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Malcolm E. Main, Crime Prevention and Security Division, Office of Community Relations and Involvement, Public and Indian Housing, Department of Housing and Urban Development, room 4116, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1197 (this is not a toll-free telephone number). Hearing- or speech impaired persons, may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Drug Elimination Program is authorized under Chapter 2, Subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et. seq.*), as amended by section 581 of the National Affordable Housing Act of 1990, (Pub. L. 101-625, approved November 28, 1990), and Section 161 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992).

The Fiscal Year 1995 competition was announced in a NOFA published in the **Federal Register** on January 5, 1995 (60 FR 1846). An amendment to the January 5, 1995 NOFA was published in the **Federal Register** on July 7, 1995 (60 FR 35415). The NOFA announced the availability of $250,335,189 for use in eliminating drug-related crime. Applications were scored and selected for funding based on criteria contained in the Notice.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the names and addresses of the housing authorities which received funding under this NOFA, and the amount of funds awarded to each. This information is provided in Appendix A to this document.

Dated: January 31, 1996.

Michael B. Janis,

General Deputy Assistant Secretary.

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100-690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
Housing Authority of the City of Ansonia, 75 Central St., Ansonia, CT 06401-2042	$134,500
Housing Authority of the City of Norwalk, Box 508, Norwalk, CT 06854-0508	250,000
Housing Authority of the City of New Britain, 34 Marimac Rd., New Britain, CT 06053-2699	242,000
Housing Authority of the City of Hartford, 475 Flatbush, Hartford, CT 06106-3728	729,750
Housing Authority of the City of New Haven, P.O. Box 1912, New Haven, CT 06509	898,000
Housing Authority of the City of Waterbury, 2 Lakewood Rd., Waterbury, CT 06704-2498	250,000
Housing Authority of the City of Middletown, 40 Broad St., Middletown, CT 06457-3249	213,000
Housing Authority of the City of Meriden, P.O. Box 911, Meriden, CT 06451	242,500
Housing Authority of the Town of East Hartford, 546 Burnside Ave., East Hartford, CT 06108	176,080
Housing Authority of the Town of Greenwich, P.O. Box 141, Greenwich, CT 06836-6620	155,000
Housing Authority of the City of Danbury, P.O. Box 86, Danbury, CT 06813-0086	201,000
Housing Authority of the City of New London, P.O. Box 119, New London, CT 06320-0119	67,500
West Haven Housing Authority, 15 Glade St., West Haven, CT 06516-2607	250,000
Housing Authority of the City of Bristol, P.O. Box 918, Bristol, CT 06011-0918	165,900
Housing Authority of the City of Stamford, P.O. Box 1376, Stamford, CT 06904-1376	328,800
Lowell Housing Authority, P.O. Box 60, Lowell, MA 01853-0060	417,250
Boston Housing Authority, 52 Chauncey St., Boston, MA 02111-2302	3,135,750
Cambridge Housing Authority, 270 Green St., Cambridge, MA 02139-3360	459,750
Holyoke Housing Authority, 475 Maple St., Holyoke, MA 01040-3775	250,000
New Bedford Housing Authority, P.O. Box A-2081, New Bedford, MA 02741-2081	412,500
Fall River Housing Authority, P.O. Box 989, Fall River, MA 02722-0989	426,750
Lawrence Housing Authority, 353 Elm St., Lawrence, MA 01842	316,800

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
Worcester Housing Authority, 40 Belmont Street, Worcester, MA 01605	375,000
Medford Housing Authority, 121 Riverside Ave., Medford, MA 02155	240,500
Chelsea Housing Authority, 54 Locke St., Chelsea, MA 02150–2209	175,000
Brockton Housing Authority, P.O. Box 240, Brockton, MA 02403	250,000
Gloucester Housing Authority, P.O. Box 1599, Gloucester, MA 01931–1599	50,000
Springfield Housing Authority, P.O Box 1609, Springfield, MA 01101–1609	375,000
Somerville Housing Authority, 30 Memorial Rd., Somerville, MA 02145	218,500
Malden Housing Authority, P.O. Box 365, Malden, MA 02148–0365	250,000
Lynn Housing Authority, 174 South Common St., Lynn, MA 01905–2513	232,000
Woburn Housing Authority, 59 Campbell St., Woburn, MA 01801	50,000
Portland Housing Authority, 14 Baxter Boulevard, Portland, ME 04101–4935	307,200
Nashua Housing Authority, 101 Major Drive, Nashua, NH 03060–4783	250,000
Manchester Housing & Redevelopment Authority, 198 Hanover St., Manchester, NH 03103–6125	345,000
Dover Housing Authority, 62 Whittier St., Dover, NH 03820–2994	228,964
Concord Housing Authority, 15 Pitman Street, Concord, NH 03301–4349	116,078
Providence Housing Authority, 100 Broad Street, Providence, RI 02903–4129	635,000
Pawtucket Housing Authority, 214 Roosevelt Avenue, Pawtucket, RI 02862–1303	297,300
Woonsocket Housing Authority, 679 Social Street, Woonsocket, RI 02895–3251	375,000
Newport Housing Authority, One York Street, Newport, RI 02840–1212	330,600
Bridgeton Housing Authority, 110 E. Commerce St., Bridgeton, NJ 08302–2606	225,000
Carteret Housing Authority, 96 Roosevelt Ave., Carteret, NJ 07008–2490	126,000
Atlantic City Housing Authority, P.O. Box 1258, Atlantic City, NJ 08404–7549	503,250
Trenton Housing Authority, 875 New Willow St., Trenton, NJ 08638–0000	486,000
Neptune Housing Authority, 1810 Alberta Ave, Neptune, NJ 07753–4817	172,500
Asbury Park Housing Authority, 1000 ½ 3rd Ave, Asbury Park, NJ 07712–3847	250,000
Bayonne Housing Authority, 50 East 21st. Street, Bayonne, NJ 07002–3761	338,000
Jersey City Housing Authority, 400 U.S. Highway #1, Jersey City, NJ 07306–6731	928,750
Orange Housing Authority, 340 Thomas Boulevard, Orange, NJ 07050–4121	250,000
North Bergen Housing Authority, 6121 Grand Avenue, North Bergen, NJ 07047–5436	293,100
Lakewood Housing Authority, 317 Sampson Ave., Lakewood, NJ 08701–3565	134,000
Elizabeth Housing Authority, 688 Maple Avenue, Elizabeth, NJ 07202–2690	417,250
Paterson Housing Authority, 160 Ward Street, Paterson, NJ 07505–1998	537,000
Rahway Housing Authority, 165 East Grand Avenue, Rahway, NJ 07065–5491	137,000
Millville Housing Authority, 122 East Main St., Millville, NJ 08332–0803	183,800
Camden Housing Authority, 517 Market Street, Camden, NJ 08102–1293	582,250
East Orange Housing Authority, 160 Halstead Street, East Orange, NJ 07018–4228	226,000
Hoboken Housing Authority, 400 Harrison Street, Hoboken, NJ 07030–6299	336,250
Woodbridge Housing Authority, 10 Bunns Lane, Woodbridge, NJ 07095–1726	250,000
Glassboro Housing Authority, 737 Lincoln Blvd., Glassboro, NJ 08028–0563	90,000
Newark Housing Authority, 57 Sussex Avenue, Newark, NJ 07103–3992	2,725,250
Long Branch Housing Authority, P.O. Box 336, Long Branch, NJ 07740–0336	250,000
Plainfield Housing Authority, 510 East Front St., Plainfield, NJ 07060–1443	234,500
Passaic Housing Authority, 333 Passaic Avenue, Passaic, NJ 07055–5896	250,000
Perth Amboy Housing Authority, P.O. Box 390, Perth Amboy, NJ 08862–0390	224,950
Union City Housing Authority, 3911 Kennedy Blvd., Union City, NJ 07087–2622	250,000
Vineland Housing Authority, 191 Chestnut Avenue, Vineland, NJ 08360–5499	250,000
West New York Housing Authority, 6100 Adams Street, West New York, NJ 07093–1537	250,000
Monticello Housing Authority, 76 Evergreen Drive, Monticello, NY 12701–1630	50,000
Municipal Housing Authority, the City of Yonkers, P.O. Box 35, Yonkers, NY 10710–0035	652,250
Kingston Housing Authority, 97 Broadway, Kingston, NY 12401–2630	65,500
Village of Hempstead Housing Authority, 50 Clinton Street, #504 Hempstead, NY 11550–5599	181,000
Town of Hempstead Housing Authority, 260 Clinton Street, Uniondale, NY 11553–2929	373,157
New Rochelle Municipal Housing Authority, 515 North Avenue, New Rochelle, NY 10801–4029	250,000
New York City Housing Authority, 250 Broadway, New York, NY 10007–2516	40,578,147
Peekskill Housing Authority, 840 Main Street, Peekskill, NY 10566–2028	141,000
Long Beach Housing Authority, 1 West Chester Street, Long Beach, NY 11561–2099	188,500
Freeport Housing Authority, 46 North Ocean Avenue, Freeport, NY 11520–4098	180,500
Town of Islip Housing Authority, 963 Montauk Highway, Oakdale, NY 11769–1494	176,000
Buffalo Municipal Housing Authority, 300 Perry St., Buffalo, NY 14204–2299	1,244,000
Binghamton Housing Authority, P.O. Box 1906, Binghamton, NY 13902–1906	250,000
Albany Housing Authority, 4 Lincoln Square, Albany, NY 12202–1637	434,500
Municipal Housing Authority of the City of Utica, 509 2nd Street, Utica, NY 13501–2450	330,600
Municipal Housing Authority of Schenectady, 375 Broadway, Schenectady, NY 12305–2595	300,600
Geneva Housing Authority, P.O. Box 153, Geneva, NY 14456–2319	119,000
Watervliet Housing Authority, 2400 Second Avenue, Watervliet, NY 12189–2746	136,710
Syracuse Municipal Housing Authority, 516 Burt Street, Syracuse, NY 13202–3999	617,750
Niagara Falls Housing Authority, 744 10th Street, Niagara Falls, NY 14301–1852	256,200
D.C. Department of Public And Assisted Housing, 1133 North Capitol St., NE, Washington, DC 20002–7599	2,872,000
Delaware State Housing Authority, 18 The Green, Dover, DE 19901	205,000
Wilmington Housing Authority, 400 Walnut Street, Wilmington, DE 19801	645,000

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
Housing Opportunity Commission, Montgomery County, 10400 Detrick Avenue, Kensington, MD 20895	375,000
Housing Authority of the City of Rockville, 14 Moore Drive, Rockville, MD 20850–1230	80,500
Housing Authority of the City of Annapolis, 1212 Madison Street, Annapolis, MD 21403	250,000
Housing Authority Of Baltimore City, 417 East Fayette St., Baltimore, MD 21202	4,507,250
St. Michaels Housing Authority, P.O. Box 296, St. Michaels, MD 21663	50,000
Housing Authority of Cumberland, 635 East First Street, Cumberland, MD 21502	215,000
Erie Housing Authority, 606 Holland Street, Erie, PA 16501–1285	464,500
Washington County Housing Authority, 100 Crumrine Tower, Washington, PA 15301–6995	249,723
Beaver County Housing Authority, 300 State Avenue, Beaver, PA 15009–1798	482,750
Pittsburgh Housing Authority, 200 Ross St., Pittsburgh, PA 15219–2068	2,240,500
Chester County Housing Authority, 222 North Church St., West Chester, PA 19380	248,609
Philadelphia Housing Authority, 2012–18 Chestnut St., Philadelphia, PA 19103–4497	5,282,250
Montgomery County Housing Authority, 1875 New Hope Street, Norristown, PA 19401–3146	250,000
Chester Housing Authority, 1010 Madison Street, Chester, PA 19016–0380	426,750
Bethlehem Housing Authority, 645 Main Street, Bethlehem, PA 18018	200,000
Reading Housing Authority, 400 Boulevard, Reading, PA 19611	402,500
Bucks County Housing Authority, 350 S. Main Street, Doylestown, PA 18901–0967	210,436
Lancaster Housing Authority, 333 Church Street, Lancaster, PA 17602–4253	234,722
York Housing Authority, 31 South Broad Street, York, PA 17405	320,400
Fairfax County Redevelopment & Housing Authority, 3700 Pender Drive, Fairfax, VA 22030–7444	284,100
Alexandria Redevelopment & Housing Authority, 600 North Fairfax Street, Alexandria, VA 22314–2094	250,000
Richmond Redevelopment & Housing Authority, P.O. Box 26887, Richmond, VA 23261–6887	1,102,999
Hopewell Redevelopment & Housing Authority, P.O. Box 1361, Hopewell, VA 23860–1361	245,000
Danville Redevelopment & Housing Authority, P.O. Box 2669, Danville, VA 24541–0669	249,800
Chesapeake Redevelopment & Housing Authority, P.O. Box 1304, Chesapeake, VA 23327–1304	201,000
Waynesboro Redevelopment & Housing Authority, P.O. Box 1138, Waynesboro, VA 22980–0821	85,000
Bristol Redevelopment & Housing Authority, 650 Quarry Street, Bristol, VA 24201–4390	240,500
Cumberland Plateau Regional Housing Authority, P.O. Box 1328, Lebanon, VA 24266–1328	154,500
Petersburg Redevelopment & Housing Authority, P.O. Box 311, Petersburg, VA 23804–0311	239,847
Norfolk Redevelopment & Housing Authority, P.O. Box 968, Norfolk, VA 23501–0968	1,031,750
Hampton Redevelopment & Housing Authority, P.O. Box 280, Hampton, VA 23669–0280	298,800
Suffolk Redevelopment & Housing Authority, P.O. Box 3079, Suffolk, VA 23439	233,000
Newport News Redevelopment & Housing Authority, P.O. Box 77, Newport News, VA 23607–0077	554,750
Portsmouth Redevelopment & Housing Authority, P.O. Box 1098, Portsmouth, VA 23705–1098	476,250
Housing Authority of the City of Clarksburg, 916 W. Pike Street, Clarksburg, WV 26301–2250	162,500
Housing Authority of the City of Wheeling, P.O. Box 2089, Wheeling, WV 26003–2089	279,761
Housing Authority of the City of Parkersburg, 1901 Cameron Avenue, Parkersburg, WV 26101–9316	71,000
Housing Authority of the City of Charleston, P.O. Box 86, Charleston, WV 25321	391,250
Housing Authority of the City of Montgomery, 1020 Bell St., Montgomery, AL 36104	648,750
Sylacauga Housing Authority, P.O. Box 539, Sylacauga, AL 35150	250,000
Greater Gadsden Housing Authority, P.O. Box 1219, Gadsden, AL 35902–1219	300,000
Housing Authority of the City of Talladega, 151 Curry Court, Talladega, AL 35160	248,000
Anniston Housing Authority, P.O. Box 2225, Anniston, AL 36202–2225	250,000
Housing Authority of the Town of York, P.O. Box 9, York, AL 36925–0009	50,000
Housing Authority of the City of Auburn, 931 Booker Street, Auburn, AL 36830	147,010
Housing Authority of the City of Prichard, P.O. Box 10307, Prichard, AL 36610	214,500
Housing Authority of the City of Leeds, P.O. Box 513, Leeds, AL 35094–0513	78,000
Mobile Housing Board, P.O. Box 1345, Mobile, AL 36633–1345	1,045,250
Housing Authority of the Birmingham District, P.O. Box 55906, Birmingham, AL 35255–5906	1,702,500
Fairfield Alabama Housing Authority, P.O. Box 352, Fairfield, AL 35064–0352	139,200
Housing Authority of the City of Bessemer, P.O. Box 1390, Bessemer, AL 35020	250,000
Housing Authority of the City of Eufaula, P.O. Box 36, Eufaula, AL 36027–0036	160,500
Housing Authority of the City of Decatur, P.O. Box 878, Decatur, AL 35602	250,000
Housing Authority of the City of Dadeville, 845 Freeman Dr, Dadeville, AL 36853	50,000
Housing Authority of the City of Troy, P.O. Drawer 289, Troy, AL 36081–0321	216,000
Housing Authority of the City of Huntsville, P.O. Box 486, Huntsville, AL 35804–0486	465,500
Housing Authority of the City of Lanett, P.O. Box 465, Lanett, AL 36863–0465	181,000
Housing Authority of the City of Scottsboro, 102 Worthington St., Scottsboro, AL 35768	138,000
Housing Authority, City of Oneonta, #1 Hillcrest Circle, Oneonta, AL 35121	90,000
Housing Authority of the City of Ozark, P.O. Box 566, Ozark, AL 36361–0566	205,000
Jefferson County Housing Authority, 3700 Industrial Pkwy., Birmingham, AL 35217	250,000
Housing Authority of the City of Dothan, P.O. Box 1727, Dothan, AL 36302–1727	250,000
Housing Authority of the City of Greenville, P.O. Box 521, Greenville, AL 36037–0521	99,500
Tuscaloosa Housing Authority, P.O. Box 2281, Tuscaloosa, AL 35403–2281	349,357
Housing Authority of the City of Tuskegee, 2901 Davison St., Tuskegee Institute, AL 36088	250,000
Childersburg Housing Authority, P.O. Box 396, Childersburg, AL 35044–0396	94,500
Opelika Housing Authority, P.O. Box 786, Opelika, AL 36801–0786	250,000
Housing Authority of the City of Northport, P.O. Drawer 349, Northport, AL 35476–0349	198,000
Housing Authority of the City of Phenix City, P.O. Box 338, Phenix City, AL 36868–0338	280,800
Housing Authority of the City of Alexander City, P.O. Box 788, Alexander City, AL 35011	200,000

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
Housing Authority of the City of Jasper, P.O. Box 582, Jasper, AL 35501–0582	169,000
Florence Housing Authority, 303 N. Pine St., Florence, AL 35630	198,000
Housing Authority of the City of Jacksonville, 100 Roebuck Manor, Jacksonville, AL 36265	75,000
Housing Authority of the City of Piedmont, P.O. Box 420, Piedmont, AL 36272–0420	105,000
Housing Authority of the City of Cocoa, P.O. Box 540338, Merritt Island, FL 32954–0338	218,000
Melbourne Housing Authority, PO Box 540338, Merritt Island, FL 32954–0338	129,000
Housing Authority of the City of Daytona Beach, 118 Cedar Street, Daytona Beach, FL 32114–4904	321,900
Palatka Housing Authority, 400 N. 15th Street, Palatka, FL 32177	240,000
Housing Authority of the City of Lakeland, P.O. Box 1009, Lakeland, FL 33802–1009	250,000
DeLand Housing Authority, 300 Sunflower Circle, DeLand, FL 32724–5556	100,000
Gainesville Housing Authority, P.O. Box 1468, Gainesville, FL 32602	250,000
Housing Authority of the City of Sarasota, 1300 Sixth Street, Sarasota, FL 34236	246,270
Housing Authority of the City of Ft. Pierce, 707 N. 7th St., Ft. Pierce, FL 34950	255,000
Broward County Housing Authority, 1773 N. State Road 7, Lauderhill, FL 33313	239,864
Area Housing Commission, P.O. Box 18370, Pensacola, FL 32523–8370	250,000
Ft. Walton Beach Housing Authority, 27 Robinwood Dr. SW., Fort Walton Beach, FL 32548–5394	85,500
Housing Authority of the City of Ft. Myers, 4224 Michigan Avenue, Ft. Myers, FL 33916	291,600
Panama City Housing Authority, 804 E. 15th Street, Panama City, FL 32405	225,000
Housing Authority of the City of Orlando, 300 Reeves Court, Orlando, FL 32801–3199	425,750
Dade County HUD, 1401 NW 7th Street, Miami, FL 33125	2,792,500
Housing Authority of the City of Key West, 1400 Kennedy Drive, Key West, FL 33040–2476	250,000
Housing Authority of the City of Moultrie, P.O. Box 1048, Moultrie, GA 31776	164,000
Housing Authority of the City of Covington, P.O. Box 1367, Covington, GA 30210–1367	140,000
Housing Authority of the City of Alma, 401 East 12th Street, Alma, GA 31510–0190	161,500
Housing Authority of the City of Loganville, P.O. Box 550, Monroe, GA 30655–0550	50,000
Housing Authority of the City of Bremen, P.O. Box 776, Bremen, GA 30110–2160	56,000
Housing Authority of the City of Social Circle, P.O. Box 550, Monroe, GA 30655–0550	50,000
Housing Authority of the City of Gainesville, 854 Davis Street, Gainesville, GA 30503–0653	250,000
Housing Authority of the City of Monroe, P.O. Box 550, Monroe, GA 30655–0550	191,500
Housing Authority of the City of Jesup, P.O. Box 396, Jesup, GA 31545–3001	107,000
Housing Authority of the City of Madison, P.O. Box 550, Monroe, GA 30655–0550	50,000
Housing Authority of the City of Augusta, P.O. Box 3246, Augusta, GA 30914–3246	692,750
Housing Authority of the City of College Park, 1908 West Princeton, College Park, GA 30337–2418	210,500
Housing Authority of the City of Waycross, P.O. Box 1407, Waycross, GA 31502–1407	250,000
Housing Authority of the City of Elberton, 12 North McIntosh St., Elberton, GA 30635–1552	92,500
Housing Authority of the City of Warner Robins, 112 Memorial Terrace, Warner Robins, GA 31099–2048	222,000
Housing Authority of the City of Rome, 800 N. Fifth Avenue, Rome, GA 30162–1428	329,400
Housing Authority of the City of Pelham, P.O. Box 269, Pelham, GA 31779–0269	105,000
Housing Authority of the City of Camilla, P.O. Box 247, Camilla, GA 31730–0247	229,000
Housing Authority of the City of Decatur, P.O. Box 1627, Decatur, GA 30031–1627	294,600
Housing Authority of the City of Macon, P.O. Box 4928, Macon, GA 31208–4928	543,250
Housing Authority of the City of Columbus, P.O. Box 630, Columbus, GA 31902–0630	534,250
Housing Authority of the City of Americus, 825 N. Mayo Street, Americus, GA 31709–2627	250,000
Housing Authority of the City of Canton, 1 Shipp Street, Canton, GA 30114–2813	76,000
Housing Authority of Savannah, P.O. Box 1179, Savannah, GA 31402–1179	650,230
Housing Authority of the City of Athens, P.O. Box 1469, Athens, GA 30603–1469	375,000
Housing Authority of the City of Brunswick, P.O. Box 1118, Brunswick, GA 31521–1118	250,000
Housing Authority of the City of Valdosta, 610 E. Ann Street, Valdosta, GA 31601	250,000
Housing Authority of the City of Dublin, P.O. Box 36, Dublin, GA 31040	250,000
Housing Authority of the City of Eastman, P.O. Box 100, Eastman, GA 31023–0100	105,900
Housing Authority of the City of Calhoun, 111–F South Fair St., Calhoun, GA 30701–2369	125,000
Housing Authority of Fulton, 200 N. Highland Dr., Fulton, KY 42041	58,980
Housing Authority of Bowling Green, P.O. Box 116, Bowling Green, KY 42101	159,000
Housing Authority of Paducah, 2330 Ohio St., Paducah, KY 42002	323,400
Housing Authority of Frankfort, 590 Walter Todd Dr., Frankfort, KY 40601	121,000
Housing Authority of Richmond, P.O. Box 447, Richmond, KY 40475	167,500
Housing Authority of Maysville, P.O. Box 446, Maysville, KY 41056	137,500
Housing Authority of Covington, P.O. Box 15279, Covington, KY 41015–0279	288,900
Housing Authority of Georgetown, 139 Scroggin Park, Georgetown, KY 40324	162,196
Housing Authority of Williamsburg, 600 Brush Arbor Apts., Williamsburg, KY 40769	121,500
Housing Authority of Louisville, 420 South Eighth St., Louisville, KY 40203	1,460,250
Housing Authority of Danville, P.O. Box 666, Danville, KY 40423–0666	113,500
Housing Authority of Lexington, 635 Ballard Street, Lexington, KY 40508	432,250
Housing Authority of the City of Corinth, P.O. Box 1003, Corinth, MS 38834–1003	159,000
Housing Authority of the City of Hazlehurst, P.O. Box 572, Hazlehurst, MS 39083	61,000
Housing Authority of the City of Biloxi, P.O. Box 447, Biloxi, MS 39533	250,074
Housing Authority of the City of Laurel, P.O. Box 2910, Laurel, MS 39442	204,300
Housing Authority of the City of Aberdeen, P.O. Box 69, Aberdeen, MS 39730	81,500
Housing Authority of the City of Columbus, P.O. Box 648, Columbus, MS 39703–0648	240,000
Housing Authority of the City of Picayune, P.O. Drawer 40, Picayune, MS 39466	177,000

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
Housing Authority of the City of McComb, P.O. Box 469, McComb, MS 39648	217,500
Housing Authority of the City of Bay St. Louis, 601 Bienville, Bay St. Louis, MS 39520	49,968
Housing Authority of the City of Oxford, P.O. Box 488, Oxford, MS 38655	89,000
Housing Authority of the City of Tupelo, P.O. Box 3, Tupelo, MS 38802–0003	203,500
Housing Authority of the City of Clarksdale, P.O. Box 908, Clarksdale, MS 38614	148,000
Mississippi Regional Housing Authority No. IV, P.O. Box 1051, Columbus, MS 39703–1051	176,940
Housing Authority of the City of Lumberton, P.O. Box 192, Lumberton, MS 39455	50,000
Housing Authority of the City of Greenwood, P.O. Box 1847, Greenwood, MS 38935–1847	172,310
Housing Authority of the City of Meridian, P.O. Box 870, Meridian, MS 39302–0870	375,000
Housing Authority of the City of Natchez, 160 St. Catherine St, Natchez, MS 39120	148,000
Housing Authority of the City of Starkville, P.O. Box 795, Starkville, MS 39759	122,000
Housing Authority of the City of Jackson, P.O. Box 11327, Jackson, MS 39283–1327	244,000
City of Albemarle, Dept. of Housing, P.O. Drawer 1367, Albemarle, NC 28002	100,000
Housing Authority of the City of Asheville, P.O. Box 1898, Asheville, NC 28802	390,500
Asheboro Housing Authority, P.O. Box 609, Asheboro, NC 27204	50,000
Town of Ayden, Department of Housing, P.O. Box 482, Ayden, NC 28513	86,953
Burlington Housing Authority P.O. Box 2380, Burlington, NC 27216	184,000
Housing Authority of the City of Charlotte, P.O. Box 36795, Charlotte, NC 28236	978,726
Housing Authority of the City of Durham, P.O. Box 1726, Durham, NC 27702	541,000
Fairmont Housing Authority, P.O. Box 661, Fairmont, NC 28340	50,000
Fayetteville Metropolitan Housing Authority, P.O. Box 2349, Fayetteville, NC 28302	303,600
Housing Authority of the City of Goldsboro, P.O. Box 1403, Goldsboro, NC 27533	367,500
Housing Authority of the City of Greensboro, P.O. Box 21287, Greensboro, NC 27420	608,750
Housing Authority of the City of Greenville, P.O. Box 1426, Greenville, NC 27835–1426	250,000
Hendersonville Housing Authority, P.O. Box 1106, Hendersonville, NC 28793	194,000
Hamlet Housing Authority, P.O. Box 1188, Hamlet, NC 28345	115,000
Hertford Housing Authority, 104 White Street, Hertford, NC 27944	50,000
City of Hickory Public Housing Authority, P.O. Box 2927, Hickory, NC 28603	155,500
Housing Authority of the City of Kinston, P.O. Box 697, Kinston, NC 28502	250,000
Housing Authority of the City of High Point, P.O. Box 1779, High Point, NC 27261	375,000
Housing Authority of the City of Laurinburg, P.O. Box 1437, Laurinburg, NC 28353	246,000
Lincolnton Housing Authority, P.O. Box 753, Lincolnton, NC 28093	124,000
Housing Authority of the City of Lumberton, P.O. Drawer 709, Lumberton, NC 28359	250,000
Maxton Housing Authority, P.O. Box 126, Maxton, NC 28364	50,000
Monroe Housing Authority, P.O. Box 805, Monroe, NC 28111–0805	103,000
Morganton Housing Authority, P.O. Box 1053, Morganton, NC 28680–1053	125,000
Housing Authority of the City of New Bern, P.O. Box 1486, New Bern, NC 28563	250,000
Oxford Housing Authority, P.O. Box 616, Oxford, NC 27565	120,500
Pembroke Housing Authority, P.O. Drawer 910, Pembroke, NC 28372	120,500
Housing Authority of the City of Raleigh, P.O. Box 28007, Raleigh, NC 27611	518,500
Rockingham Housing Authority, P.O. Box 160, Rockingham, NC 28379	112,500
Housing Authority of the City of Rocky Mount, P.O. Box 4717, Rocky Mount, NC 27803	250,000
Rowan County Housing Authority, 121 W. Council St., Salisbury, NC 28144	100,000
Housing Authority of the City of Salisbury, P.O. Box 159, Salisbury, NC 28145	250,000
Sanford Housing Authority, P.O. Box 636, Sanford, NC 27331	232,000
Selma Housing Authority, 711 Lizzie St., Selma, NC 27576	91,500
Smithfield Housing Authority, P.O. Box 1058, Smithfield, NC 27577	102,500
Southern Pines Housing Authority, 801 S. Mechanic St., Southern Pines, NC 28387	50,000
Statesville Housing Authority, 433 S. Meeting St., Statesville, NC 28677	244,030
Thomasville Housing Authority, 201 James Ave., Thomasville, NC 27360–2426	130,000
Troy Housing Authority, 201 Stanley St., Troy, NC 27371	50,000
Washington Housing Authority, P.O. Box 1046, Washington, NC 27889	191,300
Housing Authority of the City of Wilmington, P.O. Box 899, Wilmington, NC 28402	430,500
Williamston Housing Authority, P.O. Box 709, Williamston, NC 27892	74,412
Housing Authority of the City of Wilson, P.O. Box 3876, Wilson, NC 27895	166,741
Housing Authority of the City of Winston-Salem, 901 Cleveland Ave., Winston-Salem, NC 27101	541,500
Puerto Rico Public Housing Administration, PO Box 363188, San Juan, PR 00936–3188	12,822,360
Housing Authority of the City of Columbia, 1917 Harden Street, Columbia, SC 29204–4307	582,250
Housing Authority of York, Post Office Box 687, York, SC 29745–0687	64,500
Housing Authority of Rock Hill, P.O Box 11579, Rock Hill, SC 29730–1579	184,500
Housing Authority of Aiken, Post Office Box 889, Aiken, SC 29802–0889	195,000
Housing Authority of North Charleston, Post Offic Box 70987, North Charleston, SC 29415–0987	230,560
Housing Authority of Spartanburg, Post Office Box 2828, Spartanburg, SC 29306	394,750
Housing Authority of Beaufort, Post Office Box 1104, Beaufort, SC 29901–1104	86,450
Housing Authority of the City of Charleston, 20 Franklin Street, Charleston, SC 29401–6907	372,453
Knoxville's Community Development Corporation , P. O. Box 3550, Knoxville, TN 37927	981,500
Chattanooga Housing Authority, P. O. Box 1486, Chattanooga, TN 37401–1148	914,750
Kingsport Housing Authority, P. O. Box 44, Kingsport, TN 37662–0044	250,000
Metropolitan Development & Housing Agency, P.O. Box 846, Nashville, TN 37202–0846	1,590,750
Clarksville Housing Authority, P. O. Box 603, Clarksville, TN 37041–0603	196,470

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
Jackson Housing Authority, P.O. Box 3188, Jackson, TN 38301–3188	272,158
Franklin Housing Authority, P. O. Box 304, Franklin, TN 37065–0304	154,000
Covington Housing Authority, P. O. Box 88, Covington, TN 38019–0088	76,984
Brownsville Housing Authority, P. O. Box 194, Brownsville, TN 38012–0194	81,500
Murfreesboro Housing Authority, 318 E. Lokey Avenue, Murfreesboro, TN 37130	99,000
Memphis Housing Authority, P. O. Box 3664, Memphis, TN 38103–0664	1,752,750
Virgin Islands Housing Authority, P.O. Box 7668, St. Thomas, VI 00801–7668	1,319,500
Seminole Tribe of Florida, 3101 North 63rd Avenue, Hollywood, FL 33024	189,000
Peoria Housing Authority, 100 S Sheridan Rd., Peoria, IL 61605–3905	479,970
Alexander County Housing Authority, 100 The Riverview, Cairo, IL 62914	250,000
Decatur Housing Authority, 1808 E Locust St., Decatur, IL 62521–1409	262,500
Chicago Housing Authority, 626 W Jackson Blvd., Chicago, IL 60661	10,008,250
Housing Authority East St. Louis, 700 N 20th St., East St Louis, IL 62205	583,750
Madison County Housing Authority, 1609 Olive St., Collinsville, IL 62234	255,000
Rock Island City Housing Authority, 111 20th St., Rock Island, IL 61201–8827	198,130
Housing Authority City Bloomington, 104 E Wood, Bloomington, IL 61701–6768	250,000
Housing Authority City Danville, P.O. Box 312, Danville, IL 61834–0312	250,000
Elgin Housing Authority, 120 S State St., Elgin, IL 60123	33,120
Springfield Housing Authority, 200 N 11th St., Springfield, IL 62703–1004	375,000
Knox County Housing Authority, 255 W Tompkins St., Galesburg, IL 61401	133,800
Cook County Housing Authority, 59 E Van Buren St., Chicago, IL 60605	545,500
St. Clair County Housing Authority, 100 N 48th St., Belleville, IL 62223	304,800
Champaign County Housing Authority, P.O. Box 183, Urbana, IL 61801–0183	250,000
Rockford Housing Authority, 330 15th Ave., Rockford, IL 61108	507,250
Randolph County Housing Authority, 214 Opdyke St., Chester, IL 62233	110,500
Gary Housing Authority, 578 Broadway, Gary, IN 46402–1986	621,500
Indianapolis Public Housing Division, 410 North Meridian Street, Indianapolis, IN 46204	682,250
Fort Wayne Housing Authority, P. O. Box 13489, Fort Wayne, IN 46803–3489	250,000
South Bend Housing Authority, P.O. Box 11057, South Bend, IN 46634–0057	261,600
East Chicago Housing Authority, P.O. Box 498, East Chicago, IN 46312–0498	250,000
Evansville Housing Authority, P.O. Box 3605, Evansville, IN 47713	373,500
Pleasant Point Passamaquoddy Reserv. Housing Auth., P.O. Box 339, Perry, ME 04667	67,000
Indian Township Housing Authority, P.O. Box 99, Princeton, ME 04668	89,412
Port Huron Housing Commission, 905 Seventh Street, Port Huron, MI 48060–5399	220,000
Royal Oak Township Housing Commission, 21312 Wyoming Ave., Ferndale, MI 48220–2125	64,000
Saginaw Housing Commission, 2811 Davenport St., Saginaw, MI 48602–3747	290,400
Flint Housing Commission, 3820 Richfield Road, Flint, MI 48506–2616	374,400
Ecorse Housing Commission, 266 Hyacinth Street, Ecorse, MI 48229–1699	100,000
River Rouge Housing Commission, P.O. Box 18174, River Rouge, MI 48218–1159	150,000
Inkster Housing Commission, 4500 Inkster Road, Inkster, MI 48141–1871	255,930
Mount Clemens Housing Commission, 50 Church Street, Mt. Clemens, MI 48043–2253	144,000
Detroit Housing Department, 2211 Orleans, Detroit, MI 48207–2780	2,181,000
Ypsilanti Housing Commission, 601 Armstrong Drive, Ypsilanti, MI 48197–5224	109,000
Pontiac Housing Commission, 132 Franklin Blvd., Pontiac, MI 48341	250,000
Sault Ste. Marie Tribal Housing Authority, 2218 Shunk Road, Sault Ste., Marie, MI 49783	157,500
Leech Lake Reservation Housing Authority, Route 3, Box 100, Cass Lake, MN 56633	199,500
Fond du Lac Lake Superior, Band of Chippewa, 932 Trettle Lane, Cloquet, MN 55720	152,000
Mississippi Band of Choctaw Indians, P.O. Box 6088, Choctaw Bra, Philadelphia, MS 39350	207,900
Qualla Housing Authority, P.O. Box 1749, Cherokee, NC 28719–1749	300,000
North Caroiina Indian Housing Authority, POB 2343, Fayetteville, NC 28302	127,000
Allen Metropolitan Housing Authority, 600 S. Main Street, Lima, OH 45804	118,000
Columbus Metropolitan Housing Authority, 960 E Fifth Avenue, Columbus, OH 43201	1,123,074
Zanesville Metropolitan Housing Authority, 2746 Maple Avenue, Zanesville, OH 43701	250,000
Chillicothe Metropolitan Housing Authority, 178 W. Fourth Street, Chillicothe, OH 45601	168,500
Dayton Metropolitan Housing Authority, 400 Wayne Avenue, Dayton, OH 45410–1106	1,124,750
Cincinnati Metropolitan Housing Authority, 16 W. Central Pkwy, Cincinnati, OH 45210–1991	1,917,000
Butler Metropolitan Housing Authority, Box 357, Hamilton, OH 45012–0357	326,000
Stark Metropolitan Housing Authority, 1800 W. Tuscarawas, Canton, OH 44708–4997	635,448
Lorain Metropolitan Housing Authority, 1600 Kansas Avenue, Lorain, OH 44052–2602	375,000
Youngstown Metropolitan Housing Authority, 131 Boardman Street, Youngstown, OH 44503–1329	515,939
Lucas Metropolitan Housing Authority, P.O. Box 477, Toledo, OH 43697–0477	806,250
Jefferson Metropolitan Housing Authority, 815 N. Sixth Avenue, Steubenville, OH 43952–1847	249,505
Akron Metropolitan Housing Authority, 180 West Cedar St., Akron, OH 44307–2546	1,222,500
Cuyahoga Metropolitan Housing Authority, 1441 W. 25th Street, Cleveland, OH 44113–3101	2,878,750
Housing Authority of the City of Milwaukee, P.O. Box 324, Milwaukee, WI 53202–3669	1,187,000
Lac Courte Oreilles, Route 2, Box 2720, Hayward, WI 54843,	220,500
Ho-Chunk Nation Housing Authority, P.O. Box 546, Tomah, WI 54660	90,500
Menominee Tribal Housing Authority, P.O. Box 459, Keshena, WI 54135–0459	229,000
Lac du Flambeau Chippewa Housing Authority, P.O. Box 187, Lac du Flambeau, WI 54538–0187	143,689
Oneida Housing Authority, 2913 Commissioner St., Oneida, WI 54155,	126,500

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
Housing Authority of the City of North Little Rock, Box 516, North Little Rock, AR 72115–0516	322,500
Housing Authority of the City of Texarkana, 110 Bramble Couts, Texarkana, AR 75502	201,500
Housing Authority of the City of Camden, Box 39, Camden, AR 71701–0039	250,000
Housing Authority of the City of Brinkley, 501 West Cedar, Brinkley, AR 72021–2713	67,000
Housing Authority of the City of Warren, Box 602, Warren, AR 71671–0602	85,500
Housing Authority of the City of England, 102 Benafield Drive, England, AR 72046–0214	60,500
Housing Authority of the City of West Memphis, 2810 Harrison, West Memphis, AR 72301–6099	197,426
Housing Authority of the City of Hope, 720 Texas Street, Hope, AR 71801–6399	94,000
Housing Authority of the City of Little Rock, 1000 Wolfs Street, Little Rock, AR 72202	411,250
Housing Authority of Shreveport, 623 Jordan St., Shreveport, LA 71101	250,000
Housing Authority of Alexandria, P.O. Box 8219, Alexandria, LA 71306–8219	250,000
Housing Authority of Patterson, P.O. Box 329, Patterson, LA 70392–0329	52,000
Housing Authority of New Orleans, 918 Carondelet St., New Orleans, LA 70130	3,432,000
Housing Authority of DeQuincy, P.O. Box 126, DeQuincy, LA 70633–0126	40,000
Housing Authority of New Iberia, 325 North Street, New Iberia, LA 70560	99,312
Housing Authority of Bogalusa, 1015 Union Avenue, Bogalusa, LA 70429	57,195
Housing Authority of DeRidder, P.O. Box 387, DeRidder, LA 70634–0387	50,000
Housing Authority of the City of Natchitoches, P.O. Box 754 ,Natchitoches, LA 71457–0754	203,240
Housing Authority of St. James Parish, P.O. Box 280, Lutcher, LA 70071–0280	159,000
Housing Authority of St. John the Baptist Parish, P.O. Box 1599, Laplace, LA 70069–1599	158,000
Housing Authority of Monroe, P.O. Box 1194, Monroe, LA 71201–1194	380,500
Housing Authority of East Baton Rouge Parish, 4546 North Street, Baton Rouge, LA 70806–3422	368,714
Housing Authority of Ruston, P.O. Drawer 1283, Ruston, LA 71270–1283	150,000
Housing Authority of the City of Las Cruces, 926 S. San Pedro St., Las Cruces, NM 88001	161,000
Housing Authority of the Town of Bernalillo, P.O. Box 70, Bernalillo, NM 87004–0070	50,000
Housing Authority of the City of Santa Fe, P.O. Box 4039, Santa Fe, NM 87502–4039	230,500
Housing Authority of the City of Alamogordo, P.O. Box 336, Alamogordo, NM 88310–0336	110,000
Housing Authority of the County of Santa Fe, 52 Camino de Jacobo, Santa Fe, NM 87501–9203	110,500
Oklahoma City Housing Authority, 1700 NE Fourth St., Oklahoma City, OK 73117	785,500
Housing Authority of the City Of McAlester, P.O. Box 819, McAlester, OK 74501–0819	137,000
Housing Authority of the City of Lawton, 609 SW "F" Ave., Lawton, OK 73501–4501	158,500
Housing Authority of the City of Norman, 700 N. Berry Rd., Norman, OK 73069–0000	85,850
Housing Authority of the City of Idabel, P.O. Box 838, Idabel, OK 74745–0838	98,500
Housing Authority of the City of Tulsa, P.O. Box 6369, Tulsa, OK 74148–0369	651,800
Osage Housing Authority, P.O. Box 517, Hominy, OK 74035	256,694
Sac & Fox Nation of Oklahoma, 201 N. Harrison, Shawnee, OK 74801–1252	203,000
Cherokee Nation, P.O. Box 1007, Tahlequah, OK 74465	699,750
Peoria Tribe of Oklahoma, P.O. Box 1304, Miami, OK 74355	209,500
Comanche Housing Authority, 216 SE J Avenue P.O. Box, Lawton, OK 73502	186,500
Choctaw Nation IHA, Choctaw County, Hugo, OK 74743	458,750
Chickasaw Nation IHA, 901 N. Country Club Road, Ada, OK 74820	474,750
Housing Authority of the City of Houston, P.O. Box 2971, Houston, TX 77252–2971	1,011,000
Housing Authority of the City of Nacogdoches, 715 Summit Street, Nacogdoches, TX 75961	50,000
Housing Authority of the City of Texas City, 817 Second Ave. North, Texas City, TX 77590	49,500
Housing Authority of the City of Baytown, 805 Nazro St., Baytown, TX 77520	104,484
Housing Authority of the City of Galveston, 920 53rd Street, Galveston, TX 77551–1099	348,500
Housing Authority of Waco, P.O. Box 978, Waco, TX 76703–0978	266,700
Housing Authority of Denison, P.O. Box 447, Denison, TX 75020–0447	100,000
Housing Authority of Sherman, P.O. Box 2147, Sherman, TX 75091–2147	116,400
Housing Authority of Temple, P.O. Box 634, Temple, TX 76503–0634	133,870
Housing Authority of El Paso, P.O. Box 9895, El Paso, TX 79989–9895	1,566,750
Housing Authority of Fort Worth, P.O. Box 430, Fort Worth, TX 76101–0430	375,000
Housing Authority of Dallas, 3939 N. Hampton Rd., Dallas, TX 75212–0000	1,435,250
Housing Authority of the City of Orange, P.O. Box 3107, Orange, TX 77631–3107	196,000
Housing Authority of the City of Beaumont, P.O. Box 1312, Beaumont, TX 77704–1312	241,616
Harlingen Housing Authority, P.O. Box 1669, Harlingen, TX 78551–1669	250,000
Starr County Housing Authority, P.O. Box 50, Rio Grande City, TX 78582–0050	50,000
Mission Housing Authority, 906 8th Street, Mission, TX 78572	98,500
San Benito Housing Authority, P.O. Box 1950, San Benito, TX 78586–1950	150,000
San Marcos Housing Authority, 1201 Thorpe Lane, San Marcos, TX 78666	123,108
San Antonio Housing Authority, P.O. Drawer 1300, San Antonio, TX 78295–1300	1,981,750
Austin Housing Authority, P.O. Box 6159, Austin, TX 78762–6159	482,000
Edinburg Housing Authority, P.O. Box 295, Edinburg, TX 78540–0295	234,500
La Joya Housing Authority, P.O. Box 1409, La Joya, TX 78560–1409	50,000
City of Des Moines Housing Services Department, 1101 Crocker Street, Des Moines, IA 50309–1110	256,500
North Iowa Regional Housing Authority, 217 Second St., SW, Mason City, IA 50401	60,500
Lawrence Housing Authority, 1600 Haskell Avenue, Lawrence, KS 66044	171,500
Kansas City, Kansas Housing Authority, 1124 North Ninth St., Kansas City, KS 66101–2197	520,800
Atchison Housing Authority, 7th & Mall Towers, Atchison, KS 66002–2882	95,000
Springfield Housing Authority, 421 W. Madison St., Springfield, MO 65806–2931	245,836

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
St. Joseph Housing Authority, P.O. Box 1153, St. Joseph, MO 64502	75,000
Richland Housing Authority, P.O. Box 714, Richland, MO 65556–0037	50,000
Housing Authority of the City of Columbia, 301 N. Providence Rd, Columbia, MO 65203–4091	250,000
Saint Louis Housing Authority, 4100 Lindell Blvd, St. Louis, MO 63108–2999	1,594,750
Housing Authority of Saint Louis County, 8865 Natural Bridge, St. Louis, MO 63121–0580	250,000
Housing Authority of the City of Macon, 218 Lakeview Towers, Macon, MO 63552–9801	52,500
Housing Authority of the City of Fulton, 350 Sycamore St., Fulton, MO 65251–0814	100,000
Housing Authority of the City of Kinloch, 5662 Martin Luther, Kinloch, MO 63140–1597	102,000
Housing Authority of the City of Moberly, P.O. Box 159, Moberly, MO 65270–0159	123,500
Housing Authority of the City of Charleston, P.O. Box 67, Charleston, MO 63834–0067	140,000
Housing Authority of the City of Jefferson, P.O. Box 1029, Jefferson City, MO 65101–1029	177,500
Housing Authority of the City of Hannibal, P.O. Box 996, Hannibal, MO 63401–0996	128,000
Omaha Housing Authority, 540 South 27th St., Omaha, NE 68105–1521	773,500
Housing Authority of the City and County of Denver, Bx 40305, Mile High, Denver, CO 80204	911,750
Housing Authority of Billings, 2415 1st Ave., North, Billings, MT 59101	101,735
Crow Tribal Indian Housing Authority, P.O. Box 99, Crow Agency, MT 59022	204,500
Fort Peck Indian Housing Authority, P.O. Box 667, Poplar, MT 59255	289,500
Fort Berthold Indian Housing Authority, P.O. Box 310, New Town, ND 58763	250,000
Turtle Mountain Indian Housing Authority, P.O. Box 620, Belcourt, ND 58316	354,600
Sisseton-Wahpeton Indian Housing Authority, P.O. Box 687, Sisseton, SD 57262	250,000
Rosebud Indian Housing Authority, P.O. Box 69, Rosebud, SD 57570	300,000
Housing Authority of the County of Salt Lake, 3593 South Main St., Salt Lake City, UT 84115	181,200
Housing Authority of Salt Lake City, 1776 S. West Temple, Salt Lake City, UT 84115	250,000
Phoenix Housing Department, 830 E. Jefferson St, Phoenix, AZ 85034–2298	636,250
City of Tucson Community Services Department, P.O. Box 27210, Tucson, AZ 85726–7210	374,892
Housing Authority of the City of Yuma, 1350 W. Colorado St., Yuma, AZ 85364–1336	92,500
Pinal County Division of Housing, 970 N. 11 Mile Cr. Rd, Casa Grande, AZ 85222–9621	84,981
Chandler Housing and Redevelopment Division, 99 N. Delaware St, Chandler, AZ 85225–5577	150,000
Williams Housing Authority, 113 S. First St., Williams, AZ 86046–2599	15,000
Maricopa County Housing Department, Phoenix Corp. Center, Phoenix, AZ 85012–6596	248,000
Navajo Housing Authority, P.O. Box 4980, Window Rock, AZ 86515	1,056,450
Gila River Housing Authority, P.O. Box 528, Sacaton, AZ 85247	264,250
Colorado River Housing Authority, P.O. Box AW, Parker, AZ 85344	61,990
Sacramento City Housing & Redevelopment Agency, P.O. Box 1834, Sacramento, CA 95812–1834	420,500
Housing Authority of the County of San Joaquin, P.O. Box 447, Stockton, CA 95201	322,500
Community Development Commission, County of L. A., 2 Coral Circle, Monterey Park, CA 91755	711,500
Housing Authority of the City of Los Angeles, 2600 Wilshire Blvd, Los Angeles, CA 90057	2,180,500
Housing Authority of the County of Kern, 525 Roberts Lane, Bakersfield, CA 93308–4799	298,800
Housing Authority of the County of San Bernardino, 1053 N. "D" Street, San Bernardino, CA 92410–3854	432,718
Housing Authority of the City of Oxnard, 1500 Colonia Road, Oxnard, CA 93030–3714	250,000
Housing Authority of the City of Calexico, 1006 East Fifth St., Calexico, CA 92231	151,000
Imperial Valley Housing Authority, 1401 "D" Street, Brawley, CA 92227	245,000
San Diego Housing Commission, 1625 Newton, San Diego, CA 92113	375,000
Area Housing Authority Of Ventura County, 99 S. Glenn Drive, Camarillo, CA 93010	151,500
Housing Authority of the City of Santa Barbara, 808 Laguna Street, Santa Barbara, CA 93101–1590	240,500
Housing Authority of the County of Marin, P.O. Box 4282, San Rafael, CA 94913–4282	89,845
Housing Authority of the County of Santa Cruz, 2160 41st Avenue, Capitola, CA 95010–2060	50,000
Housing Authority of the City of Eureka, 735 W. Everding St., Eureka, CA 95503	58,936
Oakland Housing Authority, 1619 Harrison St., Oakland, CA 94612	824,987
Housing Authority of the City of Madera, 205 N. "G" Street, Madera, CA 93637	106,000
City & County of San Francisco Housing Authority, 440 Turk Street, San Francisco, CA 94102	1,669,250
Housing Authority of the County of Merced, 405 U Street, Merced, CA 95340	250,000
Housing Authority of the City of Fresno, P.O. Box 11985, Fresno, CA 93721	344,100
Housing Authority of the County of Fresno, P.O. Box 11985, Fresno, CA 93721	297,900
Housing Authority of the County of Monterey, 123 Rico Street, Salinas, CA 93907	238,373
Housing Authority of the County of Stanislaus, 1701 Robertson Road, Modesto, CA 95352–3958	249,992
Housing Authority of the County of Contra Costa, P.O. Box 2759, Martinez, CA 94553	299,977
State of Hawaii Housing Authority, P.O. Box 17907, Honolulu, HI 96817	1,266,750
All Indian Pueblo Housing Authority, P.O. Box 35040, Station D, Albuquerque, NM 87176	250,000
Housing Authority of the County of Clark, 5390 East Flamingo Road, Las Vegas, NV 89122–5308	250,000
Housing Authority of the City of North Las Vegas, 1632 Yale Street, North Las Vegas, NV 89030–6962	120,000
Housing Authority of the City of Reno, 1525 East Ninth Street, Reno, NV 89512–3012	250,000
Housing Authority of the City of Las Vegas, 333 N. Rancho, Las Vegas, NV 89106–3714	643,500
Tlingit-Haida Reg Housing Authority, P.O. Box 32237, Juneau, AK 99803	99,603
Aleutian Housing Authority, 401 East Fireweed Lane, Anchorage, AK 99503	119,169
Bristol Bay Housing Authority, P.O. Box 50, Dillingham, AK 99576	181,000
North Pacific Rim Housing Authority, 4201 Tudor Centre Dr., St, Anchorage, AK 99508	64,200
Cook Inlet Housing Authority, 2600 Cordova St., Suite 2, Anchorage, AK 99503	212,823
HA and Community Services Agency of Lane County, 177 Day Island Road, Eugene, OR 97401	250,000
Housing Authority of Portland, 135 SW Ash, Portland, OR 97204	676,250

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Drug Elimination Program (PHDEP); Statute: Public Law 100–690, November 18, 1988]

Funding recipient (Name and address)	Amount approved
Housing Authority of the City of Salem, P.O. Box 808, Salem, OR 97308–0808	131,519
Housing Authority of the County of Clackamas, 13930 South Gain Street, Oregon City, OR 97045	249,375
Umatilla Tribe Indian Housing Authority, P.O. Box 1658, Pendleton, OR 97801	117,000
Housing Authority of the City of Vancouver, 500 Omaha Way, Vancouver, WA 98661	250,000
King County Housing Authority, 15455 65th, So., Seattle, WA 98188–2583	784,250
Kitsap County Consolidated Housing Authority, 9265 Bayshore Dr, NW, Silverdale, WA 98383–9106	63,000
Housing Authority of Snohomish County, 3425 Broadway, Everett, WA 98201–5023	97,500
Housing Authority of the City of Seattle, 120 Sixth Ave., N., Seattle, WA 98109–5002	1,629,750
HA of the City of Pasco and Franklin County, 820 N. First Ave., Pasco, WA 99301–0687	139,500
Housing Authority of the City of Tacoma, 902 South L Street, Tacoma, WA 98405	375,000
Spokane Housing Authority, W 55 Mission St, #104, Spokane, WA 99201–2398	40,975
Spokane Indian Housing Authority, P.O. 195, Wellpinit, WA 99040	130,500
Southern Puget Sound Indian Housing Authority, S.E. 11 Squaxin Drive, Shelton, WA 98584	152,308
Makah Tribe Indian Housing Authority, P.O. Box 88, Neah Bay, WA 98357	91,500
Total Number of Grant Awards	526
Total Dollars Awarded	250,335,189

[FR Doc. 96–2376 Filed 2–5–96; 8:45 am]

BILLING CODE 4210–33–P

[Docket Nos. FR–3849–N–05; FR–3713–03; FR–3736–N–03]

Announcement of Funding Awards, Rental Voucher Program and Rental Certificate Program—Fiscal Year 1995; Family Unification Program and Family Self-Sufficiency Service Coordinators Program—Fiscal Year 1994

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Years (FY) 1994 and 1995 to housing agencies (HAs) under the Section 8 rental voucher and rental certificate programs; family unification program; and the family self-sufficiency (FSS) program. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to very low-income families.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Office of Public and Indian Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–8000, telephone (202) 708–0477. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The regulations governing the Rental Certificate and the Rental Voucher Programs are published at 24 CFR parts 882 and 887, respectively, and 24 CFR Part 982. The regulations for allocating housing assistance budget authority under section 213(d) of the Housing and Community Development Act of 1974 are published at 24 CFR part 791, subpart D.

The Family Unification Program is authorized by section 8(x) of the U.S. Housing Act of 1937, as added by section 553 of the National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990); and the VA, HUD-Independent Agencies Appropriations Act of 1994 (Pub. L. 103–124, approved October 28, 1993). The Family Self-Sufficiency Program is authorized by the HUD-Independent Appropriations Act (Pub. L. 103–124, approved October 28, 1993) and by section 23(h) of the U.S. Housing Act of 1937.

The purpose of the rental voucher and rental certificate programs is to assist eligible families to pay the rent for decent, safe, and sanitary housing. The FY 1995 awards announced in this notice were selected for funding consistent with the provisions in the Notices of Funding Availability (NOFAs) published in the **Federal Register** on March 3, 1995 (60 FR 12036) and September 29, 1995 (60 FR 50672).

The March 3, 1995 NOFA invited HAs to apply for funds available under the Section 8 rental certificate and rental voucher subprograms. However, in July of 1995, Congress rescinded approximately $1.7 billion of funding it appropriated for the Section 8 programs. Subsequently, on September 29, 1995, the Department of Housing and Urban Development (HUD) published a revision to the NOFA which was published in the **Federal Register** on March 3, 1995, to notify HAs of the changes in the NOFA as a result of the rescission.

The Family Unification Program was established to provide housing assistance to families for whom the lack of adequate housing is the primary factor in the separation, or imminent separation, of children from their families. The funding for FSS service coordinators allows housing agencies to employ a coordinator to work with the Program Coordinating Committee and with local service providers to assure that program participants are linked to the supportive services they need to achieve self-sufficiency. The FY 1994 awards were selected for funding consistent with the August 29, 1994 NOFA (59 FR 44542) for the family unification program and the August 29, 1994 NOFA (59 FR 44550) for the FSS service coordinators.

A total of $930,601,970 of budget authority for rental vouchers and rental certificates (31,710 units) was awarded to recipients. A total of $136,308,560 was awarded in FY 1995 to housing agencies for the family unification program, of which approximately $63.6 million was carried over from FY 1994. A total of $17,195,718 was awarded in FY 1995 to housing agencies for the FSS coordinators program, of which approximately $8.5 million was carried over from FY 1994.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as shown on the attachment.

Dated: January 26, 1996.

Michael B. Janis,

General Deputy Assistant Secretary.

APPENDIX A

Name of agency	Address	No. of units	Budget authority
AMENDMENTS—CERTIFICATE PROGRAM			
MUNICIPALITY OF AGUADILLA	PO BOX 1008, VS, AGUADILLA, PR 006050000	178	$375,000
MUNICIPALITY OF ADJUNTAS	Calle Rius Rivera-Esquina San, ADJUNTAS, PR 006010000, JOAQUIN, PO BOX 1009.	46	100,426
COUNTY OF CONTRA COSTA HSG AUTH	3133 ESTUDILLO ST, MARTINEZ, CA 945530000, PO BOX 2759.	0	7,974,836
CITY OF VALLEJO	VALLEJO, CA 945900000, 555 SANTA CLARA STREET	0	3,682,461
SUISUN CITY HOUSING AUTHORITY	701 CIVIC CENTER BLVD, SUISUN CITY, CA 945850	0	1,452,603
HSG AUTH OF THE CITY OF LIVERMORE	3203 LEAHY WAY, LIVERMORE, CA 94550000	0	1,563,620
CITY OF TORRANCE	3031 TORRANCE BLVD., TORRANCE, CA 905030000	0	1,423,970
DOVER HOUSING AUTHORITY	1266–76 WHITE OAK ROAD, DOVER, DE 199010000	0	921,000
NEWARK HOUSING AUTHORITY	313 E. MAIN STREET, NEWARK, DE 197110000	0	600,000
NEW CASTLE COUNTY	800 FRENCH STREET, WILMINGTON, DE 1980100	0	2,700,000
HA FORT PIERCE	707 NORTH 7TH ST, FORT PIERCE, FL 334500	0	1,489,244
WALTON CO BD OF CO COMM	PO BOX 1258, DE FUNIAK SPRINGS, FL	0	423,992
LAKE CO BD OF CO COMM	315 WEST MAIN STREET, TAVARES, FL 327780000	0	71,120
GUAM HSG AND URBAN RENEWAL AUTH	PO BOX CS, AGANA, GU 969100000	0	2,133,178
COUNTY OF KAUAI	LIHUE, HI 967660000, PUBLIC HSG AGENCY	0	6,209,754
LAKE COUNTY HA	33928 N ROUTE 45, GRAYSLAKE, IL 60030000	0	5,622,630
EAST PEORIA HOUSING AUTHORITY	100 S. MAIN STREET, EAST PEORIA, IL 616110	0	211,557
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPOLIS, IN 46204.	0	15,210,324
LAWRENCE HOUSING AUTHORITY	1600 HASKELL AVENUE, LAWRENCE, KS 660440000	0	200,000
LAWRENCE HOUSING AUTHORITY	353 ELM STREET, LAWERENCE, MA 018420000	0	100,000
BROOKLINE HOUSING AUTHORITY	90 LONGWOOD AVE, BROOKLINE, MA 02146000	0	409,000
WINCHENDON HOUSING AUTHORITY	108 IPSWICH DRIVE, WINCHENDON, MA 0147500	0	50,000
BEVERLY HOUSING AUTHORITY	PO BOX 503, BEVERLY, MA 019150000	0	386,000
ABINGTON HSG AUTHORITY	71 SHAW AVE, ABINGTON, MA 023510000	0	24,000
DANVERS HOUSING AUTHORITY	14 STONE STREET, DANVERS, MA 019230000	0	116,000
EASTON HOUSING AUTHORITY	PARKER TERRACE, NORTH EASTON, MA 02356	0	173,000
BRIDGEWATER HOUSING AUTHORITY	HEMLOCK DRIVE, BRIDGEWATER, MA 023240	0	45,000
GROVELAND HOUSING AUTHORITY	RIVER PINES, GROVELAND, MA 01834000	0	10,000
NORTH ATTLEBOROUGH HSG AUTHORITY,	PO BOX 668, NORTH ATTLEBOROUGH, MA	0	118,000
COMM DEV PROG COMM OF MA., E.O.C.D.	100 CAMBRIDGE ST, BOSTON, MA 022020000	0	12,000,000
KANSAS CITY HOUSING AUTHORITY	299 PASEO, KANSAS CITY, MO 641060	0	2,800,000
KANSAS CITY HOUSING AUTHORITY	299 PASEO, KANSAS CITY, MO 641060	0	4,800,000
ASBURY PARK HA	1004 COMSTOCK ST., ASBURY PARK, NJ 077120	0	50,000
PASSAIC HA	333 PASSAIC STREET, PASSAIC, NJ 070550000	0	250,000
ATLANTIC CITY HA	227 NO VERMONT AVENUE, ATLANTIC CITY, NJ 0840	0	180,000
WEST NEW YORK HA	6100 ADAMS STREET, WEST NEW YORK, NJ 0709	0	20,000
GUTTENBERG HA	6900 BROADWAY, GUTTENBERG, NJ 0709300	0	75,000
IRVINGTON HA	624 NYE AVENUE, IRVINGTON, NJ 07111000	0	142,000
LAKEWOOD HA	PO BOX 1543, LAKEWOOD, NJ 087010000	0	360,000
BRICK HA	165 CHAMBERS BRIDGE ROAD, BRICK, NJ 087230000.	0	50,000
BERGEN COUNTY HA	21 MAIN STREET, ROOM 307W, HACKENSACK, NJ 0760100.	0	3,100,000
FREEHOLD HA	107 THROCKMORTON STREET, FREEHOLD, NJ 077280000.	0	40,000
MONMOUTH COUNTY HA	PO BOX 3000, FREEHOLD, NJ 077280000	0	941,000
SOMERVILLE HA	25 WEST END AVE., PO BOX 399, SOMERVILLE, NJ 0887600.	0	50,000
HA OF MADISON	PO BOX 495, MADISON, NJ 079400000	0	350,000
COUNTY OF BURLINGTON	49 RANCOCAS ROAD, MT HOLLY, NJ 080600000	0	100,000
N.J. HSG. AND MORTGAGE FINANCE AGCY	3625 QUAKERBRIDGE ROAD, TRENTON, NJ 086502085, CN 18550.	0	100,000
HA OF FREEPORT	3 BUFFALO AVENUE, FREEPORT, NY 115200000	0	333,000
POUGHKEEPSIE HOUSING AUTHORITY	4 CHARLES ST. CT., POUGHKEEPSIE, NY 12601	0	300,000
HEMPSTEAD HOUSING AUTHORITY	260 CLINTON STREET, HEMPSTEAD, NY 11550000	0	200,000
GLEN COVE CDA	128 GLEN STREET, GLEN COVE, NY 11542000	0	1,860,000
KINGSTON COMMUNITY DEVELOPMENT AGEN	97 BROADWAY, KINGSTON, NY 124010000	0	711,902
KINGSTON COMMUNITY DEVELOPMENT AGEN	97 BROADWAY, KINGSTON, NY 124010000	0	711,902
VILLAGE OF SYLVAN BEACH	C/O ONEIDA COUNTY COMMUNITY AC, ROME, NY 134400000.	0	18,000

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
TOWN OF NEW HARTFORD	C/O ONEIDA COUNTY COMMUNITY AC, 207 NORTH JAMES STREET, ROME, NY 134400000.	0	98,000
VILLAGE OF COBLESKILL	PO BOX 169, COBLESKILL, NY 1204300	0	190,000
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH 432010000	0	698,585
TUSCARAWAS MHA	125 EAST HIGH, NEW PHILADELPHIA, OH 4	0	476,077
READING HOUSING AUTHORITY	400 HANCOCK BOULEVARD, READING, PA 196110000.	0	450,803
MONROE COUNTY HOUSING AUTHORITY	1055 WEST MAIN STREET, STROUDSBURG, PA 183600.	0	510,000
POTTSVILLE HOUSING AUTHORITY	410 LAUREL BLVD., POTTSVILLE, PA 1790100	0	409,860
PITTSTON HOUSING AUTHORITY	500 KENNEDY BOULEVARD, PITTSTON, PA 186400000.	0	375,240
BUCKS COUNTY HOUSING AUTHORITY	POST OFFICE BOX 1329, DOLYESTOWN, PA 1890109, 350 SOUTH MAIN STREET.	0	4,801,332
LEHIGH COUNTY HOUSING AUTHORITY	333 RIDGE STREET, EMMAUS, PA 180490000	0	1,073,334
WOONSOCKET H A	679 SOCIAL ST, WOONSOCKET, RI 0289500	0	336,740
CRANSTON H A	50 BIRCH ST, CRANSTON, RI 029200000	0	354,067
TOWN OF WESTERLY H A	5 CHESTNUT ST, WESTERLY TOWN, RI 0289	0	32,068
COVENTRY HOUSING AUTHORITY	14 MANCHESTER CIRCLE, COVENTRY, RI 028160000	0	191,655
EAST GREENWICH H A	146 FIRST AVE, EAST GREENWICH, RI 028	0	1,147,034
TEXOMA COUNCIL OF GOVERNMENTS	10000 GRAYSON DRIVE, DENISON, TX 750208399	0	750,000
HARTFORD HOUSING AUTHORITY	15 BRIDGE STREET, WHITE RIVER, JUNCTIO, VT	0	213,000
REPLACEMENTS, RELOCATIONS, OPT-OUTS—CERTIFICATE PROGRAM			
HA BESSEMER	1100 5TH AVENUE NORTH, BESSEMER, AL 350200000.	65	$914,160
LITTLE ROCK HOUSING AUTHORITY	1000 WOLFE STREET, LITTLE ROCK, AR 722020000	180	2,256,732
SAN FRANCISCO HSG AUTH	440 TURK STREET, SAN FRANCISCO, CA 94102	177	3,663,830
HARTFORD HOUSING AUTHORITY	475 FLATBUSH AVENUE, HARTFORD, CT 061060000	103	1,617,746
HARTFORD HOUSING AUTHORITY	475 FLATBUSH AVENUE, HARTFORD, CT 061060000	232	3,914,038
DANBURY HOUSING AUTHORITY	2 MILL RIDGE ROAD, PO BOX 86, DANBURY, CT 068100000.	12	313,008
WEST HARTFORD HOUSING AUTHORITY	759 FARMINGTON AVE, WEST HARTFORD, CT 061190000.	8	474,800
D.C. HOUSING AUTHORITY	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 200027599.	214	4,475,922
CITY OF JACKSONVILLE	220 EAST BAY STREET, JACKSONVILLE, FL 322020000.	73	868,558
CITY OF JACKSONVILLE	220 EAST BAY STREET, JACKSONVILLE, FL 322020000.	29	363,488
ST. PETERSBURG H/A	PO BOX 12849, ST. PETERSBURG, FL 337332849	108	1,209,094
METROPOLITAN DADE COUNTY	111 N.W. FIRST ST., 26TH FLOOR, MIAMI, FL 331281980.	240	4,320,504
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA 303650000.	60	1,129,540
GEORGIA RESIDENTIAL FINANCE AUTH	60 EXECUTIVE PKWY SOUTH, ATLANATA, GA 30329000, SUITE 250.	12	111,588
DES MOINES MUNICIPAL HOUSING AGENCY	1101 CROCKER, DES MOINES, IA 503090000	32	503,968
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	500	10,264,800
HOUSING AUTHORITY OF LOUISVILLE	420 S. 8TH ST., LOUSVILLE, KY 40203	265	2,664,710
NEW ORLEANS HOUSING AUTHORITY	918 CARONDELET STREET, NEW ORLEANS, LA 701300000.	660	9,978,336
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 021110000	228	2,587,524
FALL RIVER HSG AUTHORITY	85 MORGAN ST., FALL RIVER, MA 027210000, PO BOX 989.	78	1,004,738
GLOUCESTER HOUSING AUTHORITY	PO BOX 1599, GLOUCESTER, MA 0193111599	14	230,874
HOUSING AUTHORITY OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD 212020000	108	2,643,336
HOUSING AUTHORITY OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD 212020000	385	9,409,176
HOUSING AUTHORITY OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD 212020000	1345	28,664,840
SAGINAW HSG COMM.	2811 DAVENPORT, BOX A, SAGINAW, MI 486020000	185	1,492,770
CITY OF MUSKEGON	933 TERRACE STREET, MUSKEGON, MI 494430000, PO BOX 536.	50	484,820
MINNEAPOLIS PHA	1001 WASHINGTON AVE., NORTH, MINNEAPOLIS, MN 554011043.	200	16,104,400
ST. LOUIS HOUSING AUTHORITY	4100 LINDELL BLVD., ST. LOUIS, MO 631080000	45	551,478
KANSAS CITY HOUSING AUTHORITY:	299 PASEO, KANSAS CITY, MO 641060000	200	2,499,930
HA WILMINGTON	PO BOX 899, WILMINGTON, NC 284020000	151	1,870,158
OMAHA HOUSING AUTHORITY	540 SOUTH 27TH STREET, OMAHA, NE 681051521	112	2,350.152
NEWARK HA	57 SUSSEX AVENUE, NEWARK, NJ 071030000	288	5,219,984
CAMDEN HA	400 US HIGHWAY #1, JERSEY CITY, NJ 073060000	43	846,954

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
CITY OF NEW YORK	100 GOLD STREET, ROOM 803, NEW YORK, NY 100380000.	300	3,878,100
CITY OF NIAGARA FALLS	CITY HALL 745 MAIN STREET, NIAGARA FALLS, NY 143020000.	25	750,750
PHILADELPHIA HOUSING AUTHORITY	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 191030000.	331	6,405,338
PHILADELPHIA HOUSING AUTHORITY	2012–18 CHESTNUT STREET, PHILADELPHIA PA 191030000.	250	3,889,200
CHESTER HOUSING AUTHORITY	6 W. 6TH STREET, PO BOX 380, CHESTER, PA 190160000.	96	2,001,786
MONTGOMERY COUNTY HOUSING AUTHORITY	1875 NEW HOPE STREET, NORRISTOWN, PA 194013146.	18	280,512
PROVIDENCE HA	100 BROAD ST., PROVIDENCE, RI 029030000	1	44,455
PUERTO RICO DEPT OF HOUSING	606 BARBOSA AVENUE, RIO PIEDRAS, PR 00928, PO BOX 21365.	192	2,286,600
HAMPTON REDEVELOPMENT & HSG AUTH	PO BOX 280, HAMPTON, VA 236690000	420	5,255,562
PIERCE COUNTY HA	PO BOX 45410, TACOMA, WA 984450410	25	459,600
NORWICH HOUSING AUTHORITY	10 WESTWOOD PARK, NORWICH, CT 063600000	0	960,120
PROVIDENCE HA	100 BROAD ST, PROVIDENCE, RI 0290300	0	103,680
PROVIDENCE HA	100 BROAD ST, PROVIDENCE, RI 0290300	0	347,215
PETERSBURG REDEVELOPMENT & H/A	128 S. SYCAMORE STREET, PETERSBURG, VA 2380400.	0	1,764,815
OPT-OUTS TENANT/BASED—CERTIFICATE PROGRAM			
CITY OF HARTFORD	500 MAIN ST., HARTFORD, CT 061030000	35	1,273,665
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPO LIS, IN 46204.	285	5,001,642
CINCINNATI METROPO LITAN HSG. AUTH.	16 WEST CENTRAL PARKWAY, CINCINNATI, OH 452100000.	40	855,288
OKLAHOMA HOUSING FINANCE AGENCY	PO BOX 26720, OKLAHOMA CITY, OK 731260720	38	1,105,800
SECTION 8 COUNSELING—VOUCHER PROGRAM			
TYLER (CITY OF)	PO BOX 2039, TYLER, TX 757100000	0	3,500,000
FAMILY UNIFICATION—CERTIFICATE PROGRAM			
OAKLAND HOUSING AUTHORITY	1619 HARRISON ST., OAKLAND, CA 946120000	50	3,193,995
COUNTY OF MONTEREY HSG AUTH	123 RICO STREET, SALINAS, CA 939070000	25	1,354,445
SANTA CLARA COUNTY HSG AUTH	505 WEST JULIAN STREET, SAN JOSE, CA 951100000.	50	3,639,900
CITY OF SANTA ANA HSG AUTH	20 CIVIC CENTER PLAZA, SANTA ANA, CA 927010000	10	654,690
HIALEAH H/A	70 EAST 7TH STREET, HIALEAH, FL 330100000	50	2,910,600
CITY OF PENSACOLA	180 GOVERNMENTAL CENTER, PENSACOLA, FL 325010000.	50	1,450,550
H/A DEKALB COUNTY	PO BOX 1627, DECATUR, GA 300310000	50	2,676,000
H/A DEKALB COUNTY	PO BOX 1627, DECATUR, GA 300310000	50	2,676,000
EAST ST LOUIS HA	683 N 20TH STREET, EAST ST LOUIS, IL 622050000	50	1,913,100
CHAMPAIGN HA	PO BOX 183, URBANA, IL 618010000	25	984,630
HOUSING AUTHORITY OF THE COUNTY OF COOK	CHICAGO, IL 606050000, 59 E VAN BUREN SUITE 1802.	31	1,568,040
HA WAUKEGAN	200 SOUTH UTICA STREET, WAUKEGAN, IL 600850000.	50	2,669,400
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 021110000	50	2,554,500
COMM DEV PROG COMM OF MA., E.O.C.D.	100 CAMBRIDGE ST, BOSTON, MA 022020000	50	2,827,675
HNG AUTH PRINCE GEORGES CO	9400 PEPPERCORN PLACE, LANDOVER, MD 207850000.	50	3,154,680
BALTIMORE COUNTY, MD	400 WASHINGTON AVENUE, TOWSON, MD 212040000.	50	1,748,295
SAGINAW HSG COMM.	2811 DAVENPO RT, BOX A, SAGINAW, MI 486020000	30	923,370
COUNTY OF KENT	4326 CASCADE ROAD, SE, GRAND RAPIDS, MI 495460000.	50	1,542,710
COUNTY OF KENT	4326 CASCADE ROAD, SE, GRAND RAPIDS, MI 495460000.	50	1,810,920
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY.	LANSING, MI 489090000, 401 S WASHINGTON SQUARE.	20	501,700
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY.	LANSING, MI 489090000, 401 S WASHINGTON SQUARE.	30	1,021,200
ST PAUL PHA	480 CEDAR STREET, ST. PAUL, MN 551012240, SUITE 600.	50	2,112,000

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
OLMSTED COUNTY HRA	2116 CAMPUS DRIVE SE, ROCHESTER, MN 559044744,.	15	470,400
METROPOLITAN COUNCIL	MEARS PARK CENTRE, ST. PAUL, MN 551012016 230 E. FIFTH STREET,.	50	2,811,240
KANSAS CITY HOUSING AUTHORITY	299 PASEO, KANSAS CITY, MO 641060000	50	2,118,000
ST LOUIS COUNTY HOUSING AUTHORITY	8885 NATURAL BRIDGE, ST. LOUIS, MO 631210000	50	2,002,500
LINCOLN COUNTY PUB HSG AGENCY	LINCOLN COUNTY PHAS, BOWLING GREEN, MO 63340000.	49	805,615
HA CHARLOTTE	16 NORTH COURT, PO BOX 36795, CHARLOTTE, NC 282360000.	50	1,860,100
HA HIGH POINT	PO BOX 1779, HIGH POINT, NC 272610000	50	1,424,410
HA ROWAN COUNTY	121 WEST COUNCIL, SALISBURY, NC 281444347, SUITE 103,.	50	1,885,200
DOP CONSOLIDATED HUMAN SVC AGCY	PO DRAWER 796, JACKSONVILLE, NC 285410796	50	1,623,300
TWIN RIVERS OPPORTUNITIES INC	PO BOX 1482, NEW NERN, NC 285630000	50	1,337,750
MOUNTAIN PROJECTS, INC	RT. 1, BOX 732, WAYNESVILLE, NC 287860000	50	1,344,300
WESTERN PIEDMONT COUNCIL OF GOVT	317 FIRST AVE NW, HICKORY, NC 286010000	50	1,424,275
MACON PROGRAM FOR PROGRESS	PO BOX 700, FRANKLIN, NC 28734000, 38 ½ E MAIN STREET.	25	628,860
HA NORTHWESTERN REGIONAL	PO BOX 2510, BOONE, NC 286072510	50	971,130
JERSEY CITY HA	400 US HIGHWAY #1, JERSEY CITY, NJ 073060000	50	3,095,250
STATE OF NJ DEPT. OF COMM. AFFAIRS	101 S. BROAD STREET CN800, TRENTON, NJ 086250800.	50	2,594,190
NEW YORK CITY HOUSING AUTHORITY	250 BROADWAY, NEW YORK, NY 100070000	50	2,838,000
TOWN OF AMHERST	5583 MAIN ST., WILLIAMSVILLE, NY 142210000	50	1,600,800
NEW YORK STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY 104580000	14	425,285
NEW YORK STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY 104580000	6	383,580
NEW YORK STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY 104580000	6	281,565
NEW YORK STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY 104580000	6	310,740
NEW YORK STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY 104580000	6	250,230
NEW YORK STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY 104580000	6	411,900
NEW YORK STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY 104580000	6	223,515
YOUNGSTOWN MET.HOUSING AUTHORITY	118 EAST WOOD ST., YOUNGSTON, OH 445030000	25	714,770
CINCINNATI METROPOLITAN HSG. AUTH	16 WEST CENTRAL PARKWAY, CINCINNATI, OH 452100000.	50	1,766,325
ZANESVILLE MET HA	2746 MAPLE AVENUE, ZANESVILLE, OH 437010000	50	1,104,125
CAMBRIDGE METROPOLITAN HGS. AUTH	PO BOX 744, CAMBRIDGE, OH 437250744	30	728,275
FAYETTE METRO HSG AUTH	101 E. EAST STREET, WASHINGTON C.H., OH 43160	40	924,750
PHILADELPHIA HOUSING AUTHORITY	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 191030000.	50	2,644,200
PHILADELPHIA HOUSING AUTHORITY	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 191030000.	50	2,637,200
CHESTER HOUSING AUTHORITY	6 W. 6TH STREET PO BOX 380, CHESTER, PA 190160000.	30	1,583,650
DELAWARE COUNTY HOUSING AUTHORITY	1855 CONSTITUTION AVENUE, WOODLYN, PA 190940000.	25	1,322,100
BUCKS COUNTY HOUSING AUTHORITY	POST OFFICE BOX 1329, DOYLESTOWN, PA 189010967.	25	1,133,050
	350 SOUTH MAIN STREET		
LUZERNE COUNTY HOUSING AUTHORITY	250 FIRST AVENUE, KINGSTON, PA 187040000	30	792,075
SAN ANTONIO HOUSING AUTHORITY	PO DRAWER 1300, SAN ANTONIO, TX 782950000	50	1,999,500
BROWNSVILLE HSG AUTHORITY	PO BOX 4420, BROWNSVILLE, TX 785234420	50	1,836,250
BROWNSVILLE HSG AUTHORITY	PO BOX 4420, BROWNSVILLE, TX 785234420	50	1,201,500
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 752120000	50	2,744,400
LUBBOCK HOUSING AUTHORITY	PO BOX 2568, LUBBOCK, TX 794080000	50	1,705,950
MONTGOMERY COUNTY HA	515 B NORTH MAIN, CONROE, TX 773010000	27	1,149,660
NEWPORT NEWS REDEVELOPMENT & H/A	PO BOX 77, NEWPORT NEWS, VA 236070077	25	1,126,125
COUNTY OF SAN BERNARDINO HSG AUTH	1053 NORTH D STREET, SAN BERNARDINO, CA 924	50	2,237,850
CITY OF SANTA BARBARA H/A	808 LAGUNA ST, SANTA BARBARA, CA 9310	50	2,283,900
COUNTY OF VENTURA AREA HSG AUTH	99 SOUTH GLENN DRIVE, CAMARILLO, CA 93010000	50	2,940,075
COMM DEV PROG COMM OF MA., E.O.C.D	100 CAMBRIDGE ST, BOSTON, MA 022020000	31	1,489,350
MONTGOMERY CO HOUSING AUTHORITY	10400 DETRICK AVENUE, KENSINGTON, MD 2089500	25	1,650,605
HNG AUTH PRINCE GEORGES CO	9400 PEPPERCORN PLACE, LANDOVER, MD 207850000.	50	3,432,600
BALTIMORE COUNTY, MD	400 WASHINGTON AVENUE, TOWSON, MD 212040000.	35	1,320,905
NEWARK HA	57 SUSSEX AVENUE, NEWARK, NJ 071030000	50	2,885,075
LAKEWOOD HA	PO BOX 1543, LAKEWOOD, NJ 087010000	50	3,406,440
STATE OF NJ DEPT. OF COMM. AFFAIRS	101 S. BROAD STREET CN800, TRENTON, NJ 086250800.	50	2,604,915
NEW YORK CITY HOUSING AUTHORITY	250 BROADWAY, NEW YORK, NY 100070000	50	2,838,000

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
FAIRFAX CO RED AND HNG AUTHORITY	3700 PENDER DRIVE, FAIRFAX, VA 220300000	50	2,997,280
VIRGINIA HOUSING DEVELOPMENT AUTH	601 S. BELVIDERE STREET, RICHMOND, VA 232250000.	50	2,097,125
INCREMENTAL—VOUCHER PROGRAM			
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	1500	33,207,600
SECTION 8 COUNSELING—CERTIFICATE PROGRAM			
CITY OF LOS ANGELES HSG AUTH	2600 WILSHIRE BLVD., LOS ANGELES, CA 900570000	0	70,783
CITY OF LOS ANGELES HSG AUTH	2600 WILSHIRE BLVD., LOS ANGELES, CA 900570000	0	250,000
HARTFORD HOUSING AUTHORITY	475 FLATBUSH AVENUE, HARTFORD, CT 061060000	0	232,000
DC HOUSING AUTHORITY	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 200027599.	0	214,000
CITY OF JACKSONVILLE	220 EAST BAY STREET, JACKSONVILLE, FL 322020000.	0	29,000
METROPOLITAN DADE COUNTY	111 N.W. FIRST ST., 26TH FLOOR, MIAMI 331281980	0	480,000
METROPOLITAN DADE COUNTY	111 N.W. FIRST ST., 26TH FLOOR, MIAMI, FL 331281980.	0	2,800,000
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA 303650000.	0	500,000
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD., CHICAGO, IL 606020000	0	3,000,000
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD., CHICAGO, IL 606020000	0	107,304
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	0	1,000,000
LEADERSHIP COUNCIL MET	LEADERSHIP COUNCIL METRO OPEN, 401 S STATE ST., SUITE 860, CHICAGO, IL 606051289.	0	840,000
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPOLIS, IN 46204.	0	258,000
NEW ORLEANS HOUSING AUTHORITY	918 CARONDELET STREET, NEW ORLEANS, LA 701300000.	0	750,000
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 021110000	0	456,000
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 021110000	0	250,000
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 021110000	0	200,000
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 021110000	0	107,304
HOUSING AUTHORITY OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD 212020000	0	107,304
HOUSING AUTHORITY OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD 212020000	0	2,000,000
DETROIT HOUSING DEPARTMENT	2211 ORLEANS, DETROIT, MI 48207	0	547,000
KANSAS CITY HOUSING AUTHORITY	299 PASEO, KANSAS CITY, MO 641060000	0	200,000
NEWARK HA	57 SUSSEX AVENUE, NEWARK, NJ 071030000	0	475,000
JERSEY CITY HA	400 US HIGHWAY #1, JERSEY CITY, NJ 073060000	0	70,000
NEW YORK CITY HOUSING AUTHORITY	250 BROADWAY, NEW YORK, NY 100070000	0	107,304
CITY OF BUFFALO	201 CITY HALL–85 NIAGARA SQUAR, BUFFALO, NY 142020000.	0	3,000,000
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH 432010000	0	241,000
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH 432010000	0	241,000
PHILADELPHIA HOUSING AUTHORITY	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 19103.	0	500,000
CHESTER HOUSING AUTHORITY	6 W. 6TH STREET, PO BOX 380, CHESTER, PA 190160000.	0	96,000
PUERTO RICO DEPT OF HOUSING	606 BARBOSA AVENUE, PO BOX 21365, RIO PIEDRAS, PR 00928.	0	192,000
SAN ANTONIO HOUSING AUTHORITY	PO DRAWER 1300, SAN ANTONIO TX 782950000	0	500,000
DALLAS HOUSING AUTHORITY	3939 N. HAMPTON, DALLAS, TX 752120000	0	1,850,000
MINNEAPOLIS PHA	100 WASHINGTON AVE NORTH, MINNEAPOLIS, MN 554011.	0	1,750,00
METROPOLITAN COUNCIL	MEARS PARK CENTRE, ST. PAUL, MN 551012016, 230 E. FIFTH STREET.	0	100,000
NEW YORK CITY HOUSING AUTHORITY	250 BROADWAY, NEW YORK, NY 100070000	0	250,000
ALLEGHENY COUNTY HOUSING AUTHORITY	341 FOURTH AVENUE FIDELITY BL, PITTSBURGH, PA 1522200.	0	1,400,000
OPT-OUTS TENANT-BASED—VOUCHER PROGRAM			
TORRINGTON HOUSING AUTHORITY	TORRINGTON TOWERS, TORRINGTON, CT 067900000.	7	427,252
METROPOLITAN DADE COUNTY	111 N.W. FIRST ST., 26TH FLOOR, MIAMI, FL 331281980.	94	5,652,190
BALTIMORE COUNTY, MD	400 WASHINGTON AVENUE, TOWSON, MD 212040000.	55	1,882,825
MICHIGAN STATE HOUSING DEVELOPMENT	AUTHORITY, LANSING, MI 489090000	28	446,124

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
SIOUX FALLS HOUSING & REDEVELOP COM	224 N. PHILLIPS AVENUE, SIOUX FALLS, SD 571020000.	9	203,325
SAN ANTONIO HOUSING AUTHORITY	PO DRAWER 1300, SAN ANTONIO, TX 792950000	9	304,710
SAN ANTONIO HOUSING AUTHORITY	PO DRAWER 1300, SAN ANTONIO, TX 782950000	251	3,879,392
HA CITY OF SPOKANE	W. 55TH MISSION, SUITE 104, SPOKANE, WA 992010000.	128	1,326,548
COUNTY OF STANISLAUS HOUSING AUTH	PO BOX 3958, MODESTO, CA 953520000	20	455,500
LITIGATION—VOUCHER PROGRAM			
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	0	1,100,000
REPLACEMENTS, RELOCATIONS, OPT-OUTS—VOUCHER PROGRAM			
SAN FRANCISCO HSG AUTH	440 TURK STREET, SAN FRANCISCO, CA 94120	131	2,692,104
OAKLAND HOUSING AUTHORITY	1619 HARRISON ST, OAKLAND, CA 945120000	54	1,273,212
CITY OF LOS ANGELES HSG AUTH	2600 WISHIRE BLVD., LOS ANGELES, CA 900570000	216	4,374,256
HOUSING AUTHORITY COUNTY OF KERN	525 ROBERTS LAND, BAKERSFIELD, CA 933080000	92	784,050
METROPOLITAN DADE COUNTY	111 N.W. FIRST ST., 26TH FLOOR, MIAMI, FL 331281980.	240	4,627,950
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA 303650000.	250	4,257,462
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA 303650000.	247	8,080,548
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	167	3,567,034
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	500	11,069,200
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPOLIS, IN 46204.	70	1,037,476
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPOLIS, IN 46204.	248	3,053,230
NEW ORLEANS HOUSING AUTHORITY	918 CARONDELET STREET, NEW ORLEANS, LA 701300000.	375	5,173,828
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 021110000	228	2,756,058
DETROIT HOUSING DEPARTMENT	2211 ORLEANS, DETROIT, MI 48207	273	3,691,854
DETROIT HOUSING DEPARTMENT	2211 ORLEANS, DETROIT, MI 48207	100	1,532,444
MINNEAPOLIS PHA	1001 WASHINGTON AVE. NORTH, MINNEAPOLIS, MN 554011043.	300	13,832,435
ST. LOUIS COUNTY HOUSING AUTHORITY	8865 NATURAL BRIDGE, ST. LOUIS, MO 631210000	204	2,007,952
HA CHARLOTTE	PO BOX 36795, CHARLOTTE, NC 282360000	75	1,049,500
NEWARK HA	57 SUSSEX AVENUE, NEWARK, NJ 071030000	237	5,604,604
JERSEY CITY HA	400 US HIGHWAY #1, JERSEY CITY, NJ 073060000	70	1,530,536
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH 432010000	70	765,834
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH 432010000	241	2,906,460
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH 432010000	241	2,906,460
CUYAHOGA METRO HA	1441 WEST 25TH STREET, CLEVELAND, OH 441130000.	302	3,656,280
PHILADELPHIA HOUSING AUTHORITY	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 191030000.	250	4,294,850
WILLIAMSPORT HOUSING AUTHORITY	505 CENTER STREET, WILLIAMSPORT, PA 177010000.	10	65,450
PUERTO RICO DEPT OF HOUSING	606 BARBOSA AVENUE, RIO PIEDRAS, PR 009280000, PO BOX 21365.	88	1,230,244
SAN ANTONIO HOUSING AUTHORITY	PO DRAWER 1300, SAN ANTONIO, TX 782950000	250	3,529,134
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 752120000	167	2,589,960
HA OF CITY OF SEATTLE	120 SIXTH AVENUE NORTH, SEATTLE, WA 981090000.	250	4,086,386
RANDOLPH COUNTY HOUSING AUTHORITY	PO BOX 1579, ELKINS, WV 262410000	25	255,040
BALTIMORE COUNTY, MD	400 WASHINGTON AVENUE, TOWSON, MD 212040000.		
SECTION 23 CONVERSIONS—CERTIFICATE PROGRAM			
ANSONIA HOUSING AUTHORITY	75 CENTRAL STREET, ANSONIA, CT 064010000	12	464,952
OAKLAND HOUSING AUTHORITY	703 PARK LAND, OAKLAND, IA 51560	24	54,376
HOUSING AUTHORITY OF CITY OF DECATU	225 WEST MONROE STREET, DECATUR, IN 467330000.	35	285,804
HOLYOKE HOUSING AUTHORITY	475 MAPLE STREET, HOLYOKE, MA 010400000	42	458,898
HOLYOKE HOUSING AUTHORITY	475 MAPLE STREET, HOLYOKE, MA 010400000	46	76,254
OGDEN HOUSING AUTHORITY	127 24TH STREET, STE 6, OGDEN, UT 844011340	20	150,622
SALT LAKE CITY HOUSING AUTHORITY	1800 SOUTH WEST TEMPLE, SALT LAKE CITY, UT 841150000, SUITE 204.	20	167,095

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
DAVIS COUNTY HOUSING AUTHORITY	PO BOX 328, FARMINGTON, UT 840250000	19	151,145
MERIDEN HOUSING AUTHORITY	22 CHURCH STREET, MERIDEN, CT 064500000		
FSS SERVICE COORDINATORS—CERTIFICATE PROGRAM			
DOTHAN H/A	PO BOX 1727, DOTHAN, AL 363020000	0	13,627
HA LEEDS	PO BOX 513, LEEDS, AL 350940000	0	23,858
HA OZARK	PO BOX 566, OZARK, AL 363610000	0	27,398
HA ALBERTVILLE	PO BOX 1126, ALBERTVILLE, AL 359500000	0	30,761
HA BESSEMER	1100 5TH AVE. N., BESSEMER, AL 350200000	0	13,191
HA JACKSONVILLE	895 GARDNER DRIVE, JACKSONVILLE, AL 362650000	0	25,750
HA NORTHPORT	PO DRAWER 349, NORTHPORT, AL 354760000	0	10,840
NW REGIONAL HSG AUTHORITY	PO BOX 699, HARRISON, AR 726020699	0	26,780
HOPE HOUSING AUTHORITY	720 TEXAS STREET, HOPE, AR 718010000	0	15,979
SILOAM SPRINGS HSG AUTH	PO BOX 280, SILOAM SPRINGS, AR 727610000	0	26,574
HARRISON HOUSING AGENCY	PO BOX 1715, HARRISON, AR 726010000	0	21,630
MISSISSIPPI COUNTY PFB	808 W KEISER, OSCEOLA, AR 723700000	0	25,364
CITY OF CHANDLER	99 N. DELAWARE ST., CHANDLER, AZ 852250000	0	34,930
CITY OF BULLHEAD CITY	PO BOX 21179, BULLHEAD CITY, AZ 864391179	0	30,955
UPLAND CITY HOUSING AUTH	1226 N CAMPUS AVE, UPLAND, CA 917860000	0	28,882
CITY OF BENICIA HSG AUTH	28 RIVERHILL DRIVE, BENICIA, CA 945100000, PO BOX 549.	0	40,951
CITY OF FAIRFIELD	MICHAEL LESS, FAIRFIELD, CA 945330000, 1000 WEBSTER.	0	36,700
CITY OF CARLSBAD	CATHY GRAHAM DIR OF REDEV, CARLSBAD, CA 920080000, 1200 CARLSBAD VILLAGE DRIVE.	0	24,905
YUBA COUNTY HOUSING AUTHORITY	938 14TH STREET, MARYSVILLE, CA 959010000	0	38,966
CITY OF PICO RIVERA	HARLON RAVITCH ACCTANT FIN DP, PICO RIVERA, CA 906600000, 6615 PASSONS BLVD.	0	41,125
CITY OF ROSEVILLE	VIVIAN NICHOL ACCOUNTANT, ROSEVILLE, CA 956780000, 311 VERNON STREET.	0	39,909
COUNTY OF SOLAND HSG AUTH	C/O AUDITOR–CONTROLLER, FAIRFIELD, CA 945330000, COURTHOUSE ANNEX.	0	40,170
CITY OF LAKEWOOD	CAROL MOON SR ACCT FIN DPT, LAKEWOOD, CA 907120000, 5050 N CLARK AVE.	0	41,186
LAKE COUNTY HOUSING COMMISSION	255 N FORBES STREET, LAKEPORT, CA 954530000	0	34,788
FORT COLLINS HSG AUTH	1715 W. MOUNTAIN AVE., FORT COLLINS, CO 805210000.	0	26,624
CITY OF ENGLEWOOD HOUSING AUTHORITY	3460 SOUTH SHERMAN ST. SUITE 1, ENGLEWOOD, CO 801100000.	0	38,756
CITY OF ARVADA	8101 RALSTON ROAD, ARVADA, CO 800020000	0	29,664
MONTROSE COUNTY HOUSING AUTHORITY	PO BOX 1333, MONTROSE, CO 814020000	0	27,995
GARFIELD COUNTY HOUSING AUTHORITY	406 SOUTH HYLAND PARK DRIVE, GLENWOOD SPRINGS, CO 81601, SUITE D.	0	36,050
NORWALK HOUSING AUTHORITY	24½ MONROE STREET, SOUTH NORWALK, CT 068540000.	0	34,466
HARTFORD HOUSING AUTHORITY	475 FLATBUSH AVENUE, HARTFORD, CT 061060000	0	41,043
MIDDLETOWN HOUSING AUTHORITY	40 BROAD STREET, MIDDLETOWN, CT 064570000	0	40,975
MERIDEN HOUSING AUTHORITY	22 CHURCH STREET, MERIDEN, CT 064500000	0	41,200
ANSONIA HOUSING AUTHORITY	75 CENTRAL STREET, ANSONIA, CT 064010000	0	30,900
MILFORD HOUSING AUTHORITY	75 DEMAIO DRIVE, MILFORD, CT 064600000, PO BOX 4123.	0	41,200
DOVER HOUSING AUTHORITY	1266–76 WHITE OAK ROAD, DOVER, DE 199010000	0	27,038
HA DAYTONA BEACH	118 CEDAR ST, DAYTONA BEACH, FL 321140000	0	30,390
PANAMA CITY HSG AUTH	804 E 15TH STREET, PANAMA CITY, FL 324050000	0	22,726
HA PUNTA GORDA	PO BOX 1146, PUNTA GORDA, FL 339500000	0	26,467
HA ALACHUA COUNTY	636 N E 1ST STREET, GAINESVILLE, FL 326010000	0	25,997
HA DELAND	300 SUNFLOWER CIRCLE, DE LAND, FL 327240000	0	27,408
WALTON CO BD OF CO COMM	PO BOX 1258, DE FUNIAK SPRINGS, FL 32433	0	32,147
COUNTY OF VOLUSIA	123 WEST INDIANA, DE LAND, FL 327200000	0	35,388
HERNANDO COUNTY HOUSING AUTHOR	820 KENNEDY BLVD., BROOKSVILLE, FL 346010000	0	18,833
COLLIER COUNTY HA	1800 FARM WORKER WAY, IMMOKALEE, FL 339340000.	0	33,089
CITRUS COUNTY HOUSING SERVICES	1300 S. LECANTO HIGHWAY, LECANTO, FL 344610000.	0	25,034
OTTUMWA HOUSING AUTHORITY	102 WEST FINLEY AVENUE, OTTUMWA, IA 525010000.	0	30,270
MUNICIPAL HOUSING AGENCY	119 SOUTH MAIN ST, COUNCIL BLUFFS, IA 515030000, SUITE 200.	0	27,676

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
FORT DODGE HOUSING AGENCY	700 SOUTH 17TH STREET, FORT DODGE, IA 505010000.	0	38,142
NORTH IOWA REGIONAL HOUSING AUTH	121 THIRD STREET NW, MASON CITY, IA 504010000	0	30,900
NORTHWEST IOWA REGIONAL HSG AUTH	PO BOX 6207, SPENCER, IA 513010000	0	30,422
UPPER EXPLORERLAND REGIONAL	HOUSING AUTHORITY, POSTVILLE, IA 521620000, 134 W. GREENE ST.	0	35,020
CENTRAL IOWA REGIONAL HOUSING AUTH	1111 NINTH STREET, DES MOINES, IA 503140000, SUITE 240.	0	29,862
IOWA NORTHLAND REGIONAL HSG AUTH	213 E 4TH STREET, WATERLOO, IA 507030000	0	34,736
KENDALL COUNTY HSG AUTH	111 W. MADISON ST., YORKVILLE, IL 605600000	0	8,240
LEADERSHIP COUNCIL MET	LEADERSHIP COUNCIL METRO OPEN, CHICAGO, IL 606051289, 401 S STATE ST, SUITE 860.	0	40,644
VINCENNES HA	501 HART ST, PO BOX 1636, VINCENNES, IN 475910000.	0	21,385
HA DELAWARE COUNTY	2401 S HADDIX AVENUE, MUNCIE, IN 473020000	0	24,926
HOUSING AUTHORITY CITY OF SULLIVAN	200 NORTH COURT STREET, SULLIVAN, IN 47882	0	23,565
HOUSING AUTHORITY OF THE CITY OF MARION	601 SOUTH ADAMS STREET, MARION, IN 469530000	0	28,184
HOUSING AUTHORITY OF KNOX COUNTY	TILLY ESTATES-OFFICE, BICKNEEL, IN 475120000	0	22,660
HA PERU	701 E MAIN ST, PERU, IN 469700000	0	26,914
THE HOUSING AUTHORITY OF THE CITY OF GOSHEN	302 S 5TH STREET, GOSHEN, IN 46526	0	29,190
FORT SCOTT HOUSING AUTHORITY	315 SCOTT AVE, PO BOX 269, FORT SCOTT, KS 667010000.	0	11,021
MANHATTAN HOUSING AUTHORITY	PO BOX 1024, 300 N 5TH, MANHATTAN, KS 665020000.	0	27,095
ECKAN	PO BOX 110, OTTAWA, KS 660670000	0	33,372
SOUTHWEST KANSAS AREA AGENCY ON AGING, INC	PO BOX 1636, DODGE CITY, KS 678010000	0	30,900
HA FRANKFORT	590 WALTER TODD DRIVE, FRANKFORT, KY 406010000.	0	13,023
HA SOMERSET	PO BOX 449, SOMERSET, KY 425010000	0	30,591
HA CYNTHIANA	PO BOX 351, CYNTHIANA, KY 410310000	0	17,111
HA GEORGETOWN	139 SCROGGIN PARK, GEORGETOWN, KY 403240000.	0	8,034
PIKE COUNTY HOUSING AUTHORITY	PO BOX 1468, PIKEVILLE, KY 415010000	0	40,071
CITY OF PADUCAH	PO BOX 2267, PADUCAH, KY 420022267	0	30,375
HA FLOYD COUNTY	PO BOX 687, PRESTONSBURG, KY 416530000	0	35,255
APPALACHIAN FOOTHILLS HSG AGENCY	1448 DIEDERICH BLVD, RUSSELL, KY 411690000	0	28,520
CITY OF BOWLING GREEN	PO BOX 430, BOWLING GREEN, KY 421020430	0	28,648
CALCASIEU PARISH POLICE JURY	PO DRAWER 3287, LAKE CHARLES, LA 706020000	0	26,210
IBERIA PARISH POLICE JURY	300 IBERIA STREET, SUITE 400, NEW IBERIA, LA 705604587.	0	30,735
PORT ALLEN (CITY OF)	PO BOX 468, PORT ALLEN, LA 707670000	0	18,505
TERREBONNE PARISH COUNCIL	PO BOX 6097, HOUMA, LA 703610000	0	29,731
WEBSTER PARISH POLICE JURY	PO 389, MINDEN, LA 710550000	0	21,405
WASHINGTON PARISH HSG AUTHORITY	PO BOX 167, VARNADO, LA 704670000	0	16,862
WOBURN HOUSING AUTHORITY	59 CAMPBELL STREET, WOBURN, MA 018010000	0	41,200
GLOUCESTER HOUSING AUTHORITY	PO BOX 1599, GLOUCESTER, MA 019311599	0	29,981
EVERETT HSA AUTHORITY	90 CHELSEA ST, EVERETT, MA 021490000	0	28,039
BROOKLINE HOUSING AUTHORITY	90 LONGWOOD AVE., BROOKLINE, MA 021460000	0	37,545
SHREWSBURY HOUSING AUTHORITY	36 NORTH QUINSIGAMOND AVENUE, SHREWSBURY, MA 015450000.	0	24,732
ARLINGTON HSG AUTHORITY	4 WINSLOW ST., ARLINGTON, MA 021740000	0	25,747
PEABODY HSG AUTHORITY	75–81 CENTRAL ST, PEABODY, MA 019600000	0	31,801
SALEM HOUSING AUTHORITY	27 CHARTER STREET, SALEM, MA 019700000	0	41,200
ACTON HSG AUTHORITY	PO BOX 681, ACTON, MA 017200000	0	30,773
PLYMOUTH HOUSING AUTHORITY	PO BOX 3537, PLYMOUTH, MA 023610000	0	30,228
MELROSE HSG AUTHORITY	910 MAIN ST, MELROSE, MA 021760000	0	20,845
MILFORD HOUSING AUTHORITY	45 BIRMINGHAM COURT, MILFORD, MA 017570000	0	16,988
HOLBROOK HSG AUTHORITY	ONE HOLBROOK COURT, HOLBROOK, MA 022430000.	0	26,110
WAKEFIELD HA	26 CRESCENT ST, WAKEFIELD, MA 018800000	0	23,793
READING HSG AUTHORITY	22 FRANK D TANNER DRIVE, READING, MA 018670000.	0	23,947
ANDOVER HSG AUTHORITY	100 MORTON ST, ANDOVER, MA 018100000	0	19,884
LEOMINSTER HSG AUTHORITY	100 MAIN ST, LEOMINSTER, MA 014530000	0	41,200
GREENFIELD HSG AUTHORITY	ONE ELM TERRACE, GREENFIELD TOWN, MA 13010	0	25,750
SAUGUS HSG AUTHORITY	19 TALBOT ST, SAUGUS, MA 019060000	0	27,861
WAYLAND HOUSING AUTHORITY	106 MAIN STREET, WAYLAND, MA 017780000	0	25,750
NORTH ANDOVER HOUSING AUTHORITY	PO BOX 373, NORTH ANDOVER, MA 018450000	0	22,624
NORWOOD HSG AUTHORITY	40 WILLIAM SHYNE CIRCLE, NORWOOD, MA 020620000.	0	34,147
GARDNER HSG AUTHORITY	116 CHURCH ST, GARDNER, MA 014400000	0	12,257

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
MANSFIELD HSG AUTHORITY	22 BICENTENNIAL COURT, MANSFIELD TOWN, MA 020480000.	0	22,093
DENNIS HSG AUTHORITY	167 CENTER ST, DENNIS TOWN, MA 026600000	0	30,900
HANSON HOUSING AUTHORITY	MEETINGHOUSE LANE, HANSON, MA 023410000	0	21,692
NORTH ATTLEBOROUGH HSG AUTHORITY	PO BOX 668, NORTH ATTLEBOROUGH, MA 27610	0	26,611
HAGERSTOWN HOUSING AUTHORITY	PO BOX 2859, HAGERSTOWN, MD 217412859	0	40,790
HOUSING AUTHORITY OF THE CITY OF ROCKVILLE	14 MOORE DRIVE, ROCKVILLE, MD 208500000	0	39,140
ST. MARYS COUNTY COMMISSIONERS AUTHORITY	PO BOX 653, GOVT CENTER, LEONARDTOWN, MD 206500000.	0	38,984
CALVERT COUNTY HOUSING AUTHORITY	420 WEST DARES BEACH ROAD, PRINCE FREDERICK, MD 20678.	0	32,960
CITY OF WESTMINSTER	PO BOX 010, CITY HALL, WESTMINSTER, MD 211570000.	0	23,960
WASHINGTON COUNTY HOUSING AUTHORITY	33 WEST WASHINGTON STREET, HAGERSTOWN, MD 217400000.	0	29,039
CECIL COUNTY HOUSING AGENCY	COURT HOUSE ROOM 122, ELKTON, MD 219210000	0	33,579
CARROLL COUNTY HSG & COMMUNITY DEV	125 NORTH COURT STREET, WESTMINSTER, MD 21157000.	0	29,635
BANGOR HOUSING AUTHORITY	161 DAVIS ROAD, BANGOR, ME 044010000	0	32,642
WESTBROOK HOUSING AUTHORITY	PO BOX 349, WESTBROOK, ME 040920000	0	32,651
SOUTH PORTLAND HOUSING AUTHORITY	51 LANDRY CIRCLE PO BOX 2128, SOUTH PORTLAND, ME 041060000.	0	32,188
MOUNT DESERT HOUSING AUTHORITY	15 EAGLE LAKE ROAD, BAR HARBOR, ME 046090000	0	31,080
CARIBOU HSG AUTHORITY	25 HIGH ST, CARIBOU, ME 047360000	0	32,136
AUGUSTA HSG AUTHORITY	18 CONY ST, CITY CENTER PLAZA, AUGUSTA, ME 043300000.	0	22,776
SAGINAW HSG COMM	2811 DAVENPORT, BOX A, SAGINAW, MI 486020000	0	30,000
SAGINAW HSG COMM	2811 DAVENPORT, BOX A, SAGINAW, MI 486020000	.....	4,557
CITY OF JACKSON	161 WEST MICHIGAN AVENUE JACKSON, MI 492010000, ATTENTION: MS. BARBARA RIPPEE.	0	21,290
LANSING HOUSING COMMISSION	310 SEYMOUR, LANSING, MI 489330000	0	14,997
CITY OF MUSKEGON	933 TERRACE STREET, PO BOX 536, MUSKEGON, MI .494430000.	0	35,981
CITY OF WYOMING	1155 28TH STREET, SW, WYOMING, MI 495090000	0	41,200
CITY OF WESTLAND	32175 DORSEY ROAD, WESTLAND, MI 481850000, ATTENTION: MR. JAMES GILBERT.	0	36,207
TOWNSHIP OF REDFORD	12121 HEMINGWAY, REDFORD TWP, MI 482390000, ATTENTION: MR. SIDNEY BLITZ.	0	27,851
COUNTY OF KENT	4326 CASCADE ROAD, SE, GRAND RAPIDS, MI 495460000.	0	31,381
WAYNE COUNTY	RAYMOND J. WOJTOWICZ, DETROIT, MI 482262942, WAYNE COUNTY TREASURER.	0	41,200
WINONA HRA	165 EAST FOURTH ST, WINONA, MN 559873514	0	10,831
SOUTH ST PAUL HRA	125 SOUTH THIRD AVENUE, SOUTH ST. PAUL, MN 550750000.	0	33,733
BRAINERD HRA	304 EAST RIVER ROAD, SUITE 2, BRAINERD, MN 564013551.	0	33,435
ALBERT LEA HRA	221 E. CLARK STREET, ALBERT LEA, MN 560072421	0	8,240
OLMSTED COUNTY HRA	2116 CAMPUS DRIVE SE, ROCHESTER, MN 559044744.	0	16,496
BLOOMINGTON HRA	2215 W. OLD SHAKOPEE RD, BLOOMINGTON, MN 554310000.	0	28,840
NW MN MULTI-COUNTY HRA	P.O BOX 128, MENTOR, MN 567360128	0	26,780
KANDIYOHI COUNTY HRA	HEARTLAND CAA, BOX 1359, WILLMAR, MN 562010000.	0	30,900
SCOTT COUNTY HRA	1604 FRANKLIN TRAIL SE, PRIOR LAKE, MN 553720000.	0	20,825
SOUTHEAST MN MULTI-COUNTY HRA	134 EAST SECOND STREET, WABASHA, MN 559810000.	0	27,080
WASHINGTON COUNTY HRA	321 BROADWAY AVE, ST. PAUL PARK, MN 550710000.	0	18,515
SOUTH CENTRAL MULTI COUNTY HRA	410 JACKSON STREET, MANKATO, MN 560010000	0	30,900
ST CHARLES HOUSING AUTHORITY	1014 OLIVE ST, ST CHARLES, MO 633010000	0	21,852
LIBERTY HOUSING AUTHORITY	101 E. KANSAS, PO BOX 159, LIBERTY, MO 640680000.	0	28,274
RIPLEY COUNTY PHA	3019 FAIR STREET, PO BOX 1183, POPLAR BLUFF, MO 639010000,.	0	23,714
ECONOMIC SECURITY CORP SW AREA	ATTN: DEBBI MARKHAM, JOPLIN, MO 648020000, P.O. BOX 207.	0	21,321
BILLINGS HSG AUTH	2415 1ST AVE NORTH, BILLINGS, MT 591010000	0	21,677

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
GREAT FALLS HSG AUTH	1500 SIXTH AVE. SOUTH, GREAT FALLS, MT 594050000.	0	28,173
HELENA HSG AUTH	812 ABBEY ST, HELENA, MT 596010000	0	39,946
MISSOULA HOUSING AUTH	1319 E. BROADWAY, MISSOULA, MT 598020000	0	30,900
CITY OF CONCORD	P.O. BOX 308, CONCORD, NC 280250000	0	12,299
HA LAURINBURG	PO BOX 1437, LAURINBURG, NC 283520000	0	34,467
H/A CITY OF GREENVILLE	PO BOX 1426, GREENVILLE, NC 278350000	0	26,888
HA SANFORD	PO BOX 636, SANFORD, NC 273310000	0	32,960
HA STATESVILLE	433 S. MEETING STREET, STATESVILLE, NC 28677	0	25,343
HA MIDEAST REGIONAL	PO BOX 474, WASHINGTON, NC 27889	0	20,699
TOWN OF EAST SPENCER	PO BOX 367, EAST SPENCER, NC 280390000	0	31,750
SANDHILLS COMM ACTION PROG INC	PO BOX 937, CARTHAGE, NC 283270000	0	27,419
MOUNTAIN PROJECTS, INC	RT. 1 BOX 732, WAYNESVILLE, NC 287860000	0	25,832
STUTSMAN COUNTY HOUSING AUTHORITY	217 1ST AVENUE N., JAMESTOWN, NC 584010000	0	25,235
KEARNEY HOUSING AUTHORITY	2715 AVE 1, KEARNEY, NE 688470000	0	20,909
NORFOLK HOUSING AUTHORITY	111 S. FIRST STREET, NORFOLK, NE 687010000	0	26,780
BELLEVUE HOUSING AUTHORITY	8214 ARMSTRONG CIRCLE, OMAHA, NE 681470000	0	24,308
NORTHEAST NEBRASKA JOINT HSG AUTH	520 PIERCE STREET, SUITE 400, SIOUX CITY, IA 51102.	0	26,368
GOLDENROD JOINT HSG AUTH	PO BOX 280, WISNER, NE 687690000	0	23,639
CENTRAL NEBRASKA JOINT HSG AUTH	PO BOX 509, LOUP CITY, NE 688530000	0	22,042
LACONIA HOUSING & REDEVELOPMENT AUTH	25 UNION AVE, LACONIA, NH 032460000	0	32,651
KEENE HOUSING AUTHORITY	105 CASTLE STREET, KEENE, NH 034310000	0	32,940
LONG BRANCH HA	PO BOX 336, LONG BRANCH, NJ 077400000	0	41,200
WOODBRIDGE HA	10 BUNNS LANE, WOODBRIDGE, NJ 070950000	0	29,352
RED BANK HA	PO BOX 2158 EVERGREEN TERRACE, RED BANK, NJ 077010000.	0	29,355
NEPTUNE HA	BOX 726, NEPTUNE, NJ 077530000	0	32,960
GLASSBORO HA	737 LINCOLN BLVD PO BOX 563, GLASSBORO, NJ 080280000.	0	27,420
BOONTON HA	125 CHESTNUT STREET, BOONTON, NJ 070050000	0	41,200
LAKEWOOD HA	PO BOX 1543, LAKEWOOD, NJ 087010000	0	41,200
BERKLEY TOWNSHIP HOUSING AUTHORITY	44 FREDERICK DR., BAYVILLE, NJ 08721	0	35,020
MILLVILLE HA	PO BOX 803 122 E MAIN STREET, MILLVILLE, NJ 083320000.	0	30,939
BRICK HA	165 CHAMBERS BRIDGE ROAD, BRICK, NJ 087230000.	0	40,994
DOVER HA	215 EAST BLACKWELL STREET, DOVER, NJ 078010000.	0	40,376
FORT LEE HA	1403 TERESA DRIVE, FORT LEE, NJ 070240000	0	41,200
WEEHAWKEN HA	525 GREGORY AVENUE, WEEHAWKEN, NJ 070870000.	0	40,788
HUNTERDON COUNTY HA	8 GAUNTT PL. RT. 31, FLEMINGTON, NJ 088220000	0	41,200
TOWNSHIP OF MONTCLAIR HA	205 CLAREMONT AVENUE, MONTCLAIR, NJ 070420000.	0	41,200
BLOOMFIELD TOWNSHIP HA	MUNICIPAL PLAZA, BLOOMFIELD, NJ 070030000	0	41,200
LAS CRUCES HSG AUTHORITY	926 S SAN PEDRO, LAS CRUCES, NM 880010000	0	24,092
TRUTH OR CONSEQUENCES HSG AUTHORITY	108 SOUTH CEDAR STREET, TRUTH OR CONSEQUENC, NM 87901.	0	20,394
SANTA FE COUNTY HSG AUTHORITY	52 CAMINO DE JACOBO, SANTA FE, NM 875050000	0	34,145
COUNTY OF DONA ANA	430 SOUTH MAIN STREET, LAS CRUCES, NM 880011205 ROOM 103.	0	33,939
REGION IV HOUSING AUTHORITY	104 WEST SECOND STREET, CLOVIS, NM 881010000	0	28,634
CLOVIS HOUSING AUTHORITY	PO BOX 1240, CLOVIS, NM 881010000	0	28,737
HA OF PLATTSBURGH	19 OAK STREET, PLATTSBURGH, NY 129010000	0	28,049
HA OF COHOES	DR JAY MCDONALD TOWERS REMSEN, COHES, NY 120470000.	0	34,762
CITY OF OSWEGO	CITY HALL, OSWEGO, NY 131260000	0	24,720
HA OF GREENBURGH	9 MAPLE STREET, WHITE PLAINS, NY 106030000	0	41,200
HA OF HORNELL	71 CHURCH STREET, HORNELL, NY 148430000	0	34,925
HA OF MONTICELLO	76 EVERGREEN DRIVE, MONTICELLO, NY 127010000	0	41,200
HA OF NORTH HEMPSTEAD	POND HILL ROAD, GREAT NECK, NY 110200000	0	34,989
HA OF NEW ROCHELLE	50 SICKLES AVENUE, NEW ROCHELLE, NY 108010000.	0	31,930
TOWN OF YORKTOWN	PO BOX 703, YORKTOWN HEIGHTS, NY 10598 363 UNDERHILL AVENUE.	0	32,960
CITY OF POUGHKEEPSIE MUNICIPAL BLDG	MEMORIAL SUARE PO BOX 300, POUGHKEEPSIE, NY 126020000.	0	33,475
NORTH FORK HSG ALLIANCE INC	110 SOUTH STREET, GREENPORT, NY 119440000	0	38,316
TOWN OF SMITHTOWN	99 WEST MAIN STREET PO BOX 5, SMITHTOWN, NY 117870000.	0	39,655

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
VILLAGE OF KIRYAS JOEL HOUSING AUTH	500 FOREST ROAD SUITE 202, MONROE, NY 109500000.	0	39,655
TOWN OF COLONIE	MEMORIAL TOWN HALL, COLONIE, NY 121280000	0	33,850
CITY OF FULTON	MUNICIPAL BUILDING, FULTON, NY 130690000	0	27,037
TOWN OF UNION COMMUNITY DEVELOPMENT	3111 EAST MAIN ST, ENDWELL, NY 137600000	0	23,180
JEFFERSON METROPOLITAN HSG. AUTH.	815 NORTH SIXTH STREET, STEUBENVILLE, OH 439520000.	0	30,900
CAMBRIDGE METROPOLITAN HSG. AUTH.	PO BOX 744, CAMBRIDGE, OH 437250744	0	23,935
WARREN MET HA	PO BOX 63, LEBANON, OH 450360000	0	24,570
CLINTON METROPOLITAN HOUSING AUTH	478 THORNE AVENUE, WILMINGTON, OH 451770000	0	18,823
FAYETTE METRO HSG AUTH	101 E. EAST STREET, WASHINGTON, C.H., OH 43160	0	23830
PICKAWAY METROPOLITAN HOUSING AUTH	176 RUSTIC DRIVE, CIRCLEVILLE, OH 431130000	0	26,420
PIKE METROPLITAN HA	2626 SHYVILLE ROAD, PIKETON, OH 456610000	0	34,826
TUSCARAWAS MHA	125 EAST HIGH, NEW PHILADELPHIA, OH 44663	0	33,674
CITY OF MIDDLETOWN	ATTENTION: GREGORY DIXON, MIDDLETOWN, OH 450420000, ONE CIVIC CENTRE PLAZA.	0	17,996
LOGAN COUNTY MHA	105 W HIGH ST, BELLEFONTAINE, OH 433110000	0	26,855
DELAWARE METRO HOUSING AUTHORITY	PO BOX 1292, DELAWARE, OH 430150000	0	37,080
MORROW, METRO. HSG. AUTH	MORROW METROPOLITAN HOUSING AUTH, MANSFIELD, OH 449020000, PO BOX 1029.	0	29,664
BROKEN BOW HOUSING AUTHORITY	PO BOX 177, BROKEN BOW, OK 747280000	0	15,831
STILLWATER HOUSING AUTHORITY	807 S. LOWRY, STILLWATER, OK 740740000	0	28,715
HSG AUTH OF DOUGLAS COUNTY	PO BOX 966, ROSEBURG, OR 974700000	0	25,634
H.A. OF LINCOLN COUNTY	1039 NW HYE ST, NEWPORT, OR 973650000	0	28,840
H.A. OF MALHEUR CO	959 FORTNER ST, ONTARIO, OR 979140000	0	18,830
NORTHWEST OREGON HOUSING ASSOC	1508 EXCHANGE, ASTORIA, OR 971030000	0	21,048
CENTRAL ORE REG HA	2445 SW CANAL BLVD, REDMOND, OR 977560000	0	25,108
HARRISBURG HOUSING AUTHORITY	PO BOX 3461, HARRISBURG, PA 171013461	0	37,780
MONTOUR COUNTY HOUSING AUTHORITY	ONE BEAVER PLACE, DANVILLE, PA 178210000	0	39,573
WILKES-BARRE HOUSING AUTHORITY	LINCOLN PLAZA S. WILKES—BARRE, WILKES—BARRE, PA 197020000.	0	35,278
INDIANA COUNTY HOUSING AUTHORITY	104 PHILADELPHIA STREET, INDIANA, PA 157010000	0	14,997
NORTHUMBERLAND COUNTY HOUSING AUTH	50 MAHONING STREET, MILTON, PA 178470000	0	41,200
BERKS COUNTY HOUSING AUTHORITY	1803 BUTTER LANE, READING, PA 196060000	0	25,750
NORTHAMPTON COUNTY HOUSING AUTH	PO BOX 252, NAZARETH, PA 180640000	0	41,200
CENTRAL FALLS H A	30 WASHINGTON ST, CENTRAL FALLS, RI 028630000	0	26,611
EAST PROVIDENCE H A	99 GOLDSMITH AVE, EAST PROVIDENCE, RI 02914	0	40,685
SOUTH KINGSTON HOUSIN AUTHORITY	PO BOX 6, PEACE DALE, RI 028830000	0	41,200
NORTH PROVIDENCE HOUSING AUTHORITY	945 CHARLES STREET, NORTH PROVIDENCE, RI 02904.	0	30,900
EAST GREENWICH H A	146 FIRST AVE, EAST GREENWICH, RI 028180000	0	23,453
NARRAGANSETT HOUSING AUTHORITY	PO BOX 388, 25 FIFTH AVENUE, NARRAGNSETT, RI 028820000.	0	24,926
MUNICIPALITY OF HORMIGUEROS	PO BOX 97, HORMIGUEROS, PR 006600000	0	40,925
MUNICIPALITY OF ADJUNTAS	CALLE RIUE RIVERA-ESQUINA SAN, ADJUNTAS, PR 006010000, JOAQUÍN, PO BOX 1009.	0	$18,231
MUNICIPALITY OF ISABELA	PO BOX 507, ISABELA, PR 006620000	0	11,000
MUNICIPALITY OF AGUAS BUENAS	BOX 128, AGUAS BUENAS, MUNICI, RQ 00607	0	11,742
HA CONWAY	2303 LEONARD AVENUE, CONWAY, SC 295260000	0	14,993
HA ANDERSON	1335 E RIVER STREET, ANDERSON, SC 296210000	0	28,093
MADISON HSG & REDEV.	111 S. WASHINGTON AVE., MADISON, SD 570420000	0	9,052
BROOKINGS HSG & REDEVELOPMENT COMM	311 3RD AVENUE, BROOKINGS, SD 570060000	0	18,540
MOBRIDGE H & R COMM	PO BOX 370, MOBRIDGE, SD 576010000	0	22,042
SE TN HUMAN RESOURCE AGENCY	PO BOX 805, DUNLAP, TN 373270000	0	39,552
TEXARKANAS HOUSING AUTHORITY	BOX 5766, TEXARKANA, TX 755055766	0	31,854
LUBBOCK HOUSING AUTHORITY	PO BOX 2568, LUBBOCK, TX 794080000	0	22,500
LUBBOCK HOUSING AUTHORITY	PO BOX 2568, LUBBOCK, TX 7940800000	0	23,175
CENTER HOUSING AUTHORITY	1600 SWEETGUM TRAIL, CENTER, TX 759350000	0	24,000
CENTER HOUSING AUTHORITY	1600 SWEETGUM TRAIL, CENTER, TX 759350000	0	24,720
PHARR HOUSING AUTHORITY	211 W AUDREY, PHARR, TX 785770000	0	37,338
KINGSVILLE HSG. AUTHORITY	1000 W CORRAL, KINGSVILLE, TX 783630000	0	34,814
PLANO HOUSING AUTHORITY	1581 AVENUE K., PLANO, TX 750740000	0	29,911
HSG AUTH CITY OF TATUM	PO BOX 1066, TATUM, TX 756910000	0	8,734
GARLAND (CITY OF)	PO BOX 4690002, GARLAND, TX 750469002	0	32,136
ANTHONY HSG AUTHORITY	PO DRAWER 17450, ANTHONY, TX 7968210000	0	22,243
SAN ANGELO PUBLIC HOUSING AUTHORITY	PO BOX 1751, SAN ANGELO, TX 769020000	0	27,278
SAN ANGELO PUBLIC HOUSING AUTHORITY	PO BOX 1751, SAN ANGELO, TX 769020000	0	28,096
TRAVIS COUNTY HOUSING AUTHORITY	PO BOX 1748, AUSTIN, TX 787670000	0	30,900
HIDALGO COUNTY HOUSING AUTHORITY	1800 N. TEXAS BLVD., WESLACO, TX 785960000	0	28,552
MIDLAND COUNTY HSG AUTHORITY	218 WEST ILLINOIS, ROOM 108, MIDLAND, TX 797010000.	0	30,734

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
PROVO CITY HSG AUTH	650 WEST 100 NORTH, PROVO, UT 846010000	0	24,530
UTAH PAIUTE HOUSING AUTHORITY	600 NORTH 100 EAST, CEDAR CITY, UT 847200000	0	35,844
GRAND COUNTY HOUSING AUTHORITY	PO BOX 729, MOAB, UT 845320000	0	11,124
WEST VALLEY CITY HOUSING AUTHORITY	3600 CONSTITUTION BLVD, WEST VALLEY CITY, UT 84119.	0	28,105
CEDAR CITY HOUSING AUTHORITY	PO BOX 1721, CEDAR CITY, UT 847210000	0	26,780
PORTSMOUTH REDEVELOPMENT & H/A	339 HIGH STREET, PO BOX 1098, PORTSMOUTH, VA 237050000.	0	26,294
CUMBERLAND PLATEAU REGIONAL H/A	PO BOX 1328, LEBANON, VA 242660000, MEMORIAL DRIVE.	0	29,231
LEE COUNTY HOUSING AUTHORITY	PO BOX 665, JONESVILLE, VA 242630000	0	29,458
COUNTY OF ALBEMARLE/DEPT. OF FINANCE	401 MCINTIRE ROAD, CHARLOTTESVILLE, VA 229024596.	0	36,926
CITY OF VIRGINIA BEACH	MUNICIPAL CENTER, VIRGINIA BEACH, VA 234560000.	0	29,452
BURLINGTON HOUSING AUTHORITY	230 ST PAUL STREET, BURLINGTON, VT 054010000	0	31,265
BARRE HOUSING AUTHORITY	455 NORTH MAIN STREET, BARRE, VT 056410000	0	21,424
HA COUNTY OF CLALLAM	2603 SOUTH FRANCIS, PORT ANGELES, WA 983620000.	0	37,408
HA CITY OF KENNEWICK	421 S TACOMA, KENNEWICK, WA 993360000	0	37,080
HA OF GRANT COUNTY	1139 LARSON BLVD, MOSES LAKE, WA 988370000	0	36,668
KITSAP COUNTY CONSOLIDATED HA	9265 BAYSHORE DR NW, SILVERDALE, WA 983830000.	0	40,147
WENATCHEE HOUSING AUTHORITY	236 N MISSION, WENATCHEE, WA 988010000	0	30,348
HOUSING AUTHORITY CITY OF RICHLAND	PO BOX 190, RICHLAND, WA 993520000	0	34,945
HSG AUTHORITY OF JEFFERSON COUNTY	802 SHERIDAN, 3RD FLOOR, PORT TOWNSEND, WA 983680000.	0	25,103
DUNN COUNTY HOUSING AUTH	525 2ND ST., GLENWOOD CITY, WI 540130000	0	18,623
BENWOOD HOUSING AUTHORITY	13TH AND HIGH STREETS, BENWOOD, WV 260310000.	0	27,192
ROCK SPRINGS HSG AUTHORITY	212 D STREET, ROCK SPRINGS, WY 829010000	0	20,600
CASPER HSG AUTH	1985 EAST A STREET, CASPER, WY 826010000	0	16,569
DOTHAN H/A	PO BOX 1727, DOTHAN, AL 363020000	0	13,230
HA LEEDS	PO BOX 513, LEEDS, AL 350940000	0	23,163
HA OZARK	PO BOX 566, OZARK, AL 363610000	0	26,600
HA ALBERTVILLE	PO BOX 1126, ALBERTVILLE, AL 35950	0	29,865
HA BESSEMER	1100 5TH AVENUE NORTH, BESSEMER, AL 350200000.	0	12,807
HA JACKSONVILLE	895 GARDNER DRIVE, JACKSONVILLE, AL 36265	0	25,000
HA NORTHPORT	PO DRAWER 349, NORTHPORT, AL 354760000	0	10,524
NW REGIONAL HSG AUTHORITY	PO BOX 699, HARRISON, AR 726020699	0	26,000
HOPE HOUSING AUTHORITY	720 TEXAS STREET, HOPE, AR 718010000	0	15,514
SILOAM SPRINGS HSG AUTH	PO BOX 280, SILOAM SPRINGS, AR 727	0	25,800
HARRISON HOUSING AGENCY	PO BOX 1715, HARRISON, AR 726010000	0	21,000
MISSISSIPPI COUNTY PFB	808 W KEISER, OSCEOLA, AR 723700000	0	24,625
CITY OF CHANDLER	99 N. DELAWARE STREET, CHANDLER, AZ 852250000.	0	33,913
CITY OF BULLHEAD CITY	PO BOX 21179, BULLHEAD CITY, AZ 8643, 1255 MARINA BOULEVARD.	0	30,053
UPLAND CITY HOUSING AUTH	1226 N CAMPUS AVE, UPLAND, CA 917860000	0	28,041
CITY OF FAIRFIELD	FAIRFIELD, CA 94533000, 1000 WEBSTER	0	35,631
CITY OF CARLSBAD	CARLSBAD, CA 920080000, 1200 CARLSBAD VILLAGE D.	0	24,180
YUBA COUNTY HOUSING AUTHORITY	938 14TH STREET, MARYSVILLE, CA 9590100	0	37,831
CITY OF PICO RIVERA	PICO RIVERA, CA 906600, 6615 PASSONS BLVD	0	39,927
CITY OF ROSEVILLE	ROSEVILLE, CA 95678000, 311 VERNON STREET	0	38,747
COUNTY OF SOLANO HSG AUTH	FAIRFIELD, CA 94533000, COURTHOUSE ANNEX	0	39,000
CITY OF LAKEWOOD	LAKEWOOD, CA 907120000, 5050 N CLARK AVE	0	39,986
FORT COLLINS HSG AUTH	1717 W. MOUNTAIN AVE., FORT COLLINS, CO 80521	0	25,849
CITY OF ENGLEWOOD HOUSING AUTHORITY	3460 SOUTH SHERMAN ST. SUITE 1, ENGLEWOOD, CO 80110000.	0	37,627
CITY OF ARVADA	8101 RALSTON ROAD, ARVADA, CO 800020000	0	28,800
MONTROSE COUNTY HOUSING AUTHORITY	PO BOX 1333, MONTROSE, CO 814020000	0	27,180
GARFIELD COUNTY HOUSING AUTHORITY	406 SOUTH HYLAND PARK DRIVE, GLENWOOD SPRINGS, CO 8, SUITE D.	0	35,000
NORWALK HOUSING AUTHORITY	24½ MONROE STREET, SOUTH NORWALK, CT 0685	0	33,462
HARTFORD HOUSING AUTHORITY	475 FLATBUSH AVENUE, HARTFORD, CT 061060000	0	39,848
MIDDLETOWN HOUSING AUTHORITY	40 BROAD STREET, MIDDLETOWN, CT 0645700	0	39,782
MERIDEN HOUSING AUTHORITY	22 CHURCH STREET, MERIDEN, CT 064500000	0	40,000
ANSONIA HOUSING AUTHORITY	75 CENTRAL STREET, ANSONIA, CT 064010000	0	30,000

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
MILFORD HOUSING AUTHORITY	75 DEMAIO DRIVE, MILFORD, CT 064600000, PO BOX 4123.	0	40,000
DOVER HOUSING AUTHORITY	1266–76 WHITE OAK ROAD, DOVER, DE 199010000 ..	0	26,250
HA DAYTONA BEACH	118 CEDAR ST, DAYTONA BEACH, FL 3211	0	29,505
PANAMA CITY HSG AUTH	804 E 15TH STREET, PANAMA CITY, FL 324050	0	22,064
HA PUNTA GORDA	PO BOX 1146, PUNTA GORDA, FL 339500	0	25,696
HA ALACHUA COUNTY	636 N E 1ST STREET, GAINESVILLE, FL 326010	0	25,240
HA DELAND	300 SUNFLOWER CIRCLE, DE LAND, FL 327240000 ...	0	26,610
WALTON CO BD OF CO COMM	PO BOX 1258, DE FUNIAK SPRINGS, FL	0	31,211
COUNTY OF VOLUSIA	123 WEST INDIANA, DE LAND, FL 327200000	0	34,357
HERNANDO COUNTY HOUSING AUTHOR	820 KENNEDY BLVD., BROOKSVILLE, FL 326010	0	18,284
COLLIER COUNTY HA	1800 FARM WORKER WAY, IMMOKALEE, FL 33934000.	0	32,125
CITRUS COUNTY HOUSING SERVICES	1300 S. LECANTO HIGHWAY, LECANTO, FL 344610000.	0	24,305
OTTUMWA HOUSING AUTHORITY	102 WEST FINLEY AVENUE, OTTUMWA, IA 525010000.	0	29,388
MUNICIPAL HOUSING AGENCY	119 SOUTH MAIN ST, COUNCIL BLUFFS, IA 515, SUITE #200.	0	28,870
FORT DODGE HOUSING AGENCY	700 SOUTH 17TH STREET, FORT DODGE, IA 5050100	0	37,031
NORTH IOWA REGIONAL HOUSING AUTH	121 THIRD STREET NW, MASON CITY, IA 5040100	0	30,000
NORTHWEST IOWA REGIONAL HSG AUTH	PO BOX 6207, SPENCER, IA 513010000	0	29,536
UPPER EXPLORERLAND REGIONAL	HOUSING AUTHORITY, POSTVILLE, IA 52162000, 134 W. GREENE ST.	0	34,000
CENTRAL IOWA REGIONAL HOUSING AUTH	1111 NINTH STREET, DES MOINES, IA 5031400, SUIT 240.	0	28,992
IOWA NORTHLAND REGIONAL HSG AUTH	213 E 4TH STREET, WATERLOO, IA 507030000	0	33,724
KENDALL COUNTY HSG AUTH	111 W. MADISON ST., YORKVILLE, IL 60560000		8,000
LEADERSHIP COUNCIL MET	LEADERSHIP COUNCIL METRO OPEN, CHICAGO, IL 606051289, 401 S STATE ST SUITE 86.	0	39,460
VINCENNES HA	501 HART ST PO BOX 1636, VINCENNES, IN 47591000.	0	20,762
HA DELAWARE COUNTY	2401 S HADDIX AVENUE, MUNCIE, IN 473020000	0	24,200
HOUSING AUTHORITY CITY OF SULLIVAN	200 NORTH COURT STREET, SULLIVAN, IN 47882	0	22,879
HOUSING AUTHORITY OF THE CITY OF MARION	601 SOUTH ADAMS STREET, MARION, IN 469530000	0	27,363
HOUSING AUTHORITY OF KNOX COUNTY	TILLY ESTATES–OFFICE, BICKNELL, IN 475120000	0	22,000
HA PERU	701 E MAIN ST, PERU, IN 469700000	0	26,130
THE HOUSING AUTHORITY OF THE CITY OF GOSHEN	GOSHEN, IN 46526, 302 S 5TH STREET	0	28,340
FORT SCOTT HOUSING AUTHORITY	315 SCOTT AVE PO BOX 269, FORT SCOTT, KS 6670100.	0	10,700
MANHATTAN HOUSING AUTHORITY	PO BOX 1024, 300 N 5TH, MANHATTAN, KS 66502000	0	27,150
ECKAN	PO BOX 110, OTTAWA, KS 660670000	0	32,400
SOUTHWEST KANSAS AREA AGENCY ON	AGING, INC., DODGE CITY, KS 6780100, PO BOX 1636.	0	30,000
HA FRANKFORT	590 WALTER TODD DRIVE, FRANKFORT, KY 40601000.	0	9,484
HA FRANKFORT	590 WALTER TODD DRIVE, FRANKFORT, KY 40601000.	0	3,160
H A SOMERSET	PO BOX 449, SOMERSET, KY 425010000	0	22,276
H A SOMERSET	PO BOX 449, SOMERSET, KY 425010000	0	7,424
HA CYNTHIANA	PO BOX 351, CYNTHIANA, KY 41031000	0	16,613
HA GEORGETOWN	139 SCROGGIN PARK, GEORGETOWN, KY 4032400 ..	0	7,800
PIKE COUNTY HOUSING AUTHORITY	PO BOX 1468, PIKEVILLE, KY 41501000	0	9,727
PIKE COUNTY HOUSING AUTHORITY	PO BOX 1468, PIKEVILLE, KY 41501000	0	29,177
CITY OF PADUCAH	PO BOX 2267, PADUCAH, KY 420022267	0	7,373
CITY OF PADUCAH	PO BOX 2267, PADUCAH, KY 420022267	0	22,117
HA FLOYD COUNTY	PO BOX 687, PRESTONSBURG, KY 41653	0	28,524
HA FLOYD COUNTY	PO BOX 687, PRESTONSBURG, KY 41653	0	5,704
APPALACHIAN FOOTHILLS HSG AGENCY	1448 DIEDERICH BLVD, RUSSELL, KY 411690000	0	27,689
CITY OF BOWLING GREEN	PO BOX 430, BOWLING GREEN, KY 4210	0	27,814
CALCASIEU PARISH POLICE JURY	PO DRAWER 3287, LAKE CHARLES, LA 70602	0	25,447
IBERIA PARISH POLICE JURY	300 IBERIA STREET, SUITE 400, NEW IBERIA, LA 7056045.	0	29,840
PORT ALLEN (CITY OF)	PO BOX 468, PORT ALLEN, LA 7076700	0	17,966
TERREBONNE PARISH COUNCIL	PO BOX 6097, HOUMA, LA 703610000	0	28,865
WEBSTER PARISH POLICE JURY	PO BOX 389, MINDEN, LA 710550000	0	20,782
WASHINGTON PARISH HSG AUTHORITY	PO BOX 167, VARNADO, LA 704670000	0	16,371
WOBURN HOUSING AUTHORITY	59 CAMPBELL STREET, WOBURN, MA 018010000	0	40,000
GLOUCESTER HOUSING AUTHORITY	PO BOX 1599, GLOUCESTER, MA 0193115	0	29,108
EVERETT HSG AUTHORITY	90 CHELSEA ST, EVERETT, MA 021490000	0	27,222
BROOKLINE HOUSING AUTHORITY	90 LONGWOOD AVE, BROOKLINE, MA 02146000	0	36,452

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
SHREWSBURY HOUSING AUTHORITY	36 NORTH QUINSIGAMOND AVENUE, SHREWSBURY, MA 0154500.	0	24,012
ARLINGTON HSG AUTHORITY	4 WINSLOW ST, ARLINGTON, MA 02174000	0	24,997
PEABODY HSG AUTHORITY	75–81 CENTRAL ST, PEABODY, MA 019600000	0	30,875
SALEM HOUSING AUTHORITY	27 CHARTER STREET, SALEM, MA 019700000	0	40,000
ACTON HSG AUTHORITY	PO BOX 681, ACTON, MA 017200000	0	29,877
PLYMOUTH HOUSING AUTHORITY	PO BOX 3537, PLYMOUTH, MA 023610000	0	29,348
MELROSE HSG AUTHORITY	910 MAIN ST, MELROSE, MA 021760000	0	20,238
MILFORD HOUSING AUTHORITY	45 BIRMINGHAM COURT, MILFORD, MA 017570000 ...	0	16,493
HOLBROOK HSG AUTHORITY	ONE HOLDBROOK COURT, HOLBROOK, MA 022430000.	0	25,350
WAKEFIELD H A	26 CRESCENT ST, WAKEFIELD, MA 01880000	0	23,100
READING HSG AUTHORITY	22 FRANK D TANNER DRIVE, READING, MA 018670000.	0	23,250
ANDOVER HSG AUTHORITY	100 MORTON ST, ANDOVER, MA 018100000	0	19,305
LEOMINSTER HSG AUTHORITY	100 MAIN ST, LEOMINSTER, MA 0145300	0	40,000
GREENFIELD HSG AUTHORITY	ONE ELM TERRACE, GREENFIELD TOWN, MA 01	0	25,000
SAUGUS HSG AUTHORITY	19 TALBOT ST, SAUGUS, MA 019060000	0	27,050
WAYLAND HOUSING AUTHORITY	106 MAIN STREET, WAYLAND, MA 017780000	0	25,000
NORTH ANDOVER HOUSING AUTHORITY	PO BOX 373, NORTH ANDOVER, MA 0184	0	21,965
NORWOOD HSG AUTHORITY	40 WILLIAM SHYNE CIRCLE, NORWOOD, MA 020620000.	0	33,153
GARDNER HSG AUTHORITY	116 CHURCH ST, GARDNER, MA 014400000	0	11,900
MANSFIELD HSG AUTHORITY	22 BICENTENNIAL COURT, MANSFIELD TOWN, MA 020.	0	21,450
DENNIS HSG AUTHORITY	167 CENTER ST, DENNIS TOWN, MA 026600	0	30,000
HANSON HOUSING AUTHORITY	MEETINGHOUSE LANE, HANSON, MA 023410000	0	21,060
NORTH ATTLEBOROUGH HSG AUTHORITY	PO BOX 668, NORTH ATTLEBOROUGH, MA	0	25,836
HAGERSTOWN HOUSING AUTHORITY	P.O. BOX 2859, HAGERSTOWN, MD 2174128	0	39,602
HOUSING AUTHORITY OF THE CITY OF R	14 MOORE DRIVE, ROCKVILLE, MD 208500000	0	38,000
ST MARY'S COUNTY COMMISSIONERS	P.O. BOX 653, GOVT CENTER, LEONARDTOWN, MD 206500.	0	37,849
CALVERT COUNTY HOUSING AUTHORITY	420 WEST DARES BEACH ROAD, PRINCE FREDERICK, MD 2.	0	32,000
CITY OF WESTMINSTER	PO BOX 010, CITY HALL, WESTMINSTER, MD 211570	0	23,262
WASHINGTON COUNTY HOUSING AUTHORITY	33 WEST WASHINGTON STREET, HAGERSTOWN, MD 2174000.	0	28,193
CECIL COUNTY HOUSING AGENCY	COURT HOUSE, ROOM 122, ELKTON, MD 219210000	0	32,601
CARROLL COUNTY HSG & COMMUNITY DEV	125 NORTH COURT STREET, WESTMINSTER, MD 211570.	0	28,772
BANGOR HOUSING AUTHORITY	161 DAVIS ROAD, BANGOR, ME 044010000	0	31,691
WESTBROOK HOUSING AUTHORITY	P.O. BOX 349, WESTBROOK, ME 04092000	0	31,700
SOUTH PORTLAND HOUSING AUTHORITY	51 LANDRY CIRCLE P.O. BOX 2128, SOUTH PORTLAND, ME 041.	0	31,250
MOUNT DESERT HOUSING AUTHORITY	15 EAGLE LAKE ROAD, BAR HARBOR, ME 0460900	0	30,175
CARIBOU HSG AUTHORITY	25 HIGH ST, CARIBOU, ME 047360000	0	31,200
AUGUSTA HSG AUTHORITY	18 CONY ST, AUGUSTA, ME 043300000, CITY CENTER PLAZA.	0	22,113
SAGINAW HSG COMM.	2811 DAVENPORT, BOX A, SAGINAW, MI 486020000	0	33,550
CITY OF JACKSON	161 WEST MICHIGAN AVENUE, JACKSON, MI 492010000, ATTENTION: MS. BARBARA.	0	20,670
LANSING HOUSING COMMISSION	310 SEYMOUR, LANSING, MI 489330000	0	14,560
CITY OF MUSKEGON	933 TERRACE STREET, MUSKEGON, MI 49443000, PO BOX 536.	0	34,933
CITY OF WYOMING	1155 28TH STREET, SW, WYOMING, MI 495090000, ATTENTION: MR. JOHN SCH.	0	40,000
CITY OF WESTLAND	32175 DORSEY ROAD, WESTLAND, MI 481850000, ATTENTION: MR. JAMES GI.	0	35,152
TOWNSHIP OF REDFORD	12121 HEMINGWAY, REDFORD TWP, MI 482390, ATTENTION: MR. SIDNEY B.	0	27,040
COUNTY OF KENT	4326 CASCADE ROAD, SE, GRAND RAPIDS, MI 49546, ATTENTION: MS. CHARLOTT.	0	30,467
WAYNE COUNTY	RAYMOND J. WOJTOWICZ, DETROIT, MI 482262942 ..	0	40,000
WINONA HRA	WAYNE COUNTY TREASURER, 165 EAST FOURTH ST., WINONA, MN 559873514.	0	10,516
SOUTH ST PAUL HRA	125 SOUTH THIRD AVENUE, SOUTH ST. PAUL, NM 550.	0	32,461
BRAINERD HRA	304 EAST RIVER ROAD, BRAINERD, MN 564013551, SUITE 2.	0	32,461
ALBERT LEA HRA	221 E. CLARK STREET, ALBERT LEA, MN 5600724	0	8,000
OLMSTED COUNTY HRA	2116 CAMPUS DRIVE SE, ROCHESTER, MN 55904474	0	16,016

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
BLOOMINGTON HHA	2215 W. OLD SHAKOPEE RD., BLOOMINGTON, MN 554310.	0	28,000
NW MN MULTI-COUNTY HRA	PO BOX 128, MENTOR, MN 567360128	0	26,000
KANDIYOHI COUNTY HRA	HEARTLAND CAA, BOX 1359, WILLMAR, MN 562010000.	0	30,000
SCOTT COUNTY HRA	16049 FRANKLIN TRAIL S.E., PRIOR LAKE, MN 5537200.	0	20,218
SOUTHEAST MN MULTI-COUNTY HRA	134 EAST SECOND STREET, WABASHA, MN 559810000.	0	26,291
WASHINGTON COUNTY HRA	321 BROADWAY AVE., ST. PAUL PARK, MN 5507	0	17,976
SOUTH CENTRAL MULTI COUNTY HRA	410 JACKSON STREET, MANKATO, MN 560010000	0	30,000
ST CHARLES HOUSING AUTHORITY	1014 OLIVE ST, ST CHARLES, MO 6330100	0	21,216
LIBERTY HOUSING AUTHORITY	PO BOX 159, LIBERTY, MO 640680000, 101 E. KANSAS.	0	27,450
RIPLEY COUNTY PHA	3019 FAIR STREET, POPLAR BLUFF, MO 63901, PO BOX 1183.	0	23,023
ECONOMIC SECURITY CORP SW AREA	ATTN: DEBBI MARKHAM, JOPLIN, MO 648020000, PO BOX 207.	0	20,700
BILLINGS HSG AUTH	2415 1ST AVE NORTH, BILLINGS, MT 591010000	0	21,046
GREAT FALLS HSG AUTH	1500 SIXTH AVE. SOUTH, GREAT FALLS, MT 594050	0	27,352
HELENA HSG AUTH	812 ABBEY ST, HELENA, MT 596010000	0	38,783
MISSOULA HOUSING AUTH	1319 E. BROADWAY, MISSOULA, MT 598020000	0	30,000
CITY OF CONCORD	PO BOX 308, CONCORD, NC 280250000	0	11,941
HA LAURINBURG	PO BOX 1437, LAURINBURG, NC 2835200	0	33,463
H/A CITY OF GREENVILLE	PO BOX 1426, GREENVILLE, NC 2783500	0	26,105
HA SANFORD	PO BOX 636, SANFORD, NC 27331000	0	32,000
HA STATESVILLE	433 S. MEETING STREET, STATESVILLE, NC 28677	0	24,605
HA MIDEAST REGIONAL	PO BOX 474, WASHINGTON, NC 27889	0	20,096
TOWN OF EAST SPENCER	PO BOX 367, EAST SPENCER, NC 28039	0	30,825
SANDHILLS COMM ACTION PROG INC	PO BOX 937, CARTHAGE, NC 283270000	0	26,620
MOUNTAIN PROJECTS, INC	RT. 1, BOX 732, WAYNESVILLE, NC 287860	0	25,080
STUTSMAN COUNTY HOUSING AUTHORITY	217 1ST AVENUE N., JAMESTOWN, ND 58401000	0	24,500
KEARNEY HOUSING AUTHORITY	2715 AVE I, KEARNEY, NE 688470000	0	20,300
NORFOLK HOUSING AUTHORITY	111 S. FIRST STREET, NORFOLK, NE 687010000	0	26,000
BELLEVUE HOUSING AUTHORITY	8214 ARMSTRONG CIRCLE, OMAHA, NE 681470000	0	23,600
NORTHEAST NEBRASKA JOINT HSG AUTH	520 PIERCE STREET, SUITE 400, SIOUX CITY, IA 51102.	0	25,600
GOLDENROD JOINT HSG AUTH	PO BOX 280, WISNER, NE 687690000	0	22,950
CENTRAL NEBRASKA JOINT HSG AUTH	PO BOX 509, LOUP CITY, NE 68853000	0	21,400
LACONIA HOUSING & REDEVELOPMENT AUTH	25 UNION AVE, LACONIA, NH 032460000	0	31,700
KEENE HOUSING AUTHORITY	105 CASTLE STREET, KEENE, NH 034310000	0	31,981
LONG BRANCH HA	PO BOX 336, LONG BRANCH, NJ 077400	0	40,000
WOODBRIDGE HA	10 BUNNS LANE, WOODBRIDGE, NJ 0709500	0	28,497
RED BANK HA	PO BOX 2158 EVERGREEN TERRACE, RED BANK, NJ 077010000.	0	28,500
NEPTUNE HA	BOX 726, NEPTUNE, NJ 077530000	0	32,000
GLASSBORO HA	737 LINCOLN BLVD PO BOX 563, GLASSBORO, NJ 08028000.	0	26,621
BOONTON HA	125 CHESTNUT STREET, BOONTON, NJ 070050000	0	40,000
LAKEWOOD HA	PO BOX 1543, LAKEWOOD, NJ 087010000	0	40,000
BERKLEY TOWNSHIP HOUSING AUTHORITY	44 FREDERICK DR., BAYVILLE, NJ 08721	0	34,000
MILLVILLE HA	PO BOX 122 E MAIN STREET, MILLVILLE, NJ 08332000.	0	30,038
BRICK HA	165 CHAMBERS BRIDGE ROAD, BRICK, NJ 087230000.	0	39,800
DOVER HA	215 EAST BLACKWELL STREET, DOVER, NJ 078010000.	0	39,200
FORT LEE HA	1403 TERESA DRIVE, FORT LEE, NJ 070240000	0	40,000
WEEHAWKEN HA	525 GREGORY AVENUE, WEEHAWKEN, NJ 07087000	0	39,600
HUNTERDON COUNTY HA	8 GAUNTT PL. RT. 31, FLEMINGTON, NJ 0882200	0	40,000
TOWNSHIP OF MONTCLAIR HA	205 CLAREMONT AVENUE, MONTCLAIR, NJ 07042000.	0	40,000
BLOOMFIELD TOWNSHIP HA	MUNICIPAL PLAZA, BLOOMFIELD, NJ 0700300	0	40,000
LAS CRUCES HSG AUTHORITY	926 S SAN PEDRO, LAS CRUCES, NM 8800100	0	23,390
TRUTH OR CONSEQUENCES HSG AUTHORITY	108 SOUTH CEDAR STREET, TRUTH OR CONSEQUENCE, NM.	0	19,800
SANTA FE COUNTY HSG AUTHORITY	52 CAMINO DE JACOBO, SANTA FE, NM 875050000	0	33,150
COUNTY OF DONA ANA	430 SOUTH MAIN STREET, LAS CRUCES, NM 8800112, ROOM 103.	0	32,950
REGION IV HOUSING AUTHORITY	104 WEST SECOND STREET, CLOVIS, NM 881010000	0	27,800
CLOVIS HOUSING AUTHORITY	PO BOX 1240, CLOVIS, NM 881010000	0	27,900

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
HA OF PLATTSBURGH	19 OAK STREET, PLATTSBURGH, NY.129010	0	27,232
HA OF COHOES	DR JAY MCDONALD TOWERS REMSEN, COHES, NY 120470000.	0	33,750
CITY OF OWSWGO	CITY HALL, OSWEGO, NY 131260000	0	24,000
HA OF GREENBURGH	9 MAPLE STREET, WHITE PLAINS, NY 10603	0	40,000
HA OF HORNELL	71 CHURCH STREET, HORNELL, NY 148430000	0	33,908
HA OF MONTICELLO	76 EVERGREEN DRIVE, MONTICELLO, NY 1270100	0	40,000
HA OF NORTH HEMPSTEAD	POND HILL ROAD, GREAT NECK, NY 1102000	0	33,970
HA OF NEW ROCHELLE	50 SICKLES AVENUE, NEW ROCHELLE, NY 10801	0	31,000
TOWN OF YORKTOWN	PO BOX 703, YORKTOWN HEIGHTS, NY 1, 363 UNDERHILL AVENUE.	0	32,000
CITY OF POUGHKEEPSIE MUNICIPAL BLDG	MEMORIAL SQUARE, PO BOX 300, POUGHKEEPSIE, NY 12602.	0	32,500
NORTH FORK HSG ALLIANCE INC	110 SOUTH STREET, GREENPORT, NY 11944000	0	37,200
TOWN OF SMITHTOWN	99 WEST MAIN STREET, PO BOX 5 SMITHTOWN, NY 11787000.	0	38,500
VILLAGE OF KIRYAS JOEL HOUSING AUTH	500 FOREST ROAD, SUITE 202, MONROE, NY 109500000.	0	38,500
TOWN OF COLONIE	MEMORIAL TOWN HALL, COLONIE, NY 121280000, NEWTONVILLE.	0	32,864
CITY OF FULTON	MUNICIPAL BUILDING, FULTON, NY 130690000	0	26,250
TOWN OF UNION COMMUNITY DEVELOPMENT	3111 EAST MAIN ST., ENDWELL, NY 137600000	0	22,505
JEFFERSON METROPOLITAN HSG. AUTH	815 NORTH SIXTH STREET, STEUBENVILLE, OH 43952.	0	30,000
CAMBRIDGE METROPOLITAN HSG. AUTH	PO BOX 744, CAMBRIDGE, OH 43725074	0	23,238
WARREN MET. HA	PO BOX 63, LEBANON, OH 450360000	0	23,854
CLINTON METROPOLITAN HOUSING AUTH	478 THORNE AVENUE, WILMINGTON, OH 4517700	0	18,275
FAYETTE METRO HSG AUTH	101 E. EAST STREET, WASHINGTON, C.H., OH 43	0	23,136
PICKAWAY METROPOLITAN HOUSING AUTH	176 RUSTIC DRIVE, CIRCLEVILLE, OH 431130	0	25,650
PIKE METROPOLITAN HA	2626 SHYVILLE ROAD, PIKETON, OH 456610000	0	33,812
TUSCARAWAS MHA	125 EAST HIGH, NEW PHILADELPHIA, OH 4	0	32,693
CITY OF MIDDLETOWN	ATTENTION: GREGORY DIXON, MIDDLETOWN, OH 4504200, ONE CIVIC CENTRE PLAZA.	0	17,472
LOGAN COUNTY MHA	105W HIGH ST., BELLEFONTAINE, OH 4331	0	26,073
DELAWARE METRO HOUSING AUTHORITY	PO BOX 1292, DELAWARE, OH 430150000	0	36,000
MORROW METRO. HSG. AUTH	MORROW METROPOLITAN HOUSING AU., MANSFIELD, OH 44902000, PO BOX 1029.	0	28,800
BROKEN BOW HOUSING AUTHORITY	PO BOX 177, BROKEN BOW, OK 7472800	0	15,370
STILLWATER HOUSING AUTHORITY	807 S. LOWRY, STILLWATER, OK 7407400	0	27,879
HSG AUTH OF DOUGLAS COUNTY	PO BOX 966, ROSEBURG, OR 974700000	0	24,887
H.A. OF LINCOLN COUNTY	1039 NW NYE ST., NEWPORT, OR 973650000	0	28,000
H.A. OF MALHEUR CO.	959 FORTNER ST, ONTARIO, OR 979140000	0	18,282
NORTHWEST OREGON HOUSING ASSOC	1508 EXCHANGE, ASTORIA, OR 971030000	0	20,435
CENTRAL ORE REG HA	2445 SW CANAL BLVD, REDMOND, OR 977560000	0	24,377
HARRISBURG HOUSING AUTHORITY	PO BOX 3461, HARRISBURG, PA 1710134	0	36,680
MONTOUR COUNTY HOUSING AUTHORITY	ONE BEAVER PLACE, DANVILLE, PA 178210000	0	38,420
WILKES BARRE HOUSING AUTHORITY	LINCOLN PLAZA S. WILKES BARRE, WILKES BARRE, PA 18702.	0	34,250
INDIANA COUNTY HOUSING AUTHORITY	104 PHILADELPHIA STREET, INDIANA, PA 157010000	0	14,560
NORTHUMBERLAND COUNTY HOUSING AUTH	50 MAHONING STREET, MILTON, PA 178470000	0	40,000
BERKS COUNTY HOUSING AUTHORITY	1803 BUTTER LANE, READING, PA 196060000	0	25,000
NORTHAMPTON COUNTY HOUSING AUTH	PO BOX 252, NAZARETH, PA 180640000	0	40,000
CENTRAL FALLS H A	30 WASHINGTON ST, CENTRAL FALLS, RI 0286	0	25,836
EAST PROVIDENCE H A	99 GOLDSMITH AVE, EAST PROVIDENCE, RI 02	0	39,500
SOUTH KINGSTON HOUSING AUTHORITY	PO BOX 6, PEACE DALE, RI 0288300	0	40,000
NORTH PROVIDENCE HOUSING AUTHORITY	945 CHARLES STREET, NORTH PROVIDENCE, RI 0	0	30,000
EAST GREENWICH H A	146 FIRST AVE, EAST GREENWICH, RI 028	0	22,770
NARRAGANSETT HOUSING AUTHORITY	PO BOX 388 25 FIFTH AVENUE, NARRAGANSETT, RI 02882.	0	24,200
MUNICIPALITY OF HORMIGUEROS	PO BOX 97, HORMIGUEROS, PR 006600	0	39,733
MUNICIPALITY OF ADJUNTAS	Calle Rius Rivera-Esquina San, ADJUNTAS, PR 006010000 JOAQUIN, P0 BOX 1009.	0	17,700
MUNICIPALITY OF ISABELA	PO BOX 507, ISABELA, PR 006620000	0	10,680
MUNICIPALITY OF AGUAS BUENAS	BOX 128, AGUAS BUENAS MUNICI, RQ	0	11,400
HA CONWAY	2303 LEONARD AVENUE, CONWAY, SC 295260000	0	14,556
HA ANDERSON	1335 E RIVER STREET, ANDERSON, SC 296210000	0	27,275
MADISON HSG & REDEV	111 S. WASHINGTON AVE., MADISON, SD 570420000	0	8,788
BROOKINGS HSG & REDEVELOPMENT COMM	311 3RD AVENUE, BROOKINGS, SC 57006000	0	18,000
MOBRIDGE H & R COMM	PO BOX 370, MOBRIDGE, SD 576010000	0	21,400
SE TN Human Resource Agency	PO Box 805, DUNLAP, TN 372370000	0	38,400
TEXARKANA HOUSING AUTHORITY	BOX 5766, TEXARKANA, TX 75505576	0	30,926

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
PHARR HOUSING AUTHORITY	211 W AUDREY, PHARR, TX 785770000	0	36,250
KINGSVILLE HSG. AUTHORITY	1000 W CORRAL, KINGSVILLE, TX 7836300	0	33,800
PLANO HOUSING AUTHORITY	1581 AVENUE K., PLANO, TX 750740000	0	29,040
HSG AUTH CITY OF TATUM	PO BOX 1066, TATUM, TX 758910000	0	8,480
GARLAND (CITY OF)	PO BOX 469002, GARLAND, TX 750469002	0	31,200
ANTHONY HSG AUTHORITY	PO DRAWER 1740, ANTHONY, TX 798210000	0	21,595
TRAVIS COUNTY HOUSING AUTHORITY	PO BOX 1748, AUSTIN, TX 787670000	0	30,000
HIDALGO COUNTY HOUSING AUTHORITY	1800 N. TEXAS BLVD., WESLACO, TX 785960000	0	27,720
MIDLAND COUNTY HSG AUTHORITY	218 WEST ILLINOIS, ROOM 108, MIDLAND, TX 797010000.	0	29,839
PROVO CITY HSG AUTH	650 WEST 100 NORTH, PROVO, UT 846010000	0	23,816
UTAH PAIUTE HOUSING AUTHORITY	600 NORTH 100 EAST, CEDAR CITY, UT 8472000	0	34,800
GRAND COUNTY HOUSING AUTHORITY	PO BOX 729, MOAB, UT 845320000	0	10,800
WEST VALLEY CITY HOUSING AUTHORITY	3600 CONSTITUTION BLVD, WEST VALLEY CITY, UT 8.	0	27,286
CEDAR CITY HOUSING AUTHORITY	PO BOX 1721, CEDAR CITY, UT 8472100	0	26,000
PORTSMOUTH REDEVELOPMENT & H/A	339 HIGH STREET, P.O. BOX 1098, PORTSMOUTH, VA 2370500.	0	25,528
CUMBERLAND PLATEAU REGIONAL H/A	P.O. BOX 1328, LEBANON, VA 242660000, MEMORIAL DRIVE.	0	28,380
LEE COUNTY HOUSING AUTHORITY	P.O. BOX 665, JONESVILLE, VA 2426300	0	21,451
LEE COUNTY HOUSING AUTHORITY	P.O. BOX 665, JONESVILLE, VA 2426300	0	7,149
COUNTY OF ALBEMARLE/DEPT. OF FINANCE	401 MCINTIRE ROAD, CHARLOTTESVILLE, VA 22	0	35,850
CITY OF VIRGINIA BEACH	MUNICIPAL CENTER, VIRGINIA BEACH, VA 234	0	7,149
CITY OF VIRGINIA BEACH	MUNICIPAL CENTER, VIRGINIA BEACH, VA 234	0	21,455
BURLINGTON HOUSING AUTHORITY	230 ST PAUL STREET, BURLINGTON, VT 0540100	0	30,354
BARRE HOUSING AUTHORITY	455 NORTH MAIN STREET, BARRE, VT 056410000	0	20,800
HA COUNTY OF CLALLAM	2603 SOUTH FRANCIS, PORT ANGELES, WA 98362	0	38,318
HA CITY OF KENNEWICK	421 S TACOMA, KENNEWICK, WA 99336000	0	36,000
HA OF GRANT COUNTY	1139 LARSON BLVD, MOSES LAKE, WA 9883700	0	35,600
KITSAP COUNTY CONSOLIDATED H.A	9265 BAYSHORE DR NW, SILVERDALE, WA 9838300	0	38,978
WENATCHEE HOUSING AUTHORITY	236 N MISSION, WENATCHEE, WA 98801000	0	29,464
HOUSING AUTHORITY CITY OF RICHLAND	PO BOX 190, RICHLAND, WA 993520000	0	33,927
HSG AUTHORITY OF JEFFERSON COUNTY	802 SHERIDAN 3RD FLOOR, PORT TOWNSEND, WA 9836.	0	24,372
DUNN COUNTY HOUSING AUTH	525 2ND ST., GLENWOOD CITY, WI 5401	0	18,081
BENWOOD HOUSING AUTHORITY	13TH AND HIGH STREETS, BENWOOD, WV 260310000.	0	26,400
ROCK SPRINGS HSG AUTHORITY	212 D STREET, ROCK SPRINGS, WY 82901	0	20,000
CASPER HSG AUTH	1985 EAST A STREET, CASPER, WY 826010000	0	16,088
FSS SERVICE COORDINATORS—VOUCHER PROGRAM			
HA LEE COUNTY	14170 WARNER CIRCLE NW, NORTH FORT MYERS, FL 33903.	0	29,072
NEK–CAP, INC	PO BOX 380, HIAWATHA, KS 664340000	0	28,068
SINN PARISH POLICE JURY	PO BOX 951, WINNFIELD, LA 714830000	0	26,089
WINN PARISH POLICE JURY	PO BOX 951, WINNFIELD, LA 714830000	0	26,872
ATTLEBORO HSG AUTHORITY	37 CARLON ST, ATTLEBORO, MA 027030000	0	22,629
ATTLEBORO HSG AUTHORITY	37 CARLON ST, ATTLEBORO, MA 027030000	0	21,970
BOYNE CITY HSG CM	829 SOUTH PARK STREET, BOYNE CITY, MI 497120000.	0	29,244
DEARBORN HEIGHTS HOUSING COMMISSION	26155 RICHARDSON ST., DEARBORN HEIGHTS, MI 48127.	0	27,851
HA ROCKY MOUNT	PO BOX 4717, ROCKY MOUNT, NC 278030000	0	25,915
HA COUNTY OF WAKE	PO BOX 368, ZEBULON, NC 275970368	0	22,238
MACON PROGRAM FOR PROGRESS	PO BOX 700, FRANKLIN, NC 287340000; 38 ½ E MAIN STREET.	0	13,885
BLAIR HOUSING AUTHORITY	758 SOUTH 16TH STREET, BLAIR, NE 680080000	0	13,596
THE MEIGS MHA	237 RACE STREET, MIDDLEPORT, OH 457600000	0	10,331
VINTON METROPOLITAN H.A.	P.O. BOX 487, MCARTHUR, OH 456510000	0	30,851
WAYNESBORO REDEVELOPMENT & H/A	1700 NEW HOPE ROAD, WAYNESBORO, VA 2600000	0	26,626
HA OF ISLAND COUNTY	P.O. BOX 156, COUPEVILE, WA 982390000	0	30,630
HOUSING AUTH. CITY OF SUPERIOR	1219 N. 8TH STREET, SUPERIOR, WI 548800000	0	16,752
EAU CLAIRE COUNTY HA	731 OXFORD AVE. RM A180, EAU CLAIRE, WI 547030000.	0	29,101
HSG AUTH OF THE CITY OF APPLETON	525 NORTH ONEIDA STREET, APPLETON, WI 549110000.	0	29,417
CITY OF JANESVILLE	ATTENTION: MS. JUDY ADLER, JANESVILLE, WI 535450000, COMMUNITY DEVELOPMENT DEPT.	0	27,392

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
WAUKESHA COUNTY	515 WEST MORELAND BLVD, WAUKESHA, WI 531882428.	0	32,955
NEWCAP, INC.	1201 MAIN STREET, OCONTO, WI 541530000	0	30,612
HA LEE COUNTY	14170 WARNER CIRCLE NW, NORTH FORT MYERS, FL 3.	0	28,225
NEK–CAP, INC	PO BOX 380, HIAWATHA, KS 664340000	0	27,250
BOYNE CITY HSG CM	829 SOUTH PARK STREET, BOYNE CITY, MI 4971200	0	28,392
DEARBORN HEIGHTS HOUSING COMMISSION	26155 RICHARDSON ST., DEARBORN HEIGHTS, MI 4	0	27,040
HA ROCKY MOUNT	PO BOX 4717, ROCKY MOUNT, NC 278030	0	25,160
HA COUNTY OF WAKE	PO BOX 368, ZEBULON, NC 275970368	0	21,590
MACON PROGRAM FOR PROGRESS	PO BOX 700, FRANKLIN, NC 287340000	0	13,481
BLAIR HOUSING AUTHORITY	758 SOUTH 16TH STREET, BLAIR, NE 680080000	0	13,200
THE MEIGS MHA	237 RACE STREET, MIDDLEPORT, OH 4576000	0	10,030
VINTON METROPOLITAN H.A.	P.O. BOX 487, MCARTHUR, OH 456510000	0	29,952
WAYNESBORO REDEVELOPMENT & H/A	1700 NEW HOPE ROAD, WAYNESBORO, VA 2298025	0	19,388
WAYNESBORO REDEVELOPMENT & H/A	1700 NEW HOPE ROAD, WAYNESBORO, VA 2298025	0	6,462
HA OF ISLAND COUNTY	P.O. BOX 158, COUPEVILLE, WA 9823900	0	29,738
HOUSING AUTH. CITY OF SUPERIOR	1219 N. 8TH STREET, SUPERIOR, WI 548800000	0	16,264
EAU CLAIRE COUNTY HA	731 OXFORD AVE. RM A180, EAU CLAIRE, WI 5470300.	0	28,253
HSG AUTH OF THE CITY OF APPLETON	525 NORTH ONEIDA STREET, APPLETON, WI 549110000.	0	28,560
CITY OF JANESVILLE	ATTENTION: MS JUDY ADLER, JANESVILLE, WI 5354500, COMMUNITY DEVELOPMENT D.	0	26,594
WAUKESHA COUNTY	515 WEST MORELAND BLVD, WAUKESHA, WI 531882428.	0	31,995
NEWCAP, INC.	1201 MAIN STREET, OCONTO, WI 541530000	0	29,720
HEADQUARTERS RESERVE METRO—CERTIFICATE PROGRAM			
HOUSING AUTHORITY OF THE COUNTY OF COOK	59 E VAN BUREN, SUITE 1802, CHICAGO, IL 606050000.	105	5,024,000
LAKE COUNTY HA	33928 N ROUTE 45, GRASLAKE, IL 600300000	15	745,025
ELGIN HA	1845 GRANDSTAND PLACE, SUITE 1, ELGIN, IL 601230000.	20	1,010,500
LEADERSHIP COUNCIL MET	LEADERSHIP COUNCIL METRO OPEN, 401 S STATE ST, SUITE 860 CHICAGO, IL 606051289,.	10	475,750
HOLYOKE HOUSING AUTHORITY	475 MAPLE STREET, HOLYOKE, MA 010400000	140	3,201,900
MELROSE HAG AUTHORITY	910 MAIN ST, MELROSE, MA 021780000	10	249,390
HNG AUTH PRINCE GEORGES CO	9400 PEPPERCORN PLACE, LANDOVER, MD 207850000.	95	2,479,500
ST. LOUIS HOUSING AUTHORITY	4100 LINDELL BLVD, ST. LOUIS, MO 631080000	105	3,759,525
NEW YORK STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY 104580000	1	16,422
HIDEALGO COUNTY HOUSING AUTHORITY	1800 N. TEXAS BLVD., WESLACO, TX 785960000	4	117,840
CITY OF NEW YORK	100 GOLD STREET ROOM 8Q3, NEW YORK, NY 100380000.	250	11,100,000
INCREMENTAL—CERTIFICATE PROGRAM			
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA 303650000.	250	3,961,036
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	1500	30,794,400
NEW ORLEANS HOUSING AUTHORITY	918 CARONDELET STREET, NEW ORLEANS, LA 701300000.	376	4,661,916
DETROIT HOUSING DEPARTMENT	2211 ORLEANS, DETROIT, MI 48207	274	3,194,664
WAYNE COUNTY	RAYMOND J. WOJTOWICZ, DETROIT, MI 482262942, WAYNE COUNTY TREASURER.	50	1,819,215
SAN ANTONIO HOUSING AUTHORITY	PO DRAWER 1300, SAN ANTONIO, TX 782950000	250	3,290,868
MAINSTREAM HOUSING—VOUCHER PROGRAM			
LAKEWOOD HOUSING AUTHORITY	445 S. ALLISON PARKWAY, LAKEWOOD, CO 802260000.	50	640,950
MONTGOMERY CO HOUSING AUTHORITY	1400 DETRICK AVENUE, KENSINGTON, MD 208950000.	75	2,183,100
MINNEAPOLIS PHA	1001 WASHINGTON AVE NORTH, MINNEAPOLIS, MN 55401043.	92	1,359,300
DULUTH HRA	222 EAST 2ND ST, DULUTH, MN 558160900, PO BOX 16900.	20	199,980
HA OF ROCHESTER	140 WEST AVENUE, ROCHESTER, NY 146110000	20	295,920

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
BUCKS COUNTY HOUSING AUTHORITY	POST OFFICE BOX 1329, DOYLESTOWN, PA 18901967.	60	1,137,735
PROVIDENCE H A	100 BROAD ST, PROVIDENCE, RI 029030000	75	1,383,525
MAINSTREAM HOUSING—CERTIFICATE PROGRAM			
MONTGOMERY CO HOUSING AUTHORITY	10400 DETRICK AVENUE, KENSINGTON, MD 208950000.	75	1,879,575
HA OF ROCHESTER	140 WEST AVENUE, ROCHESTER, NY 146110000	20	280,200
YOUNGSTOWN MET.HOUSING AUTHORITY	118 EAST WOOD ST., YOUNGSTOWN, OH 445030000	45	624,375
PROVIDENCE H A	100 BOARD ST, PROVIDENCE, RI 029030000	75	1,434,357
SAN ANTONIO HOUSING AUTHORITY	PO DRAWER 1300, SAN ANTONIO, TX 782950000	50	663,498
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 752120000	80	1,214,640
PORTABILITY FEES—VOUCHER PROGRAM			
MUNICIPALITY OF SAN JUAN	G PO BOX 70179, SAN JUAN, PR 009360000	0	16,750
MUNICIPALITY OF CAGUAS	PO BOX 7889, CAGUAS, PR 007260000	0	1,500
MUNICIPALITY OF PONCE	PO BOX 1709, PONCE, PR 007331709	0	3,750
MUNICIPALITY OF MAYAGUEZ	BOX 447 MAYAGUEZ MUNICIPIO, RQ 00709	0	250
MUNICIPALITY OF BAYAMON	PO BOX 2988, BAYAMON MUNICIPIO, RQ 00620	0	3,500
MUNICIPALITY OF AGUADILLA	PO BOX 1008 VS, AGUADILLA, PR 006050000	0	500
MUNICIPALITY OF DORADO	PO BOX 588, DORADO, PR 006460000	0	1,000
MUNICIPALITY OF GUAYNABO	BOX 7885, GUAYNABO MUNICIPIO, RQ 00651788	0	500
MUNICIPALITY OF GUAYAMA	BOX 360, GUAYAMA, PR 006550000	0	250
MUNICIPALITY OF CAYEY	PO BOX 371330, CAYEY, P.R., RQ 007370000	0	1,250
MUNICIPALITY OF PENUELAS	CITY HALL, PENUELAS, PR 000724000	0	500
MUNICIPALITY OF ARECIBO	PO BOX 1086, ARECIBO, PR 006130000	0	750
MUNICIPALITY OF TOA BAJA	BOULEVARD BRUNO CRUZ #72, TOA BAJA, PR 007598090.	0	2,250
MUNICIPALITY OF VEGA BAJA	BOX 4555, VEGA BAJA, PR 007640000	0	500
MUNICIPALITY OF UTUADO	PO BOX 190, UTUADO, PR 007610000	0	750
MUNICIPALITY OF COMERIO	PO BOX 1108, COMERIO, RQ 007821108	0	250
MUNICIPALITY OF FAJARDO	PO BOX 1049, FAJARDO, PR 007380000	0	250
MUNICIPALITY OF GURABO	SANTIAGO ST NO 105, GURABO, PR 007780000	0	250
MUNICIPALITY OF ANASCO	PO BOX 1385, ANASCO, P.R., PR 006100000	0	250
MUNICIPALITY OF NAGUABO	PO BOX 40, NAGUABO MUNICIPIO, RQ 00718	0	250
MUNICIPALITY OF CIALES	BOX 1408, CIALES, PR 006380000	0	500
MUNICIPALITY OF CIALES	BOX 1408, CIALES, PR 006380000	0	500
MUNICIPALITY OF VEGA ALTA	BOX 292, VEGA ALTA, PR 007620000	0	250
MUNICIPALITY OF PATILLAS	BOX 698, PATILLAS, PR 007230000	0	250
MUNICIPALITY OF SANTA ISABEL	PO BOX 725, SANTA ISABEL, PR 007570000	0	500
MUNICIPALITY OF CIDRA	BOX 729, CIDRA, P.R., PR 007390000	0	500
MUNICIPALITY OF SALINAS	BOX 1149, SALINAS, PR 007510000	0	250
MUNICIPALITY OF CEIBA	PO BOX 224, CEIBA, PR 006350000	0	250
MUNICIPALITY OF FLORIDA	BOX 257, FLORIDAS, PR 006500000	0	500
Municipio De Juncos	Apartado 1706, JUNCOS, PR 007770000	0	500
VIRGIN ISLANDS HOUSING AUTHORITY	PO BOX 7668, ST. THOMAS, VI 008017668	0	1,000
PORTABILITY FEES—CERTIFICATE PROGRAM			
HUD/SECT 8 CONTRACT	77 WEST JACKSON, CHICAGO, IL 60604	0	1,000,000
MUNICIPALITY OF SAN JUAN	G PO BOX 70179, SAN JUAN, PR 009360000	0	11,000
MUNICIPALITY OF CAGUAS	PO BOX 7889, CAGUAS, PR 007260000	0	1,000
MUNICIPALITY OF BAYAMON	PO BOX 2988, BAYAMON MUNICIPIO, RQ 00620	0	1,250
MUNICIPALITY OF CAROLINA	PO BOX 8, CAROLINA, PR 009850008	0	250
MUNICIPALITY OF GUAYNABO	BOX 7885, GUAYNABO MUNICIPIO, RQ 00651788	0	250
MUNICIPALITY OF VEGA BAJA	BOX 4555, VEGA BAJA, PR 007640000	0	250
MUNICIPALITY OF SABANA GRANDE	PO BOX 356, SABANA BRANDE, PR 006370000	0	250
MUNICIPALITY OF ADJUNTAS	Calle Rius Rivera-Esquina San, ADJUNTAS, PR 006010000, JOAQUIN, PO BOX 1009.	0	250
MUNICIPALITY OF NARANJITO	BOX 53, NARANJITO, PR 007190000	0	250
HEADQUARTERS RESERVE—NONMETRO—VOUCHER PROGRAM			
COUNTY OF HAWAII	HILO, HI 967200000, DEPT OF HSG AND COMM DEV	150	3,009,150
NACOGDOCHES HSG AUTHORITY	715 SUMMIT ST, NACOGDOCHES, TX 759610	11	315,205
HEADQUARTERS RESERVE—METRO—VOUCHER PROGRAM			
CITY OF SAN BUENAVENTURA HSG AUTH	PO BOX 1648, VENTURA, CA 930020000	50	2,153,950
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	500	19,882,500

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 752120000	1100	39,484,500
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 752120000	300	10,366,500
GARLAND (CITY OF)	PO BOX 469002, GARLAND, TX 750469002	89	1,741,842
CITY OF FRESNO HSG AUTH	PO BOX 11985, FRESNO, CA 937760000		
COUNTY OF SONOMA	SANTA ROSA, CA 9540300, 1440 GUERNEVILLE ROAD.		
VETERANS AFFAIRS SUPPORTIVE HOUSING—VOUCHER PROGRAM			
AK HSG FINANCE CORP	PO BOX 101020, ANCHORAGE, AK 995101020	25	689,775
NORTH LITTLE ROCK HOUSING AUTHORITY	PO BOX 516, NORTH LITTLE ROCK, AR 72115	25	529,500
COLORADO DEPT OF INSTITUTION	3550 OXFORD, DENVER, CO 802260000	50	1,221,530
H/A DEKALB COUNTY	PO BOX 1627, DECATUR, GA 300310000	25	885,000
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPOLIS, IN 46204.	25	779,780
JEFFERSON PARISH HOUSING AUTHORITY	1718 BETTY STREET, MARRERO, LA 700720000	25	726,825
ALBANY HSG. AUTH.	4 LINCOLN SQUARE, ALBANY, NY 122020000	25	609,625
HSG AUTH OF PORTLAND	135 SW ASH STREET, PORTLAND, OR 972040000	25	582,625
HA & COMMUNITY SVS AGENCY LANE CO	177 DAY ISLAND RD, EUGENE, OR 974010000	25	636,720
FORT WORTH HOUSING AUTHORITY	PO BOX 430, FORT WORTH, TX 761010000	25	605,225
HOUSTON HOUSING AUTHORITY	2640 FOUNTAIN VIEW, HOUSTON, TX 770570000	50	1,331,000
SALT LAKE COUNTY	1962 S. 200 E., SALT LAKE CITY, UT 841150000	25	562,275
PIERCE COUNTY HA	P.O. BOX 45410, TACOMA, WA 984450410	50	1,182,500
CITY OF LOS ANGELES HSG AUTH	2600 WILSHIRE BLVD., LOS ANGELES, CA 900570	55	2,117,775
COUNTY OF SAN BERNARDINO HSG AUTH	1053 NORTH D STREET, SAN BERNARDINO, CA 924	25	670,780
MONTGOMERY CO HOUSING AUTHORITY	10400 DETRICK AVENUE, KENSINGTON, MD 2089500	25	1,065,555
NEW YORK CITY HOUSING AUTHORITY	250 BROADWAY, NEW YORK, NY 100070000	100	4,064,500
HOPE ELDERLY INDEPENDENCE—CERTIFICATE PROGRAM			
WESTBROOK HOUSING AUTHORITY	P.O. BOX 349, WESTBROOK, ME 040920000	150	5,440,500
PROPERTY DISPOSITION—CERTIFICATE PROGRAM			
OAKLAND HOUSING AUTHORITY	1619 HARRISON ST, OAKLAND, CA 946120000	45	826,470
D.C. HOUSING AUTHORITY	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 200027599.	61	2,494,365
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA 303650000.	224	8,672,520
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 606020000	51	2,067,960
NEW ORLEANS HOUSING AUTHORITY	918 CARONDELET STREET, NEW ORLEANS, LA 701300000.	75	2,131,200
NEW ORLEANS HOUSING AUTHORITY	918 CARONDELET STREET, NEW ORLEANS, LA 701300000.	80	1,816,000
JEFFERSON PARISH HOUSING AUTHORITY	1718 BETTY STREET MARRERO, LA 700720000	60	1,717,200
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY.	LANSING, MI 489090000 401 S. WASHINGTON SQUARE.	14	467,240
ST. LOUIS HOUSING AUTHORITY	4100 LINDELL BLVD, ST. LOUIS, MO 631080000	63	2,014,395
ST. LOUIS HOUSING AUTHORITY	4100 LINDELL BLVD, ST. LOUIS, MO 631080000	30	816,510
ST. LOUIS HOUSING AUTHORITY	4100 LINDELL BLVD, ST. LOUIS, MO 631080000	140	3,685,090
KANSAS CITY HOUSING AUTHORITY	299 PASEO, KANSAS CITY, MO 641060000	39	882,840
KANSAS CITY HOUSING AUTHORITY	299 PASEO, KANSAS CITY, MO 641060000	36	985,095
KANSAS CITY HOUSING AUTHORITY	299 PASEO, KANSAS CITY, MO 641060000	8	218,910
ST. LOUIS COUNTY HOUSING AUTHORITY	8865 NATURAL BRIDGE, ST. LOUIS, MO 631210000	172	5,154,205
COLUMBIA HOUSING AUTHORITY	301 N PROVIDENCE RD, COLUMBIA, MO 652030000	94	1,970,005
HA DURHAM	PO BOX 1726, DURHAM, NC 277020000	20	598,065
CITY OF LAS VEGAS HSG AUTH	PO BOX 1897, LAS VEGAS, NV 891251897	100	4,318,500
CITY OF LAS VEGAS HSG AUTH	PO BOX 1897, LAS VEGAS, NV 891251897	45	1,755,000
NEW YORK CITY HOUSING AUTHORITY	250 BROADWAY, NEW YORK, NY 100070000	4	226,700
NEW YORK CITY HOUSING AUTHORITY	250 BROADWAY, NEW YORK, NY 100070000	98	4,560,210
CINCINNATI METROPOLITAN HSG. AUTH.	16 WEST CENTRAL PARKWAY, CINCINNATI, OH 452100000.	136	4,376,220
CITY OF SPARTANBURG H/A	PO BOX 2828, SPARTANBURG, SC 293042828	25	652,500
HOUSTON HOUSING AUTHORITY	2640 FOUNTAIN VIEW, HOUSTON, TX 770570000	167	5,519,100
BAYTOWN HOUSING AUTHORITY	805 NAZRO STREET, BAYTOWN, TX 77520000	68	2,435,700
GARLAND (CITY OF)	PO BOX 469002, GARLAND, TX 750469002	141	4,938,300
HARRIS COUNTY HSG AND COMMUNITY DEV	3100 TIMMONS LANE SUITE 200, HOUSTON, TX 770270000.	105	3,285,780
DEEP EAST TX COUNCIL OF GOVTS	274 E LAMAR, JASPER, TX 759510000	100	2,640,420
DALLAS COUNTY	411 ELM ST, DALLAS, TX 752020000	101	3,898,560
TEXAS DEPT HSG & COMMUNITY AFFAIRS	PO BOX 13166, AUSTIN, TX 787113166	120	3,809,880

APPENDIX A—Continued

Name of agency	Address	No. of units	Budget authority
CITY OF LAS VEGAS HSG AUTH	PO BOX 1897, LAS VEGAS, NV 89125189	85	4,294,860
NEW YORK CITY HOUSING AUTHORITY	250 BROADWAY, NEW YORK, NY 100070000	9	461,040
OKLAHOMA HOUSING FINANCE AGENCY	PO BOX 26720, OKLAHOMA CITY, OK 7312	15	381,115
NEWPORT NEWS REDEVELOPMENT & H/A	PO BOX 77, NEWPORT NEWS, VA 23607	49	1,686,455
PROPERTY DISPOSITION—VOUCHER PROGRAM			
CITY OF HARTFORD	550 MAIN ST, HARTFORD, CT 061030000	100	1,223,808
FORT DODGE HOUSING AGENCY	700 SOUTH 17TH STREET, FORT DODGE, IA 505010000.	34	541,450
HOUSING AUTHORITY OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD 212020000	151	5,495,710
ST. LOUIS COUNTY HOUSING AUTHORITY	8865 NATURAL BRIDGE, ST. LOUIS, MO 631210000	83	3,058,370
LINCOLN COUNTY PUB HSG AGENCY	LINCOLN COUNTY PHA, BOWLING GREEN, MO 83334, 16 NORTH COURT.	156	4,340,830
PUERTO RICO HOUSING FINANCE CORP	CALL BOX 71361–GPO, SAN JUAN, PR 009360000	77	2,330,685
EAST TN HUMAN RESOURCE AGENCY	408 N CEDAR BLUFF ROAD, KNOXVILLE, TN 379230000, SUITE 400.	93	2,585,995
BEXAR COUNTY HSG AUTHORITY	1405 N MAIN, SUITE 240, SAN ANTONIO, TX 782120000.	4	120,010
NEWPORT NEWS REDEVELOPMENT & H/A	PO BOX 77, NEWPORT NEWS, VA 236070077	137	5,297,075
HOUSING AUTHORITY OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD 21202000	5	178,875
NEWPORT NEWS REDEVELOPMENT & H/A	PO BOX 77, NEWPORT NEWS, VA 23607	250	10,039,600

[FR Doc. 96–2375 Filed 2–5–96; 8:45 am]
BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination Against Federal Acknowledgment of the Ramapough Mountain Indians, Inc.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Determination.

SUMMARY: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 DM 8.

Pursuant to 25 CFR 83.10(m), notice is hereby given that the Assistant Secretary declines to acknowledge that the Ramapough Mountain Indians, Inc. (RMI), c/o Mr. Ronald Van Dunk, 200 Rte. 17 So., P.O. Box 478, Mahwah, New Jersey 07430–0478, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not satisfy three of the criteria set forth in 25 CFR 83.7, namely: 83.7(b), 83.7(c), and 83.7(e).

DATES: This determination is final and is effective May 6, 1996, pursuant to 25 CFR 83.10(l)(4), unless a request for reconsideration is filed pursuant to 25 CFR 83.11.

A notice of the Proposed Finding to decline to acknowledge the Ramapough Mountain Indians, Inc. was published in the **Federal Register** on December 8, 1993 (58 FR 64662, Dec. 8, 1993). The original 180-day period provided for in the regulations for comment on the Proposed Finding closed April 6, 1994. At the petitioner's request, it was extended until October 7, 1994; again until April 7, 1995; and again until May 8, 1995. The 60-day period provided for in the regulations (25 CFR Part 83.10(k)) for the petitioner to respond to third-party comments ended July 10, 1995. This determination is made following a review of the Ramapough Mountain Indians, Inc.'s response to the Proposed Finding to decline to acknowledge, of the public comments on the Proposed Finding to decline to acknowledge, and of the Ramapough Mountain Indians, Inc.'s response to the public comments.

The Proposed Finding to decline to acknowledge the Ramapough Mountain Indians, Inc. was issued under the 1978 Federal acknowledgment regulations (43 FR 39361–39364, Sept. 5, 1978). On April 22, 1994, the Ramapough Mountain Indians, Inc., requested that the final determination be issued under the 1994 revised Federal acknowledgment regulations. This Final Determination is issued under the revised regulations.

This determination is final and will become effective 90 days from the date of publication, unless a request for reconsideration is filed pursuant to § 83.11. The petitioner or any interested party may file a request for reconsideration of this determination with the Interior Board of Appeals (§ 83.11(a)(1)). The petitioner's or interested party's request must be received no later than 90 days after publication of the Assistant Secretary's determination in the **Federal Register** (§ 83.11(a)(2)).

Because of changes in the revised regulations and new evidence located by the Government's researchers, the conclusions for this Final Determination are slightly different from those reached in the Proposed Finding under criteria 83.7(a), 83.7(b), and 83.7(c). The Proposed Finding determined that the RMI did not meet criterion 83.7(a). There was no evidence that the petitioning group had been identified "from historical times until the present on a substantially continuous basis, as 'American Indian' or 'aboriginal'" (25 CFR 83.7(a), 1978). The 1994 revision of the 25 CFR Part 83 regulations was designed to reduce the burden of proof on petitioners. Identification as an Indian entity by external observers from first sustained contact with non-Indians until 1900 is no longer required by criterion 83.7(a). Under the 1994 regulations, the RMI meets criterion 83.7(a), identification by external observers as an American Indian entity, for the period since 1900. This finding is based upon a determination by the Assistant Secretary—Indian Affairs that consistent scholarly and popular identification of a group as a tri-racial isolate believed to have an American Indian component shall constitute evidence for identification of the group as an American Indian entity.

The Proposed Finding determined that the petitioner's ancestral group did show community for the period 1870–1950, based on extensive endogamy and geographical residential concentration.

However, under the 1978 regulations, this was not adequate to meet criterion 83.7(b), as the 1978 wording required that there be a distinct "community *viewed as American Indian*" [emphasis added]. This wording was removed in the 1994 revision of criterion 83.7(b), which now requires only the existence of a distinct community. The regulations continue to require, under both criteria 83.7(b) and 83.7(c), that a petitioning group show continuity from the time of first sustained contact with non-Indians until the present.

Under the provisions of the revised regulations, the Ramapough Mountain Indians, Inc. has been found to meet criteria 83.7(b) and 83.7(c) for a limited period of time, from 1870 until about 1950. No new evidence concerning criterion 83.7(c) was submitted for the final determination. However, under a provision of the 1994 revised regulations that was designed to reduce the burden of proof on petitioners, it is automatically assumed that when a group meets criterion 83.7(b) with a sufficient level of evidence (endogamy of greater than 50 percent; geographically proximate residence of greater than 50 percent, etc.), it also will have met criterion 83.7(c) for the same period of time. Based on this linkage between the two criteria, it is determined that the Ramapough Mountain Indians, Inc. has met criterion 83.7(c) for the period 1870–1950.

The modifications under the revised regulations do not change the ultimate finding concerning criteria 83.7(b) and 83.7(c), however, since the requirement of continuous existence as a social community (83.7(b)) and continuous exercise of political influence or authority over the group's members (83.7(c)), from the time of first sustained contact of the historical tribe, or tribes which amalgamated and functioned as a single political entity, with non-Indians until the present, remains in force. Meeting a criterion for a limited period is not sufficient to meet the criterion overall, because of the requirement of continuous existence. No adequate evidence has been submitted to show the continuous existence of a community from first sustained contact with non-Indians until 1870, or from 1950 to the present. Therefore, the petitioner does not meet criterion 83.7(b). No new evidence was submitted to show the continuous exercise of political influence or authority within the group from first sustained contact with non-Indians until 1870, or from 1950 to the present. Therefore, the petitioner does not meet criterion 83.7(c).

The Proposed Finding concluded that, "No evidence was found to substantially demonstrate Indian ancestry for the RMI membership which was derived from a historic tribe. It also could not be established that there is any Indian ancestry from isolated Indian individuals, and there is virtually no documentary evidence from historical records for such ancestry." No new evidence was submitted pertaining to criterion 83.7(e), descent of the petitioner's membership from a historical Indian tribe, or from tribes which amalgamated and functioned as a single political unit. The petitioner's response presented a re-analysis of the same evidence considered in the Proposed Finding to decline to acknowledge. The conclusion that the origins and parentage of the earliest generation of the petitioner's documented ancestors remain unknown is not changed in this final determination. Therefore, the Ramapough Mountain Indians, Inc., does not meet criterion 83.7(e).

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–1822 Filed 2–5–96; 8:45 am]
BILLING CODE 4310–02–P

Indian Gaming, Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendment to Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment II to the Tribal-State Compact for Regulation of Class III Gaming Between the Cow Creek Band of Umpqua Tribe of Indians and the State of Oregon, which was executed on October 27, 1995.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: December 14, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–2451 Filed 2–5–96; 8:45 am]
BILLING CODE 4310–02–M

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approval for Blackjack Amendment to Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts or considered approved for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, is publishing an Amendment to the Tribal-State Compact For Regulation of Class III Gaming Between the Coquille Indian Tribe and the State of Oregon, which is considered approved, but only to the extent the amendment is consistent with the provisions of the Indian Gaming Regulatory Act.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior neither approved nor disapproved the Coquille Indian Tribe's Blackjack Amendment within the 45-day statutory deadline set forth in 25 U.S.C. 2710 (d)(8)(C). The deadline expired on January 4, 1996. Thus, the Coquille Indian Tribe's Blackjack Amendment is considered approved as specified in 25 U.S.C. 2710 (d)(8)(C), to the extent that is consisting with the Indian Gaming Regulatory Act.

DATES: This action is effective February 6, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: January 29, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–2452 Filed 2–5–96; 8:45 am]
BILLING CODE 4310–02–M

Indian Gaming, Oregan

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approval for Amendment I to Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—

Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment I to the Tribal-State Compact For Regulation of Class III Gaming Between the Confederated Tribes of Siletz Indians Tribe and the State of Oregon, which was executed on October 27, 1995.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: January 19, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–2450 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming; Oklahoma.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Miami Tribe—Modoc Tribe and the State of Oklahoma Gaming Compact, which was executed on September 5, 1995.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: December 19, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–2449 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming; Nevada

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts or considered approved for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, is publishing a Compact For Regulation of Class III Gaming Between the Reno-Sparks Indian Colony and the State of Nevada, which is considered approved, but only to the extent the Compact is consistent with the provisions of the Indian Gaming Regulatory Act.

SUPPLEMENTAL INFORMATION: The Secretary of the Interior neither approved nor disapproved the Compact within the 45-day statutory deadline set forth in 25 U.S.C. § 2710 (d)(8)(C). The deadline expired on January 10, 1996. Thus, the Reno-Sparks Indian Colony Class III Gaming Compact is considered approved as specified in 25 U.S.C. § 2710 (d)(8)(C), to the extent that it is consistent with the Indian Gaming Regulatory Act.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: January 29, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–2448 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming, Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendment to Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment I to the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon Gaming Compact, which was executed on December 12, 1995.

EFFECTIVE DATES: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

DATED: January 26, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs,

[FR Doc. 96–2447 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management Alaska

[AK–962–1410–00–P]

Notice for Publication F–19154–60; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to NANA Regional Corporation, Incorporated, for approximately 22,357 acres. The lands involved are in the vicinity of Noorvik, Alaska, and are described as being within T. 16 N., R. 10 W., Kateel River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 7, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 96–2425 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–JA–P

[AK–962–1410–00–P]

Notice for Publication AA–6980–C; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Huna Totem Corporation for approximately 120 acres. The lands involved are in the vicinity of Hoonah, Alaska.

Copper River Meridian, Alaska

T. 44 S., R. 62 E.
Secs. 2 and 11.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the DAILY SITKA SENTINEL. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 7, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia K. Underwood,

Land Law Examiner, Branch of Gulf Rim Adjudication.

[FR Doc. 96–2424 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–JA–P

[NV–910–1020–00]

Notice of Intent To Modify Resource Management Plans and Other Planning Documents and To Prepare and Environmental Assessment or Environmental Impact Statement To Adopt Standards for Rangeland Health and Guidelines for Grazing Management in Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice of Intent to Modify.

SUMMARY: The Bureau of Land Management (BLM) in Nevada intends to modify, if necessary, existing land use plans, including Resource Management Plans (RMPs) and Management Framework Plans (MFPs) and to prepare appropriate National Environmental Policy Act (NEPA) analysis for the adoption of Standards for Rangeland Health and Guidelines for Grazing Management as provided for in the BLM's grazing regulations (42 CFR Part 4100). Public comment is sought on the issues to be analyzed, the alternatives that may be considered, the standards and guidelines to be addressed, as well as the level of analysis which would be appropriate under the NEPA.

DATES: Comments will be accepted throughout the process of modifying plans and preparation of NEPA analysis. However, comments received after April 30, 1995 may not be reflected in the alternatives considered in any draft NEPA analysis document.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, Nevada Rangelands Standards and Guidelines Coordinator, Bureau of Land Management, 850 Harvard Way, Reno, NV 89520; Telephone (702) 785–6767.

SUPPLEMENTARY INFORMATION: The BLM's new grazing administration regulations (43 CFR Part 4100), which became effective August 21, 1995, provide for the development of Standards of Rangeland Health and Guidelines for Grazing Administration. In Nevada, BLM intends to develop these standards and guidelines in consultation with the BLM's Resource Advisory Councils. Implementation of Standards and Guidelines may require some form of planning modification, ranging from simple plan maintenance to plan amendment. RMPs and MFPs possibly requiring modification are: Wells RMP, Elko RMP, Sonoma-Gerlach MFP, Paradise-Denio MFP, Lahontan RMP, Reno MFP, Walker RMP, Egan RMP, Schell MFP, Esmerelda-Southern Nye RMP, Caliente MFP, Shoshone-Eureka RMP, Tonopah MFP, Clark County MFP and Nellis Resource Plan. Simultaneous modification of Nevada BLM's planning documents is intended to streamline efforts and to provide for a broader view of rangeland ecosystems.

At this point, it is uncertain what level of plan modification will be needed, if any. Similarly, the level of environmental analysis appropriate under the Council on Environmental Quality's regulations implementing NEPA (40 CFR Part 1500) may vary. Should it be determined that no environmental impact statement is needed, NEPA, analysis will be accomplished through an environmental assessment or an administrative determination.

Public input on Standards and Guidelines for Nevada was received at a series of workshops conducted in early September 1995. Input is also being obtained from Nevada BLM's Sierra Front-Northwestern Great Basin, Mojave-Southern Great Basin and Northeastern Great Basin Resource Advisory Councils.

This notice invites additional public comment on the proposal to modify the affected Resource Management Plans. Public comment is invited on the issues to be addressed and alternatives considered in the proposed environmental impact statement or other NEPA analysis.

Preliminary issues identified include: the effect adoption of standards will have on all uses and users of public lands, the effect adoption of the proposed guidelines will have on grazing management and livestock operations, and the need for flexibility in standards and guidelines.

Three preliminary alternatives have been identified: (1) The continuation of current management as provided for in existing land use plans; (2) the adoption of the fallback standards and guidelines contained in the regulations; and (3) the adoption of standards and guidelines developed locally and in consultation with Nevada BLM's three Resource Advisory Councils.

Dated: January 24, 1996.

Ann J. Morgan,

State Director, Nevada.

[FR Doc. 96–2380 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–HC–M

[NV–930–1430–01; N–57818, N–60555]

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following described public lands in Elko County, Nevada, administered by the Bureau of Land Management, including the mineral estate with no known-value, have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1716).

Mount Diablo Meridian, Nevada

T. 35 N., R. 68 E.,
Sec. 2, lots 1–4, S½N½, S½.
T. 36 N., R. 68 E.,
Sec. 2, lots 1–4, S½NE¼, SE¼NW¼, S½;
Sec. 8, E½;
Sec. 10, All;
Sec. 12, All;
Sec. 14, NE¼, S½;
Sec. 16, NW¼NE¼, S½NE¼, W½, N½SE¼, SW¼SE¼;
Sec. 24, All;
Sec. 26, All;
Sec. 34, All;
Sec. 36, All.
T. 37 N., R. 68 E.,
Sec. 14, All;
Sec. 22, All;
Sec. 24, lots 1–4, W½E½, W½;
Sec. 26, All;
Sec. 28, SE¼;
Sec. 34, lots 1–4, N½, N½S½;

Sec. 36, lots 1–7, W½NE¼, NW¼, N½SW¼, NW¼SE¼.
T. 35 N., R. 69 E.,
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T. 36 N., R. 69 E.,
Sec. 2, lots 3, 4, S½N½;
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 18, lots 1–4, E½, E½W½;
Sec. 30, lots 1–4, E½, E½W½.
T. 37 N., R. 69 E.,
Sec. 18, lots 1, 2, 5–8, E½, E½NW¼;
Sec. 20, All;
Sec. 26, All;
Sec. 30, lots 1–4, E½, E½W½;
Sec. 32, All;
Sec. 34, N½N½, SE¼NE¼, S½SE¼.
Containing 16,626.4 acres, more or less.

In exchange for these lands, the United States will acquire private lands within Elko County from Simplot Land and Cattle Company, located in the following townships:

Mount Diablo Meridian, Nevada

T. 34 N., R. 68 E.
T. 35 N., R. 68 E.
T. 34 N., R. 69 E.
T. 35 N., R. 69 E.
T. 36 N., R. 69 E.
T. 37 N., R. 69 E.
T. 35 N., R. 70 E.
T. 36 N., R. 70 E.
T. 37 N., R. 70 E.

A more detailed legal description can be found in the subject case file at the Elko District office. These private offered lands comprise 16,666.389 acres, more or less, and include three existing water rights (certificates 12368, 12641, and 12642) associated with the lands. The mineral estate of the private offered lands, owned by third parties, will not be conveyed under this action.

FOR FURTHER INFORMATION CONTACT: Further information concerning the exchange, including the environmental assessment, is available for review at the Bureau of Land Management, Elko District Office, 3900 E. Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to consolidate the public land ownership pattern in this area to achieve a configuration more conducive to natural resource management by both parties. The resulting pattern of public land ownership will better support the BLM's objective of implementing management on an ecosystem-wide basis, will eliminate or reduce management complexities caused by intermingled ownership of parcels in the area, and will contribute toward the implementation of the Wells Resource Area Resource Management Plan (RMP) of July, 1985. Consummation of the exchange will serve to acquire private lands which have high values for wildlife, cultural resources, historical, recreation, threatened, endangered, or candidate species, and water resources. The value of the lands to be exchanged is equal.

The patent, when issued, will contain the following reservations to the United States:

1. Oil and gas. A more detailed description of this reservation, which will be included in the patent document, is available for review at the Elko District office.

2. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890 (43 U.S.C. 945).

The patent will be subject to:

1. An easement for roads and public utilities in favor of Elko County on a strip of land thirty feet in width along the exterior boundary of each parcel.

2. The following rights-of-way granted to the right-of-way holders, their successors, or assigns:

—N–39088, a powerline right-of-way held by Wells Rural Electric Company, granted pursuant to the Act of October 21, 1976;
—N–41038, a powerline right-of-way held by Raft River Electric Company, granted pursuant to the Act of October 21, 1976;
—N–47793, a telephone line right-of-way held by Beehive Telephone Company, granted pursuant to the Act of October 21, 1976;
—N–52499, an access road right-of-way held by Elko County, granted pursuant to the Act of October 21, 1976;
—N–60439, a range improvement fence right-of-way reservation held by the United States, granted pursuant to the Act of October 21, 1976.

The conveyance of public lands in T. 37 N., R. 69 E., sec. 18 will be made under the conditions of a conservation easement in order to protect the integrity of a wildlife improvement project and to preserve habitat characteristics within the section by precluding surface development for a period of thirty years.

The disposal of the above described public land will result in the adjustment of the grazing preference of the following grazing permits:

Permittee	Allotment	Adjustment
Larry Schutte ..	Big Springs ..	0 AUMs.
H&R Livestock	Leppy Hills ...	+104 AUMs.
Simplot Land & Cattle Co.	Pilot	−697 AUMs.

Simplot Land and Cattle Company was notified by letter dated June 1, 1995 that this reduction would be necessary.

The subject public lands have been segregated from all appropriations under the public land laws including the mining law.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Elko District Office, P.O. Box 831, Elko, NV 89803.

All objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of timely filed objections, this realty action shall become the final determination of the Department of the Interior.

Dated: January 26, 1996.

Helen Hankins,

District Manager.

[FR Doc. 96–2386 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–HC–P

Minerals Management Service

Subpart D, Drilling Operations

AGENCY: Minerals Management Service, DOI.

ACTION: Notice of request for reinstatement of information collection; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Minerals Management Service (MMS) invites the general public and other Federal agencies to comment on a request to reinstate a previously approved collection of information contained in 30 CFR Part 250, Subpart D, Drilling Operations. MMS has added new requirements which will increase the reporting burden; and, reduced recordkeeping hours due to corrected re-estimates. MMS will request approval from the Office of Management and Budget (OMB) to reinstate this collection of information.

DATES: Submit written comments by April 8, 1996.

ADDRESSES: Direct all written comments to the Department of the Interior; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070–4817; Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: Andrew Radford, Engineering and Standards Branch, Minerals Management Service, telephone (703) 787–1144.

SUPPLEMENTARY INFORMATION:

Abstract

1. The Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 *et seq.*, requires the Secretary of the Interior to preserve, protect, and develop oil and gas resources in the Outer Continental Shelf (OCS); make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environment; ensure the public a fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition. Section 1332(6) of the OCSLA (43 U.S.C. 1332) requires that "operations in the Outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health." To carry out these responsibilities, the Director of the MMS has issued rules governing drilling operations in the OCS. To perform these duties, MMS needs to collect information from lessees in the OCS. This information is in the form of descriptions of the drilling site, procedures, and equipment as described in 30 CFR Part 250, Subpart D, Drilling Operations.

2. The MMS prepared a proposed rule to amend Subpart D, § 250.67, Hydrogen sulfide, to revise the requirements for preventing hydrogen sulfide (H_2S) releases and protecting human safety. Also proposed were requirements for visual and audible warning systems, personnel protection, training, (H_2S) and sulphur dioxide (SO_2) detection and monitoring, and H_2S flaring. The proposed rule was published in the **Federal Register** on May 11, 1995 (60 FR 25178). Comments were due July 10, 1995. MMS did not receive any comments pertaining to the Subpart D information collection requirements in this proposed rule.

3. MMS will use the information to ascertain the condition of a drilling site for the purpose of mitigating hazards inherent in drilling operations. If MMS did not collect the information, we could not determine whether lessees are properly providing for the safety of operations and the protection of the environment. Specifically, we could not:

a. Review drilling plans to ensure that the drilling unit is fit for the intended purpose.

b. Review expected oceanographic and meteorological conditions to use when evaluating the integrity of the drilling unit (this information is submitted only if it is not otherwise available).

c. Review shallow hazard survey data to ensure that the lessee will not encounter geologic conditions which present a hazard to operations.

d. Review welding and burning plans to ensure the safety of operations.

e. Review casing data to ensure the adequacy of casings for anticipated conditions.

f. Review well records to ascertain whether hydrocarbons have been encountered and whether H_2S has been encountered.

4. The reporting and recordkeeping requirements and number of respondents vary for each section. The estimates below are based on an average.

Description of Respondents: Federal OCS oil and gas lessees.

Frequency: On occasion; varies by section.

Estimated Number of Respondents: 125.

Estimate of Burden: Reporting average of 19 annual hours per response; recordkeeping average of 140 annual hours per recordkeeper.

Estimate of Total Annual Burden on Respondents: Reporting burden estimate = 2,371 hours; recordkeeping burden estimate = 17,533. Estimated combined total of 19,904.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $25 per hour, the total cost to lessees is estimated to be $497,600.

Estimate of Total Other Annual Costs to Respondents: Unknown.

Type of Request: Reinstatement.

OMB Number: 1010–0053.

Form Number: N/A.

Comments: MMS will summarize written responses to this notice for inclusion in the request for OMB approval. All comments will also become a matter of public record.

1. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), MMS specifically solicits responses to the following questions: (a) Is the proposed collection of information necessary for the proper performance of MMS' functions and will it be useful? (b) Are the estimates of the burden of the proposed collection reasonable? (c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected? (d) Is there a way to minimize the information collection burden on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

2. In addition, the Paperwork Reduction Act requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. MMS needs your comments on this item. Your response should split the cost estimate into two components: (a) a total capital and start-up cost component; and (b) an annual operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factor including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling and testing equipment; and record storage facilities. Generally, estimates should not include purchases of equipment or services made: (a) prior to October 1, 1995; (b) to achieve regulatory compliance with requirements not associated with the information collection; (c) for reasons other than to provide information or keep records for the government; or (d) as part of customary and usual business or private practices.

Bureau Clearance Officer: Arthur Quintana (703) 787–1239.

Dated: January 29, 1996.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 96–2383 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–MR–M

Reduction of Royalty or Net Profit Share

AGENCY: Minerals Management Service, DOI.

ACTION: Notice of request for reinstatement of information collection; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Minerals Management Service (MMS) invites the general public and other Federal agencies to comment on a request to reinstate a previously approved collection of

information contained in 30 CFR Part 203.50, concerning the reduction of royalty or net profit share. MMS re-estimated the reporting burden which resulted in a reduction in the annual burden previously approved by the Office of Management and Budget (OMB). MMS will request approval from the OMB to reinstate this collection of information.

DATES: Submit written comments by April 8, 1996.

ADDRESSES: Direct all written comments to the Department of the Interior; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070–4817; Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economic Evaluation Branch, Resource Evaluation Division, Minerals Management Service, telephone (703) 787–1536.

SUPPLEMENTARY INFORMATION:

Abstract: 1. The Secretary of the Interior issued regulations at 30 CFR 203.50 which contain provisions to reduce or eliminate any royalty or net profit share on an entire leasehold or on any deposit, tract, or portion thereof that is segregated for royalty purposes, in order to promote increased production on a lease area through direct, secondary, or tertiary recovery means.

2. In order for MMS to determine whether to eliminate royalty or net profit share, the lessee must request relief filing an application prepared in accordance with § 203.50. The application must contain sufficient scientific, geological, engineering, and financial information to permit MMS to evaluate the need for relief.

Description of Respondents: Federal OCS oil and gas lessees.

Frequency: Annual.

Estimated Number of Respondents: 10 initial applications; 2 annual renewals.

Estimate of Burden: 160 hours per initial application; 80 hours per renewal of previously approved applications.

Estimate of Total Annual Burden on Respondents: Reporting burden estimate=1,760 hours.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $25 per hour, the total cost to lessees is estimated to be $44,000.

Estimate of Total Other Annual Costs to Respondents: Unknown.

Type of Request: Reinstatement.

OMB Number: 1010–0071.

Form Number: N/A.

Comments: MMS will summarize written responses to this notice for inclusion in the request for OMB approval. All comments will also become a matter of public record.

1. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), MMS specifically solicits responses to the following: (a) Is the proposed collection of information necessary for the proper performance of MMS functions and will it be useful? (b) Are the estimates of the burden of the proposed collection reasonable? (c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected? (d) Is there a way to minimize the information collection burden on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

2. In addition, the Paperwork Reduction Act requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. MMS needs your comments on this item. Your response should split the cost estimate into two components: (a) a total capital and start-up cost component; and (b) an annual operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling and testing equipment; and record storage facilities. Generally, estimates should not include purchases of equipment or services made: (a) before October 1, 1995; (b) to achieve regulatory compliance with requirements not associated with the information collection; (c) for reasons other than to provide information or keep records for the government; or (d) as part of customary and usual business or private practices.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: January 29, 1996.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 96–2382 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF INTERIOR

National Park Service

60 Day Notice of Intention To Request Clearance of Information Collection, Opportunity for Public Comment

AGENCY: National Park Service, The Department of Interior.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 195 (Pub. L. 104–13, 44 U.S.C. Chapter 3507) and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park service invites public comments on a proposed information collection request (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including use of automated collection techniques or other forms of information technology.

The Primary Purpose of the Proposed ICR: To identify characteristics, use patterns, perceptions and preferences of visitors within Mount Rushmore National Memorial and Perry's Victory International Peace Memorial. Results will be used by managers in ongoing planning and management to improve services, protect resources and better serve the visitors.

DATES: Public comments will be accepted on or before April 8, 1996.

ADDRESSES: Send comments to David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall 1530 N. Cleveland Ave., St. Paul, MN 55108.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Copies of the proposed ICR requirement can be obtained from David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall 1530 N. Cleveland Ave., St. Paul, MN 55108.

FOR FURTHER INFORMATION CONTACT: Dave Lime, 612–624–2250.

SUPPLEMENTARY INFORMATION:

Title: Rock Climbing and Visitor Use Study at Mount Rushmore National Memorial.

Form: none.

OMB Number:

Expiration date:

Type of request: visitor use survey.

Description of need: for Park planning and management.

Description of respondents: Individuals who rock climb in Mount Rushmore National Memorial.

Estimated annual reporting burden: 106 burden hours.

Estimated average burden hours per response: 20 minutes.

Estimated average number of respondents: 400.

Estimated frequency of response: Once.

Title: Visitor Use Study at Perry's Victory International Peace Memorial.

Form: None.

OMB Number:

Expiration date:

Type of request: Visitor use survey.

Description of need: For Park planning and management.

Description of respondents: Individuals who visit the memorial.

Estimated annual reporting burden: 106 burden hours.

Estimated average burden hours per response: 20 minutes.

Estimated average number of respondents: 400.

Dated: January 31, 1996.

Terry N. Tesar,

Information Collection Clearance Officer, Audit and Accountability Team Office, National Park Service, 202–523–5092.

FR Doc. 96–2503 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan/ Environmental Impact Statement for Hagerman Fossil Beds National Monument, Idaho

ACTION: Notice of extension of public comment period and rescheduling of public meetings.

SUMMARY: This Notice revises the Notice of Availability of the draft Environmental Impact Statement for this project that was announced previously in the **Federal Register** on November 29, 1995. It announces an extension of the public comment period and rescheduling of public meetings regarding the Draft General Management Plan/Environmental Impact Statement (GMP/EIS) for Hagerman Fossil Beds National Monument, Idaho. Copies of the Draft GMP/EIS were sent to approximately 900 individuals, agencies and organizations in November and December 1995. The partial shutdown of the federal government during December and January caused postponement of the previously scheduled public meetings.

DATES AND ADDRESSES: Comments on the Draft GMP/EIS should now be received no later than March 8, 1996. All comments already received and all comments received before this new due date will become part of the public record and will be considered in developing the Final GMP/EIS and Record of Decision. Copies of comments, including any names, addresses and telephone numbers that may have been provided by respondents, may be released for public inspection. Dates, locations and times for public meetings regarding the Draft GMP/EIS will be as follows:

February 21, 1996: Hagerman, Idaho, Monument Visitor Center, 221 North State Street.
10:00am–4:00pm, Open House;
7:00pm–9:30pm, Public Meeting.

February 22, 1996: Twin Falls, Idaho, College of Southern Idaho, Shields Building, Rooms 117 & 118, 315 Falls Avenue.
7:00pm–9:30pm, Public Meeting.

February 23, 1996: Boise, Idaho, Holiday Inn, Brundage Room, 3300 Vista Avenue.
11:00am–3:00pm, Open House.

FOR FURTHER INFORMATION CONTACT: Questions regarding the plan or meetings should be directed to the Superintendent, Hagerman Fossil Beds National Monument, P.O. Box 570, Hagerman, ID 83332, phone (208) 837–4793; or Project Manager, Hagerman Fossil Beds General Management Plan, National Park Service, P.O. Box 25287, Denver, CO 80225–0287, phone (303) 969–2274. Additional copies of the Draft GMP/EIS are also still available from these sources.

Dated: January 31, 1996.

William C. Walters,

Deputy Field Director, Pacific West Area, National Park Service.

[FR Doc. 96–2504 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 27, 1996. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by February 21, 1996.

Carol D. Shull,

Keeper of the National Register.

ALABAMA

Barbour County

Spring Hill Methodist Church, Co. Rd. 89 S side, approximately 750 ft. W of jct. with Co. Rd. 49, Spring Hill, 96000110

Marshall County

Snellgrove, Thomas A., Homestead, 5115 E. Mann Ave., 310 Mill Ave., Boaz, 96000167

Perry County

Marion Courthouse Square Historic District, Roughly, along Green, Washington, Jefferson, Jackson, Franklin, Clements, Centreville and Monroe Sts., Marion, 96000111

CALIFORNIA

Alameda County

Oakland Free Library—Golden Gate Branch (California Carnegie Libraries MPS) 5606 San Pablo Ave., 1098 56th St., Oakland, 96000103

Oakland Free Library—Melrose Branch (California Carnegie Libraries MPS) 4805 Foothill Blvd., 1738 48th Ave., Oakland, 96000104

Oakland Free Library—Alden Branch (California Carnegie Libraries MPS) 5205 Telegraph Ave., 500 52nd St., Oakland, 96000105

Oakland Free Library—23rd Avenue Branch (California Carnegie Libraries MPS) 1449 Miller Ave., 2347 E. 15th St., Oakland, 96000106

Los Angeles County

Alexander Theatre, 216 N. Brand Blvd., Glendale, 96000102

Sacramento County

Merchants National Bank of Sacramento, 1015 7th St., Sacramento, 96000108

Sonoma County

Sebastopol Depot of the Petaluma and Santa Rosa Railway, 261 S. Main St., Sebastopol, 96000109

COLORADO

Adams County

Gregory, William J., House, 8140 Lowell Blvd., Westminster, 96000166

Boulder County

Fox Mine Office, 1226 S. Cherryvale Rd., Boulder, 96000168

Denver County

First National Bank Building, 818 17th St., Denver, 96000165

CONNECTICUT

Fairfield County

Nichols Satinet Mill Site, Address Restricted, Newtown, 96000129

New Haven County

Hammanasset Paper Mill Site, Address Restricted, Madison vicinity, 96000128

Windham County

New Roxbury Ironworks Site, Address Restricted, Woodstock vicinity, 96000130

DELAWARE

Kent County

Woodside Methodist Episcopal Church, Main St., North Murderkill Hundred, Woodside, 96000107

FLORIDA

Clay County

Winterbourne, 2104 Winterbourne W., Orange Park, 96000161

Sarasota County

Triangle Inn (Venice MPS) 351 S. Nassau St., Venice, 96000175

GEORGIA

Fulton County

Selig Company Building, 330–346 Marietta St., Atlanta, 96000158

Whitfield County

Masonic Lodge No. 238, 600 S. Hamilton St., Dalton, 96000127

LOUISIANA

Lincoln Parish

Adams, Charles P., House, 549 Main St., Grambling, 96000145

Rapides Parish

Melady House, 5800 England Dr., Alexandria vicinity, 96000160

MASSACHUSETTS

Barnstable County

Brewster Old King's Highway Historic District, Roughly, MA 6A from E of Paines Creek Rd. to Bittersweet Dr. and parts of Briar and Lower Rds., Brewster, 96000162

Worcester County

Paddock Farm, 259 Salisbury St., Holden, 96000143 Willard—Fisk House, 123 Whitney St., Jefferson, 96000163

MINNESOTA

Clay County

Thompson, Hannah C. and Peter E., House, 361 Second St., NE., Barnesville, 96000173

Wilkin County

Johnson, J. A., Blacksmith Shop, Jct. of Main Ave. W. and 2nd St. W., Rothsay, 96000174

MONTANA

Lewis and Clark County

Helena West Main Street Historic District, 500–600 blocks of W. Main St., Helena, 96000119

Missoula County

Bellows House, 1637 S. Higgins Ave., Missoula, 96000120

Powder River County

Cross Ranch Headquarters, E of MT 59, roughly 6 mi. S of Broadus, Broadus vicinity, 96000118

NEVADA

Clark County

Boulder Dam Park Museum, NV 169, W side, Overton, 96000126

NEW YORK

Broome County

Washingtonian Hall, 3725 River Rd., Endwell, 96000134

Chautauqua County

Brocton Arch, Jct. of Main St. with Lake and Highland Aves., Brocton, 96000133

Greene County

Leeds Dutch Reformed Church, Co. Rt. 23B (Susquehanna Tpk.), Leeds, 96000141
New Baltimore Hamlet Historic District, Roughly, Main St. from NY 144 to S jct. with Mill St. and along NY 144, Church and New Sts. and Washington and Madison, New Baltimore, 96000139

Madison County

Lenox District No. 4 Schoolhouse, Timmerman Rd. N side, at jct. with Old Co. Rd., Clockville, 96000135

Montgomery County

Stone Grist Mill Complex, 1679 Mill Rd., St. Johnsville vicinity, 96000140

Orange County

Brewster, Oliver, House (Cornwall MPS) 66 Willow Ave., Cornwall, 96000149
Brooks, Samuel, House (Cornwall MPS) Pleasant Hill Rd., Cornwall, 96000148
Carvey—Gatfield House (Cornwall MPS), 375 Angola Rd., Cornwall, 96000152
Cocks, Isaac, House (Cornwall MPS), Old Pleasant Hill Rd., Cornwall, 96000153
Hand, Walter, House (Cornwall MPS), 520 Angola Rd., Cornwall, 96000154
Sands—Ring House (Cornwall MPS), Main St., Cornwall, 96000150
Scribner House (Cornwall MPS), 19 Roe Ave., Cornwall, 96000157
Sutherland, Daniel, House (Cornwall MPS), 32 Angola Rd., Cornwall, 96000147
Sutherland, David, House (Cornwall MPS), 70 Angola Rd., Cornwall, 96000146
Van Duzer—Sayer, Mary, House (Cornwall MPS), Taylor Rd., Cornwall, 96000155
Woodruff House (Cornwall MPS), NY 32, Cornwall-on-Hudson, 96000156
Wyant—Talbot House (Cornwall MPS), 42 Clark Ave., Cornwall-on-Hudson, 96000151

Ulster County

Baker, Sebastian, Stone House (Rochester MPS), 10 Dug Rd., Rochester, 96000136
Wynkoop, Cornelius, Stone House, US 209, Marbletown, 96000138

Yates County

Lake View Cemetery, W. Lake Rd., Penn Yan, 96000137

OHIO

Darke County

Broadway Bridge, Broadway over Greenville Cr., Greenville, 96000114

Montgomery County

Skywood Farms, 732 W. Alex—Bell Rd., Centerville, 96000117

Richland County

Plymouth Greenlawn Cemetery Chapel, Greenlawn Cemetery, Plymouth, 96000116

Washington County

Coal Run Historic District, Roughly, along Main, Maple and Hill Sts., Coal Run, 96000115

OREGON

Douglas County

Umpqua-Eden Site—Takimiya, Address Restricted, Reedsport vicinity, 96000113

Jackson County

Medford Central Firehall, 110 E. Sixth St., Medford, 96000172

Lane County

Dorris, Benjamin Franklin, House, 707 E. 17th Ave., Eugene, 96000171
McKenzie Fish Hatchery, Old, 44645 McKenzie Hwy., Leaburg vicinity, 96000142
Oregon Power Company's Springfield Substation, 590 Main St., Springfield, 96000170

Multnomah County

Neighbors of Woodcraft Building, 1410 SW. Morrison St., Portland, 96000123
North Bank Depot Buildings, 1029—1101 NW. Hoyt St., Portland, 96000124
Portland Van and Storage Building, 407 NE. Broadway, Portland, 96000125
Rose City Electric Automobile Garage, 124 NW. Twentieth Ave., Portland, 96000122
Stokes, Francis Marion, Fourplex, 2253 NW. Pettygrove St., Portland, 96000121
Zion Lutheran Church, 1015 SW. Eighteenth Ave., Portland, 96000169

SOUTH CAROLINA

Greenville County

Parker High School Auditorium, 900 Woodside Ave., City View, 96000144

TEXAS

Brewster County

Terlingua Historic District, 7 mi. W of jct. of TX 118 and TX 170, Terlingua, 96000132

El Paso County

Rio Vista Farm Historic District, 800—801 Rio Vista Rd., Socorro, 96000131

UTAH

San Juan County

Swallow's Nest, 2 N. Grayson Pkwy., Blanding, 96000164

WISCONSIN

Door County

Noble, Alexander, House, 4167 WI 42, Fish Creek, 96000159

Milwaukee County

Milwaukee Harbor Piers and Breakwaters, Milwaukee Harbor, Lake Michigan, Milwaukee, 96000112

[FR Doc. 96–2491 Filed 2–5–96; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–360]

International Harmonization of Customs Rules of Origin

AGENCY: United States International Trade Commission.

ACTION: Request for public comment on draft chapters 41–49.

EFFECTIVE DATE: January 26, 1995.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202–205–2595), or Lawrence A. DiRicco (202–205–2606). Questions with regard to specific chapters of the Harmonized Tariff Schedule of the United States (HTS) should be directed to the following coordinators:

Chapters 1–24, 41–49—Ronald H. Heller (202–205–2596)
Chapters 25–40—Edward J. Matusik (202–205–3356)
Chapters 50–63—Janis L. Summers (202–205–2605)
Chapters 64–83, 86–89, 92–97—Lawrence A. DiRicco (202–205–2606)
Chapters 84–85, 90–91, 98–99—Craig M. Houser (202–205–2597)

Parties having an interest in particular products or HTS chapters and desiring to be included on a mailing list to receive available documents pertaining thereto should advise Diane Whitfield by phone (202–205–2610) or by mail at the Commission, 500 E St SW, Room 404, Washington, D.C. 20436. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The media should contact Margaret O'Laughlin, Director, Office of Public Affairs (202–205–1819).

Background:

Following receipt of a letter from the United States Trade Representative (USTR) on January 25, 1995, the Commission instituted Investigation No. 332–360, International Harmonization of Customs Rules of Origin, under section 332(g) of the Tariff Act of 1930 (60 FR 19605, April 19, 1995).

The investigation is intended to provide the basis for Commission participation in work pertaining to the Uruguay Round Agreement on Rules of Origin (ARO), under the General Agreement on Tariffs and Trade (GATT) 1994 and adopted along with the Agreement Establishing the World Trade Organization (WTO).

The ARO is designed to harmonize and clarify nonpreferential rules of origin for goods in trade on the basis of the substantial transformation test; achieve discipline in the rules' administration; and provide a framework for notification, review, consultation, and dispute settlement. These harmonized rules are intended to make country-of-origin determinations impartial, predictable, transparent, consistent, and neutral, and to avoid restrictive or distortive effects on international trade. The ARO provides that technical work to those ends will be undertaken by the Customs Cooperation Council (CCC) (now informally known as the World Customs Organization or WCO), which must report on specified matters relating to such rules for further action by parties to the ARO. Eventually, the WTO Ministerial Conference is to "establish the results of the harmonization work program in an annex as an integral part" of the ARO.

In order to carry out the work, the ARO calls for the establishment of a Committee on Rules of Origin of the WTO and a Technical Committee on Rules of Origin (TCRO) of the CCC. These Committees bear the primary responsibility for developing rules that achieve the objectives of the ARO.

A major component of the work program is the harmonization of origin rules for the purpose of providing more certainty in the conduct of world trade. To this end, the agreement contemplates a 3-year CCC program, to be initiated as soon as possible after the entry into force of the Agreement Establishing the WTO. Under the ARO, the TCRO is to undertake (1) to develop harmonized definitions of goods considered wholly obtained in one country, and of minimal processes or operations deemed not to confer origin, (2) to consider the use of change in Harmonized System classification as a means of reflecting substantial transformation, and (3) for those products or sectors where a change of tariff classification does not allow for the reflection of substantial transformation, to develop supplementary or exclusive origin criteria based on value, manufacturing or processing operations or on other standards.

To assist in the Commission's participation in work under the Agreement on Rules of Origin (ARO), the Commission is making available for public comment a draft of proposed rules for goods of chapters 41–49 of the Harmonized System that are not considered to be wholly made in a single country. The rules rely largely on the change of heading as a basis for ascribing origin.

Copies of the proposed revised rules will be available from the Office of the Secretary at the Commission, from the Commission's Internet web server (http://www.usitc.gov), by calling the Office of Tariff Affairs and Trade Agreements voice messaging system, 202–205–2592 or by FAX at 202–205–2616.

These proposals, which have been reviewed by interested government agencies, are intended to serve as the basis for the U.S. proposal to the Technical Committee on Rules of Origin (TCRO) of the Customs Cooperation Council (CCC) (now known as the World Customs Organization or WCO). The proposals do not necessarily reflect or restate existing Customs treatment with respect to country of origin applications for all current non-preferential purposes. Based upon a decision of the Trade Policy Staff Committee, the proposals are intended for future harmonization for the nonpreferential purposes indicated in the ARO for application on a global basis. They seek to take into account not only U.S. Customs current positions on substantial transformation but additionally seek to consider the views of the business community and practices of our major trading partners as well. As such they represent an attempt at reaching a basis for agreement among the contracting parties. The proposals may undergo change as proposals from other administrations and the private sector are received and considered. Under the circumstances, the proposals should not be cited as authority for the application of current domestic law.

If eventually adopted by the TCRO for submission to the Committee on Rules of Origin of the World Trade Organization, these proposals would comprise an important element of the ARO work program to develop harmonized, non-preferential country of origin rules, as discussed in the Commission's earlier notice. Thus, in view of the importance of these rules, the Commission seeks to ascertain the views of interested parties concerning the extent to which the proposed rules reflect the standard of substantial transformation provided in the Agreement. In addition, comments are also invited on the format of the

proposed rules and whether it is preferable to another presentation, such as the format for the presentation of the NAFTA origin or marking rules.

Forthcoming Commission notices will advise the public on the progress of the TCRO's work and will contain any harmonized definitions or rules that have been provisionally or finally adopted.

Written Submissions

Interested persons are invited to submit written statements concerning this phase of the Commission's investigation. Written statements should be submitted as quickly as possible, and follow-up statements are permitted; but all statements must be received at the Commission by the close of business on February 15, 1996, in order to be considered in the drafting of the final U.S. proposal to the TCRO. Information supplied to the Customs Service in statements filed pursuant to notices of that agency has been given to us and need not be separately provided to the Commission. Again, the Commission notes that it is particularly interested in receiving input from the private sector on the effects of the various proposed rules and definitions on U.S. exports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Issued: February 1, 1996.

By order of the Commission.

Donna Koehnke,

Secretary.

[FR Doc. 96–2536 Filed 2–5–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of January, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,624; Leroy Industries, Inc., Leroy, NY

TA–W–31,652; Bob-Kat Tanning Co., Inc., Peabody, MA

TA–W–31,677; HBC Barge, Inc., Trinity Industries, Brownsville, PA

TA–W–31,537; The Sero Co., Inc., Cordele, GA

TA–W–31,487; Rex-Rosenlow, Inc., Teterboro, NJ

TA–W–31,622 & TA–W–31,623; Hill Co., Inc., Fort Smith, AR and Charleston, AR

TA–W–31,533; EIS Brake Parts Div., Berlin, CT

TA–W–31,467; Hercules, Inc., Radford, VA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,590; Greif Brothers Corp., Niagara Falls, New York Plant, Niagara Falls, NY

TA–W–31,579; Indian Refining, Lawrenceville, IL

TA–W–31,645; Details By Patricia Green, Portland, OR

TA–W–31,655; Fruit of The Loom, Albemarle Spinning Mills, Albemarle, NC

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,577; Cummins Southern plains, Inc., Duncan, OK

TA–W–31,654; ABU-Garcia, Inc., Fairfield, NJ

TA–W–31,679; Hydra-Co., Enterprises, Inc., Syracuse, NY

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–31,644; Texaco Trading & Transportation, Inc., Central Region Marketing, Tulsa, OK

The investigations revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–31,603; Diesel Recon Co., Santa Fe Springs, CA; October 25, 1994

TA–W–31,444; CNG Producing Co., New Orleans, LA; September 2, 1995 & Operating at The Following Locations: A; Houma, LA, B; Ardmore, OK, C; Roosevelt, UT, D; Indiana, PA, E; Bridgeport, WV: September 1, 1994

TA–W–31,627; Willits Footwear Worldwide, Newvill Div., Newville, PA: November 1, 1994

TA–W–31,684; Lamsteel Corp of America, Two Plants & Warehouse, Hartsville, TN: November 13, 1994

TA–W–31,438; Angelica Uniform Group, Ackerman, MS: August 31, 1994

TA–W–31,743; R.D. Simpson, Inc., (including D&E Laundry), Cartersville, GA: December 4, 1994

TA–W–31,700, A & B; Wrangler, Inc., Newbern Div., Lonoke, AR Newbern, TN & Troy, TN: November 17, 1994

TA–W–31,629, TA–W–31,630 & A, B; Vanity Fair Mills, Inc., Robertsdale, Al, Butler, AL, Monroeville, AL & Jackson, AL: November 1, 1994

TA–W–31,712; Southwestern Cutting Service, El Paso, TX: November 29, 1994

TA–W–31,778; F.G. Montabert, Midland Park, NJ: December 7, 1994

TA–W–31,633; Columbia Footwear Corp., Hazleton, PA: July 13, 1995

TA–W–31,646; DMI Furniture, Inc., Gettysburg, PA: November 15, 1994

TA–W–31,707; Americana Art China Co., Sebring, OH: November 21, 1994

TA–W–31,626; North By Northeast, Pawtucket, RI: November 1, 1994

TA–W–31,637; Guin Manufacturing Col, Guin, AL: November 7, 1994

TA–W–31,656; American Trouser, Inc., Columbus, MS: November 15, 1994

TA–W–31,751; Becton Dickinson & Co., El Paso, TX: December 18, 1994

TA–W–31,666; Allied Signal Aerospace, Aerospace Equipment Systems, Eatontown, NJ: October 20, 1994

TA–W–31,631; Thomas Industries, Inc., Hopkinsville, KY: November 2, 1994

TA–W–31,691; RAD Woodwook Co., Inc., Nescopeck, PA: November 13, 1994

TA–W–31,768; Newell Window Furnishings, Div. of Newell Co., Ogdensburg, NY: December 4, 1994

TA–W–31,682, TA–W–31,682; Ithaca Industries, Inc., Plant #1, #2, Chadbourn, NC, Robersonville, NC: October 30, 1994

TA–W–31,683; Ithaca Industries, Inc., Lakeland, GA: November 16, 1994

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a) Subchapter D, Chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of January, 1996

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (incluuding workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA-TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00690; Carpenter Manufacturing, Inc., Mitchell, IN

NAFTA–TAA–00681; Fruit of The Loom, Albemarle Sprinning Mills, Albemarle, NC

NAFTA–TAA–00682; Details By Patricia Green, Portland, OR

NAFTA–TAA–00691; New York Newsday, Melville, NY

NAFTA–TAA–00698; Johnson Controls, Inc., Lexington, KY

NAFTA–TAA–00684; Mead, School and Office Products Div. Salem, OR

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00741; W.B. Thompson Co., Inc., Iron Mountain, MI

NAFTA–TAA–00701; Matsushita Electric Corporation of America, Matsushita Logistics Co., Fort Worth, TX

NAFTA–TAA–00717; Port Gamble Country Store, Port Gamble, WA

NAFTA–TAA–00728; Karl J. Marx Co., Inc., New York, NY

NAFTA–TAA–00744; Capin Mercantile Corp., Nogales, AZ

The investigation revealed that the workers of the subject firm do not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00722; Wheelabrator Air Pollution Control, Pittsburgh, PA: October 24, 1994

NAFTA–TAA–00749; G.N. Great Nordic, G.N. Nettest Laser Precision, Utica, NY: January 12, 1994

NAFTA–TAA–00761; Adrian Manufacturing, Inc., El Paso, TX: January 5, 1995

NAFTA–TAA–00685; RAD Woodwork Co., Inc., Nescopeck, PA: November 13, 1994

NAFTA–TAA–00708; Tri-Con Industries, Limited, A Subsidiary of Tokyo Seat Co., Cape Girardeau, MO: November 22, 1994

NAFTA–TAA–00696; Intercontinental Bronded Apparel, Hialeah, FL: November 15, 1994

NAFTA–TAA–00714; Allied Signal Aerospace, Aerospace Equipment Systems, Eatontown, NJ: September 26, 1994

NAFTA–TAA–00688; Becton Dickinson and Co., El Paso, TX: November 20, 1994

NAFTA–TAA–00686; Colgate-Palmolive Co., Jeffersonville Plant, Jeffersonville, IN: November 2, 1994

All workers of Colgate-Palmolive Co., Jeffersonville Plant, Jeffersonville, IN engaged in employment related to the production of powered laundry detergent are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

All workers of Colgate-Palmolive Co., Jeffersonville Plant, Jeffersonville, IN engaged in employment related to the production of *liquid dishwashing detergent are denied* eligibility to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

NAFTA–TAA–00720; Newell Window Furnishings, Div. of Newell Co., Ogdensburg, NY: December 11, 1994

NAFTA–TAA–00672; Western Reserve Products, Visador Div., Jasper, TX: October 30, 1994

NAFTA–TAA–00666; Scentique Boudoir Accessories, Inc., Carbondale, PA: October 26, 1994

NAFTA–TAA; Turner & Seymour Manufacturing Co., Bonners Ferry, ID: December 6, 1994

NAFTA–TAA–00693, A&B; Wrangler, Inc., Newbern Div., Newbern, TN, Troy, TN & Lonoke, AR: November 17, 1994

NAFTA–TAA–00753; Rhone-Poulenc, Inc., Newark, NJ: December 14, 1994

NAFTA–TAA–00743; Major League, Inc., Jasper, GA: December 27, 1994

NAFTA–TAA–00725; H.H. Cutler Co. (A Div. of VF Corp), Cutler Sports Apparel, Grand Rapids, MI: December 18, 1994

NAFTA–TAA–00740; Tailor Tech, Catawissa, PA: December 14, 1994

NAFTA–TAA–00721; R.D. Simpson, Inc (Including D&E Laundry), Cartersville, GA: December 4, 1994

NAFTA–TAA–00713; Southwestern Cutting Service, El Paso, TX: December 5, 1994

NAFTA–TAA–00736; Siemens Energy and Automation, Inc., Residential Products Div., El Paso, TX: December 12, 1994

I hereby certify that the aforementioned determinations were issued during the month of January, 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 26, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2482 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of December, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,595; Thompson River Lumber Co., Thompson Falls, MT

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,535; American Electric Power (Ohio Power Co), Cardinal Plant, Brilliant, OH

TA–W–31,659 & A; Custom Packaging Systems, Inc., Manistee, MI and Rapid City, SD

TA–W–31,605; General Dynamics Corp., General Dynamics Land Div., Scranton Plant, Eynon, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,556; Milady Brassiere & Corset Co., New York, NY

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location for each determination references the impact date for all workers for such determination.

TA–W–31,729; RDL Acoustics, Inc., Bellinghom, MA: November 14, 1995.

TA–W–31,530; Anitec Image Corp., Binghamton, NY: October 6, 1994.

TA–W–31,550; Lawler Hosiery, A Division of Kayby Mills of North Carolina, Carrollton, GA: October 5, 1994.

TA–W–31,732; Oxford Shirtings Process 2000 Laundry & Finishing Div., Vidalia, GA: November 21, 1994.

TA–W–31,539; B & C Well Service, Borger, TX: October 2, 1994.

TA–W–31,583; Ethicon, Inc., Chicago, IL: October 18, 1994.

TA–W–31,647 & TA–W–31,648; Country Maid Sportswear, Inc., Danville, PA & Shamokin Dam, PA: November 13, 1994.

TA–W–31,560 & TA–W–31,561; Unocal Corp., Energy Resource Div., Bakerfield, CA and Ventura, CA: May 18, 1994.

TA–W–31,562 & TA–W–31,563 & A; Unocal Corp., Energy Resource Div., Orcutt, CA & Santa Fe, CA & Throughout the State of CA: May 18, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of December, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports form Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' operations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

None.

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00673; Hydra-Co Enterprises, Inc., Syracuse, NY

The investigation revealed that the workers of the subject firm do not produce an article with in the meaning of section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name and location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00715; Marshall Electric Corp., Rochester Plant, Rochester, IN: November 20, 1994.

NAFTA–TAA–00700; Robertshaw Controls Co., Grayson Controls Div., Long Beach, CA: November 10, 1994.

NAFTA–TAA–00706; Oxford Shirtings, Process 2000 Laundry & Finishing Div., Vidalia, GA: November 21, 1994.

NAFTA–TAA–00702 & A; The Isfel Co., Inc., Country Main Sportswear, Inc., Danville, PA & Shamokin Dam, PA: November 17, 1994.

I hereby certify that the aforementioned determinations were issued during the month of December, 1995. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 16, 1996.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2480 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,974]

VIC Manufacturing Co. Minneapolis, Minnesota, Negative Determination on Reconsideration

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further Investigation in *Nelson* v. *Secretary of Labor* (94–10–00630).

The Department's initial denial for the workers of Vic Manufacturing Company, Minneapolis, Minnesota, issued on August 15, 1995 and published in the **Federal Register** on September 2, 1994 (59 FR 45711), was based on the fact that the workers provided a service and did not produce an article.

The petitioners request for reconsideration was dismissed on September 19, 1994 and published in the **Federal Register** on September 27, 1994 (59 FR 49260). The Department's dismissal was based on the fact that the application contained no new substantial information which would bear importantly on the determination.

On remand, during the Department's investigation, it was determined that the TAA petition filed on behalf of the workers at Vic Manufacturing is invalid. The petition does not meet the statutory time requirements of the Trade Act of 1974. The TAA petition filed on behalf of the workers at Vic Manufacturing was dated May 9, 1994. (See AR p. 2.) The date of worker separation for Tony Nelson, petitioner number 1, was January 29, 1993, and for Raymond Menard, petitioner number 2, November 11, 1992. The third petitioner was within the scope of consideration. However, a valid petition must be signed by three affected workers. Mr. Nelson and Mr. Menard were separated from employment with Vic Manufacturing more than one year prior to the May 9, 1994, filing date. Section 223(b)(1) of the Trade Act of 1974 provides that a trade adjustment assistance certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed. The Trade Act does not give the Secretary authority to waive this statutory limitation.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of the Vic Manufacturing Company, Minneapolis, Minnesota.

Signed at Washington, DC, this 26th day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2481 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

TA–W–31,458 Supreme Slipper Manufacturing Company, Inc., Bangor, Maine and TA–W–31,458A Lewiston, Maine

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 5, 1995, applicable to all workers at Supreme Slipper Manufacturing Company, Inc., located in Bangor, Maine. The notice was published in the **Federal Register** on October 27, 1995 (60 FR 55064).

New information received from the company shows that worker separations will occur at the Lewiston, Maine location of Supreme Slipper. The workers are engaged in employment related to the production of slippers. The Department is amending the certification to cover these workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to TA–W–31,458 is hereby issued as follows:

"All workers of Supreme Slipper Manufacturing Company, Inc., Bangor, Maine (TA–W–31,458), and Lewiston, Maine (TA–W–31,458A) who became totally or partially separated from employment on or after September 1, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC this 23rd day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2479 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance. Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the At. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 16, 1996.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than (February 16, 1996 in the **Federal Register**).

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, D.C. this 18th day of December, 1995.

Russell Kile,

Acting Program Manager, Policy & Remployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted On 12/18/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,733	Boise Cascade Corp. (Comp)	Emmett, ID	12/07/95	Lumber, Plywood & Wood Products.
31,734	American Insulated Wire (IBEW)	Pawtucket, RI	12/04/95	Wire & Cable.
31,735	American Hardwood Inc. (Wkrs)	Tualatin, OR	12/07/95	Laminated Hardwood Veneer Panels.
31,736	Bear Clothing Group (UNITE)	Clearfield, PA	12/11/95	Men's Tailored Clothing.
31,737	B & A Manufacturing (Co.)	Weaver, AL	11/27/95	Children's Sportswear.
31,738	Easton Composites, Inc. (Wkrs)	San Diego, CA	12/04/95	Sports Equipment.
31,739	International Paper (GCIU)	Peoria, IL	12/04/95	Printed & Finished Paper Labels.
31,740	Paxar Corp. (Wkrs)	Hillsville, VA	11/02/95	Woven Labels for Apparel Industry.
31,741	Motion Control Industries (Wkrs)	Ridgway, PA	12/04/95	Brake Blocks for Tractor-Trailer.
31,742	Quantum Corp. (Wkrs.)	Shrewsbury, MA	12/04/95	Hard Disk Drive Data Storage Devices.
31,743	R.D. Simpson, Inc. (Wkrs)	Cartersville, GA	12/04/95	Ladies' Jeans.
31,744	Rome Manufacturing (Co.)	Rome, GA	11/20/95	Men's Pants.
31,745	Sanco Corp. (Wkrs)	Benton, AR	11/06/95	Microwave Harnesses & TV Coils.
31,746	Smith's Home Furnishings (Wkrs)	Bellingham, WA	12/01/95	Kitchen Appliance.
31,747	Thomson Consumer Electron (IBEW).	Bloomington, IN	11/24/95	Televisions.
31,748	Union Supply Co. (Wkrs)	Midland, TX	12/06/95	Office Work (Oilfield Supplies).
31,749	Equitable Resources Explo (Co.)	Buckhannon, WV	12/05/95	Natural Gas Drilling.
31,750	California Microwave (Wkrs)	Bloomingdale, IL	12/05/95	Microwave Transmission Products.
31,751	Becton Dickinson Acutecar (Wkrs)	El Paso, TX	12/05/95	Gloves.
31,752	D & D Manufacturing, Inc. (Co)	Watertown, TN	12/04/95	Jeans.
31,753	Turner & Seymour Mfg. (Co.)	Torrington, CT	12/07/95	Welded Chain.
31,754	Staffing Connections (Wkrs)	Drexel, NC	12/07/95	T-Shirts.

[FR Doc. 96–2478 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,356]

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of Jeld-Wen of Bend/Bend Millwork including Pozzi Window and Bend Door Co., Bend, Oregon and Pozzi Window and Bend Door Co. operating in the States of: California (TA–W–31,356A), Illinois (TA–W–31,356B), New Jersey (TA–W–31,356C), New York (TA–W–31,356D), and Pennsylvania (TA–W–31,356E).

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 21, 1995, applicable to all workers at Jeld-Wen of Bend/Bend Millwork, located in Bend, Oregon. The notice was published in the **Federal Register** on October 5, 1995 (60 FR 52213). The certification was subsequently amended October 24, 1995, to include workers of Pozzi Window and Door Co., also located in Bend, Oregon. The notice was published in the **Federal Register** on November 7, 1995 (60 FR 56172).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The subject firm reports that Pozzi Window and Bend Door Co. had workers in California, Illinois, New Jersey, New York and Pennsylvania. The workers are engaged in employment related to the production of commodity millwork. The Department is again amending the certification to provide for worker separations at the Pozzi Window locations in the other States.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by imports.

The amended notice applicable to TA–W–31,356 is hereby issued as follows:

"All workers of Jeld-Wend of Bend/Bend Millwork, Pozzi Window and Bend Door Company, Bend Oregon; and all workers of Pozzi Window and Bend Door Co., operating in the States of California (TA–W–31,356A), Illinois (TA–W–31,356B), New Jersey (TA–W–31,356C), New York (TA–W–31,356D), and Pennsylvania (TA–W–31,356E) who became totally or partially separated from employment on or after August 9, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 23rd day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2476 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30, 331]

Kerr-McGee Corporation Headquartered in Oklahoma City, Oklahoma Operating Out of the Following Field Offices; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the Matter of TA–W–30, 331I Chapel Hill, Texas, TA–W–30, 331J Midland, Texas, TA–W–30, 331K Borger, Texas, TA–W–30, 331L Houston, Texas.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 10, 1994, applicable to all workers of Kerr-McGee Corporation headquartered in Oklahoma City, Oklahoma. The notice was published in the **Federal Register** on December 9, 1994 (59 FR 63823). The certification was subsequently amended to cover workers of the subject firm in other locations, and was published in the **Federal Register** on August 9, 1995 (60 FR 40614).

At the request of the Company, the Department reviewed the subject certification for workers of the subject firm. New findings show that worker separations have occurred at the Kerr-McGee Corporation locations in Chapel Hill, Midland, Borger, and Houston, Texas. Accordingly, the Department is amending the certification to cover these workers.

The intent of the Department's certification is to include all workers of Kerr-McGee Corporation who were adversely affected by increased imports.

The amended notice applicable to TA–W–30, 331 is hereby issued as follows:

"All workers of Kerr-McGee Corporation, headquartered in Oklahoma City, Oklahoma (TA–W–30, 331) engaged in the production of crude oil and natural gas who became totally or partially separated from employment on or after July 31, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

"All workers of Kerr-McGee Corporation, at the below cited locations engaged in the production of crude oil and natural gas who became totally or partially separated from employment on or after August 17, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA–W–30, 331I Chapel Hill, Texas,
TA–W–30, 331J Midland, Texas,
TA–W–30, 331K Borger, Texas,
TA–W–30, 331L Houston, Texas.

Signed at Washington, DC this 23rd day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2475 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the Matter of TA–W–31,599 Fruit of the Loom Bowling Green, KY and TA–W–31,599A Franklin, KY.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 30, 1995, applicable to all workers at Fruit of the Loom located in Bowling Green, Kentucky. The notice was published in the **Federal Register** on December 12, 1995 (60 FR 63732).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. Information provided by the company shows that worker separations have occurred at the Franklin, Kentucky location of Fruit of the Loom. The workers are engaged in employment related to the production of ladies', children's and men's underwear, turtlenecks, shirts, t-shirts, shorts and fleece sets. The Department is amending the certification to cover these workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to TA–W–31,599 is hereby issued as follows:

"All workers of Fruit of the Loom, Bowling Green, Kentucky (TA–W–31,599), and Franklin, Kentucky (TA–W–31,599A) who became totally or partially separated from employment on or after October 18, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 23rd day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2474 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

Notice of Renewal; Federal Advisory Committee Act; Federal Committee on Apprenticeship

Notice is hereby given that after consultation with the General Services Administration, it has been determined that the Federal Committee on Apprenticeship, whose charter expired December 14, 1995, is hereby renewed for a period of two years. This action is necessary and in the public interest.

The committee will be an effective instrument for providing assistance, advice, and counsel to the Secretary of Labor and the Assistant Secretary of Labor for the Employment and Training Administration in the development and implementation of administration policies on legislation and regulations affecting apprenticeship; determining the proper and most effective role of the apprenticeship concept of training in meeting future skilled worker training needs; carrying out of program responsibilities in the apprenticeship and journeyworker training areas; and providing recommendations on such matters as the need of employers in industries facing skilled worker shortages.

The Committee will consist of 7 representatives of employers, 7 representatives of labor, and 7 representatives of the public, including one or more educators.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter is being filed at this time in accordance with approval by the General Services Administration Secretariat pursuant to 41 CFR 101–6.1015(a)(2).

Signed at Washington, DC, this 26th day of January 1996.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96–2472 Filed 2–5–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been file with State Governors under section 250(a) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Program Manager of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment of after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Program Manager of OTAA at the U.S.

Department of Labor (DOL) in Washington, DC provided such request is filed in writing with the Program Manager of OTAA not later than February 16, 1996.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Program Manager of OTAA at the address shown below not later than February 16, 1996.

Petitions filed with the Governors are available for inspection at the Office of the Program Manager, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 23rd day of January, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Equitable Resources Energy Co.; Drilling and Exploration (Co.).	Buckhannon, WV	10/19/95	NAFTA–00662	Natural oil and gas.
Selmet; Golf (Wkrs)	Albany, OR	10/30/95	NAFTA–00663	Titanium golf club heads.
Koring Brothers, Inc. (Wkrs)	Long Beach, CA	10/30/95	NAFTA–00664	Netting and twine.
American Meter Company; Industrial Products Div. (IUE).	Erie, PA	10/30/95	NAFTA–00665	Regulator assembly for gas meters.
Scentique Boudoir Accessories Inc. (Co.).	St. Carbondale, PA	10/31/95	NAFTA–00666	Lingerie and accessories.
Diesel Recon Company (Co.)	Sante Fe Springs, CA	10/31/95	NAFTA–00667	Remanufacturing of diesel engines (Cummins).
Christian Fashions; (formerly Montana Fashions) (Co.).	El Paso, TX	11/01/95	NAFTA–00668	Denim jeans and assorted denim clothing.
Kellogg Company; San Leandro (AFGM).	San Leandro, CA	11/01/95	NAFTA–00669	Ready to eat cereal.
Bausch and Lomb; Personal Products Div. (Wkrs).	Rochester, NY	11/01/95	NAFTA–00670	Personal dental accessories.
Aquatech Inc.	El Paso, TX	11/02/95	NAFTA–00671	Jeans and assorted.
Greenwood/East-West (LMO)				Denim products.
Western Reserve Products; Visador Div. (Wkrs).	Jasper, TX	11/02/95	NAFTA–00672	Decorative glass products.
Hydra-Co Enterprises Inc. (Wkrs)	Syracuse, NY	11/06/95	NAFTA–00673	Electricity.
Wondermaid Inc.; Wondermaid and De La Rose (UNITE).	Washington, MO	11/06/95	NAFTA–00674	Women's daywear and undergarments.
M.J. Electric Inc.; Industrial (IBEW)	Iron Mt., MI	11/06/95	NAFTA–00675	Electricity.
Greenfield Research Inc.; Howe Plant (Wkrs).	Howe, IN	11/08/95	NAFTA–00676	Automotive seating units.
Triangle Wire & Cable (IBEW)	Glen Dale, WV	11/08/95	NAFTA–00677	Steel conduit and strip steel.
Sons Transportation (Wkrs)	Springfield, MA	11/09/95	NAFTA–00678	Trucking of styrene manomer.
Cal-Style Furniture Mfg. Co. (Co.)	Compton, CA	11/09/95	NAFTA–00679	Dinette sets.
Inland Steel Company; Industrial Products Plate Div. (USA).	East Chicago, IL	11/09/95	NAFTA–00680	Steel products ie. alloy plates.
Albemarle Spining Mills; Martin Mills (Wkrs).	Albemarle, NC	11/12/95	NAFTA–00681	Yarn and greige cloth.
Details by Patricia Green (Wkrs)	Portland, OR	11/13/95	NAFTA–00682	Women's fashion belts.
VF Corporation; Lee Apparel (UFCW)	St. Joseph, MO	11/12/95	NAFTA–00683	Jeans and related denim items.
Mead Products; Salem (UPIU)	Salem, OR	11/15/95	NAFTA–00684	Trimmer machines, envelope machines, . . . etc.
Rad Woodwork Co. Inc. (UWA)	Nescopeck, PA	11/15/95	NAFTA–00685	Laminated floors and butcher-block furniture.
Colgate Palmolive Co.; Liquids and Powdered Detergents (CWU).	Clarksville, IN	11/16/95	NAFTA–00686	Dishwashing liquids and powdered detergents.
Mamiye Bros. Inc.; Americana Knitting Mills Inc. (Wkrs).	Miami, FL	11/16/95	NAFTA–00687	Girl's sweaters.
Becton Dickinson; Acute Care (Wkrs)	El Paso, TX	11/20/95	NAFTA–00688	Medical devices and surgical gloves.
Brookshire Group (USA)	McCordsville, IN	11/20/95	NAFTA–00689	Air moving devices i.e. fans and blowers.
Carpenter Manufacturing (UAW)	Mitchell, IN	11/20/95	NAFTA–00690	Ford clipper buses.
Newsday; New York Newsday (GCIU)	Melville, NY	11/20/95	NAFTA–00691	Newsprint.
Southern Apparel Co.; Blue (Co.)	Robersonville, NC	11/20/95	NAFTA–00692	Western jeans.
Wrangler (Wkrs)	Lonoke, AR	11/20/95	NAFTA–00693	Jeans.
Flour Daniel Inc.; NPOSR (Wkrs)	Casper, WY	11/21/95	NAFTA–00694	Crude oil and natural gas.
Colebrook Terry Inc.; York and Colebrook Plants (UNITE).	Colebrook, PA	11/21/95	NAFTA–00695	Ladies lingerie.
Intercontinental Branded Apparel (UNITE).	Hialeah, FL	11/21/95	NAFTA–00696	Men's suits.
Boise Cascade Timber and Wood Products; Northeast Oregon Region (LU 2821).	Le Grande, OR	11/22/95	NAFTA–00697	Timber.
Johnson Controls; SSD (LOCAL 433)	Lexington, KY	11/27/95	NAFTA–00698	Thermostat controls.
McAllen Company Inc. (Wkrs)	Charlotte, NC	11/27/95	NAFTA–00699	Shirts.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Robertshaw Controls Co.; Grayson Controls Div. (Co.).	Long Beach, CA	11/27/95	NAFTA–00700	Gas controls valves.
Matsushita Electric Company of America; Matsushita Logistics Company (Wkrs).	Ft. Worth, TX	11/27/95	NAFTA–00701	Color televisions and microwave ovens.
Country Maid Sportswear Inc.; (two locations) (Wkrs).	Danville, PA	11/27/95	NAFTA–00702	Children's wear for girls.
York International; Miller Picking (USWA).	Johnstown, PA	11/27/95	NAFTA–00703	HVAC equipment.
AT&T Microelectronics; Optoelectronics (IBEW).	Clark, NJ	11/17/95	NAFTA–00704	Under-water communication repeaters.
American Standard; Plumbing and Fittings (USWA).	Paintsville, KY	11/28/95	NAFTA–00705	Plumbing and fitting products.
Oxford Industries; (two locations) (Co.)	Atlanta, GA	11/28/95	NAFTA–00706	Shirts.
SEA Enterprises (Co.)	Kent, WA	11/30/95	NAFTA–00707	Manufacturer coupons.
Tri-Con; Tokyo Seat (AFL–CIO)	Cape Girardeau, MO	12/04/95	NAFTA–00708	Automotive seat covers.
Ellingson Lumber Co,; Burnt River Div. (Wkrs).	Baker City, OR	12/04/95	NAFTA–00709	Lumber.
Rome Mfg. Co. (Co.)	Rome, GA	12/05/95	NAFTA–00710	Men's pants.
Sara Lee Knit Products (Co.)	Eastman, GA	12/04/95	NAFTA–00711	T-Shirts.
Alcoa Fujikura LTD.; Circuit Assembly (Wkrs).	El Paso, TX	12/05/95	NAFTA–00712	Circuits.
Southwestern Cutting Service (Wkrs)	El Paso, TX	12/05/95	NAFTA–00713	Textiles.
Allied Signal Equipment Systems (Wkrs).	Eatontown, NJ	10/27/95	NAFTA–00714	Printed circuit boards.
Marshall Electronic Corp.; Rochester Plant (Co.).	Rochester, IN	11/30/95	NAFTA–00715	Output transformers.
Crown Cork And Seal Co. Inc.; Plant 1 (IAM & AW).	Philadelphia, PA	12/08/95	NAFTA–00716	Sanitary aerosol cans.
Port Gamble Country Store (Co.)	Port Gamble, WA	12/08/95	NAFTA–00717	Retail store.
Paxport Mills Inc. (Co.)	Tacoma, WA	12/08/95	NAFTA–00718	Red cedar fencing.
American Hardwoods Inc.; Brands Corp. (Wkrs).	Tualatin, OR	12/11/95	NAFTA–00719	Softwood lumber.
Newell Window Fumishings; Joanna Window Decor (UPIU).	Freeport, IL	12/11/95	NAFTA–00720	Rollers and shades.
R.D, Simpson (Wkrs)	Cartersville, GA	12/13/95	NAFTA–00721	Denim jeans and shorts.
Wheelabrator; Air Pollution Control (Wkrs).	Pittsburgh, PA	12/13/95	NAFTA–00722	Standard fabric filter products.
Turner and Symour Mfg. Co. (Wkrs)	Toorington, CT	12/13/95	NAFTA–00723	Welded chain.
Gould-Shawmut; Circuit Protection (IBEW).	Newburyport, MA	12/14/95	NAFTA–00724	Medium voltage line fuses.
H.H. Cutler; VF Corporation (Co.)	Grand Rapids, MI	12/18/95	NAFTA–00725	T-shirts and sweatshirts.
Standard Motor Products; Brake Parts (Wkrs).	Rural Retreat, VA	12/15/95	NAFTA–00726	Motor products.
Dressing for Two (Wkrs)	New York City, NY	12/18/95	NAFTA–00727	Women's sportswear and apparel.
Karl J. Marx (Wkrs)	New York, NY	12/18/95	NAFTA–00728	Family clothing and housewares.
DSI Inc.; Shore Reboul (LOCAL 132)	Freeport, NY	12/18/95	NAFTA–00729	Plastic molded cosmetic cases.
Decor Home Fashions (LOCAL 132)	Brooklyn, NY	12/18/95	NAFTA–00730	Plastic housewares.
Rockwell Int.; Semiconductor Systems (Wkrs).	El Paso, TX	01/03/96	NAFTA–00731	Semiconductors.
Cutting Services (Wkrs)	El Paso, TX	01/03/96	NAFTA–00732	Clothing.
Final Finish (Co.)	El Paso, TX	12/28/95	NAFTA–00733	Denim apparel.
Amistad Beef Company (Co.)	Refugio, TX	12/18/95	NAFTA–00734	Beef and beef by-products.
Synergy Inc.; Greenwood Mills (Wkrs)	El Paso, TX	01/03/96	NAFTA–00735	Machinery maintenance.
Siemen's Energy and Automation Inc.; Residential Products Div. (Wkrs).	El Paso, TX	12/19/95	NAFTA–00736	Residential circuit breakers.
Anchor Glass Container Corp. (LOCAL 119).	Cliffwood, NJ	01/16/96	NAFTA–00737	Glass bottles.
Capri Lighting; Thomas Industries (Wkrs).	Los Angeles, CA	01/16/96	NAFTA–00738	Lighting equipment.
Pabst Brewing Co.; Miller Brewing Co. (UAW).	Milwaukee, WI	12/21/95	NAFTA–00739	Beer.
Tailor Tech (Wkrs)	Catawissa, PA	12/15/95	NAFTA–00740	Children's and ladies clothing.
W.B. Thompson Co., Inc. (Wkrs)	Iron Mountain, MI	12/20/95	NAFTA–00741	Mining products and supplies.
Lewistown Specialty Yarns Inc. (Wkrs)	Lewistown, PA	12/27/95	NAFTA–00742	Polyester yarn.
Major League Inc. (Co.)	Jasper, GA	12/28/95	NAFTA–00743	Sportswear.
Capin Mercantile Corp. (Wkrs)	Nogales, AZ	12/18/95	NAFTA–00744	Retail items.
La-Del Mfg. Co., Inc. (Wkrs)	Lawrenceburg, TN	01/16/96	NAFTA–00745	Ladies sportswear.
McCulloch Corp. (Co.)	Lake Havasu City, AZ	01/06/96	NAFTA–00746	Chain saws.
Shaneco Mfg., Inc. (Wkrs)	El Paso, TX	01/02/96	NAFTA–00747	Children's clothing and accessories.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Niagara Falls Business Forms (Wkrs) .	Niagara Falls, NY	01/11/96	NAFTA–00748	Business forms.
G.N. Nettest; Laser Precision Division (Wkrs).	Utica, NY	01/12/96	NAFTA–00749	Circuit boards.
Equitable Resources Energy Co.; Union Drilling (Co.).	Buckhannon, WV	01/10/96	NAFTA–00750	Natural gas.
Milliken & Co.; Barnwell Plant (Wkrs) .	Barnwell, SC	01/15/96	NAFTA–00751	Fabric and yarn.
LaSevilla Fashions Inc.; Mangham Plant (Co.).	Mangham, LA	01/12/96	NAFTA–00752	Men's pants.
Rhone-Poulene Inc.; Newark Plant (Wkrs).	Newark, NJ	12/28/95	NAFTA–00753	Textile chemicals.
Tultex Corp.; Marion Plant (Wkrs)	Marion, NC	01/16/96	NAFTA–00754	Knit clothing, i.e., sweatshirts and sweatpants.
Omak Wood Products Inc. (WCIW)	Omak, WA	01/03/96	NAFTA–00755	Lumber.
Smithkline Beecham; Consumer Healthcare (Co.).	Clifton, NJ	12/27/95	NAFTA–00756	Emulsion.
U.S. Enertek (Wkrs)	Farmington, NM	12/21/95	NAFTA–00757	Production equipment.
American National Can (USA)	St. Louis, MO	12/28/95	NAFTA–00758	Food and beverage cans.
Stafco Inc.; Rockmart Apparel (Wkrs) .	Rockmart, GA	01/03/96	NAFTA–00759	Women's jeans and uniforms.
General Mills Inc.; Marketing (Wkrs) ...	Golden Valley, MN	01/08/96	NAFTA–00760	Coupons.
Adrian Mfg. Inc. (Co.)	El Paso, TX	01/11/96	NAFTA–00761	Children's clothing.
Stitches (Wkrs)	El Paso, TX	01/17/96	NAFTA–00762	Garments.
Everest and Jennings; Earth City Mfg. (IAMAW).	Earth City, MO	01/17/96	NAFTA–00763	Wheelchairs.
Emerson Electric; EMD (Wkrs)	Kennett, MO	01/17/96	NAFTA–00764	Electric motors.
L.E. Matchett Trucking (TEAMSTERS)	Veradale, WA	01/17/96	NAFTA–00765	Drivers.
James River Corp.; Coated Products (AWPPW).	Portland, OR	12/29/95	NAFTA–00766	Paper food packaging.
Energy Fuels Nuclear Inc.; White Mesa Uranium Mill (Co.).	Blanding, UT	01/17/96	NAFTA–00767	Uranium oxide.
National Supermarkets (UFCW)	St. Louis, MO	01/18/96	NAFTA–00768	Groceries.

[FR Doc. 96–2483 Filed 2–5–96; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA–00750]

Equitable Resources Energy Company, Buckhannon, West Virginia and Various Locations in the State of Pennsylvania; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182) concerning transitional adjustment assistance, an investigation was initiated on January 10, 1996 in response to a worker petition which was filed on January 10, 1996 on behalf of workers at Equitable Resources Energy Company, Buckhannon, West Virginia and various locations in the state of Pennsylvania.

An active certification covering the petitioning group of workers remains in effect (NAFTA–662 and 662A). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 24th day of January, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2477 Filed 2–5–96; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA–00120]

Walker Manufacturing Company, Hebron, OH; Amended Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Revised Determination on Reconsideration for NAFTA Transitional Adjustment Assistance on December 15, 1995, applicable to all workers at the subject firm. The notice will soon be published in the **Federal Register**.

The Department inadvertently set the impact date as May 20, 1993, a date prior to the effective date of the NAFTA program which is December 8, 1993. Therefore, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to NAFTA–00120 is here by issued as follows:

"All workers of Walker Manufacturing Company, Hebron, Ohio who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, DC, this 22nd day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2473 Filed 2–5–96; 8:45 am]
BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–011]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee.

DATES: March 6, 1996, 8:30 a.m. to 5 p.m.; and March 7, 1996, 8:30 a.m. to 11:45 a.m.

ADDRESSES: National Aeronautics and Space Administration, Room 7H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aeronautics, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4729).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics overview
—Transition and Turbulence
—Fundamental Aerodynamics
—Aviation Safety Reporting System
—Aeronautics and Astronautics Coordinating Board (AACB)
—International Program Activities
—Program Development Updates
—Subcommittee Reports

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: January 31, 1996.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 96–2364 Filed 2–5–96; 8:45 am]
BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–3453]

Notice of Issuance of Amendment 26 to Source Material License SUA–917 Amending License Condition (LC) 55 for Atlas Corporation's (Atlas') Uranium Mill Facility at Moab, Utah

AGENCY: Nuclear Regulatory Commission.

ACTION: Amendment 26 to Source Material License SUA–917, issued January 22, 1996, amends LC 55 to show that interim cover placement has been completed.

SUMMARY: By letter dated October 25, 1995, Atlas Corporation (Atlas) submitted a request to amend condition 55 (LC 55) of Source Material License No. SUA–917. LC 55 lists the completion dates for reclamation milestones established as targets in the Memorandum of Understanding (MOU) with the Environmental Protection Agency (EPA) (56 FR 55432, October 25, 1991). Atlas requested that the license date for completion of placement of the interim cover in LC 55A.(2), be changed from October 31, 1995 to November 30, 1995. By letter dated November 13, 1995, Atlas notified NRC that it completed placement of the cover on November 10, 1995. Atlas' failure to complete the interim cover on the tailings impoundment by October 30, 1995, was due to unanticipated problems in actually placing cover over areas of the pile that had previously been covered by water. Atlas had been placing the interim cover since October 4, 1995, and at the time of its license amendment request, had completed 60 percent of this final phase and 92 percent of the entire pile. On January 22, 1996, the license was amended to show that placement of the interim cover was complete.

FOR FURTHER INFORMATION CONTACT: Myron Fliegel, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, Telephone: 301–415–6629.

Signed at Rockville, MD, this 30th day of January 1996.

For the U.S. Nuclear Regulatory Commission.

Joseph J. Holonich, Chief,

High-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–2441 Filed 2–5–96; 8:45 am]
BILLING CODE 7590–01–P

[Docket No. 40–3453]

Atlas Corp.; Site-Reclamation Milestone; Hearings

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of a request from Atlas Corporation to revise a site-reclamation milestone in license no. SUA–917 for the Moab, Utah facility and notice of opportunity for a hearing.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated January 9, 1996, a request from Atlas Corporation (Atlas) to amend License Condition (LC) 55 A.(1) of Source Material License SUA–917 for the Moab, Utah facility. The license amendment request proposes to modify LC 55 A.(1) to change the completion date for retrieval of windblown tailings and placement on the pile. The date proposed by Atlas would extend completion of retrieval and placement of windblown tailings by two years.

FOR FURTHER INFORMATION CONTACT: Myron Fliegel, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555. Telephone (301) 415–6629.

SUPPLEMENTARY INFORMATION: The portion of LC 55 A.(1) with the proposed change would read as follows:

A. To ensure timely compliance with target completion dates established in the Memorandum of Understanding with the Environmental Protection Agency (56 FR 55432, October 25, 1991), the licensee shall complete reclamation to control radon emissions as expeditiously as practicable, considering technological feasibility, in accordance with the following schedule:

(1) Windblown tailings retrieval and placement on the pile—December 31, 1997.

Atlas' request to amend LC 55 A.(1) of Source Material License SUA–917, which describes the proposed changes to the license condition and the reason for the request, is being made available for public inspection at the NRC's Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC 20555.

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Atlas Corporation, Republic Plaza, 370 Seventeenth Street, Suite 3150, Denver, Colorado 80202, Attention: Richard Blubaugh; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One

White Flint North, 11555 Rockville Pike, Rockville, MD 20852 or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated at Rockville, MD, this 29th day of January 1996.

For the U.S. Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, High-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–2440 Filed 2–5–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–146]

Saxton Nuclear Experimental Corp.; Withdrawal of Application for Amendment to Amend Facility License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Saxton Nuclear Experimental Corporation (the licensee) to withdraw its June 2, 1995, application for proposed amendment to Amended Facility License No. DPR–4 for the Saxton Nuclear Experimental Facility (SNEF), located in Saxton, Pennsylvania.

The proposed amendment would have revised the organizational structure associated with the SNEF and would revise the description and drawing of the SNEF site to reflect multiple gates in the SNEF fence.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 16, 1995 (60 FR 42607). However, by letter dated November 21, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 2, 1995, and the licensee's letter dated November 21, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Saxton Community Library, 911 Church Street, Saxton, Pennsylvania 16678.

Dated at Rockville, MD, this 30th day of January 1996.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2439 Filed 2–5–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21723; 812–9768]

The Lipper Fund, Inc., et al.; Notice of Application

January 30, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Lipper Funds (the "Fund"), Lipper Intermediate Investment Fund No. 2, L.P. (the "Debt Partnership"), Prime Lipper Europe Fund, L.P. (the "European Equities Partnership" and, together with the Debt Partnership, the "Partnerships"), Lipper & Company, L.P. ("Lipper"), Lipper & Company, L.L.C. ("LAC"), and Prime Lipper Asset Management ("Prime Lipper").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the exchange of assets of the Partnerships for shares of series of the Fund, after which each Partnership will dissolve and distribute the shares *pro rata* to its partners.

FILING DATE: The application was filed on August 23, 1995 and amended on November 30, 1995 and January 11, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 26, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 101 Park Avenue, New York, New York 10178.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Partnerships are Delaware limited partnerships that commenced operations in 1992. Each Partnership is an investment partnership which is not registered under the Act in reliance on section 3(c)(1) of the Act. Interests in the Partnerships have not been registered under the Securities Act of 1933 in reliance on section 4(2) of the Securities Act.

2. The Fund is an open-end management investment company organized as a Maryland corporation. The Fund filed a notification of registration under the Act and a registration statement on Form N–1A on October 10, 1995. The Fund's registration statement was declared effective on December 29, 1995. The Fund will offer series of shares, including Lipper High Income Bond Fund ("LHIF") and Prime Lipper Europe Equity Fund ("PLEF," and, together with LHIF, the "Portfolios"). Each Portfolio has separate classes of shares consistent with applicable state law and rule 18f–3 under the Act.

3. Lipper, a Delaware limited partnership, is the sole general partner of the Debt Partnership. LAC, a Delaware limited liability company, is an affiliate of Lipper and serves as investment adviser for LHIF. Prime Lipper, a New York general partnership, is the sole general partner of the European Equities Partnership and is PLEF's investment adviser. Lipper, LAC and Prime Lipper are each registered under the Investment Advisers Act of 1940. Each of Lipper and Prime Lipper has maintained an investment in the Partnerships for which it is general partner of not less than $500,000 or 1% of the net assets of such Partnerships, and is allocated net income, gains, and losses of the Partnerships in accordance with its investment.[1]

4. Applicants propose that each Partnership exchange its assets for Portfolio shares, after which the Partnerships would dissolve and distribute the shares of its partners on a *pro rata* basis ("Portfolio Transfers"). After the Portfolio Transfers, partners of the Partnership will constitute all of the holders of the Portfolio shares. The Portfolio Transfers were proposed to permit the limited partners to pursue, as shareholders of the Portfolios, substantially the same investment objectives and policies in a potentially larger fund with potentially greater economies of scale, with a substantially lower minimum initial investment, greater liquidity, and more frequent access to information concerning the value of their investments.

5. Under the Portfolio Transfers, the Debt Partnership will exchange its Partnership interests for shares of LHIF. The investment objective of the Debt Partnership is to achieve high yields while preserving capital, and LHIF's investment objective is high current income. The Debt Partnership invests primarily in a diversified portfolio of yield-oriented securities with maturities of less than 10 years, and LHIF will do the same. The portfolio manager of the Debt Partnership serves as the portfolio manager of LHIF.

6. The European Equities Partnership will exchange its Partnership interests for shares of PLEF. The investment objective of the European Equities Partnership is to achieve capital appreciation by investing in European stocks with attractive growth potential, and PLEF's investment objective is substantially the same. The portfolio manager of the European Equities Partnership will serve as the portfolio manager of PLEF.

7. Each limited partner of each Partnership may elect to (a) request that the general partner of the Partnership transfer all or a portion of the limited partner's distributive share of assets to the corresponding Portfolio in exchange for shares of the Portfolio, and/or (b) receive portfolio securities, cash and/or cash equivalents. Following the liquidations, each Partnership will be terminated in accordance with the appropriate limited partnership agreement and Delaware law.

8. Prior to the liquidations, each Partnership will discharge all of its known liabilities and obligations. If necessary, each Partnership also will establish reserves to cover unknown and contingent liabilities and obligations. Any amounts remaining in a reserve that are not used to pay such liabilities will be distributed *pro rata* to the limited partners of the corresponding Partnership. All unsatisfied liabilities and obligations of a Partnership will be the responsibility of its general partner. The Portfolios are not expected to assume any liabilities, expenses or obligations of the Partnerships.

9. The general partners of the Partnerships have considered the desirability of the Portfolio Transfers from the point of view of the Partnerships, and have concluded that (a) the Portfolio Transfers are in the best interests of each Partnership and its limited partners, and (b) the Portfolio Transfers will not dilute the interests of the limited partners when their Partnership interests are converted to Portfolio shares.

10. In a meeting of the Fund's Board of Directors, a majority of the directors, including a majority of the non-interested directors, concluded that (i) the Portfolio Transfers are in the best interests of each Portfolio and the limited partners, (ii) the Portfolio Transfers will not dilute the interests of each Portfolios' shareholders and the Partnerships' limited partners, and (iii) the terms of the Portfolio Transfers have been designed to meet the criteria contained in section 17(b) of the Act, that the Portfolio Transfers are reasonable and fair, do not involve overreaching, and are consistent with the policies of each Portfolio.

11. The Portfolios will acquire the Partnerships' portfolio securities at their independent "current market price," as defined in rule 17a–7 under the Act.[2] No Portfolio will acquire securities that, in the opinion of its adviser, would result in a violation of the Portfolio's investment objectives, policies, or restrictions.

12. Lipper, LAC and Prime Lipper have agreed to pay all expenses of the Portfolio Transfers, other than the initial organizational expenses of the Fund. There are expected to be no additional expenses incurred in connection with the transaction, and no brokerage commission or other remuneration will be paid in connection with the transfers.

Applicants' Legal Conclusions

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such person, from selling to or purchasing from such investment company any security or other property. Section 2(a)(3) of the Act provides, in pertinent part, that an affiliated person includes any person directly or indirectly controlling, controlled by, or under common control with, such other person. Applicants contend that the Partnerships may be affiliated persons of the Fund by, among other reasons, being under the common control of Lipper or the advisers. LAC and Prime Lipper may be affiliated persons of the Fund because, at the time of the Portfolio Transfers, they are expected to be the sole shareholders of the Fund. Thus, applicants submit, the proposed exchange may be prohibited by section 17(a).

2. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the transaction is consistent with the policies of the registered investment company, and the transaction is consistent with the general purposes of the Act.

3. Applicants assert that the Portfolio Transfers satisfy the criteria of section 17(b). They contend that, given that each Portfolio and its corresponding Partnership has similar investment objectives and policies, the Portfolios will attempt to assemble a portfolio of securities substantially similar to that held by the Partnerships. Applicants assert that, by acquiring the Partnerships' portfolio securities at their independent "current market price," the price will be as advantageous to the Fund as open-market purchases. In addition, by acquiring suitable securities from the Partnerships, the Portfolios will avoid incurring brokerage and other transaction costs.

4. Applicants contend that the Portfolio Transfers can be viewed as a change in the form in which the assets are held, rather than as a disposition giving rise to section 17(a) concerns.

[1] Lipper and Prime Lipper received their respective general partnership interests in the Debt Partnership and the European Equities Partnership exclusively in exchange for cash and/or securities.

[2] Rule 17a–7 exempts purchases or sales of securities from section 17(a) for which market quotations are readily available between investment companies affiliated solely by reason of having a common adviser, common directors, and or common officers.

Applicants submit that the Portfolio Transfers are consistent with the general purposes of the Act because they do not give rise to the abuses that section 17(a) was designed to prevent, and, in fact, are consistent with the purposes underlying rule 17a–7.

For the Commission, by the Division of Investment Management under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2404 Filed 2–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21726; 812–9888]

Schwab Capital Trust, et al.; Notice of Application

January 31, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Schwab Capital Trust (the "Trust"); Schwab Investments; The Charles Schwab Family of Funds; Charles Schwab Investment Management, Inc. ("CSIM"); and Charles Schwab & Co., Inc. ("Schwab").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act from section 17(a) of the Act, and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Trust to operate as a "fund of funds" and to acquire up to 100% of the voting shares of any acquired fund.

FILING DATE: The application was filed on December 14, 1995. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 26, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 101 Montgomery Street, San Francisco, California 94104.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is registered as an open-end management investment company under the Act. Currently, the Trust consists of five separate investment portfolios: Asset Director®-High Growth Fund, Asset Director®-Balanced Growth Fund, and Asset Director®-Conservative Growth Fund (collectively, the "Asset Director® Funds"); Schwab International Index Fund™; and Schwab Small-Cap Index Fund™.

2. Each Asset Director® Fund seeks to provide diversification among major asset categories (*e.g.*, stocks, bonds, and cash equivalents) and stock sub-categories (*e.g.*, large company stocks, small company stocks, and international stocks). All three Asset Director® Funds are designed to provide exposure to the growth potential of the stock market in varying degrees. A target mix and a defined range have been established for each asset category in each of the Asset Director® Funds. A target mix, but not a defined range, has been established for each stock sub-category.

3. CSIM is registered as an investment adviser under the Investment Advisers Act of 1940. CSIM is responsible for the overall management of the Asset Director® Funds' business affairs, subject to the authority of the Trust's board of trustees and officers. CSIM makes all portfolio securities selections, places all orders for the Asset Director® Funds' securities transactions, and has primary responsibility for the management of the Asset Director® Funds' investment portfolios. CSIM is a wholly-owned subsidiary of the Charles Schwab Corporation ("Schwab Corporation") and is the investment adviser and administrator for the mutual funds in the SchwabFunds® family of mutual funds.

4. Schwab is registered as a broker-dealer and transfer agent under the Securities Exchange Act of 1934. Schwab also is a member of the National Association of Securities Dealers, Inc. ("NASD"). Schwab serves as the Asset Director® Funds' principal underwriter and transfer and shareholder servicing agent. Schwab is a wholly-owned subsidiary of Schwab Corporation.

5. Applicants propose a fund of funds arrangement whereby each Asset Director® Fund will invest in shares of portfolios of the following investment companies (the "Underlying Portfolios"): Schwab Investments; The Charles Schwab Family of Funds; and the Trust. In the Trust's case, the Underlying Portfolios currently are proposed to consist of Schwab International Index Fund™ and Schwab Small-Cap Index Fund™. Investments also may be made in money market instruments for temporary defensive purposes and to maintain liquidity. In addition, any assets that are not invested in Underlying Portfolios shares will be invested directly in stocks, bonds, and other types of instruments, including money-market instruments. Applicants request that any relief granted pursuant to the application also apply to any open-end management investment company that currently or in the future is part of the same "group of investment companies," as defined in rule 11a–3 under the Act, as the Trust (collectively, the "Schwab Funds").[1]

Applicants' Legal Analysis

1. Section 12(d)91)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

[1] Rule 11a–3 under the Act defines "group of investment companies" as two or more companies that: (a) hold themselves out to investors as related companies for purposes of investment end investor services; and (b) that have a common investment adviser or principal underwriter. Although certain existing registered investment companies, or portfolios thereof, that are Schwab Funds do not presently intend to rely on the requested order, any such registered investment company, or portfolios thereof, would be covered by the order if they later proposed to enter into a fund of funds arrangement in accordance with the terms described in the application.

2. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order permitting the Asset Director® Funds to acquire shares of the Underlying Portfolios beyond the section 12(d)(1) limits.

3. The restrictions in section 12(d)(1) were intended to prevent certain abuses perceived to be associated with the pyramiding of investment companies, including: (a) unnecessary duplication of costs, *e.g.* sales loads, advisory fees, and administrative costs; (b) a lack of appropriate diversification; (c) undue influence by the fund holding company over its underlying funds; (d) the threat of large scale redemptions of the securities of the underlying investment companies; and (e) unnecessary complexity. For the following reasons, applicants believe that the proposed arrangement will not create these dangers and, therefore, that the requested relief is appropriate.

4. The proposed arrangement will not raise the fee layering concerns contemplated by section 12(d)(1). The proposed arrangement will not involve the layering of advisory fees since, before approving any advisory contract under section 15(a) of the Act, the board of trustees of the Trust, including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, will find that the advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio advisory contract. In addition, the proposed structure will not involve layering of sales charges. Any sales charges or service fees relating to the shares of an Asset Director® Fund will not exceed the limits set forth in Article III, section 26 of the Rules of Fair Practice of the NASD when aggregated with any sales charges or service fees that the Asset Director® Fund pays relating to Underlying Portfolio shares. The aggregate sales charges at both levels, therefore, will not exceed the limit that otherwise lawfully could be charged at any single level. Furthermore, the proposed arrangement will not involve the unnecessary duplication of administrative and other fees. Applicants expect that these expenses will be reduced at both levels under the proposed arrangement.

5. In addition, the proposed arrangement will provide true diversification benefits. Each Asset Director® Fund will pursue a different investment strategy by investing in Underlying Portfolios that also pursue distinct investment strategies. The proposed arrangement will be structured to minimize undue influence concerns. The Asset Director® Funds only will acquire shares of Underlying Portfolios that are Schwab Funds. Because CSIM is investment adviser to the Underlying Portfolios as well as to the Trust, a redemption from one Underlying Portfolio will simply lead to the investment of the proceeds in another Underlying Portfolio.

6. The proposed arrangement, furthermore, will be structured to minimize large scale redemption concerns. The Asset Director® Funds will be designed for intermediate and long-term investors. This will reduce the possibility of the Asset Director® Funds from being used as short-term investment vehicles and further protect the Asset Director® Funds and the Underlying Portfolios from unexpected large redemptions. The proposed arrangement will not be unnecessarily complex. No Underlying Portfolio will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Section 17(a) of the Act makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities from, the company. The Trust and the Underlying Portfolios may be considered affiliated persons because they share common officers and/or directors/trustees. An Underlying Portfolio's issuance of its shares to the Trust may be considered a sale prohibited by section 17(a).

8. Section 17(b) of the Act provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to allow the above transactions.

9. Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b). The consideration paid for the sale and redemption of shares of Underlying Portfolios will be based on the net asset value of the Underlying Portfolios, subject to applicable sales charges. The Trust's purchase and sale of shares of the Underlying Portfolios is consistent with the Trust's policy, as set forth in the Trust's registration statements. Applicants also believe that the proposed transactions are consistent with the general purposes of the Act.

10. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of a registered investment company, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person unless the SEC has issued an order approving the arrangement. Applicants understand that the proposed arrangement may provide benefits for both the Asset Director® Funds and the Underlying Portfolios, including increased diversification, more efficient portfolios management, a larger asset base, and reduced expenses. Therefore, for the reasons discussed above, applicants believe that the proposed arrangement is consistent with the provisions, policies, and purposes of the Act. Furthermore, the Asset Director® Funds and the Underlying Portfolios will not participate in the proposed arrangement on a basis that is different from or less advantageous than the participants that are not investment companies.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each Asset Director® Fund and each Underlying Portfolio will be part of the same "group of investment companies," as defined in rule 11a–3 under the Act.

2. No Underlying Portfolio will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of the Trust will not be "interested persons," as defined in section 2(a)(19) of the Act.

4. Any sales charges or service fees charged to the shares of an Asset Director® Fund, when aggregated with any sales charges or service fees paid by the Asset Director® Fund relating to the securities of the respective Underlying Portfolio, shall not exceed the limits set forth in Article III, section 26, of the NASD's Rules of Fair Practice.

5. Before approving any advisory contract under section 15 of the Act, the board of trustees of the Trust, including

a majority of the trustees or directors who are not "interested persons," as defined in section 2(a)(19), will find that advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Asset Director® Fund.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets of each Asset Director® Fund and each underlying Portfolio; monthly purchases and redemptions (other than by exchange) for each Asset Director® Fund and each Underlying Portfolio; monthly exchanges into and out of each Asset Director® Fund and each Underlying Portfolio; month-end allocations of each Asset Director® Fund's assets among the Underlying Portfolios; annual expense ratios for each Asset Director® Fund and each Underlying Portfolio; and a description of any vote taken by the shareholders of any Underlying Portfolio, including a statement of the percentage of votes cast for and against the proposal by each Asset Director® Fund and by the other shareholders of the Underlying Portfolio. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Asset Director Fund® (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2462 Filed 2–5–96; 8:45 am]

BILLING CODE 8010–01–M

Release Nos. 33–7262; 34–36792

[File No. 265–20]

Advisory Committee on the Capital Formation and Regulatory Processes; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting.

SUMMARY: This is to give notice that the Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes will meet on February 22, 1996 in room 1C30 at the Commission's main offices, 450 Fifth Street, NW., Washington, DC, beginning at 10:00 a.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265–20. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: David A. Sirignano, Committee Staff Director, at 202–942–2870; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the Committee will meet on February 22, 1996 in room 1C30 at the Commission's main offices, 450 Fifth Street, NW., Washington, DC, beginning at 10:00 a.m. The meeting will be open to the public.

The Committee was formed in February 1995, and its responsibilities include advising the Commission regarding the informational needs of investors and the regulatory costs imposed on the U.S. securities markets. The purpose of this meeting will be to discuss the progress of the Committee's work and to discuss, and possibly vote on, the Committee's report.

Dated: January 31, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–2465 Filed 2–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36788; International Series Release No. 924 File No. SR–GSCC–95–05]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Permitting Entities Established or Organized in a Foreign Country To Become Members of GSCC's Netting System

January 30, 1996.

On October 6, 1995, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–GSCC–95–05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On October 30, 1995, GSCC filed an amendment to the proposed rule change.[2] Notice of the proposal was published in the **Federal Register** on December 11, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

Currently, under GSCC's rules an entity that is organized or established under the laws of a country other than the United States ("foreign entity") is eligible to apply to become a member of GSCC's comparison system if it has demonstrated to GSCC that its business and capabilities are such that it could reasonably expect material benefit from direct access to GSCC's services. Prior to this rule change, a foreign entity was not eligible for any of GSCC's eleven enumerated categories of netting system membership.[4] The proposed rule change permits foreign entities that are regulated in a manner comparable to domestic entities eligible for GSCC membership to become members of GSCC's netting system. The rule change also establishes application and continuing membership requirements for foreign entities for both the comparison and netting systems.

1. Legal Considerotions

To address the particular jurisdictional concerns raised by the admission of foreign entities to netting system membership, GSCC will require foreign netting system applicants to enter into a special netting member agreement ("Agreement") and to submit an opinion of foreign counsel ("Opinion"). The Agreement requires the foreign netting system applicant to adhere to GSCC's rules and provides that the Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Opinion must provide that the execution by the foreign entity of the Agreement, the foreign entity's performance under the Agreement, and the exercise by GSCC of its rights and remedies under the Agreement will not conflict with or be impeded by the laws or regulations of the foreign entity's home country and will be respected by the foreign entity's primary foreign regulator. In addition, the Opinion must state that the Agreement's provision for governance by and construction in accordance with the laws of the State of New York will be recognized and given effect by the courts of the foreign entity's home country.

Under the Agreement, the foreign entity: (i) Irrevocably waives all immunity from attachment of its assets in the U.S., (ii) irrevocably submits to the jurisdiction of a court in the U.S. with respect to any action or proceeding brought against it relating in any way to the Agreement, (iii) irrevocably waives any objection to the laying of venue in a court in the U.S., (iv) expressly states that any judgment obtained against it by GSCC may be enforced in the courts of any jurisdiction where it or any of its property may be found and irrevocably submits to the jurisdiction of each such court, and (v) agrees that payment of any judgment obtained by GSCC shall be in U.S. dollars.

The Opinion must state that: (i) The waiver by the foreign entity of all immunity from attachment of its assets in the U.S. is valid and will be recognized and given effect by the courts of the foreign entity's home country, (ii) the foreign entity has the power to irrevocably submit to the jurisdiction of a court in the U.S. and to waive all objections to venue, (iii) any judgment obtained against the foreign entity by GSCC may be enforced in the courts of any jurisdiction where the foreign entity or any of its property may be found and its submission to the jurisdiction of each such court is valid and will be recognized and given effect by the courts of the foreign entity's home country, (iv) GSCC can institute in the foreign entity's home country an action for breach of the Agreement without first having to obtain a judgment against the entity in the U.S., and (v) GSCC can institute in the U.S. an action for breach of the Agreement without first having to obtain a judgment against the entity in the entity's home country.

Under the Agreement, the foreign member must provide GSCC with information on its financial condition and/or trading activity that GSCC deems pertinent and agrees that any such information may be provided by GSCC to the Commission. The Opinion must state that the foreign entity has the power to provide GSCC with information on its financial condition and/or trading activity that GSCC deems pertinent and that neither the foreign entity's compliance with such a request nor the sharing by GSCC of such information with the Commission will conflict with or be impeded by the laws or regulations of the foreign entity's home country and will be respected by the foreign entity's primary foreign regulator.

In addition to the Agreement and the Opinion, any foreign netting system applicant must submit a designation specifying an appropriate person or persons located in the State of New York as its agent to receive service of process or other legal summons.

While there is no special agreement applicable to a foreign entity that applies for membership in GSCC's comparison system, such entity must provide to GSCC an opinion of foreign counsel. That opinion must state that the execution by the foreign entity of the comparison-only member agreement ("Comparison Agreement") with GSCC, its performance under that agreement, and the exercise by GSCC of its rights and remedies under that agreement will not conflict with or be impeded by the laws or regulations of the foreign entity's home country and will be respected by the foreign entity's primary foreign regulator. The opinion also must state that the language in the Comparison Agreement providing that the agreement shall be governed by and construed in accordance with the laws of the State of New York will be recognized and given effect by the courts of the foreign entity's home country.

2. Minimum Financial Standards and Clearing Fund Requirements

The proposed rule change also provides that the minimum financial standards and clearing fund requirements for a foreign netting system applicant will be the requirements applicable to the domestic netting system membership category that GSCC in its sole discretion determines is most comparable in type to the foreign applicant. In making this determination, GSCC will take into account, among other things, whether the entity's trading activity is done primarily for itself or for others. If a foreign netting system member falls out of compliance with its minimum financial requirements, the consequences of such noncompliance will be based on the subsection of GSCC Rule 3, Section 5 that is applicable to the netting system membership category upon which a foreign entity's minimum financial standards are based.

3. Home Country Standards

In order to be eligible for netting system membership, a foreign entity must be in compliance with the financial reporting and responsibility standards of its home country. A foreign entity applying for netting system membership also must be regulated in its home country in ways and pursuant to provisions comparable to those imposed on domestic GSCC netting members.

4. Information Sharing/Regulatory and Financial Reporting

To insure appropriate information sharing, the home country regulator of a foreign entity applying for netting system membership must have entered into a memorandum of understanding with the Commission regarding the sharing or exchange of information. In its application for membership, either comparison-only or netting system, a foreign entity must agree to provide GSCC with all material regulatory filings made with its primary home country regulator over the prior year, audited financial statements for the prior three years, and any other financial information GSCC deems to be necessary in order to protect GSCC and its members. After acceptance to comparison-only or netting system membership, a foreign member must provide GSCC with all material regulatory filings made with its primary home country regulator promptly following its filing with such regulator, all audited financial statements, and any other financial information GSCC deems to be necessary in order to protect GSCC and its members.

GSCC ordinarily will accept for financial monitoring purposes audited financial statements prepared in accordance with the home country's generally accepted accounting principles. If GSCC believes that those statements are not satisfactory, it will assess whether the foreign entity can provide information equivalent to that information provided by financial statements prepared in accordance with U.S. generally accepted accounting principles. All required financial and other reports must be submitted to GSCC in English. All required financial reports must be submitted to GSCC in dollar equivalents indicating the conversion rate and date used.

As noted above, pursuant to the Agreement a foreign netting system member must agree to provide GSCC with information on its financial condition and/or trading activity

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from Jeffrey F. ingber, General Counsel and Secretary, GSCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (October 26, 1995).

[3] Securities Exchange Act Release No. 36544 (December 1, 1995), 60 FR 63555.

[4] Foreign entities have been among the more significant participants in the government securities marketplace and trade actively with many current netting members. GSCC has maintained a list of "grandfathered" entities which are non-netting system members that historically have done business with GSCC's interdealer netting members. Business done by the interdealer broker netting members with grandfathered entities is treated by GSCC as business done with an actual netting member. Six of the seven firms on GSCC's list of grandfathered entities (Daiwa Europe Ltd.; Nikko Europe PLC; The Nikko Securities Co., Ltd. Tokyo; Nomura International PLC, London; Nomura International Inc., Tokyo; and Nomura Securities Co., Ltd. (Tokyo) are foreign entities.

deemed pertinent by GSCC and must acknowledge that GSCC may share this information with the Commission. In addition, GSCC will expect a foreign entity to prepare and provide to GSCC information to the form of unaudited financials sufficient for GSCC to monitor and assess the entity's financial condition on no less than a quarterly basis.

5. Physical Presence

With respect to a foreign netting member's physical presence in the U.S., GSCC will require every foreign entity to maintain an office in the U.S. either directly or through a suitable agent that (i) has available individuals fluent in English who are knowledgeable about the entity's business and can assist GSCC representatives as necessary and (ii) ensures that the foreign member can meet its data submission and settlement obligations to GSCC.

II. Discussion

Section 17A(b)(3)(F)[5] of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes GSCC's proposed rule change is consistent with the requirements of section 17A(b)(3)(F) because by permitting foreign entities, which are significant participants in the government securities marketplace and which actively trade with many current netting members, to become members of GSCC's netting system, the proposal will enable GSCC to extend the benefits of its netting and risk management processes to a broader segment of government securities market participants and will enable GSCC to extend those benefits to current members in their trades with foreign entity counterparties. Thus, a greater percentage of transactions in government securities should be settled through the national clearance and settlement system, which should help facilitate prompt and accurate clearance and settlement of government securities transactions.

Section 17A(b)(3)(f) also requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that GSCC's rules adequately take into account the unique risks raised by the admission of foreign entities. Specifically, by requiring a foreign netting member to execute the Agreement and submit an Opinion, GSCC's proposal should help ensure that a foreign netting member can adhere to GSCC's rules and that jurisdictional issues will not impede the exercise of GSCC's rights and remedies, including, among other things, GSCC's ability to serve process on a foreign netting member, against a foreign netting member.

The proposed rule change also takes into account GSCC's need to obtain information about the foreign member in order to adequately assess risk and to ensure compliance with GSCC's rules. The Agreement and Opinion facilitate GSCC's ability to obtain from foreign members financial and/or trading activity information which GSCC deems pertinent. Foreign applicants to and members of either the comparison-only or netting systems must provide GSCC with all material regulatory filings submitted to their home country regulator and with audited financial statements. The requirement that a foreign netting applicant's home country regulator must have entered into a memorandum of understanding with the Commission regarding exchange of information should help to ensure that the Commission has the ability to obtain appropriate information on foreign netting members. To further reduce potential risk arising from the absence of domestic regulatory oversight of foreign applicants, the proposed rule change requires that a foreign entity must be in compliance with the financial and reporting standards of its home country and that it must be regulated in its home country in a manner that is comparable to the regulation of domestic netting members.

To further guard against the potential risks posed by foreign netting members, the proposed rule change requires that every foreign netting member maintain an office in the U.S. that will ensure that the foreign member can meet its data submission and settlement obligations to GSCC. Such an office must have employees who are fluent in English and knowledgeable about the entity's business. Thus, GSCC will have an appropriate contact person readily available in event of an emergency situation.

The Commission believes that the foregoing conditions should help GSCC ensure that foreign netting members are subject to appropriate legal, financial, and information sharing requirements, that they are regulated in a manner comparable to other GSCC members, and that they maintain a physical presence in the United States. As a result, the proposed rule change should help GSCC to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible with the expansion of its services to foreign netting members.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–95–05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2406 Filed 2–5–96; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[Release No. 34–36786; File No. SR–CBOE–96–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to the Listing and Trading of Options on the CBOE Internet Index

January 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 19, 1996, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to list and trade options on the CBOE Internet Index ("Internet Index" or "Index"). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

[6] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Exchange proposes to list and trade cash-settled, European-style stock index options on the CBOE Internet Index, based on shares of 15 widely held companies involved in providing Internet access services, and in the design and manufacture of software and hardware that facilitates Internet access.[3] The Exchange believes that options on the Index will provide investors with a low-cost means to participate in the performance of this sector or to hedge against the risk of investing in this sector.

All of the stocks comprising the Index are U.S. securities and currently trade on the New York Stock Exchange ("NYSE") or through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported national market system securities ("NASDAQ/NMS"). Additionally, all of the stocks are "reported securities" as defined in Rule 11Aa3–1 under the Exchange Act. The Exchange is filing this proposal pursuant to the generic criteria for listing options on narrow-based indexes as set forth in Exchange Rule 24.2 and the Commission's order approving that Rule (the "Generic Index Approval Order")[4] as outlined below. In accordance with Rule 24.2, CBOE proposes to list and trade options on the Internet Index beginning 30 days from the filing date of this proposed rule change.

[3] The component securities of the Index are America Online Inc.; Cisco Systems Inc.; H&R Block (Compuserve); McAfee Associates Inc.; Microcom Inc.; Netcom On-Line Communication Svcs.; NetManage Inc.; Netscape Communications Corp.; Oracle Corporation; Psinet Inc.; Quarterdeck Office Systems Inc.; Silicon Graphics Inc.; Spyglass Inc.; Sun Microsystems Inc.; UUnet Technologies Inc.

[4] *See* Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994) ("Generic Index Approval Order").

Eligibility Standards for Index Components

Pursuant to Rule 24.2, all of the component securities of the Index are listed on the NYSE or are NASDAQ/NMS listed, and each of the stocks in the Index has a minimum market capitalization of at least 75 million. Specifically, the stocks comprising the Index range in capitalization from $325 million to $20.25 billion as of December 29, 1995. The total capitalization as of that date was $66.27 billion. The mean capitalization was $4.42 billion. The median capitalization was $1.90 billion.

Additionally, the average monthly trading volume for each of the component stocks in the Index have had monthly trading volume well in excess of 1 million shares over the six month period through December of 1995. The average monthly volumes for these stocks over the six month period ranged from a low of 6.93 million shares to a high of 141.32 million shares.

Netscape Communications Corp., however, does not meet the monthly trading volume criteria, because it was the subject of an initial public offering on August 9, 1995 and accordingly, has not yet accumulated at least six months of trading volume data. Since that time, Netscape trading volume has averaged 16.47 million shares per month. Currently, two of the fifteen stocks in the Index are not eligible for options trading because they do not have 7,000,000 outstanding shares owned by persons other than those required to report their stock holding under Section 16(a) of the Act. The Exchange represents that Netscape Communications Corp. will be options eligible on or before February 6, 1996, at which time the Index will have only one component (Spyglass Inc.), equally 6.67% of the Index, that is not eligible for options trading. Thus, at the time the Index is listed for options trading. Thus, at the time the Index is listed for trading, 93.33% of the weight of the Index and 93.33% of the number of components will be eligible for options trading.

Index Design and Calculation

The Index is equal-dollar weighted, with each stock comprising 6.67% of the total Index weight. The top 5 stocks in the Index account for 33.33% of the Index. The Index reflects changes in the prices of the component stocks relative to the Index base data, August 9, 1995 with the Index was set to 100.00. Specifically, each of the component securities is initially represented in equal dollar amounts, with the level of the Index equal to the combined market value of the assigned number of shares for each of the Index components divided by the current Index divisor. The Index divisor is adjusted to maintain continuity in the Index at the time of certain types of changes. Changes which may result in divisor changes include, but are not limited to, quarterly re-balancing, special dividends, spin-offs, certain rights issuances, and mergers and acquisitions.

The Index will be calculated on a real-time basis using last-sale prices by CBOE or its designee, and will be disseminated every 15 seconds by CBOE. If a component stock is not currently being traded, the most recent price at which the stock traded will be used in the Index calculation. The value of the Index at the close of trading on December 29, 1995 was 144.57.

Maintenance of the Index

The Index will be maintained by CBOE. The Index is re-balanced after the class of business on Expiration Fridays on the March Quarterly Cycle. In addition, the Index is reviewed on approximately a monthly basis by the CBOE staff. CBOE may change the composition of the Index at any time to reflect changes affecting the components of the Index or the Internet industry generally. If it becomes necessary to remove a stock from the Index (for example, because of a takeover or merger), CBOE will only add a stock having the maintenance criteria specified in CBOE's Rules and the Generic Index Approval Order. CBOE will take into account the capitalization, liquidity, volatility and name recognition of any proposed replacement stock.

Agsent prior Commission approval, CBOE will not increase to more than 20, or decrease to fewer than 10, the number of stocks in the Index. In addition, the CBOE will not make any change in the composition of the Index would cause fewer than 90% of the stocks by weight, or fewer than 80% of the total number of stocks in the index, to qualify as stock eligibility for equity options trading under CBOE Rule 5.3.

If the Index fails at any time to satisfy the maintenance criteria, the Exchange will immediately notify the Commission of that fact and will not open trading any additional series of options on the Index unless such failure is determined by the Exchange not to be significant and the Commission concurs that determination, or unlesss the continued listing of options on the Internet Index has been approved by the Commission under Section 19(b)(2) of the Act.

Expiration and Settlement

Internet Index options will have European-style exercise (i.e., exercises are permitted at expiration only), and will be "A.M.-settled index options" within the meaning of the Rules in Chapter XXIV, including Rule 24.9, which is being amended to refer specifically to Internet Index options. In the case of securities traded through the NASDAQ system, the first reported regular way sale price will be used. The proposed options will expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in a expiring series will be the second business day (ordinarily a Thursday) preceding the expiration date. If any component stock does not open for trading on its primary market on the last trading day before expiration, then the prior day's last sale price will be used in the calculation.

The exchange proposes to base trading in options on the Internet Index on the full value of that Index. The Exchange may list full-value long-term index option series ("LEAPS®"), as provided in Rule 24.9. The Exchange also may provide for the listing of reduced-value LEAPS, for which the underlying value would be computed at one-tenth of the value of the Index. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth.

Exchange Rules Applicable to Stock Index Options

Except as modified herein, the Rules in Chapter XXIV will be applicable to Internet Index options. These Rules cover issues such as surveillance, exercise prices, and position limits. Index option contracts based on the Internet Index will be subject to the position limit requirements of Rule 24.4A. Currently the position limit is 12,000 contracts. Ten reduced-value options will equal one full-value contract for such purposes. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Internet Index.

CBOE represents that it has the necessary systems capacity to support new series that would result from the introduction of Internet Index options. CBOE has also been informed that OPRA has the capacity to support such new series.[5]

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act") in general and furthers the objectives of Section 6(b)(5) in particular in that it will permit trading in options based on the Internet Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

(B) Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change complies with the standards set forth in the Generic Index Approval Order, it has become effective pursuant to Section 19(b)(3)(A) of the Act. Pursuant to the Generic Index Approval Order,[6] the Exchange may not list CBOE Internet Index options for trading prior to 30 days after January 19, 1996, the date the proposed rule change was filed with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–96–04 and should be submitted by February 27, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2405 Filed 2–5–96; 8:45 am]

BILLING CODE 8010–01–M

[5] *See* Memorandum from Joe Corrigan, Executive Director, OPRA, to Tom Knorring, CBOE, dated January 18, 1996.

[6] *See* Generic Index Approval Order, *supra* note 4.

[7] 17 CFR 200.30–3(a)(12).

[Release No. 34–36795; File No. SR–NASD–95–60]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Temporary Approval of Proposed Rule Change To Extend Certain SOES Rules Through July 31, 1996

January 31, 1996.

I. Introduction

On December 19, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or " Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The NASD proposes to extend through July 31, 1996 certain changes to its Small Order Execution System ("SOES") that were originally implemented in January 1994 for a one-year pilot period ("January 1994 Amended SOES Rules").[3] These rules subsequently were modified in January 1995 ("January 1995 Amended SOES Rules"),[4] further modified in March 1995 ("March 1995 Amended SOES Rules"),[5] and most recently extended in September 1995 ("September 1995 Amended SOES Rules").[6] The September 1995 Amended SOES Rules are scheduled to expire on January 31, 1996, and the NASD seeks to extend these rules until July 31, 1996. Without further Commission action, the SOES rules and would revert to those in effect prior to January 1994.

Notice of the proposed rule change appeared in the **Federal Register** on January 22, 1996.[7] No comment were received in response to the Commission release. For the reasons discussed below, this order approves the proposed rule change until July 31, 1996.

II. Description of the Current and Prior Proposals

The NASD proposes to extend until July 31, 1996 the September 1995 Amended SOES Rules. Specifically, the NASD proposes to extend until July 31, 1996 changes that:

(1) Reduce the minimum exposure limit for "unpreferenced" SOES orders from five times the maximum order size to two times the maximum order size, and eliminate the exposure limits for "preferenced" SOES orders; and

(2) Maintain the availability of an automated function for updating market maker quotations when the market maker's exposure limit has been exhausted (market makers using this update function may establish an exposure limit equal to the maximum order size for that security).

III. Discussion

The Commission must approve a proposed NASD rule change if it finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that govern the NASD.[8] In evaluating a given proposal, the Commission examines the record before it and relevant factors and information.[9] The Commission believes that approval of the proposal through July 31, 1996 meets the above standards. Specifically, the Commission believes that the current minimum exposure limit and automated quotation update feature are appropriate while the Commission considers NAqcess, the NASD's latest proposal for handling small orders from retail customers.[10]

The Commission believes that a sufficient basis exists for approving the NASD's proposal to continue the current operation of SOES. The system will continue to provide retail investors, through automation, an opportunity to obtain execution of orders in size up to 1,000 shares, ensuring access to the Nasdaq market.

In addition, as a result of the March 1995 Amended SOES Rules, the SOES minimum exposure limit was increased from 1,000 shares to 2,000 shares. Moreover, the March 1995 Amended SOES Rules continues the methodology for calculating a market maker's outstanding exposure limit that excluded orders executed pursuant to a preferencing arrangement. Under the SOES Rules prior to the January 1994 Amended SOES Rules, both preferenced and unpreferenced orders were considered when calculating a market maker's remaining exposure limit. Thus, in relative terms, the 2,000 share exposure limit potentially provides greater liquidity under certain conditions compared to the pre-January 1994 Amended SOES Rules' 5,000 share minimum exposure limit.

The Commission continues to believe that the current operation of SOES has eliminated economically significant restrictions imposed on order entry firms by the January 1994 Amended SOES Rules. The Commission believes that while the proposal does not restore the pre-January 1994 Amended SOES Rules' minimum exposure limit, it provides customers fair access to the Nasdaq market and reasonable assurance of timely executions. In this regard, the maximum order size is consistent with the size requirement prescribed under the Firm Quote Rule[11] and NASD rules governing the character of market maker quotations.[12] Moreover, a market maker's minimum exposure limit for unpreferenced orders is double its minimum size requirement prescribed under these rules.

The Commission also believes that extending the automated update function is consistent with the Act and, in particular, the Firm Quote Rule.[13] The update function provides market makers the opportunity to update their quotations automatically after executions through SOES; under the Commission's Firm Quote Rule, market makers are entitled to update their quotations following an execution and prior to accepting a second order at their published quotes.[14]

(2) A reduction in the minimum exposure limit for "unpreferenced" SOES orders for five times the maximum order size to two times the maximum order size, and the elimination of exposure limits for "preferenced" orders;

(3) An automated function for updating market maker quotations when the market maker's exposure limit has been exhausted (marked makers using this update function may establish an exposure limit equal to the maximum order size for that security); and

(4) The prohibition of short sale transactions through SOES.

[4] Securities Exchange Act Release No. 35275 (Jan. 25, 1995), 60 FR 6327 (Feb. 1, 1995).

The January 1995 Amended SOES Rules excluded the following feature of the January 1994 Amended SOES Rules:

(1) The prohibition of short sale transactions through SOES.

[5] Securities Exchange Act Release No. 35535 (Mar. 27, 1995), 60 FR 16690 (Mar. 31, 1995).

The March 1995 Amended SOES Rules Excluded the following two features of the January 1994 Amended SOES Rules:

(1) A reduction in the maximum size order eligible for SOES execution from 1,000 to 500 shares; and

(2) The prohibition of short sale transactions through SOES. (This prohibition also was excluded from the January 1995 Amended SOES Rules.) *See supra*, note 4.

[6] Securities Exchange Act Release No. 36311 (September 29, 1995), 60 FR 52438 (October 6, 1995). The September Amended SOES Rules were identical to the March 1995 Amended SOES Rules, and extended the effectiveness of such rules until January 31, 1996.

[7] Securities Exchange Act Release No. 36719 (January 16, 1996), 61 FR 1655 (January 22, 1996).

[8] 15 U.S.C. § 78s(b). The Commission's statutory role is limited to evaluating the rules as proposed against the statutory standards. *See* S. Rep. No. 75, 94th Cong., 1st. Sess., at 13 (1975).

[9] In the Securities Acts Amendments of 1975, Congress directed the Commission to use its authority under the Act, including its authority to approve SRO rule changes, to foster the establishment of a national market system and promote the goals of economically efficient securities transactions, fair competition, and best execution. Congress granted the Commission "broad, discretionary powers" and "maximum flexibility" to develop a national market system and to carry out these objectives. Furthermore, Congress gave the Commission "the power to classify markets, firms, and securities in any manner it deems necessary or appropriate in the public interest or for the protection of investors and to facilitate the development of subsystems within the national market system." S. Rep. No. 75, 94th Cong., 1st. Sess., at 7 (1975).

[10] *See* Securities Exchange Act Release No. 36548 (December 1, 1995), 60 FR 63092 (December 8, 1995). The comment period for the NAqcess proposal closed on January 26, 1996, and to date the Commission has received over 250 comments on the proposal. The Commission's evaluation of the NAqcess proposal may affect its evaluation of any future submissions relating to SOES.

[11] 17 CFR 240.11Ac1–1(c).

[12] *NASD Manual*, Schedules to the By-Laws, Schedule D, Part V, Sec. 2(a), (CCH) ¶1819.

[13] The SOES automated update function is also consistent with the NASD's autoquote policy which generally prohibits autoquote systems, but allows automatic updating of quotations "when the update is in response to an execution in the security by that firm." *NASD Manual*, Schedules to the By-Laws, Schedule D, Part V, Sec. 2 (CCH) ¶1819.

[14] The Firm Quote Rule requires market makers to execute orders at prices at least as favorable as their quoted prices. 17 CFR 11Ac1–1(c)(2). The Rule also allows market makers a reasonable period of time to update their quotations following an execution; allows market makers to reject an order if they have communicated a quotation update to their exchange or association; and provides for a size limitation on liability at a given quote. 17 CFR 240.11Ac1–1(c)(3)(ii). *See also*, Securities Exchange Act Release No. 14415 (Jan. 26, 1978), 43 FR 4342 (Feb. 1, 1978).

In its Order approving the September 1995 Amended SOES Rules, the Commission noted its concern about the potential for delayed and/or inferior executions. In that regard, the Commission stated that it expected the NASD to monitor the extent to which exposure limits are exhausted, the extent to which the automated quotation update feature is used, and the effects of these two aspects on liquidity. Moreover, the Commission stated that it expected the NASD to consider the possibility of enhancements to eliminate the potential for delayed and/or inferior executions. The NASD, therefore, submitted a report in response to the Commission's requests.[15]

In the Monitoring Report, the NASD found that from October 2, 1995 to November 22, 1995, the average daily number of occurrences of SOES exposure limits being exhausted was eighty-three.[16] The NASD stated that relative to the average number of market making positions on the Nasdaq National Market, the average is equivalent to 0.0019 occurrences per market making position per day or 0.0211 occurrences per stock per day.[17] The NASD concluded that, based on these numbers, the impact of exhaustions on liquidity if negligible.[18]

The NASD also supplied data regarding the automated quotation update feature in the Monitoring Report. The NASD stated that the average daily number of updates using the Nasdaq automated quotation update feature over the period was 3,394.[19] The NASD reported that as of November 21, 1995, the automated quotation update feature was used by 126 market makers for 10,644 market making positions, or 26 percent of all active market makers and 24 percent of all Nasdaq National Market market making positions.[20]

With regard to the Commission's request that the NASD consider the possibility of enhancements to SOES in order to eliminate the potential for delayed and/or inferior executions, the NASD, in its Monitoring Report, stated that the average delay between a SOES market order entry and order execution is 1.62 seconds.[21] The NASD concluded that such delays do not appear to warrant enhancements to SOES.

In further support of its proposal, the NASD continues to rely on the same arguments and justifications previously submitted to the Commission in support of the amendments to SOES. In the orders approving the January 1995, March 1995, and September 1995 Amended SOES Rules, however, the Commission expressed its belief that the data submitted by the NASD was inconclusive, demonstrating neither significant improvement to nor serious deterioration in the quality of the Nasdaq market subsequent to the adoption of the January 1994 Amended SOES Rules.[22] The information submitted by the NASD since its initial study, including the Monitoring Report, does not alter the Commission's original assessment. The Commission, therefore, continues to believe that the data submitted by the NASD demonstrates neither a significant improvement to nor serious deterioration in the quality of the Nasdaq market as a result of the adoption of the January 1994, January 1995, March 1995, and September 1995 Amended SOES Rules.[23] Moreover, the Commission believes this is true whether the amended SOES rules are viewed collectively or individually. Thus, the Commission finds the data submitted by the NASD to be inconclusive. For the reasons discussed above, however, the Commission has determined to approve the proposal to extend the September 1995 Amended SOES Rules through July 31, 1996.

IV. Conclusion

As indicated above, the Commission has determined to approve the extension of the SOES Minimum Exposure Limit Rule and the SOES Automated Quotation Update Feature through July 31, 1996. In light of the balance of factors described above, the Commission believes extension of the reduction in the minimum exposure limit, the limitation of the exposure limit to unpreferenced orders, and the addition of an automation quotation update feature are consistent with the Act.

The Commission, in the exercise of the authority delegated to it by Congress, and in light of its experience regulating securities markets and market participants, has determined that approval of these changes to the SOES Rules until July 31, 1996 is consistent with maintaining investor protection and fair and orderly markets, and that these goals, on balance, outweigh possible anti-competitive effects on order entry firms and their customers.

Accordingly, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6), 15A(b)(9), and 15A(b)(11). In addition, the Commission finds that the rule change is consistent with the Congressional objectives for the equity markets, set out in Section 11A, of achieving more efficient and effective market operations, fair competition among brokers and dealers, and the economically efficient execution of investor orders in the best market.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. In addition to the reasons discussed in this order, the Commission believes that accelerated approval of the NASD's proposal is appropriate given the fact that the proposal is an extension of the amended SOES Rules that have been in effect since March 1995; that the information presently before the Commission leads to the conclusion that the current minimum exposure limit and automated quotation update function are appropriate features for SOES while the Commission considers the NASD's NAqcess proposal; and that without Commission action on or before January 31, 1996, the SOES rules would revert to those in effect prior to January 1994, resulting in a temporary lapse in continuity.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the instant rule change SR–NASD–95–60 be, and hereby is, approved, effective February 1, 1996 through July 31, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2464 Filed 2–5–96; 8:45 am]

BILLING CODE 8010–01–M

[15] Monitoring Report of Exhaustion of SOES Exposure Limits and the Usage of Nasdaq Automated Quotation Update Feature, NASD Economic Research Department, December 18, 1995 ("Monitoring Report").

[16] The high was 119 occurrences on November 21, 1995, and the low was 47 occurrences on October 4, 1995.

[17] These averages were based on averages of 44,062 market maker positions and 3,932 securities per day.

[18] The NASD also noted that even when an exhaustion occurred, it is likely that other market makers were at the inside quote to provide liquidity to SOES orders.

[19] The high was 5,376 on October 10,1995 and the low was 2,157 on October 4, 1995.

[20] The NASD noted that these numbers do not take into account any internal automated quotation update systems that individual market making firms may employ and therefore, overall automated quotation update usage on Nasdaq is greater than the NASD's calculations demonstrate.

[21] The NASD noted that the maximum delay for a recent day was 87 seconds.

[22] *See* Securities Exchange Act Release Nos. 35275 (Jan. 25, 1995), 60 FR 6327 (Feb. 1, 1995); 35535 (Mar. 27, 1995), 60 FR 16690 (Mar. 20, 1995); 36311 (Sept. 29, 1995), 60 FR 52438 (Oct. 6, 1995).

[23] Nonetheless, the Commission continues to be interested in data and studies demonstrating the effect, if any, of the SOES rule changes on the Nasdaq market.

[Release No. 34–36790; File No. SR–PTC–95–09]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Declaring a Dividend

January 30, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 28, 1995, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–PTC–95–09) as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change declares a dividend payable on December 29, 1995, to PTC's stockholders of record as of December 21, 1995.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

As a condition to approving PTC's application for stock in the Federal Reserve Bank of New York, the Board of Governors of the Federal Reserve System ("Board of Governors") prohibited PTC from paying dividends to its stockholders.[3] The Board of Governors subsequently relieved PTC of the restriction on payment of dividends with the understanding that dividends, if declared, would be declared periodically by PTC's Board of Directors and would be paid at a rate not to exceed the 90-day United States Treasury bill rate in effect at the time the dividend is declared.[4]

The Commission approved PTC's practice of paying dividends out of net profits subject to the limitations imposed by the Board of Governors and subject to the further requirements that (i) prior to using excess income from invested principal and interest ("P&I") to pay a dividend, PTC's Board of Directors be advised of any amount related to the investment of P&I which has not been rebated and is part of the net profits used to declare the dividend and affirmatively approve the application of such excess P&I income for the dividend and (ii) PTC file a proposed rule change pursuant to Section 19(b)(3)(A) of the Act each time it declares a dividend.[5]

PTC has paid dividends on January 18, 1993, in the amount of $.52 per share to stockholders of record as of the close of business on December 31, 1992,[6] on January 20, 1994, in the amount of $.525 per share to stockholders of record as of the close of business on December 31, 1993,[7] and on January 20, 1995, in the amount of $1.00 per share to stockholders of record as of the close of business on December 31, 1994.[8] At its meeting on December 21, 1995, PTC's Board of Directors declared a dividend payable on December 29, 1995, in the amount of $.98 per share to stockholders of record as of the close of business on December 21, 1995. This dividend rate does not exceed the 90-day United States Treasury bill rate in effect on December 21, 1995.[9] The dividend does not include any excess income attributable to investments of P&I as all such P&I related income with respect to fiscal year ended December 31, 1995, will be rebated to participants on a *pro rata* basis based on the amount of P&I disbursements to each participant.

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act[10] and the rules and regulations thereunder in that it provides for the equitable allocation of reasonable fees and other charges among participants.

(B) Self-Regulatory Organization's Statements on Burden on Competition

PTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PTC has not solicited comments with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[11] and subparagraph (e)(1) of Rule 19b–4[12] thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by PTC.

[3] Letter from William W. Wiles, Secretary of the Board, Board of Governors, to Thomas A. Williams, Milbank, Tweed, Hadley & McCloy (March 27, 1989).

[4] Letter from Jennifer J. Johnson, Associate Secretary to the Board, Board of Governors, to Leopold S. Rassnick, Vice President and General Counsel, PTC (June 9, 1992). The State of New York Banking Department subsequently removed its restriction on the payment of dividends. Letter from Carmine M. Tenga, Deputy Superintendent of Banks, State of New York Banking Department, to Leopold S. Rassnick, Vice President and General Counsel, PTC (December 21, 1992).

[5] Securities Exchange Act Release No. 31746 (January 15, 1993), 58 FR 6319 (File No. SR–PTC–92–15).

[6] *Id.*

[7] Securities Exchange Act Release No. 33487 (January 18, 1994), 59 FR 3900 (File No. SR–PTC–93–07).

[8] Securities Exchange Act Release No. 35205 (January 9, 1995), 60 FR 3444 (File No. SR–PTC–94–08).

[9] The 90-day United States Treasury bill rate, as published in *The Wall Street Journal* on December 21, 1995, was 5.13%.

[10] 15 U.S.C. § 78q–1(b)(3(D) (1988).

[11] 15 U.S.C. § 78s(b)(3)(A)(i) (1988).

[12] 17 CFR 240.19b–4(e)(1) (1995).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR–PTC–95–09 and should be submitted by February 27, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2463 Filed 2–5–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36791; International Series Release No. 925; File No. Sr–ISCC–95–05]

Self-Regulatory Organizations; International Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to Global Clearance Network Service

January 30, 1996.

On November 22, 1995, International Securities Clearing Corporation ("ISCC") filed a proposed rule change (File No. SR–ISCC–95–05) with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on December 27, 1995, to solicit comments from interested persons.[2] No comments were received. As discussed below, this order approves the proposed rule change.

I. Description

ISCC has established a foreign clearance, settlement, and custody service known as a Global Clearance Network ("GCN") in conjunction with certain banks, trust companies, and other entities. Presently, ISCC has established GCN relationships with Citibank, N.A., Standard Bank of South Africa, Westpac Custodian Nominees Limited of Australia, and Westpac Nominees-NZ-Limited.[3] The proposed rule change accommodates S.D. INDEVAL, S.A. de C.V. ("INDEVAL") as an additional GCN service provider.

INDEVAL provides clearance, settlement, and custodial services for all transactions executed on the Mexican Stock Exchange and for transactions in other securities that are publicly traded in Mexico.[4] INDEVAL accepts any security publicly offered in Mexico for custody and clearing except for certain Mexican government securities.[5] As of December 31, 1994, 415 institutions were registered with INDEVAL, and the value of assets under INDEVAL's custody was 744.2 billion Mexican pesos. INDEVAL may act as an eligible foreign custodian under Rule 17f-5 under the Investment Company Act of 1940.[6]

INDEVAL has entered into an agreement with ISCC pursuant to which INDEVAL has agreed to provide access to its clearance, settlement, and custody services to GCN participants that qualify to be customers of INDEVAL.[7] ISCC has developed a cross-broker communication link to INDEVAL using the telecommunication system provided by the Society for Worldwide Interbank Financial Telecommunications S.C. ("SWIFT"). The link permits ISCC members that also are members of INDEVAL to send instructions through ISCC to INDEVAL regarding such participants' INDEVAL accounts. The link does not provide a mechanism for transferring securities or funds into or out of the United States. INDEVAL is providing the services at its scheduled rates and is responsible for collecting fees directly from the participants.

II. Discussion

The Commission believes the proposal is consistent with the requirements of Section 17A of the Act and therefore is approving the proposal.[8] In the initial order granting ISCC temporary registration as a clearing agency, the Commission stated that the development of efficient and comparable automated national and international clearance, settlement, and payment systems is one of the more important international goals.[9] The Commission noted that without established international systems, broker-dealers and their institutional customers often are forced to devote substantial resources to each task related to trade settlement and must deliver securities by physical means. The Commission also found that clearing linkages facilitate cross-border settlements without compromising the essential soundness and integrity of each national clearing and settlement system.

The GCN service offers participating ISCC members advantages in securities processing including central access for processing trades, standardized operating procedures, receipt of uniform reports on their trades, and reduced costs. The addition of INDEVAL as a GCN provider gives ISCC participants access to settlement services in areas not currently covered by the GCN service and thus increases the utility of the GCN service. Therefore, the Commission believes the proposal is consistent with Section 17A(b)(3)(F) of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions.[10]

III. Conclusion

For the reasons stated above, the Commission finds that ISCC's proposal is consistent with Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–ISCC–95–05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

FR Doc. 96–2461 Filed 2–5–96; 8:45 am]

BILLING CODE 8010–01–M

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[13] 17 CFR 200.30–3(a)(12) (1995).

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 36605 (December 20, 1995), 60 FR 67004.

[3] Securities Exchange Act Release Nos. 29841 (October 18, 1991), 56 FR 55960; 35392 (February 16, 1995), 60 FR 10415; and 36339 (October 5, 1995), 60 FR 53447.

[4] INDEVAL was created under Mexican securities law in 1978 and has been privately owned since 1987. Its shareholders are brokerage houses, banks, insurance companies, Banco de Mexico (the central bank of Mexico), and the Mexican Stock Exchange. INDEVAL is regulated by the Government of Mexico.

[5] Starting in April 1994, Banco de Mexico authorized INDEVAL to offer custodial and transfer services for government debt securities to foreign direct account depositors by means of a link between Banco de Mexico and INDEVAL.

[6] Letter from Richard F. Jackson, Division of Investment Management, Commission to INDEVAL, File No. 132–3 (October 19, 1990). An "eligible foreign custodian" includes a securities depository or clearing agency which is incorporated or organized under the laws of a country other than the United States and which operates the central system for handling of securities or equivalent book-entries in that country. 17 CFR 270.17f–5(c)(2)(iii) (1995).

[7] The agreement is terminable on ninety days prior notice. However, if ISCC notifies INDEVAL within such ninety day period that it has not been able to make arrangements with an alternative service provider, the agreement terminates thirty days after the expiration of such ninety day period.

[8] 15 U.S.C. 78q–1 (1988).

[9] Securities Exchange Act Release 26812 (May 12, 1989), 54 FR 21691.

[10] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[11] 15 U.S.C. 78s(b)(2) (1988).

[12] 17 CFR 200.30–3(a)(12) (1995).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2828]

Tennessee; Declaration of Disaster Loan Area

Monroe County and the contiguous counties of Blount, Loudon, McMinn and Polk in the State of Tennessee, and Cherokee, Graham, and Swain Counties in the State of North Carolina constitute a disaster area as a result of damages caused by a fire which occurred on January 15, 1996 in the City of Sweetwater. Applications for loans for physical damage may be filed until the close of business on April 1, 1996, and for economic injury until the close of business on October 30, 1996, at the address listed below: Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308 or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damages are 282805 for Tennessee and 282905 for North Carolina. For economic injury the numbers are 874100 for Tennessee and 874200 for North Carolina.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 30, 1996.

Philip Lader,

Administrator.

[FR Doc. 96–2422 Filed 2–5–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96–004]

Merchant Vessel Personnel Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice hereby is given of a meeting of the Merchant Vessel Personnel Advisory Committee (MERPAC).

DATES: A working group meeting will be held on Thursday, March 7, 1996 at Texas A&M University, 53rd and Avenue U, Galveston, Texas. A public meeting will be held on Friday, March 8, 1996, at Texas A&M University, 200 Seawolf Parkway, Galveston, Texas. Texas A&M University may be contacted at (409) 740–4851. The meetings are scheduled to run from 8:30 a.m. to 4 p.m. each day. Attendance at both meetings is open to the public.

SUPPLEMENTAL INFORMATION: The agenda for the MERPAC meeting follows:

1. Subcommittee Reports

(a) Certified instructors/Designated examiners.

(b) Minding the Helm: Marine Navigation and Piloting.

(c) International Convention on the Standards of Training, Certification and Watchkeeping (STCW).

2. Other Issues to be Discussed

(a) Prevention Through People (PTP) tasking statement.

(b) Tankerman regulations—Qualifications for Tankermen, and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases.

(c) Regional Examination Center activities.

(d) National Maritime Center—Course approvals & examinations.

With advance notice, and at the discretion of the Chairman, members of the public may present oral statements at the March 8, 1996 meeting. Persons wishing to present oral statements on March 8, 1996 should notify the MERPAC Executive Director no later than the day before the meeting. Written statements or materials may be submitted for presentation to the Committee at any time; however, to ensure distribution to each Committee member, 20 copies of the written materials should be submitted to the Executive Director at the address below no later than February 23, 1996.

FOR FURTHER INFORMATION CONTACT: CDR John Sarubbi, Executive Director, Merchant Personnel Advisory Committee (MERPAC), Room 1208, U.S. Coast Guard Headquarters, 2100 Second St., SW, Washington, DC 20593–0001, (202) 267–0229.

Dated: January 26, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–2454 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Research, Engineering and Development Advisory Committee; Change in Meeting Place

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development Advisory Committee.

The meeting place has been changed to the Holiday Inn on the Hill, 415 New Jersey Avenue, NW, Washington, DC. The days will remain the same February 14, 9 a.m. to 5 p.m. and February 15, 8 a.m. to 12 noon.

Issued in Washington, DC, on January 31, 1996.

Randall Stevens,

Acting Manager, Research Division.

[FR Doc. 96–2506 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport, Chicago, Illinois and Use PFC Revenue at Gary Regional Airport, Gary, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Chicago O'Hare International Airport and use the revenue from a PFC at Gary Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 7, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, Room 258, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David R. Mosena, Commissioner, of the City of Chicago Department of Aviation at the following address: Chicago O'Hare International Airport, P.O. Box 66142, Chicago, Illinois 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of Part 15.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 258, Des Plaines, Illinois 60018, (847) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Chicago O'Hare International Airport and use the revenue from a PFC at Gary Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 22, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Chicago Department of Aviation was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 20, 1996.

The following is a brief overview of the application.

PFC application number: 96–04–C–00–ORD.

Level of the PFC: $3.00.

Actual charge effective date: September 1, 1993.

Revised estimated charge expiration date: June 1, 1999.

Total estimated PFC revenue: $1,500,000.

Brief description of proposed project(s):

a. Construct West Terminal Apron Expansion

b. Construct Deicing Apron

c. Construct East T-Hangar Area Taxiways and Access Road

d. Overlay/Extend and/or Sealcoat Existing FBO Apron

e. Install Airport Perimeter Fencing

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on January 29, 1996.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–2509 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Bradley International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposed to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge at Bradley International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 7, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert F. Juliano, at the following address: Bureau Chief, Aviation and Ports, State of Connecticut, Department of Transportation, 2800 Berlin Turnpike, P.O. Box 317546, Newington, Connecticut, 06131–7546.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Connecticut Department of Transportation under § 158.23 of Part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Bradley International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 199) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 25, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Connecticut Department of Transportation was substantially complete within the requirements of § 158.25 of Part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than April 19, 1996.

The following is a brief overview of the impose and use application.

PFC Project No.: 96–04–C–00–BDL.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1996.

Proposed estimated charge expiration date: December 1, 1996.

Estimated total net PFC revenue: $2,995,000.

Brief description of project: Acquire Snow Removal Equipment; Acquire Aircraft Rescue and Fire Fighting Vehicles.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On demand Air Taxi/Commercial Operators (ATCO), that (1) do not enplane or deplane passengers at the main passenger terminal building; and (2) enplane less than 500 passengers per year at Bradley International Airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Connecticut Department of Transportation Building, 2800 Berlin Turnpike, Newington, Connecticut.

Issued in Burlington, Massachusetts, on January 29, 1996.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 96–2507 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application To Impose a Passenger Facility Charge (PFC) at Sacramento Metropolitan Airport (SMF), Sacramento, California and Use the Revenue at SMF and Mather Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Sacramento Metropolitan Airport (SMF) and use the revenue at SMF and Mather Airports under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 7, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas P. Engel, Director, Department of Airports, County of Sacramento, at the following address: 6900 Airport Boulevard, Sacramento, California 95837. Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Sacramento under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Sacramento Metropolitan Airport (SMF) and use the revenue at SMF and Mather Airports under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 25, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Sacramento was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 24, 1996.

The following is a brief overview of the use application number AWP–96–05–C–00–SMF.

Level of proposed PFC: $3.00.

Charge effective date: July 1, 1996.

Estimated charge expiration date: June 30, 2026.

Total estimated PFC revenue: $82,867,000.

Brief description of the impose and use projects: Air Quality Mitigation Compressed Natural Gas System, Airfield Support Shops and Facilities, Sacramento Area Flood Control Agency Flood Control Project, Airfield Drainage Control Equipment—Backhoe, Terminal Roadway Island Widening, GA Apron Airside Access Road, FOD Removal Equipment—Airfield Sweeper at Sacramento Mather Airport, Earhart Drive Reconstruction, Terminals 1 & 2 Rehabilitation, Phase 3, Security System Upgrade, Airfield, Terminal, Tower Communications System—Telephone Switch, Concourse Throat Expansion, West Terminals Jet Loaders, Phase 2, ARFF Vehicles Replacement, Surface Movement Guidance Control System, Aircraft Noise Monitoring System, Metro Airport Master Plan Update and EIR, Metro Airport Part 150 Study, Terminals 1, 2, & 3, CPS and Administration Buildings Electrical System Reconstruction/Upgrade Phase 2, Reconstruct Electrical Vault and Construct East Vault, and Airport System Revenue Bond Issuance Costs, Debt Service Reserve Funding, Bond Coverage and Interest Expense for Projects in Passenger Facility Charge Application Number 5.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Sacramento.

Issued in Hawthorne, California, on January 25, 1996.

Herman C. Bliss,

Manager, Airports Division, Western Pacific Region.

[FR Doc. 96–2512 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[FRA Docket No. HS–96–1]

Petitions for Waivers of Compliance

Notice is hereby given that the Southern Pacific Transportation Company (SPT), the Brotherhood of Locomotive Engineers (BLE) and the United Transportation Union (UTU) have jointly petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with a provision of the Federal hours of service laws (49 U.S.C. 21103(b)(4)) affecting train employees.

The Federal hours of service laws currently make it unlawful for a railroad carrier to require specified train employees to remain on duty in excess of 12 hours, except as provided in 49 U.S.C. 21102(a) and 21103(c). In addition, the Federal hours of service laws define time on duty for train employees to include time spent in deadhead transportation to duty assignment, but define time spent in deadhead transportation from a duty assignment to the place of final release as neither time on duty nor off duty.

Section 21108(a) of title 49 of the United States Code provides that a railroad carrier and all labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier, may jointly petition for approval of a waiver, in whole or in part, of compliance with the Federal hours of service laws to enable the establishment of one of more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of the hours of service laws to such class or craft of employees.

The petitioners seek a waiver pursuant to this section, in order to establish a pilot project in which certain SPT train employees may be permitted to treat travel time to a duty assignment as commuting time that would otherwise be counted as on-duty time under FRA's application of the

deadheading provision of the Federal hours of service laws. Affected SPT train employees (engineers and trainmen) operate under an agreement, commonly known as the Los Angeles Basin agreement (agreement), in unassigned freight pool service (BLE) and pool freight service (UTU) between Los Angeles (LATC) and West Colton, California. Train employees called for service under this agreement may go on or off duty at LATC, Dolores (ICTF) or West Colton.

FRA has interpreted the Federal hours of service laws as requiring that deadheading time include personal automobile travel to a point of duty assignment other than the regular reporting point of an individual train employee. SPT, BLE and UTU seek waiver relief from FRA's interpretation to allow train employees covered by the agreement to report on or off duty at the identified locations without including personal automobile travel time as time on duty for purposes of 49 U.S.C. 21103(b)(4).

The SPT, BlE, and UTU state "that the agreements will positively impact safety by allowing each employee to have additional rest between tours of duty thereby providing less stress." The petitioners also state "it is expected that these agreements will result in less personnel turnover on these assignments."

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis of their request.

All communications concerning these proceedings should identify the waiver petition docket number (e.g., Waiver Petition Docket Number HS–96–01) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received within 30 days of the date of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on February 1, 1996.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 96–2505 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–06–M

Ensuring Tank Car Safety

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of public information meeting.

SUMMARY: The Federal Railroad Administration (FRA) announces a public meeting to discuss the safety of tank car builders, users, and transporters.

DATES: The public meeting will be held February 13 and 14, 1996.

FOR FURTHER INFORMATION CONTACT: James H. Rader, Hazardous Materials Specialist, Office of Safety Assurance and Compliance, (202) 366–0510, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590. Internet address: JRADER@intergate.dot.gov.

SUPPLEMENTARY INFORMATION: FRA is hosting a public information meeting in Houston, Texas on February 13 and 14, 1996 on "Ensuring Tank Car Safety." At the meeting, representatives of FRA, the Research and Special Programs Administration (RSPA), the tank car industry, railroad transportation companies, petroleum and chemical producers, and state and local emergency response personnel will discuss the safety needs of the industry. They will highlight current and future planned efforts in research, regulatory development, and industry standards.

During the meeting, FRA and RSPA will seek the opinions of shippers and tank car owners, of state and local government officials, emergency responders, and the public about the focus of current efforts to ensure tank car safety. Representatives of governmental agencies and private enterprises will discuss the priorities to be given current and future FRA-sponsored research and rulemaking efforts as well as activities sponsored by industry.

The FRA anticipates that this meeting will provide a clear direction for gaining the greatest impact for public and private research dollars. In addition, both government and industry want to be certain that, to the maximum extent possible, governmental regulations and private industry standards are fully coordinated. The FRA appreciates the additional stimulus provided for the February seminar by the Recommendations in National Research Council's Special Report #243, *Ensuring Railroad Tank Car Safety,* (Transportation Research Board, National Research Council, © 1994).

Conference space is limited and pre-registration is required. To participate in the public information meeting, participants must register and receive confirmation from Mr. James H. Rader, Federal Railroad Administration at (202) 366–0510 [Internet address: JRADER@intergate.dot.gov], Washington D.C.

Issued at Washington, DC, pursuant to the authority of 49 U.S.C. 5121, 20103, 20107, and 20108; and 49 CFR 1.49.

Jolene M. Molitoris,

Administrator.

[FR Doc. 96–2430 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Safety Performance Standards, Research and Safety Assurance Programs Meetings

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of NHTSA Industry Meetings.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's vehicle regulatory, safety assurance and other programs. In addition, NHTSA will hold two separate public meetings to describe and discuss specific research and development projects and to seek information on the safety of mirror systems.

DATES: The Agency's regular, quarterly public meeting relating to its vehicle regulatory, safety assurance and other programs will be held on March 13, 1996, beginning at 9:45 a.m. and ending at approximately 12:30 p.m. Questions relating to the above programs must be submitted in writing by March 1, 1996, to the address shown below. If sufficient time is available, questions received after March 1, may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by March 1, 1996, and the issues to be discussed will be transmitted to interested persons by March 6, 1996, and will be available at the meeting. Also, the agency will hold a second public meeting on March 12, devoted exclusively to a presentation of research and development programs. This meeting will begin at 1:30 p.m. and end at approximately 5:00 p.m. That meeting is described more fully in a separate announcement. In addition to the March 12th meeting, a third public meeting will be held on the afternoon of March 13th, following the NHTSA Technical Industry Public Meeting. This latter meeting will be held in the same location, from 1:30p.m. to 5:00p.m., and will seek suggestions for actions to enhance safety with respect to NHTSA's regulatory and non-regulatory mirror-related actions. That meeting is also described in further detail in a separate **Federal Register** notice. After the March meetings, the next vehicle regulatory, safety assurance and other programs will be held on June 13, 1996.

ADDRESSES: Questions for the March 13, NHTSA Technical Industry Meeting, relating to the agency's vehicle regulatory and safety assurance programs, should be submitted to Barry Felrice, Associate Administrator for Safety Performance Standards, NPS–01, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street, SW., Washington, DC 20590, Fax number (202) 366–4329. The meeting will be held at the Royce Hotel—Detroit Metro Airport, 31500 Wick Road, Romulus, Michigan 48174.

SUPPLEMENTARY INFORMATION: NHTSA will hold this regular, quarterly meeting to answer questions from the public and the regulated industries regarding the agency's vehicle regulatory, safety assurance and other programs. Questions on aspects of the agency's research and development activities that relate to ongoing regulatory actions should be submitted, as in the past, to the agency's Safety Performance Standards Office. The purpose of this meeting is to focus on those phases of NHTSA activities which are technical, interpretive or procedural in nature. Transcripts of these meetings will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page, (length has varied form 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4:00 p.m.

We would appreciate the questions you send us to be organized by categories to help us to process the questions into agenda form more efficiently.

Sample format as follows:

I. Rulemaking
  A. Crashavoidance
  B. Crashworthiness
  C. Other Rulemakings
II. Consumer Information
III. Miscellaneous

NHTSA will provide auxiliary aids to participants as necessary. Any person desiring assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), readers, taped texts, Brailled materials, or large print materials and/or a magnifying device), please contact Barbara Carnes on (202) 366–1810, by COB March 1, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2496 Filed 2–5–96; 8:45 am]

BILLING CODE 4910–59–M

Surface Transportation Board [1]

[STB Finance Docket No. 32860]

CSX Transportation, Inc.—Trackage Rights Exemption—Norfolk and Western Railway Company—Chicago, IL

CSX Transportation, Inc. (CSXT) has filed a verified notice under 49 CFR 1180.2(d)(7) to acquire overhead trackage rights from Norfolk and Western Railway Company (NW) over approximately 8,100 feet between the trackage connection of NW and the Belt Railway Company of Chicago (BRC) at the 80th Street Interlocking and the trackage connection of NW and BRC at the Belt Junction Interlocking, in Chicago, IL. The trackage rights are scheduled to become effective on February 8, 1996.

The notice states that the CSXT's use of the NW track will allow CSXT to provide double stack service, thereby increasing intermodal competition by providing more efficient service.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980).

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Any pleadings must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: John W. Humes, Jr., Senior Counsel, CSX Transportation, Inc., 500 Water Street, J–150, Jacksonville, FL 32202.

Decided: January 30, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2457 Filed 2–5–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Docket No. AB–466X]

MNVA Railroad, Inc.—Discontinuance of Trackage Rights Exemption—in Ramsey and Hennepin Counties, MN

MNVA Railroad, Inc. (MNVA), has filed a verified notice under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* to discontinue its trackage rights over 12 miles of rail line owned by Soo Line Railroad Company and known as the Depression Trackage, between milepost 416.23± at or near Merriam Park in St. Paul, and milepost 428.00± at or near France Avenue in Minneapolis, in Ramsey and Hennepin Counties, MN.

MNVA certifies that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in complainant's favor within the last 2 years; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

As a condition to use of this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 7, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by February 16, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 26, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Thomas J. Litwiler, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Ave., Chicago, IL 60601.

If the verified notice contains false or misleading information, the exemption is void ab initio.

MNVA has filed an environmental report which addresses the effects, if any, of the discontinuance on environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by February 9, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, 1201 Constitution Avenue, NW., Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 31, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2458 Filed 2–5–96; 8:45 am]

BILLING CODE 4915–00–P

[2] A stay will be issued routinely by the Board in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of this notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Board to review and act on the request before the effective date of this exemption.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Board will accept a late-filed trail use request as long as it retains jurisdiction to do so.

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation with an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 99(b)(3) of the Internal Revenue Code of 1986): Bahrain, Iraq, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Republic of Yemen.

Dated: January 30, 1996.

Joseph Guttentag,

International Tax Counsel (Tax Policy).

[FR Doc. 96–2403 Filed 2–5–96; 8:45 am]

BILLING CODE 4810–25–M

Office of the Comptroller of the Currency

Information Collection Submitted to OMB for Review

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Office of the Comptroller of the Currency (OCC) hereby gives notice that it is sending to the Office of Management and Budget (OMB) a Paperwork Reduction Act Submission regarding an information collection titled (MA)—Reports of Condition and Income (Interagency Call Report).

DATES: Comments on this information collection are welcome and should be submitted by March 7, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the OCC contact.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the OCC is sending to OMB a Paperwork Reduction Act Submission regarding the following information collection:

Type of Review: Regular.

Title: (MA)—Reports of Condition and Income (Interagency Call Report).

Description: Reports of Condition and Income are filed quarterly with the three Federal banking agencies (OCC, Federal Reserve Board (FRB), and the Federal Deposit Insurance Corporation (FDIC)) for their use in monitoring the condition and performance of banks and the industry as a whole. The reports are also used by the FDIC to calculate banks' deposit insurance assessments. On November 16, 1995, the OCC, FRB, and FDIC jointly published a notice in the **Federal Register** (60 FR 57618) describing in detail the proposed changes to this information collection and inviting comments. All comments received by the agencies were carefully considered in developing the revised forms. This notice provides the public with a further opportunity to obtain, review, and comment on the revised forms.

Form Number: FFIEC 031, 032, 033, and 034.

OMB Number: 1557–0081.

Respondents: Businesses or other for-profit.

Number of Respondents: 2,900.

Total Annual Responses: 11,600.

Frequency of Response: Quarterly.

Total Annual Burden Hours: 441,024.

OMB Reviewer: Milo Sunderhauf, (202)395–7340, Paperwork Reduction Project 1557–0081, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

OCC Contact: John Ference or Jessie Gates, (202)874–5090, Legislative and Regulatory Activities Division (1557–0081), Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Comments: Comments regarding the submission should be addressed to both the OMB reviewer and the OCC contact listed above.

Dated: February 1, 1996.

Nancy P. Michaleski,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 96–2459 Filed 2–5–96; 8:45 am]

BILLING CODE 4810–33–P

[Docket No. 96–01]

Preemption Determination

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing for comment a written request for OCC reconsideration of its prior determination that Federal law preempts the application of a New Jersey law that requires all depositories in the State which offer regular checking accounts to offer low-cost or consumer checking accounts. It is intended to provide interested persons with an opportunity to provide comments on the preemption request prior to the OCC's issuance of a final opinion letter responding to the request.

DATES: Comments should be submitted on or before April 8, 1996.

ADDRESSES: Comments should be sent to the Communications Division, 250 E Street, SW., Third Floor, Washington, DC 20219. Attention: Docket No. 96–01. Comments will be available for inspection and photocopying at the same location. Appointments for inspection of comments can be made by calling (202) 874–4700. In addition, comments may be sent by facsimile transmission to FAX number 202–874–5274 or by electronic mail to REG.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Susan L. Blankenheimer, Senior Attorney, Bank Activities and Structure Division (202) 874–5300.

SUPPLEMENTARY INFORMATION:

Background

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (section 114), Pub. L. 103–328 (12 U.S.C. 43), generally requires the OCC to publish in the **Federal Register** a descriptive notice of certain requests that the OCC receives for preemption determinations. The OCC must publish this notice before it issues any opinion letter or interpretive rule concluding that Federal law preempts the application to a national bank of a State law in the areas of community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches (the four designated areas). The OCC must give interested persons at least 30 days to submit written comments, and must consider the comments in developing the final opinion letter or interpretive rule. The OCC must publish in the **Federal Register** any final opinion letter or interpretive rule that concludes that Federal law preempts State law in any one of the four designated areas.

Section 114 also provides certain exceptions to the **Federal Register** publication requirement, however. Notice or comment is not required where the opinion letter or interpretive rule: (1) addresses an issue essentially identical to one previously resolved by the courts or on which the agency has previously issued an opinion letter or interpretive rule; (2) responds to a request that contains no significant legal basis on which to make a preemption determination; or (3) is prepared for use in judicial proceedings, by Congress, or for intragovernmental use.

While it is not clear that the standards of section 114 require that the OCC apply the section 114 notice procedures to this request for reconsideration, the OCC has elected to do so because of the concern raised during Congressional consideration of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 about the particular OCC preemption opinion at issue. *See* H.R. CONF. REP. NO. 103–651, 103d Cong., 2d Sess. 53–54 (1994).

Specific Request for OCC Preemption Determination

On November 13, 1995, the State of New Jersey Department of Banking (Department) requested that the OCC reconsider whether New Jersey's Consumer Checking Account Act (NJCCAA), codified at N.J.Stat. Ann. section 17:16N–1 *et seq.*, is preempted by Federal law. In a 1992 letter to the Department, the OCC concluded that the NJCCAA and its implementing regulation, N.J. Admin. Code section 3:1–19.4, are preempted by Federal law and that national banks doing business in New Jersey are not required to comply with any of the provisions of the NJCCAA or its implementing regulation. *See* Interpretive Letter No. 572 (January 15, 1992), *reprinted in* [1991–1992 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,342.

The NJCCAA requires every depository institution that maintains regular checking accounts in New Jersey to make available to consumers a New Jersey Consumer Checking Account at all offices of that institution where regular checking accounts are offered or available. N.J. Stat. Ann. section 17:16N–3.a.[1] The NJCCAA does not require a depository institution to offer a New Jersey Consumer Checking Account at a cost below its actual cost of providing the account. The NJCCAA's implementing regulation sets forth procedures for closing or refusing to open a New Jersey Consumer Checking Account if a depository institution's fees and revenues derived from the account are less than its costs. N.J. Admin. Code section 3:1–19.4.

The principal features of a New Jersey Consumer Checking Account, as set forth in the regulation (N.J. Admin. Code § 3:1–19.2(a)), include the following:

1. The initial deposit amount necessary to open the account is $50.00 and the minimum balance necessary to maintain the account is $1.00;

2. The customer may make at least eight free withdrawals from the account by check within a periodic cycle (for each transaction in excess of this number, the regulation imposes a maximum charge of $0.50);

3. The customer may make an unlimited number of free deposits and withdrawals using deposit and withdrawal slips;

4. The amount that may be charged per periodic cycle for maintaining the account may not exceed $3.00 per periodic cycle; and

5. A customer may not be charged for printing checks an amount greater than that charged for regular checking account holders. In addition, the depository institution may charge fees for automated teller machine (ATM) usage and banking services if the fees are the same as those for regular checking account holders for the same services.

The NJCCAA further provides, in general, that a depository institution may not discriminate against the holder of a New Jersey Consumer Checking Account by furnishing fewer mail or electronic banking services, or assessing higher fees, compared to the services furnished to or fees assessed against regular checking account holders. NJCCAA section 3.f. Section 3.h of the NJCCAA and section 3:1–19.4(a) of the regulation set forth the limited conditions (including fraud and a record of unpaid checks) under which a depository institution may close or refuse to open a New Jersey Consumer Checking Account for a customer.

The NJCCAA also prohibits a depository institution from requiring that a holder of a New Jersey Consumer

[1] The term depository institution is defined to include national banks doing business in New Jersey. *Id.* at section 2.

Checking Account have another account or a credit card at that or any other depository institution as a condition to opening or maintaining the New Jersey Consumer Checking Account. NJCCAA section 3.i. Section 5 of the NJCCAA prescribes requirements for providing public notice of the availability and features of a depository institution's New Jersey Consumer Checking Account. Section 6 of the NJCCAA provides a private right of action for violations of the NJCCAA, including injunctive relief, and monetary damages. Finally, section 7 of the NJCCAA gives the New Jersey Commissioner of Banking administrative enforcement powers over institutions which fail to comply with the NJCCAA or any of the Commissioner's regulations or orders thereunder. These powers include the authority to issue a cease and desist order and assess a civil money penalty.

The purpose of the Bank Enterprise Act is to provide Federally insured depository institutions (including national banks) with an incentive (e.g., a reduced Federal deposit insurance rate for deposits attributable to lifeline accounts) to offer lifeline accounts,[2] and to make loans and provide other financial assistance in distressed communities. The term lifeline account is defined in section 232 of the BEA (12 U.S.C. 1834) as a transaction account which meets certain minimum requirements. The BEA does not, however, require depository institutions to offer these lifeline accounts; that decision is left to individual depository institutions.

The Interpretive Letter No. 572 noted that the factors established in section 232 of the BEA (12 U.S.C. 1834) for the purpose of determining whether a transaction account qualifies as a lifeline account eligible for reduced Federal deposit insurance assessment rate are virtually identical to those listed in the NJCCAA for the purpose of determining whether an account qualifies as a New Jersey Consumer Checking Account. The Letter concluded, among other things, that since the NJCCAA *requires* Federally insured depository institutions doing business in New Jersey to offer lifeline accounts, the NJCCAA is in direct conflict with a Federal statute, the BEA, set forth in Title II, Subtitle C of the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. No. 102–242, 105 Stat. 2236 (FDICIA), (12 U.S.C. 1834), which expressly makes the offering of such accounts *voluntary*. Although Interpretive Letter No. 572 recognized that both Congress and the New Jersey legislature saw the benefits of widespread use of lifeline accounts, it concluded that under Federal preemption principles, the State's method must yield in the face of a directly contrary Federal treatment of this issue.

The Department's position is that the BEA does not preempt the NJCCAA, since the two laws are not in conflict. The Department states that the philosophy of the NJCCAA, to provide basic checking services to those in need of them, is consistent with that of the BEA. The Department asserts that it is unlikely that Congress intended to preclude individual states from requiring depository institutions to provide basic checking services to those in need. The Department also states that Interpretive Letter No. 572 did not fully consider applicable case law in the area of preemption, citing for example, the case of *Best* v. *United States National Bank of Oregon*, 303 Or. 557, 739 P. 2d 554 (1987).

Request for Comments

The OCC requests comments on all aspects of the request for reconsideration of OCC's prior determination that the application of New Jersey law to national banks is preempted by Federal law. Comments should be submitted to the docket number and address indicated in the **ADDRESSES** paragraph of this document. The OCC will carefully consider any comments received and publish its final determination in response to the request.

Dated: January 22, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–2387 Filed 2–5–96; 8:45 am]

BILLING CODE 4810–33–P

[2] Appropriations are required, however, to implement this and other provisions of the BEA. Funds for the BEA have not yet been appropriated, and the only funding that has been made available to date is for a program based on the BEA that is administered by the Administrator of the Community Development Financial Institutions Fund (Administrator). *See* Appropriations Act for FY 1995, Pub. L. No. 104–19, 109 Stat. 237 (July 27, 1995). The Administrator is precluded by law, however, from using the amount of the deposit insurance assessment as an incentive to participate in the program. Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. No. 103–325, section 114, 108 Stat. 2179 (Sept. 23, 1994) (12 U.S.C. 4713).

Bureau of the Public Debt

Proposed Agency Information Collection Activities: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Payroll Savings Report.

DATES: Written comments should be received on or before April 8, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Ott, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Vicki S. Ott, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Payroll Savings Report.

OMB Number: 1535–0001.

Form Number: SB–60 and SB–60A.

Abstract: The information is requested as a measure of the effectiveness of the payroll savings program.

Current Actions: None.

Type of Review: Extension.

Affected Public: Businesses.

Estimated Number of Respondents: 25,910.

Estimated Time Per Respondent: 41 minutes.

Estimated Total Annual Burden Hours: 17,871.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: January 31, 1996.

Vicki S. Ott,

Manager, Forms Management Branch.

[FR Doc. 96–2470 Filed 2–5–96; 8:45 am]

BILLING CODE 4810–39–P

Proposed Agency Information Collection Activities: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Stop Payment/ Replacement Check Request.

DATES: Written comments should be received on or before April 8, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Ott, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Vicki S. Ott, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Stop Payment/Replacement Check Request.

OMB Number: 1535–0070.

Form Number: PD F 5192

Abstract: The information is requested to place a stop payment on a Treasury Direct check and request a replacement check.

Current Actions: None

Type of Review: Extension

Affected Public: Individuals or households.

Estimated Number of Respondents: 500

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 125

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: January 31, 1996.

Vicki S. Ott,

Manager, Forms Management Branch.

[FR Doc. 96–2469 Filed 2–5–96; 8:45 am]

BILLING CODE 4810–39–P

Proposed Agency Information Collection Activities: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Release.

DATES: Written comments should be received on or before April 8, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Ott, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Vicki S. Ott, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Release.

OMB Number: 1535–0114.

Form Number: PD F 2001.

Abstract: The information is requested to ratify payment of savings bonds/notes and release the United States of America from any liability.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 20.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: January 31, 1996.

Vicki S. Ott,

Manager, Forms Management Branch.

[FR Doc. 96–2468 Filed 2–5–96; 8:45 am]

BILLING CODE 4810–39–P

Proposed Agency Information Collection Activities: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Disclaimer and Consent with Respect to United States Savings Bonds/Notes.

DATES: Written comments should be received on or before April 8, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Ott, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Vicki S. Ott, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Disclaimer and Consent with Respect to United States Savings Bonds/ Notes.

OMB Number: 1535–0113.

Form Number: PD F 1849.

Abstract: The information is requested when the requested savings bonds/notes transaction would appear to affect the right, title or interest of some other person.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 7,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 700.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: January 31, 1996.

Vicki S. Ott,

Manager, Forms Management Branch.

[FR Doc. 96–2467 Filed 2–5–96; 8:45 am]

BILLING CODE 4810–39–P

Proposed Agency Information Collection Activities: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Special Form of Assignment for U.S. Registered Definitive Securities.

DATES: Written comments should be received on or before April 8, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Ott, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Vicki S. Ott, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Special Form of Assignment for U.S. Registered Securities.

OMB Number: 1535–0059.

Form Number: PD F 1832.

Abstract: The information is requested to complete transaction involving the assignment of U.S. Registered Definitive Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 2,500.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: January 31, 1996.

Vicki S. Ott,

Manager, Forms Management Branch.

[FR Doc. 96–2466 Filed 2–5–96; 8:45 am]

BILLING CODE 4810–39–P

Office of Thrift Supervision

[AC–10; OTS No. 04088]

First Federal Savings Bank of Dover, Dover, Ohio; Approval of Conversion Application

Notice is hereby given that on January 26, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Savings Bank of Dover, Dover, Ohio, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: January 31, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–2397 Filed 2–5–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–09; OTS No. 05003]

South Bergen Savings Bank, Wood-Ridge, New Jersey; Approval of Conversion Application

Notice is hereby given that on January 25, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of South Bergen Savings Bank, Wood-Ridge, New Jersey, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: January 31, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–2396 Filed 2–5–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–08; OTS No. 03903]

Buffalo Federal Savings and Loan Association, Buffalo, Wyoming; Approval of Conversion Application

Notice is hereby given that on January 25, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Buffalo Federal Savings and Loan Association, Buffalo, Wyoming, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the West Regional Office, Office of Thrift Supervision, 1 Montgomery Street, Suite 400, San Francisco, California 94104.

Dated: January 31, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–2395 Filed 2–5–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–07; OTS No. 03125]

Lawrenceville Federal Savings and Loan Association, Lawrenceville, Illinois; Approval of Conversion Application

Notice is hereby given that on January 24, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Lawrenceville Federal Savings and Loan Association, Lawrenceville, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: January 31, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–2394 Filed 2–5–96; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Claims Adjudication Commission; Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 92–463, gives notice that the Veterans' Claims Adjudication Commission will meet on February 8, 1996, in the Captain's Room at the Channel Inn, 650 Water Street S.W., (ground floor), Washington, D.C., From 9:00 a.m. to 4:30 p.m. On February 9, the Commission will tentatively meet from 9:00 a.m. to 12 noon at the Disabled American Veterans National Headquarters, 807 Maine Avenue S.W., Washington, D.C. (across the street from the Channel Inn). Please call the Commission's office at 202–275–2142 to confirm the meeting on Friday, February 9.

On the morning of February 8, the Commission will review and discuss potential new areas of pursuit with respect to the Commission's continued study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits, suggested by the House and Senate Committees on Veterans' Affairs, and the Under Secretary for Benefits, Department of Veterans Affairs. Following lunch, the Commission will discuss certain "Thought Papers" for potential new areas of pursuit including:

- Analysis of certain statistics provided by the Chief Judge, U.S. Court or Veterans Appeals relating to decisions of the court.
- Potential transportability of certain processing policies or procedures from the Department of Labor, the Social Security Administration, or the private insurance industry to VA.
- Review of the quality of compensation and pension medical examinations provided by the Veterans Health Administration.
- Exploration of potential changes in the nature of compensation/managing compensation like an indemnity fund.
- The relationship between non service-connected disability pension and Social Security benefits.

Later in the afternoon, each Commissioner will identity area(s) of pursuit for which they will take responsibility.

The meeting is open to the public; however, no specific amount of time is allocated for the purpose of receiving oral presentations from the public. The Commission will accept appropriate written comments from interested parties on the subject matter addressed during the meeting. Such comments may be referred to the Commission at the following address: Veterans' Claims Adjudication Commission (20C), U.S. Department of Veterans Affairs, 810 Vermont Ave., N.W., Washington, D.C. 20420.

Additional information concerning this meeting may be obtained by contacting the Commission at (202)275–2142.

Dated: January 30, 1996.

By Direction of the Secretary:

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–2401 Filed 2–5–96; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 61, No. 25
Tuesday, February 6, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, February 15, 1996.
PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.
STATUS: Closed.
MATTERS TO BE CONSIDERED:
Enforcement matters.
CONTACT PERSON FOR MORE INFORMATION:
Jean A. Webb, 202–418–5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 96–2610 Filed 2–6–96; 8:45 am]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, February 29, 1996.
PLACE: 1155 21st St., N.W., Washington, D.C., 9th Fl. Conference Room.
STATUS: Closed.
MATTERS TO BE CONSIDERED:
Enforcement matters.
CONTACT PERSON FOR MORE INFORMATION:
Jean A. Webb, 202–418–5100.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 96–2611 Filed 2–2–96; 11:30 am]
BILLING CODE 6351–01–M

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Thursday, February 8, 1996

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 8, 1996, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, Subject

1—Office of Plans and Policy—Title: In the Matter of Improving Commission Processes. Summary: The Commission will consider action to improve its procedures, streamline processes, and reduce unnecessary regulatory burdens.
2—Wireless Telecommunications—Title: Reorganization and Re-vision of Parts 1, 2, 21 and 94 of the Commission's Rules to Establish a New Part 101 Govern-ing Terrestrial Microwave Fixed Radio Services (WT Docket No. 94–148); Amendment of Part 21 of the Commission's Rules for the Domestic Public Fixed Services (CC Docket No. 93–2); and McCaw Cellular Communications, Inc. Petition for Rulemaking (RM–7861). Summary: The Commission will consider action simplifying and consolidating rules governing terrestrial microwave fixed radio services.
3—Wireless Telecommunications—Title: Revision of Parts 22 and 90 of the Commission's Rules to Facilitate Future Development of Paging Systems. Summary: The Commission will consider action to streamline licensing procedures for the paging industry, including proposals to establish symmetry between our common carrier and private carrier paging rules.
4—Mass Media—Title: In the Matter of EEO Streamlining Proposals, and Amendment of Section 1.80 of the Commission's Rules. Summary: The Commission will consider action to streamline and revise the enforcement of its Broadcast Equal Employment Opportunity (EEO) Rule and policies.
5—Mass Media—Title: Transfer of Control of Broadcast Licenses from Capital Cities/ABC, Inc. Summary: The Commission will consider the transfer of control of Capital Cities/ABC, Inc. to The Walt Disney Company.

Additional information concerning this meeting may be obtained from Audrey Spivack or Maureen Peratino, Office of Public Affairs, telephone number (202) 418–0500.

Dated February 1, 1996.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96–2614 Filed 2–2–96; 11:58 am]
BILLING CODE 6712–01–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, January 30, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Matters relating to the Corporation's corporate and supervisory activities.
Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Memorandum re: Gibraltar Savings Association, Houston, Texas (Case No. 450–07702–95–BOD)

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), Director Joseph H. Neely (Appointive), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Dated: February 1, 1996.

Federal Deposit Insurance Corporation.
Robert E. Feldman,
Deputy Executive Secretary.
[FR Doc. 96–2566 Filed 2–1–96; 4:51 pm]
BILLING CODE 6714–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Friday, February 9, 1996.
PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.
STATUS: Open and Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session:

1. *Mechanicsville Concrete, Inc. t/a Materials Delivery.*, Docket No. VA 93–145–M. (Issues include whether the judge had the authority to determine *sua sponte* that Mechanicsville's violation was S&S.)

Following the open meeting on *Mechanicsville Concrete, Inc. t/a Materials Delivery.*, the Commission will consider and act upon the following in closed session:

1. *Lion Mining Co.*, Docket No. PENN 94–71 (Issues include whether the judge erred in determining that the violation was not S&S.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629 / (202) 708–9300 for TDD Relay / 1–800–877–8339 for toll free.

Dated: February 1, 1996.

Jean H. Ellen,
Chief Docket Clerk.
[FR Doc. 96–2654 Filed 2–2–96; 3:06 pm]
BILLING CODE 6735–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Forwarded to the Federal Register on January 31, 1996.
PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, February 7, 1996.
CHANGES IN THE MEETING: The Open Meeting Has Been Canceled.
CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 2, 1996.

Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 96–2612 Filed 2–2–96; 11:30 am]
BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, February 12, 1996.
PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.
STATUS: Closed.
MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 2, 1996.

Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 96–2668 Filed 2–2–96; 3:06 pm]
BILLING CODE 6210–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 5, 12, 19, and 26, 1996.
PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.
STATUS: Public.
MATTERS TO BE CONSIDERED:

Week of February 5

Wednesday, February 7

10:00 a.m.
Briefing on System Reliability Studies (Public Meeting)
(Contact: Patrick Baranowsky, 301–415–7493)

Week of February 12—Tentative

There are no meetings scheduled for the Week of February 12.

Week of February 19—Tentative

There are no meetings scheduled for the Week of February 19.

Week of February 26—Tentative

Monday, February 26

10:00 a.m.
Briefing by Organization of Agreement States (Public Meeting)
Contact: Kathy Schneider, 301–415–2320)

Tuesday, February 27

10:00 a.m.
Briefing by Staff on Steam Generator Issues (Public Meeting)
2:00 p.m.
Briefing by National Academy of Sciences on Review of Medical Use Program (Public Meeting)
(Contact: Trish Holahan, 301–415–7847)

Wednesday, February 28

9:30 a.m.
Briefing by NARUC on Utility Deregulation (Public Meeting)
Contact: Spiros Droggitis, 301–415–2367)

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill, (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1963).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: February 1, 1996.

William M. Hill, Jr.,
SECY Tracking Officer, Office of the Secretary.
[FR Doc. 96–2609 Filed 2–2–96; 11:30 am]
BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [60 FR, 1996].
STATUS: Open meeting.
PLACE: 450 Fifth Street, N.W., Washington, D.C.
DATE PREVIOUSLY ANNOUNCED: January 29, 1996.
CHANGE IN THE MEETING: Cancellation.

The open meeting scheduled for Monday, February 5, 1996, at 11:30 a.m., has been cancelled.

Commissioner Wallman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: February 1, 1996.

Jonathan G. Katz,
Secretary.
[FR Doc. 96–2546 Filed 2–1–96; 4:11 pm]
BILLING CODE 8010–01–M

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federal register

Tuesday
February 6, 1996

Part II

Office of Management and Budget

Economic Classification Policy Committee: Standard Industrial Classification Replacement—The North American Industry Classification System Proposed Industry Classification Structure; Notice

OFFICE OF MANAGEMENT AND BUDGET

Economic Classification Policy Committee: Standard Industrial Classification Replacement—The North American Industry Classification System Prpposed Industry Classification Structure

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of solicitation of comments for North American Industry Classification System industries.

SUMMARY: Under Title 44 U.S.C. 3504, the Office of Management and Budget (OMB) is seeking public comment on a series of notices documenting the development of the new North American Industry Classification System (NAICS), the industry classification system being proposed to replace the current Standard Industrial Classification (SIC) system. All Federal agencies that collect establishment-based data are expected to utilize the new system.

This notice, the fourth related to preparation of NAICS and the second in a series seeking comment on proposed industry structures, presents the proposed industry structure for the NAICS subsectors listed in the Supplementary Information section below.

OMB is seeking comments on the usefulness and advisability of the proposed new NAICS subsectors submitted by the Economic Classification Policy Committee (ECPC), an interagency committee established by OMB. Subsequent **Federal Register** notices will seek comment on other industry sector and subsector proposals. A final **Federal Register** notice will include the entire NAICS structure for public comment. NAICS is being developed in cooperation with Statistics Canada and Mexico's Instituto Nacional de Estadística, Geografía e Informática (INEGI). The new NAICS system provides common industry definitions for Canada, Mexico, and the United States to facilitate economic analyses that cover the economies of the three North American countries. The three country collaboration on an industry classification system for North America was announced for public comment in the **Federal Register**, July 26, 1994, pp. 38092–38096.

The July 26, 1994, **Federal Register** notice includes the concepts for the new system, as developed by Statistics Canada, Mexico's INEGI, and ECPC. It also includes a copy of the joint statement of the three countries' statistical agencies regarding the development of NAICS. That agreement includes the following principles:

(1) NAICS will be erected on a production-oriented, or supply-based, conceptual framework. This means that producing units that use identical or similar production processes will be grouped together in NAICS.

(2) The system will give special attention to developing production-oriented classifications for (a) new and emerging industries, (b) service industries in general, and (c) industries engaged in the production of advanced technologies.

(3) Time series continuity will be maintained to the extent possible. However, changes in the economy and proposals from data users must be considered. In addition, adjustments will be required for sectors where the United States, Canada, and Mexico presently have incompatible industry classification definitions in order to produce a common industry system for all three North American countries.

(4) The system will strive for compatibility with the 2-digit level of the International Standard Industrial Classification of All Economic Activities (ISIC, Rev. 3) of the United Nations.

ECPC Report No. 3—Summary of Public Responses to the Proposed New North American Industry Classification Industry System provides a summary of public comments received in response to the July 26, 1994, **Federal Register** notice.

A notice was published in the **Federal Register**, July 26, 1995, pp.38436–38452, requesting comment on proposed industry structures for petroleum and coal product manufacturing, chemical manufacturing, and rubber and plastic manufacturing; for broadcasting and telecommunications; and for food services and drinking places and accommodations.

DATES: To ensure consideration and response to all comments on the proposals set forth in this notice, comments must be in writing and should be submitted as soon as possible, but no later than April 8, 1996. The proposed industry system would become effective in the U.S. on January 1, 1997.

ADDRESSES: Correspondence about the industry proposals of the NAICS structure announced in this **Federal Register** notice should be sent to: Carole A. Ambler, Coordinator, Economic Classification Policy Committee, Bureau of the Census, Room 2633–3, Washington, DC 20233, telephone number: (301) 457–2668, FAX number: (301) 457–1343.

Copies of all ECPC issues papers and ECPC reports are available by contacting Jack E. Triplett, Chairman, Economic Classification Policy Committee, Bureau of Economic Analysis (BE–42), U.S. Department of Commerce, Washington, DC 20230, telephone number: (202) 606–9615, FAX number: (202) 606–5311.

ELECTRONIC AVAILABILITY AND COMMENTS: This document is available on the Internet from the Census Bureau via WWW browser, ftp, and E-mail.

To obtain this document via WWW browser, connect to "http://www.census.gov" then select "Economy," then select "Economy-Wide Programs," then select "NAICS Documents."

To obtain this document via ftp, log in to ftp.census.gov as anonymous, and retrieve the file "prop01.txt" from the "/pub/epcd/naics" directory. (That directory also contains previous NAICS **Federal Register** Notices and related documents.)

To obtain this document via Internet E-mail, send a message to majordomo@census.gov with the body text as follows: "get gatekeeper prop01.txt". The document will be delivered as a message attachment.

Comments may be sent via Internet E-mail to the Census Bureau at naics@census.gov (do not include any capital letters in the address). Comments received at this address by the date specified above will be included as part of the official record.

FOR FURTHER INFORMATION CONTACT: Carole A. Ambler, Coordinator, Economic Classification Policy Committee, Bureau of the Census, U.S. Department of Commerce, Room 2633–3, Washington, DC 20233, telephone number: (301) 457–2668, FAX number: (301) 457–1343.

SUPPLEMENTARY INFORMATION:

Structure of Notice

There are seven parts to this notice. PART I includes the proposals for crop production, animal production, forestry and logging, fishing, hunting and trapping, and support activities for agriculture; PART II includes textile mills, textile product mills, apparel manufacturing, and leather and allied product manufacturing; PART III includes food and kindred product manufacturing and beverage and tobacco product manufacturing; PART IV includes fabricated metal product manufacturing; PART V includes machinery manufacturing; PART VI includes electrical equipment, appliance, and component manufacturing; PART VII includes transportation equipment manufacturing.

Each of the seven parts of the notice is organized into two sections. The first section includes a copy of the proposed agreement signed by ECPC, Statistics Canada, and INEGI; the structure of NAICS; and an explanation of the structure. For a number of reasons, NAICS industries do not always provide as much industry detail as has been present in the U.S. SIC. Each country may add additional detailed industries, below the 4-digit level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 4-digit NAICS level in order to ensure full comparability among the three countries. The second section of the notice includes the U.S. detailed industries within NAICS and two comparison tables showing the differences between the 1987 SIC and the 1997 NAICS with United States detail.

NAICS is organized in a hierarchical structure much like the existing SIC. The first digit of a NAICS code designates the sector. The code also designates 2-digit subsectors, 3-digit industry groups, and 4-digit industries. Each country may add additional detailed industries, below the 4-digit level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 4-digit NAICS level in order to ensure full comparability among the three countries. The proposed United States NAICS system, for example, would include 5-digit industries. These represent important industries in the U.S. that cannot be recognized in the statistical systems of either Canada or Mexico because of size restrictions, confidentiality or other reasons.

The NAICS numbering system is still under development; therefore the hierarchical structure is displayed in this document with X's representing the following:

X Industry Sector
XX Industry Subsector
XXX Industry Group
XXXX Industry
XXXXX U.S. National Industry

The terms "Industry Sector" and "Industry Subsector" are changes from the terms "Division" and "Major Group" used in the 1987 SIC manual.

Time Series Summary

The standard approach to preserving time series continuity after classification revisions is to create linkages where the series break. This is accomplished by producing the data series using both the old and new classifications for a given period of transition. With the dual classifications of data, the full impact of the revision can be assessed. Data producers then may measure the reallocation of the data at aggregate industry levels and develop a concordance between the new and old series for that given point in time. The concordance creates a crosswalk between the old and new classification systems. This link between the 1987 U.S. SIC and NAICS (with U.S. national detail) will be developed by the statistical agencies in the U.S.

Outreach Activities

OMB and the Economic Classification Policy Committee (ECPC) are seeking comments on the proposed NAICS structure for the industries described in this notice.

In carrying out its mandate to ensure maximum public participation in the process of constructing NAICS, the ECPC has already discussed many of these industry proposals with industry and user groups and will continue to do so. In addition, the ECPC is replying on a flow basis as soon as the work is completed for industry subsectors to previous **Federal Register** notices. Thus, this **Federal Register** notice supplements other ECPC public outreach activities in the development of NAICS.

Part I—Proposed New Industry Structure for Crop Production; Animal Production; Forestry and Logging; Fishing, Hunting, and Trapping; and Support Activities for Agriculture and Forestry

Section A—NAICS Structure

North American Industry Classification System
(NAICS)
Agreement Number 4

This Document represents the proposed agreement on the structure of the North American Industry Classification System (NAICS) for the following industries:

Crop Production
Animal Production
Forestry and Logging
Fishing, Hunting, and Trapping
Support Activities for Agriculture and Forestry

The detailed NAICS structure along with a brief description of the structure is attached (Attachments 1 and 2). Each country agrees to release a copy of the proposed NAICS structure to interested data users. Comments received will be shared among the countries and additional discussions will be held before a final decision on the structure is made. Each country may add additional detailed industries, below the 4-digit level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 4-digit NAICS level in order to ensure full comparability among the three countries. This NAICS structure was presented and provisionally accepted at the NAICS Committee meeting held on August 30, 1995—September 1, 1995 in Washington, DC.

Accepted:	Signature	Date
Canada	/S/ Jacob Ryten.	9/1/95
Mexico	/S/ Enrique Ordaz.	9/1/95
United States	/S/ Jack E. Triplett.	9/1/95

Attachment 1—NAICS Structure

XX Crop Production
XXX Grain and Oilseed Farming
XXXX Wheat Farming
XXXX Corn Farming
XXXX Rice Farming
XXXX Other Grain Farming
XXXX Soybean Farming
XXXX Oilseed Farming, except Soybean Farming
XXXX Dry Pea and Bean Farming
XXX Root, Tuber, and Peanut Farming
XXXX Potato Farming
XXXX Peanut and Other Root and Tuber Farming
XXX Vegetable and Melon Farming
XXXX Vegetable and Melon Farming
XXX Tree Nut and Fruit Farming
XXXX Orange Groves
XXXX Other Citrus Groves
XXXX Tree Nut and Noncitrus Fruit Farming
XXX Greenhouse, Nursery, and Floriculture Production
XXXX Food Crops Grown Under Cover
XXXX Nursery and Floriculture Production
XXX Other Crop Farming
XXXX Tobacco Farming
XXXX Cotton Farming
XXXX Sugarcane Farming
XXXX Hay Farming
XXXX All Other Crop Farming
XX Animal Production
XXX Cattle Ranching and Farming
XXXX Beef Cattle Ranching and Farming, Including Feedlots
XXXX Dairy Cattle and Milk Production
XXXX Dual-Purpose Cattle Ranching and Farming
XXX Hog and Pig Farming
XXXX Hog and Pig Farming
XXX Poultry Production
XXXX Chicken Egg Production
XXXX Broiler and Other Meat-Type Chicken Production
XXXX Turkey Production
XXXX Poultry Hatcheries and Other Poultry Production
XXX Sheep and Goat Farming
XXXX Sheep Farming
XXXX Goat Farming

XXX Animal Aquaculture
XXXX Animal Aquaculture
XXX Other Animal Production
XXXX Apiculture
XXXX Horses and Other Equine Production
XXXX Fur-Bearing Animal and Rabbit Production
XXXX All Other Animal Production
XX Forestry and Logging
XXX Timber Tract Operations
XXXX Timber Tract Operations
XXX Forest Nurseries and Gathering of Forest Products
XXXX Forest Nurseries and Gathering of Forest Products
XXX Logging
XXXX Logging
XX Fishing, Hunting, and Trapping
XXX Fishing
XXXX Fishing
XXX Hunting and Trapping
XXXX Hunting and Trapping
XX Support Activities for Agriculture And Forestry
XXX Support Activities for Crop Production
XXXX Support Activities for Crop Production
XXX Support Activities for Animal Production
XXXX Support Activities for Animal Production
XXX Support Activities for Forestry
XXXX Support Activities for Forestry

Attachment 2—North American Industry Classification System

Draft Classification for:
Crop Production
Animal Production
Forestry and Logging
Fishing, Hunting, and Trapping
Support Activities for Agriculture and Forestry

Representatives of the statistical agencies of Canada, Mexico, and the United States agree to a draft industry classification for these industries.

The draft classification applies to the five subsectors, Crop Production; Animal Production; Forestry and Logging; Fishing, Hunting, and Trapping; and Support Activities for Agriculture and Forestry. These subsectors are sub-divided into twenty industry groups and forty-three industries. The subsectors are part of the Agriculture, Forestry, Fishing, Hunting, and Trapping sector of the classification.

A General Outline

The Crop Production industries involve growing crops mainly for food and fiber. The industries are grouped by similarity of production activity, biological and physiological characteristics, and economic requirements. The length of growing season, degree of crop rotation, extent of input specialization, labor requirements, and capital demands were taken into account when developing the industry structure. The production process is typically completed when the raw product or commodity grown reaches the "farm gate" for market or point of first sale or price determination.

The subsector Animal Production involves raising animals. These animals are kept for eventual sale and gain in product value. The animals may be raised in various environments, from total confinement or captivity to controlled grazing on open range pasture.

The Forestry and Logging subsector involves timber tract and other forest operations. A distinction has been made for the length of the production cycle for wood products. The production of short rotation woody crops such as cut Christmas trees and cottonwoods for pulpwood are considered to be agricultural crop production, and so have been placed in Nursery and Floriculture Production. The typical life cycle of this process is ten years or less. On the other hand, timber production often requires fifty years.

The Fishing, Hunting, and Trapping subsector includes establishments engaged in the harvesting of animals in a natural habitat. Activities involving the raising of animals in captivity for eventual sale or market are classified in Animal Production, e.g., Animal Aquaculture, Fur-bearing Animal and Rabbit Production, and so forth.

The Support Activities for Agriculture and Forestry include activities that support growing crops, raising animals and producing forest products. These activities are in a separate agricultural, forestry, fishing, hunting, and trapping subsector. These establishments provide an alternative source of inputs required for the production process for a given crop, animal, or forestry industry.

Limitations and Constraints of the Classification

There are some analytical needs that cannot be met by an industry classification. There are needs for information on the total production of various agriculture commodities. However, because of vertical integration and multiple activities occurring at a single farm, an industry classification system will not provide this information. For example, wine- making establishments that produce their own grapes will be included in the Wines, Brandy and Brandy Spirits industry not the Tree Nut and Noncitrus Fruit Farming industry.

Though the industries are defined by similarities in the types and quantities of inputs per unit of output used in production, data users should be aware that certain differences in technologies and cultivating or production practices exist within industries.

There are a few factors that constrained the structure and detail of the classification in the area under consideration. In the Crop and Animal Production subsectors, most activities present in one country exist in the others. However, often an activity is not economically significant to the same degree in all countries due to factors such as climate and soil conditions. For example, cotton cannot be grown in Canada. Further, data for some significant activities cannot be published for a particular country for reasons of confidentiality. Finally, the way activities are combined in establishments differs to some extent in the different countries.

Economic significance in each country also influenced the development of the classification structure. For example, apple production is significant in the three countries but fruit production, excluding apples in Canada, is too small for separate publication at the industry level. Each country will publish additional categories that comprise subdivisions of the NAICS industries to present data for activities that are nationally significant.

Relationship with ISIC

Most 4-digit NAICS industries in these subsectors are contained within Division 01, Agriculture, Hunting and Related Service Activities of the current International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3) of the United Nations. Data tabulated using NAICS can be retabulated according to ISIC with one exception: Tree Nut and Noncitrus Fruit Farming cannot be assigned to an ISIC division without being sub-divided since integrated grape growing and wine manufacturing are classified in ISIC as an agricultural activity and in NAICS as a manufacturing activity.

Some Changes to the National Classifications

For Canada, Mexico, and the United States, an industry group is created for root, tuber, and peanut farming. The grouping includes industry activities for potatoes, sugar beets, peanuts, and other root-type crops, except vegetables. Canada previously classified these establishments in field crops and the U.S. in field crops, except cash grains. In Mexico, the industries were classified in CMAP 111102 or 111103 as short-cycle crops.

Support Activities for Agriculture and Forestry is redefined for Canada, Mexico, and the United States. This subsector contains the following industry groups: Support Activities for Crop Production, Support Activities for Animal Production, and Support Activities for Forestry. The CSIC Major Group 02, Service Industries Incidental to Agriculture, is included in the NAICS Support Activities subsector with some exceptions, namely veterinary services, companion animal services except breeding, certain research activities, and selected activities related to ornamental plants. For Mexico, the activities included in this subsector are moved from CMAP 971010. For the United States, support activities include 1987 SIC Industry Group 085, Forestry Services, and 1987 SIC Major Group 07, Agricultural Services, with the exception of veterinary services, landscape and horticultural services, animal specialty services, except breeding and equine support activities.

For the United States, cotton ginning has been moved to Miscellaneous Manufacturing as a separate 4-digit NAICS industry. Cotton ginning is the mechanical process of removing the seed from the cotton lint. The activity generally takes place "off the farm" at a cotton gin.

For Canada and the U.S., the new industry group Grain and Oilseed Farming constitutes a change in the crop production structure. It essentially replaces the CSIC industry group Field Crop Farms and the 1987 SIC Industry Group 011, Cash Grains.

Orange Groves are a separate crop farming industry for Mexico and the United States. Historically, Mexico and the U.S. classified these establishments in Growing of Fruit Trees and Citrus Fruits, respectively.

Canadian Poultry and Egg Farms and Mexican Poultry Farms are disaggregated into Chicken Egg Production, Broiler and Other Meat-type Chicken Production, and Turkey Production. These NAICS industries plus Poultry Hatcheries and Other Poultry Production form the industry group Poultry Production. The new industries reflect the structure and current production practices within each country.

Animal Aquaculture is a new industry for both Canada and Mexico. The Canadian industry, Services Incidental to Fishing, has been deleted since the other activities within the industry were either identified as non-existent or were more appropriately classified elsewhere. In Mexico, aquaculture has been moved from the fishing subsector 13 to Animal Production to be consistent with the production oriented principle. In the U.S., Fish Hatcheries and Preserves classified in 1987 SIC 0921 and fish propagation in captivity are included in this industry group.

For Mexico, the CMAP class 111212 for hunting is moved to the NAICS subsector Fishing, Hunting, and Trapping.

For the U.S., a new industry will exist for apiculture.

The subsector Forestry and Logging includes logging, formerly in the U.S. Manufacturing 1987 SIC 2411. As a production activity, the harvesting of standing timber or logging is more similar to the harvesting of agricultural crops than the processing of harvested wood products, the primary activity of the 1987 SIC Major Group 24, Lumber and Wood Products, except Furniture. The production activity for the forestry industry is narrowly defined to be long-term timber growth. Short rotation timber growth and its harvesting is placed in the NAICS industry for Nursery and Floriculture Production.

Achievement of Objectives

The classification meets the objectives for the North American Industry Classification System. It is comprised of industries that group establishments with similar production processes, that is, it applies the production-oriented economic concept. In the main, the hierarchical structure of the classification also follows the production concept.

The classification achieves comparability for the three participating countries. Based on existing data, all three countries expect to be able to publish data regularly at the industry, (4-digit) level of the structure. All countries agree on the definitions of the industries.

Other objectives of the NAICS project such as the inclusion of new and emerging industries, service industries, and advanced technology producing industries were not as relevant in this area of the classification as in others. This is due to the relatively well established and technological stable nature of the agricultural and related subsectors.

The industries have high specialization ratios, and with the exception of citrus and cotton farming in Canada and dual purpose cattle farming in Canada and the United States, they are economically significant. Smaller industries are present because comparability is given priority over size. Finally, disruptions to time series have been kept to a minimum. Most of the changes to existing classifications are marginal. The major changes have been identified and can be taken into account in linking time series.

Section B-Annex: United States National Industry Detail

As explained in the Structure presentation of this notice, for a number of reasons 4-digit industries in the three NAICS industry subsectors presented in Part 1, Section A—Attachment 1, contain less detail than is currently in the U.S. SIC system, and less detail than is required to meet important analytical requirements in the U.S. The three country agreement on NAICS envisions that each country may develop national detailed industries below the NAICS industry level, so long as the national detail can be aggregated to the NAICS classification, thus assuring full North American comparability.

The ECPC is proposing U.S. 5-digit industry detail for the five NAICS industry subsectors covered in Part I of this notice. For cases where no 5-digit detail is shown, the ECPC is proposing that the NAICS 4-digit industries will also represent the most detailed U.S. industries.

Table 1

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
XX	Crop Production;			
XXX	Grain and Oilseed Farming:			
XXXX ...	Wheat Farming	E	0111	Wheat General Farms, Primarily Crop (Wheat Farming).
XXXX ...	Corn Farming	R	0115	Corn.
			*0119	Cash Grain, NEC (Popcorn Farming).
XXXX ...	Rice Farming	E	0112	Rice.
XXXX ...	Other Grain Farming	R	*0119	Cash Grains, NEC (Except Popcorn, Barley, Soybean, and Dry Pea and Bean).

Table 1—Continued

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
XXXX ...	Soybean Farming	E	0116	Soybeans.
XXXX ...	Oilseed Farming, Except Soybean Farming	N	*0119	Cash Grains, NEC (Oilseed, Except Soybean).
XXXX ...	Dry Pea and Bean Farming	N	*0119	Cash grains, NEC (Dry Pea and Bean).
XXX	Root, Tuber, and Peanut Farming		.....	
XXXX ...	Potato Farming	E	0134	Irish Potatoes.
XXXX ...	Peanut and Other Root and Tuber Farming		.....	
XXXXX	Sugarbeet Farming	N	*0133	Sugar Cane and Sugar Beets (Sugarbeet Farming).
XXXXX	Peanut Farming	N	*0139	Field crops, Except Cash Grains, NEC (Peanut Farming).
XXXXX	Other Root and Tuber Farming	N	*0139	Field Crops, Except Cash Grains, NEC (Root and Tuber, Except Potato and Sugarbeet).
XXX	Vegetable and Melon Farming:			
XXXX ...	Vegetable and Melon Farming	E	0161	Vegetables and Melons.
XXX	Tree Nut and Fruit Farming		.....	
XXXX ...	Orange Groves	N	*0174	Citrus Fruits (Orange Groves).
XXXX ...	Other Citrus Groves	R	*0174	Citrus Fruits (Except, Orange Groves).
XXXX ...	Tree Nut and Noncitrus Fruit Farming		.....	
XXXXX	Apple Orchards	N	*0175	Deciduous Tree Fruits (Apple).
XXXXX	Grape Vineyards	E	0172	Grapes.
XXXXX	Strawberry Farming	N	*0171	Berry Crops (Strawberry).
XXXXX	Other Berry Farming	R	*0171	Berry Crops (Except Strawberry).
XXXXX	Tree Nut Farming	E	0173	Tree Nuts.
XXXXX	Other Noncitrus Fruit Farming	R	*0175	Deciduous Fruits (Except Apple) 0179 Fruit and Tree Nuts, NEC.
XXX	Greenhouse, Nursery and Floriculture Production:			
XXXX ...	Food Crops Grown Under Cover:			
XXXXX	Mushroom Production	N	*0182	Food Crop Grown Under Cover (Mushroom).
XXXXX	Other Food Crops Grown Under Cover	R	*0182	Food Crops Grown Under Cover (Except Mushroom).
XXXX ...	Nursery and Floriculture Production		.....	
XXXXX	Nursery and Tree Production	N	*0181	Ornamental Nursery Products (Nursery Farming).
			*0811	Timber Tracts (Short Rotation Woody Crops).
XXXXX	Floriculture Production	N	*0181	Ornamental Nursery Products Farms (Floriculture Farming).
XXX	Other Crop Farming		.....	
XXXX ...	Tobacco Farming	E	0132	Tobacco.
XXXX ...	Cotton Farming	E	0131	Cotton.
XXXX ...	Sugarcane Farming	N	*0133	Sugarcane and Sugar Beets (Sugarcane).
XXXX ...	Hay Farming	N	*0139	Field Crops, Except Cash Grains, NEC (Hay, Farming).
XXXX ...	All Other Crop Farming	R	*0139	Field Crops, Except Cash Grains, NEC (Except Root, Tuber, Peanut, and Hay).
			0191	General Farms, Primary Crop.
			*0831	Forest Products (Maple Sap).
XX	Animal Production:			
XXX	Cattle Ranching and Farming:			
XXXX ...	Beef Cattle Ranching and Farming, Including: Feedlots			
XXXXX	Beef Cattle Ranching and Farming	E	0212	Beef Cattle, Except Feedlots (Cattle Farming).
XXXXX	Cattle Feedlots	E	0211	Beef Cattle Feedlots (Cattle Farming).
XXXX ...	Dairy Cattle and Milk Production	E	0241	Dairy Farms.
XXXX ...	Dual Purpose Cattle Ranching and Farming	L	.....	
XXX	Hog and Pig Farming		.....	
XXXX ...	Hog and Pig Farming	E	0213	Hogs.
XXX	Poultry Production		.....	
XXXX ...	Chicken Egg Production	E	0252	Chicken Eggs.
XXXX ...	Broilers and Other Meat Type Chicken Production.	E	0251	Broiler, Fryer, and Roaster Chickens.
XXXX ...	Turkey Production	E	0253	Turkeys and Turkey Eggs.
XXXX ...	Poultry Hatcheries and Other Poultry Production		.....	
XXXXX	Poultry Hatcheries	E	0254	Poultry Hatcheries.
XXXXX	Other Poultry Production	E	0259	Poultry and Eggs, NEC.
XXX	Sheep and Goat Farming		.....	
XXXX ...	Sheep Farming	N	*0214	Sheep and Goats (Sheep).
XXXX ...	Goat Farming	N	*0214	Sheep and Goats (Goat).
XXX	Animal Aquaculture		.....	
XXXX ...	Animal Aquaculture		.....	
XXXXX	Finfish Production	N	*0273	Animal Aquaculture (Finfish).
			*0921	Fish Hatcheries and Preserve (Finfish Hatcheries).
XXXXX	Shellfish Production	N	*0273	Animal Aquaculture (Shellfish).
			*0921	Fish Hatcheries and Preserve (Shellfish Hatcheries).

Table 1—Continued

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
XXXXX	Other Animal Aquaculture	R	*0273	Animal Aquaculture (Except Finfish and Shellfish).
XXX	Other Animal Production		.....	
XXXX ...	Apiculture	N	*0279	Animal Specialties, NEC (Apiculture).
XXXX ...	Horse and Other Equine Production	E	0272	Horse and Other Equine.
XXXX ...	Fur-Bearing Animal and Rabbit Production	E	0271	Fur-Bearing Animals and Rabbits.
XXXX ...	All Other Animal Production	R	0219	General Livestock NEC.
			*0279	Animal Specialties, NEC (Except Apiculture).
			0291	General Farms, Primarily Animals.
XX	Forestry and Logging:			
XXX	Timber Tract Operations:			
XXXX ...	Timber Tract Operations	R	*0811	Timber Tracts (Long Term Timber Farming).
XXX	Forest Nurseries and Gathering of Forest Products		.....	
XXXX ...	Forest Nurseries and Gathering of Forest Products.	E	*0831	Forest Products (Forest Products, Except Maple Sap).
XXX	Logging		.....	
XXXX ...	Logging	E	2411	Logging.
XX	Fishing, Hunting, and Trapping:			
XXX	Fishing:			
XXXX ...	Fishing		.....	
XXXXX	Finfish Fishing	E	0912	Finfish.
XXXXX	Shellfish Fishing	E	0913	Shellfish.
XXXXX	Other Marine Fishing	E	0919	Miscellaneous Marine Products.
XXX	Hunting and Trapping		.....	
XXXX ...	Hunting and Trapping	E	0971	Hunting and Trapping, and Game Propagation.
XX	Support Activities for Agriculture and Forestry:			
XXX	Support Activities For Crop Production:			
XXXX ...	Support Activities For Crop Production			
XXXXX	Soil Preparation, Planting, and Cultivating	R	0711	Soil Preparation Services.
			0721	Crop Planting, Cultivating, and Protecting.
XXXXX	Crop Harvesting, Primarily by Machine	E	0722	Crop Harvesting, Primarily by Machine.
XXXXX	Postharvest Crop Activities	E	0723	Crop Preparation Services For Market.
XXXXX	Farm Labor Contractors and Crew Leaders	E	0761	Farm Labor Contractors.
XXX	Support Activities For Animal Production:			
XXXX ...	Support Activities For Animal Production	N	*0751	Livestock Services, Except Veterinary.
			*0752	Animal Specialty Services, Except Veterinary.
			*7699	Repair Services, NEC (Farriers).
XXX	Support Activities for Forestry:		.....	
XXXX ...	Support Activities for Forestry	E	0851	Forestry Services.

The definitions of status codes are as follows: E-existing industry; L-null industry for the U.S.; N-new industry R-revised industry; and * means "part of". The abbreviation NEC is used for Not Elsewhere Classified.

TABLE 2

1987 SIC code	1987 SIC description	1997 U.S. description
0111	Wheat	Wheat Farming.
0112	Rice	Rice Farming.
0115	Corn	Corn Farming.
0116	Soybeans	Soybean Farming.
0119	Cash Grains, NEC	
	Dry Pea and Bean Farms	Dry Pea and Bean Farming.
	Oilseed, Except Soybean Farms	Oilseed Farming, Except Soybean Farming.
	Popcorn Farms	Corn Farming.
	Other Farms	All Other Grain Farming.
0131	Cotton	Cotton farming.
0132	Tobacco	Tobacco Farming.
0133	Sugarcane and Sugar Beets	
	Sugarbeet	Sugarbeet Farming.
	Sugarcane	Sugarcane Farming.
0134	Irish Potatoes	Potato Farming.
0139	Field Crops, Except Cash Grains, NEC	
	Hay, Farms	Other Hay Farming.
	Peanut Farming	Peanut Farming.
	Root and Tuber, Except Potato, Farms	Other Root and Tuber Farming.
	Other Field Crop Farms	All Other Crop Farming.
0161	Vegetables and Melons	Vegetable and Melon Farming.
0171	Berry Crops	
	Strawberry Farms	Strawberry Farming.
	Other Berry Farms	Other Berry Farming.

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
0172	Grapes	Grape Vineyards.
0173	Tree Nuts	Tree Nut Farming.
0174@	Citrus Fruits	
	Orange Groves and Farms	Orange Groves.
	Other Citrus Groves and Farms	Other Citrus Groves.
0175	Deciduous Tree Fruits	
	Apple Orchard and Farms	Apple Orchards.
	Other Farms	Other Noncitrus Fruit Farming (pt).
0179@	Fruits and Tree Nuts, NEC	Other Noncitrus Fruit Farming (pt).
0181@	Ornamental Nursery Products	
	Floriculture Farming	Floriculture Production.
	Nursery Farming	Nursery and Tree Production (pt).
0182	Food Crops Grown Under Cover	
	Mushroom, Growing Of	Mushroom Production.
	Other Food Crops Grown Under Cover	Other Food Crops Grown Under Cover.
0191@	General Farms, Primarily Crop	All Other Crop Farming (pt).
0211	Beef Cattle Feed Lots	Cattle Feedlots.
0212	Beef Cattle, Except Feedlots	Beef Cattle Ranching and Farming.
0213	Hogs	Hog and Pig Farming.
0214	Sheep and Goats	
	Sheep Farms	Sheep Farming.
	Goat Farms	Goat Farming.
0219@	General Livestock, NEC	All Other Animal Production (pt).
0241	Dairy Farms	Dairy Cattle and Milk Production.
0251	Broiler, Fryers, and Roaster Chickens	Broilers and Other Meat-Type Chicken Production.
0252	Chicken Eggs	Chicken Egg Production.
0253	Turkey and Turkey Eggs	Turkey Production.
0254	Poultry Hatcheries	Poultry Hatcheries.
0259	Poultry and Eggs, NEC	Other Poultry Production.
0271	Fur-Bearing Animals and Rabbits	Fur-Bearing Animal and Rabbit Production.
0272	Horses and Other Equines	Horses and Other Equine Production.
0273	Animal Aquaculture	
	Finfish Farming	Finfish Production.
	Shellfish Farming	Shellfish Production.
	Other Animal Aquaculture	Other Animal Aquaculture (pt).
0279@	Animal Specialities, NEC	
	Apiculture	Apiculture.
	Other	All Other Animal Production (pt).
0291@	General Farms, Primarily Animal	All Other Animal Production (pt).
0711	Soil Preparation Services	Soil Preparation, Planting and Cultivating (pt).
0721	Crop Planting and Protecting	Soil Preparation, Planting and Cultivating (pt).
0722	Crop Harvesting	Crop Harvesting, Primarily By Machine.
0723	Crop Preparation Services For Market	Postharvest Crop Activities.
0724	Cotton Ginning	Cotton Ginning (Included in Miscellaneous Manufacturing subsector).
0741	Veterinary Service For Livestock	Veterinary Services(pt) (Included in Services to be shown later).
0742	Veterinary Services, Specialties	Veterinary Service (pt) (Included in Services to be shown later).
0751@	Livestock Services, Except Veterinary	
	Custom Slaughtering	Animal Slaughtering and Processing (pt) (Included in Food Manufacturing subsector).
	Other Livestock Service, Except Veterinary	Support Activities For Animal Production (pt).
0752@	Animal Specialty Service	
	Horses and Equines Services and Animal Production Breeding.	Support Activities For Animal Production (pt).
	Breeding	
	Other Specialty Animal Services	Animal Specialty Services, Except Veterinary (pt) (Included in Services to be shown later).
0761	Farm Labor Contractors	Farm Labor Contractors and Crew Leaders.
0762@	Farm Management Services	
	Animal Production Management Services	Support Activities For Animal Production (pt).
	Crop Production Management Services	Included with the particular crop production industries they serve.
0781	Landscape Counseling and Planning	Included in Services and Construction Industries to be shown later.
0782	Lawn and Garden Services	Included in Services and Construction Industries to be shown later.
0783	Ornamental Shrub and Tree Services	Included in Services and Construction Industries to be shown later.
0811@	Timber Tracts	
	Short Rotation Woody Crops	Nursery and Tree Production (pt).
	Long Term Crops	Timber Tract Operations.
0831@	Forest Products	
	Maple Sap	All Other Crop Production (pt).
	Other Forest Products	Forest Nurseries and Gathering of Forest Products.
0851	Forestry Services	Support Activities For Forestry.
0912	Finfish	Finfish Production.
0913	Shellfish	Shellfish Production.
0919	Miscellaneous Marine Products	Other Animal Aquaculture.
0921@	Fish Hatcheries and Preserves	
	Finfish Hatcheries	Finfish Production (pt).
	Shellfish Hatcheries	Shellfish Production (pt).
	Fish Preserves	Nature Parks and Similar Institutions (pt) (Included in Museums, Historical Sites and Similar Institutions subsector to be shown later).
0971	Hunting, Trapping, Game Propagation	Hunting and Trapping.

The abbreviation "pt" means "part of". @ means time series break has been created that is greater than 3% of the 1992 revenues for the 1987 SIC industry.

Description of Changes to the U. S. System

A number of the changes listed in this section were made for reasons of international comparability. Where one or more of the three North American countries had different definitions of an industry classification, adjustments to the definitions in one or more countries were required. In constructing NAICS, the three countries agreed to move, where change was required to attain international comparability, in the direction of the country or countries whose existing classification definitions most closely corresponded to the production-oriented concept adopted for NAICS. Cases where the U.S. changed are listed below; other cases where Canada or Mexico moved toward the U.S. classification are not, of course, listed in this section.

Crop Production—There were 13 new industries added to the 1997 industry structure in this industry subsector. New industries were created for:

Oilseed Farming, Except Soybean Farming and Dry Pea and Bean Farming from part of 1987 SIC 0119, Cash Grains, NEC, in response to a proposal and to achieve international comparability.

Sugarbeet Farming and Sugarcane Farming from 1987 SIC 0133, Sugar Cane and Sugar Beets, to recognize significant industries with unique production processes and to achieve international comparability.

Peanut Farming, Other Root and Tuber Farming, and Hay Farming from part of 1987 SIC 0139, Field Crops, Except Cash Grains, NEC, to recognize industries with unique production processes and to achieve international comparability.

Orange Groves from part of 1987 SIC 0174, Citrus Fruits, to recognize an existing large industry with a unique production process.

Apple Orchards from part of 1987 SIC 0175, Deciduous Tree Fruits, to recognize an existing large industry with a unique production process.

Strawberry Farming from part of 1987 SIC 0171, Berry Crops, to recognize an existing large berry industry.

Mushroom Production from part of 1987 SIC 0182, Food Crop Grown Under Cover, in response to a data user's proposal and to achieve international comparability.

Nursery and Tree Production from part of 1987 SIC 0181, Ornamental Nursery Product, and part of 1987 SIC 0811, Timber Tract Operations, to achieve international comparability.

Floriculture Production from part of 1987 SIC 0181, Ornamental Nursery Products, to recognize an existing large industry with a unique production process.

Two activities were transferred into the 1997 Crop Production subsector.

Short rotation woody crops (e.g., Christmas trees) farming was transferred from part of 1987 SIC 0811, Timber Tracts, into Nursery and Tree Production, in response to a proposal and because of similar production processes. Christmas trees and other woody products life cycle is typically less than ten years in contrast to trees growing in forests with a much longer growth cycle.

Maple sap gathering was transferred from part of 1987 SIC 0831, Forest Products, into All Other Crop Production in response to an industry proposal. The production of maple syrup at the site where maple sap is gathered is included in All Other Crop Production while the production of maple syrup at a separate location is in the Manufacturing sector of NAICS.

Also, there were several activities that transferred within the crop production industry group. The number of crop production industries increased from 20 in 1987 to 29 in 1997. For time series linkage, 16 of the 20 1987 industries are comparable within three percent of the 1997 industries.

Animal Production—There were five new industries added to the 1997 industry structure for this industry subsector. New industries were created for:

Sheep Farming and Goat Farming from 1987 SIC 0214, Sheep and Goats, to achieve international comparability with Mexico.

Finfish Production and Shellfish Production from part of 1987 SIC 0273, Animal Aquaculture, to recognize emerging industries with unique production processes.

Apiculture from part of 1987 SIC 0279, Animal Specialties, NEC, to achieve international comparability.

Dual Purpose Cattle Ranching and Farming will be a null industry for the United States.

One activity transferred into the 1997 Animal Production industry subsector.

Fish Hatcheries were transferred from 1987 SIC 0921, Fish Hatcheries and Preserves, into Animal Aquaculture, to reflect a production process for fish propagated in captivity.

A few activities were transferred within the animal production industry group. The number of animal production industries increased from 16 in 1987 to 19 in 1997. For time series linkage, 13 of the 16 1987 industries are comparable within three percent of the 1997 industries.

Forestry and Logging—Three activities were transferred out of the 1987 Major Group 08, Forestry.

Short rotation woody crops (e.g., Christmas trees) were transferred from

part of 1987 SIC 0811, Timber Tracts, into Nursery and Tree Production to reflect similar production processes based on the length of the commodities growth cycle.

Maple sap gathering was transferred from part of 1987 SIC 0831, Forest Products, into part of All Other Crop Production in response to an industry proposal.

1987 SIC 0851, Forestry Services, was transferred into the 1997 Support Activities for Crop and Animal Production and Forestry subsector, to reflect similar production support processes.

One activity was transferred into 1997 Forestry and Logging Industry subsector.

1987 SIC 2411, Logging, was transferred into this subsector because the production process is more clearly aligned to forestry and for international comparability.

The number of 1997 forestry and logging industries remained unchanged at three from 1987. For time series linkage, only one of the three 1987 industries are comparable within three percent of the 1997 industries.

Fishing, Hunting, and Trapping—Two activities were transferred out of the 1987 Major Group 09, Fishing, Hunting, and Trapping.

Fish hatcheries were transferred from part of 1987 SIC 0921, Fish Hatcheries and Preserves, into Finfish Hatcheries and Shellfish Hatcheries, to reflect production processes for fish propagated in captivity.

Fish preserves were transferred from part of 1987 SIC 0921, Fish Hatcheries and Preserves, into 1997 NAICS Museums, Historical Sites and Similar Institutions subsector, to reflect similar production processes.

Also, there were several activities that transferred within the fishing, hunting and trapping industries. The number of fishing, hunting, and trapping industries decreased from five in 1987 to four in 1997. For time series linkage, four of the 1987 industries are comparable within three percent of the 1997 industries.

Support Activities for Agriculture and Forestry—There was one new industry added to the industry structure for this subsector. An industry was created for:

Support Activities for Animal Production from part of 1987 SIC 0751, Livestock Services, Except Veterinary; 0752, Animal Specialty Services, Except Veterinary; and 7699, Repair Services, NEC, to reflect similar production processes.

Eight activities were transferred out of 1987 SIC Major Group 07, Agriculture Services.

Cotton Ginning was transferred into the NAICS Miscellaneous Manufacturing subsector, to achieve international comparability with Mexico.

Veterinary Services for Livestock, 1987 SIC 0741, and Veterinary Services for Animal Specialties, 1987 SIC 0742, will be combined and transferred into one of the 1997 services industry subsectors, to achieve international comparability. Also, the services require very specialized input and highly skilled workers not found in other support activities for animal production.

Custom slaughtering was transferred from part of 1987 SIC 0751, Livestock Services, Except Veterinary, into the 1997 manufacturing industry subsector Food Product Manufacturing, to reflect a similar production process.

Animal Specialty Services, Except Veterinary were transferred from part of 1987 SIC 0752, Animal Specialty Services, Except Veterinary, into one of the new service industry subsectors, to reflect unique production processes. Services for horses and equines and activities related to breeding of animals will be in Support Activities for Animal Production.

Farm Management Services, 1987 SIC 0762, will be integrated with the particular crop production industries they serve. For example, "citrus grove management and maintenance" will be classified with Orange Groves or Other Citrus Groves, depending on the crop managed. If there is not a dominant cropping activity, crop farm management services will be placed with the 4-digit NAICS industry, All Other Crop Farming. Activities are grouped together that have similar production processes.

Landscape architects and landscape planning was transferred from part of 1987 SIC 0781, Landscape Counseling and Planning, into 1997 NAICS subsector, Professional, Technical, and Scientific Services, to reflect similar production processes involving similar inputs and particularly skills in architecture and planning.

Garden planning horticulture advisory and counseling services were transferred from part of 1987 SIC 0781, Landscape Counseling and Planning, into one of the 1997 services industries, to achieve international comparability and separate out non-crop production activities.

Lawn and garden care services, excluding installation and initial planting activities were transferred from part of 1987 SIC 0782, Lawn and Garden Services, and 1987 SIC 0783, Ornamental Shrub and Tree Service, was transferred partly into one of the new 1997 services industries. Lawn and garden installation and initial planting of materials were transferred into the Construction Industries sector, to reflect similar production processes. Also, this achieves international comparability with Canada that now divides these industries between construction and services.

Two activities were transferred into the NAICS Support Activities for Agriculture and Forestry subsector.

1987 SIC 0851, Forestry Services, were transferred into the industry group, Support Activities for Forestry, to reflect similar production processes, i.e., support activities for agriculture and forestry.

Farriers (Blacksmith Shops) were transferred from part of 1987 SIC 7699, Repair Services, NEC, into the industry group, Support Activities for Animal Production, to achieve international comparability. This activity provides direct support to the animal production subsector.

Also, there were several activities that transferred within the support activities for crop and animal production and forestry industries. The number of support activities for crop and animal production and forestry industry decreased from 14 in 1987 to 6 in 1997. For time series linkage, 11 of the 14 1987 industries are comparable within three percent of the 1997 industries.

Part II—Proposed New Industry Structure for Textile Mills, Textile Product Mills, Apparel Manufacturing, Leather and Allied Product Manufacturing

Section A—NAICS Structure

North American Industry Classification System (NAICS)

Agreement Number 5

This Document represents the proposed agreement on the structure of the North American Industry Classification System (NAICS) for the following industries:

Textile Mills
Textile Product Mills
Apparel Manufacturing
Leather and Allied Product Manufacturing

The detailed NAICS structure along with a brief description of the structure is attached (Attachments 1 and 2). Each country agrees to release a copy of the proposed NAICS structure to interested data users. For the apparel industries only, each country may develop a different national structure. These structures must, however, permit each country to aggregate to the NAICS structure in Attachment 1. Each country's detailed apparel structure is shown in Attachment 3. Comments received will be shared among the countries and discussions held before a final decision on the structure is made. This NAICS structure was presented and provisionally accepted at the NAICS Committee meeting held June 22 and 23, 1995 in Ottawa, Canada.

Accepted	Signature	Date
Canada	/S/ Jacob Ryten	6/23/95
Mexico	/S/ Enrique Ordaz ...	6/23/95
United States.	/S/ Jack E. Triplett ..	6/23/95

Attachment 1—NAICS Structure

XX Textile Mills
XXX Fiber, Yarn and Thread Mills
XXXX Fiber, Yarn and Thread Mills
XXX Fabric Mills
XXXX Broadwoven Fabric Mills
XXXX Narrow Fabric Mills and Schiffli Machine Embroidery
XXXX Nonwoven Fabric Mills
XXXX Knit Fabric Mills
XXX Textile and Fabric Finishing and Fabric Coating Mills
XXXX Textile and Fabric Finishing Mills
XXXX Fabric Coating Mills
XX Textile Product Mills
XXX Textile Furnishings Mills
XXXX Carpet and Rug Mills
XXXX Curtain and Linens Mills
XXX Miscellaneous Textile Product Mills
XXXX Textile Bags and Canvas Mills
XXXX Other Miscellaneous Textile Product Mills
XX Apparel Manufacturing
XXX Cut and Sew Apparel Manufacturing
XXXX Outerwear Manufacturers and Jobbers
XXXX Underwear and Nightwear Manufacturers and Jobbers
XXXX Cut and Sew Apparel Contractors
XXX Apparel Knitting Mills
XXXX Hosiery and Socks Mills
XXXX Other Apparel Knitting Mills
XXX Apparel Accessories and Other Apparel Manufacturing
XXXX Apparel Accessories and Other Apparel Manufacturing
XX Leather And Allied Product Manufacturing
XXX Leather and Hide Tanning and Finishing
XXXX Leather and Hide Tanning and Finishing
XXX Footwear Manufacturing
XXXX Footwear Manufacturing
XXX Miscellaneous Leather and Allied Product Manufacturing
XXXX Miscellaneous Leather and Allied Product Manufacturing

Attachment 2—North American Industry Classification System

Draft Classification for:
Textile Mills
Textile Product Mills
Apparel Manufacturing
Leather and Allied Product Manufacturing

Representatives of the statistical agencies of Canada, Mexico and the United States agree to a draft industry classification for these industries.

The draft classification provides for four subsectors; Textile Mills; Textile Product Mills; Apparel Manufacturing; and Leather and Allied Product Manufacturing. These groups are further sub-divided into eleven industry groups and twenty industries. The subsectors will be part of the Manufacturing sector of the NAICS classification.

A General Outline

Textile Mills comprise a group of industries that transform a basic fiber (natural or synthetic) into a product that is further manufactured into usable items such as apparel, sheets and towels, and textile bags for individual or industrial consumption. The main processes in this subsector include preparation and spinning of fiber, knitting or weaving of fabric, and finally the finishing of the textile. The NAICS structure follows and captures this process flow. Major industries in this flow such as preparation of fibers, weaving of fabric, knitting of fabric, and fiber and fabric finishing are uniquely identified. Texturizing, throwing, twisting, and winding of yarn contains aspects of both fiber preparation and fiber finishing. In the end, the decision was to class these with preparation of fibers rather than with finishing of fiber.

The subsector Textile Product Mills includes the production of textile products, except apparel. With a few exceptions, processes used in these industries are generally "cut and sew," i.e., purchasing fabric and cutting and sewing to make a non-apparel textile product such as sheets and towels. By creating a separate subsector, the classification more accurately reflects both the production aspect and the strong desire for a separate identification for these activities by many data users.

The Apparel Manufacturing subsector consists of establishments with two distinct manufacturing processes: (1) "cut and sew" as described above and (2) the manufacture of garments in establishments that first knit fabric and then cut and sew the fabric into a garment. Knitting, when done alone, is classified in the Textile Mills subsector, but when knitting is combined with the production of complete garments, the production processes are similar to those in Apparel Manufacturing. The three countries agreed to establish separate subsectors for Textile Product Mills and Apparel Manufacturing. These groupings allow for the unique identification at a high classification level for Apparel Manufacturing, an extremely important international trade grouping.

The subsector Leather and Allied Product Manufacturing consists of transforming hides into leather by tanning or curing, and fabricating the leather into products for final consumption. It also includes the manufacture of certain other, similar products from other materials, including products other than apparel made from "leather substitutes", such as rubber, plastic, or textiles. Rubber footwear, textile luggage, and plastic purses or wallets are examples of "leather substitute" products included in this group. The products made from leather substitutes are produced in similar ways as are the leather products (luggage, for example) and they are made in the same establishments so it is not practical to separate them. The inclusion of leather production in this subsector is partly because leather tanning is a relatively small industry that has few close neighbors as a production process, partly because leather is an input to some of the other products classified in this subsector, and partly for historical reasons.

Limitations and Constraints of the Classification

There are some analytical needs that cannot be met by this industry classification. For example, there is a need in the U.S. and Canada for data for separate statistics for men's and women's apparel, even though overlap of production exists for many specific clothing items. This cannot be accommodated by NAICS because of differences in the way apparel production is organized in Canada, Mexico, and the U.S. Specifically, in Mexico, producers of children's wear are not specialized according to gender as they are in the U.S. and Canada. It is therefore, not possible for Mexico to create separate industries for men's and boys' versus women's and girls". Canada and the U.S., on the other hand, can recognize this distinction and in the national detail of the two countries, these groupings are recognized. Moreover, Mexico requires that uniforms be grouped together in a single industry; in the U.S. and Canada, production of men's uniforms is usually separate from production of women's uniforms. Additionally, size constraints prohibit separation of some activities in Canada. For example, Canada cannot support a separate men's work clothing industry.

These differences in the way apparel production is organized in the three countries also greatly limits the number

of NAICS industries that can be defined in this subsector. As a result, NAICS industries have been defined at a rather highly aggregated level (e.g., outerwear) because only at these levels of aggregation will it be possible to publish comparable data across all three countries. Therefore, the three countries agreed that each country will publish more detailed national industries that meet their respective national needs for data on apparel. For the apparel industries only, each country may develop a different national structure. These structures must, however, permit each country to aggregate to the NAICS structure shown in Attachment 1. Attachment 3 shows each country's detailed national structure for apparel.

For users requiring detailed commodity information, each country will publish information on products of these industries. Efforts also are underway to harmonize the commodity classifications to allow comparability of these statistics.

An issue related to the coding structure is the ability to publish, and the economic significance of the items defined in the classification. In the apparel industry, most activities that were identified in one country exist in the others. However, often an activity is not economically significant to the same degree in all countries. Further, data for some significant activities cannot be published for a particular country because of confidentiality rules. Finally, the way activities are combined in establishments differs to some extent in the different countries. A structure could have been developed that specified such activities in NAICS, but the resulting statistical tables for any given country would have numerous insignificant or suppressed entries. For example, Canada cannot support a separate men's work clothing industry because of size. It was preferable to adopt an operating rule for this industry subsector that the NAICS industries must be economically significant and publishable. It is anticipated that each country will publish additional categories that comprise sub-divisions of NAICS industries to present data for activities that are nationally significant.

Relationship to ISIC

The new NAICS structure for textiles, apparel, and leather does not match the current International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3). The ISIC divisions covered by these NAICS subsectors are: Division 17, Manufacture of Textiles; Division 18, Manufacture of Wearing Apparel: Dressing and Dyeing of Fur; and Division 19, Tanning and Dressing of Leather; Manufacture of Luggage, Handbags, Saddlery, Harness and Footwear. Within ISIC, apparel made from fabric made in the same establishment is classified in one division and that made from fabric made by another establishment is classified in a different division. Within ISIC, both manufacturing of primary textiles and made-up textile products are classified in the same division while in NAICS these functions have been separated into two subsectors.

However, of the twenty one NAICS 4-digit industries in these subsectors, only four do not fall within a single ISIC Division. The four that do not, cross two ISIC divisions. Moreover, the majority of the NAICS industries created fall within a single 4-digit ISIC industry.

Some Changes to the National Classifications

This section highlights some of the significant changes to existing national classifications.

In Textile Mills, the NAICS structure following the production flow resulted in a major restructuring for Canada. Every new national industry in Canada will have some change. For the United States, the main industry change involves moving finishing of fiber, yarn, thread, and wool fabric into separate classifications. The United States converters of non knit (woven) fabric also were moved to manufacturing. In Mexico, the changes were minor.

The subsector Textile Product Mills contains no major changes for any of the three countries. In NAICS, all three countries moved curtains and draperies made from purchased materials to this grouping.

The major change for Mexico and the U. S. for all NAICS industries in Apparel Manufacturing was the classification of cut and sew contracting into a separate NAICS industry group. The fact that cut and sew apparel contractors make women's dresses one week and women's blouses the next or make men's shirts one week and men's pants the next results in difficulties in classifying establishments. In addition, these contractors are typically small, thus causing additional difficulties in classifying these establishments. Classifying all contractors together eases the data collection process. Creating a separate contracting industry for apparel results in a change in virtually every U.S. (13) and Mexican (6) apparel manufacturing industry. Canada already recognizes apparel contracting in its current structure. It should be noted that Mexico will continue to collect and publish a combined industry (including contractors) for the cut and sew area, but will publish separate NAICS for this industry. The U.S. Census Bureau has published information in the past on cut and sew contractors. This information will be used as a bridge to link the 1997 Economic Census data based on NAICS to data that would have been published on the 1987 SIC basis. This link will provide data users essential information for time series comparability.

Achievement of Objectives

The classification meets the objectives for the NAICS. It is comprised of industries that group establishments with similar production processes, that is, it applies the production-oriented economic concept. In the main, the hierarchical structure of the classification also follows the production concept.

The classification achieves comparability for the three participating countries. Based on existing data, all three countries expect to be able to publish data regularly at the industry level of the structure. All countries agree on the detailed definitions of the industries.

Other objectives of the NAICS project are not as relevant in this area of the classification as in others. These objectives are the delineation of new and emerging industries, service industries, and industries engaged in the production of advanced technologies. The industry subsector in question is relatively mature, generally produces goods, and has employed relatively stable technology. Therefore, the emphasis was on the objectives listed above.

The industries have high specialization ratios, and they are economically significant. The detail and structure of the classification are balanced in size. This enhances the classification's suitability for sampling, data-publishing and other aspects of survey operations. For Textile Mills and Textile Product Mills, disruptions to time series have been kept to a minimum. In Apparel Manufacturing, however, the establishment of a separate industry for cut and sew contractors results in a change for the U.S. to nearly all of the existing apparel industries. A link between the old and new industries will be provided where possible.

Attachment 3—Individual Country Structure for Apparel Manufacturing—NAICS Description

Canada

XX Apparel Manufacturing
XXX Men's and Boys' Cut and Sew Apparel Manufacturers and Jobbers

XXXX Men's and Boys' Cut and Sew Shirt, including Work Shirt Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Trouser, Slack and Jean, including Work Clothing Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Other Outerwear Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturers and Jobbers
XXX Women's and Girls' Cut and Sew Apparel Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Blouse and Shirt Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Dress Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Other Outerwear Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturers and Jobbers
XXX Other Cut and Sew Apparel Manufacturers and Jobbers
XXXX Infants' Cut and Sew Apparel Manufacturers and Jobbers
XXXX Fur and Leather Apparel Manufacturers and Jobbers
XXXX All Other Cut and Sew Apparel Manufacturers and Jobbers
XXX Cut and Sew Apparel Contractors
XXX Apparel Knitting Mills
XXXX Hosiery and Socks Mills
XXXX Other Apparel Knitting Mills
XXX Apparel Accessories and Other Apparel Manufacturing
XXXX Apparel Accessories and Other Apparel Manufacturing

Mexico

XX Apparel Manufacturing
XXXXXX Making up of mass-produced men's outerwear
XXXXXX Making up of made-to-measure men's outerwear
XXXXXX Making up of mass-produced women's outerwear
XXXXXX Making up of women's made-to-measure outerwear
XXXXXX Making up of shirts
XXXXXX Making up of uniforms
XXXXXX Making up of men's wear from leather, hides and synthetics
XXXXXX Making up of women's wear from leather, hides and synthetics
XXXXXX Making up of children's outerwear
XXXXXX Making up of other outerwear
XXXXXX Making up of foundation garments
XXXXXX Making up of other innerwear
XXXXXX Manufacture of hats, caps, etc.
XXXXXX Manufacture of hats, caps, etc., from palm and other hard fibers
XXXXXX Manufacture of gloves, ties, scarves, etc.

United States

XX Apparel Manufacturing
XXX Men's and Boys' Cut and Sew Apparel Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Shirt, except Work Shirt Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Trouser, Slack, and Jean Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Work Clothing Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Other Outerwear Manufacturers and Jobbers
XXXX Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturers and Jobbers
XXX Women's and Girls' Cut and Sew Apparel Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Blouse and Shirt Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Dress Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Other Outerwear Manufacturers and Jobbers
XXXX Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturers and Jobbers
XXX Other Cut and Sew Apparel Manufacturers and Jobbers
XXXX Infants' Cut and Sew Apparel Manufacturers and Jobbers
XXXX Fur and Leather Apparel Manufacturers and Jobbers
XXXX All Other Cut and Sew Apparel Manufacturers and Jobbers
XXX Cut and Sew Apparel Contractors
XXXX Men's and Boys' Apparel Contractors
XXXX Women's and Girls' Apparel Contractors
XXX Apparel Knitting Mills
XXXX Hosiery and Socks Mills
XXXXX Sheer Hosiery Mills
XXXXX Other Hosiery and Socks Mills
XXXX Other Apparel Knitting Mills
XXXXX Outerwear Knitting Mills
XXXXX Underwear and Nightwear Knitting Mills
XXX Apparel Accessories and Other Apparel Manufacturing
XXXX Hat, Cap, and Millinery Manufacturing
XXXX Glove and Mitten Manufacturing
XXXX Men's and Boys' Neckwear Manufacturing
XXXX Apparel Belt, Apparel Accessories, and Other Apparel Manufacturing

Section B-Annex: United States National Industry Detail

As explained in the *Structure* presentation of this notice, for a number of reasons 4-digit industries in the three NAICS industry subsectors presented in Part 1, Section A—Attachment 1, contain less detail than is currently in the U.S. SIC system, and less detail than is required to meet important analytical requirements in the U.S. The three country agreement on NAICS envisions that each country may develop national detailed industries below the NAICS industry level, so long as the national detail can be aggregated to the NAICS classification, thus assuring full North American comparability.

The ECPC is proposing U.S. 5-digit industry detail for the three NAICS industry subsectors covered in Part I of this notice. For cases where no 5-digit detail is shown, the ECPC is proposing that the NAICS 4-digit industries will also represent the most detailed U.S. industries.

TABLE 1

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
XX	Textile Mills:			
XXX	Fiber, Yarn and Thread Mills:			
XXXX ...	Fiber, Yarn and Thread Mills:			
XXXXX	Yarn Spinning Mills	R	2281	Yarn Spinning Mills.
			2299	Textile goods, NEC (Yarn of Hard Fiber).
			3999	Manufacturing Industries NEC (Yarn of Animal Hair).
XXXXX	Yarn Texturing, Throwing, and Twisting Mills.	R	2282	Throwing and Winding Mills (Except Spooling Purchased Yarns).
XXXXX	Thread Mills	R	*2284	Thread Mills (Except Finishing).
			*2299	Textile Goods, NEC (Thread of Hard Fiber).
			*3999	Manufacturing Industries NEC (Thread of Animal Hair).
XXX	Fabric Mills:			

TABLE 1—Continued

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
XXXX ...	Broadwoven Fabric Mills	N	2211	Broadwoven Fabric Mills, Cotton.
			2221	Broadwoven Fabric Mills, Manmade.
			*2231	Broadwoven Fabric Mills, Wool (Except Wool Finishing).
			*2299	Textile Goods, NEC (Broadwoven Fabrics of Hard Fiber).
XXXX ...	Narrow Fabric Mills and Schiffli Machine Embroideries:			
XXXXX	Narrow Fabric Mills	R	2241	Narrow Fabric Mills.
			*2299	Textile Goods, NEC (Narrow Fabric of Hard Fiber).
XXXXX	Schiffli Machine Embroideries	E	2397	Schiffli Machine Embroideries.
XXXX ...	Nonwoven Fabric Mills	R	2297	Nonwoven Fabrics.
			*2299	Textile Goods, NEC (Nonwoven Felt).
XXXX ...	Knit Fabric Mills:			
XXXXX	Weft Knit Fabric Mills	R	*2257	Weft Knit Fabric Mills (Except Finishing).
			*2259	Knitting Mills NEC (Finished Articles).
XXXXX	Other Knit Fabric and Lace Mills	R	*2258	Lace and Warp Knit Fabric Mills (Except Finishing).
			*2259	Knitting Mills NEC (Finished Articles).
XXX	Textile and Fabric Finishing and Fabric Coating Mills:			
XXXX ...	Textile and Fabric Finishing Mills:			
XXXXX	Broadwoven Fabric Finishing Mills	N	*2231	Broadwoven Fabric Mills, Wool (Wool Broadwoven Fabric Finishing).
			2261	Finishing Plants, Cotton.
			2262	Finishing Plants, Manmade.
			*2269	Finishing Plants, NEC (Linen Fabric Finishing).
			*5131	Piece Goods and Notions (Broadwoven Converters).
XXXXX	Textile and Fabric Finishing Mills, except Broadwoven Fabric.	N	*2231	Broadwoven Fabric Mills, Wool (Wool Finishing except Broadwoven Fabric).
			2257	Weft Knit Fabric Mills (Finishing).
			*2258	Lace and Warp Knit Fabric Mills (Finishing).
			*2269	Finishing Plants, NEC (Except Linen Fabric Finishing).
			*2282	Throwing and Winding Mills (Yarn Finishing).
			*2284	Thread Mills (Thread Finishing).
			*2299	Textile Goods, NEC (Finishing Yarn/Thread of Hard Fibers).
			*5131	Piece Goods and Notions (Converters, Except Broadwoven and Knit).
XXXX ...	Fabric Coating Mills	R	2295	Coated Fabrics, Not Rubberized.
			*3069	Fabricated Rubber Products, NEC (Rubberized Fabric).
XX	Textile Product Mills:			
XXX	Textile Furnishings Mills:			
XXXX ...	Carpet and Rug Mills	E	2273	Carpets and Rugs.
XXXX ...	Curtain and Linen Mills			
XXXXX	Curtain and Drapery Mills	E	2391	Curtains and Draperies.
XXXXX	Other Household Textile Product Mills	R	*2392	Housefurnishings, NEC (Except Mops and Bags).
XXX	Miscellaneous Textile Product Mills:			
XXXX ...	Textile Bags and Canvas Mills:			
XXXXX	Textile Bag Mills	R	*2392	Housefurnishings, NEC (Blanket and Laundry Bags).
			2393	Textile Bags.
XXXXX	Canvas and Related Product Mills	E	2394	Canvas and Related Products.
XXXX ...	Other Miscellaneous Textile Product Mills:			
XXXXX	Rope, Cordage and Twine Mills	E	2298	Cordage and Twine.
XXXXX	Tire Cord and Tire Fabric Mills	E	2296	Tire Cord and Fabrics.
XXXXX	All Other Miscellaneous Textile Product Mills.	R	*2259	Knitting Mills, NEC (Except Apparel).
			*2299	Textile Goods, NEC (Other Textile Products).
			*2395	Pleating and Stitching (Except Apparel Contractors).
			*2396	Automotive and Apparel Trimmings (Textile Products Except Automotive Trim and Printing on Apparel).
			*2399	Fabricated Textile Products, NEC (Except Apparel, Automotive Seat Belts, and Seat Covers).
XX	Apparel Manufacturing:			
XXX	Men's and Boys' Cut and Sew Apparel Manufacturers and Jobbers:			
XXXX ...	Men's and Boy's Cut and Sew Shirt, except Work Shirt Manufacturers and Jobbers.	R	*2321	Men's and Boys' Shirts (Except Contractors).
			*2361	Girls' and Children's Dresses, Blouses (Boys' Except Contractors).
XXXX ...	Men's and Boy's Cut and Sew Trouser, Slack, and Jean Manufacturers and Jobbers.	R	*2325	Men's and Boys' Trousers and Slacks (Except Contractors.

TABLE 1—Continued

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
			*2369	Girls' and Children's Outerwear, NEC (Boys' Except Contractors).
XXXX ...	Men's and Boy's Cut and Sew Work Clothing Manufactuers and Jobbers.	R	*2326	Men's and Boys' Work Clothing*(Except Contractors).
XXXX ...	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturers and Jobbers.	R	*2311	Men's and Boys' Suits and Coats (Except Contractors).
			*2369	Girls' and Children's Outerwear, NEC (Boys' Except Contractors).
			*2385	Waterproof Outerwear (Men and Boys' Except Contractors).
XXXX ...	Men's and Boys' Cut and Sew Other Outerwear Manufacturers and Jobbers.	R	*2329	Men's and Boys' Clothing, NEC (Except Contractors).
			*2369	Girls' and Children's Outerwear, NEC (Boys' Except Contractors).
			*2385	Waterproof Outerwear (Except Contractors).
XXXX ...	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturers and Jobbers.	R	*2322	Men's and Boys' Underwear and Nightwear (Except Contractors).
			*2341	Women's and Children's Underwear (Boys' Except Contractors).
			*2369	Girls' and Childrens' Outerwear, NEC (Boys' Robes Except Contractors).
			*2384	Robes and Dressing Gowns (Men's Except Contractors).
XXX	Women's and Girls' Cut and Sew Apparel Manufacturers and Jobbers.			
XXXX ...	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturers and Jobbers.	R	*2331	Women's and Misses' Blouses and Shirts (Except Contractors).
			*2361	Girls' and Children's Dresses, Blouses (Girls' Except Contractors).
XXXX ...	Women's and Girls' Cut and Sew Dress Manufacturers and Jobbers	R	*2335	Women's, Juniors', and Misses' Dresses (Except Contractors).
			*2361	Girls' and Children's Dresses, Blouses (Girls' Except Contractors).
XXXX ...	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturers and Jobbers.	R	*2337	Women's and Misses' Suits and Coats (Except Contractors).
			*2369	Girls' and Children's Outerwear, NEC (Girls' Except Contractors).
			*2385	Waterproof Outerwear (Except Contractors).
XXXX ...	Women's and Girls' Cut and Sew Other Outerwear Manufacturers and Jobbers.	R	*2339	Women's and Misses' Outerwear, NEC (Except Contractors).
			*2369	Girls' and Children's Outerwear, NEC (Girls' Except Contractors).
			*2385	Waterproof Outerwear (Women's and Girls' Except Contractors).
XXXX ...	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear.	R	*2341	Women's and Children's Underwear (Women and Girls' Except Contractors).
			2342	Bras, Girdles, and Allied Garments (Except Contractors).
			*2369	Girls' and Children's Outerwear, NEC (Girls' Except Contractors).
			*2384	Robes and Dressing Gowns (Women's Except Contractors).
			*2389	Apparel and Accessories, NEC (Garter Belts).
XXX	Other Cut and Sew Apparel Manufacturers and Jobbers:			
XXXX ...	Infants' Cut and Sew Apparel Manufacturers and Jobbers.	R	*2341	Women's and Children's Underwear (Infants' Except Contractors).
			*2361	Girls' and Children's Dresses, Blouses (Infants' Except Contractors).
			*2369	Girls' and Children's Outerwear, NEC (Infants' Except Contractors).
			*2385	Waterproof Outerwear (Infants' Except Contractors).
XXXX ...	Fur and Leather Apparel Manufacturers and Jobbers.	N	2371	Fur Goods.
			2386	Leather and Sheep-lined Clothing.
XXXX ...	All Other Cut and Sew Apparel Manufacturers and Jobbers.	R	*2329	Men's and Boys' Outerwear, NEC (Athletic Uniforms Except Contractors).
			*2339	Women's and Misses' Outerwear, NEC (Athletic Uniforms Except Contractors).
			*2385	Waterproof Outerwear (Except Contractors).
			*2389	Apparel and Accessories, NEC (Garments).
XXX	Cut and Sew Apparel Contractors:			

TABLE 1—Continued

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
XXXX ...	Men's and Boys' Cut and Sew Apparel Contractors.	N	*2311	Men's and Boys' Suits and Coats (Contractors).
			*2321	Men's and Boys' Shirts (Contractors).
			*2322	Men's and Boys' Underwear and Nightwear (Contractors).
			*2325	Men's and Boys' Trousers and Slacks (Contractors).
			*2326	Men's and Boys' Work Clothing (Contractors).
			*2329	Men's and Boys' Clothing, NEC (Contractors).
			*2341	Women's and Children's Underwear (Boys' Contractors).
			*2361	Girls' and Children's Dresses, Blouses (Boys' Contractors).
			*2369	Girls' and Children's Outerwear, NEC (Boys' Contractors).
			*2384	Robes and Dressing Gowns (Men's Contractors).
			*2385	Waterproof Outerwear (Men's and Boy's Contractors).
			*2395	Pleating and Stitching (Men's and Boy's Contractors).
XXXX ...	Women's and Girls' Cut and Sew Apparel Contractors.	N	*2331	Women's and Misses' Blouses and Shirts (Contractors).
			*2335	Women's Juniors', and Misses' Dresses (Contractors).
			*2337	Women's and Misses' Suits and Coats (Contractors).
			*2339	Women's and Misses' Outerwear, NEC (Contractors).
			*2341	Women's and Children's Underwear (Women's and Girls' Contractors).
			*2342	Bras, Girdles, and Allied Garments (Contractors).
			*2361	Girls' and Children's Dresses, Blouses (Girls' Contractors).
			*2369	Girls' and Children's Outerwear, NEC (Girls' Contractors).
			*2384	Robes and Dressing Gowns (Women's Contractors).
			*2385	Waterproof Outerwear (Women's and Girls' Contractors).
			*2389	Apparel and Accessories, NEC (Contractors).
			*2395	Pleating and Stitching (Contractors).
XXX	Apparel Knitting Mills:			
XXXX ...	Hosiery and Socks Mills:			
XXXXX	Sheer Hosiery Mills	R	2251	Women's Hosiery, except Socks.
XXXXX	Other Hosiery and Socks Mills	R	*2252	Hosiery, NEC (Girls' Hosiery).
XXXX ...	Other Apparel Knitting Mills:			
XXXXX	Outerwear Knitting Mills	R	2253	Knit Outerwear Mills.
			*2259	Knitting Mills, NEC (Gloves and Mittens).
XXXXX	Underwear and Nightwear Knitting Mills	E	2254	Knit Underwear Mills.
			*2259	Knitting Mills, NEC (Girdles).
XXX	Apparel Accessories and Other Apparel Manufacturing:			
XXXX ...	Hat, Cap, and Millinery Manufacturing	E	2353	Hats, Caps, and Millinery.
XXXX ...	Glove and Mitten Manufacturing	R	2381	Fabric Dress and Work Gloves.
			3151	Leather Gloves and Mittens.
XXXX ...	Men's and Boys' Neckwear Manufacturing	E	2323	Men's and Boys' Neckwear.
XXXX ...	Apparel Belt, Apparel Accessories and Other Apparel Manufacturing.	N	*2339	Women's and Misses' Outerwear, NEC (Scarves).
			*2385	Waterproof Outerwear (Except Raincoats).
			2387	Apparel Belts.
			*2389	Apparel and Accessories, NEC (Handkerchiefs, Arm Bands, etc.).
			*2396	Automotive and Apparel Trimmings (Apparel Findings and Trimming).
			*2399	Fabricated Textile Products, NEC (Except Automotive Seat Belts, Seat Covers, and Textile Products).
XX	Leather and Allied Product Manufacturing:			
XXX	Leather and Hide Tanning and Finishing:			
XXXX ...	Leather and Hide Tanning and Finishing	R	3111	Leather Tanning and Finishing.
			*3999	Manufacturing Industries, NEC (Fur Dressing and Finishing).
XXX	Footwear Manufacturing:			
XXXX ...	Footwear Manufacturing:			
XXXXX	Rubber and Plastic Footwear Manufacturing.	E	3021	Rubber and Plastics Footwear.
XXXXX	House Slipper Manufacturing	E	3142	House Slippers.
XXXXX	Men's Footwear Manufacturing, except Athletic.	E	3143	Men's Footwear, except Athletic.
XXXXX	Women's Footwear Manufacturing except Athletic.	E	3144	Women's Footwear, except Athletic.
XXXXX	Other Footwear Manufacturing	E	3149	Footwear except Rubber, NEC.
XXX	Miscellaneous Leather and Allied Product Manufacturing:			
XXXX ...	Miscellaneous Leather and Allied Product Manufacturing:			

TABLE 1—Continued

	1997 NAICS and U.S. description	Status code	1987 SIC code	1987 SIC description
XXXXX	Luggage Manufacturing	E	3161	Luggage.
XXXXX	Women's Handbag and Purse Manufacturing.	E	3171	Women's Handbags and Purses.
XXXXX	Other Miscellaneous Leather Good Manufacturing.	R	*3131	Boot and Shoe Cut Stock and Findings (Except Wood Heels and Metal Buckles).
			3172	Personal Leather Goods, except Women's Handbags and Purses.
			3199	Leather Goods, NEC.

The definitions of status codes are as follows: E—existing industry, N—new industry, R—revised industry; and * means "part of." The abbreviation NEC is for Not Elsewhere Classified.

TABLE 2.

1987 SIC Code	1987 SIC Description	1997 U.S. Description
2211@	Broadwoven Fabric Mills, Cotton.	Broadwoven Fabric Mills (pt).
2221@	Broadwoven Fabric Mills, Manmade.	Broadwoven Fabric Mills (pt).
2231@	Broadwoven Fabric Mills, Wool	Broadwoven Fabric Mills (pt).
	Except Finishing	Broadwoven Fabric Mills (pt).
	Finishing	Broadwoven Fabric Finishing Mills (pt).
2241	Narrow Woven Fabric Mills	Narrow Fabric Mills (pt).
2251@	Women's Hosiery, Except Socks.	Sheer Hosiery Mills (pt).
2252@	Hosiery, NEC:	
	Girls' Hosiery	Sheer Hosiery Mills (pt).
	Socks	Other Hosiery and Socks Mills.
2253@	Knit Outerwear Mills	Outerwear Knitting Mills (pt).
2254	Knit Underwear Mills	Underwear and Nightwear Knitting Mills.
2257@	Weft Knit Fabric Mills	Weft Knit Fabric Mills.
	Except Finishing	Weft Knit Fabric Mills.
	Finishing	Textile and Fabric Finishing Mills Except Broadwoven Fabric pt).
2258@	Lace and Warp Knit Fabric Mills:	
	Except Finishing	Other Knit Fabric and Lace Mills.
	Finishing	Textile and Fabric Finishing Mills, except Broadwoven Fabric (pt).
2259@	Knitting Mills, NEC:	
	Knit Gloves and Mittens	Outerwear Knitting Mills (pt).
	Girdles	Underwear and Nightwear Knitting Mills (pt).
	Finished Articles of Weft Knit Fabric.	Weft Knit Fabric Mills (pt).
	Finished Articles of Warp Knit Fabric.	Other Knit Fabric and Lace Mills (pt).
2261@	Finishing Plants, Cotton	Broadwoven Fabric Finishing Mills (pt).
2262@	Finishing Plants, Manmade	Broadwoven Fabric Finishing Mills (pt).
2269@	Finishing Plants, NEC:	
	Broadwoven Finishing	Broadwoven Fabric Finishing Mills (pt).
	Except Broadwoven Finishing.	Textile and Fabric Finishing Mills, except Broadwoven Fabric (pt).
2273	Carpets and Rugs	Carpet and Rug Mills.
2281@	Yarn Spinning Mills	Yarn Spinning Mills (pt).
2282@	Throwing and Winding Mills:	
	Except Spooling Purchased Yarn.	Yarn Texturing, Throwing and Twisting Mills.
	Spooling Purchased Yarn	Textile and Fabric Finishing Mills, except Broadwoven Fabric (pt).
2284@	Thread Mills:	
	Except Finishing	Thread Mills (pt).
	Finishing	Textile and Fabric Finishing Mills, Except Broadwoven Fabric (pt).
2295@	Coated Fabrics, Not Rubberized.	Fabric Coating Mills (pt).
2296	Tire Cord and Fabrics	Tire Cord and Tire Fabric Mills.
2297@	Nonwoven Fabrics	Nonwoven Fabric Mills (pt).
2298	Cordage and Twine	Rope, Cordage and Twine Mills.
2299@	Textile Goods, NEC:	
	Broadwoven Fabric of Hard Fibers.	Broadwoven Fabric Mills (pt).
	Nonwoven Felt	Nonwoven Fabric Mills (pt).

TABLE 2.—Continued

1987 SIC Code	1987 SIC Description	1997 U.S. Description
	Finishing Hard Fiber Thread and Yarn.	Textile and Fabric Finishing Mills, except Broadwoven Fabric (pt).
	Narrow Woven Fabric of Hard Fibers.	Narrow Fabric Mills (pt).
	Thread of Hard Fibers	Thread Mills (pt).
	Yarn of Hard Fibers	Yarn Spinning Mills (pt).
	Other Textile Goods	All Other Miscellaneous Textile Product Mills (pt).
2311@	Men's and Boys' Suits and Coats:	
	Contractors	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturers and Jobbers (pt).
	Except Contractors	Men's and Boys' Cut and Sew Apparel Contractors (pt).
2321@	Men's and Boys' Shirts:	
	Contractors	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Men's and Boys' Cut and Sew Shirt, except Work Shirt Manufacturers and Jobbers (pt).
2322@	Men's and Boys' Underwear and Nightwear:	
	Contractors	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturers and Jobbers (pt).
2323	Men's and Boys' Neckwear	Men's and Boys' Neckwear.
2325@	Men's and Boys' Trousers and Slacks:	
	Contractors	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Men's and Boys' Cut And Sew Trouser, Slack, And Jean Manufacturers and Jobbers (pt).
2326@	Men's and Boys' Work Clothing:	
	Contractors	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Men's and Boys' Cut and Sew Work Clothing Manufacturers and Jobbers.
2329@	Men's and Boys' Clothing, NEC:	
	Contractors	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Other Men's and Boys' Cut and Sew Outerwear Manufacturers and Jobbers (pt).
	Athletic Uniforms	All Other Cut and Sew Apparel (pt).
2331@	Women's and Misses' Blouses and Shirts:	
	Contractors	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturers and Jobbers (pt).
2335@	Women's, Junior's, and Misses' Dresses:	
	Contractors	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Women's and Girls' Cut and Sew Dress Manufacturers and Jobbers (pt).
2337@	Women's and Misses' Suits and Coats:	
	Contractors	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturers and Jobbers (pt).
2339@	Women's and Misses' Outerwear, NEC:	
	Scarves	Apparel Belt, Apparel Accessories and Other Apparel Manufacturing (pt).
	Contractors	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Women's and Girls' Cut and Sew Outerwear Manufacturers and Jobbers (pt).
	Athletic Uniforms	All Other Cut and Sew Apparel Manufacturers and Jobbers (pt).
2341@	Women's Underwear:	
	Women and Girls' Contractors.	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Boys' Contractors	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Women's and Girls', Except Contractors.	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturers and Jobbers (pt).
	Boys' Except Contractors	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturers and Jobbers (pt).
	Infants'	Infants' Cut and Sew Apparel Manufacturers and Jobbers (pt).
2342@	Bras, Girdles, and Allied Garments:	
	Contractors	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Except Contractors	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturers and Jobbers (pt).
2353	Hats, Caps, and Millinery	Hat, Cap, and Millinery Manufacturing.
2361@	Girls' and Children's Dresses, Blouses:	
	Infants' Dresses, Blouses, and Shirts.	Infants' Cut and Sew Apparel Manufacturers and Jobbers (pt).
	Boys' Shirts	Men's and Boys' Cut and Sew Shirt, except Work Shirt Manufacturers and Jobbers (pt).
	Girls' Blouses and Shirts	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturers and Jobbers (pt).
	Girls' Dresses	Women's and Girls' Cut and Sew Dress Manufacturers and Jobbers (pt).

TABLE 2.—Continued

1987 SIC Code	1987 SIC Description	1997 U.S. Description
	Girls' Contractors	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2369@	Girls' and Children's Outerwear, NEC:	
	Infants' Outerwear, NEC	Infants' Cut and Sew Apparel Manufacturers and Jobbers (pt).
	Boys' Suits and Coats	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturers and Jobbers (pt).
	Boys' Trousers and Slacks	Men's and Boys' Cut and Sew Trouser, Slack, and Jean Manufacturers and Jobbers (pt).
	Boys' Outerwear, NEC	Other Men's and Boys' Cut and Sew Outerwear Manufacturers and Jobbers (pt).
	Boys' Robes	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturers and Jobbers (pt).
	Boys' Contractors	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Girls' Suits, Coats, Skirts, Etc..	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturers and Jobbers (pt).
	Girls' Outerwear, NEC	Women's and Girls' Cut and Sew Outerwear Manufacturers and Jobbers (pt).
	Girls' Robes	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturers and Jobbers (pt).
	Girls' Contractors	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2371	Fur Goods	Fur and Leather Apparel Manufacturing (pt).
2381@	Fabric Dress and Work Gloves	Glove and Mitten Manufacturing (pt).
2384@	Robes and Dressing Gowns:	
	Women's Except Contractors.	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturers and Jobbers (pt).
	Men's Except Contractors	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturers and Jobbers (pt).
	Men's and Boys' Contractors.	Men's and Boys' Cut and Sew Apparel Contractors.
	Women's and Girls' Contractors.	Women's and Girls' Cut and Sew Apparel Contractors.
2385@	Waterproof Outerwear:	
	Raincoats (Men's and Boys')	Men's and Boys' Cut and Sew Suit, Coat, and Overcoat Manufacturers and Jobbers (pt).
	Raincoats (Women's and Girls').	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket, and Skirt Manufacturers and Jobbers (pt).
	Other Men's and Boys' Outerwear.	Men's and Boys' Cut and Sew Outerwear Manufacturers and Jobbers.
	Other Women's and Girls' Outerwear.	Women's and Girls' Cut and Sew Outerwear Manufacturers and Jobbers.
	Infants' Waterproof Outerwear Except Contractors.	Infants' Cut and Sew Apparel Manufacturers and Jobbers.
	Aprons, Bibs, and Other Miscellaneous Waterproof Items.	Apparel Belt, Apparel Accessories, and Other Apparel Manufacturing (pt).
	Contractors (Men's and Boys').	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Contractors (Women's and Girls').	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2386@	Leather and Sheep-Lined Clothing.	Fur and Leather Apparel Manufacturing (pt).
2387@	Apparel Belts	Apparel Belt, Apparel Accessories, and Other Apparel Manufacturing (pt).
2389@	Apparel and Accessories, NEC:	
	Handkerchiefs, Arm bands, etc.	Apparel Belt, Apparel Accessories, and Other Apparel Manufacturing (pt).
	Academic/Clerical Outerwear.	All Other Cut and Sew Outerwear Manufacturers and Jobbers (pt).
	Garters and Garter Belts	Women's and Girls' Cut and Sew Lingerie, Loungewear, and Nightwear Manufacturers and Jobbers (pt).
	Women's Contractors	Women's and Girls' Cut and Sew Apparel Contractors (pt).
	Men's Contractors	Mens' and Boys' Cut and Sew Apparel Contractors (pt).
2391	Curtains and Draperies	Curtain and Drapery Mills.
2392@	Housefurnishings, NEC:	
	Blanket and Laundry Bags	Textile Bag Mills (pt).
	Mops	Broom and Brush Manufacturing (pt).
	Other Housefurnishings	Other Household Textile Product Mills (pt).
2393@	Textile Bags	Textile Bag Mills (pt).
2394	Canvas and Related Product Mills.	Canvas and Related Product Mills.
2395@	Pleating and Stitching:	
	Pleating and Stitching, Except Apparel Contractors.	All Other Miscellaneous Textile Product Mills (pt).
	Apparel Contractors (Men's)	Men's and Boys' Cut and Sew Apparel Contractors (pt).
	Apparel Contractors (Women's).	Women's and Girls' Cut and Sew Apparel Contractors (pt).
2396@	Automotive and Apparel Trimmings:	

TABLE 2.—Continued

1987 SIC Code	1987 SIC Description	1997 U.S. Description
	Apparel Findings and Trimmings.	Motor Vehicle Fabric Accessory and Seat Manufacturing (pt) (Included in the Transportation Equipment Manufacturing subsector).
	Automotive Trimmings	Motor Vehicle Fabric Accessory and Seat Manufacturing (pt) (Included in the Transportation Equipment Manufacturing subsector).
	Printing On Apparel	Other Commercial Printing (Included in the Printing and Related Support Activities subsector).
	Other Trimmings and Findings.	All Other Miscellaneous Textile Product Mills (pt).
2397	Schiffli Machine Embroideries	Schiffli Machine Embroideries.
2399@	Fabricated Textile Products, NEC:	
	Aprons, Money Belts, and Diapers.	Apparel Belt, Apparel Accessories, and Other Apparel Manufacturing (pt).
	Seat Belts and Seat and Tire Covers.	Motor Vehicle Fabric Accessory and Seat Manufacturing (pt) (Included in the Transportation Equipment Manufacturing subsector).
	Other Fabricated Textile Products.	All Other Miscellaneous Textile Product Mills (pt).
3111	Leather Tanning and Finishing	Leather and Hide Tanning and Finishing.
3131@	Footwear Cut Stock:	
	Wood Heels	All Other Miscellaneous Wood Product Manufacturing (Included in the Wood Product Manufacturing, except Furniture subsector).
	Metal Buckles	Fastener, Button, Needle and Pin Manufacturing (Included in Miscellaneous Manufacturing subsector) (pt).
	Other Footwear Cut Stock	Other Miscellaneous Leather and Allied Product Manufacturing (pt).
3142	House Slippers	House Slipper Manufacturing.
3143	Men's Footwear, Except Athletic.	Men's Footwear Manufacturing, Except Athletic.
3144	Women's Footwear, Except Athletic.	Women's Footwear Manufacturing, Except Athletic.
3149	Footwear, Except Rubber, NEC.	Other Footwear Manufacturing.
3161	Luggage	Luggage Manufacturing.
3171	Women's Handbags and Purses.	Women's Handbag and Purse Manufacturing.
3172@	Personal Leather Goods, NEC	Other Miscellaneous Leather Good Manufacturing (pt).
3199@	Leather Goods, NEC	Other Miscellaneous Leather Good Manufacturing (pt).

The abbreviation "pt" means "part of"; @ means time series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

Description of Changes to the U.S. System

1. *Subsector Structure*—Three industry subsectors replace 1987 Major Groups 22, Textile Mill Products and 23, Apparel and Other Textile Products.

The Textile Mills subsector includes the activities of fiber and yarn preparation and finishing, fabric forming, and fabric finishing. It includes 1987 SIC Industry Groups 221, Broadwoven Fabric Mills, Cotton; 222, Broadwoven Fabric Mills, Manmade Fiber and Silk; 223, Broadwoven Fabric Mills, Wool; 224, Narrow Fabric Mills; 226, Textile Finishing, except Wool; and 228, Yarn and Thread Mills. It also includes 1987 SIC codes 2257, Weft Knit Fabric Mills; 2258, Lace and Warp Knit Fabric Mills; 2295, Coated Fabrics; 2297, Nonwoven Fabrics; and 2397, Schiffli Machine Embroideries.

The Textile Product Mills subsector includes the activities of manufacturing finished textile products other than apparel. It includes 1987 SIC Industry Groups 227, Carpets and Rugs; 1987 SIC industries 2296, Tire Cord and Tire Fabric; 2298, Cordage and Twine; 2391, Curtains and Draperies; 2392, Housefurnishings, NEC; 2393, Textile Bags; 2394, Canvas and Related Products; and 2399, Fabricated Textile Products, NEC.

The Apparel Manufacturing subsector includes the activities of manufacturing apparel. It includes the 1987 SIC Industry Groups 231, Men's and Boys' Suits and Coats; 232, Men's and Boys' Furnishings; 233, Women's and Misses' Outerwear; 234, Women's and Children's Undergarments; 235, Hats, Caps and Millinery; 236, Girls' and Children's Outerwear; 237, Fur Goods; and 238, Miscellaneous Apparel and Accessories. It also includes 1987 SIC industries 2251, Women's Hosiery, except Socks; 2252, Hosiery, NEC; 2253, Knit Outerwear Mills; and 2254, Knit Underwear Mills.

This structure represents the flow of activities through the various textile and apparel industries. It was strongly supported by several segments of the industry and agreed to by both Canada and Mexico.

The total number of industries for these subsectors is 44 and unchanged from 1987 to 1997. There are six new industries for these subsectors. For time series linkage, eleven of the 1987 industries are comparable within three percent of the 1997 industries.

2. *Textile Mills*—Two new industries were added to the 1997 national industry structure for this subsector. New industries were created for:

Broadwoven Fabric Mills from 1987 SIC 2211, Broadwoven Fabric Mills, Cotton; 1987 SIC 2221, Broadwoven Fabric Mills, Manmade; part of 1987 SIC 2231, Broadwoven Fabric Mills, Wool; and part of 1987 SIC 2299, Textile Goods, NEC. These industries include establishments that weave yarn into fabric. In the past, the weaving industries were separated by type of yarn used, e.g., cotton, manmade, etc. and this resulted in substantial industry switching and classification problems.

Broadwoven Fabric Finishing Mills from 1987 SIC 2261, Finishing Plants, Cotton; 1987 SIC 2262, Finishing Plants, Manmade; and part of 1987 SIC 2231, Broadwoven Fabric Mills, Wool. As with weaving above, these industries are made up of establishments that perform the same activity, finishing of textile fabric.

Three activities were transferred into the 1997 Textile Mills subsector.

Broadwoven converters were transferred from part of 1987 Wholesale Trade SIC 5131, Piece Goods and Notions, into part of NAICS industry Broadwoven Fabric Finishing. This entrepreneurial function is more closely related to manufacturing than wholesaling.

Converters, except broadwoven were transferred from part of 1987 Wholesale Trade SIC 5131, Piece Goods and Notions, into the new industry Finishing, Except Broadwoven Fabric Finishing. This entrepreneurial function is more closely related to manufacturing than wholesaling.

Rubberized fabric was transferred from part of 1987 SIC 3069, Fabricated Rubber Products, NEC, into Fabric Coating Mills because coating fabric is the same activity regardless of the material used.

Five activities included in this 1997 subsector were transferred from one industry to another within the Textile Mills subsector.

Yarn of hard fiber was transferred from part of 1987 SIC 2299, Textile Goods, NEC, into Yarn Spinning Mills because there is no difference in the spinning activity.

Thread of hard fiber was transferred from part of 1987 SIC 2299, Textile Goods, NEC, into Thread Mills because the production of thread does not vary by type of fiber.

Broadwoven fabric of hard fiber was transferred from part of 1987 SIC 2299, Textile Goods, NEC, into Broadwoven Fabric Mills because there is no difference in the weaving activity.

Narrow fabric of hard fiber was transferred from part of 1987 SIC 2299, Textile Goods, NEC, into Narrow Fabric Mills because of the same reason shown above.

Felt transferred from part of 1987 SIC 2299, Textile Goods, NEC, into Nonwoven Fabric Mills because it is one of several ways to manufacture nonwoven fabric.

The number of textile mills industries for 1997 is 12. For time series linkage, only one of the 1987 industries is comparable within three percent of 1997 industries.

3. *Textile Product Mills*—There were no new industries created for this subsector. One activity transferred out of this subsector.

Mops were transferred from part of 1987 SIC 2392, House Furnishings, NEC, into Broom and Brush Manufacturing in the Miscellaneous Manufacturing subsector to achieve international comparability.

One activity included in the 1997 Textile Product Mills subsector was transferred between industries.

Knit gloves and girdles were transferred from part of 1987 SIC 2259, Knitting Mills, NEC, into All Other Miscellaneous Textile Product Mills as a function of a textile product mill rather than a basic textile mill.

There are eight industries in the 1997 Textile Product Mills subsector. For time series linkage, six of the 1987 industries are comparable within three percent of the 1997 industries.

4. *Apparel Manufacturing*—Four new industries were created for this 1997 industry subsector.

Men's and Boys' Cut and Sew Apparel Contractors from parts of the 1987 Men's and Boys', Children's and Miscellaneous Apparel industries. This industry was created because the production function of contractors is so different than that of manufacturers and jobbers.

Women's and Girls' Cut and Sew Apparel Contractors from parts of the 1987 Women's, Girls', Children's, and Miscellaneous Apparel industries. This industry was created because the production function of contractors is so different than that of manufacturers and jobbers.

Fur and leather clothing from the 1987 SIC 2386, Leather and Sheep Lined Clothing, and fur apparel from part of 1987 SIC 2371, Fur Goods. Both of these industries are very small and somewhat similar in function.

Apparel Belt, Accessories and Other Apparel Manufacturing from 1987 SIC 2387, Apparel Belts; 1987 SIC 2396, Automotive and Apparel Trimmings; and 1987 SIC 2399, Fabricated Textile Products, NEC. This is essentially a new all other category that was created from pieces left from several industries.

Three activities were transferred from 1987 Major Group, Apparel and Other Textile Products.

Seat belts and seat and tire covers were transferred from part of 1987 SIC 2399, Fabricated Textile Products, NEC, into Motor Vehicle Fabric Accessory and Seat Manufacturing in the Transportation Equipment Manufacturing subsector to achieve international comparability. Canada and Mexico already have these activities associated with motor vehicle manufacturing.

Automotive trimmings were transferred from part of 1987 SIC 2396, Automotive and Apparel Trimmings, into Motor Vehicle Fabric Accessory and Seat Manufacturing in the Transportation Equipment Manufacturing subsector to achieve international comparability. Canada and Mexico already have these activities associated with motor vehicle manufacturing.

Printing on apparel was transferred from part of 1987 SIC 2396, Automotive and Apparel Trimming, into Other Commercial Printing in the Printing and Related Support Activities subsector to be shown later. This was done to achieve international comparability. Mexico's establishments do printing without regard to the material.

One activity was transferred into this subsector.

Leather gloves and mittens were transferred from 1987 Major Group 31, Leather and Leather Products, into Glove and Mitten Manufacturing to achieve international comparability. Canada cannot separate the production of leather gloves and mittens from fabric gloves and mittens because the leather activity is too small.

Also there were a large number of activities that transferred to other industries within the textiles and apparel subsectors. Some of the more significant of these are:

Little boys' apparel was transferred from parts of 1987 SIC codes 2341, Women's and Children's Underwear; 2361, Girls' and Children's Dresses, Blouses, and Shirts; and 2369, Girls' and Children's Outerwear, NEC, to parts of various industries for men's and boys' apparel because of the overlap with manufacturers of men's and boys' clothing.

Cut and sew contractors were transferred from each of the 1987 SIC codes for outerwear and underwear into the two new industries for contractors. This industry was created because the production function of contractors is so different than that of manufacturers and jobbers.

There are 24 industries included in Apparel Manufacturing. For time series comparability, four 1987 industries are comparable within three percent of 1997.

5. Leather and Allied Product Manufacturing—Three activities were transferred out of the subsector.

Wood heels were transferred from part of 1987 SIC 3131, Footwear Cut Stock, into All Other Miscellaneous Wood Product Manufacturing to be published separately to achieve international comparability. Canada and Mexico had these classified elsewhere.

Metal buckles were transferred from part of the 1987 SIC 3131, Footwear Cut Stock, into Fastener, Button, Needle, and Pin Manufacturing in the

Miscellaneous Manufacturing subsector to be published separately, to achieve international comparability. Canada and Mexico had these classified elsewhere.

Leather gloves and mittens were transferred into Glove and Mitten Manufacturing for international comparability.

Two activities were transferred into NAICS Leather and Allied Product Manufacturing.

Fur dressing and finishing was transferred from part of 1987 SIC 3999 Manufacturing Industries, NEC, into Leather and Hide Tanning and Finishing to achieve international comparability. The U.S. changed in order to agree with Canada and Mexico.

Rubber and plastic footwear was transferred from the 1987 Major Group 30, Rubber and Miscellaneous Plastics Products, into this subsector to achieve international comparability. Canada and Mexico do not distinguish footwear manufacturing based on material.

Also, there were several activities that transferred within the leather and allied product manufacturing industries. The number of leather and allied product manufacturing industries decreased from 11 in 1987 to 7 in 1997. For time series linkage, 7 of the 11 1987 industries are comparable within three percent of the 1997 industries.

PART III—Proposed New Industry Structure for Food Manufacturing and Beverage and Tobacco Product Manufacturing

Section A—NAICS Structure

North American Industry Classification System (NAICS)
Agreement Number 6

This Document represents the proposed agreement on the structure of the North American Industry Classification System (NAICS) for the following industries:

Food Manufacturing
Beverage and Tobacco Product Manufacturing

The detailed NAICS structure along with a brief description of the structure is attached (Attachments 1 and 2). Each country agrees to release a copy of the proposed NAICS structure to interested data users. Comments received will be shared among the countries and discussions held before a final decision on the structure is made. Each country may add additional detailed industries, below the 4-digit level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 4-digit NAICS level in order to ensure full comparability among the three countries. This NAICS structure was presented and provisionally accepted at the NAICS Committee meeting held on August 30, 1995 through September 1, 1995 in Washington, DC.

Accepted	Signature	Date
Canada	/S/ Jacob Ryten.	9/1/95
Mexico	/S/ Enrique Ordaz.	9/1/95
United States ..	/S/ Jack E. Triplett.	9/1/95

Attachment 1—NAICS Structure

XX Food Manufacturing
XXX Animal Food Manufacturing
XXXX Animal Food Manufacturing
XXX Grain and Oilseed Milling
XXXX Flour Milling and Malt Manufacturing
XXXX Starch and Vegetable Fats and Oils Manufacturing
XXXX Breakfast Cereal Manufacturing
XXX Sugar and Confectionery Product Manufacturing
XXXX Sugar Manufacturing
XXXX Chocolate and Confectionery Manufacturing from Cocoa Beans
XXXX Confectionery Manufacturing from Purchased Chocolate
XXXX Non-Chocolate Confectionery Manufacturing
XXX Preserved Fruit, Vegetable, and Specialty Manufacturing
XXXX Frozen Food Processing
XXXX Canning, Pickling and Drying
XXX Dairy Product Manufacturing
XXXX Dairy Product, Except Frozen Dairy Product Manufacturing
XXXX Ice Cream and Frozen Dessert Manufacturing
XXX Meat and Seafood Product Manufacturing
XXXX Animal Slaughtering and Processing
XXXX Seafood Product Preparation and Packaging
XXX Bakeries and Tortilleries
XXXX Bread and Bakery Product Manufacturing
XXXX Cookie, Cracker, and Pasta Manufacturing
XXXX Tortilleries
XXX Miscellaneous Food Manufacturing
XXXX Snack Food Manufacturing
XXXX Coffee and Tea Manufacturing
XXXX Flavoring Syrup and Concentrate Manufacturing
XXXX Seasoning and Dressing Manufacturing
XXXX Other Miscellaneous Food Manufacturing
XX Beverage and Tobacco Product Manufacturing
XXX Beverage Manufacturing
XXXX Soft Drink and Ice Manufacturing
XXXX Breweries
XXXX Wineries
XXXX Distilleries
XXX Tobacco Manufacturing
XXXX Tobacco Stemming and Redrying
XXXX Tobacco Product Manufacturing

Attachment 2—North American Industry Classification System

Draft Classification for:
Food Manufacturing
Beverage and Tobacco Product Manufacturing

Representatives of the statistical agencies of Canada, Mexico, and the United States agree to a draft industrial classification for these industries.

The draft classification provides for two subsectors, Food Manufacturing and Beverage and Tobacco Product Manufacturing. These subsectors are sub-divided into ten industry groups and twenty eight industries. The subsectors are part of the Manufacturing sector of the classification.

A General Outline

Food Manufacturing includes establishments that transform livestock and agricultural products into products for intermediate or final consumption. The industry groups are distinguished by the processes and the nature of the raw materials used. The first two categories, Animal Food Manufacturing and Grain and Oilseed Milling, are characterized by the grinding process. Excluded from this industry group is the nixtamal milling carried out in Mexico, due to the integration of this activity with the preparation of corn tortillas.

The Sugar and Confectionery Product Manufacturing industry group includes establishments that process agricultural inputs such as sugar cane, beet, and cocoa to give rise to a new product (sugar or chocolate) and those that begin with sugar and chocolate and process these further.

The Preserved Fruit, Vegetable and Specialty Manufacturing industry group includes two types of establishments: those that freeze food and those that combine preservation processes such as pickling, canning, dehydrating and so forth. Both types begin their productive process with inputs of vegetable or animal origin.

The establishments that manufacture dairy products and meat products are defined by the inputs used: milk and meat, respectively.

Industry group, Bakeries and Tortilleries have a common denominator, the kneading and cooking process that takes place in ovens or flat earthenware pans. In this industry group is the nixtamal mill.

The industry group Miscellaneous Food Manufacturing includes industries with different productive processes such as snack food manufacturing; coffee and tea manufacturing; concentrate, syrup, condiment, and spice manufacturing; and in general an entire range of other miscellaneous products.

The Beverage and Tobacco Product Manufacturing subsector has two industry groups. The first one, Beverage Manufacturing, includes three types of establishments: those that manufacture non-alcoholic beverages; those that manufacture alcoholic beverages through the fermentation process; and those that produce distilled alcoholic beverages. Ice manufacturing, while not a beverage, is included with non-alcoholic beverage manufacturing because it is the same production process as water purification.

In the case of activities related to the manufacture of beverages, the structure follows the defined productive processes. Brandy, a distilled beverage, was not placed under distillery product manufacturing, but rather under the NAICS class for winery product manufacturing since the productive process used in the manufacturing of alcoholic grape-based beverages, produces both wines (fermented beverage) and brandies (distilled beverage).

The second industry group, Tobacco Product Manufacturing, includes two types of establishments: those engaged in redrying and stemming tobacco and those that manufacture cigarettes and cigars.

Limitations and Constraints of the Classification

There are a few factors that constrained the structure and detail of the classification in the area under consideration. In the Food Manufacturing subsector, most activities that were identified in one country exist in the others. However, the way activities are combined in establishments differs to some extent in the different countries. For example, in Canada and the United States, corn oil is produced in the same establishments that manufacture corn starch and corn sweeteners. In Mexico, corn oil is produced in specialized establishments. All of the establishments that produce these products along with those producing other vegetable fats and oils, are combined into one NAICS industry, Starch and Vegetable Fats and Oils Manufacturing. Each country will publish additional categories that comprise sub-divisions of NAICS industries to present data for activities that are nationally significant.

For those users requiring detailed commodity information, each country will publish information on products of these industries. Efforts are also underway to harmonize the commodity classifications to allow comparability of these statistics.

Relationship of ISIC

Most 4-digit NAICS industries in these subsectors are contained within Division 15, Manufacture of Food Products, of the current International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3) of the United Nations. The following NAICS industry cannot be assigned to an ISIC division. Wineries that grow their own grapes and then manufacture wine are classified in ISIC as an agriculture activity and in NAICS as a manufacturing activity.

Some Changes to the National Classifications

A significant change for all three countries is the inclusion of malt manufacturing in the NAICS industry Flour Milling and Malt Manufacturing. Malt was formerly included in the beer manufacturing industry in Mexico and the United States and in Miscellaneous Manufacturing in Canada, but was moved to the flour milling and malt manufacturing NAICS industry because the production process used to manufacture malt is similar to that of the flour milling industry.

Grouping the production of starches and vegetable fats and oils in a single class also is a significant change for all three countries. In Canada and the United States, corn oil is produced in the same establishments that produce starch products, while in Mexico, corn oil is produced in establishments that manufacture vegetable fats and oils. Thus, the difference in the production processes across the three countries necessitated this grouping.

The creation of two industries for chocolate and confectionary products made from cocoa beans and confectionery made from purchased chocolate is a change for Canada since these industries were previously combined. The NAICS industry Non-Chocolate Confectionery Manufacturing is new for all three countries, and includes chewing gum.

Other Miscellaneous Food Manufacturing includes the preparation of food to be consumed fresh (e.g., salads, sandwiches, etc. that are sold for immediate or almost immediate consumption). It is characterized by the preparation of food in volume that the manufacturer sells to a specialized establishment that sells it either through a service or a retail establishment. It is not specifically defined in the existing classification systems of the three countries.

The inclusion of bakeries that prepare the dough, bake the bread, and sell on the premises in manufacturing is a major change for Canada and the United States. These establishments formerly were included in the retail sector in both countries. The manufacture of ice, an activity that up to now had been considered by the three countries to be part of food, has been transferred to beverage manufacturing.

The grouping of Beverage and Tobacco Manufacturing into a subsector represents a major restructuring for all three countries. In Canada, the current two-digit groups for Beverages (CSIC 10, 11) and Tobacco (CSIC 12) have been combined in one NAICS subsector, Beverage and Tobacco Product Manufacturing. For Mexico, the current subsector Food Products, Beverages, and Tobacco has been split into two subsectors. In the United States, tobacco is a separate two-digit major group (Major Group 21, Tobacco Products) while beverages is a three-digit industry group, (Industry Group 208, Beverages).

Achievement of Objectives

The classification meets the objectives for the North American Industry Classification System (NAICS). It is comprised of industries that group establishments with similar production processes, that is, it applies the production-oriented economic concept. In the main, the hierarchical structure of the classification also follows the production concept.

The classification achieves comparability for the three participating countries. Based on existing data, all three countries expect to be able to publish data regularly at the industry (4-digit) level of the structure. All countries agree on the detailed definitions of the industries.

The classification improves comparability with other countries. Most industries are compatible with the two-digit level of the current International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3) of the United Nations. This means that each comparable NAICS industry is the same as, or part of, a single ISIC two-digit Division.

Other objectives of the NAICS project are not as relevant in this area of the classification as in others. These objectives are the delineation of new and emerging industries, service industries and industries engaged in the production of advanced technologies. The industrial sector in question is relatively mature, generally produces goods, and employs relatively stable technology. Therefore, the emphasis was on the objectives listed above.

The industries have high specialization ratios, and with the exception of tortillas in Canada, they are economically significant. The detail (4-digit) and structure of the classification are balanced in size. This enhances the classification's suitability for sampling and other aspects of survey operations. Finally, disruptions to time series, while they exist, have been minimized. Most of the changes to existing classifications are marginal. The major changes are well-identified and can be taken into account in linking time series.

Section B-Annex: United States National Industry Detail

As explained in the *Structure* presentation of this notice, for a number of reasons 4-digit industries in the two NAICS industry subsectors presented in *Part 1, Section A—Attachment 1*, contain less detail than is currently in the U.S. SIC system, and less detail than is required to meet important analytical requirements in the U.S. The three country agreement on NAICS envisions that each country may develop national detailed industries below the NAICS industry level, so long as the national detail can be aggregated to the NAICS classification, thus assuring full North American comparability.

The ECPC is proposing U.S. 5-digit industry detail for the two NAICS industry subsectors covered in Part I of this notice. For cases where no 5-digit detail is shown, the ECPC is proposing that NAICS 4-digit industries will also represent the most detailed U.S. industries.

TABLE 1.

	1997 NAICS and US Description	Status code	1987 SIC code	1987 SIC Description
XX	Food Manufacturing:		.....	
XXX	Animal Food Manufacturing:		.....	
XXXX ...	Animal Food Manufacturing:		.....	
XXXXX	Dog and Cat Food Manufacturing	E	2047	Dog and Cat Food.
XXXXX	Other Animal Food Manufacturing	R	*2048	Prepared Feeds, NEC (Except Slaughtering Animals for Pet Food).
XXX	Grain and Oilseed Milling:.			
XXXX ...	Flour Milling and Malt Manufacturing		.....	
XXXXX	Flour Milling	R	*2034	Dehydrated Fruits, Vegetables and Soups (Vegetable Flour).
			2041	Flour and Other Grain Mill Products.
XXXXX	Rice Milling	E	2044	Rice Milling.
XXXXX	Malt Manufacturing	E	2083	Malt.
XXXX ...	Starch and Vegetable Fats and Oils Manufacturing:			
XXXXX	Soybean Processing	E	2075	Soybean Oil Mills.
XXXXX	Wet Corn Milling	E	2046	Wet Corn Milling.
XXXXX	Other Oilseed Processing	N	2074	Cottonseed Oil Mills.
			2076	Vegetable Oil Mills, NEC.
XXXXX	Edible Fats and Oils Manufacturing	R	*2077	Animal and Marine Fat and Oil (Vegetable Oil Foods).
			2079	Edible Fat and Oil, NEC.
XXXX ...	Breakfast Cereal Manufacturing	E	*2043	Cereal Breakfast Foods (Breakfast Cereal).
XXX	Sugar and Confectionery Product Manufacturing:			
XXXX ...	Sugar Manufacturing:			
XXXXX	Sugarcane Mills	E	2061	Raw Cane Sugar.
XXXXX	Cane Sugar Refining	E	2062	Cane Sugar Refining.
XXXXX	Beet Sugar Manufacturing	E	2063	Beet Sugar.
XXXX ...	Chocolate and Confectionery Manufacturing from Cocoa Beans.	E	2066	Chocolate and Cocoa Products.
XXXX ...	Confectionery Manufacturing from Purchased Chocolate.	N	*2064	Candy and Other Confectionery Products (Chocolate Confectionery).
XXXX ...	Non-Chocolate Confectionery Manufacturing	N	*2064	Candy and Other Confectionery Products (Non-Chocolate Confectionary).
			2067	Chewing Gum.
			*2099	Food Preparations, NEC (Marshmallow Creme).
XXX	Preserved Fruit, Vegetable, and Specialty Manufacturing:			
XXXX ...	Frozen Food Processing:			
XXXXX	Frozen Fruit, Juice, and Vegetable Processing.	E	2037	Frozen Fruits and Vegetables.
XXXXX	Frozen Specialty Processing	E	2038	Frozen Specialties, NEC.
XXXX ...	Canning, Pickling, and Drying:			
XXXXX	Fruit and Vegetable Canning	R	2033	Canned Fruits and Vegetables.
			*2035	Sauces, and Salad Dressings (Pickled Fruits and Vegetables).
XXXXX	Specialty Canning	R	*2032	Canned Specialties (Except Canned Puddings).
XXXXX	Dried and Dehydrated Food Manufacturing	R	2034	Dried and Dehydrated Fruits, Vegetables and Soups (Except Vegetable Flour).
			*2099	Food Preparation, NEC (Bouillon).
XXX	Dairy Product Manufacturing:			
XXXX ...	Dairy Product, Except Frozen Dairy Product Manufacturing:			
XXXXX	Fluid Milk Manufacturing	E	2026	Fluid Milk.
XXXXX	Creamery Butter Manufacturing	E	2021	Creamery Butter.
XXXXX	Cheese Manufacturing	E	2022	Cheese, Natural and Processed.

TABLE 1.—Continued

	1997 NAICS and US Description	Status code	1987 SIC code	1987 SIC Description
XXXXX	Dry, Condensed, and Evaporated Milk Manufacturing.	E	2023	Dry, Condensed and Evaporated Products.
XXXX ...	Ice Cream and Frozen Dessert Manufacturing	E	2024	Ice Cream and Frozen Desserts.
XXX	Meat and Seafood Product Manufacturing:			
XXXX ...	Animal Slaughtering:			
XXXXX	Animal Slaughtering and Processing	R	*0751	Livestock Services, Except Veterinary (Custom Slaughtering).
			2011	Meat Packing Plants.
			*2048	Prepared Foods, NEC (Animal Slaughtering for Pet Food).
XXXXX	Meat Processed From Purchased Carcasses		*2013	Sausage and Other Prepared Meats (Meat Processing).
			*5147	Meat and Meat Products (Boxed Beef).
XXXXX	Poultry Processing	R	*2015	Poultry Processing (Poultry Processing).
XXXXX	Rendering and Meat By-product Processing	N	*2013	Sausage and Other Prepared Meats (Lard).
			*2077	Animal and Marine Fats and Oils (Animal Fat and Oil).
XXXX ...	Seafood Product Preparation and Packaging:			
XXXXX	Seafood Canning	R	*2077	Animal and Marine Fats and Oils (Canned Marine Fat and Oil).
			2091	Canned and Cured Fish and Seafood.
XXXXX	Fresh and Frozen Seafood Processing	R	*2077	Animal and Marine Fats and Oils (Fresh and Frozen Marine Fats and Oil).
			2092	Fresh or Frozen Prepared Fish.
XXX	Bakeries and Tortilleries:			
XXXX ...	Bread and Bakery Product Manufacturing:			
XXXXX	Commercial Bakeries	R	2051	Bread, Cake, and Related Products.
			*2052	Cookies and Crackers (Unleavened Bread).
XXXXX	Retail Bakeries	N	*5461	Retail Bakeries (Bread, Cake and Related Products Baked and Sold on Premise).
XXXXX	Frozen Bakery Product Manufacturing	E	2053	Frozen Bakery Products.
XXXX ...	Cookie, Cracker, and Pasta Manufacturing:			
XXXXX	Cookie and Cracker Manufacturing	R	*2052	Cookies and Crackers (Cookies and Crackers).
XXXXX	Flour Mixes and Dough from Purchased Flour Manufacturing.	E	2045	Prepared Flour Mixes and Doughs.
XXXXX	Pasta Manufacturing	E	2098	Macaroni and Spaghetti.
XXXX ...	Tortilleries	N	*2099	Food Preparations, NEC (Tortillas).
XXX	Miscellaneous Food Manufacturing:			
XXXX ...	Snack Food Manufacturing:			
XXXXX	Roasted Nuts and Peanut Butter Manufacturing.	R	2068	Salted and Roasted Nuts and Seeds.
XXXXX	Other Snack Food Manufacturing:			
			*2099	Food Preparations, NEC (Peanut Butter).
		R	*2052	Cookies and Crackers (Pretzels).
			2096	Potato Chips and Similar Product.
XXXX ...	Coffee and Tea Manufacturing	N	*2043	Cereal Breakfast Foods (Coffee Substitute).
			*2095	Roasted Coffee (Roasted Coffee).
			*2099	Food Preparations, NEC (Tea).
XXXX ...	Flavoring Syrup and Concentrate Manufacturing	R	*2087	Flavoring Extracts and Syrups (Flavoring Syrup and Concentrate).
XXXX ...	Seasoning and Dressing Manufacturing:			
XXXXX	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing.	N	*2035	Pickles, Sauces and Salad Dressings (Sauces and Salad Dressing).
			*2099	Food Preparations, NEC (Vinegar).
XXXXX	Spice and Extract Manufacturing	N	*2087	Flavoring Extracts and Syrups (Flavoring Extracts).
			*2095	Roasted Coffee (Coffee Extracts).
			*2099	Food Preparations, NEC (Spices, Dip Mix, Salad Dressing Mix, and Seasoning Mix).
			*2899	Chemical Preparations, NEC (Salt).
XXXX ...	Other Miscellaneous Food Manufacturing:			
XXXXX	Perishable Prepared Food Manufacturing	N	*2099	Food Preparations, NEC (Perishable Prepared Food).
XXXXX	All Other Miscellaneous Food Manufacturing	R	*2015	Poultry and Egg Processing (Egg Processing).
			*2032	Canned Specialties (Canned Pudding).
			*2087	Flavoring Extracts and Syrups (Powered Drink Mix).
			*2099	Food Preparations, NEC (Except Marshmallow Cream, Peanut Butter, Perishable Prepared Foods, Tortillas, Tea and Vinegar).
XX	Beverage and Tobacco Product Manufacturing:			
XXXX ...	Soft Drink and Ice Manufacturing:			
XXXXX	Soft Drink Manufacturing	R	*2086	Bottled and Canned Soft Drinks (Except Purified Water).
XXXXX	Ice Manufacturing and Water Purification	N	2097	Manufactured Ice.
			*2086	Bottled and Canned Soft Drinks (Purified Water).
XXXX ...	Breweries	E	2082	Malt Beverages.
XXXX ...	Wineries	E	2084	Wines, Brandy, and Brandy Spirits.

TABLE 1.—Continued

	1997 NAICS and US Description	Status code	1987 SIC code	1987 SIC Description
XXXX ...	Distilleries	R	2085	Distilled Spirits.
			*2869	Industrial Organic Chemicals (Potable Ethyl Alcohol).
XXXX ...	Tobacco Stemming and Redrying	R	*2141	Tobacco Stemming and Redrying (Redrying and Stemming).
XXXX ...	Tobacco Product Manufacturing:			
XXXXX	Cigarette Manufacturing	E	2111	Cigarette, Including Non-tobacco Cigarettes.
XXXXX	Other Tobacco Product Manufacturing	N	2121	Cigars.
			2131	Chewing and Smoking Tobacco.
			*2141	Tobacco Stemming and Redrying (Reconstituted Tobacco).

The definitions of status codes are as follows E=existing industry, N=new industry, R=revised industry; and * means "part of." The abbreviation NEC is used for Not Elsewhere Classified.

TABLE 2.

1987 SIC code	1987 SIC description	1997 U.S. description
2011	Meat Packing Plants	Animal Slaughtering.
2013@	Sausages and Other Prepared Meats:	
	Meat Processing	Meat Processed From Purchased Carcasses.
	Lard	Rendering and Meat By-product Processing (pt).
2015@	Poultry Slaughtering and Processing:	
	Poultry Processing	Poultry Processing.
	Egg Processing	All Other Miscellaneous Food Manufacturing (pt).
2021	Creamery Butter	Creamery Butter Manufacturing.
2022	Cheese, Natural and Processed	Cheese Manufacturing.
2023	Dry, Condensed, and Evaporated Products.	Dry, Condensed, and Evaporated Milk Manufacturing.
2024	Ice Cream and Frozen Desserts	Ice Cream and Frozen Dessert Manufacturing.
2026	Fluid Milk	Fluid Milk Manufacturing.
2032	Canned Specialties:	
	Canned Specialty	Specialty Canning (pt).
	Canned Pudding	All Other Miscellaneous Food Manufacturing (pt).
2033@	Canned Fruits and Vegetables	Fruit and Vegetable Canning (pt).
2034	Dehydrated Fruits, Vegetables, and Soup:	
	Dried and Dehydrated Fruit, Vegetable, and Soup Mix.	Dried and Dehydrated Food Manufacturing (pt).
	Vegetable Flours	Flour Milling (pt).
2035	Pickles, Sauces and Salad Dressings:	
	Pickled Fruit and Vegetable	Fruit and Vegetable Canning.
	Sauce and Salad Dressing	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing.
2037	Frozen Fruits, and Vegetables	Frozen Fruit, Juice, and Vegetable Processing.
2038	Frozen Specialties, NEC	Frozen Specialty Processing.
2041	Flour and Other Grain Mill Products	Flour Milling (pt).
2043	Cereal Breakfast Foods:	
	Coffee Substitute	Coffee and Tea Manufacturing (pt).
	Breakfast Cereal	Breakfast Cereal Manufacturing.
2044	Rice Milling	Rice Milling.
2045	Prepared Flour Mixes and Doughs	Flour Mixes and Dough Manufacturing from Purchased Flour.
2046	Wet Corn Milling	Wet Corn Milling.
2047	Dog and Cat Food	Dog and Cat Food Manufacturing.
2048	Prepared Feed, NEC:	
	Animal Slaughtering, for Pet Food	Animal Slaughtering (pt).
	Except Slaughtering Animals for Pet Food.	Other Animal Food Manufacturing.
2051	Bread, Cakes and Related Products	Commercial Bakeries (pt).
2052@	Cookies and Crackers:	
	Cookie and Cracker	Cookie and Cracker Manufacturing.
	Pretzels	Other Snack Food Manufacturing (pt).
	Unleavened Bread	Commercial Bakeries (pt).
2053	Frozen Bakery Products, Except Bread	Frozen Bakery Product Manufacturing.
2061	Raw Cane Sugar	Sugarcane Mills.
2062	Cane Sugar Refining	Cane Sugar Refining.
2063	Beet Sugar	Beet Sugar Manufacturing.
2064@	Candy and Other Confectionery Products:	
	Chocolate Confectionery	Chocolate and Confectionery Manufacturing from Purchased Chocolate.
	Non-Chocolate Confectionery Manufacturing.	Non-Chocolate Confectionary Manufacturing (pt).
2066	Chocolate and Cocoa Products	Chocolate and Confectionery Manufacturing from Cocoa Beans.
2067@	Chewing Gum	Chewing Gum and Other Non-Chocolate Confectionery Product Manufacturing (pt).

TABLE 2.—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
2068@	Salted and Roasted Nuts and Seeds	Roasted Nuts and Peanut Butter Manufacturing (pt).
2074@	Cottonseed Oil Mills	Other Oilseed Processing (pt).
2075	Soybean Oil Mills	Soybean Processing.
2076@	Vegetable Oil Mills, NEC	Other Oilseed Processing (pt).
2077@	Animal and Marine Fats and Oils:	
	Animal Fat and Oil	Rendering and Meat By-product Processing (pt).
	Canned Marine Fat and Oil	Seafood Canning (pt).
	Fresh and Frozen Marine Fat and Oil	Fresh and Frozen Seafood Processing (pt).
	Vegetable Oil Foot	Edible Fats and Oils Manufacturing (pt).
2079	Edible Fat and Oil, NEC	Edible Fats and Oils Manufacturing (pt).
2082	Malt Beverages	Breweries.
2083	Malt	Malt Manufacturing.
2084	Wines, Brandy, and Brandy Spirits	Wineries.
2085	Distilled and Blended Liquors	Distilleries.
2086	Bottled and Canned Soft Drinks:	
	Soft Drinks	Soft Drink Manufacturing.
	Purified Water	Ice Manufacturing and Water Purification (pt).
2087@	Flavoring Extracts and Syrups NEC:	
	Flavoring Syrup and Concentrate	Flavoring Syrup and Concentrate Manufacturing.
	Flavoring Extracts	Spice and Extract Manufacturing (pt).
	Powered Drink Mix	All Other Miscellaneous Food Product Manufacturing (pt).
2091@	Canned and Cured Fish and Seafood	Seafood Canning (pt).
2092@	Fresh or Frozen Prepared Fish	Fresh and Frozen Seafood Processing (pt).
2095@	Roasted Coffee:	
	Roasted Coffee	Coffee and Tea Manufacturing (pt).
	Coffee Extracts	Spice and Extract Manufacturing (pt).
2096@	Potato Chips, and Similar Snacks	Other Snack Food Manufacturing (pt).
2097	Manufactured Ice	Ice Manufacturing and Water Purification (pt).
2098	Macaroni and Spaghetti	Pasta Manufacturing.
2099	Food Preparations, NEC:	
	Bouillon	Dried and Dehydrated Food Manufacturing.
	Marshmallow Creme	Non-Chocolate Confectionery Manufacturing (pt).
	Peanut Butter	Roasted Nuts and Peanut Butter Manufacturing (pt).
	Perishable Prepared Food	Perishable Prepared Food Manufacturing.
	Tortillas	Tortilleries.
	Tea	Coffee and Tea Manufacturing (pt).
	Vinegar	Mayonnaise, Dressing, and Other Prepared Sauce Manufacturing (pt).
	Other	All Other Miscellaneous Food Manufacturing (pt).
2111	Cigarettes	Cigarette Manufacturing.
2121	Cigars	Other Tobacco Product Manufacturing (pt).
2131@	Chewing and Smoking Tobacco	Other Tobacco Product Manufacturing (pt).
2141@	Tobacco Stemming and Redrying:	
	Reconstituted Tobacco	Other Tobacco Product Manufacturing (pt).
	Redrying and Stemming	Tobacco Redrying and Stemming.

The abbreviation "pt" means "part of"; @ means time series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

Description of Changes to the U.S. System

A number of the changes listed in this section were made for reasons of international comparability. Where one or more of the three North American countries had different definitions of an industry classification, adjustments to the definitions in one or more countries were required. In constructing NAICS, the three countries agreed to move, where change was required to attain international comparability, in the direction of the country or countries whose existing classification definitions most closely corresponded to the production-oriented concept adopted for NAICS. Cases where the U.S. changed are listed below; other cases where Canada or Mexico moved toward the U.S. classification are not, of course, listed in this section.

Structure—The 1987 Major Groups 20, Food and Kindred Products, and 21, Tobacco Products, were reorganized to create two new subsectors. Beverages were separated from food and combined with tobacco. A number of activities that were included in 1987 Industry Group 208, Beverages, were retained in the Food Manufacturing subsector:

Malt manufacturing from 1987 industry group 208. This was done to promote comparability with ISIC and because malt production is a milling operation, not a beverage operation.

Flavoring syrup and concentrate manufacturing from part of 1987 SIC 2087, Flavoring Extracts and Syrups, NEC, to improve comparability with Mexico.

Flavoring extracts from part of 1987 SIC 2087, Flavoring Extracts and Syrups, to create a new 1997 industry for spices and extracts. This is consistent with Canada and ISIC.

Powdered drink mixes from part of 1987 SIC 2087, Flavoring Extracts and Syrups, into part of All Other Miscellaneous Food Manufacturing to improve comparability with Canada.

Manufactured ice was previously part of 1987 industry group 209, Miscellaneous Food Preparations and Kindred Products. NAICS includes this in Beverage Manufacturing.

Food Manufacturing—Ten new industries were added to the 1997

industry structure for this subsector. New industries were created for:

Other Oilseed Processing by combining 1987 SIC 2074, Cottonseed Oil Mills, and 1987 SIC 2076, Vegetable Oil Mills, NEC. Cottonseed processing is very small and the production function is identical except for the inputs used.

Confectionery Manufacturing from Purchased Chocolate from part of 1987 SIC 2064, Candy and Other Confectionery Products, to promote comparability with Mexico. This industry also is characterized by the production process as chocolate as an input to confectionery is unique and is distinguished by process.

Non-Chocolate Confectionery Manufacturing from parts of 1987 SIC 2064, Candy and Other Confectionery Products; 1987 SIC 2067, Chewing Gum; and 1987 SIC 2099, Food Preparations, NEC. Chewing gum is a disclosure in the U.S. and is too small in Canada.

Rendering and Meat By-product Processing from parts of 1987 SIC 2013, Sausage and Other Prepared Meats, and 1987 SIC 2077, Animal and Marine Fats and Oils, since there are specialized processes involved and they tend to be performed in separate establishments. This proposal is supported by The National Renderer's Association.

Tortilleries from part of 1987 SIC 2099, Food Preparations, NEC, in response to a proposal from the industry association and to promote comparability with Mexico.

Coffee and Tea Manufacturing from parts of 1987 SIC 2043, Cereal Breakfast Foods; 1987 SIC 2095, Roasted Coffee; 1987 SIC 2099, Food Preparations, NEC, to promote comparability with Canada.

Mayonnaise, Dressing and Other Prepared Sauce Manufacturing from parts of 1987 SIC 2035, Pickles, Sauces and Salad Dressings, and 1987 SIC 2099, Food Preparations, NEC, to promote comparability with Mexico. The U.S. found a good production basis and more than sufficient data user interest for this change.

Spice and Extract Manufacturing from parts of 1987 SIC 2087, Flavoring Extracts and Syrups; 1987 SIC 2095, Roasted Coffee; 1987 SIC 2099, Food Preparations, NEC; and 1987 SIC 2899, Chemical Preparations, NEC resulted from a modification of a proposal to create a spice industry. There is considerable overlap between the production of extracts and spices. Spice production alone produced a low specialization rate (75%), but the combined industry exhibits good specialization (91%).

Retail Bakeries from part of 1987 SIC 5461, Retail Bakeries, to obtain comparability with Mexico. A new industry was created since their production function is different than that of a commercial bakery and in order to retain time series continuity.

Perishable Prepared Food Manufacturing from part of 1987 SIC 2099, Food Preparations, NEC, to reduce the size of SIC 2099 and improve comparability with Mexico.

Three activities were transferred into the 1997 Food Manufacturing subsector:

Custom slaughtering was transferred from 1987 SIC 0751, Livestock Services, Except Veterinary, into Animal Slaughtering because the production process is slaughtering whether done on a production or custom basis, and in response to a proposal.

Boxed beef from purchased carcasses was transferred from 1987 SIC 5147, Meat and Meat Products, into Meat Processed From Purchased Carcasses to improve comparability with Canada. The production function of these establishments is much more a manufacturing type operation, in that they are very large, highly automated plants that produce bulk products that must still be further broken down before they are ready for sale to the final consumer.

Salt was transferred from part of 1987 SIC 2899, Chemical Preparations, NEC, into Spice and Extract Manufacturing to promote comparability with Mexico.

Also there were several activities that transferred within the Food Manufacturing subsector. The number of food manufacturing except beverages manufacturing industries increased from 43 in 1987 to 47 in 1997. For time series linkage, 26 of the 43 1987 industries are comparable within three percent of the 1997 industries.

Beverage and Tobacco Product Manufacturing—Two new industries were created for this subsector.

Ice Manufacturing and Water Purification from 1987 SIC 2097, Manufactured Ice, and part of 1987 SIC 2086, Bottled and Canned Soft Drinks, to promote comparability with Mexico.

Other Tobacco Product Manufacturing by combining 1987 SIC 2121, Cigars; 1987 SIC 2131, Chewing and Smoking Tobacco; and Reconstituted Tobacco from part of 1987 SIC 2141, Tobacco Stemming and Redrying.

One activity transferred into the Beverage and Tobacco Product Manufacturing subsector: Potable ethyl alcohol was transferred from part of 1987 SIC 2069, Industrial Organic Chemicals, into NAICS Distilleries to promote comparability with Canada.

The number of beverage and tobacco product industries decreased from ten in 1987 to eight in 1997. For time series linkage, five of the ten 1987 beverage and tobacco product manufacturing industries are comparable within three percent of the 1997 industries.

Part IV—Proposed New Industry Structure for Fabricated Metal Product Manufacturing

Section A—NAICS Structure

North American Industry Classification System
(NAICS)
Agreement Number 7

This Document represents the proposed agreement on the structure of the North American Industry Classification System (NAICS) for the following industries:

Fabricated Metal Product Manufacturing

The detailed NAICS structure along with a brief description of the structure is attached (Attachments 1 and 2). Each country agrees to release a copy of the proposed NAICS structure to interested data users. Comments received will be shared among the countries and additional discussions will be held before a final decision on the structure is made. Each country may add additional detailed industries, below the 4-digit level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 4-digit NAICS level in order to ensure full comparability among the three countries. This NAICS structure was presented and provisionally accepted at the NAICS Committee meeting held August 30, 1995—September 1, 1995 in Washington, D.C.

Accepted	Signature	Date
Canada	/S/ Jacob Ryten.	9/1/95
Mexico	/S/ Enrique Ordaz.	9/1/95
United States ..	/S/ Jack E. Triplett.	9/1/95

Attachment 1—NAICS Structure

XX Fabricated Metal Product Manufacturing
XXX Forging and Stamping
XXXX Forging and Stamping
XXX Cutlery and Hand Tool Manufacturing
XXXX Cutlery and Hand Tool Manufacturing
XXX Architectural and Structural Metal Manufacturing
XXXX Platework and Fabricated Structural Product Manufacturing
XXXX Ornamental and Architectural Metal Product Manufacturing
XXX Boiler, Tank, and Shipping Container Manufacturing
XXXX Power Boiler and Heat Exchanger Manufacturing
XXXX Metal Tank (Heavy Gauge) Manufacturing
XXXX Metal Can, Box, and Other Metal Container (Light Gauge) Manufacturing
XXX Hardware Manufacturing
XXXX Hardware Manufacturing
XXX Spring, Wire and Turned Product Manufacturing
XXXX Spring and Wire Product Manufacturing
XXXX Turned Product Manufacturing
XXX Other Fabricated Metal Product Manufacturing
XXXX Metal Valve Manufacturing
XXXX All Other Fabricated Metal Product Manufacturing
XXX Machine Shops and Coating, Engraving, Heat Treating, and Allied Activities
XXXX Machine Shops
XXXX Coating, Engraving, Heat Treating, and Allied Activities

Attachment 2—North American Industry Classification System

Draft Classification for:

Fabricated Metal Product Manufacturing

Representatives of the statistical agencies of Canada, Mexico, and the United States agree to a draft industrial classification for these industries.

This draft classification applies to the subsector Fabricated Metal Product Manufacturing. This subsector is further sub-divided into eight industry groups and fourteen industries. The subsector will be part of the Manufacturing sector of the classification.

A General Outline

The Fabricated Metal Product Manufacturing industries transform metal into intermediate or end products, other than machinery, computers and electronics, and metal furniture. Some important fabricated metal processes are forging, stamping, bending, forming, and machining, which are used to shape individual pieces of metal. Processes such as welding and assembling are used to join separate parts together. Establishments may use one of these processes or they may be used in combination. The NAICS structure distinguishes the forging and stamping processes in a single industry. Other industries identify categories of products whose manufacture involves similar combinations of processes. For example, establishments in Platework and Fabricated Structural Product Manufacturing work with heavy gauge metal; those in Ornamental and Architectural Metal Product Manufacturing work with light gauge metal.

NAICS makes a basic distinction between establishments that draw wire from bars or rods, and those that purchase wire and make products from it. The former are classified in the Primary Metal Manufacturing subsector and the latter either in the Fabricated Metal Product Manufacturing subsector; in Spring and Wire Product Manufacturing, if the products are not insulated; or if the product is insulated wire, the establishments are classified in the Electrical Equipment, Appliance, and Component Manufacturing subsector.

Limitations and Constraints of the Classification

There are some analytical needs that cannot be met by the industrial classification. For example, relatively broad NAICS industries were created for Forging and Stamping; Ornamental and Architectural Metal Product Manufacturing; Metal Can, Box and Other Metal Container (Light Gauge) Manufacturing; and Spring, Wire and Turned Product Manufacturing. The way activities are combined in establishments differs to some extent in some countries. For example, forgings and stampings are often made in the same establishments in Mexico, while they are usually produced in separate establishments in Canada and the United States. More often, size constraints prohibit separation of activities in Canada or Mexico. In the Fabricated Metal Product Manufacturing subsector, most activities that were identified in one country exist in the others, but sometimes an activity is not economically significant to the same degree in all countries. For example, Canada cannot support a Precision Turned Product Manufacturing industry because of size.

A structure could have been developed that specified such activities in NAICS, but the resulting statistical tables for any given country would have numerous insignificant or suppressed entries. An operating rule has therefore been adopted for this industry subsector that the NAICS industries must be economically significant and publishable. Each country will publish additional categories that comprise sub-divisions of NAICS industries, to present data for activities that are nationally significant.

For those users requiring detailed commodity information, each country will publish information on the products of these industries. Efforts are also underway to harmonize the commodity classifications to allow for greater comparability of these statistics.

Relationship to ISIC

Eight industries can be assigned entirely to ISIC Division 28, Manufacture of Fabricated Metal Products, except Machinery and Equipment of the current International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3) of the United Nations. The following NAICS industries belong largely to ISIC Division 28 with the exception of the activities indicated: Platework and Fabricated Structural Product Manufacturing (fabricated bar joists and concrete reinforcing bars); Power Boiler and Heat Exchanger Manufacturing (heat exchangers); Metal Valve Manufacturing (hose nozzles, rubber hose and tube assemblies, and metal pipe fittings); All Other Fabricated Metal Product Manufacturing (industrial patterns, and ball and roller bearings); Spring and Wire Product Manufacturing (wire carts and hand sieves); and Metal Tank (Heavy Gauge) Manufacturing (gas absorbers, autoclaves, buoys, and floating structures). However, because the exceptions indicated above are a relatively small part of the output of these six NAICS industries, one can combine the industries of NAICS for this subsector, and be quite comparable to ISIC 28, Manufacture of Fabricated Metal Products, except Machinery and Equipment.

Some Changes to the National Classifications

The Forging and Stamping industry represents a major restructuring for Canada. Non-ferrous forgings have been moved from the Primary Metals Major Group, and they are no longer split by type of metal such as aluminum or bronze. Stampings are brought together from two existing CSIC industries.

The creation of the Hardware Manufacturing industry represents significant change for both Canada and Mexico. Their current classifications place hardware for transportation equipment in a variety of industries, based on the type of vehicle. All hardware, including locks, is combined in one industry in NAICS.

Coating, Engraving, Heat Treating and Allied Activities in NAICS brings together all activities performed on metal, such as coating and heat treating. This is a significant change for Canada and Mexico, whose classifications only distinguish coating activities. For the United States, heat treating of metals is currently in Primary Metal Manufacturing.

The creation of a Machine Shop industry is a change for all three countries that currently combine this activity with various others. Other changes for the United States involve the creation of several new national industries within the various NAICS industries.

Achievement of Objectives

The classification meets the objectives for the North American Industry Classification System (NAICS). It is comprised of industries that group establishments with similar production processes, that is, it applies the production-oriented economic concept. The hierarchical structure of the classification also follows the production concept.

The classification achieves comparability for the three participating countries. Based on existing data, all three countries expect to be able to publish data regularly at the industry (4-digit) level of the structure. All countries agree on the detailed definitions of the industries.

Other objectives of the NAICS project are not as relevant in this area of the classification as in others. These objectives are the delineation of new and emerging industries, service industries and industries engaged in the production of advanced technologies. The industrial sector in question is relatively mature, generally produces goods, and employs relatively stable technology. Therefore, the emphasis is on the objectives listed above.

The industries have high specialization ratios, and they are economically significant. The detail (4-digit level) and structure of the classification are balanced in size. This enhances the classification's suitability for sampling and other aspects of survey operations. Finally, disruptions to time series, while they exist, have been minimized. The statistical agencies can develop statistical "links" to enable the re-tabulation of time series on the new NAICS classification structure.

Section B-Annex: United States National Industry Detail

As explained in the Structure presentation of this notice, for a number of reasons 4-digit industries in the three NAICS industry subsectors presented in Part 1, Section A—Attachment 1, contain less detail than is currently in the U.S. SIC system, and less detail than is required to meet important analytical requirements in the U.S. The three country agreement on NAICS envisions that each country may develop national detailed industries below the NAICS industry level, so long as the national detail can be aggregated to the NAICS classification, thus assuring full North American comparability.

The ECPC is proposing U.S. 5-digit industry detail for the three NAICS industry subsectors covered in Part I of this notice. For cases where no 5-digit detail is shown, the ECPC is proposing that the NAICS 4-digit industries will also represent the most detailed U.S. industries.

TABLE 1.

	1997 NAICS and U.S. Description	Status code	1987 SIC code	1987 SIC Description
XX	Fabricated Metal Product Manufacturing:		.....	
XXX	Forging and Stamping		.....	
XXXX ...	Forging and Stamping		.....	
XXXXX	Custom Roll Forming	N	*3449	Miscellaneous Structural Metal Work (Custom Roll Forming).
XXXXX	Iron and Steel Forging	E	3462	Iron and Steel Forgings.
XXXXX	Nonferrous Forging	E	3463	Nonferrous Forgings.
XXXXX	Crown and Closure Manufacturing	E	3466	Crowns and Closures.
XXXXX	Metal Stamping and Powder Metallurgy Manufacturing.	N	*3469	Metal Stampings, NEC (Except Kitchen Utensils, and Pots and Pans for Cooking).
			*3499	Fabricated Metal Products, NEC (Powder Metallurgy).
XXX	Cutlery and Hand Tool Manufacturing:		.....	
XXXX ...	Cutlery and Hand Tool Manufacturing		.....	
XXXXX	Cutlery and Flatware Manufacturing, except Precious	N	3421	Cutlery.
			*3914	Silverware, Plated Ware, and Stainless Steel Ware (Cutlery and Flatware except Precious).
XXXXX	Hand and Edge Tool Manufacturing	R	3423	Hand and Edge Tools Except Machine Tools and Handsaws.
			*3523	Farm Machinery and Equipment (Hand Hair Clippers for Animals).
			*3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment (Nonpowered Lawnmowers).
			*3545	Cutting Tools, Machine Tools Accessories, and Machinist Precision Measuring Devices (Precision Measuring Devices).
			*3799	Transportation Equipment, NEC (Wheelbarrows).
			*3999	Manufacturing Industries, NEC (Tape Measures).
XXXXX	Saw Blade and Handsaw Manufacturing	E	3425	Saw Blades and Handsaws.
XXXXX	Kitchen Utensil, Pot and Pan Manufacturing	N	*3469	Metal Stampings, NEC (Kitchen Utensils, Pots, and Pans for Cooking).
XXX	Architectural and Structural Metal Manufacturing:		.....	
XXXX ...	Platework and Fabricated Structural Product Manufacturing		.....	
XXXXX	Fabricated Structural Metal Manufacturing	E	3441	Fabricated Structural Metal.
			*3449	Miscellaneous Structural Metal Work (Fabricated Bar Joists and Concrete Reinforcing Bars).
XXXXX	Plate Work Manufacturing	N	*3443	Fabricated Plate Work (Boiler Shops) (Fabricated Plate Work and Metal Weldments).
XXXXX	Prefabricated Metal Building and Component Manufacturing.	E	3448	Prefabricated Metal Buildings and Components.
XXXX ...	Ornamental and Architectural Metal Product Manufacturing		.....	
XXXXX	Metal Door, Sash, Frame, Molding, and Trim Manufacturing.	E	3442	Metal Doors, Sash, Frames, Molding and Trim.

TABLE 1.—Continued

	1997 NAICS and U.S. Description	Status code	1987 SIC code	1987 SIC Description
XXXXX	Sheet Metal Work Manufacturing	R	*3449	Miscellaneous Structural Metal Work (Curtain Wall).
			*3444	Sheet Metal Work (Ducts, Flumes, Flooring, Siding, Dampers, etc.).
XXXXX	Ornamental and Architectural Metal Work Manufacturing.	R	3446	Architectural and Ornamental Metal Work.
			*3449	Miscellaneous Structural Metal Work (Metal Plaster Bases).
			*3523	Farm Machinery and Equipment (Corrals, Stalls, and Holding Gates).
XXX	Boiler, Tank, and Shipping Container Manufacturing:		.....	
XXXX ...	Power Boiler and Heat Exchanger Manufacturing.	N	*3443	Fabricated Plate Work (Boiler Shops) (Power Boilers and Heat Exchangers).
XXXX ...	Metal Tank Manufacturing (Heavy Gauge)	N	*3443	Fabricated Plate Work (Boiler Shops) (Heavy Gauge Tanks).
XXXX ...	Metal Can, Box, and Other Metal Container (Light Gauge) Manufacturing:		.....	
XXXXX	Metal Can Manufacturing	E	3411	Metal Cans.
XXXXX	Other Metal Container Manufacturing	R	3412	Metal Shipping Barrels, Drums, Kegs, and Pails.
			*3429	Hardware, NEC (Vacuum and Insulated Bottles, Jugs, and Chests).
			*3444	Sheet Metal Work (Metal Bins and Vats).
			*3499	Fabricated Metal Products, NEC (Metal Boxes).
			*3537	Industrial Trucks, Tractors, Trailers, and Stackers (Metal Air Cargo Containers).
			*5085	Industrial Supplies (Reconditioning Drums).
XXX	Hardware Manufacturing:		.....	
XXXX ...	Hardware Manufacturing	R	*3429	Hardware, NEC (Hardware, Except Hose Nozzles, and Vacuum and Insulated Bottles, Jugs and Chests).
			*3499	Fabricated Metal Products, NEC (Safe and Vault Locks).
XXX	Spring, Wire and Turned Product Manufacturing:		.....	
XXXX ...	Spring and Wire Product Manufacturing		.....	
XXXXX	Steel Spring Manufacturing, except Wire	E	3493	Steel Springs, Except Wire.
XXXXX	Wire Spring Manufacturing	E	*3495	Wire Springs (Except Watch and Clock Springs).
XXXXX	Other Fabricated Wire Product Manufacturing	R	*3315	Steel Wiredrawing and Steel Nails and Spikes (Steel Nails and Spikes Not Made in Wiredrawing Plants).
			*3399	Primary Metal Products, NEC (Nonferrous Nails, Brads, Staples, etc.).
			3496	Miscellaneous Fabricated Wire Products.
XXXX ...	Turned Product Manufacturing:		.....	
XXXXX	Precision Turned Product Manufacturing	E	3451	Screw Machine Products.
XXXXX	Bolt, Nut, Screw, Rivet, and Washer Manufacturing.	E	3452	Bolts, Nuts, Screws, Rivets, and Washers.
XXX	Other Fabricated Metal Product Manufacturing:		.....	
XXXX ...	Metal Valve Manufacturing		.....	
XXXXX	Industrial Valve Manufacturing	E	3491	Industrial Valves
XXXXX	Fluid Power Valve and Hose Fitting Manufacturing.	R	3492	Fluid Power Valves and Hose Fittings.
			*3728	Aircraft Parts and Auxiliary Equipment, NEC (Fluid Power Aircraft Subassemblies).
XXXXX	Other Metal Valve and Pipe Fitting Manufacturing.	R	*3429	Hardware, NEC (Hose Nozzles).
			*3432	Plumbing Fixture Fittings and Trim (Valves Classified as Fittings and Trim).
			*3494	Valves and Pipe Fittings, NEC (Except Metal Pipe Hangers and Supports).
			*3499	Fabricated Metal Products, NEC (Metal Aerosol Valves).
XXXX ...	All Other Fabricated Metal Product Manufacturing:		.....	
XXXXX	Enameled Iron and Metal Sanitary Ware Manufacturing.	E	3431	Enameled Iron and Metal Sanitary Ware.
XXXXX	Small Arms Ammunition Manufacturing	E	3482	Small Arms Ammunition.
XXXXX	Ammunition Manufacturing, except Small Arms	E	3483	Ammunition, Except for Small Arms.
XXXXX	Small Arms Manufacturing	E	3484	Small Arms.
XXXXX	Other Ordnance and Accessory Manufacturing	E	3489	Ordnance and Accessories, NEC.
XXXXX	Fabricated Pipe and Pipe Fitting Manufacturing	E	3498	Fabricated Pipe and Pipe Fittings.
XXXXX	Industrial Pattern Manufacturing	E	3543	Industrial Patterns.
XXXXX	Ball and Roller Bearing Manufacturing	E	3562	Ball and Roller Bearings.
XXXXX	All Other Miscellaneous Fabricated Metal Product Manufacturing	R	*3053	Gaskets, Packing, and Sealing Devices (Metal Gaskets).
			*3291	Abrasive Products (Steel Wool With or Without Soap).
			*3432	Plumbing Fixture Fittings and Trim (Metal Shower Rods).
			*3494	Valves and Pipe Fittings, NEC (Pipe Hangers and Supports).

TABLE 1.—Continued

	1997 NAICS and U.S. Description	Status code	1987 SIC code	1987 SIC Description
			*3497	Metal Foil and Leaf (Foil and Foil Containers).
			*3499	Fabricated Metal Products, NEC (Other Metal Products).
			*3537	Industrial Trucks, Tractors, Trailers, and Stackers (Metal Pallets).
			*3599	Industrial and Commercial Machinery and Equipment, NEC (Flexible Metal Hose).
			*3993	Signs and Advertising Specialties (Metal Signs).
			*3999	Manufacturing Industries, NEC (Other Miscellaneous Metal Products, such as Combs, Hair Curlers, etc.).
XXX	Machine Shops and Coating, Engraving, Heat Treating, and Allied Activities:		.....	
XXXX ...	Machine Shops	N	*3599	Industrial and Commercial Machinery and Equipment, NEC (Machine Shops).
XXXX ...	Coating, Engraving, Heat Treating, and Allied Activities:		.....	
XXXXX	Metal Heat Treating	E	3398	Metal Heat Treating.
XXXXX	Metal Coating, Engraving and Allied Services to Manufacturers, Except Jewelry	R	*3479	Coating, Engraving, and Allied Services, NEC (Except Jewelry Engraving and Etching).
XXXXX	Electroplating, Plating, Polishing, Anodizing and Coloring	E	*3399	Primary Metal Products, NEC (Laminating Steel).

The definitions of status codes are as follows: E=existing industry; N=new industry; R=revised industry; and *means "part of". The abbreviation NEC is used for Not Elsewhere Classified.

TABLE 2

1987 SIC code	1987 SIC description	1997 U.S. description
3053@	Gaskets, Packings and Sealing Devices:	
	Cork Gaskets, Packing, and Sealing Devices	Other Wood Product Manufacturing (pt) (Included in Wood Product Manufacturing, except Furniture subsector).
	Metal Gaskets, Packing, and Sealing Devices	All Other Fabricated Metal Product Manufacturing (pt).
	Plastics Gaskets, Packing and Sealing Devices	All Other Plastic Product Manufacturing (pt) (Included in Rubber and Plastic Product Manufacturing subsector).
	Rubber Gaskets, Packing and Sealing Devices	All Other Rubber Product Manufacturing (pt) (Included in Rubber and Plastic Product Manufacturing subsector).
3291	Abrasive Products:	
	Steel Wool With or Without Soap	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Abrasive Products (Except Steel Wool With or Without Soap).	Abrasive Product Manufacturing (Included in Nonmetallic Mineral Product Manufacturing subsector).
3315@	Steel Wiredrawing and Steel Nails and Spikes:	
	Steel Wiredrawing and Steel Nails and Spikes (Except Steel Nails and Spikes Not Made in Wiredrawing Plants).	Hot-Rolling Mills., Wire Drawing and Other Primary Metal Product Manufacturing (pt) (Included in Primary Metal Manufacturing subsector).
	Steel Nails and Spikes Not Made in Wiredrawing Plants.	Other Fabricated Wire Product Manufacturing (pt).
3398	Metal Heat Treating	Metal Heat Treating.
3399@	Primary Metal Products, NEC:	
	Iron and Steel Powder, Paste, Flakes, etc	Hot-Rolling Mills, Wire Drawing, and Other Primary Metal Product Manufacturing (pt) (Included in Primary Metal Manufacturing subsector).
	Aluminum Powder, Paste Flakes, etc	Aluminum Extruded Product Manufacturing (pt) (Included in Primary Metal Manufacturing subsector).
	Nonferrous Powder, Paste, Flakes, etc	Secondary Smelting and Refining of Nonferrous Metals (pt) (Included in Primary Metal Manufacturing subsector).
	Nonferrous Nails, Brads, Staples, etc	Other Fabricated Wire Product Manufacturing (pt).
	Laminated Steel	Electroplating, Plating, Polishing, Anodizing, and Coloring (pt).
3411	Metal Cans	Metal Can Manufacturing.
3412	Metal Shipping Barrels, Drums, Kegs and Pails	Other Metal Container Manufacturing (pt).
3421	Cutlery	Cutlery and Flatware Manufacturing, Except Precious (pt).
3423	Hand and Edge Tools, Except Machine Tools and Handsaws.	Hand and Edge Tool Manufacturing (pt).
3425	Saw Blades and Handsaws	Saw Blade and Handsaw Manufacturing.
3429@	Hardware, NEC:	
	Vacuum and Insulated Bottles, Jugs, and Chests	Other Metal Container Manufacturing (pt).
	Hose Nozzles	Other Metal Valve and Pipe Fitting Manufacturing (pt).
	Hardware, NEC (Hardware, Except Hose Nozzles, and Vacuum and Insulated Bottles, Jugs, and Chests).	Hardware Manufacturing (pt).
3431	Enameled Iron and Metal Sanitary Ware	Enameled Iron and Metal Sanitary Ware Manufacturing.

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
3432	Plumbing Fixture Fittings and Trim:	
	Valves Classified as Fittings and Trim	Other Valve and Pipe Fitting Manufacturing (pt).
	Metal Shower Rods	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
3433	Heating Equipment, Except Electric and Warm Air Furnaces.	Heating Equipment except Electric Warm Air Furnace Manufacturing (pt) (Included in Machinery Manufacturing subsector).
3441	Fabricated Structural Metal	Fabricated Structural Metal Manufacturing.
3442	Metal Doors, Sash, Frames, Molding, and Trim	Metal Door, Sash, Frame, Molding, and Trim Manufacturing.
3443@	Fabricated Plate Work (Boiler Shops):Fabricated Plate Work and Metal Weldments Power Boiler and Heat Exchanger Manufacturing.	Plate Work Manufacturing.Power Boilers and Heat Exchangers
	Heavy Gauge Tanks	Metal Tank Manufacturing (Heavy Gauge).
	Metal Cooling Towers	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (pt) (Included in Machinery Manufacturing subsector).
3444	Sheet Metal Work:	
	Ducts, Flumes, Flooring, Siding, Dampers, etc.	Sheet Metal Work manufacturing (pt).
	Metal Bins and Vats	Other Metal Container Manufacturing (pt).
3446	Architectural and Ornamental Metal Work	Ornamental and Architectural Metal Work Manufacturing (pt).
3448	Prefabricated Metal Buildings and Components	Prefabricated Metal Building and Component Manufacturing.
3449@	Miscellaneous Structural Metal Work:	
	Custom Roll Forming	Custom Roll Forming.
	Fabricated Bar Joists and Concrete Reinforcing Bars	Fabricated Structural Metal Manufacturing (pt).
	Curtain Wall	Metal Door, Sash Frame, Molding, and Trim Manufacturing (pt).
	Metal Plaster Bases	Ornamental and Architectural Metal Work manufacturing (pt).
3451	Screw Machine Products	Precision Turned Product Manufacturing.
3452	Bolts, Nuts, Screws, Rivets, and Washers	Bolt, Nut Screw, Rivet, and Washer Manufacturing.
3462	Iron and Steel Forgings	Iron and Steel Forging.
3463	Nonferrous Forgings	Nonferrous Forging.
3465	Automotive Stampings	Motor Vehicle Metal Stamping Manufacturing (included in Transportation Equipment Manufacturing subsector).
3466	Crowns and Closures	Crown and Closure Manufacturing.
3469	Metal Stampings, NEC:	
	Metal Stampings, NEC (Except Kitchen Utensils, and Pots and Pans for Cooking):	Metal Stamping and Powder Metallurgy Manufacturing (pt).
	Kitchen Utensils, and Pots and Pans for Cooking	Kitchen Utensil, Pot, and Pan Manufacturing.
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring.	Electroplating, Plating, Polishing, Anodizing, and Coloring (pt).
3479	Coating, Engraving, and Allied Services, NEC:	
	Coating, Engraving, and Allied Services, NEC (Except Jewelry Engraving and Etching).	Metal Coating, Engraving, and Allied Services to Manufacturers, except Jewelry.
	Jewelry Engraving and Etching	Precious Metal Jewelry Manufacturing (pt) (Included in the Miscellaneous Manufacturing subsector).
3482	Small Arms Ammunition	Small Arms Ammunition Manufacturing.
3483	Ammunition, Except for Small Arms	Ammunition Manufacturing, except Small Arms.
3484	Small Arms	Small Arms Manufacturing.
3489	Ordnance and Accessories, NEC	Other Ordnance and Accessory Manufacturing.
3491	Industrial Valves	Industrial Valve Manufacturing.
3492	Fluid Power Valves and Hose Fittings	Fluid Power Valve and Hose Fitting Manufacturing.
3493	Steel Springs, Except Wire	Steel Spring Manufacturing, except Wire.
3494	Valves and Pipe Fittings, NEC:	
	Valves and Pipe Fittings, NEC (Except Metal Pipe Hangers and Supports).	Other Metal Valve and Pipe Fitting Manufacturing (pt).
	Metal Pipe Hangers and Supports	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
3495	Wire Springs:	
	Wire Springs (Except Watch and Clock Springs)	Wire Spring Manufacturing.
	Watch and Clock Springs	Watch, Clock, and Part Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3496	Miscellaneous Fabricated Wire Products	Other Fabricated Wire Product Manufacturing (pt).
3497	Metal Foil and Leaf:	
	Laminated Aluminum Foil Rolls/Sheets for Flexible Packaging Uses.	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses (Included in Paper Manufacturing subsector).
	Foil and Foil Containers	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
3498	Fabricated Pipe and Pipe Fittings	Fabricated Pipe and Pipe Fitting Manufacturing.
3499		Fabricated Metal Products, NEC:
	Powder Metallurgy	Metal Stamping and Powder Metallurgy Manufacturing (pt).
	Metal Boxes	Other Metal Container Manufacturing (pt).
	Safe and Vault Locks	Hardware Manufacturing (pt).
	Metal Aerosol Valves	Other Valve and Pipe Fitting Manufacturing (pt).
	Metal Furniture Parts, Household	Metal Household Furniture Manufacturing (pt) (Included in Furniture Manufacturing subsector).

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
	Metal Furniture Parts, Office	Metal Office Furniture Manufacturing (pt) (Included in Furniture Manufacturing subsector).
	Trophies, Except Precious	Costume Jewelry Manufacturing (Included in Miscellaneous Manufacturing subsector).
	Other Metal Products	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
3523@	Farm Machinery and Equipment:	
	Farm Machinery and Equipment (Except Corrals, Stalls, Holding Gates, Hand Hair Clippers for Animals, Farm Conveyors, Elevators, Loaders, Stackers and Bale Throwers).	Farm Machinery and Equipment Manufacturing (Included in Machinery Manufacturing subsector).
	Corrals, Stalls, Holding Gates	Ornamental and Architectural Metal Work Manufacturing (pt).
	Hand Hair Clippers for Animals	Hand and Edge Tool Manufacturing (pt).
	Farm Conveyors and Farm Elevators, Stackers, and Bale Throwers.	Conveyor and Conveying Equipment Manufacturing (pt) (Included in Machinery Manufacturing subsector).
3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment:	
	Lawn and Garden Tractors and Home Lawn and Garden Equipment (Except Nonpowered Lawnmowers).	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing (Included in Machinery Manufacturing subsector).
	Nonpowered Lawnmowers	Hand and Edge Tool Manufacturing (pt).
3537	Industrial Trucks, Tractors, Trailers, and Stackers:	
	Industrial Trucks, Tractors, Trailers, and Stackers (Except Metal pallets and Air Cargo Containers).	Industrial Truck, Tractor, Trailer, and Stacker Manufacturing (Included in Machinery Manufacturing subsector).
	Metal Pallets	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Metal Air Cargo Containers	Other Metal Container Manufacturing (pt).
3543	Industrial Patterns	Industrial Pattern Manufacturing.
3545@	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices:	
	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices (Except Precision Measuring Devices).	Cutting Tool and Machine Tool Accessory Manufacturing (Included in Machinery Manufacturing subsector).
	Precision Measuring Devices	Hand and Edge Tool Manufacturing (pt).
3562	Ball and Roller Bearings	Ball and Roller Bearing Manufacturing.
3599	Industrial and Commercial Machinery and Equipment, NEC:	
	Industrial and Commercial Machinery and Equipment, NEC (Except Flexible Metal Hose; Gasoline, Oil and Intake Filters for Internal Combustion Engines, Except those for Motor Vehicles; Carnival Amusement Park Equipment and Machine Shops).	Other Industrial Manufacturing and Industrial Commercial Machinery and Equipment (pt) (Included in Machinery Manufacturing subsector).
	Flexible Metal Hose	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Gasoline, Oil and Intake Filters for Internal Combustion Engines, Except those for Motor Vehicles.	Other Motor Vehicle Part Manufacturing (pt) (Included in Transportation Equipment Manufacturing subsector).
	Carnival Amusement Park Equipment	Other Commercial and Service Industry Machinery Manufacturing (pt) (Included in Machinery Manufacturing subsector).
	Machine Shops	Machine Shops.
3728	Aircraft Parts and Auxiliary Equipment, NEC:	
	Fluid Power Aircraft Subassemblies	Fluid Power Valve and Hose Fitting Manufacturing (pt).
	Other Aircraft Parts and Equipment	Other Aircraft Part and Auxiliary Equipment Manufacturing (pt) (Included in Transportation Equipment Manufacturing subsector).
3799@	Transportation Equipment, NEC:	
	Wheelbarrows	Hand and Edge Tool Manufacturing (pt).
	Automobile, boat, light truck, and utility trailers	Travel Trailer and Camper Manufacturing (pt) (Included in Transportation Equipment Manufacturing subsector).
	Other	All Other Transportation Equipment Manufacturing (Included in Transportation Equipment Manufacturing subsector).
3914	Silverware, Plated Ware, and Stainless Steel Ware:	
	Cutlery and Flatware Except Precious Silverware, Plated Ware, and Stainless Steel Ware (Except Nonprecious Flatware and Cutlery).	Cutlery and Flatware Manufacturing, Except Precious (pt) Silverware and Plated Ware (Included in Miscellaneous Manufacturing subsector).
3993@	Signs and Advertising Specialities (Metal Signs):	
	Electrical Signs	Electric Sign Manufacturing (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
	Metal Signs	All Other Miscellaneous Fabricated Metal Product Manufacturing (pt).
	Plastic Signs	All Other Plastic Product Manufacturing (pt) (Included in Rubber and Plastic Product Manufacturing subsector).
	Wood Signs	Other Wood Product Manufacturing (pt) (Included in Wood Product Manufacturing, except Furniture subsector).

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
3999@	Manufacturing Industries, NEC:	
	Beauty and Barber Chairs	Metal Office Furniture Manufacturing (pt) (Included in Furniture Manufacturing subsector).
	Burnt Wood Articles	Other Wood Product Manufacturing (pt) (Included in Wood Product Manufacturing, except Furniture subsector).
	Fur Bleaching, Currying, Scraping, Tanning and Dyeing.	Leather and Hide Tanning and Finishing Manufacturing (pt) (Included in Leather and Leather Product Manufacturing subsector).
	Lamp Shades of Paper and Textile	Other Lighting Equipment Manufacturing (pt) (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
	Matches	Other Miscellaneous Chemical Product Manufacturing (pt) (Included in Chemical Manufacturing subsector).
	Metal Products, such as Combs, Hair Curlers, etc	All Other Fabricated Metal Product Manufacturing (pt).
	Plastics Products, such as Combs, Hair Curlers, etc	All Other Plastic Product Manufacturing (pt) (Included in Rubber and Plastic Product Manufacturing subsector).
	Flexographic Printing Eyeglass Frames for the Trade	Commercial Flexographic Printing (pt) (Included in Printing and Related Support Activities subsector).
	Gravure Printing Eyeglass Frames for the Trade	Commercial Gravure Printing (pt) (Included in Printing and Related Support Activities subsector).
	Lithographic Printing Eyeglass Frames for the Trade	Commercial Lithographic Printing (pt) (Included in Printing and Related Support Activities subsector).
	Screen Printing Eyeglass Frames for the Trade	Commercial Screen Printing (pt) (Included in Printing and Related Support Activities subsector)
	Other Printing Eyeglass Frame for the Trade	Other Commercial Printing (pt) (Included in Printing and Related Support Activities subsector).
	Tape Measures	Hand and Edge Tool Manufacturing (pt).
	Other	All Other Miscellaneous Manufacturing (pt) (Included in Miscellaneous Manufacturing subsector).
5085	Industrial Supplies (Wholesale):	
	Reconditioning Drums	Other Metal Container Manufacturing (pt).
	Other	(Included in Wholesale subsector).

The abbreviation "pt" means "part of"; @ means time series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

Description of Changes to the U.S. System

A number of the changes listed in this section were made for reasons of international comparability. Where one or more of the three North American countries had different definitions of an industry classification, adjustments to the definitions in one or more countries were required. In constructing NAICS, the three countries agreed to move, where change was required to attain international comparability, in the direction of the country or countries whose existing classification definitions most closely corresponded to the production-oriented concept adopted for NAICS. Cases where the U.S. changed are listed below; other cases where Canada or Mexico moved toward the U.S. classification are not, or course, listed in this section.

Eight new industries were added to the 1997 industry structure for this industry subsector. Four of these new industries were created by breaking apart 1987 not elsewhere classified (nec) industries. New industries were created for:

Custom Roll Forming Manufacturing from part of 1987 SIC 3449, Miscellaneous Structural Metal Work. This was requested by the industry and is defined by production process.

Metal Stamping and Powder Metallurgy Manufacturing from part of 1987 SIC 3469, Metal Stampings, NEC, and part of 1987 SIC 3499, Fabricated Metal Products, NEC. This achieves international comparability and combines activities having similar processes. The U.S. moved to match Canada.

Cutlery and Flatware Manufacturing, except Precious from 1987 SIC 3421, Cutlery, and part of 1987 SIC 3914, Silverware, Plated Ware, and Stainless Steel Ware, to achieve international comparability. The change combines activities having similar production processes.

Kitchen Utensil, Pot and Pan Manufacturing from part of 1987 SIC 3469, Metal Stampings, NEC, to achieve international comparability. Mexico had an industry, CMAP 381411, Manufacturing of Kitchen Utensils, Pots and Pans.

Plate Work Manufacturing from part of 1987 SIC 3443, Fabricated Plate Work (Boiler Shops), to achieve international comparability. Both Canadian and Mexican classification systems contained an industry for this activity.

Power Boiler and Heat Exchanger Manufacturing from part of 1987 SIC 3443, Fabricated Plate Work (Boiler Shops), to achieve international comparability. Both Canadian and Mexican classification systems contained an industry for this activity.

Metal Tank Manufacturing (Heavy Gauge) from part of 1987 SIC 3443, Fabricated Plate Work (Boiler Shops), to achieve international comparability. Both Canadian and Mexican classification systems contained an industry for this activity.

Machine Shops from part of 1987 SIC 3599, Industrial and Commercial Machinery and Equipment, NEC, to

achieve international comparability, and combine similar production processes. This industry includes establishments engaged in machining or otherwise working of industrial material, on a job or order basis, producing parts from raw materials, or rebuilding existing parts.

Two complete industries were transferred out of this industry group, because of NAICS decisions that produced international comparability:

Heating Equipment, Except Electric and Warm Air Furnaces was transferred into the Machinery Manufacturing subsector.

Motor Vehicle Metal Stampings were transferred into the Transportation Equipment Manufacturing subsector.

Four activities were transferred out of 1987 SIC Major Group 34, Fabricated Metal Products, and are described more fully in their new respective NAICS subsectors.

Clock and watch spring manufacturing was transferred from 1987 SIC 3495, Wire Springs, into Navigational, Measuring and Control Instrument Manufacturing.

Metal laminated foil roll and sheet manufacturing for flexible packaging was transferred from part of 1987 SIC 3497, Metal Foil and Leaf, to the subsector for Paper Manufacturing, because the production processes are similar, regardless of the material used. This is the lamination, not creation of foil.

Metal cooling tower manufacturing was transferred from 1987 SIC 3443, Fabricated Plate Work, to the Machinery Manufacturing subsector for international comparability. In Canada, cooling towers are produced by establishments producing air conditioning equipment.

Metal furniture part manufacturing was transferred from 1987 SIC 3499, Fabricated Metal Products, NEC, into Metal Furniture Manufacturing.

Three industries were transferred into this subsector:

Industrial Pattern Manufacturing was transferred from 1987 SIC 3543, Industrial Patterns (in the Industrial and Commercial Machinery and Computer Equipment major groups), to achieve international comparability. The U.S. and Mexico moved to match Canada.

Metal Heat Treating was transferred from 1987 SIC 3398, Metal Heat Treating (in the Primary Metal Industries major group). This change achieves international comparability. The U.S. moved to match Canada and Mexico.

Ball and Roller Bearing Manufacturing from 1987 SIC 3562, Ball and Roller Bearings (in the Industrial and Commercial Machinery and Computer Equipment major group). This reflects the fact that this activity is really metal fabrication. Previously, the U.S., Canada, and Mexico all had this industry in machinery.

Seventeen activities were transferred into the Fabricated Metal Product Manufacturing subsector:

Nonpowered hand-held animal clipper manufacturing was transferred from 1987 SIC 3523, Farm Machinery and Equipment, into Hand and Edge Tool Manufacturing, to achieve international comparability and combine activities having similar inputs and production processes.

Metal corral, stall, and holding gate manufacturing was transferred from 1987 SIC 3523, Farm Machinery and Equipment, into Ornamental and Architectural Metal Work Manufacturing, to achieve international comparability.

Nonpowered lawnmower manufacturing was transferred from 1987 SIC 3524, Lawn and Garden Tractors and Home, Lawn and Garden Equipment, into Hand and Edge Tool Manufacturing, to achieve international comparability and combine activities having similar inputs and production processes. The U.S. and Canada moved to agree with Mexico.

Precision measuring tool manufacturing was transferred from 1987 SIC 3545, Cutting Tools, Machine Tools Accessories and Machinist Precision Measuring Devices, into Hand and Edge Tool Manufacturing, to achieve international comparability and combine activities having similar inputs. The U.S. and Canada moved to agree with Mexico.

Wheelbarrow manufacturing was transferred from 1987 SIC 3799, Transportation Equipment, NEC, into Hand and Edge Tool Manufacturing to achieve international comparability. The U.S. and Canada moved to agree with Mexico.

Tape measure manufacturing was transferred from 1987 SIC 3999, Manufacturing Industries, NEC, into Hand and Edge Tool Manufacturing to achieve international comparability. The U.S. and Canada moved to agree with Mexico.

Metal air cargo container manufacturing was transferred from 1987 SIC 3537, Industrial Trucks, Tractors, Trailers, and Stackers, into Other Metal Container Manufacturing to achieve comparability with Mexico.

Metal pallet manufacturing was transferred from 1987 SIC 3537, Industrial Trucks, Tractors, Trailers, and Stackers, into All Other Fabricated Metal Product Manufacturing to achieve comparability with Mexico.

Reconditioning drum manufacturing was transferred from 1987 SIC 5085, Wholesale of Industrial Supplies, into Metal Shipping Barrels, Drums, Kegs, and Pails Manufacturing to achieve comparability with Mexico. In NAICS, rebuilding on a factory basis is placed in the Manufacturing sector.

Nonferrous nail, brad and staple manufacturing was transferred from 1987 SIC 3399, Primary Metal Products, into Miscellaneous Fabricated Wire Product Manufacturing to achieve international comparability, and because of similar production processes. If the process includes drawing, it remains in primary metals.

Steel nail, spike, etc., manufacturing was transferred from 1987 SIC 3315, Steel Wiredrawing and Steel Nails and Spikes, into Miscellaneous Fabricated Wire Product Manufacturing to achieve international comparability, and because of similar production processes. If the process includes drawing, it remains in primary metals.

Metal gasket packing and sealing device manufacturing was transferred from 1987 SIC 3053, Gaskets, Packing, and Sealing Devices, into All Other Fabricated Metal Product Manufacturing to achieve international comparability. The U.S. and Canada moved to match Mexico.

Steel wool manufacturing was transferred from 1987 SIC 3291, Abrasive Products, into All Other Fabricated Metal Product Manufacturing to achieve international comparability. The U.S. moved to match Canada and Mexico.

Flexible metal hose manufacturing was transferred from 1987 SIC 3599, Industry and Commercial Machinery and Equipment, NEC, into All Other Fabricated Metal Product Manufacturing to achieve international comparability.

Metal sign manufacturing was transferred from 1987 SIC 3993, Signs and Advertising Specialties, into All Other Fabricated Metal Product Manufacturing to achieve international comparability. The U.S. and Canada moved to match Mexico.

Comb, hair curler, and other metal product manufacturing was transferred from 1987 SIC 3999, Manufacturing Industries, NEC, into All Other Fabricated Metal Product Manufacturing to achieve international comparability.

Laminating steel was transferred from 1987 SIC 3399, Primary Metal Products, NEC, into Electroplating, Plating, Polishing, Anodizing and Coloring. This change achieves international comparability. The U.S. moved to match Canada and Mexico.

Also, there were several activities that transferred within the Fabricated Metal Product Manufacturing subsector. The number of Fabricated Metal Product industries increased from 38 in 1987 to 41 in 1997. For time series linkage, 32 of the 38 1987 industries are comparable within three percent of the 1997 industries.

Part V—Proposed New Industry Structure for Machinery Manufacturing

Section A—NAICS Structure

North American Industry Classification System
(NAICS)

Agreement Number 8

This Document represents the proposed agreement on the structure of the North American Industry Classification System (NAICS) for the following industries:

Machinery Manufacturing

The detailed NAICS structure along with a brief description of the structure is attached (Attachments 1 and 2). Each country agrees to release a copy of the proposed NAICS structure to interested data users. Comments received will be shared among the countries and additional discussions will be held before a final decision on the structure is made. Each country may add additional detailed industries, below the 4-digit level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 4-digit NAICS level in order to ensure full comparability among the three countries. This NAICS structure was presented and provisionally accepted at the Committee meeting held August 30, 1995—September 1, 1995 in Washington, D.C.

Accepted	Signature	Date
Canada	/S/ Jacob Ryten.	9/1/95
Mexico	/S/ Enrique Ordaz.	9/1/95
United States ..	/S/ Jack E. Triplett.	9/1/95

Attachment 1—NAICS Structure

XX Machinery Manufacturing
XXX Agricultural, Construction, and Mining Machinery Manufacturing
XXXX Agricultural Implement Manufacturing
XXXX Construction Machinery Manufacturing
XXXX Mining and Oil and Gas Field Machinery Manufacturing
XXX Industrial Machinery Manufacturing
XXXX Sawmill and Woodworking Machinery Manufacturing
XXXX Rubber and Plastic Industry Machinery Manufacturing
XXXX Other Industrial Machinery Manufacturing
XXX Commercial and Service Industry Machinery Manufacturing
XXXX Commercial and Service Industry Machinery Manufacturing
XXX Heating, Ventilation, Air Conditioning, and Commercial Refrigeration Manufacturing
XXXX Heating, Ventilation, Air Conditioning, and Commercial Refrigeration Manufacturing
XXX Metalworking Machinery Manufacturing
XXXX Metalworking Machinery Manufacturing
XXX Engine, Turbine, and Power Transmission Equipment Manufacturing
XXXX Engine, Turbine, and Power Transmission Equipment Manufacturing
XXX Other General Purpose Machinery Manufacturing
XXXX Pump and Compressor Manufacturing
XXXX Material Handling Equipment Manufacturing
XXXX All Other General Purpose Machinery Manufacturing

Attachment 2—North American Industry Classification System

Draft Classification for:

Machinery Manufacturing

Representatives of the statistical agencies of Canada, Mexico, and the United States agree to a draft industrial classification for these industries.

This draft classification applies to the subsector, Machinery Manufacturing. This subsector is sub-divided into seven industry groups and thirteen industries. The subsector will be part of the Manufacturing sector of the classification.

A General Outline

The industries included in the Machinery Manufacturing subsector create end products that apply mechanical force, for example, the application of gears and levers to perform work. Some important processes for manufacture of machinery are forging, stamping, bending, forming, and machining that are used to shape individual pieces of metal. Processes such as welding and assembling are used to join separate parts together. These processes are similar to those used in metal fabricating establishments. However, machinery manufacturing typically employs multiple metal forming processes in manufacturing the various parts of the machine and complex assembly operations are an inherent part of the production process.

In general, design considerations are very important in machinery production. Establishments specialize in producing machinery designed for particular applications. Thus design is considered to be part of the production process for the purpose of implementing NAICS. The structure reflects this by defining industries and industry groups that produce machinery for different applications. A broad distinction exists between machinery that is generally used in a variety of industrial applications (general purpose machinery) and machinery that is designed to be used in a particular industry (special purpose machinery). Three industry groups consist of special purpose machinery—Agricultural, Construction, and Mining Machinery Manufacturing; Industrial Machinery Manufacturing; and Commercial and Service Industry Machinery Manufacturing. The other industry groups produce general-purpose machinery—Heating, Ventilation, Air Conditioning, and Commercial Refrigeration Manufacturing; Metalworking Machinery Manufacturing; Engine, Turbine, and Power Transmission Equipment Manufacturing; and Other General Purpose Machinery Manufacturing.

Limitations and Constraints of the Classification

Relatively broad industries were created in several areas including: Other Industrial Machinery Manufacturing; Heating, Ventilation, Air Conditioning, and Commercial Refrigeration Manufacturing; and Engine, Turbine and Power Transmission Equipment Manufacturing. Occasionally, these aggregations are a consequence of differences in the degree of specialization of the three countries. For example, Canada cannot support a separation of mining machinery manufacturing from oil and gas field machinery manufacturing because of the combination of these activities in the same establishments.

More often, size constraints prohibit separation of activities in Canada or Mexico: For example, separate industries are possible for textile machinery manufacturing in the United States and Mexico, or for paper industry machinery manufacturing in Canada and the United States. But due to size constraints, it is not possible to create the textile machinery manufacturing industry in Canada or the paper industry machinery manufacturing industry in Mexico. Therefore, textile machinery manufacturing and paper machinery manufacturing are included in the four-digit industry, Other Industrial Machinery Manufacturing.

Each country will publish additional categories that comprise sub-divisions of industries, to present data for activities that are nationally significant.

For those users requiring detailed commodity information, each country will publish information on the products of these industries. Efforts also are underway to harmonize the commodity classifications to allow for greater comparability of these statistics.

Relationship to ISIC

Ten of the thirteen four-digit industries in this subsector can be assigned to Division 29, Manufacture of Machinery and Equipment, NEC, of the current International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3) of the United Nations. The following three industries belong largely to ISIC Division 29, with the exception of the activities indicated: Mining, Oil and Gas Field Machinery (drilling bits for oilfield and gas drilling equipment); Commercial and Service Industry Machinery Manufacturing (optical instruments and lenses and photographic equipment and supplies, except photographic films, paper, and chemicals); and Other General Purpose Machinery (balance equipment, other than automotive wheel). However, because the exceptions indicated are a relatively small part of the output of these two NAICS industries, one can combine the industries of NAICS for this subsector, and be quite comparable to ISIC 29.

Some Changes to the National Classifications

The Canadian classification's Machinery Industries major group is similar in coverage to the subsector proposed here. The manufacturing of heating equipment, now treated as metal fabricating; of some office machinery, now classified as electrical equipment; and of engines, now classified as transportation equipment have been moved to this subsector. Furthermore, the structure—special-purpose machinery and general-purpose machinery—is similar. However, the classification has more detail, with thirteen industries compared to seven; the Canadian national detail adds three more.

The Mexican classification's Manufacture, Repair and Assembly of Machinery and Equipment for Specific Purposes and Manufacture, Repair and Assembly of Machinery and Equipment for General Use have a combined coverage similar to the subsector proposed here. The manufacturing of heating equipment, now treated as metal fabricating, of some office machinery, now classified as electrical equipment, and of engines now classified as transportation equipment, have been moved to this subsector. Furthermore, the structure -special-purpose machinery and general-purpose machinery—is similar. The amount of detail in the subsector is similar to that of the existing classification.

For the United States, a major change is the movement of computers and peripherals out of this group to the new subsector for Computers and Electronic Product Manufacturing. Heating equipment, currently in the 1987 SIC Fabricated Metal major group, and optical instruments, lenses, and photographic equipment, currently in the 1987 SIC Instruments and Related Products major group, have been transferred into this subsector. Other changes involve the movement of a number of relatively small activities from one national industry to another to achieve comparability with Canada and Mexico, and/or to better meet production principles. Otherwise, the new structure, with U.S. national industry detail, is comparable with the 1987 SIC. For example, only seven 1987 U.S. industries have time series breaks that amount to more than 3 percent of the industry value of shipments in 1992.

Achievement of Objectives

The classification meets the objectives for the North American Industry Classification System (NAICS). It is comprised of industries that group establishments with similar production processes, that is, it applies the production-oriented economic concept. In the main, the hierarchical structure of the classification also follows the production concept.

The classification achieves comparability for the three participating countries. Based on existing data, all three countries expect to be able to publish data regularly at the industry (4-digit) level of the structure. All countries agree on the detailed definitions of the industries.

Other objectives of the project are not as relevant in this area of the classification as in others. These objectives are the delineation of new and emerging industries, service industries, and industries engaged in the production of advanced technologies. The industrial sector in question is relatively mature, generally produces goods, and employs relatively stable technology. Therefore, the emphasis is on the objectives listed above.

The industries have high specialization ratios, and they are economically significant. The detail (4-digit level) and structure of the classification are balanced in size. This enhances the classification's suitability for sampling and other aspects of survey operations. Finally, disruptions to time series, while they exist, have been minimized. Most of the changes at the detail to existing classifications are marginal. The major changes are well-identified and can be taken into account in linking time series.

Section B—Annex: United States National Industry Detail

As explained in the *Structure* presentation of this notice, for a number of reasons 4-digit industries in the three industry subsectors presented in Part 1, Section A—Attachment 1, contain less detail than is currently in the U.S. SIC system, and less detail than is required to meet important analytical requirements in the U.S. The three country agreement on NAICS envisions that each country may develop national detailed industries below the industry level, so long as the national detail can be aggregated to the NAICS classification, thus assuring full North American comparability.

The ECPC is proposing U.S. 5-digit industry detail for the industry subsector covered in Part I of this notice. For cases where no 5-digit detail is shown, the ECPC is proposing that the 4-digit industries will also represent the most detailed U.S. industries.

TABLE 1

	1997 and U.S. Description	Status code	1987 SIC code	1987 SIC Description
XX	Machinery Manufacturing:			
XXX	Agriculture, Construction, and Mining Machinery Manufacturing:			
XXXX ...	Agricultural Implement Manufacturing:			

TABLE 1—Continued

	1997 and U.S. Description	Status code	1987 SIC code	1987 SIC Description
XXXXX	Farm Machinery and Equipment Manufacturing.	R	*3523	Farm Machinery and Equipment (Except Corrals, Stalls, Holding Gates, Hand Clippers for Animals, and Farm Conveyors/Elevators).
XXXXX	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing.	R	*3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment (Except Nonpowered Lawnmowers).
XXXX ...	Construction Machinery Manufacturing	R	*3531	Construction Machinery and Equipment (Except Railway Track Maintenance Equipment; Winches, Aerial Work Platforms; and Automotive Wreckers Hoists).
XXXX ...	Mining and Oil and Gas Field Machinery Manufacturing:			
XXXXX	Mining Machinery and Equipment Manufacturing.	E	3532	Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment.
XXXXX	Oil and Gas Field Machinery and Equipment Manufacturing.	E	3533	Oil and Gas Field Machinery and Equipment.
XXX	Industrial Machinery Manufacturing:			
XXXX ...	Sawmill and Woodworking Machinery Manufacturing.	E	3553	Woodworking Machinery.
XXXX ...	Rubber and Plastic Industry Machinery Manufacturing.	N	*3559	Special Industry Machinery, NEC (Rubber and Plastics Manufacturing Machinery).
XXXX ...	Other Industrial Machinery Manufacturing:			
XXXXX	Textile Machinery Manufacturing	E	3552	Textile Machinery.
XXXXX	Paper Industry Machinery Manufacturing ...	E	3554	Paper Industries Machinery.
XXXXX	Printing Machinery and Equipment Manufacturing.	E	3555	Printing Trades Machinery and Equipment.
XXXXX	Food Product Machinery Manufacturing	E	3556	Food Products Machinery.
XXXXX	Semiconductor Machinery Manufacturing ...	N	*3559	Special Industry Machinery, NEC (Semiconductor Machinery Manufacturing).
XXXXX	All Other Industrial Machinery Manufacturing.	R	*3559	Special Industry Machinery, NEC (Except Rubber and Plastics Manufacturing Machinery, Semiconductor Manufacturing Machinery, and Automotive Maintenance Equipment).
XXX	Commercial and Service Industry Machinery Manufacturing:			
XXXX ...	Commercial and Service Industry Machinery Manufacturing:			
XXXXX	Automatic Vending Machine Manufacturing	E	3581	Automatic Vending Machines.
XXXXX	Commercial Laundry, Drycleaning and Pressing Machine Manufacturing.	E	3582	Commercial Laundry, Drycleaning and Pressing Machines.
XXXXX	Office Machinery Manufacturing	N	*3578	Calculating and Accounting Machinery, Except Electronic Computers (Except Point of Sales Terminals (Scanning Devices) and Funds Transfer Devices).
.....	.....		*3579	Office Machines, NEC (Except Timeclocks, Time Stamps, Pencil Sharpeners, Stapling Machines, etc.).
XXXXX	Optical Instrument and Lense Manufacturing.	E	3827	Optical Instruments and Lenses.
XXXXX	Photographic and Photocopying Equipment Manufacturing.	N	*3861	Photographic Equipment and Supplies (Except Photographic Films, Paper and Chemicals).
XXXXX	Other Commercial and Service Industry Machinery Manufacturing.	R	*3559	Special Industry Machinery, NEC (Automotive Maintenance Equipment).
			3589	Service Industry Machinery, NEC.
			*3599	Industrial and Commercial Machinery and Equipment, NEC (Carnival Amusement Park Equipment).
			*3699	Electrical Machinery, Equipment and Supplies, NEC (Electronic Teaching Machines and Flight Simulators).
XXX	Heating, Ventilation, Air-Conditioning, and Commercial Refrigeration Manufacturing:		.....	
XXXX ...	Heating, Ventilation, Air-Conditioning, and Commercial Refrigeration Manufacturing:		.....	
XXXXX	Heating Equipment Manufacturing, Except Electric and Warm Air Furnaces.	R	3433	Heating Equipment, Except Electric and Warm Air Furnaces.
			3634	Electric Housewares and Fans (Permanent Electric Wall and Baseboard Heating Equipment).
XXXXX	Air Purification Equipment Manufacturing	N	*3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment (Air Purification Equipment).
XXXXX	Industrial and Commercial Fan and Blower Manufacturing.	R	*3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment (Fans and Blowers).
XXXXX	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.	R	*3443	Fabricated Plate Work (Boiler Shops) (Metal Cooling Towers).

TABLE 1—Continued

	1997 and U.S. Description	Status code	1987 SIC code	1987 SIC Description
			*3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment (Except Water Coolers).
XXX	Metalworking Machinery Manufacturing:		.....	
XXXX ...	Metalworking Machinery Manufacturing:		.....	
XXXXX	Machine Tool Manufacturing, Metal Cutting Types.	E	3541	Machine Tools, Metal Cutting Type.
XXXXX	Machine Tool Manufacturing, Metal Forming Types.	E	3542	Machine Tools, Metal Forming Type.
XXXXX	Special Die and Tool, Die Set, Jig, and Fixture Manufacturing.	R	*3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds (Except Molds).
XXXXX	Industrial Mold Manufacturing	R	*3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds (Molds).
XXXXX	Cutting Tool and Machine Tool Accessory Manufacturing.	R	*3545	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices (Except Precision Measuring Devices).
XXXXX	Rolling Mill Machinery and Equipment Manufacturing.	E	3547	Rolling Mill Machinery and Equipment.
XXXXX	Other Metalworking Machinery Manufacturing	E	3549	Metalworking Machinery, NEC.
XXX	Engine, Turbine, and Power Transmission Equipment Manufacturing:			
XXXX ...	Engine, Turbine, and Power Transmission Equipment Manufacturing:			
XXXXX	Steam, Gas, and Hydraulic Turbine, and Turbine Generator Set Unit Manufacturing.	E	3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units.
XXXXX	Speed Changer, Industrial High-Speed Drive, and Gear Manufacturing.	E	3566	Speed Changers, Industrial High-Speed Drives, and Gears.
XXXXX	Mechanical Power Transmission Equipment Manufacturing.	E	3568	Mechanical Power Transmission Equipment, NEC.
XXXXX	Other Engine Equipment Manufacturing	R	*3519	Internal Combustion Engines, NEC (Except Stationary Engine Radiators).
			*3699	Electrical Machinery, Equipment and Supplies, NEC (Outboard Electric Motors).
XXX	Other General Purpose Machinery Manufacturing:			
XXXX ...	Pump and Compressor Manufacturing:			
XXXXX	Pump and Pumping Equipment Manufacturing.	E	3561	Pumps and Pumping Equipment.
			*3743	Railroad Equipment (Locomotive Fuel Lubricating or Cooling Medium Pumps).
XXXXX	Air and Gas Compressor Manufacturing	E	3563	Air and Gas Compressors.
XXXXX	Measuring and Dispensing Pump Manufacturing.	E	3586	Measuring and Dispensing Pumps.
XXXX ...	Material Handling Equipment Manufacturing:			
XXXXX	Elevator and Moving Stairway Manufacturing	E	3534	Elevators and Moving Stairways.
XXXXX	Conveyor and Conveying Equipment Manufacturing.	R	*3523	Farm Machinery and Equipment (Conveyors and Elevators).
	.....		3535	Conveyors and Conveying Equipment.
XXXXX	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing.	R	3536	Overhead Traveling Cranes, Hoists, and Monorail Systems.
	.....		*3531	Construction Machinery and Equipment (Winches, Aerial Work Platforms, and Automobile Wrecker Hoists).
XXXXX	Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing.	R	*3537	Industrial Trucks, Tractors, Trailers, and Stackers (Except Metal Pallets and Metal Air Cargo Containers).
XXXX ...	All Other General Purpose Machinery Manufacturing:			
XXXXX	Power-Driven Hand Tool Manufacturing	E	3546	Power-Driven Handtools.
XXXXX	Welding and Soldering Equipment Manufacturing.	R	*3548	Electric and Gas Welding and Soldering Equipment (Except Transformers for Arc-Welding).
XXXXX	Packaging Machinery Manufacturing	E	3565	Packaging Machinery.
XXXXX	Industrial Process Furnace and Oven Manufacturing.	E	3567	Industrial Process Furnaces and Ovens.
XXXXX	Fluid Power Cylinder and Actuator Manufacturing.	E	3593	Fluid Power Cylinders and Actuators.
XXXXX	Fluid Power Pump and Motor Manufacturing	E	3594	Fluid Power Pumps and Motors.
XXXXX	Scale and Balance Manufacturing, Except Laboratory.	E	3596	Scales and Balances, Except Laboratory.
XXXXX	All Other General Purpose Machinery Manufacturing.		3599	Industrial and Commercial Machinery and Equipment, NEC (Other Machinery).

TABLE 1—Continued

	1997 and U.S. Description	Status code	1987 SIC code	1987 SIC Description
			3569	General Industrial Machinery and Equipment, NEC.

The definitions of status codes are as follows: E—existing industry; N—new industry; R—revised industry; and * means "part of". The abbreviation NEC is used for Not Elsewhere classified.

TABLE 2

1987 SIC code	1987 SIC description	1997 U.S. description
3433	Heating Equipment, Except Electric and Warm Air Furnaces.	Heating Equipment Manufacturing, Except Electric and Warm Air Furnaces (pt).
3443@	Fabricated Plate Work (Boiler Shops):	
	Fabricated Plate Work and Metal Weldments	Plate Work Manufacturing (Included in Fabricated Metal Product subsector).
	Power Boilers and Heat Exchangers	Power Boiler and Heat Exchanger Manufacturing (Included in Fabricated Metal Product subsector).
	Heavy Gauge Tanks	Metal Tank Manufacturing (Heavy Gauge) (Included in Fabricated Metal Product subsector).
	Metal Cooling Towers	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (pt).
3511	Steam, Gas, and Hydraulic Turbines, and Turbine Generator Set Units.	Steam, Gas, and Hydraulic Turbine, and Turbine Generator Set Unit Manufacturing.
3519	Internal Combustion Engines, NEC Stationary Engine Radiators.	Other Motor Vehicle Part Manufacturing (pt) (Included in Transportation Equipment Manufacturing subsector).
	Internal Combustion Engines, NEC; (Except Stationary Engine Radiators).	Other Engine Equipment Manufacturing (pt).
3523	Farm Machinery and Equipment:	
	Farm Machinery and Equipment (Except Corrals, Stalls, Holding Gates, Hand Clippers for Animals, Farm Conveyors/Elevators.	Farm Machinery and Equipment Manufacturing.
	Metal Corrals, Stalls, Holding Gates	Architectural and Ornamental Metal Work Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
	Hand Hair Clippers for Animals	Hand and Edge Tool Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
	Farm Conveyors and Farm Elevators	Conveyor and Conveying Equipment Manufacturing (pt).
3524	Lawn and Garden Tractors and Home Lawn and Garden Equipment:	
	Lawn and Garden Tractors and Home Lawn and Garden Equipment (Except Nonpowered Lawnmowers).	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing.
	Nonpowered Lawnmowers	Hand and Edge Tool Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
3531@	Construction Machinery and Equipment:	
	Construction Machinery and Equipment (Except Railway Track Maintenance Equipment; Winches, Aerial Work Platforms; and Automotive Wrecker Hoists).	Construction Machinery Manufacturing.
	Railway Track Maintenance Equipment	Railroad Rolling Stock Manufacturing (pt) (Included in Transportation Equipment Manufacturing subsector).
	Winches; Aerial Work Platforms; and Automotive Wrecker Hoists.	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing (pt).
3532	Mining Machinery and Equipment, Except Oil and Gas Field Machinery and Equipment.	Mining Machinery and Equipment Manufacturing.
3533	Oil and Gas Field Machinery and Equipment	Oil and Gas Field Machinery and Equipment Manufacturing.
3534	Elevators and Moving Stairways	Elevator and Moving Stairway Manufacturing (pt).
3535	Conveyors and Conveying Equipment	Conveyor and Conveying Equipment Manufacturing (pt).
3536	Overhead Traveling Cranes, Hoists and Monorail Systems.	Overhead Traveling Crane, Hoist and Monorail System Manufacturing (pt).
3537	Industrial Trucks, Tractors, Trailers, and Stackers:	
	Industrial Trucks, Tractors, Trailers, and Stackers (Except Metal Pallets and Air Cargo Containers).	Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing.
	Metal Pallets	All Other Fabricated Metal Product Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
	Metal Air Cargo Containers	Other Metal Container Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
3541	Machine Tools, Metal Cutting Type	Machine Tool Manufacturing, Metal Cutting Types.

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
3542	Machine Tools, Metal Forming Type	Machine Tool Manufacturing, Metal Forming Types.
3543	Industrial Patterns	Industrial Pattern Manufacturing (Included in Fabricated Metal Product Manufacturing subsector).
3544	Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds:	
	Special Dies and Tools, Die Sets, Jigs and Fixtures.	Special Die and Tool, Die Set, Jig, and Fixture Manufacturing.
	Industrial Molds	Industrial Mold Manufacturing.
3545@	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices:	
	Precision Measuring Devices	Hand and Edge Tool Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
	Other	Cutting Tool and Machine Tool Accessory Manufacturing.
3546	Power-Driven Handtools	Power-Driven Hand Tool Manufacturing.
3547	Rolling Mill Machinery and Equipment	Rolling Mill Machinery and Equipment Manufacturing.
3548@	Electric and Gas Welding and Soldering Equipment Welding and Soldering Equipment Transformers for Arc-Welding.	Welding and Soldering Equipment Manufacturing Power, Distribution, and Specialty Transformer Manufacturing (pt) (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
3549	Metalworking Machinery, NEC	Other Metalworking Machinery Manufacturing.
3552	Textile Machinery	Textile Machinery Manufacturing.
3553	Woodworking Machinery	Sawmill and Woodworking Machinery Manufacturing.
3554	Paper Industries Machinery	Paper Industry Machinery Manufacturing.
3555	Printing Trades Machinery and Equipment	Printing Trades Machinery and Equipment Manufacturing.
3556	Food Products Machinery	Food Product Machinery Manufacturing.
3559@	Special Industry Machinery, NEC:	
	Special Industry Machinery, NEC (Except Rubber and Plastics Manufacturing Machinery, Semiconductor Manufacturing Machinery and Automotive Maintenance Equipment).	All Other Industrial Machinery Manufacturing (pt).
	Rubber and Plastics Manufacturing Machinery	Rubber and Plastic Industry Machinery Manufacturing.
	Automotie Maintenance Equipment	Other Commercial and Service Industry Machinery Manufacturing (pt).
	Semiconductor Machinery Manufacturing	Semiconductor Manufacturing Machinery.
3561	Pumps and Pumping Equipment	Pump and Pumping Equipment Manufacturing.
3562	Ball and Roller Bearings	Ball and Roller Bearing Manufacturing (Included in Fabricated Metal Product Manufacturing subsector).
3563	Air and Gas Compressors	Air and Gas Compressor Manufacturing.
3564	Industrial and Commercial Fans and Blowers and Air Purification Equipment:	
	Air Purification Equipment	Air Purification Equipment Manufacturing.
	Fans and Blowers	Industrial and Commercial Fan and Blower Manufacturing.
3565	Packaging Machinery	Packaging Machinery Manufacturing.
3566	Speed Changers, Industrial High-Speed Drives, and Gears.	Speed Changer, Industrial High-Speed Drive, and Gear Manufacturing.
3567	Industrial Process Furnaces and Ovens	Industrial Process Furnaces and Oven Manufacturing.
3568	Mechanical Power Transmission Equipment, NEC	Mechanical Power Transmission Equipment Manufacturing.
3569	General Industrial Machinery and Equipment, NEC	All Other General Purpose Machinery Manufacturing (pt).
3571	Electronic Computers	Electronic Computer Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3572	Computer Storage Devices	Computer Storage Device Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3575	Computer Terminals	Computer Terminal Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3577	Computer Peripheral Equipment, NEC	Computer Peripheral Equipment Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3578@	Calculating and Accounting Machinery, Except Electronic Computers:	
	Calculating and Accounting Machinery, Except Electronic Computers (Except Point of Sales Terminals and Funds Transfer Devices).	Office Machinery Manufacturing (pt).
	Point of Transfer Terminals and Fund Transfer Devices.	Other Computer Peripheral Equipment Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3579@	Office Machines, NEC:	
	Office Machines, NEC (Except Timeclocks, Time Stamps, Pencil Sharpeners, Stapling Machines, etc.).	Office Machinery Manufacturing (pt).
	Timeclocks, Time Stamps	Watch, Clock, and Part Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
	Pencil Sharpeners, Stapling Machines, etc.	Lead Pencil, Crayon and Artist Material Manufacturing (pt) (Included in Miscellaneous Manufacturing subsector).

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
3581	Automatic Vending Machines	Automatic Vending Machines Manufacturing.
3582	Commercial Laundry, Drycleaning, and Pressing Machines.	Commercial Laundry, Drycleaning, and Pressing Machines Manufacturing.
3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment.	
	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment (Except Water Coolers).	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.
	Water Coolers	Household Refrigerator and Home and Farm Freezer Manufacturing (pt) (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
3586	Measuring and Dispensing Pumps	Measuring and Dispensing Pump Manufacturing.
3589	Service Industry Machinery	Other Commercial and Service Industry Machinery Manufacturing (pt).
3592	Carburetors, Pistons, Piston Rings, and Valves	Carburetor, Piston, Piston Ring, and Valve Manufacturing (Included in Transportation Equipment Manufacturing subsector).
3593	Fluid Power Cylinders and Actuators	Fluid Power Cylinder and Actuator Manufacturing.
3594	Fluid Power Pumps and Motors	Fluid Power Pump and Motor Manufacturing.
3596	Scales and Balances, Except Laboratory	Scales and Balance Manufacturing, Except Laboratory.
3599@	Industrial and Commercial Machinery and Equipment, NEC:	
	Industrial and Commercial Machinery and Equipment, NEC (Other Machinery).	All Other General Purpose Machinery Manufacturing (pt).
	Flexible Metal Hose	All Other Fabricated Metal Product Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
	Gasoline, Oil and Intake Filters for Internal Combustion.	Other Motor Vehicle Part Manufacturing (pt) (Included in Transportation.
	Engines, Except those for Motor Vehicles	Equipment Manufacturing subsector).
	Carnival Amusement Park Equipment	Other Commercial and Service Industry Machinery Manufacturing (pt).
	Machine Shops	Machine Shops (Included in Fabricated Metal Product Manufacturing subsector).
3634	Electric Housewares and Fans:	
	Electric Housewares and Fans (Except Permanent Electric Wall and Baseboard heating Units).	Electric Housewares and Fan Manufacturing (pt) (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
	Permanent Electric Wall and Baseboard Heating Units.	Heating Equipment Manufacturing, Except Electric and Warm Air Furnaces (pt).
3639	Household Appliances, NEC:	
	Floor Waxing and Floor Polishing Machines	Household Vacuum Cleaner Manufacturing (pt) (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
	Household Sewing Machines	All Other Industrial Machinery Manufacturing (pt).
	Other	Other Household Appliance Manufacturing (pt) (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
3699	Electrical Machinery, Equipment, and Supplies, NEC:	
	Electronic Teaching Machines and Flight Simulators.	Other Commercial and Service Industry Machinery Manufacturing (pt).
	Outboard Electric Motors	Other Engine Manufacturing (pt) (Included in Transportation Equipment Manufacturing subsector.
	Bar Code Scanners	Other Computer Peripheral Equipment Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
	Lasers	Classify According to Function.
	Christmas tree lighting sets, electric insect lamps.	Other Lighting Equipment Manufacturing (pt) (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
	Other	Other Electrical Industrial Apparatus Manufacturing (pt) (Included in Electrical Equipment, Appliance and Component Manufacturing subsector).
3743	Railroad Equipment:	
	Railroad Equipment (Except Railroad Locomotive Pumps).	Railroad Equipment Manufacturing (Included in Transportation Equipment Manufacturing subsector).
	Locomotive Fuel Lubricating or Cooling Medium Pumps.	Pump and Pumping Equipment Manufacturing.
3827	Optical Instruments and Lenses	Optical Instrument and Lense Manufacturing.
3861@	Photographic Equipment and Supplies:	

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
	Photographic Equipment and Supplies (Except Photographic Films, Paper and Chemicals).	Photographic and photocopying Equipment Manufacturing.

The abbreviation "pt" means "part of", @ means times series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

Description of changes to the U.S. System

A number of the changes listed in this section were made for reasons of international comparability. Where one or more of the three North American countries had different definitions of an industry classification, adjustments to the definitions of one or more countries were required. In constructing NAICS, the three countries agreed to move, where change was required to attain international comparability, in the direction of the country or countries whose existing classification definitions most closely corresponded to the production-oriented concept adopted for NAICS. Cases where the U.S. changed are listed below; other cases where Canada or Mexico moved toward the U.S. classification are not, of course, listed in this section.

Five new industries were added to the 1997 industry structure for this industry subsector. New industries were created for:

Semiconductor Machinery Manufacturing from part of 1987 SIC 3559, Special Industry Machinery, NEC, in response to an industry proposal and because of the highly specialized production processes involved.

Rubber and Plastic Industry Machinery Manufacturing from part of 1987 SIC 3559, Special Industry Machinery, NEC, in response to a plastics industry proposal and because of the highly specialized production processes involved. Rubber machinery was included with plastics machinery because of shared production characteristics.

Air Purification Equipment Manufacturing from part of 1987 SIC 3564, Industrial and Commercial Fans and Blowers and Air Purification Equipment, in response to an industry proposal and because of highly specialized production processes involved.

Office Machinery Manufacturing from part of 1987 SIC 3578, Calculating and Accounting Machinery, Except Electronic Computers, and from part of 1987 SIC 3579, Office Machines, NEC, to achieve international comparability. Mexico has a separate class already broken out. More advanced electronic office machinery is placed in the new Computer and Electronic Product Manufacturing subsector, because the production processes are very different.

Photographic and Photocopying Equipment Manufacturing from Part of 1987 SIC 3861, Photographic Equipment and Supplies, to achieve international comparability.

Seven industries were removed from this industry group, and transferred elsewhere. All seven of these were moved to achieve international comparability, or to create the new Computer and Electronic Product Manufacturing subsector.

Industrial Pattern Manufacturing was transferred into the Fabricated Metal Product Manufacturing subsector.

Ball and Roller Bearing Manufacturing was transferred into the Fabricated Metal Product Manufacturing subsector.

Carburetor, Piston, Piston Ring, and Valve Manufacturing was transferred into the Transportation Equipment Manufacturing subsector.

Electronic Computer Manufacturing was transferred into the Computer and Electronic Component Manufacturing subsector.

Computer Storage Product Device Manufacturing was transferred into the Computer and Electronic Product Manufacturing subsector.

Computer Terminal Manufacturing was transferred into the Computer and Electronic Product Manufacturing subsector.

Computer Peripheral Equipment, NEC was transferred into the Computer and Electronic Product Manufacturing subsector.

Fifteen activities transferred out of 1987 Major Group 35, Industrial and Commercial Machinery and Computer Equipment, and are described more fully in their new respective subsectors.

Ferrous and nonferrous mold manufacturing was transferred from part of 1987 SIC 3544, Special Dies and Tools, Die Sets, Jigs and Fixtures, and Industrial Molds, into the Primary Metal Manufacturing subsector.

Hand hair clippers for animals and metal corral, stall, and holding gate manufacturing were transferred from part of 1987 SIC 3523, Farm Machinery and Equipment, into the Fabricated Metal Product Manufacturing subsector.

Nonpowered lawn mower manufacturing was transferred from part of 1987 SIC 3524, Lawn and Garden Tractors and Home Lawn and Garden Equipment, into the Fabricated Metal Product Manufacturing subsector.

Precision measuring tool manufacturing was transferred from part of 1987 SIC 3545, Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices, into the Fabricated Metal Product Manufacturing subsector.

Metal air cargo container and metal pallet manufacturing was transferred from part of 1987 SIC 3537, Industrial Trucks, Tractors, Trailers, and Stackers, into the Fabricated Metal Product Manufacturing subsector.

Machine shops were transferred from part of 1987 SIC 3599, Industrial and Commercial Machinery and Equipment, NEC, into the Fabricated Metal Product Manufacturing subsector, to achieve international comparability. Canada had machine shops in CSIC 30, Fabricated Metal Products Industries.

Stationery engine radiator manufacturing was transferred from part of 1987 SIC 3519, Internal Combustion Engines, NEC, into the Transportation Equipment Manufacturing subsector.

Gasoline, oil, and air filters for internal combustion engines, except motor vehicle was transferred from part of 1987 SIC 3599, Industrial and Commercial Machinery and Equipment, NEC, into the Transportation Equipment Manufacturing subsector.

Railway track maintenance equipment manufacturing was transferred from part of 1987 SIC 3531, Construction Machinery and Equipment, into the Transportation Equipment Manufacturing subsector.

Arc-welding transformer manufacturing was transferred from part of 1987 SIC 3548, Electric and Gas Welding and Soldering Equipment, into the Electrical Equipment, Appliance and Component Manufacturing subsector.

Water cooler manufacturing was transferred from 1987 SIC 3585, Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment, into the Electrical Equipment, Appliance and Component Manufacturing subsector.

Point of sale (computerized cash register), fund transfer machine, and automatic teller machine terminal manufacturing was transferred from part of 1987 SIC 3578, Calculating and Accounting Machines, Except Electronic Computers, into the Computer and Electronic Product Manufacturing subsector.

Pencil sharpener and stapling machine manufacturing was transferred from part of 1987 SIC 3579, Office Machines, NEC, into the Miscellaneous Manufacturing subsector.

Time clock and other time recording device manufacturing was transferred from part of 1987 SIC 3579, Office Machines, NEC, into the Computer and Electronic Product Manufacturing subsector.

Two industries were transferred into this subsector:

Heating equipment manufacturing, except electric and warm air furnaces was transferred from 1987 SIC 3433, Heating Equipment, Except Electric and Warm Air Furnace (in the Fabricated Metal Manufacturing major group), to achieve international comparability. Canada had this in machinery manufacturing.

Optical Instrument and Lense Manufacturing was transferred from 1987 SIC 3827, Optical Instrument and Lenses, to achieve international comparability.

Six activities were transferred into the Machinery Manufacturing subsector.

Household sewing machine manufacturing was transferred from part of 1987 SIC 3639, Household Appliances, NEC, into All Other Industrial Machinery Manufacturing, to achieve international comparability. The U.S. and Canada moved to agree with Mexico, because the manufacture of household and industrial sewing machines are similar production processes.

Teaching machine and flight simulator manufacturing was transferred from part of 1987 SIC 3699, Electrical Machinery, Equipment, and Supplies, NEC, into Other Commercial and Service Industry Machinery Manufacturing, to achieve international comparability. The U.S. and Canada moved to match Mexico.

Metal cooling tower manufacturing was transferred from part of 1987 SIC 3443, Fabricated Plate Work (Boiler Shops), into Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing, to achieve international comparability. Canada includes cooling towers in CSIC 31, Machinery Industries.

Permanent electric wall and baseboard heating equipment manufacturing was transferred from part of 1987 SIC 3634, Electric Housewares and Fans into Heating Equipment, Except Electric and Warm Air Furnace Manufacturing, to achieve international comparability. The U.S. and Canada (from CSIC 30, Fabricated Metals) moved to match Mexico.

Locomotive fuel lubricating and cooling medium pump manufacturing was transferred from part of 1987 SIC 3743, Railroad Equipment, into Pump and Pumping Equipment Manufacturing, to reflect similarities in production.

Outboard electric motor manufacturing was transferred from part of 1987 SIC 3699, Electrical Machinery, Equipment, and Supplies, NEC, into Other Engine Manufacturing, to achieve international comparability. The U.S. moved to match Canada and Mexico.

Also, there were several activities that transferred within the Machinery Manufacturing subsector. The number of machinery manufacturing industries increased from 38 in 1987 to 46 in 1997. For time series linkage, 31 of the 1987 industries are comparable within three percent of the 1997 industries.

Part VI—Proposed New Industry Structure for Electrical Equipment, Appliance and Component Manufacturing

Section A—NAICS Structure

North American Industry Classification System
(NAICS)
Agreement Number 9

This Document represents the proposed agreement on the structure of the North American Industry Classification System (NAICS) for the following industries: Electrical Equipment, Appliance and Component Manufacturing.

The detailed NAICS structure along with a brief description of the structure is attached (Attachments 1 and 2). Each country agrees to release a copy of the proposed NAICS structure to interested data users. Comments received will be shared among the countries and additional discussions will be held before a final decision on the structure is made. Each country may add additional detailed industries, below the 4-digit level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 4-digit NAICS level in order to ensure full comparability among the three countries.

This NAICS structure was presented and provisionally accepted at the NAICS Committee meeting held on August 30, 1995–September 1, 1995 in Washington, DC.

Accepted	Signature	Date
Canada	/S/ Jacob Ryten.	9/1/95
Mexico	/S/ Enrique Ordaz.	9/1/95
United States ..	/S/ Jack E. Triplet.	9/1/95

Attachment 1—NAICS Structure

XX Electrical Equipment, Appliance, and Component Manufacturing
XXX Electric Lighting, Equipment and Sign Manufacturing
XXXX Electric Lamp Bulb and Part Manufacturing
XXXX Electric Sign and Lighting Fixture Manufacturing
XXX Household Appliance Manufacturing
XXXX Small Electrical Appliance Manufacturing
XXXX Major Appliance Manufacturing
XXX Electrical Equipment Manufacturing
XXXX Electrical Equipment Manufacturing
XXX Other Electrical Equipment and Component Manufacturing
XXXX Accumulator and Battery Manufacturing
XXXX Communication and Energy Wire Manufacturing
XXXX Accessories and Conductors for Carrying Current Manufacturing
XXXX All Other Electrical Equipment and Component Manufacturing

Attachment 2—North American Industry Classification System

Draft Classification for:
Electrical Equipment, Appliance and Component Manufacturing

Representatives of the statistical agencies of Canada, Mexico, and the United States agree to a draft industrial classification for these industries.

This draft classification applies to the subsector, Electrical Equipment, Appliance and Component Manufacturing. This subsector is subdivided into four industry groups and nine industries. This subsector is part of the Manufacturing sector.

A General Outline

The Electrical Equipment, Appliance and Component Manufacturing industries create products that generate, distribute and use electrical power. While establishments classified in many parts of manufacturing make products that use electricity, the manufacture of electric lighting equipment and signs and household appliances require particular attention to the application of electricity. That is the reason for their inclusion in this subsector.

Electrical Equipment Manufacturing establishments produce goods that generate and distribute electrical power, or that are made with similar production technology, such as motors, generators, transformers and switchgear apparatus. Other Electrical Equipment and Component Manufacturing establishments produce devices for storing electrical power (e.g., accumulators), for transmitting electricity (e.g., insulated wire), and accessories for carrying current. Activities in both Electrical Equipment Manufacturing and Other Electrical Equipment and Component Manufacturing industry groups all involve the manufacture of machinery for the generation and distribution of power.

Limitations and Constraints of the Classification

In the Electrical Equipment, Appliance and Component Manufacturing subsector, most activities identified in one country exist in the others. The way activities are combined in establishments differs to some extent in the different countries. For example, Canada cannot separate the manufacturing of household cooking equipment from refrigerators and freezers because these activities are often combined in Canadian establishments. Often an activity is not economically significant to the same degree in all countries. For example, size constraints in Canada prohibit separating the manufacture of batteries from accumulators. For those reasons, some NAICS industries in this subsector are broader than would be desirable in a system that distinguishes as does NAICS among production processes. Each country will publish additional categories that comprise subdivisions of NAICS industries to present data for activities that are nationally significant.

For those users requiring detailed commodity information, each country will publish information on the products of these industries. Efforts are also underway to harmonize the commodity classifications to allow comparability of these statistics.

Relationship to ISIC

Most of the NAICS four-digit industries created in this subsector can be assigned to Division 28, Manufacture of Fabricated Metal Products, Except Machinery and Equipment or Division 31, Manufacture of Electrical Machinery and Apparatus, nec of the current International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3) of the United Nations. Therefore, data tabulated using NAICS can readily be re-tabulated according to ISIC with the following exception: NAICS industry, All Other Electrical Equipment and Component Manufacturing includes non-electrical products of graphite or carbon because those nonelectrical products are made in the same establishments as electrical graphite and carbon products. In ISIC, this activity is included in Division 26, Manufacture of Other Non-Metallic Mineral Products.

Some Changes to the National Classifications

For Canada, the Electrical Equipment, Appliance and Component Manufacturing subsector is part of the existing Canadian classification's Electrical and Electronic Products Industries major group. A large part of that major group will form part of the new NAICS Computer and Electronic Product Manufacturing subsector. As well, establishments that draw wire and insulate it are classified in Primary Metal Manufacturing in NAICS. This subsector includes electric signs that are classified in Miscellaneous Manufacturing in the current Canadian classification. The structures of the NAICS and Canadian classifications are similar. There are fewer industries in NAICS, but national industries will provide the same level of detail as before.

For Mexico, the Electrical Equipment, Appliance and Component Manufacturing subsector includes many of the activities currently in the Mexican classification's Manufacture and Assembly of Machinery, Equipment and Electrical Accessories and Manufacture and Assembly of Electric and Non-Electric Appliances and Accessories for Home Use. However, NAICS includes the manufacturing of turbines and some engines in Machinery Manufacturing, rather than in electrical machinery and it classifies electrical apparatus for transportation equipment in Transportation Equipment Manufacturing. The structure of the NAICS subsector is not similar to that of the corresponding areas of the Mexican classification. There are fewer industries in NAICS, but national industries will provide the same level of detail as before.

For the United States, a major change to the structure encompasses the transfer of twelve industries out of the existing 1987 SIC major group, Electronic and Other Electrical Equipment and Components Except Computer Equipment, to the proposed new NAICS subsector, Computer and Electronic Product Manufacturing. The industries moved are those that manufacture electronic components such as printed circuit boards and semiconductors and related devices. Two industries that produce electrical equipment/components for motor vehicles, aircraft etc. have been moved to the Transportation Equipment Manufacturing subsector.

Additional changes for the United States for this subsector include moving the manufacture of electric signs from the Miscellaneous Manufacturing subsector and the creation of a new industry from the Primary Metal Manufacturing subsector for the manufacture of insulated wire and cable from purchased wire. The relocation of insulated wire from Primary Metal Manufacturing to the Electrical Equipment, Appliance and Component Manufacturing subsector is a significant improvement of the classification with respect to the production principle as it now allows for a distinction between establishments that first draw wire and then insulate it and those that only insulate.

Achievement of Objectives

The classification meets the objectives for the North American Industry Classification System (NAICS). It is comprised of industries that group establishments with similar production processes, that is, it applies the production-oriented economic concept. In the main, the hierarchical structure of the classification also follows the production concept.

The classification achieves comparability for the three participating countries. Based on existing data, all three countries expect to be able to publish data regularly at the industry (4-digit) level of the structure. All countries agree on the detailed definitions of the industries.

Other objectives of the NAICS project are not as relevant in this area of the classification as in others. These objectives are the delineation of new and emerging industries, service industries, and industries engaged in the production of advanced technologies. The industrial sector in question is relatively mature, generally produces goods, and employs relatively stable technology. Therefore, the emphasis is on the objectives listed above.

The industries have high specialization ratios, and they are economically significant. The detail and structure of the classification are balanced in size. This enhances the classification's suitability for sampling, data-publishing and other aspects of survey operations. Finally, disruptions to time series, while they exist, have been minimized. The statistical agencies can develop statistical "links", to enable the re-tabulation of time series on the new NAICS classification structure.

Section B-Annex: United States National Industry Detail

As explained in the Structure presentation of this notice, for a number of reasons 4-digit industries in the three NAICS industry subsectors presented in Part 1, Section A— Attachment 1, contain less detail than is currently in the U.S. SIC system, and less detail than is required to meet important analytical requirements in the U.S. The three country agreement on NAICS envisions that each country may develop national detailed industries below the NAICS industry level, so long as the national detail can be aggregated to the NAICS classification, thus assuring full North American comparability.

The ECPC is proposing U.S. 5-digit industry detail for the NAICS industry subsector covered in Part I of this notice. For cases where no 5-digit detail is shown, the ECPC is proposing that the NAICS 4-digit industries will also represent the most detailed U.S. industries.

TABLE 1

	1997 NAICS and U.S. Description	Status code	1987 SIC code	1987 SIC Description
XX	Electrical Equipment, Appliance and Component Manufacturing:			
XXX	Electric Lighting Equipment and Sign Manufacturing:			
XXXX	Electric Lamp Bulb and Part Manufacturing	E	3641	Electric Lamp Bulbs and Tubes.
XXXX	Electric Sign and Lighting Fixture Manufacturing:			
XXXXX	Electric Sign Manufacturing	N	*3993	Signs and Advertising Specialties (Electric signs).
XXXXX	Residential Electric Lighting Fixture Manufacturing.	E	3645	Residential Electric Lighting Fixtures.
			3999	Manufacturing Industries, NEC (Lamp shades of paper or textile).
XXXXX	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing.	E	3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures.
XXXXX	Other Lighting Equipment Manufacturing	R	3648	Lighting Equipment, NEC Electrical Machinery, Equipment, and Supplies, NEC
			*3699	(Christmas tree lighting sets and electric insect lamps).
XXX	Household Appliance Manufacturing:			
XXXX	Small Electrical Appliance Manufacturing:		.....	
XXXXX	Electric Housewares and Fan Manufacturing.	3634	Electric House and Fans	(Except wall and baseboard heating units for permanent installation).
XXXXX	Household Vacuum Cleaner Manufacturing	R	3635	Household Vacuum Cleaners.
			*3639	Household Appliances, NEC (Floor waxing and floor polishing machines).
XXXX	Major Appliance Manufacturing:		.....	
XXXXX	Household Cooking Appliance Manufacturing.	E	3631	Household Cooking Equipment.
XXXXX	Household Refrigerator and Home and Farm Freezer Manufacturing.	R	3585	Refrigeration and Heating Equipment (Water Coolers)
			3632	Household Refrigerators and Home and Farm Freezers.
XXXXX	Household Laundry Equipment Manufacturing.	E	3633	Household Laundry Equipment.
XXXXX	Other Household Appliance Manufacturing	R	3639	Household Appliances, NEC (Except floor waxing and floor polishing machines, and household sewing machines).
XXX	Electrical Equipment Manufacturing:			
XXXX	Electrical Equipment Manufacturing:			
XXXXX	Power, Distribution and Specialty Transformer Manufacturing.	R	3548	Electrical and Gas Welding and Soldering Equipment (Transformers for arc-welders)
			3612	Power, Distribution, and Specialty Transformers.
XXXXX	Switchgear and Switchboard Apparatus Manufacturing.	E	3613	Switchgear and Switchboard Apparatus.
XXXXX	Motor and Generator Manufacturing	E	3621	Motors and Generators.
XXXXX	Relay and Industrial Control Manufacturing	E	3625	Relays and Industrial Controls.
XXX	Other Electrical Equipment and Component Manufacturing:		.....	
XXXX	Accumulator and Battery Manufacturing:		.....	
XXXXX	Storage Battery Manufacturing	E	3691	Storage Batteries.
XXXXX	Dry and Wet Primary Battery Manufacturing.	E	3692	Primary Batteries, Dry and Wet.
XXXX			.....	
XXXXX	Communication and Energy Wire Manufacturing Fiber Optic Cable Manufacturing.	N	*3357	Drawing and Insulating of Nonferrous Wire (Fiber Optic Cable-Insulating Only).
XXXXX	Other Communication and Energy Wire Manufacturing.	N	*3357	Drawing and Insulating of Nonferrous Wire (Except Fiber Optic-Insulating Only).
XXXX	Accessories and Conductors for Carrying Current Manufacturing:.			

TABLE 1—Continued

	1997 NAICS and U.S. Description	Status code	1987 SIC code	1987 SIC Description
XXXXX	Current-Carrying Wiring Device Manufacturing.	E	3643	Current-Carrying Wiring Devices.
XXXXX	Noncurrent-Carrying Wiring Device Manufacturing.	E	3644	Noncurrent-Carrying Wiring Devices.
XXXX	All Other Electrical Equipment and Component Manufacturing:			
XXXXX	Carbon and Graphite Product Manufacturing .	E	3624	Carbon and Graphite Products.
XXXXX	All Other Electrical Industrial Equipment and Supply Manufacturing.	R	3629	Electrical Industrial Apparatus, NEC.
			*3699	Electrical Machinery, Equipment, and Supplies, NEC (Other electrical industrial apparatus).

The definitions of status codes are as follows: E=existing industry; N=new industry; R=revised industry; and * means "part of". The abbreviation NEC is used for Not Elsewhere Classified.

TABLE 2

1987 SIC code	1987 SIC description	1997 U.S. description
3612	Power, Distribution, and Specialty Transformers	Power, Distribution, and Specialty Transformer Manufacturing (pt).
3613	Switchgear and Switchboard Apparatus	Switchgear and Switchboard Apparatus Manufacturing.
3621	Motors and Generators	Motor and Generator Manufacturing.
3624	Carbon and Graphite Products	Carbon and Graphite Product Manufacturing.
3625	Relays and Industrial Controls	Relay and Industrial Control Manufacturing.
3629	Electrical Industrial Apparatus, NEC	All Other Electrical Industrial Equipment and Supply Manufacturing (pt).
3631	Household Cooking Equipment	Household Cooking Appliance Manufacturing.
3632	Household Refrigerators and Home and Farm Freezers.	Household Refrigerator and Home and Farm Freezer Manufacturing (pt).
3633	Household Laundry Equipment	Household Laundry Equipment Manufacturing.
3634	Electric Housewares and Fans:	
	Heating, cooking, and other electric housewares including fans.	Electric Housewares and Fan Manufacturing (pt).
	Wall and baseboard heating units for permanent installation.	Heating Equipment Manufacturing, Except Electric and Warm Air Furnaces (Included in Machinery Manufacturing subsector).
3635	Household Vacuum Cleaners	Household Vacuum Cleaner Manufacturing (pt).
3639	Household Appliances, NEC:	
	Floor waxing and floor polishing machines	Household Vacuum Cleaner Manufacturing (pt).
	Household sewing machines	All Other Industrial Machinery Manufacturing (pt) (Included in Machinery Manufacturing subsector).
	Other household appliances	Other Household Appliance Manufacturing (pt).
3641	Electric Lamp Bulbs and Tubes	Electric Lamp Bulb and Part Manufacturing.
3643	Current-Carrying Wiring Devices	Current-Carrying Wiring Device Manufacturing.
3644	Noncurrent-Carrying Wiring Devices	Noncurrent-Carrying Wiring Device Manufacturing.
3645	Residential Electric Lighting Fixtures	Residential Electric Lighting Fixture Manufacturing.
3646	Commercial, Industrial, and Institutional Electric Lighting Fixtures.	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing.
3647	Vehicular Lighting Equipment	Vehicular Lighting Equipment Manufacturing (Included in Transportation Equipment Manufacturing subsector).
3648@	Lighting Equipment, NEC	Other Lighting Equipment Manufacturing (pt).
3651	Household Audio and Video Equipment	Audio and Video Equipment Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3652	Phonograph Records and Prerecorded Audio Tapes and Disks:	
	Record publishing	Record production (pt) (Included in new Information sector) Integrated Record Companies (pt) (Included in new Information sector).
	Reproduction of recording media	Prerecorded Compact Disc, Tape, and Record Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3661	Telephone and Telegraph Apparatus:	
	Telephone and telegraph apparatus, except telephone transformers, and consumer external modems..	Telephone Apparatus Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
	Telephone transformers	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
	Consumer external modems	Other Electronic Component Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3663	Radio and Television Broadcasting and Communication Equipment.	Broadcast and Studio Equipment Manufacturing for Radio, TV, and Cable (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3669	Communications Equipment, NEC	Other Communication Equipment Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3671	Electron Tubes	Electron Tube Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3672	Printed Circuit Boards	Printed Circuit Board Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3674	Semiconductors and Related Devices	Semiconductor and Related Device Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3675	Electronic Capacitors	Electronic Capacitor Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3676	Electronic Resistors	Electronic Resistor Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3677	Electronic Coils, Transformers, and Other Inductors.	Electronic Coil, Transformer, and Other Inductor Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3678	Electronic Connectors	Electronic Connector Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).
3679	Electronic Components, NEC:	
	Electronic control modular chips for motor vehicles.	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt) (Included in Transportation Equipment Manufacturing subsector).
	Communication equipment	Broadcast and Studio Equipment Manufacturing for Radio, TV and Cable (Included in Computer and Electronic Product Manufacturing subsector).
	Other electronic components	Other Electronic Component Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3691	Storage Batteries	Storage Battery Manufacturing.
3692	Primary Batteries, Dry and Wet	Dry and Wet Primary Battery Manufacturing.
3694	Electrical Equipment for Internal Combustion Engines.	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt) (Included in Transportation Equipment Manufacturing subsector).
3695	Magnetic and Optical Recording Media	Magnetic and Optical Recording Media Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3699@	Electrical Machinery, Equipment, and Supplies, NEC:	
	Christmas tree lighting sets and electric insect lamps.	Other Lighting Equipment Manufacturing (pt).
	Bar code scanners	Other Computer Peripheral Equipment Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
	Electric outboard motors	Other Engine Manufacturing (pt) (Included in Machinery Manufacturing subsector).
	Flight simulators and electronic teaching machines.	Other Commercial and Service Industry Machinery Manufacturing (pt) (Included in Machinery Manufacturing subsector).
	Lasers	Classified according to function.
	Other electrical machinery, equipment, and supplies.	All Other Electrical Industrial Equipment and Supply Manufacturing (pt).

The abbreviation "pt" means "part of"; @ means time series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

Description of Changes to the U.S. System

A number of the changes listed in this section were made for reasons of international comparability. Where one or more of the three North American countries had different definitions of an industry classification, adjustments to the definitions in one or more countries were required. In constructing NAICS, the three countries agreed to move, where change was required to attain international comparability, in the direction of the country or countries whose existing classification definitions most closely corresponded to the production-oriented concept adopted for NAICS. Cases where the U.S. changed are listed below; other cases where Canada or Mexico moved toward the U.S. classification are not, of course, listed in this section.

Three new industries were added to the 1997 industry structure for this subsector.

Electric Sign Manufacturing from part of 1987 SIC Code 3993, Signs and Advertising Specialties, to achieve international comparability. The U.S. and Canada moved to match Mexico.

Fiber Optic Cable Manufacturing (not drawn) from part of 1987 SIC 3357, Drawing and Insulating of Nonferrous Wire, for reasons of international

comparability and because of the highly specialized production processes involved, and because this is a newly-emerging technology.

Other Communication and Energy Wire Manufacturing (insulating of only) from part of 1987 SIC Code 3357, Drawing and Insulating of Nonferrous Wire, for purposes of international comparability and to better reflect production principles. The U.S. moved to match Canada and Mexico.

Sixteen industries were transferred out of 1987 SIC Major Group 36, Electronic and Other Electrical Equipment and Components, Except Computer Equipment. Of the sixteen industries, twelve are included in 1997 NAICS Subsector, Computer and Electronic Product Manufacturing, a new subsector; two transferred to NAICS Subsector, Transportation Equipment Manufacturing; and two were divided into several activities that were transferred into the 1997 NAICS Subsectors, Computer and Electronic Product Manufacturing and Transportation Equipment Manufacturing; and the new Information sector.

The following twelve industries were transferred to 1997 NAICS Subsector, Computer and Electronic Product Manufacturing:

Household Audio and Video Equipment
Telephone and Telegraph Apparatus
Radio and Television Broadcasting and Communication Equipment
Communications Equipment, NEC
Electron Tubes
Printed Circuit Boards
Semiconductors and Related Devices
Electronic Capacitors
Electronic Resistors
Electronic Coils, Transformers, and Other Inductors
Electronic Connectors
Magnetic and Optical Recording Media

Two industries were transferred from 1987 SIC Major Group 36, Electronic and Other Electrical Equipment and Component, Except Computer Equipment, to 1997 NAICS Subsector, Transportation Equipment Manufacturing. They were 1987 SIC 3647, Vehicular Lighting Equipment, and 1987 SIC 3694, Electrical Equipment for Internal Combustion Engines.

Record publishing moved from part of 1987 SIC 3652, Phonograph Records and Prerecorded Audio Tapes and Disks, to the new NAICS Information sector. The remaining activities were transferred to 1997 NAICS Subsector, Computer and Electronic Product Manufacturing.

1987 SIC 3679, Electronic Components, NEC, was split three ways. One part, electronic control modular chips for motor vehicles, was transferred to 1997 NAICS Subsector, Transportation Equipment Manufacturing, and the other two parts, communication equipment and other electronic components, moved to two separate industries within 1997 NAICS Subsector, Computer and Electronic Product Manufacturing.

Three activities transferred into the 1997 Electrical Equipment, Appliance and Component subsector:

Transformers for arc-welders from part of 1987 SIC 3548, Electrical and Gas Welding and Soldering Equipment, to Power, Distribution, and Specialty Transformer Manufacturing, to achieve international comparability. Canada had this in CSIC Major Group 33, Electrical and Electronic Products Industries.

Lamp shades of paper and textiles from part of 1987 SIC 3999, Manufacturing Industries, NEC, to Residential Electric Lighting Fixture Manufacturing, to achieve international comparability. Canada had lamp shades in CSIC MG 33, Electrical and Electronic Products Industries.

Water coolers from part of 1987 SIC 3585, Refrigeration and Heating Equipment, to Household Refrigerator and Home and Farm Freezer Manufacturing, to achieve international comparability. The U.S. and Canada moved to match Mexico.

Also, several activities transferred within the Electrical Equipment, Appliance and Component Manufacturing subsector. The number of electrical equipment, appliance and component manufacturing industries decreased from 37 in 1987 to 23 in 1997. Excluding the sixteen industries that were moved out of this subsector, all but 2 of the 22 remaining 1987 industries are comparable within three percent of the 1997 industries; both of the time series breaks involve splitting activities out of old NEC categories.

Part VII—Proposed New Industry Structure for Transportation Equipment Manufacturing

Section A—NAICS Structure

North American Industry Classification System
(NAICS)
Agreement Number 10

This Document represents the proposed agreement on the structure of the North American Industry Classification System (NAICS) for the following industries:

Transportation Equipment Manufacturing

The detailed NAICS structure along with a brief description of the structure is attached (Attachments 1 and 2). Each country agrees to release a copy of the proposed NAICS structure to interested data users. Comments received will be shared among the countries and additional discussions will be held before a final decision on the structure is made. Each country may add additional detailed industries, below the 4-digit level of NAICS, as necessary to meet national needs, so long as this additional detail aggregates to a 4-digit NAICS level in order to ensure full comparability among the three countries.

This NAICS structure was presented and provisionally accepted at the NAICS Committee meeting held on August 30, 1995—September 1, 1995 in Washington, DC.

Accepted	Signature	Date
Canada	/S/ Jacob Ryten.	9/1/95
Mexico	/S/ Enrique Ordaz.	9/1/95
United States ..	/S/ Jack E. Triplett.	9/1/95

Attachment 1—NAICS Structure

XX Transportation Equipment Manufacturing
XXX Motor Vehicle Manufacturing
XXXX Passenger Car and Light Duty Truck Manufacturing
XXXX Heavy Duty Truck Manufacturing
XXX Truck and Bus Body and Trailer Manufacturing
XXXX Truck and Bus Body and Trailer Manufacturing
XXX Motor Vehicle Part Manufacturing
XXXX Motor Vehicle Gasoline Engine and Engine Part Manufacturing
XXXX Motor Vehicle Electrical and Electronic Equipment Manufacturing
XXXX Motor Vehicle Steering and Suspension Component (Except Springs) Manufacturing
XXXX Motor Vehicle Brake System Manufacturing
XXXX Motor Vehicle Transmission and Power Train Part Manufacturing
XXXX Motor Vehicle Fabric Accessory and Seat Manufacturing
XXXX Motor Vehicle Metal Stamping
XXXX Other Motor Vehicle Part Manufacturing
XXX Aerospace Product and Part Manufacturing
XXXX Aerospace Product and Part Manufacturing
XXX Railroad Rolling Stock Manufacturing
XXXX Railroad Rolling Stock Manufacturing
XXX Ship and Boat Building
XXXX Ship and Boat Building
XXX Miscellaneous Transportation Equipment Manufacturing
XXXX Miscellaneous Transportation Equipment Manufacturing

Attachment 2—North American Industry Classification System

Draft Classification for:
Transportation Equipment Manufacturing

Representatives of the statistical agencies of Canada, Mexico, and the United States agree to a draft industrial classification for these industries.

The draft classification provides for the subsector, Transportation Equipment Manufacturing. This subsector is further subdivided into seven industry groups and fifteen industries. The subsector will be part of the Manufacturing sector of the classification.

A General Outline

The Transportation Equipment Manufacturing industries produce equipment for transporting people and goods.

Assembly of components, usually purchased as subassemblies, characterizes the chief production process in this subsector. Other processes employed in industries in this subsector include bending, forming, welding, machining, and assembly of metal or plastic to make parts for the subassemblies that are further fabricated into the finished product by other establishments in the group. Though many of these individual production processes appear in other machinery and equipment industries, transportation equipment is accorded an entire subsector because of its economic importance in all three countries.

NAICS has industry groups for each mode of transport—road, rail, air and water. Parts for motor vehicles are important enough to warrant a separate industry group. Moreover, establishments that manufacture only parts are not as vertically integrated as those that produce complete vehicles and parts manufacture requires less assembly.

Limitations and Constraints of the Classification

In the Transportation Equipment Manufacturing industry, most activities that were identified in one country exist in the others. However, often an activity is not economically significant to the same degree in all countries. For example, a relatively broad NAICS industry was created for Aerospace Product and Part Manufacturing because this industry is less prominent in Canada and Mexico than in the United States. In Mexico, it is not possible to subdivide truck and bus body from trailer manufacturing for reasons of size. Size constraints in Canada and Mexico prohibit separating ship building from boat building.

An operating rule has therefore been adopted for this industry subsector that the NAICS industries must be economically significant and publishable in all three countries. Each country will publish additional categories that comprise subdivisions of NAICS industries, to present data for activities that are nationally significant.

For those users requiring detailed commodity information, each country will publish information on the products of these industries. Efforts are also underway to harmonize the commodity classifications to allow for greater comparability of these statistics.

Relationship to ISIC

Most NAICS 4-digit industries in this subsector are contained in Division 34, Manufacture of Motor Vehicles, Trailers and Semi-Trailers, and Division 35, Building and Repairing of Ships and Boats of the current International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3) of the United Nations. There are, however, some differences between the two systems. ISIC has two divisions for transportation equipment, Divisions 34 and 35. NAICS, on the other hand, treats this as a single subsector with seven industry groups. NAICS treats some activities, such as the manufacture of engine pumps, motor vehicle electrical equipment, automotive fabrics, and automotive seats as the manufacture of automotive parts in the Transportation Equipment Manufacturing subsector. ISIC classifies these activities elsewhere. ISIC treats guided missiles, tanks and armored vehicles as machinery. NAICS includes these activities in Transportation Equipment Manufacturing because the production processes are similar to that of other transportation equipment. NAICS groups automotive hardware (door handles and similar parts) with other hardware because the production processes are similar, but includes stamping in automotive parts because auto stampings are produced in specialized establishments.

The following NAICS industries belong to ISIC Divisions 34 and 35 with the exception of the activities indicated: Truck and Bus Body and Trailer Manufacturing (dump truck lifting mechanisms); Motor Vehicle Gasoline Engine and Engine Part Manufacturing (motor vehicle engine pumps); Motor Vehicle and Electronic Equipment Manufacturing (electrical and electronic motor vehicle equipment); Motor Vehicle Fabric Accessory and Seat Manufacturing (automotive fabrics, linings and trimmings); Other Motor Vehicle Part Manufacturing (filters for internal combustion engines, except motor vehicles); Aerospace Product and Part Manufacturing (aircraft pumps and guided missiles and parts); and Other Transportation Equipment Manufacturing (tanks and armored vehicles). Despite these differences that for the most part, are relatively small portions of the NAICS industries, this NAICS subsector is substantially the same as the combination of the two ISIC Divisions.

Some Changes to the National Classifications

For Canada, the Transportation Equipment Manufacturing subsector is largely the same as the current Canadian classification's Transportation Equipment Industries major group. The NAICS subsector includes the rebuilding of motor vehicle parts on a factory basis, that are partly in Fabricated Metal Industries and partly in Wholesaling in the Canadian classification. On the other hand, the NAICS classifies hardware for transportation equipment in Fabricated Metal Product Manufacturing, while the Canadian classification includes their manufacture in Transportation Equipment. The structure and amount of detail of this NAICS subsector is similar to that of the corresponding areas of the Canadian classification.

For Mexico, the Transportation Equipment Manufacturing subsector has coverage similar to the Mexican classification's Automotive Industry and Manufacture, Repair and Assembly of Other Transportation Equipment and Parts. The NAICS subsector includes the rebuilding on a factory basis of motor vehicle gasoline engines, now classified in the Mexican classification's Repair and Maintenance subsector. It also includes the manufacture of electrical equipment for transportation equipment, currently classified with electrical equipment in the Mexican classification; automotive fabrics, currently in textiles; and fiberglass boats, currently in the manufacture of plastic products. However, the manufacturing of hardware and springs for transportation equipment is classified in Fabricated Metal Product Manufacturing in NAICS, not in transportation equipment as in the Mexican classification. The structure and amount of detail of this NAICS subsector is similar to that of the corresponding areas of the Mexican classification.

For the United States, several activities related to the production of transportation equipment are transferred

into this subsector. For example, automotive job stamping of body parts is now included in this subsector. It has been transferred to this subsector to achieve comparability with Canada and Mexico, and because the production processes involved are exclusively devoted to the production of transportation equipment. The capital equipment required to produce automotive job stamping cannot be easily changed to produce other kinds of stamping, such as appliance parts. Further, most automotive job stamping producers have arrangements (contractual etc.) that makes it even harder to switch production to other kinds of stamping. Other activities moved to this subsector for the United States include automotive lighting, electronic components, fabric accessories and seating, essentially for the reasons listed above. In addition, NAICS provides more industry detail than the 1987 SIC. Heavy duty truck manufacturing is separated from manufacture of light trucks and passenger cars to recognize differences in the production process for heavy trucks and truck bodies, and the high degree of specialization in establishments that build heavy trucks.

Achievement of Objectives

The classification meets the objectives for the North American Industry Classification System (NAICS). It includes industries that group establishments with similar production processes, that is, it applies the production-oriented economic concept. In the main, the hierarchical structure of the classification also follows the production concept.

An objective of the NAICS project is the delineation of industries engaged in the production of advanced technologies. The proposed structure takes account of the development of advanced electronic sensors and control mechanisms in automobiles. Existing classifications do not have a clear location for the production of these goods. It is expected that this activity will grow and the proposed structure will allow for the creation of a separate industry for this activity in the future.

The industries have high specialization ratios, and they are economically significant. The detail (4-digit) level and structure of the classification are balanced in size. This enhances the classification's suitability for sampling, data-publishing and other aspects of survey operations. Finally, while disruptions to time series exist, they have been minimized. The statistical agencies can develop statistical "links", to enable the re-tabulation of time series on the new NAICS classification structure.

The classification achieves comparability for the three participating countries. Based on existing data, all three countries expect to be able to publish data regularly at the industry (4-digit) level of the structure. All countries agree on the detailed definitions of the industries.

Section B-Annex: United States National Industry Detail

As explained in the Structure presentation of this notice, for a number of reasons 4-digit industries in the three NAICS industry subsectors presented in Part 1, Section A—Attachment 1, contain less detail than is currently in the U.S. SIC system, and less detail than is required to meet important analytical requirements in the U.S. The three country agreement on NAICS envisions that each country may develop national detailed industries below the NAICS industry level, so long as the national detail can be aggregated to the NAICS classification, thus assuring full North American comparability.

The ECPC is proposing U.S. 5-digit industry detail for the NAICS industry subsector covered in Part I of this notice. For cases where no 5-digit detail is shown, the ECPC is proposing that the NAICS 4-digit industries will also represent the most detailed U.S. industries.

TABLE 1

	1997 NAICS AND U.S. description	Status code	1987 SIC code	1987 SIC description
XX	Transportation Equipment Manufacturing:			
XXX	Motor Vehicle Manufacturing:			
XXXX	Passenger Car and Light Duty Truck Manufacturing.	N	*3711	Motor Vehicles and Passenger Car Bodies (Passenger Cars and Light Duty Trucks).
XXXX	Heavy Duty Truck Manufacturing	N	*3711	Motor Vehicles and Passenger Car Bodies (Heavy Duty Trucks).
XXX	Truck and Bus Body and Trailer Manufacturing:			
XXXX	Truck and Bus Body and Trailer Manufacturing:			
XXXXX	Truck and Bus Body Manufacturing	R	*3711	Motor Vehicles and Passenger Car Bodies (Kit Car and Other Passenger Car Bodies).
			3713	Truck and Bus Bodies.
			*3714	Motor Vehicle Parts and Accessories (Dumptruck Lifting Mechanisms and Fifth Wheels).
XXXXX	Truck Trailer Manufacturing	E	3715	Truck Trailers.
XXXXX	Motor Home Manufacturing	E	3716	Motor Homes.
XXXXX	Travel Trailer and Camper Manufacturing	R	3792	Travel Trailers and Campers.
			*3799	Transportation Equipment, NEC (Automobile, Boat, Utility and Light Truck Trailers).
XXX	Motor Vehicle Part Manufacturing:			
XXXX	Motor Vehicle Gasoline Engine and Engine Part Manufacturing:			
XXXXX	Carburetor, Piston, Piston Ring and Valve Manufacturing.	E	3592	Carburetors, Pistons, Piston Rings, and Valves.
XXXXX	Engine and Engine Part Manufacturing	N	*3714	Motor Vehicle Parts and Accessories (Gasoline Engines and Engine Parts Including Rebuilt).
XXXX	Motor Vehicle Electrical and Electronic Equipment Manufacturing:			

TABLE 1—Continued

	1997 NAICS AND U.S. description	Status code	1987 SIC code	1987 SIC description
XXXXX	Vehicular Lighting Equipment Manufacturing.	E	3647	Vehicular Lighting Equipment.
XXXXX	Motor Vehicle Electrical and Electronic Equipment Manufacturing.	R	*3679	Electronic Components, NEC (Electronic Control Modular Chips for Motor Vehicles).
			3694	Electrical Equipment for Internal Combustion Engines.
			*3714	Motor Vehicle Parts and Accessories (Wiring Harness Sets, Other Than Ignition; Block Heaters and Battery Heaters; Instrument Board Assemblies; Permanent Defrosters; Windshield Washer-Wiper Mechanisms; Cruise Control Mechanisms; and Other Electrical Equipment for Internal Combustion Engines).
XXXX	Motor Vehicle Steering and Suspension Component (Except Springs) Manufacturing.	N	*3714	Motor Vehicle Parts and Accessories (Steering and Suspension Parts).
XXXX	Motor Vehicle Brake System Manufacturing	N	*3292	Asbestos Products (Asbestos Brake Linings and Pads).
			*3714	Motor Vehicle Parts and Accessories (Brake and Brake Systems, Including Assemblies).
XXXX	Motor Vehicle Transmission and Power Train Part Manufacturing.	N	*3714	Motor Vehicle Parts and Accessories (Transmissions and Power Train Parts, Including Rebuilding).
XXXX	Motor Vehicle Fabric Accessory and Sat Manufacturing.	N	*2396	Automotive Trimmings, Apparel Findings, and Related Products (Textile Motor Vehicle Trimmings).
			*2399	Fabricated Textile Products, NEC (Motor Vehicle Seat Belts, and Seat and Tire Covers).
			*2531	Public Building and Related Furniture (Seats for Motor Vehicles).
XXXX	Motor Vehicle Metal Stamping		*3465	Automotive Stampings.
XXXX	Other Motor Vehicle Part Manufacturing	R	*3519	Internal Combustion Engines, NEC (Stationary Engine Radiators).
			*3599	Industrial and Commercial Machinery and Equipment, NEC (Gasoline, Oil and Intake Filters for Internal Combustion Engines, Except those for Motor Vehicles).
			*3714	Motor Vehicle Parts and Accessories (Except Truck and Bus Bodies, Trailers, Engine and Engine Parts, Motor Vehicle Electrical and Electronic Equipment, Motor Vehicle Steering and Suspension Components, Motor Vehicle Brake Systems, and Motor Vehicle Transmission and Power Train Parts).
XXX	Aerospace Product and Part Manufacturing:			
XXXX	Aerospace Product and Part Manufacturing:			
XXXXX	Aircraft Manufacturing	E	3721	Aircraft.
XXXXX	Aircraft Engine and Engine Part Manufacturing	E	*3724	Aircraft Engines and Engine Parts.
XXXXX	Other Aircraft Part and Auxiliary Equipment Manufacturing.	R	*3728	Aircraft Parts and Auxiliary Equipment, NEC (Except Fluid Power Aircraft Subassemblies).
XXXXX	Guided Missile and Space Vehicle Manufacturing.	E	3761	Guided Missiles and Space Vehicles.
XXXXX	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Part Manufacturing.	E	3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts.
XXXXX	Other Guided Missile and Space Vehicle Part and Auxiliary Equipment Manufacturing.	E	3769	Guided Missile and Space Vehicle Parts and Auxiliary Equipment.
XXX	Railroad Rolling Stock Manufacturing:			
XXXX	Railroad Rolling Stock Manufacturing	R	*3531	Construction Machinery and Equipment (Railway Maintenance of Way Equipment).
			*3743	Railroad Equipment (Except Locomotive Fuel Lubricating or Cooling Medium Pumps).
XXX	Ship and Boat Building:			
XXXX	Ship and Boat Building:			
XXXXX	Ship Building and Repairing	E	3731	Ship Building and Repairing.
XXXXX	Boat Building	R	*3732	Boat Building and Repairing (Boat Building and Boat Building and Repair in the same establishment).
XXX	Miscellanous Transportation Equipment Manufacturing:			
XXXX	Miscellaneous Transportation Equipment Manufacturing:			
XXXXX	Motorcycle, Bicycle and Part Manufacturing		*3944	Games, Toys, and Children's Vehicles, except Dolls and Bicycles (Metal Tricycles).
			*3751	Motorcyles, Bicycles and Parts.
XXXXX	Military Armored Vehicle, Tank, and Tank Component Manufacturing.	R	*3711	Motor Vehicles and Passenger Car Bodies (Military Armored Vehicles).

TABLE 1—Continued

	1997 NAICS AND U.S. description	Status code	1987 SIC code	1987 SIC description
XXXXX	Other Miscllanous Transportation equipment Manufacturing.	R	*3795 *3799	Tanks and Tank Components. Transportation Equipment, NEC (Except Automobile, Boat, Utility Light Truck Trailers; and Wheelbarrows).

The definitions of status codes are as follows: E = existing industry, N = new industry; R = revised industry; and *means "part of". The abbreviation NEC is used for Not Elsewhere Classified.

TABLE 2

1987 SIC code	1987 SIC description	1997 U.S. description
2396@	Automotive Trimmings, Apparel Findings, and Related Products:	
	Textile Motor Vehicle Trimmings	Motor Vehicle Fabric Accessory and Seat Manufacturing (pt).
	Apparel Articles	Apparel Belt, Apparel Accessories, and Other Apparel Manufacturing (pt) (Included in Apparel Manufacturing subsector).
	Printing on Apparel	Other Commercial Printing (pt) (Included in Printing and Related Support Activities subsector).
	Other Automotive Trimmings, Apparel Findings, and Related Products.	Other Miscellaneous Textile Product Manufacturing (pt) (Included in Textile Product Mills subsector).
2399	Fabricated Textile Products, NEC:	
	Motor Vehicle Seat Belts, and Seat and Tire Cover	Motor Vehicle Fabric Accessory and Seat Manufacturing (pt).
	Aprons, Money Belts, and Diapers	Apparel Belt, Apparel Accessories and Other Apparel Manufacturing (pt) (Included in Apparel Manufacturing subsector).
	Other Fabricated Textile Products	All Other Miscellaneous Textile Product Mills (pt) (Included in Textile Product Mills subsector).
2531@	Public Building and Related Furniture:	
	Seats for Motor Vehicles	Motor Vehicle Fabric Accessory and Seat Manufacturing (pt).
	Wood Furniture Made for Use in Public Buildings	Wood Office and Public Building Furniture Manufacturing (pt) (Included in Furniture Manufacturing subsector).
	Metal Furniture Made for Use in Public Buildings	Metal Office and Public Building Furniture Manufacturing (pt) (Included in Furniture Manufacturing subsector).
	Other than Wood or Metal Furniture Made for Use in Public Buildings.	Other Furniture Manufacturing (pt) (Included in Furniture Manufacturing subsector).
3292	Asbestos Products:	
	Asbestos Brake Linings and Pads	Motor Vehicle Brake System Manufacturing (pt).
	Other Asbestos Products	Other Nonmetallic Mineral Product Manufacturing (pt) (Included in Nonmetallic Mineral Product Manufacturing subsector).
3465	Automotive Stamping	Motor Vehicle Metal Stamping.
3519	Internal Combustion Engines, NEC:	
	Stationary Engine Radiators	Other Motor Vehicle Part Manufacturing (pt).
	Internal Combustion Engines	Other Engine Manufacturing (pt) (Included in Machinery Manufacturing subsector).
3531@	Construction Machinery and Equipment:	
	Railway Maintenance of Way Equipment	Railroad Rolling Stock Manufacturing (pt).
	Winches, Aerial Work Platforms, and Automotive Wreckers Hoists.	Overhead Traveling Crane, Hoist, and Monorail System Manufacturing (pt) (Included in Machinery Manufacturing subsector).
	Other Construction Machinery and Equipment	Construction Machinery Manufacturing (Included in Machinery Manufacturing subsector).
3592	Caburetors, Pistons, Piston Rings and Valves	Carburetor, Piston, Piston Ring and Valve Manufacturing.
3599@	Industrial and Commercial Machinery and Equipment, NEC Gasoline, Oil and Intake Filters for Internal Combustion Engines, Except Motor Vehicle.	Other Motor Vehicle Part Manufacturing (pt).
	Flexible Metal Hose	All Other Fabricated Metal Product Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
	Carnival Amusement Park Equipment	Other Commercial and Service Industry Machinery Manufacturing (pt) (Included in Machinery Manufacturing subsector).
	Machine Shops	Machine Shops (Included in Fabricated Metal Product Manufacturing subsector).
	Semiconductor Machinery	Semiconductor Machinery Manufacturing (Included in Machinery Manufacturing subsector).
	Other Industrial and Commercial Machinery and Equipment.	Other General Purpose Machinery Manufacturing (pt) (Included in Machinery Manufacturing subsector).
3647	Vehicular Lighting Equipment	Vehicular Lighting Equipment Manufacturing.
3679	Electronic Components, NEC:	
	Electronic Control Modular Chips for Motor Vehicles Manufacturing (pt).	Motor Vehicle Electrical and Electronic Equipment Manufacturing.
	Communication Equipment	Broadcast and Studio Equipment for Radio, TV and Cable Manufacturing (Included in Computer and Electronic Product Manufacturing subsector).

TABLE 2—Continued

1987 SIC code	1987 SIC description	1997 U.S. description
	Other Electronic Components Including Loaded PC Boards.	Other Electronic Component Manufacturing (pt) (Included in Computer and Electronic Product Manufacturing subsector).
3694	Electronic Equipment for Internal Combustion Engines	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt).
3711@	Motor Vehicles and Passenger Car Bodies:	
	Passenger Car and Light Duty Trucks	Passenger Car and Light Duty Truck Manufacturing.
	Heavy Duty Trucks	Heavy Duty Truck Manufacturing.
	Kit Car and Other Passenger Car Bodies	Truck and Bus Body and Trailer Manufacturing (pt).
	Military Armored Vehicles	Military Armored Vehicle, Tank, and Tank Component Manufacturing (pt).
3713	Truck and Bus Bodies	Truck and Bus Body and Trailer Manufacturing (pt).
3714@	Motor Vehicle Parts and Accessory:.	
	Dump-Truck Lifting Mechanisms and Fifth Wheels	Truck and Bus Body and Trailer Manufacturing (pt).
	Gasoline Engines Including Rebuilt and Engine Parts Including Rebuilt for Motor Vehicles.	Engine and Engine Part Manufacturing.
	Wiring Harness Sets, Other than Ignition; Block Heaters and Battery Heaters; Instrument Board Assemblies; Permanent Defroster; Windshield Washer-Wiper Mechanisms; Cruise Control Mechanism; and Other Electrical Equipment for Internal Combustion Engines.	Motor Vehicle Electrical and Electronic Equipment Manufacturing (pt).
	Steering and Suspension Parts	Motor Vehicle Steering and Suspension Component (Except Springs) Manufacturing.
	Brake and Brake Systems, Including Assembles	Motor Vehicle Brake System Manufacturing.
	Transmissions and Power Train Parts, Including Rebuilding Radiators.	Motor Vehicle Transmission and Power Train Part Manufacturing.
	Other Motor Vehicle Parts	Other Motor Vehicle Part Manufacturing (pt).
3716	Motor Homes	Motor Home Manufacturing.
3721	Aircraft	Aircraft Manufacturing.
3724	Aircraft Engines and Engine Parts	Aircraft Engine and Engine Part Manufacturing.
3728	Aircraft Parts and Auxiliary Equipment, NEC:	
	Fluid Power Aircraft Subassemblies	Fluid Power Value and Hose Fitting Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
	Other Aircraft Parts and Equipment	Other Aircraft Part and Auxiliary Equipment Manufacturing.
3731	Ship Building and Repairing	Skip Building and Repairing.
3732	Boat Building and Repairing:	
	Boat Repair done Outside Boat Yard	Included in Services subsector.
	Boat Building and Repair done Inside Boat Yard	Boat Building (pt).
3743	Railroad Equipment:	
	Locomotive Fuel Lubricating or Cooling Medium Pumps.	Pump and Pumping Equipment Manufacturing (pt) (Included in Machinery Manufacturing subsector).
	Other Railroad Equipment	Railroad Rolling Stock Manufacturing (pt).
3751	Motorcycles, Bicycles, and Parts	Motorcycle, Bicycle, and Part Manufacturing (pt).
3761	Guided Missiles and Space Vehicles	Other Guided Missile and Space Vehicle Manufacturing.
3764	Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts.	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Part Manufacturing.
3769	Guided Missile Space Vehicle Parts and Auxiliary Equipment, NEC.	Guided Missile Space Vehicle Parts and Auxiliary Equipment Manufacturing.
3792	Travel Trailers and Campers	Travel Trailer and Camper Manufacturing (pt).
3795	Tanks and Tank Components	Military Armored Vehicle, Tank, and Tank Component Manufacturing (pt).
3799@	Transportation Equipment, NEC:	
	Automobile, Boat, Utility and Light Truck Trailers	Travel Trailer and Camper Manufacturing (pt).
	Wheelbarrows	Hand and Edge Tool Manufacturing (pt) (Included in Fabricated Metal Product Manufacturing subsector).
	Other Transportation Equipment	Other Miscellaneous Transportation Equipment Manufacturing.
3944	Games, Toys, and Children's Vehicles, Except Dolls and Bicycles:	
	Metal Tricycles	Motorcycle, Bicycle and Part Manufacturing (pt).
	Other Games, Toys and Children's Vehicles	Game, Toy, and Children's Vehicle Manufacturing (pt) (Included in Miscellaneous Manufacturing subsector).

The abbreviation "pt" means "part of"; @ means time series break has been created that is greater than 3% of the 1992 value of shipments for the 1987 SIC industry. The abbreviation NEC is used for Not Elsewhere Classified.

Description of Changes to the U.S. System

A number of the changes listed in this section were made for reasons of international comparability. Where one or more of the three North American countries had different definitions of an industry classification, adjustments to the definitions in one or more countries were required. In constructing NAICS, the three countries agreed to move, where change was required to attain international comparability, in the direction of the country or countries whose existing classification definitions most closely corresponded to the production-oriented concept adopted for NAICS. Cases where the U.S.

changed are listed below; other cases where Canada or Mexico moved toward the U.S. classification are not, of course, listed in this section.

Eight new industries were added to the 1997 industry structure for this industry subsector. The eight industries created were:

Passenger Car and Light Duty Truck Manufacturing and Heavy Duty Truck Manufacturing, both from parts of 1987 SIC 3711, Motor Vehicles and Passenger Car Bodies. The industry association suggested making additional industries from 1987 SIC 3711. The new industries are defined by high specialization, and in the case of Passenger Car and Light Duty Truck Manufacturing, large capital-intensive production facilities. This is a change for all three countries.

Engine and Engine Part Manufacturing, Motor Vehicle Steering and Suspension Component (Except Springs) Manufacturing, and Motor Vehicle Transmission and Power Train Part Manufacturing from parts of 1987 SIC 3714, Motor Vehicle Parts and Accessories. The industry suggested making additional industries from 1987 SIC 3714 and the production processes are sufficiently distinct to justify separate industries. Mexico already had separate industries for engines and for transmission and power trains, and Canada had a separate industry for steering and suspension so the U.S. change also facilitated international comparability.

Motor Vehicle Brake System Manufacturing from parts of 1987 SIC 3292, Asbestos Products, and 1987 SIC 3714, Motor Vehicle Parts and Accessories, to achieve international comparability. Mexico and Canada already had separate industries for brake system manufacturing.

Motor Vehicle Fabric Accessory and Seat Manufacturing from parts of 1987 SIC 2396, Automotive Trimmings, Apparel Findings, and Related Products; 1987 SIC 2399, Fabricated Textile Products, NEC; and 1987 SIC 2531, Public Building and Related Furniture. This change was made for international comparability, and is an improvement on production grounds.

1987 SIC 3694, Electrical Equipment for Internal Combustion Engines, is combined with part of 1987 SIC 3679, Electronic Components, NEC, and part of 1987 SIC 3714, Motor Vehicle Parts and Accessories, to form NAICS Electrical Equipment for Internal Combustion Engine Manufacturing.

Three industries were transferred into NAICS Transportation Equipment Manufacturing:

1987 SIC 3465, Automotive Stampings, is renamed Motor Vehicle Metal Stamping to achieve international comparability and for the reasons noted in the Changes to National Classifications section above. The United States moved to match Canada and Mexico.

1987 SIC 3592, Carburetors, Pistons, Piston Rings and Valves, is renamed Carburetor, Piston, Piston Ring and Valve Manufacturing to achieve international comparability. Canada had these in CSIC 32, Transportation Equipment Industries.

1987 SIC 3647, Vehicular Lighting Equipment, is renamed Vehicular Lighting Equipment Manufacturing to achieve international comparability. Canada had this in CSIC MG 32, Transportation Equipment.

Also, four activities were transferred into the 1997 Transportation Equipment Manufacturing.

Stationary engine radiators from 1987 SIC 3519, Internal Combustion Engines, NEC, to Other Motor Vehicle Part Manufacturing, to achieve international comparability. The U.S. and Mexico moved to match Canada, because the production of radiators is a similar process whether for stationary or nonstationary engines.

Gasoline, oil and intake filters for internal combustion engines, except those for motor vehicles, from 1987 SIC 3599, Industrial and Commercial Machinery and Equipment, NEC, to Other Motor Vehicle Part Manufacturing, to achieve international comparability. The U.S. moved to match Canada and Mexico, because the production of filters is a similar process whether for stationary or non stationary engines.

Railway maintenance of way equipment from 1987 SIC 3531, Construction Machinery and Equipment, to Railroad Rolling Stock Manufacturing, to achieve international comparability. The U.S. moved to match Canada and Mexico.

Tricycles made primarily of metal from 1987 SIC 3944, Games, Toys, and Children's Vehicles, Except Dolls and Bicycles, to Motorcycle, Bicycle, and Part Manufacturing, to achieve international comparability. The U.S. and Canada moved to match Mexico. Plastic tricycles remain in toy manufacturing.

Three activities were transferred out of 1987 Major Group 37, Transportation Equipment Manufacturing, and are described more fully in their new respective NAICS subsectors.

Boat repair done outside boat yards was transferred from 1987 SIC 3732, Boat Building and Repairing, into the Services subsector.

Locomotive fuel lubricating or cooling medium pumps were transferred from 1987 SIC 3743, Railroad Equipment, into the Machinery Manufacturing subsector.

Wheelbarrows from 1987 SIC 3799, Transportation Equipment, NEC, were transferred into Hand and Edge Tool Manufacturing in the Fabricated Metal Product Manufacturing subsector.

Several activities were transferred within the Transportation Equipment Manufacturing subsector. The number of transportation equipment industries increased from 18 in 1987 to 28 in 1997. For time series linkage, all but 3 of the 18 1987 industries are comparable within three percent of the 1997 industries. One of the three is an NEC industry.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 96–2139 Filed 2–5–96; 8:45 am]

BILLING CODE 3110–01–P

federal register

Tuesday
February 6, 1996

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 290

Sale of HUD-Held Multifamily Mortgages; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 290

[Docket No. FR–3970–I–01]

RIN 2502–AG59

Sale of HUD-Held Multifamily Mortgages

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This rule adds two provisions which conform the mortgage sale regulations to Departmental policy statements made in the preamble to the proposed and final rule.[1] First, in the sale of delinquent mortgages on partially-assisted and subsidized projects, HUD will require the assumption of federal rental subsidy contracts by project purchasers, including foreclosure purchasers. In addition, mortgage purchasers may not foreclose in a manner that would terminate such assisted tenants' leases. Second, owners of partially-assisted and subsidized projects will continue to be subject to a prohibition against discriminating against certificate and voucher holders after a mortgage sale without insurance. In addition, owners of both subsidized and unsubsidized projects with mortgages that are delinquent when sold by HUD must agree to record a covenant running with the land to continue this obligation through the maturity date of the mortgage, as part of the consideration of a loan restructuring or compromise of the mortgage indebtedness with the mortgage purchaser. Alternatively, if the mortgage purchaser forecloses, this nondiscrimination obligation would become applicable to the project purchaser at foreclosure.

The Department is also providing guidance to the public on its interpretation of the current rule excluding delinquent unsubsidized mortgages from sale where HUD believes that foreclosure is unavoidable and the project is occupied by unassisted very low-income tenants who would be likely to pay in excess of 30 percent of their adjusted monthly income if the mortgage were to be sold and then foreclosed.

[1] This rule and the policies contained in this rule are intended to satisfy HUD's obligations under the settlement agreement in *Walker* v. *Kemp*, No. C 87 2628 (N.D. Cal.).

DATES: Effective date: March 7, 1996.

Comment due date: April 8, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Faxed comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Audrey Hinton, Associate Director for Program Operations, Office of Multifamily Asset Management and Disposition, Office of Housing, Room 6160, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–3730, Ext. 2691. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–4594 or 1–800–877–8399 (Federal Information Relay Service TDD). (Other than the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The source of the Secretary's authority to sell, transfer and otherwise deal with multifamily mortgages is section 207(l) of the National Housing Act (12 U.S.C. 1713(l)), section 7(i) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)), and section 203 of the Housing and Community Development Act Amendments of 1978, as amended, (12 U.S.C. 1701z-11) ("the 1978 Act"). Section 203 of the 1978 Act also addresses the terms and conditions under which HUD-held mortgages may be sold, distinguishing between mortgages securing subsidized and unsubsidized projects and authorizing the Secretary to enter into negotiated sales of mortgages on subsidized projects with state and local housing agencies.

A final mortgage sale rule was published on September 22, 1994 at 59 FR 48726, following public notice and a 60-day comment period on a proposed rule, published on April 11, 1994 at 59 FR 17500. The final rule became effective on October 24, 1994.

Subsequently, the mortgage sale regulations were included in a comprehensive revision of 24 CFR part 290. This is an interim rule, published and made effective on March 2, 1995 at 60 FR 11487. The September 22, 1994 mortgage sale rules were renumbered. Moreover, the final rule text was adapted to a new question and answer format, designed to enhance the accessibility of HUD's regulations to the general public. The March 2, 1995 interim rule includes a new goal section for the mortgage sale program, 24 CFR 290.3(b), based on language in the preamble to the proposed rule. It also includes a definition section, 24 CFR 290.5, applicable to all subparts of the 290 regulations. The mortgage sale regulations are currently codified at 24 CFR part 290, subpart I, in the April 1, 1995 edition of the Code of Federal Regulations.

The following section-by-section analysis describes the amendments made by this rule and related matters.

Section 290.110 How will HUD sell unsubsidized mortgages?

This rule does not amend § 290.110. Rather, the preamble provides an informational explanation of how this provision has been and will be implemented by HUD and in particular, discusses the provision requiring the exclusion of certain delinquent mortgages from sale.

By way of background, Congress clarified the Secretary's broad discretion in selling mortgages on unsubsidized projects in section 101(b) of the Multifamily Housing Property Disposition Reform Act of 1994 ("the 1994 Act") by adding section 203(k)(4) to the 1978 Act, as amended (12 U.S.C. 1701z-11(k)(4)). Under section 203(k)(4), the Secretary is expressly authorized to sell mortgages held on unsubsidized projects on any terms and conditions the Secretary prescribes, notwithstanding any other provision of law. The 1994 Act also changed the definitions of "subsidized" and "unsubsidized" projects, set forth in section 203(b)(2) of the 1978 Act, as amended. The category of unsubsidized projects was expanded to include partially-assisted projects (those projects without mortgage interest subsidies and with project-based rental subsidies for 50% or less of the units). (12 U.S.C. 1701z-11(b)(2); 24 CFR 290.5.) The final mortgage sale rule, published on September 22, 1994, as well as the March 2, 1995 interim rule, reflect the changes made in the 1994 Act.

Consistent with the current rule, the Department plans to sell unsubsidized mortgages without FHA insurance, on a competitive basis. Section 290.110 permits the sale of unsubsidized mortgages with or without FHA mortgage insurance. To date, HUD has sold all such mortgages (current and delinquent) without insurance and

intends to continue this policy and practice for all future sales. Further, § 290.100 is explicit that all unsubsidized mortgages will be sold on a competitive basis. This reflects the Department's policy and practice, including plans for the sale of mortgages on partially-assisted projects. The preamble to the September 24, 1994 final rule (59 FR 48727) suggested the possibility of specialized auctions for these mortgages involving a group of investors selected, in part, on the basis of their commitment to preserving the economically integrated rental use of the housing. This is no longer the Department's plan. The mechanism for preserving the mixed-income nature of partially-assisted housing will be the continuation of federal rental subsidies pursuant to § 290.112 and continuation of the owners' duty to refrain from unreasonably refusing to lease units to certificate and voucher holders, including current and future tenants, pursuant to § 290.114 of this interim rule.

Section 290.110(b) permits the sale of delinquent unsubsidized mortgages without FHA mortgage insurance but excludes certain mortgages from sale. Under § 290.110(b), HUD will not sell a mortgage if HUD believes that foreclosure is unavoidable and the project securing the mortgage is occupied by very low-income tenants who are not receiving federal rental housing assistance and who are or might become rent-burdened (paying rent in excess of 30% of adjusted monthly income) if the mortgage were to be sold and foreclosed. When formulating this rule, HUD took into consideration tenant protections under the property disposition provisions of the statute, section 203(g) of the 1978 Act, as amended (12 U.S.C. 1701z-11(g)). If HUD forecloses on a mortgage, then for a two-year period following disposition of the project, rents for pre-existing unassisted very low-income tenants cannot be increased by the purchaser to such an extent that these tenants would become rent-burdened. Further, such tenants, who were already rent-burdened prior to disposition, receive a rent freeze for a two-year period. (See preamble to the proposed rule, 59 FR 17502 (April 13, 1994) and to the final rule, 59 FR 48727 (September 22, 1994).)

The preambles to the proposed and final rules do not indicate how HUD would interpret and apply the phrase "foreclosure is unavoidable" and no public comments were offered on this specific issue. HUD's practice has been to consider foreclosure to be "unavoidable" if legal notice of the foreclosure sale has been published or HUD has initiated foreclosure sale marketing activities. Picking one or more procedural steps results in the application of a uniform, objective standard by the agency. However, these benchmarks are not predictive of whether "foreclosure is unavoidable" in any given situation and have been questioned by owners and other affected parties in specific cases. In theory and in practice, a borrower might offer HUD (or a mortgage purchaser if the loan were to be sold) an acceptable workout agreement late in the foreclosure process or seek approval to transfer the property to a purchaser who offers to invest resources to cure the mortgage delinquency.

HUD has reconsidered its practice and decided to advise the public of the circumstances that will give rise to a determination that foreclosure is unavoidable for purposes of § 290.110(b). In the future, HUD plans to use different but objective guidelines, ones that relate more closely to Congressional intent in giving HUD broad discretion in the management and disposition of its portfolio of unsubsidized mortgages. In the sale of delinquent unsubsidized mortgages, HUD's primary objective is to avoid foreclosures by maximizing opportunities for private sector loan restructurings. This is the most expeditious way to restore properties to stable operating condition, which benefits all current and future tenants and affected communities.

First, HUD's general practice will be to consider foreclosure to be unavoidable if the project is occupied and HUD is mortgagee-in-possession ("MIP"). Typically, HUD seeks MIP status where the owner has abandoned the property or where necessary to protect the health and safety of residents while HUD pursues a foreclosure action. In these circumstances, prospects for a successful loan restructuring are remote and the probability of foreclosure is high. While not a constraint on the exercise of the Secretary's discretion to sell unsubsidized mortgages under section 203(k)(4) of the 1978 Act, as amended, it should be noted that, when HUD is MIP, it has certain statutory duties with respect to the operation of a project. (*See, e.g.*, sections 203(d)(2) and 203(j)(1) of the 1978 Act.)

Second, even when the agency is not MIP, HUD's general practice will be to consider foreclosure to be unavoidable where HUD has determined that the property may be vacated by a foreclosure sale purchaser for demolition, rebuilding, conversion of use or substantial rehabilitation resulting in temporary relocation of more than 90 days or permanent displacement of residents. (See section 203 (g) and (j) of the 1978 Act, as amended; 24 CFR 290.42 and 290.88.) Typically, HUD's decision will be reflected in the foreclosure sale bid package and in its foreclosure sale notices sent to tenants and local government pursuant to section 203(c)(3)(A) of the 1978 Act, as amended; 24 CFR 290.22. Implementation of such foreclosure terms, including provision of tenant relocation assistance, requires ongoing HUD involvement and control. HUD's general practice will be to exclude the mortgages on such projects from its sale program.

Neither HUD's earlier practice nor this revised guideline is intended to create new binding norms. It simply interprets the underlying standard which continues to be whether foreclosure is unavoidable and whether unassisted very low-income tenants are or would become rent-burdened if the mortgage were to be sold and foreclosed.

Section 290.112 What are the requirements for continuing federal rental subsidy contracts?

The preamble to the proposed mortgage sale rule stated that "The Department will sell delinquent mortgages on such projects that it believes can be worked out. While the Department would not expect it to be needed, purchasers of such mortgages would retain the option of foreclosure because the ability to foreclose facilitates workout activity." (See 59 FR 17501.) As discussed earlier, this reflects the Department's current policy and experience. Yet, no matter how prescient the Department might be in selecting delinquent mortgages for sale, some post-sale foreclosures will inevitably occur. HUD believes that this eventuality must be addressed more fully and prescriptively than it was in the proposed and final rule. Potential investors, project owners and tenants would benefit from a clearer statement of HUD's policies and loan sale requirements.

In the preamble to the April 13, 1994 proposed rule, HUD stated that "Under this rule, HUD would require that purchasers of mortgages agree not to induce any project owner to terminate a project-based Section 8 assistance contract, and, in the event of foreclosure, to assume any Section 8 contract." (59 FR 17502) HUD received a comment that this policy and related statements should be included in the rule text and that "purchasers of mortgages should be required to impose

upon any purchaser of a project at foreclosure the obligation to accept the existing Section 8 contract." (National Housing Law Project letter, June 10, 1994, page 6.) In the preamble to the September 22, 1994 final rule, HUD rejected this change as unnecessary while agreeing with the policy content of the comment. (59 FR 48727) Section 8 housing assistance continues when a purchaser at foreclosure, with HUD's approval, agrees to assume the obligations of the housing assistance payments contract. However, the legal basis for requiring the assumption of such contracts by a project purchaser, including a foreclosure purchaser, warrants clarification.

Section 290.112 of this rule implements HUD's authority under section 203(k) of the 1978 Act to include this requirement in its mortgage sale documents. As a term or condition of buying a delinquent HUD-held mortgage, the mortgage purchaser and its successors or assigns must agree to assume project-based and tenant-based rental subsidy contracts, in the event it acquires title to the project. Further, the mortgage purchaser and its successors and assigns must also agree to record a covenant as a condition of a loan restructuring, or acceptance of an owner's discounted pay-off of the debt, or in the event of foreclosure, in the foreclosure deed. The covenant will require the assumption of any federal rental subsidy contract by any project purchaser, for any sale occurring during the life of such subsidy contract. The covenant will expire on the date the last project-based federal rental subsidy contract expires by its own terms.

Imposition of this condition on a mortgage purchaser and indirectly, on a current or future project owner, is well within the scope of HUD's discretion. If an owner has been spared from foreclosure, which typically carries significant adverse tax consequences, and has received the benefit of a loan restructuring or discounted pay-off from the mortgage sale purchaser, the owner has received consideration for recording this covenant. Extracting a public policy *quid pro quo* from the owner, in the form of a covenant requiring future owners to assume federal project-based and tenant-based rental assistance contracts, further assures that HUD's mortgage sale program benefits low-income tenants.

As indicated by the "except where otherwise approved by HUD" language in § 290.112, HUD retains its authority under the rental subsidy contract and applicable program regulations to reject the assignment of a subsidy contract to a foreclosure purchaser or other purchaser, to terminate the contract, and to provide certificates or vouchers to assisted tenants. The obligation of a purchaser to assume a federal subsidy contract does not imply any obligation on the part of HUD to approve the assignment of the contract to a new project owner.

In HUD's discussion of the ongoing nature of Section 8 contracts post-foreclosure in the preamble to the proposed rule, it was assumed, *sub silentio*, that tenant leases entered into pursuant to such contracts would also remain in effect. Under most state laws, these leases could be terminated by foreclosure, raising a question about the rights of assisted tenants in occupancy. This rule is intended to eliminate any uncertainty about this by requiring the mortgage purchaser and its successors and assigns, in the event of a foreclosure of the mortgage, to foreclose in a manner that does not interfere with any lease of tenants receiving existing federal project-based or tenant-based rental assistance. Subject to this limitation, the rule is not intended to alter or otherwise affect the good cause eviction standards or other procedural requirements provided by HUD's regulations. (*See, e.g.*, 24 CFR part 247 and §§ 880.607 and 881.607.)

The Department is considering adopting requirements safeguarding the possessory rights of unassisted tenants in the event of a foreclosure. This is consistent with the congressional statement of policy that the administration of federal housing and development programs should minimize involuntary displacement of persons from homes and neighborhoods, 42 U.S.C. 5313 (note). Specifically, HUD would require that existing leases of unassisted tenants be maintained after foreclosure for a period equal to the remaining term of the lease or one year, whichever period is shorter, if the leases could otherwise be extinguished under state foreclosure law. This is analogous to the obligation imposed on foreclosure sale purchasers when HUD forecloses under the Multifamily Mortgage Foreclosure Act of 1981, as amended, 12 U.S.C. 3713(c); 24 CFR 27.45(b). This requirement was not raised in the April 13, 1994 proposed rule. HUD has not included a provision in this rule and will take public comment into consideration before adding such a provision through a final rule.

On or about the mortgage sale closing date, HUD also will take steps to provide notice, through posting or otherwise, to tenants in projects covered by § 290.112. The notice will inform tenants that HUD has sold the mortgage on their project and will advise them of the continuation of federal rent subsidy and of the tenant lease protections in event of foreclosure. HUD will advise tenants of their right to enforce these requirements.

Section 290.114 What policies apply concerning nondiscrimination in admitting certificate and voucher holders?

This new section would continue in effect, after a mortgage sale without FHA mortgage insurance, policies against an owner's unreasonable refusal to lease to Section 8 certificate and voucher holders. As explained herein, owners of subsidized and some unsubsidized (partially-assisted) projects are bound by this nondiscrimination provision while HUD insures or holds the mortgage. All purchasers of HUD foreclosed properties, whether formerly subsidized or unsubsidized, are subject to a comparable requirement.

This rule effectuates HUD's intent, as set forth in the preamble to the proposed mortgage sale rule. (59 FR 17502) In response to public comment, HUD declined to include in the regulation, itself, a nondiscrimination prohibition on the grounds that the requirement was imposed by other regulations. (59 FR 48727) The Department had in mind section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)), which contains a prohibition against refusing to lease to certificate or voucher holders. Its applicability to project owners that have received Section 8 is not affected by HUD's sale of these mortgages. However, HUD now recognizes that another applicable provision, section 183(c) of the Housing and Community Development Act of 1987 (42 U.S.C. § 1437f note)(the "1987 Act"), covers additional types of projects (such as a 221(d)(3)(BMIR) or Section 236 project without Section 8 LMSA). Upon sale of the mortgage without insurance, section 183(c) coverage would be terminated.

Section 183(c) of the 1987 Act provides that, while HUD insures or holds a mortgage, "No owner of a subsidized project, as defined in section 203(i)(2) of the Housing and Community Development Amendments of 1978 Act, as amended by section 181(h) of this Act [the 1987 Act]" shall refuse to lease any available unit to Section 8 certificate or voucher holders." Section 203(i)(2) was repealed by the complete amendment of section 203 in section 101 of the 1994 Act. Section 203(b) of the 1978 Act, as amended by the 1994 Act, nonetheless, makes it clear that the previous definition of "subsidized project" continues to apply for purposes of section 183(c). Therefore, although partially-assisted projects (projects with market-rate mortgages and with project-based rental assistance, but on no more than 50 percent of the units) are "unsubsidized projects" for purposes of mortgage sales and project sales under section 203 of the 1978 Act, they are "subsidized projects" for purposes of section 183(c).

The purpose of this new § 290.114 is to provide a clear basis for HUD to impose, as a term or condition in its sale of certain mortgages, a prohibition on discrimination against Section 8 certificate or voucher holders. Section 290.114(a) contains a nondiscrimination requirement comparable to section 183(c). Section 290.114(c) applies this requirement to all projects that were subject to section 183(c) immediately before a mortgage sale without FHA mortgage insurance. If HUD continued to hold the mortgage, the nondiscrimination obligation would terminate when the mortgage obligation was satisfied, whether through a prepayment or regular mortgage amortization. Therefore, the rule similarly limits the period of this obligation with respect to current mortgages on partially-assisted projects and subsidized projects sold without FHA insurance.

Section 290.114(d) requires, for any mortgage that is delinquent at the time HUD offers it for sale, that the mortgage purchaser impose a nondiscrimination covenant as a condition of any loan restructuring, acceptance of a discounted pay-off of the debt from the owner, or in the event of foreclosure, in the foreclosure deed. The covenant would be applicable for a period equal to the remaining term of the HUD mortgage. For the reasons discussed in the explanation of § 290.112, extracting a public policy *quid pro quo* from the owner, in the form of a covenant not to discriminate against Section 8 certificate or voucher holders, is an appropriate means to further assure that HUD's mortgage sale program benefits lower income tenants.

With respect to delinquent mortgages that are foreclosed by mortgage purchasers, or their successors or assigns, the rule simply assures parity with the treatment of projects foreclosed by HUD. Section 204 of the 1978 Act (12 U.C.C. 1701z-12), directs HUD to require a purchaser of any HUD-owned multifamily project to not unreasonably refuse to lease units to certificate holders that rent at or below Section 8 fair market rents. This provision also applies to a party that outbids HUD at the foreclosure sale and acquire title. (See 24 CFR 290.30 and 290.46.)

Accordingly, § 290.114(d) applies to the sale of all delinquent HUD-held mortgages, including delinquent mortgages securing unsubsidized projects with no project-based assistance.

Section 290.114(a) excludes unsubsidized mortgages securing projects with no project-based assistance if they are current at the time HUD offers them for sale. The Department has excluded these projects because they are not subject to section 183(c) of the 1987 Act immediately before HUD sells the mortgages and are not at risk of foreclosure, making future coverage under section 204 of the 1978 Act, discussed below, an irrelevant factor.

Other Matters

Executive Order 12866

This rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866, Regulatory Planning and Review. Any changes made to the rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, room 10276, 451 Seventh Street SW, Washington, D.C.

Regulatory Reinvention

Consistent with Executive Order 12866, and President Clinton's memorandum of March 4, 1995 to all Federal Departments and Agencies on the subject of Regulatory Reinvention, the Department is reviewing all its regulations to determine whether certain regulations can be eliminated, streamlined or consolidated with other regulations. As part of this review, this interim rule, at the final rule stage, may undergo revisions at the final rule stage in accordance with the President's regulatory reform initiatives. In addition to comments on the substance of these regulations, the Department welcomes comments on how this interim rule may be made more understandable and less burdensome.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(k) of the HUD regulations, the policies and procedures contained in this rule relate only to HUD administrative procedures and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. Specifically, the requirements of this rule are directed to HUD administrative procedures, and do not impinge upon the relationship between Federal government and State and local governments.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive order 12606, *The Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule will not affect the ability of small entities, relative to larger entities, to bid for and acquire HUD-held mortgages that HUD decides to sell.

Justification for Interim Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 provides for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1) The Department finds that prior public comment is unnecessary because adequate opportunity to comment on the two regulatory provisions added by this rule has already been provided. The policies implemented by §§ 290.112 and 290.114 were discussed in the April 1994 proposed mortgage sale rule and in

the September 1994 final rule. In both documents, these policies were described as existing HUD policy, and HUD received public comment requesting that the policies be included in the rule itself. When the Department published the September 1994 final rule, it did not include the policies in the rule, not from a disagreement with the commenter over the substance of the policy, but because the Department believed that the policies could be implemented without adding regulatory provisions. As discussed above in the section-by-section analysis, there are limitations in existing authority that could allow for less than full and effective implementation of either of these policies. Further, inclusion of these requirements in announcements of future mortgage sales or in HUD loan sale documents may not provide adequate notice to tenants, owners and prospective investors of these obligations. On further consideration, therefore, the Department is establishing express regulatory bases for these policies.

List of Subjects in 24 CFR part 290

Low and moderate income housing, Mortgage insurance.

Accordingly part 290 of Title 24 of the Code of Federal Regulations is amended as follows:

PART 290—MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY PROJECTS AND CERTAIN MULTIFAMILY PROJECTS SUBJECT TO HUD-HELD MORTGAGES

1. The authority citation for part 290 is revised to read as follows:

Authority: 12 U.S.C. 1701z–11, 1701z–12, 1713, 1715b, 1715z–1b; 42 U.S.C. 3535(d) and 3535(i).

2. New §§ 290.112 and 290.114 are added to read as follows:

§ 290.112 What are the requirements for continuing federal rental subsidy contracts?

For any mortgage that, at the time HUD offers the mortgage for sale without FHA mortgage insurance, is delinquent and secures a subsidized project or unsubsidized project that receives any of the forms of assistance enumerated in paragraph (4)(i) to (4)(iv) of the "subsidized project" definition in § 290.5:

(a) The mortgage purchaser and its successors and assigns shall require the mortgagor to record a covenant running with the land as part of any loan restructuring or of a final compromise of the mortgage debt and shall include a covenant in any foreclosure deed executed in connection with the mortgage. The covenant shall continue in effect until the last federal project-based rental assistance contract expires by its own terms. The covenant shall provide that, except where otherwise approved by HUD, a project purchaser shall agree to assume the obligations of any outstanding—

(1) Project-based federal rental subsidy contract; and

(2) Tenant-based Section 8 housing assistance payments contract with a public housing agency and the related lease.

(b) In the event of foreclosure of the mortgage sold by HUD, the mortgage purchaser and its successors and assigns shall not foreclose in a manner that interferes with any lease related to federal project-based assistance or any lease related to tenant-based, Section 8 housing assistance payments.

§ 290.114 What policies apply concerning nondiscrimination in admitting certificate and voucher holders?

(a) *Nondiscrimination requirement.* For any mortgage described in paragraph (c) or (d) of this section that HUD sells without FHA mortgage insurance, the project owner shall not unreasonably refuse to lease a dwelling unit offered for rent, offer or sell cooperative stock, or otherwise discriminate in the terms of tenancy or cooperative purchase and sale because any tenant or purchaser is a certificate or voucher holder under 24 CFR part 982.

(b) *Inapplicability to current mortgages securing unsubsidized projects that receive no project-based assistance.* The nondiscrimination requirements of this section do not apply to any mortgage, that is current under the terms of the mortgage, at the time HUD offers it for sale, if the mortgage secures an unsubsidized project that does not receive any of the forms of project-based assistance enumerated in paragraph (4)(i) to (4)(iv) of the "subsidized project" definition in § 290.5.

(c) *Applicability to mortgages securing unsubsidized projects receiving project-based assistance (partially-assisted projects) or securing subsidized projects.* (1) The nondiscrimination requirement in paragraph (a) of this section applies to the project owner upon the sale of a mortgage without FHA mortgage insurance if, at the time HUD offers the it for sale, the mortgage secures:

(i) An unsubsidized project that receives any of the forms of assistance enumerated in paragraph (4)(i) to (4)(iv) of the "subsidized project" definition in § 290.5; or

(ii) A subsidized project, as defined in § 290.5.

(2) This requirement shall continue in effect until the mortgage is paid in full, including by a mortgage prepayment, except as provided in paragraph (d) of this section.

(d) *Covenant requirement for all delinquent mortgages sold without FHA mortgage insurance.* This paragraph (d) applies to the sale of any mortgage that is delinquent at the time HUD offers it for sale without FHA mortgage insurance, without regard to the subsidy status of the project. The mortgage purchaser and its successors and assigns shall require the mortgagor to record a covenant running with the land as part of any loan restructuring or final compromise of the mortgage debt and shall include a covenant in any foreclosure deed executed in connection with the mortgage. The covenant shall set forth the nondiscrimination requirement in paragraph (a) of this section. The covenant shall continue in effect until a date that is the same as the maturity date of the mortgage sold by HUD.

Dated: January 11, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–2455 Filed 2–5–96; 8:45 am]

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federal register

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Federal Register

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Electronic Bulletin Board
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Vol. 61, No. 26
Wednesday, February 7, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

RIN 3206–AG50

Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: This document clarifies the final regulations governing the Combined Federal Campaign (CFC) which were published on November 24, 1995, (60 FR 57889). Included in those regulations are the eligibility criteria and public accountability standards for participating charitable organizations.

EFFECTIVE DATE: November 24, 1995.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Lee, 202–606–2564.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction, superseded 5 CFR 950 on the effective date and affect organizations applying for participation in the Combined Federal Campaign.

Need for Correction

As published, the final regulations regarding the public accountability standard for public and government support may mislead an otherwise eligible organization which actually has appropriate funding sources from applying and/or participating in the CFC. The correcting language sets forth the proper accountability process, and allows for the correct computation of funding sources to determine if the organization meets CFC standards. In addition, § 950.501(b) refers to a section which was eliminated from the proposed regulations and combined with § 950.501 of the final regulations. Applicant charitable organizations will benefit from these clarifications.

List of Subjects in 5 CFR Part 950

Administrative practice and procedures, Charitable contributions, Government employee, Military personnel, Nonprofit organizations, Reporting and recordkeeping requirements.

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

Accordingly, 5 CFR 950 is corrected by making the following correcting amendments:

1. The authority citation for Part 5 continues to read as follows:

Authority: E.O. 12353 (March 23, 1982); 47 FR 12785 (March 25, 1982). 3 CFR 1982 Comp., p. 139. E.O. 12404 (February 10, 1983), 48 FR 6685 (February 15, 1983), Pub. L. 100–202, and Pub. L. 102–393 (5 U.S.C. 1101 Note).

§ 950.203 [Corrected]

2. In § 950.203, paragraph (a)(10) is revised to read as follows:

§ 950.203 Public accountability standards.

(a) * * *

(10) Certify that the organization has received no more than 80 percent of its total support and revenues from government sources as computed by dividing line 1c by line 12 from the IRS Form 990 submitted pursuant to § 950.203(a)(3).

§ 950.501 [Corrected]

* * * * *

3. In § 950.501, in paragraph (b) remove "§ 950.502" and insert, "§ 950.501(a)" in its place.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–2545 Filed 2–6–96; 8:45 am]

BILLING CODE 6325–01–M

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (the Board) is amending appendices II and III to its rules at 5 CFR part 1201 to reflect a realignment of the geographical jurisdictions of its regional and field offices, effective immediately, and to announce the closing of its St. Louis Field Office as of April 1, 1996.

EFFECTIVE DATE: February 7, 1996.

FOR FURTHER INFORMATION CONTACT: Darrell L. Netherton, Director of Regional Operations, (202) 653–5805.

SUPPLEMENTARY INFORMATION: The Board is amending appendices II and III to its rules at 5 CFR part 1201 to reflect a realignment of the geographical jurisdictions of its regional and field offices, effective immediately, and to announce the closing of its St. Louis Field Office as of April 1, 1996. This realignment is a continuation of the Board's efforts to streamline its operations and will enable the Board to continue to respond to the needs of its customers while maximizing the use of its financial and human resources.

The realignment results in the following changes:

(1) The San Francisco Regional Office is redesignated the Western Regional Office. The amendment also reflects the new address and facsimile number of this office. The Denver Field Office, previously under the Dallas Regional Office, is realigned with the Western Regional Office. The geographic areas covered by the Western Regional Office and its Denver and Seattle field offices now constitute the Western Region.

(2) The Chicago Regional Office is redesignated the Central Regional Office and gains jurisdiction over the geographic areas formerly under the St. Louis Field Office, except for its jurisdiction in Tennessee as described in item 4 below. The Dallas Regional Office is redesignated as a field office. The geographic areas covered by the Central Regional Office and its Dallas Field Office new constitute the Central Region.

(3) The Philadelphia Regional Office is redesignated the Northeastern Regional Office. The geographic areas covered by the Northeastern Regional Office and its Boston and New York field offices now constitute the Northeastern Region.

(4) The Atlanta Regional Office gains jurisdiction over the area of Tennessee west of the Tennessee River and now has jurisdiction over the entire state of Tennessee. The geographic areas covered by the Atlanta Regional Office now constitute the Atlanta Region.

(5) There is no change to the jurisdiction of the Washington Regional Office. The geographic areas covered by the Washington Regional Office now constitute the Washington Region.

(6) The St. Louis Field Office will close as of April 1, 1996.

Because appeals and related matters must be filed with the regional or field office having geographic jurisdiction, appellants, agencies, and other interested parties should carefully review the amended regional and field office jurisdictions in appendix II to part 1201 and the approved hearing locations in appendix III to part 1201. (The approved hearing locations in appendix III are listed in alphabetical order by state, and alphabetically by city within each state.) For the convenience of its customers, the Board is republishing appendices II and III to part 1201 in their entirety.

Effective as of the date of this notice, all new appeals from the geographic areas formerly covered by the St. Louis Field Office should be filed with the Central Regional Office in Chicago (except those from Tennessee west of the Tennessee River, which should be filed with the Atlanta Regional Office). The St. Louis Field Office will continue to process its pending caseload until the office closes and cases in process are turned over to the Central Regional Office. Parties with cases pending before judges in the St. Louis Field Office should continue to make any required filings and direct any inquiries to the St. Louis Field Office until otherwise advised by the judge assigned to their case.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

PART 1201—[AMENDED]

1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204, and 7701 unless otherwise noted.

Appendices II and III to part 1201 are revised to read as follows:

Appendix II to Part 1201—Appropriate Regional or Field Office for Filing Appeals

All submissions shall be addressed to the Regional Director, if submitted to a regional office, or the Chief Administrative Judge, if submitted to a field office, Merit Systems Protection Board, at the addresses listed below, according to geographic region of the employing agency or as required by § 1201.4(d) of this part. The facsimile numbers listed below are TDD-capable; however, calls will be answered by voice before being connected to the TDD. Address of Appropriate Regional or Field Office and Area Served:

1. Atlanta Regional Office, 401 West Peachtree Street, N.W., 10th floor, Atlanta, Georgia 30308–3519, Facsimile No.: (404) 730–2767, (Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee).
2. Central Regional Office, 230 South Dearborn Street, 31st floor, Chicago, Illinois 60604–1669, Facsimile No.: (312) 886–4231, (Illinois; Indiana; Iowa; Kansas City, Kansas; Kentucky; Michigan; Minnesota; Missouri; Ohio; and Wisconsin).

2a. Dallas Field Office, 1100 Commerce Street, Room 6F20, Dallas, Texas 75242–9979, Facsimile No.: (214) 767–0102, (Arkansas, Louisiana, Oklahoma, and Texas).

3. Northeastern Regional Office, U.S. Customhouse, Room 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106–2987, Facsimile No.: (215) 597–3456, (Delaware; Maryland—except the counties of Montgomery and Prince George's; New Jersey—except the counties of Bergen, Essex, Hudson, and Union; Pennsylvania; and West Virginia).

3a. Boston Field Office, 99 Summer Street, Suite 1810, Boston, Massachusetts 02110–1200, Facsimile No.: (617) 424–5708, (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont).

3b. New York Field Office, 26 Federal Plaza, Room 3137–A, New York, New York 10278–0022, Facsimile No.: (212) 264–1417, (New Jersey—counties of Bergen, Essex, Hudson, and Union; New York; Puerto Rico; and Virgin Islands).

4. Washington Regional Office, 5203 Leesburg Pike, Suite 1109, Falls Church, Virginia 22041–3473, Facsimile No.: (703) 756–7112, (Maryland—counties of Montgomery and Prince George's; North Carolina; Virginia; Washington, DC; and all overseas areas not otherwise covered).

5. Western Regional Office, 250 Montgomery Street, Suite 400, 4th floor, San Francisco, California 94104–3401, Facsimile No.: (415) 705–2945, (California and Nevada).

5a. Denver Field Office, 12567 West Cedar Drive, Suite 100, Lakewood, Colorado 80228–2009, Facsimile No.: (303) 969–5109, (Arizona, Colorado, Kansas—except Kansas City, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Utah, and Wyoming).

5b. Seattle Field Office, 915 Second Avenue, Suite 1840, Seattle, Washington 98174–1056, Facsimile No.: (206) 220–7982, (Alaska, Hawaii, Idaho, Oregon, Washington, and Pacific overseas areas).

Appendix III to Part 1201—Approved Hearing Locations By Regional Office

Atlanta Regional Office

Birmingham, Alabama
Huntsville, Alabama
Mobile, Alabama
Montgomery, Alabama
Jacksonville, Florida
Miami, Florida
Orlando, Florida
Pensacola, Florida
Tallahassee, Florida
Tampa/St. Petersburg, Florida
Atlanta, Georgia
Augusta, Georgia
Macon, Georgia
Savannah, Georgia
Jackson, Mississippi
Charleston, South Carolina
Columbia, South Carolina
Chattanooga, Tennessee
Knoxville, Tennessee
Memphis, Tennessee
Nashville, Tennessee

Central Regional Office

Chicago, Illinois
Indianapolis, Indiana
Davenport, Iowa/Rock Island, Illinois
Des Moines, Iowa
Lexington, Kentucky
Louisville, Kentucky
Detroit, Michigan
Minneapolis/St. Paul, Minnesota
Kansas City, Missouri
Springfield, Missouri
St. Louis, Missouri
Cleveland, Ohio
Cincinnati, Ohio
Columbus, Ohio
Dayton, Ohio
Milwaukee, Wisconsin

Dallas Field Office

Little Rock, Arkansas
Alexandria, Louisiana
New Orleans, Louisiana
Oklahoma City, Oklahoma
Tulsa, Oklahoma
Corpus Christi, Texas
Dallas, Texas
El Paso, Texas
Houston, Texas
San Antonio, Texas
Temple, Texas
Texarkana, Texas

Northeastern Regional Office

Dover, Delaware
Baltimore, Maryland
Trenton, New Jersey
Harrisburg, Pennsylvania
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
Wilkes-Barre, Pennsylvania
Charleston, West Virginia
Morgantown, West Virginia

Boston Field Office

Hartford, Connecticut
New Haven, Connecticut
Bangor, Maine
Portland, Maine
Boston, Massachusetts
Manchester, New Hampshire
Portsmouth, New Hampshire
Providence, Rhode Island
Burlington, Vermont

New York Field Office

Newark, New Jersey
Albany, New York
Buffalo, New York
New York, New York
Syracuse, New York
San Juan, Puerto Rico

Washington Regional Office

Washington, DC
Asheville, North Carolina
Charlotte, North Carolina
Raleigh, North Carolina
Jacksonville, North Carolina
Bailey's Crossroads, Falls Church, Virginia
Norfolk, Virginia
Richmond, Virginia
Roanoke, Virginia

Western Regional Office

Fresno, California
Los Angeles, California
Sacramento, California
San Diego, California
San Francisco, California
Santa Barbara, California
Las Vegas, Nevada
Reno, Nevada

Denver Field Office

Phoenix, Arizona
Tucson, Arizona
Denver, Colorado
Grand Junction, Colorado
Pueblo, Colorado
Wichita, Kansas
Billings, Montana
Great Falls, Montana
Missoula, Montana
Omaha, Nebraska
Albuquerque, New Mexico
Bismarck, North Dakota
Fargo, North Dakota
Rapid City, South Dakota
Sioux Falls, South Dakota
Salt Lake City, Utah
Casper, Wyoming

Seattle Field Office

Anchorage, Alaska
Honolulu, Hawaii
Boise, Idaho
Pocatello, Idaho
Medford, Oregon
Portland, Oregon
Seattle, Washington
Spokane, Washington
Richland, Kennewick, and Pasco, Washington

Dated: February 2, 1996.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 96–2620 Filed 2–6–96; 8:45 am]

BILLING CODE 7400–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AGL–9]

Realignment of Jet Route J–588

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Jet Route J–588 between the state of Michigan and Canada. This action is necessary because the Stirling, ON, Canada, Very High Frequency Omnidirectional Range (VOR) has been decommissioned. Altering J–588 will ensure continuity for aircraft transitioning along that jet route to and from the United States and Canada.

EFFECTIVE DATE: 0901 UTC, April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

History

On October 5, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter Jet Route J–588 from the Sault Ste Marie, MI, VOR to the Stirling, ON, Canada, VOR (60 FR 52133). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Jet routes are published in paragraph 2004 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters Jet Route J–588 from the Sault Ste Marie, MI, VOR to the Stirling, ON, Canada, VOR. The Stirling VOR was decommissioned in July 1995. To ensure that continuity exists along J–588 for aircraft transitioning to and from the United States and Canada, the jet route will be realigned with the Campbellford, ON, Canada, VOR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp. p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–588 [Revised]

From Sault Ste Marie, MI; to Campbellford, ON, Canada. The portion within Canada is excluded.

* * * * *

Issued in Washington, DC, on January 30, 1996.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 96–2631 Filed 2–6–96; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–5416–7]

Air Quality; Revision to Definition of Volatile Organic Compounds—Exclusion of Perchloroethylene

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises EPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (Act) and for the Federal implementation plan (FIP) for the Chicago ozone nonattainment area. This action adds perchloroethylene (perc), also known as tetrachloroethylene, to the list of compounds excluded from the definition of VOC on the basis that it has negligible photochemical reactivity. Perc is a solvent commonly used in dry cleaning, maskant operations, and degreasing operations. This rule results in more accurate assessment of ozone formation potential and will assist States in avoiding exceedances for the ozone health standard. The rule does this by causing control efforts to focus on compounds which are actual ozone precursors, rather than giving credit for control of a compound which has negligible photochemical reactivity.

Perc will continue to be regulated as a hazardous air pollutant under section 112 of the Clean Air Act. EPA has already issued regulations limiting emissions of perc from dry cleaning and halogenated solvent cleaning and as a feedstock in the organic chemical manufacturing industry.

EFFECTIVE DATE: This rule is effective March 8, 1996.

ADDRESSES: Pursuant to section 307(d)(1) (B), (J), and (U) of the Act, 42 U.S.C. section 7607(d)(1) (B), (J), and (U), this action is subject to the procedural requirements of section 307(d). Therefore, EPA has established a public docket for this action, A–92–09, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. William Johnson, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (MD–15), Research Triangle Park, NC 27711, phone (919) 541–5245.

SUPPLEMENTARY INFORMATION:

I. Background

On July 8, 1977, EPA published a recommended policy on control of VOC (42 FR 3513) which discussed the photochemical reactivity of organic compounds and their role in the formation of tropospheric ozone. This policy statement identified several compounds that are considered to be of negligible photochemical reactivity and which are not required to be controlled in order to prevent the formation of tropospheric ozone. The policy was subsequently amended on June 4, 1979 (44 FR 32042), May 16, 1980 (45 FR 32424), July 22, 1980 (45 FR 48941), January 18, 1989 (54 FR 1988), and March 18, 1991 (56 FR 11418) to add compounds to those already recognized by EPA as having negligible photochemical reactivity.

On October 24, 1983, EPA proposed to add perc to the list of negligibly-reactive compounds which would be exempt from regulation under SIP's to attain the NAAQS for ozone. This proposal was based upon a laboratory testing program that investigated perc's role in the tropospheric ozone problem. The study concluded that perc contributes less to the ambient ozone problem than equal concentrations of ethane (one of the negligibly-reactive organic compounds previously exempted from ozone SIP controls). The details of this investigation are contained in the EPA report, "Photochemical Reactivity of Perchloroethylene," EPA–600/3–83–001, January 1983. A copy has been placed in the docket (A–92–09) for today's action.

In the October 24, 1983 proposal, comments were solicited on the proposed action. The EPA received 20 comments on the proposal. None of the commenters questioned the technical judgment that perc is negligibly reactive and has an insignificant impact on ozone formation. However, there was quite a divergence of opinion as to the action EPA should take in response to the new findings on the reactivity of perc, many of which related to concerns about perc as a toxic air pollutant. Because of these concerns, EPA determined at that time to take no final action on the proposal.

Subsequently, the Act as amended listed perc as a hazardous air pollutant (HAP) under section 112(b). Pursuant to section 112(d), EPA has issued national emission standards for hazardous air pollutants (NESHAP) for two major perc source categories: perc dry cleaning, September 22, 1993 (58 FR 49354), and halogenated solvent cleaning, December 2, 1994 (59 FR 61801). Additional releases which may result from perc production or use as a feedstock are addressed by the NESHAP for the hazardous organics (chemicals) industry promulgated April 22, 1994 (59 FR 19402). These two applications, together with the use of perc as feedstock in chemical production, account for 90% of current perc production. Pursuant to section 112(e) of the amended Act, the EPA will be issuing hazardous pollutant emissions standards for various other categories including several other perc sources through November 15, 2000. On January 28, 1992, the Halogenated Solvents Industry Alliance (HSIA) petitioned EPA to exempt perc from regulation as an ozone precursor under the Act. This request was based on HSIA's contention that perc is negligibly photochemically reactive and does not contribute to tropospheric ozone formation. The HSIA identified, as the technical basis for its contention that perc is negligibly reactive, the October 24, 1983 proposal (48 FR 49097) by EPA to amend its "Recommended Policy on Control of Organic Compounds" to exempt perc from regulation on the basis of its negligible photochemical reactivity.

On February 3, 1992 (57 FR 3941), pursuant to a proposed rule issued March 18, 1991 (56 FR 11418), EPA promulgated a general definition of VOC (40 CFR 51.100(s)) as part of EPA's regulations governing the development of SIP's. That action also incorporated the VOC definition into various SIP-related rules, including EPA's new source review rules and the FIP rules for the Chicago area. This 1992 regulatory definition superseded the July 8, 1977 policy statement as well as the subsequent revisions to that policy. In accordance with the policy on which it was based, the regulatory definition excludes a number of organic compounds from the definition of VOC on the basis that they are negligibly photochemically reactive and therefore contribute negligibly to tropospheric ozone formation. This list of negligibly-reactive compounds contained the compounds originally identified in the 1977 policy statement plus other compounds that have been recognized by EPA subsequent to the 1977 policy statement as having negligible photochemical reactivity. Further, EPA has revised this definition twice through rulemaking (59 FR 50693 and 60 FR 31633). Perc was not included in the list of negligibly photochemically reactive compounds in this definition.

On October 26, 1992, EPA proposed to revise its definition of VOC (40 CFR 51.100(s)) by adding perc to the list of compounds that are regarded as negligibly photochemically reactive. Final action based on that October 26, 1992 proposal is being taken today.

II. Comments on Proposal and EPA Responses

In accordance with section 307(d) of the Act, as amended in 1990, today's action is accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period. Eight commenters (a labor union, an environmental organization, a municipal government, two trade associations, and three manufacturing companies) submitted written comments in response to EPA's October 26, 1992 proposal. Most of the comments support the proposed action. Copies of these comments are located in the docket (A–92–09) for this action. Significant comments and EPA's responses are summarized below. Finally, in the proposal for today's action, EPA indicated that interested persons could request that EPA hold a public hearing on the proposed action (see section 307(d)(5)(ii) of the Act). The EPA did not receive any such requests for a public hearing and, therefore, did not hold one.

Comment: Two commenters suggested that the proposal should be delayed or withdrawn until it has been established that the public health is adequately protected by controls on emissions of perc from all sources. This concern is brought about, in part, by the fact that perc is listed as a HAP in section 112 of the Act. These commenters refer to the toxicity hazard of the compound and to the possibility that it may be a human carcinogen. One of these commenters stated that there are sources of perc, other than dry cleaning, for which EPA has not yet proposed NESHAP which would define the maximum available control technology level of control for the source. Such sources include degreasing, use in paints and architectural coatings, adhesives, use for maskants in the aerospace industry, and miscellaneous uses in the manufacture of aerosol spray paints and cleaners, pharmaceuticals, textiles, printing inks, and dielectric fluids for power transformers. These sources will not be controlled as VOC sources if perc is excluded from the definition of VOC.(Note—The NESHAP for halogenated solvent cleaning had not yet been promulgated when this comment was submitted.)

Response: The EPA's purpose in promulgation of the general definition of VOC (40 CFR 51.100(s)) is for use in the preparation of SIP's designed to achieve and maintain the NAAQS for ozone. That definition of VOC lists several compounds which are considered to have negligible photochemical reactivity and, therefore, are exempt from the VOC definition. Based on the criteria used to judge the reactivity of compounds for this list, EPA has determined that perc should be added to the list of compounds as not contributing substantially to the formation of ground level ozone. Further, EPA believes that based on perc's non-reactivity it is inappropriate to allow States to continue to take credit for perc reductions in ozone non-attainment planning.

Compounds that are defined as being HAP are required to be controlled under section 112 of the Act which calls for EPA to develop a NESHAP for sources of the listed compounds. Perc is listed as a HAP in section 112 of the Act. The EPA believes that the control of HAP, including perc, under section 112 of the Act is the proper approach to controlling these emissions. EPA shares the concerns regarding perc's toxicity. Acute and chronic inhalation exposure to perc results in central nervous system effects. Further, EPA's science advisory board (SAB) has advised the Agency that perc should be classified as a carcinogen; the SAB found that the scientific evidence of carcinogenicity falls on the continuum between "B2" probable and a "C" possible. For these reasons EPA believes that regulation under section 112 of the Clean Air Act is appropriate. As noted previously, EPA already has taken steps to regulate the great majority of perc emissions and plans to issue further regulations for the remaining major sources which release perc to the atmosphere. Further, EPA has the authority to regulate additional source categories—if EPA identifies any such sources. EPA today reaffirms its intention to ensure that adequate public health protection from perc emissions is provided through these programs.

Today's action improves our ability to provide public health protection from the effects of ground level ozone. The rule does this by causing control efforts to focus on compounds which are actual ozone precursors, rather than giving credit for control of a compound which has negligible photochemical reactivity. And since the Agency already has made substantial progress in issuing necessary NESHAPs, EPA does not agree that the proposal to add perc to the negligibly reactive list in the definition of VOC should be delayed until all evaluations of perc emissions under section 112 of the Act are complete. Further, representatives of trade associations for manufacturers and end-users of perchloroethylene have stated that they believe that perchloroethylene consumption in consumer products and related products (and therefore associated emissions) will not increase dramatically as a result of this action. We have received commitments from industry associations to survey or otherwise track how consumption of perchloroethylene in these kinds of products changes. Should EPA become aware of significant increases in perchloroethylene emissions or in public exposure from such sources, EPA will then consider appropriate regulatory action.

Comment: One commenter noted that exempting perc as a VOC would mean that the control techniques guideline (CTG) for perc dry cleaning ("Control of Volatile Organics Emissions from Perchloroethylene Dry Cleaning Systems"; EPA 450/2–78–050, December 1978) would no longer apply. In addition, the proposed NESHAP for the dry cleaning industry (56 FR 64382, December 9, 1991) would exempt many small sources that the CTG covers. Therefore, the public will have greater exposure to a suspected carcinogen than if perc continues to be controlled as a VOC for purposes of meeting reasonably available control technology. (Note—Since these comments were received, the dry cleaning NESHAP has been promulgated.)

Response: EPA is confident that the recently promulgated NESHAP increases public health protection above levels achieved by the formerly applicable CTG. It is true that the NESHAP for dry cleaning exempts small-sized dry cleaners from additional control requirements for process emissions, albeit fewer small sources than initially proposed. The decision to limit requirements on these smallest sources was made based on deliberations considering the extreme impacts of the control costs on these very small sources. All sources must now comply with pollution prevention requirements such as leak detection and repair. EPA further notes that the control requirements for most sources are considerably more stringent under the recent NESHAP than under the CTG. The NESHAP results in nationwide decreases in perc emissions of 32,400 Mg (35,700 T) each year beyond controls existing due to the CTG or other State rules.

Comment: One commenter cited as unfair the section of the proposed rule change that would prohibit the use of perc emission reduction credits (ERC) which were achieved prior to the proposed revision as VOC offsets or in netting transactions. The commenter asserted that such a prohibition would have a negative financial impact on companies that spent money in good faith to reduce perc emissions and to bank emissions credits prior to the rule change. A second commenter suggested that treating perc as a VOC may interfere with attainment of the ozone NAAQS. This second commenter attached a January 8, 1992 letter from the San Diego Air Pollution Control District to EPA which took a critical view of having to issue ERC for substantial reductions in emissions of perc. This letter said:

> Under the existing VOC definition, these ERC's may now be used to offset emission increases from the new sources of VOC whose photochemical reactivity is not negligible, resulting in a net increase in ozone precursors. The use of perchloroethylene ERC's as offsets exacerbates the District's severe ozone nonattainment problem since the emission increase in reactive compounds would not be truly offset.

Response: The EPA is deferring its decision concerning whether credits for perc, which were banked prior to today's action, may be used in future netting, offsetting or trading transactions with reactive VOC. Because of the potential impact that banked emissions could have on attainment demonstrations and reasonable further progress showings, EPA needs to conduct further discussions with States on this issue.

Comment: One commenter supported the withdrawal of the appropriate CTG's simultaneously with any final rulemaking.

Response: There are two CTG's which refer to perc, the solvent metal cleaning CTG and the perc dry cleaning CTG ("Control of Volatile Organic Emissions from Solvent Metal Cleaning," EPA–450/2–77–022, November 1977, and "Control of Volatile Organic Emissions from Perchloroethylene Dry Cleaning Systems," EPA–450/2–78–050, December 1978). The solvent metal cleaning CTG discusses a number of other solvents in addition to perc, and the technology discussed in this CTG would often apply to any of several solvents that are used for degreasing. The perc dry cleaning CTG is aimed specifically at controlling perc.

Today's action in promulgating this final rule means that, for purposes of ozone control, the perc dry cleaning CTG no longer has the legal status of a CTG. The solvent metal cleaning CTG is no longer considered to be a CTG for controlling perc emissions. However, the solvent metal cleaning CTG is still applicable as a CTG in regards to all other solvents which are VOC. Although these two documents are no longer regarded as CTG's as related to perc, they remain effective as technical guidance documents; States may still use the documents as sources of technical information when developing rules to control toxic materials.

III. Final Action

Today's final action is based upon the material in Docket No. A–92–09 and EPA's review and consideration of all comments received during the public comment period. As provided in EPA's October 26, 1992 proposal and as modified in response to comments described above, EPA hereby amends its definition of VOC at 40 CFR 51.100(s) to exclude perchloroethylene (also known as tetrachloroethylene) as a VOC for ozone SIP purposes. The revised definition will also apply in the Chicago ozone nonattainment area pursuant to the 40 CFR 52.741(a)(3) definition of volatile organic material or volatile organic compounds. States are not obligated to exclude from control as a VOC those compounds that EPA has found to be negligibly reactive. However, after the effective date of this final action, EPA will not enforce measures controlling perc as part of a federally-approved ozone SIP. In addition, after the effective date of this final action, States may not take credit for controlling perc in their ozone control strategies.

Pursuant to 5 U.S:C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it relaxes current regulatory requirements rather than imposing new ones. The EPA has determined that this rule is not "significant" under the terms of Executive Order 12866 and is, therefore, not subject to Office of Management and Budget (OMB) review. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local and/or tribal government(s) in the aggregate. Since today's action is deregulatory in nature and does not impose any mandate upon any source, the cost of such mandates will not result in estimated annual costs of $100 million or more.

Assuming this rulemaking is subject to section 317 of the Act, the Administrator concludes, weighing the Agency's limited resources and other duties, that it is not practicable to conduct an extensive economic impact assessment of today's action since this rule will relax current regulatory requirements. Accordingly, the Administrator simply notes that any costs of complying with today's action, any inflationary or recessionary effects of the regulation, and any impact on the competitive standing of small businesses, on consumer costs, or on energy use, will be less than or at least not more than the impact that existed before today's action.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 26, 1996.

Carol M. Browner,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 51.100 is amended by revising paragraph (s)(1) introductory text to read as follows:

§ 51.100 Definitions.

* * * * *

(s) * * *

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC–113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (HCFC–22); trifluoromethane (HFC–23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC–123); 1,1,1,2-tetrafluoroethane (HFC–134a); 1,1-dichloro 1-fluoroethane (HCFC–141b); 1-chloro 1,1-difluoroethane (HCFC–142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2-tetrafluoroethane (HFC–134); 1,1,1-trifluoroethane (HFC–143a); 1,1-difluoroethane (HFC–152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene) and perfluorocarbon compounds which fall into these classes:

* * * * *

[FR Doc. 96–2495 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300398A; FRL–4987–6]

RIN 2070–AB78

Styrene-2-Ethylhexyl Acrylate-Glycidyl Methacrylate-2-Acrylamido-2-Methylpropanesulfonic Acid Graft Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer when used as an inert ingredient (dispersing agent/solvent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Dow Chemical Co. requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective February 7, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP-300398A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP-300398A] . No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, Registration Support Branch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8811; e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of October 25, 1995 (60 FR 54643), which announced that Dow Chemical Co., 1803 Building, Midland, MI 48674-1803, had submitted pesticide petition (PP) 5E04461 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 346a(e)), amend 40 CFR 180.1001(c) by exempting styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer when used as an inert ingredient (dispersing agent/solvent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, under 40 CFR 180.1001(c). The inert ingredient meets the definition of a polymer under 40 CFR 723.250(b) and the criteria listed in 40 CFR 723.250(e) that define a chemical substance that poses no unreasonable risk under section 5 of the Toxic Substance Control Act (TSCA).

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohol and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceouse earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted on the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, tolerance exemption is established as set forth below.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve

one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

EPA has established a record for this rulemaking under docket number [OPP-300398A] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 29, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
. . .	. . .	. .
Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer, minimum number-average molecular weight 12,500.	.....	Dispersing agent/solvent.
. . .	. . .	. .

* * * * *

[FR Doc. 96–2626 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 2F4072/R2188; FRL–4986–7]

Metalaxyl; Pesticide Tolerances; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Correction.

SUMMARY: This document corrects a pesticide tolerance for metalaxyl in or on mustard greens that was set forth in a final rule in the **Federal Register** of November 15, 1995.

EFFECTIVE DATE: February 7, 1996.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6226; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In FR Doc. 95-28068 in the **Federal Register** of November 15, 1995, at page 57364, a parts-per-million tolerance for mustard greens appeared as 2.0 ppm in the table, although the preamble to the document had made clear that the tolerance to be established is 5.0 ppm. This document corrects the entry for mustard greens in the table to 40 CFR 180.408(a) by changing the parts-per-million entry from 2.0 ppm to 5.0 ppm.

Authority: 21 U.S.C. 346a and 348.

Dated: January 27, 1996

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–2624 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 4E4419/R2179; FRL–4981–6]

RIN 2070–AB78

Avermectin B_1 and its Delta-8,9-Isomer; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes time-limited tolerances for residues of the insecticide avermectin B_1 and its delta-8,9-isomer in or on the raw agricultural commodities dried hops and cattle fat. The regulation to establish maximum permissible levels for residues of the insecticide was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4). The time-limited tolerances for dried hops and cattle expire on April 30, 1996.

EFFECTIVE DATE: This regulation becomes effective February 7, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4E4419/R2179], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 4E4419/R2179]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 259, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 13, 1995 (60 FR 47529), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 4E4419 to EPA on behalf of the Idaho, Oregon, and Washington Hop Commissions and the Hop Growers of America. The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.449 by establishing time-limited tolerances for the combined residues of the insecticide avermectin B_1 [a mixture of avermectins containing greater than or equal to 80 percent avermectin B_{1a} (5-O-demethyl avermectin A_{1a}) and less than or equal to 20 percent avermectin B_{1b} (5-O-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_{1a})] and its delta-8,9-isomer in or on the raw agricultural commodities dried hops at 0.5 part per million (ppm) and cattle fat at 0.015 ppm.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

EPA is also revising the introductory text of § 180.449(a) to correctly set forth the chemical expression for avermectin B_1 in the paragraph. The chemical was incorrectly expressed in an amendment in the **Federal Register** of September 30, 1994 (59 FR 49826). This is a nonsubstantive change that merely is a restatement of a chemical expression.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 4E4419/R2179] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 4E4419/R2179], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all objections and hearing requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 26, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.449, by revising paragraph (a) and by amending paragraph (b) by revising the introductory text, to read as follows:

§ 180.449 Avermectin B_1 and its delta-8,9-isomer; tolerances for residues.

(a) Tolerances, to expire on April 30, 1996, are established for the insecticide avermectin B_1 [a mixture of avermectins containing greater than or equal to 80 percent avermectin B_{1a} (5-O-demethyl avermectin A_{1a}) and less than or equal to 20 percent avermectin B_{1b} (5-O-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_{1a})] and its delta-8,9-isomer in or on the following commodities:

Commodity	Parts per million	Expiration date
Cattle, fat	0.015	April 30, 1996
Cattle, meat	0.02	Do.
Cattle, mbyp	0.02	Do.
Citrus, whole fruit	0.02	Do.
Cottonseed	0.005	Do.
Hops, dried	0.5	Do.
Milk	0.005	Do.

(b) A tolerance is established for the combined residues of the the insecticide avermectin B_1 [a mixture of avermectins containing greater than or equal to 80 percent avermectin B_{1a} (5-O-demethyl avermectin A_{1a}) and less than or equal to 20 percent avermectin B_{1b} (5-O-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_{1a})] and its delta-8,9-isomer in or on the following commodities:

* * * * *

[FR Doc. 96–2622 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 960129018–6018–01; I.D. 020196A]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 63

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting the directed fishery for pollock in Statistical Area 63 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the first quarterly allowance of the total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 2, 1996, until 12 noon, A.l.t., June 1, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The first quarterly allowance of pollock TAC in Statistical Area 63 is 3,420 metric tons (mt) (1996 GOA Final Specifications published February 5, 1996), determined in accordance with § 672.20(a)(2)(iv). The directed fishery for pollock in Statistical Area 63 of the GOA was closed under § 672.20(c)(2)(ii) on January 23, 1996 (61 FR 2457, January 26, 1996) and reopened on January 29, 1996 (61 FR 3606, February 1, 1996). The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the first quarterly allowance of pollock TAC in Statistical Area 63 soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 3,220 mt after determining that 200 mt will be taken as incidental catch in directed fishing for other species in Statistical Area 63 in the GOA. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 63.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 1, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–2568 Filed 2–1–96; 4:53 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 26
Wednesday, February 7, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Chapter I

[Docket No. RM96–6–000]

Inquiry Concerning Commission's Merger Policy Under the Federal Power Act

January 31, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Energy Regulatory Commission requests comments on whether it should revise its criteria and policies for evaluating public utility mergers in light of fundamental changes in the electric industry and the regulation of that industry.

DATES: Written comments of no more than 50 pages, double-spaced, must be received no later than May 7, 1996.

ADDRESSES: Send comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 208–0921.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397 if dialing locally or 1–800–856–3720 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order will be available on CIPS indefinitely in ASCII and Wordperfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in the Public Reference Room at 888 First Street NE., Washington, DC 20426.

I. Background

The Federal Energy Regulatory Commission (Commission) requests comments on whether its criteria and policies for evaluating mergers of public utilities need to be revised in light of fundamental changes in the electric industry and the regulation of that industry.

Under section 203 of the Federal Power Act (FPA),[1] no public utility may dispose of, merge, or consolidate certain facilities under the Commission's jurisdiction without the Commission's approval.[2] The Commission is to approve a merger if the merger is "consistent with the public interest."

The Commission presently analyzes proposed mergers by examining six non-exclusive factors that were set forth in *Commonwealth Edison Company*.[3] These factors are:

(1) the effect on the applicants' operating costs and rate levels;

(2) the contemplated accounting treatment;

(3) the reasonableness of the purchase price;

(4) whether the acquiring utility has coerced the to-be-acquired utility into acceptance of the merger;

(5) the effect on competition; and

(6) the impact on the effectiveness of state and Federal regulation.

Of these factors, the effects on costs and rates, and on competition, have been the most significant issues presented in recent merger cases.

We have used the *Commonwealth* factors for almost thirty years. However, the industry and our regulation of it have changed significantly during that time, and even greater changes are likely in the future. As we explained in detail in our proposed Open Access rule,[4] a variety of factors has created considerable competition in the generation market and structural changes in the industry itself. For instance, the advent of various non-traditional generating entities and the greater availability of transmission (brought about by the Energy Policy Act of 1992[5] and by certain utilities' "open access" filings) have allowed a great deal of competition, particularly in the market for new generation. Since the Open Access NOPR was issued, there have been further competitive changes. For example, thirty-one public utilities have filed transmission tariffs that provide varying degrees of open access; certain power pools have discussed adopting Independent System Operators (ISOs) or other structural changes;[6] and the California Public Utilities Commission has issued an order directing restructuring of the electric industry in California to include a spot market power exchange, an ISO and retail access, among other things.[7] With the final Open Access rule, non-discriminatory wholesale open access will be available on an even wider basis. This, in turn, will further increase competition.

In light of these fundamental changes, the Commission solicits comments on whether our criteria and policies for evaluating mergers need to be changed. We note that several entities commenting on the Open Access proposal argued that the policy needs to be updated. In general, these commenters are concerned that mergers may create "mega-utilities" that will have market power in generation, particularly if these utilities are able to

[1] 16 U.S.C. § 824b.

[2] In this order, we will refer to all such transactions as mergers.

[3] 36 FPC 927 (1996), *off'd sub nom. Utility Users League* v. *FPC*, 394 F.2d 16 (7th Cir. 1968), *cert. denied*, 393 U.S. 953 (1968).

[4] Promoting Wholesale Competition Through Open Access Nondiscriminatory Transmission Services by Public Utilities, 60 FR 17662 at 17668–17675 (April 7, 1995), IV FERC Stats. & Regs., Proposed Regulations ¶ 32,514 at 33,057–33,069 (1995).

[5] 16 U.S.C. §§ 824j–824l.

[6] Transcript of Commission's Conference on Power Pools Under the Open Access Proposal, vol. 1, pages 75 *et seq.* (New York Power Pool); 78 *et seq.* (New England Power Pool); 82 *et seq.* (Pennsylvania-New Jersey-Maryland Power Pool) (Dec. 5, 1995).

[7] D.95–12–063 (Dec. 20, 1995), *as modified by* D.96–01–009 (Jan. 10, 1996).

avoid the pancaked transmission rates that their competitors have to pay.[8]

II. Public Comment Procedures

The Commission invites all interested parties to submit an original and 14 copies of their comments. Comments should not exceed 50 pages, double-spaced, and should include an executive summary. Commenters should briefly describe themselves and should refer to Docket No. RM96–6–000. They should submit a copy of their comments on a 3½ inch diskette in ASCII II format. Comments must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, no later than May 7, 1996. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Section, 888 First Street NE., Washington, DC 20426, during regular business hours.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2548 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–P

[8] *E.g.*, American Public Power Association initial comments at 4, reply comments at 9–10; National Rural Electric Cooperative Association initial comments at 20–21; National Independent Power Producers reply comments at 5–6; Indiana Utility Regulatory Commission initial comments at 36–7.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1220

[Docket No. 96N–0011]

Tea Importation Act; Tea Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing how it intends to implement the Tea Importation Act (the Act) in the wake of the agency's appropriation for fiscal year (FY) 1996, which provides that none of the funds appropriated may be used to operate the Board of Tea Experts (the board). Without a board to provide recommendations for standards of purity, quality, and fitness for consumption of imported teas, FDA has decided to solicit public recommendations for the tea standards that will be effective beginning May 1, 1996. In addition, FDA requests comments on the appropriateness of this approach to setting such standards.

DATES: Written comments and other material considered relevant, including samples that the agency may use as standards, by April 8, 1996. FDA proposes that any final standards that are adopted in this proceeding will be effective on May 1, 1996.

ADDRESSES: Submit written comments and any tea samples to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION: Section 3 of the Act (21 U.S.C. 43) states:

> The Secretary of [Health and Human Services], upon the recommendation of the board of experts provided in section 2 of this title, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of tea imported into the United States, and shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as he may determine, duplicate samples of such standards.

Under the Act and the regulations that FDA has adopted to implement it, FDA sets such standards annually (see 21 U.S.C. 42 and 21 CFR 1220.40). No tea that is inferior in purity, quality, or fitness for consumption to the standard established by FDA may be brought into this country (21 U.S.C. 41).

Public Law 104–37, which contains FDA's appropriation for FY 1996, states that: "None of the funds appropriated or made available to the Food and Drug Administration in this Act shall be used to operate the Board of Tea Experts." This provision creates a significant problem for the agency since members of the board cannot be appointed, nor its activities supported by FDA. Nonetheless the Act remains in effect. Thus, FDA has a continuing obligation to implement it. This obligation is underscored by the fact that Congress rejected a broader limitation on the agency's ability to expend funds to implement the Act that appeared in the version of the appropriations bill that passed the Senate (see H. Rept. 104–268, 104th Cong., 1st sess. 38 (1995)). However, without the benefit of the advice of the board, the agency is faced with the question of how it will arrive at the standards required under the Act for imported teas.

In considering this question, FDA identified three options. First, it could do nothing to implement the Act. The agency rejected this option because it would be inconsistent with the apparent intent of Congress, and because it would mean that it would ostensibly be unlawful to bring or import into the United States any merchandise identified as tea. Even though the agency could, as an exercise of its enforcement discretion, do nothing about the latter fact, FDA considers it unfair and unwise to allow such a situation to emerge. Thus, the agency considers it incumbent on itself to continue to implement the Act in a manner that is consistent with law.

The second option that the agency identified was to ask the Department of Health and Human Services, of which FDA is a part, to operate the board with funds not appropriated in Pub. L. 104–37. The agency rejected this option because it is not consistent with the spirit of Congress's action, and because the Department is likely to have little ability to assume this financial and resource obligation.

The third option that FDA considered was to substitute public input for the recommendations of the board. This option is not inconsistent with the law. The requirement in 21 U.S.C. 43 is that the Secretary (and, by delegation, FDA) fix and establish standards for teas. While the law provides that the board is to provide recommendations to FDA, there is nothing in the Act that says that the agency can only establish such standards based on the board's recommendations. Thus, the agency is not precluded from relying on other sources of information. The agency considers it likely that the information that it receives in response to a request for comments will allow it to set appropriate standards for tea. Moreover, once the agency sets such standards, tea can continue to come into this country lawfully, limited only by the standards that FDA sets.

Based on these considerations, FDA is seeking public comment on the standards of purity, quality, and fitness for consumption of tea that it is to set under 21 U.S.C. 43 for the year beginning on May 1, 1996. FDA requests that interested persons submit all material that they consider relevant, including samples that the agency may use as standards. FDA will evaluate the information that it receives, and, based on that evaluation, it intends to arrive at the standards that will apply to tea shipped from abroad after May 1, 1996, until April 30, 1997.

In addition to comments on what the standards should be, FDA solicits comment on the process that it has instituted. FDA solicits comments on its

tentative view that this course of action is consistent with both the Act and Pub. L. 104–37. Any comments that disagree should set forth the basis for the view. The agency also solicits comments on whether there are any other options that the agency can follow that are preferable to the one that it has tentatively decided to pursue and yet that are still consistent with the two laws in question.

Dependent on the comments, information, and other material (including tea samples) submitted in response to this proposal, FDA is hopeful of being able to proceed directly to a final rule that establishes the applicable tea standards.

Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Analysis of Impacts

FDA has examined the impact of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs Federal agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). According to Executive Order 12866, a regulatory action is "economically significant" if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs. A regulation is considered "significant" under Executive Order 12866 if it raises novel legal or policy issues. The Regulatory Flexibility Act requires Federal agencies to minimize the economic impact of their regulations on small businesses.

FDA finds that this proposed rule is neither an economically significant nor significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, FDA certifies that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small businesses.

Under the current standard setting procedure, the public provides relevant information and material, such as tea samples, to the board, which then makes recommendations to FDA. Based on these recommendations, FDA sets tea standards for that year. Under the proposed system, the public may send information and material directly to FDA, which will set tea standards for that year without the recommendations of the board. This change in the standard setting process is not expected to lead to any additional compliance costs.

The primary benefit of the proposed method of setting tea standards is that it allows those standards to be set in the absence of recommendations by the board. FDA is required to set tea standards under Section 43 of the Act (21 U.S.C. 43).

FDA requests comments on the economic consequences of the proposed method of setting tea standards, the various ways in which tea samples and other information submitted to FDA may best be used to set tea standards, and on means by which the costs of the proposed standard setting process may be minimized and the benefits maximized.

Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no reporting, recordkeeping, labeling, or other third party disclosure requirements; thus, there is no "information collection" necessitating clearance by the Office of Management and Budget.

Interested persons may, on or before April 8, 1996, submit to the Dockets Management Branch (address above) written comments regarding this regulation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA believes that 60 days is an appropriate amount of time for meaningful comments to be submitted and for the agency to meet its statutory obligation to establish new standards for imported tea by May 1, 1996.

Dated: January 31, 1996.

William K. Hubbard,

Associate Commisioner for Policy Coordination.

[FR Doc. 96–2595 Filed 2–2–96; 10:52 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA034–4014, PA035–4015; FRL–5418–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation Request and Maintenance Plan for the Pittsburgh Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove a redesignation request for the Pittsburgh ozone nonattainment area and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision consists of a maintenance plan for the Pittsburgh ozone nonattainment area. The intended effect of this action is to propose disapproval of the redesignation request and its associated maintenance plan because the area violated the National Ambient Air Quality Standard for ozone (the ozone NAAQS) and is not eligible for redesignation. This action is being taken under sections 107 and 110 of the Clean Air Act.

DATES: Comments must be received on or before March 8, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 597–9337, at the EPA Region III office, or via e-mail at pino.maria@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On November 12, 1993, the Commonwealth of Pennsylvania formally submitted a redesignation request for the Pittsburgh ozone nonattainment area. At the same time, the Commonwealth submitted a maintenance plan for the Pittsburgh area as a SIP revision. The maintenance plan was subsequently amended on January 13, 1994 and, again, on May 12, 1995. During the 1995 ozone season, the Pittsburgh area violated the ozone NAAQS, making the area ineligible for redesignation. Therefore, EPA is proposing to disapprove the redesignation request and its associated maintenance plan.

Background

Under section 107(d)(3)(E) of the Clean Air Act (the Act), the following five criteria must be met for an ozone nonattainment area to be redesignated to attainment:

1. The area must meet the ozone NAAQS.
2. The area must meet applicable requirements of section 110 and Part D.
3. The area must have a fully approved SIP under section 110(k) of the Act.
4. The area must show that its experienced improvement in air equality is due to permanent and enforceable measures.
5. The area must have a fully approved maintenance plan under section 175A of the Act, including contingency measure.

The NAAQS for ozone is structured in terms of expected exceedances. An exceedance is said to occur when a monitoring site records a measurement above the ozone standard, 0.12 parts per million (ppm). In order for a monitoring site to meet the NAAQS, the average expected number of exceedances at the site must be less than or equal to one per year in a three-year period (i.e. three or less expected exceedances in a three-year period). An area is considered to be meeting the NAAQS if all locations in that area meet the NAAQS. If one monitor in an area does not meet the NAAQS, the entire area is designated nonattainment.

The Pittsburgh-Beaver Valley area (Pittsburgh area), which includes Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, is designated nonattainment for ozone and is classified as moderate (56 FR 56694). Monitored air quality data recorded in the Pittsburgh area met the ozone NAAQS from 1990–1992 and continued to meet the NAAQS through 1994. The Commonwealth of Pennsylvania submitted an ozone maintenance SIP and redesignation request on November 12, 1993, and subsequently amended the maintenance plan on January 13, 1994 and May 12, 1995.

EPA Evaluation

During the 1995 ozone season, ambient air quality monitors in the Pittsburgh area recorded 17 exceedances of the ozone standard. Two monitors in the Pittsburgh area recorded violations of the ozone NAAQS (i.e. four or more exceedances of the ozone standard). One monitor recorded seven exceedances. Another monitor recorded four. The air quality data has been quality assured in accordance with established procedures. Thus, the Pittsburgh area no longer meets the first criteria for redesignation, its air quality monitoring data does not meet the ozone NAAQS. Therefore, the area is not eligible for redesignation.

The maintenance plan SIP revision's demonstration of maintenance of the ozone NAAQS is based on a level of ozone precursor emissions thought to be able to provide maintenance of the NAAQS. The violations of the ozone NAAQS that occurred in 1995 show that the underlying basis for the plan's maintenance demonstration is no longer valid. Therefore, the maintenance plan is not approvable.

A more detailed evaluation of Pennsylvania's redesignation request and maintenance plan for the Pittsburgh area can be found in the Technical Support Document (TSD) prepared by EPA for this rulemaking action. The TSD and other materials related to this action are available for public inspection at the EPA Regional office listed in the **ADDRESSES** section of this document.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Proposed Action

Because the Pittsburgh area is not eligible for redesignation, EPA is proposing to disapprove Pennsylvania's request for redesignation of the Pittsburgh area and the accompanying maintenance plan, which was originally submitted on November 12, 1993, and amended on January 13, 1994 and May 12, 1995.

Upon final disapproval of the maintenance plan, the Pittsburgh area will no longer be able to demonstrate conformity to the submitted maintenance plan pursuant to the transportation conformity requirements in 40 CFR Part 51, § 51.448(i). Since the submitted maintenance plan budget will no longer apply for transportation conformity purposes, the build/no-build and less-than-90 tests will apply.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

EPA's denial of the state's redesignation request under section 107(d)(3)(E) of the Act does not affect any existing requirements applicable to small entities nor does it impose new requirements. The area retains its current designation status and will continue to be subject to the same statutory requirements. To the extent that the area must adopt regulations, based on its nonattainment status, EPA will review the effect of those actions on small entities at the time the State submits those regulations. Therefore, I certify that the disapproval of the redesignation request will not affect a substantial number of small entities.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The Regional Administrator's decision to approve or disapprove Pennsylvania's redesignation request for the Pittsburgh ozone nonattainment area and the associated maintenance plan will be based on whether they meet the requirements of section 110(a)(2) (A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 22, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96–2717 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 89, 90, and 91

[FRL–5412–3]

RIN 2060–AE54

Control of Air Pollution; Emission Standards for New Gasoline Spark-Ignition and Diesel Compression-Ignition Marine Engines; Exemptions for New Nonroad Compression-Ignition Engines at or Above 37 Kilowatts and New Nonroad Spark-Ignition Engines at or Below 19 Kilowatts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking; proposed revisions.

SUMMARY: Pursuant to section 213(a)(3) of the Clean Air Act as amended, EPA published a Notice of Proposed Rulemaking (NPRM) on November 9, 1994 (59 FR 55930) for emission standards for new gasoline spark-ignition and diesel compression-ignition marine engines. EPA believes that the proposed standards will help nonattainment areas come into compliance with the ozone National Ambient Air Quality Standards.

The Agency is now publishing this Supplemental Notice of Proposed Rulemaking (SNPRM) because EPA wishes to refine its proposals regarding compliance programs, and because EPA wishes to address some of the comments received on the NPRM. Many of the provisions of this SNPRM seek to minimize regulatory burdens proposed in the NPRM without reducing environmental benefits. The proposals include, for example, modified compliance requirements for small manufacturers and manufacturers of sterndrive/inboard engines or old technology two-stroke outboard/personal watercraft engines. Also, this Notice proposes an in-use averaging, banking, and trading program, and addresses comments regarding consistency with the regulations on land-based nonroad compression-ignition engines rated at or above 37 kilowatts (kW). The Agency is proposing adjustments to the form of the proposed standards for gasoline spark-ignition marine engines, and is proposing changes to the level of the standards for sterndrive and inboard engines. Finally, this Notice proposes to revise the criteria for a national security exemption in the regulations regarding marine engines, land-based nonroad compression-ignition engines (≥37kW), and land-based nonroad spark-ignition engines (≤19kW).

DATES: The comment period for this rulemaking will reopen on February 7, 1996, for purposes of taking comment on issues raised in this SNPRM and will remain open until March 8, 1996, or 30 days after the date of a public hearing, if one is held.

The Agency will hold a public hearing regarding the content of this SNPRM on February 22, 1996, if it receives the request to testify at a hearing by February 20, 1996. The Agency will cancel this hearing if no one requests to testify. Members of the public should call the contact persons indicated below to notify EPA of their interest in testifying at the hearing; they may call the contact persons after February 20, 1996, to determine whether the hearing will be held.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) for EPA consideration by addressing them as follows: EPA Air Docket (LE–131), Attention: Docket Number A–92–28, room M–1500, 401 M Street, SW., Washington, D.C. 20460.

The public hearing will be held at the National Vehicle and Fuel Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, at 9 a.m.

Materials relevant to this rulemaking are contained in this docket and may be reviewed at this location from 8:00 a.m. until 5:30 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

FOR FURTHER INFORMATION CONTACT: Deanne R. North, Office of Mobile Sources, Engine Programs and Compliance Division, (313) 668–4283, or James A. Blubaugh, Office of Mobile Sources, Engine Programs and Compliance Division, (202) 233–9244.

SUPPLEMENTARY INFORMATION:

I. Obtaining Copies of the Regulatory Language

The Agency has not included in this document the proposed regulatory language. Electronic copies (on 3.5"diskettes) of the proposed regulatory language may be obtained free of charge by visiting, writing, or calling the Environmental Protection Agency, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668–4288. Refer to Docket A–92–28. A copy is also available for inspection in the docket (see **ADDRESSES**).

The preamble and regulatory language are also available electronically on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. The service is free of charge, except for the cost of the phone call. Users are able to access and download TTN files on their first call using a personal computer and modem per the following information.

TTN BBS: 919–541–5742 (1200–14400 bps, no parity, 8 data bits, 1 stop bit) Voice Helpline: 919–541–5384. Also accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov Off-line: Mondays from 8:00 a.m. to 12:00 Noon ET

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking and Reporting
<6> Non-Road
<1> File area #1. Non-Road Marine Engines

At this point, the system will list all available files in the chosen category in chronological order with brief descriptions. To download a file, select a transfer protocol that is supported by the terminal software on your own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (that is, ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

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III. Statutory Authority and Background

A. Statutory Authority

Authority for the actions proposed in this notice is granted to EPA by sections 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act as amended [42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)].

B. Background

Pursuant to section 213(a) of the Clean Air Act as amended (hereafter, "CAA"), EPA undertook a study of emissions from nonroad engines and vehicles to determine whether such emissions are significant contributors to ozone or carbon monoxide (CO) concentrations in more than one nonattainment area. A nonattainment area is a specified area that has failed to attain the applicable National Ambient Air Quality Standard (NAAQS) for a given pollutant. Based on the 1991 Nonroad Engine and Vehicle Emission Study (available in the docket),[1] EPA determined that nonroad emissions do, in fact, contribute significantly to ozone and CO concentrations in more than one NAAQS nonattainment area.[2]

Under section 213(a)(3) of the CAA, EPA is required to regulate those categories or classes of new nonroad engines and vehicles that contribute to ozone and CO air pollution. On November 9, 1994, EPA published a Notice of Proposed Rulemaking (NPRM) for emission standards for new gasoline spark-ignition (SI) and diesel compression-ignition (CI) marine engines pursuant to section 213(a) of the CAA.[3] The primary pollutants affected by this rule include ozone and hydrocarbons (HC) for gasoline SI engines and oxides of nitrogen (NO_X) for CI engines. In addition, EPA proposed that this rule have some impact on particles smaller than 10 microns (PM_{10}) and carbon monoxide (CO). EPA believes the standards proposed in this rule will reduce HC emissions from SI engines and reduce NO_X from CI engines and help areas come into compliance with the ozone NAAQS.

The proposed gasoline SI marine engine HC emission standards should decrease HC emissions from marine engines by approximately 75% from projected baseline emission levels by the year 2025. HC emission levels are estimated to be stabilized at this percentage reduction through complete fleet turnover by the year 2051. Emission reductions due to this regulation for diesel CI marine engines are expected to be equivalent on a per-engine basis to the reductions achieved from land-based CI engines. Land-based CI engines were estimated to achieve a reduction in NO_X of approximately 37% per year on a per-engine basis (see 59 FR 31306).

In the course of the comment period for the NPRM, some commenters suggested that EPA consider new approaches to some of the items addressed in the proposal; also, it became apparent that some aspects of the proposed regulation were not addressed in sufficient detail in the NPRM and needed additional development for further comment. This SNPRM seeks to address these matters. Today's notice modifies only those aspects of the November 9, 1994, NPRM that are identified herein; the remainder of the proposals set forth in the NPRM remain unchanged except to the extent necessary to make them consistent with the proposals set forth in this SNPRM.

EPA has received an extension of the court ordered deadline for the final rulemaking. The final rulemaking must now be signed by the Administrator on May 31, 1996. The court ordered deadline for this rulemaking is set forth in a consent decree resulting from consolidated lawsuits brought by Sierra Club and the Natural Resources Defense Council against the Administrator.[4]

IV. Proposed Changes; Discussion of Issues

A. Emission Standards for Spark-Ignition Engines

EPA has received comment suggesting that a more appropriate form of average emission standard for spark-ignition engines is of the type "HC+NO_X." Comment has indicated that an HC+NO_X average emission standard more appropriately recognizes the inherent SI engine technology trade-off between reductions in HC and necessary increases in NO_X. EPA is proposing a HC+NO_X average emission standard structure for spark-ignition marine engines. Additionally, comment was received indicating that the SD/I emission standards as proposed were unnecessarily stringent and counterproductive. EPA is proposing different SD/I emission standards for HC and NO_X (now proposed as an average HC+NO_X standard) that will not require any physical changes to SD/I engines.

1. HC+NO_X Emission Standard

From an engineering perspective, it is clear that exhaust or engine out HC reductions from charge crankcase scavenged 2-stroke engines (e.g., old technology 2-stroke) of the magnitude proposed in the NPRM lead to a small NO_X increase for all spark-ignition internal combustion engines that do not utilize catalyst or exhaust gas recirculation technology. The HC and NO_X balance can be adjusted to some extent through other means, but some NO_X increase is inevitable if HC reductions are finalized on the order of magnitude proposed. EPA recognized this fact in the NPRM by setting a HC average emission standard for outboards and personal watercraft (OB/PWC) that achieved dramatic reduction (i.e., a 75% reduction) and setting a NO_X standard that was targeted at the average of the necessary increase in NO_X (i.e., 6.0 g/kw-hr) across the fleet.

Comment received in response to the NPRM from some in industry indicated that the NOx emission standard proposed was too stringent and that a HC+NO_X average emission standard structure would be more appropriate. Commentors indicated that a HC+NO_X average emission standard would provide them with needed flexibility when attempting to appropriately calibrate the OB/PWC four-stroke and direct-injection two stroke technology.

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[1] EPA Publication Number 211A–2001 (November, 1991).

[2] 59 FR 31306 (June 17, 1994).

[3] 59 FR 55930 (November 9, 1994).

[4] Sierra Club v. Browner, Civil no. 93–0124 NHJ (D.D.C.).

Further, the NPRM standards would likely cause a low HC engine that generated positive emission credits according to the HC average standard to at the same time generate negative NO_X credits. Therefore, the low HC engine would have to cover the negative NOx credits with positive NO_X credits from other engines. These other engines would by nature have higher HC. Commentors suggested that the way to address this perverse effect would be to set a HC+NO_X average emission standard. Although the perverse effect exists under combined or separate HC and NO_X standards, a combined standard gives manufacturers more flexibility to calibrate engines, while still achieving overall targets. This calibration flexibility may be appropriate because OB/PWC four stroke technology and direct injection two stroke technology have similar overall levels of HC+NO_X, while four stroke technology is cleaner on HC but would be more likely to have emissions above the separate average NO_X emission standard. An emission standard which allows HC and NO_X to be averaged together may treat these two control technologies more equitably.

EPA did not propose a HC+NO_X average emission standard structure in the NPRM and requested comment surrounding the relative valuation of HC versus NO_X in terms of air quality. Air quality is determined according to a variety of local and regional conditions, including the relative background concentrations of volatileSince the NPRM, EPA has moved forward with two rulemakings that contain HC+NO_X emission standards based on a 1 to 1 weighting of the two pollutants. This type of emission standard, HC+NO_X, was finalized for small gasoline engines under 19 kilowatt,[5] was discussed in an ANPRM for on-highway heavy-duty engines,[6] and has been promulgated for on-highway heavy-duty engine emission standards in the past. The issue of weighting other than 1 to 1 did not appear to be a concern in public comment to these prior rulemakings. EPA requests further comment on the issue of weighting.

Further a HC+NO_X average ard structure is inherently inter-pollutant averaging. The Agency is not opposed to considering inter-pollutant averaging as a form of emission standard structure.

With respect to this particular marine regulation, EPA believes this combined HC+NO_X average emission standard may be less of a potential concern from the perspective of air quality and HC/NO_X weighting given the magnitude of the large HC inventory reductions proposed and the comparatively tiny increase in NO_X inventories, which are small to begin with, resulting from the separate HC and NO_X emission standards proposed in the NPRM. Further, the NO_X emission standard is proposed to be phased into a combined HC+NO_X emission standard over the 9 year phase-in period at a gradual rate, rather than allowing the final year NO_X increase in the first year of implementation (see detailed discussion of proposed NO_X phase-in in section IV.A.1.a below). Thus, it doesn't appear reasonable to say that a HC+NO_X average emission standard structure would have a significant negative environmental impact. However, EPA requests comment should anyone think there may be a negative environmental impact.

EPA requests comment on its proposal to finalize a HC+NO_X average emission standard for spark-ignition gasoline engines. Commenters are encouraged to comment on the appropriateness of an HC+NO_X average emission standard, as well as any variation on the proposal. EPA is particularly interested in any data that may further characterize the relative value of HC versus NO_X with respect to air quality. Among other possibilities, should EPA determine that the combined standard would have a negative environmental impact, EPA may finalize separate HC and NO_X average standards for SI engines. However, the flexibilities afforded by a HC+NO_X emission standard may encourage manufacturers greater flexibility to bring clean HC technology into the marketplace earlier than if the standards were separate.

2. Proposed Emission Standard Levels

a. OB/PWC. EPA proposes to retain the NPRM average emission standard levels for OB/PWC of 6.0 g/kw-hr NO_X and the associated HC average emission standards which result in a 75% reduction in HC by model year (MY) 2006. The HC+NO_X average emission standard for OB/PWC is proposed to be the sum of these NPRM proposed average emission standard levels, although NO_X is proposed to be phased-in gradually over the 9 year phase-in period. Therefore, the following formulas and tables summarize the HC+NO_X average emission standard proposed today for OB/PWC.[7]

HC_{base}=(151+557/$P^{0.9}$) or 300 g/kW-hr, whichever is lower, where:

HC_{base}=hydrocarbon base emission standard in g/kW-hr

P=rated power of the engine family in kilowatt (kW).

This HC_{base} is reduced over a 9 year phase-in period beginning in MY 1998 and ending in MY 2006. The average HC standard curve for a given MY is determined by the product of the HC_{base} curve function and the MY factor as shown in Table 1. The MY factor reflects equal percentage reductions per year from the baseline over the nine year phase-in period, resulting in a 75 percent decrease when fully implemented. For example, the average HC emission standard in 2004 is the product of the 2004 HC MY factor, 0.417, and the HC_{base} function. The resulting HC average emission standard function for MY 2004 is as follows:

Also, given the limitation on HC_{base} of 300 g/kW-hr maximum, the 2004 emission standard may not be greater than 0.417×300=125.1 g/kW-hr.

TABLE 1—GASOLINE SPARK-IGNITION OB/PWC MARINE ENGINES

[HC Average Emission Standards]

Model year	HC MY factor
1998	0.917
1999	0.833
2000	0.750
2001	0.667
2002	0.583
2003	0.500
2004	0.417
2005	0.333
2006 and after	0.250

Table 2 contains the HC+NO_X average emission standards proposed today. These average emission standards represent the summation of the average emission standards proposed in the NPRM.

TABLE 2.—GASOLINE SPARK-IGNITION OB/PWC MARINE ENGINES

[HC+NO_X Average Emission Standards]

Model year	HC+NO_X average emission standard by MY
1998	(0.917×(151+557/$P^{0.9}$))+(1/9×(6.0−2.0))+2.0.
1999	(0.833×(151+557/$P^{0.9}$))+(2/9×(6.0−2.0))+2.0.
2000	(0.750×(151+557/$P^{0.9}$))+(3/9×(6.0−2.0))+2.0.
2001	(0.667×(151+557/$P^{0.9}$))+(4/9×(6.0−2.0))+2.0.
2002	(0.583×(151+557/$P^{0.9}$))+(5/9×(6.0−2.0))+2.0.
2003	(0.500×(151+557/$P^{0.9}$))+(6/9×(6.0−2.0))+2.0.
2004	(0.417×(151+557/$P^{0.9}$))+(7/9×(6.0−2.0))+2.0.

[5] 60 FR 34582 (July 3, 1995).

[6] 60 FR 45580 (August 31, 1995).

[7] The level of the OB/PWC emission standard for CO proposed in the NPRM remains unchanged.

TABLE 2.—GASOLINE SPARK-IGNITION OB/PWC MARINE ENGINES—Continued

[HC+NO_X Average Emission Standards]

Model year	HC+NO_X average emission standard by MY
2005	(0.333×(151+557/$P^{0.9}$))+(8/9×(6.0−2.0))+2.0.
2006 and after	(0.250×(151+557/$P^{0.9}$))+6.0.

The proposed HC+NO_X average emission standards in Table 2 are derived by adding the average HC emission standards that were proposed in the NPRM to phased-in NO_X levels. The NO_X baseline is 2.0 g/kw-hr and is gradually increased over the phase-in to 6.0 g/kw-hr. EPA chose this phase-in approach for the NO_X part of the average HC+NO_X emission standard because it encourages manufacturers to avoid increases in NO_X all at once.

Further, this approach eliminates any windfall credits from the point of view of the market as a whole. If the standard were phased-in differently, such as setting the 6.0 NO_X level earlier than MY 2006, it could be said that windfall NO_X credits would be generated because the overall fleet NO_X average would be less than 6.0 g/kw-hr. Currently, the overall fleet average is at approximately 2.0 g/kw-hr. To allow a 6.0 g/kw-hr NO_X average in 1998 allows windfall credits equal to nearly 4.0 g/kw-hr of NO_X from the emission rate perspective. EPA mitigated this problem somewhat in the NPRM proposal by disallowing NO_X credit banking. However, it would be cumbersome to disallow NO_X credit banking under today's proposal for a combined HC+NO_X average standard in which a NO_X credit is the same as a HC credit. Therefore, EPA thinks the most equitable way to phase-in the targeted NO_X level is to gradually phase it in from the current levels to the targeted level in equal percentages over the 9 year phase-in, which is what is proposed in Table 2.

At the same time, because of the inherent flexibility with a combined HC+NO_X emission standard, the gradual phase-in should not inhibit the introduction of clean technology early. Further, the HC+NO_X emission standard clearly achieves the same overall control as the proposal, if not better control for NO_X. EPA requests comment on the way in which the NO_X average emission standard should be combined with the HC emission standard over the phase in period. Comment should address the specific NO_X numbers that are recommended for each phase-in year and the rationale supporting the recommendation, including whether windfall credits are associated with the recommendation.

b. SD/I Engines. Comment received on the NPRM from some in industry indicated that the proposed emission standards for sterndrive and inboard (SD/I) engines are inappropriate because they would increase costs and thereby depress sales of SD/I engines, the cleaner engines in the marketplace. As stated in the NPRM, uncontrolled SD/I's are cleaner than OB/PWC's would be in the MY 2006 at the end of the phase-in. When EPA proposed emission standards for SD/I engines in the NPRM, EPA thought the standards would incur very little, if any, additional costs because they would simply require tighter calibration of SD/I engines.

Now, comments suggest that the necessary engines changes would be more costly than EPA expected and would adversely affect SD/I operation and sales. The emission standards proposed in the NPRM would require the manufacturers to spend money recalibrating the engines. The recalibration would cause the engines to have poor operating characteristics. Alternatively, because manufacturers may not meet the corporate average by recalibration alone, exhaust gas recirculation may need to be applied. Exhaust gas recirculation is costly and would not provide much environmental benefit. Hence, EPA now believes it would be counterproductive for EPA to finalize the emission standards for SD/I engines proposed in the NPRM because that action would introduce negative market forces which would discourage manufacturers from expanding the market with new models of cleaner SD/I engines and discourage people from buying the cleaner engines.

For these reasons, EPA is now proposing to apply two-thirds of the final phase-in MY 2006 OB/PWC HC+NO_X emission standard to SD/I engines as an emission cap beginning in SD/I MY 1998.[8] Thus, SD/I engines would not be allowed to exceed two-thirds of the MY 2006 OB/PWC average emission standard of (0.250×(151+557/P0.9))+6) in the 1998 MY. Therefore, the 1998 MY emission standard for SD/I engines is shown in the following equation.

EPA believes that SD/I engines are much cleaner than this proposed emission level. All data available to EPA clearly shows that all SD/I engines have emission levels that are much below this level. Therefore, manufacturers will not need to make any changes to SD/I engines to achieve two-thirds of the MY 2006 OB/PWC average emission standard as a cap type standard.

EPA requests comment on this emission standard proposal for SD/I engines, particularly any comment indicating that any particular type of SD/I engine would be likely to exceed the proposed level. Refer to the docket for further discussion of the emission levels associated with SD/I engines.[9] EPA does not think backsliding is a concern at the proposed emission standard level, primarily because if backsliding were to occur, it seems that it would have occurred already, since these engines are currently unregulated and future technology is more likely to result in lower emissions, not backsliding.

EPA is considering whether a report should be submitted by the SD/I industry or by SD/I manufacturers that indicates the emission levels of the engines based on the voluntary testing that is performed by manufacturers. For example, manufacturers already do testing of the SD/I engines. Requiring a biennial report of this data (e.g., test results on specific test procedures, engine family identification, test fuel, type of engine: prototype, development, production, in-use or field engine) would seem to adequately identify if backsliding is or is not occurring. EPA requests comment whether EPA should finalize such a requirement or whether EPA should ask the SD/I manufacturers to submit these reports voluntarily.

In the alternative, EPA proposes not to apply emission standards to SD/I engines. EPA believes Section 213(a)(3) of the CAA offers the Agency the flexibility either to finalize the emission standards for SD/Is proposed above or not to impose emissions standards for SD/I engines, given the unique circumstances presented by SD/Is.

Section 213(a)(3) directs EPA to establish emission standards for "classes or categories" of new nonroad engines which achieve "the greatest degree of emission reduction achievable through the application of technology * * *., giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers" and other factors. 42 U.S.C. 7545(a)(3). EPA is proposing in this rule to treat all marine spark-ignition engines as one "class or category" of new nonroad engines for which EPA is establishing emission standards. SD/Is would constitute a subclass or subcategory of the marine SI class or category. Given this approach,

[8] The level of the SD/I emission standard for CO proposed in the NPRM would remain unchanged.

[9] Refer to EPA Air Docket A–92–28, docket submission IV–H–01.

EPA believes that, depending on circumstances on which it seeks comment below, the HC+NO_X emission standards proposed for OB/PWC plus either (1) an SD/I HC+NO_X standard set at two-thirds the MY 2006 OB/PWC HC+NO_X standard, or (2) no SD/I HC or NO_X standard at all, satisfy the criteria set forth in Section 213(a)(3). In the unique circumstances presented by the marine SI industry, HC+NO_X emissions from unregulated SD/I engines will be dramatically cleaner than HC+NO_X emissions from MY 2006 and later OB/PWC regulated at the levels proposed in this rule. Given this fact, and the opportunity for some substitution of SD/I for OB/PWC in the market place, it is appropriate for EPA to consider what emissions standards for SD/Is, if any, will most appropriately satisfy the criteria of Section 213(a)(3) viewing marine SI engines as a whole.

EPA believes that requiring SD/Is to comply with two-thirds of the MY 2006 OB/PWC HC+NO_X emission standard would achieve greater emission reductions from marine SI engines as a class or category than would the SD/I emission standard levels proposed in the NPRM, at less cost to the SI industry. If EPA were to finalize the SD/I HC+NO_X standard proposed in this Notice, EPA would encourage the cleaner SD/I engine in the market by virtually eliminating any regulatory costs on SD/I engines (see discussion of minimal administrative burdens for SD/I engines, in Section IV.B.1 below). The minimal regulatory burden and consequent lower cost to SD/I engines compared to OB/PWC should encourage manufacturers to offer a greater range of SD/I engines, including smaller SD/Is that could compete with OB/PWC. Public health and the environment in turn would benefit from the emissions reductions achieved through any substitution of SD/Is for OB/PWC, and at lesser cost to the SI engine industry than the more stringent SD/I emission standards proposed in the NPRM.

EPA is proposing in the alternative to finalize no HC or NO_X emission standard for SD/Is because this alternative may achieve greater emission reductions from SI engines as a class or category than would the SD/I HC+NO_X standard proposed above, at lesser cost to the SI industry. While the option of applying two-thirds of the MY 2006 OB/PWC HC+NO_X standard level to SD/I would not require manufacturers to physically change the engines in any way, to the extent that an emission standard causes any costs on SD/I such standards may tend to limit SD/I substitution for OB/PWC and therefore offer somewhat less emission reductions than would no SD/I standard at all, while imposing more cost on the SI industry.

On the other hand, finalizing no HC or NO_X emission standard for SD/I raises a potential concern. There is the issue whether SD/I standards at the level proposed here would offer a useful backstop against emissions backsliding by SD/I. EPA believes that emissions backsliding, i.e. worsening emissions performance, may not be a realistic concern with SD/I because of several reasons. First, engines have been moving to electronic fuel injection which will provide better control over engine and emission performance. Customer demands for both low odor and low smoke discourage manufacturers from selling engines that have higher emissions. Also, the engine block manufacturers are improving the emission performance of the engine blocks because of carryover of on-highway emission performance through engine block design.

If EPA finalizes the alternative of no HC or NO_X emission standard for the SD/I subcategory, EPA is considering a suboption of issuing guidance to states that provides information of the relative emissions form the class or category of SI engines. This guidance would explain that EPA did not finalize emission standards on the subclass or subcategory of SD/I engines because they are relatively clean. EPA requests comment on whether industry could or should provide data either voluntarily or by requirement that exemplifies the emission characteristices of the fleet of SD/I engines in support of this guidance based on the current testing of SD/I engines which industry already performs as noted above. EPA also requests comment on the frequency with which manufacturers should be asked to require to provide such data.

EPA requests comment on both proposals regarding HC and NO_X emission standards for SD/I. Commenters should specify whether they prefer some level of HC and NO_X emission standards for SD/Is or none at all, and why they prefer one approach versus the other. If the commenter favors some level of HC and NO_X emission standards, EPA requests comment on the proposal to combine the standards into one HC+NO_X standard and on the proposal to set the HC+NO_X standard for SD/I at two-thirds of the proposed MY 2006 HC+NO_X standard for OB/PWC. Should a commenter prefer a different HC+NO_X standard level, EPA encourages the commenter to identify the standard level that it prefers and offer an explanation for this preference. EPA also seeks comment on which approach toward SD/I emissions best satisfies the criteria set forth in Section 213(a)(3), and why.

B. Administrative Program Flexibility

The Agency is proposing several modifications to the proposed rules in order to offer administrative program flexibility to certain types of engine technology and certain categories of small manufacturers, as described below in section C., "Small Manufacturer Criteria."

Specifically, EPA proposes to allow the Administrator to certify all sterndrive and inboard (SD/I) engine families on the basis of much less information than that proposed in the NPRM. As explained in more detail below, EPA proposes to find as part of this rulemaking that EPA currently has enough testing and other information regarding engines which meet EPA's proposed regulatory definition for SD/I such that additional emissions testing is not needed to determine if an SD/I engine family should be certified as conforming to the HC+NO_X and CO standards proposed in this rule. This finding would make it unnecessary for manufacturers to submit test results in order to receive a certificate of conformity. To apply for a certificate for an engine family, the manufacturer need only submit a simple affirmation that the engine family meets the SD/I definition and related affirmations. Upon receipt of the affirmations, EPA would typically issue a certificate of conformity. In addition, EPA proposes to exempt all SD/I engine manufacturers from the proposed regulatory provisions concerning manufacturer-conducted production line and in-use testing requirements, related test equipment and test procedure provisions, and selective enforcement auditing.

The Agency received comments urging EPA to drop manufacturer-conducted production line testing and in-use testing requirements for all marine CI engines proposed in the NPRM. The Agency now proposes to apply the EPA-directed production line and in-use testing provisions to marine CI engines that already apply to similar land-based CI engines, as set forth in 40 CFR part 89 and discussed in more detail below. Also, the Agency is proposing some administrative program flexibilities for old technology two-stroke outboard and personal watercraft (OB/PWC) engines, for the reasons set forth below.

Finally, EPA proposes that the administrative programs for small marine CI engine manufacturers focus on simplified certification and reduced enforcement requirements.

EPA believes it has authority under the CAA to offer the administrative program flexibility that is described in more detail below. The CAA states that the marine engine emission standards, when finalized, shall be subject to Sections 206, 207, and 208 of the Act, "with such modifications of the applicable regulations * * * as the Administrator deems appropriate." 42 U.S.C. 7547(d). This statutory language grants EPA substantial discretion to offer flexibility in the compliance provisions of the marine engine final rule. The paragraphs below describe each of the administrative program flexibility provisions proposed in this SNPRM and explains EPA's rationale for offering such flexibility.

1. Sterndrive and Inboard Engine Manufacturers

The Agency believes that any regulations it issues for marine engines should offer substantial compliance flexibility to manufacturers of gasoline-fueled SD/I engines, in part because the market is comprised mostly of small manufacturers, but principally because the engines are inherently low-emitting compared to the OB/PWC alternative. In fact, the market is moving towards even cleaner technology (e.g., electronic fuel control) in the future without regulation. In the absence of compliance flexibility, small SD/I engine manufacturers would be particularly at risk, because their receipts would not bear the cost of compliance as proposed in the NPRM. The Agency does not wish to drive out of business manufacturers of engines that are already relatively clean.

The Agency recognizes that four-stroke SD/I engines are currently cleaner than OB/PWC engines with respect to hydrocarbon (HC) emissions. Even at the 75 percent HC reduction level proposed in the NPRM for OB/PWC engines, SD/I engines will still be much cleaner on average than controlled OB/PWC. Because EPA wants its regulations to encourage purchasers to substitute SD/I engines for OB/PWC engines rather than hinder that substitution, it is proposing certification flexibility for all manufacturers of SD/I engines as a means of keeping the costs of SD/I engines low.

In the NPRM, EPA discussed the issue of averaging between OB/PWC engines and SD/I engines as a way to encourage the purchase of the inherently cleaner SD/I engines. The Agency stated at that time that substitution of SD/I engines for OB/PWC engines was possible in some horsepower ranges and was environmentally desirable. In developing the NPRM, EPA considered averaging systems and other mechanisms (such as relative standard stringency) to encourage this substitution.

Comments on the proposal stated that many SD/I engine manufacturers were in fact very small operations that marinized engine blocks purchased from automobile manufacturers. Some of these companies only employ two people. Additionally, EPA received comment that the certification and testing burden was very onerous for such entities. The standards originally proposed for SD/I engines were set at a level that EPA believed would keep prices low and encourage growth in the SD/I market relative to the market for OB/PWC. However, these commenters believed that, rather than encouraging the growth of the cleaner SD/I market, EPA's proposed administrative program would have the unintended effect of forcing small SD/I manufacturers out of business, shrinking competition, and raising SD/I prices.

The Agency remains interested in encouraging the relatively clean SD/I technology and is concerned that burdens of certification and other administrative programs would decrease the substitution of SD/I engines for the higher-polluting OB and PWC. Therefore, EPA is proposing a very minimal certification process for all manufacturers of SD/I engines.

The certification process is proposed to simply include manufacturer submittal of an affirmation that the engine family meets the regulatory definition of a sterndrive or inboard engine, an affirmation that the manufacturer has no test data or other engine information indicating that the engine family would not comply with the emission standard, and an affirmation that the engine meets applicable safety requirements. Upon receipt, the Administrator would issue a certificate of conformity, unless, based on all available information, the Administrator has reason to believe that the engine family may not comply with the applicable emission standards and safety requirements and therefore is not able to determine that the engine family conforms and should be issued a certificate.

While EPA believes current SD/Is meet the proposed emission standards,[10] circumstances could arise in the future where EPA may have reason to doubt that a particular engine family meets the applicable emission standards. Therefore, the Agency proposes that in such circumstances EPA may require, at its discretion, other information on the engine family in addition to the affirmations specified above. For example, the Administrator may require the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with applicable emission standards.

EPA expects this proposed certification process for SD/I engine families to be straightforward, involving no more than a one-page submittal to EPA and an expedient issuance of a Certificate of Conformity. The submitter would not need to include test results in its submission if its engine meets the regulatory definition of an SD/I because EPA would determine as part of this rule that EPA currently has enough emission testing and other information regarding engines meeting the SD/I definition such that additional testing is not needed to determine whether an SD/I engine family should be certified. EPA is exploring electronic data submission alternatives that may make this process virtually burden free for the manufacturers.

EPA believes that the engines currently are well below the proposed emission standards level. EPA has test results on the regulated test procedure and confidential test result information submitted by manufacturers. All data is presented in the docket, with any confidential data masked so as to not reveal its origin (Refer to Docket A–92–28 submission IV-H–01). EPA encourages comment on this data and the submission of further data that either supports or refutes the data presented.

The Agency believes Section 206 of the CAA offers it the flexibility to determine through rulemaking that EPA currently has enough testing and other information such that additional emissions testing is not needed to determine whether an SD/I engine family should be certified as conforming to the applicable emission regulations (i.e., a cap of two-thirds of the proposed MY 2006 OB/PWC HC+NO_X emission standard and a CO cap of 400 g/kW-hr). While the language of Section 206 contemplates an individualized, adjudicatory procedure, Supreme Court precedent allows EPA to establish issues common to many adjudications through rulemaking. See *American Hospital Assn.* v *NLRB*, 499 U.S. 606, 612 (1991) ("[E]ven if a statutory scheme requires individualized determinations, the decisionmaker has the authority to rely on rulemaking to resolve certain issues of general applicability unless Congress

[10] Refer to EPA Air Docket A–92–28, docket submission IV–H–01.

clearly expresses an intent to withhold that authority."); *Heckler* v. *Campbell*, 461 U.S. 458, 467 (1983). Therefore, EPA believes that, should information available to EPA support a finding that additional emissions testing is not needed to determine whether SD/I engine families should be certified, it is appropriate for EPA to make this finding through rulemaking and offer for SD/I engine families the minimally burdensome individualized determination of conformity described above. The individualized determination would basically address whether a specific engine family fits the definitions for sterndrive or inboard engines proposed in this rulemaking, whether there is any information specific to this engine family that would indicate it in fact would not be expected to conform to the standards, and whether the specific engine family meets the safety criteria of Section 206(a)(3).

In addition, the Agency is proposing to exempt SD/I manufacturers from manufacturer production-line testing, manufacturer in-use testing, and related requirements. EPA is proposing that Part 91 subparts A, B, H, I (recall portions only), J, K, L, and M apply to SD/I engine manufacturers, in order to minimize compliance burdens on these manufacturers. While EPA is proposing to exempt these manufacturers from subpart G, Selective Enforcement Auditing, EPA retains authority under Sections 206(b)(1) and 208 to test newly manufactured engines and to inspect production facilities and processes to determine whether the manufacturer is complying with the information submitted for certification. Further, EPA would retain authority under Section 206(b)(2) of the CAA to suspend or revoke the certificate for engines that do not conform with applicable emission standards.

The Agency requests comment as to which subparts of Part 91 should apply to SD/I engine manufacturers and comment on the proposed certification process as outlined above. Further, EPA requests comment on its proposal to find through rulemaking that EPA currently has enough testing or other information regarding engines which meet the regulatory definition of SD/I such that additional emissions testing is not needed to determine whether an SD/I engine family conforms to the HC+NO_x and CO emission standards proposed in this rule. Commenters are encouraged to evaluate the data on which EPA proposes to rely and to submit to EPA any additional relevant data, together with the commenter's evaluation of the submitted data. EPA requests comment on whether it is appropriate to treat small SD/I manufacturers (as defined in more detail below) separately from other SD/I manufacturers and if so, which subparts of Part 91 should apply to small SD/I manufacturers.

Finally, EPA requests comment on the following definitions. A sterndrive engine is defined as a 4-stroke engine (unless otherwise designated by the Administrator (e.g., a personal watercraft engine)) that is designed such that the drive unit is external to the hull of the marine vessel, while the engine is internal to the hull of the marine vessel. An inboard engine is defined as a 4-stroke engine (unless otherwise designated by the Administrator (e.g., a personal watercraft engine)) that is designed such that the propeller shaft penetrates the hull of the marine vessel while the engine and the remainder of the drive unit is internal to the hull of the marine vessel. Commenters are encouraged to offer any changes to the definitions which are needed to allow the commenter to concur with EPA's proposal to offer non-testing certification to qualifying SD/I engine families. Commenters should explain the reasons for any proposed alterations to the definitions.

2. Marine Compression-Ignition Engine Manufacturers

In comments responding to the NPRM, several small CI engine marinizers characterized the proposed administrative program requirements as very burdensome for the small proportion of marine emissions attributable to such engines. Marinizers informed EPA that they are truly small manufacturers, in terms of market share, production, and number of employees, compared to all other manufacturers of nonroad diesel engines. Furthermore, they believe that their marinized engines may already meet or nearly meet the proposed standards.

The Agency now proposes certification program flexibility for small marine CI engine manufacturers; that is, small marine CI engine manufacturers will have reduced certification data requirements. EPA proposes that part 89 subparts A, B, C, G, H, I, J, and K be applicable to manufacturers of small marine CI engines. This means that the manufacturers must undergo simplified certification, while receiving reduced enforcement requirements. While EPA is not proposing to apply subpart F, Selective Enforcement Auditing, to small marine CI manufacturers, EPA retains authority under Sections 206(b)(1) and 208 to test newly manufactured engines and to inspect production facilities and processes to determine whether the manufacturer is complying with the information submitted for certification. The Agency requests comment as to which subparts of part 89 should apply to the small marine CI engine manufacturers. Further, EPA would retain authority under § 206(b)(2) of the CAA to suspend or revoke the certificate for engines that do not conform with applicable emission standards.

The Agency has also received comments in response to the NPRM regarding the proposed production line testing and in-use testing requirements for marine CI engines. The comments did not support finalizing these two types of testing because EPA does not require them for land-based CI engines in 40 CFR Part 89, and many of the land-based CI engine blocks are used for marine CI engines. If EPA were to finalize its requirements as proposed, it would impose different requirements for essentially some of the same engines. The Agency has considered these comments and now proposes not to require marine CI engines to comply with the production line and in-use testing provisions that EPA proposed in the NPRM; instead, it proposes that marine CI engines be subject to the SEA testing and recall provisions that apply to land-based CI engines greater than 37 kilowatts (kW), as set forth in 40 CFR part 89.

3. Old Technology Two-Stroke Outboard Engine and Personal Watercraft Manufacturers

The Agency received significant comment in response to the NPRM regarding the cost of the CO cap and the administrative programs relative to old technology two-stroke OB/PWC engines. Manufacturers argued that imposing the costs of certification testing and enforcement program testing on old technology OB/PWC engines is not a cost-effective requirement, because these engines will be phased out of production anyway. Also, many old technology OB/PWC exceed the CO cap, and money would have to be spent to redesign product and production lines to meet the CO standard even though the old technology will be phased-out. Manufacturers would rather spend their limited resources on developing and producing cleaner, new technology OB/PWC engines.

The new, cleaner technology will require extensive changes in production lines and engine design. The engine changes do not simply consist of using a different fuel system, but involve designing whole new engines. Therefore, millions of dollars will be needed for capital costs over the phase-in period. Manufacturers have also stated that they would potentially have to build twice as many test facilities, in order to accommodate testing of old technology OB/PWC engines as well as new technology OB/PWC engines, and half of those facilities would become idle as soon as manufacturers phased out the old technology.

In view of these comments, EPA believes it is appropriate to mitigate compliance costs for old technology OB/PWC engines through compliance flexibility, waivers, and an exemption from the CO cap, if one if finalized,[11] until late in the phase-in in order to free up the manufacturers' limited resources for new technology development.

Because adequate test data on old technology engines currently exists, and that data shows engine emissions are so high that production variance and in-use deterioration are almost negligible effects on the emission rate, imposing compliance costs on the old technology engines would appear to yield little environmental benefit. On the other hand, allowing flexibility in the administrative programs for old technology, which will be phased out of production, will free up money for the manufacturers to develop, produce, and market clean technology OB/PWC engines.

The Agency proposes to define old technology OB/PWC engine families to be those that were in production for the 1997 and previous model years and that did not utilize newer technologies, such as four-stroke technology, direct-injection two-stroke technology, or catalyst technology. It is important to restrict this definition to engines that were in production both in 1997 and in previous years so an old technology engine family that would first be brought into production in 1997, just before the regulations take effect, could not take advantage of flexibilities proposed here. EPA does not want to allow the flexibilities to be gamed in this way. For example, the jetboat market segment is expanding rapidly. A manufacturer electing to bring in a new jetboat engine family in 1997 that uses old technology (e.g., simple two-stroke engine design) should not enjoy the flexibilities proposed here. The reason is that the manufacturer is choosing to spend money to bring more old, dirty technology into the market rather than spending the money on new, cleaner technology. To allow flexibility in this case on the eve of the implementation of the proposed 1998 MY emission standards is contrary to EPA's intent in offering this flexibility. EPA is offering this flexibility to allow the manufacturers to spend money on new, cleaner technology rather than old, dirty technology that will need to be phased-out of production.

EPA is proposing to allow manufacturers of old technology OB/PWC engines for a limited time to comply with reduced data submission requirements for certification,[12] to be exempted from Part 91 subparts D, E, F, G, I (non-recall portions only), J, and M containing compliance monitoring programs, and to be exempted from any CO cap if it should be included in the final rule. However, EPA does not intend to allow such provisions in the latter years of the nine year phase-in of emission standards. The Agency believes it is important to the integrity of the averaging standard that at the end of the nine year phase-in, all OB/PWC engine families submit the certification and testing data normally required for obtaining certificates of conformity and that all OB/PWC engine families comply with enforcement provisions and any CO cap. Further, because the phase-in period is nine years, EPA believes that allowing this flexibility for the first six years will be adequate to mitigate costs and will also encourage the introduction of the cleanest technology sooner.

Therefore, EPA intends to implement such flexibility through the sixth year of the phase-in. The Agency requests comment on allowing this flexibility for old technology OB/PWC engines and on EPA's intended implementation strategy for this flexibility. Commenters are encouraged to express separately their views on each aspect (i.e., certification, enforcement, and the CO cap) of the flexibility proposed here as EPA may finalize all, some, or none of them. EPA also requests comment on the proposed definition of old technology OB/PWC and alternative approaches.

4. Other Potential Administrative Program Changes

a. Recall. EPA is considering omitting from the final spark-ignition marine engine regulations (Part 91) those portions of proposed Subpart I regarding recall.

Section 213(d) of the CAA provides that new nonroad engine emission standards "shall be subject" to the provisions of sections 206 through 209. EPA believes that this statutory provision is self-executing, so that the marine engine standards proposed in this rulemaking would be subject to the remedial provisions of section 207(c)(1) as well as, for example, the certification provisions of section 206. Further, EPA believes that the remaining language in section 213(d) does not require promulgation of regulations to implement section 207(c) for marine engines, except where they are "necessary to determine compliance with, and enforce," such new nonroad engine standards.[13]

In this rulemaking, EPA believes that it may not be necessary to promulgate regulations specifying procedures to implement § 207(c) in order to determine compliance with and enforce the proposed marine spark-ignition emission standards. The in-use averaging, banking, and trading (ABT) program proposed in this SNPRM makes it highly improbable that EPA would ever find that a substantial number of marine engines do not conform to the applicable emissions standard or FEL, since any noncompliance may be offset through ABT. Moreover, EPA expects that remedial action under section 207(c) would be largely ineffective, both because industry structure and engine owner turnover make it difficult for a manufacturer to identify the owners of a nonconforming engine, and because safety-related recalls of marine engines have generated little consumer response in the past. For these reasons, EPA would not expect to make a determination of nonconformity under section 207(c) regarding marine engines. Furthermore, in the unlikely event EPA should find it appropriate to take such action, EPA retains authority either to take action directly under section 207(c) or to promulgate appropriate regulations at that time.

EPA seeks comment whether EPA should omit the recall portions of subpart I (Part 91) from the final rule. Commenters are encouraged to explain the basis for their opinion, including all policy reasons and all circumstances regarding the marine engine industry which favor one approach versus another, as well as the statutory basis for the preferred approach.

[11] EPA is currently considering whether to include a CO cap in the final rule in light of the comments it received on the NPRM and its authority under the CAA.

[12] EPA proposes that it may accept, at its discretion, summary information on an old technology OB/PWC engine family in lieu of the full Application for Certification. The Agency plans to explain its policy on accepting summary information via guidance to be generated and distributed to manufacturers subsequent to the publication of the final rule. The Agency welcomes comments on whether guidance is the appropriate mechanism for defining the summary certification procedures, or whether EPA should engage in notice and comment rulemaking (at some later date) to define the procedures.

[13] See also discussion of section 207(c) and recall in the NPRM 59 FR 55943–46.

EPA is also considering not applying Part 89, Subpart H (recall regulations) to small marine CI engine manufacturers (as proposed to be defined in this Notice). As with marine SI engines, EPA expects that remedial action under § 207(c) for marine CI engines would be largely ineffective, both because industry structure and engine turnover make it difficult for a manufacturer to identify the owners of a nonconforming engine and because safety-related recalls of marine engines have generated little consumer response in the past.

Unlike marine SI engine manufacturers, however, marine CI engine manufacturers would not have available credits generated through an in-use credit program to offset any in-use noncompliance. Instead, it may be appropriate not to apply Part 89, subpart H, to small marine CI engine manufacturers because of the relative burden of § 207(c)(1) remediation on smaller marine CI engine manufacturers compared to larger marine CI engine manufacturers. Even if the recall regulations were to apply, EPA would expect that any Agency decision on whether to take formal action under § 207(c) would take into consideration the circumstances involved, including the nature of the industry and the specific manufacturer involved.

EPA seeks comment, including any available data, on the relative potential burden of recall on marine CI engine manufacturers depending on their size. EPA also seeks comment whether EPA should apply Part 89, subpart H to small marine CI engine manufacturers (as proposed to be defined in this Notice) or whether any differences in potential manufacturer burden should be addressed through EPA's discretion in implementing the recall authority. Commenters are encouraged to explain the basis for their opinion, as well as any variation in the definition of small marine CI engine manufacturer which would affect their opinion.

b. 1998 MY Corporate Average Compliance. In the NPRM, EPA proposed that manufacturers begin the phase-in of the spark-ignition gasoline engine regulations in the 1998 MY. Production of the 1998 MY will begin in May, 1997, and this final rulemaking is scheduled to be published in May, 1996. Manufacturers have informed EPA that 1998 MY compliance will be challenging because they must have their product line certified and in compliance on a corporate average basis within one year.

EPA is concerned with this short amount of time between the final rule and the first year of compliance. However, EPA strongly wishes to implement the rulemaking for the 1998 MY so as to achieve emission reductions in 1998 from this source. As the emission reductions in MY 1998 are very important, EPA is reluctant to forego the 1998 MY. Therefore, EPA is not revising its proposal to begin implementation in 1998 MY.

On the other hand, the timing is clearly tight. There may be circumstances where, despite the manufacturer's best efforts, compliance in the 1998 MY is unattainable. When compliance is unattainable due to circumstances that are clearly beyond the control of a manufacturer, it may be reasonable to allow the manufacturer some flexibility in compliance.

Compliance, for this rulemaking, means having a zero or positive emission credit balance for the manufacturer's product line at the end of the MY. Therefore, a manufacturer would potentially be in noncompliance if it could not generate or buy sufficient positive emission credits to offset the amount of negative emission credits reflected in its product line.

When the manufacturer is in such a situation for the 1998 MY due to circumstances that are clearly beyond its control, EPA is considering allowing the manufacturer to combine its 1998 MY ending credit balance (i.e., a negative balance) with the 1999 MY credit balance. In this special circumstance, the compliance period would be a 2 year averaging period across the 1998 and 1999 MYs. The advantage of this approach is that it inherently requires remediation of the lack of reduction in 1998 MY.

Circumstances beyond the control of a manufacturer would be those types of circumstances where the manufacturer had taken clearly laid out steps to make sure its product plans would be met, yet could not produce its appropriate complying product plans due to factors associated with suppliers not providing appropriate inputs. For example, test facilities might not be operational due to delays in construction that are beyond the control of the manufacturer or its designated contractor (e.g., the test equipment supplier did not deliver the equipment in time to be installed).

EPA requests comment on the need for flexibility for 1998 MY compliance due to circumstances outside the control of the manufacturer. Specifically, EPA requests comment on allowing a 2 year averaging period for a manufacturer which EPA determines is in such a situation, including comment on a different averaging period (e.g., 18 months, 30 months). EPA requests comment on specific circumstances which would clearly be outside the control of a manufacturer leading to the inability to comply in 1998 MY. Finally, EPA requests comment on any other alternatives.

C. Small Manufacturer Criteria

In their comments to the NPRM, small marine manufacturers provided new information to EPA. This information has heightened EPA's awareness that the proposal would impact different segments of the marine market in different ways.

One example is the engine marinizer: rather than manufacturing the engines themselves, smaller marine engine companies (*i.e.*, "marinizers") will often modify engine blocks originally produced for other nonroad or on-highway applications for marine applications. Marinizers may have as few as two employees and typically do not have the resources to comply with certification and enforcement provisions proposed in the NPRM. The cost of one test for one engine can be $5,000–$10,000 at a contract laboratory, while the cost of test equipment can run up to one half million dollars. Many marinizers have indicated that the cost of certification reporting burdens alone will dramatically increase their costs and may force them out of business.

Based on the written comments to the NPRM described above, EPA proposes to allow some flexibility in the certification and enforcement provisions proposed in the NPRM for small manufacturers. The proposed flexibility is described in IV.B. above. In the following sections, EPA proposes small manufacturer criteria for the marine CI engine and SD/I engine market segments. Each market segment has a different, unique aspect from a regulatory and market structure perspective, as explained below. Therefore, different small manufacturer criteria are proposed for each market segment.

1. Sterndrive and Inboard Engine Manufacturers

Although EPA is proposing an emission standard for SD/I engine families that will only necessitate a marginal compliance burden to certify the engine family and no other administrative program burdens, EPA is proposing a small manufacturer criteria in the event that the rulemaking should be finalized with the need for such a criteria.

The market for SD/I engines is composed of one very large market leader, several medium-sized market players, and a number of very small (in terms of both receipts and production volumes) manufacturers. For the purposes of the SD/I engine category only, EPA proposes to define small manufacturers as those which have less than 15 percent of the United States market share of SD/I engines on a unit volume basis, to be determined by averaging engine unit volume for the past three model years. The average total SD/I market unit volume for the same model years would be used to determine whether a manufacturer's market share was less than 15 percent. Manufacturers with greater than 15% market share are clearly the largest manufacturers.

The Agency requests comment on this market share percentage criterion and on alternatives for defining a small SD/I manufacturer.

2. Marine Compression-Ignition Engine Manufacturers

The Agency proposes that a small marine CI engine manufacturer be defined as one for which the business concern together with all its domestic and foreign affiliates (*e.g.*, the parent company and all the subsidiaries): (1) Have total annual receipts under $100 million, and (2) have less than a 4 percent United States market share on a unit volume basis for all nonroad diesel engines. For example, 4 percent market share is approximately 12,000 units based on a total volume of all nonroad diesel engines of 300,000. According to the proposed criteria, the average annual receipts per engine from 12,000 units could not exceed approximately $8,300 per engine ($100 million/12,000 engines).

The Agency proposes to accept the definitions of "affiliation," "annual receipts," and "business concern" that are contained in 13 CFR Part 121 of the Small Business Administration (SBA) regulations. Compliance with the market share criterion will be determined on the basis of data averaged over the past three fiscal years, in a manner similar to that defined in the SBA regulations for annual receipts.

The definition proposed herein would give flexibility in the rule for manufacturers of different sizes of marine CI engines and different production volumes. If a manufacturer meets the definition's criteria, EPA proposes that its engine families be eligible automatically for the certification program flexibility described in section IV.B.2. above.

The Agency requests comment on the advisability of two additional small entity criteria that it has not proposed. The first of these would be to limit small manufacturer flexibility to engine families under 1500 kW only. This is because engines over 1500 kW are expensive, and therefore, certification and enforcement costs have a small effect on engine price and should be easily recovered. The second would be to limit small manufacturer flexibility using an engine speed designation for high-speed marine CI engines, instead of a maximum power criterion. The Agency requests comment on designating high-speed engines as those over 1000 revolutions per minute (rpm). Comment submitted in response to the NPRM on the issue of harmonization with the proposed emission standards by the International Maritime Organization included a recommendation on a 1500 kW cutpoint for EPA's proposal.

The Agency also requests comment regarding specific alternative criteria for designating small manufacturers and on equity issues associated with the proposed criteria. In addition, EPA is considering whether to propose applying the small marine CI engine manufacturer definition to all aspects of the CI engine industry. EPA is not aware of any nonmarine CI engine manufacturers that meet this criteria. However, if any exist or enter the market, it seems appropriate that the same provisions apply. EPA welcomes comments on this issue.

3. Outboard Engine and Personal Watercraft Manufacturers

a. Competitive Issues. Manufacturers of outboards or personal watercraft that commented on the proposal appear to fall into at least one of two categories: (1) Those which do not meet the SBA's definitions of "small" and (2) manufacturers that purchase engines and market them as their own, rather than being actual engine manufacturers. Thus, EPA is not aware of any manufacturers of OB/PWC engines that it believes would need compliance flexibility as small volume manufacturers. Moreover, this category of marine engines produces the highest HC emissions per unit power output, and is therefore the category of marine engines targeted for the largest HC reductions. The Agency is hesitant to offer a permanent waiver of more stringent testing requirements for the engines of most concern to it. EPA wants to be certain that manufacturers are developing, producing, and achieving the targeted HC emission reductions for OB/PWC. For these reasons, EPA does not propose to offer small entity regulatory relief to manufacturers of OB/PWC engines.

However, while in the absolute sense there are no "small" manufacturers, in the relative sense there are smaller manufacturers relative to the larger manufacturers. Furthermore, there are differences in the product lines of the manufacturers. Some manufacturers are dominant in the personal watercraft market while at the same time being less dominant in the outboard market (e.g., Yamaha). Most of the PWC manufacturers specialize only in personal watercraft and do not produce outboards.

EPA proposed in the NPRM a combined averaging set for outboards and personal watercraft, even though there are differences in product lines between manufacturers with some producing both types or only one type. EPA thinks this strategy best for many reasons. First, this strategy allows manufacturers to take advantage of the most cost-effective means of achieving emission reduction targets amongst engines with similar emission problems. Both outboards and personal watercraft currently utilize old technology 2-stroke engines and have similar options available to reduce those emissions. Second, achieving the most cost-effective emission reductions means that the market achieves the lowest price increase to the consumer. Third, EPA is not interested in protecting manufacturer market share at the expense of higher consumer prices for control technology. EPA thinks that broader averaging sets encourage a more competitive market environment which in turn limits non-competitive (e.g., oligopolistic) market forces and acts to keep consumer prices low. Fourth, a combined OB/PWC averaging set gives more flexibility to manufacturers, particularly the smaller PWC manufacturers, to buy credits from other manufacturers (including those they do not directly compete with) instead of putting on control technology that is not cost-effective. Therefore, in effect, a combined OB/PWC set inherently improves small manufacturer flexibility. For these reasons, EPA is very hesitant to consider splitting up the combined OB/PWC averaging set.

In response to the NPRM, EPA received significant comment from some manufacturers that only produces PWC indicating concern with the appropriateness of a combined OB/PWC averaging set.[14] These manufacturers seemed to be concerned that manufacturers that produce both outboards and personal watercraft (only one such manufacturer currently exists) can take competitive advantage of their ability to average their OB engine

[14] Refer to the Kawasaki docket comments IV–D–58, statement or Artco, Kawasaki, and Polaris IV–D–66 and Polaris statement IV–51 for EPA Air Docket A–92–28.

families with their PWC engine families. The PWC-only manufacturer seemed to be concerned that their competitor has more flexibility to meet the emission standards due to the possibilities of generating internal to the company positive credits from the OB product line that can potentially delay control on PWC or provide cheaper credits to cover lesser control on PWC. One PWC-only manufacturer stated their belief that the other manufacturer will convert its OB products into 4-stroke and that will harm the competitive position of manufacturers who only produce PWC and market share will be eroded. There is concern that the end result will be that the OB/PWC manufacturer will become a much more dominant manufacturer. It is feared by the commenter that no credits would be available in the market that would allow the same flexibility for the PWC manufacturers that this one manufacturer will inherently have under the combined OB/PWC set.

EPA would be concerned if a single manufacturer gained control over the PWC market simply because of the combined OB/PWC averaging set.

On the other hand, EPA is concerned that splitting the averaging sets will give significant competitive advantage to the currenta dominant PWC manufacturers, particularly against the PWC manufacturers with smaller market share. The marginal cost-effectiveness analysis by which EPA set the 75% reduction in HC requirement allows small engine families, such as those produced by PWC manufacturers with smaller market share, to avoid manufacturing changes that are not cost-effective in a relative sense and purchase sufficient credits in the market. This is because the marginal cost-effectiveness for each engine family was ranked and the standard was set at the point where it became less cost-effective to gain further emission reductions. Splitting the averaging set restricts the potential credit supply and the result may be that the most cost-effective credits are not available. Therefore, even if it is more marginally cost-effective to achieve emission reductions from OB, for example, restricting the averaging between OB and PWC means that some of the most cost-effective reductions may not be taken advantage of. Further, the smaller PWC manufacturers who would most need to buy credits would be restricted to purchasing credits from their direct competitors, instead of the OB manufacturers they do not directly compete with. The effect would be that the dominant PWC manufacturers would be able to gain competitive advantage because they produce larger unit volumes and can take advantage of economies of scale, thereby generating positive credits in a more cost-effective manner than lower volume manufacturers. Thus, protecting the market share of current dominant manufacturers by splitting the averaging set may have the effect of strengthening the dominant manufacturers' market positions against the smaller PWC manufacturers. EPA is seeking an emission standard structure that promotes a competitive market and promotes the cleanest technology. EPA thinks it essential to allow all smaller manufacturers the flexibility intended with the combined OB/PWC averaging set.

Comments are requested on separating the averaging sets as an approach to address the specific problem raised with respect to the competitive impact of a combined OB/PWC averaging set. EPA requests comment on requiring separate averaging sets for a short while during the phase-in period or a portion of it. From an environmental point of view, this will likely ensure that the manufacturer who produces both OB and PWC invest in control technology for PWCs in the early years of the phase-in. EPA is hesitant to consider this option and would only consider it for a short while (e.g., a portion of the phase-in).

EPA requests comment on why EPA should consider requiring separate sets, even for a portion of the phase-in period, if this limits the ability of the market to generate the most cost-effective controls overall. Further, EPA requests comment on the docket comments submitted by Kawasaki (IV–D–58 for EPA Air Docket A–92–28).

Also, EPA notes that it would have to re-evaluate the appropriateness of the proposed OB/PWC emission standards if the averaging sets were to change, because of the potential effect of the separate sets on such factors as technological achievability and cost (see section 213(a)(3) of the CAA). The Agency seeks comment on what changes, if any, should be made to the proposed emission standards if separate averaging sets are finalized, with an explanation of the reasons for the commenter's preferred approach.

Additionally, EPA requests comments on the need for any change from the combined OB/PWC averaging set that EPA proposed. Change is questionable since already manufacturers may purchase credits in the market rather than apply control technology in the early years of the phase-in thereby giving a manufacturer extra leadtime for whatever reason. Further, if the credit market is economically efficient (i.e., a manufacturer does not act in a predatory manner to gain market share) then the OB manufacturer would make positive credits available to PWC manufacturers because this would lower the cost of OB compliance, either raising profit margin or increasing sales, or both.

EPA requests comment on systems that would encourage the credit market to function efficiently. Any comments that present ways to make the market function prospectively are especially encouraged. Comment is requested on the need to have a formalized credit market. EPA would prefer that such a market system not be run by EPA and requests comments on making this market run by an independent third party if a formalized market is advocated. EPA is seeking comment in order to determine whether it should propose action through a subsequent rulemaking.

b. Market Entrants. The Agency requests comment on the issue of flexibility for small OB/PWC engine manufacturers that may enter the market in the future. EPA would be concerned should administrative program burdens add an additional production cost that discourages market entrants and limits additional competition in the marketplace, particularly for clean technology. The Agency would consider allowing administrative program flexibility for a short period of time for new OB/PWC market entrants similar to that which it is proposing for small marine CI engine manufacturers, such as reduced certification requirements, as described above in section IV.B. As EPA would like to encourage clean technology, such market entrant flexibility would only be considered for engines with emissions falling below the MY 2006 average HC emission standard level.

The Agency requests comment on defining a market entrant as a manufacturer that has not produced OB/PWC engines before one MY prior to the current MY. This suggested definition would allow flexibility for market entrants for the first two model years. In addition, EPA requests comment on whether flexibility should be limited to small market entrants and, if so, requests suggestions for alternative definitions of a small market entrant.

D. Relative Use by Age Function

The Agency proposes to include a statistical function in the credit calculation formula in § 91.207 of the regulations proposed for 40 CFR Part 91, representing relative usage of engines by engine age and power output. EPA did not propose the use of such a function in the NPRM for the generation of new engine family credits. However, EPA is inclined to believe that for OB engines usage does vary by age of the engine and by power output. The relationship between age of engine and relative usage was assumed to be linear according to the following function, which is based on an assumption of 30% deviation (i.e., 1.3 and 0.7).

where

t=age of the engine in years
μ_{use}=mean use in hours per year
μ_{life}=mean life

The average annual use derived for the new engine credit generation methodology proposed in the NPRM still appears to be an adequate representation.

For outboard engines, the probability that an engine will survive into the future depends upon the power output (in terms of rated kW or rated horsepower) of the engine. Smaller engines typically last longer than larger engines.[15] Therefore, the relative use by age function uses mean life as in input. In turn, the mean life is dependent upon power output. Power output identifies the size of the engine.

The Agency is aware that the State of Wisconsin performed a survey of the 1995 summer season to obtain better information on relative use of engines by age. If the Wisconsin data becomes available before the final rule is promulgated, EPA will publish a notice of data availability regarding the survey results. EPA may consider the survey results when deciding how to finalize the rule with respect to the relative use by age function.

E. Manufacturer Production Line Testing Program

The NPRM described a proposal for marine SI and CI engine manufacturers to perform self-audits of new marine engines. The proposed self-audit program would be an emissions compliance program for new production marine engines in which manufacturers would be required to test engines as they leave the production line, without EPA oversight.

The Agency believes that a post-production compliance program may be necessary for OB/PWC only to verify that production engines comply with the applicable family emission limit (FEL), particularly during the early years of the program. The NPRM noted that the need for such a program is particularly vital in a regulatory situation in which manufacturers participate in an averaging, banking, and trading program and receive usable or salable credits for declaring FELs more stringent than the emission standard. The NPRM proposed a self-audit program comparable to the California Air Resources Board's (CARB's) current Quality Audit Program for new utility and lawn and garden engines. As the NPRM described, this program would assure that engines from each engine family will be tested periodically and their compliance evaluated on a quarterly basis.

In this supplemental notice EPA proposes to modify the self-audit program set forth in part 91 subpart F of the NPRM's proposed regulatory text. First, EPA is proposing to change the name of the proposed Manufacturer Self-Audit Program to the Manufacturer Production Line Testing Program, because this title more clearly indicates that this proposal is applicable for emission testing engines from the manufacturer's production line. Second, EPA proposes to limit the production line testing program provisions to SI OB/PWC engines. As described in more detail in section IV.B.2. above, EPA now proposes that all marine CI engines be subject to the Selective Enforcement Auditing and recall provisions that have been promulgated for land-based CI engines. Third, EPA proposes to adopt the Cumulative Sum (CumSum) procedure described below, rather than CARB's Quality Audit Program procedure, because EPA has noticed a potential problem with the provisions of subpart F as proposed. CARB's Quality Audit Program is based on a fixed sample size approach. An essential problem with this approach is that to keep the sample size small, the manufacturer risk and the consumer risk must increase [16]. The only way to lower manufacturer and consumer risk is to increase the sample size to possibly burdensome levels. This results in an inherent conflict for the design of a quality audit procedure which requires a fixed sample size.

The annual sample size required by CARB's Quality Audit Program is set at one percent of engine family production, at least until ten engines are tested in an engine family. A major effort by both CARB and the affected manufacturers has been to find ways to reduce the necessary sample size, resulting in a confusing array of statistically *ad hoc* modifications to the program. Upon recognizing the limitations of CARB's Quality Audit Program as a model for the NPRM's marine engine self-audit program, EPA initiated development of another approach.

In today's SNPRM, EPA is proposing to modify the proposed subpart F regulations to include a statistical procedure known as the CumSum procedure that will enable manufacturers to select engines at appropriate sampling rates for emission testing and will determine whether production line engines are complying with emission standards. CumSum procedures are used for the detection of changes in the average level of a process; the proposed procedure is useful both as an assessment tool for EPA and a quality control tool for engine manufacturers. The procedure is capable of detecting significant changes in the average level of a process, while ignoring minor fluctuations that are simply acceptable variation in the process.

Under the procedure, described in more detail below, manufacturers would select engines from each engine family at appropriate sampling rates for emissions testing. Testing would be required to be conducted in accordance with the applicable federal testing procedures for marine engines. The test results would be input to the appropriate CumSum equations, and the results of the procedure would indicate whether the engine family is in noncompliance.

1. Sampling Rates Required for the CumSum Procedure

Sample Size Calculation. At the start of each MY, manufacturers would begin to test each engine family at a rate of one percent, and then modify the testing rate according to a sample size equation. A manufacturer would determine the sample size necessary for newly-certified engine families by conducting two tests and then calculating the required sample size for the rest of the MY according to the Sample Size Equation below. For carry-over engine families, the manufacturer would determine the necessary sample size by conducting one test, then combining the test result with the last test result from the previous MY, and finally calculating the required sample size for the rest of the MY according to the Sample Size Equation below.

Sample Size Equation

where:

[15] Price Waterhouse, National Recreational Boating Survey: Final Report, June 30, 1992.

[16] Manufacturer risk is the risk that the quality audit program will detect that an engine family is in noncompliance, when the family is actually in compliance. Consumer risk is the risk that the quality audit program will fail to detect that an engine family is in noncompliance, when the family is actually in noncompliance.

N=Calculated sample size. N_{HC}, N_{CO}, and N_{NOX} are all calculated from each test result. The largest of the three becomes the official N which becomes the number of tests required for the remainder of the MY. N_{HC}, N_{CO}, and N_{NOX} are all recalculated after each test.

t_{95}=95 percent confidence coefficient. It is dependent on the actual sample size, n, and is defined in the table below. It defines one-tail, 95 percent confidence intervals.

SAMPLE SIZE AND ONE-TAIL CONFIDENCE COEFFICIENTS

n	t_{95}	n	t_{95}	n	t_{95}
2	6.31	12	1.80	22	1.72
3	2.92	13	1.78	23	1.72
4	2.35	14	1.77	24	1.71
5	2.13	15	1.76	25	1.71
6	2.02	16	1.75	26	1.71
7	1.94	17	1.75	27	1.71
8	1.90	18	1.74	28	1.70
9	1.86	19	1.73	29	1.70
10	1.83	20	1.73	30	1.70
11	1.81	21	1.72	∞	1.645

σ=sample standard deviation of the actual sample, where:

X_i=emission test result for an individual engine

x=mean of the actual sample

STD=emission standard or, if applicable, family emission limit (FEL)

n=The actual number of tests completed in an engine family

The calculated sample size, N, determines the number of tests required for the rest of the MY. Tests must be distributed evenly throughout the remainder of the MY. After each new test, the sample size is recalculated with the updated sample mean, sample standard deviation, and 95 percent confidence coefficient.

If at any time throughout the MY the calculated sample size for an engine family, N, is less than or equal to the actual sample size, n, and the sample mean, x, for each pollutant, is less than or equal to the applicable standard or FEL, the manufacturer may stop testing that engine family. But, if at any time throughout the MY the sample mean, x, for any pollutant, is greater than the applicable standard or FEL, the manufacturer must continue testing that engine family at the appropriate maximum sampling rate.

Manufacturers may elect to test additional engines for input into the Sample Size Equation, provided that testing of the additional engines is performed in accordance with the applicable federal testing procedures for marine engines.

Maximum Sample Rates. The maximum required sample size for an engine family (regardless of the result of the Sample Size Equation) is the lesser of three tests per month or one percent of projected annual production (distributed evenly throughout the model year). For example, if the Sample Size Equation produces a value of N = 252 for a family with annual production of 20,000 engines, a manufacturer may elect to test only three engines per month instead of:

(1) 21 per month, which would be required if 252 tests were distributed evenly throughout the MY, or

(2) 17 per month, if one percent of annual production were distributed evenly throughout the MY.

Although the Sample Size Equation may calculate sample sizes greater than the proposed maximum sample rates, EPA believes sample sizes greater than these maximum rates would be unnecessarily burdensome for manufacturers of marine engines. The proposed maximum sample rates adequately characterize the emission levels of the engine family.

2. Construction of the CumSum Equation

After determining the appropriate sample size using the Sample Size Equation, the manufacturer would construct the following CumSum Equation for each regulated pollutant for each engine family:

where:

C_i=The current CumSum statistic

C_{i-1}=The previous CumSum statistic. Prior to any testing, the CumSum statistic=0 (*i.e.* C_0=0)

X_i=The current emission test result for an individual engine

STD=The applicable standard or, if applicable, the FEL

$F=0.25 \times \sigma$ and is the reference value

After each test, C_i is compared to the action limit, H.

$H=5.0 \times \sigma$ and is the action limit, the quantity which the CumSum statistic must exceed, in two consecutive tests, before the engine family is determined to be in noncompliance. (it is a function of the standard deviation, δ)

σ=is the sample standard deviation and is recalculated after each test.

Following each emission test, manufacturers would update current CumSum statistics for each pollutant according to the CumSum Equation described above. Manufacturers would continue to update the CumSum statistics throughout the MY. (At no time throughout the MY are CumSum statistics reset to zero.)

Manufacturers may elect to test additional engines for input into the CumSum Equation, provided that testing of the additional engines is performed in accordance with the applicable federal testing procedures for marine engines.

3. Criteria for Determining Noncompliance

An engine family is determined to be in noncompliance if at any time throughout the MY, the CumSum statistic, C_i, exceeds the applicable action limit in two consecutive tests for the same pollutant.

Production line emission test results, as well as sample size calculations and CumSum calculations, would be electronically reported to EPA on a quarterly basis. The Agency would then review the test data, sample size and CumSum calculations to assess the validity and representativeness of each manufacturer's production line testing program. If a manufacturer were to determine that an engine family is in noncompliance, the manufacturer would be required to report the emission test results and the appropriate Sample Size and CumSum Equation calculations within two working days of such a determination.

If an engine family is determined to be in noncompliance, or a manufacturer's submittal to EPA reveals that production line tests were not performed in accordance with applicable federal testing procedures, EPA may suspend or revoke the manufacturer's certificate of conformity in whole or in part for that engine family. The suspension or revocation will not occur before fifteen days after a noncompliance determination is made. During this fifteen day period, EPA will coordinate with the manufacturer to facilitate the approval of the required production line remedy in order to eliminate the need to halt production, if possible. The manufacturer must then address the engines produced prior to the suspension or revocation of the certificate of conformity. EPA may reinstate a certificate of conformity subsequent to a suspension, or reissue one subsequent to a revocation, after the manufacturer demonstrates that improvements, modifications, or replacement have brought the engine family into compliance. The proposed regulations include provisions for a hearing in which a manufacturer may challenge EPA's decision to suspend or revoke a certificate of conformity based on the CumSum procedure.

The Manufacturer Production Line Testing Program would be the main production line emission test program for marine engines. The Selective Enforcement Auditing (SEA) [17] program that was proposed in the NPRM will serve a spot-check function and enable EPA to evaluate testing practices used by the manufacturer, follow up on concerns reported to EPA, and address any configurations not covered by manufacturers in their production line testing program.

EPA realizes that the standard deviation, σ, of an engine family is an important aspect of the production line testing program. EPA intends to employ accurate engine family standard deviation in the CumSum Equations. The Agency requests comment on all aspects of the proposed production line testing program and specifically the appropriateness of the values chosen for the variables in the Sample Size and CumSum Equations. For more information on the derivation of the Sample Size and CumSum Equations, the selection of appropriate variables, and some examples of the CumSum Procedure, see "*The Cumulative Sum Procedure*" document in the docket.

4. Changes in FELs and Other Running Changes

During the course of a MY, manufacturers may change certification FELs up or down depending on comfort level or engineering decisions. Manufacturers may also make changes to the engines to increase performance or reduce emissions. The Agency proposes to handle these changes in production with respect to the CumSum procedure as described below.

Changing an FEL (Actual Engine Not Changed). All data accumulated during that MY but prior to the FEL change would be recalculated with the new FEL. New sample sizes would be calculated, and testing would be continued or halted as required. The CumSum statistic would also be recalculated with the new FEL and would be evaluated with respect to a new action limit. Testing and updating of the sample size and CumSum statistic would continue until testing could be halted as a result of the sample size calculation, a noncompliance decision, or the end of the MY.

Changing an FEL (Actual Engine Changed). All data accumulated during that MY but prior to the FEL/engine change would be left as is. Sample sizes would now be calculated by inserting the new FEL into the Sample Size Equation. The CumSum Equation and action limit would be updated to reflect the new FEL. The CumSum statistic would then be calculated by the new equation and would be evaluated with respect to the new action limit. Testing and updating of the sample size and CumSum statistic would continue until testing could be halted as a result of the sample size calculation, a noncompliance decision, or the end of the MY.

No Change to an FEL (Actual Engine Changed). No changes would be made to any of the equations or any of the accumulated data. This type of action is considered a typical day-to-day change on the production line that should be evaluated by the Sample Size and CumSum Equations.

5. Old Technology Engines

EPA proposes to waive production line testing requirements for any old technology OB/PWC engine family through MY 2003. In MY 2004 and MY 2005, any manufacturer of an old technology OB/PWC engine family may request, in writing, an exemption from the requirements to perform production line testing. EPA will have the discretion to grant a waiver if the Administrator determines that the engine family will be phased out of production by MY 2005. EPA will review requests for exemptions and upon granting appropriate requests will prepare and submit to the manufacturer a memorandum of exemption, which will set forth the terms and conditions of the exemption. The Agency requests comment on the appropriateness of exempting old technology engine families being phased out within six years of the effective date of the rulemaking, and of offering a discretionary waiver to such engine families in MY 2004 and MY 2005. Refer to section IV.B.3. for additional discussion of this flexibility and the definition of "old technology OB/PWC."

6. Effective Date of the CumSum Procedure

Since publishing the NPRM, it has come to EPA's attention that OB/PWC engine manufacturers may need significant time to prepare their production facilities with all of the necessary equipment and resources to comply with the production line testing requirements. EPA is proposing that the requirements for the production line testing program become effective one year later than proposed in the NPRM. Under this proposal, marine engine emission standards, certification requirements, and in-use testing provisions would still go into effect beginning with MY 1998. Production line testing requirements would go into effect beginning in MY 1999. This proposal offers some relief to manufacturers while making sure that emission standards and in-use compliance are not delayed. Manufacturers could voluntarily submit production line testing data to EPA during MY 1998. The Agency requests comment on the appropriateness of this one-year delay in the imposition of production line testing requirements.

7. Request for Comment

Although EPA is proposing modifications to the proposed Production Line Testing Program to greatly reduce its burden as outlined above, EPA also requests comment on the appropriateness of omitting such a program from the final rule. EPA believes that the Production Line Testing Program may be the best testing activity which can detect whether a manufacturer has failed to translate an engine design successfully into mass production while the manufacturer still is producing that design.

This Program has the ability to catch and offer a manufacturer the opportunity to correct emission related problems early in an engine's life, thus reducing a manufacturer's in-use liability. EPA believes that the proposed Production Line Testing Program would also serve the following additional purposes: (1) ensure that manufacturers follow precisely the emissions test procedures listed in the CFR, (2) ensure that the manufacturers' test equipment accurately measure emissions, and (3) ensure that production engines are in conformity with applicable Federal emission requirements as they come off the assembly line and that individual engines tested conform to applicable family emission limits.

EPA believes that production line testing is especially important for a rule where certification is built around an averaging, banking, and trading program. Manufacturers will be producing engines which generate emission credits that can be bought or sold or used to offset other families produced by the same manufacturer. EPA believes it is important to ascertain that actual production engines achieve proper certification family emission

[17] SEA is a program in which EPA selects engines from one engine family configuration, directly from the production line, for emissions testing.

limits to ensure that credits are bona fide and real.

However, EPA is considering whether the information obtained from this program is redundant with the information obtained from the proposed In-Use Testing Program. The government is generally attempting to reduce regulatory burden by eliminating all programs that generate redundant information and information that is not cost-effective. EPA requests comment on the relative importance of the information gleaned from the Production Line Testing Program and compliance measures associated with the In-Use Testing and In-use Credit Programs. EPA is considering the option of not finalizing the Production Line Testing Program provided that the In-Use Testing and In-Use Credit Programs are finalized. However, because EPA thinks production line testing generates relevant data and is important, EPA also requests comment on other options such as having production line testing in the early years of the program and then relaxing or eliminating production line testing as the in-use program generates more data.

Should EPA opt not to finalize a Production Line Testing Program, EPA requests comment as to whether SEA should become a more important programmatic emphasis. EPA requests comment on whether SEA regulations (i.e., Part 91, Subpart G) should be finalized for OB/PWC if commenters do not think SEA should become a more important programmatic emphasis. Even if the SEA regulations proposed in the NPRM were not finalized, EPA would retain authority under Sections 206(b)(1) and 208 of the CAA to test or require testing of newly manufactured engines and to inspect production facilities and processes to determine whether a manufacturer is complying with the information submitted for certification. Further, EPA would retain authority under Section 206(b)(2) of the CAA to suspend or revoke the certificate for engines that do not conform with applicable emission standards. However, without SEA regulations, the SEA process could become more cumbersome. EPA seeks comments on both the advantages and disadvantages of finalizing Subpart G, Part 91.

F. In-Use Credit Program

The Agency is proposing an in-use credit program for marine OB/PWC engines. This program would not be a substitute for the proposed averaging, banking, and trading (ABT) provisions used for certification purposes, but would be offered as a separate program that may be used in conjunction with the certification ABT provisions. The in-use credit program is designed to reduce cost without reducing environmental benefits by providing manufacturers with flexibility in meeting the proposed standards for each pollutant in-use. Participation in this proposed program would be voluntary.

The flexibility that EPA proposes to provide in the in-use credit program is necessary for a number of reasons. In the event that engine families fail in-use testing, EPA believes that recalling the nonconforming engines would be particularly burdensome and impractical for this industry, mainly due to the difficulty of tracking the nonconforming engines. If registration with a government entity occurs, it is the vessel that is registered, not the vessel's engine; manufacturers of marine engines do not typically know in what vessels their engines are installed. Tracking the engines would thus be cumbersome and difficult, especially because manufacturers estimate that the owner moves or the vessel is typically sold about four years after the initial purchase. Therefore, recalling the engines would likely require substantial resources, yet not be highly effective in actually remedying the excess emissions.

The Agency believes it has the authority to promulgate this in-use credit program under the circumstances. The CAA provides that the marine engine emission standards, when finalized, shall be subject to Section 207 of the Act, "with such modifications of the applicable regulations * * * as the Administrator deems appropriate." 42 U.S.C. 7547(d). Section 213 requires engines to comply with emission standards when in actual use throughout their regulatory useful lives, and Section 207 requires a manufacturer to remedy in-use nonconformity when EPA determines that a substantial number of properly maintained and used engines fail to conform with the applicable emission standards. 42 U.S.C. 7541. Once EPA makes this determination, recall would be necessary to remedy the nonconformity. However, EPA believes that, under the circumstances here, where it has been proposed that OB/PWC marine engines could use ABT to comply with the emission standards at certification (see 59 FR 55930), it is appropriate not to make a determination of substantial nonconformity where a manufacturer uses ABT to offset in-use noncompliance. Doing so is also appropriate because it is expected that recall would be impractical and largely ineffective. Thus, the CAA offers EPA the discretion to not make a Section 207(c) determination of substantial nonconformity where a marine engine manufacturer uses ABT to offset any noncompliance with the statute's in-use performance requirements. Though the language of Section 213(d) is silent on the issue of averaging, it allows EPA considerable discretion in determining what modifications to the on-highway regulatory scheme are appropriate for nonroad engines.

In this current proposal, in-use credits would be based upon in-use testing conducted by the manufacturer as discussed previously in the NPRM. For a given engine family, the in-use compliance level (CL) would be determined by averaging the results from in-use testing performed for that engine family. If the in-use CL is below the applicable FEL to which the engine family is certified, the manufacturer could generate in-use credits for that engine family. If the in-use CL is above the applicable FEL, the engine family would experience a credit deficit. In any given year, a manufacturer may use in-use credits to average against excess in-use emissions of another engine family from the same MY, to bank for use in future model years, or to trade to other manufacturers. If a manufacturer completes testing for a given MY and is in a deficit situation, it will not be allowed to carry the deficit over to the next MY. To remedy a deficit situation, a manufacturer could purchase credits from another manufacturer or, upon EPA approval, test additional engine families of that MY beyond the 25 percent proposed in the NPRM for the in-use testing program to generate additional credits.[18]

However, EPA is considering allowing a manufacturer to carry-over a deficit to the next MY in the beginning of the phase-in period. Specifically, EPA is considering allowing carry-over during the first three years of the phase-in if no credits are available for purchase to remedy the deficit. EPA requests comment on the appropriateness of allowing a deficit carry-over, on whether it should allow this carry-over only when no credits are available for purchase or if other circumstances are appropriate for carry-over, and on whether the first three years of the phase-in period or some other time period is an appropriate time period for such a deficit carry-over.

The Agency is designing the in-use credit program around three principles.

[18] However, if the additional testing discovers an engine family that was in noncompliance with its FEL, the result would be handled as if it were a failure of the mandated in-use testing requirement of up to 25 percent of a manufacturer's engine families.

First, the in-use testing program will assess whether each manufacturer is achieving the environmental benefits intended by the standards when the engines are in-use. Second, manufacturers will be provided with strong incentive to maintain the standards in-use which will further encourage in-use compliance. Finally, the in-use credit program will provide flexibility and reduce the burden on manufacturers by allowing them an option to address in-use noncompliance in a way that EPA agrees would avoid a determination of nonconformity under § 207(c) of the Act, and thereby avoid a recall.

Credits associated with the certification ABT program would not be interchangeable with credits generated or used in the in-use credit program. Positive certification credits are generated when the FEL is set below the applicable standard. An in-use nonconformity occurs when the CL, which is the emission level determined by in-use testing for an engine family, is found to be above the FEL. Allowing a manufacturer to remedy an in-use nonconformity with positive certification credits generated by the same or another FEL setting would be a dubious policy. Such a policy does not appear to encourage manufacturers to make adequate effort to declare FELs during the certification process that predict in-use emission levels to the fullest extent possible. The Agency is concerned that if the in-use test results simply updated the certification FEL then manufacturers would attempt to set certification FELs that the engine would likely exceed in-use, because a manufacturer would have a chance after in-use testing to change the FEL if it had been set too low at certification. In this way, the manufacturer would generate more certification credits than the engine family actually should receive and would have already have used those credits to offset dirtier engines. This is referred to as "gaming" the ABT provisions by "shaving" the FELs. Therefore, to preserve the integrity of both the certification and in-use ABT programs and maintain accountability for manufacturers to meet their stated FELs in certification, production line, and in-use testing, EPA is proposing to restrict credit use by separating in-use credits from certification credits. The Agency requests comment on the necessity of separate certification and in-use ABT sets, especially with respect to providing the incentive for manufacturers to produce engines that meet designed emission levels in-use and to choose a certification FEL which represents in-use emission levels.

An engine family's in-use CL would be determined by averaging the results of testing in-use engines, as discussed in the NPRM. The test results would be rounded to the number of decimal places contained in the applicable emission standard or FEL, expressed to one additional significant figure. Rounding would be done in accordance with ASTM 29–90, "Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications." The CL would be compared to the applicable FEL to determine if the engine family will generate or require credits.

In EPA's experience with the on-highway heavy-duty ABT program,[19] manufacturers have changed FELs during the MY through running changes. The Agency would not want to restrict the ability of manufacturers to lower FELs when installing cleaner technology during the MY, or to raise FELs if emission data is obtained on an engine family indicating an inadequate safety margin. However, EPA also believes that an in-use testing program that tests only one declared FEL during a MY would not be representative of an engine family having multiple FELs throughout that MY. In a case where a manufacturer has changed the FEL of an engine family during the MY because of a design change, EPA may designate which FEL of the engine family is to be tested. If an in-use failure occurs for this FEL designation, EPA may request in-use emission results from other FEL designations within this engine family to ensure that the noncompliance is confined only to that portion of the engine family with the audited FEL. A manufacturer can also change their certification FEL to increase its safety margin or generate extra credits without a design change. In such cases, if a chosen FEL of an engine family were to fail in-use testing, the emission results would apply to the entire production of the engine family, encompassing all of the FEL changes. Since in this case only the FEL was changed, and not the design of the engine family, EPA believes it is reasonable to apply the emission results of in-use testing to all the FEL settings of the engine family.

Separate calculations of credits would be required whenever an engine family contains multiple FELs. Therefore, it would be possible for an engine family (with multiple FELs) to both generate and require in-use credits as a result of in-use testing. The Agency requests comment on its proposed way of handling in-use testing of engine families with a number of declared FELs. In particular, EPA seeks comment whether it should require a minimum number of in-use tests for each FEL (or change in emissions characteristics) and if so, what number of tests would be appropriate.

To provide a safeguard against potential environmental detriment, EPA believes that it should only grant in-use credits for amounts of emissions reductions in which EPA has a significant degree of confidence. Thus, EPA proposes to take into account the uncertainty in the in-use emissions tests when calculating credit generation by relating credit generation to the statistical accuracy of the tests. The ultimate purpose of testing a set of engines in-use is to estimate the average emissions rate of all of the engines in that family over their useful lives. For many reasons, the results of any one test of any one engine will generally constitute a fairly uncertain measure of fleet-wide average emission rates; various random factors in the way an individual engine is manufactured and used will cause its emission rate to deviate from the average of its engine family, and other random factors may cause the results of any one test of that engine to vary.

According to the provisions in the NPRM for in-use testing, a manufacturer could pass an in-use audit after the first four tests of an audit. However, if another manufacturer failed the first four tests in an audit, it would continue testing to ten tests in order to make a compliance determination. If both manufacturers simply took the mean of the tests associated with each of these audits, the two manufacturers would not be generating and using credits for in-use emissions levels with the same degree of certainty.

The Agency believes that the number of credits a manufacturer may generate should be related to the number of tests performed for that audit, because the more tests that are performed, the more certain EPA and the public are that the mean of those test results is near the true average for that engine family. In addition, an imbalance of certainty exists between credit generation and credit usage. This arises from the fact that manufacturers would be able to pass an audit and generate credits in four tests (or two for small volume manufacturers), but might not fail an audit or be required to use credits until ten tests were performed. The average of the ten tests will tend to be closer to the correct mean of the engine family. Thus, while EPA will award some credits for engine families that appear to be cleaner

[19] 40 CFR part 86 (subpart A).

than their FEL on the basis of four tests, progressively more credits will be awarded if the compliance level is based on six, eight, or ten tests. (See Figure 1 below.) EPA requests comment on this proposal. In particular, EPA requests comment on the appropriateness of the magnitude of the relative sample size adjustments presented in Figure 1, any preferred adjustments, as well as this approach of adjusting the credits based on the amount of testing done to determine the CL.

FIGURE 1

No. of engines tested	2*,4	6	8	10
Credits earned (AF**)	.5	.75	.9	1

* Small Volume Manufacturer.
** Adjustment factor.

If a manufacturer were to pass an in-use audit with the first four tests but wanted to participate in the voluntary in-use credit program, it would be allowed to test ten engines to maximize the credits it would generate.

EPA is also considering a requirement that if in-use credits are generated and used from an engine family with a CL below the applicable emission standard or FEL, then the CL would become an enforceable limit for the engine family that generated the credits. This condition on the generation and use of credits would help ensure that the emissions reductions on which they are based would be real, permanent, and enforceable. EPA has consistently used such an approach before approving the use of credits for emissions reductions. Under such a system, an engine family would have to continue to meet the CL on which credits were based if it were tested again in-use. If it did not, then in-use credits would be required to avoid noncompliance. It is important to note that this would not affect or change in any way the generation or use of credits during certification:

The Agency proposes to require manufacturers to use in-use credits at a higher rate than the credits were generated. While EPA believes that it is important for manufacturers to have the option of remedying in-use problems through in-use averaging rather than through much more costly and uncertain recall actions, it would be better to not have in-use failures at all. EPA wants to maintain a strong incentive for manufacturers to produce engines that pass their in-use audits, and an incentive to achieve that is to require manufacturers who must use in-use credits to do so at a greater rate than the credits are generated. Therefore, EPA proposes that manufacturers use credits at a rate of 1.2 to 1. In other words, EPA is proposing that manufacturers offset 120 percent of the negative credits identified by the in-use testing program with positive credits. In this way, the in-use credit program will achieve an additional environmental benefit when manufacturers underestimate FELs and will provide an added incentive to manufacturers to adequately identify expected full useful life emission levels when choosing the certification FEL. This would be a penalty for underestimating certification FELs. EPA requests comment on the appropriateness of this penalty, including whether the penalty should be larger, smaller, or not imposed at all.

This penalty may result in a greater environmental benefit than accounted for in the cost-benefit calculation. However, EPA is not taking a benefit in that calculation, because it expects engines to comply in-use with the certification FEL. In other words, EPA expects there will be few engine families that need to use in-use credits.

The credit calculation formula is as follows: Credits earned per engine family=

FEL=the pollutant specific family emission limit for the engine family in g/kW-hr.

CL=compliance level of the in-use testing in g/kW-hr.

SALES=the number of engines in the engine family sold in the U.S. calculated per the certification rules which are the "first delivery" concept.

Power=the average power of an engine family in kW. (sales weighted)

AF=adjustment factor for the number of tests conducted

U(t)=use in hours per year at age t, defined as

$$U(t) = 1.3\mu_{use} - \left(\frac{1.3\mu_{use} - 0.7\mu_{use}}{2\mu_{life}}\right)t$$

where

t=age of the engine in years

μ_{use}=mean use in hours per year, usage rate specific to the application; for outboard engines, hours per year = 34.8; for personal watercraft, hours per year = 77.3; for sterndrive/inboard engines, hours per year = 47.6 μ_{life} = the mean life in years of the engine; μ_{life}=10 for personal watercraft and for outboards

$$\mu_{life} = 41.27 \times \left(\frac{kW}{0.746}\right)^{-0.20}$$

S(t)=the cumulative fraction survived at time t

where μ_{life} is the mean life in years of the engine; μ_{life}= 10 for personal watercraft; and for outboards

$$e^{-(t \times 0.906/\mu_{life})^{4.0}}$$

EPA requests comment on the use of the average power rating of an engine family. For certification provisions, EPA proposed to use the minimum power rating for engines below the applicable emission standard and the maximum power rating for engines above the applicable emission standard. EPA requests comments in light of the proposed certification requirements on power rating.

The Agency proposes that results of in-use testing of an engine family may apply to similar engine families from other model years, provided the engine families had received carry-over certification because the emission characteristics of the engine family had not changed. Therefore, if a carry-over engine family was tested and the CL was below the FEL, the engine family could earn credits for a total of up to four model years (the MY of the engine family tested, plus the two model years prior and the MY after: "minus two, plus one"). However, if the CL was above the FEL, then the engine family would owe credits for a total of up to four model years.

For example, in the year 2002 the Agency may request testing of a manufacturer's MY 2001 engine family, which has received carry-over certification from 1998–2002. The manufacturer would conduct the audit. In this example, suppose the CL for the engine family were found to be below the FEL. Since the emission results of an audit of a carry-over engine family can apply to two previous years and one subsequent year of the MY of the engine family tested, this engine family would earn credits for the model years 1999, 2000, 2001, and 2002. Similarly, if the CL was greater than the FEL, it would require credits for those same years. Any generated credits would be identified as MY 2001 credits for recordkeeping purposes.

The Agency proposes to implement this carry-over by applying test results from a given MY engine family to the corresponding engine family from other model years that involve carry-over certification for a number of reasons. The Agency has limited itself to requiring a manufacturer to audit only

25 percent of its engine families in any given MY. It would take at least four years of in-use auditing to cover all of a manufacturer's production. In fact, more than four years might be required, since manufacturers are allowed to drop and add engine families as their product line changes. Accordingly, the Agency believes it is reasonable to apply test results from an audit of an engine family that involves carry-over certification to other MY production. For example, a carry-over engine family that has been produced for eight years may pass an in-use audit in year one and fail in year eight. The failure may have occurred in years two through seven. It appears reasonable to EPA that a manufacturer's liability be limited in such situations because some engine families may be produced for many years before they are tested in-use. The four year proposal in this SNPRM was chosen as a compromise between unlimited MY liability and no liability beyond the specific MY that was audited.

In the administration of the Agency's in-use motor vehicle test program, the Agency has had occasion to be persuaded that an in-use remedy should not apply to a subclass of a given engine family or to a previous MY of a family that involved carry-over certification. The manufacturers have generally submitted test results and other information to support their cases. The Agency believes that a similar approach should apply to the marine in-use credit program. It would provide an opportunity for reductions in the amount of credits a manufacturer might owe for engine families that have been carried over for several years due to the automatic application of the "minus two, plus one" carry-over certification rule to credit calculations. The Agency anticipates using this approach infrequently, but believes it should be available due to EPA's experience in the motor vehicle in-use testing program.

The Agency is proposing unlimited life for in-use credits. Because in-use credits are generated based on real in-use test results, the validity of the credits are not in question. With the concern about validity of credits removed, an economic rationale supports unlimited life. The banked positive credits represent emission reductions beyond the requirements of the regulations, or "excess credits". The present value concept applies to benefits (*e.g.*, emission reductions) as well as cost. In other words, just as a dollar today is worth more than a dollar tomorrow, so too an environmental benefit today is worth more than a benefit tomorrow. However, EPA is not proposing to adjust upward the amount of credits banked to appropriate future value as would be required to properly account for present value with each year the credit is banked. Therefore, it is actually more beneficial to the environment for manufacturers to use the "excess credits" banked for exceedances in future years, because the banked credits inherently have a higher present value. Therefore, using the banked positive credits with a higher present value, although they are unadjusted, to offset negative credits in a future year yields a net environmental benefit because the banked credits have a real value higher than the value of the future year's negative credits. In this instance, the net environmental benefit is a "shadow" benefit insofar as it is philosophically valued yet unaccounted for.

The Agency is proposing that the United States sales figures used in the marine certification program for each engine family would also apply to this in-use credit program. The Agency sees no need and little benefit to conducting two separate analyses of the engine sales in the United States.

In order for EPA to determine manufacturer in-use compliance, the manufacturer would be required to submit an end of the MY in-use testing report. This report would have to be submitted within 90 days of the end of the in-use testing period for a given engine family for each MY, or at the same time as the final certification ABT report, whichever is later. The end of the MY in-use testing report would contain the calculated credits from all the in-use testing conducted by the manufacturer for a given MY. Also, within ten days after the end of an in-use audit for an engine family, the manufacturer would submit a report indicating the test results and the calculated CL for the engine family.

To ensure that the environment would not be adversely affected, EPA proposes that manufacturers may not enter into a deficit situation as a result of credit trading with other manufacturers. For the same reason, manufacturers may not carry over deficits from one MY to another. A manufacturer must obtain sufficient credits to meet its needs each MY, whether those credits are generated by its own engine families or obtained through trading. Trading may occur only after the manufacturer's in-use testing for that MY has been completed, and a manufacturer may only trade to another manufacturer credits that are in the bank at that time.

The integrity of the proposed marine in-use credit program depends on accurate recordkeeping and reporting by manufacturers and effective tracking and auditing by EPA. Failure of a manufacturer to maintain the required records would result in the certificates for the affected engine families being void *ab initio*. Violations of reporting requirements could result in a manufacturer being subject to penalties of up to $25,000 per day of violation as authorized by sections 205 and 213 of the CAA.

The Agency has prepared a supplementary document, available from the docket for this rulemaking, which discusses in-use credit issues in more detail. This document includes examples of calculations of credits in a variety of situations.

The proposed regulations include hearing provisions which allow the manufacturer to challenge EPA's audit of in-use credit calculations and the manner in which those credits were used/generated.

G. Labeling Requirements

As described in the NPRM, each certified engine must bear a label indicating the engine family name and the standard or FEL to which it is certified. Any engine imported into the United States in a vessel must have an engine which also complies with the labeling requirements.

The Agency considered proposing in this SNPRM the idea of a system of labeling engines (or, possibly, watercraft in the case of SD/I applications) that would encourage purchase of the cleanest engines and discourage purchase of the highest-polluting engines. Such a system could be a marketing tool. For example, the cleanest engines could be designated as "green engines" or engines which are most environmentally friendly. The highest-polluting engines could also be designated in such a way as to let the consumer know that there are cleaner engines available for purchase. EPA proposed a "green engine" label in the NPRM. However, EPA did not propose to label engines that are dirtier. EPA seeks here to elicit comments on a system which would also identify which engines are the dirtier engines. One option would be to identify all engines that do not meet the MY 2006 average emission standard as a "dirty engine."

EPA does not intend to go forward with such a proposal in this rulemaking. Nevertheless, EPA requests comment on the advisability of proposing labeling provisions of this type at some later date for use in conjunction with educational outreach to consumers.

H. Addition of Competition Exclusion and Revised Criteria for National Security Exemption for Marine Rule and Other Nonroad Rules

The Agency is proposing to amend or re-propose certain provisions of the existing land-based nonroad CI (>37 kW) rule,[20] the existing nonroad SI (≤19 kW) rule,[21] and this proposed marine engine rule, in order to make the exclusions and national security exemptions (NSEs) in these rules more closely follow EPA's long-standing treatment of exclusions and NSEs in the on-highway motor vehicle program.

In the motor vehicle program, the regulations exclude from their scope any vehicle that exhibits features which render its use on a street or highway unsafe, impractical or highly unlikely, including features ordinarily associated with military combat or tactical vehicles such as armor and/or permanently affixed weaponry. 40 CFR 85.1703. This exclusion criterion is grounded in the definition of "motor vehicle" in the CAA, which restricts the term to vehicles that are designed for transporting persons or property on a street or highway. See Section 216(2) of the CAA.

The statutory definition of "nonroad engine" provides no comparable basis for a combat exclusion. See Section 216(10). However, EPA believes that the national security exemption set forth in Section 203(b)(1) of the Act allows EPA to grant a regulatory exemption to nonroad engines that exhibit "combat features." There are many potential uses of nonroad engines in military and national defenses settings. Accordingly, the Agency proposes to include an automatic national security exemption for nonroad engines, nonroad vehicles, and nonroad equipment that exhibit combat features in the two existing nonroad rules (for CI engines greater than 37 kW and SI engines less than or equal to 19 kW), and in the marine engine rule. All nonroad engines vehicles, and equipment within the scope of the regulations which exhibit the combat features described in the regulations would automatically enjoy an NSE; manufacturers of such products would not be required to apply for this exemption.

While the statutory basis for the automatic nonroad national security exemption differs from the statutory basis for the motor vehicle combat exclusion, the end result is substantially the same. EPA believes that establishing an automatic NSE for the nonroad programs accords with Congressional intent to offer a national security exemption and decreases significantly the burden for manufacturers and EPA that would exist if EPA limited the availability of an NSE to those manufacturers who apply to EPA and receive approval, as occurs in the motor vehicle program. See 40 CFR 85.1708.

EPA also proposes that manufacturers who produce a nonroad engine, nonroad vehicle, or nonroad equipment which does not meet the "combat features" criterion, but may otherwise require an NSE, may apply to the Agency for an NSE in a manner similar to the national security exemption process offered in the motor vehicle program. See 40 CFR 85.1703. (A slightly different version of the proposed regulatory text on this issue already appears in Parts 89 and 90.) Additionally, the Agency proposes to promulgate a requirement that EPA maintain a publicly available list of NSEs granted to nonroad engines, vehicles, and equipment by EPA after manufacturer application.

Finally, EPA proposes to add a general competition exclusion to the marine rule; the NPRM had limited the competition exclusion to imported vessels. EPA believes this revised proposal accords with the CAA's definition of nonroad engine, which excludes nonroad engines used in a vehicle that is used solely for competition. See Section 216(2) of the Act.

I. Engine Family Definition

The Agency proposed an engine family definition in the NPRM that allowed the manufacturers flexibility to further segregate engine families beyond the proposed criteria, but did not allow manufacturers the flexibility to consolidate engine families. Comments in response to the NPRM indicated that it would be appropriate to include flexibility allowing manufacturers to consolidate engine families.

It is acceptable to consolidate engine families, particularly SD/I engine families, beyond the criteria proposed in the NPRM. For instance, SD/I engines may be marinized by different manufacturers yet have the same basic engine block produced by, for example, General Motors. The emission characteristics should be similar across most marinized engines with the same engine block, even if produced by other manufacturers. Generally, EPA would not expect the emission characteristics to be similar in the degree to which EPA expects on-highway engine families to be similar. The degree of emission control that is necessary for on-highway applications requires that the concept of "similar" emission characteristics be more narrowly defined. For these reasons, EPA is proposing that engines differing in one or more of the characteristics proposed to define engine families (*i.e.*, combustion cycle, cooling mechanism, cylinder configuration, number of cylinders, catalytic converter, thermal reactor characteristics) may be grouped in the same engine family if the manufacturer can show that the in-use emission characteristics are expected to be similar.

J. Harmonization With the International Maritime Organization

As stated in the NPRM, EPA requests comment on harmonization with the International Maritime Organization (IMO) proposal to regulate emissions from new oceangoing vessels. A copy of this IMO proposal is located in the docket. EPA intends on harmonizing with the IMO emission standard levels for compression-ignition marine engines. EPA requests comment on specific ways to harmonize. EPA's NPRM proposed an average NO_X emission standard of 9.2 g/kW-hr, while the IMO NO_X emission standard varies from 9.8 g/kW-hr to 17.0 g/kW-hr, depending on engine speed. EPA's proposed NO_X emission standard is an average in which the engine can be either below or above, so long as the emissions above the standard are compensated with emissions below the standard. On the other hand, the IMO NO_X emission standard is a cap type standard that all engines must be less than.

Although EPA is not prepared to re-propose a different NO_X emission standard, there are several alternatives that seem to exist that would result in a harmonized NO_X emission standard structure with IMO. One alternative would be to adopt the IMO NO_X emission standard instead of the standard proposed in the NPRM. This would result in a cap type standard at the same NO_X levels as the IMO NO_X emission standard across the engine speed range. A second alternative would be to retain the proposed average NO_X emission standard of 9.2 g/kW-hr and to also adopt the IMO emission standards across the engine speed range as a cap which no engine could exceed. In this way, clean engines would be encouraged through the market for emission credits. Third, it may be appropriate to determine an engine speed or engine power output cutoff point. Such a point could be used to apply the IMO cap emission standard to all engines of high horsepower and low and medium speeds. On the other hand, high speed engines with lower horsepower could meet the 9.2 g/kW-hr average standard proposed with the 9.8 g/kW-hr IMO level as a cap which no engine could exceed. This may be appropriate to encourage clean technology and because the high speed engines are used in other nonroad applications in addition to marine. Finally, EPA must determine whether and how to harmonize each of the emission standards for HC, CO, PM and smoke set forth in the NPRM with IMO's NO_X-only emission control approach. With respect to each of these standards, EPA could retain the standard as proposed in the NPRM, drop it, or alter it in some way.

EPA requests comment on ways to harmonize with the IMO emission standards, including the alternatives mentioned here and any alternatives that commenters can devise to integrate the standards. EPA thinks that harmonization is an important issue and intends on finalizing a harmonized NO_X emission standard. EPA requests comment on the extent to which it is appropriate for EPA to harmonize the enforcement requirements in its final rule with the enforcement scheme proposed in the IMO regulation. For example, EPA may finalize its rule such that to the extent that ship owners are liable for engine emissions under the IMO's finalized Marpol Annex, EPA may exercise its discretion under the CAA to not hold engine manufacturers liable for the same emissions. Similarly, EPA would expect to revise its regulations to the extent necessary to harmonize the enforcement scheme with that of the IMO's finalized Marpol Annex However, EPA is concerned about the potential for a regulatory gap between the time EPA's regulation is implemented and the time when IMO's Marpol Annex would be implemented. EPA is considering applying harmonized or integrated emission standards until IMO's Marpol Annex is finalized so that EPA's regulation achieves emission reductions according to the schedule proposed in the NPRM (i.e., implementation of emission standards beginning in MY 1999).

Finally, EPA is considering whether its test procedures proposed in the NPRM are appropriate for CI engines above 1500 kW. EPA's requirements are for test bed testing only, where as the IMO's Marpol Annex includes an option for testing such engines on-board vessels. EPA requests comment as to whether EPA test procedures are or should be harmonized with IMO test procedures, including details regarding any changes that are needed to bring EPA's procedures in harmony with the proposed IMO procedures.

[20] 59 FR 31306 (June 17, 1994); see also 40 CFR Part 89.

[21] 60 FR 34582 (July 3, 1995); to be codified at 40 CFR Part 90.

V. Public Participation

A. Comments and the Public Docket

The Agency welcomes comments on all aspects of this SNPRM. While EPA is not publishing the proposed regulatory language, EPA welcomes comment on it. The proposed regulatory language can be found in the docket, or can be requested from EPA on a floppy disk, or can be retrieved from the TTN (see information in section I. of this preamble). Commenters are especially encouraged to give suggestions for changing any aspects of the proposal that they find objectionable. Comments are also encouraged to identify those aspects of the propcsal that they favor, since EPA may finalize some, but not all, of the proposals contained in this Notice. Also, commenters are encouraged to offer additional comments on the proposals contained in the NPRM should the proposals set forth in this SNPRM affect their views of the NPRM proposals. All comments, with the exception of proprietary information, should be directed to the EPA Air Docket Section, Docket No. A–92–28 (see **ADDRESSES**).

Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by (1) labeling proprietary information "Confidential Business Information" and (2) sending proprietary information directly to the contact person listed (see **FOR FURTHER INFORMATION CONTACT**) and not to the public docket. This will help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential information as part of the basis for the final rule, then a nonconfidential version of the document that summarizes the key data or information should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and in accordance with the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it will be made available to the public without further notice to the commenter.

B. Public Hearing

As noted above (see **DATES**), EPA will hold a public hearing on this SNPRM on February 22, 1996, if EPA receives from any party a request to testify at the hearing. Any person desiring to present testimony at the public hearing must notify the contact person listed above of such intent no later than February 20, 1996. The contact person should also be given an estimate of the time required for the presentation of the testimony and notification of any need for audio/visual equipment. Testimony will be scheduled on a first come, first served basis. A sign-up sheet also will be available at the registration table the morning of the hearing for scheduling testimony.

The Agency suggests that approximately 50 copies of any statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least five days before the scheduled hearing date, in order to give EPA staff adequate time to review such material before the hearing. Advance copies should be submitted to the contact person listed.

If a hearing is held, the official record of the hearing will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A–92–28 (see **ADDRESSES**).

The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

VI. Administrative Requirements

A. Reporting and Recordkeeping Requirements

The information collection requirements in the NPRM were submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* EPA prepared eight Information Collection Request (ICR) documents for the NPRM. Copies of the ICR documents may be obtained from Sandy Farmer, Information Policy Branch, EPA, 401 M St. SW. (mail code 2136), Washington, DC 20460 or by calling (202) 260–2740.

The eight ICR documents that have been prepared are:

EPA ICR document No.	Type of information
1722.01 ..	Certification/AB&T.
282.07	Emission Defect Information.

EPA ICR document No.	Type of information
1723.01 ..	Importation of Nonconforming Engines.
1724.01 ..	Selective Enforcement Auditing.
0012.08 ..	Engine Exclusion Determination.
0095.07 ..	Precertification and Testing Exemption.
1725.01 ..	Manufacturers' Assembly Line Testing.
1726.01 ..	Manufacturers' In-use Testing.

Each ICR document estimates the public reporting, recordkeeping, and testing burden for collecting the specified information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of information. In the NPRM, the Agency estimated that the public burden for the collection of information for all the ICRs would average approximately 6,050 hours annually for a typical engine manufacturer. The hours spent by a manufacturer for information collection activities in any given year would be highly dependent upon manufacturer specific variables, such as the number of engine families, production changes, emissions defects, etc.

OMB originally denied all the ICRs that EPA submitted with the NPRM. OMB has subsequently approved two of these (1723.01, for Importation of Nonconforming Engines and 0012.08, for Engine Exclusion Determination), but the rest have not been approved as of the date of publication of this SNPRM. Without OMB approval of these information collection requests, EPA cannot implement the regulations once finalized. Therefore, EPA submitted new information collection requests in conjunction with this SNPRM that indicate that the reporting and recordkeeping requirements of the proposal as a whole are significantly less than estimated in the NPRM due to the small manufacturer criteria and provisions, the manufacturer production line testing program, the in-use credit program, the significantly reduced administrative programs for SD/I engines, and other proposals set forth in this SNPRM.

The new estimates are also based on additional information indicating that the rule affects more manufacturers, and potentially a larger number of small manufacturers. This new information prompted EPA to reduce administrative program burdens as much as possible. EPA now estimates that the public burden for the collection of information for all ICRs under the proposed rule as a whole would average approximately 4,200 hours annually for a typical engine manufacturer.

Comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden should be sent to Chief, Information Policy Branch, EPA, 401 M St., SW. (mail code 2136), Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this SNPRM and the NPRM.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis (RFA). The RFA explores options for minimizing those impacts.

As mentioned in the NPRM, EPA considered, but rejected, the notion of exempting small manufacturers from enforcement programs or from the regulation entirely. A more proportionate sharing of cost burden was deemed appropriate. The pollution emitted by each of these engines not only contributes to ambient air quality problems but also has health impacts on the user of the engine who is in close proximity to the exhaust emissions.

However, as stated in the NPRM, EPA has recently adopted a new approach to regulatory flexibility:[22] for purposes of EPA's implementation of the Act, any impact is a significant impact, and any number of small entities is a substantial number. Thus, EPA will consider regulatory options for every regulation subject to the Act that can reasonably be expected to have an impact on small entities. In light of this new approach, EPA has determined that, if no provisions were established to take economic effects into account, this rule would be likely to have a significant effect on a substantial number of small entities. As a result, in addition to the flexibility inherent in averaging, trading, and banking of emissions, EPA has tailored this rule to minimize the cost burdens imposed on smaller engine manufacturers.

The Agency performed an RFA in conjunction with the NPRM.[23] Subsequent comments on the NPRM indicated that EPA's proposal would indeed adversely impact small manufacturers while providing little environmental benefit. Specifically, many small manufacturers of SD/I gasoline engines and marinized CI engines came forward to inform EPA of the severe impacts the proposed regulations would have on their businesses.

In this SNPRM, EPA proposes small manufacturer exemptions and flexibility provisions, so as to ensure that this rulemaking does not unduly burden small manufacturers. The Agency is supplementing the RFA to reflect these proposals. EPA requests comment as to whether the proposed small manufacturer exemptions and provisions adequately address the needs of affected manufacturers.

C. Executive Order 12866

Under Executive Order 12866,[24] the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the Agency has determined that the NPRM, which this notice supplements, is a "significant regulatory action" because it may adversely affect in a material way that sector of the economy involved with the production of marine engines. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

[22] Habicht, F. Henry II, Deputy Administrator, Internal EPA Memorandum, "Revised Guidelines for Implementing the Regulatory Flexibility Act," April 9, 1992.

[23] 59 FR 55930 (November 9, 1994).

[24] 58 FR 51735 (October 4, 1993).

D. Unfunded Mandates Reform Act of 1995

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Public Law 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that today's supplemental proposal regarding marine engines and proposed revisions to Parts 89 and 90 of the CFR do not trigger the requirements of UMRA. EPA expects to prepare a budgetary impact statement in compliance with Section 202 of the UMRA, and to follow the requirements of Section 205 of the UMRA, at the time it issues a final rule on marine engines.

List of Subjects

40 CFR Part 89

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

40 CFR Part 90

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

40 CFR Part 91

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

Dated: January 26, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–2230 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300410; FRL–4994–4]

Xanthan Gum-Modified, Produced by the Reaction of Xanthan Gum and Glyoxal; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that xanthan gum-modified, produced by the reaction of xanthan gum and glyoxal (maximum 0.3% by weight) be exempted from the requirement of a tolerance when used as a surfactant in pesticide formulations. This proposed regulation was requested by Rhone-Poulenc, Inc., pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: Comments, identified by the docket control number [OPP–300410], must be received on or before March 8, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [OPP–300410]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 2800 Crystal Drive, North Tower, Arlington, VA, (703)–308–8375, e-mail: acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., CN 7500, Cranbury, NJ 08512-7500, has submitted pesticide petition (PP) 2E04084 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for xanthan gum, modified, produced by the reaction of xanthan gum and glyoxal (maximum 0.3% by weight) when used as a surfactant in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where

it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for xanthan gum, modified, produced by the reaction of xanthan gum and glyoxal will need to be submitted. The rationale for this decision is described below:

1. Xanthan gum-modified, is a glyoxal-treated xanthan gum that, while similar to xanthan gum, has improved dispersion properties.

2. Xantham gum is a naturally occurring high molecular weight biopolysaccharide which is already exempted from the requirement of a tolerance when used as a thickener in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest (40 CFR 180.1001(c)) and when used in pesticide formulations applied to animals (40 CFR 180.1001(e)).

3. Glyoxal is cleared for use as a component of coated or uncoated food contact surface paper and paperboard (21 CFR 176.180 (b)(2)).

4. Hydrolysis of xantham gum-modified results in the formation of xanthan gum and sodium glycolate, which is toxicologically similar to oxalic acid.

5. Based on an estimation of dietary exposure utilizing a worst-case situation in which a pesticide formulation utilizes modified xanthan gum containing 0.3% glyoxal, the resultant dietary exposure to glyoxal would be considered to be of no toxicological concern.

6. A pesticide formulation containing modified xanthan gum with a 0.1 to 0.3% glyoxal concentration would typically contain from 2.9 to 7.5 ppm (parts per million) glyoxal. At these levels, it is considered to be of low ecological effects or environmental fate concern.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this proposal be referred to an Advisory Committee in accordance with section 408(e) of FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket control number, [OPP–300410]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m. Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [OPP–300410] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Office of Management and Budget has exempted this proposed rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 25, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001 is amended in paragraph (c) in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirements of a tolerance.

* * * * *

(c) * * *

Ingredients	Limits	Uses
. .	. . .	. .
Xanthan gum-modified, produced by the reaction of xanthan gum and glyoxal (maximum 0.3% by weight).	Not more than 0.5% of pesticide formulation.	Surfactant
. .	. . .	. .

[FR Doc. 96–2233 Filed 2–6–96; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 180

[PP 4E3060/P641; FRL–4996–6]

RIN 2070–AC18

Pesticide Tolerance for 2,4-D

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule

SUMMARY: EPA proposes to extend the tolerances for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) in or on the raw agricultural commodity soybeans. The Agency has not completed the regulatory assessment of its science findings; therefore, the Agency is proposing to extend this tolerance for 3 years.

DATES: Comments, identified by the docket number, [PP 4E3060/P641], must be received on or before February 16, 1996. The proposed tolerance would expire on December 31, 1998.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 4E3060/P641]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM 23), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–305–6224.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of August 19, 1992 (57 FR 37475), which established a tolerance for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) in or on soybeans with an expiration date of December 1995. This tolerance, with an expiration date, was required by EPA to allow the Industry Task Force II on 2,4-D Research Data to submit additional field residue trials, including bridging studies with ester and amine formulations, plant metabolism studies, storage stability data, and oncogenicity studies in two species, rat and mouse preferred. All the studies except the oncogenicity studies in the rat and mouse and the storage stability data have been reviewed. Oncogenicity studies using male and female mice and female rats are currently in review, and an oncogenicity study in the male rat is due into the Agency in January 1996. The storage stability data is currently in progress. Because the Agency has not completed the regulatory assessment of its scientific findings, EPA is proposing to amend 40 CFR 180.142(k) to extend the expiration date for these tolerances until December 31, 1998. Based on the information cited above and in the document proposing the establishment of the time-limited tolerance for 2,5-D (57 FR 24565, June 10, 1992), the Agency has determined that when used in accordance with good agricultural practices, this ingredient is useful and the tolerance will protect the public health. Therefore, EPA is proposing to extend the tolerance as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 4E3060/P641]. All written comments filed in response to this proposed rule will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [PP 4E3060/P641] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or establishing exemptions from tolerance requirements do not have a significant impact on a substantial number of small entities. A certification statement to this

effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 29, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By revising § 180.142 (k), to read as follows,

§ 180.142 2,4-D; tolerances for residues.

* * * * *

(k) A tolerance that expires on December 31, 1998, is established for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) resulting from the preplant use of 2,4-D ester or amine in or on the raw agricultural commodity as follows:

Commodity	Parts per million
Soybeans	0.1

[FR Doc. 96–2625 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 96–004; Notice 1]

Mirror Safety Public Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This document announces a public meeting at which the National Highway Traffic Safety Administration (NHTSA) will seek information from interested parties on the safety of mirror systems and suggestions for actions to enhance safety with respect to NHTSA's regulatory and non-regulatory mirror-related actions. This docuemnt also invites written comments on the same subject.

DATES: *Public meeting.* The meeting will be held on March 13, 1996 at 1:30 pm. Those wishing to make an oral presentation at the meeting should contact Gary R. Woodford, at the address, telephone number, or fax number listed below, by February 29, 1996.

Written comments. Written comments are due by March 22, 1996.

ADDRESSES: *Public meeting.* The public meeting will be held at the following location: Royce Hotel, 31500 Wick Road, Romulus, MI 48174, near the Detroit Metro Airport.

Written comments. All written comments should be mailed to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW, Washington, DC 20590. Please refer to the docket number at the top of this notice when submitting written comments.

FOR FURTHER INFORMATION CONTACT: Gary R. Woodford, Office of Safety Performance Standards, NHTSA, 400 7th Street, SW, Washington, DC 20590. Telephone 202–366–4931; Fax 202–366–4329.

SUPPLEMENTARY INFORMATION:

Regulatory Reform

Calling for a new approach to the way Government interacts with the private sector, President Clinton asked the Executive Branch agencies to both improve the regulatory process and seek non-regulatory means of working with our customers and partners. Specifically, the President requested that agencies: (1) Cut obsolete regulations; (2) reward results; (3) create grassroots partnerships by meeting with affected and interested parties; and (4) use consensual rulemaking more frequently. This public meeting responds to the third item by reaching out to the agency's grassroots partners with regard to the safety performance of mirrors for cars, light trucks and vans, sport utility vehicles, and heavy trucks. A separate meeting will be held to address motorcycles, including mirror issues unique to motorcycles.

Federal Motor Vehicle Safety Standard No. 111 sets minimum requirements for the performance and location of original equipment mirrors to assure that they provide drivers with a clear and reasonably unobstructed rearward field-of-view. To help NHTSA assess the need for possible enhancements to the standard and to keep abreast of new mirror developments, NHTSA has conducted much research to identify how mirror system design influences driver performance during lane changing and merging. Specifically, the research goal has been to develop a safety relevant procedure to assess the effect of mirror image quality (e.g., distortion and minification) and field-of-view on the ability of drivers to process mirror information quickly and accurately.

Before proceeding with future research, regulatory, or other activities for improving safety through enhanced rearward vision, NHTSA is holding this outreach meeting to obtain information from its customers and partners, including drivers, inventors, mirror manufacturers, motor vehicle manufacturers, vehicle and traffic safety organizations, consumer groups, and others concerned about vehicle mirror use and design. The information is needed to help NHTSA better understand mirror safety problems that can be addressed through regulatory and non-regulatory actions by the agency working with other interested parties. The types of issues of particular interest to NHTSA include the following:

Non-Regulatory

1. What are the types of safety problems drivers are experiencing with current mirror systems?

2. Are drivers making proper use of current mirror systems? If not, what information could NHTSA provide to drivers and how can the agency and other groups best help to disseminate the information?

3. Are there unique needs or different patterns of use of mirrors of special driving populations, such as older persons, novice drivers, drivers with disabilities, drunk or drugged drivers, fatigued drivers, and drivers with vision problems, which original equipment or aftermarket mirrors could address? Should we inform drivers about these options to encourage their use, and if so, how? What training would be advised or required to effect a safe transition from conventional mirror systems?

4. What aftermarket mirrors exist that could reduce "blind spots," such as aspheric mirrors? Should the agency play a role in informing the public about the benefits or problems with these mirrors?

5. Are there steps the agency could take to increase consumer receptivity to using certain aftermarket mirrors?

6. Should consumers be made aware that there are market choices available in mirrors provided as original equipment?

7. Do drivers have a difficult time getting used to new mirror systems or operating multiple vehicles with different mirror system designs? Should NHTSA take action to support better understanding and use of new mirror systems? If so, how?

8. Should NHTSA work closely with States, dealerships, private organizations such as the American Association of Retired Persons and the American Automobile Association, and other groups to get information on mirror safety problems, and encourage and disseminate information on better mirror technology? Which organizations?

9. Should a computer model that provides a standardized measure of indirect field-of-view be made available to help consumers and fleet purchasers compare field-of-view of different vehicles? What other mirror system performance characteristics should be made available to help vehicle purchasers compare rearview visibility from vehicles?

10. What other non-regulatory topics should NHTSA consider regarding mirrors and driver behavior relative to mirrors?

Regulatory

1. Are there near-term regulatory actions that NHTSA could take concerning vehicle mirror systems to help driver performance when changing lanes, merging, and backing?

2. Are there any agency regulations which inhibit new mirror technology that could enhance driver safety? What factors should the agency consider in not inhibiting new mirror technology?

3. Are there steps the agency should take to enhance international harmonization? What steps, and for what result?

4. What mirror performance specifications should be considered to better accommodate special populations, such as novice drivers, older drivers, drivers with disabilities, drunk or drugged drivers, fatigued drivers, or drivers with vision problems?

5. What safety problems could be addressed with NHTSA's future research?

6. Should NHTSA undertake rulemaking to expand market choices for original equipment mirrors, such as automatic dimming mirrors?

7. What other regulatory topics should NHTSA consider regarding mirrors and driver behavior relative to mirrors?

NHTSA seeks the public's views on these and related issues concerning mirror technology, driver education and information, and how the driver interacts with the mirror system. Suggestions should be accompanied by a rationale for the action and the expected benefits and other consequences. Recommendations should include, where available, information on safety effects, consumer costs, regulated party costs, overall cost-effectiveness, small business effects, availability of voluntary industry standards, effects on international harmonization, and whether the action reflects a "common sense" approach to solving the problem.

The public meeting will be held at 1:30 pm on March 13, 1996. The agency's quarterly technical meeting, which focuses on NHTSA's safety performance standards, safety assurance, and other programs, is also scheduled on March 13, starting at 9:30 am, and is more fully described in a separate **Federal Register** notice.

Procedural Matters

Persons wishing to speak at the public meeting should contact Gary Woodford by the indicated date, including requests for audio-visual aids. Those speaking at the public meeting should limit their presentation to 15 minutes. However, because this meeting will be limited to one afternoon, if all speakers cannot be accommodated with a 15 minute speaking time, it may be revised to 10 minutes at the meeting. If the presentation will include slides, motion pictures, or other visual aids, the presenters should bring at least one copy to the meeting for submission to NHTSA, so that NHTSA can readily include the material in the public record.

NHTSA staff at the meeting may ask questions of any speaker, and any participant may submit written questions for the NHTSA staff, which NHTSA may, at its discretion, address to other meeting participants. There will be no opportunity for participants directly to question each other. If time permits, persons who have not requested time, but would like to make a statement, will be afforded an opportunity to do so.

A schedule of participants making oral presentations will be available at the designated meeting room. NHTSA will place a copy of any written statement in the docket for this notice. A verbatim transcript of the meeting will be prepared and also placed in the NHTSA docket as soon as possible after the meeting.

Participation in the meeting is not a prerequisite for the submission of written comments. NHTSA invites written comments from all interested parties. It is requested but not required that 10 copies be submitted.

NHTSA will continue to file relevant information in the docket as it becomes available after the closing date. It is therefore recommended that interested persons continue to examine the docket for new material.

Issued: January 30, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2429 Filed 2–6–96; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 61, No. 26
Wednesday, February 7, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:30 p.m. on March 7, 1996, at the Wilson Inn—Airport, 4301 East Roosevelt, Little Rock, Arkansas 72206. The purpose of the meeting is to plan future projects and hold orientation for new members.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TTY 913–551–1413). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 1, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–2571 Filed 2–6–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on March 28, 1996, at the Holiday Inn Crowne Plaza, 333 Poydras Street, New Orleans, Louisiana 70130. The purpose of the meeting is to plan for future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TTY 913–551–1413). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 1, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–2569 Filed 2–6–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 11:30 a.m. and adjourn at 1:30 p.m. on February 22, 1996, at the Kings Inn, 220 South Pierre, Pierre, South Dakota 57501. The purpose of the meeting is to discuss current civil rights issues in the State, brief committee members on Commission activities, and plan future activities. The Committee will reconvene at 2:00 p.m. and adjourn at 3:00 p.m. at the State Capitol, 500 E. Capitol, Room 413, Pierre, South Dakota, to hold a press conference to release the report: *Equality Issues in South Dakota Women's Employment.*

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Jonathan Van Patten, 605–677–5361, or John F. Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 1, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–2570 Filed 2–6–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Wisconsin Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on February 22, 1996, at the Milwaukee Hilton, 509 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203. The purpose of the meeting is to hold a consultation entitled "Focus on Affirmative Action."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Geraldine McFadden or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 1, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–2572 Filed 2–6–96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 013096B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of two applications for scientific research permits (P497D and P510B).

SUMMARY: Notice is hereby given that the Idaho Cooperative Fish and Wildlife Research Unit at Moscow, ID (ICFWRU) and the Shoshone-Bannock Tribes at Fort Hall, ID (SBT) have applied in due form for permits to take threatened or endangered species for the purpose of scientific research.

DATES: Written comments or requests for a public hearing on either of these applications must be received on or before March 8, 1996.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: ICFWRU and SBT request permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

ICFWRU (P497D) requests a 5-year permit to take adult, threatened, Snake River spring/summer and fall chinook salmon (*Oncorhynchus tshawytscho*) associated with a study designed to assess the passage success of migrating adult salmonids at the four dams and reservoirs in the lower Columbia River, evaluate specific flow and spill conditions, and evaluate measures to improve passage. Adult salmonids are proposed to be captured, anesthetized, fitted with radio transmitters and identifier tags, allowed to recover from the anesthetic, and released. Once returned to the river, the movement and migration timing of each fish will be recorded at fixed-site and mobile receiver stations as the fish migrate upstream. Primary benefits of the study will be the ability to identify areas in the fishways that are problematic for adult passage and to determine the proportion of salmonids that ultimately pass the upstream dams and enter tributaries to spawn, enter hatcheries, are taken in fisheries, or are losses between the dams.

SBT (P510B) requests a 5-year permit to take juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with a study designed to evaluate the destiny of the ESA-listed juvenile sockeye salmon from the Idaho Department of Fish and Game's captive broodstock program that were released into Pettit Lake, ID in July, 1995 under the authority of permit 795 (60 FR 37052, July 19, 1995). An evaluation of the success of this release is necessary to make management decisions on future releases of the progeny from the captive broodstock program. To estimate overwinter survival, monitor downstream migration, and calculate smolt-to-adult return rates, juvenile sockeye outmigrating from the lake each year are proposed to be captured, anesthetized, tagged with passive integrated transponders and/or weighed and measured, allowed to recover from the anesthetic, and released.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on either application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in these application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: January 31, 1996.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–2580 Filed 2–6–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Romania

February 1, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated December 15, 1995, the Governments of the United States and Romania agreed to amend and extend their Bilateral Textile and Apparel Agreement of December 20, 1994 for three consecutive one-year periods, beginning on January 1, 1996 and extending through December 31, 1998.

These limits may be subject to revision pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC). On the date that the United States applies the Uruguay Round Agreements to Romania, the restraint limits will be modified in accordance with the ATC.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementotion of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 1, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Memorandum of Understanding dated December 15, 1995 between the Governments of the United States and Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 8, 1996, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other

vegetable fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1996 and extending through December 31, 1996, in excess of the following limits:

Category	Twelve-month restraint limit [1]
Cotton Group 200, 201, 218–220, 222–227, 229, 237, 239, 300, 301, 313–315, 317, 326, 330–342, 345, 347–354, 359–363, 369, 800, 810, 831–836, 838–840, 842–847, 850–852, 858, 859, 863, 870, 871 and 899, as a group.	57,304,381 square meters equivalent.
Sublevels in Cotton Group	
237	61,000 dozen.
313	1,672,255 square meters.
314	1,254,191 square meters.
315	3,018,212 square meters.
333/833	119,538 dozen.
334	288,937 dozen.
335/835	151,416 dozen.
338/339	653,477 dozen.
340	285,238 dozen.
341/840	119,538 dozen.
347/348	510,032 dozen.
350	27,000 dozen.
352	181,818 dozen.
359	652,174 kilograms.
360	1,685,400 numbers.
361	1,123,600 numbers.
369	295,821 kilograms.
810	4,180,637 square meters.
836	56,180 dozen.
847	75,000 dozen.
Group III 431–436, 438–440, 442–448, 459, 630–654 and 659, as a group.	64,593,247 square meters equivalent.
Sublevels in Group III	
433/434	9,262 dozen.
435	9,688 dozen.
442	11,221 dozen.
443	86,557 numbers.
444	40,804 numbers.
447/448	22,503 dozen.
459	34,019 kilograms.
633	44,199 dozen.
634	53,687 dozen.
638/639	583,311 dozen.
640	80,225 dozen.
641	34,775 dozen.
647	80,737 dozen.
648	57,746 dozen.
659	101,768 kilograms.
Levels not in a group	
410	167,225 square meters.
465	129,600 square meters.
604	1,596,321 kilograms.
618	1,672,255 square meters.
666	116,306 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

Imports charged to these category limits, except Categories 410, 465, 618 and 666, for the period January 1, 1995 through December 31, 1995, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (square meters equivalent/category unit)
341/840	12.1
433/434	35.2
638/639	12.96

These limits may be subject to revision pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–2592 Filed 2–6–96; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the Chicago Board of Trade for Designation as a Contract Market in Futures and Options on the CBOT Argentina Brady Bond Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in futures and futures options on the CBOT Argentina Brady Bond Index. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before March 8, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Reference should be made to the CBOT Argentina Brady Bond.

FOR FURTHER INFORMATION CONTACT: Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, Washington, DC 20581, (202) 418–5277.

SUPPLEMENTARY INFORMATION: The Exchange's proposed Brady bond contracts are based on an index representing the sovereign debt of Argentina. The SEC has been petitioned to grant the sovereign debt of Argentina exempt status under SEC Rule 240.3a12–8. The SEC published the proposed amendment to Rule 240.3a12–8 in the **Federal Register** for a 30-day public comment period on December 20, 1995. Should the SEC add the sovereign debt of Argentina to the list of exempted securities, the Commission would then be able to designate futures on such security. See Section 2(a)(1)(B)(v) of the Act.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 31, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–2522 Filed 2–6–96; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Notice of Closed Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming closed meeting of the Nominations Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 19, 1996.

TIME: 9 a.m. to 4:30 p.m.

LOCATION: Ritz-Carlton Hotel, St. Louis Missouri.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC, 20002–4233; Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The Nominations Committee of the National Assessment Governing Board will meet in closed session on February 19, 1996, from 9 a.m. to 4:30 p.m., to review the resumes of nominees to fill upcoming Board membership vacancies in the following categories: Chief State School Officer, Twelfth Grade Classroom Teacher, Test and Measurement Expert, Local School Superintendent, and General Public.

The review and subsequent discussion of this information will touch upon matters that relate solely to the internal rules and practices of an agency and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552b(c) of title 5 U.S.C.

A summary of the activities of the meeting and related matters, which are informative to the public, consistent with policy of 5 U.S.C. 552b, will be available to the public within fourteen days after the meeting.

Due to the government furlough, adjustments were made in the schedule established for the review of nominee applications. Meeting dates were changed to accommodate the process and the availability of committee members. Therefore, the public is given less than fifteen days notice of this meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC, from 8:30 a.m. until 5 p.m.

Dated: February 1, 1996.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 96–2585 Filed 2–2–96; 8:45 am]

BILLING CODE 4000–01–M

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on November 11, 1994, an arbitration panel rendered a decision in the matter of *Washington State Department of Services for the Blind* v. *United States Department of Interior, Bureau of Reclamation (Docket No. R–S/91–7).* This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(b). The Randolph-Sheppard Act (the Act) provides a priority for blind individuals to operate vending facilities on Federal property. Under this section of the Act, the State licensing agency (SLA) may file a complaint with the Secretary if the SLA determines that an agency managing or controlling Federal property fails to comply with the Act or regulations implementing the Act. The Secretary then is required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, SW., Room 3230, Mary E. Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

Background

In 1982, the Department of Interior through its Bureau of Reclamation (DOI) entered into an agreement with the Washington State Department of Services for the Blind, the SLA. This agreement provided for the operation by the SLA of a souvenir stand inside the visitors' arrival center at the Grand Coulee Dam in the State of Washington. In addition to the facility inside the visitors' arrival center, the agreement allowed the SLA to designate a blind vendor to operate several vending machines near the entrance to the Dam's powerhouse and to sell food and drink at a site in the visitors' parking lot.

In 1991 the DOI informed the SLA that it would retake possession of the space occupied by the blind vendor inside the visitors' arrival center. The SLA protested. However, DOI proceeded with the cancellation of the permit that authorized the operation of the vending facility. The cancellation of the permit was effective on May 9, 1991. DOI then assumed possession of the space at the visitors' arrival center where the blind vendor had previously sold souvenirs and informational publications. DOI's stated reason for cancellation of the permit was that it had entered into an agreement in April 1990 with the National Park Service and the Colville and Spokane Indian tribes to conduct interpretive programs at that site.

Subsequently, in an effort to keep the blind vendor in business at the Grand Coulee Dam, the SLA relocated the vendor to a trailer in the visitors' parking lot. The SLA rented and then later purchased a trailer to carry out the activities of the vendor formerly housed at the visitors' arrival center. The results were less than satisfactory from the perspective of the vendor and the SLA. However, DOI further required that, at the end of each tourist season, the SLA remove from the Dam site the vendor's trailer and inventory.

This requirement posed a considerable expense to the SLA. Consequently, the SLA attempted to renegotiate its permit with DOI, requesting reinstatement of its right to operate the facility in its former space at the visitors' arrival center. Alternatively, the SLA requested that DOI pay for the costs of the lease termination and the cost of relocating the vending facility. These expenses included the trailer rental, purchase of a trailer, and related expenses arising from the removal and storage of the trailer during the off season when the visitors' facilities were closed (Labor Day to the following Memorial Day).

Negotiations did not produce a resolution of the dispute, and on April 12, 1991 the Attorney General for the State of Washington on behalf of the SLA requested the Secretary of the U.S. Department of Education to convene an arbitration panel to hear this complaint. The panel was convened on March 16, 1994.

Arbitration Panel Decision

The arbitration panel at the outset of the hearing heard DOI motions challenging the authority of the arbitration panel to hear this dispute, to consider the assessment of monetary damages, or otherwise to carry out the congressional mandate under the Act and its implementing regulations, contending that DOI regulations in 43 CFR Part 13 were controlling.

The panel denied DOI's motions concerning the arbitration panel's jurisdiction to hear the complaint and assess damages on the grounds that the 1974 Randolph-Sheppard Act, as amended by Congress, specifically delegated to the Secretary of the U.S. Department of Education the exclusive authority to establish uniform rules and regulations to implement the Act. The panel further ruled that this mandate renders the regulations of any other Department or Federal instrumentality that are in conflict or at odds with those of the Department of Education invalid and unenforceable.

During the arbitration hearing, DOI also advanced the argument that the Act does not apply to this dispute because the visitors' arrival center is less than 15,000 square feet and has fewer than 100 Federal employees working in the building. However, the panel ruled that it is clear from the 1974 amendments to the Act that Congress expanded the definition of areas to which the Act applied to all Federal facilities. The square footage and number of Federal employees referred to in the regulations are relevant only if, unlike this case, the parties failed to agree on the feasibility of operating a blind vendor's facility on the property.

While it is true that the visitors' arrival center is less than 8000 square feet and has fewer than 20 Federal employees who work in the center, what makes this vending operation a success is the more than 1,500,000 visitors a year who come to the Grand Coulee recreational area. Moreover, the panel reasoned that the events surrounding the establishment of this vending facility made it very clear that all parties understood that this vending location was a Randolph-Sheppard facility and that, when DOI negotiated the permit, it did not raise objections to the SLA that the visitors' arrival center at the Grand Coulee Dam was not an appropriate location because it lacked the 15,000 square feet or employed fewer than 100 Federal employees. DOI waived its right to object under the terms of the regulations when it agreed with the SLA to establish the vending location pursuant to 34 CFR 395.31 (d) and (e).

The panel further ruled that the 1982 Memorandum of Agreement signed by DOI and the SLA in its introductory paragraph clearly recognizes that the Grand Coulee Dam location is a Randolph-Sheppard facility and, therefore, is governed by the Act and its implementing regulations. However, contrary to DOI's claim, the hearing records indicate that DOI has refused to grant the SLA a permit with an indefinite time period pursuant to the Act (20 U.S.C. 107(b)) and the regulations (34 CFR 395.7(b)), notwithstanding the fact that the SLA has repeatedly requested a permit to be signed in accordance with the Act and the regulations.

Consequently, the panel ruled that to uphold the terms of the 1982 Memorandum of Agreement regarding its duration and the right of DOI to unilaterally terminate the blind vendor's operation at the visitors' arrival center and impose upon the SLA the costs and losses of relocation would be in direct violation of the congressional mandate, the Randolph-Sheppard Act, and the implementing regulations. The fact that DOI signed an agreement with the National Park Service and the Colville and Spokane Indian tribes in 1990 to provide information about the area and the culture does not supplant its obligations to the SLA and the blind vendor under the Act.

The panel award directed DOI to enter into a permit agreement with the SLA in accordance with the Act and the regulations and to reinstate the blind vendor in the space formerly occupied or negotiate an alternative comparable space at the visitors' arrival center. DOI was ordered to pay all costs and expenses incurred by the SLA as the result of the vendor's removal from the visitors' arrival center. These expenses included, but were not limited to, the costs of the trailer rental, the storage and movement of the trailer and inventory, and any other expenses incurred as the result of the removal of the blind vendor. The panel decision stated that, in the event the SLA agrees to an alternative location for the vendor, the location shall in all particulars be equal in opportunities and amenities to the visitors' arrival center and shall be provided entirely at the expense of DOI unless otherwise agreed upon by the SLA. Further, the panel decision directed the DOI to require that the National Park Service and the Colville and Spokane Indian tribes cease and desist selling any goods in competition with the blind vendor, after consultation with the SLA.

One panel member dissented.

The panel retained jurisdiction over this award with respect to the remedial portions.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: February 1, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–2534 Filed 2–6–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Financial Assistance Program Notice 96–08: Human Genome Program; Technological Advances

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research (ER), U.S. Department of Energy, hereby announces its interest in receiving grant applications in support of the DOE Human Genome Program (HGP). This program is a coordinated, multidisciplinary, goal-oriented research effort to obtain a detailed understanding of the human genome at the molecular level. The objective of this notice is to promote substantive improvements in high-throughput, integrated approaches to large-scale human genome sequencing and its analysis. The solicited topics are: (1) Supportive instrumentation and automation systems; (2) assembly of multi-megabase scale, ordered and sequence-ready DNA clones; (3) informatics for the rapid assembly, analysis, and annotation of data from high-throughput sequencing; and (4) informatics for facile submission, retrieval, and visualization of data for single or multiple related databases, specifically including the Genome Data Base and the Genome Sequence Data Base. Applicants must address clearly how the proposed work will help achieve the sequencing goals of the HGP. Collaborative, multidisciplinary efforts are specifically encouraged.

DATES: Potential applicants are strongly encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 96–08, should be received by DOE by 4:30 p.m. E.S.T., March 28, 1996. A response discussing the potential program relevance of a formal application generally will be communicated to the applicant within 30 days of receipt. The deadline for receipt of formal applications submitted in response to this notice must be received by 4:30 p.m., E.D.T., July 11, 1996, in order to be accepted for merit review in September 1996 and to permit timely consideration for awards in fiscal year 1997.

ADDRESSES: All preapplications, referencing Program Notice 96–08, should be sent to Ms. Joanne Corcoran, U.S. Department of Energy, Office of Health and Environmental Research, ER–72, 19901 Germantown Road, Germantown, MD 20874–1290.

After receiving notification from DOE concerning successful preapplications, applicants may prepare formal applications and send them to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 96–08. The above address for formal applications also must be used when submitting formal applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when handcarried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Gerald Goldstein, if referencing topic (1); Dr. Marvin Stodolsky, if referencing topic (2); and Dr. Jay Snoddy, if referencing topics (3) or (4) at the U.S. Department of Energy, Office of Health and Environmental Research, ER–72, 19901 Germantown Road, Germantown, MD 20874–1290, by telephone (301) 903–6488, by facsimile (301) 903–8521, or preferably by E-mail, joanne.corcoran@oer.doe.gov. General HGP information can also be obtained on the World Wide Web (WWW) Internet browsers at: http://www.er.doe.gov/production/oher/hug___top.html, http://www.ornl.gov/techresources/human___genome/home.html, and sites linked to these WWW pages. The 5-year goals of the U.S. HGP are published in the journal, Science, volume 262, pages 43–46.

SUPPLEMENTARY INFORMATION: The brief preapplication, in accordance with 10 CFR 600.10(d)(2), should consist of two to three pages of narrative describing the research objectives and methods of accomplishment. The preapplications will be reviewed for relevance to the notice, and further instructions will be provided with the response. Preapplications determined by staff of the Office of Health and Environmental Research to be insufficiently directed at the goals of this notice will be returned without further review to the applicant. Telephone and FAX numbers are required parts of the preapplication, and electronic mail addresses are desirable.

It is anticipated that approximately $2,000,000 will be available for grant awards in this area during FY 1997, contingent upon availability of appropriated funds. Multiple year funding of grant awards is expected, and is also contingent upon availability of funds, progress of the research, and continuing program need. Projected awards will be in the range of $50,000 per year up to $1,000,000 per year with terms of 2 to 3 years.

Information on the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Energy Research Financial Assistance Program. The Application Guide is available from the U.S. Department of Energy, Office of Health and Environmental Research, Health Effects and Life Sciences Research Division, ER–72, 19901 Germantown Road, Germantown, MD 20874–1290. Telephone requests may be made by calling (301) 903–6488. Internet requests can be made to: joanne.corcoran@oer.doe.gov. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following E-mail address: http://www.er.doe.gov

The Office of Energy Research, as part of its grant regulations, requires at 10 CFR 605.11(b) that a grantee funded by ER and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules" (59 FR 34496, July 5, 1994) or such later revision of those guidelines as may be published in the **Federal Register**.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC, on January 24, 1996.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 96–2635 Filed 2–6–96; 8:45 am]

BILLING CODE 6450–01–P

Energy Research Financial Assistance Program Notice 96–09: Human Genome Program; Ethical, Legal, and Social Implications

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of health and Environmental Research (OHER) of the Office of Energy Research (ER), U.S. Department of Energy, hereby announces its interest in receiving applications in support of the Ethical, Legal, and Social Implications (ELSI) subprogram of the Human Genome Program (HGP). This program is a coordinated, multidisciplinary, directed research effort aimed at obtaining a detailed understanding of the human genome at the molecular level. This particular research notice encompasses research grants that address ethical, legal, and social issues that may arise from the use of information and knowledge resulting from the HGP.

DATES: Potential applicants are strongly encouraged to submit a brief preapplication. All preapplications

referencing Program Notice 96–09, should be received by DOE by 4:30 P.M. E.S.T., March 28, 1996. A response discussing the potential program relevance of a formal application generally will be communicated to the applicant within 30 days of receipt. The deadline for receipt of formal applications submitted in response to this notice must be received by 4:30 p.m., E.D.T., July 11, 1996, to be accepted for merit review in September 1996 and to permit timely consideration for award in fiscal year 1997.

ADDRESSES: Preapplications referencing Program Notice 96–09 should be sent to Dr. Daniel W. Drell, U.S. Department of Energy, Office of Health and Environmental Research, ER–72, 19901 Germantown Road, Germantown, MD 20874–1290.

After receiving notification from DOE concerning successful preapplications, applicants may prepare formal applications and send them to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, MD, 20874–1290, ATTN: Program Notice 96–09. The above address for formal applications also must be used when submitting formal applications by U.S. Postal Service Express mail, and commercial mail delivery service, or when handcarried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel W. Drell, U.S. Department of Energy, Office of health and Environmental Research, ER–72, 19901 Germantown Road, Germantown, MD 20874–1290, by telephone (301) 903–6488, by FAX (301) 903–8521, or preferably by E-mail, joanne.corcoran@oer.doe.gov.

SUPPLEMENTARY INFORMATION: The DOE encourages the submission of applications to conduct research on privacy and confidentiality issues from the creation, use, maintenance, and disclosure of genetic information. This may include (but is not limited to) issues of ownership, commercialization, and control of genetic information, and the protection of the privacy of genetic information in various settings, including the workplace. Applications should demonstrate knowledge of the relevant literature and should include detailed plans for the gathering and analysis of factual information and the associated ethical, legal, and social implications. All applications should include, where appropriate, detailed discussion of human subjects protection issues, e.g., storage of, manipulation of, and access to data. Provisions to ensure the inclusion of women, minorities, and potentially disabled individuals must be described, unless specific exclusions are scientifically necessary and justified in detail. All proposed research applications should address the issue of efficient dissemination of results to the widest appropriate audience. All applications involving collaborations should include letters of support from the potential collaborators; these letters should specify the contributions the collaborator intends to make if the application is accepted and funded.

The DOE also solicits applications for the preparation and dissemination of educational materials in any appropriate medium that will enhance understanding of scientific, as well as the ethical, legal, and social aspects of the HGP among public or specified groups. If an educational effort for a specific group is proposed, the value to the HGP of that group or community should be explained in detail. In addition, the DOE encourages applications for the support of conferences focusing on the ethical, legal, and social implications of the HGP. Issues to be examined may include (but are not limited to) implications of advances in the genetic characterization of complex traits (e.g., disease predisposition or susceptibility genes) and the impacts of advances in knowledge about polygenic conditions for various communities potentially faced with these impacts (e.g., courts, schools, etc.).

Educational and conference applications should demonstrate awareness of the relevant literature and include detailed plans for the accomplishment of project goals. In applications that propose the production of series for broadcast, audio-visuals, or other educational materials, the DOE requests that samples of previous similar work by the producers and writers be submitted along with the application. In applications for the support of educational activities, the DOE requests inclusion of a plan for assessment of the effectiveness of the proposed activities. For conference applications, a detailed and largely complete roster of speakers is necessary. At the completion of the conference, a summary or report is required. Educational and conference applications must also demonstrate awareness of the need to reach the widest appropriate audience.

Ordinarily, DOE does not encourage applications dealing with issues consequent to genetic testing protocols. Additionally, DOE does not encourage survey-based research, unless a compelling case is made that this methodology is critical to address an issue of uncommon significance. For applications that propose the development of college-level curricula, DOE requests both detailed justification of the need for external support beyond normal departmental and college resources, evidence of commitment from the parent department or college, and a dissemination plan. Applications for the writing of scholarly publications or books should include justifications for the relevance of the publications or book to the goals of the HGP as well as discussion of the estimated readership and impact. DOE ordinarily will not provide unlimited support for a funded program and, thus, strongly encourages the inclusion of plans for transition to self-sustaining status.

The brief preapplication, in accordance with 10 CFR 600.10(d)(2), should consist of two to three pages of narrative describing the research project objectives and methods of accomplishment. The reapplications will be reviewed for relevance to the notice, and further instructions will be provided with the response. Preapplications determined by staff of the Office of Health and Environmental Research to be insufficiently directed at the goals of the notice will be returned without further review to the applicant. Telephone and facsimile numbers are required parts of the preapplication, and electronic mail addresses are desirable.

It is anticipated that approximately $1,300,000 will be available for grant awards in this area during FY 1997, contingent upon availability of appropriated funds. Multiple year funding of grant awards is expected, and is also contingent upon availability of funds. Previous awards have ranged from $50,000 per year up to $500,000 per year with terms from 1 to 3 years; most awards average about $200,000 per year for 2 or 3 years. Similar award sizes are anticipated for new grants.

Information about development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Energy Research Financial Assistance Program. The Application Guide is available from the U.S. Department of Energy, Office of Health and Environmental Research, Health Effects and Life Sciences Research Division, ER–72, 19901 Germantown Road, Germantown, MD 20874–1290. Telephone requests may be made by calling (301) 903–6488. Internet requests can be made to: joanne.corcoran@oer.doe.gov. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following E-mail address: http//www.er.doe.gov

The Office of Energy Research, as part of its grant regulations, requires at 10 CFR 605.11(b) that a grantee funded by ER and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules" (59 FR 34496, July 5, 1994), or such later revision of those guidelines as may be published in the **Federal Register**.

The dissemination of materials and research data in a timely manner is essential for progress towards the goals of the DOE HGP. The OHER requires the timely sharing of resources and data. Applicants should, in their applications, discuss their plans for disseminating research results and materials that may include, where appropriate, publication in the open literature, wide-scale mailings, etc. Once OHER and the applicant have agreed upon a distribution plan, it will become part of the award conditions. Funds to defray the costs of disseminating results and materials are allowable; however, such requests must be sufficiently detailed and adequately justified. Applicants should also provide timelines projecting progress toward achieving proposed goals.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC on January 24, 1996.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 96–2636 Filed 2–6–96; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. RM95–6–000 and RM96–7–000]

Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines; Statement of Policy and Request for Comments

Issued January 31, 1996.

I. Introduction

In this docket, the Commission has been exploring the criteria it should use when evaluating rates established through methods other than the traditional cost-of-service ratemaking method. In response to a number of requests from natural gas pipeline companies to approve rates based on various pricing methods, which may or may not be cost-based, the Commission has decided to establish a framework for analyzing certain of such proposals. The Commission solicited comments on the criteria it should use in evaluating non-cost-of-service based proposals [1] and representatives from all segments of the industry responded. The Commission has reviewed those comments and is now providing the industry with guidance by stating the criteria it will consider when evaluating proposals for market-based rates. Moreover, the Commission will modify its existing policy statement on incentive ratemaking in light of the comments received.

Moreover, the Commission will modify its existing policy statement on incentive ratemaking in light of the comments received.

The Request for Comments also generated responses from the industry on other non-cost-of-service based alternatives to the Commission's traditional ratemaking methodology. In particular, the Commission has received and reviewed comments on negotiated/recourse rates. Under a negotiated/recourse program the Commission would dispense with cost-of-service regulation for an individual shipper when mutually agreed upon by the pipeline and its shipper and permit negotiated terms and/or conditions that could vary from the pipeline's otherwise applicable tariff. A recourse service found in the pipeline's tariff would be available for those shippers preferring traditional cost-of-service rates and services.

Based on the comments received, the Commission is prepared to permit negotiated rates within the guidelines discussed below. The Commission has determined, however, that in order to make an informed decision, additional consideration and comment is needed regarding the legal and policy implications of negotiated terms and conditions of service. Therefore, the Commission is establishing a separate proceeding to solicit further comments concerning negotiated terms and conditions.

II. Background

In 1989, Congress urged the Commission to "improve [the] competitive structure [of the natural gas industry] in order to maximize the benefits of [wellhead] decontrol." [2] The Commission responded to Congress in part in Order No. 636 [3] by taking significant steps to increase competition in the transportation market. By regulating pipelines in a manner that seeks to ensure all shippers have meaningful access to the pipeline transportation grid, the Commission has created a regulatory environment intended to maximize competition.

The result of Order Nos. 436 and 636, combined with the North American Free Trade Agreement (NAFTA) and the certification of new pipelines, is an increased availability of unbundled transportation and greater integration of upstream and downstream natural gas markets, both domestic and Canadian. As a result, there has been a shift in traditional supply sources; many existing pipeline customers no longer want or need the same amount of firm capacity to their traditional pipeline's supply regions. In addition, the overall natural gas demand has been increasing steadily, albeit modestly. Since 1992, national consumption of natural gas has increased at about 3 percent.[4] This increased demand has occurred primarily in the industrial and electric end-use markets for natural gas.[5] Natural gas consumers in these markets often have dual fuel capability,[6] and for this reason pipelines have sought ratemaking flexibility to respond to alternative fuel competition in these markets.

Pipelines contend that greater flexibility is key to attracting new gas markets and retaining existing markets.

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[1] Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, 70 FERC ¶61,139 (Feb. 8, 1995) ("Request For Comments").

[2] H.R. Rep. No. 29, 101st Cong., 1st Sess., at 6 (1989).

[3] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, and Regulation of Natural Gas After Partial Wellhead Decontrol, Order No. 636, 57 Fed. Reg. 13267 (April 16, 1992), FERC Stats. and Regs. ¶30,939 (April 8, 1992), *order on reh'g*, Order No. 636–A, FERC Stats. & Regs. ¶30,950 (August 2, 1992), *order on reh'g*, Order No. 636–B, 61 FERC ¶61,272 (November 27, 1992), *reh'g denied*, Order No. 636–C, 62 FERC ¶61,007 (January 8, 1993), *appeal pending sub nom.* United Distribution Companies, *et al.* v. FERC, Nos. 92–1485, *et al.*

[4] In 1992, the overall national consumption of natural gas was 19.5 Tcf; in 1994 it reached 20.7 Tcf, a 6 percent increase. Figures for the first nine months of 1995 suggest an increase of 3 percent over the first 9 months of 1994. Natural Gas Monthly, December 1995.

[5] See, e.g., Energy Information Administration, Natural Gas Annual 1994, at p. 37 (DOE–EIA–0131(94)/1, November 1995) ("Most of the 476 billion cubic feet increase in consumption was due to increased reliance on natural gas in the electric utility sector. . . . . while industrial consumption grew by 196 billion cubic feet or 3 percent.").

[6] See, e.g., National Petroleum Council, The Potential for Natural Gas in the United States, Volume III, Demand and Distribution, (December 1992) at 72–73 and 96.

For example, new electric generators have argued that they require long-term price certainty for transportation to finance gas-dependent ventures. In addition, it is asserted that ratemaking flexibility would permit pipelines to tailor natural gas transportation rates for electric generators to meet the swings in gas consumption often experienced by such generators. Pipelines have argued that, because many LDCs are unwilling to commit to long-term firm contracts, greater flexibility in rates and services is needed to retain customer load as old long-term contracts expire. LDCs also want flexibility so they can swing between pipelines to take advantage of the opportunity to purchase gas from different supply regions.

The Commission has recognized that additional rate design flexibility may be needed in a post-restructuring environment. In cases concerning the appropriate rate treatment for the costs associated with a pipeline's loss of revenues resulting from the expiration of contracts, for instance, parties have argued that they need additional rate design flexibility in order to market excess capacity and recover costs associated with their turned-back capacity.[7] In Natural Gas Pipeline Company of America,[8] the Commission indicated its willingness to permit pipelines flexibility in negotiating rates with its current and prospective customers for unsubscribed capacity, including rates which depart from SFV rate design. The Commission also stated that it would entertain, as part of a settlement, a proposal that allows rate flexibility for the capacity that customers had already elected.

In recent filings, pipeline companies also have urged the Commission to permit greater flexibility in service options and terms and conditions in order to meet competition. For example, Panhandle Eastern Pipe Line Corporation (Panhandle) proposed a Limited Firm Transportation (LFT) Service, under which its customers would be guaranteed the ability to schedule firm transportation service for only 20 days in any given month.[9] Trunkline Gas Company proposed a Premium Alternative Transportation (PAT) Service, consisting of interruptible transportation with preferential scheduling and curtailment features for an annual contracting fee.[10] Trunkline also proposed a Park and Transfer Service to help shippers manage their supply while reducing the frequency of cash-outs and scheduling penalties.[11]

In an attempt to respond to pipelines' requests for added flexibility, the Commission sought comments on alternative methods for pricing of services by natural gas pipeline companies. In its Request for Comments, the Commission stated its interest in developing a framework for analyzing proposals involving alternative pricing methods. Recognizing that there are a number of cost-based, as well as non-cost based alternatives to the Commission's traditional method, the Commission sought comment on fifteen specific questions related to possible ratemaking alternatives.

In the Request for Comments, the Commission also sought comment on a Commission Staff Paper that proposed criteria for evaluating of proposals for market-based rates. The staff paper applied basic market power analysis, as used in the past by the Commission as well as in other contexts, to develop a proposed analytical framework for evaluating gas pipeline market-based rate proposals.

The Commission also sought comment on whether changes should be made in its existing policy statement on incentive ratemaking.[12] The Commission noted that although it has stated the criteria upon which it will evaluate cost-based incentive rate proposals, to date no natural gas company has submitted such a proposal. The Commission raised several specific questions regarding its policy on incentive rate proposals and solicited comments on all aspects of its existing policy statement.

The Commission received 59 comments from parties representing all segments of the natural gas industry.[13] The majority of the responses focused on the staff paper and suggestions for criteria for evaluating market-based rate proposals. Furthermore, the responses critically analyzed the Commission's existing incentive rate policy statement and offered sound suggestions for altering the existing policy to meet the needs of the public interest in today's natural gas market.

The comments also proposed other alternatives to traditional cost-of-service ratemaking. Specifically, INGAA proposed that the Commission approve negotiated/recourse rate applications. Under such applications, pipelines would be allowed to negotiate a rate and/or terms and conditions of service so long as a Commission approved (recourse) rate remained available. Customers would always retain the right to elect the recourse rate and forego negotiation. Various commenters filed responses to INGAA's proposal.[14] Several of these commenters generally support INGAA's proposal although they object to INGAA's proposal to index the recourse rate.[15] Comments in opposition to INGAA's proposal focused on issues ranging from cost shifting and degradation of service to preventing undue discrimination and complying with the NGA's filing requirement. INGAA further clarified its proposal on September 25 and November 9, 1995 and commenters filed additional responses thereafter. A detailed discussion of INGAA's proposal and the responses thereto is included as part of the Commission's Request for Comments in Section IV below.

III. Policy on Market-Based Rates

The Commission has determined that where a natural gas company can establish that it lacks significant market power,[16] market-based rates are a viable option for achieving the flexibility and added efficiency required by the current marketplace. To date, the Commission has reviewed requests by regulated companies to charge market-based rates on a case-by-case basis. The Commission intends to continue in this vein, but is announcing the criteria it will generally use in the review process to aid companies in preparing their proposals. Below, we discuss the criteria the Commission will consider in evaluating any pending or future proposal for market-based rates. Companies may submit proposals meeting the established criteria for system segments and/or specific services offered on a system.

[7] *See* Southern Natural Gas Co., 73 FERC ¶61,322 (1995); Natural Gas Pipeline Co. of America, 73 FERC ¶61,050 (1995); Transwestern Pipeline Co., 72 FERC ¶61,085, *reh'g denied*, 72 FERC ¶61,089 (1995); and El Paso Natural Gas Co., 72 FERC ¶61,083 (1995).

[8] 72 FERC ¶61,083 (1995).

[9] Panhandle Eastern Pipe Line Co., 72 FERC ¶61,185 (1995).

[10] Trunkline Gas Co., 73 FERC ¶61,107 (1995).

[11] *Id.*

[12] Policy Statement on Incentive Regulation, 61 FERC ¶61,168 (1992).

[13] A list of the commenters is included as an appendix to this policy statement.

[14] To date, the Commission has received comments on INGAA's proposal from Brooklyn Union, GRI, IPAA, NGSA, and a group of eight industrial organizations.

[15] AGD, Brooklyn Union, and UGI.

[16] Transwestern Pipeline Company, 43 FERC ¶61,240 (1988); El Paso Natural Gas Company, 49 FERC ¶61,262 (1989); Transcontinental Gas Pipe Line Corporation, 55 FERC ¶61,446 (1991); Richfield Gas Storage System, 59 FERC ¶61,316 (1992); Koch Gateway Pipeline Company, 66 FERC ¶61,385 (1994); Buckeye Pipe Line Company, 53 FERC ¶61,473 (1990), and Williams Pipe Line Company, 69 FERC ¶61,136 (1994).

A. The Comments Received

The majority of the responses to the Request for Comments focused on the staff paper and suggestions for criteria for evaluating proposals for market-based rates.

The majority of those commenters supported market-based rates where a market is fully competitive.[17] Many commenters recognized, however, that it is unlikely that the primary market, i.e., firm transportation by interstate pipeline companies, will meet the proposed criteria for market-based rates.[18]

LDCs, producers, marketers, and state commissions, joined by a few interstate pipeline companies, assert that other markets, for example those for capacity release and interruptible transportation, already are, or can become, competitive enough to permit market-based rates.[19] Several parties believe that the markets for short-term firm transportation,[20] storage,[21] and hub/market center services,[22] as well as new markets[23] may also be competitive enough to permit market-based rates. On the other hand, a number of endusers and LDCs take the position that market-based rates should not be allowed for certain markets, including firm transportation,[24] capacity release,[25] short-term firm,[26] interruptible transportation,[27] and storage.[28]

The staff paper issued with the Request for Comments proposed criteria for evaluating market-based rate proposals. The Commission sought comments regarding whether these criteria were appropriate, too strenuous, or not strenuous enough. The majority of pipeline commenters, along with a few others, indicated that the criteria were too strenuous and ignore competitive factors.[29] A few pipelines suggest the Commission should avoid "one size fits all" approaches and instead use evaluation criteria of a more general nature.[30] The majority of end-users and regulatory commissions believe the proposed criteria are either reasonable and strenuous enough or require only minor modifications. Specifically, AGD contends that competing products need not be identical. For example, AGD asserts that in the off-peak season, released FT and IT are virtually identical. Therefore, AGD suggests that the criteria be modified to allow for consideration of such differences in product definition.

AGD also argues that the criteria should be modified so that the difference in price to be considered will be the difference in the cost of obtaining delivered gas through the various alternatives. The Pa OCA contends that the timeliness criterion should be more strenuous. Pa OCA states that if projected alternative capacity is delayed or is less than projected, customers should have the option of continuing to pay a traditional cost-of-service rate until workable competition exists. The Ohio CC and Pa OCA state that "ease of exit" as well as "ease of entry" should be added to the criteria used to define product markets. Pa OCA also suggests that the financial risk to customers be added to the criteria used to define product markets.

The LDCs, producers, and marketers are evenly divided on the question. Those that oppose the criteria assert that they are too narrow, will lead to overregulation, and that the .18 the summary measure of market concentration known as the Herfindahl-Hirschman Index (HHI) screen is too low.[31] Several commenters suggested that other factors, including market competition, market definition, and product substitution, must be considered in evaluating any proposal for market-based rates.[32]

In response to the Commission's inquiry regarding the use of different standards for different types of service, a number of LDCs and pipelines argue that the Commission should use different standards for different services.[33] Several commenters assert that the standards should be tailored to the services offered and/or the market to be served.[34] In contrast, the few state regulatory commissions who responded on this issue suggest that the same criteria should be used for all services.[35]

B. Response to Legal Arguments Opposing Market-Based Rates

A few commenters raised specific arguments regarding the Commission's legal authority to implement market-based rates on a broad scale. Only the IPAA made a broad-based attack on the Commission's legal authority to permit market-based rates. The Commission believes that IPAA's attack is based largely on mistaken premises.

IPAA asserts that the NGA contemplates "traditional" or cost-of-service ratemaking and therefore adoption of market-based rates on a wide scale may be contrary to the statutory intent of the NGA. IPAA argues that the Supreme Court has specifically held that NGA Sections 5(b), 6(a), 9(a), 10(a) and 14(b) suggest that when Congress enacted the NGA, it contemplated "traditional" or cost-of-service ratemaking[36] IPAA narrowly construes the Supreme Court decisions in *FPC* v. *Hope*,[37] and the *Permian Basin Area Rate Case*[38] as applying solely in cases where the question to be decided is what methods should be used to establish a rate base, not whether some alternative to cost-of-service ratemaking would be appropriate.

This is an extremely narrow reading of the case law. Moreover, IPAA does not even acknowledge more recent cases

[17] AGA, Edison, Con Edison, ANR/CIG, CNG, Cove Point, INGAA, Koch Gateway, PGT, PEC Pipeline Group, IPAA, Indicated Shippers, Alberta, Florida, Ohio CC, New York, Mark B. Lively, and Transok.

[18] Brooklyn Union, Connecticut Natural, IPAMS, Illinois, Ohio PUC, Tejas, Atlanta Gas, Columbia Distribution, Northern Distributors, NI-Gas, UDC, Amoco, NGSA, Texaco, PA. OCA, and PaPUC.

[19] Edison, AGD, Atlanta Gas, Brooklyn Union, Pacific Northwest Commenters, CINergy Gas Companies, Columbia Distribution, Connecticut Natural, Con Edison, Northern Distributors, NI-Gas, Northern Indiana, PSE&G, UDC, Columbia, INGAA, PGT, WINGS, Illinois, Ohio CC, Pa. OCA, PaPUC, and the Ohio PUC.

[20] Connecticut Natural, Northern Distributors, UDC, Columbia, INGAA, and WINGS.

[21] Edison, APGA, Pacific Northwest Commenters, NI-Gas, INGAA, PGT, WINGS, IPAMS, PaPUC, and Tejas.

[22] Edison, APGA, Pacific Northwest Commenters, NI-Gas, INGAA, PGT, WINGS, IPAMS, PaPUC, and Tejas.

[23] NI-Gas, Northern Indiana, Columbia, Cove Point, and INGAA. New markets include new construction, new services, or new entrants.

[24] AF&PA, Fertilizer Institute, Energy Associates, NWIGU, Petrochemical Energy Group, Pacific Northwest Commenters, Northern Indiana, IOGA, and Ohio CC.

[25] AF&PA and NWIGU.

[26] APGA.

[27] AF&PA, Fertilizer Institute, APGA, and Pacific Northwest Commenters.

[28] Energy Associates.

[29] Cove Point, INGAA, Tejas, ANR/CIG, Brooklyn Union, KN Interstate, AGA, Koch Gateway, WINGS, Transok, KN Interstate, NGSA, PEC Pipeline Group, and Columbia.

[30] Enron, INGAA, and NorAm.

[31] Cove Point Pipeline, INGAA, Tejas, ANR Pipeline/CIG Pipeline, Brooklyn Union, KN Interstate Pipeline, AGA, Koch Gateway Pipeline, WINGS, Transok Pipeline, PEC Pipeline Group, and Columbia Pipeline.

[32] SoCalGas, CNG, Enron, INGAA, and NorAm.

[33] Wisconsin Distributors, AF&PA, Edison, AGA, AGD, Connecticut Natural, Northern Distributors, NI-Gas, Northern Indiana, UDC, Columbia, INGAA, KN Interstate, WINGS, IPAMS, Illinois, Ohio PUC, and Tejas.

[34] SoCalGas, Koch Gateway, and PEC Pipeline Group.

[35] Industrial Gas Consumers, APGA, CNG, NGSA, Alberta, Florida, and Ohio CC.

[36] Citing, *Colorado Interstate Gas Company* v. *FPC*, 324 U.S. 581 at 601–2 (1945) (*CIG*).

[37] In Hope, the Court held that the Commission was not bound to use any single formula or combination of formulae in determining rates, but that the Commission's rate-making function "involves the making of pragmatic adjustments" and that under the statutory standard "it is the end result reached not the method employed which is controlling." 320 U.S. 591 at 602 (1944).

[38] 390 U.S. 747 (1968).

such as *Farmers Union Central Exchange* v. *FERC*,[39] which recognized the possibility of moving to light-handed regulation when justified by a showing that the goals and purposes of the statute can be accomplished without traditional regulatory oversight.[40] Thus, IPAA's arguments in this regard are not persuasive.

IPAA also maintains that an essential demand in the pipelines' request for market-based rates is that the Commission ignore the statutory prohibition against "undue discrimination." IPAA claims that the pipelines wish to be able to discriminate in rates, terms, and conditions, which it argues would violate the NGA and possibly of the antitrust laws. Simply put, IPAA maintains pipelines want to charge some customers higher rates in order to subsidize lower rates for affiliates and other favored customers, in violation of the NGA.

The Commission does not share IPAA's view. First, the scenario IPAA fears is possible only if a pipeline exercises market power. A company cannot make one group of customers subsidize another unless it has market power over the group that would pay the higher rates. If a pipeline has market power over a service then the Commission cannot permit it to charge market-based rates for that service. In addition, the Commission has carefully scrutinized affiliate relationships and generally has taken special precautions, imposing special rules, where affiliates are involved. In those instances the Commission has recognized that the normal market controls will not work with affiliate transactions. Finally, the statute does not prohibit all differences in rates. The prohibition in the NGA is against unduly discriminatory behavior. Thus, under Part 284 of the Commission's regulations, the Commission has allowed differences in rates by permitting pipelines to discount rates for certain types of service and for certain customers.[41] The Commission has maintained that these differences in rates are justified if the discount is necessary to meet competitive circumstances and the customers are not in similar competitive positions.

Hadson asserts that the Commission has failed to explain how Commission rulings that prohibit restrictions on the resale of electric power as *per se* violations of the FPA,[42] and prohibit restrictions on the resale of natural gas as violative of NGA standards,[43] are consistent with its determination that resale restrictions on the sale of pipeline capacity are required under the NGA.[44]

Hadson's concerns are misplaced. The Commission has determined that non-dominant sellers of electric power cannot exercise market power.[45] Likewise, it has determined that markets for the sale of natural gas are sufficiently competitive that the market, subject to Commission oversight and intervention, serves to ensure that rates for the sale of these commodities are just and reasonable. To the extent this is true for primary sales of electric power and natural gas, the proposition is even more true with respect to resales of the commodities. Gulf States, *City of Florence* and their progeny address sales, not transportation, and the distinction is critical. Congress recognized the distinction when it deregulated wellhead prices. The level of competition that exists for the sale of natural gas has not been demonstrated to exist for the transportation of natural gas. If the market does not serve to ensure just and reasonable rates for the primary market one cannot simply assume that it will ensure just and reasonable rates for the secondary market.

Hadson also asserts that lifting cost-based caps and/or moving away from cost-based ratemaking for the transportation of gas by interstate pipelines will interfere with the goals of the NGA. Hadson's comments merely reiterate the reasons for using a market analysis as the starting point for evaluating any market-based rate proposal. Absent a showing that a particular company lacks market power or that sufficient regulatory safeguards, e.g., a cost-of-service fallback rate, can be implemented to eliminate the potential exercise of market power, the Commission would continue some form of cost-based ratemaking.[46] Where a company can show a lack of market power, then competition in the market would ensure that the company's rates will be just and reasonable. In either case, the goals and purposes of the NGA are met in that any rates that would be charged would be just and reasonable, either under a cost-based or a market-based analysis.

Hadson also asserts that *Farmers Union Central Exchange* v. *FERC*,[47] which affirmed the possibility of light-handed regulation of oil pipelines, recognized that the movement to light-handed regulation is justified only by a showing that the goals and purposes of the statute can be accomplished without traditional regulatory oversight. Hadson asserts that the staff paper does not address the potential for serious disruption of the industry in the event that a future Commission (or a reviewing court) decides to apply court rulings applicable for other regulated industries, such as the telecommunications industry, and require strict tariffing.[48] Hadson states that the Commission should either revisit its assertion of NGA jurisdiction over shippers (via blanket certificates) or assure the public that the procedures under which everyday business is conducted will not be confounded by a subsequent finding that the structure does not comport with the filed rate doctrine. Hadson is merely repeating arguments advanced in opposition to the Commission exercising its NGA jurisdiction over marketers. The Commission previously addressed these concerns when it reaffirmed that sales by marketers are resales subject to the Commission's NGA jurisdiction. These

[39] 734 F.2d 1486, 1509 (1991) *Farmers Union II*.

[40] See also, *Elizabethtown Gas Co.* v. *FERC*, 10 F.3d 866, 870 (D.C. Cir. 1993) (*Elizabethtown*) (Court of Appeals affirmed Commission approval of market-based rates, under appropriate circumstances, as meeting the requirements of the NGA.)

[41] 18 CFR 284.7 (1995).

[42] *Citing*, Gulf States Utilities Co., 5 FERC ¶ 61,066 (1978) (*Gulf States*), Central Maine Power Co., 18 FERC ¶ 61,126 (19982); Louisiana Power & Light Co., 14 FERC ¶ 61,075 at 61,130–31 (1981); Central Telephone & Utilities Corp., 10 FERC ¶ 61,213 (1980); and Empire District Electric Co., 5 FERC ¶ 61,083 (1978).

[43] *Citing*, *City of Florence* v. *Tennessee Gas Pipeline*, 24 FERC ¶ 61,395 (1983) (*City of Florence*) (the Commission voided a restriction in a pipeline LDC contract on the resale of natural gas by the distributor).

[44] Hadson at 19.

[45] See, e.g., Louisville Gas and Electric Company, 62 FERC ¶ 61,016 at 61,143–4 and cases cited at footnote 16. (Non-traditional rates may be acceptable if the seller can demonstrate that it lacks market power over the buyer or has adequately mitigated its market power. The seller can demonstrate that it lacks market power (or has adequately mitigated its market power) by showing, among other things, that neither it nor its affiliates is a dominant firm in the sale of generation in the relevant market.)

[46] See the discussion of Negotiated/Recourse Rates below.

[47] 734 F.2d 1486, 1509 (1991) *Farmers Union II*.

[48] Hadson refers to a line of Federal Communications Commission cases which stand for the proposition that an agency should be mindful of specific statutory procedural requirements when it undertakes reform of substantive regulatory policies and programs. Citing, *MCI Telecommunications Corp.* v. *ATT*, _____ U.S. _____, 114 S.Ct. 2223 (1994) (*MCI II*), *Southwestern Bell Corp.* v. *FCC*, 43 F.3d 1515 (D.C. Cir. 1995) (*Southwestern Bell*), and *Maislin Industries, U.S. Inc.* v. *Primary Steel, Inc.*, 49 U.S. 116 (1990). Neither *MCI II* nor *Southwestern Bell* speak to the substantive validity of alternative, non-cost based, ratemaking methodologies. These cases address the methods of implementing statutory requirements for rate filings that agencies can legitimately employ. The cases do not speak to the methods of deriving the rates that ultimately must be filed. With respect to such methods, the doctrine advanced in *Hope* still applies.

issues need not be addressed again in this context.[49]

IPAA asserts that, assuming for the sake of argument alternative pricing methods could be sustained on appeal, some very specific statutory requirements with respect to filing and approval of rates and the prohibition against undue discrimination must be considered. Citing *Environmental Action* v. *FERC*[50] and *Transwestern Pipeline Co.* v. FERC,[51] IPAA maintains that a formula or rule means that something must be filed from which an actual rate can be calculated; a rate dependent solely upon the market does not qualify as a "formula" or "rule."

The Commission's implementation of market-based rates for pipelines and storage companies comports with the filed rate doctrine. The Commission has not attempted to eliminate tariffs, as was the case in the telecommunications industry, and does not do so here. Currently, for the few proposals that have been approved, the Commission has required the company to file tariff sheets for the service with market-based rates. The Commission will continue this practice in any future declaratory orders ruling on market-based rate proposals.

C. The Criteria

The Commission's framework for evaluating requests for market-based rates addresses two principal purposes: (1) Whether the applicant can withhold or restrict services and, as a result, increase price by a significant amount for a significant period of time, and (2) whether the applicant can discriminate unduly in price or terms and conditions. Undue discrimination is especially a concern when an applicant for market-based rates can deal with affiliates.

Before the Commission can conclude that a seller will not withhold or restrict services, significantly increase price over an extended period of time, or unduly discriminate, it must either (1) find that there is a lack of market power because customers have sufficient good alternatives or (2) mitigate the market power (i.e., permit market-based pricing only if specified conditions are met that prevent the exercise of market power). Market power is defined as the ability of a pipeline to profitably maintain prices above competitive levels for a significant period of time.[52] To date, in all cases where the Commission has considered market-based rates, the applicant has been required to show that it lacks significant market power in the relevant markets. The staff paper set out a general framework for evaluating requests for market-based rates. The Commission now adopts this general framework, as discussed below, as its criteria for evaluating the competitiveness of transportation services.

The Commission's analysis of whether a pipeline has the ability to exercise market power will include three major steps: (1) Define the relevant markets; (2) measure a firm's market share and market concentration; and (3) evaluate other relevant factors. Each of these steps was articulated in the staff paper. They are discussed, with certain noted changes, again below.

1. Market Definition

The first step is to define the relevant market. Market definition identifies the specific products or services and the suppliers of those products or services that provide good alternatives to the applicant's ability to exercise market power. The term "good alternatives" has been defined as "an alternative that is available soon enough, has a price that is low enough, and has a quality high enough to permit customers to substitute the alternative" for the applicant's service.[53]

a. The Product Market. The applicant's service together with other services that are good alternatives constitute the relevant product market. The Commission will require the applicant to define the product market fully and specifically. The applicant must also show how each of the substitute services in the product market are adequate substitutes to the applicant's service in terms of quality, price and availability. For example, the relevant product market may consist of off-peak interruptible transportation service only. The Commission will consider any substitutes for the relevant product that can be considered competitive alternatives, e.g., storage delivery services. Pipelines might suggest numerous alternatives to FT in their applications: IT, storage services, residual fuel oil, etc. A narrow definition of the product market, for example, peak period, firm transportation or off-peak, interruptible transportation, will better enable the Commission to critically evaluate the real alternatives that are available to the proposed service.

i. Timeliness. The definition of the product market may vary depending on the time period considered. For example, whether a service is a good alternative to a pipeline's interruptible service will depend on the time periods chosen for review. The staff paper noted that, although antitrust authorities have used one year as the time period in which to test whether a product can become a substitute, a one year time period was probably not appropriate for long-term firm transportation because capacity on competitors would typically need to be available simultaneously to offer a viable alternative to customers. Because long-term firm contracts typically do not offer customers the ability to shift between alternatives, the one year time period may not be appropriate.

A few commenters argue that the Commission should adopt a more strenuous timeliness criterion.[54] They assert that if the projected alternative capacity is delayed or is less than projected, customers should have the option of continuing to pay a traditional cost-of-service rate until workable competition exists.

The Commission will not define a specific time period within which a product must become available in order to be a substitute. The Commission believes that this determination is dependent upon the type of product services at issue. As more product services become available, the duration of service agreements is likely to vary considerably from the traditional 20-year firm transportation agreement. Therefore, the ability to establish whether a product is or can become a good alternative will depend upon the specifics of the product it is replacing. However, if a pipeline applicant relies on the existence of capacity that will not be available immediately, it should also show that its customers will not be committed to long term contracts on its system within the relevant time period.

[49] See, Removal of Outdated Regulations Pertaining to the Sales of Natural Gas Production, Docket No. RM94–18–001, 69 FERC ¶ 61,055 at 61,217 (1994), *appeal docketed sub nom. Hadson Gas Systems, Inc.* v. *FERC*, No. 95–1111 (D.C. Cir.).

[50] In *Environmental Action* v. *FERC*, 996 F.2d 401 (D.C. Cir. 1993) (*Environmental Action*), the proposed pricing plan was ruled to have been acceptable because there was a filed rate cap, and any discrimination was held to be potential.

[51] In *Transwestern* v. *FERC*, 897 F.2d 570 (D.C. Cir. 1990) (*Transwestern*), the Court determined that filing a "rate 'formula' or rate 'rule'" can satisfy the filing requirements of Section 4; however, given the Court's ruling that the issue of market-based rates was moot in that case because there had been no customer nominations under Transwestern's program, the determination with respect to a rate formula or rule appears to be have been dicta.

[52] Enron Storage Company, 73 FERC ¶ 61,206 (1995); Williams Pipeline Company, 68 FERC ¶ 61,136 (1994); Avoca Natural Gas Storage, 68 FERC ¶ 61,045 (1994); Koch Gateway Pipeline Company, 66 FERC ¶ 61,385 (1994); Bay Gas Storage Company, 66 FERC ¶ 61,354 (1994); Transok, Inc., 64 FERC ¶ 61,095 1993); and Richfield Gas Storage System, 59 FERC ¶ 61,316 (1992).

[53] Koch Gateway Pipeline Company, 66 FERC ¶ 61,385 at 62,299 (1994).

[54] Pa OCA and Ohio CC.

In this regard, customers should be given the option of reducing service demand levels once the alternative capacity and/or service becomes available.

ii. Price. Along with showing that alternative capacity will be available in a reasonable time frame, the Commission will also evaluate whether the price for the available capacity is low enough to effectively restrain the applicant from increasing prices. The price increase threshold is important because with a lower threshold it becomes ostensibly more difficult for a potential alternative to the applicant's service to be considered a good alternative. In prior cases, the Commission has defined such a threshold price level as being at or below the applicant's approved maximum cost-based rate plus 15 percent.[55]

Several of the commenters suggest that the 15 percent threshold for price changes is inappropriate.[56] They assert that a threshold at the 5–10 percent level is more consistent with current similar standards in the Department of Justice's merger guidelines. The Commission has studied the arguments made on this issue and we agree. Accordingly, the Commission will adopt a pricing threshold of 10 percent. The Commission believes that if a company can sustain an increase in its rates in the order of 10 percent or more without losing significant market share, the company is in a position to exercise market power to the detriment of the public interest.

Although the Commission is adopting 10 percent as its standard price change threshold, it is not precluding individuals from making an argument for either a higher or lower threshold in any particular case. Applicants are free to argue for a higher threshold where they believe circumstances permit. Similarly, participants in the application proceeding are free to argue for lower thresholds. The Commission will consider the arguments presented and make a determination of the appropriate price change threshold on an individual basis whenever the issue is raised. In cases where the issue is not raised, the Commission will use 10 percent as the applicable price increase threshold. In addition, when applicants propose an appropriate threshold for price increases, they should also propose the time period over which the price increase could be sustained.

iii. Quality. A good alternative must provide service in which the quality is at least as high as that of the service provided by the applicant. After the Commission has a full and complete description of the service(s) proposed for market-based rate treatment, it will evaluate whether any available third party capacity is comparable in service to the transportation service provided by the applicant.

In the aftermath of Order Nos. 436 and 636, the Commission believes that all interstate pipelines currently provide operationally comparable firm transportation service. However, even if a customer can find available capacity on an alternative pipeline, the overall package of services available may not be comparable to that it currently receives from the applicant. For instance, no-notice service may not be available from other pipelines (though a similar service may be available from third parties). Under Order No. 636, interstate pipelines that offered no-notice sales service prior to restructuring were required to offer no-notice transportation service to their existing sales customers at the time of unbundling. Pipelines had the option of making no-notice service available to customers who were not sales customers. Thus, while many interstate pipelines currently provide no-notice service, they do not and are not required to offer such service to new customers. Thus, comparable no-notice service may not be available on other pipelines.

Also, applicants may wish to demonstrate that intrastate pipelines offer comparable firm transportation service. Transportation services offered by intrastate pipelines under Section 311 of the NGPA are also subject to open-access and non-discriminatory access standards as interstate pipelines are under Order Nos. 436 and 636. Therefore, to the extent that intrastate pipelines offer firm transportation service, the Commission believes that such service could be offered under terms and conditions that are substantially comparable to the firm transportation services offered by open-access interstate pipelines. However, intrastate pipelines are not required to offer firm transportation services and currently only a few intrastate pipelines offer such service. Thus, firm transportation may not be available on intrastate pipelines. Where it is available, pipelines are free to argue that firm intrastate transportation service is a comparable alternative to services proposed for market-based rates.

Applicants wishing to make a showing that interruptible transportation services make good alternatives to the applicant's firm services should demonstrate that an adequate amount of capacity is unsubscribed during peak periods so that the quality of the IT service is comparable to that of the applicant's FT service.

2. The Geographic Market

In addition, in defining the market, the Commission will look to identify all the sellers of the product or service. The collection of alternative sellers and the applicant constitutes the relevant geographic market. Specifying the relevant product and geographic market tells the Commission what alternatives the customer has if it attempts to avoid a price increase imposed by an applicant. Geographic market definition is particularly important in transportation markets. Gas pipelines can transport gas out of a producing or origin region. They also deliver gas into a consuming or destination region. The Commission will identify both the origin and destination markets for the relevant service. Only in that way can the Commission evaluate whether there are good alternatives to the pipeline's service.

The Commission expects that typical proposals will adopt a two-step process of defining the geographic market. First, the applicant will identify those alternative sellers who offer service between the same origin and destination markets. Second, the applicant will identify those competitors that provide service either out of the origin market or into the destination market.

a. Transportation Between Markets. The first stage of the analysis identifies sellers offering transportation service over the same route. Examining different sellers serving the same transportation link simplifies the analysis. For instance, there is no need to consider whether different producing areas offer "good" alternatives to each other.

To show that another pipeline provides a good direct alternative, the applicant must show that customers could purchase the relevant service from the alternative supplier. Such a demonstration will likely include showing that capacity would be available on the alternative and that the customer can obtain any services

[55] In Buckeye Pipe Line Company, L.P., Opinion No. 360, 53 FERC ¶ 61,473 at 62,61 (1990), order on reh'g, Opinion No. 360–A, 55 FERC ¶ 61,084 (1991), the Commission held that a 15 percent increase was an appropriate level to measure market power. However, in Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶ 61,136 at 61,657, the Commission declined to adopt a specific rate increase as a litmus test for market power. In Koch Gateway Pipeline Company, 66 FERC ¶ 61,385, the Commission suggested that potential alternatives would include services that though presently not used, would be economic if prevailing prices were to rise by a modest amount, e.g., five to fifteen percent.

[56] Industrial Gas Consumers, NI-Gas, UDC, Alberta, and Illinois.

needed to use the competitor's facilities in both origin and destination markets over the term of the service receiving market-based rates.

If a customer has a continuing obligation to take gas at a particular receipt point, or to deliver gas to a specific delivery point, beyond the term of its FT contract, competition from parallel pipelines is particularly important in evaluating market power on a pipeline seeking market-based FT rates. In these circumstances, the applicant may have market power over the shipper even if both the origin and destination markets are otherwise competitive. While the shipper will have good alternatives to the applicant for getting to the city-gate, it may not have good alternatives for getting gas from the shipper's particular receipt point to its city-gate. It could of course, sell its contract gas from that particular point on the spot market in the production area and buy an equal amount of spot gas in an area where it had good transportation alternatives. But the spot price at which it sells might be lower than the spot price at which it buys, causing extra expense and providing some opportunity for the applicant pipeline to raise its price. Additionally, the shipper may value the reliability of the contract gas and be concerned that it might not be able to buy spot gas when it needs it.

b. Transportation at Origin and Destination Markets. Parallel route competition is not the only source of market discipline on gas transporters. A shipper in the production area will typically have alternative destination markets to which it could send gas. Similarly, a downstream shipper will typically have a choice of several producing areas from which to buy gas. Pipelines that provide such alternative service may offer an additional check on the market power of a shipper.

Natural gas transportation typically originates in the production area. In the production area (or the mainline receipt point), the applicant must identify the transportation alternatives available to customers. Customers could include producers with gas supplies attached at a receipt point, LDCs, and endusers with firm long-term supply contracts. To define a particular region as an origin market, the pipeline must identify all pipelines which compete with it to move gas out of that area. As a general matter, to demonstrate that these other pipelines are good alternatives (that is, are in the market) the applicant must show that its producer/shippers are physically connected to these other pipeline transporters. Alternatively, the applicant could include an alternative pipeline in the market if it can connect to the producer/shipper sufficiently cheaply that the producer/shipper receives a netback[57] at least as large as it would receive if it used the applicant's transportation service. The applicant must also show that these transportation alternatives provide a netback to producer/shippers roughly the same as they would receive if they used the applicant's transportation. An alternative is not a good alternative to a producer seeking to move gas out of the origin market if the alternative is associated with a much higher cost than the applicant's cost-based rates, in other words, it must give roughly the same netback.

Koch Gateway argues that a good alternative does not necessarily have to be physically connected to a pipeline. The Commission agrees. Although typically an applicant will have to demonstrate that its customers are physically connected to alternative gas transportation facilities that move gas into the area, the Commission will allow flexibility and permit applicants to argue that even if the customer is not physically connected to the alternative, it can serve as good alternatives to the proposed service.

Applicants for market-based rates might allege that liquified petroleum gas (LPG) and liquified natural gas (LNG) can be good alternatives to the use of an applicant's transportation service. If so, the applicant must show that there are sufficient quantities of these available, and that LPG and LNG can be transported into the destination market (e.g., by truck) at an overall delivered price that is equal to or less than the overall delivered price the applicant pipeline would charge to deliver natural gas. The prices considered here must be within the pipeline's price increase threshold.

Thus, in order to specify a gas transportation market, the applicant must first identify all products and services available as good alternatives to the applicant's customers. Next, the applicant must identify the origin and destination of that transportation. The relevant geographic market will be defined in two steps: first, those alternative sellers that offer service between the same origin and destination markets and second, all economically substitutable transportation sold by pipelines (or other good alternative products and services) serving either the origin market or the destination market.

Pipelines might be able to exercise market power if customers have few good alternatives to the pipeline's service either, in the first instance over a given route or, in a second analysis, separately in origin and/or destination markets. The applicant might have market power in the origin market if producer/shippers have few good alternatives to transport their product out of the origin area. In the destination market, pipelines might be able to exercise market power if downstream customers have few good transportation alternatives that reach their city-gates. If customers have long term supply contracts, it will be particularly important for the pipeline to demonstrate that it has no market power over customers on a given route.

3. Firm Size and Market Concentration

There are two ways in which a seller can exercise market power. It can attempt to raise its price acting alone or it can attempt to raise its price by acting together with other sellers.

a. Acting Alone. One of the indicators that has been examined to determine whether a seller could exercise market power acting alone is the seller's market share. A large market share is generally a necessary condition for the exercise of market power. If the seller has a small market share it is unlikely that it can exercise market power. But, a company with a large market share may not be able to exert market power if entry into the market is easy[58] or there are other competitive forces at work.

The applicant must submit calculations (and supporting data) of its market share in all relevant path or origin and destination areas.

b. Acting Together with Other Sellers. A second way in which a seller can exercise market power is to act together with other sellers to raise prices. To evaluate whether a seller can act together with others to exercise market power, the Commission typically has examined the market's concentration.

To measure market concentration, one generally considers the summary measure of market concentration known as the Herfindahl-Hirschman Index (HHI). If the HHI is small then one can generally conclude that sellers cannot exercise market power in this market. A small HHI indicates that customers have sufficiently diverse sources of supply in

[57] The netback is the delivered price of gas less the transportation costs paid by the producers. That is, the netback is the net price received by the producer.

[58] Given the nature of the interstate pipeline industry, ease of entry would be difficult to show except in cases involving minor facilities. For major facilities, the cost of construction and the time needed for environmental analysis and certification would suggest that entry may not be easy.

this market that no one firm or group of firms acting together could profitably raise market price. If the HHI is higher then additional analysis may be needed to determine if the seller can exercise market power.

The Commission will analysize the HHI calculation for the relevant markets. The HHI will be evaluated for each relevant path and/or origin market and each destination market utilizing the relevant data for each mainline receipt point (origin market) and each delivery point (destination market). If an applicant wishes to argue for either a broader or narrower market definition, it should also include calculations for its market definitions. Only sales or capacity figures associated with good alternatives should be used in calculating the HHI. In addition, applicants should aggregate the capacity of affiliated companies into one estimate for those affiliates as a single seller.[59]

In the gas inventory charge (GIC) cases, the Commission established a threshold level for the HHI at .18.[60] An HHI at this level indicates that there are four to five good alternatives to the applicant's service in each of the relevant markets. In an oil pipeline case, the Commission used a slightly higher HHI of .25 as an initial screen.[61]

Several commenters suggested that the HHI should be raised. Suggestions ranged from 0.25 to 0.35.[62] Others argued that the Commission should not adopt an arbitrary numerical threshold of concentration but should do a thorough review of actual market conditions on particular pipeline systems instead.[63]

The Commission will not adopt a rigid brightline threshold level for the HHI, below which an applicant would automatically qualify for market-based rates, or above which an applicant would be excluded from market-based rates. Rather, the Commission will use 0.18 HHI as an indicator of the level of scrutiny to be given to the applicant. If the HHI is above 0.18, the Commission will give the applicant closer scrutiny because the index indicates that the market is more concentrated and the applicant may have significant market power. An HHI below 0.18 would result in less scrutiny of the applicant's potential to exercise significant market power because it would indicate that the market is less concentrated.

The Commission is primarily concerned about whether an individual applicant seller (including affiliates) can exercise market power. The HHI will be one of the factors that the Commission will evaluate. However, market shares and HHIs alone do not give a comprehensive view of all important factors. The impact of other competitive factors on the Commission's analysis of market-based rate proposals is discussed below.

4. Entry and Other Competitive Factors

Even if the applicant's market share were large in a concentrated (and properly identified) market, one still might not conclude that the applicant would be able to exercise market power. For example, if the applicant increased its price, entry into the market might be so easy that sellers attracted by the profit opportunity created by the higher price would quickly take customers away from the applicant by offering a lower price. This would make the applicant's price increase unprofitable. Thus, the applicant would not be able to exercise market power, despite its large market share and despite the high market concentration.[64] Ease of entry is one of several competitive factors that might lead to the conclusion that an applicant lacks market power. It is most likely to apply to circumstances that do not require the large sunk costs of major construction—for instance, perhaps in offering short-haul market center services.

Another competitive factor that might be established by an applicant would be the presence of buyer power. An applicant might argue that if a single buyer is a large customer of the pipeline, is knowledgeable and sophisticated in its buying, and has been in business for a lengthy period of time, the buyer may have the knowledge and large-scale purchasing power to negotiate reasonable rates even in a concentrated market. However, just because buyers develop sophisticated purchasing systems and market knowledge as the result of dealing with various suppliers in numerous markets, there still is reason to have some skepticism that a buyer in a single destination area served by one or a few pipelines will have such capabilities.

The Commission will evaluate whether sufficient quantities of good alternatives are available to the applicant's customers to make a price increase unprofitable. In other words, are customers able to replace a significant proportion of their throughput with other transportation alternatives if the applicant were to raise its price?

There may be cases where an applicant has completed its own analysis of its market-based rate proposal using the criteria stated above and concludes that it cannot, under existing circumstances, establish that it lacks market power with respect to its proposed service. Yet, the company may be able to identify certain conditions or changes that it could implement to mitigate the effects of market power and make market-based rates a viable option. In such cases, the Commission would be willing to evaluate proposals for any conditions or changes that the applicant would propose as mitigation for its potential exercise of market power.

For example, a pipeline might suggest that the Commission permit market-based rates for pipeline segments, such as for new laterals for new service. In order to mitigate its market power and thereby make itself eligible for market-based rates for service provided on that lateral, the applicant might propose to refrain voluntarily from allocating costs attributtable to the lateral to its other, cost-of-service based services. The applicant might also voluntarily agree to an open tap policy for services provided on the lateral. Under such a policy the applicant (in return for getting permission from the Commission to charge market-based rates) would agree to allow any entity to interconnect with its facilities. Such an open tap policy would help protect against withholding capacity by undersizing or overpricing the new lateral. The interconnection would be for the purpose of producing potential competitive suppliers to the services for which the applicant seeks market-based rates. Thus, the interconnection could be (depending on what the applicant is proposing) for a lateral, a loop, an extension, or any other facilities that could compete with the applicant's market-based services.

Applicants proposing such conditions or changes should state so specifically in their proposals.

D. Filing Procedures

The Request for Comments asked whether the Commission should continue its current policy of using declaratory orders for ruling on market-based rate proposals, or if some other procedural avenue was more appropriate. Several commenters support continuing the current practice of issuing declaratory orders.[65] Others suggest that full evidentiary hearings are required in at least some, if not all, cases.[66] However, the majority support a case-by-case review of proposals with the Commission issuing an order on the proposal as appropriate.[67]

The Commission will continue its current policy of using declaratory orders to rule on requests for market-based rates on a case-by-case basis. In cases where a certificate of public convenience and necessity is required, the review will occur as part of the certificate process.

Applying the criteria stated in the sections above, applications for market-based rates should contain the following information: (1) A detailed description of the service(s) proposed for market-based rate treatment; (2) a statement defining the relevant product and geographic markets necessary for establishing that the applicant lacks market power with respect to the particular service(s) at issue. Such statement should state the relevant time period for comparing services within the product and geographic markets; an analysis describing how the prices for relevant alternative services compare to the relevant price increase threshold; and a detailed description of good alternatives to the proposed service(s); (3) market share and HHI calculations; and (4) discussion of other relevant competitive factors and their import. In addition, pipelines should include in each application a proposal for accounting for the costs and revenues resulting from the proposed service. An application should be sufficient to establish on its own, without further inquiry or support, that the proposed service or services meet the criteria for market-based rates presented in this policy statement.

Applications for market-based rates will be noticed in the **Federal Register**. Interested parties will have an opportunity to intervene in the proceeding and to present a response to the proposal. The Commission will consider the information provided in the application, any information provided by intervenors in response thereto, and will take any intermediate steps, including issuing data requests or convening a technical conference, that may be necessary to complete its evaluation of the proposal. The Commission will either conduct a paper hearing, based upon the initial filing and responses thereto, or set the matter for a formal evidentiary hearing before an administrative law judge, as appropriate. Upon completing its evaluation, the Commission will issue a declaratory order ruling whether the service meets the requirements of market-based rates. If the service meets the standards then the applicant can make the appropriate tariff filing necessary to set its market-based rates into effect. Commission approval of market-based rate proposals will be prospective only, thus eliminating concerns regarding refund liability. The Commission's determinations in these circumstances will be based upon the facts presented in the proposal. Accordingly, the Commission may reconsider its ruling should the circumstances on the pipeline change such that market-based rates are no longer appropriate.

IV. Policy on Incentive Rates

In circumstances where market-based rates are not appropriate, the Commission will continue cost-based rate regulation. In October 1992, the Commission issued a Policy Statement on Incentive Regulation to allow companies that have market power nevertheless to receive some of the benefits of greater flexibility and efficiency that are associated with market-based rates.[68] Incentive rate proposals, while cost-based, are intended to result in better service options at lower rates for consumers while providing regulated companies with the opportunity to earn higher returns. Incentive regulation is not intended for competitive markets. It is intended for markets where the continued existence of market power prevents the Commission from implementing light-handed regulation without harm to consumers. The Commission continues to believe that incentive rate mechanisms have potential to benefit both natural gas companies and consumers by fostering an environment where regulated companies that retain market power can achieve greater efficiency and cost-effectiveness.

In the Policy Statement, the Commission explained that incentive regulation differs from traditional regulation in that it fosters long-term efficiency. It accomplishes this by: (1) divorcing rates from the underlying cost-of-service, (2) lengthening the period between rate cases; and (3) sharing the benefits of cost savings between consumers and stockholders on a current basis. The Commission set out five criteria that incentive rate proposals must meet to gain Commission approval. Under the policy adopted in 1992, proposals for incentive rate programs must: (1) Be prospective; (2) be voluntary; (3) contain incentive mechanisms that are understandable to all parties; (4) result in quantified benefits to consumers; and (5) demonstrate how they maintain or enhance incentives to improve the quality of service. Each of these criteria were discussed at length in the Policy Statement. After articulating the criteria to be utilized in evaluating proposals for incentive rate proposals, the Commission invited companies to submit such proposals for consideration.

Since the issuance of the Policy Statement, the Commission has not received any requests for approval of incentive rate proposals. For this reason, and in light of the changes in the natural gas market that have occurred as a result of the implementation of Order No. 636, the Commission decided to revisit the issue of incentive rates for pipeline services. Therefore, in the Request for Comments, the Commission sought responses to specific questions regarding its incentive rate Policy Statement. These questions included: (a) why there have not been any incentive proposals under the policy established in Docket No. PL92–1–000; (b) whether the Commission should change its existing standards for incentive rate proposals; (c) if so, what specific criteria the Commission should employ when evaluating incentive rates; (d) whether there are models for incentive regulation that the Commission should consider, such as the California performance-based program; (e) what the benefits and drawbacks of incentive rates are, and what policy objectives the Commission should pursue with an incentive rate method; and (f) whether incentive ratemaking is appropriate for the natural gas companies regulated by the Commission.

Many of those responding to questions regarding the Commission's current standards for evaluating incentive rate proposals favor changing the current standards. Specifically, the majority of those pipelines that

[59] The capacity on pipeline systems owned or controlled by the applicant's affiliates should not be considered among the customer's alternatives. Rather, the capacity of an applicant's affiliates offering the same product are to be included in the market share calculated for the applicant. Similarly, alternative pipelines must be aggregated with their respective affiliates in order to identify meaningful alternatives to customers.

[60] El Paso Natural Gas Company, 49 FERC ¶61,262 (1989). See also Buckeye, 53 FERC at 62,667.

[61] See Williams Pipe Line Co., Opinion No. 391, 68 FERC ¶61,136 (1994).

[62] AGD, Cove Point, INGAA, Tejas, ANR/CIG, and Brooklyn Union.

[63] Brooklyn Union and KN Interstate.

[64] As stated before, entry would probably only be relevant for gas pipelines in the case of minor facilities such as facilities that could be constructed under a blanket certificate.

[65] NI-Gas, SoCalGas, Columbia, KN Interstate, Koch Gateway, PEC Pipeline Group, Florida, and Transok.

[66] Petrochemical Energy Group, APGA, Northern Distributors, Wisconsin Distributors, Indicated Shippers, NGSA, Illinois, and Ohio CC.

[67] Fuel Managers, Industrial Gas Consumers, CINergy Gas Companies, Columbia Distribution, Northern Distributors, Northern Indiana, SoCalGas, UDC, ANR/CIG, CNG, Koch Gateway, NorAm, PEC Pipeline Group, Williston Basin, Texaco, and Ohio CC.

[68] Policy Statement on Incentive Regulation, 61 FERC ¶61,168 (1992).

responded encourage a change in the standards away from "quantifying" benefits to customers and eliminating the cost-of-service cap on incentive rates.[69] Commenters also encourage elimination of the requirement that rates under incentive programs could be no higher than they would have been under traditional cost-of-service regulation.[70]

The Commission has reviewed the comments and re-evaluated its existing policy in light of current conditions in the natural gas industry. Based on these comments, the Commission recognizes that it is problematic to compare incentive-based rates with existing cost-of-service rates or with what rates would have been under cost-of-service pricing after incentive-based regulation is implemented. Comparisons of incentive-based rates with previous cost-based rates compare service and rates in different time periods.

Moreover, the ability of pipelines to profit from cost reductions remains a key ingredient of most incentive-based options. Imbedded in the typical incentive-based proposal is the expectation that, over time, this ability to profit will drive industry costs down and therefore lead to rates that are lower than they would have been under traditional cost-based regulation. In consideration of all of these points, the Commission believes it is appropriate to modify its existing policy.

In reply to the Request for Comments, INGAA, six pipelines, and the Alberta Regulatory Commission suggested elimination of the requirement to quantify benefits. Also, five pipelines specifically recommended that the Commission eliminate the requirement that rates under incentive regulation be no higher than they would have been under traditional cost-of-service regulation. The Commission agrees with these recommendations. Although both quantifiable benefits and comparisons shall remain two of the goals of any incentive rate program, these requirements are eliminated from the Commission's stated criteria for evaluating incentive rate proposals. Instead of requiring firms to quantify the benefits of any performance-based proposal, the Commission will require pipelines proposing such programs to share with their ratepayers the efficiency gains of the program. Any pipeline proposal must explicitly specify the performance standards it defines, the mechanism for sharing benefits with customers, and a method for evaluating the proposal. Pipeline companies are invited to submit proposals that fulfill these requirements as well as the three other criteria articulated in our prior Policy Statement.

Commenters also encouraged the Commission to require participation in any proposed incentive rate program continue for a prescribed period of time, such as four or five years. Commenters argue that this will prevent individual pipelines from moving in and out of incentive rate programs in an attempt to game the system.

The current policy states that the fact that incentive regulation is voluntary,

> does not mean that utilities should be completely free to abandon their programs should their profits decline. Such a policy could encourage inefficient investments in risky cost-cutting innovations, and it would be unfair to consumers. Instead, programs may include conditions under which utilities could opt out after an initial commitment.[71]

The Commission later stated that the exact period of time between rate reviews under incentive rate programs would be decided on a case-by-case basis.[72]

The Commission is not inclined to prescribe in this policy statement a length of time during which performance-based rate proposals must be operative. The particulars of any one program are likely to be so company specific as to make such a requirement impractical. Nevertheless, the Commission is no less committed to the requirement that pipelines agree to operate under such programs for a specified period than it was at the time of the original policy statement. Therefore, the Commission clarifies that approval of an incentive rate program proposal will require a commitment by the pipeline that it will continue in the program for a specified length of time as appropriate for the particular pipeline system at issue. Proponents of such proposals should suggest a desired duration for operation under any proposed incentive plan along with arguments supporting the proposal.

The Commission will consider on a timely basis incentive rate proposals filed under the revised criteria. Such proposals may take a variety of forms.[73] The considerable state regulatory activity in developing performance and incentive-based ratemaking mechanisms attests to the vitality of such approaches. Incentive rates may be usefully developed by pipelines and their customers as a means of reaching long-term accord on some of the difficult issues now confronting the industry. Alternative dispute resolution may also play an important role in achieving agreement on system-wide incentive rates, and the Commission supports such efforts.

The Commission is setting forth a policy for market-based rates today. The incentive rates policy is still emerging. The Commission encourages pipelines to file new incentive or performance-based rate proposals and concepts for Commission consideration.

V. Negotiated/Recourse Rates and Terms of Service

A. The Proposals

Where pipelines do not attempt to establish a lack of market power and do not want to undertake an incentive rate program, there are yet other alternatives to traditional cost-of-service regulation that could be used. In the Request for Comments, the Commission sought comment on other ratemaking methods that would better serve the goal of flexible, efficient pricing in today's environment. Included in the Commission's request were "backstop proposals, where pipelines would be free to negotiate rates and terms of service, so long as customers could always choose service under traditional cost-of-service rates and terms of service."[74]

In its initial comments INGAA proposes negotiated rates and terms for service as an option. Under INGAA's plan, the Commission would dispense with cost-of-service regulation for an individual shipper when mutually agreed upon by the pipeline and a shipper and permit negotiated rates and terms and conditions of service that could vary from the pipeline's otherwise applicable tariff. A recourse service that is on file in the pipeline's tariff would always be available for those shippers preferring traditional cost-of-service rates and services.

As originally proposed by INGAA, the recourse rate would escalate the recourse rate based on a pipeline industry index, less a one percent productivity factor. INGAA proposed that the Commission modify its current incentive policy statement to eliminate the cost-of-service cap and the quantifiable benefits test. Subsequently, INGAA changed its proposal to make the index component voluntary and optional. INGAA claims the recourse rate, which would be established initially through a Section 4 rate case, would be lower than a cost-based rate, over time, through the workings of the productivity adjustment. While INGAA provided a detailed discussion of its indexing proposal, initially few details were provided on the scope of negotiated rates and terms and conditions.

Brooklyn Union and PSE&G also endorsed negotiated rates backstopped by a recourse rate in their initial comments. Both parties emphasized the recourse rate would be for traditional tariff service priced on a cost-of-service basis and protected from adverse rate or operational impact from the individually customized services.

B. Comments on INGAA's Proposal

In response to INGAA's proposal, AGD, Brooklyn Union, and UGI, while generally supporting negotiated/recourse rates, object to INGAA's proposal to index the recourse rate. These parties ask the Commission to allow negotiated/recourse rates as soon as possible without complicating matters by tying the negotiated/recourse rate concept to incentive rates. AGD and UGI also express concerns that recourse rate payers should be protected from cost shifting or degradation of their service resulting from negotiated rates.

NGSA and IPAA oppose INGAA's negotiated rate proposal contending it would allow the pipeline to use its market power to discriminate among its customers by providing additional service benefits to some customers and denying them to others. Further, they argue that, if the negotiated service agreements were not filed with the Commission, it would be difficult to obtain the necessary facts to support a discrimination complaint.

AGD, Brooklyn Union, and NGSA/IPAA object that INGAA's incentive rate proposal does not provide for a sharing of efficiency gains. NGSA and IPAA support the Commission's current incentive rate policy statement requiring quantification of consumer benefits.

In a September 25, 1995 filing, INGAA clarified its proposal to emphasize that it would be voluntary, there would be no cost shifting, and it would be up to individual pipelines whether to propose indexing of the recourse rate. INGAA also suggested that pipelines would file a form of notice for negotiated rates, similar to transportation discount reports, identifying the customer, the negotiated rate or formula, the recourse rate, and contract quantity and duration. According to INGAA, the Commission would resolve complaints about discrimination, undue affiliate preference, or deleterious effects on other services. In a November 7, 1995 filing, INGAA further clarified its proposal stating that SFV is not affected because its proposal leaves any existing SFV rate design in place.[75] INGAA adds that the Commission's scrutiny of costs and allocation plans during the rate cases that will establish recourse rates will assure that these rates do not contain unapproved cross subsidies. INGAA asserts that competition will provide the necessary quality assurance and that the recourse rate will be on file with the Commission and will thereby meet the NGA's filing requirement. INGAA contends that its proposal calls for filing information on the negotiated transactions, similar to the data required by Order No. 581 for discount rates and that required for the index of customers, after the negotiations are concluded. In this way INGAA asserts that the negotiated/recourse rates can comply with the requirements of the NGA while meeting the need of certain customers to keep key data in the negotiated rate proprietary to protect their competitive positions.

In response to INGAA's November 7 filing, NGSA argues that it would be inappropriate for any action to be taken on "recourse rates" by the Commission in this docket without providing other parties an opportunity to examine and comment fully on INGAA's new proposal. NGSA states that INGAA's proposals raise serious questions as to whether they would achieve the essential goals of bringing greater efficiency and competition to the interstate natural gas transportation industry while protecting all customers from the exercise of market power, undue discrimination, and cross subsidization. NGSA states that INGAA's proposal is lacking in critical details and therefore requires additional study and comment.[76]

A group of industrial end-user trade associations[77] also responded to INGAA's November 7 filing. The Industrials urge the Commission to reject INGAA's negotiated/recourse rate proposal. The Industrials criticize INGAA's proposal suggesting it would lead to market-based rates in a market lacking workable competition, and would result in "severe damage to the objectives of Order No. 636 and the overall policy of developing an integrated transportation grid". The Industrials strongly support SFV rates as key to a robust secondary market and fear that negotiation of non-SFV rates will lead to a hodge-podge of individual rates and services, encourage LDC's to hoard capacity, and ultimately impede producers and end-users from accessing interstate capacity.

C. Discussion of Negotiated/Recourse Rates and Services

The Commission believes that negotiated/recourse service programs could be a viable way of achieving flexible, efficient pricing when market-based rates are not appropriate. Negotiating different rates and service terms for individual shippers could result in wide flexibility in service offerings including individually tailored seasonal service and rates, short-term services, or special rates for more flexible terms and conditions. Greater rate flexibility has previously been tied to a showing that a pipeline lacks market power. Under this method, however, the availability of a recourse service would prevent pipelines from exercising market power by assuring that the customer can fall back to cost-based, traditional service if the pipeline unilaterally demands excessive prices or withholds service. Thus, the recourse rate mitigates market power. At a minimum, negotiated/recourse services offer the potential for increased market responsiveness in pipeline services without protracted disputes regarding market power.

Although the proposal as presented by INGAA and others has many attractive features, it raised a number of concerns as well. The first issue of concern involves associating negotiated/recourse proposals with incentive/performance-based programs. As stated previously, INGAA's original proposal called for recourse rates to be indexed. The Commission is concerned that choosing an appropriate index will be extremely problematic. Questions regarding whether it is appropriate to index recourse rates and what, if anything, would be an appropriate index to use must be addressed prior to a pipeline implementing such a proposal.

Another concern involves situations where the availability of the recourse service alone is not sufficient to mitigate a pipeline's exercise of market power. In its response to INGAA's initial proposal, NGSA expressed its concern that the

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[69] WINGS, NorAm, Williston Basin, Alberta, ANR/CIG, Columbia, Enron and INGAA.

[70] INGAA, WINGS, Enron, and NorAm.

[71] Policy Statement, 61 FERC at 61,589.

[72] *Id.*, at 61,603.

[73] Incentive Regulation for Natural Gas Pipelines: A Specific Proposal with Options, OEP Technical Report 89–1, September 1989; Incentive Regulation: A Research Report, OEP Technical Report 89–3, November 1989.

[74] 70 FERC at 61,394.

[75] A just and reasonable recourse rate would be derived using traditional cost-of-service rate methodologies including SFV.

[76] On January 23, 1996, NGSA further supplemented its response and clarified the goals it believes alternative rate proposals must meet to be successful.

[77] The Petrochemical Energy Group, Process Gas Consumers and the Georgia Industrial Group, Chemical Manufacturers Association, American Iron and Steel Institute, American Forest & Paper Association, Council of Industrial Boiler Owners, Praxair Inc., and the California Manufacturers Association ("The Industrials").

availability of customized terms and conditions would be at the sole discretion of the pipeline. The pipeline would thus be in a position to discriminate among its customers in providing enhanced service flexibility, argues NGSA, favoring affiliates or customers who, for whatever reason, were able to obtain a negotiated deal with the pipeline. NGSA's concerns will be further considered in the separate proceeding discussed below. The Commission is also concerned about the extent to which the concept of negotiated terms and conditions of service is compatible with the requirements, goals and objectives of Order No. 636. Specifically, what effect, if any, negotiated terms of service are likely to have on: capacity release; flexible receipt and delivery points; the use of secondary receipt and delivery points; and no-notice transportation service. For example, if a pipeline agrees to provide a shipper priority of service at certain points, or additional flexibility in exchange for a higher rate, what effect would this have on other shippers served under the recourse service?

The Commission is particularly concerned about maintaining the integrity of the recourse service. In order to be successful, the recourse service must remain a viable alternative to negotiated service. Otherwise, if the recourse service remains stagnant, in time, the recourse service will become outmoded and will cease to be a viable alternative to negotiated service. Since the purpose of the recourse service is to act as a check against pipeline market power, such a result is impermissible. Therefore, some means may be needed to ensure the continued viability of the recourse service. The Commission is concerned about how this would be accomplished and whether any specific conditions concerning recourse services are needed.

Since open access transportation began, the Commission has required flexibility in terms and conditions to be offered on a non-discriminatory basis uniformly to all shippers under a given rate schedule. When competitive pressure forces a pipeline to liberalize its tariff to satisfy a few shippers, the tariff is amended and all shippers enjoy the benefits. To date the Commission has not permitted narrow classification of customer groups. If the Commission permitted the negotiation of terms of service pipelines would be able to offer special flexibility to selected customers. In that case, what standards, if any, would the Commission use to determine what constitutes undue discrimination? Likewise, are explicit new restrictions needed to prevent pipelines from tying access to a negotiated premium service to the use of the pipeline's other services as well as new restrictions from granting affiliate preferences necessary?

Finally, the Commission is concerned that negotiated/recourse proposals meet the requirements of Section 4 of the NGA. To satisfy the requirement in the NGA that rates, terms and conditions of service must be on file with the Commission, some form of filing the negotiated rate and terms of service will be necessary.

D. Proposals for Negotiated/Recourse Services

As stated previously, negotiated/recourse programs may serve to add flexibility and efficiency to pipeline services in cases where a company does not apply for market-based rates for its services and does not wish to pursue incentive rate programs. For this reason, the Commission is willing to entertain, on a shipper-by-shipper basis, requests to implement negotiated rates where customers retain the ability to choose a cost-of-service based tariff rate. The Commission already permits individualized rates under its rate discount policies. In allowing the further negotiation of rates, the Commission is confident that there are a number of mechanisms available to permit this added flexibility while ensuring that inappropriate cost shifting does not take place.

Requests to implement negotiated rates may be made for new or existing contracts. Companies making such requests must use their existing Commission approved tariff rates applicable to the service as their recourse rate unless they are filing a new rate case simultaneously. The recourse rate will be available for existing capacity holders that do not negotiate a rate with the pipeline, thereby ensuring that existing customers will always have a cost-of-service based rate available for capacity they have under contract. Specifically, this policy statement does not change the right of first refusal requirements in section 284.221(d)(2)(ii) that the highest rate that an existing shipper must match if it wishes to continue its transportation arrangement is the maximum recourse rate established in the pipeline's tariff.

A question arises when capacity is constrained. The predicate for permitting a pipeline to charge a negotiated rate is that capacity is available at the recourse rate. For purposes of allocating capacity, shippers willing to pay more than the maximum recourse rate would be considered to have paid the maximum recourse rate. Therefore, a shipper willing to pay only the recourse rate cannot lose access to capacity merely because someone else is willing to pay a negotiated rate. When there are more requests for capacity than there is capacity available, then the pipeline must allocate capacity among those shippers willing to pay either the negotiated rate or the maximum recourse rate, for example on a *pro rata* basis if required by its tariff.[78] This *pro rata* allocation would also apply to situations where the pipeline must allocate limited capacity for such services as interruptible transportation.

Because pipeline tariffs state that the pipeline will charge a rate between the maximums and minimums stated on the rate sheets, pipelines will need to file conforming tariff sheets indicating that the rate for the service will be either the rates stated on its existing rate schedule or a rate mutually agreed upon by the pipeline and its customer. When a rate is negotiated, the pipeline will need to file a numbered tariff rate sheet stating the exact legal name of the customer and the negotiated rate for the service. A pipeline may make the conforming change to its tariff to indicate that the rate may be a negotiated rate, either at the time it requests to put a particular negotiated rate into effect or at some earlier time. In addition, pipelines should also include along with the conforming tariff change, a proposal for accounting for the costs and revenues resulting from the proposed service.

A pipeline may file the numbered tariff sheet implementing the negotiated rate at the time it intends the rate to go into effect. The Commission does not intend to suspend the effectiveness of negotiated rate filings or impose a refund obligation for those rates. For these reasons, the Commission will readily grant requests to waive the 30 day notice requirement. Issues regarding the appropriate allocation of costs between recourse rate shippers and negotiated rate shippers will be addressed fully in the pipeline's Section 4 rate cases.[79] At that time, the Commission will consider issues

[78] If a pipeline has 100 dth of available capacity and there are two shippers who request that capacity, one is willing to pay no more than the recourse rate of $5.00/dth and another a negotiated rate of $6.00/dth, then each would be allocated 50 dth on a *pro rata* basis.

[79] The Commission recognizes that not all pipelines currently have a requirement to file a Section 4 rate case. For those pipelines that elect to charge negotiated rates and are not required to file a Section 4 rate case, the Commission may consider, on its own motion or on complaint by a recourse shipper, using its Section 5 authority to investigate whether the pipeline's recourse rates remain a viable cost-based alternative to negotiated rates.

relating to cross-subsidization and interested parties will be able to raise any concerns they may have regarding the proper allocation of costs. Therefore, the Commission does not intend to review a pipeline's negotiated rates at the time filed. However, customers that wish to argue that they are similarly situated with a customer receiving a negotiated rate and that a pipeline has been unduly discriminatory may file a complaint with the Commission at any time. The Commission will use its authority under Section 5 to investigate the complaint and, if a remedy is appropriate, will order a prospective rate change.

Pipelines are reminded that, pursuant to Sections 284.8(b) and 284.9(b), they are expected to negotiate rates with their customers in a manner that is not unduly discriminatory and that treats similarly situated shippers similarly. In addition, customers electing the recourse rate should be no worse off as a result of the use of negotiated rates than they would be absent the use of negotiated rates. Pipelines offering negotiated rates will have the burden of justifying revenue projections from negotiated services if the pipeline's method of achieving such projections deviate from traditional methods. In other words, recourse rate shippers should not bear the responsibility of unsubscribed capacity alone and pipelines should continue to market all unsubscribed capacity.

The Commission believes that a pipeline's negotiation of individual rates with shippers should not affect the way a pipeline accounts for the recovery of transition costs. For example, the Commission specified in *Natural Gas Pipeline Company of America*[80] that pipelines treat transition costs as the last item discounted. One of the main purposes of this policy was to ensure that transition costs are spread as evenly as possible among all the pipeline's customers and to reduce the shifting of costs to the pipeline's captive customers. Consistent with this policy, if a pipeline negotiates a rate with a customer that does not include transition costs, the pipeline will be at risk for the collection of those costs and cannot reallocate them to its recourse rate shippers.

Currently, pipelines' maximum tariff rates are subject to a variety of surcharges, in addition to those that relate to transition costs, e.g., ACA, operational Account No. 858, and GRI.[81] The Commission expects that pipelines' recovery and treatment of these costs will not change for shippers under negotiated rate contracts. As is currently the case, pipelines who negotiate to provide services at less than the maximum tariff rate will be subject to the same Commission policies, such as the *Natural* policy on the attribution of discounting. The Commission expects that, to the extent pipelines wish to deviate from these existing policies, they will be willing to accept the risk of underrecovery of these costs.

Because of the number of issues remaining concerning whether negotiation of terms and conditions of service is appropriate, the Commission is not willing to permit the negotiation of individual shipper customized terms of service at this time. Commission willingness to entertain requests for negotiated rates expands on the flexibility in rates already permitted by the Commission with discounting. In allowing further negotiation of rates, the Commission is confident that there are a number of mechanisms to ensure that inappropriate cost shifting does not take place. However, further discussion with the industry of all the ramifications of negotiated terms of service is needed.

Therefore, the Commission is establishing a separate proceeding in which it will consider this issue and is inviting interested participants to file comments on the issues raised above, as well as any other issue that should be considered before permitting pipelines to negotiate terms of service with individual shippers. Participants interested in commenting on these issues should submit their written comments in Docket No. RM96–7–000 within 60 days of the date of this order.

By the Commission.

Lois D. Cashell,

Secretary.

Appendix

Commenters

Alberta Department of Energy (Alberta)
American Gas Association (AGA)
American Forest and Paper Association (AF&PA)
American Public Gas Association (APGA)
Amoco Energy Trading Corporation and Amoco Production Company (Amoco)
ANR Pipeline Company and Colorado Interstate Gas Company (ANR/CIG)
Associated Gas Distributors (AGD)
Atlanta Gas Light Company and Chattanooga Gas Company (Atlanta Gas Light)
Brooklyn Union Gas Company (Brooklyn Union)
Cascade Natural Gas Corporation, Northwest Natural Gas Company, Washington Natural Gas Company and Washington Water Power Company (Pacific Northwest Commenters)
Cincinnati Gas & Electric Company, Union Light, Heat and Power Company and Lawrenceburg Gas Company (CINergy Gas Companies)
Cities of Lenox, *et al.* (Lenox)
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (Columbia)
Columbia Gas Distribution Companies (Columbia Distribution)
Connecticut Natural Gas Corporation (Connecticut Natural)
Consolidated Edison Company of New York, Inc. (Con Edison)
Consolidated Natural Gas Company (CNG)
Cove Point LNG Limited Partnership (Cove Point)
Enron Interstate Pipelines (Enron)
Fertilizer Institute
Florida Public Service Commission (Florida)
Fuel Managers Association (Fuel Managers)
Gas Research Institute (GRI)
Hadson Gas Systems, Inc. (Hadson)
Illinois Commerce Commission (Illinois)
Independent Oil & Gas Association of West Virginia (IOGA)
Independent Petroleum Association of Mountain States (IPAMS)
Indicated Shippers
Industrial Gas Consumers (IGC)
Interstate Natural Gas Association of America (INGAA)
KN Interstate Natural Gas Transmission Company (KN Interstate)
Koch Gateway Pipeline Company (Koch Gateway)
Natural Gas Supply Association (NGSA)
NorAm Gas Transmission Company (NorAm)
Northeast Energy Associates and North Jersey Energy Associates (Energy Associates)
Northern Distributor Group (Northern Distributors)
Northern Illinois Gas Company (NI-Gas)
Northern Indiana Public Service Company (Northern Indiana)
Northwest Industrial Gas Users (NWIGU)
Office of the Ohio Consumers' Counsel (Ohio CC)
Pacific Gas and Electric Company [1]

[80] 69 FERC ¶ 61,029 (1994), *order on reh'g*, 70 FERC ¶ 61,317 (1995).

[81] GRI's funding mechanism for 1996 and 1997 is designed to collect 50 percent of GRI's Commission-approved budget through reservation surcharges and 50 percent through the volumetric surcharge. 71 FERC ¶ 61,130 (1995). Negotiated rates could change the mix of reservation/usage billing units. GRI has expressed concerns that pipelines may not recover full GRI revenue levels or pipelines may leave GRI if market-based or negotiated rates are implemented.

[1] Filed but had no comments.

Pacific Gas Transmission Company (PGT)
Pennsylvania Office of Consumer Advocate (Pa OCA)
Pennsylvania Public Utility Commission (PaPUC)
Petrochemical Energy Group (PEG)
Public Service Commission of the State of New York (New York)
Public Service Electric and Gas Company (PSE&G)
Public Utilities Commission of Ohio (Ohio PUC)
Public Utilities Commission of the State of California [1]
Southern California Edison Company (SoCal Edison)
Southern California Gas Company (SoCalGas)
Tejas Power Corporation (Tejas)
Texaco Natural Gas Inc. (Texaco)
Texas Eastern Transmission Corporation, Panhandle Eastern Pipe Line Company, Trunkline Gas Company and Algonquin Gas Transmission Company (PEC Pipeline Group)
Transok, Inc. (Transok)
UGI Utilities, Inc.
United Distribution Companies (UDC)
Williams Interstate Natural Gas System (WINGS)
Williston Basin Interstate Pipeline Company (Williston Basin)
Wisconsin Distributor Group (Wisconsin Distributors)

[FR Doc. 96–2547 Filed 2–6–96; 8:45 am]
BILLING CODE 6717–01–P

[Docket No. TM96–4–32–000]

Colorado Interstate Gas Company; Notice of Out-of-Time Tariff Filing

February 1, 1996.

Take notice that on January 30, 1996, Colorado Interstate Gas Company (CIG) filed Fifteenth Revised Sheet No. 11 of its FERC Gas Tariff, First Revised Volume No. 1, reflecting an increase in the fuel reimbursement percentage for Transportation Fuel Gas from 2.17% to 2.32% effective March 1, 1996.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2560 Filed 2–6–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TQ96–4–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 1, 1996.

Take notice that on January 30, 1996 Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, with a proposed effective date of February 1, 1996.

ESNG states that the revised tariff sheets included herein are being filed pursuant to Section 21 of the General Terms and Conditions of ESNG's Gas Tariff to reflect changes in ESNG's jurisdictional rates. The sales rates set forth herein reflect an increase of $0.1249 per dt in the Commodity Charge, as measured against ESNG's regularly scheduled Quarterly Purchased Gas Adjustment filing, Docket No. TQ96–3–23–000, et al., filed on January 3, 1996 to be effective February 1, 1996.

The commodity current purchased gas cost adjustment reflects ESNG's projected cost of gas for the period of February 1, 1996 through April 30, 1996, and has been calculated using its best estimate on available gas supplies to meet ESNG's anticipated purchase requirements. The increased gas costs in this filing are a result of higher prices being paid to producers/suppliers under ESNG's market-responsive gas supply contracts.

ESNG respectfully requests waiver of the Commission's thirty (30) day notice requirement so as to permit it to place the subject rates into effect on February 1, 1996, as proposed. ESNG is unable to meet the thirty (30) day notice requirements because normal purchasing of gas supplies from producers/suppliers are always negotiated five working days prior to the end of each month (for the next month's supply). The normal time frame to order gas supply for the next month does not give ESNG any flexibility in order to make a filing in time for the "notice requirement" when gas prices spike upward (from projected) as they have for the month of February, 1996. The Commission's waiver of the thirty (30) day notice requirement in the case of this instant filing would allow for a more accurate recovery of ESNG's costs and mitigate the deferred commodity costs which would occur in the absence of such waiver.

ESNG states that copies of the file have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211 and Section 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2561 Filed 2–6–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TM96–3–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

February 1, 1996

Take notice that on January 29, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with a proposed effective date of March 1, 1996:

Third Revised Sheet No. 213
Third Revised Sheet No. 214
Third Revised Sheet No. 216
Second Revised Sheet No. 216A
Second Revised Sheet No. 216B
First Revised Sheet No. 216C

National states that the proposed tariff sheets were submitted to flow through upstream pipeline take-or-pay (TOP) charges in accordance with Section 20 of the General Terms and Conditions of National's FERC Gas Tariff and the orders of the Federal Energy Regulatory Commission in Docket Nos. RP91–47–000, *et al.*[1]

National further states that these tariff sheets set for the allocation method to flow through the principal amounts, plus interest, for TOP charges refunded by Columbia Gas Transmission Corporation (Columbia). National proposes to flow through its share of Columbia's fixed TOP refunds based on National's method at Docket No. RP91–47–000.[2]

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commission's of the State of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2559 Filed 2–6–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP95–326–000 and RP95–242–000]

Natural Gas Pipeline Company of America; Notice of Informal Settlement Conference

February 1, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, February 7, 1996, at 1:00 p.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket. If necessary, the conference will continue on Thursday, February 8, 1996.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact David R. Cain (202) 208–0917 or John P. Roddy (202) 208–0053.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2551 Filed 2–6–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP96–128–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

February 1, 1996.

Take notice that on January 29, 1996, Natural Gas Pipeline Company of America (Natural) tendered for filing to be part of its FERC Gas Tariff, Sixth Revised Volume No. 1, revised tariff sheets, to be effective March 1, 1996.

Natural states that the purpose of the filing is to modify the definition of unauthorized overrun under Rate Schedules ITS and BESS, and make minor house-cleaning changes which more accurately reflect new services.

Natural requests whatever waivers may be necessary to permit the tariff sheets as submitted to become effective March 1, 1996.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules Regulation. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2553 Filed 2–6–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP96–130–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 1, 1996.

Take notice that on January 30, 1996, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1.

Northern states that the filing establishes the direct bill amounts by shipper resulting from the second payment of the buyout of the Pan-Alberta Gas (U.S.) Exchange Agreement that was turned back by Northern's customers and not assigned through the initial Reverse Auction, pursuant to the Reverse Auction Cost Recovery Mechanism established in Northern's Global Settlement. Therefore Northern has filed Fifth Revised Sheet No. 68 to reflect these amounts in its Tariff and will commence billing such amounts effective March 1, 1996.

Northern states that copies of this filing were served upon the company's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2555 Filed 2–6–96; 8:45 am]
BILLING CODE 6717–01–M

[1] *National Fuel Gas Supply Corporation*, 67 FERC ¶ 61,137 (1994) (May 4 Order); and *National Fuel Gas Supply Corporation*, 68 FERC ¶ 61,132 (1994).

[2] *Columbia Gas Transmission Corporation*, 67 FERC ¶ 61,054 (1994).

[Docket No. MG96–7–000]

OkTex Pipeline Company; Notice of Filing

February 1, 1996

Take notice that on January 25, 1996, OkTex Pipeline Company (OkTex) filed standards of conduct under Standard I, 18 CFR 161.3(i), Order Nos. 497 *et seq.*[1] and Order Nos. 566 *et seq.*[2]

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 16, 1996, will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2550 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶30,906 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, III FERC Stats. & Regs. ¶30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, *order on rehearing ond extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶61,381 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶30,997 (June 17, 1994); Order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707, (December 21, 1994); 69 FERC ¶61,334 (December 14, 1994).

[Docket No. RP96–132–000]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

February 1, 1996.

Take notice that on January 30, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective March 1, 1996:

First Revised Sheet No. 140
Original Sheet No. 140a
First Revised Sheet No. 141
Original Sheet No. 141a

Southern states that the purpose of this filing is to change the monthly cash-out mechanism of its imbalance resolution procedures to provide that shippers who accrue monthly imbalances in the same direction as the net system imbalance for that month will cash out their imbalances based on a high or low price rather than on an index price. There will be no change in the cashout mechanism for shippers who accrue monthly imbalances in the opposite direction of the net system imbalance. Southern has requested that these sheets be made effective as of March 1, 1996.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

FR Doc. 96–2557 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–45–000]

Honeoye Storage Corporation; Notice of Electronic Tariff Filing

February 1, 1996.

Take notice that on January 25, 1996, Honeoye Storage Corporation (Honeoye) filed a diskette containing in electronic format its FERC Gas Tariff, First Revised Volume No. 1. The filing was made to comply with FERC Order No. 582 issued September 28, 1995.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2549 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–73–002]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

February 1, 1996.

Take notice that on January 30, 1996, Tennessee Gas Pipeline Company (Tennessee) submitted for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets, to be effective on the dates stated thereon:

Substitute Fourth Revised Sheet No. 20
Substitute Fifth Revised Sheet No. 20
Substitute Fourth Revised Sheet No. 23
Substitute Fifth Revised Sheet No. 23
Substitute First Revised Sheet No. 23A
First Revised Original Sheet No. 23B
First Revised Second Substitute Original Sheet No. 30
Substitute First Revised Sheet No. 30
Second Substitute Second Revised Sheet No. 30
Second Substitute Third Revised Sheet No. 30
Second Substitute Fifth Revised Sheet No. 30
Substitute Sixth Revised Sheet No. 30
Substitute Seventh Revised Sheet No. 30
Substitute Eighth Revised Sheet No. 30
Substitute First Revised Substitute Ninth Revised Sheet No. 30

Tennessee states that the purpose of this filing is to comply with the Commission's order issued on December 29, 1995 in Docket Nos. RP96–73–000, *et al., Tennessee Gas Pipeline Co.*, 73 FERC ¶ 61,398.

Tennessee states that the revised tariff sheets produce a TCRA monthly demand surcharge of $0.27 per dth for Rate Schedules FT–A and FT–G and a volumetric surcharge of $0.0148 for Rate Schedule FT–GS. Tennessee states that the revised tariff sheets comply with the foregoing December 29, 1995 order. Tennessee states that the instant filing complies with the Commission's requirement in the December 29, 1995 order that it refile its TCRA tariff sheets to reconcile the balances in the Unrecovered Transportation Costs Account pursuant to Article XXIV of its tariff, along with certain other conditions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2552 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–131–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 1, 1996.

Take notice that on January 30, 1996, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of March 1, 1996:

Twelfth Revised Sheet No. 11
Seventh Revised Sheet No. 11A
Sixteenth Revised Sheet No. 12
Fourth Revised Sheet No. 16
Third Revised Sheet No. 17

Texas Gas states that the revised tariff sheets are being filed in compliance with Section 17.3 (n) and (o) of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1, and reflects the Cash-Out Revenue Credit Adjustment as required by the referenced section. The filing proposes a commodity rate reduction of $(.0026) applicable to FT and IT Rate Schedules effective March 1, 1996.

Texas Gas states that copies of this filing have been served upon Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2556 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–129–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 1, 1996.

Take notice that on January 30, 1996, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendices A and B to the filing, to become effective March 1, 1996. The proposed changes would increase revenues from jurisdictional service by $5.0 million based on the 12–month period ending October 31, 1995, as adjusted.

Trunkline states that the filing is being made in accordance with the provisions of Section 4 of the Natural Gas Act and satisfies the requirements of Article VII of the Stipulation and Agreement (Settlement) dated January 20, 1995, as approved by Commission Orders dated July 6, 1995 and December 15, 1995 in Docket No. RP94–164–006, et al.

Trunkline further states that this filing revises Trunkline's rates and its tariff for jurisdictional services in order to match costs and revenues properly in light of the current and projected cost of operations and changes in the projected demands on and use of the Trunkline system. In addition, Trunkline states that it will confirm the appropriateness of regulatory asset treatment as well as specific rate treatment for the recovery of certain categories of environmental costs and workforce realignment costs.

Trunkline states that copies of the rate filing or summary version thereof are being served on all jurisdictional customers, applicable state commissions and parties that have requested service.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary

[FR Doc. 96–2554 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–2–43–001]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 1, 1996.

Take notice that on January 16, 1966, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of January 1, 1996:

Substitute Eighth Revised Sheet No. 6
Substitute Ninth Revised Sheet No. 6A

WNG states that this filing is being made in compliance with Commission order issued December 29, 1995 in Docket No. TM96–2–43–000. WNG states that it was directed to file revised tariff sheets within 15 days of the order to remove the 1.7 Bcf storage loss increase, or to provide support for

including a portion of such storage loss increase.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in dockets referenced above and on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2558 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–M

Pittsburgh Energy Technology Center

Determination of Noncompetitive Financial Assistance Renewal With Reservoir Engineering Research Institute

AGENCY: U.S. Department of Energy, Bartlesville Project Office. Notice of Non-Competitive Financial Assistance Renewal Award.

SUMMARY: The U.S. Department of Energy (DOE), Bartlesville Project Office (BPO) announces that pursuant to 10 CFR 600.7(B)(2)(i)(A) it intends to award a Grant through the Pittsburgh Energy Technology Center (PETC) to Reservoir Engineering Research Institute (RERI) for the continuation of it's effort entitled "Fractured Petroleum Reservoirs".

ADDRESSES: Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–143, Pittsburgh, PA 15236.

FOR FURTHER INFORMATION CONTACT: Dona G. Sheehan, Contract Specialist, (412) 892–5918.

SUPPLEMENTARY INFORMATION:

Grant No.
DE–FG22–96BC14850
Title of Research Effort
"Research Consortium on Fractured Petroleum Reservoirs"
Awardee
Reservoir Engineering Research Institute
Term of Assistance Effort
Thirty-six (36) months
Cost of Assistance Effort
The total estimated value is $1,520,000
The DOE share of funding for this program study is $300,000.00

Objective

The objective of this effort is to continue research along the previous line and conduct research in four areas: (1) Miscible displacement in fractured porous media, (2) Critical gas saturation, (3) Immiscible gas-oil gravity drainage in fractured/layered media, and (4) Water injection in fractured porous media. The study based on each of these tasks will include an analytical or experimental phase to be conducted in conjunction with the theoretical research.

In accordance with 10 CFR 600.7(b)(2)(i) criteria (A), the Reservoir Engineering Research Institute has been selected as the grant recipient. (A) The grant is a continuation of an activity presently being funded by DOE and for which competition for support would have a significant adverse effect on continuity or completion of the activity.

Dale A. Siciliano,

Contracting Officer.

[FR Doc. 96–2637 Filed 2–6–96; 8:45 am]

BILLING CODE 6450–01–P

Western Area Power Administration

AC Intertie Project; Rate Order

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Rate Order.

SUMMARY: Notice is given of the confirmation and approval by the Deputy Secretary of the Department of Energy (DOE) of Rate Order No. WAPA–71 and Rate Schedules INT–FT2 and INT–NFT2 placing firm and nonfirm transmission rates into effect on an interim basis. The interim rate, called the provisional rate, will remain in effect on an interim basis until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places it into effect on a final basis or until it is replaced by another rate.

The power repayment studies indicate that the proposed rates for firm and nonfirm transmission service are necessary because of adjustments in operation and maintenance expenses and an anticipated decrease in current marketable capacity on the new 500–kV transmission system.

Three major changes are affecting the rates for the AC Intertie: (1) The establishment of separate firm transmission rates for the existing 230/345–kV lines and the new 500–kV lines as a result of customer comments and concerns expressed in formal and informal meetings with Western; (2) changing the methodology of calculating interest offsets to be consistent with the other power marketing administrations; and (3) adjustments Western made to budgeted investments for the AC Intertie Project.

DATES: Rate Schedules INT–FT2 and INT–NFT2 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after February 1, 1996, and will be in effect until FERC confirms, approves, and places the rate schedules in effect on a final basis through September 30, 2000, or until the rate schedule is superseded.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P. O. Box 6457, Phoenix, AZ 85005–6457, (602) 352–2453

Mr. Terry D. Waggoner, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401–0098, (303) 275–1611

Mr. Joel K. Bladow, Power Marketing Liaison Office, Room 8G–027, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0001, (202) 586–5581

SUPPLEMENTARY INFORMATION: By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated: (1) The authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37835). These power rates are established pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, 43 U.S.C. 371 *et seq.*, as amended and supplemented by subsequent enactments, particularly

section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and other acts specifically applicable to the project system involved, were transferred to and vested in the Secretary.

Rate Order No. WAPA–71 confirming, approving, and placing the proposed AC Intertie rate adjustments into effect on an interim basis, is issued, and the new Rate Schedules INT–FT2 and INT–NFT2 will be submitted promptly to FERC for confirmation and approval on a final basis.

Issued in Washington, DC. January 30, 1996.

Charles B. Curtis,

Deputy Secretary.

In the matter of: Western Area Power Administration Rate Adjustment for Pacific Northwest-Pacific Southwest Intertie Project, Rate Order No. WAPA–71.

Order Confirming, Approving, and Placing the Pacific Northwest-Pacific Southwest Intertie Firm and Nonfirm Transmission Service Rates Into Effect on an Interim Basis

February 1, 1996.

These power rates are established pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a) through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, 43 U.S.C. 371 *et seq.*, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), and other acts specifically applicable to the project involved, were transferred to and vested in the Secretary of Energy (Secretary).

By Amendment No. 3 to Delegation Order No. 0204–108, published on November 10, 1993 (58 FR 59176), the Secretary delegated: (1) The authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). Existing DOE procedures for public participation in power rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37835).

Acronyms and Definitions

As used in this rate order, the following acronyms and definitions apply:

AC Intertie: Pacific Northwest-Pacific Southwest Intertie Project
Additions: A unit of property constructed or acquired which enhances or improves a project system.
CIAR: Compound Interest Amortization Repayment
CEP: Cost Evaluation Period, which is the first 5 future years in the PRS, normally consistent with the budget period.
CROD: Contract rate of delivery
Current PRS: The PRS used in this rate order, which was used to test the adequacy of the existing rate.
Customer Brochure: A document prepared for public distribution explaining the background of the rate proposal contained in this rate order.
DC: Direct Current
DOE: Department of Energy
DOE Act: Department of Energy Organization Act, August 4, 1977 (42 U.S.C. 7101 *et seq.*)
DOE Order RA 6120.2: An order dealing with power marketing administration financial reporting.
EIS: Environmental Impact Statement
Engineering Ten Year: A planning document prepared
Construction and Replacement Plan: By Western for transmission system construction for a 10-year period. Also referred to as the "Engineering 10-Year Plan."
FERC: Federal Energy Regulatory Commission
FY: Fiscal Year
IDC: Interest During Construction
kW: Kilowatt
$/kW/year: Annual charge for capacity usage—(§ per kilowatt per year)
kWh: Kilowatthour
mills/kWh: Mills per kilowatthour
Multiproject Costs: These are costs for facilities being charged to one project that benefit other projects
MW: Megawatt
NEPA: National Environmental Policy Act of 1969. (42 U.S.C. 4321 *et seq.*)
O&M: Operations and maintenance
pinch-point: The future FY with the largest annual revenue requirement
PMA: Power marketing administration
PRS: Power repayment study
Proposed rate: A rate revision that the Administrator of Western recommends to the Deputy Secretary of Energy for approval
Provisional rate: A rate which has been confirmed, approved, and placed into effect on an interim basis by the Deputy Secretary
Ratesetting PRS: The PRS that utilizes, in whole or part, proposed or assumed rates. It is designed to demonstrate that potential revenue levels will satisfy the cost recovery criteria over the remainder of the power system's repayment period
Reclamation: Bureau of Reclamation, U.S. Department of the Interior
Replacement: A unit of property constructed or acquired as a substitute for an existing unit of property for the purpose of maintaining the power features of a project
Replacement study: The cyclical analysis of replacement service lives
Secretary: Secretary of Energy
Treasury: Secretary of the Department of the Treasury
Western: Western Area Power Administration, DOE
WSPP: Western Systems Power Pool

Effective Date

The AC Intertie rates for firm and nonfirm transmission service will become effective on an interim basis beginning on February 1, 1996, and will be in effect until FERC confirms, approves, and places the rate schedules into effect on a final basis through September 30, 2000, or until superseded. Western is implementing a rate for the AC Intertie 230/345-kV transmission lines that is separate from the rate for the 500-kV transmission lines for firm transmission service, but a combined rate for nonfirm transmission service.

Public Notice and Comment

The Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR Part 903, have been followed by Western in the development of the firm transmission service and nonfirm transmission service rates. The provisional firm transmission rate for the existing 230/345-kV transmission system in FY 1996 represents a rate increase of 85 percent over the existing step 1 rate, and for the period FY 1997 through FY 2000, it represents a 48 percent increase over the existing step 1 rate. The provisional nonfirm transmission service rate for the existing system represents an increase of 100 percent from the current nonfirm transmission service rate. The provisional firm transmission rate for the 500-kV transmission system is $17.98/kW/year for FYs 1996 through 1998 and $17.23/kW/year for FYs 1999 through 2000. This rate is classified as a major rate adjustment as defined at 10 CFR §§ 903.2(e) and 903.2(f)(1). The distinction between a minor and a major rate adjustment is used only to

determine the public procedures for the rate adjustment. The following summarizes the steps Western took to ensure involvement of interested parties in the rate process:

1. The first informal public information meeting was held on February 22, 1995. Western explained the need for the proposed rate adjustments and answered questions from those attending.

2. A **Federal Register** notice was published on May 17, 1995 (60 FR 26433), which extended the existing rates for firm and nonfirm transmission service that became effective August 1, 1993, until October 1, 1996.

3. The second informal public information meeting was held on July 6, 1995. Western representatives again explained the need for the proposed rate adjustment, provided copies of studies, and answered questions from those attending.

4. A **Federal Register** notice was published on July 31, 1995 (60 FR 38955), officially announcing the proposed rate adjustment for firm transmission service and nonfirm transmission service rates, initiating the public consultation and comment period, announcing the August 24, 1995, public information forum and the September 18, 1995, public comment forum, and presenting procedures for public participation.

5. A letter was mailed to all AC Intertie customers and other interested parties on August 7, 1995, providing a copy of the AC Intertie Proposed Rate Adjustment Brochure and announcing the public information forum and public comment forum.

6. At the public information forum held on August 24, 1995, Western explained the need for the rate increase in greater detail and answered questions.

7. A letter was mailed to all AC Intertie customers and other interested parties on September 13, 1995, providing a copy of the issue papers concerning the abandoned plant audit adjustment.

8. The comment forum was held on September 18, 1995, to give the public an opportunity to comment for the record. Four persons representing customers and customer groups made oral comments.

9. A letter was mailed to all AC Intertie customers and interested parties on October 14, 1995, providing a copy of the answers to the questions that were raised during the comment period. The letter also announced an informal meeting on October 25, 1995, to answer any questions on the CIAR methodology.

10. A question and answer informal meeting was held on October 25, 1995, to discuss the compound interest amortization methodology. Questions and comments were also raised at this meeting. These comments have also been incorporated and taken into consideration in the final rate settings studies.

11. A **Federal Register** notice published on November 22, 1995 (60 FR 57867), extended the comment period until November 27, 1995.

12. Ten letters were received during the 119-day consultation and comment period ending November 27, 1995. All formally submitted comments have been considered in the preparation of this rate order.

Project History

The AC Intertie was authorized as part of a much larger alternating current (AC) and direct current (DC) combined transmission system (Pacific Intertie Project) by section 8 of the Act of August 31, 1964, 16 U.S.C. 837g. The basic purpose of the Pacific Intertie Project was to provide, through power transmission system interconnections, maximum utilization of the total power resources to meet the nation's growing demands. This purpose was to be accomplished through: (1) The exchange of summer-winter surplus peaking capacity between the Northwest and Southwest to reduce capital expenditures for new generating capacity; (2) the sale of Northwest secondary energy to the Southwest; (3) the sale of Southwest energy to the Northwest to "firm" peaking hydroelectric sources during critical water years; (4) conservation of significant amounts of fuel through the use of surplus hydroelectric energy; and (5) increased efficiency in the operation of hydroelectric and thermal resources. As authorized, the Pacific Intertie Project was to be a cooperative construction venture by Federal and non-Federal entities that incorporated the capability for both AC and DC transmission components and that provided an intertie among certain Federal and non-Federal power systems.

The Lower Colorado Region (LCR), Bureau of Reclamation, U.S. Department of the Interior, (Reclamation) was assigned construction jurisdiction for: (1) the Celilo-Mead 750-kV DC transmission line from the Oregon-Nevada border to Mead Substation; (2) Mead Substation; and, (3) all facilities south of Mead Substation. Several delays in congressional construction funding for the DC line revised its estimated in-service date to the point that some of the potential users withdrew their interest. This, and the subsequent lack of congressional funding, resulted in the May 1969 indefinite postponement of the DC line construction. Consequently, the facilities constructed provide only AC transmission service.

Pursuant to section 302 of the DOE Organization Act, 42 U.S.C. 7152(a), dated August 4, 1977, these Reclamation constructed facilities were transferred to Western. Only those AC Intertie facilities which are administered by Western's Desert Southwest Customer Service Region and which provide AC transmission service are the subject of this rate adjustment. To simplify identification, these facilities have been classified as the AC Intertie and are sometimes referred to as the existing system.

On February 1, 1996, Western will add to the AC Intertie the new Mead-Phoenix and Mead-Adelanto 500-kV transmission lines. The additional sales of capacity are expected to be 668 MW. A separate marketing plan is being developed for the sales of the additional capacity.

Power Repayment Studies

PRSs are prepared each fiscal year to determine if power revenues will be sufficient to pay, within the prescribed time periods, all costs assigned to the power function. Repayment criteria are based on law, policies, and authorizing legislation. DOE Order RA 6120.2, section 12.b, states:

> In addition to the recovery of the above costs (operations and maintenance and interest expenses) on a year-by-year basis, the expected revenues are at least sufficient to recover (1) each dollar of power investment at Federal hydroelectric generating plants within 50 years after they become revenue producing, except as otherwise provided by law; plus (2) each annual increment of Federal transmission investment within the average service life of such transmission facilities or within a maximum of 50 years, whichever is less; plus (3) the cost of each replacement of a unit of property of a Federal power system within its expected service life up to a maximum of 50 years; plus, (4) each dollar of assisted irrigation investment within the period established for the irrigation water users to repay their share of construction costs; plus (5) other costs such as payments to basin funds, participating projects, or States.

Existing and Provisional Rates

The following table compares the existing transmission service rates and the proposed transmission service rates.

COMPARISON OF THE EXISTING AND PROVISIONAL RATES

Type of service	Existing rate 230/345–kV system extended through 10/1/1996	Existing rates step two 230/345/500–kV system 10/1/1996 through 7/31/1998	Proposed rate 230/345–kV system 2/1/1996 through 9/30/2000	Proposed rate 500–kV system 2/1/1996 through 9/30/2000
Firm transmission service ..	$4.46/kW/year	$8.01/kW/year	1996 [1]—$8.26/kW/year, 1997–2000—$6.58/kW/year.	1996–1998—$17.98/kW/year, 1999–2000—$17.23/kW/year
Nonfirm transmission rate (mills/kWh).	1.00 mills/kWh	1.52 mills/kWh	2.00 mills/kWh	2.00 mills/kWh

[1] Rate based upon 8 months.

Certification of Rates

Western's Administrator has certified that the AC Intertie firm and nonfirm transmission service rates placed in effect on an interim basis herein are the lowest possible, consistent with sound business principles. The rates have been developed in accordance with administrative policies and applicable laws.

Discussion

The power repayment study for the 230/345–kV transmission system indicates that the proposed rate adjustments for firm and nonfirm transmission service are necessary due to adjustments in operation and maintenance expenses of the existing system, and due to capacity in the new 500–kV transmission system being sold separately. The existing rates were designed to recover all annual costs and investment repayment of both the existing 230/345–kV transmission lines and the new 500–kV transmission lines. Three major changes are affecting the rates for the AC Intertie.

The first change is the establishment of separate firm transmission rates for the existing 230/345–kV transmission lines and the new 500–kV transmission lines. This change responds to customer comments and concerns during formal and informal meetings Western held with its customers. Separate PRSs has been prepared for the 500–kV portion and the 230/345–kV portion of the AC Intertie.

The second change is the determination of interest offsets. An interest offset is a credit that is made toward interest expenses. Western is changing its methodology of calculating interest offsets to be consistent with the other power marketing administrations. The old method calculates interest offsets on only the principal that was repaid in the current year. The new method calculates interest offsets on both the principal and interest for the current year.

The third change is adjustments Western made to data budgeted for investments to the AC Intertie Project. Western's staff determined the total O&M costs on the combined system for the AC Intertie Project and developed a percentage breakdown based upon O&M costs, to determine a method for allocating Other Revenues/Costs.

Existing System

Based upon FY 1994 data, the PRS for the AC Intertie showed that the existing Step II of the firm transmission service rate of $8.01/kW/year and the nonfirm transmission service rate of 1.52 mills/kWh would provide more than sufficient revenues to pay the project costs within the prescribed time periods. The ratesetting PRS indicates that a transmission service rate for February 1, 1996, through September 30, 1996, of $8.26/kW/year and a transmission service rate of $6.58 for October 1, 1996, through September 30, 2000, for firm transmission service is adequate to meet revenue requirements. The rate for FY 1996 is higher because the revenue will be collected over an 8 month period rather than over a 12 month period. The nonfirm rate was determined by developing a combined rate for both systems. The provisional nonfirm transmission rate of 2.00 mills/kWh for nonfirm transmission service is required to meet revenue requirements for FY 1996 through the end of the study.

New System

Based upon FY 1994 data, the PRS for the new Mead-Phoenix and Mead-Adelanto 500–kV transmission system showed that a rate of $17.98/kW/year for February 1, 1996, through September 30, 1998, and a transmission service rate of $17.23/kW/year for October 1, 1998, through September 30, 2000, would satisfy the repayment criteria. The nonfirm rate was determined by developing a combined rate for both systems. The proposed rate for nonfirm transmission service of 2.00 mills/kWh will meet revenue requirements for FY 1996 through the end of the study.

The provisional rates filed with FERC have been updated from the rate originally proposed in the customer brochure and **Federal Register** notice dated July 31, 1995.

The changes to the PRS are as follows:

1. Revised budget data for the 230/345–kV existing system.
2. Revised power repayment studies that include the new interest offset methodology.
3. Revised budget data for the 500–kV system.
4. Increase in other revenue sales based upon proposed transmission rate.

Firm Transmission Revenue Requirements

A comparison of the transmission revenue requirements estimated for the step II of the existing rate for 1996 to the proposed revenue requirements for the existing 230/345–kV AC Intertie system and to the proposed revenue requirements for the new 500–kV system based upon the pinch-point methodology is as follows:

Step II of the existing system transmission revenue requirements	Proposed revenue requirements for the 230/345–kV system	Proposed revenue requirements for the new 500–kV system
$24,883,655	$8,709,909	$12,352,554

The rate adjustment is necessary to satisfy the cost-recovery criteria set forth in DOE Order RA 6120.2.

Replacement and Addition Activities

The decrease from the existing Step II 230/345–kV transmission system rate is largely due to a decrease in replacements and additions and a decrease in the O&M costs for the existing system. The AC Intertie initial investment will not be fully paid until FY 2028. The capitalized costs for future replacements and additions in the cost evaluation period includes IDC. The IDC calculation for each replacement is determined by the interest rate in the year construction begins. The annual interest expense for replacements and additions is also based on the interest rate in the year construction begins. The

total replacement cost for the cost evaluation period through the end of the study is $42,891,147.

The 500–kV transmission system has been pulled out of the existing 230/345–kV transmission power repayment study. A 500–kV transmission system power repayment study has been developed to determine the transmission rate for the new system. The new transmission system will provide better service to the customers and additional transmission paths that are presently not available. The total cost of the 500–kV Mead-Phoenix and Mead-Adelanto transmission line for the cost evaluation period through the end of the study is $134,103,799 and is to be repaid by 2046.

Abandoned Plant

Western's auditors have identified approximately $14.5 million in equipment and interest charges that are contained in the financial statements as abandoned plant that Western has not included in the rate base. Western's financial statements show that these charges have accumulated since 1964 for the construction of the Direct Current (DC) portion of the Intertie Project.

The construction of the DC line was discontinued in 1969 by the Assistant Secretary of the Department of the Interior. At the time of the decision, the total expenditure amounted to approximately $10.5 million. Since that time the amount has increased to approximately $14.5 million. This amount includes $2,399,747 of IDC and approximately $952,574 of tangible assets and studies. The remaining $11.1 million represents the remaining charges for which no tangible assets/studies exist. These costs are not in the PRS, because they were expended on a feature that was never placed in service.

Statement of Revenue and Related Expenses

The following table provides a summary of revenue and expense data for the 5-year proposed rate approval period for the existing 230/345–kV system.

AC INTERTIE PROJECT—5-YEAR RATE STUDY SUMMARY PERIOD REVENUES AND EXPENSES

Revenue and expenses	Existing rate step II 230/345/500-kV system 10/1/96 through 9/30/2000	Proposed rates 230/245-kV system 2/1/96 through 9/30/2000	Difference
Revenues:			
Firm Transmission	105,009,620	35,545,000	70,464,620
Other Revenues	19,503,775	8,906,743	10,597,032
Total Revenues	124,513,395	43,451,743	81,061,652
Revenue Distribution:			
Operations & Maintenance	17,486,459	12,643,540	4,842,919
Other Deductions	1,077,007	1,640,012	(563,005)
Interest on Deferred	0	490,316	(490,316)
Annual Cost:			
Interest	93,042,899	23,102,897	69,940,002
Investment Repayment	12,814,649	1,984,977	10,829,672
Capitalized Expenses	92,381	3,590,002	(3,497,621)
Study-Year Adjustments	0	0	0
Total	124,513,395	43,451,744	81,061,651

The following table provides a summary of revenue and expense data for the 5-year proposed rate approval period for the new 500–kV system.

AC INTERTIE PROJECT.—5-YEAR RATE STUDY SUMMARY PERIOD REVENUES AND EXPENSES

Revenue and expenses	Existing rate step II 230/345/500–kV system 10/1/96 through 9/30/2000	Proposed rates 500–kV system 2/1/96 through 9/30/2000	Difference
Revenues:			
Firm Transmission	105,009,620	59,051,200	45,958,420
Other Revenues	19,503,775	1,807,372	17,696,403
Total Revenues	124,513,395	60,858,572	63,654,823
Revenue Distribution:			
Operations & Maintenance	17,486,459	3,569,559	13,916,900
Other Deductions	1,077,007	487,620	589,387
Interest on Deferred	0	0	0
Annual Cost:			
Interest	93,042,899	52,707,044	40,335,855
Investment Repayment	12,814,649	4,094,349	8,720,300
Capitalized Expenses	92,381	0	92,381
Study-Year Adjustments	0	0	0
Total	124,513,395	60,858,572	63,654,823

The table provides a summary of revenue and expense data for the 5-year proposed rate approval period for the combined system.

AC INTERTIE PROJECT.—5-YEAR RATE STUDY SUMMARY PERIOD REVENUES AND EXPENSES

Revenue and expenses	Existing rate step II 230/345/500–kV system 10/1/96 through 9/30/2000	Proposed combined rate study 2/1/96 through 9/30/2000	Difference
Revenues:			
Firm Transmission	105,009,620	90,195,000	14,814,620
Other Revenues	19,503,775	10,714,115	8,789,660
Total Revenues	124,513,395	100,909,115	23,604,280
Revenue Distribution:			
Operations & Maintenance	17,486,459	16,213,099	1,273,360
Other Deductions	1,077,007	2,127,632	(1,050,625)
Interest on Deferred	0	286,491	(286,491)
Annual Cost:			
Interest	93,042,899	71,141,078	21,901,821
Investment Repayment	12,814,649	7,458,773	5,355,876
Capitalized Expenses	92,381	3,682,042	(3,589,661)
Study-Year Adjustments	0	0	0
Total	124,513,395	100,909,115	23,604,280

Basis for Rate Development

The provisional rates were designed to meet cost recovery criteria. The power repayment studies indicate that the proposed rates for firm and nonfirm transmission service are necessary because of the redistribution of costs from the current rate setting study. The current rate setting study anticipated 1,718 MW of capacity available for sale. The existing rates were designed to recover all annual costs and investment repayment of both the existing 230/345–kV transmission lines and the new 500–kV transmission lines. Three major changes are affecting the rates for the AC Intertie.

The first change is the establishment of separate firm transmission rates for the existing 230/345–kV transmission lines and the new 500–kV transmission lines. This change is due to customer comments and concerns during the informal and formal meetings Western held with its customers. Separate PRSs have been prepared for the 500–kV portion and the 230/345–kV portion of the AC Intertie.

The second change is the determination of interest offsets. An interest offset is a credit that is made toward interest expenses. Western is changing its methodology of calculating interest offsets to be consistent with the other power marketing administrations. The old method calculates interest offsets on only the principal that was repaid in the current year. The new method calculates interest offsets on both the principal and interest for the current year.

The third change is adjustments Western made to data budgeted for investments to the AC Intertie Project. Western's staff determined the total O&M costs on the combined system for the AC Intertie Project and developed a percentage breakdown based upon O&M costs, to determine a method for allocating Other Revenues/Costs.

Existing 230/345-kV Transmission System

Operations and Maintenance expenses have decreased for the 230/345–kV system, since the O&M expenses for the 500–kV transmission system are in a separate power repayment study as well as the additional facilities. The 230/345–kV system is projecting 1,050 MW of capacity for sale.

500–kV Transmission System

There is also a anticipated decrease in current marketable capacity on the new 500–kV system. This is now projected to be 668 MW which is 156 MW decrease from the current rate setting study. Once the 500–kV transmission lines are energized and go into service, these 500–kV transmission lines will become an integral part of the AC Intertie.

Nonfirm Transmission Service

Western decided to maintain one nonfirm transmission service rate for the AC Intertie Project. This maintains consistency with other Western projects and allows for the ability to market nonfirm transmission service through the WSPP Agreement and Joint Transmission Agreement which Western is a participant. The single nonfirm transmission rate has been derived by calculating a firm rate from a combined transmission line power repayment study. Once the yearly kW rate is determined, it is divided by 8760 hours in a year and multiplied by a 60 percent load factor. This number is then converted to mills/kWh.

Comments

During the 119 day comment period, Western received 10 written comments. In addition, five persons commented during the September 18, 1995, public comment forum. All comments were reviewed and considered in the preparation of this rate order.

Written comments were received from the following sources:

Irrigation & Electrical Districts Association of Arizona (Arizona)
K. R. Saline & Associates (Arizona)
Arizona Power Authority (Arizona)
Central Arizona Water Conservation District (Arizona)
Salt River Project (Arizona)

Representatives of the following organizations made oral comments:

Irrigation and Electrical Districts Association of Arizona (Arizona)
K. R. Saline & Associates (Arizona)
Arizona Power Authority (Arizona)
Central Arizona Water Conservation District (Arizona)
Salt River Project (Arizona)

Most of the comments received at the public meetings and in correspondence

were related to the issue on abandoned plant, the separation of the new 500–kV transmission system from the existing system, and the change in the ratesetting methodology from the pinch-point methodology to the CIAR method. All comments were considered in developing the provisional rates.

Comment: The customers support the idea of moving away from the pinch-point methodology to the compound interest amortization repayment method as was done in the Parker-Davis Project.

Response: Western developed power repayment studies based upon the CIAR method and the pinch-point method. After review of these studies with the customers through working groups, the customers request is to remain with the traditional pinch-point methodology. This rate submittal in based upon the pinch-point methodology.

Comment: The rate brochure includes approximately $13,558,108 in replacements associated with Mead Substation Stage 05. Would Western please provide a breakdown of the proposed work including the rationale to allocate all of these proposed expenditures to the 230/345–kV transmission system project versus the 500–kV transmission system project?

Response: The Intertie Project Proposed Rate Adjustment Brochure refers to replacements at Mead Substation (see page 15) which are part of a multifaceted construction project, Mead Stage 05. The portion of the work related to Intertie expenses is described below (excerpt from the Congressional Budget document Facility Data Sheet):

Activity 2: The work to be performed is as follows:

At Mead: This portion of the project consists of replacing 18 power circuit breakers at Mead Substation, provide new wiring and associated control cabinets, and new line relaying to protect the lines. *Four of the 18 breakers to be replaced are a result of the planned addition of a 500–kV AC transmission line from Liberty Substation to Mead Substation to McCullough Substotion, where it will tie into a 500–kV line into the Los Angeles area. The associated costs will be recovered from the Mead-Phoenix 500–kV Project.* Add an additional fault recorder to assist in determining causes of system failures. Provide two vehicle crossing in the switchyard to improve access to equipment necessary for maintenance of the breakers. Replace the bolted bus connections with compression fittings to reduce thermal hot spots. Replace a portion of the station service power distribution system to provide 120VAC convenience power at the breakers. *At Liberty Substation:* Replace the line relaying and control cabinet.

The objective is to replace the breakers at Mead that are associated with the Intertie facilities. These circuit breakers will be under rated due to increased fault current. The fault current has increased due to the interconnected power system growth in the area.

The southern Division of the Pacific Northwest-Pacific Southwest Intertie Transmission System (Intertie) is part of the Pacific Northwest-Pacific Southwest Intertie authorized August 31, 1964, by Public Law 88–552. The Intertie consists of a 345–kV AC transmission line from Mead Substation, near Hoover Dam and Boulder City, Nevada, to Liberty Substation near Phoenix, Arizona, and a 230–kV line from Liberty Substation to Pinnacle Substation north of Phoenix. The Intertie facilities are interconnected with additional AC Intertie transmission facilities which are owned and operated by various Federal and non-Federal entities.

In the first paragraph of the description, in the bold and underlined portion, it states that: *"Four of the 18 breakers to be replaced are a result of the planned addition of a 500–kV AC transmission line from Liberty Substation to Mead Substation to McCullough Substation, where it will tie into a 500–kV line into the Los Angeles area. The associated costs will be recovered from the Mead-Phoenix 500–kV Project."* This statement should clarify that the portion of the Intertie expense that is the result of the 500-kV Project has been accounted for and properly funded. The accounting process for the proper expending has been done by accounting adjustments through the use of Journal Vouchers in our financial management system.

Comment: When Western decided to split the Intertie into two separate projects (230/345–kV and 500–kV) how has Western allocated the interconnection facilities between Mead Substation and Market Place Substation? The tie between the two substations was not required for the operation of the existing 345–kV project and therefore should be allocated to the 500–kV project. At a minimum Western needs to identify the offsetting benefits to the existing Intertie customers of these additions.

Response: The tie between Mead Substation and Marketplace Substation is 13 miles of 500–kV transmission line. The cost to build, operate and maintain these facilities is being allocated to the 500–kV transmission system.

Comment: It is our understanding that there is approximately 67 MW (Phoenix to Mead) of excess capacity available of the existing Intertie (345-kV line). Since Western has indicated they believe that they will be successful in marketing 668 MW on the 500–kV project. It seems appropriate that 67 MW of those sales would in reality be contract over the 345–kV line. Would Western provide its rational for not including marketing the additional 67 MW on the 345–kV line before projecting sales on the more expensive 500–kV line.

Response: The referenced 67 MW of transmission system capacity was the estimated amount of capacity that was not under firm contractual arrangements for the existing system. This was stated at the August 18, 1995, public information forum. The existing system for the AC Intertie has a total marketable transmission system capability of 1,050,000 kilowatts.

Western currently has 987,643 kW of the 230/345–kV transmission system capacity under firm contracts.

Comment: Included in Western's FY 1995 10–Year Plan is approximately $5,016,000 to replace the 345–kV Series Capacitor Control and Bypass System. Has the installation of the 500–kV transmission line caused or contributed to the need to replace the series capacitor controls? Given the fact that the 500–kV transmission line may have excess capacity for some time, is there potential to delay this expenditure until additional transfer capability is needed? What is the rate impact of the proposed replacement of the capacitor controls?

Response: The series capacitor banks at Mead and Liberty substations were installed in July 1977. The PCB capacitor units were replaced in 1992 with new non-PCB units. The pneumatic control system is deteriorating and preliminary review indicates it should be replaced with an electronic and optical control system.

The installation of the 500–kV line did not cause or contribute to the deteriorating of the pneumatic control system. The series capacitors were not included in the cost base of the power repayment study because the projected in-service date went beyond the cost evaluation period for power repayment consideration. Although the costs were not included, a separate study has been run to determine the effect on the rate. The existing system rate would increase about $.23/kW-year.

Comment: Would Western provide its rational for allocating Other Revenues/Costs on miles of transmission?

Response: Western's staff used the following rationale to distribute projected Other Deductions and Other Revenues for the AC Intertie Project to the two systems as follows:

In the early studies, Western determined the total miles of the AC Intertie Project and developed a percentage breakdown by transmission miles. The existing system (230/345–kV transmission lines) consists of 271 miles of transmission lines or 37 percent of the combined system. The new system (500–kV transmission lines) consists of 458 miles of transmission lines or 63 percent of the combined system.

Based upon customer request and comment, Western changed its methodology and based the other deductions and other revenues upon the total O&M in the combined power repayment study. Western's staff determined the total O&M costs on the combined system for the AC Intertie Project and developed a percentage breakdown based upon O&M costs, to determine a method for allocating Other Revenues/Costs to each of the separate systems. The allocation of other costs and other revenues obtained through the Multiproject Cost calculations, has been applied by the above methodology.

Comment: Would Western provide its rational for a single nonfirm rate? What has been the historical nonfirm uses of the existing 345–kV system? Would Western please provide its projection of nonfirm energy sales on each of the proposed projects (345–kV and 500–kV)?

Response: Due to customer request to develop a single firm transmission service rate for the 230/345–kV and 500–kV transmission lines, Western decided to maintain one nonfirm transmission service rate for the AC Intertie Project. This maintains consistency with other Western projects and allows for the ability to market nonfirm transmission service through the WSPP Agreement and Joint Transmission Agreement of which Western is a participant. The single nonfirm transmission rate has been derived by calculating a firm rate from a combined transmission line power repayment study. Once the yearly kW rate is determined, it is divided by 8760 hours in a year and multiplied by a 60 percent load factor. This number is then converted to mills/kWh.

Typically, Western's non-firm sales on the existing AC Intertie are made through our membership in the WSPP or under our fuel replacement program. For example, in FY 1995, WSPP sales totaled approximately 195 GWh and revenues of approximately $2.3 million; fuel replacement sales totaled approximately 67 GWh and revenues of approximately $670,000.

Projections for non-firm energy sales on the AC Intertie system should remain at the same levels. These sales could be split between the existing and 500-kV AC Intertie systems in the future.

Western determines future year projections for nonfirm transmission sales revenues for the AC Intertie Project by calculating a 3-year average of total nonfirm sales as reflected in the results of operations. Western does not keep a separate log of nonfirm sales by transmission line voltages; therefore information pertaining to separate projections of nonfirm sales on the 230/345–kV and 500–kV transmission lines is unavailable.

Comment: Western's white paper addresses the options to resolve the $11.1 million in abandoned plant that Western has indicated as a cost responsibility of the AC Intertie project. We support Western's option number 4, and hereby request Western seek authority through the budget cycle to declare the abandoned plant as nonreimbursable.

Response: With customer support, Western will seek authority through the Department to declare the $11.1 million of abandoned plant as nonreimbursable.

Comment: Consider the acceptability of directly assigning non-firm transmission revenues, which are based on the historical level of non-firm transmission, to the existing 345/230–kV system. Also, all "Other Revenues and Expenses" would be allocated based on an O&M factor versus the presently proposed "Line Miles" method.

Response: Western has been directly assigning all nonfirm transmission revenues, which are based on the historical level of nonfirm transmission, to the existing 230/345–kV system. We are estimating future nonfirm transmission revenues for the 500–kV system to be $300,000 per year. Distribution of Other "Revenue and Expenses" which is due to Multiproject Cost and Revenues, are based upon O&M factors.

Comment: (1) Investigate what is included in the $2.3 million revenue number stated in Western's October 13th letter. (2) What is the appropriate level of GWH for the Intertie and what would be the corresponding level of revenues?

Response: The $2.3 million of WSPP sales mentioned in the October 13, 1995, letter includes total WSPP nonfirm transactions including energy sales made under WSPP during FY 1995. The transmission portion associated with the AC Intertie is approximately $70,000. The GWH associated with these particular WSPP nonfirm transmission transactions for FY 1995 was approximately 26 GWH.

Comment: Continue the use of the 1,050,000 KW as the Marketable Capacity for the Existing 230/345 System. This issue centers on whether or not Western needs to reserve 50 MW of capacity on the existing system considering the ability to use both the 230/345-kV lines and 500-kV lines for "operation flexibility."

Response: The 1,050,000 kW is the estimated transmission capacity which is projected to be marketed, for the purposes of determining the existing 230/345-kV AC Intertie rate adjustment. This estimate is based on projected demand for transmission capacity in the region and on transmission service requests received by Western. Transmission capacity in excess of 1,050,000 kW exists on the 230/345-kV AC Intertie system, but is primarily available from Mead Substation to the Phoenix area and is in limited demand. If transmission capacity in excess of 1,050,000 kW is marketed in the future, future rate adjustments will reflect the addition.

Comment: The information distributed by Western at the August 24, 1995, public information forum contains a page of "AC Intertie Project Investments" which are to be assigned to the existing and new systems. All of the investments, except the "Mead-Phoenix 500-kV transmission line" and the "Mead-Adelanto 500-kV transmission line" have been assigned to the existing 230/345 system. Yet, we know that at least a component of the "Mead-Substation Stage 05" investment should be allocated to the 500-kV system, specifically, the costs associated with four (4) of the 18 breakers. What are the costs associated with these four breakers and should any portion of the other investments be assigned to the 500-kV system.

Response: The costs associated with the four breakers which are attributed to the 500-kV system are cost for breaker hardware, installation, sectionalizing breaker, portion of design, portion of switch gear, portion of control boards, and portion of site preparation. The total cost attributed to the 500-kV system is $1,945,071.

Breakdown of theses costs are as follows:

Mead 05 Breaker Hardware	$589,200
Mead 05 Breaker Installation	494,030
Mead 05 Sectionalizing Breaker	103,345
Mead 05 Portion of Design	98,868
Mead 05 Portion of Switchgear	55,000
Mead 05 Portion of CNTRL Boards	79,448
Portion of Mead: CNTRL Bldg., Site Prep	525,181
Total Itemized Cost:	1,945,071

Western believes that all other investments have been properly allocated to the 230/345-kV system and the 500-kV system. We are in the process of closing out work for the 500-kV system and would be willing to provide detailed information on the allocation of equipment. If an adjustment is necessary, Western will work with customers during the next rate adjustment process.

Comments: Repayment of the Capitalized Deficits in FY 96. In accordance with a customer's request, run a new PRS in which the capitalized deficit is repaid in FY 1996, and then a separate PRS for years 1997 forward.

Response: Based upon the request, Western ran a new study forcing the deficits to be paid by 1996, the results, using the Compound Interest Amortization method are: Rates: FY 1995—$4.46, FY 1996—$10.36, FY 1997—$7.21.

Comment: Customer request Western to determine separate nonfirm transmission rates for the existing 230/345-kV transmission system and the new 500-kV transmission line.

Response: The calculated nonfirm transmission service rate for the 230/345-kV transmission lines is 1.40 mills/kWh. The calculated nonfirm transmission service rate for the 500-kV transmission lines is 3.28 mills/kWh.

Comment: We have heard that the Area Manager of the Boulder City Area Office may have written off the abandoned plant dollars in 1983. Does any document exist writing off the abandoned plant?

Response: Western has not been able to locate the document and is not sure that such a document exists. Area Managers do not have the authority to write off a dollar amount of such magnitude. Western will continue to search for the document and check for the legality of the document.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*; Council on Environmental Quality Regulations (40 CFR Parts 1500–1508); and DOE NEPA Regulations (10 CFR Part 1021), Western has determined that this action is categorically excluded from the preparation of the environmental assessment or an environmental impact statement.

Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by OMB is required.

Availability of Information

Information regarding this rate adjustment, including PRSs, comments, letters, memorandums, and other supporting material made or kept by Western for the purpose of developing the power rates, is available for public review at the Desert Southwest Customer Service Region, Western Area Power Administration, Office of the Assistant Regional Manager for Power Marketing, 615 South 43rd Avenue, Phoenix, Arizona 85009–5313; and Power Marketing Liaison Office, Room 8G–027, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0001.

Submission to Federal Energy Regulatory Commission

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I confirm and approve on an interim basis, effective February 1, 1996, the Rate Schedules INT-FT2 and INT-NFT2. The rate schedules shall remain in effect on an interim basis, pending FERC confirmation and approval of them or substitute rates on a final basis, through September 30, 2000.

Issued in Washington, D.C., January 30, 1996.

Charles B. Curtis

Supersedes Rate Schedule INT-FT1

United States Department of Energy
Western Area Power Administration

Pacific Northwest-Pacific Southwest Intertie Project

Schedule of Rates for Firm Transmission Service

Effective

The first day of the first full billing period beginning on or after February 1, 1996, and will remain in effect through September 30, 2000, or until superseded, whichever occurs first.

Available

In the marketing area served by the Pacific Northwest-Pacific Southwest Intertie Project.

Applicable

To firm transmission service customers where capacity and energy are supplied to the Pacific Northwest-Pacific Southwest Intertie Project (AC Intertie) system at points of interconnection with other systems and transmitted and delivered, on a bi-directional basis, less losses, to points of delivery on the AC Intertie system specified in the service contract.

Character and Conditions of Service

Alternating current at 60 Hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract over the 230/345-kV transmission lines.

Rates 230/345-kv System

Firm Transmission Service Charge: February 1, 1996, through September 30, 1996: $8.26 per kilowatt per year for each kilowatt delivered at the point of delivery, as established by contract: payable monthly at the rate of $0.688 per kilowatt.

October 1, 1996, through September 30, 2000: $6.58 per kilowatt per year for each kilowatt delivered at the point of delivery, as established by contract, payable monthly at the rate of $0.548 per kilowatt.

Rates 500-kv System

Alternating current at 60 Hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract over the 500-kV transmission lines.

Firm Transmission Service Charge: February 1, 1996, through September 30, 1998: $17.98 per kilowatt per year for each kilowatt delivered at the point of delivery, as established by contract, payable monthly at the rate of $1.50 per kilowatt.

October 1, 1998, through September 30, 2000: $17.23 per kilowatt per year for each kilowatt delivered at the point of delivery, as established by contract, payable monthly at the rate of $1.44 per kilowatt

Adjustments

For Reactive Power

None. There shall be no entitlement to transfer of reactive kilovolt-amperes at points of delivery, except when such transfers may be mutually agreed upon by contractor and contracting officer or their authorized representatives.

For Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

Rate Schedule INT-NFT2;Supersedes Rate Schedule INT-NFT1

United States Department of Energy
Western Area Power Administration

Pacific Northwest-Pacific Southwest Intertie Project

Schedule of Rates for Nonfirm Transmission Service

Effective

The first day of the first full billing period beginning on or after February 1, 1996, and will remain in effect through September 30, 2000, or until superseded, whichever occurs first.

Available

In the marketing area served by the Pacific Northwest-Pacific Southwest Intertie Project.

Applicable

To nonfirm transmission service customers where capacity and energy are supplied to the Pacific Northwest-Pacific Southwest Intertie Project (AC Intertie) system at points of interconnection with other systems and transmitted and delivered, on a bi-directional basis, less losses, to points of delivery on the AC Intertie system established by contract.

Character and Conditions of Service

Alternating current at 60 Hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract.

Rate

Nonfirm Transmission Service Charge: 2.00 mills per kilowatthour of the scheduled delivered kilowatthours at the point of delivery, established by contract, payable monthly.

Adjustments

For Reactive Power

None. There shall be no entitlement to transfer of reactive kilovolt-amperes at points of delivery, except when such transfers may be mutually agreed upon by contractor and contracting officer or their authorized representatives.

For Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[FR Doc. 96–2523 Filed 2–6–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–180987; FRL 4994–6]

Bifenthrin; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Department of Pesticide Regulation (hereafter referred to as the "Applicant") for use of the pesticide, bifenthrin (Capture), to control silverleaf whitefly (SWF) on up to 40,000 acres of leaf lettuce and 22,000 acres of broccoli, cauliflower, cabbage and rapini. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before February 22, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180987," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180987]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Margarita Collantes, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Crystal Station I, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8347; e-mail: collantes.margarita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a State agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for use of the bifenthrin, available as Capture 2EC from FMC Corporation, to control silverleaf whitefly on up to 40,000 acres of leaf lettuce and 22,000 acres of broccoli, cauliflower, cabbage and rapini in California. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, California still does not have material that will provide them with satisfactory late season control of the silverleaf whitefly. The registrant (Miles, Inc.) for the registered alternative product imidacloprid (Admire/Provado) does not want growers to use imidacloprid throughout the growing season in order to eliminate any potential that the whitefly may develop a resistant gene to imidacloprid. When used as a combination, Imidacloprid (Admire) and bifenthrin (Capture) allowed the growers to maintain the ability to grow a marketable crop in 1993 and 1994. Without the use of bifenthrin, the growers are forced into a situation in which they must do multiple sprays with less effective materials. The Applicant believes the use of bifenthrin as a foliar spray in combination with imidacloprid at planting will provide excellent control of whiteflies. Without the use of bifenthrin, the Applicant claims that growers will suffer significant economic loss this growing season.

Under the proposed exemption, a maximum of four applications for lettuce and five applications for broccoli, cauliflower, cabbage and rapini would be made at 0.08 to 0.1 lb active ingredient (a.i./A) [(5.2 to 6.4 fl. ozs. of product per acre)] by ground or air equipment. Not to apply within 20 days of harvest. Do not apply by ground equipment within 25 feet or by air within 150 feet of lakes, reservoirs, rivers, permanent streams or natural ponds estuaries and commercial fish farms. A 200-yard buffer for aerial application and 40 yards for ground application shall be observed around aquatic habitats containing endangered species (desert pupfish, and Delhi Sands flower Loving Fly).

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption if an emergency exemption has been requested or granted for that use in any 3 previous years, and a complete application for registration of that use has not been submitted to the Agency [40 CFR 166.24(a)(6). Exemptions for the use of bifenthrin on lettuce have been requested and granted for the past 5 years, and an application for registration of this use has not been submitted to the Agency.

A record has been established for this notice under docket number [OPP–180987] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the California Department of Pesticide Regulation.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: January 26, 1996.

Stephen Johnson,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–2235 Filed 2–6–96; 8:45 am]
BILLING CODE 6560–50–F

[OPP–50813; FRL–4778–4]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location, telephone number, or e-mail address cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

100–EUP–99. Renewal. Ciba Plant Protection, P.O. Box 18300, Greensboro, NC 27419-8300. This experimental use permit allows the use of 32.8 pounds of the herbicide 2-[[[[4,6-dimethyl-2-pyrimidinyl)-amino]carbonyl]amino]sulfonyl]benzoic acid, 3-oxetanyl ester on 400 acres of soybeans to evaluate the control of weeds. The program is authorized only in the States of Arkansas, Delaware, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, Nebraska, North Carolina, North Dakota, Ohio, South Dakota, Tennessee, Virginia, and Wisonsin. The experimental use permit is effective from March 23, 1996 to December 31, 1996. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 241, CM #2, 703–305–6800, e-mail: taylor.robert@epamail.epa.gov)

50534–EUP–4. Issuance. ISK Biosciences Corporation, 5966 Heisley Rd., P.O. Box 8000, Mentor, Ohio 44061-8000. This experimental use permit allows the use of 660 pounds of the nematicide O-ethyl S-(1-methylpropyl)(2-oxo-3-thiazolidinyl)-phosphonothioate for an applicator exposure study. The purpose of the study is to determine the exposure to mixers, loaders, and applicators to the nematicide under normal working conditions. A total of 110 acres is involved; no crops are involved. The program is authorized only in the State of California. The experimental use permit is effective from August 25, 1995 to August 25, 1996. (Dennis Edwards, PM 19, Rm. 207, CM #2, 703–305–6386, e-mail: edwards.dennis@epamail.epa.gov)

279–EUP–132. Extension. FMC Corporation, Agricultural Chemical Group, 1735 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 260 pounds of the herbicide ethyl 2-chloro-3-[2-chloro-4-fluoro-5-[4-(difluoromethyl)-4, 5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]phenyl]propanoate on 4,000 acres of corn, sorghum, soybeans, and wheat to evaluate the control of broadleaf weeds, grasses, and sedges. The program is authorized in the States of Alabama, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, West Virginia, and Wyoming. The experimental use permit is effective from February 9, 1996 to February 9, 1997. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Joanne I. Miller, PM 23, Rm. 237, CM #2, 703–305–7830, e-mail: miller.joanne@epamail.epa.gov)

707–EUP–132. Extension. Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399. This experimental use permit allows the use of 845.0 pounds of the herbicide 3-pyridinecarboxylic acid, 2-(difluoromethyl)-5-(4,5-dihydro-2-thiazolyl)-4-(2-methylpropyl)-6-(trifluoromethyl)-, methyl ester on 2,380 acres of citrus and cotton to evaluate the control of weeds (annual grasses and broadleaf weeds). The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, and Texas. This experimental use permit is effective from August 7, 1995 to July 28, 1997. Temporary tolerances for residues of the active ingredient in or on citrus, cotton seed, and cotton forage have been established. (Joanne I. Miller, PM 23, Rm. 237, CM #2, 703–305–7830, e-mail: miller.joanne@epamail.epa.gov)

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: January 17, 1996.

Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–2621 Filed 2–6–96; 8:45 am]
BILLING CODE 6560–50–F

[OPP–180986; FRL 4994–5]

Cymoxanil, Propamocarb Hydrochloride and Dimethomorph; Receipt of Applications for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the New York State Department of Environmental Conservation (hereafter referred to as the "Applicant") to use the pesticides cymoxanil (CAS 57966–95–7), propamocarb hydrochloride (CAS 25606–41–1) and dimethomorph (CAS 110488–70–5) to treat potentially up to 30,000 acres of potatoes to control immigrant strains of late blight which are resistant to historically used control materials. The Applicant proposes the use of either new (unregistered) chemicals or the first food use of an active ingredient therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemptions.

DATES: Comments must be received on or before February 22, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180986," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180986]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8326; e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue specific exemptions for the use of cymoxanil, propamocarb hydrochloride, and/or dimethomorph on potatoes to control late blight. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Recent failures to control late blight in potatoes as well as tomatoes with the registered fungicides, have been caused almost exclusively by immigrant strains of late blight *Phytophthora infestans*, which are resistant to the control of choice, metalaxyl. Before the immigrant strains of late blight arrived, all of the strains in the U.S. were previously controlled by treatment with metalaxyl. The Applicant states that presently, there are no fungicides registered in the U.S. that will provide adequate control of the immigrant strains of late blight. The Applicant states that each of these requested chemicals has been shown to be effective against these strains of late blight. Each active ingredient holds current registrations throughout many European countries for control of this disease. The Applicant indicates that at least a 40 percent yield reduction is expected based on the current infestation. Net revenues are expected to be reduced by over $27 million for the affected acreage without the use of these requested chemicals.

Specific exemptions for use of one or more of these chemicals on potatoes were issued to 22 states in 1995. An additional request is currently pending, bringing the total potential potato acreage treated under these requests to 885,010. Specific exemption requests for use of one or more of these chemicals on tomatoes have either been authorized or are pending for three states involving 66,500 acres. It is presumed that a similar number of states will be requesting each of these uses for the 1996 season.

The Applicant proposes to apply propamocarb hydrochloride, manufactured by AgrEvo USA

Company, as Tattoo C, at a maximum rate of 0.9 lbs. active ingredient (a.i.) [(2.3 pt of product)] per acre by ground or air, with a maximum of 5 applications per season. A 14-day PHI will be observed. Use under this exemption could potentially amount to a maximum 134,000 lb. of propamocarb hydrochloride.

The Applicant proposes to apply cymoxanil, manufactured by E.I. du Pont de Nemours and Company, as Curzate M-8, at a maximum rate of 0.12 lbs. (a.i.) [(1.5 lb. of product)] per acre, by ground or air, with a maximum of 7 applications per season and a 14-day PHI. Use under this exemption could potentially amount to a maximum 25,200 lb. of cymoxanil.

The Applicant proposes to apply dimethomorph at a maximum rate of 0.2 lbs. (a.i.) [(2.25 lb. of product)] per acre, by ground or air, with a maximum of 5 applications per season and a 14-day PHI. Use under this exemption could potentially amount to a maximum 30,375 lbs of dimethomorph.

This notice does not constitute a decision by EPA on the applications. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide) or the first food use of an active ingredient. Such notice provides for opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

A record has been established for this notice under docket number [OPP–180986] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the New York State Department of Environmental Conservation.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: January 25, 1996.

Stephen Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–2236 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30396A; FRL–4994–1]

Lakeshore Enterprises; Amendment to Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces an amendment to applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by March 8, 1996.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30396A] and the file symbols (69090–R and 69090–E) to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30396A]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Julie Fry, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8582; e-mail: fry.julie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of November 1, 1995 (60 FR 55577), which announced that Lakeshore Enterprises, 2804 Benzie Highway, Benzonia, MI 49616, had submitted applications to register the pesticide products Green Screen Bags and Green Screen Powder (EPA File Symbols 69090–R and 69090–E), animal repellants containing the active ingredient meat meal at 99 percent for both products. The applications are being amended to include the ingredient red pepper at 1 percent for both products, active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. These products are used for agricultural, vegetable, ornamentals, turf, tree, vine, and other terrestrial crops. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30396A] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: January 23, 1996.

Flora Chow,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–1918 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180988; FRL 4994–7]

Norflurazon; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Georgia Department of Agriculture (hereafter referred to as the "Applicant") for use of the pesticide, norflurazon, to control grasses on up to 150,000 acres of Bermudagrass in Georgia. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before February 22, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180988," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180988]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Margarita Collantes, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Crystal Station I, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8347; e-mail: collantes.margarita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a State agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for use of the herbicide, norflurazon, available as Zorial Rapid 80 from Sandoz Agro, Inc., to control grasses on up to 150,000 acres of Bermudagrass hay fields in Georgia. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, large crabgrass, goosegrass and broadleaf signalgrass invade exposed soil seedbeds in newly sprigged Bermudagrass strands. These weeds were traditionally controlled with simazine; however, in 1987, CIBA-GEIGY canceled the registration use in hay fields rather than incur reregistration cost. Since that time there had not been a registered herbicide that will provide control of weedy annual grasses in Bermudagrass hay fields. Although 2,4-D (Esteron 99C) is registered for preemergence control in newly sprigged forage Bermudagrass, it has not consistently provided season long control of annual grasses. Without a control, these grasses can severely restrict Bermudagrass growth following vegetation propagation, limit production

and reduce forage value. The applicant will suffer significant economic net loss of 1.224 million dollars on newly sprigged fields and a net loss of 1.883 million dollars on established fields if the request for use of norflurazon on Bermudagrass is not granted.

Under the proposed exemption, a single application of Zorial Rapid 80 will be made at 0.6 lb to 1.9 lbs of product [(0.5 to 1.5 lbs. active ingredient (a.i./A))] per acre from February 15 to July 1, 1996. Do not graze or feed foliage from treated areas to livestock within 60 days after application.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption if an emergency exemption has been requested or granted for that use in any 3 previous years and a complete application for registration of that use has not been submitted to the Agency [40 CFR 166.24 (a)(6)]. Exemptions for the use of norflurazon on Bermudagrass have been requested and granted for the past 4 years, and an application for registration of this use has not been submitted to the Agency.

A record has been established for this notice under docket number [OPP–180988] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Georgia Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: January 26, 1996.

Stephen Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–2234 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180989; FRL 4996–7]

Propazine; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the New Mexico Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide propazine (CAS 139–40–2) to treat up to 50,000 acres of sorghum to control pigweed. The Applicant proposes the use of a new (unregistered) chemical; additionally, an emergency exemption for this use has been requested for the previous 3 years, and a complete application for registration of this use and a tolerance petition has not been submitted to the Agency. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before February 22, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180989," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic must be identified by the docket number [OPP–180989]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8791; e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of propazine on sorghum to control pigweed. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Sorghum is grown as a rotational crop with cotton and wheat, in order to comply with the soil conservation requirements. Propazine, which was formerly registered for use on sorghum, was voluntarily canceled by the former Registrant, who did not wish to support its re-registration. The Applicant claims that this has left sorghum growers in New Mexico with no pre-emergent herbicides that will adequately control certain broadleaf weeds, especially pigweed. Until 1993–4, the first season an exemption was requested, growers were using existing stocks of propazine. The Applicant states that other available herbicides have serious limitations on their use, making them unsuitable for control of pigweed in sorghum. Although the original Registrant of propazine has decided not to support this chemical through re-registration, another company has committed to support the data requirements for this use. Propazine was once registered for this use, but has now been voluntarily canceled and is therefore considered to be a new chemical.

The Applicant states that, since growers used existing stocks of propazine between the time of its voluntary cancellation and the availability of propazine under an emergency exemption, yields have not shown a decrease. However, the Applicant claims that significant economic losses will occur without the availability of propazine.

The Applicant proposes to apply propazine at a maximum rate of 1.2 lbs. active ingredient (a.i.) [(2.4 pts. of product)] per acre, by ground or air, with a maximum of one application per crop growing season. Therefore, use under this exemption could potentially amount to a maximum total of 60,000 lbs. of (a.i.) [(15,000 gal. of product)] in New Mexico. This is the third year that New Mexico has applied for this use of propazine on sorghum, and the fourth year that this use has been requested under section 18 of FIFRA. New Mexico was issued an exemption for this use for last growing season.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide), or if an emergency exemption for a use has been requested in any 3 previous years, and a complete application for registration of the use and/or a tolerance petition has not been submitted to the Agency. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–180989] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the New Mexico Departments of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: January 30, 1996.

Stephen Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–2623 Filed 2–6–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

January 31, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 8, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: New collection.

Title: Parts 2 and 90, Second Order on Reconsideration and Seventh Report and Order for the 900 MHz Specialized Mobile Radio (SMR) Service, PR Docket No. 89–553, PP Docket No. 93–253 and GN Docket No. 93–253, FCC 95–395.

Form No.: N/A.

Type of Review: New Collection.

Respondents: Business or other for-profit; Small businesses or organizations.

Number of Respondents: 1,020.

Estimated Time Per Response: 1.5-8 hours.

Total Annual Burden: 1,044 hours.

Needs and Uses: The information will be used by the Commission to determine whether the applicant is legally, technically and financially

qualified to be a licensee. Without such information the Commission could not determine whether to issue the licenses to the applicants that provides telecommunications services to the public and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. The information will also be used to ensure the market integrity of the auction.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2613 Filed 2–6–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL ELECTION COMMISSION

[Notice 1996–4]

Filing Dates for the Maryland Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Special Elections.

SUMMARY: Maryland has scheduled special elections on March 5 and April 16, 1996, in the Seventh Congressional District to fill the U.S. House seat being vacated by Congressman Kweisi Mfume.

Committees required to file reports in connection with the Special Primary Election on March 5 should file a 12-day Pre-Primary Report on February 22, 1996. Committees required to file reports in connection with both the Special Primary and Special General Election to be held on April 16, must file a 12-day Pre-Primary Report, a Pre-General Report on April 8, and a Post-General Report on May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Information Division, 999 E Street, N.W., Washington, DC 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates in the Special Primary and Special General Elections and all other political committees not filing monthly which support candidates in these elections shall file a 12-day Pre-Primary Report on February 22, with coverage dates from the close of the last report filed, or the day of the committee's first activity, whichever is later, through February 14; a Pre-General Report on April 8, with coverage dates from February 15 through March 31; and a Post-General Report on May 16, with coverage dates from April 1 through May 6, 1996.

All principal campaign committees of candidates in the Special Primary Election only and all other political committees not filing monthly which support candidates in the Special Primary Election shall file a 12-day Pre-Primary Report on February 22, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through February 14, and an April Quarterly Report on April 15, with coverage dates from February 15 through March 31, 1996.

All political committees not filing monthly which support candidates in the Special General only shall file a Pre-General Report on April 8, with coverage dates from the last report filed or the date of the committee's first activity, whichever is later, through March 31, and a Post-General Report on May 16, with coverage dates from April 1 through May 6, 1996.

CALENDAR OF REPORTING DATES FOR MARYLAND SPECIAL ELECTIONS

Report	Close of books [1]	Reg./cert. Mailing date [2]	Filing date
I. For Committees Involved Only in the Special Primary (03/05/96):			
Pre-Primary	02/14/96	02/19/96 [3]	02/22/96
April Quarterly	03/31/96	04/15/96	04/15/96
II. For Committees Involved in the Special Primary (03/05/96) and Special General (04/16/96):			
Pre-Primary	02/14/96	02/19/96 [3]	02/22/96
Pre-General	03/31/96	04/05/96	04/08/96
Post-General	05/06/96	05/16/96	05/16/96
III. For Committees Involved Only in the Special General (04/16/96):			
Pre-General	03/31/96	04/05/96	04/08/96
Post-General	05/06/96	05/16/96	05/16/96

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

[2] Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

[3] The mailing date for the Pre-Primary Report is a Federal holiday; nevertheless, the report must be received by the filing date. Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise they must be received by the filing date.

Dated: February 1, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–2532 Filed 2–6–96; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

D & T Freight Forwarders, 118 Sharondale Drive, Dalton, GA 30721, Phyllis D. Smith, Sole Proprietor

Pan Atlantic Carrier Services, Inc., 2150 N.W. 70 Avenue, Miami, FL 33122, Officers: Shona White, Jose Areas, Exec. Vice President

Alaska Air Forwarding, Inc., 4443 S. 134th Place, Tukwila, WA 98168, Officers: William Ferrari, President, Jeffrey Dornes, Vice President

Pee Jay International Shipping Company (Worldwide Freight Forwarders), 777 South R.L. Thornton Freeway #204, Box 3, Dallas, TX 75203, Peter Mozie and Jonathan Daniels, Partnership

American Logistics and Purchasing Services Ltd., 65 Stuyvesant Avenue, Staten Island, NY 10312, Officers: Anthony L. Medaglia, President, Diana Medaglia, Vice President

Dated: February 1, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2567 Filed 2–6–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Board of Governors of the Federal Reserve System (Board) hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for review of the information collection system described below. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before March 8, 1996.

ADDRESSES: Comments, which should refer to the OMB control number, should be addressed to the OMB desk officer for the Board: Milo Sunderhauf, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503. Comments should also be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that have been submitted to OMB for review and approval may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson (202–452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to request approval from OMB of the extension, with revision, of the following reports:

1. Report title: Consolidated Reports of Condition and Income.

Agency form number: FFIEC 031, 032, 033, 034.

OMB control number: 7100–0036.

Frequency: Quarterly.

Reporters: State member banks.

Annual reporting hours: 176,392.

Estimated average hours per response: 44.01.

Number of respondents: 1,002.

Small businesses are affected.

General description of report: This information collection is mandatory [12 U.S.C. 324]. Except for select sensitive items, this information collection is not given confidential treatment.

Abstract: Consolidated Reports of Condition and Income are filed quarterly with the three federal banking agencies (the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency) for their use in monitoring the condition and performance of banks and the industry as a whole. On November 16, 1995, the three agencies jointly published a notice in the **Federal Register** (60 FR 57618) describing in detail and inviting comment on the proposed changes to this collection of information. All comments received by the agencies in response to that notice, including a change to the proposed revisions that the agencies made in response to those comments, were addressed in supporting statements that were developed to justify the proposed changes. This notice provides the public with the opportunity to obtain, review, and comment on, the Board's supporting statement.

Board of Governors of the Federal Reserve System, February 2, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–2593 Filed 2–6–96; 8:45 am]

BILLING CODE 6210–01–P

CoreStates Financial Corp; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 21, 1996.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. CoreStates Financial Corp, Philadelphia, Pennsylvania; to engage *de novo* through its subsidiary, CoreStates Securities Corp, Philadelphia, Pennsylvania, in full-service brokerage activities, pursuant to § 225.25(b)(15)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 1, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-2562 Filed 2-6-96; 8:45 am]

BILLING CODE 6210-01-F

National Bancshares Corporation of Texas; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than March 1, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. National Bancshares Corporation of Texas, Laredo, Texas; to acquire 20 percent of the voting shares of Corpus Christi Bancshares, Corpus Christi, Texas, and thereby indirectly acquire Citizen State Bank, Corpus Christi, Texas.

Board of Governors of the Federal Reserve System, February 1, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-2563 Filed 2-6-96; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 613]

State and Community-based Childhood Lead Poisoning Prevention Program and Surveillance of Blood Lead Levels in Children Notice of Availability of Funds for Fiscal Year 1996

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds in fiscal year (FY) 1996 for new and competing continuation State and community-based childhood lead poisoning prevention programs, and to build Statewide capacity to conduct surveillance of blood lead levels in children.

State and community-based programs must (1) assure that children in communities with demonstrated high-risk for lead poisoning are screened, (2) identify those children with elevated blood lead levels, (3) identify possible sources of lead exposure, (4) monitor medical and environmental management of lead poisoned children, (5) provide information on childhood lead poisoning and its prevention and management to the public, health professionals, and policy- and decision-makers, (6) encourage and support community-based programs directed to the goal of eliminating childhood lead poisoning, and (7) build capacity for conducting surveillance of elevated blood lead (PbB) levels in children.

Surveillance grants are to develop and implement complete surveillance systems for blood lead levels in children to ensure appropriate targeting of interventions and track progress in the elimination of childhood lead poisoning.

Applicants may apply for either a prevention program grant or a surveillance grant, but not both. Applicants from State health agencies applying for prevention program grant funds must address surveillance issues in their application.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (To order a copy of Healthy People 2000, see Where to Obtain Additional Information section.)

Authority

This program is authorized under sections 301(a) (42 U.S.C. 241(a)), 317A, and 317B (42 U.S.C. 247b-1, 247b-3) of the Public Health Service Act, as amended. Program regulations are set forth in Title 42, Code of Federal Regulations, Part 51b.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Environmental Justice Initiative

Activities conducted under this announcement should be consistent with the Federal Executive Order No. 12898 entitled, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." Grantees, to the greatest extent practicable and permitted by law, shall make achieving environmental justice part of its program's mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of lead on minority populations and low-income populations.

Eligible Applicants

Eligible applicants for State childhood lead prevention programs and surveillance programs are State health departments or other State health agencies or departments deemed most appropriate by the State to direct and coordinate the State's childhood lead poisoning prevention program, and agencies or units of local government that serve jurisdictional populations greater than 500,000. This eligibility includes health departments or other official organizational authority (agency or instrumentality) of the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. Also eligible are federally recognized Indian tribal governments.

Applicants for prevention program grants from eligible units of local jurisdiction must elect either to apply directly to CDC as a grantee, or to apply as part of a statewide grant application. Local jurisdictions cannot submit applications simultaneously through both mechanisms.

For Surveillance Funds Only

Eligible applicants are State health departments or other State health agencies or departments deemed most appropriate by the State to direct and coordinate the State's childhood lead poisoning prevention and surveillance program. Eligible applicants must have regulations for reporting of PbB levels by both public and private laboratories or provide assurances that such regulations will be in place within six months of awarding the grant. This program is intended to initiate and build capacity for surveillance of childhood PbB levels. Therefore, any applicant that already has in place a PbB level surveillance activity must demonstrate how these grant funds will be used to enhance, expand or improve the current activity, in order to remain eligible for funding. CDC funds should be added to blood-lead surveillance funding from other sources, if such funding exists. Funds for these programs may not be used in place of any existing funding for surveillance of PbB levels.

If a State agency applying for grant funds is other than the official State health department, written concurrence by the State health department must be provided.

Applicants that currently have CDC funded Childhood Lead Poisoning Prevention Grants may submit supplements for the surveillance component. These supplements must meet all the above eligibility requirements and will be evaluated as a part of the surveillance objective review.

Special Consideration

In order to help empower distressed communities—those that are designated as "Empowerment Zones" or "Enterprise Communities" (EZ/EC) under the Community Empowerment Initiative [Pub. L. 103–66–August 10, 1993], or those that meet the characteristics of those areas—special consideration will be given to qualified applicants for comprehensive program activities in communities that:

1. Are characterized by a high incidence of children with elevated blood lead levels;

2. Have high rates of poverty and other indicators of socio-economic distress, such as high levels of unemployment, and significant incidence of violence, gang activity, and crime; and

3. Provide evidence that their target community has prepared and submitted an EZ/EC application to HHS for a "comprehensive community-based strategic plan for achieving both human and economic development in an integrated manner."

Applicants that meet both the program criteria and the EZ/EC criteria outlined above, will be awarded points in the objective review of their application.

Availability of Funds

State and Community-Based Prevention Program Grant Funds

Approximately $8,000,000 will be available in FY 1996 to fund a selected number of new and competing continuation childhood lead poisoning prevention programs. The CDC anticipates that program awards for the first budget year will range from $250,000 to $2,000,000.

Surveillance Grant Funds

Approximately $300,000 will be available in FY 1996 to fund up to four new grants to support the development of PbB surveillance activities. Surveillance awards are expected to range from $60,000 to $75,000, with the average award being approximately $70,000.

The new awards are expected to begin on or about July 1, 1996. New awards are made for 12-month budget periods within project periods not to exceed 3 years. Estimates outlined above are subject to change based on the actual availability of funds and the scope and quality of applications received. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

These grants are intended to develop, expand, or improve prevention programs in communities with demonstrated high-risk populations, and/or develop statewide capacity for conducting surveillance of elevated blood-lead levels. Grant awards cannot supplant existing funding for childhood lead poisoning prevention programs or surveillance activities. Grant funds should be used to increase the level of expenditures from State, local, and other funding sources.

Awards will be made with the expectation that program activities will continue when grant funds are terminated.

Note:

- Grant funds may not be expended for medical care and treatment or for environmental remediation of lead sources. However, the applicant must provide an acceptable plan to ensure that these program activities are appropriately carried out.
- Not more than 10 percent (exclusive of Direct Assistance) of any grant may be obligated for administrative costs. This 10 percent limitation is in lieu of, and replaces, the indirect cost rate.

Purpose

Prevention Grant Program

State and community health agencies are the principal delivery points for childhood lead screening and related medical and environmental management activities; however, limited resources have made it difficult for agencies to develop and maintain programs for the elimination of this totally preventable disease. The purpose of this grant program is to provide impetus for the development and operation of State and community-based childhood lead poisoning prevention programs in high-risk areas, and build capacity for conducting surveillance of elevated blood-lead levels in children. Grant-supported programs are expected to serve as catalysts and models for the development of non-grant-supported programs and activities in other States and communities. Further, grant-supported programs should create community awareness of the problem (e.g., among community and business leaders, medical community, parents, educators, and property owners). It is expected that State health agencies will play a lead role in the development of community-based childhood lead poisoning prevention programs, including ensuring coordination and integration with maternal and child health programs; State Medicaid Early Periodic Screening Diagnosis, and Treatment (EPSDT) programs; community and migrant health centers; and community-based organizations providing health and social services in or near public housing units, as authorized under Section 340A of the PHS Act.

The prevention grant program will provide financial assistance and support to State and local government agencies to:

1. Establish, expand, or improve services to assure that children in communities with demonstrated high risk for lead poisoning are screened. Screening should focus on (1) making certain children, not currently served by existing health care services, are screened, (2) integrating screening efforts with maternal and child health programs; State Medicaid programs, such as the EPSDT programs; community and migrant health centers; and community-based organizations providing health and social services in or near public housing units, as authorized under Section 340A of the PHS Act, and (3) guaranteeing that high-

risk children seen by private providers are screened.

2. Intensify case management efforts to ensure that children with lead poisoning receive appropriate and timely follow-up services.

3. Establish, expand, or improve environmental investigations to rapidly identify and reduce sources of lead exposure throughout a community.

4. Plan and develop activities for the primary prevention of childhood lead poisoning in demonstrated high-risk communities that are conducted in collaboration with other government and community-based organizations.

5. Develop and implement efficient information management/data systems compatible with CDC guidelines for monitoring and evaluation.

6. Improve the actions of other appropriate agencies and organizations to facilitate the rapid remediation of identified lead hazards in high-risk communities.

7. Enhance knowledge and skills of program staff through training and other methods.

8. Based upon program findings, provide information on childhood lead poisoning to the public, policy-makers, the academic community, and other interested parties.

9. Develop state-based systems for surveillance of blood lead levels among children, and use surveillance data to assess prevention activities and target resources.

Surveillance Grant Funds

The surveillance component of this announcement is intended to assist State health departments or other appropriate agencies to implement a complete surveillance activity for PbB levels in children. Development of surveillance systems at the local, State and national levels is essential for targeting interventions to high-risk populations and for tracking progress in eliminating childhood lead poisoning.

The childhood blood-lead surveillance program has the following five goals:

1. Increase the number of State health departments with surveillance systems for elevated PbB levels;

2. Build the capacity of State- or territorial-based PbB level surveillance systems;

3. Use data from these systems to conduct national surveillance of elevated PbB levels;

4. Disseminate data on the occurrence of elevated PbB levels to government agencies, researchers, employers, and medical care providers; and

5. Direct intervention efforts to reduce environmental lead exposure.

Program Requirements

Prevention Grant Program

The following are requirements for Childhood Lead Poisoning Prevention Projects:

1. A full-time director/coordinator with authority and responsibility to carry out the requirements of the program.

2. Ability to provide qualified staff, other resources, and knowledge to implement the provisions of the program. Applicants requesting grant supported positions must provide assurances that such positions will be approved by the applicant's personnel system.

3. A data management component that supports the development, implementation, and maintenance of an automated case management system that provides timely and useful analysis and reporting of program data.

4. A plan to monitor and evaluate all major program activities and services.

5. Demonstrated experience or access to professionals knowledgeable in conducting and evaluating public health programs.

6. Ability to translate program findings to State and local public health officials, policy and decision-makers, and to others seeking to strengthen program efforts.

7. Provides information that describes why certain communities were selected for program activities, including information on housing conditions, income, other socioeconomic factors, and previous surveys or activities for childhood lead poisoning prevention.

8. A comprehensive public and professional information and education outreach plan directed specifically to high-risk populations, health professionals and paraprofessionals and the public. The plan may also address education and outreach activities directed to policy and decision-makers, parents, educators, property owners, community and business leaders, housing authorities and housing and rehabilitation workers, and special interest groups. The plan should be based on a needs assessment which: (a) Determines the feasibility of a health education program; (b) utilizes assessment data interpretations to determine priorities for health education programming; and (c) identifies the appropriate target population for the program.

9. Establishment and maintenance of a system to monitor the notification and follow-up of children who are confirmed with elevated blood lead levels and who are referred to local Public Housing Authorities (PHAs).

10. Effective, well-defined working relationships within public health agencies and with other agencies and organizations at national, State, and community levels (e.g., housing authorities, environmental agencies, maternal and child health programs, State Medicaid EPSDT programs; or, community and migrant health centers; community-based organizations providing health and social services in or near public housing units, as authorized under Section 340A of the PHS Act, State epidemiology programs, State and local housing rehabilitation offices, schools of public health and medical schools, and environmental interest groups) to appropriately address the needs and requirements of programs (e.g., data management systems to facilitate the follow-up and tabulation of children reported with elevated blood lead levels, training to ensure the safety of abatement workers) in the implementation of proposed activities. This includes the establishment of networks with other State and local agencies with expertise in childhood lead poisoning prevention programming.

11. Activities, services, and educational materials provided by the program must be culturally sensitive (i.e., programs and services provided in a style and format respectful of cultural norms, values, and traditions which are endorsed by community leaders and accepted by the target population), developmentally appropriate (i.e., information and services provided at a level of comprehension which is consistent with learning skills of individuals to be served), linguistically specific (i.e., information is presented in dialect and terminology consistent with the target population's native language and style of communication), and educationally appropriate.

12. Assurances that income earned by the childhood lead poisoning prevention program is returned to the lead program for use by the program.

13. For awards to State agencies, there must be a demonstrated commitment to provide technical, analytical, and program evaluation assistance to local agencies interested in developing or strengthening childhood lead poisoning prevention programs.

14. Special Requirement regarding Medicaid provider-status of applicants: Pursuant to section 317A of the Public Health Service Act (42 U.S.C. 247b–1) as amended by Sec. 303 of the "Preventive Health Amendments of 1992" (Pub. L. 102–531), applicants AND current grantees must meet the following requirements: For Childhood Lead Poisoning Prevention Program services which are Medicaid-reimbursable in the applicant's State:

• Applicants who directly provide these services must be enrolled with their State Medicaid agency as Medicaid providers.

• Providers who enter into agreements with the applicant to provide such services must be enrolled with their State Medicaid agency as providers.

An exception to this requirement will be made for providers whose services are provided free of charge and who accept no reimbursement from any third-party payer. Such providers who accept voluntary donations may still be exempted from this requirement.

15. For State Prevention Programs, a Surveillance component defined as a process which: (1) Systematically collects information over time about children with elevated PbB levels using laboratory reports as the data source; (2) provides for the follow-up of cases, including field investigations when necessary; (3) provides timely and useful analysis and reporting of the accumulated data including an estimate of the rate of elevated PbB levels among all children receiving blood tests; and (4) reports data to CDC in the appropriate format.

To achieve these goals, programs must be able to: (1) Provide qualified staff, other resources, and knowledge to implement the provisions of this program. Applicants requesting grant supported positions must provide assurances that such positions will be approved by the applicant's personnel system; (2) revise, refine, and implement, in collaboration with CDC, the methodology for surveillance as proposed in the respective program application; (3) have demonstrated experience or access to professionals knowledgeable in conducting and evaluating public health programs; and (4) have the ability to translate data to State and local public health officials, policy and decision-makers, and to others seeking to strengthen program efforts.

For Surveillance Grants

The following are requirements for surveillance only grant projects:

1. A full-time director/coordinator with authority and responsibility to carry out the requirements of surveillance program activities.

2. Ability to provide qualified staff, other resources, and knowledge to implement the provisions of this program. Applicants requesting grant supported positions must provide assurances that such positions will be approved by the applicant's personnel system.

3. Effective, well-defined working relationships with childhood lead poisoning prevention programs within the applicant's State.

4. Revise, refine, and implement, in collaboration with CDC, the methodology for surveillance as proposed in the respective program application.

5. Collaborate with CDC in any interim and/or final evaluation of the surveillance activity.

6. Monitor and evaluate all major program activities and services.

7. Demonstrated experience or access to professionals knowledgeable in conducting and evaluating public health programs.

8. Ability to translate data to State and local public health officials, policy and decision-makers, and to others seeking to strengthen program efforts.

Evaluation Criteria

The review of applications will be conducted by an objective review committee who will review the quality of the application based on the strength and completeness of the plan submitted. The budget justification will be used to assess how well the technical plan is likely to be carried out using available resources. The maximum ratings score of an application is 100 points.

A. The Factors To Be Considered in the Evaluation of Prevention Program Grant Funds Are

1. *Evidence of the Childhood Lead Poisoning Problem* (35 points).

The applicant's ability to identify populations and communities at high risk, as defined by data from previous screening efforts, environmental data, and/or demographic data. (Population-based data or estimates should be compared to NHANES HI data.) Current screening prevalence and case rates should also be discussed.

2. *Technical Approach* (30 points).

The quality of the technical approach in carrying out the proposed activities including:

(a) Goals and Objectives: The extent to which the applicant has included clearly identified goals which are specific, measurable, and relevant to the purpose of this proposal (10 points).

(b) Approach: The extent to which the applicant provides a detailed description of the proposed activities which are likely to achieve each objective for the budget period (10 points).

(c) Timeline: The extent to which the applicant provides a reasonable schedule for implementation of the activities (5 points).

(d) Evaluation: The extent to which evaluation plans address the achievement of each objective (5 points).

3. *Applicant Capability* (10 points).

Capability of the applicant to initiate and carry out proposed program activities successfully within the time frames set forth in the application. Proposed staff skills must match the proposed program of work described. Elements to consider include:

(a) Demonstrated knowledge and experience of the proposed project director or manager and staff in planning and managing large and complex interdisciplinary programs involving public health, environmental management, and housing rehabilitation. The percentage of time the project manager will devote to this project is a significant factor, and must be indicated (5 points).

(b) Written assurances that proposed positions can and will be filled as described in the application (3 points).

(c) Evidence of institutional capacity, demonstrated by the experience and continuing capability of the jurisdiction, to initiate and implement similar environmental and housing projects. The applicant should describe these related efforts and the current capacity of its agency (2 points).

4. *Collaboration* (20 points).

(a) Extent to which the applicant demonstrates that proposed activities are being conducted in conjunction with, or through, organizations with known and established ties in the target communities. Evidence of support and participation from appropriate community-based or neighborhood-based organizations in the form of memoranda of understanding or other agreements of collaboration. (10 points)

(b) Extent to which the applicant documents established collaboration with appropriate governmental agencies responding to childhood lead poisoning prevention issues such as environmental health, housing, medical management, etc., through specific commitments for consultation, employment, or other activities, as evidenced by the names and proposed roles of these participants and letters of commitment. Absence of letters describing specific participation will result in a reduced rating under this factor. (10 points)

5. *Special Consideration for EZ/EC* (5 points).

Special consideration will be given to applicants that target program activities in communities that:

(a) Are characterized by a high incidence of children with elevated blood lead levels;

(b) Have high rates of poverty and other indicators of socio-economic distress, such as those with high levels of unemployment, and significant incidence of violence, gang activity, and crime; and

(c) Are preparing or implementing a comprehensive community-based strategic plan for achieving both human and economic development in an integrated manner.

6. *Budget Justification and Adequacy of Facilities (Not Scored)* The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of grant funds. The adequacy of existing and proposed facilities to support program activities also will be evaluated.

B. The Factors To Be Considered in the Evaluation of Applications for Surveillance Program Grant Funds Only Are

1. *Surveillance Activity:* (35 points).

The clarity, feasibility, and scientific soundness of the surveillance approach. Also, the extent to which a proposed schedule for accomplishing each activity and methods for evaluating each activity are clearly defined and appropriate. The following points will be specifically evaluated:

a. How laboratories report PbB levels.

b. How data will be collected and managed.

c. How will quality data and completeness of reporting will be assured.

d. How and when data will be analyzed.

e. How summary data will be reported and disseminated.

f. Protocols for follow-up of individuals with elevated PbB levels.

g. Provisions to obtain denominator data.

2. *Progress Toward Complete Blood-Lead Surveillance* (30 points).

The extent to which the proposed activities are likely to result in substantial progress towards establishing a complete State-based PbB surveillance activity (as defined in the "Purpose" section).

3. *Project Sustainability* (20 points).

The extent to which the proposed activities are likely to result in the long-term maintenance of a complete State-based PbB surveillance system. In particular, specific activities that will be undertaken by the State during the project period to ensure that the surveillance program continues after completion of the project period.

4. *Personnel* (10 points).

The extent to which the qualifications and time commitments of project personnel are clearly documented and appropriate for implementing the proposal.

5. *Use of Existing Resources* (5 points).

The extent to which the proposal would make effective use of existing resources and expertise within the applicant agency or through collaboration with other agencies.

6. *Budget* (Not Scored).

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. Indian tribes are strongly encouraged to request tribal government review of the proposed application. If the SPOCs or tribal governments have any State process or tribal process recommendations on applications submitted to CDC, they should send them to Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305, no later than 60 days after the application due date. The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to "accommodate or explain" State process recommendations it receives after that date.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.197.

Other Requirements

Paperwork Reduction Act

Data collection initiated under this grant has been approved by the Office of Management and Budget under number 0920–0282, "Childhood Lead Prevention Grant Reporting," Expiration date October 1996.

Application Submission and Deadline

The original and two copies of the PHS 5161–1 (OMB Number 0937–0189) must be submitted to Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305 on or before April 12, 1996.

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission for the review process. Applicants must request a legibly dated U.S. Postal Service Postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. Late Applications

Applications which do not meet the criteria in 1.A. or 1.B. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

A one-page, single-spaced, typed abstract must be submitted with the application. The heading should include the title of the grant program, project title, organization, name and address, project director and telephone number.

Where to Obtain Additional Information

A complete program description, information on application procedures and an application package may be obtained from Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6796 .

The announcement is also available through the CDC homepage on the Internet. The address for the CDC homepage is [http://www.cdc.gov). CDC will not send application kits by facsimile or express mail.

Please refer to Announcement Number 613 when requesting information and submitting an application.

Technical assistance on prevention activities may be obtained from David L. Forney, Chief, Program Services Section, Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway NE., Mailstop F–42, Atlanta, GA 30341–3724, telephone (770) 488–7330.

Technical assistance on surveillance activities may be obtained from Carol Pertowski, M.D., Medical Epidemiologist, Surveillance and Programs Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop F–42, Atlanta, GA 30341–3724, telephone (770) 488–7330.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017- 001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: January 31, 1996.

Joseph R. Carter

Acting Associate Director for Management and Operations,

Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2587 Filed 2–6–96; 8:45 am]

BILLING CODE 4163–18–P

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Nome: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Savannah River Site Health Effects Subcommittee (SRS).

Times and Datés: 9 a.m.–5 p.m., February 29, 1996; 9 a.m.–12 noon, March 1, 1996.

Ploce: Holiday Inn—Savannah—Midtown, 7100 Abercorn Street, Savannah, Georgia 31406, telephone 912/352–7100, FAX 912/355–6408.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 60 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at respective DOE sites. Activities shall focus on providing a forum for community, American Indian Tribal, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Matters To Be Discussed: This subcommittee will listen to presentations from the Radiological Assessments Corporation, Medical University of South Carolina Cancer Registry, as well as updates on the Savannah River Site Phase II Dose Reconstruction Project findings and implications. Additional agenda items will include: the National Center for Environmental Health (NCEH) activities, the National Institute for Occupational Safety and Health and ATSDR presentations on the progress of current studies, and issues regarding the Committee selection process.

Agenda items are subject to change as priorities dictate.

Contact Persons for More Informotion: Paul G. Renard or Nadine Dickerson, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Budford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: January 31, 1996.

Carolyn J. Russell,

Director, Management Analysis ond Services Office, Centers for Disease Control ond Prevention.

[FR Doc. 96–2591 Filed 2–6–96; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 96N–0020]

Animal Drug Export; RALGRO® (Zeranol)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mallinckrodt Veterinary, Inc., has filed an application requesting approval for export of the animal drug RALGRO® (zeranol) implant for cattle to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of food animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Mallinckrodt Veterinary, Inc., 421 East Hawley St., Mundelein, IL 60060, has filed application number 0082 requesting approval for export of the animal drug RALGRO® (zeranol)

implant to Canada. The product is intended for implanting in the ear of cattle for increased rate of weight gain and improved feed conversion of weaned beef calves, growing beef cattle, feedlot steers, and feedlot heifers, and increased rate of weight gain in suckling beef calves. The application was received and filed in the Center for Veterinary Medicine on December 7, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by February 20, 1996, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: January 26, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–2596 Filed 2–6–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Dental Products Panel of the Medical Devices Advisory Committee

Date, time, and place. February 27, 28, and 29, 1996, 8 a.m., Bethesda Marriott Hotel, Grand Ballroom, 5151 Pooks Hill Rd., Bethesda, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301–897–9400 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Sociometrics, Inc., 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Open public hearing, February 27, 1996, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; closed committee deliberations, 5 p.m. to 6 p.m.; open public hearing, February 28, 1996, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 6 p.m.; open public hearing, February 29, 1996, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 6 p.m.; Carolyn A. Tylenda, Center for Devices and Radiological Health (HFZ–420), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8879, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Dental Products Panel, code 12518.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 20, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On February 27, 1996, the committee will discuss and vote on a premarket approval application (PMA) for a bone filling device for periodontal use. On February 28, 1996, the committee will: (1) Discuss and vote on a PMA for a dental laser for hard tissue use, and (2) discuss the reliability and accuracy of digital subtraction radiography and its use in the clinical design of trials evaluating treatment and/or progression of periodontitis. On February 29, 1996, the committee, with representation from the Dental Drug Products Plaque Subcommittee, will discuss public health issues relevant to a new drug application (NDA) 20–231, a triclosan/fluoride dentifrice, sponsored by Colgate-Palmolive, for use in the prevention of caries, plaque, and gingivitis.

Closed committee deliberations. On February 27, 1996, FDA staff will present to the committee trade secret and/or confidential commercial information regarding dental device issues. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: January 31, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–2597 Filed 2–6–96; 8:45 am]

BILLING CODE 4160–01–F

Substance Abuse and Mental Health Services Administration

Notice of Rescheduled Meeting Dates

Pursuant to Public Law 92–463, notice is hereby given of the rescheduled meetings of the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council and Advisory Committee for Women's Services in February 1996.

The meeting of SAMHSA National Advisory Council will include discussions concerning SAMHSA's Reauthorization; SAMHSA's Managed Care Initiative, including the role of SAMHSA in developing mental health and substance abuse standards for managed care facilities; a report on the National Co-Morbidity Survey; a report on the National Conference on Co-Occurring Disorders; and a presentation on the Methodologies and Estimates of Incidence and Prevalence of Seriously Mentally Ill (SMI) Adults. In addition, the staff of an exemplary community-based program will describe their efforts to treat addictive disorders. Attendance by the public will be limited to space available.

The committee will also review, discuss and evaluate contract proposals. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3), (4) and (6) and 5 U.S.C. app. 2 10(d).

A summary of the meeting and a roster of Council members may be obtained from: Ms. Susan E. Day, Program Assistant, SAMHSA National Advisory Council, 5600 Fishers Lane, Room 12C–15, Rockville, Maryland 20857. Telephone: (301) 443–4640.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Substance Abuse and Mental Health Services Administration National Advisory Council.

Meeting Date: February 26, 1996.

Place: Omni-Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Open: February 26, 1996, 9:00 a.m. to 5:30 p.m.

Closed: February 26, 1996, 5:45 p.m. to 7:00 p.m.

Contact: Tolan Vaughn, Room 12C–15, Parklawn Building, Telephone: (301) 443–4640 and FAX: (301) 443–1450.

The meeting of the Advisory Committee for Women's Services will include a discussion of and update on policy and program issues relating to women's substance and abuse and mental health service needs at

SAMHSA, including the SAMHSA fiscal year 1996 budget and reauthorization; regional meetings on SAMHSA's proposed Performance Partnership Grants; the Female Adolescent Campaign sponsored by the Center for Substance Abuse Prevention (CSAP); activities of the National Women's Resource Center for the Prevention and Treatment of Alcohol, Tobacco and Other Drug Abuse and Mental Illness; monitoring the impact of change at HHS; and a discussion of data collection pertaining to women.

A summary of the meeting and/or a roster of Committee members may be obtained from: Pamela J. McDonnell, Executive Secretary, Advisory Committee for Women's Services, Office of Women's Services, SAMHSA, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Commitee Name: Advisory Committee for Women's Services.

Meeting Dates: February 27–28, 1996.

Place: Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Open: February 27: 8:30 a.m. to 5 p.m.; February 28: 8:30 a.m. to adjournment.

Contact: Pamela J. McDonnell, Room 13–99, Parklawn Building; Telephone: (301) 443–5184.

Dated: January 31, 1996.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental, Health Services Administration.

[FR Doc. 96–2594 Filed 2–6–96; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF INTERIOR

Geological Survey

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1028–0044), Washington, D.C. 20503.

Title: State Water Research Institute Program, 30 CFR 401.

Abstract: Respondents supply information on eligibility for Federal grants to support water-related research and provide performance reports on accomplishments achieved through use of such funds. This information allows the agency to determine compliance with the objectives and criteria of the grant program.

Bureau Form Number: None.

Frequency: Annually.

Description of Respondents: State water research institutes.

Annual Responses: 108.

Annual Burden Hours: 9072

Bureau Clearance Officer: John Cordyack (703) 648–7313.

Dated: January 4, 1996.

Robert M. Hirsch,

Chief Hydrologist.

[FR Doc. 96–2529 Filed 2–6–96; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lower Snake River District Resource Advisory Council; Meeting

AGENCY: Lower Snake River District, Bureau of Land Management.

ACTION: Notice of meeting changes.

SUMMARY: The Lower Snake River District Resource Advisory Council has rescheduled two meetings to discuss and develop draft statewide standards for rangeland health and guidelines for managing livestock grazing on public lands. Public comment periods will be held at 9:00 a.m. on February 17 and at 9:00 a.m. on February 24.

DATES: February 17, 1996, beginning at 9:00 a.m.; and February 24, 1996, beginning at 9:00 a.m.

ADDRESSES: The meetings will be held at the Idaho State Office of the Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Lower Snake River District Office (208–384–3393).

Jerry L. Kidd

District Manager

[FR Doc. 96–2520 Filed 2–6–96; 8:45 am]

BILLING CODE 1020–GG–P

[WY–923–1430–01; WYW 132452]

Opening of National Forest System Land; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the temporary segregative effect as to 4822.36 acres of National Forest System lands which were included in an application for exchange in the Medicine Bow National Forest.

EFFECTIVE DATE: February 7, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6124.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations contained in 43 CFR 2091.3–2(b), at 9 a.m. on February 7, 1996, the following described lands will be relieved of the temporary segregative effect of exchange application WYW 132452:

Sixth Principal Meridian

Medicine Bow National Forest

T. 40 N., R. 67 W.,
Sec. 6, lots 4 and 5, N½SE¼.
T. 40 N., R. 68 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, N½S½, SE¼SE¼;
Sec. 2, lots 1 to 4, inclusive, S½N½, SW¼, N½SE¼;
Sec. 3, lots 1 and 4, SE¼NE¼, SW¼NW¼, W½SW¼, E½SE¼;
Sec. 10, SE¼NE¼, NE¼SW¼, NE¼NE¼;
Sec. 11, NE¼NE¼, SW¼NW¼, NW¼NW¼;
Sec. 12, SE¼SW¼;
Sec. 14, NE¼SE¼;
Sec. 15, S½SE¼.
T. 39 N., R. 69 W.,
Sec. 3, lots 1 to 3, inclusive, S½N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 4, S½NE¼, S½;
Sec. 20, E½NE¼.
T. 40 N., R. 69 W.,
Sec. 3, lots 1 to 4, inclusive, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 10, SE¼SW¼, S½SE¼;
Sec. 11, W½SW¼;
Sec. 14, S½SE¼;
Sec. 15, S½N½, S½;
Sec. 22, N½N½;
Sec. 23, S½NW¼, N½SW¼, SE¼SE¼;
Sec. 32, N½SW¼, SW¼SE¼;
Sec. 34, SE¼SW¼.
T. 39 N., R. 70 W.,
Sec. 2, lots 1 and 2, S½NE¼

The area described contains 4822.36 acres in Converse County.

At 9 a.m. on February 7, 1996, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregation of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988) shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Robert A. Bennett,

Acting State Director.

[FR Doc. 96–2590 Filed 2–6–96; 8:45 am]

BILLING CODE 4310–22–M

Bureau of Reclamation

American River Water Resources Investigation, Central Valley, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability on the draft environmental impact statement/draft environmental impact report DES 96 05.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (as amended) and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation) and the Sacramento Metropolitan Water Authority (SMWA) as lead agencies have prepared a joint draft environmental impact statement/draft environmental impact report (DEIS/DEIR) for the American River Water Resources Investigation (ARWRI). The proposed alternatives provide a means of action through which the water needs of the five county area (El Dorado, Placer, Sacramento, San Joaquin, and Sutter) are met. The proposed alternatives exercise the provisions of several federal laws as applicable to Reclamation. Public hearings will be held in four sessions to receive written or verbal comments on the DEIS/DEIR from interested organizations and individuals on the environmental impacts of the proposal. Notice of the hearings will appear at a future date.

DATES: A 90-day public review period commences with the publication of this notice. Written comments on the DEIS/DEIR are to be submitted to the Project Manager, Bureau of Reclamation. Public hearings on the DEIS/DEIR will be held during the month of April in Sacramento, Stockton, Placerville, and Auburn.

ADDRESSES: Written comments on the DEIS/DEIR should be addressed to Alan R. Candlish, Project Manager, Bureau of Reclamation, Central California Area Office, 7794 Folsom Dam Road, Folsom CA 95630; telephone: (916) 989–7255. The document is available on Internet at http://www.mp.usbr.gov. If requesting copies of the DEIS/DEIR, contact Mr. David M. Haisten, Activity Manager, MP–700, Bureau of Reclamation, 2800 Cottage Way, Sacramento CA 95825–1898, telephone: (916) 979–2338.

Copies of the DEIS/DEIR are also available for public inspection and review at the following locations:

- Bureau of Reclamation, Program Analysis Office, Room 7456, 1849 C Street NW, Washington DC 20240; telephone: (202) 208–4662
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver CO 80225; telephone: (303) 236–6963
- Bureau of Reclamation, Mid-Pacific Regional Office, 2800 Cottage Way, Sacramento, CA 95825–1898; telephone: (916) 979–2338
- Bureau of Reclamation, Central California Area Office, 7794 Folsom Dam Road, Folsom CA 95630; telephone: (916) 989–7255
- El Dorado Irrigation District, 2890 Mosquito Road, Placerville, CA 95667; telephone: (916) 622–4513
- El Dorado County Water Agency, 330 Fair Lane, Building A, Placerville, CA 95667; telephone: 621–5392
- Georgetown Divide Public Utility District, 6425 Main, Georgetown, CA 95634; telephone: (916) 333–4356
- El Dorado County Planning Office, 2850 Fairlane Court, Placerville, CA 95667; telephone: (916) 621–5355
- Placer County Water Agency, 144 Ferguson Road, Auburn, CA 95603; telephone: (916) 889–7591
- California Department of Water Resources, Central District, 3251 S Street, Sacramento, CA 94816–7017; telephone: (916) 445–5631
- Sacramento City-County Office of Metropolitan Water Planning, County Office, 5770 Freeport Boulevard, Suite 200, Sacramento, CA 95822; telephone: (916) 433–6276
- Sacramento Metropolitan Water Authority, 5620 Birdcage Street, Suite 180, Citrus Heights, CA 95610–7632; (Office may not be open all hours, please call for hours: (916) 967–7692)
- San Joaquin County Department of Public Works, Flood Control Center, 1810 E. Hazelton Ave., Stockton, CA 95205; (209) 468–3000

Libraries: Copies will also be available for inspections at the following public libraries:

- El Dorado County Library, Main Branch, 345 Fair Lane, Placerville, CA 95667
- Auburn-Placer County Library, 350 Nevada Street, Auburn, CA 95603
- Roseville Public Library, Main Library, 225 Taylor Street, Roseville, CA 95678
- Folsom Library, 300 Persifer Street, Folsom, CA 95630
- Sacramento Public Library, Central Branch, 828 I Street, Sacramento, CA 95814
- Sacramento County Library, 380 Civic Drive, Galt, CA 95632
- Stockton Public Library, Main Branch, 605 N. El Dorado Street, Stockton, CA 95202
- Lodi Public Library, 201 W. Locust Street, Lodi, CA 95240
- Manteca Public Library, 320 W. Center Street, Manteca, CA 95336
- Marysville-Yuba County Library, 303 Second, Marysville, CA 95901

FOR FURTHER INFORMATION CONTACT: If requesting copies of the DEIS/DEIR, contact Mr. David M. Haisten, Activity Manager, MP–700, Bureau of Reclamation, 2800 Cottage Way, Sacramento CA 95825–1898, telephone: (916) 979–2338. For additional information contact Mr. Alan R. Candlish, Study Manager, CC–102, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom CA 95630, telephone: (916) 989–7255; or Mr: Gene Robinson, Sacramento Metropolitan Water Authority, 5620 Birdcage Street, Suite 180, Citrus Heights, CA 95610–7632, telephone: (916) 967–7692; or Mr. David M. Haisten, Activity Manager, MP–700, Bureau of Reclamation, 2800 Cottage Way, Sacramento CA 95825–1898, telephone: (916) 979–2338.

Dated: January 22, 1996.

Jeffrey S. McCracken,

Acting Regional Director.

[FR Doc. 96–2531 Filed 2–6–96; 8:45 am]

BILLING CODE 4310–94–P

Final Environmental Impact Statement for Proposed Acreage Limitation and Water Conservation Rules and Regulations

February 2, 1996.

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability on the final environmental impact statement; INT–FES–96–7.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended, and in response to a September 1993 contract for settlement of a lawsuit filed by the Natural Resources Defense Council, National Wildlife Federation, California Natural Resources Federation, California Association of Family Farmers, California Action Network, League of Rural Voters, Inc., and County of Trinity, California (hereinafter NRDC et al.); the Bureau of Reclamation (Reclamation) has prepared a final environmental impact statement (FEIS) on proposed acreage limitation and water conservation rules and regulations for implementing the Reclamation Reform Act of 1982 (RRA), as amended, throughout the 17 Western States.

The purpose of the FEIS is to evaluate potential impacts associated with alternatives for implementing rules under the RRA. As such, the FEIS presents an evaluation of six alternatives, including no action.

DATES: February 7, 1996.

ADDRESSES: Requests for copies should be addressed to: Public Involvement Group, D–8280, Bureau of Reclamation, PO Box 25007, Denver CO 80225; telephone: (303) 236–2722 extension 322.

Copies are available for inspection at all Reclamation Regional and Area offices at the following locations as of the date of this **Federal Register** notice:

- Office of the Commissioner, Bureau of Reclamation, Room 7612, 1849 C Street, NW, Washington DC 20240
- Reclamation Service Center, Bureau of Reclamation, Library, Room 167, Building 67, Denver Federal Center, Denver CO 80225
- Pacific Northwest Regional Office, Bureau of Reclamation, Room 214, 1150 North Curtis Road, Boise ID 83706
  - Snake River Area Office, Bureau of Reclamation, 214 Broadway Avenue, Boise ID 83702
  - Upper Columbia Area Office, Bureau of Reclamation, 1917 Marsh Road, Yakima WA 98901
  - Lower Columbia Area Office, Bureau of Reclamation, 1503 NE 78th Street, Suite 15, Vancouver WA 98665
  - Snake River Area Office—East, Bureau of Reclamation, 1359 Hansen Avenue, Burley ID 83318
- Mid-Pacific Regional Office, Bureau of Reclamation, Library, Room W–1522, 2800 Cottage Way, Sacramento CA 95825
  - North-Central California Area Office, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom CA 95630
  - South-Central California Area Office, Bureau of Reclamation, 2666 North Grove Industrial Drive, Suite 106, Fresno CA 93727
  - Northern California Area Office, Bureau of Reclamation, 16345 Shasta Dam Boulevard, Shasta Lake CA 96019
  - Klamath Basin Area Office, Bureau of Reclamation, 6600 Washburn Way, Klamath Falls OR 97603
  - Lahontan Basin Area Office, Bureau of Reclamation, 705 North Plaza Street, Carson City NV 89701
- Lower Colorado Regional Office, Bureau of Reclamation, Library, Room M117, Nevada Highway and Park Street, Boulder City NV 89005
  - Phoenix Area Office, Bureau of Reclamation, 23636 North 7th Street, Phoenix AZ 85024
  - Lower Colorado Dams Facilities Office, Bureau of Reclamation, Highway 93, Hoover Dam, Boulder City NV 89005
  - Southern California Area Office, Bureau of Reclamation, 27710 Jefferson Avenue, Suite 201, Temecula CA 92590
  - Grand Canyon Area Office, Bureau of Reclamation, 3 miles south of Buchanan, Boulder City NV 89006
  - Yuma Area Office, Bureau of Reclamation, 7301 Calle Agua Salada, Yuma AZ 85364
- Upper Colorado Regional Office, Bureau of Reclamation, Library, Room 7101, 125 South State Street, Salt Lake City UT 84138
  - Albuquerque Area Office, Bureau of Reclamation, 505 Marquette NW, Suite 1313, Albuquerque NM 87102
  - Western Colorado Area Office, Bureau of Reclamation, 2764 Compass Drive, Grand Junction CO 81506
  - Provo Area Office, Bureau of Reclamation, 302 East 1860 South, Provo UT 84606
- Great Plains Regional Office, Bureau of Reclamation, Library, Room 2037, Federal Office Building, 316 North 26th Street, Billings MT 59101
  - Dakotas Area Office, Bureau of Reclamation, 304 East Broadway Avenue, Bismarck ND 58501
  - Eastern Colorado Area Office, Bureau of Reclamation, 11056 West County Road 18E, Loveland CO 80537
  - Montana Area Office, Bureau of Reclamation, 2900 Fourth Avenue North, Billings MT 59101
  - Nebraska-Kansas Area Office, Bureau of Reclamation, Federal Building, 203 West 2nd Street, Grand Island NE 68801
  - Oklahoma-Texas Area Office, Bureau of Reclamation, 420 West Main Street, Suite 630, Oklahoma City OK 73102
  - Wyoming Area Office, Bureau of Reclamation, 705 Pendell Boulevard, Mills WY 82644

Copies will also be available for public inspection at the following libraries:

- Arizona
  - Arizona Department of Water Resources Library, Phoenix
  - Arizona State Library, Department of Library, Archives and Public Records, Phoenix
  - Arizona State Regional Library for the Blind and Physically Handicapped, Phoenix
  - Arizona State University, Noble Science and Engineering Library, Tempe
  - Arizona State University, Hayden Library, Tempe
  - Flagstaff City-Coconino County Public Library, Flagstaff
  - Maricopa County Library, Phoenix
  - Mesa Public Library, Mesa
  - Northern Arizona University, Cline Library, Flagstaff
  - Phoenix Public Library, Phoenix
  - Scottsdale Public Library, Scottsdale
  - Tempe Public Library, Tempe
  - Tucson Pima Library, Tucson
  - University of Arizona Library, Tucson
  - Yuma County Library District, Yuma
- California
  - Bay Area Library and Information System, Oakland
  - California State Library, Sacramento
  - California State University, Hayward Library, Hayward
  - California State University, University Library, Los Angeles
  - California State University Library, Sacramento
  - Colorado River Board of California Library, Glendale
  - Environmental Protection Agency, Region IX Library, San Francisco
  - Fresno County Free Library, Fresno
  - Fresno State University Library, Fresno
  - Kern County Library, Bakersfield
  - Los Angeles Public Library, Los Angeles
  - Los Angeles Public Library, Water and Power Section, Los Angeles
  - Sacramento Public Library, Sacramento
  - San Francisco Public Library, San Francisco
  - Stanford University Libraries, Stanford
  - University of California Water Resources Center Library, Berkeley
  - University of California, General Library, Berkeley
  - University of California, University Research Library, Los Angeles
  - University of California, Shields Library, Davis
  - University of Southern California, Doheny Memorial Library, Los Angeles
- Colorado
  - Colorado State University Libraries, Fort Collins
  - Denver Central Library, Denver
  - University of Colorado at Boulder, Norlin Library, Boulder
  - University of Denver, Penrose Library, Denver
  - U.S. Air Force Academy, Academy Library, Colorado Springs
  - Grand Junction Public Library, Grand Junction Idaho
  - University of Idaho Library, Moscow
  - Ada Community Library, Boise
  - Idaho State Library, Boise
  - Pocatello Public Library, Pocatello
- Kansas
- University of Kansas, Lawrence
  - Kansas State Library, Topeka
  - Topeka and Shawnee County Public Library, Topeka
- Montana
  - University of Montana, Maurene and Mike Mansfield Library, Missoula

Billings Gazette Library, Billings
Parmly Billings Library, Billings
Missoula Public Library, Missoula

- Nebraska

University of Nebraska, D.L. Love Memorial Library, Lincoln
Lincoln City Library, Lincoln
North Platte Public Library, North Platte
Omaha Public Library, Omaha

- Nevada

Boulder City Library, Boulder City
Carson City Library, Carson City
Clark County Library District, Las Vegas
Nevada State Library, Carson City
University of Nevada, Reno Library, Reno
University of Nevada at Las Vegas, James Dickinson Library, Las Vegas
Washoe County Library, Reno

- New Mexico

Albuquerque Public Library, Albuquerque
New Mexico State Library, Santa Fe
New Mexico State Library, Las Cruces
University of New Mexico, Albuquerque

- North Dakota

Bismarck Public Library, Bismarck
Fargo Public Library, Fargo
North Dakota State University, Fargo
Minot Public Library, Minot

- Oklahoma

Metropolitan Library System in Oklahoma County Area, Oklahoma City
Oklahoma Department of Libraries, Oklahoma City
Oklahoma State University, Edmon Low Library, Stillwater
University of Oklahoma, University Libraries, Norman

- Oregon

Oregon Institute of Technology, Klamath Falls
Portland State University, Millar Library, Portland
University of Oregon Library, Eugene

- South Dakota

Rapid City Public Library, Rapid City
Sioux Falls Public Library, Sioux Falls
South Dakota State Library, Pierre

- Texas

Amarillo Public Library, Amarillo
Dallas Public Library, Dallas
El Paso Public Library, El Paso
Harris County Public Library, Houston
Texas State Library, Austin
Texas Technical University Library, Lubbock

- Utah

Brigham Young University, Harold B. Lee Library, Provo
Cedar City Public Library, Cedar City
Salt Lake City Public Library, Salt Lake City
Salt Lake County Library System, Salt Lake City
Southern Utah State University Library, Cedar City
University of Utah, Marriott Library, Salt Lake City
Utah State University, Merrill Library, Logan
Utah State Library, Salt Lake City
Washington County Library, St. George
Weber State University, Stewart Library, Ogden

- Washington

King County Library System, Seattle
Seattle Public Library, Seattle
Spokane Public Library, Spokane
University of Washington Libraries, Allen Library, Seattle
Washington State Library, Olympia
Yakima Valley Regional Library, Yakima

- Wyoming

Laramie County Library System, Cheyenne
Rock Springs Public Library, Rock Springs
University of Wyoming, Coe Library, Laramie
Western Wyoming Community College, Rock Springs
Wyoming State Library, Cheyenne

- Other States

District of Columbia Public Library, Washington DC
Library of Congress, Washington DC
Library Program Service, Government Printing Office, Washington DC
New York State Library, Albany, New York
New York Public Library, New York, New York
Research Libraries, New York, New York

Copies of the FEIS will also be distributed to everyone on Reclamation's current mailing list for this FEIS, which includes anyone who received a copy of the DEIS, anyone who submitted comments on the DEIS, and those who specifically expressed an interest in being added to the mailing list for this FEIS. The appendix containing public comments and Reclamation's responses to those comments will be distributed only to those who submitted comments on the DEIS.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald J. Schuster (D–5300), Westwide Settlement Manager, Bureau of Reclamation, Denver Office, PO Box 25007, Denver CO 80225; telephone: (303) 236–9336 ext 237.

SUPPLEMENTARY INFORMATION: In recognition of organizational, economic, and technological changes in western irrigated farming that have occurred since the Reclamation Act of 1902, the Reclamation Reform Act of 1982 (RRA), Title II, Public Law 97–293 (96 Stat. 1263), was signed into law on October 12, 1982. The RRA revised the number of acres upon which a landowner could receive Reclamation irrigation water. RRA provisions established how much land upon which a landowner could receive Reclamation irrigation water, established reporting requirements, set specific criteria for the price at which an individual or legal entity could receive Reclamation water, and established a requirement for districts to prepare water conservation plans. Amendments to the RRA were included in the Omnibus Budget Reconciliation Act of December 22, 1987 (Reconciliation Act), Title V, Public Law 100–203 (101 Stat. 1330).

Rules and regulations for implementing the RRA, initially becoming effective on January 5, 1984, were amended in 1987, 1988, 1991, and 1995. Environmental assessments and associated supplements were prepared in 1983, 1987, and 1988 that resulted in "Findings of No Significant Impact" from implementation of the proposed rules and regulations.

The proposed rules and regulations and the draft environmental impact statement (DEIS) were prepared in response to a September 1993 contract

between the Natural Resources Defense Council, the Department of Justice, and the Department of the Interior for the settlement of a lawsuit challenging the inadequacy of the environmental documentation prepared for the 1987 and 1988 amendments to the RRA rules and regulations. Reclamation agreed to propose new regulations as part of a new rulemaking proceeding that comprehensively reexamines implementation of the RRA, and prepare an EIS considering the impacts of the proposed regulations and alternatives. The FEIS represents a modification of the DEIS based upon public comments.

Six alternatives—including no action and preferred—are presented in the FEIS. They encompass varying levels of regulation to implement the RRA on a westwide basis. This is an EIS in which existing information was used in conjunction with the development of specific assumptions to estimate a range of potential environmental impacts resulting from specific rule changes. While the significance of these impacts on a westwide basis is small, localized impacts could be significant for some alternatives.

Dated: February 2, 1996.

Stephen V. Magnussen,

Acting Commissioner.

[FR Doc. 96–2629 Filed 2–6–96; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–731 (Final)]

Bicycles From China

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Brad Hudgens (202–205–3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION: On November 9, 1995, the Commission instituted the subject investigation and established a schedule for its conduct (60 FR 65667, December 20, 1995). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from March 29, 1996, to April 22, 1996. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than April 15, 1996; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on April 18, 1996; the prehearing staff report will be placed in the nonpublic record on April 11, 1996; the deadline for filing prehearing briefs is April 18, 1996; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on April 24, 1996; the deadline for filing posthearing briefs is April 30, 1996; the Commission will make its final release of information on May 20, 1996; and final party comments are due on May 23, 1996.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: February 1, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–2579 Filed 2–6–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 731–TA–732 and 733 (Final)]

Circular Welded Non-Alloy Steel Pipe From Romania and South Africa

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION: On November 28, 1995, the Commission instituted the subject investigations and established a schedule for their conduct (61 FR 1402, January 19, 1996). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations from April 15, 1996, to May 6, 1996. The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than April 26, 1996; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 1, 1996; the prehearing staff report will be placed in the nonpublic record on April 25, 1996; the deadline for filing prehearing briefs is May 2, 1996; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 8, 1996; the deadline for filing posthearing briefs is May 14, 1996; the Commission will make its final release of information on June 4, 1996; and final party comments are due on June 7, 1996.

For further information concerning these investigations see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: January 30, 1995

Donna R. Koehnke,

Secretary.

[FR Doc. 96–2576 Filed 2–6–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 701–TA–365–366 (Final) and 731–TA–734–735 (Final)]

Certain Pasta From Italy and Turkey

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations and scheduling of the ongoing countervailing duty investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping Investigations Nos. 731–TA–734–735 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Italy and Turkey of certain pasta,[1] provided for in subheading 1902.19.20 of the Harmonized Tariff Schedule of the United States. The Commission also gives notice of the schedule to be followed in these antidumping investigations and the ongoing countervailing duty investigations regarding imports of certain pasta from Italy and Turkey (Invs. Nos. 701–TA–365–366 (Final)), which the Commission instituted effective October 17, 1995 (60 FR 58638, November 28, 1995). The schedules for the subject investigations will be identical, pursuant to Commerce's alignment of its final subsidy and dumping determinations.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: January 17, 1996.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The subject antidumping investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain pasta from Italy and Turkey are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The Commission instituted the subject countervailing duty investigations effective October 17, 1995 (60 FR 58638, November 28, 1995). The antidumping and countervailing duty investigations were requested in a petition filed on May 12, 1995, by Borden, Inc., Columbus, OH; Hershey Foods Corp., Hershey, PA; and Gooch Foods, Inc. (Archer Daniels Midland Co.), Lincoln, NE.

Participation in the Investigations and Public Service List

Any person having already filed an entry of appearance in the countervailing duty investigations is considered a party in the antidumping investigations. Any other persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than 21 days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in these investigations will be placed in the nonpublic record on May 22, 1996, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on June 5, 1996, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 28, 1996. A nonparty who has testimony that may aid the Commission's 4 deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 31, 1996, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigations as possible any requests to present a portion of their hearing testimony in camera.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is May 30, 1996. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is June 11, 1996; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before June 11, 1996. On July 2, 1996, the Commission will make available to parties all information on which they have not had opportunity to comment. Parties may submit final comments on this

[1] "Certain pasta," the imported product subject to these investigations, consists of non-egg dry pasta in packages of 5 pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to 2 percent egg white. Certain pasta is typically sold in the retail market in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions. Excluded from the definition of certain pasta are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to 2 percent egg white.

information on or before July 5, 1996, but such final comments must not contain new factual information, or comment on information disclosed prior to the filing of posthearing briefs, and must otherwise comply with section 207.29 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: January 31, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–2577 Filed 2–6–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Qualification and Certification Program

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506 (c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA), is soliciting comments concerning the proposed extension of the information collection related to the "Qualification and Certification Program." A copy of the proposed information collection request can be obtained by contacting the employee listed below in the Addressee section of this notice.

DATES: Written comments must be submitted on or before April 8, 1996. The Department of Labor is particularly interested in comments which:

* evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* enhance the quality, utility, and clarity of the information to be collected; and
* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSEE: Patricia W. Silvey, Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203. For further information, contact Ms. Silvey at 703–235–1910 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Persons performing tasks and certain required examinations at coal mines which are related to miner safety and health, and which require specialized experience, are required to be either "certified" or "qualified" to carry out these duties. The regulations recognize State certification and qualification programs. However, where state programs are not available, under the Mine Act and MSHA standards, the Secretary may certify and qualify persons for as long as they continue to satisfy the requirements needed to obtain the certification or qualification, fulfill any applicable retraining requirements, and remain employed at the same mine or by the same independent contractor.

Applications for Secretarial certification must be submitted to the MSHA Qualification and Certification Unit in Denver, Colorado. Forms 5000–4 and 5000–7 provide the coal mining industry with a standardized reporting format which expedites the certification process while ensuring compliance with the regulations. The information provided on the forms enables the Secretary of Labor's delegate—MSHA, Qualification and Certification Unit—to determine if the applicants satisfy the requirements to obtain the certification or qualification. Persons must meet certain minimum experience requirements depending on the type of certification or qualification applied for.

II. Current Actions

This request for collection of information contains provisions whereby persons may be temporarily qualified or certified to perform tests and examinations; requiring specialized expertise; related to miner safety and health at coal mines.

Type of Review: Reinstatement (without change).

Agency: Mine Safety and Health Administration.

Title: Qualification and Certification Program.

OMB Number: 1219–0069.

Agency Number: MSHA Forms 5000–4 and 5000–7.

Affected Public: Businesses of other for-profit.

Citations: 30 CFR 75.10, 75.155, 77.100 and 77.105.

Forms	Respondents	Frequency	Total responses	Average time per response	Burden hours
5000–4	565 On occass.	1,456	10 min.	243.	
5000–7	59 On occass.	180	8.5 min.	26.	
Totals	624		1,636		269

* Frequency for each form has changed from "semi-annually" to "on occasion" because the certification is good for as long as this person continues to satisfy the requirements necessary for qualification and is employed at the same mine or by the same independent contractor.

Estimated Total Burden Hours = 269

Estimated Burden Costs = $7,207

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 30, 1996.

George Fesak,

Director, Program Evaluotion ond Information Resources.

[FR Doc. 96–2535 Filed 2–6–96; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL BANKRUPTCY REVIEW COMMISSION

Meeting

Agency: National Bankruptcy Review Commission.

Action: Notice of Public Meeting.

Time and Dates: Friday, February 23, 1996; 10:00 a.m. to 5:00 p.m.; Saturday, February 24, 1996; 9:00 a.m. to 5:00 p.m. (The meeting is tentatively scheduled to continue Saturday, February 24, 1996. For confirmation of the meeting and meeting time, please contact the office on Friday, February 23, at (202) 273–1813).

Place: Thurgood Marshall Federal Judiciary Building, Federal Judicial Center/ Education Center, One Columbus Circle, N.E., Washington, D.C. 20002. The public should enter through the South Lobby entrance of the Thurgood Marshall Federal Judiciary Building.

Status: The meeting will be open to the public.

Matters to be Considered: General bankruptcy law matters, with an emphasis on the topic of bankruptcy administration, and other substantive areas for future consideration and general administrative matters relating to the organization of the Commission and future meetings and hearings.

Contact Persons For Further Information: Contact Jarilyn Dupont or Carmelita Pratt at the National Bankruptcy Review Commission, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Suite G–350, Washington, D.C., (202) 273–1813.

Jarilyn Dupont,

Executive Director/General Counsel.

[FR Doc. 96–2538 Filed 2–6–96; 8:45 am]

BILLING CODE 6820–36–P

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee

AGENCY: National Communications Systems (NCS).

ACTION: Notice of meeting.

SUMMARY: A meeting of the President's National Security Telecommunications Advisory Committee will be held on Wednesday, February 28, 1996, from 8:30 a.m. to 3:15 p.m. The Business Session will be held at the Department of State, 2101 C Street, NW., Washington, DC. The Executive Session will be held at Old Executive Office Building. The agenda is as follows:

—Call to Order/Welcoming Remarks
—Manager's Report
—Information Assurance Topics
—IES Report of Activities
—Wireless Service Task Force Report
—National Information Infrastructure Task Force Report
—Network Security Group Report
—Information Assurance Task Force Report
—Adjournment

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense.

FOR FURTHER INFORMATION CONTACT: Telephone (703) 607–6221 or write the Manager, National Communications System, 701 S. Court House Rd., Arlington, VA 22204–2198.

Dennis Bodson,

Chief, Technology and Standards.

[FR Doc. 96–2530 Filed 2–6–96; 8:45 am]

BILLING CODE 5000–03–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–003]

Consolidated Edison Company of New York Inc. (Indian Point Unit No. 1); Order Approving Decommissioning Plan and Authorizing Decommissioning of Facility

By application dated October 17, 1980, as revised October 13, 1981; July 31, 1986; March 28, 1988; August 10, 1989; March 28 and July 17, 1990; February 5, April 2, July 31, September 20, and October 12, 1993; May 13 and August 11, 1994; and July 19, 1995; Consolidated Edison Company of New York, Inc. (the licensee) requested the U.S. Nuclear Regulatory Commission (the Commission, NRC) to approve its proposed Decommissioning Plan (Plan) for Indian Point Unit No. 1 (IP–1) and an amendment to Provisional Operating License No. DPR–5 and the associated Technical Specifications (TSs) to make them consistent with the Decommissioning Plan. The Decommissioning Plan proposes long-term safe storage (SAFSTOR) of IP–1 spent fuel and residual radioactivity until the adjacent Indian Point Unit No. 2 (IP–2) has been permanently shut down. The licensee must submit a detailed dismantling plan for NRC review and approval prior to major dismantlement activities at IP–1.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing was published in the **Federal Register** on December 31, 1985, (50 FR 53407). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has reviewed the application with respect to the provisions of the Commission's rules and regulations and has found that decommissioning as stated in the Plan is consistent with the regulations in 10 CFR Chapter I and will not be inimical to the common defense and security or to the health and safety of the public. The basis for these findings is given in the concurrently issued Safety

Evaluation by the NRC Office of Nuclear Reactor Regulation.

The Decommissioning Plan supplements the IP–1 Safety Analysis Report. Accordingly, a license condition has been added allowing the licensee to make changes to the Decommissioning Plan and Safety Analysis Report after performing a review based upon criteria similar to the criteria of Title 10 of the Code of Federal Regulations (10 CFR 50.59) to ensure that such changes do not involve an unreviewed safety question.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact for the proposed action. The Commission has determined that the proposed action will not result in any significant environmental impact and that an environmental impact statement need not be prepared. The Notice of Issuance of Environmental Assessment was published in the **Federal Register** on January 31, 1996.

Accordingly, pursuant to Sections 103, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.82, the Commission approves the proposed Decommissioning Plan, dated October 17, 1980, as revised, and authorizes decommissioning of the IP–1 facility in accordance with the Decommissioning Plan and the Commission's rules and regulations, subject to the following conditions:

(a)(1) The approved Decommissioning Plan supplements the Final Safety Analysis Report (FSAR) and the licensee may (i) make changes in the facility or procedures as described in the FSAR or the Decommissioning Plan and (ii) conduct tests, or experiments not described in the FSAR or Decommissioning Plan, without prior Commission approval, unless the proposed changes, tests or experiments involve (a) a change in the Technical Specifications (TSs) incorporated in the license or (b) an unreviewed safety question, or (c) major dismantlement activities such as removal of the reactor pressure vessel or other major radioactive components.

(2) A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question (i) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the FSAR and/or the Decommissioning Plan may be increased or (ii) if the possibility of an accident or malfunction of a different type than evaluated previously in the FSAR and/or the Decommissioning Plan may be created; or (iii) if the margin of safety as defined in the basis for any TS is reduced.

(b)(1) The licensee shall maintain records of changes in the facility and of changes in procedures made pursuant to this section if these changes constitute changes in the facility or procedures as described in the FSAR or Decommissioning Plan. The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. These records must include a written safety evaluation that provides the basis for determining that the changes, tests, or experiments do not involve an unreviewed safety question.

(2) The licensee shall annually submit, as specified in 10 CFR 50.4, a report containing a brief description of any changes, tests, and experiments, including summaries of the safety and environmental evaluation of each.

(3) The licensee shall maintain the records of changes in the facility until the date of termination of the license and shall maintain the records of changes in procedures and records of tests and experiments for 3 years.

(c) If the licensee desires (1) a change in the TSs, or (2) to (i) make a change in the facility or the procedures described in the FSAR or Decommissioning Plan, or (ii) conduct tests or experiments that are not described in the FSAR or Decommissioning Plan, and such changes, tests, or experiments involve an unreviewed safety question, a change in the TSs, or major dismantlement activities, the licensee shall submit an application to amend its license pursuant to 10 CFR 50.90.

For further details with respect to this action, see: (1) The licensee's application for authorization to decommission the facility, dated October 17, 1980, as revised; (2) Amendment No. to License No. DPR–5; (3) the related NRC Safety Evaluation; and (4) the NRC Environmental Assessment and Finding of No Significant Impact. These documents are available for public inspection at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York.

Dated at Rockville, Maryland, this 31st day of January 1996.

For the Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2601 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review or continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The tile of the information collection: Grant/Cooperative Agreement Provisions.

2. Current OMB approval number: 3150–0107.

3. How often the collection is required: On occasion, one time.

4. Who is required or asked to report: Recipients of NRC grants or cooperative agreements.

5. The number of annual respondents: 216.

6. The number of hours needed annually to complete the requirement or request: 1068.5.

7. Abstract: The Division of Contracts uses provisions, required to obtain or retaln a benefit in its awards and cooperative agreements to ensure: adherence to Public Laws, that the Government's rights are protected, that work proceeds on schedule, and that disputes between the Government and the recipient are settled.

Submit by April 8, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (lower level), Washington DC.

Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld on 703–321–3339. Members of the public who are located outside the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, D.C., 20555–0001, (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2602 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 33, "Specific Domestic Licenses of Broad Scope for Byproduct Material".

2. Current OMB Approval Number: 3150–0015.

3. How often the collection is required: There is a one-time submittal of information to receive a license. Once a specific license has been issued, there is a 5-year resubmittal of the information for renewal of the license.

4. Who is required or asked to report: All applicants requesting a license of broad scope for byproduct material and all current licensees requesting renewal of a broad scope license.

5. The number of annual respondents: 177 NRC broad scope licensees and 354 Agreement State licensees.

6. The number of hours needed annually to complete the requirement or request: 4,425 hours for NRC licensees and 8,850 hours for Agreement State licensees.

7. Abstract: 10 CFR Part 33 contains mandatory requirements for the issuance of a broad scope license authorizing the use of byproduct material. The subparts cover specific requirements for obtaining a license of broad scope. These requirements include equipment, facilities, personnel, and procedures adequate to protect health and minimize danger to life or property.

Submit, by April 8, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2603 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 31, "General Domestic Licenses for Byproduct Material".

2. Current OMB Approval Number: 3150–0016.

3. How often the collection is required: Reports are submitted as events occur. Registration certificates may be submitted at any time. Changes to the information on the registration certificate are submitted as they occur.

4. Who is required or asked to report: Persons desiring to own byproduct material and persons desiring to possess and use byproduct material in certain items.

5. The number of annual respondents: 170 NRC licensees and 340 Agreement State licensees.

6. The number of hours needed annually to complete the requirement or request: 2,634 hours for NRC licensees and 5,265 hours for Agreement State licensees.

7. Abstract: 10 CFR Part 31 establishes general licenses for the possession and use of byproduct material in certain items and a general license for ownership of byproduct material. General licensees are required to keep records and submit reports identified in Part 31 in order for NRC to determine with reasonable assurance that devices are operated safely and without radiological hazard to users or the public. The revision reflects an overall increase in burden. There has been a decrease in burden for NRC licensees, due to a smaller number of general

licensees and fewer reports being filed by general licensees. However, the burden for Agreement State licensees was not included in the previous burden.

Submit, by April 8, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2604 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission: Revision.
2. The title of the information collection: 10 CFR Part 50.76 "Reporting Reliability and Availability Information for Risk-Significant Systems and Equipment."
3. The form number, if applicable: Not Applicable.
4. How often the collection is required: Annually.
5. Who will be required to report: Licensees for commercial nuclear power reactors.
6. An estimate of the number of respondents: 110
7. The estimated number of annual responses: 110
8. An estimate of the total number of hours needed annually to complete the request: 151,200 (1375 hours per response). In addition, there is a one-time implementation burden of 46,550 hours which, annualized over three years, will be 15,520 hours (141 hours per licensee). Total initial annual burden will therefore be 166,720 hours (1516 hours) per licensee.
9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Applicable.
10. Abstract: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require that licensees for commercial nuclear power reactors report summary reliability and availability data for risk-significant systems and equipment to NRC. In addition, the records and documentation that provide the bases for the summary data reported to the NRC shall be maintained on site and made available for NRC inspection. This mandatory information would improve the NRC's ability to make risk-effective regulatory decisions consistent with the Commission's policy statement on the use of probabilistic risk assessments. The risk-significant systems and equipment for which data would be provided are a subset of the systems and equipment within the scope of the maintenance rule, 10 CFR 50.65.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, D.C. 20037. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. The electronic copy of this document will be in the NRC PDR library that can be selected from any FedWorld library. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions should be directed to the OMB reviewer by March 8, 1996: Troy Hillier, Office of Information and Regulatory Affairs, (3150–0011), NEOB–10202, Office of Management and Budget, Washington, D.C. 20503.

Comments can also be submitted by telephone (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2605 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 241, "Report of Proposed Activities in Non-Agreement States"
2. Current OMB approval number: 3150–0013
3. How often the collection is required: NRC Form 241 must be submitted each time an Agreement State licensee wants to engage in or revise its activities involving the use of radioactive byproduct material in a non-Agreement State. The NRC may waive the requirements for filing additional copies of NRC Form 241 during the remainder of the calendar year following receipt of the initial form from a person engaging in activities under the general license.
4. Who is required or asked to report: Any persons who hold a specific license from an Agreement State and want to conduct the same activity in non-Agreement States under the general license in 10 CFR 150.20.
5. The number of annual respondents: The NRC annually receives approximately 4,600 responses from Agreement States associated with NRC Form 241. These responses include 200 initial reciprocity requests on NRC Form 241, and 1,100 revisions and 3,300 clarifications of the information submitted on the forms.
6. The number of hours needed annually to complete the requirement or request: 1,200 hours
7. Abstract: Under the reciprocity provisions of 10 CFR Part 150, any Agreement State licensee who engages in activities (use of radioactive byproduct material) in non-Agreement States under the general license in Section 150.20 is required to file four copies of NRC Form 241, "Report of Proposed Activities in Non-Agreement States," and four copies of its Agreement State license at least 3 days before engaging in each such activity. This mandatory notification permits NRC to schedule inspections of the activities to determine whether the activities are being conducted in accordance with requirements for protection of the public health and safety.

Submit, by April 8, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2606 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review or continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The tile of the information collection: NRC Form 450, General Assignment.
2. Current OMB approval number: 3150–0114.
3. How often the collection is required: Once during the closeout process.
4. Who is required or asked to report: Contractors, Grantees, and Cooperators.
5. The number of annual respondents: 150.
6. The number of hours needed annually to complete the requirement or request: 300 hours (2 hours per response).
7. Abstract: During the contract closeout process, the NRC requires the contractor to execute a NRC Form 450, General Assignment. Completion of the form grants the government all rights, titles, and interest to refunds arising out of the contract performance.

Submit by April 8, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW. (lower level), Washington DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld at 703–321–3339. Members of the public who are located outside the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions should be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, (301) 415–7233, or by Internet electronic mail at BJS@NRC.GOV.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2607 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection

request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review or continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 313, "Application for Material License."

2. Current OMB approval number: 3150–0120.

3. How often the collection is required: There is a one-time submittal of information to receive a license. Once a specific license has been issued, there is a 5-year re-submittal of the information for renewal of the license.

4. Who is required or asked to report: All applicants requesting a license for byproduct or source material.

5. The number of annual respondents: 2,669 NRC licensees and 6,922 Agreement State licensees. The NRC has published a final rule, "One-Time Extension of Certain Byproduct, Source, and Special Nuclear Materials Licenses" on January 16, 1996, with an effective date of February 15, 1996. This rule implements, on a one-time basis, a 5-year extension of certain byproduct, source, and special nuclear materials licenses. It is expected that approximately 80 percent of NRC licenses will qualify for the one time extension. An 80 percent reduction in the number of anticipated renewals during the OMB clearance period was used in calculating the burdens.

6. The number of hours needed annually to complete the requirement or request: 18,683 hours for NRC licensees and 48,454 hours for Agreement State licensees (an average of 7 hours per response).

7. Abstract: Applicants must submit NRC Form 313 to obtain a specific license to possess, use, or distribute byproduct or source material. The information is reviewed by the NRC to determine whether the applicant is qualified by training and experience, and has equipment, facilities, and procedures which are adequate to protect the public health and safety of the public, and minimize danger to life or property.

Submit, by April 8, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2608 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Severe Accidents; Notice of Meeting

The ACRS Subcommittee on Severe Accidents will hold a meeting on March 1, 1996, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, March 1, 1996—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the status of issues associated with severe accident research programs such as direct containment heating and hydrogen control, and the status of implementing programs for severe accident management at nuclear power plants. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: February 1, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch

[FR Doc. 96–2598 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Fire Protection; Notice of Meeting

The ACRS Subcommittee on Fire Protection will hold a meeting on February 29, 1996, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, February 29, 1996—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss a PRA model to evaluate fire risk during a self-induced station blackout and scoping analyses of the degraded fire barriers developed by the Brookhaven National Laboratory, the status of the NRC Fire Protection Action Plan, and the assessment of fire models developed for performance based fire protection regulations. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the Brookhaven National Laboratory, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Amarjit Singh (telephone 301/415–6899) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: February 1, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–2599 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on February 22 and 23, 1996, in Room 159 of the Idaho National Engineering Laboratory (INEL), Energy Research Office Building, 2525 North Freemont Street, Idaho Falls, Idaho.

Most of the meeting will be closed to public attendance to discuss Westinghouse proprietary information pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Thursday, February 22, 1996 - 8:30 a.m. until the conclusion of business.

Friday, February 23, 1996 - 8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the NRC Office of Nuclear Regulatory Research (RES) confirmatory test and analysis program under way in support of the AP600 design certification review. Specifically, the Subcommittee will review the RES approach and method for demonstrating the adequacy of the RELAP5/MOD3 code to analyze the behavior of the AP600 passive plant design. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the Idaho National Engineering Laboratory, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the scheduling of sessions which are open to the public, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: February 1, 1996

Som Duraiswamy,

Chief Nuclear Reactors Branch

[FR Doc. 96–2600 Filed 2–6–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[RI 78–11]

Notice of Intention To Request Review of an Expiring Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for a clearance of an expiring information collection. RI 78–11, Medicare Part B Certification, is used to determine eligibility for a Government contribution toward the cost of Medicare Part B if enrolled in the Retired Federal Employees Health Benefits Program.

We estimate 300 RI 78–11 forms are completed annually. Each form takes approximately 10 minutes to complete for an annual estimated burden of 50 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-Mail to jmfarronmail.opm.gov

DATES: Comments on this proposal should be received on or before April 8, 1996.

ADDRESSES: Send or deliver comments to: Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, 1900 E Street, NW., Room 3349, Washington, DC 20415–0001.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT:

Mary Beth Smith-Toomey, Team Leader Management Services Division (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–2544 Filed 2–6–96; 8:45 am]

BILLING CODE 6325–01–M

Notice of Intention To Request Review of an Expiring Information Collection Reemployment of Annuitants, 5 CFR 837.103

Editorial Note: This document was inadvertently omitted from the issue of Monday, February 5, 1996. It is published as set forth below.

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for a clearance of an expiring information collection. Section 837.103 of Title 5, Code of Federal Regulations, requires agencies to collect information from retirees who become employed in Government positions. Agencies need to collect timely information regarding the type and amount of annuity being received so the correct rate of pay can be determined. Agencies provide this information to OPM so a determination can be made whether the reemployed retiree's annuity must be terminated.

We estimate 3,000 reemployed retirees are asked this information annually. It takes each reemployed retiree approximately 1 minute to complete for an annual estimated burden of 50 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-Mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received on or before April 5, 1996.

ADDRESSES: Send or deliver comments to—

John Landers, Chief, Retirement Policy Division, Retirement and Insurance Service, 1900 E Street, NW, Room 4351, Washington, DC 20415–0001

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Team Leader, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–2286 Filed 2–2–96; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Certification of Relinquishment of Rights: OMB 3220–0016. Under Section 2(e)(2) of the Railroad Retirement Act (RRA), an age and service annuity, spouse annuity, or divorced spouse annuity cannot be paid unless the Railroad Retirement Board (RRB) has evidence that the applicant has ceased railroad employment and relinquished rights to return to the service of a railroad employer. Under Section 2(f)(6) of the RRA, earnings deductions are required each month an annuitant works in certain non-railroad employment termed Last Pre-retirement Non-Railroad Employment.

Normally, the employee or spouse relinquishes rights and certifies that employment has ended as part of the annuity process. However, this is not always the case. In limited circumstances, the RRB utilizes Form G–88, Certification of Termination of Service and Relinquishment of Rights, to obtain an applicant's report of termination of employment and relinquishment of rights. One response is required of each respondent. Responses are required to obtain or retain benefits. A minor editorial change is being made to Form G–88.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form #(s)	Annual re-sponses	Time (Min)	Burden (Hrs)
G–88	3,600	6	360

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–2528 Filed 2–6–96; 8:45 am]

BILLING CODE 7905–01–M

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Representative Payee Parental Custody Monitoring.

(2) *Form(s) submitted:* G–99d.

(3) *OMB Number:* 3220–0176.

(4) *Expiration date of current OMB clearance:* March 31, 1996.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 1,850.

(8) *Total annual responses:* 1,850.

(9) *Total annual reporting hours:* 154.

(10) *Collection description:* Under Section 12(a) of the RRA, the RRB is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection obtains information needed to verify the parent-for-child payee still retains custody of the child.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–2526 Filed 2–6–96; 8:45 am]

BILLING CODE 7905–01–M

Agency Forms Submitted for OMB review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Railroad Separation Allowance or Severance Pay Report.

(2) *Form(s) submitted:* BA–9.

(3) *OMB Number:* 3220–0173.

(4) *Expiration date of current OMB clearance:* March 31, 1996.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 45.

(8) *Total annual responses:* 7,500.

(9) *Total annual reporting hours:* 9,375.

(10) *Collection description:* Section 7301 of the Railroad Unemployment and Retirement Improvement Act of 1988 (Pub. L. 100–647) provides for a lump-sum payment to an employee or the employee's survivor equal to the Tier II taxes paid by the employee on a separation allowance or severance payment for which the employee did not receive credits toward retirement. The collection obtains the information needed from railroad employers concerning the separation allowances paid after 12/31/88.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–2527 Filed 2–6–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36758; File No. S7–3–96]

EDGAR Request For Information; Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: The Securities and Exchange Commission is extending the deadline for comment from January 22, 1996 to February 16, 1996 for responses to Securities Exchange Act Release No. 36683 (January 5, 1996), 61 FR 740 concerning proposed system architectures describing possible revisions to its electronic filing system known as EDGAR.

DATES: Responses should be received on or before February 16, 1996.

ADDRESSES: Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC, and should refer to File No. S7–3–96. All submissions will be made available for public inspection at the Commission's Public Reference Room, Room 1024, 450 5th Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Michael Bartell or David Copenhafer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549 at (202) 942–8800.

SUPPLEMENTARY INFORMATION: On January 5, 1996, the SEC published a Request for Information inviting comment on proposed system architectures describing possible revisions to its electronic filing system known as EDGAR.[1] Due to several requests for an extension of the deadline, as well as the impact of several disruptive snow storms, the SEC believes it is appropriate to issue the extension. Therefore, the comment period for responding to Securities Exchange Act Release No. 36683 is extended from January 22, 1996 to February 16, 1996.

Dated: January 23, 1996.

Margaret H. McFarland

Deputy Secretary.

[FR Doc. 96–2674 Filed 2–2–96; 4:28 pm]

BILLING CODE 8010–01–M

[1] Securities Exchange Act Release No. 36683 (January 5, 1996) 61 FR 740 (January 10, 1996).

[Release No. 34–36797; File No. SR–CBOE–96–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Exercise of American-Style Options

January 31, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 19, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to issue a regulatory circular to its membership which clarifies the application of the rules and procedures of the Options Clearing Corporation ("OCC") to the exercise of American-style options.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed regulatory circular is to make it clear that the holder of an American-style option is able to exercise the option at any time up to the exercise cut-off time on any trading day other than the final trading day, even if the holder has sold the option in a closing sale transaction during that trading day. According to the CBOE, this result follows from OCC's sequencing procedures for processing daily activity on every day other than the final trading day.[1]

Specifically, on every day other than the final trading day, OCC's sequencing procedures provide that opening purchase transactions, opening sales transactions, and closing purchase transactions effected on that day are processed before exercises, and exercises are processed before that day's closing sales transactions. As a result, to the extent there is no violation of the CBOE's and OCC's exercise limits, an investor may exercise an option series on any day other than the final trading day to the full extent of the sum of: (1) All the long positions in his account at the opening of that day, plus (2)(a) (in the case of a firm or customer) all positions resulting from the investor's opening purchase transactions on that day without deduction for that day's closing sales transactions, or (b) (in the case of a market maker) all positions resulting from the market maker's purchase transactions that day without deduction for the market maker's sales transactions effected that day.[2] If the number of contracts sold by an investor in closing sales transactions exceeds the number of long positions remaining in the account after the exercises are processed, OCC treats the excess as having been sold in opening sales transactions and the contracts are subject to being assigned exercises. However, a brokerage firm or clearing member may have procedures which would prevent an investor from effecting an exercise that would result in changing a closing sales transaction into an opening sales transaction.

The CBOE's proposed regulatory circular provides several examples illustrating how the OCC's procedures apply to both customers and market makers. In addition, the proposed regulatory circular notes that OCC's sequencing procedures for processing activity on the final trading day provide for the processing of all purchase and sales transactions before exercises and assignments are processed. As a result, on the final trading day an investor may not exercise more than the investor's long positions remaining after netting any short position the investor may have at the opening that day and all options contracts the investor sells that day.

According to the CBOE, the OCC procedures described in the proposed regulatory circular are not new. Nonetheless, the Exchange believes it is important for all members to have the same understanding of these procedures and how they affect exercises. By making Exchange members and their customers better informed as to the procedures that apply to the exercise of American-style options, the CBOE believes that the publication of the proposed regulatory circular will serve to further the purposes of Section 6(b) of the Act, in general, and of Section 6(b)(5), in particular, by promoting just and equitable principles of trade and protecting investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that issuances of the proposed regulatory circular will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed regulatory circular.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change constitutes a stated policy, practice or interpretation with respect to the administration of an existing CBOE rule. Accordingly, the proposal has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2617 Filed 2–6–96; 8:45 am]

BILLING CODE 8010–01–M

[1] For purpose of the proposed regulatory circular, the final trading day is the expiration date of options that trade on their expiration date or the last trading day prior to the expiration date for all other options.

[2] Market makers are not required to mark their transactions as opening or closing transactions. Customer transactions must be marked as opening or closing transactions.

[3] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36798; File No. SR–DTC–95–14]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Seeking Depository Eligibility of Fractional Shares and Cent-Denominated Securities

January 31, 1996.

On August 4, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–95–14) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on November 6, 1995.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 36436 (October 30, 1995), 60 FR 56079.

I. Description of the Proposal

Under the rule change, cent-denominated securities and fractional shares of securities will be eligible for book-entry deliver and other DTC services. The proposal is being made in response to requests made by DTC participants.[3] This rule change anticipates the accelerated securities processing environment that will be triggered by the conversion of DTC's money settlement system to an entirely same-day funds settlement ("SDFS") system.[4] DTC will implement the eligibility of fractional shares on a voluntary basis.

Under the rule change, DTC estimates that approximately 6,000 cent-denominated issues will become eligible for book-entry delivery. Of those 6,000 issues, DTC estimates that 350 are treasury receipts.[5] Participants now will be able to deposit cent-denominated securities at DTC by using DTC's Deposit Automation Management ("DAM") service.[6] In recording participants' deposits, DTC will "truncate" (*i.e.*, cut off) the cents portion of the aggregate dollar figure for the deposited securities. Having eliminated the cents portion from the position, DTC only will reflect the whole dollar amount of deposits in the participant's account at DTC.[7] All related services and transactions thereafter will be effected in whole dollar increments, including principal and income payments.[8]

The truncated amounts will be collected in an internal DTC account. DTC has stated that the sum is not expected to be significant at first and therefore will not warrant the expense of developing a complex system to enable DTC to credit the truncated cents to each respective depositing participant. Instead, the cents and any income derived therefrom will become part of DTC's general revenues. Because DTC refunds revenues in excess of its costs to its participants, DTC in effect will pass along the value of the truncated cents to participants as part of DTC's general refund when and if refunds of excess revenues are distributed.[9] Participants also will forfeit any voting rights on truncated cents.

In time, depending on the size of the accumulated truncated amounts, DTC may reconsider developing a tracing mechanism to enable it credit these amounts to the accounts of depositing participants. In order for the Commission to monitor the magnitude of the truncated amounts, DTC will provide to the Commission annual written notice of the total amount of the general refund distributed to DTC participants that is generated from such truncated amounts[10] and the number of issues from which cents were truncated.[11] However, at this time, DTC believes that the actual financial effect on tits participants of the cent truncation will be negligible and well within industry practice for reconciling de minimis differences in such things as deliveries and deposits.

Under the new rule, DTC also is implementing a voluntary depository eligibility program for securities denominated in fractional shares.[12] DTC will carry the fractional portions under a contra-CUSIP number with full shares being reflected in the primary CUSIP. Deliver orders and pledges will not initially be permitted to be denominated in fractional shares.[13] However, as the fractional shares accumulate to constitute full shares, DTC participants will have the option to move the shares from the contra-CUSIP to the primary CUSIP where the shares will be eligible for all activities.[14] Alternatively, the accumulated fractional shares can be left in the contra-CUSIP. DTC also will provide enhanced physical processing so that deposits and withdrawals-by-transfer containing both whole and fractional shares can be combined. DTC will handle the process of separating the whole shares to the primary CUSIP and the fractional shares to the contra-CUSIP.

[3] The results of a survey conducted by DTC in 1992 showed that most responding participants wished to have certain types of issues not then eligible for depository services made DTC-eligible. Among others, cent-denominated securities and fractional shares were securities participants requested be made depository eligible. Subsequently, DTC distributed to its participants a notice dated August 24, 1994, which outlines the specific procedures to be employed in connection with the proposed services. In response to the August notice, seven commenters favored making cent-denominated securities eligible for book-entry delivery while our commenters did not. The dissenters generally stated that either such services were unnecessary in relation to their expense or that the proposed services would fail to provide any improvement in the way DTC participants currently process such securities. With regard to fractional shares, commenters generally favored making such shares depository eligible but ten commenters disfavored DTC's use of a contra-CUSP to identify the fractional shares. Six commentes favored the use of the contra-CUSIP. Dissenting commenters cited the anticipated difficulties in CUSIP and contra-CUSIP reconciliation as well as in providing programming resources to accommodate the contra-CUSIP given that such resources were seen as already fully committed to the upcoming change to a same-day funds settlement system and the conversion to a T+3 settlement cycle. To address its participants' concerns evidenced in the earlier letters, DTC devised the current proposal that provides for voluntary implementation of services for fractional shares. This newer, more flexible approach was described to participants in a notice dated December 14, 1994.

[4] The term "same-day funds" refers to payment in funds that are immediately available and generally are transferred by electronic means. Currently, transactions in equities, corporate debt, and municipal debt are settled in "next-day funds" (a term that refers to payment by means of certified checks that are for value on the following day). Transactions in commercial paper and other money market instruments are settled in same-day funds. On February 22, 1996, all issues currently settling in next-day funds will convert to settlement in same-day funds.

[5] This estimate is based on information compiled by a DTC participant. Treasury receipts are proprietary products of broker-dealers created by stripping the coupons from U.S. Treasury securities ("Treasuries") with the resulting instrument representing an interest in the stripped coupons or in the remaining principal (*i.e.* zero coupon products). The U.S. Treasury now issues STRIPS (Separate Trading of Registered Interest and Principal of Securities) bonds which essentially have replaced the Treasury receipt in function. The Treasury issues STRIPS in a format that allows dealers to sell them immediately as zero-coupon products and does not require the repacking steps that are necessary to transform straight Treasuries into zero-coupon instruments. Other newly eligible issues will include church bonds and various other securities types. Church bonds are securities issued by religious organizations to finance building or renovation projects. These securities typically are issued in small dollar amount within a confined. geographical area.

[6] DAM is an enhanced automated deposit service that enables DTC participants to send details of deposits to DTC in advance of forwarding the physical certificates. For a complete description of DTC's DAM service, refer to securities Exchange Act Release No. 33412 (January 4, 1994), 59 FR 1769 [File No. SR–DTC–93–09] (order approving proposed rule change).

[7] For example, if a participant deposits ten certificates at $1.15, $11.00 will be credited to the participant's DTC account, and the remaining fifty cents will be truncated.

[8] Under the rule change, participants will garner the benefit of administrative efficiencies that will attend the elimination of centers. Specifically, fewer keystrokes will be required to enter dollar values, and less record surveillance will be required to account for and reconcile amounts less than a dollar.

[9] Any refunds from the truncation program will be distributed to all DTC participants and not only those participants depositing cent-denominated securities.

[10] Telephone conversation between Jack Weiner, Associate Counsel, DTC, and Mark Steffensen, Attorney, Division of Market Regulation ("Division"), Commission (January 26, 1996).

[11] Telephone conversation between Jack Wiener, Associate Counsel, DTC, and Jerry W. Carpenter, Assistant Director, and Peter R. Geraghty, Senior Counsel, Division, Commission (January 31, 1996).

[12] A fractional share is a unit of stock less than one full share.

[13] DTC also is investigating the possibility of developing and providing a limited delivery capability that would require receiver authorization prior to a delivery being made.

[14] DTC participants also will have the ability to break up full shares under the primary CUSIP into fractional shares under the contra-CUSIP although the resulting fractional shares will not be initially eligible for deliver orders or for pledging purposes.

II. Discussion

Section 17A(b)(3)(F)[15] of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of transactions. The Commission believes DTC's proposed rule change is consistent with DTC's obligations under the Act because it will make cent-denominated shares and fractional shares eligible for deposit at DTC and thus eligible for other DTC services. The rule change will allow DTC participants to remove cent-denominated securities and fractional share certificates from their vaults and to deposit them at DTC. Including cent-denominated securities and fractional shares in the class of securities eligible for deposit at DTC should help to eliminate the costly, cumbersome, and inefficient physical processing of these securities thus promoting the prompt and accurate clearance and settlement of transactions in these types of securities.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–95–14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2539 Filed 2–6–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36784; File No. SR–Phlx–95–79]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Bid Test Exemption

January 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 2, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its Rule 1072, Reporting Requirements Applicable to Short Sales in NASD/NM Securities, to permit affiliated Registered Option Traders ("ROTs") to trade for each other's account pursuant to the market maker exemption contained therein. Rule 1072 establishes specific criteria exempting Phlx specialists and ROTs from the NASD's "bid test" applicable to Nasdaq/National Market ("NM") securities. The NASD bid test, with certain exception, prohibits short sales at or below the current inside bid when that bid is below the previous inside bid.[2] Specifically, the Phlx proposes to extend its market maker exemption to include short sales by affiliated ROTs as "by or for a qualified options market maker" consistent with Rule 1072(c)(2). The proposed language in Rule 1072(c)(2)(iii)(A) would thus permit ROTs of the same member organization to trade pursuant to the exemption, even when the ROT trading the account has not designated that NM issue.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1994, the NASD adopted a bid test rule applicable to NM securities traded through Nasdaq prohibiting short sales of NM securities at or below the current inside bid when that bid is below the previous inside bid.[3] An exemption from this rule exists for option market makers hedging options positions with the related underlying securities, and the qualifying short sales are referred to as "exempt hedge transactions." Pursuant to this market maker exemption, the Phlx adopted Rule 1072 establishing specific criteria for a short sale to qualify as an "exempt hedge transaction" in "designated" NM issues.[4] Generally, option specialists may rely on the exemption for short sales in NM securities underlying their specialist equity options, and index options if at least 10% of the value of the index is comprised of NM securities. In addition, ROTs must be assigned in that option to rely on the exemption and may only use the exemption in 20 designated NM issues.

The Phlx now proposes to permit affiliated ROTs to trade one another's accounts pursuant to Rule 1072. Specifically, the amendment would allow an ROT to effect bid test exempt short sales in a Nasdaq/NM security which that ROT has not designated as qualifying for the exemption, provided that the security is a designated Nasdaq/NM security of another ROT of the same member organization, and further provided that such other ROT is not also present or represented by a Floor Broker in the same trading crowd at the time of the bid test exempt sale. The Exchange notes that this amendment is similar to a CBOE proposal to permit nominees of a market maker organization to qualify for the exemption.[5]

The Phlx believes that the proposed amendment should facilitate ROT activity by allowing member organizations to manage better their market making activities. Managing these obligations and monitoring positions is especially critical when a ROT is absent from the trading floor. The Exchange also believes that the proposed provision is consistent with the intent of the market maker exemption to the short sale rule, in that the exemption continues to be limited to those Nasdaq/NM securities which are used to hedge option transactions in the primary classes in which the member organization makes markets.

For these reasons, the Exchange believes that its proposal is consistent with Section 6 of the Act in general, and in particular with Section 6(b)(5) in that it is designed to promote just and equitable principals of trade, and remove impediments to and perfect the mechanism of a free and open market while preventing fraudulent and manipulative acts and practices.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–Phlx–95–79 and should be submitted by February 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2542 Filed 2–6–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36794 File No. SR–Amex–95–56]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange, Inc., Relating to the Listing and Trading of Warrants on the Emerging Markets Debt Index

January 31, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 26, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. On January 16, 1996 the Amex filed Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice and Amendment No. 1 to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade warrants based on the Emerging Markets Debt Index ("EMDX"sm).[2]

The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to Section 107 of the Amex Company Guide, the Exchange is proposing to list index warrants on the EMDX. Futures contracts and futures options on the EMDX currently trade on the FINEX division of the New York Cotton Exchange ("NYCE"). The Commission recently provided to the Commodity Futures Trading Commission ("CFTC") a non-objection letter regarding the trading of EMDX futures and futures options.[3]

Index Description

The EMDX is an index of U.S. dollar-denominated, Brady par bonds[4] of four major Latin American countries. The Index is calculated by multiplying the market price of the Brady par bonds of Mexico, Argentina, Brazil and Venezuela by their corresponding bond weight and summing their products. According to the Exchange, these Brady par bonds are the most liquid and

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[15] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[16] 17 CFR 200.30–3(a)(12) (1995).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] NASD Rules of Fair Practices, Art. III, Section 48.

[3] Securities Exchange Act Release No. 34277 (June 6, 1994), 59 FR 34685 (granting temporary approval).

[4] Securities Exchange Act Release No. 34632 (September 2, 1994), 59 FR 46999. The other options exchanges adopted rules similar to Phlx Rule 1072. See Chicago Board Options Exchange ("CBOE") Rule 15.10, New York Stock Exchange ("NYSE") Rule 759A, American Stock Exchange ("Amex") Rule 957, and Pacific Stock Exchange ("PSE") Rule 4.19. *Id.*

[5] Securities Exchange Act Release No. 35281 (January 26, 1995), 60 FR 6575.

[6] 17 CFR 200.30–3(a)(12)(1994).

[1] In Amendment No. 1, the Amex states that it will list EMDX warrants under Section 107 of the Amex Company Guide ("Other Securities") rather than under Section 106 ("Currency and Index Warrants"). However, the account opening, trading, advertising, suitability and other provisions of Part VII of the Exchange's rules (Rules 1100 through 1110) applicable to broad based stock index warrants will apply to EMDX warrants. See Letter from William Floyd-Jones, Jr., Assistant General Counsel, Legal and Regulatory Policy, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated January 11, 1996 ("Amendment No. 1").

[2] EMDX is a servicemark of the New York Cotton Exchange.

[3] See letter from Jonathan G. Katz, Secretary, Commission, to Elisse B. Walter, General Counsel, CFTC, dated October 10, 1995 ("non-objection letter").

[4] Brady bonds are issued pursuant to the plan proposed by former Secretary of the Department of the Treasury, Nicholas Brady, which allows developing countries to restructure their commercial bank debt by issuing long-term dollar denominated bonds. There are several types of Brady bonds, but "par Bradys" and "discount Bradys" represent the great majority of issues in the Brady bond market. In general, both par Bradys and discount Bradys are secured as to principal at maturity by U.S. Treasury zero-coupon bonds. Additionally, usually 12 to 18 months of interest payments are also secured in the form of a cash collateral account, which is maintained to pay interest in the event that the sovereign debtor misses an interest payment.

actively traded of all Brady bonds, making the EMDX a significant market benchmark.

The weighted percentages by country of the Brady par bonds in the EMDX as of May, 1994 were: Mexico 36.2%; Argentina 28.9%. Brazil 19.5% and Venezuela 15.4%. The Index consists of the following U.S. dollar-denominated bonds:

(1) United Mexican States Par Bonds, Series A or B, due December 31, 2019, with all unexpired Value Recovery Rights attached;

(2) Republic of Argentina par Bonds, Series L, due March 31, 2023;

(3) Republic of Venezuela Par Bonds, Series A or B, due March 31, 2020, with all unexpired Oil Obligations attached; and

(4) Federative Republic of Brazil Par Bonds, Series Y–L–3 or Y–L–4, due April 15, 2024. Effective October 15, 1995 or on such other date as determined by the Federative Republic of Brazil for the phase in of collateral for the Series Y–L–3, the eries Y–L–3 shall be replaced by Series Z–L Par Bonds and Series Y–L–4. The weights of the Series Z–L and the remaining Series Y–L–4 Par Bonds shall be .097 and .098, respectively. Effective April 15, 1996 or on such other date as determined by the Federative Republic of Brazil for the phase in of collateral for the Series Y–L–4, the bond weight of the Series Z–L Par bonds shall be increased to .195, and the Series Y–L–4 Par Bonds shall be deleted from the Index.

The EMDX is calculated by multiplying the market price of a bond (the dollar price per $100 face value) by its corresponding bond weight and summing these products for all bonds in the EMDX. Thus, the formula for calculating the EMDX is as follows:

$$EMDX = MX_c * .362 + AR_c * .289 + BR_c * .195 + VZ_c * .154$$

Where: "c" refers to the current par bond price. The EMDX was designed to have a base value of 50 as of May 3, 1994. As of December 21, 1995 it had a value of 57.20.

At the time the Commission issued its non-objection letter for EMDX futures and futures options trading, the EMDX represented an approximate face amount of $47.6 billion in U.S. dollar-denominated Brady bonds. Reported 1994 inter-dealer trading volume in the component bonds of the Index was approximately $408 billion on about 135,000 trades. Thus, the average trade size in the Brady Par Bonds represented in the Index was approximately $3.02 million and average daily trading volume was 519 transactions. The Exchange represents that the bonds included in the EMDX are the most actively traded and liquid issues of all Brady Par Bonds.

The FINEX calculates and disseminates the EMDX continuously during trading hours on a real time basis using last trade prices for the subject Brady bonds from the screens of the leading interdealer brokers. The NYCE has agreements with Euro Brokers Capital Markets, Inc., Chapdelaine Corporate Securities, RMJ Securities, Tullet & Tokyo Ltd. and Tradition, Inc. to provide this information.[5]

Warrant Description and Regulatory Framework

Although the warrants will be listed pursuant to Section 107 of the Company Guide, the Exchange proposes to apply certain rules applicable to stock index warrants to the proposal EMDX warrants. Thus, the listing standards of Section 106 of the Company Guide will apply to the EMDX warrants,[6] and the account opening, trading, advertising, suitability and other provisions of Part VII of the Exchange's rules (Rules 1100 through 1110) applicable to stock index warrants also will apply to EMDX warrants. EMDX warrants also will be subject to the customer margin rules applicable to stock index warrants.

The proposed warrants may be exercised by holders prior to expiration, *i.e.*, they will be "American style." At expiration, or upon early exercise, warrant holders will receive a payment per warrant from the issuer equal to the greater of zero or $1 times the value of the EMDX at exercise minus the strike price. (The underwriter anticipates that the strike price will be set at the level of the EMDX at the time of warrant issuance). The warrants, accordingly, will be structured as a call on the EMDX.

The issuer will determine the value of the EMDX at expiration, or upon early exercise, in the following manners. In the event of early exercise, a calculation agent will determine the bid price for the constituent bonds. This price will be the higher of the bid prices of the calculation agent and one reference bank for each of the subject bonds. The calculation agent will then determine the value of the EMDX using the bid prices so derived for each bond in the Index. At expiration, the prices for the relevant bonds will be the higher of the bid prices obtained by polling two reference banks. Each reference bank will be a leading market maker in the relevant bonds.

2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex.

All submissions should refer to File No. SR–Amex–95–56 and should be submitted by February 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2540 Filed 2–6–96; 8:45 am]

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[5] All of these brokers are members of the National Association of Securities Dealers ("NASD"). Accordingly, the Amex would be able to obtain information relative to transactions in the securities underlying the EMDX pursuant to its information sharing arrangements with the NASD under the Intermarket Surveillance Group ("ISG") Agreement. *See* Letter from William Floyd-Jones, Assistant General Counsel, Legal and Regulatory Policy Division, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated January 19, 1996.

[6] Section 106(e), however, requires issuers to use opening prices for stocks traded primarily in the U.S. during the two business days prior to the determination of final settlement value to determine settlement value. The Exchange does not propose to extend this "opening price" requirement to the proposed EMDX warrants as the Exchange believes that the volatility concerns with respect to listed stocks have not been extended to debt instruments such as Brady bonds.

[7] 17 CFR 200.30–3(a)(12).

[Release No. 34–36785; File No. SR–Phlx–95–69]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc; Relating to the Bid Test Exemption

January 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 2, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its Rule 1072, Reporting Requirements Applicable to Short Sales in NASD/NM Securities, which establishes specific criteria exempting Phlx specialists and Registered Option Traders ("ROTs") from the National Association of Securities Dealers, Inc. ("NASD") "bid test" applicable to National Market ("NM") securities. The NASD bid test, with certain exceptions, prohibits short sales at or below the current insider bid when that bid is below the previous inside bid.[2] Specifically, the Phlx proposes to extend its market maker exemption to: (1) Permit an off-floor option or stock option order hedged contemporaneously with an NM security to be eligible for the exemption, with prior Floor Official approval and filing of a written report; and (2) allow the exemption to apply to a company that is involved in a publicly announced merger or acquisition ("M&A") with an NM security.

First, sub-paragraph (A) of Phlx Rule 1072(c)(2)(ii) is proposed to be added to permit a ROT to facilitate an off-floor options or combination order and contemporaneously hedge the resulting option position with a short sale in the applicable NM securities as if such securities were designated securities pursuant to the Rule. The ROT must obtain written Floor Official approval and file with the Market Surveillance Department of the Exchange a written report in a form required by the Exchange. Such ROT must retain a copy of the report to demonstrate that the transaction was bid test exempt.

Second, sub-paragraph (B) of Phlx Rule 1072(c)(2)(ii) is proposed to be added to state that exempt hedge transactions include short sales in M&A securities effected by a qualified Exchange options market maker to hedge, and which in fact serves to hedge, an existing or prospective position in an Exchange-listed option overlying a designated NM security of another company that is a party to the M&A. M&A securities are defined as the securities of a company that is a party or prospective party to a publicly announced merger or acquisition with an issuer of an NM security that underlies an Exchange-listed option.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1994, the NASD adopted a bid test rule applicable to NM securities traded through Nasdaq prohibiting short sales of NM securities at or below the current inside bid when that bid is below the previous inside bid.[3] An exemption from this rule exists for option market makers hedging positions with the underlying securities of that option; qualifying short sales are referred to as "exempt hedge transactions." Pursuant to this market maker exemption, the Phlx adopted Rule 1072 establishing specific criteria for a short sale to qualify as an "exempt hedge transaction" in "designated" NM issues.[4] Generally, option specialists may rely on the exemption for short sales in NM securities underlying their specialist equity options, and index options if at least 10% of the value of the index is comprised of NM securities. In addition, ROTs must be assigned in that option to rely on the exemption and may only use the exemption in 20 designated NM issues.

The Phlx now proposes to permit the facilitation of certain off-floor orders pursuant to the market maker exemption. The Phlx also proposes to expand the definition of "exempt hedge transaction" to include securities involved in an M&A transaction with NM securities. These amendments to the Exchange's exemptive rule are similar to recent changes by other options exchanges.[5]

Facilitating Orders

The Phlx proposes to permit certain hedge transactions in NM securities by a ROT to be considered executed in "designated" issues for purposes of qualifying as exempt hedge transactions.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] NASD Rules of Fair Practice, Art. III, Section 48.

[3] Securities Exchange Act Release No. 34277 (June 6, 1994), 59 FR 34885 (granting temporary approval).

[4] Securities Exchange Act Release No. 34632 (September 2, 1994), 59 FR 46999. The other options exchanges adopted rules similar to Phlx Rule 1072. See Chicago Board Options Exchange ("CBOE") Rule 15.10, New York Stock Exchange ("NYSE") Rule 759A, American Stock Exchange ("Amex") Rule 957, and Pacific Stock Exchange ("PSE") Rule 4.19. *Id.*

[5] Respecting facilitation orders, see Securities Exchange Act Release No. 35281 (January 26, 1995), 60 FR 6575 ("CBOE"); and respecting M&A securities, see Securities Exchange Act Release Nos. 35211 (January 10, 1995), 60 FR 3887 (Amex, CBOE, and PSE) as well as 36019 (July 24, 1995), 60 FR 39035 (NYSE).

Such a transaction must contemporaneously hedge an option position resulting from the facilitation of an option or stock-option order originating from off-floor. The Exchange believes that this provision is consistent with the NASD's interpretation regarding hedging activities associated with the facilitation of customer transactions in options, as cited by the Commission in its approval of a similar CBOE provision.[6] To ensure that the transaction qualifies for the proposed provision, the filing of a written report with the Market Surveillance Department of the Exchange, indicating Floor Official approval, is required. Floor Official approval is intended as a monitoring technique. Similarly, the Phlx believes that the written report should aid surveillance efforts regarding Rule 1072 in general, and, more specifically, the requirements of this proposed provision. Surveillance capabilities should be further enhanced by the requirement that a ROT relying on this provision maintain a copy of the report. Thus, the Phlx believes that this facilitation provision should operate consistently with the purposes of the market maker exemption contained in the Rule. Exempting such hedge transactions should promote facilitation orders in the option marketplace as well as liquidity in the underlying NM security.

M&A Transactions

The Phlx proposes to expand the definition of "exempt hedge transaction" in its market maker exemption to permit short sales in securities involved in a publicly announced M&A with a designated NM security in order to foster liquidity and promote effective hedging. The Exchange notes that the proposed expansion of the market maker exemption must involve a publicly announced M&A.[7] The Exchange also notes that the NASD provides an exemption from the bid test for risk arbitragers who take positions in stocks involved in M&A transactions,[8] and that the other option exchanges have adopted this change to their respective rules.[9]

As applied to the Phlx specialist, the proposed exemption would apply to short sales of a company that is party to an M&A with a company whose NM security underlies a speciality stock option (or qualified index option). As applied to a Phlx ROT, the exemption would extend to a company that is party to an M&A with a company whose NM security underlies an option designated by such ROT. The Phlx believes that specialists and ROTs may need to hedge option positions with the securities involved in an M&A with the underlying security, whether or not the security of such other company has overlying listed options. This ability to hedge is central to the market making function, and should thereby promote liquidity in the markets for the option as well as both securities.

The Exchange believes that the proposal is consistent with the NASD's bid test rule and addresses the limitations established by the NASD concerning the applicability of the market maker exemption. Specifically, the Phlx believes that the ability to hedge facilitated off-floor option orders constitutes legitimate hedging activity by a ROT with resulting benefits to the marketplace, while restricting the expansion of the exemption to *bona fide*, Exchange-monitored transactions. The Exchange also believes that expanding the definition of exempt hedge transaction to include M&A securities should enable effective hedging in the often-volatile markets surrounding M&A events, which should, in turn, promote liquidity.

For these reasons, the Exchange believes that its proposal is consistent with Section 6 of the Act in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principals of trade, prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market as well as to protect investors and the public interest by promoting options trading where an M&A is involved or an off-floor order seeks facilitation, which, in turn, creates a hedging need, thereby promoting liquidity and the essence of the market making function.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–Phlx–95–69 and should be submitted by February 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2541 Filed 2–6–96; 8:45 am]

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[6] See Securities Exchange Act Release No. 35281, *supra* note 5.

[7] Once an M&A has been publicly announced, a qualified market maker in one of the two affected securities may immediately register as a qualified market maker in the other security, and thus rely on the market maker exemption in such other security. See NASD Rules, Art. III, Section 48(1)(3)(iii).

[8] See Securities Exchange Act Release No. 34277, *supra* note 3.

[9] See Securities Exchange Act Release Nos. 35211 and 36019, *supra* note 5.

[10] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36796; File No. SR–PHLX–95–68]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Exercise Price Intervals for Index Options

January 31, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 2, 1996, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, paragraph (a) of PHLX Rule 1101A, "Terms of Option Contracts," states that the PHLX shall determine fixed point intervals of exercise prices for index options. Commentary .02 to PHLX Rule 1101A provides that exercise prices for index options shall be $5.00, except exercise prices in the far-term series of National Over-the-Counter ("XOC") options, Value Line Composite Index ("VLE") options, Big Cap Index options and USTOP 100 Index ("TPX") options shall be $25,00 unless there is demonstrated customer interest at $5.00 intervals.[1] Under the proposal, the exercise (strike) price interval for near-term index options generally will be $5, except: (1) Where the exercise price exceeds $500, the strike price interval may be $10; and (2) where the exercise price exceeds $1,000, the strike price interval may be $20. For out-of-the-money, far-term (fifth month),[2] or long-term index option series (long-term options or "LEAPS"),[3] the proposal provides that the exercise price interval generally will be $25, except: (1) Where the exercise price exceeds $500, the strike price interval may be $50; and (2) where the exercise price exceeds $1,000, the exercise price interval may be $100. In addition, where the exercise price interval is greater than $5, the PHLX may list exercise prices at $5 intervals in response to demonstrated customer interest or a specialist request. The proposal also allows the PHLX to list exercise prices at wider intervals.

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PHLX proposes to amend PHLX Rule 1101A to incorporate new strike (exercise) price intervals for index options. Currently, although PHLX Rule 1101A(a) states that the Exchange shall determine fixed point intervals of exercise prices for index options, the interval is generally $5,[4] except in the far-term series of broad-based index options.[5] The PHLX proposes to widen the exercise price interval for all index options in accordance with a formula which takes into consideration the index value and time until expiration. Specifically, the PHLX proposes to list the following exercise price intervals for index options:

Index value	Near-term strikes	5th month/ LEAPS
500 or less	$5	$25
500 to 999	10	50
1,000 or more	20	100

Where the exercise price interval would be wider than $5, the Exchange proposes to list (fill-in) exercise prices at $5 intervals in response to demonstrated customer interest or a specialist request.

The purpose of the proposal is to list index options with exercise prices at wider intervals, which should reduce the number of index option exercise prices listed on the Exchange. First, the PHLX notes that the proposal is intended to incorporate the PHLX's index option exercise price policy into PHLX Rule 1101A. Currently, Exchange Rule 1101A(a) states that the Exchange shall determine fixed point intervals of exercise prices for index options. The proposal will specifically list the interval, depending upon the index value and the time remaining until expiration.

Second, the Exchange proposes to list higher-priced index options (above 500), as well as far-term (fifth month) series and long-term options, at wider intervals in order to reduce the number of exercise prices. The PHLX states that most Exchange index options currently are listed at 5-point intervals. However, the PHLX has observed that in higher-priced indexes, the need does not exist for $5 exercise price intervals. Similarly, according to the PHLX, in the farthest-month trading as well as with long-term options, $5 intervals are not necessary. The PHLX notes that the bids and offers in many far-term series often are substantially similar because the volatility levels do not differ significantly.

According to the PHLX, narrower exercise price intervals generally are most useful where there is little volatility and in lower-priced series. For equity options, exercise price intervals widen as the strike price increases.[6] The PHLX notes that limited trading volume occurs in the far-term series of index options. Thus, the proposed reduction in exercise prices would be concentrated in the series with the least trading interest.

For high-priced or far-term series, where the PHLX proposes to list exercise prices, generally, at intervals of

[1] Commentary .02 states that, for purposes of the commentary, demonstrated customer interest includes institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by a Registered Options Trader ("ROT") with respect to trading for the ROT's own account.

[2] Under PHLX Rule 1101A(b), the Exchange may list index option series of up to four cycle months and up to three consecutive months. According to the PHLX, most index options currently have five months trading at a given time, consisting of three cycle/quarterly series and two consecutive month series. For example, as of September 1995, the XOC had the following months listed: October, November, December, March, and June.

[3] Under PHLX Rule 1101A(b)(iii), the Exchange may list long-term options with up to 60 months until expiration. *See* Securities Exchange Act Release No. 35616 (April 17, 1995), 60 FR 20135 (April 24, 1995) (order approving File No. SR–PHLX–95–11).

[4] See e.g., Securities Exchange Act Release No. 35591 (April 11, 1995), 60 FR 19423 (April 18, 1995) (order approving File No. SR–PHLX–95–07) (listing of TPX options). The PHLX notes that, generally, the strike price interval of an index option is listed in the contract specifications for the option.

[5] See PHLX Rule 1101A, Commentary .02.

[6] See PHLX Rule 1012, "Series of Options Open for Trading," Commentary .05.

$25 (or at intervals of $50 where the exercise price exceeds $500 or intervals of $100 where the exercise price exceeds $1,000), the PHLX proposes to list series at intervals as narrow as $5 in response to demonstrated customer interest or specialist request. This proposal is similar to existing PHLX Rule 1101A, Commentary .02 which permits the far-term series of broad-based index options to be listed at $25 intervals, unless customer interest exists for a $5 interval. For purposes of the proposal, demonstrated customer interest includes institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit, but not interest expressed by an ROT with respect to trading for the ROT's own account. This limitation and definition of customer interest is intended to ensure that only legitimate customer requests lead to the listing of exercise prices at narrower intervals.

Under the proposal, the Exchange may also determine to list exercise prices at wider intervals. The narrowest permissible interval would remain at $5 under this proposal. The PHLX proposes to delete Commentary .02 from Exchange Rule 1101A because the $25 interval is incorporated in the proposed first paragraph of PHLX Rule 1101A for all index options.

The Exchange believes that the ability to add $5 intervals in response to customer interest is important in that specific trading opportunities will not be lost. In fact, the $25 interval preserves key trading strategies because it often represents a 2½ point index movement, which is similar to a stock trading at $25 with the option traded at 2½ point exercise price intervals. Although the PHLX believes that reducing the number of exercise prices by widening the interval and incorporating such interval into Exchange rules should be beneficial to the marketplace, the flexibility to list exercise prices at intervals of $5 or greater is important to respond to the needs of the marketplace. Thus, Exchange Rule 1101A would permit both narrower (not narrower than $5) and wider exercise price intervals in extraordinary circumstances to permit the PHLX to react to market conditions.

The PHLX states that the effect of the proposal would be to permit $25 intervals in the fifth month and long-term options for most Exchange index options. However, VLE and TPX options would become subject to wider intervals because the value of those indexes exceeds 500. Specifically, as of January 22, 1996, the value of VLE was 563 and the value of the TPX was 551.

In implementing the wider intervals, the PHLX would begin listing exercise prices at the wider interval following the expiration after Commission approval, only listing the exercise prices required by the proposal. For example, under its current rules, the Exchange would have listed the new fifth month series of options on the PHLX/Keefe Bruyette & Woods Bank Index ("KBW") at $5 intervals from 335 to 400), totalling 14 exercise prices; under the proposal, the Exchange would list the new fifth month series at $25 intervals, thereby listing only three additional exercise prices (350, 375, and 400).[7]

At the subsequent quarterly expiration, when new five-month and long-term options are listed, new series would then be listed at the wider intervals. If the proposal is approved and implemented in January, the far-term series (*i.e.*, September) is already listed at existing intervals, which would be delisted if no open interest exists. Complete implementation of the proposal would begin at the next quarterly expiration in March, when the December series are listed. Upon implementation of the proposal, the Exchange will list far-term series at wider intervals until there are less than six months remaining until expiration, when intervening exercise prices will be listed at narrower intervals.[8]

The Exchange believes that listing higher-priced index options, far-term series and long-term options at wider intervals should improve the efficiency of quotation dissemination and speedy pricing by reducing the number of listed exercise prices. As discussed above, the immediate effect on the number of exercise prices in notable. Concomitantly, the effect on Exchange systems is likewise notable, with a reduction in system capacity and usage as well as operational burdens. For instance, exercise prices occupy trading floor screen space and line traffic to outside vendors for dissemination. Further, the role of the specialist in monitoring multitudes of exercise prices should be simplified.

With respect to operational burdens, the Exchange expects that reducing the number of exercise prices should also reduce the instances of wrap-around symbols.[9] The use of wrap-around symbols, although common, increases operational burdens, complicates screen displays and potentially confuses investors viewing vendor screens.

The Exchange believes that the proposal is an important contribution to the effort to limit the number of option exercise prices. In recently approving 2½ point exercise prices on a pilot basis for equity options, the Commission cited the need to balance an exchange's desire to accommodate market participation by offering a wide array of investment opportunities and the need to avoid proliferation of option series.[10] The Commission also cited this balance in approving PHLX Rule 1101A, Commentary .02, which permits $25 intervals in the far-term series of the XOC and VLE, noting that such intervals preserve key trading strategies while limiting the number of outstanding strike prices.[11] The PHLX believes that the proposal at hand achieves such a balance by reducing the number of exercise prices and, thus, the associated systems and operational burdens, yet retaining trading strategies and investment opportunities by listing wider intervals at reasonable intervals and permitting the flexibility to widen or narrow such intervals in response to investor requests or market conditions.

For these reasons, the Exchange believes that the proposal is consistent with Section 6 of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest by eliminating excessive strike prices, thereby improving quotation dissemination capabilities, while maintaining investors' flexibility to better tailor index option trading to meet their investment objectives.

[7] The KBW example applies to fifth month series, rather than fourth month series. Telephone conversation between Edith Hallahan, Special Counsel, Regulatory Services, PHLX, and Yvonne Fraticelli, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on January 24, 1996.

[8] For example, because each quarter a far-term series with nine months until expiration is listed, after December expiration, a September option is listed. After March expiration, the September option is no longer the far-term series, as a December option is added, so that the intervening strike prices would be added to the December series.

[9] A wrap-around occurs when the strike price codes A–T indicating the strike price of an option (from 5 to 100) have been used and additional strike prices require listing the option with a different root symbol. For example, KBW October 310 calls use the symbol "B" to denote 310, but the 410 calls would also have used that symbol. Thus, the October 410 calls are traded under the symbol BKV JB.

[10] See Securities Exchange Act Release No. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (order approving File Nos. SR–PHLX–95–08, SR–Amex–95–12, SR–PSE–95–07, SR–CBOE–95–19, and SR–PSE–95–12).

[11] See Securities Exchange Act Release No. 33301 (December 8, 1993), 58 FR 65611 (December 15, 1993) (order approving File No. SR–PHLX–93–06).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

[12] 17 CFR 200.30–3(a)(12) (1995).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2618 Filed 2–6–96; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–6083]

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Greenman Bros. Inc., Common Stock, $.10 Par Value)

February 1, 1996.

Greenman Bros. Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the America Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on November 16, 1995 to withdraw the Security from listing on the Amex and instead, to list the Security on the Nasdaq Stock Market as a Nasdaq National Market security ("NNM").

The decision of the Board followed a thorough study of the matter and was based upon the belief that listing the Security on the NNM will be more beneficial to the Company's stockholders than the present listing on the Amex for the following reasons.

(1) The past six months have marked a rise in the price of and an increased interest in the Security, with the result that several brokerage houses are now actively following the Security; and

(2) The Company has been advised by securities industry professionals that the NNM should provide greater price stability for the Security and afford the Company's stockholders and the public a more stable trading market for the Security, a view with which the Company concurs.

Any interested person may, on or before February 22, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

secretary.

[FR Doc. 96–2543 Filed 2–6–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26467]

Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

February 1, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 26, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Cinergy Corporation, et al. (70–8589)

Cinergy Corporation, a registered holding company ("Cinergy"), Cinergy Service, Inc., Cinergy's wholly owned subsidiary service company, both located at 139 East Fourth Street, Cincinnati, Ohio 45202, and Cinergy Investments, Inc. ("Investments"), Cinergy's wholly owned nonutility subsidiary company, located at 251 North Illinois Street, Suite 1410,

Indianapolis, Indiana 46204, have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10, 12(b), 13(b), 32 and 33 of the Act and rules 43, 45, 53 and 83 thereunder.

By order dated September 21, 1995 (HCAR No. 26376) ("Order"), the Commission authorized Cinergy and Investments, among other things, to: (1) Acquire the securities of one or more companies ("Special Purpose Subsidiaries") formed to engage exclusively in the business of acquiring and holding the securities of, and/or providing services to, exempt wholesale generators ("EWGs") and foreign utility companies ("FUCOs"); and (2) make direct and indirect investments in Special Purpose Subsidiaries up to an aggregate principal amount of $115 million ("Investment Limitation"), through May 31, 1998. However, any direct or indirect investment by Cinergy in any Special Purpose Subsidiary would be made only if, on a pro forma basis, Cinergy's aggregate investment in all EWGs, FUCOs and Special Purpose Subsidiaries would not exceed 50% of Cinergy's consolidated retained earnings, as defined in rule 53(a).

Applicants now propose to extend the authorization period established in the Order from May 31, 1998 to the earlier of December 31, 1999, or the effective date of any rule of general applicability adopted by the Commission that would exempt the proposed transaction from the applicable provisions of the Act.

In addition, Cinergy requests authority to make direct or indirect investments in Special Purpose Subsidiaries in an aggregate amount which, when added to Cinergy's aggregate investment in all EWGs, FUCOs and Special Purpose Subsidiaries, does not, at any point in time, exceed 50% of Cinergy's consolidated retained earnings, as defined in rule 53(a).

Consolidated Natural Gas Company, et al. (70–8667)

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, a registered holding company, and its subsidiaries, Consolidated System LNG Company, CNG Research Company, CNG Financial Services, Inc. ("CNG Financial"), Consolidated Natural Gas Service Company, Inc., and The Peoples Natural Gas Company, each of CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222; CNG Coal Company, CNG Producing Company ("CNG Producing"), and CNG Pipeline Company, each of CNG Tower, 1450 Poydras Street, New Orleans, Louisiana 70112; CNG Transmission Corporation and CNG Storage Service Company ("CNG Storage"), each of 445 West Main Street, Clarksburg, West Virginia 26301; CNG Power Company ("CNG Power"), CNG Market Center Services, Inc., CNG Products and Services, Inc. ("CNG Products"), and CNG Energy Services Corporation ("CNG Energy"), each of One Park Ridge Center, P.O. Box 15746, Pittsburgh, Pennsylvania 15244; The East Ohio Gas Company ("East Ohio"), 1717 East Ninth Street, Cleveland, Ohio 44115; Virginia Natural Gas, Inc., 5100 East Virginia Beach Boulevard, Norfolk Virginia 23501; Hope Gas, Inc. ("Hope Gas"), P.O. Box 2868, Clarksburg, West Virginia 26302; and West Ohio Gas Company ("West Ohio"), 319 West Market Street, Lima, Ohio 45802 (collectively, the "Applicants"), have filed an application-declaration under sections 6, 7, 9(a), 10, 12(b) and 12(e) of the Act and rules 43, 45, 54 and 62 thereunder. The Applicants seek authorization to engage in various financing and related transactions through March 31, 2001.[1] The authorization would be subject to the following conditions: (1) Consolidated's long-term debt must be rated investment grade by at least one nationally recognized statistical rating organization; (2) the effective cost of money for debt may not exceed 300 basis points over the interest rate on United States Treasury securities of a comparable term; (3) the effective cost of money for preferred stock and other fixed income securities may not exceed 500 basis points over the interest rate on 30-year United States Treasury securities; (4) the maturity of debt may not be more than 50 years; (5) issuance expenses in connection with an offering of securities, including any underwriting fees, commissions or other similar compensation, may not exceed 5% of the total amount of the securities being issued; (6) proceeds of the proposed financing may not be used to invest in an exempt wholesale generator or a foreign utility company; (7) at the time of each financing transaction, Consolidated must be in compliance with the requirements of rules 53 and 54 under the Act; and (8) proceeds of the proposed financing by the subsidiaries of Consolidated must be used only in connection with their respective existing businesses.[2] Any deviation from these conditions would require further Commission approval.

The proposed transactions and the proposed participation of the various Applicants are described below.

1. *External Financing by Consolidated.* Consolidated proposes to issue and sell common stock, preferred stock, short-term debt, long-term debt and other securities from time to time through March 31, 2001, provided that the aggregate amount of short-term and revolving debt outstanding at any one time and the aggregate amount of common stock, preferred stock, long-term debt and other securities issued during the period shall not exceed $7.0 billion.[3] Securities may be sold through underwriters or dealers, directly to a limited number of purchasers, or through agents. Consolidated also proposes to engage in interest rate and equity swaps from time to time through March 31, 2001.

a. *Short-term Debt.* Consolidated proposes to issue and sell commercial paper to dealers at the discount rate prevailing at the date of issuance for comparable commercial paper. The dealers would reoffer such commercial paper at a discount to investors. Consolidated also proposes to establish back-up lines of credit providing for borrowings from time to time when it is impracticable to issue commercial paper. Such lines of credit would be in an aggregate principal amount not to exceed the amount of authorized commercial paper, and borrowings under these lines would mature not more than one year from the date of borrowing. Consolidated also proposes to establish bank lines of credit and issue debt securities under its existing indenture and note programs.[4]

b. *Long-term Debt.* Consolidated proposes to issue and sell bonds, debentures, notes, convertible debt, medium term notes, and securities with call or put options, and to enter into other bank debt arrangements. Long-term debt securities would have such designation, maturity, interest rate(s) (or methods of determining the same) and terms of payment, redemption provisions (including nonrefunding provisions), sinking fund terms, conversion provisions, put terms, and other terms and conditions as are determined at the time of issuance.

c. *Capital Stock.* Consolidated proposes to issue and sell preferred stock or common stock, including stock issued upon the exercise of convertible debt or pursuant to rights, options, warrants and similar securities, monthly income preferred stock and cumulative quarterly income preferred securities.[5] Any such preferred stock would have such designation, liquidation preferences, price, dividend rate(s) (or methods of determining the same) and terms of payment, redemption and sinking fund provisions (including nonrefunding provisions), voting or other special rights, conversion terms and other terms and conditions as may be determined at the time of issuance. Any such common stock sold by Consolidated may include shares that have been acquired through employee benefit and dividend reinvestment and stock purchase plans or otherwise and held as treasury shares.

3. *Interest Rate and Equity Swaps.* Consolidated proposes to engage in interest rate swaps involving its interest obligations existing at the date of the swap. Consolidated also proposes to engage in equity swaps in which it would exchange one equity investment market risk for another or would exchange fixed or floating rate interest income from an investment for payments based on a stock index.[6] Interest rate and equity swaps would be limited to obligations and investments existing at the time of the swap.

e. *Other Securities.* In addition to the specific securities for which authorization is sought, Consolidated also proposes to issue other types of securities that it deems appropriate during the period of the Commission's authorization. Consolidated requests that the Commission reserve jurisdiction over the issuance of additional types of securities. Consolidated also undertakes that it will file a post-effective amendment in this proceeding describing the general terms of each such security and obtain a supplemental order of the Commission authorizing the issuance thereof by Consolidated. Such supplemental orders may be issued by the Commission without further public notice in the **Federal Register**.

2. *Introsystem Financing.* The Applicants propose various financing transactions between Consolidated and its subsidiaries and between certain subsidiaries and their respective subsidiaries.

a. *Transactions between Consolidated and its Subsidiaries.* Consolidated proposes to make open-account advances to East Ohio, Peoples, and West Ohio. These borrowings would be made on a revolving basis through the CNG System Money Pool,[7] and would bear interest at a rate equal to the weighted average effective interest rate of Consolidated's short-term borrowings or, if no such borrowings are outstanding, at a rate based on the Federal Funds effective rate of interest quoted daily by the Federal Reserve Bank of New York.

In addition, CNG Financial, CNG Producing, CNG Storage, CNG Power and CNG Energy also propose to issue and Consolidated proposes to acquire other types of securities that are not exempted by rule 52 from the requirement of Commission approval but that are considered by such companies to be approriate during the period of the Commissions authorization. These Applicants request that the Commission reserve jurisdiction over the issuance of additional types of securities and also undertake that they will cause a post-effective amendment to be filed in this proceeding describing the general terms of each such security and obtain a supplemental order of the Commission authorizing the issuance and acquisition thereof. Such supplemental orders may be issued by the Commission without further public notice in the **Federal Register**.

The aggregate amount of all such financing would not exceed $1.5 billion.

b. *Transactions between Certain Subsidiaries and their Subsidiaries.* Consolidated, CNG Energy and CNG Products have filed an application-declaration in File No. 70–8703, pursuant to which CNG Power and CNG Storage would become subsidiaries of CNG Energy. In the event such changes are authorized and occur, CNG Storage and CNG Power propose to issue and CNG Energy proposes to acquire other types of securities that are not exempted by rule 52 from the requirement of Commission approval but that are considered by these companies to be appropriate during the period of the Commission's authorization in this proceeding. These Applicants request that the Commission reserve jurisdiction over the issuance of additional types of securities, and also undertake that they will cause a post-effective amendment to be filed in this proceeding describing the general terms of each such security and obtain a supplemental order of the Commission authorizing the acquisition and issuance thereof. Such supplemental orders may be issued by the Commission without further public notice in the **Federal Register**.

c. *Guarantees.* Consolidated proposes to enter into guarantee arrangements, obtain letters of credit and otherwise provide credit support with respect to the obligations of the other Applicants to third parties. CNG Energy, CNG Power, CNG Storage, CNG Financial and CNG Producing also propose to enter into such arrangements with respect to the obligations of their respective subsidiaries. The aggregate amount of all such arrangements would not exceed $2.0 billion.

3. *External Financing by Subsidiaries.* CNG Energy, CNG Financial, CNG Power, CNG Producing, and CNG Storage seek authorization to issue to third parties monthly and quarterly income preferred securities.[8] In addition to the specific securities for which authorization is sought, these Applicants also propose to issue other types of securities that are not exempted by rule 52 from the requirement of Commission approval and that they deem appropriate during the period of the Commission's authorization. These Applicants request that the Commission reserve jurisdiction over the issuance of additional types of securities and also undertake that they will cause a post-effective amendment to be filed in this proceeding describing the general terms of each such security and obtain a supplemental order of the Commission authorizing the issuance thereof by such Applicants. Such supplemental orders may be issued by the Commission without further public notice in the **Federal Register**.

The aggregate amount of all such securities to be issued would not have a dollar limitation.

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[1] This authorization would supersede the authorization granted in Holding Co. Act Release Nos. 25926 (Nov. 16, 1993) (relating to guarantees by Consolidated of obligations of CNG Energy); 26245 (March 6, 1995) (relating to issuance of debt securities by Consolidated); and 26321 (June 29, 1995) (relating to the Consolidated system's one-year financing plan).

[2] The Commission has published and solicited public comment on a proposed rule 58 under the Act that would permit registered holding companies and their subsidiaries to acquire securities of companies engaged in specified nonutility activities without prior Commission approval. Holding Co. Act Release No. 26313 (June 20, 1995), 60 FR 33642 (June 28, 1995). If rule 58 is adopted, the proceeds of the proposed financings could also be used for these purposes.

[3] This amount includes $3.5 billion of securities the proceeds of which may be used to retire outstanding securities and $3.5 billion of securities the proceeds of which will be used for other purposes. This amount excludes guarantees of subsidiary obligations (which are described below and are subject to a separate limitation).

[4] These programs are described in Holding Co. Act Release No. 26321 (June 29, 1995), which would be superseded by the authorization granted herein.

[5] In connection with issuance of such securities, Consolidated proposes to form financing entities, as described below, and to issue debt to such entities to back up obligations under securities issued by such entities. For purposes of determining the amount of authorization used by such transactions, such securities shall not be considered to be short-term debt.

[6] Consolidated states that equity swaps could be used to hedge earnings from its domestic or international investments, but would not be used to transfer title to the equity securities owned by it that are used in the swap transaction.

[7] The CNG System Money Pool arrangements were authorized in Holding Co. Act Release No. 24128 (June 12, 1986).

[8] In connection with issuance of such securities, these Applicants propose to form financing entities, as described below, and to issue debt or other securities to such entities to back up obligations under securities issued by such entities.

4. *Acquisition of Securities.* Consolidated seeks authorization to reacquire shares of any monthly or quarterly income preferred securities that may be issued pursuant to authorization in this proceeding. All of the other Applicants seek authorization to repurchase shares of their common stock and preferred stock from their parent companies. In each case, there is no limitation as to amount.

5. *Charter Amendments.* Consolidated proposes to amend its certificate of incorporation to increase its authorized common stock and to authorize a new class of preferred stock. Consolidated requests the Commission to reserve jurisdiction over the amendments to its certificate of incorporation pending completion of the record and filing of related documents under the Securities Exchange Act of 1934. One or more supplemental orders may be issued by the Commission authorizing such amendments without further public notice in the **Federal Register**. The Applicants, other than Consolidated, propose to increase the amount of their authorized common stock up to a maximum of twice the current authorized amount, and to change or eliminate the par value of such stock.

6. *Financing Entities.* In connection with the issuance of monthly and quarterly income preferred securities, Consolidated, CNG Energy, CNG Storage, CNG Power, CNG Producing, and CNG Financial seek authorization to organize new corporations, trusts, partnerships or other entities created for the purpose of facilitating such financings. Request is made for the acquisition by such Applicants of voting interests or equity securities issued by the financing entity to establish such Applicant's ownership of the financing entity (the equity portion of the entity generally being created through a capital contribution or the purchase of equity securities, such as shares of stock or partnership interests, involving an amount usually ranging from 1–3% of the capitalization of the financing entity.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2616 Filed 2–6–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on Monday, March 4, 1996, from 9:00 a.m. to 4:00 p.m. at the U.S. Small Business Administration, 409 Third Street, S.W., 4th Floor, Washington, DC 20416.

The purpose of the meeting is to discuss such matters as may be presented by Advisory Board members, staff of the SBA, or others present.

For further information, write or call Mary Ann Holl, SBA, 4th Floor, 409 3rd Street, S.W., Washington, DC 20416, (202) 205–7302.

Dated: February 1, 1996

Bill Combs,

Associate Administrator for Office of Communication and Public Liaison

[FR Doc. 96–2564 Filed 2–6–96; 8:45 am]

BILLING CODE 8025–01–P

First Capital Group of Texas II, L.P., Notice of Filing of an Application for a License to Operate as a Small Business Investment Company

[Application No. 99000193]

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1996)) by First Capital Group of Texas II, L.P. at 750 East Mulberry, Suite 305, San Antonio, Texas 78212 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. *et. seq.*), and the Rules and Regulations promulgated thereunder. The applicant will invest primarily in small business concerns located throughout Texas, however, investments in attractive situations outside of Texas will not be precluded. In addition to its principal office in San Antonio, Texas, the applicant is planning to establish a branch office in Austin, Texas.

First Capital Group Investment Partners, L.P., a Texas limited partnership, will serve as the General Partner of the Applicant. First Capital Group Management Company, L.C. (Investment Advisor/Manager), is the general partner of the General Partner and will manage the Applicant's operations. Jeffrey P. Blanchard, Wm. Ward Greenwood, and John J. Locy are the managers of the Investment Adviser/Manager and are responsible for the day-to-day management and operations of the applicant. These three investment professionals have over 50 years of combined experience in the management of venture capital investment partnerships and SBICs.

The following limited partners will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
International Bank of Commerce	28.8
Alamo Group inc.	19.2

International Bank of Commerce has assets of approximately $2 billion and is the largest commercial banking organization on the Texas-Mexico border with operations in Laredo, Brownsville, Corpus Christi, Harlingen, McAllen, San Antonio, and a number of smaller cities throughout south Texas. The Alamo Group Inc. is a leading manufacturer of high quality, tractor mounted mowing and grounds maintenance equipment for governmental and agricultural end users.

The applicant will begin operations with Regulatory Capital of $10.3 million. Additional capital commitments are being sought in the expectation of bringing the aggregate private capital of the applicant to $20.5 million, including a $500,000 commitment from the General Partner. The applicant plans to invest in well-managed small businesses based in Texas in need of expansion capital that are engaged in a variety of industries having the potential for growth in earnings and equity value.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in San Antonio, Texas.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: Thursday, February 1, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–2565 Filed 2–6–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

Bureau of Intelligence and Research

[Public Notice No. 2323]

Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union; Notice of Meeting

The Department of State announces that the Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII) will convene on April 26, 1996, beginning at 9:30 a.m. in Room 1105, U.S. Department of State, 2201 C Street, NW., Washington, DC.

The Advisory Committee will recommend grant recipients for the FY 1996 competition of the Program for Study of Eastern Europe and the Independent States of the Former Soviet Union in connection with the "Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, as amended." The agenda will include: opening statements by the Chairman and members of the Committee and, within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with certain "national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the independent states of the former Soviet Union," based on the guidelines contained in the call for applications published in the **Federal Register** on November 27, 1995. Following committee deliberation, interested members of the public may make oral statements concerning the Title VIII program in general.

This meeting will be open to the public; however, attendance will be limited to the seating available. Entry into the Department of State building is controlled and must be arranged in advance of the meeting. Those planning to attend should notify Joanne Bramble, INR/RES, U.S. Department of State, (202) 736–4572, by April 19, 1996, providing their date of birth, Social Security number, and any requirements for special needs. All attendees must use the 2201 C Street, NW., entrance to the building. Visitors who arrive without prior notification and without a photo ID will not be admitted.

Dated: January 23, 1996.

Kenneth E. Roberts,

Executive Director, Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union.

[FR Doc. 96–2521 Filed 2–6–96; 8:45 am]

BILLING CODE 4710–32–M

[Public Notice No. 2328]

International Telecommunications Advisory Committee (ITAC) Ad Hoc on ITU Regional Development Conferences; Meeting Notice

The Department of State announces the first meeting of the United States International Telecommunications Advisory Committee (ITAC) Ad Hoc to prepare for Regional Development Conferences (RDCs) of the international Telecommunication Union (ITU). The meeting is scheduled for Wednesday, February 21, 10:00 a.m. to noon, Room 1107, Department of State, 2201 "C" Street, N.W., Washington, D.C.

The purpose of ITAC is to advise the Department on policy, technical and operations matters and to provide strategic planning recommendations, with respect to international telecommunications and information issues. To assist in preparations for related international meetings, the Department has established an ITAC Ad Hoc group to deal with preparations for upcoming RDCs of the ITU. Such conferences are now scheduled for the ITU Africa Region in Abidjan, Cote d'Ivoire, 6–10 May; and for the ITU middle East Region in Beirut, Lebanon, November 11–15.

The agenda for the meeting will cover how the U.S. will organize its preparations to address the three broad themes of the RDC: (1) Policies and Strategies; (2) Development of Networks; and (3) Financing. Questions regarding the agenda or Ad Hoc activities in general may be directed to Doreen McGirr, Department of State, at 202–647–5231.

Members of the general public may attend the meetings and join in the discussions, subject to the instructions of the chair. In this regard, entry to the building is controlled. If you wish to attend, please send a fax to 202–647–5957 not later than 2 days before the scheduled meting. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the "C" Street Main Lobby.

Dated: February 5, 1996.

Richard E. Shrum,

ITAC Executive Director.

[FR Doc. 96–2737 Filed 2–6–96; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Public Meeting on Launch Requirements and Future Space Transportation Needs for Low Earth Orbit Market Demands

Notice is hereby given that the Office of the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (DOT) formerly the Office of Commercial Space Transportation (60 FR 62762, December 7, 1995), will convene a public meeting in order to collect information from interested parties that would assist in defining launch requirements and in projecting future space transportation needs to support Low Earth Orbit (LEO) market demands. The meeting will be held on February 20, 1996 at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, D.C., Room 4436 from 9:00 a.m. until 12:30 p.m.

The data and information gathered as a result of this meeting will be used to update prior studies of the LEO market that the Office released initially in March 1994 and updated in May 1995. Both the March 1994 release and the May 1995 update were completed on the basis of information collected at a public meeting on February 10, 1994, through written submittals to the Office and Office research. As before, the Office is undertaking the assessment in support of DOT's participation in various interagency working groups on space transportation and the efforts by the Office of the United States Trade Representative (USTR) to negotiate and monitor compliance with commercial space launch trade agreements between the U.S. and various countries with economies in transition offering commercial space launch services.

Specifically, the Office is interested in obtaining projections of the number of LEO payloads that will be launched between the years 1996–2005, as well as assessments of the types of services that may result from LEO satellites and their applications (e.g., remote sensing, mobile communications). The Office is also interested in obtaining short- and long-range projections of the potential revenues that may be generated by these

space-based systems. For purposes of this study, LEO should be considered to include Medium Earth Orbit (MEO) requirements as well (e.g., proposed communications satellite constellations in MEO).

In addition to the public meeting, written submissions may be provided by any interested party. Submissions designated as proprietary will be treated confidentially. Written submission should be provided as soon as possible, but no later than noon on February 27, 1996, to the Office of the Associate Administrator for Commercial Space Transportation, Room 5415, 400 Seventh Street, SW., Washington, DC 20590 or by fax to (202) 366–7256. Additional information may be obtained by contacting Patti Grace Smith at (202) 366–8960 or Richard W. Scott, Jr. at (202) 366–2936.

Dated: January 29, 1996.

Frank C. Weaver,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 96–2501 Filed 2–6–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., RTCA Special Committee 188; Minimum Aviation System Performance Standards for High Frequency Data Link (HFDL); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for an RTCA Special Committee 188 meeting to be held March 12–15, 1996, starting at 9:30 a.m. on March 12. (On subsequent days, meeting begins at 9:00 a.m.) (March 12 will address the Opening Plenary and Working Group 1 MASPS; March 13 will continue Working Group 1 discussion; March 14 will address Working Group 2 MOPS; and March 15 will continue Working Group 2 and the Closing Plenary. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Presentations; (4) Adjourn to Working Group Sessions; (5) Reconvene in Plenary; (6) Reports from Working Groups 1 and 2: (7) Other Business; (8) Set Agenda for Next Meeting; (9) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 1, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–2630 Filed 2–6–96; 8:45 am]

BILLING CODE 4810–13–M

Maritime Administration

[Docket S–931]

Mormac Marine Transport, Inc.; Notice of Application for Payment of Unused Operating-Differential Subsidy

On December 22, 1993, the Maritime Administrator permitted Mormac Marine Transport, Inc. (Mormac) to separate its Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB–295 into three distinct contracts. Mormac would operate the MORMACSTAR under Contract MA/MSB–295(a), with a termination date of December 9, 1995; the MORMACSUN under Contract MA/MSB–295(b), with a termination date of June 22, 1996; and the MORMACSKY under Contract MA/MSB–295(c), with a termination date of January 31, 1997.

Mormac is currently requesting extension or renewal of Contract MA/MSB–295(a), which terminated on December 9, 1995, and Contract MA/MSB–295(b), which terminates on June 22, 1996, to permit the use of unused subsidy days through the termination of Contract MA/MSB–295(c) on January 31, 1997.

Mormac advises that it has more than 2,842 days of unused subsidy on Contracts MA/MSB–295(a), 295(b), and 295(c), which accrued prior to the termination of Contract MA/MSB–295(a) on December 9, 1995.

Mormac states that on September 14, 1995, the Maritime Subsidy Board approved Mormac's request to extend the subsidizable life of the MORMACSTAR and MORMACSUN to January 31, 1997, the termination date of MA/MSB–295(c) on the MORMACSKY. Mormac advises that approving its request to use unused subsidy days through this date would permit Mormac to receive the full benefit of subsidy for the entire subsidizable life of the vessels.

Mormac also states that extending the terms of the ODSAs to permit the use of unsubsidized days would permit continued operation of U.S.-flag vessels in the foreign trade and continued employment of U.S. seafarers. According to Mormac, the extension of the ODSAs is therefore consistent with the purposes and policies of the Merchant Marine Act, 1936, as amended.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street SW., Washington D.C. 20590. Comments must be received no later than 5:00 p.m. on February 21, 1996. The Maritime Subsidy Board will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 2.804 Operating-Differential Subsidies)

Dated: February 1, 1996.

By Order of the Maritime Subsidy Board.

Joel C. Richard,

Secretary.

[FR Doc. 96–2586 Filed 2–6–96; 8:45 am]

BILLING CODE 4910–81–P

Surface Transportation Board [1]

[Docket No. AB–432X]

Delaware-Lackawanna Railroad Company, Inc.; Discontinuance Exemption; in Luzerne and Lackawanna Counties, PA

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The discontinuance of trackage rights over certain lines in Luzerne and Lackawanna Counties, PA, by Delaware-Lackawanna Railroad Company, Inc., is exempted from the

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

prior approval requirements of 49 U.S.C. 10903–04, subject to standard employee protective conditions. The lines are as follows: (1) The Dunmore Secondary Track, between milepost 6.5, at Avoca, and milepost 8.6, at Rocky Glen, a distance of 2.1 miles; (2) the Avoca Industrial Track, between milepost 1.8, at No. 7 Junction, and milepost 6.5 at Avoca, a distance of 4.7 miles, including the connection with the track of Consolidated Rail Corporation between "LB" Junction and the switch of the Dunmore Secondary Track, a distance of 0.123 miles, and the Langcliff Connecting Track, between milepost 0.0, at Duryea, and the connection with Delaware & Hudson Railway Company (D&H) in the middle of York Avenue, at milepost 0.867, a distance of 0.867 miles; (3) the West Pittston Running Track, between milepost 0.0, at West Pittston, and milepost 3.0, at Harding, a distance of 3.0 miles, and between milepost 186.4, at West Pittston, and milepost 194.4, in Kingston, a distance of 0.2 miles; (4) the Suscon Running Track, between milepost 154.5, at Suscon, and milepost 156.6, at Suscon, a distance of 2.1 miles; (5) the Wilkes-Barre Secondary, between milepost 169.2, at Ashley, and milepost 185.5, at Pittston, a distance of 16.3 miles; (6) the Nanticoke Industrial Track, between milepost 0.0, at Ashley, and milepost 2.6, at Central Scrap, a distance of 2.6 miles; (7) the Harry E. Breaker Spur, between milepost 0.1, at Maltby Junction, and milepost 0.5, a distance of 0.4 miles; (8) the APC line, between milepost 0.0 and milepost 0.6 in Wilkes-Barre, a distance of 0.6 miles; (9) the Brownsville Industrial Track, between milepost 0.0, at Hillside, and milepost 1.0, at Brownsville, a distance of 1.0 miles; (10) the Wilkes-Barre Industrial Track, between milepost 59.9, at Ferry Street, and milepost 62.9, at Wilkes-Barre, a distance of 3.0 miles; (11) the Pettibone Branch, between milepost 0.0 and milepost 0.759, at Dorranceton, a distance of 0.759 miles; (12) the Kingston Industrial Track, between milepost 142.7, at Pittston Junction, and Railroad Station 8594+58, a distance of 8.1 miles; (13) the D&H Wilkes-Barre Connector, from milepost A–208.08, Hudson Yard to Conyngham Avenue, City of Wilkes-Barre, a distance of about 2.5 miles; (14) the Hanover Industrial Track, between milepost 0.0, at Ashley, and milepost 0.5, at Hanover Industrial Park, a distance of 0.5 miles; and (15) the Suscon Industrial Track, between milepost 154.5, at Suscon, and milepost 158.7 at Hillside, a distance of 4.2 miles.

DATES: This exemption will be effective on March 8, 1996 unless stayed and provided no formal expression of intent to file an offer of financial assistance has been received. Formal expressions of intent to file an offer [2] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by February 19, 1996, petitions for stay must be filed by February 22, 1996, and petitions to reopen must be filed by March 4, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB–432X to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioner's representative: Kevin M. Sheys, Oppenheimer Wolff & Donnelly, 1020 Nineteenth Street, N.W., Suite 400, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., 1201 Constitution Avenue, N.W., Room 2229, Washington, D.C. 20423. Telephone (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: January 23, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Board Member Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2627 Filed 2–6–96; 8:45 am]

BILLING CODE 4915–00–P

[Docket No. AB–398 (Sub-No. 2X)]

San Joaquin Valley Railroad Company; Abandonment Exemption; Kings County, CA

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The abandonment by San Joaquin Valley Railroad Company of 8.25 miles of rail line extending between milepost 263.44 at Rossi and the end of the line at milepost 271.69 at Stratford, in Kings County, CA, is exempted from the prior approval requirements of 49 U.S.C. 10903–04, subject to environmental and standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 8, 1996. Formal expressions of intent to file an offer [2] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by February 19, 1996; petitions to stay must be filed by February 19, 1996; and petitions to reopen must be filed by February 27, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB–398 (Sub-No. 2X) to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423, and (2) Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: January 11, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Board Member Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2628 Filed 2–6–96; 8:45 am]

BILLING CODE 4915–00–P

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[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

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federal register

Wednesday
February 7, 1996

Part II

Department of the Interior
Fish and Wildlife Service

Department of Commerce
National Oceanic and Atmospheric Administration

50 CFR Part 424

Proposed Policy on the Treatment of Intercrosses and Intercross Progeny (the Issue of "Hybridization"); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

RIN 1018–AC54

Endangered and Threatened Wildlife and Plants; Proposed Policy and Proposed Rule on the Treatment of Intercrosses and Intercross Progeny (the Issue of "Hybridization"); Request for Public Comment

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service and the National Marine Fisheries Service (Services) propose a policy that will include, within the scope of a listing for a specific taxon, "hybrid" individuals that more closely resemble a parent belonging to a listed species than they resemble individuals intermediate between their listed and unlisted parents. The Services propose to add to their joint regulations the terms "intercross" and "intercross progeny" and indicate the inclusion of intercross individuals within the original listing action for the parent entity.

The proposed policy is intended to allow the Services to aid in the recovery of listed species by protecting and conserving intercross progeny, eliminating intercross progeny if their presence interferes with conservation efforts for a listed species, and fostering intercrossing when this would preserve remaining genetic material of a listed species. The proposed policy would only sanction these actions where recommended in an approved recovery plan, supported in an approved genetics management plan (which may or may not be part of an approved recovery plan), implemented in a scientifically controlled and approved manner, and undertaken to compensate for a loss of genetic viability in listed taxa that have been genetically isolated in the wild as a result of human activity. Nothing in this regulation would excuse compliance with section 10 of the Endangered Species Act.

DATES: Comments on this proposal must be received by April 8, 1996 in order to be considered in the final decision on this proposal.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Chief, Division of Endangered Species, Mail Stop 452, Arlington Square, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Comments and materials received will be available for public inspection, by appointment, during normal business hours in Room 452, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Jamie Rappaport Clark, Chief, Division of Endangered Species, at the above Washington, D.C. address, (703/358–2106).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires the Services to identify, protect, manage, and recover species of plants and animals in danger of extinction. To carry out this responsibility, the Services are required to rely on the best available scientific and commercial information and to develop sound policies to use that information in conserving endangered and threatened species and the ecosystems on which they depend. By implication, the Act also promotes protection of the genetic resources of those species.

Under the definition of "species" found in the Act, the Services can apply the protections of the Act to any species or subspecies of fish or wildlife or plants, or any distinct population segment of any species of vertebrate fish or wildlife that meets the definition of endangered or threatened. The Act does not attempt to define "species" in biological terms, and thus allows the term to be applied according to the best current biological knowledge and understanding of evolution, speciation, and genetics. While the Act does not specifically address reproductive isolation, the inclusion of subspecies and vertebrate population segments in its definition indicated that isolation is not considered absolutely essential for listing; however, it does not rule out using reproductive isolation as a consideration for listing. In the following discussion, the term "species," unless qualified as indicating taxonomic species, is used in the sense of the Act to include species, subspecies, and distinct population segments of vertebrates within a taxonomic species.

Advances in scientific methodology have altered some traditional concepts of taxonomic species and hybridization. Molecular genetic studies (e.g., DNA analysis and protein electrophoresis) on both listed and unlisted plants and animals indicate that matings and genetic exchange between related taxonomic species may be more common events than previously believed.

Examples of introgression (the transfer of genetic material from one taxonomic species to another, and its spread among individuals of the second species) are found throughout the plant and animal kingdoms. In some cases, mating with other species and the resulting introgression have apparently been facilitated by a decline in the availability of conspecific mates. Given the low densities of many populations of rare threatened and endangered species, such introgression may be experienced by some listed species.

As a result of this information, the list of species that may contain genetic material traceable to other entities is growing. Consequently, questions have been raised as to how the Services can best deal with individual organisms and entire entities that may contain various levels of "foreign" genetic material.

Previous Service Position. The previous Fish and Wildlife Service position, based upon interpretations in a series of opinions by the U.S. Department of the Interior, Office of the Solicitor, tended to discourage conservation efforts under the authorities of the Act for "hybrids" between taxonomic species or subspecies and the progeny produced by such matings. However, advances in biological understanding discussed earlier prompted the withdrawal of those opinions on December 14, 1990. The reasons for this action are summarized in two sentences in that withdrawal memorandum (Memorandum from Assistant Solicitor for Fish and Wildlife, U.S. Department of the Interior, to Director, U.S. Fish and Wildlife Service, dated December 14, 1990)—"New scientific information concerning genetic introgression has convinced us that the rigid standards set out in those previous opinions should be revisited. In our view, the issue of 'hybrids' is more properly a biological issue than a legal one." This notice contains a proposed policy intended to replace previous positions held by the Services.

Intercross and Intercross Progeny Defined. Due to connotations attached to the various terms that are in general use for matings across taxonomic boundaries and for their products (e.g., cross, hybrid, intergrade, and interbreed), the Services propose to use the neutral term "intercross" for all crosses between individuals of different

species (taxonomic species, subspecies, and distinct population segments of vertebrates). (The use of the term "intercross" was proposed by Dr. John C. Avise at the May 29–30, 1991, meeting of the Captive Breeding Specialist Group, Species Survival Commission, International Union for the Conservation of Nature and Natural Resources.) The phrase "intercross progeny" will be used for descendants of intercross events.

The degree of genetic mixing possible from intercrosses spans a broad continuum. At one extreme are cases in which a small number of individuals of a species display evidence of introgression. Genetic material originating from another entity may remain as evidence of long past and/or infrequent matings with that other entity but may have little or no effect on the morphology and behavior of the organism. At the other extreme are individuals that exhibit morphology that is intermediate between that of the parent types, nuclear DNA showing strong affinities with both parent types, some degree of functional sterility, and/or an inability to "breed true." Somewhere along this continuum there may be individuals that possess DNA from past intercrosses but in most other ways are representative of a single parental stock.

The Services have identified threatened and endangered species that appear to fall at various points along this continuum. Some listed species have been found to contain individuals that appear to be products of introgression; they appear to harbor mitochondrial DNA resulting from introgression, yet there is no morphological or behavioral evidence that introgression has occurred. An apparent example of this condition is the eastern U.S. population of the gray wolf. At the other extreme, the Services have recognized cases in which mixing has reached a point where the species intended for conservation under the Act no longer exists; remaining genetic material is irretrievably mixed with that of another species (e.g., the Amistad gambusia (*Gambusia amistadensis*), which was removed from the list of endangered species in 1987).

While evidence such as similarities in mitochondrial DNA among several entities generally supports findings of introgression, such data may also be explained by alternate hypotheses. One hypothesis that is particularly difficult to rule out involves the retention of common genetic markers from common ancestral stock. Some techniques used to examine mitochondrial DNA are based on comparisons of fragment lengths of DNA obtained from mitochondria. Differences or similarities in fragment lengths do not necessarily reflect differences or similarities in the genetic codes contained in the fragments.

As molecular genetic methodology advances, it is anticipated that evidence of low levels of introgression and genetic mixing will be commonly found among a variety of organisms. In some cases, all individuals of a species may be found to display low levels of introgression, yet are able to "breed true." The Services find no compelling reason to abandon recovery efforts for recognized species (those whose members morphologically, ecologically, and behaviorally bear close resemblance to one another) due solely to evidence of low-level present or past introgression, even if apparent introgression appears to be geographically widespread.

Populations of plants and animals that are very small, or have gone through a past episode of small population size, may have lost much of their previous genetic variability. In extreme cases, which might be exemplified by the mainland population of the Torrey pine (*Pinus torreyana*) and the cheetah (*Acinonyx jubatus*), population genetic analyses seem to indicate that there is little genetic variation in the remaining population. When genetic variability falls to low levels a species may suffer from a diminished capability to respond to environmental changes and the increased potential for the adverse effects of inbreeding depression (e.g., decreased fertility and/or mating, reduced numbers and survival of offspring). These effects may be catastrophic for a threatened or endangered species, and actions may be necessary to increase genetic variability before the population suffers an irreversible decline.

Proposed Policy for Intercross Progeny. Where intercross progeny are produced as a result of a cross between an individual of a listed taxon and an individual of a taxon that is not listed, the Services believe the responsibility to conserve endangered and threatened species under the Act extends to those intercross progeny if (1) the progeny share the traits that characterize the taxon of the listed parent, and (2) the progeny more closely resemble the listed parent's taxon than an entity intermediate between it and the other known or suspected non-listed parental stock. The best biological information available, including morphometric, ecological, behavioral, genetic, phylogenetic, and/or biochemical data, can be used in this determination.

This policy will not prohibit the Services from removing intercross progeny from the wild if it is determined that those individuals must be removed to enhance the survival or recovery of the listed species. The action may be authorized under 50 CFR 17.22, 17.32, 17.62, or 17.72, or the protection of the Act may be removed by a special rule adopted under section 4(d) of the Act for threatened species.

Intercrosses between subspecies of the same taxonomic species, or between members of different vertebrate populations of the same taxonomic species or subspecies, are a common, natural, and expected occurrence in nature wherever ranges are adjacent or overlap. As with other intercrosses, the Services will treat the resulting progeny as members of the listed subspecies or population if they share the characteristic traits of that entity. This determination will be based upon the best biological information available.

Species of Hybrid Origin. Some taxonomic species have originated through the intercrossing of two or more other taxonomic species, but have since become stable and self-sustaining biological units. This process of speciation by hybridization is well documented among plants and also is known among fishes, amphibians, and reptiles. Species that are believed to be of hybrid origin would retain or maintain eligibility for threatened or endangered status if they have developed outside of confinement, are self-sustaining, naturally occurring taxonomic species, and meet the criteria for threatened or endangered species under the Act.

Intercross Progeny Produced in Captivity. Unnatural conditions of confinement or confining environments resulting from human activities may produce behavioral and other anomalies that lead to intercrosses that rarely, if ever, occur under "natural" conditions. Resulting intercross progeny are unlikely to benefit the conservation of their listed parent's taxon, and the Services would not generally consider such progeny to be members of a species protected under the Act. However, this proposed policy would extend protection under the Act to intercross progeny produced in captivity, with or without introduction to the wild, where the action is (1) recommended by an approved recovery plan, (2) supported in an approved genetics management plan (which may or may not be part of an approved recovery plan), (3) implemented in a scientifically controlled and approved manner, and

(4) undertaken to compensate for a loss of genetic viability in listed taxa that have been genetically isolated in the wild as a result of human activity. Protection under the Act may apply to the individuals while they are in confinement, after their release to the wild, or during both periods.

Goals of the Proposed Policy. The primary goal of this proposed policy is to provide the Services with the necessary flexibility to deal with diverse intercross situations to allow for the protection and conservation of intercross progeny at the level of taxonomic species, subspecies, and vertebrate populations. A second goal is to give the Services the ability to eliminate intercross progeny if their presence interferes with conservation efforts for a listed species. Alternately, it gives the Services the option to foster intercrossing where required for conservation. Because an action that would eliminate or introduce genetic material from or to a listed species must be an informed decision by experts, the Services will adopt the strongest administrative controls over such actions. Prior to implementing any action to introduce genetic material, it must be (1) recommended in an approved recovery plan, (2) supported in an approved genetics management plan (which may or may not be part of an approved recovery plan), and (3) undertaken to compensate for a loss of genetic viability in listed taxa that have been genetically isolated in the wild as a result of human activity. Further, it must be implemented in a scientifically controlled and approved manner.

This proposed rule and policy would provide several conservation benefits to species currently listed as threatened or endangered. First, it would remove the necessity for the Services to devote substantial resources to studies to determine which listed species and individuals are genetically "pure." Such studies, if required, would need to be extensive; it is not presently possible to accurately predict which species and individuals have experienced introgression and to what extent. Furthermore, even if such studies were to be carried out, the interpretation of the resultant data might be ambiguous considering the limits of current technology and incomplete understanding of the mechanisms of speciation.

Second, this proposed policy would acknowledge the Services' authority to conduct conservation programs for species that meet the listing criteria of Section 4(a)(1) of the Act, even though limited introgression may have taken place.

Third, where determined to be advantageous to recovery and where addressed in an approved recovery plan, the proposed policy acknowledges the Services' ability to use intercrossing to introduce small amounts of new genetic material from a closely related entity into a listed species that is genetically depauperate. The progeny of such an intercross, if they share characteristic traits of the listed species and more closely resemble it than an entity intermediate between the parents, would be fully protected by the Act. Such drastic steps are expected to be taken only rarely, and it is not the intent of this proposed policy to generally encourage the transfer of genetic material from one species to another.

Fourth, by generally excluding (where neither recommended in an approved recovery plan nor meeting the other tests set forth in this proposed policy) captive-propagated intercross progeny from the protection of the Act, the Services retain the ability to readily remove from the wild any such organisms that have been released or have escaped. Such releases or escapes may threaten existing or future recovery efforts by introducing genetic material into a listed species in the absence of a comprehensive evaluation of the likely impacts.

This proposed policy is not expected to affect current listing policy, nor will it result in adding species to the list. Several species suspected or known to be of hybrid origin (predominantly plants) are currently on the endangered and threatened species list (e.g., Arizona agave (*Agove arizonica*) and Mohr's Barbara's buttons (*Marshallia mohrii*)), and protection under the Act of additional species of this nature will be consistent with this proposed policy. Such species have established themselves as self-sustaining, genetically and morphologically, stable units that continue to be recognized as taxonomic species by the scientific community. The proposed policy would not affect the Services' existing treatment of these and similar species.

Except as noted in the preceding paragraph, this proposed policy would not allow the protection of the Act to be extended to a "classical hybrid," that is, an intermediate organism AB that has received half its characteristics from an unlisted parent species A and half from a listed parent species B. The offspring AB does not sufficiently resemble B to warrant protection under the Act. However, all intercross (including backcross) progeny that more closely resemble B than they resemble AB would continue to be protected by the Act (consistent with past practice). However, where produced under conditions of captivity or confinement, such intercross progeny would be protected if the intercross was recommended in an approved recovery plan and satisfied other requirements set forth in this proposed policy.

The intentional intercrossing of species under confinement and the artificial transfer of genetic material from one taxonomic species into another (i.e., transgenics) are large and growing endeavors. This proposed policy would not include (would not protect) any individual organism resulting from these activities when they are performed under conditions that confine the progeny of the parents, even temporarily, unless the action is recommended in an approved recovery plan and satisfies other requirements set forth in this policy. The production and commercialization of hybrid organisms for the pet trade, falconry, horticulture, agriculture, and aquaculture or sport fishing purposes will not otherwise be affected by this proposed policy. Likewise, organisms resulting from genetic engineering experiments that use genetic material from listed species will not otherwise be covered by this proposed policy (although endangered species permits may be required to obtain the genetic material), unless such organisms are produced for the purpose of recovery of the listed species in accordance with an approved recovery plan. Private citizens or organizations that possess plants or animals of such origin would not normally be required to obtain additional Federal permits as a result of this proposed policy.

This proposed policy is intended to assist the Services in conserving endangered and threatened species and their unique genetic complements even if all individuals of a listed species have small amounts of genetic material from another species. However, this proposed policy is not intended to provide general support for, or preclude the establishment of, "ecologically equivalent forms" in habitats formerly occupied by threatened or endangered species. Ecologically equivalent forms are taxonomic species, subspecies, or populations that are used as replacements for extirpated or extinct species in order to maintain an apparently stable and complete plant and animal community.

Juvenile specimens of intercrosses of a listed species and an unlisted species may be indistinguishable from the unlisted species using traditional field procedures. In such a case, it would be impossible under field conditions to properly classify the juvenile stage of a possible intercross. For this reason, all individuals that resemble a protected species should be protected until they have reached a life stage at which they can be distinguished from the listed species. The law enforcement implications of this policy are that because of similarity of appearance, taking of these individuals would be prohibited since they cannot be readily distinguished in the field from a listed species.

Public Comments Solicited

The Services intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited.

Regulatory Flexibility Act and Executive Order 12866

The Department of the Interior has determined that the proposed revisions to part 424 will not constitute a significant rule under Executive Order 12866 and certify that these changes will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Based on the information discussed in this proposed rule, it is not expected that significant economic impacts would result. Also, no direct costs, enforcement costs, information collection, or record keeping requirements are imposed on small entities by this proposed rule. Further, the proposed rule contains no information collection or record-keeping requirements as defined by the Paperwork Reduction Act of 1995.

National Environmental Policy Act of 1969 (NEPA)

The Services believe that this action may be categorically excluded under the Services' NEPA procedures. (See 516 DM 2 Appendix I Categorical Exclusion 1.10.) After further review, the Services will decide whether an Environmental Assessment must be prepared.

Editors: The editors of this proposal are William Kramer of the Fish and Wildlife Service's Division of Endangered Species, 452 ARLSQ, Washington, D.C. 20240 (703/358–2106); and Marta Nammack, Endangered Species Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Maryland 20910 (301/713–2322).

List of Subjects in 50 CFR Part 424

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, the Services hereby propose to amend part 424, subchapter A of chapter IV, title 50 of the Code of Federal Regulations, as set forth below:

PART 424—[AMENDED]

1. The authority citation for part 424 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed that § 424.02 be amended by redesignating paragraphs (f) through (n) as paragraphs (h) through (p) respectively, and adding new paragraphs (f) and (g) to read as follows:

§ 424.02. Definitions.

* * * * *

(f) *Intercross* means any mating, fertilization, or other means of exchange of genetic material between different species, subspecies, or distinct vertebrate population segments within a taxonomic species.

(g) *Intercross progeny* means any and all offspring and descendants that are the product of an intercross.

* * * * *

3. It is proposed that a new § 424.03 be added to subpart A to read as follows:

§ 424.03 Intercross and intercross progeny.

(a) Unless specified otherwise and indicated by an annotation in the "Scientific name" column, any species listed as endangered or threatened pursuant to the Act will include all individuals that, considering the sum of available morphological, behavioral, ecological, biochemical, genetic, and other relevant data, more closely resemble such listed species than they resemble an intermediate between their listed and unlisted parents.

(b) Individuals that are the products of intercrosses that occurred under conditions of confinement will be excepted from the inclusion in paragraph (a) of this section unless such production is:

(1) Recommended in an approved recovery plan for a listed parent species;

(2) Supported in an approved genetics management plan (which may or may not be part of an approved recovery plan);

(3) Implemented in a scientifically controlled and approved manner; and

(4) Undertaken to compensate for a loss of genetic viability in listed taxa that have been genetically isolated in the wild as a result of human activity.

Dated: February 1, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.

Dated: February 2, 1996.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–2640 Filed 2–6–96; 8:45 am]

BILLING CODE 4310–55–P

federal register

Wednesday
February 7, 1996

Part III

Department of the Interior
Fish and Wildlife Service

Department of Commerce
National Oceanic and Atmospheric Administration

Draft Policy Regarding Controlled Propagation of Species Listed Under the Endangered Species Act; Request for Public Comment; Notice

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Draft Policy Regarding Controlled Propagation of Species Listed Under the Endangered Species Act; Request for Public Comment

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

ACTION: Draft policy; request for public comments.

SUMMARY: The Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), referred to jointly as the "Services", propose to issue policy that will address the role of controlled propagation in the conservation and recovery of species listed as endangered or threatened under the Endangered Species Act of 1973 (as amended) (16 U.S.C. 1531 *et seq.*) (ESA). The proposed policy is intended to assist the Services by providing guidance and establishing consistency with respect to activities in which the controlled propagation of a listed species may be implemented as a component of a species' recovery strategy, ensuring smooth transitions between various phases of species conservation efforts within both agencies, and ensuring prudent and effective use of limited funding resources. The proposed policy sanctions the controlled propagation of listed species when recommended in an approved recovery plan and supported by an approved genetics management plan. Controlled propagation may also be approved by FWS's Regional Directors, or, in the case of the NMFS, by the Assistant Administrator as necessary, to conduct recovery related research, to maintain refugia populations, and to rescue species or population segments at risk of imminent extinction or extirpation in order to prevent the loss of essential genetic viability.

DATES: Comments on this proposed policy must be received by April 8, 1996, in order to be considered in the final decision on this proposal.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 452, Arlington, Virginia 22203 (telephone 703/358–2171). Comments and materials received will be available for public inspection, by appointment, during normal business hours in Room 452, 4401 North Fairfax Drive, Arlington, Virginia 22203 (703/358–2105).

FOR FURTHER INFORMATION CONTACT: LaVerne Smith, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service at the above address (703/358–2171), or Russell Bellmer, Chief, Endangered Species Division, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, Maryland 20910 (telephone 301/713–2322).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), specifically charges the Services with the responsibility for identification, protection, management, and recovery of species of plants and animals in danger of extinction. By implication, the ESA also promotes the protection and conservation of the genetic resources that these species represent and recognizes that the long-term viability of species depends on maintaining genetic variability within the biological species which is defined in the ESA as including "any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature" (section 3(16)). Though the ESA emphasizes the restoration of listed species in their natural habitats, section 3(3) of the ESA specifically recognizes propagation as a tool available to the Services to meet their recovery responsibilities. To meet their goals of restoring endangered and threatened animals and plants, the Services are obligated to develop sound policies based on the best available scientific and commercial information. To achieve this goal the Services are soliciting review and comments from the public on the Draft Interagency Cooperative Policy for Controlled Propagation of Species Listed Under the Endangered Species Act of 1973 (as amended).

Draft Policy Statement

A. Purpose

The purpose of this policy is: (1) To provide guidance and establish consistency with respect to U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) activities in which the controlled propagation of a listed species, as defined in section 3(16) of the Endangered Species Act, is implemented as a component of a species' recovery strategy; (2) to ensure smooth transitions between various phases of species conservation efforts (e.g., propagation, introduction, and monitoring) within both agencies (hereafter referred to as Services when addressed jointly); and (3) to ensure prudent use of limited funding resources.

The purposes of controlled propagation under this policy include:

—Avoiding listed species, subspecies, or population extinction;
—Providing, when feasible, unlisted animals or plants as surrogates for recovery oriented scientific research including, but not restricted to, developing propagation methods and technology, and other actions which are expected to result in a net benefit to the listed species;
—Maintaining genetic vigor, diversity, bloodlines, and an appropriate mix of sexes and ages;
—Maintaining refugia populations for nearly extinct animals or plants on a temporary basis until threats to a listed species' habitat are alleviated, or necessary habitat modifications are completed, or when potentially catastrophic events occur (e.g., chemical spills, severe storms, fires, etc.);
—Providing individuals for establishment of new, self-sustaining populations necessary for recovery of the listed species;
—Supplementing or enhancing extant populations to facilitate recovery of the listed species;
—Holding offspring for a substantial portion of their development or through a significant or critical life-stage which cannot be supported in the wild.

B. Scope

This policy applies to all pertinent organizational elements of the Services notwithstanding those differences in administrative procedures and policies as noted. This policy pertains to all efforts funded, authorized, or carried out by the Services that are conducted to propagate threatened or endangered species by:

—Establishing or maintaining refugia populations;
—Producing individuals for research or technology development;
—Producing individuals for the supplementation of extant populations; and,
—Producing individuals for reintroduction to historical habitat.

C. Background

The controlled propagation of animals and plants is recognized in certain situations as an essential tool for the conservation and recovery of listed species. The Services have used controlled propagation to support the recovery of listed species and successfully return them to suitable habitat. The NMFS, as lead Service for the recovery of Pacific salmon, has developed an interim policy addressing controlled propagation of these species. This policy was published in the **Federal Register** on April 5, 1993 (58 FR 17573).

Though controlled propagation has a supportive role in the recovery of some listed species, the Endangered Species Act clearly states that its intent is "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved." Therefore, the mandate of the Services is to recover wild populations in situ whenever possible.

The Services recognize that there are a number of genetic and ecological risks which may be associated with the controlled propagation and release of animals and plants. When considering controlled propagation as a recovery option for a listed species, an assessment of the potential benefits and risks must be undertaken and reasonable alternatives requiring less intervention objectively evaluated. If controlled propagation is to be used as a strategy in the recovery of a listed species, it must be conducted in a manner that will minimize risks to existing populations (if any), and preserve the genetic and ecological distinctiveness of the listed species. However, controlled propagation is not a substitute for addressing factors responsible for an endangered or threatened species' decline.

Controlled propagation can pose a number of genetic and ecological risks to listed species. Specific risks which must be addressed in the planning of controlled propagation programs include the following:

—Removal of natural broodstock that may result in an increased risk of extinction by reducing the abundance of wild individuals and reducing genetic variability within naturally occurring populations;
—Equipment failures, human error, disease, and other potential catastrophic events that may cause the loss of some or all of the population being held or maintained in captivity;
—The potential for an increased level of inbreeding or other adverse genetic effects within populations that may result from the enhancement of only a portion of the gene pool;
—Potential erosion of genetic differences between populations as a result of mixed stock transfers or supplementation; and,
—Exposure to novel selection regimes in controlled environments that may diminish a listed species' natural capacity to survive and reproduce in the wild.

Potential genetic and ecological risks are also associated with introductions of captively-reared individuals to naturally occurring populations. Possible impacts may include:

—Genetic introgression which may diminish local adaptations of the naturally occurring population;
—Increased predation, competition for food, space, mates, or other factors which may displace naturally occurring individuals, or interfere with foraging, migratory, reproductive, or other essential behaviors; and,
—Disease transfer.

An additional risk specific to naturally occurring populations of some listed species is incidental take through commercial and recreational harvest. This is particularly true when listed species occur with unlisted target species. It is therefore essential that controlled propagation programs for listed species recovery be coordinated in a manner that minimizes potentially adverse impacts to existing wild populations of listed species, and that controlled propagation programs be conducted by the Services in a manner that avoids additional listing actions.

D. Definitions

The following definitions apply:

Controlled Environment

A controlled environment is one specifically manipulated by humans for the purpose of producing or rearing progeny of the species in question, and of a design intended to prevent unplanned escape or entry of plants, animals, or reproductive products.

Intercross and Intercross Progeny

The term "intercross" is applicable to all crosses between individuals of different species, subspecies, or populations. The following description is excerpted from the Services' proposed Policy on the Treatment of Intercrosses, Intercross Progeny to Include Hybrids, and Proposed Definitions.

The degree of genetic mixing possible from intercrosses spans a broad continuum. At one extreme are cases in which a small number of individuals of a species display evidence of introgression. Genetic material originating from another entity may remain as evidence of long past and/or infrequent matings with that other entity but may have little or no effect on the morphology and behavior of the organism. At the other extreme are individuals that exhibit morphology that is intermediate between that of the parent types, nuclear DNA showing strong affinities with both parent types, some degree of functional sterility, and/or an inability to "breed true." Somewhere along this continuum there may be individuals that possess DNA from past intercrosses but in most other ways are representative of a single parental stock.

Controlled Propagation

The mating, transfer of gametes or embryos, development of offspring, and grow-out of animals, if reproduction is sexual, or other development of offspring, including grow-out if reproduction is asexual, when intentionally confined or directly intended by human intervention.

—Propagation of plants by humans from seeds, spores, callus tissue, divisions, cuttings or other plant tissue in a controlled environment or when intentionally confined.
—Defined in the context of this policy, controlled propagation refers to the production of individuals, generally within a managed environment for the purpose of future supplementation or augmentation of an extant population(s), or reintroduction to the wild (with the exception of the establishment of an experimental population, which is excluded from this policy).

Rescue/Salvage

Refers to extreme conditions wherein a species or population segment at risk of extinction is brought into a controlled environment (e.g., refugia) on a temporary or permanent basis as dictated by the situation.

Recovery Priority System

The system whereby the Services assign priorities to listed species and to recovery tasks. Recovery priority is based on the degree of threat, recovery potential, taxonomic distinctness, and presence of an actual or imminent conflict between the species' conservation and development or other economic activities. (48 FR 43098, Endangered and Threatened Species Listing and Recovery Priority Guidelines, September 21, 1983.)

E. Policy

This policy is intended to address primarily those activities involving gamete transfer and subsequent development and grow-out of offspring in laboratory, botanical facility, zoo, hatchery, aquaria, or similarly controlled environments. This policy also encompasses activities related to or preceding controlled propagation activities such as:

—Obtaining and rearing offspring for research;
—Procuring broodstock for future controlled propagation and supplementation efforts; or,
—Holding offspring for a substantial portion of their development or through a significant or critical life-stage which cannot be supported in the wild.

This policy is not intended to address temporary removal and holding of individuals unless such actions intentionally involve reproduction in the interim, or are the result of an action deemed necessary to the survival of the listed species or a specific population (such circumstances are addressed under rescue and/or salvage). This policy is not intended to address short-term holding or captive rearing of individuals obtained for later reintroduction, supplementation, or translocation efforts when controlled propagation does not take place or is not intended during the period of captive maintenance. Actions involving cryopreservation or other preservation of biological materials, if not intended for subsequent use in the controlled propagation of listed species, are exempt from this policy.

Among the goals of this policy common to both Services are coordinating recovery actions specific to controlled propagation activities; maximizing benefits to the listed species from controlled propagation efforts; assuring that appropriate recovery measures other than controlled propagation are fully considered and that other existing recovery priorities within Service regions and nationwide are considered in decisions concerning the implementation or conduct of controlled propagation activities; and, ensuring prudent use of limited funds.

It is the policy of the Services that the controlled propagation of threatened and endangered species:

1. Will be used as a recovery strategy only when other measures employed to maintain or improve a listed species' status in the wild have failed, are determined to be likely to fail, are shown to be ineffective in overcoming extant factors limiting recovery, or would be insufficient to ensure/achieve full recovery. Every effort should be made to accomplish conservation measures that enable a listed species to recover in the wild, with or without intervention (e.g., translocation), prior to implementing controlled propagation for reintroduction or supplementation.

Controlled propagation programs must be coordinated with conservation actions and other recovery measures, as appropriate or specified in recovery plans, that will contribute to, or otherwise support, the provision of secure and suitable habitat. Specifically, controlled propagation programs intended for reintroduction or supplementation (as opposed to the support of research and technology development) must be coordinated with habitat management, restoration, and other species' recovery efforts. Controlled propagation programs and habitat conservation actions will be reviewed by the appropriate Service at least annually, to insure that the efforts of the parties involved in the recovery of the listed species maintain adequate integration and coordination.

2. Will be based on the specific recommendations of recovery strategies identified through approved recovery plans. The recovery plan, in addressing controlled propagation, should clearly identify the necessity and role of this activity as a recovery strategy; the lead agency responsible for a particular controlled propagation effort including the role of FWS or NMFS facilities, personnel, and resources, or those of non-Service cooperators as appropriate (e.g., Center for Plant Conservation (CPC), American Association of Zoological Parks and Aquaria (AZA); and, the estimated cost and duration of controlled propagation efforts.

3. Will specifically consider the potential ecological and genetic effects on wild populations of the removal of individuals for controlled propagation purposes and the potential effects of such introductions on the receiving population and other resident species [risk assessment] (e.g., Endangered Species Act—section 7, Endangered Species Act section 10, NEPA).

4. Will be based on sound scientific principles to conserve genetic variation and species integrity. Intercrossing will not be considered for use in controlled propagation programs unless (1) recommended by an approved recovery plan, (2) supported in an approved genetic management plan (which may or may not be part of an approved recovery plan), (3) implemented in a scientifically controlled and approved manner, and (4) undertaken to compensate for a loss of genetic viability in listed taxa that have been genetically isolated in the wild as a result of human activity. Use of intercross individuals for species conservation will require Director's/Assistant Administrator's approval.

5. Will be preceded by the development of a genetics management plan based on accepted scientific principles and procedures. This plan will: Include all necessary consultations and permits; use or be comparable to existing standards (e.g., AZA Species Survival Program studbooks and protocols for animals, or CPC guidelines for plant species); insure that the genetic makeup of propagated individuals is similar to that of free-ranging populations and that propagated individuals are behaviorally and physiologically suitable for release [1] and, specifically address the issue of disposal of individuals found to be:

(a) Unfit for introduction to the wild
(b) Unfit to serve as broodstock
(c) Surplus to the needs of research; [2] or
(d) surplus to the recovery needs for the species (e.g., to preclude genetic and ecological swamping); [3]

Programs involving the controlled propagation of individuals of listed species for research purposes and not intended for reintroduction to the wild are exempt from the requirement to develop a genetics management plan. Examples of exempt actions include research involving the determination of germination rates in plants and spawning success rates in fishes and mussels.

6. Will be conducted in a manner that minimizes potential introduction or spread of diseases and parasites into controlled or suitable habitat.

7. Will be conducted in a manner that will prevent the escape or introduction of captive stock outside their historic range.

8. Will, when feasible, be conducted at more than one location in order to reduce the potential for catastrophic loss at a single facility.

9. Will be coordinated as appropriate with organizations and investigators both within and outside the Services. The Services will cooperate with other Federal, State, Tribal, and local governments.

10. Will be conducted in a manner consistent with meeting the information needs of the Services and other institutions including AZA Species Survival Program and the International Union for the Conservation of Nature's International Species Information System as appropriate. In the case of listed species for which traditional studbooks or registrations are not practical, records of eggs and larvae, or other life-stages will be maintained. Plant propagation programs and recordkeeping will be coordinated as appropriate with the CPC.

11. Will, with limited exceptions, be implemented only after a commitment to funding is secured following approval of final recovery plans and genetics management plans.

12. Will, prior to releases of propagated individuals, require development of a controlled propagation/reintroduction plan. This document may be produced separately or in combination with a recovery plan. However, the specific elements of the controlled propagation/reintroduction plan must be clearly identifiable. Controlled propagation/reintroduction plans will identify measurable objectives and milestones for the proposed propagation/reintroduction effort. The controlled propagation/reintroduction plan should be based on strategies identified in the approved recovery plan, and it is strongly recommended that it include protocols for health management, disease-free certification, monitoring and evaluation of genetic, demographic, life-history, phenotypic, and behavioral characteristics, data collection, recordkeeping, and reporting. On implementation of controlled propagation, annual evaluations must be made to assess project objectives, evaluate progress, and consider new scientific information and the status of any ongoing habitat conservation efforts. This annual evaluation will be provided to the Director/Assistant Administrator by the Regional Director with lead recovery responsibility.

13. Will be conducted in accordance with the regulations implementing the Endangered Species Act, Marine Mammal Protection Act, Animal Welfare Act, Lacey Act, Fish and Wildlife Act of 1956, and Departmental and Service procedures relative to the National Environmental Policy Act.

F. Exceptions

Few exceptions to the above policy guidelines will be considered and will require specific Regional Director/Assistant Administrator's approval. The following circumstances have been anticipated and are considered potential exceptions to the general policy guidelines.

1. In those instances where a listed species has an ephemeral reproductive stage or very short (1–2 year) life span that necessitates controlled propagation for the listed species' maintenance in refugia or for purposes of required research, exceptions may be granted by the Regional Director/Assistant Administrator.

2. In the absence of an approved recovery plan, and only in cases of a defensible immediate need, information or recommendations contained in recovery outlines or draft recovery plans may be used to identify controlled propagation as a necessary recovery measure for listed species in critical peril. Under such circumstances initiation of controlled propagation activities will require Regional Director's/Assistant Administrator's approval.

3. Programs in which candidate or proposed species are being held in refugia, used for research, or under controlled propagation and which are subsequently listed, are granted temporary exception to the requirements of this policy and activities may be continued at their present level unless directed otherwise by the Regional Director/Assistant Administrator. No change in program activities will be made without approval of the Regional Director/Assistant Administrator and until such time as the requirements of this policy are met. Conformance to this policy for candidate and proposed species which become listed subsequent to the implementation of this policy is required within 12 months following listing.

4. Any additional exceptions for unforeseen circumstances which are not specifically addressed by this policy will require the approval of the Director/Assistant Administrator.

G. Cooperators

The Services recognize the need for partnerships with other Federal agencies, States, Tribes, local governments, and private entities in the recovery of listed species. In this regard the Services will seek to develop partnerships with qualified cooperators for the purpose of propagating listed, proposed, and candidate species (as authorized under Sections 6 and 2(a)(5) of the Endangered Species Act). Guidance for this activity is as follows:

1. The Regional Directors/Assistant Administrator will explore opportunities for accomplishing controlled propagation and any associated research tasks with other Federal cooperators, FWS/NMFS facilities, State agencies, Tribes, zoological parks, aquaria, botanical gardens, academia, and other qualified parties. Cooperators will be selected on the basis of scientific merits, technical capability, willingness to adhere to the Services' policies, guidance, and protocols, and cost-effectiveness (e.g., willingness of non-agency cooperators to assume or share costs). State and private cooperators will be required to submit, either independently or in concert with the appropriate lead agency (FWS or NMFS), a genetics management plan for new species propagation efforts (as specified in E–5). Likewise, a controlled propagation/reintroduction plan will also be required of cooperators as and when appropriate (as specified in E–12).

2. The Regional Director/Assistant Administrator of the appropriate listed species lead agency will be responsible for assigning staff to oversee programs conducted by all cooperators to ensure adherence to necessary protocols and permit conditions and to coordinate annual reporting requirements.

3. The listed species' lead Region will be responsible for funding maintenance in refugia, controlled propagation research, and controlled propagation/reintroduction efforts unless this responsibility is assumed by a cooperating facility.

4. The Regional Director/Assistant Administrator will be responsible for ensuring Cooperator's compliance with this policy.

H. Responsibilities

This policy shall be implemented in accordance with the following guidelines:

1. Regional Directors/Assistant Administrator are responsible for recovery of listed species for which they have lead. Recovery actions for which Regional Directors/Assistant Administrator have authority include establishment of refugia, initiation of necessary research or technology development, and implementation of controlled propagation programs and/or propagation research for listed species. When determining species priority for inclusion in controlled propagation programs, considerations should include the following:

(a) Whether or not a listed species' recovery plan outline, draft recovery plan, or final recovery plan, identifies controlled propagation as an appropriate recovery strategy and what priority this task is assigned within the overall recovery strategy.

(b) The potential a species' overall recovery program, including controlled propagation, has to enhance the conservation of other listed or candidate species.

(c) The availability and willingness of non-agency cooperators to assume the lead or to contribute to recovery activities including cost sharing.

(d) Exceptions to the general guidance of this policy may be made if a critically

diminished listed species is threatened by imminent extinction or population extirpation due to temporary or uncontrollable causes, and therefore, in the Regional Director's/Assistant Administrator's judgment, warrants partial or total removal from the wild for purposes of rescue/salvage, the establishment of refugia, initiation of research, or controlled propagation.

2. In the event that the current recovery plan fails to identify the establishment of refugia, initiation of propagation research, or controlled propagation as recovery tasks, the recovery plan will be updated or revised as appropriate. Recovery plans in preparation will be amended to reflect the changed status of the listed species and provide justifications as necessary.

3. Within 6 months of the effective date of this policy, the responsible Services' Regional Directors/Assistant Administrator will identify all listed species for which they have the lead recovery responsibility that are: (1) Being held in refugia; (2) involved in pre-propagation research; (3) undergoing controlled propagation; and, (4) if so, at what level and for what recovery purposes (e.g., augmentation of extant populations, establishment of new populations). The status of each species with regard to conformity with this policy will also be reported to the appropriate Regional and Washington D.C. offices.

4. Continuation of those programs not in conformity 12 months following implementation of this policy, shall require Director's/Assistant Administrator's concurrence. The Regional Director shall provide his/her recommendation to the Service Director/Assistant Administrator.

I. Annual Reporting Requirements

Annual reports will be prepared by the responsible Regional authority and submitted to the Director/Assistant Administrator not later than October 31. Reports will contain the following information for each species being maintained in refugia, in pre-propagation research, and under propagation:

—Recovery priority number;
—Policy criteria that are not met (if any);
—A description of the controlled propagation program, including the objectives and status;
—List of cooperators;
—Expenditures for the past fiscal year; and,
—Prospects for and obstacles to achieving research, controlled propagation, or reintroduction objectives.

Both FWS and NMFS agree to exchange programmatic information regarding controlled propagation of species of mutual interest on request, and that access to such information will include but not be limited to, budgetary information if required.

J. Authorities

Endangered Species Act of 1973, as amended; Marine Mammal Protection Act of 1972, as amended; Animal Welfare Act; Lacey Act; Fish and Wildlife Act of 1956; and National Environmental Policy Act.

K. Supersessions

All previously issued documents regarding this subject shall be revised, as necessary, to be consistent with this policy.

Footnotes:

(1) Determination of biological "suitability" may include, but should not necessarily be limited to, analysis of geomorphological similarities of habitat, genetic similarity, phenotypic characteristics, stock histories, habitat use, and other ecological, biological, and behavioral indicators.

(2) Protocols should identify disposition of individuals that die during holding, research, or propagation. Specimens can be valuable sources of tissue for genetic research. Disposition of remains in biological collections should also be considered.

(3) The Services recognize that reproduction among organisms maintained in a controlled environment may occur under a variety of circumstances that may not be necessarily predictable or desirable. Reproduction of individuals under such circumstances may not be desirable and culling or disposal of surplus offspring or seeds may be necessary. Therefore, controlled propagation activities should not be initiated without the inclusion of these provisions, the securing of required take permits, and other authorizations as necessary.

Public Comments Solicited

The Services intend that any final decision on this draft policy on controlled propagation of listed species be as accurate and as effective as possible and that it take advantage of information and recommendations from all interested parties. Therefore, comments and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this draft policy are hereby solicited.

The final decision on this draft policy will take into consideration the comments and any additional information received by the Services, and such communications may lead to a decision that differs from this draft. The Services' decision will be published for public information.

Author/Editor: The editors of this draft policy are David Harrelson of the Fish and Wildlife Service's Division of Endangered Species, Mail Stop 452 ARLSQ, 1849 C Street, NW, Washington, DC 20240 (703/358–2171), and Marta Nammack of the National Marine Fisheries Service's Protected Species Management Division, 1335 East-West Highway, Silver Spring, Maryland 20910 (301/713–2322).

Authority: The authority for this proposed action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: February 1, 1996.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

Dated: February 1, 1996.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–2638 Filed 2–6–96; 8:45 am]

BILLING CODE 4310–55–P

federal register

Wednesday
February 7, 1996

Part IV

Department of the Interior
Fish and Wildlife Service

Department of Commerce
National Oceanic and Atmospheric Administration

Policy Regarding the Recognition of District Vertebrate Population; Notice

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of policy.

SUMMARY: The Fish and Wildlife Service and the National Marine Fisheries Service (Services) have adopted a policy to clarify their interpretation of the phrase "distinct population segment of any species of vertebrate fish or wildlife" for the purposes of listing, delisting, and reclassifying species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*) (Act).

ADDRESSES: The complete record pertaining to this action is available for inspection, by appointment, during normal business hours at the Division of Endangered Species, U.S. Fish and Wildlife Service, in Room 452, Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service at the above address (703/358–2171), or Russell Bellmer, Chief, Endangered Species Division, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, Maryland 20910 (301/713–1401).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*). (Act) requires the Secretary of the Interior or the Secretary of Commerce (depending on jurisdiction) to determine whether species are endangered or threatened. In defining "species," the Act as originally passed included, "* * * any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature." In 1978, the Act was amended so that the definition read "* * * any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." This change restricted application of this portion of the definition to vertebrates. The authority to list a "species" as endangered or threatened is thus not restricted to species as recognized in formal taxonomic terms, but extends to subspecies, and for vertebrate taxa, to distinct population segments (DPS's).

Because the Secretary must "* * * determine whether any species is an endangered species or a threatened species" (section 4(a)(1)), it is important that the term "distinct population segment" be interpreted in a clear and consistent fashion. Furthermore, Congress has instructed the Secretary to exercise this authority with regard to DPS's "* * * sparingly and only when the biological evidence indicates that such action is warranted." (Senate Report 151, 96th Congress, 1st Session). The Services have used this authority relatively rarely; of over 300 native vertebrate species listed under the Act, only about 30 are given separate status as DPS's.

It is important in light of the Act's requirement to use the best available scientific information in determining the status of species that this interpretation follows sound biological principles. Any interpretation adopted should also be aimed at carrying out the purposes of the Act (i.e., "* * * to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section" (section 2(b)).

Available scientific information provides little specific enlightenment in interpreting the phrase "distinct population segment." This term is not commonly used in scientific discourse, although "population" is an important term in a variety of contexts. For instance, a population may be circumscribed by a set of experimental conditions, or it may approximate an ideal natural group of organisms with approximately equal breeding opportunities among its members, or it may refer to a loosely bounded, regionally distributed collection of organisms. In all cases, the organisms in a population are members of a single species or lesser taxon.

The National Marine Fisheries Service (NMFS) has developed a Policy on the Definition of Species under the Endangered Species Act (56 FR 58612–58618; November 20, 1991). The policy applies only to species of salmonids native to the Pacific. Under this policy, a stock of Pacific salmon is considered a DPS if it represents an evolutionarily significant unit (ESU) of a biological species. A stock must satisfy two criteria to be considered an ESU:

(1) It must be substantially reproductively isolated from other conspecific population units; and

(2) It must represent an important component in the evolutionary legacy of the species.

This document adopts an interpretation of the term "distinct population segment" for the purposes of listing, delisting, and reclassifying vertebrates by the U.S. Fish and Wildlife Service (FWS) and NMFS. The Services believe that the NMFS policy, as described above, on Pacific salmon is consistent with the policy outlined in this notice. The NMFS policy is a detailed extension of this joint policy. Consequently, NMFS will continue to exercise its policy with respect to Pacific salmonids.

The Services' draft policy on this subject was published on December 21, 1994 (59 FR 65885) and public comment was invited. After review of comments and further consideration, the Services adopt the policy as issued in draft form.

Summary of Comments and Recommendations

The Services received 31 letters from individuals and organizations commenting on the draft policy. In addition, since publication of the draft policy, the National Academy of Sciences, National Research Council (NRC), has published a report titled "Science and the Endangered Species Act," prepared by a committee appointed by the Academy at the request of several members of Congress. This report in part examines the definition of "species" under the Act, and endorses the recognition of scientifically identified evolutionary units for conservation purposes. It discusses the recognition of DPS's in terms of "distinctiveness," which is consistent with the concept of "discreteness" as presented in the draft policy except that it would not recognize an international political boundary to delimit a DPS. The committee noted that: "Although there can be good policy reasons for such delineations, there are not sound scientific reasons to delineate species only in accordance with political boundaries." The Services agree that the inclusion of international boundaries in determining whether a population segment is discrete is sometimes undertaken as a matter of policy rather than science. Although the committee expressed the belief that application of a distinctiveness test (analogous to the standard of discreteness in the policy) would adequately carry out the congressional instruction that the authority to address DPS's be exercised sparingly, the Services continue to believe that a judgement regarding the significance of any unit found to be discrete is necessary to comply with congressional intent.

Respondents presented a wide range of opinion regarding the recognition of DPS's. Some argued that the draft policy would be too restrictive and make it difficult or impossible to protect important elements of biodiversity; others maintained that the draft was not restrictive enough and would allow the Services to extend protection to entities never intended to be eligible for protection under the Act. A few respondents questioned the need for any policy framework and advocated case-by-case determinations of the eligibility of entities for listing under the DPS provision. The Services continue to believe that the Act will be best administered if there is a general policy framework governing the recognition of DPS's that can be disseminated and understood by the affected public.

Several respondents questioned the relationship of the draft policy to the NMFS policy regarding salmonids. The Services believe that the NMFS policy for salmonids is consistent with the general policy outlined in this notice, although the salmonid policy is formulated specifically to address the biology of this group. Several respondents also questioned the use of qualifying words such as "significant" or "markedly" in the policy. The Services intended these words to have their commonly understood senses. At the time any distinct population is recognized or not recognized the reasons for which it is believed to satisfy or not satisfy the conditions of the policy will be fully explained.

Several respondents maintained that a policy of this nature required adoption under rulemaking procedures of the Administrative Procedure Act. The Services disagree, and continue to regard the policy as non-regulatory in nature. Specific recommendations advanced by respondents are paraphrased and responded to below.

Only Full Species are Genetically Distinct From one Another, and Listing Should Only be Extended to These Genetically Distinct Entities.

Restricting listings to full taxonomic species would render the Act's definition of species, which explicitly includes subspecies and DPS's of vertebrates, superfluous. Clearly, the Act is intended to authorize listing of some entities that are not accorded the taxonomic rank of species, and the Services are obliged to interpret this authority in a clear and reasonable manner.

The Services Should Focus on Genetic Distinctness in Recognizing a Distinct Population Segment. Conversely, Some Respondents Believed There Should be No Requirement That a DPS be Genetically Differentiated or Recognizable for it to be Protected Under the Act

There appears to be a diversity of understanding regarding the purposes of the Act, with some individuals viewing it as directed almost exclusively toward the conservation of unique genetic resources while other individuals emphasize its stated intention of conserving ecosystems. This diversity of viewpoints is reflected in comments addressing the role to be played by genetic information in the draft policy. The Services understand the Act to support interrelated goals of conserving genetic resources and maintaining natural systems and biodiversity over a representative portion of their historic occurrence. The draft policy was intended to recognize both these intentions, but without focusing on either to the exclusion of the other. Thus, evidence of genetic distinctness or of the presence of genetically determined traits may be important in recognizing some DPS's, but the draft policy was not intended to always specifically require this kind of evidence in order for a DPS to be recognized. The ESU policy of NMFS also does not require genetic data before an ESU can be identified. Thus in determining whether the test for discreteness has been met under the policy, the Services allow but do not require genetic evidence to be used. At least one respondent evidently understood the draft policy to require that genetic distinctness be demonstrated before a DPS could be recognized, and criticized the draft on that basis. As explained above, this was never intended.

The Elements Describing Reasons for Considering a Population Segment Significant Should be Laid Out Comprehensively, Rather Than Presented as an Open-Ended Set of Examples as in the Draft Policy

The Services appreciate the need to make a policy on this subject as complete and comprehensive as possible, but continue to believe that it is not possible to describe in advance all the potential attributes that could be considered to support a conclusion that a particular population segment is "significant" in terms of the policy. When a distinct population is accepted or rejected for review pursuant to a petition or proposed for listing or delisting, the Services intend to explain in detail why it is considered to satisfy both the discreteness and significance tests of the policy.

In Assessing the Significance of a Potential Distinct Population Segment, the Services Should Focus on its Importance to the Status of the Species to Which it Belongs. Alternatively, the Services Should Emphasize the Importance of a Potential DPS to the Environment in Which it Occurs

Despite its orientation toward conservation of ecosystems, the Services do not believe the Act provides authority to recognize a potential DPS as significant on the basis of the importance of its role in the ecosystem in which it occurs. In addition, it may be assumed that most, if not all, populations play roles of some significance in the environments to which they are native, so that this importance might not afford a meaningful way to differentiate among populations. On the other hand, populations commonly differ in their importance to the overall welfare of the species they represent, and it is this importance that the policy attempts to reflect in the consideration of significance.

International Boundaries are not Appropriate in Determining That a Population is Discrete in the Draft Policy; Political Boundaries Other Than Those Between Nations may be Appropriate in Some Cases to Delimit DPS's

The Services recognize that the use of international boundaries as a measure of discreteness may introduce an artificial and non-biological element to the recognition of DPS's. Nevertheless, it appears to be reasonable for national legislation, which has its principal effects on a national scale, to recognize units delimited by international boundaries when these coincide with differences in the management, status, or exploitation of a species. Recognition of international boundaries in this way is also consistent with practice under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which is implemented in the United States by the Act. Recognition of other political boundaries, such as State lines within the United States, would appear to lead to the recognition of

entities that are primarily of conservation interest at the State and local level, and inappropriate as a focus for a national program. The Services recognize, as suggested in some comments, that infra-national political boundaries offer opportunities to provide incentives for the favorable management of species if they were used as a basis for recognizing discrete entities for delisting or for exclusion from a listing. Particularly when applied to the delisting or reclassification of a relatively widespread species for which a recovery program is being successfully carried out in some States, recognition of State boundaries would offer attractive possibilities. Nevertheless, the Act provides no basis for applying different standards for delisting than those adopted for listing. If the Services do not consider entities for listing that are not primarily of conservation interest at a national level, they must also refrain from delisting or reclassifying units at this level.

Complete Reproductive Isolation Should be Required as a Prerequisite to the Recognition of a Distinct Population Segment

The Services do not consider it appropriate to require absolute reproductive isolation as a prerequisite to recognizing a distinct population segment. This would be an impracticably stringent standard, and one that would not be satisfied even by some recognized species that are known to sustain a low frequency of interbreeding with related species.

The Services Should Emphasize Congress' Instruction to use Their Authority to Dddress DPS's "Sparingly"

The Services believe that application of the policy framework announced in this document will lead to consistent and sparing exercise of the authority to address DPS's, in accord with congressional instruction.

The Occurrence of a Population Segment in an Unusual Setting Should not be Used as Evidence for its Significance

The Services continue to believe that occurrence in an unusual ecological setting is potentially an indication that a population segment represents a significant resource of the kind sought to be conserved by the Act. In any actual case of a DPS recognized in part on this basis, the Services will describe in detail the nature of this significance when accepting a petition or proposing a rule.

The Authority to Address DPS's Should be Extended to Plant and Invertebrate Species

The Services recognize the inconsistency of allowing only vertebrate species to be addressed at the level of DPS's, and the findings of the NRC committee also noted that such recognition would be appropriate for other species. Nevertheless, the Act is perfectly clear and unambiguous in limiting this authority. This policy acknowledges the specific limitations imposed by the Act on the definition of "species."

The Services Should Stress Uniqueness and Irreplaceability of Ecological Functions in Recognizing DPS's

The Services consider the Act to be directed at maintenance of species and populations as elements of natural diversity. Consequently, the principal significance to be considered in a potential DPS will be the significance to the taxon to which it belongs. The respondent appears to be recommending that the Services consider the significance of a potential DPS to the community or ecosystem in which it occurs and the likelihood of another species filling its niche if it should be extirpated from a particular portion of its range. These are important considerations in general for the maintenance of healthy ecosystems, and they often coincide with conservation programs supported by the Act. Nevertheless, the Act is not intended to establish a comprehensive biodiversity conservation program, and it would be improper for the Services to recognize a potential DPS as significant and afford it the Act's substantive protections solely or primarily on these grounds.

Congress did not Intend to Require That DPS's be Discrete. In a Similar Vein, Congress did not Require That a Potential DPS be Significant to be Considered Under the Act

With regard to the discreteness standard, the Services believe that logic demands a distinct population recognized under the Act be circumscribed in some way that distinguishes it from other representatives of its species. The standard established for discreteness is simply an attempt to allow an entity given DPS status under the Act to be adequately defined and described. If some level of discreteness were not required, it is difficult to imagine how the Act could be effectively administered or enforced. At the same time, the standard adopted does not require absolute separation of a DPS from other members of its species, because this can rarely be demonstrated in nature for any population of organisms. The standard adopted is believed to allow entities recognized under the Act to be identified without requiring an unreasonably rigid test for distinctness. The requirement that a DPS be significant is intended to carry out the expressed congressional intent that this authority be exercised sparingly as well as to concentrate conservation efforts undertaken under the Act on avoiding important losses of genetic diversity.

A Population Should Only be Required to be Discrete or Significant, but not Both, to be Recognized as a Distinct Population Segment

The measures of discreteness and significance serve decidedly different purposes in the policy, as explained above. The Services believe that both are necessary for a policy that is workable and that carries out congressional intent. The interests of conserving genetic diversity would not be well served by efforts directed at either well-defined but insignificant units or entities believed to be significant but around which boundaries cannot be recognized.

Requiring That a DPS be Discrete Effectively Prevents the Loss of Such a Segment From Resulting in a Gap in the Distribution of a Species. Essentially, if Distinct Populations are Entirely Separate, the Loss of One Has Little Significance to the Others

If the standard for discreteness were very rigid or absolute, this could very well be true. However, the standard adopted allows for some limited interchange among population segments considered to be discrete, so that loss of an interstitial population could well have consequences for gene flow and demographic stability of a species as a whole. On the other hand, not only population segments whose loss would produce a gap in the range of a species can be recognized as significant, so that a nearly or completely isolated population segment could well be judged significant on other grounds and recognized as a distinct population segment.

The Services Lack Authority to Address DPS's of Subspecies

The Services maintain that the authority to address DPS's extends to species in which subspecies are recognized, since anything included in the taxon of lower rank is also included in the higher ranking taxon.

The following principles will guide the Services' listing, delisting and reclassification of DPS's of vertebrate species. Any proposed or final rule affecting status determination for a DPS would clearly analyze the action in light of these guiding principles.

Policy

Three elements are considered in a decision regarding the status of a possible DPS as endangered or threatened under the Act. These are applied similarly for addition to the lists of endangered and threatened wildlife and plants, reclassification, and removal from the lists:

1. Discreteness of the population segment in relation to the remainder of the species to which it belongs;
2. The significance of the population segment to the species to which it belongs; and
3. The population segment's conservation status in relation to the Act's standards for listing (i.e., is the population segment, when treated as if it were a species, endangered or threatened?).

Discreteness: A population segment of a vertebrate species may be considered discrete if it satisfies either one of the following conditions:

1. It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.
2. It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

Significance: If a population segment is considered discrete under one or more of the above conditions, its biological and ecological significance will then be considered in light of Congressional guidance (see Senate Report 151, 96th Congress, 1st Session) that the authority to list DPS's be used "* * * sparingly" while encouraging the conservation of genetic diversity. In carrying out this examination, the Services will consider available scientific evidence of the discrete population segment's importance to the taxon to which it belongs. This consideration may include, but is not limited to, the following:

1. Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon,
2. Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon,
3. Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range, or
4. Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

Because precise circumstances are likely to vary considerably from case to case, it is not possible to describe prospectively all the classes of information that might bear on the biological and ecological importance of a discrete population segment.

Status: If a population segment is discrete and significant (i.e., it is a distinct population segment) its evaluation for endangered or threatened status will be based on the Act's definitions of those terms and a review of the factors enumerated in section 4(a). It may be appropriate to assign different classifications to different DPS's of the same vertebrate taxon.

Relationship to Other Activities

The Fish and Wildlife Service's Listing and Recovery Priority Guidelines (48 FR 43098; September 21, 1983) generally afford DPS's the same consideration as subspecies, but when a subspecies and a DPS have the same numerical priority, the subspecies receives higher priority for listing. The Services will continue to generally accord subspecies higher priority than DPS's.

Any DPS of a vertebrate taxon that was listed prior to implementation of this policy will be reevaluated on a case-by-case basis as recommendations are made to change the listing status for that distinct population segment. The appropriate application of the policy will also be considered in the 5-year reviews of the status of listed species required by section 4(c)(2) of the Act.

Effects of Policy

This guides the evaluation of distinct vertebrate population segments for the purposes of listing, delisting, and reclassifying under the Act. The only direct effect of the policy is to accept or reject population segments for these purposes. More uniform treatment of DPS's will allow the Services, various other government agencies, private individuals and organizations, and other interested or concerned parties to better judge and concentrate their efforts toward the conservation of biological resources at risk of extinction.

Listing, delisting, or reclassifying distinct vertebrate population segments may allow the Services to protect and conserve species and the ecosystems upon which they depend before large-scale decline occurs that would necessitate listing a species or subspecies throughout its entire range. This may allow protection and recovery of declining organisms in a more timely and less costly manner, and on a smaller scale than the more costly and extensive efforts that might be needed to recover an entire species or subspecies. The Services' ability to address local issues (without the need to list, recover, and consult rangewide) will result in a more effective program.

Author/Editor: The editors of this policy are Dr. John J. Fay of the Fish and Wildlife Service's Division of Endangered Species, 452 ARLSQ, Washington, DC 20240 (703/358–2105) and Marta Nammack of the National Marine Fisheries Service's Endangered Species Division, 1335 East-West Highway, Silver Spring, Maryland 20910 (301/713–2322).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 1, 1996.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

Dated: February 1, 1996.

Nancy Foster,

Deputy Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 96–2639 Filed 2–6–96; 8:45 am]

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federal register

Wednesday
February 7, 1996

Part V

The President

Executive Order 12988—Civil Justice Reform

Federal Register
Vol. 61, No. 26
Wednesday, February 7, 1996

Presidential Documents

Title 3—

The President

Executive Order 12988 of February 5, 1996

Civil Justice Reform

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to improve access to justice for all persons who wish to avail themselves of court and administrative adjudicatory tribunals to resolve disputes, to facilitate the just and efficient resolution of civil claims involving the United States Government, to encourage the filing of only meritorious civil claims, to improve legislative and regulatory drafting to reduce needless litigation, to promote fair and prompt adjudication before administrative tribunals, and to provide a model for similar reforms of litigation practices in the private sector and in various states, it is hereby ordered as follows:

Section 1. *Guidelines to Promote Just and Efficient Government Civil Litigation.* To promote the just and efficient resolution of civil claims, those Federal agencies and litigation counsel that conduct or otherwise participate in civil litigation on behalf of the United States Government in Federal court shall respect and adhere to the following guidelines during the conduct of such litigation:

(a) *Pre-filing Notice of a Complaint.* No litigation counsel shall file a complaint initiating civil litigation without first making a reasonable effort to notify all disputants about the nature of the dispute and to attempt to achieve a settlement, or confirming that the referring agency that previously handled the dispute has made a reasonable effort to notify the disputants and to achieve a settlement or has used its conciliation processes.

(b) *Settlement Conferences.* As soon as practicable after ascertaining the nature of a dispute in litigation, and throughout the litigation, litigation counsel shall evaluate settlement possibilities and make reasonable efforts to settle the litigation. Such efforts shall include offering to participate in a settlement conference or moving the court for a conference pursuant to Rule 16 of the Federal Rules of Civil Procedure in an attempt to resolve the dispute without additional civil litigation.

(c) *Alternative Methods of Resolving the Dispute in Litigation.* Litigation counsel shall make reasonable attempts to resolve a dispute expeditiously and properly before proceeding to trial.

(1) Whenever feasible, claims should be resolved through informal discussions, negotiations, and settlements rather than through utilization of any formal court proceeding. Where the benefits of Alternative Dispute Resolution ("ADR") may be derived, and after consultation with the agency referring the matter, litigation counsel should suggest the use of an appropriate ADR technique to the parties.

(2) It is appropriate to use ADR techniques or processes to resolve claims of or against the United States or its agencies, after litigation counsel determines that the use of a particular technique is warranted in the context of a particular claim or claims, and that such use will materially contribute to the prompt, fair, and efficient resolution of the claims.

(3) To facilitate broader and effective use of informal and formal ADR methods, litigation counsel should be trained in ADR techniques.

(d) *Discovery.* To the extent practical, litigation counsel shall make every reasonable effort to streamline and expedite discovery in cases under counsel's supervision and control.

(1) *Review of Proposed Document Requests.* Each agency within the executive branch shall establish a coordinated procedure for the conduct and review of document discovery undertaken in litigation directly by that agency when that agency is litigation counsel. The procedure shall include, but is not necessarily limited to, review by a senior lawyer prior to service or filing of the request in litigation to determine that the request is not cumulative or duplicative, unreasonable, oppressive, unduly burdensome or expensive, taking into account the requirements of the litigation, the amount in controversy, the importance of the issues at stake in the litigation, and whether the documents can be obtained from some other source that is more convenient, less burdensome, or less expensive.

(2) *Discovery Motions.* Before petitioning a court to resolve a discovery motion or petitioning a court to impose sanctions for discovery abuses, litigation counsel shall attempt to resolve the dispute with opposing counsel. If litigation counsel makes a discovery motion concerning the dispute, he or she shall represent in that motion that any attempt at resolution was unsuccessful or impracticable under the circumstances.

(e) *Sanctions.* Litigation counsel shall take steps to seek sanctions against opposing counsel and opposing parties where appropriate.

(1) Litigation counsel shall evaluate filings made by opposing parties and, where appropriate, shall petition the court to impose sanctions against those responsible for abusive practices.

(2) Prior to filing a motion for sanctions, litigation counsel shall submit the motion for review to the sanctions officer, or his or her designee, within the litigation counsel's agency. Such officer or designee shall be a senior supervising attorney within the agency, and shall be licensed to practice law before a State court, courts of the District of Columbia, or courts of any territory or Commonwealth of the United States. The sanctions officer or designee shall also review motions for sanctions that are filed against litigation counsel, the United States, its agencies, or its officers.

(f) *Improved Use of Litigation Resources.* Litigation counsel shall employ efficient case management techniques and shall make reasonable efforts to expedite civil litigation in cases under that counsel's supervision and control. This includes but is not limited to:

(1) making reasonable efforts to negotiate with other parties about, and stipulate to, facts that are not in dispute;

(2) reviewing and revising pleadings and other filings to ensure that they are accurate and that they reflect a narrowing of issues, if any, that has resulted from discovery;

(3) requesting early trial dates where practicable;

(4) moving for summary judgment in every case where the movant would be likely to prevail, or where the motion is likely to narrow the issues to be tried; and

(5) reviewing and revising pleadings and other filings to ensure that unmeritorious threshold defenses and jurisdictional arguments, resulting in unnecessary delay, are not raised.

Sec. 2. *Government Pro Bono and Volunteer Service.* All Federal agencies should develop appropriate programs to encourage and facilitate pro bono legal and other volunteer service by government employees to be performed on their own time, including attorneys, as permitted by statute, regulation, or other rule or guideline.

Sec. 3. *Principles to Enact Legislation and Promulgate Regulations Which Do Not Unduly Burden the Federal Court System.*

(a) *General Duty to Review Legislation and Regulations.* Within current budgetary constraints and existing executive branch coordination mechanisms and procedures established in OMB Circular A-19 and Executive Order No. 12866, each agency promulgating new regulations, reviewing existing regulations, developing legislative proposals concerning regulations, and developing new legislation shall adhere to the following requirements:

(1) The agency's proposed legislation and regulations shall be reviewed by the agency to eliminate drafting errors and ambiguity;

(2) The agency's proposed legislation and regulations shall be written to minimize litigation; and

(3) The agency's proposed legislation and regulations shall provide a clear legal standard for affected conduct rather than a general standard, and shall promote simplification and burden reduction.

(b) *Specific Issues for Review.* In conducting the reviews required by subsection (a), each agency formulating proposed legislation and regulations shall make every reasonable effort to ensure:

(1) that the legislation, as appropriate—

(A) specifies whether all causes of action arising under the law are subject to statutes of limitations;

(B) specifies in clear language the preemptive effect, if any, to be given to the law;

(C) specifies in clear language the effect on existing Federal law, if any, including all provisions repealed, circumscribed, displaced, impaired, or modified;

(D) provides a clear legal standard for affected conduct;

(E) specifies whether private arbitration and other forms of private dispute resolution are appropriate under enforcement and relief provisions; subject to constitutional requirements;

(F) specifies whether the provisions of the law are severable if one or more of them is found to be unconstitutional;

(G) specifies in clear language the retroactive effect, if any, to be given to the law;

(H) specifies in clear language the applicable burdens of proof;

(I) specifies in clear language whether it grants private parties a right to sue and, if so, the relief available and the conditions and terms for authorized awards of attorney's fees, if any;

(J) specifies whether State courts have jurisdiction under the law and, if so, whether and under what conditions an action would be removable to Federal court;

(K) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies;

(L) sets forth the standards governing the assertion of personal jurisdiction, if any;

(M) defines key statutory terms, either explicitly or by reference to other statutes that explicitly define those terms;

(N) specifies whether the legislation applies to the Federal Government or its agencies;

(O) specifies whether the legislation applies to States, territories, the District of Columbia, and the Commonwealths of Puerto Rico and of the Northern Mariana Islands;

(P) specifies what remedies are available such as money damages, civil penalties, injunctive relief, and attorney's fees; and

(Q) addresses other important issues affecting clarity and general draftsmanship of legislation set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget ("OMB") and after consultation with affected agencies, that are determined to be in accordance with the purposes of this order.

(2) that the regulation, as appropriate—

(A) specifies in clear language the preemptive effect, if any, to be given to the regulation;

(B) specifies in clear language the effect on existing Federal law or regulation, if any, including all provisions repealed, circumscribed, displaced, impaired, or modified;

(C) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction;

(D) specifies in clear language the retroactive effect, if any, to be given to the regulation;

(E) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies;

(F) defines key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items; and

(G) addresses other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of OMB and after consultation with affected agencies, that are determined to be in accordance with the purposes of this order.

(c) *Agency Review.* The agencies shall review such draft legislation or regulation to determine that either the draft legislation or regulation meets the applicable standards provided in subsections (a) and (b) of this section, or it is unreasonable to require the particular piece of draft legislation or regulation to meet one or more of those standards.

Sec. 4. *Principles to Promote Just and Efficient Administrative Adjudications.*

(a) *Implementation of Administrative Conference Recommendations.* In order to promote just and efficient resolution of disputes, an agency that adjudicates administrative claims shall, to the extent reasonable and practicable, and when not in conflict with other sections of this order, implement the recommendations of the Administrative Conference of the United States, entitled "Case Management as a Tool for Improving Agency Adjudication," as contained in 1 C.F.R. 305.86-7 (1991).

(b) *Improvements in Administrative Adjudication.* All Federal agencies should review their administrative adjudicatory processes and develop specific procedures to reduce delay in decision-making, to facilitate self-representation where appropriate, to expand non-lawyer counseling and representation where appropriate, and to invest maximum discretion in fact-finding officers to encourage appropriate settlement of claims as early as possible.

(c) *Bias.* All Federal agencies should review their administrative adjudicatory processes to identify any type of bias on the part of the decision-makers that results in an injustice to persons who appear before administrative adjudicatory tribunals; regularly train all fact-finders, administrative law judges, and other decision-makers to eliminate such bias; and establish appropriate mechanisms to receive and resolve complaints of such bias from persons who appear before administrative adjudicatory tribunals.

(d) *Public Education.* All Federal agencies should develop effective and simple methods, including the use of electronic technology, to educate the public about its claims/benefits policies and procedures.

Sec. 5. *Coordination by the Department of Justice.*

(a) The Attorney General shall coordinate efforts by Federal agencies to implement sections 1, 2 and 4 of this order.

(b) To implement the principles and purposes announced by this order, the Attorney General is authorized to issue guidelines implementing sections 1 and 4 of this order for the Department of Justice. Such guidelines shall serve as models for internal guidelines that may be issued by other agencies pursuant to this order.

Sec. 6. *Definitions.* For purposes of this order:

(a) The term "agency" shall be defined as that term is defined in section 105 of title 5, United States Code.

(b) The term "litigation counsel" shall be defined as the trial counsel or the office in which such trial counsel is employed, such as the United States Attorney's Office for the district in which the litigation is pending or a litigating division of the Department of Justice. Special Assistant United States Attorneys are included within this definition. Those agencies authorized by law to represent themselves in court without assistance from the Department of Justice are also included in this definition, as are private counsel hired by any Federal agency to conduct litigation on behalf of the agency or the United States.

Sec. 7. *No Private Rights Created.* This order is intended only to improve the internal management of the executive branch in resolving disputes, conducting litigation in a reasonable and just manner, and reviewing legislation and regulations. This order shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order. Nothing in this order shall be construed to obligate the United States to accept a particular settlement or resolution of a dispute, to alter its standards for accepting settlements, to forego seeking a consent decree or other relief, or to alter any existing delegation of settlement or litigating authority.

Sec. 8. *Scope.*

(a) *No Applicability to Criminal Matters or Proceedings in Foreign Courts.* This order is applicable to civil matters only. It is not intended to affect criminal matters, including enforcement of criminal fines or judgments of criminal forfeiture. This order does not apply to litigation brought by or against the United States in foreign courts or tribunals.

(b) *Application of Notice Provision.* Notice pursuant to subsection (a) of section 1 is not required (1) in any action to seize or forfeit assets subject to forfeiture or in any action to seize property; (2) in any bankruptcy, insolvency, conservatorship, receivership, or liquidation proceeding; (3) when the assets that are the subject of the action or that would satisfy the judgment are subject to flight, dissipation, or destruction; (4) when the defendant is subject to flight; (5) when, as determined by litigation counsel, exigent circumstances make providing such notice impracticable or such notice would otherwise defeat the purpose of the litigation, such as in actions seeking temporary restraining orders or preliminary injunctive relief; or (6) in those limited classes of cases where the Attorney General determines that providing such notice would defeat the purpose of the litigation.

(c) *Additional Guidance as to Scope.* The Attorney General shall have the authority to issue further guidance as to the scope of this order, except section 3, consistent with the purposes of this order.

Sec. 9. *Conflicts with Other Rules.* Nothing in this order shall be construed to require litigation counsel or any agency to act in a manner contrary to the Federal Rules of Civil Procedure, Tax Court Rules of Practice and Procedure, State or Federal law, other applicable rules of practice or procedure, or court order.

Sec. 10. *Privileged Information.* Nothing in this order shall compel or authorize the disclosure of privileged information, sensitive law enforcement infor-

mation, information affecting national security, or information the disclosure of which is prohibited by law.

Sec. 11. *Effective Date.* This order shall become effective 90 days after the date of signature. This order shall not apply to litigation commenced prior to the effective date.

Sec. 12. *Revocation.* Executive Order No. 12778 is hereby revoked.

William J. Clinton

THE WHITE HOUSE,
February 5, 1996.

[FR Doc. 96–2755
Filed 2–6–96; 8:45 am]
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2-8-96
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Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address from DuPont Pharmaceuticals to DuPont Merck Pharmaceutical Co.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: DuPont Pharmaceuticals, One Rodney Square, Wilmington, DE 19898, has informed FDA of a change of sponsor name and address to DuPont Merck Pharmaceutical Co., DuPont Merck Plaza, MR2117, Wilmington, DE 19805. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name and address.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "DuPont Pharmaceuticals" and by alphabetically adding a new entry for "DuPont Merck Pharmaceutical Co.," and in the table in paragraph (c)(2) in the entry for "000056" by revising the sponsor name and address to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
DuPont Merck Pharmaceutical Co., DuPont Merck Plaza, MR2117, Wilmington, DE 19805.	000056

(2)* * *

Drug labeler code	Firm name and address
000056	DuPont Merck Pharmaceuticals Co., DuPont Merck Plaza, MR2117, Wilmington, DE 19805

Dated: February 1, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–2688 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5418–3]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of acceptability and clarification of June 13, 1995 final rule.

SUMMARY: This notice expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. SNAP implements section 612 of the amended Clean Air Act of 1990, which requires EPA to evaluate substitutes for the OZONE-DEPLETING SUBSTANCES (ODS), and regulate the use of substitutes where other alternatives exist that reduce overall risk to human health and the environment. Through these evaluations, SNAP generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors. In addition, this Notice clarifies several points from the June 13, 1995 final rule (60 FR 31092).

On March 18, 1994, EPA promulgated its plan for administering the SNAP program, and issued decisions on the acceptability and unacceptability of a number of substitutes (59 FR 13044). In today's Notice, EPA issues decisions on the acceptability of substitutes not previously reviewed by the Agency. The intended effect of this action is to expedite movement away from ozone depleting compounds. To arrive at determinations on the acceptability of substitutes, the Agency completed a cross-media sector end-use screening assessment of risks to human health and the environment.

EFFECTIVE DATE: February 8, 1996.

ADDRESSES: Information relevant to this notice is contained in Air Docket A–91–42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 260–7548. The docket may be inspected between 8 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Jeffrey Levy at (202) 233–9727 or fax (202) 233–9577, U.S. EPA, Stratospheric Protection Division, 401 M Street, SW., Mail Code 6205J, Washington, DC 20460; EPA Stratospheric Ozone Protection Hotline at (800) 296–1996; EPA World Wide Web Site at http://www.epa.gov/docs/ozone/title6/SNAP/snap.html.

SUPPLEMENTARY INFORMATION:

I. Section 612 Program
- A. Statutory Requirements
- B. Regulatory History

II. Listing of Acceptable Substitutes
- A. Refrigeration and Air Conditioning: Substitutes for Class I Substances
- B. Refrigeration and Air Conditioning: Substitutes for Class II Substances
- C. Fire Suppression and Explosion Protection

III. Substitutes Pending Review

IV. Additional Information

Appendix A Summary of Acceptable and Pending Decisions

I. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA is referring to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.
- *Listing of Unacceptable/Acceptable Substitutes*—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.
- *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional 6 months.
- *90-day Notification*—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or *existing* chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.
- *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.
- *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in the final rule for the SNAP program (59 FR 13044), EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Consequently, EPA is adding substances to the list of acceptable alternatives without first requesting comment on new listings.

EPA does, however, believe that notice-and-comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from either the list of prohibited or acceptable substitutes. Updates to these lists are published as separate notices of rulemaking in the **Federal Register**.

The Agency defines a "substitute" as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators or end-users, when they are responsible for introducing a substitute into commerce.

EPA published Notices listing acceptable alternatives on August 26, 1994 (59 FR 44240), January 13, 1995 (60 FR 3318), and July 28, 1995 (60 FR 38729), and published a Final Rulemaking restricting the use of certain substitutes on June 13, 1995 (60 FR 31092). EPA also published a Notice of Proposed Rulemaking restricting the use of certain substitutes on October 2, 1995 (60 FR 51383).

II. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for substitutes for class I and class II substances in the following industrial sectors: refrigeration and air conditioning, foam blowing, and fire suppression and explosion protection. In this Notice, EPA has split the refrigeration and air conditioning sector into two parts: Substitutes for class I substances and substitutes for class II substances. These decisions represent substitutes not previously reviewed and add to the lists of acceptable substitutes under SNAP. For copies of the full list, contact the EPA Stratospheric Protection Hotline at (800) 296–1996.

Parts A through D below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing today's listing decisions are in Appendix A. The comments contained in Appendix A provide additional information on a substitute, but like the listings of acceptable substitutes, they are not legally binding. Thus, adherence to recommendations in the comments are not mandatory for use of a substitute. In addition, the comments should not be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments to their use of these substitutes. In many instances, the comments simply allude to sound operating practices that have already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning

Please refer to the final SNAP rule for detailed information pertaining to the designation of end-uses, additional requirements imposed under sections 608 and 609, and other information related to the use of alternative refrigerant.

1. Clarifications From the June 13, 1995 Final Rule

HCFC Blend Beta was listed as containing HFC–134a, HCFC–124, and isobutane. In fact, according to the submission on file with EPA, this blend contains butane. The determination that this blend is acceptable subject to certain use conditions applied to the actual blend, not to the incorrectly listed one.

In the tables listing unacceptable substitutes for CFC–12 in motor vehicle air conditioning, a definition for the category "Flammable Substitutes" was inadvertently omitted. As discussed in the preamble, it should have included the phrase "as having flammability limits as measured according to ASTM E–681 with modifications included in Society of Automotive Engineers Recommended Practice J1657, including blends which become flammable during fractionation." In addition, EPA clearly does not intend to constrain future findings. Thus, the table should have included a statement that this category does not include substitutes discussed explicitly in other rulings.

2. Other Clarification

EPA has received inquiries as to the point at which a blend is sufficiently different from an already reviewed substitute as to require a new submission. EPA generally follows similar guidelines used by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). When new blends are submitted to ASHRAE for classification, the manufacturer must specify blending tolerances. Any blend that falls outside those tolerances is defined to be a distinct refrigerant. EPA requires leak testing of blends to determine whether they can become flammable after fractionation. The percentage of flammable components in a blend are usually quite close to the maximum possible for the blend as a whole to remain nonflammable. Even an increase of 1% of a flammable component may change the flammability of the blend. Therefore, blending tolerances are smaller for flammable components than for nonflammable components. Companies should determine blending tolerances. If the outside range of those tolerances could result in a different flammability or toxicity profile, then the blend will require a new submission. EPA encourages manufacturers to contact the SNAP refrigerants analyst for assistance in making this determination.

3. Acceptable Substitutes

a. R–508. *R–508, which contains HFC–23 and R–116, is acceptable as a substitute for CFC–13, R–13B1, and R–503 in retrofitted and new very low temperature refrigeration.* Both components of this blend exhibit extremely high GWPS and long lifetimes. HFC–23 has a GWP of 9,000 and a lifetime of 280 years, and R–116, perfluoroethane, has a GWP of 9,000 and a lifetime of 10,000 years. EPA believes this blend could significantly contribute to global warming if allowed to escape refrigeration systems. In addition, the long lifetimes of R–116 and HFC–23 mean any global warming or other effects would be essentially irreversible. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996. This blend is nonflammable and does not deplete ozone. EPA urges manufacturers to develop alternatives for R–503 and CFC–13 that do not contain substances with such high GWPS and long lifetimes.

b. R–411A and R–411B. *R–411A and R–411B, which consist of HCFC–22, HFC–152a, and propylene, are acceptable as substitutes for CFC–12 and R–502 in the following end-uses:*

- Reciprocating Chillers
- Industrial Process Refrigeration
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Commercial Ice Machines
- Vending Machines
- Water Coolers

HCFC–22 contributes to ozone depletion, but to a much lesser degree than CFC–12. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend (58 FR 28660). This blend

poses less of a threat to the ozone layer than HCFC–22, which has already been listed as an acceptable substitute for CFC–12. The GWP of HCFC–22 is somewhat high, but the GWP of HFC–152a is low. Although propylene and HFC–152a are flammable, R–411A and R–411B have been designated as A1/A2 refrigerants by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE). This designation means that the blend as formulated is nonflammable, but can become flammable under worst-case fractionation. However, over 75% of R–411A and 95% of R–411B must leak from the vapor phase before becoming flammable. Leaks from the liquid phase do not become flammable, regardless of the amount leaked.

c. HCFC Blend Beta. *HCFC Blend Beta, which consists of HCFC–124, HFC–134a, and butane, is acceptable as a substitute for CFC–12 in the following new and retrofitted end-uses:*

- Reciprocating Chillers
- Industrial Process Refrigeration
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators
- Household Freezers
- Residential Dehumidifiers

This blend contains HCFC–124. Therefore, it contributes to ozone depletion, but to a much lesser degree than CFC–12. HCFC–124 has an ODP much lower than that of HCFC–22, which has already been listed as an acceptable substitute for CFC–12. Regulations regarding recycling and reclamation issued under section 60 of the Clean Air Act (58 FR 28660) apply to this blend. The GWPS of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

d. HCFC Blend Delta. *HCFC Blend Delta is acceptable as a substitute for CFC–12 in retrofitted household refrigerators and freezers.* The composition of this blend has been claimed confidential by the manufacturer. This blend contains at least one HCFC, and therefore contributes to ozone depletion, but to a much lesser degree than CFC–12. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend (58 FR 28660). The GWPS of the components are moderate to low. This blend is nonflammable, and leak testing has demonstrated that the blend never becomes flammable.

e. HCFC Blend Lambda. *HCFC Blend Lambda, which consists of HCFC–22, HCFC–142b, and isobutane, is acceptable as a substitute for R–500 in retrofitted centrifugal chillers and as a substitute for CFC–12 in the following new and retrofitted end-uses:*

- Reciprocating Chillers
- Industrial Process Refrigeration
- Cold Storage Warehouses
- Refrigerated Transport
- Retail Food Refrigeration
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators
- Household Freezers
- Residential Dehumidifiers

HCFC–22 and HCFC–142b contribute to ozone depletion, but to a much lesser degree than CFC–12. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend (58 FR 28660). HCFC–142b has an ODP slightly higher than that of HCFC–22. The GWPS of HCFC–22 and HCFC–142b are somewhat high. Although HCFC–142b is flammable, the blend is not. Under massive leakage, this blend becomes weakly flammable. However, this blend contains more HCFC–22 and less of the two flammable components than R–406A, and therefore should be at least as safe to use as R–406A. However, users should note that operating pressures will be higher than when using R–406A, so its use may not be appropriate in the same types of equipment.

f. HFC–236fa. *HFC–236fa, when manufactured using any process that does not convert perfluoroisobutylene (PFIB) directly to HFC–236fa in a single step, is acceptable as a substitute for CFC–114 in centrifugal chillers.* HFC–236fa does not harm the ozone layer because it does not contain chlorine. HFC–236fa has an extremely high 100-year GWP of 8000, but its lifetime is considerably shorter than that of perfluorocarbons. Although HCFC–124 is already listed as acceptable in this end-use, it produces toxic byproducts when it passes through air purification systems on submarines. Therefore, HCFC–124 is not a feasible alternative. HFC–236fa is the only alternative identified to date that is safe for the ozone layer, is low in toxicity, and can withstand the air purification process. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996.

In the March 18, 1994 final SNAP rule (58 FR 13044), EPA required manufacturers to submit information on manufacturing processes to allow an assessment of the risks posed to the general public and workers. However, EPA clarified in that action that acceptability determinations made on the basis of one company's submission would apply to the same chemical produced by other manufacturers, obviating the need for duplicative reporting requirements and review. To date, despite the fact that some alternatives are manufactured by several companies, no process has been identified as significantly more hazardous than another. Therefore, EPA has not yet based SNAP decisions specifically on the manufacturing process.

EPA is aware, however, of several methods for manufacturing HFC–236fa, including one that produces HFC–236fa directly from PFIB. PFIB is an extremely toxic substance that could pose risks in very small concentrations. Thus, EPA believes it is appropriate to distinguish among the different methods for producing HFC–236fa. This acceptability determination does not prohibit the manufacture of HFC–236fa directly from PFIB. Rather, it finds acceptable the production of HFC–236fa in processes that do not convert PFIB directly to HFC–236fa in a single step. If a manufacturer wishes to produce HFC–236fa directly from PFIB, it must submit that process to EPA for review under SNAP.

A. Refrigeration and Air Conditioning: Substitutes for Class II Substances

Please refer to the March 18, 1994 SNAP rule (59 FR 13044) for detailed information pertaining to the designation of end-uses, additional requirements imposed under sections 608 and 609, and other information related to the use of alternative refrigerants.

This Notice marks the first time EPA has addressed substitutes for HCFC–22 in the refrigeration and air conditioning sector. Although the substitutes listed below were intended specifically to replace HCFC–22, HCFC–22 is itself frequently used as a substitute for class I refrigerants (e.g, CFC–11 and CFC–12).

Therefore, the listings below also describe these HCFC–22 substitutes as acceptable alternatives for class I refrigerants in new equipment. The underlying reasoning is that if, for instance, HCFC–22 poses lower overall risk than CFC–12, and R–410A poses lower overall risk than HCFC–22, then R–410A must also pose lower overall risk than CFC–12. Therefore, even though R–410A isn't designed to be a direct replacement for CFC–12, in new equipment it may be appropriate to design for R–410A rather than for another CFC–12 substitute. As with all listings, however, engineering decisions are required to determine the best match between a given class I refrigerant and an alternative.

1. Acceptable

a. R–410A and R–410B. *R–410A and R–410B, which consist of HFC–32 and HFC–125, are acceptable as substitutes for HCFC–22, and by extension, class I refrigerants, in equipment in the following new end-uses:*

- Centrifugal, Reciprocating, and Screw Chillers
- Industrial Process Refrigeration Systems
- Very-Low-Temperature Industrial Process Refrigeration
- Industrial Process Air Conditioning
- Ice Skating Rinks
- Refrigerated Transport
- Retail Food Refrigeration
- Cold Storage Warehouses
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators and Freezers
- Residential Dehumidifiers
- Household and Light Commercial Air Conditioning

Both R–410A and R–410B contain HFC–32 and HFC–125 but in slightly different compositions. Neither blend is flammable when used in these end uses while maintaining as-formulated composition nor after leak conditions. Leak testing has demonstrated that their compositions do not become flammable under any of the conditions found in these end uses. However, since both blends include HFC–32, which is flammable by itself, they should not be mixed with high concentrations of air above atmospheric pressures to minimize the risk of ignition. HFC–125 exhibits a fairly high global warming potential (3,200 at 100 year integrated time horizon) compared to other HFCs and HCFC–22. However, its potential for contributing to global warming will be delayed in the listed end uses through the implementation of the venting prohibition under Section 608(c)(2) of the Clean Air Act Amendments. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996. R–410A and R–410B do not contain ozone-depleting substances, they are low in toxicity, and none of their components is regulated as a volatile organic compound.

b. R–407C. *R–407C, which is a blend of HFC–32, HFC–134a and HFC–125, is acceptable as a substitute for HCFC–22 in new and retrofit equipment, and by extension, as a substitute for class I refrigerants in new equipment, in the following end-uses:*

- Centrifugal, Reciprocating, and Screw Chillers
- Industrial Process Refrigeration
- Very Low Temperature Industrial Process Refrigeration
- Ice Skating Rinks
- Refrigerated Transport
- Retail Food Refrigeration Systems
- Cold Storage Warehouses
- Vending Machines
- Water Coolers
- Commercial Ice Machines
- Household Refrigerators and Freezers
- Residential Dehumidifiers
- Household and Light Commercial Air Conditioning

This blend is not flammable when used in these end uses while maintaining as-formulated composition or after leak conditions. Leak testing has demonstrated that its composition, or composition variations due to fractionation, does not make it flammable under any of the conditions found in these end uses. This blend includes HFC–32 and HFC–125, therefore the above discussion of these two substances as part of R–410A and R–410B is applicable. Again, EPA urges users to reduce leakage and recover and recycle this blend during equipment servicing and upon the retirement of equipment. R–407C doesn't damage the ozone layer, it is low in toxicity, and none of its components is regulated as a volatile organic compound. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline at (800) 296–1996.

c. HFC–134a. *HFC–134a is acceptable as a substitute for HCFC–22 in new Household and Light Commercial Air Conditioning.* HFC–134a exhibits a moderate to high global warming potential (1,300 at 100 year integrated time horizon) compared to other HFCS. Although much lower than HFC–125, uncontrolled emissions could have a significant impact on global warming. Therefore, the above guidance on controlling leaks and recycling, particularly during disposal, are applicable to HFC–134A in this end use. HFC–134a does not damage the ozone layer, it is very low in toxicity, and it is not regulated as a volatile organic compound. Note that the prohibition on venting, which applies to all substitute refrigerants, was mandated in section 608(c)(2) and took effect on November 15, 1995. While the current rule issued under section 608 of the CAA (58 FR 28660) does not specify recycling or leak repair requirements, it is illegal to vent this refrigerant at any time. In addition, EPA anticipates proposing new recycling regulations for non-ozone-depleting refrigerants in the near future. A fact sheet on the proposal is available from the EPA Ozone Hotline.

B. Fire Suppression and Explosion Protection

1. Acceptable

a. Total Flooding Agents. (1) *[Powdered Aerosol] C is acceptable for use in normally unoccupied areas.* This agent is intended solely for use in normally unoccupied areas and thus it does not represent a significant threat to worker safety or health. Use conditions to limit the risk of inadvertent exposure to personnel in normally unoccupied areas may be included in future rulemakings.

III. Substitutes Pending Review

The Agency describes submissions as pending if data are incomplete or for which the 90-day review period is underway and EPA has not yet reached a final decision. For submissions that are incomplete, the Agency will contact the submitter to determine a schedule for providing the missing information if the Agency needs to extend the 90-day review period. EPA will use its authority under section 114 of the Clean Air Act to gather this information, if

necessary. Any delay of the review period does not affect a manufacturer's ability to sell a product 90 days after notification of the Agency. Substitutes currently pending completion of review are listed in Appendix A.

IV. Additional Information

Contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday-Friday, between the hours of 10:00 a.m. and 4:00 p.m. (Eastern Standard Time) weekdays.

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). **Federal Register** notices can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. This Notice can also be retrieved electronically from EPA's Technology Transfer Network (TTN), Clean Air Act Amendment Bulletin Board. If you have a 1200 or 2400 bps modem, dial (919) 541–5742. If you have a 9600 bps modem, dial (919) 541–1447. For assistance in accessing this service, call (919) 541–5384. Finally, this notice may be obtained on the World Wide Web at http://www.epa.gov/docs/ozone/title6/snap/snap.html.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: December 19, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

Note: The following Appendix will not appear in the Code of Federal Regulations.

APPENDIX A: SUMMARY OF ACCEPTABLE AND PENDING DECISIONS

[Refrigerants—Class I Acceptable Substitutes]

End-Use	Substitute	Decision	Comments
CFC–12 and R–500 Reciprocating Chillers; CFC–12 and R–502 Industrial Process Refrigeration, Cold Storage Warehouses, Refrigerated Transport, Retail Food Refrigeration, Vending Machines, Water Coolers, Commercial Ice Machines (Retrofitted and New).	R–411A	Acceptable	This blend contains the same components as R–406A, but in different percentages.
	R–411B	Acceptable	
	HCFC blend Beta	Acceptable	
	HCFC Blend Lambda	Acceptable	
CFC–12 and R–502 Household Refrigerators, Household Freezers, and Residential Dehumidifiers.	HCFC Blend Beta	Acceptable	This blend contains the same components as R–406A, but in different percentages.
	HCFC Blend Lambda	Acceptable	
CFC–13, R–13B1, and R–503 Very Low Temperature Refrigeration.	R–508	Acceptable.	
CFC–114 Centrifugal Chillers	HFC–236fa	Acceptable.	

REFRIGERATION AND AIR CONDITIONING ACCEPTABLE SUBSTITUTES FOR CLASS II SUBSTANCES

End-use	Substitute	Decision	Comments
Household and Light Commercial Air Conditioning			This end use also includes heat pump systems.
HCFC–22 Systems, New	R–407C, R–410A, R–410B, HFC–134A.	Acceptable	EPA urges recycling.
HCFC–22 Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
Commercial Comfort Air Conditioning			This end use includes chillers in general.
HCFC–22 Reciprocating Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–12 Reciprocating Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–500 Reciprocating Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–11 Centrifugal Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–12 Centrifugal Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Centrifugal Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Centrifugal Chillers, Retrofit	R–407C	Acceptable	EPA urges recycling.
R–500 Centrifugal Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Screw Chillers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Screw Chillers, Retrofit	R–407C	Acceptable	EPA urges recycling.
Industrial Process Refrigeration			It also includes very-low-temperature industrial refrigeration.
HCFC–22 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
CFC–12 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–500 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.

REFRIGERATION AND AIR CONDITIONING ACCEPTABLE SUBSTITUTES FOR CLASS II SUBSTANCES—Continued

End-use	Substitute	Decision	Comments
R–502 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Industrial Process Air Conditioners			
HCFC–22 A/C Systems, New	R–407C, R–410A, R–410B, HFC–134a.	Acceptable	EPA urges recycling.
HCFC–22 A/C Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
CFC–12 A/C System, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–114 A/C System, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–12/CFC–114 A/C Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Ice Skating Rinks			
HCFC–22 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
CFC–12 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Refrigerated Transport			
CFC–12 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–500 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Retail Food Refrigeration			It also includes cold storage warehouses.
HCFC–22 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
HCFC–22 Systems, Retrofit	R–407C	Acceptable	EPA urges recycling.
CFC–12 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Systems, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Ice Machines			
CFC–12 Ice Machines, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Household Refrigerators and Freezers			
CFC–12 Household Refrigerators, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
CFC–12 Household Freezers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Household Freezers, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
Other Refrigerated Appliances			Includes water coolers, vending machines, and dehumidifiers.
CFC–12 Refrigerated Appliances, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.
R–502 Refrigerated Appliances, New	R–407C, R–410A, R–410B.	Acceptable	EPA urges recycling.

FIRE SUPPRESSION AND EXPLOSION PROTECTION

[Total Flooding Agents Acceptable Substitutes]

End-Use	Substitute	Decision	Comments
Halon 1301	Powdered Aerosol C	Acceptable	For use in normally unoccupied areas only.
Acceptable Substitutes—Foam Blowing			
Integral Skin with HCFC–22	CO_2	Acceptable.	
	HFC–134a	Acceptable.	

PENDING DECISIONS—FOAM BLOWING

End-use	Substitute	Comments
HCFCs, Polyurethane Integral Skin	CO2 HFC–134a.	

PENDING SUBSTITUTES—SOLVENT CLEANING

End-use	Substitute	Comments
Metals Cleaning w/ CFC–113 and MCF.	Chlorobromomethane	Additional toxicity testing is necessary to characterize fully the chronic health effects such as carcinogenicity that could arise from repeated exposures. In addition, decomposition studies and ozone depletion analyses must be completed before SNAP decision is rendered.
Electronics Cleaning w/ CFC–113 and MCF.	Chlorobromomethane	Additional toxicity testing is necessary to characterize fully the chronic health effects such as carcinogenicity that could arise from repeated exposures. In addition, decomposition studies and ozone depletion analyses must be completed before SNAP decision is rendered.
Precision Cleaning w/ CFC–113 and MCF.	Chlorobromomethane	Additional toxicity testing is necessary to characterize fully the chronic health effects such as carcinogenicity that could arise from repeated exposures. In addition, decomposition studies and ozone depletion analyses must be completed before SNAP decision is rendered.

[FR Doc. 96–2723 Filed 2–7–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 271

[FRL–5308–5]

Michigan: Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Michigan has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act of 1976 as amended (hereinafter "RCRA"). The Environmental Protection Agency (EPA) has reviewed Michigan's application and has reached a decision, subject to public review and comment, that Michigan's hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Michigan's hazardous waste program revisions, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (hereinafter HSWA). Michigan's application for program revision is available for public review and comment.

EFFECTIVE DATE: Final authorization for Michigan's program revisions shall be effective April 8, 1996 unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on Michigan's program revision application must be received by the close of business on March 9, 1996. If an adverse comment is received, EPA will publish either: (1) A withdrawal of the immediate final decision; or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

ADDRESSES: Written comments should be sent to Ms. Judy Feigler, Michigan Regulatory Specialist, U.S. EPA, Office of RCRA, DR–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, phone (312) 886–4179. Copies of Michigan's program revision application are available for inspection and copying at the following addresses from 9 a.m. to 4 p.m.: Michigan Department of Environmental Quality, 608 W. Allegan, Hannah Building, Lansing, Michigan. Contact: Ms. Ronda Blayer, Phone: (517) 373–9548; U.S. EPA, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604, contact: Ms. Judy Feigler, (312) 886–4179.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Feigler, Michigan Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Office of RCRA, DR–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, Phone: (312) 886–4179.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

In accordance with 40 CFR 271.21(a), revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessary because of changes to EPA's regulations in 40 CFR parts 124, 260–268 and 270.

B. Michigan

Michigan initially received final authorization for its base RCRA program effective on October 30, 1986 (51 FR 36804–36805, October 16, 1986). Michigan received authorization for revisions to its program effective on January 23, 1990 (54 FR 225, November 24, 1989), June 24, 1991 (56 FR 18517, April 23, 1991), November 30, 1993 (58 FR 51244, October 1, 1993), and January 13, 1995 (60 FR 3095, January 13, 1995). On June 18, 1994, Michigan revised its hazardous waste rules. On March 30, 1995, Michigan recodified its hazardous waste statute, Act 64, in Part 111 of the Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended (Act 451). On November 9, 1995, Michigan completed a revision application seeking authorization for the program revisions. EPA has reviewed this application and has made an immediate final decision that Michigan's hazardous waste program revision satisfies all the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization to Michigan for its additional program revisions. The public may submit written comments on EPA's immediate final decision up until March 9, 1996. Copies of Michigan's application for program revision are available for inspection and copying at the locations

indicated in the **ADDRESSES** section of this notice.

Approval of Michigan's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision, or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

On April 8, 1996 (unless EPA publishes a prior FR action withdrawing this immediate final rule), Michigan will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following Federally-initiated changes to provisions of the Federal program:

Federal requirement	Analogous State authority
Hazardous and Used Oil Fuel Criminal Penalties, HSWA §§ 3006(h), 3008(d), and 3014, November 8, 1984.	Michigan Combined Laws (MCL), Sections 324.11105, 324.11127, 324.11138, and 324.11151, enacted March 30, 1995.
Corrective Action, 50 FR 28702, July 15, 1985	MCL Sections 324.11102, 324.11105, 324.11115a, and 324.11127, enacted March 30, 1995; Michigan Administrative Code (MAC), Rule (R) 299.9503(3) (a) and (b), R 299.9601 (1) and (2)(j), R 299.9612, R 299.9629(1), R 299.9712, R 299.9713, and R 299.11003(1)(l), effective June 18, 1994
Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces, 50 FR 49164, November 29, 1985, as amended at 52 FR 11819, April 13, 1987.	MAC R 299.9623(1)(b), effective April 20, 1988; R 299.9802, effective February 15, 1989; MAC Rule R 299.9104(e), R 299.9109(i), R 299.9203(4)(b), R 299.9205 (3) (a)–(d) and (8), R 299.9206 (2)(e), (3) (c), (g), (h) and (k), R 299.9601 (1), (3) and (8), R 299.9801(1), R 299.9802, R 299.9805, R 299.9806, R 299.9807, and R 299.11003(1)(o), effective June 18, 1994.
Listing of EBDC, 51 FR 37725, October 24, 1986	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9222 and R 299.11003(1)(i), effective June 18, 1994.
Revised Manual SW–846; Amended Incorporation by Reference, 52 FR 8072, March 16, 1987.	MAC R 299.11005 (1) and (2), effective June 18, 1994.
California List Waste Restrictions: Technical Corrections, 52 FR 41295, October 27, 1987.	MAC R 299.9311, R 299.9413, R 299.9627, R 299.11003(1)(p), and R 299.11005 (1) and (2), effective June 18, 1994.
Permit Application Requirements Regarding Corrective Action, 52 FR 25788, December 1, 1987.	MAC R 299.9508(1)(b), effective April 20, 1988; MAC R 299.9504 (1)(c) and (18), and R 299.11003(1)(q), effective June 18, 1994.
Corrective Action Beyond the Facility Boundary, 52 FR 45788, December 1, 1987.	MAC R 299.9629 (2) and (7), effective June 18, 1994.
Corrective Action for Injection Wells, 52 FR 45788, December 1, 1987 .	MAC R 299.9503 (3)(a)(i) and (5), R 299.9601(4), and R 299.11003(1)(b), effective June 18, 1994.
Permit Modification, 52 FR 45788, December 1, 1987	MAC R 299.9519(3)(b), effective June 18, 1994.
Permit as a Shield Provision, 52 FR 45788, December 1, 1987	MAC R 299.9516, effective April 20, 1988.
Permit Conditions to Protect Human Health and the Environment, 52 FR 45788, December 1, 1987.	MAC R 299.9508(1)(b) and R 299.9521(3)(b), effective April 20, 1988; R 299.9504(16), effective June 18, 1994.
Farmer Exemptions; Technical Corrections, 53 FR 27164, July 19, 1988.	MAC R 299.9204(3)(b), R 299.9301(2)(c), R 299.9311, R 299.9413, R 299.9503(1)(c), R 299.9601 (3), (6), and (8), R 299.9627, and R 299.11003(1) (o) and (p), effective June 18, 1994.
Treatability Studies Sample Exemption, 53 FR 27290, July 19, 1988	MAC R 299.9108(j), and R 299.9204 (7) and (8), effective June 18, 1994.
Land Disposal Restrictions for First Third Scheduled Wastes, 53 FR 31138, August 17, 1988, as amended at 54 FR 8264, February 27, 1989.	MAC R 299.9609 (1)(a) and (2)–(5), effective November 19, 1991; MAC R 299.9311, R 299.9413, R 299.9601 (1), (2) (c) and (d), (3) and (8), R 299.9605 (1) and (3), R 299.9627, R 299.9801(3), and R 299.11003(1) (l), (m), (o) and (p), effective June 18, 1994.
Financial Responsibility for Third Party Liability, Closure, and Post-Closure, 53 FR 33938, September 1, 1988, as amended at 56 FR 30200, July 1, 1991.	MAC R 299.9705(1), effective December 28, 1985; MAC rule R 299.9701(4) and R 299.9709, effective February 15, 1989; MAC R 299.9710, effective June 18, 1994.
Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079, September 2, 1988.	MAC R 299.9103(b) (i) and (ii), R 299.9109(p)(iii), R 299.9601 (1), (2) (f) and (h), R 299.9613 (1) and (6), R 299.9615 (1) and (7), and R 299.11003(1) (l) and (o), effective June 18, 1994.
Identification and Listing of Hazardous Waste and Designation, Reportable Quantity and Notification, 53 FR 35412, September 13, 1988.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9222 and R 299.11003(1)(l), effective June 18, 1994.
Permit Modification for Hazardous Waste Management Facilities, 53 FR 37912, September 28, 1988, as amended at 53 FR 41649, October 24, 1988.	MAC R 299.9520, effective April 20, 1988; R 299.9103 (a), (k), and (aa), R 299.9511, and R 299.9519, effective June 18, 1994.
Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities, 53 FR 39720, October 11, 1988.	MAC R 299.9612 (1) and (2) and R 299.11003(1)(l), effective June 18, 1994.
Removal of Iron Dextran from List of Hazardous Wastes, 53 FR 43878, October 31, 1988.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9225 and R 299.11003(1)(i), effective June 18, 1994.
Removal of Strontium Sulfide from the List of Hazardous Wastes, 53 FR 43881, October 31, 1988.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9224 and R 299.11003(1)(i), effective June 18, 1994.
Changes to 40 CFR Part 124 Not Accounted for by Present RCRA Revision Checklists, 54 FR 246, January 4, 1989; 53 FR 37396, September 26, 1988; 53 FR 28118, July 26, 1988; 48 FR 30113, June 30, 1983; 48 FR 14146, April 1, 1983.	MAC R 299.9509, R 299.9513, and R 299.9514(2)(b), effective December 28, 1985; MAC R 299.9508 (3) and (4), R 299.9510, R 299.9520(3), and R 299.9521, effective April 20, 1988; MAC R 299.9503, R 299.9504 (15) and (18), R 299.9511, R 299.9519 (1) and (2), and R 299.11003(1)(q), effective June 18, 1994.
Amendments to Hazardous Waste Incinerator Permit Requirements, 54 FR 4286, January 30, 1989.	MAC R 299.9626 (4)–(6), effective December 28, 1985; MAC R 299.9508(1)(b) and R 299.9521 (3) and (4), effective April 20, 1988; MAC R 299.9504(4) (a) and (b), effective June 18, 1994.

Federal requirement	Analogous State authority
Changes to Interim Status Facilities for Hazardous Waste Management Permits Procedures for Post-Closure Permitting, 54 FR 9596, March 7, 1989.	MAC R 299.9501, effective November 19, 1991; MAC R 299.9515(1) and R 299.9517(2)(b), effective April 20, 1988; MAC R 299.9502, R 299.9503, R 299.9518(2)(c), R 299.9522(2), R 299.9601 (1)(a), (2)(f), and (2)(j), R 299.9629, R 299.11003(1)(q), effective June 18, 1994.
Land Disposal Restrictions for First Third Scheduled Wastes, 54 FR 18836, May 2, 1989.	MAC R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(p), effective June 18, 1994.
Land Disposal Restrictions for Second Third Scheduled Wastes, 54 FR 26594, June 23, 1989.	MAC R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(p), effective June 18, 1994.
Delisting; Correction, 54 FR 27114, June 27, 1989	MAC R 299.9211, effective February 15, 1989; MAC R 299.11003(1)(g), effective June 18, 1994.
Delay of Closure Period for Hazardous Waste Management Facilities, 54 FR 33376, August 14, 1989.	MAC R 299.9702 (1) and (2), effective April 20, 1988; MAC R 299.9601 (1), (2)(f), (3), and (8), R 299.9605 (1) and (3), R 299.9613 (1) and (6), and R 299.11003(1) (l), (m), and (o), effective June 18, 1994.
Mining Waste Exclusion I, 54 FR 36592, September 1, 1989	MAC R 299.9204(2) (h) and (i), effective June 18, 1994.
Land Disposal Restrictions: Corrections to First Third Scheduled Wastes, 54 FR 36967, September 6, 1989, as amended at 55 FR 23935, June 13, 1990.	MAC R 299.9311, R 299.9413, R 299.9627, R 299.9801(3), and R 299.11003(1)(p), effective June 18, 1994.
Testing and Monitoring Activities, 54 FR 40260, September 29, 1989	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.11003(1)(i) and R 299.11005 (1) and (2), effective June 18, 1994.
Reportable Quantity Adjustment Methyl Bromide Production Wastes, 54 FR 41402, October 6, 1989.	MAC R 299.9216 (1) and (2), R 299.9222, and R 299.11003(1)(i), effective June 18, 1994.
Hazardous Waste Management Systems: Identification and Listing CERCLA Substance Designation Reportable Quantity Adjustment, 54 FR 50968, December 11, 1989.	MAC R 299.9216 (1) and (2), 299.9220, and 299.11003(1)(i), effective June 18, 1994.
Mining Waste Exclusion II, 55 FR 2322, January 23, 1990	MAC R 299.9102(n), R 299.9204(2)(h), and R 299.9304 (2)(d) and (4)(h), effective June 18, 1994.
Modification of F019 Listing, 55 FR 5340, February 14, 1990	MAC R 299.9220, effective June 18, 1994.
Testing and Monitoring Activities, 55 FR 8948, March 9, 1990	MAC R 299.11003(1)(i) and R 299.11005(1), effective June 18, 1994.
Toxicity Characteristic Revisions, 55 FR 11798, March 29, 1990, as amended at 55 FR 26986, June 29, 1990.	MAC R 299.9204 (2) (f), (k), and (l) and (9), R 299.9209(5), R 299.9212(4), R 299.9217, R 299.9601 (3) and (8), R 299.11003(1) (l), (o), (p), and (r), effective June 18, 1994.
Listing of 1,1-dimethylhydrazine Production Wastes, 55 FR 18496, May 2, 1990.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9222 and R 299.11003(1)(i), effective June 18, 1994.
Criteria for Listing Toxic Wastes, 55 FR 18726, May 4, 1990	MAC R 299.9209 (1) and (7) and R 299.11003(1)(h), effective June 18, 1994.
HSWA Codification Rule, Double Liners; Corrections, 55 FR 1926, May 9, 1990.	MAC R 299.9616 (1) and (4), effective December 28, 1985; MAC R 299.9619 (1) and (6), and R 299.11003(1)(l), effective June 18, 1994.
Land Disposal Restrictions for Third Third Scheduled Wastes, 55 FR 22520, June 1, 1990.	MAC R 299.9616 (1) and (2), R 299.9617 (1) and (3), and R 299.9618 (1) and (2), effective December 28, 1985; MAC R 299.9214(1)(c), effective November 19, 1991; MAC R 299.9212(6), R 299.9302 (1)(b) and (2), R 299.9311, R 299.9413, R 299.9519(5)(b)(ii), R 299.9601 (1), (3), and (8), R 299.9605 (1) and (3), R 299.9619 (1) and (6), R 299.9220, R 299.9627, and R 299.11003(1) (i), (l), (o), and (p), effective June 18, 1994.
Organic Air Emission Standards for Process Vents and Equipment Leaks, 55 FR 25454, June 21, 1990.	MAC R 299.9508(1)(b), effective April 20, 1988; MAC R 299.9609 (1)(a), (1)(b), and (5), effective November 19, 1991; MAC R 299.9206(1) (b)–(d), R 299.9504 (1)(c), (12), (13), and (18), R 299.9601, R 299.9605 (1) and (3), R 299.9630 (1) and (2), R 299.9631 (1) and (2), R 299.11001(1) (a), (j), (k), (l), (m), (o), (q), (r), (s), (t), and (3), effective June 18, 1994.
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings—F037 and F038, 55 FR 46354, November 2, 1990, as amended at 55 FR 51707, December 17, 1990.	MAC R 299.9213 (4)–(7), R 299.9220, and R 299.11003(1)(i), effective June 18, 1994.
Wood Preserving Listings, 55 FR 50450, December 6, 1990	MAC R 299.9102(v), R 299.9204(1) (i) and (j), R 299.9220, R 299.9227, R 299.9306, R 299.9504 (14) and (18), R 299.9508(1)(b), R 299.9601, R 299.9615 (1) and (7), R 299.9632 (1) and (2), and R 299.11003(1) (i), (l), (o), and (q), effective June 18, 1994.
Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments, 56 FR 3864, January 31, 1991.	MAC R 299.9203(5)(a), R 299.9212(6), R 299.9220, R 299.9302(1)(b), R 299.9306(4)(e), R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(p), effective June 18, 1994.
Toxicity Characteristic; Chlorofluorocarbon Refrigerants, 56 FR 5910, February 13, 1991.	MAC R 299.9204(2)(m), effective June 18, 1994.
Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment, 56 FR 7567, February 25, 1991.	MAC R 299.9216 (1) and (2), effective April 20, 1988; MAC R 299.9224, and R 299.11003(1)(i), effective June 18, 1994.
Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment, 56 FR 19290, April 26, 1991.	MAC R 299.9609 (1)(a) and (5), effective November 19, 1991; MAC R 299.9504 (12) and (18), R 299.9601, R 299.9630 (1) and (2), R 299.9631 (1) and (2), and R 299.11003(1) (l), (m), (o), and (q), effective June 18, 1994.

Federal requirement	Analogous State authority
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings—F037 and F038; Revisions, 56 FR 21955, May 13, 1991.	MAC R 299.9220, effective June 18, 1994.
Mining Waste Exclusion III, 56 FR 27300, June 13, 1991	MAC R 299.9204(2)(h), effective June 18, 1994.
Wood Preserving Listings; Technical Corrections, 56 FR 30192, July 1, 1991.	MAC R 299.9306(1) (a)–(d) and R 299.9508(1)(b), effective April 20, 1988; MAC R 299.9204(1)(i) and (j), R 299.9227(2)–(4), R 299.9504 (14) and (18), R 299.9601 (1), (3), and (8), R 299.9632 (1) and (2), and R 299.11003(1) (l), (o), and (q), effective June 18, 1994.
Land Disposal Restrictions for Electric Arc Furnace Dust—K061, 56 FR 41164, August 19, 1991.	MAC R 299.9203(4) (c) and (d), R 299.9204(1)(k), R 299.9311, R 299.9413, R 299.9627, and R 299.11003(1)(p), effective June 18, 1994.
Exports of Hazardous Waste; Technical Correction, 56 FR 43704, September 4, 1991.	MAC R 299.9309 (1) and (4), effective April 20, 1988; MAC R 299.11003(1)(j), effective June 18, 1994.
Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments, 57 FR 8086, March 6, 1992.	MAC R 299.9311, R 299.9413, R 299.9601 (3) and (8), R 299.9605, R 299.9627, and R 299.11003(1) (l), (o), and (p), effective June 18, 1994.
Used Oil Filter Exemption, 57 FR 21524, May 20, 1992	MAC R 299.9204(2)(o), effective June 18, 1994.
Toxicity Characteristic Revision, 57 FR 23062, June 1, 1992	MAC R 299.9204(2)(i), effective June 18, 1994.
Used Oil Filter Exemption; Technical Corrections, 57 FR 29220, July 1, 1992.	MAC R 299.9204(2)(o), effective June 18, 1994.
Toxicity Characteristic Revisions; Technical Corrections, 57 FR 30657, July 10, 1992.	MAC R 299.9204(2) (g) and (k), effective June 18, 1994.
Wood Preserving Listings, 57 FR 61492, December 24, 1992	MAC R 299.9220, R 299.9601 (1), (3) and (8), R 299.9632, and R 299.11003(1) (l) and (o), effective June 18, 1994.

In addition, Michigan will be authorized to carry out, in lieu of the Federal program, the following State-initiated changes to provisions of the State's program, which are analogous to the following Resource Conservation and Recovery Act rules found at Title 40 of the Code of Federal Regulations:

State Requirement	Federal Requirement
Michigan Administrative Code (MAC) Rule (R) 299.9101(t)*.	40 CFR 262.60(b)(2).
MAC R 299.9104(i)*	40 CFR 262.60.
MAC R 299.9109(e)*	40 CFR 262.60(b)(2).
MAC R 299.9205*	40 CFR 261.5.
MAC R 299.9206(1)*	40 CFR 261.6(a)(1).
MAC R 299.9206(5)*	40 CFR 264.11.
MAC R 299.9207(3)(b)(ii)*	40 CFR 261.7(b)(1)(iii)(B).
MAC R 299.9207(5)*	40 CFR 261.7(b)(3).
MAC R 299.9212(1)(a)*	40 CFR 261.21(a)(1).
MAC R 299.9306(1)(a)(i)*	40 CFR 262.34(a)(1)(i).
MAC R 299.9306(1)(a)(ii)*	40 CFR 262.34(a)(1)(ii).
MAC R 299.9306(1)(d)*	40 CFR 262.34(a)(4).
MAC R 299.9306(1)(e)*	40 CFR 262.34(a)(4).
MAC R 299.9306(2)*	40 CFR 262.34(c)(1).
MAC R 299.9306(3)*	40 CFR 262.34(b).
MAC R 299.9306(4)*	40 CFR 262.34(d).
MAC R 299.9306(4)(c)*	40 CFR 262.34(d)(2).
MAC R 299.9306(4)(i)(iii)*	40 CFR 262.34(d)(5)(iv)(C).
MAC R 299.9306(4)(j)*	40 CFR 262.34(d).
MAC R 299.9306(4)(k)*	40 CFR 262.34(d).
MAC R 299.9310(2)(a)*	40 CFR 262.60(b)(1).
MAC R 299.9503(1)(a)*	40 CFR 270.1(c)(2)(ii).
MAC R 299.9503(3)*	40 CFR 270.60(c).
MAC R 299.9503(3)(b)(iii)*	40 CFR 270.60.(c)(3)(iv).
MAC R 299.9506(1)(g)*	40 CFR 270.14(c)(4).
MAC R 299.9506(2)(a)(ii)*	40 CFR 270.14(c)(5) and 264.97(a).
MAC R 299.9506(2)(a)(v)*	40 CFR 270.14(c)(5) and 264.97(a).
MAC R 299.9506(2)(f)*	40 CFR 270.14(c)(5) and 264.97(a).
MAC R 299.9506(4)(d)*	40 CFR 270.14(c)(7)(iv) and 264.94(a).
MAC R 299.9511*	40 CFR 124.6
MAC R 299.9518(1)*	40 CFR 270.10(c) and 270.14(a).
MAC R 299.9518(4)*	40 CFR 124.10(c)(1)(i).
MAC R 299.9518(5)*	40 CFR 264.112(d)(3) and 265.112(d)(3).
MAC R 299.9518(6)*	40 CFR 264.112(d)(3) and 265.112(d)(3), 270.51(c)(2).
MAC R 299.9519(1)*	40 CFR 270.41.
MAC R 299.9601(2)(b)*	40 CFR 265.1(b) and 265.50.
MAC R 299.9601(2)(f)*	40 CFR 264.112(d)(3), 264.113, 40 CFR 265.112(d)(3), and 265.113.
MAC R 299.9601(2)(i)*	40 CFR 268.1.
MAC R 299.9601(4)*	40 CFR 264.1(d).

State Requirement	Federal Requirement
MAC R 299.9605(2)*	40 CFR 261.7.
MAC R 299.9607(2)*	40 CFR 264.56(d).
MAC R 299.9607(3)*	40 CFR 264.56(j).
MAC R 299.9611(2)(a)*	40 CFR 264.98.
MAC R 299.9611(3)(a)(iii)*	40 CFR 264.90(c)(3).
MAC R 299.9612(1)*	40 CFR 264.90(a).
MAC R 299.9612(1)(b)*	40 CFR 264.97.
MAC R 299.9612(1)(d)*	40 CFR 264.94(a).
MAC R 299.9612(1)(e)(i)*	40 CFR 264.97(h).
MAC R 299.9612(1)(f)*	40 CFR 264.99(a).
MAC R 299.9612(1)(h)*	40 CFR 264.90(b).
MAC R 299.9613(1)*	40 CFR 264.110.
MAC R 299.9613(2)*	40 CFR 264.112(d)(1).
MAC R 299.9613(3)*	40 CFR 264.115.
MAC R 299.9613(5)*	40 CFR 264.120.
MAC R 299.9615(2)(a)*	40 CFR 264.193(e).
MAC R 299.9615(3)*	40 CFR 264.192(a)(3).
MAC R 299.9619(1)*	40 CFR 264.316.
MAC R 299.9619(5)(a)(i)*	40 CFR 264.310.
MAC R 299.9619(5)(a)(ii)*	40 CFR 264.310.
MAC R 299.9619(6)*	40 CFR 264.316.
MAC R 299.9629(4)*	40 CFR 264.100 (a) and (b).
MAC R 299.9629(5)*	40 CFR 264.100(c).
MAC R 299.9629(6)*	40 CFR 264.100(d).
MAC R 299.9629(7)*	40 CFR 264.100(e).
MAC R 299.9629(8)*	40 CFR 264.100(f).
MAC R 299.9629(9)*	40 CFR 264.100(g).
MAC R 299.9629(10)*	40 CFR 264.100(h).

*Effective June 18, 1994

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on October 30, 1986; January 23, 1990; and June 24, 1991, the effective dates of Michigan's final authorizations for the RCRA base program and for the Non-HSWA Cluster I, Cluster II, and Cluster III revisions.

Michigan is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Michigan's application for program revision meets all the statutory and regulatory requirements established by RCRA. Accordingly, Michigan is granted final authorization to operate its hazardous waste program as revised. Michigan now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Michigan also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013, and 7003 of RCRA.

D. Incorporation by Reference

EPA incorporates by reference authorized State programs in part 272 of 40 CFR to provide notice to the public of the scope of the authorized program in each State. Incorporation by reference of these revisions to the Michigan program will be completed at a later date.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Michigan's hazardous waste program referenced in today's notice will result in annual costs of $100 million or more.

EPA's approval of State programs generally have a deregulatory effect on the private sector because once it is determined that a State hazardous waste program meets the requirements of RCRA section 3006(b) and the regulations promulgated thereunder at 40 CFR part 271, owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs) may take advantage of the flexibility that an approved State may exercise. Such flexibility will reduce, not increase, compliance costs for the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved State hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR parts 264, 265, and 270. Once EPA authorizes a State to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved State program.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Michigan's program thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 Part 271

Environmental Protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a) 3006, and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: January 11, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–2724 Filed 2–7–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5418–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Clothier Disposal site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA), Region II, announces the deletion of the Clothier Disposal site from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New York have determined that all appropriate responses under CERCLA have been implemented, and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of New York have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: February 8, 1996.

ADDRESSES: For further information contact: Herbert H. King, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th floor, New York, NY 10007–1866.

FOR FURTHER INFORMATION CONTACT: Herbert H. King at (212) 637–4268.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Clothier Disposal site, Granby, New York.

The closing date for comments on the Notice of Intent to Delete was October 15, 1995. EPA received one comment letter from the counsel for the Settling Defendants (a group of potentially responsible parties associated with the site who entered into a consent decree with the government to pay for the government's past costs and to remediate the site), indicating that the Settling Defendants support deleting the site from the NPL, and requesting that the description of the activities that were undertaken by the Settling Defendants after the discovery of three buried drums during the first long-term monitoring event at the site be amplified. EPA acknowledges the Settling Defendants' efforts subsequent to the discovery of three buried drums, which included a geophysical investigation in the area surrounding the drum-discovery site, the excavation of trenches through two magnetic anomalies identified by the geophysical investigation, the excavation of metallic debris discovered in one trench, and the off-site disposal of the metallic debris and the three buried drums. Based on these efforts and the associated findings, EPA concluded that no further remedial or investigatory work was necessary at the site.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund)-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425 (e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede EPA's efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 2, 1996.

William J. Muszynski,

Acting Regional Administrator.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321 (c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the Clothier Disposal site, Granby, New York.

[FR Doc. 96–2718 Filed 2–7–96; 8:45 am]

BILLING CODE 6560–60–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

[WO–310–00–1310–2411]

RIN 1004–AC26

Promotion of Development, Reduction of Royalty on Heavy Oil

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management is issuing this final rule to amend the regulations relating to the waiver, suspension, or reduction of rental, royalty, or minimum royalty. This action is being taken to promote the production of heavy oil. The amendment establishes the conditions under which the operators of properties that produce "heavy oil" (crude oil with a gravity of less than 20 degrees) can obtain a reduction in the royalty rate. The amendment should encourage the operators of Federal heavy oil leases to place marginal or uneconomical shut-in oil wells back in production, provide an economic incentive to implement enhanced oil recovery projects, and delay the plugging of these wells until the maximum amount of economically recoverable oil can be obtained from the reservoir or field.

DATES: This rule will be effective March 11, 1996.

ADDRESSES: Inquiries should be sent to: Director (140), Bureau of Land Management, Room 5558, Main Interior Building, 1849 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dr. John W. Bebout, Bureau of Land Management, (202) 452–0340.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Summary of Rule Adopted
III. Responses to Public Comments
IV. Procedural Matters
V. Regulatory Text

I. Introduction

A proposed rule to provide royalty relief for producers of heavy oil was published in the **Federal Register** notice of April 10, 1995 (60 FR 18081) with the comment period ending June 9, 1995. The comment period was reopened June 16, 1995 (60 FR 31663) and closed July 17, 1995.

On March 30, 1995, an outdated version of this proposed rule was published in the **Federal Register** (60 FR 16424) by mistake. That proposed rule publication was withdrawn, and the **Federal Register** notice of April 10, 1995 (60 FR 18081) was published in its place as the proposed rule.

The following are questions and answers designed to provide an introduction to this rule.

When does the Department of the Interior (Department) consider granting royalty relief?

In order to encourage the greatest ultimate recovery of oil and in the interest of conservation, the Secretary, upon a determination that it is necessary to promote development, may reduce the royalty on an entire leasehold or any portion thereof (Section 39 of the Mineral Leasing Act, 30 U.S.C. 209).

Existing section 3103.4–1 of Title 43, Code of Federal Regulations, provides two forms of Federal oil and gas royalty reduction—on a case-by-case basis upon application and for stripper wells. The provision concerning stripper well properties allows royalty reduction for properties that produce an average of less than 15 barrels of oil per eligible well per well-day.

The Bureau of Land Management (BLM) believes that royalty relief for producers of heavy crude oil is needed to promote the development of heavy oil.

Why is heavy oil royalty relief needed?

Above all, this royalty relief is needed to promote the development of heavy oil. Eliminating all royalties would be the most effective way to promote development, but that would jeopardize the Department's efforts in securing a fair return for public land resources. Royalty relief has to be considered in light of all the Department's responsibilities and objectives. The balance this rule strikes is to have a royalty rate that promotes development while ensuring the public receives reasonable compensation.

Cyclical swings in the price for crude oil are common. BLM believes that future price decreases are possible, or even likely. The effect of this rule will provide a buffer against these decreases for heavy oil produced from Federal land. As many as two-thirds of all marginal properties (including non-heavy oil properties) could be lost during a period of sustained low oil prices (Marginal Wells, A Report of the National Petroleum Council, 1994, p. 3). The danger in losing the marginal wells is that, although production from individual wells may be small, their collective production is significant, accounting for one-third of lower-48 State onshore domestic production. Heavy oil production, from both Federal and non-Federal lands, makes up almost one-half of this third (Marginal Wells, A Report of the National Petroleum Council, 1994, p. 50). Heavy oil wells typically incur higher production costs, thus increasing their vulnerability. Were these heavy oil wells abandoned, the United States would lose this significant portion of domestic production.

What will happen as a result of this rule?

This rule should encourage the operators of Federal heavy oil leases to place marginal or uneconomical shut-in oil wells back in production, provide an economic incentive to implement enhanced oil recovery projects, and delay the plugging of these wells until the maximum amount of economically recoverable oil can be obtained from the reservoir or field.

According to a Department of Energy (DOE) analysis of its TORIS (Tertiary Oil Recovery Information System) data, the size of economically recoverable reserves from Federal lands will be significantly enhanced by this amendment. For instance, at a West Texas Intermediate (WTI) crude oil price of $16 a barrel, DOE projects that this rule will increase recoverable reserves of about 54 million barrels to about 87 million barrels for the State of California. At $18 a barrel, DOE projects that this rule will increase recoverable reserves of about 103 million barrels to about 130 million barrels for the State of California. At $20 a barrel, DOE projects that this rule will increase recoverable reserves of about 133 million barrels to about 229 million barrels for the State of California. A proportionately larger increase in recoverable reserves is anticipated when oil prices range toward $20 a barrel because major recovery projects may become economically feasible. Were this rule not promulgated, DOE projects these increases in recoverable reserves would most likely not occur.

Since the State of California produces almost 91 percent of lower-48 State onshore heavy oil production, the vast majority of recoverable reserve increases stemming from this royalty relief will most likely come from this State. Significant recoverable reserve increases are not anticipated in the other States since fewer properties will qualify for the relief.

When will this rule apply?

The rule will take effect March 11, 1996. However, the BLM may suspend or terminate all royalty reductions granted under this rule and terminate the availability of further relief under this rule—

(1) upon 6 month's notice in the **Federal Register** when BLM determines that the average WTI oil price has remained above $24 per barrel over a period of 6 consecutive months or

(2) after September 10, 1999, if the royalty rate reductions authorized by this rule have not been effective in reducing the loss of otherwise recoverable reserves.

How will this royalty relief affect royalties and revenues?

According to the DOE TORIS analysis, although oil royalties may decline in some instances, the effects to overall Federal and State revenues should be largely neutral except in the State of California. (Revenues include all forms of income including royalties.) Slight decreases in overall revenue could be possible at some oil prices for States with moderate levels of heavy oil production. In California, the DOE analysis projects small decreases or sizable increases in State revenues depending on the price of oil (Letter Report from Department of Energy dated July 29, 1994).

II. Summary of Rule Adopted

The final rule establishes a sliding scale royalty rate for qualifying heavy-oil-producing properties. The sliding scale is intended to somewhat offset the reduced prices paid for oil as oil gravity decreases. The reduced royalty rate applies to qualifying heavy oil properties rather than individual wells, because production is normally not reported for individual oil wells, and is based on the average gravity of the oil weighted by the production of heavy oil from each well within the property. A weighted average gravity is used to prevent gravity manipulation by selectively producing wells on a property with heavier gravity crude. Using a weighted average of oil gravity encourages maximum recovery from all wells within a property by removing the economic advantage of selective production.

The rule provides that either the operator (as defined at 43 CFR 3100.0–5) or the payor (as defined at 30 CFR 208.2) must calculate the weighted average gravity of the oil—measured on the American Petroleum Institute (API) scale—produced from a property every 12 months to determine the appropriate royalty rate. In no case, however, would the royalty rate exceed the rate established by the terms of the lease.

The section amended by this rule also provides for royalty rate reductions for stripper oil wells. Some provisions of this final rule are similar to the provisions of the existing regulations that pertain to stripper wells.

The final rule was modified in response to comments and for clarification. Section 3103.4 was redesigned to aid the reader in distinguishing the various forms of royalty reduction and accompanying provisions. Separate sections were established for the stripper oil and heavy oil royalty reduction provisions. The discussion of royalty rate determinations in § 3103.4–3(b)(5) was modified by adding two examples and clarifying the text. Section 3103.4–3(b)(6) was modified to extend the review period until 1999. Cross references were modified where appropriate throughout Part 3100 to reflect the redesign of § 3103.4.

III. Responses to Public Comments

A total of 209 comments were received on the proposed rule. An overwhelming majority supported the proposed rule. A few commenters recommended changes.

Comments suggested that the review period be extended for a period of 4 or 5 years rather than the 2 years stated in the proposed rule. It was always the BLM's intention that the rule be in place at least 4 years before it was evaluated. Unanticipated delays in the rulemaking process, however, have rendered the original 1997 deadline unreasonably short. Therefore, the BLM concurs with this suggestion and the rule has been modified to extend the review period until 1999.

A comment stated that the $24 trigger for rule suspension was too high while another comment stated that $24 was too low. Based on data developed from DOE's TORIS database, the BLM believes that $24 is an appropriate trigger to suspend the rule. The data indicate that State and Federal Royalty reductions are offset by increased recoverable reserves up until the point that WTI crude oil prices reach approximately $24/bbl. Past that point, recoverable reserve increases appear to taper off. In addition, the TORIS data show that when WTI prices climb above $24/bbl the royalty reduction is no longer a determining factor for decisions regarding investments in enhanced oil recovery techniques.

Comments suggested that the CFR 3103.4–1 regulations be revised for clarity and simplicity. The BLM agrees and has revised the section for clarity.

A comment suggested that the qualifying period for a heavy oil royalty rate reduction coincide with the one established for a stripper oil property royalty reduction. While the BLM agrees that there is value in making the stripper and heavy oil royalty rate reduction processes as similar as possible, this is not always practicable. The heavy oil rule qualifying period was made flexible in order to acknowledge the fact that many qualifying, low-production properties may not remove or sell oil every month even if their production is continuous. Thus, many properties may require even more than a calendar year (the stripper property qualifying period) to accumulate 3 months of sales or oil removal.

One comment requested that the notification period for requesting a reduced royalty rate be extended beyond the proposed 60 days. The BLM believes that 60 days is sufficient time for an operator to notify the BLM of a new royalty rate. The stripper property royalty reduction program has a similar notification period which appears to be working well.

Some comments stated that a greater royalty rate reduction was necessary. They suggested that this be accomplished by using a power curve rather than a straight line to calculate royalty rates. The BLM considered calculating royalty rates by both power curves and straight-line methods. The DOE's TORIS data, however, indicated that neither method was clearly advantageous over the other in terms of increasing recoverable reserves except within a narrow range of WTI crude oil prices. Because it is not possible to predict future oil prices, the BLM has chosen to remain with a straight-line royalty reduction for purposes of simplicity as well as to parallel the stripper property royalty reduction rule.

Some comments stated that the rule should use 25 degrees as a "heavy oil" cutoff (rather than the 20 degrees proposed) in order to maximize the rule's effects and to provide the rule's benefits to as many operators as possible. Although there is no single accepted definition for "heavy oil,"

standard academic and industry practice is to reserve the term for crude oils of less than 20 degrees API. The U.S. tax code also uses a 20 degree definition.

One comment stated that BLM should evaluate the stripper oil royalty reduction before granting heavy oil royalty relief. The BLM is in the process of evaluating the stripper well provisions. The stripper well provisions have not been in place long enough to make a substantive assessment.

One comment strongly opposed heavy oil royalty relief, stating that the BLM has no data which demonstrate that the leases eligible for the relief cannot be operated successfully under the lease terms or that the continued operation of each heavy crude lease is in serious, unavoidable jeopardy. Although this is an important consideration, this is not the criterion for relief that is serving as the basis of this determination. The Secretary, acting through the Assistant Secretary—Land and Minerals Management, concludes, based on the DOE analysis cited in the introduction, that this rule is necessary to promote the development of heavy oil. Recoverable reserves are projected to be significantly less in the absence of the royalty relief provided by this rule.

One comment stated that this rule will provide insufficient relief on leases in true jeopardy and windfalls for those without need. The BLM believes that there are enough similarities in terms of the economic pressures on producers of heavy oil that any such relative disparities in levels of relief should be inconsequential. Furthermore, the rule is sensitive to the particular gravity of the heavy oil being produced, so that producers of less valuable heavy oil receive a higher proportion of royalty relief.

One comment stated that even if State revenues increase, royalty reductions will hurt State services. (Revenues include all forms of income including royalties.) According to the DOE analysis, the effects to Federal and State revenues should be largely neutral. Slight royalty decreases could be possible at some oil prices for States with moderate levels of heavy oil production.

In California, where almost 91 percent of the heavy oil production takes place, the DOE analysis generally projects small to moderate decreases in royalties. For instance, at $16 a barrel (WTI), DOE projects that this rule will decrease California royalties by about $3.5 million, while increasing California public sector revenue by about $15 million. At $18 a barrel (WTI), DOE projects that this rule will decrease California royalties by about $24 million, while decreasing California public sector revenue by about $1 million. At $20 a barrel (WTI), DOE projects that this rule will increase California royalties by about $1 million, while increasing California public sector revenue by about $104 million. The wide variations in sensitivity to the price of oil are due to numerous variables, including the propensity for oil companies to invest in major recovery projects at certain oil prices. (Letter Report from Department of Energy dated July 29, 1994.)

IV. Procedural Matters

This rule is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102 (2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

This rule has been reviewed under Executive Order 12866.

The BLM has determined that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The BLM has prepared a regulatory flexibility analysis. It is available upon request from the address listed at the beginning of this rule. Additionally the BLM has determined, under Executive Order 12630, that the rulemaking will not cause a taking of private property.

The BLM has certified that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

The information collection requirements of this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1010–0090 and 1004–0145.

The principal author of this final rule is Dr. John W. Bebout, Senior Technical Specialist, Fluids Group, assisted by Charles Hunt of the Regulatory Management Team, Bureau of Land Management.

List of Subjects for 43 CFR Part 3100

Land Management Bureau, Public Lands—mineral resources, Oil and gas production, Mineral royalties.

For the reasons stated in the preamble, and under the authorities cited below, Part 3100, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below:

V. Regulatory Text

PART 3100—OIL AND GAS LEASING

1. The authority citation for part 3100 continues to read as follows:

Authority: 30 U.S.C. 181, *et seq.*, 30 U.S.C. 351–359.

Subpart 3103—Fees, Rentals and Royalty

§ 3103.2–2 [Amended]

2.–3. Section § 3103.2–2 is amended by removing the cross reference "§ 3103.4–2(d)" in the introductory text and adding in its place the cross reference "§ 3103.4–4(d)."

4. § 3103.4 is amended by revising the heading to read as follows:

§ 3103.4 Production incentives.

§ 3103.4–2 [Redesignated as § 3103.4–4]

5. Section 3103.4–2 is redesignated as § 3103.4–4.

6. Section 3103.4–1 is amended by redesignating paragraphs (c) and (d) as paragraphs (a) and (b) of a new § 3103.4–2, "Stripper well royalty reductions." Section 3103.4–1 is further amended by redesignating paragraph (e) as (c), and revising the section heading and paragraph (b)(1) to read as follows:

§ 3103.4–1 Royalty reductions.

* * * * *

(b)(1) An application for the benefits under paragraph (a) of this section on other than stripper oil well leases or heavy oil properties must be filed by the operator/payor in the proper BLM office. (Royalty reductions specifically for stripper oil well leases or heavy oil properties are discussed in § 3103.4–2 and § 3103.4–3 respectively.) The application must contain the serial number of the leases, the names of the record title holders, operating rights owners (sublessees), and operators for each lease, the description of lands by legal subdivision and a description of the relief requested.

7. Newly designated § 3103.4–2, paragraph (b)(3)(iii)(A) is amended by removing the cross reference "(d)(3)(ii)" and adding in its place the cross reference "(b)(3)(ii)."

8. A new § 3103.4–3 is added to read as follows:

§ 3103.4–3 Heavy oil royalty reductions.

(a)(1) A heavy oil well property is any Federal lease or portion thereof segregated for royalty purposes, a communitization area, or a unit participating area, operated by the same operator, that produces crude oil with a weighted average gravity of less than 20 degrees as measured on the American Petroleum Institute (API) scale.

(2) An oil completion is a completion from which the energy equivalent of the oil produced exceeds the energy equivalent of the gas produced (including the entrained liquefiable hydrocarbons) or any completion producing oil and less than 60 MCF of gas per day.

(b) Heavy oil well property royalty rate reductions will be administered according to the following requirements and procedures:

(1) The Bureau of Land Management requires no specific application form for the benefits under paragraph (a) of this section for heavy oil well properties. However, the operator/payor must notify, in writing, the proper BLM office that it is seeking a heavy oil royalty rate reduction. The letter must contain the serial number of the affected leases (or, as appropriate, the communitization agreement number or the unit agreement name); the names of the operators for each lease; the calculated new royalty rate as determined under paragraph (b)(2) of this section; and copies of the Purchaser's Statements (sales receipts) to document the weighted average API gravity for a property.

(2) The operator must determine the weighted average API gravity for a property by averaging (adjusted to rate of production) the API gravities reported on the operator's Purchaser's Statement for the last 3 calendar months preceding the operator's written notice of intent to seek a royalty rate reduction, during each of which at least one sale was held. This is shown in the following 3 illustrations:

(i) If a property has oil sales every month prior to requesting the royalty rate reduction in October of 1996, the operator must submit Purchaser's Statements for July, August, and September of 1996;

(ii) If a property has sales only every 6 months, during the months of March and September, prior to requesting the rate reduction in October of 1996, the operator must submit Purchaser's Statements for the months of September 1995, and March and September 1996; and

(iii) If a property has multiple sales each month, the operator must submit Purchaser's Statements for every sale for the 3 entire calendar months immediately preceding the request for a rate reduction.

(3) The following equation must be used by the operator/payor for calculating the weighted average API gravity for a heavy oil well property:

$$\frac{(V_1 \times G_1)+(V_2 \times G_2)+(V_n \times G_n)}{V_1+V_2+V_n} = \text{Weighted Average API gravity for a property}$$

Where:
V_1=Average Production (bbls) of Well #1 over the last 3 calendar months of sales
V_2=Average Production (bbls) of Well #2 over the last 3 calendar months of sales
V_n=Average Production (bbls) of each additional well (V_3, V_4, etc.) over the last 3 calendar months of sales
G_1=Average Gravity (degrees) of oil produced from Well #1 over the last 3 calendar months of sales
G_2=Average Gravity (degrees) of oil produced from Well #2 over the last 3 calendar months of sales
G_n=Average Gravity (degrees) of each additional well (G_3, G_4, etc.) over the last 3 calendar months of sales

Example: Lease "A" has 3 wells producing at the following average rates over 3 sales months with the following associated average gravities: Well #1, 4,000 bbls, 13° API; Well #2, 6000 bbls, 21° API; Well #3, 2,000 bbls, 14° API. Using the equation above—

$$\frac{(4{,}000 \times 13)+(6{,}000 \times 21)+(2{,}000 \times 14)}{(4{,}000+6{,}000+2{,}000)} = 17.2 \text{ Weighted Average API gravity for property}$$

(4) For those properties subject to a communitization agreement or a unit participating area, the weighted average API oil gravity for the lands dedicated to that specific communitization agreement or unit participating area must be determined in the manner prescribed in paragraph (b)(3) of this section and assigned to all property subject to Federal royalties in the communitization agreement or unit participating area.

(5) The operator/payor must use the following procedures in order to obtain a royalty rate reduction under this section:

(i) *Qualifying royalty rate determination.*

(A) The operator/payor must calculate the weighted average API gravity for the property proposed for the royalty rate reduction in order to verify that the property qualifies as a heavy oil well property.

(B) Properties that have removed or sold oil less than 3 times in their productive life may still qualify for this royalty rate reduction. However, no additional royalty reductions will be granted until the property has a sales history of at least 3 production months (see paragraph (b)(2) of this section).

(ii) *Calculating the qualifying royalty rate.* If the Federal leases or portions thereof (e.g., communitization or unit agreements) qualify as heavy oil property, the operator/payor must use the weighted average API gravity rounded down to the next whole degree (e.g., 11.7 degrees API becomes 11 degrees), and determine the appropriate royalty rate from the following table:

ROYALTY RATE REDUCTION FOR HEAVY OIL

Weighted average API gravity (degrees)	Royalty Rate (percent)
6	0.5
7	1.4
8	2.2
9	3.1
10	3.9
11	4.8
12	5.6
13	6.5
14	7.4
15	8.2
16	9.1
17	9.9
18	10.8
19	11.6
20	12.5

(iii) *New royalty rate effective date.* The new royalty rate will be effective on the first day of production 2 months after BLM receives notification by the operator/payor. The rate will apply to all oil production from the property for the next 12 months (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined in the next year). If the API oil gravity is 20 degrees or greater, the royalty rate will be the rate in the lease terms.

Example: BLM receives notification from an operator on June 8, 1996. There is a two month period before new royalty rate is

effective—July and August. New royalty rate is effective September 1, 1996.

(iv) *Royalty rate determinations in subsequent years.*

(A) At the end of each 12-month period, beginning on the first day of the calendar month the royalty rate reduction went into effect, the operator/payor must determine the weighted average API oil gravity for the property for that period. The operator/payor must then determine the royalty rate for the following year using the table in paragraph (b)(5)(ii) of this section.

(B) The operator/payor must notify BLM of its determinations under this paragraph and paragraph (b)(5)(iv)(A) of this section. The new royalty rate (effective for the next 12 month period) will become effective the first day of the third month after the prior 12 month period comes to a close, and will remain effective for 12 calendar months (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined in the next year). Notification must include copies of the Purchaser's Statements (sales receipts) and be mailed to the proper BLM office. If the operator does not notify the BLM of the new royalty rate within 60 days after the end of the subject 12-month period, the royalty rate for the heavy oil well property will return to the rate in the lease terms.

Example: On September 30, 1997, at the end of a 12-month royalty reduction period, the operator/payor determines what the weighted average API oil gravity for the property for that period has been. The operator/payor then determines the new royalty rate for the next 12 month using the table in paragraph (b)(5)(ii) of this section. Given that there is a 2-month delay period for the operator/payor to calculate the new royalty rate, the new royalty rate would be effective December 1, 1997 through November 30, 1998 (plus the 2 calendar month grace period during which the next 12 months' royalty rate is determined—December 1, 1998 through January 31, 1999).

(v) *Prohibition.* Any heavy oil property reporting an API average oil gravity determined by BLM to have resulted from any manipulation of normal production or adulteration of oil sold from the property will not receive the benefit of a royalty rate reduction under this paragraph (b).

(vi) *Certification.* The operator/payor must use the applicable royalty rate when submitting the required royalty reports/payments to the Minerals Management Service (MMS). In submitting royalty reports/payments using a royalty rate reduction authorized by this paragraph (b), the operator/payor must certify that the API oil gravity for the initial and subsequent 12-month periods was not subject to manipulation or adulteration and the royalty rate was determined in accordance with the requirements and procedures of this paragraph (b).

(vii) *Agency action.* If an operator/payor incorrectly calculates the royalty rate, the BLM will determine the correct rate and notify the operator/payor in writing. Any additional royalties due are payable to MMS immediately upon receipt of this notice. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102. The BLM will terminate a royalty rate reduction for a property if BLM determines that the API oil gravity was manipulated or adulterated by the operator/payor. Terminations of royalty rate reductions for individual properties will be effective on the effective date of the royalty rate reduction resulting from a manipulated or adulterated API oil gravity so that the termination will be retroactive to the effective date of the improper reduction. The operator/payor must pay the difference in royalty resulting from the retroactive application of the non-manipulated rate. The late payment or underpayment charges will assessed in accordance with 30 CFR 218.102.

(6) The BLM may suspend or terminate all royalty reductions granted under this paragraph (b) and terminate the availability of further heavy oil royalty relief under this section—

(i) Upon 6 month's notice in the **Federal Register** when BLM determines that the average oil price has remained above $24 per barrel over a period of 6 consecutive months (based on the WTI Crude average posted prices and adjusted for inflation using the implicit price deflator for gross national product with 1991 as the base year), or

(ii) After September 10, 1999, if the Secretary determines the royalty rate reductions authorized by this paragraph (b) have not been effective in reducing the loss of otherwise recoverable reserves. This will be determined by evaluating the expected versus the actual abandonment rate, the number of enhanced recovery projects, and the amount of operator reinvestment in heavy oil production that can be attributed to this rule.

(7) The heavy oil well property royalty rate reduction applies to all Federal oil produced from a heavy oil property.

(8) If the lease royalty rate is lower than the benefits provided in this heavy oil well property royalty rate reduction program, the lease rate prevails.

(9) If the property qualifies for a stripper well property royalty rate reduction, as well as a heavy oil well property reduction, the lower of the two rates applies.

(10) The operator/payor must separately calculate the royalty for gas production (including condensate produced in association with gas) from oil completions using the lease royalty rate.

(11) The minimum royalty provisions of § 3103.3–2 will continue to apply.

§ 3140.1–4 [Amended]

9. Section § 3140.1–4(c)(3) is amended by removing the cross reference "§ 3103.4–1" and adding in its place the cross reference "§ 3103.4."

§ 3165.1 [Amended]

10. Section § 3165.1(b) is amended by removing the cross reference "§ 3103.4–2" and adding in its place the cross reference "§ 3103.4–4."

Dated: November 8, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–2433 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–84–P

43 CFR Public Land Order 7183

[OR–943–1430–01; GP5–194; OR–22189 (WASH)]

Revocation of Secretarial Order of June 17, 1908; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a Secretarial order which withdrew 50 acres of National Forest System land for use by the Forest Service, Department of Agriculture, for the Laurier Administrative Site. The land is no longer needed for this purpose and the revocation is needed to permit disposal of the land through exchange. This action will open the land to surface entry, subject to Section 24 of the Federal Power Act. The land is temporarily closed to mining by the Forest Service exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Secretarial Order dated June 17, 1908, which withdrew the following described land is hereby revoked in its entirety:

Willamette Meridian

Colville National Forest

T. 40 N., R. 36 E.,
Sec. 3, SE¼SW¼SE¼ and SE¼SE¼.
The area described contains 50 acres in Ferry County.

2. At 8:30 a.m. on March 11, 1996, the lands will be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, the provisions of Section 24 of the Federal Power Act, other segregations of record, and the requirements of applicable law.

Dated: January 26, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–2648 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–33–P

Proposed Rules

Federal Register

Vol. 61, No. 27

Thursday, February 8, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1755

Telecommunications Program—Postloan Engineering Service Contract

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On December 27, 1995, the Rural Utilities Service (RUS) published a proposed rule to amend its contract for the procurement of postloan engineering services for telecommunications systems. In response to requests from members of the public, RUS is extending the comment period on this regulation.

DATES: Written comments and recommendations must be received by RUS by March 11, 1996.

ADDRESSES: Written comments should be addressed to Mr. Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, AG Box 1598, 14th and Independence Ave., SW, Washington, DC 20250–1598. RUS requires a signed original and three copies of all comments (7 CFR 1700.30(e)). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Mr. Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, room 2835–S, at the above address. Telephone: (202) 720–8663.

SUPPLEMENTARY INFORMATION: On December 27, 1995, at 60 FR 66936, the Rural Utilities Service published a proposed rule on 7 CFR Part 1755, Telecommunications Program—Postloan Engineering Service Contract to amend its contract for the procurement of postloan engineering services for telecommunications systems. The proposed rule had a 30-day period for public comments which ends on January 26, 1996. Because of exceptionally harsh weather and a mid-holiday proposed rule publishing date the public requested more time to prepare responses. To accommodate commenters and improve the quality of the final rule, RUS is extending this public comment period. The new comment period will expire on March 11, 1996.

Dated: February 1, 1996.

Wally Beyer,

Administrator.

[FR Doc. 96–2673 Filed 2–7–96; 8:45 am]

BILLING CODE 3410–15–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

[Docket No. PRM–35–13]

National Registry of Radiation Protection Technologists; Receipt of a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the National Registry of Radiation Protection Technologists (NRRPT). The petition has been docketed by the Commission and assigned Docket No. PRM–35–13. The petitioner requests that the NRC amend its regulations by including acceptance of NRRPT registration as fulfilling some of the training requirements for a radiation safety officer. The petitioner believes that this amendment would support the objectives of the NRRPT and provide a substantial qualified resource to the medical community throughout the United States.

DATES: Submit comments by April 23, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except to those comments received on or before this date.

ADDRESSES: For a copy of the petition, write: Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Docketing and Services Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For information on sending comments by electronic format, see "Electronic Access," under the Supplementary Information section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–7163, or Toll Free: 800–368–5642, or e-mail MTL@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background Information

The NRC's training and experience requirements to be a Radiation Safety Officer (RSO) at a medical institution licensed by the NRC are described in 10 CFR Part 35, Subpart J—Training and Experience Requirements, § 35.900, Radiation Safety Officer. Specifically, an applicant must meet the requirements in §§ 35.900(a), 35.900(b) or 35.900(c).

The regulations in § 35.900(a) provide a list of acceptable certification boards (e.g., American Board of Health Physics in Comprehensive Health Physics; American Board of Radiology) for an individual to be qualified to work as an RSO at a medical institution licensed by the NRC.

The NRC regulations in § 35.900(b) are the subject of this petition and are as follows:

"Except as provided in § 35.901, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in § 35.32 to be an individual who:

* * * * *

"(b) Has had classroom and laboratory training and experience as follows:

"(1) 200 hours of classroom and laboratory training that includes:

"(i) Radiation physics and instrumentation;

"(ii) Radiation protection;

"(iii) Mathematics pertaining to the use and measurement of radioactivity;

"(iv) Radiation biology; and

"(v) Radiopharmaceutical chemistry; and

"(2) One year of full time experience as radiation safety technologist at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on a Commission or Agreement State license that authorizes the medical use of byproduct material; or * * *."

The NRC regulations in § 35.900(c) permit an authorized user (i.e., a physician, dentist, or podiatrist) identified on the licenses's license to serve as the RSO.

The Petitioner

The petitioner is the National Registry of Radiation Protection Technologists (NRRPT). NRRPT was incorporated in 1976 as a nonprofit organization and has a current membership of 3255. The petitioner states its objective is to encourage and promote the education and training of radiation protection technologists and, in so doing, promote and advance the science of health physics.

Receipt of Petition for Rulemaking

The NRC received the NRRPT petition for rulemaking on November 24, 1995. The petition is dated November 17, 1995, and was docketed as PRM–35–13 on November 27, 1995.

Petitioner's Request

The petitioner requests that the NRC amend its regulations in 10 CFR 35.900 specifying training and experience requirements for a radiation safety officer. Specifically, the petitioner requests that the NRC accept NRRPT registration for the current requirement of 200 hours of classroom and laboratory training, as specified in § 35.900(b)(1), and for nine months of the current one year requirement specified in § 35.900(b)(2).

The petitioner states that the NRRPT Certificate of Registration certifies that its holder has met general requirements and passed a multiple choice comprehensive examination to test competence in fundamental concepts required as a Radiation Protection Technologist.

The general requirements an applicant for registration must meet are as follows:

1. The applicant shall have a high school diploma or equivalent.

2. The applicants' minimum age at the time of application shall be 21 years.

3. An applicant must have a minimum of five (5) years experience in applied radiation protection. Credit, up to a maximum of two (2) years, for formal education, company training programs and military training programs applicable to the field of radiation protection may be substituted for experience.

4. An applicant must provide two references recommending the applicant for approval to take the NRRPT Registration Examination.

The petitioner states that each successful applicant is also required to pass a broad-based multiple choice examination on radiation protection. The subject categories and the associated knowledge factors used by the petitioner are as follows:

Applied Radiation Protection: Surveys and Inspections; Emergency Preparedness; Evaluating Internal and External Exposures and Controls; Prescribed Dosimetry and Radiation Equipment; Contamination Control; Radioactive Material Control and Transportation; Guides and Regulation; and Procedures and Programs (ALARA);

Detection and Measurement: Analytical Methods; Instrument Calibration and Maintenance; Personnel Dosimetry; and Equipment Operation;

Fundamentals: Sources of Radiation; Biological Effects; Mathematics - Chemistry; Physics; and Units and Terminology.

The petitioner states that the examination consists of one-hundred fifty "multiple choice" type questions based on these elements.

Discussion of the Petition

The petitioner states that one of the minimum qualifications for NRRPT registration is 5 years experience as a radiation protection technologist. For some registered members, the requirement of § 35.900(b)(2) either currently or as amended in accordance with this petition, may be included in their historical work experience upon application for registration. For those individuals (who are registered in the NRRPT and have three months experience in a medical institution), the petitioner believes that the requirement of § 35.900(b)(2) would be satisfied and need not be repeated prior to eligibility for Radiation Safety Officer at NRC or Agreement State licensed medical facilities.

The petitioner believes that for individuals completing 200 hours of classroom and laboratory training required under the current requirement of § 35.900(b)(2), the one year full-time work experience as a radiation safety technologist at a medical institution is appropriate and necessary for hands-on operational experience. The petitioner states that the previous work experience and qualifications for some registered members of the NRRPT may be reviewed and found acceptable for upper level job classifications such as specialist or health physicist positions, depending on the job requirements, job descriptions, and the needs of the employer.

The petitioner believes that language should be included in current § 35.900 to allow for work in upper-level positions to minimize a potential conflict between the specific regulatory requirement for job title and the potential availability of upper-level employment for registered members.

The petitioner acknowledges that acceptance for radiation safety officers at licensed medical facilities is based on NRC's review of an applicant's credentials and experience. The petitioner believes that the applicant's credentials and experience may be mitigated at the time of the NRC's review. However, the petitioner believes that the current § 35.900 allows that certain opportunities for NRRPT, as well as the job applicant, may be waived due to an overly restrictive job title.

In support of the petition, the petitioner has provided a statement of the general requirements necessary for an individual to apply for registration as a radiation protection technologist, a copy of their bylaws, and a copy of the application package.

The Petitioner's Proposed Amendment

The petitioner recommends the following amendments to 10 CFR Part 35.

1. In § 35.900, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) is added to read as follows:

§ 35.900 Radiation Safety Officer.

* * * * *

(b) Is registered by the National Registry of Radiation Protection Technologists and has had three months full-time experience as a radiation safety technologist or radiation safety specialist at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on a Commission or Agreement State license that authorizes the use of byproduct material; or

* * * * *

Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or

directly via Internet. Background documents on the petition for rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555–0001, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Single copies of this petition for rulemaking may be obtained by written request or telefax ((301) 415–5144) from: Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001. Certain documents related to this petition for rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents may also be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for this petition for rulemaking as indicated above.

Dated at Rockville, Maryland, this 2nd day of February 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle

Secretary of the Commission.

[FR Doc. 96–2699 Filed 2–7–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–89–AD]

Airworthiness Directives; Beech Aircraft Corporation Model 58P and 58PA Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Beech Aircraft Corporation (Beech) Model 58P and 58PA airplanes. The proposed action would require inspecting for cracks and missing rivets in the cabin structure (longeron) adjacent to and aft of the second right hand cabin window, and repairing any cracked structure and installing rivets, if missing. The Federal Aviation Administration (FAA) has received reports of airplanes with cracks in the cabin structure. The airplanes are missing rivets that should have been installed in the cabin structure to secure the frame, splice, and longeron together. The missing rivets, which could lead to cabin structure cracks, prompted the proposed AD action. The actions specified by the proposed AD are intended to prevent structural damage to the cabin caused by missing rivets, which if not corrected, could cause decompression injuries to passengers, structural damage to the fuselage, and loss of the airplane.

DATES: Comments must be received on or before April 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–89–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: David Ostrodka, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4129, facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–89–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–89–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received reports of cracks in the fuselage on Beech airplane Models 58P and 58PA. Upon investigating the source of the cracks, FAA has learned that four rivets attaching the longeron to the frame and splice had been omitted during the manufacturing process in some of these airplanes. These four rivets are installed to secure the cabin structure to the airplane frame and splice. Without the rivets in place to reinforce the area around the cabin windows, cracking can occur in this area resulting in possible cabin decompression or structural failure of the fuselage.

Beech Service Bulletin (SB) No. 2630, Issued: November, 1995, specifies procedures for inspecting for cracks and repairing any cracks found in the longeron around certain cabin windows, and installing any rivets, if missing.

After examining the circumstances and reviewing all available information related to the reports described above, including the referenced service information, the FAA has determined that AD action should be taken to prevent structural damage to the cabin caused by missing rivets, which if not corrected, could cause decompression injuries to passengers, structural damage to the fuselage, and loss of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech 58P and 58PA airplanes of the same type design, the proposed AD would require inspecting the cabin window upper longeron (next to the upper aft splice) between the second and third right hand windows for cracks and missing rivets, repairing any cracks found, and installing rivets if missing. Accomplishment of the proposed action would be in accordance with Beech SB No. 2630, Issued: November, 1995.

The FAA estimates that 386 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours to accomplish the inspection and that the average labor rate is approximately $60 an hour. In estimating the total cost impact of the proposed AD on U.S. operators, the FAA is only using the proposed inspection criteria (3 workhours). This estimate is based on the assumption that no affected airplane will have missing rivets or a cracked longeron.

Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $69,480 or $180 per airplane.

If during the proposed inspection cracks are found and rivets are missing, the estimated costs for accomplishing the following proposed actions would be:

—2 workhours to install rivets at an estimated cost of $125 per airplane ($120 for labor and $5 for rivets) and,
—8 workhours to repair any crack in the desiginated area at an estimated cost of $675 per airplane ($480 for labor and $195 for parts).

Beech has informed FAA that parts have been distributed to equip approximately 19 airplanes. Assuming that each set of these parts is installed on an affected airplane, the estimated cost impact of the proposed AD on U.S. operators would be reduced by $3,420 from $59,480 to $66,060.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Beech Aircraft Corporation: Docket No. 95–CE–89–AD.

Applicability: Models 58P and 58PA airplanes, having the following serial numbers, and certificated in any category:

TJ–2 through TJ–177
TJ–179
TJ–181 through TJ–212
TJ–214 through TJ–270
TJ–272 through TJ–283
TJ–285 through TJ–288
TJ–290 through TJ–313
TJ–315 through TJ–321
TJ–323, TJ–324
TJ–326 through TJ–368, and
TJ–370 through TJ–497

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished:

To prevent structural damage to the cabin caused by missing rivets, which if not corrected, could cause decompression injuries to passengers, structural failure of the fuselage, and loss of the airplane, accomplish the following:

(a) Inspect cabin window upper longeron (next to the upper aft splice) between the second and third right hand cabin side windows for cracks and missing rivets in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin No. 2630, Issued: November 1995.

(1) If cracks are found in the longeron, prior to further flight, repair the cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin No. 2630, Issued: November 1995.

(2) If rivets are found missing, prior to further flight, install the rivets in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin No. 2630, Issued: November 1995.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviations Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 2, 1996.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2683 Filed 2–7–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF EDUCATION

34 CFR Part 646

RIN 1840–AC24

Student Support Services Program

AGENCY: Department of Education.

ACTION: Reopening of comment period.

SUMMARY: On December 17, 1995, the Department of Education published in the **Federal Register** a notice of proposed rulemaking (NPRM) for the Student Support Services program (60 FR 64108). The comment period for the NPRM ended on January 12, 1996.

The Department has received requests from the National, regional and State associations for the program and potential grantees for an extension of the comment period on the NPRM. A longer comment period would give these interested parties an opportunity for dialogue with program staff regarding technical clarification and substantive inquiries prior to submitting comments. The Department believes this approach would improve the quality of information available for rulemaking, so the Secretary is reopening the comment period.

DATES: Comments must be received on or before February 22, 1996.

ADDRESSES: All comments concerning this notice or the notice of proposed rulemaking should be addressed to Steven G. Pappas, U.S. Department of Education, 600 Independence Avenue, S.W., Suite 600D, Portals Building, Washington, D.C. 20202–5249. Comments may also be sent through the Internet to TRIO@ed.gov.

FOR FURTHER INFORMATION CONTACT: Virginia A. Mason, Division of Student Services, U.S. Department of Education, 600 Independence Avenue, S.W., The Portals Building, Suite 600D, Washington, D.C. 20202–5249. Telephone (202) 708–4804. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: January 24, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–2713 Filed 2–7–96; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 268, 271, and 302

[FRL–5418–8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Environmental Protection Agency (EPA) is today issuing a technical correction of the proposed rule published on November 20, 1995 (60 FR 57747). EPA is issuing this technical correction to address the incorrect proposed treatment standard for a proposed newly identified hazard waste containing the constituent dibenz(a,h)anthracene, to restate correctly the self-implementing provision of the prohibition on land disposal of newly listed and identified wastes, and to make other typographical corrections.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/Superfund Hotline, toll free, at (800)424–9346, or at (703)920–9810. For technical information concerning this notice, contact Mr. Maximo Diaz, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–4786.

SUPPLEMENTARY INFORMATION: On November 20, 1995, the EPA proposed the hazardous listing determination of a number of wastes from the petroleum refining industry. As part of that action, the Agency proposed treatment standards for the proposed newly identified hazardous wastes. For the K170 wastestream, the Agency inadvertently stated the treatment standard for the constituent dibenz(a,h)anthracene as .0055 mg/L. The correct concentration of 0.055 mg/L should have appeared in Table V–1 (page 57787) and in the regulatory text at § 268.40 (page 57797), and is being corrected to so read.

Under RCRA section 3004(g)(4)(C), additional land disposal prohibitions for wastes identified under RCRA section 3001 shall take place by the date six months after the date of such identification or listing. In accordance with section 3004(g)(4)(C), the effective date of additional land disposal restrictions on the proposed newly identified wastes should have indicated six months after the effective date of the final rule in § 271.1(j) Table 2—Self-Implementing Provisions of the Solid Waste Amendments of 1984 on page 57799. This table is being corrected to so read.

Minor typesetting errors appeared on pages 57789 and 57800. On page 57789, the central tendency risks for CSO sediment/solids should have been expressed as 3×10^{-6}, not 3×10^{-9}. On page 57800, the final RQ in Pounds(Kg) for the entry K172 is corrected to read 100(45.4) not "B100(45.4)."

Dated: January 29, 1996.

Timothy Fields, Jr.,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

Accordingly, the publication on November 20, 1995 of proposed regulations, which were the subject of FR Doc. 95–27693, is corrected as follows:

PART 268—LAND DISPOSAL RESTRICTIONS [CORRECTED]

§ 268.40 [Corrected]

1. On page 57797 in § 268.40 the Table of Treatment Standards, the proposed wastewater concentration for the constituent dibenz(a,h)anthracene in waste code K170 is corrected to read 0.055 mg/L.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS [CORRECTED]

§ 271.1 [Corrected]

2. On page 57799 in § 271.1(j) Table 2 column one effective date, the effective date of each entry is corrected to read [Insert date 6 months from the date of publication of final rule].

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION [CORRECTED]

3. On page 57800 in Table 302.4, the final RQ in Pounds(Kg) for the entry K172 is corrected to read 100(45.4).

[FR Doc. 96–2720 Filed 2–7–96; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

February 2, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Officer, USDA, OIRM, Ag Box 7630, Washington, DC 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Forest Service

Title: Grazing Permit Administration Forms

Summary: Data collected is used in the administration of livestock grazing on the National Forest System. Both National and Regional level forms are included in this request. They are required for the issuance and administration of grazing permits on the NFS, as authorized by the Federal Land Policy and Management Act, as amended, and subsequent Secretary of Agriculture Regulation 5 U.S.C. 301, 36 CFP 222, subparts A & C.

Need and Use of the Information: The data obtained is used by Forest Officers in administering the range program. The data is necessary for the issuance of different types of grazing permits and the collection of fees due to the Federal Government.

Description of Respondents: Business or other for-profit; Farms

Number of Respondents: 4,950

Frequency of Responses: Reporting—on occasion

Total Burden Hours: 1,455

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 96–2670 Filed 2–7–96; 8:45 am]

BILLING CODE 3410–01–M

Natural Resources Conservation Service

Monastery Run Project Area, Westmoreland County, PA

AGENCY: USDA—Natural Resources Conservation Service.

ACTION: "Notice of a Finding of No Significant Impact".

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR, Part 1500); and the Natural Resources Conservation Service (formerly the Soil Conservation Service) Guidelines (7 CFR, Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Monastery Run Project Area, Westmoreland County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Ms. Janet L. Oertly, State Conservationist, Natural Resource Conservation Service, One Credit Union Place, Suite 340, Harrisburg, Pennsylvania 17110–2993, telephone (717) 782–2202.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Janet L. Oertly, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for water quality improvement. The planned works of improvement involve six treatment sites that are the source of ground and surface water pollution. Treatment of these sites will involve the installation of waterways, diversions, and treatment wetlands. Deep mine subsidence will be treated.

The "Notice of a Finding of No Significant Impact" (FONSI) has been forwarded to the Environmental Protection Agency. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The environmental assessment and basic data may be reviewed by contacting Janet L. Oertly.

No administrative action on implementation of the proposal will be taken until thirty (30) days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Janet L. Oertly,

State Conservationist.

[FR Doc. 96–2651 Filed 2–7–96; 8:45 am]

BILLING CODE 3410–16–M

Rural Utilities Service

LaGrange County, Indiana Sewer District; Draft Programmatic Environmental Impact Statement

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Availability of Draft Programmatic Environmental Impact Statement and Notice of Public Meeting.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing a draft Programmatic Environmental Impact Statement (PEIS) related to the LaGrange County, Indiana Sewer District's proposal to construct sanitary wastewater collection and treatment facilities for residential population centers. The draft PEIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508) and Farmers Home Administration's procedure (7 CFR 1940, subpart G, Environmental Program). RUS invites comments on analyses performed by and addressed in the DPEIS.

The purpose of this draft PEIS is to evaluate the environmental impacts of proposed alternative strategies to provide treatment of sanitary wastewaters for residential population centers in LaGrange County. Discussion of each alternative's impact on the human environment, including risks to public health and safety, and effects on the natural environment is presented. The proposed action is necessary in order to respond to increased public health concerns and the continuation of surface and ground water degradation caused by inadequately treated wastewater effluent. This draft PEIS provides a planning tool to County officials and citizens to help select the most appropriate design and implementation strategy to address LaGrange County's wastewater problems.

ADDRESSES/FOR FURTHER INFORMATION CONTACT: For more information contact or for transmittal of written comments send to: Paul Neumann, State Environmental Coordinator, USDA—RECD, RUS, 5975 Lakeside Blvd., Indianapolis, IN 46278, (219) 290–3109, and FAX (219) 290–3127. Copies of the DPEIS will be available for public inspection, during normal business hours at the following locations:

LaGrange Town Clerk, 107 S. High Street, LaGrange, IN 46761

Town of Topeka, ATTN: Duane Bontrager, 101 Main Street, Topeka, IN 46571

Town of Shipshewana, ATTN: Ruth Ann Downey, P.O. Box 486, 345 N. Morton Street, Shiphewana, IN 46565

Town of Wolcottville, ATTN: Elizabeth Hodge, P.O. Box 325, 101 W. Race Street, Wolcottville, IN 46795

The draft PEIS will be distributed to various Federal, State, and local agencies, and elected officials. A limited number of copies of the narrative will be available for distribution at the LaGrange Town Clerk Office.

SUPPLEMENTARY INFORMATION: LaGrange County is a rural county of 30,000 residents located on the Michigan/Indiana border in northeastern Indiana. The largest town in the county is LaGrange, with a population of 4,000 residents. Most of the remaining citizens live in eight other small towns or in residential developments surrounding many of the County's numerous natural lakes. Eighty percent of LaGrange County's land is currently used for agriculture. The remaining twenty percent is either in use as residential or commercial development or is unsuitable for agricultural production.

The citizens of LaGrange County have had for decades a mounting problem being able to achieve effective treatment of their sanitary wastewaters. The primary method of treating wastewater has been on-site waste disposal systems. These systems are a cost effective and efficient treatment method for treating wastewater provided they are designed and installed properly and operate under suitable soil conditions. However, LaGrange County and indeed, many parts of northern Indiana, do not have the types of soils that are suitable for these systems and, as a consequence, significant degradation of the County's surface and ground water has occurred in the County from the disposal of improperly treated wastewater effluent. Documented cases of water quality degradation and transmittal of water-borne pathogens have been recorded by State and County health officials. The significance of potential public health concerns have prompted County officials to initiate a resolution of this historic public health dilemma.

Citizens, in an effort to maintain safe and dependable water supplies and to arrest the downward spiral of water quality degradation, have requested their elected officials to provide a dependable means of treating sanitary wastewaters. In response, elected officials and community leaders created the LaGrange County Sewer District and appointed a Sewer Board to govern it. The Sewer Board has been empowered to make planning decisions and negotiate agreements that will ultimately provide a more effective treatment of sanitary wastewaters for County residents. The Sewer Board has taken actions to organize and prioritize the County's sanitation needs by commissioning engineering studies, holding monthly public meetings and interacting with state regulatory agencies. After exploring several options to finance the construction of the proposed system, the Sewer Board formally submitted a request for financial assistance to the United States Department of Agriculture, Rural Utilities Service (RUS). The RUS, Water and Waste Program provides financial assistance through loan and grant programs to rural communities for development of water and waste disposal systems and is considering this request as part of these programs.

As part of the preliminary engineering studies commissioned by the Sewer District, the County identified and prioritized 29 areas according to their need for capital improvements to existing wastewater treatment system. From this study the Sewer Board adopted a prioritization and planning strategy which divided the County into five regions; A through E. Each region was defined by a circle with a three mile diameter, the center of which was located so as to encompass the maximum number of areas identified as having a need for wastewater treatment systems. Potential service areas within each region were selected based on the severity of pollution, the number and density of potential connections, the potential for regionalization, potential for future development, and local support for the project. The following regions are the population centers that have been determined to have the greatest need for sanitary sewers: Region A—Oliver Lake, Dallas Lake, Atwood Lake, Witmer Lake, Messick Lake and Westler Lake; Region C—Towns of Howe and Ontario; North Twin Lake, South Twin Lake and Cedar Lake; Region D—Shipshewana Lake and Stone Lakes; Region E—Town of Mongo; Town of Emma and Emma Lake.

Once these populations centers were prioritized based on greatest need and those which pose the greatest threat to water quality, the Sewer Board explored technical and cost options to providing sewer service to this areas. After weighing all of the options and project alternatives, the County has selected what they feel is their preferred technical approach and have been seeking not only financing for their project, but regulatory concurrence from the Indiana Department of Environmental Management.

Upon receipt of LaGrange County's request for financial assistance and prior to funding the construction of their proposal and in compliance with the NEPA, RUS prepared an analysis of the potential environmental impacts of the County's proposal. Because of the comprehensive nature and magnitude of the project proposal, RUS has decided to prepare an Environmental Impact Statement (EIS) to analyze the proposal as a whole rather than segment the analysis for each individual region as identified by the Sewer Board. At this stage of the project no final decisions have been made as to project specifics—that is, wastewater collection and conveyance systems, treatment technologies, or discharge options of treated effluent. For this reason, RUS has decided to prepare a broadly scoped programmatic EIS (PEIS) where all the important environmental resources have been identified in the defined "service areas" for the each region. Analyses of the direct, indirect and cumulative impacts have been performed for all identified resources in each region and are based on the project alternatives RUS has decided to evaluate. The results of these analyses are presented

in the appropriate section of the draft PEIS.

The preferred alternative is a decentralized wastewater collection and treatment system for population centers using an engineered wetlands treatment process. This alternative involves the use of pressure or gravity collection systems to convey wastewater to multiple engineered wetland treatment facilities. Collection and conveyance technologies considered for this option will be the same as those analyzed for the centralized treatment facility option. Treatment alternatives for the engineered wetland treatment process option will include land application (spray irrigation) of treated effluent followed by surface water discharges into a receiving stream or discharge into subsurface absorption basins.

Other project alternatives were identified in feasibility studies conducted for LaGrange County Sewer District. These alternatives, although viable, were not chosen as the preferred alternative. The alternatives are: (1) No Action Alternative. This alternative continues the use of on-site water disposal systems. This option would not address the present public health concerns or the continued degradation of the County's surface and ground water. (2) Centralized Wastewater Collection and Treatment for all County Residents Using Conventional Wastewater Treatment. This option would use either pressure or gravity collection systems to convey wastewater to a centralized treatment facility. Collection and conveyance alternatives analyzed for this option include: small diameter gravity systems; small diameter pressure systems using single connection effluent grinder pumps; and conventional gravity collector lines connected to pressure lines. Activated sludge process alternatives considered for this option included: Oxidation ditches and extended aeration. This option, by far, has the highest unit cost. (3) Centralized Wastewater Collection and Treatment for All County Residents Except for Residents in Remote Locations Using Conventional Activated Sludge Waste Treatment Processes. This alternative involves providing sewage collection and treatment services for all LaGrange County residents except those located in isolated regions. This option would use the same collection and treatment technologies as the option providing wastewater treatment for all of LaGrange County. Cost savings over serving the entire county would be realized because of the high unit cost of serving remote residences.

Public Meeting

A public meeting to solicit review comments will be held on February 23, 1996 at the LaGrange County Office Building, 114 West Michigan Street, LaGrange, IN 46761 at 7:30 pm. The meeting will be conducted by the RUS and the LaGrange County Sewer Board. All Federal and State agencies and other interested parties are invited to participate in the meeting and to offer comments on the DPEIS. Oral statements will be heard and transcribed by a stenographer; however, to ensure accuracy of the record all statements should be submitted in writing. All statements, both oral and in writing, will become part of the public record on this study. All written comments must be postmarked by no later than April 8, 1996 to become part of the public record.

Dated: February 1, 1996.

Wally Beyer,

Administrator.

[FR Doc. 96–2671 Filed 2–7–96; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1996 Race & Ethnic Targeted Test.

Form Number(s): DL–1A, DL–1B, DL–1C, DL–1D, DL–1E, DL–1F, DL–1G, DL–1H and Spanish versions.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 33,893 hours.

Number of Respondents: 118,000.

Avg Hours Per Response: 12½ minutes.

Needs and Uses: The 1996 Race and Ethnic Targeted Test and its associated content reinterview are the principal vehicles for evaluating fundamental changes to the race and ethnic questions for the upcoming 2000 Census of Population and Housing. This test is also crucial for the review of Statistical Policy Directive No. 15 by the Office of Management and Budget (OMB) and by the Federal Interagency Committee for the Review of Racial and Ethnic Standards. The test encompasses eight different self–enumeration questionnaires mailed to eight panels of respondents nationwide. Each of the versions is designed to assess one or more changes to the race and ethnic questions proposed by OMB, the Census Bureau Advisory Committees, and other data users and through evaluation of 1990 census data. Spanish versions will also be mailed in areas with high concentration of Spanish-speaking households. A content reinterview will be conducted with a subsample of respondents to assess the accuracy and reliability of the race and ethnic information collected.

Affected Public: Individuals.

Frequency: One–time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Margaret L. Woody, (202) 482–3630, Department of Commerce, Room 5310, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Maria Gonzalez, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: February 2, 1996.

Margaret L. Woody,

Office of Management and Organization.

[FR Doc. 96–2690 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–07–F

Bureau of Export Administration

Action Affecting Export Privileges; Ronald J. Hoffman

Order Denying Permission To Apply For Or Use Export Licenses

In the Matter of: Ronald J. Hoffman, 523 Vallejo Street, San Francisco, California 94133.

On April 20, 1992, Ronald J. Hoffman (Hoffman) was convicted in the United States District Court for the Central District of California of violating Section 38 of the Arms Export Control Act (22 U.S.C.A. § 2778 (1990 & Supp. 1995)) (the AECA), among other crimes. Specifically, Hoffman was convicted of exporting items controlled on the U.S. Munitions list, including technical data directly related to the Strategic Defense Initiative and other missile technology, to Japan, Germany, and South Africa without obtaining the required export license or written approval from the U.S. Department of State and of failing to register as a defense exporter with the U.S. Department of State, Office of Defense Trade Controls.

Section 11(h) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1995)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the AECA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768–799 (1995)) (the Regulations) for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the AECA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any export license previously issued to such a person.

Having received notice of Hoffman's conviction for violating the AECA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Hoffman permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on April 20, 2002. I have also decided to revoke all export licenses issued pursuant to the Act in which Hoffman had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. All outstanding individual validated licenses in which Hoffman appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Exporter Services for cancellation. Further, all of Hoffman's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until April 20, 2002, Ronald J. Hoffman, 523 Vallejo Street, San Francisco, California 94133, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) as a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in section 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Hoffman by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until April 20, 2002.

VI. A copy of this Order shall be delivered to Hoffman. This Order shall be published in the **Federal Register.**

Dated: January 26, 1996.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 96–2652 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Act expired on August 20, 1994. Executive Order 12924 (59 *Fed. Reg.* 43437, August 23, 1994), extended by Presidential Notice of August 15, 1995 (60 *Fed. Reg.* 42767, August 17, 1995), continued the Regulations in effect under the International Emergency Economic Powers Act, 50 U.S.C.A. §§ 1701–1706 (1991).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act. Because of a recent Bureau of Export Administration reorganization, this responsibility now rests with the Director, Office of Exporter Services. Subsequent regulatory references herein to the "Director, Office of Export Licensing," should be read as meaning "Director, Office of Exporter Services."

International Trade Administration

[A–428–801]

Ball Bearings (Other Than Tapered Roller Bearings) and Parts Thereof, From Germany; Preliminary Results of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of New Shipper Antidumping Duty Administrative Review.

SUMMARY: In response to a request by Roulements Miniatures SA (RMB), Biel, Switzerland, and its wholly owned subsidiary Miniaturkugellager GmbH (MKL), Germany, the Department of Commerce (the Department) is conducting a new shipper administrative review of the antidumping duty order on ball bearings (other than tapered roller bearings) and parts thereof (ball bearings) from Germany. This review covers MKL, a German manufacturer of ball bearings and exporter of this merchandise to the United States. The period of review (POR) is December 1, 1994 through May 31, 1995. We have preliminarily

determined that MKL sold subject merchandise at not less than normal value (NV) during the POR. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas O. Barlow or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995, (60 FR 25130).

Background

On May 31, 1995, the Department received a request from RMB and MKL for a new shipper review pursuant to section 751(a)(2)(B) of the Act and section 353.22(h) of the Department's interim regulations.

Section 751(a)(2) of the Tariff Act and section 353.22(h) of the Department's regulations govern determinations of antidumping duties for new shippers. These provisions state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period of investigation (POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer. To establish these facts, the exporter or producer must include with its request, with appropriate certifications: (i) the date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States; (ii) a list of the firms with which it is affiliated; and (iii) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the POI.

MKL's request was accompanied by information and certifications establishing the date on which MKL first shipped and entered subject merchandise, the names of MKL's affiliated parties, and statements from MKL and its affiliated parties that they did not, under any name, export the merchandise during the POI. Based on the above information, on June 14, 1995, the Department initiated this new shipper review of MKL (60 FR 32503). The Department is now conducting this review in accordance with section 751 of the Tariff Act and section 353.22 of its regulations.

Scope of the Review

Imports covered by this review are shipments of ball bearings and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.10, 8482.99.35, 8482.99.6590, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, 8803.90.90.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. For a further discussion of the scope of the order being reviewed, including recent scope determinations, *see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900 (February 28, 1995). The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

The review covers one producer/exporter. The POR is December 1, 1994 through May 31, 1995.

Constructed Export Price (CEP)

The Department based its margin calculation on constructed export price (CEP) as defined in section 772(b) of the Tariff Act because the subject merchandise was first sold in the United States to a person not affiliated with MKL after importation, by RMB Ringwood Inc. (Ringwood), a seller affiliated with MKL.

We based CEP on packed, ex-factory prices to unaffiliated purchasers in the United States. The Department made the following adjustments to the prices used to establish CEP, pursuant to section 772(c) of the Tariff Act. The price was increased for packing and handling revenues pursuant to section 772(c)(1) and reduced for movement expenses (international freight, brokerage, U.S. duties, domestic inland freight and insurance) pursuant to section 772(c)(2). The price used to establish CEP was also reduced by an amount for the following expenses incurred in selling the subject merchandise in the United States pursuant to section 772(d)(1): commissions, credit, and inventory carrying costs and other indirect selling expenses incurred in the United States. Pursuant to section 772(d)(3), the price was further reduced by an amount for profit to arrive at the CEP.

Normal Value (NV)

Based on a comparison of the aggregate quantity of home market and U.S. sales, and absent any information that a particular market situation in the exporting country does not permit a proper comparison, we determined that the quantity of foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1)(C) of the Tariff Act. Therefore, in accordance with section 773(a)(1)(B) of the Tariff Act, we based NV on the price at which the foreign like product was first sold for consumption in the exporting country.

Pursuant to section 777A(d)(2), we compared the CEPs of individual transactions to the monthly weighted-average price of sales of the foreign like product. We compared CEP sales to sales in the home market of identical merchandise.

We based NV on packed, ex-factory prices to unaffiliated purchasers in the home market. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Tariff Act. In order to adjust for differences in packing between the two markets, we increased home market price by U.S. packing costs and reduced it by home market packing costs. Prices were reported net of value added taxes (VAT) and, therefore, no deduction for VAT was necessary. Where applicable, we made adjustments to home market price for early payment discounts. To adjust for differences in circumstances of sale between the home market and the United States, we reduced home market price by an amount for home market credit and royalty expenses and increased it by an amount for royalties on U.S. sales paid by MKL. No other adjustments were made.

Preliminary Results of the Review

As a result of our comparison of CEP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/Exporter	Period	Margin
MKL	12/01/94–5/31/95	0.00

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 34 days after the date of publication, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 20 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 27 days after the date of publication. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of the new shipper administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing, within 90 days of issuance of these preliminary results.

Upon completion of this new shipper review, the Department will issue appraisement instructions directly to the Customs Service. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, upon completion of this review, the posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Tariff Act and section 353.22(h)(4) of the Department's regulations, will no longer be permitted and, should the final results yield a margin of dumping, a cash deposit will be required for each entry of the merchandise. The following deposit requirements will be effective upon publication of the final results of this new shipper antidumping duty administrative review for all shipments of ball bearings from Germany, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed company will be that established in the final results of this new shipper administrative review; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 68.89 percent, the "All Others" rate made effective by the final results of review published on July 26, 1993 (*see Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993)). This rate is the "All Others" rate from the LTFV investigation.

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Tariff Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.22(h).

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2692 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–580–812]

Final Court Decision and Partial Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–3464.

SUMMARY: On October 27, 1995, in the case of Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–175 (Micron), the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department's) results of redetermination on remand of the Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea. However, Micron Technologies (the petitioner in that case) has appealed certain aspects of that redetermination on remand to the United States Court of Appeals for the Federal Circuit (Federal Circuit). These appeals have affected two of the three respondents, Hyundai Electronics Industries Co., Ltd. and Hyundai Electronics America (collectively Hyundai), and LG Semicon Co., Ltd. and LG Semicon America, Inc. (collectively Semicon and formally Goldstar). The results of the redetermination on remand for Samsung Electronics Co., Ltd. and Samsung Semiconductor, Inc. (collectively Samsung) were not challenged by any party. Therefore, there is now a final and conclusive court decision in this action for Samsung. Thus, we are amending our final determination in this matter and will instruct the U.S. Customs Service to discontinue suspending liquidation of merchandise manufactured and exported by Samsung. If necessary, an amendment to the final determination will be made for the other two respondents once there is

a final decision on the petitioner's appeals by the Federal Circuit.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1993, the Department published its *Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (57 FR 15467). On May 10, 1993, the Department published its *Antidumping Order and Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (58 FR 27520).

Subsequent to the Department's final determination, the petitioner and the three respondents filed lawsuits with the Court challenging this determination. Thereafter, the Court issued an Order and Opinion dated June 12, 1995, in Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–107, remanding six issues to the Department. The Court instructed the Department to: (1) Recalculate respondents' cost of production by allocating research and development (R&D) costs on a product-specific basis; (2) use amortized rather than current R&D expenses in its calculations; (3) reopen the record in order to afford Hyundai and Samsung an opportunity to present complete and actual fixed asset data and use this data to allocate interest expenses; (4) recalculate Hyundai's lag period; (5) recalculate Semicon's production costs without reclassifying Semicon's capitalized costs of facility construction and testing as costs of production; and (6) reexamine its conclusion that foreign currency translation losses of Samsung and Semicon are related to production of subject merchandise.

The Department filed its remand results on August 24, 1995. In the remand results, the Department: (1) Recalculated respondents' cost of production by allocating R&D on a product-specific basis; (2) used amortized rather than current R&D expenses in its calculations; (3) reopened the record to afford Hyundai and Samsung an opportunity to introduce actual data regarding semiconductor fixed assets, and used such data in its allocation of interest expense; (4) recalculated Hyundai's lag periods utilizing the same methodology that it employed for Samsung and Semicon; (5) determined a new lag period for Hyundai's model HY514400 which accurately matches costs to the sales in question; (6) calculated Semicon's production costs for certain DRAMs without reclassifying as costs of production Semicon's capitalized costs of facility construction and testing; and (7) identified what evidence on the record supports the conclusion that the translation losses of Samsung and Semicon are related to production of the subject merchandise and, having determined that there is sufficient evidence on the record to support such a conclusion, included translation losses in the calculation of COP for Samsung and Semicon.

On October 27, 1995, the Court sustained the Department's remand results. *See* Micron Technologies, Inc. v. United States, Cons. Ct. No. 93–06–00318, Slip Op. 95–175 (CIT October 27, 1995).

On December 6, 1995, the Department published a notice of court decision pursuant to 19 U.S.C. 1516a(e). *Court Decision and Suspension of Liquidation: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea* (60 FR 62385). In that notice, we stated that we would suspend liquidation until there was a "conclusive" decision in the action. Since publication of that notice, the petitioner has appealed certain aspects of that redetermination on remand to the Federal Circuit. These appeals have affected two of the three respondents, Hyundai and Semicon. The results of the redetermination on remand for Samsung were not challenged by any party. Therefore, there is now a final and conclusive court decision in this action for Samsung. Thus, we are amending our final determination in this matter and will instruct the U.S. Customs Service to discontinue suspending liquidation of merchandise manufactured and exported by Samsung. If necessary, an amendment to the final determination will be made for the other two respondents once there is a final decision on the petitioner's appeals by the Federal Circuit.

Partial Amendment to Final Determination

Pursuant to 19 U.S.C. 1516a(e), we are now amending the final determination in dynamic random access memory semiconductors of one megabit and above from Korea for Samsung only.

The recalculated margin is as follows:

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Samsung Electronics Co., Ltd.	0.22 (*de minimis*).

Partial Discontinuation of Suspension of Liquidation

Since the amended margin for Samsung is now *de minimis*, we are directing the Customs Service to discontinue suspending liquidation of all entries of Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea manufactured and exported by Samsung that are entered, or withdrawn from warehouse, for consumption on or after October 29, 1992, the date of publication of the original preliminary determination in the **Federal Register**. Furthermore, we are directing the Customs Service to refund all cash deposits or postings of a bond which have been collected on the subject merchandise manufactured and exported by Samsung. Suspension of liquidation will remain in effect for Hyundai and Semicon.

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2693 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–508–604]

Industrial Phosphoric Acid From Israel; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: On September 15, 1995, the Department of Commerce initiated an administrative review of the antidumping duty order on industrial phosphoric acid from Israel. The review covers one exporter, Haifa Chemicals, Ltd. (Haifa), and the period August 1, 1994 through July 31, 1995. Since there were no shipments of the subject merchandise during the period of review, we preliminarily determine that the dumping margin for Haifa is 6.82 percent, the rate Haifa received in its most recent review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Amy S. Wei or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5253.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On September 15, 1995, the Department of Commerce (the Department) published the initiation of its administrative review of the antidumping duty order on industrial phosphoric acid from Israel (60 FR 47930). The Department is now conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by the review are shipments of industrial phosphoric acid, classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). HTS item numbers are provided for convenience and for Customs purposes. The written description remains dispositive.

Preliminary Results of Review

On September 21, 1995, a questionnaire was sent to Haifa. On October 18, 1995, Haifa responded that there were no shipments of covered merchandise by Haifa during the period August 1, 1994 through July 31, 1995. The Department verified this information with the U.S. Customs Service. Therefore, we have preliminarily assigned Haifa the rate applicable to it from its most recent administrative review. This rate is 6.82 percent. See *Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Administrative Reviews*, 59 FR 32184, June 22, 1994.

Furthermore, the following deposit requirement will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for Haifa will be Haifa's rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in any review or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 1.77 percent, the "all others" rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675 (a)(1)) and 19 CFR 353.22.

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2691 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–099. *Applicant:* National Institute of Standards and Technology, Gaithersburg, MD 20899. *Instrument:* Rotating Sample for Ion Microscope. *Manufacturer:* Kore Technology, United Kingdom. *Intended Use:* See notice at 60 FR 57222, November 14, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an existing instrument purchased for the use of the applicant. The National Institutes of Health advises in its memorandum dated December 4, 1995, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–2694 Filed 2–7–96; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–116. *Applicant:* Tulane University Hospital and Clinic, 1415 Tulane Avenue - SA 5, New Orleans, LA 70112. *Instrument:* Electron Microscope, Model H7100. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* The instrument will be used for analysis of tissues from each organ of the vertebrate body, monolayers of cultured cells, pellets of cultured cells, and filters with ingrown cells. These materials are examined for changes in cellular morphology, osmotic shocks, effects of drugs, and/or normal development changes. In addition, the instrument will be used for the training of pathology residents, graduate students of the Molecular and Cellular Biology Program, faculty, and post-sophomore fellows and other fellows. *Application Accepted by Commissioner of Customs:* November 30, 1995.

Docket Number: 95–117. *Applicant:* Indiana University, PO Box 4040, Bloomington, IN 47402. *Instrument:* Noninvasive Blood Pressure Measurement Monitor. *Manufacturer:* TNO Biomedical Instrumentation, The Netherlands. *Intended Use:* The instrument will be used to perform research studies into the central inhibitory mechanisms controlling male sexual response through investigation of nocturnal penile tumescence during REM sleep. In addition the article will be used for following research programs:
(1) Neurochemical Mechanisms of Psychoactive Drugs,
(2) Heart rate as a Measure of Conditioning,
(3) Biophysics of Birdsong,
(4) Psychophysiology of Male Sexual Response,
(5) Cardiovascular Aspects of Sleep Apnea, and
(6) Autonomic Function and Alcohol Problems.
Application Accepted by Commissioner of Customs: December 6, 1995.

Docket Number: 95–118. *Applicant:* The Colorado College, Department of Biology, 14 E. Cache La Poudre, Colorado Springs, CO 80903. *Instrument:* Electron Microscope, Model CM 100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used as a research tool for studies of the following:
(1) plant cell and organelle ultrastructure comparing wild type and mutant strains of maize,
(2) diatom frustule ultrastructure utilizing thin metal replicas, and
(3) ultrastructure of male and female reproductive systems of parasitic flatworms.
In addition, the instrument will be for educational purposes in several courses. *Application Accepted by Commissioner of Customs:* December 7, 1995.

Docket Number: 95–119. *Applicant:* California State University, Los Angeles, 5151 State University Drive, Los Angeles, CA 90032. *Instrument:* Electron Microscope, Model JEM-1200EX II. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for biological studies of avian pigment cells, rat nervous tissue, rat testis, drosophila eye tissue, virus, bacteria, kidney tissue, reptile tissue, nervous ending in fish muscle cells in culture, and plant tissues in order to understand the microanatomy of these tissues. The instrument will also be used for educational purposes in the course Biology 402, Electron Microscopy. *Application Accepted by Commissioner of Customs:* December 8, 1995.

Docket Number: 95–120. *Applicant:* Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, NY 10461. *Instrument:* Stopped-Flow Spectrophotometer, Model SX.17MV. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the pre-steady state kinetic processes occurring in enzyme catalyzed reactions. *Application Accepted by Commissioner of Customs:* December 11, 1995.

Frank W. Creel
Director, Statutory Import Programs Staff
[FR Doc. 96–2695 Filed 2–7–96; 8:45 am]
BILLING CODE 3510–DS–F

University of Wyoming, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 95–089. *Applicant:* University of Wyoming, Laramie, WY 82071. *Instrument:* Spectrometer Package including Palmtop Computer and Infrared Mineral Identification System. *Manufacturer:* Integrated Spectronics Pty Ltd., Australia. *Intended Use:* See notice at 60 FR 54337, October 23, 1995. *Reasons:* The foreign instrument provides a digital library of reference signatures that permit rapid identification and/or possible matches with a target material. *Advice Received From:* National Institutes of Health, November 30, 1995.

Docket Number: 95–090. *Applicant:* Department of Health & Human Service, Food and Drug Administration, Washington, DC 20204. *Instrument:* ICP Mass Spectrometer, Model Plasma Trace 2. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 60 FR 54337, October 23, 1995. *Reasons:* The foreign instrument provides: (1) high resolution, continuously variable to 10 000 at a sensitivity of 40MHz, (2) 2% transmission at maximum resolution, and (3) resolution of interfering polyatomic species. *Advice Received From:* National Institutes of Health, December 1, 1995.

Docket Number: 95–095. *Applicant:* Norfolk State University, Norfolk, VA 23504. *Instrument:* Electron Paramagnetic Resonance Spectrometer System, Model EMX 10/2.7. *Manufacturer:* Bruker, Germany. *Intended Use:* See notice at 60 FR 57221, November 14, 1995. *Reasons:* The foreign instrument provides a dual mode cavity with B1 parallel to B0 and B1 perpendicular to B0, in the same cavity, by switching frequencies for measuring half field transitions in transition metal ion samples. *Advice Received From:* National Institutes of Health, December 4, 1995.

Docket Number: 95–096. *Applicant:* Arizona State University, Tempe, AZ 85287-1601. *Instrument:* Fluorescence Measuring System, Model PAM 101. *Manufacturer:* Heinz Walz GmbH, Germany. *Intended Use:* See notice at 60 FR 57222, November 14, 1995. *Reasons:* The foreign instrument provides: (1) measurement of sample fluorescence following µs pulsed illumination, (2) fluorescence measurements independent of actinic illumination and (3) time resolution to 20 µs. *Advice Received From:* National Institutes of Health, December 4, 1995.

Docket Number: 95–098. *Applicant:* Research Foundation of SUNY at Albany, NY 12222. *Instrument:* Formaldehyde Monitor. *Manufacturer:* Aero Laser GmbH, Germany. *Intended Use:* See notice at 60 FR 57222, November 14, 1995. *Reasons:* The foreign instrument provides: (1) a detection limit of <100 ppt (gas phase), (2) a noise level of <2.0% at full scale and (3) minimal interferences from other trace gases. *Advice Received From:* National Institutes of Health, December 4, 1995.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel
Director, Statutory Import Programs Staff
[FR Doc. 96–2696 Filed 2–7–96; 8:45 am]
BILLING CODE 3510–DS–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0062]

Clearance Request Entitled Material and Workmanship

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0062).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Material and Workmanship. A request for public comments was published at 60 FR 57252, November 14, 1995. No comments were received.

DATES: *Comment due date:* March 11, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets NW., room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0062, Material and Workmanship, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA, (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under Federal contracts requiring that equipment (e.g., pumps, fans, generators, chillers, etc.) be installed in a project, the Government must determine that the equipment meets the contract requirements. Therefore, the contractor must submit sufficient data on the particular equipment to allow the Government to analyze the item.

The Government uses the submitted data to determine whether or not the equipment meets the contract requirements in the categories of performance, construction, and durability. This data is placed in the contract file and used during the inspection of the equipment when it arrives on the project and when it is made operable.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.25* hours per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,160*; responses per respondent, *1.5*; total annual responses, *4,740*; preparation hours per response, *.25*; and total response burden hours, *1,185*.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0062, Material and Workmanship, in all correspondence.

Dated: February 1, 1996.

Beverly Fayson,
FAR Secretariat.
[FR Doc. 96–2739 Filed 2–7–96; 8:45 am]
BILLING CODE 6820–EP–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex Plant Site; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas

DATE AND TIME: Tuesday, February 27, 1996: 2 p.m.—6 p.m.

ADDRESSES: Boatman's First National Bank, Centennial Room, 8th and Fillmore, Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, PO. Box 30030, Amarillo, TX 79120 (806)477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee:

The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda:

2:00 pm
Welcome—Agenda Review—Approval of Minutes
2:10 pm
Co-Chairs' Comments
2:20 pm
Co-Chair Replacement Discussion
2:30 pm
Subcommittee Reports
—Community Outreach
—Budget and Finance
—Nominations
—Program and Training
—Policy and Personnel
3:15 pm Updates.
—Occurrence Reports—DOE
3:45 pm
Break.
4:15 pm
Discussion, Questionnaire Results
4:30 pm
Discussion, Site-wide Environmental Impact Statement (EIS) and Programmatic Environmental Impact Statement
—How to Reach the Public
5:15 pm
Task Force Reports
—Site-wide EIS
—Environmental Restoration
6:00 pm
Adjourn

Public Participation:

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes:

The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201

South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10 pm, Monday through Thursday; 7:45 am to 5 pm on Friday; 8:30 am to 12 noon on Saturday; and 2 pm to 6 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9 am to 7 pm on Monday; 9 am to 5 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on February 5, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–2734 Filed 2–7–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site.

DATES AND TIMES: Thursday, February 22, 1996: 6:30 p.m.–8:00 p.m.

ADDRESSES: The meeting will be held at: The Radisson Riverfront Hotel, Two Tenth Street, Augusta, Georgia.

FOR FURTHER INFORMATION CONTACT: Tom Heenan, Manager, Environmental Restoration and Solid Waste, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–8074.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Thursday, February 22, 1996
6:30 p.m.
Discuss Board Business, e.g. facilitation support
8:00 p.m.
Adjourn

A final agenda will be available at the meeting Thursday, February 22, 1996.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Heenan's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Tom Heenan, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling him at (803) 725–8074.

Issued at Washington, DC on February 5, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–2733 Filed 2–7–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Nonproliferation and National Security; Fundamental Classification Policy Review

AGENCY: Office of Nonproliferation and National Security; Energy.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) announces the availability for public comment of a draft report of the Fundamental Classification Policy Review. Since March 1995, the Fundamental Classification Policy Review Group has examined all areas of classified information falling under Department of Energy responsibility. By releasing the report for comment in draft now, the review panel will be able to give further consideration to stakeholder views before the final report is presented to the Secretary of Energy in April 1996.

DATES: Public comment is requested in writing not later than February 29, 1996.

ADDRESSES: The draft report will be made available for downloading from the Department of Energy Home Page (http://www.doe.gov) on the Internet. Comments and requests for hard copies of the draft report should be made to Dr. Glen R. Otey, Deputy Chair, Fundamental Classification Policy Review, Post Office Box 5800, Sandia National Laboratories, Mail Stop 0517, Albuquerque, New Mexico 87185–0517, phone number (505) 844–7006, facsimile number (505) 844–4543.

FOR FURTHER INFORMATION CONTACT: Dr. Glen R. Otey, Deputy Chair, Fundamental Classification Policy Review, Post Office Box 5800, Sandia National Laboratories, Mail Stop 0517, Albuquerque, New Mexico 87185–0517, phone number (505) 844–7006, facsimile number (505) 844–4543.

SUPPLEMENTARY INFORMATION: On March 16, 1995, the Secretary of Energy initiated a year-long review of the Department's classification policies. The review is being chaired by Dr. Albert Narath, formerly President of Sandia National Laboratories, and currently President of Lockheed Martin Corporation's Energy and Environment Sector. Since March 1995, the Review Group has examined all areas of classified information falling under the purview of the Department of Energy to identify which information continues to require protection so as to assure the common defense and security, with the objective of promptly declassifying and releasing all information no longer warranting protection. The Department believes it is critical that the Department of Energy's classification policies and practices, which, by definition, can and do limit access to the Department's activities, reflect the view of the citizens so affected. Throughout the review process, the public has been invited to provide comments and recommendations for consideration on any aspect of the Department's classification policies.

The Fundamental Classification Policy Review is scheduled for completion in April 1996. The report being made available will provide a snapshot of the work in progress. It is expected that research and coordination on some issues will continue through March. By releasing the report in draft now for public comment, the review panel will have another opportunity to give full consideration to stakeholder views before the final report is submitted to the Secretary of Energy in April 1996. The draft report may be revised during interagency review.

Specific declassification actions, once approved, will be publicly announced and implemented by revision of the Department's classification guides. It is anticipated that the implementation process will require approximately one year.

Hard copies of the draft report will be available from the Deputy Chair of the Fundamental Classification Policy Review. The draft report will also be available for downloading from the Department of Energy Home Page (http://www.doe.gov) on the Internet.

A. Bryan Siebert,

Director, Office of Declassification, Office of Security Affairs.

[FR Doc. 96–2735 Filed 2–7–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

Agency Information Collection Under Review by the Office of Management and Budget

February 2, 1996.

AGENCY: Federal Energy Regulatory Commission, DOT.

ACTION: Notice of request submitted for review to the Office of Management and Budget.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission, as explained below.

DATES: Comments must be filed on or before March 11, 1996.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Commission Desk Officer, 726 Jackson Place NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Division of Information Services, Attention: Mr. Michael Miller, 888 First Street NE., Washington, DC 20426. Mr. Miller may be reached by telephone at (202) 208–1415 and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–516, "Electric Rate Schedule Filings."

2. *Sponsor:* Federal Energy Regulatory Commission. The Federal Power Act requires each public utility to file for approval of rate schedules, together with related contracts and service conditions. The Commission is authorized to investigate the rates charged by public utilities to determine that the rates, terms and conditions of service are just and reasonable. If they are not, the Commission is authorized to determine and prescribe just and reasonable rates, terms and conditions.

3. *Control No.:* 1902–0096. The Commission is now requesting that OMB approve a three year extension of these mandatory collection requirements.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibility to assure that electric rates are just and reasonable. Sufficient detail must be obtained for the Commission to make informed decisions concerning the appropriate level of rates and to aide customers and other parties who may wish to challenge the rate proposed by the utility. The information enables the Commission and other parties to examine and evaluate the cost elements comprising the utility's cost of service to determine whether and how much of such cost elements should be included in the utility's rates.

5. *Respondent Description:* The respondent universe currently comprises approximately 328 public utilities, licensees, qualifying small power producers or members of public utility holding companies that are engaged in generation, transmission and sales of electric power.

6. *Estimated Burden:* 828,750 total burden hours (328 respondents, 975 responses annually, 850 average hours per response).

Statutory Authority: Sections 205, 206, 211, 212 and 301 of the Federal Power Act, 16 U.S.C. Sections 824d, 824e, 824j, 824k and 825 (1994).

Lois D. Cashell,

Secretary.

[FR Doc. 96–2716 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6633–003 California]

Humboldt State University; Availability of Environmental Assessment

February 2, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR part 380 (Order 486, 52 FR 47897), the Commission's Office of Hydropower Licensing has reviewed an exemption surrender application for the Davis Creek Hydroelectric Project, No. 6633–003. The Davis Creek Hydroelectric Project is located on Davis Creek in Humboldt County, California. The exemptee is applying for a surrender of the exemption because the project is not economically viable. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Commission's Reference and Information Center, Room 1C–1, 888 First Street NE., Washington, DC 20426.

Please submit any comments within 20 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please affix Project No. 6633–003 to all comments. For further information, please contact the project manager, Ms. Hillary Berlin, at (202) 219–0038.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2676 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–135–000]

Southern Natural Gas Co.; GSR Revised Tariff Sheets

February 2, 1996.

Take notice that on January 31, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of February 1, 1996:

Tariff Sheets Applicable to Contesting Parties

Sixth Revised Sheet No. 14
Twenty-eighth Revised Sheet No. 15
Sixth Revised Sheet No. 16
Twenty-eighth Revised Sheet No. 17
Eighteenth Revised Sheet No. 29
Eighteenth Revised Sheet No. 30
Eighteenth Revised Sheet No. 31

Southern submits the revised tariff sheets in order to reflect changes in its billing units and a credit to the GSR surcharge for February 1996.

Southern also tendered for filing the following tariff sheets with the proposed effective date of February 1, 1996:

Tariff Sheets Applicable to Contesting Parties

Seventeenth Revised Sheet No. 18

Tariff Sheets Applicable to Supporting Parties

First Revised Sheet No. 14a
Eighth Revised Sheet No. 15a
Seventh Revised Sheet No. 16a
Eight Revised Sheet No. 17a
Third Revised Sheet No. 18a

Tariff Sheet Applicable to Contesting and Supporting Parties

Fifth Revised Sheet No. 22
Second Revised Sheet No. 41a

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, as a result of the Commission's December 29, 1995 order issued in Docket No. RP–96–53 et al. requiring Southern to conform future filings with § 154.107 of the Commission's rules and regulations. Southern proposes that the tariff sheets be made effective February 1, 1996.

Southern also proposes to cancel the following tariff sheets, effective February 1, 1996:

Third Revised Sheet No. 23
Third Revised Sheet No. 24
Third Revised Sheet No. 25
First Revised Sheet No. 34a

Southern proposes to cancel the tariff sheets in order to reflect the removal from its Tariff of certain take-or-pay fixed charges which Southern has fully collected and to reflect the removal from its tariff of certain refund amounts which Southern has fully refunded to its customers.

Southern states that copies of the filing were served upon all affected transportation customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's rules of practice and procedure. All such motions or protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Secretary.

[FR Doc. 96–2680 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–134–000]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

February 2, 1996.

Take notice that on January 31, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective March 1, 1996:

Second Revised Sheet No. 140
Original Sheet No. 140a
First Revised Sheet No. 141
Original Sheet No. 141a

Southern states that the purpose of this filing is to change the monthly cash-out mechanism of its imbalance resolution procedures to provide that shippers who accrue monthly imbalances in the same direction as the net system imbalance for that month will cash out their imbalances based on a high or low price rather than on an index price. There will be no change in the cashout mechanism for shippers who accrue monthly imbalances in the opposite direction of the net system imbalance. Southern has requested that these sheets be made effective as of March 1, 1996.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20416, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests must be filed as provided in § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the pubic Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2679 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–122–004]

Trunkline LNG Co.; Annual Reconciliation Report

February 2, 1996.

Take notice that on January 31, 1996, Trunkline LNG Company (TLC) tendered for filing working papers reflecting its third annual reconciliation report.

TLC states that the information is submitted pursuant to Article VIII, section 4 of the Stipulation and Agreement in the above-captioned proceeding which requires TLC to submit, on an annual basis, a report of the cost and revenues which result from the operation of Rate Schedule PLNG–2 dated June 26, 1987, as amended December 1, 1989.

TLC states that copies of this filing have been served on all participants in the proceeding and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before February 9, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2678 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. RP91–54–012]

Trunkline Gas Co.; Annual Reconciliation Report

February 2, 1996.

Take notice that on January 31, 1996, Trunkline Gas Company (Trunkline) tendered for filing working papers reflecting its fourth annual take-or-pay volumetric surcharge reconciliation. Trunkline states that the information is submitted pursuant to Article II, section 8 of the Stipulation and Agreement in the above-captioned proceeding which requires Trunkline to submit, on an annual basis, a report of the take-or-pay volumetric surcharge amounts collected from its customers.

Trunkline states that copies of this filing have been served on all participants in the proceeding and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before February 9, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2677 Filed 2–7–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5419–2]

Science Advisory Board, Research Strategies Advisory Committee; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Research Strategies Advisory Committee (RSAC) of the Science Advisory Board (SAB) will hold a public teleconference on February 23, 1996 from 11:00 am to 1:00 pm Eastern Time. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

During this teleconference, the RSAC will discuss the Agencys draft Strategic Plan for the Office of Research and Development. Issues to be discussed include: (a) Strengths of the Plan—What aspects or elements of the Plan does RSAC find to be particularly useful, important, and/or worthy of Agency attention and support?; (b) Strategic Message—The Plan lays out a set of Strategic Principles, a Mission Statement, a set of Goals and Objectives, and a Management Process designed to establish priorities and translate priorities into effective programs. Are these appropriate for ORD as they are defined in the Plan?; (c) Clarity—Is the Strategy, especially the process for setting priorities, clear?; (d) Criteria for Priorities—Are the criteria identified for setting priorities appropriate and useable? Would RSAC like to help refine them now or in the future?; (e) Utility of the Plan—Does the Plan offer a potentially useful roadmap for decision making and policy framework for managing ORD's research and development programs?

Single copies of the Agency's draft Strategic Plan are available from Ms. Lori Shuda, U.S. Environmental Protection Agency, Office of Research and Development (ORD), (Mail Code 8101), 401 M Street SW., Washington, DC 20460. Tel. (202) 260–4708. Any member of the public desiring to participate in the teleconference, desiring additional information about the meeting, or desiring to obtain copies of the agenda and other information about the conduct of the meeting, or to request time on the agenda for public comments, please contact Mr. A. Robert Flaak, Designated Federal Official, Science Advisory Board (1400F), US EPA, 401 M Street SW., Washington DC 20460, by telephone at (202) 260–5133 or FAX at (202) 260–7118, or via the INTERNET at: Flaak.Robert@EPAMAIL.EPA. GOV.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, for teleconference call meetings, opportunities for oral comment will be limited to no more than three minutes per speaker and no more than fifteen minutes total. Written comments (at least 25 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week prior to a meeting or teleconference), may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: February 1, 1996.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 96–2719 Filed 2–7–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Consolidated Reports of Condition and Income (Call Reports).

Form Number: Form FFIEC 0031, 032, 033, 034.

OMB Number: 3064–0052.

Expiration Date of OMB Clearance: March 31, 1996.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0052), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before March 11, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Consolidated Reports of Condition and Income are filed quarterly with the three federal banking agencies (the FDIC, the Office of the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System) for their use in monitoring the condition and performance of banks and the industry as a whole. The reports are also used by the FDIC to calculate banks' deposit insurance assessments. On November 16, 1995, the three agencies jointly published a notice in the **Federal Register** (60 FR 57618) describing in detail and inviting comment on proposed changes to this collection of

information. All comments received by the agencies in response to that notice, including a change to the proposed revisions that the agencies made in response to those comments, are addressed in supporting statements to be submitted to OMB that were developed to justify the proposed changes. This notice provides the public with the opportunity to obtain, review, and comment on, the FDIC's supporting statement.

Dated: February 2, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–2644 Filed 2–7–96; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1095–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York, (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Clinton, Cortland, Essex, Greene, and Tioga Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2710 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1095–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York, (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to include Public Assistance and Hazard Mitigation for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Chemung, Clinton, Delaware, Essex, Greene, Schoharie, Steuben, Sullivan, Tioga, and Ulster for Public Assistance and Hazard Mitigation (already designated for Individual Assistance);

Broome, Otsego, Saratoga, and Schenectady for Individual Assistance, Public Assistance, and Hazard Mitigation;

Columbia, Herkimer, and Warren for Public Assistance and Hazard Mitigation; and

Albany, Allegany, Cattaraugus, Cayuga, Chenango, Dutchess, Montgomery, Orange, Rensselaer, and Tompkins for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2711 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 23, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Tioga and Union Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2707 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Blair, Columbia, and Tioga Counties for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2708 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania,

(FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Adams, Cameron, Carbon, Lehigh, Montour, Northumberland, Pike, Sullivan, and Union Counties for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2709 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1096–DR]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–1096–DR), dated January 25, 1996, and related determinations.

EFFECTIVE DATE: January 25, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 25, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of West Virginia, resulting from flooding on January 19, 1996, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Warren Pugh of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of West Virginia to have been affected adversely by this declared major disaster:

Brooke, Grant, Greenbriar, Hancock, Hardy, Marshall, Monroe, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Summers, Tucker, Tyler, Webster, and Wetzel Counties for Individual Assistance, Public Assistance and Hazard Mitigation; and

Hampshire, Mason, and Wood Counties for Individual Assistance and Hazard Mitigation only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2706 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1096–DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia, (FEMA–1096–DR), dated January 25, 1996, and related determinations.

EFFECTIVE DATE: January 30, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West Virginia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 25, 1996:

Berkeley, Jefferson, Mercer, Mineral, Morgan, and Nicholas Counties for Individual Assistance, Public Assistance, and Hazard Mitigation; and

Hampshire County for Public Assistance (already designated for Individual Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2712 Filed 2–7–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Publication of Final Fiscal Year 1996, Program Guidelines/Application Solicitation for Labor-Management Committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the final Fiscal Year 1996 Program Guidelines/Application Solicitation for the Labor-Management Cooperation program to inform the public. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. No comments were received from the public. The guidelines are based on an assumption that this program will be funded at its anticipated level. Should there be a significant change in the program's final appropriation, a revised final version will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202–606–8181.

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY 1996

A. Introduction

The following is the final solicitation for the Fiscal Year (FY) 1996 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the

provisions of the Labor-Management Cooperation Act of 1978 which was initially implemented in FY81. The Act generally authorizes FMCS to provide assistance in the establishment and operation of plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committee's to carry out specific objectives that meet the forementioned general criteria. The term "labor" refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (worksite), area, industry, or public sector levels. A plant or worksite committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists either of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and mangers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 1996, competition will be open to plant, area, private industry, and public sector committees. Public Sector committees will be divided into two sub-categories for scoring purposes. Once sub-category will consist of committees representing state/local units of government and public institutions of higher education. The second sub-category will consist of public elementary and secondary schools.

Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.).

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee as a demonstration effort will accomplish during the life of the grant. Applications that offer to provide objectives *after* a grant is awarded will receive little or no credit in this area. While a goal of "improving communication between employers and employees" may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in specific and measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1, 1996, as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives.

An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws, a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestone and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third parties failing to meet the above criteria.

Applicants who received funding under this program in the past for committee operations are generally not eligible to apply. The only exceptions apply to third-party grantees who seek funds on behalf of an entirely different committee.

D. Allocations

The FY 1996 appropriations for this program has not yet been approved. FMCS has been given a tentative allocation of approximately $1.25 million for this program. Although we expect this amount will not be changed significantly, FMCS reserves the right to amend this Solicitation should that occur. If that happens, the public will be notified by notice in the **Federal Register**. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be considered according to merit without regard to category. An additional $250,000 has been reserved for the listed continuation of FY94-funded grantees.

In addition to the competitive process identified in the preceding paragraph, FMCS will set aside a sum not to exceed thirty percent of its appropriation to be awarded on a non-competitive basis. These funds will be used only to support industry-specific national-scope initiatives and/or regional industry models with high potential for widespread replication.

FMCS reserves the right to retain up to an additional five percent of the FY96 appropriation to contract for program support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence 12 months prior to the submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued for a limited time at a 40 percent cash match ratio. Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued for a limited time at a 40 percent cash match ratio.

The dollar range of awards is as follows:

—Up to $35,000 in FMCS funds per annum for existing inplant applicants;
—Up to $50,000 over 18 months for new in-plant committee applicants;
—Up to $75,000 in FMCS funds per annum for existing area, industry and public sector committees applicants;
—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

Applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants for existing committees must provide at least 25 percent of the total allowable project costs. All matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered "project income," and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as "in-kind" match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for these purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* staff time as an expense or match contribution.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FY96 FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications should be signed by *both* a labor and management representative and be postmarked no later than May 4, 1996. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Program Services, 2100 K Street, NW., Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored initially by one or more Customer Review Boards. The Board(s) will recommend selected applications for further funding consideration. The Director, Labor-Management Program Services, will finalize the scoring and selection process. The individual listed as contact person in Item 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process.

All FY96 grant applicants will be notified of results and all grant awards will be made before September 30, 1996. Applications submitted after the May 4 deadline date or that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Program Services.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits and additional information or clarification can be obtained free of charge by contacting Karen Pierce or Linda Stubbs, Federal Mediation and Conciliation Service, Labor-Management Program Services, 2100 K Street NW., Washington, DC 20427; or by calling 202–606–8181.

John Calhoun Wells,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 96–2736 Filed 2–7–96; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL TRADE COMMISSION

[File No. 951 0091]

Illinois Tool Works Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: This Consent Agreement, accepted subject to final Commission approval, settles alleged violations of federal law prohibiting unfair or deceptive acts and practices and unfair methods of competition arising from the acquisition of all of the voting securities of Hobart Brothers Company by Illinois Tool Works Inc. The proposed complaint alleges that the merger, if consummated, would violate Section 7 of the Clayton Act, as amended, and Section 5 of the FTC Act, as amended, in the markets for industrial power sources and industrial engine drives—which, rated at 250 amperes and above, generate the power to operate arc welding systems—in the United States. Under the terms of the proposed order contained in the Consent Agreement, ITW will be required to divest all of the assets and businesses relating to the industrial power sources and industrial engine drives of Hobart Brothers Company ("Hobart") to Prestolite Electric Incorporated ("Prestolite"), pursuant to a January 17, 1996, Asset Purchase Agreement, as modified by a January 24, 1996, Undertaking ("Asset Purchase Agreement") or, in the alternative, to an acquirer that meets the Commission's approval.

DATES: Comments must be received on or before April 8, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Ann Malester, FTC/S–2035, Washington, D.C. 20580 (202) 326–2682; or Christina Perez, FTC/S–2214, Washington, D.C. 20580 (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission ("Commission"), having initiated an investigation of the proposed acquisition by Illinois Tool Works Inc. ("ITW") of Hobart Brothers Company ("Hobart"), and it now appearing that ITW, hereinafter sometimes referred to as "Proposed Respondent," is willing to enter into an agreement containing an order to divest assets, and providing for certain other relief:

It is hereby agreed by and between Proposed Respondent ITW, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent ITW is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware with its office and principal place of business located at 3600 West Lake Avenue, Glenview, Illinois 60025–5811.

2. Proposed Respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed Respondent waives:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the Proposed Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Proposed Respondent that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to Proposed Respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to divest in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Proposed Respondent's address as stated in the agreement shall constitute service. Proposed Respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed Respondent has read the proposed complaint and order contemplated hereby. Proposed Respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed Respondent further understands it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. "Respondent" or "ITW" means Illinois Tool Works Inc., its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Illinois Tool Works Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

B. "Hobart" means Hobart Brothers Company, an Ohio corporation, with its principal office and place of business located at 600 West Main Street, Troy, Ohio 45373, its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Hobart Brothers Company, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

C. "Commission" means the Federal Trade Commission.

D. "Acquisition" means the acquisition by respondent of all of the issued and outstanding Hobart capital stock, by means of a statutory merger between Hobart and ITW Acquisition Corp., a Delaware corporation which is a wholly-owned subsidiary of ITW.

E. "Industrial Power Sources" means static arc welding power sources rated at 250 amperes or higher, including, but not limited to, any such power sources using inverter technology.

F. "Industrial Engine Drives" means rotating arc welding power sources rated at 250 amperes or higher.

G. "Battery Chargers" means devices used to charge industrial batteries.

H. "Aircraft Ground Power Units" means power conversion devices that provide power to aircraft that are on the ground.

I. "Assets and Businesses" means all assets, businesses and goodwill, tangible and intangible, including, without limitation, the following:

1. all machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools and other tangible personal property;

2. all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, management information systems, software, software licenses, inventions, copyrights, trademarks , trade names (excluding the Hobart trade name), trade secrets, intellectual property, patents, technology, know-how, specifications, designs, drawings, processes and quality control data;

3. the exclusive right to use the Hobart trade name in connection with the research, development, manufacture and sale of Industrial Power Sources and Industrial Engine Drives.

4. inventory;

5. rights, titles and interests in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

6. all rights under warranties and guarantees, express or implied;

7. all books, records, and files; and

8. all items of prepaid expense.

J. "Hobart Industrial Welding Equipment Business" means all of the Assets and Businesses used in the research, development, manufacture and sale by Hobart of:

1. Industrial Power Sources;

2. Industrial Engine Drives;

3. Battery Chargers; and

4. Aircraft Ground Power Units.

K. "Hobart Power Conversion Operations" means all of the Assets and Businesses used in the research, development, manufacture and sale by Hobart of:

1. Static arc welding power sources;

2. Rotating arc welding power sources;

3. Battery Chargers; and

4. Aircraft Ground Power Units.

L. "Prestolite" means Prestolite Electric Incorporated, a Delaware corporation, with its principal office and place of business located at 2100 Commonwealth Blvd., Ann Arbor, Michigan 48105.

M. "Marketability, Viability and Competitiveness" of the Hobart Industrial Welding Equipment assets means that the assets when used in conjunction with the assets of the acquirer are capable of operating a business which is substantially similar to the Hobart Industrial Welding Equipment Business at the time of the acquisition, with substantially similar sales levels and product lines.

II

It is further ordered that:

A. ITW shall divest, absolutely and in good faith, the Hobart Industrial Welding Equipment Business. The Hobart Industrial Welding Equipment Business shall be divested either:

1. Within one (1) month of the date this order becomes final, to Prestolite, pursuant to the January 17, 1996, Asset Purchase Agreement between Hobart and Prestolite as modified by the January 24, 1996, Undertaking, embodied in Confidential Appendix I [not attached]. If divested to Prestolite, the Hobart Industrial Welding Equipment Business shall exclude Aircraft Ground Power Units; or

2. Within twelve (12) months of the date this order becomes final, to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. In the event that the acquirer does not choose to acquire the Battery Charger or Ground Power Unit assets and businesses, because the acquirer does not need such assets in order to engage in the Industrial Power Source and Industrial Engine Drive Businesses, respondent shall not be required to divest such assets.

B. The purpose of the divestiture is to ensure the continuation of the Hobart Industrial Welding Equipment Business as an ongoing, viable operation, engaged in the research, development, manufacture and sale of Industrial Power Sources and Industrial Engine Drives, and to remedy the lessening of competition resulting from the proposed acquisition as alleged in the Commission's complaint.

C. Until the Hobart Industrial Welding Equipment Business has been divested, ITW shall:

1. Maintain the Marketability, Viability, and Competitiveness of the Hobart Industrial Welding Equipment Business, and shall not cause or permit the destruction, removal, wasting, deterioration, or impairment of any assets or business it may have to divest, except in the ordinary course of business and except for ordinary wear and tear, and it shall not sell, transfer, encumber or otherwise impair the Marketability, Viability or Competitiveness of the Hobart Industrial Welding Equipment Business; and

2. Expend funds for research and development, quality control, manufacturing and marketing of each of the Hobart Industrial Welding Equipment Business products at a level not lower than that budgeted for the 1995 fiscal year, and shall increase such spending as is deemed reasonably necessary in light of competitive conditions.

D. Upon reasonable notice from the acquirer to respondent, respondent shall provide, at no cost, such assistance to the acquirer as is reasonably necessary to enable the acquirer to design and manufacture Industrial Power Sources and Industrial Engine Drives in substantially the same manner and quality employed or achieved by Hobart prior to the Acquisition. Such assistance shall include reasonable consultation with knowledgeable employees of respondent and training at the acquirer's facility for a period of time sufficient to satisfy the acquirer's management that its personnel are appropriately trained in the design and manufacture of Industrial Power Sources and Industrial Engine Drives. Respondent shall convey all know-how necessary to design and manufacture Industrial Power Sources and Industrial Engine Drives in substantially the same manner and quality employed or achieved by Hobart prior to the Acquisition.

However, respondent shall not be required to continue providing such assistance for more than nine (9) months.

III

It is further ordered that:

A. If ITW has not divested, absolutely and in good faith and with the Commission's prior approval, the Hobart Industrial Welding Equipment Business within twelve (12) months of the date this order becomes final, the Commission may appoint a trustee to divest the Hobart Industrial Welding Equipment Business. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, ITW shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this paragraph III. shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by ITW to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to paragraph III.A. of this order, ITW shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of ITW, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in mergers and divestitures. If ITW has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to ITW of the identity of any proposed trustee, ITW shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Hobart Industrial Welding Equipment Business.

3. Within ten (10) days after appointment of the trustee, ITW shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.B.3. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Hobart Industrial Welding Equipment Business, or to any other relevant information, as the trustee may request. ITW shall develop such financial or other information as the trustee may request and shall cooperate with the trustee. ITW shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by ITW shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to ITW's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer as set out in Paragraph II. of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by ITW from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of ITW, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of ITW, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of ITW, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Hobart Industrial Welding Equipment Business.

8. ITW shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee may also divest such additional ancillary assets and businesses of the Hobart Power Conversion Operations and effect such arrangements as are necessary to assure the Marketability, Viability and Competitiveness of the Hobart Industrial Welding Equipment Business.

12. The trustee shall have no obligation or authority to operate or maintain the Hobart Industrial Welding Equipment Business.

13. The trustee shall report in writing to ITW and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that consistent with ITW's obligation to maintain the Marketability, Viability and Competitiveness of the Hobart Industrial Welding Equipment Business, ITW may engage in any business other than the Hobart Industrial Welding Equipment Business, including without limitation, the welding equipment business it is currently operating through its wholly-owned subsidiary, Miller Electric Mfg. Co.

V

It is further ordered that within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until ITW has fully complied with Paragraphs II. and III. of this order, ITW shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II. and III. of this order. ITW shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II. and III. including a description of all substantive contacts or negotiations for the divestiture required by this order, including the identity of all parties contacted. ITW shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestiture.

VI

It is further ordered that ITW shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other

change in the corporation that may affect compliance obligations arising out of the order.

VII

It is further ordered that, for the purpose of determining or securing compliance with this order, ITW shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of ITW, relating to any matters contained in this order; and

B. Upon five (5) days notice to ITW, and without restraint or interference from ITW, to interview officers, directors, or employees of ITW, who may have counsel present, regarding any such matters.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a proposed Consent Order from Illinois Tool Works Inc. ("ITW"). The proposed Consent Order requires ITW to divest all of the assets and businesses relating to the industrial power sources and industrial engine drives of Hobart Brothers Company ("Hobart") to Prestolite Electric Incorporated ("Prestolite"), pursuant to a January 17, 1996, Asset Purchase Agreement, as modified by a January 24, 1996, Undertaking ("Asset Purchase Agreement") or, in the alternative, to an acquirer that meets the Commission's approval.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

Pursuant to a letter of intent dated May 2, 1995, ITW proposed to acquire all of the voting securities of Hobart for approximately $225 million in ITW common stock. The proposed complaint alleges that the merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act as amended, 15 U.S.C. § 45, in the markets for industrial power sources and industrial engine drives in the United States.

Industrial power sources are stationary pieces of welding equipment, rated at 250 amperes and above, that generate the power needed to operate an arc welding system by connecting to an existing source of electricity, such as a wall outlet, and transforming that electricity into the precise current and voltage needed for welding. Industrial engine drives are portable power sources, rated at 250 amperes and above, that use gas or diesel fuel, instead of electricity, as a source of power. Industrial power sources and industrial engine drives are critical components of arc welding systems which are used in a broad range of industries, ranging from industrial fabrication to shipbuilding. There are no viable substitutes for either industrial power sources or industrial engine drives. Alternative welding processes and methods of joining metal are only used for specialized applications and could not be used in a cost effective manner for applications where industrial power sources or industrial engine drives are used.

ITW's acquisition of Hobart would reduce the number of significant industrial power source and industrial engine drive competitors in the United States from three to two. In the industrial power source market, the post-acquisition Herfindahl-Hirschman Index ("HHI") would increase by 858 points to 4856. In the industrial engine drive market, the post-acquisition HHI would increase by 298 points to 4538.

New entry into the United States industrial power source and industrial engine drive markets is extremely time consuming, costly and difficult. In addition to designing and developing a line of products, a new entrant must establish the brand reputation and customer acceptance necessary to convince customers to purchase from a company other than the well-established competitors. It takes well in excess of two years to accomplish these steps and achieve a significant market impact.

Although foreign industrial power source and industrial engine drive manufacturers offer some products in the United States, these foreign manufacturers lack the necessary product designs and brand reputation and customer acceptance necessary to effectively compete in this country. As a result, these companies have had virtually no competitive impact on the United States markets.

ITW's acquisition of Hobart poses serious antitrust concerns. In the United States markets for industrial power sources and industrial engine drives, the acquisition would eliminate direct actual competition between ITW and Hobart, enhance the likelihood of coordinated interaction, increase the likelihood that quality and technological innovation would be reduced, and thereby increase the likelihood that consumers would be forced to pay higher prices.

Under the proposed Consent Order, ITW is required to divest the Hobart industrial power source and industrial engine drive assets and businesses to Prestolite within one month of the date the order becomes final pursuant to the Asset Purchase Agreement. Under the terms of the Asset Purchase Agreement, ITW is required to divest all of the assets and businesses used in the research, development, manufacture and sale by Hobart of industrial power sources and industrial engine drives, including an exclusive license of the Hobart trade name for five years. ITW has agreed not to market industrial power sources and industrial engine drives under the Hobart name for seven years and will provide Prestolite with the option to also acquire a non-exclusive license to use the Hobart name for retail, as opposed to industrial, power sources or engine drives, which are rated below 250 amperes. In addition, ITW will be required to provide personnel, assistance and training in order to transfer industrial power source and industrial engine drive technology and know-how to Prestolite.

If the transaction with Prestolite is not consummated within one month of the date the order becomes final, ITW is required to divest the Hobart industrial power source and industrial engine drive assets to an acquirer that receives the prior approval of the Commission and in a manner approved by the Commission within twelve months of the date the order becomes final. The acquirer, at its option, may also acquire the battery charger and aircraft ground power unit assets and businesses of Hobart, if such assets are necessary to engage in the industrial power source and industrial engine drive businesses. If ITW fails to divest the assets within twelve months, a trustee may be appointed to divest the assets, as well as additional ancillary assets included in Hobart's Power Conversion Business. The purpose of the divestiture is to ensure the continuation of the Hobart Industrial Welding Equipment Business as an ongoing, viable operation, engaged in the research, development, manufacture and sale of industrial power sources and industrial engine drives, and to remedy the lessening of competition resulting from the acquisition.

The Order also requires ITW to provide the Commission a report of compliance with the divestiture provisions of the Order within sixty (60) days following the date the Order becomes final, and every sixty (60) days thereafter until ITW has completed the required divestiture.

The purpose of this analysis is to facilitate the public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–2705 Filed 2–7–96; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96F–0031]

Reichhold Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Reichhold Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,2-benzisothiazolin-3-one as a biocide in rubber latex for use in the manufacture of rubber articles intended for repeated use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by March 11, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 3B4389) has been filed by Reichhold Chemicals, Inc., P.O. Box 13582, Research Triangle Park, NC 27709–3582. The petition proposes to amend the food additive regulations in § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) to provide for the safe use of 1,2-benzisothiazolin-3-one as a biocide in rubber latex for use in the manufacture of rubber articles intended for repeated use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 11, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 22, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–2667 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. February 26, 1996, 8:30 a.m., Corporate Bldg., 9200 Corporate Blvd., rm. 020B, Rockville, MD. A limited number of overnight accommodations have been reserved at the Gaithersburg Marriott Washingtonian Center. Attendees requiring overnight accommodations may contact the hotel at 301–590–0044 and reference FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Sociometrics, Inc., 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long: open committee discussion, 9:30 a.m. to 5 p.m.; Alfred W. Montgomery, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1180, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Obstetrics and Gynecology Devices Panel, code 12524.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 10, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss general issues relating to a premarket approval application for a tubal occlusion device for female sterilization. The committee will also be presented with data from the Centers for Disease Control on the U.S. Collaborative Review of Sterilization, "CREST" study.

Food Advisory Committee

Date, time, and place. February 28 and 29, 1996, 8 a.m., Holiday Inn—Alexandria (formerly the Old Colony Inn), Commonwealth Ballrooms C and D, 625 First St., Alexandria, VA.

Type of meeting and contact person. Open committee discussion, February 28, 1996, 8 a.m. to 3:45 p.m.; open public hearing, 3:45 p.m. to 5:15 p.m., unless public participation does not last that long; open committee discussion, February 29, 1996, 8 a.m. to 1:15 p.m.; open public hearing, 1:15 p.m. to 1:45 p.m., unless public participation does not last that long; open committee discussion, 1:45 p.m. to 5 p.m.; Lynn A. Larsen, Center for Food Safety and Applied Nutrition (HFS–5), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4727, or Catherine M. DeRoever, Advisory Committee Staff (HFS–22), 202–205–4251, FAX 202–205–4970, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Food Advisory Committee, code 10564.

General function of the committee. The committee provides advice on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person by close of business February 21, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. Comments may be limited to 5 minutes.

Open committee discussion. The committee will discuss the agency's responses to public comments on its 1992 policy for labeling, notification, testing, and allergenicity of foods derived from new plant varieties. The primary focus of the meeting will be a discussion of the status of labeling policies, both domestic and international, for foods derived using biotechnology. The committee will also discuss the actions and recommendations of its ephedra working group, which met on October 11 and 12, 1995. The recommendations of the working group, together with any amendatory comments from the committee, will be formally referred to FDA. If time permits, the committee will discuss FDA's concern about adverse health effects resulting from consumption of a fish known as escolar (also called oil fish, castor oil fish, or purgative fish), which is found in tropical or subtropical seas.

Under 21 CFR 14.20 and 14.35, interested persons may submit written information or views on the matter(s) before the committee. Voluminous data are to be accompanied by a summary. Submissions must be made to the Executive Secretary and not directly to any committee members. Substantive submissions received at least 3 weeks prior to a meeting may be included in members' briefing materials; submissions received later will be distributed at the committee meeting. All submissions that include copyrighted materials must be accompanied by documented permission for duplication and distribution at no copyright expense to FDA.

At least 50 copies of each submission must be provided; sufficient additional copies may be requested by the agency for distribution to the public at a meeting. Fewer copies of voluminous submissions will be required; only summaries of such submissions will be provided to committee members, with complete copies of submissions being made available for circulation among committee members and for viewing by the public at a meeting.

More detailed information regarding the meeting agenda that may become available prior to the meeting will be provided to the public via the 800 number given above.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: February 2, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–2664 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Clinical Chemistry and Clinical Toxicology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. February 26, 1996, 9 a.m., Holiday Inn—Gaithersburg, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301–948–8900 and reference FDA's Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Sociometrics, Inc., 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 1 p.m.; closed presentation of data, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 4 p.m.; Cornelia B. Rooks, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1243, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Clinical Chemistry and Clinical Toxicology Devices Panel, code 12514.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 12, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket notification submission (510(k)) for a noninvasive transcutaneous glucose monitor intended for the quantitative determination of blood glucose in diabetics.

Closed presentation of data. The sponsor of the 510(k) will present to the committee trade secret and/or confidential commercial information. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing

from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: February 2, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–2689 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–1–F

[Docket No. 96N–0026]

Peripheral Blood Stem Cells: Discussion of Procedures for Collection, Processing, and Product Characterization; Notice of Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop to discuss procedures for preparation, processing, and characterization of human peripheral blood stem cells. The purpose of this scientific workshop, sponsored by FDA and the National Heart, Lung, and Blood Institute, National Institutes of Health, is to identify and discuss the steps for the collection, processing, and storage of peripheral blood stem cells for transplantation and to identify areas in need of further research. The scientific information presented at this workshop will aid FDA in regulating peripheral blood stem cells and identifying product standards.

DATES: The public workshop will be held on February 22 and 23, 1996, from 8 a.m. to 4:30 p.m. Preregistration is recommended because seating is limited. Registration is requested by February 16, 1996.

ADDRESSES: The public workshop will be held at the National Institutes of Health, Bldg. 10, Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT:

Regarding information on registration: Dawn Apple, KRA Corp., 1010 Wayne Ave., suite 850, Silver Spring, MD 20910, 301–495–1591, or FAX 301–495–9410.

Regarding information on the workshop agenda: Richard Lewis, Center for Biologics Evaluation and Research (HFM–380), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3524.

SUPPLEMENTARY INFORMATION: The purpose of this workshop is to identify and discuss steps for collection, processing, and storage of peripheral blood stem cells for transplantation and to identify what additional scientific data is needed in this area.

Topics to be discussed include the following: Product viability testing, donor leukopheresis, donor testing, product storage/transfer conditions, definition of cell types and numbers in the product, and differences between allogeneic and autologous use of peripheral blood stem cells.

FDA intends to make available at this workshop a draft document discussing the regulatory approach FDA believes is appropriate for human peripheral blood stem cell products for transplantation and, shortly thereafter, will publish in the **Federal Register** a notice of availability for the draft document. FDA will solicit written comments on its draft document. Written comments received will be reviewed and considered in determining whether amendments to, or revisions of, the approach are warranted.

Dated: February 5, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–2845 Filed 2–6–96; 11:47 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Identification of Extension Units of Outpatient Physical Therapy and Outpatient Speech Pathology Providers; *Form No.:* HCFA–381; *Use:* The Medicare Program requires outpatient physical therapy and outpatient speech pathology (OPT/OSP) providers to be surveyed to determine compliance with Federal requirements. The HCFA–381 is the form used to identify OPT/OSP locations; *Frequency:* Annually; *Affected Public:* Business or other for profit; *Number of Respondents:* 2,300; *Total Annual Hours:* 575.

2. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Fire Safety Survey Report; *Form No.:* HCFA–2786 A, B, C, D, F, G, H, J, K, L, M, P, Q; *Use:* These forms are used by the State Agency to record data collected in order to determine compliance with individual conditions during fire safety surveys and report it to the Federal Government; *Frequency:* Annually; *Affected Public:* State, local or tribal governments; *Number of Respondents:* 53; *Total Annual Hours:* 20,637.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.ssa.gov/hcfa/hcfahp2.html , or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources Management Planning and Analysis Staff, Attention: John Burke, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 1, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2650 Filed 2–7–96; 8:45 am]

BILLING CODE 4120–03–P

Submitted for Collection of Public Comment: Submission for OMB Review

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Health Care Financing Administration (HCFA), Department of Health and Human Services, is announcing that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Peer Review Organization (PRO) Reporting Forms; *Form Nos.:* HCFA 613–627; *Use:* PROs are authorized to review inpatient and outpatient services for quality of care provided and to eliminate unreasonable, unnecessary, and inappropriate care provided to Medicare beneficiaries. The PROs are required to report the results of the review to HCFA. *Frequency:* Monthly, quarterly; *Affected Public:* Business or other for profit; *Number of Respondents:* 53; *Total Annual Hours:* 10,759.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in HSQ 108–F, Assumption of Responsibilities; *Form No.:* HCFA R–71; *Use:* Rule establishes the review functions to be performed by the PRO and outlines the relationships among PROs, providers, practitioners, beneficiaries, fiscal intermediaries, and carriers. *Frequency:* Monthly, quarterly; *Affected Public:* Business or other for profit; *Number of Respondents:* 53; *Total Annual Hours:* 46,653.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medical Records Review Under Prospective Payment System (PPS); *Form No.:* HCFA R–50; *Use:* PROs are authorized to conduct medical review activities under the PPS. In order to conduct medical review activities, we depend upon hospitals to make available specific records. *Frequency:* Annually; *Affected Public:* Business or other for profit; *Number of Respondents:* 6,412; *Total Annual Hours:* 22,400.

4. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Home Health Agency Survey and Deficiencies Report, Home Health Functional Assessment Instrument; *Form Nos.:* HCFA–1572, HCFA–1515; *Use:* In order to participate in the Medicare program as a home health agency (HHA) provider, the HHA must meet Federal standards. These forms are used to record information about patients' health and provider compliance with requirement and report information to the Federal Government. *Frequency:* Annually; *Affected Public:* Business or other for profit; *Number of Respondents:* 8,622; *Total Annual Hours:* 129,330.

5. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Survey Team Composition and Workload Report; *Form No.:* HCFA–670; *Use:* This form will provide information on resource utilization applicable to survey activity in the Medicare/Medicaid provider/supplier types and Clinical Laboratory Improvement Amendment (CLIA) laboratories. This information will assist HCFA in determining Federal reimbursement for surveys conducted. *Frequency:* Annually; *Affected Public:* State, local, or tribal governments; *Number of Respondents:* 53; *Total Annual Hours:* 71,667.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be sent within 30 days of this notice directly to the OMB Desk Officer designated at the

following address: OMB Human Resources, and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: February 1, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2649 Filed 2–7–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

National Practitioner Data Bank: Change in User Fee

The Health Resources and Services Administration (HRSA), Department of Health and Human Services (DHHS), is announcing a discount in the fee charged to entities authorized to request information from the National Practitioner Data Bank (Data Bank) for queries which meet all requirements for fully automated processing.

The current fee structure was announced in the **Federal Register** of June 7, 1995 (60 FR 30090). The user fee is $3.00 per name per query submitted via telecommunications network and paid via an electronic funds transfer or credit card, with query response sent via the telecommunications network. A $3.00 surcharge is charged for queries submitted electronically on diskette to pay for the extra handling and mailing costs for these queries. A $4.00 surcharge is charged for all queries which are paid for by check or money order to cover the cost of debt management.

The Data Bank is authorized by the Health Care Quality Improvement Act of 1986 (the Act), title IV of Public Law 99–660, as amended (42 U.S.C. 11101 *et seq.*). Section 427 (b)(4) of the Act authorizes the establishment of fees for the costs of processing requests for disclosure and of providing such information.

Final regulations at 45 CFR part 60 set forth the criteria and procedures for information to be reported to and disclosed by the Data Bank. Section 60.3 of these regulations should be consulted for the definition of terms used in this announcement.

A reassessment of the full operating costs related to processing requests for disclosure of Data Bank information, as required by the DHHS Appropriations Act of 1994 (title II of Pub. L. 103–112, dated October 21, 1993), as well as an analysis of the comparative costs of the various methods for filing and paying for queries, has resulted in a decision to further reduce fees for users when they both query and receive responses via the telecommunications network as well as pay query fees by credit card, electronic funds transfer or such other electronic transfer options as may be offered in the future. The options to query and pay user fees by these means facilitate the querying process and make it less costly to both users and the Data Bank than all other available options.

Accordingly, the Department is implementing a $1.00 discount from the current $3.00 per name per query fee for queries submitted both electronically and paid via the methods described above, with receipt by electronic method. The discounted fee for such queries will be $2.00. This change is effective January 1, 1996.

The criteria set forth in § 60.12 (b) of the regulations and allowable costs required by the Appropriations Act of 1994 were used in determining the amount of this new fee. The criteria include such cost factors as: (1) Electronic data processing time, equipment, materials, computer programmers and operators or other employees; and (2) preparation of reports—materials, photocopying, postage, and administrative personnel.

When a query is for information on one or more physicians, dentists, or other health care practitioners, the appropriate total fee will be $3.00 (less a $1.00 discount or plus a $3.00 and/or a $4.00 surcharge for submission and payment as described above) multiplied by the number of individuals about whom information is being requested. For examples, see the table below.

The fee charged will be reviewed periodically, and revised as necessary, based upon experience. Any changes in the fee, and the effective date of the change, will be announced in the **Federal Register.**

Query method	Fee per name in query, by method of payment	Examples
Electronic query (Telecom network) with electronic payment.	$2.00 (if paid electronically via credit card or other electronic means and response received electronically ($3.00 fee less $1.00 discount).	10 names in query. 10×$2=$20.00.
Electronic query (Diskette) with electronic payment.	$6.00 (if paid electronically via credit card or other electronic means and response received on paper) ($3.00 fee plus $3.00 surcharge).	10 names in query. 10×$6=$60.00.
Electronic query (Telecom network) with non-electronic payment.	$7.00 (if not paid via credit card or other electronic means) ($3.00 fee plus $4.00 surcharge).	10 names in query. 10×$7=$70.00.
Electronic query (Diskette) with non-electronic payment.	$10.00 (if not paid via credit card or other electronic means) ($3.00 fee plus $3.00 and $4.00 surcharges).	10 names in query. 10×$10=$100.00

Dated: February 5, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–2687 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–110–6310–04–241A]

Emergency Closure of Public Lands: Jackson County, Oregon

AGENCY: Bureau of Land Management, Medford District Office, Ashland Resource Area.

ACTION: Emergency closure of public lands and access roads in Jackson County, Oregon.

Notice is hereby given that certain public lands in Jackson County, Oregon are hereby temporarily closed to all public use, including vehicle operation and sightseeing, from January 25, 1996, until notice is rescinded. The closure is made under the authority of 43 CFR 9268.3(d)(1)(l) and 8364.1(a).

The public lands affected by this emergency closure are specifically identified as follows:

Keno Access Road (39–7E–31) and Howard Prairie Hook-Up Road (38–4E–32) T. 38 S., R. 4 E., Secs. 19, 29, 32, 33, 34, and 35, and T. 38 S., R. 3 E., Sec. 13, Willamette Meridian, Jackson County, Oregon.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; and the holders of BLM permits and/or contracts. Access by additional parties may be allowed, but must be approved by the Authorized Officer of his representative.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months, as well as the penalties provided under Oregon State law.

The public land temporarily closed to unauthorized public use under this order will be posted with signs at points of public access.

The purpose of this emergency temporary closure is to protect persons from potential harm and protect valuable public unauthorized abuse.

This closure is effective from January 25, 1996, until this notice is rescinded.

FOR FURTHER INFORMATION CONTACT: Dave Jones, District Manager, Medford District Office, at (541) 770–2200.

Dated: January 30, 1996.

David A. Jones,

District Manager.

[FR Doc. 96–2731 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–33–M

[CO–050–05–1110–00]

Front Range Resource Advisory Council (Colorado) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next meeting of the Front Range Resource Advisory Council (Colorado) will be held on Tuesday, February 20, 1996 in Canon City, Colorado. The meeting is scheduled to begin at 9:00 a.m. at BLM's Canon City District Office, 3170 East Main Street, Canon City, Colorado. Notice of this meeting was delayed until a Continuing Resolution was passed to avoid the possibility of cancelling the meeting. The agenda for the Front Range Resource Advisory Council meeting will include: update on Rangeland Standard and Guidelines, issues for future Resource Advisory Council involvement, and discussion on offering a Rangeland Ecosystem Management course.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meeting is scheduled for Tuesday, February 20, 1996 from 9 a.m. to 5 p.m.

ADDRESSES: Bureau of Land Management (BLM), Canon City District Office, 3170 East Main Street, Canon City Colorado 81212; Telephone (719) 269–8500; TDD (719) 275–4346.

FOR FURTHER INFORMATION CONTACT: Ken Smith at (719–269–8500).

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Canon City District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Donnie R. Sparks,

District Manager.

[FR Doc. 96–2647 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–JB–M

[CO–010–06–1020–00–241A]

Northwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given that the next meetings of the Northwest Colorado Resource Advisory Council will be held on Wednesday, February 28, 1996 in Meeker, Colorado; Thursday, March 14, 1996 in Craig, Colorado; and Thursday, April 11, 1996 in Glenwood Springs, Colorado.

DATES: Meetings are scheduled for Wednesday, February 28, 1996; Thursday, March 14, 1996 and Thursday, April 11, 1996.

ADDRESSES: For further information, contact Lynda Boody, Bureau of Land Management (BLM), Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3000; TDD (970) 244–3011.

SUPPLEMENTARY INFORMATION: All meetings are scheduled to begin at 9 a.m. Wednesday, February 28, 1996: This meeting will be held at the Bureau of Land Management, White River Resource Area Office, 73544 Highway 64, Meeker, Colorado 81641 in the Conference Room.

Thursday, March 14, 1996: This meeting will be held at the Holiday Inn of Craig, 300 South Colorado, Hwy. 13, Craig, Colorado 81625.

Thursday, April 11, 1996: This meeting will be held at the Garfield County Courthouse, 109 Eighth St., Glenwood Springs, CO 81601, Room number 301.

The agenda for these meetings will focus on general Council business, standards and guidelines for grazing, and issue identification by Resource Area Managers.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Public comment will be taken throughout the meeting. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the Grand Junction/Craig District Manager.

Summary minutes for the Council meeting will be maintained in the Grand Junction and Craig District Offices and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: January 30, 1996.

Mark T. Morse,

Grand Junction/Craig District Manager.

[FR Doc. 96–2730 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–70–M

[NV–030–96–1020–00–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meetings of the Sierra Front/Northwest Great Basin Resource Advisory Council meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA, 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), Council meetings will be held as indicated below. The agenda for each meeting includes approval of minutes of the previous meeting, discussion and development of Standards and Guidelines for management of the public lands within the jurisdiction of

the Council and determination of the subject matter for future meetings.

All meetings are open to the public. The public may present written comments to the Council. The public comment period is listed below.

DATES, TIMES: Sierra Front/Northwest Great Basin Resource Advisory Council, BLM Carson City Office, 1535 Hot Springs Road, Carson City, NV 89706: February 29 starting 10 a.m.; public comment will be at 3:30 p.m. The meeting will continue March 1 at 8 a.m.

Sierra Front/Northwest Great Basin Resource Advisory Council, BLM Nevada State Office, 850 Harvard Way, Reno, NV 89520: March 14 starting at 10 a.m.; public comment will be at 3:30 p.m. The meeting will continue on March 15 beginning at 8 a.m.

Sierra Front/Northwest Great Basin Resource Advisory Council, BLM Carson City Office, 1535 Hot Springs Road, Carson City, NV 89706: March 28 starting at 10 a.m.; public comment will be at 3:30 p.m. The meeting will continue on March 29 beginning at 8 a.m.

FOR FURTHER INFORMATION CONTACT: Joan Sweetland, BLM Public Affairs Officer, 1535 Hot Springs Road, Carson City, NV 89706–0638. (Phone: 702–885–6000)

Dated this 30th day of January, 1996.

John O. Singlaub,

District Manager, Carson City District.

[FR Doc. 96–2732 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–HC–M

[NV–020–1430–01; N–57999]

Airport Lease Application

ACTION: Notice of Airport Lease Application N–57999.

SUMMARY: Notice is hereby given that pursuant to section 302 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2762), in accordance with provisions of federal regulations under 43 CFR 2920, an application has been filed for authorization of a private airport lease on the following described lands:

Mount Diablo Meridian, Nevada

T. 44 N., R. 37 E.,
Sec. 11: SE¼NW¼, NW¼NE¼SW¼, E½NW¼SW¼.

The area described contains 5.73 acres and is located near Orovada in Humboldt County, Nevada.

For a period of 45 days from the date of this notice, interested persons may submit comments to the District Manager, Bureau of Land Management, 705 E. 4th St., Winnemucca, NV 89445.

In the absence of adverse comments, the application will be processed in accordance with proper application procedures.

SUPPLEMENTARY INFORMATION: Upon publication in the **Federal Register**, the land will be segregated from all other forms of appropriation under the public land laws.

FOR FURTHER INFORMATION CONTACT: Realty Specialist Mary Figarelle, Bureau of Land Management, 705 E. 4th St., Winnemucca, NV 89445, or call 702–623–1500.

Dated: January 24, 1996.

Ron Wenker,

Winnemucca District Manager.

[FR Doc. 96–2669 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–HC–P

Bureau of Reclamation

Narrows Project, Small Reclamation Project Act (SRPA) Loan Program, Utah

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: The Bureau of Reclamation (Reclamation) intends to prepare a draft environmental impact statement (EIS), pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4332. The draft EIS will address the effects of various alternatives considered for the Narrows Project (Project), SRPA Application.

The purpose of the Project would be to provide water for irrigation and municipal use in north Sanpete County, Utah. The proposed project would include construction of a dam on Gooseberry Creek to impound and store water and construction of a tunnel/pipeline to deliver Project water to irrigation and municipal water users in northern Sanpete County, Utah. This provides notice that a new Draft and subsequent Final EIS will be prepared which will supersede the contractor-prepared Final EIS.

DATES AND ADDRESSES: No formal scoping meetings are planned. Those interested in the Project are invited to submit comments. These comments should relate to potential environmental issues and impacts or reasonable alternatives to the proposed action. These comments should be submitted in writing by March 15, 1996, to Kerry Schwartz, Environmental Protection Specialist, Bureau of Reclamation, Provo Area Office, 302 East 1860 South, Provo, Utah 84604–7317; or Michael Stuver, Regional Loan Engineer, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for subsequent information concerning this EIS, either write Kerry Schwartz at the address above, or call (801) 379–1000. For answers to questions concerning the project please write Michael Stuver at the address above, or call (810) 524–3305 extension 3.

SUPPLEMENTARY INFORMATION: On February 2, 1995, Reclamation filed a contractor-prepared final EIS for the proposed Narrows Project. On May 8, 1995, the Upper Colorado Regional Director executed a Record of Decision for the Project based on this EIS. On September 11, 1995, Reclamation filed a **Federal Register** Notice to rescind this Record of Decision. Reclamation intends to prepare a new EIS to replace the previous contractor-prepared EIS. The previous EIS material will be treated as environmental information submitted by the applicant for use by the agency in preparing an EIS, pursuant to 40 CFR, Section 1506.5(a).

Dated: February 2, 1996.

Charles A. Calhoun,

Regional Director.

[FR Doc. 96–2728 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–94–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–810466

Applicant: Ken Wilson, Kerrville, TX

The applicant requests a permit to authorize interstate and foreign commerce, export, and cull of excess male barasingha (*Cervus duvauceli*) and Eld's deer (*Cervus eldi*) from his captive herd for the purpose of enhancement of the survival of the species.

PRT–810465

Applicant: A.R. Galloway Exotic Ranch, Pearsall, TX

The applicant requests a permit to authorize interstate and foreign commerce, export, and cull of excess male barasingha (*Cervus duvauceli*) and Eld's deer (*Cervus eldi*) from his captive herd for the purpose of enhancement of the survival of the species.

PRT–693112

Applicant: University of Michigan, Ann Arbor, MI

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection for scientific research. This notification covers activities conducted by the applicant over a period of five years.

PRT–810513

Applicant: Florida Department Environmental Protection, Tallahassee, FL

The applicant requests a permit to export egg shells collected from nests where hatchling emergences had already occurred of green sea turtle (*Chelonia mydas*) for the purpose of scientific research.

PRT–810521

Applicant: Zoological Society of San Diego, San Diego, CA

The applicant requests a permit to import five male and seven female captive-hatched Jamaican iguana (*Cyclura collei*) from Hope Zoological Gardens, Kingston, Jamaica, for the purpose of scientific research and enhancement of the species through captive breeding and conservation education.

PRT–810611

Applicant: Matson's Laboratory, Milltown, MT

The applicant requests a permit to import teeth collected from wood bison (*Bison bison athabascae*) in the Mackenzi Sanctuary herd, from the Department of Renewable Resources, Government of the Northwest Territories, Canada, for the purpose of gaining data used in an ongoing population management program. This notification covers activities conducted by the applicant over a period of five years.

PRT–809138

Applicant: Zoological Society of San Diego, San Diego, CA

The applicant requests a permit to re-export one captive-hatched red-crowned crane (*Grus japonensis*) to the Cracids Breeding and Conservation Center, Lanaken, Belgium, for the purpose of enhancement of the species through captive breeding.

PRT–810098

Applicant: Little Rock Zoological Garden, Little Rock, AR

The applicant requests a permit to import one captive-born Sumatran orangutan (*Pongo pygmaeus abelii*) from the Metro Toronto Zoo, Ontario, Canada, for the purpose of enhancement of the species through captive breeding.

PRT–810619

Applicant: The Phoenix Zoo, Phoenix, AZ

The applicant requests a permit to import one captive-born male Brazilian ocelot (*Leopardus pardalis mitis*) from San Paulo Zoo, San Paulo, Brazil, for the purpose of enhancement of the species through captive breeding.

PRT–807708

Applicant: Philadelphia Zoological Garden, Philadelphia, PA

The applicant requests a permit to import an additional captive-born female bicolored tamarin (*Saguinus bicolor bicolor*) from the Jersey Wildlife Preservation Trust, Channel Islands, United Kingdom, for the purpose of enhancement of the species through captive breeding. This amends the **Federal Register** Notice of October 25, 1995.

PRT–810681

Applicant: John Dorrance, III, Devils Tower, WY

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygarcus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 2, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–2681 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Information Collection Under Review

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the **Federal Register.** This process is conducted in accordance with 5 Code of Federal Regulation, Part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especiallv regarding the estimated public burden and associated response time, should be directly to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below:

(1) Type of information collection. New Collection.

(2) The title of the form/collection. Organizational Study, Evaluation of the "Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program."

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form: None. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: Not-for-Profit Institutions. Other: State, Local or Tribal Governments. The study focuses on information about program policies and mechanisms used to analyze and address the gang problem, including interorganizational relationships, and to test the effectiveness of the OJJDP approach over time. Respondents will be mainly administrative personnel in organizations participating in the program and a comparable group not participating in the comprehensive approach.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. 250 responses per year at 2.0 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection. 500 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: February 1, 1996.

Robert B. Briggs,

Department Clearance Office, United States Department of Justice.

[FR Doc. 96–2704 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–18–M

Notice of Consent Decree in Comprehensive Environmental Response, Compensation and Liability Action; Ralph Riehl, et al.

In accordance with the Departmental Policy, 28 CFR § 50.7, notice is hereby given that a consent decree in *United States* v. *Ralph Riehl, et al.*, Civil Action No. 89–226E, was lodged with the United States District Court for the Western District of Pennsylvania on December 28, 1995.

On October 16, 1989, the United States filed a complaint against the owners and operator of, and certain transporters to, the Millcreek Dump Superfund Site (the "Site"), pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9607(a). This proposed Consent Decree resolves the liability of Sitter Trucking Company, James Sitter, Gilbert Sitter, and Ronald Sitter ("the Sitters") for response costs incurred and to be incurred by the United States at the Site. The proposed Consent Decree requires the Sitters to pay $40,000.00 in reimbursement of response costs.

The Department of Justice will accept written comments relating to this Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *Ralph Riehl, et al.*, DOJ No. 90–11–3–519.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Pennsylvania, Federal Building and Courthouse, Room 137, 6th and State Streets, Erie, Pennsylvania, 15219; Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005 (202) 624–0892. A copy of the proposed Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005. When requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $6.75 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Joel M. Gross,

Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 96–2659 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decrees; Selma Pressure

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and pursuant to Section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d)(2), notice is hereby given that two proposed Consent Decrees in *United States* v. *Selma Pressure Treating Co., et al.*, were lodged with the United States District Court for the Eastern District of California, Fresno Division, on January 2, 1996. This action was brought pursuant to Section 107 of CERCLA, 42 U.S.C. 9607.

Under one proposed Consent Decree, Gerald Petery and Selma Leasing Company agree to pay a total of $720,000 to the United States and $80,000 to the State of California. Under the other proposed Consent Decree, Mary Ann Schuessler and Selma Pressure Treating Company agree to pay a total of $675,000 to the United States and $75,000 to the State of California. These funds are being paid to reimburse the United States for environmental response actions taken at the Selma Pressure Treating facility in Selma, California. Response activities are continuing at this site.

The Department of Justice will receive, for a period of 30 days from the date of this publication, comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Selma Pressure Treating Co., et. al.*, D.J. Ref. 90–11–2–383.

The proposed Consent Decrees may be examined at the office of the United States Attorney, 3654 Federal Building, 1130 O Street, Fresno, California; the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005,.(202) 624–0892. Copies the proposed Consent Decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC. 20005. In requesting a copy, please refer to the referenced case and enclosed a check in the amount of $8.50 for the decree with Gerald Petery and Selma Leasing Company and $6.00 for the decree with Mary Ann Schuessler and Selma Pressure Treating, ($0.25 per page reproduction costs), payable to "Consent Decree Library."

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–2660 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of a Consent Decree Pursuant to the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Shell Oil Company*, Civil Action No. 96–0328, Sec. A, Mag 2, was lodged on January 26, 1996, with the United States District Court for the Eastern District of Louisiana.

The Consent Decree between the United States and Shell Oil Company resolves violations of the Clean Air Act ("CAA"), New Source Performance Standards ("NSPS") and National Emission Standards for Hazardous Air Pollutants ("NESHAP"); the Safe Drinking Water Act ("SDWA"); the Emergency Planning and Community Right to Know Act ("EPCRA"); the Clean Water Act ("CWA") and the company's National Pollutant Discharge Elimination System ("NPDES") Permits; and the Resource Conservation and Recovery Act ("RCRA") and the state and federal hazardous waste regulations. These violations occurred at the company's refinery and chemical facilities in Norco, Louisiana. The Consent Decree includes a requirement that Shell Oil Company pay a civil penalty of $1,000,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Shell Oil Company*, DOJ Ref. No. 90–7–1–629A.

The proposed Consent Decree may be examined at the office of the United States Attorney, Hale Boggs Building, Room 201, 501 Magazine Street, New Orleans, Louisiana 70130; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–2661 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States of America vs. Pacific Scientific Company; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia In *United States* vs. *Pacific Scientific Company*, Civ. No. 96–0165. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h).

On January 30, 1996, the United States filed a Complaint seeking to enjoin a transaction by which Pacific Scientific agreed to acquire Met One, Inc. Pacific Scientific and Met One are major manufacturers of drinking water particle counters. The Complaint alleged that the proposed acquisition would substantially lessen competition in the manufacture and sale of drinking water particle counters in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1.

The proposed Final Judgment orders defendant to sell all of Pacific Scientific's U.S. assets and rights relating to the research and development, manufacture and sale of Pacific Scientific's Drinking Water Quality Monitoring Systems, other than real property, and Met One's software relating to Drinking Water Quality Monitoring Systems, and other assets if necessary to make an economically viable competitor in the manufacture and sale of drinking water particle counters. The Stipulation effects a hold separate agreement that, in essence, requires Pacific Scientific to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, Met One's operation will be held separate and apart from, and operated independently of, Pacific Scientific's assets and businesses. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and the responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, Room 3700, 1401 H Street NW., Washington, D.C. 20530 (202–307–5779). Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection in Room 207 of the U.S. Department of Justice, Antitrust Division, 325 7th Street NW., Washington, D.C. 20530 (telephone: (202) 514–2481), and at the office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue NW., Washington, D.C. 20001.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

In the matter of: United States of America, Plaintiff vs. Pacific Scientific Company, a corporation; Defendant Docket No.: 96–0165.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the District for the District of Columbia.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

(3) Pacific Scientific shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

(4) Pacific Scientific shall prepare and deliver reports in the form required by the provisions of paragraph B of Section VII of the proposed Final Judgment commencing no later than February 29, 1996, and every thirty days thereafter pending entry of the Final Judgment.

(5) In the event plaintiff withdraws its consent, as provided in paragraph 2 above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever, and the making of this stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: January 26, 1996.

For Plaintiff United States of America.

Craig W. Conrath,

Attorney, U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street NW., Washington, D.C. 20005, (202) 307–5779.

For the Defendant Pacific Scientific Company.

Donald I. Baker,

Baker & Miller, PLLC, 700 Eleventh Street, NW., Suite 615, Washington, D.C. 20004, (202) 637–9499, Attorney For Pacific Scientific Company.

In the United States District Court for the District of Columbia

In the matter of: United States of America, Plaintiff v. Pacific Scientific Company, a corporation Defendant. Civil Action No.: 96–0165.

Final Judgment

Whereas plaintiff, United States of America (hereinafter "United States") having filed its Complaint herein, and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendant has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, prompt and certain divestiture of certain assets is the essence of this agreement;

And whereas, the parties intend to require defendant to divest, as a viable line of business, the Drinking Water Quality Monitoring Assets so as to ensure, to the sole satisfaction of the plaintiff, that the Acquirer will be able to manufacture and sell Drinking Water Quality Monitoring Systems as a viable, ongoing line of business;

And whereas, defendant has represented to plaintiff that the divestitures required below can and will be made and that defendant will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ordered, adjudged, and decreed as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. "Drinking Water Quality Monitoring Systems" means water particle detection systems used in the evaluation of potable water, including but not limited to: (1) on-line systems, such as the "Water Particle Counting System" (WPCS™), (2) portable systems, such as the VersaCount LV™/LogEasy™ integrated water sample particle counting system, and (3) laboratory-based systems, such as stationary liquid batch sample particle counting systems.

B. "Pacific Scientific" means defendant Pacific Scientific Company, a California corporation with its headquarters in Newport Beach, California, and includes its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

C. "Met One" means Met One, Inc., a California corporation with its headquarters in Grants Pass, Oregon, and its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

D. "Drinking Water Quality Monitoring Assets" means all of Pacific Scientific's U.S. assets and rights relating to the research and development, manufacture and sale of Pacific Scientific's Drinking Water Quality Monitoring Systems, other than real property, and Met One's software relating to Drinking Water Quality Monitoring Systems. Drinking Water Quality Monitoring Assets include, but are not limited to, all Pacific Scientific rights to patents, trade secrets, technology, know-how, specifications, designs, drawings, processes, production information, manufacturing information, testing and quality control data, servicing information, research materials, technical information, distribution information, information stored on management information systems (and specifications sufficient for the Acquirer to use such information), software specific to drinking water qualify monitoring systems, inventory sufficient for the Acquirer to complete all safety and efficacy studies, studies or tests necessary to obtain EPA or other governmental approvals, and all data, contractual rights, materials and information relating to obtaining EPA approvals and other government or regulatory approvals within the United States, and certain rights to brand or trade names (excluding the HIAC/Royco, Royco, Pacific Scientific, and Met-One trade names). Drinking Water Quality Monitoring Assets also include all Pacific Scientific customer lists, customer information, prospects, mailing lists, quotations and proposals for Drinking Water Quality Monitoring Systems and their applications, service contracts for Drinking Water Quality Monitoring Systems and their applications, advertising materials, advertising assistance, marketing training, and marketing assistance for Drinking Water Quality Monitoring Systems and their applications, and copies of and rights to software and technical information for Drinking Water Quality Monitoring Systems and their applications. Drinking Water Quality Monitoring Assets shall include assets sufficient, to the sole satisfaction of the plaintiff, to ensure that the Acquirer will be able to manufacture and sell Drinking Water Quality Monitoring Systems as a viable, ongoing line of business.

E. "Divestiture Assets" means the Drinking Water Quality Monitoring Assets, or such lesser portion thereof as is sufficient to ensure, to the sole satisfaction of the plaintiff, that the Acquirer will be able to manufacture and sell Drinking Water Quality Monitoring Systems as a viable, ongoing line of business.

F. "Acquirer" means the entity or entities to whom Pacific Scientific shall divest the Divestiture Assets.

III. Applicability

A. The provisions of this Final Judgment apply to the defendant, its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Pacific Scientific shall require, as a condition of the sale or other disposition of all or substantially all of the Divestiture Assets other than as provided in this Final Judgment, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

IV. Requirement to Hold Separate

Prior to the divestiture contemplated by this Final Judgment:

A. Pacific Scientific shall preserve, hold, and continue to operate the business of Pacific Scientific and the business of Met One as ongoing businesses, with their assets, management, and operations separate, distinct, and apart from one another. Pacific Scientific shall use all reasonable efforts to maintain the business of Pacific Scientific and the business of Met One as viable and active competitors.

There shall be no exchange between Pacific Scientific or Met One of any confidential business information (other than accounting information required in the ordinary course of business) or any technology or know-how.

B. Pacific Scientific shall not, without the consent of the United States, sell, lease, assign, transfer, or otherwise dispose of, or pledge as collateral for loans (except such loans and credit facilities as are currently outstanding or replacements or substitutes therefor) the Divestiture Assets or any business assets of Met One, except that any such asset that is replaced in the ordinary course of business with a newly purchased asset may be sold or otherwise disposed of, provided the newly purchased asset is identified as a replacement for an asset to be divested.

C. In its efforts to preserve and maintain the business of Pacific Scientific and the business of Met One as viable and active competitors, the obligations of Pacific Scientific shall include, but are not limited to: preserving all equipment, all rights to brand or trade names, patents, trade secrets, technology, know-how, specifications, designs, drawings, processes, production information, manufacturing information, testing and quality control data, servicing information, research materials, technical information, distribution information, customer lists, information stored on management information systems (and specifications sufficient for the Acquirer to use such information), software specific to Pacific Scientific's or Met One's divestiture assets, inventory sufficient for the Acquirer to complete all safety and efficacy studies, studies or tests necessary to obtain EPA or other governmental approvals, and all data, contractual rights, materials and information relating to obtaining EPA approvals and other government or regulatory approvals within the United States. These obligations do not preclude sales in the ordinary course of business.

D. Pacific Scientific shall provide and maintain sufficient working capital to maintain the Divestiture Assets business and the business of Met One as viable, ongoing businesses.

E. Pacific Scientific shall provide and maintain sufficient lines and sources of credit to maintain the Divestiture Assets business and the business of Met One as viable, ongoing businesses.

F. Pacific Scientific shall preserve the business assets of Pacific Scientific and Met One in a state of repair equal to their state of repair as of the date of Pacific Scientific's acquisition of Met One.

G. Pacific Scientific shall maintain on behalf of the businesses of Pacific Scientific and Met One in accordance with sound accounting practice, separate, true and complete financial ledgers, books and records reporting the profit and loss and liabilities of the businesses on a monthly and quarterly basis.

H. Pacific Scientific shall refrain from terminating or reducing any current employment, salary, or benefit agreements for any management, engineering, or other technical personnel employed by Met One or by Pacific Scientific in connection with the Divestiture Assets business of Pacific Scientific, except in the ordinary course of business, without the prior approval of the United States.

I. Pacific Scientific shall refrain from taking any action that would have the effect of reducing the scope or level of competition between the businesses of Pacific Scientific and Met One without the prior approval of the United States.

J. Pacific Scientific shall refrain from taking any action that would jeopardize its ability to divest the Divestiture Assets as a viable ongoing line of business.

K. When an agreement has been reached for the sale of the Divestiture Assets that is satisfactory to the plaintiff in its sole discretion, Pacific Scientific may be released from the restrictions of this Part IV once the divestiture sale has been consummated, in the sole discretion of the plaintiff. Such release shall become effective when plaintiff so notifies the Court.

V. Divestiture of Assets

A. Pacific Scientific is hereby ordered and directed, within 30 days of the date this Order is entered, to divest the Divestiture Assets. Plaintiff, in its sole discretion, may agree to an extension of this time period, and shall notify the Court in such circumstances.

B. Divestiture of the Divestiture Assets under Section V.A shall be accomplished in such a way as to satisfy the United States that the Divestiture Assets can and will be operated by the Acquirer as a viable, ongoing line of business.

Divestiture of the Divestiture Assets under Section V.A shall be made to a purchaser for whom it is demonstrated to the sole satisfaction of the United States that (1) the purchase is for the purpose of competing effectively in the manufacture and sale of Drinking Water Quality Monitoring Systems, and (2) the Acquirer has the managerial, operational, and financial capability to compete effectively in the manufacture and sale of Drinking Water Quality Monitoring Systems.

C. Pacific Scientific shall take all reasonable steps to accomplish quickly the divestitures contemplated by this Final Judgment.

D. Pacific Scientific agrees that, if it fails to divest the Divestiture Assets within the time specified in Section V.A, it shall not oppose nor contest in any way a civil contempt penalty of not more than $100,000 as may be recommended and moved for by the United States. Pacific Scientific further agrees that, if it fails to divest the Divestiture Assets within the time specified in Section V.A, it shall not oppose nor contest in any way civil contempt penalties of not more than $10,000 per day, for each day after the date the United States moves for the appointment of a trustee pursuant to Section VI.A until the date it consents to appointment of a trustee pursuant to Section VI, as may be recommended and moved for by the United States.

VI. Appointment of Trustee

A. In the event that Pacific Scientific has not divested the Divestiture Assets within 30 days of the date this Order is entered, the Court shall, on application of the United States, appoint a trustee selected by the United States to effect the divestiture of the Divestiture Assets. Unless plaintiff otherwise consents in writing, the divestiture shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as a viable on-going line of business. The Divestiture shall be made to an Acquirer for whom it is demonstrated to plaintiff's sole satisfaction that the Acquirer has the managerial, operational, and financial capability to compete effectively, and that none of the terms of the divestiture agreement interfere with the ability of the purchaser to compete effectively.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Section VII of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. The trustee shall have the power and authority to hire at the cost and expense of defendant any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be solely accountable to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to plaintiff, and shall have such other powers as this Court shall deem appropriate. Defendant shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance, or on the grounds that the sale is contrary to the express terms of this Final Judgment. Any such objections by defendant must be conveyed in writing to plaintiff and the trustee within ten (10) days after the trustee has provided the notice required under Section VII.

C. The trustee shall serve at the cost and expense of Pacific Scientific, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Pacific Scientific and the trust shall then be terminated. The compensation of such trustee and that of any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Pacific Scientific shall use its best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel books, records, and facilities of Pacific Scientific and Met One, and defendant shall develop financial or other information relevant to such assets as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendant shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

F. The Acquirer shall not, without the prior written consent of the United States, sell any of the acquired assets to, or combine any of the acquired assets with those of, Pacific Scientific during the life of this decree. Furthermore, the Acquirer shall notify plaintiff 45 days in advance of any proposed sale of all or substantially all of the assets, or control over those assets, acquired pursuant to this Final Judgment.

VII. Notification

A. Pacific Scientific or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify plaintiff of any proposed divestiture required by Section V or VI of this Final Judgment. If the trustee is responsible, it shall similarly notify Pacific Scientific. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same. Within fifteen (15) days after receipt of the notice, plaintiff may request additional information concerning the proposed divestiture, the proposed purchaser, and any other potential purchaser. Pacific Scientific or the trustee shall furnish the additional information within fifteen (15) days of the receipt of the request. Within thirty (30) days after receipt of the notice or within fifteen (15) days after receipt of the additional information, whichever is later, the United States shall notify in writing Pacific Scientific and the trustee, if there is one, if it objects to the proposed divestiture. If the United States fails to object within the period specified, or if the United States notifies in writing Pacific Scientific and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to Pacific Scientific's limited right to object to the sale under Section VI.B. Upon objection by the United States or by Pacific Scientific under Section VI.B, the proposed divestiture shall not be accomplished unless approved by the Court.

B. Thirty (30) days from the date when this Order becomes final, and every thirty (30) days thereafter until the divestiture has been completed or a trustee is appointed, Pacific Scientific shall deliver to plaintiff a written report as to the fact and manner of compliance with Section V of this Final Judgment. Each such report shall include, for each person who during the preceding thirty (30) days made an offer, expressed an interest or desire to acquire, entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in the Divestiture Assets or any of them, the name, address, and telephone number that person and a detailed description of each contact with that person during that period. Pacific Scientific shall maintain full records of all efforts made to divest all or any portion of the Divestiture Assets.

VIII. Financing

Pacific Scientific shall not finance all or any part of any purchase made pursuant to Sections V or VI of this Final Judgment without the prior written consent of the United States.

IX. Compliance Inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States, including consultants and other persons retained by the plaintiff, shall, upon the written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Pacific Scientific made to its principal offices, be permitted:

1. access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

2. subject to the reasonable convenience of Pacific Scientific and without restraint or interference from them, to interview Pacific Scientific directors, officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, made to Pacific Scientific at its principal offices, Pacific Scientific shall submit written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information nor any documents obtained by the means provided in this Section IX shall be divulged by any representative of the United States to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Pacific Scientific to plaintiff, Pacific Scientific represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Pacific Scientific marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff shall give ten (10) days notice to Pacific Scientific prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Pacific Scientific is not a party.

X. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XI. Termination

This Final Judgment will expire on the tenth anniversary of the date of its entry.

XII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

_____

United States District Judge

United States District Court for the District of Columbia

In the matter of: United States of America, Plaintiff, v. Pacific Scientific Company, Defendant. *Case Number* 1:96CV00165. *Judge:* James Robertson. *Deck Type:* Antitrust. *Date Stamp:* 01/30/96.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States filed a civil antitrust Complaint on January 30, 1996, alleging that the proposed acquisition of all of the outstanding shares of Met One, Inc. ("Met One") by Pacific Scientific Company ("Pacific Scientific") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1. Pacific Scientific and Met One are the nation's two leading manufacturers of drinking water particle counters.

The Complaint alleges that the combination of these major competitors would substantially lessen competition in the manufacture and sale of drinking water particle counters in the United States. The prayer for relief seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1; and (2) a preliminary and permanent injunction preventing Pacific Scientific and Met One from carrying out the proposed merger, or any similar agreement, understanding or plan.

Shortly before that suit was filed, a proposed settlement was reached that would permit Pacific Scientific to complete its acquisition of Met One's stock, yet preserve competition in the market in which the transaction would raise significant competitive concerns. A Stipulation and a proposed Final Judgment embodying the proposed settlement were filed as well.

The Stipulation effects a hold separate agreement that, in essence, requires Pacific Scientific to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, Met One's operations will be held separate and apart from, and operated independently of, Pacific Scientific's assets and businesses.

The proposed Final Judgment orders defendant to sell all of Pacific Scientific's U.S. assets and rights relating to the research and development, manufacture and sale of Pacific Scientific's Drinking Water Quality Monitoring Systems, other than real property, and Met One's software relating to Drinking Water Quality Monitoring Systems, and other assets if necessary, to make an economically viable competitor in the manufacture and sale of drinking water particle counters.

The United States and Pacific Scientific have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendant and the Proposed Transaction

Defendant Pacific Scientific Company is a California corporation with its headquarters in Newport Beach, California. Pacific Scientific Company reported annual sales in 1994 of approximately $234,700,000. HIAC/ROYCO, the division of Pacific Scientific that manufactures and sells drinking water particle counters, reported 1994 sales of $13,011,000, of which $1,270,000 came from drinking water particle counter sales.

Met One, Inc. is a California corporation with its headquarters in Grants Pass, Oregon. Met One reported net sales in 1994 of approximately $11,800,000, of which approximately $1,180,000 came from drinking water particle counter sales. Louis J. Petralli, Jr. is the majority and controlling owner of Met One.

Pacific Scientific proposes to acquire all outstanding stock of Met One for Pacific Scientific stock, and merge Met One into a newly created acquisition subsidiary.

B. The Drinking Water Particle Counter Market

Drinking water particle counters are devices sold largely to municipalities for the purpose of protecting against contamination of public drinking water

supplies. The drinking water particle counters made and sold by defendant are capable of detecting particles the size of potentially deadly microorganisms that may exist in public drinking water supplies. Drinking water particle counters such as those made by defendant generally include four components: a sensor, which directs a laser beam from a laser diode through the water being tested; a sampler, which provides a means to transport a sample of the water in which the particles are being counted undisturbed through the sensor; a counter, which sorts the signals from the sensor by voltage and assigns a particle size to the signals; and software, which translates data into a readable format.

Because drinking water particle counters are able to detect potentially harmful contaminants in public drinking water with greater sensitivity and efficiency than other technologies, such as turbiditymeters and microscopes, municipalities purchase them to satisfy their concerns for the purity and safety of their drinking water. For example, in 1993, 28 people in Milwaukee died as a result of drinking water contamination by one such microorganism—*Cryptosporidium*. At the time of that tragedy, Milwaukee had installed turbiditymeters but had not installed drinking water particle counters. Since 1993, Milwaukee has installed drinking water particle counters.[1]

Municipalities generally purchase drinking water particle counters through formal bid procedures. Although price is an important factor, municipalities also consider quality, reliability, service, and the reputation of the qualifying firms. Municipalities routinely request from each firm as part of that firm's bid package a list of references from past successful bids. Municipalities also routinely invite drinking water particle counter competitors to demonstrate the capabilities of their respective devices prior to the municipality's determination of the bid winner.

[1] Turbiditymeters are not part of the relevant market. Turbidity is an optical measurement of solid contamination suspended as particles in a fluid. Turbiditymeters have significantly different attributes than drinking water particle counters. For example, turbiditymeters cannot detect small quantities of microorganisms such as *Cryptosporidium*, as particle counters can. And, unlike drinking water particle counters, turbiditymeters do not provide exact data for the size and number of particles in a given medium. Municipalities do not consider turbiditymeters to be substitutes for drinking water particle counters.

C. Competition Between Pacific Scientific and Met One

Pacific Scientific and Met One compete directly in the manufacture and sale of drinking water particle counters. Pacific Scientific's Water Particle Counting System and Met One's on-line particle counting systems are regarded by municipalities as close substitutes, for they offer similar functionality, performance and features.

Pacific Scientific and Met One recognize the rivalry between their products in the relevant geographic market. Each firm has engaged in comparative selling techniques and competitive pricing strategies against the other firm in order to increase the likelihood of successful sales. Through these activities, Pacific Scientific and Met One have each operated as a significant competitive constraint on the other's prices and have each provided impetus for technological improvements in the other's systems. For example, when Met One was awarded the 1994 contract for particle counters provided to the City of San Francisco, Pacific Scientific wrote the city reminding it that Pacific Scientific rather than Met One was the low bidder. In its letter, Pacific Scientific also provided the city a detailed comparison of the Pacific Scientific product versus the Met One product. It has been common practice for municipalities to conduct side by side evaluations or demonstrations of the Pacific Scientific and Met One drinking water particle counters in considering the merits of each product's software and hardware capabilities.

D. Anticompetitive Consequences of the Acquisition

The Complaint alleges that the acquisition of Met One, Inc. by Pacific Scientific Company would reduce substantially or eliminate competition in the drinking water particle counter market in the United States and decrease incentives to maintain high levels of quality and service and to keep prices low.

Specifically, the Complaint alleges that the acquisition would increase concentration significantly in what is already a highly concentrated market.[2]

After the acquisition, the combined Pacific Scientific/Met One entity would dominate the drinking water particle counter market. Based on 1994 sales, the market share of the combined entity would be 65% of drinking water particle counters sold in the United States.

The complaint also alleges that entry into the market by a new firm selling drinking water particle counters would not likely be either timely or sufficient to prevent the harm to competition caused by Pacific Scientific's acquisition of Met One.

[2] The Herfindahl-Hirschman Index ("HHI") is a widely-used measure of market concentration. Following the acquisition, the appropriate post-merger HHI, calculated from 1994 dollar sales, would be 4842, an increase of 2108 from the premeger HHI.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the manufacture and sale of drinking water particle counters in the United States. Within 30 days after entry of the Final Judgment, defendant will divest certain of Pacific Scientific's U.S. assets and rights relating to the research and development, manufacture and sale of Pacific Scientific's Drinking Water Quality Monitoring Systems, other than real property, and Met One's software relating to Drinking Water Quality Monitoring Systems, and other assets if necessary, to create an economically viable new competitor in the manufacture and sale of drinking water particle counters (in general, the "Divestiture Assets").

The proposed Final Judgment provides for the imposition of civil contempt penalties as an additional incentive for defendant to carry out the prompt divestiture of the Divestiture Assets and maintain competition in the drinking water particle counter market.

If defendant fails to divest the Divestiture Assets within 30 days after entry of the Final Judgment, the Court, upon application by the United States, shall appoint a trustee nominated by the United States to effect the divestiture of the Divestiture Assets. If a trustee is appointed, the proposed Final Judgment provides that Pacific Scientific will pay all costs and expenses of the trustee. The proposed Final Judgment also provides that the compensation of the trustee and of any professionals and agents retained by the trustee shall be both reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished. After appointment, the trustee will file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under the proposed Final Judgment. If the trustee has not accomplished the divestiture within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. At the same time the trustee will furnish such report to the parties, who will each have the right to be heard and to make additional recommendations consistent with the purpose of the trust.

The proposed Final Judgment requires that Pacific Scientific and Met One be maintained separate and apart as independent entities prior to the divestiture contemplated by the Final Judgment.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, United States Department of Justice, 1401 H Street NW., Suite 3700, Washington, D.C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint against Pacific Scientific. The United States is satisfied, however, that the divestiture of the assets and other relief contained in the proposed Final Judgment will preserve viable competition in the manufacture and sale of drinking water particle counters that would otherwise be adversely affected by the acquisition. Thus, the proposed Final Judgment would achieve the relief the government would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the government's Complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination,

> The court *may* consider—
>
> (1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;
>
> (2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e) (emphasis added). As the United States Court of Appeals for the D.C. Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process."[3] Rather,

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); *see also Microsoft*, 56 F.3d at 1460–62. Precedent requires that—

> The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[4]

[3] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[4] *United States* v. *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. *See also Microsoft*, 56 F.3d at 1461 (whether "the remedies [obtained in the

Continued

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted)."[5]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: January 30, 1996.

Respectfully submitted,

John W. Van Lonkhuyzen,

Alexander Y. Thomas,

Trial Attorneys, U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street, NW., Suite 3700, Washington, DC 20530, (202) 307–6355.

[FR Doc. 96–2657 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Intelligent Processing of Materials-Physical Vapor Deposition Consortium (IPM–PVD)

Notice is hereby given that, on October 26, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), United Technologies Corporation and General Electric Company filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: United Technologies Corporation acting by and through its Pratt & Whitney Government Engines and Space Propulsion, Pratt & Whitney Corporation, acting by and through its United Technologies Research Center, East Hartford, CT; and the General Electric Company, acting by and through its GE Aircraft Engines (GEAE), and through its GE Cooperative Research and Development (GE–CRD) Center, Evendale, OH.

The objective of the program being pursued by the IPM–PVD is to conduct the development of a sensor package aimed at reducing processing costs, manufacturing variability and to enable implementation of advanced TBC architectures.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–2658 Filed 2–7–96; 8:45 am]

BILLING CODE 4410–01–M

decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.'") (citations omitted).

[5] *United States* v. *American Tel. and Tel Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting United States* v. *Gillette Co.*, *supra*, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 1996 Adverse Effect Wage Rates and Allowable Charges for Agricultural and Logging Workers' Meals

AGENCY: U.S. Employment Service, Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates (AEWRs) and allowable charges for meals for 1996.

SUMMARY: The Director, U.S. Employment Service, announces 1996 adverse effect wage rates (AEWRs) for employers seeking nonimmigrant alien (H–2A) workers for temporary or seasonal agricultural labor or services and the allowable charges employers seeking nonimmigrant alien workers for temporary or seasonal agricultural labor or services or logging work may levy upon their workers when they provide three meals per day.

AEWRs are the minimum wage rates which the Department of Labor has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant alien agricultural workers (H–2A visaholders). AEWRs are established to prevent the employment of these aliens from adversely affecting wages of similarly employed U.S. workers.

The Director also announces the new rates which covered agricultural and logging employers may charge their workers for three daily meals.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Robinson, Deputy Assistant Secretary for Employment and Training, U.S. Department of Labor, Room N–4700, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–219–5257 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Attorney General may not approve an employer's petition for admission of temporary alien agricultural (H–2A) workers to perform agricultural labor or services of a temporary or seasonal nature in the United States unless the petitioner has applied to the Department of Labor (DOL) for an H–2A labor certification. The labor certification must show that: (1) there are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.

DOL's regulations for the H–2A program require that covered employers offer and pay their U.S. and H–2A workers no less than the applicable hourly adverse effect wage rate (AEWR). 20 CFR 655.102(b)(9); see also 20 CFR 655.107. Reference should be made to the preamble to the July 5, 1989, final rule (54 FR 28037), which explains in great depth the purpose and history of AEWRs, DOL's discretion in setting AEWRs, and the AEWR computation methodology at 20 CFR 655.107(a). See also 52 FR 20496, 20502–20505 (June 1, 1987).

A. Adverse Effect Wage Rates (AEWRs) for 1996

Adverse effect wage rates (AEWRs) are the minimum wage rates which DOL has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant (H–2A) agricultural workers. DOL emphasizes, however, that such employers must pay the highest of the AEWR, the applicable prevailing wage or the statutory minimum wage, as specified in the regulations. 20 CFR 655.102(b)(9). Except as otherwise provided in 20 CFR Part 655, Subpart B, the regionwide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special circumstances provisions of 20 CFR

655.93) for which temporary alien agricultural labor (H–2A) certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the U.S. Department of Agriculture (USDA does not provide data on Alaska). 20 CFR 655.107(a).

The regulation at 20 CFR 655.107(a) requires the Director, U.S. Employment Service, to publish USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 1996 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE.—1996 ADVERSE EFFECT WAGE RATES (AEWRS)

State	1996 AEWR
Alabama	$5.40
Arizona	5.87
Arkansas	5.27
California	6.26
Colorado	5.64
Connecticut	6.36
Delaware	5.97
Florida	6.54
Georgia	5.40
Hawaii	8.60
Idaho	5.76
Illinois	6.23
Indiana	6.23
Iowa	5.90
Kansas	6.29
Kentucky	5.54
Louisiana	5.27
Maine	6.36
Maryland	5.97
Massachusetts	6.36
Michigan	6.19
Minnesota	6.19
Mississippi	5.27
Missouri	5.90
Montana	5.76
Nebraska	6.29
Nevada	5.64
New Hampshire	6.36
New Jersey	5.97
New Mexico	5.87
New York	6.36
North Carolina	5.80
North Dakota	6.29
Ohio	6.23
Oklahoma	5.50
Oregon	6.82
Pennsylvania	5.97
Rhode Island	6.36
South Carolina	5.40
South Dakota	6.29
Tennessee	5.54
Texas	5.50
Utah	5.64
Vermont	6.36
Virginia	5.80
Washington	6.82
West Virginia	5.54
Wisconsin	6.19
Wyoming	5.76

B. Allowable Meal Charges

Among the minimum benefits and working conditions which DOL requires employers to offer their alien and U.S. workers in their applications for temporary logging and H–2A agricultural labor certification is the provision of three meals per day or free and convenient cooking and kitchen facilities. 20 CFR 655.102(b)(4) and 655.202(b)(4). Where the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts covered H–2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR 655.202(b)(4) and 655.211(a) to covered H–2B logging employers. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data.

Each year the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are changed by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI–U for Food) between December of the year just past and December of the year prior to that. Those regulations and 20 CFR 655.111(a) and 655.211(a) provide that the appropriate Regional Administrator (RA), Employment and Training Administration, may permit an employer to charge workers no more than a higher maximum amount for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-month percent change in the CPI–U for Food between December of the year just past and December of the year prior to that. The regulations require the Director, U.S. Employment Service, to make the annual adjustments and to cause a notice to be published in the **Federal Register** each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural and logging employers for providing three meals daily to their U.S. and alien workers. The 1995 rates were published in a notice on February 7, 1995 at 60 FR 7215.

DOL has determined the percentage change between December of 1994 and December of 1995 for the CPI–U for Food was 2.8 percent.

Accordingly, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 1996 are as follows: (1) for 20 CFR 655.102(b)(4) and 655.202(b)(4), the charge, if any, shall be no more than $7.17 per day, unless the RA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211(b); for 20 CFR 655.111 and 655.211, the RA may permit an employer to charge workers up to $8.95 per day for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentation required to support the higher charge.

Signed at Washington, D.C., this 1st day of February, 1996.

John M. Robinson,

Deputy Assistant Secretary for Employment and Training, U.S. Employment Service.

[FR Doc. 96–2714 Filed 2–7–96; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before March 25, 1996. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Veterans Affairs, Veterans Health Administration (N1–15–96–1). Records relating to special salary rates for certain health care occupations.

2. Department of State, Bureau of Consular Affairs (N1–59–96–1). Routine, facilitative, and duplicative records of the Office of Public Affairs and Policy Coordination.

3. Bureau of the Census (N1–29–96–1). 1990 decennial census time and attendance records for temporary employees (one-time exception to General Records Schedule 2, Item 8).

4. Executive Office of the President, Office of Science and Technology Policy (N1–359–96–1). Electronic and textual records created after July 14, 1994 that deal with routine administrative matters. (Master File of E–Mail messages will be preserved.)

5. National Archives and Records Administration (N1–GRS–95–4). Reduction in retention period for procurement files.

6. Peace Corps (N1–490–95–10). Medical technical procedural guidelines and field copies; and administrative reference copies of memoranda of understanding.

7. Tennessee Valley Authority (N1–142–93–2). Forest Stand Tally Sheets, 1934–1943.

Dated: January 30, 1996.

James W. Moore,

Assistant Archivist for Records Administration.

[FR Doc. 96–2729 Filed 2–7–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

The Federal Demonstration Project; Phase III Solicitation

AGENCIES: National Science Foundation, National Institutes of Health, Office of Naval Research, Department of Energy, Department of Agriculture, Air Force Office of Scientific Research, Army Research Office, Army Medical Research & Material Command, National Aeronautics & Space Administration, Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This Notice announces a solicitation to participate in Phase III of the Federal Demonstration Project (FDP), to test innovative approaches to streamline processes and systems for Federally supported research and education. FDP Phase III constitutes the continuation of the Florida Demonstration Project Phase I which ran from 1986 through 1988, and the Federal Demonstration Project Phase II which began in September 1988 and will conclude in June, 1996.

DATES: Proposals must be received by C.O.B. on March 20, 1996 (see section entitled "Proposal Submission and Deadline") Evaluation and selection of organizations will be completed about May 1, 1996. Project organization and execution of Phase II agreements will be completed about June 15, 1996.

FOR FURTHER INFORMATION CONTACT:

Ann Datko, U.S. Department of Agriculture, 202–401–4921, Adatko@reeusda.gov;
Geoffrey Grant, NIH, 301–435–0538, GRANTG@odrockm1.od.nih.gov;
Harry Haraldsen, Air Force Office of Scientific Research, 202–767–4990, haraldse@afosr.af.mil;
Robert Hardy, NSF, 703–306–1240, rhardy@nsf.gov;
Richard Kall, NASA 202–358–0459, RKall@Proc.hq.nasa.gov;
Charles Paoletti, ONR, 703–696–4606, paoletc@onrhq.onr.navy.mil;
Dan Shackelford, U.S. Army Medical Research and Materiel Command, 301–619–7216, Dan__Shackelford@ftdetrick-ccmail.army.mil;
John Showman, EPA, 202–260–6580, showman.john@epamail.epa.gov;
Larry Travis, Army Research Office, 919–549–4310, Travis@ARO.emh1.army.mil;
Jean Morrow, DOE, 301–903–2452, jeanmorrow@mailgw.er.doe.gov

SUPPLEMENTARY INFORMATION:

Background

In April, 1986 NSF, NIH, ONR, DOE and USDA joined with the Florida State University System and the University of Miami in a demonstration of a standard and simplified research support instrument. This Florida Demonstration Project was developed by federal officials with the encouragement of the Government-University-Industry Research Roundtable (GUIRR) of the National Academy of Sciences. This Demonstration tested the use of a number of expanded authorities for grants administration by research performing organizations. Demonstrations focused on such things as eliminating most requirements for federal prior approval of certain expenditures so long as pertinent grantee administrative systems were adequate and effective and allowing grantees the authority to: a) incur pre-award costs up to 90 days before the effective date of a grant, b) extend the period of the grant for up to one year with no additional funds, and c) carry forward balances from one budget period to the next. Based on the results of Phase I, OMB authorized expansion of the Demonstration in May, 1988.

FDP Phase II began in September, 1988 with 21 educational institutions or consortia and 10 federal agencies. Initially, seven task groups comprised of representatives from participating institutions and federal agencies were formed and charged with developing models for administrative reform in a variety of areas. A uniform set of policies and procedures for administration of research grants, a simplified continuation application process and elimination of equipment screening were some of FDP Phase II successes. In addition, during Phase II FDP responded to an OMB request to prepare a report on the possibility and practicality of direct charging facility costs to grants. FDP Phase II was recognized in the National Performance Review as the model for testing more efficient ways for federal agencies to interact with grantee institutions.

Purpose of Scope

The purpose of this solicitation is to provide a mechanism to expand the scope of and broaden the participation in the current Federal Demonstration Project. The primary focus of this new phase of the FDP will be to serve as the central test bed for demonstration of reengineered processes and systems for federal support of research and education. Emphasis will be placed on electronic research administration and demonstrations that provide administrative relief for faculty researchers. Primary goals continue to be increased productivity, increased stewardship, and decreased administrative burden.

Organization of Phase III and Phase III Activities

The primary forum within the FDP Phase III for interaction among all the participants will continue to be the Committee of the Whole. Each non-federal member institution or organization will designate a minimum of two representatives (one administrator and one investigator) to the Committee of the Whole. Similarly, each federal agency participating in the FDP Phase III will designate two representatives (policy/administrative/business and program manager). Additional institutional/agency representatives may attend and participate in meetings as observers, as may representatives from affiliate membership groups. The Committee of the Whole will meet at least once a year.

In addition to the Committee of the Whole, a Steering Committee will meet at least three times a year. The Steering Committee will receive and approve recommendations for new demonstrations, progress and evaluation reports on demonstrations and pilots, and approve the conveying of recommendations to the Office of Science and Technology Policy. The Steering Committee will also be responsible for establishing task forces and assigning their membership, developing position papers, reviewing and approving additional affiliate membership requests and membership terminations, and undertaking other activities consistent with FDP objectives. All member federal agencies will be represented on the Steering Committee. Depending on the number of non-federal members, participation may include one representative from each institution or a representative group of institutional representatives whose membership would rotate, offering each institution membership on the Steering Committee for a set period.

An Executive Committee, consisting of two institutional Steering Committee members, two federal agency representatives, a GUIRR representative, and a senior federal science official will meet on an as needed basis and will be empowered to take necessary actions on behalf of the Committee of the Whole and/or Steering Committee. It will also develop meeting agendas, monitor task force progress, identify opportunities for new demonstrations, and act as liaison for the FDP with other groups and individuals. The Steering Committee will appoint members to the Executive Committee annually except for the senior federal science official who will be selected from, and named by, the Research Roundtable Council and will have an indefinite term of service.

The GUIRR of the National Academy complex will continue to function as a neutral convenor for the FDP, and will provide the executive secretariat. It will continue to facilitate meetings and discussions of the Committee of the Whole and Steering Committee, and the contributions of the FDP to federal policy-making.

The federal agency working group will continue to be comprised of representatives of the federal agency Steering Committee members. The group will convene periodically to form a consensus about proposed demonstrations and pilots they are willing to test, as well as new or revised FDP terms and conditions.

The Office of Science and Technology Policy (OSTP) will be the focal point within the federal government to receive, review and implement as appropriate recommendations emanating from FDP activities.

Eligibility

This solicitation is open to all institutions and organizations other than state and local governments that undertake research or educational activities supported with federal funds through a grant or cooperative agreement mechanism, provided such organizations have received at least $1,000,000 of such federal support over the past two years. Existing FDP member institutions and organizations who have maintained active participation in the current Phase II of the FDP will be admitted to Phase III upon execution of a memorandum of agreement (see below) by an appropriate senior official of the organization. Consortia of federal research or education performing institutions or organizations are not eligible to participate in Phase III of the FDP, with the exception of central system offices of statewide university systems and non-profit foundations that serve as legal agents for otherwise eligible institutions (e.g. university research foundations). In such cases participation of individual member institutions in the FDP is strongly encouraged. Existing member institutions of FDP Phase II consortia will be admitted to Phase III upon execution of the memorandum of agreement.

The selection of organizations for Phase III of the FDP is intended to be broadly representative of the federal research and education performing community, including large and small public and private colleges and universities (including predominantly undergraduate institutions and HBCUs), non-profit research and education organizations (including science museums), hospitals, and profit-making organizations. every effort will be made to ensure broad representation by type, size, extent of federal support, geographic location and other characteristics. However, no commitment is made to select either a minimum number of organizations or to ensure representation by organization type or other characteristics.

Expressions of interest in affiliate membership status by groups such as professional associations of researchers, educators or research and education administrators, scientific societies, and other such groups are encouraged. While such groups are not eligible for full FDP membership, their representatives may attend FDP meetings as observers and otherwise participate as appropriate in FDP activities. Affiliate membership status for smaller institutions or organizations unable to commit to the conditions for full FDP participation (see below) also will be considered.

Participation Conditions

As a condition for participation in Phase III, the selected organizations will be required to agree to the following conditions:

1. Establishment and maintenance of management and administrative

procedures and systems that comply with the standards and requirements of the federal government for administering federal awards for research and education (including lack of material weaknesses in internal control structures as confirmed by applicable audit requirements and substantial compliance with federal policies and regulations pertaining to grant administration, such as timely technical, invention and financial reporting).

2. Agreement to actively participate in the FDP, including regular attendance, at institutional expense, of FDP committee and task force meetings, and participation in new or ongoing FDP demonstrations and pilots. Failure to attend two or more consecutive regularly-scheduled FDP committee meetings will be grounds for termination of membership.

3. Commitment to continued efforts to reengineer and streamline internal processes while enhancing the stewardship of federal support and to provide a report to the FDP membership at least every two years on these efforts.

4. Execution of a memorandum of agreement confirming the above, and setting forth certain additional understandings and requirements (copy of draft agreement will be furnished on request and may also be accessed electronically via the NSF Home Page on the World-Wide Web). Federal agencies currently participating in the FDP have agreed that agency grants and cooperative agreements to FDP member institutions and organizations (excluding affiliate members) will be governed by the "FDP Terms and Conditions" (unless otherwise required). During Phase III they are expected to use the FDP as the primary focus for tests and demonstrations of reengineered processes and systems for the support of research and education. Additional federal agencies may be admitted to the FDP upon agreement to these conditions.

What To Submit

Proposing organizations must submit ten (10) copies of a brief proposal (not to exceed 5 pages). The proposal must be signed by a senior official authorized to commit the organization in such matters (in the case of educational institutions Provost level or higher). It must cover the following:

1. Description of existing and planned efforts by the proposing institution/organization to reengineer and improve the effectiveness of systems for administration of federal support.

2. Description of possible Phase III demonstration and pilot projects including significance of the administrative problem or burden to be addressed, suggested methods/approaches, ways to assess the impact on productivity, and expected benefits.

3. Identification of primary institutional/organizational representatives including their background and qualifications. One of the outcomes of Phase II is a recognition of the need for greater participation in FDP activities by principal investigators and project directors of Federally supported research and education activities. Therefore proposing organizations should identify both administrative and principal investigator/project director representatives and indicate their commitment to participate in FDP activities. (It is expected that each FDP Phase III member organization will designate two representatives).

4. Indication of the proposing organization's top management commitment to reengineer administrative processes and systems, and willingness and commitment to fully participate in FDP activities.

This section also should include a brief summary of the organization's characteristics: type of institution/organization, size, Federal R&D/education funding for fiscal years 1994 and 1995, by year and funding agency, etc.

Selection Criteria

1. Evaluation and assessment of existing reengineering activities of the organization in the area of administrative processes and systems and organizational commitment to same.

2. Significance of proposed demonstrations and pilot projects and the extent to which suggested methods and approaches clearly show potential to achieve the results sought.

3. Commitment of individuals proposed as lead organizational representatives and their experience and leadership in improving administration of federal support.

4. Evidence of organizational and top management commitment to full participation in Phase III. In additional to the above, equally weighted criteria, consideration will be given to achieving an appropriate representation of organizations, including organization type, size, extent of federal support, geographic location, etc.

Evaluation of Proposals and Selection Process

Evaluation of proposals will be carried out by the Standing FDP Committee on Membership, which is comprised of federal agency officials, representatives of current FDP member institutions, and GUIRR representatives, The Membership Committee will make the final selection in consultation with the Executive Committee of the FDP.

Proposal Submission and Deadlines

Ten copies of the organization's proposal must be received by C.O.B. March 20, 1996 at the Government—University—Industry Research Roundtable, National Academy of Sciences, National Academy of Engineering, Institute of Medicine, 2101 Constitution Avenue NW., Washington, DC 20410. Attention: FDP

Selection and Schedule

Evaluation and selection of organizations will be completed about May 1, 1996. Project organization and execution of Phase III agreements will be completed about June 15, 1996.

Dated: February 2, 1996.

Robert B. Hardy,

Director, Division of Contracts, Policy and Oversight.

[FR Doc. 96–2642 Filed 2–7–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment. The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for collection of information under the provision of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 20, Proposed Rule, Reporting Requirements for Unauthorized Use of Licensed Radioactive Material.

3. The form number if applicable: Not applicable.

4. How often is the collection required: As the events occur.

5. Who will be required or asked to report: All NRC licensees.

6. An estimate of the number of responses: 19,800.

7. The estimated number of annual respondents: 20 per year.

8. An estimate of the number of hours needed annually to complete the requirement or request: 400 hours for the 20 licensees that may be affected by this proposed rule or 20 hours per licensee.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: The Nuclear Regulatory Commission (NRC) is proposing to require reporting of events that cause, or have the potential to cause, an exposure of individuals whether or not the exposure exceeds the regulatory limits. This proposed rule would add a new requirement for licensees to notify the NRC Operations Center within 24 hours after finding any event of intentional or allegedly intentional deviation of licensed radioactive material from its intended or authorized use. In addition, the proposed rule would add a new requirement for licensees to notify the NRC when they are unable, within 48 hours of discovery of the event, to rule out that the use was intentional.

Submit by April 8, 1996, comments that address the following question:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC 20555–0001. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advances Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672), or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Comments and questions should be directed to the OMB reviewer by March 11, 1996: Troy Hillier, Office of Information and Regulatory Affairs, (3150–0014), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 30th day of January, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2700 Filed 2–7–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–498 AND 50–499]

Houston Lighting and Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–76 and NPF–80, issued to Houston Lighting & Power Company, et. al., (the licensee) for operation of the South Texas Project, located in Matagorda County, Texas. The original application dated May 1, 1995, was previously published in the **Federal Register** on June 6, 1995 (60 FR 29876). That application was supplemented by letters dated June 22, August 28, November 22, December 19, 1995, January 4, January 8 (two letters), and January 23, 1996.

The proposed amendment would provide a special test exception that would allow an extension of the standby diesel generator (SDG) allowed outage time for a cumulative 21 days on each SDG once per fuel cycle, and it would also allow an extension of the essential cooling water (ECW) loop allowed outage time for a cumulative 7 days on each ECW loop once per fuel cycle. These extended allowed outage times will be used to perform required inspections and maintenance on the SDGs and the ECW system during power operation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Standby Diesel Generators are not accident initiators, therefore the increase in Allowed Outage Times for this system does not increase the probability of an accident previously evaluated. The three train design of the South Texas Project ensures that even during the seven days the Essential Cooling Water loop is inoperable there are still two complete trains available to mitigate the consequences of any accident. If the Essential Cooling Water loop is not inoperable during the 21 days the Standby Diesel Generator is inoperable, the Standby Diesel Generator's Engineered Safety Features bus and equipment in the train will be operable. This ensures that all three redundant safety trains of the South Texas Project design are operable. In addition the Emergency Transformer will be available to supply the Engineered Safety Features bus normally supplied by the inoperable Standby Diesel Generator. These actions will ensure that the changes do not involve a significant increase in the consequences of previously evaluated accidents.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes affect only the magnitude of the Standby Diesel Generator and Essential Cooling Water Allowed Outage Times once per fuel cycle as identified by the marked-up Technical Specification. As indicated above, the proposed change does not involve the alteration of any equipment nor does it allow modes of operation beyond those currently allowed. Therefore, implementation of these proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes result in no significant increase in core damage or large early release frequencies.

Three sets of PSA [probabilistic safety assessment] results have been presented to the NRC for the South Texas Project. One submitted in 1989 from the initial Level 1

PSA of internal and external events with a mean annual average CDF [core damage frequency] estimate of $1.7 \times 10(-4)$, a second one submitted in 1992 to meet the IPE requirements from the Level 2 PSA/IPE with a CDF estimate of $4.4 \times 10(-5)$, and an update of the PSA that was reported in the August 1993 Technical Specifications submittal with a variety of CDF estimates for different assumptions regarding the rolling maintenance profile and different combinations of modified Technical Specifications. The South Texas Project PSA was updated in March of 1995 to include the NRC approved Risk-Based Technical Specifications, Plant Specific Data and incorporate the Emergency Transformer into the model. This update resulted in a CDF estimate of $2.07 \times 10(-5)$. When the requested changes are modeled along with the compensatory actions, the resulting CDF estimate is $2.30 \times 10(-5)$. While this is slightly higher (approx. 11%) than the updated results, it is still significantly lower (approx. 46%) than the previous Risk-Based Evaluation of Technical Specification submitted in 1993. Therefore, it is concluded that there is no significant reduction in the margin of safety.

Based on the above evaluation, Houston Lighting & Power has concluded that these changes do not involve any significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 11, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Beckner, Director, Project Directorate IV–1: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 1, 1995, as supplemented by letters dated June 22, August 28, November 22, December 19, 1995, January 4, January 8 (two letters), and January 23, 1996, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Dated at Rockville, Maryland, this 2nd day of February 1996.

For the Nuclear Regulatory Commission.

George Kalman,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2701 Filed 2–8–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36799; File No. SR–DTC–94–16]

Self-Regulatory Organizations; The Depository Trust Co.; Order Approving a Proposed Rule Change Clarifying the Depository Trust Company's Policy on Depository-to-Depository Services and Fees

February 1, 1996.

On November 29, 1994, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–94–16) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on January 9, 1995.[2] One comment letter was received.[3] On October 11, 1995, DTC filed an amendment to clarify the filing.[4] Because the amendment changed the substance of the filing, notice of the amended proposal was published in the **Federal Register** on November 1, 1995.[5] One comment letter was received in response to the notice of the amended proposal after the expiration of the comment period.[6] For the reasons discussed below, the Commission is approving the proposed rule change as amended.

I. Description of the Proposal

The purpose of the proposed rule change is to clarify DTC's policy regarding depository-to-depository services and fees by filing the following statement:

With respect to any other securities depository that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 [a "depository"], neither DTC nor the other depository shall be obligated to pay each other the fees charged to participants by virtue of having executed participant agreements with one another. DTC shall provide services to the other depository, charge fees for those services, and pay for the services provided to DTC, all in accordance with the terms of a separate agreement, if any, between DTC and the other depository respecting such matters.

In the absence of any such separate agreement, however:

1. DTC shall make available to any other depository any service that DTC makes available to its Participants generally, provided that such depository makes its services available to DTC on the same basis.

2. DTC (i) shall not charge for the book-entry delivery services provided to the other depository nor pay for the book-entry delivery services provided by the other depository, (ii) shall charge DTC participant fees for services relating to the physical handling of certificates rendered by DTC to such depository and pay the other depository its participant fees for services relating to the physical handling of certificates rendered to DTC and (iii) shall charge the other depository and pay the other depository for "linked services" provided, if any.[7]

DTC states that this policy statement reflects the practices that have been followed by DTC and the other depositories since the beginning of interdepository processing and is consistent with the Commission's expressed views concerning these matters.

II. Comments

One comment letter was received in response to the original notice of proposed rule change.[8] DTC

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 35186 (December 30, 1994), 60 FR 2418.

[3] Letter from J. Craig Long, Foley and Lardner (on behalf of the Midwest Securities Trust Company), to Jonathan G. Katz, Secretary, Commission (February 3, 1995). The comment letter is discussed in Section II of this order.

[4] Letter from Richard B. Nesson, Executive Vice President and General Counsel, DTC, to Jerry W. Carpenter, Esq., Assistant Director, Division of Market Regulation, Commission (October 11, 1995).

[5] Securities Exchange Act Release No. 36425 (October 26, 1995), 60 FR 55623.

[6] Letter from William W. Uchimoto, First Vice President and General Counsel, Philadelphia Depository Trust Company ("Philadep"), to Jonathan G. Katz, Secretary, Commission (November 30, 1995). The comment letter is discussed in Section II of this order.

[7] The Commission has described "linked services" as arrangements where one depository (the "servicing depository") performs for another depository (the "using depository") the core tasks necessary to deliver the services to the using depository's participants. The Commission has cited as examples of linked services DTC's processing of ID confirmations and affirmations and DTC's fourth-party delivery service. The Commission has expressed the view that a servicing depository should be permitted to charge a using depository the same fee it charges its participants for the same or a similar service. *See* Securities Exchange Act Release No. 23083 (March 31, 1986) at pages 15–23.

[8] *Supra* note 3. The first commenter, also a registered securities depository, submitted a comment letter only in response to DTC's original filing and stated that DTC's filing was an attempt to have the commenter adopt a no-charge policy for rendering most services to DTC in connection with the operation of the interface between the depositories. The commenter also focused on this filing's relationship to another pending DTC filing regarding interface fees. The commenter urged the

Continued

subsequently amended the filing. The Commission received one comment letter in response to the amended notice after the expiration of the comment period.[9]

The second commenter stated its belief that the policy statement is unnecessary because it impacts exclusively upon DTC's relationship with the commenter, also a registered securities depository. Other than DTC, the commenter will be the only other actively operating registered securities depository providing depository services for equity, corporate, and municipal securities.[10] The Commission believes DTC's policy statement is a general statement of DTC's intention to establish depository-to-depository services and fees with any depository, existing now or in the future, and is not intended to target DTC's relationship with this commenter.

This commenter also stated its concern that approval of DTC's policy statement would interrupt or diminish services to the commenter. The Commission does not believe that by approving DTC's current practice as an official policy the policy statement should cause an interruption or diminishment of services to the commenter or any other depositories. The Commission also does not believe the policy statement will prohibit or limit access to services offered by any registered securities depository or participants. The Commission believes the policy statement should help encourage the depositories to work together to achieve a reciprocal and mutually beneficial relationship. The policy statement proposes to provide assurance that in the absence of an agreement between depositories all services provided by DTC to another depository will be reciprocated by the other depository on the same basis. The Commission believes this should help assure that depository-to-depository services are available on a similar basis to participants of any depository.

III. Discussion

Section 17A(b)(3)(F)[11] requires that a clearing agency's rules be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposal is consistent with section 17A(b)(3)(F) of the Act because it will clarify DTC's current practices and policies regarding depository-to-depository services and fees and thus should help create a structure for establishing such interdepository agreements with other registered securities depositories. This structure should help facilitate cooperation and coordination among persons engaged in the clearance and settlement of securities transactions by ensuring that absent an agreement depository interface services will be available to participants of any depository and associated fees will be charged among depositories on a reciprocal basis.

The Commission also believes that the policy statement should help remove impediments to and perfect the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions by setting forth a structure for the charging of depository-to-depository fees in the absence of an agreement between depositories. This should help prevent one depository from charging another depository inappropriately high fees or from charging higher per-unit fees than such depository charges its participants generally.

The Commission recognizes that the benefits of a national clearance and settlement system can be realized only if there is cooperation and coordination among competing registered securities depositories and that in some instances Commission review of the application of the policy statement will be necessary. To this end, if DTC and another registered securities depository do not enter into a separate agreement regarding depository-to-depository services and fees and DTC unilaterally decides to invoke the terms of the policy statement, DTC must notify the Commission in writing of its decision prior to invoking the terms of the policy statement. The Commission will assess whether the policy statement is being implemented consistently with the terms and goals of section 17A of the Act.

IV. Conclusion

The Commission finds that the proposal is consistent with the requirements of the Act and particularly with section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–94–16) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2675 Filed 2–7–96; 8:45 am]

BILLING CODE 8010–01–M

Commission to review the two filings as one proposal; however, the filing regarding interface fees has since been withdrawn by DTC. Securities Exchange Act Release No. 36372 (October 16, 1995), 60 FR 54273 (File No. SR–DTC–94–10) (notice of withdrawal of a proposed rule change regarding the establishment of a fee schedule for certain inter-depository deliveries).

The first commenter recently withdrew from the securities depository business but remains a registered securities depository. Securities Exchange Act Release No. 36684 (January 5, 1996), 61 FR 1195 (order approving a proposed rule change relating to a decision by Chicago Stock Exchange, Incorporated to withdraw from the clearance and settlement, securities depository, and branch receives businesses).

[9] *Supra* note 6.

[10] Although MSTC recently withdrew from the securities depository business, it remains a registered securities depository for equity, corporate, and municipal securities. *Supra* note 6.

The Participants Trust Company ("PTC"), which is temporarily registered as a clearing agency and which provides depository facilities for mortgage-backed securities, possibly could be effected by the policy statement. For a description of PTC, refer to Securities Exchange Act Release No. 35482 (March 13, 1995), 60 FR 14806 [File No. 600–25] (notice of filing and order approving application for extension of temporary registration until March 31, 1996).

[11] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[12] 17 CFR 200.30–3(a)(12) (1995).

SMALL BUSINESS ADMINISTRATION

Delegation of Authority No. 1–A; Revision 21

Delegation of Authority

Delegation of Authority No. 1–A (Revision 20) is revised to read as follows:

(a) Pursuant to authority vested in me by the Small Business Act of 1958, 72 Stat. 384, as amended, authority is delegated to the following officials in the following order:

1. Deputy Administrator
2. General Counsel
3. Chief of Staff
4. Associate Deputy Administrator for Management and Administration
5. Associate Deputy Administrator for Economic Development
6. Counselor to the Administrator
7. Associate Administrator for Field Operations

to perform, in the event of my absence or incapacity, any and all acts which the Administrator is authorized to perform (including, but not limited to, authority to issue, modify, or revoke delegations of authority and regulations), except for the exercise of authority under section 9(d) and 11 of the Small Business Act, as amended.

(b) An individual acting in any of the positions in paragraph (a) remains in the line of succession only if he or she has been designated acting by the Administrator or Acting Administrator due to a vacancy in the position.

(c) This delegation is not in derogation of any authority residing in the above-listed officials relating to the operations of their respective programs, nor does it affect the validity of any delegations currently in force and effect and not revoked or revised herein.

Dated: January 30, 1996.

Philip Lader,

Administrator.

[FR Doc. 96–2703 Filed 2–7–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2329]

United States International Telecommunications Advisory Committee (ITAC), Standardization Sector (ITAC–T) Study Group A; Meeting

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Telecommunications Standardization Sector (ITAC–T) Study Group A will meet February 28, 1996, 9:30 a.m.–4:00 p.m., at the Department of State, Room 1205, 2201 C Street NW., Washington, DC.

The agenda will deal primarily with final preparations for the upcoming ITU–T Study Group 3 Geneva meeting, March 11–20, 1996; a debrief of the January 1996 ITU–T Study Group 2 meeting in San Francisco; a debrief of the one and one half days preparatory meeting of Study Group A's ad hoc group on Numbering held in Washington February 12 and 13; and continuing preparations for the May meeting of ITU–T Study Group 2.

Members of the General Public may attend the meetings and join in the discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled. Questions regarding the meeting may be addressed to Mr. Earl Barbely at 202–647–0197. If you wish to attend please send a fax to 202–647–7047 not later than 5 days before the scheduled meetings.

Please include your name, Social Security number and date of birth. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the "C" Street Main Lobby.

Dated: February 5, 1996.

Earl S. Barbely,

Chairman, U.S. ITAC for Telecommunication Standardization.

[FR Doc. 96–2738 Filed 2–7–96; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice No. 2325]

United States International Telecommunications Advisory Committee (ITAC) Study Group D; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Study Group D will meet on Wednesday, February 28, 1996 at 9:00 a.m., Room 1205 of the Department of State.

The Agenda will include a review of the results of the ITU–T Study Group 8 meeting (Feb 1996). Consideration of contributions to upcoming meetings of ITU–T Study Group 14 in March, 1996 and the ITU–T Study Group 7 meeting, in April of 1996 will also be considered on the agenda of this meeting. Other matters within the purview of Study Group D may be raised at the meeting. Persons presenting contributions to the meeting of Study Group D should bring 20 copies to the meeting.

Members of the General Public may attend the meeting and join in the discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled. If you wish to attend please send a fax to 202–647–7407 not later than 5 days before the scheduled meeting. Please include your name, Social Security number and date of birth. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the "C" Street Main Lobby.

Dated: January 29, 1996.

Gary M. Fereno,

Chairman, U.S. ITAC for Study Group D.

[FR Doc. 96–2645 Filed 2–7–96; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice No. 2324]

Ad Hoc '98 Plenipotentiary Committee of the United States International Telecommunications Advisory Committee (ITAC); Meeting Notice

The Department of State announces that a meeting of the Ad Hoc '98 Plenipotentiary Committee under the United States International Advisory Committee (ITAC) will be held Wednesday, February 28, 1996, at 9:30 a.m. to 11:30 a.m., in room 1105, 2201 C Street, NW., Washington, DC 20520. The meeting is a part of the planning effort leading to the International Telecommunication Union's 1998 Plenipotentiary Conference to be held in Minneapolis, Minnesota.

The agenda of this meeting will include: (1) A presentation and discussion of the organizational structure for planning the Plenipotentiary Conference; (2) decisions regarding specific planning committees, their membership and leadership; (3) a report by Washington based private sector representatives on their planning activities; (4) a report on activities in Minneapolis.

Members of the general public may attend the meeting and join in the discussions, subject to the instructions of the chair and seating availability. In this regard, entry to the building is controlled. If you wish to attend, please call 202–647–5205 or send a fax to 202–647–5957 not later than 5 days before the scheduled meeting. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, or U.S. Government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the "C" Street Main Lobby.

Dated: January 30, 1996.

Richard C. Beaird,

Chairman, Ad Hoc '98 Plenipotentiary Committee.

[FR Doc. 96–2646 Filed 2–7–96; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) 21.25–X, Issuance of Type Certificate: Restricted Category Agriculture Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of Proposed Advisory Circular (AC) 21.25–X, and request for comments.

SUMMARY: This notice announces the availability of and request for comments on a proposed advisory circular (AC) which provides information and guidance for obtaining a type certificate in the restricted category, under 14 CFR part 21, § 21.25, for small piston and turbo-propeller driven airplanes, which will be used for agricultural special purpose operations. The AC provides an acceptable means, but not the only means, of meeting the requirements of part 21 for the issuance of a type certificate in the restricted category. This procedure incorporates the appropriate normal category airworthiness standards of 14 CFR part 23, Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes. This material is neither mandatory nor regulatory in nature and does not constitute a regulation. Because the information and guidance presented in this AC is not mandatory, the term "must" used in this AC only applies to an applicant who chooses to follow these procedures. The applicant may elect to follow an alternate procedure provided the Administrator finds it to be acceptable.

DATES: Comments must be received on or before April 8, 1996.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Standards Office, ACE–100, Small Airplane Directorate, Aircraft Certificate Service, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Terre Flynn, Regulations and Policy Branch, ACE–111, at the address above, telephone number (816) 426–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by contacting the person named above under **FOR FURTHER INFORMATION CONTACT.**

Comments Invited

Interested parties are invited to submit such written data, views, or arguments as they may desire. Commenters must identify the AC and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the Standards Staff before issuing the final AC. Comments may be inspected at the Standards Office, ACE–110, Suite 900, 1201 Walnut, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

The current philosophy concerning type certification of restricted category agricultural airplanes is historically based on part 8 of the Civil Air Regulations (CAR). Under this part, the applicant for a new aircraft was required to show compliance with all of the airworthiness requirements of any other aircraft category prescribed by the CAR, except those requirements which the Administrator found inappropriate for the special purpose for which the aircraft was to be used. This part also established new standards for the issuance of type certificates, alterations to type certificates, and type certification procedures. The preamble for part 8 stated that for such restricted operations where public safety is not endangered it appears unreasonable to require the same level of safety as that required for passenger carrying aircraft. The intent of part 8 was to place the minimum possible burden consistent with public safety on the applicant for a type certificate in the restricted category. Since the inception of part 8 of the CAR and following recodification of the CAR into the CFR, the Federal Aviation Administration (FAA) has continued using the basic concepts of that part. On February 8, 1965, the FAA issued AC 20–33. This AC notified the public that policy information contained in Civil Aeronautics Manuals (CAM) 1, 3, 4a, 4b, 5, 6, 7, 8, 9, 10, 13, and 14 could be used in conjunction with specific sections of the CFR, which correspond with the sections of the CAR to which the policies were applicable. Approximately 10 years later, in March 1975, AC 20–33A temporarily deleted the reference to CAM 8 in AC 20–33 from being applied to any sections of the FAR. However, in two months time, AC 20–33B reinstated CAM 8 for use with part 21, § 21.25, for small restricted category agricultural airplanes. This policy continued until July 1981 when FAA Order 8130.2, Airworthiness Certification of Aircraft and Related Approvals, eliminated CAM 8 from being used for certificating new restricted category agricultural airplanes.

In October of 1992 two manufacturers of small restricted category agricultural airplanes petitioned the FAA to develop a new set of certification requirements strictly for agricultural airplanes. In February of 1993 representatives from the FAA's Small Airplane Directorate met with a representative for the Agricultural Airplane Manufacturers who had petitioned the FAA to discuss the certification problems that had developed between the Agricultural Airplane Manufacturers and the FAA. At this meeting a draft AC that had been developed by the Small Airplane Directorate to solve the certification problem was presented to the Agricultural Airplane Manufacturer's representative. It was mutually agreed upon between the two parties that the development of an AC that addressed the certification of new restricted category agricultural airplanes would be the quickest way of resolving the issues that had developed between the FAA and the Agricultural Airplane Manufacturers. After several months of discussion between both parties, it was agreed that the most efficient way for the FAA to revise the draft AC was to form a team of engineers and pilots. This team would then visit agricultural operators and pilots out in the field and interview them to determine what their needs were for newly certificated agricultural airplanes. The Agricultural Airplane Certification Team that was formed visited many agricultural operators and pilots across the south from Georgia to Texas. The team finished performing these interviews in the summer of 1994 and met in the fall of 1994 to review their experiences and revise the existing draft AC. In January of 1995 the team met with representatives of the Agricultural Airplane Manufacturers, at the Small Airplane Directorate's Office, to discuss the revised AC and portions of its policy. The AC that has been developed is a product of the combined efforts of the FAA's Agricultural Airplane Certification Team and representatives of the Agricultural Airplane Manufacturers.

Issued in Kansas City, Missouri, on January 31, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2632 Filed 2–7–96; 8:45 am]

BILLING CODE 4810–13–M

Federal Railroad Administration

[FRA Waiver Petition Docket No. PB–95–3; Notice No. 2]

Petition for Waivers of Compliance

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Change of hearing date.

SUMMARY: On November 30, 1995, FRA published in the **Federal Register** a notice that the FRA received from the American Railway Car Institute (ARCI) a request for waiver of compliance with certain requirements of the Railroad Power Brakes and Drawbars Regulations.

The ARCI seeks a permanent waiver of compliance from section 232.2 of the Railroad Power Brakes and Drawbars Standards (49 CFR Part 232). That section states in part: "The maximum height of drawbars for freight cars—shall be 34½ inches, and the minimum height of drawbars for freight cars on such standard-gauge railroads—shall be 31½ inches,—ARCI is requesting to increase the maximum allowable coupler height one inch from 34.5 inches to 35.5 inches for bottom shelf E couplers and top and bottom shelf E couplers only. ARCI states that the granting of this waiver will allow railroads and car builders to build safer and more efficient cars. It claims industry's need for safer suspension systems is being hampered by the small range of allowable coupler heights. Railroads, truck manufacturers, and freight car manufacturers know that rail worthiness of many cars would be improved if spring travel could be increased. For example, cars negotiating changes in super-elevation as they enter and exit curves would be subject to less wheel unloading if they had softer, more complaint, longer travel suspensions. Wheel unloading is most undesirable in curves, as the wheel set is often developing high lateral forces. High lateral forces combined with wheel unloading can result in derailment. The small range of allowable coupler heights severely limits the use of longer travel springs. By increasing the allowable range of coupler height by one inch would allow designers to make a significant improvements in rail worthiness.

FRA has determined that a public hearing will be held in this matter. Due to extreme weather conditions which closed Federal buildings in Washington, DC., FRA was unable to hold the public hearing scheduled for January 10, 1996. As a consequence, FRA is rescheduling the public hearing to 10:00 a.m. on February 28, 1996. The hearing location remains the same and will be held in room 8236–8238 of the Nassif Building, DOT Headquarters Building, 400 Seventh Street, SW., Washington, DC. We apologize for any inconvenience this rescheduling may cause.

The hearing will be informal and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR Part 211.25), by a representative designated by the FRA. The hearing will be a nonadversary proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number PB–95–3 and must be submitted in triplicate to the Docket Clark, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on February 1, 1996.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 96–2740 Filed 2–7–96; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 3115, Application for Change in Accounting Method.

DATES: Written comments should be received on or before April 8, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, T:FP, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, T:FP, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Change in Accounting Method.

OMB Number: 1545–0152.

Form Number: 3115.

Abstract: Form 3115 is used by taxpayers who wish to change their method of computing their taxable income. The form is used by the IRS to determine if electing taxpayers have met the requirements and are able to change to the method requested.

Current Actions: Form 3115 is revised to encourage the submission of detailed and complete information from applicants. Many of the questions have been reorganized by category to simplify preparation. Some of the general questions have been clarified and a number of questions in the various schedules have been eliminated or combined.

Type of Review: Revision of a currently approved form.

Affected Public: Individuals, corporations, cooperatives, qualified personal service corporations, exempt organizations, partnerships, S corporations, and insurance companies.

Estimated Number of Respondents: 6,400.

Estimated Time Per Respondent: 42 hrs., 16 min.

Estimated Total Annual Burden Hours: 270,490.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 31, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–2656 Filed 2–7–96; 8:45 am]

BILLING CODE 4830–01–U

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

Utah Lake Wetland Preserve; Notice of Availability

AGENCY: Utah Reclamation Mitigation and Conservation Commission.

ACTION: Notice of Availability.

SUMMARY: The Draft Environmental Assessment (EA) for Establishment of the Utah Lake Wetland Preserve is available for review. The EA addresses the establishment of a preserve through acquisition from willing sellers of private land, water rights, or other property interests occurring in a specific area along the southern shore of Utah Lake, Utah County, Utah. This establishment would entail limited management to restore and protect

natural resource values on acquired properties. Major wetland developments and other large-scale management activities are not part of this action.

DATES: Comments will be accepted until March 25, 1996.

ADDRESSES: Interested persons or organizations may request copies of the document and should submit comments to Utah Lake Draft EA, Utah Reclamation Mitigation and Conservation Commission, 111 E. Broadway, Suite 310, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: Catherine Quinn, Telephone (801) 524–3146; Fax (801) 524–3148.

Authority: Pub. L. 102–575, 106 Stat. 4600, 4625, October 30, 1992.

Michael C. Weland,

Executive Director.

[FR Doc. 96–2653 Filed 2–7–96; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

Medical Care Reimbursement Rates for FY 96

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In accordance with provisions of OMB Circular A–11 section 12.5(a), revised reimbursement rates have been established by the Department of Veterans Affairs for inpatient and outpatient medical care furnished to beneficiaries of other Federal agencies during FY 1996. These rates will be charged for such medical care provided at health care facilities under the direct jurisdiction of the Secretary on and after December 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Walter J. Besecker, Director, Medical Care Cost Recovery Office (174), Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 219–4242.

SUPPLEMENTARY INFORMATION: The Interagency Billing Rates for FY 1996 are as follows:

Medicine	$873
Surgery	1,436
Spinal Cord Injury	768
Neurology	761
Blind Rehabilitation	774
Psychiatry	409
Intermediate Medicine	302
Rehabilitation Medicine	640
Substance Abuse	264
Nursing Home	238
Prescription—Refill	19
Outpatient*	188
Emergency Dental Outpatient	92

* Rate includes Dialysis treatment.

Prescription refill charges in lieu of the outpatient visit rate will be charged when the patient receives no service other than the Pharmacy outpatient service. These charges apply if the patient receives the prescription refills in person or by mail.

When medical services for beneficiaries of other Federal agencies are obtained by the Department of Veterans Affairs from private sources, the charges to the other Federal agencies will be the actual amounts paid by the Department of Veterans Affairs for such medical services.

Inpatient charges to other Federal agencies will be at the current Interagency per diem rate for the type of bed section or discrete treatment unit providing the care.

Dated: January 29, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 96–2672 Filed 2–7–96; 8:45 am]

BILLING CODE 8320–01–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m. (EST), February 20, 1996.

PLACE: 4th Floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 16, 1996, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Labor Department audit briefing.
4. Investment policy review.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs (202) 942–1640.

Dated: February 5, 1996.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 96–2880 Filed 2–6–96; 8:45 am]

BILLING CODE 6760–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 13, 1996 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Wednesday, February 14, at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Title 26 Certification Matters
Advisory Opinion 1996–2: Stephen M. Heaton of CompuServe, Inc.
Advisory Opinion 1996–3: Irwin Gostin of the Breeden-Schmidt Foundation
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 96–2930 Filed 2–6–96; 3:53 pm]

BILLING CODE 6715–01–M

Corrections

Federal Register
Vol. 61, No. 27
Thursday, February 8, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Housing and Community Development Service

Rural Business and Cooperative Development Service

Rural Utilities Services

Farm Service Agency

7 CFR Part 1944

RIN 0575-AB93

Processing Requests for Section 515 Rural Rental Housing Loans

Correction

In Proposed Rule document 96–328 beginning on page 1153 in the issue of Wednesday, January 17, 1996 make the following corrections:

(1) On 1153, in the first column:

(a) The subagency "Rural Housing Service and Community Development" should read as set forth above.

(b) Under **DATES**, in the third line "March 8, 1996" should read "March 18, 1996".

§1944.231 [Corrected]

On page 1158, in §1944.231(d)(5), in the first column, in the table, under "Percentage of households" and "Points" the final entries should read respectively "Less than 5" and "0".

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5404-1]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

Correction

In notice document 96–1400 beginning on page 2824 in the issue of Monday, January 29, 1996 make the follwing correction:

On page 2825, in the first column, under **DATES**, in the second line replace "[date]" with "February 28, 1996".

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–055–06–1430–01; CAAZCA 35669 and CAAZCA 35712]

Notice of Realty Action; Imperial County, California

Correction

In notice document 96–1185 appearing on page 2260 in the issue of Thursday, January 25, 1996, make the following correction:

In the third column, under **EFFECTIVE DATE:**, in the sixth line, insert "effective" after "become".

BILLING CODE 1505–01–D

federal register

Thursday
February 8, 1996

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 189
Tin-Coated Lead Foil Capsules for Wine Bottles; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 189

[Docket No. 91N–0326]

RIN 0910–AA06

Tin-Coated Lead Foil Capsules for Wine Bottles

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to prohibit the use of tin-coated lead foil capsules (i.e., coverings for the cork and neck area) on wine bottles. Lead in these capsules may, as a result of their intended use, become a component of the wine. FDA is taking this action to reduce exposure to lead to the extent feasible.

DATES: Effective February 8, 1996. Wine is adulterated under the Federal Food, Drug, and Cosmetic Act (the act) if a tin-coated lead foil capsule is applied to the wine bottle on or after February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4681.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 25, 1992 (57 FR 55485), FDA published a proposed rule to prohibit the use of tin-coated lead foil capsules on wine bottles (hereinafter referred to as the 1992 proposal). The 1992 proposal was based on evidence from studies on bottled wine capped with tin-coated lead foil capsules that showed that the lead in the foil becomes a component of food. No food additive regulation exists for this use of tin-coated lead foil, nor is there a prior sanction for this use. Moreover, this use of tin-coated lead foil is not generally recognized as safe (GRAS). Therefore, FDA tentatively found that tin-coated lead foil capsules used on wine bottles are an unsafe food additive under section 409 of the act (21 U.S.C. 348), and wine is adulterated under section 402 (a)(2)(C) of the act (21 U.S.C. 342(a)(2)(C)), if a tin-coated lead foil capsule is applied to the wine bottle on or after February 8, 1996. Given the longstanding use of tin-coated lead foil capsules as a packaging material for wine, the agency proposed to prohibit use of this capsule by regulation to make its regulatory status clear. FDA proposed to make any final rule that issued based upon the 1992 proposal effective on its date of publication.

II. Summary of and Response to Comments

A. Summary of Comments

The agency received 16 comments in response to the 1992 proposal. Thirteen comments were from domestic and imported wine merchants, associations representing domestic winemakers, and a foreign national trade association representing exporters of wine. In addition, one comment was received from an international trade commission, and two were received from foreign governments.

All comments supported the proposal in principle. However, some comments sought clarification of what the proposal was intended to prohibit. Some comments raised issues concerning other types of capsules that may contain lead used on wine bottles. Some comments raised concerns about regulatory action by individual States concerning capsules used on wine bottles.

The majority of the comments reacted favorably to the proposed effective date, but two comments expressed the need for further clarification on this issue.

One comment asserted that the wine industry is being charged with an extraordinary share of the lead-reduction burden.

B. Responses to Comments

1. Several comments stated that the 1992 proposal did not clearly identify the specific type of capsule that FDA proposed to prohibit. One comment requested that the 1992 proposal be amended to provide a clearer definition of what is prohibited. The comment also stated that if the prohibition is to be based on the amount of lead that is present in the capsule, then fairness requires that reasonable notice be given of the precise requirement of the final rule before it becomes effective. Another comment stated that since some traces of lead may appear in alternative types of capsules, the final rule should be written in such a way that no ambiguity is possible concerning the amount of lead that the capsule may contain.

These comments apparently derive in large measure from the fact that the State of California has acted to prohibit the use of capsules that contain more than 0.3 percent lead. These comments are responding to the 1992 proposal's lack of a quantitative level of lead in a capsule that would subject it to prohibition, inasmuch as the State's action included such a level.

In response to these comments, FDA emphasizes that the intent of the 1992 proposal was not to set a maximum permissible level of lead in a capsule. The intent was to prohibit the use of tin-coated lead foil capsules as a covering for the cork and neck areas of wine bottles. In the preamble to the 1992 proposed rule, FDA defined "tin-coated lead foil capsules" as "capsules composed of lead foil coated on both sides with a thin layer of tin." This identification is not ambiguous. It clearly differentiates between tin-coated lead foil capsules, in which lead is intentionally used, and other types of capsules known to be used in the bottling of wine (e.g., all tin capsules) that may unavoidably contain some lead as an impurity.

Nonetheless, given the concerns expressed by the comments, to eliminate the possibility of any ambiguity in the final regulation, the agency is modifying proposed § 189.301(a) to incorporate the definition of "tin-coated lead foil" as it appeared in the preamble of the 1992 proposal.

2. Several comments requested that the agency define "all tin-capsules" (an alternative to tin-coated lead foil capsules) to include the amount of lead that may be present in the capsule as an unintended impurity.

As stated above, this final rule is a prohibition of, and applies exclusively to, tin-coated lead foil capsules.

It is not FDA's intent in this rulemaking to address the regulatory status of any other type of capsule (e.g., tin, aluminum, or plastic). However, FDA recognizes that it is conceivable that materials, both metallic and nonmetallic, used in other types of capsules could become components of wine, thus subjecting these capsules to the provisions of the act. FDA provides the following guidance in response to the comments that sought an opinion on the status of various types of capsules that may be used in the bottling of wine.

If a substance, such as tin or aluminum, has a history of use as a capsule for wine bottles predating January 1, 1958, and the substance could become a component of food as a result of its intended use, the use may be GRAS based on common use in food or food contact. The criteria for determining whether the use is GRAS are described in § 170.30(c) (21 CFR 170.30(c)). Any substance whose use in capsules for wine bottles began after January 1, 1958, would either have to be GRAS for such use on the basis of scientific procedures described in § 170.30(b) or would be required to be used in accordance with a food additive regulation that prescribes safe conditions of use. In either case, the substance must be of a purity suitable for its intended use.

FDA is aware that the occurrence of some amount of lead in tin is unavoidable because lead is a naturally occurring impurity in tin ore. Manufacturers are expected to take steps to control this source of exposure to lead by securing raw materials of the highest purity practicable.

3. Several comments expressed concern that the States have or may enact inconsistent and conflicting laws that restrict the amount of lead that may be present in "all-tin capsules." Therefore, the comments requested that FDA establish a national definition of "all-tin capsules" based on the California definition [1] to eliminate inconsistencies and conflicts, to level the playing field among States, and to protect imported wine from State-imposed nontariff trade barriers.

The agency understands that some comments may wish to have a preemptive Federal regulation defining "all-tin capsules." However, this final rule is a prohibition of, and applies exclusively to, tin-coated lead foil capsules as defined by this agency.

It appears that the comments contemplate that some States may promulgate regulations that are different from, or more restrictive, than the "California definition" of "all-tin capsules." The agency recognizes that if individual States establish variable limits on the lead content of capsule materials, burdens on interstate commerce can result. However, the potential for such action by individual States, and the question of what would be an appropriate course of action by the Federal government in such a case, is outside the scope of this rulemaking. The prohibition of tin-coated lead foil capsules is absolute. More restrictive action by the States with respect to such capsules is not possible. As for other materials used to make wine capsules, interested persons may wish to petition the agency to establish limits on lead in such materials that have preemptive effect. Agency action on such petitions would be based on the merits of the petition and the availability of agency resources.

4. One comment stated that it is unfair for FDA, and for other agencies of the United States, to place excessive responsibility on the wine industry to achieve lead reduction in food and not require similar efforts from other industries.

FDA disagrees with the comment's allegation that the agency is imposing excessive responsibility on the wine industry to achieve lead reduction. The prohibition on the use of tin-coated lead foil capsules is only one of the actions that the agency has taken to implement its policy to reduce exposure to lead in food to the maximum extent practicable. Other actions include a recently published final rule formally banning lead-soldered food cans (60 FR 33106, June 27, 1995), a final rule lowering the allowable level of lead in bottled water (59 FR 26933, May 25, 1994), the lowering of action guidelines for leachable lead from ceramicware (57 FR 29734, July 6, 1992), and a final rule requiring a warning label on decorative ceramicware, which could be mistakenly used to hold food, in order to exempt it from the action guidelines for leachable lead (59 FR 1638, January 12, 1994). FDA is also considering action to reduce the specifications for lead in food and color additives and in GRAS ingredients, as described in an advance notice of proposed rulemaking that was published in 1994 (59 FR 5363, February 4, 1994).

5. Several foreign comments sought assurance that wines capped with tin-coated lead foil capsules before January 1, 1993, will be permitted to enter the United States, and that marketing of wines capped with tin-coated lead foil capsules and imported before January 1, 1993, will be permitted.

FDA's 1992 proposal specifically stated that the prohibition on the use of tin-lead foil capsules is applicable to products capped after the effective date of this final rule. Thus, this prohibition will not be retroactively applied to any product capped before February 8, 1996, nor is any action required to recall and retrofit any product capped before that date. Consequently, European wines capped before the European Commission (EC) ban of January 1, 1993, will not be prohibited from being imported into the United States or marketed in the United States by this rule.

In the 1992 proposal, FDA proposed that the effective date of this final rule be the date that it is published in the **Federal Register**. In the 1992 proposal, the agency stated that information that it had already received indicated that the industry anticipated the availability of adequate supplies of alternative capsules by no later than November 1992. The industry desired that the prohibition of the use of tin-coated capsules not precede the availability of adequate supplies of alternative capsules. No comments indicating that the industry would not be able to comply with the effective date were received.

III. Conclusions

After review and consideration of the comments received in response to the 1992 proposal, FDA concludes that no evidence or information has been presented that would cause the agency not to adopt § 189.301, which prohibits the capping of bottled wine with "tin-coated lead foil capsules."

Therefore, FDA is amending 21 CFR part 189 as proposed with the exception that the agency has modified § 189.301 to include the definition of "Tin-coated lead foil capsules" as discussed in comment 1 of this document and made minor editorial changes.

IV. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (57 FR 55485, November 25, 1992). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

V. Economic Impact

FDA has examined the impacts of this final rule to prohibit the use of tin-coated lead foil capsules for wine bottles as required by Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic environmental, public health and safety, and other advantages; distributive impacts; and equity). The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. FDA finds that this final rule is not a significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

[1] The "California definition" refers to a definition agreed to by the State of California and several wine producers and importers in a December 6, 1991, consent decree (*People of the State of California v. Gallo Vineyards, Inc. et al.*, No. 640951, San Diego County Superior Court). This decree states in part that "lead foil" or "tin-lead foil" capsules are "* * * any foil capsules * * * containing lead as an intended constituent at concentrations greater than .3% by dry weight."

On November 25, 1992, FDA published an analysis of the economic impacts of the proposed requirements under the previous Executive Order (Executive Order 12291). In that analysis the agency stated that banning the use of tin-lead capsules for wine bottles would require the wine industry to use other materials for capsules, such as polyvinylchloride (PVC), aluminum, or tin. The cost estimates reported in this regulation did not include costs to the wine industry in California because California State law already prohibited the use of these capsules in wine bottles.

The impact of the proposed regulation was expected to be an increase in the cost of capsule material and bottling equipment to the portion of the industry that still used tin-lead capsules. At the time of publication of the proposal it was assumed that the most likely alternative to tin-lead foil capsules to be used was tin capsules at a total cost to the industry of $4.5 million annually.

A. Costs

Since the publication of the 1992 proposal to ban tin-lead foil capsules, several new alternatives have emerged and existing ones have been improved through better quality, lower prices, or both. According to a recent trade publication, there are four basic capsules that may be used, which are listed in the chart below (Ref. 1).

PVC (polyvinylchloride)	$40 per 1,000 capsules
Polylam (aluminum/plastic laminate)	$60 per 1,000 capsules
Aluminum	$85 per 1,000 capsules
Tin	$90 per 1,000 capsules

It is assumed in this analysis that only imported wines still continue to use tin-lead foil capsules, not including those imported from the European Union (EU). Approximately 15 percent of wines consumed in the United States are imported and 5 percent of all wines are from countries other than the EU. Thus, if all such wines used tin-lead foil capsules, 8.6 million bottles of imported wine would be expected to be converted away from tin-lead foil capsules as a result of this final rule. Since tin-lead foil capsules cost the same as polylam capsules, only those wineries who choose tin or aluminum will incur additional costs. Assuming that all conversions will be evenly distributed between the four options above, costs of using different capsules are expected to be approximately $90,000 per year.

B. Benefits

Benefits of this regulation will be realized in reduced exposure to lead by children and pregnant women (fetuses), groups that are particularly sensitive to exposure to lead. Adverse health effects of lead exposure in these population groups occur at lower blood lead levels than in adults. Exposure to very low levels of lead can adversely affect the production of the iron-containing component of hemoglobin in children and can cause neurobehavioral and growth deficits at prenatal (maternal) stages. The agency has previously stated that for infants and children, the lowest observed effect level of lead in blood is 10 micrograms per deciliter (µg/dL) (57 FR 55485 at 55487, November 25, 1992).

The following table shows estimates of the current blood lead incidence levels in the two population groups predicted to exceed 10 µg/dL (Ref. 2).

TABLE 1.—BACKGROUND INCIDENCE OF BLOOD LEAD LEVELS >10 µG/DL

Population Group	Estimated Incidence
Children, age 2 years	10%
Women of child-bearing age	1%

1. Benefit Estimation for Children Ages 3 through 6

Using the estimates in Table 1 and assuming that the same incidence levels apply for children ages 3 through 6 as for 2-year olds, then approximately 1.4 million children between the ages of 3 and 6 have blood lead levels greater than 10 µg/dL.

Wine consumption data were obtained from the United States Department of Agriculture (USDA) Nationwide Consumption Survey. This survey provided the percentage of children who consumed wine at least once in a 3-day period and the daily consumption distribution (in grams (g)) for each group. Approximately 0.12 percent of the children ages 3 through 6 in this survey, or 1,680 children (1.4 million x 0.0012 = 1,680), consumed wine once in 3 days. The average daily consumption of wine for children ages 3 through 6 is 51 g/day per child.

Assuming that children who consume imported wine do so in the same proportion as national consumption (e.g., 5 percent of the total wine consumed is imported from non-EU countries), then an estimated 84 children (5 percent of 1,680) may be at risk.

The capsule contribution of lead from imported wine is, on average, 6 µg lead (Pb)/day (120 parts per billion (ppb)). By using an absorption rate factor of 0.16 for children, the blood lead level increase attributable to the consumption of imported wine by these children is estimated to be 1 µg Pb/dL (Ref. 3).

To assess monetary benefits from reducing this lead intake, this analysis uses a study by the Centers for Disease Control (CDC) that looked at the effect of lead reduction on the lifetime earnings of consumers. The CDC study used three "pathways" with associated parameter estimates to measure the change in lifetime earnings that would result from a change in 1 µg Pb/dL blood. Each pathway included an estimate of a quarter of an intelligence quotient (IQ) point decrease for each 1 µg Pb/dL of blood increase.

The CDC study measured the impacts of a change in blood lead on IQ through changes in wages, educational attainment, and labor force participation rates. Because each of these effects are highly correlated (wages, education, and labor force participation), FDA will conservatively use only the strongest effect, education. FDA used a similar approach in the economic impact analysis of the proposed rule to ban lead soldered food cans (58 FR 33860, June 21, 1993). For this factor, it is estimated that an increment of 1 µg Pb/dL blood decreases lifetime earning levels by approximately 0.2 percent.

Starting from an average expected lifetime earnings rate of $260,000, the decrease in the net present value of lifetime earnings from a 1 µg/dL change in blood lead levels will be $512 (.00197 x 260,000). For the 84 children estimated to be at risk, the lower bound annual benefit of reducing blood lead levels by 1 µg Pb/dL from domestic wine consumption is estimated to be $43,000 (512 per child). It should be noted that the amount may be understated to the extent that this estimate, a human capital approach, does not represent utility from a higher IQ in nonlabor activities which would be included in a willingness-to-pay estimate.

The above calculations are also considered to be lower bound, as they only estimate benefits for children with blood lead levels above 10 µg/dL. Using the same wine consumption levels as above (51 g/day), but allowing for effects (linear) below 10 µg Pb/dL blood, the annual benefit of reducing blood lead levels by 1 µg/dL would be $4.6 million.

Assuming that half the problem is solved each year, over the next 20 years total discounted benefits may range between $81,000 and $5.7 million.

2. Benefit Estimation for Fetuses

There are approximately 58 million women between the ages of childbearing age (15 to 44 years). Each year, approximately 3 million (6 percent) are pregnant at any given time. Using the incidence estimates in Table 1 (1 percent of 3 million), 30,000 of these women (pregnancies) are estimated to have blood lead levels above 10 µg/dL.

Dietary exposure to lead (from tin-lead foil capsules) for pregnant women has been evaluated in a manner similar to that used for children. The USDA food consumption survey (1977–1978) reported average wine intake per day for individuals who drank wine on 1, 2, and 3 days over a 3-day period. It also provided the wine consumption data for women of different age groups, including those of childbearing age (15 to 44 years). After eliminating the tin-lead capsules in wine bottles, the lead levels in imported wine would be reduced by an average of 120 ppb. A 120 ppb reduction is equivalent to 120 µg/kilogram of wine. Thus, if a pregnant woman consumes 100 g of wine per day, the lead intake from wine will be reduced by 12 µg Pb/day. Using the maternal (adult) absorption rate of 0.04, the blood lead level in the fetus would be reduced by 0.50 µg Pb/dL blood (Ref. 3).

The figures in the following table were derived from the USDA food consumption survey data utilizing data on lead levels in imported wine attributable to the use of tin-lead foil capsules and the maternal absorption rate factor just noted. Blood lead level reductions for each group of wine consumers are the result of eliminating the capsule's lead contribution.

TABLE 2.—BLOOD LEAD LEVEL REDUCTIONS AFTER ELIMINATING TIN-LEAD CAPSULES
(PREGNANT WOMEN WHO CONSUME WINE AND ARE AT RISK OF REACHING BLOOD LEAD LEVELS OVER 10 µG/DL)

Age females	Number of wine consumers	Number of imported wine consumers[1]	Blood Pb level reduction (µg/dL blood)
Drink once in 3 days			
15–18	37	1.8	0.29
19–34	1,542	77	0.37
35–44	74	3.7	
Drink two of 3 days			
15–18	3	1.4	0.37
19–34	411	20	0.70
35–44	28	1.4	0.54
Drink all 3 days			
15–18	0	0	0
19–34	179	8.9	1.34
35–44	26	1.3	0.94
TOTAL	2,300	115[2]	

[1] Excludes consumers of wine imported from the EC.
[2] Pregnancies resulted in live births only.

Assuming 115 fetuses have their blood lead levels reduced by the amounts shown in Table 2 above, the increase in the value of lifetime earnings is estimated to be $16,000.

Again, assuming the relationship between IQ and income is linear benefits are estimated for all fetuses with nonzero blood lead levels. The annual upper bound benefit in terms of an increase in the value of lifetime earnings is estimated to be $1.6 million.

Thus, the benefit of reducing maternal blood lead levels ranges from $16,000 to $1.6 million.

Assuming half of the lead problem is solved each year, the total discounted benefits (at 6 percent) to pregnant women (fetuses) is estimated to be $30,000 to $3 million.

C. Summary

For this analysis, FDA has assumed that only imported wines still continue to use tin-lead foil capsules, excluding those imported from the EU. Costs of conversion are expected to be approximately $90,000 annually. Total discounted costs (6 percent) are estimated to be $1.2 million.

Assuming that, (1) the population growth rate in the United States continues to be near the replacement rate, and (2) half of the lead problem is reduced each year, the reduction of blood lead levels due to ingestion of wine is expected to result in discounted benefits ranging from $97,000 to $8.7 million.

VI. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

1. Walker, L., "What's Next in the Wine Capsule Department?," *Wine & Vines*, 74(3):20(3), March 1993.

2. Carrington, C., P. M. Bolger, and R. J. Scheupleia, "Risk Analysis of Dietary Lead Exposure," in press.

3. FDA memorandum, "Provisional Tolerable Exposure Levels for Lead," Clark D. Carrington, Division of Toxicological Review and Evaluation, to Elizabeth Campbell, Division of Regulatory Guidance, November 16, 1990.

List of Subjects in 21 CFR Part 189

Food ingredients, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act, as amended, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 189 is amended as follows:

PART 189—SUBSTANCES PROHIBITED FROM USE IN HUMAN FOOD

1. The authority citation for 21 CFR part 189 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

2. New § 189.301 is added to subpart C to read as follows:

§ 189.301 Tin-coated lead foil capsules for wine bottles.

(a) Tin-coated lead foil is composed of a lead foil coated on one or both sides with a thin layer of tin. Tin-coated lead foil has been used as a capsule (i.e., as a covering applied over the cork and neck areas) on wine bottles to prevent insect infestation, as a barrier to oxygen, and for decorative purposes. Information received by the Food and Drug Administration establishes that the use of such a capsule on wine bottles may reasonably be expected to result in lead becoming a component of the wine.

(b) The capping of any bottles of wine after February 8, 1996, with a tin-coated lead foil capsule renders the wine adulterated and in violation of section 402(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act because lead from the capsule, which is an unsafe food additive within the meaning of section 409 of the act, may reasonably be expected to become a component of the wine.

Dated: January 29, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–2665 Filed 2–7–96; 8:45 am]

BILLING CODE 4160–01–F

federal register

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Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 331

Antacid Drug Products for Over-the-Counter Human Use; Amendment of Antacid Monograph; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 331

[Docket No. 88N–0327]

RIN 0905–AA06

Antacid Drug Products for Over-the-Counter Human Use; Amendment of Antacid Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule that amends the monograph for over-the-counter (OTC) antacid drug products by deleting parts of the testing procedures in subpart C. This final rule is part of the ongoing review of OTC drug products conducted by FDA. Also, this final rule is part of the Administration's "Reinventing Government" initiative which seeks to streamline government and to ease the burden on regulated industry and consumers.

EFFECTIVE DATE: February 10, 1997.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2304.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 4, 1974 (39 FR 19862), FDA issued a final monograph for OTC antacid drug products (21 CFR part 331) that included procedures for testing antacid drug products. An acid neutralizing capacity test is described in § 331.26. When the final monograph was issued in 1974, the United States Pharmacopeia (USP) did not include an acid neutralizing capacity test. However, in 1980 an acid neutralizing capacity test was included in the USP (Ref. 1). That test is substantially the same as the test found in the final monograph for OTC antacid drug products. Several revisions in the USP acid neutralizing capacity test have been made since 1980 to increase the accuracy and utility of the test. The current USP 23/National Formulary (N.F.) 18 acid neutralizing capacity test (Ref. 2) differs from the agency's antacid monograph testing procedures, which have not been revised.

The FDA recommended disintegration test method (in § 331.24) and the methods in current USP 23/N.F. 18 monographs for antacid tablets also have some differences. Current USP 23/N.F. 18 procedures include tests for powder and suspension dosage forms and for products having an acid neutralizing capacity greater than 25 milliequivalents (meq) of acid, as well as a more detailed sample preparation procedure for capsule dosage forms.

In the **Federal Register** of September 23, 1993 (58 FR 49826), the agency issued a notice of proposed rulemaking to amend the final monograph for OTC antacid drug products to delete parts of the testing procedures in subpart C, as discussed above in this document. The agency discussed the differences between its antacid monograph standards and those in the USP. The agency mentioned that it could amend its antacid monograph to be consistent with the USP, but opted to delete portions of its monograph testing procedures and refer to the USP procedures for determination of the antacid product's acid neutralizing capacity in place thereof. The agency noted that USP procedures do not include a "preliminary antacid test" (as contained in § 331.25 of the antacid monograph) or a procedure for the "determination of percent contribution of active ingredients" in a combination antacid drug product (as contained in § 331.21 of the antacid monograph). The agency does not consider the "preliminary antacid test" as essential to the determination of a product's acid neutralizing capacity. However, manufacturers may elect to continue to use this test as a preliminary screening procedure. The agency stated that it was retaining § 331.21 ("*determination of percent contribution of active ingredients*") in the monograph (redesignated as § 331.20) so that a procedure will be available for making that determination. No comments were received in response to the agency's proposed changes in the antacid monograph.

References

(1) "United States Pharmacopeia XX—National Formulary XV," United States Pharmacopeial Convention, Inc., Rockville, MD, p. 912, 1980.

(2) "United States Pharmacopeia 23—National Formulary 18," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 54–55 and 1791–1793, 1994.

II. The Agency's Final Conclusions on the Amendment to the Monograph for OTC Antacid Drug Products

In the proposal, the agency referred to the acid neutralizing capacity test procedures in USP XXII/N.F. XVII. Since the proposal was published, USP 23/N.F. 18 became official on January 1, 1995. The test procedures in both editions of the USP are the same. Therefore, the agency is referencing USP 23/N.F. 18 in this final rule.

The agency is removing the following sections from "Subpart C—Testing Procedures" in "Part 331—Antacid Products for Over-the-Counter (OTC) Human Use": §§ 331.20, 331.22, 331.23, 331.24, 331.25, and 331.26. The agency is redesignating § 331.21 as § 331.20 and amending it to refer to the USP 23/N.F. 18 test procedure in place of § 331.26, which is being removed. The agency is retaining § 331.29 ("*test modifications*") in case there is a need for any manufacturer to petition for a test modification, is redesignating this section as § 331.21, and is amending it to reference the USP 23/N.F. 18 test procedure. The agency is also amending §§ 331.10(a) and 331.80(a)(1) to refer to USP 23/N.F. 18.

III. Analysis of Impacts

An analysis of the cost and benefits of this regulation, conducted under Executive Order 12291, was discussed in the proposed rule (58 FR 49826 at 49827). No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking. Executive Order 12291 has been superseded by Executive Order 12866.

FDA has examined the impacts of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and, thus, is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Manufacturers of OTC antacid drug products should not be affected by the deletion of certain testing procedures that have already been incorporated into the USP/N.F. Accordingly, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 331

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 331 is amended as follows:

PART 331—ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

1. The authority citation for 21 CFR part 331 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 331.10 is amended by revising paragraph (a) to read as follows:

§ 331.10 Antacid active ingredients.

(a) The active antacid ingredients of the product consist of one or more of the ingredients permitted in § 331.11 within any maximum daily dosage limit established, each ingredient is included at a level that contributes at least 25 percent of the total acid neutralizing capacity of the product, and the finished product contains at least 5 meq of acid neutralizing capacity as measured by the procedure provided in the United States Pharmacopeia 23/National Formulary 18. The method established in § 331.20 shall be used to determine the percent contribution of each antacid active ingredient.

* * * * *

§ 331.20 [Removed]

3. Section 331.20 *Apparatus and reagents* is removed from subpart C.

§ 331.21 [Redesignated as § 331.20]

4. Section 331.21 is redesignated as § 331.20 and revised to read as follows:

§ 331.20 Determination of percent contribution of active ingredients.

To determine the percent contribution of an antacid active ingredient, place an accurately weighed amount of the antacid active ingredient equal to the amount present in a unit dose of the product into a 250-milliliter (mL) beaker. If wetting is desired, add not more than 5 mL of alcohol (neutralized to an apparent pH of 3.5), and mix to wet the sample thoroughly. Add 70 mL of water, and mix on a magnetic stirrer at 300±30 r.p.m. for 1 minute. Analyze the acid neutralizing capacity of the sample according to the procedure provided in the United States Pharmacopeia 23/National Formulary 18 and calculate the percent contribution of the antacid active ingredient in the total product as follows:

Percent contribution = (Total meq. Antacid Active Ingredient x100)/(Total meq. Antacid Product).

§ 331.22 [Removed]

5. Section 331.22 *Reagent standardization* is removed.

§ 331.23 [Removed]

6. Section 331.23 *Temperature standardization* is removed.

§ 331.24 [Removed]

7. Section 331.24 *Tablet disintegration test* is removed.

§ 331.25 [Removed]

8. Section 331.25 *Preliminary antacid test* is removed.

§ 331.26 [Removed]

9. Section 331.26 *Acid neutralizing capacity test* is removed.

§ 331.29 [Redesignated as § 331.21]

10. Section 331.29 is redesignated as § 331.21 and revised to read as follows:

§ 331.21 Test modifications.

The formulation or mode of administration of certain products may require a modification of the United States Pharmacopeia 23/National Formulary 18 acid neutralizing capacity test. Any proposed modification and the data to support it shall be submitted as a petition under the rules established in § 10.30 of this chapter. All information submitted will be subject to the disclosure rules in part 20 of this chapter.

11. Section 331.80 is amended by revising paragraph (a)(1) to read as follows:

§ 331.80 Professional labeling.

(a) * * *

(1) Shall contain the neutralizing capacity of the product as calculated using the procedure set forth in United States Pharmacopeia 23/National Formulary 18 expressed in terms of the dosage recommended per minimum time interval or, if the labeling recommends more than one dosage, in terms of the minimum dosage recommended per minimum time interval.

* * * * *

Dated: January 29, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–2666 Filed 2–7–96; 8:45 am]

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Part IV

Department of Commerce

International Trade Administration

19 CFR Part 351, et al.

Antidumping and Countervailing Duty Proceedings: Procedures for Imposing Sanctions for Violation of a Protective Order; Proposed Rule

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Parts 351, 353, 354, and 355

[Docket No. 960123011–6011–01]

RIN 0625–AA43

Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The Department of Commerce ("the Department") proposes to amend its regulations on administrative protective order ("APO") procedures in antidumping and countervailing duty proceedings to simplify and streamline the APO administrative process and reduce the administrative burdens on the Department and trade practitioners. The Department also proposes to amend the regulations to simplify the procedures for investigating alleged violations of APOs and the imposition of sanctions. These changes are proposed in response to and in cooperation with the trade practitioners that are subject to these rules.

DATES: Written comments will be due March 11, 1996.

ADDRESSES: Address written comments (three copies) to Stephen J. Powell, Chief Counsel for Import Administration, Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Comments should be addressed: Attention: Proposed Regulations/APO Procedures & APO Sanctions. Each person submitting a comment is requested to include his or her name and address, and the reasons for any recommendation.

FOR FURTHER INFORMATION CONTACT: Joan L. MacKenzie, Senior Attorney, Office of the Chief Counsel for Import Administration, (202) 482–1310.

SUPPLEMENTARY INFORMATION:

General Background

APO Procedures

Since the enactment of the Trade Agreements Act of 1979, the APO has been an important procedure in U.S. antidumping ("AD") and countervailing duty ("CVD") proceedings. By providing representatives of parties to antidumping and countervailing duty proceedings access to business proprietary information submitted to the Department by other parties, the APO has helped to make the U.S. system the most transparent in the world.

In administering its APO procedures, the Department balances two principal objectives. On the one hand, the Department has sought to ensure that information is disclosed under APO in a timely manner to permit parties to defend adequately their interests. At the same time, the Department must ensure that its procedures protect against unauthorized disclosure of business proprietary information.

Our procedures for the protection of business proprietary information were last revised in 1989. After five years experience with these procedures, and after consultation with the practitioners affected by these procedures, we determined it was time to revise the procedures.

The Department began a dialogue on APO procedures with AD/CVD practitioners, who are the ones most directly affected by these procedures. Specifically, Department staff consulted with representatives of the International Law Section of the District of Columbia Bar, the International Trade Committee of the Section of International Law and Practice of the American Bar Association, the ITC Trial Lawyers Association, and the Customs and International Trade Bar Association. The purpose of these consultations was to explore ways in which the APO process could be simplified and streamlined for all concerned, including the Department, while at the same time providing protection of business proprietary information.

Based on these discussions, the Department published Notice and Request for Comment on Proposed Changes to Administrative Protective Order (APO) Procedures in Antidumping and Countervailing Duty Proceedings, APO Application Form and APO, 59 FR 51559 (October 12, 1994) ("October Notice"). In this notice, the Department set forth its initial reform ideas regarding APO procedures, and requested further comments from the public on its ideas. In addition, the Department requested comments on APO procedures, as well as on other matters, in its Advance Notice of Proposed Rulemaking and Request for Comments (Antidumping Duties; Countervailing Duties; Article 1904 of the North American Free Trade Agreement), 60 FR 80 (Jan. 3, 1995) ("Advance Notice").

The Department received comments in response to both the October Notice and the Advance Notice. After analyzing these comments, the Department has drafted regulations that streamline the APO process significantly and, at the same time, protect business proprietary information from unauthorized disclosure. However, as part of the ongoing dialogue with the private sector on this subject, the Department is requesting public comment on these regulations. As with the October Notice, we are also publishing for comment the APO.

APO Sanctions

The Department also proposes to amend its regulations concerning sanctions for violations of APOs. The regulations governing the imposition of sanctions for APO violations are set forth at 19 CFR part 354. In the six years since part 354 was introduced, the Department has investigated and resolved numerous allegations of violations of APOs. Most charges have been settled, and none has resulted in a hearing before a presiding official or a decision by the APO Sanctions Board. Experience also has proven that, even if an individual has technically violated the terms of an APO, it is not always appropriate to impose a sanction. Rather, a warning may be appropriate in many instances. The Department also has found that situations arise in which the investigation can be shortened without limiting procedural rights. Additionally, under current regulations, it is unduly cumbersome to withdraw charges when the Department determines that they are not warranted. Finally, the Department recognizes that an individual with prior violations deserves to have his or her record cleared after a period of time without further violations. Therefore, the Department is proposing to amend part 354 of its regulations to articulate a standard for issuance of a warning of an APO violation and to address the other situations described above.

The Department proposes to amend the regulations to simplify the procedures for investigating alleged violations and the imposition of sanctions, establish criteria for abbreviating the investigation of an alleged violation, include private letters of reprimand among the sanctions available, and set a policy for determining when the Department issues warnings instead of sanctions. Further, the Department proposes to revise the provisions dealing with settlement to make them consistent with practice. The Department also proposed to simplify the procedures for withdrawing charging letters. Finally, the proposed amendment adds a sunset provision that codifies existing practice regarding the rescission of charging letters.

The outstanding issues concerning these regulations are described in the following analysis of the relevant sections of the proposed regulations.

Explanation of Particular Provisions

APO Procedures

The Department's AD regulations are contained in 19 CFR part 353, and its CVD regulations are contained in 19 CFR part 355. Parts 353 and 355 each contain separate provisions dealing with the treatment of business proprietary information and APO procedures. As part of a separate rulemaking, the Department intends to consolidate the AD and CVD regulations and repeal existing parts 353 and 355. We have drafted the regulations dealing with APO procedures in light of this planned consolidation. Accordingly, these regulations will be contained in 19 CFR part 351, subpart C. More specifically, with the exception of definitional provisions, the relevant regulations will be contained in 19 CFR 351.304, 305, and 306.

Definitions

Section 351.102 will be a definitional section, based on existing 19 CFR 353.2 and 355.2. It will be published separately with the proposed rules for 19 CFR part 351, subpart C. Insofar as APO procedures are concerned, two new terms will be defined, now contained in the administrative protective order.

The first term, "applicant," is defined as an individual representative of an interested party that has applied for access to business proprietary information under an APO. The second term, "authorized applicant," is defined as an applicant that the Secretary has authorized to receive business proprietary information under an APO, and is a term borrowed from the practice of the U.S. International Trade Commission ("ITC").

Section 351.304 Establishing Business Proprietary Treatment of Information

Section 351.304 sets forth rules concerning the treatment of business proprietary information in general. Paragraph (a) is a general provision, paragraph (a)(1) of which provides persons with the right to request (i) that certain information be considered business proprietary; and (ii) that certain business proprietary information be exempt from disclosure under APO. Consistent with section 777(c)(1)(A) of the Tariff Act of 1930 ("the Act"), paragraph (a)(2) provides that, as a general matter, the Secretary will require that all business proprietary information be disclosed to authorized applicants, with the exception of (i) customer names in an investigation, (ii) information for which the Secretary finds there is a clear and compelling need to withhold from disclosure, and (iii) classified or privileged information.

Paragraph (b) of § 351.304 addresses the identification of business proprietary information in submissions to the Department. Paragraph (b)(1) deals with the bracketing and labeling of business proprietary information in general, and is consistent with existing practice. Paragraph (b)(1) also retains the requirements under existing practice that: (i) A person claiming business proprietary status for information must explain why the information in question is entitled to that status; and (ii) a request for business proprietary treatment must include an agreement to permit disclosure under an APO, unless the submitter claims that there is a clear and compelling need to withhold the information from disclosure under an APO. Paragraph (b)(2) is new, and provides for the double bracketing of business proprietary information that the submitting person claims should be exempt from disclosure under APO, and customer names submitted in an investigation.

Public Versions

Paragraph (c) of § 351.304 deals with the public version of a business proprietary submission. Paragraph (c)(1) follows existing practice by permitting parties to file a public version of a document containing business proprietary information one business day after the due date of the business proprietary version of the document. This practice is known as the "one-day lag" rule. Under current practice, submitting persons may correct the bracketing of information in the business proprietary version up to the deadline for submission of the public version (i.e., they have one day in which to correct bracketing). The Department has slightly modified the one-day lag rule to require a party to file the final business proprietary version of the document at the same time as the submitting party files the public version of the document. The specific filing requirements will be contained in § 351.303 of subpart C of the proposed regulations that the Department will publish separately. The purpose of this requirement is to ensure that the Department is reviewing the correct business proprietary version. Absent this requirement, Department analysts would have to engage in a page-by-page comparison of the original and corrected business proprietary versions, a time-consuming exercise which benefits neither the parties nor the Department.

Paragraph (c)(1) continues to permit a party to claim that summarization is not possible. However, the Secretary will vigorously enforce the requirement for public summaries, and will grant claims that summarization is impossible only in exceptional circumstances.

Nonconforming Submissions

Paragraph (d) of § 351.304 deals with nonconforming submissions, i.e., submissions that do not conform to the requirements of section 777(b) of the Act and paragraphs (a), (b), and (c) of § 351.304. Paragraph (d)(1) is generally consistent with existing 19 CFR 353.32(d) and 355.32(d), although it is more precise as to the options available to a submitting person when the Secretary returns a nonconforming submission. Paragraph (d)(2) is based on existing 19 CFR 353.32(e) and 355.32(e), and provides that the Secretary normally will determine the status of information within 30 days after the day on which the information was submitted, as provided by section 777(c)(1)(C).

Section 351.305 Access to Business Proprietary Information

Section 351.305 deals with procedures for obtaining business proprietary information under APO. These procedures are based on the ideas set forth in the October Notice, and reflect suggestions made in response to the Department's request for comments.

The Revised APO

Paragraph (a) of § 351.305 sets forth a new procedure based on the use of a single APO. Instead of issuing a separate APO to each applicant that requests disclosure, under paragraph (a) the Secretary will place a single APO on the record for each segment of an AD or CVD duty proceeding. The Secretary will place the APO on the record within one day after a petition is filed or an investigation is self-initiated, or one day after the initiation of any other segment. ("Segment of the proceeding" will be defined in § 351.102 as a portion of the proceeding that is reviewable under section 516A of the Act.) All authorized applicants will be subject to the terms of this single APO. This new procedure, which mirrors the practice of the ITC and which is described in more detail in the October Notice, should streamline the APO process dramatically, and should expedite the issuance of APOs and the disclosure of information to authorized applicants.

Paragraph (a) also sets forth the requirements that are to be included in the single APO and to which all authorized applicants must adhere. In this regard, in response to the suggestions of practitioners, the Department proposed in its October Notice to eliminate from the APO detailed internal procedures that firms were required to follow to protect APO information from unauthorized disclosure. Instead, the Department proposed to permit each applicant to establish its own internal procedures. All commentators agreed with this proposal. Therefore, paragraph (a)(1) simply requires that the applicant establish and follow procedures to ensure that there is no unauthorized disclosure of APO information.

In its October Notice, the Department proposed to continue to place two restrictions on the use of business proprietary information contained in electronic form: (1) Such information could be resident on a computer only when the computer was being run; and (2) the information could not be accessible by a network or a modem.

The commentators differed as to whether it is appropriate to require different protection depending upon whether business proprietary information is entered into a computer for data manipulation purposes or for word-processing purposes. Four commentators opposed any specific restrictions, because they believe that there are sufficient technical protections available to protect such information from unauthorized disclosure. They asserted that attempts to prescribe specific, mandatory procedures are futile, because the handling of information on electronic media is subject to rapid technological change. Procedures may become outdated by the time they are established. On the other hand, four commentators asserted that although electronic information may be left resident in a computer subject to adequate safeguards, the Department should require that such information be used on a stand-alone computer to ensure that the information is not accessible by modem.

The Department recognizes the sensitivity of issues involving the handling of electronic information. Because there is no unanimity regarding the use of electronic information on computers that are accessible by modem, we continue to support restricting access of electronic information by modem. However, restricting access by modem does not necessarily require the physical separation of a computer and a modem. The use of technical restrictions, such as passwords or encryption, also would constitute an adequate method of protecting the information. Therefore, we are not proposing any specific technical restrictions, but instead are leaving the method to be used to the individual authorized applicant. Moreover, we are not limiting access to networks, because software is provided on many computer systems through the network. In summary, we have proposed procedures that, in our view, are sufficiently flexible so as to allow applicants to take advantage of technological advances as they occur, but that also ensure the protection of APO information.

On a different matter, five commentators suggested that the Department reconsider its requirement that support personnel be employees of the firm. They suggested that the Department permit the use of independent contractors to perform photocopying and other production tasks involving APO information, provided that: (1) The independent contractors perform their work on the premises of the authorized applicant (e.g., at the firm); and (2) the independent contractors work under the supervision of an authorized applicant. The commentators stated that, for APO purposes, firms are able to exercise essentially the same oversight over subcontracted individuals as they are over their own employees.

The Department agrees that so long as support staff is operating on the premises of the authorized applicant, support staff could be either employees or independent subcontractors. In addition, the Department also will allow parties to use employees or subcontracted individuals (e.g., courier services) to pick up APO information released by the Department. In order to guard against unauthorized disclosure, however, the Department will continue its current practice of releasing APO information only if the employee or subcontractor presents a picture ID and a letter of identification from the firm of the authorized applicant that authorizes the Department to release the APO information to that particular individual.

Also regarding support staff, one commentator suggested that instead of requiring support staff to sign the APO application and acknowledge the APO terms and conditions, the Department should leave this up to the authorized applicant as a matter of its internal procedures. The Department has not adopted this suggestion, because it would appear that the Department is permitting access to business proprietary information by staff that has not agreed to protect such information. Instead, we have retained the requirement in the APO that support personnel must agree to an acknowledgment of the APO terms and conditions.

Several commentators raised issues regarding the Department's current requirement that individual representatives of parties notify the Department when their status under an APO changes (e.g., when they are reassigned to a different matter within a firm or leave the firm), and to certify that they have complied with the terms of the APO. Two firms commented that it is important for the Department to retain its current practice of requiring notification of any changed circumstances that may affect the participation of a representative under an APO. However, one firm requested that the Department either eliminate the requirement altogether or let the lead signatory for each firm make the necessary certification. This firm pointed out that individual certifications are not required by the U.S. Court of International Trade ("CIT") with respect to a judicial protective order ("JPO").

The Department has decided to retain the requirements in question. APO access is granted in response to individual requests for such access. The certification provided at the conclusion of a segment of the proceeding, upon the departure of an individual from a firm, or when an individual no longer will have access to APO information attests to the individual's compliance with the terms under which such access is granted. The Department and the persons whose business proprietary information is disclosed under APO have a legitimate need to be assured that individuals who have had access to that information have abided by the terms of the APO. Therefore, the regulations (specifically, § 351.305(a)(2)) continue to require notification and appropriate certification when changed circumstances affect the participation of a representative under an APO.

Although, as noted above, these regulations provide authorized applicants with greater flexibility regarding internal procedures, the Department proposed in its October Notice to maintain model guidelines on procedures that applicants could implement to protect APO information. Six commentators addressed this proposal. Two commentators stated that it would be useful for the Department to maintain guidelines and to hold training sessions for APO applicants. They cautioned, however, that such guidelines should represent suggestions only, and that they should not be transformed into *de facto* requirements. Otherwise, the objective of simplifying the APO process would be defeated, and the Department once again would find itself in the position of micro-managing the internal procedures of applicants. The commentators requested that the Department clearly set forth the standards by which an applicant's internal procedures will be judged, and that it expressly acknowledge that a departure from any suggestion in the guidelines will not be regarded as a *per se* violation of an APO. The commentators also urged the Department to make any guidelines available at the time a party applies for an APO, and that the Department not implement new APO procedures until trade practitioners are provided with the opportunity to comment on the guidelines. Also, with respect to the requirement in the APO application that parties refrain from asking the Department for assistance in handling electronic submissions of another party, commentators requested that any such requests for assistance not be construed as an APO violation.

In light of these comments, the Department intends to issue APO guidelines, and expects that they will be particularly useful to firms that do not have an established practice before the Department. The Department, however, will consider the APO guidelines as just that; guidelines rather than actual terms and conditions of the APO. In addition, we will provide an opportunity to comment on such guidelines before we issue them in final form. As for APO violations, although the Department would take into account the quality of an applicant's internal procedures in considering sanctions for an APO violation, a failure to follow the guidelines certainly would not be considered an APO violation. In addition, we agree that a request for the Department's assistance in handling another party's electronic submissions would not constitute an APO violation.

One commentator suggested that payment for electronic information should be required only where requested. Apparently, a number of law firms do not charge for electronic submissions. We agree that payment for the cost of electronic submissions should be required only if payment is requested, and have incorporated the suggestion in the general regulations that will be published separately.

Certification and Destruction of Business Proprietary Information

Paragraph (a)(4) of § 351.305 requires the destruction of business proprietary information when a party is no longer entitled to it, as well as certification that destruction has been completed. As discussed below, parties now may retain business proprietary information after the completion of the segment of the proceeding in which the information was submitted. The certification requirements would then be triggered at a much later date, at the end of the last segment of the proceeding for which information may be used. Because this may vary from case to case, the specific time at which a party must destroy business proprietary information will be described in the APO.

In its October Notice, the Department addressed the present requirement that, at the end of a segment of a proceeding, an authorized applicant certify to the destruction of APO information within two business days of the expiration of the time for filing for judicial or binational panel review. Of the nine commentators that addressed this issue, all supported extending the deadline to 30 days. These commentators noted that because the CIT sends out JPOs by mail, it may take up to a week for a party to receive a copy of the JPO. Although this may no longer be an issue with respect to most segments of a proceeding, we agree that if this situation does occur, parties should be given more time in which to determine their involvement, if any, in litigation arising out of a particular segment of a proceeding. Thirty days should cover most contingencies, but the Department will be willing to grant extensions for good cause shown.

Another commentator pointed out that if the Department arranged with the CIT to have a single protective order that covered the entire duration of both the Department's and the Court's proceedings, this requirement would not be necessary. Under existing practice, parties obtain an APO for the Department's administrative proceeding, another one for the ITC proceeding, negotiate a third for a judicial proceeding, and then obtain another APO in any remand proceeding where new business proprietary information may be placed on the record. Five commentators proposed streamlining these procedures. Some suggested that the JPO cover any remand proceeding. Others suggested a protective order that covers proceedings of both the Department and the CIT. A third suggested a model JPO.

We agree that it would be beneficial for all parties to craft either an APO or JPO that would remain in effect through court appeals and remands. We believe that any simplification in this regard would result in a significant savings in time and resources to the parties and the agencies, particularly if parties retain business proprietary information for more than a single segment of proceeding. However, this will require discussions between the Department and the CIT. We will enter into discussions with the relevant entities toward this end. In the meantime, the APO will permit access to new business proprietary information submitted in the course of a remand during litigation involving the segment of the proceeding in which the initial APO was issued. Parties no longer will have to apply separately for access under an APO during a remand proceeding.

One commentator opposed having to send the Department a copy of the JPO, arguing that the Department of Justice should provide the Department with the JPO. In our view, the Department needs to know at the end of a proceeding whether an authorized applicant is or is not authorized to retain APO information of other parties, and whether the authorized applicant has taken the correct steps in this regard. Only the authorized applicant, not the Department of Justice, is in a position to know this information.

The requirements concerning an authorized applicant's responsibilities at the end of a segment of a proceeding are contained in the APO.

APO Applications

Paragraph (b) of § 351.305 deals with the APO application process itself. Paragraph (b)(1) addresses the issue of multiple authorized applicants. Under current practice, the Department generally allows only one representative of a party to have access to business proprietary information under an APO. In response to suggestions from practitioners, in its October Notice the Department proposed that two independent representatives of a party be allowed APO access, with one representative being designated as the lead representative. We also proposed granting APOs separately to non-legal representatives only if they had a significant practice before the Department. The purpose of this proposal was to ensure that effective sanctions could be imposed to deter APO violations.

Five commentators addressed this issue. One firm opposed granting APOs to independent non-legal representatives, arguing that such a practice would disperse responsibility for protecting APO information and that the sanction of disbarment from practice before the Department might be inadequate. This commentator also noted that, unlike the legal profession,

there are no independent ethical standards for the other professions typically involved in AD or CVD proceedings.

Two commentators endorsed the proposal to permit two independent representatives to apply for an APO, and another commentator supported an unlimited number. However, all of the commentators that supported giving independent APO access to multiple representatives added the caveat that one representative must not be held accountable for any APO violation of another representative operating under separate APO authorization.

Under current procedures, the Department has allowed access to non-attorney applicants for many years, both as "other representatives" retained by attorneys and as the sole representative of a party. We are not proposing to change this practice. Instead, we are proposing that a party be able to have two independent representatives with independent and separate access to information under the APO. Moreover, the Department's experience has demonstrated that non-lawyer applicants are no more likely to violate the terms of an APO than lawyer applicants, and that disclosure to non-lawyer applicants does not increase the risk of an APO violation. In determining whether a non-lawyer representative is a qualified applicant for APO access under § 351.305(c), the Department will consider the extent of that representative's practice before the Department.

As set forth in paragraph (b)(1), generally no more than two independent authorized applicants for one party may apply for disclosure under an APO. In addition, the party must designate a lead authorized applicant if the party has more than one independent representative. With respect to requests that more than two independent representatives be designated as authorized applicants, the Department will consider such requests on a case-by-case basis.

Application for an APO

Paragraph (b)(2) of § 351.305 establishes a "short form" application procedure. For some time, parties to AD or CVD proceedings have requested that they be allowed to reproduce the Department's APO application on their own word processing equipment. In the October Notice, the Department proposed two alternatives that would have permitted such reproduction, but that also would prevent the unauthorized alteration of the requirements of the APO itself. Four commentators proposed as an alternative a "short form" application that would contain only the information that varies from party to party and case to case. The terms and conditions for access would be in the APO placed on the record of each segment of the proceeding.

The Department agrees that the suggested "short form" application would address the concerns of both the Department and the applicants, and we have adopted the suggestion in paragraph (b)(2). However, an important qualification is that an applicant must acknowledge that any discrepancies between the application and the Department's APO placed on the record will be interpreted in a manner consistent with the Department's APO. With this qualification, the new procedure will enable applicants to reproduce the entire application form on their word processing equipment, thereby facilitating the application process.

In addition to the incorporation of the "short form" application, paragraph (b)(2) also provides that an applicant must apply to receive all business proprietary information on the record of the particular segment of the proceeding in question. A party no longer may apply to receive only selected parties' business proprietary information. The purpose of this requirement is to eliminate the need for parties to prepare separate APO versions of submissions for each of the different parties involved in a proceeding, and to reduce the number of APO violations that occur through the inadvertent service of a document containing business proprietary information to parties not authorized to receive it. However, in order to avoid forcing parties to receive a submission in which they have no interest, a party may waive service of business proprietary information it does not wish to have served on it by another party. Thus, for example, Respondent A may waive its right to be served with a copy of the business proprietary version of Respondent B's questionnaire response. Nonetheless, if Respondent A receives a copy by mistake, no APO violation will have occurred.

Deadline for Application for APO Access

Paragraph (b)(3) of § 351.305 deals with the deadline for applying for access to business proprietary information under APO. Because the Department has received and denied about six late APO applications per year, in the October Notice we requested comments on whether there might be a better procedure to ensure that parties file timely applications.

Nine commentators addressed this issue, and they unanimously pointed out that it does not always make sense to require that APO applications be submitted early in the segment of a proceeding. Requiring early applications may result in forcing parties to file protective APO applications that subsequently turn out to be unnecessary, thereby adding to the burden on the Department and the parties. In addition, the commentators also were unanimous that expert representation and access to business proprietary data are so important to the effective defense of a party's interests that the Department should provide access liberally by one means or another. With respect to specific deadlines, the commentators offered different suggestions, ranging from the status quo (with extensions available) to no deadline at all.

In dealing with the question of APO application deadlines, the Department balances the need to provide maximum access by parties to APO information with the need to minimize the burden on the Department in processing APO applications, as well as the burden on parties that have to serve late applicants with APO information placed on the record before a late APO is granted. Based on our experience, parties that retain representatives in AD or CVD proceedings typically apply for an APO early in each segment of a proceeding. In light of this fact, and in light of the new procedure for a single APO, we believe that the Department and the parties will not be unduly burdened if APO applications are received throughout the course of a segment of the proceeding. The Department will not have to issue an amended or new APO, but instead need only update the APO service list. Therefore, while paragraph (b)(3) encourages parties to submit APO applications sooner rather than later, it permits parties to submit applications up to the date on which case briefs are due. By adopting this deadline, however, the Department does not intend to allow a late APO application to serve as the basis for extending any administrative deadline, such as a briefing or hearing schedule.

We also have taken into account the burden imposed on parties by late APO applications. Under current rules, parties have only two days in which to serve late applicants with APO information that already has been placed on the record. Under the deadline set forth in paragraph (b)(3), the burden on parties may increase. In recognition of this, all commentators requested that parties have five days in which to serve late APO applicants. In addition, one commentator suggested that late applicants be required to pay the costs associated with the additional production and service of business proprietary submissions that were served on other parties earlier in the proceeding. We agree with these suggestions, and are incorporating them into § 351.301, which will be published separately.

Approval of the APO Application and the APO Service List

Paragraph (c) of § 351.305 deals with the approval of an APO application. Under paragraph (c), the Department normally will approve an application within two days of its receipt in an Investigation and within five days in other AD and CVD proceedings, unless there is a question concerning the eligibility of an applicant to receive access under APO. In that case, the Secretary will decide whether to grant the application within 30 days of receipt of the application.

If an application is approved, the Secretary will include the name of the authorized applicant on an APO service list that the Department will maintain for each segment of a proceeding. In this regard, in the October Notice the Department raised the issue as to how the Department should provide parties with the APO service list. Several commentators suggested that the Department directly notify each party by the most expeditious means available each time the APO service list changes. One commentator suggested that the Department make the APO service list available daily through electronic means. Two commentators noted that if copies of the list were available only in the Department's Central Records Unit, this would be unduly burdensome for D.C.-based representatives and impractical for out-of-town representatives.

The Department believes that the use of an APO service list will improve and streamline the APO process only if it is readily available to all parties, and we agree that the Department must provide parties with notice as to which representatives of other parties are authorized applicants. In our view, there are three options: notification through the Internet, by direct facsimile from the computer of the Department's APO specialist, or by mail. Paragraph (c) provides that the Secretary will use the most expeditious means available to provide parties with the APO service list on the day the list is issued or amended.

With respect to the approval of APO applications, several commentators emphasized the need for expedited approval in order to ensure timely access. They suggested alternative methods, such as: (1) The creation of a pre-approved roster of members of a representative's firm, or (2) permitting a lead signatory in a firm to grant access to the other professionals within the firm. Four commentators addressed this issue. Three commentators supported the idea of a roster. However, one commentator opposed both suggestions, arguing that they would deprive parties of the opportunity to object, for good cause, to the suitability of particular applicants, and that a party never could be certain as to exactly who had access to its business proprietary information.

In the Department's view, neither of the suggested alternatives is acceptable. With respect to the pre-approved roster approach, there may be facts peculiar to a particular AD or CVD proceeding or a segment of a proceeding that render an otherwise eligible applicant ineligible, and the roster approach would preclude a party from raising legitimate objections to the approval of an APO application. Likewise, the lead signatory approach would preclude parties from exercising their right to object, for good cause, to the disclosure of APO information to a particular individual.

Section 351.306 Use of Business Proprietary Information

Section 351.306 deals with how business proprietary information may be used.

Use of Business Proprietary Information by the Secretary

Paragraph (a) deals with the use of business proprietary information by the Secretary, and is based on existing 19 CFR 353.32(f) and 355.32(f). One change is the reference in paragraph (a)(4) to the disclosure of information to the U.S. Trade Representative under 19 U.S.C. 3571(i). Section 3571(i) (section 281(i) of the URAA) deals with the enforcement of U.S. rights under the WTO Agreement on Subsidies and Countervailing Measures. Also, although the regulation itself is little changed, we note that the URAA amended section 777(b)(1)(A)(i) of the Act to clarify that the Department may use business proprietary information for the duration of an entire proceeding (from initiation to termination or revocation), as opposed to merely the particular segment of a proceeding for which information was submitted.

Use of Business Proprietary Information by Parties

Paragraph (b) of § 351.306 deals with the use of business proprietary information by parties from one segment of a proceeding to another. Paragraph (b) provides that an authorized applicant normally may retain business proprietary information obtained in one segment of a proceeding for two subsequent consecutive segments. However, paragraph (b) also provides that normally an authorized applicant may use such information only in the particular segment of the proceeding in which the information was obtained. An authorized applicant may place business proprietary information received in one segment of a proceeding on the record of either of two subsequent consecutive segments only if the information is relevant to an issue in one of the subsequent segments.

The ability to use information in different segments of a proceeding raises three related issues: (1) Whether authorized applicants should be able to retain business proprietary information after the conclusion of the particular segment in which the information is obtained, or whether they should rely on an index of business proprietary information in identifying and selecting information to be placed on the record of a subsequent segment; (2) whether there are instances other than those discussed above in which an authorized applicant should be able to use business proprietary information in a subsequent segment; and (3) whether the Secretary should reserve the authority to approve what is placed on the record from prior segments.

One commentator argued that for purposes of five-year reviews under section 751(c) of the Act, authorized applicants should be allowed to retain business proprietary information obtained under APO in the course of prior segments. This commentator argued that the information would continue to be subject to APO, and that any harm from the unauthorized disclosure of information after the conclusion of a segment of a proceeding (or the entire proceeding) would be reduced because of the passage of time. Another commentator argued that only the Department, not the parties, may have access to business proprietary information obtained in the course of a changed circumstances or five-year review that leads to revocation or termination, and that parties should not have access for purposes of preparing new petitions.

It has been suggested that certain cost data should carry over from segment to segment for the life of a proceeding by placing all relevant data from the record of one segment on the record of the next segment. Cost information thus would cumulate from one segment to the next. One commentator suggested that the

Department permit APO information from prior segments of a proceeding to be placed on the record of a subsequent segment where it is relevant or the submitted information is inconsistent. This commentator noted that because the Department does not always verify information submitted in reviews, and because the Department does not have subpoena power, the Department could use this device to ensure the accuracy of information submitted to it. Another commentator would require that authorized applicants destroy all information at the end of each segment of a proceeding, and that parties could rely on recollection where they suspect an inconsistency between segments. For this approach to work, a party would have to have access to the Department's business proprietary record from prior segments. A fourth commentator proposed to permit parties to retain all information from any segment of a proceeding for the duration of the proceeding.

As discussed above, we propose to allow authorized applicants to retain business proprietary information obtained under APO for two subsequent consecutive segments of a proceeding. Thus, authorized applicants would be able to use the information to address inconsistencies between the records for up to three different segments of a proceeding. We have limited the retention of business proprietary information to three consecutive segments, because we are concerned with the undue proliferation of sensitive proprietary data, and because, with the exception of situations such as five-year or changed circumstances reviews, data more than two years old generally is not probative. For five-year reviews, parties could rely on the index of business proprietary information for records of segments older than the ones for which they have retained information. Although authorized applicants generally will be able to retain information only for three consecutive segments, the Department will tailor APOs for subsequent segments to the particular needs of that segment. Thus, for example, an APO for a five-year review would allow parties to obtain and use business proprietary information obtained in segments earlier than the third consecutive preceding segment.

With respect to the question of the Secretary's retention of authority to approve the use of information from prior segments, there are advantages and disadvantages. The Department does not want the record of current segments to become crowded with information that is extraneous and irrelevant. Therefore, we have included a requirement that information from a prior segment must be relevant to an issue in the subsequent segment. However, we have not included a requirement that the Secretary approve parties' submissions of information on the record of a subsequent segment. Ultimately, of course, it is the Secretary who must decide the relevance and weight to be accorded to this information, at least at the administrative level. Thus, parties who place irrelevant information on the record of a subsequent segment gain no advantage, and only waste the time of the Department and other parties.

Identifying Parties Business Proprietary Information

Paragraph (c) of § 351.306 addresses identification in submissions of business proprietary information from multiple persons. The background of this issue was discussed in the October Notice. In the October Notice, the Department proposed that APO applicants be required to request access to all business proprietary information submitted in a particular segment of a proceeding, a proposal that, as discussed above, has been incorporated into these regulations. In addition, we also proposed that in the case of submissions, such as briefs, that include business proprietary information of different parties, the submission must identify each piece of business proprietary information included and the party to which the information pertains. (For example, Information Item #1 came from Respondent A, Information Item #2 came from Respondent B, etc.) The purpose of this proposal is to enable parties to submit a single APO version of a submission that may be served on all parties represented by authorized applicants, instead of forcing parties to submit and serve different APO versions for each of the parties involved in a proceeding. In the case of a submission served on a party not represented by an authorized applicant (a relatively rare event), the submitter still would have to prepare and serve a separate submission containing only that party's business proprietary information.

All commentators addressed this proposal, and, with one exception, endorsed it. The supporting commentators agreed that this proposal, if adopted, would expedite the production and service of documents, reduce the costs of participants, and would lead to a significant reduction in the number of inadvertent APO violations. These commentators also supported the Department's proposal to allow authorized applicants the choice of being served with hard copy or electronic information, as well as the ability to waive the receipt of submissions of certain parties. They also agreed that the identification of the source of business proprietary information is essential in reducing the possibility of inadvertent disclosures when a party prepares and serves submissions that contain information of multiple parties, and in preventing the possibility of one party frustrating the effective representation of an opposing party.

One commentator strongly opposed these proposals, asserting that the requirement that an applicant request access to all business proprietary information from all persons was inconsistent with the requirement in section 777 of the Act that an application describe in general terms the information requested and the reasons for the request. This commentator argued that under section 777, a party cannot be compelled to request access to information for which the party has no interest. In this commentator's view, the ability to waive service would not correct this defect, because parties still would be compelled to accept business proprietary information in which they have no interest in a submission containing business proprietary information of multiple parties. For example, Respondent A would be forced to accept a submission from Petitioner that might contain information of Respondent A, as well as of Respondents B, C, and D. This commentator believed that more, rather than fewer, APO violations would result from parties having to expurgate such submissions, and that multiple parties, rather than the original submitter, would be expurgating documents, with no party knowing whether the other parties had expurgated information correctly. This commentator also argued that the proposals would unnecessarily shift the burden of complying with APO procedures from petitioners to respondents, because respondents' representatives would be forced to expurgate multi-party documents that they did not prepare on their own word processing equipment.

Three commentators filed rebuttal comments. One argued that section 777 only requires a party to give a reason why it should have access to business proprietary information, but that it does not preclude the Department from adopting procedures that best protect the information. Another commentator stated that it is more burdensome for parties to prepare multiple party-specific submissions under a deadline than it is for the receiving party to expurgate other party's data from a document containing multiple-party data, where there may be no deadline. A third commentator took the position that no authorized applicant should be expurgating a business proprietary document to show its client in the first place, and that this is the reason for public summaries of submissions. The client should be familiar enough with its own data to be able to discuss the case with the authorized applicant.

Given the overwhelming support for the Department's proposals, we have incorporated them into these regulations. These proposed procedures simply formalize what has been the Department's practice since 1992. Moreover, we believe that these proposals balance the different interests of petitioners and respondents. Although there are risks of inadvertent APO violations associated with any option, we believe that the fact that all authorized applicants will have access to the business proprietary information of all parties (whether or not service is waived) should reduce significantly the number of inadvertent disclosures. In this regard, the inadvertent service on an authorized applicant of a submission containing information of a party for which the applicant has waived service would not constitute an APO violation.

Disclosures to Parties Not Authorized To Receive Business Proprietary Information

Paragraph (d) of § 351.306 clarifies that no person, including an authorized applicant, may disclose the business proprietary information of another party to any other person except another authorized applicant or a Department official described in § 351.306(a)(2). Any person who is not an authorized applicant and who is served with business proprietary information of another party must return that information immediately to the sender, without reading it if possible, and must notify the Department so that the Department can investigate the disclosure under 19 CFR part 354. The purpose of this requirement is to minimize the damage caused by the unauthorized disclosure of business proprietary information, disclosures that typically are inadvertent.

APO Sanction Procedures

Section 354.1 Scope

The proposed amendment to § 354.1 would revise cross-reference citations to take into account changes in parts 353 and 355 that have occurred since that section was promulgated in 1988.

Section 354.3 Sanctions

The proposed amendment to § 354.3 concerns the private letter of reprimand, which currently is a sanction commonly applied as part of a settlement agreement reached under § 354.7(b). The proposed amendment would allow the Department to issue a private reprimand as a sanction in the first instance, and not solely as part of a settlement of the charges. A private reprimand is a relatively mild sanction that is appropriate whenever a violation is minor and technical in nature, the person who committed the violation took prompt action to prevent harm to the submitter of the proprietary information, the violator cooperated fully with the investigation, and there is no apparent harm to the submitter of the information.

The Department proposes that the private letter of reprimand would accompany the charging letter as a statement of proposed sanction, described in § 354.7(a)(2). The charging letter would indicate that if the charged party does not take the steps described in paragraphs (a)(3)–(a)(6) within 30 days after the date of service of the charging letter, the proposed sanction (*i.e.*, the private letter of reprimand) automatically would become final. This procedure would differ from those pertaining to other proposed sanctions. Other proposed sanctions are enclosed with the charging letter unsigned and undated, and include a caption indicating that they are proposed. Only after the charged or affected party accepts the proposed sanction is it sent in final form. In contrast, if the proposed sanction is a private reprimand, it would be enclosed with the charging letter in its final form, without a caption and signed and dated by the Deputy Under Secretary. Unless contested within 30 days, it would become effective. The charging letter would clearly explain this procedure.

Section 354.5 Report of Violation and Investigation

Paragraph (c)(1) introduces an expedited investigation procedure. Frequently, an individual contacts the Department to report his or her own APO violation, and provides all or most of the relevant details over the telephone or by letter. If the violation is relatively minor and the business proprietary information clearly has not been disclosed to anyone who is not entitled to access, the investigation may be substantially abbreviated. The expedited system would apply in cases in which little further inquiry is necessary. This proposed amendment pertains only to the investigation and does not affect any sanction that might be imposed as a result of a charging letter issued on the basis of the investigation. Paragraph (c)(2) contains the text of current paragraph (c).

The amendment to paragraph (d)(2) reflects proposed changes in the terms of the APO, as discussed above. (See also the October Notice). The Department's standard forms no longer will contain detailed procedures for safeguarding business proprietary information. Instead, it will be the responsibility of the individual subject to an APO to take appropriate measures to protect business proprietary information received under an APO. Accordingly, the list of examples of APO violations simply refers to the procedures described in the APO.

Section 354.6 Initiation of Proceedings

Experience in administering APO sanctions has made it clear that there are certain circumstances that do not warrant the imposition of a sanction, even though a person subject to an APO technically has violated the terms of the APO. Consequently, the Department has developed a policy regarding the instances when it issues a warning, rather than imposing a sanction. The amendment to § 354.6(b) codifies this policy, and enunciates a four-pronged standard for issuing a warning.

The first criterion in paragraph (c)(1) is that the person has taken due care. Due care is an objective standard meaning that the person had taken all the steps that a careful individual would take to establish, maintain, and observe adequate procedures to safeguard business proprietary information. The standard recognizes that, despite appropriate precautions, errors occur. The due care requirement avoids subjective appraisal of the intent of the individual involved. Because people rarely intend to violate an APO, whether a violation was intentional or inadvertent is not a relevant inquiry.

The second prong of the warning standard, contained in paragraph (c)(2), is that the Department cannot previously have found the person to have violated an APO. The Department will not take into account any other on-going APO violation investigation involving that person, even if the other alleged violation occurred first.

Third, as reflected in the first clause of paragraph (c)(3), a warning is never appropriate if the business proprietary information actually has been disclosed to an unauthorized person. Many technical violations, such as the failure to return or destroy documents containing proprietary information at

the specified time, do not result in any disclosure. In other instances, nondisclosure is fortuitous. To cite a common example, a person subject to an APO is able to retrieve, unopened, a document containing business proprietary information that the person sent to someone who was not authorized to have access. In this situation, either the person who sent the document realized the error and immediately retrieved the document, or the recipient realized that he or she should not have the document and promptly notified the sender or the Department. Under either scenario, the nondisclosure depends on timing, and, especially in the latter case, on the good faith of the recipient in returning the document without opening, reading, copying or transmitting it. To this extent, then, whether a first-time violator receives a warning or a sanction may depend on factors not entirely within the person's control. Nondisclosure remains a valid criterion for issuing a warning, however, because disclosure markedly increases the potential for harm to the submitter of the information.

The second clause of paragraph (c)(3) takes into account the fact that sometimes the submitter claims that it has been harmed by an APO violation, but the Department determines otherwise. For example, a submitter may claim that there could be substantial harm because the public version of a document contained business proprietary information, yet the Department's investigation shows that no unauthorized person saw the public version before all copies were retrieved. Therefore, although there may have been a technical APO violation, the Department follows a limited "no harm, no foul" rule.

Finally, paragraph (c)(4) takes into account the cooperation, or lack thereof, of the person alleged to have committed an APO violation.

Section 354.7 Charging letter

The amendment to § 354.7(b) moves the text providing for settlement from the end to the beginning of the paragraph, because in practice charges are often settled. Charged or affected parties seeking a settlement often request a hearing, but in their requests ask that a hearing officer not be appointed while settlement talks are pending. In this way, they preserve their rights to a hearing while effectively staying the complicated hearing process and stopping the period for proceeding without a hearing, which is provided for in § 354.13. Amended paragraph (b) codifies this practice.

Less frequently, however, the Department amends, supplements, or withdraws charging letters. Revised paragraph (b) would provide alternate methods of withdrawing charges. The existing regulation requires that a presiding official be appointed to approve the withdrawal. The amendment establishes a three-tiered approach. First, under paragraph (b)(1), if no hearing has been requested (or, under the provision for proceeding without a hearing, no supporting information is presented), the Department could withdraw a charging letter without prejudice to future action based on the same violation. However, if a hearing has been requested but no presiding official has been appointed, under paragraph (b)(2) the Department could withdraw the charging letter, but the Deputy Under Secretary would be precluded from subsequently seeking sanctions for the same alleged violation. Finally, under paragraph (b)(3), where a hearing has been requested and a presiding official appointed, the presiding official would have to approve any withdrawal and also determine whether or not the withdrawal would bar the Department from taking future action based on the same violation.

Section 354.9 Request for a hearing

The amendment to § 354.9 is intended to conform with and reinforce the amendment to § 354.7 that enables a party to request a hearing to preserve its rights pending settlement discussions.

Section 354.15 Sanctions by agreement

The amendment to § 354.15 moves the substance of paragraph (e) to a new § 345.18, which deals with sanctions taken by agreement between the Deputy Under Secretary and a party, as well as sanctions imposed by a final decision under § 354.15.

Section 354.18 Public Notice of Sanctions

Section 354.18 is a new section that contains the substance of current § 354.15(e), and that pertains to publication in the **Federal Register** of sanctions imposed under a final decision. In addition, § 354.18 provides for the publication of notice of settlement agreements. The amendment codifies the Department's current practice of publishing notices that violations have occurred, even if the sanction is a private reprimand. The Department does not publish notices of warning letters, because no charging letter is issued and no sanctions are imposed.

Section 354.19 Sunset

For years, the Department has included in settlement agreements a sunset provision that provides for the rescission of the charging letter. New § 354.19 codifies this practice with respect to settlements, and also extends the possible availability of sunset to all cases. Expunging an individual's record after a period of time if that person has not mishandled proprietary information in the meantime is fair and reasonable.

Classification

E.O. 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This proposed rule would impose no new reporting or record keeping requirements for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that these amendments would not have a significant economic impact on a substantial number of small business entities because the rule that they would amend does not have such an impact and, furthermore, the amendments would tend to simplify the procedures pertaining to administration of APO sanctions. The Deputy Under Secretary for International Trade is responsible for regulations governing sanctions for violations of administrative protective orders. The Assistant Secretary for Import Administration is responsible for the regulations governing issuance and use of administrative protective orders.

List of Subjects in 19 CFR Parts 351, 353, 354, and 355

Business and industry, Foreign trade, Imports, Trade practices.

Dated: January 20, 1996.

Timothy J. Hauser,

Deputy Under Secretary for International Trade.

Dated: December 15, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administrations.

For the reasons stated, it is proposed that 19 CFR Ch. III be amended as follows:

1. Part 351 is added to read as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Information and Argument

Sec.

351.304 Establishing business proprietary treatment of information.
351.305 Access to business proprietary information.
351.306 Use of business proprietary information.

Authority: 5 U.S.C. 301 and 19 U.S.C. 1667f.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Information and Argument]

§ 351.304 Establishing business proprietary treatment of information.

(a) *Claim for business proprietary treatment.* (1) Any person that submits factual information to the Secretary in connection with a proceeding may:

(i) Request that the Secretary treat any part of the submission as business proprietary information that is subject to disclosure only under an administrative protective order,

(ii) Claim that there is a clear and compelling need to withhold certain business proprietary information from disclosure under an administrative protective order, or

(iii) In an investigation, identify customer names that are exempt from disclosure under administrative protective order under section 777(c)(1)(A) of the Act.

(2) The Secretary will require that all business proprietary information presented to, or obtained or generated by, the Secretary during a segment of a proceeding be disclosed to authorized applicants, except for:

(i) Customer names submitted in an investigation,

(ii) Information for which the Secretary finds that there is a clear and compelling need to withhold from disclosure, and

(iii) Privileged or classified information.

(b) *Identification of business proprietary information*—(1) *In general.* A person submitting information must identify the information for which it claims business proprietary treatment by enclosing the information within single brackets. The submitting person must provide with the information an explanation of why each item of bracketed information is entitled to business proprietary treatment. All persons submitting a request for business proprietary treatment also must include an agreement to permit disclosure under an administrative protective order, unless the submitting party claims that there is a clear and compelling need to withhold the information from disclosure under an administrative protective order.

(2) *Information claimed to be exempt from disclosure under administrative protective order.* (i) If the submitting person claims that there is a clear and compelling need to withhold certain information from disclosure under an administrative protective order (see paragraph (a)(1)(ii) of this section), the submitting person must identify the information by enclosing the information within double brackets, and must include a full explanation of the reasons for the claim.

(ii) In an investigation, the submitting person may enclose non-public customer names within double brackets (see paragraph (a)(1)(iii) of this section).

(iii) The submitting person may exclude the information in double brackets from the business proprietary information version of the submission served on authorized applicants. See § 351.303 for filing and service requirements.

(c) *Public version.* (1) A person filing a submission that contains information for which business proprietary treatment is claimed must file a public version of the submission. The public version must be filed on the first business day after the filing deadline for the business proprietary version of the submission (see § 351.303(b)). The public version must contain a summary of the bracketed information in sufficient detail to permit a reasonable understanding of the substance of the information. If the submitting person claims that summarization is not possible, the claim must be accompanied by a full explanation of the reasons supporting that claim.

(2) If a submitting party discovers that it has failed to bracket information correctly, the submitter may file a complete, corrected business proprietary version of the submission along with the public version (see § 351.303(b)). However, at the close of business on the day on which the public version of a submission is due under paragraph (c)(1) of this section, the bracketing of business proprietary information will become final. Once bracketing has become final, the Secretary will not accept any further corrections to the bracketing of information in a submission, and the Secretary will treat non-bracketed information as public information.

(d) *Nonconforming submissions*—(1) *In general.* The Secretary will return a submission that does not meet the requirements of section 777(b) of the Act and this section with a written explanation. The submitting person may take any of the following actions within two business days after receiving the Secretary's explanation:

(i) Correct the problems and resubmit the information;

(ii) if the Secretary denied a request for business proprietary treatment, agree to have the information in question treated as public information;

(iii) if the Secretary granted business proprietary treatment but denied a claim that there was a clear and compelling need to withhold information under an administrative protective order, agree to the disclosure of the information in question under an administrative protective order; or

(iv) submit other material concerning the subject matter of the returned information. If the submitting person does not take any of these actions, the Secretary will not consider the returned submission.

(2) *Timing.* The Secretary normally will determine the status of information within 30 days after the day on which the information was submitted. If the business proprietary status of information is in dispute, the Secretary will treat the relevant portion of the submission as business proprietary information until the Secretary decides the matter.

§ 351.305 Access to business proprietary information.

(a) *The administrative protective order.* The Secretary will place an administrative protective order on the record within one day after the day on which a petition is filed or an investigation is self-initiated, or one day after initiating any other segment of a proceeding. The administrative protective order will require the authorized applicant to:

(1) Establish and follow procedures to ensure that no employee of the authorized applicant's firm releases business proprietary information to any person other than the submitting party, an authorized applicant, or an appropriate Department official identified in section 777(b) of the Act.

(2) Notify the Secretary of any changes in the facts asserted by the authorized applicant in its administrative protective order application;

(3) Take the necessary steps to protect business proprietary information during judicial proceedings or binational panel

proceedings under section 516A of the Act.

(4) Destroy business proprietary information by the time required under the terms of the administrative protective order;

(5) Immediately report to the Secretary any apparent violation of the administrative protective order; and

(6) Acknowledge that any unauthorized disclosure may subject the authorized applicant, a partner, associate, or employee, and any partner, associate, employer, or employee of the authorized applicant's firm to sanctions listed in part 354 of this chapter (19 CFR part 354).

(b) *Application for access under administrative protective order.* (1) Generally, no more than two independent representatives of a party to the proceeding may have access to business proprietary information under an administrative protective order. A party must designate a lead firm if the party has more than one independent authorized applicant firm.

(2) A representative of a party to the proceeding may apply for access to business proprietary information under the administrative protective order by submitting Form ITA–367 to the Secretary. Form ITA–367 must identify the segment of the proceeding involved, the identity and eligibility for disclosure of the applicant, and the agreement of the applicant to be bound by the administrative protective order. Form ITA–367 may be prepared on the applicant's own word processing system, accompanied by a certification that the application is consistent with Form ITA–367 and an acknowledgment that any discrepancies will be interpreted in a manner consistent with Form ITA–367. An applicant must apply to receive all business proprietary information on the record of the segment of a proceeding in question, but may waive service of business proprietary information it does not wish to have served on it by other parties to the proceeding.

(3) To minimize the disruption caused by late applications, an application should be filed before the first questionnaire response has been submitted. Where justified, however, applications may be filed up to the date on which the case briefs are due, but any applicant filing after the first questionnaire response is submitted will be liable for costs associated with the additional production and service of business proprietary information already on the record.

(c) *Approval of access under administrative protective order; administrative protective order service list.* The Secretary will grant access to a qualified applicant by including the name of the applicant on an administrative protective order service list. Access normally will be granted within two days of receipt of the application in an Investigation and within five days in other AD and CVD proceedings unless there is a question regarding the eligibility of the applicant to receive access. In that case, the Secretary will decide whether to grant the applicant access within 30 days of receipt of the application. The Secretary will provide by the most expeditious means available the administrative protective order service list to parties to the proceeding on the day the service list is issued or amended.

§ 351.306 Use of business proprietary information.

(a) *By the Secretary.* The Secretary may disclose business proprietary information submitted to the Secretary only to:

(1) An authorized applicant;

(2) An employee of the Department of Commerce or the International Trade Commission directly involved in the proceeding in which the information is submitted;

(3) An employee of the Customs Service directly involved in conducting a fraud investigation relating to an antidumping or countervailing duty proceeding;

(4) The U.S. Trade Representative as provided by 19 U.S.C. 3571(i);

(5) Any person to whom the submitting person specifically authorizes disclosure in writing; and

(6) A charged party or counsel for the charged party under 19 CFR part 354.

(b) *By an authorized applicant.* An authorized applicant may retain business proprietary information for the time authorized by the terms of the administrative protective order, which normally will permit an authorized applicant to retain business proprietary information obtained in one segment of a proceeding for two subsequent consecutive segments. Normally, an authorized applicant may use business proprietary information only for purposes of the segment of a proceeding in which the information was submitted. If business proprietary information that was submitted in an earlier segment of the proceeding is relevant to an issue in either of two subsequent consecutive segments of a proceeding, or in any scope or anticircumvention inquiry, an authorized applicant may place such information on the record of the subsequent segment or scope or circumvention inquiry.

(c) *Source of business proprietary information.* (1) If a party submits a document containing business proprietary information, the submitting party must identify contiguously with each item of business proprietary information the interested party that originally submitted the item (*e.g.*, Petitioner, Respondent A, Respondent B).

(2) If a party to a proceeding is not represented by an authorized applicant, a party submitting a document containing business proprietary information must serve the unrepresented party with a version of the document that contains only the unrepresented party's business proprietary information, but not the business proprietary information of other parties.

(d) *Disclosure to parties not authorized to receive business proprietary information.* No person, including an authorized applicant, may disclose the business proprietary information of another person to any other person except another authorized applicant or a Department official described in paragraph (a)(2) of this section. Any person that is not an authorized applicant and that is served with business proprietary information must return it to the sender immediately, without reading it to the extent possible, and must notify the Department. An allegation of an unauthorized disclosure will subject the person that made the alleged unauthorized disclosure to an investigation and possible sanctions under 19 CFR part 354.

PART 353—[AMENDED]

2. The authority citation for part 353 continues to read as follows:

Authority: 5 U.S.C. 301 and 19 U.S.C. 1677f.

3. Part 353 is proposed to be amended by removing §§ 353.32 through 355.34, and redesignating §§ 353.35 through 353.38 as 353.32 through 353.35 respectively.

PART 354—[AMENDED]

4–5. The authority citation for part 354 is revised to read as follows:

Authority: 5 U.S.C. 301, and 19 U.S.C. 1677.

6. Section 354.1 is revised to read as follows:

§ 354.1 Scope.

This part sets forth the procedures for imposing sanctions for violation of an administrative protective order issued under 19 CFR 353.34 or 355.34, or successor regulations, as authorized by 19 U.S.C. 1677f(c).

7. Section 354.3 is amended by revising paragraph (a)(3) and (a)(4), and by adding a new paragraph (a)(5), as follows:

§ 354.3 Sanctions

(a) * * *

(3) Other appropriate administrative sanctions, including striking from the record any information or argument submitted by, or on behalf of the violating party or the party represented by the violating party; terminating any proceeding then in progress; or revoking any order then in effect;

(4) Requiring the person to return material previously provided by the Department and all other materials containing the business proprietary information, such as briefs, notes, or charts based on any such information received under an administrative protective order; and

(5) Issuing a private letter of reprimand.

* * * * *

8. Section 354.5 is amended by revising paragraphs (c) and (d)(2), as follows:

§ 354.5 Report of violation and investigation.

* * * * *

(c)(1) The appropriate Director will provide a report of the investigation to the Deputy Under Secretary, after review by the Chief Counsel, no later than 90 days after receiving information concerning a violation if:

(i) The person alleged to have violated a protective order personally notified the Department and reported the particulars surrounding the incident; and

(ii) the alleged violation did not result in any actual disclosure of business proprietary information. Upon the appropriate Director's request, and if extraordinary circumstances exist, the Deputy Under Secretary may grant the appropriate Director up to an additional 90 days to conduct the investigation and submit the report.

(2) In all other cases, the appropriate Director will provide a report of the investigation to the Deputy Under Secretary, after review by the Chief Counsel, no later than 180 days after receiving information concerning a violation. Upon the appropriate Director's request, and if extraordinary circumstances exist, the Deputy Under Secretary may grant the appropriate Director up to an additional 180 days to conduct the investigation and submit the report.

(d) * * *

(2) Failure to follow the procedures outlined in the protective order for safeguarding proprietary information.

* * * * *

9. Section 354.6 is revised as follows:

§ 354.6 Initiation of proceedings.

(a) *In general.* After an investigation and report by the appropriate Director under § 354.5(c) and consultation with the Chief Counsel, the Deputy Under Secretary will determine whether there is reasonable cause to believe that a person has violated a protective order. If the Deputy Under Secretary determines that there is reasonable cause, the Deputy Under Secretary also will determine whether sanctions or a warning is appropriate for the violation.

(b) *Sanctions.* In determining under paragraph (a) of this section whether sanctions are appropriate, and, if so, what sanctions to impose, the Deputy Under Secretary will consider the nature of the violation, the resulting harm, and other relevant circumstances of the case. If the Deputy Under Secretary determines that sanctions are appropriate, the Deputy Under Secretary will initiate a proceeding under this part by issuing a charging letter under § 354.7. The Deputy Under Secretary will determine whether to initiate a proceeding no later than 60 days after receiving a report of the investigation.

(c) *Warning.* If the Deputy Under Secretary determines under paragraph (a) of this section that a warning is appropriate, the Deputy Under Secretary will issue a warning letter to the person believed to have violated a protective order. Sanctions are not appropriate and a warning is appropriate if:

(1) The person took due care;

(2) The Department has not previously found the person to have violated a protective order;

(3) The violation did not result in any disclosure of the business proprietary information or the Department is otherwise able to determine that the violation caused no harm to the submitter of the information; and

(4) The person cooperated fully in the investigation.

10. Section 354.7 is amended by revising paragraph (b), as follows:

§ 354.7 Charging letter.

* * * * *

(b) Settlement and amending the charging letter. The Deputy Under Secretary and a charged or affected party may settle a charge brought under this part by mutual agreement at any time after service of the charging letter; approval of the presiding official or the administrative protective order Sanctions Board is not necessary. The charged or affected party may request a hearing but at the same time request that a presiding official not be appointed pending settlement discussions. Settlement agreements may include sanctions for purposes of § 354.18. The Deputy Under Secretary may amend, supplement, or withdraw the charging letter as follows:

(1) If there has been no request for a hearing, or if supporting information has not been submitted under § 354.13, the withdrawal will not preclude future actions on the same alleged violation.

(2) If a hearing has been requested but no presiding official has been appointed, withdrawal of the charging letter will preclude the Deputy Under Secretary from seeking sanctions at a later date for the same alleged violation.

(3) The Deputy Under Secretary may amend, supplement or withdraw the charging letter at any time after the appointment of a presiding official, if the presiding official determines that the interests of justice would thereby be served. If the presiding official so determines, the presiding official will also determine whether the withdrawal will preclude the Deputy Under Secretary from seeking sanctions at a later date for the same alleged violation.

* * * * *

11. Section 354.9 is amended by revising paragraph (b), as follows:

§ 354.9 Request for a hearing.

(a) * * *

(b) Upon timely receipt of a request for a hearing, and unless the party requesting a hearing requests that the Under Secretary not appoint a presiding official, the Under Secretary will appoint a presiding official to conduct the hearing and render an initial decision.

§ 354.15 [Amended]

12. Section 354.15 is amended by removing paragraph (e).

§ 354.17 [Amended]

13. Section 354.17(b) is amended to change the citation of 19 CFR 353.30 and § 355.20 to 19 CFR 351.205.

14. Section 354.18 is added to part 354, to read as follows:

§ 354.18 Public notice of sanctions.

If there is a final decision under § 354.15 to impose sanctions, or if a charging letter is settled under § 354.7(b), notice of the Department's decision or of the existence of a settlement will be published in the **Federal Register**. If a final decision is reached, such publication will be no sooner than 30 days after issuance of a final decision or after a motion to

reconsider has been denied, if such a motion was filed. In addition, whenever the Deputy Under Secretary subjects a charged or affected party to a sanction under § 354.3(a)(1), the Deputy Under Secretary also will provide such information to the ethics panel or other disciplinary body of the appropriate bar associations or other professional associations and to any Federal agency likely to have an interest in the matter. The Deputy Under Secretary will cooperate in any disciplinary actions by any association or agency. Whenever the Deputy Under Secretary subjects a charged or affected party to a private letter of reprimand under § 354.3(a)(5), the Department will not make public the identity of the violator, nor will the Department make public the specifics of the violation in a manner that would reveal indirectly the identity of the violator.

15. Section 354.19 is added to part 354, to read as follows:

§ 354.19 Sunset.

(a) If, after a period of three years from the date of a final decision or settlement in which sanctions were imposed, the charged or affected party has fully complied with the terms of the sanctions and has not been found to have violated another protective order, the party may request in writing that the Deputy Under Secretary rescind the charging letter. A request for rescission must include:

(1) A description of the actions taken during the preceding three years in compliance with the terms of the sanctions; and

(2) A letter certifying that: the charged or affected party complied with the terms of the sanctions; the charged or affected party has not received another administrative protective order sanction during the three-year period; and the charged or affected party is not the subject of another investigation for a possible violation of a protective order.

(b) Subject to the Chief Counsel's confirmation that the charged or affected party has complied with the terms set forth in paragraph (a) of this section, the Deputy Under Secretary will rescind the charging letter within 30 days after receiving the written request.

PART 355—[AMENDED]

16. The authority citation for part 355 continues to read as follows:

Authority: 5 U.S.C. 301 and 19 U.S.C. 1677f.

17. Part 355 is amended by removing §§ 355.32 through 355.34, and redesignating §§ 355.35 through 355.39 as 355.32 through 353.36 respectively.

* * * * *

Note: The following appendix will not appear in the Code of Federal Regulations: Appendix to 19 CFR Part 351, Subpart C—Application for Administrative Protective Order in Antidumping or Countervailing Duty Proceeding, and Administrative Protective Order.

BILLING CODE 3510-DS-P

Case Number _____

Number of pages _____

Proceeding
Public Document

United States Department of Commerce
International Trade Administration

APPLICATION FOR ADMINISTRATIVE PROTECTIVE ORDER
in
ANTIDUMPING OR COUNTERVAILING DUTY PROCEEDING

The Matter of the
Antidumping/Countervailing Duty (indicate one)
Proceeding on

_____
_____ from _____
_____ (Country)
_____
(Product)

ACCEPTED_____
REJECTED_____
DATE_____

This application covers business proprietary information in the following segment of the proceeding:

[ ] Investigation - petition filed on : _____

[ ] Administrative Review initiated on : ____ (___FR_____)

for period : _____to_____

[ ] Other _____ : ____(___FR_____)

_____
(specify)

This application is:

[ ] the initial application of the firm to be placed on the APO service list; or

[ ] a request by the firm to amend the APO service list.

FORM ITA-367 (X.96)

REPRESENTATION

1. I am an applicant for: _____ who is an interested party/parties as follows:

[ ] petitioner; [ ] respondent; [ ] other interested party,

as defined in 19 C.F.R. § _____ of the

Department's regulations.

2. If the interested party/parties I represent have another

authorized applicant or representative, _____

_____

is the lead firm.

REQUEST FOR INFORMATION

3. I request disclosure of all business proprietary information under administrative protective order ("APO") which will be or has been placed on the record of this segment of this proceeding that is releasable under 19 C.F.R. § 351.203 for the purpose of fully representing the interests of my client:

[ ] all business proprietary information, including hard copy and electronic data; or

[ ] all business proprietary information in hard copy form only.

INDIVIDUAL STATEMENTS

4. TO BE COMPLETED BY ATTORNEY APPLICANTS

A. I **am/am not (indicate one)** an officer of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application.

B. I **do/do not (indicate one)** participate in the competitive decision-making activity of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application. I understand that competitive decision-making activity includes advice on production, sales, operations, or investments, but does not include legal advice.

C. I **do/do not (indicate one)** have an official position or other business relationship other than providing advice for the purpose of this segment of the proceeding with the interested party or parties listed in paragraph 1, or with other competitors of the person submitting the business proprietary information requested in this application.

D. I **do/do not (indicate one)** currently intend within 12 months after the date upon which the final determination/results is(are) published to enter into any of the relationships described in paragraphs 4A B and C.

E. Explain for each applicant any affirmative response to paragraph 4A, B, C or D: _____

_____.

5. TO BE COMPLETED BY NON-ATTORNEY APPLICANTS

A. I **am/am not (indicate one) employed by/retained by (indicate one)** a law firm representing the interested party or parties listed in paragraph 1.

B. If I am retained by an attorney, the name of the lawyer and law firm are:

_____

_____.

C. Where not an employee of a law firm and if I have not been retained by the attorney for the interested party or parties listed in paragraph 1, in a separate attachment to this application I am providing information concerning my practice before the International Trade Administration ("ITA").

D. I **am/am not (indicate one)** an officer or employee of a interested party or parties listed in paragraph 1, or of other competitors of the submitter of the business proprietary information requested in this application.

E. I **do/do not (indicate one)** participate in the competitive decision-making activity of the interested party or parties listed in paragraph 1, or of other competitors of the person submitting the business proprietary information requested in this application. I understand that competitive decision-making activity includes advice on production, sales, operations, or investments, but does not include legal advice.

F. I **do/do not (indicate one)** have an official position or other business relationship other than providing advice for the purpose of this segment of the proceeding with the interested party or parties listed in paragraph 1, or with other competitors of the person submitting the business proprietary information requested in this application.

G. I **do/do not (indicate one)** currently intend within 12 months after the date upon which the final determination/results is(are) published to enter into any of the relationships described in paragraphs 5D, E and F.

I. Explain for each applicant any affirmative response to paragraph 5D, E, F or G: _____

_____.

AGREEMENT TO BE BOUND

6. Recognizing the penalties for perjury under the laws of the United States, I affirm that all statements in this application are true, accurate, and complete to the best of my knowledge. I agree, individually and on behalf of my law firm, corporate law office, or company, if any, to be bound by the terms stated in the administrative protective order issued in this segment of the proceeding.

7. I certify that this application is a true and accurate copy of the Department's "Application for Administrative Protective Order", FORM ITA-367 (X.96). If there are any discrepancies, I agree to be bound by the Department's standard form.

INDIVIDUAL SIGNATORIES

8. ATTORNEY APPLICANTS (*SAMPLE FORMAT*)

Individual applicants:

(1) _____, _____, _____
(name of applicant) (signature) (date)

of _____
(name and address of law firm)

_____

I am admitted to practice in the following jurisdiction(s) and before the following court(s):

_____.

9. NON-ATTORNEY APPLICANTS (*SAMPLE FORMAT*)

Individual applicants:

(1) _____, _____, _____
(name of applicant) (signature) (date)

of _____
(name and address of firm)

_____

I am a member of the following professional association(s):

_____

COURTESY PAGE
FOR
WAIVER OF SERVICE

If my application for administrative protective order ("APO") in this proceeding is granted, I waive service of the following business proprietary information that I would be authorized to receive under the APO:

o

o

o

o

Inadvertent service of a document containing business proprietary information on a party that has been granted APO access and has waived service IS NOT A VIOLATION OF THE APO.

A/C-___-___
(Segment of Proceeding)
(Period of Review)
Public Document

In the Matter of the Antidumping/Countervailing Duty (Segment of Proceeding) of from (A/C- -)

ADMINISTRATIVE PROTECTIVE ORDER

IT IS HEREBY ORDERED THAT:

All business proprietary information submitted in the above-referenced segment of the proceeding, including new information submitted in a remand during litigation on this segment of the proceeding, which the submitting party agrees to release or the Department of Commerce ("the Department") determines to release, will be released to the authorized applicants on the administrative protective order (APO) service list for this proceeding, except the following:

o customer names in an investigation;

o privileged and classified information; and

o specific information of a type for which the Department determines there is a clear and compelling need to withhold from disclosure.

USE OF BUSINESS PROPRIETARY INFORMATION UNDER THIS APO

Business proprietary information subject to this APO may be used by an authorized applicant in this segment of the proceeding and in the following other segments or proceedings:

[This section will authorize use of business proprietary information in other segments of the same proceeding, or in other proceedings, consistent with the Tariff Act and the regulations. The terms in this section will vary, depending on what segment of the proceeding this APO covers. This section will also establish the deadline for destruction of business proprietary information in each set of circumstances.]

REQUIREMENTS FOR AUTHORIZED APPLICANTS

All applicants authorized to have access to business proprietary information under this APO are subject to the following terms:

1. The authorized applicant must establish and follow procedures to ensure that no employee of the authorized applicant's firm releases business proprietary information to any person other than the submitting party, an authorized applicant, or the appropriate Department official identified in section 351.204(a) of the regulations. No person in the authorized applicant's firm may release business proprietary information received under this APO to any person other than those described in this paragraph.

2. The authorized applicant may allow APO access to one or more paralegals, law clerks, secretaries, or other support staff employed by or on behalf of the applicant's firm and operating within the confines of the firm. The authorized applicant may also use the services of subcontracted individuals to pick up APO information released by the Department. All support staff must sign and date an acknowledgement that they will abide by the terms and conditions of the APO at the time they are first permitted access to any information subject to APO.

3. The authorized applicant must ensure that the computer on which electronic business proprietary information is entered for non-word processing purposes will not be accessible by modem.

4. An applicant who files for APO access after the first questionnaire response is filed in this segment of the proceeding and is approved by the Department for access under APO, must pay all reasonable costs associated with the additional production and service of previously-filed business proprietary submissions, if payment is requested.

5. The authorized applicant must pay all reasonable costs incurred by the submitter of the electronic business proprietary information for the copying of its electronic information released to the authorized applicant, if payment is requested. Reasonable costs include the cost of the electronic medium and the cost of copying the complete proprietary version of the electronic information/medium submitted to the Department in APO releasable form, but not costs borne by the submitter of the electronic data in the creation of the electronic data/medium submitted to the Department.

CERTIFICATION REQUIREMENTS

6. If changed circumstances affect the authorized applicant's representation of an interested party at any time authorized under this APO (i.e., reassignment, departure from firm), the authorized applicant must submit to the Department a certification attesting to his/her personal compliance with the terms of the APO, and that no copies of the materials released subject to the APO have been retained by the

authorized applicant or made available to the interested party/parties the applicant represents, or any other person to whom disclosure was not specifically authorized.

7. At the expiration of the time specified in this APO, the authorized applicant must destroy all business proprietary information and must submit to the Department a certification attesting to his/her personal compliance with the terms of the APO, and that no copies of the materials released subject to the APO have been retained by the authorized applicant or made available to the interested party/parties the authorized applicant represents, or any other person to whom disclosure was not specifically authorized, or provide to the Department official responsible for the administration of the APO in this segment of the proceeding, a protective order issued by a court or binational panel proceeding.

SANCTIONS FOR BREACH OF THIS APO

8. The authorized applicant will be subject to any or all of the sanctions described in 19 C.F.R. Part 354 if there is a violation of this APO by the authorized applicant or any of the persons identified in item 9 of this APO.

9. The authorized applicant will accept full responsibility, individually and on behalf of the authorized applicant's firm or corporate office, for violation of this APO by any employee of the firm or corporate office, or support staff retained by the firm or corporate office, who is permitted access to APO information.

10. The authorized applicant will promptly report and confirm in writing any possible violation of this APO to the Department.

DEFINITIONS

For purposes of this APO, the following definitions apply:

"Representative" is an individual person acting on behalf of an interested party.

"Applicant" is a representative of an interested party who has applied for access to business proprietary information under this APO.

"Authorized applicant" is an applicant that the Secretary has authorized to receive business proprietary information under this APO.

"Lead firm" is the firm that will be the primary contact with the Department and that will accept service of all documents for the party it represents where two firms independently have access under APO.

"Support staff" includes paralegals, law clerks, secretaries and other support staff that are employed by or on behalf of the applicant's firm and operating within the premises of the firm, as well as subcontractors of the firm providing similar support staff functions.

"Electronic data" includes (1) data submitted by a party, generated by the Department, or entered by the recipient on computer tape, disk, diskette, or any other electronic computer medium; and (2) all electronic work products resulting from manipulation of this data, as transferred in any form onto any other electronic computer medium, such as tape, disk, diskette, Bernoulli cartridge, removable disk pack, etc.

(Signature of Department Official)
Typed Name
Title
Import Administration

(date)

[FR Doc. 96–2697 Filed 2–7–96; 8:45 am]
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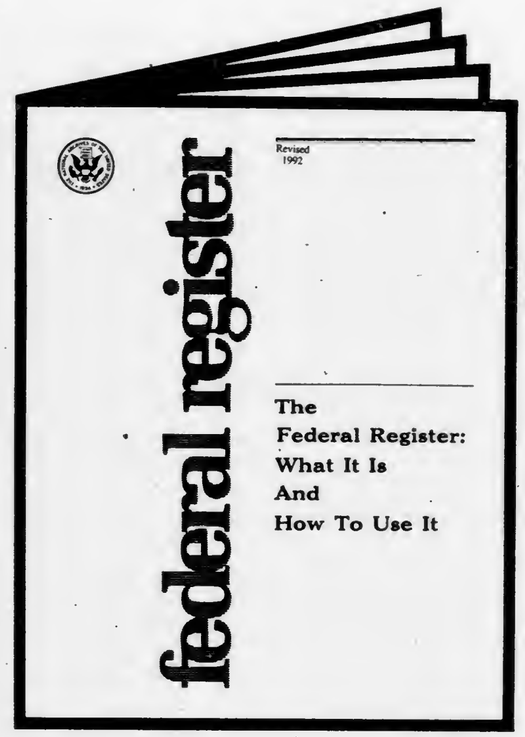
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S. 1341/P.L. 104–102

Saddleback Mountain-Arizona Settlement Act of 1995 (Feb. 6, 1996; 110 Stat. 50)

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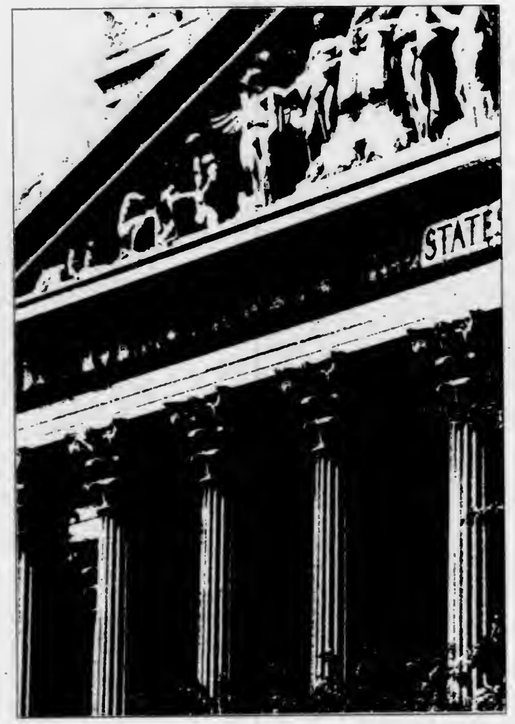
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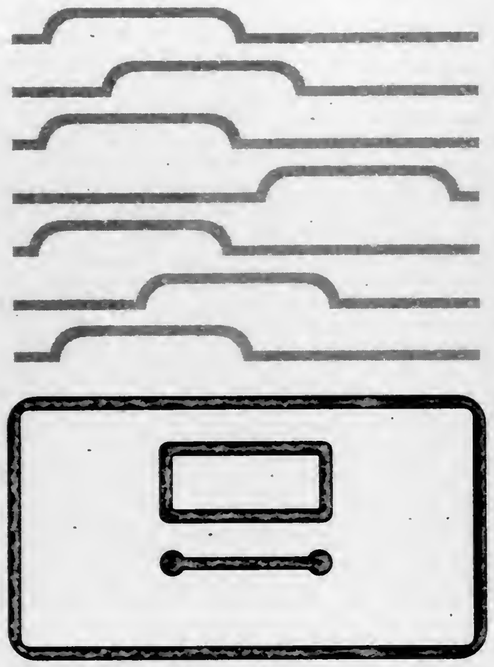
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Vol. 61, No. 28
Friday, February 9, 1996

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 310

[Docket No. 95-048DF]

RIN 0583-AC03

Use of the Fast Antimicrobial Screen Test for Bob Veal Calves

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Affirmation of effective date.

SUMMARY: On December 22, 1995, the Food Safety and Inspection Service (FSIS) published a direct final rule titled "Use of the Fast Antimicrobial Screen Test for Bob Veal Calves." The direct final rule permits the use of the Fast Antimicrobial Screen Test to be used in lieu of the Calf Antibiotic and Sulfonamide Test under FSIS' bob veal calf residue testing program. No adverse comments or written notice of intent to submit adverse comments were received in response to the direct final rule. Therefore, this rule is effective on February 20, 1996.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700; (202) 720-7164.

SUPPLEMENTARY INFORMATION: This notice affirms the effective date of the direct final rule titled "Use of the Fast Antimicrobial Screen Test for Bob Veal Calves," that was published on December 22, 1995, at 60 FR 66482. The direct final rule permits the use of the Fast Antimicrobial Screen Test to be used in lieu of the Calf Antibiotic and Sulfonamide Test under FSIS' bob veal calf residue testing program. FSIS did not receive any written adverse comments or written notice of intent to submit adverse comments in response to this rule. Therefore, the effective date of the rule is February 20, 1996.

Done at Washington, DC: February 2, 1996.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 96-2749 Filed 2-8-96; 8:45 am]

BILLING CODE 3410-DM-P

FEDERAL ELECTION COMMISSION

11 CFR Parts 9034 and 9038

[Notice 1996-5]

Public Financing of Presidential Primary and General Election Campaigns

AGENCY: Federal Election Commission.

ACTION: Final rule; correcting amendments; announcement of effective date.

SUMMARY: On November 16, 1995, the Commission published final rules correcting promulgation errors made in final rules published June 16, 1995 (60 FR 31854) regarding public financing of presidential primary and general election candidates. The Commission announces that these rules are effective as of February 9, 1996.

EFFECTIVE DATE: February 9, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rita Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219-3690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: On June 16, 1995, the Commission published final rules revising its regulations governing public financing of presidential primary and general election candidates. 60 FR 31854. These rules became effective on August 16, 1995. 60 FR 42429.

On November 16, 1995, the Commission published corrections to these final rules to restore language inserted in 1991 that had inadvertently been dropped from the rules. 60 FR 57538. The June 16 document deleted language in 11 CFR 9034.4(a)(3)(ii) relating to candidates who continue to campaign after their dates of ineligibility. It also deleted language in 11 CFR 9038.2(b)(2)(iii) that shortened the time period during which an ineligible candidate's non-qualified campaign expenses would generate a repayment obligation, thereby reducing the amount of the candidate's repayment. The correcting amendments restored the deleted language.

Section 9039(c) of Title 26, United States Code, requires that any rules or regulations prescribed by the Commission to implement Chapter 96 of Title 26 of the United States Code, the Presidential Primary Matching Payment Account Act, be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The revisions to 11 CFR 9034.4(a)(3)(ii) and 9038.2(b)(2)(iii) were transmitted to Congress on November 9, 1995. Thirty legislative days expired in the Senate and the House of Representatives on January 5, 1996.

Announcement of Effective Date

11 CFR sections 9034.4(a)(3)(ii) and 9038.2(b)(2)(iii), as published at 60 FR 57538, are effective as of February 9, 1996.

Dated: February 5, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96-2758 Filed 2-8-96; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 7 and 31

[Docket No. 96-03]

RIN 1557-AB38

Interpretive Rulings

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is revising its interpretive rulings. This final rule is another component of the OCC's Regulation Review Program to update and streamline OCC regulations, focus regulations on key safety and soundness concerns and agency objectives, and eliminate requirements that impose inefficient and costly regulatory burdens on national banks. The final rule

clarifies, revises, and reorganizes existing interpretive rulings, eliminates rulings that are obsolete, adds interpretive rulings to address new issues, and relocates some interpretive rulings to another part of title 12.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Stuart E. Feldstein, Senior Attorney, Legislative and Regulatory Activities, (202) 874–5090; Jacqueline Lussier, Senior Attorney, Legislative and Regulatory Activities, (202) 874–5090; Daniel Cooke, Attorney, Legislative and Regulatory Activities, (202) 874–5090; or Saumya R. Bhavsar, Attorney, Legislative and Regulatory Activities, (202) 874–5090. Office of the Comptroller of Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1995, the OCC published a notice of proposed rulemaking (60 FR 11924, March 3, 1995) (proposal) to revise 12 CFR part 7—the OCC's interpretive rulings. Part 7 serves as a repository of interpretive rulings applicable to national banks that generally are not related to the subject matter contained in other parts of chapter I of title 12.

The proposal sought to implement the goals of the Regulation Review Program by updating and streamlining the regulation and eliminating requirements that imposed inefficient and costly regulatory burdens on national banks. The proposal also eliminated obsolete rulings, added interpretive rulings to address new issues, and transferred some interpretive rulings to 12 CFR part 31.

Comments Received and Changes Made

The final rule implements most of the initiatives contained in the proposal. However, the OCC has made a number of changes in response to the comments received and to further reduce unnecessary regulatory burden.

The OCC received 112 comment letters on the proposal. The vast majority of these commenters supported the proposed changes to part 7. The comment letters included 36 from banks and bank holding companies, 24 from trade associations, 19 from governmental representatives, 16 from law firms, eight from private businesses, four from community groups, three from congressmen, one from an unaffiliated individual, and one from a clearinghouse.

Commenters strongly favored reducing unnecessary regulatory burden and updating and clarifying the interpretive rulings. Overall, most commenters commended the OCC's efforts, and some commenters offered variations on certain of the proposed changes.

Many commenters recommended changes that focused on specific sections of the proposal. The OCC carefully considered each of the comment letters, and the section-by-section discussion later in this preamble identifies and discusses comments received and changes made to certain sections of the proposal.

Overview of the Final Rule

The final rule adopts the proposal's structural format and reorganizes part 7 into four topic areas: Subpart A—Bank Powers, Subpart B—Corporate Practices, Subpart C—Bank Operations, and Subpart D—Preemption. Distribution and derivation tables summarizing sections of former part 7 changed by the final rule are included at the end of this preamble. The OCC anticipates adding rulings in the future to part 7 or other parts in title 12 as necessary to address changing industry practices and developing issues.

The OCC received comments on a number of sections for which it did not propose substantive changes. The OCC has reviewed the comments and is not making any changes to certain of these sections at this time. A list of these unchanged sections is included at the end of the section-by-section summary.

Finally, the final rule removes a number of sections, moves certain sections to another part of title 12, and retains certain sections pending the issuance of final rules for 12 CFR parts 1 and 5. A description of these sections is contained at the end of the preamble.

Section-by-Section Discussion

National Bank Ownership of Property (Section 7.1000)

The proposal simplified and consolidated into a single section, § 7.1000, several interpretive rulings relating to permissible ownership of real property by national banks. Proposed § 7.1000: (1) described real estate that a bank may own pursuant to 12 U.S.C. 29 and permissible means of holding that real estate; (2) stated that a bank may own fixed assets; (3) identified certain limitations on investment in bank premises and on exercising options to purchase bank premises; (4) stated the circumstances under which a national bank may purchase a transferred employee's residence; (5) provided that a bank may engage in lease financing transactions of public facilities; and (6) provided that a bank may organize a bank premises subsidiary as a corporation, a partnership, or similar entity.

Most of the comments generally supported the proposal. One commenter urged the OCC to state in § 7.1000, as it had in the preamble to the proposal, that a bank may organize a bank premises subsidiary as a limited liability company. In response to this suggestion, the final ruling states that the term "similar entity" includes limited liability companies.

The OCC also requested comment on whether to expand the proposal permitting a national bank to own real estate for leasing to municipalities or other public authorities to include other types of lease financing transactions. Several commenters urged the OCC to expand the proposal to permit ownership where the lessee is a non-public sector entity. The OCC has decided, however, that it will not address this issue at this time.

The final rule also simplifies and clarifies § 7.1000's description of the types of real estate that may be held pursuant to the authority granted by 12 U.S.C. 29 (First). In addition, the final rule makes a minor organizational change by moving proposed § 7.1000(c), which describes the permissible means of holding real estate necessary for the transaction of business, into proposed § 7.1000(a), which discusses that real estate.

The final rule also eliminates cross references to 12 CFR part 5, because the approval provisions referenced in the proposal have not yet been promulgated in part 5. The OCC will reinsert appropriate cross references when revisions to part 5 are promulgated.

National Bank Acting as Finder (Section 7.1002)

The proposal clarified that a national bank may act as a finder of certain goods and services in addition to acting as a finder for insurance. The proposal also stated that acting as a finder does not include activities that would characterize the bank as a broker under applicable Federal law. Three commenters recommended that the OCC remove this limitation.

Two commenters recommending removal of this limitation expressed concern that the statement is unnecessary and may create some uncertainty concerning a national bank's legal authority to engage in brokerage activities. The OCC does not intend for this provision to limit a national bank's authority to act as a broker where permitted under applicable Federal law. It merely clarifies that the authority to act as a finder is different from the authority to act as a broker and that a bank may not rely on the "finder" authority to engage in "brokerage" activities that are otherwise not authorized by Federal law. The proposal also stated that, "Unless otherwise prohibited," a national bank may advertise and accept a fee for acting as a finder. Two commenters suggested that the OCC delete the phrase "Unless otherwise prohibited" to permit a national bank to act as a finder without restriction. However, this language recognizes that some limitations may apply to national bank finders fees. For example, state laws may prohibit brokers from splitting commissions with nonbrokers. In addition, the Real Estate Settlement Procedures Act (RESPA) and its implementing regulations prohibit the acceptance of a fee for a referral to a settlement service if the referral involves a federally-related mortgage loan. *See* 12 U.S.C. 2601 through 2617, and 24 CFR 3500.14(b). Therefore, the final ruling retains this phrase.

One commenter also suggested that the OCC reference RESPA in the final ruling to ensure that banks do not mistakenly believe that this ruling preempts RESPA. However, the OCC believes that adding this reference is unnecessary and, therefore, adopts § 7.1002 as proposed.

Money Lent at Banking Offices or at Other Than Banking Offices (Section 7.1003); Loans Originating at Other Than Banking Offices (Section 7.1004); Credit Decisions at Other Than Banking Offices (Section 7.1005)

Proposed §§ 7.1003, 7.1004, and 7.1005 addressed the circumstances under which the OCC would apply the branching limitations and procedures set forth in 12 U.S.C. 36 and 12 CFR 5.30 to lending activities by national banks.

Proposed § 7.1003 incorporated case law relating to where "money" is "lent" for purposes of branching. Under the proposal, money is lent where the customer, in person, receives loan funds from the bank. Thus, if a customer receives funds from a bank employee or at bank premises, the bank would be subject to branching limitations and require OCC branch approval. However, if the customer receives funds from an independent third party, including a messenger service described in § 7.1012, at a nonbank facility, the bank would not be subject to branching limitations and would not require OCC branch approval. Proposed § 7.1003 also would codify OCC interpretations that branching requirements do not encompass certain accepted industry practices on loan disbursal such as when an attorney or escrow agent disburses funds at a real estate closing.

Proposed § 7.1004 retained the language in § 7.7380, a judicially recognized safe harbor explaining the circumstances under which national banks may originate loans at nonbranch sites, known as loan production offices (LPOs), without those sites being considered branches.

Proposed § 7.1005 incorporated OCC interpretations explaining that offices at which loan *approvals* occur are not, solely by virtue of that activity, considered branches. This interpretation also recognized that a bank may approve loans originated at an LPO at locations other than the bank's main office or branches without causing the LPO to be considered a branch, even though this process does not fit squarely within the safe harbor set forth in § 7.1004. Of course, this LPO or loan approval office would constitute a branch if it undertakes to lend money as defined in § 7.1003 or otherwise is defined as a branch under the McFadden Act (12 U.S.C. 36(j)) and 12 CFR 5.30.

Fifteen commenters addressed one or more aspects of these rulings. Most supported the proposals generally or had specific comments seeking clarification of certain aspects of the proposed language. Several asked the OCC to state that the § 7.1003 language regarding where a loan is made pertains only to the lending of money for branching purposes and does not control where a loan is made for purposes of applying applicable state laws.

In proposing these rulings, the OCC considered only the language and history of 12 U.S.C. 36(j) concerning what constitutes a "branch" for purposes of the McFadden Act. Thus, for clarification purposes, the final ruling uses the term "money lent" contained in the McFadden Act instead of the phrase "loan is made" and explicitly states that the definition of "money lent" applies only to that term as used in 12 U.S.C. 36(j) and 12 CFR 5.30. The OCC does not intend to apply this definition to the determination of where a bank is "located" for purposes of applying usury limits set forth in 12 U.S.C. 85 or to control the applicability of various state laws pertaining to lending.

Several commenters thought that the branching definition set forth in proposed § 7.1003 was incomplete because it did not take into account whether the bank had established the lending facility or whether the public had access to the facility. However, the OCC has proposed to include a general definition of what constitutes a branch, including the "public access" and "establishment" tests, in its proposed revisions to 12 CFR part 5.[1]

Several commenters asked the OCC to clarify where money would be considered to be lent for branching purposes. One commenter expressed concern that because many loans do not involve in-person disbursement, a bank could make a loan without branch involvement, thus creating a "gap" that causes the test to fail. The OCC recognizes that technology and market developments may, in many instances, result in a bank making a loan without branch involvement. This has long been the case on the deposit side where a customer can make deposits and withdrawals by mail or through shared ATMs or other electronic means without branch involvement. As on the deposit side, this "gap" does not cause the test to fail—it just recognizes modern realities that banks can undertake traditional banking activities in ways that Congress did not contemplate in the McFadden Act as adopted in 1927. In the final ruling the OCC specifically includes in § 7.1003(a) the phrase "if any" to indicate that the OCC does not believe that the making of a loan necessarily causes any particular location to be a "branch" within the meaning of 12 U.S.C. 36.

Several commenters also questioned the interplay of § 7.1004 with §§ 7.1003 and 7.1005. The OCC has retained § 7.1004, former § 7.7380, because it is a judicially recognized safe harbor permitting national banks to undertake certain lending related activities without the constraints of the McFadden Act. The OCC notes, however, that this is a safe harbor; merely because a lending related activity falls outside the scope of § 7.1004, as with § 7.1005 regarding the making of credit decisions, does not mean that the OCC views the bank as violating the McFadden Act.

One commenter also stated that § 7.1003(b) was not broad enough. The OCC emphasizes that any person or entity qualifying under the messenger service ruling (§ 7.1012), could deliver loan proceeds without implicating the branching rules and that § 7.1012 is itself a safe harbor.

[1] *See* 59 FR 61034 (proposed November 29, 1994). In this regard, the OCC also notes that what constitutes "establishment" of a branch would more appropriately be determined pursuant to an analysis of the McFadden Act, case law, and 12 CFR part 5. Thus, the OCC has changed references in proposed § 7.1003 to a facility that is "owned or rented" by a bank to a facility that is "established" by a bank.

Thus, the OCC has adopted §§ 7.1003, 7.1004, and 7.1005 substantially as proposed. The final ruling clarifies that the definition of the phrase "money lent" applies solely to that phrase as used in the McFadden Act and 12 CFR 5.30. In addition, the OCC has changed the references in the proposal to the "disbursal of funds by the bank to a customer" to the "receipt of loan proceeds directly from bank funds." This change clarifies that the key portion of a loan transaction for branching purposes is in-person receipt by the borrower from the bank or on bank premises of loan proceeds directly from bank funds—not disbursement by the bank through any mechanism, nor disbursement of funds that at the time of receipt by the borrower are not bank funds, nor disbursement of funds that do not at the time of disbursement constitute loan proceeds. In addition, in the final ruling the OCC changes references to a "subsidiary corporation" to "operating subsidiary."

Loan Agreement Providing for a Share in Profits, Income or Earnings or for Stock Warrants (Section 7.1006)

The proposal did not change this section, which permits a national bank to take as consideration for a loan a share in the profit, income, or earnings from a business enterprise of a borrower. One commenter suggested that the OCC state that a national bank may accept stock warrants as consideration for a loan.

The OCC has previously approved the acceptance of stock warrants taken in addition to, or in lieu of, interest on a loan, provided that a national bank does not exercise the acquired stock warrants. *See* OCC Interpretive Letter No. 517 (August 16, 1990), *reprinted in* [1990–1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,228. The OCC has incorporated this interpretation into the final ruling.

Postal Service by National Bank (Section 7.1010)

The proposal made no substantive changes to this section. One commenter noted that, by stating that the services performed by a postal substation may include meter stamping of letters and packages, and the sale of related insurance, the ruling could imply that a national bank may offer only the listed services. The OCC does not intend for this to be an exclusive list of services and has, by interpretive letters, found that a national bank may engage in other activities, including selling stamps, accepting letters and packages for mailing, and maintaining post office boxes. Because a national bank operating a postal substation must do so in accordance with the regulations of the United States Postal Service, the OCC has changed the ruling to reference those regulations.

National Bank Acting as Payroll Issuer (Section 7.1011)

The proposal made no substantive changes to former § 7.7485, which recognized that a national bank may disburse to employees of a bank customer payroll funds deposited with the bank by that customer. One commenter observed that the proposed ruling could be read narrowly to bar disbursement of payroll funds if made indirectly to the employee by crediting the employee's account with a financial institution other than the disbursing bank. The OCC has recognized that a national bank may forward funds to other banks in which a customer's employees maintain accounts. *See* Letter from F.H. Ellis, Chief National Bank Examiner (July 19, 1971) (unpublished).[2] The OCC has modified the proposal and former ruling to reflect that precedent and to incorporate certain technical changes.

Debt Cancellation Contracts (Section 7.1013)

The former interpretive ruling permitted national banks to offer customers debt cancellation contracts (DCCs) that cancel debt upon the death of the borrower. The proposal added disability and unemployment as types of DCCs that are expressly permitted by the interpretive ruling.

The OCC received several comments on this section. The majority of those commenters supported the proposal. Some urged the OCC to expand the final ruling to state that national banks may offer additional types of DCCs that the OCC did not include in the proposal. Some commenters, however, cautioned that DCCs present certain risks, and, therefore, did not support expansion of the former interpretive ruling.

The final ruling expands the former ruling to provide that a national bank may offer DCCs for the death or disability of a borrower. The OCC recognizes that it also may be appropriate for a national bank to offer a DCC that is triggered by other events. However, risk considerations that may be particular to other types of DCCs, or to specific banks, require the OCC to consider these other types of DCCs on a case-by-case basis.

In addition, national banks offering DCCs, whether for death or disability, or for other triggering events, must do so in a safe and sound manner. If a bank is unable to demonstrate an ability by itself to estimate and reserve adequately for the risks attendant to DCCs, the bank may obtain third party coverage or take other measures to cover the risks presented by the DCC.

Independent Undertakings To Pay Against Documents (Section 7.1016)

The proposal updated former § 7.7016 to reflect modern market standards and industry usage and replaced the term "letters of credit" with "independent undertakings." The term "independent undertakings" is used by the United Nations Commission on International Trade Law (UNCITRAL) to cover a broader array of transactions in this area.

The proposal extended the same safety and soundness principles in the former ruling to this broader class of independent undertakings. The proposal explained that non-documentary conditions on the bank's undertaking are not relevant to the bank's obligation to honor its commitment. Furthermore, the proposal provided a clearer statement of regulatory standards directed to the segment of the banking industry that engages in these activities. The proposal also provided a non-exclusive list of sample laws and rules of practice under which a national bank may issue independent undertakings.

The OCC received 13 comments with the majority supporting the proposal. Several commenters recommended that when referencing applicable laws or rules of practice, the ruling should use generic citation references or citations to their most recent versions. The OCC has updated the non-exclusive list of sample laws and rules of practice to refer to Revised Article 5 of the Uniform Commercial Code (UCC) (1995) (current model code) as well as Article 5 of the UCC (1990) (former model code), and to the 1993 version of the Uniform Customs and Practice for Documentary Credits (ICC Publication No. 500) (effective January 1, 1994) instead of the 1983 version. The sample listing is intended to provide non-exclusive examples of laws or rules of practice, as the cited examples may not necessarily apply in a particular case or may be revised in the future, or other applicable laws or rules of practice subsequently may come into effect. The OCC has added the phrase "as any of the foregoing may be amended from time to tim" to the end of the non-exclusive listing of sample laws and rules of practice to recognize that they may be revised from time to time.

Four commenters recommended clarifying that "evergreen" clauses are permissible, despite the proposal's requirement in § 7.1016(b)(1)(iii) that the undertaking be "limited in duration." Long-standing OCC precedent permits national banks to use "evergreen" or "automatic extension" clauses in their letters of credit provided that the bank retains the right not to renew the letter of credit. Therefore, the final ruling adds clarifying language expressly permitting a national bank to issue an undertaking without an express expiration date, provided that the bank has the right to cancel the undertaking upon notice to the parties.

Several commenters objected to the word "must" in proposed § 7.1016(b), as "must" seemed to impose mandatory safety and soundness conditions on the issuance of independent undertakings. The final ruling changes references in § 7.1016(b) from "must" to "should," consistent with former § 7.7016, to provide banks with added flexibility in structuring and entering into financing arrangements. Nonetheless, the OCC strongly urges national banks to evaluate these safety and soundness factors when issuing independent undertakings.

Some commenters asked whether the proposal's reference to a bank issuing an undertaking for its own account meant that the OCC permits national banks to issue two-party letters of credit. As intended in the proposal, the OCC's position is that a national bank may issue a two-party letter of credit provided that it is permissible under applicable law and satisfies the requirements of § 7.1016(b)(2)(iii), regarding a bank's undertaking for its own account. Since a two-party letter of credit is issued for the bank's own account, the two-party letter of credit satisfies the requirements of § 7.1016(b)(1)(iv), regarding a bank's right of reimbursement.

National Bank as Guarantor or Surety on Indemnity Bond (Section 7.1017)

The proposal removed a well-settled provision stating that foreign branches may exercise additional powers pursuant to 12 U.S.C. 604a. The proposal made no other substantive changes.

The proposal generally provided that a national bank may act as guarantor or surety to indemnify another if the bank has a substantial interest in the performance of the transaction or a segregated deposit sufficient in amount to cover the bank's total potential liability. One commenter suggested that the OCC should expand the ruling to permit a national bank to guarantee or indemnify a party to a transaction if the guarantee or indemnification is secured by any of the types of collateral acceptable under section 23A of the Federal Reserve Act (FRA) (12 U.S.C. 371c) for a "covered transaction."

The OCC finds that the types of collateral listed at section 23A(c)(1) (A) and (B) of the FRA (12 U.S.C. 371c(c)(1) (A) and (B)), the 100 and 110 percent collateral categories, respectively, are acceptable for a national bank to use as security without undue risk when acting as a guarantor or surety to indemnify another. Therefore, the final ruling permits a national bank to lend its credit, bind itself as surety to indemnify another, or otherwise become a guarantor to a transaction if the bank has a security interest in either of these two categories of collateral.

The 100 percent collateral category includes obligations of the United States or its agencies, obligations fully guaranteed by the United States or its agencies as to principal and interest, and notes, drafts, bills of exchange, and bankers' acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank. The 110 percent collateral category includes obligations of a state or political subdivision of a state.

To ensure that the bank is not exposed to a risk of loss, the bank must perfect its security interest in the collateral. For example, if the collateral is a printed security, the bank must have obtained physical control of the security, and, if the collateral is a book entry security, the bank must have properly recorded its security interest.

Because the value of these types of collateral can fluctuate, the final ruling requires that the collateral have a market value, at the close of each business day, equal to the bank's total potential liability if the collateral is composed of obligations of the United States or its agencies, obligations fully guaranteed by the United States or its agencies as to principal and interest, or notes, drafts, bills of exchange, or bankers' acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank. If the collateral is composed of obligations of a state or political subdivision of a state, it must have a market value, at the close of each business day, equal to 110 percent of the bank's total potential liability.

Furnishing of Products and Services by Electronic Means and Facilities (Section 7.1019)

The proposal permitted a national bank to use data processing equipment to perform for itself and others "all services expressly or incidentally authorized under the statutes applicable to national banks." The proposal also incorporated the OCC's interpretive position that a national bank using data processing equipment or technology to perform authorized services may market and sell "any legitimate excess capacity" in that equipment or technology. *See, e.g.*, OCC Interpretive Letter No. 677 (June 28, 1995), *reprinted in* [1994–1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,625.

The OCC requested comment on whether the proposed language is necessary. The OCC also requested comment on whether the OCC should more specifically describe permissible sales of excess capacity and the services that a national bank may provide using data processing equipment or technology.

All 12 of the commenters generally supported the proposal. A majority of the commenters stated that greater specificity in describing authorized services would not be useful because more detailed language would quickly become outdated by the rapid development of technology. In addition, a majority of the commenters urged the OCC to adopt a broader standard than the proposal used to define the scope of permissible sales of data processing equipment and technology. Three commenters urged the OCC to delete the term "legitimate" from the phrase "legitimate excess capacity." One commenter suggested that the OCC state that a bank may market and sell any excess capacity in data processing equipment or technology that the bank acquired or developed for banking purposes based on a good faith determination of its own current and future needs.

The OCC considered a number of alternatives for changing the proposal to modernize the treatment of permissible data processing activities. The OCC recognizes that national banks are engaging, and will engage, in an increasing range of activities through electronic means and facilities beyond simply "data processing." For this reason, the OCC has modified this ruling to refer to activities, functions, products, and services provided via electronic means and facilities, rather than "data processing" and changes the title of § 7.1019 from "Use of data processing equipment and furnishing of data processing services" to "Furnishing of products and services by electronic means and facilities."

The OCC also finds the commenter's suggestion of a "good faith" standard to be more appropriate than "legitimate

[2] All unpublished OCC staff interpretive letters are available (in redacted form) upon request from the Communications Division, 250 E Street, SW, Washington, DC 20219 (202) 874–4700.

excess capacity" to define the scope of a national bank's permissible sales of excess electronic capacities. The good faith requirement is an important safeguard against abusing this authority. Therefore, the OCC adopts the commenter's suggestion. Moreover, the final ruling, which expressly states that these sales are appropriate for a bank to optimize the use of the bank's resources, more closely parallels the standard the OCC applies when national banks utilize their excess *physical* space for non-bank uses. *See, e.g.*, Letter from Peter Liebesman, Assistant Director, Legal Advisory Services Division (July 24, 1987) (unpublished) and cases cited therein, *Wingert* v. *First Nat'l Bank of Hagerstown, Md.*, 175 F. 739 (4th Cir. 1909), *aff'd*, 223 U.S. 670 (1912); *Brown* v. *Schleier*, 118 F. 981 (8th Cir. 1902), *aff'd*, 194 U.S. 18 (1904).

Purchase of Open Accounts (Section 7.1020)

The proposal contemplated moving former § 7.1105 to 12 CFR part 32. However, the section relates to a national bank's ability to engage in factoring, and the OCC has concluded that it more appropriately belongs in part 7. Therefore, the final ruling adopts the language contained in the former ruling, except for the language that "accounts need not in every case represent an evidence of debt." This language is removed because it is well settled under OCC precedents that factoring is an extension of credit for lending limit purposes.

Corporate Governance Procedures (Section 7.2000)

The proposal provided that a national bank undertaking a corporate governance procedure must comply with applicable statutes and regulations, and safe and sound banking practices. The proposal also established a safe harbor for a national bank that undertakes a corporate governance procedure, if the bank complied with certain OCC-designated sections of the Model Business Corporation Act (MBCA), where the Federal banking statutes and regulations are otherwise silent on the matter. The OCC invited comment on whether the MBCA is the appropriate form of guidance to provide national banks with additional flexibility in structuring their corporate practices or whether the Delaware General Corporation Law or other sources are preferable.

The OCC received ten comments on the proposal. A number of commenters recommended that the final ruling permit a national bank to rely on the corporate governance procedures of the state where the bank is located or the state where the bank's holding company, if any, is incorporated. Two commenters recommended expanding the list of permissible MBCA sections so that a national bank could rely on any section of the MBCA to the extent it is not inconsistent with Federal banking statutes or regulations. One commenter suggested permitting the bank to rely on an opinion of counsel that the procedure is permissible for a national bank.

Four commenters also discussed Delaware General Corporation Law as a source of guidance. Two of these commenters stated that Delaware law would be an acceptable source of guidance. One commenter supported permitting the use of Delaware law as an alternative to the MBCA. One commenter opposed the use of Delaware law unless other states' laws are similarly permitted as a source of guidance for national bank corporate governance procedures.

After careful consideration of the comments received, the OCC has adopted a revised two-step approach that provides national banks with maximum flexibility to structure their corporate governance procedures while providing shareholders and others with adequate notice as to the body of corporate standards on which the bank will rely. Under the final ruling, a corporate governance procedure used by a national bank must comply with applicable Federal banking statutes and regulations, and safe and sound banking practices. In addition, to the extent not inconsistent with those Federal banking statutes and regulations, or safe and sound banking practices, a national bank may elect to follow the corporate governance procedures of the state in which the main office of the bank is located, the state where the bank's holding company is incorporated, the Delaware General Corporation Law, Del. Code Ann. tit. 8 (1991, as amended 1994, and as amended thereafter), or the MBCA (1984, as amended 1994, and as amended thereafter). This approach provides national banks with a wide range of choices to structure their corporate governance procedures consistent with the particular needs of the bank.

The OCC is mindful, however, of providing shareholders and other interested parties with adequate notice of the bank's corporate governance procedures. Therefore, the final ruling requires the bank to designate in its bylaws the body of law that will govern its corporate procedures. The final ruling also retains a process for a bank to seek informal staff guidance regarding permissible corporate governance procedures.

Notice of Shareholders' Meetings (Section 7.2001)

The proposal simplified the language in former § 7.4000 and clarified that a national bank must mail notice of the time, place, and purpose of all shareholders' meetings at least ten days before the proposed meeting.

Two commenters recommended revising this section to permit the sole shareholder of a national bank to waive notice of the shareholders' meeting. The OCC agrees that permitting the sole shareholder to waive shareholder notice will not detrimentally affect bank safety and soundness and will eliminate unnecessary regulatory burden. Thus, the final ruling adds a new sentence that the sole shareholder of a national bank may waive the notice requirements of this section.

Two commenters also recommended modifying this section to state that shareholders generally may waive their right to written notice of shareholder meetings. As a general matter, the OCC does not accept written waivers of the general requirement for notice of regular annual meetings of national banks or meetings involving certain types of fundamental corporate changes. The corporate affairs of a bank may not as closely involve shareholders as directors, and thus regular annual meetings provide an important forum for expression of shareholder views. In addition, the absence of notice and full disclosure for meetings, particularly those involving fundamental corporate changes, could jeopardize the ability of shareholders to protect their rights.

Another commenter recommended expanding the section to require a national bank to mail "or otherwise deliver" shareholders' notice. However, requiring a national bank to mail shareholders' notice of all shareholders' meetings at least ten days prior to the meeting by first class mail provides the OCC with confirmation of a bank's adherence to the "ten day" shareholder notice requirement. Therefore, the final ruling does not incorporate the phrase "otherwise deliver."

Honorary Directors or Advisory Boards (Section 7.2004)

The proposal permitted a national bank to appoint honorary or advisory members of the board of directors to act in advisory capacities without voting power or power of final decision in matters concerning the bank's business. The proposal made no substantive changes to this section. One commenter suggested clarifying that one or more separate advisory boards are permitted. The final ruling changes the title and language of this section to clarify that more than one advisory board is permissible.

Ownership of Stock Necessary To Qualify as Director (Section 7.2005)

The proposal removed repetitive information requirements relating to directors' qualifying shares under 12 U.S.C. 72. It also incorporated OCC precedent to provide that a director's ownership of preferred stock in a national bank may satisfy statutory requirements. The proposal also clarified that a director may borrow from the bank or its affiliates the funds to purchase the required minimum equity interest.

The OCC received two comment letters on this section. The commenters each requested the OCC to state that a national bank director can hold qualifying shares in individual retirement accounts, retirement plans, 401(k) plans or other similar arrangements.

Twelve U.S.C. 72 requires a national bank director to own the qualifying shares in "his or her own right." The purpose of the qualifying shares requirement is to ensure that a director has a sufficient individual financial interest in the bank to induce him or her to be vigilant in protecting the bank's interests. *Cupo v. Community National Bank & Trust Co. of New York*, 324 F. Supp. 1390, 1393 (E.D.N.Y. 1971). The OCC agrees that various retirement plans and similar arrangements may provide directors with the requisite financial interest to satisfy the qualifying shares requirement of 12 U.S.C. 72. Therefore, the final ruling provides that a director's qualifying interest also may be held through profit sharing plans, individual retirement accounts, retirement plans, and similar arrangements, provided the director retains beneficial ownership and legal control over the shares. For examples of arrangements the OCC has previously approved, *see* Letter from Peter Liebesman, Assistant Director, Legal Advisory Services Division (July 7, 1981) (unpublished); Letter from Larry J. Stein, Senior Attorney, Legal Advisory Services Division (May 28, 1986) (unpublished); Letter from Christopher C. Manthey, Senior Attorney, Legal Advisory Services Division (September 5, 1989) (unpublished); and Letter from James A. Wright, Attorney, Securities and Corporate Practices Division (November 6, 1989) (unpublished).

The OCC has also changed the ruling to reflect OCC precedent that eliminates some of the distinctions between the required amount of ownership a director must hold in national bank stock as opposed to holding company stock. *See* OCC Interpretive Letter No. 503 (April 4, 1989), *reprinted in* [1990–1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,201. Under the final ruling, a director may hold common or preferred stock of the bank or a company that controls the bank if that stock has not less than an aggregate par value of $1,000, an aggregate shareholders' equity of $1,000, or an aggregate fair market value of $1,000.

Filling Vacancies and Increasing Board of Directors Other Than by Shareholder Action (Section 7.2007)

The proposal modified former § 7.4305 to clarify that "the majority of shareholders or a majority of directors" may increase the number of directors and that this increase is limited to two directors (when the number of directors is 15 or fewer) or four (when the number of directors is 16 or more). The proposal also eliminated language that repeated the statute and clarified the procedures for filling vacancies on the board of directors.

The OCC received three comments on the proposal. One commenter noted that the language could be read to preclude shareholders from increasing the board of directors by more than two (when the number of directors is 15 or fewer) or four (when the number of directors is 16 or more). This is not the OCC's intent. Nothing in the final ruling is intended to limit whatever lawful authority shareholders, as distinct from the directors themselves, may have to increase the board of directors. Therefore, the final ruling has been changed to focus solely on increases made by action of the board of directors. Under the final ruling, if authorized by the bank's articles of association, a majority of the board of directors may increase the number of the bank's directors within the limits specified in 12 U.S.C. 71a. When the board of directors increases the number of directors, that increase is limited to two when the number of directors last elected by shareholders was 15 or fewer, and to four when the number of directors last elected by shareholders was 16 or more.

The final ruling also clarifies that the shareholders, a majority of the board of directors remaining in office, or, if the directors remaining in office constitute fewer than a quorum, an affirmative vote of the directors remaining in office, may fill a vacancy on the board of directors.

Oath of Directors (Section 7.2008)

The proposal removed the last paragraph of former § 7.4415, which restated the statute and separated the section into "administration" and "execution" of the oath. One commenter recommended clarifying that the oath must be maintained in writing for a specified period of time. The OCC removed the requirement in the former ruling that the director subscribe to the oath and immediately transmit it to the OCC to be filed and preserved for ten years because that requirement merely restates 12 U.S.C. 73. Therefore, the final ruling makes no changes and, as in the proposal, removes the last paragraph of the former ruling.

Directors' Responsibilities (Section 7.2010)

The proposal modified current § 7.4425 to state that while directors may delegate the day-to-day operations of the bank to management, the directors maintain responsibility for supervising management to ensure that the bank is operated in accordance with policies and procedures established by the board as well as with applicable law, regulations, and safe and sound banking practices.

Two commenters supported the proposal. Two commenters asserted that the word "ensure" implies that directors are guarantors of the bank's legal and regulatory compliance. One commenter suggested substituting the word "determine" for "ensure." Another commenter criticized the proposal as contrary to statutory and case law in stating that the board may delegate only the bank's day-to-day operations but not the oversight function and for not stating that directors are entitled to rely reasonably on management, officers and inside and outside professionals for nearly all board functions. This commenter recommended issuing a separate interpretive ruling or Banking Circular on duties of national bank directors, or removing the ruling from part 7.

The proposal sought to provide directors with a more informed statement of the OCC's expectations regarding the responsibilities of a national bank's board of directors. However, the OCC acknowledges the limitations inherent in crafting a regulation in this complex area that is not overly detailed yet provides directors with clear and useful guidance as to their responsibilities. Sources already available, such as the OCC's Director's Book and the "Comptrolier's Handbook for National Bank

Examiners,"[3] provide an informal and more extensive description of these responsibilities.

Thus, the final ruling has been changed to provide a general statement that the business and affairs of the bank shall be managed by or under the direction of the board of directors. However, in order to notify directors of their basic responsibilities and available sources of additional guidance, the final ruling also states that a director should refer to other OCC published guidance for additional information regarding the OCC's views on the responsibilities of national bank directors.

Compensation Plans (Section 7.2011)

The proposal combined and condensed current §§ 7.5000, 7.5010, and 7.5015, regarding bonus and profit sharing plans, pension plans, and employee stock option and stock purchase plans, respectively, into one section on compensation plans.

One commenter suggested that the list of compensation plans should be illustrative rather than exclusive as there are alternative types of compensation programs that may be appropriate for national banks but do not fall within one of these three types. The OCC agrees with the commenter and clarifies the final ruling to allow national banks flexibility to adopt compensation plans other than those specified in this section. The OCC has also changed the ruling to refer to the compensation provisions contained in 12 CFR part 30, Standards for Safety and Soundness.

Indemnification of Institution-affiliated Parties (Section 7.2014)

The proposal revised former § 7.5217 to state that a national bank may indemnify certain individuals and advance legal fees and expenses, subject to certain limitations. Under the proposal, a national bank could not, however, indemnify an individual where an administrative proceeding resulted in a final order that assessed a civil money penalty or required restitution, or a final removal or prohibition order under 12 U.S.C. 1818 (e) or (g).

The proposal also imposed certain procedural requirements for advancing expenses and legal fees in connection with administrative enforcement actions. Under the proposal, a national bank could advance expenses and legal fees if the disinterested members of the board of directors determined, in good faith, that there is a reasonable basis for the individual to prevail on the merits; that the individual has the financial capacity to reimburse the bank if he or she did not prevail; and that the payment of the expenses by the bank is not unsafe or unsound. The indemnified individual would have been required to repay advances to the bank, however, if the action or proceeding resulted in a final order assessing a civil money penalty or requiring restitution, or a final removal or prohibition order under 12 U.S.C. 1818 (e) or (g). The proposal also required an individual to execute a formal and binding agreement to reimburse the bank for expenses and fees in the event he or she did not prevail. The OCC invited comment on whether these standards were workable or too restrictive, and whether other standards were more appropriate.

On March 29, 1995, the Federal Deposit Insurance Corporation (FDIC) issued its second proposal relating to bank indemnification of institution-affiliated parties. The FDIC proposal would implement the so-called "golden parachute" and indemnification provisions of section 18(k) of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) and would apply to all depository institutions, including national banks. Several commenters responding to the OCC proposal recommended that the OCC adopt the FDIC proposal in its entirety or specific provisions of the FDIC proposal that were "less restrictive" than the OCC proposal. These commenters advocated a single indemnification standard applicable to national banks to avoid conflicting standards.

The OCC agrees that a single set of rules governing permissible indemnification in connection with administrative proceedings or civil actions brought by Federal banking agencies should apply to national banks. One set of rules prevents confusion, reduces compliance and legal costs, and minimizes unnecessary regulatory burden. Because 12 U.S.C. 1828(k) subjects national banks to the requirements of any FDIC regulation on indemnification, FDIC standards would supersede less restrictive separate OCC standards. Therefore, the OCC has changed the part 7 ruling on indemnification to clarify that a national bank may make or agree to make indemnification payments to an institution-affiliated party with respect to an administrative proceeding or civil action initiated by any Federal banking agency, that are reasonable and consistent with the requirements of 12 U.S.C. 1828(k) and any implementing regulations thereunder.

The FDIC proposal does not address indemnification in circumstances involving an administrative proceeding or civil action not initiated by a Federal banking agency. The former ruling, § 7.5217, provided generally that indemnification articles that substantially reflect general standards of law of the state in which the bank is headquartered, the law of the state in which the bank's holding company is incorporated, or the relevant provisions of the MBCA, were presumed by the OCC to be within the corporate powers of a national bank. The OCC has changed the proposal to provide further flexibility and to maintain consistency with the revised corporate governance procedures in § 7.2000. Under the final ruling, with respect to an administrative proceeding or civil action not initiated by a Federal banking agency, a national bank may indemnify an institution-affiliated party for damages and expenses, including the advancement of expenses and legal fees, in accordance with the law of the state in which the main office of the bank is located, the law of the state in which the bank's holding company is incorporated, or the relevant provisions of the MBCA or Delaware General Corporate Law. In all cases, indemnification payments should be consistent with the safety and soundness of the bank involved. The final ruling also requires the bank to designate in its bylaws the body of law it has selected to govern its indemnification procedures. The final ruling no longer requires banks to include the indemnification provisions in its articles of association.

Cashier (Section 7.2015)

The proposal changed former § 7.5245 to clarify that the cashier's duties may be delegated to the president, chief executive officer, or other officer. One commenter recommended that the OCC change references to the board of directors to a "duly designated officer." The OCC agrees with this recommendation and, consistent with the OCC's continuing effort to reduce unnecessary regulatory burden, changes the final ruling to permit a duly designated officer to assign duties previously performed by the bank's cashier.

Facsimile Signatures on Bank Stock Certificates (Section 7.2017)

The proposal revised former § 7.6010 to clarify that facsimile signatures include electronic means of signature. One commenter recommended further relief from administrative burden by deleting all references to "seals" and "corporate seals" in the corporate governance section, including the reference proposed in § 7.2017. Although the OCC recognizes the need to reduce administrative burden, 12 U.S.C. 52 requires every national bank stock certificate to be sealed with the seal of the association. Therefore, the OCC adopts this section as proposed.

[3] These sources are available upon request from the OCC Communications Division, 250 E Street, SW, Washington, DC 20219 (202) 874–4700.

Acquisition and Holding of Shares as Treasury Stock (Section 7.2020)

The proposal added a new section to address a national bank's acquisition and holding of shares as treasury stock. The proposal explained that pursuant to the authority and procedures of 12 U.S.C. 59, a national bank may acquire its outstanding shares and hold them for a reasonable period as treasury stock, as long as the acquisition and retention of the shares is for a legitimate corporate purpose. Because 12 U.S.C. 59 requires OCC approval and a two-thirds vote of shareholders for a reduction in capital, there is less risk of improper use of treasury stock. The OCC notes, however, that it would not be permissible for a national bank to acquire and hold treasury stock for speculation or as a means of bypassing some requirement or obligation under the Federal banking laws. Accordingly, the final ruling adds language providing that it would not be permissible for a national bank to acquire or hold treasury stock for speculation.

One commenter expressed concern that the term "reasonable period" is too ambiguous. The commenter contended that as long as the bank complies with 12 U.S.C. 59 regarding the repurchase of outstanding shares, there is no reason that a national bank may not hold treasury stock for as long as the bank sees fit. The OCC agrees with the commenter's suggestion. As long as the acquisition and retention of the shares fulfills a legitimate corporate need, the bank may continue to hold the shares. Therefore, the final ruling does not include the term "reasonable period" but clarifies that the retention of the shares must continue, on an ongoing basis, to be for a legitimate corporate purpose.

Bank Hours and Closings (Section 7.3000)

The proposal revised current § 7.7434 to provide more comprehensive guidance regarding bank hours and closings. Proposed § 7.3000(a) maintained the general requirement that a national bank's board of directors is responsible for establishing a schedule of business hours independently of other banks.

Proposed § 7.3000(b) informed national banks that the Comptroller of the Currency (Comptroller), a state or a legally authorized state official may declare a day to be a legal holiday for emergency reasons. Proposed § 7.3000(b) also set forth examples to clarify circumstances under which a national bank may remain closed.

Proposed § 7.3000(c) also provided that a state or a legally authorized state official may declare a day a legal holiday for ceremonial reasons, and that a national bank may choose to remain open or closed on these holidays.

Finally, proposed § 7.3000(d) reminded national banks to look to applicable law to determine if they may incur liability for closing.

Several commenters requested the OCC to broaden the authority to close a bank or its branch offices. For example, one commenter suggested including provisions allowing a bank office to close if a snow emergency is declared by local authorities. Another commenter suggested following provisions in New York law that permit bank officers to independently protect their institutions by closing offices under certain conditions, provided at least one office remains open.

Twelve U.S.C. 95 clearly authorizes only the Comptroller, a state, or a state official to designate a day as a legal holiday for emergency reasons. Nonetheless, the OCC recognizes the practical concerns raised by the commenters. The ruling attempts to delineate certain emergency conditions under which the Comptroller will act to authorize the closing of bank offices. The OCC does not intend for 12 U.S.C. 95 or the ruling to preclude a bank from asserting defenses, such as impossibility of performance, if compelled to close due to circumstances beyond the bank's control.

Sharing Space and Employees (Section 7.3001)

The proposal revised former § 7.7516 to incorporate current OCC positions on sharing space and employees. Among other things, the proposal clarified that banks may lease excess space in bank premises or share space with businesses other than banks and other financial institutions. The proposal also clarified the OCC's position on a national bank sharing employees with businesses with which it shares space. Finally, the proposal summarized the supervisory conditions that a bank should address in these arrangements, and proposed § 7.3001(d) identified legal issues a bank should consider when entering into these arrangements. The proposal requested commenters to address whether the listed items are appropriate and if the OCC should identify other considerations in lieu of, or in addition to, those described in the proposal.

The OCC received 13 comments addressing this section. Several commenters requested the OCC to clarify whether there are any limitations on the type of business with which the bank may lease or share space. The proposal and the final ruling make clear that a bank may lease excess space in bank premises to one or more businesses. Similarly, a bank may share space jointly held with one or more other businesses. Each of these arrangements is subject to supervisory conditions and legal requirements. However, the ruling does not impose limitations on the type of activity that the other business engages in other than that it cannot adversely affect the safety and soundness of the bank.

One commenter disagreed with the supervisory conditions in proposed § 7.3001(c) (6) and (7) that require the national bank to ensure that (1) the activities of the other business do not affect the safety and soundness of the bank, and (2) the activities of shared employees are consistent with applicable laws and regulations that pertain to agents or employees of such other businesses. This commenter asserted that this would impose inconsistent and duplicative requirements on brokerage firms and, in the case of the latter requirement, impose new obligations on national banks to monitor compliance with securities laws and other regulations by broker-dealers and dual employees of broker-dealers.

The OCC continues to believe that the importance of maintaining a safe and sound national bank system requires banks to ensure that the activities of businesses with which they share premises will not adversely affect bank safety and soundness. Therefore, the OCC retains the requirement contained in proposed § 7.3001(c)(6). However, the OCC did not intend for national banks to monitor compliance on an ongoing basis with all applicable laws affecting broker-dealers or other entities with which the bank shares space or employees. Therefore, the OCC has changed proposed § 7.3001(c)(7) to clarify that a national bank should take steps to ensure that shared employees, or the entity for which they perform services, are duly licensed or meet applicable qualification requirements for the activities in question.

One commenter sought clarification as to whether these supervisory conditions are consistent with, or in addition to, the Interagency Statement on Retail Sales of Nondeposit Investment Products (February 15, 1994)

(Statement).[4] A number of the supervisory conditions incorporate principal elements of the Statement. However, banks should consult any applicable component of the Statement as a source of guidance in structuring these arrangements.

Books and Records of National Banks (Section 7.4000)

The proposal addressed the exclusive examination authority of the OCC. The ruling clarified that under 12 U.S.C. 484, state authority to review the books and records of a national bank is limited to those circumstances in which there is reasonable cause to believe that the bank has failed to comply with applicable state unclaimed property and escheat laws. The comments generally supported the proposal, with two commenters recommending that the OCC clarify the second sentence of § 7.4000(b) by adding the "filing of reports with state regulators" to the list of prohibited state-imposed requirements. The OCC has determined that rather than adopting the specific suggested revision, the OCC will continue to consider this issue on a case-by-case basis. Therefore, the OCC adopts the final ruling substantially as proposed with minor revisions to the first sentence of § 7.4000(a).

Chorging Interest at Rotes Permitted Competing Institutions; Charging Interest to Corporate Borrowers (Section 7.4001)

Under 12 U.S.C. 85, a national bank may charge interest at the highest rate allowed to competing lenders by the state where the bank is located without regard to the location of the borrower. Thus, the statute permits a national bank to "export" to customers in other states the rate of "interest" allowed by the state in which the bank is located. The proposal defined the term "interest" in 12 U.S.C. 85 to reflect current case law. The proposed definition also reflected OCC interpretive opinions on the types of fees and charges that are included and not included in the meaning of the term. The proposal provided non-exclusive lists of specific fees that *are* "interest" (for example, numerical periodic rates, late fees, not sufficient funds (NSF) fees, overlimit fees, annual fees, cash advance fees, and membership fees) and that ordinarily are *not* "interest" (for example, appraisal fees, premiums and commissions on insurance guaranteeing repayment, finders' fees, fees for document preparation or notarization, or fees incurred to obtain credit reports).

Whether a particular fee or charge is properly characterized as "interest" subject to exportation has been the subject of litigation in a number of jurisdictions,[5] and the OCC received many comments from parties on both sides of the issue. On one hand; certain consumer groups and attorneys representing class action suits opposed the proposal. These groups asserted that the proposed definition is contrary to the accepted meaning of the term "interest," and is contrary to consumers' interests. On the other hand, many national banks supported the proposal because it incorporates clear guidance on the OCC's position on the issue of what constitutes "interest" under 12 U.S.C. 85. The OCC believes that the Federal definition of "interest" and the components of interest in the proposal are both consistent with law and beneficial to national banks and their customers with respect to interstate lending operations.

The OCC also received comments from Arkansas trade associations and the Arkansas congressional delegation expressing concern that the proposed Federal definition of "interest" might be misinterpreted to require the inclusion of certain charges that are "interest" under the Federal definition, but not so under Arkansas law, when calculating the maximum effective yield permitted by Arkansas law. The commenters noted that, if the OCC adopts this interpretation, some loans now acceptable under Arkansas usury law could be found to be usurious. The OCC agrees that the language of the proposal is potentially confusing and might be interpreted mistakenly to affect the definition of "interest" in the Arkansas usury law (which, for example, permits banks to charge late fees, but does not include those fees as "interest" in calculating the maximum effective yield).

The definition of interest in § 7.4001 is intended to define "interest" for purposes of determining if a particular charge is subject to 12 U.S.C. 85. Charges that fall within the Federal definition of "interest" are subject to 12 U.S.C. 85 and its "most favored lender" and exportation rules. The fact that a charge is not labeled "interest" under a particular state law does not necessarily mean that it is impermissible, however.

Section 7.4001(b) clarifies that, under the ruling (and 12 U.S.C. 85), one looks to state law to determine what lending charges are permitted for the most favored lender, and thus, also for national banks under 12 U.S.C. 85. However, the Federal definition of "interest" generally does not affect state law definitions of "interest" or the manner in which state law calculates the amount of interest being charged. For example, if late fees are *not* interest under state law where the national bank is located but state law allows late fees, then a national bank located in that state may charge late fees to its intrastate customers. The national bank could also charge the fees to its interstate customers because the fees are "interest" under the Federal definition and an allowable charge under state law where the national bank is located. However, the late fees would not be treated as interest for purposes of evaluating compliance with state usury limitations because state law excludes late fees when calculating the maximum interest that lending institutions may charge under those limitations.

The final ruling addresses the concern raised by the Arkansas commenters regarding the effect of the Federal definition of interest on state law. The OCC has added to § 7.4001 a new paragraph (c) that includes a clarifying sentence confirming that the Federal definition of the term interest does not change a state's definition of interest (nor how the state definition of interest is used) solely for purposes of state law. Paragraph (c) of § 7.4001 also provides the example described in the immediately preceding paragraph of this preamble to illustrate this concept. The final ruling is substantially identical to the proposal, with the addition discussed above. In addition, the reference to "Morris Plan banks" that appeared in the last sentence of proposed § 7.4001(b) has been removed as obsolete. Finally, paragraph (c), "Usury," in the proposal has been redesignated as paragraph (d) in the final ruling.

Most courts interpreting 12 U.S.C. 85 have concluded that various forms of non-percentage-based charges (including such items as late payment, overlimit, and annual fees) for the use of borrowed money fall within the scope of 12 U.S.C. 85. The final ruling is consistent with OCC interpretive letters in this area (*see, e.g.*, OCC Interpretive Letter No. 670 (Feb. 17, 1995), *reprinted in* [1994–1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,618, and the letters cited therein) and reflects the position the OCC has taken in *amicus curiae* briefs in litigation pending in many state and Federal courts (*see, e.g.*, OCC brief filed in the Supreme Court of Pennsylvania in *Bank One, Columbus, N.A. v. Mazaika*, Nos. 1995–31 and 1995–33 (July 17, 1995) (urging reversal of *Mazoika v. Bonk One, Columbus, N.A.*, 653 A.2d 648 (Pa. Super. Ct. 1994) (*en banc*), *appeal granted*, 659 A.2d 557 (Pa. 1995)).

Recently, the California Supreme Court upheld the ability of a national bank to charge certain fees as a component of "interest" and cited the OCC's recent interpretive opinions, as well as proposed § 7.4001, as consistent with the court's reasoning. *Smiley v. Citibank (South Dakota), N.A.*, 900 P.2d 690 (Cal. 1995), *cert. granted*, 64 U.S.L.W. 3500 (U.S. Jan. 19, 1996) (No. 95–860) (holding that the term "interest" as used in 12 U.S.C. 85 encompasses late payment fees, if such fees are allowed by a national bank's home state). *See also Copeland v. MBNA America Bonk, N.A.*, 907 P.2d 87 (Colo. 1995) (*en banc*), *pet. for cert. filed*, 64 U.S.L.W. 3469 (U.S. Dec. 28, 1995) (No. 95–1056); *Richardson v. Citibank (South Dakota), N.A.*, No. 94SC670, 1995 Colo. LEXIS 767 (Colo. Dec. 18, 1995) (*en banc*); *Spellman v. Meridian Bank (Delaware)*, Nos. 94–3203–3204, 94–3215–3218, 1995 U.S. App. LEXIS 37149 (3d Cir. Dec. 29, 1995).

However, the Supreme Court of New Jersey also issued a recent decision concluding that "interest" as used in 12 U.S.C. 85 does not include late payment fees. *Shermon v. Citibank (South Dakota), N.A.*, No. A–102–94, 1005 WL 710414 (N.J. Nov. 28, 1995), *pet. for cert. filed*, 64 U.S.L.W. 3439 (U.S. Dec. 21, 1995) (No. 95–991). The decision of the New Jersey Supreme Court in *Shermon* conflicts with the decisions of the California Supreme Court in *Smiley*, the Colorado Supreme Court in *Copeland* and *Richardson*, and the U.S. Court of Appeals for the Third Circuit in *Spellmon*, and the earlier decision of the First Circuit in *Greenwood Trust*. The U.S. Supreme Court recently granted certiorari in *Smiley* to resolve the conflict on an expedited basis.

As noted in the proposal, the ruling is not intended to be a comprehensive treatment of the issue, and other fees or charges may also be found to be components of interest.

Notional Bank Charges (Section 7.4002)

The proposal responded to concerns raised by Congress regarding the scope of Federal preemption reflected in the former version of this ruling. The conference report to the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, H.R. Conf. Rep. No. 651, 103rd Cong., 2d Sess. 54 (1994), urged the OCC to review former § 7.8000 to determine if it should be withdrawn or revised. The conferees expressed the view that the OCC had applied preemption principles in an overly broad manner with respect to state laws that prohibit, limit, or restrict deposit account service charges imposed by a national bank. In addition, the conference report cited *Perdue v. Crocker Nat'l Bonk*, 702 P.2d 503 (Cal. 1985), *cert. dismissed*, 475 U.S. 1100 (1986), which held that § 7.8000 is not a valid finding of Federal preemption, in part, because Congress had not established a comprehensive Federal statutory scheme governing the taking of deposits.

The proposal revised the ruling to state that the OCC will consider on a case-by-case basis whether a national bank may establish a particular charge or fee that is in conflict with a state law, and that, in issuing an opinion on whether a particular state law is preempted, the OCC will employ the preemption principles derived from the Supremacy Clause of the United States Constitution and judicial precedent.

The OCC received 26 comments on proposed § 7.4002. Ten commenters expressed dissatisfaction with the OCC's proposal to evaluate state laws on a case-by-case basis. Seven of these commenters, mostly large banks, specifically urged the OCC to either retain § 7.8000 or otherwise generally preempt state law limitations or prohibitions on fees and charges. These commenters stated that the conference report, alone, without clear legislative action, does not invalidate § 7.8000's general preemption. After careful review of the comments, the OCC has determined to adopt § 7.4002 substantially in the form proposed, with certain revisions discussed below.

Ten commenters also expressed concern over the OCC's statement in the proposal that a national bank may charge customers "reasonable" charges and fees on dormant accounts, for credit reports or investigations (§ 7.4002(a)), and for deposit account service charges and loan-related fees generally (§ 7.4002(b)). These commenters asserted that inclusion of the term "reasonable" in connection with those areas adds uncertainty to their meaning and will provide a basis for litigation over whether charges and fees are "unreasonable" and, therefore, impermissible under § 7.4002.

The OCC notes that previous interpretive rulings on service charges on dormant accounts and fees for credit reports or investigations contained a "reasonable" standard. Therefore, for those fees and charges, the final ruling continues this standard. However, the OCC also recognizes the commenters' concerns. The final ruling clarifies, in § 7.4002(b), the intent of the proposal that banks have discretion in setting the amount of charges and fees, and that any charge or fee is "reasonably" established if the bank considered the factors enumerated in the final ruling.

Some commenters also asserted that, if the references to "loan-related fees" are included in the final ruling, the OCC should clarify that these fees do not include fees that are components of "interest" under § 7.4001. The OCC agrees with this comment. Therefore, the final ruling omits the phrase "loan-related fees" wherever it appears and instead refers to "non-interest charges and fees" and includes deposit account service charges within non-interest charges and fees. For additional clarity, the final ruling adds a new paragraph (c), "Interest," that provides that charges and fees that are "interest" within the meaning of 12 U.S.C. 85 are governed by § 7.4001 and not by § 7.4002. Proposed § 7.4002(c) and (d), "State law" and "National bank as fiduciary," respectively, have been redesignated as paragraphs (d) and (e), respectively, in the final ruling.

The OCC also notes that the proposal's listing of the standards for consideration in setting charges and fees inadvertently omitted the factor appearing in former § 7.8000(b)(2) on the deterrence of misuse by customers of banking services. The final ruling incorporates this factor.

State Licensing of National Banks

The proposal invited public comment on whether the OCC should propose a specific ruling addressing the applicability of state licensing requirements to national banks. The proposal did not contain any specific language for an interpretive ruling but noted in the preamble the OCC's longstanding position that the authority of a national bank to exercise powers authorized for national banks under Federal law cannot be negated by state licensing requirements. The proposal also restated the principal elements of

[4] Available upon request from the OCC Communications Division, 250 E Street, SW, Washington, DC 20219, (202) 874–4700.

[5] *See, e.g., Smiley v. Citibank (South Dakota), N.A.*, 900 P.2d 690 (Cal. 1995), *cert. granted*, 64 U.S.L.W. 3500 (U.S. Jan. 19, 1996) (No. 95–860) (holding that the term "interest" as used in 12 U.S.C. 85 encompasses late payment fees if such fees are allowed by a national bank's home state); *see also Greenwood Trust Co. v. Massachusetts*, 971 F.2d 818 (1st Cir. 1992), *cert. denied*, 113 S. Ct. 974 (1993) (holding that the term "interest" as used in section 521 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 1831d(a)), a statute modeled on 12 U.S.C. 85, includes late payment fees; in construing the term "interest" in 12 U.S.C. 1831d(a), the court concluded that these parallel sections should be read *in pari materia*). *Contra Sherman v. Citibank (South Dakota), N.A.*, No. A–102–94, 1005 WL 710414 (N.J. Nov. 28, 1995), *pet. for cert. filed*, 64 U.S.L.W. 3439 (U.S. Dec. 21, 1995) (No. 95–991) (holding that the term "interest" as used in 12 U.S.C. 85 does not include late payment fees).

Federal preemption analysis as articulated by the courts.

The OCC received 41 comments addressing this issue. Approximately half of the commenters opposed issuing a ruling that they assumed would attempt to preempt state licensing practices. These commenters cited the OCC's lack of authority to issue a ruling, current litigation and legislation on this matter, and arguments that states are better placed to protect consumer interests. Commenters supporting a ruling noted that it would promote competition by removing disparate treatment of national banks located in different states. Due to the variety of state laws that could be implicated and the complexity of the issues presented, the OCC has decided not to address this area generically at this time.

Other Sections Adopted in the Final Rule

The proposal contained a number of rulings that were not substantively changed from the former rule. The OCC received some comments addressing various aspects of these rulings. The OCC has reviewed these comments and has decided not to make any changes to most of these sections.

In addition, there are a number of rulings for which the OCC proposed changes but did not receive any substantive comments. These rulings also are adopted in the final rule as proposed or with nonsubstantive stylistic edits.

The following is a list of these rulings:

Section 7.1001—National bank acting as general insurance agent;
Section 7.1007—Acceptances;
Section 7.1008—Preparing income tax returns for customers or public;
Section 7.1009—National bank holding collateral stock as nominee;
Section 7.1012—Messenger service;
Section 7.1014—Sale of money orders at nonbanking outlets;
Section 7.1015—Receipt of stock from a small business investment company;
Section 7.1018—Automatic payment plan account;
Section 7.2002—Director or attorney as proxy;
Section 7.2003—Annual meeting for election of directors;
Section 7.2006—Cumulative voting in election of directors;
Section 7.2009—Quorum of the board of directors; proxies not permissible;
Section 7.2012—President as director; chief executive officer;
Section 7.2013—Fidelity bonds covering officers and employees;
Section 7.2016—Restricting transfer of stock and record dates;
Section 7.2018—Lost stock certificates;
Section 7.2019—Loans secured by a bank's own shares;
Section 7.2021—Preemptive rights; and
Section 7.2022—Voting trusts.

Sections Removed From Part 7

The OCC also proposed to remove the following former rulings as generally unnecessary, outdated or repetitive: §§ 7.3000, 7.4005, 7.4015, 7.4100, 7.4200, 7.4205, 7.4400, 7.4410, 7.7000, 7.7015, 7.7400, 7.7405, 7.7410, 7.7415, 7.7505, 7.7519, and 7.7590. The OCC received no comment on these sections, and the final rule removes them. The OCC has also removed § 7.7355 (regarding debts of affiliates) as it is no longer necessary.

The following sections are also removed from part 7 or transferred to 12 CFR part 31 for the reasons stated. This list and the list in the immediately preceding paragraph do not describe sections that were incorporated into other sections in part 7.

Section 7.1100—Capital and surplus. This section is no longer needed.

Section 7.4010—Quorum for shareholders' meeting. This section merely indicates that the statutes are silent with respect to the number of shareholders required for a quorum. Therefore, this section is superseded by the new § 7.2000.

Section 7.5210—Same person holding offices of president and cashier. There is no legal impediment to one person serving as both president and cashier. Further, § 7.2015, discusses the assignment of the cashier's duties and clarifies that the duties of cashier may be delegated to the president, chief executive officer, or other officer.

Section 7.5220—Contracts of employment. Any employment contract that is excessive or unreasonable is unsafe and unsound. Therefore, the current "reasonable" standard is necessarily in effect, so it is unnecessary to reiterate the standard in this interpretive ruling. Moreover, section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) (12 U.S.C. 1831p–1), (regarding safety and soundness standards), and regulations issued by the OCC and other agencies under section 132 deal with excessive or unreasonable contracts. *See* 12 U.S.C. 1831p–1 (c) and (d); 12 CFR part 30.

Section 7.7012—Foreign operations. This section has been removed and is expected to be incorporated into pending revisions to part 28. The removal of this section is not intended to imply any change in a national bank's authority in this area.

Section 7.7115—Insuring lives of bank officers. OCC Banking Circular 249 covers the relevant issues in more detail and is currently undergoing review and revision. Therefore, § 7.7115 is removed as unnecessary.

Sections 7.7360—Loans secured by stock or obligation of an affiliate, 7.7365—Federal funds transactions between affiliates, and 7.7370—Deposits between affiliated banks. These sections have been transferred with some stylistic changes to 12 CFR 31.100, 31.101, and 31.102.

Sections 7.7378—Issuance of credit cards, 7.7379—Servicing of mortgage and other loans as agent. The ability of national banks to engage in these activities is well established and a specific interpretive ruling is not needed.

Section 7.7530—Issuance of promissory notes. This section is removed because it merely restates 12 U.S.C. 24 (Seventh).

Section 7.7540—Reports of condition: Waiver of affiliate reports. Section 308 of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, 108 Stat. 2160 (Sept. 23, 1994), eliminated the requirement that national banks and their affiliates periodically publish the reports of condition in a newspaper. See 12 U.S.C. 161.

The removal or transfer of these sections does not imply any alteration of the underlying authority for national bank activity. The interpretive rulings the OCC proposes to remove or transfer are grounded in statutory authority that remains unchanged.

Other Sections

Finally, the OCC had proposed to move a number of sections to other parts of title 12. These sections included § 7.6040—Fractional shares, 7.7570—Separate investment security limitations, and 7.6120—Dividends payable in property other than cash. These sections have been retained, with some minor stylistic changes, pending the issuance of final rules for 12 CFR parts 1 and 5.

Distribution Table

The distribution table indicates where, if applicable, each section of the former part 7 will appear in the final part 7 or elsewhere.

Original provision	Revised provision	Comment
§7.1100	.....	Removed.
§7.1105	§7.1020 .	Modified.
§7.3000	§7.1000 .	Unchanged.
§7.3005	§7.1000 .	Significant change.
§7.3010	§7.1000 .	Significant change.
§7.3100	§7.1000 .	Significant change.
§7.3300	§7.1000 .	Significant change.
§7.3500	§7.1019 .	Significant change.
§7.4000	§7.2001 .	Significant change.

Original provision	Revised provision	Comment
§7.4005	.....	Removed.
§7.4010	.....	Removed.
§7.4015	.....	Removed.
§7.4020	§7.2002 .	Modified.
§7.4100	.....	Removed.
§7.4105	§7.2003 .	Significant change.
§7.4110	§7.2004 .	Modified.
§7.4200	.....	Removed.
§7.4205	.....	Removed.
§7.4210	§7.2005 .	Significant change.
§7.4300	§7.2006 .	Significant change.
§7.4305	§7.2007 .	Significant change.
§7.4400	.....	Removed.
§7.4410	.....	Removed.
§7.4415	§7.2008 .	Modified.
§7.4420	§7.2009 .	Unchanged.
§7.4425	§7.2010 .	Significant change.
§7.5000	§7.2011 .	Significant change.
§7.5010	§7.2011 .	Significant change.
§7.5015	§7.2011 .	Significant change.
§7.5200	§7.2012 .	Modified.
§7.5210	.....	Removed.
§7.5215	§7.2013 .	Unchanged.
§7.5217	§7.2014 .	Significant change.
§7.5220	.....	Removed.
§7.5230	§7.1000 .	Significant change.
§7.5245	§7.2015 .	Significant change.
§7.6005	§7.2016 .	Modified.
§7.6010	§7.2017 .	Significant change.
§7.6015	§7.2018 .	Unchanged.
§7.6025	§7.4000 .	Significant change.
§7.6030	§7.2019 .	Modified.
§7.6040	§7.2023 .	Modified.
§7.6050	§7.2021 .	Modified.
§7.6060	§7.2022 .	Significant change.
§7.6120	§7.2024 .	Modified.
§7.7000	.....	Removed.
§7.7010	§7.1017 .	Significant change.
§7.7012	.....	Removed.
§7.7015	.....	Removed.
§7.7016	§7.1016 .	Significant change.
§7.7100	§7.1001 .	Unchanged.
§7.7115	.....	Removed.
§7.7200	§7.1002 .	Significant change.
§7.7310	§7.4001 .	Significant change.
§7.7312	§7.1006 .	Significant change.
§7.7315	§7.4002 .	Significant change.
§7.7355	.....	Removed.
§7.7360	.....	Moved (part 31).
§7.7365	.....	Moved (part 31).
§7.7370	.....	Moved (part 31).
§7.7378	.....	Removed.
§7.7379	.....	Removed.
§7.7380	§7.1004 .	Unchanged.
§7.7400	.....	Removed.
§7.7405	.....	Removed.
§7.7410	.....	Removed.
§7.7415	.....	Removed.
§7.7420	§7.1007 .	Unchanged.
§7.7430	§7.1008 .	Unchanged.
§7.7434	§7.3000 .	Significant change.
§7.7455	§7.1009 .	Unchanged.
§7.7482	§7.1010 .	Modified.
§7.7485	§7.1011 .	Modified.
§7.7490	§7.1012 .	Modified.
§7.7495	§7.1013 .	Significant change.
§7.7500	§7.1014 .	Modified.
§7.7505	.....	Removed.
§7.7515	§7.4002 .	Significant change.
§7.7516	§7.3001 .	Significant change.
§7.7519	.....	Removed.
§7.7530	.....	Removed.
§7.7535	§7.1015 .	Unchanged.
§7.7540	.....	Removed.
§7.7560	§7.1018 .	Modified.
§7.7570	§7.1021 .	Unchanged.
§7.7590	.....	Removed.
§7.8000	§7.4002 .	Significant change.

Derivation Table

This derivation table illustrates which former sections of part 7 the final sections are based upon.

Revised provision	Original provision	Comment
	§7.1100 ..	Removed.
§7.1000 .	§§7.3000, 7.3005, 7.3010, 7.3100, 7.3300, 7.5230.	Significant change.
§7.1001 .	§7.7100 ..	Unchanged.
§7.1002 .	§7.7200 ..	Significant change.
§7.1003 .	.....	Added.
§7.1004 .	§7.7380 ..	Unchanged.
§7.1005 .	.....	Added.
§7.1006 .	§7.7312 ..	Significant change.
	§7.7405 ..	Removed.
	§7.7410 ..	Removed.
	§7.7415 ..	Removed.
§7.1007 .	§7.7420 ..	Unchanged.
§7.1008 .	§7.7430 ..	Unchanged.
§7.1009 .	§7.7455 ..	Unchanged.
§7.1010 .	§7.7482 ..	Modified.
§7.1011 .	§7.7485 ..	Modified.
§7.1012 .	§7.7490 ..	Modified.
§7.1013 .	§7.7495 ..	Significant change.
§7.1014 .	§7.7500 ..	Modified.
	§7.7530 ..	Removed.
§7.1015 .	§7.7535 ..	Unchanged.
§7.1016 .	§7.7016 ..	Significant change.
§7.1017 .	§7.7010 ..	Significant change.
§7.1018 .	§7.7560 ..	Unchanged.
§7.1019 .	§7.3500 ..	Significant change.
§7.1020 .	§7.1105 ..	Modified.
§7.1021 .	§7.7570 ..	Unchanged.
§7.2000 .	.....	Added.
§7.2001 .	§7.4000 ..	Significant change.
	§7.4005 ..	Removed.
	§7.4010 ..	Removed.
	§7.4015 ..	Removed.
§7.2002 .	§7.4020 ..	Modified.
	§7.4100 ..	Removed.
§7.2003 .	§7.4105 ..	Significant change.
§7.2004 .	§7.4110 ..	Modified.
	§7.4200 ..	Removed.
	§7.4205 ..	Removed.
§7.2005 .	§7.4210 ..	Significant change.
§7.2006 .	§7.4300 ..	Significant change.
§7.2007 .	§7.4305 ..	Significant change.
	§7.4400 ..	Removed.
	§7.4410 ..	Removed.
§7.2008 .	§7.4415 ..	Modified.
§7.2009 .	§7.4420 ..	Unchanged.
§7.2010 .	§7.4425 ..	Significant change.
§7.2011 .	§§7.5000, 7.5010, 7.5015.	Significant change.
§7.2012 .	§7.5200 ..	Modified.
	§7.5210 ..	Removed.
§7.2013 .	§7.5215 ..	Unchanged.
§7.2014 .	§7.5217 ..	Significant change.
§7.2015 .	§7.5245 ..	Significant change.
§7.2016 .	§7.6005 ..	Modified.
§7.2017 .	§7.6010 ..	Significant change.
§7.2018 .	§7.6015 ..	Unchanged.
§7.2019 .	§7.6030 ..	Modified.
§7.2020 .	.....	Added.
§7.2021 .	§7.6050 ..	Modified.
§7.2022 .	§7.6060 ..	Significant change.
§7.2023 .	§7.6040 ..	Modified.
§7.2024 .	§7.6120 ..	Unchanged.
	§7.7000 ..	Removed.
	§7.7012 ..	Removed.
	§7.7015 ..	Removed.
	§7.7115 ..	Removed.
	§7.7355 ..	Removed.
	§7.7360 ..	Moved (part 31).
	§7.7365 ..	Moved (part 31).
	§7.7370 ..	Moved (part 31).
	§7.7378 ..	Removed.
	§7.7379 ..	Removed.
	§7.7400 ..	Removed.
§7.3000 .	§7.7434 ..	Significant change.
	§7.7505 ..	Removed.
§7.3001 .	§7.7516 ..	Significant change.
	§7.7519 ..	Removed.
	§7.7540 ..	Removed.
	§7.7590 ..	Removed.
§7.4000 .	§7.6025 ..	Significant change.
§7.4001 .	§7.7310 ..	Significant change.
§7.4002 .	§§7.7315, 7.7515, 7.8000.	Significant change.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This regulation will reduce the regulatory burden on national banks, regardless of size, by simplifying and clarifying existing regulatory requirements.

Executive Order 12866

The OCC has determined that the final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, 109 Stat. 48 (March 22, 1995) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before

promulgating a rule. Because the OCC has determined that the final rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of more than $100 million in any one year, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. Nevertheless, as discussed in the preamble, the final rule has the effect of reducing burden.

Paperwork Reduction Act of 1995

The collection of information requirements contained in this final rule have received approval from the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), under OMB control number (1557–0204). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project 1557–0204, Washington, DC 20503, with copies to the Legislative and Regulatory Activities Division 1557–0204, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. The OCC will submit the collection of information requirements contained in this final rule for renewal of OMB approval following publication of this final rule.

The collection of information requirements in this rule are found in 12 CFR 7.1000(d)(1), 7.1014, 7.2000(b), 7.2004, and 7.2014(b). The collections of information are necessary for regulatory and examination purposes, for national banks to ensure their compliance with Federal law and regulations, and to evidence bank compliance with various regulatory requirements. National banks use the information to ensure their compliance with applicable Federal banking law and regulations. This information assists bank management in its safe and sound operation of the bank. The OCC uses the information in the scheduling and conduct of bank examinations and as an audit tool to verify bank compliance with law and regulations.

Respondents are not required to respond to the foregoing collection of information unless it displays a currently valid OMB control number. The likely respondents are national banks.

Estimated average annual burden hours per recordkeeper: 1.7.

Estimated number of recordkeepers: 2,430.

Estimated total annual recordkeeping burden: 4,156.

Start-up costs to respondents: None.

List of Subjects

12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

12 CFR Part 31

Credit, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, chapter I of title 12 of the Code of Federal Regulations, is amended as follows:

1. Part 7 is revised to read as follows:

PART 7—INTERPRETIVE RULINGS

Subpart A—Bank Powers

Sec.
7.1000 National bank ownership of property.
7.1001 National bank acting as general insurance agent.
7.1002 National bank acting as finder.
7.1003 Money lent at banking offices or at other than banking offices.
7.1004 Loans originating at other than banking offices.
7.1005 Credit decisions at other than banking offices.
7.1006 Loan agreement providing for a share in profits, income, or earnings or for stock warrants.
7.1007 Acceptances.
7.1008 Preparing income tax returns for customers or public.
7.1009 National bank holding collateral stock as nominee.
7.1010 Postal service by national bank.
7.1011 National bank acting as payroll issuer.
7.1012 Messenger service.
7.1013 Debt cancellation contracts.
7.1014 Sale of money orders at nonbanking outlets.
7.1015 Receipt of stock from a small business investment company.
7.1016 Independent undertakings to pay against documents.
7.1017 National bank as guarantor or surety on indemnity bond.
7.1018 Automatic payment plan account.
7.1019 Furnishing of products and services by electronic means and facilities.
7.1020 Purchase of open accounts.
7.1021 Separate investment security limitations.

Subpart B—Corporate Practices

7.2000 Corporate governance procedures.
7.2001 Notice of shareholders' meetings.
7.2002 Director or attorney as proxy.
7.2003 Annual meeting for election of directors.
7.2004 Honorary directors or advisory boards.
7.2005 Ownership of stock necessary to qualify as director.
7.2006 Cumulative voting in election of directors.
7.2007 Filling vacancies and increasing board of directors other than by shareholder action.
7.2008 Oath of directors.
7.2009 Quorum of the board of directors; proxies not permissible.
7.2010 Directors' responsibilities.
7.2011 Compensation plans.
7.2012 President as director; chief executive officer.
7.2013 Fidelity bonds covering officers and employees.
7.2014 Indemnification of institution-affiliated parties.
7.2015 Cashier.
7.2016 Restricting transfer of stock and record dates.
7.2017 Facsimile signatures on bank stock certificates.
7.2018 Lost stock certificates.
7.2019 Loans secured by a bank's own shares.
7.2020 Acquisition and holding of shares as treasury stock.
7.2021 Preemptive rights.
7.2022 Voting trusts.
7.7023 Fractional shares.
7.2024 Dividends payable in property other than cash.

Subpart C—Bank Operations

7.3000 Bank hours and closings.
7.3001 Sharing space and employees.

Subpart D—Preemption

7.4000 Books and records of national banks.
7.4001 Charging interest at rates permitted competing institutions; charging interest to corporate borrowers.
7.4002 National bank charges.

Authority: 12 U.S.C. 1 *et seq.* and 93a.

Subpart A—Bank Powers

§ 7.1000 National bank ownership of property.

(a) *Investment in real estate necessary for the transaction of business—(1) General.* Under 12 U.S.C. 29(First), a national bank may invest in real estate that is necessary for the transaction of its business.

(2) *Type of real estate.* For purposes of 12 U.S.C. 29(First), this real estate includes:

(i) Premises that are owned or occupied (or to be occupied, if under construction) by the bank, its branches, or its consolidated subsidiaries;

(ii) Real estate acquired and intended, in good faith, for use in future expansion;

(iii) Parking facilities that are used by customers or employees of the bank, its branches, and its consolidated subsidiaries;

(iv) Residential property for the use of bank officers or employees who are:

(A) Located in remote areas where suitable housing at a reasonable price is not readily available; or

(B) Temporarily assigned to a foreign country, including foreign nationals temporarily assigned to the United States; and

(v) Property for the use of bank officers, employees, or customers, or for the temporary lodging of such persons in areas where suitable commercial lodging is not readily available, provided that the purchase and operation of the property qualifies as a deductible business expense for Federal tax purposes.

(3) *Permissible means of holding.* A national bank may acquire and hold real estate under this paragraph (a) by any reasonable and prudent means, including ownership in fee, a leasehold estate, or in an interest in a cooperative. The bank may hold this real estate directly or through one or more subsidiaries. The bank may organize a bank premises subsidiary as a corporation, partnership, or similar entity (*e.g.*, a limited liability company).

(b) *Fixed assets.* A national bank may own fixed assets necessary for the transaction of its business, such as fixtures, furniture, and data processing equipment.

(c) *Investment in bank premises—(1) Investment limitation; approval.* 12 U.S.C. 371d governs when OCC approval is required for national bank investment in bank premises.

(2) *Option to purchase.* An unexercised option to purchase bank premises or stock in a corporation holding bank premises is not an investment in bank premises. A national bank must receive OCC approval to exercise the option if the price of the option and the bank's other investments in bank premises exceed the amount of the bank's capital stock.

(d) *Other real property—(1) Lease financing of public facilities.* A national bank may purchase or construct a municipal building, school building, or other similar public facility and, as holder of legal title, lease the facility to a municipality or other public authority having resources sufficient to make all rental payments as they become due. The lease agreement must provide that the lessee will become the owner of the building or facility upon the expiration of the lease.

(2) *Purchase of employee's residence.* To facilitate the efficient use of bank personnel, a national bank may purchase the residence of an employee who has been transferred to another area in order to spare the employee a loss in the prevailing real estate market. The bank must arrange for early divestment of title to such property.

§ 7.1001 National bank acting as general insurance agent.

Pursuant to 12 U.S.C. 92, a national bank may act as an agent for any fire, life, or other insurance company in any place the population of which does not exceed 5,000 inhabitants. This provision is applicable to any office of a national bank when the office is located in a community having a population of less than 5,000, even though the principal office of such bank is located in a community whose population exceeds 5,000.

§ 7.1002 National bank acting as finder.

(a) *General.* A national bank may act as a finder in bringing together a buyer and seller.

(b) *Qualification.* Acting as a finder includes, without limitation, identifying potential parties, making inquiries as to interest, introducing or arranging meetings of interested parties, and otherwise bringing parties together for a transaction that the parties themselves negotiate and consummate. Acting as a finder does not include activities that would characterize the bank as a broker under applicable Federal law.

(c) *Advertisement and fee.* Unless otherwise prohibited, a national bank may advertise the availability of, and accept a fee for, the services provided pursuant to this section.

§ 7.1003 Money lent at banking offices or at other than banking offices.

(a) *General.* For purposes of what constitutes a branch within the meaning of 12 U.S.C. 36(j) and 12 CFR 5.30, "money" is deemed to be "lent" only at the place, if any, where the borrower in-person receives loan proceeds directly from bank funds:

(1) From the lending bank or its operating subsidiary; or

(2) At a facility that is established by the lending bank or its operating subsidiary.

(b) *Receipt of bank funds representing loan proceeds.* Loan proceeds directly from bank funds may be received by a borrower in person at a place that is not the bank's main office and is not licensed as a branch without violating 12 U.S.C. 36, 12 U.S.C. 81 and 12 CFR 5.30, provided that a third party is used to deliver the funds and the place is not established by the lending bank or its operating subsidiary. A third party includes a person who satisfies the requirements of § 7.1012(c)(2), or one who customarily delivers loan proceeds directly from bank funds under accepted industry practice, such as an attorney or escrow agent at a real estate closing.

§ 7.1004 Loans originating at other than banking offices.

(a) *General.* A national bank may use the services of, and compensate persons not employed by, the bank for originating loans.

(b) *Approval.* An employee or agent of a national bank or of its operating subsidiary may originate a loan at a site other than the main office or a branch office of the bank. This action does not violate 12 U.S.C. 36 and 12 U.S.C. 81 if the loan is approved and made at the main office or a branch office of the bank or at an office of the operating subsidiary located on the premises of, or contiguous to, the main office or branch office of the bank.

§ 7.1005 Credit decisions at other than banking offices.

A national bank and its operating subsidiary may make a credit decision regarding a loan application at a site other than the main office or a branch office of the bank without violating 12 U.S.C. 36 and 12 U.S.C. 81, provided that "money" is not deemed to be "lent" at those other sites within the meaning of § 7.1003.

§ 7.1006 Loan agreement providing for a share in profits, income, or earnings or for stock warrants.

A national bank may take as consideration for a loan a share in the profit, income, or earnings from a business enterprise of a borrower. A national bank also may take as consideration for a loan a stock warrant issued by a business enterprise of a borrower, provided that the bank does not exercise the warrant. The share or stock warrant may be taken in addition to, or in lieu of, interest. The borrower's obligation to repay principal, however, may not be conditioned upon the value of the profit, income, or earnings of the business enterprise or upon the value of the warrant received.

§ 7.1007 Acceptances.

A national bank is not limited in the character of acceptances it may make in financing credit transactions. Bankers' acceptances may be used for such purpose, since the making of acceptances is an essential part of banking authorized by 12 U.S.C. 24.

§ 7.1008 Preparing income tax returns for customers or public.

A national bank may not serve as an expert tax consultant. However, a national bank may assist its customers in preparing their tax returns, either gratuitously or for a reasonable fee.

§ 7.1009 National bank holding collateral stock as nominee.

A national bank that accepts stock as collateral for a loan may have such stock transferred to the bank's name as nominee.

§ 7.1010 Postal service by national bank.

(a) *General.* A national bank may maintain and operate a postal substation on banking premises and receive income from it. The services performed by the substation are those permitted under applicable rules of the United States Postal Service and may include meter stamping of letters and packages, and the sale of related insurance. The bank may advertise, develop, and extend the services of the substation for the purpose of attracting customers to the bank.

(b) *Postal regulations.* A national bank operating a postal substation shall do so in accordance with the rules and regulations of the United States Postal Service. The national bank shall keep the books and records of the substation separate from those of other banking operations. Under 39 U.S.C. 404 and any regulations issued pursuant thereto, the United States Postal Service may inspect the books and records of the substation.

§ 7.1011 National bank acting as payroll issuer.

A national bank may disburse to an employee of a customer payroll funds deposited with the bank by that customer. The bank may disburse those funds by direct payment to the employee, by crediting an account in the employee's name at the disbursing bank, or by forwarding funds to another institution in which an employee maintains an account.

§ 7.1012 Messenger service.

(a) *Definition.* For purposes of this section, a "messenger service" means any service, such as a courier service or armored car service, used by a national bank and its customers to pick up from, and deliver to, specific customers at locations such as their homes or offices, items relating to transactions between the bank and those customers.

(b) *Pick-up and delivery of items constituting nonbranching activities.* Pursuant to 12 U.S.C. 24 (Seventh), a national bank may establish and operate a messenger service, or use, with its customers, a third party messenger service. The bank may use the messenger service to transport items relevant to the bank's transactions with its customers without regard to the branching limitations set forth in 12 U.S.C. 36, provided the service does not engage in branching functions within the meaning of 12 U.S.C. 36(j). In establishing or using such a facility, the national bank may establish terms, conditions, and limitations consistent with this section and appropriate to assure compliance with safe and sound banking practices.

(c) *Pick-up and delivery of items constituting branching functions by a messenger service established by a third party.* (1) Pursuant to 12 U.S.C. 24 (Seventh), a national bank and its customers may use a messenger service to pick up from, and deliver to, customers items that relate to branching functions within the meaning of 12 U.S.C. 36(j) without regard to the branching limitations set forth in 12 U.S.C. 36, provided the messenger service is established and operated by a third party. In using such a facility, a national bank may establish terms, conditions, and limitations, consistent with this section and appropriate to assure compliance with safe and sound banking practices.

(2) The OCC reviews whether a messenger service is established by a third party on a case-by-case basis, considering all of the circumstances. However, a messenger service is clearly established by a third party if:

(i) A party other than the national bank owns the service and its facilities (or rents them from a party other than the bank) and employs the person engaged in the provision of the service; and

(ii) The messenger service:

(A) Makes its services available to the public, including other depository institutions;

(B) Retains ultimate discretion to determine which customers and geographical areas it will serve;

(C) Maintains ultimate responsibility for scheduling, movement, and routing;

(D) Does not operate under the name of the bank, and the bank and the messenger service do not advertise, or otherwise represent, that the bank itself is providing the service, although the bank may advertise that its customers may use one or more third party messenger services to transact business with the bank;

(E) Assumes responsibility for the items during transit and for maintaining adequate insurance covering thefts, employee fidelity, and other in-transit losses; and

(F) Acts as the agent for the customer when the items are in transit. The bank does not deem items intended for deposit to be deposited until credited to the customer's account at an established bank office or other permissible nonbranch facility. The bank deems items representing withdrawals to be paid when the items are given to the messenger service.

(3) A national bank may defray all or part of the costs incurred by a customer in transporting items through a messenger service. Payment of those costs may only cover expenses associated with each transaction involving the customer and the messenger service. The national bank may impose terms, conditions, and limitations that it deems appropriate with respect to the payment of such costs.

(d) *Pickup and delivery of items pertaining to branching activities where the messenger service is established by the national bank.* A national bank may establish and operate a messenger service to transport items relevant to the bank's transactions with its customers if such transactions constitute one or more branching functions within the meaning of 12 U.S.C. 36(j), provided the bank receives approval to establish a branch pursuant to 12 CFR 5.30.

§ 7.1013 Debt cancellation contracts.

A national bank may enter into a contract to provide for loss arising from cancellation of an outstanding loan upon the death or disability of a borrower. The imposition of an additional charge and the establishment of necessary reserves in order to enable the bank to enter into such debt cancellation contracts are a lawful exercise of the powers of a national bank.

§ 7.1014 Sale of money orders at nonbanking outlets.

A national bank may designate bonded agents to sell the bank's money orders at nonbanking outlets. The responsibility of both the bank and its agent should be defined in a written agreement setting forth the duties of both parties and providing for remuneration of the agent. The bank's agents need not report on sales and transmit funds from the nonbanking outlets more frequently than at the end of the third business day following receipt of the funds.

§ 7.1015 Receipt of stock from a small business investment company.

A national bank may purchase the stock of a small business investment company (SBIC) (*see* 15 U.S.C. 682(b)), and may receive the benefits of such stock ownership (*e.g.*, stock dividends). The receipt and retention of a dividend by a national bank from an SBIC in the form of stock of a corporate borrower of the SBIC is not a purchase of stock within the meaning of 12 U.S.C. 24 (Seventh).

§ 7.1016 Independent undertakings to pay against documents.

(a) *General authority.* A national bank may issue and commit to issue letters of credit and other independent undertakings within the scope of the applicable laws or rules of practice recognized by law.[1] Under such letters of credit and other independent undertakings, the bank's obligation to honor depends upon the presentation of specified documents and not upon nondocumentary conditions or resolution of questions of fact or law at issue between the account party and the beneficiary. A national bank may also confirm or otherwise undertake to honor or purchase specified documents upon their presentation under another person's independent undertaking within the scope of such laws or rules.

(b) *Safety and soundness considerations*—(1) *Terms.* As a matter of safe and sound banking practice, banks that issue independent undertakings should not be exposed to undue risk. At a minimum, banks should consider the following:

(i) The independent character of the undertaking should be apparent from its terms (such as terms that subject it to laws or rules providing for its independent character);

(ii) The undertaking should be limited in amount;

(iii) The undertaking should:

(A) Be limited in duration; or

(B) Permit the bank to terminate the undertaking either on a periodic basis (consistent with the bank's ability to make any necessary credit assessments) or at will upon either notice or payment to the beneficiary; or

(C) Entitle the bank to cash collateral from the account party on demand (with a right to accelerate the customer's obligations, as appropriate); and

(iv) The bank either should be fully collateralized or have a post-honor right of reimbursement from its customer or from another issuer of an independent undertaking. Alternatively, if the bank's undertaking is to purchase documents of title, securities, or other valuable documents, the bank should obtain a first priority right to realize on the documents if the bank is not otherwise to be reimbursed.

(2) *Additional considerations in special circumstances.* Certain undertakings require particular protections against credit, operational, and market risk:

(i) In the event that the undertaking is to honor by delivery of an item of value other than money, the bank should ensure that market fluctuations that affect the value of the item will not cause the bank to assume undue market risk;

(ii) In the event that an undertaking provides for renewal, the terms for renewal should be consistent with the bank's ability to make any necessary credit assessments prior to renewal; and

(iii) In the event that a bank issues an undertaking for its own account, the underlying transaction for which it is issued must be within the bank's authority and comply with any safety and soundness requirements applicable to that transaction.

(3) *Operational expertise.* The bank should possess operational expertise that is commensurate with the sophistication of its independent undertaking activities.

(4) *Documentation.* The bank must accurately reflect the bank's undertakings in its records, including any acceptance or deferred payment or other absolute obligation arising out of its contingent undertaking.

(c) *Coverage.* An independent undertaking within the meaning of this section is not subject to the provisions of § 7.1017.

§ 7.1017 National bank as guarantor or surety on indemnity bond.

A national bank may lend its credit, bind itself as a surety to indemnify another, or otherwise become a guarantor, if:

(a) The bank has a substantial interest in the performance of the transaction involved (for example, a bank, as fiduciary, has a sufficient interest in the faithful performance by a cofiduciary of its duties to act as surety on the bond of such cofiduciary); or

(b) The transaction is for the benefit of a customer and the bank obtains from the customer a segregated deposit that is sufficient in amount to cover the bank's total potential liability. A segregated deposit under this section includes collateral:

(1) In which the bank has perfected its security interest (for example, if the collateral is a printed security, the bank must have obtained physical control of the security, and, if the collateral is a book entry security, the bank must have properly recorded its security interest); and

(2) That has a market value, at the close of each business day, equal to the bank's total potential liability and is composed of:

(i) Cash;

(ii) Obligations of the United States or its agencies;

(iii) Obligations fully guaranteed by the United States or its agencies as to principal and interest; or

(iv) Notes, drafts, or bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

(3) That has a market value, at the close of each business day, equal to 110 percent of the bank's total potential liability and is composed of obligations of a State or political subdivision of a State.

§ 7.1018 Automatic payment plan account.

A national bank may, for the benefit and convenience of its savings depositors, adopt an automatic payment plan under which a savings account will earn dividends at the current rate paid on regular savings accounts. The depositor, upon reaching a previously designated age, receives his or her accumulated savings and earned interest in installments of equal amounts over a specified period.

§ 7.1019 Furnishing of products and services by electronic means and facilities.

A national bank may perform, provide, or deliver through electronic means and facilities any activity, function, product, or service that it is otherwise authorized to perform, provide, or deliver. A national bank may also, in order to optimize the use of the bank's resources, market and sell to third parties electronic capacities acquired or developed by the bank in good faith for banking purposes.

§ 7.1020 Purchase of open accounts.

(a) *General.* The purchase of open accounts is a part of the business of banking and within the power of a national bank.

(b) *Export transactions.* A national bank may purchase open accounts in connection with export transactions; the accounts should be protected by insurance such as that provided by the Foreign Credit Insurance Association and the Export-Import Bank.

§ 7.1021 Separate investment security limitations.

The 10 percent investment limitation of 12 U.S.C. 24 (Seventh) may be

[1] Samples of such laws or rules of practice include, but are not limited to: the applicable version of Article 5 of the Uniform Commercial Code (UCC) (1962, as amended 1990) or revised Article 5 of the UCC (as amended 1995) (available from West Publishing Co., 1/800/340–9378); the Uniform Customs and Practice for Documentary Credits (International Chamber of Commerce (ICC) Publication No. 500) (available from ICC Publishing, Inc., 212/206–1150); the United Nations Commission on International Trade Law (UNCITRAL) Conventinn on Independent Guarantees and Standby Letters of Credit (adopted by UNCITRAL 1995) (available from UNCITRAL, 212/963–5353); and the Uniform Rules for Bank-to-Bank Reimbursements Under Documentary Credits (ICC Publication No. 525) (available from ICC Publishing, Inc., 212/206–1150); as any of the foregoing may be amended from time to time.

applied separately to each security issue of a single issuer of such securities, if the proceeds of each issue are to be used to acquire and lease real estate and related facilities to economically and legally separate industrial tenants and each issue is payable solely from, and secured by a first lien on, the revenues to be derived from rentals paid by such lessee under net noncancellable leases.

Subpart B—Corporate Practices

§ 7.2000 Corporate governance procedures.

(a) *General.* A national bank proposing to engage in a corporate governance procedure shall comply with applicable Federal banking statutes and regulations, and safe and sound banking practices.

(b) *Other sources of guidance.* To the extent not inconsistent with applicable Federal banking statutes or regulations, or bank safety and soundness, a national bank may elect to follow the corporate governance procedures of the law of the state in which the main office of the bank is located, the law of the state in which the holding company of the bank is incorporated, the Delaware General Corporation Law, Del. Code Ann. tit. 8 (1991, as amended 1994, and as amended thereafter), or the Model Business Corporation Act (1984, as amended 1994, and as amended thereafter). A national bank shall designate in its bylaws the body of law selected for its corporate governance procedures.

(c) *No-objection procedures.* The OCC also considers requests for its staff's position on the ability of a national bank to engage in a particular corporate governance procedure in accordance with the no-objection procedures set forth in Banking Circular 205 or any subsequently published agency procedures.[2] Requests should demonstrate how the proposed practice is not inconsistent with applicable Federal statutes or regulations, and is consistent with safe and sound banking practices.

§ 7.2001 Notice of shareholders' meetings.

A national bank must mail shareholders notice of the time, place, and purpose of all shareholders' meetings at least 10 days prior to the meeting by first class mail, unless the OCC determines that an emergency circumstance exists. Where a national bank is a wholly-owned subsidiary, the sole shareholder is permitted to waive notice of the shareholder's meeting. The articles of association, bylaws, or law applicable to a national bank may require a longer period of notice.

§ 7.2002 Director or attorney as proxy.

Any person or group of persons, except the bank's officers, clerks, tellers, or bookkeepers, may be designated to act as proxy. The bank's directors or attorneys may act as proxy if they are not also employed as an officer, clerk, teller or bookkeeper of the bank.

§ 7.2003 Annual meeting for election of directors.

When the day fixed for the regular annual meeting of the shareholders falls on a legal holiday in the state in which the bank is located, the shareholders' meeting shall be held, and the directors elected, on the next following banking day.

§ 7.2004 Honorary directors or advisory boards.

A national bank may appoint honorary or advisory members of a board of directors to act in advisory capacities without voting power or power of final decision in matters concerning the business of the bank. Any listing of honorary or advisory directors must distinguish between them and the bank's board of directors or indicate their advisory status.

§ 7.2005 Ownership of stock necessary to qualify as director.

(a) *General.* A national bank director must own a qualifying equity interest in a national bank or a company that has control of a national bank. The director must own the qualifying equity interest in his or her own right and meet a certain minimum threshold ownership.

(b) *Qualifying equity interest*—(1) *Minimum required equity interest.* For purposes of this section, a qualifying equity interest includes common or preferred stock of the bank or of a company that controls the bank that has not less than an aggregate par value of $1,000, an aggregate shareholders' equity of $1,000, or an aggregate fair market value of $1,000.

(i) The value of the common or preferred stock held by a national bank director is valued as of the date purchased or the date on which the individual became a director, whichever value is greater.

(ii) In the case of a company that owns more than one national bank, a director may use his or her equity interest in the controlling company to satisfy, in whole or in part, the equity interest requirement for any or all of the controlled national banks.

(iii) Upon request, the OCC may consider whether other interests in a company controlling a national bank constitute an interest equivalent to $1,000 par value of national bank stock.

(2) *Joint ownership and tenancy in common.* Shares held jointly or as a tenant in common are qualifying shares held by a director in his or her own right only to the extent of the aggregate value of the shares which the director would be entitled to receive on dissolution of the joint tenancy or tenancy in common.

(3) *Shares in a living trust.* Shares deposited by a person in a living trust (inter vivos trust) as to which the person is a trustee and retains an absolute power of revocation are shares owned by the person in his or her own right.

(4) *Other arrangements.* A director may also hold his or her qualifying interest through profit sharing plans, individual retirement accounts, retirement plans, and similar arrangements, provided the director retains beneficial ownership and legal control over the shares.

(c) *Non-qualifying ownership.* The following are not shares held by a director in his or her own right:

(1) Shares pledged by the holder to secure a loan. However, all or part of the funds used to purchase the required qualifying equity interest may be borrowed from any party, including the bank or its affiliates;

(2) Shares purchased subject to an absolute option vested in the seller to repurchase the shares within a specified period; and

(3) Shares deposited in a voting trust where the depositor surrenders:

(i) Legal ownership (depositor ceases to be registered owner of the stock);

(ii) Power to vote the stock or to direct how it shall be voted; or

(iii) Power to transfer legal title to the stock.

§ 7.2006 Cumulative voting in election of directors.

When electing directors, a shareholder shall have as many votes as the number of directors to be elected multiplied by the number of the shareholder's shares. The shareholder may cast all these votes for one candidate, or distribute the votes among as many candidates as the shareholder chooses. If, after the first ballot, subsequent ballots are necessary to elect directors, a shareholder may not vote shares that he or she has already fully cumulated and voted in favor of a successful candidate.

§ 7.2007 Filling vacancies and increasing board of directors other than by shareholder action.

(a) *Increasing board of directors.* If authorized by the bank's articles of association, between shareholder meetings a majority of the board of directors may increase the number of the bank's directors within the limits specified in 12 U.S.C. 71a. The board of directors may increase the number of directors only by up to two directors, when the number of directors last elected by shareholders was 15 or fewer, and by up to four directors, when the number of directors last elected by shareholders was 16 or more.

(b) *Vacancies.* If a vacancy occurs on the board of directors, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled by the shareholders, a majority of the board of directors remaining in office, or, if the directors remaining in office constitute fewer than a quorum, by an affirmative vote of a majority of all the directors remaining in office.

§ 7.2008 Oath of directors.

(a) *Administration of the oath.* A notary public, including one who is a director but not an officer of the national bank, may administer the oath of directors. Any person, other than an officer of the bank, having an official seal and authorized by the state to administer oaths, may also administer the oath.

(b) *Execution of the oath.* Each director attending the organization meeting shall execute either the joint or individual oath. A director not attending the organization meeting (the first meeting after the election of the directors) shall execute the individual oath. A director shall take another oath upon re-election, notwithstanding uninterrupted service. Appropriate sample oaths are located in the "Comptroller's Manual for Corporate Activities."

§ 7.2009 Quorum of the board of directors; proxies not permissible.

A national bank shall provide in its articles of association or bylaws that for the transaction of business, a quorum of the board of directors is at least a majority of the entire board then in office. A national bank director may not vote by proxy.

§ 7.2010 Directors' responsibilities.

The business and affairs of the bank shall be managed by or under the direction of the board of directors. The board of directors should refer to OCC published guidance for additional information regarding responsibilities of directors.

§ 7.2011 Compensation plans.

Consistent with safe and sound banking practices and the compensation provisions of 12 CFR part 30, a national bank may adopt compensation plans, including, among others, the following:

(a) *Bonus and profit-sharing plans.* A national bank may adopt a bonus or profit-sharing plan designed to ensure adequate remuneration of bank officers and employees.

(b) *Pension plans.* A national bank may provide employee pension plans and make reasonable contributions to the cost of the pension plan.

(c) *Employee stock option and stock purchase plans.* A national bank may provide employee stock option and stock purchase plans.

§ 7.2012 President as director; chief executive officer.

Pursuant to 12 U.S.C. 76, the president of a national bank must be a member of the board of directors, but a director other than the president may be elected chairman of the board. A person other than the president may serve as chief executive officer, and this person is not required to be a director of the bank.

§ 7.2013 Fidelity bonds covering officers and employees.

(a) *Adequate coverage.* All officers and employees of a national bank must have adequate fidelity coverage. The failure of directors to require bonds with adequate sureties and in sufficient amount may make the directors liable for any losses that the bank sustains because of the absence of such bonds. Directors should not serve as sureties on such bonds.

(b) *Factors.* The board of directors should determine the amount of such coverage, premised upon a consideration of factors, including:

(1) Internal auditing safeguards employed;

(2) Number of employees;

(3) Amount of deposit liabilities; and

(4) Amount of cash and securities normally held by the bank.

§ 7.2014 Indemnification of institution-affiliated parties.

(a) *Administrative proceedings or civil actions initiated by Federal banking agencies.* A national bank may only make or agree to make indemnification payments to an institution-affiliated party with respect to an administrative proceeding or civil action initiated by any Federal banking agency, that are reasonable and consistent with the requirements of 12 U.S.C. 1828(k) and the implementing regulations thereunder. The term "institution-affiliated party" has the same meaning as set forth at 12 U.S.C. 1813(u).

(b) *Administrative proceeding or civil actions not initiated by a Federal banking agency*—(1) *General.* In cases involving an administrative proceeding or civil action not initiated by a Federal banking agency, a national bank may indemnify an institution-affiliated party for damages and expenses, including the advancement of expenses and legal fees, in accordance with the law of the state in which the main office of the bank is located, the law of the state in which the bank's holding company is incorporated, or the relevant provisions of the Model Business Corporation Act (1984, as amended 1994, and as amended thereafter), or Delaware General Corporation Law, Del. Code Ann. tit. 8 (1991, as amended 1994, and as amended thereafter), provided such payments are consistent with safe and sound banking practices. A national bank shall designate in its bylaws the body of law selected for making indemnification payments under this paragraph.

(2) *Insurance premiums.* A national bank may provide for the payment of reasonable premiums for insurance covering the expenses, legal fees, and liability of institution-affiliated parties to the extent that the expenses, fees, or liability could be indemnified under paragraph (b)(1) of this section.

§ 7.2015 Cashier.

A national bank's bylaws, board of directors, or a duly designated officer may assign some or all of the duties previously performed by the bank's cashier to its president, chief executive officer, or any other officer.

§ 7.2016 Restricting transfer of stock and record dates.

(a) *Conditions for stock transfer.* Under 12 U.S.C. 52, a national bank may impose conditions upon the transfer of its stock reasonably calculated to simplify the work of the bank with respect to stock transfers, voting at shareholders' meetings, and related matters and to protect it against fraudulent transfers.

(b) *Record dates.* A national bank may close its stock records for a reasonable period to ascertain shareholders for voting purposes. The board of directors may fix a record date for determining the shareholders entitled to notice of, and to vote at, any meeting of shareholders. The record date should be in reasonable proximity to the date that notice is given to the shareholders of the meeting.

§ 7.2017 Facsimile signatures on bank stock certificates.

The president and cashier, or other officers authorized by the bank's

[2] Available upon request from the OCC Communications Division, 250 E Street, SW., Washington, DC 20219, (202) 874–4700.

bylaws, shall sign each national bank stock certificate. The signatures may be manual or facsimile, including electronic means of signature. Each certificate must be sealed with the seal of the association.

§ 7.2018 Lost stock certificates.

If a national bank does not provide for replacing lost, stolen, or destroyed stock certificates in its articles of association or bylaws, the bank may adopt procedures in accordance with § 7.2000.

§ 7.2019 Loans secured by a bank's own shares.

(a) *Permitted agreements, relating to bank shares.* A national bank may require a borrower holding shares of the bank to execute agreements:

(1) Not to pledge, give away, transfer, or otherwise assign such shares;

(2) To pledge such shares at the request of the bank when necessary to prevent loss; and

(3) To leave such shares in the bank's custody.

(b) *Use of capital notes and debentures.* A national bank may not make loans secured by a pledge of the bank's own capital notes and debentures. Such notes and debentures must be subordinated to the claims of depositors and other creditors of the issuing bank, and are, therefore, capital instruments within the purview of 12 U.S.C. 83.

§ 7.2020 Acquisition and holding of shares as treasury stock.

Pursuant to the authority and procedures of 12 U.S.C. 59, a national bank may acquire its outstanding shares and hold them as treasury stock, provided that the acquisition and retention of the shares is, and continues to be, for a legitimate corporate purpose. It would not be permissible for a national bank to acquire or hold treasury stock for speculation.

§ 7.2021 Preemptive rights.

A national bank in its articles of association must grant or deny preemptive rights to the bank's shareholders. Any amendment to a national bank's articles of association which modifies such preemptive rights must be approved by a vote of the holders of two-thirds of the bank's outstanding voting shares.

§ 7.2022 Voting trusts.

The shareholders of a national bank may establish a voting trust under the applicable law of a state selected by the participants and designated in the trust agreement, provided the implementation of the trust is consistent with safe and sound banking practices.

§ 7.2023 Fractional shares.

To avoid complicated recordkeeping in connection with fractional shares, a national bank issuing additional stock by stock dividend, upon consolidation or merger, or otherwise, may adopt arrangements such as the following to preclude the issuance of fractional shares. The bank may:

(a) Issue scripts or warrants for trading in fractions;

(b) Make reasonable arrangements to provide those to whom fractional shares would otherwise be issued an opportunity to realize at a fair price upon the fraction not being issued through its sale, or the purchase of the additional fraction required for a full share, if there is an established and active market in the national bank's stock;

(c) Remit the cash equivalent of the fraction not being issued to those to whom fractional shares would otherwise be issued. The cash equivalent is based on the market value of the stock, if there is an established and active market in the national bank's stock. In the absence of such a market, the cash equivalent is based on a reliable and disinterested determination as to the fair market value of the stock if such stock is available; or

(d) Sell full shares representing all the fractions at public auction, or to the highest bidder after having solicited and received sealed bids from at least three licensed stock brokers. The national bank shall distribute the proceeds of the sale *pro rata* to shareholders who otherwise would be entitled to the fractional shares.

§ 7.2024 Dividends payable in property other than cash.

In addition to cash dividends, directors of a national bank may declare dividends payable in property, with the approval of the OCC. Even though the property distributed has been previously charged down or written off entirely, the dividend is equivalent to a cash dividend in an amount equal to the actual current value of the property. Before the dividend is declared, the bank should show the excess of the actual value over book value on the books of the national bank as a recovery, and the dividend should then be declared in the amount of the full book value (equivalent to the actual current value) of the property being distributed.

Subpart C—Bank Operations

§ 7.3000 Bank hours and closings.

(a) *Bank hours.* A national bank's board of directors should review its banking hours, and, independently of any other bank, take appropriate action to establish a schedule of banking hours.

(b) *Emergency closings.* Pursuant to 12 U.S.C. 95(b)(1), the Comptroller of the Currency (Comptroller), a state, or a legally authorized state official may declare a day a legal holiday if emergency conditions exist. That day is a legal holiday for national banks or their offices in the affected geographic area (*i.e.*, throughout the country, in a state, or in part of a state). Emergency conditions include natural disasters and civil and municipal emergencies (*e.g.*, severe flooding, or a power emergency declared by a local power company or government requesting that businesses in the affected area close). The Comptroller issues a proclamation authorizing the emergency closing in accordance with 12 U.S.C. 95 at the time of the emergency condition, or soon thereafter. When the Comptroller, a state, or a legally authorized state official declares a day to be a legal holiday due to emergency conditions, a national bank may choose to remain open or to close any of its banking offices in the affected geographic area.

(c) *Ceremonial closings.* A state or a legally authorized state official may declare a day a legal holiday for ceremonial reasons. When a state or a legally authorized state official declares a day to be a legal holiday for ceremonial reasons, a national bank may choose to remain open or to close.

(d) *Liability.* A national bank should assure that all liabilities or other obligations under the applicable law due to the bank's closing are satisfied.

§ 7.3001 Sharing space and employees.

(a) *Sharing space.* A national bank may:

(1) Lease excess space on bank premises to one or more other businesses (including other banks and financial institutions);

(2) Share space jointly held with one or more other businesses; or

(3) Offer its services in space owned or leased to other businesses.

(b) *Sharing employees.* When sharing space with other businesses as described in paragraph (a) of this section, a national bank may provide, under one or more written agreements among the bank, the other businesses, and their employees, that:

(1) A bank employee may act as agent for the other business; or

(2) An employee of the other business may act as agent for the bank.

(c) *Supervisory conditions.* When a national bank engages in arrangements of the types listed in paragraphs (a) and (b) of this section, the bank shall ensure that:

(1) The other business is conspicuously, accurately, and separately identified;

(2) Shared employees clearly and fully disclose the nature of their agency relationship to customers of the bank and of the other businesses so that customers will know the identity of the bank or business that is providing the product or service;

(3) The arrangement does not constitute a joint venture or partnership with the other business under applicable state law;

(4) All aspects of the relationship between the bank and the other business are conducted at arm's length, unless a special arrangement is warranted because the other business is a subsidiary of the bank;

(5) Security issues arising from the activities of the other business on the premises are addressed;

(6) The activities of the other business do not adversely affect the safety and soundness of the bank;

(7) The shared employees or the entity for which they perform services are duly licensed or meet qualification requirements of applicable statutes and regulations pertaining to agents or employees of such other business; and

(8) The assets and records of the parties are segregated.

(d) *Other legal requirements.* When entering into arrangements, of the types described in paragraphs (a) and (b) of this section, and in conducting operations pursuant to those arrangements the bank must ensure that each arrangement complies with 12 U.S.C. 29 and 36 and with any other applicable laws and regulations. If the arrangement involves an affiliate or a shareholder, director, officer or employee of the bank:

(1) The bank must ensure compliance with all applicable statutory and regulatory provisions governing bank transactions with these persons or entities;

(2) The parties must comply with all applicable fiduciary duties; and

(3) The parties, if they are in competition with each other, must consider limitations, if any, imposed by applicable antitrust laws.

Subpart D—Preemption

§ 7.4000 Books and records of national banks.

(a) *Inspection.* Except as otherwise expressly provided by Federal law, including 12 U.S.C. 62, relating to the right of shareholders, creditors, and certain tax officials to inspect the list of shareholders of a bank, only the Comptroller of the Currency or the Comptroller's authorized representatives are authorized to inspect books or records of a national bank. Production of records may, however, be required under normal judicial procedures.

(b) *Visitorial powers.* Except as otherwise expressly provided by Federal law, the exercise of visitorial powers over national banks is vested solely in the OCC, 12 U.S.C. 484. State officials have no authority to conduct examinations or to inspect or require the production of books or records of national banks, except for the limited purpose of ensuring compliance with applicable state unclaimed property and escheat laws. State authority to review the books and records of a national bank is limited to those circumstances in which there is reasonable cause to believe that the bank has failed to comply with those laws. Federal law provides special procedures for verifying payroll records for unemployment compensation purposes, 26 U.S.C. 3305(c), for enforcing the Fair Labor Standards Act, 29 U.S.C. 211, and for ascertaining the correctness of Federal tax returns, 26 U.S.C. 7602.

(c) *Report of examination.* The report of examination made by an OCC examiner is designated solely for use in the supervision of the bank. The bank's copy of the report is the property of the OCC and is loaned to the bank and any holding company thereof solely for its confidential use. The bank's directors, in keeping with their responsibilities both to depositors and to shareholders, should thoroughly review the report. The report may be made available to other persons only in accordance with the rules on disclosure in 12 CFR part 4.

§ 7.4001 Charging interest at rates permitted competing institutions; charging interest to corporate borrowers.

(a) *Definition.* The term "interest" as used in 12 U.S.C. 85 includes any payment compensating a creditor or prospective creditor for an extension of credit, making available of a line of credit, or any default or breach by a borrower of a condition upon which credit was extended. It includes, among other things, the following fees connected with credit extension or availability: numerical periodic rates, late fees, not sufficient funds (NSF) fees, overlimit fees, annual fees, cash advance fees, and membership fees. It does not ordinarily include appraisal fees, premiums and commissions attributable to insurance guaranteeing repayment of any extension of credit, finders' fees, fees for document preparation or notarization, or fees incurred to obtain credit reports.

(b) *Authority.* A national bank located in a state may charge interest at the maximum rate permitted to any state-chartered or licensed lending institution by the law of that state. If state law permits different interest charges on specified classes of loans, a national bank making such loans is subject only to the provisions of state law relating to that class of loans that are material to the determination of the permitted interest. For example, a national bank may lawfully charge the highest rate permitted to be charged by a state-licensed small loan company, without being so licensed, but subject to state law limitations on the size of loans made by small loan companies.

(c) *Effect on state definitions of interest.* The Federal definition of the term "interest" in paragraph (a) of this section does not change how interest is defined by the individual states (nor how the state definition of interest is used) solely for purposes of state law. For example, if late fees are not "interest" under state law where a national bank is located but state law permits its most favored lender to charge late fees, then a national bank located in that state may charge late fees to its intrastate customers. The national bank may also charge late fees to its interstate customers because the fees are interest under the Federal definition of interest and an allowable charge under state law where the national bank is located. However, the late fees would not be treated as interest for purposes of evaluating compliance with state usury limitations because state law excludes late fees when calculating the maximum interest that lending institutions may charge under those limitations.

(d) *Usury.* A national bank located in a state the law of which denies the defense of usury to a corporate borrower may charge a corporate borrower any rate of interest agreed upon by a corporate borrower.

§ 7.4002 National bank charges.

(a) *Customer charges and fees.* A national bank may charge its customers non-interest charges and fees, including deposit account service charges. For example, a national bank may impose deposit account service charges that its board of directors determines to be reasonable on dormant accounts. A national bank may also charge a borrower reasonable fees for credit reports or investigations with respect to a borrower's credit. All charges and fees should be arrived at by each bank on a competitive basis and not on the basis of any agreement, arrangement,

undertaking, understanding, or discussion with other banks or their officers.

(b) *Considerations.* The establishment of non-interest charges and fees, and the amounts thereof, is a business decision to be made by each bank, in its discretion, according to sound banking judgment and safe and sound banking principles. A bank reasonably establishes non-interest charges and fees if the bank considers the following factors, among others:

(1) The cost incurred by the bank, plus a profit margin, in providing the service;

(2) The deterrence of misuse by customers of banking services;

(3) The enhancement of the competitive position of the bank in accordance with the bank's marketing strategy; and

(4) The maintenance of the safety and soundness of the institution.

(c) *Interest.* Charges and fees that are "interest" within the meaning of 12 U.S.C. 85 are governed by § 7.4001 and not by this section.

(d) *State law.* The OCC evaluates on a case-by-case basis whether a national bank may establish non-interest charges or fees pursuant to paragraphs (a) and (b) of this section notwithstanding a contrary state law that purports to limit or prohibit such charges or fees. In issuing an opinion on whether such state laws are preempted, the OCC applies preemption principles derived from the Supremacy Clause of the United States Constitution and applicable judicial precedent.

(e) *National bank as fiduciary.* This section does not apply to charges imposed by a national bank in its capacity as a fiduciary, which are governed by 12 CFR part 9.

PART 31—EXTENSIONS OF CREDIT TO NATIONAL BANK INSIDERS

2. The authority citation for part 31 is revised to read as follows:

Authority: 12 U.S.C. 375a(4), 375b(3), 1817(k), and 1972(2)(G)(ii).

3. Part 31 is amended by adding, at the end of the part, the undesignated center heading "Interpretations" and new §§ 31.100 to 31.102 to read as follows:

Interpretations

§ 31.100 Loans secured by stock or obligations of an affiliate.

A bank that makes a loan to an unaffiliated third party may take a security interest in securities of an affiliate as collateral for the loan without the loan being deemed a "covered transaction" under section 23A of the Federal Reserve Act (12 U.S.C. 371c) if:

(a) The borrower provides additional collateral that meets or exceeds the collateral requirements specified in section 23A(c) (12 U.S.C. 371c(c)); and

(b) The loan proceeds are not used to purchase the bank affiliate's securities that serve as collateral.

§ 31.101 Federal funds transactions between affiliates.

The limitations contained in 12 U.S.C. 371c apply to the sale of Federal funds by a national bank to an affiliate of the bank.

§ 31.102 Deposits between affiliated banks.

(a) *General rule.* The OCC considers a deposit made by a bank in an affiliated bank to be a loan or extension of credit to the affiliate under 12 U.S.C. 371c. These deposits must be secured in accordance with 12 U.S.C. 371c(c). However, a national bank may not pledge assets to secure private deposits unless otherwise permitted by law (*see, e.g.*, 12 U.S.C. 90 (permitting collateralization of deposits of public funds); 12 U.S.C. 92a (trust funds); and 25 U.S.C. 156 and 162a (Native American funds)). Thus, unless one of the exceptions to 12 U.S.C. 371c noted in paragraph (b) of this section applies or unless another exception applies that enables a bank to meet the collateral requirements of 12 U.S.C. 371c(c), a national bank may not:

(1) Make a deposit in an affiliated national bank;

(2) Make a deposit in an affiliated state-chartered bank unless the affiliated state-chartered bank can legally offer collateral for the deposit in conformance with applicable state law and 12 U.S.C. 371c; or

(3) Receive deposits from an affiliated bank.

(b) *Exceptions.* The restrictions of 12 U.S.C. 371c (other than 12 U.S.C. 371c(a)(4), which requires affiliate transactions to be consistent with safe and sound banking practices) do not apply to deposits:

(1) Made in the ordinary course of correspondent business; or

(2) Made in an affiliate that qualifies as a "sister bank" under 12 U.S.C. 371c(d)(1).

Dated: February 5, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–2903 Filed 2–8–96; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASO–6]

Amendment to Class D Airspace, Millington, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the name of Memphis NAS to Memphis MAS/Millington Municipal Airport and changes the title of the airspace designation for the Memphis NAS/Millington Municipal Airport located at Millington, TN, from Memphis NAS, TN, to Millington, TN.

EFFECTIVE DATE: 0901 UTC, April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

The Memphis Naval Air Station (NAS) is now a joint use airport. As a result, the name of the airport located at Millington, TN, changed from Memphis NAS to Memphis NAS/Millington Municipal Airport. This amendment is necessary to reflect that change. The dimensions, configuration and operating requirements of the affected airspace do not change. This rule will become effective on the date specified in the **EFFECTIVE DATE** section. Since this action does not change the dimensions, configuration or operating requirements of the Class D surface area airspace for the airport, and as a result, has no impact on users of the airspace in the vicinity of the Memphis NAS/ Millington Municipal Airport, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulatory (14 CFR part 71) changes the name of Memphis NAS to Memphis NAS/Millington Municipal Airport and changes the title of the airspace designation for the Memphis NAS/Millington Municipal Airport located at Millington, TN, from Memphis NAS, TN, to Millington, TN.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO TN D Millington, TN [Revised]

Memphis NAS/Millington Municipal Airport, TN
(lat. 35°21'20" N, long. 89°52'10" W)

That airspace extending upward from the surface to and including 2800 feet MSL within a 5-mile radius of Memphis NAS/ Millington Municipal Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on January 24, 1996.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–2510 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–m

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 92F–0447]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Periodic Acid and Polyethylenimine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of periodic acid (PA) and polyethylenimine (PEI) as fixing agents for the immobilization of glucoamylase enzyme preparations from *Aspergillus niger* for use in the manufacture of beer. This action is in response to a petition filed by Enzyme Bio-Systems, Ltd.

DATES: Effective February 9, 1996; written objections and requests for a hearing by March 11, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3071.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 1, 1993 (58 FR 63381), FDA announced that a food additive petition (FAP 1A4288) had been filed by Enzyme Bio-Systems, Ltd., 2600 Kennedy Dr., Beloit, WI 53511, proposing that the food additive regulations be amended to provide for the safe use of periodic acid and polyethyleneimine as fixing agents for immobilizing those enzymes that are generally recognized as safe (GRAS) or approved as food additives.

In a letter of February 2, 1994 (Ref. 1), the petition was amended by the petitioner to provide for the use of PA and PEI as fixing agents for the immobilization of glucoamylase enzyme preparations from *A. niger* for use in the manufacture of light beer. The Bureau of Alcohol, Tobacco, and Firearms, the Federal agency responsible for the regulation of alcoholic beverages such as beer, has informed FDA that the term "light," with respect to the description of beer, is not defined by regulation or any other regulatory standards (Ref. 2). Accordingly, FDA has omitted the term "light" in the regulation responding to this petition because there are no applicable Federal standards defining "light beer."

Although the filing notice refers to polyethyleneimine as one of the two petitioned additives under agency evaluation, it became apparent during the review of the petition that the name of the additive should be changed to be consistent with the name of the substance that is currently listed in § 173.357(a)(2) (21 CFR 173.357(a)(2)), "polyethylenimine reaction product with 1,2-dichloroethane." While the name of the additives differ, the additives share the same Chemical Abstract Service (CAS) Registry Number (CAS Reg. No. 68130–97–2) and are thus considered chemically identical by the agency. The petitioner has agreed to the name change. Therefore, the petitioned additive is identified as a PEI reaction product with 1,2-dichloroethane (DCE) in the regulation set forth below. However, for purposes of discussion, this preamble will use the term "polyethylenimine" to refer to the additive, PEI reaction product with 1,2-dichloroethane.

Glucoamylase enzyme preparation from *A. niger* is the substance that is to be immobilized with the fixing agents set forth in the regulation below; the regulatory status of that enzyme preparation is not addressed by this action. The agency is, however, concurrently evaluating this particular enzyme preparation, along with a variety of other enzymes from other sources, in its review of petition GRASP 3G0016 (Docket No. 84G–0257) for the affirmation of the GRAS status of certain enzymes. (Eight enzyme preparations included in GRASP 3G0016 were recently affirmed as GRAS (60 FR 32904, June 26, 1995).) The petition GRASP 3G0016 contains published data and information to support the view that the enzyme preparation glucoamylase from *A. niger* has had a long history of use prior to 1958 in the preparation of food as well as fermentable materials that are used in the production of alcoholic beverages (Refs. 3 and 4). Further, FDA is not aware of any data or information showing that glucoamylase from *A. niger* poses a safety concern. Finally

FDA acknowledges that under the Federal Food, Drug, and Cosmetic Act (the act), a food manufacturer may market a substance for use in food on the basis of the manufacturer's independent determination that the substance is GRAS and thus exempt from the definition of food additive in section 201(s) of the act (21 U.S.C. 321(s)).

In this scientific and legal context, FDA believes that it is appropriate to proceed with a final rule approving the use of PEI and PA as fixing agents for immobilizing glucoamylase from *A. niger* for use in the manufacture of beer even though the agency has not completed the GRAS affirmation process for all of the enzymes that are the subject of GRASP 3G0016, including glucoamylase enzyme preparation.

In its evaluation of PA and PEI for the proposed use, FDA reviewed the safety of the additives and the chemical impurities that may be present in the additives resulting from the manufacturing processes. Although neither PA nor PEI has been shown to cause cancer, PEI may contain minute amounts of unreacted ethylenimine (EI) and 1,2-dichloroethane because these reactants are used in the manufacture of the additive. EI and 1,2-dichloroethane have been shown to be carcinogens in bioassays with mice and rats (Refs. 5, 6, and 7). The presence of such impurities is not unique to this additive. Residual amounts of reactants and manufacturing aids are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause," a food additive cannot be approved for a particular use unless a fair evaluation of the data and information available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The anticancer or Delaney clause (section 409(c)(3)(A)) of the act) further provides that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to the constituents of the additive. That is, where an additive has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety clause using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive. (See *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984).)

II. Evaluation of Safety of Petitioned Use of the Additives

FDA estimates that the petitioned use of the additives PA and PEI to fix glucoamylase enzyme preparations would result in mean exposures to these additives of 0.7 micrograms per person per day (µg/person/day) for iodate, which is formed from the decomposition of PA (Ref. 8), and no greater than 330 µg/person/day for PEI (Ref. 9).

FDA does not ordinarily consider chronic toxicological testing to be necessary to determine the safety of additives whose use will result in such low exposure levels (Ref. 10), and the agency has not required such testing here. The agency has reviewed the available toxicological data from acute toxicity studies on the additives. No adverse effects were reported in these studies (Ref. 11).

FDA has evaluated the safety of PEI under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of risk presented by EI and DCE that may be present as impurities in the additive. This risk evaluation of EI and DCE has two aspects: (1) Assessment of the exposure to the impurities from the proposed use of the additive, and (2) extrapolation of the risk observed in animal bioassays to the conditions of probable exposure to humans.

A. Ethylenimine (EI)

Using estimates of the average intake of beer, FDA estimates the potential exposure to EI from the petitioned use of PEI as an immobilizing agent for glucoamylase enzyme preparations from *A. niger* used in the production of beer to be 0.33 nanograms (ng)/person/day (Ref. 9). To estimate the risk from EI (Ref. 5), the agency used data from a carcinogen bioassay with the B6C3F1 strain of mice using the oral route of exposure. EI treatment caused an increased incidence of both lung and liver tumors that were neoplastic (Ref. 5).

Based on a potential exposure of 0.33 ng/person/day, FDA estimates that the upper-bound limit of individual lifetime risk from the potential exposure to EI from the use of PEI is 1.2×10^{-7}, or less than 1.2 in 10 million (Refs. 12 and 13). Because of the numerous conservative assumptions used in calculating the exposure estimate, actual lifetime averaged individual exposure to EI is expected to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty that no harm will result from the proposed use of the additive as a result of exposure to EI.

B. 1,2-Dichloroethane (DCE)

Again, using estimates of average intake of beer, FDA estimates the potential exposure to DCE to be 0.33 ng/person/day (Ref. 9). The agency used data from two bioassays sponsored by the National Cancer Institute to estimate risk; the bioassays showed that DCE is carcinogenic to mice and rats at multiple tissue sites (Ref. 6). Based on the potential exposure of 0.33 ng/person/day, FDA estimates that the upper-bound limit of individual lifetime risk from the potential exposure to DCE from the use of PEI is 6.4×10^{-11}, or less than 6.4 in 100 billion (Refs. 12 and 13). Because of the numerous conservative assumptions used in calculating this exposure estimate, actual lifetime averaged individual exposure to DCE is expected to be substantially less than the worst-case exposure, and therefore, the calculated upper-bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty that no harm will result from the proposed use of PEI as a result of exposure to DCE.

C. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of EI and DCE impurities in PEI. The agency finds that specifications for PEI are necessary, and that the specifications in § 173.357(a)(2) should be retained. The PA does not require specifications for its use (Ref. 14) because it does not contain impurities that need to be controlled.

III. Conclusions

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use of PA and PEI as fixing agents for the immobilization of glucoamylase enzyme preparations from *A. niger* used in the manufacture of beer is safe (Ref. 15). Based on this information, the agency has also concluded that the additives will function as intended. Therefore, § 173.357(a)(2) should be amended as set forth below.

FDA is also amending § 173.357(a)(2) to revise the division name and address listed in the regulation as a source of methods incorporated by reference. The change results from a reorganization of

the Center for Food Safety and Applied Nutrition announced in a final rule published in the **Federal Register** of April 1, 1993 (58 FR 17091).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

In the notice of filing for this petition that published in the **Federal Register** of December 1, 1993, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment by January 3, 1994, to the Dockets Management Branch (address above). FDA received no comments in response to that notice.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

V. Objections

Any person who will be adversely affected by this regulation may at any time on or before March 11, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Letter from McKenna & Cuneo to the Direct Additives Branch (HFS–217), amending the filing of Food Additive Petition No. 1A4288, February 2, 1994.
2. Memorandum from Wine and Beer Branch, Bureau of Alcohol, Tobacco, and Firearms to the Direct Additives Branch (HFS–217), regarding regulations for "light" beer, October 6, 1994.
3. Underkofler, L. A., R. R. Barton, and S. S. Rennert, "Microbiological Process Report—Production of Microbial Enzymes and their Applications," *Applied Microbiology*, 6:212–221, 1958.
4. Beckhorn, E. J., M. D. Labbee, and L. A. Underkofler, "Production and Use of Microbial Enzymes for Food Processing," *Journal of Agricultural Food Chemistry*, 13:30–34, 1965.
5. Memorandum from the Quantitative Risk Assessment Committee to the Office of Toxicological Sciences (HFS–100), concerning risk estimate for ethyleneimine, August 22, 1985.
6. Memorandum from the Cancer Assessment Committee, Color and Cosmetics Evaluation Branch (HFF–158) to Division of Food and Color Additives (HFF–330), "Preliminary Risk Assessment on 1,2-Dichloroethane (DCE) Migrating from Food and Beverage Contact Paper, June 23, 1982.
7. Memorandum from Quantitative Risk Assessment Committee to the Office of Toxicological Sciences (HFF–100), Epichlorohydrin, 1,2-Dichloroethane, and 2,4-Toluenediamine in Reverse Osmosis Membranes (FAP 6B3955), February 2, 1988.
8. Memorandum from the Chemistry Review Branch (HFS–247) to the Direct Additives Branch (HFS–217), concerning letter dated October 20, 1993, and submission dated October 27, 1993, from McKenna & Cuneo, January 11, 1994.
9. Memorandum from the Chemistry Review Branch (HFS–247) to the Direct Additives Branch (HFS–217), Enzyme Bio-Systems Ltd., Submission of September 12, 1991; February 17, 1993.
10. Kokoski, C. J., "Regulatory Food Additive Toxicology", in *Chemical Safety Regulation and Compliance*, edited by Homburger, F. and J. K. Marquis, S. Karger, New York, NY, pp. 24–33, 1985.
11. Memorandum from the Additive Evaluation Branch (HFF–158) to the Direct Additives Branch (HFF–217), concerning evaluation of Food Additive Petition No. 1A4288, February 25, 1992.
12. Memorandum from the Chemistry Review Branch (HFS–247) to the Direct Additives Branch (HFS–217), Exposure estimate for QRAC evaluation, February 8, 1994.
13. Memorandum from the Direct Additives Branch (HFS–217) to the Quantitative Risk Assessment Committee (HFS–308), Estimation of the upper-bound lifetime risk for ethyleneimine (EI) and 1,2-dichlorethane (DCE) for uses requested in FAP 1A4288 (Enzyme Bio-Systems Ltd.), April 15, 1994.
14. Memorandum from the Chemistry Review Branch (HFS–247) to the Direct Additives Branch (HFS–217) concerning Food Additive Petition No. 1A4288, April 5, 1994.
15. Memorandum from the Additives Evaluation Branch No. 1 (HFS–226) to the Direct Additives Branch (HFS–217), final evaluation memorandum, May 31, 1994.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: Secs. 201, 402, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348).

2. Section 173.357 is amended in the table in paragraph (a)(2) under the headings "Substances" and "Limitations" by alphabetically adding a new entry for "periodic acid" and by revising the entry for "polyethylenimine reaction product with 1,2-dichloroethane" to read as follows:

§ 173.357 Materials used as fixing agents in the immobilization of enzyme preparations.

* * * * *

(a) * * *

(2) * * *

Substances	Limitations
. . . .	. . . .
Periodic acid (CAS Reg. No. 10450–60–9).	May be used as a fixing material in the immobilization of glucoamylase enzyme preparations from *Aspergillus niger* for use in the manufacture of beer.
Polyethylenimine reaction product with 1,2-dichloroethane (CAS Reg.No. 68130–97–2) is the reaction product of homopolymerization of ethylenimine in aqueous hydrochloric acid at 100 °C and of cross-linking with 1,2-dichloroethane. The finished polymer has an average molecular weight of 50,000 to 70,000 as determined by gel permeation chromatography. The analytical method is entitled "Methodology for Molecular Weight Detection of Polyethylenimine," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Division of Petition Control, Center for Food Safety and Applied Nutrition (HFS–215), 200 C St. SW., Washington, DC 20204, and may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.	May be used as a fixing material in the immobilization of: 1. Glucose isomerase enzyme preparations for use in the manufacture of high fructose corn syrup, in accordance with § 184.1372 of this chapter. 2. Glucoamylase enzyme preparations from *Aspergillus niger* for use in the manufacture of beer. Residual ethylenimine in the finished polyethylenimine polymer will be less than 1 part per million as determined by gas chromatography-mass spectrometry. The residual ethylenimine is determined by an analytical method entitled "Methodology for Ethylenimine Detection in Polyethylenimine," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Residual 1,2-dichloroethane in the finished polyethylenimine polymer will be less than 1 part per million as determined by gas chromatography. The residual 1,2-dichloroethane is determined by an analytical method entitled, "Methodology for Ethylenedichloride Detection in Polyethylenimine," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Division of Petition Control, Center for Food Safety and Applied Nutrition (HFS–215), 200 C St. SW., Washington, DC 20204, or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

* * * * *

Dated: January 17, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–2747 Filed 2–8–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 520, 522, and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name for SmithKline Animal Health Products, Division of SmithKline Beckman Corp. to SmithKline Beecham Animal Health due to a merger with Beecham Laboratories, Division of Beecham, Inc., and to reflect a change of sponsor for approved new drug applications (NADA's) previously held by SmithKline Beecham Animal Health to Pfizer, Inc.

EFFECTIVE DATE: February 9, 1996.

FOR FURTHER INFORMATION CONTACT: Judith M. O'Haro, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1737.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 8, 1991 (56 FR 50652), the animal drug regulations were amended to reflect the change of sponsor name for SmithKline Animal Health Products, Division of SmithKline Beckman Corp. to SmithKline Beecham Animal Health due to a merger with Beecham Laboratories, Division of Beecham, Inc. The regulations were amended to reflect the change of sponsor for 28 new animal drug applications (NADA's) from Beecham Laboratories, Division of Beecham Inc., to SmithKline Beecham Animal Health, and the change of sponsor for 22 NADA's from Norden Laboratories, Inc., to SmithKline Beecham Animal Health also due to the merger. The new company was assigned a new sponsor labeler code. The amended regulations did not reflect SmithKline Beecham Animal Health as the new sponsor in §§ 558.58, 558.311, 558.355, and 558.625. The sponsor currently listed for these products is Pfizer, Inc. Accordingly, the agency is amending these sections to reflect the change of sponsor.

In the **Federal Register** of November 2, 1995 (60 FR 55657), FDA published a document that amended the animal drug regulations to reflect a change of sponsor for 62 NADA's from SmithKline Beecham Animal Health to Pfizer, Inc. FDA inadvertently amended the regulations in 21 CFR 520.2260a, 520.2260b, and 520.2260c to reflect Pfizer, Inc. as the sponsor. However, Solvay Animal Health remains the sponsor of these sulfamethazine containing applications. The codified sections that should have been amended are 520.2220a, 520.2220b, 520.2220c, 520.2220d, and 522.2220. In addition, the agency omitted an amendment to 21 CFR 520.45a(a)(2). Accordingly, the agency is amending these sections to reflect this change of sponsor.

List of Subjects

21 CFR Parts 520 and 522

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520, 522, and 558 are amended as follows:

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.45a [Amended]

2. Section 520.45a *Albendazole suspension* is amended in paragraph (a)(2) by removing "053571" and adding in its place "000069".

§ 520.2220a [Amended]

3. Section 520.2220a *Sulfadimethoxine oral solution and soluble powder* is amended in paragraph (b) by removing "053571" and adding in its place "000069".

§ 520.2220b [Amended]

4. Section 520.2220b *Sulfadimethoxine tablets and boluses* is amended in paragraph (b)(1) by removing "053571" and adding in its place "000069".

§ 520.2220c [Amended]

5. Section 520.2220c *Sulfadimethoxine oral suspension* is amended in paragraph (c) by removing "053571" and adding in its place "000069".

§ 520.2220d [Amended]

6. Section 520.2220d *Sulfadimethoxine-ormetoprim tablets* is amended in paragraph (b) by removing "053571" and adding in its place "000069".

§ 520.2260a [Amended]

7. Section 520.2260a *Sulfamethazine oblets and boluses* is amended in paragraph (b)(1) by removing "000069" and adding in its place "053501".

§ 520.2260b [Amended]

8. Section 520.2260b *Sulfamethazine sustained-release boluses* is amended in paragraph (b)(1) by removing "000069" and adding in its place "053501".

§ 520.2260c [Amended]

9. Section 520.2260c *Sulfamethazine sustained-release tablets* is amended in paragraph (a) by removing "000069" and adding in its place "053501".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

10. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Secs. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.2220 [Amended]

11. Section 522.2220 *Sulfadimethoxine injection* is amended in paragraph (a)(2)(i) by removing "053571" and adding in its place "000069".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

12. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512,701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.58 [Amended]

13. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1), in item (iii), in the entry for virginamycin,15, under the "Limitations" and the "Sponsor" columns by removing "000007" and adding in its place "000069".

§ 558.311 [Amended]

14. Section 558.311 *Lasalocid* is amended in paragraph (b)(2) by removing "000007" and adding in its place "000069".

§ 558.355 [Amended]

15. Section 558.355 *Monensin* is amended in paragraph (b)(5) by removing "000007" and adding in its place "000069".

§ 558.625 [Amended]

16. Section 558.625 *Tylosin* is amended in paragraph (b)(25) by removing "000007" and adding in its place "000069".

Dated: February 1, 1996.

Robert C. Livingston

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–2846 Filed 2–8–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 86

[Docket No. FR–4009–F–01]

Elimination of Requirements Governing the Lobbying of HUD Personnel; Removal of 24 CFR Part 86

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule removes part 86 from title 24 of the Code of Federal Regulations. Part 86, which was promulgated to comply with section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b), established recordkeeping, reporting, and registration requirements governing attempts to influence HUD programs. It also placed limitations on the fees paid to consultants who are engaged to influence the award or allocation of the Department's financial assistance. Effective January 1, 1996, the Lobbying Disclosure Act of 1995 (Pub. L. 104–65, approved December 19, 1995) repealed the authority for part 86—section 13 of the Department of Housing and Urban Development Act. This rule conforms the Code of Federal Regulations to this repeal.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Assistant General Counsel, Ethics Law Division; Office of General Counsel; Room 2158; U.S. Department of Housing and Urban Development; 451 Seventh Street, SW., Washington, DC 20410–0500; telephone (202) 708–0836. Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–0113, or 1–800–877–8399 (Federal Information Relay Service TDD). (Other than the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 112 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) added a new section 13 to the Department of Housing and Urban Development Act, 42 U.S.C. 3531, *et seq.* Section 13 contained two principal features. The first established the standards under which:

—Persons that make expenditures to influence a HUD officer or employee in the award of financial assistance or the taking of a management action by the Department must keep records, and report to HUD, on the expenditures; and

—Persons that are engaged to influence a HUD officer or employee in the award of financial assistance or the taking of a management action by the Department must register with HUD, and report to HUD on their lobbying activities.

The second feature imposed limitations on the fees that may be paid to consultants who are engaged to influence the award or allocation of the Department's financial assistance.

The requirements of Section 13 are codified at 24 CFR part 86.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65, approved December 19, 1995) established government-wide lobbying procedures and requirements. Sections 11(b)(1) and 24(a) of the new law repealed section 13, effective January 1, 1996.

The purpose of this rule is to remove part 86 to conform the Code of Federal Regulations to the new statutory authority.

Justification for Final Rule

In accordance with 24 CFR part 10, it is the practice of the Department to offer interested parties the opportunity to comment on proposed regulations. However, this regulation relates to administrative procedures only and conforms the Code of Federal Regulations to existing law. The purpose of this rule is to remove part 86 to conform the Code of Federal Regulations to the new statutory authority. Therefore, the Department has determined that public comment is unnecessary and contrary to the public interest.

Other Matters

A. Environmental Impact

This final rule is categorically excluded from the NEPA requirements of HUD regulations at 24 CFR § 50.20(k), which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The rule involves internal administrative procedures whose content does not constitute a developmental decision nor affect the physical condition of project areas or building sites.

B. Regulatory Flexibility Act

The Secretary, in approving this rule for publication, certifies in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act) that this rule would not have a significant impact on a substantial number of small entities. This is a procedural rule only, conforming the Code of Federal Regulations to existing law.

C. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this final rule is procedural only, and does not have potential for significant impact on family-formation, maintenance, and general well-being, and, thus is not subject to review under the Order.

D. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this final rule is procedural only, and does not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 24 CFR Part 86

Administrative practice and procedure, Lobbying (Government agencies), Reporting and recordkeeping requirements.

Accordingly, under the authority of 42 U.S.C. 3535(d), part 86 is removed from title 24 of the Code of Federal Regulations.

Dated: February 2, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–2856 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8656]

RIN 1545–AS24

Section 6662—Imposition of the Accuracy-Related Penalty

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: These regulations provide guidance on the imposition of the accuracy related penalty under Internal Revenue Code section 6662(e) for net section 482 transfer price adjustments. This action implements changes to the applicable tax laws made by the Omnibus Budget Reconciliation Act of 1993.

DATES: These regulations are effective February 9, 1996.

Applicability: At the election of the taxpayer, these regulations may be applied to all open taxable years beginning after December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Carolyn D. Fanaroff of the Office of Associate Chief Counsel (International), IRS (202) 622–3880 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1426. Responses to this collection of information are required by section 6662(e) of the Internal Revenue Code in order to administer the transfer pricing penalty under that section.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated average annual burden per recordkeeper varies from 5 to 15 hours, depending on individual circumstances, with an estimated average of 10 hours per recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books and records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Sections 6662(e) and (h) of the Internal Revenue Code reflect amendments made by Section 13236 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93, Public Law 103–66, 107 Stat. 312). On February 2, 1994, the IRS and Treasury published temporary regulations (59 FR 4791) and a notice of proposed rulemaking (58 FR 5263) setting forth rules for imposing a substantial valuation misstatement penalty in connection with transactions between persons described in section

482 (the transactional penalty) and net section 482 transfer price adjustments (the net adjustment penalty) and withdrawing previously proposed regulations issued on January 21, 1993 (58 FR 5304). On July 8, 1994, the IRS and Treasury issued new temporary regulations (59 FR 35030) under section 6662(e) conforming the previously-issued regulations to the final 482 regulations published on the same day. A cross-referenced notice of proposed rulemaking accompanied the temporary regulations (59 FR 35066).

The IRS and Treasury received numerous comments on the proposed and temporary regulations from taxpayers, practitioners, tax treaty partners, industry representatives, and professional associations. In general, most commenters recognized the government's interest in encouraging timely compliance with the arm's length standard at the time that a tax return is filed. These commenters primarily addressed particular aspects of the specified method rule in § 1.6662–6(d)(2)(ii) of the temporary regulations that they believed imposed an unnecessary burden.

In response to these comments, the IRS and Treasury have attempted to simplify the requirements set forth in the proposed and temporary regulations without departing from the basic objective of section 6662(e): to improve compliance with the arm's length standard by encouraging taxpayers to make reasonable efforts to determine and document arm's length prices for their intercompany transactions. The regulations are adopted as revised by this Treasury decision, and the corresponding proposed and temporary regulations are removed. Set forth below is a discussion of the most significant comments and the changes made in response to them.

Discussion of Major Comments and Changes to the Regulations

The Reasonableness Standard

Commenters expressed concern that the standard for assertion of the transactional penalty and the net adjustment penalty (together, the penalty) under the proposed and temporary regulations effectively makes the penalty a "no fault" penalty to be imposed in any case in which the statutory thresholds for imposition are met. Commenters suggested that, in all cases, a taxpayer could not have used the most reliable measure of an arm's length result if it subsequently is determined that the taxpayer's analysis was incorrect. Some of these commenters urged the IRS to impose the penalty only where a taxpayer deliberately attempts to shift income.

The IRS and Treasury have determined that it is not necessary to revise the proposed and temporary regulations in response to these comments. The proposed and temporary regulations do not adopt a "no-fault" approach. Like other penalty statutes, the provisions of section 6662(e) incorporate standards of reasonable cause and good faith. See section 6662(e)(3)(D) and section 6664(c). Accordingly, under both the temporary and final regulations, the penalty is excused if the taxpayer, based upon the data that was reasonably available to it, reasonably concluded that its analysis was the most reliable and satisfied the documentation requirement of the regulations. In such a case, the taxpayer may be subject to an adjustment if the IRS later employs a different analysis or uses different data leading to a different result, but an adjustment does not necessarily trigger the imposition of the penalty. The regulations provide guidance on the interpretation of the reasonableness standard. See § 1.6662–6(d).

Reported Results

In response to comments, the final regulations clarify the method of determining reported results, and what will be considered amended returns for taxpayers electing Accelerated Issue Resolution or similar procedures.

Evaluation of Methods Other Than the Method Actually Applied

Under § 1.6662–6T(d)(2)(ii) of the temporary regulations, taxpayers may satisfy the specified method requirement by selecting and applying a specified method in a reasonable manner. In order to meet this requirement, taxpayers must make a reasonable effort to evaluate the potential applicability of the other specified methods in a manner consistent with the principles of the best method rule of § 1.482–1(c). Some commenters argued that this requirement would be overly burdensome because it could mean that the taxpayer effectively must disprove all other methods in order to avoid imposition of the penalty. Others asserted that the requirement in § 1.6662–6T(d)(2)(ii) that taxpayers make a reasonable effort to evaluate other methods in a manner consistent with the principles of the best method rule was inconsistent with language contained in § 1.482–1(c)(1).

The notion of a comparison of methods is inherent in the best method rule of § 1.482–1(c)(1). In order to be judged the "best" method, the method to some extent must be compared to other methods. The examples set forth under § 1.482–8 illustrate an appropriate application of a comparative analysis. In introducing these examples, § 1.482–8 states that "a method may be applied in a particular case only if the comparability, quality of data, and reliability of assumptions under that method make it more reliable than any other available measure of the arm's length result."

The comparison to be done under the best method rule will not necessarily entail a thorough analysis under every potentially applicable method. The nature of the available data will often indicate either that a particular method should be the most reliable or that certain other specified methods would be clearly unreliable. Indeed, in some cases, it might be reasonable to conclude that a particular method is likely to be the most reliable with virtually no consideration of other potentially applicable methods. For example, if the comparable uncontrolled price method can be applied based upon a closely comparable uncontrolled transaction, it normally would be unnecessary to give any serious consideration to the other methods. Whether more extensive consideration could be needed in other cases will depend on the facts and circumstances.

Accordingly, the final regulations retain the notion that comparisons to other specified methods may have to be made and the extent of such comparisons may vary depending upon the data available and other factors.

Most Current Data Requirement

One of the factors taken into account in determining whether a taxpayer reasonably selected and applied a specified method is whether the taxpayer made a reasonable search for data. The proposed and temporary regulations provided that this factor would not be met unless the taxpayer used the most current data that was available prior to filing the tax return. Section 1.6662–6T(d)(2)(iii)(B).

Commenters expressed concern that this requirement would be unduly burdensome because it would require a taxpayer to continually update its transfer pricing analysis until the filing of its tax return. Commenters also argued that this rule could lead to an increased incidence of double taxation if particular foreign jurisdictions did not permit alterations to transactional prices either after the transaction or after the close of a taxable year.

In response to these comments, the requirement to consider the most

current available data has been modified. Under the final regulations, taxpayers are expected to use only data available before the end of the taxable year and consequently have no obligation to continue to search for data after the close of the taxable year to avoid the penalty. However, when a taxpayer obtains additional relevant data between the close of the year and the date on which the tax return is filed (for example, in connection with transfer pricing analyses conducted with respect to the subsequent taxable year), the final regulations require the taxpayer to include such data in its principal documents as provided in § 1.6662–6(d)(2)(iii)(B)(9). These documents must be provided to the IRS upon request. These changes are intended to relieve much of the burden on taxpayers and at the same time to ensure that, upon examination, the taxpayer provides the IRS with all relevant information in its possession.

Reasonably Thorough Search for Data

Commenters requested additional guidance regarding the scope of the term reasonably thorough search for data under § 1.6662– 6(d)(2)(ii)(B). The proposed and temporary regulations provide that, in determining whether a search for data was reasonably thorough, the expense of acquiring additional data may be weighed against the dollar amount of the transactions.

The IRS and Treasury have determined that more specific guidelines that would be applicable to all situations cannot be provided because the determination of whether a taxpayer engaged in a reasonable search for data depends on the facts and circumstances of each case. Therefore, the final regulations adhere to the general approach of the proposed and temporary regulations.

However, the final regulations provide a more precise statement of the rule that governs the determination of whether the taxpayer made a reasonable search for data. Section 1.6662-6(d)(2)(ii)(B) of the final regulations provides that taxpayers may weigh the expense a search for data against (i) the likelihood that they will find additional data that will improve the reliability of the results and (ii) the amount by which any new data would change the taxpayer's taxable income. Thus, a taxpayer that has located reliable data leading to an analysis that is unlikely to become more reliable if additional data were located would not need to continue a search. In addition, as the amount of taxable income potentially at stake declines (either because of low dollar amounts of the controlled transactions or because of low variability in results that are expected under the facts and circumstances), the need to continue to search for data also decreases.

Experience and Knowledge

Section 1.6662–6(d)(2)(ii)(A) provides that one of the factors taken into account in determining whether a taxpayer reasonably applied a specified method is the experience and knowledge of the taxpayer, including all members of the taxpayer's controlled group. Commenters objected to this factor because it is not limited to consideration of the experience and knowledge of the taxpayer. The purpose of this factor is to consider the experience and knowledge of all the parties that are likely to be involved in the pricing of the controlled transactions. If the scope of this factor were limited to the taxpayer participating in the controlled transaction, the experience and knowledge of related persons who may have had a role in determining intercompany prices of the taxpayer might not be taken into account. Accordingly, this factor has not been changed in the final regulations.

Thresholds for Application

The net adjustment penalty under section 6662(e)(1)(B)(ii) potentially applies if the net section 482 adjustment exceeds the lesser of $5 million or 10 percent of the taxpayer's gross receipts. Some commenters objected to the statutory $5 million threshold, pointing out that a relatively insignificant error could easily lead to a $5 million adjustment with respect to very large intercompany transactions. As a result, taxpayers that made reasonable efforts to determine an arm's length result might nonetheless be subject to penalty.

The $5 million threshold for imposition of the penalty is fixed by statute. However, § 1.6662–6(d)(2)(ii)(G) of the final regulations has been added to provide that the size of an adjustment in relation to the size of the controlled transaction is relevant to determining whether a taxpayer made a reasonable effort to apply a specified or unspecified method. Accordingly, the fact that a proposed adjustment is small in relation to the dollar amount of the controlled transaction to which it relates is relevant in determining if a taxpayer made a reasonable effort to apply a specified or unspecified method.

Reliance on Prior Analyses

Citing the preamble to the temporary regulations and the 1993 legislative history, some commenters requested that a pricing methodology that was approved by the IRS on audit or in connection with an Advanced Pricing Agreement (APA) be considered to satisfy the specified method requirement of the regulations. In response to this comment, § 1.6662–6(d)(2)(ii)(F) of the final regulations has been added to provide that whether a taxpayer relied on a methodology developed in connection with an APA or approved by the IRS pursuant to an audit is relevant to determining whether the taxpayer made a reasonable effort to apply a specified or unspecified method, as long as the taxpayer applied the agreed method reasonably and consistently with its prior application, and adjustments have been made for any material changes in the facts and circumstances since the original application of that method. Pursuant to § 1.6662–6(d)(3)(ii) (B) and (C), this factor is also relevant if the taxpayer employed an unspecified method.

Principal Documents

Section 1.6662–6(d)(2)(iii)(B) of the final regulations provides a list of principal documents that must be provided to the IRS within 30 days of a request. The proposed and temporary regulations set forth a contemporaneous documentation requirement pursuant to which all of these documents must have been in existence at the time that the taxpayer filed its tax return. In response to comments, several changes have been made to these provisions.

Under the final regulations, the contemporaneous documentation requirement does not apply to the summary of data acquired after the close of the taxable year or the general index of principal and background documents. Thus, these documents do not have to be prepared at the time the return is filed.

Several commenters argued that the requirement that the principal documents generally be provided within 30 days of a request is too short, but this requirement has not been changed in the final regulations because the statute mandates this 30-day disclosure period. Moreover, except for the two principal documents excluded from the contemporaneous documentation requirement, as described above, all principal documents are required to be prepared by the time the tax return is filed. The IRS and Treasury believe that 30 days should be adequate to provide documents that already exist and that were prepared with the intention of being provided to the IRS.

Other commenters suggested that the list of documents in § 1.6662–6(d)(2)(iii)(B) is too specific and that, in some cases, it should not be necessary to provide all of the documents listed. Some of these commenters suggested that the list of documents be replaced with a more flexible approach under which the documents required would depend on the facts and circumstances.

The final regulations have not been changed in response to this comment. The list of principal documents is intended to provide the IRS with the documents necessary to conduct a complete examination of a taxpayer's transfer pricing. It is anticipated that all of the principal documents listed would be needed in connection with all transfer pricing audits. In addition, the suggested flexible approach would deprive taxpayers and the IRS of much-needed certainty. In the absence of the specific guidance provided by the regulations, most taxpayers would face uncertainty as to the appropriate scope of the documentation requirement.

Disclosure of Profit Split, Lump Sum, and Unspecified Methods

The proposed and temporary regulations require that the taxpayer disclose on its tax return if the taxpayer used a profit split method, an unspecified method, or transferred an intangible in exchange for a lump sum payment. Commenters expressed concern about this requirement, particularly with respect to the profit split method. They asserted that it is inappropriate to impose a penalty on a taxpayer that used a profit split method, solely because it failed to comply with disclosure requirements, if the taxpayer otherwise fully complied with the regulations under section 6662(e). In response to this comment, the final regulations eliminate the disclosure requirement with respect to the profit split method, lump sum payments, and unspecified methods. The IRS and Treasury believe that these matters are more appropriately addressed under section 6038 and section 6038A of the Internal Revenue Code governing, in part, information returns on Forms 5471 and 5472. The IRS intends to review these forms to determine whether they should be revised.

Effective Date

These regulations are effective February 9, 1996. However, taxpayers may elect to apply these regulations to all open taxable years beginning after December 31, 1993.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to the regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking and temporary regulations preceding these regulations were sent to the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Carolyn D. Fanaroff of the Office of the Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 is amended by removing the entry "Sections 1.6662–0 and 1.6662–6T" and adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805. * * *

Section 1.6662–6 also issued under 26 U.S.C. 6662. * * *

Par. 2. Section 1.6662–0 is amended by:

1. Revising the entry for § 1.6662–5T.
2. Adding an entry for § 1.6662–6.
3. Removing the entry for § 1.6662–6T.

The revisions and additions read as follows:

§ 1.6662–0 Table of contents.

* * * * *

§ 1.6662–5T Substantial and gross valuation misstatements under chapter 1 (Temporary).

(a) through (e)(3) [Reserved].

(e)(4) Tests related to section 481.

(i) Substantial valuation statement.

(ii) Gross valuation misstatement.

(iii) Property.

(f) through (i) [Reserved].

(j) Transactions between persons described in section 482 and net section 482 transfer price adjustments.

§ 1.6662–6 Transactions between persons described in section 482 and net section 482 transfer price adjustments.

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(A) In general.
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(f) Rules for coordinating between the transactional penalty and the net adjustment penalty.
(1) Coordination of a net section 482 adjustment subject to the net adjustment penalty and a gross valuation misstatement subject to the transactional penalty.
(2) Coordination of net section 482 adjustment subject to the net adjustment penalty and substantial valuation misstatements subject to the transactional penalty.
(3) Examples.
(g) Effective date.

* * * * *

Par. 3. Section 1.6662–5T is revised to read as follows:

§ 1.6662–5T Substantial and gross valuation misstatements under chapter 1 (Temporary).

(a) through (e)(3) [Reserved]. For further information, see § 1.6662–5(a) through (e)(3).

(e)(4) *Tests related to section 482*—(i) *Substantial valuation misstatement.* There is a substantial valuation

misstatement if there is a misstatement described in § 1.6662–6 (b)(1) or (c)(1) (concerning substantial valuation misstatements pertaining to transactions between related persons).

(ii) *Gross valuation misstatement.* There is a gross valuation misstatement if there is a misstatement described in § 1.6662–6 (b)(2) or (c)(2) (concerning gross valuation misstatements pertaining to transactions between related persons).

(iii) *Property.* For purposes of this section, the term *property* refers to both tangible and intangible property. Tangible property includes property such as land, buildings, fixtures and inventory. Intangible property includes property such as goodwill. Covenants not to compete; leaseholds, patents, contract rights, debts and choses in action, and any other item of intangible property described in § 1.482–4(b).

(f) through (h) [Reserved] For further information, see § 1.6662–5 (f) through (h).

(i) [Reserved].

(j) *Transactions between persons described in section 482 and net section 482 transfer price adjustments.* For rules relating to the penalty imposed with respect to a substantial or gross valuation misstatement arising from a section 482 allocation, see § 1.6662–6.

Par. 4. Section 1.6662–6 is added to read as follows:

§ 1.6662–6 Transactions between persons described in section 482 and net section 482 transfer price adjustments.

(a) *In general*—(1) *Purpose and scope.* Pursuant to section 6662(e) a penalty is imposed on any underpayment attributable to a substantial valuation misstatement pertaining to either a transaction between persons described in section 482 (the transactional penalty) or a net section 482 transfer price adjustment (the net adjustment penalty). The penalty is equal to 20 percent of the underpayment of tax attributable to that substantial valuation misstatement. Pursuant to section 6662(h) the penalty is increased to 40 percent of the underpayment in the case of a gross valuation misstatement with respect to either penalty. Paragraph (b) of this section provides specific rules related to the transactional penalty. Paragraph (c) of this section provides specific rules related to the net adjustment penalty, and paragraph (d) of this section describes amounts that will be excluded for purposes of calculating the net adjustment penalty. Paragraph (e) of this section sets forth special rules in the case of carrybacks and carryovers. Paragraph (f) of this section provides coordination rules between penalties. Paragraph (g) of this section provides the effective date of this section.

(2) *Reported results.* Whether an underpayment is attributable to a substantial or gross valuation misstatement must be determined from the results of controlled transactions that are reported on an income tax return, regardless of whether the amount reported differs from the transaction price initially reflected in the taxpayer's books and records. The results of controlled transactions that are reported on an amended return will be used only if the amended return is filed before the Internal Revenue Service has contacted the taxpayer regarding the corresponding original return. A written statement furnished by a taxpayer subject to the Coordinated Examination Program or a written statement furnished by the taxpayer when electing Accelerated Issue Resolution or similar procedures will be considered an amended return for purposes of this section if it satisfies either the requirements of a qualified amended return for purposes of § 1.6664–2(c)(3) or such requirements as the Commissioner may prescribe by revenue procedure. In the case of a taxpayer that is a member of a consolidated group, the rules of this paragraph (a)(2) apply to the consolidated income tax return of the group.

(3) *Identical terms used in the section 482 regulations.* For purposes of this section, the terms used in this section shall have the same meaning as identical terms used in regulations under section 482.

(b) *The transactional penalty*—(1) *Substantial valuation misstatement.* In the case of any transaction between related persons, there is a substantial valuation misstatement if the price for any property or services (or for the use of property) claimed on any return is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct price.

(2) *Gross valuation misstatement.* In the case of any transaction between related persons, there is a gross valuation misstatement if the price for any property or services (or for the use of property) claimed on any return is 400 percent or more (or 25 percent or less) of the amount determined under section 482 to be the correct price.

(3) *Reasonable cause and good faith.* Pursuant to section 6664(c), the transactional penalty will not be imposed on any portion of an underpayment with respect to which the requirements of § 1.6664–4 are met. In applying the provisions of § 1.6664–4 in a case in which the taxpayer has relied on professional analysis in determining its transfer pricing, whether the professional is an employee of, or related to, the taxpayer is not determinative in evaluating whether the taxpayer reasonably relied in good faith on advice. A taxpayer that meets the requirements of paragraph (d) of this section with respect to an allocation under section 482 will be treated as having established that there was reasonable cause and good faith with respect to that item for purposes of § 1.6664–4. If a substantial or gross valuation misstatement under the transactional penalty also constitutes (or is part of) a substantial or gross valuation misstatement under the net adjustment penalty, then the rules of paragraph (d) of this section (and not the rules of § 1.6664–4) will be applied to determine whether the adjustment is excluded from calculation of the net section 482 adjustment.

(c) *Net adjustment penalty*—(1) *Net section 482 adjustment.* For purposes of this section, the term *net section 482 adjustment* means the sum of all increases in the taxable income of a taxpayer for a taxable year resulting from allocations under section 482 (determined without regard to any amount carried to such taxable year from another taxable year) less any decreases in taxable income attributable to collateral adjustments as described in § 1.482–1(g). For purposes of this section, amounts that meet the requirements of paragraph (d) of this section will be excluded from the calculation of the net section 482 adjustment. Substantial and gross valuation misstatements that are subject to the transactional penalty under paragraph (b) (1) or (2) of this section are included in determining the amount of the net section 482 adjustment. See paragraph (f) of this section for coordination rules between penalties.

(2) *Substantial valuation misstatement.* There is a substantial valuation misstatement if a net section 482 adjustment is greater than the lesser of 5 million dollars or ten percent of gross receipts.

(3) *Gross valuation misstatement.* There is a gross valuation misstatement if a net section 482 adjustment is greater than the lesser of 20 million dollars or twenty percent of gross receipts.

(4) *Setoff allocation rule.* If a taxpayer meets the requirements of paragraph (d) of this section with respect to some, but not all of the allocations made under section 482, then for purposes of determining the net section 482 adjustment, setoffs, as taken into account under § 1.482–1(g)(4), must be applied ratably against all such allocations. The following example illustrates the principle of this paragraph (c)(4):

Example. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$9,000,000
(2) Attributable to an increase in sales proceeds due to a decrease in the profit margin of a related buyer	6,000,000
(3) Because of a setoff under § 1.482–1(g)(4)	(5,000,000)
Total section 482 adjustments	10,000,000

(ii) The taxpayer meets the requirements of paragraph (d) with respect to adjustment number one, but not with respect to adjustment number two. The five million dollar setoff will be allocated ratably against the nine million dollar adjustment ($9,000,000/$15,000,000×$5,000,000=$3,000,000) and the six million dollar adjustment ($6,000,000/$15,000,000×$5,000,000=$2,000,000). Accordingly, in determining the net section 482 adjustment, the nine million dollar adjustment is reduced to six million dollars ($9,000,000–$3,000,000) and the six million dollar adjustment is reduced to four million dollars ($6,000,000–$2,000,000). Therefore, the net section 482 adjustment equals four million dollars.

(5) *Gross receipts.* For purposes of this section, gross receipts must be computed pursuant to the rules contained in § 1.448–1T(f)(2)(iv), as adjusted to reflect allocations under section 482.

(6) *Coordination with reasonable cause exception under section 6664(c).* Pursuant to section 6662(e)(3)(D), a taxpayer will be treated as having reasonable cause under section 6664(c) for any portion of an underpayment attributable to a net section 482 adjustment only if the taxpayer meets the requirements of paragraph (d) of this section with respect to that portion.

(7) *Examples.* The principles of this paragraph (c) are illustrated by the following examples:

Example 1. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$2,000,000
(2) Attributable to an increase in sales proceeds due to a decrease in the profit margin of a related buyer	2,500,000
(3) Attributable to a decrease in the cost of goods sold because of a decrease in the cost plus mark-up of a related seller	2,000,000
Total section 482 adjustments	6,500,000

(ii) None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment ($6.5 million) is greater than five million dollars. Therefore, there is a substantial valuation misstatement.

Example 2. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$11,000,000
(2) Attributable to an increase in sales proceeds due to a decrease in the profit margin of a related buyer	2,000,000
(3) Because of a setoff under § 1.482–1(g)(4)	(9,000,000)
Total section 482 adjustments	4,000,000

(ii) The taxpayer has gross receipts of sixty million dollars after taking into account all section 482 adjustments. None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment ($4 million) is less than the lesser of five million dollars or ten percent of gross receipts ($60 million×10%=$6 million). Therefore, there is no substantial valuation misstatement.

Example 3. (i) The Internal Revenue Service makes the following section 482 adjustments to the income of an affiliated group that files a consolidated return for the taxable year:

(1) Attributable to Member A	$1,500,000
(2) Attributable to Member B	1,000,000
(3) Attributable to Member C	2,000,000
Total section 482 adjustments	4,500,000

(ii) Members A, B, and C have gross receipts of 20 million dollars, 12 million dollars, and 11 million dollars, respectively. Thus, the total gross receipts are 43 million dollars. None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment ($4.5 million) is greater than the lesser of five million dollars or ten percent of gross receipts ($43 million × 10% = $4.3 million). Therefore, there is a substantial valuation misstatement.

Example 4. (i) The Internal Revenue Service makes the following section 482 adjustments to the income of an affiliated group that files a consolidated return for the taxable year:

(1) Attributable to Member A	$1,500,000
(2) Attributable to Member B	3,000,000
(3) Attributable to Member C	2,500,000
Total section 482 adjustments	7,000,000

(ii) Members A, B, and C have gross receipts of 20 million dollars, 35 million dollars, and 40 million dollars, respectively. Thus, the total gross receipts are 95 million dollars. None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment (7 million dollars) is greater than the lesser of five million dollars or ten percent of gross receipts ($95 million × 10% = $9.5 million). Therefore, there is a substantial valuation misstatement.

Example 5. (i) The Internal Revenue Service makes the following section 482 adjustments to the income of an affiliated group that files a consolidated return for the taxable year:

(1) Attributable to Member A	$2,000,000
(2) Attributable to Member B	1,000,000
(3) Attributable to Member C	1,500,000
Total section 482 adjustments	4,500,000

(ii) Members A, B, and C have gross receipts of 10 million dollars, 35 million dollars, and 40 million dollars, respectively. Thus, the total gross receipts are 85 million dollars. None of the adjustments are excluded under paragraph (d) of this section. The net section 482 adjustment ($4.5 million) is less than the lesser of five million dollars or ten percent of gross receipts ($85 million × 10%=$8.5 million). Therefore, there is no substantial valuation misstatement even though individual member A's adjustment ($2 million) is greater than ten percent of its individual gross receipts ($10 million × 10%=$1 million).

(d) *Amounts excluded from net section 482 adjustments*—(1) *In general.* An amount is excluded from the calculation of a net section 482 adjustment if the requirements of paragraph (d) (2), (3), or (4) of this section are met with respect to that amount.

(2) *Application of a specified section 482 method*—(i) *In general.* An amount is excluded from the calculation of a net section 482 adjustment if the taxpayer establishes that both the specified method and documentation requirements of this paragraph (d)(2) are met with respect to that amount. For purposes of this paragraph (d), a method will be considered a specified method if it is described in the regulations under section 482 and the method applies to transactions of the type under review. A qualified cost sharing arrangement is considered a specified method. See § 1.482–7. An unspecified method is not considered a specified method. See §§ 1.482–3(e) and 1.482–4(d).

(ii) *Specified method requirement.* The specified method requirement is met if the taxpayer selects and applies

a specified method in a reasonable manner. The taxpayer's selection and application of a specified method is reasonable only if, given the available data and the applicable pricing methods, the taxpayer reasonably concluded that the method (and its application of that method) provided the most reliable measure of an arm's length result under the principles of the best method rule of § 1.482–1(c). A taxpayer can reasonably conclude that a specified method provided the most reliable measure of an arm's length result only if it has made a reasonable effort to evaluate the potential applicability of the other specified methods in a manner consistent with the principles of the best method rule. The extent of this evaluation generally will depend on the nature of the available data, and it may vary from case to case and from method to method. This evaluation may not entail an exhaustive analysis or detailed application of each method. Rather, after a reasonably thorough search for relevant data, the taxpayer should consider which method would provide the most reliable measure of an arm's length result given that data. The nature of the available data may enable the taxpayer to conclude reasonably that a particular specified method provides a more reliable measure of an arm's length result than one or more of the other specified methods, and accordingly no further consideration of such other specified methods is needed. Further, it is not necessary for a taxpayer to conclude that the selected specified method provides a more reliable measure of an arm's length result than any unspecified method. For examples illustrating the selection of a specified method consistent with this paragraph (d)(2)(ii), see § 1.482–8. Whether the taxpayer's conclusion was reasonable must be determined from all the facts and circumstances. The factors relevant to this determination include the following:

(A) The experience and knowledge of the taxpayer, including all members of the taxpayer's controlled group.

(B) The extent to which reliable data was available and the data was analyzed in a reasonable manner. A taxpayer must engage in a reasonably thorough search for the data necessary to determine which method should be selected and how it should be applied. In determining the scope of a reasonably thorough search for data, the expense of additional efforts to locate new data may be weighed against the likelihood of finding additional data that would improve the reliability of the results and the amount by which any new data would change the taxpayer's taxable income. Furthermore, a taxpayer must use the most current reliable data that is available before the end of the taxable year in question. Although the taxpayer is not required to search for relevant data after the end of the taxable year, the taxpayer must maintain as a principal document described in paragraph (d)(2)(iii)(B)(*9*) of this section any relevant data it obtains after the end of the taxable year but before the return is filed, if that data would help determine whether the taxpayer has reported its true taxable income.

(C) The extent to which the taxpayer followed the relevant requirements set forth in regulations under section 482 with respect to the application of the method.

(D) The extent to which the taxpayer reasonably relied on a study or other analysis performed by a professional qualified to conduct such a study or analysis, including an attorney, accountant, or economist. Whether the professional is an employee of, or related to, the taxpayer is not determinative in evaluating the reliability of that study or analysis, as long as the study or analysis is objective, thorough, and well reasoned. Such reliance is reasonable only if the taxpayer disclosed to the professional all relevant information regarding the controlled transactions at issue. A study or analysis that was reasonably relied upon in a prior year may reasonably be relied upon in the current year if the relevant facts and circumstances have not changed or if the study or analysis has been appropriately modified to reflect any change in facts and circumstances.

(E) If the taxpayer attempted to determine an arm's length result by using more than one uncontrolled comparable, whether the taxpayer arbitrarily selected a result that corresponds to an extreme point in the range of results derived from the uncontrolled comparables. Such a result generally would not likely be closest to an arm's length result. If the uncontrolled comparables that the taxpayer uses to determine an arm's length result are described in § 1.482–1(e)(2)(ii)(B), one reasonable method of selecting a point in the range would be that provided in § 1.482–1(e)(3).

(F) The extent to which the taxpayer relied on a transfer pricing methodology developed and applied pursuant to an Advance Pricing Agreement for a prior taxable year, or specifically approved by the Internal Revenue Service pursuant to a transfer pricing audit of the transactions at issue for a prior taxable year, provided that the taxpayer applied the approved method reasonably and consistently with its prior application, and the facts and circumstances surrounding the use of the method have not materially changed since the time of the IRS's action, or if the facts and circumstances have changed in a way that materially affects the reliability of the results, the taxpayer makes appropriate adjustments to reflect such changes.

(G) The size of a net transfer pricing adjustment in relation to the size of the controlled transaction out of which the adjustment arose.

(iii) *Documentation requirement*—(A) *In general.* The documentation requirement of this paragraph (d)(2)(iii) is met if the taxpayer maintains sufficient documentation to establish that the taxpayer reasonably concluded that, given the available data and the applicable pricing methods, the method (and its application of that method) provided the most accurate measure of an arm's length result under the principles of the best method rule in § 1.482–1(c), and provides that documentation to the Internal Revenue Service within 30 days of a request for it in connection with an examination of the taxable year to which the documentation relates. With the exception of the documentation described in paragraphs (d)(2)(iii)(B) (*9*) and (*10*) of this section, that documentation must be in existence when the return is filed. The district director may, in his discretion, excuse a minor or inadvertent failure to provide required documents, but only if the taxpayer has made a good faith effort to comply, and the taxpayer promptly remedies the failure when it becomes known. The required documentation is divided into two categories, principal documents and background documents as described in paragraphs (d)(2)(iii) (B) and (C) of this section.

(B) *Principal documents.* The principal documents should accurately and completely describe the basic transfer pricing analysis conducted by the taxpayer. The documentation must include the following—

(*1*) An overview of the taxpayer's business, including an analysis of the economic and legal factors that affect the pricing of its property or services;

(*2*) A description of the taxpayer's organizational structure (including an organization chart) covering all related parties engaged in transactions potentially relevant under section 482, including foreign affiliates whose transactions directly or indirectly affect the pricing of property or services in the United States;

(*3*) Any documentation explicitly required by the regulations under section 482;

(*4*) A description of the method selected and an explanation of why that method was selected;

(*5*) A description of the alternative methods that were considered and an explanation of why they were not selected;

(*6*) A description of the controlled transactions (including the terms of sale) and any internal data used to analyze those transactions. For example, if a profit split method is applied, the documentation must include a schedule providing the total income, costs, and assets (with adjustments for different accounting practices and currencies) for each controlled taxpayer participating in the relevant business activity and detailing the allocations of such items to that activity;

(*7*) A description of the comparables that were used, how comparability was evaluated, and what (if any) adjustments were made;

(*8*) An explanation of the economic analysis and projections relied upon in developing the method. For example, if a profit split method is applied, the taxpayer must provide an explanation of the analysis undertaken to determine how the profits would be split;

(*9*) A description or summary of any relevant data that the taxpayer obtains after the end of the tax year and before filing a tax return, which would help determine if a taxpayer selected and applied a specified method in a reasonable manner; and

(*10*) A general index of the principal and background documents and a description of the recordkeeping system used for cataloging and accessing those documents.

(C) *Background documents.* The assumptions, conclusions, and positions contained in principal documents ordinarily will be based on, and supported by, additional background documents. Documents that support the principal documentation may include the documents listed in § 1.6038A–3(c) that are not otherwise described in paragraph (d)(2)(iii)(B) of this section. Every document listed in those regulations may not be relevant to pricing determinations under the taxpayer's specific facts and circumstances and, therefore, each of those documents need not be maintained in all circumstances. Moreover, other documents not listed in those regulations may be necessary to establish that the taxpayer's method was selected and applied in the way that provided the most accurate measure of an arm's length result under the principles of the best method rule in § 1.482–1(c). Background documents need not be provided to the Internal Revenue Service in response to a request for principal documents. If the Internal Revenue Service subsequently requests background documents, a taxpayer must provide that documentation to the Internal Revenue Service within 30 days of the request. However, the district director may, in his discretion, extend the period for producing the background documentation.

(3) *Application of an unspecified method*—(i) *In general.* An adjustment is excluded from the calculation of a net section 482 adjustment if the taxpayer establishes that both the unspecified method and documentation requirements of this paragraph (d)(3) are met with respect to that amount.

(ii) *Unspecified method requirement*—(A) *In general.* If a method other than a specified method was applied, the unspecified method requirement is met if the requirements of paragraph (d)(3)(ii) (B) or (C) of this section, as appropriate, are met.

(B) *Specified method potentially applicable.* If the transaction is of a type for which methods are specified in the regulations under section 482, then a taxpayer will be considered to have met the unspecified method requirement if the taxpayer reasonably concludes, given the available data, that none of the specified methods was likely to provide a reliable measure of an arm's length result, and that it selected and applied an unspecified method in a way that would likely provide a reliable measure of an arm's length result. A taxpayer can reasonably conclude that no specified method was likely to provide a reliable measure of an arm's length result only if it has made a reasonable effort to evaluate the potential applicability of the specified methods in a manner consistent with the principles of the best method rule. However, it is not necessary for a taxpayer to conclude that the selected method provides a more reliable measure of an arm's length result than any other unspecified method. Whether the taxpayer's conclusion was reasonable must be determined from all the facts and circumstances. The factors relevant to this conclusion include those set forth in paragraph (d)(2)(ii) of this section.

(C) *No specified method applicable.* If the transaction is of a type for which no methods are specified in the regulations under section 482, then a taxpayer will be considered to have met the unspecified method requirement if it selected and applied an unspecified method in a reasonable manner. For purposes of this paragraph (d)(3)(ii)(C), a taxpayer's selection and application is reasonable if the taxpayer reasonably concludes that the method (and its application of that method) provided the most reliable measure of an arm's length result under the principles of the best method rule in § 1.482–1(c). However, it is not necessary for a taxpayer to conclude that the selected method provides a more reliable measure of an arm's length result than any other unspecified method. Whether the taxpayer's conclusion was reasonable must be determined from all the facts and circumstances. The factors relevant to this conclusion include those set forth in paragraph (d)(2)(ii) of this section.

(iii) *Documentation requirement*—(A) *In general.* The documentation requirement of this paragraph (d)(3) is met if the taxpayer maintains sufficient documentation to establish that the unspecified method requirement of paragraph (d)(3)(ii) of this section is met and provides that documentation to the Internal Revenue Service within 30 days of a request for it. That documentation must be in existence when the return is filed. The district director may, in his discretion, excuse a minor or inadvertent failure to provide required documents, but only if the taxpayer has made a good faith effort to comply, and the taxpayer promptly remedies the failure when it becomes known.

(B) *Principal and background documents.* See paragraphs (d)(2)(iii) (B) and (C) of this section for rules regarding these two categories of required documentation.

(4) *Certain foreign to foreign transactions.* For purposes of calculating a net section 482 adjustment, any increase in taxable income resulting from an allocation under section 482 that is attributable to any controlled transaction solely between foreign corporations will be excluded unless the treatment of that transaction affects the determination of either corporation's income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.

(5) *Special rule.* If the regular tax (as defined in section 55(c)) imposed on the taxpayer is determined by reference to an amount other than taxable income, that amount shall be treated as the taxable income of the taxpayer for purposes of section 6662(e)(3). Accordingly, for taxpayers whose regular tax is determined by reference to an amount other than taxable income, the increase in that amount resulting

from section 482 allocations is the taxpayer's net section 482 adjustment.

(6) *Examples.* The principles of this paragraph (d) are illustrated by the following examples:

Example 1. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$9,000,000
(2) Not a 200 percent or 400 percent adjustment	2,000,000
(3) Attributable to a decrease in the cost of goods sold because of a decrease in the cost plus mark-up of a related seller	9,000,000
Total section 482 adjustments	20,000,000

(ii) The taxpayer has gross receipts of 75 million dollars after all section 482 adjustments. The taxpayer establishes that for adjustments number one and three, it applied a transfer pricing method specified in section 482, the selection and application of the method was reasonable, it documented the pricing analysis, and turned that documentation over to the IRS within 30 days of a request. Accordingly, eighteen million dollars is excluded from the calculation of the net section 482 adjustment. Because the net section 482 adjustment is two million dollars, there is no substantial valuation misstatement.

Example 2. (i) The Internal Revenue Service makes the following section 482 adjustments for the taxable year:

(1) Attributable to an increase in gross income because of an increase in royalty payments	$9,000,000
(2) Attributable to an adjustment that is 200 percent or more of the correct section 482 price	2,000,000
(3) Attributable to a decrease in the cost of goods sold because of a decrease in the cost plus mark-up of a related seller	9,000,000
Total section 482 adjustments	20,000,000

(ii) The taxpayer has gross receipts of 75 million dollars after all section 482 adjustments. The taxpayer establishes that for adjustments number one and three, it applied a transfer pricing method specified in section 482, the selection and application of the method was reasonable, it documented that analysis, and turned the documentation over to the IRS within 30 days. Accordingly, eighteen million dollars is excluded from the calculation of the section 482 transfer pricing adjustments for purposes of applying the five million dollar or 10% of gross receipts test. Because the net section 482 adjustment is only two million dollars, the taxpayer is not subject to the net adjustment penalty. However, the taxpayer may be subject to the transactional penalty on the underpayment of tax attributable to the two million dollar adjustment.

Example 3. CFC1 and CFC2 are controlled foreign corporations within the meaning of section 957. Applying section 482, the IRS disallows a deduction for 25 million dollars of the interest that CFC1 paid to CFC2, which results in CFC1's U.S. shareholder having a subpart F inclusion in excess of five million dollars. No other adjustments under section 482 are made with respect to the controlled taxpayers. However, the increase has no effect upon the determination of CFC1's or CFC2's income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States. Accordingly, there is no substantial valuation misstatement.

(e) *Special rules in the case of carrybacks and carryovers.* If there is a substantial or gross valuation misstatement for a taxable year that gives rise to a loss, deduction or credit that is carried to another taxable year, the transactional penalty and the net adjustment penalty will be imposed on any resulting underpayment of tax in that other taxable year. In determining whether there is a substantial or gross valuation misstatement for a taxable year, no amount carried from another taxable year shall be included. The following example illustrates the principle of this paragraph (e):

Example. The Internal Revenue Service makes a section 482 adjustment of six million dollars in taxable year 1, no portion of which is excluded under paragraph (d) of this section. The taxpayer's income tax return for year 1 reported a loss of three million dollars, which was carried to taxpayer's year 2 year income tax return and used to reduce income taxes otherwise due with respect to year 2. A determination is made that the six million dollar allocation constitutes a substantial valuation misstatement, and a penalty is imposed on the underpayment of tax in year 1 attributable to the substantial valuation misstatement and on the underpayment of tax in year 2 attributable to the disallowance of the net operating loss in year 2. For purposes of determining whether there is a substantial or gross valuation misstatement for year 2, the three million dollar reduction of the net operating loss will not be added to any section 482 adjustments made with respect to year 2.

(f) *Rules for coordinating between the transactional penalty and the net adjustment penalty*—(1) Coordination of a net section 482 adjustment subject to the net adjustment penalty and a gross valuation misstatement subject to the transactional penalty. In determining whether a net section 482 adjustment exceeds five million dollars or 10 percent of gross receipts, an adjustment attributable to a substantial or gross valuation misstatement that is subject to the transactional penalty will be taken into account. If the net section 482 adjustment exceeds five million dollars or ten percent of gross receipts, any portion of such amount that is attributable to a gross valuation misstatement will be subject to the transactional penalty at the forty percent rate, but will not also be subject to net adjustment penalty at a twenty percent rate. The remaining amount is subject to the net adjustment penalty at the twenty percent rate, even if such amount is less than the lesser of five million dollars or ten percent of gross receipts.

(2) *Coordination of net section 482 adjustment subject to the net adjustment penalty and substantial valuation misstatements subject to the transactional penalty.* If the net section 482 adjustment exceeds twenty million dollars or 20 percent of gross receipts, the entire amount of the adjustment is subject to the net adjustment penalty at a forty percent rate. No portion of the adjustment is subject to the transactional penalty at a twenty percent rate.

(3) *Examples.* The following examples illustrate the principles of this paragraph (f):

Example 1. (i) Applying section 482, the Internal Revenue Service makes the following adjustments for the taxable year:

(1) Attributable to an adjustment that is 400 percent or more of the correct section 482 arm's length result	$2,000,000
(2) Not a 200 or 400 percent adjustment	2,500,000
Total	4,500,000

(ii) The taxpayer has gross receipts of 75 million dollars after all section 482 adjustments. None of the adjustments is excluded under paragraph (d) (Amounts excluded from net section 482 adjustments) of this section, in determining the five million dollar or 10% of gross receipts test under section 6662(e)(1)(B)(ii). The net section 482 adjustment (4.5 million dollars) is less than the lesser of five million dollars or ten percent of gross receipts ($75 million × 10% = $7.5 million). Thus, there is no substantial valuation misstatement. However, the two million dollar adjustment is attributable to a gross valuation misstatement. Accordingly, the taxpayer may be subject to a penalty, under section 6662(h), equal to 40 percent of the underpayment of tax attributable to the gross valuation misstatement of two million dollars. The 2.5 million dollar adjustment is not subject to a penalty under section 6662(b)(3).

Example 2. The facts are the same as in *Example 1*, except the taxpayer has gross receipts of 40 million dollars. The net section 482 adjustment ($4.5 million) is greater than the lesser of five million dollars or ten percent of gross receipts ($40 million × 10% = $4 million). Thus, the five million dollar or 10% of gross receipts test has been met. The two million dollar adjustment is attributable to a gross valuation misstatement. Accordingly, the taxpayer is subject to a penalty, under section 6662(h), equal to 40 percent of the underpayment of tax attributable to the gross valuation misstatement of two million dollars. The 2.5 million dollar adjustment is subject to a penalty under sections 6662(a) and 6662(b)(3), equal to 20 percent of the underpayment of tax attributable to the substantial valuation misstatement.

Example 3. (i) Applying section 482, the Internal Revenue Service makes the following transfer pricing adjustments for the taxable year:

(1) Attributable to an adjustment that is 400 percent or more of the correct section 482 arm's length result	$6,000,000
(2) Not a 200 or 400 percent adjustment	15,000,000
Total	21,000,000

(ii) None of the adjustments are excluded under paragraph (d) (Amounts excluded from net section 482 adjustments) in determining the twenty million dollar or 20% of gross receipts test under section 6662(h). The net section 482 adjustment (21 million dollars) is greater than twenty million dollars and thus constitutes a gross valuation misstatement. Accordingly, the total adjustment is subject to the net adjustment penalty equal to 40 percent of the underpayment of tax attributable to the 21 million dollar gross valuation misstatement. The six million dollar adjustment will not be separately included for purposes of any additional penalty under section 6662.

(g) *Effective date.* This section is effective February 9, 1996. However, taxpayers may elect to apply this section to all open taxable years beginning after December 31, 1993.

§ 1.6662–6T [Removed]

Par. 5. Section 1.6662–6T is removed.

Par. 6a. In § 1.6664–0, the introductory text is amended by removing the reference "1.6664–4" and adding "1.6664–4T" in its place.

Par. 6b. Section 1.6664–4T is revised to read as follows:

§ 1.6664–4T Reasonable cause and good faith exception to section 6662 penalties.

(a) through (e) [Reserved].

(f) *Transactions between persons described in section 482 and net section 482 transfer price adjustments.* For purposes of applying the reasonable cause and good faith exception of section 6664(c) to net section 482 adjustments, the rules of § 1.6662–6(d) apply. A taxpayer that does not satisfy the rules of § 1.6662–6(d) for a net section 482 adjustment cannot satisfy the reasonable cause and good faith exception under section 6664(c). The rules of this section apply to underpayments subject to the transactional penalty in § 1.6662–6(b). If the standards of the net section 482 penalty exclusion provisions under § 1.6662–6(d) are met with respect to such underpayments, then the taxpayer will be considered to have acted with reasonable cause and good faith for purposes of this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 7. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 8. In § 602.101, paragraph (c) is amended by removing the entry for § 1.6662–6T from the table and adding an entry in numerical order to the table to read "1.6662–6....1545–1426".

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: January 19, 1996.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 96–2171 Filed 2–8–96; 8:45 am]
BILLING CODE 4830–01–U

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 290

[DCAA Regulation 5410.8]

Defense Contract Audit Agency (DCAA), Freedom of Information Act Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This amendment changes the area code listed for the DCAA Eastern Regional Office from (404) to (770) due to area code changes made by AT&T for the Smyrna, Georgia area.

EFFECTIVE DATE: February 9, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall, DCAA Information and Privacy Advisor, ATTN: CMR, Defense Contract Audit Agency, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219, Telephone: (703) 767–1244.

List of Subjects in 32 CFR Part 290

Freedom of Information.

Accordingly 32 CFR Part 290 is amended as follows:

PART 290—[AMENDED]

1. The authority citation for Part 290 continues to read as follows:

Authority: 5 U.S.C. 552.

Appendix B to Part 290—[Amended]

2. In Appendix B to Part 290, under the heading for Georgia, DCAA Eastern Regional Office, remove, "(404)" and add "(770)."

Dated: February 1, 1996.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–2756 Filed 2–8–96; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–96–001]

RIN 2115–AE46

Special Local Regulations: Newport to Ensenada Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.1101, "Southern California marine events," for the Newport to Ensenada Race. This event consists of a sailboat race with 400–500 participants. These regulations will be effective in the portion of the Pacific Ocean off Newport, California. Implementation of section 33 CFR 100.1101 is necessary to control vessel traffic in the regulated area for the start of the race only to ensure the safety of participants and spectators.

EFFECTIVE DATE: 33 CFR 100.1101 is effective from 12 noon on 26 April 1996, and terminates at 3 PM 26 April 1996, unless cancelled earlier by the Patrol Commander.

FOR FURTHER INFORMATION CONTACT: QMC D.K. Larson, U.S. Coast Guard Marine Safety Office/Group Los Angeles/Long Beach, California; Tel: (310) 980–4442.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QMC D.K. Larson, Coast Guard Marine Safety Office/Group Los Angeles/Long Beach, Project Officer, and LT A.K. Abbott, Eleventh Coast Guard District Legal Office, Project Attorney.

Discussion of Notice

The Newport to Ensenada Race is scheduled to occur on 26 April 1996. These Special Local Regulations permit Coast Guard control of vessel traffic in

order to ensure the safety of spectators and participant vessels. In accordance with the regulations in 33 CFR 100.1101, persons and vessels shall not anchor in or loiter in the regulated area, or impede the transit of participant or official patrol vessels, unless authorized by the Coast Guard Patrol Commander.

Dated: February 5, 1996.

R.A. Appelbaum,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 96–2763 Filed 2–8–96; 8:45 a.m.]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD08–95–024]

RIN 2115–AE47

Drawbridge Operation Regulations; Red River, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule revokes the regulation for the Fulton St. Bridge across the Red River, mile 88.1 at Alexandria, Rapides Parish, Louisiana because the vertical lift span has been removed.

EFFECTIVE DATE: This regulation becomes effective on March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Frank, Bridge Administration Branch, (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. David Frank, Project Officer and Lieutenant Commander C.D. Michel, Project Attorney.

Background and Purpose

The Fulton St. Bridge was removed from service and demolished on September 18, 1995. Since there is no longer a drawbridge at this location, there is no longer a need for the drawbridge operation regulation. Notice and public procedure have been omitted from this action because the vertical lift bridge is no longer in existence.

Regulatory Evaluation

This rule is not major under Executive Order 12291 and not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). This rule will have little impact on either vehicular or navigational traffic. Because it expects the impact of this final rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that it will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1 (series), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.491 [Amended]

2. In § 117.491, paragraph (a)(2) is removed and (a)(3) and (a)(4) are redesignated (a)(2) and (a)(3), respectively.

Dated: January 8, 1996.

R.C. North,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 96–2761 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD08–95–017]

RIN 2115–AE47

Drawbridge Operation Regulation; Sabine River, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Kansas City Southern Railroad Company (KCSRR), the Coast Guard is changing the regulation governing the operation of the swing span bridge across the Sabine River, mile 36.2, near Ruliff, Texas, by permitting the draw to remain closed to navigation at all times.

EFFECTIVE DATE: This rule is effective on March 11, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the Eighth Coast Guard District Office, 501 Magazine Street, Room 1313, New Orleans, Louisiana 70130–3396, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, Eighth Coast Guard District, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. John Wachter, Project Manager, Bridge Administration Branch, and LCDR Thomas D. Beistle Project Attorney.

Regulatory History

On September 5, 1995, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations; Sabine River, LA in the **Federal Register** (60 FR 46069). The Coast Guard received two letters of no objection to the proposal. No public hearing was requested, and none was held.

Background and Purpose

KCSRR requested that the draw remain permanently closed. Navigation requiring openings is non-existent and the bridge has not been opened for twenty years. There is no commercial navigation on the waterway in the vicinity of the bridge crossing. Vertical clearance of the bridge in the closed position is 4 feet above mean high water and 18 feet above mean low water. The occasional small recreational boat which uses the waterway can transit the bridge without requiring an opening. Permitting the permanent closure of the draw will result in a significant savings in maintenance costs with no adverse effect on navigational traffic.

Discussion of Comments

The National Marine Fisheries Service and Louisiana Department of Natural Resources offered no objection to the proposed rule change.

Regulatory Evaluation

This rule is not a significant regulatory action under Section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040); February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.).*

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1 (series), this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.493 is revised to read as follows:

§ 117.493 Sabine river.

(a) The draw of the Southern Pacific railroad bridge, mile 19.3 near Echo shall open on signal if at least 24 hours notice is given.

(b) The Kansas City Southern railroad bridge, mile 36.2 near Ruliff and the draw of the S12 bridge, mile 40.8 at Starks, need not be opened for passage of vessels.

Dated: January 25, 1996.

R.C. North,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 96–2762 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 102–13–7212a; FRL–5398–6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP) for ozone which concern the control of oxides of nitrogen (NO_X) emissions from boilers, steam generators, and process heaters. The intended effect of approving these rules is to regulate emissions of NO_X in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on April 9, 1996 unless adverse or critical comments are received by March 11, 1996. If the effective date is delayed, a timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

Ventura County Air Pollution Control District, Rule Development Section, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191, e-mail: james.duane@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: the Sacramento Metropolitan Air Quality Management District's (SMAQMD) Rule 411, "Boiler NO_X," the San Diego County Air Pollution Control District's (SDCAPCD) Rule 69.2, "Industrial and Commercial Boilers, Process Heaters and Steam Generators," the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) Rule 4352, "Solid Fuel Fired Boilers, Steam Generators and Process Heaters," and the Ventura County Air Pollution Control District's (VCAPCD) Rule 74.15, "Boilers, Steam Generators and Process Heaters." These rules were submitted by the California Air Resources Board (ARB) to EPA on September 28, 1994 (Rule 4352), October 19, 1994 (Rule 69.2), January 24, 1995 (Rule 74.15), and June 16, 1995 (Rule 411).

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a Notice of Proposed Rulemaking (NPRM) entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_X Supplement) which describes the requirements of section 182(f). The NO_X Supplement should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X ("major" as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. The Sacramento County portion of the Sacramento Metro Area is classified as severe, the San Diego County Area and the San Joaquin Valley Area are classified as serious, and the Ventura County Area is classified as severe;[1] therefore these areas were subject to section 182(f), the RACT requirements of section 182(b)(2), cited below, and the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_X CTGs issued before enactment and EPA has not issued a CTG document for any NO_X sources since enactment of the CAA. The RACT rules covering NO_X sources and submitted as SIP revisions are expected to require final installation of the actual NO_X controls by May 31, 1995, for those sources where installation by that date is practicable.

The SMAQMD adopted Rule 411 on February 2, 1995; the SDCAPCD adopted Rule 69.2 on September 27, 1994; the SJVUAPCD adopted Rule 4352 on September 14, 1994; and the VCAPCD adopted Rule 74.15 on November 8, 1994. These submitted rules were found to be complete on October 21, 1994 (Rules 69.2, and 4352), February 24, 1995 (Rule 74.15), and June 30, 1995 (Rule 411) pursuant of EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V[2] and are being proposed for approval into the SIP.

NO_X emissions contribute to the production of ground level ozone and smog. SMAQMD's Rule 411, SDCAPCD's Rule 69.2, and VCAPCD's Rule 74.15 control NO_X emissions from boilers, steam generators, and process heaters that are fired on gaseous and liquid fuels; SJVUAPCD's Rule 4352 applies to solid-fuel fired boilers, steam generators, and process heaters. The rules were adopted as part of the districts' efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and final action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and Part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.[3] Among these provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_X emissions.

For the purposes of assisting state and local agencies in developing NO_X RACT rules, EPA prepared the NO_X supplement to the General Preamble, cited above (57 FR 55620). In the NO_X supplement, EPA provides guidance on how RACT will be determined for stationary sources of NO_X emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO_X. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules are fully enforceable and strengthen or maintain the SIP.

The California ARB has published a RACT/BARCT guidance document for boilers, steam generators, and process heaters entitled, "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters" (July 18, 1991). The guidance document defines RACT as an emission limit of 70 parts per million volume (ppmv) at 3% O_2 when firing on gaseous fuels and 115 ppmv at 3% O_2 when firing on liquid fuels. BARCT is defined as an emission limit of 30 ppmv at 3% O_2 when firing on gaseous fuels and 40 ppmv at 3% O_2 when firing on liquid fuels. The SMAQMD's Rule 411 and the SDCAPCD's Rule 69.2 required RACT control by May 31, 1995, and require BARCT by May 31, 1997. The SJVUAPCD's Rule 4352 applies to units firing on solid fuel, which the RACT/BARCT document does not address. However, the rule's emission limit of 0.20 lb/MMBtu (with exceptions) appears to be reasonable because it is the same as the RACT/BARCT document's limit for firing on liquid fuels other than fuel oil #1 and #2. Final compliance with the rule was required by May 31, 1995. The VCAPCD's Rule 74.15 has an emission limit of 40 ppmv at 3% O_2 for firing on gaseous fuels, and final compliance was required by March 1, 1992; firing on liquid fuels is prohibited except only in emergencies. All the rules contain adequate recordkeeping requirements, and the appropriate test methods for compliance determinations are referenced. The exemptions provided in the rules are consistent with EPA guidelines. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Documents (TSDs) for these rules, dated September 18, 1995.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, SMAQMD Rule 411, "Boiler NO_X," SDCAPCD Rule 69.2, "Industrial and Commercial Boilers, Process Heaters and Steam Generators," SJVUAPCD Rule 4352, "Solid Fuel Fired Boilers, Steam Generators and Process Heaters," and VCAPCD Rule 74.15, "Boilers, Steam Generators and Process Heaters," are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_X Supplement to the General Preamble.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.[4]

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective April 9, 1996, unless, by March 11, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 9, 1996.

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: November 21, 1995.

Felicia Marcus,

Regional Administrator.

Subpart F of part 52, chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

[1] The San Joaquin Valley and Ventura County Areas retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991). The Sacramento Metro Area was reclassified from serious to severe on June 1, 1995. See 60 FR 20237 (April 25, 1995). The San Diego Area was reclassified from severe to serious on February 21, 1995. See 60 FR 3771 (January 19, 1995).

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

[4] The SJVUAPCD's Rule 4352 references the district's Rules 2201 and 1020 in sections 3.7 and 3.12 respectively; the VCAPCD's Rule 74.15 references the district's Rule 32 in section (C)(3). Rules 2201, 1020, and 32 have not been approved by EPA for inclusion into the SIP. Therefore, this direct final rule does not constitute action on or approval of these rules into the SIP.

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(199) (i)(D), (202)(i)(C)(*3*), (214)(i)(D), and (222)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(199) * * *

(i) * * *

(D) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4352, adopted on September 14, 1994.

* * * * *

(202) * * *

(i) * * *

(C) * * *

(*3*) Rule 69.2, adopted on September 27, 1994.

* * * * *

(214) * * *

(i) * * *

(D) Ventura County Air Pollution Control District.

(*1*) Rule 74.15, adopted on November 8, 1994.

* * * * *

(222) * * *

(i) * * *

(C) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 411, adopted on February 2, 1995.

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[FR Doc. 96–2824 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CA 71–9–7222a; FRL–5399–1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Monterey Bay Unified Air Pollution Control District (MBUAPCD). This approval action will incorporate two rules into the federally approved SIP and remove one rule from the SIP. The revised rules control VOC emissions from oil water separators, and the use of architectural coatings. The rule to be removed controls emissions from rubber tire manufacturing.

The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on this rule serves as a final determination that the finding of nonsubmittal for these two rules has been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clock is stopped. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on April 9, 1996 unless adverse or critical comments are received by March 11, 1996. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123–1095.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: MBUAPCD 420, Effluent Oil Water Separators; and MBUAPCD 426, Architectural Coatings. The rule being removed from the SIP is MBUAPCD Rule 428, Manufacture of Rubber Tires. These rules were submitted by the California Air Resources Board to EPA on November 18, 1993.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Monterey Bay Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(b)(2) of the CAA, Congress statutorily required nonattainment areas to submit reasonably available control technology (RACT) rules for specific VOC sources by November 15, 1992 (the RACT "catchup" requirement).

At the time of enactment of the CAA amendments, the Monterey Bay Area was classified as moderate [1]; therefore, this area was subject to the RACT catch-up requirement and the November 15, 1992 deadline.[2]

The State of California submitted many revised RACT rules for incorporation into its SIP on November 18, 1993, including two of the rules being acted on in this notice. This notice addresses EPA's direct-final action for MBUAPCD Rule 420, Effluent Oil Water Separators; and Rule 426, Architectural Coatings. These submitted rules were found to be complete on December 27, 1993 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 appendix V [3] and are being finalized for approval into the SIP. This notice also addresses the State of California's request that Rule 428,

[1] Monterey Bay Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[2] California did not make the required SIP submittal by November 15, 1992. On June 8, 1993, the EPA made a finding of failure to make a submittal pursuant to section 179(a)(1) which started an 18-month sanction clock. Two of the rules being acted on in this direct final rule were submitted in response to the EPA finding of failure to submit.

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Manufacture of Rubber Tires, be removed from the SIP.

Rule 420 controls emissions from oil water separators at oil fields and petroleum refineries; Rule 426 limits the emissions of VOCs resulting from the use of architectural coatings; and rescinded Rule 428 controls emissions from the manufacture of rubber tires. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of MBUAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to section 182(b)(a). The following is EPA's evaluation and final action for these rules.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents.[4] Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "catch-up" their RACT rules. See section 182(b)(2). The CTG applicable to Rule 420 is entitled, "Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds," EPA–450/2–77–025. Rule 426 has no applicable CTG, but was evaluated for consistency with the State of California's "Suggested Control Measure for Architectural Coatings," July 1989. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 4. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

MBUAPCD's submitted Rule 420, Effluent Oil Water Separators, includes the following significant changes from the current SIP:

- Test methods were added to determine compliance;
- Recordkeeping requirements were added; and
- Air Pollution Control Officer discretion for alternative control measures was deleted from the rule.

MBUAPCD' submitted Rule 426, Architectural Coatings, includes the following significant changes from the current SIP:

- Clearly defines the purpose and applicability of the rule;
- Expresses VOC content limitations in "grams of VOC per liter of coating, excluding any water, exempt organic compounds, and colorant added to tint bases";
- Reduces the VOC content limit for non-flat coatings;
- Removes small business exemption;
- Adds, updates, and clarifies definitions; and
- Specifies test methods to be used for determining compliance.

MBUAPCD's Rule 428, Manufacture of Rubber Tires, was submitted to be removed from the SIP. This was a source-specific rule since no other such facilities existed at the time the rule was adopted. This facility has since shut down. No emission reductions are achieved or claimed from the control of rubber tire manufacturing within MBUAPCD's ozone attainment plan. The removal of Rule 428 meets the requirements of EPA's policy and removes an extraneous rule that serves no purpose.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, MBUAPCD Rule 420, Effluent Oil Water Separators and MBUAPCD Rule 426, Architectural Coatings, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. Furthermore, EPA is removing applicable Rule 428 consistent with the requirements of sections 110(l) and 193.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 9, 1996, unless, by March 11, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 9, 1996.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

[4] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 10, 1995.

Felicia Marcus,

Regional Administrator.

Subpart F of part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart F—California

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.220 is amended by adding paragraphs (c)(194)(i)(F) (*3*) and (*4*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(194) * * *

(i) * * *

(F) * * *

(*3*) Rule 420 and Rule 426, adopted on August 25, 1993.

(*4*) Previously submitted to EPA on February 6, 1975 and approved in the **Federal Register** on July 13, 1987 and now removed without replacement, Rule 428.

[FR Doc. 96–2820 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[CA 79–4–7252a; FRL–5398–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District, San Diego County Air Pollution Control District, and Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the following districts: Monterey Bay Unified Air Pollution Control District (MBUAPCD), San Diego County Air Pollution Control District (SDCAPCD), and Santa Barbara County Air Pollution Control District (SBCAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from gasoline storage and transfer and bakery ovens. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on April 9, 1996 unless adverse or critical comments are received by March 11, 1996. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123–1095.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93117.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, CA 92123.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: Monterey Bay Unified Air Pollution Control District (MBUAPCD) Rule 1002, Transfer of Gasoline into Vehicle Fuel Tanks; San Diego County Air Pollution Control District (SDCAPCD) Rule 67.24, Bakery Ovens; and Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 316, Storage and Transfer of Gasoline. These rules were submitted by the California Air Resources Board to EPA on December 22, 1994, June 16, 1995 and March 29, 1994, respectively.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Monterey Bay, San Diego County, and Santa Barbara County areas. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. In amended section 182(b)(2)(C) of the CAA, Congress statutorily required nonattainment areas to submit RACT rules for all major sources of VOCs by November 15, 1992 (the RACT "catch-up" requirement)..

Section 182(a)(2) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Monterey Bay and Santa Barbara County areas are classified as moderate and the San Diego County area is classified as serious.[2] The Monterey Bay and Santa Barbara County areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline. The San Diego County Area was subject to the RACT catch-up requirements and the November 15, 1992 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on March 29, 1994, December 22, 1994, and June 16, 1995, including the rules being acted on in this document. This document addresses EPA's direct-final action for MBUAPCD Rule 1002, Transfer of Gasoline into Vehicle Fuel Tanks; SDCAPCD Rule 67.24, Bakery Ovens, and SBCAPCD Rule 316, Storage and Transfer of Gasoline. MBUAPCD adopted Rule 1002 on November 23, 1994; SDCAPCD adopted Rule 67.24 on March 7, 1995; and SBCAPCD adopted Rule 316 on December 14, 1994. These submitted rules were found to be complete on January 3, 1995, June 23, 1995, and June 3, 1994, respectively, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V [3] and is being finalized for approval into the SIP.

MBUAPCD Rule 1002 controls emissions from gasoline dispensing facilities; SDCAPCD Rule 67.24 controls emissions from bakery ovens; and SBCAPCD Rule 316 controls emissions from the storage and transfer of gasoline. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of MBUAPCD, SDCAPCD, and SBCAPCD's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" and "catch-up" their RACT rules. See section 182(a)(2)(A) and section (b)(2)(C). For some categories such as bakery ovens or storage, transfer and dispensing of gasoline, EPA did not publish a CTG. In such cases, the District may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. Additional guidance for SDCAPCD Rule 67.25, Bakery Ovens, is found in the document entitled, "Alternative Control Technology Documents for Bakery Oven Emissions," EPA 453/R–92–017. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

MBUAPCD submitted Rule 1002, Transfer of Gasoline into Vehicle Fuel Tanks, is a new rule to be included in the SIP, although it has been enforced in the District since 1989. Rule 1002 includes the following general requirements:

- All gas stations are required to install Phase II vapor recovery equipment.
- Gas stations with throughputs ≥ 120,000 gal./yr. are required to install Phase II vapor recovery equipment by 1991.
- The remaining gas stations with throughputs ≤ 120,000 gal./yr. are required to install Phase II vapor recovery equipment by December 22, 1998.

For a detailed evaluation of MBUAPCD Rule 1002, please refer to the technical support document (TSD) prepared on October 20, 1995.

On December 8, 1994, EPA proposed approval of SDCAPCD Rule 67.24, Bakery Ovens, (59 FR 92388). After that proposal, the San Diego County Area was reclassified from a severe to serious ozone non-attainment area. The SDCAPCD asked EPA to delay final action on Rule 67.24 until the following administrative revisions were made to reflect this reclassification:

- The standards and compliance schedule sections of the rule do not apply to sources where the uncontrolled emissions of VOCs from all bakery ovens combined is less than 50 tons per calendar year.
- The emissions testing requirement and the compliance schedule have been deleted because the District's

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] Monterey Bay and Santa Barbara County areas have retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991). The San Diego area was reclassified from severe to serious on February 21, 1995. See 60 FR 3771 (January 19, 1995)

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

calculations indicate that the two largest bakeries in the county emit less than 50 tons of VOCs per year.

For a detailed evaluation of SDCAPCD Rule 67.24, please refer to the TSD dated October 20, 1995, and the notice of proposed rulemaking dated December 8, 1994.

SBCAPCD Rule 316, Storage and Transfer of Gasoline, includes the following significant change from the current SIP:

• Cross references rule 326 (Storage of Reactive Organic Compound Liquids) in the section that specifies the controls required for above-ground tanks larger than 40,000.

For a detailed evaluation of SBCAPCD Rule 316, please refer the TSD dated October 23, 1995.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, MBUAPCD, Rule 1002, Transfer of Gasoline into Vehicle Fuel Tanks; SDCAPCD Rule 67.24, Bakery Ovens; and SBCAPCD Rule 316, Storage and Transfer of Gasoline are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 9, 1996, unless, by March 11, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 9, 1996.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 10, 1995.

Felicia Marcus,

Regional Administrator.

Subpart F of part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(196)(i)(C), (210)(i)(D), and (222)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(196)* * *

(i) * * *

(C) Santa Barbara County Air Pollution Control District.

(*1*) Rule 316, adopted on December 14, 1993.

* * * * *

(210)* * *

(i) * * *

(D) Monterey Bay Unified Air Pollution Control District.

(*1*) Rule 1002, adopted on November 23, 1994.

* * * * *

(222)* * *

(i) * * *

(D) San Diego County Air Pollution Control District.

(*1*) Rule 67.24, adopted on March 7, 1995.

* * * * *

[FR Doc. 96–2822 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[IN58–1–7216a; FRL–5342–9]

Approval and Promulgation of Implementation Plans; Revision to the Indiana State Implementation Plan for Ozone

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA approves the State Implementation Plan (SIP) revision request submitted by the State of Indiana on August 25, 1995, establishing a summertime gasoline Reid Vapor Pressure (RVP) limit of 7.8 pounds per square inch (psi) for gasoline distributed in Clark and Floyd Counties, as part of the State's plan to attain 15 percent (%) Reasonable Further Progress (RFP) reductions of Volatile Organic Compounds (VOC) emissions in these two Counties by 1996. Emissions of VOC react with other pollutants, such as oxides of nitrogen, on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. RFP plans are intended to bring areas which have been exceeding the public health-based Federal ozone air quality standard closer toward the goal of attaining and maintaining this standard. Indiana expects that the summertime RVP gasoline limit will reduce VOC emissions by 2.29 tons per day in the Clark and Floyd Counties ozone nonattainment area. A final approval action is being taken because the submittal meets all pertinent Federal requirements.

DATES: The "direct final" is effective on April 9, 1996, unless USEPA receives adverse or critical comments by March 11, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revision request is available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits VOC; the lower the RVP, the lower the rate of evaporation. The RVP of gasoline can be lowered by reducing the amount of its volatile components, such as butane. Lowering RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which in turn lowers emissions of VOC. Because VOC is a necessary component in the production of ground level ozone in hot summer months, reduction of RVP will assist the State of Indiana to attain the National Ambient Air Quality Standard (NAAQS) for ozone, which all States must promulgate SIPs to achieve under section 110(a) of the Act.

The USEPA first proposed to regulate gasoline RVP in 1987 (52 FR 31274). USEPA's gasoline RVP proposal resulted in a two-phased final regulation which was incorporated into the 1990 Amendments to the Clean Air Act (Act) in section 211(h). Phase I of the regulation took effect in 1990 (54 FR 11868) for the years 1990 and 1991. Phase II of the regulation became effective in 1992 (55 FR 23658). The rule divides the continental United States into two control regions, Class B and Class C. Generally speaking, the Class B states are the warmer southern and western states, and Class C states are the cooler northern states. The Phase II regulation limits the volatility of gasoline sold during the high ozone season to 9.0 psi RVP for Class C areas and 7.8 psi RVP for Class B ozone nonattainment areas. Indiana is a Class C State, and therefore, required under the Federal rule to meet the 9.0 psi RVP standard.

State governments are generally preempted under section 211(c)(4)(A) of the Act from requiring any or all areas in a state to meet a more stringent volatility standard.[1] However, a state can require a more stringent standard in its SIP if the state can show under section 211(c)(4)(C) that the more stringent standard is necessary to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in a particular nonattainment area. The state can make this showing by providing evidence that no other measures exist that would bring about timely attainment, or that such measures exist and are technically possible to implement, but are unreasonable or impractical. If a state makes this showing, it can lower the RVP of gasoline to whatever level has been shown to be necessary in the nonattainment area(s).

[1] USEPA's federal standards were promulgated under both section 211(c) and section 211(h). States are generally preempted under section 211(c)(4)(A) from requiring fuel standards promulgated under section 211(c).

II. State Submittal

Section 182 of the Act requires all moderate, serious, severe, and extreme ozone nonattainment areas to submit an RFP plan to achieve a 15% reduction of 1990 emissions of VOC by 1996. In Indiana, Clark and Floyd Counties are classified as moderate nonattainment for ozone, and as such, subject to the 15% RFP requirement. *See* 40 CFR 81.315.

The Indiana Department of Environmental Management (IDEM) developed and submitted a plan to USEPA on July 12, 1995, outlining the VOC emission control measures which will be implemented in order to satisfy the 15% RFP requirement for Clark and Floyd Counties. USEPA is currently reviewing the plan. One of the measures identified in the Clark and Floyd Counties plan is a summertime gasoline RVP limit of 7.8 psi. On August 3, 1994, the Indiana Air Pollution Control Board (IAPCB) held a preliminary adoption hearing on a proposed rule to limit summertime gasoline RVP to 7.8 psi, and on January 11, 1995, the IAPCB adopted the rule. The rule became effective on August 5, 1995, and was published in the Indiana State Register on August 1, 1995. IDEM formally submitted the RVP rule to USEPA on August 25, 1995, as a revision to the Indiana ozone SIP. USEPA made a finding of completeness of this SIP revision in a letter dated October 2, 1995.

In the 15% RFP plan for Clark and Floyd Counties, Indiana reviewed all reasonable control measures and calculated the total reductions that it could achieve through these measures. The plan's modeling demonstrates that limiting the RVP of gasoline to 7.8 reduces emissions in Clark and Floyd Counties by approximately 2.29 tons per day.

"Opt-in" into the Federal reformulated gasoline program, pursuant to section 211(k)(6) of the Act, could also achieve this amount of

emission reduction, but could not be implemented in time to qualify as a control measure which could help Clark and Floyd Counties meet 15% RFP reductions by 1996. Other reasonable control measures which could possibly achieve this degree of emission reduction, such as Stage II vapor recovery, enhanced vehicle Inspection/Maintenance, or new Reasonably Available Control Technology requirements for stationary sources, are already part of the RFP plan for Clark and Floyd Counties.

Indiana has therefore selected the RVP control because it is the only other reasonable and practicable emission control option available to the Clark and Floyd County area 15% RFP plan, and gasoline RVP control is necessary to ensure timely attainment with the NAAQS for ozone. On this basis, USEPA has found that Indiana has sufficiently justified establishing a 7.8 psi summertime gasoline RVP limit under section 211(c)(4)(C) of the Act.

III. Analysis of Rule

The Indiana RVP rule specifies that the gasoline distributed in Clark and Floyd Counties by all refineries, importers, carriers, or terminals between May 1 and September 15, and all retail stations and other end users who sell or dispense gasoline between June 1 and September 15, must meet a RVP standard of 7.8 psi or less per gallon. The rule provides a 1.0 psi volatility waiver for ethanol blended fuels and establishes reformulated gasoline (RFG) as a compliant fuel in order to allow gasoline distributors who sell only RFG to maintain a presence in Clark and Floyd Counties. In addition, the Indiana RVP rule requires all parties involved with the marketing of gasoline to maintain records indicating that the volatility of each gasoline shipment meets the 7.8 psi limit. The control period, ethanol blend waiver, and recordkeeping requirements, are all consistent with the Act and USEPA's final RVP rule (55 FR 23658). Reformulated gasoline is suitable as a compliant fuel because it achieves slightly higher emission reductions than gasoline with 7.8 psi RVP.

IDEM will oversee compliance with this rule. Gasoline sampling and testing to assure compliance with the regulation began in the summer of 1995. Sampling will be performed in accordance with the procedures described by USEPA in its gasoline volatility regulations in 40 CFR part 80, Appendix D. Gasoline volatility and ethanol content tests will be performed following procedures described by USEPA in 40 CFR part 80, Appendices E and F, respectively. The Indiana Code (IC) 13–7–13–1, states that any person who violates any provision of IC 13–1–1, IC 13–1–3, or IC 13–1–11, or any regulation or standard adopted by one (1) of the boards (i.e., IAPCB), or who violates any determination, permit, or order made or issued by the commissioner (of IDEM) pursuant to IC 13–1–1, or IC 13–1–3, is liable for a civil penalty not to exceed twenty-five thousand dollars per day of any violation. Because this submittal is a regulation adopted by the IAPCB, a violation of which subjects the violator to penalties under IC 13–7–13–1, and because a violation of the ozone SIP would also subject a violator to enforcement under section 113 of the Act by USEPA, USEPA finds that the submittal contains sufficient enforcement penalties for approval. In addition, IDEM has submitted a civil penalty policy document which accounts for various factors in the assessment of an appropriate civil penalty for noncompliance with IAPCB rules, among them, the severity of the violation, intent of the violator, and frequency of violations. USEPA finds these criteria sufficient to deter non-compliance.

IV. Final Rulemaking Action

The USEPA approves the SIP revision submitted by the State of Indiana. The State of Indiana has submitted a SIP revision which includes enforceable state regulations consistent with Federal requirements. Indiana has already conducted inspections at about one-third of the regulated facilities during the first season of compliance. Substantial penalties which will provide an adequate incentive for the regulated industry to comply and are no less than the expected cost of compliance are included in current Pollution Control Board Regulation. USEPA is, therefore, approving this submittal.

Procedural Background

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on April 9, 1996, unless USEPA receives adverse or critical comments by March 11, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 9, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review:

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

This final rule only approves the incorporation of existing state rules into the SIP and imposes no additional requirements. This rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year. USEPA, therefore, has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Furthermore, because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments.

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. sections 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements a State has already imposed. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbon, Incorporation by reference, Ozone.

Dated: November 21, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(101) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(101) On August 25, 1995, Indiana submitted a regulation which reduced the maximum allowable volatility for gasoline sold in Clark and Floyd Counties to 7.8 psi during the summer control period. The summer control period is June 1, to September 15, for retail outlets and wholesale customers, and May 1, to September 15, for all others.

(i) Incorporation by reference. 326 Indiana Administrative Code 13–3 Control of Gasoline Reid Vapor Pressure. Sections 1 through 7. Finally adopted by the Indiana Air Pollution Control Board January 11, 1995. Signed by the Secretary of State July 6, 1995. Effective August 5, 1995. Published at Indiana Register, Volume 18, Number 11, August 1, 1995.

[FR Doc. 96–2826 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IN62–1–7234a; FRL–5342–7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving an August 25, 1995, State request for a site-specific revision to the Indiana sulfur dioxide (SO_2) State Implementation Plan (SIP). This revision amends the SO_2 emission limitations applicable to the Joseph E. Seagram and Sons, Inc. (Seagram), facility in Lawrenceburg, Indiana, so that two boilers may not operate simultaneously on coal or fuel oil. The Seagram facility has essentially operated under these restrictions for several years, thereby emitting less SO_2 than the previous rules had allowed. The incorporation of this restriction into the Indiana SO_2 SIP was deemed to be necessary after dispersion modeling in support of an SO_2 SIP revision for Cincinnati, Ohio predicted violations of the National Ambient Air Quality Standards (NAAQS) for SO_2 in Dearborn County, Indiana, if Seagram were to operate at the previously allowed SO_2 emission rates. The restrictions contained in Indiana's August 25, 1995, submittal will eliminate the predicted violations in Dearborn County, and their approval by USEPA will enable final Federal approval of the Cincinnati, Ohio SO_2 SIP revision.

DATES: This action is effective on April 9, 1996 unless an adverse comment is received by March 11, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's analysis (Technical Support Document) are available for inspection at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mary Onischak at (312) 353–5954 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Mary Onischak at (312) 353–5954.

SUPPLEMENTARY INFORMATION:

I. Introduction

Indiana has revised the SO_2 emission limits for the Joseph E. Seagram and Sons, Inc., distillery in Lawrenceburg, Indiana, as codified by the State at 326 Indiana Administrative Code (326 IAC) 7–4–13 (3) (Dearborn County Sulfur Dioxide Emission Limitations), and submitted this rule on August 25, 1995, to USEPA as a site-specific SO_2 SIP revision. The SIP revision limits the use of sulfur-bearing fuels at the Seagram distillery in Lawrenceburg, Indiana, and is intended to address potential

violations of the SO_2 NAAQS in Dearborn County, Indiana. The SIP revision was found complete in a letter dated October 20, 1995.

II. Emission Limitation

In the previously approved SO_2 SIP for Dearborn County, Indiana's rule 326 IAC 7–4–13 limited the emissions at each of Seagram's Boilers 5 and 6 to 1.92 pounds sulfur dioxide per million British Thermal Units (lb/MMBTU). In addition, if Boiler Number 6 was operating on any fuel other than natural gas, the previous rule only allowed Boiler Number 5 to emit 1.07 lb/MMBTU. In response to a January 5, 1994, request by USEPA, Indiana amended 326 IAC 7–4–13(3) to state that when both Boilers 5 and 6 are in operation, only one boiler may use coal or fuel oil. The rule also requires Seagram to keep records of its fuel usage and report this information to the State of Indiana.

III. Relationship to the Hamilton County, Ohio SIP

The need for revisions to Indiana's Dearborn County SO_2 SIP became apparent during USEPA's review of an Ohio SO_2 SIP revision, which had been requested by USEPA on December 22, 1988. On October 18, 1991, the State of Ohio submitted to USEPA the revised SO_2 SIP for Hamilton County, Ohio. Hamilton County, Ohio, is adjacent to Dearborn County, Indiana. In the course of Ohio's SIP development, dispersion modeling was used to evaluate the emissions from significant SO_2 sources in and around Hamilton County, including some sources in Indiana. One of the Indiana sources considered in the Ohio modeling study was the Seagram facility. Ohio's modeling predicted violations of the 3-hour and 24-hour SO_2 standard at receptor points in Dearborn County, Indiana, when Seagram was modeled at its highest allowable SO_2 emission rate in accordance with USEPA guidance; in addition, the Seagram facility was shown to be the main contributor to the modeled violations in Dearborn County.

Seagram's highest allowable emission rate assumed that Boiler Number 5 operated continuously on fuel oil. However, in a letter dated September 1, 1992, Seagram informed Ohio and Indiana that Boiler Number 5, Seagram's standby boiler, had not operated on fuel oil in the previous six years.[1] On January 5, 1994, USEPA requested that Indiana incorporate this restriction into its SO_2 SIP as an enforceable limitation on Seagram's operation.

Because some Hamilton County, Ohio, SO_2 sources also contributed to the modeled violations in Dearborn County, Indiana, USEPA could not approve the Hamilton County, Ohio SO_2 SIP before the modeled violations were fully addressed. Instead, USEPA conditionally approved the Hamilton County, Ohio, SO_2 SIP on August 23, 1994, under the condition that approvable revisions to the Dearborn County, Indiana SO_2 SIP would be submitted to USEPA by September 23, 1995. Indiana met this condition, submitting the Seagram rule revision to USEPA on August 25, 1995. With enforceable boiler use restrictions in the Indiana SIP, the Seagram facility's SO_2 emissions may be included in the Hamilton County SO_2 dispersion modeling study at a lower level than had been assumed previously. Ohio has already modeled the Seagram facility at the lower emissions allowed under the boiler restrictions, and found that the predicted SO_2 NAAQS violations in Dearborn County were eliminated. USEPA has reviewed this modeling and determined that it is acceptable. Federal approval of Indiana's August 25, 1995, SIP revision will therefore enable USEPA to finalize the Hamilton County, Ohio, SO_2 SIP approval.

IV. Final Rulemaking Action

For the reasons discussed above, USEPA is approving 326 IAC 7–4–13 (3). Indiana's revised Dearborn County SO_2 rule creates an enforceable restriction on the operations of fossil fuel-fired boilers at the Seagram facility. This rule addresses the potential SO_2 NAAQS violations predicted by an Ohio modeling study, and will provide for attainment of the SO_2 NAAQS in Dearborn County, Indiana.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on April 9, 1996, unless USEPA receives adverse or critical comments by March 11, 1996.

If the USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that the USEPA will institute a second comment period on this action only if warranted by significant revisions to the rulemaking based on comments received in response to this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 9, 1996.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to a State, local, and/or tribal government, in the aggregate. The USEPA must also develop a plan with regard to small governments that would be significantly or uniquely affected by the rule.

This rule approves the incorporation into the SIP of an existing State rule which applies only to a single private sector source located in Dearborn County, Indiana. It imposes no additional requirements. To the extent that the rules being approved by this action will impose any mandate upon this source, such a mandate will not result in estimated annual costs of $100 million or more to the source. The rule does not impact any governments. Therefore, no action is required under the Unfunded Mandates Act.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 21, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(103) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(103) On August 25, 1995, the State submitted regulations adopted by the Indiana Air Pollution Control Board as part of title 326 of the Indiana Administrative Code for incorporation into the Indiana sulfur dioxide State Implementation Plan.

(i) Incorporation by reference.

(A) 326 Indiana Administrative Code 7–4–13(3); Dearborn County sulfur dioxide emission limitations; effective May 18, 1995. Published in the *Indiana Register*, Volume 18, Number 9, June 1, 1995.

[FR Doc. 96–2832 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NE–8–1–7206a; FRL–5344–2]

Approval and Promulgation of Implementation Plans; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The state of Nebraska operates a Federally approved State Implementation Plan (SIP) that includes a Class II operating permit program for minor sources (those not subject to Title V). This revision will clarify and strengthen the Class II operating permit program and other miscellaneous rule changes.

DATES: This action is effective April 9, 1996 unless by March 11, 1996 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION: In February 1994, the state of Nebraska submitted an SIP revision to create a Class II operating permit program for minor sources (those not subject to Title V). This revision became effective on March 6, 1995 (see 60 FR 372–375).

During the period after the initial state submission, the state proposed several miscellaneous revisions to clarify and strengthen the Class II operating permit program. These revisions were adopted by the Environmental Quality Council on December 2, 1994, and signed by the Governor on May 29, 1995. The state subsequently requested a revision to the SIP on June 14, 1995, under the signature of Randolph Wood, designee of the Governor. This rulemaking addresses those revisions.

Additionally, in a rulemaking published on January 4, 1995 (60 FR 372), one chapter of the state's regulations was inadvertently not submitted with the incorporation by reference material. Thus, this rulemaking now incorporates Chapter 25, "Nitrogen Oxides (Calculated as Nitrogen Dioxide); Emissions Standards for Existing Stationary Sources" of Title 129.

Significant Features of the SIP Revision

A. Modifications for Class II and Construction Permits

1. Consistent with Federal regulations, the state now exempts sources subject only to 112(r) of the Act from the responsibility to obtain a Class II operating permit (5:002.02C). (Section 112(r) requires prevention of accidental release plans.) Sources subject to 112(r) are still required to comply with that section's provisions but will not be required to also obtain a state permit. This relieves approximately 500 sources, otherwise not regulated under the Act, from obtaining Class II permits.

2. The state has revised Title 129 to provide that Class II sources have the same exemptions and mechanisms for meeting the requirement to obtain an operating permit available to them as do Class I (Title V) sources in 5:003:01 and 02. These changes are necessary because those provisions in the previous rule language did not specify Class II sources, and the change makes the rule consistent for both classes of sources.

3. Pursuant to Title V, the state has developed a list and criteria for insignificant activities for Class I permits as referenced in 7:006.03. The state has revised its rules in 7:007.07 to also allow exclusion of insignificant activities from Class II permit applications.

Without the development of a list that can be used for Class II sources, emissions information would be

[1] The company also stated in the letter that it did not intend to operate Boiler Number 5 on fuel oil while Boiler Number 6 was operating on coal or fuel oil, without first notifying and obtaining permission from Ohio and Indiana. USEPA notes that the rule being approved today does not contain any such notification/permission mechanism.

required for every emission point or unit at a facility, regardless of how small. This revision offers the same relief for Class II sources from unnecessary reporting as for Class I sources, and reduces the amount of information required for specified emission units or activities. However, Class II applications must still provide information necessary to determine whether an activity is subject to an applicable requirement.

4. The state has added language that states the provisions of an operating permit issued under Title 129 supersede the provisions of any previously issued operating or construction permit (8:007.06). The addition of this language prevents any misunderstanding over which provisions are applicable to a source. However, this provision does not authorize changes to prior permits which make its requirements less stringent, because rule 8:015.01 requires that permit requirements must be at least as stringent as any applicable requirement including conditions of any prior permit.

5. Concerning expired permits, the state has reworded rule 12:003 to provide that the conditions of an expired permit shall continue until a new permit is issued or until the application for a new permit is denied.

6. With respect to construction permits in rule 17:001.01, the state has consolidated the applicability provisions previously contained in separate rules into the construction permit rule. This is consistent with EPA requirements for programs to review the air quality impact of proposed new sources and modifications as specified in section 110(a)(2)(C) of the Act.

B. Provisions Regulating Incinerators and Class II Permits

1. The state has tightened its requirement that refuse incinerators obtain operating permits in rule 5:001.02B. The revision provide that residential incinerators are exempt if they are used to dispose of wastes generated on site.

2. The state has added a requirement that nonresidential refuse incinerators obtain a construction permit in rule 17:001.02. An exemption is provided for residential incinerators on property with five or less dwellings which dispose of wastes generated on site.

3. The incinerator emission standards in Chapter 22 are amended to apply to both new and existing refuse incinerators. The former rule applied only to existing incinerators.

The EPA believes these revisions are approvable because they strengthen the existing SIP and are consistent with the relevant requirements of section 110(a)(2) of the Act.

C. Updating and Adopting Federal Regulations

1. The state has revised rule 19:01 to update its incorporation of Prevention of Significant Deterioration regulations as found in 40 CFR part 52.21 as amended through June 3, 1994.

2. Nebraska has incorporated by reference the Federal regulation on General Conformity. This regulation applies to Federal projects in nonattainment areas and requires such projects to conform to the state SIP. At this time, the regulation would only apply to the lead nonattainment area in Omaha.

The EPA is not acting on the Nebraska General Conformity rule in Chapter 40 as part of this rulemaking, but will act on it in a separate rulemaking.

D. Administrative Restructuring of Title 129

In the previously approved version of Title 129, Chapters 40 through 44 addressed various administrative matters such as appeal procedures and the responsibility to comply with Title 129. The state now consolidates these requirements into one chapter (41). No actual change in the content has been made from the previously approved SIP.

EPA Action

EPA is taking final action to approve revisions submitted June 14, 1995, for the state of Nebraska. All revisions discussed in this notice are considered approvable by the EPA. The reader should note in the rulemaking portion of this document EPA's provision clarifying that any nonconforming permit requirements may be deemed not Federally enforceable.

For a complete understanding of the state's submission and EPA's analysis, the reader may request the "Technical Support Document (TSD) for a Revision to the Nebraska State Implementation Plan (SIP) concerning the Class II Operating Permit Program" dated August 30, 1995.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act (CAA) do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP revision, the state has elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to tribal, state, or local governments in the aggregate or to the private sector.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 22, 1995.

Dennis Grams,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart CC—Nebraska

2. Section 52.1420 is amended by adding paragraph (c)(43) to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

(43) On June 14, 1995, the Director of the Nebraska Department of Environmental Quality submitted revisions to the State Implementation Plan (SIP) to modify the Class II operating permit program.

(i) Incorporation by reference.

(A) Revised rules "Title 129—Nebraska Air Quality Regulations," effective May 29, 1995. This revision applies to chapters 5, 7, 12, 17, 19, 25, 41 and deletes chapters 42, 43 and 44.

(ii) Additional material.

(A) None.

3. Section 52.1424 is added to read as follows:

§ 52.1424 Operating permits.

Emission limitations and related provisions which are established in Nebraska operating permits as Federally enforceable conditions shall be enforceable by EPA. The EPA reserves the right to deem permit conditions not Federally enforceable. Such a determination will be made according to appropriate procedures and be based upon the permit, permit approval procedures, or permit requirement which do not conform with the operating permit program requirements or the requirements of EPA underlying regulations.

[FR Doc. 96–2830 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NV23–1–7219a; FRL–5338–8]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Nevada State Implementation Plan. On May 3, 1995 EPA published the Notice of Proposed Rulemaking to partially approve and partially disapprove the State Implementation Plan (SIP) revision submitted by the State of Nevada for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). The cause of the proposed disapproval has since been corrected by the State. Thus, EPA is finalizing approval of these revisions into the Nevada SIP under provisions of the CAA regarding EPA action on SIP submittals and plan requirements for establishing a PROGRAM.

DATES: This action is effective on April 9, 1996 unless adverse or critical comments are received by March 11, 1996. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

U.S. Environmental Protection Agency, Air Docket 6102, 401 "M" Street SW., Washington, DC 20460.

Nevada Division of Environmental Protection, Bureau of Air Quality, 123 West Nye Lane, Room 123, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT: R. Michael Stenburg, A–1, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1182.

SUPPLEMENTARY INFORMATION:

1. Background

Implementation of the provisions of the Clean Air Act (CAA), as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the Federally approved SIP. In addition, the CAA directs the Environmental Protection Agency (EPA) to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in Section 507 of Title V of the CAA. In February 1992, EPA issued *Guidelines for the Implementation of Section* 507 *of the* 1990 *Clean Air Act Amendments*, in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide

further guidance to the States on submitting acceptable SIP revisions.

On June 28, 1994, the State of Nevada submitted a SIP revision to EPA in order to satisfy the requirements of Section 507. In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) the establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. A detailed discussion of the background for each of the above PROGRAM elements is provided in the May 3, 1995 **Federal Register** Notice of Proposed Rulemaking (NPR) 60 FR 21781. EPA proposed to partially disapprove the June 28, 1994 submittal for not satisfying the Compliance Advisory Panel requirements for indicating an implementation schedule of milestones showing when the officials will be appointed and when the program will be operational and for not indicating that the Compliance Advisory Panel will review and assure that information for small business stationary sources is easily understandable. On June 20, 1995 the State held a public hearing which adopted an implementation schedule and the aforementioned procedure for insuring information is understandable by the layperson. On July 5, 1995 the State submitted the corresponding SIP revision which became effective on July 5, 1995.

EPA has evaluated all of the above PROGRAM elements for consistency with the requirements of the CAA and the EPA policy guidance document. EPA has found that all the PROGRAM elements now meet the applicable EPA requirements. A detailed discussion of the background for each of the above PROGRAM elements is provided both in this **Federal Register** and in the May 3, 1995 **Federal Register** Notice of Proposed Rulemaking (NPR).

II. Response to Public Comments

A 30-day public comment period was provided in the May 3, 1995 **Federal Register** NPR. EPA received no public comments.

III. Final Action

EPA is approving the SIP revisions submitted by the State of Nevada. The revisions were made to satisfy the requirements of Section 507 of the CAA.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 9, 1996, unless, by March 11, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 9, 1996.

The OMB has exempted this action from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

By this action, EPA is approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved today does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of the State Implementation Plan for the State of Nevada was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 20, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart DD—Nevada

2. Section 52.1470 is amended by adding paragraphs (c) (34) and (35) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(34) Program elements were submitted on June 28, 1994 by the Governor's designee.

(i) Incorporation by reference.

(A) Small Business Stationary Source Technical and Environmental Compliance Assistance Program, adopted on June 28, 1994.

(35) Program elements were submitted on July 5, 1995 by the Governor's designee.

(i) Incorporation by reference.

(A) Small Business Stationary Source Technical and Environmental Compliance Assistance Program, adopted on July 5, 1995.

[FR Doc. 96–2828 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 63

[AD–FRL–5419–7]

National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects an error in the regulatory text of the final rule for national emissions standards for hazardous air pollutants for aerospace manufacturing and rework facilities that was promulgated in the **Federal Register** on September 1, 1995 (60 FR 45948).

EFFECTIVE DATE: This regulation is effective February 9, 1996.

FOR FURTHER INFORMATION CONTACT: For general or technical information concerning the standards, contact Mr. James Szykman, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–2452.

SUPPLEMENTARY INFORMATION: Section 112 of the Act requires EPA to promulgate national emission standards for sources of hazardous air pollutants (HAP). On September 1, 1995 (60 FR 45947), the Agency promulgated final standards for the aerospace manufacturing and rework industry. Among other provisions, the rule established a deadline for existing sources to submit an initial notification to the Administrator.

The submittal of an initial notification by owners or operators of existing sources affected by relevant standards is required under § 63.9(b)(2) of the General Provisions to 40 CFR part 63. Section 63.9(b)(2) requires that this initial notification be submitted to the Administrator within 120 days of the effective date of a promulgated NESHAP. In the case of the final Aerospace NESHAP, affected existing facilities would be required to submit an initial notification by December 30, 1995.

However, in paragraph V.H.(2)(a) of the preamble to the proposed aerospace manufacturing and rework NESHAP published in the **Federal Register** on June 6, 1994 (59 FR 29216), the Agency stated its intent to override the submittal date specified in the General Provisions and to require owners or operators of affected aerospace manufacturing and rework facilities to submit this initial notification "* * * no later than 12 months before the final compliance date [i.e., by September 1, 1997] * * *." One comment was received concerning the submittal of the initial notification (see Docket Number A–92–20, Entry Number IV–D–31). This commenter requested that the initial notification be submitted within the 120 days specified in the General Provisions. While the Agency generally favors early interaction amongst the regulated community, permitting agencies, and the public, especially in instances where the final compliance date is less than three years from promulgation; the Agency was not compelled to alter its position from that found in the preamble to the proposed rule because of the three years allowed for existing sources to comply. Therefore, the final rule should have indicated requirements for the submittal of an initial notification within 2 years of the effective date of the final standard. However, language specifying the September 1, 1997 date for submittal of the initial notification was mistakenly omitted from the final rule published in the **Federal Register.** In today's document, the Agency has corrected this omission and has included the applicable language.

Dated: February 1, 1996.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

The following corrections are being made in the regulatory text for: National Emission Standards for Hazardous Air Pollutants for Aerospace Manufacturing and Rework Facilities published in the **Federal Register** on September 1, 1995 (60 FR 45948):

§ 63.753 [Corrected]

1. Paragraph (a)(1) of § 65.753 on page 45979, column 1, should read as follows:

* * * * *

(a)(1) Except as provided in paragraphs (a)(2) and (a)(3) of this section, each owner or operator subject to this subpart shall fulfill the requirements contained in § 63.9 (a) through (e) and (h) through (j), Notification requirements, and § 63.10 (a), (b), (d) and (f), Recordkeeping and reporting requirements, of the General Provisions, 40 CFR part 63, subpart A, except that the initial notification requirements for new or reconstructed affected sources in § 63.9(b) (3) though (5) shall not apply. In addition to the requirements of § 63.9(h), the notification of compliance status shall include:

(i) Information detailing whether the source has operated within the specified ranges of its designated operating parameters.

(ii) For each coating line, where averaging will be used along with the types of quantities of coatings the facility expects to use in the first year of operation. Averaging scheme shall be approved by the Administrator or delegated State authority and shall be included as part of the facility's title V or part 70 permit.

(2) The initial notification for existing sources, required in § 63.9(b)(2) shall be submitted no later than September 1, 1997. For the purpose of this subpart, a title V or part 70 permit application may be used in lieu of the initial notification required under § 63.9(b)(2), provided the same information is contained in the permit application as required by § 63.9(b)(2), and the State to which the permit application has been submitted has an approved operating permit program under part 70 of this chapter and has received delegation of authority from the EPA. Permit applications shall be submitted by the same due dates as those specified for the initial notifications.

* * * * *

[FR Doc. 96–2923 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 262, 264, 265, and 270

[IL–64–2–5807; FRL–5407–2]

Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: Under the authority of the Resource Conservation and Recovery Act (RCRA), as amended, the EPA has published air standards to reduce organic emissions from hazardous waste management activities (59 FR 62896, December 6, 1994). The air standards apply to owners and operators of hazardous waste treatment, storage, and disposal facilities (TSDF) subject to RCRA subtitle C permitting requirements and to certain hazardous waste generators accumulating waste in on-site tanks and containers. This action makes clarifying amendments in the regulatory text of the final standards, corrects typographical and grammatical errors, and clarifies certain language in the preamble to the final rule.

EFFECTIVE DATE: The rule provisions clarified by this action are effective as of June 6, 1996, the effective date of the final rule.

ADDRESSES: This notice is available on the EPA's Clean-up Information Bulletin Board (CLU–IN). To access CLU–IN with a modem of up to 28,800 baud, dial (301) 589–8366. First time users will be asked to input some initial registration information. Next, select "D" (download) from the main menu. Input the file name "RCRACLAR.ZIP" to download this notice. Follow the on-line instructions to complete the download. More information about the download procedure is located in Bulletin 104; to read this type "B 104" from the main menu. For additional help with these instructions, telephone the CLU–IN help line at (301) 589–8368.

Docket. The supporting information used for this rulemaking is available for public inspection and copying in the RCRA docket. The RCRA docket numbers pertaining to this rulemaking are F–91–CESP–FFFFF, F–92–CESA–FFFFF, F–94–CESF–FFFFF, F–94–

CE2A–FFFFF, and F–95–CE3A–FFFFF. The RCRA docket is located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. Hand delivery of items and review of docket materials are made at the Virginia address. The public must have an appointment to review docket materials. Appointments can be scheduled by calling the Docket Office at (703) 603–9230. The mailing address for the RCRA docket office is RCRA Information Center (5305W), U. S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline, toll-free at (800) 424–9346. For further information on the specific provisions to which this clarification refers, contact Ms. Michele Aston, Emission Standards Division (Mail Drop 13), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2363.

SUPPLEMENTARY INFORMATION:

Background

The EPA is today making clarifying amendments to the final subpart CC standards. Since the publication of the final rule, the EPA has published two **Federal Register** documents to delay the effective date of the final rule. The first (60 FR 26828, May 19, 1995) revised the effective date of the standards to be December 6, 1995. The second (60 FR 56952, November 13, 1995) subsequently revised the effective date of the standards to be June 6, 1996. The EPA has also issued a stay of the standards specific to units managing wastes produced by certain organic peroxide manufacturing processes (60 FR 50426, September 29, 1995).

On August 14, 1995, the EPA published a **Federal Register** document entitled, "Proposed rule; data availability" (60 FR 41870) and opened RCRA docket F–95–CE3A–FFFFF to accept comments on revisions that the EPA is considering for the final subpart CC standards. The EPA accepted public comments on the appropriateness of these revisions through October 13, 1995 and is now in the process of reviewing and evaluating the comments that were received. The EPA expects to complete its review of these public comments, and publish a **Federal Register** notice explaining the EPA's decision if and how to amend the rule to reflect the proposed revisions, in early 1996.

Today's action clarifies provisions of the final rule to better convey the EPA's original intent. While today's clarifications may be applicable to certain comments submitted to docket F–95–CE3A–FFFFF, today's action is independent of those proposed revisions and the **Federal Register** document that EPA intends to publish in early 1996 addressing its evaluation of the proposed revisions. The information presented in this preamble is organized as follows:

1. Applicability.
2. Definitions.
3. Schedule for implementation of air emission standards.
4. Standards: General.
5. Waste determination procedures.
6. Standards: Tanks.
7. Standards: Surface impoundments.
8. Standards: Containers.
9. Closed-Vent Systems and Control Devices.
10. Inspection and Monitoring requirements.
11. Recordkeeping Requirements.
12. Reporting Requirements.
13. Alternative Control Requirements for Tanks.
14. Immediate Effective Date.

1. Applicability

The EPA deferred applicability of the final subpart CC standards to units used solely for on-site treatment or storage of hazardous waste generated in the course of certain remedial activities. Paragraph (b)(5) of § 264.1080 and § 265.1080 specified that this deferral applied to "remedial activities required under the corrective action authorities of RCRA sections 3004(u), 3004(v) or 3008(h), CERCLA authorities, or similar Federal or State authorities." However, page 62897 of the preamble to the final subpart CC standards stated that this deferral applied to "remedial activities required under RCRA corrective action or CERCLA response authorities (or similar State remediation authorities)." Consistent with the regulatory language, the EPA intended that this deferral apply to remedial activities under the authority of RCRA corrective action, CERCLA response, similar Federal authorities, or similar State authorities. An example of a similar Federal authority would be the EPA Compliance Monitoring Program (CMP) pursuant to the Toxic Substances Control Act, and a waste management unit that is used solely for on-site storage of hazardous wastes generated from remedial activities required by the CMP thus would qualify for deferral from the applicability of the final subpart CC standards.

The EPA also deferred applicability of the subpart CC standards to hazardous waste management units that are used "solely" to treat or store radioactive mixed waste, in paragraph (b)(6) of § 264.1080 and § 265.1080. EPA is clarifying here that the use of the word "solely" does not preclude addition of other materials to a unit managing radioactive mixed waste if applicable regulations of the Atomic Energy Act or the Nuclear Waste Policy Act require that material other than radioactive mixed waste be added to the unit. Such additions would not contravene the purpose of EPA's limitation of the scope of the deferral: To prevent radioactive mixed wastes from being used to exempt other hazardous waste from the rule through mixing and to limit the volume of mixed waste that is managed, again by limiting options for exempt mixing. Thus, if any materials other than radioactive mixed waste are added after June 6, 1996 to units used to treat or store mixed waste, the regulatory deferral of the unit would not apply *unless* the addition is pursuant to a regulatory requirement imposed pursuant to the Atomic Energy Act and/or the Nuclear Waste Policy Act.

2. Definitions

The EPA is revising the definition of "cover" and adding a definition for the term "enclosure" to clarify the EPA's intended distinction between the two technologies, and to clarify the specific requirements for an enclosure. As used in the final subpart CC standards, the EPA considers a cover to be a device that is placed on or over a unit and forms a barrier between the entire waste surface and the space external to the unit. Examples of covers include a fitted lid on a drum and a roof on a tank. In contrast, the EPA considers an enclosure to be a structure that is external to a unit which surrounds the unit and some space external to the unit. An example of an enclosure would be a shed or a building within which a unit is either permanently or temporarily located. The definition for "cover" contained in the December 6, 1994 final standards listed an enclosure surrounding a container as an example of a cover, which has led to several inquiries from the public as to whether a tank located inside a building equipped with a ventilation system routed to a control device would meet the requirements for tank covers specified in § 264.1084(d) and § 265.1085(d). It is not the EPA's intent to allow an enclosure or building surrounding a tank to meet the control requirements for the final subpart CC standards; see Hazardous Waste TSDF Background Information for Promulgated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, EPA–453/R–94–076b ("BID"), page 6–61. To make explicit what is already implicit in the final rule, EPA is clarifying that an enclosure surrounding a tank is not equivalent to a cover on a tank. Thus, the EPA is removing the example of an enclosure from the definition of "cover" and is creating a separate definition for the term "enclosure."

The final subpart CC standards require enclosures surrounding open fixation containers to meet airflow and pressure drop requirements, as specified in paragraph (b)(2)(ii) of § 264.1086 and § 265.1087. The EPA has received a number of requests from the public to more clearly specify these requirements. In response, the EPA is specifically defining the term "enclosure" such that an enclosure be designed and operated in accordance with the requirements of "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" contained in § 52.741, appendix B. The requirements of this procedure will provide facilities with a more clear definition of the EPA's intent for the design and operation of enclosures.

The EPA is also amending the term "waste stabilization" to specifically exclude the process of adding non-reactive absorbent material to the surface of a waste. The EPA recognizes that to meet certain criteria under the Land Disposal Restrictions, or to prevent the introduction of liquids into certain combustion devices, owners or operators apply absorbent material to the surface of wastes just prior to disposal. In such procedures, the container is opened, absorbent material is placed on the surface of the waste to absorb a relatively small amount of liquid, and the container is closed. No mixing or agitation is involved in this process. The EPA's intended definition of waste stabilization for the final subpart CC air rules does not include processes that do not include mixing or agitation, and do not involve curing (BID, p. 6–57). The EPA is amending the definition of "waste stabilization" to clarify this intent.

3. Schedule for implementation of air emission standards

The December 6, 1994 published rule establishes additional air standards for TSDF owners and operators subject to 40 CFR part 264 or 40 CFR part 265. All requirements enacted under this final action are effective as of June 6, 1996. This includes the application of the requirements of 40 CFR part 265 subparts AA, BB, and CC to 90-day accumulation units at hazardous waste generators, and the application of 40 CFR part 265 subparts AA, BB, and CC to facilities with final RCRA permits.

The final rule provides that when the required air emission control equipment cannot be operational at an existing hazardous waste generator or TSDF by June 6, 1996, an implementation schedule for installation of the equipment must be developed and placed in the facility operating records no later than June 6, 1996. In such cases, § 265.1082(a)(2)(i) states that the facility owner or operator must have all air emission controls required by the final rule in operation no later than December 8, 1997.

The EPA also recognizes that certain affected facilities may require time beyond June 6, 1996 to implement other provisions of the final standards, such as developing a facility program to perform the specified leak detection tests on tank covers. Also, generator and TSDF facilities to which the requirements of subparts AA and BB are newly applicable on the June 6, 1996 effective date may need additional time to come into compliance with all provisions of those subparts. The EPA expects such instances to be rare, but in the event a facility cannot implement any technical requirement of subparts AA, BB, or CC, it is the EPA's intent that the owner or operator document the necessity for a delay in the facility operating record. To be in compliance with the rule, the necessary documentation must be in place by the June 6, 1996 effective date. To be in compliance with the subpart CC standards, affected facilities must have all required air emission controls installed and operating no later than December 8, 1997. However, facilities newly subject to subparts AA and BB must be in compliance with all the requirements of those subparts no later than 30 months after the effective date that the facility becomes subject to those subparts. Paragraph (a)(2) in § 264.1033 and § 265.1033 is amended to clarify this intent.

In addition, the EPA is clarifying that an affected unit which the owner or operator intends to replace or remove may also be in compliance through the use of an implementation plan. The EPA recognizes that certain facilities may choose to comply with the subpart CC air rules by replacing an existing hazardous waste management unit, or by modifying their facility process such that a given waste management unit is no longer necessary. The EPA also realizes that facilities could require time beyond June 6, 1996 to complete such modifications, during which time it may be necessary for the facility to continue adding hazardous waste to the affected unit. The EPA had therefore intended to allow the owner or operator to be in compliance with the subpart CC standards provided that sufficient documentation is entered into the facility operating record by the June 6, 1996 effective date. The facility operating record must contain sufficient information to document the necessity to continue adding hazardous waste to the unit after June 6, 1996, and document the owner or operator's schedule and plan to cease adding hazardous waste to the affected unit as soon as is feasible, but no later than December 8, 1997 (BID p. 9–6).

Paragraphs (b)(3) and (b)(4) in § 264.1080 and § 265.1080 specify that the subpart CC standards do not apply to tanks or surface impoundments for which the owner or operator has begun implementing or has completed closure pursuant to an approved closure plan, and into which the owner or operator has stopped adding hazardous waste. However, if a closure plan has not been approved for an affected unit, the final subpart CC standards are applicable to that unit. In such a case, the subpart CC standards require that on the June 6, 1996 effective date, if the affected unit is not equipped with the appropriate air emission controls, no hazardous waste may be added to that unit. In this situation, it is the EPA's intent that the owner or operator would be in compliance with the subpart CC standards provided that sufficient documentation is entered into the facility operating record by the June 6, 1996 effective date. This is consistent with the situation described in the previous paragraph where the removal of an affected unit cannot be accomplished before the June 6, 1996 effective date. As with the situation described above, the facility operating record must contain sufficient information to document the inability of the owner or operator to cease adding hazardous waste to the unit prior to June 6, 1996. The facility operating record must also include the owner or operator's schedule to obtain an approved closure plan, or to cease adding hazardous waste to that unit, no later than December 8, 1997.

The December 6, 1994 published rule allowed an extended effective date and compliance date for tanks in which stabilization operations are performed, to allow interested parties time to submit data to the EPA and to allow EPA time to review that data (59 FR at 62897). The effective date for such tanks was originally December 6, 1995. Since the publication of that final rule, the effective date of the final standards for all rule provisions has been extended

until June 6, 1996 (60 FR 56952). Therefore, the EPA no longer considers it necessary to provide a separate compliance schedule for tanks in which stabilization operations are performed, and the effective date for such tanks will be the June 6, 1996 effective date of the final rule.

4. Standards: General

The owner or operator must install and operate the specified air emission controls on every affected tank, surface impoundment, and container used in the waste management sequence from the point of waste origination through the point where the organics in the waste are removed or destroyed by a process in accordance with the requirements of the rule. The final rule provides seven options by which an owner or operator may demonstrate that the required treatment or destruction of organics has been accomplished, as specified in § 265.1083(c)(2) (i) through (vii). Depending on the nature of the affected hazardous waste, the process through which the waste has been managed, or the treatment applied to the waste, one or more of these seven demonstration options may not be appropriate for a given waste stream. In recognition of this, the EPA chose to allow seven different options to demonstrate that effective treatment has been accomplished; the EPA recognizes that not all of these seven options will be practical for demonstrations of all waste treatment scenarios. However, the EPA believes that the variety of waste treatment demonstrations allowed in the final subpart CC rules does offer at least one demonstration alternative for most, if not all, reasonable waste treatment scenarios.

Paragraph (c)(2)(iii) of §§ 264.1082 and 265.1083 is one of the seven options to demonstrate that waste has been treated to effectively reduce the organics in accordance with the requirements of the final subpart CC standards. In the December 6, 1994 published rule, this option required that the "actual organic mass removal rate (MR) for the process is greater than the required organic mass removal rate (RMR) for the process." The EPA had intended this provision to specify that the MR for the process must be greater than or equal to the RMR. The EPA is amending this provision to clarify that intent.

The seven options in § 265.1083(c)(2) refer to a waste treatment process that accomplishes specified organic destruction or removal. As the term "process" is used in these requirements, the EPA refers to either a single waste treatment unit, or a series of waste treatment units. If a facility uses a series of waste treatment units, the applicable exemption from controls applies to units downstream of the point where the necessary removal or destruction occurs. Thus, points downstream of the unit which accomplishes the 95th percentile reduction would not be required to install and operate air emission controls.

Similarly, the requirement for covers on tanks and surface impoundments do not apply to tanks or surface impoundments in which biological degradation of the organics in the hazardous waste treated in the unit is demonstrated to achieve specific performance levels. Either of the following sets of conditions, as described in paragraph (c)(2)(iv) of § 264.1082 and § 265.1083, must be demonstrated to qualify for this exemption: (1) The organic reduction efficiency for the process is equal to or greater than 95 percent, and the organic biodegradation efficiency for the process is equal to or greater than 95 percent; or (2) the total actual organic mass biodegradation rate for all hazardous waste treated by the process is equal to or greater than the required organic mass removal rate (59 FR at 62915). A biological treatment unit that is operated within a series of units would not be required to be equipped with a cover provided that series of units met one of the treatment demonstration options in § 265.1083(c)(2), and the biological treatment unit occurred in the series at the point where the necessary treatment was achieved. In the case of a treatment series that achieved a 95 percent reduction in organics by weight as demonstrated by the requirements of § 265.1083(c)(2)(ii), the biological treatment unit could operate without a cover provided that it was the unit achieving the 95th percent control for the affected waste streams. However, if the placement of the biological treatment unit in the treatment series was prior to the achievement of the 95th percent organic reduction, the biological treatment unit must operate with a cover and air emission controls.

Paragraph (d) in §§ 264.1082 and 265.1083 of the final rule indicated that certain materials that are not hazardous wastes must be controlled in accordance with the subpart CC standards. These final standards are only applicable to RCRA hazardous waste. The EPA is amending §§ 264.1082(d) and 265.1083(d) to clarify that non-hazardous wastes are not subject to the subpart CC standards. (This means, incidentally, that wastes that become exempt from RCRA subtitle C by virtue of an exemption such as the Bevill amendments (codified at 261.4(b)(7)) or the domestic sewage exclusion (codified at 261.4(a)(1)) would not be subject to the subpart CC rules.) In making this clarification, the EPA also notes that it is not addressing here (or in any way reopening) the issue of the types of treatment standards under the Land Disposal Restriction program to which hazardous waste treatment residues could be subject before land disposal. Such treatment standards could apply to spent treatment residues that are not themselves identified or listed as a hazardous waste. See 58 FR at 29866–868 and 29871–72 (May 24, 1993) and *Chemical Waste Management* v. *EPA*, 976 F.2d 2, 16–18 (D.C. Cir. 1992), cert. denied 113 S. Ct. 1961 (1993). This same caveat applies with respect to the spent activated carbon residue discussed at section 9 below.

5. Waste Determination Procedures

Under the final subpart CC standards, a TSDF owner or operator is not required to determine the volatile organic concentration of the waste if it is placed in a tank, surface impoundment, or container using the required air emission controls. However, an owner or operator must perform a determination of the average volatile organic (VO) concentration for each hazardous waste placed in a waste management unit exempted from using air emission controls based on the VO concentration of the waste at its point of waste origination. The EPA is amending paragraphs (a)(1) and (b)(1) of § 264.1083 to clarify this requirement.

The determination of the volatile organic concentration of hazardous waste under the final subpart CC standards is based on the organic composition of the waste at the "point of waste origination." The "point of waste origination" is defined in § 265.1081 of the final rule with respect to the point where the TSDF owner or operator first has possession of a hazardous waste. This definition specifies that when the TSDF owner or operator is the generator of the hazardous waste, the "point of waste origination" means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste as defined in 40 CFR part 261. In such a case, the owner or operator may sample the hazardous waste at its point of origination, or may sample the waste at a point downstream from the point of origination, provided the downstream sampling point provides an accurate representation of the waste volatile organic concentration as it was at the point of waste origination. Simply put, an owner or operator may sample

downstream of the point of origination provided the waste has not been altered, mixed with other materials, or allowed to release any volatile organic components prior to sampling. When neither the TSDF owner or operator is the generator of the hazardous waste, the "point of waste origination" means the point where the owner or operator accepts delivery or takes possession of the hazardous waste. The EPA considers this to be the point when and where the TSDF owner or operator accepts the waste manifest document for the hazardous waste.

The preamble to the final subpart CC rule incorrectly stated that to calculate the average of a waste stream using direct measurement, "a sufficient number of samples, but no less than four, must be collected to represent the complete range of organic compositions and organic quantities that occur in the hazardous waste stream during the entire averaging period" (59 FR at 62916). The intended rule requirement to take a minimum number of four waste samples is for the performance of one single waste determination. The requirement for four individual samples is intended to compensate for both variations in the methodology and variations within a waste stream that may be due to non-homogeneous waste mixtures. It is not acceptable to take four or more individual samples of a waste stream, mix the samples, then perform a method 25D analysis on the mixture. The requirements of § 265.1084(a)(5)(iv) specify the procedure by which the four or more samples be analyzed by method 25D individually, and the results mathematically averaged to produce one waste determination result. This process accounts for test method variability as well as variability in the waste stream and the waste samples.

The EPA recognizes that not all hazardous waste regulated by the subpart CC standards is liquid or aqueous. Therefore, § 4.1.4 of method 25D (40 CFR part 60, appendix A) includes a sampling technique for solid materials. For wastes that are solid or semi-solid, a representative sample is obtained by placing a 10 gram sample of the waste material into a vial containing the specified 30 mL of polyethylene glycol. Once the sample is obtained, the method 25D analysis is performed as it would be on any other waste sample.

To calculate an average volatile organic concentration for a waste stream that has variations in the organic concentration, the owner or operator must perform the number of waste determinations that are necessary to adequately demonstrate that the waste stream volatile organic concentration meets the applicable criteria. An owner or operator may choose to perform a waste determination at a point where they know the waste stream is at its maximum volatile organic concentration for the averaging period. If the resulting average of the four required Method 25D sample runs yields a volatile organic concentration below 100 parts per million by weight (ppmw), the owner or operator would not need to perform additional waste determinations for that averaging period. However, if the owner or operator was not able to perform a waste determination at the point of the waste stream's maximum volatile organic concentration, they could be required to perform additional waste determinations during the averaging period to sufficiently calculate a mass-weighted average volatile organic concentration. The final subpart CC standards specify that the facility owner or operator enter into the facility record a test plan that demonstrates how they will perform a representative volatile organic concentration determination.

The final subpart CC rules require that a waste determination be performed prior to the first time a hazardous waste is placed in an affected unit on or after June 6, 1996. Section 265.1084(a)(2) (i) and (ii) specify the process to determine the average VO concentration for waste streams generated as part of a continuous process or generated as part of a batch process that is performed repeatedly but not necessarily continuously. The EPA is amending § 265.1084(a)(2) to clarify that for waste generated as part of a batch process that is not performed repeatedly, the owner or operator shall perform a waste determination of the VO concentration of the waste in the batch. The EPA is amending § 265.1084(b)(2) to clarify the similar waste determination procedures for treated hazardous waste.

The procedures in paragraphs (a)(5), (a)(6) and (b)(4) of § 265.1084 for determining the average VO concentration of a hazardous waste require that the owner or operator have sufficient knowledge of any variations in the volatile organic concentration of their affected waste streams throughout the averaging period. An owner or operator who does not have sufficient knowledge of variations in the VO concentration of their waste stream prior to June 6, 1996, may not be eligible to determine compliance with the final rule using the average VO concentration for their affected waste streams. The option to use an average volatile organic waste concentration requires sufficient knowledge of the waste stream, and if that knowledge is not available, the option is not allowed. In such a case, the owner or operator would be required to install and operate air emission controls on each affected unit receiving hazardous waste on or after June 6, 1996 (as required by paragraph (b) of § 264.1082 and § 265.1083), or to determine that at no time waste with a VO concentration greater than or equal to 100 ppmw is placed in a unit not equipped with the required air emission controls (as required by paragraph (c) of § 264.1082 and § 265.1083). In essence, each and every portion of the hazardous waste entering the unit would be considered to be a discrete quantity that is not generated as part of a batch process; therefore, the average VO concentration of each of these discrete quantities of waste would be the same as its measured VO concentration (as described in § 265.1084(a)(2)(iii) and § 265.1084(b)(2)(iii), as amended by today's action).

In § 265.1084(a)(5)(v)(C) the equation to determine the average VO concentration of the hazardous waste at the point of waste origination was printed with an incorrect symbol representing the average VO concentration of the hazardous waste at the point of waste origination. The EPA is revising that equation to specify the correct symbol.

Section 265.1084(a)(6)(iii) of the final subpart CC standards allows an owner or operator to determine the volatile organic concentration of a hazardous waste using knowledge that is based on information supplied by the generator of the waste. The generator-prepared information can be included in manifests, shipping papers, or waste certification notices accompanying the waste shipment, as agreed upon between the waste generator and the TSDF owner or operator. The subpart CC final rules do not impose requirements for a generator to provide such documentation to a TSDF. Rather, where such information does exist, the TSDF owner or operator has the option to use that information to perform the volatile organic waste determination or the volatile organic vapor pressure determination upon accepting delivery or taking possession of the hazardous waste. The EPA is amending paragraph (b)(8) of § 264.13 and § 265.13 to clarify this intent. The validity of any information used to comply with these final standards is the responsibility of the owner or operator who has custody of the waste. Therefore, a TSDF owner or operator should rely on waste information only if it is provided by a source in whose accuracy they have confidence.

The December 6, 1994 published rule incorrectly referenced the requirements by which waste streams entering a process must be measured, at § 265.1084(b)(6)(iii)(B) and in the nomenclature for C_{Bj} at § 265.1084(b)(6)(iv). The EPA is amending these provisions to reference the requirements contained in paragraph (a)(5)(iv). The EPA is also amending the nomenclature for Q_{Aj} in § 265.1084(b)(6)(iv) to clarify that it represents the mass quantity of waste exiting the process.

To determine the maximum organic vapor pressure of a hazardous waste in a tank using Method 25E, an owner or operator shall collect a minimum of three waste samples. It was the intent of the EPA to defer to the Clean Air Act General Provisions contained in § 60.8(f) to specify the number of samples required for a Method 25E analysis. However, the subpart CC standards are not subject to § 60.8(f); therefore, this information was not referenced for the final subpart CC standards. The EPA is amending the requirements of paragraph 265.1084(c) to require that, unless otherwise specified in the method being used, a minimum of three samples shall be taken when using any of the methods listed in § 265.1084(c)(3)(ii). To perform a Method 25E analysis, each of these samples shall be analyzed separately, and the result of the analysis mathematically averaged. The requirements of Method 25E specify the procedure to analyze the samples and mathematically average the analytical results.

6. Standards: Tanks

In the final subpart CC tank standards, paragraph (b)(4) of § 264.1084 and § 265.1085 allows the use of a pressure tank to manage affected hazardous waste. The EPA did not intend to specify operating conditions or a minimum internal pressure that must be met to comply with the option. For the purpose of complying with this provision of the subpart CC standards, the EPA is clarifying that a pressure tank must be designed and operated such that the internal pressure is above atmospheric pressure and the tank operates as a closed system, with no detectable emissions occurring during routine operations including filling and emptying (BID p. 6–51). Therefore, the tank must be designed and operated to withstand the pressure of having the vapor space of the waste compressed until the tank is filled to design capacity. The EPA is amending the tank standards to clarify this requirement.

The EPA intended that the final subpart CC standards allow tanks to operate with a fixed-roof type cover without any additional air emission controls provided certain conditions were met (59 FR at 62917). As published in the December 6, 1994 final standards, paragraph (c) of § 264.1084 and § 265.1085 did not correctly convey the EPA's intent for this provision. The EPA is revising these paragraphs of the tank standards to clarify that for the purposes of compliance with the subpart CC standards, tanks meeting the specified waste management requirements can operate fixed-roof type covers without additional air emission controls.

One of the conditions that must be met for this provision is that no turbulent agitation may occur on the surface of the waste, as described in paragraph (c)(1) of § 264.1084 and § 265.1085. Such turbulence on the surface of a waste increases emission of organics from the waste to the air. This cover-only option was provided for tanks that are used for waste storage, and in which no waste treatment is occurring. The cover-only option of paragraph (c)(1) does not provide effective emission control for waste that is managed such that there is visible turbulent flow on the surface of the waste. The EPA considers that the requirements of paragraph (c)(1) are consistent with the provisions of the New Source Performance Standard for volatile organic liquid storage vessels under 40 CFR part 60, subpart Kb, after which the technical requirements for fixed-roof covers were modelled. The EPA does not intend to specify a test to measure turbulent flow, or to otherwise narrowly define the conditions that meet this paragraph. The EPA does wish to clarify that for a tank through which the waste surface is not viewable, an owner or operator may elect to use engineering calculations and modelling to determine if the surface of the hazardous waste managed in a tank has turbulent flow that would be visible.

The EPA recognizes that, for certain hazardous wastes managed in tanks, it may be necessary to continuously mix, stir or circulate the waste inside the tank during normal storage operations. For instance, the properties of the waste may be such that it is necessary to continuously stir the waste to prevent phase separation or to prevent the waste from solidifying. Paragraph (c)(1) of § 264.1084 and § 265.1085 prohibits such activities if they result in splashing, frothing, or visible turbulent flow on the surface of the waste. However, an owner or operator may perform continuous or frequent mixing operations in a cover-only tank, provided the operation does not cause visible turbulent flow on the surface of the waste. To be allowed under the requirements of paragraph (c)(1), such a mixing operation must be designed and performed to operate without causing visible turbulent flow on the waste surface. To design and operate a mixing system to ensure that visible turbulent flow does not occur, the owner or operator must consider all relevant factors, including mixing speed, position of the mixing apparatus, and waste level in the tank. If the mixing apparatus is positioned and designed such that visible turbulent flow occurs when the waste is below a certain level in the tank, the mixing operation must be ceased when the waste is not above that level in the tank. During such a period, visible turbulent flow on the surface of the waste would be allowed if it resulted from an intermittent required operation, such as loading waste into the tank.

The EPA recognizes that owners or operators may need to mix, stir or circulate the waste that is stored in tanks to occasionally perform certain necessary operations, and these actions may result in splashing, frothing, or visible turbulent flow. Examples of this include mixing waste contents at sample times to facilitate obtaining a representative waste sample, and causing visible turbulent flow on the waste surface during transfer of hazardous waste into or from the tank. In such a situation, there would be a mixing apparatus available to be used in the tank, but this apparatus would not be in use during normal waste storage operations. The EPA considers some degree of splashing, frothing, or visible turbulent flow to be allowable, provided that the activity causing this condition is waste sampling, waste transfer, or a similar necessary operation that is performed infrequently. The requirements of § 264.1084(c)(1) and § 265.1085(c)(1) specify that the disallowed waste management activities must not be part of the normal process operations for that tank. The EPA intends that provision to prohibit continual or usual performance of such procedures, but allow the procedure when necessary to perform intermittent operations, such as waste sampling or waste transfer (BID p. 6–54). Therefore, a tank for which the waste transfer operation is continuous or occurs frequently and causes visible turbulent flow, should be equipped with organic emission controls in accordance with paragraph (b) of § 264.1084 and § 265.1085. Similarly, the EPA intends that this clarification also apply to hazardous waste management in surface impoundments complying with the

floating membrane cover provisions of § 264.1085(c) and § 265.1086(c).

An additional condition that must be met for the fixed-roof cover control option requires that the waste managed in the unit have a volatile organic vapor pressure below certain limits based on the capacity of the tank, as described in paragraph (c)(4) of § 264.1084 and § 265.1085. The waste managed in the tank must meet the appropriate volatile organic vapor pressure limits at the highest vapor pressure that will occur under normal operating conditions. Unlike the waste volatile organic concentration determination which must represent individual waste streams prior to mixing or dilution, the waste organic vapor pressure determination must indicate the vapor pressure of the actual mixture of waste that is managed in the tank. The waste organic vapor pressure to be compared to the limits specified in § 264.1084(c)(4) and § 265.1085(c)(4) of the final rule is the highest pressure present among any temperatures at which the waste is present in the tank.

The EPA had intended the final subpart CC standards to allow fixed-roof covers on tanks to be equipped with one or more pressure relieving devices that vent directly to the atmosphere to allow for the relief of pressure or vacuum caused by normal operations (BID p. 6–47). For the purposes of this provision the EPA requires that the pressure relieving device be a normally closed device that opens only when a pressure or vacuum is created in the unit. The EPA does not intend to specify parameters for the operation or setting of such pressure relieving device, but rather has established a performance standard that the facility owner or operator design and operate the conservation vents so that emissions to the atmosphere are minimized, yet tank integrity is protected, in accordance with sound engineering design specifications and practices appropriate for the affected tank. This provision is clarified in the amendments to paragraph (c) of § 264.1084 and § 265.1085. This allowance for pressure relieving devices differs from the final rule allowance for safety devices described in paragraph (g) of § 264.1084 and § 265.1085, which are only allowed to vent to the atmosphere during unplanned events. Units not eligible to be equipped with pressure relieving devices that open during normal operations include pressure tanks, and tanks equipped with floating roofs.

7. Standards: Surface Impoundments

In the December 6, 1994 published rule, paragraph (d) of § 264.1085 and § 265.1086 incorrectly referenced paragraph (b)(1), which does not exist. The EPA is amending paragraph (d) of these sections to reference paragraph (b), as intended.

8. Standards: Containers

In § 264.1086 and § 265.1087, paragraph (b)(1) lists three options to demonstrate compliance for containers used to manage hazardous waste subject to subpart CC. The first option, in paragraph (b)(1)(i), specifies that the container operates with no detectable emissions as tested by Method 21 in 40 CFR part 60 appendix A. This option is appropriate for any container subject to subpart CC, including the types of containers specified in the second and third options. The second option, in paragraph (b)(1)(ii), is a container with a capacity of 0.46 cubic meters, which complies with all Department of Transportation regulations for packaging hazardous waste for transport under 40 CFR part 178. The third option, in paragraph (b)(2)(iii), is a tank truck or rail car that has been demonstrated within the previous 12 months to be organic vapor tight using the pressure test specified in Method 27 of 40 CFR part 60 appendix A. The EPA has received several questions regarding the applicability of Method 27 for use on vehicular containers that are not equipped with a vapor recovery system. This method is a pressure test procedure originally developed by the EPA for determining the vapor-leak tightness of a gasoline tank truck equipped with a vapor recovery system. The EPA also considers Method 27 appropriate on tank trucks and rail cars that are used to manage hazardous waste, regardless of whether the tank truck or rail car is equipped with a vapor recovery system. As described above, an owner or operator of a tank truck or rail car has the option to comply with paragraph (b)(1)(i), and demonstrate no detectable emissions by Method 21, as does the owner or operator of any container equal to or less than 0.46 m^3 in capacity.

Paragraph (b)(2)(ii) of § 264.1086 and 265.1087 of the December 6, 1994 final standards describes the criteria for an enclosure in which stabilization operations performed in open containers must be located. In describing the requirements for the enclosure, the EPA had intended to paraphrase the specifications of Procedure T in Appendix B to § 52.741, titled "Criteria for and Verification of a Permanent or Temporary Total Enclosure." To better clarify the intended requirements for container enclosures, the EPA is revising the enclosure requirements of paragraph (b)(2)(ii) to specifically reference Procedure T in § 52.741, Appendix B.

The waste transfer requirements specified in paragraph (b)(3) of § 264.1086 and § 265.1087 of the final rule for containers are intended to reduce exposure of hazardous waste to the atmosphere. Paragraph (b)(3)(i) specifically describes submerged-fill techniques to be used; however, the EPA does not intend that submerged-fill be performed in situations where the process of submerged-fill increases waste exposure to the atmosphere, or worker exposure to hazardous wastes. Certain splash loading operations are performed through a fitted opening in the top of a container, and the transfer line is subsequently purged with nitrogen gas to clean the interior of the line before it is removed from the container opening. This transfer practice could result in less waste exposure than a submerged-fill practice performed for the same waste and container. Another container loading practice is vapor balancing, in which the vapors displaced by transferring waste into a container are routed to the unit from which the waste was transferred. Thus, the EPA is adding clarifying language to the container transfer requirements of paragraph (b)(3) in § 264.1086 and § 265.1087 to direct owners or operators to transfer waste using the procedure that will minimize exposure of waste to the atmosphere.

The submerged filling procedure described in the final subpart CC standards is one procedure that may be appropriate for waste transfer into containers, but the EPA is amending these provisions to direct owners or operators to employ the container filling practice most appropriate for their facility operation.

The EPA originally intended the subpart CC final rules to allow containers to vent emissions directly to the atmosphere during filling operations. The December 6, 1994 final rules only allowed for venting through the opening through which waste was transferred. The EPA intended to allow venting during waste transfer operations either through the opening through which the waste is transferred, or through a second opening that would serve as a vent. In addition to the amendment to paragraph (b)(3) described above, the EPA is amending paragraph (c) of § 264.1086 and § 265.1087 to clarify this venting allowance.

9. Closed-Vent Systems and Control Devices

The final subpart CC standards added requirements for the management of

spent carbon removed from a carbon adsorption system used to comply with the subpart AA, BB, and CC standards. The EPA is clarifying that the carbon management requirements are only applicable to carbon that is hazardous waste. Spent carbon is hazardous if it exhibits a characteristic of hazardous waste or if it is listed. Spent carbon deriving from the treatment of listed hazardous waste is considered to be a type of listed waste by virtue of the derived from rule found at § 261.3(c)(2). See also 56 FR at 7200 (February 21, 1991).

The EPA is amending the spent carbon management requirements of §§ 264.1033(m) and 265.1033(l), and paragraph (c)(3)(ii) of § 264.1087 and § 265.1088 to clarify the intent described today. The EPA is also revising §§ 264.1033(m) and 265.1033(l) to allow management of affected spent carbon to be conducted in certain interim status units in addition to the permitted units specified in the December 6, 1994 published rule.

10. Inspection and Monitoring Requirements

As published in the December 6, 1994 final rule, §§ 264.1033(k)(2) and 265.1033(j)(2) allowed that after the required initial leak detection monitoring, an owner or operator is not required to conduct annual monitoring on those closed-vent system components which continuously operate in vacuum service. The EPA had intended that this allowance apply to system components continuously operating under negative pressure, because such systems would not release constituents to the atmosphere even if there were a rupture or other loss of integrity to the component (BID p. 6–100). However, the EPA specified the term "in vacuum service," which requires that a system operate at an internal pressure at least 5 kPa below ambient pressure, under the assumption that systems operating under negative pressure would meet this requirement. The use of the term "in vacuum service" has prompted several questions from the public asking EPA to clarify whether systems operated under negative pressure, but not necessarily in vacuum service, must be monitored annually after the initial leak detection monitoring. The EPA had intended to not require annual monitoring of closed-vent system components which operate under pressure such that all emissions are routed to a control device even if a leak or hole exists in the component. A component that continuously operates under negative pressure would satisfy this intent, even if the component does not necessarily operate in vacuum service. Therefore, the EPA is amending §§ 264.1033(k)(2) and 265.1033(j)(2) to specify that, after the initial leak detection monitoring, an owner or operator is not required to monitor system components which continuously operate under negative pressure.

As published in the December 6, 1994 standards, the reference in paragraph (d) of § 264.1088 and § 265.1089 incorrectly specified that certain control devices used to comply with the subpart CC standards must be inspected and monitored in accordance with the procedures specified in § 264.1033(f). The EPA had intended that this reference should be to § 264.1033(f)(2). The EPA is amending paragraph (d) in § 264.1088 and § 265.1089 to correct this reference and to clarify the frequency of monitoring and the requirement for corrective measures.

11. Recordkeeping Requirements

The EPA is amending § 264.1089(a)(1) and § 265.1090(a)(1) such that these paragraphs correctly reference paragraph 265.1091(a) of the alternative tank control requirements. The EPA is also amending § 264.1089(e) and § 265.1090(e) such that these paragraphs correctly specify recordkeeping requirements for a hazardous waste incinerator and boiler or industrial furnace used to comply with the treatment demonstration options in § 264.1082 and § 265.1083. These amendments clarify references that were incorrectly printed in the December 6, 1994 published standards (59 FR 62896).

12. Reporting Requirements

The EPA is amending § 264.1090 (c) and (d) to clarify what noncompliance occurrences for control device operations a facility owner or operator must report to their Regional Administrator.

13. Alternative Control Requirements for Tanks

Paragraph 265.1091(a)(1)(i) of the final subpart CC standards specifies filling requirements for a tank equipped with an internal floating roof. The requirement is that when the roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible. The intent of this requirement is to minimize the time during which a vapor space exists between the floating roof and the stored waste. EPA recognizes that facility owners or operators may not have full control over the amount and handling of waste transferred into their tanks, and this may lead to periods when the filling of a tank may not be continuous. Therefore, the EPA is clarifying this requirement to state that the process of filling shall be as continuous as possible, based on the amount of waste and the nature of the waste handling operation.

14. Immediate Effective Date

The EPA has determined to make today's action effective immediately. The EPA believes that the corrections being made in this document are either interpretations of existing regulations which do not require prior notice and opportunity for comment, or are technical corrections of obvious errors in the published rule (for example corrections of regulatory language that is inconsistent with the preamble, BID, or with otherwise clearly indicated EPA intent) for which comment is unnecessary (within the meaning of 5 USC 553(b)(3)(B)). In addition, the EPA notes that many of these clarifications result from the public comment obtained at various public meetings regarding the subpart CC standards that were held during the summer of 1995. Thus, the EPA has provided for a measure of opportunity to comment.

Docket. Five RCRA dockets contain information pertaining to today's rulemaking: (1) RCRA docket number F–91–CESP–FFFFF, which contains copies of all BID references and other information related to the development of the rule up through proposal; (2) RCRA docket number F–92–CESA–FFFFF, which contains copies of the supplemental data made available for public comment prior to promulgation; (3) RCRA docket number F–94–CESF–FFFFF, which contains copies of all BID references and other information related to development of the final rule following proposal; (4) RCRA docket number F–94–CE2A–FFFFF, which contains information pertaining to waste stabilization operations performed in tanks; and (5) RCRA docket number F–95–CE3A–FFFFF, which contains information about potential final rule revisions made available for public comment. The public may review all materials in these dockets at the EPA RCRA Docket Office.

The EPA RCRA Docket Office is located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. Hand delivery of items and review of docket materials are made at the Virginia address. The public must have an appointment to review docket materials. Appointments can be scheduled by calling the Docket Office at (703) 603–9230. The mailing address for the RCRA Docket Office is RCRA Information Center (5305W), 401 M Street SW., Washington, DC 20460. The Docket Office is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays.

Legal Authority

These regulations are amended under the authority of sections 2002, 3001–3007, 3010, and 7004 of the Solid Waste Disposal Act of 1970, as amended by RCRA, as amended (42 U.S.C. 6921–6927, 6930, and 6974).

List of Subjects

40 CFR Part 262

Environmental protection, Accumulation time, Air pollution control, Container, Tank.

40 CFR Parts 264 and 265

Air pollution control, Container, Control device, Hazardous waste, Incorporation by reference, Inspection, Miscellaneous unit, Monitoring, Reporting and recordkeeping requirements, Standards, Surface impoundment, Tank, TSDF, Waste determination.

40 CFR Part 270

Administrative practice and procedure, Air pollution control, Confidential business information, Hazardous waste, Permit, Permit modification, Reporting and recordkeeping requirements.

Dated: December 18, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, parts 262, 264, 265, 270, and 271 of the Code of Federal Regulations is amended as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912(a), 6922, 6923, 6924, 6925, 6937 and 6938, unless otherwise noted.

§ 262.34 [Amended]

2. Section 262.34(a)(1)(i) is amended by inserting a comma after "subparts I" to read "subparts I, AA, BB and CC".

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

Subpart B—General Facility Standards

4. Section 264.13 is amended by revising paragraphs (b)(8) (i) and (ii) to read as follows:

§ 264.13 General waste analysis.

* * * * *

(b) * * *

(8) * * *

(i) If direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption.

(ii) If knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

Subpart AA—Air Emission Standards for Process Vents

5. In § 264.1033 the second sentence of paragraph (a)(2) is revised, paragraph (k)(2) is revised, and paragraph (m) is revised to read as follows:

§ 264.1033 Standards: Closed-vent systems and control devices.

(a) * * *

(2) * * * The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this subpart for installation and startup.

* * *

* * * * *

(k) * * *

(2) Closed-vent systems shall be monitored to determine compliance with this section during the initial leak detection monitoring, which shall be conducted by the date that the facility becomes subject to the provisions of this section, annually, and at other times as requested by the Regional Administrator. For the annual leak detection monitoring after the initial leak detection monitoring, the owner or operator is not required to monitor those closed-vent system components which continuously operate under negative pressure or those closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two sections of metal pipe or a bolted and gasketed pipe flange).

* * * * *

(m) The owner or operator using a carbon adsorption system shall document that all carbon removed that is a hazardous waste and that is removed from a carbon adsorption system used to comply with § 264.1033(g) and § 264.1033(h) is managed in one of the following manners, regardless of the volatile organic concentration of that carbon:

(1) Regenerated or reactivated in a thermal treatment unit for which the owner or operator has been issued a final permit under 40 CFR part 270, and designs and operates the unit in accordance with the requirements of subpart X of this part;

(2) Incinerated in a hazardous waste incinerator for which the owner or operator either:

(i) Has been issued a final permit under 40 CFR part 270, and designs and operates the unit in accordance with the requirements of subpart O of this part; or

(ii) Has certified compliance with the interim status requirements of 40 CFR part 265, subpart O; or

(3) Burned in a boiler or industrial furnace for which the owner or operator either:

(i) Has been issued a final permit under 40 CFR part 270, and designs and operates the unit in accordance with the requirements of 40 CFR part 266, subpart H; or

(ii) Has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

* * * * *

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

§ 264.1082 [Amended]

6. In § 264.1082 paragraph (c)(2)(iii) is amended by revising "removal rate (MR) for the process is greater" to read "removal rate (MR) for the process is equal to or greater".

7. In § 264.1082 paragraph (d) is amended by revising "that is not a hazardous waste but has an average VO concentration equal to or greater than 100 ppmw shall" to read "that is a hazardous waste shall".

§ 264.1083 [Amended]

8. In § 264.1083 paragraph (a)(1) is amended by revising "placed in waste management units" to read "placed in a waste management unit".

9. In § 264.1083 paragraph (b)(1) is amended by revising "placed in waste management units" to read "placed in a waste management unit".

10. Section 264.1084 is amended by adding the following sentence to the end of paragraph (b)(4), and revising paragraph (c) to read as follows:

§ 264.1084 Standards: Tanks.

* * * * *

(b) * * *

(4) * * * To be considered a pressure tank for the purpose of compliance with this subpart, a unit must operate with no detectable emissions during filling to design capacity and the subsequent compression of the vapor headspace.

* * * * *

(c) As an alternative to complying with paragraph (b) of this section, an owner or operator may place hazardous waste in a tank equipped with a cover (e.g., a fixed roof) meeting the requirements specified in paragraph (c)(2) of this section when the hazardous waste is determined to meet the conditions specified in paragraph (c)(1) of this section.

(1) All of the following conditions shall be met at all times that hazardous waste is managed in the tank under normal process operations:

(i) The hazardous waste in the tank is neither mixed, stirred, agitated, nor circulated within the tank using a process that results in splashing, frothing, or visible turbulent flow on the waste surface during normal process operations;

(ii) The hazardous waste in the tank is not heated by the owner or operator except during conditions requiring that the waste be heated to prevent the waste from freezing or to maintain adequate waste flow conditions for continuing normal process operations;

(iii) The hazardous waste in the tank is not treated by the owner or operator using a waste stabilization process or a process that produces an exothermic reaction; and

(iv) The maximum organic vapor pressure of the hazardous waste in the tank as determined using the procedure specified in § 264.1083(c) of this subpart is less than the following applicable value:

(A) If the tank design capacity is equal to or greater than 151 m^3, then the maximum organic vapor pressure shall be less than 5.2 kPa;

(B) If the tank design capacity is equal to or greater than 75 m^3 but less than 151 m^3, then the maximum organic vapor pressure shall be less than 27.6 kPa; or

(C) If the tank design capacity is less than 75 m^3, then the maximum organic vapor pressure shall be less than 76.6 kPa.

(2) To comply with paragraph (c)(1) of this section, the owner or operator shall design, install, operate, and maintain a cover to meet the following requirements:

(i) The cover and all cover openings (e.g. access hatches, sampling ports, and gauge wells) shall be designed to operate with no detectable organic emissions when all cover openings are secured in a closed, sealed position.

(ii) Each cover opening shall be secured in a closed, sealed position (e.g. covered by a gasketed lid or cap) at all times that hazardous waste is in the tank except as provided for in paragraphs (c)(2)(iii), (f)(1), and (f)(2) of this section.

(iii) One or more pressure relief devices which vent directly to the atmosphere may be used on the cover provided that each device remains in a closed, sealed position at all times except when tank operating conditions require that the device open for the purpose of preventing physical damage or permanent deformation of the tank or cover in accordance with good engineering design practices and the equipment manufacturer's recommendations. The device must be operated to minimize organic air emissions to the atmosphere to the extent practical, in consideration of good design and safety practices for handling hazardous materials. Examples of such devices include pressure-vacuum relief valves and conservation vents. Examples of tank operating conditions that may require the pressure relief device to open are filling and emptying of the tank, and internal pressure changes caused by diurnal temperature changes.

* * * * *

§ 264.1084 [Amended]

11. Section 264.1084(e) introductory text, is amended by revising "or other closed-systems, EPA considers a drain system that meets the requirements of 40 CFR 61.346(a)(1) or 40 CFR 61.346(b)(1) through (b)(3) to be a 'closed systems'" to read "or other closed systems for the transfer of hazardous waste as described in paragraph (e)(1) or (e)(2) of this section. The EPA considers a drain system that meets the requirements of 40 CFR 61.346(a)(1) or 40 CFR 61.346(b)(1) through (b)(3) to be a closed system."

§ 264.1085 [Amended]

12. In § 264.1085 paragraph (d) introductory text, is amended by revising "paragraph (b)(1)" to read "paragraph (b)".

13. In § 264.1085 paragraph (f) introductory text, is amended by revising "or other closed-systems, EPA considers a drain system that meets the requirements of 40 CFR 61.346(a)(1) or 40 CFR 61.346(b)(1) through (b)(3) to be a 'closed system'" to read "or other closed systems for the transfer of hazardous waste as described in paragraph (f)(1) or (f)(2) of this section. The EPA considers a drain system that meets the requirements of 40 CFR 61.346(a)(1) or 40 CFR 61.346(b)(1) through (b)(3) to be a closed system."

§ 264.1086 [Amended]

14. Section 264.1086(b)(1) is amended by revising "as required by paragraph (b)(2) to read "in accordance with the requirements of paragraph (b)(2)".

15. Section 264.1086 is amended by revising paragraph (b)(2)(ii)(B), adding paragraph (b)(2)(ii)(C), revising paragraph (b)(3) and revising paragraph (c) introductory text, to read as follows:

§ 264.1086 Standards: Containers.

(b) * * *

(2) * * *

(ii) * * *

(B) The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or to direct airflow into the enclosure.

(C) The enclosure shall be designed and operated in accordance with the criteria for a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" in Appendix B of § 52.741.

* * * * *

(3) Transfer of the waste into or from a container shall be conducted in such a manner as to minimize waste exposure to the atmosphere to the extent practical, considering good engineering and safety practices for handling hazardous materials. Examples of container loading procedures that the EPA considers to meet the requirements of this paragraph include using a submerged-fill method to load liquids into the container; using a vapor-balancing or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; and transferring waste through a conveyance tube that is fitted to a container opening above the liquid level to splash-fill the material, and subsequently purging the conveyance tube with gas prior to removing it from the container opening.

(c) Each container opening shall be maintained in a closed, sealed position (e.g. covered by a gasketed lid) at all times that hazardous waste is in the container except when it is necessary to have the opening open during procedures to:

* * * * *

16. In § 264.1087 paragraph (c)(3)(ii) is revised to read as follows:

§ 264.1087 Standards: Closed-vent systems and control devices.

* * * * *

(c) * * *

(3) * * *

(ii) All carbon that is a hazardous waste and that is removed from the control device shall be managed in accordance with the requirements of § 264.1033(m) of this part, regardless of the VO concentration of the carbon.

* * * * *

17. Section 264.1088 is amended by revising paragraph (d) to read as follows:

§ 264.1088 Inspection and monitoring requirements.

* * * * *

(d) Each control device used in accordance with the requirements of § 264.1087 of this subpart shall be inspected and monitored by the owner or operator in accordance with the procedures specified in § 264.1033(f)(2) and § 264.1033(i) of this part. The readings from each monitoring device required by § 264.1033(f)(2) shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures should be immediately implemented to ensure the control device is operated in compliance with the requirements of § 264.1087 of this subpart.

* * * * *

§ 264.1089 [Amended]

18. Section 264.1089(a)(1) is amended by revising "40 CFR 265.1091(c)" to read "40 CFR 265.1091(a)".

19. Section 264.1089(e) is amended by revising "§ 264.1082(c)(2)(v) or § 264.1082(c)(2)(vi)" to read § 264.1082(c)(2)(vi) or § 264.1082(c)(2)(vii)".

§ 264.1090 [Amended]

20. Section 264.1090(a) is amended by revising "reoccurrence" to read "recurrence".

21. Section 264.1090 is amended by revising the second sentence of paragraph (c) and by revising paragraph (d) to read as follows:

§ 264.1090 Reporting requirements.

(a) * * *

(c) * * * The report shall describe each occurrence during the previous 6-month period when either:

(1) A control device is operated continuously for 24 hours or longer in noncompliance with the applicable operating values defined in § 264.1035(c)(4); or

(2) A flare is operated with visible emissions for 5 minutes or longer in a two-hour period, as defined in § 264.1033(d). * * *

(d) A report to the Regional Administrator in accordance with the requirements of paragraph (c) of this section is not required for a 6-month period during which all control devices subject to this subpart are operated by the owner or operator such that:

(1) During no period of 24 hours or longer did a control device operate continuously in noncompliance with the applicable operating values defined in § 264.1035(c)(4); and

(2) No flare was operated with visible emissions for 5 minutes or longer in a two-hour period, as defined in § 264.1033(d).

22. Section 264.1091 is amended by adding paragraph (a)(3) to read as follows:

§ 264.1091 Alternative control requirements for tanks.

(a) * * *

(3) The owner or operator may elect to comply with § 264.1084 (b)(2) or (b)(3) of this subpart using an alternative means of emission limitation as specified in 40 CFR 265.1091(a)(3).

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

23. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

Subpart B—General Facility Standards

24. Section 265.13 is amended by revising paragraph (b)(8)(i) and (ii) to read as follows:

§ 265.13 General waste analysis.

* * * * *

(b) * * *

(8) * * *

(i) If direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption.

(ii) If knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

Subpart AA—Air Emission Standards for Process Vents

25. In § 265.1033 the second sentence of paragraph (a)(2) is revised, and paragraph (j)(2) is revised to read as follows:

§ 265.1033 Standards: Closed-vent systems and control devices.

* * * * *

(a) * * *

(2) * * * The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this subpart for installation and startup.

* * *

* * * * *

(j) * * *

(2) Closed-vent systems shall be monitored to determine compliance with this section during the initial leak detection monitoring, which shall be conducted by the date that the facility becomes subject to the provisions of this section, annually, and at other times as requested by the Regional Administrator. For the annual leak detection monitoring after the initial leak detection monitoring, the closed-vent system components which continuously operate under negative pressure or those closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two sections of metal pipe or a bolted and gasketed pipe flange).

* * * * *

(l) The owner or operator using a carbon adsorption system shall document that all carbon that is a hazardous waste and that is removed from the control device is managed in one of the following manners, regardless of the volatile organic concentration of the carbon:

(1) Regenerated or reactivated in a thermal treatment unit for which the owner or operator has been issued a final permit under 40 CFR part 270, and designs and operates the unit in accordance with the requirements of 40 CFR part 264 subpart X;

(2) Incinerated in a hazardous waste incinerator for which the owner or operator either:

(i) Has been issued a final permit under 40 CFR part 270, and designs and operates the unit in accordance with the requirements of 40 CFR part 264 subpart O; or

(ii) Has certified compliance with the interim status requirements of subpart O of this part; or

(3) Burned in a boiler or industrial furnace for which the owner or operator either:

(i) Has been issued a final permit under 40 CFR part 270, and designs and operates the unit in accordance with the

requirements of 40 CFR part 266, subpart H; or

(ii) Has certified compliance with the interim status requirements of 40 CFR part 266, subpart H.

* * * * *

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

26. Section 265.1081 is amended by revising the definition of *Cover*, and adding a definition for *Enclosure* to read as follows:

§ 265.1081 Definitions.

* * * * *

Cover means a device or system which is placed on or over a hazardous waste to create an air-tight barrier between the entire hazardous waste surface area and the space surrounding the unit, such that air emissions to the atmosphere are reduced. A cover may have openings such as access hatches, sampling ports, and gauge wells that are necessary for operation, inspection, maintenance, or repair of the unit on which the cover is installed provided that each opening is closed and sealed when not in use. Examples of covers include a fixed roof installed on a tank, a floating membrane cover installed on a surface impoundment, and a lid installed on a drum.

Enclosure means a structure that: (1) Surrounds a hazardous waste management unit, captures organic vapors emitted from that unit, and vents the vapors through a closed vent system to a control device; and (2) is designed and operated in accordance with the criteria for a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" in Appendix B of § 52.741.

§ 265.1081 [Amended]

27. In § 265.1081, the definition of *Waste determination* is amended by revising "determining the organic reduction efficiency" to read "the organic reduction efficiency" and the definition of *Waste stabilization process* is amended by adding the sentence "This does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid." to the end of the definition.

* * * * *

§ 265.1083 [Amended]

28. In § 265.1083 paragraph (c)(2)(iii) is amended by revising "removal rate (MR) for the process is greater" to read "removal rate (MR) for the process is equal to or greater".

§ 265.1083 [Amended]

29. In § 265.1083 paragraph (d) is amended by revising "that is not a hazardous waste but has an average VO concentration equal to or greater than 100 ppmw shall" to read "that is a hazardous waste shall".

30. Section 265.1084 is amended by adding paragraph (a)(2)(iii), revising paragraph (a)(5)(iv), introductory text, revising the equation and the first definition in paragraph (a)(5)(v)(C), adding paragraph (b)(2)(iii), revising paragraph (b)(4)(iv), introductory text, revising the first sentence of paragraph (b)(6)(iii)(B), revising the definitions of Q_{aj} and C_{bj} in paragraph (b)(6)(iv), and revising the first sentence of paragraph (c)(3)(i) to read as follows:

§ 265.1084 Waste determination procedures.

(a) * * *

(2) * * *

(iii) When the hazardous waste is generated as part of a batch process that is not performed repeatedly, the owner or operator shall perform a waste determination of the VO concentration of the waste in the batch. The result of this waste determination is the average VO concentration for that waste.

* * * * *

(5) * * *

(iv) The following procedure shall be used to measure the VO concentration for each discrete quantity of material identified in paragraph (a)(5)(iii) of this section:

* * * * *

(v) * * *

(C) * * *

$$\overline{C} = \frac{1}{Q_T} \times \sum_{j=1}^{m} \left(Q_j \times C_j \right)$$

where:

$\overline{C}$=Average VO concentration of the hazardous waste, at the point of waste origination, ppmw.

* * * * *

(b) * * *

(2) * * *

(iii) When the hazardous waste is treated by a batch process that is not performed repeatedly, the owner or operator shall perform a waste determination for the treated waste in the batch. The result of this waste determination is the average VO concentration for that waste.

* * * * *

(4) * * *

(iv) The following procedure shall be used to measure the VO concentration for each discrete quantity of material identified in paragraph (b)(4)(iii) of this section:

* * * * *

(6) * * *

(iii) * * *

(B) The VO concentration of each hazardous waste stream entering the process (C_b) during the run shall be measured in accordance with the requirements of paragraph (a)(5)(iv) of this section. * * *

(iv) * * *

Q_{aj} = Mass quantity of hazardous waste exiting process during run "j", kg/hr. * * *

C_{bj} = Measured VO concentration of hazardous waste entering process during run "j" as determined in accordance with the requirements of § 265.1084(a)(5)(iv), ppmw.

* * * * *

(c) * * *

(3) * * *

(i) Unless otherwise specified in the methods referenced in paragraphs (c)(3)(ii) (A) through (E) of this section, a sufficient number of samples, but no less than three samples, shall be collected to represent the waste contained in the tank. * * *

* * * * *

31. Section 265.1085 is amended by adding the following sentence to the end of paragraph (b)(4) and revising paragraph (c) to read as follows:

§ 265.1085 Standards: Tanks.

* * * * *

(b) * * *

(4) * * * To be considered a pressure tank for the purpose of compliance with this subpart, a unit must operate with no detectable emissions during filling to design capacity and the subsequent compression of the vapor headspace.

(c) As an alternative to complying with paragraph (b) of this section, an owner or operator may place hazardous waste in a tank equipped with a cover (e.g., a fixed roof) meeting the requirements specified in paragraph (c)(2) of this section when the hazardous waste is determined to meet the conditions specified in paragraph (c)(1) of this section.

(1) All of the following conditions shall be met at all times that hazardous waste is managed in the tank, during normal process operations:

(i) The hazardous waste in the tank is neither mixed, stirred, agitated, nor circulated within the tank using a process that results in splashing, frothing, or visible turbulent flow on the waste surface during normal process operations;

(ii) The hazardous waste in the tank is not heated by the owner or operator except during conditions requiring that the waste be heated to prevent the waste from freezing or to maintain adequate waste flow conditions for continuing normal process operations;

(iii) The hazardous waste in the tank is not treated by the owner or operator using a waste stabilization process or a process that produces an exothermic reaction; and

(iv) The maximum organic vapor pressure of the hazardous waste in the tank as determined using the procedure specified in § 265.1084(c) of this subpart is less than the following applicable value:

(A) If the tank design capacity is equal to or greater than 151 m^3, then the maximum organic vapor pressure shall be less than 5.2 kPa;

(B) If the tank design capacity is equal to or greater than 75 m^3 but less than 151 m^3, then the maximum organic vapor pressure shall be less than 27.6 kPa; or

(C) If the tank design capacity is less than 75 m^3, then the maximum organic vapor pressure shall be less than 76.6 kPa.

(2) To comply with paragraph (c)(1) of this section, the owner or operator shall design, install, operate, and maintain a cover to meet the following requirements:

(i) The cover and all cover openings (e.g. access hatches, sampling ports, and gauge wells) shall be designed to operate with no detectable organic emissions when all cover openings are secured in a closed, sealed position.

(ii) Each cover opening shall be secured in a closed, sealed position (e.g., covered by a gasketed lid or cap) at all times that hazardous waste is in the tank except as provided for in paragraphs (c)(2)(iii), (f)(1), and (f)(2) of this section.

(iii) One or more pressure relief devices which vent directly to the atmosphere may be used on the cover provided that each device remains in a closed, sealed position at all times except when tank operating conditions require that the device open for the purpose of preventing physical damage or permanent deformation of the tank or cover in accordance with good engineering design practices and manufacturers recommendations. The device must be operated to minimize organic air emissions to the atmosphere to the extent practical, in consideration of good design and safety practices for handling hazardous materials. Examples of such devices include pressure-vacuum relief valves and conservation vents. Examples of tank operating conditions that may require the pressure relief device to open are filling and emptying of the tank, and internal pressure changes caused by diurnal temperature changes.

* * * * *

§ 265.1086 [Amended]

32. Section 265.1086(d) is amended by revising "paragraph (b)(1)" to read "paragraph (b)".

§ 265.1087 [Amended]

33. Section 265.1087(b)(1) is amended by revising "as required by paragraph (b)(2)" to read "in accordance with the requirements of paragraph (b)(2)".

34. Section 265.1087 is amended by revising paragraph (b)(2)(ii)(B), adding paragraph (b)(2)(ii)(C), revising paragraph (b)(3) and revising paragraph (c), introductory text, to read as follows:

§ 265.1087 Standards: Containers.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(B) The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or to direct airflow into the enclosure.

(C) The enclosure shall be designed and operated in accordance with the criteria for a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent of Temporary Total Enclosure" in Appendix B of Section 52.741.

* * * * *

(3) Transfer of the waste into or from a container shall be conducted in such a manner as to minimize waste exposure to the atmosphere to the extent practical, considering good engineering and safety practices for handling hazardous materials. Examples of container loading procedures that the EPA considers to meet the requirements of this paragraph include using a submerged-fill method to load liquids into the container; using a vapor-balancing or a vapor-recover system to collect and control the vapors displaced from the container during filling operations; and transferring waste through a conveyance tube that is fitted to a container opening above the liquid level to splash-fill the material, and subsequently purging the conveyance tube with gas prior to removing it from the container opening.

(c) Each container opening shall be maintained in a closed, sealed position (e.g. covered by a gasketed lid) at all times that hazardous waste is in the container except when it is necessary to have the opening open during procedures to:

* * * * *

35. In § 265.1088 paragraph (c)(3)(ii) is revised to read as follows:

§ 265.1088 Standards: Closed-vent systems and control devices.

* * * * *

(c) * * *

(3) * * *

(ii) All carbon that is a hazardous waste and that is removed from the control device shall be managed in accordance with the requirements of § 264.1033(m) of this part, regardless of the VO concentration of the carbon.

* * * * *

36. In § 265.1089 paragraph (d) is revised to read as follows:

§ 265.1089 Inspection and monitoring requirements.

* * * * *

(d) Each control device used in accordance with the requirements of § 265.1088 of this subpart shall be inspected and monitored by the owner or operator in accordance with the procedures specified in § 265.1033(f)(2). The readings from each monitoring device required by § 265.1033(f)(2) shall be inspected at least once each operating day to check control device operation. Any necessary corrective measures should be immediately implemented to ensure the control device is operated in compliance with the requirements of § 265.1088 of this subpart.

* * * * *

§ 265.1090 [Amended]

37. Section 265.1090(a)(1) is amended by revising "as listed in § 265.1091(c)" to read "as listed in § 265.1091(a)".

§ 265.1090 [Amended]

38. Section 265.1090(e) is amended by revising "in accordance with § 265.1083(c)(2)(vi) or § 265.1083(c)(2)(v)" to read "in accordance with § 265.1083(c)(2)(vi) or § 265.1083(c)(2)(vii)".

39. In § 265.1091 paragraph (a)(1)(i) is revised to read as follows:

§ 265.1091 Alternative tank control requirements.

(a) * * *

(1) * * *

(i) The fixed roof shall comply with the requirements of § 265.1085(d)(1) of this subpart. The internal floating roof shall rest or float on the waste surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof. The internal floating roof shall be floating on the waste surface at all

times, except during initial fill and during those intervals when the tank is completely emptied or subsequently emptied and refilled. When the roof is resting on the leg supports, the process of filling, emptying, or refilling shall be as continuous as possible, based on the amount of waste and the nature of the waste handling operation, and shall be accomplished as rapidly as possible.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE MANAGEMENT PROGRAM

40. The authority citation for Part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6925, 6927, 6939, and 6974.

Subpart B—Permit Application

§ 270.27 [Amended]

41. Section 270.27(a)(1) is amended by revising "as listed in § 265.1091(c)" to read "as listed in § 265.1091(a)".

§ 270.27 [Amended]

42. Section 270.27(a)(3) is amended by revising "the specification listed in § 265.1087(b)(2)(ii)" to read "the specifications listed in § 264.1086(b)(2)(ii)."

* * * * *

[FR Doc. 96–1713 Filed 2–8–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

[ET Docket No. 93–266; FCC 95–493]

Review of the Pioneer's Preference Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this *Memorandum Opinion and Order* (*MO&O*), the Commission denies the petition for reconsideration filed by Qualcomm Incorporated (Qualcomm) to the *Second Report and Order* (*Second R&O*) in this proceeding, and grants the petition for reconsideration filed by Celsat America, Inc. (Celsat) to the *Third Report and Order* (*Third R&O*). The Commission finds that there is no need to reconsider its determination of what constitutes innovative technology, as requested by Qualcomm; and finds that it is desirable to reconsider its decision to apply certain new pioneer's preference regulations to pioneer's preference requests accepted for filing on or before September 1, 1994, as requested by Celsat. This action is intended to affirm the Commission's pioneer's preference policies, consistent with Congressional directives.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Rodney Small, (202) 418–2452, Office of Engineering and Technology, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *MO&O* adopted December 8, 1995, and released January 30, 1996. This action will not add to or decrease the public reporting burden. The full text of the Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Summary of MO&O

1. The pioneer's preference program provides preferential treatment in the Commission's licensing processes for parties that make significant contributions to the development of a new service or to the development of a new technology that substantially enhances an existing service. The program was established to foster new communications services and technologies and to encourage parties to submit innovative proposals in a timely manner. Under the pioneer's preference rules, a necessary condition for the award of a preference is that an applicant demonstrate that it has developed the capabilities or possibilities of a new technology or service, or has brought the technology or service to a more advanced or effective state. The applicant must also demonstrate that the new service or technology is technically feasible by submitting either the summarized results of an experiment or a technical showing. Finally, a preference is granted only if the service rules adopted are a reasonable outgrowth of the applicant's proposal and lend themselves to grant of a preference. A pioneer's preference recipient's license application is not subject to mutually exclusive applications.

2. The *Second R&O*, 60 FR 13636 (March 14, 1995), addressed proposals set forth in the *Notice of Proposed Rule Making*, 58 FR 57578 (October 26, 1993), in this proceeding and modified certain rules regarding the Commission's pioneer's preference program. Specifically, the *Second R&O* provided pioneers with a discount on license charges in services in which licenses are awarded by competitive bidding, and it also modified several administrative rules. In addition, the *Second R&O* also held that, where an "innovative technology" has developed or enhanced more than one service, the grant of a pioneer's preference in only one such service is sufficient incentive to encourage pioneering proposals to be submitted.

3. Qualcomm states that the Commission should reconsider its determination of what constitutes "innovative technology." Qualcomm contends that four aspects of the *Second R&O* are not clearly defined. First, Qualcomm maintains that a technology should not be considered ineligible for a pioneer's preference merely because that technology could be used in an existing service; second, it requests that the Commission clarify that an innovative technology that can be applied to more than one new service should be eligible for a preference in all services that are not existing services; third, it requests that an innovator who develops a new technology that both significantly improves an existing service and that may also be used to provide a new service in a different band be eligible for a preference in the new service; and fourth, it requests that the Commission clarify what it means by a "new service" operating in a higher band. Qualcomm states that there may be some confusion on this point with respect to broadband Personal Communications Services (PCS). No party filed comments on Qualcomm's petition.

4. Legislation implementing domestically the General Agreement on Tariffs and Trade (GATT) was enacted on December 8, 1994, and contained an amendment to the Communications Act relating to the pioneer's preference program. Included in this amendment was Section 309(j)(13)(D), which specified new requirements regarding criteria, peer review, and unjust enrichment for pioneer's preference requests that were accepted for filing after September 1, 1994. In the *Third R&O*, 60 FR 32116 (June 20, 1995), the Commission implemented the new requirements specified in Section 309(j)(13)(D) and extended them to pioneer's preference requests filed on or before September 1, 1994 in proceedings that have not reached the tentative decision stage. The Commission stated that such action would further its pioneer's preference policy in an auction environment. Also, the Commission imposed the requirement that pending pioneer's preference requests must be amended so as to conform to the new requirements—including an additional requirement adopted in the *Third R&O* and a requirement adopted in the *Second R&O*—no later than 30 days from the effective date of the rules established by the *Third R&O* (*i.e.*, by September 20, 1995).

5. In its petition, Celsat requests that the Commission reconsider its decision to apply the new requirements regarding criteria, peer review, and unjust enrichment to pioneer's preference requests that were accepted for filing on or before September 1, 1994. Celsat also requests that the Commission defer the deadline for filing amendments to pioneer's preference requests until 30 days after the effective date of the Order that responds to its petition. No party filed comments on Celsat's petition or its request for deferral.

6. The Commission emphasizes that the pioneer's preference program was established "to foster a host of valuable new technologies and services to the public" and "to induce innovators to present their proposals to the Commission in a timely manner." To the extent that new technologies are being developed and presented to the Commission in a timely manner for use in existing services independently of the pioneer's preference program, the Commission sees no need to award preferences based upon the additional use of those technologies in new services. Therefore, it finds unpersuasive Qualcomm's argument that a technology that is first used in an existing service independently of the pioneer's preference program should be eligible for a preference in the new service. With respect to Qualcomm's argument regarding the eligibility of an innovative technology to multiple new services, it does not intend to reward the same technology with a preference in more than one service. Further, the Commission believes that such a technology should be eligible for a pioneer's preference only in the first new service that is proposed (provided that the technology has not previously been implemented in an existing service). To permit an applicant to use the same technology as the basis for a pioneer's preference in more than one new service would be administratively burdensome, because there may be numerous new services in which an innovative technology can be used and a party could repeatedly apply for a preference using that technology. Finally, with respect to new services operating in higher bands, Qualcomm does not present a valid reason to believe that there is confusion as to what constitutes a new service. Accordingly, the Commission finds no need to clarify its rules regarding new services.

7. With regard to Celsat's petition, the Commission finds that applying the new pioneer's preference requirements regarding criteria, peer review, and unjust enrichment to pioneer's preference requests that were accepted for filing on or before September 1, 1994 is unnecessary to evaluate these requests and would be administratively burdensome on the Commission and on the applicants. The Commission believes that it has sufficient information on each of these requests to determine whether they are entitled to a pioneer's preference. Accordingly, it will not apply the new requirements regarding criteria, peer review, and unjust enrichment to these requests.

8. The Commission notes, however, that all pending pioneer's preference applicants except Celsat in proceedings that have not reached the tentative decision stage were required by the *Third R&O* to submit by September 20, 1995 amended filings pertaining to these and other new pioneer's preference requirements adopted in the *Second R&O* and *Third R&O*. Even though a number of pending applicants supplemented their preference requests by that date, the Office of Management and Budget (OMB) has not yet approved a new information collection for pioneer's preference requests pursuant to the Paperwork Reduction Act. Accordingly, pursuant to that statute, the Commission is ordering that subsequent to approval by OMB of the new collection, the Chief, Office of Engineering and Technology announce a new date for the submission of amended pioneer's preference requests and publish that date in the **Federal Register**. Therefore, Celsat and other parties who may wish to amend their pioneer's preference requests will not be required to do so prior to the new filing date. On that date, a party that has not previously filed an amended pioneer's preference request will be required to do so by submitting a filing pertaining to the new requirements adopted in the *Second R&O* and *Third R&O*. Specifically, a party that filed a pioneer's preference request on or before September 1, 1994, must submit a statement that a new allocation of spectrum is necessary for its innovation to be implemented. Further, if the applicant relied on experimental results to demonstrate the technical feasibility of its innovation, it must submit a summary of those experimental results. Additionally, for pioneer's preference requests filed after September 1, 1994, an applicant must submit a showing demonstrating that the Commission's public rulemaking process inhibits it from capturing the economic rewards of its innovation unless it is granted a pioneer's preference license; *i.e.*, the applicant must show that it may lose its intellectual property protection because of the Commission's public process; that the damage to its intellectual property is likely to be more significant than in other contexts, such as the patent process; and that the guarantee of a license is a significant factor in its ability to capture the rewards from its innovation. Failure by any party to amend in a timely manner will result in the dismissal of its request.

9. Accordingly, *it is ordered* that Parts 0 and 1 of the Commission's Rules are amended as specified below, effective March 11, 1996. *It is further ordered* that the petition for reconsideration filed by Qualcomm Incorporated is denied. *It is further ordered* that the petition for reconsideration filed by Celsat America, Inc. is granted. *It is further ordered* that the request for deferral filed by Celsat America, Inc. is dismissed as moot. *It is further ordered* that the Chief, Office of Engineering and Technology announce a new date for the submission of amended pioneer's preference requests and publish that date in the **Federal Register**, subsequent to approval from the Office of Management and Budget of the new information collection for pioneer's preference requests. This action is taken pursuant to Sections 4(i), 7(a), 303(g), and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(g), and 303(r).

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 1

Pioneer's preference, Radio.

Federal Communications Commission

William F. Caton,

Acting Secretary.

Amendatory Text

Parts 0 and 1 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.241 is amended by revising paragraph (f) to read as follows:

§ 0.241 Authority delegated.

* * * * *

(f) For pioneer's preference requests accepted for filing after September 1, 1994, the Chief, Office of Engineering and Technology (OET) is authorized to select, in appropriate cases on his/her own initiative or upon request by a pioneer's preference applicant or other interested person, a panel of experts consisting of persons who are knowledgeable about the specific technology set forth in a pioneer's preference request and who are neither employed by the Commission nor by any applicant seeking a pioneer's preference in the same or similar communications service. In consultation with the General Counsel, the Chief, OET, shall also impose other conflict-of-interest requirements that are necessary in the interest of attaining impartial, expert advice regarding the particular pioneer's preference request or requests.

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for Part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

2. Section 1.402 is amended by revising paragraphs (h) and (i) to read as follows:

§ 1.402 Pioneer's preference.

* * * * *

(h) For pioneer's preference requests accepted for filing after September 1, 1994, an opportunity for review and verification of the requests by experts who are not Commission employees will be provided by the Commission. The Chief, Office of Engineering and Technology (OET) may select a panel of experts consisting of persons who are knowledgeable about the specific technology set forth in a pioneer's preference request and who are neither employed by the Commission nor by any applicant seeking a pioneer's preference in the same or similar communications service. The panel of experts will generally be granted a period of up to 90 days, but no more than 180 days, to present their findings to the Commission. The Commission will generally establish, conduct, and seek the consensus of the panel pursuant to the Federal Advisory Committee Act, and will evaluate its recommendations in light of all the submissions and comments in the record. Panelists will have the authority to seek further information pertaining to preference requests and to perform field evaluations, as deemed appropriate by the Chief, OET.

(i) For pioneer's preference requests accepted for filing after September 1, 1994, in order to qualify for a pioneer's preference in services in which licenses are awarded by competitive bidding, an applicant must demonstrate that the Commission's public rulemaking process inhibits it from capturing the economic rewards of its innovation unless it is granted a pioneer's preference license. The applicant must show that it may lose its intellectual property protection because of the Commission's public process; that the damage to its intellectual property is likely to be more significant than in other contexts, such as the patent process; and that the guarantee of a license is a significant factor in its ability to capture the rewards from its innovation. This demonstration will be required even if the Commission has not determined at the time a pioneer's preference request is filed whether assignments in the proposed service will be made by competitive bidding.

* * * * *

[FR Doc. 96–2843 Filed 2–8–96; 8:45 am]
BILLING CODE 6712–01–P

47 CFR Part 43

[DA 95–1248]

Reporting Requirements for International Traffic Data

AGENCY: Federal Communications Commission.

ACTION: Revised manual.

SUMMARY: The Common Carrier Bureau adopted a revised filing manual for international traffic data. The new manual has a separate section that consolidates the filing requirements for pure resale carriers. While the new manual did not change these requirements, the consolidated section will make it easier for small businesses which primarily provide pure resale service to report. The new manual did change the reporting requirements for facilities based traffic, which is primarily provided by large businesses. In order to protect U.S. carriers' interests, the new manual allows carriers to report some information on a proprietary basis. Both facilities-based and pure resale carriers must use this manual to report message counts, minute counts, gross revenues, international settlements amounts, and retained revenues for international communications services. The manual was adopted June 6, 1995 and approved by OMB.

DATES: Traffic data for the prior calendar year must be filed by July 31.

ADDRESSES: The original transmittal letter only must be filed with the Secretary, Federal Communications Commission, Washington, DC 20554. Traffic data must be filed with the FCC Common Carrier Bureau, Industry Analysis Division, Mail Stop 1600 F, 1919 M Street NW., Washington, D.C. 20554 and with the FCC's Contract Copier (Currently International Transcription Services, Inc.), Room 246, 1919 M Street NW., Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Linda Blake or Jim Lande, Common Carrier Bureau, Industry Analysis Division, (202) 418–0940.

SUPPLEMENTARY INFORMATION:

FCC Report 43.61

Approved by OMB 3060–0106.
Expires 08/31/98.
Estimated Average Burden Hours Per Response: 24 Hours.

Manual for Filing Section 43.61 Data in Accordance With the FCC's Rules and Regulations

June 1995.

Notice to Individuals

Section 43.61 of the Commission's Rules requires all carriers providing international service to provide traffic and revenue data. The collection of Section 43.61 traffic data stems from the Commission's authority under the Communications Act of 1934, Sections 4, 48, 48 Stat. 1066, as amended, 47 U.S.C. 154 unless otherwise noted. Interpret or apply sections 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

The foregoing Notice is required by the Privacy Act of 1974, Pub.L. 93.579, December 31, 1974, 5 U.S.C. 552(a)(e)(3), and the Paperwork Reduction Act of 1980. Pub.L. 96–511, section 3504(c)(3).

Public reporting burden for this collection of information is estimated to average 24 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554.

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Introduction

This manual is organized in three sections. Section 1 defines international telecommunications service, explains the service categories, defines the data requirements, and contains filing instructions. Section 2 defines a computerized format, and explains specialized codes that facilities-based and facilities resale carriers must use for reporting data. Section 3 summarizes reporting requirements for pure resale switched services. Most pure resale carriers should be able to use Section 3 without reference to other parts of the manual.

Section 43.61(a) of the FCC's Rules requires that each common carrier providing international telecommunications service between any U.S. point and any non U.S. point must file traffic and revenue data.[1] This includes foreign carriers that serve a U.S. point as well as private carriers and carriers that provide non-tariffed international communications services. Section 43.61(b) mandates that carriers provide traffic and revenue data for each and every international service. Section 43.61(d) specifies that the traffic and revenue data must be furnished in accordance with this manual.

The 43.61 international traffic reports contain traffic and revenue information for service between the United States and international points. The data are summarized in FCC statistical reports, are used to monitor the development and competitiveness of international telecommunications markets, and are used in the facilities planning process. In addition, the FCC uses this information to develop and support United States positions in discussions with foreign governments and international standards organizations, such as the International Telecommunications Union.

The manual contains reporting requirements for facilities-based, facilities resale and pure resale services.[2] Facilities-based services are provided by a carrier utilizing international circuits in which it has an ownership interest. Facilities Resale services are provided by a carrier utilizing non-switched international circuits leased from other reporting international carriers. Carriers must provide detailed data for both the facilities-based and facilities resale services that they provide. Pure resale services are switched services that are provided by reselling the international switched services of other carriers. Pure resale carriers may own domestic switches and circuits, but rely on other carriers to carry switched traffic between the United States and foreign points. Carriers must separately report facilities-based, facilities resale, and pure resale service. Section 3 contains simplified reporting requirements for pure resale carriers. Only pure resale switched service is accorded simplified reporting requirements.

The public reporting burden for the revised manual is estimated to average 24 hours including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, preparing the report, and reviewing the collection of information. The 24 hours is a weighted average response time based on 80 hours for 30 facilities-based carriers and 10 hours for 120 pure resellers. These figures represent the incremental reporting burden and do not include the time that carriers spend maintaining data for other purposes. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554.

Section 1—Definitions and General Information

A. Carriers That Must File International Telecommunications Service Data

Section 43.61(a) of the FCC's Rules requires that each common carrier providing international telecommunications service between any U.S. point and any non U.S. point must file traffic and revenue data. This includes foreign carriers that serve a U.S. point as well as private carriers and carriers that provide non-tariffed international communications services. Section 43.61(b) mandates that carriers provide traffic and revenue data for each and every international service. Section 43.61(d) specifies that the traffic and revenue data must be furnished in accordance with this manual.

International traffic and revenue data must be reported in accordance with Section 43.61 of the Rules. Section 43.61(a) states that "[e]ach common carrier engaged in providing international telecommunications service between the area comprising the continental United States, Alaska, Hawaii, and off-shore U.S. points and any country or point outside that area must file a report with the Commission not later than July 31 of each year for

[1] 47 CFR 43.61.

[2] The definitions herein of facilities-based and facilities resale service are solely intended to govern reporting of international traffic data, and are not intended for any other purpose.

service actually provided in the preceding calendar year." Telecommunications services allow the public to communicate by means of electronic signals transmitted by wire, radio, visual or other electromagnetic systems and can entail the carriage of traffic or the provision of dedicated communications channels. A service channel or circuit is a path for electronic transmission of information between two or more points. All common carriers must file international traffic data, regardless of whether service is offered pursuant to tariff.

Enhanced services as defined by section 64.702 of the Commission's rules are exempt from the section 43.61 filing requirements. Enhanced services incorporate code and protocol conversion, information provision or information processing as a fundamental part of the service purchased by the customer. Simple packet switching, for example, is not considered to be an enhanced service despite the fact that the network temporarily stores packets. A packet switching service that included code and protocol conversion, however, would be considered to be enhanced unless packet switching was priced separately from code and protocol conversion.

For the purpose of reporting international traffic data, an international carrier is any entity that offers international telecommunications service to non-affiliated entities for compensation. For example, a cellular carrier that resells the international switched service of another carrier must file Section 43.61 traffic data. However, a cellular carrier that merely bills international service for another carrier whose name is shown on the bill would not be considered an international carrier even if the cellular carrier also billed for itself the standard air time charges for the international call. The carrier actually providing the international service would be required to report.

B. International Points Used for Reporting Purposes

This manual defines three categories of geographic points. Domestic U.S. points are the 50 states, the District of Columbia, and Puerto Rico. Off-shore U.S. points include U.S. possessions such as American Samoa, Guam, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, the Northern Mariana Islands, Palmyra Atoll, the U.S. Virgin Islands, and Wake Island. The Domestic U.S. and Off-shore U.S. points are collectively referred to herein as the United States or as U.S. points. All other points of the world, including ships operating in international waters, are Foreign points. Canada, Saint Pierre and Miquelon, and Mexico, which were not encompassed by the older term "overseas points", are foreign points.

United States and foreign points are identified in the Common Carrier Bureau Industry Analysis Division report titled *International Points used for FCC Reporting Purposes (International Points). International Points* lists world points that originate or receive international telecommunications traffic. The report contains the country and region codes that must be used to file section 43.61 data. The report is published periodically and shows various classification schemes for world points. Revisions to *International Points* will reflect changes in political boundaries and the extent and operation of international telecommunications networks. Contact the Industry Analysis Division (202)418–0940 regarding points not listed in the tables.

The geographic categories Domestic U.S., Off-shore U.S. and Foreign shall be used to determine which data must be reported. Service that both originates and terminates in Domestic U.S. points is considered to be domestic, and should not be reported under section 43.61 of the Rules. All other traffic for a United States point must be reported.

The following table illustrates the classification of traffic for various pairs of points:

Service originating and terminating points	Categorized	Reporting status
Alaska to Hawaii	Domestic U.S. to Domestic U.S	Domestic Traffic: not reported.
Alaska to Puerto Rico	Domestic U.S. to Domestic U.S	Domestic Traffic: not reported.
U.S. Virgin Islands to Puerto Rico	Off-shore U.S. to Domestic U.S	U.S. International Traffic: Reported.
Alaska to Guam	Domestic U.S. to Off-shore U.S	U.S. International Traffic: Reported.
Alaska to Japan	Domestic U.S. to Foreign	U.S. International Traffic: Reported.
Guam to Japan	Off-shore U.S. to Foreign	U.S. International Traffic: Reported.
Guam to Wake Island	Off-shore U.S. to Off-shore U.S	U.S. International Traffic: Reported.
Japan to Italy via Hawaii	Foreign to Foreign transiting the U.S	U.S. International Traffic: Reported.
Japan to Italy via Guam	Foreign to Foreign transiting the U.S	U.S. International Traffic: Reported.
Japan to Italy via "country beyond" service of a U.S. carrier.	Foreign to U.S. to Foreign	U.S. International Traffic: Each leg of call reported as U.S. Billed.
Japan to Italy via pure resale U.S. Call-back service in Hawaii.	Foreign to U.S. to Foreign	U.S. International Traffic: Each leg of call reported as U.S. Billed.
Japan to Italy direct	Foreign to Foreign	Foreign Traffic: not reported.

The distinction between domestic and international traffic may prove burdensome in some instances. For example, there may be instances where customers obtain international service while using a domestic telecommunications service. A domestic cellular service might be usable just outside U.S. territorial waters. The cellular carrier may have no way of knowing if its service is being used to complete an international call. If the carrier bills such a customer at domestic rates, the traffic should be considered incidental to domestic service, and need not be included in Section 43.61 reports. The opposite situation might occur where a customer uses an international maritime service while in U.S. territorial waters. Such a call to a domestic point would be a domestic call. It could be difficult for the carrier to identify and remove such traffic from its international data reports. Such traffic is incidental to international service, and may be included in Section 43.61 reports as international traffic. Carriers should footnote entries that might contain a significant amount of such traffic.

C. Service Categories Used for Reporting Data

Section 43.61(b) of the FCC's Rules requires carriers to provide traffic and revenue information for each and every international common carrier service that they provide to the public. Enhanced services as defined by Section 64.702 of the Rules are not common carrier services. International services may be provided over terrestrial cable, submarine cable, microwave facilities, satellite circuits, etc. Distinctions are made based on the service provided to the customer rather than the technology employed to provide the service. The following service categories and definitions are provided solely to govern the reporting of traffic and do not bear on the legality or treatment of international services for any other purpose:

1. International Message Telephone Service

International message telephone service involves the transmission and reception of speech over the public switched network for which a charge is collected on a minimum charge per call or measured time basis. Per call prices are typically calculated based on the number of minutes or fractions of minutes. Service features, such as operator assistance or credit card billing, may be offered as part of the service and may give rise to additional charges. Through use of modems and other specialized equipment, the customer can use ordinary telephone calls for the transmission of data, video and facsimile [3] messages.

International message telephone services are generally tariffed on a "through" basis from the United States to a particular foreign point. This means that a call is charged a tariffed rate for a particular point of destination, regardless of whether the call goes directly to that country, or transits through some third point. Traditionally, service is provided jointly by a U.S. international message telephone service carrier and one or more foreign correspondent carriers under a "joint operating agreement". Such agreements typically specify the rights, duties, and legal obligations of each correspondent; arrangements such as "proportionate return" which govern the routing of traffic; and provide the accounting rate per unit of international message telephone service traffic. The accounting rate provides the basis for "settling" traffic balances, i.e. compensating one carrier for handling the traffic of the other. However, international message telephone service can also be provided by facilities resale arrangements which may not entail accounting rate agreements.

Carriers offer many types of switched network services with different access and billing arrangements. International message telephone service includes services with dedicated access if the calls are routed through the public switched network. Accordingly, for international reporting purposes, the international message telephone service category includes traditional international message telephone service, WATS, 800 and 900 type services, custom network services, conference services, 'country beyond' service, and similar services. The international message telephone service category can also include switched digital services that utilize ISDN interfaces and switched global defined network services. International message telephone service is reported with service code 1.

2. International Message Telegraph Service

International message telegraph service involves the transmission and reception of record or textual matter which is not sent directly by the sender, and for which a charge is collected on a per word basis. International message telegraph service is reported with service code 2.

At one time carriers were required to provide separate data for message telegraph services offered to the public, to governments, and to press entities. Carriers should report 43.61 data that represents totals for all types of customers.

3. International Telex Service

Telex service involves the transmission and reception of record matter, including messages, facsimile and data, charged for on a per minute or timed basis, for which the transmission is directly controlled by the user over an exchange network dedicated to the transmission of such records. Messages may be transmitted via carrier facilities on either a direct dial or on a store and forward basis. The telex network provides for the transmission of communications alternately in either direction, but not in both directions simultaneously. Such services are also referred to as teleprinter exchange services. International telex service is reported with service code 3.

Telegraph and Telex services are occasionally referred to as record services.

4. International Private Line Service

Private line service is the leasing of a dedicated channel of communications (leased circuit) for specified periods of time for the customer's use. Leased private line circuits are typically priced by distance, bandwidth or capacity, and other features such as line conditioning. International private line service does not include private circuits within the United States unless such circuits are dedicated to the provision of international service and are provided pursuant to international tariffs.

The international portion of the service typically begins at a point within the United States and terminates at a connection point halfway between the United States and the destination country. The remaining half of the international private line from the theoretical midpoint to the foreign destination is provided by the U.S. carrier's foreign correspondent carrier. Each carrier bills the customer separately for its half of the service. In actuality, although the service is priced on the basis of a theoretical midpoint, the international circuitry is usually provided by the U.S. and foreign carriers jointly, with each carrier owning an undivided half-interest in the circuits.

Carriers should not report as international private line service data for circuits that both originate and terminate within the domestic United States, unless those circuits are dedicated for international service and are provided pursuant to international tariffs. In addition, carriers should not report facilities provided under contract to foreign carriers except to the extent that the foreign carrier is paying for facilities from the United States to the theoretical midpoint.

There are six categories of private line service for reporting purposes:

Service code	Description
4	Voice Circuits—provided as individual circuits.
5	Up to 1200 bits per second (bps).
6	1201 bps to 9600 bps.
7	9601 bps to 30 Million bps (Mbps) or .01 Megahertz to 18 Megahertz, except for voice circuits.
8	Greater than 30 Mbps to 120 Mbps or greater than 18 Megahertz to 72 Megahertz.
9	Greater than 120 Mbps or greater than 72 Megahertz.

The voice grade category should only contain individual circuits that are

[3] Most people associate the word facsimile with the use of terminal equipment that sends and receives images of a page. The electronic image is transmitted over the public switched network. Carriers should not separate this type of traffic from other types of international message telephone traffic. Our rules previously required detailed data reporting for several services that are obsolete, including one then called facsimile service. The older facsimile service was a private line service. The facsimile lines accommodated analog equipment that transmitted images at a rate of 3 to 6 pages per hour. Digital equipment was introduced in the late 1960's. Customers stopped using dedicated facsimile lines in the 1970's following the development of facsimile equipment that could utilize the public switched telephone network. Any remaining dedicated facsimile lines should be reported as private lines using the appropriate private line category.

offered to accommodate a single voice circuit. This category does not include ISDN circuits or large capacity circuits provided as multiple voice grade equivalent channels.

Switched and virtual private line services should not be included in the above categories and instead should be reported separately as Miscellaneous or Other International Services. These services are considered to be private lines services for some purposes. However, the reporting of revenues and circuits for switched and virtual private line services cannot easily conform to the format specified for the private line categories contained herein.

5. Miscellaneous or Other International Service

The final service category includes all services that are not listed above. The category includes cablephoto service, radiophoto service, photo transmission service and addressed press service. The category also includes packet switched transmission service, occasional use television, switched video, switched and virtual private line services and some other forms of switched digital service. The category also includes any new service that differs from services listed above. Miscellaneous or Other international services are reported with service code 99.

D. Filing Country-by-Country Data for Each U.S. Point Served

1. Filing by U.S. Point

Carriers must file separate data for each United States point from which they originate and bill facilities-based or facilities resale service. Carriers may not consolidate facilities-based or facilities resale data for two United States points without obtaining a waiver from the FCC. Carriers may consolidate pure resale traffic for domestic U.S. points (the Conterminous United States, Alaska, Hawaii, and Puerto Rico). However, carriers may not consolidate pure resale data for an off-shore U.S. point and a domestic U.S. point, or for two off-shore U.S. points, without obtaining a waiver from the FCC. See 47 CFR Section 1.3.

Carriers should not include in their report U.S. points that they do not serve.

2. Filing data on a Country-by-Country Basis

For each large U.S. point, facilities-based and facilities resale carriers must provide country-by-country data on diskette for each service that they provide. However, region-by-region data may be substituted for miscellaneous services. For small U.S. points, each carrier must report world total traffic data on diskette for each service that they provide. All carriers, including pure resale carriers, must file world total traffic data for each pure resale service that they provide. Pure resale traffic need not be provided on diskette.

REPORTING REQUIREMENTS FOR FACILITIES-BASED AND FACILITIES RESALE SERVICE

Large U.S. points: File country-by-country data on diskette	Small U.S. points: File world total data [1] on diskette
Alaska	American Samoa.
Conterminous U.S.	Baker Island.
Guam	Howland Island.
Hawaii	Jarvis Island.
Puerto Rico	Johnston Atoll.
U.S. Virgin Islands	Kingman Reef.
	Midway Atoll.
	Navassa Island.
	Northern Mariana Islands.
	Palmyra Atoll.
	Wake Island.

[1] Many points on this list are not served by U.S. carriers at this time. Carriers need not file data for points that they do not serve.

Where country-by-country reporting is required, carriers must file separate data for each of the primary international points listed in *International Points*. However:

(a) Carriers should omit points that would represent domestic traffic. For example, a report for Alaska should not show traffic to Hawaii. However, traffic between domestic and off-shore U.S. points must be reported. For example, a report for Alaska should include traffic to Guam.

(b) Carriers may consolidate traffic as indicated by the summary codes shown in *International Points*. For example, Scotland has country code 280, but also summary code 326. That summary code is the country code for the United Kingdom. Traffic between a U.S. point and Scotland may be reported as Scotland traffic using country code 280 or may be included with other United Kingdom traffic and reported using country code 326.

(c) Carriers should omit countries for which they have no traffic.

There are no miscellaneous country codes. All traffic must be reported to a country code associated with one of the points listed in *International Points*. Contact the Industry Analysis Division of the Common Carrier Bureau if traffic exists for an international point that is not currently listed. The Industry Analysis Division will assign a code for that point.

Where country-by-country reporting is required, carriers should also file region and world totals. *International Points* groups all international points into 10 regions. These regions and the reporting codes are listed in Section 2–F below. Carriers may omit country-by-country data for miscellaneous services, but must provide region and world totals on diskette.

E. Billing Codes

Within a service, traffic is categorized according to the ownership of facilities used to provide the service, and how the traffic was billed. Carriers must use billing codes to associate traffic statistics with a particular service type.

1. Definition of Facilities-Based, Facilities Resale, and Pure Resale Service

In reporting data to the FCC, carriers must separate traffic on the basis of the ownership of facilities used to provide service. Carriers must separately report data for the three ownership categories shown below: facilities-based, facilities resale, and pure resale. The following definitions of facilities-based, facilities resale, and pure resale traffic are intended solely for reporting international traffic data, and may not be appropriate for other purposes.

Facilities-based services are those services provided using international transmission facilities owned in whole or in part by the carrier providing service. Facilities-based carriers use one or more international channels of communications to provide international telecommunications service. An international channel is a wire or radio link that facilitates electronic communications between a United States point and another world point. A facilities-based carrier either owns international channels, has an ownership interest in the channel such as an indefeasible right of use (IRU), or leases the channel from an entity that does not report traffic, such as Comsat. Carriers must provide detailed data for the facilities-based services that they provide.

Facilities Resale services are provided by a carrier utilizing non-switched international circuits leased from other reporting international carriers. A facilities resale service is provided over international channels which are subject to Section 43.61 reporting by the underlying carrier. Carriers must provide detailed data for the facilities resale services that they provide.

Pure resale services are switched services that are provided by reselling the international switched services of other carriers. Pure resale services are not provided to the public over the reseller's international channels of communications. Pure resale carriers may own domestic switches and circuits, but rely on other carriers to carry switched traffic between the United States and foreign points.

2. Switched and Miscellaneous or Other Services

Carriers are required to categorize and report international switched traffic using billing information. The primary categories are: U.S. Billed—traffic billed by U.S. carriers which originates or terminates in the United States, or which originates from 'country beyond' type services; Foreign Billed—traffic which originates or terminates in the United States and is billed by a foreign or correspondent carrier; and, Transiting—traffic that originates outside of the United States, transits the United States, and terminates outside of the United States, and is billed by a foreign carrier.

Within the U.S. Billed category, carriers must categorize traffic according to whether the call was billed under a 'country beyond' arrangement, or under some other arrangement. 'Country beyond' services are provided by U.S. carriers to customers located in foreign points. The customer initiates the call to the U.S. carrier and then provides the destination number. The U.S. carrier then completes the call. Such calls are typically billed using calling cards. Carriers must use billing codes to separate 'country beyond' traffic from other U.S. billed calls. Other U.S. billed calls include international calls that are placed in the United States and are billed to the calling number, billed to another number in the United States, billed to a calling card or billed by some other arrangement. Other U.S. billed calls also include calls initiated overseas and billed to an 800 number in the United States or billed collect to the called party. Public data may be filed combining these call categories. The carriers proprietary filing must use billing codes to distinguish 'country beyond' traffic data from other U.S. billed traffic data.

Note that data are not reported with sufficient granularity to separate traffic solely on the basis of whether it originates or terminates in the United States. The same billing code is used for calls that are dialed directly from the United States, and for calls that originate in a foreign point but are billed collect in the United States by the U.S. carrier.

Not all carriers will provide all possible categories of traffic. Carriers should file data only for billing types that they actually provided during the year.

A carrier may aggregate all pure resale international traffic, including traffic from call-back service. Call-back service is described on page 38, of the manual. Carriers may not aggregate pure resale traffic with either facilities-based or facilities resale traffic.

Traffic between some U.S. points will be reported as U.S. billed for the point where it is billed, and as foreign billed for the other end of the call. For example, a sent paid call from the U.S. Virgin Islands to Puerto Rico will be reported as a U.S. billed call by the carrier serving the U.S. Virgin Islands, and will also be reported as a foreign billed call by the carrier serving Puerto Rico. This would be the case even if the same carrier served both points. In fact, the same call would be reported three times if it originated in an off-shore U.S. point, transited a domestic U.S. point, and terminated in another off-shore U.S. point.

U.S. billed and foreign billed switched traffic is reported by the foreign point in which the call originates or terminates, irrespective of foreign points through which the call may transit. Transiting traffic is reported for the country in which the call originates.

3. Private Line Service

International private line service typically links a location within the United States with a location in a foreign point. The service is provided jointly by the U.S. carrier and the foreign correspondent carrier, and is usually accounted as if the U.S. carrier provides service to the theoretical mid-point of the service. Thus, the U.S. carrier tariffs a half circuit for its portion of the service, and the foreign correspondent carrier likewise tariffs a half circuit. With private line service, the customer billing address may be located in a foreign country and the bill may be rendered by the foreign carrier that provides the other half of the circuit. Even so, this service is classified as U.S. billed because the customer has a United States presence and the choice of billing location is arbitrary. The fact that a foreign carrier may act as a billing agent is irrelevant. In sum, U.S. carriers must report the portion of the service that they tariff.

Private lines are categorized by the foreign point in which the line terminates. Facilities-based private line service should be reported using billing code 1. Private line service provided over resold facilities should be reported using billing code 11.

4. Table of Billing Codes

The following table provides the billing codes for switched and private line services. Note that carriers must report separately facilities-based, facilities resale, and pure resale traffic.

TABLE OF BILLING CODES

	Type of service provision				
	Facilities based		Facilities resale		Pure resale
	Confidential filing	Public filing	Confidential filing	Public filing	Public filing
SWITCHED AND MISCELLANEOUS SERVICE					
U.S. Billed (Traffic Billed by reporting U.S. carriers):					
Call originate in U.S. point served:					
Billed to the calling number account	1	1	11	11	21
Billed to a calling card or other billing arrangement	1	1	11	11	21
Calls Originate outside U.S. point served:					
Billed collect to a U.S. customer	1	1	11	11	n.a.
Billed to a U.S. 800 service number	1	1	11	11	n.a.
Billed to a calling card or other billing arrangement	4	1	14	11	21
Foreign Billed (Traffic billed by foreign or corresponding carrier):					
Calls originate in U.S. point served:					
Billed collect to a foreign customer	2	2	12	12	n.a.
Billed to a foreign 800 service number	2	2	12	12	n.a.

TABLE OF BILLING CODES—Continued

	Type of service provision				
	Facilities based		Facilities resale		Pure resale
	Confidential filing	Public filing	Confidential filing	Public filing	Public filing
Billed to a foreign carrier calling card or other arrangement	2	2	12	12	n.a.
Calls originate outside U.S. point served and terminate in the U.S. point:					
Billed to the calling number account	2	2	12	12	n.a.
Billed to a foreign carrier calling card or other arrangement	2	2	12	12	n.a.
Transiting (Traffic that originates and terminates outside the U.S point served):					
Traffic billed by foreign or corresponding carrier:	3	3	13	13	n.a.
Private Line Service					
All Circuits	1	1	11	11	n.a.

F. Measurement of Traffic and Revenues

This section provides guidance for measuring traffic and revenues. Each service has unique characteristics that create special concerns. For example, a customer who places a telephone call to a foreign country may not be aware that the call originates in a Local Access Transport Area (LATA), crosses a Point of Presence (POP) to the interexchange network of an interLATA carrier, is switched through international facilities to a foreign carrier, and is then terminated in a foreign local exchange. The customer need not consider the various arrangements under which several carriers share the revenue from the call. The private line customer, on the other hand, leases a specific amount of capacity between two specified points. The customer may use a variety of arrangements to get traffic to and from the leased circuit and may use the circuit for several types of communications. The private line customer is concerned with the charges for each specific link in its network.

These and other differences between message and private line services lead to differences in the ways that carriers should measure traffic and revenues. The following sections cover message and private line services. The guidelines should be used for miscellaneous international services as appropriate.

1. Message Services

For each message service (telephone, telegraph, and telex) carriers must report data for each billing type—principally U.S. billed, foreign billed, and transiting. The data shall consist of a message count, the duration of the messages, the billed revenue for the messages (when U.S. billed), settlements associated with the messages, and the net revenue for the messages.

Carriers must report traffic data on a calendar year basis. Thus, the carrier should report the actual traffic carried during the year. Revenues and settlement amounts should be measured on an accrual basis, rather than on an actual receipts or actual settlement basis unless rates have been adjusted retroactively. The amounts reported should not reflect prior year adjustments or corrections. Accordingly, carriers cannot legitimately report negative amounts in the message, minute, revenue, or settlement data fields.

Even though there is a significant lag between the end of the reporting year and the final data filing in October of the following year, carriers may not have complete settlement data for some countries. In such instances, carriers should make a good faith effort to estimate settlement receipts, and note the fact in the filing. Section 2 describes the preparation of footnote records. Carriers should not adjust subsequent year reports when out of period data becomes available. Instead, these amounts, if significant, should be noted in the subsequent year filing.

a. Message Service Traffic Measures

Carriers must report the number of billed messages for international message telephone, international message telegraph and international telex services, except that messages may be omitted for transiting traffic. Data should be reported for all billed traffic, regardless of whether the customer is an end user or another carrier. All billed traffic should be reported, even calls that have been billed but written off as uncollectible. Unbillable traffic, however, should not be reported.[4]

[4] For example, call-back customers place calls to their U.S. carriers, but hang up after one ring. The U.S. carrier does not answer the call, but rather detects that a call was made, and then calls back. Since the initial call was not answered and is not billable, it should not be reported by either the underlying facilities based carrier or by the call-back carrier. The call back to the customer, however, should be reported.

Carriers must report the number of minutes for international message telephone and telex services. For facilities-based and facilities resale service, carriers should report the number of minutes upon which correspondent carriers will be compensated. For facilities-based service, compensation generally is governed by the settlement process. Settlement compensation is based on conversation minutes. Settlement minutes averaged 5% to 6% less than billed minutes for traffic billed in the United States for 1988 through 1990. If the correspondent carrier is not compensated for traffic based on call length, then the number of minutes should be based on conversation minutes.

U.S. carriers should classify as transiting traffic all foreign billed calls that both originate and terminate in foreign points. U.S. carriers should classify as U.S. billed "country beyond" calls which originate in foreign points, are placed through the carrier, and are billed by the carrier. The U.S. carrier may owe settlements for two legs of a "country beyond" call—one settlement amount for the country where the call originates, and another for the country where the call terminates. In this case, the number of minutes used for settlement purposes will equal roughly twice the number of conversation minutes.

Since carriers do not make settlement payments for their pure resale traffic, carriers should report the number of minutes billed to customers, which can be based on billing information received from the underlying carrier.

Word counts must be reported for international message telegraph service. Carriers should report the number of words used for settlement purposes.

All message data must be reported on a message or end-to-end basis. This means that calls should be reported based on the billing location and the ultimate points of origin or terminus.[5] Transiting minutes should be reported by the country in which the call is initiated.

b. Message Service Revenue and Settlement Information

For each service that it provides, each carrier must report separately billed revenues, settlement receipts due (on services billed by correspondent carriers), settlement payments owed (on services billed by the carrier), and the revenues they retain net of all settlements. In the proprietary filing, carriers must use the specified billing codes to separate traffic that it carriers over its own facilities from traffic it carriers over facilities leased from other reporting carriers.

Billed revenues are equal to the amounts that carriers billed to customers for service at tariffed rates. Billed revenues should reflect all discounts given to customers. Reported revenues should reflect amounts actually billed to customers, including discounts that are calculated after individual calls are rated. For example, discounts which are calculated based on the total bill amount should be allocated proportionally to international calls on a country-by-country basis. However, if a discount is only calculated based on domestic billings, then discounts should not be allocated to international service.

The cost of promotional items such as telephone sets, frequent flyer miles, or merchandize credits, are marketing expenses and should not be treated as revenue reductions. Credits or coupons for the purchase of future communications services should be treated, when earned or issued, the same as direct discounts credited to the customer, with no allowance for the percentage of coupons which will not be used, and no adjustments for costs of administering the promotion.

Billed revenues should not be reduced to reflect uncollectibles or transit fee expenses. Transit fees are owed when a call transits a foreign carrier's facilities in one international point before terminating in a second international point. Settlement amounts and transit fees owed to the transiting carrier should be included with settlements owed.

Billed revenues should not include tax amounts that are itemized on the customer bill and remitted directly to taxing authorities, and should only include amounts that are recorded as revenues in the company books of account.

U.S. carriers have contractual relationships with foreign carriers so that telephone calls can be made between local exchanges in the United States and local exchanges in foreign countries. The foreign carrier in the relationship is usually called the foreign correspondent. Accounting rate agreements specify the amounts that carriers pay to their foreign correspondents on a per minute or similar basis for facilities based service. When the U.S. carrier bills an international call, it owes a settlement amount to the foreign correspondent. When the foreign correspondent bills an international call, the U.S. carrier is owed a settlement amount. The carriers usually balance the amounts due and make net payments. The amounts due to U.S. carriers, including separate transit fees, if any, are referred to herein as settlement receipts. The amounts owed by U.S. carriers to foreign corespondents, including separate transit fees, if any, are referred to herein as settlement payments. Settlement payments do not include the amounts that pure-resale carriers pay to underlying U.S. carriers. Settlement payments do not include the access charge amounts that U.S. carriers pay to U.S. local exchange carriers for originating or terminating calls. The U.S. carrier retained revenue is equal to billed revenue plus settlement receipts minus settlement payments.

There are instances where carriers in two international points do not charge each other settlements. This might be the case where the carriers are affiliates, or where facilities resale service is being provided. In such cases, carriers should report as settlements owed any amounts owed to foreign carriers that would be analogous to settlement amounts, including charges for originating or terminating traffic in the foreign carrier's toll network or local exchange. However, carriers should not include as settlements any costs of the underlying facilities being used to provide service. Also, payments to U.S. carriers for originating or terminating calls in U.S. toll networks or local exchanges should not be reported. Where zero amounts are entered as settlement payments for U.S. billed service, carriers should footnote the reason. See Section 2 for instructions on including footnotes in the data files.

In a report for a U.S. point, U.S. carriers should not have billed revenue for foreign billed traffic. Similarly, U.S. carriers should not have settlement receipts for U.S. billed traffic.

Accounting agreements may be denominated in dollars, foreign currency units, or other monetary measures. All revenue and settlement payment information must be stated in U.S. dollars regardless of the terms of the accounting agreements or industry practices. Carriers should apply the currency conversion rates that prevailed at the time actual settlements were made.

Some international calls are initiated in foreign points by customers using "country beyond" services of a U.S. carrier. These calls may terminate in the United States or in other foreign points. Billed revenue for such a call should be reported for the country in which the call originated. Reported settlements should include amounts owed to carriers in both the originating country, and the terminating country, in the case of calls that terminate in foreign points.

2. Private Line Services

This section provides guidance for reporting private line circuit counts and revenues on a country-by-country basis. Carriers must report separately circuits that they own from circuits that they provide on a resale basis. As detailed in section 1–E–1 above, international circuits should be reported as resold only if they have been leased from a carrier subject to Section 43.61 reporting requirements and only if the circuits are leased to customers or other carriers in the form of private line service. If the carrier has combined some owned and some leased international circuits in order to provide a through circuit, then the circuit should be reported as facilities based.

a. Number of Leased Circuits and Number of Equivalent Voice Grade Circuits

A leased circuit is a single leased channel of communications that links two specific points. Leased circuits should be categorized according to the six private line categories shown on page 12 of the manual. Circuits are not categorized according to how the customer actually uses them. Counts of leased circuits should be provided as of December 31 of the year for which data are being reported. Carriers should not attempt to convert part day leases into equivalent full day circuits, but a circuit

[5] At one time carriers were required to report traffic on two schedules. The circuit traffic (CT) schedule showed all U.S. traffic that went to or from a particular country, including traffic that transited through that country to a third country. The message traffic (MT) schedule showed all traffic that originated or terminated in a particular country, including traffic that had transited through a third country. The current requirements are more similar to the MT schedule.

leased by different customers for different hours on December 31 should be reported as a single circuit.

Companies should not report non-tariff circuits provided to affiliates. Those circuits should be treated as the affiliate's circuits if they are used to provide a reportable international service. If the company had an ownership interest in the international circuits, then the affiliated carrier would be providing facilities-based service. If the company had obtained the international circuits by lease, then the affiliated carrier could be providing facilities resale service.

Carriers are also required to provide the number of voice equivalent circuits for the leased circuits provided as of December 31 of the year for which data are being reported. Voice equivalent circuits should be estimated by converting the total bandwidth of circuits leased to an international point. The standard conversion is based on 64 kilo bits per second for one voice equivalent channel. The figure should be rounded to the nearest whole number. An 18 megahertz video channel should be reported as 240 voice equivalent channels, a 24 megahertz video channel should be reported as 288 voice equivalent channels, and a 36 megahertz video channel should be reported as 630 voice equivalent channels. The number of voice equivalent circuits should be consistent with the data used to calculate regulatory fees as well as amounts filed in FCC circuit reports.

b. Leased Circuit Revenue

Private line and leased circuit service revenues should include only revenue from service provided under international tariffs. Private line and leased circuit service revenue should not include revenue for circuits that originate and terminate within the United States unless those circuits are provided under an international tariff. Private line revenues should include any service set up, installation, and termination charges. Private line revenues do not include billings made on behalf of domestic or foreign carriers for service provided by those carriers. Private line revenues should include revenue billed by a foreign carrier on behalf of the U.S. carrier for service provided by the U.S. carrier, even if the revenue has not yet been remitted to the U.S. carrier. Carriers must report the total private line revenues due for the calendar year, regardless of whether a lease was in effect at year end. Where lease or bill periods overlap the calendar year, billed amounts should be apportioned between years based on the number of days of service in each year. Private line revenues should not include taxes included on the customer bill.

Billed revenues should reflect all discounts given to customers. Reported revenues should reflect amounts actually billed to customers, including discounts that are calculated based on total charges for all services. Discounts which are calculated based on the total bill amount should be allocated proportionally to international circuits. The cost of promotional items such as telephone sets, frequent flyer miles, or merchandize credits, are marketing expenses and should not be treated as revenue reductions. Credits or coupons for the purchase of future communications services should be treated the same as direct discounts, with no allowance for the percentage of coupons which will not be used, and no adjustments for costs of administering the promotion.

3. Miscellaneous or Other International Services

The category miscellaneous or other international services potentially includes a wide variety of services. For the most part, carriers must select and report the most relevant traffic measures. However, providers of packet switched services should report the number of kilo segments transmitted during the year; providers of occasional use television service should report the number of hours of service provided; and switched video service providers should report the number of sessions and the number of minutes of service. See the chart on page 34 of the manual.

4. Data Requirements Summarized by Service

The following table summarizes the Section 43.61 data filing requirements by service category:

	Facilities-based and facilities resale service	Pure resale service*
International message telephone service	By country and billing type: messages, minutes, carrier revenues, settlement payments, retained revenue.	Countries served. World totals by billing type: messages, minutes, and carrier revenues.
International message telegraph service	By country and billing type: messages, words, carrier revenues, settlement payments, retained revenue.	World totals by billing type: messages, words, and carrier revenues.
International telex service	By country and billing type: messages, words, carrier revenues, settlement payments, retained revenue.	World total by billing type: messages, words, and carrier revenues.
Private line	By country and service category: leased circuits, voice equivalent circuits, revenues.	• •
Other international services	Region totals by billing type: messages, minutes, words, leased circuits, voice equivalent circuits, kilo segments, sessions, contracts, carrier revenues, settlement payments, retained revenue as appropriate.	World total by billing type: messages, minutes, words, kilo segments, sessions, contracts, and carrier revenues as appropriate.

* Pure resale carriers normally will not have settlement payments. Payments to underlying U.S. carriers should not be reported as settlements.
** Resale of private lines (either as private line service or as switched service) is classified as facilities resale service, not pure resale service.

G. Filing Procedures

Section 43.61(a) directs carriers to file reports by July 31, reporting service actually provided in the preceding calendar year. Section 43.61(c) provides that carriers shall submit a revised report by October 31 identifying and correcting errors in the July 31 filing. Carriers do not need to file revised data where figures change due to corrections that normally occur in the billing and settlement cycles if the corrected figures are within five percent of the figures filed in the July 31 filing. Carriers must refile a corrected version of each data record on which one or more data elements was found to be in error by more than five percent. The five percent guideline covers fluctuations in traffic or revenue totals due to corrections and true-ups that occur during the billing and settlement process. Carriers must file corrections for all instances where they have filed erroneous data due to procedural mistakes made while compiling or reporting data.

The following schedule details the number of copies required and the location to which those copies should be delivered. This schedule applies to the July 31 and October 31 filings.

Carriers that provide only pure resale international services are not required to file data on diskette.

Mailing address	Transmittal letter	Certification and paper copy of report	Data on diskette*
FCC Secretary, Mail Stop 1170, 1919 M Street, N.W., Washington, D.C. 20554.	Original		
FCC Common Carrier Bureau Industry Analysis Division, Mail Stop 1600 F, 1919 M Street, N.W., Washington, D.C. 20554.	2 copies	Original and 1 copy of both public and confidential versions.	1 set.
The FCC's Contract Copier**, Room 246, 1919 M Street, N.W., Washington, D.C. 20037.	1 copy	1 copy public version only	1 set.

* Pure resale traffic, and summary data for smaller U.S. points need not be filed on diskette. See page 14 of the manual.
** Currently *International Transcription Services, Inc.*

Paper copies must contain data that are identical to the data filed on diskette. Page headings must clearly indicate the filing entity, the United States point covered, and the service being reported. Column headings must describe the data contained in each column.

The carrier must include footnote text to explain the specific circumstances of any data for the current period which differs materially from that for the previous period if the difference is not self-explanatory but was caused by unusual circumstances not explained in a previous report. The paper copies of the 43.61 data must include the text of any footnotes. A data field is provided in the diskette record format to indicate that a footnote has been included in a separate data file record as well as in the paper copies. The paper copies and comment records in the data files should also contain any additional data or information that the carrier deems relevant or necessary to understanding the data it is required to file.

The transmittal letter should identify the name of the carrier, the date of the filing, and should state that Section 43.61 data has been filed with the Common Carrier Bureau's Industry Analysis Division and the Commission's current contract copier. The original of the transmittal letter should be filed with the Secretary of the FCC. Copies of the transmittal letter should be filed with the Industry Analysis Division and the Commission's current contract copier.

Carriers must certify the accuracy of the data submitted in FCC Report 43.61 by including a signed certification statement as the last page of the paper report. The statement must be signed by an officer of the reporting carrier. An officer is a person who occupies a position specified in the articles of incorporation (or partnership agreement), and would typically be president, vice president for operations, vice-president for finance, comptroller, treasurer or a comparable position. If the carrier is a sole proprietorship the owner must sign the certification. The original and one copy of the certification statement should be filed with the Industry Analysis Division. One copy of the certification should be filed with the Commission's current contract copier.

For additional information, comments or suggestions, contact the Common Carrier Bureau's, Industry Analysis Division (202) 418–0940.

The text of the certification statement is included below:

Certification

I certify that I am an officer of _____; that I have examined the foregoing report and that to the best of my knowledge, information and belief, all statements of fact contained in this report are true and that said report is an accurate statement of the affairs of the above named respondent in respect to the data set forth herein for the period from _____ to _____.

Printed Name _____
Position _____
Signature _____
Date _____

Section 2 Diskette Format and Coding Instructions

A. Media and File Name for Traffic Data Filed on Diskette

Data should be provided on 3½" floppy diskettes formatted for IBM or IBM compatible personal computers. Carriers serving more than one United States point should provide one file for each point served. All files may be included on the same diskette. The record files should be named according to the following convention:

aaaaaaYY.436

where:

aaaaaa are 3 to 6 alpha characters that identify the filing entity and U.S. point.

YY is the last two digits of the calendar year for which data are being filed.

.436 is the file extension, (short for 43.61).

For example:

ATTVI91.436 might signify AT&T's Virgin Islands data for 1991

GRPHNT91.436 might signify Graphnet's complete filing for 1991

Carriers may file data in more than one file. All files may be placed on the same diskette. Carriers filing multiple files should give each file a unique name.

B. Record Formats

The data files may contain comment records and data records. A comment record has a blank space (ASCII character 32 or " ") in the first position in the line, contains less than 132 characters, and ends with a carriage return. Comment records can be used to provide headings, formatting, and footnotes in the data file. A listing of the data file can be used as the paper copy of the data for filing purposes.

All data records must be provided using the record format set forth herein. Each record shall consist of a string of ASCII characters. Fields with "character" content should be left justified within the stated field boundary and may contain the ASCII characters "A" through "Z", "a" through "z", " ", "_", "-", "+", "/", "&", "#", "*", "!", ":", ";", "0" through "9", and blank spaces (ASCII character 32). Fields with "number" content should be right justified within the field boundary, and may contain the ASCII characters "-", "0" through "9" and leading blank spaces, but no commas, decimal points, or other characters. The character "-" signifies a negative value and should appear in the field to the left of the value. Negative values are only possible for retained revenue, where the settlement payout owed exceeded the billed revenue for a switched service.

Each data record should contain the following fields:

Field	Field contents	Justification within field	Field size	Record positions
1. Filing Carrier Name	characters	left	15	1–15
2. Year of data	numbers	right	2	16–17
3. U.S. Point served	numbers	right	5	18–22
4. International Point or region	numbers	right	5	23–27
5. Service code	numbers	right	3	28–30
6. Footnote indicator	characters	right	3	31–33
7. Description	characters	left	36	34–69
8. Billing Code	numbers	right	2	70–71
9. Data field #1	numbers	right	12	72–83
10. Data field #2	numbers	right	12	84–95
11. Data field #3	numbers	right	12	96–107
12. Data field #4	numbers	right	12	108–119
13. Data field #5	numbers	right	12	120–131

The data fields are further described in Section 2–K below.

Data files can be created using standard editors, word processors spreadsheet programs, data base programs and custom programs. For example, to create a data file using a spreadsheet:

—Set the column widths to equal the field size shown above. Thus, the first column would be 15 characters wide.

—Enter fields as using a "label" format, rather than using a "numeric value" format. Be careful not to include extra spaces at the end of the line.

—Specify a generic or character oriented printer (the lotus 3.1 sequence would be </> <P>rint <P>rinter <O>ptions <A>dvanced <D>evice <N>ame)

Note: the print file will be useless if you specify a graphics printer or if you try to print in WYSIWYG mode.

—Set the left, top, and bottom margins to 0, set the right margin to 132. Set the page length to 1000 lines.

—Set the print range.

—Print to a <F>ile, rather than to the actual hardware device, and then <G>o. Rename the resulting file using the naming conventions shown above.

C. Filing Carrier Name Field

The filing carrier name should be between 3 and 15 characters. The name field should appear on all data records filed by the carrier, and should be identical for all records filed by the carrier.

D. Year of Data Field

This field should contain the last two digits of the year for which data are being filed. For example, the July 31, 1992 filing will contain data for 1991. Therefore, the year of data field would be "91". This would appear on every data record in the file.

E. U.S. Point Served Field

The U.S. Point served country code is used to indicate which United States point is covered by the data record. The codes for United States points are in the range 1001 to 1999, and are the country codes shown in International Points. Contact the Industry Analysis Division if an Off-shore U.S. point is not listed in the report. The Industry Analysis Division will assign a country code for such points. All records in a file must have the same U.S. point code.

F. International Point or Region Field

Where records contain data for traffic between a U.S. point and a specific international point, the code for that international point should be taken from International Points and entered in the International Point field. For example, the code 1 in the international point field would indicate that the record reports traffic between a United States point and Abu Dhabi.

There is no miscellaneous or "all other" country code. All traffic must be reported to a specific point. Country-by-country traffic and revenue data for points in a region should total to the amount reported for that region using region codes. Settlement and traffic adjustments which cannot be tied to specific points should be allocated to all appropriate points.

Data records will be rejected if the U.S point and international point are both domestic points.

The international point code for region subtotal and world total summary records should be as follows:

International point code (record field #4)	For services 1 through 9, description field (record field #7)
9001	Western Europe.
9002	Africa.
9003	Middle East.
9004	Caribbean.
9005	North and Central America.
9006	South America.
9007	Asia.
9008	Oceania.
9009	Eastern Europe.
9010	Other Regions.
9999	World Total.

Note: Code 9010—Other Regions, covers Antarctica and Maritime traffic.

Section 1–D of this manual explains which data must be filed on a country-by-country basis, and which data need only be filed on a summary basis. Facilities-based carriers must file regional and world total traffic and revenue subtotals for each service that they provide. However, country-by-country and region totals are not required for smaller international points. See page 13 of the manual. In addition, carriers must file separate world total traffic and revenue by U.S. point for the pure resale traffic that they provide for the domestic United States (Alaska, Hawaii, the conterminous U.S. and Puerto Rico) and for each other U.S. point that they serve.

The international point code 9999 should be used if the record contains world total data for a service. International point code 9999 is not a miscellaneous or "all other" code. This code represents a total for all international traffic between a United States point and the rest of the world. Where country-by-country data are filed, records with international point code 9999 contain the totals of records with the same U.S. region, service, and billing codes, and with international point codes between 1 and 1999.

G. Service Code Field

The following service codes should be used:

1 International message telephone service
2 International message telegraph service
3 Telex Service
4 Private Line—Voice
5 Private Line—up to 1200 bits per second (bps)
6 Private Line—1201 bps to 9600 bps
7 Private Line—9601 bps to 30 Million bps (Mbps) or .01 Megahertz to 18 Megahertz
8 Private Line—greater than 30 Mbps to 120 Mbps or greater than 18 Megahertz to 72 Megahertz
9 Private Line—greater than 120 Mbps or greater than 72 megahertz
99 New, Miscellaneous and Other Services

H. Footnote Code Field and Comment Records

The footnote code field should be used to indicate that the paper copies of the 43.61 data, as well as comment records contained in the data file, contain a footnote concerning the data record. The carrier must include footnote text to explain the specific circumstances if any data for the current period differs materially from that filed for the previous period and the difference is not self-explanatory but was caused by unusual circumstances not explained in a previous report. The paper copies of the 43.61 data must include the text of the footnote. These footnotes should be labeled sequentially from 1 to 999, and the footnote should be included in the footnote code field in the data record. Alpha numeric codes may be used only if the carrier needs to provide more than 999 footnotes in the report.

Footnotes and other comments should be included in the data file as comment records. Any record with a blank space (" ") in the first position will be treated as a comment record. Please note that some word processors and spreadsheet programs will insert leading spaces when files are printed to diskette. If this occurs, you will need to use an editor to manually delete the spaces.

I. Description Field

For service codes 1 through 9, this field should contain the name of the international point or world region. The name should be identical to the international point name published in *International Points*. Region names are shown in section 2–F above.

For service code 99, this field should be used to identify the service provided. This field is critical because the carrier may use service code 99 for several different types of service. Records with service code 99 will not be accepted unless there are at least 10 characters other than blank spaces in the service description field. The service should be fully described in the paper copy of the section 43.61 filing and in comment fields.

All records pertaining to the same Other International Service should have identical service descriptions in this field. The following standardized names should be employed to report other international services.

Service	Service name (include in field #7)	Traffic measures
Packet switching service	Packet Switching	(1) Kilo segments.
Occasional use television—short term arrangements to facilitate transmission of television signals.	Occasional Television	(1) Hours.
Switched Video	Switched Video	(1) Sessions. (2) Minutes.

J. Billing Code Field

The billing code indicates whether the record contains facilities-based, facilities resale, or pure resale data. Facilities based codes are from 1 to 4, facilities resale codes are from 11 to 14, and the pure resale code is 21. The billing code indicates whether the traffic and revenue information are for U.S billed, foreign billed, or transiting service. Billing codes are shown on page 18 of the manual. Facilities-based private line service will be reported with bill code 1. Facilities resale private line service will be reported with billing code 11.

K. Data elements #1 Through #5

There are five data element fields, each of which is 12 characters wide. These fields should contain right justified integer values with no commas, periods, or other punctuation marks. Revenue should be rounded to the nearest dollar. The contents of the data field will vary depending on the type of service. Section 1–F describes the precise types of information that must be provided. The following figure summarizes the requirements:

Service code	Data field #1	Data field #2	Data field #3	Data field #4	Data field #5
1	Messages*	Minutes	Billed & Settlement Revenue**.	Settlement Payments	Retained Revenue.
2	Messages*	Words	Billed & Settlement Revenue**.	Settlement Payments	Retained Revenue.
3	Messages*	Minutes	Billed & Settlement Revenue**.	Settlement Payments	Retained Revenue.
4–9	Leased Circuits	Voice Equivalent Circuits.	Revenue	(no data)	(no data).
10	Messages*	Minutes	Billed Revenue	Settlement Payments	Retained Revenue.
99	Volume Measure***	Volume Measure***	Billed & Settlement Revenue**.	Settlement Payments if appropriate.	Retained Revenue.

*Messages can be omitted for transiting traffic. Minutes can be omitted for transiting traffic in the public filing.

**Records for U.S. Billed traffic will contain billed revenue. Records for Foreign Billed traffic will contain settlement amounts due from foreign corespondents. Transiting records may combine both billed revenue and settlement amounts due.

***Volume measures have been specified for some Other International Services. See section 1–C–5 and the table on page 34 of the manual. For other services reported with Service Code 99, use the volume and revenue measures that are most appropriate. See Section 1–F–3. Comment records in the file must indicate the volume and revenue measures provided.

BILLING CODE 6712–01–U

L. EXAMPLE OF A 43.61 REPORT FOR A FACILITIES-BASED CARRIER

43.61 report for New Carrier International, (a facilities based / facilities resale carrier)

****
** Public Version of Data **
****

	Service code					Bill code					
					Footnote field						
Carrier	YrUS	pt	I	pt	Description	<---------- Data entered as numeric fields ---------->					
						data1	data2	data3	data4	data5	
field size and justification -- right unless noted											
15 (left)	2	5	5	3	3 36 (left)	2	12	12	12	12	12
International Message Telephone Service : U.S. Billed facilities based service											
NewCarrier	94	1327	31	1	Belgium	1	1125	7031	4100	4500	-400
NewCarrier	94	1327	112	1	Germany	1	2250	14062	12375	9000	3375
NewCarrier	94	1327	293	1	Spain	1	3000	18750	16500	12000	4500
NewCarrier	94	1327	326	1	United Kingdom	1	4000	25000	22000	16000	6000
NewCarrier	94	1327	9001	1	Western Europe	1	10375	64843	54975	41500	13475
NewCarrier	94	1327	54	1	Canada	1	8000	35000	17000	8000	9000
NewCarrier	94	1327	194	1	Mexico	1	8000	35000	38000	35000	3000
NewCarrier	94	1327	9005	1	North and Central America	1	16000	70000	55000	43000	12000
NewCarrier	94	1327	9999	1	World Total	1	26375	134843	109975	84500	25475
International Message Telephone Service : Foreign Billed facilities based service											
NewCarrier	94	1327	31	1	Belgium	2	1000	4000	2560		2560
NewCarrier	94	1327	112	1	Germany	2	2000	3000	1920		1920
NewCarrier	94	1327	293	1	Spain	2	1500	3000	1920		1920
NewCarrier	94	1327	326	1	United Kingdom	2	2000	6700	4288		4288
NewCarrier	94	1327	9001	1	Western Europe	2	6500	16700	10688		10688
NewCarrier	94	1327	54	1	Canada	2	6000	20000	4571		4571
NewCarrier	94	1327	194	1	Mexico	2	5000	23000	5000		5000
NewCarrier	94	1327	9005	1	North and Central America	2	11000	43000	9571		9571
NewCarrier	94	1327	9999	1	World Total	2	17500	59700	20259		20259
International Message Telephone Service : Transiting facilities based service											
NewCarrier	94	1327	326	1	United Kingdom	3			14000	7000	7000
NewCarrier	94	1327	9999	1	World Total	3			14000	7000	7000
International Private Line -- facilities based service											
NewCarrier	94	1327	112	4	Germany	1	40	40	25000		
NewCarrier	94	1327	326	4	United Kingdom	1	50	50	25000		
NewCarrier	94	1327	9001	4	Western Europe	1	90	90	50000		
NewCarrier	94	1327	9999	4	World Total	1	90	90	50000		
NewCarrier	94	1327	326	7	United Kingdom	1	5	120	75000		
NewCarrier	94	1327	9001	7	Western Europe	1	5	120	75000		
NewCarrier	94	1327	9999	7	World Total	1	5	120	75000		
International Private Line -- facilities resale service											
NewCarrier	94	1327	31	4	Belgium	11	30	30	14000		
NewCarrier	94	1327	326	4	United Kingdom	11	25	25	12000		
NewCarrier	94	1327	9001	4	Western Europe	11	55	55	26000		
NewCarrier	94	1327	9999	4	World Total	11	55	55	26000		

43.61 report for New Carrier International, (a facilities based / facilities resale carrier)

****

** PROPRIETARY VERSION OF DATA **

****

International Message Telephone Service : U.S. Billed facilities based service										
Calls originating and billed in the U.S., and calls originating outside U.S, billed collect or to a U.S. 800 number.										
NewCarrier	94	1327	31	1	Belgium	1	1125	7031	4100	4500	-400
NewCarrier	94	1327	112	1	Germany	1	2250	14062	12375	9000	3375
NewCarrier	94	1327	293	1	Spain	1	3000	18750	16500	12000	4500
NewCarrier	94	1327	326	1	United Kingdom	1	3450	22250	16500	14200	2300
NewCarrier	94	1327	9001	1	Western Europe	1	9825	62093	49475	39700	9775
NewCarrier	94	1327	54	1	Canada	1	8000	35000	17000	8000	9000
NewCarrier	94	1327	194	1	Mexico	1	8000	35000	38000	35000	3000
NewCarrier	94	1327	9005	1	North and Central America	1	16000	70000	55000	43000	12000
NewCarrier	94	1327	9999	1	World Total	1	25825	132093	104475	82700	21775
calls originating outside the U.S., billed by U.S. carrier as 'country beyond' service											
NewCarrier	94	1327	326	1	United Kingdom	4	550	2750	5500	1800	3700
NewCarrier	94	1327	9001	1	Western Europe	4	550	2750	5500	1800	3700
NewCarrier	94	1327	9999	1	World Total	4	550	2750	5500	1800	3700
International Message Telephone Service : Foreign Billed facilities based service											
NewCarrier	94	1327	31	1	Belgium	2	1000	4000	2560		2560
NewCarrier	94	1327	112	1	Germany	2	2000	3000	1920		1920
NewCarrier	94	1327	293	1	Spain	2	1500	3000	1920		1920
NewCarrier	94	1327	326	1	United Kingdom	2	2000	6700	4275		4275
NewCarrier	94	1327	9001	1	Western Europe	2	6500	16700	10675		10675
NewCarrier	94	1327	54	1	Canada	2	6000	20000	4571		4571
NewCarrier	94	1327	194	1	Mexico	2	5000	23000	5000		5000
NewCarrier	94	1327	9005	1	North and Central America	2	11000	43000	9571		9571
NewCarrier	94	1327	9999	1	World Total	2	17500	59700	20246		20246
International Message Telephone Service : Transiting facilities based service											
NewCarrier	94	1327	326	1	United Kingdom	3		7000	14000	7000	7000

NewCarrier	94	1327	9999	1	World Total	3		7000	14000	7000	7000
International Private Line -- facilities based service											
NewCarrier	94	1327	112	4	Germany	1	40	40	25000		
NewCarrier	94	1327	326	4	United Kingdom	1	50	50	25000		
NewCarrier	94	1327	9001	4	Western Europe	1	90	90	50000		
NewCarrier	94	1327	9999	4	World Total	1	90	90	50000		
NewCarrier	94	1327	326	7	United Kingdom	1	5	120	75000		
NewCarrier	94	1327	9001	7	Western Europe	1	5	120	60000		
NewCarrier	94	1327	9999	7	World Total	1	5	120	66667		
International Private Line -- facilities resale service											
NewCarrier	94	1327	31	4	Belgium	11	30	30	14000		
NewCarrier	94	1327	326	4	United Kingdom	11	25	25	12000		
NewCarrier	94	1327	9001	4	Western Europe	11	55	55	26000		
NewCarrier	94	1327	9999	4	World Total	11	55	55	26000		

BILLING CODE 6712-01-C

Section 3 Simplified Instructions for Pure Resale Carriers

This section details the filing requirements for pure resale traffic and is intended to be a stand alone manual for pure resellers of switched services. Pure resale services are not provided to the public over the reseller's international channels of communications, but instead are provided by reselling switched communications service of other international carriers. Pure resellers may own switching equipment as well as domestic circuits.

A. Definitions and Data To Be Filed

Each pure reseller must file world total traffic and revenue data for each service that it provides. Pure resellers may consolidate pure resale traffic for domestic U.S. points (the Conterminous United States, Alaska, Hawaii, and Puerto Rico). Pure resellers must file separate data for each additional U.S. point served, i.e. American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Northern Mariana Islands, Palmyra Atoll, Wake Island and the U.S. Virgin Islands.

International Message Telephone, International Message Telegraph, Telex, and Miscellaneous or Other services can be offered on a pure resale basis. International Message Telephone Service includes call-back service, hot line service, and other resale services where the point of origin for the call differs from the billing location.

"Call-back" refers to an arrangement in which a customer in a foreign country uses foreign facilities to dial a preassigned telephone number in the United States. The call is not completed, but the presence of signaling information triggers a call back to the customer, who receives a dial tone from the U.S. carrier's switch. The customer can then place a call via outbound switched service of the U.S. carrier. Three separate calls have been placed: an unanswered call placed by the customer; a call back to the customer placed by the carrier; and a call to number then requested by the customer. The final call either terminates at a U.S. telephone or physically transits the United States. The customer that initiates the call-back is billed by the U.S. carrier. Typically, the call-back carrier provides the service by reselling the international services of other U.S. carriers. The underlying carrier will bill the call-back carrier for the call that goes from the call-back carrier switch to the customer, and for the call that goes from the call-back carrier to the ultimate call destination. The Commission has granted a 214 application to provide this service. *VIA USA, Ltd et al.* 9 FCC Rcd 2288 (1994).

In offering a "hot line" arrangement, the U.S. carrier continuously places calls to the telephone of a subscriber located outside the United States. The called party's telephone has a disconnected ringer. When the called party wants to access a U.S. dial tone to place an international call, he or she simply picks up the receiver and "answers" one of several thousand continuous calls made to that particular phone during the day and receives a dial tone at the U.S. carrier's location. The U.S. carrier completes and bills the call.

Traffic and revenue totals should not include traffic between domestic U.S. points. Traffic and revenue totals should be based on amounts billed to customers with no allowance for uncollectibles. However, unbillable traffic should not be included. Revenue amounts should reflect all discounts attributable to international service. Traffic and revenue totals should be based on service actually provided during the reporting year, regardless of when the traffic was actually billed. Revenue should not include taxes shown on customer bills.

Pure resellers providing message telephone service must also provide a list of the countries where calls terminated during the reporting year. Table 5 of International Points used for FCC Reporting Purposes is a check list that can be used for this purpose. Carriers serving a domestic U.S. point should not check off other domestic U.S. points, since the traffic totals should exclude traffic between domestic U.S. points. The report should also contain any additional data or information that the carrier deems relevant or necessary to understanding the data it is required to file. In addition to providing the points served, pure resale carriers must file the following data for each service that they provide.

Service	Traffic data
International message telephone service.	World totals by billing type: messages, minutes, and carrier revenues.
International message telegraph service,	World totals by billing type: messages, words, and carrier revenues.
International telex service.	World total by billing type: messages, words, and carrier revenues.
Each other international services.	World total by billing type: messages, minutes, words, kilo segments, sessions, contracts, and carrier revenues as appropriate.

B. Filing Procedures

Section 43.61(a) directs carriers to file reports by July 31, reporting service actually provided in the preceding calendar year. Section 43.61(c) provides that carriers shall submit a revised report by October 31 identifying and correcting errors in the July 31 filing. Carriers do not need to file revised data where corrected figures are within five percent of the figures filed in the July 31 filing. The five percent guideline covers fluctuations in traffic or revenue totals due to corrections and true-ups that occur during the billing and settlement process. This exception is not intended to cover instances where carriers discover that they have filed erroneous data due to procedural mistakes made while preparing section 43.61 reports.

The following schedule details the number of copies required and the location to which those copies should be delivered. This schedule applies to the July 31 and October 31 filings.

Mailing address	Transmittal letter	Certification and report*
FCC Secretary, Mail Stop 1170, 1919 M Street, NW., Washington, DC 20554.	Original	
FCC Common Carrier Bureau Industry Analysis Division, Mail Stop 1600 F, 1919 M Street, NW., Washington, DC 20554.	2 copies ...	Original and 1 copy.
The FCC's Contract Copier**, Room 246, 1919 M Street, NW., Washington, DC 20037.	1 copy	1 copy.

*Pure resale traffic need not be filed on diskette.

**Currently *International Transcription Services, Inc.*

The transmittal letter should identify the name of the carrier, the date of the filing, and should state that Section 43.61 data has been filed with the Common Carrier Bureau Industry Analysis Division and the Commission's current contract copier. The original of the transmittal letter should be filed with the Secretary of the FCC. Copies of the transmittal letter should be filed with the Industry Analysis Division and the Commission's current contract copier.

Carriers must certify the accuracy of the data submitted in FCC Report 43.61 by including a signed certification statement as the last page of the paper report. The statement must be signed by an officer of the reporting carrier. An officer is a person who occupies a position specified in the articles of incorporation (or partnership agreement), and would typically be president, vice president for operations, vice-president for finance, comptroller, treasurer or a comparable position. If the carrier is a sole proprietorship the owner must sign the certification. The original and one copy of the certification statement should be filed with the Industry Analysis Division. One copy of the certification should be filed with the Commission's current contract copier.

For additional information, comments or suggestions, contact the Common Carrier Bureau's, Industry Analysis Division (202) 418–0940.

The certification statement is included below:

Certification

I certify that I am an officer of _____; that I have examined the foregoing report and that to the best of my knowledge, information and belief, all statements of fact contained in this report are true and that said report is an accurate statement of the affairs of the above named respondent in respect to the data set forth herein for the period from _____ to _____.

Printed Name _____

Position _____

Signature _____

Date _____

C. Sample 43.61 Report for a Pure Resale Company

IAD International

International Traffic and Revenue Report for 1994 Filed Pursuant to Section 43.61 of the Commission's Rules

International Message Telephone Service provided on a pure resale basis, including Call-back type service.

I. Traffic originated from U.S. Domestic Points [does not include traffic between U.S. domestic points].

A. Served: Alaska, Hawaii, Puerto Rico and the Conterminous United States.

B. International points served are attached.

C. Traffic Data consolidated for Domestic U.S. points: Messages, 21,000,258; Minutes, 28,208,890; and Billed Revenue, $16,003,920.

II. Traffic originated from U.S. Virgin Islands.

A. International points served are attached.

B. Traffic Data: Messages, 258; Minutes, 890; and Billed Revenue, $920.

D. Example Check Sheet for International Points Served

This Check Sheet was taken from Table 5 of "International Points Used for FCC Reporting (Check Alaska, Conterminous U.S., Hawaii, or Puerto Rico ONLY if you are reporting service for non-domestic U.S. points.)

3	Afghanistan	384	Czech Republic	158	Kiribati
1005	Alaska	81	Denmark	159	Korea, North
6	Albania	82	Djibouti	160	Korea, South
8	Algeria	83	Dominica	161	Kuwait
1009	American Samoa	84	Dominican Republic	162	Kyrgyzstan
10	Andorra	87	Ecuador	163	Laos
12	Angola	88	Egypt	164	Latvia
13	Anguilla	89	El Salvador	165	Lebanon
14	Antarctica	91	Equatorial Guinea	166	Lesotho
15	Antigua and Barbuda	93	Estonia	167	Liberia
16	Argentina	94	Ethiopia	168	Libya
17	Armenia	98	Fiji	169	Liechtenstein
8	Aruba	99	Finland	171	Lithuania
20	Australia	101	France	173	Luxembourg
21	Austria	103	French Guiana	174	Macau
22	Azerbaijan	102	French Overseas Departm	176	Madagascar
24	Bahamas, The	104	French Polynesia	179	Malawi
25	Bahrain	354	French Southern and Ant	180	Malaysia
1026	Baker Island	106	Gabon	181	Maldives
28	Bangladesh	108	Gambia, The	182	Mali
29	Barbados	111	Georgia	183	Malta
50	Belarus	112	Germany	185	Maritime—Atlantic
31	Belgium	114	Ghana	186	Maritime-other oceans
32	Belize	115	Gibraltar	187	Maritime—Pacific
33	Benin	118	Greece	188	Marshall Islands
35	Bermuda	120	Greenland	190	Mauritania
36	Bhutan	121	Grenada	191	Mauritius
37	Bolivia	123	Guadeloupe	194	Mexico
40	Bosnia and Herzegovina	1124	Guam	195	Micronesia
41	Botswana	127	Guatemala	1196	Midway Atoll
43	Brazil	129	Guinea	197	Moldova
44	Brunei	130	Guinea-Bissau	199	Mongolia
46	Bulgaria	131	Guyana	202	Montserrat
47	Burkina	132	Haiti	203	Morocco
48	Burma	1133	Hawaii	205	Mozambique
49	Burundi	136	Honduras	207	Namibia

52 Cambodia
53 Cameroon
54 Canada
55 Canary Island
56 Cape Verde
58 Cayman Islands
59 Central African Republi
61 Chad
350 Chagos Archipelago
63 Chile
64 China
68 Colombia
69 Comoros
70 Congo
71 Cook Islands
74 Costa Rica
75 Cote d'Ivoire
76 Croatia
77 Cuba
79 Cyprus
238 Paraguay
239 Peru
241 Philippines
244 Poland
245 Portugal
1247 Puerto Rico
248 Qatar
253 Reunion
254 Romania
257 Russia
258 Rwanda
264 Saint Helena
265 Saint Kitts and Nevis
266 Saint Lucia
269 Saint Pierre and Miquel
270 Saint Vincent and the G
277 Sao Tome and Principe
279 Saudi Arabia
281 Senegal
282 Serbia
283 Seychelles
286 Sierra Leone
287 Singapore
385 Slovakia
289 Slovenia
290 Solomon Islands
291 Somalia
292 South Africa
293 Spain
294 Sri Lanka
295 Sudan
296 Suriname
298 Swaziland
299 Sweden
300 Switzerland
301 Syria
303 Taiwan
304 Tajikistan
305 Tanzania
307 Thailand
310 Togo
312 Tonga
315 Trinidad and Tobago
316 Tunisia
317 Turkey
318 Turkmenistan
319 Turks and Caicos Island
320 Tuvalu
321 Uganda
322 Ukraine
325 United Arab Emirates
326 United Kingdom
1327 United States (contermi)
137 Hong Kong
1138 Howland Island
139 Hungary
140 Iceland
141 India
142 Indonesia
143 Iran
144 Iraq
145 Ireland
148 Israel
149 Italy
150 Jamaica
151 Japan
1369 Jarvis Island
1153 Johnston Atoll
154 Jordan
52 Kampuchea
156 Kazakhstan
157 Kenya
1371 Kingman Reef
332 Vanuatu
334 Venezuela
335 Vietnam
337 Virgin Islands, British
1338 Wake Island
340 Wallis and Futuna
343 Western Sahara
344 Western Samoa
345 Yemen
347 Zaire
348 Zambia
349 Zimbabwe
208 Nauru
1374 Navassa Island
209 Nepal
210 Netherlands
211 Netherlands Antilles
213 Caledonia
217 New Zealand
219 Nicaragua
220 Niger
221 Nigeria
222 Niue
223 Norfolk Island
1363 Northern Mariana Island
226 Norway
230 Oman
231 Pacific Islands (Palau)
232 Pakistan
1234 Palmyra Atoll
235 Panama
237 Papua New Guinea
328 Uruguay
330 Uzbekistan
1331 U.S. Virgin Islands

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96–2615 Filed 2–8–96; 8:45 am]
BILLING CODE 6712–01–U

47 CFR Part 63

[IB Docket No. 95–22, FCC 95–475]

Market Entry and Regulation of Foreign-affiliated Entities

AGENCY: Federal Communications Commission.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to the final regulations (FCC 95–475), which were published Friday, December 29, 1995 (60 FR 67332). The regulations relate to the market entry of foreign-affiliated carriers into the United States for the provision of international telecommunications services.

EFFECTIVE DATE: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Ken Schagrin (202) 418–1407.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the final regulations contains an error which needs to be corrected.

Correction of Publication

Accordingly, the publication on December 29, 1995 of the final regulations (FCC 95–475) which were the subject of FR Doc. 95–31099 is corrected as follows:

§ 63.17 [Corrected]

Paragraph 1. On page 67339, in the first column, in § 63.17, paragraph (b), the phrase "Except as provided in paragraph (b)(5) * * *" is corrected to read "Except as provided in paragraph (b)(4) * * *".

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96–2840 Filed 2–8–96; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 251 and 258

[FRA Docket No. RRR–1, Notice No. 1]

RIN 2130–AB03

Removal of Federal Railroad Regulations Pursuant to Regulatory Reform

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In connection with the President's Regulatory Reform Initiative, the FRA has reviewed all of its exiting regulations. This review identified regulations in 49 CFR Chapter II that are being removed because they are obsolete or the authorization for them does not currently exist. The FRA expects that this final rule will reduce the administrative burden to government and industry, reduce government printing costs, and provide a more concise and useful Title 49, Code of Federal Regulations.

EFFECTIVE DATE: The rule becomes effective on March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Elizabeth Sorrells, Attorney Advisor, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590, (telephone: (202) 366–4782)).

SUPPLEMENTARY INFORMATION: On March 4, 1995, the President issued a memorandum directing the heads of federal departments and agencies to conduct a page-by-page review of all agency regulations now in force and eliminate or revise those that are outdated or otherwise in need of reform. FRA has conducted a page-by-page review of all of its regulations and identified obsolete regulations for removal, as follows:

49 CFR Part 251—Loans and Guarantees of Loans Under Rail Service Passenger Act of 1970

This part is being removed because the authorities for it, 45 U.S.C. 602 (section 602 of the Rail Passenger Service Act of 1970) and 45 U.S.C. 621 (section 701 of the Rail Service Passenger Service Act of 1970) were initially repealed, respectively, on October 27, 1992 by Pub. L. No. 102–533, sec. 7(c), 106 Stat. 3519 and on April 7, 1986, by Pub. L. No. 99–272, sec. 4007(c), 100 Stat. 108, and again on July 5, 1995 by Pub. L. No. 103–272, the Codification of Certain U.S. Department of Transportation Laws as Title 49, United States Code.

49 CFR Part 258—Regulations Governing Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, As Amended

This part is being removed because authorization for it has expired and no reauthorization is anticipated.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies

This final rule has been evaluated in accordance with existing regulatory policies. The regulatory document is considered to be a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. This rulemaking has been reviewed under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) and found to be a nonsignificant rule.

In its regulatory analysis, FRA has determined that this rulemaking presents no substantive issue which it could reasonably expect would produce meaningful public comment since it is merely removing, pursuant to Presidential directive, obsolete regulations, retention of which could serve no useful purpose. Accordingly, pursuant to 5 U.S.C. 553 (c) and (d), the

Administrative Procedure Act, FRA finds good cause exists to publish this as a final rule without opportunity for public comment, and to make it effective on the date of publication.

Federalism

FRA has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. In reviewing the economic impact of the rule, FRA concluded that it will not have any measureable impact on small entities. There are no direct or indirect economic impacts for small units of government, businesses, or other organizations. Therefore, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rulemaking contains no reporting requirements that are subject to OMB approval under 5 CFR part 1320, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

Environmental Assessment

This final rule meets the criteria that establish this as a non-major action for environmental purposes.

List of Subjects

49 CFR Part 251

Loan programs—transportation, Railroads.

49 CFR Part 258

Grant programs—transportation, Railroads.

Accordingly, for the reasons set forth in the Preamble, under the authority of 45 U.S.C. 602, 45 U.S.C. 621 and 49 U.S.C. 1651 FRA is amending 49 CFR Ch. II by removing parts 251 and 258.

PARTS 251 AND 258—[REMOVED]

Issued in Washington, DC, on January 31, 1996.

Jolene M. Molitoris,

Administrator, Federal Railroad Administration.

[FR Doc. 96–2715 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–09; Notice 44]

RIN 2127–AF02

Federal Motor Vehicle Safety Standards; Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Clarification of compliance date.

SUMMARY: The subject of this document is a final rule that amended Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child Restraint Systems," (49 CFR § 571.213) to add a greater array of sizes and weights of test dummies for use in compliance tests. The compliance date for the rule (i.e., the date on which manufacturers must begin complying with the amendments) is September 1, 1996.

NHTSA typically includes language in its regulations, when appropriate, to permit manufacturers the option of complying with new requirements before the compliance date of those requirements. However, the agency inadvertently omitted such language from the above-mentioned rulemaking documents. This document corrects this oversight and announces the date on which it became permissible for manufacturers to begin voluntarily producing child restraint systems that comply with the new requirements.

DATES: The effective date (i.e., the date on which the text of the CFR is changed) of the final rule published July 6, 1995 (60 FR 35126) and corrected September 29, 1995 (60 FR 50477), remains January 3, 1996.

Beginning January 3, 1996, it was permissible for manufacturers to begin complying with these amendments voluntarily.

The mandatory compliance date for the amendments made by those documents (i.e., the date on which manufacturers must begin complying with the amendments) is September 1, 1996.

FOR FURTHER INFORMATION CONTACT:

For nonlegal issues: Dr. George Mouchahoir, Office of Vehicle Safety Standards (telephone 202–366–4919).

For legal issues: Ms. Deirdre Fujita, Office of the Chief Counsel (202–366–2992). Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION: On July 6, 1995 (60 FR 35126), NHTSA published a final rule (later corrected September 29, 1995 (60 FR 50477)) amending Standard 213, "Child Restraint Systems," to add a greater array of sizes and weights of test dummies for use in compliance tests and to revise labeling requirements. (This amendment is hereinafter referred to as "the upgraded requirements.") The compliance date for the rule for manufacturers of add-on (portable) child restraints was January 3, 1996. In response to requests in petitions for reconsideration from two manufacturers of add-on restraints, NHTSA extended this compliance date to September 1, 1996, to provide more leadtime to manufacturers of add-on restraints to meet the requirements and to make the compliance date the same as that for manufacturers of built-in restraints. 60 FR 63651, December 12, 1995.

Ms. Kathleen Weber of the Child Passenger Protection Research Program of the University of Michigan Medical School (UM–CPP) asked the agency whether manufacturers of add-on systems could begin meeting the upgraded requirements before September 1, 1996, the compliance date for those requirements. She stated that while some manufacturers may need until September 1996 to comply, other manufacturers might already have the capability to meet the upgraded requirements and might wish to meet them before that date.

In its rules amending FMVSSs to add new requirements, NHTSA usually discusses the issue of whether vehicles or equipment manufactured before the compliance date for the new requirements may comply with those new requirements in lieu of complying with the existing requirements. However, in the rules establishing the upgraded requirements for Standard 213 and extending the compliance date of the requirements for add-on restraints to September 1996, the agency inadvertently omitted any discussion of early voluntary compliance. To correct that oversight, this document makes it clear that add-on and built-in child restraint systems may comply with the upgraded requirements in advance of the September 1, 1996 mandatory compliance date without violating any other provisions in Standard 213 or 49 U.S.C. 30101 *et seq.* (formerly the National Traffic and Motor Vehicle Safety Act).

NHTSA notes, however, that the upgraded requirements are subject to change. There are still a number of pending petitions for reconsideration of the July 1995 rule. While NHTSA responded to the requests in the petitions for reconsideration of the

effective (compliance) date for the rule, the agency has yet to respond to requests concerning several substantive provisions of the rule. Those provisions include the ones specifying which child test dummy is used to test a particular restraint system, and the ones specifying new labeling requirements. The agency's decision on these requests will be announced in the **Federal Register** in the near future. If the agency makes changes in the upgraded requirements of July 1995 in response to those requests, those changes could affect those manufacturers which voluntarily comply with the July 1995 requirements before the mandatory compliance date of September 1, 1996, as well as all child restraint manufacturers after that date. Thus, while manufacturers which voluntarily comply with the upgraded requirements as currently written will be in compliance with Standard 213, they would be responsible for complying with any revised requirements (made in response to petitions for reconsideration) once the mandatory compliance date for those revisions takes effect. If the agency makes any changes, it would provide whatever leadtime, if any, is necessary to meet them.

This document does not impose any additional responsibilities on any child restraint or vehicle manufacturer. Instead, it corrects an oversight in the rules of July 6, 1995, as corrected, and of December 12, 1995. This document merely clarifies that manufacturers which wish to produce restraints that comply with the upgraded requirements of Standard 213 before September 1, 1996, may do so.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on: February 5, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2741 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 61, No. 28
Friday, February 9, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AH28

Prevailing Rate Systems; Changes in Survey Responsibilities for Certain Appropriated Fund Federal Wage System Wage Areas

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule to change survey responsibilities for several appropriated fund Federal Wage System (FWS) wage areas in recognition of shifting employment patterns among agencies and the need for lead agencies to balance their wage survey workloads throughout the 2-year survey cycle. The proposed changes are designed to improve administration of the Federal Wage System and would effect the following local wage areas: Eastern South Dakota; Ft. Wayne-Marion, Indiana; Madison, Wisconsin; Buffalo, New York; Pittsburgh, Pennsylvania; Augusta, Maine; Southeastern Michigan; and Southwestern Oregon.

DATES: Comments must be received on or before March 11, 1996.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or Fax: (202) 606–0824.

FOR FURTHER INFORMATION CONTACT: Angela Graham Humes, (202) 606–2848.

SUPPLEMENTARY INFORMATION: OPM has received several requests for changes in the lead agency responsibility for FWS surveys and in the timing of such surveys. The Department of Veterans Affairs (VA) requested that the Department of Defense (DOD) assume responsibility for the following wage areas: Eastern South Dakota; Ft. Wayne-Marion, Indiana; Madison, Wisconsin; and Buffalo, New York. VA's request was based on several factors. First, in each of the wage areas, DOD has the largest number of FWS employees. Additionally, VA host activities are experiencing difficulty in providing personnel and logistical support for the FWS surveys because of continuing employment reductions, the delegation of certain human resources responsibilities to VA field activities, and additional requirements at the local level associated with the VA Nurse Locality Pay System.

DOD has indicated its willingness to assume this responsibility. However, in order to balance the increased survey workload, DOD has requested a change in the timing of the Buffalo, New York, full-scale survey from even years to odd years and of the Eastern South Dakota full-scale survey from odd years to even years. Accomplishing the changes would require consecutive full-scale surveys.

As lead agency for the Pittsburgh, Pennsylvania; Augusta, Maine; and Southwestern Michigan wage areas, VA also requested changes in the survey order month and full-scale survey year for these wage areas in order to improve the balance of its remaining survey workload. VA requested to advance the survey order month for the Pittsburgh, Pennsylvania, wage area from August to July and to change the timing of the Augusta, Maine, full-scale survey from odd years to even years and of the Southwestern Michigan full-scale from even years to odd years. The odd/even changes would require consecutive full-scale surveys.

Finally, VA requested, and OPM approved by letter in 1989 and 1990, changes in the survey order months for 1990 full-scale surveys in the Ft. Wayne-Marion, Indiana, and Southwestern Oregon wage areas. However, the new survey order months of October and June, respectively, were not incorporated into OPM regulations at that time. The proposed rule belatedly reflects the *de facto* change of the survey order months for the Ft. Wayne-Marion, Indiana, wage area from November to October and for the Southwestern Oregon wage area from May to June.

On behalf of the affected agencies, OPM presented the proposals described above for discussion by the Federal Prevailing Rate Advisory Committee, which has reviewed and concurred with the proposed changes.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix A to subpart B of part 532 is amended by revising the entries for Fort Wayne-Marion, Indiana; Augusta, Maine; Southwestern Michigan, Michigan; Buffalo, New York; Southwestern Oregon, Oregon; Pittsburgh, Pennsylvania; Eastern South Dakota, South Dakota; and Madison, Wisconsin and by adding a footnote to read as follows:

Appendix A to Subpart B of Part 532—Nationwide Schedule of Appropriated Fund Regular Wage Surveys

* * * * *

State	Wage area	Lead agency	Beginning month of survey	Fiscal year of full scale survey odd or even
Indiana * * *	Fort Wayne-Marion	DoD	October	Odd.
Maine	Augusta[1]	VA	May	Even.
Michigan * * *	Southwestern Michigan[1]	VA	October	Odd.
New York * * *	Buffalo[1]	DoD	September	Odd.
Oregon * * *	Southwestern Oregon	VA	June	Even.
Pennsylvania * * *	Pittsburgh	VA	July	Odd.
South Dakota	Eastern South Dakota[1]	DoD	October	Even.
Wisconsin	Madison	DoD	July	Even.

[1] The revised fiscal year entries are scheduled to begin for Augusta, Maine, in fiscal year 1996; for Buffalo, New York and Southwestern Michigan in fiscal year 1997; and for Eastern South Dakota in fiscal year 1998.

[FR Doc. 96–2285 Filed 2–8–96; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 980

[FV95–980–1PR]

Vegetables; Import Regulations; Modification of Regulatory Time Periods for Imported Onions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would modify the time periods when imported onions are regulated based on the grade, size, quality, and maturity requirements of the South Texas onion and Idaho-Eastern Oregon onion marketing orders. The proposed change is needed to make the onion import requirements consistent with regulatory time period changes made under the South Texas onion marketing order. This action is required by section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Comments must be received by March 11, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax number (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–0464; Fax number (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866. This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this proposed rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 148 importers of onions who would be affected by this proposal. Small agricultural service firms, which include onion importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000. The majority of onion importers may be classified as small entities.

Import regulations issued under the Act are based on regulations established under Federal marketing orders which regulate the handling of domestically produced products. Thus, this proposed rule should have small entity orientation, and impact on both small and large business entities in a manner comparable to rules issued under marketing orders. This rule proposes to modify the dates when imported onions are regulated, based on requirements of the South Texas onion and Idaho-Eastern Oregon onion marketing orders.

Section 8e of the Act provides that whenever certain specified commodities, including onions, are regulated under a Federal marketing order, imports of that commodity into the United States are prohibited unless they meet the same or comparable grade, size, quality, and maturity requirements. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine with which area the imported commodity is in most direct competition and apply regulations based on that area to the imported commodity.

Marketing Order No. 958 regulates onions grown in certain counties of

Idaho and Eastern Oregon and Marketing Order No. 959 regulates onions grown in South Texas. Fresh onion shipments from Idaho-Eastern Oregon are regulated throughout the year, while onion shipments from South Texas had been regulated from March 1 through June 15 each year. On the basis of past shipment data, the Secretary determined that onions imported during the March 10 through June 15 period were in most direct competition with onions grown in South Texas and found that the minimum grade, size, quality, and maturity requirements for onions imported during that period should be the same as those established for South Texas onions under Marketing Order No. 959. The Secretary further determined that onions imported during the June 16 through March 9 period were in most direct competition with onions grown in Idaho-Eastern Oregon and that the minimum grade, size, quality, and maturity requirements for onions imported during that period should be the same as those established for Idaho-Eastern Oregon onions under Marketing Order No. 959.

Based on a recommendation of the South Texas Onion Committee (committee), the agency responsible for local administration of Marketing Order No. 959, the Department is proposing to change the end of the South Texas regulatory period from June 15 to June 4. Because South Texas onions would no longer be regulated after June 4, and Idaho-Eastern Oregon onions are regulated throughout the year, it is proposed that onions imported during the March 10 through June 4 period are in most direct competition with onions produced in South Texas and that the minimum grade, size, quality, and maturity requirements established under the South Texas marketing order should apply to onions imported during the March 10 through June 4 period, instead of the current March 10 through June 15 period. Imports of onions during the June 5 through March 9 period should be required to meet minimum grade, size, quality, and maturity requirements based on those established under the Idaho-Eastern Oregon marketing order.

In accordance with section 8e of the Act, the U.S. Trade Representative has concurred with the issuance of this proposed rule.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 980 is proposed to be amended as follows:

PART 980—VEGETABLES; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 980 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 980.117 [Amended]

2. In § 980.117, paragraph (a)(2) is amended by removing "June 16" and adding in its place "June 5" and by removing "June 15" and adding in its place "June 4"; paragraph (b)(1) is amended by removing "June 16" and adding in its place "June 5"; and paragraph (b)(2) is amended by removing "June 15" and adding in its place "June 4".

Dated: January 31, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–2751 Filed 2–8–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–96–1]

Petition for Rulemaking Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received April 9, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3132. Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

FOR FURTHER INFORMATION CONTACT:

Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraph (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on February 2, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: 27375.

Petitioner: Professional Pilots Federation.

Sections of the FAR Affected: 14 CFR 121.383(c).

Description of Rule change Sought: To repeal § 121.383(c), referred to as the Age 60 rule.

Petitioner's Reason for the Request: The petitioner feels that Federal law and policy, operational regulatory developments since promulgation of the rule, and the results of the Hilton Study warrant the removal.

Denial; December 28, 1995.

[FR Doc. 96–2851 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 95–NM–122–AD]

Airworthiness Directives; Beech Model BAe 125–800A and Model Hawker 800 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Beech Model BAe 125–800A and Model Hawker 800 airplanes. This proposal would require modification of the airframe structure in the lower area of the fuselage aft of the wing rear spar. For certain airplanes, this proposal would also require a functional test to determine if a particular bolt fouls the flap control system. This proposal is prompted by reports of restricted control of the aileron due to water accumulation that froze in the area around an aileron pulley located in the lower area of the fuselage aft of the wing rear spar. The actions specified by the proposed AD are intended to prevent such water accumulation, which could freeze and result in restricted control of the ailerons; subsequently, this could reduce the pilot's ability to initiate roll control during critical phases of flight.

DATES: Comments must be received by March 22, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–122–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Co., Manger Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–122–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–122–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain Beech Model BAe 125–800A and Model Hawker 800 airplanes. The CAA advises that it has received several reports of restricted control of the aileron. Investigation revealed that potable water leaked from the potable water supply system of the galley and lavatory and accumulated in the lower area of the fuselage aft of the wing rear spar. This water then drained to and accumulated in the area around an aileron pulley located in the subject area, and eventually froze. These conditions, if not corrected, could result in restricted control of the ailerons, and, subsequently, reduce the pilot's ability to initiate roll control during critical phases of flight.

The manufacturer has issued Hawker Service Bulletin SB.53–82–3566G, dated March 1, 1995; Revision 1, dated March 14, 1995; Revision 2, dated May 3, 1995; and Revision 3, December 14, 1995 (for certain airplanes, excluding Model BAe 125–800A airplane having constructor's No. 258186). The manufacturer has also issued Hawker Service Bulletin SB.53–85–3566D, dated March 10, 1995, and Revision 1, dated May 23, 1995 (for Model BAe 125–800A airplane having constructor's number 258186). These service bulletins describe procedures for modification of the airframe structure in the lower area of the fuselage aft of the wing rear spar. The modification entails the following actions:

1. Installing new drain holes in the fairing skin assembly of the main landing gear (MLG);
2. Plugging existing vent holes of the keel stringers;
3. Installing a new water barrier diaphragm between the forward diaphragm assembly of the MLG and the aft diaphragm assembly;
4. Installing a blanking plate on the forward diaphragm assembly;
5. Removing existing drain valves from the fuselage keel skin;
6. Blanking off an existing drain valve hole using a new patch plate;
7. Installing two new drain spouts, a drain hose, and an outlet fairing; and
8. Performing a functional test to determine if a bolt fouls the flap control system (Revision 3 of Service Bulletin SB.53–82–3566G only).

Accomplishment of the modification will prevent any leaked fluids from collecting around the aileron pulley, and will allow any water build-up in the fuselage keel area to drain away. The CAA classified these service bulletins as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

This airplane model is manufactured in CAA and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same

type design, the proposed AD would require modification of the airframe structure in the lower area of the fuselage aft of the wing rear spar. For certain airplanes, the proposed AD would also require a functional test to determine if a bolt fouls the flap control system. The actions would be required to be accomplished in accordance with the service bulletins described previously. If any fouls are detected, the repair would be required to be accomplished in accordance with a method approved by the FAA.

The FAA estimates that 163 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 25 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $244,500, or $1,500 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Beech Aircraft Corporation. (Formerly DeHavilland; Hawker Siddeley; British Aerospace, plc; Raytheon Corporate Jets, Inc.): Docket 95–NM–122–AD.

Applicability: Model BAe 125–800A (including military variants C–29A and U–125); and Model Hawker 800 airplanes, excludjng airplanes having constructor's numbers 258079 and 258213; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent restricted control of the ailerons, which could reduce the pilot's ability to initiate roll control during critical phases of flight, accomplish the following:

(a) For all airplanes, except Model BAe 125–800A airplane having constructor's number 258186: Within 6 months after the effective date of this AD, modify (including functional test) the airframe structure in the lower area of the fuselage aft of the wing rear spar, in accordance with Hawker Service Bulletin SB.53–82–3566G, Revision 3, December 14, 1995.

(b) For airplanes identified in paragraph (a) of this AD on which Hawker Modification 253566G has been installed prior to the effective date of this AD, in accordance with Hawker Service Bulletin SB.53–82–3566G, dated March 1, 1995, Revision 1, dated March 14, 1995, or Revision 2, dated May 3, 1995: Within 30 days after the effective date of this AD, perform a functional test to determine if a bolt fouls the flap control system, in accordance with paragraph 2.A.(18) of the Accomplishment Instructions of Hawker Service Bulletin SB.53–82–3566G, Revision 3, December 14, 1995. If any foul is detected, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, Transport Airplane Directorate, FAA.

(c) For Model BAe 125–800A airplane having constructor's number 258186: Within 6 months after the effective date of this AD, modify the airframe structure in the lower area of the fuselage aft of the wing rear spar, in accordance with Hawker Service Bulletin SB.53–85–3566D, dated March 10, 1995, or Revision 1, dated May 23, 1995.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 5, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2868 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Parts 400 and 420

RIN 1505–AA53

Government Securities Act Regulations: Large Position Rules

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Notice of extension of time for submission of comments.

SUMMARY: This document extends until March 18, 1996, the deadline for the submission of comments on the notice of proposed rulemaking addressing large position recordkeeping and reporting requirements for certain Treasury securities. The proposed rule was published in the **Federal Register** on December 18, 1995 (60 FR 65214) and comments were to be received on or before February 16, 1996.

DATES: Comments must be submitted on or before March 18, 1996.

ADDRESSES: Comments should be sent to: Government Securities Regulations Staff, Bureau of the Public Debt, Department of the Treasury, Room 515, 999 E Street NW., Washington, DC 20239–0001. Comments received will be available for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT:

Ken Papaj (Director) or Don Hammond (Assistant Director) at 202–219–3632.

SUPPLEMENTARY INFORMATION: The Government Securities Act Amendments of 1993 granted Treasury the authority to prescribe large position recordkeeping and reporting rules for certain Treasury securities. A proposed rule was published December 18, 1995, that would require persons holding, maintaining or controlling large positions in to-be-issued or recently-issued Treasury securities to keep records and file reports, in response to a request from Treasury, of such large positions.

The Department has received a request for a 30 day extension of the comment period from a trade association representing approximately 300 government securities brokers and dealers (Public Securities Association, PSA). The PSA has requested the extension to permit the association additional time to resolve technical questions and solicit comments from its Primary Dealers Committee, Government Operations Committee, Funding Division and legal and compliance staffs. Given the limited additional time requested and a desire to provide market participants and other interested parties ample time to develop constructive comments, the Department agrees to extend the comment period until Monday, March 18, 1996.

Dated: February 6, 1996.

Darcy Bradbury,

Assistant Secretary, Financial Markets.

[FR Doc. 96–2863 Filed 2–8–96; 8:45 am]

BILLING CODE 4810–39–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR PART 165

[CGD13–95–055]

Safety Zone Regulations; Fort Vancouver Fourth of July Fireworks Display, Columbia River, Vancouver, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to adopt permanent safety zone regulations for the annual Fort Vancouver fourth of July Fireworks display in Vancouver, Washington. This event is held each year on the fourth of July on the waters of the Columbia River. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during this event. However, because the event occurs annually, the coast Guard is proposing to adopt a permanent description of the event and permanent regulations to better inform the boating public.

DATES: Comments must be received on or before April 9, 1996.

ADDRESSES: Comments should be mailed to U.S. Coast Guard Group Portland, 6767 N. Basin Ave., Portland, OR 97217–3992. Comments may also be hand-delivered to this address. The comments and other materials referenced in this notice will be available for inspection and copying at the above address at the Waterways Management Branch, in the Mt. St. Helens Building. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Chuck Roskam, Waterways Management Branch Chief, U.S. Coast Guard MSO/Group Portland, OR (Telephone: (503) 240–9327).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, and arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD13–95–055), specify the section of this proposal to which each comment applies, and give the reason for each comment. Two copies of each comment should be provided in an unbound format. All comments should be on paper no larger than 8½ by 11 inches and should be suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of their comments should enclose stamped, self-addressed postcards or envelopes.

The proposed regulations may be changed in light of comments received. All comments received during the comment period will be considered before final action is taken on this proposal.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Coast Guard Group Portland at the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentation will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are LTJG C.A. Roskam, Project Officer, U.S. Coast Guard MSO/Group Portland, and LCDR J.C. Odell, Project Attorney, Thirteenth Coast Guard District Legal Office.

Background and Purpose

The Coast Guard is proposing to adopt permanent safety zone regulations for the annual Fort Vancouver Fourth of July Fireworks Display in Vancouver, Washington. This event is held on the waters of Columbia River each year on July fourth from 10 p.m. to 10:30 p.m. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during the event. However, because the event occurs annually, the Coast Guard is proposing to adopt a permanent description of the event and permanent regulations in the Code of Federal Regulations (CFR) to better inform the boating public. The Coast Guard, through this action, intends to promote the safety of spectators and participants in this event. The Fort Vancouver Fourth of July Fireworks Display is being held as part of the celebration for the Fourth of July Independence Day in Vancouver, Washington.

This event is sponsored by the Fort Vancouver Fourth of July Committee. The fireworks display is conducted from a barge located just offshore on the Columbia River. This one day event attracts a large number of spectators gathered on the waters near the fireworks display. Spectators who approach the fireworks barge at close range during the event may be struck by

falling debris from the overhead fireworks display.

Discussion of Proposed Regulation

To promote the safety of both the spectators and the participants of this event, the proposed regulation would establish a permanent safety zone which would become effective each year during the event. Entry into this safety zone and the area surrounding the event would be prohibited. This safety zone would be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This proposal is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by the proposed regulation would encompass only one mile of the Columbia River adjacent to Vancouver, Washington. Entry into the safety zone would be restricted each year for only three hours on the day of the event. These restrictions would have little effect on maritime commerce in the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If however, you think that your business or organization qualifies as a small entity and that this proposal will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal will economically affect it.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed regulation and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this proposed regulation is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Fort Vancouver Fourth of July Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for this event.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new section 165.1308 is added to read as follows:

§ 165.1308 Columbia River, Vancouver, WA

(a) *Location.* The following area is a safety zone: All waters of the Columbia River at Vancouver, Washington, bounded by a line commencing at the northern base of the Interstate 5 highway bridge at latitude 45°37′17″, longitude 122°40′22″; thence south along the Interstate 5 highway bridge to latitude 45°37′03″N, longitude 122°40′32″W; thence to latitude 45°36′28″N, longitude 122°38′35″W; thence to Ryan's Point at latitude 45°36′42″N, longitude 122°38′35″W; thence along the Washington shoreline to the point of origin.

[Datum: NAD 83].

(b) *Effective dates:* This section is effective annually on July fourth from 9 p.m. to 11 p.m. unless otherwise specified by **Federal Register** notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port, Portland, Oregon.

Dated: January 23, 1996.

C.E. Bills,

Captain, U.S. Coast Guard Captain of the Port.

[FR Doc. 96–1809 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 102–13–7212b; FRL–5398–7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP), which concern the control of oxides of nitrogen (NO_x) emissions from boilers, steam generators, and process heaters.

The intended effect of proposing approval of these rules is to regulate emissions of NO_x in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revisions as a direct final rule without prior proposal because the Agency views these as noncontroversial revision amendments and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to these rules. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 11, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation reports of the rules are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

Ventura County Air Pollution Control District, Rule Development Section, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191, email: james.duane@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This document concerns the Sacramento Metropolitan Air Quality Management District's Rule 411, "Boiler NO_x," the San Diego County Air Pollution Control District's Rule 69.2, "Industrial and Commercial Boilers, Process Heaters and Steam Generators," the San Joaquin Valley Unified Air Pollution Control District's Rule 4352, "Solid Fuel Fired Boilers, Steam Generators and Process Heaters," and the Ventura County Air Pollution Control District's Rule 74.15, "Boilers, Steam Generators and Process Heaters." These rules were submitted to EPA on September 28, 1994 (Rule 4352), October 19, 1994 (Rule 69.2), January 24, 1995 (Rule 74.15), and June 16, 1995 (Rule 411), by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 21, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–2825 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[CA 79–4–7252b; FRL–5398–9]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District, San Diego County Air Pollution Control District; and Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from gasoline storage and transfer and bakery ovens.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 11, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93117.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, CA 92123.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section [A–5–3], Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION: This document concerns Monterey Bay Unified Air Pollution Control District (MBUAPCD) Rule 1002, Transfer of Gasoline into Vehicle Fuel Tanks; San Diego County Air Pollution Control District (SDCAPCD) Rule 67.24, Bakery Ovens; and Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 316, Storage and Transfer of Gasoline, submitted to EPA on December 22, 1994, June 16, 1995, and March 29, 1994, respectively, by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 10, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–2823 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[CA 71–9–7222b; FRL–5399–2]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from oil water separators, and the use of architectural coatings. In addition, EPA is proposing to remove a rule from the SIP which controls emissions from rubber tire manufacturing. The one facility affected by this rule has shutdown.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 11, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION: This document concerns Monterey Bay Unified Air Pollution Control District Rule 420, Effluent Oil Water Separators; Rule 426, Architectural Coatings; and Rule 428, Manufacture of Rubber Tires. These rules were submitted to EPA on November 18, 1993 by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 10, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–2821 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN58–1–7216b; FRL–5343–1]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve the State Implementation Plan (SIP) revision request submitted by the State of Indiana on August 25, 1995, for the purpose of lowering the Reid Vapor Pressure (RVP) of summertime gasoline from 9.0 pounds per square inch (psi) to 7.8 psi for the Clark and Floyd County ozone nonattainment area. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 11, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: November 21, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–2827 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN62–1–7234b; FRL–5342–8]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve an August 25, 1995 State request for a site-specific revision to the Indiana sulfur dioxide State Implementation Plan (SO2 SIP). This revision revises the SO2 emission limitations applicable to the Joseph E. Seagram and Sons, Inc., facility in Lawrenceburg, Indiana. In the final rules section of this **Federal Register**, the USEPA is approving the State's SIP revision as a direct final rule without prior proposal because USEPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 11, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Air and Radiation Division, Regulation Development Section, Regulation Development Branch, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mary Onischak, Environmental Engineer, Regulation Development Branch, (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–5954.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the rules section of this **Federal Register**.

Dated: November 21, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–2833 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NE–8–1–7206b; FRL–5344–3]

Approval and Promulgation of Implementation Plans; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Nebraska modifying certain portions of the Class II operating permit program and other miscellaneous rules. In the final rules section of the **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule.

If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 11, 1996.

ADDRESSES: Comments may be mailed to Christopher D. Hess, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: November 22, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 96–2831 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NV23–1–7219b; FRL–5338–7]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Nevada State Implementation Plan (SIP) which concern the Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM).

The implementation plan was submitted by the State to satisfy the Federal mandate of the Clean Air Act (CAA) to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without additional proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 11, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105

U.S. Environmental Protection Agency, Air Docket 6102, 401 "M" Street SW. Washington, D.C. 20460

Nevada Division of Environmental Protection, Bureau of Air Quality, 123 West Nye Lane, Room 123, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT: R. Michael Stenburg, A-1, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1182.

SUPPLEMENTARY INFORMATION: This document concerns the Nevada Small Business Stationary Source Technical and Environmental Compliance Assistance Program, submitted to EPA on June 28, 1994 and July 5, 1995 by the Nevada Bureau of Air Quality. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 20, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–2829 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–7; RM–8732]

Radio Broadcasting Services; Banks and Redmond, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Common Ground Broadcasting, Inc., seeking the substitution of Channel 298C1 for Channel 298C2 at Banks, Oregon, and the modification of its license for Station KDBX to specify the higher class channel. To accommodate the allotment at Banks, we also propose the substitution of Channel 269C2 for Channel 298C2 at Redmond, Oregon, and the modification of Station KLRR's license to specify the alternate Class C2 channel. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 298C1 at Banks or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties. Channel 298C1 can be allotted to Banks in compliance with the Commission's minimum distance separation requirements at Station KDBX's licensed site, at coordinates 45–31–22 NL; 122-45-07 WL. Channel 269C2 can be allotted to Redmond in compliance with the Commission's minimum distance separation requirements at Station KLRR's licensed site, at coordinates 44–04–41 NL; 121–19–57 WL. Canadian concurrence in the Banks allotment is required since the community is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 29, 1996, and reply comments on or before April 15, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James P. Riley, Esq., Anne Goodwin Crump, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 N. 17th Street, Eleventh Floor, Rosslyn, Virginia 22209 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–7, adopted January 16, 1996, and released February 6, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–2842 Filed 2–8–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[I.D. 013096A]

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene five public hearings on Draft Amendment 13 to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP) and a draft environmental assessment (EA) for Amendment 13.

DATES: Written comments will be accepted until March 8, 1996. The public hearings will be held from February 27 to February 29, 1996. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Written comments should be sent to and copies of the draft amendment are available from Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Council, 5401 West Kennedy Boulevard, Tampa, FL 33609.

The hearings will be held in FL, LA, and TX. See **SUPPLEMENTARY INFORMATION** for locations of the hearings and special accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Population Dynamics Statistician, (813) 228–2815.

SUPPLEMENTARY INFORMATION: The Council will be holding public hearings on Draft Amendment 13 to the FMP and a draft EA for Amendment 13. Amendment 13 contains management measures for the commercial red snapper fishery. The draft amendment would extend the red snapper endorsement system (last implemented through emergency regulations, 61 FR 19, January 2, 1996) and its associated commercial trip and possession limits through December 31, 1997, or until the provisions of Amendment 8 (final regulations issued November 29, 1995, 60 FR 61206), become operational or are replaced by alternative measures to limit access to the commercial red snapper fishery.

The hearings are scheduled from 7:00 p.m. to 10:00 p.m., as follows:

1. Tuesday, February 27, 1996, Larose—Larose Regional Park, 2001 East 5th Street, Larose, LA 70373

2. Wednesday, February 28, 1996, Panama City—National Marine Fisheries Service, Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL 32408

3. Wednesday, February 28, 1996, Port Aransas—Port Aransas Public Library, 700 West Avenue A, Port Aransas, TX 78373

4. Thursday, February 29, 1996, Pensacola Beach—Clarion Suites Resort and Convention Center, 20 Via DeLuna, Pensacola Beach, FL 32561

5. Thursday, February 29, 1996, Galveston—Flagship Hotel Over the Water, 25th and Seawall Boulevard, Galveston, TX 77550

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council office by February 20, 1996 (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 5, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–2907 Filed 2–8–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 61, No. 28

Friday, February 9, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agriculture Service

Uruguay Round Agricultural Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of updated quantity trigger levels for safeguard measures provided for in the Uruguay Round Agreement on Agriculture.

SUMMARY: This notice lists the updated quantity trigger levels for products which may be subject to additional import duties under the safeguard provisions of the Uruguay Round Agreement on Agriculture.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Robert J. Spitzer, Multilateral Trade Policy Affairs Division, Foreign Agricultural Service, room 5540–South Building, U.S. Department of Agriculture, Washington, DC 20250–1000 or telephone at (202) 720–6064.

SUPPLEMENTARY INFORMATION: Article 5 of the Uruguay Round Agreement on Agriculture provides that additional import duties may be imposed on imports of products subject to tariffication during the Uruguay Round if certain conditions are met. The agreement permits additional duties to be charged if the price of an individual shipment of imported products falls below the average price for similar goods imported during the years 1986–88 by a specified percentage. It also permits additional duties to be imposed if the volume of imports of an article exceeds the average of the most recent three years for which data is available by 25 percent. These additional duties may not be imposed on quantities for which minimum or current access commitments were made during the Uruguay Round negotiations, and only one type of safeguard, price or quantity based, may be applied at any given time to an article.

Section of 405 of the Uruguay Round Agreements Act requires that the President cause to be published in the **Federal Register** the agricultural products subject to safeguards, the price and quantity trigger levels which will be applied to these products, and the relevant period for the quantity based safeguard for each product. The President delegated this authority to the Secretary of Agriculture in Presidential Proclamation No. 6763, dated December 23, 1994. On Wednesday, January 4, 1995, the Secretary of Agriculture provided the above information, including the definition of each product, in the Notice of Safeguard Action published in 60 FR 427.

In the notice entitled Revision of Delegations of Authority which was published in 60 FR 56392 on Wednesday, November 8, 1995, the Secretary of Agriculture delegated to the Administrator, Foreign Agricultural Service, the authority to determine quantity trigger levels for these safeguards. The quantity triggers must be updated annually based on import levels during the most recent three years. The Annex to this notice contains the updated quantity trigger levels. Additional information on the levels of the additional duties and how they will be applied is provided in subchapter IV of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

Notice

As provided in section 405 of the Uruguay Round Agreements Act, consistent with Article 5 of the Agreement on Agriculture, the safeguard quantity trigger levels notified by the Secretary of Agriculture previously on January 4, 1995, are superceded by the levels indicated in the annex to this notice. These quantity trigger levels are effective for the quota period provided for in the HTS for each of the respective tariff rate quotas which begins on the appropriate date during calendar year 1996.

Issued at Washington, DC this 2nd day of February, 1996.

Tim Galvin,

Acting Administrator, Foreign Agricultural Service.

Annex

The definitions of these products were provided in the Notice of Safeguard Action published in 60 FR 427 on Wednesday, January 4, 1995:

Quantity Based Safeguard Trigger

Beef	905,615 tons.
Mutton	8,408 tons.
Cream	4,448,444 liters.
Evaporated or Condensed Milk.	1,406,068 kilograms.
Nonfat Dry Milk	983,986 kilograms.
Dried Whole Milk	3,948 kilograms.
Dried Cream	0 kilograms.
Dried Whey/Buttermilk.	277,271 kilograms.
Butter	342,269 kilograms.
Butter Oil and Butter Substitutes.	684,554 kilograms.
Dairy Mixtures	644,673 kilograms.
Blue Cheese	2,841,771 kilograms.
Cheddar Cheese	6,804,020 kilograms.
American Type Cheese.	4,177,868 kilograms.
Edam/Gouda Cheese	6,365,228 kilograms.
Italian-Type Cheese	9,867,535 kilograms.
Swiss Cheese with Eye Formation.	34,617,641 kilograms.
Gruyere Process Cheese.	7,761,503 kilograms.
Lowfat Cheese	5,767,508 kilograms.
NSPF Cheese	49,105,293 kilograms.
Peanuts	969 tons.
Peanut Butter/Paste	20,760 tons.
Raw Cane Sugar	1,503,970 tons
Refined Sugar and Syrups.	43,407 tons
Blended Syrups	0 tons.
Articles Over 65% Sugar.	0 tons.
Articles Over 10% Sugar.	82,515 tons.
Sweetened Cocoa Powder.	2,423 tons.
Chocolate Crumb	9,394,526 kilograms.
Lowfat Chocolate Crumb.	495,718 kilograms.
Infant Formula Containing Oligosaccharides.	0 kilograms.
Mixes and Doughs	695 tons.
Mixed Condiments and Seasonings.	187 tons.
Ice Cream	96,560 liters.
Animal Feed Containing Milk.	5,587,043 kilograms.
Short Staple Cotton	631,280 kilograms.
Harsh or Rough Cotton.	0 tons.

Quantity Based Safeguard Trigger—Continued

Medium Staple Cotton.	20,012 kilograms.
Extra Long Staple Cotton.	226,845 kilograms.
Cotton Waste	156,524 kilograms.
Cotton Processed, Not Spun.	71 kilograms.

[FR Doc. 96–2748 Filed 2–8–96; 8:45 am]

BILLING CODE 3410–10–P

Forest Service

Extension of Currently Approved Information Collection for Special Use Administration

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to request an extension of a currently approved information collection for the administration of special uses on National Forest System lands.

DATES: Comments must be received in writing on or before April 9, 1996.

ADDRESSES: All comments should be addressed to: Director, Lands Staff (2720), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Mark Scheibel, Lands Staff, at (202) 205–1264.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the information collection to be extended:

Title: Special use Administration.

OMB Number: 0596–0082.

Expiration Date of Approval: June 30, 1996.

Type of Request: Extension of a previously approved information collection.

Abstract: The data collected will be evaluated by the Forest Service to ensure that the authorization of the use of Federal land is in the public interest and is compatible with the mission of the agency. The data will help identify environmental and social impacts that may require mitigation and will ascertain whether a fair market rental fee for the use of National Forest System lands is being received. The data will be collected through application forms and stipulations in operating plans and use authorizations. There are four general categories of information requests: (1) Initial and amended application process; (2) annual financial information; (3) preparing and updating operation and maintenance plans; and (4) compliance reports and information updates.

Application Process

Estimate of Burden: The information requirements for initial applications, or for changes to, for special use authorizations are established in 36 CFR 251.54 and 251.61, respectively. Public reporting burden for collection of information during the application process to use National Forest System lands varies according to the intended use and application form. Four forms have been established to collect the information. The estimated average for each specific application form is as follows:

1. Form SF–299—Application for Transportation and Utility Systems and Facilities on Federal Lands: 4.0 hours.
2. Form FS–2700–3—Special Use Application and Report: 8.0 hours.
3. Form FS–2700–3a—Request for Termination of and Application for Special use Permit: 0.5 hour.
4. Form FS–2700–3b—Special Use Application for Noncommercial Group Use: 1.0 hour.

Type of Respondents: Individuals, businesses, corporation, and Sate and local governments requesting use of National Forest System lands.

Estimated Number of Respondents:
Form SF–299: 100 respondents
Form FS–2700–3: 1,400 respondents
Form FS–2700–3a: 1,000 respondents
Form FS–2700–3b: 2,400 respondents

Estimated Number of Responses per Respondent: 1.

Estimated Totol Annual Burden on Respondents:
Form SF–299: 400 hours
Form FS–2700–3: 11,200 hours
Form FS–2700–3a: 500 hours
Form FS–2700–3b: 2,400 hours

Annual Financial Information

Estimate of Burden: Title V of the Federal Land Policy and Management Act of 1976, the Independent Offices Appropriation Act of 1952, and the Office of Management and Budget Circular A–25 require the Forest Service to collect rental fees that reflect fair market value for the use of National Forest System lands. Special use authorizations may contain specific terms and conditions requiring the holder to provide the authorized officer with the information necessary to calculate fair market value rental fees. Procedures for how the information is provided and when it is required are contained in the authorization terms and conditions. Information requests for financial information are provided to the authorized officer in a variety of ways. Several examples include gross revenues, value of capitol improvements, number of trips and/or customers served, or a listing of occupants in a communications site building. Public reporting burden for collection of information to determine bills for collection for fair market rental fees for the use of National Forest System lands is estimated at 1 hour per response.

Type of Respondents: Individuals, businesses, and corporations required to provide information to determine fair market rental fees for the use of National Forest System lands.

Estimated Number of Respondents: 2,500.

Estimated Number of Responses per Respondent: 1.2.

Estimated Total Annual Burden on Respondents: 3,000 hours.

Preparing and Updating Operation and Maintenance Plans

Estimate of Burden: Special use authorizations may contain a clause requiring the holder to prepare or update an operation and maintenance plan, when the authorized officer determines that the day-to-day operations of the use authorized needs to be enumerated. This information is useful to the holder and the Forest Service, because it outlines procedures and policies used while the holder conducts operations or business on National Forest System lands. Typically, operation and maintenance plans contain daily operating guidelines, fire abatement and control procedures, monitoring guidelines, maintenance standards, safety and emergency plans, inspection standards and frequencies, and so forth. Operation and maintenance plans are not required for all special use authorizations, but are usually necessary for complex operations, commercial uses, and situations involving sensitive environmental areas. Public reporting burden for collection of information to prepare or update operation and maintenance plans is estimated at 1 hour per response.

Type of Respondents: Individuals, businesses, corporations, and State and local governments required to prepare or update operation and maintenance plans for activities on National Forest System lands.

Estimated Number of Respondents: 35,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 35,000 hours.

Compliance Reports and Information Updates

Estimate of Burden: Special use authorizations may contain specific terms and conditions requiring the holder to provide the authorized officer with compliance reports, information reports, and other information required by Federal law and/or required to properly manage National Forest System lands to ensure adequate protection of forest resources and public health and safety. Examples of compliance and information requests include dam maintenance inspection reports and logs required by the Reclamation Safety of Dams Act of 1979, and the Dam Safety Act of 1983; documentation that authorized facilities passed safety inspections; documents showing that the United States is covered in an insurance policy; notifications involving changes in corporation or partnership status; documentation of compliance with nondiscrimination in Federally assisted programs as required by Title VI and VII of the Civil Rights Act of 1964; and so forth. Public reporting burden for collection of information for compliance reports and information updates for operations on National Forest System lands is estimated at 1 hour per response.

Type of Respondents: Individuals, businesses, corporations, State and local governments.

Estimated Number of Respondents: 13,500.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondent: 13,500 hours.

Comments are Invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of this agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 2, 1996.

Mark A. Reimers,

Acting Chief.

[FR Doc. 96–2878 Filed 2–8–96; 8:45 am]

BILLING CODE 3410–11–M

Western Washington Cascades Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Western Washington Cascades PIEC Advisory Committee will meet on February 27, 1996 at the Mount Baker-Snoqualmie National Forest Headquarters, 21905 64th Avenue West, in Mountlake Terrace, Washington. The meeting will begin at 9:00 a.m. and continue until about 3:00 p.m. Agenda items to be covered include: (1) Discussion with USDA Forest Service staff about wildlife concerns, values and habitat needs in the Snoqualmie Pass Adaptive Management Area; (2) discussion of how local economic and social concerns are being incorporated into the AMA plan; (3) discussion of the possibilities, pros, and cons of changing the original designations, under the Northwest Forest Plan, of the Skagit and Green River basins from "non-key" to "key" watersheds; (4) update on issues related to Section 2001 of Public Law 104–19 (1995 Rescissions Bill); (5) report by the River Basin Study Group; (6) staff update on flood damage from late 1995 storms, and emergency repair funding efforts; (7) other topics as appropriate; and, (8) open public forum. All Western Washington Cascades Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Chris Hansen-Murray, Province Liaison, USDA, Mt. Baker-Snoqualmie National Forest, 21905 64th Avenue West, Mountlake Terrace, Washington 98043, 206–744–3276.

Dated: February 2, 1996.

Dennis E. Bschor,

Forest Supervisor.

[FR Doc. 96–2864 Filed 2–8–96; 8:45 am]

BILLING CODE 3410–11–M

Food Safety and Inspection Service

[Docket No. 95–050N]

Nominating Pesticides and Pesticide Treated Food Commodities as Candidates for Codex Alimentarius Maximum Residue Limits

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service is setting forth in this notice the procedure to be followed by an interested person who may wish to request the United States government to propose pesticides and their treated food commodities as candidates for Codex maximum residue limits (MRLs) for pesticides in food. Obtaining such international pesticide tolerances can be beneficial to U.S. food exporters because a number of countries that do not recognize U.S. pesticide tolerances may accept the use of Codex pesticide MRLs for their food imports. Thus, having Codex MRLs for pesticides resulting from agricultural uses of pesticides approved in the United States can facilitate trade with these foreign countries.

FOR FURTHER INFORMATION CONTACT: U.S. Delegate to the Codex Committee on Pesticide Residues, Dr. Richard Schmitt, Deputy Director, Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M Street, SW., (7508W), Washington, DC 20460; (703) 308–8000.

SUPPLEMENTARY INFORMATION: The Codex Alimentarius Commission (the Commission) is an intergovernmental body comprised of the national governments of over 150 countries. It operates under the auspices of the Food and Agriculture Organization (FAO) of the United Nations and the World Health Organization (WHO) to implement the Joint FAO/WHO Food Standards Programme. The purpose of this program is to protect consumer health and ensure fair practices in international food trade through the use of Codex recommended food standards and codes of practice. The Commission's basic work is conducted by various committees, one of which is the Codex Committee on Pesticide Residues (CCPR), which has the responsibility for the elaboration of all food standards pertaining to pesticide residues in food. Such food standards are specifically referred to as Codex MRLs (i.e., maximum residue limits for pesticides in foods).

The development of Codex MRLs for pesticides follows a detailed, eight step procedure. The first step involves the selection of pesticides for placement on the CCPR's priority list. The criteria for inclusion of a pesticide on the priority list are: (1) The pesticide must be registered for use in at least one country; (2) the pesticide must not have been already accepted for CCPR consideration; (3) the pesticide must give rise to residues in or on a food commodity (including animal feed) moving in international trade; and (4) the presence of residues of the pesticide in a food commodity is or may become a matter of public health concern and thus create, or have the potential to create, problems in international trade. An *ad hoc* Working Group on Priorities is formed by the CCPR each year to provide the initial screening of all pesticides proposed for inclusion on the priority list. The Working Group on Priorities considers the proposals that were submitted and prepares recommendations to the CCPR at its annual sessions. The priority list of new pesticides adopted by the CCPR is then referred to the Joint FAO/WHO Meeting on Pesticide Residues (JMPR) for evaluation.

The JMPR, which is comprised of scientific experts from governments and academia appointed by FAO and WHO, is convened annually for the purpose of evaluating, among other things, the pesticides on the CCPR's priority list. In conducting these evaluations, the JMPR reviews all available toxicological data to estimate the acceptable daily intake (ADI) for the pesticide and all available residue, metabolism, and processing data to propose MRLs for residues on food commodities from the use of the pesticide in accordance with nationally approved uses, referred to as good agricultural practice (GAP). The remaining steps of the process allow national governments several opportunities to review and comment on proposed MRLs prior to final acceptance by the Commission.

Codex MRLs for additional food commodities can be sought even after Codex MRLs for a pesticide have completed the eight step process. In such cases, it is not necessary to renominate the chemical to the *ad hoc* Working Group on Priorities, but rather it is only necessary to request the FAO Joint Secretariat of the JMPR to place the pesticide—food commodity combination on the agenda for evaluation by an upcoming JMPR. Expanding MRLs for a pesticide to additional food commodities, does not require reevaluation of the pesticide's toxicological properties.

A key element in having a pesticide placed on the CCPR's priority list is the availability of a complete data package that contains data on the pesticide from all relevant acute and chronic toxicity studies, the chemistry of the pesticide, residue information (including detailed data from supervised field trials), information concerning metabolism of the pesticide, and processing data and information on national GAP in the use of the pesticide.

Only national governments may nominate a pesticide chemical as a candidate for the CCPR's priority list. Because manufacturers of pesticides usually conduct or sponsor studies to generate the toxicity and residue data for their pesticides, and in fact, actually own these data, nominations submitted by governments often are initiated by pesticide manufacturers. There are, however, no restrictions that prevent food or feed producers and processors, or their trade associations, or any other interested person from requesting their respective national governments to seek Codex MRLs for pesticides used on commodities that may be shipped in international trade. In such cases, the commitment of pesticide manufacturers to submit supporting data must be obtained before nomination for an MRL is made. The advantage of having Codex MRLs for food commodities that may be marketed in international trade is the possible removal of non-tariff trade barriers in importing countries that utilize Codex MRLs rather than tolerances of the exporting country for determining compliance with their national residue requirements.

The United States is vitally interested in assuring access to world markets for U.S. produced food commodities, and in particular, not being denied entry to these markets because of the presence of pesticide residues that are legal and safe by U.S. standards, but not by the standards of importing countries. While having Codex MRLs established for U.S. pesticide uses for food production does not guarantee access to markets of other countries, a number of countries apply Codex MRLs to imported foods in situations where they have not established national tolerances for a particular pesticide residue/food combination. The U.S. government considers it important that interested persons be aware of the opportunity to obtain Codex MRLs for existing pesticide uses in the United States on foods that may be sold to foreign countries. The opportunity for nominating to the CCPR pesticides registered for food uses in the United States generally is known to pesticide manufacturers, but may be largely unknown to other segments of the private sector or to the general public. Accordingly, it is the intent of this notice to inform all interested persons of the opportunity for nominating pesticides/food commodities for Codex MRL development.

U.S. government agencies directly involved in the work of the CCPR are the U.S. Environmental Protection Agency, Food and Drug Administration, and U.S. Department of Agriculture. Official representatives from these agencies comprise the U.S. Delegation to the CCPR. The function of the delegation is to develop U.S. positions on Codex MRLs and related matters and to represent the U.S. at the CCPR's annual sessions. Among other things, this function includes submitting on behalf of the U.S. proposed pesticide nominations for the CCPR priority list which have been requested by interested persons.

The procedure for interested persons seeking such nominations by the U.S.–CCPR Delegation is based on the one formulated by the CCPR's *ad hoc* Working Group on Priorities. The format and commitment to be made are as follows:

U.S. Procedure for Proposing Pesticides for the Codex Priority List and Extension of Codex MRLs to Additional Food Commodities

1. Criteria for Nominating a Pesticide and Its Treated Food Commodities for Codex MRL Development

Before a pesticide and food commodities that contain residues of the pesticide may be considered by the U.S.–CCPR Delegation for nomination for Codex MRL development:

a. The pesticide must be registered for agricultural use in the United States and have registrations and tolerances for its residues for the specific food commodities for which Codex MRLs are being sought.

b. The food commodities that may contain residues of the pesticide in question must represent a component of U.S. export trade or have the potential of representing a component of U.S. export trade.

c. The expected residues of the pesticide in the food commodities in question must be or have the potential to become a matter of public health concern and either create or have the potential to create problems in international trade.

d. There must be a confirmed commitment for submission of complete and current data for review by the JMPR within the FAO and WHO time-frames as specified below.

2. Procedure To Be Followed for Pesticides for Which There Are Currently No Proposed or Adopted Codex MRLs

a. For pesticides and food commodities that fall into this category and meet the criteria in part 1, it is necessary to complete the form in the appendix to this notice. Persons that do not own the data for the pesticide in question, must consult with the owner about the existence of sufficient toxological and residue data; confirm the owner's commitment to submit these data to the JMPR and in what year; and seek assistance in completing the form.

b. Either the owner of the data or other interested persons may submit the completed form and confirmed commitment to submit necessary data to the U.S.—CCPR Delegation for consideration as a candidate for the CCPR's priority list. If the U.S. Delegation agrees, the form, along with an official transmittal letter and data commitment (also in writing), will be forwarded to the Working Group on Priorities.

c. The completed nomination may be submitted to the U.S. Delegation at any time; however, in order for the delegation to review the submission and forward it to the Working Group on Priorities in time for the upcoming session of the CCPR, the U.S. Delegate must receive the completed form and data commitment by the end of a calendar year. (The WHO component of the JMPR schedules new pesticides for toxological evaluations two years in advance and the FAO component, one year in advance.)

3. Procedure To Be Followed for Pesticides for Which Codex MRLs Are Proposed or Adopted

a. The criteria listed in part 1 must be met for each food commodity for which a Codex MRL is being sought.

b. For an interested person who did not develop the required data for the pesticide food commodity in question, it is necessary to consult with the person who developed the required data to ascertain the existence of sufficient residue data and obtain the commitment that such data will be available for submission to JMPR at an appropriate time.

c. Either person identified in paragraph 3b may submit a written proposal to the U.S.—CCPR Delegation requesting that a Codex MRL be developed for each additional pesticide—food combination. The delegation will consider each request, and if the criteria are met, will submit it directly to the FAO Joint Secretary of the JMPR. The timing of the submission of the data for evaluation will be determined by the FAO Joint Secretary.

Done at Washington, DC on: February 2, 1996.

Michael R. Taylor,

Administrator.

Appendix

Pesticide Information for CCPR Working Group on Priorities

for evaluation _____
for reevaluation _____

1. Name:
2. Structural Formula:
3. Chemical Name:
4. Names and Addresses of Basic Producers:
5. Justification for Use:
6. Uses: Major, Minor.
7. Commodities Moving in International Trade and Expected Levels of Residues:
8. Countries Where Pesticide is Registered:
9. National Maximum Residue Limits:
10. Commodities for Which the Need for Establishing Codex MRL's is Recognized:
11. Major International Use Pattern:
12. List [1] of Data (Toxicology, Metabolism, Residue) Available:
13. Date Data Could be Submitted by (Country):

[FR Doc. 96–2750 Filed 2–8–96; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Department of Commerce (the Department) Regulations (19 CFR 353.22/355.22 (1993)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than February 29, 1996, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

	Period
Antidumping duty proceedings:	
Austria: Railway Track Maintenance Equipment, (A–433–063)	02/01/95-01/31/96
Brazil: Stainless Steel Bar, (A–351–825)	08/04/94-01/31/96
Canada: Racing Plates, (A–122–050)	02/01/95-01/31/96
Germany: Sodium Thiosulfate, (A–428–807)	02/01/95-01/31/96
India: Forged Stainless Steel Flanges, (A–533–809)	02/01/95-01/31/96
India: Stainless Steel Bar, (A–533–810)	08/04/94-01/31/96
Japan: Benzyl Paraben, (A–588–816)	02/01/95-01/31/96
Japan: Carbon Steel Butt-Weld Pipe Fittings, (A–588–602)	02/01/95-01/31/96
Japan: Melamine, (A–588–056)	02/01/95-01/31/96
Japan: Mechanical Transfer Presses, (A–588–810)	02/01/95-01/31/96
Japan: Stainless Steel Bar, (A–588–833)	08/04/94-01/31/96
Korea: Certain Small Business Telephone Systems and Subassemblies Thereof, (A–580–803)	02/01/95-01/31/96
Korea: Stainless Steel Butt-Weld Pipe Fittings, (A–580–813)	02/01/95-01/31/96

[1] Bibliographical list to include title, author, date, report number or reference, data developer/owner, etc.

	Period
Taiwan: Forged Stainless Steel Flanges, (A–583–821)	02/01/95-01/31/96
The People's Republic of China: Axes/Adzes, (A–570–803)	02/01/95-01/31/96
The People's Republic of China: Bars/Wedges, (A–5570–803)	02/01/95-01/31/96
The People's Republic of China: Hammers/Sledges, (A–570–803)	02/01/95-01/31/96
The People's Republic of China: Picks/Mattocks, (A–570–803)	02/01/95-01/31/96
The People's Republic of China: Coumarin, (A–570–830)	05/06/94-01/31/96
The People's Republic of China: Natural Bristle Paint Brushes, (A–570–501)	02/01/95-01/31/96
The People's Republic of China: Sodium Thiosulfate, (A–570–805)	02/01/95-01/31/96
United Kingdom: Sodium Thiosulfate, (A–412–805)	02/01/95-01/31/96
Suspension Agreements:	
Venezuela: Gray Portland Cement and Clinker, (A–307–803)	02/01/95-01/31/96
Countervailing Duty Proceedings:	
None.	

In accordance with sections 353.22(a) and 355.22(a) of the regulations, an interested party as defined by section 353.2(k) may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 19 CFR 355.22(a) of the Department's Interim Regulations (60 FR 25137 (May 11, 1995)), an interested party must specify the individual producers or exporters covered by the order for which they are requesting a review. Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Pamela Woods, in room 3065 of the main Commerce Building. Further, in accordance with section 353.31(g) or 355.31(g) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by February 29, 1996. If the Department does not receive, by February 29, 1996, a request for review of entries coverd by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: February 5, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–2909 Filed 2–8–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–504]

Porcelain-on-Steel Cooking Ware From Mexico; Preliminary Results of Antidumping Duty New Shipper Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty New Shipper Administrative Review.

SUMMARY: In response to a request from one manufacturer/exporter, Esmaltaciones San Ignacio, S.A. (San Ignacio), the Department of Commerce (the Department) is conducting a new shipper administrative review of the antidumping duty order on porcelain-on-steel cooking ware (POS cooking ware) from Mexico. The review covers the period January 1, 1995 through June 30, 1995.

We have preliminarily determined that sales have not been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to liquidate subject entries without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: February 9, 1996.

FOR FURTHER INFORMATION CONTACT: Laura Merchant, or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On June 20, 1995, the Department received a request from San Ignacio for a new shipper review pursuant to section 751(a)(2)(B) of the Act and section 353.22(h) of the Department's interim regulations.

Section 751(a)(2) of the Tariff Act and section 353.22(h) of the Department's regulations govern determinations of

antidumping duties for new shippers. These provisions state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period of investigation (POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer. To establish these facts, the exporter or producer must include with its request, with appropriate certification: (i) the date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States; (ii) a list of the firms with which it is affiliated; and (iii) a statement from such exporter or producer, and from each affiliated firm that it did not, under its current or a former name, export the merchandise during the POI.

San Ignacio's request was accompanied by information and certifications establishing the date on which it first shipped and entered subject merchandise, the names of San Ignacio's affiliated parties, and statements from San Ignacio and its affiliated parties that they did not, under any name, export the merchandise during the POI. Based on the above information, on July 20, 1995, the Department initiated this new shipper review of San Ignacio (60 FR 37426). The Department is now conducting this review in accordance with section 751 of the Tariff Act and section 353.22 of its regulations.

Scope of the Review

Imports covered by the review are shipments of POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses.

This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item number 7323.94.00. Kitchenware currently entering under HTS item number 7323.94.00.30 is not subject to the order. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 776(b) of the Tariff Act, we verified information provided by the respondent by using standard verification procedures, including on site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlines in the public versions of the verification report.

Export Price

We calculated the EP based on the price from San Ignacio to unaffiliated parties where these sales were made prior to importation into the United States, in accordance with section 772(a) of the Act.

We calculated the constructed EP based on packed ex-factory prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign brokerage, foreign customs handling fees, and credit costs in accordance with section 772(c)(2) of the Act.

No other adjustments were claimed or allowed.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, and absent any information that a particular market situation in the exporting country does not permit a proper comparison, we determined that the quantity of foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1)(C) of the Act. Therefore, in accordance with section 773(a)(1)(B) of the Act, we based NV on sales in Mexico, the home market.

We calculated NV based on FOB-factory or delivered prices to unaffiliated customers, and made decisions from the starting price for freight, discounts, and rebates. We deducted home market packing costs from the home market price and added U.S. packing costs. When shipments were made to Mexican customers outside the Tijuana customs border zone we made adjustments for Mexican customs handling fees. We made a circumstance-of-sale adjustment, where appropriate, for differences in credit expenses and commissions.

No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin exists for the period January 1, 1995, through June 30, 1995:

Manufacturer/producer/exporter	Margin percent
San Ignacio	0.00

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 34 days after the date of publication or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 20 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed no later than 27 days after the date of publication of this notice. The Department will issue the final results of this new shipper administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

Upon completion of this new shipper review, the Department will issue appraisement instructions directly to the U.S. Customs Service. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

The cash deposit rate for San Ignacio will be the rate determined in the final results of this new shipper review, effective upon publication of those final results for all of San Ignacio's shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this new shipper administrative review, as provided by section 751(a)(1) of the Act.

This notice serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper administrative review and notice are in accordance with section 751(a)(2) of the Tariff Act (19 U.S.C. 1657(a)(2)) and 19 CFR 353.22.

Dated: January 26, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2910 Filed 2–8–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–839]

Initiation of Antidumping Duty Investigation: Sodium Azide From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 9, 1996.

FOR FURTHER INFORMATION CONTACT: John Beck at (202) 482–3464 or Jennifer Stagner at (202) 482–1673, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

INITIATION OF INVESTIGATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

The Petition

On January 16, 1996, the Department of Commerce (the Department) received a petition filed in proper form by the American Azide Corporation (the petitioner), the sole U.S. producer of sodium azide. A supplement to the petition was filed on January 29, 1996.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of sodium azide from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

The petitioner states that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act.

Determination of Industry Support for the Petition

Section 732(c)(4)(A) of the Act requires the Department to determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets these minimum requirements if (1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

A review of the data provided in the petition and other information readily available to the Department indicates that the petitioner is the sole producer of sodium azide in the United States. The Department received no expressions of opposition to the petition from any interested party. Accordingly, the Department determines that this petition is supported by the domestic industry.

Scope of the Investigation

The product covered by this investigation is sodium azide (NaN_3) regardless of use, and whether or not combined with silicon oxide (SiO_2) or any other inert flow assisting agent. The merchandise under investigation is currently classifiable under item 2850.00.50.00 of the *Harmonized Tariff Schedule of the United States (HTSUS).* Although the *HTSUS* subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Export Price and Normal Value

The petitioner based export price on delivered prices in the United States quoted by a Japanese producer. These prices were adjusted by the petitioner for U.S. and foreign inland freight, ocean freight, U.S. duties, and the U.S. trading company mark-up.

The petitioner based normal value on delivered prices in Japan quoted by a Japanese producer. The unit price quotes denominated in Japanese yen were converted by the petitioner to U.S. dollars using the exchange rate in effect at the beginning of the third quarter of 1995. An adjustment was made for foreign inland freight.

Based on comparisons of export price to normal value, the estimated dumping margins for sodium azide from Japan range from 58.50 to 65.80 percent.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of sodium azide from Japan are being, or likely to be, sold at less than fair value. If it becomes necessary at a later date to consider this petition as a source of facts available under section 776 of the Act, we may review further the calculations.

Initiation of Investigation

We have examined the petition on sodium azide and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of sodium azide from Japan are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determination by June 24, 1996.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of Japan. We will attempt to provide copies of the public versions of the petition to all the exporters named in the petition.

International Trade Commission (ITC) Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by March 1, 1996, whether there is a reasonable indication that imports of sodium azide from Japan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

Dated: February 5, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–2911 Filed 2–8–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–549–804]

Carbon Steel Butt-Weld Pipe Fittings From Thailand; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On November 22, 1995, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on carbon steel butt-weld pipe fittings from Thailand. The review covers the period January 1, 1992 through December 31, 1992. We have completed this review and determine the net subsidy to be *de minimis*. The Department will instruct the U.S. Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Thailand exported on or after January 1, 1992, and on or before December 31, 1992.

EFFECTIVE DATE: February 9, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On November 22, 1995, the Department published in the **Federal Register** (60 FR 57849) the preliminary results of its administrative review of the countervailing duty order on carbon steel butt-weld pipe fittings from Thailand. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). We invited interested parties to comment on the preliminary results. We received no comments. The review covers the period January 1, 1992 through December 31, 1992. The review involves two companies, Awaji Sangyo (Thailand) Co. (AST), and TTU Industrial Corp. (TTU), which account for virtually all exports of the subject merchandise from Thailand, and fifteen programs.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

The merchandise subject to this review (hereinafter subject merchandise) is certain carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (fourteen inches), imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (e.g., threaded, grooved, or bolted fittings), as currently classifiable under the *Harmonized Tariff Schedule* (HTS). The products covered in this review are provided for under item number 7307.93.30 of the HTS. The HTS subheadings are provided for convenience and Customs purposes; our written description of the scope of this proceeding is dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each company subject to the administrative review. We then weight-averaged the rate received by each company using as the weight its share of total Thai exports to the United States of subject merchandise, including all companies, even those with *de minimis* and zero rates. We then summed the individual companies' weight-averaged rates to determine the subsidy rate from all programs benefitting exports of subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was *de minimis*, as defined by 19 CFR § 355.7(1994), no further calculations were necessary.

Analysis of Programs

Based upon our analysis of the questionnaire response and verification we determine the following:

I. Programs Conferring Subsidies

Tax Exemptions Under Section 31 of the 1977 Investment Promotions Act (IPA)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Since we received no comments on our preliminary results, our findings remain unchanged in these final results.

II. Programs Not Conferring Subsidies

Duty Drawback

In the preliminary results, we found that this program did not confer countervailable benefits on the subject merchandise. Since we received no comments on our preliminary results, our findings remain unchanged in these final results.

III. Programs Found Not to be Used

In the preliminary results, we found that neither AST nor TTU applied for or received benefits under the following programs during the period of review (POR):

A. Tax Certificates for Exporters
B. Export Packing Credits
C. Tax and Duty Exemptions Under Section 28 of the (IPA)
D. Electricity Discounts for Exporters
E. Rediscount of Industrial Bills
F. International Trade Promotion Fund
G. Export Processing Zones
H. Reduced Business Taxes for Producers of Intermediate Goods for Export Industries
I. Additional Incentives under the IPA
   1. Goodwill and Royalties Tax Exemption
   2. Tax Deduction of Foreign Marketing Expenses and Foreign Taxes
   3. Exemption of Sales Taxes for Promoted Industries
   4. Exemption on Export Duties and Business Taxes on Products Produced or Assembled by Promoted Firms
   5. Deduction from Assessable Income of an Amount Equal to 5% of the Increase over the Previous Year of Income Derived from Exports

Since we received no comments on our preliminary results, our findings remain unchanged in these final results.

Final Results of Review

For the period January 1, 1992 through December 31, 1992, we determine the net subsidy to be 0.22 percent *ad valorem* for all companies. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*.

The Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Thailand exported on or after January 1, 1992, and on or before December 31, 1992.

This countervailing duty order was determined to be subject to section 753 of the Act (as amended by the Uruguay Round Agreements Act of 1994). *Countervailing Duty Order; Opportunity to Request a Section 753 Injury Investigation*, 60 FR 27,963 (May 26, 1995). Because no domestic interested parties exercised their right under section 753(a) of the Act to request an injury investigation, the International Trade Commission made a negative injury determination with respect to this order, pursuant to section 753(b)(4) of the Act. As a result, the Department revoked this countervailing duty order, effective January 1, 1995, pursuant to section 753(b)(3)(B) of the Act. *Revocation of Countervailing Duty Orders*, 60 FR 40,568 (August 9, 1995). Accordingly, this notice assesses duties for the period of review and does not issue further cash deposit instructions.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration

[FR Doc. 96–2912 Filed 2–8–96; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 11, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 6 and December 15, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 F.R. 52388 and 64421) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Stamp, Custom, Pre-inked

7520–01–381–8057
7520–01–381–8075
7520–01–381–8012
7520–01–381–8054
7520–01–381–8037
7520–01–381–8074
7520–01–381–8063
7520–01–352–7312
7520–01–368–7774
7520–01–381–7995
7520–01–381–7993
7520–01–381–8017
7520–01–357–6847
7520–01–357–6846
7510–01–381–8032
7510–01–368–3504
7510–01–381–8062
7510–01–381–8041
7510–01–381–8070
7510–01–381–8072
7520–01–419–6746
7520–01–419–6743
7520–01–419–6740
7520–01–419–6744
(Requirements for the GSA Customer Service Centers)

Sponge, Olive Drab

7920–01–383–7936

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 96–2883 Filed 2–8–96; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 11, 1996.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Bag, Paper, Grocer's
8105–00–281–1158
8105–00–281–1163
8105–00–281–1425
8105–00–271–1485
8105–00–286–7308
8105–00–281–1156
8105–00–281–1429
8105–00–579–9161
8105–00–022–1319
8105–00–543–7169
8105–00–262–7363
8105–00–130–4586
NPA: The Oklahoma League for the Blind, Oklahoma City, Oklahoma

Badge, Identification
8455–01–396–2284
NPA: East Texas Lighthouse for the Blind, Tyler, Texas

Napkin, Paper, Various
8540–00–276–7569
8540–00–276–7570
8540–00–279–7777
8540–00–149–1601
8540–01–350–6418
NPA: Signature Works, Inc., Hazlehurst, Mississippi

Pad, Microwave
M.R. 562
NPA: Beacon Lighthouse, Inc., Wichita Falls, Texas

Services

Administrative Services,
Directorate of Public Works,
Fort Sam Houston, Texas,
NPA: Goodwill Industries of San Antonio, San Antonio, Texas

Grounds Maintenance,
U.S. Army Reserve Center,
Montgomery County Airport,
100 South Parkway,
Conroe, Texas,
NPA: Tri-County Mental Health/Mental Retardation Services, Conroe, Texas

Janitorial/Custodial,
Wilkes-Barre USARC,
Wilkes-Barre, Pennsylvania,
NPA: United Rehabilitation Services, Inc.,
Wilkes-Barre, Pennsylvania

Janitorial/Custodial,
Naval and Marine Corps Reserve Center,
Spokane, Washington,
NPA: Career Connections, Spokane, Washington

Laundry Service,
Fort Sam Houston/Fort Hood, Texas,
NPA: Goodwill Industries of San Antonio, San Antonio, Texas

Mailroom Operation,
Department of the Army, Corps of Engineers,
South Atlantic Division Office,
77 Forsyth Street, SW,
Atlanta, Georgia,
NPA: Nobis Enterprises, Inc., Marietta, Georgia

Preparation of Oil Sample Kits,
Naval Air Station,
Pensacola, Florida,
NPA: Lakeview Center, Inc., Pensacola, Florida

Recycling Service,
Basewide ,
Laughlin Air Force Base, Texas,
NPA: Goodwill Industries of San Antonio, San Antonio, Texas

Switchboard Operation,
Department of Veterans Affairs Medical Center,
Denver, Colorado,
NPA: Bayaud Industries, Inc., Denver, Colorado

E. R. Alley, Jr.,
Deputy Executive Director.
[FR Doc. 96–2882 Filed 2–8–96; 8:45 am]
BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 11, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action will result in authorizing small entities to furnish the commodities and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46 - 48c) in connection with the commodities and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and service have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Box, Shipping
8115–00–516–0242
8115–00–519–1825
8115–00–550–3558
8115–00–550–3574
NPA: Tarrant County Association for the Blind, Fort Worth, Texas

Service

Mailroom Operation for the following locations:
GSA Central Office Building,
18th & F Streets, NW,Washington, DC
GSA Regional Office Building,
7th & D Streets, SW.,
Washington, DC
General Services Administration,
Crystal Mall #3,
1931 Jefferson Davis Highway,
Arlington, Virginia,
NPA: Didlake, Inc.,Manassas, Virginia

E. R. Alley, Jr.,
Deputy Executive Director.
[FR Doc. 96–2881 Filed 2–8–96; 8:45 am]
BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of a nationwide CHAMPUS demonstration project.

SUMMARY: On December 8, 1995, President Clinton signed Executive Order 12982 which called 3,800 members of the Select Reserve to active duty in support of Operation Joint Endeavor. The immediate nature of this call to active duty, and the potential for a service period of up to 270 days, may result in lack of access or disruption in continuity of required health care services for the affected family members. An extended absence from existing employment may result in the loss of employer-sponsored health insurance, and the immediacy of the call-up leaves little flexibility for alternate arrangements. Additionally, although family members of reservists called to active duty for 31 or more days will become eligible for CHAMPUS, they will face full payment of an annual deductible before CHAMPUS will begin cost sharing medical expenses. In the case of E–4's and below, this amount is $50 per individual, $100 for family; for E–5's and above the amount is $150 per individual and $300 for family. Payment of this out-of-pocket cost may have an adverse impact on some economically vulnerable personnel, especially if they have already paid an annual deductible for their employer sponsored insurance. In previous surveys of reservists activated for Desert Storm, 55% of enlisted members and 45% of officers called to active duty reported a loss in income.

As a matter of general DoD personnel policy, reservists called to active duty for periods of 31 days or more should be treated comparably to regular active duty members. Consistent with this policy, the family members of these reservists called to active duty in support of Operation Joint Endeavor became eligible for CHAMPUS. However, the normal CHAMPUS deductible requirement presents an inequity for these families. Because health program deductibles are premised on coverage for an entire year, a beneficiary who receives coverage for a much shorter period receives unfavorable treatment. It is quite likely that such beneficiaries will be required to meet a second annual deductible under another health plan that will provide coverage during those months of the year in which the reservist returns to his or her civilian job. This demonstration project is designed to test an approach for addressing this special inequity.

The Department's effective response to potential disruption or loss of access to medical care for family members requires careful review of operational and administrative mechanisms which can ease this hardship in the transition from reserve to active duty status. This demonstration is proposed for the purpose of testing whether elimination of the annual deductible normally collected under standard CHAMPUS will avoid unusual out-of-pocket costs, disruption of continuity in care, impaired access and problems with beneficiary satisfaction for activated reservists. The demonstration would waive the CHAMPUS deductible for all reservists called to active duty for Operation Joint Endeavor for periods of 31 days or more and allow CHAMPUS to immediately begin cost-sharing in accordance with standard CHAMPUS rules. The limited nature of this Presidential Selected Reserve call-up for Operation Joint Endeavor reduces the number of activated reservists and family members which will be available in any given geographic area. Therefore, to achieve a level of participation sufficient to test new strategies, this demonstration will occur nationwide. Demonstration participants will include family members of all Selected Reserve members called to active duty for a period of 31 days or more as a result of Executive Order 12982 of December 8, 1995. Under Title 10, U.S. Code, Section 1092, the Department is authorized to test different methods of financing delivery of health care services under CHAMPUS.

DATES: Effective December 8, 1995, family members of selected reserve members called to active duty for 31 days or more as a result of Executive Order 12982, December 8, 1995, and who, as a result of that Executive Order become eligible for services under CHAMPUS, may obtain those services without paying deductibles normally required under standard CHAMPUS. CHAMPUS eligible beneficiaries other than family members of reservists called to active duty for Operation Joint Endeavor are not eligible for participation. In view of the immediacy of the deployment, we are waiving the normal thirty-day advance notice for beginning a CHAMPUS demonstration project.

FOR FURTHER INFORMATION CONTACT: CAPT Deborah Kamin, Office of the Assistant Secretary of Defense (Health Affairs), (703)–697–8975.

SUPPLEMENTARY INFORMATION: The Office of the Assistant Secretary of Defense (Health Affairs) will act as executive agent for purposes of this demonstration and will assume overall responsibility for demonstration policy, implementation, and monitoring.

DURATION: This demonstration will operate for one year unless extended by separate action. Continuation of the program will depend on a program evaluation conducted following termination of the project. It is our hypothesis that elimination of normally imposed CHAMPUS deductibles for this special group of beneficiaries will ease potential financial hardship caused by unexpected increases in out-of-pocket health care costs, avoid disruption of continuity and access to care, and minimize beneficiary dissatisfaction in transition from reserve to active status. This support is an important element in the welfare of servicemembers and their families who are called to a significant and immediate change in life circumstances. Information and experience gained as part of this demonstration will provide the foundation for longer term solutions in the event of future reserve activation.

EXCLUSIONS TO THE DEMONSTRATION PROJECT: Participation in this demonstration is limited to active duty family members who become eligible for CHAMPUS as a result of selected reserve activation in support of Operation Joint Endeavor. This demonstration is limited to the annual CHAMPUS deductible; other CHAMPUS cost sharing continues to apply. All current CHAMPUS rules, unless this notice specifically provides otherwise, will continue to apply. The changes under this demonstration will have an effective date of December 8, 1995.

Dated: February 1, 1996.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 96–2755 Filed 2–8–96; 8:45 am]
BILLING CODE 5000–04–M

Strategic Environmental Research and Development Program (SERDP) Fiscal Year 1996 Annual Report and Five-Year (1996–2000) Strategic Investment Plan; Notice

In accordance with Title 10, U.S.C. Section 2902, the Strategic Environmental Research and Development Program Fiscal Year 1996

Annual Report and Five-Year (1996–2000) Strategic Investment Plan is available for review by the public for a period of 30 days from the date of this notice.

Reviews shall be by appointment only, by contacting Ms. Jenny Dowden at (703) 506–1400, extension 563 and conducted at the SERDP Support Office in the space of LABAT–ANDERSON Incorporated, 8000 Westpark Drive, McLean, Virginia 22102. Additional copies of the Fiscal Year 1996 Annual Report and Five-Year (1996–2000) Strategic Investment Plan are not available.

Dated: February 2, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–2753 Filed 2–8–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Logistics Agency

Privacy Act of 1974; Notice to Amend a Record System

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on March 11, 1996, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, DASC-RP, Alexandria, VA 22304–6100.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Christensen at (703) 617–7583.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report. The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: January 31, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.01 DMDC

SYSTEM NAME:

Defense Outreach Referral System (DORS) *(August 8, 1995, 60 FR 40356).*

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete first paragraph and replace with 'Current and former Defense military and civilian personnel and their spouses; U.S Coast Guard personnel and their spouses; and participating Federal department's and/or agencies' civilian employees and their spouses who have applied to take part in this job placement program'.

* * * * *

PURPOSE(S):

Delete entry and replace with 'The purpose of this system is to facilitate the transition of current and former Defense military and their spouses; U.S. Coast Guard personnel and their spouses; and participating Federal department's and/or agencies' civilian employees and their spouses to private industry and public employment in the event of a downsizing of the Department of Defense and the Federal Government.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'The Military Services, DOD Components, the U.S. Coast Guard, participating Federal departments and/or agencies, and from the subject individual via application into the program.'

* * * * *

S322.01 DMDC

SYSTEM NAME:

Defense Outreach Referral System (DORS).

SYSTEM LOCATION:

W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93940–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Defense military and civilian personnel and their spouses; U.S Coast Guard personnel and their spouses; and participating Federal department's and/or agencies' civilian employees and their spouses who have applied to take part in this job placement program.

Individuals covered under Pub. L. 102–484 and 103–337, who have applied for public employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized records consisting of name, Social Security Number, correspondence address, branch of service, date of birth, separation status, travel availability, U.S. citizenship, occupational interests, geographic location work preferences, pay grade, rank, last unit of assignment, educational levels, dates of military or civilian service, language skills, flying status, security clearances, civilian and military occupation codes, and self reported personal comments for the purpose of providing prospective employers with a centralized system for locating potential employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, 1143, 1144, 2358; 31 U.S.C. 1535; Pub.L. 101–510, 102–484 and 103–337; and E.O. 9397.

PURPOSE(S):

The purpose of this system is to facilitate the transition of current and former Defense military and their spouses; U.S. Coast Guard personnel and their spouses; and participating Federal department's and/or agencies' civilian employees and their spouses to private industry and public employment in the event of a downsizing of the Department of Defense and the Federal Government.

For former military members covered under Pub. L. 102–484 and Pub. L. 103–337, the information will be used to track the participants public employment and to verify the participant's public employment history for DOD and DoT retirement and pay eligibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DOD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage.

RETRIEVABILITY:

Retrieved by Social Security Number or occupational or geographic preference of the individual.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations).

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subject of the record or their authorized representative. Access to personal information is further restricted by the use of passwords which are changed periodically.

RETENTION AND DISPOSAL:

Records are maintained on-line for five years and then are archived as an historical data base.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this record system should address written inquiries to the Director, Defense Manpower Data Center, 1600 Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

Written requests for information should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the Privacy Act Officer.

RECORD SOURCE CATEGORIES:

The Military Services, DOD Components, the U.S. Coast Guard, participating Federal departments and/or agencies, and from the subject individual via application into the program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–2754 Filed 2–8–96; 8:45 am]

BILLING CODE 5000–04–F

Department of the Air Force

Notice of Intent to Prepare a Legislative Environmental Impact Statement for Barry M. Goldwater Range (BMGR) Renewal, AZ

The United States Air Force (Air Force) will prepare a legislative environmental impact statement (LEIS) to assess the potential environmental impacts of renewal of the Barry M. Goldwater Air Force Range (BMGR), Arizona. The LEIS will be prepared in accordance with the National Environmental Policy Act (NEPA).

The current land withdrawal and reservation of the BMGR was established by the Military Lands Withdrawal Act of 1986 (Public Law 99–606) for the period ending on November 6, 2001. The Act provides that the Air Force may seek renewal of the BMGR withdrawal, in connection with which the Secretary of the Air Force will publish a legislative EIS addressing legislative alternatives and the effects of continued withdrawal.

The purpose of the proposed BMGR renewal is to retain a military aircrew training range essential to near- and long-term preparedness of United States tactical air forces. Renewing the land withdrawal will provide for the continued effective implementation of ongoing air services training missions while maintaining the flexibility to adapt to the training needs of new technologies as they develop. The performance of air operations in combat is directly related to the quality and depth of training. BMGR provides a unique combination of attributes that serve this training requirement, including the following: favorable location and flying weather; sufficient land and airspace; diverse terrain; and developed training support facilities.

A range of alternatives, including the No Action alternative required by NEPA, will be considered. Three alternatives are described below.

- Proposed Action: Renew Barry M. Goldwater Air Force Range withdrawal and reservation for an indefinite period of time with Congressional review every 15 years. The existing land withdrawal and reservation, consisting of 2,664,423 acres, would be reauthorized for an indefinite period of time. The land would be reserved by Congress for use by the Air Force for an armament and high-hazard test area; training for aerial gunnery, rocketry, electronic warfare, and tactical maneuvering and air support; and other defense-related purposes. Every 15 years Congress would review the Air Force's continuing military need for the land, the environmental effects, and the needs of competing uses for the land and could adjust, if warranted, the terms and conditions of the withdrawal. Without limiting the priority use by the Air Force, the land would be managed in part by the Bureau of Land Management and in part by the U.S. Fish and Wildlife Service. Specifically, the Bureau of Land Management would manage 1,842,423 acres of the BMGR pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law. (The limited acreage of State Trust Land within this portion of the BMGR would continue under Air Force use.) The remaining 822,000 acres of the BMGR are within the Cabeza Prieta National Wildlife Refuge and would be managed by the Fish and Wildlife Service pursuant to the National Wildlife Refuge System Act of 1976.
- Alternative A: Renew the existing BMGR land withdrawal and reservation for 25 years. The existing land withdrawal and reservation, consisting of 2,664,423 acres, would be reauthorized for a specified term of 25 years, rather than for an indefinite time with periodic reviews. Otherwise, this alternative is like the Proposed Action.
- No Action Alternative: No renewal of the BMGR land withdrawal and reservation. The land would not be reserved for use by the Air Force. The lands within the existing BMGR boundary would be managed by the Bureau of Land Management, the State of Arizona, and the Fish and Wildlife Service under existing authorities. The No Action alternative would result in the fragmentation or cancellation of training missions accomplished at the BMGR. DOD would prepare appropriate environmental documentation to obtain Federal Aviation Administration approval to reclassify the existing restricted airspace to a Military Operation Area (MOA). This would allow for air-to-air training operations to continue, but would preclude air-to-ground training missions.

To provide a forum for interested parties to provide comments on the

scope of the LEIS, a series of scoping meetings will be held in eight southern Arizona communities. In addition, written comments will be accepted throughout the scoping period, which ends April 1, 1996. Scoping meetings will be held at the following times and locations.

Public Meeting Locations and Times

Phoenix—February 20, 1996, 7 p.m.–10 p.m., Glendale Community College, Student Union, Student Lounge, 6000 W. Olive Ave.
Sells—February 24, 1996, 10 a.m.–1 p.m., Tribal Council Chambers
Tucson—February 26, 1996, 7 p.m.–10 p.m., U of A Medical College, Duval Auditorium, 1501 N. Campbell Ave.
Ajo—February 27, 1996, 7 p.m.–10 p.m., Ajo Community Center, Bud Walker Park, 290 E. 5th St.
Santa Rosa—February 28, 1996, 10 a.m.–1 p.m., Santa Rosa Boarding School
Yuma—March 4, 1996, 7 p.m.–10 p.m., Yuma Civic Center, 1440 Desert Hills Drive
Gila Bend—March 5, 1996, 7 p.m.–10 p.m., Gila Bend Union High School, Logan Auditorium, 308 N. Martin
Casa Grande—March 6, 1996, 7 p.m.–10 p.m., Ironwood Elementary School, Gymnasium, 1500 N. Colorado

Please direct written comments concerning the BMGR Renewal LEIS to: Barry M. Goldwater Air Force Range Renewal LEIS, P.O. Box 1558, Tempe, Arizona 85280–1558.

If you have any questions or require additional information, please contact Lt. Marshall Wolfe at (602) 856–6011.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–2913 Filed 2–8–96; 8:45 am]

BILLING CODE 3910–01–P

Privacy Act of 1974; Notice to Add a System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Air Force proposes to add a system of records to its inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The action will be effective without further notice on March 11, 1996, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Assistant Air Force Access Programs Officer, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330–1610.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Gibson at (703) 697–3493.

SUPPLEMENTARY INFORMATION: The complete inventory of Department of Air Force record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 29, 1996, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated July 25, 1994 (59 FR 37906, July 25, 1994).

Dated: February 2, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 AFMC D

SYSTEM NAME:

Education/Training Management System (ETMS).

SYSTEM LOCATION:

Defense Megacenter Dayton, 2721 Sacramento Street, Building 271, Wright-Patterson Air Force Base, OH 45433–5061. Education and Training Flights at Air Force Material Command (AFMC) subordinate units. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFMC active duty personnel, AFMC civilian employees, and Air Force active duty personnel and civilian employees serviced by AFMC personnel flights.

CATEGORIES OF RECORDS IN THE SYSTEM:

The principal digital record maintained in ETMS is the Individual Training Plan, which contains the following categories of information:

Education and training data, describing the level and type of education and training, civilian or military (academic education level, major academic specialty, professional specialty courses completed, professional military education received).

Active duty personnel and civilian employee information including personnel data, position information; historical files covering job experience, Acquisition Professional Development Program (APDP) certification, certification requirements, individual qualifications, and corps status relation to the APDP; education and training data for statistical analysis and employee assistance; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals, and miscellaneous files.

Miscellaneous work files and records, files with a less than 45 day retention period, intermediate records, and processes relating to statistical compilations, computer operation, quality control and problem diagnosis. Although they may contain individual-identifying data, they do so only as a function of system operation, and are not used in making personnel decisions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; AFMC Policy Directive 36–2, Education and Training, and E.O. 9397.

PURPOSE(S):

The AFMC's education and training management is decentralized and encompasses a population that is diverse in terms of qualifications, experience, military status and needs. AFMC centers perform operational tasks pertaining to the population for which they serve. The structure of the AFMC, and its goals and objectives demand a dynamic data system that is capable of supporting the needs of functional management and the education and training communities at the major command and each center. It is to this purpose that the data in the ETMS is collected, maintained, and used.

USES WITH THE AIR FORCE MATERIEL COMMAND EDUCATION AND TRAINING COMMUNITY

HQ AFMC, Wright-Patterson Air Force Base, OH: Data from the ETMS is used by Command Training and Resources Managers to develop long-term plans and programs and track progress toward established goals. Individual data is used to support actions taken on certain categories of persons managed by offices in the headquarters.

Education and Training Flights: Provide personnel management support to center commanders, functional managers, and supervisors on a daily basis. Acting on policy and guidance provided by higher headquarters, they develop and execute center education and training management plans. Execution includes the development or acquisition, delivery, and the evaluation of centers' education and training programs.

USES WITHIN THE AIR FORCE MATERIEL COMMAND - EXTERNAL TO THE EDUCATION AND TRAINING COMMUNITY

AFMC Functional Communities: Functional managers, supervisors, and unit training monitors within AFMC use ETMS to identify individual training requirements and schedule training for their active duty personnel and civilian employees. Center acquisition professional development managers use ETMS to compare acquisition certification requirements with work force qualifications, manager training requirements, and courses completed related to acquisition certification.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records, or information contained therein, may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer disks and on magnetic tapes.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by functional users of the record system and by person(s) responsible for servicing the record system in performance of their official duties where authorized, properly screened, and cleared for need-to-know. ETMS and system generated magnetic data tapes are stored within a controlled area. Computer records are controlled by computer system software using C2 compliant security safeguards. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Data stored digitally within the system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Backup data files will be retained for a period not to exceed 45 days. Backup files are maintained only for system restoration and are not to be used to retrieve individual records. No permanent files are maintained. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Education and Training, Directorate of Personnel, Headquarters Air Force Materiel Command, 4225 Logistics Avenue, Suite 17, Wright-Patterson Air Force Base, OH 45433–5756.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to their supporting Education and Training Flight. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to their supporting Education and Training Flight. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Identification will be required before release and will be based on presentation of DD Form 2, U.S. Armed Forces Identification Card or equivalent component issued civilian identification card (e.g. AF Form 345, Department of the Air Force Civilian Identification). Authorizations for a person other than the subject to have access to an individual's records must be based on a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, signed by the subject.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Education and training, personal, and manpower information is obtained from approved automated system interfaces. Information will also be obtained from supervisors, unit training monitors, education and training personnel, and subject of the record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–2757 Filed 2–8–96; 8:45 am]

BILLING CODE 5000–04–F

Department of the Army

ARMS Initiative Implementation

AGENCY: Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF). The PPTF is chartered to develop new and innovative methods to maintain the government-owned, contractor-operated ammunition industrial base and retain critical skills for a national emergency. This meeting will update attendees on the status of ongoing actions with decisions being made to close out or continue these actions. Goals will be set for the future of the PPTF. This meeting is open to the public.

Dates of Meeting: February 26–27, 1996.

Place of Meeting: Radisson Inn Maingate, 7501 W. Irlo Bronson Memorial Highway (US 192W), Kissimmee (Orlando), Florida 34747.

Time of Meeting: 8:00 a.m.–5:00 p.m., February 26, 1996 and 8:00 a.m.–12:00 p.m., February 27, 1996.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Auger, ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, Virginia 22333; phone (703) 617–9838.

SUPPLEMENTARY INFORMATION:

Reservations must be made directly with the Radisson Inn Maingate; telephone (407) 396–1400. Please be sure to mention that you will be attending the ARMS PPTF meeting to assure occupancy in the block of rooms set aside for this meeting. No transportation is provided by the hotel. Commercial round trip transportation can be arranged at the airport. Request you contact Debra Yeager in the ARMS Team Office at Rock Island Arsenal; telephone (309) 782–4040, if you will be attending the meeting, so that our roster of attendees is accurate. This number may also be used if other assistance regarding the ARMS meeting is required.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–2804 Filed 2–8–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 9, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 5, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Vocational and Adult Education

Type of Review: Reinstatement
Title: Application for Vocational and Adult Education Direct Grants
Frequency: Annually
Affected Public: Business or other for-profit; Not-for-profit institutions; State local or Tribal Gov't. SEAs or LEAs
Reporting & Recordkeeping Burden:
Responses: 1
Burden Hours: 52,210
Abstract: This form will be used by applicants to apply for funding under the Carl D. Perkins Vocational and Applied Technology Education Act, Adult Education Act, and National Literacy Act programs administered by the Office of Vocational and Adult Education. The Department uses the information to make grants and cooperative agreements

Office of Postsecondary Education

Type of Review: Reinstatement
Title: Campus Based Reallocation Form
Frequency: Annually
Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government, SEAs or LEAs
Annual Reporting and Recordkeeping Hour Burden:
Responses: 3,000
Burden Hours: 847
Abstract: This form will allow institutions of postsecondary education to report anticipated 1995–96 unspent funds for the campus-based programs so these unspent funds can be distributed as supplemental 1995–96 awards and to report the 1995–96 FWS Community Service Act

Office of the Under Secretary

Type of Review: New
Title: Evaluation of Upward Bound
Frequency: One Time
Affected Public: Individuals or households; Not-for-profit
Reporting and Recordkeeping Hour Burden:
Responses: 4523
Burden Hours: 1535
Abstract: The evaluation of Upward Bound will include student follow-up data collected through a computer assisted telephone interview and the collection of student transcript data

[FR Doc. 96–2902 Filed 2–8–96; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 11, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 5, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of the Under Secretary

Type of Review: New
Title: Evaluation of School-to-Work Implementation
Frequency: Biennially
Affected Public: Individual or households; State, Local or Tribal Governments, SEAs or LEAs
Reporting and Recordkeeping Burden:
Responses: 2,770
Burden Hours: 2,770
Abstract: The School-to-Work opportunities (STW) Act of 1994 directs the Secretaries of Education and Labor to evaluate progress made by States and local communities in establishing systems to promote effective school-to-work transitions. Information will be collected through surveys of local STW partnerships, case studies and surveys of high school seniors. Data collected will be used in reports to Congress and to others interested in school-to-work programs

[FR Doc. 96–2901 Filed 2–8–96; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 1, 1996.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Partick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

DATES: A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 9, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Partrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or shoud be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, (5) how might the Department minimize the burden of this collection of the respondents, including through the use of information technology, and (6) Abstract. Because an emergency review is requested, the additional information to be requested in this collection is included in the section on "Additional Information" in this notice.

Dated: February 5, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: New
Title: FRSS-Public School and Public Teacher Survey on Educational Reform
Frequency: One-Time
Affected Public: Not-for-profit institutions
Reporting and Recordkeeping Hour Burden:
Responses: 2,250
Burden Hours: 1,179
Abstract: These two linked surveys of schools and teachers are intended to measure awareness and practices of schools and teachers, their perceived need for information and assistance, the availability and use of professional development opportunities, and the role of Title 1 programs resources in supporting education reforms. The information will also support the Department of Education's ability to collect and disseminate information as part of the National Education Information Dissemination Systems, in accordance with Section 941.A and 941.B of the Improving America's Schools Act PL 103.382

Office of Educational Research and Improvement

Type of Review: New
Title: FRSS-Public School Survey on Parental Involvement
Frequency: One-Time
Affected Public: Not-for-profit institutions
Reporting and Recordkeeping Hour Burden:
Responses: 900
Burden Hours: 405
Abstract: This study measures school promotion of partnerships with parents and families to support the academic work of children at home and shared educational decision making at school. Six different areas are covered from the school's perspective: helping parents establish supportive home environments for their children's academic work; effective home school communications; parental involvement in school decision making; recognition of needs for flexible schedules to accommodate working parents

[FR Doc. 96–2900 Filed 2–8–96; 8:45 am]
BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.
ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3707(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by February 16, 1996.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

DATES: A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 9, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506(c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology, and (6) Abstract. Because an emergency review is requested, the additional information to be requested in this collection is included in the section on "Additional Information" in this notice.

Dated: February 5, 1996.

Gloria Parker,

Director, Informotion Resources Group.

Office of Management

Type of Review: Reinstatement
Title: Customer Service Standards Surveys and Focus Groups
Frequency: One Time
Affected Public: Individuals or households; Businesses or other for-profit; Not-for-profit institutions; State, Local or Tribal Government; SEAs or LEAs, Federal Agencies or employees; Non-profit institutions; Small businesses or organizations
Annual Reporting and Recordkeeping Hour Burden:
Responses: 200,500
Burden Hours: 101,500
Abstract: As part of the Customer Service Standards Surveys and Focus Groups Information Collection, the Title I National Parent Coalition Survey is designed to determine how the Department can improve customer service. The survey feedback will enable the Department to provide timely, useful information to Title I parents and other Title I related customers

[FR Doc. 96–2899 Filed 2–8–96; 8:45 am]
BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.
ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by February 9, 1996.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

DATES: A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 9, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A)) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology, and (6) Abstract. Because an emergency review is requested, the additional information to be requested in this collection is included in the section on **ADDITIONAL INFORMATION** in this notice.

Dated: February 5, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Revision
Title: Application for Approval to Participate in Federal Financial Aid Programs
Frequency: On Occasion
Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions
Annual Reporting and Recordkeeping Hour Burden:
Responses: 2,219
Burden Hours: 36,073
Abstract: The Higher Education Act of 1965, as amended, requires postsecondary institutions to complete and submit this application as a condition of eligibility for any of the Title IV student financial assistance programs and for the other postsecondary programs authorized by the HEA. An institution must submit the form (1) initially when it first seeks to become eligible for the Title IV programs, (2) every four years after the initial certification ("recertification"), (3) when it changes ownership, merges, or changes from a "profit" to a "non-profit" institution, and (4) to be reinstated to participate in the Title IV programs

[FR Doc. 96–2898 Filed 2–8–96; 8:45 am]
BILLING CODE 4000–01–M

Historically Black Colleges and Universities Capital Financing Advisory Committee; Meeting

AGENCY: Historically Black Colleges and Universities Capital Financing Advisory Committee; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Black Colleges and Universities Capital Financing Advisory Committee. This notice also describes the functions of the Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: February 26, 1996, 9:30 a.m.–12:00 a.m.

ADDRESSES: GSA Training Center, Suite 3208—Rooms A and B, Promenade, 490 L'Enfant Plaza East, Washington, DC 20407.

FOR FURTHER INFORMATION CONTACT:

Lawrence P. Grayson, Executive Director, Historically Black Colleges and Universities Capital Financing Advisory Committee, U.S. Department of Education, Washington, DC 20202–5139, telephone (202) 260–3259.

SUPPLEMENTARY INFORMATION: The Historically Black Colleges and Universities Capital Financing Advisory Committee is established under section 727 of the Higher Education Act of 1965, as amended in 1992 (20 U.S.C. 1132c–6). The Council is established to provide advice and counsel to the Secretary of Education and the designated bonding authority for the Historically Black Colleges and Universities Capital Financing Program as to the most effective and efficient means of implementing construction financing on historically Black college and university campuses and to advise Congress regarding the progress made in implementing the program.

The meeting of the Committee is open to the public. The agenda includes a briefing by members of the designated bonding authority on progress to date in establishing the program and a review of Board positions in light of recent operating experience.

Records are kept of all Committee proceedings, and are available for public inspection at the office of the Historically Black Colleges and Universities Capital Financing Advisory Committee, U.S. Department of Education, Washington, DC 20202–5139, from the hours of 9 a.m. to 4 p.m.

Dated: February 6, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–2853 Filed 2–8–96; 8:45 am]

BILLING CODE 4401–01–M

National Library of Education Advisory Task Force; Meeting

AGENCY: National Library of Education Advisory Task Force.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for the inaugural meeting of the National Library of Education Advisory Task Force (Task Force). This notice also describes the functions of the Task Force. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES AND TIME: March 5, 1996, 9:00 a.m. to 5:00 p.m.; March 6, 1996, 9:00 a.m. to 5:00 p.m.; March 7, 1996, 9:00 a.m. to 3:30 p.m.

ADDRESSES: March 5, 1996, 9:00 a.m. to 12:00 noon, The Secretary's Conference Room, U.S. Department of Education, Federal Office Building 10, 600 Independence Avenue, SW., Washington, DC 20202; March 5, 1996, 1:00 p.m. to 5:00 p.m., Room 326, Capitol Place, 555 New Jersey Avenue, NW., Washington, DC 20208; March 6, 1996, Room 326, Capitol Place, 555 New Jersey Avenue, NW., Washington, DC 20208; March 7, 1996, ACCESS ERIC, Aspen Systems Corporation, 1600 Research Boulevard, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: E. Stephen Hunt, National Library of Education, 555 New Jersey Ave., NW., Washington, DC 20208–5523. Telephone: (202) 219–1882; FAX: (202) 219–1970.

SUPPLEMENTARY INFORMATION: The National Library of Education Advisory Task Force is authorized by Part E, Section 951 (h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Task Force prepares a set of recommendations on the establishment and development of the National Library of Education for presentation to the Assistant Secretary for the Office of Educational Research and Improvement.

The meeting of the Task Force is open to the public. The agenda for March 5 includes the swearing in of the Task Force. There will be briefings on the Federal Advisory Committee Act, standards of ethical conduct, greetings from the Department, the Office of Educational Research and Improvement, and the National Library of Education; and a period for the Task Force members to introduce themselves, ask questions, and contribute their perspectives concerning their collective task and the role of a national education library from the customer standpoint. The agenda for March 6 continues intensive discussions of the Task Force members' perspectives on the development of a National Library of Education. On March 7 the agenda will include a site visit to the ACCESS ERIC offices in Rockville, Maryland and a discussion led by Task Force members focused on the electronic aspects of the library, including but not limited to such items as the Educational Resources Information Center, the Internet, and the one-stop toll free reference and information service.

A final agenda will be available from the offices of the National Library of Education on February 19, 1996.

Records are kept of all Task Force proceedings, and are available for public inspection at the central office of the National Library of Education, 555 New Jersey Ave., NW., Washington, DC 20208–5523 between the hours of 8:30–4:30 p.m.

Dated: February 5, 1996.

Sharon P. Robinson,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 96–2759 Filed 2–8–96; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Research Financial Assistance Program Notice 96–05; Research for Improving Vehicular Transportation and Reducing Energy Consumption and Pollution From Manufacturing Processes

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The U. S. Department of Energy (DOE), hereby announces interest in receiving grant applications for performance of basic and applied research to support two important, long-term national objectives: (1) Improving vehicular transportation, and (2) reducing energy consumption and pollution from energy and pollution intensive manufacturing processes. Within the DOE, the Office of Energy Research interests are in support of basic research and the Office of Energy Efficiency and Renewable Energy interests are in support of applied research. Each component within the Department of Energy will use its own funding authorities and appropriations to administer funding in support of this project.

DATES: Potential applicants are strongly encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 96–05, should be received by DOE by 4:30 p.m. e.s.t., March 1, 1996. A response discussing the potential program relevance of a formal application generally will be communicated to the applicant within 30 days of receipt. The deadline for receipt of formal applications is 4:30 p.m., e.d.t., May 1, 1996, to be accepted for merit review and to permit timely consideration for award in fiscal year 1996.

ADDRESSES: All preapplications, referencing Program Notice 96–05, should be sent to Dr. Walter M. Polansky, Office of Computational and Technology Research, ER–33 (GTN), Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290.

After receiving notification concerning successful preapplications, applicants may prepare formal applications and send them to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, Attn: Program Notice 96–05. The above address for formal applications must be used when submitting formal applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Walter M. Polansky, Office of Computational and Technology Research, ER–33 (GTN), Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, (301) 903–5995.

SUPPLEMENTARY INFORMATION: DOE encourages submission of applications to conduct high-quality research on the fundamental issues that will underpin future vehicular technologies and conversion of energy and pollution intensive industrial processes to more environmentally sound and energy efficient processes. Applications received by DOE under their normal competitive application mechanisms may also be deemed appropriate for consideration under this announcement and may be funded under this program. It is anticipated that the results of the research will be published in the peer-reviewed, archival scientific literature.

Vehicular Transportation

Basic research in vehicle transportation technologies will be needed to move beyond immediate regulatory and technology goals to meet future demands for conserving natural resources, for safety, and for minimizing adverse environmental consequences. In a workshop held in January, 1995, and jointly sponsored by NSF and DOE, basic research needs for future vehicular technologies were identified and discussed. Areas of frontier research of particular interest to NSF are, for example, modeling and simulation of energy processes, fundamental understanding of surfaces and interfaces, relevant nano-science, energy relevant new materials, advances in sensors and control methodology, and understanding catalytic and electrochemical processes.

Copies of the workshop report entitled "Basic Research Needs for Vehicles of the Future" can be found on the Office of Basic Energy Sciences World Wide Web pages at: http://www.er.doe.gov/production/bes/bes.html

Reducing Energy Consumption and Pollution From Energy and Pollution Intensive Manufacturing Processes

It is widely recognized that a critical and pervasive issue for the 21st Century will be the balancing of industrial activity and environmental stewardship, and that more knowledge is needed to make effective choices to achieve that balance. There are seven industries that consume 80 percent of the energy and produce over 90 percent of the wastes in the manufacturing sector; these seven industries are: chemicals, petroleum refining, forest products, steel, aluminum, glass, and metal casting.

Identification and clarification of specific areas where new knowledge is needed to address, in the longer term, industry-related environmental issues occurred through a joint DOE and NSF-sponsored workshop held in New Orleans January 4–6, 1996. The workshop consisted of two parts. In the first part, issues specific to the automotive, chemical, energy, electronics, and metals industries were considered. In the second part, general crosscutting issues such as sensors; monitoring and controls; manufacturing and processing; health; ecological and environmental impacts, including bioprocessing during manufacturing; life cycle and risk analysis (integrated assessment); resource management; recovery; renewables; and the underlying environmental chemistry issues were covered. Applications in these crosscutting areas received under additional solicitations from the Office of Energy Research may be considered under this program.

Further information on the NSF/DOE workshop can by obtained by consulting the material on the Office of Basic Energy Sciences World Wide Web pages at: http://www.er.doe.gov/production/bes/bes.html

Recommendations taken from efforts conducted by the Office of Energy Efficiency and Renewable Energy (EE/RE) of the Department of Energy, will also be used to appropriately direct applications. EE/RE is interested in research that is directed towards near term results, particularly with regard to reduced energy consumption and reduced waste production in the steel, aluminum, forest products, glass, metal casting, chemicals, and petroleum refining industries. Those wishing to address applied problems in these industries may contact Harvey C. Wong of the Office of Industrial Technologies, EE–20, U.S. Department of Energy, Washington, DC 20585; 202–586–9235 for further information, or by consulting the material on the World Wide Web at: http://www.nrel.gov/oit/documents/technology.html

Information Regarding Applications for Assistance

To strengthen the probability that proposed research will contribute in the future to improved technologies and processes, applicants are encouraged to develop working collaborations with appropriate and relevant industries. Applications involving industrial collaboration will receive preference over applications of equal scientific merit but lacking such collaboration. All formal applications will receive peer review by members of the scientific community at large. In addition, applications considered for funding by DOE will be reviewed for relevance to the missions of the Department and its technology programs.

To minimize undue effort on the part of applicants and reviewers, interested parties are invited and encouraged to submit preapplications. Applicants submitting preapplications demonstrating the greatest likelihood of success in competition will be encouraged to submit formal applications for research grants. The brief preapplication, in accordance with 10 CFR 600.10(d)(2), should consist of two to three pages of narrative describing the research objectives and methods of accomplishment. The preapplications will be reviewed relative to the scope and research needs identified by DOE and NSF through workshops and other means. Telephone and FAX numbers are required parts of the preapplication, and electronic mail addresses are desirable.

In Fiscal Year 1996, it is anticipated that approximately $2,000,000 from DOE will be available for grants for research related to automotive technologies and approximately $5,000,000 from DOE will be available for research related to reducing energy and pollution. Multiple-year funding of grant awards is expected and is also contingent upon the availability of funds. These are new programs and, therefore, there are no previous applicable award sizes. However, awards sizes in similar programs at DOE range from $50,000 to $250,000 with terms from one to three years. Renewal of the award for another term will be dependent upon success factors such as publications and peer-review of the renewal application.

The number of awards and the range of funding will depend on the number of applications received and selected for award. Information about the development, submission, and the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Energy Research Financial Assistance Program. The Application Guide is available from the Office of Computational and Technology Research, ER–33 (GTN), Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Telephone requests may be made by calling (301) 903–5995. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following E-mail address: http://www.er.doe.gov/

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on January 29, 1996.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research

[FR Doc. 96–2876 Filed 2–8–96; 8:45 am]

BILLING CODE 6450–01–P

Waste Heat Driven Thermal Swing Oxygen Production System

AGENCY: Department of Energy (DOE), Albuquerque Operations Office (AL).

ACTION: Notice of issue of solicitation.

SUMMARY: AL of the DOE announces the issue of a competitive Solicitation

Number DE–C04–96AL89608 under DOE Financial Assistance Rules, 10 CFR 600.9, for Waste Heat Driven Thermal Swing Oxygen Production System.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400, Attn: Ms. Martha Youngblood, Contracts and Procurement Division, Telephone Number: (505) 845–4268, Fax Number: (505) 845–4004.

A copy of the solicitation can be obtained by contacting Ms. Youngblood at the above address, telephone, or fax number(s). Applicants who have previously requested copies of this solicitation are currently on the mailing list and have been furnished copies of the solicitation.

SUPPLEMENTARY INFORMATION: The DOE plans to issue a Federal Assistance Solicitation for Cooperative Agreement Proposals (FASCAP), February 1, 1996 for the Waste Heat Driven Thermal Swing Oxygen Production System Program. The program objective of this program is to implement a development program that will demonstrate the waste heat driven Thermal Swing Absorption (TSA) Cycle as an economical, commercial oxygen producing process for use by industries with furnace applications that would benefit from oxygen-fuel combustion which effectively fulfills the following objectives: (1) Apply and extend the development of existing chemicals whose potential application for a commercial TSA oxygen production cycle have been demonstrated by either of the following approaches or a combination of both: (a) Utilize the chemical development and process feasibility already demonstrated by the DOE-University of New Hampshire (UNH) TSA Project under DOE Grant No. DE–FG04–90CE40927, or (b) utilize chemicals and processes that have been independently developed and tested; (2) design, develop, demonstrate and assure applicability of the TSA process to industries with furnace applications that would benefit from oxygen-fuel combustion; (3) utilize the special characteristics and processes of the appropriate furnace applications, such as the availability of waste heat, to enhance the applicability, efficiency and economy of TSA technology; (4) achieve adequate potential for industrial adoption of the technology by demonstrating satisfactory system operation, and overcome identifiable barriers by proper planning, analysis and testing; (5) enable further energy savings and reduction of environmental pollution by industry; and (6) lead to corresponding improvements in the U.S. economy, technical leadership and competitiveness of U.S. industry and standard of living.

The project will consist of up to three phases: Phase I, Chemical Verification, Equipment Design and System Analysis; Phase II, Pilot-Scale Development; and Phase III, Demonstration Testing and Planning for Adoption. If any of the Phase I work has already been performed, the applicant may propose a project for only the uncompleted Phase I work and the remaining Phases; however, the proposal must fully document and demonstrate that the previous work has been successfully completed. The estimated DOE funding for Phase I is $174,000 (to be spent in fiscal years (FY) 1996 and 1997). A minimum of 50% cost sharing (non-federal) is required for Phase I. Cost sharing for Phase II will be a minimum of 50% cost share. Cost sharing for Phase III is expected to be 100%. The resultant agreement will be managed by the DOE, Albuquerque Operations Office. The period of performance is expected to last approximately four years. Applications will be due by April 5, 1996. If you are interested in receiving the FASCAP, contact Martha Youngblood at the above address or (505) 845–4268. All responsible sources may submit an application which will be considered.

The Solicitation is subject to the Energy Policy Act, Public Law 102–486, 42 U.S.C. 13525. Section 2306 imposes eligibility requirements on companies seeking financial assistance under Titles XX through XXIII of the Act. A company shall be eligible to receive financial assistance under Titles XX through XXIII of the Act only if the Secretary finds that the company's participation in any program under such titles would be in the economic interest of the United States, as evidence by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions of employment in the United States; an agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers.

PURPOSE: This solicitation is issued to announce the issue of a waste heat driven thermal swing oxygen production system solicitation.

Issued in Albuquerque, New Mexico on February 1, 1996.

G. Eric Bell,

Assistant Manger for Management and Administration.

[FR Doc. 96–2874 Filed 2–8–96; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995.

DATES: Comments must be filed on or before March 11, 1996. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION: Requests for additional information or copies of the forms and instructions should be directed to Herbert Miller, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Mr. Miller may be telephoned at (202) 426–1103; e-mail: hmiller@eia.doe.gov; (FAX 202–426–1081).

SUPPLEMENTARY INFORMATION: The Energy Information Administration (EIA) has submitted the energy information collections listed below to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor; i.e., the DOE component), current OMB document number (if applicable), response obligation (mandatory, voluntary, or required to obtain or retain benefits), and type of request (new, revision, extension, or reinstatement); (3) a description of the need and proposed uses of the information; (4) a description of the likely respondents; and (5) an estimate of the total annual reporting and recordkeeping burden (number of respondents per year times the average number of responses per respondent annually times the average burden per response).

The energy information collection submitted to OMB for review was:

1. Form FE–746R, "Import and Export of Natural Gas"
2. Assistant Secretary for Fossil Energy; Docket Number 1901–0287; Response Obligation—Mandatory; and Revision
3. FE–746R collects data from importers and exporters of natural gas, including contracts, market analyses, price and volume information. The data are derived from company internal documents and are used to conduct analyses, support decisions, monitor compliance with authorizations, and ensure that authorizations continue to remain in the public interest.
4. Business or other for-profit
5. 4,000 total annual burden hours (140 respondents x 1 response per respondent x 28.57 hours per response).

Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., January 31, 1996.

John Gross,

Acting Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 96–2875 Filed 2–8–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

Office of Environmental Management

Energy Research Financial Assistance Program Notice 96–10; Environmental Management Science Program

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Offices of Energy Research (ER) and Environmental Management (EM), U.S. Department of Energy, hereby announce their interest in receiving grant applications for performance of innovative, fundamental research to support the management and disposal of DOE radioactive, hazardous chemical, and mixed wastes.

This basic research should contribute to environmental management and restoration actions that would decrease risk for the public and workers, provide opportunities for major cost reductions, reduce time required to achieve EM's mission goals, and, in general, should address problems that are considered intractable without new knowledge. This program is designed to inspire "breakthroughs" in areas critical to the EM mission through long-term research and will be managed in partnership with ER. ER's well-established procedures, as set forth in the Energy Research Merit Review System, as published in the **Federal Register**, March 11, 1991, Vol. 56, No. 47, pages 10244–10246, will be used for merit review of applications submitted in response to this notice.

DATES: Potential applicants are strongly encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 96–10, should be received by DOE by 4:30 p.m. e.s.t., February 28, 1996. A response discussing the potential program relevance of a formal application generally will be communicated to the applicant within 15 days of receipt. The deadline for receipt of formal applications is 4:30 p.m., e.d.t., May 8, 1996, in order to be accepted for merit review and to permit timely consideration for award in fiscal year 1996.

ADDRESSES: All preapplications, referencing Program Notice 96–10, should be sent to Ms. Bobbi Parra, Office of Health and Environmental Research, ER–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290, 301–903–3316, fax 301–903–8519, or by the internet e-mail address bobbi.parra@oer.doe.gov.

After receiving notification from DOE concerning successful preapplications, applicants may prepare formal applications and send them to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, Attn: Program Notice 96–10. The above address for formal applications must also be used when submitting formal applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when hand carried by the applicant. Please note that notification of a successful preapplication is not indication that an award will be made in response to the formal application.

It is anticipated that up to $20,000,000 will be available for grant awards during FY 1996 that will enable innovative fundamental research contingent upon the availability of appropriated funds. Multiple-year funding of grant awards is expected and is also contingent upon the availability of funds. Award sizes are expected to be on the order of $100,000–$300,000 per year for total project costs for a typical three year grant.

FOR FURTHER INFORMATION CONTACT: Dr. Michelle Broido, Office of Health and Environmental Research, ER–74, Office of Energy Research, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–3281, or Dr. Carol Henry, Office of Science and Risk Policy, Office of Environmental Management, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 586–7150.

SUPPLEMENTARY INFORMATION: The Office of Environmental Management, in partnership with the Office of Energy Research, is initiating an Environmental Management Science Program to fulfill DOE's continuing commitment for the cleanup of DOE's environmental legacy. Funding to initiate this program was established in the Conference Report accompanying the FY 1996 Energy and Water Development Appropriation Bill.

Purpose

The need to build a stronger scientific basis for the Environmental Management effort has been established in a number of recent studies and reports. Among the important observations and recommendations made by the Galvin Commission ("Alternative Futures for the Department of Energy National Laboratories," February 1995) are the following:

> There is a particular need for long term, basic research in disciplines related to environmental cleanup . . . Adopting a science-based approach that includes supporting development of technologies and expertise . . . could lead to both reduced cleanup costs and smaller environmental impacts at existing sites and to the development of a scientific foundation for advances in environmental technologies.

The objectives of the basic science program are to:

• Provide scientific knowledge that will revolutionize technologies and clean-up approaches to significantly reduce future costs, schedules, and risks; and

• "Bridge the Gap" between broad fundamental research that has wide-ranging applicability such as that performed in DOE's Office of Energy Research and needs-driven applied technology development that is conducted in EM's Office of Science and Technology; and

• Focus the Nation's science infrastructure on critical DOE environmental management problems.

Representative Research Areas

Basic research is solicited for areas of concern to the Department's environmental management programs including but not limited to: chemical characterization of wastes and contaminants on an atomic and molecular level; development of knowledge of the physical and chemical behavior of such species; physical and chemical basis for waste separations and treatment; characterization and modeling of multi-phase chemical systems in natural systems, waste tanks and process streams; and monitoring, controlling, and assessing these processes. Understanding the fate of contaminants already in the environment includes the identification of the biological and geochemical reactions that sequester or degrade contaminants; understanding colloids or complexes of associated contaminants; and quantifying the impacts of geologic heterogeneity on the effectiveness of various remediation strategies. Indirect characterization of the geological environment by geophysical techniques provides the basic structural information essential in planning and monitoring remedial actions. Also important are studies to characterize flow and reactive transport through fractured and porous rocks and soils, and to characterize the physiological, biochemical, and genetic mechanisms for the uptake, transport, and sequestering of inorganic ions and organic molecules related to the use of plants and microorganisms for the cleanup of hazardous wastes.

Advances in information and monitoring technologies will also allow evaluation of progress in addressing these problems and devising new solutions. In the future, the focus will be on increasing efficiency in terms of materials and energy use. Better means of monitoring and controlling present system operations will significantly improve process efficiency and reduce waste outputs.

Specific examples illustrating the general subject areas, above, are found in the background section of this document.

Applicants in this program are strongly encouraged to collaborate with researchers in industry and/or the DOE National Laboratories, when appropriate, and to incorporate cost sharing and/or consortia wherever feasible. Grant applications are encouraged from all disciplines.

Merit Review and Evaluation Criteria

Formal applications will be subjected to formal merit review (peer review) and will be evaluated against the following evaluation criteria codified at 10 CFR 605.10(d).

1. Scientific and/or Technical Merit of the Project
2. Appropriateness of the Proposed Method or Approach
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources
4. Reasonableness and Appropriateness of the Proposed Budget.

Examples of the considerations associated with determining the scientific and/or technical merit of the project include, but are not limited to:

—Potential for addressing problems identified by DOE, with meaningful progress within the proposed time frame.

—Benefits and merits of an application e.g. public purpose; time savings, extent of applicability, cost and risk reduction.

DOE shall also consider, as part of the evaluation, program policy factors such as an appropriate balance among the program areas.

Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Preapplications

The brief preapplication, in accordance with 10 CFR 600.10(d)(2), should consist of two to three pages of narrative describing the research objectives and methods of accomplishment together with a brief summary of the principal investigator's publication and research background. The preapplications will be reviewed relative to the scope and research needs of the DOE's Environmental Management Science Program by qualified DOE program managers from both ER and EM. Telephone and FAX numbers are required parts of the preapplication, and electronic mail addresses are desirable.

Information

Information about the development, submission of applications, eligibility, limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Energy Research Financial Assistance Program. The Application Guide is available from the U.S. Department of Energy, Office of Energy Research, ER–74, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone requests may be made by calling (301) 903–3316. Electronic access to ER's Financial Assistance Application Guide is possible via the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html.

Background

The justification for such a program is grounded in the long-term costs for the Environmental Management program estimated at $200–350 billion over 75 years; in 10 years at current budget projections, $60 billion will have been spent, with over two thirds of the program yet remaining. This is the largest legacy from the Cold War of any other Federal program, dwarfing the Department of Defense's DOD's legacy by ten-fold. The Office of Environmental Management is responsible for waste management and cleanup of DOE sites. The EM operations have been historically compliance-based and driven to meet established goals in the shortest time possible using either existing technologies or those that could be developed and demonstrated within a few years. The Office of Energy Research addresses fundamental, frequently long-term, research issues related to the many missions of the Department. The Environmental Management Science Program will use ER's experience in managing fundamental research to address the needs of technology breakthroughs in EM's programs.

This research agenda has been initiated for Fiscal Year 1996, along with a development process for a long term program within the Office of Environmental Management, with the objective of providing continuity in scientific knowledge that will revolutionize technologies and clean-up approaches for solving DOE's most complex environmental problems.

Specific examples of areas of interest for research under this solicitation are:

• Advanced characterization methods that accelerate treatment and immobilization of high-level wastes. Pretreatment and separation methods that lead to a significant reduction in the amount of immobilized high-level waste requiring long-term isolation. Innovative separations for solids and for liquids, needed to significantly reduce projected high-level waste volume.

• In-situ characterization of dense non-aqueous phase liquid to allow comparative risk assessments of alternative treatment methods. In situ immobilization of subsurface contaminants to reduce pump and treat costs. Permeable in situ treatment barriers and factors governing in situ treatment processes to replace unsatisfactory, extant alternatives for treatment of large plumes. Degradation and extraction methods for radioactive and hazardous contaminants from soil/water. Dissolution of water-soluble sludge; washing of water soluble sludge, with recovery of cesium, strontium, technetium.

• Characterization of heterogeneous wastes needed to optimize decontamination and decommissioning recycling alternatives. Surface stabilization to reduce the ultimate waste volume and to enhance recycling. Selective and non-selective removal of contaminants from surfaces or bulk materials. Recycling of valuable commodities into general commerce.

• Non-destructive and in situ characterization methods to characterize the hazard of landfills. Innovative immobilization and transformation concepts that significantly reduce the cost of remediation. Ex-situ separation and treatment concepts to rapidly and safely destroy or immobilize landfill constituents.

• Emission-free destruction of organic wastes. Off-gas treatment that eliminates emissions in the environment that exceed Environmental Protection Agency requirements. Non-thermal treatment concepts for mixed waste. Bioremediation, enzymatic reactions, enzyme redesign, genetic engineering, microbial gene sequencing.

• Plutonium behavior in mixed matrices. Long-term monitoring concepts for plutonium.

• New concepts for waste stabilization of spent nuclear fuel. Long-term monitoring and performance assessment of spent nuclear fuel. Physics and chemistry of radionuclides in mixed matrices.

• Specialized waste forms. Performance assessment concepts for nuclear waste disposal.

• Ecology. Comprehensive understanding of the flow and use of materials and energy in our environmental system and the implications of those flows with respect to the environment. Ecosystem restoration and management; conduct monitoring, modeling, and process research to improve understanding of threatened and damaged ecosystems, technologies to restore the productivity and quality of these ecosystems.

• Biomarkers and sensors of exposure to contaminated media. Multi-site epidemiology studies. Effort to address current health concerns while continuing to conduct research that will promote a better future understanding of the relationship between exposure and health impacts.

The program will be competitive and offered to investigators in universities or other institutions of higher education, or other non-profit or for-profit organizations, non-Federal agencies or entities, or unaffiliated individuals. Apart from this notice, the program also will be offered to DOE national laboratories and other Federal laboratories, which will compete separately for appropriated funds. To ensure that the program is mission-oriented and that its achievements are recognized and used by EM, the Environmental Management Science Program will be closely integrated with EM's Technology Development Focus Areas and will also be closely coordinated with the Office of Energy Research to ensure use of broad-based fundamental research and development supported by that office.

Details of the programs of the Office of Environmental Management and the technologies currently under development or in use by Environmental Management Program can be found on the World Wide Web at http://www.em.doe.gov and at the extensive links contained therein. These programs and technologies should be used as guidance when considering areas of research to be proposed.

The United States involvement in nuclear weapons development for the last 50 years has resulted in the development of a vast research, production, and testing network known as the nuclear weapons complex. The Department has begun the environmental remediation of the complex, encompassing radiological an nonradiological hazards, vast volumes of contaminated water and soil, and over 7,000 contaminated structures. The Department must characterize, treat, and dispose of hazardous and radioactive wastes that have been accumulating for more than 50 years at 120 sites in 36 states and territories. By 1995, the Department had spent about $23 billion in identifying and characterizing its waste, managing it, and assessing the remediation necessary for its sites and facilities. The Department estimates that the remedial actions at Department sites (not including groundwater cleanup, currently operating facilities and Naval facilities) could cost a total of $200–350 billion and take at least 75 years to complete. According to the estimates of the total program cost, 49% would go to waste management and 28% to environmental restoration, 10% to nuclear material and facility stabilization, and 5% to research and technology development with the remaining 8% for activities such as site security, transportation, and other landlord activities. The estimated life cycle costs over 75 years for the seven highest cost problem areas within the programs in descending order are as follows:

—Decommissioning
—High Level Waste
—Remedial Actions
—Low Level Waste
—Transuranic Waste
—Mixed Low Level Waste
—Spent Nuclear Fuel

Environmental Management is also responsible for conducting the program for waste minimization and pollution prevention for the Department. The variety and volume of the Department's current activities make this effort a challenge itself. In some cases, fundamental science questions will have to be addressed before a technology or process can be engineered. For example, improved understanding of the principles of pollutant transport in groundwater is required for important advancement in the development of effective groundwater-remediation technology. There is a need to involve more basic science researchers in the challenges of the Department's remediation effort.

References for Background Information on the Mission Responsibilities of the Office of Environmental Management

Note: World Wide Web locations of these documents are provided where possible. For those without access to the World Wide Web, hard copies of these references may be obtained by writing Dr. Carol Henry at the address listed in the contacts section.

DOE. 1995. Closing the Circle on Splitting of the Atom: The Environmental Legacy of Nuclear Weapons Production in the United States and What the Department of Energy is Doing About It. The U.S. Department of Energy, Office of Environmental Management, Office of Strategic Planning and Analysis,

Washington, DC. *http://www.em.doe.gov/circle/index.html*

DOE. 1995. Estimating the Cold War Mortgage: The 1995 Baseline Environmental Management Report. Volume I, March 1995. U.S. Department of Energy Office of Environmental Management, Washington, DC. *http://www.em.doe.gov/bemr/index.html*

DOE. 1995. Environmental Management 1995: Progress and Plans of the Environmental Management Program. The U.S. Department of Energy, Office of Environmental Management, Washington, DC. *http://www.em.doe.gov/em95/index.html*

DOE. 1995. Risks and the Risk Debate: Searching for Common Ground "The First Step". The U.S. Department of Energy, Office of Environmental Management, Washington, DC. *http://raleigh.dis.anl.gov:81/cgi-bin/dispdoc—return.pl?rrd+1*

DOE. 1995. Technology Summary Reports, June 1995 (Rainbow Books) *http://www.em.doe.gov/emnet5.html*

DOE. 1995. Office of Science and Technology EM–50. *http://www.em.doe.gov/emnet5.html*

National Academy of Sciences. Allocating Federal Funds for Science and Technology. 1995. National Academy Press, Washington, DC. *http://www.nas.edu/nap/online/fedfunds/*

National Commission on Superfund Members. Final Consensus Report of the National Commission on Superfund. March 1994. Keystone Center and the Environmental Law Center of Vermont Law School. *N/A*

National Environmental Technology Strategy. Bridge to a Sustainable Future. April 1995. National Science and Technology Council, Washington, DC. *http://iridium.nttc.edu/env/envstrat.txt*

National Research Council. Improving the Environment: An Evaluation of DOE's Environmental Management Program. 1995. National Academy Press, Washington, DC. *N/A*

Secretary of Energy Advisory Board. Alternative Futures for the Department of Energy National Laboratories. February 1995. Task Force on alternative Futures for the Department of Energy National Laboratories, Washington, DC. *http://www.doe.gov/html/doe/whatsnew/galvin/tf-rpt.html*

U.S. Congress, Office of Technology Assessment. Complex Cleanup: The Environmental Legacy of Nuclear Weapons Production, February 1991. U.S. Government Printing Office, Washington, DC. *N/A*

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC January 31, 1995.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 96–2877 Filed 2–8–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP96–134–000]

Southern Natural Gas Co.; Notice of Section 4 Filing

February 5, 1996.

Take notice that on January 31, 1996, Southern Natural Gas Company (Southern) tendered for filing, pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering service upon the transfer of it Miley Line facilities in Livingston Parish, Louisiana to Amoco Production (Amoco). Southern proposed that the proposed termination of service be effective March 1, 1996.

Southern states that the Miley #1 Well is not a separate receipt point on its system. Southern asserts that the receipt point for this gas and gas gathered from all of the wells in the Lockhart Crossing area is the tailgate of the Amoco Plant, downstream of the Miley Line Facilities, and that Amoco, as operator of the Plant, allocates any gas being shipped on behalf of the working interest owners from the various Lockhart Crossing Wells upstream of the Amoco Plant. Therefore, Southern maintains that its existing transportation contracts will not be affected by the transfer of the Miley line facilities to Amoco. Southern indicates that Amoco has sent a letter to all the working interest owners in the Miley #1 Well advising them of the option of entering into a gathering contract with Amoco.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. Pursuant to Section 154.210 of the Commission's Regulations, all such motions or protests must be filed no later than February 12, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2769 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–156–000]

Williston Basin Interstate Pipeline Co.; Notice of Request Under Blanket Authorization

February 5, 1996.

Take notice that on January 25, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP96–156–000, a request pursuant to Section 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a new metering station and the associated appurtenant facilities to effectuate transportation deliveries on its transmission system, to Prairielands Energy Marketing, Inc. (Prairielands), a marketer, for ultimate use by the American Prairie Foods Potato Plant in Stutsman County, North Dakota. Williston Basin makes such request, under its blanket certificate issued in Docket No. CP82–487–000, *et al.* pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williston Basin indicates that the new metering station and associated appurtenant facilities will include a SCADA communication system enclosed within a building, a meter, regulators, miscellaneous gauges and valves, and a steel building, all of which will be enclosed within security fence. The estimated cost to construct said facilities is $100,000, and it is stated that Prairielands will reimburse Williston Basin in full for the cost of the facilities.

Williston Basin mentions that the estimated maximum volumes to be delivered are 4,000 Mcf per day, and that it will provide the service under its IT–1 Rate Schedule. Williston Basin states that the volumes that it is proposing herein to deliver, are within the contractual entitlements of the customer.

It is averred that the addition of the proposed facilities will not have a significant effect on Williston Basin's peak day or annual requirements, and capacity has been determined to exist on the Williston Basin system to serve this natural gas market.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2768 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2009]

Virginia Electric and Power Co.; Notice of Meeting

February 5, 1996.

Notice is hereby given that the Federal Energy Regulatory Commission (FERC) staff has requested a meeting with the North Carolina Power Company (NCPC), the U.S. Army Corps of Engineers (Corps), Virginia and North Carolina resource agencies, and interested parties to discuss FERC's and the Corps' involvement in relicensing studies and the status of ongoing scientific studies for relicensing the Roanoke Rapids Project and the Gaston Project No. 2009. The meeting will be at 10:00 a.m. on February 21, 1996, at the North Carolina Power Office, 1040 Roanoke Avenue, Roanoke Rapids, North Carolina.

If you have any questions concerning this matter, please call Mr. Ed Crouse at (202) 219–2794.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2769 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Cultural Resources Compliance Training

February 5, 1996.

The Office of Pipeline Regulation (OPR) staff will convene a one-day cultural resources compliance training course on April 10, 1996 in New Orleans, Louisiana. We are offering this course in conjunction with the Society for American Archaeology (SAA) Annual Meeting, but our course is independent of the SAA meeting. The objective is to provide members of the regulated pipeline industry and interested individuals and organizations an understanding of:

- How best to assist the Commission in meeting its responsibilities under the National Historic Preservation Act (NHPA) and other historic preservation laws and regulations; and
- What cultural resources information the industry needs to file with the Commission before and after the Commission issues a certificate for interstate natural gas pipeline projects.

We encourage interested organizations and the public to take advantage of this course.

The course will include:

- Objectives and requirements of the Commission regarding compliance with § 106 of the NHPA and related historic preservation laws;
- Guidance for reporting on cultural resources investigations;
- Definition of cultural resources terms used by the Commission in the compliance process; and
- Efficient strategies for planning and conducting cultural resources investigations.

The location is the New Orleans Marriott Hotel, 555 Canal Street, New Orleans, Louisiana. For hotel reservations, call (504) 581–1000 and identify yourself as an attendee of the course offered in conjunction with the SAA Conference. Special hotel room rates are available until March 15, 1996.

The OPR staff and Foster Wheeler Environmental Corporation, the Commission's environmental support contractor, will conduct the training. There is no fee for the course, but you must pre-register. Please call the telephone number listed below to obtain a pre-registration form.[1] Because space is limited, please mail or fax the registration form within 15 days of publication of this notice to: Ms. Sarah Adam, Foster Wheeler Environmental Corporation, 470 Atlantic Avenue, Boston, MA 02210, Telephone: (617) 542–8805, FAX: (617) 695–1587.

You will receive confirmation of pre-registration and additional information before the Commission's training course. However, an insufficient number of registrants will result in cancellation of the course. We will attempt to notify registrants by March 29, 1996, if the course is cancelled or you may obtain that information by calling (617) 542–8805 on or after that date.

[1] The registration form referenced in this notice is not being printed in the **Federal Register.** Copies of the form were sent to those receiving this notice in the mail.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2772 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–888–000, et al.]

The Dayton Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

February 2, 1996.

Take notice that the following filings have been made with the Commission:

1. The Dayton Power and Light Company

[Docket No. ER96–888–000]

Take notice that on January 22, 1996, The Dayton Power and Light Company (Dayton), tendered for filing, an executed Master Power Sales Agreement between Dayton and Northeast Utilities Service Company (NU).

Pursuant to the rate schedule attached as Exhibit B to the Agreement, Dayton will provide to NU power and/or energy for resale.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Services, Inc.

[Docket No. ER96–869–000]

Take notice that on January 19, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (Entergy Operating Companies), tendered for filing a Transmission Service Agreement (TSA) between Entergy Services, Inc. and the Tennessee Valley Authority. Entergy Services states that the TSA sets out the transmission arrangements under which the Entergy Operating Companies provide non-firm transmission service under their Transmission Service Tariff.

Comment dote: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. South Carolina Electric & Gas Company

[Docket No. ER96–870–000]

Take notice that on January 19, 1996, South Carolina Electric & Gas Company (SCE&G), tendered for filing a transmission service agreement dated January 1, 1996 between SCE&G and the South Carolina Public Service Authority under which SCE&G will provide specified transmission service to the

Woodland Hills Substation effective January 1, 1996. SCE&G requests waiver of the Commission's notice requirements to implement the agreement.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Central Power and Light Company and West Texas Utilities Company

[Docket No. ER96–871–000]

Take notice that on January 19, 1996, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) (jointly, the Companies) submitted Transmission Service Agreements establishing three new customers under the terms of the ERCOT Coordination Transmission Service Tariff.

The Companies request waiver of the Commission's notice requirements. Copies of this filing have been served upon the three customers and the Public Utility Commission of Texas.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Central Power and Light Company and West Texas Utilities Company

[Docket No. ER96–872–000]

Take notice that on January 19, 1996, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) submitted for filing: (1) two unexecuted Transmission Service Agreements between CPL and Brazos Electric Power Cooperative (BEP) and Brazos Power Marketing Cooperative, Inc. (BPM) and (2) two unexecuted Transmission Service Agreements between WTU and BEP, and WTU and BPM (Service Agreements). Under the Service Agreements, CPL and WTU will transmit power and energy purchased by BEC and BPM from LG&E Power Marketing, Inc. (LG&E). CPL and WTU request that the Service Agreements be accepted to become effective as of January 1, 1996.

Copies of the filing were served on BEC and BPM and the Public Utility Commission of Texas.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER96–873–000]

Take notice that on January 19, 1996, Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (jointly, the Companies) submitted Transmission Service Agreements establishing three new customers under the terms of the Companies' SPP Interpool Transmission Service Tariff.

The Companies request waiver of the Commission's notice requirements. Copies of this filing were served upon the three customers, the Public Utility Commission of Texas, the Louisiana Public Service Commission and the Oklahoma Corporation Commission.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Central Power and Light Company and West Texas Utilities Company

[Docket No. ER96–874–000]

Take notice that on January 19, 1996, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) (jointly, the Companies) submitted Transmission Service Agreements establishing three new customers under the terms of the ERCOT Interpool Transmission Service Tariff.

The Companies request waiver of the Commission's notice requirements. Copies of this filing were served upon the three customers and the Public Utility Commission of Texas.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Madison Gas and Electric Company

[Docket No. ER96–875–000]

Take notice that on January 19, 1996, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Koch Power Services, Inc., under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Central Illinois Light Company

[Docket No. ER96–876–000]

Take notice that on January 19, 1996, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and service agreements for five new customers.

CILCO requested an effective date of February 1, 1996.

Copies of the filing were served on all affected customers, parties and the Illinois Commerce Commission.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Public Service Corporation

[Docket No. ER96–877–000]

Take notice that on January 19, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing executed Transmission Service Agreements between WPSC and Enron Power Marketing Inc. The Agreements provide for transmission service under the Comparable Transmission Service Tariff, FERC Original Volume No. 7.

WPSC asks that the agreements become effective retroactively to the date of execution by WPSC.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Public Service Corporation

[Docket No. ER96–878–000]

Take notice that on January 19, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Supplement No. 3 to Transmission Service Agreement No. 2 between WPSC and Manitowoc Public Utilities. The Agreement provides for transmission service under the T–1 Transmission Tariff, FERC Original Volume No. 4.

WPSC asks that the agreement become effective January 1, 1996.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corporation

[Docket No. ER96–879–000]

Take notice that on January 19, 1996, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Catex Vitol Electric L.L.C. under its CS–1 Coordination Sales Tariff.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Consumers Power Company

[Docket No. ER96–880–000]

Take notice that on January 19, 1996, Consumers Power Company (Consumers), tendered for filing a new wholesale service agreement and related amendments to a prior wholesale service agreement and a transmission agreement with Southeastern Michigan Rural Electric Cooperative, Inc. (Southeastern).

Copies of the filing were served upon the Michigan Public Service Commission and Southeastern.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Consumers Power Company

[Docket No. ER96–881–000]

Take notice that on January 19, 1996, Consumers Power Company (Consumers), tendered for filing a Service Agreement with the Michigan Public Power Agency (MPPA) and Wolverine Power Supply Cooperative, Inc. (Wolverine) pursuant to Consumers' Open Access Transmission Service Tariff. The filed Service Agreement makes available to MPPA and Wolverine firm transmission service arrangements in order to facilitate operation of a coordination group called the Municipal Cooperative Coordinated Pool. Also tendered for filing by Consumers are Amendment No. 2 to a Coordinated Operating Agreement between Consumers, MPPA and Wolverine, and Supplemental Agreement No. 4 to the Alba Interconnection Facilities Agreement between Consumers and Wolverine. A copy of the filing was served upon the MPPA, Wolverine, the Michigan Public Service Commission and the service list in Docket No. ER92–332–000.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Consumers Power Company

[Docket No. ER96–882–000]

Take notice that on January 19, 1996, Consumers Power Company (Consumers), tendered for filing a Transmission Service Agreement with Edison Sault Electric Company. The filed Service Agreement makes available firm point-to-point transmission service. A copy of the filing was served upon Edison Sault Electric Company and the Michigan Public Service Commission.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Electric Power Company

[Docket No. ER96–883–000]

Take notice that on January 22, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing revision to its FERC Electric Tariff, Volume 1, Service Agreement No. 16.

Wisconsin Electric requests an effective date of January 1, 1996, in order to implement the Agreement's modifications, which do not result in revenue increases.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. New York State Electric & Gas Corporation

[Docket No. ER96–884–000]

Take notice that on January 22, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with MidCon Power Service Corp. (MPS). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to MPS and MPS will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on January 23, 1996, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and MPS.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Central Illinois Public Service Company

[Docket No. ER96–885–000]

Take notice that on January 22, 1996, Central Illinois Public Service Company (CIPS) submitted a Service Agreement, dated December 7, 1995, establishing Valero Power Services Company (Valero) as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of December 23, 1995 for the service agreement with Valero. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Valero and the Illinois Commerce Commission.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. The Dayton Power and Light Company

[Docket No. ER96–886–000]

Take notice that on January 22, 1996, The Dayton Power and Light Company (Dayton), tendered for filing, an executed Master Electric Interchange Agreement between Dayton and Koch Power Services, Inc. (KPSI).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to KPSI power and/or energy for resale.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. The Dayton Power and Light Company

[Docket No. ER96–887–000]

Take notice that on January 22, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Electric Interchange Agreement between Dayton and Rainbow Energy Marketing Corporation (REMC).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to REMC power and/or energy for resale.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2773 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96–744–000, et al.]

Duquesne Light Company, et al.; Electric Rate and Corporate Regulation Filings

January 31, 1996.

Take notice that the following filings have been made with the Commission:

1. Duquesne Light Company

[Docket No. ER96–744–000]

Take notice that January 2, 1996, Duquesne Light Company tendered for filing a Service Agreement with InterCoast Power Marketing, Inc.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER96–754–000]

Take notice that on January 4, 1996, GPU Service Corporation (GPU), on behalf of Jersey central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the "GPU Operating Companies"), filed an executed Service Agreement between GPU and Associated Power Services, Inc. (APSI), dated December 22, 1995. This Service Agreement specifies that APSI has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and APSI to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are not higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of December 22, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: February 12, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Portland General Electric Company

[Docket No. ER96–771–000]

Take notice that on January 11, 1996, Portland General Electric Company tendered for filing an Notice of Cancellation of Rate Schedule 193 Scheduling Services Agreement with Coastal Electric Services Company

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER96–796–000]

Take notice that on January 16, 1996, Cinergy Services, Inc. tendered for filing a Service Agreement with Virginia Electric Power Company.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Co.

[Docket No. ER96–829–000]

Take notice that on January 16, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Koch Power Services, Inc. under Rate GSS.

6. Louisville Gas and Electric Company

[Docket No. ER96–831–000]

Take notice that on January 16, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Rainbow Energy Marketing Corp. under Rate GSS.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER96–832–000]

Take notice that on January 16, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Catex Vitol Electric, L.L.C. under Rate GSS.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Company

[Docket No. ER96–833–000]

Take notice that on January 16, 1996, Louisville Gas and Electric Company tendered for filing copies of service agreement between Louisville Gas and Electric Company and Louis Dreyfus Electric Power Inc. under Rate GSS.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER96–843–000]

Take notice that on January 16, 1996, Illinois Power Company (Illinois Power) tendered for filing firm and non-firm transmission agreements under which Commonwealth Edison Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power tariff.

Illinois Power has requested an effective date of January 2, 1996.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Company

[Docket No. ER96–844–000]

Take notice that on January 16, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Industrial Energy Applications, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of January 2, 1996.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power Corporation

[Docket No. ER96–846–000]

Take notice that on January 16, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Sonat Power Marketing Inc. pursuant to its open access transmission tariff (the T–2 Tariff).

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Montaup Electric Company

[Docket No. ER96–847–000]

Take notice that on January 16, 1996, Montaup Electric Company (Montaup), tendered for filing (a) a service agreement under Montaup's FERC Electric Tariff, Original Volume No. IV, with Reading Municipal Light Department and (b) a Notice of Cancellation of that service agreement. Montaup requests that the service agreement for allowed to become effective on December 7, 1995, when a transmission occurred under the tariff.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Power Service Corporation on behalf of West Penn Power Company

[Docket No. ER96–848–000]

Take notice that on January 17, 1996, Allegheny Power Service Corporation, on behalf of West Penn Power Company, submitted Supplement No. 7 to FERC Electric Tariff First Revised Volume No. 1. The Supplement No. 7 provides for the addition of the Borough of Tarentum, Pennsylvania as a customer taking service under Schedule WS-LV. West Penn Power Company requests a March 1, 1996, effective date.

Copies of the filing were served upon the jurisdictional customers and the Public Utility Commissions.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Baltimore Gas and Electric Company

[Docket No. ER96–894–000]

Take notice that on January 23, 1996, Baltimore Gas and Electric Company (BGE) filed a Network Integration Transmission Tariff and a Point-to-Point Transmission Service Tariff. BGE states that the Tariffs are consistent with the pro forma tariffs set forth in the Notice of Proposed Rulemaking in Docket No. RM95–8–000.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Potomac Electric Power Company

[Docket No. ER96–929–000]

Take notice that on January 25, 1996, Potomac Electric Power Company (PEPCO) filed, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, two transmission tariffs: a Point-to-Point Transmission Service Tariff and a Network Integration Service Transmission Tariff. PEPCO states that the tariffs are substantively identical to the pro forma tariffs attached to the Commission's NOPR in Docket No. RM95–8–000.

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Louisville Gas and Electric Company

[Docket No. ER96–830–000]

Take notice that on January 16, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Engelhard Power Marketing, Inc. under Rate GSS.

Comment date: February 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2771 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96–196–000, et al.]

Southern Company Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

February 1, 1996.

Take notice that the following filings have been made with the Commission:

1. Southern Company Services, Inc.

[Docket No. ER96–196–000]

Take notice that on January 23, 1996, Southern Company Services, Inc. acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an amendment to its previous submittal concerning the Interchange Service Contract between Southern Companies and Enron Power Marketing, Inc.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Louis Dreyfus Electric Power Inc. Powernet Corporation, J. Aron & Company, Utility-2000 Energy Corporation, Petroleum Source & Systems Group Inc., Tennessee Power Company, Logan Generating Company, L.P.

[Docket No. ER92–850–015], [Docket No. ER94–931–007], [Docket No. ER95–34–006], [Docket No. ER95–187–003], [Docket No. ER95–266–004], [Docket No. ER95–581–003], [Docket No. ER95–1007–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 29, 1996, Louis Dreyfus Electric Power Inc. filed certain information as required by the Commission's December 2, 1992, order in Docket No. ER92–850–000.

On January 25, 1996, Powernet Corporation filed certain information as required by the Commission's April 25, 1994, order in Docket No. ER94–931–000.

On January 29, 1996, J. Aron & Company filed certain information as required by the Commission's March 1, 1995, order in Docket No. ER95–34–000.

On January 17, 1996, Utility-2000 Energy Corporation filed certain information as required by the Commission's December 29, 1994, order in Docket No. ER95–187–000.

On January 18, 1996, Petroleum Source & Systems Group, Inc. filed certain information as required by the Commission's January 18, 1995, order in Docket No. ER95–266–000.

On January 16, 1996, Tennessee Power Company filed certain information as required by the Commission's April 28, 1995, order in Docket No. ER95–581–000.

On January 17, 1996, Logan Generating Company, L.P. filed certain information as required by the Commission's June 28, 1995, order in Docket No. ER95–1007–000.

3. AES Power, Inc., MidCon Power Services Corp., Electric Exchange, L.P., Westcoast Power Marketing, Inc., Rig Gas Inc., Southern Energy Marketing, Inc., NAP Trading And Marketing, Inc.

[Docket No. ER94–890–008], [Docket No. ER94–1329–006], [Docket No. ER95–111–005], [Docket No. ER95–378–001], [Docket No. ER95–480–004], [Docket No. ER95–976–003], [Docket No. ER95–1278–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 24, 1996, AES Power, Inc. filed certain information as required by the Commission's April 8, 1994, order in Docket No. ER94–890–000.

On January 25, 1996, MidCon Power Services Corporation filed certain information as required by the Commission's August 11, 1994, order in Docket No. ER94–1329–000.

On January 26, 1996, Electric Exchange, L.P. filed certain information as required by the Commission's May 3, 1995, order in Docket No. ER95–111–000.

On January 29, 1996, Westcoast Power Marketing, Inc. filed certain information as required by the Commission's April 20, 1995, order in Docket No. ER95–378–000.

On January 29, 1996, Rig Gas Inc. filed certain information as required by the Commission's March 16, 1995, order in Docket No. ER95–480–000.

On January 29, 1996, Southern Energy Marketing, Inc. filed certain information as required by the Commission's September 29, 1995, order in Docket No. ER95–976–000.

On January 29, 1996, NAP Trading and Marketing, Inc. filed certain information as required by the

Commission's October 25, 1995, order in Docket No. ER95–1278–000.

4. Southern Company Services, Inc.

[Docket No. ER96–307–000]

Take notice that on January 23, 1996, Southern Company Services, Inc. acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an amendment to its previous submittal concerning the Interchange Service Contract between Southern Companies and Sonat Power Marketing, Inc.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

[Docket No. ER96–339–000]

Take notice that on January 23, 1996, Southern Company Services, Inc. acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an amendment to its previous submittal concerning the Interchange Service Contract between Southern Companies and Koch Power Services, Inc.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Virginia Electric and Power Company

[Docket No. ER96–498–000]

Take notice that on January 26, 1996, Virginia Electric and Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. QST Energy Trading, Inc.

[Docket No. ER96–553–000]

Take notice that on January 25, 1996, QST Energy Trading, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Company

[Docket No. ER96–579–000]

Take notice that on January 26, 1996, New England Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. IES Utilities Inc.

[Docket No. ER96–663–000]

Take notice that on January 29, 1996, IES Utilities Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power Company

[Docket No. ER96–845–000]

Take notice that on January 16, 1996, Florida Power Company tendered for filing an amendment to its Contract for Interchange Service between itself and Reedy Creek Improvement District which provides for the addition of one service schedule to the contract.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Potomac Electric Power Company

[Docket No. ER96–849–000]

Take notice that on January 17, 1996, Potomac Electric Power Company (Pepco), tendered for filing service agreements pursuant to Pepco FERC Electric Tariff, Original Volume No. 1, entered into between Pepco and Englehard Power Marketing, Inc., and GPU Service Corp. as agent for Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company. An effective date of January 1, 1996 for these service agreements, with waiver of notice, is requested.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Florida Power & Light Company

[Docket No. ER96–850–000]

Take notice that on January 17, 1996, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Southern Company Services, Inc. for transmission service under FPL's Transmission Tariff No. 2 and FPL's Transmission Tariff No. 3. FPL requests that the proposed service agreements be permitted to become effective on January 22, 1996, or as soon thereafter as practicable. FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER96–851–000]

Take notice that on January 17, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Howard Energy Company, Inc.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 1, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Delmarva Power & Light Company

[Docket No. ER96–852–000]

Take notice that on January 17, 1996, Delmarva Power & Light Company (Delmarva) of Wilmington, Delaware, filed under the provisions of Rule 205 of the Federal Power Act an amendment to its settlement agreement with Berlin approved by the Commission on August 2, 1994. The amendment contains, among other things, a five-year power supply contract (the Service Agreement) under which Delmarva will provide requirements service to the Town of Berlin (Berlin). Delmarva states that the Service Agreement supersedes Delmarva's Rate Schedule No. 63 under which Berlin currently receives service.

Delmarva, with Berlin's concurrence, requests an effective date of February 1, 1996.

The Service Agreement provides for the continuation of the requirements service previously furnished Berlin under Rate Schedule No. 63, but changes certain terms and conditions. The chief differences between the Service Agreement and Rate Schedule No. 63 are that the Service Agreement establishes a new rate for Berlin which is below the level of the rate currently charged Berlin and provides for future adjustments to the Berlin rate based on changes in the level of Delmarva's retail rates. The Service Agreement has a five-year term.

Delmarva states that the filing has been posted and has been served upon the affected customer and the Maryland Public Service Commission.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Oklahoma Gas and Electric Company

[Docket No. ER96–855–000]

Take notice that on January 18, 1996, Oklahoma Gas and Electric Company, tendered for filing a proposed contract with the Southwestern Power Administration (Southwestern) which enables participation in the Southwest Power Pool reserve sharing program.

Copies of this filing have been sent to Southwestern, the Oklahoma Corporation Commission, and the Arkansas Public Service Commission.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER96–856–000]

Take notice that on January 18, 1996, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company tendered for filing a Service Agreement between GPU and Noram Energy Services, Inc.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice

17. The Washington Water Power Company

[Docket No. ER96–857–000]

Take notice that on January 18, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, a signed service agreement under FERC Electric Tariff Volume No. 4 with NAP Trading and Marketing. Also submitted with this filing is a Certificate of Concurrence with respect to exchanges. WWP requests waiver of the prior notice requirement and requests an effective date of February 1, 1996.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Northeast Utilities Service Company

[Docket No. ER96–858–000]

Take notice that on January 18, 1996, Northeast Utilities Service Company (NUSCO), on behalf of Western Massachusetts Electric Company (WMECO), tendered for filing a Third Amendment to Distribution and Transformation Agreement for service to New England Power Company (NEP). The rate schedule changes implement changes or additions to certain points of delivery to NEP.

NUSCO requests the Third Amendment be permitted to become effective on February 1, 1996.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER96–859–000]

Take notice that on January 18, 1996, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and KCS Power Marketing, Inc. (KCS), dated January 10, 1996. This Service Agreement specifies that KCS has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and KCS to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 10, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Public Service Company of New Mexico

[Docket No. ER96–860–000]

Take notice that on January 18, 1996, Public Service Company of New Mexico (PNM) filed as amendments to the San Juan Project Operating Agreement (Operating Agreement): (1) a Consent and Acceptance of Voting Rights between Century Power Corporation (Century) and Tri-State Generation and Transmission Association, Inc. (Tri-State); and (2) a Letter, Acknowledgment and Agreement, and Acknowledgment among Tri-State, Tucson Electric Power Company (TEP) and PNM. These documents were executed in connection with the closing of Tri-State's purchase from Century of Century's remaining interest in Unit 3 of the San Juan Generating Station to reflect Tri-State's ownership in Unit 3.

PNM requests waiver of the Commission's notice requirements in order to allow the foregoing documents to be effective as of January 2, 1996, the date of the closing of the Century/Tri-State transaction.

Copies of the filing have been served upon TEP, Century, Tri-State and the New Mexico Public Utility Commission.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Florida Power & Light Company

[Docket No. ER96–861–000]

Take notice that on January 18, 1996, Florida Power & Light Company (FPL), filed the Contract for Purchases and Sales of Power and Energy between FPL and K N Marketing, Inc. FPL requests an effective date of February 1, 1996.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. UtiliCorp United Inc.

[Docket No. ER96–862–000]

Take notice that on January 18, 1996, UtiliCorp United Inc. (UtiliCorp) filed a service agreement with Cenergy, Inc. for service under its interruptible open access transmission service tariff for its operating division, Missouri Public Service.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. UtiliCorp United Inc.

[Docket No. ER96–863–000]

Take notice that on January 18, 1996, UtiliCorp United Inc. (UtiliCorp), filed a service agreement with Industrial Energy Applications, Inc. for service under its interruptible upon access transmission service tariff for its operating division, Missouri Public Service.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Florida Power Corporation

[Docket No. ER96–865–000]

Take notice that on January 19, 1996, Florida Power Corporation (Florida Power) tendered for filing service agreements providing for service to InterCoast Power Marketing Company pursuant to its open access transmission tariff (the T–2 Tariff). Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective January 19, 1996.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Florida Power Corporation

[Docket No. ER96–866–000]

Take notice that on January 19, 1996, Florida Power Corporation (Florida Power) tendered for filing service agreements providing for service to Western Gas Resources Power Marketing, Inc. pursuant to its open access transmission tariff (the T–2 Tariff). Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective January 19, 1996.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Florida Power Corporation

[Docket No. ER96–867–000]

Take notice that on January 19, 1996, Florida Power Corporation (Florida Power) tendered for filing service agreements providing for service to Citizens Lehman Power Sales pursuant to its open access transmission tariff (the T–2 Tariff). Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective January 19, 1996.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Florida Power Corporation

[Docket No. ER96–868–000]

Take notice that on January 19, 1996, Florida Power Corporation (Florida Power) tendered for filing service agreements providing for service to Engelhard Power Marketing, Inc. pursuant to its open access transmission tariff (the T–2 Tariff). Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective January 19, 1996.

Comment date: February 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. Allen F. Jacobson

[Docket No. ID–2936–000]

Take notice that on January 17, 1996, Allen F. Jacobson (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director—Northern States Power Company, a Minnesota corporation
Director—The Prudential Insurance Company of America

Comment date: February 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2776 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP87–92–009]

Texas Eastern Transmission Corp.; Notice of Availability of Environmental Comments

February 5, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared environmental comments on the issues raised in Texas Eastern Transmission Corporation's (Texas Eastern) motion filed on March 16, 1995, requesting clarification of the Commission's June 7, 1989, Order approving the APEC Project (Order).

Specifically, Texas Eastern requests the Commission to clarify that the construction mitigation requirements in appendix F of the Order do not preclude Texas Eastern from clearing trees and other vegetation from the right-of-way near Winding Way in Belle Mead, Somerset County, New Jersey. Texas Eastern states that clearing is necessary to comply with the U.S. Department of Transportation's pipeline safety regulations, and to protect against third party damage to the pipeline.

The environmental comments assess the potential environmental effects of clearing and maintenance activities on the right-of-way near Winding Way. They have been placed in the public files of the FERC and are available for inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the environmental comments have been mailed to Federal and state pipeline safety agencies, and to the affected landowners.

A limited number of copies of the environmental comments are available from: Mr. Chris Zerby, Environmental Project Manager, Environmental Review and Compliance Branch I, Office of Pipeline Regulation, Room 72–55, 888 First Street, NE., Washington, DC 20426, (202) 208–0111.

Any person wishing to comment on the document may do so. Written comments must reference Docket No. CP87–92–009, and be addressed to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426.

Comments should be filed as soon as possible, but must be received no later than February 20, 1996, to ensure consideration prior to a Commission decision on this motion. A copy of any comments should also be sent to Mr. Chris Zerby, Environmental Project Manager, at the above address.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

Additional information about the environmental comments is available from Mr. Chris Zerby, Environmental Project Manager.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2767 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2612–005, et al.]

Hydroelectric Applications [Central Maine Power Company, et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* New License.
b. *Project No.:* 2612–005.
c. *Date filed:* December 28, 1995.
d. *Applicant:* Central Maine Power Company.
e. *Name of Project:* Flagstaff Hydroelectric Project.
f. *Location:* On the Dead River, in Somerset and Franklin Counties, Maine.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).
h. *Applicant Contact:* F. Allen Wiley, Central Maine Power Company, 41 Anthony Avenue, Augusta, ME 04330, (207) 621–4412.
i. *FERC Contact:* Mary C. Golato (202) 219–2804.
j. *Comment Date:* March 26, 1996.
k. *Description of Project:* The proposed project consists of an existing concrete dam 1,336 feet long and approximately 45 feet high; (2) an existing earthen dike; (3) an existing reservoir approximately 23 miles long, with a surface area of 17,950 acres, and a storage capacity of approximately 275,482 acre-feet; and (4) appurtenant facilities. The project was constructed and is operated as a water storage facility; therefore, the applicant is not proposing any new facilities. The applicant proposes to continue to operate and maintain the proposed project.

l. With this notice, we are initiating consultation with the *MAINE STATE HISTORIC PRESERVATION OFFICER (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's Regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the issuance date of this notice and serve a copy of the request on the applicant.

2a. *Type of Application:* Declaration of Intention.
b. *Docket No:* DI95–5–000.
c. *Date Filed:* 09/15/95.
d. *Applicant:* Southern Energy, Inc.
e. *Name of Project:* Ten-mile.
f. *Location:* Unnamed stream, a tributary to Chilkat River, Ten-mile Haines Highway, Haines, Alaska (T. 30 S., R. 58 E., sec. 8, Copper River Meridian).
g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. §§ 817(b).
h. *Applicant Contact:* Darrell Maple, President, Lynn Canal Professional Services, P.O. Box 1163, Haines, AK 99827, (907) 766–3334.
i. *FERC Contact:* Diane M. Murray, (202) 219–2682.
j. *Comment Date:* March 20, 1996.
k. *Description of Project:* The proposed hydroelectric project would consist of: (1) An intake; (2) a 1,500 foot-long, 16-inch penstock; (3) a 350 kW generator; (4) a 7.5-mile-long transmission line; and (5) appurtenant facilities. The tailrace would empty into the unnamed stream approximately one-quarter mile upstream from the confluence with the Chilkat River.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* Personal use and future plans include selling power to the existing public utility.

m. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

3a. *Type of Application:* Declaration of Intention.
b. *Docket No.:* DI96–3–000.
c. *Date Filed:* January 18, 1996.
d. *Applicant:* Larry and Nancy Simonson.
e. *Name of Project:* Race Creek Hydro.
f. *Location:* West Branch Race Creek, tributary to Salmon River, in Adams County, one mile south of Riggins, Idaho (T. 25 N., R. 1 E., secs. 29, 30, and 32).
g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. § 817(b).
h. *Applicant Contact:* Larry Simonson, 14089 Morell Road, McCall, ID 83638, (208) 634–7074.
i. *FERC Contact:* Hank Ecton, (202) 219–2678.
j. *Comment Date:* March 20, 1996.
k. *Description of Project:* The proposed project will consist of: (1) An intake; (2) a 450-foot-long, 10-inch diameter pipeline; (3) a pelton-type turbine connected to a 46-kilowatt generator; and (4) appurtenant facilities. The nearest power source is more than 2 miles distance. The power generated will supply three residences.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* Applicant intends to use all energy produced on-site, to supply power to three residences. No other power source is available for 2 miles.

m. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

4a. *Type of Application:* New Major License.
b. *Project No.:* 2474–004.
c. *Date Filed:* December 4, 1991.
d. *Applicant:* Niagara Mohawk Power Corporation.
e. *Name of Project:* Oswego River Project.
f. *Location:* On the Oswego River in Oswego County, New York.
g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. Jerry Sabattis, Hydro Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474–1511.
i. *FERC Contact:* John McEachern (202) 219–3056.
j. *Deadline Date:* See paragraph D10.
k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time.
l. *Description of Project:* The project as licensed consists of three generating facilities. Beginning with the most upstream, these are the Fulton Development, the Minetto Development, and the Varick Development. The existing features of each development are described below.

Fulton Development

The development is comprised of the following features: (1) a concrete buttress dam, totaling about 509 feet long, with a maximum height of 15 feet at a crest elevation of 334.0 feet mean sea level (msl), topped with 6-inch-high flashboards and including a gated concrete intake section, about 35 feet high by 41 feet long by 14 feet wide, having (a) three steel gates, measuring 8 feet high by 6.5 feet wide; (b) a forebay measuring 10 feet long by 40 feet wide; (c) perpendicular trashracks with ⅜-inch steel bars at 2½ inch openings for a total gross area of 538 square feet; (2) a concrete-steel with brick masonry powerhouse, about 55 feet high by 25 feet wide by 43 feet long, equipped with two vertical fixed-propeller turbine and synchronous generator combinations having (a) a total rated capacity of 1,250 kilowatts (kW); (b) an operating hydraulic capacity of 1,010 cubic feet per second (cfs); (c) a rated head of 17 feet; and (d) an average annual generation of 7,380 MWh; (3) an impoundment having (a) a surface area of about 33 acres (AC); (b) a 620 acre-feet (AF) gross storage capacity; (c) a useable storage capacity of 30 AF; and (d) a normal pool headwater elevation of 334.5 feet msl; (4) an existing bypass reach about 1,850 feet long; (5) a switchgear building, about 24 feet by 32 feet, housing the main controls for the units; and (6) appurtenant facilities.

Minetto Development

The development is comprised of the following features: (1) a concrete gravity dam, totaling about 500 feet long, with a maximum height of 22.5 feet at a crest elevation of 307.0 feet msl, consisting of a gated concrete intake section, about 40 feet high by 190 feet long, having (a) nine steel gates, measuring 9 feet high by 11 feet wide; and (b) perpendicular trashracks with ½-inch steel bars at 2½ inch openings for a total gross area of 2,891 square feet; (2) a concrete-steel with brick masonry powerhouse, about 77 feet high by 88 feet wide by 230 feet long, equipped with five vertical Francis turbine and General Electric generator combinations having (a) an existing total rated capacity of 8,000 kW, a total hydraulic capacity of 7,000 cfs, and an average annual generation of 31,800 MWh; and (b) a rated head of 17.5 feet; (3) an impoundment having (a) a surface area of about 350 AC; (b) a gross storage capacity of 4,730 AF; (c) a useable storage capacity of 290 AF; and (d) a normal pool headwater elevation of 307.8 msl; (4) a backwatered bypass reach extending about 820 feet; (5) a tailrace confined between lock structures and the shore and extending 475 feet; and (6) appurtenant facilities.

Varick Development

The development is comprised of the following features: (1) a masonry gravity dam, totaling about 730 feet long with a maximum height of 13 feet, consisting of (a) a curved section, measuring 480 feet long with a crest elevation of 267.5 feet msl, topped with "stepped" flashboards, which vary from the west to each in heights at each quarter of the section: 30 inches, 32 inches, 34 inches and 36 inches; (b) a straight section, measuring 250 feet long with a crest elevation of 268.5 msl, also topped with "stepped" flashboards, varying in heights of 10 inches; and (c) a gated section, about 189 feet long by 28 feet wide, with (i) 24 steel gates measuring 11 feet high by 6.25 feet wide, (ii) an unused minimum flow gate, (iii) a forebay measuring 950 feet long by 150 feet wide; (iv) perpendicular trashracks with ⅜-inch steel bars at 4-inch openings for a total gross area of 3,083 square feet; (2) a concrete and brick powerhouse, about 78 feet high by 66 feet wide by 271 feet long, equipped with four vertical fixed-blade turbine and synchronous generator combinations having (a) an existing total rated capacity of 8,800 kW, a total hydraulic capacity of 5,600 cfs, and an average annual generation of 35,000 MWh; and (b) a rated head of 19.6 feet; (3) an impoundment having (a) a surface area of about 32 AC; (b) 435 AF of gross storage capacity; (c) a useable storage capacity of 80 AF; and (d) a normal pool headwater elevation of 270.0 msl; (4) an existing bypass reach about 1,940 feet long; (5) an open tailrace with a 695-foot-long diversion wall built parallel to the river flow; and (6) appurtenant facilities.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A4 and D10.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., Room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474–1511.

5a. *Type of Application:* Surrender of Exemption.

b. *Project No:* 8126–002.

c. *Date Filed:* January 16, 1996.

d. *Applicant:* USPower Corporation.

e. *Name of Project:* Piggy Back Project.

f. *Location:* Delaware River, Northampton County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 USC Section 791(a)–825(r).

h. *Applicant Contact:* Mr. Barry Solodky, Trustee in Bankruptcy, 28 Penn Square, Lancaster, Pennsylvania 17603, (717) 299–1100.

i. *FERC Contact:* Hillary Berlin, (202) 219–0038.

j. *Comment Date:* March 18, 1996.

k. *Description of Project:* This project consists of barge mounted paddle wheel units, which were removed from the Delaware River in 1994. The exemptee is in Chapter 11 bankruptcy and does not plan to reinstall the paddle wheel units.

l. *The notice also consists of the following standard paragraphs:* B, C1, and D2.

6a. *Type of Application:* Surrender of Exemption.

b. *Project No:* 9551–001.

c. *Date Filed:* January 16, 1996.

d. *Applicant:* USPower Corporation.

e. *Name of Project:* Piggy Back (Delaware) Project.

f. *Location:* Delaware River, in Warren County, New Jersey and Northampton County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. Section 791(a)–825(r).

h. *Applicant Contact:* Mr. Barry Solodky, Trustee in Bankruptcy, 28 Penn Square, Lancaster, Pennsylvania 17603, (717) 299–1100.

i. *FERC Contact:* Hillary Berlin, (202) 219–0038.

j. *Comment Date:* March 18, 1996.

k. *Description of Project:* This project consists of barge-mounted paddle wheel units, which were removed from the Delaware River in 1994. The exemptee is in Chapter 11 bankruptcy and does not plan to reinstall the paddle wheel units.

l. *The notice also consists of the following standard paragraphs:* B, C1, and D2.

7a. *Type of Application:* Lease Project Lands for Proposed Recreational Park.

b. *Project No:* 2146–074.

c. *Date Filed:* November 14, 1995.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Coosa River Hydroelectric Project.

f. *Location:* About 150 acres of land on the Weiss Reservoir just south of the City of Leesburg, Cherokee County, Alabama.

g. *Filed Pursuant to:* 18 CFR § 4.200.

h. *Applicant Contact:* Mr. Jim Crew, Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291, (205) 250–4265.

i. *FERC Contact:* Steve Hocking (202) 219–2656.

j. *Comment Date:* March 4, 1996.

k. This notice was issued January 18, 1996 (61 FR 2814, January 29, 1996) with a comment date of February 23, 1996, and is being reissued with a new comment date: March 4, 1996.

l. *Description of Amendment:* Alabama Power Company, licensee for the Coosa River Hydroelectric Project, seeks Commission approval to grant a lease to the Town of Leesburg (Town) to build a recreational park on project lands. The proposed lease is for about 150 acres of land adjacent to the Weiss Reservoir just south of the Town. The proposed recreational park would eventually have the following facilities: a boat ramp, picnic area, bath house, amphitheater, camping area, playground, swimming area, hiking trails, a civic building, and parking areas.

m. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

8a. *Type of Application:* Amendment to Revise Project Boundary.

b. *Project No:* 2105–035.

c. *Date Filed: 12/13/95.*

d. *Applicant:* Pacific Gas & Electric Company.

e. *Name of Project:* Upper North Fork Feather River.

f. *Location:* On the North Fork Feather River, near the town of Quincy, in Plumas County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Jeff Butler, Manager, Hydro Generation, Pacific Gas & Electric Company, Mail Code: N11C, P.O. Box 770000, San Francisco, CA 94177, (415) 973–5311.

i. *FERC Contact:* Mohamad Fayyad, (202) 219–2665.

j. *Comment Date:* March 4, 1996.

k. This notice was issued January 11, 1996 (61 FR 2813, January 29, 1996), with a comment date of February 20, 1996, and is being reissued with the following new comment date: March 4, 1996.

l. *Description of Amendment:* Licensee proposes to revise the boundary of the Upper North Fork Feather River Project, FERC No. 2105. The revision to project boundary would exclude a 30.84-acre portion of land adjacent to Lake Almanor. This land would be used by Chester Public Utility District for expansion of an existing wastewater treatment facility.

m. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

9a. *Type of Application:* Amendment of License.

b. *Project No.:* 4797–042, 043, 044.

c. *Date Filed:* November 14, 1995.

d. *Applicant:* Cogeneration Inc.

e. *Name of Project:* Auger Falls Project.

f. *Location:* Snake River Near the Town of Twin Falls, Idaho, in Twin Falls County.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. D. W. Block, J–U–B Engineers Inc., 800 Falls Avenue, Twin Falls, ID 83301, (208) 733–2414.

i. *FERC contact:* Steven A. Edmondson, (202) 219–2653.

j. *Comment date:* March 4, 1996.

k. *Description of Application:* The applicant proposes to amend the language in articles 404, 405, and 407 of the Commission issued license. This action is necessary to make the terms and conditions of the license consistent with the April 4, 1995, Consent Order Agreement between the licensee and the Idaho Department of Environmental Quality. The specific changes involve modifications to the current dissolved oxygen, water quality monitoring, and minimum flow requirements of articles 404, 405, and 407, respectively.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (April 1, 1996 for Project No. 2474–004). All reply comments must be filed with the Commission within 105 days from the date of this notice (May 14, 1996 for Project No. 2474–004).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone

number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: February 5, 1996, Washington, D.C.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2844 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP96–152–000, et al.]

Riverside Pipeline Company, L.P., et al., Natural Gas Certificate Filings

February 1, 1996.

Take notice that the following filings have been made with the Commission:

1. Riverside Pipeline Company, L.P.

[Docket No. CP96–152–000]

Take notice that on January 23, 1996, Riverside Pipeline Company, L.P. ("Riverside"), 8325 Lenexa Drive, Suite 400, Lenexa, Kansas 66214, filed, pursuant to Section 7(c) of the Natural Gas Act ("NGA"), 15 U.S.C. § 717f(c), Part 157 of the Commission's Regulations, and the Commission's directive in *KansOk Partnership, et al.*, 73 FERC ¶ 61,160 (1995) ("November 2 Order"), an application for a certificate of public convenience and necessity authorizing the operation of certain pipeline facilities in Kansas, Oklahoma, and Missouri found to constitute an interstate pipeline system. The application includes proposed initial rates and a proposed FERC Gas Tariff setting forth terms and conditions of service in compliance with Order No. 636. In addition, Riverside requests (1) a blanket certificate authorizing unbundled firm and interruptible sales pursuant to Section 284.284 of the regulations, and (2) a blanket certificate authorizing certain construction and operation of facilities, sales arrangements, certificate amendments, and abandonments pursuant to Section 157.201, *et seq.* of the regulations.

Riverside states that, as required by the Commission's November 2 Order, it seeks a certificate under NGA Section 7 and Part 157 of the Commission's Regulations to operate the pipeline facilities now owned by Riverside, Kansas Pipeline Partnership ("Kansas Pipeline"), and KansOk Partnership ("KansOk") on an integrated basis. Within 60 days following issuance of the requested certificate, Riverside states that all sales and transportation services currently provided by Kansas Pipeline and KansOk subject to state jurisdiction would be abandoned, all contracts currently held by Kansas Pipeline and KansOk would be assigned to Riverside, gas supply contracts would be assigned or terminated,[1] all pipeline and related facilities currently held by Kansas Pipeline and KansOk would be transferred to Riverside, and Riverside would commence unbundled service replacing the service previously provided by Kansas Pipeline, KansOk, and Riverside, all in accordance with the tariff proposed herein and the terms of Order No. 636.

Riverside requests the Commission to defer issuance of the certificate pending rehearing and judicial review of the November 2 Order, and to continue the Stay Order, stating that the actions it would be required to take to implement the certificate would destroy Kansas Pipeline and KansOk as they currently exist and are essentially irreversible.

Riverside states that no new construction is proposed by the Application. As proposed, sales services now being provided by Kansas Pipeline to its customers under KCC certificates will be unbundled in compliance with Order No. 636. Riverside will offer an equivalent level of transportation capacity to such customers. Small customers could elect to continue to purchase gas at a cost based rate for a one-year period under Rate Schedule SCS. Riverside also proposes to offer firm and interruptible sales on an unbundled basis at negotiated rates under Rate Schedule PS.

In conjunction with its application for a certificate to operate the combined facilities of Kansas Pipeline and KansOk, Riverside requests (1) a blanket certificate authorizing unbundled firm and interruptible sales pursuant to Section 284.284 of the regulations, and (2) a blanket certificate authorizing certain construction and operation of facilities, sales arrangements, certificate amendments, and abandonments pursuant to Section 157.201, *et seq.* of the regulations.

Riverside states that the rates set forth in Exhibit P are based on a straight fixed-variable ("SFV") rate design methodology and a cost of service reflecting the combined facilities of Riverside, Kansas Pipeline, and KansOk. According to the Application, no mitigation measures are required since SFV rates were in effect on each of the pipelines even prior to consolidation. Expenses are based on the 12 months ended September 30, 1995, adjusted for known and measurable changes. Costs have been allocated to customers using billing determinants which assume a continuation of customers' existing firm contractual commitments. Riverside proposes zone rates which, it states, generally reflect the rate and contract service structure that existed prior to the November 2 Order. Riverside also proposes to retain capacity formerly held by KansOk under the terms of a lease with Transok Inc., an Oklahoma intrastate pipeline.

Riverside's derivation of initial rates set forth below is explained in greater detail in Exhibit P. Firm and interruptible transportation rates (exclusive of fuel, surcharges, and lost and unaccounted for gas) are set forth below:

	Zone 1	Zone 2	Zone 3
FT Reservation	$6.6817	$10.5405	$9.1499
FT Commodity	$0.0050	$0.0050	$0.0050
IT	$0.2247	$0.3515	$0.3058
SCT	$0.5542	$0.8714	$0.7571

Rates for each zone are additive; shippers traversing all three zones would pay the sum of the rates stated for Zones 1, 2, and 3. In the event the Commission does not authorize Riverside to retain leased capacity on Transok, Riverside states that the rates would be as follows:

	Zone 1	Zone 2	Zone 3
FT Reservation	$5.5315	$10.5405	$9.1499
FT Commodity	$0.0050	$0.0050	$0.0050
IT	$0.1869	$0.3515	$0.3058
SCT	$0.4597	$0.8714	$0.7571

Riverside also proposes procedures to recover, as transition costs, all costs associated with complying with Order No. 636 and the Commission's November 2 Order. These costs include (1) unrecovered purchased gas costs attributable to Kansas Pipeline's existing merchant function; (2) direct-bill costs previously authorized by the KCC; (3) expenses associated with reorganizing and consolidating the companies into a single entity; (4) costs of upgrading existing facilities to comply with Department of Transportation regulations applicable to interstate pipelines; (5) increased costs under the companies' debt instruments related to the change in regulatory status; (6) costs of reorganizing into a corporate form, if needed to maintain the tax allowances currently in rates; (7) buyout, buydown, contract reformation costs, and/or lost profits attributable to terminating Kansas Pipeline's merchant function; and (8) costs attributable to assigning or terminating KansOk's lease with Transok, Inc., if required. Riverside proposes to make limited NGA § 4 filings to recover these costs.

Comment date: Febraury 22, 1996, in accordance with Standard Paragraph F at the end of this notice.

[1] Only those gas supply arrangements needed to support a small customer sales service would be retained.

2. Southern Natural Gas Company

[Docket No. CP96–153–000]

Take notice that on January 24, 1996, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP96–153–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct, install and operate certain pipeline, compression, measurement and related appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that in order to provide firm transportation services totaling 76,350 Mcf per day for five (5) customers, Southern requests authorization to construct, install and operate the following facilities: (i) 109.53 miles of 16-inch pipeline extending from its McConnells Compressor Station in Tuscaloosa County, Alabama, to a point of interconnection with the distribution system of the Huntsville Utilities Gas Section in Madison County, Alabama; (ii) 8.47 miles of 12-inch pipeline extending from approximately M.P. 105.19 on the 16-inch pipeline to a point of interconnection with the distribution system of Decatur Utilities in Morgan County, Alabama; (iii) one turbine compressor unit, ISO-rated at 4700 horsepower, at Southern's Providence Compressor Station in Tuscaloosa County, Alabama; (iv) one turbine compressor unit, ISO-rated at 1600 horsepower, at Southern's McConnells Compressor Station; and (v) one dual 8-inch meter station and appurtenant facilities, one dual 6-inch turbine meter station and appurtenant facilities, and one dual 3-inch meter station and appurtenant facilities.

Southern states further that the total cost of the proposed facilities is estimated to be $52.8 million.

Comment date: February 21, 1996, in accordance with Standard Paragraph F at the end of this notice.

3. Northern Natural Gas Company

[Docket No. CP96–157–000]

Take notice that on January 25, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP96–157–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate and upgrade an existing delivery point in Ashland County, Wisconsin, to accommodate deliveries of natural gas to Northern States Power—WI (NSP–WI), under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern requests authorization to operate the Birch Hill Acres town border station (TBS) following an upgrade made under the emergency provisions of Part 284 of the Commission's Regulations. It is stated that the upgrade was made to provide emergency service to residential and commercial customers. Northern proposes to further upgrade the TBS in order to make additional deliveries requested by NSP–WI under currently effective service agreements. Northern proposes to deliver up to 208 MMBtu equivalent of natural gas on a peak day and 26,572 MMBtu equivalent on an annual basis. It is explained that these volumes will be the result of a realignment of existing firm entitlement contracted under Northern's throughput service agreements with TSP–WI. It is asserted that the deliveries made following the proposed upgrade will not exceed the total volumes authorized prior to the request. Northern estimates the construction cost for the upgrade at $66,000, for which Northern will be reimbursed by NSP–WI. It is further asserted that Northern's tariff does not prohibit such upgrades and that Northern has sufficient capacity to accomplish the deliveries without detriment or disadvantage to Northern's other customers.

Comment date: March 18, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. ANR Pipeline Company

[Docket No. CP96–158–000]

Take notice that on January 26, 1996, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP96–158–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to increase capacity of an existing interconnection between ANR and Continental Natural Gas, Inc. (CNG) in Beaver County, Oklahoma for delivery of natural gas to CNG under ANR's blanket certificate issued in Docket No. CP82–480–000 pursuant to Section 7 of the Natural Gas Act (NGA), all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR proposes to increase the capacity of an existing interconnection between ANR and CNG in Beaver County, Oklahoma for delivery of natural gas to CNG, and to operate this interconnection under Section 7(c) of the NGA. ANR received certification, pursuant to Section 157.211 of the Commission's Regulations under ANR's prior notice application in Docket No. CP96–6–000, to operate and deliver up to 6,000 Mcf of natural gas per day at the CNG "A" Station. ANR proposes to increase the maximum capacity of the CNG "A" Station to 10,000 Mcf per day from 6,000 Mcf per day. ANR states that it will not construct any facilities nor spend any money to increase the capacity of the CNG "A" Station. ANR states that, rather, CNG would install a larger meter on its current metering skid adjacent to the CNG "A" Station to increase the capacity to 10,000 Mcf per day. ANR states that it would continue to provide CNG with deliveries at CNG "A" Station under its Rate Schedule IT and that the volumes to be delivered would be within the certificated entitlements of the customer.

Comment date: March 18, 1996, in accordance with Standard Paragraph G at the end of this notice.

5. Transcontinental Gas Pipe Line Corporation

[Docket No. CP96–160–000]

Take notice that on January 29, 1996, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed a prior

notice request with the Commission in Docket No. CP96–160–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a new delivery point to serve Alabama Gas Corporation (Alagasco) in Choctaw County, Alabama, under Transco's blanket certificate issued in Docket No. CP82–426–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Transco proposes to install a new delivery point to serve Alagasco near Milepost 798.54 on Transco's mainline system in Choctaw County. Transco would install a four-inch tap on its 42-inch diameter Mainline "D" and another four-inch tap on its 42-inch diameter Mainline "E", as well as a meter station, at the proposed delivery point location. Transco states that it would deliver up to 3,000 Mcf per day on a firm or interruptible basis, and that it has sufficient delivery flexibility to accomplish these deliveries without detriment or disadvantage to Transco's other customers.

Transco states that it does not seek to alter the total firm or interruptible volumes authorized for delivery to Alagasco. Transco further states that its FERC Gas Tariff permits the addition of the proposed delivery point and would have no impact on Transco's peak day or annual deliveries.

Comment date: March 18, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2774 Filed 2–8–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5420–1]

Request for Comments: Automobile Refinishing Solvent Use Survey (ARSUS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 9, 1996.

ADDRESSES: Air Pollution Prevention and Control Division (MD–62), Office of Research and Development, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Mr. Charles O. Mann, (919) 541–4593, Fax (919) 541–7891, E-mail mann.chuck@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which are the owners and operators of the facilities that are classified in any of the following SIC codes:

5511—Motor Vehicle Dealers (New and Used)
5521—Motor Vehicle Dealers (Used Only)
7532—Top, Body, and Upholstery Repair Shops and Paint Shops
7538—General Automotive Repair Shops
7539—General Automotive Repair Shops, Not Elsewhere Classified

Title: Automobile Refinishing Solvent Use Survey (ARSUS).

Abstract: This information collection is a voluntary one-time survey of automobile refinishers requested by the Emissions Characterization and Prevention Branch (ECPB) of the Environmental Protection Agency's (EPA) Air Pollution and Prevention Control Division (APPCD) to support the overall EPA program to investigate the emissions of ozone precursors both nationally and at the metropolitan level. Data collected are used to validate existing and proposed model-based estimates of emissions, develop statistically valid estimates of precursors usage in the auto refinishing industry, and investigate functional relationships between emissions and factors that may be useful predictors of emissions.

Automobile refinishers make extensive use of solvents in paints, in body fillers, and for clean-up both before and after repair operations. Most of these solvents evaporate after they are used. As volatile organic compounds (VOC) they are precursors in the formation of ground-level ozone. Paints used in automobile refinishing contain higher concentrations of the more reactive VOC than do other types of paint. In addition, there is a high degree of uncertainty in emissions estimates for automobile refinishing. National solvent usage estimates for the category range from as low as 80,000 tons per year to as high as 286,000 tons per year. This uncertainty, more than a factor of 3.5, is largely due to the uncertainty in the use of thinning and cleanup solvents. It must also be noted that this uncertainty is at the national level. Additional uncertainty is introduced when a surrogate (such as population or accident statistics) is used to allocate national usage estimates to the local level.

Past automobile refinishing emission estimates are based on national production data, distribution to regions, States, and local areas on the basis of employment and population statistics. Solvent emissions from automobile refinishers are currently estimated using a per capita emission factor, which does not reflect the variability of emissions from different shops and may misrepresent emissions from this industry. The emission estimation method is used by State and local air pollution agencies in the development of air emission inventories.

The voluntary survey includes a national survey of auto body repair shops and local-area intensive surveys of 6 high-population areas. The survey instrument collects information on the quantity and types of materials used by the automobile refinishing facilities such as paints, primers, cleanup solvents, etc. In addition, information on the usage of these solvents is recorded by the survey. Usage includes details on when (time of day, day of week and season), how (spary booths, spray guns, etc.) and where (location of facilities) the solvents were used.

The national survey data are divided into two independent sets with probability proportional to population. One set is used to estimate model parameters (train the technique). The second set is used to develop a comparison variable (validating the technique or model for emission estimation) with an unbiased estimate of the difference between the model estimate and the true value.

Data are collected using a combined mail and telephone survey approach. Respondents are requested to complete on survey that requests information on the facility, type of automobile refinishing work conducted, solvent usage, temporal and activity variation on solvent usage, application equipment, solvent cleaning systems, air pollution control equipment, and local industry demographics. The telephone survey will prompt nonrespondents and clarify survey responses.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers of EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Burden Statement: The public reporting and recordkeeping burden for this collection of information is estimated to average 47 minutes per response. The survey is a one-time data collection. The survey includes 5,900 field samples. An estimated 4,500 survey responses are expected. Since we anticipate that respondents will use existing records and equipment to respond to the survey, no capital or start-up cost burdens are expected.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: January 31, 1996.

Chalres O. Mann,

Chief, Emissions Characterization and Prevention Branch.

[FR Doc. 96–2919 Filed 2–8–95; 8:45 am]

BILLING CODE 6560–50–M

(ER–FRL–5413–4)

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed January 29, 1996 Through February 02, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960047, Final EIS, AFS, NV, Dash Open Pit and Underground Mining Project, Implementation, Expanding existing Gold Mining Operations at the Jerritt Canyon Project, Plan of Operation Approval and COE Section 404 Permit, Humboldt Toiyabe National Forest, Independence Mountain Range, Elko County, NV, Due: March 11, 1996, Contact: Mary Beth Mark (702) 738–5171.

EIS No. 960048, Final EIS, NPS, MI, Beaver Basin Rim Road Project, Construction between Legion Lake and the Twelvemile Beach, Pictured Rocks National Lake Shore, Alger County, MI, Due: March 11, 1996, Contact: Jill Medland (402) 221–3455.

EIS No. 960049, Final EIS, FHW, FL, FL–312 Extension Project, Construction, FL–207 to US 1/FL–5 north of the City of St. Augustine, Funding, Right-of-Way Permit, COE Section 404 and NPDES Permits, St. John County, FL, Due: March 11, 1996, Contact: J. R. Skinner (904) 942–9582.

EIS No. 960050, Draft EIS, FDA, NY, U.S. Food and Drug Administration, Construction of Regional Office and Laboratory, Site Specific, Jamaica Site, Queen County, NY, Due: May 01, 1996, Contact: Peter A. Sneed (212) 264–3581.

EIS No. 960051, Final EIS, FHW, PA, PA–0322 (Section B01) Transportation Corridor, Improvements from PA–0655 to Mt. Pleasant, Funding and COE Section 404 Permit, Mifflin County, PA, Due: March 11, 1996, Contact: Manuel A. Mark (717) 782–3461.

EIS No. 960052, Final EIS, BLM, OR, Bal'diyaka Interpretive Center Construction and Operation to Present the Natural History of Oregon's Southern Coast; the Cultural Heritage of the Coos, Lower Umpqua and Siuslaw Indians and Local US Coast Guard History, Implementation, Coos Bay District, Gregory Point, Coos County, OR, Due: March 11, 1996, Contact: Daryl Albiston (541) 756–0100.

EIS No. 960053, Draft EIS, FHW, MO, US 65 Corridor, Construction

Carollton to Marshall, Funding, COE Section 404 Permit and US Coast Guard Permit, Carroll, Lafeyette and Saline Counties, MO, Due: April 08, 1996, Contact: Don Neumann (573) 636–7104.

EIS No. 960054, Draft EIS, IBR, CA, American River Water Resources Investigation, Implementation, Placer, Sutter, El Dorado, Sacramento and San Joaquin Counties, CA, Due: May 03, 1996, Contact: Al Candlish (916) 967–7692.

EIS No. 960055, Final EIS, AFS, AK, Shamrock Timber Sales, Timber Harvesting and Road Construction, Stikine Area, Kupreanof Island, Tongass National Forest, Implementation, AK, Due: March 11, 1996, Contact: Jim Thompson (907) 772–3871.

EIS No. 960056, Final EIS, AFS, CO, Telluride Ski Area Expansion Project, Implementation, Special-Use-Permit and COE Section 404 Permit, Grand Mesa Uncompahgre and Gunnison National Forests, Norwood Ranger District, San Miguel County, CO, Due: March 11, 1996, Contact: Jeff Burch (970) 874–7691.

EIS No. 960057, Final EIS, IBR, WA, ND, OR, ID, NV, MT, SD, WY, NB, UT, CO, CA, NM, OK, KS, AZ, TX, Acreage Limitation and Water Conservation Rules and Regulations, Revised and/or New Rules for Replacement and Expansion of Existing Rules pertaining to the Administration of the Reclamation Reform Act of 1982, Implementation in Seventeen Western States, Due: March 11, 1996, Contact: Ronald J. Schuster (303) 236–9336.

EIS No. 960058, Draft EIS, NRC, UT, Atlas Site Reclamation Project, License Amendment Request for existing License No. SUA–917 along the Colorado River near Moab, UT, Due: March 25, 1996, Contact: Joseph Holonich (301) 415–6643.

Amended Notices

EIS No. 950431, Draft EIS, DOE, Programmatic EIS—Waste Management, Managing Treatment, Storage and/or Disposal of Radioactive and Hazardous Waste for Five Types of Waste: Low-Level Radioactive; Low-Level Mixed; Transuranic Radioactive; High-Level Radioactive and Hazardous Waste, Sites Selection Around the United States, Due: February 19, 1996, Contact: David Hoel (202) 586–3977. Published FR 09–22–95—Review Period Extended.

EIS No. 950463, Draft Supplement, FHW, KS, South Lawrence Trafficway Contruction, Kansas Turnpike'I–70 to KS–10/Noria Road, New Information concerning KS–10 on the East and US 59 on the West, Funding, COE Section 404 Permit and Right-of-Way Acquisition, Douglass County, KS, Due: March 06, 1996, Contact: Mark Sehr (913) 267–7284. Published FR 10–20–95—Review Period Extended.

EIS No. 950556, Draft EIS, AFS, WA, Snoqualmie Pass Adaptive Management Area Plan, Implementation, Wenatchee and Mt. Bake-Snoqualmie National Forest, Cle Elum and North Bend Ranger Districts, Kittitas and King Counties, WA, Due: February 29, 1996, Contact: Floyd Rogalski (509) 674–4411. Published FR 12–08–95—Review Period Extended.

EIS No. 950587, Final EIS, BLM, WY, Jackpot Underground Uranium Mine Project, Construction and Operation, Plan of Operation Approval, NPDES Permit and COE Section 404 Permit, Fremont and Sweetwater Counties, WY, Due: March 01, 1996, Contact: Larry Kmoch (307) 328–3208. Published FR—01–26–96—Review Period Extended.

EIS No. 950603, Draft EIS, AFS, CA, Snowcreek Golf Course Expansion, Construction and Operation, Special Use Permit, Inyo National Forest System Lands, Mono County, CA, Due: March 12, 1996, Contact: Robert Hawkins (619) 873–2400. Published FR—01–26–96—Review Period Extended.

EIS No. 950604, Final EIS, FHW, WA, Elliott Bridge No. 3166 Replacement, from WA–169 (Renton-Maple Valley Highway) across the bridge to the intersection of 154th Place S. E., Funding, U.S. CGD Bridge Permit and Section 404 Permit, Cedar River, City of Renton, King County, WA, Due: January 29, 1996, Contact: Gene Fong (206) 753–2120. Published FR—01–26–96—Correction of CEQ Accession Number.

EIS No. 960020, Draft EIS, MMS, AK, 1997 Outer Continental Shelf Oil and Gas Lease Sale 158, Yakutat Planning Area, Implementation, Gulf of Alaska, AK, Due: April 25, 1996, Contact: George Valiulis (703) 787–1662. Published FR—01–26–96—Correction of Comment Due Date.

EIS No. 960025, Draft EIS, AFS, AK, Port Houghton/Cape Fanshaw Timber Harvest Sale Project, Implementation, Tongass National Forest, Chatham and Stikine Areas, South of Juneau, AK, Due: March 18, 1996, Contact: Dave Cottrell (907) 772–3841. Published FR—02–02–96 Correction of Comment Due Date.

EIS No. 960027, Draft Supplement, FHW, SC, Mark Clark Expressway (Charleston Inner Belt Freeway) Updated Information, Construction between SC–7 Sam Rittenberg Boulevard and SC–171 Folly Road, Stone River, U.S. Coast Guard Permit and COE Section 10 and 404 Permits, Charleston County, SC, Contact: Kenneth Myers (803) 253–3881. Published FR—02–02–96—Inadvertently Published in the 02–02–96 Federal Register. The EIS was filed 9–11–95 and appeared in the 9–22–95 **Federal Register**. The Comment Period Ended on 11–06–95. The CEQ Accession Number for the Correct EIS is 950423.

EIS No. 960034, Draft Supplement, COE, FL, Central and Southern Florida Flood Control Project, Restoration of the Upper Kissimmee River Basin through the Headwater Revitalization Project and the Lower Kissimmee River Basin through the Level II Backfilling Plan, Implementation, Updated Information, Glades, Osceda Highlands, Polk, Okeechobee and Orange Counties, FL, Due: March 18, 1996, Contact: Michael A. Smith (904) 232–3506. Published—FR 02–02–96—Correction of EIS Status and Comment Due Date.

Dated: February 06, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–2906 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5419–9]

Effluent Trading in Watersheds Policy Statement

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent.

SUMMARY: EPA's Assistant Administrator for Water, Assistant Administrator for Enforcement and Compliance and Assurance and General Counsel hereby give notice of an Effluent Trading in Watersheds Policy Statement. This Policy Statement is a result of President Clinton's "Reinventing Environmental Regulation" (March, 1995), which listed effluent trading in watersheds as one of the twenty-five high priority action items. The Policy Statement discusses the benefits of trading, presents an explanation of different types of effluent trading, and outlines how EPA will encourage trading.

DATES: This action is effective February 9, 1996.

ADDRESSES: Environmental Protection Agency, Office of Water (4102), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mahesh Podar, Director, Policy and Budget Staff, Office of Water, at the address given above; telephone 202/260–7818; Email address podar.mahesh@epamail.epa.gov@in. The Policy Statement may also be accessed on the EPA Office of Water Home Page on the Internet at the following address: http://www.epa.gov/OWOW.

SUPPLEMENTARY INFORMATION:

Authority: Clean Water Act, 33 U.S.C. 1251 et. seq.

Robert Perciasepe,

Assistant Administrator for Water.

Effluent Trading in Watersheds Policy Statement

Purpose

In response to President Clinton's Reinventing Environmental Regulation (March 1995), EPA strongly promotes the use of effluent trading to achieve water quality objectives and standards. This statement communicates EPA's policy on effluent trading in watersheds, discusses the benefits of trading, presents an explanation of several types of effluent trading, and outlines how EPA will be encouraging trading. This policy is Agency guidance only and does not establish or affect legal rights or obligations. It does not establish a binding norm and is not finally determinative of the issues addressed. Agency decisions in any particular case will be made by applying the law and regulations on the basis of specific facts when permits are issued.

Policy

EPA will actively support and promote effluent trading within watersheds to achieve water quality objectives, including water quality standards, to the extent authorized by the Clean Water Act and implementing regulations. EPA will work cooperatively with key stakeholders to find sensible, innovative ways to meet water quality standards quicker and at less overall cost than with traditional approaches alone. EPA will assure that effluent trades are implemented responsibly so that environmental progress is enhanced, not hindered.

Benefits

EPA's support of watershed-based trading is anchored to a strong commitment to achieve and maintain water quality standards. EPA believes that trading is an innovative way for community stakeholders (e.g., regulated sources, non-regulated sources, regulatory agencies and the public) to develop more "common sense" solutions to water quality problems in their watersheds. Effluent trading potentially offers a number of economic, environmental and social benefits:

Economic Benefits:

—Reduces costs for individual sources contributing to water quality problems.

—Allows dischargers to take advantage of economies of scale and treatment efficiencies that vary from source to source.

—Reduces overall cost of addressing water quality problems in the watershed.

Environmental Benefits:

—Achieves equal or greater reduction of pollution for the same or less cost.

—Creates an economic incentive for dischargers to go beyond minimum pollution reduction and also encourages pollution prevention and the use of innovative technologies.

—Can reduce cumulative pollutant loading, improve water quality, accommodate growth and prevent future environmental degradation.

—Can address the broader environmental goals within a trading area, e.g., ecosystem protection, ecological restoration, improved wildlife habitat, endangered species protection, etc.

Social Benefits:

—Encourages dialogue among stakeholders and fosters concerted and holistic solutions for watersheds with multiple sources of water quality impairment.

Explanation of Different Types of Effluent Trading

Trading supplements the current regulatory approach. It is a method to attain and/or maintain water quality standards, by allowing sources of pollution to achieve pollutant reductions through substituting a cost-effective and enforceable mix of controls on other sources of discharge. As the Agency improves its understanding of the opportunities afforded by watershed-based decision making, EPA will provide information for additional forms of trading.

To take advantage of trading, a point source must be in compliance, and remain in compliance, with applicable technology-based limits. Intra-plant trades must also have a technology-based floor, while the technology floor for pretreatment trading is determined by the categorical standards. EPA expects that most trades will be covered by Total Maximum Daily Loads (TMDL) or similar watershed-based analysis.[1]

The items to be traded are the pollutant reductions or water quality improvements sought. Under trading, a source that can more cost-effectively achieve greater pollutant reduction than is otherwise required would be able to sell or barter the credits for its excess reduction to another source unable to reduce its own pollutants as cheaply. To ensure that water quality standards are met throughout a watershed, an equivalent or better water pollutant reduction would need to result from a trade. Below are proposed definitions for several different types of effluent trading approaches. These definitions are preliminary and do not reflect the full range of feasible trades:

Intra-Plant Trading: A point source is allocated pollutant discharges among its outfalls in a cost-effective manner, provided that the combined permitted discharge with trading is no greater than the combined permitted discharge without trading in the watershed.

Pretreatment Trading: An indirect industrial point source(s) that discharges to a publicly owned treatment works arranges, through the local control authority, for additional control by other indirect point sources beyond the minimum requirements in lieu of upgrading its own treatment for an equivalent level of reduction.

Point/Point Source Trading: A point source(s) arranges for other point source(s) in a watershed to undertake greater than required control in lieu of upgrading its own treatment beyond the minimum technology-based treatment requirements in order to more cost-effectively achieve water quality standards.

Point/Nonpoint Source Trading: A point source(s) arranges for control of nonpoint source discharge(s) in a watershed in lieu of upgrading its own treatment beyond the minimum technology-based treatment requirements in order to more cost-effectively achieve water quality standards.

Nonpoint/Nonpoint Source Trading: A nonpoint source(s) arranges for more cost-effective control of other nonpoint sources in a watershed in lieu of installing or upgrading its own control.

[1] A TMDL provides the water quality analysis and planning process for determining the specific pollution reduction that are necessary to attain or maintain water quality standards. Under section 303(d) of the CWA, States establish TMDLs for impaired waters. The TMDL process includes legal requirements for public participation and implementation through NPDES permits.

How EPA Will Be Encouraging Trading

EPA is developing a framework for watershed-based effluent trading, as well as information exchange workshops, and limited technical assistance for trading projects in specific areas. Watershed-based trading will be implemented on a voluntary basis under existing Clean Water Act (CWA) authorities. There will be substantial public outreach effort to obtain stakeholders' recommendations and insights on draft portions of the framework prior to implementation.

Finally, while EPA believes that the potential of trading is largely untapped, the usefulness of trading will depend on the site-specific water quality conditions in any given situation. The framework will describe situations which EPA believes are most appropriate for watershed-based trading, and those that are generally inappropriate.

EPA plans to distribute a draft trading framework in February, 1996 and hold a series of stakeholder meetings. For more information call Mahesh Podar at (202)260–7818, fax (202)401–3372 or send an Email message to herzi.hawa@epamail.epa.gov or tuano.theresa@epamail.epa.gov.

Experience to Date

Trading is being explored, developed or implemented in a number of watersheds throughout the country. Some examples are below:

Project/Location	Focus	Type of trading
Fox River, WI	BOD, nutrients	Point/point.
Dillon Reservoir, CO	Phosphorus	Point/nonpoint; nonpoint/nonpoint.
Boulder Creek, CO	Ammonia, nutrients	Point/nonpoint.
Tar-Pamlico, NC	Nitrogen, phosphorus	Point/nonpoint.
Arkansas Nature Conservancy	Wetlands	Nonpoint/nonpoint.
Maryland Nontidal Wetlands	Wetlands	Nonpoint/nonpoint.
Iron and Steel	BOD, TSS, zinc, and lead	Intra-plant.
Rhode Island electroplaters	Metals	Pretreatment.
Chehalis River Basin, WA	BOD	Point/nonpoint.
Boone Reservoir, TN	Nutrients	Point/nonpoint.
Wicomico River, MD	Phosphorus	Point/nonpoint.
Honey Creek Watershed, OH	Phosphorus	Point/nonpoint.
South San Francisco Bay, CA	Copper	Point/point.
Long Island Sound, NY	Dissolved oxygen	Point/nonpoint.
Cherry Creek, CO	Phosphorus	Point/nonpoint; point/point.
Tampa Bay, FL	Nitrogen, TSS	Point/point; point/nonpoint; nonpoint/nonpoint.
Chatfield Basin, CO	Phosphorus	Point/nonpoint.

[FR Doc. 96–2920 Filed 2–8–96; 8:45 am]
BILLING CODE 6560–50–P

[FRL–5419–4]

Underground Injection Control Program Hazardous Waste Disposal Injection Restrictions Petition for Exemption—Class I Hazardous Waste Injection Cab-O-Sil Division, Cabot Corporation, Tuscola, Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of reissuance of exemption from land disposal restrictions.

SUMMARY: Notice is hereby given by the USEPA that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been reissued to Cab-O-Sil Division, Cabot Corporation (Cabot), of Tuscola, Illinois, for continued use of Wells No. 1 and 2 and addition of Well No. 3 to inject enumerated restricted wastes into geological reservoirs. As required by 40 CFR Part 148, Cabot has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the initiation of underground injection by Cabot of specific restricted hazardous wastes, including hydrochloric acid and wastewaters contaminated with hydrochloric acid which are hazardous because they are corrosive (Waste Code D002), a multi-source leachate (Waste Code F039) contaminated with small amounts of 1,1-dichloroethylene, 1,2-dichloroethylene, methylene chloride, phenol, tetrachloroethylene, and trichloroethylene from a closed waste storage impoundment, and low concentrations of residual, spent acetone (Waste Code F003) rinsed from laboratory glassware cleaned with solvent, into a Class I hazardous waste injection well, specifically identified as Well No. 3, at the Tuscola facility. The reissuance also incorporates conclusions based on geological data gathered during construction of that well and contained in the petition for reissuance dated August 16, 1995, into the Administrative Record of the decision to grant Cabot Corporation an exemption from the Land Disposal Restrictions. This decision constitutes a final USEPA action for which there is no administrative appeal.

Background

Cabot submitted a petition on April 14, 1988, requesting exemption for its two injection wells, Well No. 1 and Well No. 2, located near Tuscola, Illinois, from the land disposal restrictions for corrosive hazardous wastes (Waste Code D002) which became effective on August 8, 1990. After reviewing the petition and additional submissions of information, the USEPA determined that the geological setting at the site as well as the construction and operation of Well No. 2 is adequate to prevent fluid migration out of the injection zone within 10,000 years, as required under 40 CFR Part 148. A three-month extension of the facility's ban date was required because the requirements for finalizing the decsion to grant an exemption could not be completed before the ban date. The exemption for Well No. 2 was issued on November 6, 1990.

Because of problems which included loss of mechanical integrity of Well No. 1 at the time the exemption was granted, it was not included in the exemption. The well was repaired, and mechanical integrity tests, demonstrations showing an absence of leaks in the tubing and casings or cement seal at the top of the injection zone, were completed on November 21, 1990. The results were submitted on December 17, 1990. The demonstrations of mechanical integrity were accepted and Cabot's exemption was extended to include operation of Well No. 1 on February 4, 1991. On August 18, 1994, Cabot requested addition of Waste Code F039, multi-source leachate recovered as purge water from on-site monitoring wells, to the list of exempted wastes. This petition was reviewed and determined to be nonsubstantive, and the changed requested was acknowledged on November 4, 1994.

Because of problems of capacity to inject the entire waste stream through Well No 1. at times when Well No. 2 is unavailable and concerns about the maintenance of mechanical integrity of Well No. 1, Cabot petitioned for reissuance of the exemption to include newly drilled Well No. 3 and to add information which confirms the conservative nature of the parameter values used to simulate waste migration through the 10,000 year post closure period.

The USEPA reviewed information concerning the mechanical integrity of each well, evaluated the conclusions and data on which they are based, and has determined that conclusions are based on valid interpretations of measured data and show that the model used to simulate waste migration is conservative and meets all requirements specified in 40 CFR Part 148.

A **Federal Register** notice describing the basis of the decision was published on November 28, 1995, at 60 FR 58623 et seq. A public notice of the proposed decision was published in local papers on December 5, 1995, pursuant to 40 CFR 124.10. A public hearing was tentatively scheduled, but not held due to lack of public interest in the decision. The public comment period expired on January 19, 1996. Two comment letters were received, and after considering all comments, the USEPA has determined that its reasons for granting the exemption as set forth in the proposed decison remain valid; accordingly, the exemption is reissued with specific conditions listed in this notice. A responsiveness summary has been prepared for distribution to all commentors.

CONDITIONS: For this exemption to be effective, Cabot must meet the following conditions:

(1) The monthly average injection rate must not exceed 400 gallons per minute;

(2) The concentrations of the constituents included in the injected leachate will not exceed the amounts listed as proposed maximum allowable concentrations in Table 8–6 in the 1988 petition document;

(3) Direct injection shall occur only into the Franconia, Potosi, and Eminence Dolomites and the Gunter Sandstone;

(4) The injection zone shall consist of the Franconia, Potosi, Eminence, and Oneota Dolomites and the Gunter Sandstone, found between the 5,400 and 4,442 foot depths in Cabot's Well No. 2; and

(5) Cabot must be in full compliance with all conditions of its permits and other conditions relating to the exemption found in 40 CFR Parts 148.23 and 148.24.

DATE: This action is effective as of January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, USEPA, Region 5, telephone (312) 886–2939. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

Rebecca L Harvey,

Acting Director, Water Division.

[FR Doc. 96–2918 Filed 2–8–96; 8:45 am]
BILLING CODE 6560–50–P

[FRL–5420–7]

Notice of National Environmental Education Advisory Council Monthly Conference Calls

Notice is hereby given that the National Environmental Education Advisory Council will hold regularly scheduled monthly conference calls on the second Thursday of each month from 3:00 to 4:00pm eastern time. The Council was established under section 9 of the National Environmental Education Act (the Act) to provide advice and recommendations to EPA on EPA's implementation of the Act. The Council includes representatives from schools, universities, states, nonprofit organizations, and the private sector.

Conference calls in which the Council will provide EPA with advice or recommendations will be accessible to the public as provided for under section 10(a)(1) of the Federal Advisory Committee Act (FACA). However, conference calls in which the Council will solely gather information or analyze issues and facts that will be deliberated at a later date by the Council during an open public forum will not be accessible to the public (per exemption under section 101–6.1004(k) of the General Service Administration's final rule on FACA committee management).

To obtain information on the Council or their conference calls, please contact Kathleen MacKinnon, Environmental Education Division (1707), Office of Communications, Education, and Public Affairs, U.S. EPA, 401 M Street, SW., Washington, DC 20460, 202–260–4951.

Dated: December 7, 1995.

Denise Graveline,

Deputy Associate Administrator, Office of Communications, Education, and Public Affairs.

[FR Doc. 96–2914 Filed 2–8–96; 8:45 am]
BILLING CODE 6560–50–P

[FRL–5419–5]

Tonolli Corporation de Minimis Settlements; Proposed Administrative Settlements Under the Comprehensive Environmental Response, Compensation and Liability Act

AGENCY: United States Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into an amendment to the Tonolli Corporation first *de minimis* settlement and an amendment to the second *de minimis* settlement pursuant to Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. 9622(g)(4). The proposed amendment to the first *de minimis* settlement is intended to resolve the liabilities under CERCLA of 9 *de minimis* parties for response costs incurred by the United States Environmental Protection Agency at the Tonolli Corporation Site, Nesquehoning, Pennsylvania. The proposed amendment to the second *de minimis* is intended to resolve the liability of 1 party for response costs incurred by the United States Environmental Protection Agency at the Tonolli Corporation Site.

DATES: Comments must be provided on or before March 11, 1996.

ADDRESSES: Comments should be addressed to the Docket Clerk, United States Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, and should refer to: In Re: Tonolli Corporation Site, Nesquehoning, Pennsylvania U.S. EPA Docket No. III–92–35–DC and EPA Docket No. III–93–03–DC.

FOR FURTHER INFORMATION CONTACT: Lydia Isales (215) 597–9951, United States Environmental Protection

Agency, Office of Regional Counsel, (3RC20), 841 Chestnut Building, Philadelphia, Pennsylvania, 19107.

SUPPLEMENTARY INFORMATION:

Notice of De Minimis Settlement

In accordance with Section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of proposed amendments to the Tonolli first and second *de minimis* administrative settlements concerning the Tonolli Corporation Site in Nesquehoning, Pennsylvania. The amendments to the administrative settlements were signed by the United States Environmental Protection Agency, Region III's Acting Regional Administrator. Given that the amendment to the Tonolli first *de minimis* administrative settlement includes settlement with three new parties, and re-settles with two prior signatories based on ability to pay, the amendment is subject to review by the public pursuant to this Notice. Given that the amendment to the Tonolli second *de minimis* settlement addresses re-settling with a prior signatory based on ability to pay, the amendment is subject to review by the public pursuant to this Notice. The agreements are also subject to the approval of the Attorney General, United States Department of Justice or her designee. Below are listed the parties who have executed binding certifications of their consent to participate in the amendment to the Tonolli first *de minimis* settlement:

Altoona Iron & Metal
Atlantic Battery Corporation
Buckeye Metals Corp.
General Metals and Smelting Company
Lexa Metal Corp.
Stump's Scrap Yard
Trojan Battery Company
U.S. Auto Radiator Manufacturer Co.
Vincent Pace Scrap Metals, Inc.

These 9 parties collectively agreed to pay $153,157.27 towards costs expended by EPA at the Tonolli Corporation Site, in addition to payment of a total of $12,750.00 in stipulated penalties by two of the parties.

Four of the *de minimis* parties to the amendment to the first *de minimis* settlement listed above, who had initially signed the first *de minimis* settlement, will be required to pay their volumetric share of the Government's past response costs and the estimated future response costs at the Tonolli Corporation Site, and an appropriate premium in accordance with Agency policy (Atlantic Battery Corporation, Buckeye Metals Corp., General Metals and Smelting Company, U.S. Auto Radiator Manufacturer Co.). The other two *de minimis* parties who had initially signed the first *de minimis* settlement are paying a lesser amount than their volumetric share, based on ability to pay (Lexa Metal Corp., Stump's Scrap Yard). Three of the nine *de minimis* parties listed above who were not originally signatories to the first *de minimis* settlement are now settling. One party is required to pay its volumetric share of the Government's past response costs and the estimated future response costs and an appropriate premium in accordance with Agency policy at the Tonolli Corporation Site (Trojan Battery Company). The other two new parties are paying a lesser amount than their volumetric share, based on ability to pay (Altoona Iron & Metal, Vincent Pace Scrap Metals, Inc.).

Bethlehem Motors is the party that has executed a binding certification of its consent to participate in the amendment to the Tonolli second *de minimis* settlement. Bethlehem Motors was originally a signatory to the second *de minimis* settlement, but it was unable to pay its volumetric share of response costs. Consequently, EPA is re-settling with Bethlehem Motors for $1.00 based on its ability to pay.

These agreements are subject to the contingency that the Environmental Protection Agency may elect not to complete the settlements based on matters brought to its attention during the public comment period established by this Notice.

EPA is entering into these agreements under the authority of Sections 122(g) and 107 of CERCLA, 42 U.S.C. 9622(g) and 9607. Section 122(g) of CERCLA, 42 U.S.C. 9622(g), authorizes early settlements with *de minimis* parties to allow them to resolve their liabilities under, inter alia, Section 107 of CERCLA, 42 U.S.C. § 9607, to reimburse the United States for response costs incurred in cleaning up Superfund sites without incurring substantial transaction costs. Under this authority the Environmental Protection Agency proposes to settle with potentially responsible parties at the Tonolli Corporation Site who are responsible for less than 1% percent of the volume of hazardous substances at the Site.

The Environmental Protection Agency will receive written comments to these proposed amendments to administrative settlements for thirty (30) days from the date of publication of this Notice. A copy of the proposed amendments to Administrative Orders on Consent III–92–35–DC and III–93–03–DC can be obtained from the Environmental Protection Agency, Region III, Office of Regional Counsel, (3RC20), 841 Chestnut Building, Philadelphia, Pennsylvania, 19107 by contacting Lydia Isales, Senior Assistant Regional Counsel, at (215) 597–9951.

W.T. Wisniewski,

Acting Regional Administrator, EPA, Region III.

[FR Doc. 96–2916 Filed 2–8–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

February 5, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0298.

Expiration Date: 07/31/97.

Title: Tariffs (Other Than Tariff Review Plan)—Part 61.

Estimated Annual Burden: 972,423 total annual hours; average 203 hours per respondent; 2,000 respondents.

Description: Part 61 rules are designed to ensure that all tariffs filed by common carriers are formally sound, well organized, and provide the Commission and the public with sufficient information to determine the justness and reasonableness as required by the Act. The Commission modified Part 61 to implement a separate basket for local exchange carriers (LECs) providing video dialtone service. Video dialtone service differs sufficiently from basic telephone services in the other price cap baskets to warrant the creation of its own basket. The tariffs and cost support information will be used by the FCC staff to ensure that the tariff rates to be paid for basic video dialtone services are just, reasonable, and nondiscriminatory, as Sections 201 and 202 of the Communications Act require.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2841 Filed 2–8–96; 8:45 am]

BILLING CODE 6712–01–F

[CC Docket No. 90–571; DA 95–2475]

Telecommunications Relay Services; FCC Form 431

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that in an Order on Telecommunications Relay Services and the Americans with Disabilities Act of 1990 (Order), CC Docket No. 90–571, the Commission calculated the contribution factor for the period April 26, 1996 through March 26, 1997 for the Telecommunications Relay Services (TRS) Fund, and approved the TRS payment formula for the 1996 calendar year. In addition, the Commission adopted the 1996 TRS Fund Worksheet, FCC Form 431, subject to approval by the Office of Management and Budget (OMB).

FOR FURTHER INFORMATION CONTACT: Pamela Gerr, Network Services Division, Common Carrier Bureau, (202) 418–2357, or James Lande, Industry Analysis Division, Common Carrier Bureau, (202) 418–0948.

SUPPLEMENTARY INFORMATION: The above Order was adopted December 11, 1995, and released December 14, 1995. The Order was released pursuant to Section 64.604(c)(4)(iii) of the Commission's Rules, 47 CFR Section 64.604(c)(4)(iii). Pursuant to the Order, and subject to approval by OMB, the 1996 TRS Fund Worksheet, FCC Form 431, shall be effective for the period April 26, 1996 through March 26, 1997. All subject carriers are required to file the form annually and contribute to the TRS Fund. The TRS Fund reimburses TRS providers for the costs of providing interstate TRS. The Commission's rules provide that the TRS Fund Worksheet shall be published in the **Federal Register**. See 47 CFR Section 64.604(c)(4)(iii)(B).

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Federal Communications Commission, Records Management Branch, Room 234, Paperwork Reduction Project (3060–0536), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0536), Washington, DC 20503.

Federal Communications Commission.

Linda Dubroof,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 96–2752 Filed 2–8–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Kloster Cruise Limited (d/b/a Norwegian Cruise Line), 95 Merrick Way, Coral Gables, Florida 33134

Vessels: CROWN ODYSSEY AND ROYAL ODYSSEY

Dated: February 5, 1996.

Joseph C. Polking,

Secretary.

FR Doc. 96–2765 Filed 2–8–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Fulton Bancshares Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 23, 1996.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Fulton Bancshares Corporation, McConnellsburg, Pennsylvania; to engage *de novo* through its subsidiary, The Fulton County Community Development Corporation, McConnellsburg, Pennsylvania, in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Banc One Corporation, Columbus, Ohio; to engage *de novo* through its subsidiary, Banc One Leasing Corporation, Columbus, Ohio, in higher residual value leasing activities, pursuant to § 225.25(b)(5)(ii) of the Board's Regulation Y.

2. PNC Bank Corp., Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, PNC Bank Merchant Partner, Inc., Pittsburgh, Pennsylvania, in providing financial and data processing services in connection with providing credit and debit card processing services for merchants and agent banks, pursuant to §§ 225.25(b)(7) and 225.25(b)(1) of the Board's Regulation Y. PNC Bank Corp. and First Data Corporation, Hackensack, New Jersey, and its wholly-owned subsidiary, Card Establishment Services, Inc., Melville, New York, have entered into a joint venture for the purpose of providing debit and credit card

processing services for merchants and agent banks. The joint venture vehicle will be a general partnership known as PNC Bank Merchant Services Company, Melville, New York. Sixty percent of the partnership interest will be owned by a subsidiary of Card Establishment Services, Inc., with the remaining 40 percent held by PNC Bank Merchant Partner, Inc.

Board of Governors of the Federal Reserve System, February 5, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2798 Filed 2–8–96; 8:45 am]

BILLING CODE 6210–01–F

Donald W. Gillfillan, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 23, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Donald W. Gillfillan, and John H Nelson,, both of Lanark, Illinois; each to acquire an additional 8.86 percent, for a total of 26.58 percent each, of the voting shares of Lanark Bancshares, Inc., Lanark, Illinois, and thereby indirectly acquire Exchange State Bank, Lanark, Illinois.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. James G. Fitzgerald and Thomas G. Fitzgerald, both of Barrington Hills, Illinois; to each acquire a total of 50 percent of the voting shares of Mancos Bancorporation, Inc., Mancos, Colorado, and thereby indirectly acquire Mancos Valley Bank, Mancos, Colorado.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. B. Joe Aday, Las Cruces, New Mexico; to acquire an additional 1.99 percent, for a total of 21.21 percent, of the voting shares of First Sierra Bancshares, Inc., Truth or Consequences, New Mexico, and thereby indirectly acquire First Sierra Bank, Truth or Consequences, New Mexico.

Board of Governors of the Federal Reserve System, February 5, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2799 Filed 2–8–96; 8:45 am]

BILLING CODE 6210–01–F

Valley Community Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 4, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Valley Community Bancorp, Inc., St. Charles, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Valley Community Bank, St. Charles, Illinois, in organization.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Heritage Financial Corporation, Lawrenceville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Heritage National Bank, Lawrenceville, Illinois.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Taylor Bancshares, Inc., North Mankato, Minnesota; to acquire 7 percent of the voting shares of First National Bank of Fairfax, Fairfax, Minnesota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. ComBankshares, Inc., Prairie Village, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank, Chapman, Kansas.

E. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Caldwell Holding Company, Columbia, Louisiana; to acquire 7.30 percent of the voting shares of Citizens Progressive Bank, Columbia, Louisiana.

2. City State Bancshares, Inc., Palacios, Texas, and City State Bancshares, Inc., Delaware, Dover, Delaware; to become a bank holding companies by acquiring 100 percent of the voting shares of The City Bank of Palacios, Palacios, Texas.

Board of Governors of the Federal Reserve System, February 5, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2800 Filed 2–8–96; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Monthly Meeting

AGENCY: Genral Accounting Office.

ACTION: Notice of monthly meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, notice is hereby given that the regular monthly meeting of the Federal Accounting Standards Advisory Board will be held on Wednesday, February 14 in Room 7C13 of the General Accounting Office, 441 G St., NW., Washington, DC.

The purpose of the meeting is to discuss issues arising from the December 5 public hearing on *Supplementary Stewardship Reporting* exposure draft and also to discuss issues related to the *Accounting for Revenue and Other Financing Sources* exposure draft.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Executive Staff Director, 750 First St., NE., Room 1001, Washington, DC 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. Section 10(a)(2) (1988); 41 CFR 101–6.105 (1990).

Dated: February 6, 1996.

Ronald S. Young,

Executive Director.

[FR Doc. 96–2847 Filed 2–8–96; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Workshop

Name: CDC Funded Childhood Lead Poisoning Prevention Program Grantee Workshop.

Times and Dates: 8 a.m.–5 p.m., March 11, 1996; 8 a.m.–5 p.m., March 12, 1996; 8 a.m.–11:30 a.m., March 13, 1996.

Place: The Westin Peachtree Plaza, 210 Peachtree Street, NW, Atlanta, Georgia 30303–1745.

Status: Open to the public, limited only by the space available.

Purpose: The primary purpose of this workshop is to provide assistance to CDC's Childhood Lead Poisoning Prevention grant recipients in addressing program development, assessment and evaluation of issues and concerns.

Matters To Be Discussed: Topics to be discussed include program management and assessment as well as training for managers and coordinators.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Ron Stoddard or Sakeena Smith, Childhood Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects (F42), NCEH, CDC, 4770 Buford Highway, NE, Atlanta, Georgia 30333, telephone 770/488–7330.

Written comments are welcome and should be received by the contact person no later than February 26, 1996. Persons wishing to make oral comments at the workshop should notify the contact person in writing or by telephone no later than close of business on February 26, 1996. All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Depending on the time available and the number of requests to make oral comments, it may be necessary to limit each presenter.

Dated: February 5, 1996.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–2803 Filed 2–8–96; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 96F–0027]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of bis(2,4-di-tert-butyl-6-methylphenyl) ethyl phosphite for use as a processing stabilizer for olefin polymers intended for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by March 11, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4492) has been filed by Ciba-Geigy Corp., 540 White Plains Rd., Tarrytown, NY 10591–9005. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of bis(2,4-di-tert-butyl-6-methylphenyl) ethyl phosphite as a processing stabilizer for olefin polymers complying with 21 CFR 177.1520.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 11, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 17, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Sofety and Applied Nutrition.

[FR Doc. 96–2745 Filed 2–8–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96F–0032]

Shinagawa Fuel Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Shinagawa Fuel Co., Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of silver-zinc zeolite as an agent to control the growth of microorganisms in plastic resins used in food-contact applications.

DATES: Written comments on the petitioner's environmental assessment by March 11, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and

Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4488) has been filed by Shinagawa Fuel Co., Ltd., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in part 178 (21 CFR part 178) to provide for the safe use of silver-zinc zeolite as an agent to control the growth of microorganisms in plastic resins used in food-contact applications.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 11, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 22, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–2746 Filed 2–8–96; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Cancer Institute; Notice of Meetings of the National Cancer Advisory Board and its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Cancer Advisory Board, National Cancer Institute, and its Subcommittees on February 26–28, 1996. Except as noted below, the meetings of the Board and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

A portion of the Board meeting will be closed to the public in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications and for discussion of issues pertaining to programmatic areas and/or NCI personnel. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning the individuals associated with the applications or programs, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, National Institutes of Health, Executive Plaza North, Room 630E, 9000 Rockville Pike, Bethesda, Maryland 20892 (301) 496–5708), will provide summaries of the meetings and rosters of the Board members upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Carole Frank, Committee Management Specialist, at (301) 496–5708 in advance of the meeting.

Name of Committee: Subcommittee on Basic and Environmental Sciences.

Contact Person: Dr. Susan Sieber, Executive Secretary, National Cancer Institute, NIH, Building 31, Room 11A03, 9000 Rockville Pike, Bethesda, MD 20892; (301) 496–5946.

Date of Meeting: February 26, 1996.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Open: 5 pm to 7 pm.

Agenda: To discuss basic and environmental sciences issues.

Nome of Committee: Subcommittee on Planning and Budget.

Contact Person: Ms. Cherie Nichols, Executive Secretary, National Cancer Institute, NIH, Building 31, Room 11A19, 9000 Rockville Pike, Bethesda, MD 20892; (301) 496–5515.

Date of Meeting: February 26, 1996.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Open: 7 pm to 9 pm.

Agenda: To discuss the NIC budget and various planning issues.

Name of Committee: National Cancer Advisory Board.

Contact Person: Dr. Marvin R. Kalt, Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Room 600A, 6130 Executive Boulevard, Bethesda, MD 20892–7405; (301) 496–5147.

Date of Meeting: February 27–28, 1996.

Place of Meeting: Conference Room 10, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: February 27—8 am to approximately 1 pm.

Agenda: Report on activities of the President's Cancer Panel; the Director's Report on the National Cancer Institute; New Business; Scientific Presentations.

Closed: February 27—3 to approximately 5 pm.

Agenda: For review and discussion of individual grant applications and extramural/intramural programmatic and personnel policies.

Open: February 28—8 am to adjournment.

Agenda: Scientific Presentations; Subcommittee Reports; Continuing New Business; Board of Scientific Advisors Status Report; Innovative Funding Paradigms for Extramural Programs; Extramural Advisory Board.

Name of Committee: Subcommittee on Cancer Centers.

Contact Person: Dr. Brian Kimes, Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Room 300, 6130 Executive Boulevard, Bethesda, MD 20892–7094; (301) 496–8537.

Date of Meeting: February 27, 1996.

Place of Meeting: Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: 1 pm to 3 pm.

Agenda: To discuss the cancer centers.

Name of Committee: Subcommittee on Information and Cancer Control.

Contact Person: Mr. Paul Van Nevel, Executive Secretary, National Cancer Institute, NIH, Building 31, Room 10A31, 9000 Rockville Pike, Bethesda, MD 20892; (301) 496–6631.

Date of Meeting: February 27, 1996.

Place of Meeting: Conference Room 9, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: 1 pm to 3 pm.

Agenda: To discuss information and cancer control issues.

Name of Committee: Subcommittee on Clinical Investigations.

Contact Person: Dr. Robert E. Wittes, Acting Executive Secretary, National Cancer Institute, NIH, Building 31, Room 3A52, 9000 Rockville Pike, Bethesda, MD 20892; (301) 496–4291.

Date of Meeting: February 27, 1996.

Place of Meeting: Conference Room 9, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: Immediately following closed session of the full Board, approximately 5 pm, to adjournment.

Agenda: To discuss the clinical investigation issues.

Name of Committee: Subcommittee on Special Priorities.

Contact Person: Ms. Iris Schneider, Executive Secretary, National Cancer Institute, NIH, Building 31, Room 11A48, 9000 Rockville Pike, Bethesda, MD 20892; (301) 496–5534.

Date of Meeting: February 27, 1996.

Place of Meeting: Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: Immediately following closed session of the full Board, approximately 5 pm, to adjournment.

Agenda: To discuss issues related to special priorities.

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAM NUMBERS: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2814 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Center for Research Resources, March 13, 1996, in Building 45, Conference Room A, and March 14, 1996, in Building 31, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 13 from 9:00 a.m. to 12:45 p.m. for the review of the Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, United States Code and section 10(d) of Public Law 92–463, the meeting will be closed to the public on March 13 from 8:00 a.m. to 9:00 a.m. and 12:45 p.m. until adjournment on March 14 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Sonja Shorts, Assistant to the Executive Secretary, National Center for Research Resources, Building 12, Room 12A, National Institutes of Health, Bethesda, Maryland, 20894–2425, 301–496–6023, will provide a summary of the meeting and a roster of the Board members and substantive program information upon request. Individuals who plan to attend the open session and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Shorts in advance of the meeting.

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2816 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Meeting of the Sleep Disorders Research Advisory Board

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Sleep Disorders Research Advisory Board, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute, March 20, 1996. This meeting will be held at the National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9:00 a.m. to adjournment, to discuss recommendations on the implementation and evaluation of the National Center on Sleep Disorders Research programs. Attendance by the public will be limited to space available.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. James P. Kiley, Executive Secretary and Director, National Center on Sleep Disorders Research, NHLBI, Two Rockledge Center, Suite 7024, 6701 Rockledge Drive, MSC 7920, Bethesda, Maryland 20892–7920, (301) 435–0199, will furnish meeting and member information.

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2808 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health: Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Mental Health.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C., the entire meeting will be closed for the review, discussion, and evaluation of staff scientists and individual programs and projects. The subject matter to be reviewed contains information of a confidential nature, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Agenda/Purpose: To evaluate recent reviews of selected intramural research projects from the laboratory of Cell Biology and the Laboratory of Clinical Science.

Committee Name: Board of Scientific Counselors, National Institute of Mental Health.

Date: February 27, 1996.

Time: 8:30 a.m.

Place: Building 36, Room 1B07, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Robert W. Dennis, Executive Secretary, Building 10, Room 4N224, 9000 Rockville Pike, Bethesda, MD 20892, Telephone: 301, 496–4183.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2819 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Initial Review Group:

Agenda Purpose: To review and evaluate grant applications.

Committee name: Clinical Psychopathology Review Committee.

Date: March 18–March 19, 1996.

Time: 8:30 a.m.

Place: Barcelo Washington Hotel, 2121 P Street, N.W., Washington, DC 20037.

Contact Person: Jean Speas, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

The meeting will be closed in accordance with the provisions set forth in secs.

552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2818 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute on Alcohol Abuse and Alcoholism Initial Review Group:

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Clinical and Treatment Subcommittee.

Dates of Meeting: February 22–23, 1996.

Time: 8:00 a.m.

Place of Meeting: River Inn, 924 25th Street, N.W., Washington, DC 20037.

Contact Person: Elsie D. Taylor, 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–9787.

Name of Committee: Epidemiology and Prevention Subcommittee.

Dates of Meeting: February 22–25, 1996.

Time: 8:30 a.m.

Place of Meeting: Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Thomas D. Sevy, M.S.W., 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–6106.

Name of Committee: Biochemistry, Physiology, and Medicine Subcommittee.

Dates of Meeting: February 28, 1996.

Time: 9:00 a.m.

Place of Meeting: Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ronald Suddendorf, Ph.D., 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–6107.

Name of Committee: Neuroscience and Behavior Subcommittee.

Dates of Meeting: February 28, 1996.

Time: 9:00 a.m.

Place of Meeting: Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Antonio Noronha, Ph.D., 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–9419.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.281, Scientist Development Award, Research Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.891, Alcohol Research Center Grants; National Institutes of Health.)

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2817 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Notice of Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Environmental Health Sciences, March 4–5, 1996, in Building 101, South Campus, Conference Rooms A & B, National Institute of Environmental Health Sciences (NIEHS), Research Triangle Park, North Carolina.

This meeting will be open to the public from 8:30 a.m. to approximately 4:30 p.m. on March 4 and on March 5 from 8:30 a.m. to approximately 11:00 a.m., for the purpose of presenting an overview of the organization and conduct of research in the Laboratory of Biochemical Risk Analysis, the Neuropharmacology Section, and Chemistry Branch. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6) of Title 5, U.S. Code and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 5 from approximately 11:00 a.m. to adjournment, for the evaluation of the programs of the Laboratory of Biochemical Risk Analysis, the Neuropharmacology Section, and Chemistry Branch, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Carl Barrett, Scientific Director, Division of Intramural Research, NIEHS, Research Triangle Park, NC 27709, telephone (919) 541–3205, will furnish rosters of committee members and program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2815 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of Subcommittee: Biological and Clinical; Aging Review Subcommittee A.

Date: March 18, 1996.

Time: Teleconference—2 p.m. to adjournment.

Place: The Gateway Building, 7201 Wisconsin Avenue, 5th Floor Conference Room, Bethesda, Maryland 20852–9205.

Contact Person: Dr. James Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Purpose/Agenda: For the review, discussion, and evaluation of individual research grant applications.

Name of Subcommittee: Biological and Clinical Aging Review Subcommittee B.

Date: March 5, 1996.

Time: 10 a.m. to adjournment.

Place: The Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814.

Contact Person: Capt. William A. Kachadorian, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Purpose/Agenda: For the review, discussion, and evaluation of individual research grant applications.

Name of Subcommittee: Neuroscience, Behavior and Sociology of Aging Subcommittee A.

Date: March 11–14, 1996.

Time: 7 p.m. on March 11 to adjournment on March 14.

Place: Holiday Inn—Georgetown, 2101 Wisconsin AVe., N.W., Washington, DC 20007.

Contact Person: Drs. Maria Mannarino or Louise Hsu, Scientific Review Administrators, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Purpose/Agendo: For the review, discussion, and evaluation of individual research grant applications.

Name of Subcommittee: Neuroscience, Behavior and Sociology of Aging Subcommittee B.

Date: March 14, 1996.

Time: Teleconference—1 p.m. to adjournment.

Place: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20814.

Contact Person: Dr. Paul Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Purpose/Agenda: For the review, discussion, and evaluation of individual research grant applications.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health.)

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2811 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Purpose: To review grant applications.

Committee Name: Minority Access to Research Careers Review Committee.

Date: March 21, 1996.

Time: 8:30 a.m.–6 p.m.

Place of Meeting: National Institutes of Health, 45 Center Drive, Natcher Building, Conference Room D, Bethesda, MD 20892.

Contact Person: Dr. Richard Martinez, 45 Center Drive, Room 1AS–19C, Bethesda, MD 20892.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2810 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Amended Notice of Meeting

Due to the partial shutdown of the Federal Government, notice is hereby given of a change in the following meeting, as previously advertised in the **Federal Register**.

National Institute on Deafness and Other Communication Disorders

Ad Hoc Clearinghouse Subcommittee of the National Deafness and Other Communication Disorders Advisory Council was to have met December 18, 1995, 11 a.m. to 1 p.m., as a telephone conference call originating in Room 3C05, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland, as published in the **Federal Register** on December 11, 1995 (60 FR 63537). The meeting has been changed to February 16, 1996, 1–3 p.m., in Conference Room 7 of Building 31. As previously advertised, the meeting will be a telephone conference call and will be open to the public.

Dated: February 1, 1996.

Susan K. Feldman,

NIH Committee Management Officer.

[FR Doc. 96–2807 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

Amended Notice of Meetings

Due to the partial shutdown of the Federal Government, notice is hereby given of changes and/or postponements in the following meetings, as previously advertised in the **Federal Register**.

1. National Institute of Arthritis and Musculoskeletal and Skin Diseases

National Arthritis and Musculoskeletal and Skin Diseases Advisory Council was to have met in open session from 8:30 a.m. to 9:00 a.m., and in closed session from 9:00 a.m. to adjournment, February 8, 1996, Wilson Hall, Shannon Building, National Institutes of Health, Bethesda, Maryland, as published in the **Federal Register** on January 25, 1996 (61 FR 2257). The meeting has been changed to meet in open session from 8:30 a.m. to 12 noon, and in closed session from 12 noon to adjournment.

2. National Institute of Dental Research

A closed meeting of the National Institute of Dental Research Special Emphasis Panel-Review of Oral Cancer Centers, was to have met January 7–11, 1996, 8 a.m., Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD, as published in the **Federal Register** on December 12, 1995 (60 FR 238 63722). The meeting has been changed to March 6–8. As previously advertised, the meeting will begin at 8 a.m. and will be closed to the public.

3. **Division of Research Grants**

A closed meeting of the Division of Research Grants Special Emphasis Panel-Behavioral and Neurosciences, was to have met February 21–23, 1996, 8 a.m., Madison Hotel, Washington, D.C., as published in the **Federal Register** on December 14, 1995 (60 FR 240 64175). The meeting has been changed to March 20–22. As previously advertised, the meeting will begin at 8 a.m. and will be closed to the public.

Dated: January 31, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2806 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institute of Environmental Health Sciences (NIEHS)/National Toxicology Program (NTP) Public Meeting; Coordinated Research Program to Develop and Validate Transgenic Models for Carcinogenicity Studies.

Notice is hereby given of a public meeting to be held at the National Institute of Environmental Health Sciences to discuss the possibility of a coordinated research program to develop and validate transgenic models for carcinogenicity studies. The meeting will begin at 8:30 a.m. on Friday, February 9, 1996, in Conference Room 101B, in the Main Conference Facility of the NIEHS in the Research Triangle Park, North Carolina. The meeting will adjourn by 5:00 p.m.

From 8:30 a.m. to approximately 11:45 a.m. invited participants will provide brief overviews of the interests, perspectives, and ongoing initiatives of their individual companies, agencies, and institutions with respect to evaluating transgenic mouse models; and Federal regulatory agencies will briefly describe their interests and

perspectives with respect to the use of transgenic models for carcinogenicity studies. A lunch break is tentatively scheduled from 11:45 a.m.—12:45 p.m. The afternoon session will be a discussion by the participants of a strategy for a joint validation program and will include discussion of the availability of models, selection of chemicals, evaluation and publication of results, and an estimation and commitment of resources to a collaborative program.

The entire meeting is open to the public and limited only by the space available. Persons wanting additional information or wishing to attend should contact Ms. Sandra Lange, NIP Liaison Office, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709 (telephone 919–541–0530; fax 919–541–0295; or Internet britton@niehs.nih.gov).

Dated: January 30, 1996.

Kenneth Olden,

Director, National Institute of Environmental Health Sciences and the National Toxicology Program.

[FR Doc. 96–2805 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: February 15–16, 1996.

Time: 8:00 a.m.

Place: Holiday Inn, Chevy Chase, Maryland.

Contact Person: Dr. Gopal C. Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Clinical Sciences.

Date: February 20–21, 1996.

Time: 7:00 a.m.

Place: Chapel Hill, North Carolina.

Contact Person: Dr. Gertrude McFarland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4110, Bethesda, Maryland 20892, (301) 435–1284.

Name of SEP: Clinical Sciences.

Date: February 21, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Bethesda, Maryland.

Contact Person: Dr. Jerrold Fried, Scientific Review Administrator, 6701 Rockledge Drive, Room 4126, Bethesda, Maryland 20892, (301) 435–1777.

Name of SEP: Biological and Physiological Sciences.

Date: February 22, 1996.

Time: 8:30 a.m.

Place: Omni Shoreham, Washington, DC.

Contact Person: Dr. Peggy McCardle, Scientific Review Administrator, 6701 Rockledge Drive, Room 5198, Bethesda, Maryland 20892, (301) 435–1258.

Name of SEP: Chemistry and Related Sciences.

Date: March 13, 1996.

Time: 10:00 a.m.

Place: NIH, Rockledge 2, Room 5148, Telephone Conference.

Contact Person: Dr. Jerry Critz, Scientific Review Administrator, 6701 Rockledge Drive, Room 5148, Bethesda, Maryland 20892, (301) 435–1741.

Name of SEP: Clinical Sciences.

Date: March 14–15, 1996.

Time: 8:30 a.m.

Place: Ramada Inn, Rockville, Maryland.

Contact Person: Dr. Syed Amir, Scientific Review Administrator, 6701 Rockledge Drive, Room 6168, Bethesda, Maryland 20892, (301) 435–1043.

Name of SEP: Biological and Physiological Sciences.

Date: March 28, 1996.

Time: 8:00 a.m.

Place: Sheraton Reston Hotel, Reston, Virginia.

Contact Person: Dr. Gerald Greenhouse, Scientific Review Administrator, 6701 Rockledge Drive, Room 5140, Bethesda, Maryland 20892, (301) 435–1023.

Name of SEP: Biological and Physiological Sciences.

Date: March 29–30, 1996.

Time: 8:30 a.m.

Place: Georgetown Holiday, Washington, DC.

Contact Person: Dr. Robert Su, Scientific Review Administrator, 6701 Rockledge Drive, Room 5144, Bethesda, Maryland 20892, (301) 435–1025.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Microbiological and Immunological Sciences.

Date: February 23, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4200, Telephone Conference.

Contact Person: Dr. Gilbert Meier, Scientific Review Administrator, 6701 Rockledge Drive, Room 4200, Bethesda, Maryland 20892, (301) 435–1219.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2813 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Studies of Chronic Lyme Disease (Telephone Conference Call).

Date: February 28, 1996.

Time: 12:30 p.m.

Place: Teleconference, 6003 Executive Boulevard, Solar Bldg., Rm. 1A3, Bethesda, MD 20892–7610, (301) 496–2550.

Contact Person: Dr. Sayeed Quraishi, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C22, Bethesda, MD 20892–7610, (301) 496–7465.

Purpose/Agenda: To evaluate technical proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2809 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following

meetings that are being held to review grant applications:

AIDS AND RELATED RESEARCH INITIAL REVIEW GROUP

Study section/contact person	February-April 1996 meetings	Time	Location
AIDS & Related Research 1, Dr. Sami Mayyasi 301–435–1216.	Mar. 14–15	8:00 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
AIDS & Related Research 2, Dr. Gilbert Meier, 301–435–1219.	Mar. 8	8:00 a.m	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 3, Dr. Marcel Pons 301–435–1217.	Feb. 29–Mar. 1	8:00 a.m	Holiday Inn, Bethesda, MD.
AIDS & Related Research 4, Dr. Mohindar Poonian 301–435–1218.	Feb. 29–Mar. 1	8:30 a.m	Hyatt Regency Hotel, Bethesda, MD.
AIDS & Related Research 5, Dr. Mohindar Poonian 301–435–1218.	Mar. 7	8:00 a.m	Hyatt Regency Hotel, Bethesda, MD.
AIDS & Related Research 6, Dr. Gilbert Meier 301–435–1219.	Mar. 1	8:00 a.m	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 7, Dr. Gilbert Meier 301–435–1219.	Mar. 15	8:00 a.m	Holiday Inn, Chevy Chase, MD.
Biobehavioral and Social Sciences Initial Review Group			
Behavioral Medicine, Ms. Carol Campbell 301–435–1257.	Feb. 21–22	8:30 a.m	Omni Shreham Hotel, Washington, DC.
Human Development & Aging–1, Dr. Anita Miller Sostek 301–435–1260.	Feb. 20–21	9:00 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Human Development & Aging–2, Dr. Peggy McCardle 301–435–1258.	Mar. 21–22	8:30 a.m	Embassy Square Suites, Washington, DC.
Human Development & Aging–3, Dr. Anita Miller Sostek 301–435–1260.	Feb. 22–23	9:00 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Social Sciences & Population, Dr. Robert Weller 301–435–1261.	Mar. 14–15	8:00 a.m	Hyatt Regency Hotel, Bethesda, MD.
Biochemical Sciences Initial Review Group			
Biochemistry, Dr. Chhanda Ganguly 301–435–1739	Feb. 21–23	8:30 a.m	The Georgetown Inn, Washington, DC.
Medical Biochemistry, Dr. Alexander Liacouras 301–435–1740.	Feb. 22–23	8:30 a.m	Holiday Inn, Silver Spring, MD.
Pathobiochemistry, Dr. Zakir Bengali 301–435–1742	Feb. 15–16	8:30 a.m	Holiday Inn, Georgetown, DC.
This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Physiological Chemistry, Dr. Jerry Critz 301–435–1741.	Feb. 22–23	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Biophysical and Chemical Sciences Initial Review Group			
Bio-Organic & Natural Products Chemistry, Dr. Harold Radtke 301–435–1728.	Mar. 14–15	9:00 a.m	Holiday Inn, Georgetown, DC.
Biophysical Chemistry, Dr. John Beisler 301–435–1727.	Mar. 25–27	8:30 a.m	Holiday Inn, Gaithersburg, MD.
Medicinal Chemistry, Dr. Ronald Dubois 301–435–1722.	Mar. 19–21	8:30 a.m	Holiday Inn, Bethesda, MD.
Metallobiochemistry, Dr. Edward Zapolski 301–435–1725.	Feb. 22–23	8:30 a.m	Radisson Barcelo Hotel, Washington, DC.
Molecular & Cellular Biophysics, Dr. Nancy Lamontagne 301–435–1726.	Mar. 6–7	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Physical Biochemistry, Dr. Gopa Rakhit 301–435–1721.	Feb. 26–27	8:30 a.m	Doubletree Hotel, Rockville, MD.
Cardiovascular Sciences Initial Review Group			
Cardiovascular, Dr. Gordon Johnson 301–435–1212	Feb. 28–Mar. 1	8:00 a.m	Doubletree Hotel, Rockville, MD.
Cardiovascular & Renal, Dr. Anthony Chung 301–435–1213.	Feb. 19–21	8:30 a.m	Marriott Hotel, Pooks Hill, Bethesda, MD.
Experimental Cardiovascular Sciences, Dr. Anshumali Chaudhari 301–435–1210.	Feb. 26–28	8:00 a.m	Doubletree Hotel, Rockville, MD.
Hematology–1, Dr. Clark Lum 301–435–1195	Feb. 15–16	8:00 a.m	Hyatt Regency Hotel, Bethesda, MD.

AIDS AND RELATED RESEARCH INITIAL REVIEW GROUP—Continued

Study section/contact person	February-April 1996 meetings	Time	Location
This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Hematology–2, Dr. Jerrold Fried 301–435–1777	Mar. 6–7	8:30 a.m	Holiday Inn, Bethesda, MD.
Pharmacology, Dr. Jeanne Ketley 301–435–1789	Mar. 20–21	8:30 a.m	American Inn, Bethesda, MD.
Cell Development and Function Initial Review Group			
Biological Sciences–2, Dr. Camilla Day 301–435–1024.	Mar. 19–20	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Cellular Biology and Physiology–1, Dr. Gerald Greenhouse 301–435–1023.	Mar. 12–13	8:00 a.m	Sheraton Reston Hotel, Reston, VA.
Cellular Biology and Physiology–2, Dr. Gerhard Ehrenspeck 301–435–1022.	Mar. 13–14	8:30 a.m	Holiday Inn, Bethesda, MD.
Human Embryology & Development–2, Dr. Sherry Dupere 301–435–1021.	Mar. 11–12	8:00 a.m	Doubletree Hotel, Rockville, MD.
International & Cooperative Projects, Dr. G.B. Warren 301–435–1019.	Feb. 28–Mar. 1	8:00 a.m	Embassy Suites Hotel, Chevy Chase, Pavilion, Washington, DC.
This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Molecular Biology, Dr. Robert Su 301–435–1025	Feb. 15–17	8:30 a.m	The Georgetown Inn, Washington, DC.
Molecular Cytology, Dr. Ramesh Nayak 301–435–1026.	Mar. 7–8	8:00 a.m	Holiday Inn, Chevy Chase, MD.
Endocrinology and Reproductive Sciences Initial Review Group			
Biochemical Endocrinology, Dr. Michael Knecht 301–435–1046.	Mar. 7–8	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Endocrinology, Dr. Syed Amir 301–435–1043	Feb. 28–29	8:30 a.m.	Holiday Inn, Bethesda, MD.
Human Embryology & Development-1, Dr, Michael Knecht 301–435–1046.	Feb. 15–16	8:00 a.m.	Doubletree Hotel, Rockville, MD.
This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Reproductive Biology, Dr, Dennis Leszczynski 301–435–1044.	Feb. 19–21	8:00 a.m.	Hyatt Regency Hotel, Bethesda, MD.
Reproductive Endocrinology, Dr, Abubakar Shaikh 301–435–1042.	Feb. 26–27	8:00 a.m.	American Inn, Bethesda, MD.
Genetic Sciences Initial Review Group			
Biological Sciences-1, Dr. Nancy Pearson 301–435–1047.	Feb. 27–28	8:30 a.m.	St. James Hotel, Washington, DC.
Genetics, Dr. David Remondini 301–435–1038	Mar. 21–23	9:00 a.m.	Ramada Inn, Bethesda, MD.
Genome, Dr. Cheryl Corsaro 301–435–1045	Feb. 26–28	9:00 a.m.	Holiday Inn, Chevy Chase, MD.
Mammalian Genetics, Dr. Jerry Roberts 301–435–1037.	Feb. 29–Mar. 1	8:30 a.m.	St. James Hotel, Washington, DC.
Health Promotion and Disease Prevention Initial Review Group			
Epidemiology & Disease Control-1 Dr. Scott Osborne 301–435–1782.	Mar. 19–21	8:30 a.m	Marriott Residence Inn, Bethesda, MD.
Epidemiology & Disease Control-2 Dr. Gertrude McFarland 301–435–1784.	Mar. 18–20	8:30 a.m	Holiday Inn, Bethesda, MD.
Nursing Research, Dr. Gertrude McFarland 301–435–1784.	Feb. 26–27	8:30 a.m	Holiday Inn, Bethesda, MD.
Immunological Sciences Initial Review Group			
Experimental Immunology, Dr. Calbert Laing 301–435–1221.	Mar. 5–6	8:30 a.m	Holiday Inn, Georgetown, DC.
Immunobiology, Dr. Betty Hayden 301–435–1223	Feb. 13–14	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Immunological Sciences, Dr. Anita Corman Weinblatt 301–435–1224.	Feb. 14–15	8:30 a.m	Holiday Inn, Chevy Chase, MD.

AIDS AND RELATED RESEARCH INITIAL REVIEW GROUP—Continued

Study section/contact person	February-April 1996 meetings	Time	Location
This notice is being published less than 15 days prior to the above two meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Immunology, Virology & Pathology, Dr. Lynwood Jones 301–435–1153.	Mar. 18–19	8:30 a.m	Holiday Inn, Chevy Chase, MD
Infectious Diseases and Microbiology Initial Review Group			
Bacteriology & Mycology-1, Dr. Timothy Henry 301–435–1147.	Feb. 29–Mar. 1	8:30 a.m	Marriott Residence, Inn, Bethesda, MD.
Bacteriology & Mycology-2, Dr. William Branche, Jr.,	Mar. 6–8	8:30 a.m	Holiday, Inn, Chevy Chase, MD.
Experimental Virology, Dr. Garrett Keefer 301–435–1152.	Mar. 18–19	8:30 a.m	Holiday Inn, Bethesda, MD.
Microbial Physiology & Genetics-1, Dr. Martin Slater 301–435–1149.	Feb. 21–23	8:30 a.m	One Washington Circle Hotel, Washington, DC.
Microbial Physiology & Genetics-2, Dr. Gerald Liddel 301–435–1150.	Feb. 21–22	8:30 a.m	St. James Hotel, Washington, DC
Tropical Medicine & Parasitology, Dr. Jean Hickman 301–435–1146.	Mar. 7–8	8:00 a.m	Holiday Inn, Bethesda, MD.
Virology, Dr. Rita Anand 301–435–1151	Mar. 7–8	8:30 a.m	Holiday Inn, Bethesda, MD.
Musculoskeletal and Dental Sciences Initial Review Group			
General Medicine B, Dr. Shirley Hilden 301–435–1198.	Feb. 28–29	8:00 a.m	Holiday Inn, Chevy Chase, MD.
Oral Biology & Medicine-1, Dr. Priscilla Chen 301–435–1787.	Apr. 9–10	8:30 a.m	ANA Hotel, Washington, DC.
Oral Biology & Medicine-2, Dr. Priscilla Chen 301–435–1787.	Feb. 20–21	8:30 a.m	ANA Hotel, Washington, DC.
Orthopedics & Musculoskeletal, Dr. Daniel McDonald 301–435–1215.	Mar. 4–5	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Neurological Sciences Initial Review Group			
Neurological Sciences-1, Dr. Carl Banner 301–435–1251.	Mar. 6–8	8:30 a.m	River Inn Hotel, Washington, DC.
Neurological Sciences-2, Dr. Kathleen Michels 301–435–1250.	Mar. 12–14	8:00 a.m	Holiday Inn, Bethesda, MD.
Neurology A, Dr. Joe Marwah 301–435–1253	Feb. 29–Mar. 2	8:30 a.m	Windom Bristol Hotel, Washington, DC.
Neurology B–1, Dr. Lillian Pubols 301–435–1255	Feb. 23–24	8:30 a.m	ANA Hotel, Washington, DC.
Neurology B–2, Dr. Herman Teitelbaum 301–435–1254.	Feb. 25–27	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Neurology C, Dr. Kenneth Newrock 301–435–1252	Feb. 14–16	8:30 a.m	Radisson Barcelo Hotel, Washington, DC.
This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Nutritional and Metabolic Sciences Initial Review Group			
Metabolism, Dr. Krish Krishnan 301–435–1779	Feb. 22–23	8:30 a.m	Holiday Inn, Georgetown, DC.
General Medicine A–2, Dr. Mushtaq Khan 301–435–1778.	Feb. 12–14	8:30 a.m	Doubletree Hotel, Rockville, MD.
Nutrition, Dr. Sooja Kim 301–435–1780	Feb. 12–13	8:30 a.m	Doubletree Hotel, Rockville, MD.
This notice is being published less than 15 days prior to the above two meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Oncological Sciences Initial Review Group			
Chemical Pathology, Dr. Edmund Copeland, 301–435–1715.	Mar. 24–26	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Experimental Therapeutics-1, Dr. Philip Perkins, 301–435–1718.	Mar. 14–15	8:30 a.m	Hyatt Arlington Hotel, Arlington, VA.
Experimental Therapeutics-2, Dr. Marcia Litwack, 301–435–1719.	Feb. 27–29	8:30 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Metabolic Pathology, Dr. Marcelina Powers, 301–435–1720.	Mar. 4–6	8:30 a.m	Holiday Inn, Georgetown, DC.
Pathology A, Dr. Larry Pinkus, 301–435–1214	Mar. 19–21	8:00 a.m	Holiday Inn, Georgetown, DC.
Pathology B, Dr. Martin Padarathsingh, 301–435–1717.	Feb. 27–29	7:00 p.m	The Marriott Bay Point Resort, Panama City, FL.

AIDS AND RELATED RESEARCH INITIAL REVIEW GROUP—Continued

Study section/contact person	February-April 1996 meetings	Time	Location
Radiation, Dr. Paul Strudler, 301–435–1716	Feb. 26–28	8:30 a.m	Keystone Report, Keystone, C0.
Pathophysiological Sciences Initial Review Group			
Lung Biology & Pathology, Dr. Anne Clark, 301–435–1017.	Feb. 20–22	8:00 a.m	Marriott Hotel, Pooks Hill, Bethesda, MD.
Physiology, Dr. Michael Lang, 301–435–1015	Feb. 15–16	8:30 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Respiratory & Applied Physiology, Dr. Everett Sinnett, 301–435–1016.	Feb. 20–21	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Sensory Sciences Initial Review Group			
Hearing Research, Dr. Joseph Kimm, 301–435–1249	Mar. 18–20	8:30 a.m	Ramada Inn Hotel, Rockville, MD.
Sensory Disorders & Language, Dr. Jane Hu, 301–435–1245.	Feb. 21–23	8:30 a.m	Captiol Holiday Inn, Washington, D.C.
Visual Sciences A, Dr. Luigi Giacometti, 301–435–1246.	Feb. 21–23	8:30 a.m	Doubletree Hotel, Rockville, MD.
Visual Sciences C, Dr. Carole Jelsema, 301–435–1248.	Feb. 14–15	8:00 a.m	Omni Shoreham Hotel, Washington, DC.
This notice is being published less than 15 days prior to the above meeting due to the partial shutdown ot the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.			
Surgery, Radiology and Bioengineering Initial Review Group			
Diagnostic Radiology, Dr. Eileen Bradley, 301–435–1178.	Feb. 26–27	8:00 a.m	Holiday Inn, Georgetown, DC.
Surgery & Bioengineering, Dr. Paul Parakkal, 301–435–1172.	Mar. 25–26	8:00 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Surgery, Anesthesiology & Trauma, Dr. Gerald Becker, 301–435–1750.	Feb. 21–22	3:00 p.m	Holiday Inn, Bethesda, MD.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c) (4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 5, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2812 Filed 2–8–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR–3917–N–41]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: April 30, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451–7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: George Russell, Telephone Number (202) 708–2022 or Donald Kline, Telephone Number (202) 708–1994 (these are not toll-free numbers) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collected techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Mortgage Record Change, form HUD–92080.

OMB Control Number: 2502–0422.

Description of the need for the information and proposed use: The Secretary of HUD, according to Multifamily Housing Property Disposition (MFPD) Reform Act of 1994 (section 203(e)(1), is authorized under certain circumstances to enter into contracts under section 8 of the United States Housing Act of 1937, with owners of multifamily housing projects. 24 CFR 886, Subpart C authorizes the use of the Housing Assistance Payment (HAP) contract, Part II as the administrative mechanism to provide Section 8 housing assistance to purchasers of HUD-owned and foreclosure sale multifamily projects. The HAP Contract, Part II HUD–52522D) is a legal document, which as the administrative mechanism to provide Section 8 housing assistance from the Federal Government to the owner, commits the owner to HUD regulations and procedures governing the purpose and use of Section 8 assistance funds.

Agency Form Numbers: form HUD–92080.

Members of Affected Public: An estimation of the total numbers of hours needed to prepare the information collection is 222,600, the number of respondents is 9,062, frequency of response is 245.6, and the hours per response is .1.

Status of the Proposed Information Collection: Extension with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 30, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–2859 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–3917–N–39]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: April 9, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request for Alternative Construction ("No .)

OMB Control Number: 2502–0302.

Description of the need for the information and the proposed use: The FHA single-family maximum mortgage limit is established as 38 percent of Freddie Mac conforming limits (currently $77,197), but may increase up to 75 percent of these limits (currently $152,362) in high cost areas. HUD will raise the limits above the 38 percent ceiling if housing sales price data is received from interested parties (primarily homebuilders, mortgage lenders, and realtors) which justifies an increase.

Agency form numbers: Not applicable.

Members of affected public: Individuals or households.

An estimation of the total numbers of hours needed to prepare the information collection is 3,200, number of respondents is 80, frequency of response is on occasion, and the hours of response is forty hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 23, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–2858 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–42]

Government National Mortgage Association

Notice of Proposed Information Collection for Public Comment

AGENCY: Government National Mortgage Association, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: April 9, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya K. Suarez, Government National Mortgage Association, Office of Policy, Planning, and Risk Management, Department of Housing & Urban Development, 451–7th Street SW., Room 6222 Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya K. Suarez, on (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S. Chapter 35, as amended.

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and charity of the information to be collected; (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Commitment To Guarantee Mortgage-Backed Securities.

OMB Control Number. 2503–001.

Description of the need for the information and proposed use: This form is used by Mortgage-Backed Securities Issuers to apply for Ginnie Mae Commitment Authority to guarantee mortgage-backed securities.

Agency form numbers: HUD 11704.

Members of affected public: Business or other for-profit and the Federal Government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:
Number of respondents—650
Frequency of responses (approximately)—4 per year
Total annual responses—2600
Hours per response—.25 hrs.
Total Hours—650.

Status of the proposed information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 31, 1996.

George S. Anderson,

Acting Executive Vice President, Government National Mortgage Association.

[FR Doc. 96–2857 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–01–M

Office of Administration

[Docket No. FR–3917–N–40]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

This notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 29, 1996.

David S. Cristy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Mortgagee's Application for Insurance Benefits (Multifamily Mortgage).

Office: Housing.

OMB Approval Number: 2502–0419.

Description of the Need for the Information and its Proposed Use: This report collects data required for cancellation of multifamily mortgage insurance contracts and payments of mortgage insurance premiums. Any lender or mortgagee filing a claim for multifamily insurance benefits is affected.

Form Number: HUD–2747.

Respondents: Business or Other For-Profit, the Federal Government, and State, Local, or Tribal Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–2747	215		1		.17		36

Total Estimated Burden Hours: 36.

Status: Extension, no changes.

Contact: Betty Belin, HUD, (202) 708–0614 x2807; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 29, 1996.

[FR Doc. 96–2860 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. FR–3878–N–04]

Announcement of Funding Awards Fair Housing Initiatives Program FY 1995

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of FY 1995 funding awards made under the Fair Housing Initiatives Program (FHIP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing.

FOR FURTHER INFORMATION CONTACT: Maxine Cunningham, Director, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street, SW., Washington, D.C. 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–9300. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the FHIP to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR Part 125.

The FHIP has four funding categories: the Administrative Enforcement Initiative, the Education and Outreach Initiative, the Private Enforcement Initiative, and the Fair Housing Organizations Initiative.

In the FY 1995 FHIP Notice of Funding Availability (NOFA) published in the **Federal Register** on April 11, 1995 (60 FR 18444), the Department announced the availability of up to $14,580,530 for funding of FY 1995 awards. This Notice announces the award of these FY 1995 funds to fifty-nine recipients who had applied under the FY 1995 NOFA.

The Department reviewed, evaluated and scored the applications received based on the criteria in the FY 1995 FHIP NOFA. As a result, HUD has funded the applications announced in Appendix A, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing details concerning the recipients of funding awards in Appendix A of this document.

Dated: January 29, 1996.

Elizabeth K. Julian,

Acting Assistant Secretary for Fair Housing and Equal Opportunity.

APPENDIX A.—FY 95 FAIR HOUSING INITIATIVES PROGRAM AWARDS

Applicant name and address	Contact name and phone number	HUD region	Single or multi-year	Final award amount
Administrative Enforcement Initiative				
Massachusetts Commission Against Discrimination, One Ashburton Place, Room 601, Boston, MA 02108.	Michael T. Duffy, Chairman (617) 727–3990.	1	S	$108,614.84
Massachusetts Commission Against Discrimination, One Ashburton Place, Room 601, Boston, MA 02108.	Michael T. Duffy, Chairman (617) 727–3990.	1	S	174,245.50
Rhode Island Commission for Human Rights, 10 Abbott Park Place, Providence, RI 02903.	Gene L. Booth, Executive Director (401) 277–2661.	1	S	123,370
Maryland Commission on Human Relations, 6 St. Paul Street, Baltimore, MD 21202.	Jennifer Burdick, Executive Director (410) 767–8600.	3	S	142,543
Pennsylvania Human Relations Commission, 101 South Second Street, Suite 300, Harrisburg, PA 17105–3145.	Homer C. Floyd, Executive Director (717) 783–8274.	3	S	414,600
Indiana Civil Rights Commission, 100 N. Senate Ave. Room N103, Indianapolis, IN 46204.	Sandra D. Leek, Executive Director (317) 232–2600.	5	S	135,420
Ohio Civil Rights Commission, 220 Parsons Avenue, Columbus, OH 43215–5385.	Joseph T. Carmichael, Executive Director (614) 466–2785.	5	S	274,200
Fort Worth Human Relations Commission, 1000 Throckmorton Street, Fort Worth, TX 76102.	Michael D. Ivey, Interim Executive Director (817) 871–7525.	6	S	109,23
Texas Commission on Human Rights, Building B, Suite 525, 8100 Cameron Road, Austin, TX 78754.	William Hale, Executive Director, (512) 837–8534.	6	S	124,966
Iowa Civil Rights Commission, 211 East Maple, c/o Grimes Building, Des Moines, IA 50319.	Don Grove, Executive Director (515) 281–8084.	7	S	273,326
Montana Human Rights Commission, 616 Helena Avenue, Helena, MT 59624.	Anne MacIntyre, Administrator (406) 444–4342.	8	S	235,846
Arizona Attorney General's Office, 1275 West Washington, Phoenix, AZ 85007.	Cecil B. Patterson, Chief Counsel (602) 542–1401.	9	S	331,808
City of Tacoma Human Rights Dept., 747 Market Street, Room 808, Tacoma, WA 98402–3779.	Allen Correll, Executive Director (206) 591–5151.	10	S	97,639
Washington State Human Rights Commission, 711 S. Capitol Way, Suite 402, Olympia, WA 98504–2490.	Merritt D. Long, Executive Director (360) 753–2558.	10	S	394,516

APPENDIX A.—FY 95 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name and address	Contact name and phone number	HUD region	Single or multi-year	Final award amount
Education and Outreach Initiative—National Program Component				
State University of New York, Sponsored Programs Administration, The UB Commons, 520 Lee Entrance, Suite 211, Amherst, NY 14228.	Thomas E. Headrick, Provost (716) 645–2992.	2	S	$199,543
National Community Reinvestment Coalition, 1875 Connecticut Ave, NW, Suite 1010 Washington, DC 20009.	John Taylor, President (202) 986–7898	3	S	411,238
National Neighbors, Inc., 1875 Connecticut Ave, NW, Suite 1010, Washington, DC 20009.	John Taylor, President (202) 986–7898	3	S	430,812
National Fair Housing Alliance, Suite 600, 927 15th Street, N.W., Washington, DC 20005.	Shanna L. Smith, Executive Director (202) 898–1661.	3	S	1,131,301
Fair Housing Council, 835 W. Jefferson St., Suite 100, Louisville, KY 40202.	Galen Martin, Executive Director (502) 583–3247.	4	S	97,534
North Carolina State University, Office of Sponsored Programs, P.O. Box 7003, Raleigh, NC 27695–7003.	Linda F. Jackson, Director (919) 515–2444	4	S	221,242
John Marshall Law School, Fair Housing Legal Support Center, 315 S. Plymouth Court, Chicago, IL 60604–3907.	Robert G. Johnson Dean (312) 987–1446 .	5	S	239,255
Pacific Non-Profit Training Center, 4039 N. Overlook Terrace, Portland, OR 97227.	Vikki Rennick, Executive Director (503) 287–1535.	10	S	350,130
Education and Outreach Component—Regional/Local Component				
Arc of Massachusetts, 217 South Street, Waltham, MA 02154,.	Leo V. Sarkissian, Executive Director (617) 891–6270.	1	S	149,625
Housing Discrimination Project, Inc., 57 Suffolk Street, Holyoke, MA 01040.	Peggy Maisel, Executive Director (413) 539–9796.	1	S	99,139
Massachusetts Commission Against Discrimination, One Ashburton Place, Room 601, Boston, MA 02108.	Michael T. Duffy, Chairman (617) 727–3990.	1	S	58,707.35
Asian Americans for Equality, Inc., 176–180 Eldridge Street, New York, NY 10002.	Christopher Kui, Executive Director (212) 677–7210.	2	S	310,995
Black River Housing Council, Inc., 1035 Coffeen Street, Watertown, NY 13601.	Kyle MacCallum, Executive Director (315) 788–6997.	2	S	50,000
New York State Division of Human Rights, 55 West 125th Street—13th Floor, New York, NY 10027.	Edward Mercado, Commissioner (212) 961–8790.	2	S	110,000
Open Housing Center, Inc., 594 Broadway, Suite #608, New York, NY 10012.	Sylvia Kramer, Executive Director (212) 941–6101.	2	S	261,499
Westchester Residential Opportunities, Inc., 470 Mamaroneck Ave, Suite 410, White Plains, NY 10605.	Miriam Buhl, Executive Director (914) 428–4507.	2	S	55,952
Golden Triangle Radio Information Center, Inc., 2100 Wharton St, Suite 140, Pittsburgh, PA 15203.	William Pasco, General Manager (412) 488–3944.	3	S	85,366
Greater Birmingham Fair Housing Center, 2000—1st Avenue N, Suite 529, Birmingham, AL 35203.	Dr. Bobby M. Wilson, President (205) 324–0111.	4	S	147,624.34
Tennessee Association of Legal Services, Legal Aid Projects, 211 Union Street, Suite 833, Nashville, TN 37201–1586.	Stewart Clifton, Executive Director (615) 242–0438.	4	S	90,060
Chicago Mayor's Office of People With Disabilities, 2102 W. Ogden Avenue, Chicago, IL 60612.	Lawrence J. Gorski, Special Assistant to the Mayor (312) 744–7209.	5	S	146,838
Leadership Council for Metropolitan Open Communities, 401 South State Street, Suite 860, Chicago, IL 60605.	Aurie A. Pennick, President (312) 341–5678.	5	S	88,000
The Cuyahoga Plan of Ohio, 705 The Leader Building, Cleveland, OH 44114.	Michael D. Roche, Executive Director (216) 621–4525.	5	S	329,986
Kansas Human Relations Association, 300 West Ash, P.O. Box 736, Salina, KS 67402–0736.	Will A. Burnett, Executive Director (913) 826–7330.	7	S	95,122
Colorado Coalition for the Homeless, 2100 Broadway, Denver, CO 80205.	John Parvensky, Executive Director (303) 293–2217.	8	S	108,894
City and County of San Francisco Human Rights Commission, 25 Van Ness Avenue, Suite 800, San Francisco, CA 94102–6033.	Edwin M. Lee, Director (415) 252–2500	9	S	151,891
National Center for Youth Law, 114 Sansome St, Suite 900, San Francisco, CA 94104–3820.	John F. O'Toole, Director (415) 543–3307	9	S	197,718
Protection and Advocacy, Inc., 100 Howe Avenue, Suite 185N, Sacramento, CA 95825–8202.	Catherine Blakemore, Executive Director (916) 488–9955.	9	S	309,225
Southern Arizona Housing Center, P.O. Box 2441, Tucson, AZ 85702–2441.	Charlotte Wade, Executive Director (602) 798–1568.	9	S	225,000
Eugene, Springfield, Cottage Grove, Junction City, Harrisburg, Monroe, Central Oregon Coast CHRB, P.O. Box 10934, Eugene, OR 97440.	Charles Ellis, Chairperson (503) 746–3270	10	S	131,316

APPENDIX A.—FY 95 FAIR HOUSING INITIATIVES PROGRAM AWARDS—Continued

Applicant name and address	Contact name and phone number	HUD region	Single or multi-year	Final award amount
Education and Outreach Initiative—Community-Based Component				
West Jackson Community Development Corporation, 1060 John R. Lynch Street, Jackson, MS 39203.	Howard Boutte, Jr., Executive Director (601) 352–6993.	4	S	139,570
Iowa Citizens for Community Improvement, 2301 Forest Avenue, Des Moines, IA 50311.	Joe Fagan, Director (515) 266–5213	7	S	62,047
Private Enforcement Initiative				
Lawyers' Committee for Civil Rights Under Law of the Boston Bar Assn., 294 Washington Street, Suite 940, Boston, MA 02108.	Ozell Hudson, Jr., Executive Director (617) 482–1145.	1	M	599,104
HOPE Fair Housing Center, 2100 Manchester Road, Suite 1070—Building B, Wheaton, IL 60187.	Bernard J. Kleina, Executive Director (708) 690–6500.	5	M	596,100
Metropolitan Milwaukee Fair Housing Council, 600 East Mason Street, Suite 200, Milwaukee, WI 53202.	William R. Tisdale, Executive Director (414) 278–1240.	5	M	600,000
Legal Aid Society of Albuquerque, Inc., 121 Tijereas, N.E., Suite 3100, Albuquerque, NM 87102.	Karen J. Meyers, Executive Director (505) 243–7871.	6	M	600,000
Fair Housing of Marin, 88 Belvedere St, Suite A–1, San Rafael, CA 94901.	Nancy Kenyon, Executive Director (415) 457–5025.	9	M	577,419
Fair Housing Organizations Initiative—Continued Development Component				
Housing Discrimination Project, Inc., 57 Suffolk Street, Holyoke, MA 01040.	Peggy Maisel, Executive Director (413) 539–9796.	1	S	86,642
New Hampshire Legal Assistance, 15 Green Street, Concord, NH 03301.	Robert Gross, Executive Director (603) 225–4700.	1	S	113,528
Open Housing Center, Inc., 594 Broadway, Suite 608, New York, NY 10012.	Sylvia Kramer, Executive Director (212) 941–6101.	2	S	246,430
Fair Housing Council of Greater Washington, 927 15th St., NW, Washington, DC 20005.	David Berenbaum, Executive Director (202) 289–5360.	3	S	332,850
North Carolina Fair Housing Center, P.O. Box 28958, 224 S. Dawson St., Raleigh, NC 27611.	Stella Adams, Executive Director (919) 856–2166.	4	S	37,348
Legal Aid Society of Minneapolis, 430 First Avenue North, Suite 300, Minneapolis, MN 55401–1780.	Jeremy Lane, Executive Director (612) 334–5785.	5	S	179,253
Legal Aid of Western Missouri, 920 Southwest Blvd., Kansas City, MO 64108.	Richard Halliburton, Executive Director (816) 474–6750.	7	S	210,578
Fair Housing Organizations Initiative—Establishing New Organizations Component				
Asian Americans for Equality, Inc., 176–180 Eldridge Street, New York, NY 10002.	Christopher Kui, Executive Director (212) 677–7210.	2	M	500,000
National Fair Housing Alliance, 927 15th Street, N.W., Suite 600, Washington, DC 20005.	Shanna L. Smith, Executive Director (202) 898–1661.	3	M	499,830

[FR Doc. 96–2787 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–28–P

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3828–N–04]

Public and Indian Housing Tenant Opportunities; Program Technical Assistance; Announcement of Funding Awards for FY 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for Public and Indian Tenant Opportunities Program (TOP). This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Christine Jenkins or Barbara J. Armstrong, Office of Community Relations and Involvement, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4112, Washington, DC 20410; telephone: (202) 708–3611. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service on 1–800–877–TDDY (1–800–877–8339) or (202) 708–9300 for information on the program. (Other than the "800" TDD number, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Tenant Opportunities Program is authorized under section 20 of the United States Housing Act of 1937. The purpose of TOP is to expand the range of the resident-managed activities, so that resident organizations can set priorities based on the needs in their

communities. The program provides assistance to Resident Councils, Resident Management Corporations, Resident Organizations, National Resident Organizations, Regional Resident Organizations, and Statewide Resident Organizations, to fund training and other tenant opportunities, such as the formation of such entities, identification of the relevant social support needs, and securing of such support for residents of public and Indian housing.

The Fiscal Year 1995 competition was announced in a NOFA published in the **Federal Register** on March 1, 1995 (60 FR 11222). An amendment to the March 1, 1995 NOFA was published in the **Federal Register** on April 18, 1995 (60 FR 19406). The NOFA announced the availability of $25 million for use in expanding the range of the resident-managed activities. Applications were scored and selected for funding based on criteria contained in the Notice.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names and addresses of the resident and tenant associations which received funding under this NOFA, and the amount of funds awarded to each. This information is provided in Appendix A to this document.

Dated: January 31, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FOURTH QUARTER FINAL FUNDING DECISIONS

[Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988]

Funding recipient (Name and address)	Amount approved
Nelton Court Tenant Association, 128 Nelton Court, Hartford, CT 06106–1860	$98,900
Franklin Hill Tenant Task Force, One Shandon Rd. #376, Dorchester, MA 02124	100,000
Washington Beech Tenant Association, 35 Beechland St., Roslindale, MA 02131–2302	100,000
Newtowne Court Resident Council, Cambridge, MA 02139	100,000
Manahan Village Resident Council, 23 Clyde Potts Drive, Morristown, NJ 07960	100,000
Seaview Manor Tenants Association, 13 Seaview Manor, Long Branch, NJ 07740–0336	100,000
Alfred Speer Village Resident Council, 45 Aspen Place 8C, Passaic, NJ 07055–589€	100,000
Riverside Terrace Tenants Association, 29 Harris Place, Paterson, NJ 07514	100,000
United Edison Residents Association, Willard Dunham, Edison, NJ 08837–3560	100,000
Pulaski Court Residents Association, 71 Daniel P. Conte C, Garfield, NJ 07026–2499	100,000
Buffalo Public Housing Resident Council Corp., 124 Fulton St., Suite 3F, Buffalo, NY 14204–2299	60,000
Columbia Apartments Resident Association, 41 North Second Street, Hudson, NY 12534–2415	100,000
Steinmetz Homes Resident Association, Inc., 249 Steinmetz Homes, Schenectady, NY 12304	100,000
Family Sites Tenant Council, 141 Fifth Street, Ithaca, NY 14850–5353	100,000
Resident Empowered Action Council of Troy, 2100 Sixth Avenue, Troy, NY 12180–1498	100,000
Titus Towers Tenant Council, 500 South Plain Street, Ithaca, NY 14850–5353	100,000
Rochester Housing City-Wide Resident Council, Rochester, NY 14611–2744	100,000
Beach 41st Tenant Association, 456 Beach 40th Street, Far Rock, NY 11691	100,000
Walt Whitman Tenant Association, 149 North Portland Ave 2A, Brooklyn, NY 11205	100,000
Gowanus Housing Tenant Association, 235 Hoyt St. Apt. 9–A, New York, NY 11217	100,000
Williamsburg Housing Tenant Association, 185 Ten Eyck Walk, #3B, Brooklyn, NY 11206	100,000
Tompkins Houses Tenant Union, 65 Tompkins Ave. #2C, Brooklyn, NY 11206	100,000
Clay Avenue Tenant Association, 1236 Clay Avenue, Apt. 1A, Bronx, NY 10456–516	100,000
Ralph J. Rangel Tenant Association, 159–64 Harlem River Dr.7C, New York, NY 10039	100,000
Farragut Tenants Association, 288 York Street, Brooklyn, NY 11201	100,000
Cooper Park Houses Tenants Association, 60 Kingsland Ave., #1E, Brooklyn, NY 11211–1542	100,000
Borinquen Plaza Tenant Union, 110 Humboldt Street, #3C, Brooklyn, NY 11206	100,000
Langston Terrace Resident Council, 705 Langston Terrace, NE, Washington, DC 20002–7599	100,000
Arthur Capper Senior Resident Council, 601 L Street, SE #520, Washington, DC 20003	100,000
James Apartment Resident Council, 1425 N Street, NW, Washington, DC 20005	97,000
Benning Terrace Resident Council, 4741 Alabama Ave., Washington, DC 20019	100,000
Kentucky Courts Senior Resident Council, 1343 C Street, SE #31, Washington, DC 20003	100,000
Highland Dwellings Resident Council, 764 Atlantic Street, SE, Washington, DC 20032	100,000
High Rise Resident Council, 2700 N. Market Street 917, Wilmington, DE 19802	100,000
Electra Arms Apartments, 1800 Broom Street 1014, Wilmington, DE 19802	100,000
Dover Resident Advisory Council, 430 New Castle Avenue, Dover, DE 19901–3437	60,000
Thomas Herlihy Jr. Resident Council, 320 E. Fifth Street 710, Wilmington, DE 19802	100,000
Scattered Sites Resident Council, 2802 N. Tatnall Street 5, Wilmington, DE 19802	100,000
Compton Towers Resident Council, 325 E. 5th St. Apt 9M, Wilmington, DE 19802	100,000
Crestview Resident Council, 2700 N. Market St. Apt 917, Wilmington, DE 19802	100,000
Lincoln Towers Resident Council, 1625 Gilpin Avenue 8–C, Wilmington, DE 19806	100,000
Bernard E. Mason Tenant Council, 2121 Windsor Garden Lane, Baltimore, MD 21207	100,000
Gilmore Tenant Council, 1640 Balmor Court, Baltimore, MD 21202	100,000
The Brentwood Tenant Council, 401 East 25th Street, Baltimore, MD 21218	100,000
Westport/Mt. Winans Resident Council, 2443 Norfolk Street, Baltimore, MD 21230	100,000
Rehab Resident Association, 1605 East 33rd Street, Baltimore, MD 21218	100,000
The West Twenty Tenant Council, 11 West 20th Street, Baltimore, MD 21218	100,000
Sheldon Park Resident Council, 480 Park Avenue, Natrona Ht, PA 15065	60,000
Mill Creek Resident Council, 4619 Fairmount Ave., Philadelphia, PA 19139	100,000
Cecil B. Moore Resident Council, 3479 West Huntingdon Ave., Philadelphia, PA 19132	100,000
Haddington Homes Tenant Council, 5503 Winter Place, Philadelphia, PA 19139	100,000
Fairhill Apts Resident Council, 1018 W. Cumberland St., Philadelphia, PA 19133	100,000

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FOURTH QUARTER FINAL FUNDING DECISIONS—Continued

[Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988]

Funding recipient (Name and address)	Amount approved
Bentley Hall Resident Council, 1710 N. Croskey Street, Philadelphia, PA 19121	100,000
Church and Farnum Residents Organization, 33 E Farnum St720, Lancaster, PA 17602–4253	60,000
Tenants for Fair Housing Resident Council, 501 N. Pershing Ave. 8B, York, PA 17404	100,000
West Park Plaza Resident Council, 4600 Fairmount Avenue, Philadelphia, PA 19139	100,000
Arch Homes Resident Council, 114 N. Allison Street, Philadelphia, PA 19139	100,000
Mantua Hall Resident Council, 3500 Fairmount Ave. Apt 508, Philadelphia, PA 19104	100,000
Tasker Homes Resident Council, 3103 Fernon Drive, Philadelphia, PA 19145	100,000
Holmecrest Homes Resident Council, 8133 Erdrick Place, Philadelphia, PA 19145	100,000
Paschall Tenant Council, 2230 S. 72nd Street, Philadelphia, PA 19142	100,000
Norris Homes Resident Council, 1915 North 11th Street, Philadelphia, PA 19122	100,000
Wilson Park Tenant Council, 2500 Jackson Street, Philadelphia, PA 19145	100,000
Katie B. Jackson Tenant Council, 400 N. 50th Street #414, Philadelphia, PA 19139	100,000
Germantown House Tenant Council, 5457 Wayne Avenue Gd. Fl., Philadelphia, PA 19144	100,000
North Hills Resident Council, 315 Logan Avenue, North Hills, PA 19038	100,000
Grandy Village RMC, 705 Kimball, Norfolk, VA 23504	60,000
Norfolk Resident Organization, 2411 E.Prince, Norfolk, VA 23504	100,000
Severt/Holston League of Residents, 237 Miller Avenue, Marion, VA 24354	100,000
Dickerson Courts Tenant Council, 520 21st St, Newport News, VA 23607	100,000
North Birmingham Resident Council, 3127 43rd Avenue, Birmingham, AL 35207	100,000
Metropolitan Gardens Tenant Council, 2411 D Sixth Ave No., Birmingham, AL 35203	100,000
Greensboro Resident Council, 101 Centerville Cir, Greensboro, AL 36744	100,000
Elyton Village Resident Council, 31 Fourth Court West, Birmingham, AL 35203	100,000
Uniontown Housing Authority Resident Council, P.O. Box 1160, Uniontown, AL 36786–0633	100,000
Martin Luther King Village Resident Council, P.O. Box 389, Eutaw, AL 35462–0389	100,000
Liberty Square Concerned Resident Association, 6503 NW 14th Court, Miami, FL 33147	100,000
Perrine Gardens Resident Council, 10022 W Evergreen Street, Perrine, FL 33157	100,000
United Resident Council of HA of Ft. Lauderdale, 2300 NW 16th St. #36, Fort Lauderdale, FL 33311	100,000
Resident Initiative Council of Bethune Village, 814 Bethune Village, Daytona Beach, FL 32114	100,000
Lake Wales Tenant Association, 750 Old Scenic Hwy. #22, Lake Wales, FL 33853	100,000
Ely Estates/Turner Ridge Tenants Association, 1650 NW 7th Avenue #53, Pompano Beach, FL 33060	100,000
Annie M. Coleman Resident Council, 5200 NW 22nd Avenue, Miami, FL 33142	100,000
Smathers Plaza Resident Association, 935 SW 30th Avenue #1408, Miami, FL 33135	100,000
Three Round Towers Resident Council, 2870 NW 18th Avenue, Miami, FL 33142	100,000
Modello Resident Association, 28450 SW 152nd Avenue, Homestead, FL 33032	100,000
Edison Park Plaza Resident Council, 200 NW 55th Street, Miami, FL 33127	100,000
Orange Avenue United Tenants Association, 1700 Joe Louis St. #165, Tallahassee, FL 32304	100,000
South Miami Resident Association, 6701 SW 62nd Avenue, Miami, FL 33143	100,000
Culmer Place/Culmer Gardens Resident Association, 801 NW 7th Avenue, Miami, FL 33136	100,000
Biscayne Plaza Resident Council, 15201 SW 288th Street, Homestead, FL 33030	100,000
Pine Island Resident Council, 26860 SW 128 Avenue, Naranja, FL 33032	100,000
Arthur Mays Villas Resident Council, 11341 SW 216 Street, Goulds, FL 33170	100,000
Claude Pepper Resident Association, 750 NW 18th Terrace #1006, Miami, FL 33136	100,000
Robert King High Resident Association, 1403 NW 7th Street #205, Miami, FL 33125	100,000
Carver Annex Resident Council, 7430 NW 19th Avenue #A, Miami, FL 33142	15,813
Southridge I & II Resident Council, 11246 SW 191 Lane, Miami, FL 33157	100,000
Edison Courts Residents Association, 325 NW 62nd Street, Miami, FL 33150	100,000
Ward Towers Resident Council, 2200 NW 54th Street, Miami, FL 33142	100,000
Twin Lakes Resident Council, 1215 NW 95th Street, Miami, FL 33150	100,000
Singer Plaza Resident Council, 1310 NW 16th Avenue #202, Miami, FL 33125	100,000
Palm Courts/Towers Resident Council, 930 NW 95th Street, Miami, FL 33150	100,000
Graham/Rogal Resident Management Corporation, 300 10th Street South, St. Petersburg, FL 33705	100,000
Englewood Manor Resident Mgmt. Corp., 379 Climax Street SE, Atlanta, GA 30315	60,500
Carver Homes Resident Association, 1584 Wilcox St. NE, Atlanta, GA 30315	22,000
University/John Hope Hms Res. Mgmt. Corp, 669 Larkin Street SW, Atlanta, GA 30314	41,000
Red Oak Resident Association, 4443 Campbell Drive, College, GA 30349	100,000
Allen Road Midrise Tenant Association, 144 Allen Rd NE 516, Atlanta, GA 30328	100,000
Alma Resident Council, P.O. Box 363, Alma, GA 31510	100,000
Juniper & Tenth Street Resident Association, 150 Tenth Street NE, Atlanta, GA 30309	60,000
Clarksdale Resident Corporation, 549 Marshall Court #40, Louisville, KY 40202	100,000
Bluegrass-Aspendale Resident Council, 733 Breckenridge St., #1, Lexington, KY 40508	100,000
Natchez Housing Resident Council, Inc., 160 St. Catherine St, Natchez, MS 39120	100,000
Aberdeen Housing Resident Council, Inc., P.O. Box 69, Aberdeen, MS 39730	100,000
Greenwood Housing Authority Resident Council, Inc., P.O. Box 1847, Greenwood, MS 38935–1847	60,000
Triangle Homes Resident Council, P.O. Box 2910, Laurel, MS 39442	100,000
Meridian Resident Housing Council, P.O. Box 870, Meridian, MS 39302–0870	60,000
Forest City HA Resident Council, A204 Spruce St., Forest City, NC 28043	100,000
J.J. Henderson Housing Center Resident Council, 807 Duke St., Durham, NC 27701	100,000
Resident Council, Inc., 100 Atkingson St. #33D, Asheville, NC 28801	100,000
Oxford Manor Resident Council, 3818 Dearborn Drive, Durham, NC 27704	100,000

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FOURTH QUARTER FINAL FUNDING DECISIONS—Continued

[Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988]

Funding recipient (Name and address)	Amount approved
Jardines De San Carolos Resident Council, Bldg 4, Apt 34, Caguas, PR 00725	100,000
Monte Hatillo Resident Council, Bldg 16, Apt 184, Rio Piedras, PR 00924	100,000
Jardines Del Almendro Resident Council, Bldg 2, Apt 6, Maunabo, PR 00707	100,000
Brisas De Cayey Resident Council, Bldg 1, Apt 2, Cayey, PR 00736	100,000
Praxedes Santiago Resident Council, Praxedes Santiago Hsg Pro, Cidra, PR 00739	100,000
Raul Castellon, Inc., Resident Council, Ave Troche Admin. Office, Caguas, PR 00725	100,000
Alturas De Montellano Resident Council, Block 6 #30, Cayey, PR 00736	100,000
Bonneville Heights Resident Council, Bldg 3, Apt 45, Caguas, PR 00725	100,000
Alturas Del Cibuco Resident Council, P.O. Box 1423, Corozal, PR 00783	100,000
Florida Housing Resident Council, Apartment B–1, Florida, PR 00650	100,000
El Dorado Resident Council, Bldg 6, Apt 46, Dorado, PR 00646	100,000
Luis Pales Matos Resident Council, Luis Pales PH Project, Guayama, PR 00784	100,000
Carmen Hernandez VDA De Martorell Resident Council, Bldg 6, Apt 38, Maunabo, PR 00707	100,000
Jose Tormos Diego Resident Council, Bldg. 10, Apt 153, Ponce, PR 00731	100,000
Ponce De Leon Resident Council, Ave., Roosevelt Apt E #119, Ponce, PR 00731	100,000
Atrevete, Inc., Loiza Street #2665, San Juan, PR 00914	100,000
Villa Del Rey Resident Council, Bldg 8, Apt 63, Caguas, PR 00725	100,000
La Providencia Resident Council (LLorens Torres), Bldg 39, Apt 800, San Juan, PR 00915	100,000
Carioca Resident Council, Bldg 32, Apt 183, Guayama, PR 00784	100,000
Zenon Diaz Valcarcel Resident Council, Diego Vega Ave.-Bo Amelia, Guaynabo, PR 00965	100,000
La Ceiba Unidos En Accion Resident Council, La Ceiba Housing Project, Ceiba, PR 00735	100,000
Dr. Manuel Zeno Gandia Resident Council, Bldg D–5, Apt 362, Arcelbo, PR 00612	100,000
Antonio Marquez Arbona Resident Council, PO Box 1033, Arecibo, PR 00613	100,000
Ponce Housing Resident Council, Bldg 19, Apt 3, Ponce, PR 00731	100,000
Jardines De Caparra Resident Council, Bldg 3, Apt. 77, Bayamon, PR 00959	100,000
Nuestra Senora De Covadonga Resident Council, Road 486 Bldg 20, Apt. 301, Trujillo Alto, PR 00976	100,000
Trina Padilla De Sanz Resident Council, Bldg 11, Apt. 747, Arecibo, PR 00612	100,000
Pedro J. Rosaly Resident Council, Roosevelt Ave., Bldg 165, 15, Ponce, PR 00731	100,000
West Riverside Resident Association, 109 Lyndon Street, Mcminnville, TN 37110	60,000
West Mesa Housing Management Corporation, P.O. Box 572, Many Farms, AZ 86538	30,000
Southwind Tenant Council, 407 Melrose, Aurora, IL 60505	100,000
Joann Dorsey Resident Council, 1113 Dorsey, Champa, IL 61821	60,000
Randolph Towers Resident Organization, 6217 S. Calumet, Chicago, IL 60637	100,000
Neighbor to Neighbor Resident Council, 109 Van Wyck, Carterville, IL 62918–0045	100,000
Owasco Resident Council, 6 Clifford Ct., Elgin, IL 60123	100,000
Lee Wright Resident Council, 80 Circle Dr., Venice, IL 62040	100,000
New Horizons Resident Council, Rt 5, Apt 12A, Murphysboro, IL 62901	100,000
Lowden Homes Resident Council, 206–A W 95th St, Chicago, IL 60628	100,000
Lake Heights Residents Organ., 300 N 7th St, Murphysboro, IL 62966	100,000
Miller Manor Resident Organization, 727 Miller Avenue, Ann Arbor, MI 48103	100,000
Parkside Resident Council, 615 East Hovey Ave, Muskegon Heights, MI 49444	100,000
Countryside Manor Resident Council, 14379 Webster Road, Bath, MI 48808	100,000
Resident Management Corp. Model Pilot Highrise, 1707 Third Ave. S., Minneapolis, MN 55404	49,030
City-Wide Resident Council of St. Paul, 1575 Ames Ave., St. Paul, MN 55106	60,000
Minneapolis Highrise Representative Council, 630 Cedar Av, S 1707, Minneapolis, MN 55454	100,000
Millvale Resident and Community Council, 1901–3 Millvale Ct, Cincinnati, OH 45225–1210	100,000
Beacon Glen Resident Council, 6349 Beechmont Ave, Cincinnati, OH 45230	99,361
Noah East Estate, 1389 Ansel Road, Cleveland, OH 44104–0000	100,000
Willson LAC, 5542 Perkins, Cleveland, OH 44104–0000	100,000
Miles Elmarge Apartments LAC, 10304 Miles Avenue, Cleveland, OH 44105–0000	100,000
Springbrook Estate LAC, 1675 Ansel Road, Cleveland, OH 44102–0000	100,000
Crestview Apartments LAC, 1300 Crestview Ave., Cleveland, OH 44109–0000	100,000
Olde Cedar Family Estate LAC, 2408 Cedar Ave. #262, Cleveland, OH 44115–0000	100,000
Garden Valley Estate LAC, 7708 Trenton Ave.150, Cleveland, OH 44104–3101	100,000
LaRonde Apartments, 12024 Shaker Blvd. #610, Cleveland, OH 44120–0000	100,000
Lakeview Plaza Tenant Council, 310 West 7th Street, Lorain, OH 44052–2602	100,000
Neighbors in Progress, Southside Gardens, 3040 Vine Avenue, Lorain, OH 44055–0000	100,000
Manhattan Towers LAC, 2885 W. 14th St. #204, Cleveland, OH 44112–0000	100,000
Scranton Castle Apartment Resident Council, 2000 Castle Ave., Cleveland, OH 44113–0000	100,000
Cedar Extension Family Estate LAC, 2726 Central Ave., Cleveland, OH 44115–0000	100,000
Beachcrest Towers, 16800 Lakeshore Blvd, Cleveland, OH 44110–0000	100,000
King Kennedy North Family LAC, 2491 E. 59th St. 208, Cleveland, OH 44104–0000	100,000
Apthorp Tower High-Rise, 12900 Superior Ave., Cleveland, OH 44113–3101	100,000
West Boulevard Place Apartment, 9520 Detroit Ave. 312, Cleveland, OH 44102–0000	100,000
Bohn Tower LAC, 1300 Superior #2204, Cleveland, OH 44114–0000	100,000
Coopermill Manor Resident Council, 506 Shinnick Cir, Zanesville, OH 43701	100,000
Columbus PHA Communities United, 590 Van Buren, Columbus, OH 43223	60,000
New Horizons/Chilli MHA Tenant Council, 178 West Fourth St, Chillicothe, OH 45601	100,000
Parklawn Family Dev. Resident Organization, 4455 W. Congress Avenue, Milwaukee, WI 53218	100,000

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FOURTH QUARTER FINAL FUNDING DECISIONS—Continued

[Program Name: Tenant Opportunities Program Technical Assistance Grant; Statute: Public Law 100–42, February 5, 1988]

Funding recipient (Name and address)	Amount approved
City-wide Public Housing Resident Council, 636 W. Plymouth, Milwaukee, WI 53212	100,000
Westlawn Resident Council, 6125 W. Birch, Milwaukee, WI 53218	100,000
West Memphis HA Resident's Council, 430 S. 26th St., West Memphis, AR 72301–6099	100,000
North Baton Rouge Resident Management, Inc., 999 Rosenwald Rd., Baton Rouge, LA 70807	100,000
Scattered Sites Resident Council, 4100 Royal Street, #1A, New Orleans, LA 70117	100,000
Kenner Resident Association, 1013 31st Street, Kenner, LA 70065	100,000
Raton Resident Council, 128 Toller Drive, Raton, NM 87740–0297	100,000
Cerro Encantado Family Resident Council, 1286 Cerro Gordo, Santa Fe, NM 87501	100,000
Stick Ross Resident Organization, Route 6, Box 3 Stick Ross, Tahlequah, OK 74464	65,000
Woodbrook Estates Homeowners Assoc., Inc., Rt. 7, Lot B–35, Ada, OK 74820	60,000
Ripley Arnold Resident Association, P.O. Box 430, Fort Worth, TX 76101–0430	50,000
Hunter Plaza Resident Association, P.O. Box 430, Fort Worth, TX 76101–0430	100,000
Cedar Springs Resident Council, 2810 Raleigh Pl. #247, Dallas, TX 75219–0000	100,000
Meadowbrook Resident Council, 2301 Wirtz 106, Austin, TX 78762–6159	100,000
Citrus Gardens/Annex/Victoria, 2100 Grapefruit, Brownsville, TX 78521	100,000
Wheatley Courts Resident Council, 906 N Mittman, San Antonio, TX 78202	100,000
Lincoln Heights Courts RA, 1315 N. Elmendorf, San Antonio, TX 78207	100,000
Villa Verammendi Homes RA, 615 Barclay, San Antonio, TX 78207,	100,000
Cassiano Homes Resident Association, 2919 S. Laredo, San Antonio, TX 78207	100,000
San Juan Homes Resident Association, 300 Gante Walk, San Antonio, TX 78207	100,000
S.J. Sutton Homes Resident Association, 329 Dillon Walk, San Antonio, TX 78208	100,000
Oxford Place Mgmt. & Comm. Dev. Corp., 605 Berry Rd. #144, Houston, TX 77022	100,000
Lincoln Park Resident Council, 790 W. Little York #3301, Houston, TX 77091	100,000
Kelley Village Resident Council, 3213 Buck St., Houston, TX 77020	100,000
Cuney Homes Resident Management Corporation, 3200 Truxillo Apt. #101–G, Houston, TX 77004	60,000
Area Wide Resident Council Board, 1016 Bryant, Bryan, TX 77803	100,000
Kemp Street Resident Council, 1508 W. Martin Luther King, Bryan, TX 77803	100,000
Eastside Resident Council, 718 Dansby, Bryan, TX 77803	100,000
Jordan Loop Resident Council, 708 Hernandez, Bryan, TX 77803	100,000
Beck Street Resident Council, 500 Gainer, Bryan, TX 77803	60,000
Grandview Park Manor Association, Kansas City, KS 66101–2197	100,000
Richland Council O.N.E., P.O. Box 714, Richland, MO 65556–0037	60,000
Hall County Resident Council, Inc., 3023 West North Front, Grand Island, NE 68803–4403	60,000
Missoula HA Resident Management Association, 819 Stoddard Street, Missoula, MT 59802	100,000
Northern Heights Resident Council, Box 1126, Glasgow, MT 59230	100,000
Bonneauville Resident Organization, P.O. Box 790, Box Elder, MT 59521	100,000
Little Eagle Resident Organization, P.O. Box 484, Fort Yates, ND 58538	100,000
Porcupine Resident Organization, P.O. Box 484, Fort Yates, ND 58538	100,000
Tsel Bahaa Residential Organization, P.O. Box 1013, Kearns Canyo, AZ 86034	60,730
Resident Initiatives Organization Team (RIOT), P.O. Box AW, Parker, AZ 85344	100,000
Belden Village Resident Council, 7777 Belden Vil. Dr., San Diego, CA 92113	100,000
Harbor Hills Resident Council, 329 Harbor Hills, Lomita, CA 90717	60,000
Colonia Village, 226 N. Marquita St., Oxnard, CA 93030–3714	60,000
Redlands Advisory Group, 131 E. Lugonia, Redlands, CA 92410–3854	60,000
Waterman Gardens Resident Advisory Group, 382 Crestview, San Bernardino, CA 92410–3854	100,000
Lockwood Gardens, 1234 65th Ave., Oakland, CA 94621	100,000
Campbell Villa Resident Council, 935 Union Street, Oakland, CA 94607	100,000
Chestnut Court Resident Council, 935 Union Street, Oakland, CA 94607	100,000
Sunnydale Residents Association, 1704 Sunnydale Ave., San Francisco, CA 94134	100,000
El Pueblo Resident Council, 833 El Pueblo, Pittsburg, CA 94565	99,416
Kekaha Ha'aheo Ohana Association, 5220 Paanau Bldg. D, Koloa, HI 96756	100,000
Kuhio Homes Resident Association, 1475 Linapuni, Honolulu, HI 96819	99,919
Onipa'a Tenants Association, 12B Kehale Mua, Maunaloa, HI 96770	100,000
Palolo Tenant Association, 1144 10th Ave., Honolulu, HI 96816	99,914
Waimanalo Housing Resident Association, 41528 Humuniki, Honolulu, HI 96895	100,000
Tse Chiz Bito' Resident Organization, P.O. Box 1373, Cuba, NM 87013	100,000
Dibelchii Dwelling Resident Organization, General Delivery, Brimhall, NM 87310	100,000
Nahodishgish Morgan Valley Estates Org, P.O. Box 369, Crownpoint, NM 87313	97,666
Emie Cragin Terrace Resident Council, 2410 Ambler Street, Las Vegas, NV 89101	75,920
Igiugig Residents Organization, P.O. Box 4013, Igiugig, AK 99613	44,195
New Stuyahok Resident Organization, P.O. Box 144, New Stuyah, AK 99636	75,136
Levelock Resident Organization, Box 70, Levelock, AK 99625	87,500
Rosewood Homes Resident Council, 902 W. Stanton, Roseburg, OR 97470	71,000
Pineview Resident Council, 212 98th PL, SE, #B, Everett, WA 98208	100,000
Puyallup Nation IHA,RCs, 2002 E. 28th St., Tacoma, WA 98404	

1995 TENANT OPPORTUNITY PROGRAM, TECHNICAL ASSISTANCE GRANTEES FOR NATIONAL/REGIONAL/STATEWIDE RESIDENT ORGANIZATIONS

Grantee	Amount
Ms. Juanita Jackson, National Chairwoman, ACORN Tenant Union, Flatbush Avenue, Brooklyn, NY 11226	$100,000
Mr. Clenton Jones, Executive Director, National Association of Resident Management Corporation, 4524 Douglas Street, NE, Washington, DC 20019	100,000
Mr. Wardell Yotaghan, President, Chicago Association of Resident Management Corporation, 2450 West Monroe, Apartment 109, Chicago, IL 60612	100,000
Mr. Leroy Mitchell, President, Navajo Nation Regional Resident Organization, P.O. Box 422, Window Rock, AZ 86515	100,000
Ms. Donna Quijance, President, Seldovia Tenant Council, Box 245, Seldovia, AK 99663	100,000
Ms. Mary E. Rone, President, New Jersey Association of Public and Subsidized Housing Residents, 303–309 Washington Street, Suite 300, Newark, NJ 07102	100,000
Ms. Maria D Vega, President, New Mexico Statewide Resident Assn, 70 Camino De Jacobo, Sante Fe, New Mexico 87505	100,000
Mr. Hugh Grogan, President, Residents Working for Georgia, Inc., 306 Lemon Street, Apt. #1, Marietta, GA 30060	100,000
Mr. Richard Howard, President, Circle of Four Nations, Regional Resident Organization, P.O. Box 528, Sacaton, AZ 85247	100,000
Ms. Gloria Williams, President, Illinois Housing Resident Coalition, 2320 S. State #103, Chicago, IL 60616	100,000
Total Dollars Awarded	25,000,000
Total Number of Grant Awards=265	25,000,000

[FR Doc. 96–2778 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–33–P

[Docket No. FR–3803–N–02]

Announcement of Funding Awards; Public and Indian Housing Youth Sports Program Fiscal Year 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1995 for the Youth Sports Program (YSP). The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to the Youth Sports Program.

FOR FURTHER INFORMATION CONTACT: Robin Prichard, Crime Prevention and Security Division (CPSD), Office of Community Relations and Involvement (OCRI), Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197 (this is not a toll-free telephone number). Hearing- or speech-impaired persons, may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Youth Sports Program is authorized by Section 520 of the National Affordable Housing Act (NAHA) (approved November 28, 1990, Pub. L. 101–625), as amended by section 126 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992). Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations at 24 CFR part 135 (see June 30, 1994 Interim Rule, 59 FR 33866) are applicable to funding awards made in this Notice.

This Notice announces FY 1995 funding of $13,925,000 for the Youth Sports Program (YSP) to be used for sports, cultural, educational, recreational, or other activities designed to appeal to youth as alternatives to the drug environment in public or Indian housing developments. The FY 1995 awards announced in this Notice were selected for funding consistent with the provisions in the Notices of Funding Availability (NOFAs) published in the **Federal Register** on January 10, 1995 (60 FR 2646).

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: February 5, 1996

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS

[Program Name: Public and Indian Housing Youth Sports Program (YSP); Statute: Public Law 101–625, November 28, 1990]

Funding recipient (name and address)	Amount approved
Housing Authority of the City of New Haven, P.O. Box 1912, New Haven, CT 06509	$125,000
Housing Authority of the City of Middletown, 40 Broad St., Middletown, CT 06457–3249	125,000
Boston Housing Authority, 52 Chauncey St., Boston, MA 02111–2302	125,000
Cambridge Housing Authority, 270 Green Street, Cambridge, MA 02139–3360	125,000
Somerville Housing Authority, 30 Memorial Rd., Somerville, MA 02145	87,016
Holyoke Housing Authority, 475 Maple Street, Holyoke, MA 01040–3775	125,000
Lynn Housing Authority, 174 South Common Str, Lynn, MA 01905–2513	125,000
Dover Housing Authority, 62 Whittier Street, Dover, NH 03820–2994	28,275
Asbury Park Housing Authority, 1000 1/2 Third Ave, Asbury Park, NJ 07712–3847	125,000
Camden Housing Authority, 517 Market Street, Camden, NJ 08102–1293	125,000
Jersey City Housing Authority, 400 U.S. Highay #1, Jersey City, NJ 07306–6731	116,883
Niagara Falls Housing Authority, 744 Tenth Street, Niagara Falls, NY 14301–1852	124,990
Syracuse Municipal Housing Authority, 516 Burt Street, Syracuse, NY 13202–3999	125,000

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Youth Sports Program (YSP); Statute: Public Law 101–625, November 28, 1990]

Funding recipient (name and address)	Amount approved
Municipal Housing Authority of Schenectady, 375 Broadway, Schenectady, NY 12305–2595	125,000
Albany Housing Authority, 4 Lincoln Square, Albany, NY 12202–1637	125,000
Municipal Housing Authority for the City of Yonker, P.O. Box 35, Yonkers, NY 10710–0035	125,000
D.C. Department of Public and Assisted Housing, 1133 N. Capitol, St., NW, Washington, DC 20002–7599	125,000
Wilmington Housing Authority, 400 N. Walnut Street, Wilmington, DE 19801	125,000
Housing Opportunity Commission, Montgomery County, 10400 Detrick Avenue, Kensington, MD 20895	68,586
Alexandria Redevelopment & Housing Authority, 600 North Fairfax St, Alexandria, VA 22314–2094	124,000
Housing Authority of the City of Huntington, P.O. Box 2183, Huntington, WV 25722–2183	125,000
Housing Authority of the City of Montgomery,1020 Bell St., Montgomery, AL 36104	125,000
Housing Authority of the City of Tuskegee, 2901 Davison St., Tuskegee Institute, AL 36088	125,000
Jefferson County Housing Authority, 3700 Industrial Pkwy, Birmingham, AL 35217	125,000
Haleyville Housing Authority, P.O. Box 786, Haleyville, AL 35565	73,588
Housing Authority of the City of Key West, 1400 Kennedy Drive, Key West, FL 33040–2476	117,405
Housing Authority of the City of St. Petersburg, P.O. 12849, St. Petersburg, FL 33705	125,000
Jacksonville Housing Authority, 1300 Broad Street, Jacksonville, FL 32202–3901	125,000
Gainesville Housing Authority, P. O. Box 1468, Gainesville, FL 32602	125,000
Ft. Walton Beach Housing Authority, 27 Robinwood Dr. SW, Fort Walton Beach, FL 32548–5394	124,802
Housing Authority of the City of Savannah, P. O. Box 1179, Savannah, GA 31402–1179	124,961
Housing Authority of the City of Macon, P. O. Box 4928, Macon, GA 31208–4928	125,000
Housing Authority of the City of Columbus, P. O. Box 648, Columbus, MS 39703–0648	125,000
Housing Authority of the City of Jackson, P. O. Box 11327, Jackson, MS 39283–1327	125,000
Housing Authority of the City of Tupelo, P. O. Box 3, Tupelo, MS 38802–0003	125,000
Housing Authority of the City of Lumberton, P. O. Box 192, Lumberton, MS 39455	69,243
Housing Authority of the City of Meridian, P. O. Box 870, Meridian, MS 39302–0870	125,000
Housing Authority of the City of Starkville, P. O. Box 795, Starkville, MS 39759	44,100
Housing Authority of the City of Charlotte, P O Box 36795, Charlotte, NC 28236	125,000
Housing Authority of the City of Greensboro, P O Box 21287, Greensboro, NC 27420	125,000
Housing Authority of the City of Greenville, P O Box 1426, Greenville, NC 27835–1426	125,000
Housing Authority of the City of High Point, P O Box 1779, High Point, NC 27261	125,000
Pembroke Housing Authority, P O Drawer 910, Pembroke, NC 28372	115,998
Housing Authority of the City of Winston-Salem, 901 Cleveland Ave., Winston-Salem, NC 27101	125,000
Housing Authority of Beaufort, Post Office Box 1104, Beaufort, SC 29901–1104	120,083
Housing Authority of Greenville, P. O. Box 10047, Greenville, SC 29605	124,998
Elizabethton Housing and Development Agency, Inc., P. O. Box 369, Elizabethton, TN 37644–0369	125,000
Metropolitan Development & Housing Agency, P.O. Box 846, Nashville, TN 37202–0846	125,000
Poarch Band of Creek Indians of Alabama, HCR 69A Box 85B, Atmore, AL 36502	125,000
Seminole Tribe of Florida, 3101 N. 63rd Avenue, Hollywood, FL 33024	124,985
Housing Authority City Bloomington, 104 E Wood, Bloomington, IL 61701–6768	125,000
Evansville Housing Authority, P. O. Box 3605, Evansville, IN 47713	18,361
Sault Ste. Marie Tribal Housing Authority, 2218 Shunk Road, Sault Ste. Marie, MI 49783	125,000
Mississippi Band of Choctaw Indians, P.O. Box 6010 Choctaw Bra, Philadelphia, MS 39350	125,000
Qualla Housing Authority, P.O. Box 1749, Cherokee, NC 28719–1749	125,000
Dayton Metropolitan Housing Authority, 400 Wayne Avenue, Dayton, OH 45410–1106	125,000
Cuyahoga Metropolitan Housing Authority, 1441 W. 25th Street, Cleveland, OH 44113–3101	125,000
Lucas Metropolitan Housing Authority, P.O. Box 477, Toledo, OH 43697–0477	125,000
Lorain Metropolitan Housing Authority, 1600 Kansas Avenue, Lorain, OH 44052–2602	125,000
Zanesville Metropolitan Housing Authority, 2746 Maple Avenue, Zanesville, OH 43701	124,854
Allen Metropolitan Housing Authority, 600 S. Main Street, Lima, OH 45804	125,000
Ho-Chunk Housing Authority, P.O. Box 546, Tomah, WI 54660	125,000
Oneida Housing Authority, 2913 Commissioner Street, Oneida, WI 54155	125,000
Menominee Tribal Housing Authority, P.O. Box 459, Keshena, WI 54135–0459	125,000
Housing Authority of the City of North Little Rock, P.O. Box 516, North Little Rock, AR 72115–0516	125,000
Housing Authority of the City of T or C, 108 South Cedar St., Truth or Consequence, NM 87901	125,000
Housing Authority of the County of Santa Fe, 52 Camino de Jacobo, Santa Fe, NM 87505–9203	125,000
Housing Authority of the City of Tulsa, P.O. Box 6369, Tulsa, OK 74148–0369	125,000
Chickasaw Nation Indian Housing Authority, P.O. Box 668, Ada, OK 74821–0668	125,000
Choctaw Nation Indian Housing Authority, P.O. Drawer G, Hugo, OK 74743	125,000
Comanche Housing Authority, 216 S.E. "J" Avenue, Lawton, OK 73502	125,000
Sac & Fox Nation of Oklahoma, P.O. Box 1252, Shawnee, OK 74802–1252	124,192
Housing Authority of Abilene, P.O. Box 60, Abilene, TX 79604–0060	71,000
Housing Authority of Temple, P.O. Box 634, Temple, TX 76503–0634	125,000
Housing Authority of Waco, P.O. Box 978, Waco, TX 76703–0978	125,000
Housing Authority of Fort Worth, P.O. Box 430, Fort Worth, TX 76101–0430	125,000
Housing Authority of the City of Houston, P.O. Box 2971, Houston, TX 77252–2971	70,624
Alamo Housing Authority, P.O. Box 445, Alamo, TX 78516–0445	85,414
Atchison Housing Authority, 7th & Mall Street, Atchison, KS 66002–2882	125,000
Housing Authority of the City of Columbia, 301 N. Providence Rd, Columbia, MO 65203–4091	125,000
Omaha Housing Authority, 540 South 27th St., Omaha, NE 68105–1521	125,000
Housing Authority of the City and County of Denver, Bx 4305,Santa Fe Sta, Denver, CO 80204	103,075
Southern Ute Indian Housing Authority, P.O. Box 447, Ignacio, CO 81137	103,210
Housing Authority of Billings, 2415–1st Ave., North, Billings, MT 59101	

APPENDIX A.—FISCAL YEAR 1995 PUBLIC AND INDIAN HOUSING RECIPIENTS OF FINAL FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Youth Sports Program (YSP); Statute: Public Law 101–625, November 28, 1990]

Funding recipient (name and address)	Amount approved
Helena Housing Authority, 812 Abbey, Helena, MT 59601	124,963
Housing Authority of Butte, Curtis & Arizona St., Butte, MT 59701	119,986
Crow Tribal Indian Housing Authority, P.O. Box 99, Crow Agency, MT 59022	125,000
Chippewa Cree Indian Housing Authority, P.O. Box 615, Box Elder, MT 59521	125,000
Northern Cheyenne Indian Housing Authority, P.O. Box 327, Lame Deer, MT 59043	125,000
Blackfeet Indian Housing Authority, P.O. Box 790, Browning, MT 59417	124,981
Lower Brule Indian Housing Authority, P.O. Box 183, Lower Brule, SD 57548	125,000
Sisseton-Wahpeton Indian Housing Authority, P.O. Box 687, Agency Village, SD 57262	62,500
Rosebud Indian Housing Authority, P.O. Box 69, Rosebud, SD 57570	125,000
Housing Authority of the County of Salt Lake, 3595 South Main, Salt Lake City, UT 84115	125,000
Navajo Indian Reservation, P.O. Box 4980, Window Rock, AZ 86515	125,000
Housing Authority of the City of Oxnard, 1470 Colonia Road, Oxnard, CA 93030–3714	125,000
San Diego Housing Commission, 1625 Newton Ave., San Diego, CA 92113	125,000
Housing Authority of the City of Santa Barbara, 808 Laguna St., Santa Barbara, CA 93101–1590	125,000
Area Housing Authority of Ventura County, 99 S. Glenn Drive, Camarillo, CA 93010	35,735
Oakland Housing Authority, 1619 Harrison, Oakland, CA 94612	125,000
Housing Authority of the County of Marin, P.O. Box 4282, San Rafael, CA 94913–4282	124,396
Housing Authority of the County of Contra Costa, P.O. Box 2759, Martinez, CA 94553	125,000
Hoopa Valley Indian Reservation, P.O. Box 1285, Hoopa, CA 95546	124,925
Owens Valley At Big Pine Housing Authority, 825 S. Main St., Big Pine, CA 93513	125,000
Housing Authority of the City of Las Vegas, 420 North 10th St., Las Vegas, NV 89101	125,000
Alaska Housing Finance Corporation, P.O. Box 230329, Anchorage, AK 99523–0329	125,000
Tlingit-Haida Reg Housing Authority, P.O. Box 32237, Juneau, AK 99803	116,420
Interior Region Housing Authority, 828 27th Avenue, Fairbanks, AK 99701	122,972
Kodiak Island Housing Authority, 3137 Mill Bay Road, Kodiak, AK 99615	60,500
Housing Authority of the County of Clackamas, 13930 South Gain St., Oregon City, OR 97045	124,935
Housing Authority of the City of Salem, P.O. Box 808, Salem, OR 97308–0808	125,000
Housing Authority of Portland, 135 SW Ash, Portland, OR 97204	125,000
HA and Community Services Agency of Lane County, 177 Day Island Rd, Eugene, OR 97401	125,000
Housing Authority of the City of Vancouver, 500 Omaha Way, Vancouver, WA 98661	125,000
Housing Authority of the City of Tacoma, 902 South L Street, Tacoma, WA 98404–4699	125,000
Housing Authority of Snohomish County, 3425 Broadway, Everett, WA 98201–5023	117,044
Housing Authority of the City of Seattle, 120 Sixth Avenue N, Seattle, WA 98109–5003	125,000
Tulalip Indian Housing Authority, 3107 Rueben Sheldon Dr., Marysville, WA 98271	125,000
Makah Tribe Indian Housing Authority, P.O. Box 888, Neah Bay, WA 98357	125,000
Total Dollars Awarded	13,925,000
Total Number of Grant Awards	119

[FR Doc. 96–2777 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–7122–03–8546]

Proposed Expansion of the Continental Mine in Grant County, New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Rescheduled Public Scoping Meeting and Extension of Public Comment Period.

SUMMARY: Due to the two Federal Government shutdowns, the public scoping meetings scheduled by BLM on Wednesday, November 15, 1995 and Tuesday, December 19, 1995 in Silver City, New Mexico (FR, Vol. 60, No. 205, October 24, 1995, pages 54508–54509 and No. 232, December 4, 1995, pages 62106–62107) to discuss Cobre Mining Company's proposed Continental Mine Expansion Project were postponed. The meeting is rescheduled at the following time and location:

TIME/DATE: 7:00 p.m., February 28, 1996.

LOCATION: Grant County Courthouse Building, 2nd Floor Courtroom, 201 North Cooper Street, Silver City, New Mexico.

DATES: The public comment period has been extended through March 18, 1996. Written comments should be sent to the address listed below.

ADDRESSES: Comments should be sent to BLM, Las Cruces District, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Chuck O'Donnell, BLM, Las Cruces District Office at (505)525–4373.

Dated: February 2, 1996.

Linda S. C. Rundell,

District Manager.

[FR Doc. 96–2802 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–FB–P

[MT–960–1120–00]

Notice of Meeting

AGENCY: Bureau of Land Management (BLM), Montana, Miles City District, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Miles City District Resource Advisory Council will have a meeting Wednesday, March 13, 1996 at 10:00 a.m. in the Miles City District Office Conference Room located at 111 Garryowen Road, just west of Miles City. The meeting is called primarily to discuss and review the proposed Montana/Dakotas Standards and Guidelines for Rangeland Health and is expected to last until 4:00 p.m.

The meeting is open to the public and the public comment period is set for 10:00 a.m. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be available for public inspection and copying during regular business hours.

FOR FURTHER INFORMATION CONTACT: Marilyn Krause, Public Affairs Specialist, Miles City District, 111 Garryowen Road, Miles City, Montana 59301, telephone (406) 232–4331.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management. The 15 member Council includes individuals who have expertise, education, training or practical experience in the planning and management of public lands and their resources and who have a knowledge of the geographical jurisdiction of the Council.

Dated: February 1, 1996.

Glenn A. Carpenter,

District Manager.

[FR Doc. 96–2783 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–080–084–6333–00; GP6–0052]

Amendment to Motorized Vehicle Restriction on Public Lands; Salem District; Oregon

ACTION: Amendment to the Motorized Vehicle Restriction on Public Lands Notice; Salem District; Oregon, published in the September 12, 1995, edition of the **Federal Register** (60 FR 47397).

SUMMARY: Notice is given that the Motorized Vehicle Restriction on Public Lands Notice; Salem District; Oregon, published in the September 12, 1995, edition of the **Federal Register** (60 FR 47397) is hereby amended. This order is issued under the authority 43 CFR 8364.1 and closes additional roads and public lands to motorized vehicle use. Notice is hereby given that the following areas are closed to motorized vehicle traffic:

1. The last 0.25 mile of Road 9–1E–12, east of its intersection with Road 10–2E–4 in Section 31, T. 9 S., R. 2 E., Will. Mer., Oreg.

2. All lands administered by the Bureau of Land Management (BLM) in Sections 15, 16, and 17, T. 6 S., R. 2 E., Will. Mer., Oreg., excluding Clackamas County Road No. 42027.

EXEMPTIONS: The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: BLM employees; state, local and federal law enforcement and fire protection personnel; holders of BLM road use permits that include roads within the closure area; and purchasers of BLM timber within the closure area including their employees and subcontractors. Access by additional parties may be allowed, but must be approved in advance by the Authorized Officer.

PENALTIES: Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months, as well as, penalties provided under Oregon State Law.

EFFECTIVE DATE: This emergency closure shall remain in effect until revised, revoked or amended.

FOR FURTHER INFORMATION CONTACT: Richard Prather, Area Manager, Cascades Resource Area, 1717 Fabry Road SE, Salem, OR 97306, (503) 375–5646.

SUPPLEMENTARY INFORMATION: The purpose of these closures is to protect soil, vegetation and sensitive cultural, paleontological, and riparian resources, from excessive damage by motorized vehicles.

Richard Prather,

Area Manager, Cascades Resource Area.

[FR Doc. 96–2786 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–33–P

[OR–080–084–6333–00; GP6–0053]

Motorized Vehicle Restriction on Public Lands; Salem District; Oregon

SUMMARY: Notice is hereby given that Bureau of Land Management (BLM)-administered roads 9–3E–8, 9–3E–8.1, 9–3E–8.2, 9–3E–9.1, 9–3E–9.2, and 9–3E–10.3 in T. 9 S., R. 3 E., Will. Mer., Oreg., are closed to motorized vehicle use. The purpose of this closure is to reduce the incidence of escaped campfires, garbage dumping, vandalism, unsafe discharging of fire arms, and to protect vegetation, water quality and public safety. This order is issued under the authority of 43 CFR 8364.1.

EXEMPTIONS: The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: BLM employees; state, local and federal law enforcement and fire protection personnel; holders of BLM road use permits that include roads within the closure area; and purchasers of BLM timber within the closure area including their employees and subcontractors. Access by additional parties may be allowed, but must be approved in advance by the Authorized Officer.

PENALTIES: Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months, as well as, penalties provided under Oregon State Law.

EFFECTIVE DATE: This emergency closure is effective from January 1 through September 20 and from November 10 through December 31 of each year, and shall remain in effect until revised, revoked or amended.

FOR FURTHER INFORMATION CONTACT: Richard Prather, Area Manager, Cascades Resource Area, 1717 Fabry Road SE, Salem, OR 97306, (503) 375–5646.

Richard Prather,

Area Manager, Cascades Resource Area.

[FR Doc. 96–2780 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–33–P

[NM–932–1310–01; NMNM 84728]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease NMNM 84728, Lea County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from June 1, 1995, the date of termination.

No valid lease has been issued affecting the land. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, and 16⅔ percent, respectively. The lessee has paid the required $500.00 administrative fee has been reimbursed by the Bureau of Land Management for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set in Section 31(d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188), and the bureau of Land Management is

proposing to reinstate the lease effective June 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Angela Trujillo, BLM, New Mexico State Office, (505) 438–7592.

Dated: February 2, 1996.

Angela Trujillo,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 96–2785 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–FB–M

[UT–066–06–1200–00; UTU–71845]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification, Carbon County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, public land in Carbon County, UT.

SUMMARY: The following described parcel of public land had been examined and found suitable for classification for lease or conveyance under the Recreation and Public Purposes Act (R&PP) as amended (43 U.S.C. 869 et.seq).

Salt Lake Meridian, Utah

T. 12 S., R.13 E.,
Section 12, SE¼SW¼NE¼.
Containing 10.0 acres more or less.

Classification and lease or conveyance of the subject land is in response to a request from Carbon County, Utah to use the lands for a recreation facility. The parcel is not required for any Federal purpose or program. Lease or conveyance of the parcel is consistent with current BLM land use planning and would be in the public interest. The lease or conveyance would be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. A reservation to the United States of all mineral deposits, together with the right to prospect for, mine, and remove such deposits under applicable law and such regulations as the Secretary of the Interior may prescribe.

4. A reservation to the United States for rights-of-way for ditches and canals under the Act of August 20, 1890 (26 Stat. 391; 43 U.S.C. 945).

Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws including the mining laws, except the mineral leasing laws and for lease or conveyance under the Recreation and Public Purposes Act.

COMMENTS: By no later than March 21, 1996, interested parties may submit comments to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a recreation facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, and whether the use is consistent with State and Federal programs. Any adverse comments will be reviewed by the Utah State Director. In the absence of any adverse comments, the classification will become effective sixty (60) days from the date of publication of this notice in the **Federal Register**.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the R&PP application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a recreation facility. Any adverse comments will be reviewed by the Moab District Manager who many sustain, vacate or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Additional information concerning the proposed action may be obtained from Mark Mackiewicz, Area Realty Specialist, Price River Resource Area, 125 South 600 West, Price, Utah 84501, (801) 636–3600 or Brad Groesbeck, Moab District Realty Specialist, 82 East Dogwood Road, Suite M, Moab, Utah 84532, (801) 259–6111.

Dated: January 31, 1996.

William Stringer,

District Manager.

[FR Doc. 96–2862 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–DQ–P

[CA–942–5700–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room E–2845, Sacramento, CA 95825, 916–979–2890.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Humboldt Meridian, California

Tps. 12 N., Rs. 1 and 2 E.,
Dependent resurvey and survey, (Group 1092) accepted January 8, 1996, to meet certain administrative needs of the National Park Service, Redwood National Park.

Mount Diablo Meridian, California

T. 1 N., R. 32 E.,
Retracement and dependent resurvey, (Group 1213) accepted December 12, 1995, to meet certain administrative needs of the U.S. Forest Service, Inyo National Forest.

All of the above listed survey plats are now the basis record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: February 2, 1996.

Lance J. Bishop,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 96–2782 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Notice of Receipt of Application for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–810689

Applicant: Mr. Raymond L. Tremblay, Department of Biology, University of Puerto Rico, San Juan.

The applicant requests a permit to take (collect leaves and flowers, and conduct pollination studies) the endangered plant Lepanthes eltoroensis on the Caribbean National Forest, Puerto Rico for the purpose of enhancement of survival of the species.

PRT–810743

Applicant: The Nature Conservancy of Georgia, John Doresky, Director, Fort Benning, Georgia.

The applicant requests a permit to take (harass during the installation of artificial nesting cavities) red-cockaded woodpeckers, Picoides borealis, in Georgia for the purpose of enhancement of survival of the species.

Written data or comments on these applications should be submitted to: Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone : 404/679–7313; Fax 404/679–7081.

Dated: February 2, 1996.

Noreen K. Clough,

Regional Director.

[FR Doc. 96–2865 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–55–P

Notice of Availability of a Draft Recovery Plan for the Delhi Sands Flower-loving Fly for Review and Comment

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of document availability.

SUMMARY: The Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Delhi sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*). The Delhi sands flower-loving fly occurs on State, local (city and county), and private lands in southwestern San Bernardino County, California. The Service solicits review and comment from the public on this plan.

DATES: Comments on the draft recovery plan must be received on or before April 12, 1996, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor at the following address: Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Telephone requests may be made by calling (619) 431–9440. Comments and material received are available for public inspection by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Chris Nagano at the above address and (619) 431–9440.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species. They establish criteria for the recovery levels necessary for downlisting or delisting the species. They also provide an estimation of time and cost of implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (U.S.C. 1531 *et seq.*) (Act) requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice, to provide an opportunity for public review and comment, be given during plan development. The Service will consider all significant information presented during a public comment period, prior to the approval of each new or revised Recovery Plan. The Service and other Federal agencies also will take these comments into account in the course of implementing approved recovery plans.

The Delhi sands flower-loving fly has an extremely limited distribution; only ten confirmed or possibly extant populations are known. The animal occurs only in patches of fine, sandy soils of the Delhi series, in southwestern San Bernardino County, California. The threats to the species include habitat loss and invasive exotic species. Protection and management of its habitat and restoration of wild populations by establishing a captive breeding program are the primary goals of the recovery effort.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All significant comments received by the date specified above will be considered prior to the approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1533(f)).

Dated: February 1, 1996.

Thomas J. Dwyer,

Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 96–2685 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Environmental Assessment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service announces the publication of "A Draft Environmental Assessment to Provide Additional Housing for the Miccosukee Tribe of Indians of Florida". The location addressed is in the Special Use Permit Area of Everglades National Park, along the north boundary, near State Highway 41.

DATES: Copies of the assessment will be available for review beginning February 15, 1996, and comments must be submitted on or before April 15, 1996.

ADDRESSES: Copies of the assessment may be obtained from, and comments submitted to the Public Affairs Office, Everglades National Park, 40001 State Road 9336, Homestead, FL 33034.

FOR FURTHER INFORMATION CONTACT: Rick Cook, Public Affairs Officer, (305) 242–7700.

Richard G. Ring,

Superintendent.

[FR Doc. 96–2861 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–70–P

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and the Chairperson of the Subsistence Resource Commission for Wrangell-St. Elias National Park announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Chair calls meeting to order.

(2) Introduction of Commission members and guests.

(3) Approval of summary of minutes from April 6–8, 1994 meeting.

(4) Review agenda.

(5) Superintendent's welcome and review of the Commission's function and purpose.

(6) Commission membership status.

(7) Election of Chair and Vice Chair.

(8) Federal Subsistence Management Program:

a. Update on the revised C&T determination process.

b. Update on Federal Subsistence Board actions affecting the park.

(9) Public and other agency comments.

(10) Old business:

a. Status of letter to Eastern Interior, Southcentral and Southeast Regional Advisory Councils encouraging cooperation between the SRC and regional councils.

b. Status of letter to Secretary of the Interior requesting funding to conduct an access study.

c. Status of letter to Secretary of the Interior requesting assistance in resolving fall hunting of waterfowl with provisions of the Migratory Bird Treaty Act.

d. Status of SRC's Resident Zone Boundary Proposal.

e. Status of Hunting Plan Recommendation studies to add Northway and Tetlin as resident zone communities.

(11) New business:

a. Proposed 1996–97 subsistence hunting proposals/regulations.

b. Mentasta caribou hunt proposal by NPS.

c. 804 process work session.

d. Review of NPS subsistence program.

(12) Set time and place of next SRC meeting.

(13) Adjournment.

DATES: The meeting will be held Wednesday and Thursday, February 28–29, 1996. The meeting will begin at 9:00 a.m. and end at 5:00 p.m. both days.

LOCATION: The meeting will be held at the Caribou Cafe, Glennallen, Alaska.

FOR FURTHER INFORMATION CONTACT: Jonathan B. Jarvis, Superintendent, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573. Phone (907) 822–5234.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Acting Field Director.

[FR Doc. 96–2743 Filed 2–8–96; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation 332–365]

U.S. Interests in APEC Trade Liberalization

AGENCY: International Trade Commission.

ACTION: Institution of investigation and request for comments.

EFFECTIVE DATE: January 24, 1996.

SUMMARY: Following receipt on September 28, 1995, of a request from the United States Trade Representative (USTR), the Commission instituted Investigation No. 332–365, U.S. Interests in APEC Trade Liberalization, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: Kim Frankena (202) 205–3265 or Joanne Guth (202) 205–3264. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

BACKGROUND: In 1994, the 18 members of the Asia Pacific Economic Cooperation (APEC) forum agreed to the goal of attaining free and open trade and investment among members by the year 2020 (2010 for developed countries). At its November 1995 Ministerial and Leaders' Meetings, APEC adopted an Action Agenda on trade and investment liberalization, facilitation, and cooperation to be used as a blueprint by members in formulating concrete plans for attaining the goal of free and open trade and investment in the Asia-Pacific region. The plans, which are being formulated now and will be finalized in November 1996, will specify both collective and individual actions to be taken in 15 issue areas over the near to medium-term. The 15 issue areas broadly address market access issues such as tariff and non-tariff measure liberalization, liberalization of trade in services and investment, as well as such topics as customs procedures, standards and conformity assessment, intellectual property rights, government procurement, competition policy, and deregulation.

To help the United States prepare for participation in the APEC process in 1996, the USTR requested that the Commission prepare a two part report. The first part is to provide a profile of each APEC economy's general level of liberalization and remaining barriers to trade and investment. The second part is to provide an indepth analysis of further trade liberalization in the APEC region.

As requested by the USTR, in the first part of its report the Commission will provide a profile for each APEC economy that covers the following elements:

- Estimated average tariff levels in total and by sector, now and after full implementation of Uruguay Round commitments;
- Nontariff or rulemaking Uruguay Round commitments undertaken by each economy;
- Areas where acceleration of Uruguay Round commitments or further liberalization of Uruguay Round results by the economy may be possible;
- Remaining nontariff trade barriers (e.g., standards, government procurement, intellectual property, regulatory systems), including an analysis of sectors where tariff levels are irrelevant because of such barriers;
- Barriers to investment;
- Barriers to trade in services;
- Areas where U.S. industry has the greatest interest in APEC liberalization; and
- Other issues relevant to an assessment of each APEC economy's overall level of liberalization.

The USTR stated that, for the present NAFTA members and Chile, a review of estimated tariff levels and Uruguay Round commitments would be sufficient.

As requested by the USTR, in the second part of its report, the Commission will provide an indepth examination of tariff liberalization in areas with a high percentage of intra-APEC trade. This analysis will cover the following factors:

- The value of U.S. trade affected (both imports and exports) and calculated duties collected (imports), the percentage of total U.S. trade and duties collected, all the foregoing in total, by sector, and with APEC;
- U.S. duty rates on these products (including the value of duty-free trade both now and after full Uruguay Round implementation);
- The extent to which intra-APEC trade in these products is also intra-NAFTA trade, and the extent to which trade between APEC and non-APEC countries in these products is concentrated among major U.S. trading partners;
- The products most affected on the import and export sides;
- The percentage of U.S. imports and exports affected in particular sectors such as oilseeds, chemicals, wood, electronics, etc.; and
- A general description of how each other APEC economy would be affected including, to the extent feasible, the percentage of imports and exports of each APEC economy covered by these products, and estimates of calculated duties saved for the United States in other APEC economies and for other APEC economies in the U.S. market.

The Commission intends to provide its report to the USTR on May 31, 1996. As requested, the Commission's staff provided USTR with a list of products with a high percentage of intra-APEC trade on October 13, 1995. Also, the Commission will provide USTR with statistical/technical data, along with a briefing document, by March 27, 1996. The USTR indicated that USTR may classify as confidential portions of the Commission's report.

The ITC is seeking input for its study from all interested parties, particularly in areas where U.S. industry has the greatest interest in liberalization of APEC trade and investment.

Public Hearing

A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on April 3, 1996. All persons will have the right to appear, by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW. Washington, DC 20436, no later than 5:15 p.m., March 18, 1996. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., March 19, 1996. The deadline for filing post-hearing briefs or statements is 5:15 p.m., April 10, 1996. In the event that, as of the close of business on March 18, 1996, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission at 202–205–2000 after March 18, 1996, to determine whether the hearing will be held.

Written Submissions

Interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section § 201.6 of the Commission's *Rules of Practice and Procedure* (19 C.F.R. 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on April 10, 1996. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000.

By order of the Commission.

Dated: February 6, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–2884 Filed 2–8–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Greyhound Lines, Inc.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. (b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States* v. *Greyhound Lines, Inc.*, Civil Action No. 95–1852 (RCL), United States District Court for the District of Columbia, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, D.C. 20530, telephone: (202) 514–2481, and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001. Copies of these materials may be obtained upon request and payment of a copying fee.

Rebecca P. Dick,

Deputy Director, Office of Operations, Antitrust Division.

In The United States District Court for the District of Columbia

In the matter of: United States of America, Plaintiff, vs. Greyhound Lines, Inc., Defendant. Civil Action No. 95–1852 (RCL).

United States' Response to Public Comments

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(d), the United States files this response to public comments on the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

This action began on September 28, 1995, when the United States filed a Complaint charging the defendant, Greyhound Lines, Inc., with violations of the antitrust laws. The Complaint alleges that a standard provision in Greyhound's terminal leases unreasonably restricts the ability of tenant bus companies to compete with Greyhound. The provision, known as the "25-mile rule," prohibits tenants from selling tickets anywhere else within a 25-mile radius of the Greyhound terminal or from accepting the tickets of any other bus company sold in that area. The effect of the rule is to prevent tenant carriers from serving other terminals within that area and from providing service from non-terminal locations such as airports or college campuses. In addition, because it prohibits tenants from accepting the tickets of other carriers sold within 25 miles, the clause restricts interlining.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment, a Competitive Impact Statement, and a stipulation signed by Greyhound for entry of the proposed Final Judgment. The proposed Final Judgment would require Greyhound to remove the 25-mile rule from its terminal leases within 60 days after entry. In addition, the proposed Final Judgment enjoins other conduct by Greyhound that would have the same effect as the 25-mile rule.

The APPA provides for a 60-day public comment period on the proposed Final Judgment. The 60-day comment

period commenced on October 12, 1995 and expired on December 11, 1995. The United States received only one comment on the proposed Final Judgment, from Valley Transit Company, a small bus company operating primarily in Texas. As required by 15 U.S.C. 16(b), Valley Transit's comment is being filed with this response. (Exhibit A).

Valley Transit's comment cites Greyhound tariffs that provide that Greyhound will not honor Valley Transit tickets sold at various Texas locations, in particular a new Valley Transit terminal in Austin. As a result of these tariffs, Valley cannot sell passengers through tickets on routes where Valley connects with Greyhound. For example, a passenger going from Austin to Laredo (Austin-San Antonio on Valley and San Antonio-Laredo on Greyhound) must buy a separate ticket in San Antonio for the second leg of the trip. Valley argues that Greyhound's refusal to honor its tickets makes it difficult for Valley to compete with Greyhound and that it is an attempt to achieve the effects of the 25-mile rule by another means.

The Complaint in this case alleges that the 25-mile rule is an unlawful agreement under Section 1 of the Sherman Act because it unreasonably restricts the ability of tenant bus companies to operate outside the Greyhound terminal or interline with other carriers that operate outside the Greyhound terminal. The conduct at issue in this case involves agreements between Greyhound and its tenants that interfere with the tenant bus companies' ability to interline with other carriers.

As a general rule, companies, even those with large market shares, are free to do business with whomever they chose, and are not normally required to do business with their competitors. The Complaint does not allege that a refusal by Greyhound to interline with or honor tickets issued by another bus company violates the antitrust laws. Indeed, the proposed Final Judgment explicitly states that it does not affect Greyhound's unilateral right to refuse to interline with another carrier. Section IV(C)(8). The Greyhound conduct cited by Valley Transit is thus outside the scope of the Complaint.

Valley Transit also alleges that some of Greyhound's tenant bus companies have also refused to accept Valley tickets based on an agreement with Greyhound. As Valley notes, however, it appears that the proposed Final Judgment, which enjoins Greyhound from conditioning terminal access on an agreement not to honor the tickets of other carriers sold outside the Greyhound terminal (Section IV(B)), fully addresses this concern.

The United States has carefully considered Valley Transit's comment. Nothing in Valley's comment has altered the United States' conclusion that the proposed Final Judgment is in the public interest. The proposed Final Judgment provides all the relief requested in the Complaint against Greyhound, without the substantial expense of a trial. The relief provided in the decree would eliminate the 25-mile rule and prevent Greyhound from achieving the same anticompetitive result by other means. Entry of the proposed Final Judgment is in the public interest.

Dated: December 18, 1995.

Respectfully submitted,

Michael D. Billiel,

DC Bar #394377

Michele B. Felasco,

Attorneys, Antitrust Division, U.S. Department of Justice, 555 Fourth Street, N.W., Washington, D.C. 20001, (202) 307--6666.

December 4, 1995.

Roger W. Fones,

Chief, Transportation and Energy Section, Room 9104, 555 4th Street, N.W., Washington, D.C. 20001

Re: *United States v. Greyhound Lines, Inc., Case No. 1:95CV01852*

Dear Mr. Fones: In announcing the filing of the suit against Greyhound Lines, Inc. ("Greyhound"), the Department of Justice issued a press release in which it was stated that the "25-mile rule limited other bus companies from competing effectively against Greyhound. It resulted in less bus service and less convenience for consumers." Press Release dated September 29, 1995 at 2. The Release further states that:

Greyhound's 25-mile rule made it harder for bus companies to offer full service to other locations near Greyhound terminals, such as competing bus terminals, college campuses, train stations, and airports. It limited competition in the distribution of bus tickets in many cities, making it difficult for any bus tickets to be sold except in a Greyhound terminal.

Finally, it made it harder for smaller bus companies to connect with each other to form alternative routes, in competition with Greyhound, in intercity bus service.

Under the agreement, Greyhound would drop the 25-mile rule from all of its lease agreements and would not impose any similar rule in the future. *The agreement also prevents Greyhound from using leasing in other ways to limit bus companies from selling tickets outside Greyhound terminals.* Emphasis added.

It is respectfully requested that consideration be given to including a provision in the proposed judgment which would prevent Greyhound from employing tariff filings to achieve the same objective as the 25-mile rule in its Bus Terminal License Agreement. In seeking this modification, I respectfully request that you consider certain actions which Greyhound has taken since signing the consent decree which are causing the identical problems which you identified in your press release of September 28, 1995. If these activities are not covered by the consent decree, they will create a loophole through which one could literally drive a bus.

On November 2, 1995, Valley Transit Company opened a new terminal in Austin, Texas in response to the request for service from small towns in southeast Texas, such as Yoakum, Shiner, Gonzales, Lockhart, Luling, Mendoza, Nursery, Thomaston and Cuero, all of which are located between Victoria and Austin. These small communities had recently lost all bus service when Kerrville Bus Lines discontinued service between those points. It should be noted that Greyhound did not seek to institute its own service replacing Kerrville Bus Lines.

When Valley Transit decided to respond to the public need, it approached Greyhound and requested that Valley Transit be allowed to operate into Greyhound's Austin terminal, as Kerrville had done. Valley Transit's request was summarily denied. As a result, Valley Transit was forced to establish its own terminal facility in Austin. Recognizing that its main source of passengers would be from the central portion of Austin near both the University of Texas and the heart of the Hispanic community, Valley Transit spent a considerable amount of time and resources in finding such a location.

Valley Transit also recognized that in order to make the route work, it would be necessary to coordinate its Austin schedules with its existing operations between the Rio Grande Valley and San Antonio. Thus, it initiated three daily schedules which link Austin to its existing operations via San Antonio where Valley Transit interlines with Greyhound and other bus companies at the Greyhound terminal. Valley Transit is currently operating in the Greyhound terminal at San Antonio pursuant to a stay order entered by the United States District Court for the Southern District of Texas in September 1992. The stay order was entered pending the outcome of an antitrust lawsuit which Valley Transit was forced to file when Greyhound attempted to evict Valley Transit from the Greyhound terminals in Houston, San Antonio and Corpus Christi, Texas—*Valley Transit Company, Inc. v. Greyhound Lines, Inc.* C.A. No. B–92–153.

Although Greyhound had previously assured Valley Transit that it would not retaliate against Valley Transit for opening the Austin terminal, Greyhound, with no prior notice, issued a tariff on October 31, 1995, effective November 1, in which it announced that it would not honor any ticket which Valley Transit sold in Austin. *See* Attachment 1. As Greyhound explained in a letter dated November 3, 1995, "Greyhound will not honor at Austin, TX or San Antonio, TX, any Valley ticket that is issued at Austin, TX for transportation to points beyond Austin, TX or San Antonio, TX." Letter to Robert R. Farris from Gregory Alexander, dated November 3, 1995 (Attachment 2).

Subsequently, on November 21, 1995, Greyhound issued another tariff which is even more restrictive. *See* Attachment 3. As Greyhound explained in a further letter, "Greyhound will not honor at Austin, TX, or San Antonio, TX, any Valley ticket that is issued at Austin, TX, San Marcos, TX, New Braunfels, TX or Seguin, TX, which provides for transportation to points beyond Austin, TX or San Antonio, TX. *See* Letter to Robert R. Farris from Gregory Alexander, dated November 21, 1995 (Attachment 4). Because these letters show copies going to Jack Haugsland, Greyhound's Vice President of Operations, and Mark Southerst, Greyhound's Vice President, it is evident that these actions are being taken with the acquiescence of some top Greyhound management.

What may not be evident is the impact that the Greyhound tariff provisions are having on Valley Transits' passengers who have chosen to travel via Valley Transit's conveniently located terminal in central Austin. If a passenger buys a ticket at Austin with a destination at Laredo, Valley Transit can take the passenger from Austin as far as San Antonio. Because Valley Transit does not operate between San Antonio and Laredo, it must interline with Greyhound at San Antonio. However, at San Antonio, Greyhound will not accept the passenger's ticket. Nor will Greyhound honor the ticket on the return trip from Laredo to Austin. Instead, Greyhound forces the passenger to purchase a new ticket at San Antonio to travel to Laredo and back, without regard to the passenger's ability to advance funds for the additional ticket until a refund can be obtained from Valley Transit.

Also, if Valley Transit sells a round-trip ticket to Dallas at New Braunfels, the passenger will travel to Austin via Valley Transit. However, because Valley Transit does not operate into Dallas, it must interline with Greyhound at Austin. Because Greyhound will not allow Valley Transit access to its Austin terminal, Valley Transit is required to drop the passenger at curbside outside the Greyhound terminal. Of course, when the passenger enters the Greyhound terminal at Austin, Greyhound will not accept the Valley Transit ticket because it was issued at an "intermediate" point between Austin and San Antonio.

The message to the passenger is clear. If you deal with Valley Transit at Austin, you will be harassed and inconvenienced by Greyhound!

This has been done even though Greyhound's existing Bus Terminal License Agreement with Valley Transit contains the following provision:

[Greyhound] shall furnish impartial information as to the routes, schedules and fare charged, and impartially give out, upon request, such other general information as is available.

Prospective passengers destined for competitive points on or beyond the lines of more than one of the carriers operating from the Terminal shall, when the fare, distance and time of arrival and departure are substantially equal, be given the option of selecting the schedule on which they will travel. Otherwise, tickets to competitive points shall be sold on the next bus out or according to passenger preference.

As is obvious, Greyhound has not felt constrained by this language in issuing the tariff restriction against optional honoring of tickets sold in Valley Transit's Austin terminal.

Furthermore, because of Greyhound's monopolistic position in the industry which flows from its control of the only nationwide network of bus terminals, these tariffs have also had an impact on other bus companies. Valley Transit's agent in Austin has been advised by Arrow Trailways that, if Valley Transit were to bring passengers to it at Greyhound's Austin terminal, Arrow Trailways will accept Valley Transit's tickets at the Greyhound terminal, even if the passenger is traveling to a point which is not served by Greyhound. Although Valley Transit has requested Arrow Trailways to stop at Valley Transit's Austin terminal to interline with Valley Transit, as of this date Arrow Trailways has not accepted the invitation. In addition, Valley Transit's agent has been information that Kerrville Bus Lines cannot come to Valley Transit's Austin terminal to offer service because of an agreement with Greyhound. If these activities are not ceased, Valley Transit will have no choice but to withdraw from the Austin market, even though it has responded to a public demand by providing bus service when no other service was available.

I would also like to invite your attention to the most recent draft of the Bus Terminal License Agreement which Greyhound has forwarded to Valley Transit. Section 15(C) of that Agreement provides an alternative dispute resolution ("ADR") process. However, as states therein, "Disputes regarding optional honoring of tickets shall not subject to this Section 15(C)." One can but wonder why this particular item has been singled out for disparate treatment.

I have been forced to conclude that Greyhound has determined that tariffs cancelling optional honoring of tickets can be effectively substituted for the "25-mile" rule, which is banned in the proposed Consent Decree, and utilized to restrain competition from other bus companies which must interline through Greyhound terminals. As reflected by the ongoing attempt to drive Valley Transit out of the Austin market, this use of tariffs, instead of the Bus Terminal License Agreements, is as insidious an antitrust practice as the 25-mile rule which the Department of Justice has condemned. While Greyhound will not institute new service to meet a demonstrated public need, it will endlessly harass a smaller competitor which is trying to respond to that need. Furthermore, unless called to terms on the matter at this time, Greyhound will likely use the consent decree as a defense. Thus, if sued, Greyhound will claim that if the Department of Justice had viewed such actions as being violative of the Sherman Act, the Department would have specifically condemned them in this case.

In light of the above, I suggest that certain minor modifications be made to the proposed Final Judgment which the Department of Justice has negotiated with Greyhound. In Section IV(B)(1), Greyhound is restrained and enjoined from:

conditioning access to its terminals, directly or *indirectly*, upon a *tenant* carrier agreeing not to: (i) sell its tickets or busbills at locations other than the Greyhound terminal, or (ii) honor the tickets or busbills of another carrier sold at such other locations.

While it may be that this language would address the problem of other *tenants* refusing to honor tickets of another tenant carrier, it does *not* address the problem of *Greyhound* refusing to honor a ticket which is sold at a non-Greyhound terminal. Thus, while Arrow Trailways' agreement with Greyhound, which is said to preclude and restrain Arrow Trailways from accepting a Valley Transit ticket at a Greyhound terminal, would be covered by the Final Judgment, Greyhound's activities are not. Indeed, based on its recent activities, it appears that Greyhound does not feel constrained by this language.

In order to cure the problem associated with Greyhound's use of its tariffs, rather than its Bus Terminal License Agreements to restrain competition, it is suggested that a new paragraph be added under the heading "IV *PROHIBITED CONDUCT,*" which would read as follows:

5. refusing by any means, direct or indirect, to honor the tickets or busbills of a tenant carrier which are sold at locations other than a Greyhound terminal.

Similarly, the language in subparagraph (3) seems to be less precise than is necessary to bring this particular monopolist to heel. As provided therein, Greyhound is restrained and enjoined from:

discriminating against any tenant carrier in the terms or conditions of any BTL Agreement or other agreement governing the lease of space in a bus terminal, where the purpose or effect of such discrimination is to (a) prohibit a tenant carrier from (i) selling its tickets or busbills at locations, other than the Greyhound terminal, for transportation services using that Greyhound terminal *or a terminal or facility that is competitive with such Greyhound terminal,* or (ii) *honoring the tickets or busbills of another carrier sold at such other locations,* or (b) prohibit or substantially limit the tenant from interlining any of its traffic with another carrier at another terminal.

Emphasis added. If the phase "or by tariff provision," is inserted after the words "or other agreement governing the lease of space in a bus terminal," the forbidden discrimination would address the situation which Valley Transit is facing.

Unfortunately, if the Final Judgment is not modified to *explicitly* prohibit the anticompetitive activities which Greyhound is using with respect to Valley Transit's Austin terminal, Greyhound will consider itself free to employ those same tactics against any other bus company which opens a terminal which may be competitive with a Greyhound terminal. If that is allowed to happen, the Final Judgment will be practically useless in bringing a halt to Greyhound's anticompetitive activities to the detriment of the traveling public which is dependent upon bus service as most small bus companies lack the financial ability to battle Greyhound.

Very truly yours,

Richard H. Streeter

Greyhound Lines, Inc.

Special Honoring Arrangements Tariff (ICC GL 722) Naming Rules and Regulations Governing Optional Honoring of Tickets Applicable Between Austin, Texas and San Antonio, Texas Including All Intermediate Points As Named Herein

Issued: October 31, 1995.
Effective: November 1, 1995.

Issued on one (1) day's notice under authority of the Interstate Commerce Commission in Ex Parte No. MG 176. The provisions published herein, if effective, will not result in an effect on the quality of the Human Environment.

Issued By: G. Alexander, Director—Traffic, P.O. Box 660362, Dallas, Texas 75266–0362.

SECTION A

Rules No. and Regulations

1. Application of Fares

The provisions of this tariff apply to the optional honoring of any ticket issued by Greyhound Lines, Inc. which includes travel between Austin, Texas and San Antonio, Texas including all intermediate parties.

2. Optional Honoring Arrangements

In lieu of Rule No. 3, "Routes", Paragraph 8 "Change of Routing or Destination", subparagraph (1) National Passenger Tariff, ICC MSTA 1000, amendments thereto or reissues thereof, issued by National Bus Traffic Association, Inc., Agent, any ticket issued by Greyhound Lines, Inc. which includes travel between Austin, Texas and San Antonio, Texas and all intermediate points will be honored by Greyhound Lines, Inc. only unless the ticket, is properly "closed" to the other carrier or a valid diversion sticker is affixed thereon.

In addition, Greyhound will not honor at San Antonio, Texas or Austin, Texas, any ticket issued by a foreign carrier which provides for transportation, in whole or in part, San Antonio, Texas and Austin, Texas via the lines of a foreign line carrier.

3. Other Rules and Regulations

Except or otherwise provided herein, Rules and Regulations governing this Tariff are as published in National Passenger Tariff, ICC MSTA 1000, amendments thereto or reissues thereof, issued by National Bus Traffic Association, Inc., Agent.
Greyhound Lines, Inc.
P.O. Box 660362
Dallas, TX 75266–0362

November 3, 1995

Mr. Robert R. Farris
Senior Vice President
VALLEY TRANSIT COMPANY, INC.
P.O. Box 530010
Harlingen, TX 78553

Via Facsimile (210) 423–4888 and U.S. Mail

SUBJECT: OPTIONAL HONORING OF TICKETS

Dear Bobby: Enclosed for your information is a copy of Special Honoring Arrangements Tariff, ICC GL 722, effective November 1, 1995, which states in pertinent part that tickets issued by Greyhound Lines, Inc. which include travel between San Antonio, TX and Austin, TX or intermediate points, may be honored by Greyhound only unless the ticket is properly "closed" to another company or a valid diversion sticker is affixed thereto. The tariff additionally provides that Greyhound will not honor at San Antonio, TX or Austin, TX, any ticket issued by a foreign line carrier which provides for transportation, in whole or in part, between San Antonio, TX and Austin, TX via the lines of a foreign line carrier.

The provisions contained in that tariff imply the following:

(1) Valley Transit may not honor any Greyhound ticket for transportation, in whole or in part, between San Antonio, TX and Austin, TX.

(2) Greyhound will not honor any Valley ticket for transportation, in whole or in part, between San Antonio, TX and Austin, TX, when the origin or destination of the ticket is Austin, TX.

(3) Greyhound will not honor at Austin, TX or San Antonio, TX, any Valley ticket that is issued at Austin, TX for transportation to points beyond Austin, TX or San Antonio, TX.

Please inform you personnel of the above so that they will not honor tickets which will have no reclaim value to your company and so that they will not issue tickets that Greyhound will not honor.

Very truly yours,

Gregory Alexander,

Director—Industry Relations.

Greyhound Lines, Inc.

*Special Honoring Arrangements Tariff (ICC 722–1) Cancels Special Honoring Arrangements Tariff (ICC 722) Naming Rules and Regulations Governing Optional Honoring of Tickets Applicable Between Austin, Texas and San Antonio, Texas Including All Intermediate Points And * Points Beyond Austin, Texas or San Antonio, Texas As Named Herein*

Issued November 21, 1995.
Effective: November 22, 1995.

Issued on one (1) day's notice under authority of the Interstate Commerce Commission in Ex Parte No. MC 176. The provisions published herein, if effective, will not result in an effect on the quality of the Human Environment.

Issued By: G. Alexander, Director—Industry Relations, P.O. Box 6606362, Dallas, Texas 752–22–0362.

Section A

Rule No.

1. Application of Fares

* The provisions of this tariff apply to the optional honoring by a foreign line carrier of tickets issued by Greyhound Lines, Inc. and the optional honoring of foreign line tickets by Greyhound Lines, Inc., which include travel between Austin, Texas and San Antonio, Texas, including all intermediate points, or travel beyond Austin, Texas or San Antonio, Texas.

2. Optional Honoring Arrangements

In lieu of Rule No. 3, "Routes", Paragraph 8 "Change of Routing or Destination", subparagraph (1) of National Passenger Tariff, ICC MSTA 1000, amendments thereto or reissues thereof, issued by National Bus Traffic Association, Inc. Agent, any ticket issued by Greyhound Lines, Inc. which includes travel between Austin, Texas and San Antonio, Texas or intermediate points will be honored by Greyhound Lines, Inc. only unless the ticket is properly "closed" to another carrier or a valid diversion sticker is affixed thereon.

^ Greyhound will not honor at San Antonio, Texas or Austin, Texas, or intermediate points, any ticket issued at Austin, Texas or San Antonio, Texas, or intermediate points, by a foreign carrier which provides for transportation, in whole or in part, between San Antonio, Texas and Austin, Texas or intermediate points via the lines of a foreign line carrier.

^ Greyhound will not honor at Austin, Texas or San Antonio, Texas, or intermediate points, any ticket issued by a foreign line carrier at Austin, Texas, or at Intermediate points between Austin, Texas, or at Intermediate points between Austin, Texas and San Antonio, Texas, which provides for transportation to points beyond Austin Texas or San Antonio, Texas.

3. Other Rules and Regulations

Except as otherwise provided herein, Rules and Regulations governing this Tariff are as published in National Passenger Tariff, ICC MSTA 1000, amendments thereto or reissued by National Bus Traffic Association, Inc. Agent.
Greyhound Lines, Inc.
P.O. Box 660362
Dallas, TX 75266–0362

November 21, 1995

Mr. Robert R. Farris
Senior Vice President
VALLEY TRANSIT COMPANY, INC.
P.O. Box 530010
Harlingen, TX 78553

Via Facsimile (210) 423–4888 and U.S. Mail

SUBJECT: OPTIONAL HONORING OF TICKETS

Dear Bobby: Enclosed for your information is a copy of Special Honoring Arrangements Tariff, ICC GL 722–A, effective November 21, 1995, which cancels Special Honoring Arrangements Tariff, ICC GL 722. Special Honoring Arrangements Tariff, ICC GL 722–A states in pertinent part that tickets issued by Greyhound Lines, Inc. which include travel between San Antonio, TX and Austin, TX or intermediate points, may be honored by Greyhound only unless the ticket is properly "closed" to another company or a valid diversion sticker is affixed thereto. The tariff additionally provides that Greyhound will not honor at San Antonio, TX, or intermediate points by a foreign line carrier which provides for transportation, in whole or in part, between San Antonio, TX and Austin, TX, or intermediate points via the lines of a foreign line carrier. Finally, the tariff provides that Greyhound will not honor at Austin, TX or San Antonio, TX, or intermediate points, any ticket issued by a foreign line carrier at Austin, TX, or

* Denotes Addition SW–190–A Cancels SW–190
* Denotes Addition

^ Denotes Change

intermediate points between Austin, TX and San Antonio, TX which provides for transportation to points beyond Austin, TX or San Antonio, TX.

The provisions contained in that tariff imply the following:

(1) Valley Transit may not honor any Greyhound ticket for transportation, in whole or in part, between San Antonio, TX and Austin, TX or intermediate points.

(2) Greyhound will not honor any Valley ticket for transportation, in whole or in part, between San Antonio, TX and Austin, TX, or intermediate points when the origin of the ticket is Austin, TX, San Antonio, TX or intermediate points.

(3) Greyhound will not honor at Austin, TX, or San Antonio, TX, any Valley ticket that is issued at Austin, TX, San Marcos, TX, New Braunfels, TX, or Seguin, TX, which provides for transportation to points beyond Austin, TX or San Antonio, TX.

Please inform your personnel of the above so that they will not honor tickets which will have no reclaim value to your company and so that they will not issue tickets that Greyhound will not honor.

Very truly yours,

Gregory Alexander,

Director—Industry Relations.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing UNITED STATES' RESPONSE TO PUBLIC COMMENTS to be served on counsel for defendant in this matter in the manner set forth below:

By facsimile and first class mail: Mark F. Horning, Esquire, Steptoe & Johnson, 1330 Connecticut Ave., N.W., Washington, D.C. 20036–1795, for defendant Greyhound Lines, Inc.

Dated: December 18, 1995.

Michael D. Billiel,

Antitrust Division, U.S. Department of Justice, 555 Fourth Street, N.W., Washington, D.C. 20001, (202) 307–6666.

[FR Doc. 96–2663 Filed 2–8–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

The Drugstore; Denial of Application

On June 22, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to The Drugstore, (Respondent) of Oak Grove, Louisiana, proposing to deny its application, executed on January 23, 1993, for registration as a retail pharmacy under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged *inter alia* that David Nagem, the owner of the Respondent company (Owner), (1) dispensed 11,850 various narcotic and non-narcotic controlled substances without a valid physician's authorization; (2) pled nolo contendere to charges brought by the Louisiana State Board of Pharmacy (Louisiana Board) that he had dispensed controlled substances without valid authorization and that he was responsible for controlled substances shortages at the pharmacy where he was employed; and (3) that he pled guilty to and was convicted of two counts of illegal distribution of controlled substances on June 5, 1992. The order also notified the Respondent that, should no request for a hearing be filed within 30 days, the hearing right will be deemed waived. The DEA received a receipt from the United States Postal Service showing that the order was delivered, and the receipt was signed and dated June 27, 1994. However, no reply was received by the DEA to the order.

Therefore, the Deputy Administrator concludes that the Respondent is deemed to have waived its hearing right. After considering the investigative file, the Deputy Administrator now enters his final order in this matter without a hearing pursuant to 21 CFR 1301.54(e) and 1301.57.

The Deputy Administrator finds that the Owner submitted a DEA application for registration as a retail pharmacy dated January 23, 1993, in the name of The Drugstore. In response to a question on this application, the Owner wrote that his Louisiana pharmacy license "was taken from Jan[uary] 25, 1992[,] to July 25, 1992[,] for giving out medicine (prescription) without proof of legal prescription from a physician. David's [Louisiana] license was taken for 6 months, fine was given & paid, and probation during [that] time." No other adverse information or explanations were contained on the application.

DEA investigators researched the Owner's record in response to this application, finding that the West Carroll Parish Sheriff's Office (Sheriff) had conducted an investigation of the Owner after receiving information from a confidential source that he was dispensing controlled substances without prescriptions. The Sheriff found that, while the Owner was employed at the West Carroll Memorial Hospital Pharmacy, Oak Grove, Louisiana, he had dispensed, *inter alia*, Tylenol No. 3 and No. 4, and Darvocet without prescriptions authorized by a physician, to two individuals over a timeframe spanning January 1990 through January 1992. Also, between September 1990 through February 1992, he had dispensed controlled and non-controlled substances, including Xanax, Restoril, and Tylenol No. 4, to six other individuals without a physician-authorized prescription. Darvocet is a brand name for a substance containing propoxyphene napsylate, a Schedule IV controlled substance, Tylenol No. 3 and No. 4 are Schedule III controlled substances, Restoril is the brand name for a substance containing temazepam, a Schedule IV controlled substance, and Xanax is a brand name for a substance containing alprazolam, a Schedule IV controlled substance. As a result of this conduct, the Louisiana Board charged the Owner with five counts of violating Louisiana law by engaging in conduct which endangered the public health, by dispensing unauthorized Schedule III and IV controlled substances, and by violating audit shortage provisions of State law. On April 22, 1992, a hearing was held, the Owner entered a nolo contendere plea, and the Board ordered that the Owner's pharmacist's license be suspended for 60 months, actively for 3 months, and on probation for 57 months.

On June 8, 1992, the Owner entered a guilty plea in the Fifth Judicial District Court, Parish of West Carroll, Oak Grove, Louisiana, to two counts of unlawful distribution of drugs in violation of Louisiana law. The court accepted his plea and sentenced him to pay a total of $7,500.00 in fines. The Owner did not disclose this conviction on his DEA application.

On February 12, 1993, the Louisiana Board voided the Owner's application for a pharmacy permit for the Drugstore, concluding that the application was no longer active.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may deny an application if he determines that the DEA registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J.

Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, all five factors are relevant in determining whether the Respondent's application should be denied as being inconsistent with the public interest. As to factor one, "recommendation of the appropriate State licensing board," the Louisiana Board voided the Owner's pharmacy application for The Drugstore as being inactive. Further, the Board also suspended and placed on probation the Owner's pharmacy license as a result of finding that the Owner's conduct in 1990 through 1992 violated state controlled substances laws.

As to factor two, the Owner's "experience in dispensing * * * controlled substances," factor three, the Owner's "conviction record," and factor four, the Owner's "[c]ompliance with applicable State, Federal, or local laws relating to controlled substances," the Owner admitted that he had dispensed controlled and non-controlled substances without prescriptions on numerous occasions in 1990 through 1992. He was convicted in June of 1992 of unlawful distribution of drugs in violation of Louisiana law.

As to factor five, "[s]uch other conduct which may threaten the public health or safety," the Owner failed to note his conviction on his DEA application in violation of the requirements established by 21 U.S.C. 824(a)(1). It has been previously noted that material falsification of an application, although not expressly mentioned under Section 823 as it is under Section 824, is an appropriate action to consider under factor five. See Robert L. Vogler, Docket No. 92–87, 58 FR 51385 (1992). The appropriate test for determining whether the Respondent had materially falsified any application is whether the Respondent "knew or should have known" that he submitted a false application. See Bobby Watts, M.D., 58 FR 46995 (1993); accord Herbert J. Robinson, M.D., 59 FR 6304 (1994). Here, the Owner was convicted in June of 1992, and he submitted his registration application in January of 1993. The specific question asked whether the "applicant [had] ever been convicted of a crime in connection with controlled substances under State or Federal law." Thus, in preparing the application, the Owner "knew or should have known" that the question sought information about convictions and that he had been convicted. Yet he did not disclose that information as required.

As for mitigating information, the Deputy Administrator notes that the Respondent pled guilty to the charges against him, and in a letter to the Louisiana Board, he acknowledged his misconduct and stated remorse for his actions. However, the Owner has failed to provide any information or evidence, such as attendance at remedial courses or evidence of other corrective action taken, to assure that his future conduct would comply with Federal and State law governing the dispensing of controlled substances. The Owner's failure to respond to the Order to Show Cause, either by requesting a hearing or by submitting a written statement, indicates that he is either unwilling or unable to proffer support for this application. Therefore, the Deputy Administrator finds that the public interest is best served by denying the Respondent's application at this time, for the Owner's past conduct demonstrates that he cannot be entrusted with a DEA Certificate of Registration as an owner of a retail pharmacy.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that The Drugstore's application for a DEA Certificate of Registration as a retail pharmacy be, and it hereby is, denied. This order is effective March 11, 1996.

Dated: February 5, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–2766 Filed 2–8–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State:

Volume II

MARYLAND
MD950058 (FEB. 09, 1996)
MD950059 (FEB. 09, 1996)

Volume III

NORTH CAROLINA
NC950051 (FEB. 09, 1996)
NC950052 (FEB. 09, 1996)

Volume VI

ALASKA
AL950010 (FEB. 09, 1996)

Modifications to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

MAINE
ME950025 (FEB. 10, 1995)

Volume II

MARYLAND
MD950013 (FEB. 10, 1995)
VIRGINIA
VA950006 (FEB. 10, 1995)
VA950026 (FEB. 10, 1995)

Volume III

FLORIDA
FL950001 (FEB. 10, 1995)
FL950009 (FEB. 10, 1995)
FL950011 (FEB. 10, 1995)
FL950012 (FEB. 10, 1995)
FL950015 (FEB. 10, 1995)
FL950017 (FEB. 10, 1995)
FL950032 (FEB. 10, 1995)
FL950045 (FEB. 10, 1995)
FL950066 (FEB. 10, 1995)
GEORGIA
GA950083 (FEB. 10, 1995)
NORTH CAROLINA
NC950001 (FEB. 10, 1995)
NC950003 (FEB. 10, 1995)
NC950050 (FEB. 10, 1995)
SOUTH CAROLINA
SC950023 (FEB. 10, 1995)
SC950036 (FEB. 10, 1995)

Volume IV

ILLINOIS
IL950016 (FEB. 10, 1995)
IL950022 (FEB. 10, 1995)
IL950027 (FEB. 10, 1995)
IL950032 (FEB. 10, 1995)
IL950046 (FEB. 10, 1995)
IL950051 (FEB. 10, 1995)
IL950071 (FEB. 10, 1995)
IL950073 (FEB. 10, 1995)
IL950082 (FEB. 10, 1995)
IL950090 (FEB. 10, 1995)
IL950096 (FEB. 10, 1995)
IL950098 (FEB. 10, 1995)
OHIO
OH950001 (FEB. 10, 1995)
OH950002 (FEB. 10, 1995)
OH950003 (FEB. 10, 1995)
OH950012 (FEB. 10, 1995)
OH950024 (FEB. 10, 1995)
OH950028 (FEB. 10, 1995)
OH950029 (FEB. 10, 1995)
OH950032 (FEB. 10, 1995)
OH950034 (FEB. 10, 1995)
OH950035 (FEB. 10, 1995)
OH950036 (FEB. 10, 1995)
WISCONSIN
WI950001 (FEB. 10, 1995)

Volume V

TEXAS
TX950001 (FEB. 10, 1995)
TX950003 (FEB. 10, 1995)
TX950007 (FEB. 10, 1995)
TX950018 (FEB. 10, 1995)
TX950046 (FEB. 10, 1995)
TX950069 (FEB. 10, 1995)
TX950081 (FEB. 10, 1995)
TX950114 (FEB. 10, 1995)

Volume VI

ALASKA
AK950001 (FEB. 10, 1995)
HAWAII
HI950001 (FEB. 10, 1995)
NEVADA
NV950001 (FEB. 10, 1995)
NV950005 (FEB. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 2nd day of February 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–2643 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

[TA–W–31,502; TA–W–31,502A]

Atkinson Oil Company (A/K/A Wm H. Atkinson Estate) Oklahoma City, OK and Operating at Other Locations in the State of Oklahoma; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on October 19, 1995, applicable to all workers of Atkinson Oil Company (aka Wm H. Atkinson Estate), located in Oklahoma City, Oklahoma. The notice was published in the **Federal Register** on November 9, 1995 (60 FR 56618–56620).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers produce crude oil and natural gas. The company reports that worker separations have occurred at various locations of their production facilities in the State of Oklahoma. Therefore, the Department is amending the certification to cover the worker separations within the State of Oklahoma.

The intent of the Department's certification is to include all workers of Atkinson Oil Company who were adversely affected by increased imports.

The amended notice applicable to TA–W–31,502 is hereby issued as follows:

"All workers of Atkinson Oil Company (aka Wm H. Atkinson Estate), Oklahoma City, Oklahoma, and operating at various locations within the State of Oklahoma who became

totally or partially separated from employment on or after August 31, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 15th day of December 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2897 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,689E]

Baker Hughes INTEQ, A/K/A Baker Hughes Oilfield Equipment Headquartered in Houston, TX, and Operating at Various Locations in the State of Louisiana; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 16, 1995, applicable to all workers of Baker Hughes Inteq, headquartered in Houston, Texas and operating at various locations in the State of Louisiana. The notice was published in the **Federal Register** on March 1, 1995 (60 FR 11120).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. Findings show that the workers are engaged in employment related to the exploration and drilling of crude oil and natural gas for unaffiliated firms. The company reports that some workers of Baker Hughes Inteq have had their wages reported under the tax account of Baker Hughes Oilfield Operations, Inc. The Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to TA–W–30,689E is hereby issued as follows:

"All workers of Baker Hughes Inteq, a/k/a Baker Hughes Oilfield Operations, headquartered in Houston, Texas and operating in various locations in the State of Louisiana who became totally or partially separated from employment on or after January 9, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 29th day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2886 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,327 and TA–W–31, 3270]

BJ Services Company, U.S.A. Including Former Employees of Western Company of North America A/K/A Western Oceanic Services, Inc., Headquartered in Houston, TX and Operating in Various Locations in the State of Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 13, 1995, applicable to all workers of BJ Services Company, U.S.A., headquartered in Houston, Texas and operating at various locations in the State of Texas. The notice was published in the **Federal Register** on October 27, 1995 (60 FR 55064).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. Findings show that the workers are engaged in employment related to the production of crude oil and natural gas. New information reported by the company shows that in April 1995, BJ Services bought the Western Company of North America. Some workers of BJ Services have had their wages reported under the predecessor tax account of Western Company of North America as well as Western Oceanic Services, Inc. The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to TA–W–31,327 and TA–W–31,3270 is hereby issued as follows:

"All workers of BJ Services Company, U.S.A., including former employees of Western Company of North America, A/K/A Western Oceanic Services, Inc., headquartered in Houston, Texas (TA–W–31,327), and operating in various locations in the State of Texas (TA–W–31,3270) who became totally or partially separated from employment on or after August 3, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 22nd day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2889 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,504 and TA–W–31,504A]

Diamond Offshore Drilling, Incorporated A/K/A Diamond Offshore Management Company, Houston, TX and Other Locations in Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 7, 1995, applicable to all workers of Diamond Offshore Drilling, Incorporated, Houston, Texas and Texas. The notice was published in the **Federal Register** on November 24, 1995 (60 FR 58103).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New information reported by the company shows that some of the workers at Diamond Offshore Drilling had their unemployment insurance (UI) taxes paid to Diamond Offshore Management Company.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–31,504 and TA–W–31,504A is hereby issued as follows:

"All workers of Diamond Offshore Drilling Incorporated, a/k/a Diamond Offshore Management Company, Houston, Texas (TA–W–31,504) and other locations in Texas (TA–W–31,504A) who became totally or partially separated from employment on or after September 10, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 18th day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2887 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,550, TA–W–30,550B, and TA–W–30,550J]

Grace Energy Corporation A/K/A GEC Management Corporation, Dallas, TX, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 27, 1995, applicable to all workers of Grace Energy Corporation, Dallas, Texas, and Grace Petroleum Corporation operating at various locations in the State of Texas. The notice was published in the **Federal Register** on February 14, 1995 (60 FR 8415). The certification was subsequently amended to include workers of Grace Drilling Company located in Dallas, Texas. The notice was published in the **Federal Register** on March 1, 1995 (60 FR 11116).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. Findings show that the workers are engaged in the production of crude oil and natural gas. The company reports that some of the workers of Grace Energy Corporation, Grace Petroleum Corporation and Grace Drilling Company had their unemployment insurance (UI) taxes paid to GEC Management Corporation, the parent company. Accordingly, the Department is again amending the certification to include GEC Management Corporation.

The intend of the Department's certification is to include all workers of the subject firms who were adversely affected by increased imports.

The amended notice applicable to TA–W–30,550, TA–W–30,550B, and TA–W–30,550J is hereby issued as follows:

"All workers of Grace Petroleum Corporation, a/k/a GEC Management Corporation, operating in various locations in the State of Texas who became totally or partially separated from employment on or after August 21, 1994; for workers of Grace Energy Corporation, a/k/a GEC Management Corporation, Dallas, Texas who became totally or partially separated from employment on or after December 18, 1994; and for workers of Grace Drilling Company, a/k/a GEC Management Corporation, Dallas, Texas who became totally or partially separated from employment on or after February 12, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 22d day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2890 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,001A]

Jencraft Manufacturing Company, Incorporated A/K/A Jencraft Corporation, McAllen, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued an amended Certification of Eligibility to Apply for Worker Adjustment Assistance on May 11, 1995, applicable to all workers of Jencraft Manufacturing Company, Incorporated located in McAllen, Texas. The notice was published in the **Federal Register** on May 24, 1995 (59 FR 27561).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New information reported by the company shows that some of the workers at Jencraft had their unemployment insurance (UI) taxes paid to Jencraft Corporation

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA-W–30,001A is hereby issued as follows:

"All workers of Jencraft Manufacturing Company, Incorporated, a/k/a Jencraft Corporation, McAllen, Texas engaged in employment related to the production of mini and vertical blinds who became totally or partially separated from employment on or after June 5, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, D.C. this 18th day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2888 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,688]

Monarch Tile, Inc. Marshall, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 4, 1995, in response to a petition which was filed by a company official on December 4, 1995, on behalf of workers at Monarch Tile, Inc., Marshall, Texas.

The petitioning company has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 18th day of January 1996.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2895 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,731]

Oxford Industries, Incorporated Atlanta, GA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 11, 1995 in response to a petition which was filed on November 21, 1995, by the company, on behalf of workers at Oxford Industries, Incorporated, Atlanta, Georgia.

The Petitioner has requested that the petition be withdrawn. The Atlanta location is the company headquarters and was mistakenly instituted, by this office, as an affected location There were, in fact, no layoffs at the Atlanta, Georgia location. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 17th day of January, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2896 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,748]

Union Supply Company Midland, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 18, 1995 in response to a worker petition which was filed on behalf of workers at Union Supply Company, Midland, Texas.

The Petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 19th day of January, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2894 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA—00697]

Boise Cascade, Timber & Wood Products Division; Yakima, WA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, an investigation was initiated on November 22, 1995 in response to a worker petition which was filed on November 22, 1995 on behalf of workers at Boise Cascade Corporation, Timber & Wood Products Division, Yakima, Washington.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 23rd day of January, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2892 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00662, 00662A]

Equitable Resources Energy Company Buckhannon, WV; Various Locations in the State of Pennsylvania

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on December 1, 1995, applicable to all workers at Equitable Resources Energy Company located in Buckhannon, West Virginia. The notice will soon be published in the **Federal Register**.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at the subject firm operations at various locations in the State of Pennsylvania. The workers are engaged in employment related to the production of natural gas. Accordingly, the Department is amending the certification to include the workers of the subject firm in Pennsylvania.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports from Mexico and Canada.

The amended notice applicable to NAFTA—00662 is hereby issued as follows:

"All workers of Equitable Resources Energy Company, Buckhannon, West Virginia (NAFTA–00662) and various locations in the State of Pennsylvania (NAFTA–00662A) who became totally or partially separated from employment on or after October 19, 1994 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, D.C. this 22nd day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2891 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA—00675]

M.J. Electric, Inc., Iron Mountain, MI; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on November 6, 1995 in response to a petition filed by a union representative on behalf of workers at M.J. Electric, Inc. located in Iron Mountain, Michigan. Workers were electrical subcontractors for the Copper Range Company, NAFTA–583 which shut down on September 30, 1995.

In a letter dated January 23, 1996, the petitioner requested that the petition for NAFTA–TAA be withdrawn because at the present time the employees of M.J. Electric, Inc. who had been working at Copper Range have not been laid-off. The two workers have been reassigned to other jobs. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 23rd day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–2893 Filed 2–8–96; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Scientific Computing; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Scientific Computing (#1185).

Date and Time: February 26, 1996, 8:30 am to 5 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. John Van Rosendale, Program Director, New Technologies Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Postdoctoral Research Associate Program (Postdoc) as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2791 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: February 29, 1996; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 565, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: William A. Weigand, Program Director, Biochemical Engineering, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CAREER proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2795 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical & Transport Systems (#1190).

Date: February 26, 1996; 8:30 am to 5:00 pm.

Place: Room 530, National Science Foundation 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact person: Dr. Deborah Kaminski, Program Director, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: 703/306–1370.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Faculty Early Career Award proposals submitted to the Thermal Transport and Thermal Processing Program as part of the selection process for awards.

Reason for Closing: The proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. The matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2788 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Civil and Mechanical Systems (#1205).

Date and Time: March 1, 1996, 8:30 a.m. to 5:00 p.m.

Place: Room 565, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Priscilla P. Nelson, Program Director Geomechanical, Geotechnical and Geo-environmental, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1361.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2797 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date and Time: February 28 and February 29, 1996; 8:30 a.m. to 5 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 530, Arlington, Virginia.

Contact Person: Dr. Devendra P. Garg, Program Director, Dynamic Systems & Control Program, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd, Arlington, VA 22230 703/306–1361, x 5068.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2793 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems (1196).

Date and Time: March 6, 1996; 8:00 am—5:00 pm

Place: NSF, Room 680.

Type of Meeting: Closed.

Contact Person: Dr. Albert B. Harvey, Program Director, ECS, Room 675, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone: (703) 306–1339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate applications of Faculty Early Career Development (CAREER) research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2794 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR).

Date and Time: February 29, 1996, 8:30 pm–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1020, Arlington, VA 22230.

Type of Meetings: Closed.

Contact Person: Dr. Liselotte J. Schioler, Program Director, Division of Materials Research, Room 1065, National Science

Foundation, 4201 Wilson Blvd, Arlington, VA, 22230, Telephone (703) 306–1836.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Faculty Early Career Development (CAREER) Program.

Reason for Closing: The proposals being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552 b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2792 Filed 2–8–96; 8:45 am]

BILLING CODE 7556–01–M

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings.

Name and Committee Code: Special Emphasis in Mathematical Sciences (1204).

Date and Time: February 26-27, 1996; 8:30 a.m. until 5:00 p.m.

Place: Room 1060, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meetings: Closed.

Contact Person: Dr. Joe Jenkins, Program Director, National Science Foundation, 4201 Wilson, Boulevard, Arlington, VA, 22230, Telephone (703) 306–1870.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Analysis Program nominations/applications as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2796 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis in Mathematical Sciences (1204).

Date and Time: February 26–27, 1996; 8:30 a.m. until 5:00 p.m.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Alvin I. Thaler, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1880.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Faculty Early Career Development (CAREER) Program, as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2789 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis in Polar Programs (#1209).

Date and Time: February 29, thru March 1, 1996, 8:00 am to 5:00 pm.

Place: Room 730, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael Ledbetter and Dr. Odile De La Beaujardiere, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1029.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Arctic Systems and Arctic Natural Sciences proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 5, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2790 Filed 2–8–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–32380, License No. 29–28659–01 EA 95–163]

Canspec Materials Testing, Inc., Middlesex, NJ; Order Imposing Civil Monetary Penalty

I

Canspec Materials Testing, Inc. (Licensee) is the holder of byproduct Materials License No. 29–28659–01 issued by the Nuclear Regulatory Commission (NRC or Commission) on August 12, 1991. The license authorizes the Licensee to possess and use byproduct material for industrial radiography and replacement of sources in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities was conducted on July 19 and 25, 1995. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated September 13, 1995. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in two letters, both dated October 11, 1995. In its responses, the Licensee admitted Violations A through D and F through H; denied Violation E; and requested that the proposed civil penalty be reduced if not dismissed.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered* That:

The Licensee pay a civil penalty in the amount of $5,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the Licensee was in violation of the Commission's requirements as set forth in Violation E of the Notice referenced in Section II above; and

(b) whether, on the basis of such violation, and the additional violations set forth in the Notice that the Licensee admitted, this Order should be sustained.

For The Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Dated at Rockville, Maryland, this 2nd day of February 1996.

Appendix—Evaluations and Conclusion

On September 13, 1995, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection. Canspec Materials Testing, Inc. (Licensee or CTI) responded to the Notice on October 11, 1995. The Licensee admitted seven violations (Violations A–D and F–H), denied one violation (Violation E) and requested mitigation or dismissal of the civil penalty. The NRC's evaluation and conclusion regarding the licensee's requests are as follows:

1. Restatement of Violation E

10 CFR 34.24 requires, in part, that each survey instrument used to conduct physical radiation surveys be calibrated at intervals not to exceed three months and after each instrument servicing.

Contrary to the above,

1. on June 8, 1995, a licensee employee conducted physical radiation surveys with a survey instrument (Serial Number 3369) which was last calibrated on February 17, 1995, an interval exceeding three months.

2. on July 11, 1995, a licensee employee conducted physical radiation surveys with a survey instrument (Serial Number 2015) which was last calibrated on March 28, 1995, an interval exceeding three months.

3. on August 15, 1994, a licensee radiographer conducted physical radiation surveys with a survey instrument (Serial Number 3369) which was last calibrated on April 4, 1994, an interval exceeding three months.

This is a repetitive violation.

2. Summary of the Licensees Response to Violation E

The Licensee denied this violation, and stated that there was always a calibrated meter in use for surveys. The Licensee's president stated that he must have misunderstood a conversation he had with an NRC inspector regarding the use of survey instruments. The Licensee's president also stated that he was under the impression that as long as the survey meter used for compliance surveys was calibrated, a second meter could be used for information only.

Further, the Licensee's president stated that when an audit was performed in the field and the equipment was found to be out of calibration they only had to go to "our trailer" to obtain properly calibrated equipment. In addition, the Licensee stated that an NRC inspector allowed them to return to work because there was properly calibrated functional equipment on site for use. The Licensee also stated that the company had the appropriate equipment in place for use. However, the workers did not take the time to check calibration dates before starting to work.

3. NRC Evaluation of the Licensees Response to Violation E

10 CFR 34.24 requires, in part, that each survey instrument used to conduct physical radiation surveys be calibrated at intervals not to exceed three months and after each instrument servicing. The inspection findings were based on a review of documentation of survey instrument use and calibration, maintained by the Licensee, which indicated instances where the survey instrument used to show compliance had not been calibrated at the required frequency. While the Licensee may have had in its possession survey instruments which were calibrated as required, the Licensee did not comply with the requirement as stated in 10 CFR 34.24. Specifically, survey meters used by the Licensee to perform physical radiation surveys to ensure compliance with 10 CFR 34.24 on the dates specified in the Notice had not been calibrated within the previous three months as required.

Having appropriately calibrated instruments on site or available for use does not demonstrate compliance with this requirement. It is the licensee's responsibility to assure that the instrument used is calibrated as required. Therefore, the NRC concludes that the Licensee has not provided an adequate basis for withdrawal of the violation.

On November 14, 1995, Mr. Frank Costello, Chief, Nuclear Materials Safety Branch 3, NRC, contacted the Licensee's president by telephone for clarification of the Licensee's statement, in its October 11, 1995 response, concerning an NRC inspector allowing the Licensee to return to work because properly calibrated functional equipment was on site. During the telephone conversation, the Licensee's president stated that the NRC inspector allowed the radiographers to return to work only after assuring that they were using calibrated equipment.

4. Summary of Licensee's Request for Mitigation

In its responses, the Licensee requested that the proposed civil penalty be reviewed for reduction if not dismissal. In June of 1995, Canspec was purchased by the current president. The president stated his contention that prior to this purchase, time was not spent where it should have been and now that he has assumed the position of president he will spend the time required to ensure that policy is followed "to the letter." The president stated that now he has greater control over the operation and will be able to spend the time necessary sorting out any problems with individuals and if they fail to conform, they will be replaced. The Licensee also stated its belief that the violations were not entirely the company's responsibility. Further, the president stated that the company had fulfilled the calibration requirements, yet the men made a mistake by not checking the calibration dates before starting to work.

5. NRC Evaluation of Licensee's Request for Mitigation

The NRC determined that the violations, given their number, nature, and the fact that three were repetitive, were of significant

regulatory concern and appeared to be indicative of the lack of management control over licensed activities. The lack of management control was evidenced by the fact that 13 violations were identified during the two NRC inspections in 1994. Therefore, the violations were appropriately characterized at Severity Level III in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG–1600 (60 FR 34381; June 30, 1995).

As to the president's statements concerning his increased control over the Licensee's operation, the NRC considers that such actions are part of the Licensee's corrective action and expects licensees to exercise adequate management control over licensed activities consistently to ensure the protection of the public and the environment. Regardless of who committed the violations, the Licensee is responsible for the acts of its employees and for assuring that it is in compliance with all applicable regulations.

Therefore, the NRC concludes that the Licensee has not provided an adequate basis for mitigation or withdrawal of the civil penalty.

6. NRC Conclusion

The NRC has concluded that the violation occurred as stated and that an adequate basis for mitigation of the civil penalty was not provided by the Licensee. Consequently, the proposed civil penalty in the amount of $5,000 should be imposed.

[FR Doc. 96–2838 Filed 2–8–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–354]

Public Service Electric and Gas Company and Atlantic City Electric Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–57 issued to Public Service Electric and Gas Company and Atlantic City Electric Company (the licensee), for operation of the Hope Creek Generating Station, located on the east shore of the Delaware River in Lower Alloways Creek Township, Salem County, New Jersey.

The proposed amendment would change Hope Creek Generating Station Technical Specifications 4.6.2.2.b, "Suppression Pool Spray," and 4.6.2.3.b, "Suppression Pool Cooling," to include flow through the RHR heat exchanger bypass line (in addition to the RHR heat exchanger) in the Suppression Pool Cooling and Suppression Pool Spray flow path used during RHR pump testing.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed amendment request changes Surveillance Requirement (SR) 4.6.2.3.b of Technical Specification (TS) 3.6.2.3, Suppression Pool Cooling, and SR 4.6.2.2.b of TS 3.6.2.2, Suppression Pool Spray, to clarify that the intent of these specific SRs is to confirm Residual Heat Removal (RHR) pump performance during Suppression Pool Cooling (SPC) and Suppression Pool Spray (SPS) operation. The proposed change revises the SRs to include the RHR heat exchanger bypass line, with the bypass valve closed, and the RHR heat exchanger in the SPC and SPS flow path used during performance of the surveillances.

The RHR system is an accident mitigation system. The proposed changes do not change the operation or capabilities of the RHR system in either mode of operation. The proposed changes do not involve any physical changes to the RHR system. The proposed changes merely modify the acceptable flow path for the surveillance tests, the purpose of which is to verify pump performance in these modes of operation. Therefore, the proposed change to the SRs for the SPC and SPS mode of operation of the RHR system will not increase the probability of an accident previously evaluated.

Furthermore, the performance of the RHR system in any of its operational modes will be unchanged by the proposed change. The changes affect only the pump performance SRs for the SPC and SPS modes of RHR system operation. The surveillances being changed only modify the acceptable flow path used during the performance of the pump performance surveillances. The surveillances still verify that pump performance has not degraded to a point where the accident mitigation function of the system has not been compromised. Therefore, the proposed change will not involve an increase in the consequences of an accident previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change, a clarification of the SPC and SPS mode flow paths for pump performance testing, does not result in a modification of the RHR system, change the method of SPC or SPS operation, or alter the system's effectiveness. Suppression Pool Cooling and Containment Spray Cooling, of which Suppression Pool Spray is a part, are manually initiated actions. Existing procedures for the initiation of these two modes of operation are unchanged, including the requirement that the Low Pressure Coolant Injection valve is closed before the containment spray valves can be opened. There are no new failure modes created by the proposed changes and no new accident initiating events are created. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The proposed changes do not change the operation of the RHR system in any of its modes of operation. The changes only clarify the fact that the purpose of the SRs is to confirm RHR pump performance through the most restrictive conditions of the flow path while operating in either the SPC or SPS modes. The changed surveillances still verify that pump performance has not degraded to a point where the original design basis can not be met. In order to assure the system meets its original design basis, adequate flow through the heat exchanger during surveillance testing will be maintained. Since the function of all of the operational modes of the RHR system are unaffected by the revised surveillance test flow path, the proposed changes will maintain the existing margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 11, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a

balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 5, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Rockville, Maryland, this 6th day of February 1996.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of the Nuclear Reactor Regulation.

[FR Doc. 96–2839 Filed 2–8–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. STN 50–529]

Arizona Public Service Company; Palo Verde Nuclear Generating Station, Unit No. 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License No. NPF–51, issued to Arizona Public Service Company (the licensee), for operation of the Palo Verde Nuclear Generating Station, Unit No. 2, located in Maricopa County, Arizona.

Environmental Assessment

Identification of the Proposed Action

The exemption from 10 CFR 50.46; 10 CFR Part 50, Appendix K; and 10 CFR 50.44 would allow the substitution of up to a total of 80 fuel rods clad with advanced zironium-based alloys in two fuel assemblies for in-reactor performance evaluation purposes during Cycles 7, 8, and 9 for PVNGS Unit 2.

The proposed action is in accordance with the licensee's application for exemption dated December 20, 1995.

The Need for the Proposed Action

The proposed action would permit the use of fuel rods clad with Zirconium-based alloys other than Zircaloy-4 in PVNGS Unit 2 for Cycles 7, 8, and 9.

Environmental Impacts of the Proposed Action

The temporary exemption will not significantly change the environmental impact of operating the facility. The analysis generated by ABB–Combustion Engineering, Inc. (ABB–CE), demonstrates that the predicted chemical, mechanical, and material performance of the advanced zirconium-based cladding is within that approved for zircaloy under anticipated operational occurrences and postulated accidents. Thus, the normal fuel performance characteristics of the advanced zirconium-based clad fuel rods will be essentially the same as those observed for standard Zircaloy-4 fuel rods. Furthermore, the lead fuel assemblies will be placed in nonlimiting core locations which do not experience core power density throughout the irradiated periods. The current design bases requirements were applied to the proposed advanced zirconium-based cladding. Because the expected operating conditions (both normal and LOCA) are within those assumed for the fuel rods currently licensed for Palo Verde Unit 2, it is concluded that the licensing basis will not be compromised by incorporating a limited number (40) of advanced zirconium-based clad fuel rods and the environmental impacts of operation under the proposed action will be similar to those currently experienced at the facility.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of the Palo Verde Nuclear Generating Station, Units 1, 2, and 3," dated February 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on February 1, 1996, the staff consulted with the Arizona State official, Mr. William Wright of the Arizona Radiation Regulatory Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 20, 1995; which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 31st day of January 1996.

For the Nuclear Regulatory Commission.

Charles R. Thomas,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2834 Filed 2–8–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Company; Comanche Peak Steam Electric Station, Units 1 and 2; Notice of Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. NPF–87 and NPF–89, issued to Texas Utilities Electric Company (TU Electric, the licensee), for the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, located in Somervell County, Texas.

Identification of the Proposed Amendment

The current licensing basis for CPSES allows up to 1116 fuel assemblies in two storage pools. The currently authorized as-installed configuration has 20 low density racks installed in Spent Fuel Pool No. 1 (SFP1) (556 fuel assembly locations). The proposed action would authorize the use of high density spent fuel storage racks in Spent Fuel Pool No. 2 (SPF2) with a capacity for storing 735 fuel assemblies, for a total of 1291 fuel assemblies.

The proposed action is in accordance with the licensee's application for license amendment dated December 30, 1994, as supplemented by letters dated July 28, September 14, and November 29, 1995, and January 2, 1996.

The Need for the Proposed Action

The "Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel," NUREG–0575, Volumes 1–3, concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because the differences in design, the FGEIS recommended evaluating spent fuel pool expansion on a case-by-case basis.

For CPSES, the expansion of the storage capacity of SFP2 will not create any significant additional radiological effects or nonradiological environmental impacts.

The additional whole body dose that might be received by an individual at the site boundary and the estimated dose to the population within 80 kilometer radius is believed to be too small to have any significance when compared to the fluctuations in the annual dose this population receives from exposure to background radiation. The occupational radiation dose for the proposed operation of the expanded spent fuel pool is estimated to be less than one percent of the total annual occupational radiation exposure for this facility.

The only nonradiological impact affected by the expansion of SFP2 is the waste heat rejected. The total increase in heat load rejected to the environment will be small in comparison to the amount of total heat currently being released. There is no significant environmental impact attributed to the waste heat from the plant due to this very small increase.

Finding of No Significant Impact

The staff has reviewed the proposed spent fuel pool expansion to the facility relative to the requirements set forth in 10 CFR Part 51. Based on this assessment, the staff concludes that there is no significant radiological or nonradiological impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, no environmental impact statement needs to be prepared for this action.

For further details with respect to this action, see (1) the application for amendment to the TSs dated December 30, 1994, as supplemented July 28, September 14, and November 29, 1995, and January 2, 1996, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575), (3) the Final Environmental Statement for the CPSES, Units 1 and 2, dated October 1989, and (4) the Environmental Assessment dated February 5, 1996.

These documents are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P. O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 5th day of February 1996.

For the Nuclear Regulatory Commission.

William D. Beckner,

Director, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2835 Filed 2–8–96; 8:45 am]

BILLING CODE 7590–01–P

Relocation of the Pressure Temperature Limit Curves and Low Temperature Overpressure Protection System Limits; Issued

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Generic Letter 96–03 to advise licensees of nuclear power reactors that they may request a license amendment to relocate the pressure temperature (P/T) limit curves from their plant technical specifications to a pressure temperature limits report (PTLR) or a similar document. The low temperature overpressure protection (LTOP) system limits may also be relocated to the same document at the discretion of the licensee. This generic letter is available in the Public Document Rooms under accession number 9601290350.

DATES: The generic letter was issued on January 31, 1996.

ADDRESSEES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Maggalean W. Weston at (301) 415–3151.

SUPPLEMENTARY INFORMATION: None.

Dated at Rockville, Maryland, this 1st day of February, 1996.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2836 Filed 2–8–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–029, (License No. DPR–3)]

Yankee Atomic Electric Company, Receipt of Petition for Director's Decision Under 10 C.F.R. 2.206

Notice is hereby given that by an "Emergency Motion for Compliance with Circuit Court Opinion" (Petition), dated January 17, 1996, Citizens Awareness Network and New England Coalition on Nuclear Pollution (Petitioners) request that the Nuclear Regulatory Commission (NRC) take action with regard to operation by Yankee Atomic Energy Company (YAEC or Licensee) of its Nuclear Power Station at Rowe, Massachusetts (Yankee Rowe).

By an Order dated January 23, 1996, the Commission referred the Emergency Motion to the NRC staff for treatment as a petition pursuant to 10 C.F.R. § 2.206 of the Commission's regulations. The Commission ordered the NRC staff to respond to the Petitioners' claim of emergency within 10 days, or February 2, 1996, and to the Petition as a whole within 30 days, or February 22, 1996.

Petitioners request that the NRC comply with *Citizens Awareness Network Inc.* v. *United States Nuclear Regulatory Commission* and *Yankee Atomic Electric Company*, 59 F.3d 284 (1st Cir. 1995) (*CAN* v. *NRC*). Specifically, Petitioners request that the Commission immediately order:

(1) YAEC not to undertake, and the NRC staff not to approve, further major dismantling activities or other decommissioning activities, unless such activities are necessary to assure the protection of occupational and public

health and safety; (2) YAEC to cease any such activities; and

(3) NRC Region I to reinspect Yankee Rowe to determine whether there has been compliance with the Commission's Order of October 12, 1995 (CLI–95–14), and to issue a report within ten days of the requested order to Region I.

As the bases for their requests, Petitioners state that:

(1) *CAN* v. *NRC* requires the cessation, and prohibits commencement, of decommissioning activities at Yankee Rowe, pending final approval of the licensee's decommissioning plan after opportunity for a hearing. CLI 95–14 forbids YAEC from conducting any further major dismantling or decommissioning activities until final approval of its decommissioning plan after completion of the hearing process;

(2) *CAN* v. *NRC* obliges the Commission and the staff to provide an opportunity to interested persons for a hearing to approve a decommissioning plan;

(3) *CAN* v. *NRC* requires the Commission to reinstate its pre-1993 interpretation of its decommissioning regulations, General Requirements for Decommissioning Nuclear Facilities, 53 FR 24,018, 24,025–26 (June 27, 1988), limiting the scope of permissible activities prior to approval of a decommissioning plan to decontamination, minor component disassembly, and shipment and storage of spent fuel, if permitted by the operating license and/or 10 C.F.R. 50.59. Under *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), CLI–90–08, 32 NRC 201, 207, n.3 (1990), this means that the licensee may not take any action that would materially affect the methods or options available for decommissioning, or that would substantially increase the costs of decommissioning, prior to approval of a decommissioning plan. Under CLI–91–2, 33 NRC at 73, n.5, and CLI–92–2, 35 NRC at 61, n.7, other decommissioning activities, in addition to major ones, are prohibited, including offsite shipments of low-level radioactive waste produced by decommissioning activities, until after approval of a decommissioning plan;

(4) decommissioning activities permitted by NRC Inspection Manual, Chapter 2561, § 06.06, "Modifications or Changes to the Facility", before approval of a decommissioning plan are limited to maintenance, removal of relatively small radioactive components or non-radioactive components, and characterization of the plant or site;

(5) YAEC is conducting decommissioning activities, with the approval of the NRC technical staff, in flagrant violation of *CAN* v. *NRC* and of CLI–95–14, thus threatening to render the decommissioning process nugatory and to deprive Petitioners of their hearing rights under Section 189a of the Atomic Energy Act;

(6) by letter dated October 19, 1995, YAEC described decommissioning activities in progress, and by letter dated October 24, 1994, interpreted permissible "major" dismantling as removal of non-radioactive material required to support safe storage of spent fuel and of those portions of the facilities which remain, or to support future dismantlement. Of the nine activities proposed in the letter of October 19, 1995, five constitute major dismantling or other impermissible decommissioning activities, such as major structural changes in the nature of Component Removal Project activities found unlawful in *CAN* v. *NRC* and in CLI–95–14;

(7) by letter dated November 2, 1995, the NRC staff approved the activities described by the Licensee in its letter of October 19, 1995;

(8) Petitioners advocate the SAFSTOR decommissioning alternative because it allows levels of radioactivity and waste volumes to decrease, thus reducing occupational and public radiation exposures, and lowering decommissioning costs;

(9) NRC Inspection Report No. 50–29/95–05 (December 16, 1995) concludes that the issue whether activities observed were in compliance with CLI 95–14 is unresolved, but approves YAEC's proposed activities, contrary to the requirements of NRC Inspection Manual, Chapter 2561, § 06.06, "Modifications or Changes to the Facility" (March 20, 1992); and

(10) YAEC's criterion for permissible decommissioning activities, that any activity involving less than 1 percent of the on-site radioactive inventory is not "major" and may take place before approval of a decommissioning plan, violates *CAN* v. *NRC* because it would allow completion of decommissioning before any decommissioning plan could be approved in hearing, and constitutes unlawful segmentation under the National Environmental Policy Act.

The Petitioners' request for emergency action to cease decommissioning activities was mooted in part by the Licensee's completion of eight of the nine activities evaluated by the NRC staff letter of November 2, 1995. Even if these activities had not been completed, they would have been permissible under the Commission's pre-1993 interpretation of its decommissioning regulations. By letter dated January 31, 1996, Petitioners' request for emergency action to cease shipment of low-level radioactive waste produced by decommissioning activities was denied, and Petitioners' request for reinspection of the Yankee Rowe facility to determine compliance with CLI–95–14 and to issue an inspection report was granted.

The Petition is being evaluated pursuant to 10 C.F.R. 2.206 of the Commission's regulations by the Director of the Office of Nuclear Reactor Regulation. As provided by the Commission's Order of January 23, 1996, a decision on the Petition as a whole will be issued no later than 30 days from the date of the Order, or February 22, 1996.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 2nd day of February 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2837 Filed 2–8–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Request for Comments Concerning Foreign Government Discrimination in Procurement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comments.

SUMMARY: This notice requests written submissions from the public concerning discrimination against U.S. products and services by foreign governments in their procurement practices. This information will be used in compiling the annual report on government procurement specified by Section 305 of the Trade Agreements Act of 1979 (Trade Agreements Act), as amended by Title VII of the Omnibus Trade and Competitiveness Act of 1988 and Title III, Section 341 of the Uruguay Round Agreements Act of 1994 (19 U.S.C. 2515).

Section 305 of the Trade Agreement Act requires the President to submit an annual report on the extent to which foreign countries discriminate against U.S. products or services in making government procurement. Section 341 of the Uruguay Round Agreement Act specifies that the report also contain information about countries which employ non-transparent procurement procedures or fail to maintain effective prohibitions on bribery and other corrupt practices. Specifically, the President is required to identify any countries that:

(a) Are signatories to the former GATT and/or WTO Agreement on Government Procurement (Agreement) and are not in compliance with the requirements of the Agreement;

(b) Are signatories to the Agreement; are in compliance with the Agreement, but maintain a significant and persistent pattern or practice of discrimination in the government procurement of products or services from the United States not covered by the Agreement, which results in identifiable harm to U.S. business; and whose products or services are acquired in significant amounts by the U.S. Government; or

(c) Are not signatories to the Agreement and maintain a significant and persistent pattern or practice of discrimination in government procurement of products or services from the United States, which results in identifiable harm to U.S. business, and whose products or services are acquired in significant amounts by the U.S. Government; or

(d) Are not signatories to the Agreement and fail to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement and whose products and services are acquired in significant amounts by the U.S. Government; or

(e) Are not Signatories to the Agreement and fail to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement and whose products and services are acquired in significant amounts by the U.S. Government.

The functions vested in the President under Section 305 of the Trade Agreements Act were delegated to the United States Trade Representative (USTR) pursuant to Section 4–101 of Executive Order 12661 (54 FR 779).

DATES: Submissions containing the information described below must be received on or before March 1, 1996.

ADDRESSES: Comments must be submitted to Carolyn Frank, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, and must include not less than twenty (20) copies. Submissions will be available for public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6. Any business confidential material must be clearly marked as such at the top of the cover page or letter and each succeeding page and must be accompanied by a nonconfidential summary.

FOR FURTHER INFORMATION CONTACT: Elena Bryan (202–395–5097) or Mark Linscott (202–395–3063), Office of WTO and Multilateral Affairs, or Laura B. Sherman (202–395–3150), Office of the General Counsel, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20508.

SUPPLEMENTARY INFORMATION: Section 305 of the Trade Agreements Act requires an annual report to be submitted no later than April 30, 1996 to the appropriate Committees of the House of Representatives and the Senate. The USTR is required to request consultations with any countries identified in the report to remedy the procurement practices cited in the report.

Effective January 1, 1996, the new WTO Government Procurement Agreement entered into force and the United States withdrew from the GATT Government Procurement Code. Therefore, this year's Title VII review will include both agreements. The WTO Code significantly expands coverage beyond goods to include services, including construction, and to procurement of goods, services and construction by subcentral governments and government enterprises. Singapore and Hong Kong are members of the GATT Code but have yet to join the WTO Code, although Singapore has requested accession to the WTO Code and tabled a first offer. The Republic of Korea (ROK) is a member of the WTO Code but may delay implementation until January 1, 1997. The ROK was not a member of the GATT Code. Otherwise, and with the exception of the United States, the membership in the GATT and WTO Codes are identical.

USTR invites submissions from interested parties concerning foreign government procurement practices that should be considered in developing the annual report. Pursuant to Section 305(d)(5) of the Trade Agreements Act, submissions are sought from any interested parties in the United States and in countries that are signatories to the Agreement, as well as in other foreign countries whose products or services are acquired in significant amounts by the U.S. Government.

Each submission should provide, in order, the following general information: (1) the party submitting the information; (2) the foreign country or countries that are the subject of the submission and the entities of each subject country's government whose practices are being cited, and (3) the U.S. products or services that are affected by the non-compliance or discrimination.

Each submission should also provide specific information on the particular problem: (1) noncompliance with the former GATT Agreement on Government Procurement or new WTO Government Procurement Agreement; (2) the type of discrimination encountered, including information regarding the date and nature of affected procurement(s); (3) policies or practices which are discriminatory, not transparent or anti-competitive (where possible, include copies of discriminatory laws, policies or regulations), and (4) the extent to which the problem has impeded the ability of U.S. suppliers to participate in procurements on terms comparable to those available to suppliers of the country in question when they are seeking to sell goods or services to the U.S. Government; (5) examples of failure to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement.

Finally, each submission should: (1) If applicable, identify provisions of the former GATT or WTO Codes which are not being observed by the country identified or describe how the country identified has maintained a significant and persistent pattern or practice of discrimination in government procurement of non-Code-covered goods or services; (2) identify the specific impact of the discriminatory policy or practice on U.S. businesses (including an estimate of the value of market opportunities lost and, if any, the cost of preparing bids which are rejected during the course of procurement evaluation for discriminatory reasons), and (3) describe the extent of which the products or services of the country identified are acquired in significant amounts by the U.S. Government.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 96–2885 Filed 2–8–96; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council

Editorial Note: This document supersedes the notice published on Monday, February 5, 1996.

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

TIME AND DATE: 8:30 a.m., February 14, 1996.

PLACE: U.S. Office of Personnel Management Auditorium, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC 20415–0001.

STATUS: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

MATTERS TO BE CONSIDERED: This meeting will consist of an awards ceremony. The winners of the NPC Partnership Award will be announced; and the winners will receive their awards. The NPC Partnership Award is given in recognition of outstanding labor-management partnership activities. These will be the first NPC Partnership Awards given out.

CONTACT PERSON FOR MORE INFORMATION: Douglas K. Walker, National Partnership Council, Executive Secretariat, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 5315, Washington, DC 20415–0001. (202) 606–1000.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 96–2744 Filed 2–8–96; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* RUIA Claims Notification System.

(2) *Form(s) submitted:* ID–4k.

(3) *OMB Number:* 3220–0171.

(4) *Expiration date of current OMB clearance:* March 31, 1996.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 500.

(8) *Total annual responses:* 386,000.

(9) *Total annual reporting hours:* 4,195.

(10) *Collection description:* Section 5(b) of the RUIA requires that effective January 1, 1990, when a claim for benefits is filed with the Railroad Retirement Board (RRB), the RRB shall provide notice of such claim to the claimant's base year employer(s) and afford such employer(s) an opportunity to submit information relevant to the claim.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–2784 Filed 2–8–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21729; No. 812–9790]

American Skandia Life Assurance Corporation, et al.

February 5, 1996.

AGENCY: Securities and Exchange Commission ("SEC or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: American Skandia Life Assurance Corporation ("American Skandia"), American Skandia Assurance Corporation Variable Account B ("Separate Account") and American Skandia Marketing, Inc. ("Marketing").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 2(a)(32), 22(c), 26(a)(2)(Ç), 27(c)(1), 27(c)(2), and 27(d) of the 1940 Act and Rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants see an order to permit the deduction of a mortality and expense risk charge and the recapture of certain credits applied to purchase payments from the assets of the Separate Account or any other separate account ("Other Accounts") established by American Skandia to support certain flexible premium individual tax deferred variable annuity contracts ("Contracts") as well as other variable annuity contracts that are substantially similar in all material respects to the Contracts ("Future Contracts"). In addition, Applicants propose that the order extend to any broker-dealer other than Marketing, that may in the future serve as principle underwriter for the Contracts or Future Contracts, the same exemptions granted to Marketing ("Future Broker-Dealers"). Any such broker-dealer will be a member of the National Association of Securities Dealers, Inc. ("NASD"), and will be controlling, controlled by, or under common control with American Skandia.

FILING DATE: The application was filed on September 25, 1995, and was amended on January 25, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 1, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, M. Patricia Paez, Corporate Secretary, c/o Jeffrey M. Ulness, Esq., American Skandia Life Assurance Corporation, One Corporate Drive, Shelton, Connecticut 06484.

FOR FURTHER INFORMATION CONTACT: Pamela K. Ellis, Senior Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. American Skandia, a stock life insurance company, is organized in Connecticut and licensed to do business in the District of Columbia and all of the United States. American Skandia is a wholly owned subsidiary of American Skandia Investment Holding Corporation ("ASIHC"), which in turn is wholly owned by Skandia Insurance Company Ltd., a Swedish corporation.

2. The Separate Account is a separate account established by American Skandia to fund the Contracts. The Separate Account is registered with the Commission as a unit investment trust under the 1940 Act, and the Contracts are registered as securities under the Securities Act of 1933.

3. American Skandia will establish for each investment option offered under the Contract a Separate Account subaccount ("Subaccount"), which will invest solely in a specific corresponding portfolio of certain designated investment companies ("Funds"). The Funds will be registered under the 1940 Act as open-end management investment companies. Each Fund portfolio will have separate investment objectives and policies.

4. Marketing will serve as the distributor and principal underwriter of the Contracts. Marketing, a wholly owned subsidiary of ASIHC, is registered under the 1934 Act as a broker-dealer and is a member of the NASD.

5. In addition, broker-dealers other than Marketing also may serve as distributors and principal underwriters of certain of the Contracts as well as the Future Contracts.

6. There are two different Contracts which are being registered ("Contract A and Contract B", respectively).[1] The Contracts are individual and group flexible premium variable tax deferred annuity contracts. The Contracts may be used in connection with retirement plans that qualify for favorable federal income tax treatment under Section 401, Section 403, or Section 408 of the Internal Revenue Code of 1986, as amended, or the Contracts may be purchased on a non-tax qualified basis.

7. Contract A may be purchased with an initial payment of $1,000 and Contract B may be purchased with an initial payment of $25,000; the minimum subsequent purchase payment for both Contract A and Contract B is $100. Alternatively, in both cases, the Contract owner may authorize and American Skandia may accept the use of a program of periodic purchase payments provided that such payments received in the first year total American Skandia's then current minimum payments under such a program. Net purchase payments may be allocated to one or more of the Subaccounts that have been established to support the Contracts or, in most jurisdictions, to a fixed account.

8. Under Contract A, American Skandia will add bonus credits ("Credits") to the account value in conjunction with each purchase payment. The funds for such credits are drawn from American Skandia's general account. Generally, when total purchase payments are less than $10,000, the Credits equal 1.5% of purchase payments. When the total purchase payments are at least $10,000 but less than $1 million, the Credits equal 3$ of purchase payments. When total Purchase payments are at least $1 million but less than $5 million, the Credits equal 4% of purchase payments. Credits equal 5% of purchase payments if the total is at least $5 million. The Credits are vested when applied, except under the following circumstances: (1) An amount equal to any Credit will be returned to American Skandia if the Contract owner cancels the Contract during the free-look period; (2) an amount equal to "Excess Credit will be returned to American Skandia should a purchaser not fulfill its letter of intent obligation within a 13 month period; [2] (3) an amount equal to any Credit will be returned to American Skandia by reducing the amount available pursuant to the medically available surrender by an amount equal to any Credit allocated within 12 months of the first occurrence of the applicable contingency upon which such medically related surrender is based (or applied after an application is received for such medically related surrender); and (4) an amount equal to any Credits applied within 12 months prior to the date of death causing the payment of a death benefit will be returned to American Skandia should the death benefit be greater than the minimum death benefit. No such program applies under Contract B.

9. The Contracts provide for a series of annuity payments beginning on the "Annuity Date." The Contract owner may select from several payout options which provide periodic annuity payments on a fixed basis.

10. Prior to the Annuity Date, a medically related surrender may be available under Contract A. If the specified eligibility requirements are met, the amount available for surrender is the account value less an amount equal to any Credit allocated to the "account value" [3] within twelve months after the first occurrence of the contingency upon which the medically related surrender is permitted.[4] No similar program applies under Contract B.

11. During the accumulation period, the Contracts provide for payment of a death benefit upon the death of: the first Contract owner, should the annuity be held by one or more natural persons; or the annuitant, should the annuity be held by an entity and there is no contingent annuitant. The minimum death benefit under both Contracts is the sum of all purchase payments less the sum of any withdrawals. If a decent was not named a Contract owner or annuitant as of the Contract issue date, and did not become such as a result of a prior Contract owner's or annuitant's death, the minimum death benefit is suspended as to that person for a two-year period from the date he or she first became a Contract owner or annuitant. Following the suspension period, the death benefit is the same as if such person had been a Contract owner or annuitant on the Contract issue data.

12. After the first ten Contract years, the death benefit under Contract A is the account value less an amount equal to any Credit allocated within 12 months prior to the date of death. During the first ten Contract years, the death benefit is the greater of (1) or (2), where: (1) Is the account value of the Subaccounts and the "interim value" of any "fixed allocations" less any Credits applied with in the twelve months prior

[1] Applicants have received a similar exemptive order in relation to other annuities. *American Skandia Life Assurance Corp.*, Investment Company Act Rel. No. 20980 (Mar. 31, 1995) (notice) and Investment Company Act Rel. No. 21034 (Apr. 27, 1995) (order) ("April Order"). The April Order permitted Applicants to deduct a mortality and expense risk charge from the assets of certain flexible premium deferred variable annuity contracts and any contracts offered in the future that were substantially similar in all material respects to the contracts that were the subject of the April Order. Applicants state that while they believe that the Contracts which are the subject of this application may be substantially similar to the contracts that were the subject of the prior relief, Applicants are submitting this request to avoid any possibility that may be raised as to whether the Contracts that are subject of this application are substantially similar "in all material respects" to the contracts which were the subject of the prior exemption relief.

[2] "Excess Credit" is the amount of the Credit in excess of what would have been payable without the letter of intent.

[3] The "account value" is the value of each allocation to a Subaccount or a "fixed allocation" prior to the annuity date, plus any earnings, and/or losses, distributions, and charges thereon, before assessment of any applicable contingent deferred sales charge and/or maintenance fee.

[4] In the case of a medically related surrender, Credits applied in conjunction with purchase payments received after application for a medically related surrender will also be returned to American Skandia.

to the date of death;[5] and (2) is the minimum death benefit.

13. Under Contract B, the death benefit after the earlier of ten Contract years or age 90 of the decedent is the account value. Prior to that, the death benefit is the greater of (1) or (2), where: (1) Is the account value of the Subaccounts and the interim value of fixed allocations; and (2) is a minimum death benefit.

14. Certain charges and fees are assessed under the Contracts. There is no transfer fee charged for transfers or "renewals"[6] from a fixed allocation at the end of its guarantee period, or for the first 12 transactions from Subaccounts of the Separate Account in each Contract year. Subsequent transfers within a Contract year, however, will be assessed a fee of $10 per transfer.

15. Before the Annuity Date, American Skandia will deduct an administration charge at the rate of .15% per annum of the average daily total asset value of each Account.

16. Before the Annuity Date and upon surrender, American Skandia will deduct a maintenance fee equalling the lesser of 2% of the account value or $30 per Contract year. This fee is waived under certain circumstances that generally include situations when the maintenance expenses likely are to be reduced (*i.e.*, when a large number of annuities are purchased by an owner).

17. The total maintenance fee and administrative charges assessed against the Separate Account will not be greater than the total anticipated costs of services to be provided over the life of the Contracts, in accordance with the applicable standards of Rule 26a–1 under the 1940 Act.

18. Under Contract A, a contingent deferred sales charge ("CDSC") may be imposed on certain withdrawals. The amount of the CDSC decreases annually from 8.5% to 0% over 9 Contract years. In addition, there is a free withdrawal amount during a Contract year that is the greater of (1) or (2), where (1) is the annuity's "growth"[7] and (2) is 10% of "new" purchase payments. When determining the CDSC, withdrawals other than the free withdrawals amount will be allocated first to any amount available as a free withdrawal, then from new purchase payments on a first-in first-out basis. There is no CDSC upon withdrawal under Contract B.

19. American Skandia proposes to deduct a daily mortality and expense risk charge. This charge will be equal to an effective annual rate of 1.25% of the daily net asset value of the Separate Account. Of this amount, approximately .90% is for mortality risks and .35% is for expense risks.

20. American Skandia assumes the mortality risk that the life expectancy of the annuitant will be greater than that assumed in the guaranteed annuity purchase rates, thus requiring American Skandia to pay out more in annuity income than it had planned. Additional mortality risks assumed by American Skandia are that it will waive the CDSC in the event of the death of the owner, and its contractual obligation to provide a standard and an enhanced death benefit prior to the annuity date. Thus, American Skandia assumes the risk that it may not be able to cover its distribution expenses and that the owner may die at a time when the amount of the death benefit payable exceeds the then net surrender value of the Contracts. The expense risk assumed by American Skandia is that the contract administration charge and maintenance fee will be insufficient to cover the cost of administering the Contracts.

21. In the event the mortality and expense risk charges are more than sufficient to cover American Skandia's costs and expenses, any excess will be a profit to American Skandia.

22. Should the owner live in a jurisdiction that levies a premium tax, American Skandia will pay the taxes when due. American Skandia represents that state premium taxes may range up to 3.5% of purchase payments and are subject to change. Although no local taxes currently are assessed against any American Skandia annuity, local taxes also may be assessed.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule, or regulation of the 1940 to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositors or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction from the net assets of the Separate Account and the Other Accounts in connection with the Contract and Future Contracts of the 1.25% charge for the assumption of mortality and expense risks, and an extension of the exemptive relief requested herein to Future Broker-Dealer.

4. Applicants represent that the 1.25% per annum mortality and expense risk charge is within the range of industry practice for comparable annuity contracts. This representation is based upon an analysis of publicly available information about similar industry products, taking into consideration such factors as, among others, the current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. American Skandia will maintain at its principal offices, and make available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, Applicants' comparative review. In addition, Applicants will keep, and make available to the Commission, a memorandum setting forth the basis for the same representations, and that the mortality and expense risk charges are reasonable, with respect to the Future Contracts offered by the Separate Account or Other Accounts.

5. American Skandia has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Accounts and Other Accounts and their respective investors. American Skandia represents that it will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion. In addition, Applicants will keep, and make available to the Commission, a memorandum setting forth the basis for the same representations with respect to the Future Contracts offered by the Separate Account or Other Accounts.

6. The Separate Account and Other Accounts will be invested only in management investment companies that undertake, in the event the company should adopt a plan for financing distribution expenses pursuant to Rule 12b–1 under the 1940 Act, to have such plan formulated and approved by the company's board members, the majority of whom are not "interested persons" of the management investment company within the meaning of Section 2(a)(19) of the 1940 Act.

7. Applicants request exemptions from Section 2(a)(32), 22(c), 26(a)(2)(c), 27(c)(1), 27(c)(2), and 27(d) of the 1940 Act and Rule 22c–1 thereunder to the extent necessary to permit American Skandia to issue certain Contracts which provide a "bonus" Credit to a Contract with each purchase payment received and to recapture such Credit if: (1) The Contract is cancelled during the "free-look" period; (2) the purchaser fails to satisfy his or her obligations to make certain purchase payments within a 13 month period pursuant to a letter of intent; (3) there is a medically related surrender; and (4) the death benefit payable is greater than the minimum death benefit.

8. Applicants represent that it is not administratively feasible to track the Credit amount in the Separate Account. Accordingly, any asset based charges under the Contracts will be assessed against the entire amount in the Separate Account, including the Credit amount, even during the period when the Contract owner's interest in the Credit is not completely vested. As a result, for a period of up to 13 months from the Contract issue date, the aggregate asset based charges assessed will be higher than those which would be charged if the Contract owner's account value did not include the Credit.

9. Applicants submit that the recapture of the Credit amount would not deprive an owner of his or her proportionate share of the issuer's current net assets. Until the right to recapture has expired, American Skandia retains the right to, and interest in, the Credit amount, although not in the earnings attributable to that amount. Applicants state that the Contract owner's interest in the Credit amount should not be viewed as completely vested until the applicable recapture period has ended. Thus, Applicants assert that when American Skandia recaptures the applicable Credit, it merely retrieves its own assets, and because the Contract owner's interest in that amount has not been completely vested, he or she has not been deprived of a proportionate share of the Separate Account's assets. Applicants submit that the Contract's provisions for recapture of any applicable Credit does not violate Section 27(c)(1) and 2(a)(32) of the 1940 Act.

10. Applicants assert that because the recapture of any Credit amount merely returns to American Skandia its own assets, such recapture is not a payment of the sort addressed by Section 26(a)(2)(C). Moreover, Applicants submit that the Credit amount should at most be viewed as a deduction from the amount redeemed rather than from the account, and thus Section 26(a)(2)(C) would not apply.

11. Although Section 27(d) speaks in terms of the certificate holder receiving the value of his or her account, Applicants assert that the recapture of any credits is consistent with that section. Applicants state that the Contract owner's interest in any Credit does not vest completely until the right of recapture has expired. Until such time, American Skandia retains the rights to and interest in any such Credit. Thus, Applicants assert the reference to Section 27(d) to the value of the account should not be understood to encompass the principal amount of any Credit.

12. Applicants state that American Skandia's addition of the Credit arguably could be viewed as resulting in the owner purchasing redeemable securities for a price below the current net asset value. Applicants contend, however, that the Credit is not violative of Section 22(c) and Rule 22c–1. Applicants assert that the Credit does not threaten the evils that Rule 22c–1 was intended to eliminate or reduce—namely, the dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption or repurchase at a price above it, or other unfair results, including speculative trading practices. These evils were the result of the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day—i.e., "backward pricing." Where this practice allowed purchasers to take advantage of increases in the net asset value that were not yet reflected in increased price, the value of outstanding mutual fund shares were diluted. The proposed Credit poses no such threat of dilution. Interests in the Contract owner's account will be sold at a price determined on the basis of net asset value. The Credit does not reflect a reduction of that price. Instead, American Skandia will purchase with its own money on behalf of the Contract owner an interest equal to the Credit amount based on the size of the initial purchase payment. Because any Credit will be paid from American Skandia's general account assets and will not be drawn from the assets of the Separate Account, no dilution will occur.

13. Applicants also submit that a second harm that Rule 22c–1 was designed to address—namely, speculative trading practices—will not occur as a result of the proposed Credit. Because neither of the harms that Rule 22c–1 was meant to address would result from American Skandia's proposed method of adding Credits to a Contract owner's account value, Rule 22c–1 and Section 22(c) should have no application to American Skandia's proposal to add Credits.

14. Applicants assert that the terms of the relief requested with respect to any Future Contracts funded by the Separate Account or Other Accounts, as well as for Future Broker-Dealers, are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, Applicants would have to request and obtain exemptive relief for each Other Account it establishes to fund any Future Contract, as well as for each Future Broker-Dealer that distributes the Contracts or the Future Contracts. Applicants submit that any such additional request for exemption would present no issues under the 1940 Act that have not already been addressed in this application, and that investors would not receive any benefit or additional protections thereby.

15. Applicants submit that the requested relief is appropriate in the public interest, because it would promote competitiveness in the variable annuity contract market by eliminating the need for Applicants to file redundant exemptive applications, thereby reducing their administrative expenses and maximizing the efficient use of their resources. The delay and expense involved in having to seek exemptive relief repeatedly would reduce Applicants' ability effectively to take advantage of business opportunities as they arise.

16. Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. Applicants thus believe that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the

[5] "Fixed allocation" is defined as an allocation of account value that is to be credited a fixed rate of interest for a specified guarantee period during the accumulation phase, and is to be supported by the assets of the Separate Account.

As of any particular date, the "interim value" is the initial value of a fixed allocation, plus all interest credited thereon, less the sum of all previous transfers and withdrawals of any type from such fixed allocation of such interim value and interest thereon from the date of each withdrawal or transfer.

[6] A "renewal" is a transaction that occurs automatically as of the last day of a fixed allocation's guarantee period unless American Skandia receives alternative instructions.

[7] "Growth" is defined as the then current account value, less all "unliquidated" purchase payments (*i.e.*, purchase payments not previously surrendered or withdrawn), and less the value at the time credited of any Credits or additional amounts.

purposes fairly intended by the policy and provisions of the 1940 Act.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2873 Filed 2–8–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36810; File No. SR–CSE–96–01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Cincinnati Stock Exchange Relating to Clearance Identification Procedures for Members

February 5, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 16, 1996, The Cincinnati Stock Exchange ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the CSE's by-laws to clarify that members must "give up" a valid CSE clearing number. The text of the proposed rule change is available at the Office of the Secretary, the CSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has filed proposed Interpretation .03 to Article II, Section 5.1, of its by-laws for the purpose of clarifying that a member may only "give up" its own or another CSE member's clearing number when executing a transaction on the Exchange.[2] This requirement ensures that the Exchange will have the ability to exercise jurisdication over all of the parties involved in executing and settling trades that occur on the CSE.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[3] of the Act in general and furthers the objectives of Section 6(b)(5)[4] in particular in that it is designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members Participants, or Others

The Exchange has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–96–01 and should be submitted by March 1, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2870 Filed 2–8–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36806; File No. SR–DTC–95–26]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Securities Payment Order Instructions to Modify Substitute Income Payments on Stock Loans

February 2, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 5, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DTC–95–26) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change facilitates participant recordkeeping by enabling a participant to specify that a Securities Payment Order ("SPO")[2] is for the specific purpose of increasing or decreasing the amount of a substitute payment[3] made in connection with distributions on borrowed securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to enable participants to account for SPOs given to increase or decrease the amount of a substitute payment in connection with a securities loan. The amount of a substitute payment may be affected by laws requiring the withholding of taxes or by a contract between the parties. The proposed rule change will allow participants to use existing procedures to specify the purpose of the withholding.[5]

The following is an example of how the proposed rule change would be used by participants. A typical stock loan occurs to cover a short sale or a fail. Suppose the borrower, B, sells 100 shares sort to a third party, X. B arranges to borrow stock from a lender, L, to settle with X. L delivers the 100 shares to B through DTC with a deliver order ("DO") coded as a stock loan. B then delivers the 100 shares to X with an ordinary DO used to settle the transaction. While the loan is outstanding, the record date for an upcoming distribution occurs. X does not know that B was a short seller or that the stock now in X's position at DTC was borrowed from L. DTC's books on the record date show L with 0, B with 0, and X with 100 shares. DTC will pay the distribution only to X.

The typical stock loan contract provides that the borrower will compensate the lender in lieu of any distribution made on the borrowed securities during the period of the loan that the lender would have received absent the loan. The compensating payment is referred to in the United States as a substitute payment. Because X and not L receives the distribution on payment date, B owes L a substitute payment. Consequently, there are two payments. The payment to X is a dividend, and the payment from B to L is a substitute payment.

Under DTC's existing Stock Loan Income Tracking ("SLT") system,[6] does not need to take any action to cause the payment of the substitute payment to L. The SLT system notes the stock loan DO and creates a memo account to be utilized on future distributions. Under the SLT procedures, B's account will be debited and L's account credited the cash amount of the substitute payment. For U.S. securities, the loan contract between a U.S. lender and a U.S. borrower provides that the substitute payment will be computed as 100% of the dividend amount.

However, some payments by B to L require tax withholding. For example, if B and L are both U.S. tax residents and the stock loan is a U.S. security, B is required to obtain L's Tax Identification Number ("TIN") before paying the substitute payment. The Internal Revenue Code requires B to report the amount of the substitute payment and L's TIN to the Internal Revenue Service ("IRS") with a copy of L. If the IRS determines that L's TIN is invalid, B may be required to withhold 31% of each future substitute payment to L and remit it to the IRS. This requirement is known as "backup withholding."

It should be noted that the possibility of L supplying B with an invalid TIN causing B to have to make back up withholdings is extremely remote. Nevertheless, if this happens when, for example, a dividend paralleling a substitute payment is $1.00, B needs a way to cause DTC to make a substitute payment of 69¢ instead of $1.00. Under DTC's existing rules, B would use DTC's SPO procedure to instruct DTC to debit L and credit B for 31¢. L, having been credited $1.00 by DTC and debited 31¢, would receive a net payment of 69¢. B would receive a net debit of 69¢ and also would be required to remit 31¢ to the IRS for a net payment of $1.00. This is exactly the amount of the substitute payment required under B's and L's stock loan contract.

B could issue an SPO for 31¢ under DTC's existing rules and its settlement statement would show the 31¢, but the settlement statement would not state that the 31¢ constituted a decrease in a substitute payment. Therefore, DTC is enhancing the SPO and stock loan process to give a borrowing participant a method of indicating for its records that a certain SPO was for the specific purpose of increasing or decreasing the amount of a substitute payment made in connection with the distribution on borrowed securities.

The proposed rule change is consistent with the requirements of the Act and specifically with Sections 17A(b)(3)(A) and (F)[7] because the proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions by enabling substitute payments to be correctly identified.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

During the design phase of SLT, DTC received suggestions and comments indicating that the preferred method of increasing or decreasing substitute payments in the SLT would be through DTC's existing SPO function. DTC participants suggested that with modifications the SPO could allow lenders or borrowers to specify that a particular SPO increased or decreased

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[1] 15 U.S.C. 78s(b)(1).

[2] The CSE member whose clearing number is "given up" is responsible for clearing that trade.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 C.F.R. 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] SPOs allow DTC participants to make money payments through DTC when these payments are in connection with, but are not the direct result of, securities transactions in DTC (e.g., stock loans). For a complete description of SPOs refer to Securities Exchange Act Release No. 15193 (October 10, 1978), 43 FR 46615 [File No. SR–DTC–78–10] (order approving a proposed rule change relating to the implementation of securities payment orders).

[3] A substitute payment is a payment made by a borrower of securities to the lender in lieu of dividends, interest, or other distributions on the securities.

[4] The Commission has modified the text of the summaries prepared by DTC.

[5] If this rule change were not implemented, participants could accomplish the same purpose using existing procedures, but their records would not be specific with regard to the reason for the SPO.

[6] For a complete description of SLT, refer to Securities Exchange Act Release No. 34665 (September 13, 1994), 59 FR 48345 [File No. SR–DTC–94–07] (order approving proposed rule change establishing the Stock Loan Income Tracking System).

[7] 15 U.S.C. 78q–1(b)(3)(A) and (F) (1988).

the borrower's substitute payment to the lender. With modifications, participants also could enter the SLT-related SPO in advance of the payment date so that DTC could execute the SLT-related SPO payment on the payment date for the distribution on the borrowed shares. This proposed rule change is to implement these modifications and also is to assist participants in recordkeeping for cross-border stock loans of U.S. securities.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)[8] of the Act and pursuant to Rule 19b–4(e)(4)[9] promulgated thereunder because the proposal constitutes a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR–DTC–95–26 and should be submitted by March 1, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2872 Filed 2–8–96; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

[9] 17 CFR 240.19b–4(e)(4) (1994).

[10] 17CFR 200.30–3(a)(12) (1995).

[Release No. 34–36809; File No. SR–PSE–95–31]

Self-Regulatory Organizations; Pacific Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Relating to Arbitration Procedures Involving Prehearing Document Exchanges

February 5, 1996.

On December 7, 1995, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to arbitration procedures that would increase the prehearing document exchange deadline from ten days to twenty days. On December 18, 1995, the Exchange submitted Amendment No. 1 to the proposed rule change to the Commission.[3]

The proposed rule change, together with Amendment No. 1, was published for comment in the **Federal Register** on December 27, 1995.[4] No comments were received on the proposal.

PSE Rule 12.14(c) currently requires that, at least ten calendar days prior to the first scheduled hearing date, all parties serve on each other copies of documents in their possession that they intend to present at the hearing and identify the witnesses they intend to present at the hearing. The Exchange has proposed to increase this time period from ten to twenty calendar days. The Exchange maintains that this change will help alleviate the burden that currently falls on the Exchange's Arbitration Department and parties to an arbitration proceeding in responding to last minute discovery requests arising from the exchange of documents intended to be used by the parties at the arbitration hearing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[5] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Moreover, the proposed amendment should assist parties in the process of preparing and organizing their cases and should provide the parties with a more reasonable time frame within which to address last minute discovery requests.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–PSE–95–31) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. MacFarland,

Deputy Secretary.

[FR Doc. 96–2871 Filed 2–8–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The amendment corrected the proposal's reference to Section 15A(b)(6) as its statutory basis and deleted superfluous language describing an affirmative obligation to supplement and correct discovery. See Letter dated December 13, 1995, from Rosemary A. MacGuinness, Senior Counsel, PSE, to Glen Barrentine, Senior Counsel/Team Leader, SEC.

[4] Securities Exchange Act Release No. 36603 (Dec. 19, 1995), 60 FR 67007.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30-3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Representative Payment Advisory Committee; Public Meeting Reminder

AGENCY: Social Security Administration.

ACTION: Notice of reminder of public meeting.

SUMMARY: On December 22, 1995, the Social Security Administration published a notice in the **Federal Register** (60 FR 66573) in accordance with section 10(a)(2) of the Federal Advisory Committee Act announcing the forthcoming meeting of the Representative Payment Advisory Committee. This notice serves as a reminder that, in accordance with that announcement, the Representative Payment Advisory Committee meeting scheduled for February 15–16, 1996 will be held as planned. The Committee will hear testimony at the Environmental Protection Agency Classrooms, 75 Hawthorne Street, First Floor, San Francisco, CA 94105 from 9:00 a.m. to 5:00 p.m. on both days. Persons interested in presenting oral statements may call the Advisory Committee staff at (410)-966–4688 to schedule a presentation time. The Committee will deliberate at the same location from 7:00 p.m. to 9:00 p.m. on February 15, 1996. The public is invited to attend both days, including the evening deliberation; however, no testimony will be heard that evening.

Dated: February 5, 1996.

Reba Andrew,

Staff Director, Representative Payment Advisory Committee.

[FR Doc. 96–2904 Filed 2–8–96; 8:45 am]

BILLING CODE 4190–29–P

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given that Chapter S1 for the Office of the Deputy Commissioner, Finance, Assessment and Management is being amended to reflect internal realignments within the Office of Publications and Logistics Management (OPLM) (S1S). Four of the current subordinate offices within OPLM will be abolished and their functions integrated into the remaining offices. The Office of Supply Management (S1SG) and the Office of Property Management (S1SE) will be integrated into the Office of Logistics Planning and Process Control (S1SH) and the name of that office will be changed to the Office of Supply and Property Management (S1SH). The Office of Printing Operations (S1SL) and the Office of Mail Management (S1SM) will be integrated into the Office of Publications Management (S1SJ).

The Office of Supply Management (S1SG), the Office of Property Management (S1SE), the Office of Printing Operations (S1SL), and the Office of Mail Management (S1SM) will be abolished in their entirety. The changes are as follows:

Section S1S.10 The Office of Publications and Logistics Management—(Organization):

Delete:

E. The Office of Property Management (S1SE).

F. The Office of Supply Management (S1SG).

J. The Office of Printing Operations (S1SL).

K. The Office of Mail Management (S1SM).

Reletter:

"G" to "E," "H" to "F" and "I" to "G."

Retitle:

E. The Office of Logistics Planning and Process Control (S1SH) to the Office of Supply and Property Management (S1SH).

Section S1S.20 The Office of Publications and Logistics Management—(Functions):

Delete:

E. The Office of Property Management (S1SE).

F. The Office of Supply Management (S1SG).

J. The Office of Printing Operations (S1SL).

K. The Office of Mail Management (S1SM).

Reletter:

"G" to "E," "H" to "F" and "I" to "G."

Retitle and amend functions to read:

E. The Office of Logistics Planning and Process Control (S1SH) to the Office of Supply and Property Management (OSPM) (S1SH).

1. OSPM is responsible for the overall management and control of automatic data processing resources which support SSA's centralized SSA Supply and Property Accountability Systems. OSPM coordinates with SSA components, as well as other Agency financial/administrative components on major systems management projects and studies and is the primary systems planning, development, and execution component for OPLM. Its major mission is to ensure effective policies and processes, strengthen internal controls and assure continuing systems uniformity and reliability.

2. OSPM is responsible for the collection, validation, process, and control of SSA-wide requisitions for expendable supplies. The office supports special service programs for processing field and Headquarters emergency supply requests, planned training class orders, as well as normal orders received via the SSA Telecommunications Network, for request, or via memorandum. A Customer Service Desk responds to telephone status inquiries and requests for stock catalog information.

3. OSPM oversees all policy and procedures pertaining to the acquisition, utilization, accountability, transfer and disposal of SSA personal property. Represents SSA's interest as liaison to GSA and other Federal, State and local Government and private sector organizations and vendors in the acquisition, transfer and disposal of personal property. Oversees the acquisition and installation of modular/systems furniture in SSA offices nationwide. Acts as technical expert and plans, coordinates and implements studies and surveys related to providing necessary ergonomic furniture and equipment to support SSA employees.

4. Oversees the acquisition and installation of modular furniture in SSA offices. Plans, coordinates and implements studies and surveys to access the variety of ergonomic furniture previously purchased and new furniture available to SSA offices. Maintains audit trails for both normal and special expense incurred during and after furniture installation. Is responsible for all financial management and contracting activities performed within the scope of the Interagency Agreement with the Federal Prison Industries. Provides expert technical advice and consultative services to the SSA executive staff and to major headquarters and regional components. Serves as liaison with the Office of Management and Budget, General Services Administration and other Government and private organizations on policy and issues relating to ergonomic furniture and equipment.

5. OSPM develops, administers and oversees all policy and procedures pertaining to the acquisition, utilization, accountability, transfer and disposal of SSA personal property (furniture/equipment). It manages and maintains the SSA Property Accountability System and the Property Management Officer/Custodial Officer network for the effective control of all SSA's sensitive, accountable and capitalized personal property assets. It is SSA's liaison for all personal property activities with other Federal, State and local Agencies, as well as commercial and civic organizations.

OSPM is responsible for the development of policies, procedures and directives in support of the office's supply management program. Using the automated Social Security Supply System, along with budget and other data, office staff will ensure that the Agency's printing requests and justified requisitions are processed timely for all necessary forms, publications, office supplies and instructional materials. Office personnel also oversee the replenishment of warehouse stock for Headquarters' use, emergencies, etc. The office manages the Direct Delivery Program of scheduled shipments to field components of major use forms, publications and supplies. Also

oversees the development of the common expense supply budget.

7. OSPM monitors warehouse availability of on-hand training materials to accommodate periodic changes to training schedules and course material configurations.

Amend functions to read:

F. The Office of Publications Management (OPM) (S1SJ):

1. OPM directs a comprehensive SSA-wide forms control, publication and distribution management program, including forms and publications design, photocomposition and electronic information dissemination (electronic publishing, on-line publishing/services, electronic reference materials and CD–ROM and multimedia production and delivery). It also provides SSA-wide special media services for visually impaired employees. It is responsible for administering the regulatory and procedural requirements governing SSA's collection of information from the public, stemming from the Paperwork Reduction Act and providing liaison services with the Office of Management and Budget. It also coordinates the Agency Administrative Instructions Manual System for printing, clearance and issuance of policy, standards and procedural instructions.

2. The Office coordinates and directs a comprehensive printing management program and administers the procurement of all SSA printing needs. It prepares the Agency's Comprehensive Printing Program Plan report for the Joint Committee on Printing (JCP) and provides liaison with the JCP and the Government Printing Office on policy and procedural issues. OPM plans, directs and administers the SSA mail policy program, including developing methodologies (e.g., presorting, barcoding, direct accountability, etc.) It provides liaison with the United States Postal Service in all national level mail management and operational policy negotiations and activities. It also administers agencywide mail management contracts.

3. The Office plans, directs and coordinates the SSA mail handling program, including the receipt, processing, and dispatch of all incoming and outgoing United States Postal Service mail for SSA headquarters. It provides inter-office mail service for SSA headquarters and priority delivery service in Washington, D.C. It administers oversight of necessary contracts such as the internal mail messenger service. It consolidates and processes outgoing mail from headquarters to District Offices, Branch Offices, Program Service Centers and Regional Offices, etc. It also processes computer-generated priority notices to SSA beneficiaries nationwide, using high-speed equipment to fold, insert and label mailings.

4. The office provides SSA in-house printing services for short turnaround work which cannot be procured commercially. It provides coordination, technical advice and guidance to Agency components on SSA's in-house printing operation. Services include camera and film stripping functions; printing of materials, including multi-color specialty work; providing bindery and finishing of materials such as collating cutting, folding, drilling, stitching and binding; shipping and distribution of all SSA in-house printing and commercially-produced printing, as needed, including boxing, shrinkfilming, envelope insertion and labeling packages. It delivers or arranges for delivery of all completed material. OPM is responsible for the reproduction of printed material, using reprographic equipment, which includes large scale specialty items such as space floor plans and blueprints. It is also responsible for the development of metal photo requests for Commissioner's citations, award plaques, signs, etc.

Dated: August 21, 1995.

Ruth A. Pierce,

Deputy Commissioner for Human Resources.

[FR Doc. 96–2905 Filed 2–8–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Office of Central American Affairs

[Public Notice 2326]

Filing Property Claims in Nicaragua

AGENCY: Office of Central American Affairs, Department of State.

ACTION: Notice.

The Government of Nicaragua has approved a *Law of Property Stabilization*, effective December 2, 1995. Article 11 of this law provides that

"The National Confiscation Review Committee shall, within 90 business days of the entry into force of this law, accept claims from persons whose real estate properties or other assets connected to the property have been affected by expropriations, confiscations, or occupations and who were unable to file such claims at the proper time, without prejudice to the rights established in the Civil Code. In this case once the administration jurisdiction has been selected, no judicial action may be taken. This provision does not apply to persons affected by Decree No. 3 of July 20, 1979 * * *

This Law pertains to an ongoing program of the Government of Nicaragua to review claims arising from confiscation or other taking by the previous Government of property located in Nicaragua. All persons who wish to preserve their right to make a claim against the Government of Nicaragua who have not already registered their claims, should therefore consider filing their claims with the National Confiscation Review Commission within the deadline imposed by Nicaraguan law. For more information about your rights under Nicaraguan law, you are advised to consult a local Nicaraguan attorney. The United States Government does not have any official role or responsibility in this program.

Claims may be filed through the Embassy of Nicaragua, 1627 New Hampshire Ave., N.W. Washington, D.C. 20009 (Telephone 202–939–6570); the Nicaraguan Consulate in Miami, 8370 W. Flagler St. #220,, Miami, FL 33144 (Telephone 305–220–6900/03), or the Office on Property in Miami, 8370 W. Flagler St. #232, Miami, FL 33144, (Telephone 305–222–1350 or 305–222–4786.) Claims may also be filed directly with the Ministry of Finance, Vice Ministry on Property, Managua, Nicaragua (Telephone 011–505–2–285582 or 227082).

Dated: January 30, 1996.

Gary H. Maybarduk,

Acting Director, Office of Central American Affairs.

[FR Doc. 96–2779 Filed 2–8–96; 8:45 am]

BILLING CODE 4710–29–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements filed during the Week Ending February 2, 1996

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1036.
Date filed: January 29, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC3 Telex Mail Vote 780
Japan-Korea fares
r–1—053d, r–4—63d, r–7—090kk
r–2—043d, r–5—076LL, r–8—092hh
r–3—063d, r–6—081tt, r–9—092t
Intended effective date: February 9, 1996

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–2854 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending February 2, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1044.
Date filed: January 31, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 28, 1996.

Description: Application of Skyteam Airlines, Inc., pursuant to 49 U.S.C. 41102 and Subpart Q of the Regulations, requests authority to engage in interstate and overseas scheduled air transportation of persons, property and mail: Between any point in any state in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–2855 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Notice of Availability; Draft Clean Air Act, General Conformity Determination, Seattle-Tacoma International Airport, Seattle, Washington

ACTION: Federal Aviation Administration's (FAA) proposed actions includes: (1) approval of the Airport Layout Plan (ALP) for the proposed improvements at Sea-Tac International Airport; (2) provide possible federal funding for eligible projects contemplated within the planning horizon as illustrated on the ALP; (3) development or revision of air traffic control procedures for the proposed improvements; and (4) establishment of navigational aids. The Port of Seattle, as operator of the airport, will design and build the proposed improvements. Because these actions are necessary for federal-funded public use airports, the FAA is required to meet the Clean Air Act general conformity requirements under 40 Code of Federal Regulations, Part 93, Subpart B for the federal action for this undertaking.

ABSTRACT: The Port of Seattle, operator of Seattle-Tacoma International Airport, has prepared a Master Plan Update for the Airport. The Plan shows the need to address the poor weather operating capability of the Airport through the development of a third parallel runway (Runway 16X/34X) with a length of up to 8,500 feet, separated by 2,500 feet from existing Runway 16L/34R, with associated taxiways, utilities, and navigational aids. Other proposed development includes: extension of Runway 34R by 600 feet; establishment of standard Runway Safety Areas for Runways 16R/34L; development of a new air traffic control tower; Main Terminal improvements and terminal expansion; development of a new unit terminal located to the north of the existing main terminal; parking and access improvements and expansion; development of the South Aviation Support Area for cargo and/or maintenance facilities, and relocation, redevelopment, and expansion of support facilities. A Final Environmental Impact Statement (FEIS) has been prepared which assesses the impact of alternative airport improvements. The proposed improvements would be completed during the 1996–2020 period, with initial 5-year development focused on the new parallel runway, and existing passenger terminal, parking and access improvements.

Based on the conformity applicability criteria and the attainment status of the affected area, the conformity determination focuses on potential air emissions of carbon monoxide (CO) and ozone. Based on the air quality analysis provided in the FEIS, the FAA has determined that the proposed improvements at Sea-Tac International Airport conform to the Washington State Implementation Plan (SIP) and Ambient Air Quality Standards. The analysis of the proposed improvements at Sea-Tac has demonstrated that, with mitigation, the proposed improvements will not cause or contribute to new violations of any ambient air quality standards, nor increase the frequency or severity of an existing violation; nor delay timely attainment of the ozone or CO standards in the Puget Sound Region, and that the action is in compliance or consistent with all relevant requirements and milestones contained in the SIP. This conclusion of a positive general conformity determination fulfills the FAA's obligation and responsibility under 40 CFR Part 93, Subpart B. This General Conformity Determination has been prepared as specified in Section 176(c) [42 U.S.C. 7506c] of the Clean Air Act Amendments of 1990.

PUBLIC REVIEW: The public is invited to review and comment on the Draft Conformity Determination. Copies of the FEIS are available for review at the following locations:

Federal Aviation Administration, Airports Regional Office, Room 540, 1601 Lind Avenue, SW, Renton, WA
Port of Seattle, Aviation Planning, 3rd floor, Room 301, Terminal Building, SeaTac Airport, and Pier 69 Bid Office, 2711 Alaskan Way, Seattle
Puget Sound Regional Council, Information Center, 1011 Western Avenue, Seattle
Beacon Hill Library, 2519 1st Avenue, South, Seattle
Boulevard Park Library, 12015 Roseberg South, Seattle
Seattle Public Library, 1000 4th Avenue, Seattle
Magnolia Library, 2801 34th Ave W, Seattle
Rainier Beach Library, 9125 Rainier Avenue S., Seattle
Bothell Regional Library, 9654 NE 182nd, Bothell
Burien Library, 14700 6th SW, Burien
Des Moines Library, 21620 11th South, Des Moines
Federal Way Regional Library, 34200 1st South, Federal Way
Foster Library, 4205 South 142nd, Tukwila
Kent Regional Library, 212 2nd Ave N, Kent
Vashon Ober Park, 17210 Vashon Highway, Vashon
Tacoma Public Library, 1102 Tacoma Ave S., Tacoma
University of Washington, Suzallo Library, Government Publications, Seattle
Valley View Library, 17850 Military Road South, SeaTac
West Seattle Library, 2306 42nd Ave SW, Seattle
Bellevue Regional Library, 1111 110th Ave NE, Bellevue

Comments and requests for information may be directed to: Mr. Dennis Ossenkop, Northwest Mountain Region, Airports Division, Federal Aviation Administration, 1601 Lind Avenue, S.W., Renton, Washington 98055–4056. Comments must be received by March 18, 1996.

Issued in Renton, Washington on February 1, 1996.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 96–2850 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Availability; Final Environmental Impact Statement, Master Plan Update, Seattle-Tacoma International Airport, Seattle, WA

LEAD AGENCIES: Federal Aviation Administration (FAA) and the Port of Seattle.

The Port of Seattle, operator of Seattle-Tacoma International Airport, has prepared a Master Plan Update for the Airport. The Plan shows the need to address the poor weather operating capability of the Airport through the development of a third parallel runway (Runway 16X/34X) with a length of up to 8,500 feet, separated by 2,500 feet from existing Runway 16L/34R, with associated taxiways, utilities, and navigational aids. Other proposed development includes: Extension of Runway 34R by 600 feet; establishment of standard Runway Safety Areas for Runways 16R/34L; development of a new air traffic control tower; Main Terminal improvements and terminal expansion; development of a new unit terminal located to the north of the existing main terminal; parking and access improvements and expansion; development of the South Aviation Support Area for cargo and/or maintenance facilities, and relocation, redevelopment, and expansion of support facilities.

A Final Environmental Impact Statement (FEIS) has been prepared by the FAA and the Port of Seattle which assesses the impact of alternative airport improvements. The proposed improvements would be completed during the 1996–2020 period, with initial 5-year development focused on the new parallel runway, and existing passenger terminal, parking and access improvements.

Copies of the seven volume FEIS are available for review at the following locations:

Federal Aviation Administration, Airports Regional Office, Room 540, 1601 Lind Avenue, SW, Renton, WA

Port of Seattle, Aviation Planning, 3rd floor—Room 301, Terminal Building, Sea-Tac Airport, and Pier 69 Bid Office, 2711 Alaskan Way, Seattle

Puget Sound Regional Council, Information Center, 1011 Western Avenue, Seattle

Beacon Hill Library, 2519—1st Avenue, South, Seattle

Boulevard Park Library, 12015 Roseberg South, Seattle

Seattle Public Library, 1000—4th Avenue, Seattle

Magnolia Library, 2801—34th Ave W, Seattle

Rainer Beach Library, 9125 Rainier Avenue S., Seattle

Bothell Regional Library, 9654 NE 182nd, Bothell

Burien Library, 14700–6th SW, Burien

Des Moines Library, 21620—11th South, Des Moines

Federal Way Regional Library, 34200–1st South, Federal Way

Foster Library, 4205 South 142nd, Tukwila

Kent Regional Library, 212—2nd Ave N, Kent

Vashon Ober Park, 17210 Vashon Highway, Vashon

Tacoma Public Library, 1102 Tacoma Ave S., Tacoma

University of Washington, Suzallo Library, Government Publications, Seattle

Valley View Library, 17850 Military Road South, SeaTac

West Seattle Library, 2306—42nd Ave SW, Seattle

Bellevue Regional Library, 1111—110th Ave NE, Bellevue

The FEIS is available for public reproduction at Kinko's located at Kent-Des Moines Way and International Blvd./SR 99.

If you desire additional information related to this FEIS, please contact: Mr. Dennis Ossenkop, ANM–611, Federal Aviation Administration, Airports Division Regional Office, 1601 Lind Avenue, S.W., Renton, Washington 98055–4056.

Issued in Renton, Washington on February 1, 1996.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 96–2849 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–4]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 29, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address:

nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 2, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28419.
Petitioner: United Parcel Service.
Sections of the FAR Affected: 14 CFR 121.401(b); 121.417(b)(2) and (3), (c)(2), and (e); 121.427(c)(1)(iii); 121.433(c)(1)(iii); 121.440(a); 121.441(a) and (b)(1); and appendix F, part 121.
Description of Relief Sought: To permit UPS regulatory relief to the extent necessary to conduct a single-visit training program for its flight crewmembers and eventually transition into the Advanced Qualification Program codified in SFAR 58.

Dispositions of Petitions

Docket No.: 26223.
Petitioner: Airbus Service Company, Inc.
Sections of the FAR Affected: 14 CFR 121.411(a)(2) and (3) and (b)(2); 121.413(b), (c), and (d); and appendix H, part 121.
Description of Relief Sought/Disposition: To extend Exemption No. 5302, as amended, which permits Airbus Service Company, Inc., (Airbus) to use the instructors listed in its original exemption who do not meet all of the applicable training requirements of part 121, subpart N or the employment requirements of part 121, appendix H, to train employees of part 121 certificate holders in FAA-approved simulators and in turbojet-powered airplanes manufactured by Airbus.

GRANT, December 29, 1995, Exemption No. 5302B

Docket No.: 26223.
Petitioner: Airbus Service Company, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2) and (3) and (g); 61.67(d)(2); 61.157(d)(1) and (2) and (e)(1) and (2); 61.191(c); and appendix A, part 61.
Description of Relief Sought/Disposition: To extend Exemption No. 6032, which permits Airbus to use FAA-approved simulators to meet certain flight experience requirements of part 61.

GRANT, December 28, 1995, Exemption No. 6032A

Docket No.: 26821.
Sections of the FAR Affected: 14 CFR 61.57(d).
Description of Relief Sought/Disposition: To extend Exemption No. 5742, as amended, which permits pilots employed by MCI to increase the interval between recency of flight experience requirements and to accomplish some recency of night experience in Level C or Level D simulators.

PARTIAL GRANT, December 29, 1995, Exemption No. 5742B

Docket No.: 28274.
Petitioner: Samoa Air.
Sections of the FAR Affected: 14 CFR 135.180.
Description of Relief Sought/Disposition: To permit Samoa Air to operate two deHavilland Twin Otter (DHC–6) airplanes without an approved traffic alert and collision avoidance System (TCAS I) installed.

DENIAL, December 29, 1995, Exemption No. 6250

Docket No.: 28355.
Petitioner: USAir, Inc., and Southwest Airlines Co.
Sections of the FAR Affected: 14 CFR 121.359(a).
Description of Relief Sought/Disposition: To permit USAir and Southwest Airlines Co., Boeing–737 (B–737) flightcrews experiencing an uncommanded flight control input to deactivate the cockpit voice recorder (CVR) upon clearing the active runway after landing.

GRANT, December 29, 1995, Exemption No. 6387

Docket No.: 28412.
Petitioner: Polynesian Limited.
Sections of the FAR Affected: 14 CFR 129.18(b).
Description of Relief Sought/Disposition: To allow Polynesian Limited to operate two deHavilland Twin Otter (DHC–6) airplanes that are not equipped with an approved traffic collision and avoidance system (TCAS I) at Pago Pago, American Samoa, after December 31, 1995.

DENIAL, December 29, 1995, Exemption No. 6386.

[FR Doc. 96–2852 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application (#96–01–C–00–LAR) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Laramie Regional Airport, Submitted by Laramie Regional Airport, Laramie, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent To Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Laramie Regional Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before March 11, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN-ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, CO 80216–6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jack Skinner, Airport Business Manager at the following address: Laramie Regional Airport, 555 General Brees Road, Laramie, WY 82070.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Laramie Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Johnson, (303) 286–5533; Denver Airports District Office, DEN-ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, CO 80216–6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#91–01–C–00–LAR) to impose and use PFC revenue at Laramie Regional Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 1, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by Laramie Regional Airport, Laramie, Wyoming, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whose or in part, no later than May 3, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1996.

Proposed charge expiration date: April 30, 2000.

Total estimated PFC revenues: $128,000.00.

Brief description of proposed project: Terminal building remodel.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Laramie Regional Airport.

Issued in Renton, Washington, on February 1, 1996.

David A. Field,

Manager, Planning, Programming, and Capacity Branch, Northwest Mountain Region.

[FR Doc. 96–2848 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Jefferson County, WV

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Jefferson County, West Virginia.

FOR FURTHER INFORMATION CONTACT: David A. Leighow, Division Environmental Coordinator, Federal Highway Administration, 550 Eagan Street, Suite 300, Charleston, West Virginia 25301, Telephone (304) 347–5329; or, Ben L. Hark, Environmental Section Chief, roadway Design Division, West Virginia Department of Transportation, 1900 Kanawha Boulevard East, Building 5, Room A–416, Capitol Complex, Charleston, West Virginia 25305–0430, Telephone (304) 558–2885.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the West Virginia Department of Transportation (WVDOT), will prepare an EIS for the US 340 Virginia Line to Charles Town project in Jefferson County, West Virginia. The proposed limits extend from the existing four-lane section of US 340 southwest of the Virginia/West Virginia state line to the existing four lane section of the Charles Town Bypass (US 340) in Wheaton, West Virginia, approximately 3 kilometers (2 miles) north of Rippon. The total length of the proposed project is approximately 6.5 kilometers (4 miles). The project will be processed as a merged NEPA/404 project.

Alternatives under consideration include but are not limited to (1) taking no action, (2) minimal improvement of the existing road, (3) where possible, widening the existing two-lane highway to four lanes, and (4) constructing a four-lane, partially controlled access highway on new location. Additional alignments may be evaluated based upon the results of the preliminary engineering studies and the public and agency involvement process. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment. Multi-modal forms of transportation, such as mass transit, will be considered and addressed as appropriate.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed, or are known to have interest in this project. A formal scoping meeting will be scheduled, along with a field view. Public meetings and a public hearing will be held during the Draft Environmental Impact Statement (DEIS) review period. Public notice will be given of the times and places for the meetings and hearing. The DEIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 29, 1996.

David A. Leighow,

Environmental Coordinator, Charleston, West Virginia.

[FR Doc. 96–2781 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[FRA Emergency Order No. 18, Notice No. 1]

Atchison, Topeka, and Santa Fe Railway Company; Burlington Northern Santa Fe Railroad; Emergency Order Requiring Capability To Initiate Emergency Application of Air Brakes From the Head End and Rear of Trains

The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) has determined that public safety compels issuance of this Emergency Order requiring that all westward trains operated by the Atchison, Topeka, and Santa Fe Railway Company (ATSF) on the Cajon Subdivision, between Barstow milepost 745.9 and Baseline milepost 79.9, have the capability to initiate an emergency application of the air brakes from both the head and rear of the train. ATSF recently merged with the Burlington Northern Railroad to form Burlington Northern Santa Fe. To the extent this new entity's activities have an effect on the train operations in question, it is covered by this order.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR § 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an emergency situation involving a hazard of death or personal injury." 49 U.S.C. 20104. These orders may immediately impose such "restrictions and prohibitions * * * that may be necessary to abate the situation." *(Ibid.)*

Background

ATSF's line of railroad between Barstow and Los Angeles, California, consists of double main track which passes through the San Bernardino Mountains via "Cajon Pass." The route for westward moving trains involves a steady climb from Barstow to Summit, California, a distance of approximately 55 miles. At Summit, the line begins a descent westward with a more than 3 percent grade on one track and a more than 2 percent grade on the other track. The descent for eastward trains is not nearly as severe. Trains in this area operate by authority of a centralized traffic control system managed by ATSF train dispatchers. The Union Pacific Railroad (UP) also operates its trains through this same corridor via a trackage rights agreement with ATSF. The Southern Pacific Railroad operates trains through Cajon Pass, but on a right-of-way separate from that of ATSF.

On December 14, 1994, a westbound Santa Fe intermodal freight train operating between Barstow and San Bernardino, California collided with the rear end of a UP unit coal train resulting in the serious injury of two crew members and total estimated damages in excess of $4 million. Investigation of the accident revealed that an apparent blockage or restriction of the trainline (i.e., the connected system of metal pipes and flexible air hoses that runs end-to-end through the train) inhibited the normal brake pipe air flow resulting in incomplete train braking. After investigation of this incident, the National Transportation Safety Board (NTSB) concluded that, had the train been equipped with a two-way end-of-train device (EOT), the collision could have been avoided because the engineer could have initiated an emergency brake application from the rear of the train. A two-way EOT provides the engineer with information on the status of brake pressure at the rear of the train and permits the locomotive crew to initiate, via telemetry, an emergency brake application from the rear of the train forward. This permits the application of effective braking force even if there is blockage somewhere on the trainline.

On December 15, 1995, based on the conclusions reached above, the NTSB recommended that FRA separate the two-way end-of-train device provisions of its 1994 proposed rule on power brakes from the rest of the proposal, and immediately conclude the end-of-train device rulemaking so as to require the devices on all cabooseless trains. FRA had independently decided to take separate action on the EOT provisions, and has so informed NTSB. NTSB also recommended to all major railroads that, pending completion of FRA's final rule, those railroads implement the use of two-way EOTs on all cabooseless trains by March 31, 1996.

Subsequent to the December 1994 accident, Santa Fe worked with the railroad safety staff of the California Public Utilities Commission (PUC) to voluntarily implement various changes in its operations, which included a plan to commence equipping trains with two-way end-of-train devices. Measures implemented by Santa Fe following the accident included changes in its rules of operations to provide for use of manned helper locomotives on certain westward moving trains; issuing instructions to maximize the use of the track with a lesser grade; issuing instructions to avoid stopping trains on a descending grade and avoid allowing following trains in the next block to the rear of westward moving trains; and appointing an operating officer to focus exclusively on train operations through Cajon Pass.

On February 1, 1996, westward ATSF freight train HBALT–131 derailed on a descending 3 percent grade at milepost 60.7, approximately 4 miles west of Summit and 20 miles east of San Bernardino. The derailment occurred when the train entered a more than 7 degree curve at a speed estimated to be in excess of 50 mph (maximum operating speed at that location is 25 mph). The incident resulted in fatal injuries to the conductor and brakeman, serious injury to the engineer, and the derailment of 45 of 49 cars and all four locomotives. The train consisted of hazardous material cars that subsequently caught fire. Area residents were evacuated and highways were closed, including Interstate 15. The NTSB is heading the investigation. FRA is providing expert assistance in the investigation. Although investigation of this accident is currently in progress, it appears as though it could have been avoided had the train been equipped with a means for the train crew to have effected an emergency brake application from the rear of the train. Although the train was equipped with a two-way EOT device, it appears that it was not "armed," i.e., that it was not activated in such a way that it could have been used to effect an emergency application from the rear of the train. At this early juncture, it appears that a contributory cause of this incident may have been a blocked brake pipe.

Based on its investigatory efforts, FRA has reason to believe that ATSF's procedures for ensuring the safe passage of trains through Cajon Pass are presently inadequate to protect public and employee safety. Although FRA believes the accidents described above are reason enough to warrant that conclusion, FRA is also concerned about other indications that ATSF has not been taking appropriate actions to prevent such accidents. FRA has reason to believe that ATSF has not consistently followed its own protocols for operations through Cajon Pass designed to prevent such accidents and is not consistently taking proper preventive actions at Barstow, such as ensuring, during pre-departure inspections, that EOTs have been properly activated to permit brake application from the rear of the train. This additional evidence of inadequate practices on the part of ATSF underscores the need for immediate action to prevent a recurrence.

Finding and Order

FRA concludes that ATSF's current operation of freight trains on the Cajon Subdivision, between Barstow milepost 745.9 and Baseline milepost 79.9, poses an imminent and unacceptable threat to public safety. I find that the unsafe conditions discussed above create an emergency situation involving a hazard of death or injury to persons. Accordingly, pursuant to the authority of 49 U.S.C. 20104, delegated to me by the Secretary of Transportation (49 CFR § 1.49), it is hereby ordered that, on all of ATSF's westward freight trains operating through Cajon Pass:

(1) ATSF must ensure that it is possible for the train crew to effect an emergency brake application from the rear of the train by at least one of the following methods:

(A) *Use of a two-way end-of-train device* that has been tested, is functioning, and is armed (activated) to permit a brake application from the rear. When this method is used.

- ATSF must determine, after all other required brake inspections and before the train departs Barstow, that the EOT is functioning in two-way operation by testing the device's ability to effectuate an emergency application; and
- The person making this determination must document in writing (the railroad may prescribe a form for this purpose) that the device is functioning in two-way operation and its battery is fully charged. That person must sign the form and ensure that it is kept in the cab of the locomotive with the daily inspection form; OR

(B) *Use of an occupied helper locomotive at the end of the train.* If this method is used:

- The helper locomotive engineer will initiate and maintain two-way voice radio communication with the engineer on the head end of the train; this contact shall be verified just prior to passing Summit. If there is a loss of communication prior to passing Summit, the helper locomotive engineer and the head-end engineer will act immediately to stop the train until voice communication is resumed. If there is a loss of communication once the descent has begun beyond Summit, the helper locomotive engineer and the head-end engineer will act to stop the train if the train has reached a predetermined rate of speed that indicates the need for emergency braking.
- The dynamic brakes must be tested, cut in, and known to be functioning by both the helper engineer and the head end engineer;
- The brake pipe of the helper locomotive must be connected and cut in to the train line and tested to ensure operation; and
- Trains will be stopped when helpers are cut in or cut off from trains being assisted; OR

(C) *Use of an occupied caboose at the end of the train* with a tested, functioning brake valve capable of initiating an emergency brake application from the caboose. If this method is used:

- The train service employee in the caboose and the engineer on the head end of the train will establish and maintain two-way voice radio communication and respond appropriately to the loss of such communication in the same manner as prescribed for helper locomotives, above; OR

(D) *Use of a radio-controlled locomotive* in the rear third of the train under continuous control of the engineer in the head end by means of telemetry, but only if such radio-controlled locomotive is capable of initiating an emergency application on command from the lead locomotive.

(2) Once such a train has received the required brake test at Barstow, ATSF must test the emergency braking capacity of the train by initiating an emergency application of the brakes and determining that the emergency application propagates throughout the train. Where no EOT device is used, this determination must be made by visual observation that the brakes have set on the rear car. Where an EOT device is used, this determination is made by seeing that the brake pipe pressure drops rapidly to zero.

(3) ATSF shall immediately report to the Emergency Response Center (1–800–424–0201) any incidents involving loss of braking control over the affected territory.

Relief

ATSF may obtain relief from this order by demonstrating to FRA that, through compliance with this order and any additional measures ATSF may adopt on its own or through partnership efforts described below, it is consistently sending trains westward from Barstow with fully functioning air brake systems that can be successfully operated in emergency application from the rear of the train through use of one of the methods described above. At a minimum, FRA will require a showing that, for a period of 180 consecutive days, there has been no violation of this order. Following such a 180-day period, ATSF may request in writing to the Administrator that FRA rescind this order. At that time, FRA will take into account both evidence indicating compliance with this order and any other information it has gathered concerning ATSF's relevant practices that may affect the safety of train operations at Cajon Pass.

FRA will, at any time, consider requests by ATSF to exclude certain train operations from the scope of this order based on satisfactory demonstration that those operations can be safely performed using other procedures. However, all aspects of this order apply to all westward trains departing Barstow unless and until written special approval is granted permitting other procedures for specific train operations. The Associate Administrator for Safety is authorized to issue such special approvals without amending this order.

Effective Safety Partnerships

Over the past year, FRA has been encouraged by the formation of various partnerships involving FRA, major railroads, and affected labor organizations in collaborative actions to improve railroad safety. FRA is ready to work in partnership with ATSF and the affected labor organizations to improve the safety of operations in the Cajon Pass area in the same way that such partnerships have improved safety across the industry.

Penalties

Any violation of this order shall subject the person committing the violation to a civil penalty of up to $20,000. 49 U.S.C. 21301. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

Effective Date and Notice to Affected Persons

This order shall take effect at 12:01 a.m (PST) on February 8, 1996, and apply to all westward trains leaving Barstow on or after that time. Notice of this Order will be provided by publishing it in the **Federal Register**. Copies of this Emergency Order will be sent by mail or facsimile prior to publication to the Vice President-Operations of ATSF, counsel for ATSF, officials of interested labor organizations, the California PUC, and the Association of American Railroads.

Review

Opportunity for formal review of this Emergency Order will be provided in accordance with 49 U.S.C. 20104(b) and section 554 of Title 5 of the United States Code. Administrative procedures governing such review are found at 49 CFR Part 211. *See* 49 CFR §§ 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, D.C. on February 6, 1996.

Jolene M. Molitoris,

Administrator.

[FR Doc. 96–2995 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–06–P

[FRA Docket No. RST–95–2]

Petition for Waiver of Compliance

In accordance with Title 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) received from the National Railroad Passenger Corporation (Amtrak), on behalf of the San Diego Northern Railway (SDNX), a request for a waiver of compliance with certain requirements of Title 49 CFR Part 213: *TRACK SAFETY STANDARDS.*

The purpose of the petition is to secure approval from the FRA for the operation of passenger trains at curve negotiating speed producing up to four inches of cant deficiency (superelevation underbalance). Currently, Section 213.57(b) limits cant deficiency to not more than three inches.

Amtrak is the designated operator of Coaster Commuter Service and Amtrak trains on the SDNX route that extends from a location near Oceanside to San Diego, CA. Amtrak petitioned for permission to substitute the value of 4 inches instead of 3 inches in the Vmax formula for determining maximum train speeds on the curves on this route.

Interested parties may submit written views, data, or comments on this petition. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires and opportunity for comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communication concerning this proceeding should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST–95–2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received within 45 days of the date of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC, on February 1, 1996.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 96–2764 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. NCI 3363; Notice 2]

1995 Chrysler Cirrus and Dodge Stratus Passenger Cars; Change in Date of Public Proceeding

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of change of date of public meeting.

SUMMARY: The public meeting previously announced for 10 a.m. on February 14, 1996, regarding NHTSA's initial decision that certain 1995 model Chrysler Cirrus and Dodge Stratus passenger cars fail to comply with Federal Motor Vehicle Safety Standard No. 210, *Seat Belt Assembly Anchorages,* has been changed to February 23, 1996.

FOR FURTHER INFORMATION CONTACT: Jeff Giuseppe, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; (202) 366–5756.

SUPPLEMENTARY INFORMATION: On January 26, 1996, NHTSA published a notice in the **Federal Register** (61 FR 2570) stating that, pursuant to 49 U.S.C. 30118(a), NHTSA's Associate Administrator for Safety Assurance had made an initial decision that certain 1995 model Chrysler Cirrus and Dodge Stratus passenger cars manufactured by Chrysler Corporation before May 15, 1995, do not comply with the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 210, *Seat Belt Assembly Anchorages,* 49 CFR 571.210.

Pursuant to 49 U.S.C. 30118(b)(1) and 49 CFR § 554.10, the notice stated that a public meeting would be held at 10 a.m., on Wednesday, February 14, 1996, in Room 2230, Department of Transportation Building, 400 Seventh Street, SW, Washington, DC, at which time the manufacturer and all other interested persons will be afforded an opportunity to present information, views, and arguments on the issue of whether the vehicles covered by this initial decision comply with FMVSS No. 210.

On February 1, 1996, Chrysler informed the agency that it needed additional time to prepare its presentation for the meeting and requested that the meeting be rescheduled for February 23, 1996. After review, the agency has decided to grant Chrysler's request. Accordingly, such meeting will be held on Friday, February 23, 1996, at the same location, Room 2230 of the DOT Headquarters Building.

Interested persons were invited to participate in this proceeding through written and/or oral presentations. Persons wishing to make oral presentations were requested to notify Ms. Elaine Beale, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590, (202) 366–2832 or by fax at (202) 366–1024, before the close of business on February 16, 1996. Persons who wish to file written comments should submit them to the same address, preferably no later than the beginning of the meeting on February 23, 1996. However, the agency will accept written submissions until March 8, 1996.

Authority: 49 U.S.C. 30118(a); delegations of authority at 49 CFR 1.50(a) and 49 CFR 501.8.

Issued on: February 6, 1996.

Michael B. Brownlee,

Associate Administrator for Safety Assurance.

[FR Doc. 96–2908 Filed 2–6–96; 3:23 pm]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8807, Certain Manufacturers and Retailers Excise Taxes

DATES: Written comments should be received on or before April 9, 1996 to be assured of consideration.

ADDRESS: Direct all written comments to Garrick R. Shear, Internal Revenue Service, T:FP, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, T:FP, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Manufacturers and Retailers Excise Taxes.

OMB Number: 1545–1076.

Form Number: 8807.

Abstract: Form 8807 is used to compute the excise tax on fishing equipment, bows and arrows, trucks and trailer chassis and bodies and tractors, and the luxury tax on passenger vehicles.

Current Actions: The form has been revised to help taxpayers correctly compute the tax. The trucks and trailer chassis and bodies and tractors tax is imposed at retail and requires line entries not applicable to the three manufacturers taxes. Therefore, we have separated the retailers tax from the manufacturers' taxes. Line instructions for Parts I and II have been added that further assist taxpayers.

Type of Review: Revision of a currently approved form.

Affected Public: Businesses.

Estimated Number of Respondents: 46,746.

Estimated Time Per Respondent: 3 hrs., 11 min.

Estimated Total Annual Burden Hours: 148,618

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of 3 tomated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 31, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–2655 Filed 2–8–96; 8:45 am]

BILLING CODE 4830–01–U

Public Information Collection Requirements Submitted to OMB for Review

February 1, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by

calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0152.
Form Number: IRS Form 3115.
Type of Review: Revision.
Title: Application for Change in Accounting Method.
Description: Form 3115 is used by taxpayers who wish to change their method of computing their taxable income. The form is used by the IRS to determine if electing taxpayers have met the requirements and are able to change to the method requested.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.
Estimated Number of Respondents/Recordkeepers: 6,400.
Estimated Burden Hours Per Respondent/Recordkeeper:

Form/Sched.	Recordkeeping	Learning about the law or the form	Preparing and Sending the form to the IRS
3115	18 hr., 11 min	4 hr., 26 min	6 hr., 8 min.
Sched. A	4 hr., 4 min	1 hr., 23 min	1 hr., 31 min.
Sched. B	2 hr., 40 min	0 hr., 35 min	1 hr., 10 min.
Sched. C	27 hr., 44 min	2 hr., 3 min	3 hr., 48 min.
Sched. D	5 hr., 1 min	1 hr., 59 min	2 hr., 9 min.

Frequency of Response: Other: When Needed.
Estimated Total Reporting/Recordkeeping Burden: 270,490 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 96–2879 Filed 2–8–96; 8:45 am]
BILLING CODE 4830–01–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 28
Friday, February 9, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Tuesday, February 13, 1996, 2:00 p.m.
LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.
STATUS: Open to the Public.
MATTER TO BE CONSIDERED

Multiple Tube Mine and Shell Fireworks

The staff will brief the Commission on a final rule addressing the tip-over of large multiple tube mine and shell fireworks devices.

For a recorded message containing the latest agenda information, call (301) 504–0709.
CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: February 7, 1996.
Sadye E. Dunn,
Secretary.
[FR Doc. 96–3031 Filed 2–7–96; 3:00 pm]
BILLING CODE 6355–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 61 FR 4301, Monday, February 5, 1996.
PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, February 8, 1996—2:00 P.M. (Eastern Time).
CHANGE IN THE MEETING: The following item has been cancelled:

4. Recommended FY 1996 State and Local Allocations.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

This Notice Issued February 7, 1996.
Frances M. Hart,
Executive Officer, Executive Secretariat.
[FR Doc. 96–3030 Filed 2–7–96; 2:59 pm]
BILLING CODE 6750–06–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:05 a.m. on Tuesday, February 6, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) reports of the Office of Inspector General, and (2) matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), Director Joseph H. Neely (Appointive), and Chairman Ricki Helfer, that corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, N.W., Washington, DC.

Dated: February 6, 1996.
Federal Deposit Insurance Corporation.
Robert E. Feldman,
Deputy Executive Secretary.
[FR Doc. 96–2977 Filed 2–7–96; 11:13 am]
BILLING CODE 6714–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–96–02]

Emergency Notice

TIME AND DATE: Thursday, February 8, 1996 at 11:00 a.m.
PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.
STATUS: Open to the public.
MATTER TO BE CONSIDERED:

1. The Chairman's proposal for the Fiscal Year 1997 budget request.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205–2000.

Issued: February 7, 1996.
Donna R. Koehnke,
Secretary.
[FR Doc. 96–3099 Filed 2–7–96; 3:55 pm]
BILLING CODE 7020–02–P

Corrections

Federal Register
Vol. 61, No. 28
Friday, February 9, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150–AF39

Revision of Fee Schedules; 100% Fee Recovery, FY 1996

Correction

In proposed rule document 95–1524, beginning on page 2948 in the issue of Tuesday, January 30, 1996, make the following corrections.

§170.21 [Corrected]

On page 2957, in §170.21 in the table, in item 5., at the end of the second line remove "Ame".

§171.16 [Corrected]

On page 2962, in the third column, in §171.16(c), in the table, the last entry is corrected to read as follows:

	Maximum annual fee per licensed category
Educational institutions that are not State or Publicly Supported, and have 500 Employees or Less:	
35 to 500 employees	1,800
Less than 35 employees	400

On the same page, in §171.16(d), because of numerous errors the table is being republished in its entirety.

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses		Annual fees[1 2 3]
1. Special nuclear material:		
A.(1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.		
(a) Strategic Special Nuclear Material:		
Babcock & Wilcox	SNM–42	$2,404,000
Nuclear Fuel Services	SNM–124	2,404,000
(b) Low Enriched Uranium in Dispersable Form Used for Fabrication of Power Reactor Fuel:		
Combustion Engineering (Hematite)	SNM–33	1,180,000
General Electric Company	SNM–1097	1,180,000
Siemens Nuclear Power	SNM–1227	1,180,000
Westinghouse Electric Company	SNM–1107	1,180,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.		
(a) Facilities with limited operations:		
B&W Fuel Company	SNM–1168	469,400
(b) All Others:		
General Electric	SNM–960	318,800
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI)		261,100
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.		1,200
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2).		2,800
E. Licenses for the operation of a uranium enrichment facility		[11] N/A
2. Source material:		
A.(1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride		598,100
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode..		
Class I facilities[4]		57,000
Class II facilities[4]		32,200
Other facilities[4]		20,600
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4).		41,800
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2).		7,400
B. Licenses which authorize only the possession, use and/or installation of source material for shielding		450
C. All other source material licenses		8,100
3. Byproduct material:		
A. Licenses of broad scope for possession and use of byproduct material issued pursuant to parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.		15,400
B. Other licenses for possession and use of byproduct material issued pursuant to part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.		5,200
C. Licenses issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized pursuant to part 40 of this chapter when included on the same license.		10,400
D. Licenses and approvals issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category also includes the possession and use of source material for shielding authorized pursuant to part 40 of this chapter when included on the same license..		4,100

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses		Annual fees[1 2 3]
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).		2,900
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.		3,500
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.		18,200
H. Licenses issued pursuant to subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.		4,600
I. Licenses issued pursuant to subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.		8,200
J. Licenses issued pursuant to subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.		3,500
K. Licenses issued pursuant to subpart B of part 31 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.		3,000
L. Licenses of broad scope for possession and use of byproduct material issued pursuant to parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution.		11,400
M. Other licenses for possession and use of byproduct material issued pursuant to part 30 of this chapter for research and development that do not authorize commercial distribution.		5,100
N. Licenses that authorize services for other licensees, except:		
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and		
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C		5,600
O. Licenses for possession and use of byproduct material issued pursuant to part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized pursuant to part 40 of this chapter when authorized on the same license.		13,000
P. All other specific byproduct material licenses, except those in Categories 4A through 9D		1,600
4. Waste disposal and processing:		
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material.		394,400
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.		13,300
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.		7,100
5. Well logging:		
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies.		7,500
B. Licenses for possession and use of byproduct material for field flooding tracer studies		12,200
6. Nuclear laundries:		
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material		13,600
7. Human use of byproduct, source, or special nuclear material:		
A. Licenses issued pursuant to parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.		9,500
B. Licenses of broad scope issued to medical institutions or two or more physicians pursuant to parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license[9].		21,700
C. Other licenses issued pursuant to parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license[9].		4,300
8. Civil defense:		
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities		1,600
9. Device, product, or sealed source safety evaluation:		
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.		6,700
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.		3,400
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.		1,400
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.		720
10. Transportation of radioactive material:		
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.		
Spent Fuel, High-Level Waste, and		[6] N/A
Other Casks		[6] N/A
B. Approvals issued of 10 CFR part 71 quality assurance programs.		
Users and Fabricators		72,800
Users		950
11. Standardized spent fuel facilities		[6] N/A
12. Special Projects		[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance		[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210		261,100
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities pursuant to 10 CFR parts 30, 40, 70, and 72.		[7] N/A
15. Import and Export licenses		[8] N/A
16. Reciprocity		[9] N/A
17. Master materials licenses of broad scope issued to Government agencies		388,600
18. Department of Energy:		
A. Certificates of Compliance		[10] 1,078,000

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses		Annual fees[1 2 3]
B. Uranium Mill Tailing Radiation Control Act (UMTRCA) activities		1,813,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the fiscal year. However, the annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses prior to October 1, 1995, and permanently ceased licensed activities entirely by September 30, 1995. Annual fees for licensees who tiled for termination of a license, downgrade of a license, or for a POL during the fiscal year and for new licenses issued during the fiscal year will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1.A. (1). are not subject to the annual fees of Category 1.C and 1.D for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, or 72 of this chapter.

[3] For FYs 1997 and 1998, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the FEDERAL REGISTER for notice and comments.

[4] A Class I license includes mill licenses issued for the extraction of uranium from uranium ore. A Class II license includes solution mining licenses (in-situ and heap leach) issued for the extraction of uranium from uranium ores including research and development licenses. An "other" license includes licenses for extraction of metals, heavy metals, and rare earths.

[5] Two licenses have been issued by NRC for land disposal of special nuclear material. Once NRC issues a LLW disposal license for byproduct and source material, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, parts 71 and 72 Certificates of Compliance, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to the users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.

[10] This includes Certificates of Compliance issued to DOE that are not under the Nuclear Waste Fund.

[11] No annual fee has been established because there are currently no licensees in this particular fee category.

BILLING CODE 1505–01–D

Federal Register

Friday
February 9, 1996

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–71]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings and other real property that HUD reviewed in 1995 for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

In accordance with 24 CFR 581.3(b) landholding agencies are required to notify HUD by December 31, 1995, the current availability status and classification of each property controlled by the Agencies that were published by HUD as suitable and available which remain available for application for use by the homeless.

Pursuant to 24 CFR 581.8 (d) and (e) HUD is required to publish a list of those properties reported by the Agencies and a list of suitable/unavailable properties including the reasons why they are not available.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For more information regarding particular properties identified in this notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: Derrick Mitchell, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 355–0083; Corps of Engineers: Bob Swieconek, Headquarters, Army Corps of Engineers, Attn: CERE–MC, Room 4224, 20 Massachusetts Ave. NW, Washington, DC 20314–1000; (202) 272–1750; U.S. Navy: John J. Kane, Deputy Division Director, Dept. of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; U.S. Air Force: Barbara Jenkins, Air Force Real Estate Agency (Area/MI), Bolling AFB, 112 Luke Avenue, Suite 104, Washington, DC 20332–8020; (202) 767–4184; GSA: Brian K. Polly, Office of Property Disposal, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 501–2059; Dept. of Veterans Affairs: Steve Koenig, Management Analyst, Dept. of Veterans Affairs, room 414, Lafayette Bldg., 811 Vermont Ave. NW, Washington, DC 20420; (202) 565–5424; Dept. of Energy: Tom Knox, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 566–1191; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; Dept. of the Interior: Lola D. Knight, Property Management Specialist, Dept. of the Interior, 1849 C St. NW, Mailstop 5512–MIB, Washington, DC 20240; (202) 208–4080. (These are not toll-free numbers.)

Dated: February 2, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V Properties Reported in Year 95 Which Are Suitable and Available

Air Force

Arizona

Buildings

Facility Number 18
Property Number: 189510024
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 5925 sq. ft., 1 story, good condition, off-site removal only, most recent use—storage.

Facility Number 21
Property Number: 189510025
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 2500 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—child care.

Facility Number 22
Property Number: 189510026
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 13,752 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—gymnasium.

Facility Number 23
Property Number: 189510027
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 485 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—storage.

Facility Number 27
Property Number: 189510028
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 3252 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—base chapel.

Facility Number 29
Property Number: 189510029
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 85 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—storage.

Facility Number 31
Property Number: 189510030
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 2720 sq. ft., steel frame, 1 story, good condition, off-site removal only, most recent use—sales store.

Facility Number 32
Property Number: 189510031
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 1200 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—hobby shop.

Facility Number 34
Property Number: 189510032
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 1937 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—bath house.

Facility Number 35
Property Number: 189510033
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 7685 sq. ft., concrete block frame, 1 story, good condition, off-site removal only, most recent use—open mess.

Facility Number 37
Property Number: 189510034
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 21,295 sq. ft., wood frame, 2 story, good condition, off-site removal only, most recent use—dormitory/multi-purpose.

Facility Number 38
Property Number: 189510035
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 4115 sq. ft., metal frame, good condition, 1 story, off-site removal only, most recent use—commissary.

38 Family Housing
Property Number: 189510036
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 1170 sq. ft. ea., 1 story relocatable framed residences, good condition, secured area w/alternate access.

26 Family Housing
Property Number: 189510037
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 1456 sq. ft. ea., 1 story slump block frame residences, off-site removal only, good condition.

Facility Number 510
Property Number: 189510038
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 373 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—storage.

18 Detached Garages
Property Number: 189510039
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Location: Inc. bldgs. 630, 640, 670, 680, 710, 720, 740, 760, 790, 800, 820, 840, 870, 880, 910, 920, 950, 960 on Milan Loop
Status: Excess
Comment: 186 sq. ft. ea., wood frame, 1 story, good condition, off-site removal only, most recent use—storage.

Facility Number 1004
Property Number: 189510040
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 1734 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—residence.

Facility Number 1010
Property Number: 189510041
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 4155 sq. ft., quonset hut frame, good condition, off-site removal only, most recent use—theater.

Facility Number 4140
Property Number: 189510042
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 3584 sq. ft., metal frame, 1 story, good condition, off-site removal only, most recent use—bowling center.

Facility Number 4520
Property Number: 189510043
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 7800 sq. ft., prefab steel frame, 2 story, good condition, off-site removal only, most recent use—dormitory.

Facility Number 4252
Property Number: 189510044
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Status: Excess
Comment: 144 sq. ft., metal frame, 1 story, good condition, off-site removal only, most recent use—storage.

10 Duplex Family Housing
Property Number: 189510045
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Location: Inc. bldgs. 2334, 2335, 2340, 2343, 2344, 2348, 2351, 2352, 2356, 2360 on Conrad Circle
Status: Excess
Comment: 3176 sq. ft., slump blocks frame, 1 story, good condition, off-site removal, most recent use—residences.

4—Fourplex Family Housing
Property Number: 189510046
Fed Reg Date: 08/18/95
Gila Bend AF Auxiliary Field
Gila Bend, AZ, Co: Maricopa, Zip: 86025–
Location: Inc. bldgs. 2337, 2339; 2347; 2355 on Conrad Circle
Status: Excess
Comment: 4728 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—residences.

California

Land

60 ARG/DE
Property Number: 189010189
Fed Reg Date: 08/18/95
Project Name: Travis Air Force Base
Travis ILS Outer Marker Annex
Rio-Dixon Road
Travis AFB, CA, Co: Solano, Zip: 94535–5496
Location: State Highway 113
Status: Excess
Comment: .13 acre; most recent use—location for instrument landing systems equipment.

Buildings

Bldg. 604
Property Number: 189010237
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft., stucco-wood frame, most recent use—housing.

Bldg. 605
Property Number: 189010238
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft., stucco-wood frame, most recent use—housing.

Bldg. 612
Property Number: 189010239
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft., stucco-wood frame, most recent use—housing.

Bldg. 611
Property Number: 189010240
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft., stucco-wood frame, most recent use—housing.

Bldg. 613
Property Number: 189010241
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 614
Property Number: 189010242
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 615
Property Number: 189010243

Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 616
Property Number: 189010244
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 617
Property Number: 189010245
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 618
Property Number: 189010246
Fed Reg Date: 08/18/95
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing; needs rehab.

Florida

Buildings

Bldg. 244
Property Number: 189520001
Fed Reg Date: 08/18/95
MacDill Auxiliary Airfield No. 1
Avon Park, FL, Co: Polk, Zip: 33825–
Status: Excess
Comment: 6239 sq. ft., masonry frame, needs rehab, secured area w/alternate access, most recent use—commissary.

Bldg. 242
Property Number: 189520002
Fed Reg Date: 08/18/95
MacDill Auxiliary Airfield No. 1
Avon Park, FL, Co: Polk, Zip: 33825–
Status: Excess
Comment: 8554 sq. ft., steel frame module, secured area w/alternate access, most recent use—exchange branch.

Bldg. 427
Property Number: 189520003
Fed Reg Date: 08/18/95
MacDill Auxiliary Airfield No. 1
Avon Park, FL, Co: Polk, Zip: 33825–
Status: Excess
Comment: 5258 sq. ft., metal & masonry frame, secured area w/alternate access, most recent use—bowling center.

Guam

Land

Annex 1
Property Number: 189010427
Fed Reg Date: 08/18/95
Project Name: Andersen Communication
Andersen Communication
Dededo, GU, Co: Guam, Zip: 96912–
Location: In the municipality of Dededo.
Status: Underutilized
Comment: 862 acres; subject to utilities easements.

Annex 2, (Partial)
Property Number: 189010428
Fed Reg Date: 08/18/95
Project Name: Andersen Petroleum Storage
Andersen Petroleum Storage
Dededo, GU, Co: Guam, Zip: 96912–
Location: In the municipality of Dededo.
Status: Underutilized
Comment: 35 acres; subject to utilities easements.

Buildings

Anderson VOR
Property Number: 189010267
Fed Reg Date: 08/18/95
Project Name: Anderson VOR
In the municipality of Dededo
Dededo, GU, Co: Guam, Zip: 96912–
Location: Access is through Route 1 and Route 3, Marine Drive.
Status: Unutilized
Comment: 550 sq. ft.; 1 story perm/concrete; on 226 acres.

Anderson Radio Beacon Annex
Property Number: 189010268
Fed Reg Date: 08/18/95
Project Name: Anderson Radio Beacon Annex
In the municipality of Dededo
Dededo, GU, Co: Guam, Zip: 96912–
Location: Approximately 7.2 miles southwest of Anderson AFB proper; access is from Route 3, Marine Drive.
Status: Unutilized
Comment: 480 sq. ft.; 1 story perm/concrete; on 25 acres; most recent use—radio beacon facility.

Annex No. 4
Property Number: 189010545
Fed Reg Date: 08/18/95
Project Name: Anderson Family Housing
Anderson Family Housing
Municipality of Dededo
Dededo, GU, Co: Guam, Zip: 96912–
Location: Access is through Route 1, Marine Drive.
Status: Underutilized
Comment: various sq. ft.; 1 story frame/modified quonset; on 376 acres; portions of building and land leased to Government of Guam.

Harmon VORsite (Portion) (AJKZ)
Property Number: 189120234
Fed Reg Date: 08/18/95
Municipality of Dededo
Dededo, GU, Co: Guam, Zip: 96912–
Location: Approx. 12 miles southwest of Anderson AFB proper.
Status: Unutilized
Comment: 550 sq. ft. bldg., needs rehab on 82 acres.

Iowa

Buildings

Bldg. 00627
Property Number: 189310001
Fed Reg Date: 08/18/95
Sioux Gateway Airport
Sioux City, IA, Co: Woodbury, Zip: 51110–
Status: Unutilized
Comment: 1932 sq. ft., 1-story concrete block bldg., most recent use—storage, pigeon infested, contamination investigation in progress.

Bldg. 00669
Property Number: 189310002
Fed Reg Date: 08/18/95
Sioux Gateway Airport
Sioux City, IA, Co: Woodbury, Zip: 51110–
Status: Unutilized
Comment: 1113 sq. ft., 1-story concrete block bldg., contamination clean-up in process.

Idaho

Buildings

Bldg. 121
Property Number: 189030007
Fed Reg Date: 08/18/95
Project Name: Mountain Home Air Force Base
Mountain Home Air Force Base
Main Avenue
(See County), ID, Co: Elmore, Zip: 83648–
Status: Excess
Comment: 3375 sq. ft.; 1 story wood frame; potential utilities; needs rehab; presence of asbestos; building is set on piers; most recent use—medical administration, veterinary services.

Bldg. 611
Property Number: 189440016
Fed Reg Date: 08/18/95
Mountain Home Air Force Base
Mountain Home AFB, ID, Co: Elmore, Zip: 83648–
Status: Underutilized
Comment: 3200 sq. ft.; 1 story wood frame, needs repair, presence of lead base paint and asbestos, most recent use—base chapel.

Bldg. 2201
Property Number: 189520005
Fed Reg Date: 08/18/95
Mountain Home Air Force Base
Mountain Home AFB, ID, Co: Elmore, Zip: 83648–
Status: Underutilized
Comment: 6804 sq. ft., 1 story wood frame, most recent use—temporary garage for base fire dept. vehicles, presence of lead paint and asbestos shingles.

Louisiana

Buildings

Barksdale Radio Beacon Annex
Property Number: 189010269
Fed Reg Date: 08/18/95
Project Name: Barksdale Radio Beacon Annex
Barksdale Radio Beacon Annex
Curtis, LA, Co: Bossier, Zip: 71111–
Location: 7 miles south of Bossier City on highway 71 south; left 1¼ miles on highway C1552.
Status: Unutilized
Comment: 360 sq. ft.; 1 story wood/concrete; on 11.25 acres.

Michigan

Land

Calumet Air Force Station
Property Number: 189010862
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Section 1, T57N, R31W
Houghton Township
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 34 acres; potential utilities.

Calumet Air Force Station
Property Number: 189010863
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Section 31, T58N, R30W
Houghton Township
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 3.78 acres; potential utilities.

Buildings

Bldg. 30
Property Number: 189010779
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 2593 sq. ft.; 1 floor; concrete block; possible asbestos; potential utilities; most recent use—communications transmitter building.

Bldg. 46
Property Number: 189010786
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 5898 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—visiting personnel housing.

Bldg. 51
Property Number: 189010791
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 52
Property Number: 189010792
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 53
Property Number: 189010793
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 54
Property Number: 189010794
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 55
Property Number: 189010795
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 56
Property Number: 189010796
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 57
Property Number: 189010797
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 58
Property Number: 189010798
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 59
Property Number: 189010799
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 60
Property Number: 189010800
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 61
Property Number: 189010801
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 62
Property Number: 189010802
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 63
Property Number: 189010803
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 64
Property Number: 189010804
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 65
Property Number: 189010805
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 66
Property Number: 189010806
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 67
Property Number: 189010807
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 68
Property Number: 189010808
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1478 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 70
Property Number: 189010809
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1394 sq. ft.; 1 story concrete block; possible asbestos; most recent use—youth center.

Bldg. 72
Property Number: 189010811
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 73
Property Number: 189010812
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 74
Property Number: 189010813
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 75
Property Number: 189010814
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 76
Property Number: 189010815
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 77
Property Number: 189010816
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 78
Property Number: 189010817
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 79
Property Number: 189010818
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 80
Property Number: 189010819
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 81
Property Number: 189010820
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 82
Property Number: 189010821
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 83
Property Number: 189010822
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 84
Property Number: 189010823
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 85
Property Number: 189010824
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 86
Property Number: 189010825
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 87
Property Number: 189010826
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 88
Property Number: 189010827
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 89
Property Number: 189010828
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 97
Property Number: 189010829
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 171 sq. ft.; 1 floor, potential utilities; most recent use—pump house.

Bldg. 98
Property Number: 189010830
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 114 sq. ft.; 1 floor; potential utilities; most recent use—pump house.

Bldg. 10
Property Number: 189010836
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 216
Property Number: 189010847
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 217
Property Number: 189010848
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 218
Property Number: 189010849
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 219
Property Number: 189010850
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 220
Property Number: 189010851
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 221
Property Number: 189010852
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 222
Property Number: 189010853
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 223
Property Number: 189010854
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 224
Property Number: 189010855
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 215
Property Number: 189010856
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 390 sq. ft.; 1 story wood frame housing garage.

Bldg. 212
Property Number: 189010859
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 214
Property Number: 189010861
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 23
Property Number: 189010865
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 44 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldg. 24
Property Number: 189010866
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 44 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldg. 36
Property Number: 189010872
Fed Reg Date: 08/18/95
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 37
Property Number: 189010873
Fed Reg Date: 08/18/95
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913
Status: Excess
Comment: 25 Sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 201
Property Number: 189010879
Fed Reg Date: 08/18/95
Calumet Air Force Station
Calumet, MI Co: Keweenaw, Zip 49913
Status: Excess
Comment: 25 Sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Montana

Buildings

Bldg.—Conrad Training Site
Property Number: 189420025
Fed Reg Date: 08/18/95
15 miles east of the City of Conrad, MT, Co: Pondera, Zip 59425
Status: Unutilized
Comment: 7000 sq. ft., 1-story brick, most recent use—technical training site.

Bldg. 1807, Malstrom AFB
Property Number: 189510023
Fed Reg Date: 08/18/95
Malstrom Communication Annex
Malstrom AFB MT, Co: Cascade, Zip: 59405
Status: Excess
Comment: 1966 sq. ft., 1 story mansory block bldg. on 22 acres, limited utilities, roof needs replacement.

Facility #1
Property Number: 189530047
Fed Reg Date: 10/06/95
Havre Training Site
MT, Co: Hill, Zip 59501
Status: Excess
Comment: 6843 sq. ft., 1 story brick frame, good condition, most recent use—technical training site.

South Dakota

Buildings

West Communications Annex
Property Number 189340051
Fed Reg Date: 01/18/95
Ellsworth Air Force Base
Ellsworth AFB, SD, Co: Meade, Zip 57706
Status: Unutilized
Comment: 2 bldgs. on 2.37 acres, remote area, lacks infrastructure, road hazardous during winter storms, most recent use—industrial storage.

Army Alaska

Buildings

Bldg. 400
Property Number: 219440400
Fed Reg Date: 10/13/95
Fort Richardson
Ft. Richardson, AK, Zip: 99505
Status: Unutilized
Comment: 13056 sq. ft., 2-story wood frame, presence of lead paint and asbestos, off-site use only.

Bldg. 402
Property Number: 219440401
Fed Reg Date: 10/13/95
Fort Richardson
Ft Richardson, AK, Zip: 99505
Status: Unutilized
Comment: 13056 sq. ft., 2-story wood frame, presence of lead paint and asbestos, off-site use only.

Bldg. 407
Property Number: 219440402
Fed Reg Date: 10/13/95
Fort Richardson
Ft Richardson, AK, Zip: 99505
Status: Unutilized
Comment: 13056 sq. ft., 2-story wood frame, presence of lead paint and asbestos, off-site use only.

Alabama

Buildings

Bldg. 8913
Property Number: 219140025
Fed Reg Date: 10/13/95
Fort Rucker
7th Avenue
Ft. Rucker, AL, Co: Dale, Zip: 26362
Status: Unutilized
Comment: 3100 sq. ft., 1 story wood, most recent use—chaplain's conference room, off-site use only.

Bldg. 8914
Property Number: 219140026
Fed Reg Date: 10/13/95
Fort Rucker
7th Avenue
Ft. Rucker, AL, Co: Dale, Zip: 26362
Status: Unutilized
Comment: 2250 sq. ft., 1 story wood, most recent use—chaplain's headquarters, off-site use only.

Bldg. T03203, Fort Rucker
Property Number: 219210002
Fed Reg Date: 10/13/95
Cowboy & Crusader St.
Fort Rucker, AL, Co: Dale, Zip: 36362
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. T03206, Fort Rucker
Property Number: 219210003
Fed Reg Date: 10/13/95
Cowboy & Crusader St.
Fort Rucker, AL, Co: Dale, Zip: 36362
Status: Unutilized

Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.
Bldg. T03207, Fort Rucker
Property Number: 219210004
Fed Reg Date: 10/13/95
Cowboy & Crusader St.
Fort Rucker, AL, Co: Dale, Zip: 36362
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.
Bldg. T03208, Fort Rucker
Property Number: 219210005
Fed Reg Date: 10/13/95
Cowboy & Crusader St.
Fort Rucker, AL, Co: Dale, Zip: 36362
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.
Bldg. T03213, Fort Rucker
Property Number: 219210007
Fed Reg Date: 10/13/95
Cowboy & Crusader St.
Fort Rucker, AL, Co: Dale, Zip: 36362
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.
Bldg. T03216, Fort Rucker
Property Number: 219210008
Fed Reg Date: 10/13/95
Cowboy & Crusader St.
Fort Rucker, AL, Co: Dale, Zip: 36362
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.
Bldg. 3502, Fort Rucker
Property Number: 219340181
Fed Reg Date: 10/13/95
Fort Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—instruction bldg., off-site use only.
Bldg. 3702, Fort Rucker
Property Number: 219340183
Fed Reg Date: 10/13/95
Fort Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, most recent use—barracks, off-site use only.
Bldg. 3703, Fort Rucker
Property Number: 219340184
Fed Reg Date: 10/13/95
Fort Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, most recent use—barracks, off-site use only.
Bldg. 3704, Fort Rucker
Property Number: 219340185
Fed Reg Date: 10/13/95
Ft. Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 5310 sq. ft., 1-story wood, needs rehab, most recent use—barracks, off-site use only.
Bldg. 3705, Fort Rucker
Property Number: 219340186
Fed Reg Date: 10/13/95
Ft. Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 2975 sq. ft., 1-story wood, needs rehab, most recent use—general purpose, off-site use only.
Bldg. 3706, Fort Rucker
Property Number: 219340187
Fed Reg Date: 10/13/95
Ft. Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 2975 sq. ft., 1-story wood, needs rehab, most recent use—general purpose, off-site use only.
Bldg. 3707, Fort Rucker
Property Number: 219340188
Fed Reg Date: 10/13/95
Ft. Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—barracks, off-site use only.
Bldg. 3708, Fort Rucker
Property Number: 219340189
Fed Reg Date: 10/13/95
Ft. Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—barracks, off-site use only.
Bldg. 3714, Fort Rucker
Property Number: 219340190
Fed Reg Date: 10/13/95
Ft. Rucker, AL, Co: Dale, Zip: 36362–5138
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—general purpose, off-site use only.
Bldg. T274, Fort McClellan
Property Number: 219440389
Fed Reg Date: 10/13/95
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 3967 sq. ft., 1-story, most recent use—clinic, needs rehab, off-site use only.
Bldg. T421, Fort McClellan
Property Number: 219440393
Fed Reg Date: 10/13/95
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 1602 sq. ft., 1-story, most recent use—support activity, needs rehab, off-site use only.
Bldgs. T614, T692
Property Number: 219440394
Fed Reg Date: 10/13/95
Fort McClellan
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 2314 sq. ft., & 2685 sq. ft., 1-story bldgs., most recent use—admin., off-site use only.
7 Bldgs.
Property Number: 219440395
Fed Reg Date: 10/13/95
For McClellan
Number 829–831, 833, 835–836, 844
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 4425 sq. ft. each, 2-story, most recent use—barracks, off-site use only.
Bldg. T00893
Property Number: 219440396
Fed Reg Date: 10/13/95
Fort McClellan
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 3269 sq. ft., 1-story, most recent use—chapel, off-site use only.
Bldgs. T903, T909
Property Number: 219440397
Fed Reg Date: 10/13/95
Fort McClellan
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 1677 sq. ft. and 1166 sq. ft. bldgs., most recent use—classroom, off-site use only.
Bldgs. T916–T917, T925
Property Number: 219440398
Fed Reg Date: 10/13/95
Fort McClellan
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 3075–4500 sq. ft., 1-story, most recent use—barracks, off-site use only.
Bldg. T1398
Property Number: 219440399
Fed Reg Date: 10/13/95
Fort McClellan
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 3108 sq. ft., 1-story, most recent use—classroom, needs rehab, off-site use only.
Bldg. 60101
Property Number: 219520152
Fed Reg Date: 10/13/95
Shell Army Heliport
Ft. Rucker, AL, Co: Dale, Zip: 36362–5000
Status: Unutilized
Comment: 6082 sq. ft., 1-story, most recent use—airfield fire station, off-site use only.
Bldg. 60100
Property Number: 219520153
Fed Reg Date: 10/13/95
Shell Army Heliport
Ft. Rucker, AL, Co: Dale, Zip: 36362–5000
Status: Unutilized
Comment: 64 sq. ft., metal structure, most recent use—sentry station, off-site use only.
Bldg. 60103
Property Number: 219520154
Fed Reg Date: 10/13/95
Shell Army Heliport
Ft. Rucker, AL, Co: Dale, Zip: 36362–5000
Status: Unutilized
Comment: 12516 sq. ft., 2-story, most recent use—admin., off-site use only.
Bldg. 60110
Property Number: 219520155
Fed Reg Date: 10/13/95
Shell Army Heliport
Ft. Rucker, AL, Co: Dale, Zip: 36362–5000
Status: Unutilized
Comment: 8319 sq. ft., 1-story, most recent use—admin., off-site use only.
Bldg. 60113
Property Number: 219520156
Fed Reg Date: 10/13/95

Shell Army Heliport
Ft. Rucker, AL, Co: Dale, Zip: 36362–5000
Status: Unutilized
Comment: 400 sq. ft., 1-story, most recent use—admin., off-site use only.

Arizona

Buildings

Bldg. 70117—Fort Huachuca
Property Number: 219120306
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional, off-site use only.
Bldg. 70118—Fort Huachuca
Property Number: 219120307
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional, off-site use only.
Bldg. 70119—Fort Huachuca
Property Number: 219120308
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional, off-site use only.
Bldg. 70120—Fort Huachuca
Property Number: 219120309
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 70225—Fort Huachuca
Property Number: 219120310
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3813 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 83006—Fort Huachuca
Property Number: 219120311
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2062 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 83007—Fort Huachuca
Property Number: 219120312
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2000 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 83008—Fort Huachuca
Property Number: 219120313
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2192 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 83015—Fort Huachuca
Property Number: 219120314
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2325 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose, off-site use only.
Bldg. 81001
Property Number: 219240720
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only.
Bldg. 81020
Property Number: 219240722
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only.
Bldg. 67204
Property Number: 219240723
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 4332 sq. ft.. 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only.
Bldg. 66151
Property Number: 219240728
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 4194 sq. ft., 2 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.
Bldg. 72219
Property Number: 219240729
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2730 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.
Bldg. 72220
Property Number: 219240730
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2879 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only
Bldg. 72221
Property Number: 219240731
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 3736 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only
Bldg. 67108
Property Number: 219240733
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2403 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only
Bldg. 70226
Property Number: 219240734
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1888 sq. ft.,1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only
Bldg. 71116
Property Number: 219240735
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 3470 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only
Bldg. 71215
Property Number: 219240736
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 4854 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only
Bldg. 70110
Property Number: 219240739
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2675 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only
Bldg. 70111
Property Number: 219240740
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2800 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only
Bldg. 70113
Property Number: 219240741
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–

Status: Unutilized
Comment: 2800 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70114
Property Number: 219240742
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2544 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70115
Property Number: 219240743
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2544 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70123
Property Number: 219240744
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 3298 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70124
Property Number: 219240745
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 3298 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70126
Property Number: 219240746
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 3343 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70210
Property Number: 219240747
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 3258 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70211
Property Number: 219240748
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2966 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70221
Property Number: 219240749
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2526 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70222
Property Number: 219240750
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1627 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 71214
Property Number: 219240751
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 82013
Property Number: 219240752
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2193 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 90327
Property Number: 219240753
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 279 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 71213
Property Number: 219240754
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only

Bldg. 82007
Property Number: 219240755
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 4386 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only

Bldg. 82009
Property Number: 219240756
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2444 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only

Bldg. 70216, Fort Huachuca
Property Number: 219310287
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3725 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only

Bldg. 70215, Fort Huachuca
Property Number: 219310288
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3706 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only

Bldg. 70214, Fort Huachuca
Property Number: 219310289
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3142 sq. ft., 1-story wood structure, presence of asbestos, most recent use—admin., off-site use only

Bldg. 70212, Fort Huachuca
Property Number: 219310290
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3534 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only

Bldg. 70220, Fort Huachuca
Property Number: 219310291
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 1249 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only

Bldg. 70218, Fort Huachuca
Property Number: 219310292
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3475 sq. ft., 1-story wood, presence of asbestos, most recent use—classroom, off-site use only.

Bldg. 70217, Fort Huachuca
Property Number: 219310293
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 304 sq. ft., 1-story concrete block, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 80010, Fort Huachuca
Property Number: 219310294
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2318 sq. ft., 1-story wood, presence of asbestos, most recent use—admin.

Bldg. 84103, Fort Huachuca
Property Number: 219310296
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess

Comment: 984 sq. ft., 1-story, presence of asbestos and lead paint, most recent use—admin.

Bldg. 67101, Fort Huachuca
Property Number: 219310297
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2216 sq. ft., 1-story wood, presence of asbestos, and lead paint, recent most use—classroom.

Bldg. 30012, Fort Huachuca
Property Number: 219310298
Fed Reg Date: 10/13/95
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage.

Bldg. S–120
Property Number: 219320202
Fed Reg Date: 10/13/95
Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9104
Status: Underutilized
Comment: 6845 sq. ft., 1-story wood frame, presence of asbestos, most recent use—bowling center, scheduled to be vacated 11/15/93.

Bldg. 67221
Property Number: 219330235
Fed Reg Date: 10/13/95
U.S. Army Intelligence Center, Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1068 sq. ft., 1-story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. 83102
Property Number: 219330236
Fed Reg Date: 10/13/95
U.S. Army Intelligence Center, Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 984 sq. ft., 1-story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. 84010
Property Number: 219330237
Fed Reg Date: 10/13/95
U.S. Army Intelligence Center, Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85365–
Status: Unutilized
Comment: 2147 sq. ft., 1-story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. S–1005
Property Number: 219340198
Fed Reg Date: 10/13/95
Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9104
Status: Unutilized
Comment: 176 sq. ft., 1-story cold storage bldg., needs repair, off-site use only.

Bldg. 67116
Property Number: 219410243
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1784 sq. ft.; 1 story; wood; most recent use—admin.; off-site use only.

Bldg. 67205
Property Number: 219410244
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2166 sq. ft.; 2 story; wood; most recent use—admin.; off-site use only.

Bldg. 67207
Property Number: 219410245
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2166 sq. ft.; 2 story; wood; most recent use—admin.; off-site use only.

Bldg. 67213
Property Number: 219410246
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2594 sq., ft.; 1 story; wood; most recent use—admin.; off-site use only.

Bldg. 73913
Property Number: 219410247
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 910 sq. ft.; 1 story; wood; most recent use—admin.; off-site use only.

Bldg. 80001
Property Number: 219410248
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1958 sq. ft.; 2 story; wood; most recent use—admin.; off-site use only.

Bldg. 83027
Property Number: 219410249
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1993 sq. ft.; 2 story; wood; most recent use—admin.; off-site use only.

Bldg. 84007
Property Number: 219410250
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2000 sq. ft.; 2 story; wood; most recent use—admin.; off-site use only.

Bldg. 68320
Property Number: 219410251
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1531 sq. ft.; 1 story; wood; most recent use—recreation center; off-site use only.

Bldg. 30126
Property Number: 219410252
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 9324 sq. ft.; 1 story; wood; most recent use—maintenance; off-site use only.

Bldg. 84014
Property Number: 219410253
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2260 sq. ft.; 1 story; wood; most recent use—maintenance; off-site use only.

Bldg. S–106
Property Number: 219420345
Fed Reg Date: 10/13/95
Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9104
Status: Unutilized
Comment: 1101 sq. ft., 1-story, cold storage bldg., needs repair.

Bldg. 67210, 67217
Property Number: 219420347
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1165 sq. ft., 1-story wood, presence of asbestos, most recent use—classroom, off-site use only.

Bldg. 80005
Property Number: 219430245
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1718 sq. ft., 1-story, wood frame, most recent use—instructional bldg., needs repair, off-site use only.

Bldg. 80006
Property Number: 219430246
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1628 sq. ft., 1-story, wood frame, most recent use—instructional bldg., needs repair, off-site use only.

Bldg. 83023
Property Number: 219430247
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1648 sq., ft., 1-story, wood frame, most recent use—instructional bldg., needs repair, off-site use only.

Bldg. 81027
Property Number: 219430248
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2193 sq., ft., 2-story, wood frame, most recent use—admin., needs repairs, off-site use only.

Bldg. 81028
Property Number: 219430249
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2193 sq. ft., 2-story, wood frame, most recent use—admin., needs repair, off-site use only.

Bldg. 80111
Property Number: 219430250
Fed Reg Date: 10/13/95

Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2032 sq. ft., 1-story, wood frame, most recent use—instructional bldg., needs repair, off-site use only.
Bldg. 503, Yuma Proving Ground
Property Number: 219520073
Fed Reg Date: 10/13/95
Yuma AZ, Co: Yuma, Zip: 85365–9104
Status: Underutilized
Comment: 3789 sq. ft., 2-story, major structural changes required to meet floor loading & fire code requirements, presence of asbestos.
Bldgs. 63001, 80112
Property Number: 219520157
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 1898–2000 sq. ft., 1-story, presence of asbestos & lead base paint, off-site use only.
9 Classroom Facilities
Property Number: 219520158
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Location: Bldgs. 67111, 67118, 67124, 67209, 81005, 81006, 81008, 83024, 84003
Status: Excess
Comment: 1044–2602 sq. ft., 1–2 story, presence of asbestos and lead base paint, off-site use only.
Bldg. 67214
Property Number: 219520159
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 955 sq. ft., 1-story, most recent use—rec. bldg., presence of asbestos & lead base paint, off-site use only.
2 Storage Facilities
Property Number: 219520160
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Location: Bldgs. 72320, 80017
Status: Excess
Comment: 2340 sq. ft., 1–2 story, presence of asbestos & lead base paint, off-site use only.
10 Admin. Facilities
Property Number: 219520161
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Location: Bldgs. 80025, 80027, 80028, 80102, 81002, 81009, 81102, 83025, 83026, 84008
Status: Excess
Comment: 996–2193 sq. ft., 1–2 story, presence of asbestos & lead base paint, off-site use only.
12 Admin. Facilities
Property Number: 219520162
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Location: Bldgs. 67110, 67114, 67115, 67121, 67122, 67226, 67228, 70122, 80008, 80009, 80013, 80024
Status: Excess
Comment: 1041–3298 sq. ft., 1-2 story, presence of asbestos & lead base paint, off-site use only.
10 Barracks
Property Number: 219520163
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Location: Bldgs. 67102–67106, 67125–67129
Status: Excess
Comment: 1352–2291 sq. ft., 2-story, presence of asbestos & lead base paint, off-site use only.
Bldgs. 51449, 73903, 73904
Property Number: 219520164
Fed Reg Date: 10/13/95
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 40–5300 sq. ft., 1-story, most recent use—maint. shops, presence of asbestos & lead base paint, off-site use only.

Georgia

Land

Land (Railbed)
Property Number: 219440440
Fed Reg Date: 10/13/95
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 17.3 acres extending 1.24 miles, no known utilities potential.

Buildings

Bldg. 5390
Property Number: 219010137
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.
Bldg. 5362
Property Number: 219010147
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 5559 sq. ft.; most recent use—service club; needs rehab.
Bldg. 5392
Property Number: 219010151
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.
Bldg. 5391
Property Number: 219010152
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room needs rehab.
Bldg. 4605
Property Number: 219011493
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 915 sq. ft.; buildings in poor condition, major construction needed to be made habitable.
Bldg. 4487
Property Number: 219011681
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.
Bldg. 4319
Property Number: 219011683
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.
Bldg. 3400
Property Number: 219011694
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.
Bldg. 2285
Property Number: 219011704
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.
Bldg. 4092
Property Number: 219011709
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 336 sq. ft.; most recent use—inflamable materials storage; needs substantial rehabilitation; 1 floor.
Bldg. 4089
Property Number: 219011710
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.
Bldg. 5276
Property Number: 219012376
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.
Bldg. 1235

Property Number: 219014887
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9367 sq. ft.; 1-story building; needs rehab; most recent use—General Storehouse.
Bldg. 1236
Property Number: 219014888
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9367 sq. ft.; 1-story building; needs rehab; most recent use—General Storehouse.
Bldg. 1251
Property Number: 219014889
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 18385 sq. ft.; 1-story building; needs rehab; most recent use—Arms Repair Shop.
Bldg. 4491
Property Number: 219014916
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 18240 sq. ft.; 1-story building; needs rehab; most recent use—Vehicle maintenance shop.
Bldg. 4633
Property Number: 219014919
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 5069 sq. ft.; 1-story building; needs rehab; most recent use—Training Building.
Bldg. 4649
Property Number: 219014922
Fed Reg Date: 10/13/95
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2250 sq. ft.; 1-story building; needs rehab; most recent use—Headquarters Building.
Bldg. 2150
Property Number: 219120258
Fed Reg Date: 10/13/95
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3909 sq. ft., 1-story, needs rehab, most recent use—general inst. bldg.
Bldg. 2409
Property Number: 219120263
Fed Reg Date: 10/13/95
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9348 sq. ft., 1-story, needs rehab, most recent use—general purpose warehouse.
Bldg. 2590
Property Number: 219120265
Fed Reg Date: 10/13/95
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3132 sq. ft., 1-story, needs rehab, most recent use—vehicle maintenance shop.
Bldg. 3828
Property Number: 219120266
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 628 sq. ft., 1 story, needs rehab, most recent use—general storehouse.
Bldg. 3086, Fort Benning
Property Number: 219220688
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2 story, most recent use—barracks. needs major rehab, off-site removal only.
Bldg. 3089, Fort Benning
Property Number: 219220689
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2 story, most recent use—barracks, needs major rehab, off-site removal only.
Bldg. 3092, Fort Benning
Property Number: 219220690
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2 story, most recent use—barracks, needs major rehab, off-site removal only.
Bldg. 1252, Fort Benning
Property Number: 219220694
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 583 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.
Bldg. 1678, Fort Benning
Property Number: 219220697
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9342 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.
Bldg. 1733, Fort Benning
Property Number: 219220698
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9375 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.
Bldg. 3083, Fort Benning
Property Number: 219220699
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1372 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.
Bldg. 3856, Fort Benning
Property Number: 219220703
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4111 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.
Bldg. 4881, Fort Benning
Property Number: 219220707
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2449 sq. ft., 1 story, most recent use—storehouse, needs repairs, off-site removal only.
Bldg. 4963, Fort Benning
Property Number: 219220710
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, needs repairs, off-site removal only.
Bldg. 2396, Fort Benning
Property Number: 219220712
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only.
Bldg. 3085, Fort Benning
Property Number: 219220715
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2253 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only.
Bldg. 2537, Fort Benning
Property Number: 219220726
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 820 sq. ft., 1 story, most recent use—storage, needs major rehab, off-site removal only.
Bldg. 4882, Fort Benning
Property Number: 219220727
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only.
Bldg. 4967, Fort Benning
Property Number: 219220728
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, needs repairs, off-site removal only.
Bldg. 5396, Fort Benning
Property Number: 219220734
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 10944 sq. ft., 1 story, most recent use—general instruction bldg., needs major rehab, off-site removal only.
Bldg. 247, Fort Benning
Property Number: 219220735
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1144 sq. ft., 1 story, most recent use—offices, needs major rehab, off-site removal only.

Bldg. 4977, Fort Benning
Property Number: 219220736
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—offices, needs repairs, off-site removal only.

Bldg. 4978, Fort Benning
Property Number: 219220737
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—offices, needs repairs, off-site removal only.

Bldg. 4944, Fort Benning
Property Number: 219220747
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, needs repairs, off-site removal only.

Bldg. 4960, Fort Benning
Property Number: 219220752
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3335 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only.

Bldg. 4969, Fort Benning
Property Number: 219220753
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 8416 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only.

Bldg. 1758, Fort Benning
Property Number: 219220755
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7817 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1680, Fort Benning
Property Number: 219220756
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9243 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 3817, Fort Benning
Property Number: 219220758
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4000 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 4884, Fort Benning
Property Number: 219220762
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., needs repairs, off-site removal only.

Bldg. 4964, Fort Benning
Property Number: 219220763
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., needs repairs, off-site removal only.

Bldg. 4966, Fort Benning
Property Number: 219220764
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., needs repairs, off-site removal only.

Bldg. 4679, Fort Benning
Property Number: 219220767
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 8657 sq. ft., 1 story, most recent use—supply bldg., needs major rehab, off-site removal only.

Bldg. 4883, Fort Benning
Property Number: 219220768
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2600 sq. ft., 1 story, most recent use—supply bldg., needs repairs, off-site removal only.

Bldg. 4965, Fort Benning
Property Number: 219220769
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7713 sq. ft., 1 story, most recent use—supply bldg., needs repairs, off-site removal only.

Bldg. 2513, Fort Benning
Property Number: 219220770
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9483 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only.

Bldg. 2526, Fort Benning
Property Number: 219220771
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 11855 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only.

Bldg. 2589, Fort Benning
Property Number: 219220772
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 146 sq. ft., 1 story, most recent use—training bldg., needs major rehab, off-site removal only.

Bldg. 4976, Fort Benning
Property Number: 219220778
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—gas station, needs repairs, off-site removal only.

Bldg. 4945, Fort Benning
Property Number: 219220779
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 220 sq ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only.

Bldg. 4979, Fort Benning
Property Number: 219220780
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 400 sq. ft., 1 story, most recent use—oil house, need repairs, off-site removal only.

Bldg. 4627, Fort Benning
Property Number: 219220786
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1676 sq. ft., 1 story, most recent use—sentry station, needs major rehab, off-site removal only.

Bldg. 4114, Fort Benning
Property Number: 219310407
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4117, Fort Benning
Property Number: 219310408
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4118, Fort Benning
Property Number: 219310409
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4125, Fort Benning
Property Number: 219310410
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4126, Fort Benning
Property Number: 219310411
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4129, Fort Benning
Property Number: 219310412
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4130, Fort Benning
Property Number: 219310413
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized

Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4137, Fort Benning
Property Number: 219310414
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4138, Fort Benning
Property Number: 219310415
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4140, Fort Benning
Property Number: 219310416
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4002, Fort Benning
Property Number: 219310417
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4004, Fort Benning
Property Number: 219310418
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4008, Fort Benning
Property Number: 219310419
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4009, Fort Benning
Property Number: 219310420
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4010, Fort Benning
Property Number: 219310421
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4012, Fort Benning
Property Number: 219310422
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4015, Fort Benning
Property Number: 219310423
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4020, Fort Benning
Property Number: 219310424
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4106, Fort Benning
Property Number: 219310425
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4115, Fort Benning
Property Number: 219310426
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4116, Fort Benning
Property Number: 219310427
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4127, Fort Benning
Property Number: 219310428
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4128, Fort Benning
Property Number: 219310429
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4139, Fort Benning
Property Number: 219310430
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4149, Fort Benning
Property Number: 219310431
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4150, Fort Benning
Property Number: 219310432
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4017, Fort Benning
Property Number: 219310435
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7700 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4112, Fort Benning
Property Number: 219310436
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4119, Fort Benning
Property Number: 219310437
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4124, Fort Benning
Property Number: 219310438
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4141, Fort Benning
Property Number: 219310439
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4136, Fort Benning
Property Number: 219310440
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4131, Fort Benning
Property Number: 219310441
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1144 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4108, Fort Benning
Property Number: 219310442
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1171 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 1835, Fort Benning
Property Number: 219310443
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–

Status: Unutilized
Comment: 1712 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.
Bldg. 4013, Fort Benning
Property Number: 219310444
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1884 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.
Bldg. 4007, Fort Benning
Property Number: 219310445
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1884 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.
Bldg. 4107, Fort Benning
Property Number: 219310446
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—day room, off-site use only.
Bldg. 3072, Fort Benning
Property Number: 219310447
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 479 sq. ft., 1-story, needs rehab, most recent use—hdqtrs. bldg., off-site use only.
Bldg. 4001, Fort Benning
Property Number: 219310448
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1635 sq. ft., 1-story, needs rehab, most recent use—hdqtrs. bldg., off-site use only.
Bldg. 4103, Fort Benning
Property Number: 219310449
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1635 sq. ft., 1-story, needs rehab, most recent use—hdqtrs. bldg., off-site use only.
Bldg. 4019, Fort Benning
Property Number: 219310451
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—hdqtrs. bldg., off-site use only.
Bldg. 4018, Fort Benning
Property Number: 219310452
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—hdqtrs. bldg., off-site use only.
Bldg. 4109, Fort Benning
Property Number: 219310455
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2253 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4014, Fort Benning
Property Number: 219310456
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2794 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4006, Fort Benning
Property Number: 219310457
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3023 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4135, Fort Benning
Property Number: 219310458
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4123, Fort Benning
Property Number: 219310459
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4111, Fort Benning
Property Number: 219310460
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3755 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.
Bldg. 4023, Fort Benning
Property Number: 219310461
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2269 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only.
Bldg. 4024, Fort Benning
Property Number: 219310462
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3281 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only.
Bldg. 4040, Fort Benning
Property Number: 219310463
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1815 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.
Bldg. 4026, Fort Benning
Property Number: 219310464
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2330 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.
Bldg. 4067, Fort Benning
Property Number: 219310465
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4406 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only.
Bldg. 4025, Fort Benning
Property Number: 219310466
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—admin. off-site use only.
Bldg. 4110, Fort Benning
Property Number: 219310467
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.
Bldg. 4122, Fort Benning
Property Number: 219310468
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.
Bldg. 4134, Fort Benning
Property Number: 219310469
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.
Bldg. 4021, Fort Benning
Property Number: 219310470
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.
Bldg. 4113, Fort Benning
Property Number: 219310473
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—storage, off-site use only.
Bldg. 10304, Fort Benning
Property Number: 219310475
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1040 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.
Bldg. 10847, Fort Benning
Property Number: 219310476
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1056 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.
Bldg. 10768, Fort Benning
Property Number: 219310477
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized

Comment: 1230 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.
Bldg. 2683, Fort Benning
Property Number: 219310478
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1816 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.
Bldg. 2504, Fort Benning
Property Number: 219310479
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 729 sq. ft., 1-story, needs rehab, most recent use—snack bar, off-site use only.
Bldg. 4121, Fort Benning
Property Number: 219310487
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 4133, Fort Benning
Property Number: 219310488
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 4143, Fort Benning
Property Number: 219310489
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1017 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 4105, Fort Benning
Property Number: 219310490
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 4005, Fort Benning
Property Number: 219310491
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—arms bldg., off-site use only.
Bldg. 26306, Fort Gordon
Property Number: 219320225
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 1272 sq. ft., 1 story wood frame, possible asbestos, need repairs, off-site use only, most recent use—storage.
Bldg. 33436, Fort Gordon
Property Number: 219320228
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2632 sq. ft., 1 story wood frame, presence of asbestos, need repairs, off-site use only, most recent use—offices.
Bldg. 33438, Fort Gordon
Property Number: 219320229
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2668 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—storage.
Bldg. 26301, Fort Gordon
Property Number: 219320234
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2788 sq. ft., 1 story wood frame, presence of asbestos, needs roof repairs, off-site use only, most recent use—storage.
Bldg. 354, Fort Gordon
Property Number: 219330259
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 355, Fort Gordon
Property Number: 219330260
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 356, Fort Gordon
Property Number: 219330261
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, possible termite damage, needs repair, most recent use—offices, off0-site use only.
Bldg. 376, Fort Gordon
Property Number: 219330262
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, possible termite damage, needs repair, most recent use—offices, off-site use only.
Bldg. 377, Fort Gordon
Property Number: 219330263
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 4768 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 18704, Fort Gordon
Property Number: 219330265
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 4524 sq. ft., 2-story wood, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 19601, Fort Gordon
Property Number: 219330268
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2132 sq. ft., 1-story wood, possible termite damage, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 19602, Fort Gordon
Property Number: 219330269
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 1555 sq. ft., 1-story wood, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 25103, Fort Gordon
Property Number: 219330271
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2100 sq. ft., 1-story wood, needs rehab, most recent use—offices, off-site use only.
Bldg. 25105, Fort Gordon
Property Number: 219330272
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 1025 sq. ft., 1-story wood, needs rehab, most recent use—offices, off-site use only.
Bldg. 25503, Fort Gordon
Property Number: 219330273
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 6816 sq. ft., 1-story wood, presence of asbestos, most recent use—offices, off-site use only.
Bldg. 34502, Fort Gordon
Property Number: 219330276
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 7036 sq. ft., 2-story wood, needs rehab, most recent use—offices, off-site use only.
Bldg. 35503, Fort Gordon
Property Number: 219330277
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2500 sq. ft., 1-story wood, needs rehab, most recent use— oofices, off-site use only.
Bldg. 37505, Fort Gordon
Property Number: 219330278
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 17370 sq. ft., 2-story wood, needs rehab, possible asbestos, most recent use—offices, off-site use only.
Bldg. 18718, Fort Gordon
Property Number: 219330282
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2468 sq. ft., 1-story wood, presence of asbesos, most recent use—classrooms, off-site use only.
Bldg. 18720, Fort Gordon
Property Number: 219330283
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2632 sq. ft., 1-story wood, presence of asbestos, most recent use—classrooms, off-site use only.
Bldg. 332, Fort Gordon
Property Number: 219330289
Fed Reg Date: 10/13/95

Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 5340 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—laboratory, off-site use only.
Bldg. 333, Fort Gordon
Property Number: 219330290
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 5340 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—laboratory, off-site use only.
Bldg. 334, Fort Gordon
Property Number: 219330291
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 4279 sq. ft., 1-story wood, possible termite damage, presence of asbestos, most recent use—medical admin., off-site use only.
Bldg. 335, Fort Gordon
Property Number: 219330292
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 4300 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—laboratory, off-site use only.
Bldg. 353, Fort Gordon
Property Number: 219330293
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 5157 sq. ft., 1-story wood, presence of asbestos, most recent use—laboratory, off-site use only.
Bldg. 352, Fort Gordon
Property Number: 219330294
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 560 sq. ft., 1-story metal, presence of asbestos, most recent use—equip. storage, off-site use only.
Bldg. 10501
Property Number: 219410264
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2516 sq. ft.; 1 story; wood; needs rehab.; most recent use—office; off-site use only.
Bldg. 10601
Property Number: 219410265
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 1334 sq. ft.; 1 story; wood; most recent use—office; off-site use only.
Bldg. 20303
Property Number: 219410266
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2376 sq. ft.; 1 story; wood; needs rehab.; most recent use—office; off-site use only.
Bldg. 41504
Property Number: 219410267
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2516 sq. ft.; 1 story; wood; needs rehab.; most recent use—store; off-site use only.
Bldg. 11813
Property Number: 219410269
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 70 sq. ft.; 1 story; metal; needs rehab.; most recent use—storage; off-site use only.
Bldg. 21314
Property Number: 219410270
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 85 sq. ft.; 1 story; needs rehab.; most recent use—storage; off-site use only.
Bldg. 951
Property Number: 219410271
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 17,825 sq. ft.; 1 story; wood; needs rehab.; most recent use—workshop; off-site use only.
Bldg. 12809
Property Number: 219410272
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2788 sq. ft.; 1 story; wood; needs rehab., most recent use—maintenance shop; off-site use only.
Bldg. 10306
Property Number: 219410273
Fed Reg Date: 10/13/95
Fort Gordon
Fort Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 195 sq. ft.; 1 story; wood; most recent use—oil storage shed; off-site use only.
Bldg. P–8582
Property Number: 219420355
Fed Reg Date: 10/13/95
Hunter Army Airfield
Savannah, GA, Co: Chatham, Zip: 31409–
Status: Unutilized
Comment: 5892 sq. ft., 2-story, steel, needs major repairs, most recent use—radar tower, off-site use only.
Bldg. T–723
Property Number: 219440403
Fed Reg Date: 10/13/95
Hunter Army Airfield
Savannah, GA, Co: Chatham, Zip: 31409–
Status: Unutilized
Comment: 9190 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. T–121
Property Number: 219440404
Fed Reg Date: 10/13/95
Hunter Army Airfield
Savannah, GA, Co: Chatham, Zip: 31409–
Status: Unutilized
Comment: 1842 sq. ft., 1-story wood frame, needs rehab, most recent use—admin., off-site use only.
Bldg. T154
Property Number: 219440405
Fed Reg Date: 10/13/95
Fort Stewart
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Comment: 1440 sq. ft., 1-story aluminum frame, needs rehab, most recent use—aces. facility, off-site use only.
Bldg. T155
Property Number: 219440406
Fed Reg Date: 10/13/95
Fort Stewart
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Comment: 1440 sq. ft., 1-story aluminum frame, needs rehab, most recent use—aces. facility, off-site use only.
Bldg. T284
Property Number: 219440407
Fed Reg Date: 10/13/95
Fort Stewart
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Comment: 960 sq. ft., 1-story metal frame, needs rehab, most recent use—gen. storehouse, off-site use only.
Bldg. T8041
Property Number: 219440411
Fed Reg Date: 10/13/95
Fort Stewart
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Comment: 1296 sq. ft., 1-story wood frame, needs rehab, most recent use—storehouse, off-site use only.
Bldg. T9591
Property Number: 219440412
Fed Reg Date: 10/13/95
Fort Stewart
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Comment: 11462 sq. ft., 1-story wood frame, needs rehab, most recent use—theater w/ dressing room, off-site use only.
Bldg. T–305, Fort Stewart
Property Number: 219510103
Fed Reg Date: 10/13/95
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Excess
Comment: 2340 sq. ft., 1-story, most recent use—hosp. clinic, needs rehab, off-site use only.
Bldg. T–312, Fort Stewart
Property Number: 219510104
Fed Reg Date: 10/13/95
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Excess
Comment: 3813 sq. ft., 1-story, most recent use—trg. aids center, needs rehab, off-site use only.
Bldg. T–1137, Fort Stewart
Property Number: 219510105
Fed Reg Date: 10/13/95
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Excess
Comment: 77 sq. ft., 1-story, most recent use—dispatch bldg., needs rehab, off-site use only.

Bldg. T–1414
Property Number: 219510106
Fed Reg Date: 10/13/95
Hunter Army Airfield
Savannah, GA, Co: Chatham, Zip: 31409–
Status: Excess
Comment: 2000 sq. ft. 1-story, most recent use—office, needs rehab, off-site use only.
Bldg. 2813, Ft. Benning
Property Number: 219520074
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 40536 sq. ft., 4-story, most recent use—admin., needs major repair, off-site use only.
Bldg. 5982, Ft. Benning
Property Number: 219520075
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 535 sq. ft., 1-story, most recent use—admin., needs major repair, off-site use only.
Bldg. 401
Property Number: 219520076
Fed Reg Date: 10/13/95
Hunter Army Airfield
Savannah, GA, Co: Chatham, Zip: 31409–
Status: Unutilized
Comment: 5167 sq. ft., 1-story, needs major repair, most recent use—office, off-site use only.
Bldg. T–901
Property Number: 219520077
Fed Reg Date: 10/13/95
Hunter Army Airfield
Savannah, GA, Co: Chatham, Zip: 31409–
Status: Unutilized
Comment: 1828 sq. ft., 1-story, needs major repair, most recent use—admin., off-site use only.
Bldg. T–902
Property Number: 219520078
Fed Reg Date: 10/13/95
Hunter Army Airfield
Savannah, GA, Co: Chatham, Zip: 31409–
Status: Unutilized
Comment: 1828 sq. ft., 1-story, needs major repair, most recent use—admin., off-site use only.
Bldg. 33605, Fort Gordon
Property Number: 219520079
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 10864 sq. ft., 2-story, needs repair, presence of asbestos & lead paint, most recent use—office, off-site use only.
Bldg. 51202, Fort Gordon
Property Number: 219520080
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 1555 sq. ft., 1-story, needs repair, presence of lead paint, most recent use—office, off-site use only.
Bldg. 91401, Fort Gordon
Property Number: 219520081
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2132 sq. ft., 1-story, needs repair, presence of asbestos & lead paint, most recent use—office, off-site use only.
Bldgs. 61401 and 91501
Property Number: 219520132
Fed Reg Date: 10/13/95
Fort Gordon
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 7036 sq. ft., 2-story, needs rehab, presence of asbestos & lead base paint, most recent use—barracks, off-site use only.
Bldg. 2814, Fort Benning
Property Number: 219520133
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 40536 sq. ft., 4-story, most recent use—barracks w/dining, needs major repair, off-site use only.
Bldg. 5002, Fort Benning
Property Number: 219520134
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 5310 sq. ft., 2-story, most recent use—barracks, needs major repair, off-site use only.
Bldg. 5007, Fort Benning
Property Number: 219520135
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 5310 sq. ft., 2-story, most recent use—barracks, needs major repair, off-site use only.
Bldg. 90, Fort Benning
Property Number: 219520165
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 25065 sq. ft., 1-story, needs rehab, most recent use—theater, off-site use only.
Bldg. 227, Fort Benning
Property Number: 219520166
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 14019 sq. ft., 2-story, needs rehab, most recent use—NCO club, off-site use only.
Bldg. 1690, Fort Benning
Property Number: 219520167
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 13601 sq. ft., 1-story, needs rehab, most recent use—warehouse, off-site use only.
Bldg. 1692, Fort Benning
Property Number: 219520168
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 13601 sq. ft., 1-story, needs rehab, most recent use—warehouse, off-site use only.
Bldg. 1693, Fort Benning
Property Number: 219520169
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 13195 sq. ft., 1-story, needs rehab, most recent use—warehouse, off-site use only.
Bldg. 1755, Fort Benning
Property Number: 219520170
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 3142 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.
Bldg. 2398, Fort Benning
Property Number: 219520171
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 6077 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.
Bldg. 2399, Fort Benning
Property Number: 219520172
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 3936 sq. ft., needs rehab, most recent use—maint. shop, off-site use only.
Bldg. 3802, Fort Benning
Property Number: 219520173
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 30905–
Status: Unutilized
Comment: 3362 sq. ft., 1-story, needs rehab, most recent use—chapel, off-site use only.
Bldg 4011, Fort Benning
Property Number: 219520174
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1030 sq. ft., 1-story, needs rehab, most recent use—warehouse, off-site use only
Bldg 4051, Fort Benning
Property Number: 219520175
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 967 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only
Bldg 4495, Fort Benning
Property Number: 219520176
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4367 sq. ft., 1-story, needs rehab, most use—training, off-site use—training, off-site use only
Bldg 4496, Fort Benning
Property Number: 219520177
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4367 sq. ft., 1-story, needs rehab, most use—training, off-site use only
Bldg 4635, Fort Benning
Property Number: 219520178
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2284 sq. ft., 1-story, needs rehab, off-site use only
Bldg 4762, Fort Benning
Property Number: 219520179
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—maint. shop, off-site use only
Bldg 5075, Fort Benning
Property Number: 219520180
Fed Reg Date: 10/13/95

Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—maint. shop, off-site use only
Bldg 5076, Fort Benning
Property Number: 219520181
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—maint. shop, off-site use only
Bldg 11301, Fort Benning
Property Number: 219520182
Fed Reg Date: 10/13/95
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1068 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only
Bldg A1401, Fort Gordon
Property Number: 219520183
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 3428 sq. ft., 1-story, needs rehab, presence of asbestos & lead base paint, off-site use only
Bldg A1618, Fort Gordon
Property Number: 219520184
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2800 sq. ft., 1-story, needs rehab, most recent use—storage, presence of asbestos & lead base paint, off-site use only
Bldg 61404, Fort Gordon
Property Number: 219520185
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 3428 sq. ft., 1-story, most recent use—maint. shop, needs rehab, presence of asbestos & lead base paint, off-site use only
Bldg 91704, Fort Gordon
Property Number: 219520186
Fed Reg Date: 10/13/95
Ft. Gordon, GA, Co: Richmond, Zip: 30905–
Status: Unutilized
Comment: 2788 sq. ft., 1-story, most recent use—vehicle maint., needs rehab, presence of asbestos & lead base paint, off-site use only

Hawaii

Buildings

P–88
Property Number: 219030324
Fed Reg Date: 10/13/95
Project Name: Aliamanu Military Reservation
Aliamanu Military Reservation
Honolulu, HI, Co: Honolulu, Zip: 96818–
Location: Approximately 600 feet from Main Gate on Aliamanu Drive.
Status: Unutilized
Comment: 45,218 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations
Bldg. 302
Property Number: 219320236
Fed Reg Date: 10/13/95
Fort Shafter
Honolulu, HI, Co: Honolulu, Zip: 96818–
Status: Unutilized
Comment: 39 sq. ft., most recent use—sentry station, off-site use only
Facility T–119
Property Number: 219430252
Fed Reg Date: 10/13/95
Fort Shafter
Honolulu, HI, Zip: 96819–
Status: Unutilized
Comment: 10205 sq. ft., wood structure, some termite damage, most recent use—above ground swimming pool, off-site use only
Bldg. S–108
Property Number: 219510101
Fed Reg Date: 10/13/95
Helemano Military Reservation
Wahiawa, HI, Zip: 96786–
Status: Excess
Comment: 2400 sq. ft., 1-story, needs rehab, most recent use—fire station, off-site use only
Bldg. S–107
Property Number: 219510102
Fed Reg Date: 10/13/95
Helemano Military Reservation
Wahiawa, HI, Zip: 96786–
Status: Excess
Comment: 2000 sq. ft., 1-story, most recent use—office, off-site use only
Bldg. S–823
Property Number: 219520082
Fed Reg Date: 10/13/95
Wheeler Army Airfield
Wahiawa, HI, Zip: 96786–
Status: Unutilized
Comment: 3150 sq. ft., 2-story wood frame, most recent use—office, off-site use only
Bldg. 198, Fort DeRussy
Property Number: 219520083
Fed Reg Date: 10/13/95
Honolulu, HI, Zip: 96815–
Unutilized
Comment: 19087 sq. ft., 1-story concrete, most recent use—office, off-site use only
Bldg. 199, Fort DeRussy
Property Number: 219520187
Fed Reg Date: 10/13/95
Honolulu, HI, Zip: 96815–
Status: Unutilized
Comment: 2400 sq. ft., 1-story, most recent use—training, off-site use only

Iowa

Buildings

U.S. Army Reserve Center
Property Number: 219430253
Fed Reg Date: 10/13/95
705 E. Taylor Street
Creston, IA, Co: Adams, Zip: 50801–4040
Status: Unutilized
Comment: 6500 sq. ft., 1-story structure on 2 acres, most recent use—office/storage/training

Illinois

Buildings

WARD Army Reserve Center
Property Number: 219430254
Fed Reg Date: 10/13/95
1429 Northmoor Road
Peoria, IL, Co: Peoria, Zip: 61614–3498
Unutilized
Comment: 2 bldgs. on 3.15 acres, 36451 sq. ft., reserve center & warehouse, presence of asbestos, most recent use—office/storage/training
Stenafich Army Reserve Center
Property Number: 219430255
Fed Reg Date: 10/13/95
1600 E. Willow Road
Kankakee, IL, Co: Kankakee, Zip: 60901–2631
Status: Unutilized
Comment: 2 bldgs.—reserve center & vehicle maint. shop on 3.68 acres, 5641 sq. ft., most recent use—office/storage/training, presence of asbestos

Indiana

Buildings

Bldg. 703–1C
Property Number: 219013761
Fed Reg Date: 10/13/95
Project Name: Indiana Army Ammo. Plant
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip:
Location: Gate 22 off Highway 22
Status: Underutilized
Comment: 4000 sq. ft.; 2 story brick frame; possible asbestos; most recent use—exercise area.
Bldg. 1011 (Portion of)
Property Number: 219013762
Fed Reg Date: 10/13/95
Project Name: Indiana Army Ammo. Plant
Indiana Army Ammunition Plant
End of 3rd Street
Charlestown, IN, Co: Clark, Zip:
Location: East of State Highway 62 at Gate 3
Status: Underutilized
Comment: 4040 sq. ft.; 1 story concrete block frame; possible asbestos; secured area with alternate access; most recent use—office.
Bldg. 1001 (Portion of)
Property Number: 219013763
Fed Reg Date: 10/13/95
Project Name: Indiana Army Ammo. Plant
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip:
Location: South end of 3rd Street, East of State Highway 62 at entrance gate.
Status: Underutilized
Comment: 55630 sq. ft.; 1 story concrete block; possible asbestos; secured area with alternate access; most recent use—cloth bag manufacturing.
Bldg. 2542
Property Number: 219240717
Fed Reg Date: 10/13/95
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip: 47111–
Status: Unutilized
Comment: 1954 sq. ft., 1 story concrete block, secured area w/alternate access, asbestos, most recent use—heating facility.
Bldg. 2531
Property Number: 219240718
Fed Reg Date: 10/13/95
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip: 47111–
Status: Unutilized
Comment: 119746 sq. ft., 1 story concrete block, secured area w/alternate access, asbestos, most recent use—storage.
Bldgs. 7215, 7216
Property Number: 219330297
Fed Reg Date: 10/13/95
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip: 47111–
Status: Unutilized
Comment: roadside shelters, no utilities, located on Indiana State Highway Right of Way

Kansas

Land

Parcel 1
Property Number: 219012333
Fed Reg Date: 10/13/95
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027–5020
Status: Underutilized
Comment: 14.4+ acres.
Parcel 3
Property Number: 219012336
Fed Reg Date: 10/13/95
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027–5020
Status: Underutilized
Comment: 261+ acres; heavily forrested; no access to a public right-of-way; selected periods are reserved for military/training exercises.
Parcel 4
Property Number: 219012339
Fed Reg Date: 10/13/95
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027–5020
Status: Underutilized
Comment: 24.1+ acres; selected periods are reserved for military/training exercises; steep/wooded area.
Parcel 6
Property Number: 219012340
Fed Reg Date: 10/13/95
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027–5020
Location: Extreme north east corner of installation in Flood Plain of the Missouri River.
Status: Underutilized
Comment: 1280 acres; selected periods are reserved for military/training exercises.
Parcel F
Property Number: 219012552
Fed Reg Date: 10/13/95
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027–5020
Status: Unutilized
Comment: 33.4 acres; area is land locked; heavily wooded; periodic flooding.

Buildings

Bldg. T–2549, Fort Riley
Property Number: 219310251
Fed Reg Date: 10/13/95
Ft. Riley, KS, Co: Geary, Zip: 66442–
Status: Unutilized
Comment: 3082 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage

Bldg. 166, Fort Riley
Property Number: 219410325
Fed Reg Date: 10/13/95
Ft. Riley, KS, Co: Geary, Zip: 66442–
Status: Unutilized
Comment: 3803 sq. ft., 3-story brick residence, needs rehab, presence of asbestos, located within National Registered Historic District
Bldg. 184, Fort Riley
Property Number: 219430146
Fed Reg Date: 10/13/95
Ft. Riley, KS, Zip: 66442–
Status: Unutilized
Comment: 1959 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—boiler plant, historic district
Bldg. T–1030
Property Number: 219440413
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 19377 sq. ft., 1-story wood frame, most recent use—storage off-site use only
Bldg. T–1035
Property Number: 219440414
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 496 sq. ft., 1-story wood frame, most recent use—storage, off-site use only
Bldg. 1362
Property Number: 219440415
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1457
Property Number: 219440416
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1458
Property Number: 219440417
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1462
Property Number: 219440418
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1464
Property Number: 219440419
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1358
Property Number: 219440420
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1359
Property Number: 219440421
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1454
Property Number: 219440422
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1455
Property Number: 219440423
Fed Reg Date: 10/13/95
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. 1461
Property Number: 219440424
Fed Reg Date: 10/13/95
Fort Leavenworth
Ft. Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1-story wood frame, asbestos cement shingles, most recent use—office, off-site use only
Bldg. T–2038, Fort Riley
Property Number: 219440443
Fed Reg Date: 10/13/95
Ft. Riley, KS, Co: Geary, Zip: 66442–
Status: Unutilized
Comment: 1324 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage
Bldg. T–2049, Fort Riley
Property Number: 219440444
Fed Reg Date: 10/13/95
Ft. Riley, KS, Co: Geary, Zip: 66442–
Status: Unutilized
Comment: 3255 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage

Bldg. T–2449, Fort Riley
Property Number: 219440445
Fed Reg Date: 10/13/95
Ft. Riley, KS, Co: Geary, Zip: 66442–
Status: Unutilized
Comment: 3057 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage
Bldgs. T–2018, T–2120, T–2338
Property Number: 219510099
Fed Reg Date: 10/13/95
Fort Riley
Ft. Riley, KS, Zip: 66442–
Status: Unutilized
Comment: 3059–3278 sq. ft., 1–2 story, needs rehab, presence of asbestos, most recent use—office/storage
Bldgs. S–403, S–401
Property Number: 219510100
Fed Reg Date: 10/13/95
Fort Leavenworth
Leavenworth, KS, Zip: 66027–
Status: Excess
Comment: 2978 sq. ft., 1-story, presence of asbestos, most recent use—hosp. clinic, off-site use only

Kentucky

Buildings

Bldg. 7162
Property Number: 219410301
Fed Reg Date: 10/13/95
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 1256 sq. ft.; most recent use—storage; off-site use only
Bldg. 234
Property Number: 219430152
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 8042 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only
Bldg. 236
Property Number: 219430153
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—admin., off-site use only
Bldg. 238
Property Number: 219430154
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—Educ. center, off-site use only
Bldg. 240
Property Number: 219430155
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—educ. center, off-site use only
Bldgs. 242, 244
Property Number: 219430156
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 7020 sq. ft., 2-story, needs repair, presence of asbestos, most recent use—educ. center, off-site use only
Bldg. 2104
Property Number: 219430158
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 2000 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—classroom, off-site use only
Bldg. 2108
Property Number: 219430161
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 3823 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—classroom, off-site use only
Bldg. 2788
Property Number: 219430167
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 1813 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—storage, off-site use only
Bldg. 3170
Property Number: 219430172
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 2750 sq. ft., 1-story, needs repair, presence of asbestos, most recent use—maint. shop, off-site use only

Louisiana

Land

Land—Louisiana AAP
Property Number: 219430133
Fed Reg Date: 10/13/95
Doyline, LA, Co: Webster, Zip: 71023–
Status: Underutilized
Comment: 3 acres, most recent use—excess vehicle storage, secure area with alternate access

Maryland

Buildings

Bldg. E5878
Property Number: 219012652
Fed Reg Date: 10/13/95
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010–5425
Status: Unutilized
Comment: 213 sq. ft.; structural deficiencies; possible abestos; and contamination.
Bldg. E5879
Property Number: 219012653
Fed Reg Date: 10/13/95
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010–5425
Status: Unutilized
Comment: 213 sq. ft.; possible abestos and contamination; no utilities; most recent use—igloo storage.
Bldg. 10302
Property Number: 219012666
Fed Reg Date: 10/13/95
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010–5425
Status: Unutilized
Comment: 42 sq. ft.; possible asbestos; most recent use—pumping station.
Bldg. E5975
Property Number: 219012677
Fed Reg Date: 10/13/95
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010–5425
Status: Unutilized
Comment: 650 sq. ft.; possible contamination; structural deficiencies; most recent use—training exercises/chemicals and explosives; potential use—storage.
Bldg. 6687
Property Number: 219220446
Fed Reg Date: 10/13/95
Fort George G. Meade
Mapes and Zimbroski Roads
Ft. Meade, MD, Co: Anne Arundel, Zip 20755–5115
Status: Unutilized
Comment: 1150 sq. ft., presence of asbestos, wood frame, most recent use—veterinarian clinic, off-site removal only, sched. to be vacated 10/1/92.
Bldgs. 303–308, 323–328, 333–337
Property Number: 219320293
Fed Reg Date: 10/13/95
Fort George G. Meade
Ft. Meade, MD, Co: Anne Arundel, Zip 20755–5115
Status: Unutilized
Comment: 4720 sq. ft. each, 2-story wood frame, possible asbestos, most recent use—barracks/classrooms, fair to good condition, off-site use only
Bldg. 309
Property Number: 219320294
Fed Reg Date: 10/13/95
25Fort George G. Meade
Ft. Meade, MD, Co: Anne Arundel, Zip: 20755–5115
Status: Unutilized
Comment: 2324 sq. ft., 1-story wood frame, possible asbestos, fair to good condition, off-site use only
Bldgs. 312, 319
Property Number: 219320295
Fed Reg Date: 10/13/95
Fort George G. Meade
Ft. Meade, MD, Co: Anne Arundel, Zip 20755–5115
Status: Unutilized
Comment: 2594 sq. ft., 1-story wood frame, possible asbestos, most recent use—storage fair condition, off-site use only
Bldgs. 313–314, 317–318
Property Number: 219320296
Fed Reg Date: 10/13/95
Fort George G. Meade
Ft. Meade, MD: Anne Arundel, Zip 20755–5115
Status: Unutilized
Comment: 1144 sq. ft., 1-story wood frame, possible asbestos, most recent use—storage, fair to good condition, off-site use only
Bldgs. 302, 329, 332, 339
Property Number: 219320297
Fed Reg Date: 10/13/95
Fort George G. Meade
Ft. Meade, MD, Co: Anne Arundel, Zip 20755–5115
Status: Unutilized
Comment: 2208 sq. ft., 1-story wood frame, possible, asbestos, most recent use—storage, fair condition, off-site use only
Bldg. E4890
Property Number: 219330434
Fed Reg Date: 10/13/95
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 6250 sq. ft., 1-story, needs rehab, presence of asbestos
Bldgs. 2251, 2252
Property Number: 219430180
Fed Reg Date: 10/13/95
Fort Meade
Ft. Meade, MD, Co: Anne Arundel, Zip 20755–5115
Status: Unutilized
Comment: 648 & 3594 sq. ft., 1-story, concrete/metal structure, needs rehab, presence of asbestos, most recent use—heating plant & admin.

Michigan

Buildings

Bldg. 300, Arsenal Acres
Property Number: 219220448
Fed Reg Date: 10/13/95
24140 Mound Road
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 52 sq. ft. sentry station, secured area with alternate access
Bldg. 301, Arsenal Acres
Property Number: 219220449
Fed Reg Date: 10/13/95
24140 Mound Road
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 3125 sq. ft., 2-story colonial style home, secured area with alternate access
Bldg. 302, Arsenal Acres
Property Number: 219220450
Fed Reg Date: 10/13/95
24140 Mound Road
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 2619 sq. ft., 2-story colonial style home, secured area with alternate access
Bldg. 303, Arsenal Acres
Property Number: 219220451
Fed Reg Date: 10/13/95
24140 Mound Road
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 2619 sq. ft., 2-story colonial style home, secured area with alternate access
Bldg. 304, Arsenal Acres
Property Number: 219220452
Fed Reg Date: 10/13/95
24140 Mound Road
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 2443 sq. ft., 2-story colonial style home, secured area with alternate access
Bldg. 305, Arsenal Acres
Property Number: 219220787
Fed Reg Date: 10/13/95
24140 Mound Road
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 2443 sq. ft., 2-story colonial style home, secured area with alternate access
Bldg. 306
Property Number: 219410326
Fed Reg Date: 10/13/95
Arsenal Acres
24140 Mound Road
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 2443 sq. ft., 2-story colonial style home, secured area w/alternate access
Bldg. 307
Property Number: 219410327
Fed Reg Date: 10/13/95
Arsenal Acres
24140 Mound Rd.
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 2443 sq. ft., 2-story colonial style home, secured area w/alternate access
Bldg. 308
Property Number: 219410328
Fed Reg Date: 10/13/95
Arsenal Acres
24140 Mound Rd.
Warren, MI, Zip: 48091–
Status: Unutilized
Comment: 205 sq. ft., 1-story brick, secured area w/alternate access

Minnesota

Land

Land
Property Number: 219120269
Fed Reg Date: 10/13/95
Twin Cities Army Ammunition Plant
New Brighton, MN, Co: Ramsey, Zip: 55112–
Status: Underutilized
Comment: Approx. 25 acres, possible contamination, secured area with alternate access.

Missouri

Buildings

Bldg. T2383
Property Number: 219230228
Fed Reg Date: 10/13/95
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 9267 sq. ft., 1-story, presence of asbestos, most recent use—general purpose facility, off-site use only
Bldg. T599
Property Number: 219230260
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 18270 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only
Bldg. T1311
Property Number: 219230261
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 2740 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only
Bldg. T427
Property Number: 219330299
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 10245 sq. ft., 1-story, presence of asbestos, most recent use—post office, off-site use only
Bldg. T2368
Property Number: 219330306
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of asbestos, off-site use only
Bldg. T3005
Property Number: 219330307
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 2220 sq. ft., 1-story, presence of asbestos, most recent use—motor repair shop, off-site use only
Bldg. T2171
Property Number: 219340212
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Unutilized
Comment: 1296 sq. ft., 1-story wood frame, most recent use—administrative, no handicap fixtures, lead base paint, off-site use only
Bldg. T1258
Property Number: 219340213
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 2360 sq. ft., 1-story wood frame, most recent use—warehouse, no handicap fixtures, possible asbestos, lead base paint, off-site use only
Bldg. T2312
Property Number: 219340217
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 1403 sq. ft., 1-story wood frame, most recent use—paint shop, no handicap fixtures, lead base paint, off-site use only
Bldg. T6822

Property Number: 219340219
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 4000 sq. ft., 1-story wood frame, most recent use—storage, no handicap fixtures, off-site use only
Bldg. T1363
Property Number: 219420392
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of lead base paint, most recent use—storage, off-site use only
Bldg. T1364
Property Number: 219420393
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of lead base paint, most recent use—storage, off-site use only
Bldg. T281
Property Number: 219420397
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 4230 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T282
Property Number: 219420398
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 15923 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T283
Property Number: 219420431
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 6163 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T407
Property Number: 219420432
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 2265 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T408
Property Number: 219420433
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 10296 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T409
Property Number: 219420434
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 2450 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T410
Property Number: 219420435
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 2664 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T411
Property Number: 219420436
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T412
Property Number: 219420437
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T415
Property Number: 219420438
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T429
Property Number: 219420439
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 2475 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T1100
Property Number: 219420440
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 3236 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T1497
Property Number: 219420441
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T2138
Property Number: 219420445
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 1676 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T2139
Property Number: 219420446
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only
Bldg. T–2143
Property Number: 219440324
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks
Bldg. T–2144
Property Number: 219440325
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks
Bldg. T–2158
Property Number: 219440326
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks
Bldg. T–2173
Property Number: 219440330
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks
Bldg. T–2189
Property Number: 219440332

Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks
Bldg. T–2191
Property Number: 219440334
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks
Bldg. T–2197
Property Number: 219440335
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks
Bldg. T–403
Property Number: 219510107
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 5818 sq. ft., 1 story wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–460
Property Number: 219510108
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 5428 sq. ft., 1 story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–464
Property Number: 219510109
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 5310 sq. ft., 2 story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–590
Property Number: 219510110
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 3263 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–1246
Property Number: 219510111
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 1144 sq. ft., 1 story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–1362
Property Number: 219510112
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 2360 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–1907
Property Number: 219510113
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 7670 sq. ft., 2-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–1908
Property Number: 219510114
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 2284 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–2385
Property Number: 219510115
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–3007
Property Number: 219510116
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 4687 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–3008
Property Number: 219510117
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 4687 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–3010
Property Number: 219510118
Fed Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 4687 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only
Bldg. T–3011
Property Number: 219510119
Fed-Reg Date: 10/13/95
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–
Status: Excess
Comment: 4687 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Montana

Land

U.S. Army Reserve Center
Property Number: 219420009
Fed Reg Date: 10/13/95
Marcella Avenue
Lewistown, MT, Co: Fergus, Zip:
Status: Unutilized
Comment: 4.16 acres of bare land

Buildings

USARC Bozeman Reserve Center
Property Number: 219420391
Fed Reg Date: 10/13/95
Bozeman, MT, Co: Gallatin, Zip:
Status: Unutilized
Comment: 15236 sq. ft., 3-story reserve center on .54 acres, bldg. on National Register of Historic Places, secured with alternate access

New Jersey

Buildings

Bldg. 421, Fort Monmouth
Property Number: 219330435
Fed Reg Date: 10/13/95
Ft. Monmouth, NJ, Co: Monmouth, Zip: 07703–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, most recent use—office
Bldg. 2529, Fort Monmouth
Property Number: 219330436
Fed Reg Date: 10/13/95
Charles Wood Area
Ft. Monmouth, NJ, Co: Monmouth, Zip: 07703–
Status: Unutilized
Comment: 4413 sq. ft., 2-story, needs rehab, most recent use—admin.
Bldg. 197
Property Number: 219440442
Fed Reg Date: 10/13/95
Fort Monmouth
Ft. Monmouth, NJ, Co: Monmouth, Zip: 07703–
Status: Unutilized
Comment: 1240 sq. ft., 1 story, most recent use—motor repair shop

New Mexico

Buildings

Bldg. 108
Property Number: 219330327
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3561 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. 109
Property Number: 219330328
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3561 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. 117
Property Number: 219330329
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 1688 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. 118
Property Number: 219330330
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3561 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. 119
Property Number: 219330331
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3561 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 148
Property Number: 219330332
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3570 sq. ft., 2-story, needs rehab, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 149
Property Number: 219330333
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3570 sq. ft., 2-story, needs rehab, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 150
Property Number: 219330334
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3750 sq. ft., 2-story, presence of asbestos, most use—admin., off-site use only.

Bldg. 357
Property Number: 219330335
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Go: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3600 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 1758
Property Number: 219330336
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 1620 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 1768
Property Number: 219330337
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 15,333 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 28281
Property Number: 219330338
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 1856 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 28282
Property Number: 219330339
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 1850 sq. ft., 3-story, needs rehab, presence of asbestos; most recent use—admin., off-site use only.

Bldg. 32980
Property Number: 219330340
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 451 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 34252
Property Number: 219330341
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 418
Property Number: 219330342
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 3690 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 420
Property Number: 219330343
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 2407 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 890
Property Number: 219330344
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 9011 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1348
Property Number: 219330345
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 720 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1738
Property Number: 219330346
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 1500 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1765
Property Number: 219330347
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 600 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 21542
Property Number: 219330348
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip. 88002–
Status. Unutilized
Comment: 945 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 22118
Property Number: 219330349
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 1341 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 22253

Property Number: 219330350
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 216 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 28267
Property Number: 219330351
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 617 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 29195
Property Number: 219330352
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 56 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 34219
Property Number: 219330353
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 34221
Property Number: 219330354
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 145
Property Number: 219330355
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 2954 sq. ft., 1-story, presence of asbestos, most recent use—chapel, off-site use only.

Bldg. 1754
Property Number: 219330356
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 6974 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 19242
Property Number: 219330357
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 450 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 34227
Property Number: 219330358
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 675 sq. ft., 1-story, presence of asbestos, most recent use—maintencnace shop, off-site use only.

Bldg. 34244
Property Number: 219330359
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop., off-site use only.

Bldg. 21105
Property Number: 219330360
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 239 sq. ft., presence of asbestos, most recent use—veterinarian facility, off-site use only.

Bldg. 21106
Property Number: 219330361
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 405 sq. ft., 1-story, presence of asbestos, most recent use—veterinarian facility, off-site use only.

Bldg. 21310
Property Number: 219330362
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 1006 sq. ft., 1-story, presence of asbestos, most recent use—transmitter bldg., off-site use only.

Bldg. 29690
Property Number: 219330363
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 450 sq. ft., 1-story, presence of asbestos, most recent use—frequency monitoring station, off-site use only.

Bldg. 1868
Property Number: 219330364
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 41 sq. ft., 1-story, presence of asbestos, most recent use—scale house, off-site use only.

Bldg. 528
Property Number: 219330365
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 225 sq. ft., 1-story, presence of asbestos, most recent use—decontamination shelter, off-site use only.

Bldg. 1834
Property Number: 219330366
Fed Reg Date: 10/13/95
White Sands Missile Range-
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 150 sq. ft., 1-story, presence of asbestos, most recent use—animal kennel, off-site use only.

Bldg. 1300
Property Number: 219330367
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 1500 sq. ft., 1-story, presence of asbestos, most recent use—indoor small arms range, off-site use only.

Bldg. 23100
Property Number: 219330368
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 40 sq. ft., 1-story, presence of asbestos, most recent use—sentry station, off-site use only.

Bldg. 29196
Property Number: 219330369
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 38 sq. ft., 1-story, presence of asbestos, most recent use—power plant bldg., off-site use only.

Bldg. 30774
Property Number: 219330370
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sands, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 176 sq. ft., 1-story, presence of asbestos, off-site use only.

Bldg. 33136
Property Number: 219330371
Fed Reg Date: 10/13/95
White Sands Missile Range
White Sand, NM, Co: Dona Ana, Zip: 88002–
Status: Unutilized
Comment: 18 sq. ft., off-site use only.

Nevada

Land

Parcel A
Property Number: 219012049
Fed Reg Date: 10/13/95
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–

Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Status: Unutilized
Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B
Property Number: 219012056
Fed Reg Date: 10/13/95
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: At foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Status: Unutilized
Comment: 1920 acres; road and utility easements, no utility hookup; possible flooding problem.

Parcel C
Property Number: 219012057
Fed Reg Date: 10/13/95
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359
Status: Unutilized
Comment: 85 acres; road & utility easements; no utility hookup.

Parcel D
Property Number: 219012058
Fed Reg Date: 10/13/95
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at western edge of State Route 359.
Status: Unutilized
Comment: 955 acres; road & utility easements; no utility hookup.

Buildings

Bldgs. 00425–00449
Property Number: 219011946
Fed Reg Date: 10/13/95
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

New York

Land

Galeville Army Training Site
Property Number: 219510128
Fed Reg Date: 10/13/95
Shawangunk, NY, Co: Ulster, Zip: 12589–
Status: Underutilized
Comment: 621.05 acres, improved w/inactive runway, airfield & taxiway, potential utilities, 234 acres is wetlands and habitat for threatened species.

Buildings

Bldg. 323
Property Number: 219012567
Fed Reg Date: 10/13/95
Project Name: Fort Totten
Fort Totten
Story Avenue
Bayside, NY, Co: Queens, Zip: 11359–
Status: Underutilized
Comment: 30000 sq. ft., 3 floors, most recent use-barracks & mess facility, needs major rehab.

Bldg. 304
Property Number: 219012570
Fed Reg Date: 10/13/95
Project Name: Fort Totten
Fort Totten
Shore Road
Bayside, NY, Co: Queens, Zip: 11359–
Status: Underutilized
Comment: 9610 sq. ft., 3 floors, most recent use-hospital, needs major rehab/utilities disconnected.

Bldg. 211
Property Number: 219012573
Fed Reg Date: 10/13/95
Project Name: Fort Totten
Fort Totten
211 Totten Avenue
Bayside, NY, Co: Queens, Zip: 11359–
Status: Underutilized
Comment: 6329 sq. ft., 3 floors, most recent use-family housing, needs major rehab, utilities disconnected.

Bldg. 332
Property Number: 219012578
Fed Reg Date: 10/13/95
Project Name: Fort Totten
Fort Totten
Theater Road
Bayside, NY, Co: Queens, Zip: 11359–
Status: Underutilized
Comment: 6288 sq. ft., 1 floor, most recent use-theater w/stage, needs major rehab, utilities disconnected.

Bldg. 322
Property Number: 219012583
Fed Reg Date: 10/13/95
Project Name: Fort Totten
Fort Totten
322 Story Avenue
Bayside, NY, Co: Queens, Zip: 11359–
Status: Underutilized
Comment: 30000 sq. ft., 3 floors, most recent use-barracks, mess & administration, utilities disconnected, needs rehab.

Bldg. 326
Property Number: 219012586
Fed Reg Date: 10/13/95
Project Name: Fort Totten
Fort Totten
326 Pratt Avenue
Bayside, NY, Co: Queens, Zip: 11359–
Status: Underutilized
Comment: 6000 sq. ft., 2 floors, most recent use-storage, offices & residential, utilities disconnected/needs rehab.

Bldg. 100, Fort Hamilton
Property Number: 219340254
Fed Reg Date: 10/13/95
Bellmore, NY, Co: Nassau, Zip: 11710–
Status: Unutilized
Comment: 155 sq. ft., 1-story, most recent use—storage.

Bldg. 200, Fort Hamilton
Property Number: 219340255
Fed Reg Date: 10/13/95
Bellmore, NY, Co: Nassau, Zip: 11701–
Status: Unutilized
Comment: 12000 sq. ft., 1-story, most recent use—office.

Bldg. 300, Fort Hamilton
Property Number: 219340256
Fed Reg Date: 10/13/95
Bellmore, NY, Co: Nassau, Zip: 11710–
Status: Underutilized
Comment: 11000 sq. ft., 1-story, most recent use—reserve center.

Bldg. 900, Fort Hamilton
Property Number: 219430259
Fed Reg Date: 10/13/95
Bellmore, NY, Co: Nassau, Zip: 11710–
Status: Underutilized
Comment: 400 sq. ft., 1-story, needs rehab, most recent use—material storage.

Bldg. P–2012, Fort Drum
Property Number: 219440429
Fed Reg Date: 10/13/95
Ft. Drum, NY, Co: Jefferson, Zip: 13602–
Status: Unutilized
Comment: 450 sq. ft., most recent use—water distribution bldg., off-site use only.

Bldg. T–2420, Fort Drum
Property Number: 219440431
Fed Reg Date: 10/13/95
Ft. Drum, NY, Co: Jefferson, Zip: 13602–
Status: Unutilized
Comment: 4340 sq. ft., 1-story, most recent use—warehouse, needs rehab, off-site use only.

Bldg. 134
Property Number: 219520122
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 8280 GSF, 2-story, 4-family dwelling unit, presence of asbestos, off-site use only.

Bldg. 136
Property Number: 219520123
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 9340 GSF, 3-story, 4-family dwelling unit, presence of asbestos, off-site use only.

Bldg. 138
Property Number: 219520124
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 2762 GSF, 2-story, single family dwelling unit, presence of asbestos, off-site use only.

Bldg. 139
Property Number: 219520125
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 6260 GSF, 1-story, 3-family dwelling unit, presence of asbestos, off-site use only.

Bldg. 142
Property Number: 219520126
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 6708 GSF, 3-story, 2-family dwelling unit, presence of asbestos, off-site use only.

Bldg. 1266
Property Number: 219520127
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 3504 GSF, 2-story, single family dwelling unit, presence of asbestos, off-site use only.

Bldg. 1404
Property Number: 219520128
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 1986 GSF, 3-story, single family dwelling unit, presence of asbestos, off-site use only.

Bldg. 1656
Property Number: 219520129
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 1736 GSF, 2-story, single family dwelling unit, presence of asbestos, off-site use only.

Bldg. 1666
Property Number: 219520130
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 1752 GSF, 1-story, single family dwelling unit, presence of asbestos, off-site use only.

Bldg. 1970
Property Number: 219520131
Fed Reg Date: 10/13/95
West Point Army Family Housing
West Point, NY, Co: Orange, Zip: 10996–
Status: Excess
Comment: 2939 GSF, 2-story, single family dwelling unit, presence of asbestos, off-site use only.

Bldg. T–601, Fort Drum
Property Number: 219520193
Fed Reg Date: 10/13/95
Ft. Drum, NY, Co: Jefferson, Zip: 13602–
Status: Unutilized
Comment: 2305 sq. ft., 1-story, needs rehab, most recent use—NCO club, off-site use only

Ohio

Land

5 acres
Property Number: 219320313
Fed Reg Date: 10/13/95
Doan U.S. Army Reserve Center
Portmonth, OH, Co: Scioto, Zip: 45662–
Status: Unutilized
Comment: 5 acres including paved roads, parking, sidewalks, etc.

3 acres
Property Number: 219320316
Fed Reg Date: 10/13/95
Hayes U.S. Army Reserve Center
Fremont, OH, Co: Sandusky, Zip: 43420–
Status: Unutilized
Comment: 3 acres including paved roads, parking, sidewalks, etc.

Buildings

15 Units
Property Number: 219230354
Fed Reg Date: 10/13/95
Military Family Housing
Ravenna Army Ammunition Plant
Ravenna, OH, Co: Portage, Zip: 44266–9297
Status: Excess
Comment: 3 bedroom (7 units)—1,824 sq. ft. each, 4 bedroom 8 units)—2,430 sq. ft. each, 2-story wood frame, presence of asbestos, off-site use only.

7 Units
Property Number: 219230355
Fed Reg Date: 10/13/95
Military Family Housing Garages
Ravenna Army Ammunition Plant
Ravenna, OH, Co: Portage, Zip: 44266–9297
Status: Excess
Comment: 1–4 stall garage and 6–3 stall garages, presence of asbestos, off-site use only.

Bldg. P–3
Property Number: 219320311
Fed Reg Date: 10/13/95
Doan U.S. Army Reserve Center
Portmonth, OH, Co: Scioto, Zip: 45662–
Status: Unutilized
Comment: 10752 sq. ft., 1-story brick, most recent use—office, possible asbestos.

Bldg. P–4
Property Number: 219320312
Fed Reg Date: 10/13/95
Doan U.S. Army Reserve Center
Portsmonth, OH, Co: Scioto, Zip: 45662–
Status: Unutilized
Comment: 2508 sq. ft., 1-story brick, most recent use—vehicle maint. shop.

Bldg. P–2
Property Number: 219320314
Fed Reg Date: 10/13/95
Hayes U.S. Army Reserve Center
Freemont, OH, Co: Sandusky, Zip: 43420–
Status: Unutilized
Comment: 3956 sq. ft., 1-story brick, most recent use—office, possible asbestos.

Bldg. P–3
Property Number: 219320315
Fed Reg Date: 10/13/95
Hayes U.S. Army Reserve Center
Freemont, OH, Co: Sandusky, Zip: 43420–
Status: Unutilized
Comment: 1259 sq. ft., 1-story brick, most recent use—vehicle maint. shop, possible asbestos.

Oklahoma

Buildings

Bldg. T–2545
Property Number: 219011255
Fed Reg Date: 10/13/95
Project Name: Fort Sill
Fort Sill
2545 Sheridan Road.
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1994 sq. ft.; asbestos; wood frame; 2 floors; No operating sanitary facilities; most recent use—enl. barracks basic.

Bldg. T–2606
Property Number: 219011273
Fed Reg Date: 10/13/95
Project Name: Fort Sill
Fort Sill
2606 Currie Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2722 sq. ft.; possible asbestos, one floor wood frame; most recent use—Headquarters Bldg.

Bldg. T–3507
Property Number: 219011315
Fed Reg Date: 10/13/95
Project Name: Fort Sill
Fort Sill
3507 Sheridan Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2904 sq. ft.; possible asbestos; potential heavy metal contamination; wood frame; most recent use—chapel.

Bldg. T–4919
Property Number: 219014842
Fed Reg Date: 10/13/95
Project Name: Fort Sill
Fort Sill
4919 Post Road
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 603 sq. ft.; 1 story mobile home trailer; possible asbestos; needs rehab.

Bldg. T–4523
Property Number: 219014933
Fed Reg Date: 10/13/95
Project Name: Fort Sill
Fort Sill
4523 Wilson Road
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 1639 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—storage.

Bldg. T–838, Fort Sill
Property Number: 219220609
Fed Reg Date: 10/13/95
838 Macomb Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable).

Bldg. T–2702, Fort Sill
Property Number: 219240655
Fed Reg Date: 10/13/95
2702 Thomas Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 5520 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin.

Bldg. T–3311, Fort Sill
Property Number: 219240656
Fed Reg Date: 10/13/95
3311 Naylor Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1468 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin.

Bldg. T–954, Fort Sill
Property Number: 219240659
Fed Reg Date: 10/13/95
954 Quinette Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop.

Bldg. T–1050, Fort Sill
Property Number: 219240660
Fed Reg Date: 10/13/95

1050 Quinette Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 6240 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks.
Bldg. T–1051, Fort Sill
Property Number: 219240661
Fed Reg Date: 10/13/95
1051 Quinette Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 6240 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks.
Bldg. T–2703, Fort Sill
Property Number: 219240667
Fed Reg Date: 10/13/95
2703 Thomas Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 5520 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.
Bldg. T–2704, Fort Sill
Property Number: 219240668
Fed Reg Date: 10/13/95
2704 Thomas Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 5520 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.
Bldg. T–2740, Fort Sill
Property Number: 219240669
Fed Reg Date: 10/13/95
2740 Miner Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 8210 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.
Bldg. T–2745, Fort Sill
Property Number: 219240670
Fed Reg Date: 10/13/95
2745 Miner Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 8288 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.
Bldg. T–2633, Fort Sill
Property Number: 219240672
Fed Reg Date: 10/13/95
2633 Miner Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 19455 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—enlisted mess.
Bldg. T–2701, Fort Sill
Property Number: 219240673
Fed Reg Date: 10/13/95
2701 Thomas Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 5520 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—storage.
Bldg. T–2907, Fort Sill
Property Number: 219240674
Fed Reg Date: 10/13/95
2907 Marcy Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3861 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.
Bldg. T–2928, Fort Sill
Property Number: 219240675
Fed Reg Date: 10/13/95
2928 Custer Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2315 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.
Bldg. T–4050, Fort Sill
Property Number: 219240676
Fed Reg Date: 10/13/95
4050 Pitman Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3177 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.
Bldg. P–3032, Fort Sill
Property Number: 219240678
Fed Reg Date: 10/13/95
3032 Haskins Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 101 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—general storehouse.
Bldg. T–3325, Fort Sill
Property Number: 219240681
Fed Reg Date: 10/13/95
3325 Naylor Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse.
Bldg. T–260, Fort Sill
Property Number: 219240776
Fed Reg Date: 10/13/95
260 Corral Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 4838 sq. ft., 2 story wood frame, off-site use only, possible asbestos, most recent use—admin.
Bldg. T–5122, Fort Sill
Property Number: 219320334
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1-story wood frame, possible asbestos, off-site use only.
Bldg. P–6220, Fort Sill
Property Number: 219320335
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 848 sq. ft., 1-story metal frame, possible asbestos, most recent use—construction bldg., off-site use only.
Bldg. S–6228, Fort Sill
Property Number: 219320336
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 352 sq. ft., 1-story wood frame, possible asbestos, most recent use—range house, off-site use only.
Bldg. P–2610, Fort Sill
Property Number: 219330372
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 512 sq. ft., 1-story, possible asbestos, most recent use—classroom, off-site use only.
Bldg. 4722, Fort Sill
Property Number: 219330373
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3375 sq. ft., 2-story, possible asbestos, most recent use—admin., off-site use only.
Bldg. T232, Fort Sill
Property Number: 219330377
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2868 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T312, Fort Sill
Property Number: 219330379
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1970 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T1652, Fort Sill
Property Number: 219330380
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche; Zip: 73503–5100
Status: Unutilized
Comment: 1505 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T1665, Fort Sill
Property Number: 219330381
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1305 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T2034, Fort Sill
Property Number: 219330383
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 401 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T2705, Fort Sill
Property Number: 219330384
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1601 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T2706, Fort Sill
Property Number: 219330385
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2156 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T2709, Fort Sill
Property Number: 219330388
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100

Status: Unutilized
Comment: 2112 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T2756, Fort Sill
Property Number: 219330390
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 5172 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T2757, Fort Sill
Property Number: 219330391
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 5172 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.
Bldg. T3026, Fort Sill
Property Number: 219330392
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2454 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T3710, Fort Sill
Property Number: 219330396
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1176 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T4035, Fort Sill
Property Number: 219330401
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 867 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T4474, Fort Sill
Property Number: 219330402
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1159 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5011, Fort Sill
Property Number: 219330403
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1556 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5120, Fort Sill
Property Number: 219330405
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1471 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5124, Fort Sill
Property Number: 219330407
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1287 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5245, Fort Sill
Property Number: 219330410
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3081 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5246, Fort Sill
Property Number: 219330411
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3081 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5247, Fort Sill
Property Number: 219330412
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3081 sq. ft., possible asbestos, most recent use—storage, off-site use only.
Bldg. T5248, Fort Sill
Property Number: 219330413
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3081 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5249, Fort Sill
Property Number: 219330414
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2920 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5250, Fort Sill
Property Number: 219330415
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3257 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5251, Fort Sill
Property Number: 219330416
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3257 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5252, Fort Sill
Property Number: 219330417
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3081 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5628, Fort Sill
Property Number: 219330418
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2016 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T5637, Fort Sill
Property Number: 219330419
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1606 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.
Bldg. T–282
Property Number: 219410236
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2420 sq. ft., 2 story; wood frame; most recent use—admin. off-site use only.
Bldg. T–268, Fort Sill
Property Number: 219440338
Fed Reg Date: 10/13/95
268 Corral Road
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4836 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–269, Fort Sill
Property Number: 219440339
Fed Reg Date: 10/13/95
268 Corral Road
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 7840 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–281, Fort Sill
Property Number: 219440340
Fed Reg Date: 10/13/95
281 Corral Road
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4836 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3720, Fort Sill
Property Number: 219440346
Fed Reg Date: 10/13/95
3720 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3723, Fort Sill
Property Number: 219440347
Fed Reg Date: 10/13/95
3723 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3724, Fort Sill
Property Number: 219440348
Fed Reg Date: 10/13/95
3724 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3725, Fort Sill
Property Number: 219440349
Fed Reg Date: 10/13/95
3725 Webster Street

Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3726, Fort Sill
Property Number: 219440350
Fed Reg Date: 10/13/95
3726 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3732, Fort Sill
Property Number: 219440352
Fed Reg Date: 10/13/95
3732 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3733, Fort Sill
Property Number: 219440353
Fed Reg Date: 10/13/95
3733 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3734, Fort Sill
Property Number: 219440354
Fed Reg Date: 10/13/95
3734 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3735, Fort Sill
Property Number: 219440355
Fed Reg Date: 10/13/95
37354 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3736, Fort Sill
Property Number: 219440356
Fed Reg Date: 10/13/95
3726 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3750, Fort Sill
Property Number: 219440358
Fed Reg Date: 10/13/95
3750 Wilson Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3752, Fort Sill
Property Number: 219440359
Fed Reg Date: 10/13/95
3752 Wilson Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3753, Fort Sill
Property Number: 219440360
Fed Reg Date: 10/13/95
3753 Wilson Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3754, Fort Sill
Property Number: 219440361
Fed Reg Date: 10/13/95
3754 Wilson Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3755, Fort Sill
Property Number: 219440362
Fed Reg Date: 10/13/95
3755 Wilson Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3756, Fort Sill
Property Number: 219440363
Fed Reg Date: 10/13/95
3756 Wilson Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–3738, Fort Sill
Property Number: 219440367
Fed Reg Date: 10/13/95
3738 Webster Street
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Excess
Comment: 4525 sq. ft., 2 story wood frame, possible asbestos and lead paint, off-site removal only, most recent use—barracks.
Bldg. T–5215,
Property Number: 219440376
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 2797 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—admin., off-site use only.
Bldg. T–3721,
Property Number: 219440377
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 3042 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—mess hall, off-site use only.
Bldg. T–3737,
Property Number: 219440378
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 2964 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—mess hall, off-site use only.
Bldg. T–3758,
Property Number: 219440379
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 3132 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—mess hall, off-site use only.
Bldg. T–5219,
Property Number: 219440381
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 2662 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—classroom, off-site use only.
Bldg. T–4226,
Property Number: 219440384
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 114 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only.
Bldg. T–280,
Property Number: 219440387
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 7834 sq. ft., 2-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only.
Bldg. P–1815,
Property Number: 219440388
Fed Reg Date: 10/13/95
Fort Sill
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 14392 sq. ft., 2-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only.
Bldg. P–1015, Fort Sill
Property Number: 219520197
Fed Reg Date: 10/13/95
Lawton, OK, Co: Comanche, Zip: 73501–5100
Status: Unutilized
Comment: 15402 sq. ft., 1-story, most recent use—storage, off-site use only.

Pennsylvania

Buildings

Bldg. T–14–402
Property Number: 219420013
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft., 2 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—barracks.
Bldg. T–14–406
Property Number: 219420014
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft., 2 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—barracks.

Bldg. T–14–406
Property Number: 219420014
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft., 2 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—barracks.
Bldg. T–14–408
Property Number: 219420015
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft., 2 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—barracks.
Bldg. T–14–412
Property Number: 219420017
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—barracks.
Bldg. T–14–414
Property Number: 219420018
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—barracks.
Bldg. T–14–300
Property Number: 219420037
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 6445 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–302
Property Number: 219420038
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 6445 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–303
Property Number: 219420039
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—barracks.
Bldg. T–14–414
Property Number: 219420018
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—barracks.
Bldg. T–14–300
Property Number: 219420037
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 6445 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–302
Property Number: 219420038
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 6445 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–303
Property Number: 219420039
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3340 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–305
Property Number: 219420040
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–307
Property Number: 219420041
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (medical supply warehouse).
Bldg. T–14–308
Property Number: 219420042
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–310
Property Number: 219420043
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3848 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–415
Property Number: 219420044
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3650 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–416
Property Number: 219420045
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4172 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—administration.
Bldg. T–14–400
Property Number: 219420049
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 2242 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—enlisted personnel dining.
Bldg. T–14–217
Property Number: 219420062
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (medical supply warehouse).
Bldg. T–14–301
Property Number: 219420063
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 9662 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general storehouse).
Bldg. T–14–309
Property Number: 219420064
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (medical supply warehouse).
Bldg. T–14–311
Property Number: 219420065
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft., 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (medical supply warehouse).
Bldg. T–14–314
Property Number: 219420066
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (medical supply warehouse).
Bldg. T–14–315
Property Number: 219420067
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3624 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (medical supply warehouse).
Bldg. T–14–401
Property Number: 219420068
Fed Reg Date: 10/13/95

Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 782 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general storehouse).

Bldg. T–14–403
Property Number: 219420069
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 2685 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage.

Bldg. T–14–404
Property Number: 219420070
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4247 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general purpose warehouse).

Bldg. T–14–405
Property Number: 219420071
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 480 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage.

Bldg. T–14–417
Property Number: 219420074
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3633 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general purpose warehouse).

Bldg. T–14–491
Property Number: 219420075
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3576 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general purpose warehouse).

Bldg. T–14–424
Property Number: 219420076
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 63 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general storehouse).

Bldg. T–14–500
Property Number: 219420077
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 1071 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general storehouse).

Bldg. T–14–503
Property Number: 219420078
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 5217 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general purpose warehouse).

Bldg. T–14–505
Property Number: 219420079
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 5217 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general purpose warehouse).

Bldg. T–14–507
Property Number: 219420080
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 5217 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general purpose warehouse).

Bldg. T–14–508
Property Number: 219420081
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 1071 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general storehouse).

Bldg. T–14–509
Property Number: 219420082
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 2638 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general purpose warehouse).

Bldg. T–14–511
Property Number: 219420083
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 2638 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—storage (general purpose warehouse).

Bldg. T–14–312
Property Number: 219420086
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3848 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—hospital.

Bldg. T–14–313
Property Number: 219420087
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—hospital.

Bldg. T–14–316
Property Number: 219420088
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft. 1 story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—hospital.

Bldg. T–14–317
Property Number: 219420089
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3623 sq. ft., 1-story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—hospital.

Bldg. T–14–407
Property Number: 219420090
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3635 sq. ft., 1-story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—hospital.

Bldg. T–14–504
Property Number: 219420093
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3633 sq. ft., 1-story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—hospital.

Bldg. T–14–506
Property Number: 219420094
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3633 sq. ft., 1-story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—hospital.

Bldg. T–14–304
Property Number: 219420095
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 4212 sq. ft., 1-story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—ADP bldg.

Bldg. T–14–306
Property Number: 219420096
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 3637 sq. ft., 1-story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—ADP bldg.

Bldg. T–14–421
Property Number: 219420102
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Hospital Road & Clements Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 287 sq. ft., 1-story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—maintenance shop.

Bldg. T–14–149
Property Number: 219420104
Fed Reg Date: 10/13/95
Fort Indiantown Gap
Fisher Avenue
Annville, PA, Co: Lebanon, Zip: 17003–5011
Status: Excess
Comment: 18045 sq. ft., 1-story, wood frame, needs rehab, possible asbestos/lead paint, off-site removal only, most recent use—vehicle maintenance shop.

South Carolina

Buildings

Bldg. 9608
Property Number: 219410200
Fed Reg Date: 10/13/95
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4720 sq. ft.; wood frame; 2-story; needs rehab.; off-site use only; utilities upgrade; most recent use—enlisted quarters.

Bldg. 5492
Property Number: 219410207
Fed Reg Date: 10/13/95
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 2379 sq. ft.; wood frame; 1-story; off-site use only; utilities upgrade; most recent use—information management office.

Bldg. 10–436
Property Number: 219410217
Fed Reg Date: 10/13/95
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 100 sq. ft.; wood frame; 1-story; off-site use only; limited utilities; needs rehab.; most recent use—shed.

Bldg. 2516
Property Number: 219510138
Fed Reg Date: 10/13/95
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 520 sq. ft., 1-story, wood frame, most recent use—admin., off-site use only.

Bldg. 5412
Property Number: 219510139
Fed Reg Date: 10/13/95
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 3900 sq. ft., 1-story, wood frame, needs rehab, most recent use—admin., off-site use only.

Bldg. 10–714
Property Number: 219510143
Fed Reg Date: 10/13/95
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 2500 sq. ft., 1-story, wood frame, needs rehab, most recent use—enlisted dining, off-site use only.

Bldg. 10–721
Property Number: 219510144
Fed Reg Date: 10/13/95
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 2512 sq. ft., 1-story, wood frame, needs rehab, most recent use—enlisted dining, off-site use only.

Bldg. 10–708, Fort Jackson
Property Number: 219510148
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 1170 sq. ft., 1-story, wood frame, needs rehab, most recent use—detached day room, off-site use only.

Bldg. 10–715, Fort Jackson
Property Number: 219510149
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 1170 sq. ft., 1-story, wood frame, needs rehab, most recent use—detached day room, off-site use only.

Bldg. 10–722, Fort Jackson
Property Number: 219510150
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 1170 sq. ft., 1-story, wood frame, needs rehab, most recent use—detached day room, off-site use only.

Bldg. 10–762, Fort Jackson
Property Number: 219510156
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 1108 sq. ft., 1-story, wood frame, needs rehab, most recent use—detached day room, off-site use only.

Bldg. 10–716, Fort Jackson
Property Number: 219510160
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 1040 sq. ft., 2-story, wood frame, needs rehab, most recent use—hdqtrs. bldg., off-site use only.

Bldg. 10–723, Fort Jackson
Property Number: 219510161
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 1008 sq. ft., 2-story, wood frame, needs rehab, most recent use—hdqtrs. bldg., off-site use only.

Bldg. 9606, Fort Jackson
Property Number: 219510168
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 1144 sq. ft., 1-story, wood frame, needs rehab, most recent use—criminal investigation bldg., off-site use only.

Bldg. 9607, Fort Jackson
Property Number: 219510169
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Excess
Comment: 4720 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.

Bldg. 10–712, Fort Jackson
Property Number: 219510176
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.

Bldg. 10–713, Fort Jackson
Property Number: 219510177
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.

Bldg. 10–719, Fort Jackson
Property Number: 219510179
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.

Bldg. 10–720, Fort Jackson
Property Number: 219510180
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.

Bldg. 10–726, Fort Jackson
Property Number: 219510183
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4720 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.

Bldg. 10–727, Fort Jackson
Property Number: 219510184
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized

Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg. 10–733, Fort Jackson
Property Number: 219510187
Fed Reg Date: 10/13/95
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story, wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–740, Fort Jackson
Property Number: 219510191
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 2257 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–741, Fort Jackson
Property Number: 219510192
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–747, Fort Jackson
Property Number: 219510195
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–748, Fort Jackson
Property Number: 219510196
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–754, Fort Jackson
Property Number: 219510199
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–755, Fort Jackson
Property Number: 219510200
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–761, Fort Jackson
Property Number: 219510203
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–767, Fort Jackson
Property Number: 219510205
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.
Bldg.10–768, Fort Jackson
Property Number: 219510206
Fed Reg Date: 10/13/95
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4800 sq. ft., 2-story wood frame, needs rehab, most recent use—enlisted billets, off-site use only.

Tennessee

Land

Milan Army Ammunition Plant
Property Number: 219010547
Fed Reg Date: 10/13/95
Project Name: Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Location: Plant boundary in the northeast corner of the plant & housing area
Status: Excess
Comment: 17.2 acres; right of entry legal constraint.
Holston Army Ammunition Plant
Property Number: 219012338
Fed Reg Date: 10/13/95
Project Name: Holston Army Ammunition Plant
Kingsport, TN, Co: Hawkins, Zip: 61299–6000
Status: Unutilized
Comment: 8 acres; unimproved; could provide access; 2 acres unusable; near explosives.
Land
Property Number: 219240780
Fed Reg Date: 10/13/95
Milan Army Ammunition Plant
NE corner of plant & housing area
Milan, TN, Co: Carroll, Zip: 38358–
Status: Unutilized
Comment: 17.2 acres, secured area w/ alternate access, most recent use—buffer zone.

Texas

Land

Vancant Land, Fort Sam Houston
Property Number: 219220438
Fed Reg Date: 10/13/95
All of Block 1800, Portions of Block 1900, 3100 and 3200
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 244.47 acres, 85% located in floodplain, possibility of unexploded ordnance.
Old Camp Bullis Road
Property Number: 219420461
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 7.16 acres, rural gravel road.
Campl Bullis, Tract 9
Property Number: 219420462
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 1.07 acres of undeveloped land.

Buildings

Harlingen USARC
Property Number: 219120304
Fed Reg Date: 10/13/95
1920 East Washington,
Harlingen, TX, Co: Cameron, Zip: 78550–
Status: Excess
Comment: 19440 sq. ft., 1 story brick, needs rehab, with approx. 6 acres including parking areas, most recent use—Army Reserve Training Center.
Bldg. P–3824, Fort Sam Houston
Property Number: 219220398
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 2232 sq. ft., 1-story concrete structure, within National Landmark Historic District, off-site removal only.
Bldg. 440, Fort Bliss
Property Number: 219320355
Fed Reg Date: 10/13/95
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1651 sq. ft., 1-story brick, most recent use—education facility, off-site use only.
Bldg. 1164, Fort Bliss
Property Number: 219330420
Fed Reg Date: 10/13/95
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 2054 net sq. ft., 1 story wood, most recent use—admin. bldg., needs rehab, off-site use only.
Bldg. 512, Fort Hood
Property Number: 219330421
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Coryell, Zip: 76544–
Status: Unutilized
Comment: 6733 sq. ft., 1 story wood, most recent use—commissary, off-site use only.
Bldg. P–293, Fort Sam Houston
Property Number: 219330441
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 442 sq. ft., 1-story brick, needs rehab, within National Landmark Historic District, off-site use only.
Bldg. P–298, Fort Sam Houston
Property Number: 219330442
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 3200 sq. ft., 1-story hollow tile, needs rehab, within National Landmark Historic District, off-site use only.
Bldg. P–377, Fort Sam Houston
Property Number: 219330444
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 74 sq. ft., 1-story brick, needs rehab, most recent use—scale house, located in National Historic District, off-site use only.
Bldg. T–1492
Property Number: 219330483
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 2284 sq. ft., 1-story wood frame, needs rehab, most recent use—admin., off-site use only.
Bldg. T–2066
Property Number: 219330484

Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 4720 sq. ft., 2-story wood frame, needs rehab, most recent use—admin., off-site use only.
Bldg. T–5901
Property Number: 219330486
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 742 sq. ft., 1-story wood frame, most recent use—admin., off-site use only.
Bldg. T–1464
Property Number: 219330487
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 3778 sq. ft., 1-story wood frame, needs rehab, most recent use—t-shirts and frame shop, off-site use only.
Bldg. T–1874
Property Number: 219330488
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 3108 sq. ft., 1-story wood frame, needs rehab, off-site use only.
Bldg. T–2193
Property Number: 219330490
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 1800 sq. ft., 1-story wood frame, needs rehab, most recent use—storage shed, off-site use only.
Bldg. T–2510
Property Number: 219330492
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 3210 sq. ft., 1-story wood frame, needs rehab, most recent use—storage, off-site use only.
Bldg. T–2512
Property Number: 219330495
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 18,260 sq. ft., 1-story wood frame, needs rehab, most recent use—vehicle maintenance shop, off-site use only.
Bldg. T–2520
Property Number: 219330498
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 31,296 sq. ft., 1-story wood frame, needs rehab, most recent use—physical fitness, off-site use only
Bldg. T–2183
Property Number: 219330499
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 3000 sq. ft., 1-story wood frame, needs rehab, most recent use—stable, off-site use only
Bldg. T–6231
Property Number: 219330500
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 600 sq. ft., 1-story wood frame, most recent use—firing range, off-site use only
Bldg. T–6232
Property Number: 219330501
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 401 sq. ft., 1-story wood frame, most recent use—firing range, off-site use only
Bldg. T–6236
Property Number: 219330502
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 401 sq. ft., 1-story wood frame, needs rehab, most recent use—firing range, off-site use only
Bldg. T–211
Property Number: 219340194
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 2284 sq. ft., 1-story wood frame, most recent use—instruction bldg., off-site use only
Bldg. P–5902
Property Number: 219340197
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 1157 sq. ft., 1-story wood, most recent use—warehouse, off-site use only
Bldg. 315, Fort Hood
Property Number: 219410315
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 2400 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only
Bldg. 316, Fort Hood
Property Number: 219410316
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 1500 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only
Bldg. 317, Fort Hood
Property Number: 219410317
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 2000 sq. ft., 1-story, needs rehab, most recent use-storage, off-site use only
Bldg. 4480, Fort Hood
Property Number: 219410322
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 2160 sq. ft., 1-story, most recent use—storage, off-site use only
Bldg. 871, Fort Bliss
Property Number: 219420455
Fed Reg Date: 10/13/95
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 3540 sq. ft., 1-story wood, needs repair, most recent use—storage, off-site use only
Bldg. 1165, Fort Bliss
Property Number: 219420456
Fed Reg Date: 10/13/95
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 5263 sq. ft., 1-story wood, needs repair, most recent use—office, off-site use only
Bldg. 4718, Fort Bliss
Property Number: 219420459
Fed Reg Date: 10/13/95
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 899 sq. ft., 1-story wood, needs repair, most recent use—storage, off-site use only
Bldg. 4719, Fort Bliss
Property Number: 219420460
Fed Reg Date: 10/13/95
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 519 sq. ft., 1-story wood, needs repair, most recent use—storage, off-site use only
Bldg. 4105, Fort Hood
Property Number: 219420463
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Coryell, Zip: 76544–
Status: Unutilized
Comment: 2535 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only
Bldgs. 7050, 7058
Property Number: 219430181
Fed Reg Date: 10/13/95
Fort Bliss
Ft. Bliss, TX, Zip: 79916–
Status: Unutilized
Comment: 1809–8584 sq. ft., 1-story wood frame, needs rehab, most recent use—office/club, off-site use only
Bldg. 1, Fort Hood
Property Number: 219440336
Fed Reg Date: 10/13/95
Lubbock, TX, Co: Lubbock, Zip: 79408–
Status: Unutilized
Comment: 11440 sq. ft., 1 story, fair condition, to be vacated 6/30/95, off-site removal only, most recent use—army reserve center
Bldg. 2, Fort Hood
Property Number: 219440337
Fed Reg Date: 10/13/95
Lubbock, TX, Co: Lubbock, Zip: 79408–
Status: Unutilized
Comment: 2818 sq. ft., 1 story, fair condition, to be vacated 6/30/95, off-site removal only, most recent use—army reserve center - maintenance shop
Bldg. P–452
Property Number: 219440449
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 600 sq. ft., 1 story stucco frame, lead paint, off-site removal only, most recent use—bath house

Bldg. P–2009
Property Number: 219440450
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 144 sq. ft., 1 story brick frame, lead paint, off-site removal only, no utilities, most recent use—flammable material storage
Bldg. T–5016
Property Number: 219440451
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 3146 sq. ft., 1 story wood frame, asbestos & lead paint, limited utilities, off-site removal only, most recent use—fire station vehicle storage
Bldg. T–5017
Property Number: 219440452
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 3146 sq. ft., 1 story wood frame, asbestos & lead paint, off-site removal only, most recent use—admin/storage
Bldg. T–5018
Property Number: 219440453
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 1140 sq. ft., 1 story wood frame, asbestos & lead paint, off-site removal only, most recent use—fire station
Bldg. P–6615
Property Number: 219440454
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 400 sq. ft., 1 story concrete frame, off-site removal only, most recent use—detached garage
Bldg. S–1111, Fort Sam Houston
Property Number: 219520117
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Zip: 78234–5000
Status: Unutilized
Comment: 8629 gr. sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., off-site use only
Bldg. T–300, Fort Sam Houston
Property Number: 219520118
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 8352 gr. sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., off-site use only
Bldg. T–1028, Fort Sam Houston
Property Number: 219520119
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 6302 gr. sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., off-site use only
Bldg. T–1051, Fort Sam Houston
Property Number: 219520120
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 6617 gr. sq. ft., 1-story, presence of lead base paint and asbestos, most recent use—admin., off-site use only
Bldg. P–1059, Fort Sam Houston
Property Number: 219520121
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Unutilized
Comment: 700 gr. sq. ft., presence of lead base paint and asbestos, most recent use—admin., off-site use only
Bldg. P–250
Property Number: 219520136
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 42955 sq. ft., 4-story, presence of lead base paint & asbestos, most recent use—barracks, classrooms, offices, located in Historic District
Bldg. 307, Fort Hood
Property Number: 219520198
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Excess
Comment: 1600 sq. ft., 1-story, most recent use—med. clinic, off-site use only
Bldg. 507, Fort Hood
Property Number: 219520199
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 1600 sq. ft., 1-story, presence of asbestos, off-site use only
Bldg. 831, Fort Hood
Property Number: 219520200
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 4780 sq. ft., 2-story, most recent use—training, needs rehab, off-site use only
Bldg. 4201, Fort Hood
Property Number: 219520201
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 9000 sq. ft., 1-story, off-site use only
Bldg. 4202, Fort Hood
Property Number: 219520202
Fed Reg Date: 10/13/95
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 5400 sq. ft., 1-story, most recent use—storage, off-site use only
Bldg. P–1030
Property Number: 219520203
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 8212 sq. ft., 1-story, most recent use—storage, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–1053
Property Number: 219520204
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 6452 sq. ft., 1-story, presence of asbestos & lead base paint, most recent use—med. clinic, located in Historic District, off-site use only
Bldg. P–2004
Property Number: 219520205
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 5991 sq. ft., 1-story, most recent use—med. clinic, needs rehab, presence of lead base paint, located in Historic District
Bldg. T–2235
Property Number: 219520206
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 2100 sq. ft., 1-story, most recent use—med. research lab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–2289
Property Number: 219520207
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–22990
Property Number: 219520208
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–2291
Property Number: 219520209
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–2293
Property Number: 219520210
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–2295
Property Number: 219520211
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess

Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–2296
Property Number: 219520212
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–2297
Property Number: 219520213
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–2298
Property Number: 219520214
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–2299
Property Number: 219520215
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 4720 sq. ft., 2-story, most recent use—training facility, needs rehab, presence of asbestos & lead base paint, located in Historic District, off-site use only
Bldg. T–5101
Property Number: 219520216
Fed Reg Date: 10/13/95
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Comment: 18792 sq. ft., 1-story, most recent use—storage, presence of asbestos & lead base paint, off-site use only

Virginia

Buildings

Bldg. T–6015
Property Number: 219012376
Fed Reg Date: 10/13/95
Project Name: U.S. Army Logistics Center
U.S. Army Logistics Center & Fort Lee
Shop Road
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Comment: 2124 sq. ft., 2 story, most recent use—barracks; poor condition; needs major rehab.
Bldg. T3003
Property Number: 219440446
Fed Reg Date: 10/13/95
Fort Picket
W. 33rd Street
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 1750 sq. ft., 1 story wood frame, most recent use—confinement facility, needs repairs
Bldg. T2800
Property Number: 219440447
Fed Reg Date: 10/13/95
Fort Picket
Off Armistead Road
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2056 sq. ft., 1 story wood frame, most recent use—clinic, needs repairs
Bldg. T2857
Property Number: 219440448
Fed Reg Date: 10/13/95
Fort Picket
Off Armistead Road
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2987 sq. ft., 1 story wood frame, most recent use—admin
Bldg. 555
Property Number: 219510129
Fed Reg Date: 10/13/95
Fort Monroe
Ft. Monroe, VA, Zip: 23651–
Status: Unutilized
Comment: 34 sq. ft., 1-story, concrete block, needs repair, most recent use—general storage
Bldg. T–87
Property Number: 219510130
Fed Reg Date: 10/13/95
Fort Monroe
Ft. Monroe, VA, Zip: 23651–
Status: Unutilized
Comment: 395 sq. ft., 1-story, needs repair, most recent use—general storage
Bldg. T–262
Property Number: 219510131
Fed Reg Date: 10/13/95
Fort Monroe
Ft. Monroe, VA, , Zip: 23651–
Status: Underutilized
Comment: 1168 sq. ft., 1-story, wood frame, needs repair, most recent use—general storage
Bldg. T–265
Property Number: 219510132
Fed Reg Date: 10/13/95
Fort Monroe
Ft. Monroe, VA, , Zip: 23651–
Status: Underutilized
Comment: 636 sq. ft., 1-story trailer, needs repair, most recent use—office
Bldg. TT0104
Property Number: 219520217
Fed Reg Date: 10/13/95
Fort A.P. Hill
Bowling Green, VA, Co: Caroline, Zip: 22427–5000
Status: Unutilized
Comment: 1464 sq. ft., 1-story, most recent use—training, needs rehab, off-site use only
Bldg. TT0105
Property Number: 219520218
Fed Reg Date: 10/13/95
Fort A.P. Hill
Bowling Green, VA, Co: Caroline, Zip: 22427–5000
Status: Unutilized
Comment: 2273 sq. ft., 1-story, most recent use—storage, off-site use only

Woshington

Buildings

Reserve Center, Longview
Property Number: 219320368
Fed Reg Date: 10/13/95
14 Port Way
Longview, WA, Co: Cowlitz, Zip: 98632–
Status: Unutilized
Comment: 17,304 sq. ft., 1-story training facility, scheduled to be vacated 9/93
Bldg. 9771, Fort Lewis
Property Number: 219510133
Fed Reg Date: 10/13/95
Ft. Lewis, WA, Co: Pierce, Zip: 98433–
Status: Unutilized
Comment: 3965–5220 sq. ft., 2-story, needs rehab, most recent use—family housing used as storage, off-site use only
Bldg. 9772, Fort Lewis
Property Number: 219510134
Fed Reg Date: 10/13/95
Ft. Lewis, WA, Co: Pierce, Zip: 98433–
Status: Unutilized
Comment: 3965–5220 sq. ft., 2-story, needs rehab, most recent use—family housing used as storage, off-site use only
Bldg. 9773, Fort Lewis
Property Number: 219510135
Fed Reg Date: 10/13/95
Ft. Lewis, WA, Co: Pierce, Zip: 98433–
Status: Unutilized
Comment: 3965–5220 sq. ft., 2-story, needs rehab; most recent use—family housing used as storage, off-site use only.
Bldg. 9774, Fort Lewis
Property Number: 219510136
Fed Reg Date: 10/13/95
Ft. Lewis, WA, Co: Pierce, Zip: 98433–
Status: Unutilized
Comment: 3965–5220 sq. ft., 2-story, needs rehab; most recent use—family housing used as storage, off-site use only.

Wisconsin

Buildings

Bldg. 7174, Fort McCoy
Property Number: 219320372
Fed Reg Date: 10/13/95
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Underutilized
Comment: 8466 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—gen. purpose warehouse.
Bldg. 7176, Fort McCoy
Property Number: 219320373
Fed Reg Date: 10/13/95
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Underutilized
Comment: 5415 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—gen. purpose warehouse.
Bldg. 7261, Fort McCoy
Property Number: 219320374
Fed Reg Date: 10/13/95
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Unutilized
Comment: 4800 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently

by Army, most recent use—gen. purpose warehouse.

Bldg. 2321
Property Number: 219430225
Fed Reg Date: 10/13/95
Fort McCoy
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Unutilized
Comment: 682 sq. ft., 1-story, needs rehab, most recent use—heat plant.

Bldg. 2673
Property Number: 219430226
Fed Reg Date: 10/13/95
Fort McCoy
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Unutilized
Comment: 13515 sq. ft., 1-story, needs rehab, most recent use—theater.

Bldg. 2110
Property Number: 219430232
Fed Reg Date: 10/13/95
Fort McCoy
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Unutilized
Comment: 18270 sq. ft., 1-story, needs rehab, most recent use—vehicle maint.

Bldg. 2320
Property Number: 219430233
Fed Reg Date: 10/13/95
Fort McCoy
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Unutilized
Comment: 33345 sq. ft., 1-story, needs rehab, most recent use—vehicle maint.

Bldg. 2763
Property Number: 219430236
Fed Reg Date: 10/13/95
Fort McCoy
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Unutilized
Comment: 3250 sq. ft., 1-story, needs rehab, most recent use—admin.

Bldg. 2755
Property Number: 219430239
Fed Reg Date: 10/13/95
Fort McCoy
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Unutilized
Comment: 168 sq. ft., 1-story, needs rehab, most recent use—dispatch bldg.

Bldg. 850
Property Number: 219430243
Fed Reg Date: 10/13/95
Fort McCoy
Ft. McCoy, WI, Co: Monroe, Zip: 54656–
Status: Unutilized
Comment: 2350 sq. ft., 1-story, needs rehab, most recent use—dining facility.

Bldg. 240, Fort McCoy
Property Number: 219520219
Fed Reg Date: 10/13/95
Ft. McCoy, WI, Co: Monroe, Zip: 54656–5162
Status: Underutilized
Comment: 1750 sq. ft., 1-story, needs rehab, most recent use—admin.

COE

Arkansas

Land

Parcel 01
Property Number: 319010071
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 12
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 77.6 acres.

Parcel 02
Property Number: 319010072
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 13
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 198.5 acres.

Parcel 03
Property Number: 319010073
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 18
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 50.46 acres.

Parcel 04
Property Number: 319010074
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Sections 24, 25, 30 and 31
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 236.37 acres.

Parcel 05
Property Number: 3190100751
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 16
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 187.30 acres.

Parcel 06
Property Number: 319010076
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 13
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 13.0 acres.

Parcel 07
Property Number: 319010077
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 34
Arkadelphia, AR, Co: Hot Spring, Zip: 71923–9361
Status: Unutilized
Comment: 0.27 acres.

Parcel 08
Property Number: 319010078
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 13
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 14.6 acres.

Parcel 09
Property Number: 319010079
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 12
Arkadelphia, AR, Co: Hot Spring, Zip: 71923–9361
Status: Unutilized
Comment: 6.60 acres.

Parcel 10
Property Number: 319010080
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 12
Arkadelphia, AR, Co: Hot Spring, Zip: 71923–9361
Status: Unutilized
Comment: 4.5 acres.

Parcel 11
Property Number: 319010081
Fed Reg Date: 08/18/95
Project Name: DeGray Lake
DeGray Lake
Section 19
Arkadelphia, AR, Co: Hot Spring, Zip: 71923–9361
Status: Unutilized
Comment: 19.50 acres.

Lake Greeson
Property Number: 319010083
Fed Reg Date: 08/18/95
Project Name: Lake Greeson
Sections 7, 8 and 18
Murfreesboro, AR, Co: Pike, Zip: 71958–9720
Status: Unutilized
Comment: 46 acres.

California

Land

Lake Mendocino
Property Number: 319011015
Fed Reg Date: 08/18/95
Project Name: Lake Mendocino
1160 Lake Mendocino Drive
Ukiah, CA, Co: Mendocino, Zip: 95482–9404
Status: Unutilized
Comment: 20 acres; steep, dense brush; potential utilities.

Iowa

Buildings

Bldg.—Bridgeview
Property Number: 319340003
Fed Reg Date: 08/18/95
Rathbun Lake Project, R.R. #3
Centerville, IA, Co: Appanoose, Zip: 52544–
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Bldg.—Island View
Property Number: 319340004
Fed Reg Date: 08/18/95
Rathbun Lake Project, R.R. #3
Centerville, IA, Co: Appanoose, Zip: 52544–
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Bldg.—Rolling Cove
Property Number: 319340005
Fed Reg Date: 08/18/95
Rathbun Lake Project, R.R. #3
Centerville, IA, Co: Appanoose, Zip: 52544–
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Silo

Property Number: 319530033
Fed Reg Date: 10/20/95
Tract 100, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: concrete block, 1 story, presence of asbestos/lead paint, most recent use—storage, off-site use only.

Shed
Property Number: 319530034
Fed Reg Date: 10/20/95
Tract 100, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: Wood frame, off-site use only, most recent use—dog house.

White Shed
Property Number: 319530035
Fed Reg Date: 10/20/95
Tract 130, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: 144 sq. ft., fair condition, presence of asbestos/lead paint, off-site use only, most recent use—storage.

Play House
Property Number: 319530036
Fed Reg Date: 10/20/95
Tract 130, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: 120 sq. ft., good condition, presence of asbestos/lead paint, off-site use only.

Corn Crib
Property Number: 319530037
Fed Reg Date: 10/20/95
Tract 136, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: Most recent use—storage, fair condition, off-site use only.

Pole Shed
Property Number: 319530038
Fed Reg Date: 10/20/95
Tract 137, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: 720 sq. ft., fair condition, off-site use only, most recent use—storage.

Storage Shed
Property Number: 319530039
Fed Reg Date: 10/20/95
Tract 138, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: 100 sq. ft., fair condition, presence of asbestos/lead paint, off-site use only, most recent use—storage.

Shed
Property Number: 319530040
Fed Reg Date: 10/20/95
Tract 138, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: 384 sq. ft., fair condition, presence of asbestos/lead paint, off-site use only, most recent use—storage.

Barn
Property Number: 319530041
Fed Reg Date: 10/20/95
Tract 138, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: 1280 sq. ft., needs rehab, presence of asbestos/lead paint, off-site use only.

House
Property Number: 319530042
Fed Reg Date: 10/20/95
Tract 126, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: 3583 sq. ft., wood frame, presence of asbestos/lead paint, off-site use only.

Grain Bin
Property Number: 319530043
Fed Reg Date: 10/20/95
Tract 139, Camp Dodge
Johnston, IA, Co: Polk, Zip: 50131–
Status: Excess
Comment: Most recent use—grain bin/storage, fair condition, off-site use only.

Kansas

Land

Parcel 1
Property Number: 319010064
Fed Reg Date: 08/18/95
Project Name: El Dorado Lake
El Dorado Lake
Section 13, 24, and 18
(See County), KS, Co: Butler, Zip:
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Buildings

Trailer—Clinton Lake
Property Number: 319410003
Fed Reg Date: 08/18/95
Rt. 5, Box 109B
Lawrence, KS, Co: Douglas, Zip: 66046–
Status: Excess
Comment: double-wide trailer (24×50), most recent use—residence, needs repair, off-site use only.

Kentucky

Land

Tract 2625
Property Number: 319010025
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky, and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211–
Location: Adjoining the village of Rockcastle.
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tract 2709–10 and 2710–2
Property Number: 319010026
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tract 2708–1 and 2709–1
Property Number: 319010027
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Property Number: 319010028
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211–
Location: 4½ miles in a southeasterly direction from the village of Rockcastle.
Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Property Number: 319010029
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211–
Location: 6½ miles west of Cadiz.
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Property Number: 319010031
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211–
Location: 1 mile in a southerly direction from the village of Rockcastle.
Status: Excess
Comment: 4.90 acres; wooded; no utilities.

Tract 4318
Property Number: 319010032
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: Trigg Co. adjoining the city of Canton, KY. on the waters on Hopson Creek.
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Property Number: 319010033
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: 3½ miles in a southerly direction from Canton, KY.
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Property Number: 319010034
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: 5 miles south of Canton, KY.
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities.

Tract 4619
Property Number: 319010035
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: 4½ miles south from Canton, KY.
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4817
Property Number: 319010036
Fed Reg Date: 08/18/95
Project Name: Barkley Lake

Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: 6½ miles south of Canton, KY.
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Property Number: 319010042
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: On the north side of the Illinois Central Railroad.
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Property Number: 319010044
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: Approximately 4 miles east of Eddyville, KY.
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Property Number: 319010045
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co; Lyon, Zip: 42038–
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities.

Tract 2001 #1
Property Number: 319010046
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Property Number: 319010047
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Property Number: 319010048
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: Approximately 5½ miles east of Eddyville, KY.
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307
Property Number: 319010049
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Property Number: 319010050
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: 7 miles southeasterly of Eddyville, KY.
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Property Number: 319010051
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: 9 miles southeasterly of Eddyville, KY.
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Property Number: 319010052
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Property Number: 319010053
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: 5 miles southwest of Kuttawa
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Property Number: 319010054
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Property Number: 319010055
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: 2.5 miles southwest of Kuttawa, KY. on the waters of Cypress Creek.
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Property Number: 319010056
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: 6½ miles southeasterly of Eddyville, KY.
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tract 500–2
Property Number: 319010057
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Kuttawa, KY, Co: Lyon, Zip: 42055–
Location: Situated on the waters of Poplar Creek, approximately 1 mile southwest of Kuttawa, KY.
Status: Excess
Comment: 3.58 acres; hillside ridgeland and wooded; no utilities.

Tracts 5203 and 5204
Property Number: 319010058
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Linton, KY, Co: Trigg, Zip: 42212–
Location: Village of Linton, KY state highway 1254.
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities.

Tract 5240
Property Number: 319010059
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Linton, KY, Co: Trigg, Zip: 42212–
Location: 1 mile northwest of Linton, KY.
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities.

Tract 4628
Property Number: 319011621
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: 4½ miles south from Canton, KY.
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Property Number: 319011622
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: 4½ miles south from Canton, KY.
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Property Number: 319011623
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42038–
Location: 7 miles southeasterly from Eddyville, KY.
Status: Unutilized
Comment: 0.70 acres, wooded; subject to utility easements.

Tract 241–B
Property Number: 319011624
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Property Number: 319011625
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements.

Tract 215–B
Property Number: 319011626
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: 5 miles southwest of Kuttawa
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Property Number: 319011627
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: 5 miles southwest of Kuttawa
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract B—Markland Locks & Dam
Property Number: 319130002
Fed Reg Date: 08/18/95
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw, KY, Co: Gallatin, Zip: 41095–
Status: Unutilized
Comment: 10 acres, most recent use—recreational, possible periodic flooding.

Tract A—Markland Locks & Dam
Property Number: 319130003
Fed Reg Date: 08/18/95
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw, KY, Co: Gallatin, Zip: 41095–
Status: Unutilized
Comment: 8 acres, most recent use—recreational, possible periodic flooding.

Tract C—Markland Locks & Dam
Property Number: 319130005
Fed Reg Date: 08/18/95
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw, KY, Co: Gallatin, Zip: 41095–
Status: Unutilized
Comment: 4 acres, most recent use—recreational, possible periodic flooding.

Tract N–819
Property Number: 319140009
Fed Reg Date: 08/18/95
Dale Hollow Lake & Dam Project
Illwiil Creek, Hwy 90
Hobart, KY, Co: Clinton, Zip: 42601–
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements.

Portion of Lock & Dam No. 1
Property Number: 31920003
Fed Reg Date: 08/18/95
Kentucky River
Carrolton, KY, Co: Carroll, Zip: 41008–0305
Status: Unutilized
Comment: approx. 3.5 acres (sloping), access monitored.

Portion of Lock & Dam No. 2
Property Number: 319320004
Fed Reg Date: 08/18/95
Kentucky River
Lockport, KY, Co: Henry, Zip: 40036–9999
Status: Underutilized
Comment: approx. 13.14 acres (sloping), access monitored.

Buildings

Green River Lock & Dam #3
Property Number: 319010022
Fed Reg Date: 08/18/95
Project Name: Green River Lock & Dam #3
Rochester, KY, Co: Butler, Zip: 42273–
Location: SR 70 West from Morgantown, KY., approximately 7 miles to site.
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Kentucky River Lock and Dam 3
Property Number: 319010060
Fed Reg Date: 08/18/95
Project Name: Kentucky River Lock and Dam 3
Pleasureville, KY, Co: Henry, Zip: 40057–
Location: SR 421 North from Frankfort, KY. to highway 561, right on 561 approximately 3 miles to site.
Status: Unutilized
Comment: 897 sq. ft.; 2 story wood frame; structural deficiencies.

Bldg. 1
Property Number: 319011628
Fed Reg Date: 08/18/95
Project Name: Kentucky River Lock and Dam
Kentucky River Lock and Dam
Carrolton, KY, Co: Carroll, Zip: 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to Highway 320, then left for about 1.5 miles to site.
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Bldg. 2
Property Number: 319011629
Fed Reg Date: 08/18/95
Project Name: Kentucky River Lock and Dam
Kentucky River Lock and Dam
Carrolton, KY, Co: Carroll, Zip: 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to highway 320, then left for about 1.5 miles to site.
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Utility Bldg, Nolin River Lake
Property Number: 319320002
Fed Reg Date: 08/18/95
Moutardier Recreation Site
KY, Co: Edmonson, Zip:
Status: Unutilized
Comment: 541 sq. ft., concrete block, off-site use only.

Louisiana

Land

Wallace Lake Dam and Reservoir
Property Number: 319011009
Fed Reg Date: 08/18/95
Project Name: Wallace Lake Dam and Reservoir
Shreveport, LA, Co: Caddo, Zip: 71103–
Status: Unutilized
Comment: 11 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Property Number: 319011010
Fed Reg Date: 08/18/95
Project Name: Bayou Bodcau Dam and Reservoir
Haughton, LA, Co: Caddo, Zip: 71037–9707
Location: 35 miles Northeast of Shreveport, LA.
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities.

Minnesota

Land

Parcel D
Property Number: 319011038
Fed Reg Date: 08/18/95
Project Name: Pine River
Pine River
Cross Lake, MN, Co: Crow Wing, Zip: 56442–
Location: 3 miles from city of Cross Lake, between highways 6 and 371.
Status: Excess
Comment: 17 acres; no utilities.

Tract 92
Property Number: 319011040
Fed Reg Date: 08/18/95
Project Name: Sandy Lake
Sandy Lake
McGregor, MN, Co: Aitkins, Zip: 55760–
Location: 4 miles west of highway 65, 15 miles from city of McGregor.
Status: Excess.
Comment: 4 acres; no utilities.

Tract 98
Property Number: 319011041
Fed Reg Date: 08/18/95
Project Name: Leech Lake
Leech Lake
Benedict, MN, Co: Hubbard, Zip: 56641–
Location: 1 mile from city of Federal Dam, MN.
Status: Excess
Comment: 7.3 acres; no utilities.

Buildings

Frame Dwelling—Lake Traverse
Property Number: 319520001
Fed Reg Date: 08/18/95
Rural Rt. 2
Wheaton, MN, Co: Traverse, Zip: 56296–9630
Status: Excess
Comment: 1453 sq. ft., 2-story residence, off-site use only.

Missouri

Land

Harry S Truman Dam & Reservoir
Property Number: 319030014
Fed Reg Date: 08/18/95
Project Name: Harry S Truman Dam & Reservoir
Warsaw, MO, Co: Benton, Zip: 65355–
Location: Triangular shaped parcel southwest of access road "B", part of Bledsoe Ferry Park Tract 150.
Status: Underutilized

Comment: 1.7 acres; potential utilities.

Mississippi

Land

Parcel 7
Property Number: 319011019
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Sections 22, 23, T24N
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 8
Property Number: 319011020
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 20, T24N
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 9
Property Number: 319011021
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 20, T24N, R7E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 10
Property Number: 319011022
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Sections 16, 17, 18 T24N R8E.
Grenada, MS, Co: Calhoun, Zip: 38901–0903
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 2
Property Number: 319011023
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 20 and T23N, R5E
Grenada, MS, Co: Grenada, Zip: 38901–0903
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Property Number: 319011024
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 4, T23N, R5E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Property Number: 319011025
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 2 and 3. T23N, R5E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Property Number: 319011026
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 7, T24N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Property Number: 319911927
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 9, T24N, R6E
Grenda, MS, Co: Yalobusha, Zip: 38903–0903
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Property Number: 319011028
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 20, T24N, R8E
Grenada, MS, Co: Calhoun, Zip: 38901–0903
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Property Number: 319011029
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 25, T24N, R7E
Grenada, MS, Co: Yalobusha, Zip: 38390–10903
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Property Number: 319011030
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 34, T24N, R7E
Grenada, MS, Co: Yalobusha, Zip: 38903–0903
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Property Number: 319011031
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 3, T23N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Property Number: 319011032
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 4, T24N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Property Number: 319011033
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 9, T23N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Property Number: 319011034
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 17, T23N, R7E
Grenada, MS, Co: Grenada, Zip: 28901–0903
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Property Number: 319011035
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 22, T23N, R7E
Grenada, MS, Co: Grenada, Zip: 28902–0903
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Property Number: 319011036
Fed Reg Date: 08/18/95
Project Name: Grenada Lake
Grenada Lake
Section 9, T22N, R7E
Grenada, MS, Co: Grenada, Zip: 38901–0903
Status: Underutilized
Comment: 20 acres: no utilities; most recent use—wildlife and forestry management.

Ohio

Land

Hannibal Locks and Dam
Property Number: 319010015
Fed Reg Date: 08/18/95
Project Name: Hannibal Locks and Dam
Ohio River
P.O. Box 8
Hannibal, OH, Co: Monroe, Zip: 43931–0008
Location: Adjacent to the new Martinsville Bridge.
Status: Underutilized
Comment: 22 acres; river bank.

Buildings

Barker Historic House
Property Number: 319120018
Fed Reg Date: 08/18/95
Willow Island Locks and Dam
Newport, OH, Co: Washington, Zip: 45768–9801
Location: Located at lock site, downstream of lock and dam structure

Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only.

Oklahoma

Land

Pine Creek Lake
Property Number: 319010923
Fed Reg Date: 08/18/95
Project Name: Pine Creek Lake
Section 27
(See County), OK, Co: McCurtain, Zip:
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Pennsylvania

Land

Mahoning Creek Lake
Property Number: 319010018
Fed Reg Date: 08/18/95
Project Name: Mahoning Creek Lake
New Bethlehem, PA, Co: Armstrong, Zip: 16242–9603
Location: Route 28 north to Belknap, Road #4
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Property Number: 319011001
Fed Reg Date: 08/18/95
Project Name: Shenango River Lake
Shenango River Lake
Sharpsville, PA, Co: Mercer, Zip: 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Status: Excess
Comment: 24.09 acres; subject to flowage easement.

Tracts L24, L26
Property Number: 319011011
Fed Reg Date: 08/18/95
Project Name: Crooked Creek Lake
Crooked Creek Lake
PA, Co: Armstrong, Zip: 03051–
Location: Left bank—55 miles downstream of dam.
Status: Unutilized
Comment: 7.59 acres; potential for utilities.

Portion of Tract L–21A
Property Number: 319430012
Fed Reg Date: 08/18/95
Crooked Creek Lake, LR 03051
Ford City, PA, Co: Armstrong, Zip: 16226–
Status: Unutilized
Comment: Approximately 1.72 acres of undeveloped land, subject to gas rights.

Buildings

Mahoning Creek Reservoir
Property Number: 319210008
Fed Reg Date: 08/18/95
New Bethlehem, PA, Co: Armstrong, Zip: 16242–
Status: Unutilized
Comment: 1015 sq. ft., 2 story brick residence, off-site use only.

One Unit/Residence
Property Number: 319430011
Fed Reg Date: 08/18/95
Conemaugh River Lake, RD #1, Box 702
Saltburg, PA, Co: Indiana, Zip: 15681–
Status: Unutilized
Comment: 2642 sq. ft., 1-story, 1-unit of duplex, fair condition, access restrictions.

South Carolina

Buildings

Bldg. 5
Property Number: 319011548
Fed Reg Date: 08/18/95
Project Name: J.S. Thurmond Dam & Reservoir
J.S. Thurmond Dam and Reservoir
Clarks Hill, SC, Co: McCormick, Zip:
Location: ½ miles east of Resource Managers Office.
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage, off-site removal only.

Tennessee

Land

Tract 6827
Property Number: 319010927
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 2½ miles west of Dover, TN.
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Property Number: 319010928
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 3½ miles south of village of Tabaccoport
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Property Number: 319010929
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Ashland City, TN, Co: Dickson, Zip: 37015–
Location: ½ mile downstream from Cheatham Dam
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
Property Number: 319010930
Fed Reg Date: 08/18/95
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: West of Buckeye Bottom Road
Status: Excess
Comment: 14.48 acres; subject to existing easements.

Tract 2227
Property Number: 319010931
Fed Reg Date: 08/18/95
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: Old Jefferson Pike
Status: Excess
Comment: 2.27 acres; subject to existing easements.

Tract 2107
Property Number: 319010932
Fed Reg Date: 08/18/95
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: Across Fall Creek near Fall Creek camping area.
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602, 2603, 2604
Property Number: 319010933
Fed Reg Date: 08/18/95
Project Name: Cordell Hull Lake & Dam Pro.
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro, TN, Co: Jackson, Zip: 38562–
Location: TN Highway 56
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
Property Number: 319010934
Fed Reg Date: 08/18/95
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: East of Lamar Road
Status: Excess
Comment: 15.31 acres; subject to existing easements.

Tract 2321
Property Number: 319010935
Fed Reg Date: 08/18/95
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–.
Location: South of Old Jefferson Pike
Status: Excess
Comment: 12 acres; subject to existing easements.

Tract 7206
Property Number: 319010936
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 2½ miles SE of Dover, TN.
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Property Number: 319010937
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Cumberland, TN, Co: Stewart, Zip: 37050–
Location: 1½ miles East of Cumberland City.
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Property Number: 319010938
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Cumberland City, TN, Co: Montgomery, Zip: 37050–
Location: 4 miles east of Cumberland City.

Status: Excess
Comment: 7.7 acres; subject to existing easements.
Tract 11503
Property Number: 319010939
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Ashland City, TN, Co: Cheatham, Zip: 37015–
Location: 2 miles downstream from Cheatham Dam.
Status: Excess
Comment: 1.1 acres; subject to existing easements.
Tracts 11523, 11524
Property Number: 319010940
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Ashland City, TN, Co: Cheatham, Zip: 37015–
Location: 2½ miles downstream from Cheatham Dam.
Status: Excess
Comment: 19.5 acres; subject to existing easements.
Tract 6410
Property Number: 319010941
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Bumpus Mills, TN, Co: Stewart, Zip: 37028–
Location: 4½ miles SW. of Bumpus Mills.
Status: Excess
Comment: 17 acres; subject to existing easements.
Tract 9707
Property Number: 319010943
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Palmyer, TN, Co: Montgomery, Zip: 37142–
Location: 3 miles NE of Palmyer, TN. Highway 149
Status: Excess
Comment: 6.6 acres; subject to existing easements.
Tract 6949
Property Number: 319010944
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 1½ miles SE of Dover, TN.
Status: Excess
Comment: 29.67 acres; subject to existing easements.
Tracts 6005 and 6017
Property Number: 319011173
Fed Reg Date: 08/18/95
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 3 miles south of Village of Tobaccoport.
Status: Excess
Comment: 5 acres; subject to existing easements.
Tracts K–1191, K–1135
Property Number: 319130007
Fed Reg Date: 08/18/95
Old Hickory Lock and Dam
Hartsville, TN, Co: Trousdale, Zip: 37074–
Status: Underutilized
Comment: 92 acres (38 acres in floodway), most recent use—recreation.
Tract A–102
Property Number: 3191400006
Fed Reg Date: 08/18/95
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina, TN, Co: Clay, Zip: 38551–
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements.
Tract A–120
Property Number: 319140007
Fed Reg Date: 08/18/95
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina, TN, Co: Clay, Zip: 38551–
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.
Tracts A–20, A–21
Property Number: 319140008
Fed Reg Date: 08/18/95
Dale Hollow Lake & Dam Project
Red Oak Ridge, State Hwy No. 53
Celina, TN, Co: Clay, Zip: 38551–
Status: Underutilized
Comment: 821 acres, most recent use—recreation, subject to existing easements.
Tract D–185
Property Number: 319140010
Fed Reg Date: 08/18/95
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston, TN, Co: Clay, Zip: 38570–
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Buildings

Cheatham Lock & Dam
Property Number: 319520003
Fed Reg Date: 08/18/95
Tract D, Lock Road
Nashville, TN, Co: Davidson, Zip: 37207–
Status: Unutilized
Comment: 1100 sq. ft. dwelling w/storage bldgs on 7 acres, needs major rehab, contamination issues, approx. 1 acre in fldwy, modif. to struct. subj. to approval of St. Hist. Presv. Ofc.

Texas

Land

Parcel #222
Property Number: 319010421
Fed Reg Date: 08/18/95
Project Name: Lake Texoma
Lake Texoma
TX, Co: Grayson, Zip:
Location: C. Meyerheim survey A–829 J. Hamilton survey A–529
Status: Excess
Comment: 52.80 acres; most recent use—recreation.

Virginia

Buildings

Peters Ridge Site
Property Number: 319430013
Fed Reg Date: 08/18/95
Gathright Dam
Covington, VA, Zip:
Status: Excess
Comment: 64 sq. ft., metal bldg.
Coles Mountain Site
Property Number: 319430015
Fed Reg Date: 08/18/95
Gathright Dam, Rt. 607
VA, Co: Bath, Zip:
Status: Excess
Comment: 64 sq. ft., 1-story metal bldg.

Wisconsin

Buildings

Former Lockmaster's Dwelling
Property Number: 319011524
Fed Reg Date: 08/18/95
Project Name: Former Lockmaster's Dwelling
Cedar Locks
4527 East Wisconsin Road
Appleton, WI, Co: Outagamie, Zip: 54911–
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.
Former Lockmaster's Dwelling
Property Number: 319011525
Fed Reg Date: 08/18/95
Project Name: Former Lockmaster's Dwelling
Appleton 4th Lock
905 South Lowe Street
Appleton, WI, Co: Outagamie, Zip: 54911–
Status: Unutilized
Comment: 908 sq. ft.; 2 story wood frame residence; needs rehab.
Former Lockmaster's Dwelling
Property Number: 319011527
Fed Reg Date: 08/18/95
Project Name: Former Lockmaster's Dwelling
Kaukauna 1st Lock
301 Canal Street
Kaukauna, WI, Co: Outagamie, Zip: 54131–
Status: Unutilized
Comment: 1290 sq. ft.; 2 story wood frame residence; needs rehab; secured area with alternate access.
Former Lockmaster's Dwelling
Property Number: 319011531
Fed Reg Date: 08/18/95
Project Name: Former Lockmaster's Dwelling
Appleton 1st Lock
905 South Oneida Street
Appleton, WI, Co: Outagamie, Zip: 54911–
Status: Unutilized
Comment: 1300 sq. ft.; potential utilities; 2 story wood frame residence; needs rehab; secured area with alternate access.
Former Lockmaster's Dwelling
Property Number: 319011533
Fed Reg Date: 08/18/95
Project Name: Former Lockmaster's Dwelling
Rapid Croche Lock
Lock Road
Wrightstown, WI, Co: Outagamie, Zip: 54180–
Location: 3 miles southwest of intersection State Highway 96 and Canal Road.
Status: Unutilized
Comment: 1952 sq. ft.; 2 story wood frame residence; potential utilities; needs rehab.
Former Lockmaster's Dwelling
Property Number: 319011535
Fed Reg Date: 08/18/95
Project Name: Former Lockmaster's Dwelling
Little KauKauna Lock
Little KauKauna
Lawrence, WI, Co: Brown, Zip: 54130–
Location: 2 miles southeasterly from intersection of Lost Dauphin Road (County Trunk Highway "D") and River Street.

Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab.
Former Lockmaster's Dwelling
Property Number: 319011536
Fed Reg Date: 08/18/95
Project Name: Former Lockmaster's Dwelling
Little Chute, 2nd Lock
214 Mill Street
Little Chute, WI, Co: Outagamie, Zip: 54140–
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; potential utilities; needs rehab; secured area with alternate access.
GSA No.: 2–D–MI–722A

DOT

North Carolina

Buildings

Dwelling 1
Property Number: 879120083
Fed Reg Date: 08/11/95
USCG Coinjock Housing
Coinjock, NC, Co: Currituck, Zip: 27923–
Status: Unutilized
Comment: One story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.
Dwelling 2
Property Number: 879120084
Fed Reg Date: 08/11/95
USCG Coinjock Housing
Coinjock, NC, Co: Currituck, Zip: 27923–
Status: Unutilized
Comment: One story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.
Dwelling 3
Property Number: 879120085
Fed Reg Date: 08/11/95
USCG Coinjock Housing
Coinjock, NC, Co: Currituck, Zip: 27923–
Status: Unutilized
Comment: One story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.

Virginia

Buildings

Housing
Property Number: 879120082
Fed Reg Date: 08/11/95
Rt. 637 Gwynnville Road
Gwynn Island, VA, Co: Mathews, Zip: 23066–
Status: Unutilized
Comment: 929 sq. ft., one story residence.

GSA

California

Land

(P) Camp Elliott
Property Number: 549310008
Fed Reg Date: 08/11/95
Rosedale Tract
San Diego, CA, Co: San Diego, Zip:
Status: Surplus
Comment: Parcel 1—0.15 acre, Parcel 2—0.17 acre, located in the narrow median strip between Murphy Canyon Rd., and State Highway 15, previously leased by homeless provider.
GSA No.: 9–GR(6)–CA–694A

Michigan

Buildings

Little Rapids Lightkeeper Sta.
Property Number: 549530002
Fed Reg Date: 09/08/95
Little Rapids Channel
Sault St. Marie, MI, Co: Chippewa, Zip: 49873–
Status: Excess
Comment: 1411 sq. ft. wood frame dwelling with 480 sq. ft. garage, and 121 sq. ft. storage bldg., poor condition, needs rehab, possible asbestos.
GSA No.: 2–D–MI–722A

New Mexico

Buildings

Magdalena Dormitory
Property Number: 549540006
Fed Reg Date: 12/15/95
Poplar and 8th Streets
Magdalena, NM, Co: Soccorro, Zip: 87825–
Status: Excess
Comment: 14 bldgs. consisting of dormitory/dining & storage facilities, apartments & garages, vacant for 8 years, needs rehab, potential utilities.
GSA No.: 7–I–NM–0543

Nevada

Buildings

13 Single Family Residences
Property Number: 549430005
Fed Reg Date: 08/11/95
Tonopah Housing Complex
Tonopah, NV, Co: Nye, Zip: 89049–
Status: Excess
Comment: 1192–1898 sq. ft., 1 story wood residences, 4 bedrooms/2 bathrooms.
GSA No.: 9–U–NV–467–C

Ohio

Buildings

Natl. Weather Met. Observatory
Property Number: 549540005
Fed Reg Date: 12/15/95
Huber Heights, OH, Co: Montgomery, Zip:
Status: Excess
Comment: 1100 sq. ft., 1 story, most recent use—office/admin.
GSA No.: 2–C–OH–796

Puerto Rico

Land

La Hueca—Naval Station
Property Number: 549420006
Fed Reg Date: 08/11/95
Roosevelt Roads
Vieques, PR, , Zip: 00765–
Status: Excess
Comment: 323 acres, cultural site.

Virginia

Buildings

Bristol U.S. Army Reserve Ctr.
Property Number: 219440317
Fed Reg Date: 12/08/95
100 Piedmont Avenue
Bristol, VA, Co: Washington, Zip: 24201–
Status: Excess
Comment: 13,460 sq. ft., 2-story plus basement, brick structure, presence of asbestos, needs some rehab. (Property was published incorrectly on 10/13/95).
GSA No.: 4–D–VA–711

Washington

Land

Asotin Quarry–Lower Lock & Dam
Property Number: 549340001
Fed Reg Date: 08/11/95
West of Upriver Road
Asotin, WA, Co: Asotin, Zip: 99402–
Status: Excess
Comment: 39.42 acres, access easement, most recent use—rock quarry.
GSA No.: 9–D–WA–824–K
Second Stadium Home Site
Property Number: 549540008
Fed Reg Date: 12/15/95
1701 Martin Luther King Blvd.
Seattle, WA, Co: King, Zip: 98144–
Status: Excess
Comment: 1.5061 acres of unimproved land, most recent use—temporary storage for construction equipment.
GSA No.: 9–GRI–WA–543

Wisconsin

Land

Portion, Kewaunee Eng. Depot
Property Number: 319440013
Fed Reg Date: 09/22/95
East Storage Yard
Kewaunee, WI, Co: Kewaunee, Zip: 54216–
Status: Excess
Comment: 0.95 acres, storage bldg. on prop. owned by State, limited access (water access only).
GSA No.: 2–D–WI–572

West Virginia

Buildings

R.T. Price House
Property Number: 319520004
Fed Reg Date: 08/18/95
U.S. Route 2
Williamson, WV, Co: Mingo, Zip: 25661–
Status: Excess
Comment: 3116 sq. ft., brick, most recent use—office/conf., listed on Natl. Reg. of Historic Places, restriction against human habitation, recommend flood protection measures.
GSA No.: 4–D–WV–525

Navy

Georgia

Land

Naval Submarine Base
Property Number: 779010229
Fed Reg Date: 09/08/95
Project Name: Naval Submarine Base
Grid R–2 to R–3 to V–4 to V–1
Kings Bay, GA, Co: Camden, Zip: 31547–
Status: Underutilized
Comment: 111.57 acres; areas may be environmentally protected; secured area with alternate access.

Hawaii

Buildings

Bldg. S87, Radio Trans. Fac.
Property Number: 779240011
Fed Reg Date: 09/08/95
Lualualei, Naval Station, Eastern Pacific
Wahiawa, HI, Co: Honolulu, Zip: 96786–3050
Status: Unutilized

Comment: 7566 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only.
Bldg. 466, Radio Trans. Fac.
Property Number: 779240012
Fed Reg Date: 09/08/95
Lualualei, Naval Station, Eastern Pacific
Wahiawa, HI, Co: Honolulu, Zip: 96786–3050
Status: Unutilized
Comment: 100 sq. ft., 1-story, needs rehab, most recent use—gas station, off-site use only.
Bldg. T33 Radio Trans. Facility
Property Number: 779310003
Fed Reg Date: 09/08/95
Naval Computer & Telecommunications Area
Wahiawa, HI, Co: Honolulu, Zip: 96786–3050
Status: Unutilized
Comment: 1536 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only.
Bldg. 64, Radio Trans. Facility
Property Number: 779310004
Fed Reg Date: 09/08/95
Naval Computer & Telecommunications Area
Wahiawa, HI, Co: Honolulu, Zip: 96786–3050
Status: Unutilized
Comment: 3612 sq. ft., 1-story, access restrictions, needs rehab, most recent use—storage, off-site use only.

Maine

Buildings

Naval Air Station
Property Number: 779010110
Fed Reg Date: 09/08/95
Project Name: Transmitter Site
Transmitter Site
Old Bath Road
Brunswick, ME, Co: Cumberland, Zip: 04053–
Status: Underutilized
Comment: 7,270 sq. ft., 1 story bldg, most recent use—storage structural deficiencies.
Parcel No. 3
Property Number: 779120001
Fed Reg Date: 09/08/95
Naval Air Station Topsham Annex
Topsham, ME, Co: Sagadahoc, Zip: 04086–
Status: Demolished
Comment: 1900 sq. ft., abandoned storage facility, poor condition on 4.31 acres.
Bldg, 373, Topsham Annex
Property Number: 779320024
Fed Reg Date: 09/08/95
Naval Air Station
Topsham, ME, Co: Sagadahoc, Zip:
Status: Excess
Comment: 1300 sq. ft., 1 story, most recent use—public works maintenance shop, on 2.55 acres.

New Hampshire

Buildings

Naval & Marine Corp. Rsv. Ctr.
Property Number: 779530005
Fed Reg Date: 12/01/95
199 North Main St.
Manchester, NH, Zip: 03102–
Status: Excess
Comment: 3 bldgs. on 2.53 acres of land, limited utilities, limited use prior to environmental cleanup.

Pennsylvania

Buildings

Naval Reserve Center
Property Number: 779520034
Fed Reg Date: 09/08/95
Dalton Ave. 7 Mayfair St.
McKeesport, PA, Co: Allegheny, Zip: 15132–
Status: Excess
Comment: 3 interconnected quonset huts, need rehab, possible lead paint, lease restrictions, off-site removal only.

Texas

Land

Peary Point #2
Property Number: 779030001
Fed Reg Date: 09/08/95
Project Name: Naval Air Station
Naval Air Station
Corpus Christi, TX, Co: Nueces, Zip: 78419–5000
Status: Excess
Comment: 43.48 acres; 60% of land under lease until 8/93.
GSA No: 7–N–TX–402–V

VA

Alabama

Land

VA Medical Center
Property Number: 979010053
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
VAMC
Tuskegee, AL, Co: Macon, Zip: 36083–
Status: Underutilized
Comment: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped.

Buildings

Bldg. 19, VA Medical Center
Property Number: 979220006
Fed Reg Date: 10/06/95
Tuskegee, AL, Co: Macon, Zip: 36083–
Status: Underutilized
Comment: Portion of a 5320 sq. ft. 4-story structure.

California

Land

Land
Property Number: 979240001
Fed Reg Date: 10/06/95
4150 Clement Street
San Francisco, CA, Co: San Francisco, Zip: 94121–
Status: Underutilized
Comment: 4 acres, landslide area.

Buildings

Bldg. 20—VA Medical Center
Property Number: 979210003
Fed Reg Date: 10/06/95
Wilshire & Sawtelle Blvds.
Los Angeles, CA, Co: Los Angeles, Zip: 90073–
Status: Unutilized
Comment: 8758 gross sq. ft., one story wooden, requires complete restoration meeting standards of national preservation laws and guidelines.
Bldg. 13, VA Medical Center
Property Number: 979220001
Fed Reg Date: 10/06/95
Wilshire and Sawtelle Blvds.
Los Angeles, CA, Co: Los Angeles, Zip: 90073–
Status: Underutilized
Comment: Portion of 66,165 sq. ft. bldg., needs major rehab, no util., pres. of asbestos, in historic district, potential to be hazardous due to storage of radioactive material nearby.
Bldg. 156, VAMC
Property Number: 979230015
Fed Reg Date: 10/06/95
Wilshire & Sawtelle Blvds.
Los Angeles, CA, Co: Los Angeles, Zip: 90073–
Status: Underutilized
Comment: Portion of 39,454 sq. ft. bldg., presence of asbestos, needs rehab, seismic reinforcement deficiencies, in his. district, potentially hazardous due to nearby radioactive material.

Indiana

Buildings

Bldg. 140, VAMC,
Property Number: 979230007
Fed Reg Date: 10/06/95
East 38th Street
Marion, IN, Co: Grant, Zip: 46952–
Status: Underutilized
Comment: 60 sq. ft., concrete block bldg., most recent use—trash house, access restrictions.

Maryland

Land

VA Medical Center
Property Number: 979010020
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
9500 North Point Road
Fort Howard, MD, Co: Baltimore, Zip: 21052–
Status: Underutilized
Comment: Appox. 10 acres, wetland and periodically floods, most recent use—dump site for leaves.

Pennsylvania

Buildings

Bldg. 25—VA Medical Center
Property Number: 979210001
Fed Reg Date: 10/06/95
Delafield Road
Pittsburgh, PA, Co: Allegheny, Zip: 15215–
Status: Unutilized
Comment: 133 sq. ft., one story brick guard house, needs rehab.

Tennessee

Buildings

Bldg. 16, VAMC Mountain Home
Property Number: 979220007
Fed Reg Date: 10/06/95
Johnson, TN, Co: Washington, Zip: 37604–
Status: Unutilized
Comment: 3215 sq. ft., 3-story wood frame residence, needs repair, subject to historic preservation requirements.

Texas

Land

Land
Property Number: 979010079
Fed Reg Date: 10/06/95
Project Name: Olin E. Teague Veterans Center
Olin E. Teague Veterans Center
1901 South 1st Street
Temple, TX, Co: Bell, Zip: 76504–
Status: Underutilized
Comment: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities.
VA Medical Center
Property Number: 979010081
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
4800 Memorial Drive
Waco, TX, Co: McLennan Zip: 76711–
Status: Underutilized
Comment: 2.3 acres, negotiating lease w/ Owens-Illinois Glass Plant, most recent use—parking lot.

Wisconsin

Land

VA Medical Center
Property Number: 979010054
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
County Highway E
Tomah, WI, Co: Monroe, Zip: 54660–
Status: Underutilized
Comment: 12.4 acres, serves as buffer between center and private property, no utilities.

Buildings

Bldg. 8
Property Number: 979010056
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
VA Medical Center
County Highway E
Tomah, WI, Co: Monroe, Zip: 54660–
Status: Underutilized
Comment: 2200 sq. ft., 2 story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

Title V Properties for Year 95 Which Are Suitable and Unavailable

Air Force

California

Land

Camp Kohler Annex
Property Number: 189010045
Fed Reg Date: 8/18/95
Project Name: McClellan AFB
McClellan AFB
Sacramento, CA, Co: Sacramento, Zip: 95652–5000
Status: Unutilized
Reason: Change in AF mission.

Norton Com. Facility Annex

VA Medical Center
Property Number: 189010194
Fed Reg Date: 08/18/95
Project Name: Norton Com. Facility Annex
Norton AFB
Sixth and Central Streets
Highland, CA, Co: San Bernardino, Zip: 92409–5045
Status: Excess
Reason: Leased by "Baseline Little League".

Buildings

Hawes Site (KHGM)
Property Number: 189010084
Fed Reg Date: 08/18/95
Project Name: Hawes Site
March AFB
Hinckley, CA, Co: San Bernardino, Zip: 92402–
Status: Unutilized
Reason: Contamination being cleaned up.

Idaho

Buildings

Bldg. 516
Property Number: 189520004
Fed Reg Date: 08/18/95
Mountain Home Air Force Base
Mountain Home, ID, Co: Elmore, Zip: 86348–
Status: Excess
Reason: Currently in use.

Michigan

Buildings

Bldg. 20
Property Number: 189010775
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 21
Property Number: 189010776
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 22
Property Number: 189010777
Fed Reg Date: 08/18/95
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 28
Property Number: 189010778
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 40
Property Number: 189010780
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 41
Property Number: 189010781
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 42
Property Number: 189010782
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 43
Property Number: 189010783
Fed Reg Date: 08/18/95
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 44
Property Number: 189010784
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 45
Property Number: 189010785
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49912–
Status: Excess
Reason: Renewal of lease.
Bldg. 47
Property Number: 189010787
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 48
Property Number: 189010788
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 49
Property Number: 189010789
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 50
Property Number: 189010790
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 14
Property Number: 189010833
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 16
Property Number: 189010834
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 9
Property Number: 189010835
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station

Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 11
Property Number: 189010837
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 12
Property Number: 189010838
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 13
Property Number: 189010839
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 5
Property Number: 189010840
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 6
Property Number: 189010841
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 7
Property Number: 189010842
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 8
Property Number: 189010843
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 4
Property Number: 189010844
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 3
Property Number: 189010845
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 1
Property Number: 189010846
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 158
Property Number: 189010857
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 15
Property Number: 189010864
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 31
Property Number: 189010867
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 32
Property Number: 189010868
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 33
Property Number: 189010869
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 34
Property Number: 189010870
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 35
Property Number: 189010871
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 39
Property Number: 189010874
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 202
Property Number: 189010880
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 203
Property Number: 189010881
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 204
Property Number: 189010882
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 205
Property Number: 189010883
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 206
Property Number: 189010884
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 207
Property Number: 189010885
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 153
Property Number: 189010886
Fed Reg Date: 8/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 154
Property Number: 189010887
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease.
Bldg. 157
Property Number: 189010888
Fed Reg Date: 08/18/95
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Renewal of lease

Missouri

Buildings

Jefferson Barracks ANG Base
Property Number: 189010081
Fed Reg Date: 08/18/95
Project Name: Missouri National Guard
Missouri National Guard
1 Grant Road
St. Louis, MO, Co: St. Louis, Zip: 63125–4118
Status: Underutilized
Reason: Vehicle fuel stations/fuel storage, Flooded area.

Montana

Buildings

Bldg. 00007
Property Number: 189330066
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00008
Property Number: 189330067
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00016
Property Number: 189330068
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00023
Property Number: 189330069
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00024
Property Number: 189330070
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00027
Property Number: 189330071
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00029
Property Number: 189330072
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00031
Property Number: 189330073
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00032
Property Number: 189330074
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00035
Property Number: 189330075
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00039
Property Number: 189330076
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00040
Property Number: 189330077
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00041
Property Number: 189330078
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00042
Property Number: 189330079
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 00044
Property Number: 189330080
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 51, 52, 56, 58
Property Number: 189330081
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 53–55, 57, 59, 61, 63, 65, 67,69, 71
Property Number: 189330082
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 60, 62, 64, 66, 68
Property Number: 189330083
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 70, 72, 74, 78
Property Number: 189330084
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 76, 80
Property Number: 189330085
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldg. 82
Property Number: 189330086
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 150, 152, 154, 156, 158, 160, 162, 164, 168, 170, 172, 174, 176, 178, 180, 182, 184
Property Number: 189330087
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 106–109, 112–113
Property Number: 189330088
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 202, 204, 206, 212, 214, 216, 218
Property Number: 189330089
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.
Bldgs. 208, 210
Property Number: 189330090
Fed Reg Date: 08/18/95
Havre Air Force Station
MT, Co: Hill, Zip: 59501–
Status: Unutilized
Reason: Environmental cleanup required.

New Hampshire

Buildings

Bldg. 127
Property Number: 189320057
Fed Reg Date: 08/18/95
New Boston Air Force Station
Amherst, NH, Co: Hillsborough, Zip: 03031–1514
Status: Excess
Reason: Ongoing installation mission consideration.

Texas

Buildings

Bldg. 696
Property Number: 189110091
Fed Reg Date: 08/18/95
Project Name: Brooks Air Force Base
Brooks Air Force Base
San Antonio, TX, Co: Bexar, Zip: 78235–
Status: Unutilized
Reason: Change in agency mission.
Bldg. 697
Property Number: 189110092
Fed Reg Date: 08/18/95
Project Name: Brooks Air Force Base
Brooks Air Force Base
San Antonio, TX, Co: Bexar, Zip: 78235–
Status: Unutilized
Reason: Change in agency mission.

Bldg. 698
Property Number: 189110093
Fed Reg Date: 08/18/95
Project Name: Brooks Air Force Base
Brooks Air Force Base
San Antonio, TX, Co: Bexar, Zip: 78235–
Status: Unutilized
Reason: Change in agency mission.

ARMY

Arizona

Buildings

Bldg. S–306
Property Number: 219420346
Fed Reg Date: 10/13/95
Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9104
Status: Unutilized
Reason: Curerntly being utilized.

Colorado

Buildings

Bldg. P–1388
Property Number: 219430134
Fed Reg Date: 10/13/95
Fort Carson
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Reason: Being utilized.

Georgia

Buildings

Bldg. T201, Fort Stewart
Property Number: 219420357
Fed Reg Date: 10/13/95
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Reason: Being utilized.

Bldg. T–902, Fort Stewart
Property Number: 219420360
Fed Reg Date: 10/13/95
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Reason: Being utilized.

Bldg. 704, Fort Stewart
Property Number: 219420364
Fed Reg Date: 10/13/95
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Reason: Being utilized.

Bldg. TT0791
Property Number: 219440408
Fed Reg Date: 10/13/95
Fort Stewart
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Reason: Being utilized.

Bldg. TT0792
Property Number: 219440409
Fed Reg Date: 10/13/95
Fort Stewart
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Reason: Being utilized.

Bldg. TT0793
Property Number: 219440410
Fed Reg Date: 10/13/95
Fort Stewart
Hinesville, GA, Co: Liberty, Zip: 31314–
Status: Unutilized
Reason: Being utilized.

Kansas

Buildings

Bldg. T–2014, Fort Riley
Property Number: 219520112
Fed Reg Date: 10/13/95
Ft. Riley, KS, Zip: 66442–
Status: Unutilized
Reason: Demolition contract in progress.

Bldg. T–2017, Fort Riley
Property Number: 219520113
Fed Reg Date: 10/13/95
Ft. Riley, KS, Zip: 66442–
Status: Unutilized
Reason: Demolition contract in progress.

Bldg. T–2019, Fort Riley
Property Number: 219520114
Fed Reg Date: 10/13/95
Ft. Riley, KS, Zip: 66442–
Status: Unutilized
Reason: Demolition contract in progress.

Bldg. T–2033, Fort Riley
Property Number: 219520115
Fed Reg Date: 10/13/95
Ft. Riley, KS, Zip: 66442–
Status: Unutilized
Reason: Demolition contract in progress.

Bldg. T–2040, Fort Riley
Property Number: 219520191
Fed Reg Date: 10/13/95
Ft. Riley, KS, Zip: 66442–
Status: Unutilized
Reason: Demolition contract in progress.

Bldg. T–3210, Fort Riley
Property Number: 219520192
Fed Reg Date: 10/13/95
Ft. Riley, KS, Zip: 66442–
Status: Unutilized
Reason: Demolition contract in progress.

Kentucky

Buildings

Bldg. 05711, Fort Campbell
Property Number: 219410340
Fed Reg Date: 10/13/95
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Being utilized.

Bldg. 05713, Fort Campbell
Property Number: 219410341
Fed Reg Date: 10/13/95
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Being utilized.

Bldg. 5715
Property Number: 219410355
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Being utilized.

Bldg. 5717
Property Number: 219410357
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Being utilized.

Bldg. 5723
Property Number: 219410359
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Being utilized.

Bldg. 5725
Property Number: 219410361
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Being utilized.

Bldg. 2941
Property Number: 219420369
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Being utilized.

Bldg. 232
Property Number: 219430147
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Fully utilized.

Bldg. 230
Property Number: 219430148
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Fully utilized.

Bldg. 30
Property Number: 219430151
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Fully utilized.

Bldgs. 250, 252
Property Number: 219430157
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Fully utilized.

Bldg. 2905
Property Number: 219430162
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Fully utilized.

Bldg. 5343
Property Number: 219430173
Fed Reg Date: 10/13/95
Fort Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Reason: Being utilized.

Louisiana

Buildings

Bldg. 3322, Fort Polk
Property Number: 219440441
Fed Reg Date: 10/13/95
Texas Avenue
Ft. Polk, LA, Co: Vernon Parish, Zip: 71459–
Status: Underutilized
Reason: Located in restricted and hazardous work area.

Maryland

Buildings

Bldgs. TMA4, TMA5, TMA8, TMA9
Property Number: 219320292
Fed Reg Date: 10/13/95

Fort George G. Meade
Ft. Meade, MD, Co: Anne Arundel, Zip: 20755–5155
Status: Unutilized
Reason: To be demolished.

New Jersey

Land

Land—Camp Kilmer
Property Number: 219230358
Fed Reg Date: 10/13/95
Plainfield Avenue
Edison, NJ Co: Middlesex, Zip: 08817–2487
Status: Unutilized
Reason: Leasing to MIPH.

Nevada

Buildings

U.S. Army Reserve Center
Property Number: 219340180
Fed Reg Date: 10/13/95
685 East Plumb Lane
Reno, NV, Co: Washoe, Zip: 89502–
Status: Unutilized
Reason: Currently utilized.

Texas

Buildings

Bldg. P–2000, Fort Sam Houston
Property Number: 219220389
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Underutilized
Reason: Area programmed for future use.

Bldg. P–2001, Fort Sam Houston
Property Number: 219220390
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Underutilized
Reason: Area programmed for future use.

Bldg. P–2007, Fort Sam Houston
Property Number: 219220391
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Underutilized
Reason: Area programmed for future use.

Bldg. T–189, Fort Sam Houston
Property Number: 219220402
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Underutilized
Reason: Area programmed for future use.

Bldg. P–8249, Fort Sam Houston
Property Number: 219440455
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Excess
Reason: Committed to Congress for military housing construction.

Bldg. P–151,, Fort Sam Houston
Property Number: 219520116
Fed Reg Date: 10/13/95
San Antonio, TX, Co: Bexar, Zip: 78234–5000
Status: Utilized
Reason: Fully utilized.

Virginia

Buildings

Bldg. T3004, Fort Pickett
Property Number: 219310217
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3022, Fort Pickett
Property Number: 219310318
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3023, Fort Pickett
Property Number: 219310319
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3024, Fort Pickett
Property Number: 219310320
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3026, Fort Pickett
Property Number: 219310321
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3025, Fort Pickett
Property Number: 219310322
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3040, Fort Pickett
Property Number: 219310323
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3041, Fort Pickett
Property Number: 219310324
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3049, Fort Pickett
Property Number: 219310325
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3050, Fort Pickett
Property Number: 219310326
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3029, Fort Pickett
Property Number: 219310327
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3030, Fort Pickett
Property Number: 219310328
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3037, Fort Pickett
Property Number: 219310329
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3038, Fort Pickett
Property Number: 219310330
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3039, Fort Pickett
Property Number: 219310331
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3042, Fort Pickett
Property Number: 219310332
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3043, Fort Pickett
Property Number: 219310333
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3044, Fort Pickett
Property Number: 219310334
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3045, Fort Pickett
Property Number: 219310335
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3046, Fort Pickett
Property Number: 219310336
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3047, Fort Pickett
Property Number: 219310337
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3048, Fort Pickett
Property Number: 219310338
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3051, Fort Pickett
Property Number: 219310339
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3052, Fort Pickett
Property Number: 219310340
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3053, Fort Pickett
Property Number: 219310341
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.

Bldg. T3054, Fort Pickett
Property Number: 219310342
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–

Status: Underutilized
Reason: Needed for training activities.
Bldg. T3027, Fort Pickett
Property Number: 219310343
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3028, Fort Pickett
Property Number: 219310344
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3031, Fort Pickett
Property Number: 219310345
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3032, Fort Pickett
Property Number: 219310346
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3033, Fort Pickett
Property Number: 219310347
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3034, Fort Pickett
Property Number: 219310348
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3035, Fort Pickett
Property Number: 219310349
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3036, Fort Pickett
Property Number: 219310350
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3057, Fort Pickett
Property Number: 219310351
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. T3055, Fort Pickett
Property Number: 219310352
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Bldg. TT3001, Fort Pickett
Property Number: 219210353
Fed Reg Date: 10/13/95
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Needed for training activities.
Quarters 19201 & 19209
Property Number: 219410365
Fed Reg Date: 10/13/95
Fort Lee
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Reason: In footprint of construction.
Quarters 19202, 19204, 19206, 19208, 19211, & 19213
Property Number: 219410366
Fed Reg Date: 10/13/95
Fort Lee
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Reason: In footprint of construction.
Quarters 19203, 19205, 19207
Property Number: 219410367
Fed Reg Date: 10/13/95
Fort Lee
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Reason: In footprint of construction.
Quarters 19210, 19214
Property Number: 219410368
Fed Reg Date: 10/13/95
Fort Lee
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Reason: In footprint of construction.
Quarter 19212
Property Number: 219410369
Fed Reg Date: 10/13/95
Fort Lee
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Reason: In footprint of construction.

COE

California

Buildings

Santa Fe Flood Control Basin
Property Number: 319011298
Fed Reg Date: 08/18/95
Project Name: Santa Fe Flood Control Basin
Irwindale, CA, Co: Los Angeles, Zip: 91706–
Status: Unutilized
Reason: Needed for contract personnel.

Florida

Buildings

Bldg. CN7
Property Number: 319010012
Fed Reg Date: 08/18/95
Project Name: Ortona Lock Reservation
Ortona Lock Reservation, Okeechobee Waterway
Ortona, FL, Co: Glades, Zip: 33471–
Status: Unutilized
Reason: Disposal actions have been initiated.
Bldg. CN8
Property Number: 3190110013
Fed Reg Date: 08/18/95
Project Name: Ortona Lock Reservation
Ortona Lock Reservation, Okeechobee Waterway
Ortona, FL, Co: Glades, Zip: 33471–
Status: Unutilized
Reason: Disposal actions have been initiated.

Illinois

Land

Lake Shelbyville
Property Number: 319240004
Fed Reg Date: 08/18/95
Shelbyville, IL, Co: Shelby & Moultrie, Zip: 62565–9804
Status: Unutilized
Reason: Disposal action initiated.

Buildings

Bldg. 7
Property Number: 319010001
Fed Reg Date: 08/18/95
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Project integrity and security; safety liability.
Bldg. 6
Property Number: 319010002
Fed Reg Date: 08/18/95
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Project integrity and security; safety liability.
Bldg. 5
Property Number: 319010003
Fed Reg Date: 08/18/95
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Project integrity and security; safety liability.
Bldg. 4
Property Number: 319010004
Fed Reg Date: 08/18/95
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Project integrity and security; safety liability.
Bldg. 3
Property Number: 319010005
Fed Reg Date: 08/18/95
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Project integrity and security; safety liability.
Bldg. 2
Property Number: 319010006
Fed Reg Date: 08/18/95
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Project integrity and security; safety liability.
Bldg. 1
Property Number: 319010007
Fed Reg Date: 08/18/95
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Project integrity and security; safety liability.

Defunct Radio Station Site
Property Number: 319520002
Fed Reg Date: 08/18/95
(Govt Tract B–135), Chain of Rocks Canal
IL, Co: Madison, Zip: 62040–
Status: Excess
Reason: Disposal action initiated.

Indiana

Land

Portion of Tract 1219
Property Number: 319310002
Fed Reg Date: 08/18/95
Salamonie Lake, SR 9
Huntington, IN, Co: Huntington, Zip: 46750–
Status: Unutilized
Reason: Disposal action initiated.
Portion of Tract 1220
Property Number: 319310003
Fed Reg Date: 08/18/95
Salamonie Lake, SR 9
Huntington, IN, Co: Huntington, Zip: 46750–
Status: Unutilized
Reason: Disposal action initiated.
Portion of Tract 1207
Property Number: 319310004
Fed Reg Date: 08/18/95
Salamonie Lake, SR 9
Huntington, IN, Co: Huntington, Zip: 46750–
Status: Unutilized
Reason: Disposal action initiated.

Buildings

Bldg. 01, Monroe Lake
Property Number: 319140002
Fed Reg Date: 08/18/95
Monroe City. Rd. 37 North to Monroe Dam Rd.
Bloomington, IN, Co: Monroe, Zip: 47401–8772
Status: Unutilized
Reason: Disposal actions have been initiated.
Bldg. 02, Monroe Lake
Property Number: 319140003
Fed Reg Date: 08/18/95
Monroe City. Rd. 37 North to Monroe Dam Rd.
Bloomington, IN, Co: Monroe, Zip: 47401–8772
Status: Unutilized
Reason: Disposal actions have been initiated.

Kentucky

Land

Carr Fork Lake
Property Number: 319240003
Fed Reg Date: 8/18/95
5 miles SE of Hindman, KY., Hwy. 60
Hindman, KY, Co: Knott, Zip:
Status: Unutilized
Reason: Used as drainage field.

Pennsylvania

Land

East Branch Clarion River Lake
Property Number: 319011012
Fed Reg Date: 08/18/95
Project Name: East Branch Clarion River Lake
Wilcox, PA, Co: Elk, Zip:
Status: Underutilized
Reason: Location near damsite.
Dashields Locks and Dam (Glenwillard, PA)
Property Number: 319210009
Fed Reg Date: 08/18/95
Crescent Twp., PA, Co: Allegheny, Zip: 15046–0475
Status: Unutilized
Reason: Leased to Township.

Buildings

Tract 302B
Property Number: 319430017
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Old Glassworks, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: To be transferred to County.
Tract 314
Property Number: 319430018
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Old Glassworks, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: Disposal action initiated.
Tract 353
Property Number: 319430019
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: To be transferred to Borough.
Tract 402
Property Number: 319430020
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: To be transferred to Borough.
Tract 403A
Property Number: 319430021
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: To be transferred to Borough.
Tract 403B
Property Number: 319430022
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: To be transferred to Borough.
Tract 403C
Property Number: 319430023
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: To be transferred to Borough.
Tract 434
Property Number: 319430024
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: To be transferred to Borough.
Tract 440
Property Number: 319430025
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: To be transferred to Borough.
Tract 224
Property Number: 319440001
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Unutilized
Reason: Disposal action initiated.
Tract 301
Property Number: 319440002
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Excess
Reason: Disposal action initiated.
Tract 408E
Property Number: 319440003
Fed Reg Date: 08/18/95
Grays Landing Lock & Dam Project
Greensboro, PA, Co: Greene, Zip: 15338–
Status: Excess
Reason: Being utilized.

Tennessee

Buildings

Transient Quarters
Property Number: 319140005
Fed Reg Date: 08/18/95
Dale Hollow Lake and Dam Project
Dale Hollow Resource Mgr Office, Rt 1, Box 64
Celina, TN, Co: Clay, Zip: 38551–
Status: Unutilized
Reason: Fully utilized.

Texas

Land

Part of Tract 340
Property Number: 319010400
Fed Reg Date: 08/18/95
Project Name: Joe Pool Lake
Joe Pool Lake
TX, Co: Dallas, Zip:
Status: Unutilized
Reason: Incorporated into a park lease.

Woshington

Land

Portion of Tract 905
Property Number: 319320005
Fed Reg Date: 08/18/95
Lower Monumental Lock & Dam
½ mi SE of Lyons Ferry Marina
WA, Co: Whitman, Zip:
Status: Excess
Reason: Disposal action initiated.

Wisconsin

Buildings

Former Lockmaster's Dwelling
Property Number: 319011526
Fed Reg Date: 08/18/95
Project Name: Former Lockmaster's Dwelling
DePere Lock
100 James Street
De Pere, WI, Co: Brown, Zip: 54115–
Status: Unutilized
Reason: In negotiation for transfer to the State.

DOT

California

Land

Excess Land at Eureka Housing
Property Number: 879540001
Fed Reg Date: 12/01/95
Eureka, CA, Co: Humboldt, Zip: 95501–
Status: Unutilized
Reason: Encroachment on property.

Georgia

Land

Land—St. Simons Boathouse
Property Number: 879540003
Fed Reg Date: 12/15/95
St. Simons Island, GA, Co: Glynn, Zip: 31522–0577
Status: Unutilized
Reason: Reversionary clause in deed.

Massachusetts

Buildings

Keepers Dwelling
Property Number: 879240024
Fed Reg Date: 08/11/95
Cape Ann Light, Thachers Island
U.S. Coast Guard
Rockport, MA, Co: Essex, Zip: 01966–
Status: Unutilized
Reason: Under a license agreement.

Assistant Keepers Dwelling
Property Number: 879240025
Fed Reg Date: 08/11/95
Cape Ann Light, Thachers Island
U.S. Coast Guard
Rockport, MA, Co: Essex, Zip: 01966–
Status: Unutilized
Reason: Under a license agreement.

Maine

Buildings

Mount Desert Rock Light
Property Number: 879240023
Fed Reg Date: 08/11/95
U.S. Coast Guard
Southwest Harbor, ME, Co: Hancock, Zip: 04679–
Status: Unutilized
Reason: No electrical service.

Little River Light
Property Number: 879240026
Fed Reg Date: 08/11/95
U.S. Coast Guard
Cutler, ME, Co: Washington, Zip:
Status: Unutilized
Reason: Well contamination.

Burnt Island Light
Property Number: 879240027
Fed Reg Date: 08/11/95
U.S. Coast Guard
Southport, ME, Co: Lincoln, Zip: 04576–
Status: Unutilized
Reason: Under a historic lease.

Texas

Buildings

Brownsville Urban System
Property Number: 879010003
Fed Reg Date: 08/11/95
Project Name: Brownsville Urban System (Grantee)
700 South Iowa Avenue
Brownsville, TX, Co: Cameron, Zip: 78520–
Status: Unutilized
Reason: City of Brownsville needs the property.

Energy

Colorado

Buildings

Ft. Morgan Service Bldg.
Property Number: 419520002
Fed Reg Date: 09/08/95
Ft. Morgan, CO, Co: Morgan, Zip: 80701–
Status: Excess
Reason: Facility surrounded by high voltage transmission lines.

GSA

Alaska

Buildings

Ketchikan Ranger House
Property Number: 549430009
Fed Reg Date: 08/11/95
Ketchikan, AK, Zip: 99901–
Status: Surplus
GSA No.: 9–A–AK–0746
Reason: Interest expressed.

Arkansas

Buildings

Federal Building
Property Number: 549530004
Fed Reg Date: 09/22/95
115 South Denver Avenue
Russellville, AR, Co: Pope, Zip: 80205–
Status: Excess
GSA No.: 7–G–AR–546
Reason: Historic application.

California

Land

Receiver Site
Property Number: 549010042
Fed Reg Date: 08/11/95
Project Name: Dixon Relay Station
Dixon Relay Station
7514 Radio Station Road
Dixon, CA, Zip: 95620–9653
Status: Surplus
GSA No: 9–2–CA–1162–A
Reason: Advertised.

Receiver Site
Property Number: 549010044
Fed Reg Date: 08/11/95
Project Name: Delano Relay Station
Delano Relay Station
Route 1, Box 1350
Delano, CA, Co: Tulare, Zip: 93215–
Status: Surplus
GSA No: 9–2–CA–1308
Reason: Advertised.

Colorado

Buildings

Former AF Finance Center
Property Number: 549310011
Fed Reg Date: 08/11/95
3800 York Street
Denver, CO, Co: Denver, Zip: 80205–
Status: Excess
GSA No.: 7–GR–CO–468–D
Reason: Negotiation in progress, sale to city.

Delaware

Buildings

Regional Poultry Research Lab
Property Number: 549540001
Fed Reg Date: 12/01/95
Georgetown, DE, Co: Sussex, Zip: 19947–
Status: Excess
GSA No.: 4–A–DE–0459
Reason: Public benefit interest.

Florida

Land

Jacksonville Com. Annex
Property Number: 549520013
Fed Reg Date: 08/11/95
U.S. Highway 17
Orange Park, FL, Co: Clay, Zip: 32073–
Status: Excess
GSA No.: 4–D–FL–780
Reason: Public agency interest.

Kentucky

Buildings

Federal Building
Property Number: 549430015
Fed Reg Date: 08/11/95
4th & Main Streets
Danville, KY, Co: Boyle, Zip: 40422–
Status: Excess
GSA No.: 4–G–KY–604
Reason: Interest expressed.

Massachusetts

Buildings

Lowell Federal Building
Property Number: 549320003
Fed Reg Date: 08/11/95
50 Kearny Square
Lowell, MA, Co: Middlesex, Zip: 01854–
Status: Excess
GSA No.: 4–G–MA–778
Reason: Pending educational conveyance.

17 Single Family Residences
Property Number: 549520002
Fed Reg Date: 08/11/95
Navy Family Housing, Westover AFB
Chicopee, MA, Co: Hampden, Zip: 01022–
Status: Excess
Reason: Sale scheduled.

99 Duplex Residences
Property Number: 549520003
Fed Reg Date: 08/11/95
Navy Family Housing, Westover AFB
Chicopee, MA, Co: Hampden, Zip: 01022–
Status: Excess
Reason: Sale scheduled.

20 Fourplex Residences
Property Number: 549520004
Fed Reg Date: 08/11/95
Navy Family Housing, Westover AFB
Chicopee, MA, Co: Hampden, Zip: 01022–
Status: Excess
Reason: Sale scheduled.

Michigan

Buildings

Detroit Job Corps Center
Property Number: 549510002
Fed Reg Date: 08/11/95
10401 E. Jefferson & 1438 Garland;
1265 St. Clair
Detroit, MI, Co: Wayne, Zip: 42128–
Status: Surplus
GSA No.: 2–L–MI–757
Reason: Education application.

Minnesota

Buildings

Coast Guard Family Housing
Property Number: 549230007
Fed Reg Date: 08/11/95
404 East Hamilton Avenue
Baudette, MN, Co: Lake of the Woods, Zip: 56623–
Status: Surplus
GSA No.: 2–U–MN–503–E
Reason: Pending transfer to BIA.

Coast Guard Family Housing

Property Number: 549230008
Fed Reg Date: 08/11/95
406 East Hamilton Avenue
Baudette, MN, Co: Lake of the Woods, Zip: 56623–
Status: Surplus
GSA No.: 2–U–MN–503–E
Reason: Transfer to BIA.

Coast Guard Family Housing
Property Number: 549230009
Fed Reg Date: 08/11/95
408 East Hamilton Avenue
Baudette, MN, Co: Lake of the Woods, Zip: 56623–
Status: Surplus
GSA No.: 2–U–MN–503–E
Reason: Transfer to BIA.

Coast Guard Family Housing
Property Number: 549230010
Fed Reg Date: 08/11/95
418 East Hamilton Avenue
Baudette, MN, Co: Lake of the Woods, Zip: 56623–
Status: Surplus
GSA No.: 2–U–MN–503–E
Reason: Transfer to BIA.

Army Reserve Center
Property Number: 549330003
Fed Reg Date: 08/11/95
301 Lexington Ave. South
New Prague, MN, Co: LeSueur, Zip: 56071–
Status: Surplus
GSA No.: 4–D–MN–558
Reason: Negotiating sale.

Missouri

Land

FAA VORTAC Swiss Site
Property Number: 549530001
Fed Reg Date: 09/08/95
MO, Co: Gasconade, Zip: 65041–
Status: Excess
GSA No.: 7–W–MO–627
Reason: Advertised.

Buildings

Federal Office Building
Property Number: 549510005
Fed Reg Date: 08/11/95
911 Walnut Street
Kansas City, MO, Co: Jackson, Zip: 64106–
Status: Excess
GSA No.: 7–G–MO–0626
Reason: Advertised.

North Carolina

Buildings

Portion VA Reservation
Property Number: 549320006
Fed Reg Date: 08/11/95
Nurses Quarters
Oteen, NC, Co: Buncombe, Zip:
Status: Excess
GSA No.: 4–GR–NC–481B
Reason: Written expression of interest.

Federal Bldg.-Post Office
Property Number: 549440013
Fed Reg Date: 08/11/95
226 Carthage Street
Sanford, NC, Co: Lee, Zip: 27330–
Status: Excess
GSA No.: 4–G–NC–713
Reason: Negotiated sale to city.

Nebraska

Land

Farm Site
Property Number: 549520017
Fed Reg Date: 08/11/95
Mead, NE, Co: Saunders, Zip: 68041–
Status: Excess
GSA No.: 7–C–NE–518
Reason: Advertised.

Nevada

Buildings

5 Single Family Residences
Property Number: 549430004
Fed Reg Date: 08/11/95
Tonopah Housing Complex
Tonopah: NV, Co: Nye, Zip: 89049–
Status: Excess
GSA No.: 9–U–NV–467–C
Reason: Advertising.

Ohio

Buildings

Zanesville Federal Building
Property Number: 549520018
Fed Reg Date: 08/11/95
65 North Fifth Street
Zanesville, OH, Co: Muskingum, Zip:
Status: Excess
GSA No.: 2–G–OH–781A
Reason: City expressed interest

Pennsylvania

Buildings

Storage & Maint. Facility
Property Number: 549330004
Fed Reg Date: 8/11/95
1200 Airport Road
Hopewell, PA, Co: Beaver, Zip: 15001–
Status: Excess
GSA No.: 4–L–PA–766
Reason: Interest expressed

Tennessee

Buildings

Knoxville Job Corps Center
Property Number: 549520005
Fed Reg Date: 8/11/95
621 Dale Avenue
Knoxville, TN Co: Knox, Zip: 37921–
Status: Excess
GSA No.: 4–L–TN–641
Reason: Advertised

Federal Building-Post Office
Property Number: 549520006
Fed Reg Date: 8/11/95
Liberty and Main Streets
Jacksboro, TN, Co: Campbell,, Zip: 37757–
Status: Excess
GSA No.: 4–G–TN–639
Reason: Advertised

Federal Bldg.—Post Office
Property Number: 549520008
Fed Reg Date: 8/11/95
Main Street and Maiden Lane
Wartburg, TN, Zip: 37887–
Status: Excess
GSA No.: 4–G–TN–640
Reason: Advertised

Washington

Land

Former Stadium Homes site
Property Number: 549410005
Fed Reg Date: 8/11/95
1701 28th Avenue, South
Seattle, WA, Co: King,, Zip: 98144–
Status: Excess
GSA No.: 9–GR(1)–WA–543
Reason: Negotiated sale

Sandpoint Control Tower
Property Number: 549440003
Fed Reg Date: 8/11/95
Near 7600 Sandpoint Way, NE
Seattle, WA, Co: King, Zip: 98115–
Status: Excess
GSA No.: 9–C–WA–1069
Reason: Federal requirement

Buildings

Hanford Site, 3000 Area
Property Number: 549540007
Fed Reg Date: 12/15/95
1st Street
Richland, WA, Co: Benton,, Zip: 99352–
Status: Excess
GSA No.: 10–B–WA–523–B
Reason: Public benefit interest

West Virginia

Buildings

Point Pleasant Depot
Property Number: 549430013
Fed Reg Date: 8/11/95
State Route 35
Point Pleasant, WV, Co: Mason, Zip:
Status: Excess
GSA No.: WV0015PP
Reason: Interest expressed

Wyoming

Buildings

Ranger Dwelling #1
Property Number: 549520015
Fed Reg Date: 8/11/95
205 Spring Street
Cokeville, Way, Co: Lincoln, Zip: 83114–
Status: Excess
GSA No.: 7–A–WY–535
Reason: Public sale scheduled

Old Kelley House
Property Number: 549520016
Fed Reg Date: 8/11/95
Ranger Dwelling #2, 410 Pine Street
Cokeville, WY, Co: Lincoln, Zip: 83114–
Status: Excess
GSA No.: 7–A–WY–535–A
Reason: Public sale scheduled

Interior

Arizona

Land

Tract No. APO–SRP–RB–5
Property Number: 619410005
Fed Reg Date: 8/11/95
Mesa, AZ, Co: Maricopa, Zip: 85213–
Status: Unutilized
Reason: Disposal process

Quartermaster Depot
Property Number: 619420001
Fed Reg Date: 8/11/95
4th Avenue and Colorado River
Yuma, AZ, Co: Yuma, Zip: 85364–
Status: Unutilized
Reason: Under long term lease

ACDC Tract No. T–71A
Property Number: 619530001
Fed Reg Date: 10/20/95

Along the Arizona Canal
Glendale, AZ, Co: Maricopa, Zip: 85306–
Status: Excess
Reason: Disposal process
Tract No. OSG–1–23
Property Number: 619530012
Fed Reg Date: 9/22/95
Near McDowell Road & Bush Hwy.
Mesa, AZ, Co: Marticopa, Zip: 85207–
Status: Excess
Reason: Disposal process

California

Land

Folsom South Canal
Property Number: 619310002
Fed Reg Date: 8/11/95
SW corner of Whiterock Rd. & Folsom S Canal
Rancho Cordova, CA, Co: Sacramento, Zip: 95670–
Status: Excess
Reason: Will be reported to GSA for sale

Buildings

Brown House 07–129
Property Number: 619520030
Fed Reg Date: 8/11/95
Highway 199
Hiouchi, CA, Co: Del Norte,, Zip: 95531
Status: Excess
Reason: Disposal process
Crist House 07–130
Property Number: 619520031
Fed Reg Date: 8/11/95
Highway 199
Hiouchi, CA, Co: Del Norte, Zip: 95531–
Status: Excess
Reason: Disposal process
Dunkley House 07–127
Property Number: 619520032
Fed Reg Date: 8/11/95
Highway 199
Hiouchi, CA, Co: Del Norte, Zip: 95531–
Status: Excess
Reason: Disposal process
Graton House 07–125
Property Number: 619520033
Fed Reg Date: 8/11/95
Highway 199
Hiouchi, CA, Co: Del Norte, Zip: 95531–
Status: Excess
Reason: Disposal process
Schach House 07–105
Property Number: 619520034
Fed Reg Date: 8/11/95
Highway 199
Hiouchi, CA, Co: Del Norte, Zip: 95531–
Status: Excess
Reason: Disposal process
Young House 07–132
Property Number: 619520035:
Fed Reg Date: 8/11/95
Highway 199
Hiouchi, CA, Co: Del Norte, Zip: 95531–
Status: Excess
Reason: Disposal process

New Mexico

Buildings

Hornkohl Property
Property Number: 619510001
Fed Reg Date: 8/11/95
Petroglyph National Monument
Albuquerque, NM, Co: Bernalillo,, Zip: 87120–
Status: Excess
Reason: Homeless interest expressed

Virginia

Buildings

NPS Tract 422–25
Property Number: 619440002
Fed Reg Date: 8/11/95
Former White property
County Rd. 602 on Moore Run near 4–H Camp
Front Royal, VA, Co: Warren, Zip: 22630–
Status: Excess
Reason: Homeless interest expressed

Washington

Buildings

Construction Office Bldg.
Property Number: 619410002
Fed Reg Date: 8/11/95
Roosevelt Way
Coulee Dam, WA, Co: Okanogan, Zip: 99116–
Status: Excess
Reason: Leased to BIA

Wyoming

Buildings

Bldg., Seminoe Dam House
Property Number: 619530014
Fed Reg Date: 09/22/95
Seminoe Camp, WY, Co: Carbon, Zip:
Status: Excess
Reason: Disposal process
Bldg., Seminoe Dam House
Property Number: 619530015
Fed Reg Date: 09/22/95
Seminoe Camp, WY, Co: Carbon, Zip:
Status: Excess
Reason: Disposal process
Bldg., Seminoe Dam House
Property Number: 619530016
Fed Reg Date: 09/22/95
Seminoe Camp, WY, Co: Carbon, Zip:
Status: Excess
Reason: Disposal process

Navy

Florida

Land

Naval Public Works Center
Property Number 779010157
Fed Reg Date: 09/08/95
Project Name: Naval Base
Naval Air Station
Pensacola, FL Co: Escambia, Zip 32508-
Status: Unutilized
Reason: Prop. reverts to grantor when no longer needed by military.

Georgia

Land

Naval Submarine Base
Property Number: 779010255
Fed Reg Date: 09/08/95
Project Name: Naval submarine Base
Grind AA-1 to AA-4 to EE-7 to FF-2
Kings Bay, GA, Co: Camden, Zip: 31547-
Status: underutilized
Reason: Buffer area for an explosive safety arc.

Marylond

Buildings

Bldg 230
Property Number: 779330010
Fed Reg Date: 09/08/95
Naval Communication Detachment
9190 Commo Road
Cheltenham, MD, Co: Prince George, Zip: 20397–5520
Status: Unutilized
Reason: Federal need expressed

Maine

Buildings

Bldg. 376, Naval Air Station
Property Number: 779320011
Fed Reg Date: 09/08/95
Topsham Annex
Topsham, ME, Co: Sagadahoc, Zip:
Status: Unutilized
Reason: Federal need

Ohio

Buildings

Naval & Marine Corps Res. Cntr
Property Number 779320012
Fed Reg Date: 09/08/95
315 East LaClede Avenue
Youngstown, OH, Zip:
Status: Unutilized
Reason: Returning property to the City.

Puerto Rico

Buildings

Bldgs. 501 & 502
Property Number: 779530007
Fed Reg Date: 12/01/95
U.S. Naval Radio Transmitter Facility
State Road No. 2
Juana Diaz, PR, , Zip: 00795-
Status: Underutilized
Reason: Department of Defense interest

Texas

Buildings

Bldg. 2435
Property Number: 779010161
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2436
Property Number: 779010162
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2460
Property Number: 779010163
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2462
Property Number: 779010164

Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2464
Property Number: 779010165
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2466
Property Number: 779010166
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2467
Property Number: 779010167
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2468
Property Number: 779010168
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2472
Property Number: 779010169
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2476
Property Number: 779010170
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2482
Property Number: 779010171
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2495
Property Number: 779010172
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419-
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2514
Property Number: 779010173
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2518
Property Number: 779010174
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2520
Property Number: 779010175
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2522
Property Number: 779010176
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2526
Property Number: 779010177
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2423
Property Number: 779010178
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2427
Property Number: 779010179
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2431
Property Number: 779010180
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2424
Property Number: 779010181
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2433
Property Number: 779010182
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2428
Property Number: 779010183
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2429
Property Number: 779010184
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2454
Property Number: 779010185
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2477
Property Number: 779010186
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2485
Property Number: 779010187
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2499
Property Number: 779010188
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized

Reason: Area programmed for future use.
Bldg. 2503
Property Number: 779010189
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2507
Property Number: 779010190
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2513
Property Number: 779010191
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2521
Property Number: 779010192
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2451
Property Number: 779010193
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2458
Property Number: 779010194
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2461
Property Number: 779010195
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2473
Property Number: 779010196
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2478
Property Number: 779010197
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2480
Property Number: 779010198
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2484
Property Number: 779010199
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2486
Property Number: 779010200
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2487
Property Number: 779010201
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2488
Property Number: 779010202
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2494
Property Number: 779010203
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2500
Property Number: 779010204
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2502
Property Number: 779010205
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2506
Property Number: 779010206
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2508
Property Number: 779010207
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2525
Property Number: 779010208
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2452
Property Number: 779010209
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2475
Property Number: 779010210
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2479
Property Number: 779010211
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2497
Property Number: 779010212
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2501
Property Number: 779010213
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2505
Property Number: 779010214
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2515
Property Number: 779010215
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2517
Property Number: 779010216
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2519
Property Number: 779010217
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2523
Property Number: 779010218
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2465
Property Number: 779010219
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2493
Property Number: 779010220
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2510
Property Number: 779010221
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2474
Property Number: 779010222
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2481
Property Number: 779010223
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2509
Property Number: 779010224
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2511
Property Number: 779010225
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2512
Property Number: 779010226
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.
Bldg. 2527
Property Number: 779010227
Fed Reg Date: 09/08/95
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Virginia

Land

Naval Base
Property Number: 779010156
Fed Reg Date: 09/08/95
Project Name: Naval Base
Norfolk, VA, Co: Norfolk, Zip: 23508–
Status: Unutilized
Reason: Identified for use in developing admin. office space.

Buildings

Naval Medical Clinic
Property Number: 779010109
Fed Reg Date: 09/08/95
Project Name: Naval Medical Clinic
6500 Hampton Blvd.
Norfolk, VA, Co: Norfolk, Zip: 23508–
Status: Unutilized
Reason: Planned for expansion space.

Virgin Islands

Land

Ham's Bluff Test Site
Property Number: 779530006
Fed Reg Date: 09/01/95
Freddriksted, VI, Co: St. Croix, Zip: 00840–
Status: Unutilized
Reason: Department of Defense interest

West Virginia

Buildings

Naval & Marine Corps Res. Ctr.
Property Number: 779010077
Fed Reg Date: 09/08/95
N. 13th St & Ohio River
Wheeling, WV, Co: Ohio, Zip: 26003–
Status: Excess
Reason: Government leased

VA

California

Buildings

Bldg. 116
Property Number: 979110009
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
Va Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles, CA, Co: Los Angeles, Zip: 90073–
Status: Underutilized
Reason: Use negotiations underway with New Directions, Inc.

Florida

Land

Compound, VAMC
Property Number: 979230017
Fed Reg Date: 10/06/95
10,000 Bay Pines Blvd.
Bay Pines, FL, Co: Pinellas, Zip: 33504–
Status: Underutilized
Reason: Construction staging site.

Buildings

Bldg. 36, VAMC
Property Number: 979230009
Fed Reg Date: 10/06/95
10,000 Bay Pines Blvd.
Bay Pines, FL, Co: Pinellas, Zip: 33504–
Status: Underutilized
Reason: Dedicated to patient care purposes.
Bldg. 37, VAMC
Property Number: 979230010
Fed Reg Date: 10/06/95
10,000 Bay Pines Blvd.
Bay Pines, FL, Co: Pinellas, Zip: 33504–
Status: Underutilized
Reason: Dedicated to patient care purposes.

Illinois

Land

VA Medical Center
Property Number: 979010082
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
3001 Green Bay Road
North Chicago, IL, Co: Lake, Zip: 60064–
Status: Underutilized
Reason: Fully used as a staging area for major construction project.

Indiana

Buildings

Bldg. 24, VAMC
Property Number: 979230005
Fed Reg Date: 10/06/95
East 38th Street
Marion, IN, Co: Grant, Zip: 46952–
Status: Underutilized
Reason: Currently utilized.

Bldg. 105, VAMC
Property Number: 979230006
Fed Reg Date: 10/06/95
East 38th Street
Marion, IN, Co: Grant, Zip: 46952–
Status: Underutilized
Reason: Integral part of the security system.

Michigan

Land

VA Medical Center
Property Number: 979010015
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
5500 Armstrong Road
Battle Creek, MI, Co: Calhoun, Zip: 49016–
Status: Underutilized
Reason: Being used for patient and program activities.

Minnesota

Land

Bldg. 227–229 Land
Property Number: 979010006
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
VA Medical Center
Fort Snelling
St Paul, MN, Co: Hennepin, Zip: 55111–
Status: Underutilized
Reason: Used for recreation and parking for occupants of bldg.

VA Medical Center
Property Number: 979010024
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Underutilized
Reason: Used for parking for employees working in buildings on-site.

Land—12 acres
Property Number: 979010031
Fed Reg Date: 10/06/95
Project Name: VAMC
VAMC
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Unutilized
Reason: Licensed to Minnesota Dept. of Natural Resources.

Buildings

Bldg. 227
Property Number: 979010033
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
VA Medical Center
Fort Snelling
St Paul, MN, Co: Hennepin, Zip: 55111–
Status: Unutilized
Reason: Plans to use for housing medical center staff.

New York

Land

VA Medical Center
Property Number: 979010017
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
Fort Hill Avenue
Canandaigua, NY, Co: Ontario, Zip: 14424–
Status: Underutilized
Reason: 13 acres/Canandaigua School Dist., 14.5 acres landlocked.

Buildings

Bldg. 144, VAECC
Property Number: 979210004
Fed Reg Date: 10/06/95
Linden Blvd. and 179th St.
St. Albans, NY, Co: Queens, Zip: 11425–
Status: Unutilized
Reason: Construction in process

Bldg. 143, VAECC
Property Number: 979210005
Fed Reg Date: 10/06/95
Linden Blvd. and 179th St.
St. Albans, NY, Co: Queens, Zip: 11425–
Status: Unutilized
Reason: Construction in process

Bldgs. 142/146, VAECC
Property Number: 979210006
Fed Reg Date: 10/06/95
Linden Blvd. and 179th St.
St. Albans, NY, Co: Queens, Zip: 11425–
Status: Unutilized
Reason: Construction in process

Pennsylvania

Land

VA Medical Center
Property Number: 979010016
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
New Castle Road
Butler, PA, Co: Butler, Zip: 16001–
Status: Underutilized
Reason: Used as natural drainage for facility property.

Land No. 645
Property Number: 979010080
Fed Reg Date: 10/06/95
Project Name: VA Medical Center
VA Medical Center
Highland Drive
Pittsburgh, PA, Co: Allegheny, Zip: 15206–
Status: Unutilized
Reason: Property is essential to security and safety of patients.

Land—34.16 acres
Property Number: 979340001
Fed Reg Date: 10/06/95
VA Medical Center
1400 Black Horse Hill Road
Coatesville, PA, Co: Chester, Zip: 19320–
Status: Underutilized
Reason: Needed for mission related functions

Buildings

Bldg. 2, VAMC
Property Number: 979230011
Fed Reg Date: 10/06/95
1700 South Lincoln Avenue
Lebanon, PA, Co: Lebanon, Zip: 17042–
Status: Underutilized
Reason: Construction projects in progress.

Bldg. 3, VAMC
Property Number: 979230012
Fed Reg Date: 10/06/95
1700 South Lincoln Avenue
Lebanon, PA, Co: Lebanon, Zip: 17042–
Status: Underutilized
Reason: Construction in progress..

Bldg. 103, VAMC
Property Number: 979230014
Fed Reg Date: 10/06/95
1700 South Lincoln Avenue
Lebanon, PA, Co: Lebanon, Zip: 17042–
Status: Underutilized
Reason: Construction in progress.

Wyoming

Buildings

Bldg. 13
Property Number: 979110001
Fed Reg Date: 10/06/95
Project Name: Medical Center
Medical Center
N.W. of town at the end of Fort Road
Sheridan, WY, Co: Sheridan, Zip: 82801–
Status: Unutilized
Reason: Planned for future use—currently used for storage

Bldg. 79
Property Number: 979110003
Fed Reg Date: 10/06/95
Project Name: Medical Center
Medical Center
N.W. of town at the end of Fort Road
Sheridan, WY, Co: Sheridan, Zip: 82801–
Status: Unutilized
Reason: Va uses as a filtration plant.

[FR Doc. 96–2619 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–29–M

federal register

Friday
February 9, 1996

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 23, et al.
Airworthiness Standards; Final Rules

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 27804; Amendment No. 23–51]

RIN 2120–AE60

Airworthiness Standards; Powerplant Rules Based on European Joint Aviation Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the powerplant airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. This amendment completes a portion of the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA) effort to harmonize the Federal Aviation Regulations and the Joint Aviation Requirements (JAR) for airplanes certificated in these categories. This amendment will provide nearly uniform powerplant airworthiness standards for airplanes certificated in the United States under 14 CFR part 23 and in the JAA countries under Joint Aviation Requirements 23, simplifying international airworthiness approval.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Norman Vetter, ACE–111, Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) No. 94–19 (59 FR 33822). All comments received in response to Notice 94–19 have been considered in adopting this amendment.

This amendment completes part of an effort to harmonize the requirements of part 23 and JAR 23. The revisions to part 23 in this amendment pertain to powerplants. Three other final rules are being issued in this **Federal Register** that pertain to airworthiness standards for systems and equipment flight, and airframe. These related rulemakings are also part of the harmonization effort. Interested persons should review all four final rules to ensure that all revisions to part 23 are recognized.

The harmonization effort was initiated at a meeting in June 1990 of the JAA Council (consisting of JAA members from European countries) and the FAA, during which the FAA Administrator committed the FAA to support the harmonization of the U.S. regulations with the JAR that were being developed. In response to the commitment, the FAA Small Airplane Directorate established an FAA Harmonization Task Force to work with the JAR 23 Study Group to harmonize part 23 with the proposed JAR 23. The General Aviation Manufacturers Association (GAMA) also established a JAR 23 and part 23 committee to provide technical assistance.

The FAA, JAA, GAMA, and the Association Europeene des Constructeurs de Material Aerospatial (AECMA), an organization of European airframe manufacturers, met on several occasions in a continuing harmonization effort.

Near the end of the effort to harmonize the normal, utility, and acrobatic category airplane airworthiness standards, the JAA requested and received recommendations from its member countries on proposed airworthiness standards for commuter category airplanes. Subsequent JAA and FAA meetings on this issue resulted in proposals that were reflected in Notice 94–19 to revise portions of the part 23 commuter category airworthiness standards. Accordingly, this final rule adopts the powerplant airworthiness standards for all part 23 airplanes.

In January 1991, the FAA established the Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991). At an FAA/JAA Harmonization Conference in Canada in June 1992, the FAA announced that it would consolidate the harmonization effort within the ARAC structure. The FAA assigned to ARAC the rulemakings related to JAR and part 23 harmonization, which ARAC assigned to the JAR 23/FAR 23 Harmonization Working Group. The proposals for powerplant airworthiness standards contained in Notice No. 94–19 were a result of both the working group's efforts and the efforts at harmonization that occurred before the formation of the working group.

The JAA submitted comments to the FAA on January 20, 1994, in response to the four draft proposals for harmonization of the part 23 airworthiness standards. The JAA submitted comments again during the comment period of the NPRM. At the April 26, 1995, ARAC JAR/FAR 23 Harmonization Working Group meeting, the JAA noted that many of the comments in the January 20 letter had been satisfied or were no longer relevant. The few remaining items concern issues that are considered beyond the scope of this rulemaking, and, therefore, will be dealt with at future FAA/JAA Harmonization meetings.

Discussion of Comments

General

Interested persons were invited to participate in the development of these final rules by submitting written data, views, or arguments to the regulatory docket on or before October 28, 1994. Four commenters responded to Notice 94–19. Two commenters (Transport Canada and the Air Line Pilots Association) expressed overall support for the proposed changes. The JAA stated its overall support while commenting on specific proposed changes. The fourth commenter (Beechcraft) commented on several specific sections. The specific comments of JAA and Beechcraft are discussed in detail in this document and include an FAA response and a description of any changes to the final rule language. Other minor technical and editorial changes have been made to the proposed rules based on relevant comments received, consultation with the ARAC, and further review by the FAA.

Discussion of Amendments

Section 23.777 Cockpit Controls

The FAA proposed to revise § 23.777(c)(2) so that for single-engine airplanes designed for a single cockpit occupant, the powerplant controls would be located in the same position as they are for airplanes with tandem seats.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.779 Motion and Effect of Cockpit Controls

The FAA proposed to revise § 23.779(b)(1) by adding a new item, "fuel," to the "motion and effect" table to require that any fuel shutoff control other than mixture must move forward to open.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.901 Installation

The FAA proposed to revise § 23.901(d)(1), which concerns turbine engine installation and vibration characteristics that do not exceed those established during the type certification of the engine. The FAA proposed to add the word "carcass" before vibration in this paragraph in order to restrict analyses to those vibrations that are caused by external excitation to the main engine frame or "carcass." While the word "carcass" has not traditionally been used in this context in the United States, it is used in Europe and was proposed in the interest of harmonization.

The FAA proposed to revise § 23.901(d)(2) by deleting the last sentence, which reads: "The engine must accelerate and decelerate safely following stabilized operations under these rain conditions." This requirement is already provided for in the first sentence of paragraph (d)(2), which states that the turbine engine must be constructed and arranged to provide "continued safe operation."

The FAA proposed to revise paragraph (e) of this section by adding the word "powerplant" in front of "installation" to make clear that it pertains to all powerplant installations. The FAA proposed to revise paragraph (e)(1) by adding the word "installation" in front of "instruction" to make clear which instructions are applicable.

The FAA proposed that new paragraph (e)(1)(i) contain the requirement for an engine type certificate currently set forth in paragraph (e)(1). The FAA proposed that paragraph (e)(1)(ii) continue the current requirement for a propeller type certificate, and to allow an equivalency finding for certain propellers not type certificated in the United States. This revision was proposed to be consistent with the proposed revisions to § 23.905, Propellers.

No comments were received on the proposals. However, as discussed below, the FAA has determined that the proposed amendment to § 23.905(a) concerning propellers should be withdrawn. Consequently, proposed revisions to § 23.901(e) are no longer appropriate and are being withdrawn.

The proposal is adopted with the above change.

Section 23.903 Engines

The FAA proposed to revise § 23.903 (c) and (g) by adding the headings "Engine isolation" and "Restart capability," respectively, in order to identify the subjects of these paragraphs as is done for the other paragraphs in this section. The FAA also proposed to change the heading of paragraph (f) from "Restart capability" to "Restart envelope" since the paragraph addresses the altitude and airspeed envelope for restarting the engines in flight.

No comments were received on the proposals, and they are adopted as proposed.

Section 23.905 Propellers

The FAA proposed to revise § 23.905(a) to permit approval, on part 23 airplanes, of propellers by a means other than the currently required type certificate.

Comment: Beechcraft objects to what it characterizes as "an unknown method of compliance." Beechcraft states that it appears that the economic burden of certification would be placed on the end user of the propeller without any guidance as to the means of compliance. Beechcraft asserts that experience indicates that equivalent level of safety findings are very subjective, that propellers would be certificated to various standards, and that this creates a liability for the aircraft manufacturer. Beechcraft believes that uniform airworthiness standards should be maintained and that "an aircraft manufacturer could not, for economic and liability reasons, afford to purchase a propeller without a type certificate, U.S. or foreign."

FAA Response: The FAA re-evaluated the proposal and determined that public interest would be best served if the proposal were withdrawn. Therefore, the FAA is withdrawing the proposal and will consider it for future rulemaking action.

Section 23.907 Propeller Vibration

The FAA proposed to revise § 23.907(a) to require that propellers "other than a conventional fixed-pitch wooden propeller" be evaluated for vibration. Fixed-pitch wooden propellers are not highly stressed, as are all metal and most composite propeller blades.

No comments were received on this proposal and it is adopted as proposed.

Section 23.925 Propeller Clearance

The FAA proposed to revise § 23.925 to require that propeller clearance must be evaluated with the airplane at the most adverse combination of weight and center of gravity, and with the propeller in the most adverse pitch position. This revision would make the requirement consistent with current certification practice.

Comment: The JAA pointed out that, under the JAR, the clearances provided in this section are intended to represent minimum values and that it had previously rejected the introductory text language that states "Unless smaller clearances are substantiated * * *."

FAA Response: The language quoted by the JAA is in present § 23.925 and would not be affected by the proposed change. The FAA acknowledges that the introductory language cited by the JAA has been previously identified as an area of known disharmony between the two sets of regulations that would not be affected by the proposed revisions.

No comments other than the JAA acknowledgment of disharmony were received on the changes proposed for this section in Notice 94–19, and the proposal is adopted as proposed.

Section 23.929 Engine Installation Ice Protection

The FAA proposed to replace the word "power" in § 23.929 in the phrase "without appreciable loss of power" with the word "thrust" because "thrust" is more descriptive of the loss experienced when ice forms on a propeller.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.933 Reversing Systems

The FAA proposed to revise § 23.933(a)(1) so that these provisions correspond to the turbojet and turbofan reversing system airworthiness standards of part 25.

The FAA also proposed to delete as unnecessary the word "forward" from paragraph (a)(3).

No comments were received on the proposals, and they are adopted as proposed.

Section 23.955 Fuel Flow

The FAA proposed to revise § 23.955(a) by deleting the word "and" where it occurs between the subparagraphs. Each of the four paragraphs is independent and all of them apply under paragraph (a).

The FAA also proposed to revise § 23.955(a)(3) by adding the word "probable" so that the requirement would read as follows: "If there is a flow meter without a bypass, it must not have any probable failure mode * * *." The addition of the word "probable" would clarify the intent of the requirement that only probable failures need be analyzed.

No comments were received on the proposals, and they are adopted as proposed.

Section 23.959 Unusable Fuel Supply

The FAA proposed that the text of § 23.959 be redesignated as paragraph (a), and proposed the addition of a new paragraph (b) to require that the effect of any fuel pump failure on the unusable fuel supply be established. This change would not require any change in the fuel quantity indicator marking required by § 23.1553.

No comments were received on the proposals, and they are adopted as proposed.

Section 23.963 Fuel Tanks: General

The FAA proposed to clarify § 23.963(b), which concerns fuel tank liners, by replacing the phrase "must be of an acceptable kind" with the phrase "must be shown to be suitable for the particular application." Also, the FAA proposed to revise the cross reference in this section to coincide with the proposed revision of § 23.959 discussed above.

No comments were received on the proposals, and they are adopted as proposed.

Section 23.965 Fuel Tank Tests

The FAA proposed to revise § 23.965(b)(3)(i) by changing the phrase "the test frequency of vibration cycles per minute is obtained by * * *" to "the test frequency of vibration is the number of cycles per minute obtained by * * *" to clarify that it is the number of cycles per minute that is to be used during testing of a fuel tank.

No comments were received on the proposal. After further review of the proposal, however, the FAA determined that the second portion of paragraph (b)(3)(i), which includes the test frequency vibration cycles, should be redesignated as paragraphs (b)(3)(i) (A) and (B), and that the phrase "except that" should be removed and the word "and" added in its place. This would not be a substantive revision.

The proposal is adopted with the above change.

Section 23.973 Fuel Tank Filler Connection

The FAA proposed to revise § 23.973(f) by removing the language that limits its applicability so that the regulation would apply to all airplanes with turbine engines, including turbine engines that are equipped with pressure fueling systems.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.975 Fuel Tank Vents and Carburetor Vents

The FAA proposed to revise the first sentence of § 23.975(a)(5) to clarify that there may be no point in any vent line where moisture can accumulate unless drainage is provided. The FAA explained that the intent of this requirement is to allow low spots in the fuel tank vent system if a drain is provided for each low spot.

Comment: No comments were received concerning the proposed revision of the first sentence of § 23.975(a)(5). However, the JAA submitted a comment on the second sentence, for which no change was proposed. That sentence currently reads, "Any drain valve installed in the vent lines must discharge clear of the airplane and be accessible for drainage." The JAA's comment is threefold. First, JAA states that, in smaller, less complex part 23 airplanes, whether a vent will remain clear in all phases of operation cannot be guaranteed. Second, JAA states that, on more complex part 23 airplanes, "considerations of inaccessibility during operation of an aircraft when the need for a drain valve has been considered essential, has very often resulted in the acceptance of automatic valves that drain back into the fuel tank." Finally, JAA states that drainage/discharge clear of the airplane is not in accord with environmental concerns.

FAA Response: The FAA has concluded after reviewing the JAA comment and after discussions within the ARAC working group that further clarification of this drainage requirement is appropriate, since the rule language was never intended to limit discharge to an external drain valve. Therefore, the last sentence of § 23.975(a)(5), as adopted, reads "Any drain valve installed must be accessible for drainage."

Section 23.979 Pressure Fueling Systems

The FAA proposed to revise § 23.979(b) to require, for commuter category airplanes, an indication at each fueling station of failure of the automatic shutoff means. This revision would make the commuter category automatic shutoff means requirements similar to the requirements for transport category airplanes in § 25.979.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1001 Fuel Jettisoning System

The FAA proposed to revise § 23.1001(b)(2) to redefine the speed at which the fuel jettisoning system tests should be conducted by referencing § 23.69(b). The JAA states that a comparable change will be made to JAR 23.

No other comments were received, and this proposal is adopted as proposed.

Section 23.1013 Oil Tanks

The FAA proposed to delete the word "crankcase" in § 23.1013(d)(1) to make this paragraph applicable to all engine installations.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1041 General

The FAA proposed to revise § 23.1041, under the "Cooling" heading, to require, for all airplanes regardless of engine type, a demonstration of adequate cooling at one maximum ambient atmosphere temperature for which approval is requested.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1043 Cooling Tests

The FAA stated in the preamble to Notice 94–19 that it proposed to revise § 23.1043(a)(3) to show that the minimum grade fuel requirement applies to both turbine and reciprocating engines and that the lean mixture requirement applies to reciprocating engines only.

The FAA proposed to simplify the introductory text of paragraph (a) by deleting the requirement that compliance must be shown "under critical ground, water, and flight operating conditions to the maximum altitude for which approval is requested" since this requirement is already contained in § 23.1041.

The FAA proposed to improve the organization of the section by moving to paragraph (a)(4) the requirement in the introductory text of paragraph (a) that for turbocharged engines, each turbocharger must be operated through the part of the climb profile for which turbocharger operation is requested.

The FAA proposed a non-substantive change to paragraph (a)(1) to make it consistent with proposed changes to § 23.1041.

The FAA proposed to reword paragraph (a)(2) without substantive change to make this language identical to the JAR.

The FAA proposed to revise paragraph (a)(3) to clarify that the requirement for mixture settings applies to reciprocating engines and that the mixture settings must be the leanest recommended for the climb. The FAA pointed out that the "leanest recommended for climb" mixture setting is considered a normal operating condition.

The FAA proposed to remove paragraph (a)(5) because water taxi tests are already required by § 23.1041 as amended by Amendment 23–43 (58 FR 18958, April 9, 1993).

The FAA proposed to revise paragraphs (c) and (d) by adding the requirement that cooling correction factors be determined for the appropriate altitude. This proposed change was intended to codify current certification practice and increase safety by ensuring that the proper correction factor is determined.

Comment: Beechcraft comments that the minimum fuel requirement of present paragraph (a)(3) should be deleted for turbine engines since there are not real measurable differences for turbine engine fuel as there are for reciprocating engine fuel.

FAA Response: The proposed rule did not contain any change to the minimum fuel grade requirements and the preamble statement may be unclear. The FAA agrees with the Beechcraft statement that today, turbine engine fuels are not graded. Since no change was proposed in this wording in the NPRM and since the present wording has not effect on the use of turbine engine fuels, no change is made for this final rule. However, after discussion within the ARAC Working Group, the FAA has determined that paragraph (a)(3) can be clarified by moving the second part of the sentence concerning mixture settings for reciprocating engines to a new paragraph (a)(5). This is not considered a substantive change to the proposed language, but a clarification of a current requirement.

The only comment received on the changes proposed for § 23.1043 concerned paragraph (a)(3), and that paragraph is adopted as explained above. The remaining changes are adopted as proposed.

Section 23.1045 Cooling Test Procedures for Turbine Engine Powered Airplanes

The FAA proposed to clarify § 23.1045(a) by stating more generally that (1) compliance with § 23.1041 must be shown for all phases of operations, not only the four listed phases: takeoff, climb, enroute, and landing; and that (2) the airplane must be flown in the configuration, at the speeds, and following the procedures recommended in the Airplane Flight Manual for the relative stage of flight that corresponds to the applicable performance requirements critical to cooling.

No comments were received on the proposals, and they are adopted as proposed.

Section 23.1047 Cooling Test Procedures for Reciprocating Engine Powered Airplanes

The FAA proposed to revise the cooling test procedures in § 23.1047 for reciprocating engine powered airplanes by deleting the specific procedures because experience has shown that some of the listed detailed procedures are not directly applicable to certain engine configurations and certain operating conditions.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1091 Air Induction System

The FAA proposed to revise § 23.1091(c)(2) to require that air induction system design protect against foreign matter, from whatever source, "during takeoff, landing, and taxiing" rather than be limited, as is the present rule, to foreign material located on the runway, taxiway, or other airport operating surfaces.

Comment: Beechcraft comments that increasing the scope of the foreign material environment poses very difficult technical questions and potentially costly solutions. Beechcraft states that it is extremely difficult to compensate for and protect against airborne debris and also states its concern that the proposed rule language gives no guidance as to the levels of protection that are necessary.

FAA Response: As stated in the NPRM preamble, the proposed language is consistent with current certification practice and, therefore, would not be a significant new burden on aircraft manufacturers. However, it was not the FAA's intent to create an opportunity for an extreme interpretation of this rule, as suggested by Beechcraft. To clarify the intent, and after discussion within the ARAC Working Group, the FAA has added the words "hazard of" to the second sentence of § 23.1091(c)(2) to make it clear that the intent of the rule is to minimize the hazard of ingestion of foreign matter rather than to require zero ingestion.

This proposal is adopted with the change explained above.

Section 23.1093 Induction System Icing Protection

The FAA proposed to revise § 23.1093(c) by adding the heading "Reciprocating engines with superchargers" so that this paragraph would be consistent with paragraphs (a) and (b) of this section, which have headings.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1105 Induction System Screens

The FAA proposed to revise § 23.1105 to include fuel injection systems, since some reciprocating engines incorporate a fuel injection system and the same provisions required for a carburetor are necessary for a fuel injection system.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1107 Induction System Filters

The FAA proposed to revise the introductory text of § 23.1107 by deleting the reference to reciprocating engine installations to make the section applicable to airplanes with either reciprocating or turbine engines.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1121 General

The FAA proposed to revise § 23.1121(g) by adding standards for APU exhaust systems because these standards were overlooked when APU standards were introduced into part 23 by Amendment 23–43 (58 FR 18958, April 9, 1993).

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1141 Powerplant Controls: General

The FAA proposed to clarify § 23.1141(b), which concerns flexible controls, by replacing the phrase "must be of an acceptable kind" with the phrase "must be shown to be suitable for the particular application."

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1143 Engine Controls

The FAA proposed to revise § 23.1143(f) to add a requirement that a fuel control (other than a mixture control) must have a means to prevent the inadvertent movement of the control into the shutoff position.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1153 Propeller Feathering Controls

The FAA proposed to revise § 23.1153 to require that it be possible to feather each propeller separately, in order to prevent inadvertent operation.

After further review of the proposal, the FAA decided to remove the phrase "whether or not they are separate from the propeller speed and pitch controls" and add the word "installed" in its place. The meaning is maintained without the deleted phrase, which would be redundant.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1181 Designated Fire Zones; Regions Included

The FAA proposed new § 23.1181(b)(3) to add as a designated fire zone for turbine engines "any complete powerplant compartment in which there is no isolation between compressor, accessory, combustor, turbine and tailpipe sections."

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1183 Lines, Fittings, and Components

The FAA proposed to clarify the intent of § 23.1183(a), which concerns the approval of flexible hose assemblies, by replacing the word "approved" with the words "shown to be suitable for the particular application."

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1191 Firewalls

The FAA proposed to amend § 23.1191(b) to require that each "firewall or shroud must be constructed so that no hazardous quantity of liquid, gas, or flame can pass from the compartment created by the firewall or shroud to other parts of the airplane." The intent of the proposed change was to clarify that the requirement applies to any compartment created by a firewall or shroud.

Comment: The JAA states that the additional wording proposed to be added to paragraph (b) is superfluous and will not be proposed for JAR 23.

FAA Response: The FAA has determined that the proposed change to § 23.1191(b) is needed to retain the intent of the rule and that it will not create a technical disharmony between the two bodies of regulation.

This proposal is adopted as proposed.

Section 23.1203 Fire Detector System

The FAA proposed to revise § 23.1203(e), which concerns the wiring and other components of each fire detector system in an engine compartment, by replacing the words "fire zone" with "designated fire zone" to make the wording consistent with § 23.1181.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1305 Powerplant Instruments

The FAA proposed to revise § 23.1305(b)(3), concerning cylinder head temperature indicators, by deleting paragraph (b)(3)(ii), which refers to compliance with § 23.1041 at a speed higher than V_Y, to be consistent with a general deletion of the requirements for a determination of the V_Y speed.

No comments were received on the proposal. However, after further review, the FAA has determined that it would be simpler to remove the text of paragraph (b)(3)(ii) and to reserve paragraph (b)(3)(ii) for future use in order to avoid confusion that could come from redesignation of paragraph (b)(3)(iii).

The proposal is adopted as explained above.

Section 23.1337 Powerplant Instruments

The FAA proposed to change the reference in § 23.1337(b) to "§ 23.959" to "§ 23.959(a)" to conform the reference to a revision of § 23.959 made elsewhere in this document.

No comments were received on the proposal, and it is adopted as proposed.

Regulatory Evaluation, Regulatory Flexibility Determination, and Trade Impact Assessment

Changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that this rule: (1) Will generate benefits exceeding its costs and is "significant" as defined in Executive Order 12866; (2) is "significant" as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Comments Related to the Economics of the Proposed Rule

Two comments were received regarding the economic impact of the proposals; one concerning an existing regulation (§ 23.1043 Cooling tests) and one concerning a new proposal (§ 23.1091 Air induction systems). Both of these comments, as well as the FAA's responses, are included above in the section "Discussion of Amendments."

Regulatory Evaluation Summary

The FAA has determined that the benefits of the final rule, though not directly quantifiable, will exceed the expected costs. Minor costs, ranging from $240 to $6,000 per certification, are projected for four of the provisions. No costs are attributed to the other provisions. The benefits of the final rule are considered below in four categories: (1) Harmonization, (2) safety, (3) reduced need for special conditions, and (4) clarification.

Harmonization

These changes, in concert with other rulemaking and policy actions, will provide nearly uniform powerplant airworthiness standards for airplanes certificated in the United States and the JAA member countries. The resulting greater uniformity of standards simplifies airworthiness approval for import and export purposes.

Safety

In addition to the harmonization benefits, five provisions of the rule provide additional safety benefits. First, the final rule revises § 23.933(a)(1) to more closely agree with the corresponding turbojet and turbofan reversing system airworthiness standards of part 25. The FAA estimates that this provision will necessitate an additional 100 hours of failure mode and effects analysis at an assumed cost rate of $60 per hour, including labor and overhead. The estimated $6,000 cost applies to each certification. The FAA projects that no additional production or operating costs will result from this provision.

The primary potential benefit of the provision is the additional safety that could result from analyzing the feasible range of reverser system failures, the effects of those failures, and the corresponding capabilities necessary to correct the failure or circumvent its effects. Such an analysis could reduce the possibility that an unanticipated condition with catastrophic potential would remain in the system. In addition to the safety benefit, it is expected that operating benefits and manufacturing economies will result from the uniformity of standards between parts 23 and 25. The FAA is not able to quantify the potential benefits of this provision but has determined that the benefits will exceed the expected minor costs.

Second, the final rule adds a new paragraph (b) to § 23.959 requiring that the effect of any fuel pump failure on the unusable fuel supply be determined. Though not previously required, it has been industry practice to include this information in the Airplane Flight Manual. The FAA estimates that the nominal cost of making this determination will be $240 per certification (4 hours at $60 per hour). In addition, an insignificant cost ($1) will be incurred in adding a table entry to the manual for each airplane that is produced. The fact that this requirement is already standard practice supports the FAA's position that the potential benefit of the provision exceed the minor costs. The safety benefits of this provision derive from the assurance that this vital information will continue to be provided for future airplane models.

Third, under § 23.979, the final rule adds the requirement for commuter category airplanes that an indication be provided at each fueling station in the event of a failure of the shutoff means to stop fuel flow at the maximum level. The FAA estimates that the required device will necessitate an incremental design and development cost of $3,000 per certification (50 hours at $60 per hour) and an additional nominal manufacturing cost of $10 per airplane. The benefit of the provision is the avoidance of a potentially catastrophic condition whereby excess fuel could unknowingly be forced out of the contained fuel system by the pressure fueling system. The FAA has determined that these potential benefits will exceed the minor associated costs.

Fourth, § 23.1041 establishes the requirement that the powerplant cooling system must be able to maintain the temperature of the powerplant components and fluids. The ambient temperature for testing reciprocating engine airplanes is currently required to be corrected to show the capacity of the cooling system at 100°F. Under the amendment, this temperature standard is revised to the "maximum ambient temperature conditions for which approval is requested."

No costs are attributed to this provision. Reciprocating engine airplane manufacturers will continue to have the option to request approval for operations at the existing 100°F temperature. A decision to request approval for a higher temperature would necessitate demonstration of the capability of the cooling system at that temperature. That choice, however, will be made at the manufacturer's discretion and will be based on its decision that any associated incremental cooling system costs would be recovered in the marketplace or offset by other considerations. The potential benefit of this provision is the reduced likelihood that an inadequate cooling system would be relied on during high temperature operations.

Finally, paragraph (a) of § 23.1045 is revised to state more generally that compliance with the cooling margin requirements of § 23.1041 must be shown for all phases of operation, as compared to the four phases of flight currently listed. In effect, the amendment adds the taxi phase.

The FAA estimates that the specific addition of the taxi phase will necessitate an incremental 5 hours of engineering analysis valued at $60 per hour, for a total of $300 per certification. The potential benefit of this provision is the enhanced safety that could result from evaluating the efficacy of the cooling system during the taxi phase of operation. In the taxi phase of operation, engine power settings and heat production may be generally lower than that experienced during flight, but available air circulation might also be lower. The heat mechanics of the two conditions are distinct and warrant separate evaluation. The FAA has determined that the potential benefits of this provision will exceed the nominal associated costs.

Reduced Need for Special Conditions

The final rule includes five provisions that will replace the need for "special conditions" processing of certain parts or materials that were previously considered as novel or unusual design features. The subjects of these provisions include composite propellers, fuel injection systems for reciprocating engines, induction filters on turbine engines, fuel shutoff controls other than mixture controls, and auxiliary power units. No additional costs are attributed to these provisions. Formalization of the equivalent safety standards and requirements for these subjects obviates the need for special conditions actions and simplifies the certification process for manufacturers.

Clarification

Several unclear provisions of part 23 were revealed during the harmonization review. In response to this finding, the final rule includes a number of no-cost, editorial revisions that clarify the existing requirements. These changes benefit manufacturers by removing potential confusion about the specific standards and requirements necessary for certification.

In summary, the FAA has determined that each of the amendments, as well as the final rule as a whole, will be cost beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on implementing FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The final rule will not constitute a barrier to international trade, including the export of American airplanes to foreign countries and the import of foreign airplanes into the United States. Instead, the amended powerplant airworthiness standards have been harmonized with foreign aviation authorities and will reduce restraints on trade.

Federalism Implications

The regulations herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA is revising the airworthiness standards to provide propulsion standards for normal, utility, acrobatic, and commuter category airplanes to harmonize them with the standards that have been adopted for the same category airplanes by the Joint Aviation Authorities in Europe. The revisions will reduce the regulatory burden on the United States and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in the United States or in a country that is a member of the JAA.

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation, the FAA has determined that this rule is significant under Executive Order 12866. In addition, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A regulatory evaluation of the rule has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 23 as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

§ 23.777 [Amended]

2. Section 23.777(c)(2) is amended by adding the words "single and" between the words "for" and "tandem".

3. The table in § 23.779(b)(1) is amended by adding a new item between the items "mixture" and "carburetor air heat or alternate air" to read as follows:

§ 23.779 Motion and effect of cockpit controls.

* * * * *

(b) * * *

Motion and effect
(1) *Powerplant controls:*
* * * * *
Fuel ..... Forward for open.
* * * * *

4. Section 23.901 is amended by revising paragraphs (d)(1) and (d)(2) to read as follows:

§ 23.901 Installation.

* * * * *

(d) * * *

(1) Result in carcass vibration characteristics that do not exceed those established during the type certification of the engine.

(2) Provide continued safe operation without a hazardous loss of power or thrust while being operated in rain for at least three minutes with the rate of water ingestion being not less than four percent, by weight, of the engine induction airflow rate at the maximum installed power or thrust approved for takeoff and at flight idle.

* * * * *

5. Section 23.903 is amended by adding headings to paragraphs (c) and (g), and by revising the heading of paragraph (f) to read as follows:

§ 23.903 Engines.

* * * * *

(c) *Engine isolation.* * * *

* * * * *

(f) *Restart envelope.* * * *

(g) *Restart capability.* * * *

§ 23.907 [Amended]

6. Section 23.907(a) introductory text is amended by removing the phrase "with metal blades or highly stressed metal components" and adding the phrase "other than a conventional fixed-pitch wooden propeller" in its place.

7. Section 23.925 introductory text is revised to read as follows:

§ 23.925 Propeller clearance.

Unless smaller clearances are substantiated, propeller clearances, with the airplane at the most adverse combination of weight and center of gravity, and with the propeller in the most adverse pitch position, may not be less than the following:

* * * * *

§ 23.929 [Amended]

8. Section 23.929 is amended by removing the word "power" and adding, in its place, the word "thrust".

9. Section 23.933 is amended by removing the word "forward" in the two instances in which it is used in paragraph (a)(3); by removing the reference in paragraph (b)(2) that reads "(a)(1)" and adding the reference "(b)(1)" in its place; and by revising paragraph (a)(1) to read as follows:

§ 23.933 Reversing systems.

(a) * * *

(1) Each system intended for ground operation only must be designed so that, during any reversal in flight, the engine will produce no more than flight idle thrust. In addition, it must be shown by analysis or test, or both, that—

(i) Each operable reverser can be restored to the forward thrust position; or

(ii) The airplane is capable of continued safe flight and landing under any possible position of the thrust reverser.

* * * * *

10. Section 23.955 is amended by revising paragraphs (a)(1) through (a)(4) to read as follows:

§ 23.955 Fuel flow.

(a) * * *

(1) The quantity of fuel in the tank may not exceed the amount established as the unusable fuel supply for that tank under § 23.959(a) plus that quantity necessary to show compliance with this section.

(2) If there is a fuel flowmeter, it must be blocked during the flow test and the fuel must flow through the meter or its bypass.

(3) If there is a flowmeter without a bypass, it must not have any probable failure mode that would restrict fuel flow below the level required for this fuel demonstration.

(4) The fuel flow must include that flow necessary for vapor return flow, jet pump drive flow, and for all other purposes for which fuel is used.

* * * * *

11. Section 23.959 is amended by designating the current text of the section as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 23.959 Unusable fuel supply.

* * * * *

(b) The effect on the usable fuel quantity as a result of a failure of any pump shall be determined.

12. Section 23.963 is amended by removing the reference in paragraph (e) that reads "§ 23.959" and adding the reference "§ 23.959(a)" in its place, and by revising paragraph (b) to read as follows:

§ 23.963 Fuel tanks: general.

* * * * *

(b) Each flexible fuel tank liner must be shown to be suitable for the particular application.

* * * * *

13. Section 23.965 is amended by revising paragraph (b)(3)(i) to read as follows:

§ 23.965 Fuel tank tests.

* * * * *

(b) * * *

(3) * * *

(i) If no frequency of vibration resulting from any rpm within the normal operating range of engine or propeller speeds is critical, the test frequency of vibration is:

(A) The number of cycles per minute obtained by multiplying the maximum continuous propeller speed in rpm by 0.9 for propeller-driven airplanes, and

(B) For non-propeller driven airplanes the test frequency of vibration is 2,000 cycles per minute.

* * * * *

14. Section 23.973(f) is revised to read as follows:

§ 23.973 Fuel tank filler connection.

* * * * *

(f) For airplanes with turbine engines, the inside diameter of the fuel filler opening must be no smaller than 2.95 inches.

15. Section 23.975(a)(5) is revised to read as follows:

§ 23.975 Fuel tank vents and carburetor vapor vents.

(a) * * *

(5) There may be no point in any vent line where moisture can accumulate with the airplane in either the ground or level flight attitudes, unless drainage is provided. Any drain valve installed must be accessible for drainage;

* * * * *

16. Section 23.979(b) is revised to read as follows:

§ 23.979 Pressure fueling systems.

* * * * *

(b) An automatic shutoff means must be provided to prevent the quantity of fuel in each tank from exceeding the maximum quantity approved for that tank. This means must—

(1) Allow checking for proper shutoff operation before each fueling of the tank; and

(2) For commuter category airplanes, indicate at each fueling station, a failure of the shutoff means to stop the fuel flow at the maximum quantity approved for that tank.

* * * * *

17. Section 23.1001(b)(2) is revised to read as follows:

§ 23.1001 Fuel jettisoning system.

* * * * *

(b) * * *

(2) A climb, at the speed at which the one-engine-inoperative enroute climb data have been established in accordance with § 23.69(b), with the critical engine inoperative and the remaining engines at maximum continuous power; and

* * * * *

§ 23.1013 [Amended]

18. Section 13.1013(d)(1) is amended by removing the word "crankcase".

§ 23.1041 [Amended]

19. Section 23.1041 is amended by adding the phrase "and maximum ambient atmospheric temperature conditions" between the phrases "maximum altitude" and "for which approval".

20. Section 23.1043 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 23.1043 Cooling tests.

(a) *General.* Compliance with § 23.1041 must be shown on the basis of tests, for which the following apply:

(1) If the tests are conducted under ambient atmospheric temperature conditions deviating from the maximum for which approval is requested, the recorded powerplant temperatures must be corrected under paragraphs (c) and (d) of this section, unless a more rational correction method is applicable.

(2) No corrected temperature determined under paragraph (a)(1) of this section may exceed established limits.

(3) The fuel used during the cooling tests must be of the minimum grade approved for the engine.

(4) For turbocharged engines, each turbocharger must be operated through that part of the climb profile for which operation with the turbocharger is requested.

(5) For a reciprocating engine, the mixture settings must be the leanest recommended for climb.

* * * * *

(c) *Correction factor (except cylinder barrels).* Temperatures of engine fluids and powerplant components (except cylinder barrels) for which temperature limits are established, must be corrected by adding to them the difference between the maximum ambient atmospheric temperature for the relevant altitude for which approval has been requested and the temperature of the ambient air at the time of the first occurrence of the maximum fluid or component temperature recorded during the cooling test.

(d) *Correction factor for cylinder barrel temperatures.* Cylinder barrel temperatures must be corrected by adding to them 0.7 times the difference between the maximum ambient atmospheric temperature for the relevant altitude for which approval has been requested and the temperature of the ambient air at the time of the first occurrence of the maximum cylinder barrel temperature recorded during the cooling test.

21. Section 23.1045(a) is revised to read as follows:

§ 23.1045 Cooling test procedures for turbine engine powered airplanes.

(a) Compliance with § 23.1041 must be shown for all phases of operation. The airplane must be flown in the configurations, at the speeds, and following the procedures recommended in the Airplane Flight Manual for the relevant stage of flight, that correspond to the applicable performance requirements that are critical to cooling.

* * * * *

22. Section 23.1047 is revised to read as follows:

§ 23.1047 Cooling test procedures for reciprocating engine powered airplanes.

Compliance with § 23.1041 must be shown for the climb (or, for multiengine airplanes with negative one-engine-inoperative rates of climb, the descent) stage of flight. The airplane must be flown in the configurations, at the speeds and following the procedures recommended in the Airplane Flight Manual, that correspond to the applicable performance requirements that are critical to cooling.

23. Section 23.1091(c)(2) is revised to read as follows:

§ 23.1091 Air induction system.

* * * * *

(c) * * *

(2) The airplane must be designed to prevent water or slush on the runway, taxiway, or other airport operating surfaces from being directed into the engine or auxiliary power unit air intake ducts in hazardous quantities. The air intake ducts must be located or protected so as to minimize the hazard of ingestion of foreign matter during takeoff, landing, and taxiing.

§ 23.1093 [Amended]

24. Section 23.1093 is amended by adding the heading *"Reciprocating engines with Superchargers"* to paragraph (c).

25. Section 23.1105(a) is revised to read as follows:

§ 23.1105 Induction system screens.

* * * * *

(a) Each screen must be upstream of the carburetor or fuel injection system.

* * * * *

26. Section 23.1107 introductory text is revised to read as follows:

§ 23.1107 Induction system filters.

If an air filter is used to protect the engine against foreign material particles in the induction air supply—

* * * * *

27. Section 23.1121(g) is revised to read as follows:

§ 23.1121 General.

* * * * *

(g) If significant traps exist, each turbine engine and auxiliary power unit exhaust system must have drains discharging clear of the airplane, in any normal ground and flight attitude, to prevent fuel accumulation after the failure of an attempted engine or auxiliary power unit start.

* * * * *

28. Section 23.1141(b) is revised to read as follows:

§ 23.1141 Powerplant controls: general.

* * * * *

(b) Each flexible control must be shown to be suitable for the particular application.

* * * * *

29. Section 23.1143(f) is amended by revising the introductory text to read as follows:

§ 23.1143 Engine controls.

* * * * *

(f) If a power, thrust, or a fuel control (other than a mixture control)

incorporates a fuel shutoff feature, the control must have a means to prevent the inadvertent movement of the control into the off position. The means must—

* * * * *

30. Section 23.1153 is revised to read as follows:

§ 23.1153 Propeller feathering controls.

If there are propeller feathering controls installed, it must be possible to feather each propeller separately. Each control must have a means to prevent inadvertent operation.

31. Section 23.1181 is amended by adding a new paragraph (b)(3) to read as follows:

§ 23.1181 Designated fire zones; regions included.

* * * * *

(b) * * *

(3) Any complete powerplant compartment in which there is no isolation between compressor, accessory, combustor, turbine, and tailpipe sections.

* * * * *

§ 23.1183 [Amended]

32. Section 23.1183(a) is amended by removing the word "approved" in the next to the last sentence, and adding the phrase "shown to be suitable for the particular application" in its place.

33. Section 23.1191(b) is revised to read as follows:

§ 23.1191 Firewalls.

* * * * *

(b) Each firewall or shroud must be constructed so that no hazardous quantity of liquid, gas, or flame can pass from the compartment created by the firewall or shroud to other parts of the airplane.

* * * * *

34. Section 23.1203(e) is revised to read as follows:

§ 23.1203 Fire detector system.

* * * * *

(e) Wiring and other components of each fire detector system in a designated fire zone must be at least fire resistant.

* * * * *

§ 23.1305 [Amended]

35. Section 23.1305(b)(3)(ii) is removed and reserved.

§ 23.1337 [Amended]

36. Section 23.1337(b)(1) is amended by removing the reference "§ 23.959" and adding the reference "§ 23.959(a)" in its place.

Issued in Washington, DC, on January 29, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–2084 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

14 CFR Part 23

[Docket No. 27805; Amendment No. 23–48]

RIN 2120–AE62

Airworthiness Standards; Airframe Rules Based on European Joint Aviation Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the airframe airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. This amendment completes a portion of the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA) effort to harmonize the Federal Aviation Regulations and the Joint Aviation Requirements (JAR) for airplanes certificated in these categories. This amendment will provide nearly uniform airframe airworthiness standards for airplanes certificated in the United States under 14 CFR part 23 and in the JAA countries under Joint Aviation Requirements 23, simplifying international airworthiness approval.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Payauys, ACE–111, Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) No. 94–20 (59 FR 35196, July 8, 1994). All comments received in response to Notice 94–20 have been considered in adopting this amendment.

This amendment completes part of an effort to harmonize the requirements of part 23 and JAR 23. The revisions to part 23 in this amendment largely pertain to airframe airworthiness standards. Three other final rules are being issued in this **Federal Register** that pertain to airworthiness standards for systems and equipment, flight, and powerplant. These related rulemakings are also part of the harmonization effort. Interested persons should review all four final rules to ensure that all revisions to part 23 are recognized.

The harmonization effort was initiated at a meeting in June 1990 of the JAA Council (consisting of JAA members from European countries) and the FAA, during which the FAA Administrator committed the FAA to support the harmonization of the U.S. regulations with the JAR that were being developed. In response to the commitment, the FAA Small Airplane Directorate established an FAA Harmonization Task Force to work with the JAR 23 Study Group to harmonize part 23 with the proposed JAR 23. The General Aviation Manufacturers Association (GAMA) also established a JAR 23/part 23 committee to provide technical assistance.

The FAA, JAA, GAMA, and the Association Europeenne des Constructeurs de Material Aerospatial (AECMA), an organization of European airframe manufacturers, met on several occasions in a continuing harmonization effort.

Near the end of the effort to harmonize the normal, utility, and acrobatic category airplane airworthiness standards, the JAA requested and received recommendations from its member countries on proposed airworthiness standards for commuter category airplanes. Subsequent JAA and FAA meetings on this issue resulted in proposals that were reflected in Notice 94–20 to revise portions of the part 23 commuter category airworthiness standards. Accordingly, this final rule adopts the airframe airworthiness standards for all part 23 airplanes.

In January 1991, the FAA established the Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991). At an FAA/JAA Harmonization Conference in Canada in June 1992, the FAA announced that it would consolidate the harmonization effort within the ARAC structure. The FAA assigned to ARAC the rulemakings related to JAR 23/part 23 harmonization, which ARAC assigned to the JAR/FAR 23 Harmonization Working Group. The proposal for airframe airworthiness standards contained in Notice No. 94–20 were a result of both the working group's efforts and the efforts at harmonization that occurred before the formation of the working group.

The JAA submitted comments to the FAA on January 20, 1994, in response to the four draft proposals for harmonization of the part 23 airworthiness standards. The JAA submitted comments again during the comment period of the NPRM. At the

April 26, 1995, ARAC JAR/FAR 23 Harmonization Working Group meeting, the JAA noted that many of the comments in the January 20 letter had been satisfied or were no longer relevant. The few remaining items concern issues that are considered beyond the scope of this rulemaking and, therefore, will be dealt with at future FAA/JAA Harmonization meetings.

Discussion of Comments

General

Interested persons were invited to participate in the development of these final rules by submitting written data, views, or arguments to the regulatory docket on or before October 28, 1994. Five commenters responded to Notice 94–20. Minor technical and editorial changes have been made to the proposed rules based on relevant comments received, consultation with the ARAC, and further review by the FAA

Discussion of Amendments

Section 23.301 Loads

The FAA proposed to amend § 23.301(d) by limiting the applicability of Appendix A to part 23 to "single-engine, excluding turbines" airplanes, rather than the current single-engine limitation. The effect of the proposed changes would be to eliminate alternative Appendix A airplane design requirements for turbine engines because the JAA determined, and the FAA agrees, that only single-engine airplanes, excluding turbines, were envisioned when Appendix A was introduced. Turbine airplane designs could continue to be FAA certificated by substantiation to part 23.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.335 Design Airspeeds

The FAA proposed to revise portions of § 23.335 for clarification and harmonization with JAR 23. The FAA proposed to revise paragraph (a)(1) by adding the phrase "wing loading at the design maximum takeoff weight" as a definition for W/S and by revising paragraphs (a)(1)(i) and (ii) to correct the equations for design cruise speed from "33 W/S" to √"33 (W/S)" and from "36 √W/S" to "36 √(W/S)."

The FAA proposed to revise § 23.335(b)(4) by adding a new paragraph (b)(4)(iii) that includes a new mach number speed margin, 0.07M, for commuter category airplanes. Because commuter category airplanes are normally operated at higher altitudes than normal, utility, and acrobatic category airplanes, they experience greater atmospheric variations, such as horizontal gusts and the penetration of jet streams or cold fronts; therefore, a higher minimum speed margin is required. The JAR proposed adding this mach number speed margin. The original mach number speed margin of 0.05M would be retained for normal, utility, and acrobatic category airplanes.

An incorrect equation, $\sqrt{n_g}\, V_{s1}$, appears in § 23.335(d)(1). This equation for the design speed for maximum gust intensity, V_B, is corrected to $V_{s1}\sqrt{(n_g)}$.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.337 Limit Maneuvering Load Factors

The FAA proposed to revise § 23.337(a)(1) by clarifying the equation and by adding a definition for "W." This definition of "W," "design maximum takeoff weight," was requested by the JAA to harmonize with JAR 23.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.341 Gust Load Factors

The FAA proposed to reorganize § 23.341 to provide a new paragraph (a), that would clarify that each airplane must be designed to withstand loads of each lifting surface that result from gusts specified in § 23.333(c). It also proposed to reorganize the section as follows: (1) Redesignate existing paragraphs (a) and (b) as (b) and (c), respectively; (2) revise the text of new paragraph (b) to delete the phrase "considering the criteria of § 23.333(c), to develop the gust loading on each lifting surface" since this requirement would be located in proposed paragraph (a); and, (3) revise new paragraph (c) to delete the phrase "for conventional configurations" because it is no longer accurate, and to revise the definition for wing loading (W/S).

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.343 Design Fuel Loads

The FAA proposed a new § 23.343. The proposed requirement would apply to all part 23 airplane categories, except paragraph (c), which is limited to commuter category airplanes.

Comment: The JAA states that while the JAR 23 Study Group supports the technical intent of paragraph (c), since the JAA has no JAR 91 operating rule corresponding to part 91. The JAA must wait for an operating rule to be developed. The JAA has proposed a Notice of Proposed Action (NPA) to adopt paragraph (c) in JAR 23 if and when an operating rule for a 45-minute fuel reserve is created.

FAA Response: The FAA decided to continue with the final rule, as proposed.

This proposal is adopted as proposed.

Section 23.345 High Lift Devices

To place all "flap" requirements in one location, and to harmonize the requirements with JAR 23, the FAA proposed to revise § 23.345 as follows: (1) Make minor organizational, and non-substantive, clarifying changes; (2) Change the term "fully deflected" to "fully extended" because it more accurately describes flap conditions and positions; (3) Remove the phrase "resulting in limit load factors" because the requirement already exists in § 23.301(a); (4) Redesignate current paragraph (c) as paragraph (d) and revise it to include the flap requirements of § 23.457; (5) Redesignate current paragraph (d) as paragraph (c); and (6) Incorporate the flap requirements of § 23.457 into § 23.345(b) and § 23.345(d), as redesignated, and delete paragraph (e), which is redundant.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.347 Unsymmetrical Flight Conditions

The FAA proposed to revise § 23.347 to redesignate the existing text as paragraph (a) and to add a new paragraph (b) to include requirements for a flick maneuver (snap roll), if requested for acrobatic category airplanes.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.349 Rolling Conditions

The FAA proposed to revised § 23.349(a)(2) to simplify the unsymmetric semispan load assumption for normal, utility, and commuter category airplanes to 100 percent on one wing semispan and 75 percent on the other wing semispan for all design weights up through 19,000 pounds. The preamble to the NPRM did not include the explanation that the proposed 100 percent and 75 percent load distribution applied only to normal, utility, and commuter category airplanes. The NPRM did not include acrobatic category airplanes in this proposed requirement. However, the proposed regulatory language for § 23.349(c)(2) correctly reflects the FAA's intent.

While preparing the NPRM, the FAA had suggested varying the latter percentage linearly between 70 percent and 77.5 percent to include aircraft weighing up to 19,000 pounds. After discussion with the JAA, the FAA agreed that 75 percent is an appropriate assumption for all part 23 airplanes except acrobatic category airplanes.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.369 Rear Lift Truss

The FAA proposed to amend § 23.369 by amending the equation and by adding a definition for wing loading (W/S) to clarify the rule.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.371 Gyroscopic and Aerodynamic Loads

The FAA proposed to revise and reorganize § 23.371 by designating the existing text as paragraph (a) and adding new paragraphs (b) and (c).

The proposed revisions to the text of proposed paragraph (a) would delete the limitation for turbine powered engines; add inertial loads; and replace the word "engines" with "engine(s) and propeller(s), if applicable." The proposed changes clarify that these requirements apply to all part 23 airplanes.

The FAA proposed a new paragraph (b) to clarify and distinguish the requirements for airplanes approved for aerobatic maneuvers.

The FAA proposed new paragraph (c) to clarify that commuter category airplanes must comply with the gust conditions in § 23.341 in addition to the requirement of § 23.371(a).

Comment: The JAA recommended that the words "In addition," which appear at the beginning of JAR 23.371(b) but not in § 23.371(b), could result in misreading the requirements for airplanes approved for aerobatic maneuvers. The JAA's concern is that a reader might think that the requirements of paragraph (b) for airplanes approved for aerobatic maneuvers are in place of, rather than in addition to, the requirements of paragraph (a).

FAA Response: The FAA is aware that the words "in addition" appear in the JAR and understands that the JAA believes the words are necessary to prevent an interpretation that airplanes approved for aerobatic maneuvers need only comply with the requirements of paragraph (b).

Under standard rules of regulatory interpretation, it is not necessary to add the words "in addition" since the applicability of paragraph (a) should be based on its wording and not on the wording of paragraph (b). However, the FAA concludes that JAA's concern can be addressed by rewording paragraph (b) and new paragraph (c) to make it clear that persons subject to those paragraphs must meet both paragraphs (a) and certain additional requirements. As rewritten, paragraph (b) states "For airplanes approved for aerobatic maneuvers, each engine mount and its supporting structure must meet the requirements of paragraph (a) of this section and be designed to withstand the load factors expected during combined maximum yaw and pitch velocities." Paragraph (c) uses parallel language. Paragraph (c) would apply to aircraft certificated in the commuter category, whereas, as proposed, paragraph (b) would apply to aircraft "approved for aerobatic maneuvers," since this approval can be given for aircraft not certificated in the acrobatic category.

This proposal is adopted with the above changes.

Section 23.391 Control Surface Loads

The FAA proposed to revise § 23.391 by deleting paragraph (b). Paragraph (b) references Appendix B, which was removed by Amendment No. 23–42 (56 FR 344, January 3, 1991).

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.393 Loads Parallel to Hinge Line

The FAA proposed a new § 23.393. Proposed new § 23.393 would contain a modified version of the requirement of § 23.657(c) concerning loads parallel to the hinge line, which were proposed to be deleted from § 23.657.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.399 Dual Control System

The FAA proposed to redesignate the text of § 23.399 as paragraph (a), and to add a new paragraph (b) that addresses the forces exerted on a dual control system when both pilots act together. This would clarify that it is the greater of the forces that apply.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.415 Ground Gust Conditions

The FAA proposed to amend § 23.415 by revising paragraph (a)(2) to add a definition for wing loading (W/S). The FAA also proposed to revise paragraph (c), which was added in Amendment No. 23–45 (58 FR 42136, August 6, 1993), to incorporate a more comprehensive tie-down criteria.

No comments were received on the proposals for this section, and it is adopted as proposed.

Section 23.441 Maneuvering Loads

The FAA proposed to revise § 23.441(b) to include a new design requirement for the vertical tail of a commuter category airplane.

Comment: The JAA comments that while the intent of the proposed requirement is the same as the comparable requirement in JAR 23, the wording is different. The JAA reported that the FAA proposed final rule version will be considered for full harmonization by the JAA through NPA action once the final rule is published.

FAA Response: The proposal is adopted as proposed.

Section 23.443 Gust Loads

The FAA proposed to revise § 23.443(c) by changing the format of the formula, revising the definition of weight ("W"), and correcting the subscripts of the distance to the lift center, ("l_w"). The current definition reads "W=airplane weight (lbs.)." The new definition reads "W=the applicable weight of the airplane in the particular load case (lbs.)." These changes are for clarity.

No comments were received on the proposal for this section, and it is adopted as proposed.

Sections 23.455 Ailerons

The FAA proposed to amend the heading the precedes § 23.455 by deleting the term "Wing Flaps" so that the heading reads "AILERONS AND SPECIAL DEVICES." This change would reflect the deletion of the wing flap requirements from § 23.457 and their placement in § 23.345.

No comments were received on this proposal, and it is adopted as proposed.

Section 23.457 Wing Flaps

The FAA proposed to delete this section. As discussed under § 23.345, above, the wing flap requirements have been revised and consolidated in § 23.345 to group these requirements together.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.473 Ground Load Conditions and Assumptions

The FAA proposed to revise § 23.473(c)(1) to change the incorrect reference to "§ 23.67 (a) or (b)(1)" to "§ 23.67 (b)(1) or (c)."

Because the FAA intended that turbine powered airplanes be included in § 23.473(c)(1), since these airplanes are required to be "climb positive" with one engine inoperative, the FAA proposed that § 23.473(c)(1) also reference § 23.67(c). The FAA also determined that to achieve the intent described, § 23.473(c)(1) should also reference § 23.67 (b)(1) or (c).

The FAA also proposed to revise paragraph (f), which addresses energy absorption tests, to parallel the language of JAR 23.473(f). No substantive change from current paragraph (f) was proposed.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.497 Supplementary Conditions for Tail Wheels

The FAA proposed a new § 23.497(c) to relocate tail wheel, bumper, or energy absorption device design standards for airplanes with aft-mounted propellers. These requirements currently exist in § 23.925(b). They are being moved because the FAA determined that certain portions of the design standards for these devices more properly belong in Subpart C—Structure.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.499 Supplementary Conditions for Nose Wheels

The FAA proposed to add new paragraphs (d) and (e) to § 23.499 to establish nose wheel conditions for airplanes with a steerable nose wheel controlled by hydraulic or other power and for airplanes with a steerable wheel that has a direct mechanical connection to the rudder pedals.

Comment: The JAA comments that the phrase "has a mechanical connection to the rudder pedals" in proposed paragraph (e), absent appropriate advisory material, could be interpreted to require different technical solutions than the comparable wording in JAR 23, "directly connected mechanically to the rudder pedals."

FAA Response: The FAA agrees that the proposed language in paragraph (e) requires clarification; in the final rule, the word "direct" is inserted before the word "mechanical". Also, the last phrase of paragraph (e) is revised to read "the mechanism must be designed to withstand the steering torque for the maximum pilot forces specified in § 23.397(b)."

This proposal is adopted with the above changes to paragraph (e).

Section 23.521 Water Load Conditions

The FAA proposed to amend § 23.521 by deleting paragraph (c), which deals with previously approved floats, because the FAA agreed with the JAA that the requirements of paragraph (c) are covered by the general requirements of paragraph (a).

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.561 General

The FAA proposed to amend § 23.561 by revising paragraphs (b) and (d), and adding a new paragraph (e). These changes simplify, clarify, and "add references * * * to ensure." The FAA proposed to revise paragraph (b), concerning occupant protection, to make it correspond to 14 CFR part 25 and JAR 25 that cover large airplanes. The proposed revision of paragraph (d), concerning turnovers would simplify and clarify the requirements without making substantive changes. The FAA proposed a new paragraph (e) to ensure that items of mass that could injure an occupant are retained by the supporting structure.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.571 Metallic Pressurized Cabin Structures

The FAA proposed to revise § 23.571 by changing the heading from "Pressurized cabin" to "Metallic pressurized cabin structures" because nonmetallic structure is addressed in § 23.573(a). The FAA proposed to revise the introductory text to limit the applicability to normal, utility, and acrobatic categories because commuter category airplanes are addressed separately. The FAA proposed to revise paragraph (a) to require the fatigue strength investigation to show that the structure can withstand repeated loads of variable magnitude expected in service.

Comment: The JAA comments that the JAR will be revised to delete commuter category airplanes from this section. Kal-Aero comments that a literal interpretation of the proposed changes to §§ 23.571 and 23.572 "would require that every subsequent modification to an aircraft have a fatigue program to substantiate each major repair or alteration:" Kal-Aero states that this change is both uneconomical (Kal-Aero estimates a part 23 fatigue test could cost at least $20 million per certification) and is unnecessary.

FAA Response: The FAA does not agree that the proposed rule language would require the result suggested by Kal-Aero. The intent is to provide that there be some test evidence to verify the analysis validity. The amount of test evidence needed would depend on the complexity of the design. The FAA points out that this evidence would be required only when fatigue analysis is used to satisfy the type certification requirements.

The proposals for this section are adopted as proposed.

Section 23.572 Metallic Wing, Empennage, and Associated Structures

The FAA proposed to revise the section heading to add the word "metallic," to revise paragraph (a) to limit the applicability to normal, utility, and acrobatic category airplanes, and to make minor editorial changes. Paragraph (a)(1) would be revised to harmonize with JAR 23 by requiring tests, or analysis supported by test evidence, as discussed under § 23.571 of this preamble.

The only comment received on this section is from Kal-Aero, and applies to this section and to § 23.571. The comment was discussed under § 23.571.

The proposals are adopted as proposed.

Section 23.573 Damage Tolerance and Fatigue Evaluation of Structure

The FAA proposed to amend § 23.573(a)(5) to make clear that the limit load capacity of a bonded joint must be substantiated only if the failure of the bonded joint would result in catastrophic loss of the airplane.

The FAA proposed to delete § 23.573(c) because its requirements for inspections and other procedures were proposed to be moved to § 23.575.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.574 Metallic Damage Tolerance and Fatigue Evaluation of Commuter Category Airplanes

The FAA proposed to add a new § 23.574 that addresses damage tolerance and fatigue evaluation requirements for commuter category airplanes. As discussed previously, §§ 23.571 and 23.572 are being revised to clarify that these sections apply only to normal, utility, and acrobatic category airplanes. Newly type certificated commuter category airplanes would have to meet proposed § 23.574 instead of §§ 23.571 and 23.572.

The only comment received on this proposed new section is a JAA statement that this change will be considered for JAR 23. The proposal is adopted as proposed.

Section 23.575 Inspections and Other Procedures

The FAA proposed to add a new § 23.575 to clarify that airplane manufacturers are required to provide recommendations for inspections frequencies, locations, and methods when a design is approved by the FAA, and that these items must be included in the Limitations Section of the Instructions for Continued Airworthiness required by § 23.1529.

The requirements of § 23.573(c) would be moved to § 23.575 and the requirements are made applicable to §§ 23.571, 23.572, 23.573 and 23.574.

The only comment on this proposed new section is a JAA statement that this change will be considered for JAR 23. The proposals are adopted as proposed.

Section 23.607 Fasteners

The FAA proposed to amend § 23.607 by changing the section heading, by redesignating the existing text as paragraph (c), and by adding new paragraphs (a) and (b), as outlined in the NPRM.

Comment: Transport Canada comments that it is possible the language of proposed paragraph (a) could be interpreted to mean that compliance is satisfied by the use of a self-locking nut alone in certain situations, such as when a bolt is not subject to rotation. Transport Canada suggests adopting the wording of § 27.607, which requires "two separate locking devices" when the loss of a removable bolt, screw, nut, pin or other fastener would jeopardize the safe operation of the aircraft.

FAA Response: The FAA agrees that the proposed language of paragraph (a) could be misinterpreted and that the intent of the section would be clearer if language comparable to § 27.607 is used. Also, the FAA finds that the section is clearer if it addresses all removable fasteners without specific mention of bolts, screws, nuts, pins, etc. Accordingly, paragraph (a) has been revised to read "Each removable fastener must incorporate two retaining devices if the loss of such fastener would preclude continued safe flight and landing" in the final rule.

This proposal is adopted with the noted change to paragraph (a).

Section 23.611 Accessibility Provisions

The FAA proposed to amend § 23.611 to require that, for any part requiring maintenance, such as an inspection or other servicing, there must be a means of access incorporated into the aircraft design to allow this servicing to be accomplished. The FAA pointed out in the NPRM that whether the access provided is appropriate in a particular case will depend on the nature of the item and the frequency and complexity of the required inspection or maintenance actions.

The only comment received on this proposed change is a JAA statement that this change will be considered for the JAR. The proposal is adopted as proposed.

Section 23.629 Flutter

The FAA proposed to revise § 23.629 to require either flight flutter tests and rational analysis, or flight flutter tests and compliance with the FAA's "Simplified Flutter Prevention Criteria." Section 23.629 currently requires flutter substantiation by only one of three methods: A rational analysis, flight flutter test, or compliance with the "Simplified Flutter Prevention Criteria."

The FAA also proposed to revise paragraph (d)(3)(i) to change the phrase "T-tail or boom tail" to "T-tail or other unconventional tail configurations" to be more inclusive and to represent the standard used in current certification. The FAA also proposed to harmonize with JAR 23 by amending paragraphs 23.629 (g) and (h) to remove the "or test" phrase to require that substantiation be done only by analysis. The FAA proposed a new paragraph (i) that would allow freedom from flutter to be shown by tests (under paragraph (a)) or by analysis alone if that analysis is based on previously approved data for an airplane that has undergone modification that could affect its flutter characteristics.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.657 Hinges

The FAA proposed to amend § 23.657 by deleting paragraph (c) that covers loads parallel to the hinge line because it would be covered in proposed § 23.393.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.673 Primary Flight Controls

The FAA proposed to revise § 23.673 to delete the requirements for two-control airplanes consistent with actions being taken in the proposed rule on flight requirements for part 23 airplanes (Docket No. 27807, Notice No. 94–22; (59 FR 37878, July 25, 1994)) that affect §§ 23.177 and 23.201. The two-control requirements are considered obsolete. Additionally, harmonization with JAR 23 would be accomplished by this action.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.725 Limit Drop Tests

The FAA proposed to amend the effective weight equation in § 23.725(b) by adding mathematical brackets to the numerator and parentheses to the denominator to clarify the equation.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.755 Hulls

The FAA proposed to amend § 23.755 by deleting paragraph (b), which provides, that hulls of hull seaplanes or amphibians of less than 1,500 pounds need not be compartmented, because paragraph (b) is redundant. The applicable requirements are contained in paragraph (a). The FAA also proposed to redesignate paragraph (c) as new paragraph (b) and to edit it for clarification.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.865 Fire Protection of Flight Controls, Engine Mounts, and Other Flight Structures

The FAA proposed to revise § 23.865 by changing the words "engine compartment" for consistency with recent revisions to §§ 23.1203 and 23.1181. The proposed revision would also add the phrase "adjacent areas that would be subjected to the effects of fire in the designated fire zones."

Comment: The JAA agrees that the technical intent of proposed § 23.865 is similar to the JAR 23 requirement. Changes to JAR 23 to adopt the terms proposed in this part 23 section are being considered by the JAA.

FAA Response: No substantive comment was received, and the proposals are adopted as proposed.

Section 23.925 Propeller Clearance

The FAA proposed to amend § 23.925(b), Aft mounted propellers, by removing the requirements on tail wheels, bumpers, and energy absorption devices and moving them to § 23.497, Supplementary conditions for tail wheels, as discussed as discussed above. The FAA also proposed to delete the inspection and replacement criteria for tail wheel, bumper, and energy absorption devices because the inspection and replacement requirements are stated in § 23.1529.

No comments were received on the proposals for this section, and they are adopted as proposed.

Appendix A

The FAA proposed to revise three areas of Appendix A: (1) A23.1 General; (2) A23.11 Control surface loads, paragraph (c), Surface loading conditions; and (3) Table 2—Average limit control surface loading. The FAA proposed to add a new figure to Appendix A: Figure A7, Chordwise load distribution for stabilizer and elevator, or fin and rudder. The revisions specify the configurations for which the wing and tail surface loads, required by A23.7, are valid. The FAA discovered a need for a clarification change in paragraph A23.a(a)(1) during the post comment review period. The words "excluding turbine powerplants" are clearer than the words "excluding turbines." This revision is included in the final rule to more clearly convey the intended meaning.

No comments were received on the proposals for Appendix A, and they are adopted with the change explained above.

Final Regulatory Evaluation, Final Regulatory Flexibility Determination, and Trade Impact Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations only if the potential benefits to society justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that this rule: (1) Will generate benefits exceeding its costs and is "significant" as defined in the Executive Order; (2) is "significant" as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Comments Related to the Economics of the Proposed Rule

Two comments were received regarding the economic impact of the proposals; one concerning § 23.571, Metallic pressurized cabin structures, and one concerning § 23.572, Metallic wing, empennage, and associated structures. Both of these comments, as well as the FAA's responses, are included in the section "Discussion of Amendments."

Regulatory Evaluation Summary

The FAA has identified 6 sections that will result in additional compliance costs, totalling between $10,000 and $17,000 per certification. When amortized over a production run, these costs will have a negligible impact on airplane price, less than $100 per airplane.

The primary benefit of the rule will be the cost efficiencies of harmonization with the JAR for those manufacturers that market airplanes in JAA countries as well as to manufacturers in JAA countries that market airplanes in the United States. Other benefits of the rule will be decreased reliance on special conditions, simplification of the certification process through clarification of existing requirements, and increased flexibility through optional designs.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a rule will have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The rule will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services into the United States. Instead, the airframe certification procedures have been harmonized with those of the JAA and will lessen restraints on trade.

Federalism Implications

The regulations herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA is revising the airframe airworthiness standards for normal, utility, acrobatic, and commuter category airplanes to harmonize them with the standards that were published for the same categories of airplanes by the Joint Airworthiness Authorities in Europe. The revisions reduce the regulatory burden on United States and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in the United States or in a country that is a member of the JAA.

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation, the FAA has determined that this rule is not significant under Executive Order 12866. In addition, the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is considered not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A regulatory evaluation of the rule has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 23 as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40013, 44701, 44702, 44704.

2. Section 23.301(d) is revised to read as follows:

§ 23.301 Loads.

* * * * *

(d) Simplified structural design criteria may be used if they result in design loads not less than those prescribed in §§ 23.331 through 23.521. For airplane configurations described in appendix A, § 23.1, the design criteria of appendix A of this part are an approved equivalent of §§ 23.321 through 23.459. If appendix A of this part is used, the entire appendix must be substituted for the corresponding sections of this part.

3. Section 23.335 is amended by revising paragraph (a)(1); by removing the period and adding "; and either—"

to the end of paragraph (b)(4)(i); by revising paragraph (b)(4)(ii); by adding a new paragraph (b)(4)(iii); and by revising the introductory text of paragraph (d)(1) to read as follows:

§ 23.335 Design airspeeds.

* * * * *

(a) * * *

(1) Where W/S'=wing loading at the design maximum takeoff weight, V_c (in knots) may not be less than—

(i) 33 √(W/S) (for normal, utility, and commuter category airplanes);

(ii) 36 √(W/S) (for acrobatic category airplanes).

* * * * *

(b) * * *

(4) * * *

(ii) Mach 0.05 for normal, utility, and acrobatic category airplanes (at altitudes where M_D is established); or

(iii) Mach 0.07 for commuter category airplanes (at altitudes where M_D is established) unless a rational analysis, including the effects of automatic systems, is used to determine a lower margin. If a rational analysis is used, the minimum speed margin must be enough to provide for atmospheric variations (such as horizontal gusts), and the penetration of jet streams or cold fronts), instrument errors, airframe production variations, and must not be less than Mach 0.05.

* * * * *

(d) * * *

(1) V_B may not be less than the speed determined by the intersection of the line representing the maximum positive lift, $C_{N\ MAX}$, and the line representing the rough air gust velocity on the gust V-n diagram, or $V_{S1}\sqrt{n_g}$, whichever is less, where:

* * * * *

4. Section 23.337(a)(1) is revised to read as follows:

§ 23.337 Limit maneuvering load factors.

(a) * * *

(1) 2.1+(24,000+(W+10,000)) for normal and commuter category airplanes, where W=design maximum takeoff weight, except that n need not be more than 3.8;

* * * * *

5. Section 23.341 is amended by redesignating existing paragraphs (a) and (b) as paragraphs (b) and (c), respectively; by adding a new paragraph (a); by revising the redesignated paragraph (b); and by revising the introductory text, the formula, and the definition of "W/S" in the redesignated paragraph (c) to read as follows:

§ 23.341 Gust loads factors.

(a) Each airplane must be designed to withstand loads on each lifting surface resulting from gusts specified in § 23.333(c).

(b) The gust load for a canard or tandem wing configuration must be computed using a rational analysis, or may be computed in accordance with paragraph (c) of this section, provided that the resulting net loads are shown to be conservative with respect to the gust criteria of § 23.333(c).

(c) In the absence of a more rational analysis, the gust load factors must be computed as follows—

$$n = 1 + \frac{K_g U_{de} V a}{498\,(W/S)}$$

* * * * *

W/S=Wing loading (p.s.f.) due to the applicable weight of the airplane in the particular load case.

* * * * *

6. A new § 23.343 is added to read as follows:

§ 23.343 Design fuel loads.

(a) The disposable load combinations must include each fuel load in the range from zero fuel to the selected maximum fuel load.

(b) If fuel is carried in the wings, the maximum allowable weight of the airplane without any fuel in the wing tank(s) must be established as "maximum zero wing fuel weight," if it is less than the maximum weight.

(c) For commuter category airplanes, a structural reserve fuel condition, not exceeding fuel necessary for 45 minutes of operation at maximum continuous power, may be selected. If a structural reserve fuel condition is selected, it must be used as the minimum fuel weight condition for showing compliance with the flight load requirements prescribed in this part and—

(1) The structure must be designed to withstand a condition of zero fuel in the wing at limit loads corresponding to:

(i) Ninety percent of the maneuvering load factors defined in § 23.337, and

(ii) Gust velocities equal to 85 percent of the values prescribed in § 23.333(c).

(2) The fatigue evaluation of the structure must account for any increase in operating stresses resulting from the design condition of paragraph (c)(1) of this section.

(3) The flutter, deformation, and vibration requirements must also be met with zero fuel in the wings.

7. Section 23.345 is revised to read as follows:

§ 23.345 High lift devices.

(a) If flaps or similar high lift devices are to be used for takeoff, approach or landing, the airplane, with the flaps fully extended at V_F, is assumed to be subjected to symmetrical maneuvers and gusts within the range determined by—

(1) Maneuvering, to a positive limit load factor of 2.0; and

(2) Positive and negative gust of 25 feet per second acting normal to the flight path in level flight.

(b) V_F must be assumed to be not less than 1.4 V_S or 1.8 V_{SF}, whichever is greater, where—

(1) V_S is the computed stalling speed with flaps retracted at the design weight; and

(2) V_{SF} is the computed stalling speed with flaps fully extended at the design weight.

(3) If an automatic flap load limiting device is used, the airplane may be designed for the critical combinations of airspeed and flap position allowed by that device.

(c) In determining external loads on the airplane as a whole, thrust, slipstream, and pitching acceleration may be assumed to be zero.

(d) The flaps, their operating mechanism, and their supporting structures, must be designed to withstand the conditions prescribed in paragraph (a) of this section. In addition, with the flaps fully extended at V_F, the following conditions, taken separately, must be accounted for:

(1) A head-on gust having a velocity of 25 feet per second (EAS), combined with propeller slipstream corresponding to 75 percent of maximum continuous power; and

(2) The effects of propeller slipstream corresponding to maximum takeoff power.

8. Section 23.347 is amended by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 23.347 Unsymmetrical flight conditions.

* * * * *

(b) Acrobatic category airplanes certified for flick maneuvers (snap roll) must be designed for additional asymmetric loads acting on the wing and the horizontal tail.

9. Section 23.349(a)(2) is revised to read as follows:

§ 23.349 Rolling conditions.

* * * * *

(a) * * *

(2) For normal, utility, and commuter categories, in Condition A, assume that 100 percent of the semispan wing airload acts on one side of the airplane and 75 percent of this load acts on the other side.

* * * * *

10. Section 23.369(a) is revised to read as follows:

§ 23.369 Rear lift truss.

(a) If a rear lift truss is used, it must be designed to withstand conditions of reversed airflow at a design speed of—

$V = 8.7\sqrt{(W/S)} + 8.7$ (knots), where W/S = wing loading at design maximum takeoff weight.

* * * * *

11. Section 23.371 is revised to read as follows:

§ 23.371 Gyroscopic and aerodynamic loads.

(a) Each engine mount and its supporting structure must be designed for the gyroscopic, inertial, and aerodynamic loads that result, with the engine(s) and propeller(s), if applicable, at maximum continuous r.p.m., under either:

(1) The conditions prescribed in § 23.351 and § 23.423; or

(2) All possible combinations of the following—

(i) A yaw velocity of 2.5 radians per second;

(ii) A pitch velocity of 1.0 radian per second;

(iii) A normal load factor of 2.5; and

(iv) Maximum continuous thrust.

(b) For airplanes approved for aerobatic maneuvers, each engine mount and its supporting structure must meet the requirements of paragraph (a) of this section and be designed to withstand the load factors expected during combined maximum yaw and pitch velocities.

(c) For airplanes certificated in the commuter category, each engine mount and its supporting structure must meet the requirements of paragraph (a) of this section and the gust conditions specified in § 23.341 of this part.

§ 23.391 [Amended]

12. Section 23.391 is amended by removing paragraph (b) and removing the designation of "(a)" from the remaining text.

13. A new § 23.393 is added to read as follows:

§ 23.393 Loads parallel to hinge line.

(a) Control surfaces and supporting hinge brackets must be designed to withstand inertial loads acting parallel to the hinge line.

(b) In the absence of more rational data, the inertial loads may be assumed to be equal to KW, where—

(1) K = 24 for vertical surfaces;

(2) K = 12 for horizontal surfaces; and

(3) W = weight of the movable surfaces.

14. Section 23.399 is revised to read as follows:

§ 23.399 Dual control system.

(a) Each dual control system must be designed to withstand the force of the pilots operating in opposition, using individual pilot forces not less than the greater of—

(1) 0.75 times those obtained under § 23.395; or

(2) The minimum forces specified in § 23.397(b).

(b) Each dual control system must be designed to withstand the force of the pilots applied together, in the same direction, using individual pilot forces not less than 0.75 times those obtained under § 23.395.

15. Section 23.415 is amended by revising paragraphs (a)(2) and (c) to read as follows:

§ 23.415 Ground gust conditions.

(a) * * *

(2) If pilot forces less than the minimums specified in § 23.397(b) are used for design, the effects of surface loads due to ground gusts and taxiing downwind must be investigated for the entire control system according to the formula:

$H = K\ c\ S\ q$

where—

H = limit hinge moment (ft.-lbs.);

c = mean chord of the control surface aft of the hinge line (ft.);

S = area of control surface aft of the hinge line (sq. ft.);

q = dynamic pressure (p.s.f.) based on a design speed not less than 14.6 √(W/S) + 14.6 (f.p.s.) where W/S = wing loading at design maximum weight, except that the design speed need not exceed 88 (f.p.s.);

K = limit hinge moment factor for ground gusts derived in paragraph (b) of this section. (For ailerons and elevators, a positive value of K indicates a moment tending to depress the surface and a negative value of K indicates a moment tending to raise the surface).

* * * * *

(c) At all weights between the empty weight and the maximum weight declared for tie-down stated in the appropriate manual, any declared tie-down points and surrounding structure, control system, surfaces and associated gust locks, must be designed to withstand the limit load conditions that exist when the airplane is tied down and that result from wind speeds of up to 65 knots horizontally from any direction.

16. Section 23.441 is amended by revising paragraph (a)(2) and adding a new paragraph (b) to read as follows.

§ 23.441 Maneuvering loads.

(a) * * *

(2) With the rudder deflected as specified in paragraph (a)(1) of this section, it is assumed that the airplane yaws to the overswing sideslip angle. In lieu of a rational analysis, an overswing angle equal to 1.5 times the static sideslip angle of paragraph (a)(3) of this section may be assumed.

* * * * *

(b) For commuter category airplanes, the loads imposed by the following additional maneuver must be substantiated at speeds from V_A to V_D/M_D. When computing the tail loads—

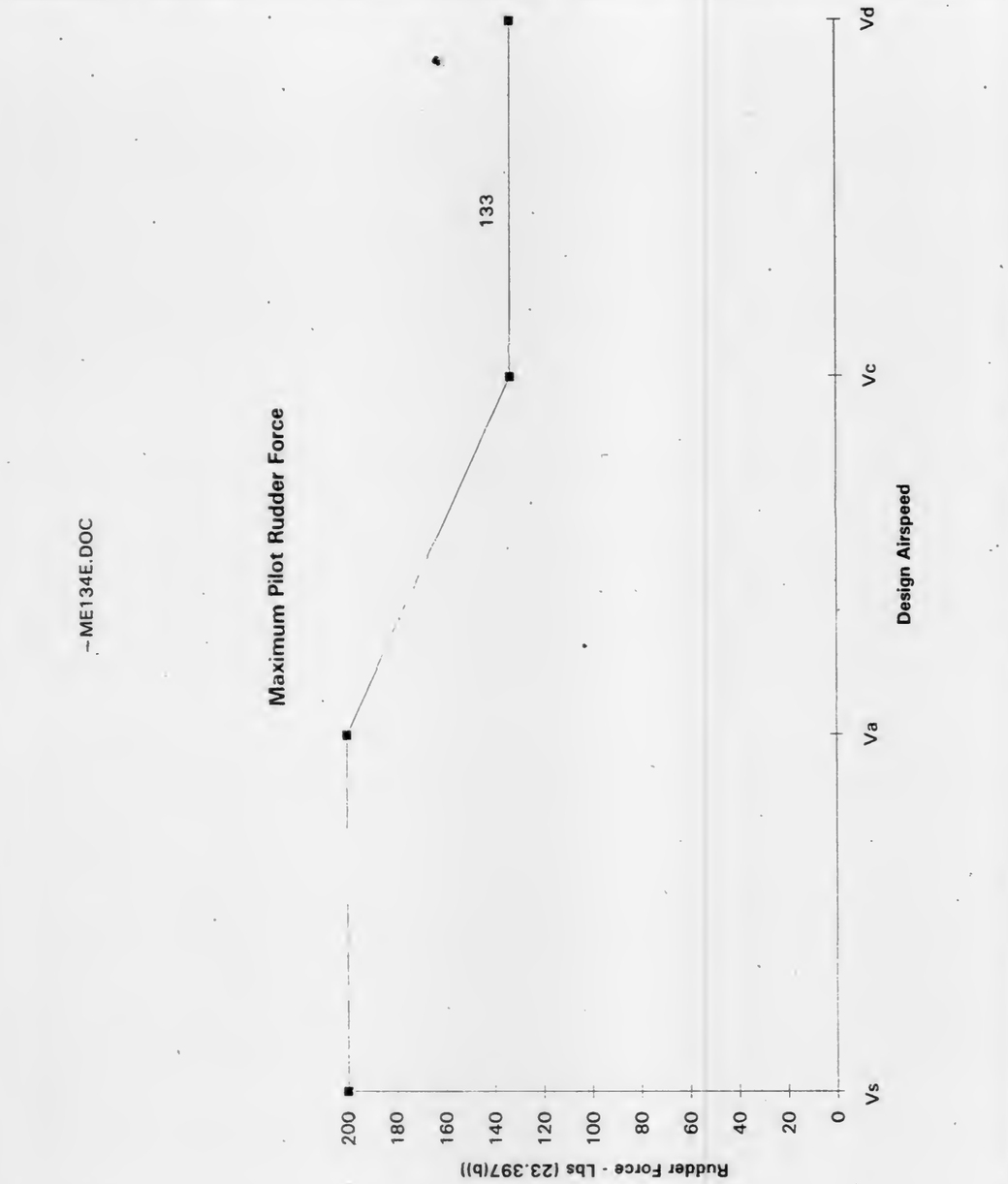
(1) The airplane must be yawed to the largest attainable steady state sideslip angle, with the rudder at maximum deflection caused by any one of the following:

(i) Control surface stops;

(ii) Maximum available booster effort;

(iii) Maximum pilot rudder force as shown below:

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(2) The rudder must be suddenly displaced from the maximum deflection to the neutral position.

* * * * *

17. Section 23.443(c) is revised to read as follows:

§ 23.443 Gust loads.

* * * * *

(c) In the absence of a more rational analysis, the gust load must be computed as follows:

$$L_{vt} = \frac{K_{gt}\, U_{de}\, V\, a_{vt}\, S_{vt}}{498}$$

Where—

L_{vt}=Vertical surface loads (lbs.);

$$k_{gt} = \frac{0.88\,\mu_{gt}}{5.3+\mu_{gt}} = \text{gust alleviation factor;}$$

$$\mu_{gt} = \frac{2W}{\rho c_t g\, a_{vt} S_{vt}} \frac{K^2}{l_{vt}} = \text{lateral mass ratio;}$$

U_{de}=Derived gust velocity (f.p.s.);
ρ=Air density (slugs/cu.ft.);
W=the applicable weight of the airplane in the particular load case (lbs.);
S_{vt}=Area of vertical surface (ft.²);
$\bar{c}_t$=Mean geometric chord of vertical surface (ft.);
a_{vt}=Lift curve slope of vertical surface (per radian);
K=Radius of gyration in yaw (ft.);
l_{vt}=Distance from airplane c.g. to lift center of vertical surface (ft.);
g=Acceleration due to gravity (ft./sec.²); and
V=Equivalent airspeed (knots).

18. The center heading "AILERONS, WING FLAPS, AND SPECIAL DEVICES" that appears between §§ 23.445 and 23.455 is revised to read "Ailerons and Special Devices".

§ 23.457 [Removed]

19. Section 23.457 is removed.

20. Section 23.473 is amended by revising paragraphs (c)(1) and (f) to read as follows:

§ 23.473 Ground load conditions and assumptions.

* * * * *

(c) * * *

(1) The airplane meets the one-engine-inoperative climb requirements of § 23.67(b)(1) or (c); and

* * * * *

(f) If energy absorption tests are made to determine the limit load factor corresponding to the required limit descent velocities, these tests must be made under § 23.723(a).

* * * * *

21. Section 23.497 is amended by adding a new paragraph (c) to read as follows:

§ 23.497 Supplementary conditions for tail wheels.

* * * * *

(c) If a tail wheel, bumper, or an energy absorption device is provided to show compliance with § 23.925(b), the following apply:

(1) Suitable design loads must be established for the tail wheel, bumper, or energy absorption device; and

(2) The supporting structure of the tail wheel, bumper, or energy absorption device must be designed to withstand the loads established in paragraph (c)(1) of this section.

22. Section 23.499 is amended by adding new paragraphs (d) and (e) to read as follows:

§ 23.499 Supplementary conditions for nose wheels.

* * * * *

(d) For airplanes with a steerable nose wheel that is controiled by hydraulic or other power, at design takeoff weight with the nose wheel in any steerable position, the application of 1.33 times the full steering torque combined with a vertical reaction equal to 1.33 times the maximum static reaction on the nose gear must be assumed. However, if a torque limiting device is installed, the steering torque can be reduced to the maximum value allowed by that device.

(e) For airplanes with a steerable nose wheel that has a direct mechanical connection to the rudder pedals, the mechanism must be designed to withstand the steering torque for the maximum pilot forces specified in § 23.397(b).

§ 23.521 [Amended]

23. Section 23.521 is amended by removing paragraph (c).

24. Section 23.561 is amended by revising paragraph (b) introductory text; by revising paragraphs (d)(1); and by adding a new paragraph (e) to read as follows:

§ 23.561 General.

* * * * *

(b) The structure must be designed to give each occupant every reasonable chance of escaping serious injury when—

* * * * *

(d) * * *

(1) * * *

(i) The most adverse combination of weight and center of gravity position;

(ii) Longitudinal load factor of 9.0g;

(iii) Vertical load factor of 1.0g; and

(iv) For airplanes with tricycle landing gear, the nose wheel strut failed with the nose contacting the ground.

* * * * *

(e) Except as provided in § 23.787(c), the supporting structure must be designed to restrain, under loads up to those specified in paragraph (b)(3) of this section, each item of mass that could injure an occupant if it came loose in a minor crash landing.

25. Section 23.571 is amended by revising the heading, the introductory text, and paragraph (a), to read as follows:

§ 23.571 Metallic pressurized cabin structures.

For normal, utility, and acrobatic category airplanes, the strength, detail design, and fabrication of the metallic structure of the pressure cabin must be evaluated under one of the following:

(a) A fatigue strength investigation in which the structure is shown by tests, or by analysis supported by test evidence, to be able to withstand the repeated loads of variable magnitude expected in service; or

* * * * *

26. Section 23.572 is amended by revising the heading; by revising paragraph (a) introductory text; and by revising paragraph (a)(1) to read as follows:

§ 23.572 Metallic wing, empennage, and associated structures.

(a) For normal, utility, and acrobatic category airplanes, the strength, detail design, and fabrication of those parts of the airframe structure whose failure would be catastrophic must be evaluated under one of the following unless it is shown that the structure, operating stress level, materials and expected uses are comparable, from a fatigue standpoint, to a similar design that has had extensive satisfactory service experience:

(1) A fatigue strength investigation in which the structure is shown by tests, or by analysis supported by test evidence, to be able to withstand the repeated loads of variable magnitude expected in service; or

* * * * *

27. Section 23.573 is amended by removing the reference in paragraph (b) "§ 23.571(c)" and adding the reference "§ 23.571(a)(3)" in its place; by removing paragraph (c); and by revising the introductory text of paragraph (a)(5) to read as follows:

§ 23.573 Damage tolerance and fatigue evaluation of structure.

(a) * * *

(5) For any bonded joint, the failure of which would result in catastrophic loss of the airplane, the limit load capacity must be substantiated by one of the following methods—

* * * * *

28. A new § 23.574 is added to read as follows:

§ 23.574 Metallic damage tolerance and fatigue evaluation of commuter category airplanes.

For commuter category airplanes—

(a) *Metallic damage tolerance.* An evaluation of the strength, detail design, and fabrication must show that catastrophic failure due to fatigue, corrosion, defects, or damage will be avoided throughout the operational life of the airplane. This evaluation must be conducted in accordance with the provisions of § 23.573, except as specified in paragraph (b) of this section, for each part of the structure that could contribute to a catastrophic failure.

(b) *Fatigue (safe-life) evaluation.* Compliance with the damage tolerance requirements of paragraph (a) of this section is not required if the applicant establishes that the application of those requirements is impractical for a particular structure. This structure must be shown, by analysis supported by test evidence, to be able to withstand the repeated loads of variable magnitude expected during its service life without detectable cracks. Appropriate safe-life scatter factors must be applied.

29. A new § 23.575 is added to read as follows:

§ 23.575 Inspections and other procedures.

Each inspection or other procedure, based on an evaluation required by §§ 23.571, 23.572, 23.573 or 23.574, must be established to prevent catastrophic failure and must be included in the Limitations Section of the Instructions for Continued Airworthiness required by § 23.1529.

30. Section 23.607 is revised to read as follows:

§ 23.607 Fasteners.

(a) Each removable fastener must incorporate two retaining devices if the loss of such fastener would preclude continued safe flight and landing.

(b) Fasteners and their locking devices must not be adversely affected by the environmental conditions associated with the particular installation.

(c) No self-locking nut may be used on any bolt subject to rotation in operation unless a non-friction locking device is used in addition to the self-locking device.

31. Section 23.611 is revised to read as follows:

§ 23.611 Accessibility provisions.

For each part that requires maintenance, inspection, or other servicing, appropriate means must be incorporated into the aircraft design to allow such servicing to be accomplished.

32. Section 23.629 is amended by revising the introductory text of paragraph (a); by redesignating existing paragraphs (b) and (c) as paragraphs (c) and (b); by revising the introductory text of newly redesignated (b); by revising newly redesignated paragraph (c); by revising paragraph (d)(3)(i); by revising paragraphs (g) and (h); and by adding a new paragraph (i) to read as follows:

§ 23.629 Flutter.

(a) It must be shown by the methods of paragraph (b) and either paragraph (c) or (d) of this section, that the airplane is free from flutter, control reversal, and divergence for any condition of operation within the limit V-n envelope and at all speeds up to the speed specified for the selected method. In addition—

* * * * *

(b) Flight flutter tests must be made to show that the airplane is free from flutter, control reversal and divergence and to show that—

* * * * *

(c) Any rational analysis used to predict freedom from flutter, control reversal and divergence must cover all speeds up to 1.2 V_D.

(d) * * *

(3) * * *

(i) Does not have a T-tail or other unconventional tail configurations;

* * * * *

(g) For airplanes showing compliance with the fail-safe criteria of §§ 23.571 and 23.572, the airplane must be shown by analysis to be free from flutter up to V_D/M_D after fatigue failure, or obvious partial failure, of a principal structural element.

(h) For airplanes showing compliance with the damage tolerance criteria of § 23.573, the airplane must be shown by analysis to be free from flutter up to V_D/M_D with the extent of damage for which residual strength is demonstrated.

(i) For modifications to the type design that could affect the flutter characteristics, compliance with paragraph (a) of this section must be shown, except that analysis based on previously approved data may be used alone to show freedom from flutter, control reversal and divergence, for all speeds up to the speed specified for the selected method.

§ 23.657 [Amended]

33. Section 23.657 is amended by removing paragraph (c).

§ 23.673 [Amended]

34. Section 23.673 is amended by removing paragraph (b) and the paragraph designation "(a)" for the remaining paragraph.

35. Section 23.725 is amended by revising the equation in paragraph (b) to read as follows:

§ 23.725 Limit drop tests.

* * * * *

(b) * * *

$$W_e = W\frac{[h+(l-L)\,d]}{(h+d)}$$

* * * * *

36. Section 23.755 is amended by removing paragraph (b), and by redesignating paragraph (c) as paragraph (b) and revising it to read as follows:

§ 23.755 Hulls.

* * * * *

(b) Watertight doors in bulkheads may be used for communication between compartments.

37. Section 23.865 is revised to read as follows:

§ 23.865 Fire protection of flight controls, engine mounts, and other flight structure.

Flight controls, engine mounts, and other flight structure located in designated fire zones, or in adjacent areas that would be subjected to the effects of fire in the designated fire zones, must be constructed of fireproof material or be shielded so that they are capable of withstanding the effects of a fire. Engine vibration isolators must incorporate suitable features to ensure that the engine is retained if the non-fireproof portions of the isolators deteriorate from the effects of a fire.

38. Section 23.925 is amended by revising paragraph (b) to read as follows:

§ 23.925 Propeller clearance.

* * * * *

(b) *Aft-mounted propellers.* In addition to the clearances specified in paragraph (a) of this section, an airplane with an aft mounted propeller must be designed such that the propeller will not contact the runway surface when the airplane is in the maximum pitch attitude attainable during normal takeoffs and landings.

* * * * *

39. Appendix A is amended by revising the heading, section A23.1, paragraphs A23.11 (c)(1) and (d), and Table 2; and by adding a new Figure A7 to the end of the Appendix to read as follows:

Appendix A to Part 23 Simplified Design Load Criteria

A23.1 *General.*

(a) The design load criteria in this appendix are an approved equivalent of those in §§ 23.321 through 23.459 of this subchapter for an airplane having a maximum weight of 6,000 pounds or less and the following configuration:

(1) A single engine excluding turbine powerplants;

(2) A main wing located closer to the airplane's center of gravity than to the aft, fuselage-mounted, empennage;

(3) A main wing that contains a quarter-chord sweep angle of not more than 15 degrees fore or aft;

(4) A main wing that is equipped with trailing-edge controls (ailerons or flaps, or both);

(5) A main wing aspect ratio not greater than 7;

(6) A horizontal tail aspect ratio not greater than 4;

(7) A horizontal tail volume coefficient not less than 0.34;

(8) A vertical tail aspect ratio not greater than 2;

(9) A vertical tail platform area not greater than 10 percent of the wing platform area; and

(10) Symmetrical airfoils must be used in both the horizontal and vertical tail designs.

(b) Appendix A criteria may not be used on any airplane configuration that contains any of the following design features:

(1) Canard, tandem-wing, close-coupled, or tailless arrangements of the lifting surfaces;

(2) Biplane or multiplane wing arrangements;

(3) T-tail, V-tail, or cruciform-tail (+) arrangements;

(4) Highly-swept wing platform (more than 15-degrees of sweep at the quarter-chord), delta planforms, or slatted lifting surfaces; or

(5) Winglets or other wing tip devices, or outboard fins.

* * * * *

A23.11 *Control surface loads.*

* * * * *

(c) * * *

(1) Simplified limit surface loadings for the horizontal tail, vertical tail, aileron, wing flaps, and trim tabs are specified in figures 5 and 6 of this appendix.

(i) The distribution of load along the span of the surface, irrespective of the chordwise load distribution, must be assumed proportional to the total chord, except on horn balance surfaces.

(ii) The load on the stabilizer and elevator, and the load on fin and rudder, must be distributed chordwise as shown in figure 7 of this appendix.

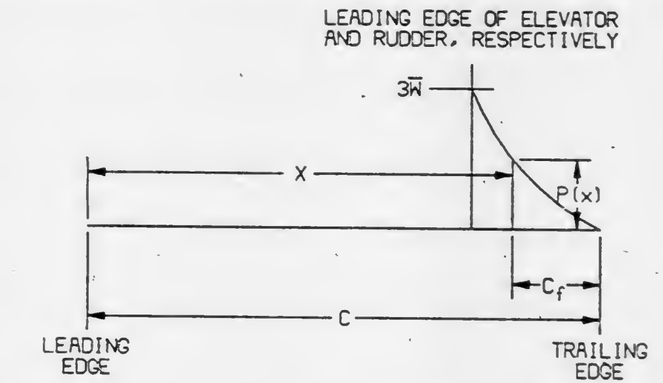
(iii) In order to ensure adequate torsional strength and to account for maneuvers and gusts, the most severe loads must be considered in association with every center of pressure position between the leading edge and the half chord of the mean chord of the surface (stabilizer and elevator, or fin and rudder).

(iv) To ensure adequate strength under high leading edge loads, the most severe stabilizer and fin loads must be further considered as being increased by 50 percent over the leading 10 percent of the chord with the loads aft of this appropriately decreased to retain the same total load.

(v) The most severe elevator and rudder loads should be further considered as being distributed parabolically from three times the mean loading of the surface (stabilizer and elevator, or fin and rudder) at the leading edge of the elevator and rudder, respectively, to zero at the trailing edge according to the equation:

$$P(x) = 3\,(\bar{w})\,\frac{(c-x)^2}{c_f{}^2}$$

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Where—

P(x)=local pressure at the chordwise stations x,

c=chord length of the tail surface,

c_f=chord length of the elevator and rudder respectively, and

$\bar{w}$=average surface loading as specified in Figure A5.

* * * * *

(vi) The chordwise loading distribution for ailerons, wing flaps, and trim tabs are specified in Table 2 of this appendix.

(d) *Outboard fins.* Outboard fins must meet the requirements of § 23.445.

* * * * *

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Table 2 - Average limit control surface loading

AVERAGE LIMIT CONTROL SURFACE LOADING			
SURFACE	DIRECTION OF LOADING	MAGNITUDE OF LOADING	CHORDWISE DISTRIBUTION
Horizontal Tail I	a) Up and Down	Figure A5 Curve (2)	See Figure A7
	b) Unsymmetrical Loading (Up and Down)	100% $\bar{w}$ on one side of airplane ℄ 65% $\bar{w}$ on other side of airplane ℄ for normal and utility categories. For acrobatic category see A23.11(c)	
Vertical Tail II	Right and Left	Figure A5 Curve (1)	Same as above
Aileron III	a) Up and Down	Figure A6 Curve (5)	(C) ℄ Hinge, W
Wing Flap IV	a) Up	Figure A6 Curve (4)	(D) 2W, $\bar{W}$
	b) Down	.25 × Up Load (a)	
Trim Tab V	a) Up and Down	Figure A6 Curve (3)	Same as (D) above

NOTE: The surface loading I, II, III, and V above are based on speeds V_A min and V_C min.

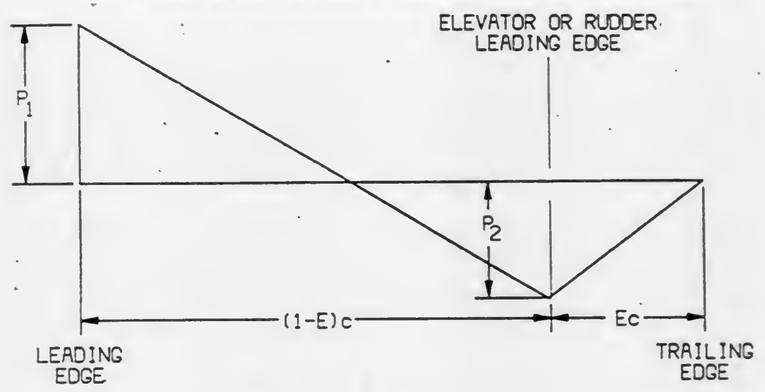
The loading of IV is based on V_F min.

If values of speed greater than these minimums are selected for design, the appropriate surface loadings must be multiplied by the ratio $\left(\frac{V\text{selected}}{V\text{minimum}}\right)^2$.

For conditions I, II, III, and V the multiplying factor used must be the higher of $\left(\frac{V_A \text{ sel.}}{V_A \text{ min.}}\right)^2$ or $\left(\frac{V_C \text{ sel.}}{V_C \text{ min.}}\right)^2$

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Figure A7.—Chordwise Load Distribution for Stabilizer and Elevator or Fin and Rudder



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$$P_1 = 2(\bar{w})\frac{(2-E-3d')}{(1-E)}$$

$$P_2 = 2(\bar{w})(3d'+E-1)$$

where:

$\bar{w}$=average surface loading (as specified in figure A.5)

E=ratio of elevator (or rudder) chord to total stabilizer and elevator (or fin and rudder) chord.

d'=ratio of distance of center of pressure of a unit spanwise length of combined stabilizer and elevator (or fin and rudder) measured from stabilizer (or fin) leading edge to the local chord. Sign convention is positive when center of pressure is behind leading edge.

c=local chord.

Note: Positive values of $\bar{w}$, P_1 and P_2 are all measured in the same direction.

Issued in Washington, DC, on January 29, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–2081 Filed 2–8–96; 8:45 am]

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14 CFR Parts 23 and 91

[Docket No. 27806; Amendment No. 23–49, 91–247]

RIN 2120–AE59

Airworthiness Standards; Systems and Equipment Rules Based on European Joint Aviation Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the systems and equipment airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. This amendment completes a portion of the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA) effort to harmonize the Federal Aviation Regulations and the Joint Aviation Requirements (JAR) for airplanes certified in these categories. This amendment will provide nearly uniform systems and equipment standards for airplanes certificated in the United States under 14 CFR part 23 and in JAA countries under Joint Aviation Requirements 23, simplifying international airworthiness approval.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Earsa Tankesley, Aerospace Engineer, Standards Office (ACE–100), Small Airplane Directorate, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 426–6932.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) No. 94–21 (59 FR 37620, July 22, 1994). All comments received in response to Notice 94–21 have been considered in adopting this amendment.

This amendment completes part of an effort to harmonize the requirements of part 23 and JAR 23. The revisions to part 23 in this amendment pertain to systems and equipment airworthiness standards. Three other final rules are being issued in this **Federal Register** that pertain to airworthiness standards for flight, powerplant, and airframe. These related rulemakings are also part of the harmonization effort. Interested persons should review all four final rules to ensure that all revisions to part 23 are recognized.

The harmonization effort was initiated at a meeting in June 1990 of the JAA Council (consisting of JAA members from European countries) and the FAA, during which the FAA Administrator committed the FAA to support the harmonization of the U.S. regulations with the JAR that were being developed. In response to the commitment, the FAA Small Airplane Directorate established an FAA Harmonization Task Force to work with the JAR 23 Study Group to harmonize part 23 with the proposed JAR 23. The General Aviation Manufacturers Association (GAMA) also established a JAR 23/part 23 committee to provide technical assistance.

The FAA, JAA, GAMA, and the Association Europeenne des Constructeurs de Material Aerospatial (AECMA), an organization of European airframe manufacturers, met on several occasions in a continuing harmonization effort.

Near the end of the effort to harmonize the normal, utility, and acrobatic category airplane airworthiness standards, the JAA requested and received recommendations from its member countries on proposed airworthiness standards for commuter category airplanes. Subsequent JAA and FAA meetings on this issue resulted in proposals that were reflected in Notice 94–21 to revise portions of the part 23

commuter category airworthiness standards. Accordingly, this final rule adopts the systems and equipment airworthiness standards for all part 23 airplanes.

In January 1991, the FAA established the Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991). At an FAA/JAA Harmonization Conference in Canada in June 1992, the FAA announced that it would consolidate the harmonization effort within the ARAC structure. The FAA assigned to ARAC the rulemakings related to JAR/part 23 harmonization, which ARAC assigned to the JAR/FAR 23 Harmonization Working Group. The proposals for systems and equipment airworthiness standards contained in Notice 94–21 were a result of both the working group's efforts and the efforts at harmonization that occurred before the formation of the working group.

The JAA submitted comments to the FAA on January 20, 1994, in response to the four draft proposals for harmonization of the part 23 airworthiness standards. The JAA submitted comments again during the comment period of the NPRM. At the April 26, 1995, ARAC JAR/FAR 23 Harmonization Working Group meeting, the JAA noted that many of the comments in the January 20 letter had been satisfied or were no longer relevant. The few remaining items concern issues that are considered beyond the scope of this rulemaking and, therefore, will be dealt with at future FAA/JAA Harmonization meetings.

Discussion of Comments

General

Interested persons were invited to participate in the development of these final rules by submitting written data, views, or arguments to the regulatory docket on or before November 21, 1994. Six commenters responded to Notice 94–21. Two of these commenters, the Civil Aviation Authority (CAA) and the Joint Aviation Authorities (JAA), submitted comments that were identical; therefore, the responses to both commenters are the same. Minor technical and editorial changes have been made to the proposed rules based on relevant comments received and after further review by the FAA.

One general comment was received from Transport Canada. It expressed concurrence with the notice. The comment also noted that the proposals (the comment did not identify the specific sections) are applicable to JAR Very Light Aircraft (VLA) standards for night operations and that it will consider adding these proposals to the Canadian standards for VLA approved for night and Instrument Flight Rule (IFR) operations. It suggests that the FAA may wish to consider this as well.

Discussion of Comments to Specific Sections of Parts 23 and 91

Section 23.677 Trim Systems

Proposed § 23.677(a) would clarify the need to mark the lateral and directional trim indicators with the neutral trim position. Since trim indicators on most airplanes are currently marked with the neutral position of the trimming device, this proposal would standardize the cockpit markings for all airplanes.

Revised paragraph (a) would also add a requirement for the pitch trim indicator to be marked with the proper pitch trim range for the takeoff of the airplane. Some takeoff accidents, including some involving fatalities, have occurred because the pitch trim was not set to the proper range needed for the airplane takeoff.

No comments were received on the proposals for this section. On reviewing the published notice, the FAA discovered the phrase "center or gravity" should have read "center of gravity."

The proposals are adopted with the above correction.

Section 23.691 Artificial Stall Barrier System

The requirements of § 23.201(c) provide criteria for the in-flight demonstration of wings level stall. The requirements also specify the means of identifying when a stall has occurred. Amendment No. 23–45 (58 FR 42136, August 6, 1993) revised § 23.201(c) by adding the activation of an artificial stall barrier as an acceptable means of identifying when a stall has occurred. Proposed new § 23.691 would provide standards for artificial stall barrier systems if such a system is used to show compliance with § 23.201(c).

Two comments were received on this proposal in which the JAA and the CAA note that the proposal has not been fully discussed by JAA specialists and recommend that the proposal be withdrawn. The JAA also provides a list of 12 issues to be considered if the FAA proceeds with the adoption of the proposal.

The FAA has reviewed the handling of this proposal from the time that it was identified in the original 1990 FAA comments on an early draft of JAR 23. This item was first presented to the JAA specialists for review in 1991 and since that time it has been thoroughly coordinated with the JAA. The JAA's current JAR 23 Notice of Proposed Amendment list contains an item for the inclusion of 23.691 in JAR 23, based on the text in a draft of this final rule. The FAA understands that the JAA expects to adopt the item following the finalization of this rule. Under these circumstances, the FAA does not find it necessary to defer adoption for further consideration.

Moreover, the FAA has reviewed each of the 12 issues that the JAA provided for FAA's consideration, and prepared a response which has been included in the Rules Docket. Since the issues are beyond the scope of the proposal, the FAA has not included them in this final rule publication.

In the course of the FAA's review, however, the FAA noted that the word "necessary" in the introductory paragraph of § 23.691 should be changed to "used," to make it clear that the equipment requirements of this section are applicable if a stick pusher system is used in the airplane to show compliance with § 23.201(c).

Section 23.691 is adopted with the above change.

Section 23.697 Wing Flap Controls

Proposed new § 23.697(c) would provide safety standards for the wing flap control levers installed in airplanes that use wing flap settings other than fully retracted when showing compliance with § 23.145.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.701 Flap Interconnection

Section 23.701 (a)(1) and (a)(2) would be revised to clarify the requirements for flap systems installed on part 23 airplanes.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.703 Takeoff Warning System

This proposed new section would require a takeoff warning system on some commuter category airplanes. The requirement would be applicable if the certification flight evaluation showed that an unsafe takeoff condition would result if lift devices or longitudinal trim devices are set to any position outside the approved takeoff range. If the evaluation shows that no unsafe condition would result at any setting of these devices, a takeoff warning system would not be required. For those airplanes on which a warning system must be installed, the proposal would provide requirements for the installation of the system.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.723 Shock Absorption Tests

To correct a grammatical error in the rules, paragraph (b) of this section would be revised by changing the word "reserved" in the phrase "reserved energy absorption capacity" to "reserve."

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.729 Landing Gear Extension and Retraction System

This proposal would revise § 23.729(e) to clarify that a landing gear indicator is required for each gear. This proposal would also add a new § 23.729(g) requiring that if the landing gear bay is used as the location for equipment other than landing gear, that equipment must be designed to minimize damage from items such as a tire burst, or rocks, water, and slush that may enter the landing gear bay.

One comment was received on this section, which suggested that the current requirements do not properly include a standard for amphibious operation. The comment specifically identified the warning horn or similar aural device as confusing and a source of pilot error during operations of an amphibian airplane. The commenter provided a suggestion for a landing gear position indicator on an amphibian airplane that would assist in clarifying this confusion.

Although this comment has merit, the proposed rule did not consider such a requirement, and no action has been taken to include the suggested landing gear position indicator for amphibian airplanes in this final rule. This comment will be retained and the suggestion for an amphibian landing gear indicator will be presented at a future harmonization meeting for specialist consideration and possible future inclusion in part 23/JAR 23.

Although not proposed in the notice, the text of paragraph (g) has been revised to identify sources of equipment damage that should be considered in the application of this requirement.

Section 23.729 is adopted with the above changes.

Section 23.735 Brakes

Section 23.735(a) would be revised to state clearly that wheel brakes must be provided. A proposed new § 23.735(c) would require the brake system to be designed so that the brake manufacturer's specified brake pressures are not exceeded during the landing distance determined in accordance with § 23.75. Proposed new § 23.735(e), applicable to commuter category airplanes, would require establishing the minimum rejected takeoff brake kinetic energy capacity rating of each main wheel brake assembly.

One comment was received on the proposal for § 23.735(e), which noted that the factor, "0.0443" is not defined for the kinetic energy formula. The commenter recommends that V be stated in units such as, feet-per-second (or mph, or knots, as required). The commenter notes that the recommended clarification should reduce possible future misunderstanding and confusion, as well as improper brake capacity calculations.

The FAA agrees. The units for "V" in the definition of the kinetic energy formula were inadvertently omitted from the proposal for this section. To correct this omission, the definition is being revised to read: "V=Ground speed, in knots, associated with the maximum value of V_1 selected in accordance with § 23.51(c)(1)."

The proposal is adopted with the above change.

Section 23.745 Nose/Tail Wheel Steering

Proposed new § 23.745 would provide requirements that apply if nose/tail wheel steering is installed.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.775 Windshields and Windows

Section 23.775(a) would be revised to allow internal glass panels of windshields and windows to be constructed of nonsplintering material, as well as nonsplintering glass. Section 23.775(c) would be revised to clarify that the requirement of this section applies to pressurized airplanes if certification for operation up to and including 25,000 feet is requested.

Section 23.775(h), introductory text, and paragraph (h)(1) would be added to require windshield panes of commuter category airplanes that are directly in front of the pilots to withstand the impact of a two-pound bird strike. This requirement is based on a Joint Aviation Authority recommendation to add windshield bird strike protection for commuter category airplanes.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.783 Doors

Proposed paragraph (b) would add a requirement that passenger doors must not be located near any propeller disk or any other potential hazard that could endanger persons using the door. The propeller disk remains the prominent hazard but other items, such as hot deicer surfaces or sharp objects on the airplane structure, are also hazards.

Proposed new paragraph (g) would require lavatory doors, if installed, that would not trap occupants inside a closed and locked lavatory compartment.

No comments were received on the changes proposed for this section, and they are adopted as proposed.

Section 23.785 Seats, Berths, Litters, Safety Belts, and Shoulder Harnesses

Seat requirements of part 23 would be clarified by moving the seat provisions from current § 23.1307(a), which requires a seat or berth for each occupant, to the introductory text of § 23.785. The notice proposed to reference the requirements of § 23.1413, for a metal-to-metal latching device for seat belts and shoulder harnesses, in § 23.785(b). These proposed changes were intended to combine related seat requirements in one section. The JAA and CAA comments note that the phrase "with metal-to-metal latching device" is also reflected in § 23.1413, but with different applicability.

The FAA agrees. The proposed changes to this section were made to clarify the seat requirements by including, or referencing, all of the seat requirements in one section. The notice proposal to add the phrase "with metal-to-metal latching devices as required by § 23.1413" to paragraph (b) would provide this clarification for normal, utility, or acrobatic category airplanes. However, because this paragraph is not applicable to all categories of airplanes, this change, along with the retention of § 23.1413 could be confusing.

To accomplish the originally intended clarification of the seat requirements, and to correct the applicability differences noted by the commenters, § 23.1413 is being removed and the phrase, "with metal-to-metal latching device" is being added to §§ 23.785(b) and 23.785(c). Also, to make § 23.785(c) clearer, it has been divided into two sentences.

Section 23.785 is amended by adopting the introductory text and the revision of paragraphs (b) and (c) as identified above.

Section 23.787 Baggage and Cargo Compartments

Section 23.787 would be revised by extending the present requirements for cargo compartments to baggage compartments. As proposed, future baggage compartments on all airplane categories would be required to: be placarded for their maximum weight capacity; have a means to prevent the baggage from shifting; and have a means to protect controls, wiring, lines, and equipment or accessories that are located in the compartment and whose damage or failure would affect safe operation of the airplane. This revision would result in the commuter category requirements of § 23.787(g) being redundant, and that requirement is being removed.

Proposed revisions to this section would also move the requirements of paragraphs (d) and (f) to a proposed new § 23.855, which would address cargo and baggage compartment fire protection. Proposed new paragraph (c) of this section would require flight crew emergency exits on airplanes that are used only for the carriage of cargo to meet the requirements of § 23.807.

No comments were received on the proposal for this section, and they are adopted as proposed.

Section 23.791 Passenger Information Signs

This proposed new section would require at least one illuminated sign to notify passengers when seat belts should be fastened on those airplanes in whit the flightcrew members cannot observe the other occupants' seats or where the flightcrew members' compartment is separated from the passenger compartment. One comment was received on this proposal, which noted the JAA's support of the proposal to require all airplanes, where the flightcrew members cannot observe the passenger seats, to be equipped with a "fasten seat belt" sign. The JAA also identified its intent to take NPA action to propose the same requirement.

Section 23.791 is adopted as proposed.

Section 23.807 Emergency Exits

Proposed new § 23.807(a)(4) would provide the same protection from any propeller disk and other potential hazard for a person who uses emergency exits as that provided by proposed § 23.783(b) for a person who uses a passenger door.

The proposed revision of § 23.807(b) would provide that the inside handles of emergency exits that open outward must be designed so that the emergency exit is protected against inadvertent operation.

The proposed revisions to § 23.807(b)(5) and new § 23.807(b)(6) would apply to acrobatic and utility category airplanes that are approved for maneuvers, such as spinning. The proposed rule would require that emergency exits for these category airplanes allow the occupants to abandon the airplane at certain speeds related to such maneuvers.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.841 Pressurized Cabins

The proposed revision to § 23.841(a) would extend the cabin pressure requirements of current paragraph (a), which now apply to airplanes certificated for operation above 31,000 feet, to airplanes certificated for operation over 25,000 feet.

No comments were received on this proposal, and it is adopted as proposed.

Section 23.853 Passenger and Crew Compartment Interiors

This proposal would revise the section heading from "Compartment interiors" to "Passenger and crew compartment interiors" to clarify the content of the section.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.855 Cargo and Baggage Compartment Fire Protection

This proposed new section would require the following:

Proposed paragraph (a) would require all sources of heat that are capable of igniting the contents of each cargo and baggage compartment to be shielded and insulated to prevent such ignition.

Proposed paragraph (b) would require cargo and baggage compartments to be constructed of materials that meet the appropriate provisions of § 23.853(d)(3). Currently these requirements apply to commuter category airplanes and to the materials used in the compartments of these airplanes. The proposed new requirement would expand this applicability to the cargo and baggage compartments of all part 23 airplanes. In effect, the proposed new requirement would require materials that are self-extinguishing rather than flame resistant as currently required under § 23.787(d).

Proposed new paragraph (c) would add new fire protection requirements for cargo and baggage compartments for commuter category airplanes. The proposed rule would require one of the following alternatives: (1) Either the compartment must be located where pilots seated at their duty station would easily discover the fire or the compartment must be equipped with a smoke or fire detector system to provide a warning at the pilot's station. Access to the compartment with a fire extinguisher must also be provided; (2) If the cargo or baggage compartment is inaccessible to the flightcrew, it must be equipped with a fire detector system that provides a warning at the pilot's station, and the compartment must have ceiling and sidewall floor panels constructed of materials that have been subjected to and meet the vertical self-extinguishing tests of appendix F of part 23; (3) The Compartment must be constructed and sealed to contain any fire.

Two comments were received on this proposal. The JAA and the CAA comment that proposed paragraph (b) would extend the self-extinguishing standards of § 23.853(d)(3) to the baggage and cargo compartments of all airplanes. JAR 23.855 requires this self-extinguishing standard for commuter category only. The commenters noted that the proposed applicability of this standard to all airplanes has not been agreed to for JAR 23.

There were no objections to the proposal or suggestions for changes, and § 23.855 is adopted as proposed.

Section 23.867 Electrical Bonding and Protection Against Lightning and Static Electricity

This proposed revision would change the heading that precedes § 23.867 from "Lightning Evaluation" to "Electrical Bonding and Lightning Protection." It would also revise the section heading from "Lightning protection of structures" to "Electrical bonding and protection against lightning and static electricity." The proposed revisions more accurately clarify the content of the section.

No comments were received on this proposal, and it is adopted as proposed.

Section 23.1303 Flight and Navigation Instruments

The introductory text of § 23.1303 would be revised to clarify that the section contains the minimum required instruments. Also, § 23.1303(d) would add a requirement for those airplanes whose performance must be based on weight, altitude, and temperature to be equipped with a free air temperature indicator. A new sentence added to § 23.1303(e)(2) would state that nuisance overspeed warnings should not occur at lower speeds where pilots might ignore the warning. A new paragraph (f) would propose requirements for attitude instruments that include a means for flightcrew members to adjust the relative position of the attitude reference symbol and the horizon line. Finally, a new paragraph (g) would be added to identify certain specific instruments required for a commuter category airplane.

Two comments were received, which note that the additional instruments proposed for commuter category airplanes are not included in JAR 23. The JAA and the CAA also note that consideration of this proposal is being deferred by the JAA pending the publication of JAR-OPS and a review of the proposal by JAA specialists. (JAR-OPS are the JAR operations requirements issued by JAA.)

The requirement for §23.1303 is adopted as proposed.

Section 23.1307 Miscellaneous Equipment

This proposal would remove § 23.1307(a); these requirements are being added to § 23.785. The discussion of § 23.785 above addresses this change.

Also, the provisions of § 23.1307(b) are being removed from § 23.1307 as proposed. These requirements are stated in §§ 23.1361, 23.1351, and 23.1357, respectively, and are being removed to prevent confusion. The designation of paragraph (c) would be removed since it would no longer be necessary.

Two comments were received on this proposal. In these comments, the JAA and the CAA note that paragraph (c), adopted by Amendment 24–43, is pending a review by the JAA specialist for JAR 23.

The proposal is adopted as proposed.

Section 23.1309 Equipment, Systems, and Installation

Proposed new § 23.1309(a)(4) would correct an omission that occurred when the FAA issued Amendment No. 23–41 (55 FR 43306, October 26, 1990). To correct this oversight, and to continue the single fault provision of this paragraph, § 23.1309(a)(4) was proposed.

Two comments were received on this proposal. The JAA and the CAA note that, although the proposal for § 23.1309(a)(4) is not included in JAR 23, they support it, and will be considered for adoption in JAR 23.

Section 23.1309(a)(4) is adopted as proposed.

Section 23.1311 Electronic Display Instrument Systems

This proposal would revise § 23.1311 to remove redundant requirements and to clarify which secondary instruments are required and the visibility requirements for these instruments.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1321 Arrangement and Visibility

The proposed revision to § 23.1321(d) would remove the wording that limits the instrument location to airplanes certificated for flight under instrument flight rules or airplanes weighing more than 6,000 pounds. Instruments are for the pilot and should be located near that pilot's vertical plane of vision without regard to what flight rules are approved for the airplane's operation or the maximum weight of the airplane.

No comments were received on the proposal, and it is adopted as proposed.

Section 23.1323 Airspeed Indicating System

The proposed new § 23.1323(c) would add a requirement that each airspeed indicating system design and installation should provide positive drainage of moisture from the system.

To better organize the requirements that are applicable to the airspeed systems on all part 23 airplane categories and those that would be additional requirements for the airspeed systems of commuter category airplanes, the FAA proposed to redesignate existing paragraphs (c) and (e), respectively, as paragraphs (e) and (d). By this redesignation, paragraphs (a), (b), (c), and (d) would apply to all airplanes, and paragraphs (e) and (f) would include additional requirements applicable to commuter category airplanes.

The proposal for redesignated paragraph (e) would also remove the words "in flight and" from the first sentence of that paragraph. Proposed new § 23.1323(f) would provide that, on those commuter airplanes where duplicate airspeed indicators are required, the airspeed pitot tubes must be located far enough apart so that both tubes would not be damaged by a single bird strike.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1325 Static Pressure System

Current § 23.1325(g) exempts from the requirements of § 23.1325(b)(3) airplanes that are prohibited from flight in instrument meteorological conditions in accordance with § 23.1559(b). The notice proposed to revise § 23.1325(g) by adding airplanes that are prohibited from flight in icing conditions to the airplanes that are currently exempted from the requirements of § 23.1325(b)(3).

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1326 Pitot Heat Indication Systems

Proposed new § 23.1326 would require the installation of a pitot tube heat indicating system on those airplanes required to be equipped with a heated pitot tube.

The comments received from the JAA and the CAA show that this existing requirement in JAR 23 is applicable to commuter category airplanes only. They state that the FAA proposal would be applicable to all airplanes and would result in a continuous indication of pitot heat non-selection in every case. The JAA and the CAA do not support the applicability of this section to all airplanes.

The FAA does not agree that the proposal would be applicable to all airplanes. The proposal would apply only to these airplanes that are required, by § 23.1323(d), to be equipped with a heated pitot tube. By this applicability, airplanes that are approved for instrument flight, or for flight in icing conditions, would be required to be equipped with a heated pitot tube and a heated pitot tube indicator. These are the flight conditions where the pilot needs to be alerted if the pitot heat has not been turned on or if the heater fails. By this applicability, an airplane owner who has installed a heated pitot tube as optional equipment may continue to operate the airplane without a heated pitot tube indicator.

The preamble of the NPRM discusses the safety benefits that would be provided by this change.

The proposal is adopted as proposed.

Section 23.1329 Automatic Pilot System

Section 23.1329(b), as adopted by Amendment No. 23–24 (58 FR 18958, April 9, 1993), does not state clearly that stick controlled airplanes must be equipped with the same autopilot quick release controls that are required for airplanes with control wheels. The proposed revision of § 23.1329(b) would make it clear that a quick release control must be installed on each control stick of an airplane that can be operated from either pilot seat.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1337 Powerplant Instruments Installation

This proposal would revise the heading of this section to accurately reflect the powerplant instrument

installation requirements that it contains. The difference between this section and § 23.1305 is clarified by this change.

Section 23.1337(b) would be revised by removing the wording that authorizes installation of only those fuel indicators marked in gallons and pounds. Section 23.1337(b) would also be revised by adding the word "usable" to the first sentence of this section. Proposed new § 23.1337(b)(4) would require a "means to indicate" the amount of usable fuel in each tank when the airplane is on the ground.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1351 General

The proposal would revise current § 23.1351 by removing portions of paragraphs (b)(2) and (b)(3) and by removing paragraph (b)(4). The requirements proposed for removal are applicable to alternators that depend upon the battery for initial excitation or for stabilization.

Revised § 23.1351(c)(3) would require an automatic means for reverse current protection.

Section 23.1351(f) would be revised by adding a provision that would require the ground power receptacle to be located where its use will not result in a hazard to the airplane or to people on the ground using the receptacle.

No comments were received on the proposals. The proposals are adopted as proposed, except that paragraph (c)(3) has been revised to clarify that protection for any generator/alternator and the airplane electrical system must be provided.

Section 23.1353 Storage Battery Design and Installation

Proposed new § 23.1353(h) would require that, in the event of a complete loss of the primary electrical power generating system, airplane battery capacity must be sufficient to supply at least 30 minutes of electrical power to those loads essential to the continued safe flight and landing of the airplane.

No comments were received on this proposal, and it is adopted as proposed.

Section 23.1359 Electrical System Fire Protection

Proposed new § 23.1359 would require smoke and fire protection for electrical system installations. Proposed § 23.1359(a) would state that electrical systems must meet the applicable requirements of §§ 23.863 and 23.1182.

Proposed § 23.1359(b) would require that the electrical systems components installed in designated fire zones and used during emergency procedures be fire resistant. This provision is needed to clarify the requirements for electrical system components that may be installed in the designated fire zones identified in § 23.1181.

Finally, § 23.1359(c) would provide burn criteria for electrical wire and cables. A revision to appendix F of part 23 that would add appropriate wire testing criteria was also included in this proposal.

No comments were received on the proposals, and they are adopted as proposed.

Section 23.1361 Master Switch Arrangementt

To harmonize with the JAR this proposal would revise § 23.1361(c) by making an editorial change to remove the last two words of the paragraph that read "in flight." This change will not alter the meaning of the requirement.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1365 Electrical Cables and Equipment

This proposal would revise § 23.1365(b) and would add three new paragraphs.

Section 23.1365(b) would be revised in relation to proposed new § 23.1359(c), which would require self-extinguishing insulated electrical wires and cables. The proposed revisions to § 23.1365(b) would remove the reference to electrical cables from the flame resistance requirement since the cables would be required to have self-extinguishing insulation under § 23.1359(c). The proposed revision retains the requirement for electrical cables and associated equipment to not emit dangerous quantities of toxic fumes when they overheat. The phrase "at least flame resistant" in § 23.1365(b) would also be revised by removing the words "at least."

The three paragraphs that would be added by this proposal would require: (1) The identification of electrical cables, terminals, and connectors; (2) the protection of electrical cables from damage by external sources; and (3) installation criteria for cables that cannot be protected by a circuit protection device.

No comments were received on the proposals, and they are adopted as proposed.

Section 23.1383 Taxi and Landing Lights

The landing light requirements of § 23.1383 would be revised by adding taxi lights to this section.

Current § 23.1383(a), which requires the lights to be acceptable, would be deleted because it is unnecessary to state this. The paragraphs would be redesignated accordingly.

Current § 23.1383(b)(3) requires that a landing light must be installed to provide enough light for a night landing. Proposed § 23.1383(c) would revise "night landing" to "night operation" since the requirements would also cover taxiing and parking. Proposed new paragraph (d) would require the lights to be installed so that they do not cause a fire hazard.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1401 Anticollision Light System

This proposal would revise § 23.1401 to require the installation of an anticollision light system on all part 23 airplanes.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1413 Safety Belts and Harnesses

The proposals in the notice did not include a revision that would remove this section. However, comments received on the notice proposal for § 23.785 showed that the proposed change, along with the retention of this section could be confusing and, thereby, not accomplish the FAA's intent to clarify the seat requirement.

Section 23.1413 is being removed, and the phrase "with metal-to-metal latching device" is being added to §§ 23.785(b) and 23.785(c) to accomplish the intended clarification identified in this notice. This change will not add a substantive requirement.

Section 23.1431 Electronic Equipment

This proposal would add three new paragraphs to § 23.1431. Proposed new paragraph (c) would provide that airplanes required to be operated by more than one flightcrew member be evaluated to determine if the flightcrew members can converse without difficulty when they are seated at their duty stations. Proposed new paragraph (d) would require installed communication equipment to use "off-on" transmitter switching that will ensure that the transmitter is turned off when it is not being used. Proposed new paragraph (e) would require that, if provisions for communication headsets are provided, the applicant must demonstrate that flightcrew members will receive all warnings when a headset is being used. The

demonstration must be made under actual cockpit noise conditions.

The Air Line Pilots Association (ALPA) submitted the only comment on this proposal. ALPA expressed concern over the cockpit noise conditions that would be used in the determination of compliance with proposed paragraphs (c) and (e).

This notice preamble identified an earlier harmonization consideration to include text in JAR 23 and this proposal that would have required compliance under actual cockpit noise conditions. The preamble explained that this text was not included because it may be misinterpreted and result in demonstrations being conducted under more severe noise conditions than are needed. ALPA understood this explanation to mean that the FAA had made a determination that compliance demonstrations should not be conducted under the actual cockpit noise conditions that exist when the airplane is being operated. ALPA recommends that the FAA re-evaluate its position.

The FAA has reviewed the record of earlier harmonization discussions where the concerns about noise conditions were first considered. During these discussions, which included industry representatives, it was decided that any requirement for testing under noise conditions could be interpreted to require testing under conditions that were more severe than needed. Accordingly, it was decided that such text should not be included in either JAR or part 23. The FAA agreed with the position reached in these discussions; therefore, these proposals did not include any requirements for testing under noise conditions, and the explanation was placed in the notice to identify why such requirements were not included.

Earlier harmonization and this comment make it clear that the proposals, with or without the requirements for testing under noise conditions, may be misinterpreted. ALPA's interpretation that the FAA had determined that the demonstrations of compliance with these requirements should not be conducted under actual cockpit noise conditions, is not correct. The test for compliance with the requirements should be done under the actual noise conditions.

To clarify the conditions under which these evaluations should be conducted, not withstanding earlier harmonization agreements, these two paragraphs are being revised to include the phrase, "under actual cockpit noise conditions when the airplane is being operated."

The proposals for § 23.1431 are adopted with the above-identified revision of paragraphs (c) and (e).

Section 23.1435 Hydraulic Systems

Since the adoption of Amendment No. 23–43 (58 FR 18958, April 9, 1993), the FAA has received questions about the installation of hydraulic accumulators that are permitted by § 23.1435(c). These questions have shown that applicants find § 23.1435(c) difficult to understand. The notice proposed a revision of § 23.1435(c) to clarify the type and size of a hydraulic accumulator or reservoir that may be installed on the engine side of any firewall.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1447 Equipment Standards for Oxygen Dispensing Units

If radio equipment is installed, proposed new § 23.1447(a)(4) would require that flightcrew oxygen dispensing units be designed to allow the use of communication equipment when oxygen is being used.

Revisions to § 23.1447(d) would require the flightcrew oxygen dispensing units to either be the quick donning type or be automatically presented before the cabin pressure altitude exceeds 15,000 feet, if the airplane is certificated for operation above 25,000 feet. The passenger oxygen requirements of former paragraph (e) and (e)(1) have not been revised, but are now contained in new paragraph (e). Proposed paragraph (d) would be revised to provide the flightcrew and the airplane passengers the same level of safety as required by other airworthiness standards (14 CFR part 25). This proposed revision is also consistent with the proposed revision of § 23.841.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1451 Fire Protection for Oxygen Equipment

This proposed new section would specify fire protection for oxygen equipment installations. Section 23.1451(a) and (b) would, respectively, prohibit the installation of oxygen equipment in designated fire zones and require that oxygen system components be protected from the heat from designated fire zones. Proposed § 23.1451(c) would require oxygen equipment and lines to be installed so that escaping oxygen cannot come in contact with grease, fluids, or vapors that may be present.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1453 Protection of Oxygen Equipment From Rupture

Proposed new § 23.1453 would clarify the rupture protection needed for oxygen system installation. Rupture protection for oxygen systems is currently required by the application of the structure load requirements of part 23. The addition of § 23.1453(a) would clarify the application of these load requirements and would identify the need to consider maximum temperatures and pressures that may be present. Section 23.1453(b) would identify the protection to be provided for high pressure oxygen sources and the pressure lines that connect such sources to the oxygen system shutoff valves.

The comments received on this proposal from the JAA and the CAA noted that the word "high" in paragraph (b) could lead to confusion and require interpretation. Accordingly, they suggested that the words "High pressure oxygen sources" be revised to read as follows: "Oxygen pressure sources." This is the same text that is used in JAR 23.

The FAA agrees with the suggested wording change. When the proposal was originally drafted, the FAA was considering the oxygen source side of the oxygen regulator, the high pressure side, and the passenger dispensing side of the regulator, the low pressure side; thus, the word "high" was used.

The suggested change will not alter the requirement's applicability and will be more clearly understood. It is also noted that the suggested text change will more closely align with the same requirement in § 25.1453. Section 23.1453 is changed by revising the first four words of proposed paragraph (b) to read, "Oxygen pressure sources."

This section is adopted with the above change.

Section 23.1461 Equipment Containing High Energy Rotors

This proposal would revise paragraph (a) of this section to clarify that the requirements apply to high energy rotors included in an auxiliary power unit (APU).

One comment was received on this proposal. The JAA and the CAA noted that the JAA does not agree that the requirements of this section are applicable to APU's. They suggest that the proposed changes to paragraph (a) not be adopted.

In the preamble of the notice, the FAA identified policy issued after this

section was adopted. That policy indicated that the section was applicable to "equipment such as APU's and constant speed drives," but this policy was not widely distributed to all FAA offices. The proposal in the notice does not alter the policy applicability, but it does clarify the policy.

Removing the proposed change would not alter the situation. The FAA defines "Equipment containing high energy rotors" to include APU's and constant speed drives. In cases where rotor containment has been demonstrated by complying with JAA–APU or FAA TSO C77a, this compliance will be examined by the FAA office responsible for the airplane certification. If it is found that this demonstration also meets the requirements of § 23.1461, it will be accepted for the airplane's compliance.

The proposal for § 23.1461 is adopted as proposed.

Appendix F to Part 23—Test Procedure

This proposal would revise appendix F to provide the procedures needed to test electrical wire to ensure that the wire meets the burn requirements of § 23.1359. It would also add procedures for meeting the 45 degree and 60 degree angle burn test requirement proposed in §§ 23.855(c)(2) and 23.1359(c), respectively. Paragraph (b) would clarify the specimen configuration to be used in the proposed testing procedures.

No comments were received on the proposals, and they are adopted as proposed.

Section 91.205 Powered Civil Aircraft With Standard Category U.S. Airworthiness Certificates: Instrument and Equipment Requirements

Proposed new § 91.205(b)(11) would require that airplanes certificated under § 23.1401 be equipped with an anticollision light system for day visual flight rule (VFR) operations. Day VFR operations are discussed under § 23.1401 of the notice.

No comments were received on the proposed addition to this section, and that addition is adopted as proposed.

Section 91.209 Aircraft Lights

Proposed new § 91.209(b) would require that airplanes equipped with an anticollision light system be operated with the anticollision light system lighted during all types of operations, except when the pilot determines that, because of operating conditions, it would be in the interest of safety to turn the lights off.

One commenter believes that the proposal is unacceptable to aircraft operators. This commenter contends that the midair collision statistics are purely conjectural and that any safety benefits are merely guesswork. The commenter also notes that this change would affect an aircraft's dispatch capability, and questions why an airplane that is perfectly capable of being flown should be grounded from daytime flight because something, such as a lamp, is defective.

The FAA agrees that there will be incidents where an airplane will be temporarily grounded from daylight operations until a failure in the light system can be repaired. However, the additional safety cue provided to pilots by operating anticollision light systems will outweigh the cost of maintaining the light system.

The proposed revision of § 91.209 is adopted as proposed.

Regulatory Evaluation, Regulatory Flexibility Determination, and Trade Impact Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that Federal agencies promulgate new regulations or modify existing regulations only if the potential benefits to society justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that this rule: (1) Will generate benefits exceeding its costs and is "significant" as defined in the Executive Order 12866; (2) is "significant" as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Regulatory Evaluation Summary

This section summarizes the costs and benefits of each provision of the final rule. Many of the provisions in the final rule will impose either no cost or a negligible cost. Such provisions are typically administrative, editorial, clarifying, relieving, or conforming in nature. In addition, the FAA holds that certain provisions have a potential safety benefit that can be achieved with no incremental cost, due primarily to the fact that this rule will apply to future certificated airplanes and retrofitting will not be required. All provisions of the final rule, including those with no or negligible costs, are summarized below. Only those provisions with non-negligible costs are further evaluated in the section that follows. It should be noted that the various cost impacts are not additive since the individual provisions often apply to different airplane types included under part 23. The reader is directed to the full regulatory evaluation in the docket for additional information.

Section	Incremental cost	Benefit
Section 23.677 Trim systems	Negligible	Safety.
Section 23.691 Artificial stall barrier system	None	Administrative.
Section 23.697 Wing flap controls	$480 per certification and $100 per airplane for affected airplanes.	Nominal safety and relief.
Section 23.701 Flap interconnection	None	Clarification.
Section 23.703 Takeoff warning system	$240 per certification for evaluation. Where necessary, $5,120 per certification, $1,000 per airplane and $100 per year.	Nominal safety and relief.
Section 23.723 Shock absorption tests	None	Editorial.
Section 23.729 Landing gear extension and retraction system.	¶ (e). None	Clarification.
	¶ (g). Negligible, general practice	Minor; general practice.
Section 23.735 Brakes	¶ (a). None	Editorial clarification.
	¶ (c). None	Administrative.
	¶ (e). $240 per certification	Minor safety.
Section 23.745 Nose/Tail wheel steering	None	Minor. Avoids special conditions.
Section 23.775 Windshields and windows	¶ (a). None	Relieving.
	¶ (c). None	Clarification.

Section	Incremental cost	Benefit
	¶ (h). Up to $350,000 per certification	Safety.
Section 23.783 Doors	¶ (b). None	Minor safety.
	¶ (g). $25 per airplane	Safety.
Section 23.785 Seats, births, litters, safety belts and shoulder harnesses.	None	Editorial organization.
Section 23.787 Baggage and cargo compartments.	¶ (a)$1 per airplane	Minor safety.
	¶ (b). $60 per certification and up to $100 per airplane.	Safety.
	¶ (c). None	Clarification.
Section 23.791 Passenger information signs	$60 per clarification, up to $200 per airplane, and a negligible effect on operating costs.	Safety.
Section 23.807 Emergency exists	¶ (a)(4). Expected negligible	Minor safety.
	¶ (b) and (b)(5). None	Clarification and editorial.
	¶ (b)(6). Where chosen, $10,000 per certification and $500 per airplane.	Safety.
Section 23.841 Pressurized cabins	$1,000 per certification and $2,000 per airplane.	Safety.
Section 23.853 Passenger and crew compartment interiors.	None	Editorial.
Section 23.855 Cargo and baggage compartment fire protection.	¶ (a). Less than $40 per airplane	Minor safety.
	¶ (b). Less than $200 per airplane	Safety.
	¶ (c). Potentially as high as $1,800 per certification, $4,550 per airplane, and $100 per year.	Safety.
Section 23.867 Electrical bonding and protection against lightning and static electricity.	None	Editorial.
Section 23.1303 Flight and navigation instruments.	Introduction. None	Clarification.
	¶ (d). Negligible	Safety.
	¶ (e)(2). None	Minor safety.
	¶ (f). None	Minor safety.
	¶ (g)(1). Up to $2,000 per airplane	Safety.
	¶ (g)(2). None	Minor safety.
	¶ (g)(3). Up to $3,600 per certification and $7,000 per airplane.	Safety.
Section 23.1307 Miscellaneous equipment	None	Editorial and conforming.
Section 23.1309 Equipment, systems, and installations.	None	Minor safety.
Section 23.1311 Electronic display instrument systems.	None	Clarifying, editorial, and relieving.
Section 23.1321 Arrangement and visibility	None	Minor safety.
Section 23.1323 Airspeed indicating system	None	Minor safety.
Section 23.1325 Static pressure system	None	Relieving.
Section 23.1326 Pitot heat indication system	$2,800 per certification, $1,600 per airplane	Safety.
Section 23.1329 Automatic pilot system	None	Clarifying.
Section 23.1337 Powerplant instruments installation.	Heading and ¶ (b). None	Clarifying, relieving.
	¶ (b)(4). Negligible	Safety.
Section 23.1351 General	¶ (b). None	Administrative.
	¶ (c)(3). None	Clarifying.
	¶ (f). None	Minor safety.
Section 23.1353 Storage battery design and installation.	Where necessary, up to $30 per five years capital, up to $10 per year operating, and $600 per certification.	Safety.
Section 23.1359 Electrical system fire protection.	¶ (a). None	Clarifying emphasis.
	¶ (b). Negligible	Clarifying.
	¶ (c). $240 per certification	Safety.
Section 23.1361 Master switch arrangement	None	Editorial.
Section 23.1365 Electrical cables and equipment.	¶ (b). None	Conforming editorial.
	¶ (d). $4,400 per certification and $100 per airplane.	Safety.
	¶ (e). None	Minor safety.
	¶ (f). Negligible	Minor safety.
Section 23.1383 Taxi and landing lights	None	Editorial update.
Section 23.1401 Anticollision light system	Where necessary, $2,400 per certification and $1,600 per airplane.	Safety.
Section 23.1431 Electronic equipment	¶ (c). Where necessary, up to $1,200 per certification and $1,600 per airplane.	Safety.
	¶ (d). Negligible. Included above	Minor safety.
	¶ (e). None or negligible	Safety.

Section	Incremental cost	Benefit
Section 23.1435 Hydraulic systems	None	Clarifying.
Section 23.1447 Equipment standards for oxygen dispensing units.	¶ (a)(4). Up to $2,000 per airplane	Safety.
	¶'s (d) and (e). None	Minor safety.
Section 23.1451 Fire protection for oxygen equipment.	None	Safety.
Section 23.1453 Protection of oxygen equipment from rupture.	$960 per certification	Safety.
Section 23.1461 Equipment containing high energy rotors.	None	Clarifying.
Appendix F to Part 23—Test Procedure	None. Considered above	Minor safety.
Section 91.205 Powered civil aircraft with standard category U.S. airworthiness certificates: Instrument and equipment requirements.	None	Safety, considered above.
Section 91.209 Aircraft lights	$25 per year per airplane	Safety, considered above.

Evaluation of Provisions With Non-Negligible Projected Costs

This section describes and evaluates those provisions of the rule that are expected to impose costs that are not negligible.

Section 23.697 Wing Flap Controls

New § 23.697(c) provides safety standards for the wing flap control lever installed in airplanes that use wing flap settings other than fully retracted when showing compliance with § 23.145. The FAA estimates that an aerospace engineer could design the flap control lever to meet the requirement in 8 hours at a burdened rate of $60 per hour, totalling $480 per certification. The control lever itself would impose an incremental cost, including installation, of approximately $100 per airplane.

The nominal benefits of this provision will derive from the increased safety afforded the pilot in positively selecting the proper flap setting to maintain longitudinal control. In fact, if a flap position other than fully retracted were needed to maintain longitudinal control: (1) That position would be necessary to prevent an unsafe condition, (2) the airplane would not be certificated under that design, and (3) the airplane would have to be redesigned so that intermediate flap positions would not be needed for control. Paragraph (c) will allow the identification of an intermediate flap position and the positive means of selecting that position. This alternative would rectify the unsafe condition without requiring the manufacturer to redesign the airplane.

Section 23.703 Takeoff Warning System

This new section requires that a takeoff warning system on some commuter category airplanes. The requirement will apply if a flight evaluation shows that an unsafe takeoff condition would result when lift devices on longitudinal trim devices are set to any position outside the approved takeoff range. If the evaluation shows that no unsafe condition could result at any setting of these devices, a takeoff warning system will not be required. For those airplanes on which a warning system must be installed, the rule will provide requirements for the installation of the system.

The FAA estimates that an evaluation to determine whether a takeoff warning system is needed will cost $240 (4 hours of engineering at a burdened rate of $60 per hour). Where needed, the integration design of a warning system will cost $2,400 (40 hours at $60 per hour). In addition, an incremental 4 hours of flight testing at a cost of $2,720 ($500 per hour for two test pilots and $180 per hour for fuel) will be needed to demonstrate the system's performance. The FAA estimates that the system, including acquisition, wiring, micro switches, and labor, will add approximately $1,000 to the cost of each airplane required to have one. Maintenance of such a system will cost approximately $100 per year.

The nominal benefit of this provision derive from the increased safety provided by the takeoff warning system that would activate whenever lift or longitudinal trim devices are not set within their approved takeoff ranges. If an evaluation showed that positions of the lift or longitudinal trim devices could create an unsafe condition on takeoff, the manufacturer is required, under existing regulations, to redesign the devices so that the unsafe positions could not be obtained. The new section will provide relief by allowing the applicant to install a warning system rather than redesigning the trim device(s).

Section 23.735 Brakes

New § 23.735(e), applicable to commuter category airplanes, requires establishing the minimum rejected takeoff brake kinetic energy capacity rating of each main wheel brake assembly. Based on the operating experience of airplanes used in passenger-carrying operations, existing § 23.45 requires the determination of the accelerate-stop distance for commuter category airplanes. New § 23.735 is needed to ensure that the brakes will perform safely under accelerate-stop conditions.

Under the final rule, manufacturers of commuter airplanes may determine the kinetic energy absorption requirements either through a conservation, rational analysis of the sequence of events expected during a rejected takeoff, or by using the formula in new § 23.735(e)(2). The FAA estimates that the determination will cost $240, based on four hours of engineering at a burdened rate of $60 per hour. The potential benefits of the requirement derive from the added safety that will be provided by establishing beforehand the minimum necessity kinetic energy capacity rating of each main wheel brake assembly under rejected takeoff conditions.

Section 23.775 Windshields and Windows

Introductory text and paragraph (h)(1) are added to require that commuter category windshield panes that are directly in front of the pilots be able to withstand the impact of a two pound bird at maximum approach flap speed. By requiring full protection against the strike of a two-pound bird at approach speed, additional protection will also be provided if the airplane strikes a larger bird or strikes a bird at a higher speed.

New § 23.775(h)(2) further requires the panels of the windshield to be so arranged that, if one is damaged, other panels will remain to provide visibility for continuous safe flight and landing.

The potential cost of § 23.775(h) will vary depending on circumstances of the affected manufacturer. Industry sources estimate that the total nonrecurring cost per certification will range from $250,000 to $350,000, consisting of: (1) Up to $200,000 for a bird strike test article ("bird gun") if the manufacturer does not have one; and (2) up to $150,000 of time and materials cost for the actual testing.

A manufacturer that has a bird strike test article will not incur additional capital test costs. Most manufacturers will incur up to $150,000 in time and materials costs for the actual testing, but even these costs could be mitigated by the existing need of most manufacturers to perform such tests for export sales to JAA member countries.

Industry sources estimate that there will be no identifiable increment in design or tooling costs since the windshield is an integral part of the initial design. Similarly, little or no recurring costs per airplane (incremental materials, installation, or weight) are projected since it is reasonable to assume that the pressure load, as compared to bird strike resistance, will be the controlling factor in windshield design strength.

The benefit of the revision is the incremental protection against bird strikes that would be afforded to commuter category airplanes. The FAA has reviewed International Civil Aviation Organization (ICAO) data on bird strikes that occurred on member country airplanes weighing 19,000 or fewer pounds from 1981 through 1989. These data shows that approximately 550 strikes occurred and that one out of seven hits the windshield. The data show that:

1. Almost 52 percent of the strikes occurred at altitudes of less than 100 feet, and 26.7 percent occurred between 101 and 1000 feet.
2. Eighty-five percent of the strikes occurred at airspeeds of 150 knots or less.
3. Where bird types were reported, 27.6 percent of strikes involved small birds and 58.6 involved medium size birds (2 pounds or less).
4. Incidents where the airplane was damaged showed that 16.9 percent resulted from small bird strikes and 64 percent resulted from medium size bird strikes.

These data show that most bird strikes occur at takeoff and landing airspeeds, and that birds weighing two pounds or less are struck most often. The standards of the final rule are based on these statistics. Few fatalities and injuries resulted from the bird strikes reported in the ICAO data. Similarly, a review of NTSB accident records between 1982 and 1992 revealed no U.S. accidents resulting from bird strikes to the windshields of commuter category airplanes. As a result, the FAA cannot justify this provision solely on the basis of historical accidents. Instead, the standards are based on the expert recommendations of the ARAC. It is also noted that this standard will be applied to JAA certifications and that U.S. manufacturers wishing to export to JAA countries will be required to meet the standard.

Section 23.783 Doors

New paragraph (g) requires that the locks on lavatory doors, if installed, be designed so that they will not trap occupants. Lavatory door locks used in transport category airplanes (see § 25.783) meet the requirements of this rule. The FAA estimates that the incremental cost of this provision would be no more than $25 per lock. The rule will reduce the likelihood that occupants would be trapped in a locked lavatory, both in emergency and non-emergency situations.

Section 23.787 Baggage and Cargo Compartments

The final rule extends to normal, utility, and acrobatic airplanes the existing commuter requirement to prevent baggage from hazardous shifting. The FAA estimates that an aerospace engineer can analyze the subject loads that would need to be constrained in 1 hour, at a burdened cost of $60 per hour. Tiedowns will cost approximately $50 per baggage compartment, or no more than $100 per airplane. These additional costs apply to normal, utility, and acrobatic airplanes since commuter category airplanes are already subject to the requirement under the existing rule.

The potential benefits of the provision include the reduced likelihood: (1) That baggage compartments would be overloaded, (2) that stowed baggage would shift dangerously, and (3) that essential co-located equipment or wiring would be damaged.

Section 23.791 Passenger Information Signs

This new section requires at least one illuminated sign notifying all passengers when seat belts should be fastened. The requirement will apply only to airplanes where flightcrew members cannot observe occupant seats or where the flightcrew compartment is separated from the passenger compartment. The signs will have to be legible to all seated passengers and to be operable from a crewmember station.

The FAA estimates that an aerospace engineer could design the required sign in 1 hour, at a burdened rate of $60 per hour. The sign would cost approximately $200 per airplane, including parts and installation. Maintenance costs for bulb replacement will be negligible. The weight penalty associated with the light system would also be minor (no more than 2 pounds).

The safety benefits of the change will derive from the increased likelihood that passengers will know when their seat belts should be fastened.

Section 23.807 Emergency Exits

New § 23.807(a)(4) provides the same hazard protection for a person using an emergency exit as that provided by revised § 23.783(b) for a person who uses a passenger door. Emergency exits will not be allowed to be located with respect to a propeller disk or any other hazard in a manner that will endanger persons using that exit.

The FAA holds that no incremental cost will be incurred to meet the standards of the provision for newly certificated airplanes. No comments to the NPRM were received on the potential costs and methods of compliance that manufacturers would choose to comply with this requirement.

Section 23.807(b)(5) revises the current egress requirements for acrobatic airplanes. Section 23.807(b)(6) establishes similar egress standards for utility category airplanes that are certificated for spinning. Industry sources estimate that an aerobatic, quick-release door will cost an incremental $10,000 in engineering design per affected airplane model and an additional $500 per production airplane. Little or no additional weight is expected. These costs will apply only in cases where the manufacturer determines that the marketplace return of a combination type certificate would outweigh the additional costs of design and production.

Section 23.841 Pressurized Cabins

The revision to § 23.841(a) extends the cabin pressure requirements of current paragraph (a), which apply to airplanes certificated for operation above 31,000 feet, to airplanes certificated for operation above 25,000 feet. Current part 25, JAR 25, and proposed JAR 23 include the same requirement. This revision is intended to protect airplane occupants if a malfunction occurs at altitudes where symptoms of hypoxia occur, usually above 25,000 feet.

For airplanes that will be certificated for maximum altitude operation between 25,000 feet and 31,000 feet, the provision requires two additional pressure altitude regulators and associated plumbing. Industry sources estimate that the requirement will cost an incremental $1,000 in engineering design per affected airplane model and $2,000 per production airplane. Any additional weight will be negligible.

The benefits of the proposal derive from the incremental protection against hypoxia afforded to occupants of airplanes certificated for maximum altitudes between 25,000 and 31,000 feet. Due to the increasing use of turbine engines, more part 23 airplanes are likely to be approved for operation above 25,000 feet. In the absence of this rule, an increasing number of occupants would be exposed to the potential for harm in the event of a failure or malfunction of the pressure system on these airplanes.

Section 23.855 Cargo and Baggage Compartment Fire Protection

Paragraph (a) requires all sources of heat within each cargo and baggage compartment that are capable of igniting the compartment contents to be shielded and insulated to prevent such ignition. Existing § 23.787(f) requires that cargo compartment lamps be installed so as to prevent contact between the lamp bulb and cargo. The final rule will clarify and extend this provision to include all sources of heat for baggage as well as cargo compartments.

Lights and (rarely) heaters for pets are typically the only sources of heat located in a baggage or cargo compartment. A wire cage, costing no more than $20, around the heat source would meet these requirements. The FAA estimates that the total cost of compliance per airplane will be no more than $40 in those rare cases where such protection would not have been provided anyway. The benefit of the proposed provision is a reduction in the possibility of fire caused by the ignition of compartment contents by lights or heaters.

Paragraph (b) requires cargo and baggage compartments to be constructed of materials that meet the appropriate provisions of § 23.853(d)(3). Currently these requirements apply to commuter category airplanes and to the materials used in the compartments of these airplanes. The new requirement extends this applicability to the cargo and baggage compartments of all part 23 airplanes. In effect, the new requirement requires materials that are self-extinguishing, rather than flame resistant, as currently required under § 23.787(d).

Information provided by manufacturers shows that materials that meet self-extinguishing flame requirements are available at a slightly higher cost than materials that meet only flame resistant requirements. The FAA conservatively estimates that the incremental costs of complying with § 23.855(b) will be less than $200 per airplane. The safety benefits of this provision will be an increase in cargo and baggage compartment fire protection.

New paragraph (c) adds new fire protection requirements for cargo and baggage compartments for commuter category airplanes. The rule requires one of the following three alternatives:

(1) The compartment must be located where pilots seated at their duty station would easily discover the fire, or the compartment must be equipped with a smoke or fire detector system to provide a warning at the pilot's station. The compartment must also be accessible for fire extinguisher application.

(2) The compartment may be inaccessible, but must be equipped with a fire detector system that provides a warning at the pilot's station, and the compartment must have ceiling and sidewall floor panels constructed of materials that have been subjected to and meet the vertical self-extinguishing tests of appendix F to part 23.

(3) The compartment must be constructed and sealed to contain any fire.

The FAA cannot predict the designs of cargo and baggage compartments for future airplanes. If manufacturers choose to use smoke detectors, however, no more than 2 smoke detectors would be required per airplane. An aerospace engineer can design the smoke detector system in approximately 30 hours at a burdened rate of $60 per hour, for a total cost of $1,800 per certification. Two detectors, including wiring and installation, are estimated to cost about $4,550. Maintenance costs for the smoke detectors will cost approximately $100 per year.

Materials that meet the vertical self-extinguishing tests of appendix F (alternative 2 in the discussion above) will result in incremental costs of less than $200 per airplane. For alternative 3, the FAA estimates that it will cost $500 to construct a sealed compartment, or a total of $1,000 for 2 compartments, if the manufacturer chooses that method of complying with the proposed requirement.

Irrespective of the individual compliance method, the benefits of the provision will come from the increased likelihood that a cargo or baggage compartment fire could either be extinguished or contained.

Section 23.1303 Flight and Navigation Instruments

Revised § 23.1303(d) adds the requirement for a free air temperature indicator for those airplanes whose performance must be based on weight, altitude, and temperature. This requirement already applies to turbine-powered airplanes. The final rule extends the requirement to reciprocating engine-powered airplanes of more than 6,000 pounds. Manufacturers currently include free air temperature indicators as standard equipment on all part 23 airplanes, and would continue to do so in future designs in the absence of the requirement. Since the provision formalizes current practice, any costs would be negligible. Benefits will accrue from the requirement that the information necessary to determine the performance envelope of the airplane be available to the pilot.

New § 23.1303(g) identifies specific instruments, and the limits of those instruments, required for commuter category airplanes. New § 23.1303(g)(1) states that if airspeed limitations vary with altitude, the airspeed indicators must show the variation of the maximum operating limit speed (V_{MO}) with altitude. Industry sources indicate that an airspeed indicator with a V_{MO} "pointer" would cost $1,000 more than one without. Since two airspeed indicators are required on commuter airplanes, the incremental cost of this requirement will be $2,000 per commuter category airplane produced. The potential safety benefit of the requirement derives from the requirement that the information necessary to determine the maximum operating limit speed be available at all altitudes.

New § 23.1303(g)(3) requires (for commuter category IFR-approved airplanes with passenger seating configurations of 10 or more) a third, independent, attitude indicator (AI). Industry sources estimate that an aerospace engineer can design and document a third attitude instrument system in 100 hours at a burdened rate of $60 per hour, totalling $6,000 per certification. It is estimated that an AI will cost approximately $8,000, including a standby battery, and that the installation will cost $2,200 for 40 hours of a mechanic's time at a burdened rate of $55 per hour. However, § 23.1311(a)(5), discussed below, deletes the requirement for a rate-of-turn indicator when an independent attitude indicator is installed. The costs associated with a rate-of-turn indicator include: 40 hours of design and documentation costs, $1,000 per indicator, and 40 hours of installation. Therefore, the *incremental* cost for an IFR-approved airplane with a passenger seating capacity of 10 or more will be $3,600 per certification for 60 hours of engineering (100 hours for the AI, minus 40 hours for the rate-of-turn indicator); and $7,000 per airplane for the instrument ($8,000 for the AI, minus $1,000 for the rate-of-turn indicator); and no additional cost for the installation (40 hours for the AI, minus 40 hours for the rate-of-turn indicator).

The potential safety benefits of a third, independent attitude indicator derive from the reduced potential for erroneous attitude information. Currently, two attitude instruments are required for a ten passenger, IFR-approved commuter category airplane. Service experience has shown that a failure can occur whereby an attitude indicator can appear to be working when it is actually providing incorrect information. During such a failure, pilots may have difficulty determining which instrument to follow, and hazardous flight attitudes may result. A third attitude indicator will allow the crew to retain reliable attitude information even in cases where one instrument is not operating correctly.

Section 23.1326 Pitot Heat Indication System

New § 23.1326 requires the installation of a pitot tube heat indicating system on those airplanes required to be equipped with a heated pitot tube. Heated pitot tubes ensure that moisture will not freeze in the tube and block or partially block the airspeed system:

A pitot heat indicating system, including an in-line current sensor, panel light, and associated wiring, costs approximately $500. According to industry sources, an aerospace engineer can design and document such a system in 20 hours at a burdened rate of $60 per hour, totalling $1,200. A mechanic can install the system in 20 hours at a burdened rate of $55 per hour, totalling $1,100. The estimated non-recurring cost per certification, therefore, will total $2,800 ($1,200 for design, $500 for the certification airplane's indicator, and $1,100 for installation of that indicator). The estimated cost per production airplane will be $1,600 ($500 for the system and $1,100 for installation).

A pitot heat indicating system can advise the pilots of any inoperative heating element in the pitot tube and that subsequent inaccuracies could result. The provision will reduce the likelihood that pilots would rely on inaccurate airspeed information resulting from a blocked or partially blocked pitot tube.

Section 23.1353 Storage Battery Design and Installation

New § 23.1353(h) requires that, in the event of a complete loss of the primary electrical power generating system, airplane battery capacity must be sufficient to supply at least 30 minutes of electrical power to those loads essential to the continued safe flight and landing of the airplane.

In some cases, manufacturers may need to install larger batteries with greater capacities to comply with the requirements. The FAA estimates that the size and capacity of a larger battery will add no more than a few pounds (incremental operating costs of less than $10 per year) and $20 to $30 of additional cost for the battery.

On some airplanes, a "load shedding" procedure, where the pilot would sequentially turn off certain equipment, could be required either in place of or in addition to a larger battery. The procedure would be provided in the pilot's operating handbook (POH). The FAA estimates that an aerospace engineer can establish a load shedding procedure in 10 hours at a burdened rate of $60 per hour, for a total cost of $600 per affected certification.

Irrespective of the method of compliance, the provision will increase the likelihood that sufficient electrical power will be available to safely land the airplane in the event of an electrical generating system failure.

Section 23.1359 Electrical System Fire Protection

Revised § 23.1359(c) provides burn criteria for electrical wire and cables. A revision to appendix F to part 23 adds appropriate wire testing criteria. Demonstrating and documenting that electrical wires and cables meet the requirements of this provision will take an aerospace engineer approximately 4 hours at a burdened rate of $60 per hour, for a total cost of $240 per certification. The requirement and testing criteria increase the likelihood that necessary wires and cables will continue to function in the event of a fire.

Section 23.1365 Electrical Cables and Equipment

Section 23.1365(d) adds a requirement for the identification of electrical cables, terminals, and connectors. Different colored wires and/or tags could be used in conjunction with a wiring diagram to identify the cables, terminals, and connectors. The FAA estimates that a draftsman can design and document this identification system in 80 hours at a burdened rate of $55 per hour, a total of $4,400 per certification. Incremental installation costs will be approximately $100 per airplane.

The increasing use of electrical systems in part 23 airplanes has added to the difficulty of wiring installation. The requirement for cable identification will increase the likelihood that cables are correctly installed initially and will be correctly reinstalled as part of later maintenance or modification.

Section 23.1401 Anticollision Light System

The final rule revises § 13.1401 to require the installation of an anticollision light system on all part 23 airplanes. Existing § 23.1401 requires an anticollision light system only if certification for night operations is requested. Many manufacturers currently install anticollision light systems on all airplanes they produce.

Industry sources estimate that an aerospace engineer can design and document an anticollision light system in 40 hours at a burdened rate of $60 per hour, for a total of $2,400 per affected certification. The system will cost $500 and will take a mechanic approximately 20 hours to install at a burdened rate of $55 per hour, a total of $1,600 per affected airplane ($500 + (20 hours × $55 per hour) = $1,600). The weight penalty will be negligible. Only those future models that would not otherwise have anticollision light systems will actually incur incremental costs as a result of this provision.

The increasing speeds resulting from improved technology, especially turbine engines, warrant the use of anticollision lights for day operations as well as night. The reports of midair collisions for 1984 through 1990 document that 269 aircraft were involved in midair collisions in which 108 fatalities occurred. After data were filtered (to account for night operations, IFR conditions, and aircraft not affected by this rule), 167 airplanes were involved in collisions that occurred in daytime VFR conditions. The reports do not reveal whether the airplanes were using anticollision lights at the time of the accidents.

The FAA holds that requiring the installation of anticollision lights on all newly certificated airplanes, and requiring their use during day operations (revised § 91.209), will reduce the number of daylight midair accidents. Even if the requirement were

only 25 percent effective, the accident history indicates that approximately 17 fatalities could be avoided during a similar 6-year period.

Section 23.1431 Electronic Equipment

The final rule adds three new paragraphs to § 23.1431. New paragraph (c) states that airplanes required to be operated by more than one flightcrew member must be evaluated to determine if the flightcrew members, when they are seated at their duty stations, can converse without difficulty under the actual cockpit noise conditions when the airplane is being operated. If the required evaluation shows that the noise level does not impair conversation, no further action would be required. If the evaluation shows that conversation would be difficult, however, an intercommunication system will be required.

The FAA estimates that an evaluation of cockpit noise could be conducted in conjunction with other certification testing, therefore, no incremental costs are associated with the evaluation. An aerospace engineer could design an intercom system in 20 hours at a burdened rate of $60 per hour, for a total of $1,200 per affected certification. The FAA estimates that the addition of an intercom system will cost approximately $500 per airplane. A mechanic could install the system in approximately 20 hours at a burdened rate of $55 per hour. The total incremental production cost for an affected airplane, therefore, will be $1,600 ($500 + (20 hours × $55 per hour)).

New paragraph (d) requires that, if the communication equipment that is installed includes any means of switching from the receive mode to the transmit mode, the equipment must use "off-on" transmitter switching that turns the transmitter off when it is not being used. The cost of this feature is included in the $500 cost of the intercom, described above.

NTSB investigations of at least two commuter accidents determined that excessive cockpit noise levels probably adversely affected the ability of the flight crews to communicate. (Bar Harbor Airlines, Flight 1808, August 25, 1985, 8 fatalities; and Henson Airlines, Flight 1517, September 23, 1985, 14 fatalities.) As a result, the Board recommended (Recommendation No. A–86–113) that the FAA require the installation and use of crew interphone systems in the cockpit of airplanes operating under part 135. The benefit of the new requirement derives from the increased likelihood that flightcrew members will be able to converse without difficulty and that the safety hazard of miscommunication will be reduced.

Section 23.1447 Equipment Standards for Oxygen Dispensing Units

New § 23.1447(a)(4) requires that if radio equipment is installed in an airplane, flightcrew oxygen dispensing units must be designed to allow use of the communication equipment when oxygen is being used.

Industry sources estimate that an oxygen mask with an integral microphone costs $1,000 more than an oxygen mask without a microphone. The costs per affected airplane, therefore, will be $2,000 for two masks. The benefit of the requirement is that it will allow flightcrew communication under all operating conditions, including operations when oxygen is required.

Section 23.1453 Protection of Oxygen Equipment From Rupture

This new section clarifies the rupture protection needed for oxygen system installation. Rupture protection for oxygen systems is currently required by the application of the structures load requirements of part 23. The addition of § 23.1453(a) clarifies the application of these load requirements and identifies the need to consider maximum temperatures and pressures that may be present. Section 23.1453(b) identifies the protection to be provided for oxygen pressure sources and the lines that connect these sources to the oxygen system shutoff valves.

Industry sources estimate that an aerospace engineer could analyze and document the loads on each element of the oxygen system in 16 hours at a burdened rate of $60 per hour, for a total cost of $960. The routing of oxygen pressure sources and lines to protect them from unsafe temperatures and crash landings would be part of an airplane's basic design and will not impose incremental costs.

Section 91.209 Aircraft Lights

New § 91.209(b) requires airplanes equipped with an anticollision light system to operate those lights during all operations, including daytime VFR.

The incremental cost of this provision consists of light bulb replacement. The FAA estimates that a light bulb for an anticollision light system costs approximately $50 and that this provision would necessitate an incremental bulb replacement every two years. Accordingly, the cost is projected to equal $25 per year, per affected operating airplane. The FAA holds that any grounding of an airplane due to a faulty bulb or light system will be rare and quickly corrected. The cost of such grounding will be negligible, when compared with the safety benefits of operating anticollision light systems.

In summary, the FAA holds that the benefits of the rule, though not directly quantifiable, will exceed the expected costs. Each of the provisions, as well as the entire final rule, will be cost beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed or final rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes threshold cost values and small entity size standards for complying with RFA review requirements in FAA rulemaking actions. The Order defines "small entities" in terms of thresholds, "significant economic impact" in terms of annualized costs thresholds, and "substantial number" as a number which is not less than eleven and which is more than one-third of the small entities subject to the proposed or final rule.

Order 2100.14A specifies a size threshold for classification as a small manufacturer as 75 or fewer employees. There are approximately 8 small part 23 airplane manufacturers. The annualized cost threshold for significant impact, expressed in 1995 dollars, is $18,700. No part 23 airplane manufacturer's annualized cost will exceed this cost threshold.

Order 2100.14A specifies a size threshold for classification as a small operator as 9 aircraft owned. The annualized cost threshold for significant impact, expressed in 1995 dollars, are $67,000 for air carriers whose fleet has a seating capacity of fewer than 60 and $4,700 for an unscheduled operator. No part 23 airplane operator's annualized cost will exceed this cost threshold.

The amendments in the final rule, therefore, will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The rule will not constitute a barrier to international trade, including the export of U.S. airplanes to foreign countries and the import of foreign airplanes into the United States. Instead, the systems airworthiness standards have been harmonized with those of the Joint Aviation Authorities and will result in cost savings to manufacturers in the United States and in JAA member countries.

Federalism Implications

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA is revising the airworthiness standards to provide systems and equipment standards for normal, utility, acrobatic, and commuter category airplanes that are substantively the same as the standards that will be proposed for the same category airplanes by the Joint Aviation Authorities in Europe. The revision will reduce the regulatory burden on the United States and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in the United States or in a country that is a member of the JAA.

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation, the FAA has determined that this regulation is significant under Executive Order 12866. In addition, the FAA certifies that this regulation, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This final rule is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A regulatory evaluation of the rule has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

14 CFR Part 91

Aircraft, Aviation safety, Safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 23 and 91 as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES.

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

2. Section 23.677(a) is revised to read as follows:

§ 23.677 Trim systems.

(a) Proper precautions must be taken to prevent inadvertent, improper, or abrupt trim tab operation. There must be means near the trim control to indicate to the pilot the direction of trim control movement relative to airplane motion. In addition, there must be means to indicate to the pilot the position of the trim device with respect to both the range of adjustment and, in the case of lateral and directional trim, the neutral position. This means must be visible to the pilot and must be located and designed to prevent confusion. The pitch trim indicator must be clearly marked with a position or range within which it has been demonstrated that take-off is safe for all center of gravity positions and each flap position approved for takeoff.

* * * * *

3. A new § 23.691 is added to read as follows:

§ 23.691 Artificial stall barrier system.

If the function of an artificial stall barrier, for example, stick pusher, is used to show compliance with § 23.201(c), the system must comply with the following:

(a) With the system adjusted for operation, the plus and minus airspeeds at which downward pitching control will be provided must be established.

(b) Considering the plus and minus airspeed tolerances established by paragraph (a) of this section, an airspeed must be selected for the activation of the downward pitching control that provides a safe margin above any airspeed at which any unsatisfactory stall characteristics occur.

(c) In addition to the stall warning required § 23.07, a warning that is clearly distinguishable to the pilot under all expected flight conditions without requiring the pilot's attention, must be provided for faults that would prevent the system from providing the required pitching motion.

(d) Each system must be designed so that the artificial stall barrier can be quickly and positively disengaged by the pilots to prevent unwanted downward pitching of the airplane by a quick release (emergency) control that meets the requirements of § 23.1329(b).

(e) A preflight check of the complete system must be established and the procedure for this check made available in the Airplane Flight Manual (AFM). Preflight checks that are critical to the safety of the airplane must be included in the limitations section of the AFM.

(f) For those airplanes whose design includes an autopilot system:

(1) A quick release (emergency) control installed in accordance with § 23.1329(b) may be used to meet the requirements of paragraph (d), of this section, and

(2) The pitch servo for that system may be used to provide the stall downward pitching motion.

(g) In showing compliance with § 23.1309, the system must be evaluated to determine the effect that any announced or unannounced failure may have on the continued safe flight and landing of the airplane or the ability of the crew to cope with any adverse conditions that may result from such failures. This evaluation must consider the hazards that would result from the airplane's flight characteristics if the system was not provided, and the hazard that may result from unwanted downward pitching motion, which could result from a failure at airspeeds above the selected stall speed.

4. Section 23.697(c) is added to read as follows:

§ 23.697 Wing flap controls

* * * * *

(c) If compliance with § 23.145(b)(3) necessitates wing flap retraction to positions that are not fully retracted, the wing flap control lever settings corresponding to those positions must be positively located such that a definite change of direction of movement of the lever is necessary to select settings beyond those settings.

5. Section 23.701 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 23.701 Flap interconnection.

(a) * * *

(1) Be synchronized by a mechanical interconnection between the movable flap surfaces that is independent of the flap drive system; or by an approved equivalent means; or

(2) Be designed so that the occurrence of any failure of the flap system that would result in an unsafe flight

characteristic of the airplane is extremely improbable; or

* * * * *

6. A new § 23.703 is added to read as follows:

§ 23.703 Takeoff warning system.

For commuter category airplanes, unless it can be shown that a lift or longitudinal trim device that affects the takeoff performance of the aircraft would not give an unsafe takeoff configuration when selection out of an approved takeoff position, a takeoff warning system must be installed and meet the following requirements:

(a) The system must provide to the pilots an aural warning that is automatically activated during the initial portion of the takeoff role if the airplane is in a configuration that would not allow a safe takeoff. The warning must continue until—

(1) The configuration is changed to allow safe takeoff, or

(2) Action is taken by the pilot to abandon the takeoff roll.

(b) The means used to activate the system must function properly for all authorized takeoff power settings and procedures and throughout the ranges of takeoff weights, altitudes, and temperatures for which certification is requested.

§ 23.723 [Amended]

7. Section 23.723(b) is amended by changing the word "reserved" to "reserve".

8. Section 23.729 is amended by revising paragraph (e) and by adding a new paragraph (g) to read as follows:

§ 23.729 Landing gear extension and retraction system.

* * * * *

(e) *Position indicator.* If a retractable landing gear is used, there must be a landing gear position indicator (as well as necessary switches to actuate the indicator) or other means to inform the pilot that each gear is secured in the extended (or retracted) position. If switches are used, they must be located and coupled to the landing gear mechanical system in a manner that prevents an erroneous indication of either "down and locked" if each gear is not in the fully extended position, or "up and locked" if each landing gear is not in the fully retracted position.

* * * * *

(g) *Equipment located in the landing gear bay.* If the landing gear bay is used as the location for equipment other than the landing gear, that equipment must be designed and installed to minimize damage from items such as a tire burst, or rocks, water, and slush that may enter the landing gear bay.

9. Section 23.735 is amended by redesignating paragraph (c) as paragraph (d), by revising the introductory text of paragraph (a), and by adding new paragraphs (c) and (e) to read as follows:

§ 23.735 Brakes.

(a) Brakes must be provided. The landing brake kinetic energy capacity rating of each main wheel brake assembly must not be less than the kinetic energy absorption requirements determined under either of the following methods:

* * * * *

(c) During the landing distance determination required by § 23.75, the pressure on the wheel braking system must not exceed the pressure specified by the brake manufacturer.

* * * * *

(e) In addition, for commuter category airplanes, the rejected takeoff brake kinetic energy capacity rating of each main wheel brake assembly must not be less than the kinetic energy absorption requirements determined under either of the following methods—

(1) The brake kinetic energy absorption requirements must be based on a conservative rational analysis of the sequence of events expected during a rejected takeoff at the design takeoff weight.

(2) Instead of a rational analysis, the kinetic energy absorption requirements for each main wheel brake assembly may be derived from the following formula—

$$KE = 0.0443\ WV^2N$$

where,

KE=Kinetic energy per wheel (ft.-lbs.);
W=Design takeoff weight (lbs.);
V=Ground speed, in knots, associated with the maximum value of V_1 selected in accordance with § 23.51(c)(1);
N=Number of main wheels with brakes.

10. A new § 23.745 is added to read as follows:

§ 23.745 Nose/tail wheel steering.

(a) If nose/tail wheel steering is installed, it must be demonstrated that its use does not require exceptional pilot skill during takeoff and landing, in crosswinds, or in the event of an engine failure; or its use must be limited to low speed maneuvering.

(b) Movement of the pilot's steering control must not interfere with the retraction or extension of the landing gear.

11. Section 23.775 is amended by revising paragraphs (a) and (c); by redesignating paragraphs (d) and (e) as paragraphs (e) and (d); by revising the newly designated paragraph (e); and by adding a new paragraph (h) to read as follows:

§ 23.775 Windshields and windows.

(a) The internal panels of windshields and windows must be constructed of a nonsplintering material, such as nonsplintering safety glass.

* * * * *

(c) On pressurized airplanes, if certification for operation up to and including 25,000 feet is requested, an enclosure canopy including a representative part of the installation must be subjected to special tests to account for the combined effects of continuous and cyclic pressurization loadings and flight loads, or compliance with the fail-safe requirements of paragraph (d) of this section must be shown.

* * * * *

(e) The windshield and side windows forward of the pilot's back when the pilot is seated in the normal flight position must have a luminous transmittance value of not less than 70 percent.

* * * * *

(h) In addition, for commuter category airplanes, the following applies:

(1) Windshield panes directly in front of the pilots in the normal conduct of their duties, and the supporting structures for these panes, must withstand, without penetration, the impact of a two-pound bird when the velocity of the airplane (relative to the bird along the airplane's flight path) is equal to the airplane's maximum approach flap speed.

(2) The windshield panels in front of the pilots must be arranged so that, assuming the loss of vision through any one panel, one or more panels remain available for use by a pilot seated at a pilot station to permit continued safe flight and landing.

12. Section 23.783 is amended by revising paragraph (b) and by adding a new paragraph (g) to read as follows:

§ 23.783 Doors.

* * * * *

(b) Passenger doors must not be located with respect to any propeller disk or any other potential hazard so as to endanger persons using the door.

* * * * *

(g) If lavatory doors are installed, they must be designed to preclude an occupant from becoming trapped inside the lavatory. If a locking mechanism is installed, it must be capable of being unlocked from outside of the lavatory.

13. Section 23.785 is amended by adding introductory text and by revising paragraphs (b) and (c) to read as follows:

§ 23.785 Seats, berths, litters, safety belts and shoulder harnesses.

There must be a seat or berth for each occupant that meets the following:

* * * * *

(b) Each forward-facing or aft-facing seat/restraint system in normal, utility, or acrobatic category airplanes must consist of a seat, a safety belt, and a shoulder harness, with a metal-to-metal latching device, that are designed to provide the occupant protection provisions required in § 23.562. Other seat orientations must provide the same level of occupant protection as a forward-facing or aft-facing seat with a safety belt and a shoulder harness, and must provide the protection provisions of § 23.562.

(c) For commuter category airplanes, each seat and the supporting structure must be designed for occupants weighing at least 170 pounds when subjected to the inertia loads resulting from the ultimate static load factors prescribed in § 23.561(b)(2) of this part. Each occupant must be protected from serious head injury when subjected to the inertia loads resulting from these load factors by a safety belt and shoulder harness, with a metal-to-metal latching device, for the front seats and a safety belt, or a safety belt and shoulder harness, with a metal-to-metal latching device, for each seat other than the front seats.

* * * * *

14. Section 23.787 is revised to read as follows:

§ 23.787 Baggage and cargo compartments.

(a) Each baggage and cargo compartment must:

(1) Be designed for its placarded maximum weight of contents and for the critical load distributions at the appropriate maximum load factors corresponding to the flight and ground load conditions of this part.

(2) Have means to prevent the contents of any compartment from becoming a hazard by shifting, and to protect any controls, wiring, lines, equipment or accessories whose damage or failure would affect safe operations.

(3) Have a means to protect occupants from injury by the contents of any compartment, located aft of the occupants and separated by structure, when the ultimate forward inertial load factor is 9g and assuming the maximum allowed baggage or cargo weight for the compartment.

(b) Designs that provide for baggage or cargo to be carried in the same compartment as passengers must have a means to protect the occupants from injury when the baggage or cargo is subjected to the inertial loads resulting from the ultimate static load factors of § 23.561(b)(3), assuming the maximum allowed baggage or cargo weight for the compartment.

(c) For airplanes that are used only for the carriage of cargo, the flightcrew emergency exits must meet the requirements of § 23.807 under any cargo loading conditions.

15. A new § 23.791 is added to read as follows:

§ 23.791 Passenger information signs.

For those airplanes in which the flightcrew members cannot observe the other occupants' seats or where the flightcrew members' compartment is separated from the passenger compartment, there must be at least one illuminated sign (using either letters or symbols) notifying all passengers when seat belts should be fastened. Signs that notify when seat belts should be fastened must:

(a) When illuminated, be legible to each person seated in the passenger compartment under all probable lighting conditions; and

(b) Be installed so that a flightcrew member can, when seated at the flightcrew member's station, turn the illumination on and off.

16. Section 23.807 is amended by revising paragraphs (b) introductory text and (b)(5) and by adding new paragraphs (a)(4) and (b)(6) to read as follows:

§ 23.807 Emergency exits.

(a) * * *

(4) Emergency exits must not be located with respect to any propeller disk or any other potential hazard so as to endanger persons using that exit.

(b) *Type and operation.* Emergency exits must be movable windows, panels, canopies, or external doors, openable from both inside and outside the airplane, that provide a clear and unobstructed opening large enough to admit a 19-by-26-inch ellipse. Auxiliary locking devices used to secure the airplane must be designed to be overridden by the normal internal opening means. The inside handles of emergency exits that open outward must be adequately protected against inadvertent operation. In addition, each emergency exit must—

* * * * *

(5) In the case of acrobatic category airplanes, allow each occupant to abandon the airplane at any speed between V_{SO} and V_D; and

(6) In the case of utility category airplanes certificated for spinning, allow each occupant to abandon the airplane at the highest speed likely to be achieved in the maneuver for which the airplane is certificated.

* * * * *

§ 23.841 [Amended]

17. Section 23.841 is amended in paragraph (a) by removing the number "31,000" and replacing it with "25,000".

18. Section 23,853 is amended by revising the section heading to read as follows:

§ 23.853 Passenger and crew compartment interiors.

* * * * *

19. A new § 23.855 is added to read as follows:

§ 23.855 Cargo and baggage compartment fire protection.

(a) Sources of heat within each cargo and baggage compartment that are capable of igniting the compartment contents must be shielded and insulated to prevent such ignition.

(b) Each cargo and baggage compartment must be constructed of materials that meet the appropriate provisions of § 23.853(d)(3).

(c) In addition, for commuter category airplanes, each cargo and baggage compartment must:

(1) Be located where the presence of a fire would be easily discovered by the pilots when seated at their duty station, or it must be equipped with a smoke or fire detector system to give a warning at the pilots' station, and provide sufficient access to enable a pilot to effectively reach any part of the compartment with the contents of a hand held fire extinguisher, or

(2) Be equipped with a smoke or fire detector system to give a warning at the pilots' station and have ceiling and sidewall liners and floor panels constructed of materials that have been subjected to and meet the 45 degree angle test of Appendix F of this part. The flame may not penetrate (pass through) the material during application of the flame or subsequent to its removal. The average flame time after removal of the flame source may not exceed 15 seconds, and the average glow time may not exceed 10 seconds. The compartment must be constructed to provide fire protection that is not less than that required of its individual panels; or

(3) Be constructed and sealed to contain any fire within the compartment.

20. Section 23.867 is amended by revising the heading that precedes the section and the section heading to read as follows:

Electrical Bonding and Lighting Protection

§ 23.867 Electrical bonding and protection against lightning and static electricity.

* * * * *

21. Section 23.1303 is amended by revising the introductory text; by amending paragraph (d) by inserting the words "reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight and" between the words "For" and "turbine"; by amending paragraph (e) concluding text by adding a line to read, "The lower limit of the warning device must be set to minimize nuisance warning;" at the end of the paragraph and by adding new paragraphs (f) and (g) to read as follows:

§ 23.1303 Flight and navigation instruments.

The following are the minimum required flight and navigation instruments:

* * * * *

(f) When an attitude display is installed, the instrument design must not provide any means, accessible to the flightcrew, of adjusting the relative positions of the attitude reference symbol and the horizon line beyond that necessary for parallax correction.

(g) In addition, for commuter category airplanes:

(1) If airspeed limitations vary with altitude, the airspeed indicator must have a maximum allowable airspeed indicator showing the variation of V_{MO} with altitude.

(2) The altimeter must be a sensitive type.

(3) Having a passenger seating configuration of 10 or more, excluding the pilot's seats and that are approved for IFR operations, a third attitude instrument must be provided that:

(i) Is powered from a source independent of the electrical generating system;

(ii) Continues reliable operation for a minimum of 30 minutes after total failure of the electrical generating system;

(iii) Operates independently of any other attitude indicating system;

(iv) Is operative without selection after total failure of the electrical generating system;

(v) Is located on the instrument panel in a position acceptable to the Administrator that will make it plainly visible to and usable by any pilot at the pilot's station; and

(vi) Is appropriately lighted during all phases of operation.

§ 23.1307 [Amended]

22. Section 23.1307 is amended by removing paragraphs (a) and (b); and by removing the designation from paragraph (c).

23. Section 23.1309(a)(4) is added to read as follows:

§ 23.1309 Equipment, systems, and installations.

(a) * * *

(4) In a commuter category airplane, must be designed to safeguard against hazards to the airplane in the event of their malfunction or failure.

* * * * *

24. Section 23.1311 is revised to read as follows:

§ 23.1311 Electronic display instrument systems.

(a) Electronic display indicators, including those with features that make isolation and independence between powerplant instrument systems impractical, must:

(1) Meet the arrangement and visibility requirements of § 23.1321.

(2) Be easily legible under all lighting conditions encountered in the cockpit, including direct sunlight, considering the expected electronic display brightness level at the end of an electronic display indictor's useful life. Specific limitations on display system useful life must be contained in the Instructions for Continued Airworthiness required by § 23.1529.

(3) Not inhibit the primary display of attitude, airspeed, altitude, or powerplant parameters needed by any pilot to set power within established limitations, in any normal mode of operation.

(4) Not inhibit the primary display of engine parameters needed by any pilot to properly set or monitor powerplant limitations during the engine starting mode of operation.

(5) Have an independent magnetic direction indicator and either an independent secondary mechanical altimeter, airspeed indicator, and attitude instrument or individual electronic display indicators for the altitude, airspeed, and attitude that are independent from the airplane's primary electrical power system. These secondary instruments may be installed in panel positions that are displaced from the primary positions specified by § 23.1321(d), but must be located where they meet the pilot's visibility requirements of § 23.1321(a).

(6) Incorporate sensory cues for the pilot that are equivalent to those in the instrument being replaced by the electronic display indicators.

(7) Incorporate visual displays of instrument markings, required by §§ 23.1541 through 23.1553, or visual displays that alert the pilot to abnormal operational values or approaches to established limitation values, for each parameter required to be displayed by this part.

(b) The electronic display indicators, including their systems and installations, and considering other airplane systems, must be designed so that one display of information essential for continued safe flight and landing will remain available to the crew, without need for immediate action by any pilot for continued safe operation, after any single failure or probable combination of failures.

(c) As used in this section, "instrument" includes devices that are physically contained in one unit, and devices that are composed of two or more physically separate units or components connected together (such as a remote indicating gyroscopic direction indicator that includes a magnetic sensing element, a gyroscopic unit, an amplifier, and an indicator connected together). As used in this section, "primary" display refers to the display of a parameter that is located in the instrument panel such that the pilot looks at it first when wanting to view that parameter.

§ 23.1321 [Amended]

25. Section 23.1321 is amended by removing the words "certificated for flight under instrument flight rules or of more than 6,000 pounds maximum weight" from paragraph (d) introductory text.

26. Section 23.1323 is amended by removing paragraph (d); redesignating paragraph (e) as (d) and paragraph (c) as (e); by removing the words "in flight and" from the first sentence of redesignated paragraph (e); and by adding new paragraphs (c) and (f) to read as follows:

§ 23.1323 Airspeed indicating system.

* * * * *

(c) The design and installation of each airspeed indicating system must provide positive drainage of moisture from the pitot static plumbing.

* * * * *

(f) For commuter category airplanes, where duplicate airspeed indicators are required, their respective pitot tubes must be far enough apart to avoid damage to both tubes in a collision with a bird.

§ 23.1325 [Amended]

27. Section 23.1325 is amended by inserting the words "or icing" between the words "meteorological" and "conditions" in paragraph (g).

28. A new § 23.1326 is added to read as follows:

§ 23.1326 Pitot heat indication systems.

If a flight instrument pitot heating system is installed to meet the requirements specified in § 23.1323(d), an indication system must be provided to indicate to the flight crew when that pitot heating system is not operating. The indication system must comply with the following requirements:

(a) The indication provided must incorporate an amber light that is in clear view of a flightcrew member.

(b) The indication provided must be designed to alert the flight crew if either of the following conditions exist:

(1) The pitot heating system is switched "off."

(2) The pitot heating system is switched "on" and any pitot tube heating element is inoperative.

§ 23.1329 [Amended]

29. Section 23.1329(b) is amended by adding the parenthetical phrase "(both stick controls, if the airplane can be operated from either pilot seat)" between the words, "or on the stick control," and the word "such".

30. Section 23.1337 is amended by revising the section heading, by revising the introductory text of paragraph (b), by redesignating paragraphs (b)(4) and (b)(5) as paragraph (b)(5) and (b)(6), respectively, and by adding a new paragraph (b)(4) to read as follows:

§ 23.1337 Powerplant instruments installation.

* * * * *

(b) *Fuel quantity indication.* There must be a means to indicate to the flightcrew members the quantity of usable fuel in each tank during flight. An indicator calibrated in appropriate units and clearly marked to indicate those units must be used. In addition:

* * * * *

(4) There must be a means to indicate the amount of usable fuel in each tank when the airplane is on the ground (such as by a stick gauge);

* * * * *

31. Section 23.1351 is amended by removing paragraph (b)(4), by redesignating paragraph (b)(5) as (b)(4), by adding a sentence to the end of paragraph (f) that reads, "The external power connection must be located so that its use will not result in a hazard to the airplane or ground personnel", and by revising paragraphs (b)(2), (b)(3), and (c)(3) to read as follows:

§ 23.1351 General.

* * * * *

(b) * * *

(2) Electric power sources must function properly when connected in combination or independently.

(3) No failure or malfunction of any electric power source may impair the ability of any remaining source to supply load circuits essential for safe operation.

* * * * *

(c) * * *

(3) Automatic means must be provided to prevent damage to any generator/alternator and adverse effects on the airplane electrical system due to reverse current. A means must also be provided to disconnect each generator/alternator from the battery and other generators/alternators.

* * * * *

32. Section 23.1353(h) is added to read as follows:

§ 23.1353 Storage battery design and installation.

* * * * *

(h) In the event of a complete loss of the primary electrical power generating system, the battery must be capable of providing at least 30 minutes of electrical power to those loads that are essential to continued safe flight and landing. The 30 minute time period includes the time needed for the pilots to recognize the loss of generated power and take appropriate load shedding action.

33. A new § 23.1359 is added to read as follows:

§ 23.1359 Electrical system fire protection.

(a) Each component of the electrical system must meet the applicable fire protection requirements of §§ 23.863 and 23.1182.

(b) Electrical cables, terminals, and equipment in designated fire zones that are used during emergency procedures must be fire-resistant.

(c) Insulation on electrical wire and electrical cable must be self-extinguishing when tested at an angle of 60 degrees in accordance with the applicable portions of Appendix F of this part, or other approved equivalent methods. The average burn length must not exceed 3 inches (76 mm) and the average flame time after removal of the flame source must not exceed 30 seconds. Drippings from the test specimen must not continue to flame for more than an average of 3 seconds after falling.

§ 23.1361 [Amended]

34. Section 23.1361(c) is amended by removing the last two words "in flight".

35. Section 23.1365 is amended by revising paragraph (b) and by adding new paragraphs (d), (e), and (f) to read as follows:

§ 23.1365 Electrical cables and equipment.

* * * * *

(b) Any equipment that is associated with any electrical cable installation and that would overheat in the event of circuit overload or fault must be flame resistant. That equipment and the electrical cables must not emit dangerous quantities of toxic fumes.

* * * * *

(d) Means of identification must be provided for electrical cables, terminals, and connectors.

(e) Electrical cables must be installed such that the risk of mechanical damage and/or damage cased by fluids vapors, or sources of heat, is minimized.

(f) Where a cable cannot be protected by a circuit protection device or other overload protection, it must not cause a fire hazard under fault conditions.

36. Section 23.1383 is revised to read as follows:

§ 23.1383 Taxi and landing lights.

Each taxi and landing light must be designed and installed so that:

(a) No dangerous glare is visible to the pilots.

(b) The pilot is not seriously affected by halation.

(c) It provides enough light for night operations.

(d) It does not cause a fire hazard in any configuration.

37. Section 23.1401 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 23.1401 Anticollision light system.

(a) *General.* The airplane must have an anticollision light system that:

* * * * *

§ 23.1413 [Amended]

38. Section 23.1413 is removed.

39. Section 23.1431 is amended by adding new paragraphs (c), (d), and (e) to read as follows:

§ 23.1431 Electronic equipment.

* * * * *

(c) For those airplanes required to have more than one flightcrew member, or whose operation will require more than one flightcrew member, the cockpit must be evaluated to determine if the flightcrew members, when seated at their duty station, can converse without difficulty under the actual cockpit noise conditions when the airplane is being

operated. If the airplane design includes provision for the use of communication headsets, the evaluation must also consider conditions where headsets are being used. If the evaluation shows conditions under which it will be difficult to converse, an intercommunication system must be provided.

(d) If installed communication equipment includes transmitter "off-on" switching, that switching means must be designed to return from the "transmit" to the "off" position when it is released and ensure that the transmitter will return to the off (non transmitting) state.

(e) If provisions for the use of communication headsets are provided, it must be demonstrated that the flightcrew members will receive all aural warnings under the actual cockpit noise conditions when the airplane is being operated when any headset is being used.

40. Section 23.1435(c) is revised to read as follows:

§ 23.1435 Hydraulic systems.

* * * * *

(c) *Accumulators.* A hydraulic accumulator or reservoir may be installed on the engine side of any firewall if—

(1) It is an integral part of an engine or propeller system, or

(2) The reservoir is nonpressurized and the total capacity of all such nonpressurized reservoirs is one quart or less.

41. Section 23.1447 is amended by revising paragraphs (d) and (e) and by adding a new paragraph (a)(4) to read as follows:

§ 23.1447 Equipment standards for oxygen dispensing units.

* * * * *

(a) * * *

(4) If radio equipment is installed, the flightcrew oxygen dispensing units must be designed to allow the use of that equipment and to allow communication with any other required crew member while at their assigned duty station.

* * * * *

(d) For a pressurized airplane designed to operate at flight altitudes above 25,000 feet (MSL), the dispensing units must meet the following:

(1) The dispensing units for passengers must be connected to an oxygen supply terminal and be immediately available to each occupant wherever seated.

(2) The dispensing units for crewmembers must be automatically presented to each crewmember before the cabin pressure altitude exceeds 15,000 feet, or the units must be of the quick-donning type, connected to an oxygen supply terminal that is immediately available to crewmembers at their station.

(e) If certification for operation above 30,000 feet is requested, the dispensing units for passengers must be automatically presented to each occupant before the cabin pressure altitude exceeds 15,000 feet.

* * * * *

42. A new § 23.1451 is added to read as follows:

§ 23.1451 Fire protection for oxygen equipment.

Oxygen equipment and lines must:

(a) Not be installed in any designed fire zones.

(b) Be protected from heat that may be generated in, or escape from, any designated fire zone.

(c) Be installed so that escaping oxygen cannot come in contact with and cause ignition of grease, fluid, or vapor accumulations that are present in normal operation or that may result from the failure or malfunction of any other system.

43. A new § 23.1453 is added to read as follows:

§ 23.1453 Protection of oxygen equipment from rupture.

(a) Each element of the oxygen system must have sufficient strength to withstand the maximum pressure and temperature, in combination with any externally applied loads arising from consideration of limit structural loads, that may be acting on that part of the system.

(b) Oxygen pressure sources and the lines between the source and the shutoff means must be:

(1) Protected from unsafe temperatures; and

(2) Located where the probability and hazard of rupture in a crash landing are minimized.

44. Section 23.1461(a) is revised to read as follows:

§ 23.1461 Equipment containing high energy rotors.

(a) Equipment, such as Auxiliary Power Units (APU) and constant speed drive units, containing high energy rotors must meet paragraphs (b), (c), or (d) of this section.

* * * * *

45. Appendix F to part 23 is amended by revising the introductory paragraph, by amending paragraph (c) to change the reference from paragraph (e) to paragraph (g), by amending paragraph (d) to change the reference from paragraph (f) to paragraph (h), by redesignating current paragraph (f) as paragraph (h), and by revising paragraph (b) and adding new paragraphs (f) and (g) to read as follows:

Appendix F To Part 23 Test Procedure

Acceptable test procedure for self-extinguishing materials for showing compliance with §§ 23.853, 23.855 and 23.1359.

* * * * *

(b) *Specimen configuration.* Except as provided for materials used in electrical wire and cable insulation and in small parts, materials must be tested either as a section cut from a fabricated part as installed in the airplane or as a specimen simulating a cut section, such as: a specimen cut from a flat sheet of the material or a model of the fabricated part. The specimen may be cut from any location in a fabricated part; however, fabricated units, such as sandwich panels, may not be separated for a test. The specimen thickness must be no thicker than the minimum thickness to be qualified for use in the airplane, except that: (1) Thick foam parts, such as seat cushions, must be tested in ½ inch thickness; (2) when showing compliance with § 23.853(d)(3)(v) for materials used in small parts that must be tested, the materials must be tested in no more than ⅛ inch thickness; (3) when showing compliance with § 23.1359(c) for materials used in electrical wire and cable insulation, the wire and cable specimens must be the same size as used in the airplane. In the case of fabrics, both the warp and fill direction of the weave must be tested to determine the most critical flammability conditions. When performing the tests prescribed in paragraphs (d) and (e) of this appendix, the specimen must be mounted in a metal frame so that (1) in the vertical tests of paragraph (d) of this appendix, the two long edges and the upper edge are held securely; (2) in the horizontal test of paragraph (e) of this appendix, the two long edges and the edge away from the flame are held securely; (3) the exposed area of the specimen is at least 2 inches wide and 12 inches long, unless the actual size used in the airplane is smaller; and (4) the edge to which the burner flame is applied must not consist of the finished or protected edge of the specimen but must be representative of the actual cross section of the material or part installed in the airplane. When performing the test prescribed in paragraph (f) of this appendix, the specimen must be mounted in metal frame so that all four edges are held securely and the exposed area of the specimen is at least 8 inches by 8 inches.

* * * * *

(f) *Forty-five degree test.* A minimum of three specimens must be tested and the results averaged. The specimens must be supported at an angle of 45 degrees to a horizontal surface. The exposed surface when installed in the aircraft must be face down for the test. The specimens must be exposed to a Bunsen or Tirrill burner with a nominal ⅜ inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 1550°F. Suitable precautions must be taken to avoid drafts. The flame must be applied for 30 seconds with one-third contacting the material at the center of the specimen and then removed. Flame time, glow time, and whether the flame penetrates (passes through) the specimen must be recorded.

(g) *Sixty-degree test.* A minimum of three specimens of each wire specification (make and size) must be tested. The specimen of wire or cable (including insulation) must be placed at an angle of 60 degrees with the horizontal in the cabinet specified in paragraph (c) of this appendix, with the cabinet door open during the test or placed within a chamber approximately 2 feet high × 1 foot × 1 foot, open at the top and at one vertical side (front), that allows sufficient flow of air for complete combustion but is free from drafts. The specimen must be parallel to and approximately 6 inches from the front of the chamber. The lower end of the specimen must be held rigidly clamped. The upper end of the specimen must pass over a pulley or rod and must have an appropriate weight attached to it so that the specimen is held tautly throughout the flammability test. The test specimen span between lower clamp and upper pulley or rod must be 24 inches and must be marked 8 inches from the lower end to indicate the central point for flame application. A flame from a Bunsen or Tirrill burner must be applied for 30 seconds at the test mark. The burner must be mounted underneath the test mark on the specimen, perpendicular to the specimen and at an angle of 30 degrees to the vertical plane of the specimen. The burner must have a nominal bore of three-eighths inch, and must be adjusted to provide a three-inch-high flame with an inner cone approximately one-third of the flame height. The minimum temperature of the hottest portion of the flame, as measured with a calibrated thermocouple pyrometer, may not be less than 1,750 °F. The burner must be positioned so that the hottest portion of the flame is applied to the test mark on the wire. Flame time, burn length, and flaming time drippings, if any, must be recorded. The burn length determined in accordance with paragraph (h) of this appendix must be measured to the nearest one-tenth inch. Breaking of the wire specimen is not considered a failure.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

46. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 21, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.*; E.O. 11514; 49 U.S.C. 106(g).

47. Section 91.205 is amended by redesignating paragraphs (b)(11) through (b)(16) as paragraphs (b)(12) through (b)(17), respectively, and by adding a new paragraph (b)(11) to read as follows:

§ 91.205 Powered civil aircraft with standard category U.S. airworthiness certificates: Instrument and equipment requirements.

* * * * *

(b) * * *

(11) For small civil airplanes certificated after March 11, 1996, in accordance with part 23 of this chapter, an approved aviation red or aviation white anticollision light system. In the event of failure of any light of the anticollision light system, operation of the aircraft may continue to a location where repairs or replacement can be made.

* * * * *

48. Section 91.209 is revised to read as follows:

§ 91.209 Aircraft lights.

No person may:

(a) During the period from sunset to sunrise (or, in Alaska, during the period a prominent unlighted object cannot be seen from a distance of 3 statute miles or the sun is more than 6 degrees below the horizon)—

(1) Operate an aircraft unless it has lighted position lights;

(2) Park or move an aircraft in, or in dangerous proximity to, a night flight operations area of an airport unless the aircraft—

(i) Is clearly illuminated;

(ii) Has lighted position lights; or

(iii) is in an area that is marked by obstruction lights;

(3) Anchor an aircraft unless the aircraft—

(i) Has lighted anchor lights; or

(ii) Is in an area where anchor lights are not required on vessels; or

(b) Operate an aircraft that is equipped with an anticollision light system, unless it has lighted anticollision lights. However, the anticollision lights need not be lighted when the pilot-in-command determines that, because of operating conditions, it would be in the interest of safety to turn the lights off.

Issued in Washington DC, on January 29, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–2083 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 1 and 23

[Docket No. 27807; Amendment Nos. 1–43, 23–50]

RIN 2120–AE61

Airworthiness Standards; Flight Rules Based on European Joint Aviation Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the flight airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. This amendment completes a portion of the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA) effort to harmonize the Federal Aviation Regulations and the Joint Aviation Requirements (JAR) for airplanes certification in these categories. This amendment will provide nearly uniform flight airworthiness standards for airplanes certificated in the United States under 14 CFR part 23 and in the JAA countries under Joint Aviation Requirement 23, simplifying international airworthiness approval.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Lowell Foster, ACE–111, Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) No. 94–22 (59 FR 37878, July 25, 1994). All comments received in response to Notice 94–22 have been considered in adopting this amendment.

This amendment completes part of an effort to harmonize the requirements of part 23 and JAR 23. The revisions to part 23 in this amendment pertain to flight airworthiness standards. Three other final rules are being issued in this **Federal Register** that pertain to airworthiness standards for systems and equipment powerplant, and airframe. These related rulemakings are also part of the harmonization effort. Interested persons should receive all four final rules to ensure that all revisions to part 23 are recognized.

The harmonization effort was initiated at a meeting in June 1990 of the JAA Council (consisting of JAA members from European countries) and

the FAA, during which the FAA Administrator committed the FAA to support the harmonization of the United States regulations with the JAR that were being developed. In response to the commitment, the FAA Small Airplane Directorate established an FAA Harmonization Task Force to work with the JAR 23 Study Group to harmonize part 23 with the proposed JAR 23. The General Aviation Manufacturers Association (GAMA) also established a JAR 23/part 23 committee to provide technical assistance.

The FAA, JAA, GAMA, and the Association Europeanne des Constructeurs de Material Aerospatial (AECMA), an organization of European airframe manufacturers, met on several occasions in a continuing harmonization effort.

Near the end of the effort to harmonize the normal, utility, and aerobatic category airplane airworthiness standards, the JAA requested and received recommendations from its member countries on proposed airworthiness standards for commuter category airplanes. Subsequent JAA and FAA meetings on this issue resulted in proposals that were reflected in Notice No. 94–22 to revise portions of the part 23 commuter category airworthiness standards. Accordingly, this final rule adopts the flight airworthiness standards for all part 23 airplanes.

In January 1991, the FAA established the Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991). At an FAA/JAA Harmonization Conference in Canada in June 1992, the FAA announced that it would consolidate the harmonization effort within the ARAC structure. The FAA assigned to ARAC the rulemakings related to JAR/part 23 harmonization, which ARAC assigned to the JAR/FAR 23 Harmonization Working Group. The proposal for flight airworthiness standards contained in Notice No. 94–22 were a result of both the working group's efforts and the efforts at harmonization that occurred before the formation of the working group.

The JAA submitted comments to the FAA on January 20, 1994, in response to the four draft proposals for harmonization of the part 23 airworthiness standards. The JAA submitted comments again during the comment period of the NPRM. At the April 26, 1995, ARAC JAR/FAR 23 Harmonization Working Group meeting, the JAA noted that many of the comments in the January 20 letter had been satisfied or were no longer relevant. The few remaining items concern issues that are considered beyond the scope of this rulemaking and, therefore, will be dealt with at future FAA/JAA Harmonization meetings.

Discussion of Comments

General

Interested persons were invited to participate in the development of these final rules by submitting written data, views, or arguments to the regulatory docket on or before November 21, 1994. Four commenters responded to Notice No. 94–22. Minor technical and editorial changes have been made to the proposed rules based on relevant comments received, consultation with ARAC, and further review by the FAA.

Discussion of Amendments

Section 1.1 General Definitions

The FAA proposed to amend § 1.1 to add a definition of "maximum speed for stability characteristics, V_{FC}/M_{FC}." This change harmonizes part 1 and JAR 1. The definition is deleted from § 23.175(b)(2).

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.3 Airplane Categories

The FAA proposed to revise § 23.3(b)(2) to add an outside limit of 90 degrees in angle of bank for lazy eights, chandelles, and seep turns.

The FAA proposed to revise § 23.3(d) to remove chandelles and lazy eights as approved operations in commuter category airplanes. The FAA does not anticipate any operational need for such maneuvers.

The FAA proposed to revise § 23.3(e) to prohibit type certification of commuter category airplanes in any other category. This rule change will not preclude the type certification of similar airplanes with different model numbers, such as the present Cessna models 500 and 501.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.25 Weight Limits

The FAA proposed to revise § 23.25(a) to clarify that the maximum weight that must be selected is the least of the three choices given in § 23.25(a)(1). The FAA proposed to remove the commuter category zero fuel weight requirement from current § 23.25(a). The requirement was proposed to be removed to § 23.343 by the airframe NPRM, Notice No. 94–20 (59 FR 35198, July 8, 1994). The FAA proposed to remove the reference to standby power rocket engines in § 23.25(a)(1)(iii) and to remove appendix E because this is a rare and obsolete design feature. If a manufacturer proposed to use this approach, the FAA would issue special conditions to ensure adequate airworthiness.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.33 Propeller Speed and Pitch Limits

The FAA proposed to revise § 23.33(b)(1) to remove the reference to V_Y and to replace it with "the all engine(s) operating climb speed specified in § 23.65," to be consistent with other changes in performance requirements. The FAA proposed to revise § 23.33(b)(2) to use "V_{NE}" in place of "never exceed speed," since V_{NE} is defined in part 1, and to remove the word "placarded," which is unnecessary.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.45 General

In Notice of Proposed Rulemaking, Small Airplane Airworthiness Review Program Notice No. 4, Notice No. 90–18 (55 FR 26534, June 28, 1990), the FAA requested comments on the need for weight, altitude, and temperature (WAT) criteria, as information or as a limitation on piston-powered, twin-engine part 23 airplanes. The FAA also requested comments about WAT criteria on turbine-powered twin-engine part 23 airplanes, specifically during takeoff and landing.

WAT criteria is used to determine the maximum weight an airplane can have in relation to altitude and temperature for safe takeoff. This criteria provides pilots with the information needed to determine if a takeoff and climb can be successfully completed if one engine becomes inoperative. WAT criteria has been required under part 23 for commuter category airplanes, at all approved altitudes. A limited WAT criteria has been required for turbine engine powered airplanes at 5,000 feet and at standard temperature plus 40°F, but not for higher altitudes or temperatures. For multiengine powered airplanes, WAT data has been provided by the manufacturer as information to pilots.

The FAA received three comments on mandating WAT criteria in part 23 and addressed these comments in detail in the preamble to Notice 94–22.

Based on statistics and conclusions from an FAA 1991 study (discussed in detail in Notice 94–22) and on comments, the FAA determined that

WAT limits are necessary for safe operation of multiengine airplanes of the type that will be involved in transporting passengers for hire.

The FAA proposed a complete revision of § 23.45 to require weight, altitude, and temperature (WAT) performance accountability for normal, utility, and acrobatic airplanes with a maximum takeoff weight over 6,000 pounds and all turbine-powered airplanes.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.49 Stalling Speed

The FAA proposed to revise § 23.49 by reorganizing and editing it for clarification. The FAA's proposed clarification merges, in paragraph (a), the V_{SO} and V_{S1} requirements, which were separated with parallel configuration items under paragraphs (a) and (d).

Other proposed changes to paragraph (a) are as follows:

(1) Proposed paragraph (a)(4) is a requirement that the airplane be in the condition existing in the test, in which V_{SO} and V_{S1} are being used.

(2) Proposed paragraph (a)(5) is a revised version of current paragraph (a)(6). The current requirement states that the center of gravity must be in the most unfavorable position within the allowable landing range. The proposed requirement would state that the center of gravity must be in the position that results in the highest value of V_{SO} and V_{S1}.

(3) Current paragraph (a)(5) is moved to § 23.45(c).

These changes are clarifying and are not an increase in requirements. The only comment received was from JAA, noting the existing disharmony between the JAR and the FAR concerning a V_{SO} more than 61 knots for single-engine airplanes and multiengine airplanes of 6,000 pounds maximum weight or less than do not meet the required minimum rate of climb.

The proposal is adopted as proposed.

Section 23.51 Takeoff Speeds

The FAA proposed to change the paragraph heading from "Takeoff" to "Takeoff speeds" and to incorporate the takeoff speed requirements currently contained in § 23.53. This revision to the heading and the reorganization of takeoff requirements is proposed for harmony with JAR 23.

The FAA proposed to move current § 23.51(a) to § 23.53(a). Current paragraph (a) requires that the distance required to take off and climb over a 50-foot obstacle must be determined with the engines operating within approved operating limitations and with cowl flaps in the normal takeoff position. These requirements for power and cowl flaps are now covered in final § 23.45, paragraphs (c) and (d), and in § 23.1587.

The FAA proposed to remove current § 23.51(b) on measuring seaplane and amphibian takeoff distances. It is a statement of an acceptable method of compliance, and there is no need to address a separate seaplane starting point.

The FAA proposed to remove current § 23.51(c) concerning pilot skills and conditions. It is covered under the general requirements in proposed § 23.45(f).

The FAA proposed to remove current § 23.51(d). The requirements are covered under § 23.45 in commuter category performance and other performance requirements, and the information requirements are covered under § 23.1587.

For multiengine normal, utility, and acrobatic category airplanes, the FAA proposed to transfer the determination of V_R from § 23.53(a) to § 23.51(a) with minor changes in the specified rotation speed. For multiengine airplanes in proposed paragraph (a)(1), the margin between rotation speed and V_{MC} or a margin of 1.10 V_{S1} is established between V_R and stall.

The FAA proposed to define V_R, in proposed paragraph (a), as the speed at which the pilot makes a control input with the intention of lifting the airplane out of contact with the runway or water surface. This definition would apply to tail wheel and tricycle gear airplanes, seaplanes, and single-engine airplanes.

The FAA also proposed to include rotation speeds for single-engine airplanes, seaplanes, and amphibians in paragraph (a). This extends V_R applicability to all part 23 airplanes to establish a safe and standardized procedure that can be used by pilots to achieve AFM takeoff performance. This use of rotation speed is consistent with part 25.

In proposed paragraph (b), the speed at 50 feet is based on current § 23.53(b) with no change in requirements.

For commuter category airplanes, the FAA proposed to move the takeoff speed requirements from § 23.53(c) to proposed § 23.51(c) with editorial changes. The option is added, in proposed (c)(1)(i), for an applicant to determine a V_{MCG} and to establish a V_1 based on V_{MCG} rather than a margin above V_{MCA}.

The only comment on this section was a non-substantive one, in which FAA concurred.

The proposal is adopted as proposed.

Section 23.53 Takeoff Performance

The FAA proposed a new heading for § 23.53 and a content based primarily on the general takeoff performance requirement of the current § 23.51.

The FAA proposed to remove the takeoff speed requirements from current § 23.53 and to place them in § 23.51. (See discussion for § 23.51.) Section 23.53 provides general takeoff performance requirements for normal, utility, acrobatic, and commuter category airplanes. Proposed paragraph (a) is based on current § 23.51(a). Proposed paragraph (b) is a modification of current § 23.1587(a)(5). Proposed paragraph (c) is based on current § 23.51(d).

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.55 Accelerate-Stop Distance

The FAA proposed to revise § 23.55 to clarify the accelerate-stop segments and to make editorial changes.

The proposed requirement divides the accelerate-stop maneuver into three segments, rest to V_{EF} (paragraph (a)(1)), V_{EF} to V_1 (paragraph (a)(2)), and V_1 to rest (paragraph (a)(3)). The FAA proposed to remove the following four phrases: First, remove the phrase "in the case of engine failure," from current § 23.55(a)(2) because it is included in paragraph (a)(2). Second, remove the phrase "assuming that * * * the pilot has decided to stop as indicated by application of the first retarding means at the speed V_1," from § 23.55(a)(2) because it is stated in § 23.51(c)(1)(ii). Third, remove the phrase "exceptional skill" from § 23.55(b)(3) because it remains in § 23.45(h)(5)(i). Fourth, remove the phrase "if that means is available with the critical engine inoperative" from § 23.55(b) because it is covered by the safe and reliable requirements of § 23.55(b)(1).

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.57 Takeoff Path

The FAA proposed to revise § 23.57 to clarify and to specify the takeoff path segments that must be determined in flight. Proposed paragraph (a) clarifies that the transition to the enroute configuration should be completed on or before reaching 1500 feet above the takeoff surface. Section 23.57(c)(1) requires the slope of the airborne part of the takeoff path to be "positive at each point"; proposed paragraph (c)(1) is revised to "not negative at any point," to allow acceleration in level flight,

which is implied by current § 23.61(c). Proposed § 23.57(c)(3) specifies that the climb gradient "must not be less than * * *," as opposed to "may not be less than * * *." The option, in current § 23.57(d), to determine the takeoff path either by continuous demonstration or by synthesis from segments, does not reflect current practice. The best method to determine the takeoff path from rest to 35 feet above the takeoff surface is by a continuous demonstration. The most practical method to determine the takeoff path from 35 feet to 1500 feet above the takeoff surface is by synthesis from segments. Accordingly, § 23.57, paragraphs (d) and (e), incorporates these changes.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.59 Takeoff Distance and Takeoff Run

The FAA proposed to clarify § 23.59 with no substantial change in requirements. A change to the opening text is proposed to clarify that the determination of takeoff run is the applicant's option since the applicant may choose not to present clearway data. In current § 23.59 (a)(2) and (b)(2), the reference to "along the takeoff path," in a takeoff with all engines operating, is proposed to be removed since takeoff path is a one-engine-inoperative condition. Additionally, the FAA proposed to replace the reference to V_{LOF} with the words "liftoff point" to clarify that the requirements specify a point and related distance, not a speed.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.63 Climbs: General

The FAA proposed a new § 23.63 to assemble general climb requirements from current §§ 23.65 and 23.67 into a single section and to differentiate between WAT limited airplanes and those airplanes that are not WAT limited. (See discussion under § 23.45.) As proposed, new § 23.63(a)(1) requires that compliance be shown out of ground effect. This requirement is in current § 23.67(e), which applies to commuter category airplanes. New § 23.63(a)(3) requires that compliance must be shown, unless otherwise specified, with one engine inoperative, at a bank angle not exceeding 5 degrees. This requirement is in current § 23.149 and has been applied generally to part 23 airplanes except commuter category airplanes in certain circumstances.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.65 Climb: All Engines Operating

The FAA proposed to change the applicability of § 23.65(a) from "each airplane," as adopted in Amendment No. 23–45 (58 FR 42136, August 6, 1993), to "each normal, utility, and acrobatic category reciprocating engine-powered airplane of 6,000 pounds or less maximum weight." The FAA also proposed to change the phrase "angle of climb" to "climb gradient" and to establish the climb gradient at 8.3 percent for landplanes and 6.7 percent for seaplanes and amphibians with certain specified performance conditions.

In paragraph (a)(4), the FAA proposed to establish a minimum climb speed for multiengine airplanes of not less than the greater of 1.1 V_{MC} and 1.2 V_{S1}, which provides a margin above V_{MC}.

The FAA proposed to move cowl flap requirements, in current paragraph (a)(5), to proposed § 23.45(c).

The FAA proposed to remove § 23.65(b) since these requirements should have been removed in Amendment No. 23–45 (58 FR 42136, August 6, 1993). Since the adoption of Amendment No. 23–45, there is no longer a rate of climb requirement in § 23.65(a).

The FAA proposed to add WAT limits to § 23.65(b), for reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight and turbine engine-powered airplanes. (See § 23.45 discussion.)

The FAA proposed to move § 23.65(c) to § 23.65(b) and to remove the temperature and altitude requirements since WAT limits are required for turbine engine-powered airplanes and the four percent gradient applies at any approved takeoff ambient condition. In § 23.65(b)(2), the FAA proposed to require the landing gear be down for the test unless the gear can be retracted in not more than seven seconds. This is more stringent than the present requirement, but the same as the proposed one-engine-inoperative takeoff climb requirements, and is considered appropriate to this weight and class of airplane with WAT limits.

The FAA proposed to remove § 23.65(d) since the requirements are covered in amended § 23.45(h)(2) and in current § 23.21.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.66 Takeoff Climb; One-Engine Inoperative

The FAA proposed a new § 23.66 to require the determination of the one-engine-inoperative climb capability of all WAT limited reciprocating engine-powered and turbine engine-powered airplanes immediately after takeoff. Since most reciprocating engine-powered airplanes do not have autofeather, the condition immediately after takeoff can be critical. There is not a minimum climb requirement in this configuration, only the determination of the climb or decent gradient. This information is provided to the pilot in the AFM (see § 23.1587) to allow the pilot to make informed judgments before takeoff.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.67 Climb: One Engine Inoperative

The FAA proposed to reorganize § 23.67 for harmonization with the JAR; to require WAT limits for some airplanes; to require wings level climb up to 400 feet for commuter category airplanes; and to make minor changes in airplane configuration requirements.

Revised § 23.67(a) specifies the climb requirements for non-WAT airplanes with no change in requirements for those airplanes.

Revised § 23.67(b) specifies climb requirements for WAT airplanes. WAT criteria are applied for both reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight and turbine engine-powered airplanes. (See the discussion under § 23.45.) Turbine engine-powered airplanes have been subject to limited WAT limitations under § 23.67(c), which the FAA proposed to incorporate into § 23.67(b).

The FAA proposed to change the takeoff flap position for normal, utility, and acrobatic category reciprocating engine-powered airplanes of 6,000 pounds or less to "wing flaps retracted" from "most favorable position" (§ 23.67(a)(4)). Wing flaps retracted is the position most used in certification and in service for this size of airplane (see new § 23.67 (a)(1)(iv) and (a)(2)(iv)).

The FAA proposed to remove § 23.67(d) since all climb speeds (both all-engine and one engine inoperative) are scheduled and the determination of V_Y is no longer required.

The FAA proposed to redesignate § 23.67(e) for commuter category airplanes as § 23.67(c) with no change in requirements except that the takeoff climb with landing gear extended must be conducted with the landing gear doors open. This is a conservative approach offered by the JAA to specify a definite gear door configuration and to remove the requirement to determine

performance during the transient condition of gear doors opening and closing. The FAA proposed to specify, in § 23.67(c)(1), that the first segment climb must be conducted with the wings level and to further specify that the climb speed for the segment must be V_2 instead of the requirement for a range of speeds from V_{LOF} and whatever the applicant selects at gear retraction. Also, the FAA proposed, in § 23.67(c)(2), to require conducting the second segment climb with wings level, which is appropriate for operational scenarios.

The FAA proposed to revise § 23.67 by removing paragraph (e)(1) and by moving the requirements to § 23.67(c) and § 23.63 (a)(1) and (d).

In proposed § 23.67(c)(3), enroute climb, the FAA added a minimum climb speed to ensure an adequate margin above stall speed.

The FAA proposed to redesignate § 23.67(e)(3) as § 23.67(c)(4) and to remove the paragraph heading "Approach" and add "Discontinued approach" in its place. The FAA proposed to clarify, in new § 23.67(c)(4), that the climb gradients must be met at an altitude of 400 feet above the landing surface.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.69 Enroute Climb/Descent

The FAA proposed a new § 23.69 to require the determination of all engine and one-engine-inoperative climb/descent rates and gradients in the enroute configuration under all operational WAT conditions. This information is necessary for enroute flight planning and dispatch. Climb speeds are specified to provide a margin above V_{S1}.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.71 Glide: Single-Engine Airplanes

The FAA proposed a new § 23.71 to require the determination of glide distance and speed for single-engine airplanes. The information is necessary for flight planning and to provide the pilot with information from which to make informed decisions.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.73 Reference Landing Approach Speed

The FAA proposed a new § 23.73 to define the reference landing approach speeds, V_{REF}. Establishing a definition for these speeds simplifies the use of V_{REF} in other portions of the rule. The V_{REF} speeds for the various category airplanes are established as not less than 1.3 V_{S0}. Also, the established speeds consider the appropriate relationship to V_{MC} determined under § 23.149.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.75 Landing Distance

The FAA proposed to revise the heading, reorganize § 23.75 for harmonization with the JAR, add the landing reference speed, V_{REF}, and move the portion on brake pressure to § 23.735, Brakes.

The FAA proposed to remove the reference to the AFM from the introductory paragraph. Part 23, subpart B, is generally used to specify flight test requirements, and part 23, subpart G, is generally used to specify the AFM requirements. The FAA also proposed to revise the introductory paragraph to require landing distances to be determined at standard temperature for each weight and altitude. Service experience has shown that landing distances are not sensitive to temperatures. The use of standard temperature is consistent with WAT requirements. The FAA proposed to remove from the introductory paragraph the reference to "approximately 3 knots" for seaplanes and amphibians because this information is considered advisory material on acceptable methods of compliance.

The FAA proposed to revise § 23.75(a) to add V_{REF} and to require its use. (See § 23.73.)

The FAA proposed to remove § 23.75(b) because § 23.45 specifies these general requirements. New § 23.75(b) clarifies that a constant configuration must be maintained throughout the maneuver.

The FAA proposed to revise § 23.75(d) by adding the requirement to specify the weight that must be considered for the transition to the balked landing conditions. This requirement reflects current industry practice.

The FAA proposed new § 23.75(e) as a general requirement to ensure the reliability of the brakes and tires.

The FAA proposed to revise § 23.75(f) to remove the first use of the word "means" and to add the phrase "retardation means" in its place, and to remove paragraph (f)(3). Paragraph (f)(3) required that no more than average skill shall be required to control the airplane. This topic is covered in § 23.45(f).

The FAA proposed to remove § 23.75(h) because the introductory paragraph of § 23.75 contains commuter category requirements and § 23.1587 requires landing distance correction factors.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.77 Balked Landing

The FAA proposed to revise this section to include additional WAT requirements and to make editorial changes.

The proposed revisions to § 23.77 (a) and (b) differentiate between WAT and non-WAT. (See § 23.45.) Section 23.77(a)(4) adds a new climb speed requirement to ensure that acceleration is not necessary during the transition from landing to balked landing. The climb gradient of § 23.77(b) was selected to be slightly less than the non-WAT airplane sea level requirement in exchange for a balked landing climb capability at all altitudes and temperatures.

The commuter category climb gradient of 3.3 percent specified in § 23.77(c) changes to 3.2 percent for consistency with part 25. Additional editorial changes and deletions are made in § 23.77(c) because the general requirements are covered in final § 23.45.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.143 General

The FAA proposed to revise § 23.143(a) to add the phrase "during all flight phases" to the introductory paragraph and to add "Go-around" to the list of flight phases.

The JAA and FAA decided, during FAA/JAA Harmonization meetings, that the term "go-around" included the all engine balked landings of § 23.77, various all engine and one-engine-inoperative aborted landings specified in the AFM, and the commuter category discontinued approach of § 23.67(c)(4). Balked landing refers only to the all engine balked landing of § 23.77.

The FAA proposed to revise the two-hand roll force in the table of paragraph (c) from 60 to 50 pounds, to be consistent with JAR 25. The FAA also proposed to revise the table to show a one-hand on the rim roll force of 25 pounds. This is an FAA/JAA harmonized value.

Comment: Raytheon Aircraft Company comments that the control force limits table is specifically tied to the flight phases of paragraph (a) and that this "could be interpreted as providing an upper limit of maneuvering force (stick force per g) such that all normal operational

maneuvers would have to be performed within a pitch force limit of 75 lbs (wheel, two hands), for unspecified normal acceleration limits."

Raytheon states that this has not been previous policy and could become a costly requirement for larger part 23 aircraft with large cg ranges, "if substantial normal acceleration excursions are considered 'normal' maneuvering." Raytheon recommends "that either the normal acceleration excursions be defined for normal, utility, acrobatic, and commuter categories or the explicit tie to the flight phases in this rule be deleted."

FAA Response: Raytheon's concern is whether "normal acceleration excursions are considered 'normal' maneuvering." They are not.

Section 23.143 has historically been titled "General" and has always been considered broad enough to cover controllability and maneuverability in general. The inclusion of "all flight phases" is considered clarifying, and Raytheon's concern that the concept of normal being expanded is unwarranted. Adopting this proposal would not change current certification practice.

The proposals are adopted as proposed.

Section 23.145 Longitudinal Control

The FAA proposed to revise § 23.145 to change the speed ranges applicable to the takeoff, enroute, and landing configurations.

Editorial changes were also proposed for the introductory text of paragraph (b) with no substantive change.

The FAA proposed in paragraph (b)(2) to change the requirement from "attaining and maintaining, as a minimum, the speed used to show compliance with § 23.77" to "allow the airspeed to transition from 1.3 V_{S0} to 1.3 V_{S1}."

The FAA also proposed to redesignate paragraphs (b)(2) (i) and (ii) as (b)(2) and (b)(3), respectively, and in paragraph (b)(3) to add more specific requirements if gated flap positions are used.

The FAA proposed to change the speed reference from 1.4 V_{S0} to V_{REF} for landing configuration in paragraph (b)(5). The FAA also proposed in paragraph (b)(5) to allow a two-handed control force since use of two hands is considered appropriate for a power off condition because the pilot does not need to change power settings.

Proposed paragraph (b)(6) is the same as former paragraph (b)(3).

In paragraph (c), the FAA proposed to change the speed range for maneuvering capability from "above V_{MO}/M_{MO} and up to V_D/M_D" to "above V_{MO}/M_{MO} and up to the maximum speed shown under § 23.251." This change is considered necessary because a range of speeds can be chosen as V_D/M_D, and reference to § 23.251 ensures a flight demonstrated speed instead of a design speed.

The FAA proposed in paragraph (d) to change the speed that must be maintained for power-off glide from 1.3 V_{S0} to V_{REF}.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.147 Directional and Lateral Control

The FAA proposed to make minor revisions to § 23.147(a) and to add two new requirements in proposed paragraphs (b) and (c). The flaps retracted configuration for § 23.147(a)(4) are consistent with proposed § 23.67.

In proposed § 23.147(b), the FAA proposed to add requirements for multiengine airplanes that, during an enroute climb, when an engine fails the airplane maintains a minimum standard of controllability after allowing for a pilot action delay of two seconds. This proposed change tests for a likely operational scenario and is intended to ensure satisfactory controllability.

In § 23.147(c), the FAA proposed to test for the failure or disconnection of the primary lateral control. This paragraph requires that the airplane exhibit adequate dihedral effect throughout the airplane's operational envelope to ensure continued safe flight and landings if a lateral control disconnects. In addition, this requirement complements the relaxed requirements of proposed § 23.177(b) (see proposal for § 23.177).

Comment: Raytheon comments that there is no basis provided for the new rules proposed in § 23.147 (b) and (c). Raytheon states that the "two second delay and the 45 degree bank appear to be arbitrary choices" and that there "is no comparable FAR requirement."

FAA Response: The values of 2 seconds and 45 degrees in proposed paragraph (b) were determined from § 23.367, "Unsymmetrical loads due to engine failure," which contains a 2 second delay for pilot corrective action. Historically, the 2 second delay and the 45 degree bank angle correlate to a similar requirement used for years by the United Kingdom CAA.

Proposed paragraph (c), failure of the lateral control, is part of a reduction in the overall lateral stability requirements. In Amendment 23–45, the FAA reduced the power requirements for § 23.177(a) in the landing configuration from 75 percent maximum continuous power to the power required to maintain a three degree angle of descent. The § 23.177 requirement essentially demonstrated that the airplane had the wing dihedral effect and rudder control power to raise a low (banked) wing using rudder only. Prior to this amendment, many manufacturers had to install an aileron/rudder interconnect to meet this requirement because of the high power setting. An aileron/rudder interconnect is a mechanism that ties the two controls together such that when one control surface deflects, the other will also deflect. In the case of § 23.177, the pilot uses the rudder, which also deflects the aileron and raises the wing to level. The underlying intent of this rule is to demonstrate that the airplane is controllable after an aileron control failure, similar to the elevator control failure demonstration currently in the requirements. This change, in conjunction with Amendment 23–45, will allow manufacturers to eliminate the need for the aileron/rudder interconnect.

The proposals are adopted as proposed.

Section 23.149 Minimum Control Speed

The FAA proposed to clarify § 23.149, to add a V_{MC} in the landing configuration, and to provide the procedure for determining a ground V_{MC}.

The FAA proposed to clarify § 23.149(a), with no requirement change. The FAA also proposed to clarify § 23.149(b) and to remove the reference to lesser weights in paragraph (b)(4) because the range of weights is covered in § 23.21.

The FAA proposed to revise § 23.149(c) to specify the requirements for a V_{MC} in the landing configuration for all WAT airplanes. This requirement is necessary for WAT airplanes to provide a V_{REF} margin above the V_{MC} determined in the landing configuration. (See proposal for § 23.73.)

The FAA proposed a new § 23.149(f) to contain requirements to determine a V_{MCG} for commuter category airplanes that could, at the option of the applicant, be used to comply with § 23.51. (See § 23.51.)

The only comment came from the JAA, which addressed a known disharmony, V_{SSE}, from a previous rule change.

The proposals are adopted as proposed.

Section 23.153 Control During Landings

The FAA proposed to revise § 23.153 to reference landing speeds to V_{REF} and to reorganize the section.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.155 Elevator Control Forces in Maneuvers

The FAA proposed to revise § 23.155 to make changes to the power requirements and gradient of the stick force curve.

The FAA proposed to revise § 23.155(b) to specify the maximum continuous power for the test required by this section instead of allowing a power selected by the applicant as an operating limitation. This revision eliminates an unnecessary power specification and simplifies normal operations for the pilot.

The FAA proposed to revise § 23.155(c) to address stick force gradient to ensure that stick force lightening is not excessive. As stated in the preamble to Notice 94–22, the FAA will issue advisory material on acceptable methods of compliance.

Comment: Raytheon states that proposed paragraph (c) adds a new requirement that there must not be an "excessive decrease" in the gradient of the stick force per g with increasing load factor. Raytheon's concern is that this is a very loosely defined requirement and that the allowable decrease in maneuvering stability may be a function of aircraft size and mission.

FAA Response: The FAA agrees that every airplane is different and that, therefore, each must be considered separately. The FAA does not agree that paragraph (c) is loosely defined. For many of the flight requirements, including "excessive decrease," the FAA must evaluate the individual airplanes to determine if the handling qualities are safe.

This proposal are adopted as proposed.

Section 23.157 Rate of Roll

The FAA proposed to revise § 23.157(d) power and trim requirements and to clarify the flap position. In § 23.157(d)(1), the FAA proposed to clarify that the flaps should be in the landing position and § 23.157(d)(3) makes the power consistent with the approach configuration, which is the configuration being tested. The FAA proposed in § 23.157(d)(4) to relate the trim speed to V_{REF}. (See amendment for § 23.73.)

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.161 Trim

The FAA proposed to revise § 23.161 power, configurations, and speeds.

The FAA proposed to revise § 23.161(a) to state the safety principles underlying the trim requirements and to provide a regulatory requirement for considering conditions that might be encountered outside the requirements addressed in paragraphs (b) through (d).

The FAA proposed to revise § 23.161(b)(1) to add a requirement to trim at M_{MO} in addition to V_{MO} to clarify that the airplane must trim in the Mach limited speed range.

The FAA proposed to revise § 23.161(b)(2) to require lateral and directional trim over a range of 1.4 V_{S1} to V_H or V_{MO}/M_{MO} for commuter category airplanes instead of only the high speed requirement in the present rules.

The FAA proposed, in the introductory paragraph of § 23.161(c), to remove the reference to V_{MO}/M_{MO} because it is covered in the applicable individual sections. In § 23.161(c)(1), the FAA proposed to require trim at takeoff power, as this is a likely operational scenario for most airplanes and the condition should be tested. In addition, the change relates the maximum continuous power climb speeds and configuration to § 23.69, the enroute climb requirement. The FAA proposed to redesignate § 23.161(c)(2) as § 23.161(c)(4), to change the reference V_{REF} for a landing speed, and to add a requirement for the airplane to trim at the steepest landing approach gradient the applicant chooses under § 23.75. The FAA proposed to redesignate § 23.161(c)(3) as § 23.161(c)(2) with editorial changes and to redesignate § 23.161(c)(4) as § 23.161(c)(3) with an increase in the trim speed from 0.9 V_{NO} or V_{MO} to V_{NO} or V_{MO}/M_{MO}. The increase in trim speed is appropriate because descent is permitted and is common at V_{MO}.

In § 23.161(d), the FAA proposed to make editorial changes in the introductory paragraph, to reference the appropriate § 23.67 requirements, and to remove commuter category speed ranges, which are moved to the new § 23.161(e). The FAA proposed to revise § 23.161(d)(4) to specify flaps retracted instead of referencing the § 23.67 configurations. Flaps retracted is the likely sustained configuration where a pilot would need to trim. Also, the flaps retracted configuration for § 23.161(d)(4) is consistent with § 23.67.

The FAA proposed a new § 23.161(e) to ensure that excessive forces are not encountered in commuter category airplanes during extended climbs at V_2 in the takeoff configuration, when climb above 400 feet is required.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.175 Demonstration of Static Longitudinal Stability

The FAA proposed to revise § 23.175(a)(1) to change the flap position from the climb position to the flaps retracted position. This is a clarifying change since virtually all part 23 airplanes use the flaps retracted position for climb. Also, this change aligns the part 23 and part 25 climb static longitudinal stability requirements.

The FAA proposed, in § 23.175(a)(3), to remove the option for the applicant to select some power other than maximum continuous power as an operating limitation. As noted in the discussion of § 23.155, this eliminates a power specification that is unnecessary and simplifies normal operations for the pilot. In § 23.175(a)(4), the FAA proposed to make the trim speed consistent with the enroute all-engine climb speed.

The FAA proposed in § 23.175(b) to rearrange the paragraph with no change in requirements. The definition of V_{FC}/M_{MC} contained in § 23.175(b)(2) is moved to part 1, to harmonize with JAR 1. (See the change to § 1.1.)

The FAA proposed to remove § 23.175(c). The test for gear down cruise static longitudinal stability required under paragraph (c) is considered superfluous to the landing configuration static longitudinal stability test and does not represent a likely operating scenario.

The FAA proposed to redesignate § 23.175(d) as § 23.175(c) with a change to V_{REF} as the trim speed.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.177 Static Directional and Lateral Stability

The FAA proposed to revise § 23.177 to remove the requirements for two-control airplanes, to make minor clarifying changes, and to specify an exclusion for acrobatic category airplanes.

The FAA proposed in § 23.177 to remove the introductory phrase concerning three-control airplanes, which is consistent with the removal of the requirements for two-control airplanes in paragraph (b). The two-control airplane regulations were introduced in 1945 but no two-control airplanes have been certificated for several decades and no need is foreseen for these regulations. If an applicant

proposes a two-control airplane, the FAA would issue special conditions.

The FAA proposed that, after removing the introductory portion of § 23.177(a), paragraph (a)(1) would be redesignated as (a). In the first sentence, "skid" is replaced with "wings-level sideslip" to clarify the intended maneuver. Also, this change increases the power requirement for demonstration of directional stability in the landing configuration. The requirement specifies power necessary to maintain a three degree angle of descent. Maximum continuous power is considered appropriate since directional stability should be maintained during a balked landing, particularly since directional instability is an undesirable characteristic at any point in the flight envelope. Also, the FAA proposed to replace V_A with V_O to be consistent with § 23.1507.

The FAA proposed, in § 23.177(b), to replace "any" with "all" in the first sentence to clarify that all landing gear and flap positions must be addressed. Also, the FAA proposed that the paragraph specify a minimum speed at which static lateral stability may not be negative, as 1.3 V_S, for all configurations except takeoff. This is consistent with the other speeds specified in § 23.177(b) and relieves the requirement for other than takeoff speeds.

The FAA proposed new § 23.177(c) to provide an exclusion for the dihedral effect for acrobatic category airplanes approved for inverted flight. This change recognizes that, in full acrobatic airplanes, the dihedral effect is not a desired characteristic

The addition of § 23.147(c), which ensures lateral control capability without the use of the primary lateral control system, compensates for the relieving nature of proposed § 23.177(b) and the exception from the requirements of § 23.177(b) for acrobatic category airplanes.

The FAA proposes to redesignate § 23.177(a)(3) as § 23.177(d) and to remove the next to the last sentence of § 23.177(d), concerning bank angle and heading. The requirement is not a necessary test condition and a constant heading during the sideslip may be impossible in some airplanes.

Comment: Raytheon commented on the requirements for stability in steady heading slips, which were changed in a previous amendment (Amendment 23–21; 43 FR 2318; January 16, 1978), and recommended clarifying language.

FAA Response: As Raytheon noted, the rule language they believe needs clarification was not addressed in Notice 94–22, and, therefore, is beyond the scope of this rulemaking.

The proposals are adopted as proposed.

Section 23.201 Wings Level Stall

The FAA proposed to remove the two-control airplane requirements, altitude loss requirements, and to make clarifying changes in § 23.201.

The FAA proposed to revise § 23.201(a) to remove the applicability reference for an airplane with independently controlled roll and directional controls and to replace the last word "pitches" with "stalls" since stalls may be defined by other than nose-down pitching.

The FAA proposed to remove § 23.201(b) since it applies to two-control airplanes. (See § 23.177 for discussion of two-control airplane requirements.)

The FAA proposed to divide § 23.201(c) into § 23.201(b), stall recognition, and § 23.201(c), stall recovery. The FAA proposed, in § 23.201(b), to clarify that the test should start from a speed at least 10 knots above the stall speed, with no change in requirements. The FAA proposed to add § 23.201(c) to specify how long the control must be held against the stop. This change ensures that the procedure for determining stall speed is the same procedure used to test stall characteristics. The FAA proposed to remove the last sentence of paragraph (c) on the increase of power because it only applies to altitude loss.

The FAA proposed to remove § 23.201(d), as suggested by the JAA, since the determination of altitude loss, and its subsequent furnishing in the AFM, is not considered information useful to the pilot for safe operation of the airplane.

The FAA proposed new § 23.201(d) based on present § 23.201(e), to clarify that the roll and yaw limits apply during both entry and recovery.

The FAA proposed new § 23.201(e) based on former paragraph (f) with some revisions. During FAA/JAA harmonization meetings, the JAA pointed out to the FAA that, in high power-to-weight ratio airplanes, extreme nose-up attitudes were the principal criteria for use of reduced power, not the presence of undesirable stall characteristics. The FAA concurs, and, therefore, proposed to remove the phrase concerning stall characteristics.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.203 Turning Flight and Accelerated Turning Stalls

The FAA proposed to revise § 23.203 to add the word "turning" before "stalls" and after "accelerated" in the heading, the introductory text, and in paragraphs (a)(2) and (b)(5). This change clarifies that accelerated stalls are performed in turning flight. This clarification reflects current practice.

In § 23.203 (a) and (b), the FAA proposed to reference the stall definition in current § 23.201(b), which is more specific than the present general words "when the stall has fully developed or the elevator has reached its stop."

For clarification, the FAA proposed that paragraph (b)(4) be separated into paragraphs (b)(4) and (b)(5) without substantive change, and that former paragraph (b)(5) be redesignated as paragraph (b)(6).

The FAA proposed in § 23.203(c)(1) to clarify the wing flap positions by changing "each intermediate position" to "each intermediate normal operating position," and in § 23.203(c)(4) to clarify the use of reduced power. (See the final change to § 23.201(f).)

The FAA proposed new paragraph (c)(6) to be consistent with new § 23.207(c)(6) configurations (Amendment No. 23–45).

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.205 Critical Engine-Inoperative Stalls

The FAA proposed to remove § 23.205. The stall demonstration conditions are not realistic because the engine operation and power asymmetry do not represent conditions likely to accompany an inadvertent stall in service. Service history shows, however, that stalls with significant power asymmetry can result in a spin, even on airplanes that are certificated to the present requirement. Based on this service history, the FAA determined that the requirement for demonstrating one-engine-inoperative stalls is not effective in ensuring that inadvertent stalls with one engine inoperative will have satisfactory characteristics and be recoverable. Sufficient protection against the hazard of stalling with one engine inoperative is provided by the one-engine-inoperative performance requirements and operating speed margins, coupled with the requirements for determination of V_{MC}, and the addition of a directional and lateral control test under § 23.147(b).

No comments were received on the proposal for this section, and the section is removed as proposed.

Section 23.207 Stall Warning

The FAA proposed, in § 23.207(c), to reference the stall tests required by

§ 23.201(b) and § 23.203(a)(1) and to specify that during such tests for one knot per second deceleration stalls, both wings level and turning, the stall warning must begin at a speed exceeding the stalling speed by a margin of not less than 5 knots. The FAA proposed to remove the quantified upper limit in the rule of 10 knots or 15 percent of the stalling speed. The upper limit has created problems for manufacturers because of the complex design features required to show compliance. The upper limit requirement is, in effect, replaced by the nuisance stall warning provision in § 23.207(d).

The FAA proposed to divide § 23.207(d) into § 23.207 (d) and (e), with § 23.207(d) on nuisance stall warnings having no change in requirements. In § 23.207(e), the FAA proposed to remove the bottom limit of five knots for decelerations greater than one knot per second and to specify that the stall warning must begin sufficiently before the stall so that the pilot can take corrective action. This is considered appropriate because, at the higher deceleration rates of three to five knots per second, a specified five knots may not be enough stall warning.

The FAA proposed new § 23.207(f) to allow for a mutable stall warning system in acrobatic category airplanes, with automatic arming for takeoff and rearming for landing. This feature allows the pilot to disengage the warning during acrobatics while retaining the safety feature during takeoff and landing.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.221 Spinning

The FAA proposed to change the point to start the one-turn-spin recovery count, to delete the "characteristically incapable of spinning" option, and to make minor changes in acrobatic category spins in § 23.221.

The FAA proposed, in § 23.221(a), to replace the exception for airplanes characteristically incapable of spinning with an exception for airplanes that demonstrate compliance with the optional spin resistant requirements of paragraph (a)(2) of this section. Criteria for an airplane incapable of spinning are unnecessary since criteria for spin resistant airplanes are provided. As proposed, § 23.221(a) changed the point at which the count for the one-turn-spin recovery begins. The change provides a specific point to begin the count by replacing the phrase "after the controls have been applied" with "after initiation of the first control action for recovery." Under the former rules, if an applicant proposed a multiple step recovery procedure that starts with the rudder, then the airplane may be effectively recovered before the start of the recovery count.

The FAA proposed, in § 23.221(a)(1)(ii), to specify that no control force or characteristic can adversely affect prompt recovery. This would be an improvement over the present requirement because it includes yaw and roll as well as pitch control.

The FAA proposed to recodify § 23.221(a)(1) into § 23.221 (a)(1)(i) through (a)(1)(iv) with no changes in the requirements, and to restate § 23.221(a)(2) on spin resistant airplanes with minor editorial changes but with no change in requirements.

The FAA proposed to specify, in § 23.221(b), the emergency egress requirements of § 23.807(b)(5) for those utility category airplanes approved for spinning, thereby cross-referencing the requirements of § 23.807 to the flight requirements.

The FAA proposed, in the introductory paragraph of § 23.221(c), to require acrobatic category airplanes to meet the one-turn-spin requirements of § 23.221(a). This change is needed because acrobatic category airplanes should have sufficient controllability to recover from the developing one-turn-spin under the same conditions as normal category airplanes. The introductory paragraph also cross-references § 23.807 for emergency egress requirements.

The FAA proposed, in § 23.221(c)(1), pertaining to acrobatic category airplanes, to add a requirement for spin recovery after six turns or any greater number of turns for which certification is requested. This rule requires recovery within 1.5 turns after initiation of the first control action for recovery. This requirement ensures recovery within 1.5 turns if the spin mode changes beyond six turns. As an alternative, the applicant may stop at six turns and provide a limitation of six turns.

The FAA proposed, in § 23.221(c)(2), to remove the option to retract flaps during recovery and to provide the applicant with a choice of flaps up or flaps deployed for spin approval. The paragraph continues to prohibit exceeding applicable airspeed limits and limit maneuvering load factors.

The FAA proposed new § 23.221(c)(4) to ensure that the acrobatic spins do not cause pilot incapacitation.

The FAA proposed to remove § 23.221(d), relating to airplanes that are "characteristically incapable of spinning," which has been in the regulation since at least 1937. In 1942, the present weight, center of gravity, and control mis-rig criteria were introduced into Civil Air Regulation (CAR) 03. Since then, the National Aeronautics and Space Administration (NASA) spin resistant requirements, which are based on research, have been developed and incorporated in the regulations by Amendment No. 23–42 (56 FR 344, January 3, 1991). If an applicant proposes a non-spinable airplane, it would be appropriate to apply the requirements of § 23.221(a)(2) as proposed in Notice 90–22.

The only comment on this section was a JAA statement recognizing this as an existing disharmony.

The proposals are adopted as proposed.

Section 23.233 Directional Stability and Control

The FAA proposed to make minor word changes to § 23.233(a) to harmonize this section with the corresponding JAR section.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.235 Operation on Unpaved Surfaces

The FAA proposed to revise the heading of § 23.235 and to remove water operating requirements, which are moved to new § 23.237.

No comments were received on the proposals for this section, and it is adopted as proposed.

Section 23.237 Operation on Water

New § 23.237, for operation on water, is the same as the former § 23.235(b).

The only comment on this section is a JAA statement acknowledging an existing disharmony.

The proposal is adopted as proposed.

Section 23.253 High Speed Characteristics

The FAA proposed to remove paragraph (b)(1), since the requirement for piloting strength and skill is covered in § 23.141.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.562 Emergency Landing Dynamic Conditions

The FAA proposed to change the one engine inoperative climb to remove the reference in § 23.562(d) and to add it to § 23.67(a)(1).

The only comment on this section is a JAA statement acknowledging existing disharmony.

The proposal is adopted as proposed.

Section 23.1325 Static Pressure System

The FAA proposed to revise § 23.1325(e) to clarify that the static pressure calibration must be conducted in flight, which is standard practice, and to remove and reserve § 23.1325(f).

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1511 Flap Extended Speed

The FAA proposed to remove from § 23.1511(a) references to § 23.457. Section 23.457 is proposed to be removed in a related NPRM, Notice No. 94–20 (59 FR 35196, July 8, 1994), on the airframe.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1521 Powerplant Limitations

The FAA proposed to amend § 23.1521 to require maximum temperature be established for takeoff operation and to require an ambient temperature limit for reciprocating engines in airplanes of more than 6,000 pounds.

The FAA proposed in § 23.1521(b)(5) to require the establishment of maximum cylinder head, liquid coolant, and oil temperature limits for takeoff operation without regard to the allowable time. Previously, temperature limits were required only if the takeoff power operation is permitted for more than two minutes. It is appropriate to require operating temperature limitations because most takeoff operations will exceed two minutes.

The FAA proposed in § 23.1521(e) to require an ambient temperature limit for turbine engine-powered airplanes and reciprocating engine-powered airplanes over 6,000 pounds. These airplanes are subject to WAT limits and the revision will ensure that airplane engines will cool at the ambient temperature limit.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1543 Instrument Markings: General

The FAA proposed new § 23.1543(c) to require that all related instruments be calibrated in compatible units. This is considered essential for safe operation.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1545 Airspeed Indicator

The FAA proposed in § 23.1545(b)(5) to delete any one-engine-inoperative best rate of climb speed marking requirements for WAT limited airplanes. These airplanes already have scheduled speeds in case of an engine failure. The FAA proposed that paragraph (b)(5) apply only to non-WAT airplanes for which the one-engine-operative best rate of climb speed marking has been simplified to reflect performance for sea level at maximum weight. Since the blue arc rule was promulgated in Amendment No. 23–23 (43 FR 50593, October 30, 1978), certification experience has shown that the marking of an arc is unnecessarily complicated. For many airplanes, the approved arc was so narrow that the arc was a line; therefore, final paragraph (b)(5) requires a blue radial line instead of an arc.

The FAA proposed to revise § 23.1545(b)(6) to retain the existing V_{MC} requirement for non-WAT airplanes and to remove the requirement for V_{MC} markings for WAT airplanes since WAT airplanes already have scheduled speeds in case of engine failure.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1553 Fuel Quantity Indicator

The FAA proposed to remove, from § 23.1553, the use of an arc to show a quantity of unusable fuel. The FAA proposed that the rule reference the unusable fuel determination and require only a red radial line, which provides a clearer indication of fuel quantity for pilots.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1555 Control Markings

The FAA proposed to add to § 23.1555(e)(2) a requirement that no controls except emergency controls be red.

Comment: Transport Canada states that certain cockpit controls serve a dual purpose in that they serve normal aircraft operation functions as well as emergency functions. Examples are fuel selector valves and door handles. Transport Canada recommends rule language that recognizes dual usage.

FAA Response: Transport Canada's statement about the existence of dual usage controls is correct. The FAA originally intended to address the dual usage issue in an AC. On further evaluation of the proposed rule language, dual usage controls would be prohibited, if it were adopted as proposed. Therefore, an AC could not be used to allow controls such as the mixture (which is usually red) to continue to be red without violating the rule. The FAA has incorporated the dual usage language in the final rule to avoid confusion between the intent of the rule and the current practice.

The proposal is adopted with the changes mentioned above.

Section 23.1559 Operating Limitations Placard

The FAA proposed to simplify § 23.1559 and to remove duplicate material while requiring essentially the same information. Most airplanes currently operate with an AFM and the new rule places emphasis on using the AFM to define required operating limitations.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1563 Airspeed Placards

The FAA proposed to add a new paragraph (c) to § 23.1563. The new paragraph is applicable to WAT limited airplanes and requires providing the maximum V_{MC} in the takeoff configuration determined under § 23.149(b). This is desirable since the V_{MC} is not marked on the airspeed indicator for these airplanes.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1567 Flight Maneuver Placard

The FAA proposed to add new § 23.1567(d) to apply to acrobatic and utility airplanes approved for intentional spinning, which requires a placard listing control actions for recovery. New paragraph (d) proposed to require a statement on the placard that the airplane be recovered when spiral characteristics occur, or after six turns, or at any greater number of turns for which certification tests have been conducted. This paragraph replaces the similar placard requirement in current § 23.1583(e)(3) for acrobatic category airplanes.

No comments were received on the proposal for this section, and it is adopted as proposed.

Section 23.1581 General

The FAA proposed to make editorial changes in § 23.1581 that recognize WAT limited and non-WAT limited airplanes.

In new § 23.1581(a)(3), the FAA proposed to require information necessary to comply with relevant operating rules. This is a FAR and JAR harmonization item and is considered necessary because some operational rules, such as § 135.391, require flight planning with one-engine-inoperative cruise speed and/or driftdown data. For airplanes operated under part 135 in the United States, it represents no change in requirements.

The FAA proposed § 23.1581(b)(2) to require that only WAT limited airplane AFM's provide data necessary for determining WAT limits.

The FAA proposed new § 23.1581(c) to require the AFM units to be the same as on the instruments.

The FAA proposed new § 23.1581(d) to remove the requirement for a table of contents. This is considered a format requirement and is not appropriate for this section, which specifies AFM content. Section 23.1581(d) is replaced by a requirement to present all operational airspeeds as indicated airspeeds. This adopts current practice.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1583 Operating Limitations

The FAA proposed to revise § 23.1583 operating limitations information for the AFM. The FAA proposed to revise airspeed limitations for commuter category airplanes, to require AFM limitations for WAT limited airplanes, to furnish ambient temperature limitations and smoking restriction information, and to specify types of runway surfaces.

The FAA proposed, in § 23.1583(a)(3), to make V_{MO}/M_{MO} airspeed operating limitations applicable only to turbine powered commuter category airplanes. This is consistent with current practice since no reciprocating engine-powered commuter category airplanes have been proposed.

In § 23.1583(c)(3), the FAA proposed to add takeoff and landing weight limitations for WAT limited airplanes. (See § 23.45.)

The FAA proposed to revise § 23.1583(c)(4) and (c)(5), to renumber § 23.1583(c)(3) and (c)(4), and to make editorial and cross-reference changes. In paragraph (c)(4)(ii), the FAA proposed a new requirement that the AFM include the maximum takeoff weight for each airport altitude and ambient temperature within the range selected by the applicant at which the accelerate-stop distance determined under § 23.55 is equal to the available runway length plus the length of any stopway, if available. This is currently required for transport category airplanes and is necessary for harmonization with JAR 23.

In § 23.1583(c)(6), the FAA proposed to establish the zero wing fuel weight of § 23.343 as a limitation. This provides the pilot with information necessary to prevent exceeding airplane structural limits.

The FAA proposed editorial changes to § 23.1583(d) and, in paragraphs (e)(1) and (e)(2), to remove references to "characteristically incapable of spinning." As discussed under § 23.221, requirements for "characteristically incapable of spinning" are removed.

In § 23.1583(e)(4), the FAA proposed to add a requirement to specify limitations associated with spirals, six turn spins, or more than six turn spins. The requirement for a placard is removed since the requirement is covered in § 23.1567.

The FAA proposed to revise § 23.1583(e)(5) based on former paragraph (e)(4) for commuter category airplanes. This restates the maneuvers as those proposed for commuter category airplanes in § 23.3.

The FAA proposed to revise the heading of § 23.1583(f) and to add a limit negative load factor for acrobatic category airplanes.

The FAA proposed to revise § 23.1583(g) to make editorial changes with no change in requirements and to reference the flight crews' requirements in § 23.1523. As proposed, § 23.1583(k), (l), and (m) are redesignated as § 23.1583(i), (j), and (k).

The FAA proposed new § 23.1583(l) to require baggage and cargo loading limits in the AFM.

The FAA proposed a new § 23.1583(m) to require any special limitations on systems and equipment in the AFM. This provides the pilot with information necessary for safe operation of the airplane systems and equipment.

The FAA proposed a new § 23.1583(n) to require a statement on ambient temperature limitations. Maximum cooling temperature limits have been required for turbine powered airplanes by § 23.1521(e); however, the requirement for the limitation has never been specified in § 23.1583. Proposed § 23.1583(n) requires both maximum and minimum temperature limits if appropriate. A minimum temperature limit provides the pilot with information necessary to avoid airplane damage during low temperature operations.

The FAA proposed a new § 23.1583(o) to state any occupant smoking limitations on the airplane in the AFM.

The FAA proposed a new § 23.1583(p) to require the applicant to state what runway surfaces have been approved.

No comments were received on the proposals for this section, and it is adopted as proposed.

Section 23.1585 Operating Procedures

The FAA proposed to rearrange the material in § 23.1585(a). Also, the FAA proposed to add, for all airplanes, a requirement to paragraph (a) that information in the following areas be included: Unusual flight or ground handling characteristics; maximum demonstrated values of crosswinds; recommended speed for flight in rough air; restarting an engine in flight; and making a normal approach and landing in accordance with §§ 23.73 and 23.75. All of these requirements are in former § 23.1585(a) except for restarting a turbine engine in flight, which is in former paragraph (c)(5) pertaining only to multiengine airplanes. The FAA decided that a restart capability is not required for single reciprocating engine airplanes for the reasons given in the preamble discussion of proposal 3 in Amendment No. 23–43 (58 FR 18958, April 9, 1993). The requirement to provide restart information should apply to single turbine engines, however, since turbine engine designs incorporate a restart capability and inadvertent shutdowns may occur. The requirement for normal approach and landing information, in accordance with the landing requirement in §§ 23.73 and 23.75, is new. This information is necessary to enable pilots to achieve the published landing distances and, if necessary, to safely transition to a balked landing.

The FAA proposed to revise § 23.1585(b) by adding new requirements, which cover gliding after an engine failure for single-engine airplanes, to reference the new requirements proposed in § 23.71.

The FAA proposed to revise § 23.1585(c) to require compliance with paragraph (a) plus the following requirements from former paragraph (c): Approach and landing with an engine inoperative; balked landing with an engine inoperative; and V_{SSE} as determined in § 23.149. The FAA also proposed to redesignate paragraph (c) requirements, information on procedures for continuing a takeoff following an engine failure and continuing a climb following an engine failure, as proposed (e) for normal, utility, and acrobatic multiengines.

The FAA proposed to revise § 23.1585(d) to apply to normal, utility, and acrobatic airplanes, which would have to comply with paragraph (a) and either (b) or (c). These airplanes must also comply with the normal takeoff, climb, and abandoning a takeoff procedures, which were contained in paragraph (a).

The FAA proposed to revise § 23.1585(c), for normal, utility and acrobatic multiengine airplanes, to require compliance with proposed (a), (c), and (d), plus requirements for continuing a takeoff or climb with one engine inoperative that were in former paragraph (c) (1) and (2).

The FAA proposed to revise § 23.1585(f) to amend normal takeoff requirements in former paragraph (a)(2); to add accelerate-stop requirements; and to continue takeoff after engine failure, which was in former paragraph (c)(1).

The FAA proposed no substantial changes in § 23.1585 (g) and (h), which are based on paragraphs (d) and (e), respectively.

The FAA proposed to revise § 23.1585(i) based on former paragraph (g) on the total quantity of usable fuel and to add information on the effect of pump failure on unusable fuel.

The FAA proposed a new § 23.1585(j) to require procedures for safe operation of the airplanes' systems and equipment that, although not previously required, are current industry practice.

In the proposed revision of § 23.1585(h), the commuter category airplane procedures for restarting turbine engines in flight would no longer be necessary because the requirement is covered under paragraph (a)(4).

Comment: The JAA comments that the JAA does not agree with limiting the inflight engine restart requirements of proposed paragraph (a)(4) to turbine engines only.

FAA Response: The JAA comment addresses a known disharmony between the regulations.

No substantive comment was received, and the proposals are adopted as proposed.

Section 23.1587 Performance Information

The FAA proposed to revise § 23.1587 to rearrange existing material, to remove ski plane performance exceptions, to remove the option of calculating approximate performance, to remove staff altitude loss data, and to require overweight landing performance in § 23.1587. Stalling speed requirements of paragraph (c)(2) and (3) are combined and moved to final paragraph (a)(1) and reference and stalling speed requirement of § 23.49. Information on the steady rate and gradient of climb with all engines operating is required by paragraph (a)(2). This is revised from paragraph (a)(2). The climb section referenced in existing § 23.1587(a)(2) is removed and replaced with § 23.69(a).

The FAA proposed to revise paragraph (a)(3) to add that landing distance determined under § 23.75 must be provided for each airport altitude, standard temperature, and type of surface for which it is valid. The FAA proposed to revise paragraph (a)(4) to require information on the effect on landing distance when landing on other than hard surface, as determined under § 23.45(g). The FAA proposed to revise paragraph (a)(5) to cover information on the effects on landing distance of runway slope and wind. This provides the pilot with data with which to account for these factors in his or her takeoff calculations.

The FAA proposed to remove requirements on ski planes from § 23.1587(b) and to add a requirement for a steady angle of climb/descent, as determined under § 23.77(a), in its place. This requirement applies to all non-WAT airplanes.

The FAA proposed to revise paragraph (c) to apply normal, utility, and acrobatic category airplanes, rather than all airplanes. The FAA proposed to remove the stall altitude loss requirements from paragraph (c)(1). As mentioned, the FAA proposed to remove the stalling speed requirements from paragraphs (c)(2) and (c)(3) and to place them in paragraph (a)(1). The FAA also proposed to remove paragraph (c)(4) on cooling climb speed data since most airplanes cool at scheduled speeds.

The FAA proposes to revise paragraph (c)(1) to pertain to the takeoff distance determined under § 23.53 and to the type of surface. Proposed paragraphs (c)(2) and (c)(3) pertain to the effect on takeoff distance of the runway surface, slope, and headwind and tailwind component.

The FAA proposed to revise paragraph (c)(4) to add a new requirement pertaining to the one-engine inoperative takeoff climb/descent performance for WAT-limited airplanes. This pertains only to reciprocating engine-powered airplanes. It provides the pilot with the information determined under final § 23.66.

The FAA proposed a new paragraph (c)(5), which pertains to enroute rate and gradient and climb/descent determined under § 23.69(b), for multiengine airplanes.

The FAA proposed to revised § 23.1587(d) to incorporate into commuter category airplanes the present data and accelerate-stop data, overweight landing performance, and the effect of operation on other than smooth hard surfaces. In addition, in order to consolidate all of the requirements for what must appear in the AFM in subpart G, the FAA proposed that § 23.1587(d)(10) contain the requirement, found in former § 23.1323(d), to show the relationship between IAS and CAS in the AFM.

No comments were received on the proposals for this section, and they are adopted as proposed.

Section 23.1589 Loading Information

The FAA proposed to make editorial changes in § 23.1589(b) to simplify the text, with no change in requirements.

No comments were received on the proposal for this section, and it is adopted as proposed.

Appendix E

The FAA proposed to remove Appendix E and to reserve it for the reasons given in the change to § 23.25.

No comments were received on the proposal, and Appendix E is removed and reserved as proposed.

Regulatory Evaluation, Regulatory Flexibility Determination, and Trade Impact Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations only if the potential benefits to society justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that this rule: (1) Will generate benefits exceeding its costs and is "significant" as defined in the Executive Order; (2) is "significant" as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Comments Related to the Economics of the Proposed Rule

One comment was received regarding the economics, § 23.143 Controllability and Maneuverability. This comment, as well as the FAA's response, are included in the section "Discussion of Amendments."

Regulatory Evaluation Summary

The FAA has identified 15 sections that will result in additional compliance costs to one or more airplane categories. Amendments to five sections will result in cost savings. The greatest costs will be incurred by manufacturers of WAT limited airplanes (e.g., multiengine airplanes with maximum weights of more than 6,000 pounds). When amortized over a production run, the incremental costs will have a negligible impact on airplane prices, less than $100 per airplane.

The primary benefit of the rule will be the cost efficiencies of harmonization with the JAR for those manufacturers that choose to market airplanes in JAA countries as well as to manufacturers in JAA countries that market airplanes in the United States. Other benefits of the rule will be decreased reliance on special conditions, simplification of the certification process through clarification of existing requirements, and increased flexibility through optional designs.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a rule will have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The rule will not constitute a barrier to international trade, including the export of American airplanes to foreign countries and the impact of foreign airplanes into the United States. Instead, the flight certification procedures have been harmonized with those of the JAA and will lessen restraints on trade.

Federalism Implications

The regulations herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA is revising the flight airworthiness standards for normal, utility, acrobatic, and commuter category airplanes to harmonize them with the standards of the Joint Aviation Authorities in Europe for the same category airplanes. The revisions will reduce the regulatory burden on the United States and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in the United States or in a country that is a member of the JAA.

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation, the FAA has determined that this rule is significant under Executive Order 12866. In addition, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A regulatory evaluation of the rule has been placed in the docket. A copy may be obtained by contracting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 1 and 23 to read as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

2. A new definition is added in alphabetical order to § 1.1 to read as follows:

§ 1.1 General definitions.

* * * * * * *

Maximum speed for stability characteristics, V_{FC}/M_{FC} means a speed that may not be less than a speed midway between maximum operating limit speed (V_{MO}/M_{MO}) and demonstrated flight diving speed (V_{DF}/M_{DF}), except that, for altitudes where the Mach number is the limiting factor, M_{FC} need not exceed the Mach number at which effective speed warning occurs.

* * * * *

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

3. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

4. Section 23.3 is amended by revising paragraphs (b)(2), (d), and (e) to read as follows:

§ 23.3 Airplane categories.

* * * * *

(b) * * *

(2) Lazy eights, chandelles, and steep turns, or similar maneuvers, in which the angle of bank is more than 60 degrees but not more than 90 degrees.

* * * * *

(d) The commuter category is limited to propeller-driven, multiengine airplanes that have a seating configuration, excluding pilot seats, of 19 or less, and a maximum certificated takeoff weight of 19,000 pounds or less. The commuter category operation is limited to any maneuver incident to normal flying, stalls (except whip stalls), and steep turns, in which the angle of bank is not more than 60 degrees.

(e) Except for commuter category, airplanes may be type certificated in more than one category if the requirements of each requested category are met.

5. Section 23.25 is amended by revising paragraphs (a) introductory text and (a)(1) introductory text, and paragraphs (a)(1)(i) and (a)(1)(iii) to read as follows:

§ 23.25 Weight limits.

(a) *Maximum weight.* The maximum weight is the highest weight at which compliance with each applicable requirement of this part (other than those complied with at the design landing weight) is shown. The maximum weight must be established so that it is—

(1) Not more than the least of—

(i) The highest weight selected by the applicant; or

* * * * *

(iii) The highest weight at which compliance with each applicable flight requirement is shown, and

* * * * *

6. Section 23.33 is amended by revising paragraphs (b) (1) and (2) to read as follows:

§ 23.33 Propeller speed and pitch limits.

(b) * * *

(1) During takeoff and initial climb at the all engine(s) operating climb speed

specified in § 23.65, the propeller must limit the engine r.p.m., at full throttle or at maximum allowable takeoff manifold pressure, to a speed not greater than the maximum allowable takeoff r.p.m.; and

(2) During a closed throttle glide, at V_{NE}, the propeller may not cause an engine speed above 110 percent of maximum continuous speed.

* * * * *

7. Section 23.45 is revised to read as follows:

§ 23.45 General.

(a) Unless otherwise prescribed, the performance requirements of this part must be met for—

(1) Still air and standard atmosphere; and

(2) Ambient atmospheric conditions, for commuter category airplanes, for reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight, and for turbine engine-powered airplanes.

(b) Performance data must be determined over not less than the following ranges of conditions—

(1) Airport altitudes from sea level to 10,000 feet; and

(2) For reciprocating engine-powered airplanes of 6,000 pounds, or less, maximum weight, temperature from standard to 30 °C above standard; or

(3) For reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight and turbine engine-powered airplanes, temperature from standard to 30 °C above standard, or the maximum ambient atmospheric temperature at which compliance with the cooling provisions of § 23.1041 to § 23.1047 is shown, if lower.

(c) Performance data must be determined with the cowl flaps or other means for controlling the engine cooling air supply in the position used in the cooling tests required by § 23.1041 to § 23.1047.

(d) The available propulsive thrust must correspond to engine power, not exceeding the approved power, less—

(1) Installation losses; and

(2) The power absorbed by the accessories and services appropriate to the particular ambient atmospheric conditions and the particular flight condition.

(e) The performance, as affected by engine power or thrust, must be based on a relative humidity:

(1) Of 80 percent at and below standard temperature; and

(2) From 80 percent, at the standard temperature, varying linearly down to 34 percent at the standard temperature plus 50 °F.

(f) Unless otherwise prescribed, in determining the takeoff and landing distances, changes in the airplane's configuration, speed, and power must be made in accordance with procedures established by the applicant for operation in service. These procedures must be able to be executed consistently by pilots of average skill in atmospheric conditions reasonably expected to be encountered in service.

(g) The following, as applicable, must be determined on a smooth, dry, hard-surfaced runway—

(1) Takeoff distance of § 23.53(b);

(2) Accelerate-stop distance of § 23.55;

(3) Takeoff distance and takeoff run of § 23.59; and

(4) Landing distance of § 23.75.

Note: The effect on these distances of operation on other types of surfaces (for example, grass, gravel) when dry, may be determined or derived and these surfaces listed in the Airplane Flight Manual in accordance with § 23.1583(p).

(h) For commuter category airplanes, the following also apply:

(1) Unless otherwise prescribed, the applicant must select the takeoff, enroute, approach, and landing configurations for the airplane.

(2) The airplane configuration may vary with weight, altitude, and temperature, to the extent that they are compatible with the operating procedures required by paragraph (h)(3) of this section.

(3) Unless otherwise prescribed, in determining the critical-engine-inoperative takeoff performance, takeoff flight path, and accelerate-stop distance, changes in the airplane's configuration, speed, and power must be made in accordance with procedures established by the applicant for operation in service.

(4) Procedures for the execution of discontinued approaches and balked landings associated with the conditions prescribed in § 23.67(c)(4) and § 23.77(c) must be established.

(5) The procedures established under paragraphs (h)(3) and (h)(4) of this section must—

(i) Be able to be consistently executed by a crew of average skill in atmospheric conditions reasonably expected to be encountered in service;

(ii) Use methods or devices that are safe and reliable; and

(iii) Include allowance for any reasonably expected time delays in the execution of the procedures.

8. Section 23.49 is revised to read as follows:

§ 23.49 Stalling period.

(a) V_{SO} and V_{S1} are the stalling speeds or the minimum steady flight speeds, in knots (CAS), at which the airplane is controllable with—

(1) For reciprocating engine-powered airplanes, the engine(s) idling, the throttle(s) closed or at not more than the power necessary for zero thrust at a speed not more than 110 percent of the stalling speed;

(2) For turbine engine-powered airplanes, the propulsive thrust not greater than zero at the stalling speed, or, if the resultant thrust has no appreciable effect on the stalling speed, with engine(s) idling and throttle(s) closed;

(3) The propeller(s) in the takeoff position;

(4) The airplane in the condition existing in the test, in which V_{SO} and V_{S1} are being used;

(5) The center of gravity in the position that results in the highest value of V_{SO} and V_{S1}; and

(6) The weight used when V_{SO} and V_{S1} are being used as a factor to determine compliance with a required performance standard.

(b) V_{SO} and V_{S1} must be determined by flight tests, using the procedure and meeting the flight characteristics specified in § 23.201.

(c) Except as provided in paragraph (d) of this section, V_{SO} and V_{S1} at maximum weight must not exceed 61 knots for—

(1) Single-engine airplanes; and

(2) Multiengine airplanes of 6,000 pounds or less maximum weight that cannot meet the minimum rate of climb specified in § 23.67(a) (1) with the critical engine inoperative.

(d) All single-engine airplanes, and those multiengine airplanes of 6,000 pounds or less maximum weight with a V_{SO} of more than 61 knots that do not meet the requirements of § 23.67(a)(1), must comply with § 23.562(d).

9. Section 23.51 is revised to read as follows:

§ 23.51 Takeoff speeds.

(a) For normal, utility, and acrobatic category airplanes, rotation speed, V_R, is the speed at which the pilot makes a control input, with the intention of lifting the airplane out of contact with the runway or water surface.

(1) For multiengine landplanes, V_R, must not be less than the greater of 1.05 V_{MC}; or 1.10 V_{S1};

(2) For single-engine landplanes, V_R, must not be less than V_{S1}; and

(3) For seaplanes and amphibians taking off from water, V_R, may be any speed that is shown to be safe under all reasonably expected conditions, including turbulence and complete failure of the critical engine.

(b) For normal, utility, and acrobatic category airplanes, the speed at 50 feet above the takeoff surface level must not be less than:

(1) or multiengine airplanes, the highest of—

(i) A speed that is shown to be safe for continued flight (or emergency landing, if applicable) under all reasonably expected conditions, including turbulence and complete failure of the critical engine;

(ii) 1.10 V_{MC}; or

(iii) 1.20 V_{S1}.

(2) For single-engine airplanes, the higher of—

(i) A speed that is shown to be safe under all reasonably expected conditions, including turbulence and complete engine failure; or

(ii) 1.20 V_{S1}.

(c) For commuter category airplanes, the following apply:

(l) V_1 must be established in relation to V_{EF} as follows:

(i) V_{EF} is the calibrated airspeed at which the critical engine is assumed to fail. V_{EF} must be selected by the applicant but must not be less than 1.05 V_{MC} determined under § 23.149(b) or, at the option of the applicant, not less than V_{MCG} determined under § 23.149(f).

(ii) The takeoff decision speed, V_1, is the calibrated airspeed on the ground at which, as a result of engine failure or other reasons, the pilot is assumed to have made a decision to continue or discontinue the takeoff. The takeoff decision speed, V_1, must be selected by the applicant but must not be less than V_{EF} plus the speed gained with the critical engine inoperative during the time interval between the instant at which the critical engine is failed and the instant at which the pilot recognizes and reacts to the engine failure, as indicated by the pilot's application of the first retarding means during the accelerate-stop determination of § 23.55.

(2) The rotation speed, V_R, in terms of calibrated airspeed, must be selected by the applicant and must not be less than the greatest of the following:

(i) V_1;

(ii) 1.05 V_{MC} determined under § 23.149(b);

(iii) 1.10 V_{S1}; or

(iv) The speed that allows attaining the initial climb-out speed, V_2, before reaching a height of 35 feet above the takeoff surface in accordance with § 23.57(c)(2).

(3) For any given set of conditions, such as weight, altitude, temperature, and configuration, a single value of V_R must be used to show compliance with both the one-engine-inoperative takeoff and all-engines-operating takeoff requirements.

(4) The takeoff safety speed, V_2, in terms of calibrated airspeed, must be selected by the applicant so as to allow the gradient of climb required in § 23.67 (c)(1) and (c)(2) but mut not be less than 1.10 V_{MC} or less than 1.20 V_{S1}.

(5) The one-engine-inoperative takeoff distance, using a normal rotation rate at a speed 5 knots less than V_R, established in accordance with paragraph (c)(2) of this section, must be shown not to exceed the corresponding one-engine-inoperative takeoff distance, determined in accordance with § 23.57 and § 23.59(a)(1), using the established V_R. The takeoff, otherwise performed in accordance with § 23.57, must be continued safely from the point at which the airplane is 35 feet above the takeoff surface and at a speed not less than the established V_2 minus 5 knots.

(6) The applicant must show, with all engines operating, that marked increases in the scheduled takeoff distances, determined in accordance with § 23.59(a)(2), do not result from over-rotation of the airplane or out-of-trim conditions.

10. Section 23.53 is revised to read as follows:

§ 23.53 Takeoff performance.

(a) For normal, utility, and acrobatic category airplanes, the takeoff distance must be determined in accordance with paragraph (b) of this section, using speeds determined in accordance with § 23.51 (a) and (b).

(b) For normal, utility, and acrobatic category airplanes, the distance required to takeoff and climb to a height of 50 feet above the takeoff surface must be determined for each weight, altitude, and temperature within the operational limits established for takeoff with—

(1) Takeoff power on each engine;

(2) Wing flaps in the takeoff position(s); and

(3) Landing gear extended.

(c) For commuter category airplanes, takeoff performance, as required by §§ 23.55 through 23.59, must be determined with the operating engine(s) within approved operating limitations.

11. Section 23.55 is amended by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 23.55 Accelerate-stop distance.

* * * * *

(a) The accelerate-stop distance is the sum of the distances necessary to—

(1) Accelerate the airplane from a standing start to V_{EF} with all engines operating;

(2) Accelerate the airplane from V_{EF} to V_1, assuming the critical engine fails at V_{EF}; and

(3) Come to a full stop from the point at which V_1 is reached.

(b) Means other than wheel brakes may be used to determine the accelerate-stop distances if that means—

* * * * *

12. Section 23.57 is amended by revising paragraphs (a) introductory text, (b), (c)(1), (c)(3) introductory text, (c)(4), and (d); and by adding a new paragraph (e) to read as follows:

§ 23.57 Takeoff path.

* * * * *

(a) The takeoff path extends from a standing start to a point in the takeoff at which the airplane is 1500 feet above the takeoff surface at or below which height the transition from the takeoff to the enroute configuration must be completed; and

* * * * *

(b) During the acceleration to speed V_2, the nose gear may be raised off the ground at a speed not less than V_R. However, landing gear retraction must not be initiated until the airplane is airborne.

(c) * * *

(1) The slope of the airborne part of the takeoff path must not be negative at any point;

* * * * *

(3) At each point along the takeoff path, starting at the point at which the airplane reaches 400 feet above the takeoff surface, the available gradient of climb must not be less than—

* * * * *

(4) Except for gear retraction and automatic propeller feathering, the airplane configuration must not be changed, and no change in power that requires action by the pilot may be made, until the airplane is 400 feet above the takeoff surface.

(d) The takeoff path to 35 feet above the takeoff surface must be determined by a continuous demonstrated takeoff.

(e) The takeoff path to 35 feet above the takeoff surface must be determined by synthesis from segments; and

(1) The segments must be clearly defined and must be related to distinct changes in configuration, power, and speed;

(2) The weight of the airplane, the configuration, and the power must be assumed constant throughout each segment and must correspond to the most critical condition prevailing in the segment; and

(3) The takeoff flight path must be based on the airplane's performance without utilizing ground effect.

13. Section 23.59 is amended by revising the introductory text, paragraph (a)(2), and paragraph (b) to read as follows:

§ 23.59 Takeoff distance and takeoff run.

For each commuter category airplane, the takeoff distance and, at the option of the applicant, the takeoff run, must be determined.

(a) * * *

(2) With all engines operating, 115 percent of the horizontal distance from the start of the takeoff to the point at which the airplane is 35 feet above the takeoff surface, determined by a procedure consistent with § 23.57.

(b) If the takeoff distance includes a clearway, the takeoff run is the greater of—

(1) The horizontal distance along the takeoff path from the start of the takeoff to a point equidistant between the liftoff point and the point at which the airplane is 35 feet above the takeoff surface as determined under § 23.57; or

(2) With all engines operating, 115 percent of the horizontal distance from the start of the takeoff to a point equidistant between the liftoff point and the point at which the airplane is 35 feet above the takeoff surface, determined by a procedure consistent with § 23.57.

14. A new § 23.63 is added to read as follows:

§ 23.63 Climb: general.

(a) Compliance with the requirements of §§ 23.65, 23.66, 23.67, 23.69, and 23.77 must be shown—

(1) Out of ground effect; and

(2) At speeds that are not less than those at which compliance with the powerplant cooling requirements of §§ 23.1041 to 23.1047 has been demonstrated; and

(3) Unless otherwise specified, with one engine inoperative, at a bank angle not exceeding 5 degrees.

(b) For normal, utility, and acrobatic category reciprocating engine-powered airplanes of 6,000 pounds or less maximum weight, compliance must be shown with § 23.65(a), § 23.67(a), where appropriate, and § 23.77(a) at maximum takeoff or landing weight, as appropriate, in a standard atmosphere.

(c) For normal, utility, and acrobatic category reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight, and turbine engine-powered airplanes in the normal, utility, and acrobatic category, compliance must be shown at weights as a function of airport altitude and ambient temperature, within the operational limits established for takeoff and landing, respectively, with—

(1) Sections 23.65(b) and 23.67(b) (1) and (2), where appropriate, for takeoff, and

(2) Section 23.67(b)(2), where appropriate, and § 23.77(b), for landing.

(d) For commuter category airplanes, compliance must be shown at weights as a function of airport altitude and ambient temperature within the operational limits established for takeoff and landing, respectively, with—

(1) Sections 23.67(c)(1), 23.67(c)(2), and 23.67(c)(3) for takeoff; and

(2) Sections 23.67(c)(3), 23.67(c)(4), and 23.77(c) for landing.

15. Section 23.65 is revised to read as follows:

§ 23.65 Climb: all engines operating.

(a) Each normal, utility, and acrobatic category reciprocating engine-powered airplane of 6,000 pounds or less maximum weight must have a steady climb gradient at sea level of at least 8.3 percent for landplanes or 6.7 percer for seaplanes and amphibians with—

(1) Not more than maximum continuous power on each engine;

(2) The landing gear retracted;

(3) The wing flaps in the takeoff position(s); and

(4) A climb speed not less than the greater of 1.1 V_{MC} and 1.2 V_{S1} for multiengine airplanes and not less than 1.2 V_{S1} for single—engine airplanes.

(b) Each normal, utility, and acrobatic category reciprocating engine-powered airplane of more than 6,000 pounds maximum weight and turbine engine-powered airplanes in the normal, utility, and acrobatic category must have a steady gradient of climb after takeoff of at least 4 percent with

(1) Take off power on each engine;

(2) The landing gear extended, except that if the landing gear can be retracted in not more than sven seconds, the test may be conducted with the gear retracted;

(3) The wing flaps in the takeoff position(s); and

(4) A climb speed as specified in § 23.65(a)(4).

16. A new § 23.66 is added to read as follows:

§ 23.66 Takeoff climb: One-engine inoperative.

For normal, utility, and acrobatic category reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight, and turbine engine-powered airplanes in the normal, utility, and acrobatic category, the steady gradient of climb or descent must be determined at each weight, altitude, and ambient temperature within the operational limits established by the applicant with—

(a) The critical engine inoperative and its propeller in the position it rapidly and automatically assumes;

(b) The remaining engine(s) at takeoff power;

(c) The landing gear extended, except that if the landing gear can be retracted in not more than seven seconds, the test may be conducted with the gear retracted;

(d) The wing flaps in the takeoff position(s):

(e) The wings level; and

(f) A climb speed equal to that achieved at 50 feet in the demonstration of § 23.53.

17. Section 23.67 is revised to read as follows:

§ 23.67 Climb: One engine inoperative.

(a) For normal, utility, and acrobatic category reciprocating engine-powered airplanes of 6,000 pounds or less maximum weight, the following apply:

(1) Except for those airplanes that meet the requirements prescribed in § 23.562(d), each airplane with a V_{SO} of more than 61 knots must be able to maintain a steady climb gradient of at least 1.5 percent at a pressure altitude of 5,000 feet with the—

(i) Critical engine inoperative and its propeller in the minimum drag position;

(ii) Remaining engine(s) at not more than maximum continuous power;

(iii) Landing gear retracted;

(iv) Wing flaps retracted; and

(v) Climb speed not less than 1.2 V_{S1}.

(2) For each airplane that meets the requirements prescribed in § 23.562(d), or that has a V_{SO} of 61 knots or less, the steady gradient of climb or descent at a pressure altitude of 5,000 feet must be determined with the—

(i) Critical engine inoperative and its propeller in the minimum drag position;

(ii) Remaining engine(s) at not more than maximum continuous power;

(iii) Landing gear retracted;

(iv) Wing flaps retracted; and

(v) Climb speed not less than $1.2V_{S1}$.

(b) For normal, utility, and acrobatic category reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight, and turbine engine-powered airplanes in the normal, utility, and acrobatic category—

(1) The steady gradient of climb at an altitude of 400 feet above the takeoff must be measurably positive with the—

(i) Critical engine inoperative and its propeller in the minimum drag position;

(ii) Remaining engine(s) at takeoff power;

(iii) Landing gear retracted;

(iv) Wing flaps in the takeoff position(s); and

(v) Climb speed equal to that achieved at 50 feet in the demonstration of § 23.53.

(2) The steady gradient of climb must not be less than 0.75 percent at an altitude of 1,500 feet above the takeoff surface, or landing surface, as appropriate, with the—

(i) Critical engine inoperative and its propeller in the minimum drag position;

(ii) Remaining engine(s) at not more than maximum continuous power;

(iii) Landing gear retracted;

(iv) Wing flaps retracted; and

(v) Climb speed not less than 1.2 V_{S1}.

(c) For commuter category airplanes, the following apply:

(1) *Takeoff; landing gear extended.* The steady gradient of climb at the altitude of the takeoff surface must be measurably positive for two-engine airplanes, not less than 0.3 percent for three-engine airplanes, or 0.5 percent for four-engine airplanes with—

(i) The critical engine inoperative and its propeller in the position it rapidly and automatically assumes;

(ii) The remaining engine(s) at takeoff power;

(iii) The landing gear extended, and all landing gear doors open;

(iv) The wing flaps in the takeoff position(s);

(v) The wings level; and

(vi) A climb speed equal to V_2.

(2) *Takeoff; landing gear retracted.* The steady gradient of climb at an altitude of 400 feet above the takeoff surface must be not less than 2.0 percent of two-engine airplanes, 2.3 percent for three-engine airplanes, and 2.6 percent for four-engine airplanes with—

(i) The critical engine inoperative and its propeller in the position it rapidly and automatically assumes;

(ii) The remaining engine(s) at takeoff power;

(iii) The landing gear retracted;

(iv) The wing flaps in the takeoff position(s);

(v) A climb speed equal to V_2.

(3) *Enroute.* The steady gradient of climb at an altitude of 1,500 feet above the takeoff or landing surface, as appropriate, must be not less than 1.2 percent for two-engine airplanes, 1.5 percent for three-engine airplanes, and 1.7 percent for four-engine airplanes with—

(i) The critical engine inoperative and its propeller in the minimum drag position;

(ii) The remaining engine(s) at not more than maximum continuous power;

(iii) The landing gear retracted;

(iv) The wing flaps retracted; and

(v) A climb speed not less than 1.2 V_{S1}.

(4) *Discontinued approach.* The steady gradient of climb at an altitude of 400 feet above the landing surface must be not less than 2.1 percent for two-engine airplanes, 2.4 percent for three-engine airplanes, and 2.7 percent for four-engine airplanes, with—

(i) The critical engine inoperative and its propeller in the minimum drag position;

(ii) The remaining engine(s) at takeoff power;

(iii) Landing gear retracted;

(iv) Wing flaps in the approach position(s) in which V_{S1} for these position(s) does not exceed 110 percent of the V_{S1} for the related all-engines-operated landing position(s); and

(v) A climb speed established in connection with normal landing procedures but not exceeding 1.5 V_{S1}.

18. A new § 23.69 is added to read as follows:

§ 23.69 Enroute climb/descent.

(a) *All engines operating.* The steady gradient and rate of climb must be determined at each weight, altitude, and ambient temperature within the operational limits established by the applicant with—

(1) Not more than maximum continuous power on each engine;

(2) The landing gear retracted;

(3) The wing flaps retracted; and

(4) A climb speed not less than 1.3 V_{S1}.

(b) *One engine inoperative.* The steady gradient and rate of climb/descent must be determined at each weight, altitude, and ambient temperature within the operational limits established by the applicant with—

(1) The critical engine inoperative and its propeller in the minimum drag position;

(2) The remaining engine(s) at not more than maximum continuous power;

(3) The landing gear retracted;

(4) The wing flaps retracted; and

(5) A climb speed not less than 1.2 V_{S1}.

19. A new § 23.71 is added to read as follows:

§ 23.71 Glide: Single-engine airplanes.

The maximum horizontal distance traveled in still air, in nautical miles, per 1,000 feet of altitude lost in a glide, and the speed necessary to achieve this must be determined with the engine inoperative, its propeller in the minimum drag position, and landing gear and wing flaps in the most favorable available position.

20. A new § 23.73 is added to read as follows:

§ 23.73 Reference landing approach speed.

(a) For normal, utility, and acrobatic category reciprocating engine-powered airplanes of 6,000 pounds or less maximum weight, the reference landing approach speed, V_{REF}, must not be less than the greater of V_{MC}, determined in § 23.149(b) with the wing flaps in the most extended takeoff position, and 1.3 V_{SO}.

(b) For normal, utility, and acrobatic category reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight, and turbine engine-powered airplanes in the normal, utility, and acrobatic category, the reference landing approach speed, V_{REF}, must not be less than the greater of V_{MC}, determined in § 23.149(c), and 1.3 V_{SO}.

(c) For commuter category airplanes, the reference landing approach speed, V_{REF}, must not be less than the greater of 1.05 V_{MC}, determined in § 23.149(c), and 1.3 V_{SO}.

21. Section 23.75 is amended by revising the section heading, introductory text, the introductory text of paragraph (a), and paragraphs (b), (d), (e), and (f); and by removing paragraph (h), to read as follows:

§ 23.75 Landing distance.

The horizontal distance necessary to land and come to a complete stop from a point 50 feet above the landing surface must be determined, for standard temperatures at each weight and altitude within the operational limits established for landing, as follows:

(a) A steady approach at not less than V_{REF}, determined in accordance with § 23.73 (a), (b), or (c), as appropriate, must be maintained down to the 50 foot height and—

* * * * *

(b) A constant configuration must be maintained throughout the maneuver.

* * * * *

(d) It must be shown that a safe transition to the balked landing conditions of § 23.77 can be made from the conditions that exist at the 50 foot height, at maximum landing weight, or at the maximum landing weight for altitude and temperature of § 23.63 (c)(2) or (d)(2), as appropriate.

(e) The brakes must be used so as to not cause excessive wear of brakes or tires.

(f) Retardation means other than wheel brakes may be used if that means—

(1) Is safe and reliable; and

(2) Is used so that consistent results can be expected in service.

* * * * *

22. Section 23.77 is revised to read as follows:

§ 23.77 Balked landing.

(a) Each normal, utility, and acrobatic category reciprocating engine-powered airplane at 6,000 pounds or less maximum weight must be able to maintain a steady gradient of climb at sea level of at least 3.3 percent with—

(1) Takeoff power on each engine;

(2) The landing gear extended;

(3) The wing flaps in the landing position, except that if the flaps may safely be retracted in two seconds or less without loss of altitude and without sudden changes of angle of attack, they may be retracted; and

(4) A climb speed equal to V_{REF}, as defined in § 23.73(a).

(b) Each normal, utility, and acrobatic category reciprocating engine-powered airplane of more than 6,000 pounds maximum weight and each normal, utility, and acrobatic category turbine engine-powered airplane must be able to maintain a steady gradient of climb of at least 2.5 percent with—

(1) Not more than the power that is available on each engine eight seconds after initiation of movement of the power controls from minimum flight-idle position;

(2) The landing gear extended;

(3) The wing flaps in the landing position; and

(4) A climb speed equal to V_{REF}, as defined in § 23.73(b).

(c) Each commuter category airplane must be able to maintain a steady gradient of climb of at least 3.2 percent with—

(1) Not more than the power that is available on each engine eight seconds after initiation of movement of the power controls from the minimum flight idle position;

(2) Landing gear extended;

(3) Wing flaps in the landing position; and

(4) A climb speed equal to V_{REF}, as defined in § 23.73(c).

23. Section 23.143 is amended by revising paragraphs (a) and (c) to read as follows:

§ 23.143 General.

(a) The airplane must be safely controllable and maneuverable during all flight phases including—

(1) Takeoff;

(2) Climb;

(3) Level flight;

(4) Descent;

(5) Go-around; and

(6) Landing (power on and power off) with the wing flaps extended and retracted.

* * * * *

(c) If marginal conditions exist with regard to required pilot strength, the control forces necessary must be determined by quantitative tests. In no case may the control forces under the conditions specified in paragraphs (a) and (b) of this section exceed those prescribed in the following table:

Values in pounds force applied to the relevant control	Pitch	Roll	Yaw
(a) For temporary application:			
Stick	60	30	
Wheel (Two hands on rim)	75	50	
Wheel (One hand on rim)	50	25	
Rudder Pedal			150
(b) For prolonged application	10	5	20

24. Section 23.145 is amended by revising paragraph (b) introductory text, paragraphs (b)(2) through (b)(5); adding a new paragraph (b)(6); and revising paragraphs (c) and (d) to read as follows:

§ 23.145 Longitudinal control.

* * * * *

(b) Unless otherwise required, it must be possible to carry out the following maneuvers without requiring the application of single-handed control forces exceeding those specified in § 23.143(c). The trimming controls must not be adjusted during the maneuvers:

* * * * *

(2) With landing gear and flaps extended, power off, and the airplane as nearly as possible in trim at 1.3 V_{SO}, quickly apply takeoff power and retract the flaps as rapidly as possible to the recommended go around setting and allow the airspeed to transition from 1.3 V_{SO} to 1.3 V_{S1}. Retract the gear when a positive rate of climb is established.

(3) With landing gear and flaps extended, in level flight, power necessary to attain level flight at 1.1 V_{SO}, and the airplane as nearly as possible in trim, it must be possible to maintain approximately level flight while retracting the flaps as rapidly as possible with simultaneous application of not more than maximum continuous power. If gated flat positions are provided, the flap retraction may be demonstrated in stages with power and trim reset for level flight at 1.1 V_{S1}, in the initial configuration for each stage—

(i) From the fully extended position to the most extended gated position;

(ii) Between intermediate gated positions, if applicable; and

(iii) From the least extended gated position to the fully retracted position.

(4) With power off, flaps and landing gear retracted and the airplane as nearly as possible in trim at 1.4 V_{S1}, apply takeoff power rapidly while maintaining the same airspeed.

(5) With power off, landing gear and flaps extended, and the airplane as nearly as possible in trim at V_{REF}, obtain and maintain airspeeds between 1.1 V_{SO}, and either 1.7 V_{SO} or V_{FE}, whichever is lower without requiring the application of two-handed control forces exceeding those specified in § 23.143(c).

(6) With maximum takeoff power, landing gear retracted, flaps in the takeoff position, and the airplane as nearly as possible in trim at V_{FE} appropriate to the takeoff flap position, retract the flaps as rapidly as possible while maintaining constant speed.

(c) At speeds above V_{MO}/M_{MO}, and up to the maximum speed shown under § 23.251, a maneuvering capability of 1.5 g must be demonstrated to provide a margin to recover from upset or inadvertent speed increase.

(d) It must be possible, with a pilot control force of not more than 10 pounds, to maintain a speed of not more than V_{REF} during a power-off glide with landing gear and wing flaps extended, for any weight of the airplane, up to and including the maximum weight.

* * * * *

25. Section 23.147 is revised to read as follows:

§ 23.147 Directional and lateral control.

(a) For each multiengine airplane, it must be possible, while holding the wings level within five degrees, to make sudden changes in heading safely in both directions. This ability must be shown at 1.4 V_{S1} with heading changes up to 15 degrees, except that the heading change at which the rudder force corresponds to the limits specified in § 23.143 need not be exceeded, with the—

(1) Critical engine inoperative and its propeller in the minimum drag position;

(2) Remaining engines at maximum continuous power;

(3) Landing gear—

(i) Retracted; and

(ii) Extended; and

(4) Flaps retracted.

(b) For each multiengine airplane, it must be possible to regain full control of the airplane without exceeding a bank angle of 45 degrees, reaching a dangerous attitude or encountering dangerous characteristics, in the event of a sudden and complete failure of the critical engine, making allowance for a delay of two seconds in the initiation of recovery action appropriate to the situation, with the airplane initially in trim, in the following condition:

(1) Maximum continuous power on each engine;

(2) The wing flaps retracted;

(3) The landing gear retracted;

(4) A speed equal to that at which compliance with § 23.69(a) has been shown; and

(5) All propeller controls in the position at which compliance with § 23.69(a) has been shown.

(c) For all airplanes, it must be shown that the airplane is safely controllable without the use of the primary lateral control system in any all-engine configuration(s) and at any speed or altitude within the approved operating envelope. It must also be shown that the airplane's flight characteristics are not impaired below a level needed to permit continued safe flight and the ability to maintain attitudes suitable for a controlled landing without exceeding the operational and structural limitations of the airplane. If a single failure of any one connecting or transmitting link in the lateral control system would also cause the loss of additional control system(s), compliance with the above requirement must be shown with those additional systems also assumed to be inoperative.

26. Section 23.149 is revised to read as follows:

§ 23.149 Minimum control speed.

(a) V_{MC} is the calibrated airspeed at which, when the critical engine is suddenly made inoperative, it is possible to maintain control of the airplane with that engine still inoperative, and thereafter maintain straight flight at the same speed with an angle of bank of not more than 5 degrees. The method used to simulate critical engine failure must represent the most critical mode of powerplant failure expected in service with respect to controllability.

(b) V_{MC} for takeoff must not exceed 1.2 V_{S1}, where V_{S1} is determined at the maximum takeoff weight. V_{MC} must be determined with the most unfavorable weight and center of gravity position and with the airplane airborne and the ground effect negligible, for the takeoff configuration(s) with—

(1) Maximum available takeoff power initially on each engine;

(2) The airplane trimmed for takeoff;

(3) Flaps in the takeoff position(s);

(4) Landing gear retracted; and

(5) All propeller controls in the recommended takeoff position throughout.

(c) For all airplanes except reciprocating engine-powered airplanes of 6,000 pounds or less maximum weight, the conditions of paragraph (a) of this section must also be met for the landing configuration with—

(1) Maximum available takeoff power initially on each engine;

(2) The airplane trimmed for an approach, with all engines operating, at V_{REF}, at an approach gradient equal to the steepest used in the landing distance demonstration of § 23.75;

(3) Flaps in the landing position;

(4) Landing gear extended; and

(5) All propeller controls in the position recommended for approach with all engines operating.

(d) A minimum speed to intentionally render the critical engine inoperative must be established and designated as the safe, intentional, one-engine-inoperative speed, V_{SSE}.

(e) At V_{MC}, the rudder pedal force required to maintain control must not exceed 150 pounds and it must not be necessary to reduce power of the operative engine(s). During the maneuver, the airplane must not assume any dangerous attitude and it must be possible to prevent a heading change of more than 20 degrees.

(f) At the option of the applicant, to comply with the requirements of § 23.51(c)(1), V_{MCG} may be determined. V_{MCG} is the minimum control speed on the ground, and is the calibrated airspeed during the takeoff run at which, when the critical engine is suddenly made inoperative, it is possible to maintain control of the airplane using the rudder control alone (without the use of nosewheel steering), as limited by 150 pounds of force, and using the lateral control to the extent of keeping the wings level to enable the takeoff to be safely continued. In the determination of V_{MCG}, assuming that the path of the airplane accelerating with all engines operating is along the centerline of the runway, its path from the point at which the critical engine is made inoperative to the point at which recovery to a direction parallel to the centerline is completed may not deviate more than 30 feet laterally from the centerline at any point. V_{MCG} must be established with—

(1) The airplane in each takeoff configuration or, at the option of the applicant, in the most critical takeoff configuration;

(2) Maximum available takeoff power on the operating engines;

(3) The most unfavorable center of gravity;

(4) The airplane trimmed for takeoff; and

(5) The most unfavorable weight in the range of takeoff weights.

27. Section 23.153 is revised to read as follows:

§ 23.153 Control during landings.

It must be possible, while in the landing configuration, to safely complete a landing without exceeding the one-hand control force limits specified in § 23.143(c) following an approach to land—

(a) At a speed of V_{REF} minus 5 knots;

(b) With the airplane in trim, or as nearly as possible in trim and without the trimming control being moved throughout the maneuver;

(c) At an approach gradient equal to the steepest used in the landing distance demonstration of § 23.75; and

(d) With only those power changes, if any, that would be made when landing normally from an approach at V_{REF}.

28. Section 23.155 is amended by revising the introductory text of paragraph (b) and paragraph (b)(1), and by adding a new paragraph (c) to read as follows:

§ 23.155 Elevator control force in maneuvers.

* * * * *

(b) The requirement of paragraph (a) of this section must be met at 75 percent of maximum continuous power for reciprocating engines, or the maximum continuous power for turbine engines, and with the wing flaps and landing gear retracted—

(1) In a turn, with the trim setting used for wings level flight at V_O; and

* * * * *

(c) There must be no excessive decrease in the gradient of the curve of stick force versus maneuvering load factor with increasing load factor.

29. Section 23.157 is amended by revising paragraph (d) to read as follows:

§ 23.157 Rate of roll.

* * * * *

(d) The requirement of paragraph (c) of this section must be met when rolling the airplane in each direction in the following conditions—

(1) Flaps in the landing position(s);

(2) Landing gear extended;

(3) All engines operating at the power for a 3 degree approach; and

(4) The airplane trimmed at V_{REF}.

30. Section 23.161 is amended by revising paragraphs (a), (b)(1), (b)(2), (c), the introductory text of paragraph (d), and (d)(4), and by adding a new paragraph (e) to read as follows:

§ 23.161 Trim.

(a) *General.* Each airplane must meet the trim requirements of this section after being trimmed and without further pressure upon, or movement of, the primary controls or their corresponding trim controls by the pilot or the automatic pilot. In addition, it must be possible, in other conditions of loading, configuration, speed and power to ensure that the pilot will not be unduly fatigued or distracted by the need to apply residual control forces exceeding those for prolonged application of

§ 23.143(c). This applies in normal operation of the airplane and, if applicable, to those conditions associated with the failure of one engine for which performance characteristics are established.

(b) * * *

(1) For normal, utility, and acrobatic category airplanes, at a speed of 0.9 V_H, V_C, or V_{MO}/M_O, whichever is lowest; and

(2) For commuter category airplanes, at all speeds from 1.4 V_{S1} to the lesser of V_H or V_{MO}/M_{MO}.

(c) *Longitudinal trim.* The airplane must maintain longitudinal trim under each of the following conditions:

(1) A climb with—

(i) Takeoff power, landing gear retracted, wing flaps in the takeoff position(s), at the speeds used in determining the climb performance required by § 23.65; and

(ii) Maximum continuous power at the speeds and in the configuration used in determining the climb performance required by § 23.69(a).

(2) Level flight at all speeds from the lesser of V_H and either V_{NO} or V_{MO}/M_{MO} (as appropriate), to 1.4 V_{S1}, with the landing gear and flaps retracted.

(3) A descent at V_{NO} or V_{MO}/M_{MO}, whichever is applicable, with power off and with the landing gear and flaps retracted.

(4) Approach with landing gear extended and with—

(i) A 3 degree angle of descent, with flaps retracted and at a speed of 1.4 V_{S1};

(ii) A 3 degree angle of descent, flaps in the landing position(s) at V_{REF}; and

(iii) An approach gradient equal to the steepest used in the landing distance demonstrations of § 23.75, flaps in the landing position(s) at V_{REF}.

(d) In addition, each multiple airplane must maintain longitudinal and directional trim, and the lateral control force must not exceed 5 pounds at the speed used in complying with § 23.67(a), (b)(2), or (c)(3), as appropriate, with—

* * * * *

(4) Wing flaps retracted; and

* * * * *

(e) In addition, each commuter category airplane for which, in the determination of the takeoff path in accordance with § 23.57, the climb in the takeoff configuration at V_2 extends beyond 400 feet above the takeoff surface, it must be possible to reduce the longitudinal and lateral control forces to 10 pounds and 5 pounds, respectively, and the directional control force must not exceed 50 pounds at V_2 with—

(1) The critical engine inoperative and its propeller in the minimum drag position;

(2) The remaining engine(s) at takeoff power;

(3) Landing gear retracted;

(4) Wing flaps in the takeoff position(s); and

(5) An angle of bank not exceeding 5 degrees.

31. Section 23.175 is revised to read as follows:

§ 23.175 Demonstration of static longitudinal stability.

Static longitudinal stability must be shown as follows:

(a) *Climb.* The stick force curve must have a stable slope at speeds between 85 and 115 percent of the trim speed, with—

(1) Flaps retracted;

(2) Landing gear retracted;

(3) Maximum continuous power; and

(4) The airplane trimmed at the speed used in determining the climb performance required by § 23.69(a).

(b) *Cruise.* With flaps and landing gear retracted and the airplane in trim with power for level flight at representative cruising speeds at high and low altitudes, including speeds up to V_{NO} or V_{MO}/M_{MO}, as appropriate, except that the speed need not exceed V_H—

(1) For normal, utility, and acrobatic category airplanes, the stick force curve must have a stable slope at all speeds within a range that is the greater of 15 percent of the trim speed plus the resulting free return speed range, or 40 knots plus the resulting free return speed range, above and below the trim speed, except that the slope need not be stable—

(i) At speeds less than 1.3 V_{S1}; or

(ii) For airplanes with V_{NE} established under § 23.1505(a), at speeds greater than V_{NE}; or

(iii) For airplanes with V_{MO}/M_{MO} established under § 23.1505(c), at speeds greater than V_{FC}/M_{FC}.

(2) For commuter category airplanes, the stick force curve must have a stable slope at all speeds within a range of 50 knots plus the resulting free return speed range, above and below the trim speed, except that the slope need not be stable—

(i) At speeds less than 1.4 V_{S1}; or

(ii) At speeds greater than V_{FC}/M_{FC}; or

(iii) At speeds that require a stick force greater than 50 pounds.

(c) *Landing.* The stick force curve must have a stable slope at speeds between 1.1 V_{S1} and 1.8 V_{S1} with—

(1) Flaps in the landing position;

(2) Landing gear extended; and

(3) The airplane trimmed at—

(i) V_{REF}, or the minimum trim speed if higher, with power off; and

(ii) V_{REF} with enough power to maintain a 3 degree angle of descent.

32. Section 23.177 is revised to read as follows:

§ 23.177 Static directional and lateral stability.

(a) The static directional stability, as shown by the tendency to recover from a wings level sideslip with the rudder free, must be positive for any landing gear and flap position appropriate to the takeoff, climb, cruise, approach, and landing configurations. This must be shown with symmetrical power up to maximum continuous power, and at speeds from 1.2 V_{S1} up to the maximum allowable speed for the condition being investigated. The angel of sideslip for these tests must be appropriate to the type of airplane. At larger angles of sideslip, up to that at which full rudder is used or a control force limit in § 23.143 is reached, whichever occurs first, and at speeds from 1.2 V_{S1} to V_O, the rudder pedal force must not reverse.

(b) The static lateral stability, as shown by the tendency to raise the low wing in a sideslip, must be positive for all landing gear and flap positions. This must be shown with symmetrical power up to 75 percent of maximum continuous power at speeds above 1.2 V_{S1} in the take off configuration(s) and at speeds above 1.3 V_{S1} in other configurations, up to the maximum allowable speed for the configuration being investigated, in the takeoff, climb, cruise, and approach configurations. For the landing configuration, the power must be that necessary to maintain a 3 degree angle of descent in coordinated flight. The static lateral stability must not be negative at 1.2 V_{S1} in the takeoff configuration, or at 1.3 V_{S1} in other configurations. The angle of sideslip for these tests must be appropriate to the type of airplane, but in no case may the constant heading sideslip angle be less than that obtainable with a 10 degree bank, or if less, the maximum bank angle obtainable with full rudder deflection or 150 pound rudder force.

(c) Paragraph (b) of this section does not apply to acrobatic category airplanes certificated for inverted flight.

(d) In straight, steady slips at 1.2 V_{S1} for any landing gear and flap positions, and for any symmetrical power conditions up to 50 percent of maximum continuous power, the aileron and rudder control movements and forces must increase steadily, but not necessarily in constant proportion, as the angle of sideslip is increased up to the maximum appropriate to the type of airplane. At larger slip angles, up to the angle at which full rudder or aileron control is used or a control force limit

contained in § 23.143 is reached, the aileron and rudder control movements and forces must not reverse as the angle of sideslip is increased. Rapid entry into, and recovery from, a maximum sideslip considered appropriate for the airplane must not result in uncontrollable flight characteristics.

33. Section 23.201 is revised to read as follows:

§ 23.201 Wings level stall.

(a) It must be possible to produce and to correct roll by unreversed use of the rolling control and to produce and to correct yaw by unreversed use of the directional control, up to the time the airplane stalls.

(b) The wings level stall characteristics must be demonstrated in flight as follows. Starting from a speed at least 10 knots above the stall speed, the elevator control must be pulled back so that the rate of speed reduction will not exceed one knot per second until a stall is produced, as shown by either:

(1) An uncontrollable downward pitching motion of the airplane;

(2) A downward pitching motion of the airplane that results from the activation of a stall avoidance device (for example, stick pusher); or

(3) The control reaching the stop.

(c) Normal use of elevator control for recovery is allowed after the downward pitching motion of paragraphs (b)(1) or (b)(2) of this section has unmistakably been produced, or after the control has been held against the stop for not less than the longer of two seconds or the time employed in the minimum steady slight speed determination of § 23.49.

(d) During the entry into and the recovery from the maneuver, it must be possible to prevent more than 15 degrees of roll or yaw by the normal use of controls.

(e) Compliance with the requirements of this section must be shown under the following conditions:

(1) *Wing flaps.* Retracted, fully extended, and each intermediate normal operating position.

(2) *Landing gear.* Retracted and extended.

(3) *Cowl flaps.* Appropriate to configuration.

(4) *Power:*

(i) Power off; and

(ii) 75 percent of maximum continuous power. However, if the power-to-weight ratio at 75 percent of maximum continuous power result in extreme nose-up attitudes, the test may be carried out with the power required for level flight in the landing configuration at maximum landing weight and a speed of 1.4 V_{SO}, except that the power may not be less than 50 percent of maximum continuous power.

(5) *Trim.* The airplane trimmed at a speed as near 1.5 V_{S1} as practicable.

(6) *Propeller.* Full increase r.p.m. position for the power off condition.

34. Section 23.203 is amended by revising the section heading and introductory text, paragraph (a), the introductory text of paragraph (b), paragraphs (b)(4) and (b)(5), the introductory text of paragraph (c), and paragraphs (c)(1) and (c)(4), and by adding new paragraphs (b)(6) and (c)(6) to read as follows:

§ 23.203 Turning flight and accelerated turning stalls.

Turning flight and accelerated turning stalls must be demonstrated in tests as follows:

(a) Establish and maintain a coordinated turn in a 30 degree bank. Reduce speed by steadily and progressively tightening the turn with the elevator until the airplane is stalled, as defined in § 23.201(b). The rate of speed reduction must be constant, and—

(1) For a turning flight stall, may not exceed one knot per second; and

(2) For an accelerated turning stall, be 3 to 5 knots per second with steadily increasing normal acceleration.

(b) After the airplane has stalled, as defined in § 23.201(b), it must be possible to regain wings level flight by normal use of the flight controls, but without increasing power and without—

* * * * *

(4) Exceeding a bank angle of 60 degrees in the original direction of the turn or 30 degrees in the opposite direction in the case of turning flight stalls;

(5) Exceeding a bank angle of 90 degrees in the original direction of the turn or 60 degrees in the opposite direction in the case of accelerated turning stalls; and

(6) Exceeding the maximum permissible speed or allowable limit load factor.

(c) Compliance with the requirements of this section must be shown under the following conditions:

(1) *Wing flaps:* Retracted, fully extended, and each intermediate normal operating position;

* * * * *

(4) *Power:*

(i) Power off; and

(ii) 75 percent of maximum continuous power. However, if the power-to-weight ratio at 75 percent of maximum continuous power results in extreme nose-up attitudes, the test may be carried out with the power required for level flight in the landing configuration at maximum landing weight and a speed of 1.4 V_{SO}, except that the power may not be less than 50 percent of maximum continuous power.

* * * * *

(6) *Propeller.* Full increase rpm position for the power off condition.

§ 23.205 [Removed]

35. Section 23.205 is removed.

36. Section 23.207 is amended by revising paragraphs (c) and (d), and by adding new paragraphs (e) and (f) to read as follows:

§ 23.207 Stall warning.

* * * * *

(c) During the stall tests required by § 23.201(b) and § 23.203(a)(1), the stall warning must begin at a speed exceeding the stalling speed by a margin of not less than 5 knots and must continue until the stall occurs.

(d) When following procedures furnished in accordance with § 23.1585, the stall warning must not occur during a takeoff with all engines operating, a takeoff continued with one engine inoperative, or during an approach to landing.

(e) During the stall tests required by § 23.203(a)(2), the stall warning must begin sufficiently in advance of the stall for the stall to be averted by pilot action taken after the stall warning first occurs.

(f) For acrobatic category airplanes, an artificial stall warning may be mutable, provided that it is armed automatically during takeoff and rearmed automatically in the approach configuration.

37. Section 23.221 is revised to read as follows:

§ 23.221 Spinning.

(a) *Normal category airplanes.* A single-engine, normal category airplane must be able to recover from a one-turn spin or a three-second spin, whichever takes longer, in not more than one additional turn after initiation of the first control action for recovery, or demonstrate compliance with the optional spin resistant requirements of this section.

(1) The following apply to one turn or three second spins:

(i) For both the flaps-retracted and flaps-extended conditions, the applicable airspeed limit and positive limit maneuvering load factor must not be exceeded;

(ii) No control forces or characteristic encountered during the spin or recovery may adversely affect prompt recovery;

(iii) It must be impossible to obtain unrecoverable spins with any use of the flight or engine power controls either at the entry into or during the spin; and

(iv) For the flaps-extended condition, the flaps may be retracted during the

recovery but not before rotation has ceased.

(2) At the applicant's option, the airplane may be demonstrated to be spin resistant by the following:

(i) During the stall maneuver contained in § 23.201, the pitch control must be pulled back and held against the stop. Then, using ailerons and rudders in the proper direction, it must be possible to maintain wings-level flight within 15 degrees of bank and to roll the airplane from a 30 degree bank in one direction to a 30 degree bank in the other direction;

(ii) Reduce the airplane speed using pitch control at a rate of approximately one knot per second until the pitch control reaches the stop; then, with the pitch control pulled back and held against the stop, apply full rudder control in a manner to promote spin entry for a period of seven seconds or through a 360 degree heading change, whichever occurs first. If the 360 degree heading change is reached first, it must have taken no fewer than four seconds. This maneuver must be performed first with the ailerons in the neutral position, and then with the ailerons deflected opposite the direction of turn in the most adverse manner. Power and airplane configuration must be set in accordance with § 23.201(e) without change during the maneuver. At the end of seven seconds or a 360 degree heading change, the airplane must respond immediately and normally to primary flight controls applied to regain coordinated, unstalled flight without reversal of control effect and without exceeding the temporary control forces specified by § 23.143(c); and

(iii) Compliance with §§ 23.201 and 23.203 must be demonstrated with the airplane in uncoordinated flight, corresponding to one ball width displacement on a slip-skid indicator, unless one ball width displacement cannot be obtained with full rudder, in which case the demonstration must be with full rudder applied.

(b) *Utility category airplanes.* A utility category airplane must meet the requirements of paragraph (a) of this section. In addition, the requirements of paragraph (c) of this section and § 23.807(b)(7) must be met if approval for spinning is requested.

(c) *Acrobatic category airplanes.* An acrobatic category airplane must meet the spin requirements of paragraph (a) of this section and § 23.807(b)(6). In addition, the following requirements must be met in each configuration for which approval for spinning is requested:

(1) The airplane must recover from any point in a spin up to and including six turns, or any greater number of turns for which certification is requested, in not more than one and one-half additional turns after initiation of the first control action for recovery. However, beyond three turns, the spin may be discontinued if spiral characteristics appear.

(2) The applicable airspeed limits and limit maneuvering load factors must not be exceeded. For flaps-extended configurations for which approval is requested, the flaps must not be retracted during the recovery.

(3) It must be impossible to obtain unrecoverable spins with any use of the flight or engine power controls either at the entry into or during the spin.

(4) There must be no characteristics during the spin (such as excessive rates of rotation or extreme oscillatory motion) that might prevent a successful recovery due to disorientation or incapacitation of the pilot.

38. Section 23.233(a) is revised to read as follows:

§ 23.233 Directional stability and control.

(a) A 90 degree cross-component of wind velocity, demonstrated to be safe for taxiing, takeoff, and landing must be established and must be not less than 0.2 V_{SO}.

* * * * *

39. Section 23.235 is revised to read as follows:

§ 23.235 Operation on unpaved surfaces.

The airplane must be demonstrated to have satisfactory characteristics and the shock-absorbing mechanism must not damage the structure of the airplane when the airplane is taxied on the roughest ground that may reasonably be expected in normal operation and when takeoffs and landings are performed on unpaved runways having the roughest surface that may reasonably be expected in normal operation.

40. A new § 23.237 is added to read as follows:

§ 23.237 Operation on water.

A wave height, demonstrated to be safe for operation, and any necessary water handling procedures for seaplanes and amphibians must be established.

§ 23.253 [Amended]

41. Section 23.253 is amended by removing paragraph (b)(1) and by redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(1) and (b)(2), respectively.

42. Section 23.562(d) introductory text is revised to read as follows:

§ 23.562 Emergency landing dynamic conditions.

* * * * *

(d) For all single-engine airplanes with a V_{SO} of more than 61 knots at maximum weight, and those multiengine airplanes of 6,000 pounds or less maximum weight with a V_{SO} of more than 61 knots at maximum weight that do not comply with § 23.67(a)(1);

* * * * *

43. Section 23.1325 is amended by revising paragraph (e), by removing and reserving paragraph (f) to read as follows:

§ 23.1325 Static pressure system.

* * * * *

(e) Each static pressure system must be calibrated in flight to determine the system error. The system error, in indicated pressure altitude, at sea-level, with a standard atmosphere, excluding instrument calibration error, may not exceed ±30 feet per 100 knot speed for the appropriate configuration in the speed range between 1.3 V_{SO} with flaps extended, and 1.8 V_{S1} with flaps retracted. However, the error need not be less than 30 feet.

(f) [Reserved]

* * * * *

44. Section 23.1511 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 23.1511 Flap extended speed.

(a) * * *

(1) Not less than the minimum value of V_F allowed in § 23.345(b); and

(2) Not more than V_F established under § 23.345(a), (c), and (d).

* * * * *

45. Section 23.1521 is amended by revising paragraphs (b)(5) and (e) to read as follows:

§ 23.1521 Powerplant limitations.

* * * * *

(b) * * *

(5) The maximum allowable cylinder head (as applicable), liquid coolant and oil temperatures.

* * * * *

(e) *Ambient temperature.* For all airplanes except reciprocating engine-powered airplanes of 6,000 pounds or less maximum weight, ambient temperature limitations (including limitations for winterization installations if applicable) must be established as the maximum ambient atmospheric temperature at which compliance with the cooling provisions of §§ 23.1041 through 23.1047 is shown.

46. Section 23.1543(c) is added to read as follows:

§ 23.1543 Instrument markings: General.

* * * * *

(c) All related instruments must be calibrated in compatible units.

47. Section 23.1545 is amended by revising paragraphs (b)(5) and (b)(6) to read as follows:

§ 23.1545 Airspeed indicator.

* * * * *

(b) * * *

(5) For reciprocating multiengine-powered airplanes of 6,000 pounds or less maximum weight, for the speed at which compliance has been shown with § 23.69(b) relating to rate of climb at maximum weight and at sea level, a blue radial line.

(6) For reciprocating multiengine-powered airplanes of 6,000 pounds or less maximum weight, for the maximum value of minimum control speed, V_{MC}, (one-engine-inoperative) determined under § 23.149(b), a red radial line.

* * * * *

48. Section 23.1553 is revised to read as follows:

§ 23.1553 Fuel quantity indicator.

A red radial line must be marked on each indicator at the calibrated zero reading, as specified in § 23.1337(b)(1).

49. Section 23.1555(e)(2) is revised to read as follows:

§ 23.1555 Control markings.

* * * * *

(e) * * *

(2) Each emergency control must be red and must be marked as to method of operation. No control other than an emergency control, or a control that serves an emergency function in addition to its other functions, shall be this color.

50. Section 23.1559 is revised to read as follows:

§ 23.1559 Operating limitations placard.

(a) There must be a placard in clear view of the pilot stating—

(1) That the airplane must be operated in accordance with the Airplane Flight Manual; and

(2) The certification category of the airplane to which the placards apply.

(b) For airplanes certificated in more than one category, there must be a placard in clear view of the pilot stating that other limitations are contained in the Airplane Flight Manual.

(c) There must be a placard in clear view of the pilot that specifies the kind of operations to which the operation of the airplane is limited or from which it is prohibited under § 23.1525.

51. Section 23.1563(c) is added to read as follows:

§ 23.1563 Airspeed placards.

* * * * *

(c) For reciprocating multiengine-powered airplanes of more than 6,000 pounds maximum weight, and turbine engine-powered airplanes, the maximum value of the minimum control speed, V_{MC} (one-engine-inoperative) determined under § 23.149(b).

52. Section 23.1567(d) is added to read as follows:

§ 23.1567 Flight maneuver placard.

* * * * *

(d) For acrobatic category airplanes and utility category airplanes approved for spinning, there must be a placard in clear view of the pilot—

(1) Listing the control actions for recovery from spinning maneuvers; and

(2) Stating that recovery must be initiated when spiral characteristics appear, or after not more than six turns or not more than any greater number of turns for which the airplane has been certificated.

53. Section 23.1581 is amended by adding new paragraphs (a)(3) and (c), and by revising the introductory text of paragraph (b)(2) and paragraph (d) to read as follows:

§ 23.1581 General.

(a) * * *

(3) Further information necessary to comply with the relevant operating rules.

(b) * * *

(2) The requirements of paragraph (b)(1) of this section do not apply to reciprocating engine-powered airplanes of 6,000 pounds or less maximum weight, if the following is met:

* * * * *

(c) The units used in the Airplane Flight Manual must be the same as those marked on the appropriate instruments and placards.

(d) All Airplane Flight Manual operational airspeeds, unless otherwise specified, must be presented as indicated airspeeds.

* * * * *

54. Section 23.1583 is amended by revising the introductory text, and paragraphs (a)(3) introductory text, (a)(3)(i), (c)(3), (c)(4), (d), (e), (f), and (g); by redesignating paragraphs (k), (l), and (m) as paragraphs (i), (j), and (k), respectively, and revising them; and by adding new paragraphs (c)(5), (c)(6), (l), (m), (n), (o), and (p) to read as follows:

§ 23.1583 Operating limitations.

The Airplane Flight Manual must contain operating limitations determined under this part 23, including the following—

(a) * * *

(3) In addition, for turbine powered commuter category airplanes—

(i) The maximum operating limit speed, V_{MO}/M_{MO} and a statement that this speed must not be deliberately exceeded in any regime of flight (climb, cruise or descent) unless a higher speed is authorized for flight test or pilot training;

* * * * *

(c) * * *

(3) For normal, utility, and acrobatic category reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight and for turbine engine-powered airplanes in the normal, utility, and acrobatic category, performance operating limitations as follows—

(i) The maximum takeoff weight for each airport altitude and ambient temperature within the range selected by the applicant at which the airplane complies with the climb requirements of § 23.63(c)(1).

(ii) The maximum landing weight for each airport altitude and ambient temperature within the range selected by the applicant at which the airplane complies with the climb requirements of § 23.63(c)(2).

(4) For commuter category airplanes, the maximum takeoff weight for each airport altitude and ambient temperature within the range selected by the applicant at which—

(i) The airplane complies with the climb requirements of § 23.63(d)(1); and

(ii) The accelerate-stop distance determined under § 23.55 is equal to the available runway length plus the length of any stopway, if utilized; and either:

(iii) The takeoff distance determined under § 23.59(a) is equal to the available runway length; or

(iv) At the option of the applicant, the takeoff distance determined under § 23.59(a) is equal to the available runway length plus the length of any clearway and the takeoff run determined under § 23.59(b) is equal to the available runway length.

(5) For commuter category airplanes, the maximum landing weight for each airport altitude within the range selected by the applicant at which—

(i) The airplane complies with the climb requirements of § 23.63(d)(2) for ambient temperatures within the range selected by the applicant; and

(ii) The landing distance determined under § 23.75 for standard temperatures is equal to the available runway length.

(6) The maximum zero wing fuel weight, where relevant, as established in accordance with § 23.343.

(d) *Center of gravity.* The established center of gravity limits.

(e) *Maneuvers.* The following authorized maneuvers, appropriate airspeed limitations, and unauthorized maneuvers, as prescribed in this section.

(1) *Normal category airplanes.* No acrobatic maneuvers, including spins, are authorized.

(2) *Utility category airplanes.* A list of authorized maneuvers demonstrated in the type flight tests, together with recommended entry speeds and any other associated limitations. No other maneuver is authorized.

(3) *Acrobatic category airplanes.* A list of approved flight maneuvers demonstrated in the type flight tests, together with recommended entry speeds and any other associated limitations.

(4) *Acrobatic category airplanes and utility category airplanes approved for spinning.* Spin recovery procedure established to show compliance with § 23.221(c).

(5) *Commuter category airplanes.* Maneuvers are limited to any maneuver incident to normal flying, stalls, (except whip stalls) and steep turns in which the angle of bank is not more than 60 degrees.

(f) *Maneuver load factor.* The positive limit load factors in g's, and, in addition, the negative limit load factor for acrobatic category airplanes.

(g) *Minimum flight crew.* The number and functions of the minimum flight crew determined under § 23.1523.

* * * * *

(i) *Maximum operating altitude.* The maximum altitude established under § 23.1527.

(j) *Maximum passenger seating configuration.* The maximum passenger seating configuration.

(k) *Allowable lateral fuel loading.* The maximum allowable lateral fuel loading differential, if less than the maximum possible.

(l) *Baggage and cargo loading.* The following information for each baggage and cargo compartment or zone—

(1) The maximum allowable load; and

(2) The maximum intensity of loading.

(m) *Systems.* Any limitations on the use of airplane systems and equipment.

(n) *Ambient temperatures.* Where appropriate, maximum and minimum ambient air temperatures for operation.

(o) *Smoking.* Any restrictions on smoking in the airplane.

(p) *Types of surface.* A statement of the types of surface on which operations may be conducted. (See § 23.45(g) and § 23.1587 (a)(4), (c)(2), and (d)(4)).

55. Section 23.1585 is revised to read as follows:

§ 23.1585 Operating procedures.

(a) For all airplanes, information concerning normal, abnormal (if applicable), and emergency procedures and other pertinent information necessary for safe operation and the achievement of the scheduled performance must be furnished, including—

(1) An explanation of significant or unusual flight or ground handling characteristics;

(2) The maximum demonstrated values of crosswind for takeoff and landing, and procedures and information pertinent to operations in crosswinds;

(3) A recommended speed for flight in rough air. This speed must be chosen to protect against the occurrence, as a result of gusts, of structural damage to the airplane and loss of control (for example, stalling);

(4) Procedures for restarting any turbine engine in flight, including the effects of altitude; and

(5) Procedures, speeds, and configuration(s) for making a normal approach and landing, in accordance with §§ 23.73 and 23.75, and a transition to the balked landing condition.

(6) For seaplanes and amphibians, water handling procedures and the demonstrated wave height.

(b) In addition to paragraph (a) of this section, for all single-engine airplanes, the procedures, speeds, and configuration(s) for a glide following engine failure, in accordance with § 23.71 and the subsequent forced landing, must be furnished.

(c) In addition to paragraph (a) of this section, for all multiengine airplanes, the following information must be furnished:

(1) Procedures, speeds, and configuration(s) for making an approach and landing with one engine inoperative;

(2) Procedures, speeds, and configuration(s) for making a balked landing with one engine inoperative and the conditions under which a balked landing can be performed safely, or a warning against attempting a balked landing;

(3) The V_{SSE} determined in § 23.149; and

(4) Procedures for restarting any engine in flight including the effects of altitude.

(d) In addition to paragraphs (a) and either (b) or (c) of this section, as appropriate, for all normal, utility, and acrobatic category airplanes, the following information must be furnished:

(1) Procedures, speeds, and configuration(s) for making a normal takeoff, in accordance with § 23.51 (a) and (b), and § 23.53 (a) and (b), and the subsequent climb, in accordance with § 23.65 and § 23.69(a).

(2) Procedures for abandoning a takeoff due to engine failure or other cause.

(e) In addition to paragraphs (a), (c), and (d) of this section, for all normal, utility, and acrobatic category multiengine airplanes, the information must include the following:

(1) Procedures and speeds for continuing a takeoff following engine failure and the conditions under which takeoff can safely be continued, or a warning against attempting to continue the takeoff.

(2) Procedures, speeds, and configurations for continuing a climb following engine failure, after takeoff, in accordance with § 23.67, or enroute, in accordance with § 23.69(b).

(f) In addition to paragraphs (a) and (c) of this section, for commuter category airplanes, the information must include the following:

(1) Procedures, speeds, and configuration(s) for making a normal takeoff.

(2) Procedures and speeds for carrying out an accelerate-stop in accordance with § 23.55.

(3) Procedures and speeds for continuing a takeoff following engine failure in accordance with § 23.59(a)(1) and for following the flight path determined under § 23.57 and § 23.61(a).

(g) For multiengine airplanes, information identifying each operating condition in which the fuel system independence prescribed in § 23.953 is necessary for safety must be furnished, together with instructions for placing the fuel system in a configuration used to show compliance with that section.

(h) For each airplane showing compliance with § 23.1353 (g)(2) or (g)(3), the operating procedures for disconnecting the battery from its charging source must be furnished.

(i) Information on the total quantity of usable fuel for each fuel tank, and the effect on the usable fuel quantity, as a result of a failure of any pump, must be furnished.

(j) Procedures for the safe operation of the airplane's systems and equipment, both in normal use and in the event of malfunction, must be furnished.

56. Section 23.1587 is revised to read as follows:

§ 23.1587 Performance information.

Unless otherwise prescribed, performance information must be provided over the altitude and temperature ranges required by § 23.45(b).

(a) For all airplanes, the following information must be furnished—

(1) The stalling speeds V_{SO} and V_{S1} with the landing gear and wing flaps retracted, determined at maximum weight under § 23.49, and the effect on these stalling speeds of angles of bank up to 60 degrees;

(2) The steady rate and gradient of climb with all engines operating, determined under § 23.69(a);

(3) The landing distance, determined under § 23.75 for each airport altitude and standard temperature, and the type of surface for which it is valid;

(4) The effect on landing distances of operation on other than smooth hard surfaces, when dry, determined under § 23.45(g); and

(5) The effect on landing distances of runway slope and 50 percent of the headwind component and 150 percent of the tailwind component.

(b) In addition to paragraph (a) of this section, for all normal, utility, and acrobatic category reciprocating engine-powered airplanes of 6,000 pounds or less maximum weight, the steady angle of climb/descent, determined under § 23.77(a), must be furnished.

(c) In addition to paragraphs (a) and (b) of this section, if appropriate, for normal, utility, and acrobatic category airplanes, the following information must be furnished—

(1) The takeoff distance, determined under § 23.53 and the type of surface for which it is valid.

(2) The effect on takeoff distance of operation on other than smooth hard surfaces, when dry, determined under § 23.45(g);

(3) The effect on takeoff distance of runway slope and 50 percent of the headwind component and 150 percent of the tailwind component;

(4) For multiengine reciprocating engine-powered airplanes of more than 6,000 pounds maximum weight and multiengine turbine powered airplanes, the one-engine-inoperative takeoff climb/descent gradient, determined under § 23.66;

(5) For multiengine airplanes, the enroute rate and gradient of climb/descent with one engine inoperative, determined under § 23.69(b); and

(6) For single-engine airplanes, the glide performance determined under § 23.71.

(d) In addition to paragraph (a) of this section, for commuter category airplanes, the following information must be furnished—

(1) The accelerate-stop distance determined under § 23.55;

(2) The takeoff distance determined under § 23.59(a);

(3) At the option of the applicant, the takeoff run determined under § 23.59(b);

(4) The effect on accelerate-stop distance, takeoff distance and, if determined, takeoff run, of operation on other than smooth hard surfaces, when dry, determined under § 23.45(g);

(5) The effect on accelerate-stop distance, takeoff distance, and if determined, takeoff run, of runway slope and 50 percent of the headwind component and 150 percent of the tailwind component;

(6) The net takeoff flight path determined under § 23.61(b);

(7) The enroute gradient of climb/descent with one engine inoperative, determined under § 23.69(b);

(8) The effect, on the net takeoff flight path and on the enroute gradient of climb/descent with one engine inoperative, of 50 percent of the headwind component and 150 percent of the tailwind component;

(9) Overweight landing performance information (determined by extrapolation and computed for the range of weights between the maximum landing and maximum takeoff weights) as follows—

(i) The maximum weight for each airport altitude and ambient temperature at which the airplane complies with the climb requirements of § 23.63(d)(2); and

(ii) The landing distance determined under § 23.75 for each airport altitude and standard temperature.

(10) The relationship between IAS and CAS determined in accordance with § 23.1323 (b) and (c).

(11) The altimeter system calibration required by § 23.1325(e).

57. Section 23.1589(b) is revised to read as follows:

§ 23.1589 Loading information.

* * * * *

(b) Appropriate loading instructions for each possible loading condition between the maximum and minimum weights established under § 23.25, to facilitate the center of gravity remaining within the limits established under § 23.23.

Appendix E to Part 23 [Removed and Reserved]

58. Appendix E to Part 23 is removed and reserved.

Issued in Washington, DC, on January 29, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–2082 Filed 2–8–96; 8:45 am]

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February 9, 1996

Part IV

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 0, et al.
General HUD Program Requirements; Cross-Cutting Requirements; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 0, 4, 5, 8, 12, 15, 16, 17, 27, 28, 30, 35, 40, 51, 52, 91, 92, 100, 103, 104, 107, 109, 110, 111, 125, 135, 146, 200, 201, 203, 206, 213, 215, 219, 220, 221, 231, 232, 234, 235, 236, 237, 248, 260, 261, 265, 280, 290, 291, 511, 570, 572, 574, 576, 582, 583, 585, 590, 594, 597, 700, 750, 760, 791, 792, 799, 811, 813, 850, 880, 881, 882, 883, 884, 885, 886, 887, 889, 890, 899, 901, 904, 913, 941, 942, 945, 960, 961, 962, 963, 964, 965, 968, 999, 3280, 3282, and Chapters XI and XV

[Docket No. FR–3940–F–01]

RIN 2501–AC02

General HUD Program Requirements: Cross-Cutting Requirements

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: To eliminate redundancy in several HUD program regulations which repeat requirements that are applicable to two or more HUD programs, this final rule establishes a new part 5 that will contain: Definitions that are commonly found in many HUD program regulations; the list of other Federal requirements that are generally applicable to most HUD programs; and waiver authority (i.e., authority to waive regulatory provisions). The consolidation of the above-noted provisions in a single part will present uniformity, and assist program participants in identifying those requirements that cut across several of the HUD programs.

Furthermore, this final rule amends 24 CFR part 40 to conform to HUD's recently published rule eliminating obsolete or unnecessary parts and subparts from title 24 of the Code of Federal Regulations.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Assistant General Counsel for Regulations, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–3055. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–9300 or 1–800–877–8399 (Federal Information Relay Service TDD). (Other than the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background.

A. Consolidation of HUD Program Requirements

President Clinton's March 4, 1995 memorandum, *Regulatory Reinvention*, directed the heads of the Federal departments and agencies to review all existing regulations and to eliminate those requirements found to be obsolete or unnecessary. The department and agency chiefs were further directed to revise other regulations to increase flexibility and reduce regulatory burden.

HUD's page-by-page review evidenced that there are several requirements that are applicable to several HUD funded programs. To eliminate redundancy in the program regulations that repeat requirements, and to assist program participants in identifying requirements and procedures that are uniform in many HUD programs, this final rule creates a new part 5 containing: (1) Definitions that are used generally in HUD programs; (2) the list of other Federal requirements; and (3) waiver authority (i.e., authority to waive regulatory provisions). This final rule also amends HUD's program regulations that contain these common definitions or Federal requirements to remove these definitions and Federal requirements from these individual regulations and provide a cross-reference to part 5. Definitions or Federal requirements used only in a particular program, or common definitions defined differently for a particular program, will remain in the program regulations. The Department believes that placing common definitions and those Federal requirements generally applicable to several HUD programs in a new part 5 simplifies the structure of HUD's regulations by removing duplicative regulations, and also allows the user to determine which definitions are common to many HUD programs and which Federal requirements are considered cross-cutting requirements.

The general waiver provision established by this final rule permits the Secretary of HUD, upon a finding of good cause, to waive any non-statutory requirement in title 24. Currently, several program regulations authorize waivers only if the Secretary determines that application of the regulatory requirements will result in "undue hardship" to program participants and have an "adverse effect" on the purposes of the program. Although the waiver provision of part 5 uses a "good cause" standard, this final rule does not represent a change in policy. "Undue hardship" and "adverse effect" are merely subcategories of "good cause." Accordingly, this final rule will not alter the criteria the Secretary currently uses to make waiver determinations.

B. Conforming Amendment to Part 40

On September 11, 1995 (60 FR 47260), HUD published a final rule eliminating obsolete parts and codified guidance from title 24 of the Code of Federal Regulations. Among the guidance eliminated by the September 11, 1995 rule was appendix A to part 40, which codified the Accessibility Standards for Publicly Owned Residential Structures. Since the guidelines are easily obtainable elsewhere, codification in title 24 was unnecessary. This final rule creates a new § 40.7 which informs readers where they may obtain a copy of the accessibility guidelines.

C. Additional Consolidations To Be Included in Part 5

HUD intends future rulemakings that will amend part 5 to include other program requirements that are found in several programs regulations and that would benefit by having the requirements consolidated and set forth in part 5.

II. Justification for Final Rulemaking

It is HUD's policy to publish rules for public comment before their issuance for effect, in accordance with its own regulations on rulemaking found at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted if HUD determines that it is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that in this case prior public comment is unnecessary because the consolidation of frequently repeated definitions and program requirements does not affect or establish policy. This final rule does not establish or eliminate program requirements. Rather, in order to eliminate redundancy, this rule relocates these generally applicable requirements to a new part in title 24 of the CFR.

III. Other Matters

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk. Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this final rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, this rule merely consolidates requirements applicable to all or most HUD programs in a single part. It effects no changes in the current relationships between the Federal government, the States and their political subdivisions in connection with these programs.

C. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

D. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This final rule merely establishes a new part for frequently repeated program requirements, and will not have any meaningful economic impact on any entity.

List of Subjects

24 CFR Part 0

Administrative practice and procedure, Conflict of interests.

24 CFR Part 4

Administrative practice and procedure, Government employees, Grant programs—housing and community development, Investigations, Loan programs—housing and community development, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 5

Administrative practice and procedure.

24 CFR Part 8

Administrative practice and procedure, Civil rights, Equal employment opportunity, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 12

Administrative practice and procedure, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 15

Classified information, Courts, Freedom of information, Government employees, Reporting and recordkeeping requirements.

24 CFR Part 16

Privacy.

24 CFR Part 17

Administrative practice and procedure, Claims, Government employees, Income taxes, Wages.

24 CFR Part 27

Administrative practice and procedure, Loan programs—housing and community development.

24 CFR Part 28

Administrative practice and procedure, Claims, Fraud, Penalties.

24 CFR Part 30

Administrative practice and procedure, Grant programs—housing and community development, Loan programs—housing and community development, Mortgages, Penalties.

24 CFR Part 35

Grant programs—housing and community development, Lead poisoning, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 40

Individuals with disabilities, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 51

Environmental protection, Airports, Hazardous substances, Housing standards, Noise control.

24 CFR Part 52

Intergovernmental relations.

24 CFR Part 91

Aged, Grant programs—housing and community development, Homeless, Individuals with disabilities, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 92

Administrative practice and procedure, Grant programs—housing and community development, Grant programs—Indians, Indians, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 100

Aged, Fair housing, Individuals with disabilities, Mortgages, Reporting and recordkeeping requirements.

24 CFR Part 103

Administrative practice and procedure, Aged, Fair housing, Individuals with disabilities, Intergovernmental relations, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 104

Administrative practice and procedure, Aged, Fair housing, Individuals with disabilities, Mortgages, Penalties.

24 CFR Part 107

Administrative practice and procedure, Fair housing, Grant programs—housing and community development, Loan programs—housing and community development, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination.

24 CFR Part 109

Administrative practice and procedure, Equal employment opportunity, Government contracts, Housing, Reporting and recordkeeping requirements.

24 CFR Part 110

Aged, Fair housing, Individuals with disabilities, Mortgages, Signs and symbols.

24 CFR Part 111

Fair housing, Grant programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 125

Fair housing, Grant programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 135

Administrative practice and procedure, Community development, Equal employment opportunity, Government contracts, Grant programs—housing and community development, Housing, Loan programs—housing and community development, Reporting and recordkeeping requirements, Small businesses.

24 CFR Part 146

Administrative practice and procedure, Aged, Civil rights, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 213

Cooperatives, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 215

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 219

Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 220

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 231

Aged, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 235

Condominiums, Cooperatives, Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 237

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance.

24 CFR Part 248

Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 260

Grant programs—housing and community development, Low and moderate income housing.

24 CFR Part 261

Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 265

Mortgage insurance.

24 CFR Part 280

Community development, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 290

Low and moderate income housing, Mortgage insurance.

24 CFR Part 291

Community facilities, Conflict of interests, Homeless, Lead poisoning, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

24 CFR Part 511

Administrative practice and procedure, Grant programs—housing and community development, Lead poisoning, Low and moderate income housing, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

24 CFR Part 572

Condominiums, Cooperatives, Fair housing, Government property, Grant programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 574

AIDS, Community facilities, Disabled, Emergency shelter, Grant programs—health programs, Grant programs—housing and community development, Grant programs—social programs, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 576

Community facilities, Emergency shelter grants, Grant programs—housing and community development, Grant programs—social programs, Homeless, Reporting and recordkeeping requirements.

24 CFR Part 582

Homeless, Rent subsidies, Reporting and recordkeeping requirements, Supportive housing programs—housing and community development, Supportive services.

24 CFR Part 583

Homeless, Rent subsidies, Reporting and recordkeeping requirements, Supportive housing programs—housing and community development, Supportive services.

24 CFR Part 585

Grant programs—housing and community development, Homeless, Low and very low-income families, Reporting and recordkeeping requirements.

24 CFR Part 590

Government property, Housing, Intergovernmental relations, Low and moderate income housing, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 594

Community development, Grant programs—housing and community development, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 597

Community development, Empowerment zones, Enterprise communities, Economic development, Housing, Indians, Intergovernmental relations, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 700

Aged, Grant programs—housing and community development, Individuals with disabilities, Low and moderate income housing, Nutrition, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Supportive services.

24 CFR Part 750

Grant programs—housing and community development, Indians, Intergovernmental relations, Loan programs—housing and community development, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social Security.

24 CFR Part 760

Grant programs—housing and community development, Income verification procedures, Indians, Intergovernmental relations, Loan programs—housing and community development, Penalties, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Wages.

24 CFR Part 791

Grant programs—housing and community development, Indians, Intergovernmental relations, Public housing, Rent subsidies.

24 CFR Part 792

Fraud, Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 799

Grant programs—housing and community development, Indians, Intergovernmental relations, Public housing, Rent subsidies.

24 CFR Part 811

Public housing, Securities, Taxes.

24 CFR Part 813

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements, Utilities.

24 CFR Part 850

Grant programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

24 CFR Part 885

Aged, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 886

Grant programs—housing and community development, Lead poisoning, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 887

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 889

Aged, Capital advance programs, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 890

Civil rights, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mental health programs, Reporting and recordkeeping requirements.

24 CFR Part 899

Grant programs—housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Parts 901

Administrative practice and procedure, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 904

Grant programs—housing and community development, Loan

programs—housing and community development, Public housing.

24 CFR Part 913

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 941

Grant programs—housing and community development, Loan programs—housing and community development, Public housing.

24 CFR Part 942

Aged, Grant programs—housing and community development, Individuals with disabilities, Pets, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 945

Aged, Grant programs—housing and community development, Individuals with disabilities, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Public housing.

24 CFR Part 961

Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Grant programs—low and moderate income housing, Indians, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 962

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 963

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 964

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 965

Energy conservation, Government procurement, Grant programs—housing and community development, Lead poisoning, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements, Utilities.

24 CFR Part 968

Grant programs—housing and community development, Indians, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 999

Grant programs—housing and community development, Indians, Public housing.

24 CFR Part 3280

Fire prevention, Housing standards, Manufactured homes.

24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes, Reporting and recordkeeping requirements.

Accordingly, under the authority 42 U.S.C. 3535(d), in title 24 of the Code of Federal Regulations, subtitle B, chapters I, II, V, VII, VIII, IX, and XX are amended, and chapters XI and XV are removed, as follows:

PART 0—STANDARDS OF CONDUCT

1. The authority citation for part 0 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 201–212; E.O. 11222, E.O. 12674, 3 CFR, 1964–1965 Comp., p. 306; 5 CFR 735.101–412.

Subpart A—General Provisions

§ 0.735–102 [Amended]

2. Section 0.735–102 is amended by removing the definition of "*Department.*"

§ 0.735–106 [Removed]

3. Section 0.735–106 is removed.

PART 4—PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS

4. The authority citation for part 4 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 3537a.

Subpart A—General Provisions

5. Section 4.5 is amended by removing the definitions of "*Department or HUD*", "*NOFA*", and "*Secretary*", and adding introductory text to read as follows:

§ 4.5 Definitions.

The terms *Department, HUD, NOFA,* and *Secretary* are defined in 24 CFR part 5.

* * * * *

6. A new part 5 is added to read as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

Subpart A—Generally Applicable Definitions and Federal Requirements; Waivers

Sec.
5.100 Definitions.
5.105 Other Federal requirements.
5.110 Waivers.

Authority: 42 U.S.C. 3535(d).

Subpart A—Generally Applicable Definitions and Federal Requirements; Waivers

§ 5.100 Definitions.

The following definitions apply as noted in the respective program regulations:

1937 Act means the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*)

ADA means the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

ALJ means an administrative law judge appointed to HUD pursuant to 5 U.S.C. 3105 or detailed to HUD pursuant to 5 U.S.C. 3344.

Department means the Department of Housing and Urban Development.

Elderly Person means an individual who is at least 62 years of age.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 *et seq.*).

Fair Market Rent (FMR) means the rent that would be required to be paid in the particular housing market area in order to obtain privately owned, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. This Fair Market Rent includes utilities (except telephone). Separate Fair Market Rents will be established by HUD for dwelling units of varying sizes (number of bedrooms) and will be published in the **Federal Register** in accordance with part 888 of this title.

General Counsel means the General Counsel of HUD.

Grantee means the person or legal entity to which a grant is awarded and that is accountable for the use of the funds provided.

HUD means the same as *Department.*

Indian means a person who is recognized as being an Indian or Alaska Native by an Indian Tribe, the Federal government, or any State.

Indian Housing Authority (IHA) means an entity that:

(1) Is authorized to engage or assist in the development or operation of low-income housing for Indians under the 1937 Act; and

(2) Is established:

(i) By exercise of the power of self-government of an Indian Tribe independent of State law; or

(ii) By operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

NAHA means the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 *et seq.*).

NEPA means the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

NOFA means Notice of Funding Availability.

OMB means the Office of Management and Budget.

Organizational Unit means the jurisdictional area of each Assistant Secretary, and each office head or field administrator reporting directly to the Secretary.

Public Housing Agency (PHA) means any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Section 8 means section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

Secretary means the Secretary of Housing and Urban Development.

URA means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4201–4655).

§ 5.105 Other Federal requirements.

The following Federal requirements apply as noted in the respective program regulations:

(a) *Nondiscrimination and equal opportunity.* The Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100 *et seq.*; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and implementing regulations at 24 CFR part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; section 3 of the Housing and Urban Development Act of 1966 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

(b) *Disclosure requirements.* The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 CFR part 87; and the requirements for funding competitions established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3531 *et seq.*).

(c) *Debarred, suspended or ineligible contractors.* The prohibitions at 24 CFR part 24 on the use of debarred, suspended or ineligible contractors.

(d) *Drug-Free Workplace.* The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*) and HUD's implementing regulations at 24 CFR part 24.

§ 5.110 Waivers.

Upon determination of good cause, the Secretary may, subject to statutory limitations, waive any provision of this title and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

PART 8—NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

7. The authority citation for part 8 is revised to read as follows:

Authority: 29 U.S.C. 794; 42 U.S.C. 3535(d) and 5309.

Subpart C—Program Accessibility

8. Section 8.32 is amended by revising paragraph (a) to read as follows:

§ 8.32 Accessibility standards.

(a) Effective as of July 11, 1988, design, construction, or alteration of buildings in conformance with sections 3–8 of the Uniform Federal Accessibility Standards (UFAS) shall be deemed to comply with the requirements of §§ 8.21, 8.22, 8.23, and 8.25 with respect to those buildings. Departures from particular technical and scoping requirements of the UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided. The alteration of housing facilities shall also be in conformance with additional scoping requirements contained in this part. Persons interested in obtaining a copy of the UFAS are directed to § 40.7 of this title.

* * * * *

PART 12—ACCOUNTABILITY IN THE PROVISION OF HUD ASSISTANCE

9. The authority citation for part 12 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 3545.

Subpart A—General

10. Section 12.3 is amended by removing the definitions of "*Indian*", "*Indian Housing Authority*", "*HUD or Department*", and "*Public housing agency*", and adding introductory text to read as follows:

§ 12.3 Definitions.

The terms *Department, HUD, Indian, Indian Housing Authority (IHA),* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 15—TESTIMONY, PRODUCTION AND DISCLOSURE OF MATERIAL OR INFORMATION BY HUD EMPLOYEES

11. The authority citation for part 15 is revised to read as follows:

Authority: 5 U.S.C. 552; 42 U.S.C. 3535(d).

Subpart A—Purpose and Policy

12. Section 15.1 is amended by removing the definitions of "*Department*", "*Secretary*", and "*Organizational unit*", and adding introductory text to read as follows:

§ 15.1 Definitions.

The terms *Department, Secretary,* and *Organizational unit* are defined in 24 CFR part 5.

* * * * *

Subpart I—Testimony of Employees of the Department in Legal Proceedings

§ 15.86 [Removed]

13. Section 15.86 is removed.

PART 16—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

14. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 552(a); 42 U.S.C. 3535(d).

§ 16.2 [Amended]

15. Section 16.2 is amended by removing paragraph (b)(4) and redesignating paragraphs (b)(5) through (b)(8) as paragraphs (b)(4) through (b)(7).

PART 17—ADMINISTRATIVE CLAIMS

16. The authority citation for subpart A of part 17 is revised to read as follows:

Authority: 5 U.S.C. 5514; 28 U.S.C. 2672; 31 U.S.C. 3711, 3716–3718, 3721; 42 U.S.C. 3535(d).

Subpart A—Claims Against Government Under Federal Tort Claims Act

17. Section 17.1 is amended by revising paragraph (c) to read as follows:

§ 17.1 Scope; definitions.

* * * * *

(c) The terms *Department* and *Organizational unit* are defined in 24 CFR part 5.

PART 27—NONJUDICIAL FORECLOSURE OF MULTIFAMILY MORTGAGES

18. The authority citation for part 27 is revised to read as follows:

Authority: 12 U.S.C. 3711(5), 3717; 42 U.S.C. 3535(d).

Subpart A—General

19. Section 27.3 is amended by removing the definitions of "*General Counsel*" and "*Secretary*", and revising the introductory text to read as follows:

§ 27.3 Definitions.

The terms *General Counsel* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 28—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

20. The authority citation for part 28 is revised to read as follows:

Authority: 31 U.S.C. 3801; 42 U.S.C. 3535(d).

21. Section 28.3 is amended by removing the definitions of "*ALJ*" and "*HUD*", and adding introductory text to read as follows:

§ 28.3 Definitions.

The terms *ALJ* and *HUD* are defined in 24 CFR part 5.

* * * * *

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

22. The authority citation for part 30 is revised to read as follows:

Authority: 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, 1735f–15; 15 U.S.C. 1717a; 42 U.S.C. 3535(d).

Subpart A—General Provisions

23. Section 30.10 is amended by removing the definitions of "*ALJ*", "*Department or HUD*", and "*Secretary*", and revising the introductory text to read as follows:

§ 30.10 Definitions.

Because this part is primarily procedural, terms not defined in this section shall have the meanings given them in relevant program regulations. In the case of new responsibilities and new terminology established by the Reform Act, comprehensive definitions will be found in 24 CFR part 4 (Prohibition of Advance Disclosure of Funding Decisions) and 24 CFR part 12 (Accountability in the Provision of HUD Assistance). The terms *ALJ, Department, HUD,* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

24. The authority for part 35 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 4821–4846).

Subpart A—Notification to Purchasers and Tenants of HUD-Associated Housing Constructed Prior to 1978 of the Hazards of Lead-Based Paint Poisoning

§ 35.3 [Amended]

25. Section 35.3 is amended by removing the definition of "*Department of HUD.*"

Subpart G—[Removed]

26. Subpart G, consisting of § 35.70, is removed.

PART 40—ACCESSIBILITY STANDARDS FOR DESIGN, CONSTRUCTION, AND ALTERATION OF PUBLICLY OWNED RESIDENTIAL STRUCTURES

27. The authority citation for part 40 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 4153.

§ 40.5 [Removed]

28. Section 40.5 is removed and reserved.

29. A new § 40.7 is added to read as follows:

§ 40.7 Availability of Accessibility Standards.

Copies of the Uniform Federal Accessibility Standards are available from the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Room 5230, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–5404 (this is not a toll-free number). Hearing or speech-impaired individuals may call HUD's TDD number (202) 708–0113 or 1–800–877–8399 (Federal Information Relay Service TDD). (Other than the "800" number, these are not toll-free numbers.)

PART 51—ENVIRONMENTAL CRITERIA AND STANDARDS

30. The authority citation for subpart C of part 51 is revised to read as follows:

Authority: 42 U.S.C. 3535(d).

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

31. Section 51.201 is amended by removing the definitions of "*Department*" and "*Secretary*", and adding introductory text to read as follows:

§ 51.201 Definitions.

The terms *Department* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 52—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS AND ACTIVITIES

32. The authority citation for part 52 is revised to read as follows:

Authority: 31 U.S.C. 6506; 42 U.S.C. 3334, 3535(d).

§ 52.2 [Amended]

33. Section 52.2 is amended by removing the definition of "*Department.*"

§ 52.13 [Removed]

34. Section 52.13 is removed.

PART 91—CONSOLIDATED SUBMISSION FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS

35. The authority citation for part 91 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912.

Subpart A—General

36. Section 91.5 is amended by removing the definitions of "*Elderly person*" and "*HUD*", and adding introductory text to read as follows:

§ 91.5 Definitions.

The terms *Elderly person* and *HUD* are defined in 24 CFR part 5.

* * * * *

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

37. The authority citation for part 92 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 12701–12839.

Subpart A—General

38. Section 92.2 is amended by removing the definitions of "*HUD*", "*Indian Housing Authority*", "*Public housing agency (PHA)*", and "*Secretary*", and adding introductory text to read as follows:

§ 92.2 Definitions.

The terms *HUD, Indian Housing Authority (IHA), Public Housing Agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

* * * * *

§ 92.3 [Removed]

39. Section 92.3 is removed and reserved.

Subpart H—Other Federal Requirements

40. Section 92.350 is amended by revising paragraph (a) to read as follows:

§ 92.350 Equal opportunity and fair housing.

(a) The Federal requirements set forth in 24 CFR part 5 apply to participants in the HOME program.

* * * * *

§ 92.357 [Removed]

41. Section 92.357 is removed and reserved.

PART 100—DISCRIMINATORY CONDUCT UNDER THE FAIR HOUSING ACT

42. The authority citation for part 100 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 3600–3620.

Subpart A—General

43. Section 100.20 is amended by removing the definitions of "*Department*", "*Fair Housing Act*", and "*Secretary*", and revising the introductory text to read as follows:

§ 100.20 Definitions.

The terms Department, Fair Housing Act, and Secretary are defined in 24 CFR part 5.

* * * * *

PART 103—FAIR HOUSING—COMPLAINT PROCESSING

44. The authority citation for part 103 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 3601–3619.

Subpart A—Purpose and Definitions

45. Section 103.9 is amended by removing the definitions of "*Fair Housing Act*", "*General Counsel*", and "*HUD*", and revising the introductory text to read as follows:

§ 103.9 Definitions.

The terms *Fair Housing Act, General Counsel,* and *HUD* are defined in 24 CFR part 5.

* * * * *

PART 104—ADMINISTRATIVE PROCEEDINGS UNDER SECTION 812 OF THE FAIR HOUSING ACT

46. The authority citation for part 104 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 3600–3620.

Subpart A—General Information

47. Section 104.20 is amended by removing the definitions of "*Fair Housing Act*", "*General Counsel*", and "*HUD*", and adding introductory text to read as follows:

§ 104.20 Definitions.

The terms *Fair Housing Act, General Counsel,* and *HUD* are defined in 24 CFR part 5.

* * * * *

PART 107—NONDISCRIMINATION AND EQUAL OPPORTUNITY IN HOUSING UNDER EXECUTIVE ORDER 11063

48–50. The authority citation for part 107 is revised to read as follows:

Authority: 42 U.S.C. 3535(d); E.O. 11063, 27 FR 11527, 3 CFR, 1958–1963 Comp., p. 652; E.O. 12892, 59 FR 2939, 3 CFR, 1994 Comp., p. 849.

51. Section 107.15 is amended by:

a. Revising paragraph (a);

b. Removing paragraph (b); and

c. Redesignating paragraphs (c) through (g) as paragraphs (b) through (f) to read as follows:

§ 107.15 Definitions.

(a) *Department* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 109—FAIR HOUSING ADVERTISING

52. The authority citation for part 109 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 3600–3620.

53. Section 109.15 is amended by revising paragraph (b) to read as follows:

§ 109.15 Definitions.

* * * * *

(b) *General Counsel* is defined in 24 CFR part 5.

* * * * *

PART 110—FAIR HOUSING POSTER

54. The authority citation for part 110 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 3600–3620.

Subpart A—Purpose and Definitions

55. Section 110.5 is amended by:

a. Revising paragraph (a);

b. Removing paragraph (f); and

c. Redesignating paragraphs (g) through (i) as paragraphs (f) through (h) to read as follows:

§ 110.5 Definitions.

(a) The terms *Department* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 111—FAIR HOUSING ASSISTANCE PROGRAM

56. The authority citation for part 111 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 3600–3620.

57. Section 111.101 is amended by removing the definitions of "*HUD*" and "*NOFA*", and revising the introductory text to read as follows:

§ 111.101 Definitions.

The terms *HUD* and *NOFA* are defined in 24 CFR part 5.

* * * * *

PART 125—FAIR HOUSING INITIATIVES PROGRAM

58. The authority citation for part 125 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 3616 note.

§ 125.103 [Amended]

59. Section 125.103 is amended by removing the definition of "*Department.*"

PART 135—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

60–62. The authority citation for part 135 is revised to read as follows:

Authority: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

Subpart A—General Provisions

63. Section 135.5 is amended by removing the definitions of "*Department or HUD*", "*Indian housing authority (IHA)*", "*Public housing agency (PHA)*", and "*Secretary*", and revising the introductory text to read as follows:

§ 135.5 Definitions.

The terms *Department, HUD, Indian housing authority (IHA), Public housing agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 146—NONDISCRIMINATION ON THE BASIS OF AGE IN HUD PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

64. The authority citation for part 146 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 6103.

Subpart A—General

65. Section 146.7 is amended by removing the definitions of "*HUD*" and "*Secretary*", and revising the introductory text to read as follows:

§ 146.7 Definitions.

The terms *HUD* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 200—INTRODUCTION

66. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 1436a and 3535(d).

Subpart I—Nondiscrimination and Fair Housing

67. Section 200.300 is revised to read as follows:

§ 200.300 Nondiscrimination and fair housing policy.

The regulations in this subpart are prescribed pursuant to:

(a) The nondiscrimination and fair housing requirements set forth in 24 CFR part 5; and

(b) The affirmative fair housing marketing requirements in 24 CFR part 200, subpart M and part 108.

Subpart T—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers by Applicants and Participants in Assisted Mortgage and Loan Insurance and Related Programs

68. Section 200.1005 is amended by removing the definitions of "*HUD or Department*" and "*PHA*", and revising the introductory text to read as follows:

§ 200.1005 Definitions.

The terms *Department, HUD,* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5. For purposes of this subpart, the term *Public Housing Agency (PHA)* includes an Indian Housing Authority.

* * * * *

Subpart V—Procedures for Obtaining Wage and Claim Information About Applicants and Participants in HUD's Assisted Mortgage and Loan Insurance and Related Programs From State Wage Information Collection Agencies (SWICAs)

§ 200.1205 [Amended]

69. Section 200.1205 is amended by removing the definition of "*HUD.*"

PART 201—TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

70. The authority citation for part 201 is revised to read as follows:

Authority: 12 U.S.C. 1703; 42 U.S.C. 1436a and 3535(d).

Subpart A—General

§ 201.2 [Amended]

71. Section 201.2 is amended by removing paragraph (ff) and redesignating paragraphs (gg) through (mm) as paragraphs (ff) through (ll).

§ 201.5 [Amended]

72. Section 201.5 is amended by removing paragraph (a) and removing the designation of paragraph (b).

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

73. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

In addition, subpart C is also issued under 12 U.S.C. 1715u.

Subpart A—Eligibility Requirements and Underwriting Procedures

§ 203.248 [Removed]

74. Section 203.248 and the undesignated center heading preceding it are removed.

PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE

75. The authority citation for part 206 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–1720; 42 U.S.C. 3535(d).

Subpart A—General

§ 206.5 [Removed]

76. Section 206.5 is removed.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

77. The authority citation for part 213 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715e; 42 U.S.C. 3535(d).

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

§ 213.748 [Removed]

78. Section 213.748 is removed.

PART 215—RENT SUPPLEMENT PAYMENTS

79. The authority citation for part 215 continues to read as follows:

Authority: 12 U.S.C. 1701s; 42 U.S.C. 3535(d).

80. Section 215.1 is amended by revising the definition of "*Elderly person*" to read as follows:

§ 215.1 Definitions.

* * * * *

Elderly person is defined in 24 CFR part 5.

* * * * *

PART 219—FLEXIBLE SUBSIDY PROGRAM FOR TROUBLED PROJECTS

81. The authority citation for part 219 continues to read as follows:

Authority: 12 U.S.C. 1715z–1a; 42 U.S.C. 3535(d).

Subpart A—General Provisions

§ 219.130 [Removed]

82. Section 219.130 is removed.

PART 220—MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS FOR URBAN RENEWAL AND CONCENTRATED DEVELOPMENT AREAS

83. The authority citation for part 220 continues to read as follows:

Authority: 12 U.S.C. 1713, 1715b, and 1715k; 42 U.S.C. 3535(d).

Subpart A—Eligibility Requirements—Homes

§ 220.248 [Removed]

84. Section 220.248 and the undesignated center heading preceding it are removed.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

85. The authority citation for part 221 is revised to read as follows:

Authority: 12 U.S.C. 1707(a), 1715b and 1751*l*; 42 U.S.C. 3535(b).

Subpart A—Eligibility Requirements—Low Cost Homes

§ 221.248 [Removed]

86. Section 221.248 and the undesignated center heading preceding it are removed.

PART 231—HOUSING MORTGAGE INSURANCE FOR THE ELDERLY

87. The authority citation for part 231 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715v; 42 U.S.C. 3535(d).

Subpart A—Eligibility Requirements

88. Section 231.2 is amended by revising paragraph (c) to read as follows:

§ 231.2 Definitions.

* * * * *

(c) *Elderly person* is defined in 24 CFR part 5.

* * * * *

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, BOARD AND CARE HOMES, AND ASSISTED LIVING FACILITIES

89. The authority citation for part 232 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715w, and 1715z(9); 42 U.S.C. 3535(d).

Subpart A—Eligibility Requirements

90. Section 232.1 is amended by revising paragraph (n) to read as follows:

§ 232.1 Definitions.

* * * * *

(n) *Elderly person* is defined in 24 CFR part 5.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

91. The authority citation for part 234 is revised to read as follows:

Authority: 12 U.S.C. 1715b and 1715y; 42 U.S.C. 3535(d). Section 234.520(a)(2)(ii) is also issued under 12 U.S.C. 1707(a).

Subpart A—Eligibility Requirements—Individually Owned Units

§ 234.248 [Removed]

92. Section 234.248 is removed.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

93. The authority citation for part 235 is revised to read as follows:

Authority: 12 U.S.C. 1715b and 1715z; 42 U.S.C. 3535(d).

Subpart A—Eligibility Requirements—Homes for Lower Income Families

§ 235.1204 [Removed]

94. Section 235.1204 is removed.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

95. The authority citation for part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715z-1; 42 U.S.C. 3535(d).

Subpart A—Eligibility Requirements for Mortgage Insurance

96. Section 236.2 is amended by revising the definition of "Elderly person" to read as follows:

§ 236.2 Definitions.

* * * * *

Elderly person is defined in 24 CFR part 5.

* * * * *

PART 237—SPECIAL MORTGAGE INSURANCE FOR LOW AND MODERATE INCOME FAMILIES

97. The authority citation for part 237 continues to read as follows:

Authority: 12 U.S.C. 1709, 1715b, and 1715z-2; 42 U.S.C. 3535(d).

Subpart A—Eligibility Requirements

§ 237.248 [Removed]

98. Section 237.248 and the undesignated center heading preceding it are removed.

PART 248—PREPAYMENT OF LOW INCOME HOUSING MORTGAGES

99. The authority citation for part 248 continues to read as follows:

Authority: 12 U.S.C. 1715l note, 4101 note, and 4101–4124; 42 U.S.C. 3535(d).

Subpart C—Prepayment and Plans of Action Under the Emergency Low Income Preservation Act of 1987

100. Section 248.201 is amended by removing the definitions of "*Fair Market Rent*" and "*Section 8*", and adding introductory text to read as follows:

§ 248.201 Definitions.

The terms *Fair Market Rent (FMR)* and *Section 8* are defined in 24 CFR part 5.

* * * * *

PART 260—INTEREST SUBSIDY GRANTS

101. The authority citation for part 260 is revised to read as follows:

Authority: 42 U.S.C. 1440(c)(2) and 3535(d).

§ 260.2 [Amended]

102. Section 260.2 is amended by removing and reserving paragraph (d).

PART 261—ASSISTED HOUSING DRUG ELIMINATION PROGRAM

103. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11901 *et seq.*

Subpart A—General

104. Section 261.5 is amended by removing the definition of "*HUD or Department*", and adding introductory text to read as follows:

§ 261.5 Definitions.

The terms *Department* and *HUD* are defined in 24 CFR part 5.

* * * * *

PART 265—TRANSFER FROM NON-PROFIT TO PROFIT-MOTIVATED OWNERSHIP FOR MULTIFAMILY HOUSING PROJECTS WITH HUD-INSURED OR HUD-HELD MORTGAGES

105. The authority citation for part 265 is revised to read as follows:

Authority: 42 U.S.C. 3535(d).

§ 265.4 [Removed]

106. Section 265.4 is removed and reserved.

PART 280—NEHEMIAH HOUSING OPPORTUNITY GRANTS PROGRAM

107. The authority citation for part 285 continues to read as follows:

Authority: 12 U.S.C. 1715*l* note; 42 U.S.C. 3535(d).

Subpart A—General

§ 280.5 [Amended]

108. Section 280.5 is amended by removing the definition of "*HUD.*"

§ 280.10 [Removed]

109. Section 280.10 is removed.

Subpart D—Application and Selection Procedures

110. Section 280.207 is amended by:

a. Revising the introductory text and paragraph (a);

b. Removing paragraphs (g) and (k); and

c. Redesignating paragraphs (h) through (j) as paragraphs (g) through (i), to read as follows:

§ 280.207 Other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, the following additional Federal requirements apply to this program:

(a) *Nondiscrimination and equal opportunity.* (1) The affirmative fair housing marketing requirements at 24 CFR part 200, subpart M, and the implementing regulations at 24 CFR part 108.

(2) *Racial and ethnic data collection requirements.* Recipients must maintain current data on the race and ethnicity of program beneficiaries.

* * * * *

PART 290—DISPOSITION OF MULTIFAMILY PROJECTS AND SALE OF HUD-HELD MULTIFAMILY MORTGAGES

111. The authority citation for part 290 continues to read as follows:

Authority: 12 U.S.C. 1701z–11, 1701z–12, 1713, 1715b, 1715z–1b; 42 U.S.C. 3535(d).

Subpart A—General Provisions

112. Section 290.5 is amended by removing the definitions of "*Department*" and "*URA*", and revising the introductory text to read as follows:

§ 290.5 What definitions apply in this regulation?

The terms *Department* and *URA* are defined in 24 CFR part 5.

* * * * *

§ 290.7 [Removed]

113. Section 290.7 is removed.

PART 291—DISPOSITION OF HUD-ACQUIRED SINGLE FAMILY PROPERTY

114. The authority citation for part 291 continues to read as follows:

Authority: 12 U.S.C. 1709 and 1715b; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

Subpart A—General Provisions

115. Section 291.5 is amended by removing the definitions of "*HUD*" and "*Secretary*", and revising the introductory text to read as follows:

§ 291.5 Definitions.

The terms *HUD* and *Secretary* are defined in 24 CFR part 5.

* * * * *

Subpart E—Lease and Sale of HUD-Acquired Single Family Properties for the Homeless

§ 291.405 [Amended]

116. Section 291.405 is amended by removing the definition of "*HUD.*"

117. Section 291.435 is amended by:

a. Revising the introductory text and paragraph (a)(1);

b. Removing paragraphs (c) and (e); and

c. Redesignating paragraph (d) as paragraph (c) to read as follows:

§ 291.435 Applicability of other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, the following Federal requirements apply to lessees and purchasers under this subpart:

(a) *Nondiscrimination and equal opportunity.* (1) The nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5 are modified as follows:

(i) Where applicable, lessees and purchasers must also comply with the Americans with Disabilities Act (42 U.S.C. 12131) and implementing regulations at 28 CFR parts 35 and 36.

(ii) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and Executive Order 11246 (30 FR 12319, 12935, 3 CFR, 1946–1965 Comp., p. 339; Executive Order 11625 (36 FR 19967, 3 CFR, 1971–1975 Comp., p. 616); Executive Order 12432 (48 FR 32551, 3 CFR, 1983 Comp., p. 198; and Executive Order 12138 (44 FR 29637, 3 CFR, 1979 Comp., p. 393) do not apply to this subpart.

* * * * *

Subpart F—[Removed]

118. Subpart F, consisting of § 291.500, is removed.

PART 511—RENTAL REHABILITATION GRANT PROGRAM

119. The authority citation for part 511 continues to read as follows:

Authority: 2 U.S.C. 1437o and 3535(d).

Subpart A—General

120. Section 511.2 is amended by removing the definitions of "*HUD*" and "*Public Housing Agency (PHA)*", and adding introductory text to read as follows:

§ 511.2 Definitions.

The terms *HUD* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

§ 511.5 [Removed]

121. Section 511.5 is removed.

Subpart B—Program Requirements

122. Section 511.13 is amended by:

a. Revising the heading and the introductory text;

b. Removing paragraphs (a) and (c);

c. Redesignating paragraph (b) as paragraph (a); and

d. Adding paragraph (b) and reserving it, to read as follows:

§ 511.13 Nondiscrimination, equal opportunity, and affirmative marketing requirements.

In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, the following requirements apply:

* * * * *

123. Section 511.16 is amended by:

a. Revising the introductory text;

b. Removing paragraphs (c), (d), and (f);

b. Redesignating paragraphs (e) and (g) as paragraphs (c) and (d), respectively, to read as follows:

§ 511.16 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, Grantees and, where applicable, State recipients shall comply with the following requirements:

* * * * *

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

124. The authority citation for part 570 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

Subpart A—General Provisions

125. Section 570.3 is amended by removing the definitions of "*HUD*" and "*Secretary*", and adding introductory text to read as follows:

§ 570.3 Definitions.

The terms HUD and Secretary are defined in 24 CFR part 5.

* * * * *

§ 570.5 [Removed]

126. Section 570.5 is removed.

Subpart I—State Community Development Block Grant Program

§ 570.481 [Amended]

127. Section 570.481 is amended by removing paragraph (a)(3).

Subpart K—Other Program Requirements

128. Sections 570.607 is revised to read as follows:

§ 570.607 Employment and contracting opportunities.

Grantees shall comply with:

(a) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p.339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264) (Equal Employment Opportunity) and the implementing regulations at 41 CFR chapter 60; and

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.

129. Section 570.609 is revised to read as follows:

§ 570.609 Use of debarred, suspended or ineligible contractors or subrecipients.

The requirements set forth in 24 CFR part 5 apply to this program.

PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)

130. The authority citation for part 572 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12891.

Subpart A—General

131. Section 572.5 is amended by removing the definitions of "*HUD*", "*IHA*", "*NAHA*", "*1937 Act*", "*NOFA*", and "PHA", and revising the introductory text to read as follows:

§ 572.5 Definitions.

The terms *HUD, Indian Housing Authority (IHA), NAHA, 1937 Act, NOFA,* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

§ 572.15 [Removed]

132. Section 572.15 is removed.

Subpart E—Other Federal Requirements

133. Section 572.405 is amended by:

a. Revising the introductory text and paragraph (a);

b. Removing paragraphs (b), (c) and (d);

c. Redesignating paragraphs (e) through (g) as paragraphs (b) through (d); and

d. Revising newly designated paragraph (b) to read as follows:

§ 572.405 Nondiscrimination and equal opportunity requirements.

In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, the following requirements apply to homeownership programs under this part:

(a) *Modification of fair housing and nondiscrimination requirements for Indian tribes and IHAs.* (1) The Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*) applies to tribes when they exercise their powers of self-government. Thus, it is applicable in all cases when an IHA has been established by exercise of such powers. In the case of the IHA established pursuant to State law, the applicability of the Indian Civil Rights Act shall be determined on a case-by-case basis. Development subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

(2) In the case of Indian tribes and IHAs, compliance with the requirements of this section shall be to the maximum extent consistent, but not in derogation of, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

(b) *Affirmative fair housing marketing.* The recipient must adopt a strategy for informing and soliciting applications from people who are least likely to apply, because of race, color, religion, sex, disability, familial status, or national origin, for the program without special outreach, consistent with the affirmative fair housing marketing requirements. (See 24 CFR 92.351 for an example of an affirmative strategy.) Paragraph (b) of this section does not apply to Indian tribes and IHAs, as described in paragraph (a)(1) of this section.

* * * * *

PART 574—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

134. The authority citation for part 574 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12901–12912.

Subpart A—General

135. Section 574.3 is amended by removing the definitions of "*Grantee*" and "*Secretary*", and adding introductory text to read as follows:

§ 574.3 Definitions.

The terms *Grantee* and *Secretary* are defined in 24 CFR part 5.

* * * * *

Subpart G—Other Federal Requirements

§ 574.600 [Redesignated as § 574.603]

136. Section 574.600 is redesignated as § 574.603 and a new § 574.600 is added to read as follows:

§ 574.600 Cross-reference.

The Federal requirements set forth in 24 CFR part 5 apply to this program as specified in this subpart.

137. Section 574.603 is amended by:

a. Revising the introductory text and paragraph (a);

b. Removing paragraphs (b), (c), (d) and (f); and

c. Redesignating paragraph (e) as paragraph (b) to read as follows:

§ 574.603 Nondiscrimination and equal opportunity.

In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, the following requirements apply:

(a) *Fair housing requirements.* (1) Grantees and project sponsors shall comply with the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101–12213) and implementing regulations at 28 CFR part 35 (States and local government grantees) and part 36 (public accommodations and requirements for

certain types of short-term housing assistance).

(2) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264) (Equal Employment Opportunity) does not apply to this program.

* * * * *

§§ 574.610, 574.615, and 574.620 [Removed]

138. Sections 574.610, 574.615, and 574.620 are removed.

PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. McKINNEY HOMELESS ASSISTANCE ACT

139. The authority citation for part 576 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11376.

Subpart A—General

140. Section 576.3 is amended by removing the definitions of "**GRANTEE**" and "*HUD*", and adding introductory text to read as follows:

§ 576.3 Definitions.

The terms *Grantee* and *HUD* are defined in 24 CFR part 5.

* * * * *

§§ 576.5 [Removed]

141. Section 576.5 is removed.

Subpart G—Program Requirements

142. Section 576.79 is amended by:

a. Revising the introductory text and paragraph (a);

b. Removing paragraphs (e) and (h);

c. Redesignating paragraphs (f) and (g) as paragraphs (e) and (f), respectively;

d. Redesignating paragraphs (i) and (j) as paragraphs (g) and (h), respectively, to read as follows:

§ 576.79 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, use of emergency shelter grant amounts must comply with the following requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements at 24 CFR part 5 are modified as follows:

(1) *Rehabilitation Act requirements.* HUD's regulations at 24 CFR part 8 implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). For purposes of the emergency shelter grants program, the term "dwelling units" in 24 CFR part 8 shall include sleeping accommodations.

(2) Use of emergency shelter grant amounts must also comply with the requirement that the grantee or the State recipient make known that use of the facilities and services is available to all on a nondiscriminatory basis. If the procedures that the grantee or recipient intends to use to make known the availability of the facilities and services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such facilities and services, the grantee or recipient must establish additional procedures that will ensure that such persons are made aware of the facilities and services. Grantees and recipients must also adopt procedures which will make available to interested persons information concerning the location of services and facilities that are accessible to persons with disabilities.

* * * * *

PART 582—SHELTER PLUS CARE

143. The authority citation for part 582 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 11403 note.

Subpart A—General

144. Section 582.5 is amended by removing the definitions of "Fair Market rent or FMR", "HUD", "Public housing agency or PHA", and Secretary", and revising the introductory text to read as follows:

§ 582.5 Definitions.

The terms *Fair Market Rent (FMR), HUD, Public Housing Agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

* * * * *

§ 582.10 [Removed]

145. Section 582.10 is removed.

Subpart D—Program Requirements

146. Section 582.330 is amended by revising paragraph (b) to read as follows:

§ 582.330 Nondiscrimination and equal opportunity requirements.

* * * * *

(b) *Compliance with requirements.* (1) In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, recipients serving a designated population of homeless persons must, within the designated population, comply with the prohibitions against discrimination against handicapped individuals under section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 41 CFR chapter 60–741.

(2) The nondiscrimination and equal opportunity requirements set forth at part 5 of this title are modified as follows:

(i) The Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*) applies to tribes when they exercise their powers of self-government, and to IHAs when established by the exercise of such powers. When an IHA is established under State law, the applicability of the Indian Civil Rights Act will be determined on a case-by-case basis. Projects subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

(ii) [Reserved]

* * * * *

147. Section 582.340 is amended by:

a. Adding an introductory text;

b. Removing paragraphs (b), (c), and (d); and

c. Redesignating paragraph (e) as paragraph (b) to read as follows:

§ 582.340 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, the following requirements apply to this program:

* * * * *

PART 583—SUPPORTIVE HOUSING PROGRAM

148. The authority citation for part 583 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11389.

Subpart A—General

149. Section 583.5 is amended by removing the definition of "*HUD.*"

§ 583.10 [Removed]

150. Section 583.10 is removed.

Subpart D—Program Requirements

151. Section 583.325 is amended by revising paragraph (b) introductory text and (b)(1) to read as follows:

§ 583.325 Nondiscrimination and equal opportunity requirements.

* * * * *

(b) *Nondiscrimination and equal opportunity requirements.* The nondiscrimination and equal opportunity requirements set forth at part 5 of this title apply to this program.

(1) The Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*) applies to tribes when they exercise their powers of self-government, and to IHAs when established by the exercise of such powers. When an IHA is established under State law, the applicability of the Indian Civil Rights Act will be determined on a case-by-case basis. Projects subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

* * * * *

152. Section 583.330 is amended by:

a. Revising the introductory text;

b. Removing paragraph (f) and (i); and

c. Redesignating paragraphs (g) and (h) as paragraphs (f) and (g), respectively to read as follows:

§ 583.330 Applicability of other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, use of assistance provided under this part must comply with the following Federal requirements:

* * * * *

PART 585—YOUTHBUILD PROGRAM

153. The authority citation for part 585 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 8011.

Subpart A—General

154. Section 585.4 is amended by removing the definitions of "*1937 Act*" and "*Secretary*", and revising the introductory text to read as follows:

§ 585.4 Definitions.

The terms *Secretary* and *1937 Act* are defined in 24 CFR part 5.

* * * * *

PART 590—URBAN HOMESTEADING

155. The authority citation for part 590 is revised to read as follows:

Authority: 12 U.S.C. 1706e; 42 U.S.C. 3535(d).

§ 590.3 [Removed]

156. Section 590.3 is removed.

§ 590.5 [Removed]

157. Section 590.5 is amended by removing the definition of "*HUD.*"

PART 594—JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM

158. The authority citation for part 594 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 1518a.

Subpart A—General

159. Section 594.3 is amended by removing the definition of "*HUD.*"

Subpart D—Award and Use of Grant Amounts

160. Section 594.30 is amended by:

a. Revising the introductory text and paragraph (a);

b. Removing paragraphs (b), (c), and (d); and

c. Redesignating paragraphs (e) through (h) as paragraphs (b) through (e) to read as follows:

§ 594.30 Equal opportunity and other Federal requirements.

Each participating neighborhood development organization must certify that it will carry out activities assisted under the program in compliance with the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5 and:

(a) The requirements at 24 CFR part 200, subpart M;

* * * * *

PART 597—URBAN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

161. The authority citation for part 597 continues to read as follows:

Authority: 26 U.S.C. 1391; 42 U.S.C. 3535(d).

Subpart A—General Provisions

162. Section 597.3 is amended by removing the definitions of "*HUD*" and "*Secretary*", and adding introductory text to read as follows:

§ 597.3 Definitions.

The terms *HUD* and *Secretary* are defined in 24 CFR part 5.

* * * * *

§ 597.5 [Removed]

163. Section 597.5 is removed.

PART 700—CONGREGATE HOUSING SERVICES PROGRAM

164. The authority citation for part 700 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 8011.

165. Section 700.105 is amended by removing the definitions of "*Elderly person*" and "*HUD*", and revising the introductory text to read as follows:

§ 700.105 Definitions.

The terms *Elderly person* and *HUD* are defined in 24 CFR part 5.

* * * * *

PART 750—DISCLOSURE AND VERIFICATION OF SOCIAL SECURITY NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS BY APPLICANTS AND PARTICIPANTS IN CERTAIN HOUSING ASSISTANCE PROGRAMS

166. The authority citation for part 750 is revised to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 3535(d), 3543, 1437a, 1437d, 1437f, 1437o, 1437ee, and 8013.

Subpart A—General

167. Section 750.5 is amended by removing the definitions of "*HUD or Department*" and "*Public housing agency (PHA)*", and revising the introductory text to read as follows:

§ 750.5 Definitions.

The terms *HUD, Department* and *Public housing agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 760—PROCEDURES FOR OBTAINING WAGE AND CLAIM INFORMATION ABOUT APPLICANTS AND PARTICIPANTS IN HUD'S SECTION 8 AND PUBLIC HOUSING PROGRAMS FROM STATE WAGE INFORMATION COLLECTION AGENCIES (SWICAs)

168. The authority citation for part 760 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437a, 1437d, 1437ee, 1437f, 3535(d), and 3544.

Subpart A—General

169. Section 760.5 is amended by removing the definitions of "*HUD*" and "*Public Housing Agency (PHA)*", and revising the introductory text to read as follows:

§ 760.5 Definitions.

The terms *HUD* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 791—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS

170. The authority citation for part 791 is revised to read as follows:

Authority: 42 U.S.C. 1439 and 3535(d).

Subpart A—General Provisions

171. Section 791.102 is amended by removing the definitions of "*HUD*" and "*Public housing agency*", and adding an introductory text to read as follows:

§ 791.102 Definitions.

The terms *HUD*, and *Public housing agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 792—HOUSING AGENCY SECTION 8 FRAUD RECOVERIES

172. The authority citation for part 792 is revised to read as follows:

Authority: 42 U.S.C. 1437f note and 3535(d).

Subpart A—General Provisions

173. Section 792.103 is amended by revising the definition of "*HA (Housing Agency)*" to read as follows:

§ 792.103 Definitions.

* * * * *

HA (Housing Agency) is the collective term for Public Housing Agencies and Indian Housing Authorities. The terms *Public Housing Agency (PHA)* and *Indian Housing Authority (IHA)* are defined in 24 CFR part 5.

* * * * *

PART 799—[Removed]

174. Part 799, consisting of § 799.101, is removed.

PART 811—TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS

175. The authority citation for part 811 continues to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437c, 1437f, and 3535(d).

Subpart A—Tax Exemption, Under Section 11(b) of the Act, of Obligations Issued by Public Housing Agencies To Finance Section 8 Projects

176. Section 811.102 is amended by:

a. Adding an introductory text;

b. Removing paragraphs (l) and (q);

c. Redesignating paragraphs (m) through (p) as paragraphs (l) through (o); and

d. Redesignating paragraphs (r) through (u) as paragraphs (q) through (t) to read as follows:

§ 811.102 Definitions.

The terms *HUD* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATIONS OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS AND RELATED PROGRAMS

177. The authority citation for part 813 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 1437n and 3535(d).

178. Section 813.102 is amended by removing the definitions of "*Elderly person*", "*Indian*", "*Indian Housing Authority*", and "*Public Housing Agency*", and adding introductory text to read as follows:

§ 813.102 Definitions.

The terms *Elderly person, Indian, Indian Housing Authority (IHA),* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 850—HOUSING DEVELOPMENT GRANTS

179. The authority citation for part 850 continues to read as follows:

Authority: 42 U.S.C. 1437o and 3535(d).

Subpart A—General Provisions

180. Section 850.3 is amended by removing the definitions of "*Grantee*" and "*HUD*", and adding introductory text to read as follows:

§ 850.3 Definitions.

The terms *Grantee* and *HUD* are defined in 24 CFR part 5.

* * * * *

Subpart C—Application Procedures and Program Requirements

181. Section 850.35 is amended by:

a. Revising the introductory text;

b. Removing paragraphs (a), (b), (d), and (l); and

c. Redesignating paragraphs (c) and (e) through (k) as paragraphs (a) through (h), respectively; and

d. Redesignating paragraph (m) as paragraph (i), to read as follows:

§ 850.35 Other program requirements.

In addition to the requirements set forth in 24 CFR part 5, the applicant (or grantee) shall assure that the following program requirements are met:

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

182. The authority citation for part 880 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

Subpart B—Definitions, Project Eligibility and Other Requirements

183. Section 880.201 is amended by removing the definitions of "*Fair Market Rent*", "*HUD*", "*NOFA*", and "*PHA*", and adding introductory text to read as follows:

§ 880.201 Definitions.

The terms *Fair Market Rent (FMR), HUD, NOFA,* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

184. The authority citation for part 881 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

Subpart B—Definitions, Project Eligibility and Other Requirements

185. Section 881.201 is amended by removing the definitions of "*Fair Market Rent*", "*HUD*", "*NOFA*", and "*PHA*", and adding introductory text to read as follows:

§ 881.201 Definitions.

The terms *Fair Market Rent (FMR), HUD, NOFA,* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 882—SECTION 8 CERTIFICATE AND MODERATE REHABILITATION PROGRAMS

186. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

Subpart A—Applicability, Scope and Basic Policies

187. Section 882.102 is amended by removing the definitions of "*Fair Market Rent*", "*HUD*", "*Public Housing Agency ("PHA")*", and "*Secretary*", and adding introductory text to read as follows:

§ 882.102 Definitions.

The terms *Fair Market Rent (FMR), HUD, Public Housing Agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

188. The authority citation for part 883 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

Subpart C—Definitions, Project Eligibility and Requirements

189. Section 883.302 is amended by removing the definitions of "*Fair Market Rent (FMR)*", "*HUD*", and "*PHA (Public Housing Agency)*", and adding introductory text to read as follows:

§ 883.302 Definitions.

The terms *Fair Market Rent (FMR), HUD,* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

190. The authority citation for part 884 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

Subpart A—Applicability, Scope and Basic Policies

191. Section 884.102 is amended by removing the definitions of "*Fair Market Rent*", "*HUD*", "*Public Housing Agency (PHA)*", and "*Secretary*", and adding introductory text to read as follows:

§ 884.102 Definitions.

The terms *Fair Market Rent (FMR), HUD, Public housing agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

192. The authority citation for part 885 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f and 3535(d).

Subpart C—Section 202 Projects for Nonelderly Handicapped Families and Individuals—Section 162 Assistance

193. Section 885.740 is amended by adding introductory text and revising paragraph (a) to read as follows:

§ 885.740 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, the following requirements apply to this program:

(a) *Affirmative fair housing marketing.*

(1) The affirmative fair housing marketing requirements of 24 CFR part 200, subpart M, and the implementing regulations at 24 CFR part 108; and

(2) The fair housing advertising and poster guidelines at 24 CFR parts 109 and 110.

* * * * *

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

194. The authority citation for part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

Subpart A—Additional Assistance Program for Projects With HUD-Insured and HUD-Held Mortgages

195. Section 886.102 is amended by removing the definitions of "*Fair Market Rent*", "*HUD*", "*Public Housing Agency (PHA)*", and "*Secretary*", and adding introductory text to read as follows:

§ 886.102 Definitions.

The terms *Fair Market Rent (FMR), HUD, Public Housing Agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

* * * * *

196. Section 886.132 is amended by revising paragraph (f)(1) to read as follows:

§ 886.132 Selection preferences.

* * * * *

(f) *Nondiscrimination.* Any selection preferences that are used by an owner must be established and administered in accordance with:

(1) The nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, except for:

(i) Section 3 of the Housing and Urban Development Act of [illegible] (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; and

(ii) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively); Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139); Executive Order 12432 (3 CFR, 1983 Comp., p. 198); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245).

(2) The Americans with Disabilities Act (42 U.S.C. 12101–12213), to the extent applicable; and

(3) HUD's affirmative fair housing objectives and (where applicable) the owner's HUD-approved affirmative fair housing marketing plan.

* * * * *

Subpart C—Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects

197. Section 886.302 is amended by removing the definitions of "*Fair Market Rent*", "*HUD*", and "*Public Housing Agency (PHA)*", and adding introductory text to read as follows:

§ 886.302 Definitions.

The terms *Fair Market Rent (FMR), HUD,* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 887—HOUSING VOUCHERS

198. The authority citation for part 887 continues to read as follows:

Authority: 42 U.S.C. 1437f(o) and 3535(d).

Subpart A—General Information

199. Section 887.7 is amended by removing the definitions of "*1937 Act*", "*Elderly person*", "*Fair market rent (FMR)*", "*HUD*", and "*Public Housing Agency (PHA)*", and adding introductory text to read as follows:

§ 887.7 Definitions.

The terms *1937 Act, Elderly person, Fair Market Rent (FMR), HUD,* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 889—SUPPORTIVE HOUSING FOR THE ELDERLY

§ 889.105 [Removed]

200. The authority citation for part 889 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 3535(d).

Subpart A—General

§ 889.105 [Amended]

201. Section 889.105 is amended by removing the definition of "*Secretary.*"

Subpart B—Application Procedures and Program Requirements

202. Section 889.265 is amended by adding introductory text and revising paragraph (a) to read as follows:

§ 889.265 Other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, the following

Federal requirements apply to this program:

(a) *Affirmative fair housing marketing.* (1) The affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108; and

(2) The fair housing and poster guidelines at 24 CFR parts 109 and 110.

* * * * *

PART 890—SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

203. The authority citation for part 890 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 8013.

Subpart A—General

204. Section 890.105 is amended by removing the definition of "*Secretary.*"

Subpart B—Application Procedures and Program Requirements

205. Section 890.260 is amended by adding introductory text and revising paragraph (a) to read as follows:

§ 890.260 Other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, the following Federal requirements apply to this program:

(a) *Affirmative fair housing marketing.* (1) The affirmative fair housing marketing requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108; and

(2) The fair housing advertising and poster guidelines at 24 CFR parts 109 and 110.

* * * * *

PART 899—[REMOVED]

206. Part 899, consisting of § 899.101, is removed.

PART 901—PUBLIC HOUSING MANAGEMENT ASSESSMENT PROGRAM

207. The authority citation for part 901 is revised to read as follows:

Authority: 42 U.S.C. 1437d(j) and 3535(d).

Subpart A—General Provisions

208. Section 901.05 is amended by:

a. Adding introductory text;

b. Removing paragraphs (m) and (t);

c. Redesignating paragraphs (n) through (s) as paragraphs (m) through (r); and

d. Redesignating paragraphs (u) through (y) as paragraphs (s) through (w) to read as follows:

§ 901.05 Definitions.

The terms *Department, HUD,* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

209. The authority citation for part 904 continues to read as follows:

Authority: 42 U.S.C. 1437–1437ee and 3535(d).

Subpart B—Turnkey III Program Description

§ 904.102 [Amended]

210. Section 904.102 is amended by removing paragraph (h) and redesignating paragraphs (i) through (k) as paragraphs (h) through (j).

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING PROGRAM

211. The authority citation for part 913 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437d, 1437n, and 3535(d).

212. Section 913.102 is amended by removing the definitions of "*Elderly person*", "*Indian*", "*Indian Housing Authority*", and "*Public Housing Agency (PHA)*", and adding introductory text to read as follows:

§ 913.102 Definitions.

The terms *Elderly person, Indian, Indian Housing Authority (IHA),* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 941—PUBLIC HOUSING DEVELOPMENT

213. The authority citation for part 941 continues to read as follows:

Authority: 42 U.S.C. 1437b, 1437c, 1437g, and 3535(d).

Subpart A—General

214. Section 941.103 is amended by removing the definitions of "*HUD*", and "*Public Housing Agency (PHA)*", and adding introductory text to read as follows:

§ 941.103 Definitions.

The terms *HUD* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

Subpart B—PHA Eligibility and Program Requirements

215. Section 941.208 is amended by:

a. Adding introductory text;

b. Removing paragraphs (a), (e), and (f);

c. Redesignating paragraphs (b), (c), (d), (g), (h), and (i) as paragraphs (a) through (f), respectively; and

d. Revising newly designated paragraph (b) to read as follows:

§ 941.208 Other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, the following Federal Requirements apply to this program:

* * * * *

(b) *Accessibility requirements.* Participation in this program requires compliance with the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) and Executive Order 12250, 45 FR 72995, 3 CFR, 1980 Comp., p. 298.

* * * * *

PART 942—PET OWNERSHIP IN PUBLIC HOUSING FOR THE ELDERLY OR HANDICAPPED

216. The authority citation for part 942 is revised to read as follows:

Authority: 12 U.S.C. 1701n–1; 42 U.S.C. 3535(d).

Subpart A—General

217. Section 942.3 is amended by revising paragraph (c) read as follows:

§ 942.3 Definitions.

* * * * *

(c) *Public Housing Agency (PHA)* is defined in 24 CFR part 5.

* * * * *

PART 945—DESIGNATED HOUSING—PUBLIC HOUSING DESIGNATED FOR OCCUPANCY BY DISABLED, ELDERLY, OR DISABLED AND ELDERLY FAMILIES

218. The authority citation for part 945 is revised to read as follows:

Authority: 42 U.S.C. 1473e and 3535(d).

Subpart A—General

219. Section 945.105 is amended by removing the definitions of "*Elderly person*", "*HUD or Department*", "*NAHA*", "*Public housing agency or PHA*", and "*Secretary*", and revising the introductory text to read as follows:

§ 945.105 Definitions.

The terms *Department, Elderly person, HUD, NAHA, Public Housing Agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

220. The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, and 3535(d).

Subpart B—Admission, Rent and Reexamination

221. Section 960.203 is revised to read as follows:

§ 960.203 Nondiscrimination requirements.

The tenant selection criteria and requirements used by a PHA must comply with:

(a) The nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, with the exception of:

(1) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; and

(2) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

(b) The Americans with Disabilities Act (42 U.S.C. 12101–12213), to the extent applicable.

(c) Any tenant selection policies also must be consistent with HUD's affirmative fair housing objectives.

Subpart E—Exemption From Eligibility Requirements for Police Officers and Other Security Personnel

§ 960.503 [Amended]

222. Section 960.503 is amended by removing the definition of "*Department.*"

PART 961—PUBLIC HOUSING DRUG ELIMINATION PROGRAM

223. The authority citation for part 961 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11901 *et seq.*

Subpart A—General

224. Section 961.5 is amended by removing the definitions of "*HUD or Department*", "*Indian*", "*Indian Housing Authority (IHA)*", and "*Public housing agency (PHA)*", and adding introductory text to read as follows:

§ 961.5 Definitions.

The terms *Department, HUD, Indian Housing Authority (IHA),* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

Subpart D—Grant Administration

225. Section 961.29 is amended by:

a. Revising the introductory text;

b. Removing paragraphs (b), (c), (g), and (h);

c. Redesignating paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d); and

d. Redesignating paragraphs (i), (j), and (k) as paragraphs (e), (f), and (g); and

e. Revising newly designated paragraphs (e) and (f) to read as follows:

§ 961.29 Other Federal Requirements.

In addition to the requirements set forth in 24 CFR part 5, use of grant funds requires compliance with the following Federal requirements:

* * * * *

(e) For IHAs, § 950.115 of this chapter, "Applicability of civil rights requirements", and § 950.120 of this chapter, "Compliance with other Federal requirements", of this title apply and control to the extent they may differ from other requirements of this section;

(f) *Indian preference.* Applicants are subject to the Indian Civil Rights Act (24 U.S.C . 1301), the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), and the Indian preference rules in the IHA procurement regulations at 24 CFR part 950, subpart B. These provisions require, to the greatest extent feasible, that preference and opportunities for training and employment be given to Indians and that preference in the award of subcontracts and subgrants be given to Indian Organizations and Indian Owned Economic Enterprises.

PART 962—PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM

226. The authority citation for part 962 is revised to read as follows:

Authority: 42 U.S.C. 1437f, 1437u, and 3535(d).

Subpart A—General

227. Section 962.103 is amended by removing the definitions of "*HUD or Department*", "*Public housing agency or PHA*", and "*Secretary*", and revising the introductory text to read as follows:

§ 962.103 Definitions.

The terms *Department, HUD, Public housing agency (PHA),* and *Secretary* are defined in 24 CFR part 5.

* * * * *

PART 963—PUBLIC HOUSING—CONTRACTING WITH RESIDENT-OWNED BUSINESSES

228. The authority citation for part 963 is revised to read as follows:

Authority: 42 U.S.C. 1437 and 3535(d).

Subpart A—General

229. Section 963.5 is amended by removing the definitions of "*HUD*" and "*Public housing agency (PHA)*", and adding introductory text to read as follows:

§ 963.5 Definitions.

The terms *HUD* and *Public housing agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 964—TENANT PARTICIPATION AND TENANT OPPORTUNITIES IN PUBLIC HOUSING

230. The Authority citation for part 964 continues to read as follows:

Authority: 42 U.S.C. 1437d, 1437g, 1437l, 1437r, 1437t, and 3535(d).

Subpart A—General Provisions

231. Section 964.7 is amended by adding a definition of "*HA*" and revising the definition of "*Public Housing Agency (HA)*" to read as follows:

§ 964.7 Definitions.

* * * * *

HA means the same as *Public Housing Agency (PHA).*

* * * * *

Public Housing Agency (PHA) is defined in 24 CFR part 5.

* * * * *

232. Section 964.30 is revised to read as follows:

§ 964.30 Other Program requirements.

In addition to the requirements set forth in 24 CFR part 5, the following Federal requirements apply to this program:

(a) *Affirmative Outreach.* (1) The Affirmative Fair Housing Marketing Program requirements of 24 CFR part 200, subpart M and the implementing regulations at 24 CFR part 108; and

(2) The fair housing advertising and poster guidelines at 24 CFR parts 109 and 110.

(b) Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131) and implementing regulations at 28 CFR part 35.

PART 965—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

233. The Authority citation for part 965 is revised to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437d, 1437g, and 3535(d). Subpart H is also issued under 42 U.S.C. 4821–4846.

Subpart E—Tenant Allowances for Utilities

234. Section 965.472 is amended by revising the definition of "*Public Housing Agency [PHA]*" to read as follows:

§ 965.472 Definitions.

* * * * *

Public Housing Agency (PHA) is defined in 24 CFR part 5.

* * * * *

PART 968—PUBLIC HOUSING MODERNIZATION

235. The authority citation for part 968 is revised to read as follows:

Authority: 42 U.S.C. 1437d, 1437*l*, and 3535(d).

Subpart A—General

236. Section 968.105 is amended by removing the definitions of "*HUD*" and "*PHA*", and revising the introductory text to read as follows:

§ 968.105 Definitions.

The terms *HUD* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

237. Section 968.110 is amended by:

a. The introductory text and paragraph (a) are revised;

b. Paragraphs (b) and (h) are removed and reserved. The revisions read as follows:

§ 968.110 Other program requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, the PHA shall comply with the following program requirements:

(a) *Nondiscrimination and equal opportunity.* The PHA shall comply with Title II of the Americans with Disabilities Act and 28 CFR part 35; section 503 of the Rehabilitation Act of 1973 and 41 CFR chapter 60–471; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) and 24 CFR part 40.

* * * * *

Subpart D—Vacancy Reduction Program

238. Section 968.405 is amended by removing the definitions of "*NOFA*" and "*PHA*", and revising the introductory text to read as follows:

§ 968.405 Definitions.

In addition to the definitions applicable under § 968.105, the following definitions apply to this subpart. The terms *NOFA* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

* * * * *

PART 999—[REMOVED]

239. Part 999, consisting of § 999.101, is removed.

CHAPTER XI—[REMOVED]

239a. "CHAPTER XI—SOLAR ENERGY AND ENERGY CONSERVATION BANK, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT", is removed.

CHAPTER XV—[REMOVED]

239b. "CHAPTER XV—MORTGAGE INSURANCE AND LOAN PROGRAMS UNDER THE EMERGENCY HOMEOWNERS' RELIEF ACT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT", is removed.

PART 3280—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

240. The authority citation for part 3280 is revised to read as follows:

Authority: 42 U.S.C. 3535(d), 5403, and 5424.

Subpart A—General

§ 3280.2 [Amended]

241. Section 3280.2 is amended by removing the definition of "*Department.*"

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

242. The authority citation for part 3282 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 5424.

Subpart A—General

243. Section 3282.7 is amended by:

a. Revising the introductory text;

b. Removing paragraphs (k), (p), and (ee);

c. Redesignating paragraphs (l) through (o) as paragraphs (k) through (n);

d. Redesignating paragraphs (q) through (dd) as paragraphs (p) through (cc); and

e. Redesignating paragraphs (ff) through (oo) as paragraphs (ee) through (nn) to read as follows:

§ 3282.7 Definitions.

The terms *Department, HUD,* and *Secretary* are defined in 24 CFR part 5.

* * * * *

Dated: January 18, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–2702 Filed 2–8–96; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Friday
February 9, 1996

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Revised Discrete Gust Load Design Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 27902; Amdt. No. 25–86]

RIN 2120–AF27

Revised Discrete Gust Load Design Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the gust load design requirements for transport category airplanes. This amendment replaces the current discrete gust requirement with a new requirement for a discrete tuned gust; modifies the method of establishing the design airspeed for maximum gust intensity; and provides for an operational rough air speed. These changes are made in order to provide a more rational basis of accounting for the aerodynamic and structural dynamic characteristics of the airplane. These changes also provide for harmonization of the discrete gust requirements with the Joint Aviation Requirements (JAR) of Europe as recently amended.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: James Haynes, Airframe and Propulsion Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–2131.

SUPPLEMENTARY INFORMATION:

Background

The National Advisory Committee for Aeronautics (NACA), the predecessor of the National Aeronautics and Space Administration (NASA), began an inflight gust measurement program in 1933 to assist in the refinement of gust load design criteria. Using unsophisticated analog equipment, that program resulted in the development of the improved design requirements for gust loads that were issued in part 04 of the Civil Aeronautics Regulations (CAR) in the 1940's. The corresponding Civil Aeronautics Manual (CAM) 04 provided a simplified formula from which to derive the design gust loads from the specified design gust velocities. These criteria were based on an analytical encounter of the airplane with a discrete ramp-shaped gust with a gradient distance (the distance necessary for the gust to build to a peak) of 10 times the mean chord length of the airplane wing. An alleviation factor, calculated from wing loading, was provided in order to account for the relieving effects of rigid body motion of the airplane as it penetrated the gust. With the development of the VGH (velocity, load factor, height) recorder in 1946, NASA began collecting a large quantity of gust load data on many types of aircraft in airline service. Although that program was terminated for transport airline operations in 1971, the data provided additional insight into the nature of gusts in the atmosphere, and resulted in significant changes to the gust load design requirements. The evolution of the discrete gust design criteria from part 04 through part 4b of the CAR to current part 25 of Title 14 of the Code of Federal Regulations (CFR) (which contains the design requirements for transport category airplanes) resulted in the establishment of a prescribed gust shape with a specific gust gradient distance and increased peak gust design velocities. The prescribed shape was a "one-minus-cosine" gust shape with a specified gust gradient distance of 12.5 times the mean chord length of the airplane wing. The gust gradient distance, for that particular shape, was equal to one-half the total gust length. A simplified analytical method similar to the methodology of CAM 04 was provided along with an improved alleviation factor that accounted for unsteady aerodynamic forces, gust shape, and the airplane rigid body vertical response.

The increasing speed, size, and structural flexibility of transport airplanes resulted in the need to consider not only the rigid body response of the airplane, but also structural dynamic response and the effects of structural deformation on the aerodynamic parameters. Early attempts to account for structural flexibility led to a "tuned" gust approach in which the analysis assumed a flexible airplane encountering gusts with various gradient distances in order to find the most critical gust gradient distance for use in design for each major component. A tuned discrete gust approach became a requirement for compliance with the British Civil Airworthiness Requirements.

Another method of accounting for the structural dynamic effects of the airplane involved the power spectral density (PSD) analysis technique which accounted for the statistical distribution of gusts in continuous turbulence in conjunction with the aeroelastic and structural dynamic characteristics of the airplane. In the 1960's, the Federal Aviation Administration (FAA) awarded study contracts to Boeing and Lockheed for the purpose of assisting the FAA in developing the PSD gust methodology into continuous gust design criteria with analytical procedures. The final PSD continuous turbulence criteria were based on those studies and were codified in Appendix G to part 25 in 1980.

Recognizing that the nature of gusts was not completely defined, and that individual discrete gusts might exist outside the normal statistical distribution of gusts in continuous turbulence, the FAA retained the existing criteria for discrete gusts in addition to the new requirement for continuous turbulence. The current discrete gust criteria in Subpart C of part 25 require the loads to be analytically developed assuming the airplane encounters a gust with a fixed gradient distance of 12.5 mean chord lengths. For application of the current criteria, it is generally assumed that the airplane is rigid in determining the dynamic response to the gust while the effects of wing elastic deflection on wing static lift parameters are normally taken into account. The minimum value of the airplane design speed for maximum gust intensity, V_B, is also established from the discrete gust criteria.

Recent flight measurement efforts by FAA and NASA have been aimed at utilizing measurements from the digital flight data recorders (DFDR) to derive gust load design information for airline transport airplanes. The Civil Aviation Authority (CAA) of the United Kingdom has also been conducting a comprehensive DFDR gust measurement program for transport airplanes in airline service. The program, called CAADRP (Civil Aircraft Airworthiness Data Recording Program), uses data sampling rates that allow the measurement of a wide range of gust gradient distances. The CAADRP program is still continuing and has resulted in an extensive collection of reliable gust data.

In 1988, the FAA, in cooperation with the JAA and organizations representing the American and European aerospace industries, began a process to harmonize the airworthiness requirements of the United States and the airworthiness requirements of Europe in regard to gust requirements. The objective was to achieve common requirements for the certification of transport airplanes without a substantive change in the level of safety provided by the regulations. Other airworthiness authorities such as Transport Canada have also participated in this process.

In 1992, the harmonization effort was undertaken by the Aviation Regulatory Advisory Committee (ARAC). A working group of industry and government structural loads specialists of Europe, the United States, and Canada was chartered by notice in the **Federal Register** (58 FR 13819, March 15, 1993) to harmonize certain specific sections of part 25, including the requirements related to discrete gusts. The harmonization task concerning discrete gusts was completed by the working group and recommendations were submitted to FAA by letter dated October 15, 1993. The FAA concurred with the recommendations and proposed them in Notice of Proposed Rulemaking (NPRM) No. 94–29 which was published in the **Federal Register** on September 16, 1994, (59 FR 47756).

Discussion of Comments

Comments were received from domestic and foreign aviation manufacturers and foreign airworthiness authorities. The majority of the commenters agreed with the proposal and recommended its adoption. However, some commenters disagreed substantially with the proposal while providing alternative proposals that appeared to merit further consideration by the Aviation Rulemaking Advisory Committee. Therefore the FAA tasked the ARAC Loads and Dynamics Working Group by notice in the **Federal Register** (60 FR 18874, April 13, 1995) to consider the comments and provide recommendations for the disposition of the comments along with any recommendations for changes to the proposal. The disposition of comments that follows is based on the recommendation submitted to the FAA by ARAC on July 14, 1995.

One commenter suggests that the new method for calculating the minimum V_B results in lower values at altitude than the current method provided in the Joint Aviation Requirements (JAR) and could provide unrealistic margins above the stalling speed. The FAA disagrees. The commenter provides no data or other information that shows the new V_B calculations to be unrealistic. The new method for calculating the minimum V_B is approximately the same as in the current FAR and JAR; the main difference being that revised gust speeds are used in the calculation. These gust speeds are based on actual measurements in aircraft operation and are considered to result in a realistic and conservative V_B speed, even if it is somewhat lower than the current requirements at some altitudes. In addition, a new operational rough air speed, V_{RA}, is provided in order to ensure adequate stall margins while operating in rough air. As part of the effort to harmonize the airworthiness requirements, the JAA is also considering adopting this method of calculating the minimum V_B speeds. This commenter, along with several other, also points out an error in the formula for the design speed for maximum gust intensity, V_B, in § 25.335(d) and this error has been corrected.

One commenter suggests that the proposed tuned gust criteria do not fully account for the dynamic response of the airplane and therefore could produce unconservative results and seriously underpredict the gust design loads. The commenter suggests that the proposal be replaced by an entirely new method of accounting for discrete gusts. This method is known in the industry as the statistical discrete gust method (SDG). In response to the task defined in the **Federal Register**, the ARAC Loads and Dynamics Working Group considered the commenters comments and the alternate proposal in considerable detail. It is recognized by the working group that the current proposed tuned gust criteria have some limitations and that the suggested SDG method may have some promising applications for predicting gust loads. However, the SDG method is in a developmental stage, and there is currently no established industry process for using this method in predicting gust design loads. The FAA will retain the commenters proposal for possible consideration in future rulemaking actions. In response to the commenters specific concerns, neither ARAC nor the FAA agree that the tuned gust method will result in unconservative design loads. In addition, for the extreme gust gradient distances where the commenter questions the adequacy of the tuned gust method to fully account for dynamic response, the FAA considers that the additional continuous gust criteria of § 25.341(b) will compensate for any possible deficiencies. The commenter provides some comparisons of loads produced by the SDG method with the results of the proposed tuned gust method. These results show no significant differences in overall load levels when all factors are considered, and in some cases the SDG method actually provided lower design loads. Therefore, except for an editorial correction to the mathematical equation noted above, the amendment is adopted as proposed.

Regulatory Evaluation Summary

Regulatory Evaluation, Regulatory Flexibility Determination, and Trade Impact Assessment

Changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that this rule: (1) will generate benefits exceeding its costs and is not "significant" as defined in Executive Order 12866; (2) is not "significant" as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Costs and Benefits

The changes will have economic consequences. The costs will be the incremental costs of meeting the tuned discrete gust requirements rather than the current static discrete gust requirements. The benefits will be the cost savings from not meeting two different sets of discrete gust requirements, i.e., the requirements in the current FAR and the requirements in the JAR. In order to sell their transport category airplanes in a global marketplace, manufacturers usually certify their products under both sets of regulations.

Industry sources provided information on the additional costs and cost savings that would result from the rule. Based on this information, a range of representative certification costs and savings are shown below. The costs and savings per certification are those related to meeting discrete gust load requirements, including related provisions of the final rule.

PER CERTIFICATION COSTS AND SAVINGS ASSOCIATED WITH REVISED DISCRETE GUST LOAD REQUIREMENTS

[in thousands of dollars]

Current FAA certification requirement costs	$29–$115
Current JAA certification requirement costs	$70–$145
Current joint certification requirement costs	$100–$150
Revised FAA certification requirement costs	$70–$145

PER CERTIFICATION COSTS AND SAVINGS ASSOCIATED WITH REVISED DISCRETE GUST LOAD REQUIREMENTS—Continued

[in thousands of dollars]

Revised joint certification requirement costs	$70–$145
Savings (current joint certification costs minus revised joint certification costs)	$5–$30

The costs and cost savings of specific certifications may vary from these estimates. In all cases where a manufacturer seeks both FAA and JAA certification, however, the cost savings realized through harmonized requirements will outweigh the expected incremental costs of the rule. The FAA did not receive comments concerning this quantification of costs during the comment period; therefore, the FAA holds that these are representative costs and savings.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines FAA's procedures and criteria for implementing the RFA.

An aircraft manufacturer must employ 75 or fewer employees to be designated as a "small" entity. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to a proposed or final rule. None of the manufacturers of transport category airplanes qualify as small entities under this definition. Therefore, the final rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The rule will not constitute a barrier to international trade, including the export of American goods and services to foreign countries and the import of foreign goods and services into the United States. The discrete gust load requirements in this rule will harmonize with those of the JAA and will, in fact, lessen the restraints on trade.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various level of government. Thus, in accordance with Executive Order 12612, it is determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

Because the proposed changes to the gust design criteria are not expected to result in a substantial economic cost, the FAA has determined that this proposed regulation would not be significant under Executive Order 12866. Because this is an issue that has not promoted a great deal of public concern, the FAA has determined that this action is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979). In addition, since there are no small entities affected by this rulemaking, the FAA certifies that the rule would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since none would be affected. A copy of the regulatory evaluation prepared for this project may be examined in the Rules Docket or obtained fro the person identified under the caption **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety, Gusts.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration (FAA) amends 14 CFR Part 25 of the Federal Aviation Regulations (FAR) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

§ 25.305 [Amended]

2. By amending § 25.305 by removing and reserving paragraph (d).

3. By amending § 25.321 by adding new paragraphs (c) and (d) to read as follows:

§ 25.321 General.

* * * * *

(c) Enough points on and within the boundaries of the design envelope must be investigated to ensure that the maximum load for each part of the airplane structure is obtained.

(d) The significant forces acting on the airplane must be placed in equilibrium in a rational or conservative manner. The linear inertia forces must be considered in equilibrium with the thrust and all aerodynamic loads, while the angular (pitching) inertia forces must be considered in equilibrium with thrust and all aerodynamic moments, including moments due to loads on components such as tail surfaces and nacelles. Critical thrust values in the range from zero to maximum continuous thrust must be considered.

4. By amending § 25.331 by revising the title and paragraph (a) introductory text, by removing paragraphs (a) (1) and (2) and redesignating paragraphs (a) (3) and (4) as (a) (1) and (2) respectively and revising them to read as set forth below, and by removing paragraph (d).

§ 25.331 Symmetric maneuvering conditions.

(a) *Procedure.* For the analysis of the maneuvering flight conditions specified in paragraphs (b) and (c) of this section, the following provisions apply:

(1) Where sudden displacement of a control is specified, the assumed rate of control surface displacement may not be less than the rate that could be applied by the pilot through the control system.

(2) In determining elevator angles and chordwise load distribution in the maneuvering conditions of paragraphs (b) and (c) of this section, the effect of corresponding pitching velocities must be taken into account. The in-trim and out-of-trim flight conditions specified in § 25.255 must be considered.

* * * * *

5. By amending § 25.333 by revising the title and paragraph (a) to read as follows, and by removing paragraph (c).

§ 25.333 Flight maneuvering envelope.

(a) *General.* The strength requirements must be met at each combination of airspeed and load factor on and within the boundaries of the representative maneuvering envelope (*V-n* diagram) of paragraph (b) of this section. This envelope must also be used in determining the airplane structural operating limitations as specified in § 25.1501.

* * * * *

6. By amending § 25.335 by revising paragraph (d) to read as follows:

§ 25.335 Design airspeeds.

* * * * *

(d) *Design speed for maximum gust intensity, V_B.*

(1) V_B may not be less than

$$V_{S1}\left[1+\frac{K_g U_{ref} V_c a}{498w}\right]^{1/2}$$

where—

V_{S1}=the 1-g stalling speed based on C_{NAmax} with the flaps retracted at the particular weight under consideration;

V_c=design cruise speed (knots equivalent airspeed);

U_{ref}=the reference gust velocity (feet per second equivalent airspeed) from § 25.341(a)(5)(i);

w=average wing loading (pounds per square foot) at the particular weight under consideration.

$$K_g=\frac{.88\mu}{5.3+\mu}$$

$$\mu=\frac{2w}{\rho cag}$$

ρ=density of air (slugs/ft^3);

c=mean geometric chord of the wing (feet);

g=acceleration due to gravity (ft/sec^2);

a=slope of the airplane normal force coefficient curve, C_{NA} per radian;

(2) At altitudes where V_C is limited by Mach number—

(i) V_B may be chosen to provide an optimum margin between low and high speed buffet boundaries; and,

(ii) V_B need not be greater than V_C.

* * * * *

7. By revising § 25.341 to read as follows:

§ 25.341 Gust and turbulence loads.

(a) *Discrete Gust Design Criterio.* The airplane is assumed to be subjected to symmetrical vertical and lateral gusts in level flight. Limit gust loads must be determined in accordance with the provisions:

(1) Loads on each part of the structure must be determined by dynamic analysis. The analysis must take into account unsteady aerodynamic characteristics and all significant structural degrees of freedom including rigid body motions.

(2) The shape of the gust must be:

$$U=\frac{U_{ds}}{2}\left[1-\text{Cos}\left(\frac{\pi s}{H}\right)\right]$$

for $0 \le s \le 2H$

where—

s=distance penetrated into the gust (feet);

U_{ds}=the design gust velocity in equivalent airspeed specified in paragraph (a)(4) of this section; and

H=the gust gradient which is the distance (feet) parallel to the airplane's flight path for the gust to reach its peak velocity.

(3) A sufficient number of gust gradient distances in the range 30 feet to 350 feet must be investigated to find the critical response for each load quantity.

(4) The design gust velocity must be:

$$U_{ds}=U_{ref}F_g\left(H/350\right)^{1/6}$$

where—

U_{ref}=the reference gust velocity in equivalent airspeed defined in paragraph (a)(5) of this section.

F_g=the flight profile alleviation factor defined in paragraph (a)(6) of this section.

(5) The following reference gust velocities apply:

(i) At the airplane design speed V_C: Positive and negative gusts with reference gust velocities of 56.0 ft/sec EAS must be considered at sea level. The reference gust velocity may be reduced linearly from 56.0 ft/sec EAS at sea level to 44.0 ft/sec EAS at 15000 feet. The reference gust velocity may be further reduced linearly from 44.0 ft/sec EAS at 15000 feet to 26.0 ft/sec EAS at 50000 feet.

(ii) At the airplane design speed V_D: The reference gust velocity must be 0.5 times the value obtained under § 25.341(a)(5)(i).

(6) The flight profile alleviation factor, F_g, must be increased linearly from the sea level value to a value of 1.0 at the maximum operating altitude defined in § 25.1527. At sea level, the flight profile alleviation factor is determined by the following equation:

$$F_g=0.5\left(F_{gz}+F_{gm}\right)$$

Where:

$$F_{gm}=\sqrt{1-\frac{Z_{mo}}{250000}};$$

$$F_{gm}=\sqrt{R_2\text{Tan}\left(\pi R_1/4\right)};$$

$$R_1=\frac{\text{Maximum Landing Weight}}{\text{Taximum Take-off Weight}};$$

$$R_2=\frac{\text{Maximum Zero Fuel Weight}}{\text{Maximum Take-off Weight}};$$

Z_{mo}=Maximum operating altitude defined in § 25.1527.

(7) When a stability augmentation system is included in the analysis, the effect of any significant system nonlinearities should be accounted for when deriving limit loads from limit gust conditions.

(b) *Continuous Gust Design Criteria.* The dynamic response of the airplane to vertical and lateral continuous turbulence must be taken into account. The continuous gust design criteria of Appendix G of this part must be used to establish the dynamic response unless more rational criteria are shown.

8. By amending § 25.343 by revising paragraph (b)(1)(ii) to read as follows:

§ 25.343 Design fuel and oil loads.

(a) * * *

(b) * * *

(1) * * *

(ii) The gust conditions of § 25.341(a) but assuming 85% of the design velocities prescribed in § 25.341(a)(4).

* * * * *

9. By amending § 25.345 by revising paragraphs (a) and (c) to read as follows:

§ 25.345 High lift devices.

(a) If wing flaps are to be used during takeoff, approach, or landing, at the design flap speeds established for these stages of flight under § 25.335(e) and with the wing flaps in the corresponding positions, the airplane is assumed to be subjected to symmetrical maneuvers and gusts. The resulting limit loads must correspond to the conditions determined as follows:

(1) Maneuvering to a positive limit load factor of 2.0; and

(2) Positive and negative gusts of 25 ft/sec EAS acting normal to the flight path in level flight. Gust loads resulting on each part of the structure must be determined by rational analysis. The analysis must take into account the unsteady aerodynamic characteristics and rigid body motions of the aircraft. The shape of the gust must be as described in § 25.341(a)(2) except that—

U_{ds}=25 ft/sec EAS;

H=12.5 c; and

c=mean geometric chord of the wing (feet).

(b) * * *

(c) If flaps or other high lift devices are to be used in en route conditions, and with flaps in the appropriate position at speeds up to the flap design speed chosen for these conditions, the airplane is assumed to be subjected to symmetrical maneuvers and gusts within the range determined by—

(1) Maneuvering to a positive limit load factor as prescribed in § 25.337(b); and

(2) The discrete vertical gust criteria in § 25.341(a).

* * * * *

10. By amending § 25.349 by revising the introductory text and paragraph (b) to read as follows:

§ 25.349 Rolling conditions.

The airplane must be designed for loads resulting from the rolling conditions specified in paragraphs (a) and (b) of this section. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational or conservative manner, considering the principal masses furnishing the reaching inertia fores.

(a) * * *

(b) *Unsymmetrical gusts.* The airplane is assumed to be subjected to unsymmetrical vertical gusts in level flight. The resulting limit loads must be determined from either the wing maximum airload derived directly from § 25.341(a), or the wing maximum airload derived indirectly from the vertical load factor calculated from § 25.341(a). It must be assumed that 100 percent of the wing air load acts on one side of the airplane and 80 percent of the wing air load acts on the other side.

11. By amending § 25.351 by revising the introductory text and by removing and reserving paragraph (b).

§ 25.351 Yawing conditions.

The airplane must be designed for loads resulting from the conditions specified in paragraph (a) of this section. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational or conservative manner considering the principal masses furnishing the reacting inertia forces:

* * * * *

12. By revising § 25.371 to read as follows:

§ 25.371 Gyroscopic loads.

The structure supporting the engines and the auxiliary power units must be designed for the gyroscopic loads associated with the conditions specified in §§ 25.331, 25.341(a), 25.349 and 25.351 with the engine or auxiliary power units at maximum continuous rpm.

13. By amending § 25.373 by revising paragraph (a) to read as follows:

§ 25.373 Speed control devices.

* * * * *

(a) The airplane must be designed for the symmetrical maneuvers prescribed in § 25.333 and § 25.337, the yawing maneuvers prescribed in § 25.351, and the vertical and later gust conditions prescribed in § 25.341(a), at each setting and the maximum speed associated with that setting; and

* * * * *

14. By amending § 25.391 by revising the introductory text and paragraph (e) to read as follows:

§ 25.391 Control surface loads: general.

The control surfaces must be designed for the limit loads resulting from the flight conditions in §§ 25.331, 25.341(a), 25.349 and 25.351 and the ground gust conditions in § 25.415, considering the requirements for—

* * * * *

(e) Auxiliary aerodynamic surfaces, in § 25.445.

15. By revising § 25.427 to read as follows:

§ 25.427 Unsymmetrical loads.

(a) In designing the airplane for lateral gust, yaw maneuver and roll maneuver conditions, account must be taken of unsymmetrical loads on the empennage arising from effects such as slipstream and aerodynamic interference with the wing, vertical fin and other aerodynamic surfaces.

(b) The horizontal tail must be assumed to be subjected to unsymmetrical loading conditions determined as follows:

(1) 100 percent of the maximum loading from the symmetrical maneuver conditions of § 25.331 and the vertical gust conditions of § 25.341(a) acting separately on the surface on one side of the plane of symmetry; and

(2) 80 percent of these loadings acting on the other side.

(c) For empennage arrangements where the horizontal tail surfaces have dihedral angles greater than plus or minus 10 degrees, or are supported by the vertical tail surfaces, the surfaces and the supporting structure must be designed for gust velocities specified in § 25.341(a) acting in any orientation at right angles to the flight path.

(d) Unsymmetrical loading on the empennage arising from buffet conditions of § 25.305(e) must be taken into account.

16. By amending § 25.445 by revising the title and revising paragraph (a) to read as follows:

§ 25.445 Auxiliary aerodynamic surfaces.

(a) When significant, the aerodynamic influence between auxiliary aerodynamic surfaces, such as outboard fins and winglets, and their supporting aerodynamic surfaces, must be taken into account for all loading conditions including pitch, roll, and yaw maneuvers, and gusts as specified in § 25.341(a) acting at any orientation at right angles to the flight path.

* * * * *

17. By amending § 25.571 by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 25.571 Damage-tolerance and fatigue evaluation of structure.

* * * * *

(b) * * *

(2) The limit gust conditions specified in § 25.341 at the specified speeds up to V_C and in § 25.345.

(3) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427 (a) through (c), at speeds up to V_C.

* * * * *

18. By adding a new § 25.1517 to read as follows:

§ 25.1517 Rough air speed, V_{RA}.

A rough air speed, V_{RA}, for use as the recommended turbulence penetration airspeed in § 25.1585(a)(8), must be established, which—

(1) Is not greater than the design airspeed for maximum gust intensity, selected for V_B; and

(2) Is not less than the minimum value of V_B specified in § 25.335(d); and

(3) Is sufficiently less than V_{MO} to ensure that likely speed variation during rough air encounters will not cause the overspeed warning to operate too frequently. In the absence of a rational investigation substantiating the use of other values, V_{RA} must be less than V_{MO}—35 knots (TAS).

Issued in Washington, DC, on February 2, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–2633 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–M

Friday
February 9, 1996

Part VI

Environmental Protection Agency

40 CFR Part 194

Criteria for the Certification and Re-Certification of the Waste Isolation Pilot Plant's Compliance With the 40 CFR Part 191 Disposal Regulations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–5418–5]

RIN 2060–AE30

Criteria for the Certification and Re-Certification of the Waste Isolation Pilot Plant's Compliance With the 40 CFR Part 191 Disposal Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating criteria for determining if the Waste Isolation Pilot Plant (WIPP) will comply with EPA's environmental radiation protection standards for the disposal of radioactive waste. If the Administrator of EPA determines that the WIPP will comply with the standards for disposal, then the Administrator will issue to the Secretary of Energy a certification of compliance which will allow the emplacement of transuranic waste in the WIPP to begin, provided that all other statutory requirements have been met. If a certification is issued, EPA will also use this final rule to determine if the WIPP has remained in compliance with EPA's environmental radiation protection standards, once every five years after the initial receipt of waste for disposal at the WIPP. This rulemaking was mandated by the WIPP Land Withdrawal Act of 1992.

EFFECTIVE DATE: These regulations are effective April 9, 1996. The incorporation of certain publications listed in the regulations is approved by the Director of the Office of the Federal Register as of April 9, 1996. A petition for judicial review of this final action must be filed no later than April 9, 1996 pursuant to section 18 of the WIPP Land Withdrawal Act of 1992 (Pub. L. 102–579).

FOR FURTHER INFORMATION CONTACT: Betsy Forinash, Mary Kruger or Martin Offutt; telephone number (202)–233–9310; address: Radiation Protection Division, Mail Code 6602J, U.S. Environmental Protection Agency, Washington, DC 20460. Copies of the Background Information Document and Economic Impact Analysis which accompany today's action may be obtained at this address. The Agency has also published a document, accompanying today's action, which responds in detail to significant public comments that were received on the proposed rule. This document, entitled "Response to Comments" may be obtained by contacting Betsy Forinash.

SUPPLEMENTARY INFORMATION:

Introduction

Purpose of Today's Action

Today's action implements the Environmental Protection Agency's (EPA) environmental radiation protection standards, 40 CFR part 191, by applying them to the proposed disposal of transuranic radioactive waste in the Waste Isolation Pilot Plant (WIPP). The EPA previously promulgated 40 CFR part 191, "Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes," to provide standards that will apply to all sites (except Yucca Mountain) for the deep geologic disposal of highly radioactive waste. Complete descriptions of 40 CFR part 191 were published in the **Federal Register** in 1985 (50 FR 38066–38089, Sep. 19, 1985) and 1993 (58 Fed. Reg. 66398–66416, Dec. 20, 1993). The WIPP is subject to 40 CFR part 191, and is being constructed by the Department of Energy (DOE) near Carlsbad, New Mexico, as a potential repository for the safe disposal of transuranic radioactive waste. The EPA is required by the WIPP Land Withdrawal Act of 1992 (Pub. L. 102–579) to evaluate whether the WIPP will comply with subparts B and C of 40 CFR Part 191—known as the "disposal regulations"—and to issue or deny a certification of compliance. The Department of Energy is required to submit an application to EPA that will be the basis of EPA's evaluation of whether a certification of the WIPP's compliance with the disposal regulations should be issued. The Department of Energy may not begin to emplace transuranic waste underground for disposal at the WIPP until such time as a certification of compliance has been issued and all other requirements of section 7(b) of the WIPP Land Withdrawal Act have been satisfied. With today's rulemaking, the Agency establishes criteria by which to judge whether the WIPP is in compliance with the "disposal regulations" and sets forth procedural requirements for this determination.

Today's action, 40 CFR part 194, also applies to the periodic re-certification of the WIPP's compliance with the disposal regulations. The process of periodic re-certification, established by section 8(f) of the WIPP Land Withdrawal Act, calls for EPA to determine whether the WIPP continues to be in compliance with the disposal regulations, assuming that an initial certification of compliance has been issued. The Secretary of Energy must submit to the Administrator of EPA documentation of the WIPP's continued compliance with the disposal regulations, every five years after the initial receipt of transuranic waste for disposal at the WIPP, until the end of the decommissioning phase. The Agency will use the criteria set forth in today's rulemaking in determining whether or not the WIPP will have continued to be in compliance.

The WIPP was authorized in 1980, under section 213 of the Department of Energy National Security and Military Applications of the Nuclear Energy Authorization Act of 1980 (Pub. L. 96–164, 93 Stat. 1259, 1265), "for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States." The waste proposed for disposal in the WIPP, transuranic radioactive waste (TRU waste), is waste consisting of materials such as rags, equipment, tools, protective gear and sludges which have become contaminated during atomic energy defense activities. The WIPP Land Withdrawal Act defines transuranic waste to be waste containing more than 100 nano-curies per gram of alpha-emitting radio-isotopes, with half-lives greater than twenty years and atomic number greater than 92, per gram of waste. The Act further stipulates that radioactive waste shall not be transuranic waste if such waste also meets the definition of high-level radioactive waste, has been specifically exempted from the disposal regulations with the concurrence of the Administrator, or has been approved for an alternate method of disposal by the Nuclear Regulatory Commission. The radioactive component of transuranic waste consists of man-made elements created during the process of nuclear fission, chiefly isotopes of plutonium.

Statutory and Regulatory Basis

Today's action, 40 CFR part 194, was mandated by Congress in section 8(c) of the WIPP Land Withdrawal Act. The criteria promulgated in this action implement only those subparts of 40 CFR part 191 that apply to the disposal of transuranic radioactive waste. As stated in the Code of Federal Regulations, Appendix C of 40 CFR part 191 is guidance for the implementation of the regulations contained in 40 CFR part 191 that is not binding on the implementing agency, which is EPA with respect to the WIPP. Appendix C was designed to apply to all geologic repositories for the disposal of highly radioactive wastes, not necessarily to the specific site characteristics of the WIPP and not only to transuranic waste. As a result, the Agency found in developing today's action that only some of the guidance contained in Appendix C had specific relevance to the WIPP. Today's action has been guided by only those aspects of Appendix C that the Agency has determined, based on technical and policy considerations, to be applicable to the WIPP.

Today's action, 40 CFR part 194, does not amend 40 CFR part 191. With the Energy Policy Act of 1992, Congress mandated the development of regulations to replace 40 CFR part 191 for the Yucca Mountain site only, but the entire standard, 40 CFR part 191, remains applicable to the WIPP. *See* 106 Stat. 2921, section 801(a)(1). Subpart A of 40 CFR part 191 applies to the management of spent nuclear fuel, high-level and transuranic radioactive wastes at sites designated for the disposal of these wastes. Section 9(a) of the WIPP Land Withdrawal Act stipulates that the Secretary of Energy shall comply with respect to the WIPP with Subpart a of 40 CFR part 191. The Agency has not implemented these requirements in today's action, 40 CFR part 194, but intends to issue guidance for their application to the WIPP at a future date.

Compliance With Other Environmental Laws and Regulations

The WIPP is regulated under the Resource Conservation and Recovery Act (RCRA) and is subject to both the Part B licensing requirements and the land disposal restrictions of that statute. The WIPP must comply with other environmental laws, including, among other statutes, the Clean Air Act (40 U.S.C. 7401 *et seq.*), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.). This action does not affect the need for DOE to comply with these and all other applicable environmental laws with respect to the WIPP.

Public Involvement in Today's Rulemaking

The Agency has taken significant steps to involve the public in the rulemaking for today's action. The EPA published an Advanced Notice of Proposed Rulemaking (ANPR) in February, 1993 (58 FR 8029) which solicited public comment on eight issues central to the development of this final rule. The EPA again solicited public comment on a preliminary draft of the proposed rule, in January, 1994. The Agency published a notice of proposed rule on January 30, 1995, which announced the start of a public comment period of 90 days (60 FR 5766). The Agency convened a technical workshop in February, 1995, for the express purpose of soliciting the views of both scientific experts and the public on issues germane to the rulemaking. In March, 1995, the Agency held public hearings in three cities in New Mexico to solicit public input on the notice of proposed rule. On August 1, 1995, the Agency re-opened the comment period on the notice of proposed rule for an additional 45 days (60 FR 39131). During the entire comment period on the proposed rule, the Agency received over 100 written public comments. The Agency has responded to significant comments received on the notice of proposed rule from both written submissions and from testimony at the public hearings, including late written comments received soon after the close of the second part of the comment period, in a document published concurrently with today's action. In September, 1995, EPA conducted a public meeting of the WIPP Review Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT) on three issues relevant to today's action. During this meeting, members of the public provided formal presentations and oral comments to the committee. See 60 FR 43470–43471 (Aug. 21, 1995).

Summary of the Final Rule

The supporting rationale for today's action, found in the following summary and discussion of principal changes, is further explained in the Background Information Document and the Response to Comments which accompany today's action, copies of which may be obtained as described in the start of this notice. Those sections of the final rule which have remained unchanged since the rule's proposal are also further explained in the notice of proposed rule (60 FR 5766–5791).

Subpart A: General Provisions

Subpart A of the final rule establishes provisions related to the structure of the final rule itself, including: Purpose, scope and applicability; definitions; substitution of alternative provisions for those promulgated in today's final rule; and procedures which shall be followed in communications and written reports submitted by the Secretary of Energy to the Administrator. Further provisions are set forth which incorporate by reference several publications. Publications so incorporated shall have the same legal force and effect as the other requirements of the final rule.

Section 194.4 of subpart A permits the Agency to specify conditions on the issuance of a certification and to issue a modification, suspension or revocation of a certification. The Agency would, for example, specify conditions in the event that the necessary confidence in the WIPP's compliance could be achieved by the implementation of additional measures, or if EPA determines that the WIPP will comply with the disposal regulations if certain terms of the application were to be changed.

The Agency would consider issuing a modification, suspension or revocation whenever the disposal activities or disposal system change such that significant information contained in the most recent compliance application were no longer to remain true. Such a situation may occur if (1) DOE plans to make a significant change to the disposal system or disposal activities, or (2) DOE discovers that a significant change has occurred in the disposal system or disposal activities; in either case DOE must inform the Administrator in writing. If DOE finds the latter condition to be true, then DOE must determine if a release of waste from the disposal system has occurred or is expected to occur that would cause the numerical requirements of the disposal regulations to be exceeded. Releases which might occur during management operations, covered under subpart A of 40 CFR part 191, which do not relate to compliance with the disposal regulations would not necessitate this investigation. However, if DOE conducts this investigation and determines that such a release has occurred or is likely to occur, then DOE shall notify the Administrator of this fact and immediately cease emplacing waste in the WIPP. In such situations, the Administrator will determine which of three actions—modification, suspension or revocation—will be appropriate. Any modifications and revocations issued by EPA would affect the certification issued pursuant to section 8(d)(1) of the WIPP Land Withdrawal Act and must be conducted by rulemaking under section 553 of the Administrative Procedure Act. *See* 5 U.S.C. 553. A suspension may be issued at any time at the Administrator's discretion so as to promptly address any potential threat to public health. A suspension shall remain in place until such time as DOE shall have effected remediations as necessary to re-establish the WIPP's compliance with the disposal regulations or until EPA will

have modified or revoked the certification. DOE shall not restart emplacing waste in the WIPP until the Administrator notifies DOE in writing that the suspension has been lifted.

Subpart B: Compliance Certification and Re-certification Applications

Subpart B of the final rule sets forth requirements for the format and content of compliance applications. Section 194.11 of the final rule stipulates that DOE must submit a complete compliance application before the one-year, statutory review period shall commence. *See* Pub. L. 102–579, section 8(d)(1). Should DOE's initial submission be incomplete, the Administrator will explain the nature of the deficiency and will request DOE to submit further information until the Administrator has notified the Secretary that all materials necessary for a complete application have been received. This process will ensure that the Agency's one-year period will be devoted exclusively to a substantive, meaningful review. This provision applies as well to the compliance applications periodically submitted by DOE for re-certification of compliance. Once the Administrator has notified the Secretary of Energy that a complete compliance application for re-certification has been received, the Agency will commence the six month review period as provided for in section 8(f) of the WIPP Land Withdrawal Act. Section 194.12 requires that 30 copies of the compliance applications and any accompanying materials shall be submitted to the Administrator. Section 194.13 requires that compliance applications be accompanied by any referenced materials, unless such materials are generally available.

Section 194.14 of the final rule lists those elements which the Agency requires to be in a complete compliance application. In general, compliance applications must include information relevant to demonstrating compliance with each of the individual sections of the final rule. The Agency intends to publish the final version of the Compliance Application Guidance (CAG) at a later date to provide detailed guidance on the submission of a complete compliance application.

Section 194.15 of the final rule specifies that DOE must submit any additional information that will have been gathered during the elapsed five-year period and that is relevant to compliance with the disposal regulations. To facilitate the Agency's review of compliance applications for re-certification, today's final rule stipulates that DOE will not have to re-submit information that will have been included in previous compliance applications, provided that the information will have remained true and accurate. The current compliance application should clearly reference such information so that the Agency's review of the section in question can be accomplished expeditiously.

Subpart C: Compliance Certification and Re-certification

Subpart C establishes the requirements that apply to the performance assessments and compliance assessments that will be used to demonstrate compliance with the numerical requirements of the disposal regulations. In addition, subpart C implements the six assurance requirements of the disposal regulations and also establishes seven general requirements in §§ 194.21 through 194.27 which must be met by all portions of and all activities associated with compliance applications.

Section 194.21, inspections, provides EPA with right of inspection of all activities at the WIPP and all activities located off-site which provide information included in compliance applications. The Agency will conduct periodic inspections, both announced and unannounced, to verify the adequacy of information included in the compliance applications. The Agency may conduct its own laboratory tests, in parallel with those conducted by DOE, so as to confirm the adequacy of the techniques employed at those facilities. The Agency may also inspect any relevant records kept by DOE, including those records required to be generated pursuant to today's action.

Section 194.22, quality assurance (QA), sets requirements that apply to data and information collected as part of the WIPP program. The Agency requires quality assurance programs to be implemented, as soon as practicable after April 9, 1996, that meet the requirements of the American Society of Mechanical Engineers (ASME) "Quality Assurance Program Requirements for Nuclear Facilities" (NQA–1–1989), ASME's "Quality Assurance Requirements of Computer Software for Nuclear Facility Applications" (part 2.7 of NQA–2a–1990 addendum to ASME NQA–2–1989), and ASME's "Quality Assurance Requirements for the Collection of Scientific and Technical Information on Site Characterization of High-Level Nuclear Waste Repositories," (NQA–3–1989 edition), excluding sections 2.1(b), 2.1(c) and 17.1. Section 194.5 of the final rule incorporates these three publications by reference. The Agency believes that ASME's standards offer the most comprehensive and specific set of requirements for nuclear facilities and has therefore used these standards in place of establishing new requirements. Paragraph (a)(2) of § 194.22 requires that DOE must implement a quality assurance program that meets the above three sets of ASME's requirements for seven specific program elements of the WIPP and for any other system, structure, component, or activity important to the containment of waste in the disposal system.

Data that were collected prior to the implementation of the above programs must also satisfy quality assurance requirements. Any compliance application must demonstrate, subject to the approval of the Administrator or the Administrator's authorized representative, that such data were qualified using one or more of the following four methodologies: (1) Use of a methodology that is substantially equivalent in effect to the three sets of ASME's requirements; (2) peer review that is compatible with NUREG–1297; (3) corroborating data; or (4) confirmatory testing. The Agency believes that each of these latter three methods provides a means of inferring the quality of the existing data by subjecting some aspect of that data to additional scrutiny. Peer review involves a critical evaluation by an independent review group of the adequacy with which the experiments used to acquire this data were planned and conducted. The use of corroborating data evaluates the degree to which the existing data agree with data generated from similar work that has already been published in scientific journals, along with an appraisal of the latter's quality. Confirmatory testing involves repeating a small portion of the experiments, using quality assurance methods that meet the requirements of ASME's standards, and comparing the resulting data to the data in question. In the last two alternate methodologies, the level of agreement between the existing data and the corroborating or confirmatory data provides an objective measure to assess the quality of the existing data, if only in part. All quality assurance programs, both for existing data and data that has yet to be collected, must assess the accuracy, precision, representativeness, completeness and comparability of data. To verify that the quality assurance programs satisfy the requirements of this section, the Administrator will conduct inspections which may include surveillance, audits and management systems reviews.

Section 194.23, models and computer codes, sets requirements for the models and computer codes used in performance assessments and compliance assessments. Compliance applications must demonstrate that performance assessments and compliance assessments make a logical progression from conceptual models to mathematical models to numerical models and finally to computer models and codes. Compliance applications must provide information on and descriptions of models and computer codes which will permit the Agency to conduct a review of the modeling approach, theoretical bases, and the methodology employed in developing the list of processes and events used to support the compliance application. Compliance applications must include evidence that all computer codes comply with the requirements of part 2.7 of ASME's NQA–2a-1990 addendum.

The Agency intends to conduct detailed reviews of the computer codes used in performance and compliance assessments, since it is the results of computer codes themselves that will be compared to the numerical requirements found at section 13 of 40 CFR part 191. Compliance applications must provide: Descriptions of the theoretical backgrounds for each model and the method of analysis or assessment; a line-by-line listing of codes, which may be submitted in electronic format; a discussion of the treatment of correlation between parameters; and other information necessary to permit the Agency to conduct its review. Upon request, DOE must provide the Agency with the means to conduct its own simulations. The final rule requires that any computer files and hardware that will be necessary for performing simulations shall be made available within 30 days of a request from the Administrator or the Administrator's authorized representative.

Section 194.24, waste characterization, has been revised in the final rule. A discussion of the rationale for the changes is contained below in the section of the supplementary information, "Principal changes in the final rule." The final rule requires DOE to identify and describe quantitative information on those physical, chemical and radiologic characteristics of the waste that can influence disposal system performance. The Agency does not expect or require that every drum of transuranic waste be opened in an effort to provide an exhaustive characterization of the contents. Rather, the Agency expects that DOE will sample drums of waste to the extent necessary and will combine the results with other information such as process knowledge to determine the waste characteristics. The level of accuracy needed in waste characterization is determined by the degree of accuracy assumed in the compliance application. A waste characteristic, as defined in the final rule, is a physical or chemical parameter that serves as a quantitative input to performance assessments or compliance assessments, examples of which are solubility and compactibility. DOE must conduct an analysis to identify and assess the impact on long-term performance of those waste characteristics which influence the containment of waste in the disposal system. This section of the final rule lists specific characteristics which must, at a minimum, be included in the analysis.

The final rule requires DOE to establish limits on the quantities of different "waste components," such as cellulosics, metals or activity in curies, that may be proposed for disposal and emplaced in the WIPP. A waste component is distinguished from a waste characteristic in that the former is an amount of a type of waste present in the total inventory— expressed as a volume, mass or weight (or curies, in the case of activity)—whereas the latter is any parameter that describes the physical, chemical or radiologic properties and behavior of some or all of the containers of waste. For example, a container of waste might contain a given quantity of chelating agents, which are a waste component. An example of a corresponding waste characteristic is the solubility in brine of the radionuclides in a container. The final rule requires that DOE establish upper or lower limits, as appropriate, on the total amount of each waste component that may be emplaced for disposal in the WIPP. A lower limit might be specified for gas-gettering waste components, and an upper limit might be specified for cellulosics. The final rule requires that these upper and lower limits be established based on the total inventory proposed for disposal such that the results of a performance assessment will comply with the containment requirements of 40 CFR 191.13 when these values are used.

Performance assessments and compliance assessments must use the values for each waste characteristic as each would exist in the disposal system assuming that an amount of each waste component, equal to that component's upper or lower limit, as appropriate, were emplaced in the WIPP. As waste is emplaced in the WIPP, a running total must be kept of each waste component. The final rule requires that the quantity of each waste component that has been emplaced in the repository shall not cause the upper limits to be exceeded or, as appropriate, shall not preclude the total emplaced quantity of any waste component from eventually reaching its lower limit. Compliance with the lower limits shall be demonstrated by DOE using information on the waste loading scheme, the total amount of that waste component that has been emplaced in the disposal system to date, the total amount of that waste component listed in the total waste inventory described in the current compliance application, and the amount of that waste component that still has yet to be generated. DOE must establish a system of controls to verify that this requirement will be met and shall submit documentation demonstrating this with any compliance application.

Section 194.24 also requires that performance assessments and compliance assessments shall be conducted in accordance with the waste loading procedures and schemes that will be employed. If a waste loading scheme is not included in the compliance application, the performance assessments and compliance assessments must assume that the containers of waste are randomly emplaced in the WIPP. Thus, for example, DOE shall not assume that the waste components and characteristics are evenly distributed throughout the repository unless a proposed loading scheme that would cause this to occur has been included in the current compliance application.

The final rule extends the requirements of § 194.22, on quality assurance, to process knowledge acquired and used during waste characterization activities. The final rule specifies that the total inventory of waste proposed for disposal in the WIPP must comply with the limitations on transuranic waste found in the WIPP Land Withdrawal Act. The final rule enables the Administrator to use audits and inspections to verify compliance with the waste characterization section.

Section 194.25 of the final rule specifies requirements on future state assumptions. The Agency recognizes the inherently conjectural nature of specifications on future states and wishes to minimize such speculation in compliance applications. The Agency has found no acceptable methodology that could make reliable predictions of the future state of society, science, languages or other characteristics of future mankind. The Agency does believe that established scientific methods could make plausible predictions regarding the future state of three classes of natural processes,

namely geologic, hydrogeologic and climatic conditions. Hence, the final rule requires that performance assessments and compliance assessments shall include dynamic analyses of geologic, hydrogeologic and climatic processes and events that will evolve over the 10,000-year regulatory time frame. DOE shall assume that all other present day conditions will exist in their present state for the entire 10,000-year regulatory time frame.

Section 194.26 sets requirements that apply to expert judgment. Typically, expert judgment is used to elicit two types of information: (1) Numerical values for parameters (variables) which are measurable only by experiments that cannot be conducted due to limitations of time, money and physical situation; and (2) essentially unknowable information, such as which features should be incorporated into passive institutional controls that will deter human intrusion into the repository. Quality assurance must be applied to expert judgment to verify that the procedures for conducting and documenting the expert elicitation have been followed. The final rule prohibits expert judgment from being used in place of experimental data unless DOE can provide a justification explaining why the necessary experiments could not be conducted. Expert judgment may substitute for experimental data in those instances where limitations of time, resources or physical setting would have precluded the successful and timely collection of data.

The compliance application must provide documentation which demonstrates that the experts have the necessary qualifications for addressing the questions and issues put before them. Compliance applications must explain the connection between the question posed to the expert panel and the manner in which the final report of the panel is used in the compliance application. These requirements have been included to prevent any misuse of expert judgment as might result from the use of the results of one elicitation process in answer to a new and separate question that was not posed to the experts and for which, if asked, the experts might have provided a different answer.

The final rule places requirements on the composition of the expert panel, including the fraction of panel members who are not employed by DOE. At least two-thirds of the experts sitting on an expert panel shall not be employed directly by DOE or its contractors. University professors with grants from DOE for research not related to the WIPP will not be considered employees or contractors of DOE, nor will the New Mexico Environmental Evaluation Group and the National Academy of Sciences' Board on Radioactive Waste Management and WIPP Panel. In exceptional instances, DOE may use as few as one-third non-DOE employees if a sufficient number of non-DOE employees cannot be found. DOE must submit documentation which demonstrates that a sufficient number of non-DOE experts were not available. In the proposed rule, the Agency had set this minimum at one-half of the expert panel's membership. However, because of the pervasive effort of DOE in the fields of highly radioactive waste disposal and actinide chemistry, the Agency has lessened this requirement in the final rule in striving to balance the importance of technical expertise with the need for the advice to be impartial.

The section on expert judgment requires that the public be given the opportunity to present information to the expert panel to allow the public's views to be incorporated in the expert judgment process. This requirement will help prevent an inappropriately narrow spectrum of background information from being presented to the experts which might have slanted the outcome of the elicitation process. This section also requires that the elicitation process be well documented so as to demonstrate a logical progression from the first statement of the issue given to the panel members to the combination and presentation in the final report of the elicited results.

Section 194.27, peer review, has been revised in the final rule. The rationale for these changes is discussed in the section of the **SUPPLEMENTARY INFORMATION,** "Principal changes in the final rule." Given that decisions in the field of highly radioactive waste disposal are inherently first-of-a-kind, the Agency is requiring peer review so that others working in the field can confirm the adequacy of these decisions and interpretations. The final rule requires DOE to conduct peer review of three specific elements of the WIPP program. In specific, the Agency has required peer review of the conceptual models that DOE selects and develops, waste characterization assessments and the study of engineered barriers. The requirement for peer review of conceptual models will enrich DOE's process of selecting and developing conceptual models with a broad spectrum of scientific viewpoints. Waste characterization is a field in which many new and precedent-setting techniques will be employed in areas in which no standardized practice exists. Peer review of waste characterization is indicated due to the importance of a knowledge of the physical, chemical and radiological state of the waste in predictions of the long term performance of the disposal system. This section, § 194.27, requires peer review to be conducted of the study of engineered barriers so as to ensure that the best possible information is provided to DOE on the selection of engineered barriers. Additionally, this section requires compliance applications to include documentation of any peer review activities that DOE may have conducted apart from those required by this rule, including those activities which are similar to peer review, such as the reviews conducted by the WIPP Panel of the National Academy of Sciences.

The Agency is requiring that peer review which occurs subsequent to the promulgation of today's action must be conducted according to the guidelines of NUREG–1297. The final rule incorporates this publication by reference, as specified in § 194.5. The specific requirements in NUREG–1297 that discuss for which activities peer review should be conducted do not apply, nor do they supersede the requirements of the final rule. Peer review which has been conducted prior to today's action must be documented in compliance applications. Such past peer review activities must conform to either NUREG–1297 or to an alternate set of criterion which are substantially equivalent in effect to NUREG–1297 and which have been approved by the Administrator.

Sections 194.31 through 194.34 of the final rule implement the numerical containment requirements of 40 CFR 191.13. Section 194.31, which provides instructions for setting the release limits of appendix A of 40 CFR part 191, has been revised from the proposed rule. The rationale for this change is explained in the section, "Principal changes in the final rule." Section 194.31 now specifies that the release limits are to be determined based on the total activity, in curies, of transuranic waste present at the time of disposal (as defined in 40 CFR 191.2). If the activity of a waste container is assayed prior to this time, then the known rates of decay for the radionuclides in the container should be used to calculate the activity of the waste as it will exist at the anticipated time of disposal.

Section 194.32 stipulates that performance assessments shall include both natural and man-made processes and events which can have an effect on the disposal system. Performance assessments need not include those processes and events which have a probability of less than 1 in 10,000 of occurring during the 10,000-year regulatory time frame. For the purposes of this screening requirement, processes and events must be analyzed in the most general formulation possible; for example, the probability of dissolution must be set equal to the probability of all types of dissolution occurring anywhere in the Delaware Basin during the regulatory time frame. Performance assessments should, however, conduct separate analyses of the different dissolution fronts which occur in the Delaware Basin so as to account for the different hydrogeologic characteristics of each.

With respect to man-made processes and events, performance assessments must include the effects of drilling events and excavation mining. Some natural resources in the vicinity of the WIPP can be extracted by mining. These natural resources lie within the geologic formations found at shallower depths than the tunnels and shafts of the repository and do not lie vertically above the repository. Were mining of these resources to occur, this could alter the hydrologic properties of overlying formations—including the most transmissive layer in the disposal system, the Culebra dolomite—so as to either increase or decrease ground-water travel times to the accessible environment. For the purposes of modeling these hydrologic properties, this change can be well represented by making corresponding changes in the values for the hydraulic conductivity. The Agency has conducted a review of the data and scientific literature discussing the effects mining can induce in the hydrologic properties of a formation. Based on its review of available information, the Agency expects that mining can, in some instances, increase the hydraulic conductivity of overlying formations by as much as a factor of 1,000, although smaller or even negligible changes can also be expected to occur. Thus, the final rule requires DOE to consider the effects of mining in performance assessments. In order to consider the effects of mining in performance assessments, DOE may use the location-specific values of hydraulic conductivity, established for the different spatial locations within the Culebra dolomite, and treat them as sampled parameters with each having a range of values varying between unchanged and increased 1,000-fold relative to the value that would exist in the absence of mining.

The Agency recognizes that other numerical changes to the hydraulic conductivity values may be more appropriate for use in representing the effects of mining. Compliance applications must include a discussion of the rationale and experimental data which support the hydraulic conductivity values chosen and the effects of mining on the range of these values. The Agency further recognizes that some parameter other than hydraulic conductivity might be demonstrated to incorporate, equally or perhaps better, the potential effects of mining in performance assessments. DOE may elect to use another parameter, provided that DOE can demonstrate that the use of this other parameter is equally or more appropriate than hydraulic conductivity in reflecting the potential effects of mining on the disposal system. Pursuant to § 194.34 of the final rule, performance assessments must randomly sample across the full range of values that have been established for all uncertain variables, including the hydraulic conductivity of the Culebra dolomite established as discussed above.

The final rule specifies those assumptions and methods that shall be used in performance assessments to account for the effects of mining. As with drilling, the historical record of the past 100 years' mining activity in the Delaware Basin provides a reasonable basis for predicting the nature of future mining activity. Accordingly, the Agency examined the records of past mining of mineral resources in the Delaware Basin, using data supplied by the U.S. Bureau of Land Management. The Agency found that the areal extent of mining in the immediate vicinity of WIPP over the past 100 years covered roughly one percent of the land area of the entire Delaware Basin and used this information to predict the likelihood that a mining event would occur in succeeding centuries. Accordingly, the final rule requires performance assessments to assume that, in each century after closure of the repository, there will be a 1 in 100 chance that a single mining event will occur within the controlled area. As explained later in this section, the assumed mining event would remove all of the existing mineral deposits lying within the controlled area that are of similar quality and type to those minerals currently extracted in the Delaware Basin. For each century during the regulatory time frame, performance assessments should determine whether this mining event will occur, based on the 1 in 100 probability, proceeding one century at a time from the start of the 10,000-year period. If a positive determination is made, then performance assessments must assume that the single mining event occurs at the start of that century and further assume that no mining will occur thereafter. The Department may elect to use an alternate method for calculating the point in time at which mining will occur, provided that such method would not, on average, predict that mining will occur at times later than those calculated using the method in the final rule.

The final rule specifies that mining should be assumed to occur within the controlled area, with the size and shape of the mine conforming to existing mineral deposits that are similar in type and quality to those extracted in the Delaware Basin. The Agency based this requirement on a consideration of the physical nature of mining activities. First, the Agency assumed that the size and shape of a mine will be dictated by the size and shape of the mineral deposits that are to be extracted with no two mines being alike. The mineral deposits that will be mined in the future may consist of minerals of current economic interest, or of materials not useful or valuable in present-day terms. Without knowledge of what these future resources might be, any attempt to predict the size and shape of the associated mineral deposits would be speculative, as would any attempt to determine the size and shape of the mines used to extract them. The Agency further recognized that individual mines are of highly irregular shape and there is every reason to believe that deposits of minerals that are mined in the future will also vary in size and be highly irregular in shape. The Agency believes that no logical mathematical scheme exists that could be used to predict the potentially wide variety of sizes and highly irregular shapes. In light of the speculativeness and mathematical difficulty, the Agency has chosen to use existing mineral deposits as "stand-ins" to be used to determine the size and shape of the unknown mineral deposits that might be mined in the future. Thus, the final rule requires performance assessments to assume that all the presently known mineral resources lying within the controlled area will be extracted at the single point in time determined by the method in the final rule, discussed above. No further mining will be assumed to occur, since the available mineral deposits will have been depleted. The type of minerals that shall be assumed to be extracted are those mineral deposits that are similar in quality and type to those that are currently extracted in the Delaware Basin.

Performance assessments may assume that the likelihood of mining may be decreased by PICs and active institutional controls, to the extent that can be justified in the compliance application and to a degree identical to that assumed for drilling. The requirements of sections 41 and 43 of the final rule therefore will apply to the consideration of mining in performance assessments.

Section 194.33, consideration of drilling events, has been revised since the proposed rule. The rationale for the new provisions is explained in the section below, entitled "Principle changes in the final rule." Section 194.2 includes two definitions relevant to the consideration of drilling events. "Deep drilling" denotes those drilling events that reach or exceed a depth 2150 feet below the surface where such drilling occurred. "Shallow drilling" denotes those drilling events that do not reach to a depth 2150 feet below the surface where such drilling occurred. Sections 194.32 and 194.33 of the final rule require that performance assessments include the effects of both deep drilling and shallow drilling, whether such drilling has occurred prior to the time at which the compliance application is prepared, can be reasonably expected to occur in the near future based on existing leases, or can be expected to occur in the future during the 10,000-year regulatory time frame.

The future rates of both deep drilling and shallow drilling shall each be set equal to the rate at which deep drilling and shallow drilling, respectively, have occurred in the Delaware Basin during the 100-year period immediately prior to the time the current compliance application is prepared. The Delaware Basin is defined, in § 194.2, to be the surface and subsurface features which lie inside the innermost edge of the Capitan Reef and, where the Capitan Reef is absent to the south, the features which lie to the north of a straight line connecting the southeastern point of the Davis Mountains and the southwestern point of the Glass Mountains.

Performance assessments must add together all releases of radionuclides which are predicted to occur during the 10,000-year regulatory time frame to arrive at the cumulative releases from the disposal systems; the containment requirements of 40 CFR 191.13 apply to cumulative releases of waste and not the individual events which cause the releases. Further, boreholes drilled after closure of the repository shall be assumed to affect the properties of the disposal system for the remainder of the 10,000-year regulatory time frame. When analyzing the effects of all later boreholes, performance assessments must account for the effect that these existing boreholes will have had on the hydrogeologic properties of the disposal system and on the creation of new pathways for releases. In today's final rule, the Agency requires that performance assessments and compliance assessments must include—among other processes and events—the effects on the disposal system of drilling and all types of resource extraction activities, including *inter alia* solution mining and fluid injection, that will have occurred prior to the time at which the compliance application is prepared or that may be expected to occur soon afterward based on existing plans and leases for drilling.

In the case of shallow drilling only, DOE may, if justified, derive the drilling rate from the historical rates of shallow drilling for only those resources in the Delaware Basin which are of similar quality and type to those found in the controlled area. For example, if only non-potable water can be found within the controlled area, then the rate of drilling for water may be set equal to the historical rate of drilling for non-potable water in the Delaware Basin over the past 100 years.

Section 194.33 requires performance assessments to make several specific assumptions about future deep drilling and shallow drilling. These assumptions include that drilling will occur randomly in space and time and may occur at different rates for each resource, and that drilling practices will remain as those of today and may vary depending on the resource. Performance assessments should assume that the permeability of sealed boreholes will be affected by natural processes, and should assume that the fraction of boreholes that will be sealed by man equals the fraction of boreholes which are currently sealed in the Delaware Basin.

The Agency recognizes that drill operators currently employ different techniques in the exploration and development of each resource. Hence, performance assessments shall conduct a separate analysis of the effects that future drilling for each different resource—the act creating a borehole—will have on the disposal system. Each separate analysis should set the future rate of drilling for the particular resource equal to the historical rate at which that resource has been drilled for in the Delaware Basin during the past 100 years. The analyses of the consequences of each type of drilling might remain conceptually similar, but vary with regard to assumptions made on size and depth of boreholes, quantity of drilling fluid used, or any other characteristic specific to that type of resource. Analyses of the consequences of future drilling events may be confined only to the drilling activity and the subsequent effect of the borehole's presence and need not include an analysis of extraction and recovery activities which would occur subsequently.

In determining the drilling rate or the amount of waste released from such drilling, performance assessments should not assume that drill operators would detect the waste and then cease the current drilling operations or otherwise mitigate the consequences of their actions. Similarly, drill operators should not be assumed to cease further exploration and development of resources as a result of the driller's detecting the waste.

Section 194.34 requires that the results of performance assessments be expressed as complementary, cumulative distributions functions (CCDFs). The CCDFs shall be generated using random sampling techniques which draw upon the full range of values established for each uncertain parameter, which may include physical and chemical waste characteristics. Parameters of lesser sensitivity in performance assessments may be held constant, provided that such constant values can be justified as sufficiently conservative. The quantitative requirements of this section state that there must be a 0.95 probability that, at values of cumulative release of 1 and 10, the maximum CCDF generated exceeds the 99th percentile of the population of CCDFs. The values of cumulative release are calculated according to Note 6 of Table 1, Appendix A of 40 CFR part 191. Additionally, the mean of the population of CCDFs must meet the requirements of section 13 of 40 CFR part 191 with at least a 95 percent level of statistical confidence. In demonstrating compliance with these standards, the infinite number of CCDFs denoted by the term, population of CCDFs, need not be generated. By generating only a finite number of CCDFs and applying statistical theory, the relationships between the finite group of computer-generated CCDFs, the population of CCDFs and the numerical requirements of this section can be established.

Subpart C of today's action also implements the six assurance requirements of section 14 of 40 CFR part 191. The assurance requirements were included in the disposal regulations to provide the confidence needed for long-term compliance with

the containment requirements of section 13 of 40 CFR part 191.

Section 194.41 of today's final rule requires a description of the active institutional controls that will be implemented at the WIPP. This description shall be sufficient to support any assumptions made on their effectiveness in performance assessments and compliance assessments. However, in no case shall active institutional controls be assumed to be in effect for more than 100 years after the time of disposal.

Section 194.42 of the final rule, monitoring, has been revised from the proposed rule. The rationale for these changes is provided below, in "Principal changes in the final rule." Any unpredicted detection of movement of radionuclides toward the accessible environment would be cause for concern that a release of waste in excess of what is permitted under the disposal regulations is likely to occur. This section specifies requirements for monitoring in both the pre-closure and post-closure periods, as necessary to verify that the WIPP complies with the disposal regulations. In the event that an initial certification has been granted, the results of monitoring during the pre-closure period will be used by the Agency to verify that the information contained in the initial compliance application has remained true and accurate; this information would be used by the Agency during both the initial five-year period after the start of emplacement of waste and during the reviews made for the periodic re-certifications of compliance. The final rule has included a provision which requires DOE to conduct an analysis of parameters that will be used in the development of pre-closure and post-closure monitoring plans. The analysis should consider the importance of the parameter with respect to both the containment of waste in the disposal system and the practicability of performing such monitoring, including its technical feasibility and the cost.

Section 194.43 implements the assurance requirements on passive institutional controls (PICs). The final rule specifies that DOE must include a detailed description of the PICs that will be employed and lists the information that the PICs are required, at a minimum, to convey. Additionally, the final rule allows the Department to reduce the likelihood of future human intrusion that is used in performance assessments by a proposed amount corresponding to the predicted effect of PICs. See generally 47 FR 58196, 58201 (Dec. 29, 1982); 50 FR 38066, 38080 (Sept. 19, 1985). Thus, DOE may propose in its compliance application to reduce the rate of human intrusion by a fractional amount, extending over a technically supportable period of time, and must justify this using the plans for the implementation for PICs and associated evidence of their effectiveness. This credit may take the form of a constant reduction in the rate of human intrusion lasting several hundred years or may be a reduction in the rate which tapers off in size over several hundred years. Such credit cannot be assumed to eliminate completely the possibility of human intrusion, even for a short period of time after the active institutional controls at the WIPP are assumed to be ineffective. During the rulemaking on certification, the Agency could determine that the description of the PICs does not adequately justify the degree of proposed credit assumed by DOE and therefore disallow some or all of the credit proposed by DOE in the compliance application.

Having considered the public comments regarding PICs, the Agency believes that such credit could be no more than approximately 700 years past the time of disposal. Thus, the final rule limits to several hundred years the amount of credit that EPA may grant for PICs. Any determination that a specific numerical credit would be appropriate for a much longer period of time would be unduly speculative and therefore inappropriate.

Today's action should not be construed to approve or award any amount of credit for PICs, as such a determination cannot be made in advance of the rulemaking on certification of compliance. The Agency is deferring any decisions on credit for PICs planned for the WIPP until such time as the compliance application has been received and a rulemaking for certification has been completed. This restates the Agency's prior assertion, made in the promulgation of the final disposal regulations in 1985:

> Specific judgments about the chances and consequences of intrusion should be made by the implementing agencies (EPA for the WIPP) when more information about particular disposal sites and passive control systems is available. *See* 50 FR 38080.

In developing this section of the final rule, 40 CFR 194.43, the Agency considered the treatment of PICs in the disposal regulations, the input received in public forums and the public comments received on the proposed rule. The disposal regulations established the foundation of today's action on the role of passive institutional controls. Section 191.14(c) of the disposal regulations require that disposal sites be designated by the most permanent markers, records, and other passive institutional controls practicable to indicate the dangers of the wastes and their location. In adopting these provisions of the disposal regulations, the Agency expressly assumed that passive institutional controls "should reduce the chance of inadvertent intrusion compared to the likelihood if no markers and records were in place." *See* 50 FR 38080. With respect to performance assessments, the Agency examined whether PICs should be taken into account to some degree when estimating the likelihood of inadvertent human intrusion and concluded that "a limited role for passive institutional controls would be appropriate when projecting the long-term performance of mined geologic repositories to judge compliance with (the containment requirements of 40 CFR part 191)." At the same time, the Agency explicitly determined that PICs should not be assumed to completely prevent the possibility of inadvertent human intrusion. See 50 FR 38080.

In the proposed rule, 40 CFR part 194, the Agency specifically requested comment on the requirements on PICs. The Agency conducted a public discussion of PICs in a technical workshop in Washington, DC, in February, 1995. In September, 1995, EPA consulted the WIPP Review Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT) on three issues, including PICs, in a public meeting in New Mexico. See 60 FR 43470–43471 (Aug. 21, 1995). The Committee agreed that PICs would be likely to decrease the likelihood of inadvertent intrusion into the WIPP but expressed concern about the availability of a rigorous method by which to determine the appropriate reduction due to PICs in the future likelihood of inadvertent intrusion. Some members of the Committee stated that, if credit were to be approved, the size of the credit should not reflect that PICs would be effective for more than a small fraction of the 10,000 year regulatory time frame.

Many public comments received on the proposed rule expressed skepticism about whether PICs would be effective for the entire 10,000 year regulatory time frame or for even a fraction thereof. Other comments stated the belief that civilizations living 1,000 to 10,000 years from now would, in fact, be capable of understanding the records and markers that were left behind at the WIPP. Still other comments asserted that, in allowing for the possibility of credit, the Agency had revised the intent of the

assurance requirements, one of which being the requirement for the implementation of PICs. Specifically, comments stated that the assurance requirements were not intended to be considered when determining compliance with the numerical containment requirements found at 40 CFR 191.13.

The provisions of the final rule entertaining possible credit for PICs are within EPA's authority. In adopting the assurance requirements in 40 CFR part 191, EPA expressly limited the credit for active institutional controls. EPA prohibited performance assessments from considering any contributions from active institutional controls for more than 100 years after disposal. See 40 CFR 191.14(a). EPA declined to similarly limit the effect of PICs in reducing the likelihood of human intrusion. 50 FR 38080. By contrast, EPA contemplated that PICs may discourage the likelihood of human intrusion for some period of time longer than active institutional controls. However, EPA indicated that it generally believed it was inappropriate to rely on PICs for extended periods of time. See 50 FR 38080. Based on the public comments and consistent with EPA's general view that it is inappropriate to rely on PICs for very long periods of time, EPA is constraining in the final rule the length of time that EPA could consider granting credit for PICs to several hundred years. EPA's decision about the actual efficacy of PICs proposed for the WIPP will be based on DOE's compliance application but may not exceed this limit.

Further, the degree to which PICs might reduce the future drilling rate can be reliably determined only through informed judgment. The Agency agrees with the NACEPT Committee that no rigorous and non-speculative method is available to determine the appropriate amount of credit for PICs. Thus, DOE's proposed reduction in the likelihood of human intrusion due to PICs would probably be conducted through an expert judgment process that considers the specific PICs to be implemented at the WIPP by DOE. The expert judgment performed specifically to determine the effect of PICs must satisfy the requirements of section 26 of today's action, on expert judgment. For example, this section requires that the range of professions represented on the expert panel must cover the complete spectrum of knowledge that will be necessary to address the question given to the experts. In the case of PICs, the Agency would expect that experts would be selected not only from professions such as archeology, but from professions which are concerned with the exploration and development of natural resources such as oil and natural gas.

Section 194.44 of the final rule implements the assurance requirement on engineered barriers. This section requires that DOE conduct a study of available options for engineered barriers at the WIPP and submit this study and evidence of its use with the compliance application. Consistent with the requirement, found at 40 CFR 191.13, that DOE analyze the performance of the complete disposal system, any engineered barriers that are ultimately implemented at the WIPP must be considered by the Department and, ultimately, EPA when evaluating compliance with both the containment requirements of 40 CFR 191.13 and the assurance requirement of 40 CFR 191.14(d).

Section 194.45 implements the assurance requirement that the disposal system be sited such that the benefits of the natural barriers of the disposal system compensate for the increased probability of disruptions of the disposal system resulting from exploration and development of nearby natural resources. This assurance requirement will be met if performance assessments comply with the numerical containment requirements of section 13 of 40 CFR part 191, provided that the potential effects of human intrusion at the WIPP will have been appropriately considered.

Section 194.46 implements the assurance requirement that the removal of waste remain possible for a reasonable period of time after disposal. The final rule has eliminated the requirement for the development of a plan for the removal of waste which had been contained in the proposed rule. In place of the requirement for a removal plan, EPA is including in the final rule a requirement that DOE perform an evaluation to demonstrate that the removal of waste will remain feasible for a reasonable period of time after disposal.

Sections 194.51 through 194.55 provide the criteria that must be met in order to demonstrate that the WIPP will comply with the ground-water requirements of subpart C of 40 CFR part 191 and the individual protection requirements of section 15 of 40 CFR part 191. Section 194.51 and 194.52 specify the assumptions that must be incorporated into compliance assessments in the analyses of annual committed effective dose equivalent received by individuals, used in determining compliance with the individual protection requirements. Compliance assessments should separately analyze the doses received by individuals from each pathway. Compliance assessments should assume that the protected individual resides at the single geographic point where the maximum dose would be received, calculated by the sum of all pathways.

Section 194.53 lists the assumptions that compliance assessments must include when analyzing the doses received through underground sources of drinking water (USDWs), used in determining compliance with subpart C of 40 CFR part 191. Doses can be received from any USDW outside of the controlled area, provided that a connective pathway could be expected to be established via ground-water travel between the disposal system and that USDW. The Agency expects that USDWs which lie closer to the disposal system will have a greater chance of being affected by releases of waste. The Agency therefore does not intend for DOE to expend resources analyzing doses received from USDWs located large distances from the disposal system. The calculations of doses received from USDWs should assume that drinking water is withdrawn directly from the contaminated USDW and consumed at a rate of two liters per day.

Section 194.54 defines the scope of compliance assessments. Compliance assessments should be conducted of the undisturbed performance of the disposal system, which, by the definition in section 12 of 40 CFR part 191, denotes that the disposal system is not disrupted by human intrusion or the occurrence of unlikely natural events. Section 194.55 requires that compliance assessments include calculations or "estimates" of three quantities: (1) The annual committed effective dose received from all pathways, an analysis which corresponds to the requirements of section 15 of 40 CFR part 191; (2) dose equivalents received from USDWs; and (3) concentrations of radionuclides present in USDWs, the latter two of which correspond to subpart C of 40 CFR part 191. To generate a "range" of estimates, compliance assessments must make repeated calculations, with each iteration employing a different set of randomly selected values for each uncertain parameter. Parameters of lesser sensitivity in compliance assessments may be held constant, provided that these values can be justified as being sufficiently conservative. The final rule requires that there be a 0.95 probability that the maximum estimate of each set so generated exceeds the 99th percentile of the population of estimates. The mean and the median of the population of each set of estimates must meet the requirements of section 15 and subpart C of 40 CFR part 191, as applicable, with at least a 95 percent level of statistical confidence.

Subpart D: Public Participation

Subpart D of today's action establishes procedures that EPA will use to involve the public in the decisions on certification and re-certification and requires EPA to publish notices of its actions in the **Federal Register**. Subpart D includes new provisions which require the Agency to involve the public in decisions to modify or revoke a certification. Section 194.65 requires that EPA publish a notice in the **Federal Register** announcing the Agency's proposed decision on the modification or revocation of the certification. The notice of proposed rulemaking must solicit comment on the proposed decision. Section 194.66 requires the Administrator to publish a notice of final rulemaking in the **Federal Register**, announcing whether the Agency has revoked, modified or taken no action to change the certification. Section 194.67 requires that EPA maintain a public docket with all information used in making the decisions on certification, re-certification, and modification and revocation of the certification.

Principal Changes in the Final Rule

In addition to the principal changes described below, today's action contains other minor modifications to the proposed rule. Further discussion of the rationale and information supporting significant changes found in today's action is contained in the Background Information Document and the Response to Comments, which may obtained as explained in the start of this notice.

Scope of Performance Assessments and Consideration of Drilling Events

In §§ 194.32 and 194.33 of the final rule, the Agency has provided further clarification on which activities fall within the scope of human intrusion. (Section 194.33 had been titled "Consideration of human initiated processes and events" in the proposed rule.) The final rule requires that the effects of deep drilling, shallow drilling and excavation mining must be included in performance assessments. In the proposed rule, the Agency had excluded excavation mining from consideration (60 FR 5774; January 30, 1995). The Agency received several public comments recommending that performance assessments should be required to include the effects of future mining during the regulatory time frame in order to account for the presence of potash in the vicinity of the repository. The Agency has re-evaluated the proposed exclusion of mining, in light of these public comments. The Agency believes that, while there is uncertainty surrounding the potential effects of mining, mining could nonetheless alter the hydrogeologic properties of certain formations that lie at shallower depths than the mined portion of the repository. Thus, the final rule requires performance assessments to consider the possible effects of excavation mining on the disposal system. As discussed previously, DOE may address this requirement by considering the changes that mining would induce in the hydraulic conductivity of the disposal system. Additionally, the requirements of the final rule specify the method for determining the size and shape, location and point in time at which mining occurs. The Agency specified these items to provide clarification on how mining should be considered and to avoid unbounded speculation that would result from the high uncertainty regarding whether, where and how mining would occur in the Land Withdrawal area. EPA's decision was based on a desire to include mining in performance assessment in a realistic fashion without recourse to such unconstrained speculation. To this end, the final rule has specified that mining will continue at the same rate as it has over the past 100 years, that the area to be mined is the area that contains mineral deposits of similar type and quality to those that are currently extracted in the Delaware Basin, and that only the major impacts on the disposal system of mining need be considered. EPA believes this is consistent with the future states assumptions of section 25 as they apply to the future activities of man.

The Agency has added definitions of deep drilling and shallow drilling in § 194.2. Both types of drilling shall include exploratory and developmental wells. The addition of these definitions was prompted by commenters who noted that the definitions of human intrusion and "human activity" that were in the proposed rule had caused confusion by distinguishing their meanings on the basis of the depth at which drilling occurs. In the final rule, the Agency has removed these definitions from the final rule and instead makes use of the defined terms, deep drilling and shallow drilling in order to provide greater clarity.

Commenters also requested that the final rule require analysis of disposal of brine that accumulates during the extraction of oil and of secondary recovery of oil performed using water-flood injection. The Agency considered this comment in the larger context of the nature of potential human intrusions during the next 10,000 years and what assumptions might hold true during that time. The Agency believes that no one resource will last for the entire 10,000 years and therefore has concluded that the techniques for extraction of any one resource—such as water-flood injection for oil recovery—are unlikely to be in use during much of the 10,000-year regulatory time frame. With respect to drilling rates, the Agency reasoned that while the resources drilled for today may not be the same as those drilled for in the future, the present rates at which these boreholes are drilled can nonetheless provide an estimate of the future rate at which boreholes will be drilled. The Agency does expect that drilling will never completely cease; while some resources may become depleted over time and, while the rate of extraction of those resources may decrease, the increased rate of drilling for newly discovered resources will compensate for this decline. In effect, when used for the purpose of determining the future drilling rate, today's drilling activities act as surrogates for the unknown resources that will be drilled for in the future. With respect to the consequence and releases due to future drilling, present-day drilling activities provide the only available basis for making assumptions in performance assessments. Future extraction of any resource will likely necessitate drilling a hole for its recovery. However, because there is doubt as to whether the resources associated with today's specialized extraction techniques and fluid injection will remain available for 10,000 years, the final rule does not require that performance assessments assume that such extraction activities will occur during the entire regulatory time frame, but does require that the effects of the drilling events themselves be analyzed. The techniques include, for example, water-flood injection for secondary recovery of oil, solution mining and the disposal by injection of brine accumulated during recovery of oil.

The Agency recognizes, however, that resource extraction and fluid injection activities which are currently performed in the Delaware Basin can alter the hydrogeologic properties of the initial state of the disposal system. The final

rule requires that performance assessments and compliance assessments analyze the effects of all types of fluid-injection and all boreholes which can have an effect on the disposal system and which have been or will have been drilled prior to or soon after disposal. These boreholes shall be assumed to affect the properties of the disposal system for the entire 10,000-year regulatory time frame. Predictions about such future activities shall be strictly limited to the expected use of existing leases.

Today's final rule eliminates the proposed cap on the rate of deep drilling into the disposal system of 62.5 boreholes per square kilometer per 10,000 years as well as the proposed lower limit of 25 boreholes per square kilometer per 10,000 years. The Agency received numerous public comments objecting to the use of upper and lower limits on the rate of deep drilling. The Agency has concluded that the rate of drilling into the disposal system used in performance assessments covering the 10,000-year regulatory time frame should be derived solely from the historical record of drilling in the region surrounding the WIPP. In the proposed rule, the Agency had specified that the past 50 years of records on drilling shall be used to establish the rates for shallow drilling and deep drilling, the latter being subject to upper and lower caps. While developing the final rule, the Agency recognized that drilling activity has been at a maximum during the past 50 years, whereas during the past 100 years, a broader spectrum of high and low drilling rates can be found. In the long-term future, it can be expected that the drilling rate will consist of periods of high and low drilling activity, which makes the past 100 years a more appropriate period for calculating the drilling rate. In addition, more detailed examination of the available records in Texas and New Mexico since the time of the proposed rule has shown that accurate data on drilling activity dates back 100 years, rather than 50 years as was believed initially. The final rule therefore specifies that the rates of both shallow drilling and deep drilling are to be set based on data from the 100 year period ending at the time DOE prepares the compliance application.

Today's final rule includes a definition of the term "Delaware Basin," used in the regulation to be that area over which the past drilling rate is to be averaged in order to establish the rate of drilling used in performance assessments. In the proposed rule, the Agency had solicited comment on how to define the Delaware Basin. Many comments were received, with the bulk of the discussion focusing on whether the Capitan Reef should be included in the definition. In arriving at the definition in the final rule, the Agency considered the geologic and hydrogeologic characteristics of the formations which contain the WIPP versus those of the Capitan Reef. The Capitan Reef is more permeable to the flow of water and was formed from organic material which differs from the salt formations which immediately surround the WIPP. The Agency had stated its intention to define the Delaware Basin to be the largest contiguous area that has similar geologic properties. Because of the differences, noted above, between the Capitan Reef and the interior formations, the Agency has chosen to define the Delaware Basin to be those surface and subsurface formations which lie inside the innermost edge of the Capitan Reef. Where the Capitan Reef is absent to the south, the Delaware Basin includes those features which lie to the north of a straight line connecting the southeastern point of the Davis Mountains and the southwestern point of the Glass Mountains.

Waste Characterization

Numerous public comments were received on the proposed § 194.24, waste characterization. Commenters stated that this section required greater clarity in order to be implemented effectively at the WIPP. The final rule retains the use of "waste characteristics" to provide a description of the waste. The term, waste categories, has been eliminated in the final rule. The final rule uses the term, "waste components," to denote an amount of a type of waste—expressed as a volume, mass or weight (or curies, in the case of activity)—such as chelating agents and cellulosics. The waste categories in the proposed rule were to be established based on the assumption that wastes with similar waste characteristics would behave similarly in the disposal system. The Agency believes that using instead the term "waste components" provides a less abstract scheme for classifying waste which could be more easily implemented. In particular, the Agency believes that, for a given container of waste, DOE could more readily identify how much of each waste component is present rather than how much of each waste category is present. The final rule requires that these limits be established such that the results of performance assessments and compliance assessments will comply with the numerical requirements of 40 CFR Part 191 when the maximum or minimum values for each waste component are used, as appropriate.

To assist in establishing the waste characteristics and waste components and quantitative values of each, the final rule requires that compliance applications include an analysis to identify and assess the impact on long-term performance of those waste characteristics which influence the containment of waste in the disposal system. An analysis must also be conducted of waste components to determine which of these will influence the waste characteristics identified as having an influence on containment. This section of the final rule specifies those waste characteristics and waste components which, at a minimum, the respective analyses must investigate.

Peer Review

Section 194.26, peer review, has been narrowed in scope in the final rule. The Agency received many public comments stating that the requirements on peer review were stated too broadly such that an inordinate and unmanageable number of peer reviews would be required. Additionally, commenters noted that many of the activities that the proposed rule had required to be peer reviewed were subject to specific quality assurance requirements under § 194.22. Public comments noted that, in this instance, the proposed peer review requirements would be redundant with the quality assurance requirements. Such activities would include the computer codes and the data used to support all models—conceptual, mathematical and numerical—and computer codes.

The Agency consulted the WIPP Review Committee of NACEPT at the September, 1995 meeting and sought its advice on how to address peer review. The Committee suggested that peer review of quality assurance programs would be unnecessary, since, by requiring DOE to adhere to a program that meets the requirements of three sets of ASME's standards, today's action would already be sufficient to control the quality assurance process. The Agency agrees with both the Committee and with similar public comment and has eliminated the requirement for peer review of quality assurance programs and plans. The Committee also stated that peer review could be used both to insure that analyses use the correct model of repository behavior and to evaluate the subjective uncertainty in whether the appropriate conceptual model was selected. In the case of WIPP, unanimous agreement does not exist on the nature of the conceptual models of natural processes such as dissolution which can have an effect on the disposal system. To subject these issues to wider scrutiny, the final rule specifies that peer review must be conducted of the conceptual models selected and developed by DOE.

Application of Release Limits

Section 194.31 of the final rule specifies that the release limits of Appendix A of 40 CFR part 191 shall be determined based on the total activity, in curies, of transuranic waste present at the time of disposal. Public comment was divided between those who recommended setting release limits at 100 years, as in the proposed rule, and those who recommended the time of disposal. The Agency solicited the views of the WIPP Review Committee of NACEPT on the subject of release limits in the meeting held in September, 1995. Some committee members noted that radionuclides such as plutonium 238 would quickly decay to less than half their original number in under 100 years and thus would not pose a threat for more than a small fraction of the 10,000-year regulatory time frame. Hence, some members of the committee recommended the option of setting the release limits at later times so that the release limits would be based on longer-lived radionuclides. Doing so would more accurately reflect the long-term hazards presented by the waste.

Some committee members also recommended that the Agency should base its decision on the original intent of the disposal regulations. The Agency believes that the disposal regulations were designed to avoid the undue influence of short-lived radionuclides on the size of the release limits. The disposal regulations accomplished this purpose in Appendix A by eliminating the contribution of radionuclides having half-lives of less than twenty years. The Agency has therefore chosen in the final rule to determine release limits based on the total activity, in curies, of transuranic waste present at the time of disposal.

Monitoring

The monitoring requirements have been modified to provide clearer direction for the development of a post-closure monitoring plan. Several commenters suggested that, by requiring that post-closure monitoring be conducted in a manner "compatible" with RCRA, DOE might be forced to implement two over-lapping monitoring programs in order to comply with both RCRA hazardous waste regulations and 40 CFR part 194. Other commenters noted that, in the event that RCRA monitoring at the WIPP were to be modified or eliminated, the requirement in 40 CFR Part 194 as proposed would be correspondingly reduced. To provide clearer direction on the performance of post-closure monitoring, the Agency has made two changes in the final rule. First, to eliminate potential overlap, the Agency is requiring that post-closure monitoring be required to be "complementary" with RCRA, so that information yielded by the one monitoring program would not be duplicated by the other. The Agency is requiring in the final rule that post-closure monitoring be conducted, to the extent practicable when considering technical feasibility and cost, of those parameters which are important to the containment of waste in the disposal system. Such parameters shall be identified in a required analysis that will assess which parameters are important to the containment of waste and which therefore should be included in post-closure (and pre-closure) monitoring.

Rulemaking Analyses

Executive Order 12866

Under Executive Order 12866, (58 FR 51,735 October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" because it raises novel policy issues which arise from legal mandates. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. Today's final rule sets forth requirements which apply only to Federal agencies and the Administrator therefore certifies that no small entities will be affected.

Paperwork Reduction Act

The EPA has determined that this proposed rule contains no information collection requirements as defined by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. The rule implements requirements specifically set forth by the Congress in the Waste Isolation Pilot Plant Land Withdrawal Act (Pub. L. 102–579).

List of Subjects in 40 CFR Part 194

Administrative practice and procedure, Environmental protection, Incorporation by reference Nuclear materials, Radionuclides, Plutonium, Radiation protection, Uranium, Transuranics, Waste treatment and disposal.

Dated: February 1, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 194 is added as set forth below.

PART 194—CRITERIA FOR THE CERTIFICATION AND RE-CERTIFICATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE WITH THE 40 CFR PART 191 DISPOSAL REGULATIONS

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Authority: The Waste Isolation Pilot Plant Land Withdrawal Act of 1992, Pub.L. 102–579, 106 Stat. 4777; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011–2296; Reorganization Plan No. 3 of 1970, 5 U.S.C. app.1; Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. 10101–10270.

Subpart A—General Provisions

§ 194.1 Purpose, scope and applicability.

This part specifies criteria for the certification or any re-certification, or subsequent actions relating to the terms or conditions of certification of the Department of Energy's Waste Isolation Pilot Plant's compliance with the disposal regulations found at part 191 of this chapter and pursuant to section 8(d)(1) and section 8(f), respectively, of the WIPP LWA. The compliance certification application submitted pursuant to section 8(d)(1) of the WIPP LWA and any compliance re-certification application submitted pursuant to section 8(f) of the WIPP LWA shall comply with the requirements of this part.

§ 194.2 Definitions.

Unless otherwise indicated in this part, all terms have the same meaning as in part 191 of this chapter.

Certificotion means any action taken by the Administrator pursuant to section 8(d)(1) of the WIPP LWA.

Compliance application(s) means the compliance certification application submitted to the Administrator pursuant to section 8(d)(1) of the WIPP LWA or any compliance re-certification applications submitted to the Administrator pursuant to section 8(f) of the WIPP LWA.

Compliance assessment(s) means the analysis conducted to determine compliance with § 191.15, and part 191, subpart C of this chapter.

Delaware Basin means those surface and subsurface features which lie inside the boundary formed to the north, east and west of the disposal system by the innermost edge of the Capitan Reef, and formed, to the south, by a straight line drawn from the southeastern point of the Davis Mountains to the most southwestern point of the Glass Mountains.

Deep drilling means those drilling events in the Delaware Basin that reach or exceed a depth of 2,150 feet below the surface relative to where such drilling occurred.

Department means the United States Department of Energy.

Disposal regulations means part 191, subparts B and C of this chapter.

Management systems review means the qualitative assessment of a data collection operation or organization(s) to establish whether the prevailing quality management structure, policies, practices, and procedures are adequate to ensure that the type and quality of data needed are obtained.

Modification means action(s) taken by the Administrator that alters the terms or conditions of certification pursuant to section 8(d)(1) of the WIPP LWA. Modification of any certification shall comply with this part and part 191 of this chapter.

Population of CCDFs means all possible complementary, cumulative distribution functions (CCDFs) that can be generated from all disposal system parameter values used in performance assessments.

Population of estimates means all possible estimates of radiation doses and radionuclide concentrations that can be generated from all disposal system parameter values used in compliance assessments.

Quality assurance means those planned and systematic actions necessary to provide adequate confidence that the disposal system will comply with the disposal regulations set forth in part 191 of this chapter. Quality assurance includes quality control, which comprises those actions related to the physical characteristics of a material, structure, component, or system that provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

Re-certification means any action taken by the Administrator pursuant to section 8(f) of the WIPP LWA.

Regulatory time frame means the time period beginning at disposal and ending 10,000 years after disposal.

Revocation means any action taken by the Administrator to terminate the certification pursuant to section 8(d)(1) of the WIPP LWA.

Secretary means the Secretary of Energy.

Shallow drilling means those drilling events in the Delaware Basin that do not reach a depth of 2,150 feet below the surface relative to where such drilling occurred.

Suspension means any action taken by the Administrator to withdraw, for a limited period of time, the certification pursuant to section 8(d)(1) of the WIPP LWA.

Waste means the radioactive waste, radioactive material and coincidental material subject to the requirements of part 191 of this chapter.

Waste characteristic means a property of the waste that has an impact on the containment of waste in the disposal system.

Waste component means an ingredient of the total inventory of the waste that influences a waste characteristic.

WIPP means the Waste Isolation Pilot Plant, as authorized pursuant to section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub.L. 96–164; 93 Stat. 1259, 1265).

WIPP LWA means the Waste Isolation Pilot Plant Land Withdrawal Act of 1992 (Pub.L. 102–579, 106 Stat. 4777).

§ 194.3 Communications.

(a) Compliance application(s) shall be:
(1) Addressed to the Administrator; and
(2) Signed by the Secretary.
(b) Communications and reports concerning the criteria in this part shall be:
(1) Addressed to the Administrator or the Administrator's authorized representative; and
(2) Signed by the Secretary or the Secretary's authorized representative.

§ 194.4 Conditions of compliance certification.

(a) Any certification of compliance issued pursuant to section 8(d)(1) of the WIPP LWA may include such conditions as the Administrator finds necessary to support such certification.

(b) Whether stated therein or not, the following conditions shall apply in any such certification:

(1) The certification shall be subject to modification, suspension or revocation by the Administrator. Any suspension of the certification shall be done at the discretion of the Administrator. Any modification or revocation of the certification shall be done by rule pursuant to 5 U.S.C. 553. If the Administrator revokes the certification, the Department shall retrieve, as soon as practicable and to the extent practicable, any waste emplaced in the disposal system.

(2) Any time after the Administrator issues a certification, the Administrator or the Administrator's authorized representative may submit a written request to the Department for information to enable the Administrator to determine whether the certification should be modified, suspended or revoked. Unless otherwise specified by the Administrator or the Administrator's authorized representative, the Department shall submit such information to the Administrator or the Administrator's authorized representative within 30 calendar days of receipt of the request.

(3) Any time after the Administrator issues a certification, the Department shall report any planned or unplanned changes in activities or conditions pertaining to the disposal system that differ significantly from the most recent compliance application.

(i) The Department shall inform the Administrator, in writing, prior to making such a planned change in activity or disposal system condition.

(ii) In the event of an unplanned change in activity or condition, the Department shall immediately cease emplacement of waste in the disposal system if the Department determines that one or more of the following conditions is true:

(A) The containment requirements established pursuant to § 191.13 of this chapter have been or are expected to be exceeded;

(B) Releases from already-emplaced waste lead to committed effective doses that are or are expected to be in excess of those established pursuant to § 191.15 of this chapter. For purposes of this paragraph (b)(3)(ii)(B), emissions from operations covered pursuant to part 191, subpart A of this chapter are not included; or

(C) Releases have caused or are expected to cause concentrations of radionuclides or estimated doses due to radionuclides in underground sources of drinking water in the accessible environment to exceed the limits established pursuant to part 191, subpart C of this chapter.

(iii) If the Department determines that a condition described in paragraph (b)(3)(ii) of this section has occurred or is expected to occur, the Department shall notify the Administrator, in writing, within 24 hours of the determination. Such notification shall, to the extent practicable, include the following information:

(A) Identification of the location and environmental media of the release or the expected release;

(B) Identification of the type and quantity of waste (in activity in curies of each radionuclide) released or expected to be released;

(C) Time and date of the release or the estimated time of the expected release;

(D) Assessment of the hazard posed by the release or the expected release; and

(E) Additional information requested by the Administrator or the Administrator's authorized representative.

(iv) The Department may resume emplacement of waste in the disposal system upon written notification that the suspension has been lifted by the Administrator.

(v) If the Department discovers a condition or activity that differs significantly from what is indicated in the most recent compliance application, but does not involve conditions or activities listed in paragraph (b)(3)(ii) of this section, then the difference shall be reported, in writing, to the Administrator within 10 calendar days of its discovery.

(vi) Following receipt of notification, the Administrator will notify the Secretary in writing whether any condition or activity reported pursuant to paragraph (b)(3) this section:

(A) Does not comply with the terms of the certification; and, if it does not comply,

(B) Whether the compliance certification must be modified, suspended or revoked. The Administrator or the Administrator's authorized representative may request additional information before determining whether modification, suspension or revocation of the compliance certification is required.

(4) Not later than six months after the Administrator issues a certification, and at least annually thereafter, the Department shall report to the Administrator, in writing, any changes in conditions or activities pertaining to the disposal system that were not required to be reported by paragraph (b)(3) of this section and that differ from information contained in the most recent compliance application.

§ 194.5 Publications incorporated by reference.

(a) The following publications are incorporated into this part by reference:

(1) U.S. Nuclear Regulatory Commission, NUREG–1297 "Peer Review for High-Level Nuclear Waste Repositories," published February 1988; incorporation by reference (IBR) approved for §§ 194.22, 194.23 and 194.27.

(2) American Society of Mechanical Engineers (ASME) Nuclear Quality Assurance (NQA) Standard, NQA–1–1989 edition, "Quality Assurance Program Requirements for Nuclear Facilities;" IBR approved for § 194.22.

(3) ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989 edition "Quality Assurance Requirements for Nuclear Facility Applications;" IBR approved for § 194.22 and § 194.23.

(4) ASME NQA–3–1989 edition, "Quality Assurance Program Requirements for the Collection of Scientific and Technical Information for Site Characterization of High-Level Nuclear Waste Repositories" (excluding section 2.1 (b) and (c)); IBR approved for § 194.22.

(b) The publications listed in paragraph (a) of this section were approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected or obtained from the Air Docket, Docket No. A–92–56, room M1500 (LE131),

U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or copies may be inspected at the Office of the Federal Register, 800 N. Capitol Street NW, 7th floor, Suite 700, Washington, DC, or copies may be obtained from the following addresses:

(1) For ASME standards, contact American Society of Mechanical Engineers, 22 Law Drive, P.O. Box 2900, Fairfield, NJ 07007–2900, phone 1–800–843–2763.

(2) For Nuclear Regulatory Commission documents, contact Division of Information Support Services, Distribution Service, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or contact National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, phone 703–487–4650.

§ 194.6 Alternative provisions.

The Administrator may, by rule pursuant to 5 U.S.C. 553, substitute for any of the provisions of this part alternative provisions chosen after:

(a) The alternative provisions have been proposed for public comment in the **Federal Register** together with information describing how the alternative provisions comport with the disposal regulations, the reasons why the existing provisions of this part appear inappropriate, and the costs, risks and benefits of compliance in accordance with the alternative provisions;

(b) A public comment period of at least 120 days has been completed and public hearings have been held in New Mexico;

(c) The public comments received have been fully considered; and

(d) A notice of final rulemaking is published in the **Federal Register**.

§ 194.7 Effective date.

The criteria in this part shall be effective on April 9, 1996. The incorporation by reference of certain publications listed in the criteria is approved by the Director of the Federal Register as of April 9, 1996.

Subpart B—Compliance Certification and Re-certification Applications

§ 194.11 Completeness and accuracy of compliance applications.

Information provided to the Administrator in support of any compliance application shall be complete and accurate. The Administrator's evaluation for certification pursuant to section 8(d)(1)(B) of the WIPP LWA and evaluation for recertification pursuant to section 8(f)(2) of the WIPP LWA shall not begin until the Administrator has notified the Secretary, in writing, that a complete application in accordance with this part has been received.

§ 194.12 Submission of compliance applications.

Unless otherwise specified by the Administrator or the Administrator's authorized representative, 30 copies of any compliance application, any accompanying materials, and any amendments thereto shall be submitted in a printed form to the Administrator.

§ 194.13 Submission of reference materials.

Information may be included by reference into compliance application(s), provided that the references are clear and specific and that, unless otherwise specified by the Administrator or the Administrator's authorized representative, 10 copies of the referenced information are submitted to the Administrator. Referenced materials which are widely available in standard textbooks or reference books need not be submitted.

§ 194.14 Content of compliance certification application.

Any compliance application shall include:

(a) A current description of the natural and engineered features that may affect the performance of the disposal system. The description of the disposal system shall include, at a minimum, the following information:

(1) The location of the disposal system and the controlled area;

(2) A description of the geology, geophysics, hydrogeology, hydrology, and geochemistry of the disposal system and its vicinity and how these conditions are expected to change and interact over the regulatory time frame. Such description shall include, at a minimum:

(i) Existing fluids and fluid hydraulic potential, including brine pockets, in and near the disposal system; and

(ii) Existing higher permeability anhydrite interbeds located at or near the horizon of the waste.

(3) The presence and characteristics of potential pathways for transport of waste from the disposal system to the accessible environment including, but not limited to: Existing boreholes, solution features, breccia pipes, and other potentially permeable features, such as interbeds.

(4) The projected geophysical, hydrogeologic and geochemical conditions of the disposal system due to the presence of waste including, but not limited to, the effects of production of heat or gases from the waste.

(b) A description of the design of the disposal system including:

(1) Information on materials of construction including, but not limited to: Geologic media, structural materials, engineered barriers, general arrangement, and approximate dimensions; and

(2) Computer codes and standards that have been applied to the design and construction of the disposal system.

(c) Results of assessments conducted pursuant to this part.

(d) A description of input parameters associated with assessments conducted pursuant to this part and the basis for selecting those input parameters.

(e) Documentation of measures taken to meet the assurance requirements of this part.

(f) A description of waste acceptance criteria and actions taken to assure adherence to such criteria.

(g) A description of background radiation in air, soil and water in the vicinity of the disposal system and the procedures employed to determine such radiation.

(h) One or more topographic map(s) of the vicinity of the disposal system. The contour interval shall be sufficient to show clearly the pattern of surface water flow in the vicinity of the disposal system. The map(s) shall include standard map notations and symbols, and, in addition, shall show boundaries of the controlled area and the location of any active, inactive, and abandoned injection and withdrawal wells in the controlled area and in the vicinity of the disposal system.

(i) A description of past and current climatologic and meteorologic conditions in the vicinity of the disposal system and how these conditions are expected to change over the regulatory time frame.

(j) The information required elsewhere in this part or any additional information, analyses, tests, or records determined by the Administrator or the Administrator's authorized representative to be necessary for determining compliance with this part.

§ 194.15 Content of compliance re-certification application(s).

(a) In submitting documentation of continued compliance pursuant to section 8(f) of the WIPP LWA, the previous compliance application shall be updated to provide sufficient information for the Administrator to determine whether or not the WIPP continues to be in compliance with the disposal regulations. Updated documentation shall include:

(1) All additional geologic, geophysical, geochemical, hydrologic, and meteorologic information;

(2) All additional monitoring data, analyses and results;

(3) All additional analyses and results of laboratory experiments conducted by the Department or its contractors as part of the WIPP program;

(4) An identification of any activities or assumptions that deviate from the most recent compliance application;

(5) A description of all waste emplaced in the disposal system since the most recent compliance certification or re-certification application. Such description shall consist of a description of the waste characteristics and waste components identified in §§ 194.24(b)(1) and 194.24(b)(2);

(6) Any significant information not previously included in a compliance certification or re-certification application related to whether the disposal system continues to be in compliance with the disposal regulations; and

(7) Any additional information requested by the Administrator or the Administrator's authorized representative.

(b) To the extent that information required for a re-certification of compliance remains valid and has been submitted in previous certification or re-certification application(s), such information need not be duplicated in subsequent applications; such information may be summarized and referenced.

Subpart C—Compliance Certification and Re-certification

General Requirements

§ 194.21 Inspections.

(a) The Administrator or the Administrator's authorized representative(s) shall, at any time:

(1) Be afforded unfettered and unannounced access to inspect any area of the WIPP, and any locations performing activities that provide information relevant to compliance application(s), to which the Department has rights of access. Such access shall be equivalent to access afforded Department employees upon presentation of credentials and other required documents.

(2) Be allowed to obtain samples, including split samples, and to monitor and measure aspects of the disposal system and the waste proposed for disposal in the disposal system.

(b) Records (including data and other information in any form) kept by the Department pertaining to the WIPP shall be made available to the Administrator or the Administrator's authorized representative upon request. If requested records are not immediately available, they shall be delivered within 30 calendar days of the request.

(c) The Department shall, upon request by the Administrator or the Administrator's authorized representative, provide permanent, private office space that is accessible to the disposal system. The office space shall be for the exclusive use of the Administrator or the Administrator's authorized representative(s).

(d) The Administrator or the Administrator's authorized representative(s) shall comply with applicable access control measures for security, radiological protection, and personal safety when conducting activities pursuant to this section.

§ 194.22 Quality assurance.

(a)(1) As soon as practicable after April 9, 1996, the Department shall adhere to a quality assurance program that implements the requirements of ASME NQA–1–1989 edition, ASME NQA–2a-1990 addenda, part 2.7, to ASME NQA–2–1989 edition, and ASME NQA–3–1989 edition (excluding Section 2.1 (b) and (c), and Section 17.1). (Incorporation by reference as specified in § 194.5.)

(2) Any compliance application shall include information which demonstrates that the quality assurance program required pursuant to paragraph (a)(1) of this section has been established and executed for:

(i) Waste characterization activities and assumptions;

(ii) Environmental monitoring, monitoring of the performance of the disposal system, and sampling and analysis activities;

(iii) Field measurements of geologic factors, ground water, meteorologic, and topographic characteristics;

(iv) Computations, computer codes, models and methods used to demonstrate compliance with the disposal regulations in accordance with the provisions of this part;

(v) Procedures for implementation of expert judgment elicitation used to support applications for certification or re-certification of compliance;

(vi) Design of the disposal system and actions taken to ensure compliance with design specifications;

(vii) The collection of data and information used to support compliance application(s); and

(viii) Other systems, structures, components, and activities important to the containment of waste in the disposal system.

(b) Any compliance application shall include information which demonstrates that data and information collected prior to the implementation of the quality assurance program required pursuant to paragraph (a)(1) of this section have been qualified in accordance with an alternate methodology, approved by the Administrator or the Administrator's authorized representative, that employs one or more of the following methods: Peer review, conducted in a manner that is compatible with NUREG–1297, "Peer Review for High-Level Nuclear Waste Repositories," published February 1988 (incorporation by reference as specified in § 194.5); corroborating data; confirmatory testing; or a quality assurance program that is equivalent in effect to ASME NQA–1–1989 edition, ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989 edition, and ASME NQA–3–1989 edition (excluding Section 2.1 (b) and (c) and Section 17.1). (Incorporation by reference as specified in § 194.5.)

(c) Any compliance application shall provide, to the extent practicable, information which describes how all data used to support the compliance application have been assessed for their quality characteristics, including:

(1) Data accuracy, i.e., the degree to which data agree with an accepted reference or true value;

(2) Data precision, i.e., a measure of the mutual agreement between comparable data gathered or developed under similar conditions expressed in terms of a standard deviation;

(3) Data representativeness, i.e., the degree to which data accurately and precisely represent a characteristic of a population, a parameter, variations at a sampling point, or environmental conditions;

(4) Data completeness, i.e., a measure of the amount of valid data obtained compared to the amount that was expected; and

(5) Data comparability, i.e., a measure of the confidence with which one data set can be compared to another.

(d) Any compliance application shall provide information which demonstrates how all data are qualified for use in the demonstration of compliance.

(e) The Administrator will verify appropriate execution of quality assurance programs through inspections, record reviews and record keeping requirements, which may include, but may not be limited to, surveillance, audits and management systems reviews.

§ 194.23 Models and computer codes.

(a) Any compliance application shall include:

(1) A description of the conceptual models and scenario construction used to support any compliance application.

(2) A description of plausible, alternative conceptual model(s) seriously considered but not used to support such application, and an explanation of the reason(s) why such model(s) was not deemed to accurately portray performance of the disposal system.

(3) Documentation that:

(i) Conceptual models and scenarios reasonably represent possible future states of the disposal system;

(ii) Mathematical models incorporate equations and boundary conditions which reasonably represent the mathematical formulation of the conceptual models;

(iii) Numerical models provide numerical schemes which enable the mathematical models to obtain stable solutions;

(iv) Computer models accurately implement the numerical models; i.e., computer codes are free of coding errors and produce stable solutions;

(v) Conceptual models have undergone peer review according to § 194.27.

(b) Computer codes used to support any compliance application shall be documented in a manner that complies with the requirements of ASME NQA–2a–1990 addenda, part 2.7, to ASME NQA–2–1989 edition. (Incorporation by reference as specified in § 194.5.)

(c) Documentation of all models and computer codes included as part of any compliance application performance assessment calculation shall be provided. Such documentation shall include, but shall not be limited to:

(1) Descriptions of the theoretical backgrounds of each model and the method of analysis or assessment;

(2) General descriptions of the models; discussions of the limits of applicability of each model; detailed instructions for executing the computer codes, including hardware and software requirements, input and output formats with explanations of each input and output variable and parameter (e.g., parameter name and units); listings of input and output files from a sample computer run; and reports on code verification, benchmarking, validation, and quality assurance procedures;

(3) Detailed descriptions of the structure of computer codes and complete listings of the source codes;

(4) Detailed descriptions of data collection procedures, sources of data, data reduction and analysis, and code input parameter development;

(5) Any necessary licenses; and

(6) An explanation of the manner in which models and computer codes incorporate the effects of parameter correlation.

(d) The Administrator or the Administrator's authorized representative may verify the results of computer simulations used to support any compliance application by performing independent simulations. Data files, source codes, executable versions of computer software for each model, other material or information needed to permit the Administrator or the Administrator's authorized representative to perform independent simulations, and access to necessary hardware to perform such simulations, shall be provided within 30 calendar days of a request by the Administrator or the Administrator's authorized representative.

§ 194.24 Waste characterization.

(a) Any compliance application shall describe the chemical, radiological and physical composition of all existing waste proposed for disposal in the disposal system. To the extent practicable, any compliance application shall also describe the chemical, radiological and physical composition of to-be-generated waste proposed for disposal in the disposal system. These descriptions shall include a list of waste components and their approximate quantities in the waste. This list may be derived from process knowledge, current non-destructive examination/assay, or other information and methods.

(b) The Department shall submit in the compliance certification application the results of an analysis which substantiates:

(1) That all waste characteristics influencing containment of waste in the disposal system have been identified and assessed for their impact on disposal system performance. The characteristics to be analyzed shall include, but shall not be limited to: Solubility; formation of colloidal suspensions containing radionuclides; production of gas from the waste; shear strength; compactability; and other waste-related inputs into the computer models that are used in the performance assessment.

(2) That all waste components influencing the waste characteristics identified in paragraph (b)(1) of this section have been identified and assessed for their impact on disposal system performance. The components to be analyzed shall include, but shall not be limited to: metals; cellulosics; chelating agents; water and other liquids; and activity in curies of each isotope of the radionuclides present.

(3) Any decision to exclude consideration of any waste characteristic or waste component because such characteristic or component is not expected to significantly influence the containment of the waste in the disposal system.

(c) For each waste component identified and assessed pursuant to paragraph (b) of this section, the Department shall specify the limiting value (expressed as an upper or lower limit of mass, volume, curies, concentration, etc.), and the associated uncertainty (i.e., margin of error) for each limiting value, of the total inventory of such waste proposed for disposal in the disposal system. Any compliance application shall:

(1) Demonstrate that, for the total inventory of waste proposed for disposal in the disposal system, WIPP complies with the numeric requirements of § 194.34 and § 194.55 for the upper or lower limits (including the associated uncertainties), as appropriate, for each waste component identified in paragraph (b)(2) of this section, and for the plausible combinations of upper and lower limits of such waste components that would result in the greatest estimated release.

(2) Identify and describe the method(s) used to quantify the limits of waste components identified in paragraph (b)(2) of this section.

(3) Provide information which demonstrates that the use of process knowledge to quantify components in waste for disposal conforms with the quality assurance requirements found in § 194.22.

(4) Provide information which demonstrates that a system of controls has been and will continue to be implemented to confirm that the total amount of each waste component that will be emplaced in the disposal system will not exceed the upper limiting value or fall below the lower limiting value described in the introductory text of paragraph (c) of this section. The system of controls shall include, but shall not be limited to: Measurement; sampling; chain of custody records; record keeping systems; waste loading schemes used; and other documentation.

(5) Identify and describe such controls delineated in paragraph (c)(4) of this section and confirm that they are applied in accordance with the quality assurance requirements found in § 194.22.

(d) The Department shall include a waste loading scheme in any compliance application, or else performance assessments conducted pursuant to § 194.32 and compliance assessments conducted pursuant to § 194.54 shall assume random placement of waste in the disposal system.

(e) Waste may be emplaced in the disposal system only if the emplaced components of such waste will not cause:

(1) The total quantity of waste in the disposal system to exceed the upper limiting value, including the associated uncertainty, described in the introductory text to paragraph (c) of this section; or

(2) The total quantity of waste that will have been emplaced in the disposal system, prior to closure, to fall below the lower limiting value, including the associated uncertainty, described in the introductory text to paragraph (c) of this section.

(f) Waste emplacement shall conform to the assumed waste loading conditions, if any, used in performance assessments conducted pursuant to § 194.32 and compliance assessments conducted pursuant to § 194.54.

(g) The Department shall demonstrate in any compliance application that the total inventory of waste emplaced in the disposal system complies with the limitations on transuranic waste disposal described in the WIPP LWA.

(h) The Administrator will use inspections and records reviews, such as audits, to verify compliance with this section.

§ 194.25 Future state assumptions.

(a) Unless otherwise specified in this part or in the disposal regulations, performance assessments and compliance assessments conducted pursuant the provisions of this part to demonstrate compliance with § 191.13, § 191.15 and part 191, subpart C shall assume that characteristics of the future remain what they are at the time the compliance application is prepared, provided that such characteristics are not related to hydrogeologic, geologic or climatic conditions.

(b) In considering future states pursuant to this section, the Department shall document in any compliance application, to the extent practicable, effects of potential future hydrogeologic, geologic and climatic conditions on the disposal system over the regulatory time frame. Such documentation shall be part of the activities undertaken pursuant to § 194.14, Content of compliance certification application; § 194.32, Scope of performance assessments; and § 194.54, Scope of compliance assessments.

(1) In considering the effects of hydrogeologic conditions on the disposal system, the Department shall document in any compliance application, to the extent practicable, the effects of potential changes to hydrogeologic conditions.

(2) In considering the effects of geologic conditions on the disposal system, the Department shall document in any compliance application, to the extent practicable, the effects of potential changes to geologic conditions, including, but not limited to: Dissolution; near surface geomorphic features and processes; and related subsidence in the geologic units of the disposal system.

(3) In considering the effects of climatic conditions on the disposal system, the Department shall document in any compliance application, to the extent practicable, the effects of potential changes to future climate cycles of increased precipitation (as compared to present conditions).

§ 194.26 Expert judgment.

(a) Expert judgment, by an individual expert or panel of experts, may be used to support any compliance application, provided that expert judgment does not substitute for information that could reasonably be obtained through data collection or experimentation.

(b) Any compliance application shall:

(1) Identify any expert judgments used to support the application and shall identify experts (by name and employer) involved in any expert judgment elicitation processes used to support the application.

(2) Describe the process of eliciting expert judgment, and document the results of expert judgment elicitation processes and the reasoning behind those results. Documentation of interviews used to elicit judgments from experts, the questions or issues presented for elicitation of expert judgment, background information provided to experts, and deliberations and formal interactions among experts shall be provided. The opinions of all experts involved in each elicitation process shall be provided whether the opinions are used to support compliance applications or not.

(3) Provide documentation that the following restrictions and guidelines have been applied to any selection of individuals used to elicit expert judgments:

(i) Individuals who are members of the team of investigators requesting the judgment or the team of investigators who will use the judgment were not selected; and

(ii) Individuals who maintain, at any organizational level, a supervisory role or who are supervised by those who will utilize the judgment were not selected.

(4) Provide information which demonstrates that:

(i) The expertise of any individual involved in expert judgment elicitation comports with the level of knowledge required by the questions or issues presented to that individual; and

(ii) The expertise of any expert panel, as a whole, involved in expert judgment elicitation comports with the level and variety of knowledge required by the questions or issues presented to that panel.

(5) Explain the relationship among the information and issues presented to experts prior to the elicitation process, the elicited judgment of any expert panel or individual, and the purpose for which the expert judgment is being used in compliance applications(s).

(6) Provide documentation that the initial purpose for which expert judgment was intended, as presented to the expert panel, is consistent with the purpose for which this judgment was used in compliance application(s).

(7) Provide documentation that the following restrictions and guidelines have been applied in eliciting expert judgment:

(i) At least five individuals shall be used in any expert elicitation process, unless there is a lack or unavailability of experts and a documented rationale is provided that explains why fewer than five individuals were selected.

(ii) At least two-thirds of the experts involved in an elicitation shall consist of individuals who are not employed directly by the Department or by the Department's contractors, unless the Department can demonstrate and document that there is a lack or unavailability of qualified independent experts. If so demonstrated, at least one-third of the experts involved in an elicitation shall consist of individuals who are not employed directly by the Department or by the Department's contractors.

(c) The public shall be afforded a reasonable opportunity to present its scientific and technical views to expert panels as input to any expert elicitation process.

§ 194.27 Peer review.

(a) Any compliance application shall include documentation of peer review that has been conducted, in a manner required by this section, for:

(1) Conceptual models selected and developed by the Department;

(2) Waste characterization analyses as required in § 194.24(b); and

(3) Engineered barrier evaluation as required in § 194.44.

(b) Peer review processes required in paragraph (a) of this section, and conducted subsequent to the promulgation of this part, shall be conducted in a manner that is compatible with NUREG–1297, "Peer Review for High-Level Nuclear Waste Repositories," published February 1988. (Incorporation by reference as specified in § 194.5.)

(c) Any compliance application shall:

(1) Include information that demonstrates that peer review processes required in paragraph (a) of this section, and conducted prior to the implementation of the promulgation of this part, were conducted in accordance with an alternate process substantially equivalent in effect to NUREG–1297 and approved by the Administrator or the Administrator's authorized representative; and

(2) Document any peer review processes conducted in addition to those required pursuant to paragraph (a) of this section. Such documentation shall include formal requests, from the Department to outside review groups or individuals, to review or comment on any information used to support compliance applications, and the responses from such groups or individuals.

Containment Requirements

§ 194.31 Application of release limits.

The release limits shall be calculated according to part 191, appendix A of this chapter, using the total activity, in curies, that will exist in the disposal system at the time of disposal.

§ 194.32 Scope of performance assessments.

(a) Performance assessments shall consider natural processes and events, mining, deep drilling, and shallow drilling that may affect the disposal system during the regulatory time frame.

(b) Assessments of mining effects may be limited to changes in the hydraulic conductivity of the hydrogeologic units of the disposal system from excavation mining for natural resources. Mining shall be assumed to occur with a one in 100 probability in each century of the regulatory time frame. Performance assessments shall assume that mineral deposits of those resources, similar in quality and type to those resources currently extracted from the Delaware Basin, will be completely removed from the controlled area during the century in which such mining is randomly calculated to occur. Complete removal of such mineral resources shall be assumed to occur only once during the regulatory time frame.

(c) Performance assessments shall include an analysis of the effects on the disposal system of any activities that occur in the vicinity of the disposal system prior to disposal and are expected to occur in the vicinity of the disposal system soon after disposal. Such activities shall include, but shall not be limited to, existing boreholes and the development of any existing leases that can be reasonably expected to be developed in the near future, including boreholes and leases that may be used for fluid injection activities.

(d) Performance assessments need not consider processes and events that have less than one chance in 10,000 of occurring over 10,000 years.

(e) Any compliance application(s) shall include information which:

(1) Identifies all potential processes, events or sequences and combinations of processes and events that may occur during the regulatory time frame and may affect the disposal system;

(2) Identifies the processes, events or sequences and combinations of processes and events included in performance assessments; and

(3) Documents why any processes, events or sequences and combinations of processes and events identified pursuant to paragraph (e)(1) of this section were not included in performance assessment results provided in any compliance application.

§ 194.33 Consideration of drilling events in performance assessments.

(a) Performance assessments shall examine deep drilling and shallow drilling that may potentially affect the disposal system during the regulatory time frame.

(b) The following assumptions and process shall be used in assessing the likelihood and consequences of drilling events, and the results of such process shall be documented in any compliance application:

(1) Inadvertent and intermittent intrusion by drilling for resources (other than those resources provided by the waste in the disposal system or engineered barriers designed to isolate such waste) is the most severe human intrusion scenario.

(2) In performance assessments, drilling events shall be assumed to occur in the Delaware Basin at random intervals in time and space during the regulatory time frame.

(3) The frequency of deep drilling shall be calculated in the following manner:

(i) Identify deep drilling that has occurred for each resource in the Delaware Basin over the past 100 years prior to the time at which a compliance application is prepared.

(ii) The total rate of deep drilling shall be the sum of the rates of deep drilling for each resource.

(4) The frequency of shallow drilling shall be calculated in the following manner:

(i) Identify shallow drilling that has occurred for each resource in the Delaware Basin over the past 100 years prior to the time at which a compliance application is prepared.

(ii) The total rate of shallow drilling shall be the sum of the rates of shallow drilling for each resource.

(iii) In considering the historical rate of all shallow drilling, the Department may, if justified, consider only the historical rate of shallow drilling for resources of similar type and quality to those in the controlled area.

(c) Performance assessments shall document that in analyzing the consequences of drilling events, the Department assumed that:

(1) Future drilling practices and technology will remain consistent with practices in the Delaware Basin at the time a compliance application is prepared. Such future drilling practices shall include, but shall not be limited to: The types and amounts of drilling fluids; borehole depths, diameters, and seals; and the fraction of such boreholes that are sealed by humans; and

(2) Natural processes will degrade or otherwise affect the capability of boreholes to transmit fluids over the regulatory time frame.

(d) With respect to future drilling events, performance assessments need not analyze the effects of techniques used for resource recovery subsequent to the drilling of the borehole.

§ 194.34 Results of performance assessments.

(a) The results of performance assessments shall be assembled into "complementary, cumulative distribution functions" (CCDFs) that represent the probability of exceeding various levels of cumulative release caused by all significant processes and events.

(b) Probability distributions for uncertain disposal system parameter values used in performance assessments shall be developed and documented in any compliance application.

(c) Computational techniques, which draw random samples from across the entire range of the probability distributions developed pursuant to paragraph (b) of this section, shall be used in generating CCDFs and shall be documented in any compliance application.

(d) The number of CCDFs generated shall be large enough such that, at cumulative releases of 1 and 10, the maximum CCDF generated exceeds the 99th percentile of the population of CCDFs with at least a 0.95 probability. Values of cumulative release shall be calculated according to Note 6 of Table 1, Appendix A of Part 191 of this chapter.

(e) Any compliance application shall display the full range of CCDFs generated.

(f) Any compliance application shall provide information which demonstrates that there is at least a 95 percent level of statistical confidence that the mean of the population of CCDFs meets the containment requirements of § 191.13 of this chapter.

Assurance Requirements

§ 194.41 Active institutional controls.

(a) Any compliance application shall include detailed descriptions of proposed active institutional controls, the controls' location, and the period of time the controls are proposed to remain active. Assumptions pertaining to active institutional controls and their effectiveness in terms of preventing or reducing radionuclide releases shall be supported by such descriptions.

(b) Performance assessments shall not consider any contributions from active institutional controls for more than 100 years after disposal.

§ 194.42 Monitoring.

(a) The Department shall conduct an analysis of the effects of disposal system parameters on the containment of waste in the disposal system and shall include the results of such analysis in any compliance application. The results of the analysis shall be used in developing plans for pre-closure and post-closure monitoring required pursuant to paragraphs (c) and (d) of this section. The disposal system parameters analyzed shall include, at a minimum:

(1) Properties of backfilled material, including porosity, permeability, and degree of compaction and reconsolidation;

(2) Stresses and extent of deformation of the surrounding roof, walls, and floor of the waste disposal room;

(3) Initiation or displacement of major brittle deformation features in the roof or surrounding rock;

(4) Ground water flow and other effects of human intrusion in the vicinity of the disposal system;

(5) Brine quantity, flux, composition, and spatial distribution;

(6) Gas quantity and composition; and

(7) Temperature distribution.

(b) For all disposal system parameters analyzed pursuant to paragraph (a) of this section, any compliance application shall document and substantiate the decision not to monitor a particular disposal system parameter because that parameter is considered to be insignificant to the containment of waste in the disposal system or to the verification of predictions about the future performance of the disposal system.

(c) Pre-closure monitoring. To the extent practicable, pre-closure monitoring shall be conducted of significant disposal system parameter(s) as identified by the analysis conducted pursuant to paragraph (a) of this section. A disposal system parameter shall be considered significant if it affects the system's ability to contain waste or the ability to verify predictions about the future performance of the disposal system. Such monitoring shall begin as soon as practicable; however, in no case shall waste be emplaced in the disposal system prior to the implementation of pre-closure monitoring. Pre-closure monitoring shall end at the time at which the shafts of the disposal system are backfilled and sealed.

(d) Post-closure monitoring. The disposal system shall, to the extent practicable, be monitored as soon as practicable after the shafts of the disposal system are backfilled and sealed to detect substantial and detrimental deviations from expected performance and shall end when the Department can demonstrate to the satisfaction of the Administrator that there are no significant concerns to be addressed by further monitoring. Post-closure monitoring shall be complementary to monitoring required pursuant to applicable federal hazardous waste regulations at parts 264, 265, 268, and 270 of this chapter and shall be conducted with techniques that do not jeopardize the containment of waste in the disposal system.

(e) Any compliance application shall include detailed pre-closure and post-closure monitoring plans for monitoring the performance of the disposal system. At a minimum, such plans shall:

(1) Identify the parameters that will be monitored and how baseline values will be determined;

(2) Indicate how each parameter will be used to evaluate any deviations from the expected performance of the disposal system; and

(3) Discuss the length of time over which each parameter will be monitored to detect deviations from expected performance.

§ 194.43 Passive institutional controls.

(a) Any compliance application shall include detailed descriptions of the measures that will be employed to preserve knowledge about the location, design, and contents of the disposal system. Such measures shall include:

(1) Identification of the controlled area by markers that have been designed and will be fabricated and emplaced to be as permanent as practicable;

(2) Placement of records in the archives and land record systems of local, State, and Federal governments, and international archives, that would likely be consulted by individuals in search of unexploited resources. Such records shall identify:

(i) The location of the controlled area and the disposal system;

(ii) The design of the disposal system;

(iii) The nature and hazard of the waste;

(iv) Geologic, geochemical, hydrologic, and other site data pertinent to the containment of waste in the disposal system, or the location of such information; and

(v) The results of tests, experiments, and other analyses relating to backfill of excavated areas, shaft sealing, waste interaction with the disposal system, and other tests, experiments, or analyses pertinent to the containment of waste in the disposal system, or the location of such information.

(3) Other passive institutional controls practicable to indicate the dangers of the waste and its location.

(b) Any compliance application shall include the period of time passive institutional controls are expected to endure and be understood.

(c) The Administrator may allow the Department to assume passive institutional control credit, in the form of reduced likelihood of human intrusion, if the Department demonstrates in the compliance application that such credit is justified because the passive institutional controls are expected to endure and be understood by potential intruders for the time period approved by the Administrator. Such credit, or a smaller credit as determined by the Administrator, cannot be used for more than several hundred years and may decrease over time. In no case, however, shall passive institutional controls be assumed to eliminate the likelihood of human intrusion entirely.

§ 194.44 Engineered barriers.

(a) Disposal systems shall incorporate engineered barrier(s) designed to prevent or substantially delay the movement of water or radionuclides toward the accessible environment.

(b) In selecting any engineered barrier(s) for the disposal system, the Department shall evaluate the benefit and detriment of engineered barrier alternatives, including but not limited to: Cementation, shredding, supercompaction, incineration, vitrification, improved waste canisters, grout and bentonite backfill, melting of metals, alternative configurations of waste placements in the disposal system, and alternative disposal system dimensions. The results of this evaluation shall be included in any compliance application and shall be used to justify the selection and rejection of each engineered barrier evaluated.

(c)(1) In conducting the evaluation of engineered barrier alternatives, the following shall be considered, to the extent practicable:

(i) The ability of the engineered barrier to prevent or substantially delay the movement of water or waste toward the accessible environment;

(ii) The impact on worker exposure to radiation both during and after incorporation of engineered barriers;

(iii) The increased ease or difficulty of removing the waste from the disposal system;

(iv) The increased or reduced risk of transporting the waste to the disposal system;

(v) The increased or reduced uncertainty in compliance assessment;

(vi) Public comments requesting specific engineered barriers;

(vii) The increased or reduced total system costs;

(viii) The impact, if any, on other waste disposal programs from the incorporation of engineered barriers (e.g., the extent to which the incorporation of engineered barriers affects the volume of waste);

(ix) The effects on mitigating the consequences of human intrusion.

(2) If, after consideration of one or more of the factors in paragraph (c)(1) of this section, the Department concludes that an engineered barrier considered within the scope of the evaluation should be rejected without evaluating the remaining factors in paragraph (c)(1) of this section, then any compliance application shall provide a justification for this rejection explaining why the evaluation of the remaining factors would not alter the conclusion.

(d) In considering the ability of engineered barriers to prevent or substantially delay the movement of water or radionuclides toward the accessible environment, the benefit and detriment of engineered barriers for existing waste already packaged, existing waste not yet packaged, existing waste in need of re-packaging, and to-be-generated waste shall be considered separately and described.

(e) The evaluation described in paragraphs (b), (c) and (d) of this section shall consider engineered barriers alone and in combination.

§ 194.45 Consideration of the presence of resources.

Any compliance application shall include information that demonstrates that the favorable characteristics of the disposal system compensate for the presence of resources in the vicinity of the disposal system and the likelihood of the disposal system being disturbed as a result of the presence of those resources. If performance assessments predict that the disposal system meets the containment requirements of § 191.13 of this chapter, then the Agency will assume that the requirements of this section and § 191.14(e) of this chapter have been fulfilled.

§ 194.46 Removal of waste.

Any compliance application shall include documentation which demonstrates that removal of waste from the disposal system is feasible for a reasonable period of time after disposal. Such documentation shall include an analysis of the technological feasibility of mining the sealed disposal system, given technology levels at the time a compliance application is prepared.

Individual and Ground-water Protection Requirements

§ 194.51 Consideration of protected individual.

Compliance assessments that analyze compliance with § 191.15 of this chapter shall assume that an individual resides at the single geographic point on the surface of the accessible environment where that individual would be expected to receive the highest dose from radionuclide releases from the disposal system.

§ 194.52 Consideration of exposure pathways.

In compliance assessments that analyze compliance with § 191.15 of this chapter, all potential exposure pathways from the disposal system to individuals shall be considered. Compliance assessments with part 191, subpart C and § 191.15 of this chapter shall assume that individuals consume 2 liters per day of drinking water from any underground source of drinking water in the accessible environment.

§ 194.53 Consideration of underground sources of drinking water.

In compliance assessments that analyze compliance with part 191, subpart C of this chapter, all underground sources of drinking water in the accessible environment that are expected to be affected by the disposal system over the regulatory time frame shall be considered. In determining whether underground sources of drinking water are expected to be affected by the disposal system, underground interconnections among bodies of surface water, ground water, and underground sources of drinking water shall be considered.

§ 194.54 Scope of compliance assessments.

(a) Any compliance application shall contain compliance assessments required pursuant to this part. Compliance assessments shall include information which:

(1) Identifies potential processes, events, or sequences of processes and events that may occur over the regulatory time frame;

(2) Identifies the processes, events, or sequences of processes and events included in compliance assessment results provided in any compliance application; and

(3) Documents why any processes, events, or sequences of processes and events identified pursuant to paragraph (a)(1) of this section were not included in compliance assessment results provided in any compliance application.

(b) Compliance assessments of undisturbed performance shall include the effects on the disposal system of:

(1) Existing boreholes in the vicinity of the disposal system, with attention to the pathways they provide for migration of radionuclides from the site; and

(2) Any activities that occur in the vicinity of the disposal system prior to or soon after disposal. Such activities shall include, but shall not be limited to: Existing boreholes and the development of any existing leases that can be reasonably expected to be developed in the near future, including boreholes and leases that may be used for fluid injection activities.

§ 194.55 Results of compliance assessments.

(a) Compliance assessments shall consider and document uncertainty in the performance of the disposal system.

(b) Probability distributions for uncertain disposal system parameter values used in compliance assessments shall be developed and documented in any compliance application.

(c) Computational techniques which draw random samples from across the entire range of values of each probability distribution developed pursuant to paragraph (b) of this section shall be used to generate a range of:

(1) Estimated committed effective doses received from all pathways pursuant to § 194.51 and § 194.52;

(2) Estimated radionuclide concentrations in USDWs pursuant to § 194.53; and

(3) Estimated dose equivalent received from USDWs pursuant to § 194.52 and § 194.53.

(d) The number of estimates generated pursuant to paragraph (c) of this section shall be large enough such that the maximum estimates of doses and concentrations generated exceed the 99th percentile of the population of estimates with at least a 0.95 probability.

(e) Any compliance application shall display:

(1) The full range of estimated radiation doses; and

(2) The full range of estimated radionuclide concentrations.

(f) Any compliance application shall document that there is at least a 95 percent level of statistical confidence that the mean and the median of the range of estimated radiation doses and the range of estimated radionuclide concentrations meet the requirements of § 191.15 and part 191, subpart C of this chapter, respectively.

Subpart D—Public Participation

§ 194.61 Advance notice of proposed rulemaking for certification.

(a) Upon receipt of a compliance application submitted pursuant to section 8(d)(1) of the WIPP LWA and § 194.11, the Agency will publish in the **Federal Register** an Advance Notice of Proposed Rulemaking announcing that a compliance application has been received, soliciting comment on such application, and announcing the Agency's intent to conduct a rulemaking to certify whether the WIPP facility will comply with the disposal regulations.

(b) A copy of the compliance application will be made available for inspection in Agency dockets established pursuant to § 194.67.

(c) The notice will provide a public comment period of 120 days.

(d) A public hearing concerning the notice will be held if a written request is received by the Administrator or the Administrator's authorized representative within 30 calendar days of the date of publication pursuant to paragraph (a) of this section.

(e) Any comments received on the notice will be made available for inspection in the dockets established pursuant to § 194.67.

(f) Any comments received on the notice will be provided to the Department and the Department may submit to the Agency written responses to the comments.

§ 194.62 Notice of proposed rulemaking for certification.

(a) The Administrator will publish a Notice of Proposed Rulemaking in the **Federal Register** announcing the Administrator's proposed decision, pursuant to section 8(d)(1) of the WIPP LWA, whether to issue a certification that the WIPP facility will comply with the disposal regulations and soliciting comment on the proposal.

(b) The notice will provide a public comment period of at least 120 days.

(c) The notice will announce public hearings in New Mexico.

(d) Any comments received on the notice will be made available for inspection in the dockets established pursuant to § 194.67.

§ 194.63 Final rule for certification.

(a) The Administrator will publish a Final Rule in the **Federal Register** announcing the Administrator's decision, pursuant to section 8(d)(1) of the WIPP LWA, whether to issue a certification that the WIPP facility will comply with the disposal regulations.

(b) A document summarizing significant comments and issues arising from comments received on the Notice of Proposed Rulemaking, as well as the Administrator's response to such significant comments and issues, will be prepared and will be made available for inspection in the dockets established pursuant to § 194.67.

§ 194.64 Documentation of continued compliance.

(a) Upon receipt of documentation of continued compliance with the disposal regulations pursuant to section 8(f) of the WIPP LWA and § 194.11, the Administrator will publish a notice in the **Federal Register** announcing that such documentation has been received, soliciting comment on such documentation, and announcing the Administrator's intent to determine whether or not the WIPP facility continues to be in compliance with the disposal regulations.

(b) Copies of documentation of continued compliance received by the Administrator will be made available for inspection in the dockets established pursuant to § 194.67.

(c) The notice will provide a public comment period of at least 30 days after publication pursuant to paragraph (a) of this section.

(d) Any comments received on such notice will be made available for public inspection in the dockets established pursuant to § 194.67.

(e) Upon completion of review of the documentation of continued compliance with the disposal regulations, the Administrator will publish a notice in the **Federal Register** announcing the Administrator's decision whether or not to re-certify the WIPP facility.

§ 194.65 Notice of proposed rulemaking for modification or revocation.

(a) If the Administrator determines that any changes in activities or conditions pertaining to the disposal system depart significantly from the most recent compliance application, the Agency will publish a Notice of Proposed Rulemaking in the **Federal Register** announcing the Administrator's proposed decision on modification or revocation, and soliciting comment on the proposal.

(b) Any comments received on the notice will be made available for inspection in the dockets established pursuant to § 194.67.

§ 194.66 Final rule for modification or revocation.

(a) The Administrator will publish a Final Rule in the **Federal Register** announcing the Administrator's decision on modification or revocation.

(b) A document summarizing significant comments and issues arising from comments received on the Notice of Proposed Rulemaking as well as the Administrator's response to such significant comments and issues will be prepared and will be made available for inspection in the dockets established pursuant to § 194.67.

§ 194.67 Dockets.

The Agency will establish and maintain dockets in the State of New Mexico and Washington, DC. The dockets will consist of all relevant, significant information received from outside parties and all significant information considered by the Administrator in certifying whether the WIPP facility will comply with the disposal regulations, in certifying whether or not the WIPP facility continues to be in compliance with the disposal regulations, and in determining whether compliance certification should be modified, suspended or revoked.

[FR Doc. 96–2721 Filed 2–8–96; 8:45 am]

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Federal Register

Friday
February 9, 1996

Part VII

Environmental Protection Agency

Technical Correction; Final National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5411–8]

Technical Correction; Final National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities

AGENCY: Environmental Protection Agency.

ACTION: Corrections; technical amendments: deadline extensions for applicants under the storm water multi-sector general permit; and Notice of final NPDES storm water general permit for Alaska.

SUMMARY: This action corrects typographical errors and inadvertent omissions in the text of "Final National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities" (MSGP) which was published on Friday, September 29, 1995.

This action also provides notice of deadline extensions for submittal of a Notice of Intent (NOI) to be covered by the MSGP and the development and implementation of MSGP storm water pollution prevention plans (SWPPP). The deadline extension provides additional time for applicants to review MSGP requirements and to decide whether they wish to seek coverage under the MSGP or the applicable baseline general permit.

This action also provides notice for the final NPDES MSGP for storm water discharges associated with industrial activity in the state of Alaska.

EFFECTIVE DATE: Today's corrections are effective February 9, 1996. In accordance with 40 CFR 23.2, EPA is now explicitly providing that the permits shall be considered final for the purposes of judicial review at 1 p.m. (Eastern time) on October 13, 1995.

FOR FURTHER INFORMATION CONTACT: Marilyn Fonseca at 202–260–0592.

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedure Act provides that the required publication or service of a substantive rule shall be made not less than 30 days before its effective date except, as relevant here, (1) for a substantive rule which grants or recognizes an exemption or relieves a restriction or (2) when the agency finds and publishes good cause for foregoing delayed effectiveness. To the extent general permits may be substantive rule, the deadline extensions in today's notice relieve permit applicants from obligations associated with those deadlines. Similarly, EPA also has determined that good cause exists for making the corrections in today's notice effective immediately because the changes are purely technical in nature. Finally, when the multi sector permits were published on September 29, 1995, EPA neglected to explicitly provide a date on which the permits would be considered final for the purposes of judicial review.

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I. Introduction

On September 29, 1995, (60 FR 50804) EPA published final NPDES Multi-Sector General Permits (MSGP) for storm water discharges associated with industrial activity in the following areas: the States of Arizona, Florida, Idaho, Louisiana, Maine, Massachusetts, New Hampshire, New Mexico, Oklahoma, and Texas; the District of Columbia; Johnston Atoll, and Midway and Wake Islands; the Commonwealth of Puerto Rico; Federal Indian Reservations in Alaska, Arizona, California, Connecticut, Idaho, Louisiana, Maine, Massachusetts, Nevada, New Hampshire, New Mexico, Oklahoma, Oregon, Rhode Island, Texas, Utah (only the Navajo and Goshute Reservations), Vermont, and Washington; and Federal facilities located in Arizona, the Commonwealth of Puerto Rico, the District of Columbia, Delaware, Idaho, Johnston Atoll, Midway and Wake Islands, Vermont, and Washington.

Today's notice corrects typographical errors, and inadvertent omissions in the text of the MSGP as well as clarifies the fact sheet to the permit. Today's notice also extends deadlines for the submittal of a Notice of Intent (NOI) to be covered by the MSGP and the development and implementation of required Storm Water Pollution Prevention Plans (SWPPPs). Finally, this action provides notice for the final NPDES storm water MSGP for storm water discharges associated with industrial activity in the state of Alaska.

II. Deadlines

Sections II.A.5. and IV.A.7. of the permit, authorize the Director to extend deadlines for certain actions required of individual permittees. EPA has received a number of requests from applicants to extend the MSGP deadlines for submittal of the NOI. After careful consideration of the deadlines for submitting NOIs and developing the storm water pollution prevention plan required by the MSGP, EPA is extending the deadlines for the submittal of an NOI to be covered by the storm water MSGP and the development of the SWPPP. This deadline extension will provide MSGP applicants more time to study the sector specific requirements in the permit and to decide whether they wish to seek coverage under the MSGP or the baseline general permit. The new deadline for submittal of an NOI to be covered by the MSGP is March 29, 1996. The new deadline for development and implementation of the SWPPP required by the storm water MSGP is September 25, 1996.

Some group applicants may decide to seek coverage under the storm water baseline general permit instead of the MSGP. The storm water baseline general permit was published in the **Federal Register** (57 FR 41236, September 9, 1992). Group applicants choosing the storm water baseline general permit instead of the MSGP must submit their NOI to be covered under the baseline general permit by March 29, 1996. Please note that claiming coverage under the baseline general permit at this time would require that a facility's SWPPP be developed and implemented prior to submittal of the NOI. Therefore, facilities choosing the baseline general permit should develop and implement their SWPPP prior to the submittal of the NOI under the baseline general permit.

With regard to activities currently covered, some eligible facilities previously covered by EPA's storm water baseline general permit (57 FR 41236, September 9, 1992), may elect to be covered by the MSGP. These facilities must submit an NOI to be covered by the MSGP and Notice of Termination (NOT) for the baseline general permit. The deadline for these facilities to switch from the baseline general permit to the MSGP, is also March 29, 1996. Please note that the SWPPP developed for such facilities must incorporate any changes required by the MSGP.

Deadlines for submitting NOIs for new facilities and new operators of facilities, as described in the MSGP (60 FR 51113, September 29, 1995) remain unchanged by today's notice.

III. Technical Corrections

The Final NPDES Storm Water MSGP that was published on September 29, 1995 (60 FR 50804) contains several errors and omissions. Today's notice corrects minor typographical and editorial errors as well as inadvertent omissions in the permit for the benchmark values for zinc and the 401 certification conditions for some of the states.

A. Benchmark Value for Zinc

The benchmark value for zinc was listed in error as 0.065 mg/l throughout the permit and fact sheet. As explained in the fact sheet to the final permits, the benchmark values for all hardness dependent pollutants were adjusted between the proposed and final permits based on a reconsidered average national hardness value of 100 mg/l CaCO3; rather than 50 mg/l CaCO3 as used in the proposed permit. The benchmark values for these pollutants thereby increased proportionately due to the higher hardness value. The benchmark value for zinc in the permit and fact sheet text was erroneously not revised to reflect the new hardness value. The benchmark value for zinc should therefore be revised to read 0.117 mg/l. The permit page number, table and sector where the benchmark value for zinc was published and should be revised to read 0.117 mg/l are as follows: page 51128 (Table A1) in the Timber Products Sector; page 51138 (Table C2, C4, C5) in the Chemical and Allied Products Manufacturing Sector; page 51153 (Table F1, F2, F3, F4) in the Primary Metals Sector; page 51195 (Table N1) in the Scrap Recycling and Waste Recycling Sector; page 51209 (Table Q1) in the Water Transportation Sector; page 51239 (Table Y1) in the Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Sector and 51248 (Table AA1, AA2) in the Fabricated Metal Products Sector.

The corresponding fact sheet page number, table and sector (if applicable) where the incorrect benchmark value for zinc appears are as follows: page 50826 (Table 5); page 50843 (Table A7) in the Timber Products Sector; page 50858 (Tables C11, C13, C14) in the Chemical and Allied Products Manufacturing Sector; page 50886 (Tables F7, F8, F9, F10) in the Primary Metals Sector; pages 50957 and 50969 (Tables N6, N18) in the Scrap Recycling and Waste Recycling Sector; page 50990 (Table Q4) in the Water Transportation Sector; page 51039 (Table Y6) in the Rubber, Miscellaneous Plastic Products and Miscellaneous Manufacturing Sector and page 51053 (Table AA5, AA6) in the Fabricated Metal Products Sector.

B. 401 Certification Conditions

The 401 certification conditions for the states of Massachusetts and Idaho were inadvertently omitted from the permit which is revised accordingly. In addition, some of the 401 conditions for Texas were duplicated so the permit is revised to eliminate the duplicate sections. The 401 conditions for Texas are also being revised to include a footnote in order to reduce confusion over which permittees are subject to whole effluent toxicity (WET) testing. The New Mexico 401 conditions contained typographical errors that inadvertently omitted ammonia (NH3) from the list of monitoring parameters for 2 industrial subsectors and the permit is revised accordingly. Finally, the Washington Federal Indian reservations 401 certification has now been clarified to include specific conditions submitted by the Puyallup Indian tribe.

More specifically, Massachusett's 401 conditions have been revised to provide that all new or increased discharges in the Commonwealth of Massachusetts must comply with Massachusetts law at 314 CMR 4.00, particularly as it applies to Outstanding Resource Waters, prior to seeking authorization to discharge under this permit. For more information please contact the Massachusetts Department of Environmental Protection at (508) 792–7470 or (617) 338–2255. Part XII of the permit on page 51255 and the table of contents on page 51111 are revised to include these 401 conditions. The corresponding fact sheet reference is on page 51064.

In addition, Idaho's 401 conditions have been revised to provide that the SWPPP must comply with the current Idaho Water Quality Standards. The applicant must send the Regional IDEQ office a copy of the NOI. When so requested by IDEQ, the permittee must provide a copy of the SWPPP to IDEQ within 72 hours. Failure to provide the SWPPP to IDEQ within the 72-hour time limit will be grounds for cancellation of the general permit authorization due to failure to comply with the state's 401 certification terms. Part XII of the permit on page 51263 and the table of contents on page 51111 are revised to include these 401 conditions. The corresponding fact sheet reference is on page 51067.

The Texas 401 conditions listed in the permit contain duplications. On page 51260 and 51261 of the permit, Part V describes numeric effluent limitations and contains 2 sections. One section describes discharges to inland waters and the other section describes discharges to tidal waters. Each section contains 1 table. The sections on discharges to inland waters and discharges to tidal waters are duplicated on pages 51261 and 51262 of the permit. The permit is revised today to eliminate these duplicate sections.

In addition, Texas 401 conditions require whole effluent toxicity testing for certain facilities in Part V.D. of the permit. A footnote is added to the permit to clarify who is required to perform such toxicity testing. The footnote will be added to the first sentence of Part V.D. Toxicity Testing. The footnote clarifies that the toxicity testing requirement applies only to facilities that have demonstrated significant lethality in any prior whole effluent toxicity tests on their storm water discharges and have failed to control this toxicity. It does not require facilities that have never demonstrated toxicity to conduct such testing for the purposes of the permit. Page 51066 of the fact sheet should be updated accordingly.

New Mexico 401 conditions require additional monitoring for the Paperboard mills subsector of the Paper and Allied Products Manufacturing sector and the meat products subsector of the Food and Kindred Products sector. Typographical errors on pages 51257 and 51259 of the permit inadvertently omitted ammonia (NH3) from the monitoring lists for the paperboard mill subsector and the meat products subsector. The permit is revised today to include these monitoring parameters for these subsectors in the State of New Mexico.

Finally, the Washington Federal Indian Reservation permit certification has been clarified to include the following 401 certification conditions submitted by the Puyallup Tribe of Indians for discharges subject to the Puyallup Tribe's Water Quality Standards: "Discharges authorized by this permit shall not cause or contribute to a violation of any applicable water quality standard contained in the Water Quality Standards for Surface Waters of the Puyallup Tribe, Title 10 of the Puyallup Tribal codes and Regulations, for discharges to waters and water pollution sources on trust or restricted lands which are subject to the Puyallup Tribe's Water Quality Standards." For more information please contact the Puyallup Tribe of Indians Environmental Protection Department at (206) 597–6200. Part XII of the permit on page 51263 and the table of contents on page 51111 are revised to include these 401 conditions. The corresponding fact sheet reference is page 51067.

C. Minor typographical and editorial changes

On page 50830 of the fact sheet, for facilities subject to special permit

requirements based on the presence of SARA Title III, Section 313 chemicals, there is a reference to an Appendix A that lists 44 additional water priority chemicals. The reference should have referred the reader to Addendum A.

On page 50832 of the fact sheet, in the section that lists addresses for other submittals of information for the states of Louisiana, New Mexico, Oklahoma, and Texas and Federal Indian Reservations in Louisiana, New Mexico (except Navajo and Ute Mountain Lands), Oklahoma, and Texas the address was listed incorrectly. The address should read: EPA, Region VI, Enforcement and Compliance Assurance Division, (6EN–WC), EPA SW MSGP, P.O. Box 50625, Dallas, TX 75250.

On page 50998 of the fact sheet, the second paragraph of Section 2, inadvertently discusses total Kjeldahl Nitrogen (TKN) in connection with pollutants found in storm water discharges from vehicle maintenance areas, equipment cleaning areas, or deicing areas located at air transportation facilities. Ammonia (NH3) should be included in the discussion in lieu of TKN.

On page 51118 of the permit, in the section entitled Reporting: Where to Submit, the address was listed incorrectly for the states of Louisiana, New Mexico, Oklahoma, and Texas and Federal Indian Reservations in Louisiana, New Mexico (except Navajo and Ute Mountain Lands), Oklahoma, and Texas. The address should read: EPA, Region VI, Enforcement and Compliance Assurance Division, (6EN–WC), EPA SW MSGP, P.O. Box 50625, Dallas, TX 75250.

IV. Notice of Final NPDES Storm Water Permit in Alaska

On November 19, 1993, EPA proposed the MSGP in Alaska. EPA was not able to provide notice of the final permit in Alaska on September 29, 1995 when the MSGP was previously published. Today's action finalizes the NPDES MSGP for storm water discharges associated with industrial activity in the state of Alaska. The MSGP covers storm water discharges from a wide variety of industrial activities. The permit contains industry-specific sections that describe the storm water pollution prevention plan requirements, the numeric effluent limitation requirements and the monitoring requirements for that industry. These industry-specific sections are contained in Part XI of the permit and are described in Part VIII of the fact sheet. There are also a number of permit requirements that apply to all industries. Today's notice incorporates by reference the permit terms and conditions set forth at 60 FR 51108–51255 published on September 29, 1995. These requirements may be found in I through XI. They include the general coverage discussion, the Notice of Intent requirements and standard permit conditions. The MSGP was published previously for a number of other states and territories in the September 29, 1995 **Federal Register** on pages 51108–51255 and is revised today to include Alaska. Today's notice also includes additional 401 conditions required by the state of Alaska.

A. Contacts

Notices of Intent (NOIs) to be covered under this permit and Notices of Termination (NOT) to terminate coverage under this permit must be sent to the Storm Water Notice of Intent Processing Center (see address below). The complete administrative record is available through the Water Docket MC–4101, Environmental Protection Agency, 401 M Street SW, Washington DC 20460. A reasonable fee may be charged for copying.

Notice of Intent Address. Notices of Intent to be authorized to discharge under this permit should be sent to: NOI/NOT Processing Center (4203), 401 M Street, SW., Washington, DC 20460.

Address for Other Submittals. Other submittals of information required under this permit or individual permit applications should be sent to the EPA Region X Office: EPA, Region X, Water Division, (WD–134), Storm Water Staff 1200 Sixth Avenue Seattle, WA 98101.

B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in the final MSGP in Alaska under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq. The information collection requirements in today's final notice for Alaska have already been approved by the Office of Management and Budget in previous submissions made for the NPDES permit program under the provisions of the Clean Water Act.

C. 401 Certification

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters, shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the CWA. The Section 401 certification process has been completed for the state of Alaska. The following summary indicates where additional permit requirements have been added as a result of the certification process and also provides a more detailed discussion of additional requirements for Alaska.

Alaska 401 conditions provide that a copy of the Notice of Intent form, in addition to the NOI already required to be submitted to EPA, and a 1-page brief description of the activities being covered must be sent to the appropriate nearest office listed below. The 1-page description of activities shall describe the nature of the project, the pollutants expected in the discharge(s) and the type(s) of treatment to be provided. Copies of any discharge monitoring reports or other reports required under the permit must be sent to the appropriate state office. A copy of any Notice of Termination must be submitted to the appropriate state office. The addresses of state offices to which copies are to be sent are:

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 410 Willoughby Avenue, Suite #105, Juneau, AK 99801, (907) 465–5276, (907) 465–5274 (Fax)

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 555 Cordova Street, Anchorage, AK 99503, (907) 269–7500, (907) 269–7652 (Fax)

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 610 University Avenue, Fairbanks, AK 99709–3643, (907) 451–2360, (907) 451–2187 (Fax).

Because Alaska DEC has certified the MSGP, authorization under the MSGP constitutes authorization under a state permit as a matter of Alaska law.

D. Considerations Under Other Federal Laws

For the MSGP issued in Alaska by today's notice, EPA is required to conduct and certify certain analyses under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Unfunded Federal Mandates Act, Pub. L. No. 104–4. By today's action, EPA adopts, incorporates, and certifies the necessary findings under the Regulatory Flexibility Act and the Unfunded Federal Mandates Act made in the September 29, 1995, MSGP for the purposes of the MSGP issued for Alaska.

Region 1

Signed this 25th day of January, 1996.
David A. Fierra,
Director, Office of Ecosystem Protection.

Region 2

Signed this 25th day of January, 1996.
Richard L. Caspe,
Water Management Division Director.

Region 3

Signed this 25th day of January, 1996.
Alvin R. Morris,
Water Protection Division Director.

Region 4

Signed this 18th day of December, 1995.
Robert F. McGhee,
Water Management Division Director.

Region VI

Signed this 25th day of January, 1996.
William B. Hathaway,
Water Quality Protection Division Director.

Region 9

Signed this 18th day of January, 1996.
Alexis Strauss,
Acting Director, Water Management Division.

Region 10

Signed this 18th day of December, 1995.
Philip G. Millam,
Acting Director, Office of Water.

I. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. Under 5 U.S.C. 605(b), no Regulatory Flexibility Analysis is required where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Today's permit will provide any small entity the opportunity to obtain storm water permit coverage as a result of the group application process. Group applications provided small entities a mechanism to reduce their permit application burden by grouping together with other industrial facilities and submitting a common permit application with reduced monitoring requirements and shared costs. The group application information submitted to EPA provided a basis for the development of storm water permit conditions tailored specifically for each industry. The permit requirements have been designed to minimize significant administrative and economic impacts on small entities and should not have a significant impact on industry in general. Moreover, the permit reduces a significant burden on regulated sources of applying for individual permits.

Accordingly, I hereby certify pursuant to 5 U.S.C. 605(b) that this permit will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: December 14, 1995.

Chuck Clarke,
Regional Administrator, Region 10.

Authorization To Discharge Under the National Pollution Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et seq., the "Act") except as provided in Part I.B.3. of this storm water multi-sector general permit, operators of point source discharges of storm water associated with industrial activity that discharge into waters of the United States, represented by the industry sectors identified in Part XI. of this permit, are authorized to discharge in the areas of coverage listed below in accordance with the conditions and requirements set forth herein.

Operators of storm water discharges from the industrial activities covered under this permit who intend to be authorized by this permit must submit a Notice of Intent (NOI) in accordance with Part II.B. of this permit. Operators of storm water discharges associated with industrial activity who fail to submit an NOI in accordance with Part II.B. of this permit are not authorized under this general multi-sector permit.

This permit shall become effective on February 11, 1996, and shall expire at midnight on February 11, 2001.

Region X

Signed this 5th day of December, 1995.
Philip G. Millam,
Acting Director, Office of Water.

Areas of coverage	Permit No.
Alaska	AKR05* ###

For the reasons set forth in this preamble, Parts I, II, IV, VI, IX and XII of the NPDES Multi-Sector Storm Water General Permit are amended as follows:

Deadline Extension

PART II—[AMENDED]

1. Part II.A.1. and Part II.A.6 are revised to insert "March 29, 1996" in place of "[insert date 90 days after permit finalization]" to read as follows:

Part II. Notification Requirements

A. Deadlines for Notification

1. Existing Facility * * * individuals who intend to obtain coverage for an existing storm water discharge associated with industrial activity under this general permit shall submit an NOI in accordance with the requirements of this part on or before March 29, 1996.

* * * * *

6. Part II.A.6 Facilities Previously Subject to the Baseline General Permit. Eligible facilities previously covered by EPA's 1992 Baseline General Permits for Storm Water Discharges Associated with Industrial Activity (57 FR 41297 or 57 FR 44438) may elect to be covered by this permit by submitting an NOI in accordance with the requirements of this Part on or before March 29, 1996.

PART IV—[AMENDED]

1. Part IV.A.1. is revised to insert "September 25, 1996" in place of "[insert date 270 days after permit finalization]" at the end of the sentence to read as follows:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

A. Deadlines for Plan Preparation and Compliance

1. Existing Facilities * * * all existing facilities that begin operation on or before [insert date 270 days after permit finalization] shall prepare and implement the plan by September 25, 1996.

2. Part IV.A.4. is revised to insert "September 25, 1996" in place of "[insert date 270 days after permit finalization]" to read as follows:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

A. Deadlines for Plan Preparation and Complionce

* * * * *

4. Facilities Switching From the Baseline General Permit * * * The plan shall be revised as necessary to address requirements under Part XI. of this permit no later than September 25, 1996. The revisions made to the plan shall be implemented on or before September 25, 1996.

Zinc Benchmark Value

PART XI—[AMENDED]

1. Parts XI.A.5., XI.C.6., XI.F.5., XI.N.5., XI.Q.5., XI.Y.5., and XI.AA.5. are revised to insert 0.117 mg/l instead

of 0.065mg/l after Total Recoverable Zinc to read as follows:

Part XI. Specific Requirements for Industrial Activities

* * * * *

A. Storm Water Discharges Associated With Industrial Activity From Timber Products Facilities

* * * * *

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements * * * Table A–1 Monitoring Requirements for General Sawmills and "Planning" Mills Facilities: * * * Total Recoverable Zinc,—0.117 mg/l.

* * * * *

C. Storm Water Discharges Associated with Industrial Activity from Chemical and Allied Products Manufacturing Facilities

* * * * *

6. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements * * * Table C–2 Agricultural chemicals Monitoring Requirements, Table C–4 Soaps, Detergents, Cosmetics, and Perfumes Monitoring Requirements and Table C–5 Plastics, Synthetics, and Resins Monitoring Requirements: * * * Total Recoverable Zinc,—0.117 mg/l.

* * * * *

F. Storm Water Discharges Associated With Industrial Activity From Primary Metals Facilities

* * * * *

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements * * * Tables F1 Steel Works, Blast Furnaces, and Rolling and Finishing Mills (SIC331) Monitoring Requirements, F2 Iron and Steel Foundries (SIC332) Monitoring Requirements, F3 Rolling, Drawing, and Extruding of Non-Ferrous Metals (SIC335) Monitoring Requirements and F4 Non-Ferrous Foundries (SIC 336) Monitoring Requirements: * * * Total Recoverable Zinc,—0.117 mg/l.

* * * * *

N. Storm Water Discharges Associated With Industrial Activity From Scrap Recycling and Waste Recycling Facilities

* * * * *

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements * * * Table N1 Industry Monitoring Requirements: * * * Total Recoverable Zinc,—0.117 mg/l.

* * * * *

Q. Storm Water Discharges Associated With Industrial Activity From Water Transportation Facilities That Have Vehicle Maintenance Shops and/or Equipment Cleaning Operations

* * * * *

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements * * * Table Q1 Monitoring Requirements: * * * Total Recoverable Zinc,—0.117 mg/l.

* * * * *

Y. Storm Water Discharges Associated With Industrial Activity From Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries

* * * * *

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements * * * Table Y1 Monitoring Requirements: * * * Total Recoverable Zinc,—0.117 mg/l.

* * * * *

AA. Storm Water Discharges Associated With Industrial Activity From Fabricated Metal Products Industry

* * * * *

5. Monitoring and Reporting Requirements

a. Analytical Monitoring Requirements * * * Tables AA–1 Monitoring Requirements for Fabricated Metal Products Except Coating and Table AA–2 Monitoring Requirements for Fabricated Metal Coating and Engraving: * * * Total Recoverable Zinc,—0.117 mg/l.

401 Certification Conditions

Part XII—[AMENDED]

1. Massachusetts—Part XII. of the permit is revised by adding the following paragraphs before Region III to read as follows:

Part XII. Coverage Under This Permit

Region I

Massachusetts (MAR05*###)

Massachusetts 401 certification special permit conditions revise the permit as follows:

Region VI

* * * * *

D. New Mexico (NMR05 ###)

* * * * *

Part XI. Specific Requirements for Industrial Activities

* * * * *

B. Storm Water Discharges Associated With Industrial Activity From Paper and Allied Products Manufacturing Facilities

* * * * *

5. Monitoring and Reporting Requirements

* * * * *

(a) * * * (1) Paperboard mills: shall monitor NH3, . . .

* * * * *

U. Storm Water Discharges Associated With Industrial Activity From Food and Kindred Products Facilities

* * * * *

1. Part I.B.3. is amended by addition of the following:

Part I. Coverage Under This Permit

* * * * *

B. Eligibility

* * * * *

3. Limitations on Coverage

* * * * *

i. All new or increased discharges in the State of Massachusetts must comply with 314 CMR 4.00, particularly as it applies to Outstanding Resource Waters, prior to seeking authorization to discharge under this permit. For more information please contact the Massachusetts Department of Environmental Protection at (508) 792–7470 or (617) 338–2255.

2. New Mexico—Part XII.D. (New Mexico) of the permit is revised by adding "NH3" to Part XI.B.5.a.(1) before TSS and to Part XI.U.5.a.(4) before NO3+NO2 to read as follows:

Part XII. Coverage Under This Permit

* * * * *

5. Monitoring and Reporting Requirements

* * * * *

(a) * * * (4) Meat Products: shall monitor NH3, . . .

3. Texas—Part XII.D. (Texas) is amended to delete the following duplicated text starting in the third column of page 51261 and ending on page 51262:

Part V. Numeric Effluent Limitations

* * * * *

B. All Discharges to Inland Waters

The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to inland waters are as follows:

[Table]

C. All Discharges to Tidal Waters

The maximum allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharges to tidal waters are as follows:

[Table]

4. Texas—Part XII.D. (Texas) is clarified with the addition of the following footnote to Part V.F. Texas after the first sentence to read as follows:

Part XII. Coverage Under This Permit

* * * * *

Region VI

* * * * *

Texas (TXR05*###)

* * * * *

Part V. Numeric Effluent Limitations

* * * * *

D. Toxicity Testing * * * The toxicity testing requirement applies only to facilities that have 1) demonstrated significant lethality in whole effluent toxicity tests on their storm water discharges (e.g. tests required while under baseline general permit No. TXR00###) *and* 2) has not yet controlled the toxicity.

"Control" of toxicity involves some action that reduces or eliminates the toxicity so that the discharge henceforth passes whole effluent toxicity testing. A prerequisite of controlling the toxicant requires either identifying the toxicant, identifying the toxicant source, or identifying a means of removing the toxicant. To demonstrate the effectiveness of the control action, the discharger would have to pass two whole effluent toxicity tests performed on consecutive discharge events.

Those facilities having previously demonstrated toxicity, and unable to identify the toxicant source, or treatment method, would continue biomonitoring semiannually until such time that they pass four whole effluent toxicity tests on consecutive discharge events. Such evidence would be considered a "cessation of lethality" (as defined in the Implementing Procedures of the Texas Natural Resource Conservation Commission Standards Via Permitting) and biomonitoring would cease.

5. Puyallup Indian Reservation Lands—Part XII. of the permit is revised by adding the following paragraphs after Region X and before Washington (WAR05*###) to read as follows:

Part XII. Coverage Under This Permit

* * * * *

Region X

Puyallup Indian Reservation Lands (WAR05*##F)

Puyallup Tribe 401 certification special permit conditions revise the permit as follows:

1. Part I section B is amended by the addition of the following:

Part I. Coverage Under This Permit

* * * * *

B. Eligibility

* * * * *

8. Compliance With Puyallup Indian Reservation Lands Water Quality Standards

Discharges authorized by this permit shall not cause or contribute to a violation of any applicable water quality standard contained in the Water Quality Standards for Surface Waters of the Puyallup Tribe, Title 10 of the Puyallup Tribal codes and Regulations, for discharges to waters and water pollution sources on trust or restricted lands which are subject to the Puyallup Tribe's Water Quality Standards.

6. Idaho—Part XII. of the permit is revised by adding the following paragraphs before Addendum A to read as follows:

Part XII. Coverage Under This Permit

* * * * *

Region X

* * * * *

Idaho (IDR05*###)

Idaho 401 certification special permit conditions revise the permit as follows:

1. Part II.C: is amended by the addition of the following:

Part II. Notification Requirements

* * * * *

C. Where to Submit

* * * * *

The applicant must send the Regional IDEQ office a copy of the NOI, in addition to the NOI already required to be submitted to EPA, at the following address: Idaho Department of Health and Welfare, Division of Environmental Quality, 1410 North Hilton, Boise, ID 83708–1255.

2. Part IV. is amended by the addition of the following:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

Idaho's 401 conditions provide that for facilities with storm water discharges associated with industrial activity in the state of Idaho, the SWPPP must comply with the current Idaho Water Quality Standards.

3. Part IV.B.2 is amended by the addition of the following:

Part IV. Storm Water Pollution Prevention Plans

* * * * *

B. Signature and Plan Review

* * * * *

2. Availability * * *

The permittee must provide a copy of the SWPPP, when so requested by IDEQ, to IDEQ within 72 hours. Failure to provide the SWPPP to IDEQ within the 72-hour time limit will be grounds for cancellation of the general permit authorization due to failure to comply with the state's 401 certification terms.

Minor Typographical and Editorial Changes

Part VI—[Amended]

1. Part VI.B.1.e. is revised to correct the address for EPA Region VI to read as follows:

Part VI. Monitoring and Reporting Requirements

* * * * *

B. Reporting: Where to Submit

1. Location

* * * * *

e. LA, NM (except see Region IX for Navajo lands), OK, TX, EPA, Region VI, Enforcement and Compliance Assurance Division, (6EN–WC), EPA SW MSGP, P.O. Box 50625, Dallas, TX 75250.

Alaska

Part I—[Amended]

1. Part 1 is amended by revising paragraph A. Permit Area, Region X to include "Alaska" before the phrase "the state of Idaho" to read as follows:

Part I. Coverage Under This Permit

* * * * *

A. Permit Area

* * * * *

Region X—Alaska; the State of Idaho;
* * *

PART XII—[AMENDED]

Alaska 401 certification special permit conditions revise the permit as follows:

1. Part XII. Region X of the permit is revised by adding the following paragraphs before Addendum A after Idaho's 401 conditions to read as follows:

Part XII. Coverage Under This Permit

* * * * *

Region X

Alaska (AKR05*###)

1. Part II. B. is amended by the addition of the following:

Part II. Notification Requirements

* * * * *

B. Contents of Notice of Intent

* * * * *

14. For facilities that discharge storm water associated with industrial activity in Alaska, a 1-page brief description of the activities being covered must be sent to the appropriate nearest office listed below. The 1-page description of activities shall describe the nature of the project, the pollutants expected in the discharge(s) and the type(s) of treatment to be provided.

2. Part II. C. is amended by the addition of the following:

Part II. Notification Requirements

* * * * *

C. Where to Submit

* * * * *

For facilities located in the state of Alaska, a copy of the Notice of Intent form, in addition to the NOI already required to be submitted to EPA, and a 1-page brief description of the activities being covered must be sent to the appropriate nearest office listed below. The addresses of state offices to which copies are to be sent are:

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 410 Willoughby Avenue, Suite #105, Juneau, AK 99801 (907) 465–5276, (907) 465–5274 (Fax)

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 555 Cordova Street, Anchorage, AK 99503, (907) 269–7500, (907) 269–7652 (Fax)

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 610 University Avenue, Fairbanks, AK 99709–3643, (907) 451–2360, (907) 451–2187 (Fax)

3. The following language is added to Part VI section B:

Part VI. Monitoring and Reporting Requirements

* * * * *

B. Reporting: Where to Submit

* * * * *

2. Additional Notification. For facilities located in the state of Alaska, copies of any discharge monitoring reports or other reports required under the permit must also be sent to the appropriate state office. The addresses of state offices to which copies are to be sent are:

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 410 Willoughby Avenue, Suite #105, Juneau, AK 99801 (907) 465–5276, (907) 465–5274 (Fax)

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 555 Cordova Street, Anchorage, AK 99503, (907) 269–7500, (907) 269–7652 (Fax)

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 610 University Avenue, Fairbanks, AK 99709–3643, (907) 451–2360, (907) 451–2187 (FAX).

4. The following is added to Part IX Section B:

Part IX. Termination of Coverage

* * * * *

B. Addresses

* * * * *

For facilities located in the state of Alaska, copies of Notices of Termination (NOTs), in addition to the NOTs already required to be submitted to EPA, must be submitted to the appropriate state office. The addresses of state offices to which copies are to be sent are:

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 410 Willoughby Avenue, Suite #105, Juneau, AK 99801 (907) 465–5276, (907) 465–5274 (Fax)

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 555 Cordova Street, Anchorage, AK 99503, (907) 269–7500, (907) 269–7652 (Fax)

Alaska Department of Environmental Conservation, Major Facilities & Water Permits Section, 610 University Avenue, Fairbanks, AK 99709–3643, (907) 451–2360, (907) 451–2187 (Fax).

[FR Doc. 96–2722 Filed 2–8–96; 8:45 am]
BILLING CODE 6560–50–P

federal register

Friday
February 9, 1996

Part VIII

Department of the Interior

Minerals Management Service

Outer Continental Shelf, Proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002 and Draft Environmental Impact Statement for Proposed Oil and Gas Leasing Program, 1997 to 2002; Notices

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Proposed 5-Year Outer Continental Shelf Oil and Gas Leasing Program for 1997-2002

AGENCY: Minerals Management Service, Department of the Interior

ACTION: Request for Comments on the Proposed 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 1997-2002

Summary: Comments are requested on the Proposed 5-year OCS Oil and Gas Leasing Program for 1997-2002. Section 18 of the OCS Lands Act (43 USC 1344) specifies a multi-step process that must be completed before the Secretary of the Interior may approve a new 5-year program. The Proposed Program and draft Environmental Impact Statement (EIS) will be available to the public for a 90-day comment period. A final proposal is scheduled to be issued in August 1996.

Addressees: Respondents should mail comments and information within 90 days of the publication of this notice to: 5-Year Program Project Director, Minerals Management Service (MMS) (MS-4430), Room 1324, 381 Elden Street, Herndon, Virginia 22070. The MMS will accept hand deliveries at 1849 C Street, NW, Room 4227, Washington, DC. Envelopes or packages should be marked "Comments on the Proposed 5-Year OCS Oil and Gas Leasing Program for 1997-2002." When submitting any privileged or proprietary information to be treated as confidential, respondents should mark the envelope, "Contains Confidential Information."

For Further Information Contact: Carol Hartgen, 5-Year Program Project Director, or Tim Redding, Program Decision Document Project Manager, at (703) 787-1216. Respondents who wish to provide illustrated information pertaining to the size and location of lease sales may obtain large OCS block-specific maps by calling (703) 787-1216.

Supplementary Information: The MMS requests comments from States, local governments, Native groups, the oil and gas industry, Federal Agencies, environmental and other interest organizations, and all other interested parties to assist in the preparation of a 5-year OCS oil and gas leasing program for 1997-2002.

Background: Section 18 requires that the 5-year program be prepared in a manner consistent with four main principles: (1) consideration of economic, social, and environmental values and the potential impact on marine, coastal, and human

environments; (2) consideration of diverse environmental, geographical, and equitable regional factors; (3) a proper balance among potentials for environmental damage, discovery of oil and gas, and adverse impact on the coastal zone; and (4) assurance of receiving fair market value. It also requires that the 5-year leasing program shall consist of a schedule of proposed lease sales indicating as precisely as possible the size, timing, and location of potential OCS leasing activities which the Secretary determines will best meet the national energy needs for the 5-year period following its approval.

In addition to the requirements of section 18, consensus-based decisionmaking, science-based decisionmaking, and the use of natural gas as an environmentally preferred fuel are policy objectives endorsed by the President and the Secretary that have been considered in developing the Proposed Program.

The Secretary's decision on the Proposed Program affirms his decision on the Draft Proposed Program.

The Proposed Program: The table below indicates the proposed schedule of lease sales for the new program. They are the same as those chosen for the draft proposal. No sales are proposed off the West and East coasts. Maps 1 and 2, presented at the end of the text of this Notice, contain the areas proposed for leasing consideration in the new program.

Proposed Lease Sale Schedule

Region and Planning Area	Sale No.	Year	Proposed Activity
Alaska			
Beaufort Sea	170	1998	Small sale, focusing on nearshore blocks in center of program area (Map 1)
	176	2000	Sale in program area (Map 1)
Cook Inlet/Shelikof Strait	173	1999	Sale in program area (Map 1)
Gulf of Alaska	179	2001	Sale in program area (Map 1)
Chukchi Sea/Hope Basin	183	2002	Combined sale in program area (Map 1)
Gulf of Mexico			
Western Gulf of Mexico	*	Annual	Sale in program area (Map 2)
Central Gulf of Mexico	**	Annual	Sale in program area (Map 2)
Eastern Gulf of Mexico	181	2001	Sale in program area (Map 2) (off Alabama, 100 miles off Florida)

* Sale No. 168, 171, 174, 177, and 180
** Sale No. 169, 172, 175, 178, and 182

In developing the Proposed Program, MMS considered comments received in response to the Call for Comments and the draft proposed program. In the most recent solicitation, comments from over 90 constituencies were received including State, local, Federal, and other interests. We have continued our dialogue with our constituencies on the West, East, and Gulf coasts. We have continued working with the Alaska Regional Stakeholders Task Force as it continues to participate in the development of recommendations on the program. The Task Force found that the Draft Proposed Program was consistent with its recommendation made to the OCS Policy Committee to consider the five areas in the program. Based on the comments received on the draft proposal, the MMS also has established a new joint subcommittee of the OCS Policy and Scientific Committees to provide an independent review and evaluation of the specific information needs for areas where controversy has led to executive or legislative restrictions on leasing. Their efforts address issues for consideration in future programs.

Based on the comments received and the requirements of the National Environmental Policy Act, the Proposed Program analysis includes alternatives to consider leasing in areas other than those chosen for the Draft Proposed Program. The draft EIS provides an alternative of holding a lease sale in 2000 in the Mid-Atlantic program area.

Two additional alternatives are considered in the Eastern Gulf of Mexico program area. The first Eastern Gulf of Mexico alternative provides for a sale in 2001 in an expanded program area that includes additional blocks in deep water. It was developed based on expressed industry interest and resource information, balanced with consideration of the expressed interests of the States of Florida and Alabama. A second alternative in the Eastern Gulf of Mexico is to conduct two lease sales, one in 1999 in the deepwater portion of the expanded program area and one in 2001 in the entire expanded program area.

The Secretary has decided, for this program, to give greater weight to the following two OCS Lands Act section 18 criteria: laws, goals, and policies of affected States and location of regions with respect to other uses of the sea and seabed. While he will continue to consider all section 18 factors in future decisions, he has concluded that any lesser weighting of these latter two criteria at this time would be counterproductive to long-term development of the OCS.

National Energy Needs: This Proposed Program will best meet national energy needs. Increasing imports will make the Nation more vulnerable to supply disruptions and increase the Nation's balance of payments deficit. Environmentally responsible development of OCS oil and gas resources will have to play a role in any effort to slow or reverse the increase in imported energy.

The decisions on the new 5-year program will have a long-term effect on the contribution of OCS resources to meeting the Nation's energy needs and improving its trade balance. Most production resulting from lease sales held under the new 5-year program is likely to begin over the first decade of the next century and continue for another 25 years.

In developing a 5-year program to best meet the Nation's energy needs the Secretary considered today's reality of relatively inexpensive imported oil, continuously imposed or threatened congressional restrictions, strategic consensus building efforts for exploration and development in the most likely places where actual exploration and development can occur or expand, the Nation's current reliance on OCS resources, and section 18 criteria.

Focusing on being a good neighbor, proceeding deliberately with environmental concerns extensively studied and analyzed, and pursuing work with the Alaska Regional Stakeholders Task Force and similar consensus building efforts could result in a 5-year schedule under which most lease sales are held on time and future OCS production is maximized. The approach reflected in the Proposed Program not only facilitates problem-solving and consensus building but also maintains a viable infrastructure and promotes production in proven areas while encouraging exploration and infrastructure development in other areas--such as the deep-water Gulf of Mexico and selected areas on the Alaska OCS--where there is industry interest and the potential for major discoveries. Such a program best meets national energy needs at this time.

The Secretary has concluded that the Proposed Program achieves the most equitable sharing that is possible at the present time. The greatest risks, and greatest benefits, will continue to accrue to regions with existing production and infrastructure, particularly the Central and Western Gulf. The schedule includes several sales in the Alaska region, where there is existing infrastructure and onshore production and a need to gather more information on the geological and geophysical characteristics of the region. High volumes of OCS oil and gas will continue to be produced from the California OCS even though no lease sales during this program are proposed. This fact cannot be ignored in considering the equitable sharing of developmental benefits and environmental risks.

Configuration of Planning Areas: The planning area boundaries and program areas for leasing consideration are as depicted in Maps 1 and 2. No further technical adjustments to the configuration of OCS planning areas have been made--they are the same as those published in the Draft Proposed Program.

Assurance of Fair Market Value: As in the Draft Proposed Program, the basic minimum bid level would be set at $25 per acre, subject to sale-by-sale reconsideration, and the current two-phased bid adequacy process is retained.

The Outer Continental Shelf Deep Water Royalty Relief Act (P.L. 104-58) was signed into law on November 28, 1995. This new law requires the Secretary to suspend royalty on any new leases

issued during the next 5 years for blocks in water depths of 200 meters or more within the Central and Western Gulf of Mexico Planning Areas and within that portion of the Eastern Gulf of Mexico Planning Area located west of 87 degrees 30 minutes West longitude. The Secretary has 180 days to promulgate any necessary rules to implement the law, and the Department of the Interior is engaged in preliminary planning and analysis. Implementation of this law will affect internal estimates of the value of affected leases and may lead to one or more additional changes in leasing policy and the terms and conditions for these new leases.

Information Requested: We request all interested and affected parties to comment on the size, timing, and location of leasing and the procedures for assuring fair market value that are proposed in the Proposed Program. As specified in section 18(a)(2)(F), the MMS requests the Governors of affected States to identify State laws, goals, and policies relevant to OCS oil and gas. Information provided by commenters should relate to the principles and factors of section 18, and suggestions for revising the Proposed Program should include rationale corresponding to those considerations and to the policy objectives identified by the MMS, as discussed in the background presented above.

Pursuant to the NEPA, the MMS also has prepared a draft EIS for the new 5-year program. Comments on the draft EIS should be sent to: 5-Year EIS Project Manager, Minerals Management Service (MS-4320), 381 Elden Street, Herndon, Virginia 22070. Comments submitted in response to this Notice will be considered in preparing the Proposed Final Program and the final EIS.

Section 18(g) authorizes confidential treatment of privileged or proprietary information that is submitted. To protect the confidentiality of such information respondents should include it as an attachment to other comments submitted and mark it appropriately. On request the MMS will treat such information as confidential from the time of its receipt until 5 years after approval of the new leasing program, subject to the standards of the Freedom of Information Act. The MMS will not treat as confidential any aggregate summaries of such information, the names of respondents, and comments not containing such information.

Next Steps in the Process will be to receive and evaluate all comments including the Alaska Task Force recommendations submitted through the OCS Policy Committee and to prepare and issue the Final Program and final EIS in August 1996. The Secretary may approve the new 5-year program 60 days later.

Cynthia Quarterman
Director, Minerals Management Service

FEB - 5 1996
Date

Map 1. Alaska

Map 2. Lower 48 States

[FR Doc. 96–2867 Filed 2–8–96; 8:45 am]
BILLING CODE 4310–MR–C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Draft Environmental Impact Statement for Proposed Oil and Gas Leasing Program, 1997 to 2002

AGENCY: Minerals Management Service, DOI

ACTION: Notice of Availability of the Draft Environmental Impact Statement for the Proposed Outer Continental Shelf Oil and Gas Leasing Program for 1997 to 2002.

DES 96-7.

The Minerals Management Service has prepared a draft Environmental Impact Statement (EIS) relating to the Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 1997 to 2002 pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969.

Information on the availability of the draft EIS in Alaska can be obtained from: Regional Director, Alaska Region, Minerals Management Service, 949 East 36th Avenue, Anchorage, Alaska 99503-4302, telephone (907) 271-6435. For availability of the draft EIS along the Pacific Coast contact: Regional Director, Pacific Region, Minerals Management Service, 770 Paseo Camarillo, Camarillo, California 93010, telephone (805) 389-7502. For availability of the draft EIS along the Gulf of Mexico Coast and the Atlantic Coast contact: Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana, telephone (504) 736-0557. Information on the availability of the draft EIS can also be obtained from Chief, Environmental Projects

Coordination Branch, Minerals Management Service, 381 Elden Street, MS-4320, Herndon, Virginia 22070-4817, telephone (703) 787-1674.

Copies of the draft EIS will be available for review in public libraries located throughout the coastal States. Information regarding the libraries and their locations may be obtained from any of the offices listed above. The list of libraries and their locations is also available on the Minerals Management Service Homepage on the Internet at http://www.mms.gov.

In accordance with 30 CFR 256.2(b), public hearings relating to the draft EIS will be held in late March and early April. The exact dates, times, and locations of the hearings will be announced by Federal Register notice in the near future.

Comments resulting from reviews of the draft EIS and written materials prepared as part of testimony at the public hearings should be mailed to the Director, Minerals Management Service, 381 Elden Street, MS-4320, Herndon, Virginia 22070-4817, Attention: Richard Wildermann. Hand deliveries to the Department of the Interior may be made to Room 4227 Main Interior Building, 1849 C Street, NW., Washington, D.C. 20240. Envelopes or packages should be marked "1997-2002 Oil and Gas Program draft EIS."

After the public hearing testimony and written comments on the draft EIS have been reviewed and analyzed, a final EIS will be prepared. The comment period for the draft EIS for the Proposed OCS Oil and Gas Leasing Program for 1997 to 2002 closes May 9, 1996.

Associate Director for Offshore Minerals Management
Thomas Gernhofer

Approved:

Willie R. Taylor
Director, Office of Environmental Policy
and Compliance

2/1/96
Date

[FR Doc. 96–2866 Filed 2–8–96; 8:45 am]
BILLING CODE 4310–MR–C

federal register

Friday
February 9, 1996

Part IX

The President

Proclamation 6865—150th Anniversary of the Smithsonian Institution

Federal Register
Vol. 61, No. 28
Friday, February 9, 1996

Presidential Documents

Title 3—

The President

Proclamation 6865 of February 7, 1996

150th Anniversary of the Smithsonian Institution

By the President of the United States of America

A Proclamation

When James Smithson, an English scientist, died in 1829, he gave his entire estate "to the United States of America, to found at Washington, under the name Smithsonian Institution, an Establishment for the increase and diffusion of knowledge among men." This extraordinary gift, amounting to one and one-half times the Federal budget of the day, led to passage of an Act of Congress establishing the Smithsonian Institution. Signed by President James Polk on August 10, 1846, this legislation created a Board of Regents to oversee the execution of Smithson's trust.

Today, 150 years later, the Smithsonian Institution is famed around the globe, and its collections are enjoyed by thousands of Americans and foreign visitors every day. Through dedicated original research, the preservation of an unequaled collection of artifacts, and the presentation of public exhibitions and programs, the Smithsonian truly embodies its benefactor's dream. As one of the foremost repositories of American heritage and culture, the Institution provides unique insight into our history and the development of our vibrant national character.

As we celebrate the sesquicentennial of the Smithsonian Institution, let us recognize the work done by its many museums, research facilities, and educational endeavors and rededicate ourselves to the "increase and diffusion of knowledge" James Smithson sought to advance. In doing so, we can more fully explore the wonders of our world and continue to bring people together for the common pursuit of knowledge.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, and in honor of the memory of James Smithson and to commemorate the accomplishments of the Smithsonian Institution, do hereby proclaim August 10, 1996, as the 150th Anniversary of the Smithsonian Institution and urge the people of the United States to observe this anniversary with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of February, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96–3112
Filed 2–8–96; 9:01 am]
Billing code 3195–01–P

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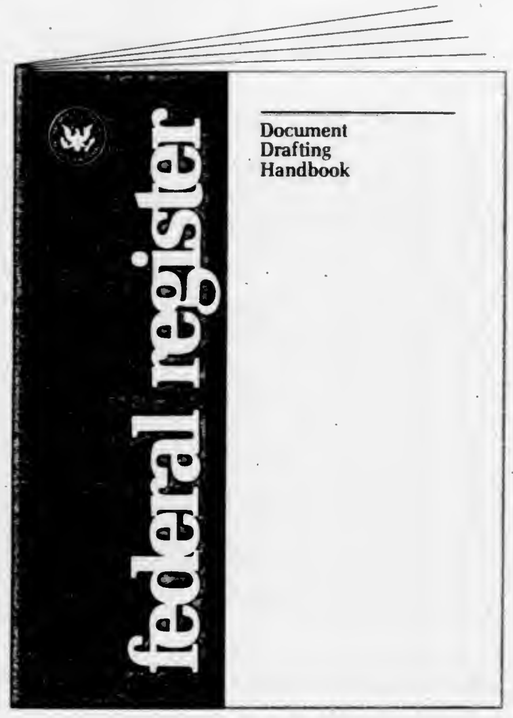
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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A cumulative list of Public Laws for the First Session of the 104th Congress was published in Part II of the **Federal Register** on February 1, 1996.

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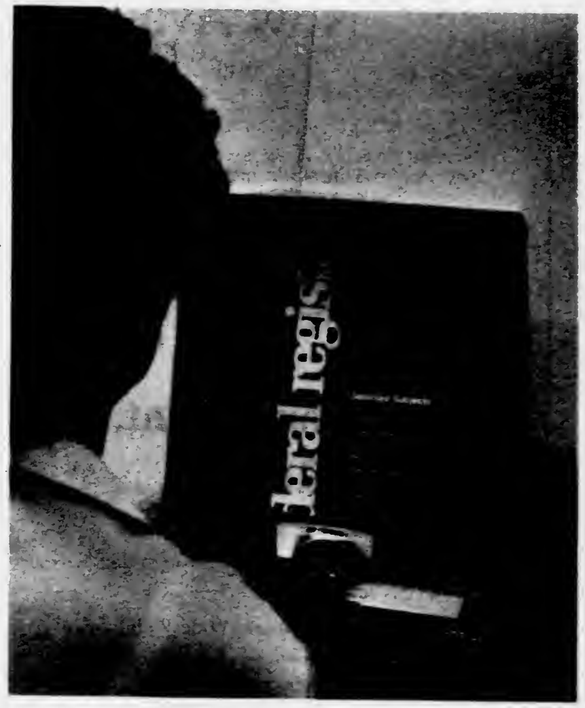
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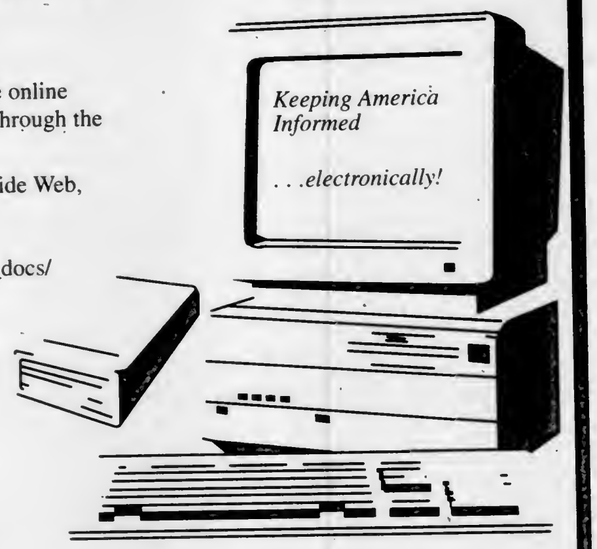
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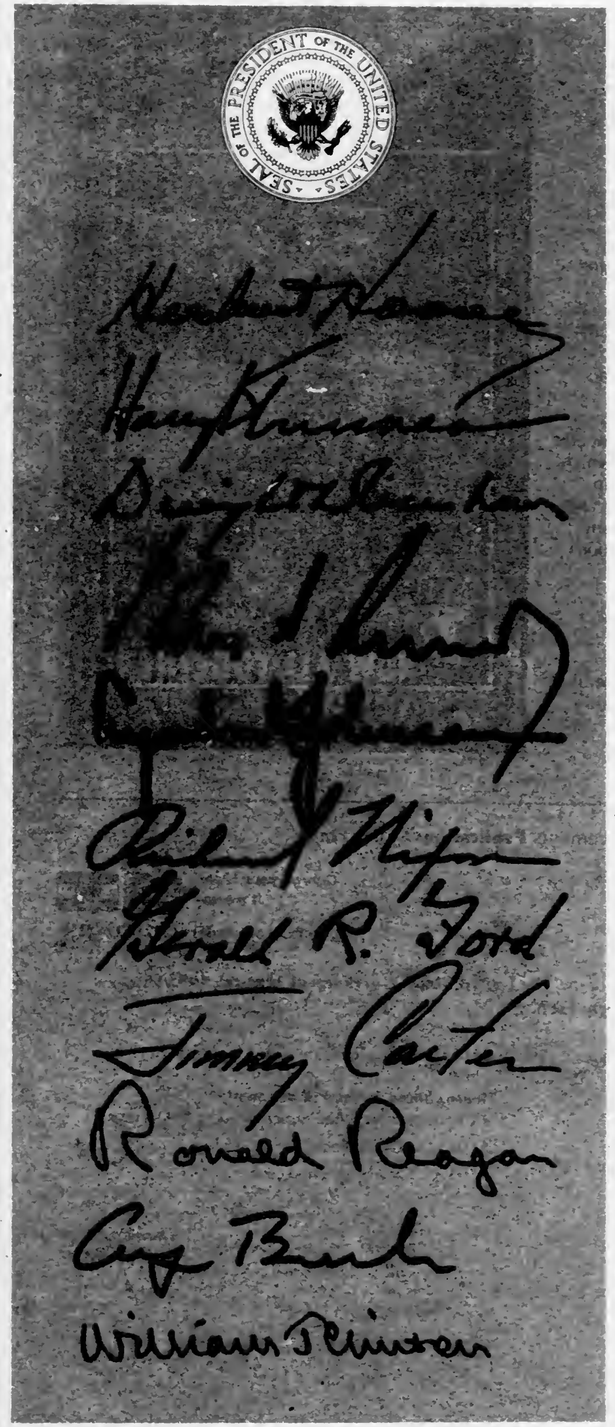
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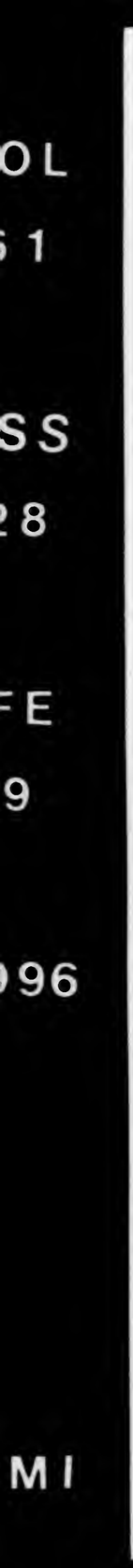
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Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
Vol. 61, No. 29
Monday, February 12, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food And Consumer Service

7 CFR PART 250

RIN 0584–AB99

Waiver Authority Under the State Processing Program

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule and waiver.

SUMMARY: This final rule amends the Food Distribution Program regulations by giving the Food and Consumer Service authority to waive provisions contained in the Food Distribution Program regulations for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods. FCS is, at this time, invoking its authority under § 250.30(t) to waive certain provisions of § 250.30(f)(1)(i) in order to conduct a demonstration project.

EFFECTIVE DATE: This final rule is effective February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Ursula Key, Schools/Institutions Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 501, Alexandria, Virginia 22302; or telephone (703) 305–2644.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This final rule reflects no new information collection requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3502). The OMB control number assigned to the existing recordkeeping and reporting requirements was approved by OMB for Part 250 under control number 0584–0007. The current burden hours will not change as a result of this final rule.

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.550 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984).

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This final rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments. For disputes involving procurement by distributing and recipient agencies, this includes any administrative appeal procedures to the extent required by 7 CFR Parts 3015 or 3016.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Consumer Service (FCS) has certified that this final rule will not have a significant economic impact on a substantial number of small entities. The cost of compliance to State processors of donated foods is expected to be reduced by the changes proposed in this rule.

Background

Section 250.30 of the current Food Distribution Program regulations sets forth the terms and conditions under which distributing agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for processing donated foods and prescribes the minimum requirements to be included in such contracts.

On April 13, 1995, the Department published a proposed rule in the **Federal Register** at 60 FR 18781 which would permit FCS to waive any of the requirements of the Food Distribution Program regulations at Part 250 for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods. The proposed rule provided a 30-day comment period. This final rule incorporates the proposed waiver provision in the State processing regulations at 7 CFR 250.30(t).

Analysis of Comments

The Department received a total of 9 comment letters from two distributing agencies, a local school food authority, and six commercial food processors. All commenters were in favor of the proposed rule.

Four commenters responded favorably to the rule as it was proposed. They stated that by allowing FCS to waive certain provisions, more processors would be attracted to the program, and the cost of processed end products should be reduced. They further stated that some of the provisions contained in the State processing regulations are overly restrictive and have resulted in processors dropping out of the State processing program. These commenters believed that over-regulation results in increased costs which are passed on to recipient agencies. They supported FCS's proposal to allow pilot projects which could provide guideposts for simplification of the regulations. One commenter believed that demonstration projects will fully support modifications to the current program to generate more competition and improved efficiency.

Five commenters who also supported the proposed rule cited specific provisions they would like to see waived as soon as possible. Three commenters supported the removal of the Agricultural Marketing Service acceptance service grading requirement for processing meat and poultry, complaining of excessive costs for obtaining the services of AMS graders. However, one commenter favored

retaining the requirement. Four commenters supported removing the requirement for processors to submit annual certified public accountant audit reports, also due to the costs involved. The commenters claimed that the requirement has forced some processors out of the program. They stated that those companies complying with the audit provision are passing on audit costs in prices of end products to schools. FCS appreciates these comments and will take them into consideration when determining which requirements will be waived during the demonstration projects.

Waiver of Requirements

FCS is invoking its authority under 7 CFR 250.30(t) to waive the current prohibition in 7 CFR 250.30(f)(1)(i) of the substitution of poultry. In a notice published elsewhere in this issue, FCS is announcing a demonstration project under which it will permit selected poultry processors to substitute commercial chicken for donated chicken in the State processing of donated chicken.

Summary

Based on the comments received, this final rule adopts § 250.30(t) of the proposed rule without change.

List of Subjects in 7 CFR Part 250

Agricultural commodities, Food assistance programs, Food processing.

For reasons set forth in the preamble, 7 CFR Part 250 is amended as follows:

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

1. The authority citation for Part 250 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 612c, 612c note, 1431, 1431b, 1431e, 1431 note, 1446a–1, 1859; 15 U.S.C. 713c; 22 U.S.C. 1922; 42 U.S.C. 1751, 1755, 1758, 1760, 1761, 1762a, 1766, 3030a, 5179, 5180.

2. In Section 250.30, a new paragraph (t) is added to read as follows:

§ 250.30 State processing of donated foods.

* * * * *

(t) *Waiver authority.* The Food and Consumer Service may waive any of the requirements contained in this part for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods.

Dated: January 18, 1996.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

Appendix to Preamble of Final Rule—Regulatory Impact Analysis

Date: June 1995
Agency: USDA, FCS
Contact: Ursula Key
Phone: (703) 305–2644

1. *Title:* Food Distribution Program—Waiver Authority Under the State Processing Program.

2. *Action:*

a. *Nature:* Final Rule.

b. *Need and Purpose:* This action is discretionary and is taken to support the goal of regulatory relief, increased State flexibility, increased program efficiency, and paperwork reduction. This authority will be used to conduct demonstration projects to test program alternatives to determine whether changes or greater flexibility will improve the efficiency of the State processing program. Of particular interest are changes that would increase competition among processors, which should result in lower costs to recipient agencies.

This action amends the Food Distribution Program regulations by giving the Food and Consumer Service authority to waive provisions pertaining to State processing of donated commodities in the Food Distribution Program regulations at 7 CFR Part 250.30 only for the purpose of allowing demonstration projects. Current State processing regulations may be overly restrictive, thus increasing processor costs and discouraging the participation of processors.

3. *Background:* Section 250.30 of the current Food Distribution Program regulations sets forth the terms and conditions under which distributing agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for processing donated foods and prescribes the minimum requirements to be included in such contracts. This activity is typically referred to as State processing.

State processing is an activity principally of the Child Nutrition Programs by which State or substate agencies arrange to have USDA donated commodities further processed into end products more readily usable by schools. For example, fresh bulk pack chicken might be processed into chicken nuggets, coarse ground beef into hamburger patties, whole turkeys into fully cooked breast meat and turkey ham, etc. About a third to half of all USDA donated meat and poultry is further processed under State processing contracts. For State processing, USDA either sends the commodities directly to a processor contracted by the State, or sends them to a State distributing agency, which in turn arranges to have the product backhauled to a processor. In either case, under State processing, State or recipient agencies pay the cost of any additional processing directly to the processor.

The total value of USDA commodities donated to the Child Nutrition Programs was $667 million in FY 1994. A little under half of this, of which a third, or $100 million worth, was further processed under State processing arrangements. This figure has been constant for the last several years. While the degree of State processing varies by the specific type of product donated by USDA, typically about two thirds of beef is processed under State contracts, while less than a third of the pork, chicken and turkey are processed. Under current FCS regulations, processors may substitute like kind commercial commodities for USDA commodities for their convenience in manufacturing, except the rules specifically prohibit the substitution of meat and poultry.

On April 13, 1995, the Department published a proposed rule in the **Federal Register** at 60 FR 18781 which would permit FCS to waive provisions relative to the State processing of donated commodities that are contained in the Food Distribution Program regulations at Part 250 for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods. The proposed rule provided a 30-day comment period. This final rule incorporates the proposed waiver provision in the State processing regulations at 7 CFR 250.30(t).

The Department received a total of 9 comment letters, all of which were in favor of the proposed rule.

Commenters stated that by allowing FCS to waive certain provisions of the State processing regulations, more processors would be attracted to the program, and the cost of processed end products should be reduced. They further stated that some of the provisions contained in the State processing regulations are overly restrictive and have resulted in processors dropping out of the State processing program. These commenters believed that over-regulation results in increased costs which are passed on to recipient agencies. They supported FCS's proposal to conduct demonstration projects which could provide guideposts for simplification of the regulations. One commenter believed that demonstration projects will fully support modifications to the current program requirements to generate more competition and improve efficiency.

One of the first demonstrations being considered is the substitution of commercially acquired chicken for USDA donated chicken. Currently, only four poultry processors are participating in the State processing of donated foods. Processors have stated that the current policy which prohibits the substitution of commercially acquired chicken for donated chicken reduces the quantity of donated chicken they are able to accept and process during a given period. The prohibition against the substitution came about as a result of program abuses by processors in the past (e.g., substituting lesser grade commercial chicken for donated chicken, substituting mechanically boned chicken meat for high quality breast meat, etc). In FY 1994, USDA donated approximately $68 million worth of chicken to the Child Nutrition Program, about a third of which underwent State processing. Chicken purchased by USDA for further processing is typically bulk chill packed. In FY 1994, USDA donated 9.5 million pounds valued at $5.3 million. Processors must schedule production around deliveries of the donated chicken since it is a very highly perishable product. Some of the processors must schedule production around deliveries of donated chicken for up to 30 individual States. Vendors do not always deliver donated chicken to the processors as scheduled, causing delays in production of end products. These delays may be eliminated if the processors can substitute commercial chicken for donated chicken. Any substituted commercial chicken must be at least as high in quality as USDA chicken in terms of grade, condition, and other attributes.

The demonstration project will enable FCS to evaluate whether to amend program regulations to provide for the substitution of donated chicken with commercial chicken in the State processing program. Particular attention will be paid to whether such an amendment of the regulations would be likely to increase the number of processors participating, and whether it would probably increase the quantity of donated chicken that each processor accepts for processing. Also, FCS will attempt to determine whether the expected increase in competition and the expected increase in the quantity of donated chicken accepted for processing in fact enable processors to function more efficiently, producing a greater variety of processed chicken end products in a more timely manner at lower costs. Further, FCS must determine whether USDA and the States have the practical capability to ensure that substitutions are, in fact, for comparable or better quality product.

4. *Justification of Alternative:* This final rule would authorize the Department to conduct demonstration projects to study the effect of waiving certain expensive and burdensome requirements in the State processing program. For example, Agricultural Marketing Service (AMS) acceptance service grading certificates may be used in lieu of company generated production and quality control records. Through these demonstration projects, the Department hopes to determine if the cost of compliance for food manufacturers, as well as the record-keeping burden associated with the administration of the program, can be reduced. The Department's goal is to attract more manufacturers to participate in the State processing program. We are aware of three major poultry processors who sell commodity product to USDA but do not participate in the State processing program. We are not able to determine at this time exactly how many additional processors will decide to participate in the State processing program but AMS is optimistic that more processors will be interested in participating. This increased competition should ultimately lead to lower prices to recipient agencies. By conducting the demonstration projects, the Department can determine if relaxing certain requirements will adversely affect program accountability. It is important to note that all remaining controls and requirements of the State processing regulations and the State processing contracts will remain in effect. We are only considering reductions or waivers which are feasible because other program controls can perform the function of the changed or waived requirements. If the results of the demonstration projects indicate that certain requirements can be modified or waived without compromising program integrity, the Department can consider amending certain current State processing program requirements. The Department expects this rule will support efforts to streamline the administration of the State processing program and improve customer service to recipient agencies (primarily schools).

Two other alternatives were considered: (1) doing nothing and (2) eliminating the audit and substitution regulations entirely. The option of selected waivers for demonstration projects was the preferred alternative.

5. *Effects:*

a. *Effects on food manufacturers:* Through conducting demonstration projects, FCS can determine if it is possible to eliminate or reduce reporting and recordkeeping requirements for processors. Some of the more burdensome requirements include inventory records, production records, quality control records, sales records, monthly performance reports, grading and inspection requirements, performance, supply, and surety bonding requirements, and the certified public accountant audit requirement. For example, processors which receive donated food valued at $250,000 or more each year are required to submit an annual independent certified public accountant audit report. This requirement may be relaxed to require an audit every two or three years for those processors with a history of good performance. The Department is interested in determining whether any of the above requirements can be eliminated or reduced while still maintaining program accountability for the donated food. Also, the Department intends to determine how much costs can be reduced for processors as a result of participation in the demonstration projects. Since program controls may not be as strong as under current rules, FCS would seek to determine the extent to which the benefits of burden reduction are worth potential costs due to less control.

b. *Effects on State distributing agencies:* Through the demonstrations projects, the Department will determine if it is possible to streamline the administration of the processing program at the State level. Currently, States must enter into agreements or renew them annually. Additionally, States must review end product data schedules, performance, supply, and surety bonds, performance reports and grading certificates on a monthly basis, and certified public accountant audit reports as submitted. During the demonstration projects, the Department hopes to review the current responsibilities of the State agencies and determine areas where there is duplication of effort and where reductions in reporting may be possible.

c. *Effects on Recipient agencies:* Currently the processors' costs of all the record-keeping and reporting requirements (e.g., acceptance service grading, performance, supply, and surety bond, and certified public accountant audit reports) are being passed on to the recipient agencies via higher prices for end products. Also, fewer processors are participating in the program, claiming that certain requirements are too burdensome and expensive. FCS has been informed that the typical cost of an independent certified public accountant audit report can run from $10,000 to $25,000 depending on the volume of food processed by a manufacturer. If we could require the audits less frequently for processors with a history of good performance, their costs could be significantly reduced. Since processors pass their costs on to recipient agencies, this should enable them to reduce the prices of the products they sell to schools. By conducting demonstration projects to study the possibility of removing or reducing some of the requirements, the Department hopes that more processors will participate in the State processing program, thereby increasing the competitive base. By reducing costs for the processors and increasing competition, it should be possible to reduce prices of end products to the schools. Processing adds about $0.78 to $1.09 per pound to the value of the end product. For example, coarse ground beef costing USDA $1.08 per pound would be worth $1.86 to $2.17 per pound to the State after processing. In other words, processing roughly doubles the value of donated beef.

As with beef, processing typically adds about $0.78 to $1.09 per pound in value to chicken, roughly the same per pound as beef processing. It is hoped that the flexibilities offered through the demonstrations under this rule could reduce this by perhaps 5 to 10 percent. If the demonstrations prove these savings out, and the flexibilities had been available and fully used in 1994, States would have saved about $1 to $2 million of their processing costs (i.e., 25 million pounds times $0.93 per pound processing (the midpoint) equals $23 million minus 5 percent to 10 percent equals $1.2 to $2.3 million). If a comparable savings rate were achieved in all processed meat and poultry in 1994, the States would have saved perhaps $7 to $14 million total. The demonstration projects will allow FCS to quantify potential savings more accurately. See attached tables for more detailed illustration.

d. *Effects on program costs and integrity:* As demonstration projects are conducted, the Department hopes to determine if certain administrative costs associated with the State processing program can be reduced. The Department is also concerned that program integrity be maintained. If elimination of audit requirements or allowance of substitution should result in an increase in fraudulent behavior, the potential savings desirable could be completely eliminated.

e. *Effects on small entities:* This rule would not have a significant economic impact on a substantial number of small entities. Commercial food processors participating in the demonstration projects will be most affected to the extent that they have the greatest record-keeping and reporting requirements in the State processing program.

TABLE 1.—CHILD NUTRITION PROGRAMS, COMMODITY DONATIONS

	Dollars in thousands					Pounds in thousands				
	1990	1991	1992	1993	1994	1990	1991	1992	1993	1994
Child nutrition commodities:										
Entitlement	$520,845	$533,188	$558,154	$573,281	$574,598	952,311	1,009,384	842,193	887,012	894,648
Bonus	110,601	84,306	122,162	90,163	92,226	139,820	109,105	315,727	163,940	147,851
Total commodities	631,446	617,494	680,316	663,444	666,824	1,092,131	1,118,489	1,157,920	1,050,952	1,042,499
of which:										
Beef patties, frz	10,484	11,545	12,732	14,335	6,801	7,748	8,426	9,262	10,597	4,986
Beef patties, frz w/vpp	12,350	19,004	25,193	25,067	20,749	11,428	16,909	22,177	22,514	19,068
Beef patties, extra lean	.....	.....	6,810	10,736	8,931	.....	.....	3,830	6,771	5,563
Beef frozen ground	103,661	110,964	115,473	116,522	94,796	80,778	84,581	88,938	92,698	74,104
Beef roasts, choice	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Beef, canned W/J	942	.....	906	753	72	612	.....	612	504	47
Beef, frz grd course process	7,014	8,880	11,759	16,035	21,039	5,437	6,930	9,072	12,390	16,422
Subtotal, beef	134,451	150,393	172,873	183,448	152,388	106,003	116,846	133,891	145,474	120,190
Chicken, canned boned	.....	.....	.....	.....	2,103	.....	.....	.....	.....	1,083
Chickens, chilled bulk	6,260	5,844	7,274	5,594	5,343	10,908	11,232	14,611	10,188	9,496
Chickens, chill leg	.....	.....	.....	4,807	5,377	.....	.....	.....	9,108	9,830
Chickens, drums	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chickens, frozen, cut up	36,732	32,187	33,257	19,869	20,536	55,506	53,946	60,454	31,737	31,753
Chickens, frozen breaded	3,235	.....	4,596	12,544	13,646	2,611	.....	3,988	11,424	12,762
Chickens, leg qtrs	.....	.....	.....	.....	1,133	.....	.....	.....	.....	3,080
Chickens, nuggets frz soc	.....	.....	241	4,183	1,370	.....	.....	468	2,652	2,028
Chickens, diced frz	.....	.....	22,107	12,074	18,066	.....	.....	9,921	5,271	8,133
Chickens, patties, soc	.....	.....	.....	121	474	.....	.....	.....	78	702
Chickens, thighs	.....	.....	.....	.....	1	.....	.....	.....	.....	.....
Subtotal, chicken	46,227	38,031	67,475	59,192	68,048	69,025	65,178	89,442	70,458	78,867
Pork, canned W/NJ	336	2,045	923	680	1,572	252	1,369	720	540	1,269
Pork, frz ground	17,481	23,833	15,349	20,217	15,794	16,252	20,744	16,947	19,744	15,579
Pork, frz grd coarse process	.....	.....	1,986	3,170	3,733	.....	.....	2,020	3,247	3,841
Pork, frz patties	.....	.....	.....	.....	291	.....	.....	.....	.....	277
Pork, ham, frz cooked	19,618	114	9,641	.....	25,513	12,915	72	6,652	.....	16,011
Subtotal, pork	37,435	25,992	27,899	24,067	46,903	29,419	22,185	26,339	23,531	36,977
Turkey roasts, frozen	26,122	26,769	18,637	34,166	27,634	18,747	20,071	13,221	24,874	19,962
Turkey, commercial pack	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Turkey, frozen ground	5,957	5,928	5,978	11,012	9,858	9,098	8,189	7,847	18,817	16,926
Turkey, frozen whole	11,700	12,191	7,551	7,612	9,364	17,352	17,754	10,949	12,406	15,043
Turkey, chilled, bulk	3,832	3,613	5,870	8,212	7,287	5,976	5,544	9,821	13,752	11,720
Turkey, frz ground burgers	.....	.....	809	3,166	1,648	.....	.....	756	3,348	1,872
Turkey, sausage chubbs	.....	.....	.....	.....	371	.....	.....	.....	.....	468
Turkey, sausage patties	.....	.....	.....	.....	606	.....	.....	.....	.....	540
Turkey, sausage links	.....	.....	.....	.....	409	.....	.....	.....	.....	320
Subtotal, turkey	47,611	48,501	38,845	64,168	57,177	51,173	51,558	42,594	73,197	66,851
Total, meat and poultry	265,724	262,917	307,092	330,875	324,516	255,620	255,767	292,266	312,660	302,885

TABLE 2.—CHILD NUTRITION PROGRAMS, COMMODITY DONATIONS

	Dollars in thousands					Pounds in thousands				
	1990	1991	1992	1993	1994	1990	1991	1992	1993	1994
Likely to be further processed by States:										
Beef, frozen ground	$103,661	$110,964	$115,473	$116,522	$94,796	80,778	84,581	88,938	92,698	74,104
Beef, frz grd coarse process	7,014	8,880	11,759	16,035	21,039	5,437	6,930	9,072	12,390	16,422
Subtotal, beef	110,675	119,844	127,232	132,557	115,835	86,215	91,511	98,010	105,088	90,526
Additional processing costs at $0.93 per pound	.....	.....	.....	.....	84,189	.....	.....	.....	.....	90,526
Chicken, chilled bulk	6,260	5,844	7,274	5,594	5,343	10,908	11,232	14,611	10,188	9,496
Subtotal, chicken	6,260	5,844	7,274	5,594	5,343	10,908	11,232	14,611	10,188	9,496
Additional processing costs at $0.93 per pound	.....	.....	.....	.....	8,831	.....	.....	.....	.....	9,496
Pork, frz ground	17,481	23,833	15,349	20,217	15,794	16,252	20,744	16,947	19,744	15,579
Pork, frz grd course process	.....	.....	1,986	3,170	3,733	.....	.....	2,020	3,247	3,841
Subtotal, pork	17,481	23,833	17,335	23,387	19,527	16,252	20,744	18,967	22,991	19,420

TABLE 2.—CHILD NUTRITION PROGRAMS, COMMODITY DONATIONS—Continued

	Dollars in thousands					Pounds in thousands				
	1990	1991	1992	1993	1994	1990	1991	1992	1993	1994
Additional processing costs at $0.93 per pound	.....	.....	.....	.....	18,061	.....	.....	.....	.....	19,420
Turkey, frozen ground	5,957	5,928	5,978	11,012	9,858	9,098	8,189	7,847	18,817	16,926
Turkey, chilled bulk	3,832	3,613	5,870	8,212	7,287	5,976	5,544	9,821	13,752	11,720
Subtotal, turkey	9,789	9,541	11,848	19,224	17,145	15,074	13,733	17,668	32,569	28,646
Additional processing costs at $0.93 per pound	.....	.....	.....	.....	26,641	.....	.....	.....	.....	28,646
Total, meat and poultry	144,205	159,062	163,689	180,762	157,850	128,449	137,220	149,256	170,836	148,088
Additional processing costs at $0.93 per pound	.....	.....	.....	.....	137,722	.....	.....	.....	.....	148,088
Potential State processing savings at:										
1 percent	.....	.....	.....	.....	1,377	.....	.....	.....	.....	.....
5 percent	.....	.....	.....	.....	6,886	.....	.....	.....	.....	.....
10 percent	.....	.....	.....	.....	13,772	.....	.....	.....	.....	.....

Approved:
Dated: June 28, 1995.
William E. Ludwig,
Administrator, Food and Consumer Service.

Dated: August 29, 1995.
Stephen B. Dewhurst,
Director, Office of Budget and Program Analysis.

Dated: August 4, 1995.
Keith Collins,
Acting Chief Economist.

Dated: September 11, 1995.
Ellen Haas,
Assistant Secretary for Food, Nutrition and Consumer Services.

[FR Doc. 96–2177 Filed 2–9–96; 8:45 am]
BILLING CODE 3410–30–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–162–AD; Amendment 39–9504; AD 96–03–07]

Airworthiness Directives; Beech Model 400, 400A, and MU–300–10 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech Model 400, 400A, and MU–300–10 airplanes, that requires installation of an improved adjustment mechanism on the flightcrew seats and replacement of the existing aluminum seat reinforcement assemblies with steel assemblies. This amendment is prompted by reports of incomplete latching of the existing adjustment mechanism and cracked reinforcement assemblies, which could result in sudden shifting of a flightcrew seat. The actions specified by this AD are intended to prevent such shifting of a flightcrew seat, which could impair the flightcrew's ability to control the airplane.

DATES: Effective March 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Larry Engler, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4122; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Beech Model 400, 400A, and MU–300–10 airplanes was published in the **Federal Register** on May 25, 1995 (60 FR 27705). That action proposed to require installing an improved adjustment mechanism on the flightcrew seats, and replacing the existing aluminum seat reinforcement assemblies with steel assemblies.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter suggests that the corrective action for this proposed AD is much simpler than that specified in the proposal. The commenter perceives the problem to be that some pilots may not carefully check the security and locking of their seats after making an adjustment. Therefore, the seat can slide during taxi, climb out, or turning. The commenter believes the corrective action involves flightcrew awareness; the flightcrew should be responsible in determining if the seat is locked into position by attempting to make the seat slide out of position by rocking the seat fore and aft. The commenter suggests that, if this method were employed, the costs associated with the accomplishment of the actions specified in this proposed AD would not be necessary. The commenter agrees that if the seat locking pins are worn or the mechanism bent, those parts should be repaired.

The FAA does not concur with the commenter's suggestion that attempting to make the seat slide out of position by rocking the seat fore and aft sufficiently addresses the unsafe condition. In this case, the FAA has received several reports of incomplete latching of the existing adjustment mechanism, and cracking of the aluminum seat reinforcement assemblies. Cracking of the aluminum seat reinforcement assemblies is an indicator of a

structurally weak design, and this is the unsafe condition the FAA is addressing in this AD action. The FAA has the authority to issue an AD when it is found that an unsafe condition is likely to exist or develop on other products of the same type design. The FAA finds that installing an improved seat tracking adjustment mechanism and replacing the aluminum seat reinforcement assemblies with steel assemblies adequately, and appropriately, addresses this unsafe condition.

This same commenter also questions the FAA's original certification basis of the subject airplane relative to the seat mechanism. The commenter asks whether the FAA "made a mistake" by certifying the airplane with these seat mechanisms installed.

In response to this, the FAA points out that an airplane's type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has made the determination that they establish an appropriate level of safety. However, actual in-service experience (as well as other factors, such as manufacturers' fatigue testing, etc.) may reveal problems in an airplane or its components that were not envisioned or predictable at the time of its type certification. When these problems create an unsafe condition, this means that the original level of safety is no longer being achieved. When actions or procedures are identified that will positively correct the unsafe condition and restore the airplane to its original level of safety, an AD is the appropriate vehicle for mandating that such actions be accomplished.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 169 Beech Model 400, 400A, and MU–300–10 airplanes of the affected design in the worldwide fleet. The FAA estimates that 121 airplanes of U.S. registry will be affected by this AD, that it will take approximately 24 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $700 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $258,940, or $2,140 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–07 Beech Aircraft Corporation: Amendment 39–9504. Docket 94–NM–162–AD.

Applicability: Model 400 airplanes, serial numbers RJ–1 through RJ–65 inclusive; Model 400A airplanes, serial numbers RK–1 through RK–93 inclusive; and Model MU–300–10 airplanes, serial numbers A1001SA through A1011SA inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane due to a shifting of the flightcrew seat during flight, accomplish the following:

(a) Within 200 hours time-in-service after the effective date of this AD, install an improved adjustment mechanism on the flightcrew seat, and replace the existing aluminum seat reinforcement assemblies with steel assemblies, in accordance with Beechcraft Service Bulletin No. 2536, Revision 1, dated April 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installation and replacement shall be done in accordance with Beechcraft Service Bulletin No. 2536, Revision 1, dated April 1995. (NOTE: The issue date of Service Bulletin No. 2536 is indicated only on page 1; no other page of the document is dated.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, P. O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the **Federal Register**, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 13, 1996.

Issued in Renton, Washington, on January 23, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1521 Filed 2–9–96; 8:45am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–261–AD; Amendment 39–9475; AD 95–26–17]

Airworthiness Directives; de Havilland Model DHC–8–301, –311, and –315 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8–301, –311, and –315 series airplanes. This action requires modification of the airspeed limitations placard and revision of the Airplane Flight Manual to specify operating at lower airspeeds at full flaps. This action also provides for the termination of the requirements of this AD for certain airplanes. This amendment is prompted by a report that incorrect rivets were installed on the outboard flaps assemblies of these airplanes. The actions specified in this AD are intended to prevent structural failure of the outboard flaps of the wings due to the installation of incorrect rivets in the flap assemblies, which could result in reduced controllability of the airplane.

DATES: Effective February 27, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 27, 1996.

Comments for inclusion in the Rules Docket must be received on or before April 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–261–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Franco Pieri, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7526; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain de Havilland Model DHC–8–301, –311, and –315 series airplanes. Transport Canada Aviation advises that incorrect rivets were installed during manufacture of the outboard flap assemblies of these airplanes. Investigation revealed that AD rivets were installed on the outboard flaps instead of DD rivets. AD rivets are made of a material that is not as strong as that of DD rivets. This condition, if not corrected, could result in structural failure of the outboard flaps of the wings, and subsequent reduced controllability of the airplane.

The manufacturer has issued de Havilland Service Bulletin S.B. 8–57–24, Revision 'A', dated September 26, 1995, which describes procedures for modification (8/2498) of the airspeed limitations placard to specify a lower airspeed at 35 degrees flaps.

The service bulletin also describes procedures for modification (8/2066) of the outboard flaps, which entails drilling out the AD rivets and installing new DD rivets on Model DHC–8–311 and –315 series airplanes. Following accomplishment of this modification, the service bulletin specifies removal of the airspeed limitations placard (Modification 8/2498). A corrective modification has not yet been developed for Model DHC–8–301 series airplanes.

Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–95–05R1, dated October 19, 1995, in order to assure the continued airworthiness of these airplanes in Canada. In addition, the Canadian airworthiness directive requires a revision to the Airplane Flight Manual (AFM), which specifies operating at a lower airspeed at full flaps. The Canadian airworthiness directive references DHC–8 Model 301 Flight Manual, PSM 1–83–1A, Flight Manual Revision 57, dated September 26, 1995, for accomplishment of the AFM revision for Model DHC–8–301 series airplanes.

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent structural failure of the outboard flaps of the wings and subsequent reduced controllability of the airplane. This AD requires modification of the airspeed limitations placard to indicate that the airplane must be flown at reduced airspeed when flying at 35 degrees flaps. This action is required to be accomplished in accordance with the service bulletin described previously.

Additionally, this AD requires a revision to the AFM for all airplanes to include information relative to reducing airspeed at 35 degrees flaps. (The revision for Model DHC–8–301 series airplanes is described in DHC–8 Model 301 Flight Manual, PSM 1–83–1A, Flight Manual Revision 57, dated September 26, 1995.)

For Model DHC–8–311 and –315 series airplanes, this AD also provides for termination of the requirements of the AD by modifying the outboard flaps (installation of Modification 8/2066).

This is considered to be interim action. The FAA is currently considering requiring the accomplishment of Modification 8/2066 on the applicable airplanes, which will constitute terminating action for the requirements of this AD action. However, the planned compliance time for accomplishment of this modification is sufficiently long so that prior notice and time for public comment will be practicable.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–261–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–26–17 De Havilland, Inc.: Amendment 39–9475. Docket 95–NM–261–AD.

Applicability: Model DHC–8–301, –311, and –315 series airplanes; as listed in de Havilland Service Bulletin S.B. 8–57–24, Revision 'A', dated September 26, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of the outboard flaps of the wings and subsequent reduced controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, accomplish the modification of the airspeed limitation placards (Modification 8/2498) in accordance with de Havilland Service Bulletin S.B. 8–57–24, Revision 'A', dated September 26, 1995.

(b) Prior to further flight following accomplishment of the modification required by paragraph (a) of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by accomplishing either paragraph (b)(1) or (b)(2) of this AD, as applicable; and operate the airplane in accordance with those limitations.

(1) For Model DHC–8–301 series airplanes: Include the information specified in DHC–8 Model 301 Flight Manual, PSM 1–83–1A, Flight Manual Revision 57, dated September 26, 1995; which specifies a lower airspeed limitation at full flaps. This may be accomplished by inserting a copy of Flight Manual Revision 57 into the AFM.

(2) For Model DHC–8–311 and –315 series airplanes: Include the following statement in section 2, paragraph 2.4.1.2., of the AFM. This may be accomplished by inserting a copy of this AD in the AFM.

"Flap extended speed (V_{FE}): Flaps 35 degrees 130 knots IAS"

(c) For Model DHC–8–311 and –315 series airplanes: Accomplishment of Modification 8/2066 in accordance with de Havilland Service Bulletin S.B. 8–57–24, Revision 'A', dated September 26, 1995, constitutes terminating action for the requirements of this AD. Following accomplishment of Modification 8/2066, the airspeed limitations placard (Modification 8/2498) required by paragraph (a) of this AD and the AFM limitation required by paragraph (b) of this AD may be removed.

(d) As of the effective date of this AD, Modification 8/2498 must be accomplished in accordance with de Havilland Service Bulletin S.B. 8–57–24, Revision 'A', dated September 26, 1995, prior to installation of any outboard flap assembly having a part number and serial number that is listed in de Havilland Service Bulletin S.B. 8–57–24, Revision 'A', dated September 26, 1995.

Note 2: For Model DHC–8–311 and –315 series airplanes: Accomplishment of Modification 8/2066 in accordance with de Havilland Service Bulletin S.B. 8–57–24, Revision 'A', dated September 26, 1995, is considered acceptable for compliance with the requirements of paragraph (d) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The modifications shall be done in accordance with de Havilland Service Bulletin S.B. 8–57–24, Revision 'A', dated September 26, 1995. The AFM revision may be done in accordance with DHC–8 Model 301 Flight Manual, PSM 1–83–1A, Flight Manual Revision 57, dated September 26, 1995, for Model DHC–8–301 series airplanes. The incorporation by reference of these documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on February 27, 1996.

Issued in Renton, Washington, on December 22, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2951 Filed 2–9–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–CE–17–AD; Amendment 39–9499; AD 96–03–03]

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Fairchild Aircraft SA226 and SA227 series airplanes. This action requires replacing the nuts that attach the power control cable to the lever attach point clevis with nuts that have safety wire holes, safety-wiring the power control cable to the lever attach point clevis, inspecting to assure that the power cable is securely attached to the power control cable bracket, and correcting any attachment problems. Reports of power control cable attaching hardware failure on two of the affected airplanes prompted this action. In one of these instances, the power control cable disconnected from the lever attach point clevis, resulting in engine shutdown. The actions specified by this AD are intended to prevent such power control cable disconnection, which could result in engine shutdown and subsequent loss of control of the airplane.

DATES: Effective March 15, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of March 15, 1996.

ADDRESSES: Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–17–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the **Federal Register**, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alma Ramirez-Hodge, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5147; facsimile (817) 222–5959.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes was published in the **Federal Register** on July 19, 1995 (60 FR 37037). The action proposed to require replacing the nuts that attach the power control cable to the lever attach point clevis with nuts that have safety wire holes, safety-wiring the power control cable to the lever attach point clevis, inspecting to assure that the power cable is securely attached to the power control cable bracket, and correcting any attachment problems. Accomplishment of the proposed actions would be in accordance with Fairchild Service Bulletin (SB) 226–76–009; Fairchild SB 227–76–004; or Fairchild SB CC7–76–001, all Issued: January 6, 1995, as applicable.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 779 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts would consist of common hardware and the cost would vary; however, for the purposes of this AD, a figure of $20 is used. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $202,540. This figure is based on the assumption that no owner/operator of the affected airplanes has accomplished the required actions. Since parts are obtained locally, the FAA has no readily available means of determining how many owners/operators have incorporated the required actions.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

96–03–03 Fairchild Aircraft: Amendment 39–9499; Docket No. 95–CE–17–AD.

Applicability: Models SA226–T, SA226–T(B), SA226–AT, SA226–TC, SA227–TT, SA227–AT, SA227–AC, SA227–BC, SA227–CC, and SA227–DC airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the power control cable from disconnecting from the lever attach point clevis, which could result in engine shutdown and subsequent loss of control of the airplane, accomplish the following:

(a) Replace the nuts that attach the power control cable to the lever attach point clevis with nuts that have safety wire holes, safety-wire the power control cable to the lever attach clevis, inspect to assure that the power cable is securely attached to the power control cable bracket, and correct any attachment problems. Accomplish these actions in accordance with the following service bulletins, as applicable:

(1) Fairchild Service Bulletin (SB) 226–76–009, dated January 6, 1995;

(2) Fairchild SB 227–76–004, dated January 6, 1995; or

(3) Fairchild SB CC7–76–001, dated January 6, 1995.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Fort Worth Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76137–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(d) The replacement required by this AD shall be done in accordance with Fairchild Service Bulletin 226–76–009; Fairchild Service Bulletin 227–76–004; or Fairchild Service Bulletin CC7–76–001, all Issued: January 6, 1995, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street NW., 7th Floor, suite 700, Washington, DC.

(e) This amendment (39–9499) becomes effective on March 15, 1996.

Issued in Kansas City, Missouri, on January 23, 1996.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1574 Filed 2–9–96;8:45am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–238–AD; Amendment 39–9503; AD 96–03–06]

Airworthiness Directives; Jetstream ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream ATP airplanes, that requires inspections to detect fatigue cracking and corrosion in the gussets of the rear passenger door and rear baggage door apertures, and replacement of the gussets, if necessary. This amendment is prompted by fatigue tests which indicated that fatigue cracking and corrosion can occur in these gussets. The actions specified by this AD are intended to prevent degradation of the structural integrity of the fuselage pressure vessel due to the problems associated with cracking and corrosion in the gussets of the rear passenger door and rear baggage door apertures.

DATES: Effective March 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2747; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream ATP airplanes was published in the **Federal Register** on October 13, 1995 (60 FR 53312). That action proposed to require a one-time detailed visual inspection for fatigue cracking and corrosion in the gussets of the rear passenger door and the rear baggage door apertures. That action also proposed replacement of cracked gussets, and either replacement or repair of corroded gussets.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required inspection actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $4,800, or $480 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–06 Jetstream Aircraft Limited (Formerly British Aerospace Commercial Aircraft, Ltd.): Amendment 39–9503. Docket 94–NM–238–AD.

Applicability: Model ATP airplanes; having serial numbers 2002 through 2012 inclusive; and 2019 through 2022 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent degradation of the structural integrity of the fuselage pressure vessel due to the problems associated with cracking and corrosion in the gussets of the rear passenger door and rear baggage door apertures, accomplish the following:

(a) Prior to the accumulation of 12,000 total landings or within 1,500 landings after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracks and corrosion of the gussets of the rear passenger door aperture, in accordance with Jetstream Service Bulletin ATP–53–29, dated October 31, 1994.

(1) If any crack is found, prior to further flight, replace the gusset in accordance with the service bulletin.

(2) If any corrosion is found, prior to further flight, either replace the gusset in accordance with the service bulletin, or repair the gusset in accordance with the Structural Repair Manual, chapter 53–10–12.

(b) Prior to the accumulation of 15,000 total landings or within 1,500 landings after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracks and corrosion of the gussets of the rear baggage door aperture, in accordance with Jetstream Service Bulletin ATP–53–29, dated October 31, 1994.

(1) If any crack is found, prior to further flight, replace the gusset in accordance with the service bulletin.

(2) If any corrosion is found, prior to further flight, either replace the gusset in accordance with the service bulletin, or repair the gusset in accordance with the Structural Repair Manual, chapter 53–10–12.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Jetstream Service Bulletin ATP–53–29, dated October 31, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 13, 1996.

Issued in Renton, Washington, on January 23, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1519 Filed 2–9–96; 8:45am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–39–AD; Amendment 39–9502; AD 96–03–05]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes and Model DC–10–30, DC–10–40, and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes and Model DC–10–30, DC–10–40, and KC–10A (military) airplanes. For Model MD–11 series airplanes, the AD requires an inspection to determine the serial number of the forward trunnion bolts on the main landing gear (MLG), and rework or replacement of the bolts, if necessary. For Model DC–10–30, DC–10–40, and KC–10A (military) airplanes, the AD requires an inspection for evidence of missing chrome and for corrosion on the chrome surfaces, or verification that the forward trunnion bolts have been chrome plated in a specific manner; and rework or replacement of the bolts, if necessary. This amendment is prompted by reports of chrome flaking on the bearing surface of the trunnion bolts due to improper cleaning of the base material prior to chrome plating. The actions specified by this AD are intended to prevent premature failure of the trunnion bolts and subsequent collapse of the MLG as a result of severe corrosion on the bearing surface and in the mechanical fuse due to chrome flaking.

DATES: Effective March 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained

from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes and Model DC–10–30, DC–10–40, and KC–10A (military) airplanes was published in the **Federal Register** on August 21, 1995 (60 FR 43417). For Model MD–11 series airplanes, that action proposed to require an inspection to determine the serial number of the forward trunnion bolts on the main landing gear (MLG), and rework or replacement of the bolts, if necessary. For Model DC–10–30, DC–10–40, and KC–10A (military) airplanes, that action proposed to require an inspection for evidence of missing chrome and for corrosion on the chrome surfaces, or verification that the forward trunnion bolts have been chrome plated in a specific manner; and rework or replacement of the bolts, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

Three commenters request that the proposed rule be revised to specify that unmodified parts may not be installed as of 18 months after the effective date of the AD. [Paragraphs (b) and (d) of the proposed rule specify currently that unmodified parts may not be installed as of the effective date of the AD.] The commenters point out that, although these parts that are currently installed on an airplane would be allowed to continued in service for 18 months prior to modification, those same parts currently in stock as spares would not be permitted to be installed prior to modification, regardless of the cumulative time on the spare part or the circumstances under which an operator may need temporary use of unmodified spare parts. The commenters indicate that the availability of adequate numbers of replacement or modified parts is an issue in meeting the compliance date; in such cases, there is often a need to take low-time or zero-time spare parts and rotate them temporarily into installed positions so that the intent of the AD can be accomplished without disrupting service to the traveling and shipping public. Along this same line, one commenter asks whether the manufacturer has ensured that adequate quantities of the ARG7558 bolts are available for procurement in order to support "on condition" replacements necessary as a result of accomplishing the intent of the proposed rule. This commenter suggests that, if such bolts are not available, the FAA should delay implementation of the rule until an adequate stock exists.

The FAA concurs with the commenters' request. At the time the proposed rule was issued, the FAA had obtained information indicating that sufficient spare parts would be available to support a requirement that trunnion bolts not meeting the requirements of the AD not be installed on an airplane. However, since the issuance of the proposed rule, the manufacturer has advised the FAA that, due to delays in the manufacture of new trunnion bolts, only a limited number of replacement trunnion bolts would be available for use as spares at the time the AD becomes effective. The manufacturer has advised further that sufficient trunnion bolts will be available to support an 18-month compliance time. Accordingly, the FAA has removed paragraphs (b) and (d) from the final rule.

One commenter requests that installation of a trunnion bolt having part number ARG7558–507 be considered terminating action for the requirements of paragraph (c) of the proposed rule. The FAA concurs. Subsequent to the issuance of the proposed rule, the FAA determined that trunnion bolts having part numbers ARG7558–507 (for Model DC–10 series airplanes), ARG7558–509 (for Model MD–11 series airplanes), and ARG7008–511 (for Model MD–11 series airplanes) are superseding parts that have been manufactured using an improved process that eliminates the problem of severe corrosion on the bearing surface and mechanical fuse due to chrome flaking. These parts have been plated with nickel prior to being plated with chrome. In light of this information, the FAA has added new paragraphs (b) and (d) to this final rule to specify that installation of a trunnion bolt having part number ARG7558–507 on the MLG of Model DC–10 series airplanes, or part number ARG7558–509 or ARG7008–511 on the MLG of Model MD–11 series airplanes, constitutes terminating action for the requirements of this AD for that MLG.

One commenter asks if the FAA is considering including a provision in the AD to specify that visual inspections accomplished prior to the effective date of the final rule satisfy the requirement of paragraph (c) of the proposed AD. The FAA finds that no change to the final rule is necessary to provide such a provision. The AD contains a statement that reads, "Compliance: Required as indicated, unless accomplished previously." That statement provides credit for actions accomplished in accordance with the requirements of the AD prior to the effective date of the final rule.

One commenter requests that the economic impact information that was presented in the preamble to the notice be revised to increase the number of estimated necessary work hours from 1 to 33.5. The commenter states that when defective bolts are found the time required to accomplish the action proposed by this AD is approximately 33.5 work hours. The FAA does not concur with the commenter's request. The economic impact information presented is limited only to the cost of actions actually required by the rule (e.g., the inspection of the trunnion bolts). It does not consider the costs of "on condition" actions, e.g., "rework or replacement of the bolts, if necessary," since those actions would be required to be accomplished, regardless of AD direction, in order to correct an unsafe condition identified in an airplane and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations.

Subsequent to issuance of the proposal, McDonnell Douglas issued DC–10 Service Bulletin DC10–32–239, Revision 2, dated January 8, 1996. This revision is essentially identical to Revision 1, which was cited in the proposal as the appropriate source of service information; Revision 2 differs only in that it clarifies certain work instructions. The FAA has revised the final rule to include Revision 2 of the service bulletin as an additional source of service information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 414 Model MD–11 series airplanes and Model DC–10–30, DC–10–40, and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 196 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $11,760, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–05 McDonnell Douglas: Amendment 39–9502. Docket 95–NM–39–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas MD–11 Service Bulletin 32–45, Revision 1, dated May 1, 1995; and Model DC–10–30, DC–10–40, and KC–10A (military) airplanes, as listed in McDonnell Douglas DC–10 Service Bulletin DC10–32–239, Revision 1, dated June 6, 1995, and Revision 2, dated January 8, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent premature failure of the trunnion bolts and subsequent collapse of the main landing gear (MLG), accomplish the following:

(a) For Model MD–11 series airplanes: Within 18 months after the effective date of this AD, perform a visual inspection to determine the serial number of the forward trunnion bolts, part number (P/N) ARG7558–503 or ARG7558–505, on the right and left MLG's, in accordance with McDonnell Douglas MD–11 Service Bulletin 32–45, Revision 1, dated May 1, 1995.

(1) If the serial number of the trunnion bolt is STR0217, STR0232, STR0237 through STR0242 inclusive, or STR0244 through STR0284 inclusive; or if the trunnion bolt has been chrome plated in accordance with the Component Maintenance Manual (CMM), Chapter 20–10–02, Revision 31, dated September 1, 1991, since original manufacture: No further action is required by this AD.

(2) For trunnion bolts other than those identified in paragraph (a)(1) of this AD: Prior to further flight, remove the chrome plating on the trunnion bolt, replace the plating, and reinstall the reworked trunnion bolt; or replace the trunnion bolt with a serviceable part; in accordance with McDonnell Douglas MD–11 Service Bulletin 32–45, Revision 1, dated May 1, 1995.

(b) For Model MD–11 series airplanes: Installation of a trunnion bolt having P/N ARG7558–509 or ARG7008–511 on the MLG constitutes terminating action for the requirements of this AD for that MLG.

(c) For Model DC–10–30, DC–10–40, and KC–10A (military) airplanes: Within 18 months after the effective date of this AD, accomplish either paragraph (c)(1) or (c)(2) of this AD, as applicable, in accordance with McDonnell Douglas DC–10 Service Bulletin DC10–32–239, Revision 1, dated June 6, 1995, or Revision 2, dated January 8, 1996.

(1) For airplanes on which the forward trunnion bolts, P/N ARG7558–501, installed on the left and right MLG's, have accumulated 6,000 or more total flight hours or 2,000 or more total flight cycles as of the date of the inspection: Remove the bolts and perform a visual inspection for evidence of missing chrome and for corrosion on the chrome surfaces, in accordance with the service bulletin.

(i) If no evidence of missing chrome and no corrosion on the chrome surfaces are found, no further action is required by this AD.

(ii) If any evidence of missing chrome or any corrosion on the chrome surfaces is found, prior to further flight, accomplish either paragraph (c)(1)(ii)(A) or (c)(1)(ii)(B) of this AD.

(A) Remove the chrome plating on the trunnion bolt in accordance with the service bulletin; replace the plating in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas Designated Engineering Representative (DER) who has been given a special delegation by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, to make such a finding; and reinstall the reworked bolt in accordance with the service bulletin. Or

(B) Replace the trunnion bolt with a serviceable part in accordance with the service bulletin.

(2) For airplanes other than those identified in paragraph (c)(1) of this AD: Verify whether the forward trunnion bolts, P/N ARG7558–501, installed on the left and right MLG's, have been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given a special delegation by the Manager, Los Angeles ACO, to make such a finding.

(i) If the bolts have been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given

a special delegation by the Manager, Los Angeles ACO, to make such a finding: No further action is required by this AD.

(ii) If any bolt has not been chrome plated since original manufacture, in accordance with the CMM, Chapter 20–10–02, Revision 31, dated September 1, 1991, or in accordance with a method approved by a McDonnell Douglas DER who has been given a special delegation by the Manager, Los Angeles ACO, to make such a finding: Prior to further flight, accomplish the requirements of either paragraph (c)(1)(ii)(A) or (c)(1)(ii)(B) of this AD in accordance with the service bulletin.

(d) For Model DC–10–30, DC–10–40, and KC–10A (military) airplanes: Installation of a trunnion bolt having P/N ARG7558–507 on the MLG constitutes terminating action for the requirements of this AD for that MLG.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with McDonnell Douglas MD–11 Service Bulletin 32–45, Revision 1, dated May 1, 1995; McDonnell Douglas DC–10 Service Bulletin DC10–32–239, Revision 1, dated June 6, 1995; and McDonnell Douglas DC–10 Service Bulletin DC10–32–239, Revision 2, dated January 8, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on March 13, 1996.

Issued in Renton, Washington, on January 23, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certificotion Service.

[FR Doc. 96–1518 Filed 2–9–96;8:45am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–79–AD; Amendment 39–9505; AD 96–03–08]

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes, that requires repetitive operational tests of the valve limit switch of the propeller brake. This amendment also provides for an optional terminating action for the repetitive tests. This amendment is prompted by a report that when the propeller brake was not properly engaged the crew did not receive a "PROP BRAKE" warning due to a faulty valve limit switch. The actions specified by this AD are intended to prevent a valve limit switch from failing to send input to the warning system; absence of a "PROP BRAKE" warning could result in the crew being unaware that the propeller brake is not properly engaged and the propeller may turn without warning.

DATES: Effective March 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes was published in the **Federal Register** on November 8, 1995 (60 FR 56274). That action proposed to require repetitive operational tests of the valve limit switch of the propeller brake. That action also proposed to provide for the optional replacement of certain propeller brake control units with a new unit, which would constitute terminating action for the repetitive test requirements.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 23 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required operational tests, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,380, or $60 per airplane, per test cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–08 SAAB Aircraft AB: Amendment 39–9505. Docket 95–NM–79–AD.

Applicability: Model SAAB SF340A series airplanes, having serial numbers 004 through 159 inclusive; and Model SAAB 340B series airplanes, having serial numbers 160 through 369 inclusive; on which the propeller brake system is connected; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a valve limit switch from failing to send input to the "PROP BRAKE" warning system, which could result in the crew being unaware that the propeller brake is not properly engaged and the propeller may turn without warning, accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, perform an operational test of the valve limit switch of the propeller brake in accordance with Saab Service Bulletin SAAB 340–61–032, Revision 1, dated June 30, 1995. Repeat the test thereafter at intervals not to exceed 100 flight hours.

(b) Replacement of a propeller brake control unit having part number (P/N) HP1410100–3, –5, or –7 with a new propeller brake control unit having P/N HP1410100–10, and performance of an operational test, in accordance with Saab Service Bulletin SAAB 340–61–033, dated March 6, 1995, constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(c) As of the effective date of this AD, no person shall install on any airplane a propeller brake control unit having P/N HP1410100–3; or any unit having P/N HP1410100–5 or –7 unless that unit has been modified in accordance with Saab Service Bulletin SAAB 340–61–033, dated March 6, 1995.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The tests shall be done in accordance with Saab Service Bulletin SAAB 340–61–033, dated March 6, 1995. The replacement shall be done in accordance with Saab Service Bulletin SAAB 340–61–032, Revision 1, dated June 30, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 13, 1996.

Issued in Renton, Washington, on January 23, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1520 Filed 2–9–96; 8:45am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–041–1–9604a; FRL–5345–5]

Approval and Promulgation of Implementation Plans Alabama: Revisions to the Alabama Department of Environmental Management Administrative Code for the Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 14, 1995, the State of Alabama through the Department of Environmental Management (ADEM) submitted a State Implementation Plan (SIP) submittal to revise the ADEM Administrative Code for the Air Pollution Control Program. These revisions involve changes to Chapter 335–3–14—Air Permits. Chapter 335–3–14—Air Permits was amended to incorporate federal requirements for particulate matter 10 μg or smaller (PM–10).

DATES: This action is effective April 12, 1996 unless adverse or critical comments are received by March 13, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Kimberly Bingham at the EPA Region 4 address listed below. Copies of the material submitted by ADEM may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.

Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4195.

SUPPLEMENTARY INFORMATION: On August 14, 1995, the State of Alabama through the ADEM submitted revisions to the Alabama SIP. These revisions were

made to the ADEM Administrative Code for the Air Pollution Control Program and include regulations to be incorporated into the SIP. EPA is approving the following revisions to the Alabama SIP. These revisions are more fully discussed in the official SIP submittal that is available at the Region IV office listed under the **ADDRESSES** section of this document.

Chapter 335–3–14—Air Permits was amended to incorporate federal requirements for particulate matter 10 µg or smaller (PM–10). The EPA changed the requirement for the Prevention of Significant Deterioration (PSD) increment from Total Suspended Particulate (TSP) to PM–10 because the Agency found that particulate matter 10 µg or smaller is able to cause adverse health effects in humans. Sections 335–3–14–.04 and 335–3–14–.05 were revised to reflect the change from TSP to the new PM–10 PSD increment.

Final Action

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 12, 1996 unless, by March 13, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published with this action. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 12, 1996.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2)].

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action would impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: December 4, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart B—Alabama

2. Section 52.50 is amended by adding paragraph (c)(68) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

(68) The State of Alabama submitted a SIP submittal to revise the ADEM Administrative Code for the Air Pollution Control Program on August 14, 1995. These revisions involve changes to Chapter 335–3–14—Air Permits.

(i) Incorporation by reference.

(1) Amendments to the following sections of the Alabama regulations—335–3–14–.04, and 335–3–14–.05 which were adopted on March 21, 1995.

(ii) Other material. None.

[FR Doc. 96–2964 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[AZ 43–1–7199; FRL–5336–5]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the Arizona State Implementation Plan (SIP) proposed in the **Federal Register** on July 26, 1995. The revisions concern rules from the Maricopa County Environmental Services Department (MCESD). The rules control VOC emissions from rubber sports ball manufacturing and metal casting operations. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on these rules serves as a final determination that the finding of nonsubmittal for these rules has been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clock is stopped. Thus, EPA is finalizing the approval of these revisions into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on March 13, 1996.

ADDRESSES: Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

Maricopa County Department of Environmental Services, 2406 South 24th Street, Suite E–204, Phoenix, AZ 85034–6822.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191, email: james.duane@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 1995, in 60 FR 38293, EPA proposed to approve the following rules into the Arizona SIP: MCESD's Rule 334, "Rubber Sports Ball Manufacturing," and Rule 341, "Metal Casting" (the NPRM). The MCESD adopted Rule 334 on September 20, 1994, and Rule 341 on August 5, 1994. These rules were submitted by the Arizona Department of Environmental Quality to EPA on August 16, 1994 (Rule 341) and December 19, 1994 (Rule 334). These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(b)(2)(C) requirement that nonattainment areas submit RACT rules for all major stationary sources of VOCs by November 15, 1992 (the RACT catch-up requirement). A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the NPRM cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in the NPRM and in technical support documents available at EPA's Region IX office, dated March 27, 1995.

Response to Public Comments

A 30-day public comment period was provided in the NPRM. EPA received no comments on Rules 334 and 341.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. In addition, on the effective date of this action, any FIP clock associated with the finding of nonsubmittal is stopped. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 8, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

2. Section 52.120 is amended by revising paragraph (c)(77) and adding paragraph (c)(81) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(77) Amended regulations for the following agency were submitted on December 19, 1994, by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(*1*) Rule 310, adopted on September 20, 1994.

(2) Rule 334, adopted on September 20, 1994.

* * * * *

(81) Amended regulation for the following agency was submitted on August 16, 1994, by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(1) Rule 341, adopted on August 5, 1994.

* * * * *

[FR Doc. 96–2974 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[CA 33–3–7130a; FRL–5339–7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Santa Barbara County, Ventura County, Monterey Bay Unified, and Placer County Air Pollution Control Districts; and Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the following districts: Santa Barbara County Air Pollution Control District (SBCAPCD), Ventura County Air Pollution Control District (VCAPCD), Monterey Bay Unified Air Pollution Control District (MBUAPCD), Yolo-Solano Air Quality Management District (YSAQMD), and Placer County Air Pollution Control District (PCAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on three of these rules, MBUAPCD's Rule 416, 433, and 434, serves as a final determination that the finding of nonsubmittal for the rules has been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clock is stopped. The revised rules control VOC emissions from operations involving the following: the coating or assembly of aircraft or aerospace vehicle parts and products, the use of organic solvents and organic solvent cleaners, the coating of miscellaneous metal parts and products, the application of adhesives, and the coating of flat wood paneling. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on April 12, 1996, unless adverse or critical comments are received by March 13, 1996. If the effective date is delayed, a timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123–1095.

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Helen Liu, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: SBCAPCD Rule 337—Surface Coating of Aircraft or Aerospace Vehicle Parts and Products, VCAPCD Rule 74.13—Aerospace Assembly and Component Manufacturing Operations, MBUAPCD Rule 416—Organic Solvents, MBUAPCD Rule 433—Organic Solvent Cleaning, MBUAPCD Rule 434—Coating of Metal Parts and Products, YSAQMD Rule 2.25—Metal Parts and Products Coating Operations, YSAQMD Rule 2.33—Adhesives Operations, PCAPCD Rule 238—Factory Coating of Flat Wood Paneling.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Santa Barbara, Ventura County, Monterey Bay, and Sacramento Metro areas. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. In amended section 182(b)(2) of the CAA, Congress also statutorily required nonattainment areas to submit RACT rules for all VOC sources covered by any control technique guideline (CTG) by November 15, 1992 (the RACT "catch-up" requirement).

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172 (b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Santa Barbara Area and the Monterey Bay Area are classified as moderate, the Ventura County Area and the Sacramento Metro Area are classified as severe;[2] therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline. These areas were also subject to RACT catch-up requirement and the November 15, 1992 deadline.[3]

The State of California submitted many revised RACT rules for incorporation into its SIP. The following table includes the dates of when the districts adopted the rules, the dates that CARB submitted them to EPA, and the dates that they were found to be complete pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V:[4]

Rule	Adoption	Submittal	Completeness
SBCAPCD 337	10/20/94	1/24/95	2/24/95
VCAPCD 74.13	1/22/91	4/5/91	5/21/91
MBUAPCD 416	4/20/94	7/13/94	9/12/94
MBUAPCD 433	6/15/94	9/28/94	11/22/94
MBUAPCD 434	6/15/94	9/28/94	11/22/94
YSAQMD 2.25	4/27/94	11/30/94	1/30/95
YSAQMD 2.33	9/14/94	11/30/94	1/30/95
PCAPCD 238	6/18/95	10/13/95	11/28/95

This notice addresses EPA's direct-final approval action for the above-mentioned rules.

All of these rules control VOC emissions from certain operations listed above. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of the districts' efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). However, there are source categories for which no CTG has been written. The CTGs applicable to some of these rules are entitled, "Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products" (EPA–450/2–78–015), "Control of Volatile Organic Emissions from Solvent Metal Cleaning" (EPA–450/2–77–022), and "Control of Volatile Organic Emissions From Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling" (EPA–450/2–78–032). Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SBCAPCD's submitted Rule 337—Surface Coating of Aircraft or Aerospace Vehicle Parts and Products—includes the following major provisions:

- exempted certain coatings and operations,
- the reactive organic compound (ROC) limits for different coating categories,
- the control and capture efficiency requirements for add-on exhaust control equipment,
- recordkeeping requirements.

VCAPCD's submitted Rule 74.13—Aerospace Assembly and Component Manufacturing Operations—includes the following major provisions:

- a list of ROC limits for coatings and adhesives,
- the requirements for surface and general cleaning, add-on control equipment, and recordkeeping,
- an exemption for sources emitting less than 3 pounds of ROC per day and less than 200 pounds of ROC per year,
- a requirement to obtain an Authority to Construct or a Permit to Operate application under certain circumstances.

MBUAPCD Rule 416—Organic Solvents—includes the following major provisions:

- limits for emissions due to organic solvents that are baked, heat-cured, heat-polymerized, or exposed to flame,
- limits for emissions from photochemically and non-photochemically reactive solvents,
- recordkeeping requirements.

MBUAPCD Rule 433—Organic Solvent Cleaning—includes the following major provision:

- requirements for operational, equipment, alternative control requirements, and recordkeeping.

MBUAPCD Rule 434—Coating of Metal Parts and Products—includes the following provision:

- requirements for VOC content of coatings, add-on control alternatives, the qualification for extreme-performance coating, and recordkeeping.

YSAQMD Rule 2.25—Metal Parts and Products Coating Operations—includes the following major provisions:

- requirements for VOC content of coatings, application methods, add-on control alternatives, surface preparation and clean-up solvents,
- requirements for prohibition of specification, qualification for extreme performance coating classification, and recordkeeping.

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[1] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The Santa Barbara, Ventura County, Monterey Bay, and Sacramento Metro areas retain their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991). The Sacramento Metro Area was reclassified from serious to severe [60 FR 20237] April 25, 1995.

[3] California did not make the required SIP submittal to Monterey by November 15, 1992. On June 6, 1993, the EPA made a finding of failure to make a submittal pursuant to section 179(a)(1), which started an 18-month sanction clock. Three rules from Monterey Bay being acted on in this direct final rule were submitted in response to the EPA finding of failure to submit.

[4] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

YSAQMD Rule 2.33—Adhesives Operations—includes the following major provisions:

- VOC limits for adhesives and adhesive primers,
- requirement to use equipment that is airless, air assisted airless, high volume low pressure, electrostatic spray, or disposable aerosol containers,
- requirements for using alternative emissions control systems,
- limiting the weight percent of VOCs in aerosol adhesives,
- recordkeeping requirements.

PCAPCD Rule 238—Factory Coating of Flat Wood Paneling—includes the following major provisions:

- limits on the VOC content of wood flat stock coating, adhesive, and inks,
- requirements for using alternative emissions,
- control systems, application equipment requirements.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, the following rules: SBCAPCD Rule 337—Surface Coating of Aircraft or Aerospace Vehicle Parts and Products, VCAPCD Rule 74.13—Aerospace Assembly and Component Manufacturing Operations, MBUAPCD Rule 416—Organic Solvents, MBUAPCD Rule 433—Organic Solvent Cleaning, MBUAPCD Rule 434—Coating of Metal Parts and Products, YSAQMD Rule 2.25—Metal Parts and Products Coating Operations, YSAQMD Rule 2.33—Adhesives Operations, and PCAPCD Rule 238—Factory Coating of Flat Wood Paneling, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. Therefore, if this direct final action is not withdrawn, on April 12, 1996, any FIP clock is stopped.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 12, 1996, unless, by March 13, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 12, 1996.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this direct-final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures pubished in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 8, 1995.

Felicia Marcus,

Regional Administrator.

Subpart F of part 52, chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c) (183)(B)(*3*), (198)(F)(*2*), (199)(C), (207)(C)(*3*), (214)(C), and (225)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(183) * * *

(B) * * *

(*3*) Rule 74.13, adopted on January 22, 1991.

* * * * *

(198) * * *

(F) * * *

(*2*) Rule 416, adopted April 20, 1994.

* * * * *

(199) * * *

(C) Monterey Bay Unified Air Pollution Control District.

(*1*) Rules 433 and 434, adopted June 15, 1994.

* * * * *

(207) * * *

(C) * * *

(*3*) Rules 2.25 and 2.33, adopted April 27, 1994 and September 14, 1994, respectively.

* * * * *

(214) * * *

(C) Santa Barbara County Air Pollution Control District.

(*1*) Rule 337, adopted October 20, 1994.

* * * * *

(225) * * *

(B) Placer County Air Pollution Control District.

(*1*) Rule 238, adopted June 8, 1995.

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[FR Doc. 96–2969 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL132–2–7237; FRL–5418–6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving Illinois' request to exempt the Chicago ozone nonattainment area from the applicable oxides of nitrogen (NO_X) transportation conformity requirements. The Chicago ozone nonattainment area is classified as severe nonattainment for ozone. The request is based on the urban airshed modeling (UAM) conducted by the Lake Michigan Ozone Control Program (LMOP) which shows that additional NO_X reductions in the Chicago area will not contribute to attainment of the ozone standard. Approval of this NO_X exemption for transportation conformity will simplify the process of demonstrating that transportation plans and projects will not contribute to violations of the ozone standard. Comments received on the August 16, 1995, proposal are addressed in this rulemaking. The continued approval of this exemption is contingent on the results of subsequent modeling including the final ozone attainment demonstration and plan for the Chicago nonattainment area. This plan is expected to be submitted by mid-1997 and to incorporate the results of the Ozone Transport Assessment Group (OTAG) process. The attainment plan will supersede the initial modeling results as the basis for the waiver which USEPA is granting in this notice. If the attainment plan relies on NO_X controls on mobile sources in the Chicago ozone nonattainment area to demonstrate attainment, the NO_X waiver for transportation conformity will be reconsidered. To the extent the final plans achieve attainment of the ozone standard without additional NO_X reductions from mobile sources, the NO_X exemption would continue. USEPA's rulemaking action to reconsider the initial NO_X waiver may occur simultaneously with rulemaking action on the attainment plans. This NO_X waiver approval does not change the transportation conformity requirement for a NO_X budget test unless the attainment SIP shows that NO_X emissions could grow without limit without threatening attainment (as described in the November 14, 1995, amendment to the conformity rule).

EFFECTIVE DATE: This action will be effective March 13, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. (312) 353–8656.

SUPPLEMENTARY INFORMATION:

I. Background

Clean Air Act section 176(c)(3)(A)(iii) requires, in order to demonstrate conformity with the applicable State Implementation Plan (SIP), that transportation plans and transportation improvement programs (TIPs) contribute to emissions reductions in ozone nonattainment areas during the period before control strategy SIPs are approved by USEPA. This requirement is implemented in 40 CFR 51.436 through 51.440 (and 93.122 through 93.124); which establishes the so-called "build/no-build test." This test requires a demonstration that the "Action" scenario (representing the implementation of the proposed transportation plan/TIP) will result in lower motor vehicle emissions than the "Baseline" scenario (representing the implementation of the current transportation plan/TIP). In addition, the "Action" scenario must result in emissions lower than 1990 levels.

The November 24, 1993, final transportation conformity rule does not require the build/no-build test and less-than-1990 test for NO_X as an ozone precursor in ozone nonattainment areas where the Administrator determines that additional reductions of NO_X would not contribute to attainment of the National Ambient Air Quality Standard (NAAQS) for ozone. Clean Air Act section 176(c)(3)(A)(iii), which is the conformity provision requiring contributions to emission reductions before SIPs with emissions budgets can be approved, specifically references Clean Air Act section 182(b)(1). That section requires submission of State plans that, among other things, provide for specific annual reductions of volatile organic compounds (VOCs) and NO_X emissions "as necessary" to attain the ozone standard by the applicable attainment date. Section 182(b)(1) further states that its requirements do not apply in the case of NO_X for those ozone nonattainment areas for which USEPA determines that additional reductions of NO_X would not contribute to ozone attainment.

As explained below, the USEPA thru an amendment to it's transportation conformity rule, has changed the procedural mechanism through which a NO_X exemption from transportation conformity would be granted. Instead of a petition under 182(f), transportation conformity NO_X exemptions for ozone nonattainment areas that are subject to section 182(b)(1) need to be submitted as a SIP revision request. The Chicago ozone nonattainment area is classified as severe and, thus, is subject to section 182(b)(1).

The USEPA published on August 29, 1995, an interim final rule (60 FR 44762) which amended the transportation conformity rule and changed the statutory authority from 182(f) to 182(b)(1) of the Act for areas that are subject to section 182(b)(1). The interim final rule was effective immediately upon publication and provides the means for exempting areas subject to 182(b)(1) from NO_X provisions of the transportation conformity rule. In conjunction with the interim rule, USEPA published a proposal providing for further amendments to the transportation conformity rule and describing how USEPA intended to process section 182(b)(1) NO_X waivers (60 FR 44790). On November 14, 1995, the USEPA published a final rule (60 FR 57179)

after completing notice-and-comment rulemaking, which includes the provisions of the August 29, 1995, interim rule. The November 14, 1995, rule also addresses the NO_X budget requirement.

The June 20, 1995, SIP revision request from Illinois, has been submitted to meet the requirements of section 182(b)(1). A public hearing on this SIP revision request was held on July 17, 1995. The USEPA proposed to approve the SIP revision request on August 16, 1995, (60 FR 42491).

The Chicago severe ozone nonattainment area includes the Counties of Cook, DuPage, Grundy (Aux Sable and Gooselake Townships), Kane, Kendall (Oswego Township), Lake, McHenry, and Will. In evaluating the SIP revision request, the USEPA considered whether additional NO_X reductions would contribute to attainment of the standard in the Chicago area and also in the downwind areas of the LMOP modeling domain.

As outlined in relevant USEPA guidance, the use of photochemical grid modeling is the recommended approach for testing the contribution of NO_X emission reductions to attainment of the ozone standard.

A summary of the UAM modeling and USEPA's review of the modeling and submittal are contained in the August 16, 1995, proposed rule (60 FR 42491). Review of the modeling results show a very definite directional signal indicating that application of NO_X controls in the Chicago ozone nonattainment area would exacerbate peak ozone concentrations not only in the Chicago area but also in the LMOP modeling domain. The LMOP modeling domain includes northern Indiana, western Michigan and eastern Wisconsin. The States and the Lake Michigan Air Directors Consortium (LADCo) have completed the validation process for the UAM modeling system to be used in the demonstration of attainment for the LMOP modeling domain.

II. Response to Comments on the Proposal

Four sets of comments were received on the proposed approval of the NO_X waiver. The Illinois Department of Transportation commented positively on the approval of the waiver. The comments opposed to the approval of the waiver are summarized in this section.

Comment

The State of New York is concerned by the claim that VOC only controls reduce both peak ozone and geographic extent of ozone exposure. Modeling in the northeast shows a need for NO_X reductions as well as VOC to reduce regional ozone. The model assumptions are questioned: whether the Federal motor vehicle control program (FMVCP) is assumed in future year (1996 and 2007) emission inventories; how the transport and boundary conditions were modeled; and how modeling across the board reductions are adequate for a specific source category exemption.

Response

Reductions from the FMVCP were assumed for the 1996 and 2007 emissions inventories for the UAM modeling.

Several modeling and data analyses were performed by Illinois and the Lake Michigan Air Directors Consortium (LADCO) [the technical representatives of the States in the LMOP] to examine the relative benefits of VOC versus NO_X emission controls. The modeling analyses included emissions sensitivity tests for several different basecase scenarios, including: (1) An original base period emissions inventory; (2) increased VOC emissions in the base period inventory (higher VOC/NO_X ratios); (3) increased base period VOC/NO_X ratios through either increased VOC emissions or decreased NO_X emissions; and (4) differences in photochemistry photolysis rates as applied in the Urban Airshed Model—Version IV (UAM–IV) (the photochemical dispersion model generally accepted and supported by the EPA) and in UAM–V (the photochemical dispersion model approved by the EPA for use in the LMOP).

Despite differences in the absolute and relative amounts of VOC and NO_X emissions in the sensitivity analyses, the analyses found that the modeled domain-wide peak ozone concentration, the coverage of modeled ozone concentrations exceeding 120 parts per billion (ppb), and the number of hours with modeled ozone concentrations exceeding 120 ppb, decreased in response to VOC emission reductions and increased in response to NO_X emission reductions (up to more than 60 percent controls for some episode analysis days) for all modeled episodes.

VOC and NO_X emission reductions were found to produce different impacts spatially. In and downwind of major urban areas, within the ozone nonattainment areas, VOC reductions were effective in lowering peak ozone concentrations, while NO_X emission reductions resulted in increased peak ozone concentrations. Farther downwind, within attainment areas, VOC emissions reductions became less effective for reducing ozone concentrations, while NO_X emission reductions were effective in lowering ozone concentrations. It must be noted, however, that the magnitude of ozone decreases farther downwind due to NO_X emission reductions was less than the magnitude of ozone increases in the ozone nonattainment areas as a result of the same NO_X emission reductions.

Analyses of ambient data by LMOP contractors provided results which corroborated the modeling results. These analyses identified areas of VOC- and NO_X-limited conditions (VOC-limited conditions would imply a greater sensitivity of ozone concentrations to changes in VOC emissions. The reverse would be true for NO_X-limited conditions) and tracked the ozone and ozone precursor concentrations in the urban plumes as they moved downwind. The analyses indicated VOC-limited conditions in the Chicago/Northwest Indiana and Milwaukee areas and NO_X-limited conditions further downwind. These results imply that VOC controls in the Chicago/Northwest Indiana and Milwaukee areas would be more effective at reducing peak ozone concentrations within the severe ozone nonattainment areas.

The consistency between the modeling results and the ambient data analysis results for all episodes with joint data supports the view that the UAM–V modeling system developed in the LMOP may be used to investigate the relative merits of VOC versus NO_X emission controls. The UAM–V results for all modeled episodes point to the benefits of VOC controls versus NO_X controls in reducing the modeled domain peak ozone concentrations.

Comment

There have been monitored violations of the ozone standard in the Chicago nonattainment area within the past year. Therefore, a NO_X exemption for the Chicago area would seem to conflict with the intent of the 1990 amendments to the Act.

Response

This NO_X exemption is based on the UAM submittals which demonstrate that NO_X reductions will not contribute to reaching attainment of the ozone standard by the 2007 attainment date as required by the Act. In such circumstances, the Act explicitly provides that the relevant area may be granted a waiver from the requirement to adopt and implement NO_X control measures.

Comment

NYSDEC requested additional time to better review the technical details of the modeling performed for the Chicago area and that all waivers be delayed until the review is complete.

Response

The LADCo modeling has been available to any interested parties since the modeling was initiated. Further, the docket records contain the submittal summarizing the results of the model runs conducted to support the NO_X waiver petition. These modeling results have been available to the public since July 13, 1994, when LADCo originally submitted the request for the USEPA to approve the NO_X waiver under section 182(f) for RACT, NSR and conformity. On March 6, 1995, the USEPA proposed to approve the section 182(f) NO_X waiver for the Lake Michigan area. The modeling has been available as part of the docket file for this proposed approval. Therefore, USEPA does not believe it is appropriate to delay action on the waiver request.

Comment

NYSDEC disagrees that the NO_X waiver rule should be a Table 3 action for signature by the Regional Administrator and because of the national implications of the NO_X exemption believes it should be a Table 1 action.

Response

The NO_X waiver for transportation conformity is a SIP revision request submitted by the State of Illinois. SIP revisions have been delegated to the Regional Administrator for signature under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. This NO_X waiver is applicable only for the purpose of relieving the need to meet the interim transportation conformity test for the Chicago area. In addition, the policy related to processing the NO_X waivers for transportation conformity has been coordinated at the national level.

Comment

Both Connecticut and the NYSDEC are concerned that the waiver for Chicago will create economic hardship and a need for increased emission reductions in the northeast.

Response

The USEPA has taken steps to assure that downwind areas will not be negatively impacted by NO_X exemptions. The USEPA intends to use its authority under section 110(a)(2)(D) to require a State to reduce NO_X emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that the NO_X emissions could contribute significantly to nonattainment in, or interfere with maintenance by, any other State or in another nonattainment area within the same State. This action would be independent of any action taken by USEPA on a NO_X exemption request under section 182(f) or 182(b)(1). That is, USEPA action to grant or deny a NO_X exemption request under section 182(f) or 182(b)(1) for any area would not shield that area from USEPA action to require NO_X emission reductions, if necessary, under section 110(a)(2)(D).

Significant new modeling analyses are being conducted by LADCO, USEPA and other agencies as part of the Ozone Transport Assessment Group (OTAG) process. The OTAG is a consultative process among the eastern States and USEPA. The OTAG process, which ends at the close of 1996, assesses national and regional control strategies, using improved modeling techniques. The goal of the OTAG process is for USEPA and the affected States to reach consensus on the additional regional and national emissions reductions that are needed for attainment of the ozone standard. Based on the results of the OTAG process, States are expected to submit by mid-1997 attainment plans which show attainment through local, regional, and national controls.

The OTAG plans to complete additional modeling between now and September 1996 using emissions data and strategies currently being developed among OTAG workgroups. These new analyses will improve the information available on NO_X and VOC impacts on ozone concentrations both in the LADCO area and over the eastern half of the United States. These analyses will for example, provide more accurate boundary conditions for the LADCO area analyses; this provides greater accuracy in both the attainment plan and in the decision regarding NO_X reductions contribution to attainment.

In light of the modeling completed thus far and considering the importance of the OTAG and attainment plan modeling efforts, USEPA grants this waiver on a contingent basis. As the OTAG modeling results and control recommendations are completed in 1996, this information will be incorporated into the attainment plans being developed by the LADCO States. When these attainment plans are submitted to USEPA in mid-1997, these new modeling analyses will be reviewed to determine if the NO_X waiver should be continued, altered or removed.

The attainment plans will supersede the initial modeling results which are the basis for the waiver which the USEPA grants in this notice. To the extent the attainment plans include NO_X controls on certain major stationary sources or mobile sources in the LADCO nonattainment areas, USEPA will remove the NO_X waiver for those sources. To the extent that plans achieve attainment without additional NO_X reductions from certain sources, the NO_X reductions would be considered excess reductions and, thus, the exemption would continue for those sources. USEPA's rulemaking action to reconsider this initial NO_X waiver may occur simultaneously with rulemaking action on the attainment plans.

Comment

The State of Connecticut is concerned that the LADCo modeling does not look at the larger regional issues. The USEPA Regional Oxidant Model showed that NO_X controls were necessary for large portions of the United States to reach attainment.

Response

Direct comparisons of ROM and UAM–V results must be conducted with caution and may produce conflicting results even though both modeling systems are performing adequately. The UAM–V modeling system is theoretically more complete and incorporates improved scientific principles and more area-specific input data. ROM, on the other hand, is a simpler modeling system with lower spatial resolution, more uncertain emission estimates, and no special treatment of meteorological phenomena, such as lake-breeze effects (critical factors in the Lake Michigan area), and individual source plumes for large sources. These differences in model formulation and data input resolution as well as differences in output resolution may preclude direct comparisons of the two models.

The significant new modeling analyses being conducted by LADCO, USEPA and other agencies as part of the OTAG process will address the issues of regional and local transport, as stated above.

Comment

The American Lung Association (ALA) and Citizens Commission for Clean Air in the Lake Michigan Basin (CCCALMB) comment that transportation conformity exemptions under section 182(b)(1) waive only the

section 176(c)(3)(A)(iii) requirement to contribute to specific annual reductions of NO_X. NO_X emissions must still be accounted for in the modeling and thus Illinois should submit NO_X emissions budgets along with the VOC budgets in the attainment and 15 percent plan submittals.

Response

The USEPA published a final rule amending the transportation conformity rule on November 14, 1995, (60 FR 57179) which addresses the issue of conformity to NO_X budgets in control strategy SIPs when a NO_X waiver for transportation conformity has been approved. The final rule is based on the August 29, 1995, (60 FR 44790) proposed rule and comments which were received on that proposal. The final rule requires consistency with NO_X motor vehicle emissions budgets in control strategy SIPs regardless of whether a NO_X waiver has been granted. However, the need to comply with the NO_X build/no-build test and less than 1990 tests for NO_X no longer apply to ozone nonattainment areas receiving a NO_X waiver. Furthermore, some flexibility is possible for areas that have been issued a NO_X waiver based upon air quality modeling data. This flexibility is described in the notice (60 FR 57183). The NO_X budget provisions will be effective 90 days from November 14, 1995. The Illinois NO_X exemption SIP revision request was submitted pursuant to section 182(b)(1) as provided for by the amended transportation conformity rule.

As noted previously, in light of the modeling completed thus far and considering the importance of the OTAG and attainment plan modeling efforts, USEPA is granting this waiver on a contingent basis. As the OTAG modeling results and control recommendations are completed in 1996, this information will be incorporated into the attainment plans being developed by the LADCO States, including Illinois. When these attainment plans are submitted to USEPA in mid-1997, these new modeling analyses will be reviewed to determine if the NO_X waiver should be continued, altered or removed.

In this action, USEPA is exempting the Chicago nonattainment area from the transportation conformity requirement to achieve further reductions of NO_X. The 15 percent plan which is the current control strategy SIP for the area does not establish a NO_X budget for motor vehicles. Future modeling for the attainment demonstration will set future NO_X emissions budgets or demonstrate that NO_X emissions may grow without affecting attainment.

Comment

The ALA and CCCALMB notes that NO_X contributes to decreased visibility, acidic deposition, fine particulates and nitrate loading in the Great Lakes.

Response

The focus of the NO_X waiver test relied on by Illlinois is on whether NO_X reductions contribute to attainment of the ozone NAAQS in the Chicago nonattainment area and, by its terms, does not require consideration of overall NO_X reduction benefits. Other air pollution problems are being dealt with as part of separate regulatory activities such as the acid rain program and FMVPC. None of the NO_X reduction programs in place or under development to address other air quality objectives are deleted or diminished by issuance of this waiver

Comment

The ALA and CCCALMB comment that a "super-regional" NO_X strategy should be adopted before USEPA permanently grants NO_X exemptions. Although the Ozone Transport Assessment Group (OTAG) is working on a strategy, there is no guarantee that the work will be completed.

Response

As discussed previously, in light of the modeling completed thus far and considering the importance of the OTAG and attainment plan modeling efforts, USEPA grants this waiver on a contingent basis. As the OTAG modeling results and control recommendations are completed in 1996, this information will be incorporated into the attainment plans being developed by the LADCO States. When these attainment plans are submitted to USEPA in mid-1997, these new modeling analyses will be reviewed to determine if the NO_X waiver should be continued, altered or removed.

The Chicago attainment plan will supersede the initial waiver which USEPA grants in this notice. If the attainment plan relies on NO_X controls on mobile sources in the Chicago nonattainment area to demonstrate attainment, USEPA will remove the NO_X waiver for those sources. To the extent the plans achieve attainment without additional NO_X reductions in the Chicago area, the NO_X exemption would continue for those sources. USEPA's rulemaking actions to reconsider the initial NO_X waiver may occur simultaneously with rulemaking action on the attainment plans.

III. Final Action

The USEPA is approving a waiver under section 182(b)(1) of the NO_X transportation conformity requirements for a build/no-build and less than-1990 interim test for the Chicago ozone nonattainment area as requested by the State of Illinois. In light of the modeling completed thus far and considering the importance of the OTAG process and attainment plan modeling efforts, USEPA grants this NO_X waiver on a contingent basis. As the OTAG modeling results and control recommendations are completed in 1996, this information will be incorporated into attainment plans being developed by the LADCO States. When these attainment plans are submitted to USEPA in mid-1997, these new modeling analyses will be reviewed to determine if the NO_X waiver should be continued, altered, or removed. USEPA's rulemaking action to reconsider the initial NO_X waiver may occur simultaneously with rulemaking action on the attainment plans.

The USEPA also reserves the right to require NO_X emission controls for transportation sources under section 110(a)(2)(D) of the Act if future ozone modeling demonstrates that such controls are needed to achieve the ozone standard in downwind areas.

This action will become effective on March 13, 1996.

IV. Miscellaneous

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action will relieve requirements otherwise imposed under the Act, and hence does not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial rule, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2) of the Act).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Conformity, Oxides of nitrogen, Ozone, Transportation conformity.

Dated: January 23, 1996.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.726 is amended by adding paragraph (l) to read as follows:

§ 52.726 Control Strategy: Ozone.

* * * * *

(l) Approval—The United States Environmental Protection Agency is approving under section 182(b)(1) of the Clean Air Act the exemption of the Chicago severe, ozone nonattainment area from the build/no-build and less than-1990 interim transportation conformity oxides of nitrogen requirements as requested by the State of Illinois in a June 20, 1995 submittal. In light of the modeling completed thus far and considering the importance of the OTAG process and attainment plan modeling efforts, USEPA grants this NO_X waiver on a contingent basis. As the OTAG modeling results and control recommendations are completed in 1996, this information will be incorporated into attainment plans being developed by the LADCO States. When these attainment plans are submitted to USEPA in mid-1997, these new modeling analyses will be reviewed to determine if the NO_X waiver should be continued, altered, or removed. USEPA's rulemaking action to reconsider the initial NO_X waiver may occur simultaneously with rulemaking action on the attainment plans. The USEPA also reserves the right to require NO_X emission controls for transportation sources under section 110(a)(2)(D) of the Act if future ozone modeling demonstrates that such controls are needed to achieve the ozone standard in downwind areas. The Chicago severe ozone nonattainment area includes the Counties of Cook, DuPage, Grundy (Aux Sable and Gooselake Townships), Kane, Kendall (Oswego Township), Lake, McHenry, and Will.

[FR Doc. 96–2966 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MS15–1–6252a; MS20–2–9605a; FRL–5400–9]

Clean Air Act Approval and Promulgation of Revisions to the Mississippi State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Mississippi State Implementation Plan (SIP) submitted on June 14, 1991, and January 26, 1994, by the State of Mississippi through the Department of Environmental Quality (MDEQ). These SIP revisions incorporate changes to Regulation APC–S–1 "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants". The proposed revisions specify prohibited open burning practices and set conditions for which open burning practices may occur. These SIP revisions change the open burning restriction policy to be more consistent with federal regulations as specified in 40 CFR parts 257 and 258.

DATES: This action is effective April 12, 1996, unless notice is received by March 13, 1996, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345

Courtland Street, Atlanta, Georgia 30365.
Mississippi Department of Environmental Quality, Bureau of Pollution Control, Air Quality Division, P.O. Box 10385, Jackson, Mississippi 39289–0385.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4216.

SUPPLEMENTARY INFORMATION: On June 14, 1991, and January 26, 1994, MDEQ submitted revisions to the Mississippi SIP incorporating changes to Regulation APC–S–1, "Air Emission Regulations for the Prevention, Abatement and Control of Air Contaminants." The proposed revisions specify prohibited open burning practices and set conditions for which open burning practices may occur. These SIP revisions change the open burning restriction policy to be consistent with federal regulations as specified in 40 CFR 257. Public hearings for these revisions were held on March 27, 1991, and November 24, 1993, and became state effective May 28, 1991, and January 9, 1994, respectively. The major revisions are described below:

Section 1. General

1. Paragraph one was revised by deleting Section 49 17 17, Mississippi Code of 1972, recompiled, and adding Miss. Code Ann. § 49–17–17.

2. Paragraph two "Exceptions" was deleted and pargraph three was renumbered as two. A new paragraph three was added. This paragraphs states, "In the event of a conflict between any of the requirements of these regulations and/or applicable requirements of any other regulation or law, the more stringent requirements shall be applied."

Section 2. Definitions

1. The following definitions were added:
10. "Excess (or excessive) emission"
16. "Opacity"
24. "Recreational area"
25. "Residential area"
26. "Shutdown" relating to fuel burning equipment
29. "Soot blowing"
31. "Startup" relating to fuel burning equipment
34. "Upset"

2. The State revised the following definitions to meet EPA policy:
7. "Air pollution"
8. "Atmosphere"
13. "Modification"
15. "Open burning"
17. "Particulate matter emissions"
19. "PM–10 emissions"
21. "Process weight"
23. "Standard conditions"

3. The following definition was deleted:
22. "Ringelmann Chart"

The section was also re-alphabetized and renumbered to simplify finding definitions.

Section 3. Specific Criteria for Sources of Particulate Matter

1. Paragraph 1(a) was revised to give a reference paragraph for allowed exceptions to the forty (40) percent opacity rule.

2. Paragraph 1(c) was deleted. Paragraph 1(d) was then renumbered as 1(c), and edited to add 60 percent opacity and to delete references to Ringelmann Smoke Chart.

3. Paragraph 4(a) was deleted and replaced by new paragraphs 4(a)(1), 4(a)(2), 4(a)(3) which detail limits to emissions from fuel burning installations.

4. Paragraph 6(a) was replaced with a new paragraph which gives the formula to be used when calculating the particulate emission rate from a manufacturing process.

5. Paragraph 6(b) was revised to add an effective date of January 25, 1972.

6. Paragraph 7 was revised to state that open burning is prohibited with exceptions for the infrequent burning of agricultural waste, silvicultural waste, land clearing debris, emergency cleanup operations, and ordnance.

7. Paragraphs 7(b), 7(c), 7(d), 7(e), 7(f), 7(h), 7(i), 7(j), 7(k), and 7(l) which listed exceptions to open burning restrictions were deleted.

Section 6. New Sources

1. Paragraph 4. Infectious Waste Incineration was added. This paragraph details the conditions with which all infectious waste incinerators which incinerate only wastes generated on site and are installed after December 9, 1993, must comply.

2. Paragraph 4b Commercial Incinerators was added. This paragraph details the requirements for infectious waste incinerators which incinerate wastes generated off site.

Section 8. Provisions for Hazardous Air Pollutants

1. EPA is not acting on this section because these regulations are federally enforceable through 40 CFR Part 61.

Section 9. Stack Height Considerations

1. The paragraph titled Exemptions From Rules and Regulations which discussed emission exemptions during upsets and maintenance was deleted. Exceptions to the rule are now detailed in Section 10.

Section 10. Provisions for Upsets, Startups, and Shutdowns

1. This section is being adopted. Paragraph 1. Upsets, states what circumstances must be met so that an upset will constitute an affirmative defense to an enforcement action brought for noncompliance with emission standards or other requirements.

2. Paragraph 2. Startups and Shutdowns, states that emission limitations applicable to normal operation apply during startups and shutdowns and list exceptions to this rule.

3. Paragraph 3. Maintenance, lists factors that a source must demonstrate to show that maintenance constitutes an affirmative defense to an enforcement action brought for noncompliance with emission standards or other requirements.

These provisions are consistent with EPA and Clean Air Act requirements.

Final Action

EPA is approving the above referenced revisions to the Mississippi SIP. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 12, 1996, unless, by March 13, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 12, 1996.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain duties. EPA has examined whether the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 1, 1995.

Patrick M. Tobin,
Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart Z—Mississippi

2. Section 52.1270, is amended by adding paragraph (c)(27) to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

(27) Amendments to Regulation APC–S–1 "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants" to be consistent with federal regulations as specified in 40 CFR Part 257.

(i) Incorporation by reference. Regulation APC–S–1 "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants" effective January 9, 1994, except SECTION 8. PROVISIONS FOR HAZARDOUS AIR POLLUTANTS.

(ii) Additional Material. None.

[FR Doc. 96–2962 Filed 2–9–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[NE–7–1–71549; FRL–5399–7]

Approval and Promulgation of Implementation Plans; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: By this action the EPA gives full approval to the State Implementation Plan (SIP) submitted by the state of Nebraska for the purpose of fulfilling the requirements set forth in the EPA's General Conformity rule. The SIP was submitted by the state to satisfy the Federal requirements in 40 CFR 51.852 and 93.151.

DATES: This action is effective April 12, 1996 unless by March 13, 1996 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION: Section 176(c) of the Clean Air Act, as amended (the Act), requires the EPA to promulgate criteria and procedures for demonstrating and ensuring conformity of Federal actions to an applicable implementation plan developed pursuant to section 110 and Part D of the Act. Conformity to an SIP is defined in the Act as meaning conformity to an SIP's purpose of eliminating or reducing the severity and number of violations of

the National Ambient Air Quality Standards (NAAQS), and achieving expeditious attainment of such standards. The Federal agency responsible for the action is required to determine if its actions conform to the applicable SIP. On November 30, 1993, the EPA promulgated the final rule (hereafter referred to as the General Conformity rule), which establishes the criteria and procedures governing the determination of conformity for all Federal actions, except Federal highway and transit actions.

The General Conformity rule also establishes the criteria for EPA approval of SIPs. See 40 CFR 51.851 and 93.151. These criteria provide that the state provisions must be at least as stringent as the requirements specified in EPA's General Conformity rule, and that they can be more stringent only if they apply equally to Federal and non-Federal entities (section 51.851(b)).

On November 6, 1991, the EPA promulgated a nonattainment designation for the area surrounding the Asarco lead refinery in Omaha, Nebraska, in response to violations of the lead NAAQS. Sections 51.851 and 93.151 of the General Conformity rule require that states submit an SIP revision containing the criteria and procedures for assessing the conformity of Federal actions to the applicable SIP, within 12 months after November 30, 1993. As the rule applies to all nonattainment areas and maintenance areas, an SIP revision which addresses the requirements of the General Conformity rule became due on November 30, 1994.

On June 14, 1995, the state of Nebraska submitted an SIP revision meeting the requirements of §§ 51.851 and 93.151 of the General Conformity rule. The submission adopts by reference 40 CFR part 93, subpart B, except 40 CFR 93.151. The omitted section contains the criteria for EPA approval of General Conformity SIP revisions, and also states the effect of EPA approval of an SIP revision. It is not a necessary component of the state's substantive rules governing general conformity determinations.

The Nebraska rule also modifies 40 CFR 93.160(f) and 40 CFR 93.160(g) to adapt the language in the Federal regulations to the state rule. It deletes the language in 93.160(f) stating that the "implementation plan revision required in § 93.151 shall provide that," and retains the substantive requirement in paragraph (f). It also revises paragraph (g) to refer to adoption and approval of the Nebraska SIP revision, in place of the reference in EPA's rule to SIP revisions generally.

This SIP revision was adopted by the Nebraska Environmental Council on December 2, 1994. The rule was signed by the Governor on May 24, 1995, and became effective on May 29, 1995.

Because the Nebraska rule adopts the substantive requirements of EPA's rule by reference, it meets the criteria in §§ 51.851 and 93.151 for approval of General Conformity SIP revisions.

EPA Action

By this action EPA grants full approval of Nebraska's June 14, 1995, submittal. This SIP revision meets all of the requirements set forth in 40 CFR 51.851 and 93.151.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule, based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate. Through submission of this SIP, the state has elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to state or local governments in the aggregate or to the private sector. EPA has determined that these rules result in no additional costs to tribal government.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: November 14, 1996.

Dennis Grams,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart CC—Nebraska

2. Section 52.1420 is amended by adding paragraph (c)(42) to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

(42) A Plan revision was submitted by the Nebraska Department of Environmental Quality on June 14, 1995, which incorporates by reference EPA's regulations relating to determining conformity of general Federal actions to State or Federal Implementation Plans.

(i) Incorporation by reference.

(A) A revision to title 129, adding chapter 40, entitled "General Conformity" was adopted by the Environmental Quality Council on December 2, 1994, and became effective on May 29, 1995.

[FR Doc. 96–2975 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[Region II Docket No. 148, NJ25–1–7282; FRL–5409–4]

Approval and Promulgation of Implementation Plans; Carbon Monoxide State Implementation Plan Revision State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is giving a limited approval to part of a request from New Jersey to revise its State Implementation Plan (SIP) for the control of carbon monoxide (CO) to incorporate New Jersey's oxygenated gasoline program. New Jersey submitted these revisions in response to requirements established under the Clean Air Act, as amended in 1990. EPA is approving New Jersey's oxygenated gasoline program for the Northern New Jersey portion of the New York-Northern New Jersey-Long Island consolidated metropolitan statistical area (CMSA) as the program applies for the four months from November 1 through the last day of February. In previous proposals for the States of New York and Connecticut, EPA has proposed to determine that those four months are the entire period when the New York-Northern New Jersey-Long Island CMSA is prone to high ambient concentrations of CO. In a separate document published in today's **Federal Register**, EPA is soliciting comment on this determination for the limited purpose of inviting comment on additional information concerning emission modeling related to New Jersey's portion of the multi-state CMSA.

EFFECTIVE DATE: This final rule is effective on March 13, 1996.

ADDRESSES: Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Library, 290 Broadway, 16th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Energy, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, 20th Floor, New York, New York 10007–1866 (212) 637–4249.

SUPPLEMENTARY INFORMATION:

Background

Motor vehicles are significant contributors of CO emissions, which are harmful to human health. An important measure toward reducing these emissions is the use of cleaner-burning oxygenated gasoline. Extra oxygen in the fuel enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting in cold weather.

The Clean Air Act (Act) sets forth a number of requirements for states with areas designated as nonattainment for the National Ambient Air Quality Standards (NAAQS) set for CO to submit revisions to their State Implementation Plans (SIPs). Among these is a requirement under section 211(m) that states with CO nonattainment areas at or above a 9.5 parts per million (ppm) design value implement 2.7 percent oxygenated gasoline programs by November 1, 1992 and submit these programs as SIP revisions. This requirement applies to New Jersey because the State contains a portion of the New York-Northern New Jersey-Long Island nonattainment area, which has a design value for CO above 9.5 ppm. The requirement had also originally applied to Southern New Jersey as well; however, that area, which is part of the Philadelphia CO nonattainment area, is currently in attainment for CO and, as such, is no longer required to implement an oxygenated gasoline program. 60 FR 62741, December 7, 1995. The New York-Northern New Jersey-Long Island CO nonattainment area is part of the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area (CMSA) and includes the New Jersey Counties of Bergen, Essex, Hudson, Union, and parts of Passaic. The nonattainment area in Passaic County includes the Cities of Clifton, Paterson, and Passaic. New Jersey's portion of the larger CMSA, within which oxygenated fuel sale is required, consists of the following counties: Bergen, Essex, Hudson, Hunterdon, Middlesex, Ocean, Passaic, Somerset, Sussex, Union and Warren.

On November 15, 1992, New Jersey submitted to EPA its oxygenated fuels program contained in New Jersey Administrative Code Title 7, Chapter 27, Subchapter 25, "Control and Prohibition of Air Pollution by Vehicular Fuels" (adopted September 1, 1992, and operative November 1, 1992). The program required oxygenated fuel to be supplied during a CO control period of seven months each year, extending from October 1 through April 30. EPA proposed to approve this submission, along with a number of other revisions to New Jersey's CO SIP, on November 10, 1994 (59 FR 56019). On February 7, 1995, New Jersey modified its oxygenated fuels regulations to shorten the length of the control period to four months each year, from November 1 through the last day of February. 27 N.J.R. 787(a), February 21, 1995. This modification has not been submitted to EPA as a SIP revision. Subsequently, on September 15, 1995, in the course of actions on the New York and Connecticut CO SIPs, EPA proposed to find that the appropriate length of the control period for the entire New York-

Northern New Jersey-Long Island CMSA is four months. 60 FR 47911 and 60 FR 47907. EPA also proposed to approve New York's oxygenated fuels program and, in a separate notice, Connecticut's oxygenated fuels program, both for a four-month control period. 60 FR 47907, September 15, 1995; 60 FR 47911, September 15, 1995. On September 28, 1995, EPA received a request from New Jersey to waive the oxygenated fuel requirement for the New Jersey portion of the New York-Northern New Jersey-Long Island CMSA under section 211(m)(3)(A). This request is still pending.[1] Finally, on December 7, 1995, EPA published a direct-final rule (with an accompanying proposal) to redesignate the Southern New Jersey Camden County CO nonattainment area to attainment. 60 FR 62741.

In today's action, EPA is approving New Jersey's oxygenated fuels program for Northern New Jersey for a four-month control period; this control period length corresponds to the regulation that is currently in effect in New Jersey and to the minimum length of control period specified in section 211(m) of the Act. This approval finalizes the proposed approval of New Jersey's oxygenated gasoline program for four of the seven months proposed.

Oxygenated Fuels Requirements

The section 211(m) oxygenated fuels requirement applies to all states with CO nonattainment areas with design values of 9.5 ppm or greater based on data for the years 1988 and 1989. Each state's oxygenated gasoline program must require gasoline sold or dispensed in the larger of the CMSA or the metropolitan statistical area in which the nonattainment area is located to contain not less than 2.7 percent oxygen by weight during the control period. The control period is that portion of the year in which the area is prone to high ambient concentrations of CO, as determined by the EPA Administrator. The length of the control period shall not be less than four months unless a state can demonstrate that, because of meteorological conditions, a reduced control period will assure that there will be no carbon monoxide exceedances outside of such reduced period. (Clean Air Act section 211(m)(2).) EPA announced guidance on the establishment of control periods by area in the **Federal Register** on October 20, 1992.[2] However, in subsequently proposing to approve the New York CO SIP revision, EPA proposed to determine that the appropriate length of the control period for the New York-Northern New Jersey-Long Island CMSA is four months. 60 FR 47911, September 15, 1995. In a separate related notice published in today's **Federal Register**, EPA is soliciting comment on this determination for the limited purpose of inviting comment on additional information concerning emission modelling related to New Jersey's portion of the multi-state CMSA.

State Submittal

Section 110, part D of Title I, and section 211(m) of the Act required New Jersey to submit by November 15, 1992, revisions to the State's CO SIP, including an oxygenated gasoline program for the New Jersey portions of the New York-Northern New Jersey-Long Island CMSA. As part of its November 15, 1992 submittal, the New Jersey Department of Environmental Protection (NJDEP) submitted a revised rule—Subchapter 25, "Control and Prohibition of Air Pollution by Vehicular Fuels," of Chapter 27, Title 7 of the New Jersey Administrative Code. Subchapter 25 contains the requirements for New Jersey's oxygenated gasoline program, which was adopted by New Jersey on September 1, 1992.

Summary of EPA Approval

In this action, EPA is approving New Jersey's oxygenated gasoline program for Northern New Jersey as a revision to the New Jersey CO SIP, but is confining this action to approval of a program with a four month control period. For two reasons, it is appropriate at this time for EPA to take final action to approve New Jersey's oxygenated gasoline program for four months of the seven proposed.

First, at a minimum, any approved program would have to include a control period of at least four months to meet the statutory requirements in section 211(m) of the Act. However, EPA has not yet made a final determination that the period prone to high ambient concentrations of CO in the New York-Northern New Jersey-Long Island CMSA is limited to four months, and EPA did not propose such a determination in the proposed approval of the New Jersey submission. EPA will make the final determination of control period length for the entire CMSA in a final action on the New York and/or Connecticut proposals, as supplemented by the additional data in today's companion notice.[3] 60 FR 47911, September 15, 1995; 60 FR 47907, September 15, 1995. However, EPA is certain now that, given the statutory four-month minimum, the four-month period covered by today's final action will be an essential element of any fully approvable New Jersey oxygenated gasoline SIP submission. Thus, there is no reason for EPA to await the outcome of the separate notice-and-comment process on the determination of the appropriate control period before approving New Jersey's SIP submission for four months.

Second, New Jersey currently has an oxygenated gasoline program with a control period consistent with this determination. As explained further below, EPA cannot approve the New Jersey submission for the remaining three months so long as the State's laws do not currently authorize a program for that additional period.

In addition, in this rulemaking EPA is finalizing its approval of the other elements of New Jersey's oxygenated gasoline program. Since most of the elements of New Jersey's oxygenated gasoline program remain unchanged from those proposed for approval, EPA here incorporates by reference the earlier proposal for all details of the oxygenated gasoline program apart from the length of the control period and references to the Camden nonattainment area.[4] In a subsequent final rule EPA will address the other revisions to the New Jersey CO SIP, not related to the oxygenated gasoline program, that were proposed to be approved in the November 10, 1994 notice.

In this action, EPA is also making the determination that, if and when EPA takes final action determining that the control period for this area is the four-month period from November through February, then New Jersey's oxygenated gasoline SIP submission shall be deemed to meet fully the requirements of section 211(m) of the Act, and this limited approval of the four-month part of the New Jersey submission shall be deemed converted to a full approval of that part.

[1] EPA has decided to act on New Jersey's oxygenated gasoline program at this time, even though the Agency has not completed review of the waiver request. EPA will revisit this SIP approval if future action on the waiver request makes that necessary.

[2] *See*, "Guidelines for Oxygenated Gasoline Credit Programs and Guidelines on Establishment of Control Periods under Section 211(m) of the Clean Air Act as Amended—Notice of Availability," 57 FR 47849 (October 20, 1992).

[3] The reader is referred to these notices for further information on EPA's proposed determination.

[4] As the Camden nonattainment area is in the process of being redesignated to attainment without approval and retention of an oxygenated fuels program, the references to the Camden area and the "Southern Control Area" are no longer applicable.

Discussion

Approval of the SIP Submission for a Four-Month Control Period

In this action EPA is approving New Jersey's oxygenated gasoline program only as it applies from November 1 through the last day of February each year. This limited approval is appropriate given its consistency with the minimum length of control period required by statute and New Jersey's current regulatory authority, which is confined to that four-month period.

Section 211(m)(2) of the Act requires oxygenated gasoline to be sold during a control period established by the EPA Administrator based on air quality monitoring data. This period must be no less than four months, unless the state demonstrates that, because of meteorological conditions, a reduced period would assure that there would be no exceedances of the CO NAAQS outside of that period. Barring such a demonstration, which none of the three affected States has attempted to make, this provision requires EPA to approve an oxygenated fuels program with at least a four-month control period. Thus, EPA must approve at least four months of the seven months of the oxygenated gasoline program proposed for approval in November 1994. The issue of whether any additional months should be approved will be automatically addressed when EPA takes final action on its proposal to modify the length of the control period, as discussed further below.

EPA's limited approval of the New Jersey oxygenated gasoline regulation for a four-month control period also ensures that the approval complies with the Act's requirement that states have authority to implement SIP provisions. Section 110(a)(2)(E)(i) sets as one condition for SIP approval that the SIP must provide "necessary assurances that the State * * * will have adequate * * * authority under State * * * law to carry out such [SIP]." Because New Jersey's current regulations provide for a four-month control period, EPA's approval of the SIP revision for the identical control period tailors the approval to New Jersey's current regulation and ensures that the revision is approvable under section 110(a)(2)(E).

Finally, while EPA has proposed to determine that the control period for the area be limited to four months, that determination need not be finalized in order to approve a four month control period at this time. EPA believes it is appropriate to approve New Jersey's oxygenated fuel requirement for four months because this approval would not increase the stringency of the State submission, a four-month control period is a necessary element of the statutorily required program, and the period conforms with the State's current regulation. In addition, this partial approval ensures that New Jersey's four-month control period will be consistent with the proposed approval of four-month control periods in the respective portions of the New York-Northern New Jersey-Long Island CMSA for Connecticut and New York.

Consequences of Final Determination of Four-Month Control Period

There are several consequences that would flow from a final determination by EPA that four months is the correct control period for this area. First, EPA is determining through this final action that, if and when EPA takes final action determining that the control period for the area is the four-month period from November through February, then the corresponding four-month part of the New Jersey SIP submission shall be deemed to meet fully the requirements of section 2ll(m) of the Clean Air Act, and this limited approval of the four-month part of the New Jersey submission shall be deemed converted to a full approval of that part. There are no sanctions implications from this limited approval.[5]

Second, if and when EPA takes final action determining that the control period for the area is the four-month period from November through February, that action shall be deemed to withdraw EPA's proposed November 10, 1994 approval of the remaining three months of the period covered in New Jersey's seven-month SIP submission. Such a determination would preempt New Jersey from establishing a longer control period due to the prohibition of certain state fuel controls in section 211(c)(4)(A) and associated regulation promulgated by EPA on December 15, 1993. (59 FR 7716, February 16, 1994).

Section 211 of the Clean Air Act authorizes EPA to regulate fuels and fuel additives. Under section 211(c)(1), the Administrator has the authority to control or prohibit the manufacture and sale of fuels and fuel additives for motor vehicles on the grounds of danger to public health or impairment of emissions control devices. Section 211(c)(4)(A) provides that where the Administrator has set such a control or prohibition under section 211(c)(1) applicable to a characteristic or component of a fuel or fuel additive, no state may set a control or prohibition respecting that characteristic or component, unless the state control or prohibition is identical to the federal control or prohibition. This provision preempts state fuel controls that are nonidentical to federal section 211(c)(1) controls on the same characteristic or component.

EPA promulgated the RFG program under the authority of sections 211(k) and 211(c)(1) (59 FR 7716, February 16, 1994). RFG must contain 2.0% oxygen content by weight, and it is required year-round in the New York-Northern New Jersey-Long Island CMSA. 40 CFR section 80 subpart D. In the absence of section 211(m), section 211(c)(4)(A) would preempt New Jersey from establishing its own minimum oxygen content requirements different from the RFG requirements in RFG areas. Because section 211(m) is a specific, more stringent requirement, it overrides the general preemption provision as to the specific control period applicable in each area, and states are not preempted from complying with section 211(m) in RFG areas during that control period. However, states are still preempted from setting nonidentical controls or prohibitions on oxygen content in RFG areas to the extent that such controls or prohibitions are not mandated by section 211(m). This prohibition on state fuel controls may be waived if a state shows that a nonidentical fuel control is necessary to achieve a NAAQS. (CAA section 211(c)(4)(C)).

EPA has proposed to determine that the New York-Northern New Jersey-Long Island CMSA is prone to high ambient concentrations of CO during the four-month period of November through February. Section 211(m) requires states to adopt 2.7% oxygenated gasoline requirements only for the period prone to high ambient concentrations of CO, as determined by the Administrator. Thus, upon finalization of EPA's proposed determination, section 211(m) would require New Jersey to adopt a 2.7% minimum oxygen content standard for only the four months of November through February. The RFG oxygen content requirement preempts any state from prescribing or enforcing oxygen content requirements in this RFG area that go beyond what is mandated by section 211(m). Thus, New Jersey would be preempted from enforcing an oxygenated gasoline program for the additional months of October, March and April.

[5] This action is a limited approval because: until EPA makes a final determination on the length of the control period for this area, EPA cannot finally determine whether New Jersey's SIP submission meets fully the requirements of section 211(m) of the Act. This action is also a partial approval because EPA is approving only four months of the seven-month oxygenated gasoline program submitted by New Jersey.

Section 110(a)(2)(A) requires SIPs to include "enforceable * * * control measures." EPA only has authority to approve the enforceable portion of the State submission, which, upon EPA's determination, would correspond to a four-month control period. Thus, EPA would be authorized to approve New Jersey's oxygenated fuel requirements only for the months of November through February. As a consequence, a final determination of a four-month control period will be deemed to withdraw EPA's November 10, 1994 proposed approval of the remaining three months of the period covered in New Jersey's seven-month SIP submission.

Finally, approving New Jersey's oxygenated gasoline program only for a four-month control period would be consistent with the proposed approval of four-month control periods in the respective portions of the New York-Northern New Jersey-Long Island CMSA for Connecticut and New York.

Final Action

EPA is approving New Jersey's Subchapter 25 oxygenated fuels program for the Northern New Jersey portion of the New York-Northern New Jersey-Long Island CMSA as it applies for a control period of November 1 through the last day of February. In addition, as described above, EPA is determining through this final action that, if and when EPA takes final action determining that the control period for the area is the four-month period from November through February, then the corresponding four-month part of the New Jersey SIP submission shall be deemed to meet fully the requirements of section 211(m) of the Clean Air Act, and this limited approval of the four-month part of the New Jersey submission shall be deemed converted to a full approval of that part.

Nothing in this rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and Subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v *US EPA*, 427 US 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that Include a federal mandate that may result in estimated annual costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP or SIP revision, the state and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 182 of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that, in any event, this final action does not include a mandate that may result in estimated annual costs of $100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(l) of the CAA, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 18, 1996.

William J. Muszynski,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding paragraph (c)(58) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

* * * * *

(58) Revisions to the New Jersey State Implementation Plan (SIP) for carbon monoxide concerning the oxygen content of motor vehicle gasoline, dated November 15, 1992 submitted by the New Jersey State Department of Environmental Protection (NJDEP).

(i) Incorporation by reference.

(A) Amendments to Chapter 27, Title 7 of the New Jersey Administrative Code Chapter 27, Subchapter 25, "Control and Prohibition of Air Pollution by Vehicular Fuels," effective October 5, 1992 (as limited in § 52.1605).

3. Section 52.1605 is amended under Title 7, Chapter 27, by removing the two existing entries for subchapter 25 and adding a new entry for subchapter 25 in numerical order to read as follows:

§ 52.1605 EPA Approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
Title 7, Chapter 27			
Subchapter 25, "Control and Prohibition of Air, Pollution by Vehicular Fuels;".	Oct. 5, 1992.	[Insert date of publication and FR page citation].	Approves 1992 revision of Subchapter 25 except that (1) oxygenated gasoline provisions are approved only as they apply to the four month control period from November 1 through the last day in February, consistent with the February 21, 1995 NJDEP modification of N.J.A.C. 7:27–25; and (2) oxygenated gasoline provisions are approved only as they apply to the Northern New Jersey portion of the New York-Northern New Jersey-Long Island consolidated metropolitan statistical area.

[FR Doc. 96–2581 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[PA 70–1–7207a; FRL–5338–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT and Synthetic Minor Permit Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires reasonably available control technology (RACT) on one major source and establishes permit conditions to limit eight source's emissions to below major source threshold levels. The intended effect of this action is to approve source-specific plan approvals and operating permits, which establish the above-mentioned requirements in accordance with the Clean Air Act. This action is being taken under section 110 of the Clean Air Act.

DATES: This action is effective April 12, 1996 unless notice is received on or before March 13, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian K. Rehn, (215) 597–4554, at the EPA Region III address above, or by E-mail at Rehn.Brian@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On August 1, 1995, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). The SIP revision consists of a group of plan approvals and operating permits for individual sources of volatile organic compounds and/or nitrogen oxides located in Pennsylvania. This rulemaking addresses those plan approvals and operating permits pertaining to the following sources: (1) James River Corporation—Chambersburg, (2) Appleton Papers, Inc.—Cumberland County , (3) Air Products & Chemicals, Inc.—Trexlortown, (4) Elf Atochem North America, Inc., (5) York City Sewer Authority—Manchester Township, (6) Glasgow, Inc.—Ivy Rock Plants, (7) Glasgow, Inc.—Spring House Plants, (8) Glasgow, Inc.—Catanach Plant, (9) Glasgow, Inc.—Freeborn Asphalt Plant. The remaining plan approvals and operating permits submitted on August 1, 1995 with those being approved today will be addressed in a later rulemaking notice.

Pursuant to section 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. Major source size is determined by a source's location, the classification of the area where the source is located, and whether it is located in an ozone transport region (OTR)—as established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area is classified as severe, and consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties. For severe ozone nonattainment areas, the Clean Air Act requires RACT for sources emitting 25 tons or more per year of VOCs, or for sources emitting at least 25 tons per year of NO_X.

The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas, or are designated attainment for ozone. However, under section 184 of the CAA, moderate ozone nonattainment area requirements (including RACT as defined in section 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The Clean Air Act requires RACT for sources emitting 50 tons per year or more of VOCs, or 100 tons per year or more of NO_X.

The August 1, 1995 Pennsylvania submittals that are the subject of this notice, are meant to satisfy the RACT requirements for one source in Pennsylvania and to limit the potential VOC and/or NO_X emissions at eight sources to below the major source size threshold in order to avoid RACT requirements.

Summary of SIP Revision

The details of the RACT requirements for the source-specific plan approvals and operating permits can be found in the docket and accompanying technical support document and will not be reiterated in this notice. Briefly, EPA is

approving one operating permit as RACT and eight operating permits as a revision to the Pennsylvania SIP to limit those source's emissions to below the major source threshold. Several of the operating permits contain conditions irrelevant to the determination of VOC or NO_X RACT. Consequently, these provisions are not being included in this approval for VOC or NO_X RACT.

RACT Permit

EPA is approving the operating permit (OP 28–2006) for the James River Corporation's facility, located in Chambersburg, Franklin County. James River Corporation operates a lithographic printing facility which is considered a major source of VOC emissions. The specific emission limitations and other RACT requirements for this source is summarized in the accompanying technical support document, which is available from EPA's Region III office. A source-specific RACT emission limitation that is approved into the Pennsylvania SIP is only the one which has been officially submitted for approval on August 1, 1995, and is the subject of a rulemaking notice. Emission limitations approved within this notice will remain unless and until they are replaced pursuant to 40 CFR part 51 and approved by the U.S. EPA.

Synthetic Minor Source Permits (Sources Located in the OTR Portion of Pennsylvania, but Outside of Philadelphia)

The three sources below are located outside of the Philadelphia ozone nonattainment area, but lie within the Northeast OTR established by the Clean Air Act. Each of these three sources would have the potential to emit at least 50 tons per year of VOCs and/or 100 tons per year of NO_X, and without limiting permit conditions or controls, could be defined as a major source under the Clean Air Act. However, each of these sources has agreed to enforceable permit conditions which limit actual emissions to below major source thresholds.

Therefore, EPA is approving the operating permit (OP 21–2004) for Appleton Papers, Inc., located in Lower Allen Township in Cumberland County. Appleton Papers is a surface coating installation, specializing in the production of carbonless reproduction paper and, without limiting permit conditions or controls, would be a major source of both NO_X and VOCs. Appleton Papers has agreed to permit conditions limiting their NO_X emissions to below the major source threshold. Additionally, Appleton Papers is subject to VOC RACT for surface coating operations under state regulation 25 PA Code, 129.52(b), and is therefore not required to submit a case-by-case RACT determination for its VOC emissions.

Air Products, Inc.'s Trexlortown facility in Lehigh County operates numerous boilers, heaters, and support equipment, and without limiting permit conditions or controls, would be considered a major source of NO_X. However, EPA is approving an operating permit (OP 39–0008) for Air Products and Chemicals Trexlortown facility which caps NO_X emissions to below 100 tons per year, and qualifies the source as a synthetic minor.

EPA is approving the operating permit (OP 67–2013) for the York City Sewer Authority's waste water treatment plant, located in Manchester Township in York County. Without permit limitations or controls, this facility would be considered a major source of NO_X. However the City has agreed to permit limitations which qualify the plant as a synthetic minor source.

The approval of the synthetic minor permit conditions for the sources above limit the emissions at each of these facilities to less than the major source thresholds, and allow the sources to avoid being subject to major source RACT requirements. For details of the permit emission limitations for each of the above sources, please refer to the technical support document contained in the docket for this action.

Synthetic Minor Permits (Sources Within the Philadelphia Nonattainment Area)

The five sources below are located within the five-county Philadelphia ozone nonattainment area. Each of these sources has the potential to emit at least 25 tons per year of VOCs and/or 25 tons per year of NO_X, and each would therefore be considered a major source. However, these sources have agreed to enforceable permit conditions which limit actual emissions to below major source thresholds, and they are qualified as synthetic minor sources.

Elf Atochem is a chemical research and development facility located in Upper Merion Township in Montgomery County. Elf Atochem would be considered a major source of NO_X (without limiting permit conditions or controls). However, since the company's operating permit (OP 46–0022) limits its NO_X emissions to below the major source threshold, EPA is approving the permit as a synthetic minor.

EPA is approving the operating permit (OP 46–0043) for Glasgow, Inc.'s two Ivy Rock plants, located in Plymouth Township in Montgomery County. Glasgow, Inc. operates asphalt batching facilities in Plymouth Township which, without permit limitations or controls, would be considered a major source of both VOC and NO_X. Glasgow, Inc has capped their NO_X and VOC emissions from its Ivy Rock facilities operating permit to below major source thresholds, and qualifies for consideration as a synthetic minor source.

EPA is approving the operating permit (OP 46–0029) for Glasgow, Inc.'s two Spring House plants, located in Montgomery County. Glasgow operates asphalt batching plants in Montgomery Township, which would be defined as a major source of both VOC and NO_X, without permit limitations or controls. Since the source has limited these emissions to below major source thresholds, EPA is approving the source's permit as a synthetic minor.

EPA is approving the operating permit (OP 15–0021) for Glasgow, Inc.'s Catanach plant, located in East Whiteland Township in Chester County. Without permit limits or controls, Glasgow's Catanach plant would be considered a major source of both VOC and NO_X. The source has limited its emissions to below major source thresholds, and qualifies as a synthetic minor.

EPA is approving the operating permit (OP 23–0026) for Glasgow, Inc.'s Freeborn plant, located in Springfield Township in Delaware County. Glasgow's Freeborn plant would also be considered a major source of both VOC and NO_X, without permit limitations or controls, but the source has agreed to limit its emissions as a synthetic minor.

The approval of the synthetic minor permit conditions for these sources limit emissions at these facilities to less than major source thresholds, and allow the sources to avoid being subject to major source RACT requirements. For details of the emission limitations contained in the permits for each of the above sources, refer to the technical support document contained in the docket for this action.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 12, 1996 unless, by March 13, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be amended before the effective date by publishing a subsequent document that will withdraw the final action for those permits that are the subject of adverse comments. All public comments received regarding those permits will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 12, 1996.

Final Action

EPA is approving one operating permit as RACT and eight operating permits to limit emissions at those subject sources to below major source emission levels.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the VOC and NO_X RACT approval of one source and the synthetic minor permit conditions for eight additional sources, must be filed in the United States Court of Appeals for the appropriate circuit by April 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 24, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(104) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(104) Revisions to the Pennsylvania Regulations Chapter 129.91 submitted on August 1, 1995 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Two letters, one dated August 1, 1995, from James Seif, Secretary of the Pennsylvania Department of Environmental Protection, transmitting source-specific VOC and/or NO_X RACT determinations in the form of operating permits for the following sources: James River Corporation—Chambersburg (Franklin County)—printer. In addition, operating permits for the following sources containing provisions limiting these sources as "synthetic minor" sources (below RACT threshold level for VOC and/or NO_X emissions) are being approved: Appleton Papers, Inc. (Cumberland County)—carbon paper producer; Air Products & Chemicals, Inc.—Trexlortown (Lehigh County)—gas production/storage facility; Elf Atochem North America, Inc. (Montgomery County)—chemical research & development firm; York City Sewer Authority—Manchester Township (York County)—waste water treatment facility; Glasgow, Inc.—Ivy Rock Plants 1 & 2 (Montgomery County)—asphalt production facility; Glasgow, Inc.—Catanach Plant (Chester County)—asphalt production facility; Glasgow, Inc.—Freeborn Asphalt Plant (Delaware County)—asphalt production facility.

(B) One letter, dated November 15, 1995, from James Seif, Secretary of the Pennsylvania Department of Environmental Protection, transmitting source-specific VOC and/or NO_X RACT determinations in the form of operating permits including the following source: Glasgow, Inc.—Spring House Plants 1 & 2 (Montgomery County)—asphalt production facility;

(C) Operating permits (OP):

(*1*) James River Corporation—OP 28–2006, effective June 14, 1995, except the expiration date of the operating permit.

(*2*) Appleton Papers, Inc.—OP 21–2004, effective May 24, 1995, except the expiration date of the operating permit.

(*3*) Air Products and Chemicals, Inc.—OP 39–0008, effective May 25, 1995, except the expiration date of the operating permit.

(*4*) Elf Atochem North America, Inc.—OP 46–0022, effective June 27, 1995, except the expiration date of the operating permit.

(*5*) York City Sewer Authority, Manchester Township—OP 67–2013, effective March 1, 1995, except the expiration date of the operating permit.

(6) Glasgow, Inc., Ivy Rock Asphalt Plants 1 & 2—OP 46–0043, effective June 7, 1995, except for the expiration date of the operating permit.

(7) Glasgow, Inc., Spring House Asphalt Plants 1 & 2—OP 46–0029, effective June 7, 1995, except for the expiration date of the operating permit.

(8) Glasgow, Inc., Catanach Asphalt Plant—OP 15–0021, effective June 7, 1995, except for the expiration date of the operating permit.

(9) Glasgow, Inc., Freeborn Asphalt Plant—OP 23–0026, effective June 7, 1995, except for the expiration date of the operating permit.

[FR Doc. 96–2967 Filed 2–9–96; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 52

[WI60–01–7136a; FRL–5324–5]

Approval and Promulgation of State Implementation Plan; Wisconsin; Autobody Refinishing SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves a revision to the Wisconsin State Implementation Plan (SIP) for ozone that was submitted on June 14, 1995. This revision requires the control of volatile organic compound (VOC) emissions from facilities that perform autobody refinishing operations. This regulation was submitted to generate reductions in VOC emissions, which the State will use to fulfill the 15 percent requirement of the amended Clean Air Act. In the proposed rules section of this **Federal Register**, the EPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's rule that has been incorporated by reference.

DATES: The "direct final" is effective on April 12, 1996, unless USEPA receives adverse or critical comments by March 13, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6960.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b) of the Clean Air Act, as amended on November 15, 1990, sets forth the requirements for ozone nonattainment areas which have been classified as moderate or above. Section 182(b)(1)(A) requires those States with ozone nonattainment areas classified as moderate or above to submit plans to reduce VOC emissions by at least 15 percent from the 1990 baseline emissions. The 1990 baseline, as described by EPA's emission inventory guidance, is the amount of anthropogenic VOC emissions emitted on a typical summer day. As a part of its 15 percent plan, the State of Wisconsin has developed and adopted a rule to reduce the VOC emissions from the autobody refinishing operations in those areas of the State that are classified as moderate or higher.

II. Evaluation of State Submittal

On June 14, 1995, Wisconsin submitted its 15 percent plan. Included in this plan was the autobody refinishing rule. The EPA found that the autobody refinishing portion of the 15 percent plan was complete in a letter to Donald Theiler, Director of the Wisconsin Department of Natural Resources' Bureau of Air Management, dated July 13, 1995. The WDNR followed the required legal procedures for adopting this rule which are prerequisites for EPA to consider including this rule in Wisconsin's federally enforceable SIP. Public hearings for this rule were held on December 20–21, 1994. This rule was submitted to the EPA as a SIP revision under signature of the Governor's designee.

In developing the control requirements for this source category, WDNR consulted the EPA's Alternative Control Techniques (ACT) document. The WDNR adopted the coating limits for VOC content in Option 1 of the control options found in the ACT. In addition to limiting the VOC content of the coatings used at autobody refinishing facilities, WDNR set standards for coating application equipment and equipment used for cleanup. These standards adopted in the State's rule are also consistent with the recommended requirements found in the ACT.

A more detailed analysis of the State's submittal is contained in a July 31, 1995 technical support document, which is available at the Regional Office listed above. In determining the approvability of this VOC rule, EPA evaluated the rule for consistency with Federal requirements, including section 110 and part D of the Clean Air Act.

III. Final Rulemaking Action

The EPA approves Wisconsin's autobody refinishing rule, thereby making this rule federally enforceable.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on April 12, 1996. However, if we receive adverse comments by March 13, 1996, EPA will publish a document that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action: The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 256–66 (1976).

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 12, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: October 10, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(83) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(83) A revision to the ozone State Implementation Plan (SIP) was submitted by the Wisconsin Department of Natural Resources on June 14, 1995. This revision is a volatile organic compound (VOC) regulation which requires controls on facilities that perform autobody refinishing operations.

(i) Incorporation by reference. The following sections of the Wisconsin Administrative Code are incorporated by reference.

(A) NR 422.02(intro.) and (47), 422.03 (1) and (3) and 484.05(1) as amended and published in the (Wisconsin) Register, August, 1995 and effective September 1, 1995.

(B) NR 422.02 (1), (1x), (3m), (12d), (33j), (34s), (34v), (37s), (42n), (47e) and (49m) and 422.095 as created and published in the (Wisconsin) Register, August, 1995 and effective September 1, 1995.

(C) NR 422.02(1s) as renumbered from 422.02(1) and published in the (Wisconsin) Register, August, 1995 and effective September 1, 1995.

[FR Doc. 96–2960 Filed 2–9–96; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 52

[WI49–02–7293; FRL–5419–6]

Approval and Promulgation of Implementation Plan; Wisconsin; Correction

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule; correction.

SUMMARY: This document contains corrections to a final rule which was published Friday, July 28, 1995 (60 FR 38722). The final rule approved a volatile organic compound (VOC) regulation which was incorporated by reference into the Wisconsin State Implementation Plan (SIP).

EFFECTIVE DATE: This action is effective February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino at (312) 886–1767.

SUPPLEMENTARY INFORMATION:

Background

On July 28, 1995 (60 FR 38722), the USEPA approved a revision to the Wisconsin SIP containing a VOC regulation that establishes reasonably available control technology (RACT) for screen printing facilities. However, when these regulations were incorporated by reference into the Wisconsin SIP, USEPA inadvertantly overwrote a more current section of the rule which had previously been incorporated into the SIP.

Need for Correction

As published, the incorrect version of part of this regulation has been incorporated by reference into the State's SIP.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 24, 1996.

Valdas V. Adamkus,

Regional Administrator.

Correction of Publication

Accordingly, the direct final rule published on July 28, 1995 (60 FR 38722), is corrected as follows:

Subpart YY—Wisconsin

On page 38724, in the third column, paragraph 52.2570(c)(82)(i)(D) is corrected to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(82) * * *

(i) * * *

(D) NR 439.04(4)(intro.), (5)(a)1. and (5)(a)2. as amended and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

* * * * *

[FR Doc. 96–2959 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 95–08]

Service Contract Filing Requirements—Miscellaneous Revisions

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its rules to provide for an optional, abbreviated service contract format; and to require service contracts to include the legal names and business addresses of the signatories and either list affiliates' business addresses or certify that affiliates' business addresses will be provided to the Commission within 10 business days of such request. The final rule in this matter should reduce duplication and Commission and carrier costs, as well as facilitate automation of the Commission's service contract records.

EFFECTIVE DATE: March 13, 1996.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573, (202) 523–5796.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Maritime Commission ("Commission") initiated this proceeding with a Notice of Proposed Rulemaking ("NPR" or "Proposed Rule") published in the May 23, 1995 **Federal Register**.[1] The NPR solicited comments on a proposal to amend the Commission's rules to provide for an optional, abbreviated service contract format, on condition that such filings: (1) Incorporate by reference the corresponding electronic essential terms ("ET") filed in the Commission's Automated Tariff Filing and Information System ("ATFI"); and (2) certify that, other than for those provisions set forth in the filed service contract, said ET sets forth the parties' true and complete contract. The NPR also proposed requiring contracts to set forth the true and complete names and addresses of contract parties, including affiliates, and the typewritten names, titles and addresses of the representatives signing contracts for the contract parties. The Proposed Rule's purposes are to reduce duplication and Commission and carrier costs, facilitate automation of the Commission's service contract records and facilitate the identification of shipper parties, including named affiliates to certain service contracts.

II. Comments

The NPR elicited three comments: (1) Joint comments of the Asia-North America Eastbound Rate Agreement, the Transpacific Westbound Rate Agreement, and the South Europe/American Conference ("ANERA, *et al.*"); (2) joint comments of the Trans-Pacific Conference of Japan and the Japan-Atlantic and Gulf Freight Conference and their member lines ("Japan Conferences"); and (3) the Trans-Atlantic Conference Agreement ("TACA"). The comments generally support the Proposed Rule, but suggest some modifications concerning the Proposed Rule's requirement for "true and complete names, * * * and addresses" of contract parties and information requirements for service contracts involving a significant number of shipper affiliates.

A. Abbreviated Service Contract Format

ANERA, *et al.*, and TACA support the proposed optional abbreviated service contract format, stating that it would reduce costs to them as well as the Commission.

The Japan Conferences do not oppose the abbreviated format, but advise that it might not enjoy widespread usage in their trades. They note that traditional Japanese contracting practices would result in Japanese shippers and most other commercial interests continuing to insist upon single, full-text format contracts instead of "bifurcated" versions that include the associated ET publications. They also advise that Japanese shippers, as well as most other commercial interests, have not yet adopted the practice of contracting via Electronic Data Interchange. They therefore urge that this format be "optional", as currently proposed.

The Japan Conferences also advise that problems could be associated with requiring contract signatories to certify that the terms set forth in the abbreviated format service contract and ATFI ETs are the true and complete terms covering all aspects of the parties' contract. They believe problems could occur when making certifications about frequently changing terms and conditions in instances where an inadvertent disparity arises between the true contract and the abbreviated version. They contend that the latter would be controlling under the rule but would not reflect the parties' true understanding.

B. Addresses of Contract Signatories

ANERA, *et al.*, support the NPR's proposal to require service contracts to state the contract parties' addresses. TACA opposes the Proposed Rule's use of the term "true and complete" with regard to contract parties' names and addresses,[2] because the term might have several meanings. TACA offers several examples in this regard: the name shown on a person's birth certificate; the name that a person commonly uses; the official legal name of a company or corporation shown on its certificate of incorporation; or a commonly used acronym, such as "AT&T", rather than "American Telephone and Telegraph Company". Further, it contends that a "true and complete" address could be the postal address of a person or company rather than the business address. TACA therefore believes that this aspect of the Proposed Rule invites uncertainty and confusion. Moreover, it contends that ocean common carrier service contract filers should be allowed to "reasonably rely on the form, style, and completeness of the names of those persons executing such contracts on behalf of shipper parties as are provided them." As an alternative, TACA suggests that requiring a contract to state the "names and postal addresses of contract parties and signers" would be sufficient.[3] To this end, it offers the following revision to the first sentence of 46 CFR 514.7(h)(1)(v):

The names and postal addresses of the contract parties and the typewritten names and titles of the representatives signing the contract for the parties along with their postal address if different than that of the Contract party represented.

[1] 60 FR 27248.

[2] The NPR proposed requiring service contracts to include "the true and complete names and addresses of the contract parties and the typewritten names, titles, and addresses of the representatives signing the contract for the parties."

[3] TACA also believes that it is redundant to state the address of a "contract signer" when its address, in most cases, is the same as that of the contract party it represents. They believe that the revision which they suggest will also remedy this aspect of the Proposed Rule.

C. Addresses of Contract Parties' Affiliates

ANERA, *et al.*, support a requirement that a contract state the addresses of affiliates named in the contract, stating that this would make it easier for ANERA, *et al.*, and the Commission to enforce the terms of service contracts. However, they suggest that the requirements applying to shippers' association members and affiliates be modified to allow contract parties the following options: (1) Listing the addresses in the contract; or (2) certifying that the addresses have been provided to the carrier or conference to retain and to be made available upon request by the Commission. They believe that this would also achieve the NPR's goals, while allowing the industry flexibility to comply in the most efficient manner.

TACA opposes a requirement that service contracts include shippers' affiliates' addresses. It states that this requirement is "contrary to the paramount purpose of this rulemaking proceeding * * * to reduce the 'sheer physical bulk' of confidential service contract material." As an alternative, TACA suggests that "to meet the purpose regarding difficulty in identifying affiliates to certain contracts which have, in some cases, hampered the Commission's investigative efforts," the Proposed Rule be revised to provide that contract filers obtain and confidentially provide shipper party affiliate address information when requested by the Commission in its investigative efforts. TACA believes that such a modification would serve the Proposed Rule's purpose and "eliminate its undesirable features". It also states that "to include relevant affiliate address information in * * * contracts will increase costs, delay the filing process and otherwise impede it."

III. Discussion

The Commission has considered the comments in this matter and has decided to adopt a Final Rule that modifies the proposal to adopt the suggestion that the Final Rule require "legal names and business addresses", rather than "true and complete names and addresses". The Final Rule also moves the change proposed for section 514.7(h)(1)(vi) into section 514.7(h)(1)(v) and clarifies the Rule's application to previously-filed contracts amended after the Final Rule's effective date.

The Commission is adopting, without change, the Proposed Rule's amendment of 46 CFR 514.7(h)(2)(i)(A) to afford service contract parties the option of filing service contracts in abbreviated format, on condition that such filings incorporate by reference the corresponding ATFI ETs; and declare that, other than for those provisions set forth in the field service contract, said ET sets forth the parties' true and complete contract. The Final Rule also requires service contracts to set forth the contract parties' names and addresses. Carriers and conferences, like the Japan Conferences, which do not elect to file service contracts in abbreviated form may continue to file service contracts in full-text format, as at present.

TACA has raised questions regarding the "true and complete" aspect of a name or address, and occasional redundancy when the addresses of service contract parties and representatives signing the contract are the same, and has offered a modification to the rule to clarify it in this regard. The Final Rule modifies proposed 46 CFR 514.7(h)(1)(v) by deleting the term "true and complete" and substituting the requirement that the "legal names and business addresses" be set forth in the contract.[4]

While TACA is concerned that a requirement that names and addresses be "true and complete" would invite uncertainty and confusion regarding the term's meaning, the Commission believes that TACA's suggested revision to require the "names and postal addresses" of contract parties is not acceptable. However, to partially address TACA's concerns, the Final Rule herein clarifies that a contract is required to set forth the parties' "legal names and business addresses", as well as the legal names of affiliates of service contract parties entitled to access the contract.

The Commission has considered the comments by ANERA, *et al.*, regarding the NPR's proposal to amend 46 CFR 514.7(h)(1)(vi) with regard to names and addresses of service contract parties' affiliates, and TACA's observation concerning address information for service contracts involving significant numbers of affiliates. The Commission has determined to provide carriers/conferences the option of either (1) listing affiliates' business addresses in the service contract; or (2) certifying in the contract that this information will be provided to the Commission upon request within 10 business days of such request.

The collection of information requirements contained in this final rule were previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), as amended. (OMB Control No. 3072–0055, expires May 31, 1998.) Public reporting burden for this collection of information will decrease to an average of one manhour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., that this final rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

List of Subjects in 46 CFR Part 514

Administrative practice and procedure, Antitrust, Automatic data processing, Cargo vessels, Confidential business information, Contracts, Exports, Freight, Freight forwarders, Imports, Maritime carriers, Penalties, Rates and fares, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553 and sections 3, 8, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1702, 1707 and 1716), the Federal Maritime Commission amends Part 514 of Title 46 of the Code of Federal Regulations as follows:

PART 514—[AMENDED]

1. The authority citation for Part 514 continues to read:

Authority: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721, and 1722; and sec. 2(b) of Pub. L. 101–92, 103 Stat. 601.

2. Section 514.7 is amended by revising paragraph (h)(1)(v) and adding paragraph (h)(2)(i)(C) to read as follows:

§ 514.7 Service contracts in foreign commerce.

* * * * *

(h) * * *

(1) * * *

(v) The typewritten legal names and business addresses of the contract parties; the typewritten legal names of affiliates entitled to access the contract; and the typewritten names, titles and addresses of the representatives signing the contract for the parties. Carriers and/or conferences which enter into contracts which include affiliates must in each instance either:

[4] A business address need not be repeated in instances where the business address of the person signing the contract is the same as the business address of a contract party.

(A) list the affiliates' business addresses; or

(B) certify that this information will be provided to the Commission upon request within 10 business days of such request (These requirements will apply to previously-filed contracts amended after March 13, 1996). However, the requirements of this section do not apply to amendments to contracts that have been filed in accordance with the requirements of this section unless the amendment adds new parties or affiliates. subsequent references in the contract to the contract parties shall be consistent with the first reference (e.g., (exact name), "carriers," "shipper," or "association," etc.); and

* * * * *

(2) * * *

(i) * * *

(C) Section 514.7(h)(2)(i)(A) does not apply to a service contract that incorporates by reference all of the associated essential terms filing as published in ATFI, provided that the parties certify that, other than for those provisions set forth in the filed service contract, such essential terms filing sets forth the true and complete contract.[1]

3. Exhibit II is added to Part 514, reading as follows:

BILLING CODE 6730-01-M

[1] See Exhibit II of this part for an example of an abbreviated format service contract.

EXHIBIT II TO PART 514

SAMPLE ABBREVIATED FORMAT SERVICE CONTRACT

Service Contract No.: SC 1-95 FMC File No.: 50,000

Essentials Terms No.: ET 1-95 Amendment No.: ____
Service Contract Essential Terms Publication No.: 003
Tariff(s) of General Applicability No.: 001, 002

CARRIER/CONFERENCE NAME: **EFFICIENT LINER TRANSPORTATION, INC.**
Carrier/Conference Address: 1227 Seaway Drive
Washington, DC 20573

AND

SHIPPER NAME: **ABC ELECTRONICS COMPANY**
Shipper Address: 7221 Happiness Lane
New York, NY 10001

This is a service contract pursuant to the Shipping Act of 1984 (46 U.S.C. app. 1701 et al.) and FMC rules at 46 C.F.R. 514, between "CARRIER/CONFERENCE" and "SHIPPER" parties named herein. The contract parties declare that the terms set forth herein and the essential terms as published in Carrier/Conference Service Contract Essential Terms Tariff No. 003, ET No. 1-95, in the Federal Maritime Commission's Automated Tariff Filing and Information System, constitute the true and complete copy of all aspects of the essential terms of this contract and are hereby incorporated by reference.

Further, shipper party named herein certifies its status and that of any affiliate(s)/subsidiary(ies) named herein as (check appropriate box(es):

NVOCC ____
SHIPPERS' ASSOCIATION ____
OWNER OF CARGO ____
OTHER (Please specify)____

Records maintained to support shipments under this service contract are: bills of lading, shipping manifests, and other related written correspondence between contract parties.

Contact person for records in the event of a request by the Federal Maritime Commission:

Efficient Liner Transportation , Inc.
Traffic Manager
1227 Seaway Drive
Washington, DC 20573
(202) 523-5856

_____Date_____ _____Date_____
(Carrier/Conference Signature) (Shipper Signature)
Carl T. Booker, President Vanessa M. Banks, President
Efficient Liner Transportation, Inc. ABC Electronics Company

Affiliate of shipper: Quality Compact Discs, Inc.
Affiliate's address: 7221-B Happiness Lane
New York, NY 10001

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2946 Filed 2–9–96; 8:45 am]

BILLING CODE 6730–01–C

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1815, 1816, 1819, 1823, 1827, 1835, 1837 and 1852

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes dealing with NASA internal or administrative matters, such as promotion of compliance with current Federal-wide policies on Government property, revision of headings, and delegation of authority.

EFFECTIVE DATE: March 13, 1996.

FOR FURTHER INFORMATION CONTACT: David K. Beck, (202) 358–0482.

SUPPLEMENTARY INFORMATION:

Background

NASA is reviewing and rewriting 48 CFR chapter 18, the NASA FAR Supplement, in its entirety in order to implement recommendations of the National Performance Review. During this review, NASA is eliminating reporting requirements and making other changes in order to reduce and simplify the regulation. This rule is part of the effort to simplify NASA's regulations.

Summary of Changes

Section 1837.204 is added to delegate authority to make the determinations of non-availability of personnel under FAR 37.204 (FAC 90–33, Item II, 60 FR 49720 and 49723, 9–26–95). In addition, section 1815.413–2 is revised, in the context of FAR 37.203 and 37.204, to refer to the determinations to be made under the new section 1837.204.

To promote compliance with Federal-wide policy, a reference is added in 1815.970(b) to the policy under FAR 45.302–3(c) on excluding the cost of facilities when contracting officers calculate a profit or fee objective prior to contract negotiation.

The prescription is revised in 1815.7002 for the ombudsman clause in order to remove the reference to Section L of the solicitation. NASA will instruct contracting officers to place the clause in Section I which is more appropriate for information that may be useful before *and after* contract award.

Section 1816.505 is added (per FAC 90–33, Item III, 60 FR 49723, 9–26–95) on task and delivery order contracts in order to enable persons to identify the appropriate NASA ombudsman.

In order to conform to changes in the FAR made by FAC 90–32, Item V (60 FR 48206, 9–18–95) headings are changed in part 1819.

This rule increases from $25,000 to the "simplified acquisition threshold" the dollar amount at which the Safety and Health clause of 1852.223–70 is automatically included in construction contracts and subcontracts. Regardless of dollar amount, the clause is included when there are known hazards.

This rule removes paragraph (b) of 1835.003 which refers to a NASA Management Instruction entitled "Recoupment Policy for the Sale, Use, Lease, or Other Transfer of NASA-Developed Technologies." The NASA Management Instruction has been canceled because we know of no occasion where the policy has been used by NASA to recoup R&D or other nonrecurring costs.

Section 1852.227–15 is redesignated as 1852.227–17 because the section provides a paragraph to be added to the basic clause at FAR 52.227–17.

Impact

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The regulation imposes no burdens on the public under the Paperwork Reduction Act of 1995, as implemented under 5 CFR part 1320.

List of Subjects in 48 CFR Parts 1815, 1816, 1819, 1823, 1827, 1835, 1837, 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR parts 1815, 1816, 1819, 1823, 1827, 1835, 1837, and 1852 are amended as follows:

1. The authority citation for 48 CFR Parts 1815, 1816, 1819, 1823, 1827, 1835, 1837, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1815—CONTRACTING BY NEGOTIATION

2. Section 1815–413–2 is revised to read as follows:

1815.413–2 Alternate II.

(a) *General.* This section prescribes the policy and procedures pertaining to the use of individuals from outside the Government as evaluators of proposals. The references in FAR 15.413–2 to the provision at FAR 52.215–12 shall be considered to be references to the provision at 48 CFR 1852.215–72.

(b) *Policy.* It is NASA policy to have proposals evaluated by the most competent technical and management sources available. Qualified proposal evaluators will normally be available from within the Government. However, from time-to-time it may be necessary to make a determination of non-availability of qualified Government evaluators as required by 48 CFR 1837.204 and to disclose proposal information to non-Government evaluators.

(c) *Approval to release proposal outside the Government.* (1) Regarding proposals and proposal information resulting from Requests For Proposals, after the determination of non-availability is made (48 CFR 1837.204) and a copy of the determination is included in the procurement file, the Procurement Officer, with the concurrence of the Chief Counsel, may authorize the release of the proposals and proposal information to non-Government evaluators. Under FAR 37.203(d), the determination of non-availability of qualified personnel need not be made when the proposal information is released to a JPL employee for evaluation.

(2) Information from SBIR, STTR, NRA, AO and unsolicited proposals may be authorized for disclosure to non-Government evaluators by the NASA program official one level higher than the official responsible for the evaluation without making the determination of non-availability as required by 48 CFR 1837.204.

(d) *Appointing non-Government evaluators as special Government employees.* (1) Except for JPL employees, evaluators of proposal information resulting from an RFP shall be appointed as special Government employees.

(2) Appointment as a Special Government employee is a separate action from the approval required by paragraph (c) of this section and may be processed concurrently. Appointment as a special Government employee shall be made by:

(i) The NASA Headquarters personnel office when the release of proposal information is to be made by a NASA Headquarters office; or

(ii) The Field Installation personnel office when the release of proposal information is to be made by the Field Installation.

(3) Non-Government evaluators need not be appointed as special Government employees when they evaluate information from SBIR, STTR, NRA, AO, and unsolicited proposals.

(e) *Release of proposal information.* The written approvals required by paragraphs (c)(1) and (c)(2) of this section shall be provided to the contracting officer before the actual release of the proposal information. As a minimum, the approval shall:

(1) Identify the precise proposal information being released;

(2) Identify the person receiving the proposal information and include a statement that the person has been appointed a special Government employee or a statement of the applicable exception under paragraph (d)(3) of this section;

(3) Provide a justification of the need for disclosure of the proposal information to the non-Government evaluator(s); and

(4) Provide a statement that a signed "Agreement and Conditions for Evaluation of Proposals (August 1993)," in accordance with paragraph (f) of this section, will be obtained prior to the proposal to the evaluator.

(f) *Agreements.* For any proposal information, (i.e., RFP, SBIR, STTR, NRA, AO and unsolicited proposals) the NASA official who actually releases/transfers the proposal information to a non-Government evaluator, including employees of JPL, shall, prior to such disclosure, require each non-Government evaluator to sign the following "Agreement and Conditions for Evaluation of Proposals (April 1993)," and to complete and sign a "Procurement Integrity Certification for Procurement Officials" (Optional Form 333), in accordance with FAR 3.104–12.

Agreement and Conditions for Evaluation of Proposals (August 1993)

(1) The recipient agrees to use proposal information for NASA evaluation purposes only. This limitation does not apply to information that is otherwise available without restrictions to the Government, another competing contractor, or the public.

(2) The recipient agrees that the NASA proposal cover sheet notice (FAR 15.413–2(e) and NFS 1815.413(a)), and any notice that may have been placed on the proposal by its originator, shall be applied to any reproduction or abstract of any proposal information furnished.

(3) Upon completion of the evaluation, the recipient agrees to return all copies of proposal information or abstracts, if any, to the NASA office that initially furnished the proposal information for evaluation.

(4) Unless authorized in writing by the NASA official releasing the proposal information, the recipient agrees not to contact either the business entities originating the proposals or any of their employees, representatives, or agents concerning any aspect of the proposal information or extracts covered by this agreement.

(5) The recipient agrees to review his or her financial interests relative to the entities whose proposal information NASA furnishes for evaluation. At any time the recipient becomes aware that he or she or a person with a close personal relationship (household family members, business partners, or associates) has or acquires a financial interest in the entities whose proposal information is subject to this agreement, the recipient shall immediately advise the NASA official releasing the proposal information, protect the proposal information, and cease evaluation activities pending a NASA decision resolving the conflict of interest.

(6) I understand that the term "leave the Government" in the last sentence of the Procurement Integrity Certification for Procurement Officials, Optional Form 333, means "cease to function as a procurement official."

Signature: _____

Name typed or printed: _____

Date: _____

[End of Agreement]

(g) *Affixing of a protection notice.* The official who actually releases/transfers the proposal information shall review each proposal or the extracted item of proposal information that is to be released and ensure that the notice at FAR 15.413–2(e) (See 48 CFR 1815.413(a)) is affixed to each proposal or the extracted item of proposal information before it is released/transferred.

(h) *JPL.* If JPL personnel, in evaluating proposal information obtained from a standard RFP released to them by NASA, must obtain assistance from non-JPL, non-Government evaluators, JPL must obtain written approval from the Procurement Officer before releasing the information; except that information from SBIR, STTR, NRA, AO, and unsolicited proposals may be disclosed outside JPL with prior written approval, in compliance with paragraph (c)(2) of this section.

3. The last sentence of paragraph (b) of 1815.970 is revised to read as follows:

1815.970 NASA structured approach for profit or fee objective.

(a) * * *

(b) * * * Neither the cost of facilities (see FAR 45.302–3(c)) nor the amount calculated for the cost of money for facilities capital is to be included as part of the cost base in column 1.(a) in the computation of profit.

* * * * *

4. The last sentence of 1815.7002 is revised to read as follows:

1815.7002 Commerce Business Daily announcements, solicitations and contracts.

* * * Also, a clause substantially the same as the one at 48 CFR 1852.215–84 shall be included in solicitations, including draft solicitations, and in all contracts.

PART 1816—TYPES OF CONTRACTS

5. Section 1816.505 is added to read as follows:

1816.505 Ordering.

The ombudsman referred to in FAR 16.505(b)(4) is the ombudsman of the installation issuing the solicitation and its resultant contract. See 48 CFR part 1815, subparts 1815.70 and 1852.215–84.

6. The headings for part 1819, section 1819.505, and subpart 1819.7 are revised to read as follows:

PART 1819—SMALL BUSINESS PROGRAMS

1819.505 Rejecting Small Business Administration recommendations.

Subpart 1819.7—Subcontracting With Small Business, Small Disadvantaged Business and Women-Owned Small Business Concerns

PART 1823—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

7. Section 1823.7004 is amended by republishing paragraph (c) introductory text and revising paragraphs (c)(2), (c)(3), and (c)(4) to read as follows:

1823.7004 Contract clause.

* * * * *

(c) Except as provided in paragraph (d) of this section, the clause at 48 CFR 1852.223–70 shall be included in—

(1) * * *

(2) All construction, repair, or alteration contracts in excess of the simplified acquisition threshold;

(3) All contracts having, within their total requirement, construction, repair, or alteration tasks in excess of the simplified acquisition threshold; and

(4) Any procurement regardless of dollar amount when—

(i) Any deliverable contract end item is of a hazardous nature, or

(ii) During the life of the contract it can reasonably be expected that hazards will be generated within the operational environment and the contracting officer or safety and health representative determines that they warrant inclusion of the clause.

* * * * *

PART 1827—PATENTS, DATA, AND COPYRIGHTS

8. Paragraph (c) of 1827.405 is revised to read as follows:

1827.405 Other data rights provisions.

* * * * *

(c) *Production of special works.* Paragraph (f) of the clause at 48 CFR 1852.227–17 is to be added to the clause at FAR 52.227–17, Rights in Data—Special Works, whenever that clause is used in any NASA contract.

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

9. Section 1835.003 is revised to read as follows:

1835.003 Policy.

See NHB 5800.1, NASA Grant and Cooperative Agreement Handbook, for policy regarding the use of grants and cooperative agreements.

PART 1837—SERVICE CONTRACTING

10. Section 1837.204 is added to read as follows:

1837.204 Guidelines for determining availability of personnel.

(a) The NASA official one level above the NASA program official responsible for the evaluation shall make the determination of non-availability of personnel under FAR 37.204 (a) and (b). For field installations, the concurrence of the Office of Chief Counsel shall be obtained and for Headquarters actions, the concurrence of the Office of Associate General Counsel for Contracts shall be obtained. The contracting officer shall ensure that a copy of the determination is in the procurement file prior to issuance of a solicitation.

(b) Outside peer review evaluators may be used to evaluate SBIR, STTR, NRA, AO, and unsolicited proposals without making the determination required by FAR 37.204.

(c) The agreement required by FAR 37.204(c) shall be made by the program official responsible for the evaluation and the contracting officer.

(d) Class determinations under FAR 37.204(e) shall be made by the Associate Administrator for Procurement. The installation procurement office shall forward its request with an explanation of the necessity for the use of outside evaluators as outlined in FAR 37.204(b) to Code HS.

(e) See (NFS) 48 CFR 1815.413–2 Alternate II, for instructions concerning—

(1) The authority to release proposals resulting from RFP's outside the Government and

(2) The requisite nondisclosure statements.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

11. Section 1852.223–70 is amended by revising the date of the clause to read "(February 1996)" and revising paragraph (e)(2) of the clause to read as follows:

1852.223–70 Safety and Health.

* * * * *

(e) * * *

(1) * * *

(2) require construction, repair, or alteration in excess of the simplified acquisition threshold, or

* * * * *

1852.227–15 [Redesignated as 1852.227–17]

12. Section 1852.227–15 is redesignated as 1852.227–17.

[FR Doc. 96–3003 Filed 2–9–96; 8:45 am]
BILLING CODE 7510–01–M

Proposed Rules

Federal Register
Vol. 61, No. 29
Monday, February 12, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

RIN 0560–AE46

National Marketing Quotas for Fire-Cured (Type 21), Fire-Cured (Types 22 & 23), Dark Air-Cured (Types 35 & 36), Virginia Sun-Cured (Type 37), Cigar Filler (Type 46), and Cigar-Filler and Cigar-Binder (Types 42–44 & 53–55) Tobaccos

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture (the Secretary), is required to proclaim by March 1, 1996, national marketing quotas for cigar filler (type 46) and cigar filler and cigar binder (types 42–44; 53–55) tobaccos for the 1996–97, 1997–98, and 1998–99, marketing years (MY's) and to determine and announce the amounts of the national marketing quotas for fire-cured (type 21), fire-cured (types 22 & 23), dark air-cured (types 35 & 36), Virginia sun-cured (type 37), cigar-filler (type 46), and cigar-filler and cigar-binder (types 42–44 & 53–55) kinds of tobacco for the 1996–97 MY. The public is invited to submit written comments, views, and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco and other related matters which are discussed in this proposed rule.

DATES: Comments must be received on or before February 16, 1996, in order to be assured consideration.

ADDRESSES: Send comments to the Director, Tobacco and Peanuts Division, Farm Service Agency (FSA), United States Department of Agriculture (USDA), room 5750 South Building, P.O. Box 2415, Washington, DC 20013–2415. All written submissions will be made available for public inspection from 8:15 am to 4:45 pm, Monday through Friday, except holidays, in room 5750 South Building, 14th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, FSA, USDA, room 5750 South Building, P.O. Box 2415, Washington, DC 20013–2415, on 202–720–5346.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by OMB.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this notice applies are: Commodity Loans and Purchases—10.051.

Executve Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778, Civil Justice Reform. The provisions of the proposed rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since FSA is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The amendments to 7 CFR part 723 set forth in this proposed rule do not contain any information collection requirements that require clearance through the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

Discussion

The proposed rule would amend 7 CFR part 723 to set forth the 1996-crop marketing quotas for these six kinds of tobacco.

Section 312(b) of the Agricultural Adjustment Act of 1938, as amended (the Act), provides that the Secretary shall determine and announce, not later than March 1, 1996, with respect to kinds of tobacco specified in this proposed rule, the amount of the national marketing quota which will be in effect by MY 1996 in terms of the total quantity of tobacco which may be marketed that will allow a supply of each kind of tobacco equal to the reserve supply level.

Section 312(c) of the Act provides that, within 30 days after proclamation of national marketing quotas for cigar filler (type 46) and cigar filler and cigar binder (types 42–44 & 53–55) tobaccos, the Secretary conduct referenda of farmers engaged in the 1995 production of each kind of tobacco (1988 in the case of type 46) to determine whether they favor or oppose marketing quotas for MY's 1996, 1997, and 1998. These referenda are required because MY 1995 is the last year of the three consecutive MYs for which marketing quotas previously proclaimed will be in effect.

The Secretary shall proclaim the results of any referendum. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quota, the national marketing quota previously proclaimed shall not become effective. The referendum results shall in no way affect or limit any subsequent quota proclamation and submission to a future referendum as otherwise authorized in section 312.

Section 313(g) of the Act authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed. In addition, the Secretary is authorized to apportion, through county committees, the national acreage allotment to tobacco producing farms, less a reserve not to exceed 1 percent thereof for new farms, to make corrections and adjust inequities in old farm allotments, through the national factor. The national factor is determined by dividing the preliminary quota (the sum of quotas for old farms) into the quota determined for the MY in question (less the reserve).

Procedures will continue unchanged for (1) converting marketing quotas into acreage allotments; (2) apportioning allotments among old farms; (3) apportioning reserves for use in (a) establishing allotments for new farms, and (b) making corrections and adjusting inequities in old farm allotments; and (4) holding referenda.

Request for Comments

This rule proposes to amend 7 CFR part 723, subpart A to include 1996-crop national marketing quotas for fire-cured (type 21), fire-cured (types 22 & 23), dark air-cured (types 35 & 36), Virginia sun-cured (type 37), cigar-filler (type 46), and cigar-filler and cigar-binder (types 42–44 & 53–55) tobaccos. These six kinds of tobacco account for about 4 percent of total U.S. tobacco production.

Accordingly, comments are requested concerning the establishment of the national marketing quotas for the following:

(1) Fire-Cured (Type 21) Tobacco

The 1996-crop national marketing quota for fire-cured (type 21) tobacco will range from 1.8 to 2.0 million pounds. This range reflects the assumption that the national acreage factor will range from 0.9 to 1.0.

(2) Fire-Cured (Types 22 & 23) Tobacco

The 1996-crop national marketing quota for fire-cured (types 22 & 23) tobacco will range from 32.0 to 40.0 million pounds. This range reflects the assumption that the national acreage factor will range from 0.8 to 1.0.

(3) Dark Air-Cured (Types 35 & 36) Tobacco

The 1996-crop national marketing quota for dark air-cured (types 35 & 36) tobacco will range from 7.5 to 9.5 million pounds. This range reflects the assumption that the national acreage factor will range from 0.8 to 1.0.

(4) Virginia Sun-Cured (Type 37) Tobacco

The 1996-crop national marketing quota for Virginia sun-cured (type 37) tobacco will range from 90,000 to 100,000 pounds. This range reflects the assumption that the national acreage factor will range from 0.9 to 1.0.

(5) Cigar-Filler and Cigar-Binder (Types 42–44 & 53–55) Tobaccos

The 1996-crop national marketing quota for cigar-filler and cigar-binder (types 42–44 & 53–55) tobaccos will range from 7.5 to 9.0 million pounds. This range reflects the assumption that the national acreage factor will range from 0.85 to 1.0.

(6) Cigar-Filler (type 46) Tobacco

The 1996-crop national marketing quota for cigar-filler (Type 46) tobacco will be zero.

List of Subjects in 7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

Accordingly, it is proposed that 7 CFR part 723, subpart A be amended as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1421, 1445–1, and 1445–2.

2. Section 723.113 is amended by adding paragraph (d) to read as follows:

§ 723.113 Fire-cured (type 21) tobacco.

* * * * *

(d) The 1996-crop national marketing quota will range from 1.8 million pounds to 2.0 million pounds.

3. Section 723.114 is amended by adding paragraph (d) to read as follows:

§ 723.114 Fire-cured (types 22 & 23) tobacco.

* * * * *

(d) The 1996-crop national marketing quota will range from 32.0 million pounds to 40.0 million pounds

4. Section 723.115 is amended by adding paragraph (d) to read as follows:

§ 723.115 Dark air-cured (types 35–36) tobacco.

* * * * *

(d) The 1996-crop national marketing quota will range from 8.5 million pounds to 9.5 million pounds.

5. Section 723.116 is amended by adding paragraph (d) to read as follows:

§ 723.116 Sun-cured (type 37) tobacco.

* * * * *

(d) The 1996-crop national marketing quota will range from 90,000 to 100,000 pounds.

6. Section 723.117 is amended by adding paragraph (d) to read as follows:

§ 723.117 Cigar-filler and binder (types 42–44 and 53–55) tobacco.

* * * * *

(d) The 1996-crop national marketing quota will range from 7.5 million pounds to 9.0 million pounds.

7. Section 723.118 is amended by adding paragraph (d) to read as follows:

§ 723.118 Cigar-filler (type 46) tobacco.

* * * * *

(d) The 1996-crop national marketing quota is 0.0 pounds.

Signed at Washington, DC, February 2, 1996.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 96–2929 Filed 2–9–96; 8:45 am]

BILLING CODE 3410–05–P–M

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AE41

Tobacco—Tobacco Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule clarifies the regulations for price support loans for tobacco to specify that a refund will be due on "nested" tobacco whether or not the producer knew the tobacco was nested. This modification is intended to insure that producers take responsibility for, and are the insurers of, the quality of the tobacco placed for price support and that price support is limited to normal, non-adulterated lots based on true weights.

DATES: Comments must be received on or before April 12, 1996.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Tobacco and Peanuts Division, Farm Service Agency (FSA), United States Department of Agriculture (USDA) AG Code 0514, P.O. Box 2415, Washington, DC 20013–2415, telephone (202) 720–7413. All written comments will be available for public inspection in room 5750 South Building, USDA, 14th Street and Independence Avenue, SW, Washington, DC, between 8 am and 5 pm, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: David W. Anderson, Assistant to the Director, Tobacco and Peanuts Division, FSA, at the address listed above, telephone (202) 690–2518.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is

not required by 5 USC 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor environment statement is needed.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, subpart V published at 48 FR 2915 (June 24, 1983).

Executive Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this proposed rule. Before any legal action is brought regarding determinations made under provision of 7 CFR Part 1464, the administrative appeal provisions set forth at 7 CFR Part 780 must be exhausted.

Paperwork Reduction Act

This proposed rule does not change the information collection requirements that have been approved by OMB and assigned control number 0560–0058.

Background

Nested tobacco is tobacco in a lot containing a "nest" of inferior tobacco or foreign material, presumably, to increase the payment of loan weight of the lot. A formal definition of nesting is found in regulations codified at 7 CFR Part 29 and that definition is incorporated in the rules for the tobacco price support program found at 7 CFR Part 1464.

In some cases, the nesting may not be discovered until later in processing, well after a price support loan for the tobacco has been disbursed. Under current tobacco program rules n 7 CFR Part 1464.7 through 9, a producer found to have "knowingly" presented nested tobacco (i) must refund the price support loan amount for the individual lot and (ii) will be declared to be ineligible for any other tobacco price support for that year.

Because of the severity of the consequences, there is sometimes a reluctance to make a finding that the violation was knowing and producers will sometimes contend that the nesting was the act of irresponsible employees or other handlers of tobacco. However, there is no apparent reason why a refund should not be demanded for a loan made on any adulterated (nested) lot whether it was, as to producer, "knowingly" nested or not. It must be the responsibility of the producer to present eligible tobacco. Nesting produces false weights, and processing problems, and by producing undue loan disbursements can cause losses that ultimately are born by the tobacco producer because of the "no net-cost" nature of the tobacco program.

The proposed rule would make explicit that a refund wi8ll be due from the loan recipient on the individual nested lot in all cases of nesting ("knowing" or not). However, the rules would allow the Farm Service Agency (FSA) county committee, with the concurrence of the FSA State committee, to reduce the amount of the refund demanded, in accordance with guidelines of the FSA Deputy Administrator for Farm Programs. This allowance will permit adjustments to avoid undue hardships to producers.

This rule would not adjust the terms under which a producer can lose eligibility for the entire crop year, for all lots, as a result of a nesting violation. For that, a "knowing" violation will still be required. The proposed rule is, instead, addressed to the accounting for the individual lot that is actually nested. This result would be accomplished by modifying Part 1464.8 to make more explicit that nested tobacco is *per se* ineligible for price support. Also, Part 1464.9 would be amended to remove the reference to "knowing" violations with regard to demands for refunds on individual lots.

Comments on this proposed rule are welcomed and should be submitted by the date indicated in this notice.

List of Subjects in 7 CFR Part 1464

Agriculture, Assessments, Loan program, Price support program, Tobacco, Warehouses.

Accordingly, it is proposed that 7 CFR Part 1464 be amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1 and 1445–2; 15 U.S.C. 714b, 714c.

2. Section 1464.8 is amended by revising the introductory text to read as follows:

§ 1464.8 Eligible tobacco.

Eligible tobacco for the purpose of pledging such tobacco as collateral for a price support loan is any tobacco of a kind for which price support is available, as provided in § 1464.2, that is in sound and merchantable condition, is not nested as defined in 7 CFR Part 29, and:

* * * * *

3. Section 1464.9 is amended by revising paragraph (a) to read as follows:

§ 1464.9 Refund of price support advance.

* * * * *

(a) Received a price support advance on tobacco that was nested, as defined in part 29 of this title or otherwise not eligible for price support. The county committee, with concurrence of a State committee representative, may reduce the refund with respect to tobacco otherwise required in this part, in accordance with guidelines issued by the Deputy Administrator for Farm Programs.

* * * * *

Signed at Washington, D.C., on February 5, 1996.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 96–2927 Filed 2–9–96; 8:45 am]

BILLING CODE 3410–05–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AF33

Reporting Reliability and Availability Information for Risk-significant Systems and Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require that licensees for commercial nuclear power reactors report plant-specific summary reliability and availability data for risk-significant systems and equipment [1] to the NRC. The proposed rule would also require licensees to maintain on site, and to make available for NRC inspection, records and documentation that provide the basis for the summary data reported to the NRC. The systems and equipment for which data would be provided are a subset of the systems and equipment within the scope of the maintenance rule.

The Commission has determined that reporting of reliability and availability information is necessary to substantially improve the NRC's ability to make risk-effective regulatory decisions consistent with the Commission's policy statement on the use of probabilistic risk assessments (PRAs) (August 16, 1995; 60 FR 42622). This would assist the NRC in improving its oversight capabilities with respect to public health and safety and becoming more efficient by focusing its regulatory program on those issues of greatest risk significance and reducing unnecessary regulatory burdens on licensees. The Commission would use the data that would be required by the proposed rule in generic issue resolution, developing quantitative indicators that can assist in assessing plant safety performance, performing risk-based inspections, and pursuing modifications to specific plants and basic regulations and guidelines. Furthermore, this information would improve the NRC's oversight of licensees' implementation of the maintenance rule. It would also enhance licensees' capabilities to implement the evaluation and goal-setting activities required by the maintenance rule by providing licensees with access to current industry-wide reliability and availability information for some of the systems and equipment within the scope of the maintenance rule.

[1] In relation to this proposed rule, the term equipment is intended to apply to an ensemble of components treated as a single entity for certain probabilistic risk assessments (PRAs) where a system or train treatment would not be appropriate.

DATES: Comments regarding any aspect of the proposed rule are due to the Commission by June 11, 1996. Comments received after that date will be considered if it is practical to do so, but the Commission can give no assurance of consideration for late comments. The Commission intends that this expiration date will be at least 30 days after publication of an associated draft regulatory guide for public comment.

In addition, comments regarding the collection of information, including the burden estimate and suggestions for reducing the burden, should be submitted to the Office of Management and Budget (OMB), and to the NRC, by March 13, 1996. For further information see the discussion below under the heading *Paperwork Reduction Act Statement.*

ADDRESSES: Mail written comments to: U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN.: Docketing and Service Branch. Deliver written comments to the NRC at One White Flint North, 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm on Federal workdays.

Send comments regarding the collection of information, including the burden estimate and suggestions for reducing the burden, to: (1) Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, DC 20503, and (2) Information and Records Management Branch (T–6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For further information see the discussion below under the heading *Paperwork Reduction Act Statement.*

Copies of the draft regulatory analysis, the supporting statement submitted to the OMB, and comments received may be examined, and/or copied for a fee, at: The NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dennis Allison, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–6835.

SUPPLEMENTARY INFORMATION:

Background

Current Requirements

There are no existing requirements to systematically report reliability and availability information; nor is there an industry-wide database to provide such information.

Current reporting requirements in 10 CFR 50.72, "Immediate notification" and 10 CFR 50.73, "Licensee event report system," require the submittal of extensive descriptive information on selected plant and system level events. The Nuclear Plant Reliability Data System, a data base that industry supports and the Institute for Nuclear Power Operations (INPO) maintains, provides data on component engineering characteristics and failures. Neither of these sources includes all the data elements (i.e., number of demands on a system, number of hours of operation, and information on maintenance unavailability) that are needed to determine the reliability and availability of systems and equipment. Maintenance effectiveness monitoring requirements in 10 CFR 50.65, "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants", also do not contain reporting requirements.

In recent years, plants have performed Individual Plant Evaluations (IPEs), as requested in Generic Letter 88–20 and its supplements, and submitted the results to the NRC. These submittals provide measures of risk such as core damage frequency, dominant accident sequences, and containment release category information. While system and component reliability data have been collected as part of some utility IPEs, this information is typically not included in the IPE submittals to the NRC.

Prior Efforts

In late 1991 and through 1992, the NRC staff participated on an INPO-established NRC/industry review group to make recommendations for changes to the Nuclear Plant Reliability Data System (NPRDS). The group's final recommendations to INPO to collect PRA-related reliability and availability data would have provided most of NRC's data needs. However, INPO took no action on these recommendations.

During 1992 and 1993, the NRC staff continued through correspondence and meetings to outline the particular data needed and to seek INPO's assistance in obtaining the data. In a December 1993 meeting with NUMARC (now the Nuclear Energy Institute (NEI)), INPO representatives suggested their Safety System Performance Indicator (SSPI) as a surrogate for reliability data. They proposed expanding the indicator to additional systems and indicated that data elements could be modified to compute actual reliability and availability data. Although general agreements were reached with INPO on which systems and components and what types of data elements are appropriate for risk-related applications and maintenance effectiveness monitoring, no voluntary system of providing data resulted from these discussions. In the fall of 1994, the NRC staff began work on this rulemaking action. In June 1995, NEI proposed to discuss a voluntary approach of providing reliability and availability data to the NRC based on SSPI data. The NRC staff will continue to work with industry on voluntary submittal of reliability data, under a program that will meet the needs of all parties, while at the same time proceeding to obtain public comment on this proposed rule.

Industry representatives have expressed concern that reliability data, if publicly available, would be subject to

misuse. In certain circumstances it is permissible for the NRC to withhold information from public disclosure. For example, pursuant to 10 CFR 2.790(b)(1), a licensee may propose that a document be withheld from public disclosure on the grounds that it contains trade secrets or privileged or confidential commercial or financial information. However, the data that would be reported under this proposed rule would not appear to qualify for withholding. Reliability data used as input to risk-based regulatory decisions should be scrutable and accessible to the public. The Commission's PRA policy statement indicates that appropriate supporting data for PRA analyses that support regulatory decisions should be publicly available. Similarly, the Commission's draft report on public responsiveness (March 31, 1995; 60 FR 16685) indicates that the policy of the NRC is to make information available to the public relating to its health and safety mission, consistent with its legal obligations to protect information and its deliberative and investigative processes. Commenters who believe that there is information subject to a proper 10 CFR 2.790(b)(1) withholding determination requested by the proposed rule should provide a specific justification for such belief.

Move to Risk-Based Regulation

For several years the Commission has been working towards increased use of PRAs in power reactor regulation. In its policy statement on the use of PRAs, the Commission has indicated that the use of PRA technology should be increased in all regulatory matters to the extent supported by the state-of-the-art in terms of methods and data, and this implies that the collection of equipment and human reliability data should be enhanced. Implementation of these policies would improve the regulatory process through (1) improved risk-effective safety decision making, (2) more efficient use of agency resources, and (3) reduction in unnecessary burdens on licensees. These improvements would enhance both efficiency and safety.

The data reported under this proposed rule would improve the NRC's oversight capability with respect to public health and safety by focusing the NRC's regulatory programs in a risk-effective manner. Generally, the NRC's ability to identify plants and systems at increased risk for significant events and, thus, to take appropriate action would be substantially improved. For example, a generic indication of low reliability or availability for a system might indicate a technical problem, with its attendant risk, that may warrant generic action. Similarly, a plant-specific indication of low reliability or availability for several systems might indicate a programmatic problem, with its attendant risk, and may warrant plant-specific action.

It has been noted that prior to some significant events (such as the scram failure at Salem and the accident at Three Mile Island) there was previously existing information (such as challenge data and reliability data for scram breakers and power operated relief valves) which, if collected, recognized, and acted upon might have led to preventive actions. Accordingly, it is expected that reliability and availability information for selected risk-significant systems would improve the NRC's oversight capability with respect to public health and safety—i.e., the ability to maintain or enhance safety by identifying and reviewing indications of increased risk and, if appropriate, taking generic or plant-specific action.

Such problems could be subtle in nature. For instance, licensee(s) might schedule train outages for maintenance at certain times, such that risks are substantially increased over what would be expected based on random outages. This situation would not be indicated by current reporting requirements, or even by simply reporting train unavailability, but it could be indicated by the concurrent unavailability of two or more trains, as would be reported under the proposed rule. Additional examples discussed below describe further specific uses of the data that would help to enhance safety.

In order to move towards risk-based regulation and the increased use of PRA information, the NRC needs scrutable, plant-specific and generic reliability and availability information. The framework for an overall move towards risk-based regulation involves the development of a regulatory process. This process includes operational procedures and decision criteria that require credible PRA methods, models, and data. This framework would provide for predictable, consistent, and objective risk-based regulatory decision making. The data that would be reported under this rule represent one of the needed elements. In addition, these data are needed to improve the efficiency and effectiveness of NRC regulatory applications that employ a risk-based perspective in advance of defining the entire framework.

Generally, plant-specific information is needed because there can be wide plant-to-plant variations in the design, importance, reliability and availability of particular systems and equipment. It is necessary to identify similar equipment in various plants so that the data can be properly grouped and analyzed to estimate overall industry performance and plant-specific performance and to identify outliers (good or bad).[2]

Some examples of how reliability and availability information would be used to improve current NRC regulatory applications that consider risk in the decision process are discussed below. One of the examples involves the need for information to support generic regulatory actions—i.e., generic issue resolution and its associated rulemaking or regulatory guide revision. Another example involves the need for information to determine whether further NRC action is needed at specific plants—i.e., indicators of plant performance. Some involve a mixture of plant specific and generic elements. For example, analyzing an event at a given plant could lead to a plant-specific action such as a special inspection and/or to a generic action such as a bulletin or generic letter.

Generic Issue Resolution

The NRC currently uses risk estimates in: (1) prioritizing safety issues, (2) deciding whether new requirements or staff positions to address these issues are warranted, and (3) deciding whether proposed new requirements or staff positions should be implemented. Knowing the current, updated reliability and availability of key systems would, in some cases, lead to a better understanding of the risk in these areas and, thus, to more risk-effective decisions. This should both enhance public protection and reduce unnecessary regulatory burdens. Generic data would usually suffice for this purpose; however, in some cases the data would need to be divided to account for specific classes or groups of plants.

Indicators of Plant Performance

PRA models with plant-specific reliability and availability data would be used to develop indicators of plant performance and trends in plant performance which are more closely related to risk than those currently in use. These new indicators would replace some of those currently in use

[2] For many of the systems involved, plant specific demand and failure data will be sparse, at least initially. Until data have been collected for some time, it will be necessary to use data from similar equipment, applications, and environments at several plants in order to obtain practical estimates of reliability and uncertainty. Even when sufficient plant-specific data exist to estimate plant performance, comparison to industry or group averages is often desirable.

and thereby enhance NRC's ability to make risk-effective decisions with regard to identifying plants for increased or decreased regulatory attention. For example, it is important to detect situations where an individual plant may be having reliability or availability problems with multiple systems.

Accident Sequence Precursor (ASP) and Event Analysis

Plant-specific, train-level reliability and unavailability data would be used to improve the plant-specific ASP models which the NRC uses to compute conditional core damage probability for determining the risk-significance of operational events. In addition, dates and causes of equipment failures would be used to identify common cause failures and to compute common cause failure rates for input to these models. Improving these methods would enhance the staff's ability to make risk-effective decisions about which events warrant further inspections or investigations and/or generic actions such as bulletins and generic letters. Plant-specific data are needed to better understand an event and calculate the associated conditional core damage probability. It is also useful to identify systems that have the most influence on the results. Then the risk associated with the potential for similar events at other plants, which may be known to have low reliability for the key systems, can be considered in determining whether further actions are warranted.

Risk-Based Inspections

Current and updated system reliability, availability and failure data in a generic and plant-specific risk-based context would be used to enhance the staff's ability to plan inspections focused on the most risk-significant plant systems, components, and operations. While generic data would be used in developing risk-based inspection guides and a framework for inspections, plant-specific data would be used to focus and optimize inspection activities at specific plants. For example, an individual plant may have an atypical reliability problem with a specific risk-significant system and thereby warrant additional attention. In addition, special studies can be conducted to determine the root cause of reliability problems by comparing the characteristics of plants that have these problems with those that do not.

Aging

Equipment reliability data would help identify equipment that is being degraded by aging and define the extent and the risk-significance of aging problems.

Another class of examples involves the need for information to evaluate anticipated cost beneficial licensing actions, where the rationale is that risk permits reductions in previous margins of safety or less prescriptive requirements without adverse impact on overall safety. The NRC is actively pursuing a variety of modifications to the basic regulations and guidelines that govern the operation of commercial nuclear power reactors. These modifications are characterized by allowing individual licensees to utilize insights from plant-specific risk evaluations to reduce or remove current requirements that are found to have low risk-significance. Current regulatory requirements under consideration for risk-based modification include those prescribing quality assurance, in-service inspection, in-service testing, and surveillance testing. It is anticipated that a significant number of additional requests will be received that rely upon risk-based arguments. These changes could adversely affect the level of safety achieved by the plants if the risk evaluations are flawed or the changes are improperly executed or the changes involve synergistic effects that are not covered by the risk models or captured by historical data. Current, plant-specific reliability and availability data would help the NRC monitor the licensees' programs to maintain safety while reducing regulatory burdens. Relaxation of undue regulatory burdens then can proceed with confidence that there will be appropriate feedback to assure that the level of safety is not being degraded. Some examples are discussed below.

Risk-Based Technical Specification

Technical Specification requirements specify surveillance intervals and allowed outage times for safety equipment for the various modes of plant operation. It is anticipated that licensees will request a number of relaxations in surveillance intervals and allowed outage times. Current, plant-specific reliability and availability data would help the NRC monitor performance for the systems and equipment subject to the proposed rule. Thus, proposed relaxations of surveillance intervals and allowed outage times for such systems could be evaluated more effectively based on past performance and on confidence that there would be appropriate feedback to ensure that performance is not being degraded. In addition, failure rates from actual demands will be used to verify that failure rates estimated from testing are approximately the same.

Inservice Testing

Inservice testing requirements, which are based on the provisions of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), measure the functional characteristics of equipment performance, such as pump flow, in order to detect degradation. The ASME and licensee owners' groups are working toward establishing risk-based frequencies for inservice testing, based on plant-specific risk ranking methodologies. Changes in testing frequency can affect reliability in many ways. For example, less frequent valve testing might lead to an increase in the demand failure rate because the valve actuating mechanism tends to bind or freeze after extended periods of idleness. However, using plant-specific demand failure and unavailability data, proposed changes can be more effectively evaluated based on the risk-significance and performance of plant systems and based on confidence that there will be appropriate feedback to assure that the level of safety is not being degraded.

NRC Maintenance Rule

The maintenance rule, 10 CFR 50.65, was issued on July 10, 1991 (56 FR 31306). The reliability and availability information that would be required by the proposed reporting rule would improve the NRC's oversight of licensees' implementation of the maintenance rule. It would also enhance licensee's capabilities to implement the evaluation and goal-setting activities required by the maintenance rule by providing licensees with access to current industry-wide reliability and availability information for some of the systems and equipment within the scope of the maintenance rule.

NRC Monitoring

As discussed above, current plant-specific data can provide feedback on the effectiveness of licensee programs, including maintenance programs. Accordingly, these data would improve the NRC's monitoring ability by providing risk-based measures of the effectiveness of individual licensee maintenance programs and the overall effectiveness of the maintenance rule.

In addition, the NRC has expressed concern about the extent to which some reactor licensees are taking systems and equipment out of service for maintenance during plant operation. Although this practice may offer economic benefits by reducing plant

downtime, it must be properly managed to assure that safety is not compromised. It should be noted that licensees are required by 10 CFR 50.65(a)(3) to periodically conduct assessments and make adjustments to ensure that the objective of preventing failures through maintenance is appropriately balanced against the objective of minimizing unavailability due to monitoring and preventive maintenance. The NRC would use the hours when any two or more trains from the same or different systems are concurrently unavailable to monitor how well licensees are managing the risk associated with such maintenance. As discussed below, under "Licensee Implementation," the data would also enhance licensees' capabilities to make prudent on-line maintenance decisions.

The maintenance rule is also important to license renewal (10 CFR Part 54). Hence, improving the NRC's oversight of the maintenance rule could strengthen one of the bases for the scope of the license renewal rule.

Licensee Implementation

In connection with the NRC's PRA policy, the NRC staff has defined the data elements that would improve the evaluation of maintenance and has established that they are the same as those needed to support a transition toward a risk- and performance-based regulatory process. The NRC believes that the reliability and availability data that would be required by this rule would enhance licensee's capabilities to implement the evaluation and goal-setting activities required by the maintenance rule by providing licensees with access to current industry-wide reliability and availability information for some of the systems and equipment within the scope of the maintenance rule.[3]

In some circumstances, the maintenance rule requires licensees to establish performance or condition goals, taking into account industry-wide operating experience where practical. It also requires periodic program evaluations, including consideration of unavailability due to monitoring or preventive maintenance, taking industry-wide operating experience into account, where practical. Licensees will need to monitor reliability and availability of risk-significant systems, particularly for the periodic program evaluations.[4]

For many of the systems involved, plant-specific demand and failure data will be sparse, at least initially. However statistical analysis techniques exist that allow a licensee to analyze and evaluate data from similar equipment, applications and environments from other plants, besides the data from their plant. These analyses yield meaningful reliability estimates for the subject plant that can be compared with performance goals. Industry-wide data would also provide a practical source for comparing plant-specific performance with industry operating experience. Although plant-specific information is generally available on site, and utilities review licensee event reports and other generic event information, NRC site visits, associated with early efforts to prepare for maintenance rule implementation in 1996, indicate that utilities do not use industry operating experience in a systematic and consistent way for goal setting purposes under the maintenance rule. Based on these considerations, the availability of current, industry-wide reliability and availability data would enhance licensee's capabilities to implement the evaluation and goal-setting activities required by the maintenance rule.

As discussed previously, the NRC has recently found cause for concern about how some reactor licensees handle on-line maintenance. Prudent on-line maintenance decisions depend on a full appreciation of the risk-significance of taking equipment out of service (individually or collectively) and use of plant-specific and generic reliability and availability data would play a significant role in improving such decision making.

Description of Proposed Rule

The proposed rule would require holders of operating licenses for nuclear power reactors to report reliability and availability data for certain risk-significant systems and equipment. The proposed reporting requirements would apply to the event-mitigating systems and equipment which have or could have a significant effect on risk in terms of avoiding core damage accidents or preserving containment integrity. Summary information reported to the NRC would be:

1. The number of demands, the number of failures to start associated with such demands, and the dates of any such failures, characterized according to the identification of the train affected, the type of demand (test, inadvertent/spurious, or actual need), and the plant mode at the time of the demand (operating or shutdown);

2. The number of hours of operation following each successful start, characterized according to the identification of the train affected and whether or not the operation was terminated because of equipment failure, with the dates of any such failures;

3. The number of hours equipment is unavailable, characterized according to the identification of the train affected, the plant mode at the time equipment is unavailable (operating or shutdown), characterization of the unavailable period (planned, unplanned, or support system unavailable), and, if due to a support system being unavailable, identification of the support system;

4. For each period equipment is unavailable due to component failure(s), a failure record identifying the component(s) and providing the failure date, duration, mode, cause, and effect; and

5. The number of hours when two or more trains from the same or different systems were concurrently unavailable, characterized according to the identification of the trains that were unavailable.

The first annual report would identify the systems, trains, and ensembles of components covered by the reporting requirements of the rule; subsequent annual reports would either state that no changes were made subsequent to the previous annual report or describe the changes made.

The summary information would be reported annually and compiled on the basis of calendar quarters, or on a more frequent basis at the option of each individual licensee. Records and documentation of each occurrence of a demand, failure, or unavailable period that provide the basis for the summary data reported to the NRC would be required to be maintained on site and made available for NRC inspection.

In developing these data elements the NRC has, over the past three years, reached a consensus on the minimum data needed to support risk-based applications and enhance implementation of the maintenance rule. During this period NRC staff has also interacted extensively with INPO and NEI in an effort to define the minimum reliability and availability data needed to satisfy the needs of both NRC risk-based regulatory applications and industry (licensee) uses of PRA.

The number of demands and the number of successful starts are needed to estimate demand reliability, i.e., the fraction of demands that result in successful starts. (The complement of this fraction provides an estimate of the probability of failure on demand). The actual number of demands and successes, as opposed to the ratio, is needed for purposes such as: (1) providing a measure of confidence in the results and (2) permitting proper combination of data from different plants.

The type of demand is needed to determine whether or not the demand reliability estimated by testing is approximately the same as the demand reliability for actual demands. Sometimes it is not, indicating a need for additional data analysis in making reliability estimates.

The plant mode at the time of a demand is needed to estimate the demand frequency, demand reliability, and unavailability according to plant mode. These factors, as well as the risk associated with unreliability and unavailability, can be quite different depending on whether the plant is in operation or shut down.

The hours of operation following successful starts are needed to estimate the probability the equipment will function for a specified period of time. This information is needed for systems that must operate for an extended period following an accident to fulfill a risk-significant safety function.

The number of hours that equipment is not available (unavailable hours) is needed to estimate the fraction of time that a train is not available to perform its risk-significant safety function. For some systems this can be an important or dominant contributor to the overall probability of failure to perform the system's safety function. It can be significantly affected by elective maintenance.

The type of unavailable hours (planned or unplanned) is needed to effectively utilize these estimates. For example, a high unplanned unavailability may indicate a need for more preventive maintenance; a high planned unavailability may indicate the opposite.

The unavailable hours due to support systems failure or unavailability are needed to properly capture concurrent outages and to eliminate double counting. For example, an Emergency Service Water (ESW) train being unavailable may result in other trains being unavailable as well; however, for purposes of estimating risk in a PRA study, that unavailability should not be counted more than once.

The date of each failure is needed to allow screening for potential common cause failures. Failures that occur closely together in time warrant review to see whether a common cause failure may be involved. Common cause failures may indicate a need for revised maintenance procedures or staggered testing. Common cause failure rates are also needed for PRA models because of their importance in system reliability and availability estimates.

Failure cause and failure mode information are needed to support common cause failure analysis as discussed above and to associate the failure with the correct failure mode for input into PRA models.

Quarterly data are needed to conduct first order trending studies to identify areas of emerging concern with regard to overall plant and system performance. More frequent compilation is acceptable at the discretion of each licensee.

An identification of the systems, trains, and ensembles of components subject to the rule is needed because identification of the components within the systems, trains, and ensembles is necessary for proper use and evaluation of the data by the staff and for industry wide generic applications to account for physical differences between plants. For example, simplified system diagrams could be marked to show the systems, trains, and ensembles against which the data would be reported.

Retention of records and documentation that provide the bases for the summary data report to the NRC for a period of several years is consistent with maintenance rule applications. For example, monitoring reliability for a few years may be used to determine trends in order to achieve the balance described in 10 CFR 50.65(a)(3)—i.e., the balance between preventing failures through maintenance and minimizing unavailability due to monitoring and preventive maintenance. In addition, on-site data are needed to provide a scrutable basis for regulatory decisions. For example, it is expected to be necessary to review the actual unavailable hours in order to estimate the mean repair times for key components for the purpose of updating the staff's PRA models.

Regulatory Guide

A new regulatory guide will be prepared and issued to provide supplementary guidance. The guide will present an acceptable way to define the systems and equipment subject to the rule and it will provide risk-based definitions of failure as well as train and system boundaries consistent with PRA applications. The format in which data would be provided to the NRC and a suggested format for maintaining on-site documentation and record keeping would be included. In order to reduce costs, use of electronic data submittal will be considered a priority objective in developing and implementing the guide. A draft guide will be published for comment before it is finalized. A public workshop is planned after publication of the draft guide. The comment period for this proposed rule will not expire until at least 30 days after publication of the draft regulatory guide.

Definitions

The basic definitions used in reporting under § 50.76 are discussed below; further details will be addressed in the regulatory guide. For example, the basic definition of failure is provided here; further details, such as how to handle a case where the operators prematurely terminate system operation following a real demand, will be discussed in the regulatory guide. In particular, the regulatory guide will define risk-significant safety function(s) and failures for systems and equipment covered by this proposed rule.

Demand is an occurrence where a system or train is called upon to perform its risk-significant safety function. A demand may be manual or automatic. It may occur in response to a real need, a test, an error, an equipment malfunction or other spurious causes. For the purposes of reporting under this rule, the demands of interest are those which are actual demands or closely simulate actual demands for the train or specific equipment involved.

Failure, for the purpose of reporting under this rule, is an occurrence where a system or train fails to perform its risk-significant safety function. A failure may occur as a result of a hardware malfunction, a software malfunction, or a human error. Failures to start in response to a demand are reported under paragraph 50.76(b)(1)(i). Failures

[3] The systems and equipment covered by this proposed rule are a subset of the systems and equipment within the scope of the maintenance rule. The data elements are more extensive than what would be required for compliance with the maintenance rule; however, for the systems covered, these data elements would serve to improve implementation of the maintenance rule. To cite one example, under 10 CFR 50.65(a)(2), risk-significant systems may be considered to be subject to an effective preventive maintenance program and, thus, not subject to condition or performance monitoring unless "maintenance preventable" failures occur. However, gathering the reliability and availability information specified in this proposed rule, including data elements such as concurrent outages and the causes of failures, would provide a better picture of a system's performance and the effectiveness of the preventive maintenance program than simply awaiting the occurrence of "maintenance preventable" failures.

[4] NUMARC 93–01, which the NRC has endorsed as describing one acceptable way of meeting the requirements of the NRC's maintenance rule, indicates in Section 12.2.4 that the adjustment for balancing of objectives needs to be done for risk-significant structures, systems, and components (SSCs). However, for other SSCs it is acceptable to measure operating SSC performance against overall plant performance criteria and standby system performance against specific performance criteria. This is reasonable in that, for systems that are less risk-significant, the expense of a rigorous balancing is not warranted.

to run after a successful start are reported under paragraph 50.76(b)(1)(ii).

Unavailability is the probability that a required system or train is not in a condition to perform or is not capable of performing its risk-significant safety function. This may result from failure to start, from failure to run, or from intentional or unintentional removal of equipment from service (e.g., for maintenance or testing).

Risk-significant safety function is a safety function that has or could have a significant effect on risk (in terms of avoiding core damage accidents or preserving containment integrity for the purposes of reporting under this proposed rule).

Reportable systems and equipment are the event-mitigating systems and equipment which have or could have a significant effect on risk in terms of avoiding core damage accidents or preserving containment integrity. The reportable systems and equipment will be determined by each licensee. The regulatory guide will describe acceptable methods for making that determination.

It is expected that the rule will produce a set of basic systems for which reliability data will be reported for all plants that have them. However, these basic systems are not sufficient by themselves. Additional systems and equipment to be addressed will depend on plant-specific features. Listed below is the set of basic systems that the Commission is currently considering for identification in the draft regulatory guide.

Basic PWR systems	Basic BWR systems
Auxiliary feedwater	Reactor core isolation cooling or isolation condenser.
High pressure safety injection.	Feedwater coolant injection, high pressure coolant injection or high pressure core spray, as appropriate.
Reactor protection	Reactor protection.
Low pressure safety injection.	Low pressure coolant injection and low pressure core spray.
Emergency ac power	Emergency ac power.

As discussed above, the systems and equipment to be included in the scope of the rule would be those event-mitigating systems and equipment that have or could have a significant effect on risk in terms of avoiding core damage accidents or preserving containment integrity. To ensure that this approach is consistent with operating experience, the NRC has considered the systems and equipment that have been substantially involved in significant events in U. S. reactors. These systems were found to fall into the following categories:

1. Basic systems. As indicated above, the NRC expects that these systems would be included in the scope of the rule for all plants. The basic systems on the proposed list have been confirmed to have been substantially involved in significant events.

2. Plant-specific systems. Systems such as service water and component cooling water are risk-significant, but the significance varies widely, depending upon plant-specific designs. It is expected that these systems will be included, as appropriate, based on plant-specific PRA studies. Other systems, such as containment purge, appear infrequently in connection with significant events and are not expected to be risk-significant for any plants.

3. Initiating systems. Systems such as main feedwater and offsite power are primarily considered to be initiators of significant events, rather than mitigation systems. Existing reporting requirements in 10 CFR 50.72 and 10 CFR 50.73 provide enough information to characterize the important initiating systems for the purpose of PRA studies.

4. Non-measurable items. Items such as reactor coolant system corrosion are not amenable to meaningful measurement by the methods of this proposed rule.

Based on this review, the systems and equipment to be included in the scope of the rule are considered reasonably consistent with operating experience in terms of involvement in significant events. Accordingly, it is expected that reliability and availability information for those systems and equipment will be well suited for identifying plants and systems at increased risk for significant events.

Minimizing Costs. The NRC intends that the data required to be collected and reported under this proposed rule be essentially the same as would be required for monitoring reliability and/or availability for other purposes, such as monitoring system reliability where that is the option chosen for compliance with the maintenance rule. Thus, it should be practical to gather and report the data without significant additional cost. This will be a priority goal in developing the guidance to be included in the new regulatory guide.

Sunset Provision. As experience is gained with implementing the proposed rule and utilizing the information required to be collected and reported, a reassessment may be necessary or desirable. One way of assuring such a reassessment would be to include a "sunset provision" in the rule, whereby the rule would automatically expire after a specified period of time unless: (i) a condition specified in the rule is fulfilled, or (ii) the Commission engages in a rulemaking which extends the effectiveness of the rule. The Commission requests public comments on whether the proposed rule should contain such a sunset provision, and if so, the period of time after which the rule should automatically expire.

Grandfather Provision. There may be some plants for which, at the time that the proposed rule may be adopted by the Commission as a final rule, licensees have already announced plans to discontinue operation in the near future. Furthermore, licensees may determine in the future to discontinue operation at some plants. In either case, there may be less reason to require collection and reporting of the information contemplated by the proposed rule at such plants and it may be advisable to exempt such plants from the information collection and reporting requirements of the proposed rule (i.e., "grandfathering"). The Commission requests public comments on whether the proposed rule should exempt plants that have announced (or will announce) plans to discontinue operation within a short time (e.g., two years).

Conclusion

As discussed under the subject "Move to Risk-Based Regulation," the information to be collected under the proposed rule is necessary for the development and implementation of risk-based regulatory processes. Risk-based regulatory approaches provide a means for the Commission to maintain, and in some cases improve, safety while reducing impacts on licensees as well as NRC resource expenditures, by focusing regulatory requirements and activities on the most risk-significant areas. In addition, this information would improve the NRC's oversight of licensees' implementation of the maintenance rule. It would also enhance licensee's capabilities to implement the evaluation and goal-setting activities required by the maintenance rule by providing licensees with access to current industry-wide reliability and availability information for some of the risk-significant systems and equipment within the scope of the maintenance rule. The Commission has also prepared a regulatory analysis (see "Regulatory Analysis") which identified alternatives for collecting the information for use by both licensees and the NRC, and evaluated the costs of each viable alternative. Based upon these factors, the Commission believes that the costs of the proposed rule's information collection and reporting requirements are justified in view of the potential safety significance and projected benefits of the information in NRC regulatory activities.

Submission of Comments in Electronic Format

Commenters are encouraged to submit, in addition to the original paper copy, a copy of their comments in an electronic format on IBM PC DOS-compatible 3.5- or 5.25-inch, double-sided, diskettes. Data files should be provided in WordPerfect 5.0 or 5.1. ASCII code is also acceptable, or if formatted text is required, data files should be submitted in IBM Revisable Format Text Document Content Architecture (RFT/DCA) format.

Environmental Impact: Categorical Exclusion

The proposed rule sets forth requirements for the collection, maintenance, and reporting of reliability and availability data for certain risk-significant systems and equipment. The NRC has determined that this proposed rule is the type of action described in categorical exclusion, 10 CFR 51.22(c)(3)(ii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been submitted to OMB for review and approval of the Paperwork Reduction Act requirements.

The public reporting burden for this collection of information is estimated to average 1375 hours per response (i.e., per commercial nuclear power reactor per year), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The Commission is seeking public comment on the potential impact of the collection of information contained in the proposed rule and on the following issues:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, and does the information have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the collection of information be minimized including by using automated collection techniques?

Send comments on any aspect of this proposed collection of information, including suggestions for reducing the burden, to the Information and Records Management Branch (T–6–F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0011), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the collections of information or on the above issues should be submitted by March 13, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the draft analysis may be obtained from: Dennis Allison, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–6835.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (B)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the size standards adopted by the NRC on April 11, 1995 (60 FR 18344—10 CFR 2.810.

Backfit Analysis

The proposed rule sets forth requirements for reporting and record keeping. The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, a backfit analysis is not required for this proposed rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

However, as discussed above in "Regulatory Analysis," the Commission has prepared a regulatory analysis which summarizes the purpose and intended use of the information proposed to be collected, identifies alternatives for collection and reporting of the proposed information, and identifies the impacts and benefits of the alternatives.

This regulatory analysis constitutes a disciplined process for evaluating the potential benefits and projected impacts (burdens) of information collection and reporting requirements such as the proposed rule. The Commission therefore concludes that the objective underlying the Commission's adoption of the Backfit Rule—that regulatory impacts are assessed under established criteria in a disciplined process—is being met for this proposed rule.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and record keeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Sections 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S. C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat 3123, (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, and 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55,

and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 50.8(b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.63, 50.64, 50.65, 50.71, 50.72, 50.75, 50.76, 50.80, 50.82, 50.90, 50.91, 50.120, and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, and R.

* * * * *

3. Section 50.76 is added to read as follows:

§ 50.76 Reporting reliability and availability information for risk-significant systems and equipment.

(a) *Applicability.* This section applies to all holders of operating licenses for commercial nuclear power plants under 10 CFR 50.21b or 50.22 and all holders of combined operating licenses for commercial nuclear power plants under 10 CFR 52.97.

(b) *Requirements.* (1) Each licensee shall submit an annual report to the NRC that contains the following information, compiled on the basis of calendar quarters, or on a more frequent basis at the option of each licensee, for systems, trains, and ensembles of components in paragraph (b)(3) of this section:

(i) The number of demands, the number of failures to start associated with such demands, and the dates of such failures, characterized according to the identification of the train affected, the type of demand (test, inadvertent/spurious, or actual need), and the plant mode at the time of the demand (operating or shutdown);

(ii) The number of hours of operation following each successful start, characterized according to the identification of the train affected and whether or not the operation was terminated because of equipment failure, with the dates of any such failures;

(iii) The number of hours equipment is unavailable, characterized according to the identification of the train affected, the plant mode at the time equipment is unavailable (operating or shutdown), characterization of the unavailable period (planned, unplanned, or support system unavailable), and, if due to a support system being unavailable, identification of the support system;

(iv) For each period equipment is unavailable due to component failure(s), a failure record identifying the component(s) and providing the failure date, duration, mode, cause, and effect; and

(v) The number of hours when two or more trains from the same or different systems were concurrently unavailable, characterized according to the identification of the trains that were unavailable.

(2) The initial annual report described in (b)(1) above shall identify the systems, trains, and ensembles of components covered by paragraph (b)(3) below; subsequent annual reports shall either state that no changes were made subsequent to the previous annual report or describe any changes made.

(3) The requirements of paragraphs (b)(1) and (b)(2) of this section apply to those event-mitigation systems, and ensembles of components treated as single entities in certain probabilistic risk assessments where a system or train treatment would not be appropriate, which have or could have a significant effect on risk in terms of avoiding core damage accidents or preserving containment integrity.

(4) Each licensee shall maintain records and documentation of each occurrence of a demand, failure, or unavailable period that provide the basis for the data reported in paragraph (b)(1) of this section on site and available for NRC inspection for a period of 5 years after the date of the report specified in paragraph (b)(1) of this section.

(c) *Implementation.* Licensees shall begin collecting the information required by paragraph (b) of this section on January 1, 1997, and shall submit the first report required by paragraph (b)(1) of this section by January 31, 1998. Thereafter, each annual report required by paragraph (b)(1) of this section shall be submitted by January 31 of the following year.

Dated at Rockville, MD, this 2nd day of February, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–2698 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–133–AD]

Airworthiness Directives; Airbus Industrie Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Airbus Model A300, A310, and A300–600 series airplanes, that would have required inspections to detect missing fasteners, cracked fitting angles, and elongated fastener holes in certain frames, and correction of discrepancies. That proposal was prompted by discrepancies found at the fitting angles on the frame at which a certain electronic rack is attached. This action revises the proposed rule by revising the inspection thresholds and repetitive intervals; providing an optional terminating action; and deleting certain airplanes from the applicability. The actions specified by this proposed AD are intended to prevent damage propagation that could lead to failure of the rack-to-structure attachment points, and subsequently could result in loss of airplane systems, structural damage, and possible electrical arcing.

DATES: Comments must be received by March 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–133–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–133–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–133–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Airbus Model A300, A310, and A300–600 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on September 13, 1993 (58 FR 47837). That NPRM would have required repetitive inspections to detect missing fasteners, cracked fitting angles, and elongated fastener holes in certain frames; and the correction of any discrepancies identified. The initial inspection would have been required to be performed prior to the accumulation of 8,000 total flight cycles; repetitive inspections would have been required every 850 flight cycles thereafter.

That NPRM was prompted by various discrepancies that were found on three airplanes at the fitting angles on frame 16 at the lower attachments of electric rack 101VU. These discrepancies included missing fasteners, elongated fastener holes, and cracks. Discrepancies such as those found in the subject area, if not detected and corrected in a timely manner, could lead to failure of the attachment points to secure the electric rack to the adjacent structure. This condition could result in loss of airplane systems, structural damage, and possible electrical arcing.

Since the issuance of that NPRM, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, and Airbus Industrie have notified the FAA that additional analysis has been conducted relative to the identified problem. The results of this analysis, together with in-service data that were gathered in the interim, indicate that the initial inspection of the subject area must be conducted earlier than previously considered, but subsequent inspections may be conducted at greater intervals.

Airbus has issued the following service bulletins, which concern this subject:

1. Airbus Service Bulletin A300–53–0300, dated October 28, 1993, which pertains to Model A300 series airplanes;

2. Airbus Service Bulletin A310–53–2077, dated October 28, 1993, which pertains to Model A310 series airplanes; and

3. Airbus Service Bulletin A300–53–6055, dated October 28, 1993, which pertains to Model A300–600 series airplanes.

Each of these service bulletins describe procedures for performing a detailed visual inspection to detect damage of the lower attachments of electric rack 101VU, and the replacement of any missing or damaged fasteners identified. These service bulletins recommend that the initial inspection be performed prior to the accumulation of 7,000 total flight cycles, and that repetitive inspection be performed every 2,300 flight cycles.

The DGAC classified these service bulletins as mandatory and issued French airworthiness directive (CN) 92–253–138(B), dated February 2, 1994, in order to assure the continued airworthiness of these airplanes in France.

Airbus has also issued the following service bulletins:

1. Airbus Service Bulletin A300–53–0294, dated May 17, 1993, which pertains to Model A300 series airplanes;

2. Airbus Service Bulletin A310–53–2076, dated May 17, 1993, which pertains to Model A310 series airplanes; and

3. Airbus Service Bulletin A300–53–6046, dated May 17, 1993, which pertains to Model A300–600 series airplanes.

These service bulletins describe procedures for installing Modification No. 10414. This modification entails installation of new thicker attachments and new plates on the front face of frames 15A and 16. Accomplishment of this modification eliminates the need for the repetitive inspections of the subject area. The DGAC classified these service bulletins as recommended.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed action would revise the previously issued NPRM to require that an initial inspection to detect discrepancies be conducted prior to the accumulation of 7,000 total flight cycles (or within 50 flight cycles after the effective date of the final rule, whichever is later). This inspection would be required to be repeated thereafter at intervals not to exceed 2,300 flight cycles. Any missing or damaged fasteners would be required to be replaced prior to further flight. These actions would be required to be accomplished in accordance with the Airbus service bulletins described previously.

This revised proposal also would require that any cross beam found damaged be repaired prior to further flight in accordance with a method approved by the FAA.

This revised proposal also would require that, if any one or more angle fitting is found to be cracked, Modification No. 10414 must be installed prior to further flight. Operators should note that this particular proposed requirement would differ from the procedures described in the relevant Airbus service bulletins, which allow airplanes to continue to be

flown if one or more angle fitting is cracked. The FAA finds that, since each of the four angle fittings that secure the electric rack to the frame is subject to the same potential for cracking, the decreased load-carrying ability of a cracked fitting(s) may lead to faster crack growth in the remaining fittings. Therefore, the FAA has determined that continued flight with one or more unrepaired cracked fittings is inappropriate.

Installation of Modification No. 10414 would constitute terminating action for the inspections that would be required by this proposed AD.

Additionally, this action revises the applicability of the proposed rule to delete those airplanes on which Modification No. 10414 or its equivalent has been installed previously.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 78 Model A300, A310, and A300–600 series airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 1.5 work hours per airplane to accomplish the proposed inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $7,020, or $90 per airplane, per inspection.

This cost impact figure is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional terminating action that would be provided by this AD action, rather than continue the repetitive inspections, it would take approximately 7 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $1,615 per airplane. Based on these figures, the cost impact of the optional terminating action would be $2,035 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus: Docket 93–NM–133–AD.

Applicability: Model A300 series airplanes listed in Airbus Service Bulletin A300–53–0300, dated October 28, 1993; Model A310 series airplanes listed in Airbus Service Bulletin A310–53–2077, dated October 28, 1993; and Model A300–600 series airplanes listed in Airbus Service Bulletin A300–53–6055, dated October 28, 1993; on which Airbus Modification No. 10414 or production equivalent has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the electric rack-to-structure attachment points, which could subsequently result in loss of airplane systems, structural damage, and possible electrical arcing, accomplish the following:

(a) Prior to the accumulation of 7,000 total flight cycles, or within 50 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed visual inspection of the right- and left-hand lower attachments of electric rack 101VU, including the crossbeams at frames 15A and 16, to detect missing fasteners, cracked fitting angles, or elongated fastener holes, in accordance with Airbus Service Bulletin A300–53–0300 (for Model A300 series airplanes), dated October 28, 1993; Airbus Service Bulletin A310–53–2077 (For Model A310 series airplanes), dated October 28, 1993; or Airbus Service Bulletin A300–53–6055 (for Model A300–600 series airplanes), dated October 28, 1993; as applicable.

Note 2: Inspections accomplished in accordance with Airbus Industrie All Operator Telex (AOT) 53–03, Revision 3, dated December 23, 1992, prior to the effective date of this AD, are considered acceptable for compliance with the inspection requirements of this paragraph.

(b) If no discrepancies are identified during the inspection required by paragraph (a) of this AD, repeat the detailed visual inspection thereafter at intervals not to exceed 2,300 flight cycles.

(c) If any fastener is missing or is found to be damaged during any inspection required by this AD, prior to further flight, replace the fastener in accordance with Airbus Service Bulletin A300–53–0300 (for Model A300 series airplanes), dated October 28, 1993; Airbus Service Bulletin A310–53–2077 (For Model A310 series airplanes), dated October 28, 1993; or Airbus Service Bulletin A300–53–6055 (for Model A300–600 series airplanes), dated October 28, 1993; as applicable.

(d) If any fitting angle is found to be cracked during any inspection required by this AD, prior to further flight, install Modification No. 10414 in accordance with Airbus Service Bulletin A300–53–0294 (for Model A300 series airplanes), dated May 17, 1993; Airbus Service Bulletin A310–53–2076 (for Model A310 series airplanes), dated May 17, 1993; or Airbus Service Bulletin A300–53–6046 (for Model A300–600 series airplanes), dated May 17, 1993; as applicable. Installation of this modification constitutes terminating action for the inspections required by this AD.

(e) If any crossbeam is found damaged during any inspection required by this AD, prior to further flight, repair it in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(f) Installation of Modification No. 10414 in accordance with Airbus Service Bulletin A300–53–0294 (for Model A300 series airplanes), dated May 17, 1993; Airbus Service Bulletin A310–53–2076 (for Model A310 series airplanes), dated May 17, 1993; or Airbus Service Bulletin A300–53–6046 (for Model A300–600 series airplanes), dated May 17, 1993; as applicable; constitutes terminating action for the inspections required by this AD.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2998 Filed 2–9–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–29–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 and 0070 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that would have required a one-time operational test of the pitot heating system, and repair or replacement of failed elements. That AD also would have required modification of certain electrical wiring, and replacement of the pitot head and a certain relay. This action revises the proposed rule by adding a new requirement to replace the pitot heating system with a new improved system, in lieu of modifying the electrical wiring and replacing the pitot head and relay. This action also revises the applicability of the proposed rule to include additional airplanes. The actions specified by this proposed AD are intended to prevent icing of the No. 1 pitot tube, which could result in failure of the No. 1 Air Data Computer, or output of erroneous airspeed data to all on-side subsidiary systems, including the Automatic Flight Control and Augmentation System.

DATES: Comments must be received by March 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–29–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Timothy Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–29–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–29–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on April 18, 1995 (60 FR 19383). That NPRM would have required a one-time operational test of the No. 1 pitot heating system, and repair or replacement of failed elements. That AD also would have required modification of certain electrical wiring, replacement of the pitot head with a new pitot head, and replacement of the single direct current (DC) current-sensing relay with two new DC current sensing relays. That NPRM was prompted by reports indicating that the No. 1 Air Data Computer (ADC #1) failed on Model F28 Mark 0100 series airplanes due to icing at the No. 1 pitot tube. Icing of the No. 1 pitot heat system, if not corrected, could result in failure of the ADC #1 or lead to output of erroneous data to all on-side subsidiary systems including the Automatic Flight Control and Augmentation System (AFCAS).

Since the issuance of that NPRM, one operator has reported that several failures of the captain's airspeed indicator and ADC #1 have occurred during encounters with severe icing. These failures were accompanied by a malfunction alert from all on-side subsidiary systems; however, no failures of the pitot heating system were reported. Subsequent investigation revealed that the DC heating capacity of the captain's pitot tube is inadequate to prevent freezing of the pitot tube in severe icing conditions.

The captain's DC powered pitot heating systems installed on Fokker Model F28 Mark 0100 series airplanes are also installed on certain Fokker Model F28 Mark 0070 series airplanes; therefore, those airplanes are also

subject to the addressed unsafe condition.

Additionally, since the issuance of that NPRM, Fokker has issued Service Bulletin SBF100–30–017, dated August 23, 1995. This service bulletin describes procedures for replacement of the captain's pitot heating system with a new improved pitot heating system. This replacement involves a new pitot tube that has an alternating current (AC) powered heating system, that will prevent freezing of the captain's pitot tube during severe icing conditions. (This pitot heating system is the same system as that currently used on the First Officer's position and auxiliary systems.) The effectivity of this service bulletin includes certain additional Model F28 Mark 0100 series airplanes, and certain Model F28 Mark 0070 series airplanes, that are subject to the unsafe condition. (These airplanes were not identified in the original NPRM.) The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, approved this service bulletin and issued Netherlands airworthiness directive BLA 1994–114/3(A), dated September 29, 1995, in order to assure the continued airworthiness of these airplanes in the Netherlands.

The FAA has examined the findings of the RLD and reviewed the new service information. The FAA finds that the actions proposed in paragraph (b) of the original NPRM will not prevent freezing of the pitot head during severe icing conditions. Therefore, to ensure safety of the fleet, the FAA finds that replacement of the pitot heating system with new improved pitot heating system, as specified in Fokker Service Bulletin SBF100–30–017, dated August 23, 1995, is necessary. The FAA has revised paragraph (b) of this supplemental NPRM accordingly.

In addition, the FAA has revised the applicability of this proposed rule to include airplanes as listed in Fokker Service Bulletin SBF100–30–017, dated August 23, 1995.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Operators should note that the operational test of the No. 1 pitot heating system, as proposed previously, continues to be required in this supplemental NPRM. The FAA has determined that accomplishment of this operational test is necessary to determine if any pitot tube heating element is inoperative, and to ensure that any failed element is repaired or replaced.

The FAA estimates that 129 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 1 work hour per airplane to accomplish the operational test and 36 work hours to accomplish the replacement, at an average labor rate of $60 per work hour. Required replacement parts would cost approximately $10,500 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,640,880, or $12,720 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–29–AD.

Applicability: Model F28 Mark 0100 and 0070 series airplanes; as listed in Fokker SBF100–30–015, Revision 2, dated January 25, 1995, and Fokker Service SBF100–30–017, dated August 23, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To prevent icing of the No. 1 pitot tube, which could result in failure of the No. 1 Air Data Computer (ADC #1) or output of erroneous airspeed data to all on-side subsidiary systems, including the Automatic Flight Control and Augmentation System (AFCAS), accomplish the following:

(a) For airplanes listed in Fokker SBF100–30–015, Revision 2, dated January 25, 1995: Within 30 days after the effective date of this AD, perform an operational test of the No. 1 pitot heating system in accordance with Part 1 of the Accomplishment Instructions of that service bulletin.

(1) If the pitot heating system passes the operational test, accomplish the requirements of either paragraph (b)(1) or (b)(2) of this AD, as applicable, at the times specified.

(2) If any pitot tube heating element is found to be inoperative, prior to further flight, repair or replace the failed element with a serviceable element, in accordance with the Fokker 100 Aircraft Maintenance Manual (AMM).

(b) For all airplanes: Replace the No. 1 pitot heating system with a new pitot heating system, in accordance with Part 1, 2, 3, or 4 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–30–017, dated August 23, 1995. Accomplish this action at the time specified in paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes that are equipped with a Flight Warning System (FWS) speed comparator that is not activated, and a Rosemount type 853JB No. 1 pitot heating system: Accomplish the replacement within 9 months after the effective date of this AD.

(2) For airplanes that are equipped either with an FWS speed comparator that is activated, or with a Rosemount type 853KK No. 1 pitot heating system: Accomplish the replacement within 18 months after the effective date of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2997 Filed 2–9–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–224–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 and 0070 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that currently requires certain maximum brake wear limits to be incorporated into the FAA-approved maintenance inspection program. That AD also currently requires that the Airplane Flight Manual (AFM) be revised to include certain procedures concerning operations in the event of a rejected takeoff (RTO). This action would add a requirement for the incorporation of new maximum brake wear limits for additional brake units into the FAA-approved maintenance program. This action would also delete the current requirement for the AFM revision. This proposal is prompted by the determination of the maximum allowable brake wear limits for additional brake unit part numbers. The actions specified by the proposed AD are intended to prevent the loss of brake effectiveness during a high energy RTO.

DATES: Comments must be received by March 25, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–224–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–224–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–224–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On March 7, 1994, the FAA issued AD 94–06–06, amendment 39–8854 (59 FR 11713, March 14, 1994), applicable to certain Fokker Model F28 Mark 0100 series airplanes, to require that certain maximum brake wear limits be incorporated into the FAA-approved maintenance program. That AD also requires that the Airplane Flight Manual (AFM) be revised to include certain procedures concerning operations in the event of a rejected takeoff (RTO). That action was prompted by an accident in which a transport category airplane executed an RTO and was unable to stop on the runway due to worn brakes; and the subsequent review of allowable brake wear limits for all transport category airplanes. The requirements of that AD are intended to prevent the loss of brake effectiveness during a high energy RTO.

Actions Since AD 94–06–06 Was Issued

Since the issuance of that AD, additional brake unit part numbers, that were not addressed in the existing rule, have been evaluated and the maximum allowable brake wear limits for these brake units have been determined in accordance with a methodology approved by the FAA. The FAA has determined that both Model F28 Mark 0100 and F28 Mark 0070 series airplanes equipped with these brake units are currently subjected to the same unsafe condition addressed in the existing AD, and that the newly identified maximum brake wear limits must be applied to these brake configurations in order to ensure their braking effectiveness.

In addition, the FAA has reviewed the results of 100% worn brake RTO testing on the subject brake units as installed on Model F28 Mark 0100 and 0070 series airplanes. Based on the successful results of these laboratory tests, the FAA finds that the main landing gear sliding member on these airplanes will not overheat beyond approved limits after an RTO. Therefore, the FAA has determined that the AFM revision currently required by paragraphs (b) and (c) of AD 94–06–06 is no longer necessary.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Proposed New Requirements

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes that are of the same type design, that are equipped with the subject brake configurations, and that are registered in the United States, the proposed AD would supersede AD 94–06–06. It would continue to require that maximum brake wear limits for certain brake units be incorporated into the FAA-approved maintenance program. The proposed AD would require that new maximum brake wear limits and alternate wear measurements (AWM*) for additional brake units be incorporated into the FAA-approved maintenance program.

(*An AWM is a measurement of the brake stack that determines stack wear. This measurement is used for any brake assembly without a wear indicator pin, or any brake assembly having a damaged wear indicator pin. The brake wear can be determined by measuring the distance from the back of the pressure plate subassembly to the inboard face of the brake housing at the wear indicator location.)

Cost Impact

There are approximately 124 Model F28 Mark 0100 and 0070 series airplanes of U.S. registry and 5 U.S. operators that would be affected by this proposed AD. The actions that are currently required by AD 94–06–06 take approximately 20 work hours per operator to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $6,000, or $1,200 per operator.

The new actions that are proposed in this AD action would take approximately 20 work hours per operator to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $6,000, or $1,200 per operator.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8854 (59 FR 11713, March 14, 1994), and by adding a new airworthiness directive (AD), to read as follows:

Fokker: Docket 95–NM–224–AD. Supersedes AD 94–06–06, Amendment 39–8854.

Applicability: Model F28 Mark 0100 and F28 Mark 0070 series airplanes, equipped with Aircraft Braking Systems Corp. brakes having part number (P/N) 5008132–2, –3, –4, –5, –6, –7, or 5011809; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of brake effectiveness during a high energy rejected take off (RTO), accomplish the following:

Note 2: An alternate wear measurement (AWM) is a measurement of the brake stack that determines stack wear. This measurement is used for any brake assembly without a wear indicator pin, or any brake assembly having a damaged wear indicator pin. The brake wear can be determined by measuring the distance from the back of the pressure plate subassembly to the inboard face of the brake housing at the wear indicator location.

(a) For Model F28 Mark 0100 series airplanes: Within 180 days after April 13, 1994 (the effective date of AD 94–06–06, amendment 39–8854), accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD:

(1) Incorporate the maximum brake wear limits specified in the following tables into the FAA-approved maintenance inspection program and comply with these measurements thereafter.

BRAKE MANUFACTURER AIRCRAFT BRAKING SYSTEMS CORP. (ABS)

TABLE 1.—MAXIMUM SETTINGS—NON REFURBISHED BRAKES

Brake P/N	Maximum wear pin measurement (inch/mm)	Alternate wear measurement (inch/mm)
5008132–2	1.85" (47 mm)	4.00" (101.6 mm)
5008132–3	1.85" (47 mm)	4.00" (101.6 mm)
5008132–4	2.10" (53.3 mm)	4.25" (107.9 mm)
5008132–5	2.10" (53.3 mm)	4.25" (107.9 mm)
5008132–6	2.10" (53.3 mm)	4.25" (107.9 mm)
5008132–7	2.10" (53.3 mm)	4.25" (107.9 mm)

Note 3: Measuring instructions for non refurbished brakes can be found in the ABS Component Maintenance Manual with Illustrated Parts List AP–652 (Fokker Manual No. 32–43–77) or in ABS Service Bulletin Fo100–32–35. ABS Service Bulletin Fo100–32–35 does not contain measurement information relative to brake P/N's 5008132–2 and –3.

TABLE 2.—MAXIMUM SETTINGS—REFURBISHED BRAKES

Brake P/N	Maximum wear pin measurement (inch/mm)	Alternate wear measurement (inch/mm)
5008132–2	1.85" (47 mm)	4.00" (101.6 mm)
5008132–3	1.85" (47 mm)	4.00" (101.6 mm)
5008132–4	2.20" (55.9 mm)	4.35" (110.5 mm)
5008132–5	2.20" (55.9 mm)	4.35" (110.5 mm)
5008132–6	2.20" (55.9 mm)	4.35" (110.5 mm)
5008132–7	2.20" (55.9 mm)	4.35" (110.5 mm)

Note 4: Refurbished brakes will have "R11–3" etched on the brake housing adjacent to the shuttle valve.

Note 5: Measuring instructions for refurbished brakes can be found in the ABS Component Maintenance Manual with Illustrated Parts List AP–652 (Fokker Manual No. 32–43–77) or in ABS Service Bulletin Fo100–32–38.

(2) For brakes on which a heat stack kit having an "R" after the P/N (i.e., 5010322-2R, also called short stacks) have been installed: Operators must use the maximum wear pin length which is based on the measured wear of the thinnest disk in the stack and is specified on the Airworthiness Tag that accompanies each heat stack kit (i.e., for airplanes having brakes with short stacks installed, do not use either the standard maximum wear pin measurements or the alternate brake wear measurements specified in either Table 1 or Table 2 of this AD to determine brake wear.)

(b) Within 180 days after the effective date of this AD, incorporate the maximum brake wear pin limits specified in paragraphs (b)(1) and (b)(2) of this AD, as applicable, into the FAA-approved maintenance program and comply with these measurements thereafter. If any brake has measured wear beyond the maximum wear limits specified in those paragraphs, prior to further flight, replace it with a brake that is within the wear limits specified in the applicable paragraph.

(1) For Model F28 Mark 0100 and 0070 series airplanes:

TABLE 3.—MAXIMUM SETTINGS—NON-REFURBISHED BRAKES (ORIGINAL EQUIPMENT MANUFACTURER)

Brake unit part number	Maximum wear pin measurement	Alternate brake wear measurement	Measure in accordance with aircraft braking systems (ABS) component maintenance manual with illustrated parts list number
5008132–2	1.85" (47 mm)	4.00" (101.6 mm)	AP–652(32–43–77) CMM w/IPL
5008132–3	1.85" (47 mm)	4.00" (101.6 mm)	AP–652(32–43–77) CMM w/IPL
5008132–4	2.10" (53.3 mm)	4.25" (107.9 mm)	AP–652(32–43–77) CMM w/IPL
5008132–5	2.10" (53.3 mm)	4.25" (107.9 mm)	AP–652(32–43–77) CMM w/IPL
5008132–6	2.10" (53.3 mm)	4.25" (107.9 mm)	AP–652(32–43–77) CMM w/IPL
5008132–7	2.10" (53.3 mm)	4.25" (107.9 mm)	AP–652(32–43–77) CMM w/IPL
5008132–8	2.20" (55.9 mm)	4.35" (110.5 mm)	AP–652(32–43–77) CMM w/IPL

TABLE 4.—MAXIMUM SETTINGS—REFURBISHED BRAKES (R11–3 ON BRAKE HOUSING)

Brake unit part number	Maximum wear pin measurement	Alternate brake wear measurement	Measure in accordance with aircraft braking systems (ABS) Component maintenance manual with illustrated parts list
5008132–2	1.85" (47 mm)	4.00" (101.6mm)	AP–625 (32–43–77) CMM w/IPL
5008132–3	1.85" (47 mm)	4.00" (101.6mm)	AP–625 (32–43–77) CMM w/IPL
5008132–4	2.20" (55.9 mm)	4.35" (110.5mm)	AP–625 (32–43–77) CMM w/IPL
5008132–5	2.20" (55.9 mm)	4.35" (110.5mm)	AP–625 (32–43–77) CMM w/IPL
5008132–6	2.20" (55.9 mm)	4.35" (110.5mm)	AP–625 (32–43–77) CMM w/IPL
5008132–7	2.20" (55.9 mm)	4.35" (110.5mm)	AP–625 (32–43–77) CMM w/IPL
5008132–8	2.20" (55.9 mm)	4.35" (110.5 mm)	AP–625 (32–43–77) CMM w/IPL

(2) For Model F28 Mark 0100 and 0070 series airplanes having a brake unit with P/N 5011809, A5011809, or B5011809: The maximum wear pin measurement is 2.50" (63.5 mm), with an alternate brake wear measurement of 4.35" (110.5 mm). The measurement shall be done in accordance with Aircraft Braking Systems (ABS) AP–747 (32–43–65) Component Maintenance Manual (CMM) with Illustrated Parts List (IPL).

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3000 Filed 2–9–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–188–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes, and Model MD–88 and MD–90 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes, and Model MD–88 and MD–90 airplanes. This proposal would require a one-time measurement of the length of the oxygen mask lanyards of the passenger service unit (PSU), and modification of lanyards that are longer than the proper length. This proposal is prompted by a report that the length of the oxygen mask lanyards of the PSU were found to be too long, apparently due to improper installation during production. The actions specified by the proposed AD are intended to ensure that the length of these oxygen mask lanyards is correct, so that the oxygen canister will be properly activated when needed during an emergency.

DATES: Comments must be received by April 9, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–188–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5336; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–188–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–188–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report that, during an inspection of an oxygen installation on a Model MD–90 airplane, the length of the oxygen mask lanyards of the passenger service unit (PSU) was found to be too long. The cause has been attributed to the apparent improper installation of the oxygen mask lanyards of the PSU during production of the airplane. An oxygen mask lanyard that is too long, if not corrected, may not activate the oxygen canister and, subsequently, could render the oxygen mask inoperative during an emergency.

The oxygen mask installations on certain Model DC–9–80 series airplanes and Model MD–88 airplanes are identical to those installed on certain Model MD–90 airplanes. Therefore, all of these models may be subject to the same unsafe condition.

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD90–35–001, dated August 29, 1995 (for Model MD–90 airplanes), and McDonnell Douglas Service Bulletin MD80–35–022, dated August 29, 1995 (for Model DC–9–80 series airplanes and Model MD–88 airplanes). These service bulletins describe procedures for a one-time measurement of the length of the oxygen mask lanyards of the PSU from the loop on the firing pin or aluminum ring to the mask. These service bulletins also describe procedures for modification of oxygen mask lanyards that are found to be longer that the proper length. The modification involves correcting the length of the lanyard by retying the knot of the lanyard and trimming the excess. Accomplishment of the modification will minimize the possibility of an inoperative oxygen mask during an emergency.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require, for Model DC–9–80 series airplanes and Model MD–88 airplanes, a one-time measurement of the length of the oxygen mask lanyards of the PSU, and modification, if necessary. For Model MD–90 airplanes, the proposed AD would require modification of the oxygen mask lanyards of the PSU. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 1,200 McDonnell Douglas Model DC–9–80 series airplanes, Model MD–88 airplanes, and MD–90 airplanes of the affected design in the worldwide fleet. The FAA estimates that 650 airplanes of U.S. registry would be affected by this proposed AD.

For airplanes on which inspection of the lanyard is required, it would take approximately 81 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $4,860 per airplane.

For airplanes on which modification of the lanyard is required, it would take approximately 121 work hours per airplane to accomplish the proposed modification at an average labor rate of $60 per work hours. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $7,260 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 95–NM–188–AD.

Applicability: Model DC–9–80 series airplanes and Model MD–88 airplanes, having manufacturer's fuselage numbers 924 through 1094 inclusive, and 1095 through 2113 inclusive; and Model MD–90 airplanes, having manufacturer's fuselage numbers 2094 through 2098 inclusive, and 2100; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that oxygen mask lanyards of the PSU are not too long in length; excessive length lanyards may not activate the oxygen canister and could render the oxygen mask inoperative during an emergency, accomplish the following:

(a) For Model DC–9–80 series airplanes and Model MD–88 airplanes, having manufacturer's fuselage numbers 1095 through 2113 inclusive; and Model MD–90 airplanes: Within 2 years after the effective date of this AD, perform a one-time measurement of the length of the oxygen mask lanyards of the passenger service unit (PSU) from the loop on the firing pin or aluminum ring to the mask, in accordance with McDonnell Douglas Service Bulletin MD80–35–022, dated August 29, 1995 (for Model DC–9–80 series airplanes and Model MD–88 airplanes), or McDonnell Douglas Service Bulletin MD90–35–001, dated August 29, 1995 (for Model MD–90 airplanes), as applicable.

(1) If the length of all oxygen mask lanyards is found to be within the limits specified in the applicable service bulletin, no further action is required by this paragraph.

(2) If the length of any oxygen mask lanyard is found to exceed the limits specified in the applicable service bulletin, prior to further flight, modify that oxygen mask lanyard of the PSU in accordance with the applicable service bulletin.

(b) For Model DC–9–80 series airplanes having manufacturer's fuselage numbers 924 through 1094 inclusive: Within 2 years after the effective date of this AD, modify the oxygen mask lanyards of the PSU in accordance with McDonnell Douglas Service Bulletin MD80–35–022, dated August 29, 1995.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2999 Filed 2–9–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 950222055–5294–02]

Regulation To Prohibit the Attraction of White Sharks in the Monterey Bay National Marine Sanctuary; Clarification of Exception To Discharge Prohibition

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Proposed rule.

SUMMARY: The National Oceanic and Atmospheric Administration proposes to amend the regulations governing the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) to prohibit the attraction of white sharks in the nearshore (seaward to three miles) areas of the Sanctuary. This proposed rule responds to the comments received in response to an Advance Notice of Proposed Rulemaking on the subject of attracting sharks in the Sanctuary. The proposed prohibition is to ensure that Sanctuary resources and qualities are not adversely impacted and to avoid conflicts among various users of the Sanctuary. The proposed rule would also clarify the "traditional fishing" exemption to the discharge prohibition in the existing regulations, and add definitions of "fishing" and "traditional fishing."

DATES: Comments must be received by March 13, 1996. A public hearing on this proposed rule will be held at a time and location which will be published in a separate document.

ADDRESSES: Comments should be sent to Ed Ueber, Sanctuary Manager, Gulf of the Farallones and northern portion of the Monterey Bay National Marine

Sanctuaries, Ft. Mason, Building 201, San Francisco, California 94123, or Elizabeth Moore, Sanctuaries and Reserves Division, National Oceanic and Atmospheric Administration, 1305 East West Highway, SSMC4, 12th Floor, Silver Spring, Maryland 20910. Comments received will be available for public inspection at both addresses.

FOR FURTHER INFORMATION CONTACT: Ed Ueber at (415) 556–3509 or Elizabeth Moore at (301) 713–3141.

SUPPLEMENTARY INFORMATION:

I. Background

In recognition of the national significance of the unique marine environment centered around Monterey Bay, California, the MBNMS was designated on September 18, 1992. SRD issued final regulations, effective January 1, 1993, to implement the Sanctuary designation (15 CFR Part 922 Subpart M; previously cited as 15 CFR Part 944). The MBNMS regulations at 15 CFR 922.132(a) prohibit a relatively narrow range of activities to protect Sanctuary resources and qualities.

In January 1994, SRD became aware that chum was being used to attract white sharks for viewing by SCUBA divers while in underwater cages. This activity occurred in the nearshore area off of Año Nuevo in the MBNMS during the time of year white sharks come to feed. SRD received expressions of concern over this activity and inquiries as to whether attracting sharks for viewing and other purposes is allowed in the MBNMS. NOAA's Sanctuaries and Reserves Division (SRD), with assistance from the MBNMS Advisory Council, and a number of interested parties, identified a number of concerns regarding the subject of attracting white sharks within the MBNMS. NOAA subsequently issued an advance notice of proposed rulemaking on this issue to invite submission of written information, advice, recommendations and other comments. The following concerns have been identified throughout NOAA's review of this issued: (1) Behavioral changes in the attracted species (e.g., feeding and migration); (2) increased risk of attack to other Sanctuary users (e.g., surfers, windsurfers, and swimmers), increased user conflicts in the area of the activity, and potential health hazards of the activity; and (3) adverse impacts to other Sanctuary resources and qualities (e.g., disruption of the ecosystem, aesthetic impacts). While California state law makes it unlawful to directly take (e.g., catch, capture, or kill) white sharks in state waters, it does not address attraction of white sharks. Nor does any Federal law or regulation address attracting white sharks in the waters off California.

There is currently no MBNMS regulation specifically addressing attracting white sharks in the MBNMS. There is a general regulatory prohibition against discharging or depositing any material or other matter in the Sanctuary (15 CFR 922.132(a) (2)). The discharge and deposit prohibition contains an exception for, *inter olia*, the discharge or deposit of "fish, fish parts, chumming materials or bait used in or resulting from traditional fishing operations in the Sanctuary." While fishing activities in the Sanctuary are subject to various Federal and state regulations, traditional fishing activities are not regulated as part of the Sanctuary regulatory regime. Sanctuary regulations that could indirectly restrict traditional fishing operations were specifically crafted to avoid doing so. Thus, while fishing vessels are subject to the general regulatory prohibition against discharging or depositing any material or other matter in the Sanctuary, the exception for the discharge or deposit of "fish, fish parts, chumming materials or bait used in or resulting from traditional fishing operations in the Sanctuary" was designed to prevent the prohibition from indirectly restricting the conduct of traditional fishing operations. However, it was not intended to allow the discharge or deposit of "fish, fish parts, chumming materials or bait" at any time or in conjunction with any activity, as long as the discharge or deposit is of the same material "used in or resulting from" traditional fishing operations in the Sanctuary. Rather, it was intended solely to allow such discharges or deposits in the course of traditional fishing operations. Accordingly, NOAA proposes to amend this exception to make it explicitly clear that it applies only to such discharges or deposits in the conduct of traditional fishing activities.

On February 28, 1995, SRD issued an Advance Notice of Proposed Rulemaking (ANPR; 60 FR 10812), an optional step in the rulemaking process, to inform the public that the MBNMS was considering restricting or prohibiting attracting sharks within the Sanctuary and to invite submission of written information, advice, recommendations and other comments. The comment period for the ANPR ended on April 14, 1995. SRD received 302 letters and several petitions. Further, SRD held a public hearing in Santa Cruz, California on March 22, 1995, where 35 oral comments were received. Most comments (over 90%) favored restricting or prohibiting chumming for or otherwise attracting white sharks in some fashion in the MBNMS.

Based on available information, including that received in response to the ANPR, SRD is proposing to prohibit attracting white sharks in the nearshore areas of the MBNMS.

II. Comments and Responses

The following is a summary of comments received on the ANPR and NOAA's responses.

(1) *Comment:* White sharks are already present in the Año Nuevo region and other areas of the Sanctuary and shark attraction activities make no difference to their presence.

Response: NOAA agrees that white sharks are present in the Año Nuevo region and other nearshore areas of the MBNMS in the autumn and winter seasons. However, NOAA is concerned that artificial (i.e., human induced) attraction activities may draw more white sharks to a specific location than might be present naturally and also cause them to remain in the area longer. Researchers have documented that chumming can draw sharks from up to 5 km (3.1 miles) away and cause them to remain up to twelve hours after chumming has ceased.

(2) *Comment:* Artifically attracting white sharks causes short-term behavioral changes in the attracted or associated species, and may cause long-term changes.

Response: NOAA agrees. Research clearly supports that using attractants (e.g., chum) causes short-term behavioral changes in white sharks. This is further evidence by the fact that artificial shark attraction methods have been successful in bringing sharks into a targeted area for divers in cages to view. Both direct and indirect (e.g., more white sharks remain in a particular area longer; a situation which could alter predator-prey relationships) behavioral changes can result from attracting white sharks in nearshore waters of the Sanctuary. In addition, while few studies have been conducted on the long-term impacts of artificial attraction on white sharks, scientific studies and observations indicate that using human manipulation to attract other species of wild organisms has resulted in behavioral changes.

A report prepared by the Research Activity Panel (RAP Report), a working group of the Sanctuary Advisory Council, indicates that sharks are known to be drawn to a specific area based on sensory (hearing and olfactory) changes in their environment. Some sharks have been trained to respond to

both of these stimuli, but the success of that training depends on sufficient frequency. Evidence strongly indicates white shark affinity to the Farallon Islands and Año Nuevo Island areas due to the frequency that they are found in these areas and the continued seasonality of their use of these areas. It has been found that individual white sharks often feed at the same location at similar times during successive years.

It has also been found that white sharks at Dangerous Reef in Southern Australia show a clear tendency to revisit the places where they were previously observed, suggesting a relatively high degree of site attachment. The white sharks exhibited an "island patrolling" pattern which may represent a home-ranging pattern. Shark feeding behavior seems to be indiscriminate; white sharks may take learned "prey-shaped" items as long as the target "matches" a known prey item (e.g., a surfer lying prone on a surfboard has a silhouette similar to a seal). Other findings from studies at Dangerous Reef suggest that white sharks select their prey by shape. However, at the Farallon Islands, it has been documented that white sharks select prey of various shapes and sizes.

The RAP Report found that sharks have been observed to alter their feeding behavior based on external clues (e.g., learned behavior). The Fisheries Division of the South Australia Department of Primary Industries has recommended that legislation be enacted to prohibit chumming at Dangerous Reef because of changes in the white shark's behavior resulting from chumming activities. Moreover, the Great Barrier Reef Marine Park Authority (Authority) has a policy that permits will not be issued for the feeding or attracting of sharks, identifying reasons similar to those NOAA has regarding its proposal to prohibit attraction of white sharks in the nearshore areas of the Sanctuary, including change in behavior caused by the activity.

The California legislature enacted a law prohibiting the direct take of white sharks in California waters due to their importance to the marine ecosystem. Further, research indicates that the California population of white sharks is small, that the white sharks have low reproductive rates, and that they have a slow rate of growth to maturity. Consequently, any disruption to the species can have a profound long-term adverse impact. This was evidenced in 1982, when a fisherman killed four adult white sharks off of the Farallon Islands. Researchers documented a significant decline in the occurrence of white sharks attacks on prey species (e.g., seals and sea lions) in that area between 1983–1985. This is significant because research indicates that white shark predation takes approximately 8–10% of the local elephant seal populations and an unknown percentage of California sea lion populations; this is enough of a predation rate to maintain a natural balance in fish and seabird populations.

Concern about the feeding of or attracting of other species of wild organisms has been addressed in other areas. Dolphin-feeding cruises in the Gulf of Mexico is one example of the use of attractants that has been determined to cause significant negative behavioral changes in marine mammals. NOAA's National Marine Fisheries Service (NMFS) banned dolphin-feeding cruises in 1991 based on the scientific risks to both dolphins and humans. The ban was imposed based on evidence that feeding cruises exposed wild animals to disease and physical danger, and could alter their migratory and feeding behavior. The U.S. Court of Appeals for the Fifth Circuit upheld the ban in 1993, *Strong v. U.S.*, 5 F.3d 905 (5th Cir. 1993). the Court agreed with NMFS that scientific evidence supported that feeding activities disturbs normal behavior and, therefore, it was reasonable for the agency to restrict or prohibit the feeding of wild dolphins.

Other changes in animal behavior, resulting from people altering the natural feeding methods or locations, have been documented, including changes in prey items, location of feeding, and changes in behavioral patterns. Examples include feeding of bison in Yellowstone National Park, feeding of bear and deer in Parks, polar bears at Churchill, Canada, and feeding of fish in Hawaii. In all cases, the ensuing behavioral changes forced regulators to prohibit feeding activities to protect the animals and the people feeding them. In the Hawaii example, the feeding resulted in increases in selected fish species and thus affected natural community structure on the reefs. While not directly applicable to white sharks, these examples show that longer-term behavioral changes can and do result from using human-manipulated means to attract (in these instances, feed) wild organisms.

(3) *Comment:* Artificially attracting white sharks has adverse impacts on Sanctuary resources in general.

Response: NOAA agrees that the potential exists to cause harm to Sanctuary resources and qualities from white shark attraction activities. Altering white shark behavior can result in disruption of the local population and the associated ecosystem. Further, attraction of white sharks in nearshore areas can result in adverse impacts to the aesthetic and recreational qualities for which the Sanctuary was designated.

(4) *Comment:* Chum material is composed of the same natural products already present in the waters and, therefore, will have no adverse impacts.

Response: NOAA disagrees. While chum has traditionally been documented to consist of live fish, fish blocks, and fish blood, there have been some instances where the use of pinniped parts, tuna oil, sheep parts and blood, pig parts and blood, and horse parts and blood have been used to take sharks and, in a few instances, to attract sharks for photography and viewing by caged divers (especially white sharks). It has been suggested that chum, especially non-marine chum, could act as a vector for potentially harmful bacteria and viruses to both marine mammals and humans. Regardless of the content of the chum or type of attractant, however, SRD has concerns about the conduct of activities to attract white sharks in the nearshore areas of the Sanctuary due to the resulting change in behavior of the white shark, the user conflict created by the activity, and impact to associated Sanctuary resources and qualities (e.g., ecological, aesthetic, recreational).

(5) *Comment:* Methods other than chumming have been used to attract sharks, and therefore, need also to be considered in the rulemaking.

Response: NOAA agrees. It has been reported to NOAA that some researchers and commercial entrepreneurs have experimented (with some success) using sound as a means of artificially attracting sharks. Other researchers have also experimented with electrical fields and visual cues as a means of attracting sharks. While such methods may reduce the adverse aesthetic impacts (e.g., a slick produced by chumming), and eliminate any risk of introduction of pathogens into the marine environment, other risks created by artificially attracting white sharks in nearshore areas remain (e.g., behavior modification and user conflict). Therefore, NOAA believes that its regulation must be broad enough to encompass means of attraction other than the use of chum.

(6) *Comment:* Artificially attracting sharks in nearshore areas creates a risk to other users of those areas.

Response: NOAA agrees. NOAA considers that even a single instance of white shark attraction conducted near an area where other people are recreating in the water can increase the

risk of harm to those individuals from white shark attack. While the exact potential for increased risk is difficult to assess, and may be an area for further research, most experts on shark biology agree that enhanced risk is probable where attraction is occurring. The American Elasmobranch Society, whose members include professional researchers studying sharks and rays, conducted a survey of its members in 1994 which included questions on shark baiting and the protection of sharks. One of the questions asked was "In regard to shark-diving operations which involve regular baiting, is there a cause for concern (re: shark attack) if such shark diving operations are conducted relatively close to bathing or surfing beaches?" The response resulted in 46 percent yes, 48 percent it depends, and 5 percent no answer. The Great Barrier Marine Park Authority also cited risks to other users as one of the reasons it adopted a policy not to issue permits for the feeding or attracting of sharks. The Authority indicated that if the policy had not been adopted, then shark attracting activities would have been prohibited through regulation.

Therefore, while people that spend time in the water in areas near those known to be inhabited by white sharks are exposed to the possibility of dangerous interactions, the use of attractants in areas frequented by people may increase the likelihood of these interactions.

(7) *Comment:* Anyone who surfs or dives near areas with high concentrations of white sharks such as Año Nuevo is doing so in a dangerous environment to begin with, and attracting white sharks will not make it any more dangerous.

Response: NOAA recognizes that nearshare areas such as Año Nuevo have a higher incidence of white shark attacks than other areas of the coast. As discussed previously, however, NOAA believes that artificially attracting white sharks has the potential to increase the threat beyond that which may naturally exist within a given area.

(8) *Comment:* Artificial attraction of white sharks disrupts established recreation and human use patterns and is therefore an incompatible use.

Response: NOAA agrees. The use of attractants such as chum to attract white sharks in the nearshore areas of the Sanctuary adversely impacts the aesthetic and recreational qualities for which, in part, the Sanctuary was designed, and creates a conflict among other users of the area. For example, regardless of the method used to attract white sharks, users of the nearshore areas are subject to greater potential risk of harm as a result of the conduct of this activity. Further, the chum slick may cause not only a potential health hazard, but also adversely impacts the aesthetics of the area. Consequently, NOAA has determined that white shark attraction in the nearshore areas of the Sanctuary is generally incompatible with other uses of these areas.

(9) *Comment:* Exposure to white sharks through cage diving promotes better conservation of sharks in general and improves the public's attitude towards (and perception of) sharks.

Response: NOAA does not believe that attracting white sharks for viewing purposes without an associated, permitted research protocol provides a public benefit for the species, the participants, or other Sanctuary resources or qualities. NOAA also believes promotion of shark conservation is effectively addressed, in part, by retaining some sharks in aquaria for viewing. Within the area of the MBNMS, two aquaria exist (Steinhart Aquarium in San Francisco and the Monterey Bay Aquarium in Monterey), both of which are reowned for their skill and research in captive shark husbandry. Therefore, sufficient opportunity exists for members of the public who wish to view live sharks. SRD recognizes that there are few, if any, white sharks in capacity. For individuals that wish to observe live white sharks, therefore, one of the only ways to do so is to observe them in their natural environment. The regulation SRD is proposing does not restrict persons from SCUBA diving using shark cages in the Sanctuary. The regulation prohibits only the use of attractants that can artificially alter white shark behavior, create user conflict, and adversely impact other Sanctuary resources and qualities. This is the primary reason the proposed regulation is tailored specifically to attraction, and is not a broader prohibition against the "taking" (broadly defined in the existing Sanctuary regulations) of white sharks that could encompass non-attraction viewing.

(10) *Comment:* Artficial shark attraction is the only viable means for viewing white sharks in the wild. If a regulatory ban is promulgated, it would mean the end of commercial white shark viewing in the Sanctuary.

Response: NOAA agrees that white sharks may essentially only be seen live in the wild. However, there are other means by which the majority of the non-diving public can learn about white sharks (e.g., research and educational media). While banning white shark attraction in nearshore areas of the Sanctuary would impact commercial white shark viewing activities, NOAA believes that in assessing the potential risks to the Sanctuary resources and qualities, and to Sanctuary users, such a restriction is necessary. Further, by restricting only attraction of white sharks in the nearshore areas, NOAA believes the regulation is reasonable in relation to the risks and concerns created by the activity. While a prohibition of white shark attraction in the nearshore areas of the Sanctuary would impact commercial shark attraction operations, the number of commercial operators presently engaging in this activity is small. Further, white shark attraction is not likely the sole source of business for such commercial operators because white sharks only inhabit the nearshore areas during the fall-winter season. Moreover, as discussed in the previous response, commercial operators would not be prohibited from bringing divers to dive in cages to observe white sharks in their natural state without the use of attractants. Finally, many of the concerns about the impact of attracting white sharks in the nearshore areas do not appear to apply in deeper waters outside three miles where other species of shark (e.g., blue) are found because: other species of shark appear to not be as susceptible as white sharks to disruption from adverse impacts; and white sharks, their prey species, and people are not localized or concentrated outside nearshore waters of the MBNMS.

(11) *Comment:* Shark chumming has been taking place in the Monterey Bay area for quite some time, and should therefore be considered a "traditional fishing" method.

Response: NOAA disagrees. There is evidence that a number of fisheries, including certain shark fisheries, used chumming methods for at least the past twenty years, though not in any sustained or continuous fashion. However, the white shark attraction activities conducted in the nearshore areas for recreational purposes are not traditional fishing operations. In fact, such activities are not any type of fishing operation. Moreover, white sharks have no significant commercial value, and there is no and there never has been a commercial white shark fishery in the Monterey Bay area waters. In addition, California state law now generally prohibits fishing for, or retention of, white sharks within California waters. NOAA believes that a regulation which would effectively prohibit the attraction of white sharks is a logical extension of, and consistent with, the State law.

(12) *Comment:* The definition of traditional fishing needs to be clarified.

Response: NOAA agrees. The term was not defined in the existing regulations and NOAA is proposing to amend the regulations to define the term.

(13) *Comment:* If a ban on white shark attraction is put in place, legitimate scientific research on white sharks using artificial attraction will not be allowed in the sanctuary.

Response: The MBNMS regulations provide that permits may be issued to conduct certain activities, including those that will further research related to Sanctuary resources and qualities. In assessing whether to issue a research permit, the MBNMS/SRD considers a number of factors including: the end value of the activity; the professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and duration of its effects; and the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity. Further, in order to issue a permit, the MBNMS/SRD must find that the activity will have only negligible short-term effects on Sanctuary resources and qualities. Sections 922.48 and 922.133 of 15 CFR provide the application procedures and issuance criteria for Sanctuary permits. Under 15 CFR 922.49 and 922.134, NOAA may also authorize a research permit issued by the California Department of Fish and Game.

Should SRD allow, via permit or authorization, the conduct of white shark attraction for legitimate scientific research, stringent conditions will be required to protect Sanctuary resources and qualities and to minimize user conflict. For example, SRF would likely require that any physical attractants be free of infectious pathogens and be restricted to naturally occurring oceanic substances (e.g., no parts of terrestriel organisms), and be limited to no more than necessary to conduct the research; that the researcher fly the internationally designated danger flag, the U or Uniform Flag, along with the NOAA research flag while conducting research activities; that the researcher make radio contact with any vessel coming within the vicinity of the activity; and that the researcher provide local public notice prior to the conduct of research activities.

(14) *Comment:* A restriction or prohibition against attracting white sharks should not be Sanctuary-wide, but rather should apply only to certain areas.

Response: NOAA agrees. The concerns raised by this activity are unique to nearshore areas due to the combined concentration of white sharks, associated species (e.g., pinnipeds), and people who also use and enjoy the nearshore areas of the Sanctuary. These concerns are not present in offshore areas of the MBNMS where this combination of factors does not exist. Consequently, NOAA believes that by prohibiting the attraction of white sharks within three miles from the coast (i.e., state waters; 16% of the Sanctuary), the identified concerns and risks will be fully addressed.

III. Summary of Regulations

Three amendments to the MBNMS regulations are proposed in this rulemaking.

1. Attraction of White Sharks

The first amendment is the addition to 15 CFR 922.132(a) of a prohibition against attracting, or attempting to attract, any white shark in California State waters (three miles seaward of mean high tide) in the Sanctuary. Section 922.131 would also be amended by adding a definition of "attract or attracting," defined as the conduct of any activity that lures by using food, bait, chum or any other means. As discussed above in the response to comments on the ANPR, this regulation is necessary to protect the white shark and other Sanctuary resources (e.g., pinnipeds); to minimize user conflict in the nearshore areas of the Sanctuary; and to protect the ecological, aesthetic, and recreational qualities of the Sanctuary. Concentration of white sharks, associated species, and people make nearshore areas of the Sanctuary uniquely susceptible to adverse impacts from attracting white sharks in such areas. The proposed regulation is narrowly tailored to attraction of white sharks in order to complement existing California law that prohibits the direct take of white sharks in California waters, and so as not to prohibit divers from viewing white sharks in their natural state without the use of attractants.

2. Discharge Regulations

Section 922.132(a)(2)(i) prohibits the discharging or depositing, from within the boundary of the Sanctuary, any material or other matter. Section 922.132(a)(2)(ii) prohibits the discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality. There are five exceptions to these discharge prohibitions, one of which is the discharge of "fish, fish parts, chumming materials or bait used in or resulting from traditional fishing operations in the Sanctuary" (15 CFR 922.132(a)(2)(i)(A)). This exception is proposed to be amended to make it explicitly clear that it applies only to such discharges in the actual conduct of traditional fishing activities in the Sanctuary. Accordingly, the exemption would be amended to read "fish, fish parts, chumming materials or bait produced and discarded incidental to and during traditional fishing operations conducted in the Sanctuary." Thus, it will be clear that the use of identical materials during the conduct of other activities does not fall within the exception to the discharge regulations and is prohibited.

3. Traditional Fishing

There is presently no definition of traditional fishing in the MBNMS regulations. This term appears in four of the regulatory prohibitions. It was intended and has always been interpreted by NOAA to mean fishing using lawful commercial or recreational methods used within the Sanctuary prior to its designation. In order to ensure that there are no uncertainties as to the meaning of the term, NOAA is proposing to add to 15 CFR 922.131 definitions of "fishing" and "traditional fishing" to the Sanctuary regulations. The term "fishing" is proposed to be defined as: (i) The catching or harvesting of fish; or (ii) the attempted catching or harvesting of fish. The term "traditional fishing" is proposed to be defined as: "fishing using a lawful commercial or recreational fishing method used within the Sanctuary prior to its designation (September 18, 1992)." Addition of these definitions would provide clear understanding of the scope of certain exceptions to the regulatory prohibitions.

IV. Miscellaneous Rulemaking Requirements

Executive Order 12866: Regulatory Impact

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 12612: Federalism Assessment

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

NOAA has concluded that this regulatory action is not expected to have

a significant economic impact on a substantial number of small entities, and the Assistant General Counsel for Legislation and Regulation of the Department of Commerce has so certified to the Chief Counsel for Advocacy of the Small Business Administration. A prohibition against white shark attraction in the nearshore areas of the Sanctuary would not have a significant economic impact on a substantial number of small entities because: the number of commercial operators presently engaging in this activity is small; white shark attraction is not likely the sole source of business for such commercial operators because white sharks only inhabit the nearshore areas during the fall-winter season; and commercial operators would not be prohibited from bringing divers to dive in cages to observe white sharks in their natural state without the use of attractants. Accordingly, an initial Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This proposed rule would not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

National Environmental Policy Act

NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: February 1, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is proposed to be amended as follows:

PART 922—[AMENDED]

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart—Monterey Bay National Marine Sanctuary

2. Section 922.131 is amended by adding three definitions in alphabetical order to read as follows:

§ 922.131 Definitions.

* * * * *

Attract or attracting means the conduct of any activity that lures by using food, bait, chum or any other means.

* * * * *

Fishing means: (1) The catching or harvesting of fish; or (2) The attempted catching or harvesting of fish.

* * * * *

Traditional fishing means fishing using a lawful commercial or recreational fishing method used within the Sanctuary prior to its designation (September 18, 1992).

3. Section 922.132 is amended by revising paragraph (a)(2)(i)(A), and adding new paragraph (a)(10) to read as follows:

§ 922.132 Prohibited or otherwise regulated activities.

(a) * * *

(2)(i) * * *

(A) Fish, fish parts, chumming materials or bait produced and discarded incidental to and during traditional fishing operations in the Sanctuary.

* * * * *

(10) Attracting or attempting to attract any white shark in California state waters (3 miles seaward of mean high tide) in the Sanctuary.

* * * * * *

[FR Doc. 96–2686 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–08–M

FEDERAL TRADE COMMISSION

16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Trade Commission (Commission or FTC) has completed its regulatory review of the Rules and Regulations under the Textile Fiber Products Identification Act (Textile Rules). Pursuant to that review, the Commission concludes that the Rules continue to be valuable to both consumers and firms. The regulatory review comments suggested various substantive amendments to the Rules. The Commission has considered these proposals and other proposals that it believes merit further inquiry. The Commission seeks comment on whether it should amend the Textile Rules to: (1) allow the listing of generic fiber names for fibers that have a functional significance and are present in the amount of less than 5% of the total fiber weight of a textile product, without requiring disclosure of the functional significance of the fiber, as presently required by Textile Rule 3(b); (2) eliminate the requirement of Textile Rule 16(b) that the front side of a cloth label, which is sewn to the product so that both sides of the label are readily accessible to the prospective purchaser, bear the wording "Fiber Content on Reverse Side" when the fiber content disclosure is listed on the reverse side of the label; (3) allow for a system of shared information for manufacturer or importer identification among the North American Free Trade Agreement (NAFTA) countries; (4) add a provision to Textile Rule 20 specifying that a Commission registered identification number (RN) will be subject to cancellation if, after a change in the material information contained on the RN application, a new application that reflects current business information is not promptly submitted; (5) allow the use of abbreviations for generic fiber names; (6) allow the use of abbreviations and symbols in country of origin labeling; and (7) allow the use of new generic names for manufactured fibers if the name and fiber are recognized by an international standards-setting organization. In addition, the Commission seeks comment on the possible resolution of apparent conflict between the Commission's country of origin disclosure requirements and new U.S. Customs Service regulations pursuant to the Uruguay Round Agreements Act of 1994.

DATES: Written comments will be accepted until May 13, 1996.

ADDRESSES: Comments should be submitted to: Office of the Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580. Submissions should be marked "Rules and Regulations under the Textile Act, 16 CFR Part 303—Comment." If possible, submit comments both in writing and on a personal computer diskette in Word Perfect or other word processing format (to assist in processing, please identify the format and version used). Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (310) 235–7890 or Edwin Rodriguez, Attorney, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326–3147.

SUPPLEMENTARY INFORMATION:

I. Background Information

The Textile Fiber Products Identification Act (Textile Act), 15 U.S.C. 70 *et seq.*, requires marketers of covered textile products to mark each product with (1) the generic names and percentages by weight of the constituent fibers present in the product; (2) the name under which the manufacturer or other responsible company does business, or in lieu thereof, the RN issued to the company by the Commission; and (3) the name of the country where the product was processed or manufactured. The Textile Act also contains advertising and recordkeeping provisions. Pursuant to section 7(c) of the Act, 15 U.S.C. 70e(c), the Commission has issued implementing regulations, the Textile Rules, which are found at 16 CFR Part 303.

As part of the Commission's on-going regulatory review of all its rules, regulations, and guides, on May 6, 1994, the Commission published a **Federal Register** notice (FRN), 59 FR 23646, seeking public comment on the Textile Rules. The FRN solicited comments about the overall costs and benefits of the Rules and their regulatory and economic impact. The FRN also sought comment on what changes in the Rules would increase the benefits of the Rules to purchasers and how those changes would affect the costs the Rules impose on firms subject to their requirements. The Commission further stated that Textile Rules 10, 21, 32, and 45 would be amended to comply with "metrication" mandates if the Commission decided to retain those rules in their current form after the regulatory review.[1] The deadline for submission of comments was extended twice, on July 7, 1994 and September 12, 1994. The final deadline for comments was October 15, 1994.

II. Regulatory Review and Proposed Amendments

A. Support for the Textile Rules

The Commission received twenty-eight comments in response to the FRN. The comments were submitted by trade associations[2] and companies[3] subject to the Textile Act and Rules. In addition, one comment was submitted by an industry-wide committee formed to address issues concerning the harmonization of textile regulations among the NAFTA countries.[4]

Although no comments were received from consumers or consumer groups, it is clear from the Commission's experience that consumers benefit directly from the Rules and consider the mandated disclosures material in making purchase decisions. Ten comments explicitly express support for the Textile Rules as a whole[5] because the Rules protect consumers from deceptive fiber claims and provide them with valuable information about the fiber content of apparel, allowing them to make educated product comparisons and purchasing decisions.[6] The comments do not identify any costs imposed by the Rule on consumers.[7]

In addition, the comments show that the Rules are valuable to manufacturers and firms. They allow firms to distinguish their products from others in the marketplace based on the products' fiber content.[8] They improve the credibility of firms and their products by assuring consumers that the products they are purchasing will meet specific standards and consumer tastes.[9] The Rules also "maintain the integrity of fiber type information from the fiber supplier to the textile manufacturer to the apparel manufacturer to the consumer."[10] Although the Rules impose labeling and packaging costs,[11] they are small and have become an accepted part of doing business in the textile industry.[12] The commenters consider the costs of compliance to be minimal and the benefits to companies and consumers to be tangible and great.

In short, it is clear that the implementing regulations enjoy the backing of subject companies and have become an accepted part of business at all levels of manufacture, distribution, and sales. The Commission has decided, however, to seek additional comment on possible amendments to the Rules.

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[1] The regulatory review comments do not suggest any change to Rules 10, 21, 32, and 45, and the Commission does not propose any substantive changes to these Rules. The Commission has decided to retain these Rules in their present form. Therefore, in a separate notice, the Commission announces the final amendments to Rules 10, 21, 32, and 45 to include metric equivalents beside the inch/pound unit measurements in those Rules, as required by Executive Order 12770 of July 25, 1991 (56 FR 35801, July 29, 1991) and the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205b).

[2] National Knitwear & Sportswear Association (NKSA) (1), National Association of Hosiery Manufacturers (NAHM) (2), American Textile Manufacturers Institute (ATMI) (3), Cordage Institute (CORD) (4), National Retail Federation (NRF) (5), American Fiber Manufacturers Association, Inc. (AFMA) (7), American Textile Manufacturers Institute (ATMI) (10), Ross & Hardies, on behalf of United States Association of Importers of Textiles and Apparel (USA-ITA) (11), American Apparel Manufacturers Association (AAMA) (15), Liz Claiborne, Inc. and Labeling Committee, Industry Sector Advisory Committee on Wholesaling and Retailing (ISAC 17) (17).

[3] Warren Featherbone Company (WFC) (6), Dan River Inc. (DR) (8), Ruff Hewn (RUFF) (9), Gap, Inc. (GAP) (12), Fieldcrest Cannon, Inc. (FIELD) (13), Fruit of the Loom (FRUIT) (14), Wemco Inc. (WEMCO) (18), Sara Lee Knit Products (SARA) (19), Horace Small Apparel Company (HORACE) (20), Perry Manufacturing Company (PERRY) (21), Milliken & Company (MILL) (22), Cranston Print Works Company (CRAN) (23), Angelica Corporation (ANGEL) (24), Russell Corporation (RUSS) (25), Haggar Apparel Company (HAGGAR) (26), Capital Mercury Shirt Corp. (CAP) (27), Biderman Industries Corporation (BIDER) (28).

[4] Trilateral Labeling Committee (TLC) (16). WFC (6), RUFF (9), WEMCO (18), SARA (19), ANGEL (24), RUSS (25), HAGGAR (26), CAP (27), and BIDER (28) explicitly adopt or endorse the recommendations of TLC (16), and other comments appear to track TLC's recommendations closely.

[5] NKSA (1) p.1, NAHM (2) p.1, ATMI (3) p.1, CORD (4) p.2, DR (8) p.1, ATMI (10) p.1, FIELD (13) p.1, FRUIT (14) p.1, PERRY (21) p.1, MILL (22) p.1. These comments were submitted by companies covered by the Rules, but they express the belief that the Rules help consumers.

[6] NAHM (2) states, at p.1, that the regulations should be retained "because they provide a framework for fiber content disclosure, labeling, country-of-origin clarification, and provisions for guarantees, all of which protect manufacturers, buyers, and retail consumers." NKSA (1) states, at p.1, that the Rules serve an important and useful purpose for consumers who may not be aware of the various fibers in the multi-fiber blends that have become common in the marketplace. CORD (4) states, at p.2, that the Rules help purchasers "select a product best suited for a specific application and reduce the potential for unsafe use and danger to life and property." PERRY (21) states, at p.1, that the Rules are "both necessary and desirable if we are to have orderly trade within this hemisphere."

[7] NAHM (2) states, at p.1, that the Rules impose costs on consumers, but does not identify what the costs are. The comment states that "the assurances offered by the Rules to purchasers far outweigh the costs associated with fiber content disclosure on labeling and the use of guarantees." ATMI (10) states, at p.1, that it "has no knowledge of additional imposed costs to the consumer because of the rules."

[8] NKSA (1) p.1.

[9] NAHM (2) p.2.

[10] ATMI (3) p.1. See also DR (8) p.1; ATMI (10) p.1, MILL (22) p.2.

[11] NAHM (2) p.2. ATMI (3) states, at p.1, that "[t]here are minimal costs associated with the manufacture of the label, its attachment to the textile product, and costs carried by the manufacturer to maintain records."

[12] NKSA (1) p.1, ATMI (3) pp.1–2, DR (8) p.1, ATMI (10) p.5, FIELD (13) p.6, MILL (22) p.6. ATMI (3) states, at pp.1–2, that "[p]rior to the rules, textile mills typically kept records of fiber content and performed fiber identification tests to certify that fiber being supplied to the mill was indeed what the supplier stated. These costs and practices have become a generic part of textile business operations. The rules only add the cost of a consumer label."

B. Proposals for Amendments to the Textile Rules

1. Introduction

The comments submitted in response to the regulatory review of the Textile Rules propose certain amendments to the Rules. The Commission is also considering other amendments that were not mentioned in the comments. Many of the changes proposed in the comments were motivated by the passage of NAFTA, which has highlighted the importance of reconciling the labeling requirements of the member countries. The goal of NAFTA is to establish a trade zone in which goods can flow freely among Canada, Mexico, and the United States, a goal which may be impeded by the multiple burdens imposed on companies by regulations in the NAFTA countries. For example, the comments contend that language differences among the NAFTA countries, and regulations based on these differences, affect the printing of fiber content information, country of origin names, and care instructions.[13] Manufacturers must either print separate labels for each market, which may inhibit the efficient allocation of inventories within the NAFTA territory and increase costs to consumers,[14] or print unwieldy, multilingual labels that satisfy all of the regulatory requirements of each NAFTA country.[15] In addition, the comments contend that differences and conflicts involving other labeling requirements, including label attachment requirements, the definition of key terms, and responsible party identification systems in the NAFTA countries, may also interfere with free trade.[16] The comments generally agree that the NAFTA signatories must consult and coordinate with each other to simplify textile and apparel labeling so that differences in labeling rules and the manner in which compliance is determined do not pose trade barriers.[17]

The harmonization of labeling regulations is required by NAFTA. Article 906 of NAFTA states that "the Parties shall, to the greatest extent practicable, make compatible their respective standards-related measures, so as to facilitate trade in a good or service between the Parties." Article 913 of the Act requires the creation of a Committee on Standards-Related Measures, including a Subcommittee on Labelling of Textile and Apparel Goods. In accordance with Annex 913.5.a-4, the Subcommittee

> shall develop and pursue a work program on the harmonization of labelling requirements to facilitate trade in textile and apparel goods between the Parties through the adoption of uniform labelling provisions. The work program should include the following matters:
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> (a) pictograms and symbols to replace, where possible, required written information, as well as other methods to reduce the need for labels on textile and apparel goods in multiple languages;
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> (b) care instructions for textile and apparel goods;
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> (c) fiber content information for textile and apparel goods;
>
> (d) uniform methods acceptable for the attachment of required information to textile and apparel goods; and
>
> (e) use in the territory of the other Parties of each Party's national registration numbers for manufacturers of textile and apparel goods.

Many of the comments address these subject areas and contend that harmonizing labels would benefit manufacturers and consumers alike by decreasing the costs of production and distribution. One commenter stated that prices charged to consumers may decline if the costs associated with labeling decline.[18] A few comments contend that harmonized labeling would be less confusing to consumers.[19]

Based on the comments and other available information, the Commission has considered proposals to amend the Rules to: (a) allow the listing of generic fiber names for fibers that have a functional significance and are present in the amount of less than 5% of the total fiber weight of a textile product, without requiring disclosure of the functional significance of the fiber, as presently required by Rule 3(b); (b) make cordage subject to the Textile Rules; (c) modify country of origin disclosure requirements; (d) eliminate the requirement of Textile Rule 16(b) that the front side of a cloth label, only one end of which is sewn to the product in such a manner that both sides of the label are readily accessible to the prospective purchaser, bear the wording "Fiber Content on Reverse Side" when the fiber content disclosure is listed on the reverse side of the label; (e) allow for a system of shared information for manufacturer or importer identification among the NAFTA countries; (f) add a provision specifying that a Commission RN will be subject to cancellation if, after a change in the material information contained on the RN application, a new application that reflects current business information is not promptly submitted; (g) allow the use of abbreviations for generic fiber names; (h) allow the use of abbreviations and symbols in country of origin labeling; and (i) allow the use of new generic names for manufactured fibers if the name and fiber are recognized by an international standards-setting organization.

After considering these recommendations, the Commission has rejected some of the suggested changes as not feasible or not in the public interest at this time. This Notice of Proposed Rulemaking (NPR) seeks comment concerning the remaining proposed changes. All of the recommendations for change are discussed below.

2. Proposals

a. *Use of Generic Fiber Names for Fibers with a Functional Significance Present in the Amount of Less than 5% of the Total Fiber Weight of a Textile Product*

One commenter recommended that the Commission eliminate Rule 3(b) to allow the listing of generic fiber names for fibers that have a functional significance and are present in the amount of less than 5% of the total fiber weight of a textile product, without disclosing the functional significance of the fibers, as the Rule currently requires.[20] The commenter maintains that the existing Rule is "archaic" because consumers know, for example, that the functional significance of spandex is elasticity. In addition, the commenter claims that the Rule is not well known in the textile industry and therefore creates problems with U.S. Customs for imports that are not properly labeled and must be delayed and remarked.

The Commission believes that amending Rule 3 in the manner suggested might benefit manufacturers and importers by dispensing with an unnecessary labeling requirement. In addition, the amendment may not harm consumers because consumers generally know the functional significance of many fibers and manufacturers probably will disclose voluntarily the functional significance of some fibers. Therefore, the Commission proposes to amend Rule 3 to read as follows:

§ 303.3 Fibers present in amounts of less than 5 percent.

Except as permitted in sections 4(b)(1) and 4(b)(2) of the Act, as amended, no fiber present in the amount of less than 5 per centum of the total fiber weight shall be designated by its generic name or fiber trademark in disclosing the constituent fibers in required information, but shall be designated as "other fiber." Where more than one of such fibers are present in a product they shall be designated in the aggregate as "other fibers." *Provided, however,* That nothing in this section shall be construed as prohibiting the disclosure of any fiber present in a textile fiber product which has a clearly established and definite functional significance when present in the amount contained in such product, as for example:

96 percent Acetate
4 percent Spandex

when spandex has the functional significance of elasticity. In making such disclosure all of the provisions of the Act and regulations setting forth the manner and form of disclosure of fiber content information, including the provisions of §§ 303.17 of this part (Rule 17) and 303.41 of this part (Rule 41) relating to the use of generic names and fiber trademarks, shall be applicable.

Current Section 303.3(b) would be deleted. The proposed amendment would still prohibit disclosing fiber names for fibers that usually have a functional significance, but do not have that functional significance when present in the amount contained in the textile product. In addition, it would prohibit disclosing the fiber names for fibers present in the amount of less than 5% when the fiber has no functional significance. Thus, the proposed amendment would still allow the consumer to distinguish between fibers constituting less than 5% of the total weight that have a functional significance and those that do not. The Commission seeks comment on the benefits and costs to consumers and manufacturers of the proposed amendment and on whether the proposed change would be in the public interest.

b. *Make Cordage Subject to the Textile Rules.*

One commenter suggests that cordage products like rope and twine, which currently are not covered by the Textile Rules, be covered by the Rules because cordage is an assemblage of fibers. The commenter contends that mislabeling of cordage is a considerable problem which harms consumers.[21]

The Textile Act's marking requirements apply to "household textile articles," defined in Section 2(g) of the Act as: "articles of wearing apparel, costumes and accessories, draperies, floor coverings, furnishings, beddings, and other textile goods of a type customarily used in a household regardless of where used in fact."[22] Certain products, not including cordage, are specifically exempt from the Act. In addition, the Commission has discretion to exclude "other textile fiber products (1) which have an insignificant or inconsequential textile fiber content, or (2) with respect to which the disclosure of textile fiber content is not necessary for the protection of the ultimate consumer."[23]

Rule 45, "Exclusions from the Act," implements Section 12(b) of the Act by (1) declaring that all textile fiber products *except* those specifically listed in Rule 45(a)(1) are excluded and (2) by naming certain specifically excluded products in Rules 45(a)(2) through (9). Rule 45(a)(1) therefore contains a list of all the products that are covered by the Textile Act and its implementing regulations. Cordage does not appear on this list. Consequently, Rule 45(a)(1) implicitly excludes cordage from coverage under the Textile Act.

The Commission does not propose to amend the Textile Rules to include cordage. Although cordage has some household uses, it is not a common household textile, and there is no evidence that consumers rely on fiber content information in making purchase decisions about twine or other cordage products.[24] Any significant affirmative misrepresentations or failures to disclose material information relating to cordage fiber content can be addressed through Section 5 of the FTC Act, if necessary.

c. *Country of Origin Labeling*

Under the Textile Act and Textile Rule 33(a)(1), an imported textile fiber product must bear a label disclosing the name of the country where the product was processed or manufactured. One commenter recommends that companies that add value to imported greige goods (unfinished plain fabric) through printing and finishing be allowed to label the finished product as "Made in USA."[25] Such a label would not comport with Rule 33, which states that a textile product made in the United States of imported fabric must contain a label disclosing those facts, as for example: "Made in USA of imported fabric." Only those textile products completely made in the United States of fabric that was also made in the United States may be labeled "Made in USA," without qualification.[26] At present, the Commission does not propose any amendments to this Rule. However, the Commission is currently examining issues pertaining to "Made in USA" advertising and labeling claims generally in a separate context.[27]

Many comments recommend that the FTC and U.S. Customs Service harmonize their regulations regarding country of origin marking for textile goods.[28] In particular, the Commission is aware that there may be a conflict between Rule 33 and Section 334 of the Uruguay Round Agreements Act, signed into law on December 8, 1994,[29] and U.S. Customs Service implementing regulations that will be effective July 1, 1996.[30] For certain categories of textile products, including household furnishings, such as linens, and apparel accessories, such as scarves and handkerchiefs, the country of origin under the new tariff laws will be the country where the fabric was produced, not the country where the item was finished. Commission staff has begun to meet with U.S. Customs Service staff to explore ways this apparent conflict might be resolved without unduly

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[13] This notice does not address the issue of the use of symbols in care labeling. The Commission has published separately a notice regarding that issue. 60 FR 57552 (Nov. 16, 1995).

[14] FRUIT (14) p.3.

[15] USA–ITA (11) p.2, see also FRUIT (14) p.2. The comments, however, do not provide extrinsic evidence that long labels cause consumer confusion or that they are financially burdensome to manufacturers or distributors.

[16] AFMA (7) p.1, FRUIT (14) p.2, SARA (19) p.4. FRUIT states that differences in labeling requirements may "function as non-tariff trade barriers and significantly impede the free flow of goods within the NAFTA territory," inhibiting sales and harming American industry.

[17] WFC (6) p.1, AFMA (7) p.1, DR (8) p.1, RUFF (9) pp. 1–2, ATMI (10) pp.1–2, USA–ITA (11) p.2, FIELD (13) pp.1–2, FRUIT (14) pp.1–2, AAMA (15) p.1, TLC (16) p.1, ISAC 17 (17) p.1, WEMCO (18) p.1, SARA (19) p.4, HORACE (20) p.2, MILL (22) p.2, ANGEL (24) p.1, RUSS (25) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[18] FRUIT (14) p.2.

[19] WFC (6) p.1, AAMA (15) pp.1, 2, TLC (16) p.2, WEMCO (18) p.1, SARA (19) pp.2, 3, ANGEL (24) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[20] GAP (12) p. 1–2.

[21] CORD (4) p.1.

[22] 15 U.S.C. 70(g).

[23] 15 U.S.C. 70j(b).

[24] The Fair Packaging and Labeling Act (FPLA), 15 U.S.C. § 1451 *et seq.*, requires that consumer commodities "bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor." 15 U.S.C. 1453(a)(1). 16 CFR 503.2(b) defines cordage as a "consumer commodity" under the Act. In addition, although the commenter claims that cordage is often not marked with the country of origin, it adds that this is true for "other than prepackaged consumer/household cordage," CORD (4) p.1, which means that country of origin information does reach consumers of cordage destined for household use.

[25] CRAN (23) pp.1–2.

[26] In determining the appropriate disclosure for country of origin, the manufacturer or processor needs to look only one step back in the process. Thus, the label "Made in USA" would be appropriate if the finished article were made from fabric produced in the US. The manufacturer need not consider whether the yarn that went into the fabric was imported for purposes of determining the correct label.

[27] On July 11, 1995, the Commission announced that it would re-examine its "Made in U.S.A." policy by (1) conducting a comprehensive review of consumers' perceptions of "Made in USA" and similar claims and (2) holding a public workshop to examine issues relevant to the standard. The Commission issued a notice, 60 FR 53922 (Oct. 18, 1995), requesting public comment in preparation for the workshop. The workshop will be held on March 26–27, 1996. 60 FR 65327 (Dec. 19, 1995).

[28] RUFF (9) p.1, ATMI (10) p.3, FRUIT (14) pp.2 and 4, SARA (19) p.2.

[29] Public Law 103–465, 108 Stat. 4809. Section 334 is codified at 19 U.S.C. 3592.

[30] 60 FR 46188 (Sept. 5, 1995).

burdening U.S. businesses and causing confusion to consumers. In addition, the Commission welcomes industry suggestions as to how this apparent conflict might be resolved in a way that will comply with the Uruguay Round Agreements Act marking requirements, provide meaningful information to consumers, and not require lengthy label disclosures.

d. *Label Mechanics and Textile Rule 16(b)'s "Fiber Content on Reverse Side" Disclosure Requirement*

Many comments discussed the interrelated issues of label type, label attachment, label placement, and use of both sides of a label to set out required information.[31] The comments recommend that the Textile Rules not specify a type of label (e.g., woven, non-woven, printed) to be used for required disclosures or the method of label attachment, to allow for changes in labeling technology. The comments recommend that the Rules require only that the label remain securely affixed to the product; the information be legible and remain legible for the useful life of the product; and both sides of a label be allowed to be used to display the information required by the Rules.[32] The comments discuss the issue of label attachment in the context of NAFTA and recommend that U.S. label attachment regulations be harmonized with those of the NAFTA countries. However, the comments do not explain whether inconsistencies in those regulations do in fact exist.

The current Rules already address many of the recommendations made by the comments regarding the mechanics of labeling. Rule 15—"Required Label and Method of Affixing"—allows any type of label (e.g., a hangtag, a gummed-on label) to be used, so long as the label is securely affixed and durable enough to remain attached to the product until the consumer receives it. Rule 15 does not require a permanent label for any of the disclosures required by the Textile Act, and there is therefore no requirement that the label remain legible for the useful life of the product. Rule 16 provides only that the Textile Act disclosures must be "clearly legible and readily accessible to the prospective purchaser."

In addition, although Rule 16(b) requires that all three Textile Act disclosures—country of origin, company name or RN, and fiber content—be made on the front of the required label, two provisos allow the use of both sides of the label. The first proviso allows the company name or RN to be on the back of the required label or on the front of another label in immediate proximity to the required label. When the required label is a cloth label. sewn to the product at one end so that both sides of the label are readily accessible to the prospective purchaser, the second proviso allows the fiber content disclosure to be placed on the back of the required label "if the front side of such label clearly and conspicuously shows the wording 'Fiber Content on Reverse Side'."

One commenter proposed that this second proviso of Textile Rule 16 be amended to eliminate the requirement that manufacturers place the phrase "Fiber content on Reverse Side" on the front side of the required label because "consumers today are aware that both sides of the label contain information important to their purchasing decision."[33] The Commission agrees that consumers probably are in the habit of looking on the back of labels for needed information, such as fiber content or care instructions, and do not need a specific direction to do so. Thus, the requirement that the front side of a cloth label indicate that the fiber content information is on the reverse side is probably unnecessary.

The Commission, therefore, proposes to amend Rule 16(b). The Rule might be amended narrowly to eliminate the "Fiber Content on Reverse Side" disclosure requirement for cloth labels with one end sewn to textile products. Another alternative would be to amend Rule 16(b) to allow the required fiber content information to appear on the reverse side of any kind of permissible label (e.g., a cardboard label or a hang-tag label) as long as the information remains "conspicuous and accessible." The latter alternative is broader than the amendment suggested by the comment, but comports with the contention that consumers are in the habit of looking on the back of labels. The Commission solicits comments on these alternative amendment proposals, including comments on the benefits and costs to consumers and manufacturers of the proposed amendments. It also solicits amendment language alternatives.

The Commission also requests comment on whether fiber content identification should be printed on labels that are permanently attached to a textile product,[34] and on whether the other two required disclosures should similarly appear on a permanent label. This information may continue to be useful to consumers throughout the life of the product. For example, fiber content identification may assist professional cleaners in determining whether certain newly developed wet-cleaning techniques are appropriate for an item of textile apparel. Moreover, due to advances in labeling technology, requiring a permanent label may not be burdensome to manufacturers. Many manufacturers already make the required disclosures on a permanent label. Finally, the Commission seeks comment concerning any specific conflicting rules and regulations for label attachment in Mexico and Canada, and whether such conflicts pose trade impediments that could be removed by changing the Commission's Rules.

e. *System of Shared Information for Manufacturer or Importer Identification Among the NAFTA Countries.*

Under the Textile Act,[35] the Wool Products Labeling Act,[36] and the Fur Products Labeling Act,[37] the required label on covered products must bear the identification of one or more companies responsible for the manufacture, importation, offering for sale, or other handling of the product, either by the full name under which the company does business or, in lieu thereof, by the RN issued by the Commission. Canada has a similar system of identification numbers known as CA numbers. Mexico does not have a similar system, but the Mexican government issues tax identification numbers to companies.

To eliminate the need for a company to register in more than one country, the comments recommend that the FTC and appropriate government agencies in the NAFTA countries develop an integrated system for identifying the manufacturer, importer, or dealer of a textile product that would allow any RN, CA, or Mexican tax identification number to suffice as legal company identification

[31] WFC (6) p.1, DR (8) p.1, RUFF (9) p.2, ATMI (10) p.5, FIELD (13) p.6, FRUIT (14) p.5, AAMA (15) p.3, TLC (16) p.4, WEMCO (18) p.1, SARA (19) p.4, HORACE (20) p.2, MILL (22) p.6, ANGEL (24) p.1, RUSS (25) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1. The work program of the NAFTA subcommittee on labeling includes "a uniform method of attachment" as one of its issues.

[32] WFC (6) p.1, DR (8) p.1, RUSS (9) p.2, ATMI (10) p.5, FIELD (13) p.6, AAMA (15) p.3, TLC (16) p.4, WEMCO (18) p.1, SARA (19) p.4, HORACE (20) p.2, MILL (22) p.6, ANGEL (24) p.1, RUSS (25) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[33] FRUIT (14) p.5.

[34] Comment on this issue was also requested in a **Federal Register** notice seeking comment on proposed amendments to the Commission's Care Labeling Rule, 16 CFR Part 423. 60 FR 67102 (Dec. 28, 1995).

[35] Section 4(b)(3) of the Textile Act and Rules 16(a)(2), 19, and 20 thereunder, require manufacturers or other responsible parties to include their name or registered identification number on a textile label.

[36] 15 U.S.C. 68 *et seq.*

[37] 15 U.S.C. 69 *et seq.*

in all three NAFTA countries.[38] The comments repeatedly state that it would not be necessary to create one identification number system. They recommend that each NAFTA country continue its policy and procedure of registration, with the U.S. continuing the present system of RN numbers. The countries could then exchange information on computer databases so that a textile product can be traced to a manufacturer or other responsible party using either an RN number, a CA number, or a Mexican tax number.

Both the Textile Act and the Rules would have to be amended to allow CA numbers and Mexican tax numbers, which are not registered by the Commission, to be used on textile products shipped for distribution in the United States. At this time, the Commission is not considering any amendments to the Textile Rules related to responsible party identification. Before the Commission considers whether to recommend that Congress amend the Textile Act, it seeks comment on the advantages and disadvantages of a system of shared information, the feasibility of implementing such a system across borders, and the impact such a system would have on the ability of the Commission, consumers, and firms to track responsible parties. The Commission would recommend that Congress amend the Textile Act *only* if the NAFTA countries reach an agreement to share information. Such agreement would be critical to the effectiveness of any amendments to the Textile Act and Rules.

f. *Require Holders of RN Numbers to Update their Registration Information when Changes in that Information Occur*

The success of a system of shared information would also depend to a great extent on the availability and the quality of the information in the Commission's RN registry and the registration systems of the other NAFTA signatories. To increase the usefulness of the RN registry, the Commission plans to improve its accuracy and the ease of access to its contents.

Since initially being issued their RN's, many companies have changed their legal business name, business address, and/or company type (e.g., from proprietorship to corporation) without notifying the FTC about the change(s), as requested in the RN number application. Since the 1940's many RN holders have gone out of existence, and others, while still in existence, no longer have any need for their RN's. As a result, a large percentage of the official FTC records are inaccurate (i.e., not reflecting an actual user's correct name, place of business, and/or company type) or obsolete (e.g., reflecting an RN held by a non-existent company).

Registered identification numbers are subject to cancellation whenever any such number was procured or has been used improperly or contrary to the requirements of the Acts administered by the Federal Trade Commission, and regulations promulgated thereunder, or when otherwise deemed necessary in the public interest. The Commission proposes to add a provision to the Textile Rules that would subject an RN number to cancellation if, after a change in the material information contained on the RN application, a new application that reflects current business information is not promptly submitted. The new, updated application would replace the old one in the Commission's files; there would be no charge for processing the new application. Any company whose RN application does not reflect current business information by a specified deadline would have its RN cancelled. Commission staff would make every reasonable effort to identify and locate all companies actually using an RN and help them update their applications before the specified deadline.

The Commission seeks comment on the following proposed amendment to Rule 20(b):

§ 303.20 Registered identification numbers.

(a) * * *

(b)(1) * * *

(2) Registered identification numbers will be subject to cancellation if the Federal Trade Commission fails to receive prompt notification of any change in name, business address, or legal business status of a person or concern to whom a registered identification number has been assigned by application duly executed in the form set out in subsection (d) of this section, reflecting the current name, business address, and legal business status of the person or concern.

(3) Registered identification numbers will be subject to cancellation whenever any such number was procured or has been used improperly or contrary to the requirements of the Acts administered by the Federal Trade Commission, and regulations promulgated thereunder, or when otherwise deemed necessary in the public interest.

g. *Use of Abbreviations for Fiber Content Identification.*

Although supporting the fiber content disclosure requirements, the comments recommend that the Rules be amended to allow abbreviations of generic fiber names in fiber content disclosures.[39] Many comments state that spelling out complete fiber names in three languages for the marketing of textile products in the NAFTA countries is unwieldy and that abbreviations of generic fiber names would permit the required information to be conveyed on a smaller label.[40] The comments contend that if abbreviations were permitted, they could lead to a single label for NAFTA countries and eventually to an international label.[41]

Many comments urge that the FTC and the appropriate agencies in the NAFTA countries adopt abbreviations for the most common fibers—acrylic, cotton, nylon, polyester, rayon, silk, spandex, and wool—which purportedly represent more than 80% of all apparel and textile products sold in the marketplace, and an abbreviation for designating "other fibers" that are present in amounts of less than 5% of total fiber weight.[42] The result would be three abbreviations, one in each language—English, Spanish, and French—for the most common generic fibers.[43] Although abbreviations eventually could be developed for other fibers, the comments emphasize the need to develop abbreviations for the more common generic fibers first. Other fibers which the rules do not permit to be lumped together as "other fibers" can be identified by their full fiber names.[44] A few comments recommend three- to four-letter abbreviations for fiber names.[45] One commenter states that any abbreviations used for fiber identification should not arbitrarily be limited to a specific number of letters, as in three- to four-letter abbreviations.[46]

[38] WFC (6) p.1, DR (8) p.1, RUFF (9) pp.1–2, ATMI (10) p.2, USA–ITA (11) p.2, FIELD (13) pp.2–3, FRUIT (14) p.5, AAMA (15) pp.2–3, TLC (16) p.4, ISAC 17 (17) p.1, WEMCO (18), p.1, SARA (19) p.2, HORACE (20) p.2, MILL (22) p.3, ANGEL (24) p.1, RUSS (25) p.2, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[39] WFC (6) p.1, DR (8) p.1, RUFF (9) p.2: ATMI (10) p.4–5, USA–ITA (11) p.2, FIELD (13) pp.4–5, FRUIT (14) p.3, AAMA (15) p.2, TLC (16) pp.3–4, ISAC 17 (17) p.2, WEMCO (18) p.1, SARA (19) p.2, HORACE (20) p.2, MILL (22) pp.4–5, ANGEL (24) p.1, RUSS (25) p.2, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[40] WFC (6) p.1, USA–ITA (11) p.2, FRUIT (14) p.2, AAMA (15) p.2, TLC (16) p.3, ISAC 17 (17) p.2, WEMCO (18) p.1, SARA (19) p.1, ANGEL (24) p.1, RUSS (25) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[41] ISAC 17 (17) p.2.

[42] WFC (6) p.1, DR (8) p.1, ATMI (10) p.4, FIELD (13) pp.4–5, FRUIT (14) p.3, AAMA (15) p.2, TLC (16) p.3, WEMCO (18) p.1, SARA (19) p.2, MILL (22) pp.4–5, ANGEL (24) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1. Some comments omit acrylic from this list of fibers. RUFF (9) p.2, HORACE (20) p.2, RUSS (25) p.2.

[43] WFC (6) p.1, DR (8) p.1, RUFF (9) p.2, ATMI (10) p.4, AAMA (15) p.2, TLC (16) p.3, WEMCO (18) p.1, SARA, (19) p.2, ANGEL (24) p.1, RUSS (25) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[44] DR (8) p.1, ATMI (10) p.4, FIELD (13) p.5, FRUIT (14) p.3, MILL (22) p.5.

[45] FIELD (13) p.4, ISAC 17 (17) p.2.

[46] AFMA (7) states, at p. 2, that "[a]s labeling requirements are simplified, the quality and

Continued

The comments recognize that when fiber names are entirely different in different languages, arriving at common abbreviations may be difficult.[47] But the comments point out that when fiber names are identical or similar, the same abbreviation could be used by more than one country, thereby reducing the use of abbreviations on labels.[48]

The comments also recommend that the use of abbreviations should be optional,[49] and that manufacturers should be allowed to use full labeling and still qualify for NAFTA benefits in all signatory countries.[50] To educate the public about the meaning of abbreviations, the comments recommend that manufacturers or retailers provide hangtags, explanatory charts, or other consumer education labels for a limited period.[51]

The Commission believes that the use of abbreviations for fiber names may be beneficial to companies without harming consumers. The Commission therefore proposes to amend Rules 5 and 6 to allow the use of abbreviations for generic fiber names. At present Textile Rule 5 does not allow the use of abbreviations for disclosures of required information, except for the country of origin. To allow the use of abbreviations, the Commission proposes to amend Rules 5 and 6 (Sections 303.5 and 303.6) to read as follows:

§ 303.5 Abbreviations, ditto marks, and asterisks prohibited.

(a) In disclosing required information, words or terms shall not be designated by ditto marks or appear in footnotes referred to by asterisks or other symbols in required information, and shall not be abbreviated except as permitted in Rule 33(e) and Rule 6.

* * * * *

§ 303.6 Generic names of fibers to be used.

(a) Except where another name is permitted under the Act and Regulations, the respective generic names of all fibers present in the amount of five per centum or more of the total fiber weight of the textile fiber product shall be used when naming fibers in the required information; as for example: cotton, rayon, silk, linen, nylon, etc., *provided, however,* that the following abbreviations may be used for cotton, wool, polyester, rayon, nylon, spandex, silk, and acrylic:

cotton—cot
wool—wl
polyester—poly
rayon—ryn
nylon—nyl
spandex—spdx
silk—slk
acrylic—acrl

* * * * *

The Commission solicits comments on these proposed amendments, as well as alternative amendment language, other suggestions for English-language abbreviations for the above-listed fibers, and abbreviations for the catch-all classifications, "other fiber" and "other fibers." The Commission also seeks submission of empirical data (copy tests, etc.) about consumer understanding of abbreviations and the impact that the use of abbreviations may have on consumers and firms. In addition, the notice asks whether the use of abbreviations on the required fiber content labels should be conditioned upon use of explanatory hangtags, indefinitely or for a limited period of time, and if the latter, for how long.

h. *Use of Abbreviations and Symbols in Country of Origin Labeling*

Rule 33 requires that the name of the country where the textile product was processed or manufactured be indicated on a label. The comments recommend that the Rules be amended to allow the optional use of three-letter abbreviations for country of origin names (such as CAN for Canada, MEX for Mexico, and USA for the United States),[52] and a symbol, such as a solid flag, to denote the words "made in" or "product of" in country of origin disclosures.[53] The commenters assert this would facilitate trade under NAFTA by reducing the label size, eliminating the need for three languages, and reducing consumer confusion. The comments contend that consumer education programs could be instituted to educate the consumer as to the meaning of the abbreviations and the symbol.[54] Only one comment opposed the use of abbreviations of country names.[55]

Rule 33(e) already permits abbreviations of country of origin names if they "unmistakably indicate the name of a country." The challenge will be to develop abbreviations that convey the country of origin and also harmonize with abbreviations used in the other NAFTA countries. Because Rule 33(e) already allows abbreviations for country of origin names, the Commission does not recommend any change to that Rule at this time. Nor does it recommend any change to permit the use of symbols in country of origin labeling because it lacks sufficient knowledge about the feasibility of doing so.

The Commission solicits more information from consumers, textile industry representatives, and U.S. Customs about the use of abbreviations and symbols in country of origin labeling. The Commission seeks specific recommendations for the abbreviations to be used for "Canada," "Mexico," and the "United States," as well as comments on the viability of using symbols in making country of origin disclosures. The Commission seeks comment on the benefits and costs to consumers and firms of adding specific country of origin abbreviations to the Rules and allowing symbols.

i. *Procedures for Establishing New Generic Names for Manufactured Fibers.*

Under Section 7(c) of the Textile Act, the Commission is "authorized and directed to make such rules and regulations, *including the establishment of generic names of manufactured fibers* * * * as may be necessary and proper for administration and enforcement." 15 U.S.C. 70e(c) (emphasis added). Currently, Rule 7 sets out the generic names and definitions for manufactured fibers that are recognized by the Commission. If a manufacturer or producer develops a new fiber that is not listed in Rule 7, the fiber content identification label must identify the new fiber by using one of the already recognized generic names or the manufacturer or producer of the new fiber must file, under Rule 8, a written application with the Commission, requesting the establishment of a new generic name for the new fiber. Such a requirement limits the proliferation of new fiber names and therefore benefits consumers, who need only acquaint themselves with a few generic names to understand fiber content disclosures. But at the same time, the limitation on new generic names may place manufacturers of new fibers at a competitive disadvantage because identifying a new fiber with an inappropriate recognized generic name may disparage the new fiber and harm the manufacturer.

The Commission proposes to amend Rules 7 and 8 to allow the use of new generic names for manufactured fibers if the name and fiber are recognized by an international standards-setting organization, such as the International Organization for Standardization (ISO) or the International Bureau for the Standardization of Man-Made Fibers (BISFA). Textile Rules 7 and 8 could be amended to state that if such a body recognizes a new fiber and a new generic name, then the use of the new generic fiber name in this country would not violate the Textile Act and the Textile Rules. The Commission would retain its own list of manufactured fiber names. This would allow manufacturers that use generic names recognized by the Commission, but not recognized by ISO, to continue to use their names. By relying on a standards-setting body, the Commission could save the resources of duplicating the inquiry in a proceeding under Textile Rule 8. At the same time, manufacturers could continue to apply to the FTC for the recognition of new generic fiber names.

The Commission seeks comment on the following proposed amendments to Textile Rules 7 and 8. The Commission proposes to amend Rule 7 by adding the following language at the end of the Rule, after the list of definitions of generic names for manufactured fibers:

§ 303.7 Generic names and definitions for manufactured fibers.

* * * * *

(u) * * *

In addition to the above-defined names, the generic names and their respective definitions recognized by the International Organization for Standardization (ISO) in its International Standard ISO 2076 are incorporated by reference into this Rule section and are recognized as generic names and definitions for purposes of these Rules, unless and until the Commission finds that a generic name in such International Standard is inappropriate for use in the United States.

The Commission proposes to amend Rule 8 to read as follows:

§ 303.8 Procedure for establishing generic names for manufactured fibers.

(a) Prior to the marketing or handling of a manufactured fiber for which no generic name has been established or otherwise recognized by the Commission, the manufacturer or producer thereof shall file a written application with the Commission, requesting the establishment of a generic name for such fibers, stating therein:

* * * * *

III. Invitation To Comment and Questions for Comment

A. Invitation

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's consideration of the proposed amendments to the Textile Rules. The Commission requests that factual data upon which the comments are based be submitted with the comments. In addition to the issues raised above, the Commission solicits public comment on the specific questions identified below. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

B. Questions

Use of Generic Fiber Names for Fibers with a Functional Significance and Present in the Amount of Less Than 5% of the Total Fiber Weight of a Textile Product

1. Should Textile Rule 3 be amended to allow manufacturers to list the generic fiber name(s) of fiber(s) that have a functional significance and are present in the amount of less than 5% of the weight of the textile product, without also requiring disclosure of the functional significance of the fiber(s)?

a. What benefits and costs to consumers and businesses would result from such an amendment?

b. Is the proposed amendment language set out in this notice appropriate? If not, what amendment language should be used?

Label Mechanics and Textile Rule 16(b)'s "Fiber Content on Reverse Side" Disclosure Requirement

2. Should Textile Rule 16 be amended to eliminate the requirement that the front side of a cloth label, sewn to the product so that both sides of the label are readily accessible to the prospective purchaser, bear the words "Fiber Content on Reverse Side" when the fiber content disclosure is listed on the reverse side of the label? Is there a continuing need for such a requirement?

3. Should Textile Rule 16 be amended to allow the required fiber content information to appear on the reverse side of any kind of allowable label as long as the information remains "conspicuous and accessible?"

a. What benefits and costs to consumers and firms would result from each of these alternative amendments?

4. Are there any rules or regulations concerning label attachment in Canada or Mexico that conflict with the Textile Rules? If so, what are they, and how do they conflict?

Identification Numbers of Manufacturers or Other Responsible Parties

5. Should the Commission amend the Textile Rules to allow the interchangeable use of RN, CA, or Mexican tax numbers?

a. What are the advantages and disadvantages of a system of shared information?

b. Would the implementation of a system of shared information across national borders be feasible?

c. What impact would a system of shared information have on the ability of consumers and businesses to track responsible parties?

d. What benefits and costs to consumers and businesses would result from such an amendment?

Fiber Identification Labeling

6. Should the Commission amend the Textile Rules to permit the abbreviation of fiber names on fiber content identification labels?

a. What costs and benefits to consumers and businesses would accrue from allowing the use of abbreviations for fiber content identification?

b. Are there existing abbreviations for fibers that would clearly convey the required fiber content identification information?

c. Is the proposed amendment language set out in this notice appropriate? If not, what amendment language should be used?

7. Do Canadian and Mexican regulations allow the use of abbreviations of fiber names on fiber content identification labels?

8. Do any empirical data (copy tests, etc.) exist concerning consumer understanding of fiber name abbreviations?

9. Should the Textile Rules be amended to require that the required disclosures be printed on labels that are permanently attached to textile products? Should a permanent label be required only for fiber content identification or for all three required disclosures?

Country of Origin Labeling

10. Are there existing abbreviations that would "unmistakably indicate the name" of each of the NAFTA countries?

a. Do Canadian and Mexican regulations allow the use of abbreviations for country of origin names?

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consistency of information provided to the consumer should be maintained," so as not to compromise "the two decades of education and experiences developed under the current system in the United States."

[47] AFMA (7) p.3.

[48] WFC (6) p.1, AFMA (7) p.3, DR (8) p.1, RUFF (9) p.2, ATMI (10) p.4, FIELD (13) p.4, FRUIT (14) p.3, AAMA (15) p.2, TLC (16) p.3, WEMCO (18) p.1, SARA (19) p.2, HORACE (20) p.2, MILL (22) p.4, ANGEL (24) p.1, RUSS (25) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[49] AAMA (15) p.2.

[50] AFMA (7) p.3.

[51] WFC (6) p.1, DR (8) p.1, RUFF (9) p.1, ATMI (10) p.4, FIELD (13) p.5, FRUIT (14) p.3, AAMA (15) p.2, TLC (16) p.4, WEMCO (18) p.1, SARA (19) p.2, MILL (22) p.5, ANGEL (24) p.1, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[52] WFC (6) p.1, DR (8) p.1, RUFF (9) p.1, ATMI (10) p.3, FRUIT (14) p.4, AAMA (15) p.1, TLC (16) p.3, ISAC 17 (17) p.3, WEMCO (18) p.1, SARA (19) p.2, ANGEL (24) p.1, RUSS (25) p.2, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[53] WFC (6) p.1, DR (8) p.1, RUFF (9) p. 1, ATMI (10) p.3, FRUIT (14) p.4, AAMA (15) p.1, TLC (16) p.3, ISAC 17 (17) p.3, WEMCO (18) p.1, SARA (19) p.2, MILL (22) p.4, ANGEL (24) p.1, RUSS (25) p.2, HAGGAR (26) p.1, CAP (27) p.1, BIDER (28) p.1.

[54] RUFF (9) p.1.

[55] MILL (22) pp.1–2, 4. MILL states, at p.1, that "[a]nything less than the complete country name would obscure for consumers the country of origin information intended by the Congress in the labeling acts and the current F.T.C. rules."

b. Would U.S. Customs regulations pose any impediment to an amendment of Commission rules to allow abbreviations of country names?

11. Should the Commission amend the Textile Rules to allow a symbol to be used to mean "made in" or "product of," or other similar phrases, in country of origin labeling?

a. What would be the advantages and disadvantages of allowing the use of a symbol?

b. If the Commission decides to allow the use of a symbol, which symbol should be used?

c. What benefits and costs would allowing a symbol have for purchasers of the products affected by the Textile Rules?

d. What actions can be taken to ensure that consumers understand what the symbol means?

e. How would the use of a symbol work when manufacturers wish to distinguish between the country of origin of an unfinished textile product and the country where another phase of the manufacturing process takes place, as in "Made in the Dominican Republic of United States components"?

12. How can the apparent conflict between the Commission's country of origin labeling requirements and the new marking requirements imposed by U.S. Customs, with regard to household furnishings and apparel accessories, be resolved in a manner that will be consistent with statutory requirements, provide meaningful information to consumers, and not be burdensome to U.S. businesses?

13. Are there additional conflicts between Commission and Customs regulations on country of origin labeling for textile products? If so, what is the specific nature of the conflict, and how can it be resolved in the best interests of both businesses and consumers?

Procedures for Establishing New Generic Names for Manufactured Fibers

14. Should the Commission amend the Textile Rules to allow the use of new generic names for manufactured fibers if the name and fiber are recognized by an international standards-setting organization?

a. If the Commission decided to amend the Textile Rules in this manner, what international standards-setting organization(s) should the Commission follow?

b. Is the proposed amendment language set out in this Notice appropriate? If not, what amendment language should be used?

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–11, requires an analysis of the anticipated impact of the proposed amendments to the Textile Rules on small businesses. The analysis must contain, as applicable, a description of the reasons why action is being considered, the objectives of and legal basis for the proposed actions, the class and number of small entities affected, the projected reporting, recordkeeping and other compliance requirements being proposed, any existing federal rules which may duplicate, overlap or conflict with the proposed actions, and any significant alternatives to the proposed actions that accomplish their objectives and, at the same time, minimize their impact on small entities.

A description of the reasons why the proposed amendments are being considered and the objectives of the proposed amendments to the Rules have been explained elsewhere in this Notice. The proposed amendments do not appear to have a significant economic impact on a substantial number of small businesses. To the extent they do have an effect on such entities, the effect should be to reduce the costs of compliance with Textile Act requirements.

Therefore, based on available information, the Commission certifies, pursuant to section 605 of RFA, 5 U.S.C. 605, that, if the Commission amends the Textiles Rules as proposed, that action will not have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission requests comments on this issue. After reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis.

V. Paperwork Reduction Act

The Textile Rules contain various collection of information requirements for which the Commission has current clearance under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, pursuant to Office of Management and Budget (OMB) Control Number 3084–0101.

In addition, the amendments proposed in this notice would lower the paperwork burden associated with the current Rules. The proposed amendments would eliminate the functional significance disclosure requirement of Rule 3(b) and the "Fiber Content on Reverse Side" disclosure requirement of Rule 16(b). They would allow abbreviations for generic fiber names and the use of new generic names for manufactured fibers if the name and fiber are recognized by an international standards-setting organization.

VI. Additional Information for Interested Persons

A. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

B. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission Rules of Practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the transcript or summary will be placed promptly on the public record.

List of Subjects in 16 CFR Part 303

Textile fiber products identification; Trade practices.

Authority: 15 U.S.C. 70 et seq.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–2935 Filed 2–9–96; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 91N–384H and 95P–0241]

RIN 0910–AA19

Food Labeling: Nutrient Content Claims, Definition of Term: Healthy

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revise its food labeling regulations by amending the definition of the term "healthy" to permit certain processed fruits and vegetables and enriched cereal-grain products that conform to a standard of identity to bear this term. This action is intended to provide consumers with information that will assist them in achieving their dietary goals and is in response to petitions submitted to the agency by the American Frozen Food Institute (AFFI), the National Food Processors Association (NFPA), and the American Bakers Association (ABA).

DATES: Written comments by April 29, 1996. FDA proposes that any final rule that may issue based on this proposal become effective on the date of publication in the **Federal Register**.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Felicia B. Satchell, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 10, 1994 (59 FR 24232), FDA published a final rule entitled "Food Labeling: Nutrient Content Claims, Definition of Term: Healthy" (hereinafter referred to as "the healthy final rule"), which established a definition for the use of the implied nutrient content claim "healthy" under the Federal Food, Drug, and Cosmetic Act, as amended by the Nutrition Labeling and Education Act of 1990. The regulation permits the use of the term "healthy" and its derivatives on the labels of individual foods, main dishes, and meal products that are particularly useful, because of their nutrient profile, in constructing a diet that conforms to current dietary guidelines.

The definition for "healthy" in § 101.65(d)(21 CFR 101.65(d)) provides that an individual food, main dish, or meal product may bear this term if: (1) It is "low" in fat and saturated fat, (2) its content of sodium and cholesterol does not exceed the levels for these nutrients established in the definition, and (3) it contributes at least 10 percent of the Reference Daily Intake or Daily Reference Value of one or more of the following nutrients: Vitamin A, vitamin C, calcium, iron, protein, or fiber (that is, the food must be a "good source" of one or more of the six listed nutrients). The definition provides that a food can be fortified to meet the requirement that the food be a "good source" of one or more of these nutrients if the fortification is done in accordance with the agency's fortification policy in § 104.20 (21 CFR 104.20).

FDA provided one narrow exception to the requirement that a food bearing the term "healthy" be a "good source" of one or more of the six listed nutrients. The agency stated that the claim can be used on raw fruits and vegetables that do not meet the nutrient contribution requirement but that meet all other aspects of the definition. As FDA stated in the healthy final rule (59 FR 24232 at 24244), increased consumption of raw fruits and vegetables can contribute significantly to a healthy diet and to achieving compliance with dietary guidelines, even if particular items, such as celery and cucumbers, do not contain 10 percent of the daily value of one of the six identified nutrients. However, the agency also stated that it was not prepared to extend this exemption to all fruit and vegetable products because it did not have an adequate basis to evaluate the effects of processing (i.e., exposure to liquid packing medium, freezing, canning, cooking, and other procedures) on these foods. In addition, the agency sought information on whether to propose changes in the 10 percent nutrient contribution requirement to allow other foods to bear the term that did not meet this aspect of the definition but may also be particularly useful in assisting consumers to achieve dietary goals.

II. Petitions

A. Description of Petitions

Following publication of the healthy final rule, two trade associations submitted petitions to FDA that requested that the agency reconsider its decision regarding the nutrient contribution exemption for raw fruits and vegetables. A third trade association submitted a citizens petition requesting that FDA amend the "healthy" definition to exempt certain enriched cereal-grain products from the 10 percent nutrient contribution requirement.

Both of the petitions for reconsideration requested that FDA revise the definition of "healthy" to extend this exemption to processed fruits and vegetables. The petition submitted by AFFI (Docket No. 91N–384H/PRC1) disagreed with FDA's assertion that it did not have an adequate basis to evaluate the effects of the freezing process on the nutritional profile of fruits and vegetables. AFFI contended that it had provided the agency with extensive nutrition information for frozen fruits and vegetables, in conjunction with the development of AFFI's nutrient data base for frozen fruits and vegetables. AFFI also stated that the nutrient profile information for frozen products submitted in its data base proposal shows that the nutrient profile information on frozen vegetables does not differ significantly from the nutrient profile information for fresh products, and that in some cases the nutrient levels in frozen products exceed the nutrient levels in fresh products. Consequently, AFFI argued that, contrary to FDA's assertion, the agency already had extensive information in its possession regarding the effects of the freezing process on the nutrient profile of frozen fruits and vegetables, and that precluding use of the term "healthy" on frozen fruits and vegetables while permitting use of the term on fresh fruits and vegetables implies a distinction in nutritional value that does not exist.

AFFI requested that FDA reconsider its position and revise its definition of "healthy" to permit frozen fruits and vegetables that do not meet the "good source" requirement, but otherwise meet the requirements of the claim, to bear the term. In addition to the petition, AFFI also submitted supplemental comments to the administrative record for the "healthy" final rule containing data that compare the nutrient profiles of various raw and frozen fruits and vegetables.

NFPA also petitioned (Docket No. 91N–384H/PRC2) the agency to reconsider its position regarding the exemption for raw fruits and vegetables. In its petition, NFPA contended that the exemption for raw fruits and vegetables established in the final rule was not a logical outgrowth of the proposal because FDA failed to give adequate

notice and opportunity for comment to the public on the different labeling requirement for raw and processed fruits and vegetables in its healthy proposal. Consequently, the petition argued, interested parties were not allowed to participate in the rulemaking in a meaningful and informed manner on the issue of establishing such an exemption.

Furthermore, NFPA asserted that FDA incorrectly drew a distinction in the nutritional benefit between raw and processed fruits and vegetables, and that such a distinction has no logical basis in fact or law. It contended that the administrative record before the agency fails to provide any justification for this distinction, and that such a distinction is contrary to prior FDA positions and regulations. Thus, NFPA requested that § 101.65(d)(2)(iv) be revised to eliminate the word "raw" so that processed fruits and vegetables, as well as raw fruits and vegetables, will be exempt from the nutrient contribution requirement for food labeled "healthy."

The third citizen petition (Docket No. 95P–0241), submitted by ABA, requested that FDA amend the definition of "healthy" to permit enriched cereal-grain products that conform to the standards of identity in parts 136, 137, or 139 (21 CFR parts 136, 137, or 139), and bread that conforms to the standard of identity for enriched bread in § 136.115 except that it contains whole wheat or other grain products not permitted under that standard, to bear the term "healthy." ABA contended that while some enriched breads might meet the 10 percent nutrient contribution requirement for fiber, most enriched grain products cannot meet the 10 percent nutrient contribution requirement for any of the six listed nutrients because they are precluded by the standards of identity from containing 10 percent of the six listed nutrients. In other words, under the food standards and FDA's fortification policy, the nutrients and levels required by the standards of identity cannot be altered. Moreover, ABA argued that most nutritional authorities agree that grain products have a central role in a healthy diet because they are excellent sources of complex carbohydrates. In fact, ABA argued, most nutritional authorities recommend that Americans increase their consumption of grain products as alternative sources of energy to replace dietary fat. The petitioner contended that these foods are, therefore, precisely the kinds of foods that FDA intended to permit to bear the term "healthy."

ABA further argued that the 10 percent nutrient contribution requirement was obviously not intended to apply to foods that conformed to the standards of identity for enriched grain products because it precludes virtually all enriched grain products from bearing a "healthy" claim. ABA contended that this exclusion is inconsistent with the basis of the "healthy" claim because these foods are particularly helpful in assisting consumers to construct a diet that conforms to current dietary guidelines. The petition notes that the Food Guide Pyramid recommends that 6 to 11 servings of grain products be consumed per day. ABA contended that this recommendation demonstrates the importance of including these foods in the diet. ABA argued that the 10 percent nutrient contribution requirement has had the unintended effect of precluding foods that FDA intended to be labeled "healthy" from bearing that term. Thus, ABA requested that the agency amend § 101.65 to exempt: (1) Enriched grain products that conform to a standard of identity in part 136, 137, or 139, and (2) bread that conforms to the standard of identity for enriched bread in § 136.115 (except that it contains whole wheat or other grain products not permitted under that standard) from the 10 percent nutrient contribution requirement.

In the alternative, ABA suggested that the agency expand the list of nutrients that must be present at 10 percent to include complex carbohydrates, niacin, or thiamin. Such action would permit enriched grain products to bear health claims because these products are a significant source of such nutrients.

A second alternative suggested in the petition would be to amend the 10 percent nutrient contribution requirement to allow it to apply to a daily consumption of grain products rather than to the nutrient profile of a specific food.

B. Response to Petitions

FDA has fully evaluated both petitions for reconsideration and reviewed the administrative record to determine whether, in light of the arguments raised in the petitions, the agency would have reached a different decision regarding the exemption from the nutrient contribution requirement for raw fruits and vegetables in the definition of "healthy." The agency has determined that based on the administrative record at the time of publication of the healthy final rule, FDA made the correct decision. While FDA acknowledges that AFFI had submitted nutrient profile information on frozen fruits and vegetables, this information was presented as an acceptable nutrient data base for nutrition labeling of frozen fruits and vegetables and did not contain information comparing nutrient profiles between raw fruits and vegetables and frozen fruits and vegetables. Moreover, the data base was not submitted, or referenced, as part of the administrative record for the healthy final rule and therefore was not before the agency in that rulemaking.

Although the information relied on in AFFI's petition may serve as grounds for revising FDA's regulations concerning "healthy" (as discussed in section III.C. of this document), because the information was not part of the administrative record in the initial rulemaking, AFFI has not met the standard in § 10.33(d)(1) (21 CFR 10.33(d)(1)) for granting a petition for reconsideration. AFFI failed to demonstrate that relevant information or views contained in the administrative record were not previously or not adequately considered during that rulemaking. Accordingly, the agency is denying AFFI's petition for reconsideration.

In response to the arguments raised in NFPA's petition, FDA acknowledges that the issue of nutrient content requirements specifically for raw and processed fruits and vegetables was not directly addressed in the proposal. However, the agency did discuss and solicit comment on the appropriateness of requiring foods bearing the term "healthy" to meet a nutrient contribution requirement in the proposal that FDA published in the **Federal Register** of January 6, 1993 (58 FR 2944 at 2948). This discussion alerted interested parties to the possibility that the agency could modify the proposal and include a nutrient contribution requirement in the ultimate final rule.

In response to this discussion, the agency did receive several comments that addressed the impact of imposing such a requirement on raw fruits and vegetables. Some of these comments asserted that, compared to other foods, all raw fruits and vegetables are inherently healthy and should not be required to meet a nutrient contribution requirement. The agency considered the merits of these comments and the other comments that it received and determined that it was appropriate to: (1) Include a nutrient contribution criterion in the "healthy" definition, and (2) exempt raw fruits and vegetables from this requirement (59 FR 24232 at 24244).

Because this issue was addressed in the healthy proposal of January 6, 1993, the agency finds that its decision to include a nutrient contribution requirement in the "healthy" definition, and to define its application to various foods, was a logical outgrowth of the proposal. Thus, FDA finds that it acted in accordance with the provisions of the Administrative Procedure Act (APA) (5 U.S.C. 553) and rejects the assertion by NFPA that the agency violated the procedural requirements of the APA. Consequently, FDA is also denying NFPA's petition for reconsideration.

III. The Proposal

Although the agency has decided under § 10.33 not to grant the petitions for reconsideration, FDA has been persuaded by the concerns raised in the petitions and the information submitted in the supplemental comments to consider whether some fruit or vegetable products are being inappropriately excluded from bearing the "healthy" claim because the food cannot meet the nutrient contribution requirement.

In the healthy final rule, FDA stated that it was not prepared to extend the exemption from the nutrient contribution requirement to all fruits and vegetables because it did not have an adequate basis to evaluate the effects of various processing techniques on the food. The agency was concerned that precluding raw fruits and vegetables from bearing a "healthy" claim could confuse consumers and undermine an important element of current dietary guidance that emphasizes consumption of fruits and vegetables. For processed fruits and vegetables, however, the agency was not sure that processing did not have a significant effect on the nutritional profile of the food. The agency sought information on whether to propose changes in the nutrient contribution requirement for processed fruits and vegetables, as well as for other foods that may be useful in achieving dietary guidelines but did not meet the nutrient contribution requirement.

A. All Fruit and Vegetable Products

The agency has carefully considered whether all fruit and vegetable products should be exempt from the nutrient contribution requirement, and whether simply revising the "healthy" definition to remove the term "raw" from § 101.65(d), as requested by NFPA, would assist consumers in maintaining healthy dietary practices. As the agency discussed in the healthy final rule (59 FR 24232 at 24239), for this implied claim to be useful, foods that are able to bear the term should be of a sufficient number and variety to help consumers achieve a total diet that is consistent with current dietary recommendations. The agency would consider it inappropriate if the requirements in the definition of this term, specifically the nutrient contribution requirement, precluded use of the claim for such a large number of fruit and vegetable products that the "healthy" claim was no longer useful for this category of foods, or for consumers wishing to rely on the "healthy" claim to select fruit and vegetable products that are particularly useful in constructing diets that conform with current dietary recommendations.

A survey of fruit and vegetable products available in the local supermarket and a review of the U.S. Department of Agriculture's (USDA's) nutrient data base for fruit and vegetable products reveal that out of a total of over 700 fruit and vegetable products reviewed, 65 percent are eligible to bear the "healthy" claim (Refs. 1 and 2). The agency notes that these products comply with all the criteria of the definition for the term "healthy," including the nutrient contribution requirement. Therefore, FDA tentatively concludes that a general exemption for all fruit and vegetable products is not warranted because a significant number and variety of products currently on the market are eligible to bear the claim.

In fact, FDA is concerned that if it were to propose to extend this exemption to all fruit and vegetable products, the utility of the "healthy" claim for this category of foods would be greatly diminished. If the claim were permitted on virtually all fruit and vegetable products, it could not be used to highlight those fruit and vegetable products that meet the requirements of the definition without an exemption. In addition, the agency points out that permitting the claim to appear on virtually all products would mean that it would appear on some formulated, multi-ingredient products that include fruits or vegetables but that have added ingredients that raise the level of certain nutrients, i.e., fat, saturated fat, cholesterol, and sodium, above levels found in raw or single ingredient versions of the same fruit or vegetable. The appearance of a "healthy" claim on such foods would represent them as being particularly useful in constructing diets that conform to current dietary guidelines. Such a representation would not necessarily be valid. While the agency recognizes that these foods have an appropriate place in the diet, the higher fat, saturated fat, cholesterol, or sodium levels in these products would make it misleading to represent them as products whose nutrient profiles would lend themselves to such use.

Furthermore, fruit and vegetable products that contain other ingredients are not precluded from bearing the term "healthy," provided that the finished food meets all the criteria for the claim. Such foods can be formulated and fortified in accordance with the agency's policy on rational fortification in § 104.20 if they fail to contribute 10 percent of one of the subject nutrients. Therefore, FDA tentatively concludes that there is no reason to exempt such foods from the 10 percent requirement. Accordingly, the agency is not proposing to extend the exemption to all fruit and vegetable products.

B. Tentative Determination To Broaden Exemption

While the agency is not persuaded to extend the exemption to all fruit and vegetable products, it is persuaded that it may well be appropriate to broaden the exemption to include fruit and vegetable products other than raw fruits and vegetables and to include enriched cereal-grain products that conform to a standard of identity. In determining whether to broaden this exemption, FDA has to consider several questions similar to those raised when it first defined "healthy." For example, does the nutrient contribution requirement, FDA's policy on rational fortification, or other FDA regulations preclude the use of the "healthy" claim on certain foods that play an important role in the diet and that dietary guidelines recommend be included in a healthy diet? Does the appearance of a "healthy" claim on raw fruits and vegetables and the absence of the claim on processed versions of the same fruits and vegetables, such as frozen vegetables or canned mushrooms packed in water, confuse and mislead consumers to believe that fruits and vegetables must be raw to be considered healthy? Moreover, does the absence of the claim on processed fruits and vegetables and standardized enriched cereal-grain products reduce the opportunity for encouraging consumption of these foods at a time when FDA and other government agencies have stated specifically that increased consumption of fruits, vegetables, and grain products can contribute significantly to a healthy diet?

Regarding fruits and vegetables, it is unlikely that most consumers are aware of the narrow exemption for raw fruits and vegetables provided in the "healthy" definition because, generally, most consumers are not familiar with the specific requirements of the nutrient content claim definitions. However, consumers are familiar with the overall concepts governing claims, that is, that

the claim be used consistently from food to food, that the claim be defined by FDA, and that the food bearing the claim meet the definition of the term being used. Foods bearing the term "healthy" will inform consumers that the food, because of its nutrient profile, is particularly useful in constructing diets that conform to current dietary guidelines.

Because of the likelihood that most consumers are unaware of the exemption for raw fruits and vegetables, consumers will likely not recognize that there are alternative fruit and vegetable products that are precluded from bearing the claim but that are just as useful as raw fruits or vegetables in assisting consumers in meeting dietary goals. Furthermore, it was not the intent of the agency to suggest that the goal of increasing fruits and vegetables in the diet could only be achieved by consuming raw products, or that raw products are necessarily superior to all other fruit and vegetable products. FDA acknowledges that there are processed fruit and vegetable products, like frozen fruits and vegetables, that can be used to assist consumers in constructing a diet that is consistent with dietary recommendations; but those foods are currently ineligible to bear the "healthy" claim because they do not meet the 10 percent nutrient contribution requirement.

C. Single Ingredient Fruit and Vegetable Products

FDA reviewed the data presented in AFFI's supplemental comments comparing nutrient profiles of selected raw fruits and vegetables and frozen, single ingredient versions of the same fruits and vegetables. While only preliminary, the data do support AFFI's argument that blanching and freezing do not significantly change the nutrient profile of the fruits and vegetables. These data provide examples of similar or higher nutrient levels of one or more of the six required nutrients in single ingredient, frozen fruit and vegetable products when compared to the raw version of the same fruit and vegetable. The higher nutrient levels found in the frozen version of the food are likely attributable to the fact that unprocessed fruits and vegetables may lose some of their nutrients over time or under certain storage conditions (Ref. 3).

Considering these data, the agency tentatively concludes that, like raw fruits and vegetables, single ingredient frozen fruits and vegetables can contribute significantly to a healthy diet and to achieving compliance with dietary guidelines, even if particular products do not meet the 10 percent nutrient contribution requirement. Further, based on these data, the agency tentatively concludes that in cases where the nutrient profile of a single ingredient, frozen fruit or vegetable product is comparable to the nutrient profile of the raw version of the same fruit or vegetable, the single ingredient, frozen fruit or vegetable product would likely have the same effects, and could be used interchangeably in the diet to achieve dietary goals, as the raw version of the fruit or vegetable. Precluding such foods from being termed "healthy" could undermine an important element of current dietary guidance.

The agency tentatively concludes that such foods should not be barred from bearing the term "healthy," especially when the foods are comparable to, and are just as useful as, raw fruits and vegetables in assisting consumers in structuring diets that achieve dietary goals. Furthermore, consumers should be informed that these foods serve as appropriate and useful alternatives to raw fruits and vegetables in constructing diets consistent with current dietary recommendations. Accordingly, FDA is proposing to amend § 101.65(d)(2)(iv) to exempt frozen, single ingredient fruit and vegetable products and mixtures of frozen, single ingredient fruit and vegetable products from the 10 percent nutrient contribution requirement.

However, FDA does not have information comparable to that submitted by AFFI to support extending this exemption to all single ingredient, processed fruit and vegetable products. The agency solicits comment and data on the effects of other types of processing, e.g., drying and canning, and how these processes affect the nutritional profile. If appropriate data are submitted, the agency is prepared to extend this exemption to other single ingredient, processed fruit and vegetable products in any final rule that issues in this proceeding.

D. Multi-Ingredient Fruit and Vegetable Products

In deciding to extend this exemption beyond raw fruits and vegetables, the agency must ensure that the claim is permitted only on those foods that contain nutrients in amounts that are consistent with the basis of the claim. As discussed above, FDA tentatively concludes that frozen, single ingredient fruit and vegetable products and mixtures of these foods are consistent with the basis of the "healthy" claim and should be permitted to bear the term, even if the food does not contain 10 percent of one of the six listed nutrients. However, FDA has not been persuaded that multi-ingredient products that are composed of ingredients other than fruits or vegetables and that meet all other aspects of the claim should be exempt from the 10 percent requirement. Many of these multi-ingredient fruit and vegetable products can have added ingredients that increase the content of fat, saturated fat, cholesterol, or sodium beyond that for the raw version. Considering that one reason that fruits and vegetables are helpful in achieving a diet consistent with dietary guidelines is that they can replace foods, such as snack foods and desserts, that contain higher levels of fat, saturated fat, cholesterol, and sodium, FDA tentatively concludes that providing an exemption for such multi-ingredient fruit and vegetable products would be inconsistent with current dietary recommendations and, consequently, inconsistent with the basis of the "healthy" claim.

Furthermore, consumers who rely on the appearance of the term "healthy" to construct a diet consistent with current dietary recommendations could be misled to believe that these multi-ingredient fruit and vegetable products are just as helpful as raw or frozen, single ingredient fruits and vegetables in achieving dietary goals, when in fact, they would increase dietary intake of less desirable nutrients and could decrease intake of micronutrients. Consumers could be motivated to select these multi-ingredient products rather than products comprised solely of fruits and vegetables. In the agency's opinion, a claim that could motivate consumers to choose fruit and vegetable products containing added ingredients that increase the content of fat, saturated fat, cholesterol, or sodium beyond that for the raw version or to the frozen, single ingredient version would not be beneficial for consumers and would undermine current dietary guidelines.

Moreover, FDA tentatively concludes that fruit and vegetable products composed of ingredients other than fruit or vegetable can be formulated and fortified in accordance with § 104.20 to meet the 10 percent contribution requirement, and, therefore, there is no reason to exempt such foods from the 10 percent requirement. Accordingly, FDA is not proposing to extend the exemption to multi-ingredient fruit and vegetable products composed of ingredients other than fruit or vegetable that do not contain 10 percent of one of the six listed nutrients.

E. Enriched Cereal-Grain Products

FDA finds merit in the arguments raised in the ABA petition. The agency acknowledges that the requirements of the standards of identity for enriched cereal-grain products preclude reformulation and fortification to qualify the food to meet the 10 percent nutrient contribution requirement. As a result of the restrictions established in the standards, manufacturers of these products are not afforded the opportunity to reformulate and fortify the food to qualify the food to bear a "healthy" claim. Consequently, any action short of exempting such products from the 10 percent requirement or amending the standards of identity to increase the amount of enrichment nutrients that could be added to cereal-grain products, would mean that these foods could not bear a "healthy" claim. The agency does not have information on which to base a change in the individual standards, and the petitioner did not provide any.

Moreover, the agency acknowledges that increased consumption of grain products is recommended in current dietary guidelines, and that the appearance of a "healthy" claim on enriched cereal-grain products would encourage consumers to select these products as part of a healthy diet. The agency agrees with the arguments raised in the ABA petition that even though these foods do not contain at least 10 percent of one of the six listed nutrients, they are recommended in dietary guidance and can be particularly helpful in assisting consumers to achieve dietary goals. Thus, the agency tentatively concludes that enriched cereal-grain products that conform to a standard of identity are consistent with the basis and intent of the "healthy" definition and should not be precluded from bearing the term because they do not meet the 10 percent nutrient contribution requirement. Further, the agency tentatively concludes that precluding such foods from bearing the term "healthy" would be inconsistent with current dietary recommendations and not beneficial for consumers. Accordingly, FDA is proposing to amend the definition of "healthy" in § 101.65 to exempt enriched cereal-grain products that conform to a standard of identity in part 136, 137, or 139 from the 10 percent nutrient contribution requirement.

However, the agency is not persuaded that bread that does not conform to the standard of identity should be exempt from the 10 percent nutrient contribution requirement. Like other nonstandardized foods, nonstandardized bread can be formulated and fortified in accordance with § 104.20 to meet the 10 percent nutrient contribution requirement (see § 104.20(b)). Therefore, there is no reason to exempt these foods from the 10 percent requirement. Accordingly, FDA is not proposing to extend the exemption to bread that conforms to the standard of identity for enriched bread in § 136.115, except that it contains whole wheat or other grain products not permitted under that standard.

The approach that FDA is taking in this proposal is similar to the approach that it took in establishing the definition of "healthy" for seafood and game meats. In the healthy final rule (FR 59 24232 at 24249), FDA adopted different provisions for the use of the term "healthy" on raw, single ingredient seafood and game meat products with regard to the amount of fat, saturated fat, and cholesterol. FDA established different provisions for these foods, in part, because they would not qualify for the claim if held to the criteria of being "low fat" and "low saturated fat" because they are inherently higher in fat and in saturated fat than many other foods, yet some are recommended by the Surgeon General and the Food and Nutrition Board as foods to include in a healthy diet. In addition, these provisions are consistent with the provisions adopted by the USDA for use of the term "healthy" on meat and poultry products. However, FDA did not establish different provisions for seafood and game meat products that are composed of more than one ingredient because such foods can be reformulated to reduce the fat, saturated fat, and cholesterol levels inherently found in these foods. In this document, FDA is relying on the same general concept that it based its decision on in providing alternative criteria for raw, single ingredient seafood and game meats, namely that the agency would consider it inappropriate if the requirements in the definition of "healthy" precluded use of the claim for foods that play an important role in the diet and that dietary guidelines recommend be included in a healthy diet, especially in cases where manufacturers do not have the flexibility to reformulate the food to qualify to bear the claim.

The agency's primary goal in extending this exemption to other fruit and vegetable products and to enriched cereal-grain products that conform to a standard of identity is to permit the "healthy" claim on products that are particularly helpful in assisting consumers to achieve dietary goals yet are precluded from bearing the claim because they do not contain at least 10 percent of the subject nutrients, and they can not be reformulated to do so. The agency believes that the action that it is proposing in this document is fully responsive to the concerns raised by the petitioners and is appropriate because it will permit the "healthy" claim on fruit and vegetable products and on enriched cereal-grain products that are currently unfairly precluded from bearing the claim, yet prevent other products from inappropriately bearing the claim.

Accordingly, FDA is proposing to amend the definition of the term "healthy" by revising § 101.65(d)(2)(iv) to allow frozen fruit and vegetable products comprised solely of fruits and vegetables, and enriched grain products that conform to a standard of identity in part 136, 137, or 139 that do not contain 10 percent of vitamin A, vitamin C, calcium, iron, protein or fiber, but otherwise meet the requirement of the "healthy" definition to bear the term.

FDA tentatively concludes that the action that it is proposing is equitable and will provide consumers with information that will assist them in constructing diets that conform to all aspects of current dietary recommendations. The agency requests comment on its proposed rule and on whether such an extension of the exemption is necessary to ensure that consumers are not misled or confused by the current requirement that all foods except raw fruits and vegetables provide 10 percent of one of the six listed nutrients.

IV. Analysis of Impacts

FDA has examined the economic implications of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The Regulatory Flexibility Act requires analyzing options for regulatory relief for small businesses. FDA finds that this proposed rule is not an economically significant rule as defined by Executive Order 12866. In accordance with the Regulatory Flexibility Act, the agency certifies that the proposed rule will not have a significant impact on a substantial number of small businesses.

FDA is proposing to permit certain processed fruits, vegetables, and enriched cereal-grain products that conform to a standard of identity to bear this term. FDA has determined that these products are particularly helpful in assisting consumers to achieve dietary goals. The benefit of this

proposed rule is to provide more useful information to consumers.

The costs of this regulation will be incurred only by those manufacturers desiring to take advantage of the opportunity to use the term "healthy." FDA cannot predict the number of manufacturers who will take advantage of this opportunity. Therefore, the agency cannot estimate the number of labels which will be revised as a result of this rule. However, FDA estimates that the cost of revising a label to include a "healthy" claim is approximately $3,000 per label.

V. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has determined that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VI. Paperwork Reduction Act

FDA tentatively concludes that this proposed rule contains no reporting, recordkeeping, labeling or other third party disclosure requirements; thus there is no "information collection" necessitating clearance by the Office of Management and Budget. However, to ensure the accuracy of this tentative conclusion, FDA is seeking comment on whether this proposed rule to amend the definition for the implied nutrient content claim "healthy" imposes any paperwork burden.

VII. Effective Date

FDA is proposing to make these regulations effective on the date of publication in the **Federal Register**.

VIII. Comments

Interested persons may, on or before April 29, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above, between 9 a.m. and 4 p.m., Monday through Friday.

IX. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Satchell, F. B., Division of Programs and Enforcement Policy (HFS–158), Center for Food Safety and Applied Nutrition, memorandum to file, September 22, 1995, Modification of USDA's Nutrient Data Base for National Nutrient Databank Release 9, "Processed Fruit and Vegetable Products that Qualify to Bear the Term 'Healthy,'" June 17, 1994, and July 17, 1995.

2. Satchell, F. B., Division of Programs and Enforcement Policy (HFS–158), Center for Food Safety and Applied Nutrition, memorandum to file," Nutrient Profiles of Marketplace Fruit and Vegetable Products that Qualify to Bear the Term 'Healthy,'" October 10, 1995.

3. Karmas, E., and R. S. Harris, "Nutritional Evaluation of Food Processing, Third Edition," Van Nostrand Reinhold Co., Inc., New York, chapters 3, 4, and 11, 1988.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

2. Section 101.65 is amended by revising paragraph (d)(2)(iv) to read as follows:

§ 101.65 Implied nutrient content claims and related label statements.

* * * * *

(d) * * *

(2) * * *

(iv) Except for raw or frozen fruit or vegetable products comprised solely of fruits and vegetables and for enriched grain products that conform to a standard of identity in parts 136, 137, or 139 of this chapter, the food contains at least 10 percent of the RDI or DRV per reference amount customarily consumed, per labeled serving of vitamin A, vitamin C, calcium, iron, protein, or fiber;

* * * * *

Dated: January 26, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–2980 Filed 2–9–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC33

Shenandoah National Park, Recreational Fishing

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to remove the special fishing regulations for Shenandoah National Park. The general NPS fishing regulations and the regulations on closures and public use limits are sufficient to allow for the proper management of fishing at Shenandoah National Park. This duplication of regulations is often confusing and unnecessary.

DATES: Written comments will be accepted through April 12, 1996.

ADDRESSES: All comments should be addressed to: Superintendent, Shenandoah National Park, Route 4 Box 348, Luray, VA 22835.

FOR FURTHER INFORMATION CONTACT: Greg Stiles, Leader, Resource and Visitor Protection Services, Shenandoah National Park, Route 4 Box 348, Luray, VA 22835, Telephone (540) 999–3401.

SUPPLEMENTARY INFORMATION:

Background

The fishing regulations that are currently in use for Shenandoah National Park are codified at 36 CFR 7.15(a). These regulations: (1) Permit recreational fishing in selected streams of the Park as designated by the Superintendent; (2) establish seasons, creel and size limits; and (3) establish licensing requirements. This proposed rulemaking will delete subsection 7.15(a) of 36 CFR pertaining to recreational fishing in Shenandoah National Park and exclusively adopt the general regulations found at 36 CFR 1.5 (Closures and public use limits) and 2.3 (Fishing). Inherent to this proposal is the need to provide for protection and management of the Park's fisheries resources and to encourage partnerships with state agencies through regulatory review.

Section-by-Section Analysis

1. *Open Waters and Applicability.* The general regulations for Fishing, found at 36 CFR 2.3, establish that fishing in the parks, except in designated areas, will be in accordance with nonconflicting State laws and regulations within whose exterior boundaries a park area is located. Existing State fishing regulations are sufficient for the proper management of the fisheries at Shenandoah National Park. The opening, closing and public use limits for recreational fishing in the park requires an annual review by park management. Any possible changes in public use associated with fisheries resources is adequately covered in 36 CFR 1.5. Therefore, special regulation 36 CFR 7.15(a)(1) Open Waters is not necessary and will be removed.

2. *Applicability.* Because the NPS is proposing to remove all special regulations pertaining to fishing, a separate paragraph on the applicability of special fishing regulations in § 7.15 is not necessary. Therefore, 36 CFR 7.15(a)(2) Applicability, will be removed.

3. *Season.* The State of Virginia has established a year-round open season to permit fishing in all state-designated trout streams. Special regulation 36 CFR 7.15(a) established an opening date that coincided with the State opening date, which no longer exists. However, 36 CFR 2.3 Fishing provides for recreational fishing, except in designated areas, in accordance with the laws and regulations of the State. 36 CFR 1.5(a)(2) allows the park to designate areas for a specific use or activity, or impose conditions or restrictions on a use or activity. This will allow the park to establish limits in certain designated areas when necessary. Therefore, 36 CFR 7.15(a)(3) is no longer needed and will be removed.

4. *License.* 36 CFR 2.3 establishes that fishing in the parks will be in accordance with State laws. All persons 16 years and older fishing in Shenandoah National Park must have a Virginia State fishing license in his/her possession. Since there is no need for a special regulation for licensing, 36 CFR 7.15(a)(4) will be removed.

5. *Size and Creel Limits.* The State of Virginia has increased the minimum size limit for trout from eight inches to nine inches and has a maximum creel limit of six fish, compared to the current limit of five fish in the park. To avoid confusion and to be consistent with the limits established by the State, the park will use the State's limits. Size and creel limits for other species of game-fish caught in the park will also be the same as those limits designated by the State of Virginia. Special regulations concerning size and creel limits are not needed as 36 CFR 2.3 Fishing would apply. Therefore, 36 CFR 7.15(a)(5) and 36 CFR 7.15(a)(6) will be removed.

6. *Lures; bait.* 36 CFR 2.3 Fishing currently regulates the use of bait, and the State of Virginia permits only the use of a single hook, which may be barbed or barbed-less. A special regulation concerning lures and bait is not necessary, therefore 36 CFR 7.15(a)(7) will be removed.

7. *Fish for Fun.* The term "fish for fun" is normally associated with activities provided by fish stocking programs in specially designated streams. Fish stocking does not occur within the Park. However, the State law for "Catch and Release" adequately allows for the protection of native and non-native fish populations on designated streams. 36 CFR 1.5(a)(2) and 36 CFR 2.3(a) allow for the designation of "Catch and Release" streams that are consistent with State regulations. Therefore, 36 CFR 7.15(a)(8) is not necessary and will be removed.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking. The NPS will review all comments and consider making changes to the rule based upon an analysis of the comments.

Drafting Information: The process used to develop this proposed rule included numerous reviews by Park staff, consultations with Virginia Department of Game and Inland Fisheries Biologists and consultations with numerous fisheries biologists from other parks, agencies, research institutions and organizations. The primary authors of this rulemaking are William J. Cook, Center for Resources and Greg Stiles, Resource and Visitor Protection Services, Shenandoah National Park; and Dennis Burnett, Washington Office of Ranger Activities.

Paperwork Reduction Act

This proposed rule does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses which compromise the nature and character of the area or causing physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, the regulation is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) has been prepared.

This proposed rulemaking is consistent with and supportive of Executive Order 12962, Recreational Fisheries, issued June 7, 1995. Through this Executive Order, Federal Agencies shall, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity and distribution of U.S. aquatic resources for increased recreational fishing opportunities. Establishment of this rulemaking is consistent with the extent and purposes of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–d, and e–j), the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) and the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801–1882).

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k), Section 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

§ 7.15 [Amended]

2. Section 7.15 is amended by removing paragraph (a) and redesignating paragraphs (b) through (d) as new paragraphs (a) through (c).

Dated: December 21, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–3008 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–70–P

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36 CFR Part 17

RIN 1024–AC27

Conveyance of Freehold and Leasehold Interests

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to revise portions of the regulations for conveyance of freehold and leasehold interests on lands administered by the NPS. The proposed rule would allow bids for freehold and leasehold interests on lands to be accompanied by earnest money equivalent to 2 percent of the appraised value or $2,500, whichever is greater, with the balance of the bid due within 45 days of the award. The NPS has experienced problems selling parcels of real estate under the current regulations, which require that bids be accompanied by certified checks, post office money orders, bank drafts or cashier's checks for the full amount of the bids. The proposed changes to the regulations address this issue and will correct the problem identified with the current regulations. With these proposed changes, the NPS will be able to convey freehold and leasehold interests on federally owned lands.

The proposed revision also provides for a time frame for submitting the balance of the bid and describes what occurs if the successful bidder is unable to obtain the necessary financing in the case of a freehold interest. The NPS proposes to revise and amend the current regulations on action at close of bidding, by allowing 45 days from the time of bid award to submit the balance due. Failure to submit the full bid price within 45 days would result in forfeiture of $1,000 of the deposited bid amount and the property would be awarded to the next highest bidder.

DATES: Written comments will be accepted through April 12, 1996.

ADDRESSES: Comments should be addressed to: Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, OH 44141, Telephone (216) 546–5903.

FOR FURTHER INFORMATION CONTACT: Jeff Winstel, Historian, Cuyahoga Valley National Recreation Area, 15160 Vaughn Road, Brecksville, OH 44114, Telephone (216) 546–5975.

SUPPLEMENTARY INFORMATION:

Background

The current NPS regulations regarding conveyance of freehold and leasehold interests on land are codified in 36 CFR part 17. They authorize sale of Federal real property acquired from non-Federal sources.

On June 3, 1993, Cuyahoga Valley National Recreation Area, a unit of the National Park System, held a bid opening for the purpose of selling 1.13 acres of improved federally owned land. Improvements included an historic three-bedroom residence; a detached, single car garage; and two small sheds. Historic preservation deed restrictions were placed on the structures and scenic deed restrictions were placed on the land.

The property was marketed extensively. It was listed in the **Federal Register**, advertised in a local paper for five consecutive weeks, marketed with a local realtor, listed in the Multiple Listing Service, advertised on local television channels, and open houses were held on four days. There was considerable interest in the property with 180 prospective buyers attending the open houses and private showings. Interviews with park officials by news media reporters regarding the property appeared on local TV stations and in local newspapers.

There was not a single bid received for the property on June 3rd. This lack of response was a concern and inquiries were made of 50 people who had attended the open houses and expressed a sincere interest in buying the property. The major reason given for not bidding was the requirement that the full amount of the bid be enclosed with the bid. No financial lending institution would approve this type of arrangement.

The NPS is therefore proposing to amend this regulation. The NPS proposes that the sixth sentence of 36 CFR 17.5 be amended as follows: "Bids must be accompanied by certified checks, post office money orders, bank drafts, or cashier's checks made payable to the United States of America for 2 percent of the fair market value or $2,500, whichever is greater, in the case of a freehold interest or for the amount of the first year's rent in the case of a leasehold interest."

The NPS also proposes to amend 36 CFR 17.6 by adding the following three (3) sentences to the end of the section: "In the case of a freehold interest the high bidder must submit the balance of the bid within 45 days of the bid award in the form of a certified check, post office money order, bank draft or cashier's check made payable to the United States of America. Failure to submit the full balance within 45 days will result in forfeiture of $1,000 of the bid deposit (unless the bidder has been released from the bid or an extension has been granted by the authorized officer) and the property will be awarded to the next highest bidder upon fulfillment of the requirements herein."

The proposed changes will improve the existing regulations by permitting prospective bidders to participate without an outlay of a large sum of cash. The NPS anticipates that the amended regulation will facilitate "sellback" of historic structures that can be most effectively preserved through private ownership rather than public ownership. The historic and scenic values of the properties will be protected through deed restrictions.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking. The NPS will review comments and consider making changes to the final rule based upon an analysis of the comments.

Drafting Information: The primary author of this regulation is John P. Debo, Jr. Superintendent, Cuyahoga Valley National Recreation Area.

Paperwork Reduction Act

This proposed rule does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses that may compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) has been prepared.

List of Subjects in 36 CFR Part 17

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 17—CONVEYANCE OF FREEHOLD AND LEASEHOLD INTERESTS ON LANDS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 17 continues to read as follows:

Authority: Sec 5(a) of the Act of July 15, 1968, 82 Stat. 354, 16 U.S.C. 460l-22(a).

2. Section 17.5 is amended by revising the sixth sentence to read as follows:

§ 17.5 Bids.

* * * Bids must be accompanied by certified checks, post office money orders, bank drafts, or cashier's checks made payable to the United States of America for 2 percent of the amount of the fair market value or $2,500, whichever is greater, in the case of a freehold interest or for the amount of the first year's rent in the case of a leasehold interest. * * *

3. Section 17.6 is amended by adding two sentences to the end of the section, to read as follows:

§ 17.6 Action at close of bidding.

* * * In the case of a freehold interest the high bidder must submit the balance of the bid within 45 days of the bid award in the form of a certified check, post office money order, bank draft, or cashier's check made payable to the United States of America. Failure to submit the full balance within 45 days shall result in the forfeiture of $1,000 of the bid deposit, unless the bidder has been released from said bid or an extension has been granted by the authorized officer, and the property will be awarded to the next highest bidder upon fulfillment of the requirements of this section.

Dated: December 21, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–3007 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AH39

Veterans Education: Course Measurement for Graduate Courses

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the "ADMINISTRATION OF EDUCATIONAL BENEFITS" regulations to provide that all undergraduate courses taken by graduate students are to be measured by the graduate school (full time, half time, quarter time, etc.) or by the formula used for measuring undergraduate courses for undergraduate students, whichever results in a higher monthly rate for the veteran. Students receive benefits based on the assessment of their training time (full time, half time, quarter time, etc.). It appears that graduate schools, often with unique programs, have the most expertise for assessing the training status for their own programs. Also, it appears that they realistically report the training status of graduate students. Even so, we do not believe that graduate students should be paid a lower monthly rate than undergraduate students for the same training. Hence, it appears that the adoption of this change would streamline the process while yielding equitable results.

DATES: Comments must be received on or before April 12, 1996.

ADDRESSES: Send written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or hand deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington DC 20001. Comments should indicate that they are submitted in response to "RIN 2900–AH39." All written comments received will be available for public inspection only in the Office of Regulations Management between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 273–7187.

SUPPLEMENTARY INFORMATION: Under the "ADMINISTRATION OF EDUCATIONAL BENEFITS" regulations (set forth at 38 CFR subpart D and referred to below as the regulations) students receive benefits based on the assessment of their training time (full time, half time, quarter time, etc.). This document proposes to amend the regulations by changing the method of measuring training time for undergraduate courses that are taken by graduate students.

VA regulations specify, with certain exceptions, that undergraduate students pursuing undergraduate courses of 14 hours for standard terms are to be designated as full-time students. VA regulations contain corresponding provisions for less than full time (half time, quarter time, etc.). These measurement provisions for undergraduate students are mandated by statutory requirements (38 U.S.C. 3688). The current regulations measure the enrollment of graduate students in undergraduate courses in the same manner as for undergraduate students. However, the current regulations measure the enrollment of graduate students in graduate courses according to the school's assessment of part-time or full-time training status rather than using a formula.

Accordingly, if a graduate student enrolled for a combination of seven undergraduate credit hours (which is half time under the statutory 14 credit-hour full-time system), and a number of graduate hours assessed as half time by his or her school, then the graduate student would be considered a full-time student for VA education purposes.

The provisions of 38 U.S.C. 3688 state that VA has discretion in determining how to measure graduate courses. Consistent with this authority, this document proposes to amend the regulations to provide for all undergraduate courses of graduate students to be measured by the graduate schools' assessment (full time, half, quarter time, etc.) or by the formula used for measuring undergraduate courses for undergraduate students, whichever results in a higher monthly rate for the veteran.

Based on Department expertise, it appears that graduate schools, often with unique programs, have the most expertise for assessing the training status for their own programs. Also, it appears that they realistically report the

training status of graduate students. Even so, we do not believe that graduate students should be paid a lower monthly rate than undergraduate students for the same training. Hence, it appears that the adoption of the proposal would streamline the process while yielding equitable results.

Also, the proposal contains a nonsubstantive change to 38 C.F.R. 21.4273(a)(2) for purposes of clarity.

The Secretary of Veterans Affairs certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment will affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this proposal are 64.117, 64.120, and 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 1, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21, subpart D is proposed to be amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35 and 36

1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. In § 21.4273, paragraph (a)(2) is amended by removing "assessed" and adding, in its place, "measured"; and paragraph (c) is revised and its authority citation is added to read as follows:

§ 21.4273 Collegiate graduate.

* * * * *

(c) *Undergraduate or combination.* If a graduate student is enrolled in both graduate and undergraduate courses concurrently, or solely in undergraduate courses, VA will measure such an enrollment using the provisions of § 21.4272 or the graduate school's assessment of training time, whichever will result in a higher monthly rate for the veteran.

(Authority: 38 U.S.C. 3668(b))

[FR Doc. 96–2950 Filed 2–9–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–041–1–9604b; FR–5345–6]

Approval and Promulgation of Implementation Plans Alabama: Revisions to the Alabama Department of Environmental Management Administrative Code for the Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Alabama through the Department of Environmental Management on August 14, 1995, the State of Alabama through the Department of Environmental Management (ADEM) submitted a State Implementation Plan (SIP) submittal to revise the ADEM Administrative Code for the Air Pollution Control Program. These revisions involve changes to Chapter 335–3–14—Air Permits, and were made to comply with the requirements of the Clean Air Act (CAA). In the final rules section of this **Federal Register**, the EPA is approving the State of Alabama's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 13, 1996.

ADDRESSES: Written comments on this action should be addressed to Kimberly Bingham, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE, Atlanta, GA 30365

Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham of the EPA Region IV Air Programs Branch at (404) 347–3555 extension 4195 and at the above address.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: December 4, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–2965 Filed 2–9–96; 8:45 am]

BILLING CODE 5560–50–P

40 CFR Part 52

[CA 33–3–7130b; FRL–5339–8]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Santa Barbara County, Ventura County, Monterey Bay Unified, and Placer County Air Pollution Control District; and Yolo Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from the following: the coating or assembly of aircraft or aerospace vehicle parts and products, the use of organic solvents and organic solvent cleaners, the coating of miscellaneous metal parts and products, the application of adhesives, and the coating of flat wood paneling.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 13, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123–1095.

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Helen Liu, Air and Toxics Division, Rulemaking (A–5–3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION: This document concerns SBCAPCD Rule 337—Surface Coating of Aircraft or Aerospace Vehicle Parts and Products, VCAPCD Rule 74.13—Aerospace Assembly and Component Manufacturing Operations, MBUAPCD Rule 416—Organic Solvents, MBUAPCD Rule 433—Organic Solvent Cleaning, MBUAPCD Rule 434—Coating of Metal Parts and Products, YSAQMD Rule 2.25—Metal Parts and Products Coating Operations, YSAQMD Rule 2.33—Adhesives Operations, PCAPCD Rule 238—Factory Coating of Flat Wood Paneling, submitted to EPA on January 24, 1995, April 5, 1991, July 13, 1994, September 28, 1994, September 28, 1994, November 30, 1994, November 30, 1994, and October 13, 1995, respectively, by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 8, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–2970 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MS–15–1–6252b; MS–20–2–9605b; FRL–5401–1]

Approval and Promulgation of Implementation Plans Mississippi: Approval of Revisions to the Mississippi State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 14, 1991, and January 26, 1994, the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ) submitted revisions to the Mississippi State Implementation Plan (SIP). These SIP revisions incorporate changes to Regulation APC-S-1 "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants". The major sections being revised include: Section 1. General, Section 2. Definitions, Section 3. Specific Criteria for sources of Particulate Matter, Section 6. New Sources, Section 8. Provisions for Hazardous Air Pollutants, Section 9. Stack Height Considerations, and Section 11. Severability.

The regulation amendments and revisions were the subject of public hearings held on March 27, 1991, and November 24, 1993, and became state effective on May 28, 1991, and January 9, 1994, respectively. EPA is approving the amendments to Regulation APC–S–1 "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants" because these revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 13, 1996.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.
Mississippi Department of Environmental Quality, Bureau of Pollution Control, Air Quality Division, P.O. Box 10385, Jackson, Mississippi 39289–0385.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4216.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: November 1, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–2963 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NE–7–1–7154b; FRL–5399–6]

Approval and Promulgation of Implementation Plans; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Nebraska for the purpose of fulfilling the requirements set forth in the EPA's General Conformity rule. The SIP was submitted by the state to satisfy the Federal requirements in 40 CFR 51.852 and 93.151. In the final rules' section of the **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 13, 1996.

ADDRESSES: Comments may be mailed to Lisa V. Haugen, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: November 14, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 96–2976 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[PA 70–1–7207b; FRL–5338–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NOx RACT and Synthetic Minor Permit Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires reasonably available control technology (RACT) on one major source and establishes permit conditions to limit eight source's emissions to below major source levels. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be amended to withdraw any permits that are the subject of adverse comments. Public comments will be addressed in a subsequent final rule based on this proposed rule. Only those permits for which EPA receives adverse comments will be addressed by this subsequent rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by March 13, 1996.

ADDRESSES: Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian K. Rehn, (215) 597–4554, at the EPA Region III address above, or by E-mail at Rehn.Brian@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 24, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96–2968 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[PA084–4018; FRL–5419–3]

Pennsylvania; Approval and Promulgation of Air Quality Implementation Plans; Revocation of Determination of Attainment of Ozone Standard by the Pittsburgh-Beaver Valley Ozone Nonattainment Area and Reinstatement of Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is providing notification of its determination that the Pittsburgh-Beaver Valley ozone nonattainment area is no longer attaining the National Ambient Air Quality Standard (NAAQS) for ozone, based on monitored violations of the standard during the 1995 ozone season. EPA is also reinstating the applicability of certain reasonable further progress (RFP) and attainment demonstration requirements, along with certain other related requirements, of Part D of Title I of the Clean Air Act (CAA) for the Pittsburgh-Beaver Valley nonattainment area because the area is no longer in attainment for ozone.

DATES: Comments must be received on or before March 13, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Kathleen Henry, (215) 597–0545, at the EPA Region III office, or via e-mail at henry.kathleen@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION:

I. Background

In a memorandum dated May 10, 1995, from John Seitz, Director, Office of Air Quality Planning and Standards, to the Regional Air Division Directors, entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard", EPA stated that it is reasonable to interpret provisions regarding reasonable further progress (RFP) and attainment demonstrations, along with certain other related provisions, so as not to require certain SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard.

On the basis of this memo, EPA determined, in a direct final rule (DFR) published on May 26, 1995 (60 FR 27893), that the Pittsburgh-Beaver Valley and Reading ozone nonattainment areas had attained the standard and that the requirements of section 182(b)(1) concerning the submission of a 15% RFP plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures no longer applied, so long as these areas did not violate the ozone standard. In addition, EPA determined that the sanctions clocks started on January 18, 1994, for these areas for failure to submit the RFP requirements were stopped since the deficiencies for which they were commenced no longer applied.

At the same time that EPA published the DFR, a separate notice of proposed rulemaking (NPR) was published in the **Federal Register** (60 FR 27945) in the event that adverse comments were filed which would require EPA to withdraw the DFR. EPA received adverse comments within 30 days of publication of the proposed rule and withdrew the DFR on June 13, 1995 (60 FR 31081).

On July 19, 1995, EPA published a final determination (60 FR 37015) that the Pittsburgh-Beaver Valley and Reading ozone nonattainment areas had attained the ozone standard and that the SIP requirements for reasonable further progress and attainment demonstrations no longer applied so long as these areas did not violate the ozone standard. The notice also stated that the sanctions clocks started on January 18, 1994, for these areas for failure to submit the RFP requirements were stopped. (The effective date of the final determination occurred one day after the sanction clocks expired and these areas were, in fact, under the offset sanction at the time of EPA's final determination. However, the sanctions were lifted as a result of EPA's final determination for the same reason that the final determination would have stopped the sanctions clocks).

The specific rationale and air quality analysis EPA used to determine that the Pittsburgh-Beaver Valley and Reading ozone nonattainment areas had attained the NAAQS for ozone and were not required to submit SIP revisions for RFP, attainment demonstration and related requirements were explained in the May 26, 1995, DFR and will not be restated here. Regarding the consequences of subsequent violations, however, that DFR stated that if either of these areas violated the standard, the basis for the determination that the area need not make the pertinent SIP revisions would no longer exist. Furthermore, such a determination of nonattainment would mean that the area would have to address the pertinent SIP requirements within a reasonable amount of time. In fact, the DFR stated that a determination that an area need not submit these SIP requirements is, in effect, a suspension of these requirements for so long as the area continues to attain the standard. For both the Pittsburgh-Beaver Valley and Reading nonattainment areas, a final determination that a violation occurred would cause sanctions to be reinstated one day into the 2:1 offset sanction period.

II. 1995 Violation of the NAAQS for Ozone in the Pittsburgh-Beaver Valley Area

EPA has reviewed the 1995 ambient air quality data (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) for the Pittsburgh-Beaver Valley ozone nonattainment area, and determined that the area is no longer in attainment. During the 1995 ozone season two monitors in the Pittsburgh area recorded violations of the ozone NAAQS. In addition, ambient air quality monitors in the Pittsburgh-Beaver Valley area recorded 17 exceedances of the ozone standard. The current design value for the Pittsburgh-Beaver Valley nonattainment area, computed using the ozone monitoring data for 1993 through 1995, is 133 parts per billion (ppb). The average annual number of expected exceedances is 8.2 for that same time period. An area is considered in nonattainment when the average annual number of expected exceedances is greater than 1.0. A more detailed summary of the ozone monitoring data for the area is provided in the Technical Support Document for this notice.

PROPOSED ACTION: Due to the monitored violations of the ozone standard, EPA has determined that the air quality in the Pittsburgh-Beaver Valley moderate ozone nonattainment area is no longer attaining the ozone standard. As a consequence, EPA is proposing to reinstate the requirements of section 182(b)(1) concerning the submission of the 15% RFP plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures. In order to provide a reasonable time for the State to develop and submit these SIP elements, EPA is proposing August 15, 1996, as the effective date for revoking the determination of attainment, reinstating these SIP requirements, and reinstating sanctions and the sanctions period in effect as of July 19, 1995. Thus, the offset sanction would go back into effect on that day and the highway sanction clock would be reinstated where it was stopped on July 19, 1995 (i.e., with approximately 6 months remaining). Sanctions will not be

imposed if the Commonwealth submits a 15% plan, attainment demonstration and related contingency measures for the Pittsburgh-Beaver Valley nonattainment area that EPA finds complete prior to August 15, 1996, since the deficiency for which sanctions were imposed will no longer exist. If the Commonwealth fails to make these submittals before the proposed effective date, sanctions will be imposed until EPA receives the submittals and deems them complete.

EPA believes that, under the circumstances presented here, setting an effective date of August 15, 1996, would provide the Commonwealth a reasonable amount of time to submit a 15% RFP plan, ozone attainment demonstration and contingency measures.

EPA's belief is based on the fact that by August 15, 1996, more than a year will have passed since the occurrence of violations that resulted in reinstatement of these requirements. EPA's May 26, 1995, DFR and July 19, 1995, final determination put the Commonwealth on notice that these requirements would be reinstated if a violation occurred. Since the Commonwealth has been aware of the violations and their consequences since last summer, EPA believes that August 15, 1996, constitutes sufficient time for the Commonwealth to prepare to meet the reactivated requirements.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Today's determination does not create any new requirements, but reinstates previously applicable requirements that had been suspended. Therefore, because this document does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to determine that the Pittsburgh-Beaver Valley ozone nonattainment area is no longer attaining the NAAQS for ozone will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 30, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96–2973 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WI60–01–7136b; FRL–5324–6]

Approval and Promulgation of Implementation Plan; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a revision to the Wisconsin State Implementation Plan (SIP) for ozone that was submitted on June 14, 1995. This revision consists of a volatile organic compound (VOC) regulation to control emissions from autobody refinishing operations in ozone nonattainment areas classified as moderate or worse. In the final rules of this **Federal Register**, the EPA is approving this action as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received by March 13, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final notice which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the following address: (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 10, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–2961 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[Region II Docket No. 149, NJ26–1–7294; FRL–5409–5]

Approval and Promulgation of Implementation Plans; Carbon Monoxide State Implementation Plan Revision States of New York, New Jersey and Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of Comment.

SUMMARY: Section 211(m) of the Clean Air Act requires that the Administrator determine the period prone to high ambient concentrations of carbon monoxide (CO) for each area requiring an oxygenated gasoline program under that section. EPA previously proposed to determine that the period when the New York-Northern New Jersey-Long Island consolidated metropolitan statistical area is prone to high ambient concentrations of CO extends from November 1 to the last day of February. *See* 60 FR 47911 (September 15, 1995). EPA is here soliciting comment on that proposed determination for a limited purpose, to invite comment on additional information concerning emission modeling and data for the New Jersey portion of the area.

DATES: Comments must be received in writing on or before March 13, 1996.

ADDRESSES: All comments should be addressed to: William J. Muszynski, P.E., Deputy Regional Administrator, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007–1866 Attention: William S. Baker.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region II Office, Library 16th Floor, 290 Broadway, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

Background

Motor vehicles are significant contributors of CO emissions, which are harmful to human health. An important measure toward reducing these emissions is the use of cleaner-burning oxygenated gasoline. Extra oxygen in the fuel enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting in cold weather.

Section 211(m) of the Clean Air Act (Act) requires certain states with areas that are nonattainment for the CO National Ambient Air Quality Standards to implement oxygenated gasoline programs for the period that the areas are prone to high ambient concentrations of CO. The Administrator is to determine this control period for each area. States with CO nonattainment areas at or above a 9.5 parts per million (ppm) design value must implement oxygenated gasoline programs by November 1, 1992 and submit these programs as SIP revisions.

The section 211(m) requirement applies to New Jersey, New York and Connecticut because these states each contain a portion of the New York-Northern New Jersey-Long Island nonattainment area, which has a design value for CO above 9.5 ppm. The requirement had also originally applied to Southern New Jersey as well; however that area, which is part of the Philadelphia CO nonattainment area, is currently in attainment for CO and, as such, is no longer required to implement an oxygenated gasoline program. 60 FR 62741, December 7, 1995. The New York-Northern New Jersey-Long Island CO nonattainment area is part of the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area (CMSA) and includes the New Jersey Counties of Bergen, Essex, Hudson, Union, and parts of Passaic. The nonattainment area in Passaic County includes the Cities of Clifton, Paterson, and Passaic. New Jersey's portion of the larger CMSA, within which oxygenated fuel sale is required, consists of the following counties: Bergen, Essex, Hudson, Hunterdon, Middlesex, Ocean, Passaic, Somerset, Sussex, Union and Warren.

On September 15, 1995, in the course of action on the New York CO SIP, EPA proposed to find that the appropriate length of the control period for the entire New York-Northern New Jersey-Long Island CMSA is four months (60 FR 47911). EPA also proposed to approve New York's oxygenated fuels program and, in a separate notice, Connecticut's oxygenated fuels program, both for a four-month control period (50 FR 47907, 60 FR 47911, September 15, 1995). On December 7, 1995, EPA published a direct-final rule (with an accompanying proposal) to redesignate the Southern New Jersey Camden County CO nonattainment area to attainment. (60 FR 62741). Finally, in a related document published in the Final Rules section of today's **Federal Register** EPA is issuing a final limited approval of New Jersey's request to revise its CO State Implementation Plan (SIP) to incorporate New Jersey's oxygenated gasoline program for the Northern New Jersey portion of the New York-Northern New Jersey-Long Island CMSA as it applies for the four months from November 1 through the last day of February.

Length of Control Period

The following information, provided for background purposes only, summarizes certain information provided in the proposed determination.

The Act provides for EPA to determine a single period during which an entire nonattainment area is prone to high ambient concentrations of CO. This uniform control period will apply, at least as a minimum, to each state's portion of a multi-state nonattainment area. EPA previously proposed a determination of the period prone to high ambient concentrations of CO for the New York-Northern New Jersey-Long Island CMSA. 60 FR 47911, (September 15, 1995). The comment period on that proposed determination closed on October 15, 1995, and EPA received no comments on the issue of the control period determination.

EPA has applied established Agency guidance (announced for availability at 57 FR 47853, October 20, 1992) regarding oxygenated gasoline control periods to determine the proper control period length for the New York-Northern New Jersey-Long Island CMSA. As part of the 1992 guidance document, based on air quality data from 1990 and 1991, EPA suggested that the proper control period for the New York-Northern New Jersey-Long Island CMSA was October 1 through April 30. However, the 1992 guidance does not establish a binding norm regarding control periods and provides that the determination of the control period will be an issue to be finally decided by EPA as part of the review of individual state SIP revisions for oxygenated gasoline programs.

Section 211(m), cited in the 1992 EPA guidance, requires control period length to be decided by the EPA Administrator based on the period an area is prone to high CO concentrations. The three-state New York-Northern New Jersey-Long Island CMSA has not recorded an exceedance of the CO national ambient air quality standard (NAAQS) in the

three months proposed to be dropped since October of 1991. Furthermore, since 1992 the CMSA has not been prone to high ambient concentrations of CO during those three months. Under the approach used in EPA's guidance, "prone to high ambient concentrations of carbon monoxide" is a criterion more stringent than the NAAQS, in that the CO levels which characterize an area as being prone to high CO concentrations during a specific period may be lower than the NAAQS and therefore not necessarily exceed it.

EPA believes that implementation of new programs under the Clean Air Act in each state in the CMSA will adequately ensure continued observance of reduced levels of CO during the months of October, March and April. Reformulated gasoline (RFG) is a year round clean gasoline program, which provides gasoline oxygenated to 2.0 percent. This program was initiated on January 1, 1995, in the CMSA (see 59 FR 7716, February 16, 1994). EPA believes that implementation of an enhanced inspection and maintenance (I/M) program [40 CFR Part 51, Subpart S] and the turnover of the New York-Northern New Jersey-Long Island CMSA fleet to newer, cleaner vehicles, combined with the use of RFG will ensure continued lower CO emissions from motor vehicles for the CMSA during October, March and April, even in the absence of the higher minimum oxygen content.

While the established guidance bases the determination of control period only on air quality monitoring data (which exists for the entire New York-Northern New Jersey-Long Island CMSA for 1992 to 1995), EPA believes that it is prudent also to provide a technical analysis further supporting the reduction of oxygen content during the shoulder months in the area. EPA performed a series of computer model runs to support the contention that in future years, starting with Autumn 1996, without sales of gasoline oxygenated to 2.7 percent, but with implementation of federal RFG and enhanced I/M (or an inspection program deemed equivalent thereto), combined with vehicle turnover, CO emissions will continue to be lower during October, March and April in the area.

Since, after the implementation of the oxygenated fuels program, the first observance of low CO levels during those months was in 1993, average vehicle emissions from that year were used as an upper limit in determining the adequacy of CO control without higher oxygen content in October, March and April. Modelled levels of CO below the levels observed in the shoulder months in 1993 will provide further assurance that the shorter control period will not result in high CO levels during those three months.

Solicitation of Comment

EPA invites comment on the following information, which EPA believes provides additional support for its proposed determination regarding the appropriate control period for this CMSA. The solicitation of comment is therefore limited to comments related to this additional information. EPA is not soliciting comment for any other purpose, and will not consider as timely any comments addressing other points.

EPA performed a comparison of average vehicle emissions using the most current version of EPA's emission factor model for mobile sources, MOBILE5a. All modeling assumed implementation of RFG (with 2.0 percent oxygen content) and implementation of an enhanced I/M program (or an equivalent inspection program) in New Jersey for the 1996–1997 season and future CO seasons. MOBILE5a variables such as vehicle speeds and a vehicle miles traveled growth rate were specific to New Jersey (supplied by the New Jersey Department of Environmental Protection and the New Jersey Department of Transportation). For further details regarding the MOBILE5a runs and the subsequent comparisons, the reader is referred to the technical support document for this notice and the related notice issuing a limited approval for New Jersey's program.

Modeling further assures that after removing 2.7 percent oxygenated gasoline, but accounting for the effects of RFG, enhanced I/M and vehicle turnover, vehicle emissions of CO, through calendar year 2020 (based on an average day in the CO season in each of those years), will still be at least 18 percent less than vehicle emissions of CO in 1993 with 2.7 percent oxygenated gasoline during October, March and April. This supports EPA's belief that, even with elimination of oxygenated gasoline program requirements in the shoulder months in the area, the area will not be prone to "high" ambient concentrations during those months. The modeling results do not affect EPA's determination that a four month control period complying with the statutory minimum length is still required. Should future ambient air quality data show that high CO levels do in fact occur in the shoulder months, contrary to EPA's predictions, EPA would reevaluate its determination of the period prone to high ambient concentrations of CO.

Dated: January 19, 1996.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 96–2582 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 440

[WH–FRL–5419–1]

RIN 2040–AC74

Amendment to Ore Mining and Dressing Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the applicability of certain effluent limitations guidelines and new source performance standards governing mines with froth-flotation mills to the Alaska-Juneau (A–J) gold mine project near Juneau, Alaska. Specifically, EPA is proposing to exempt dewatered tailings produced by the proposed A–J mine and mill from effluent guidelines based on best practicable control technology (BPT) and best available control technology economically achievable (BAT), and from new source performance standards (NSPS) that appear at 40 CFR part 440, subpart J. EPA also is proposing that a definition of "dewatered tailings" be added to 40 CFR part 440, subpart L. EPA is issuing today's proposal because the use of a tailings impoundment was part of the technology basis for the BPT, BAT, and NSPS requirements of subpart J; however, it appears that extreme topographic and climatic conditions at the A–J project site render it impractical to treat and dispose of tailings in a tailings impoundment so as to meet the requirements of subpart J. EPA would not take action to finalize this proposal if a feasible alternative for tailings treatment is identified that would obviate the need for the exemption. EPA expects to make a final determination with respect to this proposal by the end of 1996. Since this proposed rule is deregulatory in nature, no costs are estimated. The benefit of this proposed rule is the potential for increased flexibility in permitting the disposal of tailing wastes from the gold mine and mill operations, resulting in the mitigation of environmental impacts. Costs and benefits resulting from this action will be determined as part of the environmental assessment of feasible alternatives. During the preparation of this proposed rule, the Agency held

consultations with State and local governments, industry, and public interest group representatives.

DATES: Comments on this proposal must be submitted on or before April 12, 1996, except for comments concerning technological alternatives for the A–J project site. The comment period on that issue will be open until August 12, 1996. A series of public meetings concerning the exclusion of dewatered tailings from coverage of 40 CFR part 440, subpart J is being planned for the Spring of 1996 during the extended comment period. The times and locations of these meetings will be published in the **Federal Register** and local newspapers when they are finalized.

ADDRESSES: Send comments to Ore Mining Comment Clerk, Water Docket Mail Code 4101, Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460. Commenters are requested to submit an original and three copies of their comments, enclosures or references. The supporting information and all comments on this proposal will be available for inspection and copying at the Water Docket, located in Room L102 at the above address. For access to the docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: Ronald G. Kirby at (202) 260–7168.

SUPPLEMENTARY INFORMATION:

A. Legal and Regulatory Background

EPA issued effluent limitations guidelines for the ore mining and dressing point source category based on Best Practicable Technology (BPT) on July 11, 1978 (43 FR 29771). Effluent limitations guidelines based on Best Available Technology (BAT) and New Source Performance Standards (NSPS) were issued on December 3, 1982 (47 FR 54598). These are codified at 40 CFR part 440. Detailed engineering, technical and cost information supporting the ore mining and dressing guidelines and standards are summarized in reports entitled Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Ore Mining and Dressing Point Source Category, Volume I and II July 1978, EPA # 440/1–78/061d and e ("1978 Development Document") and Development Document for Final Effluent Limitations Guidelines and New Source Performance Standards for the Ore Mining and Dressing Point Source Category, EPA # 440/1–82/061, November 1982 ("1982 Development Document"). The economic analysis for NSPS in part 440 is summarized in Economic Analysis of New Source Performance Standards for the Ore Mining and Dressing Industry, November 1982. These documents and the rest of the supporting public record for the part 440 guidelines and standards are available for review at the EPA Water Docket and are part of the record for this proposal.

BPT limitations generally represent the average of the best existing waste treatment performance within an industry subcategory. BAT limitations generally represent the best existing performance in the industrial subcategory or category. In establishing BAT, the Agency considers such factors as the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction and nonwater quality environmental impacts. NSPS are based on the best available demonstrated technology. In general, the best available demonstrated technology consists, in part or completely, of the same technology as that determined for BAT for existing sources within an industry. However, in some cases it is determined that new plants have the opportunity to install more efficient production processes and wastewater treatment technologies than existing sources. In such cases, NSPS may be established at a level more stringent than BAT. While EPA bases effluent limitations guidelines and new source performance standards on identified technologies, dischargers are not required to use any particular technology. They may meet the effluent limitations and standards using any technology they determine is appropriate.

Effluent limitations guidelines and new source performance standards applicable to Copper, Lead, Zinc, Gold, Silver, and Molybdenum ore mines, including mines with froth-flotation mills, appear at 40 CFR part 440, subpart J ("Subpart J").

B. Technical Information

Gold mining has historically occurred in the Alaskan region near Juneau. Economic conditions have improved in recent years, stimulating continued extraction of this valuable resource. Due to improvements in the technology to extract lower concentrations of precious metals, and the continuing stable prices received for these metals, a number of projects have been identified, at or near previously mined areas in southeast Alaska, as economically feasible. As is explained in more detail below, the use of an impoundment was part of the technology basis for the BPT, BAT and NSPS requirements of subpart J. Since the issuance of the ore mining and dressing guidelines, a number of projects covered by subpart J have progressed through the permit process. A few of these projects have identified the use of impoundments as a potential problem, although without merit in EPA's view. However, the detailed site specific design information from the Alaska-Juneau (A–J) project recently has brought into question the appropriateness of the technology basis for the requirements of subpart J, as applied to the A–J site. The function of the impoundment as part of the technology basis and its application to the A–J project site are discussed below, along with the effect of today's proposal.

1. Application of Subpart J to A–J Project

The existing BPT, BAT, and NSPS requirements in Subpart J that are applicable to mines with froth-flotation mills are based on treatment technology consisting of impoundment, treatment of the impoundment (pond) water to precipitate metals and enhanced settling of particulate matter by pH adjustment, chemical flocculent treatment, if necessary, clarification and filtration of overflow pond water for recycle back to the mill. For BPT and BAT, the Agency determined that although many existing froth-flotation mills were practicing wastewater treatment and recycle, the cost to retrofit the remaining mills' treatment systems would be prohibitive. Thus, the technology basis for both BPT and BAT did not include total recycle, and BAT limitations were set equivalent to BPT for existing sources. For NSPS, the Agency determined that new sources could design a wastewater treatment and recycle system in conjunction with a tailings impoundment that would generally achieve no discharge of process wastewater. (NSPS includes exceptions that allow discharges under certain specified circumstances, as noted below.)

Tailings ponds have been used historically in the mining industry. Tailings are the waste rock remaining after the processing of the mineral-bearing (lode) ore. The lode ore is processed by crushing and grinding, and then separation and concentration. Remaining pulverized lode ore that is too poor in gold to be further processed and waste material resulting from the washing, concentration, or treatment of the ground ore are known as "tailings." These are sent to the tailings pond, which serves as the disposal site for the solids (pulverized waste rock and other

precipitates) that settle out of the tailings wastestream when it is added to the pond. The impoundment is designed primarily for suspended solids removal and retention, so it must be large enough to provide sufficient retention time and quiescent conditions conducive to settling, including adequate volume to hold the settled solids. The tailings impoundment assumed by EPA in establishing the requirements of Subpart J is designed to permanently hold the mill tailings expected for the life of the mine while also containing precipitation that falls directly on the impoundment and the runoff resulting from a 10 year, 24 hour storm event. Additional impoundment volume may be necessary to promote the settling of solids to achieve allowable discharge limitations.

The location of a tailings impoundment is determined by evaluating the best site for gravity flow of tailings to an area for permanent disposal, for minimal inflow from runoff or stream flow, and for a stable dam. The mine project site (including the mill) is located in close proximity to the ore body to control costs in order to make the project economically viable. Most tailings impoundments are located within a few miles of the ore body. Information in the 1978 and 1982 records indicates that approximately six miles was the greatest distance between the tailings impoundment and the mill at existing mines that were studied.

Generally, even when siting a tailings pond in a narrow valley with severe slopes, a location can be found to allow diversion of stream flow around the tailings pond to prevent or minimize pollution potential. For example, the tailings impoundment can be placed adjacent to one wall of the valley. It may be necessary to reroute the stream by means of contouring or construction of open channels or conduits. Runoff can be prevented from entering the impoundment by constructing diversion ditches, flumes, and dikes upslope and along the sides of the impoundment.

Tailings can be characterized generally as a process wastewater with approximately 20–50 percent solids by weight. In arid or semi-arid areas, evaporation and seepage from the tailings pond may equal or exceed the input of the water fraction of the tailings wastestream (*i.e.*, the remaining 50–80 percent by weight liquid fraction). In all areas, even arid areas, the amount of runoff entering the tailings pond is minimized by diversion using a number of common management practices. However, in areas of net annual precipitation (*i.e.*, where the annual rainfall and snowfall amount exceeds the annual amount of evaporation), Subpart J allows excess pond water to be discharged based on a calculated amount of runoff for BPT, BAT, and NSPS, subject to specified effluent limitations. 40 CFR 440.102(c)(2); 440.103(c)(2); 40 CFR 104(b)(2)(i). The amount of runoff is determined by the difference in annual precipitation and evaporation rates times the amount of surface area of the pond that receives direct precipitation and the amount of ground surface area surrounding the pond that drains into it. For NSPS, EPA also included, in response to comments, an exemption from no discharge for an equivalent volume of fresh (makeup) water that mills could demonstrate is necessary due to a buildup of contaminants in the recycled pond water that significantly interferes with the ore recovery process. Such a discharge, which also is subject to specified limitations, is allowed only if the interference can not be eliminated through appropriate treatment of the recycle water. 40 CFR 440.104(b)(2)(ii). In addition, the volume of any excess runoff from a single storm or combined storm event exceeding the 10 year, 24 hour event design criteria of the pond also may be discharged. 40 CFR 440.131(b). Treatment of the excess pond water, in addition to its settling in the tailings impoundment, may be required using chemical flocculation either directly in the tailings pond or in subsequent treatment units to enhance solids settling and to precipitate and settle metal hydroxides in order to meet the current discharge limitations.

The intended function of the tailings impoundment (pond) that is part of the technology basis for BPT, BAT, and NSPS in Subpart J was critical to the establishment of all three sets of limitations. The ability to divert surface runoff and existing stream flow from entering the pond is most critical in high precipitation areas for the proper function of the tailings pond with respect to meeting the BPT, BAT, and NSPS requirements of Subpart J. Studies conducted by EPA in developing BPT, BAT, and NSPS evaluated a number of geographic locations where extreme topography and high rainfall were evident. Where topography and climatic extremes render any significant amount of diversion impractical, most or possibly all of the water within the watershed in which the impoundment is located will enter the impoundment and become contaminated by mine and mill wastewater, making subsequent treatment of the wastewater to meet recycle or discharge quality requirements more difficult.

The technology basis for the BPT and BAT discharge limitations and the NSPS no discharge requirement in subpart J included an ability for mills to divert significant amounts of natural stream flow and surface runoff around the tailings impoundment. In net precipitation areas, as well as net evaporation areas, EPA assumed or identified some degree of ability to divert runoff and/or stream flow in evaluating the design and construction of the tailings impoundments and their ability to meet the requirements of subpart J. In both the 1978 and the 1982 Development Documents supporting BPT, BAT, and NSPS, EPA discussed diversion or minimization of surface runoff at various sites, and considered the types of practices available for achieving it. EPA also considered the possibility that extreme topography could be an obstacle to achieving no discharge, but judged that the exemptions and provisions discussed above would provide the relief that would be necessary for a mill to operate under the no discharge requirement. See the 1982 Development Document, page 535.

Many of the mills that were evaluated during the development of NSPS for subpart J practiced recycle and achieved no discharge. However, most of these mills were located in net evaporation areas or water short areas, where all of the excess pond water that could not be recycled would evaporate or seep out of the pond. EPA did include mills located in net precipitation areas in its evaluation of the no discharge requirement. In these areas, rainfall could occur in such quantity and at a regular enough frequency that pond water in excess of that required for recycle cannot be evaporated or seeped at a high enough rate to meet a no discharge requirement. Thus, the discharge allowances previously discussed were incorporated into the NSPS.

2. Today's Proposal

In light of the importance of the ability to divert natural stream flow and runoff, specific information from the A–J gold mine project has called into question the appropriateness of applying the requirements of Subpart J to this project. The A–J project has been evaluated in an Environmental Impact Statement prepared by the Bureau of Land Management (BLM). In BLM's preferred alternative, the design of the tailings impoundment includes a dam extending the width of Sheep Creek Valley to a height of 345 feet. The impoundment would encompass 420 acres of the 540 acre valley. The large

volume of the impoundment was made necessary in part because of the extremely large volume of tailings generated (over 100 million tons) during the life of the project and by the inability to divert runoff and stream flow using the common practices discussed above. In the case of the A–J project, the technical review of the submitted project design determined that for those design options presented, all of the existing stream flow and runoff would enter the impoundment and preclude adequate treatment of the wastewater prior to discharge.

If the tailings impoundment were used at the Sheep Creek Valley site in a manner anticipated by the current Subpart J requirements, but without the benefit of diverting the natural stream-flow, significant amounts of runoff from rainfall events would enter the impoundment and by coming into direct contact with the actual mill process wastewater, be considered as "process wastewater" as defined at 40 CFR 401.11(q). As described previously, all or almost all of this runoff, entering the impoundment, would be allowed to be discharged under NSPS as part of the storm allowance provision, along with any contaminant build up and/or mine drainage wastewaters, provided that discharge meets the specified limitations. Because of the inability to divert water around the Sheep Creek Valley impoundment location, an exceptionally large volume of process wastewater would be generated, and would make treatment options contemplated by the current technology basis unable to meet the limits imposed by the allowances. These same considerations apply to BPT and BAT except for the fresh makeup water allowance described earlier.

EPA's Region 10 issued a report regarding the A–J project plan in December 1994 entitled, "Alaska Juneau Gold Mine Project, Technical Assistance Report for the U.S. Army Corps of Engineers Alaska District" (known as the "TAR"). The TAR concluded that implementation of the plan to construct the tailings impoundment across the valley and discharge this amount of wastewater likely would not ensure compliance with NSPS and would cause widespread exceedances of state water quality standards. In addition, the TAR concluded that the tailings impoundment would remain a substantial risk even after closure of the mill because it would not be isolated from the existing stream flow, including all or almost all of the valley's precipitation runoff. This would require continued maintenance of the impoundment dam as an active retention structure for a large volume of water in an area of active seismic activity and avalanche hazards. As part of a supplemental environmental impact statement (SEIS) under the National Environmental Policy Act (NEPA), additional project design alternatives for the A–J project will be evaluated, including whether an alternative location for an impoundment is possible.

EPA has concluded from the technical information identified and discussed above that the requirements in Subpart J might not be appropriate for tailings from a new ore mill located in Sheep Creek Valley, as described in the A–J project EIS. Due to the substantial annual net precipitation along with extreme topography, the combination of which leads to an inability to divert natural stream flow and any significant volume of surface runoff around the tailings impoundment, treatment of the discharge to allowable concentration levels cannot be accomplished. In addition, the 1978 and 1982 final rules did not consider the long-term (post-closure) safety considerations, such as the long-term structural integrity of the impoundment dam, that result from the existence of a tailings pond that was not isolated from stream flow and runoff.

Thus, EPA is proposing to exempt dewatered tailings from the A–J project from the existing BPT, BAT, and NSPS requirements in 40 CFR part 440, subpart J (§ 440.102–104). EPA also is proposing to add a definition of "dewatered tailings" to 40 CFR part 440, Subpart L, specifying that "dewatered tailings" means that portion of a mill tailings slurry wastestream from which approximately 75 percent or more of the water fraction has been removed for recycling through the mill. This definition continues to rely on the recycle portion of the technology basis for the current rule following the separation of much of the solids which are contained as part of the tailings, for possible discharge using an alternative control technology. Mine drainage, process wastewater separated from the dewatered tailings, and other process wastewater discharges from the A–J project would continue to be covered by subpart J. NPDES permit requirements for discharges of dewatered tailings from the A–J project would be determined by EPA using best professional judgment in accordance with 40 CFR 125.3, utilizing the results of ongoing environmental review of the project under NEPA.

EPA's proposal to exempt dewatered tailings from the A–J project from the requirements of NSPS has some precedent. During development of the 1982 ore mining and dressing guidelines, the Agency received comments from developers of a molybdenum mine and mill in southeastern Alaska (Quartz Hill). The developers argued that the mill differed substantially from the existing molybdenum mills upon which the Agency based the proposed NSPS and that the alternative of submarine tailings disposal should not be precluded from consideration. Specifically, they argued that precipitation was greater at the Quartz Hill site than at other facilities and that the terrain was unusually steep, necessitating the construction of a dam much larger than tailings impoundments at existing facilities. They argued that since the mine and mill were located in the environmentally sensitive Misty Fjords National Monument, construction of a massive tailings impoundment may result in greater long term environmental degradation than at existing facilities. They also pointed out that the mine and mill were being developed in accordance with the dictates of the Alaska National Interest Lands Conservation Act (ANILCA), which requires an intensive study of the overall environmental impact of the mine and mill before construction begins. Finally, they noted that the mine and mill were in an earthquake area, and that construction of a large tailings dam raises concerns for safety of the population below the dam. The Agency disagreed with the commenter's assertions that the proposed molybdenum mine and mill differed significantly in topography and climate from existing mines and mills. However, given the possibility that compliance with the no discharge NSPS would result in substantial non-water quality environmental impacts, and given the fact that these impacts were being subjected to an intense environmental scrutiny, the Agency exempted the project from requirements of NSPS.

Today's proposal to exempt the A–J project from certain requirements of Subpart J opens the way for the detailed evaluation of alternatives for treatment of the tailings from the project that are not allowable under the current regulations. Some of these alternatives do not involve the use of Sheep Creek Valley as an impoundment site and might lessen the environmental impacts of the project. This portion of the preamble discusses technologies that involve the use of a smaller impoundment or no impoundment at all.

As part of the review of the original A–J project design submittal, the Bureau of Land Management (BLM) conducted

an environmental impact analysis reported in the document titled, "A–J Gold Mine Project Final Environmental Impact Statement" (BLM, 1992). The BLM analysis included evaluations of tailings disposal options other than the construction of the dam and impoundment in Sheep Creek Valley. These alternatives included refilling of the mine with dewatered tailings, disposal of dry tailings on land, and disposal of tailings at alternative disposal locations (*e.g.*, Powerline/Icy Gulch, Sheep Fork Carlson Creek, and Rhine Creek). Generally, these alternatives were rejected because of expected exceedances of water quality criteria or because of cost which would render the project uneconomical. Some of these alternatives may receive additional consideration as a result of the SEIS effort. For example, EPA concluded in the TAR that the Powerline/Icy Gulch disposal location should be re-evaluated because diversion of up to 80 percent of the surface runoff may be achievable. In addition, the discharge of tailings from the A–J project to marine waters (submarine tailings disposal), which otherwise would be prohibited by subpart J, could appropriately be evaluated as a result of today's proposal. The discharge of tailings to marine waters would require final revision of subpart J under today's proposal. A combination of the above disposal alternatives could also be considered.

Potential difficulties with the use of tailings impoundments in areas of extreme topography and climate were raised both during the development of the existing part 440 guidelines and standards and also during the permitting process for several mine and mill sites. However, except for the Quartz Hill site (which was undergoing a separate environmental review during the development of part 440 and was excluded from coverage by that Part), no other site that EPA has reviewed until now has exhibited such extreme topographic and climatic conditions that an exemption from certain Subpart J requirements, as proposed, might be warranted. Because much of southeastern Alaska consists of highly mountainous terrain characterized by glacially carved valleys with avalanche chutes and talus slopes, EPA solicits comment on whether other mine sites exhibit extreme environmental conditions such as those at the A–J project site, and would be estimated to have project characteristics such as extremely large volumes of tailings that would pose treatment and disposal problems under part 440.

As mentioned above, the A–J project site is the only current new source site reviewed by EPA that exhibits extreme topographic and climatic conditions which might justify an exemption from certain Subpart J requirements, as proposed. If additional sites are identified, a more general exemption provision might be appropriate, provided that adequate criteria can be established to identify project sites that would qualify for the exemption. EPA is considering the following possible alternative to an exemption that covers the A–J project only:

(e) The provisions of this subpart shall not apply to discharges of dewatered tailings if a permit applicant demonstrates to the satisfaction of the permitting authority that due to high net precipitation and extreme topography (e.g., steep valley walls, avalanche hazards, or talus slopes), it would not be feasible to divert natural stream flow and runoff, rendering impractical the treatment and disposal of tailings in a tailings impoundment.

If a more general exemption provision is incorporated into the final rule based on comments and additional data on the characteristics of extreme sites, quantifiable criteria to identify qualifying sites might be included. EPA solicits comment on the type of criteria that could be included in such a provision. The amount of annual precipitation, slope of mountainous terrain, width of valley floor and location of avalanche chutes and/or seismically active (earthquake) areas are examples of quantifiable criteria that could be useful in establishing a more general exemption provision.

EPA might take final action with respect to today's proposed exemption covering only the A–J project site. Alternatively, based on the additional information, EPA might identify a feasible alternative for tailings treatment by the A–J project that would allow compliance with the existing regulations and obviate the need for any exemption from Subpart J as proposed. The Agency could also promulgate a more general exemption as described above, or take final action with respect to the A–J project site but proceed to collect further data on other project sites identified by commenters or on criteria for a more generally applicable exemption. Variations on these approaches are also possible. EPA will evaluate all comments and information received prior to making a final determination, which the Agency currently expects to do by the end of 1996.

3. Further Evaluation of A–J Project Proposal

Today's proposal does not in itself authorize or endorse any method of tailings treatment or disposal at the A–J site. As discussed previously, additional designs for the A–J project are expected to be evaluated under NEPA. These studies are conducted as part of the NPDES permitting process for new sources. Any permit issued would include discharge requirements based on applicable NSPS or effluent limitations guidelines, on best professional judgment (BPJ) where guidelines are not applicable, and on any applicable water quality standards. 40 CFR 122.49(g), 40 CFR 122.44(a) and 40 CFR 122.44(d).

In preparation for the development of the draft NPDES permit, scoping for the AJ project SEIS is scheduled to begin in February, 1996, with publication of a draft SEIS in late Spring of 1996. The SEIS will evaluate the impacts of the disposal of mine tailings in marine waters (approximately 300 feet deep) in Stephens Passage, several miles south of the city of Juneau. The tailings would be produced by processing finely ground ore via gravity separation and flotation using various reagents (no cyanide) to produce a concentrate that would be shipped elsewhere for refining. The tailings would be dewatered to allow for recycling of the process water in the milling process. The dewatered tailings, which may be remixed with sea water (for buoyancy control), would be piped to a discharge point in Stephens Passage.

In addition to disposal of dewatered tailings in deep marine waters, the SEIS will examine other potential tailings disposal sites. The SEIS will specifically examine whether there are any potential upland tailings impoundment sites where the diversion of surface runoff would be possible. A Final SEIS should be available by late 1996.

4. Conclusion and Request for Comments

EPA solicits comment and additional information on all aspects of today's proposal to amend the applicability of subpart J. In particular, the Agency seeks comment on whether an exemption for the A–J mine project from the requirements of Subpart J as proposed is warranted; and whether additional project sites exist which exhibit extreme topographic and climatic conditions that might warrant the exclusion of dewatered tailings from coverage under subpart J. Information also is requested on the types of criteria that could be used to establish a more general exemption from the requirements of Subpart J in the event that additional sites are identified which exhibit extremely rugged terrain and high annual precipitation, leading to a similar inability to divert natural stream flow and stormwater runoff. EPA also solicits any information or data available on alternative tailings disposal technologies that could be used at the A–J site. Such technologies may include dewatered tailings discharge to deep marine waters, backfilling of the mine with dewatered tailings and disposal of dewatered tailings on land without an impoundment. Cleaned tailings might also be used as road building materials in asphalt or used as construction material in concrete block or brick. The cleaned tailings could be fixed and stabilized with concrete prior to either mine or off-site land disposal.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Under section 204 of the UMRA, EPA generally must develop a process to permit elected officials of State, local and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates. These consultation requirements build on those of Executive Order 12875 ("Enhancing the Intergovernmental Partnership").

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Since this proposed rule is deregulatory in nature, the expected cost for implementation by the private sector is below $100 million. In addition, this proposal does not impose a mandate on any governmental entities since EPA is the permitting authority for this mine. As a result, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. For the same reason, EPA does not need to develop a plan for consultation of affected governmental entities pursuant to Section 204 of UMRA and Executive Order 12875.

During the preparation of this proposed rule, the Agency held consultations with State and local governments, industry, and public interest group representatives.

D. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities,or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this rule is not a "significant regulatory action" because the rule is a deregulatory action and has the potential to create jobs while continuing to protect the environment.

E. Paperwork Reduction Act

This proposed rule contains no information collection activities. Therefore, no information collection request (ICR) has been submitted to the Office of Management and Budget (OMB) for review and approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 440

Environmental protection, Gold ore mining and dressing industry, Wastewater treatment, Waste treatment and disposal, Submarine tailings disposal, Metals, Water pollution control.

Dated: February 2, 1996.

Carol M. Browner,

Administrator.

For the reasons set forth in this preamble, part 440 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 440—[AMENDED]

1. The authority citation for part 440 continues to read as follows:

Authority: Secs. 301, 304(b), (c) and (e), 306, 307, and 501 of the Clean Water Act (The Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987), (the Act), 33 U.S.C. 1311, 1314(b), (c) and (e), 1316, 1317, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217; 101 Stat. 7, Pub. L. 100–4.

2. Section 440.100 is amended by adding paragraph (e) to read as follows:

§ 440.100 Applicability; description of the copper, lead, zinc, gold, silver, and molybdenum ores subcategory.

* * * * *

(e) The provisions of this subpart shall not apply to discharges of dewatered tailings from the Alaska-Juneau mine and mill near Juneau, Alaska.

3. Section 440.132 is amended by adding paragraph (k) to read as follows:

§ 440.132 General definitions.

* * * * *

(k) *Dewatered tailings* means that portion of a mill tailings slurry wastestream from which approximately 75 percent or more of the water fraction has been removed for recycling through the mill.

[FR Doc. 96–2917 Filed 2–9–96; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–28; Notice 6]

RIN 2127–AF73

Lamps, Reflective Devices and Associated Equipment; Advisory Committee on Regulatory Negotiation Public Meetings

AGENCY: National Highway Traffic Safety Administration (NHTSA); DOT.

ACTION: Schedule of Advisory Committee meetings.

SUMMARY: This document announces a change in the time and location of the next series of meetings of NHTSA's Advisory Committee on Regulatory Negotiation (concerning the improvement of headlamp aimability performance and visual/optical headlamp aiming).

DATES: Monday-Wednesday, March 4–6, 1996; Tuesday-Thursday, April 23–25, 1996.

ADDRESSES: The March and April 1996 meetings will be held at the Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, D.C. Meetings will begin at 9:00 a.m., except for the meeting of Monday, March 4, 1996, which will begin at 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, NHTSA (Phone: 202–366–5276; FAX: 202–366–4329). *Mediator:* Lynn Sylvester, Federal Mediation and Conciliation Service, (phone: 202–606–9140; FAX: 202–606–3679).

SUPPLEMENTARY INFORMATION: On December 21, 1995, the National Highway Traffic Safety Administration (NHTSA) published a final schedule for its 1996 meetings of the Advisory Committee on Regulatory Negotiation (concerning the improvement of headlamp aimability performance and visual/optical headlamp aiming) (60 FR 66247). The document announced that the meetings for March 4–6, 1996, would begin at 9:00 a.m., and be held at NHTSA headquarters. However, at its January meetings, the Committee decided that the meetings for March 4–6, 1996, would be held at the Offices of the Federal Mediation and Conciliation Service, as stated above, and that the meeting scheduled for Monday, March 4, 1996, would commence at 10:00 a.m.

The meetings are open to the public.

Issued: February 6, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2996 Filed 2–9–96; 8:45 am]
BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 61, No. 29

Monday, February 12, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–96–00–100]

Notice for Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension and revision to a currently approved information collection in support of the International Carriage of Perishable Foodstuffs (ATP) program based on reestimates reflecting actual use of the program over the last 9 years.

DATES: Comments on this notice must be received on or before April 12, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Brian M. McGregor, Agricultural Marketing Specialist, U.S. Department of Agriculture (USDA), AMS, Transportation and Marketing Division (TMD), Shipper and Exporter Assistance Program, Room 1217 South Building, P.O. Box 96456, Washington, D.C. 20090–6456, Telephone (202) 690–1319, Fax (202) 690–1340.

SUPPLEMENTARY INFORMATION:

Title: International Carriage of Perishable Foodstuffs.

OMB Number: 0581–0165.

Expiration Date of Approval: March 31, 1996.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Customers in Europe who want to purchase U.S.-manufactured refrigerated trailers require the trailers be certified in accordance with the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP). The United States acceded to this treaty in fiscal year 1983.

With respect to U.S. treaty obligations and under the authority of the International Carriage of Perishable Foodstuffs Act (7 U.S.C. 4401–4406) and the regulations (7 CFR 3300), the USDA certifies, upon request from U.S. manufacturers and their European customers, that U.S.-built refrigerated trailers are properly insulated and capable of maintaining prescribed temperatures for the carriage of frozen food and chilled meat, poultry, fish, seafood, and dairy products.

The information collected on the Office of Transportation (OT) forms OT–8 through OT–15 are based on forms in the International Carriage of Perishable Foodstuffs agreement and is the minimum information necessary for USDA to properly certify refrigerated trailers in accordance with U.S. treaty obligations.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15.2 hours per response.

Respondents: U.S. refrigerated trailer manufacturers and testing stations.

Estimated Number of Respondents: 4.

Estimated Number of Responses per Respondent: 1.25 response per year.

Estimated Total Annual Burden on Respondents: 76 hours.

Copies of this information collection can be obtained from Brian M. McGregor, Agricultural Marketing Specialist, at (202) 690–1319.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of the appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send comments to Brian M. McGregor, Agricultural Marketing Specialist, USDA, AMS, TMD, Shipper and Exporter Assistance Program, Room 1217 South Building, P. O. Box 96456, Washington, D.C. 20090–6456, Telephone (202) 690–1319, Fax (202) 690–1340.

All comments received will be available for public inspection during regular business hours in Room 1217.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 5, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–2947 Filed 2–9–96; 8:45 am]
BILLING CODE 3410–02–P

[TM–96–00–200]

Notice of Program Continuation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice inviting applications for fiscal year 1996 grant funds under the Federal-State Marketing Improvement Program.

SUMMARY: Notice is hereby given that the Federal-State Marketing Improvement Program (FSMIP) was allocated $1,200,000 in the Federal budget for fiscal year 1996. Funds remain available for this program. States interested in obtaining funds under the program are invited to submit proposals. While only State Departments of Agriculture or other appropriate State Agencies are eligible to apply for funds, State Agencies are encouraged to involve industry organizations in the development of proposals and the conduct of projects.

DATES: Applications will be accepted through June 1, 1996.

ADDRESSES: Proposals may be sent to Dr. Larry V. Summers, FSMIP, Staff Officer, Transportation and Marketing Division, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, Room 2949 South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Dr. Larry V. Summers, (202) 720–2704.

SUPPLEMENTARY INFORMATION: FSMIP is authorized under Section 204(b) of the Agricultural Marketing Act of 1946 (7

U.S.C. 1621 *et seq.*). The program is a matching fund program designed to assist State Departments of Agriculture in conducting studies or developing innovative approaches related to the marketing of agricultural products. Other organizations interested in participating in this program should contact their State Department of Agriculture's Marketing Division to discuss their proposal.

Mutually acceptable proposals must be submitted through the State Agency and be accompanied by a completed Standard Form 424 and detailed budget statement. FSMIP funds may not be used for advertising or, with limited exceptions, for the purchase of equipment or facilities. Guidelines may be obtained from your State Department of Agriculture or the above AMS contact.

States are encouraged to submit proposals aimed at:

(1) Identifying and evaluating new uses, markets, and marketing systems for agricultural products, both domestically and internationally;

(2) Improving the efficiency of marketing processes and systems, including direct marketing, to enhance competitiveness and profitability;

(3) Improving or maintaining the quality and marketability of agricultural products through new handling, processing, and distribution techniques; and,

(4) Assessing opportunities for alternative crops, direct marketing, and farmers' markets to enhance income and market access for small or limited resource farmers.

Proposals addressing other marketing objectives or issues also will receive consideration.

FSMIP is listed in the "Catalog of Federal Domestic Assistance" under number 10.156 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all Federally assisted programs.

Authority: 7 U.S.C. 1621–1627.

Dated: February 5, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–2948 Filed 2–9–96; 8:45 am]

BILLING CODE 3410–02–P

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, as amended, this notice announces the Farm Service Agency's intention to request an extension for and revision to a currently approved information collection in support of Eminent Domain Acquisitions.

DATE: Comments on this notice must be received on or before April 12, 1996, to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Earline J. Brown, Agricultural Program Specialist, Compliance and Production Adjustment Division, USDA, FSA, P.O. Box 2415, Washington, DC 20013, (202) 690–4501.

SUPPLEMENTARY INFORMATION:

Title: Eminent Domain Acquisitions: Reallocating Allotments, Quotas, and Bases.

OMB Number: 0560–0033.

Expiration of Approval Date: February 29, 1996.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The Agricultural Adjustment Act of 1938, as amended, sections 377 and 378, pages 12–6 through 12–8 of the Compilation of Statutes, provides for pooling and transferring of allotments for any commodity for any land from which the owner is displaced because of acquisition of the land by any Federal, State or local agency having the power of eminent domain. An acquisition, with respect to land, is a taking, under the power of eminent domain by a Federal, State, or other agency of: title to land, an impoundment easement on land, or a flowage easement on land. An owner is considered displaced from a farm acquired under the eminent domain power exercised by the Federal, State, or local agency.

The eminent domain pool is a reverse of allotments, quotas, bases, and irrigated acreage maximum (IAM's) for the base years, held for displaced owners for transfer to other farms they own or purchase. The information is manually recorded on ASCS–177 (Record of Pooled Farm Allotment, Quota or CAB and IAM) and ASCS–178 (Application for Transfer of Allotment, Quota or CAB and IAM from Pool), by county office employees from county office records and from information obtained from the displaced owner. The information is used when transferring the allotment, quota, base, or IAM's at the displaced owner's request, to other land owned or acquired by the displaced owner within 3 years of the date of the owner's displacement.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average one-half hour per response.

Respondents: These collections are used by farms and not small businesses.

Estimated Number of Respondents: 3,000.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 3,000 hours.

Comments regarding (a) whether the proposed collection of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Earline J. Brown, Agricultural Program Specialist, Compliance and Production Adjustment Division, Farm Service Agency, USDA, P.O. Box 2415, Washington, DC 20013–2415; telephone (202) 690–4501. Copies of the information collection may be obtained from Earline J. Brown at the above address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on February 5, 1996.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 96–2928 Filed 2–9–96; 8:45 am]

BILLING CODE 3410–05–M

Food and Consumer Service

Information Collection Requirements Submitted for Public Comment and Recommendations: Form FCS–143, Claim for Reimbursement (Summer Food Service Program)

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Food and Consumer Service (FCS), is publishing for public comment a summary of a proposed information collection.

DATES: Comments on this notice must be received by April 12, 1996 to be assured of consideration.

ADDRESSES: Send comments to: Frank Duesing, Accounting Division, Financial Management, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 415, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Frank Duesing, (703) 305–2870.

SUPPLEMENTARY INFORMATION:

Title: Form FCS–143, Claim for Reimbursement (Summer Food Service Program).

OMB Number: 0584–0041.

Expiration Date of Approval: May 31, 1996.

Type of Request: Reinstatement, without change, of a previously approved information collection for which approval has expired.

Abstract: The Summer Food Service Program Claim for Reimbursement Form is used to collect meal and cost data from sponsors in order to determine the reimbursement entitlement for meals served. The form is sent to the Food and Consumer Service's Regional Offices where it is entered into a computerized payment system. The payment system computes earnings to date and the number of meals served to date and generates payments for the amount of earnings in excess of prior advance and claim payments. If the information was not provided on the claim form, the sponsor would not have a vehicle for receiving reimbursement. Earned reimbursement in the Summer Food Service Program is based on performance, i.e., meals served. Recipients are reimbursed the lesser of meals served times rates or actual costs. To fulfill the earned reimbursement requirements set forth in the Summer Food Service Program Regulations issued by the Secretary of Agriculture (7 CFR 225.9), the meal and cost data must be collected on the FCS–143 claim form. In addition, this form is an intrinsic part of the accounting system being used currently to ensure reimbursement as well as to facilitate adequate record keeping.

This request is being made to extend the current information collection for an additional three years. Current methods are the only practical means of collecting this information considering the resources of form users.

The information collected is used by FCS to manage, plan, evaluate, and account for Government resources. The reports and records are required to ensure the proper and judicious use of public funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .5 hours per response.

Respondents: The respondents are Summer Food Program sponsors.

Estimated Number of Respondents: 731.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 1,100 hours.

Copies of this information collection can be obtained from Cato Watson, Agency Information Collection Coordinator, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302.

Dated: January 26, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–3032 Filed 2–9–96; 8:45 am]

BILLING CODE 3410–30–U

Food Distribution Program: Substitution of Donated Chicken with Commercial Chicken

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Food and Consumer Service's (FCS) intent to conduct a demonstration project to study the effects of allowing the substitution of donated chicken with commercial chicken in the State processing of donated chicken supplied by the Department of Agriculture (the Department). Under the demonstration project, FCS is invoking, in a final rule published elsewhere in this issue of the **Federal Register**, its authority under 7 CFR 250.30(t) to waive the current prohibition in 7 CFR 250.30(f)(1)(i) of the substitution of poultry and will establish the criteria under which substitution will be permitted. Only bulk pack chicken and chicken parts will be eligible for substitution. The Department will use the demonstration project results to examine whether permitting this type of substitution will result in increased processor participation and provide a greater variety of processed chicken end products to recipient agencies in a more timely manner at lower costs.

DATES: The proposals described in this Notice may be submitted to FCS through June 30, 1997.

ADDRESSES: Proposals should be sent to Ellen Henigan, Chief, Schools/Institutions Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, Park Office Center, Room 501, 3101 Park Center Drive, Alexandria, Virginia 22302–1594.

FOR FURTHER INFORMATION CONTACT: Ursula Key, Schools/Institutions Branch, at (703) 305–2644.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.550 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984).

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and is thus exempt from the provisions of that Act.

Background

Section 250.30 of the current Food Distribution Program regulations sets forth the terms and conditions under which distributing agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for processing donated foods and prescribes the minimum requirements to be included in such contracts. Section 250.30(t) authorizes FCS to waive any of the requirements contained in 7 CFR Part 250 for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods.

Current Program Requirements

The State processing regulations at § 250.30(f)(1)(i) currently allow for the substitution of certain specified donated food items, with the exception of meat and poultry. Under the current regulations at § 250.30(g), when donated meat or poultry products are processed

or when any commercial meat or poultry products are incorporated into an end product containing one or more donated foods, all of the processing is required to be performed in plants under continuous Federal meat or poultry inspection or continuous State meat or poultry inspection in States certified to have programs at least equal to the Federal inspection programs. In addition to Food Safety Inspection Service (FSIS) inspection, all donated meat and poultry processing must be performed under Agricultural Marketing Service (AMS) acceptance service grading.

Currently, only a few poultry processors are participating in the State processing of donated foods. Processors have stated that the current policy which prohibits the substitution of donated chicken reduces the quantity of donated chicken they are able to accept and process during a given period. Chicken purchased by USDA for further processing is bulk chill packed. Processors must schedule production around deliveries of the donated chicken since it is a very highly perishable product. Some of the processors must schedule production around deliveries of donated chicken for up to 30 individual States. Vendors do not always deliver donated chicken to the processors as scheduled, causing delays in production of end products. These delays may be eliminated if the processors can substitute commercial chicken for donated chicken.

Demonstration Project

From February 1, 1996 to June 30, 1997, the Department will operate a demonstration project under which it will permit selected poultry processors to substitute commercial chicken for donated chicken in the State processing of donated chicken. Processors may submit proposals and be selected to participate in the demonstration project during this time. FCS is invoking, in a final rule published elsewhere in this issue of the **Federal Register**, its authority under 7 CFR 250.30(t) to waive the current prohibition in 7 CFR 250.30(f)(1)(i) of the substitution of poultry for purposes of this demonstration project.

The demonstration project has been limited to bulk pack chicken and chicken parts only because such chicken lends itself readily to such a study. There are a number of reasons that this chicken is better than meat for purposes of this demonstration project. The definition of substitution in § 250.3 requires any replacement of commercial product for donated food to be of the same generic identity and equal or better quality. With bulk pack chicken and chicken parts, these requirements can be met easily and quickly, but requirements for the substitution of meat would be more complicated. For example, the USDA specification for donated ground beef calls for quality assurance provisions and certification requirements such as: (1) Checking fresh chilled beef for condition prior to grinding; (2) a sampling program to determine if physchrotropic plate count levels exceed 100,000 bacteria per gram; (3) assuring removal of bone and trimming defects; (4) compliance with time and temperature requirements during processing and storing; and (5) compliance with fat content requirements. These requirements cannot be duplicated by many processors. Additionally, donated ground beef is delivered frozen for processing, so the need for quickly turning around the product is not as crucial as it is for bulk chilled chicken. On the other hand, the USDA specifications for donated bulk pack chicken and chicken parts are more easily met. Bulk pack turkey and turkey parts may be considered for inclusion in future demonstration projects since graders can easily determine if commercial turkey meets or exceeds the specifications for donated turkey.

FCS is soliciting interested poultry processors to submit written proposals to participate in the demonstration project. The following basic requirements will apply to the demonstration project:

- As with the processing of donated chicken into end products, Agricultural Marketing Service (AMS) graders must monitor the processing of any substituted commercial chicken to ensure program integrity is maintained.
- Only bulk pack chicken and chicken parts delivered by USDA vendors to the processor will be eligible for substitution. No backhauled product will be eligible. (Backhauled product is typically cut-up frozen chicken parts delivered to schools which may be turned over to processors for further processing at a later time.)
- Commercial chicken substituted for donated chicken must be certified by an AMS grader as complying with all product specifications for the donated chicken.
- Substitution of commercial chicken may occur in advance of the actual receipt of the donated chicken by the processor. However, no substitution may occur before the notice to deliver for that processor is issued by USDA. Lead time between the purchase and delivery of donated chicken may be up to five weeks. Any variation between the amount of commercial chicken substituted and the amount of donated chicken received by the processor will be adjusted according to guidelines furnished by USDA.
- Any donated chicken not used in end products because of substitution must only be used by the processor in other commercial processed products and cannot be sold as an intact unit.
- The only regulatory provision or State processing contract term affected by the demonstration project is the prohibition on substitution of chicken (§ 250.30(f)(1)(i) of the regulations). All other regulatory and contract requirements remain unchanged and must still be met by processors participating in the demonstration project.

The demonstration project will enable FCS to evaluate whether to amend program regulations to provide for the substitution of donated chicken with commercial chicken in the State processing program. Particular attention will be paid to whether such an amendment of the regulations would probably increase the number of processors participating, and whether it would probably increase the quantity of donated chicken that each processor accepts for processing. Further, FCS will attempt to determine whether the expected increase in competition and the expected increase in the quantity of donated chicken accepted for processing in fact enable processors to function more efficiently, producing a greater variety of processed chicken end products in a more timely manner at lower costs.

Interested processors should submit a written proposal to FCS outlining how they plan to carry out the substitution while complying with the above conditions. The proposal must contain a step-by-step description of how production will be monitored and a complete description of the records that will be maintained for the commercial chicken substituted for the donated chicken as well as the disposition of the donated chicken delivered. All proposals will be reviewed by representatives of the Food Distribution Division of FCS and by representatives of AMS's Poultry Division's Commodity Procurement Branch and Grading Branch. Those companies selected for participation in the demonstration project will be required to enter into an agreement with FCS and AMS which authorizes the processor to substitute commercial bulk pack chicken or chicken parts in fulfilling any current or future State processing contracts during the demonstration project period. Participation in the demonstration project will not ensure the processor will receive any State processing contracts.

Dated: January 18, 1996.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 96–2178 Filed 2–9–96; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 788]

Grant of Authority; Establishment of a Foreign-Trade Zone; Anniston, AL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Anniston Metropolitan Airport Board of Commissioners (formerly the Anniston-Calhoun County Airport Commission), on behalf of the City of Anniston, Alabama (the Grantee), has made application to the Board (FTZ Docket 32–94, 59 FR 54432, 10/31/94), requesting the establishment of a foreign-trade zone in Anniston, Alabama, adjacent to the Birmingham Customs port of entry; and,

Whereas, notice inviting public comment has been given in the **Federal Register** and the Board has found that the requirements of the Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 211, at the site described in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 22nd day of January 1996.

Foreign-Trade Zones Board.

Ronald H. Brown,

Secretary of Commerce, Chairman and Executive Officer.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3069 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–25–P

International Trade Administration

[A–580–812]

Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea; Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits of the preliminary and final results of the second antidumping duty administrative review of dynamic random access memory semiconducts (DRAMS) from the Republic of Korea. The review covers two manufacturers/exporters of the subject merchandise to the United States and the period May 1, 1994 through April 30, 1995.

EFFECTIVE DATE: February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr. or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–0651 or (202) 482–3814, respectively.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limits mandated by Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994, the Department is extending the time limits for completion of the preliminary results until June 29, 1996. We will issue our final results for this review by December 27, 1996.

These extensions are in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: February 2, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–3064 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of Antidumping Duty Administrative Review.

SUMMARY: On August 17, 1995, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip from the Republic of Korea (60 FR 42835). Clerical errors which were timely filed by the parties were not corrected by the Department prior to the time the parties filed suit with the Court of International Trade (CIT). Therefore, leave was requested to correct the clerical errors in this case. Pursuant to orders issued by the CIT on November 16, 1995, and November 27, 1995, granting leave to the Department to correct ministerial errors, we have corrected several ministerial errors with respect to sales of subject merchandise by four Korean manufacturers/exporters. The errors were present in our final results of review. The review covers the period November 30, 1990, through May 31, 1992. We are publishing this amendment to the final results of review in accordance with 19 C.F.R. 353.28(c) and the orders issued by the CIT.

EFFECTIVE DATE: February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr. or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–0651/3814.

SUPPLEMENTARY INFORMATION:

Background

The review covers four manufacturers/exporters of polyethylene terephthalate (PET) film from the Republic of Korea (Korea): Cheil Synthetics, Inc. (Cheil), SKC Limited (SKC), Kolon Industries, Inc. (Kolon), and STC Corporation (STC), and the period November 30, 1990 through May 31, 1992. The Department published the preliminary results of review on July 8, 1994 (59 FR 35098), and the final results of review on August 17, 1995 (60 FR 42835).

Clerical errors which were timely filed by the parties were not corrected by the Department prior to the time the parties filed suit with the CIT. Therefore, leave was requested to correct the clerical errors in this case. On November 16, 1995, and November 27, 1995, the CIT issued orders granting leave to the Department to correct ministerial errors in these final results.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of Review

Imports covered by the review are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

For most of the respondents the period of review (POR) covers November 30, 1990 through May 31, 1992. Because Cheil was determined to have a *de minimis* margin in the *Preliminary Determination of Sales at Less Than Fair Value* (56 FR 16305) (LTFV), Cheil's POR begins on April 22, 1991, when suspension of its merchandise was first ordered, and runs through May 31, 1992.

Ministerial Errors in Final Results of Review

The CIT granted leave to the Department to correct ministerial errors. The Department determined that it made the following clerical errors in the final results:

All Respondents

In the final calculations, the Department's cost of production (COP) test for all respondents inadvertently retained products sold below the COP in less than three months. We corrected the COP test calculations for all respondents by revising the COP test to exclude those products from our dumping analysis which were sold in less than three months during the period of review (POR) and were also sold below COP for those months (i.e., a product sold in two months would be excluded from analysis if that product was sold below COP for two months).

Cheil

In our final calculations we inadvertently failed to add Cheil's duty drawback for local export sales (a type of home market sale) to Cheil's net home market price before conducting the COP test. We corrected this clerical error by adding duty drawback to Cheil's net home market price before conducting the COP test.

In our final calculations we inadvertently included packing and imputed credit expenses twice in the calculation of constructed value (CV). We corrected this by re-writing the CV program to include these expenses only once.

Our final calculations contained a typographical error in the product code variable in the difference-in-merchandise section. We corrected this error by re-writing this section of the calculations with the correct product code variable.

SKC

The final calculations contained a typographical error in the variable name for two models of PET film in SKC's model-matching section. We corrected this error by inserting the correct variable name for these two models of PET film.

In our final calculations, we inadvertently re-calculated SKC's imputed U.S. credit expense using date of sale for unpaid sales to Anacomp instead of the date of payment. We corrected this error by re-calculating SKC's U.S. credit expense using the date of payment.

Our final results calculations failed to use the proper data set containing SKC's further-processed sales in the United States in calculating SKC's exporter's sales price (ESP) transactions. We corrected this error by using the proper data set for SKC's ESP calculations. In our final calculations we incorrectly computed profit attributable to further-processed sales by inadvertently deducting SKC's U.S. movement expenses twice from this calculation. We corrected this error by re-writing the further-processed sales program to deduct these expenses only once.

Kolon

In the final calculations for Kolon we re-calculated Kolon's U.S. inland insurance expense based upon revised data gathered at verification. These calculations contained a typographical error. We corrected the typographical error in the final calculations of Kolon's U.S. inland insurance expense.

STC

For our final calculations we inadvertently re-calculated STC's home market credit expense based upon a shorter payment period than its actual payment period. We corrected our final calculations by computing STC's home market credit expense based upon the actual payment period.

Amended Final Results of Review

Upon correction of the ministerial errors listed above, the Department has determined that the following margins exist for the periods indicated:

Manufacturer/exporter	Percent margin
November 30, 1990 through May 31, 1992:	
SKC Limited	0.11
Kolon Industries	0.60
STC Corporation	11.41
April 22, 1991 through May 31, 1992:	
Cheil Synthetics	0.07

The Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions concerning each respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed firms will be the rates outlined above, except for Cheil and SKC, which, because their weighted-average margins were de minimis, will be zero percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department in the LTFV investigation, the cash deposit rate will be 4.82%, the all others rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This amendment of final results of review and notice are in accordance with section 751(f) of the Tariff Act (19 U.S.C. 1675(f)) and 19 CFR 353.28(c).

Dated: Janaury 31,1 996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96-3065 Filed 2-9-96; 8:45 am]

BILLING CODE 3510-DS-P

[A-538-802]

Shop Towels From Bangladesh; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of Antidumping Duty Administrative Review.

SUMMARY: On September 21, 1995, the Department of Commerce (the Department) issued the preliminary results of its 1993–1994 administrative review of the antidumping duty order on shop towels from Bangladesh (60 FR 48970; September 21, 1995). The review covers six manufacturers/exporters. The review period is March 1, 1993, through February 28, 1994. We gave interested parties an opportunity to comment on our preliminary results. No comments were received. Therefore, the final results are the same as the preliminary results.

EFFECTIVE DATE: February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Rosenbaum or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1995, the Department published in the **Federal Register** the preliminary results of its 1993–1994 administrative review of the antidumping duty order on shop towels from Bangladesh (60 FR 48970).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of Review

The product covered by this administrative review is shop towels. Shop towels are absorbent industrial wiping cloths made from a loosely woven fabric. The fabric may be either 100 percent cotton or a blend of materials. Shop towels are currently classifiable under item numbers 6307.10.2005 and 6307.10.2015 of the *Harmonized Tariff Schedules* (HTS). Although HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

Final Results of Review

We gave interested parties an opportunity to comment on our preliminary results. We received no comments. Therefore, we determine that the following percentage weighted-average margins exist for the period March 1, 1993, through February 28, 1994.

Manufacturer/exporter	Margin (percent)
Eagle Star Mills Ltd	[1]42.31
Greyfab (Bangladesh) Ltd	0.00
Hashem International	0.00
Khaled Textile Mills Ltd	9.61
Shabnam Textiles	1.74
Sonar Cotton Mills (Bangladesh) Ltd	42.31

[1] No shipments or sales subject to this review; rate is from LTFV investigation.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those rates established above (except that if the rate for a firm is *de minimis, i.e.*, less than 0.5 percent, a cash deposit of zero will be required for that firm); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be 4.60 percent, the "All Others" rate established in the LTFV investigation (57 FR 3996).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative

protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 1, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3066 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–401–401]

Certain Carbon Steel Products From Sweden; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On August 24, 1995, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on certain carbon steel products from Sweden for the period January 1, 1993 through December 31, 1993. We have completed this review and determine the net subsidy to be 2.98 percent *ad valorem* for all companies. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Gayle Longest, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2849; (202) 482–3338.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 1995, Department published in the **Federal Register** (60 FR 44014) the preliminary results of its administrative review of the countervailing duty order on certain carbon steel products from Sweden. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On September 25, 1995, a case brief was submitted on behalf of U.S. Steel Group, a unit of USX Corporation, petitioner. On October 2, 1995, rebuttal comments were submitted by SSAB Svenskt Stal AB (SSAB), respondent.

The review covers the period January 1, 1993 through December 31, 1993. The review involves one company, SSAB, the sole known producer/exporter of the subject merchandise during the review period, and nine programs.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Scope of the Review

Imports covered by this review are shipments of certain carbon steel products from Sweden. These products include cold-rolled carbon steel, flat-rolled products, whether or not corrugated or crimped; whether or not corrugated or crimped: whether or not pickled, not cut, not pressed and not stamped to non-rectangular shape; not coated or pleated with metal and not clad; over 12 inches in width and of any thickness; whether or not in coils. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* (HTS) item number 7209.11.0000, 7209.12.0000, 7209.13.0000, 7209.21.0000, 7209.22.0000, 7209.23.0000, 7209.24.5000, 7209.31.0000, 7209.32.0000, 7209.33.0000, 7209.34.0000, 7209.41.0000, 7209.43.0000, 7209.44.0000, 7209.90.0000, 7211.30.5000, 7211.41.7000 and 7211.49.5000.

The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

Because SSAB is the only manufacturer/exporter of the subject merchandise to the United States, SSAB's net subsidy rate is also the country-wide rate.

Privatization

SSAB was partially privatized twice, in 1987 and in 1989. In the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Sweden* (58 FR 37385; July 9, 1993) (*Final Determination*), the Department found that SSAB had received countervailable subsidies prior to these partial privatizations. Further, the Department found that a private party purchasing all or part of a government-owned company can repay prior subsidies on behalf of the company as part or all of the sales price (*see* the General Issues Appendix appended to the *Final Countervailing Duty Determination: Certain Steel Products from Austria* (58 FR 37217, at 37262; July 9, 1993) (*General Issues Appendix*)). Therefore, to the extent that a portion of the sales price paid for a privatized company can be reasonably attributed to prior subsidies, that portion of those subsidies will be extinguished.

To calculate the subsidies remaining with SSAB after each partial privatization, we performed the following calculations. We first calculated the net present value (NPV) of the future benefit stream of the subsidies at the time of the sale of the shares. We then multiplied the NPV by the percentage of shares the government retained after the sale and derived the amount of subsidies not affected by privatization. Next, we estimated the portion of the purchase price which represents repayment of prior subsidies in accordance with the methodology described in the "Privatization" section of the *General Issues Appendix* (58 FR at 37259). This amount was then subtracted from the NPV, and the result was divided by the NPV to calculate the ratio representing the amount of subsidies remaining with SSAB after each partial privatization.

With respect to sale of "productive units" by SSAB, we have followed the same methodology used in the *Final Determination* (58 FR 37385). In accordance with that methodology, a portion of the price paid when a productive unit is sold is allocable to the repayment of subsidies received in prior years by the seller of the productive unit. The subsidies allocated to the POR have been reduced for all of the programs, as described above. These subsidies were further adjusted by the asset value of the productive unit. For a further explanation of the Department's methodology regarding "sales of productive units" and these calculations, see the "Restructuring" section of the *General Issues Appendix* (58 FR at 37265).

To calculate the benefit provided to SSAB, we multiplied the benefit calculated for 1993, adjusted for sales of productive units, by the ratio representing the amount of subsidies remaining with SSAB after the partial privatization. We then divided the results by the company's total sales in 1993.

Analysis of Programs

Based upon our analysis of the questionnaire responses, verification, and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

1. *Equity Infusion*

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 0.82 percent *ad valorem*.

2. *Structural Loans*

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 0.38 percent *ad valorem*.

3. *Forgiven Reconstruction Loans*

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 1.77 percent *ad valorem*.

4. *Grants for Temporary Employment for Public Works*

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings that the net subsidy for this program is 0.01 percent *ad valorem*.

II. Program Found Not To Confer Subsidies

In the preliminary results we found the Research & Development (R&D) Loans and Grants program did not confer countervailable benefits during this period of review. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

III. Programs Found Not To Be Used

In the preliminary results we found the following programs to be not used:

1. Regional Development Grants
2. Transportation Grants
3. Location-of-Industry Loans

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

IV. Program Found To Be Terminated

In the preliminary results we found the State Stockpiling Subsidies program to be terminated. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

Analysis of Comments

Comment 1: Petitioner argues that the Department's privatization methodology is contrary to economic reality and the requirements of the countervailing duty law. According to petitioner, the Department's determination that privatization "repays" a portion of the subsidies received before privatization is contrary to economic reality because the resources provided by the government to SSAB, which the market would not have provided, still remain with SSAB after privatization and continue to benefit the production of the merchandise. No resources were transferred from SSAB to the Government of Sweden (GOS). Furthermore, they contend that the Department's privatization methodology is contrary to the countervailing duty law because the countervailing duty statute, 19 U.S.C. § 1671(a), requires that subsidies bestowed upon the production, manufacture, or exportation of merchandise imported into the United States be countervailed. Since the subsidies received by SSAB continue to benefit its production of the subject merchandise after the partial privatizations, these subsidies continue to be fully countervailable.

The respondent argues in rebuttal that the new shareholders' arm's length purchases result in the repayment of prior subsidies as a matter of economic reality and as a result of the functional identity between a company and its shareholders in the context of privatization.

Department's Position: We disagree with petitioner. The Department previously addressed this issue in the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Sweden* (58 FR 37385, July 9, 1993) (*Final Determination*) and in the General Issues Appendix appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria* (58 FR 37261–2, July 9, 1993) (*General Issues Appendix*). In this proceeding, petitioner has not submitted any new arguments which would warrant reconsideration of this issue.

Comment 2: Petitioner argues that the Department's privatization methodology is flawed and not supported by facts. Petitioner contends that the basis of the Department's methodology is that purchasers of shares in a subsidized company paid more for those shares than they would otherwise have absent subsidization; that because the new owners are presumably profit-maximizers, the privatized firm must now generate a reasonable rate of return on the owner's investment; and that to the extent that the new owners invested more in the company because of the subsidies, the company presumably faces an obligation to generate more earnings so as to provide a reasonable rate of return. Petitioner argues that this premise is incorrect, and that the Department is confusing countervailable subsidy benefits with the effects of subsidies on the value of the company. Petitioner also argues that the Department's repayment methodology assumes that private investors have different expectations than government investors, however the Department offers no evidence to support this assumption. Finally, petitioner argues that if the repayment methodology applies to purchases of shares in state-owned companies, it must also apply to purchases of shares in private companies that have received subsidies.

Department's Position: The arguments presented by the petitioner have been previously addressed by the

Department. *See General Issues Appendix* (58 FR 37217, at 37259, 37264). In this proceeding petitioner has presented no new evidence or arguments regarding this issue that would warrant reconsideration of the Department's determination that past subsidies bestowed upon SSAB are affected by privatization. Thus, the Department's preliminary results remain unchanged with respect to this issue.

We note, however, that petitioner went beyond the Department's position in outlining their interpretation of the basis of the Department's methodology by stating that "purchasers of shares in a subsidized company paid more for those shares than they would have, and that to the extent that the new owners invested more in the company because of the subsidies, the company presumably faces an obligation to generate more earnings to provide a reasonable rate of return." The Department neither stated nor implied such a position. The Department has stated that the owner-shareholders' expectations of a return on their investment cannot be separated from the profitability of the newly privatized company, and that the owners will seek to extract a return from their company at least equal to that of alternative investments of similar risk. The Department also stated that to the extent that a portion of the price paid for a privatized company can reasonably be attributed to prior subsidies, that portion of those subsidies will be extinguished. *See General Issues Appendix* (58 FR 37217, at 37262).

Comment 3: Petitioner contends that the Department's privatization methodology was rejected by the Court of International Trade (CIT) in *British Steel plc* v. *United States, British Steel plc* v. *U.S.*, 879 F. Supp. 1254 (CIT 1995) (*British Steel*). Petitioner contends that in *British Steel*, the court stated that it would seem at best that the only way to extinguish a previously given gift or subsidy would be to repay the gift or subsidy to the original donor government. To the extent that the sale of shares involves only a change in the beneficial ownership of the company, it does not cause any change in the company itself and no such repayment occurs.

Petitioner also contends that although the CIT's statements in *British Steel* regarding repayment are dicta, in the final remand determinations in *British Steel*, the Department accepted the CIT's reasoning and abandoned its repayment methodology. Therefore, the petitioner argues that because SSAB has not repaid the GOS for prior subsidies, such benefits remain with the company, and are countervailable.

Respondent contends that because the CIT has yet to issue its final judgment in *British Steel*, it is inappropriate to even suggest that the CIT's opinion has any bearing on this case.

Department's Position: We disagree with petitioner. The CIT has not entered an order with respect to the remand determinations in *British Steel*. The Department is not required to follow a CIT opinion that is still subject to litigation and to which the Department has not acquiesced. In such instances, the Department does not change its methodology while litigation is pending. *See, Color Television Receivers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review.* (59 FR 13700, at 13702; March 23, 1994). Therefore, we have followed our privatization methodology as set forth in the *Final Determination*.

Comment 4: Petitioner argues that the Department has failed to explain the logic underlying its privatization methodology. Specifically, petitioner argues that the Department has failed to explain why a ratio of the subsidies received by a company each year to the company's net worth in that year serves as a "reasonable surrogate" for the percentage of the company's net value that the subsidies represent, and how a simple arithmetic average of these ratios relates to the value of the subsidies at the time the company is sold, much less to the extinguishment of subsidy benefits.

Respondent argues that the Department has substantial discretion and wide latitude in developing reasonable methodologies to properly implement the countervailing duty law. As a factual matter, the Department has adequately explained the bases for its repayment formula in the *General Issues Appendix*.

Department's Position: As explained in the *General Issues Appendix*, the methodology applied by the Department attempts to estimate the proportion of the purchase price attributable to subsidies. The ratio, cited by petitioner, represents, in the Department's view, the most reasonable approach to that estimation. In arguing the issue of the impact of privatization upon formerly government-owned companies which previously benefitted from subsidies, petitioners in the *Final Determination* stated that privatization does not affect the amount of subsidies allocable to the privatized steel companies, while respondents argued that privatization of a government-owned company extinguishes any pre-existing subsidies. The Department considered, but ultimately rejected, both of these extreme positions. The Department determined that prior subsidies are allocable to the privatized companies upon their sale to private parties. However, it also concluded that a portion of the price paid by the private parties constituted repayment for the subsidies previously bestowed on the formerly government-owned companies.

The Department recognized that any methodology developed to determine what portion of the sales price constituted repayment for prior subsidies would yield only a rough estimate.

In attempting to estimate that portion of the purchase price attributable to prior subsidies, the Department concluded that the most reasonable approach was to look at the ratio of the privatized company's subsidies (over time) to the company's net worth during the period from 1977 (the earliest point at which subsidies providing countervailable benefits in the period of investigation could have been bestowed) until the year before privatization. The subsidy-to-net worth ratio is intended to provide the Department with an estimate of the contribution subsidies have made to the value of a company.

Final Results of Review

For the period January 1, 1993 through December 31, 1993, we determine the net subsidy to be 2.98 percent *ad valorem* for all companies.

The Department will instruct the U.S. Customs Service to assess the following countervailing duties:

Manufacturer/exporter	Rate
SSAB Svenskt Stal AB	2.98
Country-wide rate	2.98

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of 2.98 percent of the f.o.b. invoice price on all shipments of the subject merchandise from Sweden, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 30, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3067 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–401–804]

Certain Cut-to-Length Carbon Steel Plate From Sweden; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of Countervailing Duty Administrative Review.

SUMMARY: On August 24, 1995, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on certain cut-to-length carbon steel plate from Sweden for the period December 7, 1992 through December 31, 1993. We have completed this review and determine the net subsidy to be 2.98 percent *ad valorem* for all companies for the periods December 7, 1992 through April 5, 1993, and August 17, 1993 through December 31, 1993. Merchandise entered on or after April 6, 1993 and before August 17, 1993 is to be liquidated without regard to countervailing duties.

EFFECTIVE DATE: February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Gayle Longest, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2849; (202) 482–3338.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 1995, the Department published in the **Federal Register** (60 FR 44017) the preliminary results of its administrative review of the countervailing duty order on certain cut-to-length carbon steel plate from Sweden. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On September 25, 1995, a case brief was submitted on behalf of Bethlehem Steel Corporation, Geneva Steel, Gulf States Steel Inc. of Alabama, Inland Steel Industries, Inc., Lukens Steel Company, Sharon Steel Corporation, and U.S. Steel Group, a unit of USX Corporation (petitioners). On October 2, 1995, rebuttal comments were submitted by SSAB Svenskt Stal AB (SSAB) (respondent).

The review covers the period December 7, 1992 through December 31, 1993. The review involves one company, SSAB, the sole known producer/exporter of the subject merchandise during the review period, and ten programs.

Because the period of review (POR) covers only three weeks in 1992 (December 7 through December 31, 1992), the Department determined that it was appropriate to apply the assessment rate calculated for 1993 to exports made during the three-week period. *See, Memorandum for Joseph A. Spetrini from the Steel Team* dated October 3, 1994, regarding calculation of the assessment rate in the first administrative reviews of the Certain Steel Countervailing Duty Orders, which is on file in the Central Records Unit, Room B–099 of the Department of Commerce.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Scope of the Review

Imports covered by this review are shipments of certain cut-to-length carbon steel plate from Sweden. These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width or in a closed box pass, or a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, or rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this order are flat-rolled products of non-rectangular cross-section where cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from this order is grade X–70 plate. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

Because SSAB is the only manufacturer/exporter of the subject merchandise to the United States, SSAB's net subsidy rate is also the country-wide rate.

Privatization

SSAB was partially privatized twice, in 1987 and in 1989. In the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Sweden* (58 FR 37385; July 9, 1993) (*Final Determination*), the

Department found that SSAB had received countervailable subsidies prior to these partial privatizations. Further, the Department found that a private party purchasing all or part of a government-owned company can repay prior subsidies on behalf of the company as part or all of the sales price (see the General Issues Appendix appended to the *Final Countervailing Duty Determination; Certain Steel Products from Austria* (58 FR 37217, at 37262; July 9, 1993) (*General Issues Appendix*)). Therefore, to the extent that a portion of the sales price paid for a privatized company can be reasonably attributed to prior subsidies, that portion of those subsidies will be extinguished.

To calculate the subsidies remaining with SSAB after each partial privatization, we performed the following calculations. We first calculated the net present value (NPV) of the future benefit stream of the subsidies at the time of the sale of the shares. We then multiplied the NPV by the percentage of shares the government retained after the sale and derived the amount of subsidies not affected by privatization. Next, we estimated the portion of the purchase price which represents repayment of prior subsidies in accordance with the methodology described in the "Privatization" section of the *General Issues Appendix* (58 FR at 37259). This amount was then subtracted from the NPV, and the result was divided by the NPV to calculate the ratio representing the amount of subsidies remaining with SSAB after each partial privatization.

With respect to sales of "productive units" by SSAB, we have followed the same methodology used in the *Final Determination* (58 FR at 37385). In accordance with that methodology, a portion of the price paid when a productive unit is sold is allocable to the repayment of subsidies received in prior years by the seller of the productive unit. The subsidies allocated to the POR have been reduced for all of the programs, as described above. These subsidies were further adjusted by the asset value of the productive unit. For a further explanation of the Department's methodology regarding "sales of productive units" and these calculations, see the "Restructuring" section of the *General Issues Appendix* (58 FR at 37265).

To calculate the benefit provided to SSAB, we multiplied the benefit calculated for 1993, adjusted for sales of productive units, by the ratio representing the amount of subsidies remaining with SSAB after the partial privatization. We then divided the results by the company's total sales in 1993.

Analysis of Programs

Based upon our analysis of the questionnaire responses, verification, and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

1. Equity Infusion

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 0.82 percent *ad valorem*.

2. Structural Loans

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 0.38 percent *ad valorem*.

3. Forgiven Reconstruction Loans

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 1.77 percent *ad valorem*.

4. Grants for Temporary Employment for Public Works

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 0.01 percent *ad valorem*.

II. Programs Found Not To Confer Subsidies

In the preliminary results we found that the following programs did not confer countervailable benefits during this period of review:

1. Research & Development (R&D) Loans and Grants.
2. Fund for Industry and New Business Research and Development

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

III. Programs Found Not To Be Used

In the preliminary results we found the following programs to be not used:

1. Regional Development Grants.
2. Transportation Grants.
3. Location-of-Industry Loans.

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

IV. Program Found To Be Terminated

In the preliminary results we found the State Stockpiling Subsidies program to be terminated. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

Analysis of Comments

Comment 1: Petitioners argue that the Department's privatization methodology is contrary to economic reality and the requirements of the countervailing duty law. According to petitioners, the Department's determination that privatization "repays" a portion of the subsidies received before privatization is contrary to economic reality because the resources provided by the government to SSAB, which the market would not have provided, still remain with SSAB after privatization and continue to benefit the production of the merchandise. No resources were transferred from SSAB to the Government of Sweden (GOS). Furthermore, they contend that the Department's privatization methodology is contrary to the countervailing duty law because the countervailing duty statute, 19 U.S.C. § 1671(a), requires that subsidies bestowed upon the production, manufacture, or exportation of merchandise imported into the United States be countervailed. Since the subsidies received by SSAB continue to benefit its production of the subject merchandise after the partial privatizations, these subsidies continue to be fully countervailable.

The respondent argues in rebuttal that the new shareholders' arm's length purchases result in the repayment of prior subsidies as a matter of economic reality and as a result of the functional identity between a company and its shareholders in the context or privatization.

Department's Position: We disagree with petitioners. The Department previously addressed this issue in the *Final Affirmative Countervailing Duty Determinotions: Certain Steel Products from Sweden* (58 FR 37385, July 9, 1993) (*Final Determination*) and in the General Issues Appendix appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria* (58 FR 37261—2, July 9, 1993) (*General Issues Appendix*). In this proceeding, petitioners have not submitted any new arguments which would warrant reconsideration of this issue.

Comment 2: Petitioners argue that the Department's privatization methodology is flawed and not supported by facts. Petitioners contend that the basis of the Department's methodology is that purchasers of shares in a subsidized company paid more for those shares than they would otherwise have absent subsidization; that because the new owners are presumably profit-maximizers, the privatized firm must now generate a reasonable rate of return on the owner's investment; and that to the extent that the new owners invested more in the company because of the subsidies, the company presumably faces an obligation to generate more earnings so as to provide a reasonable rate of return. They argue that this premise is incorrect, and that the Department is confusing countervailable subsidy benefits with the effects of subsidies on the value of the company. Petitioners also argue that the Department's repayment methodology assumes that private investors have different expectations than government investors, however the Department offers no evidence to support this assumption. Finally, petitioners argue that if the repayment methodology applies to purchases of shares in state-owned companies, it must also apply to purchases of shares in private companies that have received subsidies.

Department's Position: The arguments presented by the petitioners have been previously addressed by the Department. *See General Issues Appendix* (58 FR 37217, at 37259, 37264). In this proceeding petitioners have presented no new evidence or arguments regarding this issue that would warrant reconsideration of the Department's determination that past subsidies bestowed upon SSAB are affected by privatization. Thus, the Department's preliminary results remain unchanged with respect to this issue.

We note, however, that petitioners went beyond the Department's position in outlining their interpretation of the basis of the Department's methodology by stating that "purchasers of shares in a subsidized company paid more for those shares than they would have, and that to the extent that the new owners invested more in the company because of the subsidies, the company presumably faces an obligation to generate more earnings to provide a reasonable rate of return." The Department neither stated nor implied such a position. The Department has stated that the owner-shareholders' expectations of a return on their investment cannot be separated from the profitability of the newly privatized company, and that the owners will seek to extract a rate of return from their company at least equal to that of alternative investments of similar risk. The Department also stated that to the extent that a portion of the price paid for a privatized company can reasonably be attributed to prior subsidies, that portion of those subsidies will be extinguished. *See General Issues Appendix* (58 FR 37217, at 37262).

Comment 3: Petitioners contend that the Department's privatization methodology was rejected by the Court of International Trade (CIT) in *British Steel plc* v. *United States, British Steel plc* v. *U.S.*, 879 F. Supp. 1254 (CIT 1995) (*British Steel*). Petitioners contend that in *British Steel*, the court stated that it would seem at best that the only way to extinguish a previously given gift or subsidy would be to repay the gift or subsidy to the original donor government. To the extent that the sale of shares involves only a change in the beneficial ownership of the company, it does not cause any change in the company itself and no such repayment occurs. Petitioners also contend that although the CIT's statements in British Steel regarding repayment are dicta, in the final remand determinations in *British Steel*, the Department accepted the CIT's reasoning and abandoned its repayment methodology. Therefore, the petitioners argue that because SSAB has not repaid the GOS for prior subsidies, such benefits remain with the company, and are countervailable.

Respondent contends that because the CIT has yet to issue its final judgment in *British Steel*, it is inappropriate to even suggest that the CIT's opinion has any bearing on this case.

Department's Position: We disagree with petitioners. The CIT has not entered an order with respect to the remand determinations in *British Steel*. The Department is not required to follow a CIT opinion that is still subject to litigation and to which the Department has not acquiesced. In such instances, the Department does not change its methodology while litigation is pending. *See, Color Television Receivers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review* (59 FR 13700, at 13702; March 23, 1994). Therefore, we have followed our privatization methodology as set forth in the *Final Determination*.

Comment 4: Petitioners argue that the Department has failed to explain the logic underlying its privatization methodology. Specifically, petitioners argue that the Department has failed to explain why a ratio of the subsidies received by a company each year to the company's net worth in that year serves as a "reasonable surrogate" for the percentage of the company's net value that the subsidies represent, and how a simple arithmetic average of these ratios relates to the value of the subsidies at the time the company is sold, much less to the extinguishment of subsidy benefits.

Respondent argues that the Department has substantial discretion and wide latitude in developing reasonable methodologies to properly implement the countervailing duty law. As a factual matter, the Department has adequately explained the bases for its repayment formula in the *General Issues Appendix*.

Department's Position: As explained in the *General Issues Appendix*, the methodology applied by the Department attempts to estimate the proportion of the purchase price attributable to subsidies. The ratio, cited by petitioners, represents, in the Department's view, the most reasonable approach to that estimation. In arguing the issue of the impact of privatization upon formerly government-owned companies which previously benefitted from subsidies, petitioners in the *Final Determination* stated that privatization does not affect the amount of subsidies allocable to the privatized steel companies, while respondents argued that privatization of a government-owned company extinguishes any pre-existing subsidies. The Department considered, but ultimately rejected, both of these extreme positions. The Department determined that prior subsidies are allocable to the privatized companies upon their sale to private parties. However, it also concluded that a portion of the price paid by the private parties constituted repayment for the subsidies previously bestowed on the formerly government-owned companies.

The Department recognized that any methodology developed to determine what portion of the sales price constituted repayment for prior subsidies would yield only a rough estimate. In attempting to estimate that portion of the purchase price attributable to prior subsidies, the Department concluded that the most reasonable approach was to look at ratio of the privatized company's subsidies (over time) to the company's net worth

during the period from 1977 (the earliest point at which subsidies providing countervailable benefits in the period of investigation could have been bestowed) until the year before privatization. The subsidy-to-net worth ratio is intended to provide the Department with an estimate of the contribution subsidies have made to the value of a company.

Final Results of Review

In accordance with 19 CFR § 355.22(b)(1), an administrative review "normally will cover entries or exports of merchandise during the most recently completed reporting year of the government of the affected country." However, because this is the first administrative review of this countervailing duty order, in accordance with 19 CFR § 355.22(b)(2), it covers the period, and the corresponding entries, "from date of suspension of liquidation * * * to the end of the most recently completed reporting year of the government of the affected country." This period is December 7, 1992 through December 31, 1993.

The Department issued its preliminary affirmative countervailing duty determination in the investigation on December 7, 1992 (57 FR 57793). On March 8, 1993 in accordance with section 705(a)(1) of the Act, as amended, we aligned the final countervailing duty determinations with the final antidumping duty determinations on certain steel products from various countries (58 FR 12935; March 8, 1993). Under 19 CFR 355.20(c)(1)(ii), and pursuant to article 5.3 of the GATT Subsidies Code, the Department cannot require suspension of liquidation for more than 120 days without the issuance of a countervailing duty order. Accordingly, the Department instructed Customs to terminate the suspension of liquidation of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 6, 1993. The Department reinstated suspension of liquidation and the cash deposit requirement for entries made on or after August 17, 1993, the date of publication of the countervailing duty order. Thus, merchandise entered on or after April 6, 1993, and before August 17, 1993 is to be liquidated without regard to countervailing duties.

For the periods December 7, 1992 through April 5, 1993, and August 17, 1993 through December 31, 1993, we determine the net subsidy to be 2.98 percent *ad valorem*.

The Department will instruct the U.S. Customs Service to assess the following countervailing duties:

Period	Manufacturer/ exporter	Rate (percent)
December 7, 1992–April 5, 1993.	All companies	2.98
April 6, 1993–August 16, 1993.	All companies	.....
August 17, 1993–December 31, 1993.	All companies	2.98

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of 2.98 percent of the f.o.b. invoice price on all shipments of the subject merchandise from all manufacturers, producers, and exporters, entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3068 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 020696D]

Gulf of Maine Take Reduction Team Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Take Reduction Team (TRT) for the Gulf of Maine (GME) harbor porpoise/sink-gillnet fishery will hold a meeting to develop a Take Reduction Plan (TRP) as described in the Marine Mammal Protection Act (MMPA) focusing on reducing bycatch in the sink-gillnet fisheries of the GME and the Bay of Fundy, Canada.

DATES: The meeting will be held on February 14 and 15, 1996, 8:30 a.m. until 4:30 p.m.

ADDRESSES: The TRT meeting will be held at the King's Grant Inn/Quality Inn, on Route 128, Danvers, MA 01923, (508) 774–6800.

FOR FURTHER INFORMATION CONTACT: Kevin Chu, (508) 281–9254, or Michael Payne, (301) 713–2322

SUPPLEMENTARY INFORMATION: On April 30, 1994, the 1994 Amendments to the MMPA were signed into law. Section 117 of the MMPA requires that NMFS complete stock assessment reports for all marine mammal stocks within U.S. waters. Each stock assessment report is required to categorize the status of the stock as one that either has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or is a strategic stock, with a description of the reasons therefore; and estimate the potential biological removal (PBR) level for the stock, describing the information used to calculate it, including the recovery factor. The Stock Assessment Report and the calculated PBR was published by NMFS in July 1995.

The MMPA defines a "strategic stock" as a marine mammal stock for which the level of direct human-caused mortality exceeds the PBR level; which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 (ESA) within the foreseeable future; or which is listed as a threatened species or endangered species under the ESA, or is designated as depleted under the MMPA. The MMPA further defines the term "potential biological removal," or PBR, as "the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population." The GME harbor porpoise population was proposed as threatened under the ESA on January 7, 1993, and the bycatch of the GME population of harbor porpoise (approximately 1,300 per year in 1992 and 1993) is significantly greater (an order of magnitude greater) than the calculated PBR (approximately 400). The GME population of harbor porpoise, therefore, is considered "strategic" under the MMPA.

For a strategic stock, section 118(f) of the MMPA requires NMFS to appoint a TRT, and this TRT must develop a TRP designed to assist in the recovery or prevent the depletion of each strategic stock of marine mammal and which interacts with a commercial fishery. Section 118(f)(6)(C) states that members of the TRTs shall have expertise regarding the conservation or biology of the marine mammal species that the take reduction plan will address, or the fishing practices that result in the incidental mortality and serious injury of such species.

The MMPA further specifies that members of the TRT shall include representatives of Federal agencies, each coastal state with fisheries that interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types that incidentally take the species or stock, Alaska Native organizations, or Indian tribal organizations, and others as the Secretary of Commerce deems appropriate.

As a result of draft stock assessment reviews developed under section 117 of the MMPA, and as a result of an extended interview process conducted by a NMFS-contracted facilitator, NMFS, through a letter dated November 1995, has asked the following individuals to be a member of a TRT focusing on reducing bycatch of harbor porpoise in the GME sink-gillnet fishery:

Erik Anderson, New Hampshire Commercial Fishermens Association; Janice Anderson-Comeau, Massachusetts Netter's Association; Jennifer Atkinson, Conservation Law Foundation; Tina Berger, Atlantic States Marine Fisheries Commission; Jeannette Bubar, Maine Gillnetter's Association; Kevin Chu, NMFS Regional Office; Paul Cohan, Cape Ann Gillnetter's Association; Jeremy Conway, Department of Fisheries and Oceans-Canada; Russell DeConti, Center for Coastal Studies; Chris Finlayson, Maine Department of Natural Resources; Patricia Fiorelli, New England Fishery Management Council; James Gilbert, University of Maine; Cathy Homstead, Maine Gillnetter's Association; Scott Kraus, New England Aquarium; David Laist, Marine Mammal Commission; Robert MacKinnon, Massachusetts Netter's Association; Michael Payne, NMFS Office of Protected Resources; David Pierce, Massachusetts Division of Marine Fisheries; Andrew Read, Duke University; Bruce Smith, New Hampshire Fish and Game; Ron Smolowitz, East Falmouth, MA; Terry Stockwell, Maine Gillnetter's Association; April Valliere, Rhode Island Division of Fish and Wildlife; David Wiley, International Wildlife Coalition; John Williamson, New Hampshire Commercial Fishermen's Association; Nina Young, Center for Marine Conservation; Sharon Young, The Humane Society of the United States. The TRT will be facilitated by Abby Arnold, RESOLVE-Center for Environmental Dispute Resolution, Washington, D.C.

NMFS fully intends to convene a TRT process in a way that provides for national consistency yet accommodates the unique regional needs and characteristics of any one team. TRTs are not subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings are open to the public.

Section 118 (6)(A)(ii) also requires NMFS to publish the range of the strategic marine mammal stock, and all commercial fisheries that cause incidental mortality and serious injury from such stock. The GME population (stock) of harbor porpoise ranges from the Bay of Fundy, Canada (summer distribution), south to at least North Carolina in the winter until late spring. The GME sink- gillnet fishery interacts with this stock throughout the year, but the estimated bycatch from this fishery is greatest during fall and spring. The interactions (estimated bycatch) by this fishery with harbor porpoise are greater than those of all other fisheries combined.

Harbor porpoise are also known to interact with a series of coastal gillnet fisheries that operate, primarily, in state waters from New Jersey south to North Carolina. The extent (number of takes) of these interactions is not known; however, the greatest number of interactions (based on strandings data) in these fisheries occurs from mid-March through May in North Carolina and Virginia. These interactions will not be considered by this TRT, because they occur in markedly different fisheries from the GME sink-gillnet fishery and primarily in state waters, which are under a different jurisdiction from the GME sink- gillnet fishery. Another TRT, or a different management process focusing on management of state fisheries, will address the bycatch of harbor porpoise in the mid-Atlantic coastal gillnet fisheries.

Dated: February 6, 1996.

Patricia A. Montanio,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–3013 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–22–F

National Oceanic and Atmospheric Administration

[I.D. 020696C]

Pacific Offshore Fisheries Take Reduction Team Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Take Reduction Team (TRT) for the Pacific offshore cetacean/ drift gillnet fishery will hold its first meeting to develop a Take Reduction Plan (TRP) as described in the Marine Mammal Protection Act (MMPA) focusing on reducing bycatch in the California/Oregon drift gillnet fishery for thresher shark and swordfish.

DATES: The meeting will be held on February 13 and 14, 1996, at 10 a.m. and 9 a.m., until 5:30 p.m.

ADDRESSES: The TRT meeting will be held at the Crown Sterling Suites Hotel at Los Angeles International Airport, 1440 East Imperial Avenue, El Segundo, CA 90245, (310) 640–3600.

FOR FURTHER INFORMATION CONTACT: Irma Lagomarsino, (310) 980–4016, or Victoria Cornish, (301) 713–2322.

SUPPLEMENTARY INFORMATION: On April 30, 1994, the 1994 Amendments to the MMPA were signed into law. Section 117 of the MMPA requires that NMFS complete stock assessment reports for all marine mammal stocks within U.S. waters. Each stock assessment report is required to categorize the status of the stock as one that either has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or is a strategic stock, with a description of the reasons therefore; and estimate the potential biological removal (PBR) level for the stock, describing the information used to calculate it, including the recovery factor. Stock Assessment Reports and the calculated PBR were published by NMFS in July 1995.

The MMPA defines a "strategic stock" as a marine mammal stock for which the level of direct human-caused mortality exceeds the PBR level; which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 (ESA) within the foreseeable future; which is listed as a threatened species or endangered species under the ESA, or is designated as depleted under the MMPA. The MMPA further defines the term "potential biological removal," or

PBR, as "the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population." The California/Oregon drift gillnet fishery for thresher shark and swordfish interacts with several strategic marine mammal stocks including: Several *Mesoplodon* species of beaked whales, Baird's beaked whale, Cuvier's beaked whale, the sperm whale, the humpback whale, the pygmy sperm whale, and the short-finned pilot whale. These stocks are considered strategic under the MMPA because they are either listed as an endangered or threatened species under the ESA or because the level of human-caused mortality is greater than their PBR levels.

Section 118(f) of the MMPA requires NMFS to establish a TRT to prepare a draft TRP designed to assist in the recovery or prevent the depletion of each strategic marine mammal stock that interacts with certain fisheries. Section 118(f)(6)(C) requires that members of the TRTs have expertise regarding the conservation or biology of the marine mammal species that the TRP will address, or the fishing practices that result in the incidental mortality and serious injury of such species. The MMPA further specifies that members of the TRT shall include representatives of Federal agencies, each coastal state with fisheries that interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations, or Indian tribal organizations, and others as the Secretary of Commerce deems appropriate.

As a result of stock assessment reports developed under section 117 of the MMPA, and an extended interview process conducted by a NMFS-contracted facilitator, NMFS, through a letter dated February 1996, has asked the following individuals to be a member of the TRT, which will focus on reducing bycatch of the strategic marine mammals stocks taken as bycatch in the California/Oregon drift gillnet fishery for thresher shark and swordfish:

Doyle Hanan, California Department of Fish and Game; Marilyn Beeson, California Department of Fish and Game; Dave Hanson, Pacific States Marine Fisheries Commission; Anthony West, California Gillnetters Association; Chuck Janisse, Pacific Offshore Fishermen's Association; Lynn Stephy, drift gillnet fisher; Oriville Gardner, drift gillnet fisher; John Heyning, Los Angeles Museum of Natural History; John Calambokidis, Cascadia Research Collective; Sus Kato, retired research fishery biologist; Marcie Glazer, Center for Marine Conservation; Ann Nothoff, Natural Resources Defense Council; Hannah Bernard, Hui Moana; Irma Lagomarsino, NMFS Southwest Regional Office; Jay Barlow, NMFS Southwest Fisheries Science Center; David Holts, NMFS Southwest Fisheries Science Center. The TRT will be facilitated by Alana Knaster, Mediation Institute, Woodland Hills, CA.

NMFS fully intends to convene a TRT process in a way that provides for national consistency yet accommodates the unique regional needs and characteristics of any one team. TRTs are not subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings are open to the public.

Dated: February 6, 1996.

Patricia A. Montanio,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–3014 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the Chicago Mercantile Exchange for Designation as a Contract Market in Futures and Options on Brazilian "C" Brady Bonds, Brazilian "El" Brady Bonds, and Argentine "FRB" Brady Bonds

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in futures and futures options on Brazilian "C" Brady Bonds, Brazilian "El" Brady Bonds, and Argentine "FRB" Brady Bonds. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before March 13, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Reference should be made to the CME futures and options on Brazilian "C" Brady Bonds, Brazilian "El" Brady Bonds, and Argentine "FRB" Brady Bonds.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, Washington, DC, 20581, telephone 202–418–5277.

SUPPLEMENTARY INFORMATION: The Exchange's proposed Brady bond contracts are based on the sovereign debt of Argentina and Brazil. The Exchange has petitioned the SEC to grant the sovereign debt of Argentina and Brazil exempt status under SEC Rule 240.3a12–8. The SEC published the proposed amendment to Rule 240.3a12–8 in the **Federal Register** for a 30-day public comment period on December 20, 1995. Should the SEC add the sovereign debt of Argentina and Brazil to the list of exempted securities, the Commission would then be able to designate futures on such securities. See Section 2(a)(1)(B)(v) of the Act.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on February 5, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–3002 Filed 2–9–96; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 12–13 February 1996.

Time of Meeting: 0900–1800, 12 February 1996 and 0800–1800, 13 February 1996.

Place: Fort Belvoir, VA.

Agenda: The Army Science Board's Study Panel on Reengineering the Acquisition and Modernization Processes of the Institutional Army will meet to discuss the current status of Army Modernization and discuss plans to reengineer the Acquisition and Modernization processes. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically paragraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer Army Science Board.

[FR Doc. 96–3009 Filed 2–9–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.132B]

Training and Technical Assistance for the Centers for Independent Living Program; Notice Inviting Applications for a New Award for Fiscal Year (FY) 1996

Purpose of Program: This program provides support to entities that have experience in the operation of centers for independent living to provide training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

Eligible Applicants: To be eligible to apply for funds under this program, an entity must demonstrate in its application that it has experience in the operation of centers for independent living. Experience of an applicant in the operation of a center for independent living is determined by the extent to which the applicant's management and staff have engaged in planning, developing, conducting, administering, and evaluating centers for independent living. A center for independent living is defined in section 702(1) of the Rehabilitation Act of 1973, as amended, as a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that is designed and operated within a local community by individuals with disabilities and provides an array of independent living services.

Supplementary Information: The Secretary has determined that this grant requires substantial Federal involvement during the grant award period. Therefore, the award will be made as a cooperative agreement.

Deadline for Transmittal of Applications: March 29, 1996.

Deadline for Intergovernmental Review: May 29, 1996.

Applications Available: February 13, 1996.

Available Funds: $826,630.

Estimated Average Size of Award: $826,630.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR Part 366.

For Applications Contact: Raymond Melhoff, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3327, Switzer Building, Washington, D.C. 20202–2741. Telephone (202) 205–9343. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Electronic copies of this application notice can be downloaded from the Rehabilitation Services Administration's electronic bulletin board, (202) 205–5574 (2400 bps) and (202) 205–9694 (9600 bps).

For Further Information Contact: Raymond Melhoff, telephone: (202) 205–9320, or John Nelson, telephone: (202) 205–9362 (Voice and TDD), U.S. Department of Education, 600 Independence Avenue, S.W., Room 3327, Switzer Building, Washington, D.C. 20202–2741.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 721(e)(1)(B)

Dated: February 7, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–3016 Filed 2–9–96; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.132A]

Centers for Independent Living; Notice Inviting Applications for a New Center for Fiscal Year (FY) 1996

Purpose of Program: This program provides support for planning, conducting, administering, and evaluating centers for independent living (centers) that comply with the standards and assurances in section 725 of the Rehabilitation Act of 1973 (Act), as amended, consistent with the State plan for establishing a statewide network of centers. Centers are consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agencies that are designed and operated within local communities by individuals with disabilities and provide an array of independent living (IL) services.

Eligible Applicants: To be eligible to apply, an applicant must be a consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency as defined in 34 CFR 364.4; have the power and authority to meet the requirements in 34 CFR 366.2(a)(1); and be able to plan, conduct, administer, and evaluate a center for independent living consistent with the requirements of section 725 (b) and (c) of the Act and Subparts F and G of 34 CFR Part 366 and either—(1) not be currently receiving funds under Part C of Chapter 1 of Title VII of the Act; or (2) propose the expansion of an existing center through the establishment of a separate and complete center (except that the governing board of the existing center

may serve as the governing board of the new center) in a different geographical location. Eligibility under this competition is limited to those entities proposing to serve areas that are unserved or underserved in the following States and territories listed under *Available Funds*.

Deadline for Transmittal of Applications: March 29, 1996.

Deadline for Intergovernmental Review: May 29, 1996.

Applications Available: February 13, 1996.

Available Funds: $517,175 distributed in the following manner:

Delaware—$60,619
Florida—$76,420
Georgia—$44,020
Illinois—$42,258
Kentucky—$7,497
Pennsylvania—$34,921
Texas—$97,394
American Samoa—$154,046

The above-listed amounts are based on funding of this program at the Administration's fiscal year 1996 requested level ($41,749,000). However, the annual level established by the current short-term continuing resolution is $40,533,000, the same amount appropriated for fiscal year 1995. If this level remains in effect for the remainder of fiscal year 1996, only the following funds will be available:

Delaware—$48,919
American Samoa—$154,046

Estimated Range of Awards: $7,497 to $154,046

Estimated Number of Awards: 1 per eligible State or territory.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Parts 364 and 366.

For Applications Contact: Donald Thayer, U.S. Department of Education, 600 Independence, S.W., Room 3323, Switzer Building, Washington, D.C. 20202–2741. Telephone (202) 205–9343. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Electronic copies of this application notice can be downloaded from the Rehabilitation Services Administration's electronic bulletin board (202) 205–5574 (2400 bps) and (202) 205–9694 (9600 bps).

For Further Information Contact: Donald Thayer, telephone: (202) 205–9315, or John Nelson, telephone: (202) 205–9362 (Voice and TDD), U.S. Department of Education, 600 Independence Avenue, S.W., Room 3323, Switzer Building, Washington, D.C. 20202–2741.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for this competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 721 (c) and (e) and 796(f)

Dated: February 7, 1996.

Judith E. Heumann,

Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 96–3015 Filed 2–9–96; 8:45 am]

BILLING CODE 4000–01–P

Federal Interagency Coordinating Council Meeting (FICC)

AGENCY: Federal Interagency Coordinating Council, Education.

ACTION: Notice of a public meeting.

SUMMARY: This notice describes the schedule and agenda of a forthcoming meeting of the Federal Interagency Coordinating Council. Notice of this meeting is required under section 685(c) of the Individuals with Disabilities Education Act, as amended, and is intended to notify the general public of their opportunity to attend the meeting. The meeting will be accessible to individuals with disabilities.

DATE AND TIME: February 22, 1996, from 1:00 p.m. to 4:30 p.m.

ADDRESSES: Hubert H. Humphrey Building, Room 503A/529A, 200 Independence Avenue, SW. Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Connie Garner, U.S. Department of Education, 600 Independence Avenue, SW., Room 3127, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–8124. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–8170.

SUPPLEMENTARY INFORMATION: The Federal Interagency Coordinating Council (FICC) is established under section 685 of the Individuals with disabilities Education Act, as amended (20 U.S.C. 1484a). The Council is established to: (1) minimize duplication across Federal, State and local agencies of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families and preschool services for children with disabilities; (2) ensure effective coordination of Federal early intervention and preschool programs, including Federal technical assistance and support activities; and (3) identify gaps in Federal agency programs and services and barriers to Federal interagency cooperation. To meet these purposes, the FICC seeks to: (1) identify areas of conflict, overlap, and omissions in interagency policies related to the provision of services to infants, toddlers, and preschoolers with disabilities; (2) develop and implement joint policy interpretations on issues related to infants, toddlers, and preschoolers that cut across Federal agencies, including modifications of regulations to eliminate barriers to interagency programs and activities: and (3) coordinate the provision of technical assistance and dissemination of best practice information. The FICC is chaired by the Assistant Secretary for Special Education and Rehabilitative Services.

At this meeting the FICC plans to: (1) update the membership on the strategic planning process; and (2) discuss issues related to Champus and the Individuals with Disabilities Education Act.

The meeting of the FICC is open to the public. Written public comment will be accepted at the conclusion of the meeting. These comments will be included in the summary minutes of the meeting. the meeting will be physically accessible with meeting materials provided in both braille and large print. Interpreters for persons who are hearing impaired will be available. Individuals with disabilities who plan to attend and need other reasonable accommodations should contact the contact person named above in advance of the meeting.

Summary minutes of the FICC meetings will be maintained and available for public inspection at the U.S. Department of Education, 600 Independence Avenue, SW., Room 3127, Switzer Building, Washington, DC 20202–2644, from the hours of 9:00 a.m. to 5:00 p.m., weekdays, except Federal Holidays.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–3017 Filed 2–9–96; 8:45 am]

BILLING CODE 4000–01–M

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: February 29–March 2, 1996.

TIME: February 29—Subject Area Committee #1, 4:00–6:00 p.m. (open); Achievement Levels Committee, 4:00–6:00 p.m. (open); Executive Committee, 7:00–9:00 p.m. (open). March 1—Full Board, 8:30 a.m.–10:00 a.m. (open); Design and Methodology Committee, Reporting and Dissemination Committee, 10:00–11:15 a.m. (open); Joint Meeting Design and Methodology and Reporting and Dissemination Committees, 11:15–12:00 Noon (open); Subject Area Committee #2, 10:00 a.m.–12:00 Noon (open); Full Board 12:00 Noon–4:30 p.m. (open). March 2—Nominations Committee, 8:00–9:00 a.m. (closed). Full Board, 9:00 a.m. until adjournment, approximately, 12:00 Noon (open).

LOCATION: The Ritz-Carlton Hotel—Pentagon City, 1250 South Hayes Street, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress (NAEP). The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On February 29, two committees will meet in open session from 4:00–6:00 p.m. Subject Area Committee #1 will meet to review and discuss issues regarding the NAEP civics planning project. The Achievement Levels Committee will meet to discuss plans for conducting the upcoming meetings for the setting of achievement levels in science. Also, on February 29, the Executive Committee will meet in open session from 7:00 p.m.–9:00 p.m. The agenda for the Executive Committee includes a briefing on the NAEP budget, and discussions regarding the use of NAEP in projects sponsored by the National Science Foundation, and Westat.

On March 1, the full Board will convene in open session at 8:30 a.m. The agenda for this session of the full Board meeting includes approval of the agenda, the Executive Director's Report, a Report on TIMSS (The Third International Math and Science Study), and an update on the NAEP project. Between 10:00 a.m. and 12:00 noon, there will be open meetings of the following subcommittees: Design and Methodology, Reporting and Dissemination, and Subject Area Committee #2. Design and Methodology will discuss design issues related to future assessments, specifically, domain scoring and computer adaptive testing. Agenda items for the Reporting and Dissemination Committee include schedules for the release of NAEP data, reporting of information on special student populations, and dissemination of assessment frameworks. Beginning at 11:15 a.m. until 12:00 noon, there will be a joint meeting of the Design and Methodology and Reporting and Dissemination Committees to discuss the issues related to the implementation of a Marketbasket approach to NAEP reporting. Subject Area Committee #2 will meet to review and discuss issues regarding the NAEP writing planning project.

The full Board will reconvene in open session, beginning at 12:00 noon, to hear a presentation on NAEP on the information superhighway, a briefing from its workgroup on planning, and a presentation on the Civics frameworks.

On March 2, the Nominations Committee will meet in closed session from 8:00–9:00 a.m. This meeting must be closed because the committee will be considering qualifications of nominees for appointment to Board membership. The review and subsequent discussion of this information will touch upon matters that relate solely to the internal personnel rules and practices of an agency and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of Section 552b(c) of Title 5 U.S.C.

Beginning at 9:00 a.m. the full Board will reconvene in open session. The agenda for this session includes a briefing on plans for the NAEP Evaluation by the National Academy of Sciences, and reports from the Board's standing subcommittees—Subject Area Committees #1 and #2, Achievement Levels, Reporting and Dissemination, Design and Methodology, and Executive. The meeting of the National Assessment Governing Board will be adjourned at approximately 12:00 Noon.

A summary of the activities of the closed session and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b, will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5:00 p.m.

Dated: February 7, 1996.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 96–3058 Filed 2–9–96; 8:45 am]

BILLING CODE 4000–01–M

Direct Grant Programs

AGENCY: Department of Education.

ACTION: Notice of extension of application deadline dates for certain direct grant programs.

SUMMARY: The Secretary extends the deadline dates for the submission of applications under certain direct grant programs. These are some of the programs under which the Secretary or other principal officers of the Department have announced competitions for new awards for fiscal year (FY) 1996. The Secretary also revises the deadlines for intergovernmental review for any of these programs subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs). The Secretary takes this action to allow more time for the preparation and submission of applications by potential applicants adversely affected by the closure of the Department for a number of weeks. The extensions are intended to help these potential applicants compete fairly under these programs.

DATES: *Group I:* The new deadline date for applications under each program listed under the heading "Group I" is March 13, 1996. (For an explanation of deadline date for applications, please see the Department of Education General Administrative Regulations (EDGAR), 34 CFR 75.102.)

For programs in Group I that are subject to Executive Order 12372, the deadline date for the transmittal of State Process Recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties is May 13, 1996.

Group II: Any new deadline date for transmitting applications under a program listed under the heading "Group II" is listed with that program.

ADDRESSES: For Applications or Further Information: The address and telephone number for obtaining applications for, or further information about, an individual program are in the application notice for that program. The date and **Federal Register** citation of the application notice are listed for each program.

For one program of the Office of Educational Research and Improvement listed in Group I—CFDA No. 84.309B (Education Research and Development Centers Program—Priority Area: Improving Adult Learning and Literacy)—the new contact person for applications or further information is Jerome Lord, 555 New Jersey Avenue, NW., room 627, Washington, DC 20208–5531. Telephone: (202) 219–2242.

For Users of TDD or FIRS: Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number, if any, listed in the individual application notices. If a TDD number is not listed for a given program, individuals who use a TDD may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

For Intergovernmental Review: The address for transmitting recommendations and comments under Executive Order 12372 is in the appendix to the notice inviting applications for new awards under direct grant programs and fellowship programs published in the **Federal Register** on August 10, 1995 (60 FR 40956).

For Electronic Access to Information: Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases); or on the World Wide Web at http://www.ed.gov/money.html However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Due to a lack of appropriated funds in November, December and early January and inclement weather in January, the Department of Education, like many other Federal agencies, was closed for a number of weeks. As a result, many prospective applicants were unable to obtain application packages, others could not receive answers to questions about their applications, and still others were precluded from receiving technical assistance in the preparation of their applications.

Although the Department was fully operational by mid-January, the backlog of requests and inquiries affected not only those programs and competitions with originally or previously announced deadline dates between December 18, 1995 and January 12, 1996, inclusive, but those with deadlines established for the next several weeks.

Thus, with the exception of programs or competitions listed under Group II, the Secretary has decided to extend—until 30 days from the date of publication of this notice in the **Federal Register**—the application deadline date of each program or competition with a deadline date between December 18, 1995 and February 15, 1996. These programs or competitions are listed under Group I, together with their respective Catalogue of Federal Domestic Assistance (CFDA) numbers and a citation (including the date and page number) for their respective application notices—and for any follow-up notices—previously published in the **Federal Register**.

Applicants should note that in the September 14, 1995 (60 FR 47830) application notice for the FIS (field-initiated studies) grant programs of the Office of Educational Research and Improvement listed in Group I, the Department required applicants to use a "non-proportional 12-point or larger font" in preparing the application narrative. However, the Department has decided to eliminate the "non-proportional" requirement and to accept all otherwise eligible applications in which the narrative is prepared in 12-point or larger font.

Group II contains other programs and competitions with announced deadlines also between December 18, 1995 and February 15, 1996 but requiring special consideration.

GROUP I

CFDA No.	Name of program	Application notice
	Office of Educational Research and Improvement	
84.305F ...	National Institute on Student Achievement, Curriculum, and Assessment FIS (Field-Initiated Studies) Grant Program.	9/14/95 (60 FR 47830).
84.306F ...	National Institute on the Education of At-Risk Students FIS Grant Program	9/14/95 (60 FR 47830).
84.307F ...	National Institute on Early Childhood Development and Education FIS Grant Program	9/14/95 (60 FR 47830).
84.308F ...	National Institute on Educational Governance, Finance, Policymaking, and Management FIS Grant Program.	9/14/95 (60 FR 47830).
84.309F ...	National Institute on Postsecondary Education, Libraries, and Lifelong Learning FIS Grant Program.	9/14/95 (60 FR 47830).
84.309B ...	Education Research and Development Centers Program— Priority Area: Improving Adult Learning and Literacy.	9/14/95 (60 FR 47826); 11/29/95 (60 FR 61247).

GROUP I—Continued

CFDA No.	Name of program	Application notice
	Office of Special Education and Rehabilitative Services *Office of Special Education Programs*	
84.023F ...	Examining Alternatives for Results Assessment for Children with Disabilities	8/10/95 (60 FR 40956); 8/25/95 (60 FR 44326).
84.180U ...	Collaborative Research on Technology, Media, and Materials for Children and Youth with Disabilities.	8/10/95 (60 FR 40956).
84.237G ...	Non-Discriminatory, Culturally Competent Collaborative Demonstration Models to Improve Services for Students with Serious Emotional Disturbance and Prevention Services for Students with Emotional and Behavioral Problems.	8/10/95 (60 FR 40956).
	Rehabilitation Services Administration	
84.128G ...	Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farmworkers with Disabilities.	8/10/95 (60 FR 40956).
84.128J	Projects for Initiating Recreation Programs for Individuals with Disabilities	8/10/95 (60 FR 40956).

Group II

Office of Bilingual Education and Minority Languages Affairs

CFDA No. 84.194Q Bilingual Education—State Grant Program. (8/10/95 (60 FR 40956)) Applications for this program were not available until the beginning of February. In order to give applicants sufficient time to develop and submit quality applications, the Secretary has extended the application deadline date. The original deadline date was January 26, 1996. The new deadline date for the submission of applications is March 22, 1996. The new deadline date for the transmittal of State Process Recommendations by SPOCs and comments by other interested parties is May 21, 1996.

CFDA No. 84.195E Bilingual Education—Career Ladder Program. (8/10/95 (60 FR 40956)) Applications for this program were not available until the beginning of February. In order to give applicants sufficient time to develop and submit quality applications, the Secretary has extended the application deadline date. The original deadline date was January 5, 1996. The new deadline date for the submission of applications is March 22, 1996. The new deadline date for the transmittal of State Process Recommendations by SPOCs and comments by other interested parties is May 21, 1996.

CFDA No. 84.288S Bilingual Education—Program Development and Implementation Grants. (8/10/95 (60 FR 40956); 8/25/95 (60 FR 44326)) Applications for this program were not available until the beginning of February. In order to give applicants sufficient time to develop and submit quality applications, the Secretary has extended the application deadline date. The original deadline date was January 26, 1996. The new deadline date for the submission of applications is March 22, 1996. The new deadline date for the transmittal of State Process Recommendations by SPOCs and comments by other interested parties is May 21, 1996.

Office of Elementary and Secondary Education

CFDA No. 84.004C Desegregation of Public Education—State Educational Agency (SEA) Desegregation Program. (12/20/95 (60 FR 65644)) Office of Management and Budget (OMB) approval of information collection has expired. After OMB's extension or renewal of this approval, the Department will announce a new deadline date for receipt of applications.

CFDA No. 84.004D Desegregation of Public Education—Desegregation Assistance Center (DAC) Program. (12/20/95 (60 FR 65643)) Office of Management and Budget (OMB) approval of information collection has expired. After OMB's extension or renewal of this approval, the Department will announce a new deadline date for receipt of applications.

Impact Aid fiscal year 1996 section 8002 grants and fiscal year 1997 section 8003 grants. The annual application deadline, as specified by Impact Aid regulations (34 CFR 222.3), is January 31. A notice extending the application deadline date for these grants is being published separately in the **Federal Register**.

Office of Postsecondary Education

CFDA No. 84.204A School, College, and University Partnerships Program (8/10/95 (60 FR 40956)) The Secretary has determined it is unlikely that funds will be sufficient to make new awards under this program in FY 1996. Therefore, the Department is not currently making applications available.

CFDA No. 84.116J Fund for the Improvement of Postsecondary Education (FIPSE)—Special Focus Competition (Invitational Priority: Institutional Cooperation and Student Mobility between United States and Member States of European Union) (10/30/95 (60 FR 55248)) This competition is being held by FIPSE in cooperation with a similar competition for European institutions being conducted by Directorate General XXII (Task Force on Education and Training of Youth) of the European Commission. Because the European participants have a different fiscal year from that of the U.S., they are required to obligate funds for their competition by March 31, 1996. An extension of the deadline for receipt of applications in the FIPSE competition would likely preclude the European partners of U.S. applicants from securing further European funding. Thus, the Secretary has determined that the application deadline date should not be extended.

Office of Special Education and Rehabilitative Services/Office of Special Education Programs

CFDA No. 84.158A State Systems for Transition for Youth with Disabilities (8/10/95 (60 FR 40956)) This competition was open only to State agencies that had not received a grant under the program. The application deadline date was December 22, 1995. The Department has confirmed that all eligible applicants that intended to submit applications did so before the deadline date. Thus, the Secretary has determined that an extension of the application deadline date is not necessary.

Office of Special Education and Rehabilitative Services/National Institute on Disability and Rehabilitation Research

CFDA No. 84.133D Knowledge Dissemination and Utilization Program (Priority: Regional Disability and Business Technical Assistance Centers) (12/12/95 (60 FR 63868)) Publication of the application announcement just before the closure of the Department on December 18 effectively precluded most potential applicants from obtaining applications until mid-January. Because the program office initially had granted potential applicants two months in which to develop and submit applications, the Secretary extends by 30 days the initial deadline date of February 12, 1996. The new deadline date for the submission of applications is March 13, 1996.

Office of Vocational and Adult Education

CFDA No. 84.278D School-to-Work Opportunities—Urban/Rural Opportunities Grants (11/14/95 (60 FR 57276)) Under section 303(b)(1) of the School-to-Work Opportunities Act, applicants were required to submit completed applications for this program to their States for comment no later than December 29, 1995. Since applicants had to have completed their applications by December 29, it is unlikely that either the lapse in appropriations or the inclement weather would have interfered with potential applicants' ability to meet the deadline for submission to the Department by January 29, 1996. Thus, the Secretary has determined that no extension is necessary for submission of applications. The Department of Labor, which jointly administers this program, concurs with this decision.

Eligibility

The extensions granted in this notice are intended primarily to assist potential applicants that were unable to obtain applications or further information. However, any applicant that previously submitted an application under any program or competition for which an extension is granted by this notice may submit an amended or replacement application. In that case, the applicant is requested to (1) indicate clearly that the application being submitted is an amendment or replacement; and (2), if the applicant has received an acknowledgment receipt postcard from the Department's Application Control Center, include the PR number assigned to the application, as indicated on the postcard.

Available Funds

Applicants should note that the Congress has not yet enacted a fiscal year 1996 appropriation for the Department. However, based on actions taken so far, the Congress may eliminate or reduce funding in 1996 for some of the discretionary grant programs referenced in this notice. Thus, final action on the 1996 appropriation may require the Department to cancel some of these competitions.

THE DEPARTMENT OF EDUCATION IS NOT BOUND BY ANY OF THE ESTIMATES IN THE APPLICATION NOTICES ANNOUNCING THE COMPETITIONS REFERENCED IN THIS NOTICE.

Authority: 20 U.S.C. 3474.

Dated: February 8, 1996.

Richard W. Riley,

Secretary of Education.

[FR Doc. 96–3165 Filed 2–9–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–136–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

February 6, 1996.

Take notice that on February 1, 1996, Algonquin Gas Transmission Company (Algonquin), filed revised tariff sheets in compliance with Section 154.204 of the Commission's Regulations under the Natural Gas Act and Order Nos. 581 and 582 (Final Rules). The following tariff sheets have been revised:

Fourth Revised Volume No. 1

Title Page
First Revised Sheet No. 15
Third Revised Sheet No. 103
Third Revised Sheet No. 105
Second Revised Sheet No. 106
Third Revised Sheet No. 118
Third Revised Sheet No. 120
First Revised Sheet No. 121
Third Revised Sheet No. 137
Third Revised Sheet No. 140
Third Revised Sheet No. 154
Third Revised Sheet No. 157
Second Revised Sheet No. 172
First Revised Sheet No. 174
First Revised Sheet No. 175
Fourth Revised Sheet No. 600
First Revised Sheet No. 610
First Revised Sheet No. 617
Second Revised Sheet No. 654
Third Revised Sheet No. 688
Third Revised Sheet No. 690
Second Revised Sheet No. 701
Original Sheet No. 713
Original Sheet No. 714
Sheet Nos. 715–798

First Revised Volume No. 2

Title Page

Algonquin states that the purpose of this filing is to conform to the Commission's updated Regulations set forth in the Final Rule pertaining to the form and composition of an interstate pipeline company's tariff. Algonquin respectfully requests that these tariff sheets be accepted effective March 1, 1996.

Algonquin states that copies of this tariff filing were mailed to all firm customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2941 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 1417–001 and 1835–013]

Central Nebraska Public Power and Irrigation District, Nebraska Public Power District; Notice of Time for Public Briefing

February 6, 1996.

The public briefing noticed on January 25, 1996 (61 FR 3394, January 31, 1996), will be held at 11:00 a.m. on Wednesday, February 14, 1996, in the Commission Meeting Room, located on the second floor of 888 First Street NE., Washington, DC.

The public briefing is being held in response to a request by the U.S. Department of the Interior to inform the Commission about the status of negotiations under the Memorandum of Agreement for the Central Platte River Basin Endangered Species Recovery Implementation Program.

For additional information concerning the briefing, please refer to the January 25 notice or contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2936 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2389–012]

Edwards Manufacturing Company, Inc., City of Augusta, ME; Notice of Amendment of Application

February 6, 1996.

On October 30, 1995, Edwards Manufacturing Company, Inc., and the City of Augusta, Maine (applicants) filed an amendment to their application for a new license for the Augusta Hydroelectric Project No. 2389.

In the application for new license, filed January 31, 1991, it was proposed to expand the project capacity from 3.5 to 11 megawatts (MW). The amendment reduces the proposed expansion to about 4.3 MW. Under the application as amended, the licensees propose only to replace the existing flashboards with an inflatable crest control system, install permanent upstream and downstream fish passage facilities, and upgrade turbine efficiency. The Applicants would forego constructing a new powerhouse and modifying the existing power canal and gatehouse, as originally proposed. There would be no increase in existing hydraulic capacity. The increase in generating capacity (between 0.5 and 1.0 megawatts) would be directly attributable to increases in turbine efficiency.

Applicants state that the remaining project improvements and upgrades are substantially the same as improvements and upgrades proposed in the original application. Although the fish passage facilities proposed in the amendment are not those proposed in the application, they are the same facilities that applicants proposed in a 1990 application to amend the existing project license, and were designated in consultation with state and federal agencies and with other interested parties. The Commission approved the installation of these facilities, but the amendment was then withdrawn.[1]

We are providing an opportunity for additional interventions and for entities to reconsider their terms, conditions, prescriptions, and comments submitted previously with respect to the Augusta Project application. A draft environmental impact statement (DEIS) evaluating the licensing or relicensing of 11 projects, including the Augusta Project, in the Kennebec River Basin was mailed to parties on January 4, 1996. Notice of the DEIS was published in the **Federal Register** on January 26, 1996, setting a due date for comments of March 25, 1996. By letter of January 29, 1996, the Director, Division of Project Review, Office of Hydropower Licensing, extended the due date for comments to April 8, 1996. Comments on the Augusta Project amendment will also be due on April 8, 1996, with reply comments due 15 days later, on April 23, 1996.[2]

Copies of the application and amendment are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch located at 888 First Street, N.E., Room 2A, Washington, D.C. 20426 or by calling (202) 208–1371. A copy is also available for inspection and reproduction at 42A North Elm Street, Second Floor, Yarmouth, Maine, or by calling (207) 846–3991. The applicant contact for this project is Mark Isaacson.

Contact Mr. John Blair (202) 219–2845 for questions relating to this proceeding.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2938 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–393–000]

Jersey Central Power & Light Company; Notice of Filing

February 6, 1996.

Take notice that on December 19, 1995, Jersey Central Power & Light Company tendered for filing an amendment to the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 14, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2937 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–151–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

February 1, 1996.

Take notice that on January 23, 1996, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP96–151–000 a request pursuant to Sections 157.205 and 175.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to revise an existing two-inch tap through which Koch would make deliveries of gas in Plaquemines Parish, Louisiana, on behalf of Louisiana Gas Services (LGS), an LDC, under Koch's ITS Rate Schedule, under Koch's blanket certificate issued in Docket No. CP92–430–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch states that it currently provides interruptible service to LGS and that the volumes would be within LGS's entitlements.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2943 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[1] Edwards Manufacturing Company, Inc. and City of Augusta, Maine, 69 FERC ¶ 61,335 (1994). The Commission approved the facilities as an interim enhancement of fisheries only. On rehearing, the Commission granted the licensees' request to allow the withdrawal of the amendment application and vacated its order amending the license. 71 FERC ¶ 61.227 (1995).

[2] A further request for extension of time by the National Marine Fisheries Service was denied by letter of February 2, 1996, signed by Fred E. Springer, Director, Office of Hydropower Licensing.

[Docket No. RP96–67–000]

Mojave Pipeline Company; Notice of Technical Conference

February 6, 1996.

Pursuant to the Commission's order issued on December 29, 1995,[1] a technical conference will be held to resolve the issues raised in the above-captioned proceeding. The conference will be held on Thursday, March 7, 1996 at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2940 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–854–000]

Northeast Utilities Service Company; Notice of Filing

February 1, 1996.

Take notice that on January 18, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to Koch Power Services, Inc. (Koch) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to Koch.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 15, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2994 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[1] 73 FERC ¶61,390 (1995).

[Docket No. RP96–137–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 6, 1996.

Take notice that on February 1, 1996, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheets, proposed to be effective March 1, 1996:

Fifth Revised Volume No. 1

Nineteenth Revised Sheet No. 50
Nineteenth Revised Sheet No. 51
Eighth Revised Sheet No. 52
28 Revised Sheet No. 53
Eighth Revised Sheet No. 59
Ninth Revised Sheet No. 60
First Revised Sheet No. 200
Original Sheet No. 237A
Original Sheet No. 237B

Original Volume No. 2

148 Revised Sheet No. 1C
23 Revised Sheet No. 1C.a

In this filing Northern is seeking to recover costs relating to take-or-pay, pricing or other contract provisions, and buyout, buydown or reformation costs pursuant to the Commission's Order No. 528.

Northern states that copies of the filing were served upon the company's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2942 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–133–000]

Panhandle Eastern Pipe Line Company; Notice of Section 4 Filing

February 1, 1996.

Take notice that on January 30, 1996, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing, pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering service upon the transfer of Panhandle's facilities [1] to Anadarko Gathering Company (AGC) and Panhandle Field Services Company (Field Services). AGC and Field Services will continue to offer gathering service to all existing shippers.

Panhandle has proposed an effective date of March 1, 1996, for the termination of services on the facilities. Panhandle states that in accordance with the Commission's regulations, a copy of the filing has been mailed to all of Panhandle's customers and applicable state commissions as well as to all parties to the proceedings in Docket Nos. CP95–21–000, CP95–22–000 and CP95–23–000.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Pursuant to Section 154.210 of the Commission's Regulations, all such motions or protests must be filed no later than February 12, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2944 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–396–006]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

February 6, 1996.

Take notice that on January 31, 1996, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to be effective January 1, 1996:

Substitute Second Revised Sheet No. 204
Substitute Fourth Revised Sheet No. 205
Third Revised Sheet No. 205A
Substitute Original Sheet No. 205B
Substitute First Revised Sheet No. 206
Third Revised Sheet No. 209
Second Substitute First Revised Sheet No. 209A
Substitute First Revised Sheet No. 217
Substitute Original Sheet No. 314A
Substitute Original Sheet No. 314B
Substitute First Revised Sheet No. 393

Tennessee states that it is filing the instant tariff sheets to correct certain typographical errors and omissions that occurred in Tennessee's December 1, 1995, filing in this docket to implement Phase I of the Stipulation and Agreement filed on July 25, 1995 (S&A). Tennessee further states that the tendered tariff sheets do not effect any substantive change to the S&A.

Any person desiring to protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2939 Filed 2–9–96; 8:45 am]

BILLING CODE 6717–01–M

[1] Panhandle received authorization in Docket Nos. CP95–21–000, CP95–22–000 and CP95–23–000, 73 FERC ¶61,343 (1995), to abandon these facilities.

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces the procedures for disbursement of $275,000,000 (plus interest) in alleged overcharges remitted or to be remitted to the DOE by Occidental Petroleum Corporation and its wholly owned subsidiary OXY USA, Inc., Case No. VEF–0030. The OHA has determined that these funds should be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Janet N. Freimuth, Deputy Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585–0107 (202) 586–2390 [Wieker]; (202) 586–2400 [Freimuth].

SUPPLEMENTARY INFORMATION: In accordance with 10 C.F.R. 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute a total of $275,000,000 plus interest, remitted or to be remitted to the DOE, by Occidental Petroleum Corporation. The DOE is currently holding $100,000,000, plus accrued interest, of these funds in an interest bearing escrow account pending distribution. The DOE will receive additional annual payments of $35,000,000 plus interest during the years 1996 through 2000.

The OHA will distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury.

Because the June 30, 1995 deadline for crude oil refund applications has passed, we will not accept any new applications from purchasers of refined petroleum products for these funds. As we state in the Decision, any party who has previously submitted a refund application in the crude oil refund proceeding should not file another Application for Refund. Any party whose crude oil application is approved will share in all crude oil overcharge funds.

Dated: January 31, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

DECISION AND ORDER OF THE DEPARTMENT OF ENERGY

Implementation Order

Name of Case: OXY USA, Inc.
Date of Filing: September 18, 1995.
Case Number: VEF–0030.

On December 1, 1995, the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Proposed Decision and Order which tentatively established refund procedures for the distribution of the Occidental Petroleum Corporation (Occidental) consent order funds. After a review of the comments received, the DOE has determined that the procedures set forth in the Proposed Decision and Order should be adopted.

I. Background

A. The Occidental Enforcement Proceeding

The Occidental consent order concerned reciprocal crude oil transactions between Cities Service Corporation (Cities) and various crude oil resellers.[1] In those transactions, Cities sold price-controlled crude oil in its refinery inventory in exchange for deeply discounted exempt crude oil. Cities reported the exempt crude oil to the DOE Entitlements Program, thereby significantly reducing its entitlements obligations.

In 1985, the DOE's Economic Regulatory Administration, now the DOE's Office of General Counsel, Regulatory Litigation (OGC), issued a Proposed Remedial Order (PRO) to the firm. In 1988, the DOE issued a Remedial Order (RO) holding that the transactions violated the price regulations and that the violation amount of $264 million, plus interest, should be remitted to the DOE. *Cities Service Oil and Gas Corp.*, 17 DOE ¶83,021 (1988). The 1988 RO also remanded the issue of whether the transactions violated other regulations. Subsequently, the Federal Energy Regulatory Commission (FERC) reversed the 1988 RO, except for the remand provision. *Cities Service Oil and Gas Corp.*, 65 FERC ¶61,403 (1993), *reconsideration denied*, 66 FERC ¶61,222 (1994). A group of utilities, transporters, and manufacturers (the UTM) and a group of states appealed to federal district court, which dismissed their appeals for lack of standing. *Alabama v. FERC*, 3 Fed. Energy Guidelines ¶26,693 (CCH) (D.D.C. June 8, 1995). The UTM had noticed an appeal at the time of the execution of the proposed consent order.

In 1992, pursuant to the remand provision of the 1988 RO, the OGC issued a Revised Proposed Remedial Order (RPRO), specifying an alternate liability of $254 million, plus interest, on the ground that the reporting of the transactions, except those in January 1981, violated the entitlements reporting requirements. The firm filed objections to the RPRO with the OHA, which were ready for oral argument at the time of execution of the consent order. *OXY USA, Inc.*, Case No. LRO–0003 (dismissed August 30, 1995).

B. The Occidental Consent Order

On June 27, 1995, the DOE issued the consent order in proposed form. The DOE published notice of the proposed consent order and of the opportunity to file

[1] Occidental's wholly-owned subsidiary OXY USA, Inc. (OXY) was formerly Cities Service Oil and Gas Corporation, which in turn was a successor in interest to Cities. Unless otherwise indicated, the firms collectively are referred to as Occidental.

comments. See 60 FR 35186 (July 6, 1995). Following the comment period, the DOE issued the proposed consent order as a final order, pursuant to 10 C.F.R. 205.199J. The DOE then published notice of the final consent order. See 60 FR 43130 (August 18, 1995).

The Consent Order requires that Occidental remit a total of $275 million to the DOE. The Consent Order requires an initial payment of $100 million and then five annual payments of $35 million plus accrued interest. On September 15, 1995, Occidental remitted its initial $100 million payment. On September 18, 1995, the OGC filed the Petition for Implementation of Special Refund Procedures.

C. The Petition for Implementation of Special Refund Procedures

The OGC filed its Petition pursuant to 10 C.F.R. Part 205, Subpart V. In the Petition, the OGC requests that the OHA establish special refund procedures to remedy the effects of the alleged regulatory violations which were resolved by the Consent Order.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. § 4501 *et seq.*; *see also Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

III. The DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases

In July 1986, the DOE issued its Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP). See 51 Fed. Reg. 27899 (August 4, 1986). The MSRP was issued in conjunction with the Stripper Well Settlement Agreement. *See In re: The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan. 1986). Under the MSRP, up to 20 percent of crude oil overcharge funds may be reserved for direct restitution to injured purchasers, with the remainder divided equally between the states and the federal government. Any funds remaining after all valid claims by injured purchasers are paid are disbursed to the states and the federal government in equal amounts.

In August 1986, shortly after the issuance of the MSRP, the OHA issued an Order that announced that the MSRP would be applied in all Subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986) (the August 1986 Order).

In April 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. See 52 Fed. Reg. 11737 (April 10, 1987). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil funds under the Subpart V regulations. A crude oil refund applicant was only required to submit one application for its share of crude oil overcharge funds.

Consistent with the foregoing, the OHA accepted refund applications from 1987 until the June 30, 1995 deadline. See 60 Fed. Reg. 19914 (April 20, 1995). Applicants who filed before the deadline and whose applications are approved will share in the crude oil overcharge funds. Approved applicants are currently receiving $.0016 per gallon of purchased refined product.

IV. The Proposed Decision and Order

The Proposed Decision and Order tentatively determined that the consent order funds should be distributed pursuant to the MSRP, because the consent order funds were crude oil overcharge funds and, therefore, governed by the MSRP. The Proposed Decision and Order tentatively determined that the consent order funds were crude oil funds because the consent order settled specific crude oil overcharge proceedings and because the consent order and notice thereof indicated that the settlement amount was specifically related to the settled proceedings.

Based on the foregoing, the Proposed Decision and Order tentatively determined that 20 percent of the funds should be reserved for direct restitution through the OHA's Subpart V process and the remaining 80 percent should be divided equally between the states and the federal government.

V. Comments Received

The UTM filed comments in opposition to the proposed distribution. Although the UTM do not challenge our tentative determination that the Occidental consent order funds are crude oil overcharge funds, the UTM oppose the 20–40–40 distribution provided for in the MSRP and our Proposed Decision and Order.

The UTM contend that 100 percent of the Occidental consent order funds should be reserved for Subpart V claimants. Under this theory, neither the states nor the federal government would receive a share of the consent order funds. Alternatively, the UTM contend that 60 percent of the Occidental consent order funds should be reserved for Subpart V claimants: the 20 percent ordinarily reserved for such claimants, as well as the federal government's 40 percent share.

Two groups of states also filed comments. Both groups oppose the UTM's request and, instead, support adoption of the procedures set forth in the Proposed Decision and Order.

VI. Analysis

A. The UTM's Contention that Subpart V Claimants are Entitled to 100 Percent of the Occidental Consent Order Funds

The UTM's contention that Subpart V claimants are entitled to 100 percent of the Occidental consent order funds is based on their contention that Subpart V claimants are entitled to more than 20 percent of all crude oil overcharge funds. The UTM maintain that the OHA is required to reserve 31–32 percent of all crude oil overcharge funds for the Subpart V process in order to give Subpart V claimants "full parity" with entities that received a refund pursuant to the Stripper Well Settlement Agreement. Because the OHA has consistently reserved 20 percent for Subpart V claimants, the UTM contend that a reserve of 100 percent of the Occidental consent order funds for Subpart V claimants is necessary to make up for the alleged shortfall.

As indicated above, two groups of States oppose the UTM's contention. The States argue that the UTM's contention is inconsistent with the express terms of the Stripper Well Settlement Agreement and the DOE's MSRP. The States note that the UTM's claimed right to "full parity" is currently the subject of a pending court proceeding against the DOE. The States contend that the issue should be resolved in that forum. In the meantime, the States contend, in the absence of a court order to the contrary, the DOE should continue to distribute crude oil overcharge funds in the manner specified in the Stripper Well Settlement Agreement and the MSRP.

We agree with the States' position. The UTM do not dispute that the DOE's distribution of crude oil overcharge funds, including the distribution to Subpart V claimants, is governed by the Stripper Well Settlement Agreement. The UTM also do not dispute that a provision in the agreement provides that the reserve for Subpart V claimants "shall not exceed 20 percent" of the crude oil overcharge funds at issue.[2] The DOE, like the other signatories to the Stripper Well Settlement Agreement, is bound by its terms. The DOE incorporated this limitation in its MSRP and has uniformly applied it. Accordingly, the maximum that the DOE may reserve for Subpart V claimants is 20 percent of crude oil overcharge funds.

B. The UTM's Contention that Subpart V Claimants are Entitled to 60 Percent of the Occidental Consent Order Funds

In support of their alternative contention that 60 percent of the Occidental consent order funds should be reserved for Subpart V claimants, the UTM argue that Subpart V claimants are entitled not only to their maximum 20 percent but also to the federal government share. The UTM alleged that the DOE, FERC and the Department of Justice took actions which undermined the success of the Occidental enforcement proceeding. Based on this allegation, the UTM contend that the federal government should forfeit its share.

As indicated above, the distribution of crude oil overcharge funds is governed by the Stripper Well Settlement Agreement, which provides for a maximum reserve of 20 percent for Subpart V claimants. Moreover, the UTM's claimed entitlement is inconsistent with the Economic Stabilization Act of 1970 (formerly 12 U.S.C. § 1094 note), which provided separate statutory authority for public (Section 209) and private (Section 210) enforcement actions. The courts have consistently held that a private party's interest in some ultimate restitutionary benefit does not confer a legal right to intervene in a Section 209 public proceeding. See, *e.g.*, *Alabama* v. *FERC*, 3 Fed. Energy Guidelines ¶26,693 (D.D.C. June 8, 1995). In fact, in the case just cited, the UTM had attempted to appeal the 1993 Order that FERC issued to Occidental; the federal district court granted the DOE's motion to dismiss for lack of standing. Accordingly, the UTM, having declined to pursue their own private action pursuant to Section 210, have no right to complain about the government's enforcement efforts, let alone seek the federal government's share of the funds resulting from those efforts.

[2] See Stripper Well Settlement Agreement, 6 Fed. Energy Guidelines (CCH) ¶90,509 at 90,655 (Part IV.B.6) ("IV. Other Alleged Crude Oil Violation Proceedings," "B. Pending and Future Proceedings," "6. Future Subpart V Proceedings.")

VII. Final Refund Procedures

Because we have determined that 100 percent of the consent order funds are crude oil funds, the funds will be distributed according to the Stripper Well Settlement Agreement and the MSRP. We have reserved the full 20 percent ($55 million), plus accrued interest, for direct restitution to injured purchasers of crude oil and refined petroleum products. The remaining 80 percent ($220 million) will be distributed in equal shares to the states and the federal government.

As indicated above, the funds reserved for direct restitution to injured purchasers will be available for distribution through OHA's Subpart V crude oil overcharge refund proceeding. We have previously discussed the application requirements and standards that apply in that proceeding. Because the deadline for the filing of applications has now passed, we do not believe that it is necessary to reiterate those matters. In accordance with the MSRP, any funds remaining after the conclusion of the Subpart V crude oil overcharge refund proceeding will be distributed to the states and the federal government in equal shares.

With respect to the funds made available to the states for indirect restitution, we note that the share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Settlement Agreement.

Based on the foregoing, we have determined that the $100 million initial payment made by Occidental be distributed as follows: $20 million, plus accrued interest, to the DOE interest-bearing escrow account for crude oil claimants, $40 million, plus accrued interest, to the DOE interest-bearing escrow account for the states, and $40 million, plus accrued interest, to the DOE interest-bearing escrow account for the federal government. We have further determined that, upon remittance to the DOE, Occidental's subsequent five annual payments of $35 million, plus accrued interest, be distributed to the same accounts in the same proportions.

It is therefore ordered that:

(1) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller of the Department of Energy shall take all steps necessary to transfer the consent order funds remitted by Occidental Petroleum Corporation, plus accrued interest, pursuant to Paragraphs (2), (3), (4), and (5) of this Decision and Order.

(2) The Director of Special Accounts and Payroll shall transfer $40 million, plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking-States," Number 999DOE003W.

(3) The Director of Special Accounts and Payroll shall transfer $40 million, plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(4) The Director of Special Accounts and Payroll shall transfer $20 million, plus any accrued interest, of the funds referenced in Paragraph (1) above, into the subaccount denominated "Crude Tracking-Claimants 4," Number 999DOE010Z.

(5) Upon each future receipt of funds referenced in Paragraph (1) above, the Director of Special Accounts and Payroll shall transfer 40 percent, plus any accrued interest, to each of the subaccounts specified in Paragraphs (2) and (3) above, and 20 percent to the subaccount specified in Paragraph (4) above.

(6) This is a final Order of the Department of Energy.

Dated: January 31, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 96–3057 Filed 2–9–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

Agency Information Collection Activities up for Renewal

[AMS–FRL–5420–8]

Selective Enforcement Auditing Reporting and Record keeping Requirements for On-Highway Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Large Nonroad Compression Ignition Engines; and Nonroad Spark-ignition Engines at and Below 19 Kilowatts

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 12, 1996.

ADDRESSES: Engine Programs and Compliance Division, 401 M Street, SW (6403J), Washington, DC 20460. Interested persons may request a copy of the ICR, without charge, by writing, faxing, or phoning the contact person below.

FOR FURTHER INFORMATION CONTACT: Rick Gezelle, Office of Mobile Sources, Engine Programs and Compliance Division, (202) 233–9267, (202) 233–9596 (fax).

Affected Entities

Entities potentially affected by this action are manufacturers of on-highway light-duty vehicles, light-duty trucks, and heavy-duty engines; and manufacturers of small nonroad spark-ignition engines and large nonroad compression-ignition engines.

Title

Selective Enforcement Auditing Reporting and Record keeping Requirements for On-Highway Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Large Nonroad Compression Ignition Engines; and Small Nonroad Spark-ignition Engines. (OMB #: 2060–0064, approved through 3/31/96).

Abstract

Manufacturers of on-highway light-duty vehicles (LDVs), light-duty trucks (LDTs), and heavy-duty engines (HDEs); and manufacturers of small nonroad spark-ignition engines (SIEs) and large nonroad compression-ignition engines (CIEs) will report and keep records of production information, Selective Enforcement Audit information, test data, audit reports, and laboratory information. Manufacturers will submit production reports at the beginning of each model year, voluntarily submit production line test data acquired from a manufacturer's own testing program, and submit audit information at the conclusion of a Selective enforcement Audit. EPA will use this information to plan audits and to verify that production line engines are in compliance with emission standards.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

BURDEN STATEMENT

	Estimated avg. burden hours	Estimated avg. cost/response	Estimated avg. frequency	Estimated avg. No. of respondents
A. Assembly Line Test Reports:				
1. LDVs & LDTs	24	$1,440	4	18
2. On-Highway HDEs	18	1,080	4	13
3. Large NR CIEs	15	900	4	20
4. Small NR SIEs	15	900	4	20
B. Projected Sales Data:				
1. LDVs and LDTs	(1)	(1)	(1)	(1)
2. On-Highway HDEs	6	$360	1	22
3. Large NR CIEs	8	480	1	20
4. Small NR SIEs	8	480	1	20
C. Selective Enforcement Audits:				
1. LDVs and LDTs	80	$4,800	1	6
2. On-Highway HDEs	640	38,400	1.25	8
3. Large NR CIEs	640	38,400	1	10
4. Small NR SIEs	640	38,400	1	10

(1) Not Applicable.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: December 14, 1995.

Donald E. Zinger,

Acting Director, Office of Mobile Sources.

[FR Doc. 96–3025 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5420–6]

Access to Confidential Business Information By Booz-Allen, & Hamilton, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA is authorizing Booz-Allen, & Hamilton, Inc. to participate in reviews of selected Superfund cost recovery documentation and records management. During the review, the contractor will have access to information which has been submitted to EPA under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Some of this information may be claimed or determined to be Confidential Business Information (CBI).

DATES: The contractor (Booz-Allen, & Hamilton, Inc.) will have access to this data five working days from the date of this notice.

ADDRESSES: Send or deliver, written comments to Veronica Kuczynski, U.S. Environmental Protection Agency, Office of the Comptroller (3PM30), 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Veronica Kuczynski, Office of the Comptroller, (3PM30), 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone (215) 597–9955.

SUPPLEMENTARY INFORMATION: Under Contract 68–W4–0010, Work Assignment #ESS026, Booz-Allen, & Hamilton, Inc. will be conducting an on-site review of the procedures and systems currently in place for compliance with Superfund cost recovery and record keeping requirements in the State of Pennsylvania. This review involves conducting transaction testing to evaluate recipient conformance with applicable regulations and acceptable business practices and documenting findings. The contractor will examine transactions for the following:

(1) Expenditures Review: expenditure documentation such as expense reports, timesheets, and purchase requests from the point of origination to the point of payment to determine compliance with such requirements as site-specific accounting data, authorizing signature and reconciliation of timesheets to expense reports.

(2) Financial Reports: review financial drawdowns, Financial Status Reports, and internal status reports, to determine if information is consistent between these documents, if recipient is properly using information, and if the reports are submitted when required.

(3) Record Keeping Procedures: review samples of Superfund documentation to determine the effectiveness of the recipient procedures to manage and reconcile this documentation (focusing on site-specific documentation, retention schedules, and the ability of the recipient to provide EPA with required financial documentation for cost recovery purposes in the specified time frame).

In providing this support, Booz-Allen, & Hamilton, Inc., employees may have access to recipient documents which potentially include financial documents submitted under section 104 of CERCLA, some of which may contain information claimed or determined to be CBI.

Pursuant to EPA regulations at 40 CFR part 2, subpart B, EPA has determined that Booz-Allen, & Hamilton, Inc., requires access to CBI to provide the support and services required under the Delivery Order. These regulations provide for five working days notice before contractors are given access to CBI.

Booz-Allen, & Hamilton, Inc. will be required by contract to protect confidential information. These documents are maintained in recipient office and file space.

Dated: January 31, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96–3027 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5420–4]

Governmental Advisory Committee to the U.S. Representative to the North American Commission on Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of the fourth meeting of the Governmental Advisory Committee (GAC) to the U.S. Government Representative to the North American Commission on Environmental Cooperation (NACEC).

The Committee was established within the U.S. Environmental Protection Agency (EPA) to advise the Administrator of the EPA in her capacity as the U.S. Representative to the NACEC. The Committee is authorized under Article 18 of the North American Agreement on Environmental Cooperation, North America Free Trade Implementation Act, P.L. 103–182 and is directed by Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation". The Committee is responsible for providing advice to the U.S. Representative on implementation and further elaboration of the agreement.

The Committee consists of a group of 10 independent representatives drawn from state and local government agencies and tribal governments.

DATES: The Committee will meet on March 11, 1996 from 8:30 a.m. to 4:30 p.m. and March 12, 1996 from 8:00 a.m. to 2:00 p.m.

ADDRESSES: The Embassy Row Hotel, 2015 Massachusetts Avenue, Washington, DC 20036. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hardaker, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–2477.

Dated: February 1, 1996.

Robert Hardaker,

Designated Federal Officer, Governmental Advisory Committee.

[FR Doc. 96–3028 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5420–3]

National Advisory Committee to the U.S. Representative to the North American Commission on Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of the fourth meeting of the National Advisory Committee (NAC) to the U.S. Government Representative to the North American Commission on Environmental Cooperation (NACEC).

The Committee was established within the U.S. Environmental Protection Agency (EPA) to advise the Administrator of the EPA in her capacity as the U.S. Representative to the NACEC. The Committee is authorized under Article 17 of the North American Agreement on Environmental Cooperation, North America Free Trade Implementation Act, P.L. 103–182 and is directed by Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation". The Committee is responsible for providing advice to the U.S. Representative on implementation and further elaboration of the agreement.

The Committee consists of a group of 14 independent representatives drawn from among environmental groups, business and industry, public policy organizations and educational institutions.

DATES: The Committee will meet on March 11, 1996 from 8:30 a.m. to 4:30 p.m. and March 12, 1996 from 8:00 a.m. to 2:00 p.m.

ADDRESSES: The Embassy Row Hotel, 2015 Massachusetts Avenue, Washington, DC 20036. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Ms. Lena Nirk, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–8169.

Dated: February 1, 1996.

Lena Nirk,

Designated Federal Officer, National Advisory Committee.

[FR Doc. 96–3029 Filed 2–9–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1094–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland, (FEMA–1094–DR), dated January 23, 1996, and related determinations.

EFFECTIVE DATE: January 30, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland, is hereby amended to include Public Assistance and Hazard Mitigation for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 23, 1996:

Allegany, Cecil, Frederick, Garrett, and Washington for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3034 Filed 2–9–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1095–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New

York, (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Columbia County for Individual Assistance (already designated for Public Assistance and Hazard Mitigation Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3035 Filed 2–9–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1097–DR]

Ohio; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1097–DR), dated January 27, 1966, and related determinations.

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include Public Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 27, 1996:

The counties of Belmont, Columbiana, Jefferson, Lawrence, Meigs, Monroe, and Washington for Public Assistance (already designated for Individual Assistance and Hazard Mitigation Assistance).

The county of Scioto for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3036 Filed 2–9–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1097–DR]

Ohio; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio (FEMA–1097–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: January 30, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 27, 1996:

The counties of Clermont, Hamilton and Lawrence for Individual Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3037 Filed 2–9–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1097–DR]

Ohio; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio (FEMA–1097–DR), dated January 27, 1966, and related determinations.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 27, 1996:

The county of Scioto for Hazard Mitigation Assistance (already designated for Public Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3038 Filed 2–9–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1098–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia (FEMA–1098–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 27, 1996:

The counties of Augusta, Clarke, Frederick, Loudoun, Page, Rockbridge, and Rockingham and the independent cities of Buena Vista, Covington and Waynesboro for Individual Assistance and Hazard Mitigation Assistance.

The counties of Alleghany, Bath, Botetourt, Shenandoah, and Warren for Hazard Mitigation Assistance (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3039 Filed 2–9–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011479–002
Title: Serpac Service Agreement
Parties:
Compania Sudamericana de Vapores, S.A.
Flota Mercante Grancolombiana, S.A.
Columbus Line
Synopsis: The proposed amendment adds a new Article 13.4 to provide for a party's right to obtain any prejudgment remedy against another party to which it is entitled.

Agreement No.: 203–011401–001
Title: TMM/H–L Space Charter and Sailing Agreement
Parties:
Transportacion Maritima Mexicana, S.A. de C.V.
Hapag-Lloyd Aktiengesellschaft
Synopsis: The proposed amendment deletes inland European points, deletes the authority for the parties to discuss rates outside of the Conference and makes other non-substantive changes. It also restates the Agreement.

Agreement No.: 224–200865–002
Title: Port of Oakland/Hanjin Shipping Company Ltd. Terminal Agreement
Parties:
Port of Oakland ("Port")
Hanjin Shipping Company, Ltd. ("Hanjin")
Synopsis: The proposed amendment permits the Port to assign certain marine terminal facilities at the Port's Seventh Street Marine Terminal to Hanjin. It also provides for an initial fixed wharfage rate of ninety-two dollars and fifty-three cents per TEU, subject to volume discounts, future increases and a minimum annual volume of 70,000 TEUs.

Dated: February 6, 1996.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2945 Filed 2–9–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Seiwa America, Inc., 5500 Frantz Road, Suite 117, Dublin, OH 43017, Officers: Kazunari Tada, President, Seigo Iwafune, Exec. Vice President

Trex Corporation, 8353 N.W. 68 Street, Miami, FL 33166, Officers: Jorge M. Mundo, President, Walter G. Clerke. Vice President

US Western Forwarders, 6916 Claire Avenue, Reseda, CA 91335, Fleur Meter Ariano, Sole Proprietor

Dated: February 7, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–3033 Filed 2–9–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Connecticut Bankshares, MHC, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 7, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Connecticut Bankshares, MHC, Manchester, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of The Savings Bank of Manchester, Manchester, Connecticut.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Community Bankshares, Inc., Orangeburg, South Carolina; to acquire 100 percent of the voting shares of Sumter National Bank, Sumter, South Carolina (an organizing bank).

C. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Westside Financial Corporation, Kennesaw, Georgia; to merge with Eastside Holding Corporation, Snellville, Georgia, and thereby indirectly acquire The Eastside Bank & Trust Company, Snellville, Georgia.

2. Wilson Bank Holding Company, Lebanon, Tennessee; to acquire 50 percent of the voting shares of DeKalb Community Bank (formerly named DeKalb Bank & Trust), Smithville, Tennessee (in organization). Comments regarding this application must be received not later than February 26, 1996.

Board of Governors of the Federal Reserve System, February 6, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-2933 Filed 2-9-96; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Title: Plan for the Child Care and Development Block Grant.

OMB No.: 0970–0114.

Description: This legislatively-mandated plan serves as the agreement between the grantee and the Federal government as to how CCDBG programs will be operated.

Respondents: State, Local and Tribal Govt.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–118	282	1	40	12,972

Estimated Total Annual Burden Hours: 12,972.

Additional Information: ACF is requesting that OMB grant a 90 day approval for this information collection under procedures for emergency processing by 3/15/96.

Copies of the proposed collection can be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: Consideration will be given to comments and suggestions received by March 15, 1996. Written comments and recommendation for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: February 5, 1996.

Roberta Katson,

Director, Office of Information Resources Management Services.

[FR Doc. 96–2978 Filed 2–9–96; 8:45 am]

BILLING CODE 4184–01–M

Proposed Information collection Activity; Comment Request

Proposed Project(s):

Title: Plan for the Child Care and Development Block Grant.

OMB No.: 0970–0114.

Description: This legislatively-mandated plan serves as the agreement between the grantee and the Federal government as to how CCDBG programs will be operated. The plans provide assurances that the funds will be administered in conformance with the legislative requirements, pertinent Federal Regulations, and other applicable instructions or guidelines issued by ACF.

Respondents: State governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–118	282	.5	40	5,640
Amendment	282	1	3	1,692

Estimated Total Annual Burden Hours: 6,486.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described below. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance officer. All requests should be identified by title.

In addition, requests of copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending a message to rkatson@acf.dhhs.gov. electronic comments must be submitted as an ASCII file without special characters or encryption.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 6, 1996.

Roberta Katson,

Director, Division of Information Resource Management Services.

[FR Doc. 96–3053 Filed 2–9–96; 8:45 am]

BILLING CODE 4184–01–M

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change, of a previously approved collection:

Title of Information Collection: Information Collection Requirements Contained in BPD–393, Examination and Treatment for Emergency Medical Conditions and Women in Labor;

Form No.: HCFA–R–142;

Use: BPD–393 contains information collection requirements for hospitals that would seek to prevent them from inappropriately transferring individuals with emergency medical conditions, as mandated by Congress. HCFA will use this information to help assure compliance with this mandate. This information is not contained elsewhere in regulations.

Frequency: On occasion;

Affected Public: Individuals or households, not-for-profit institutions, Federal Government, and State, local or tribal government;

Number of Respondents: 7,000;

Total Annual Responses: 7,000;

Total Annual Hours Requested: 8,818,577.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 25, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–2958 Filed 2–9–96; 8:45 am]

BILLING CODE 4120–03–P

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change, of previously approved collection for which approval has expired;

Title of Information Collection: Hospice Core Service: Nursing Information Collection;

Form No.: HCFA–R–66;

Use: Hospices applying for a waiver to the nursing core services requirements must submit documentation to HCFA supporting their request.

Frequency: Other, one time only;

Affected Public: Business or other for-profits and Not-for-profit institutes;

Number of Respondents: 1;

Total Annual Responses: 1;

Total Annual Hours Requested: 1.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 2, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–2957 Filed 2–9–96; 8:45 am]

BILLING CODE 4120–03–P

Agency Information Collection Activities: Proposed Collection: Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Home Office Cost Statement;

Form No.: HCFA 287;

Use: Medicare law permits components of chain organizations to be reimbursed for certain costs incurred by the Home Offices of the chain. The Home Office Cost Statement is required by the fiscal intermediary to verify Home Office Costs claimed by the components.

Frequency: Annually;

Affected Public: Business or other for-profit, and not-for-profit institutions;

Number of Respondents: 1,231;

Total Annual Responses: 1,231;

Total Annual Hours Requested: 573,646.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 5, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–2955 Filed 2–9–96; 8:45 am]

BILLING CODE 4120–03–P

Submitted for Collection of Public Comment: Submission for OMB Review

In compliance with the requirement of section 3506(c)(2)(A) of the

Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Reinstatement, without change, of a previously approved collection for which approval has expired;

Title of Informotion Collection: State Medicaid Eligibility Quality Control Sampling Plan;

Form No.: HCFA–317;

Use: The State MEQC sampling plan is necessary for HCFA to monitor the States' operation of the MEQC system. The sampling plan includes all data involved in the States' sample selection process—population sizes and sample frame lists, sample sizes, sample selection procedures, and claims collection procedures;

Frequency: Annually;

Affected Public: State, local, or tribal government;

Number of Respondents: 55;

Total Annual Responses: 110;

Total Annual Hours: 2,640.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 5, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2956 Filed 2–9–96; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Robert Benson, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext. 267; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Attenuated Human Rotavirus Vaccine

Hoshino, Y., Kapikian, A.Z., and Chanock, R.M. (NIAID)
Filed 11 July 95 (priority to 11 Jul 94)
Serial No. 08/500,564 (CIP of 08/481,644)

Rotaviruses are recognized as the single most important etiologic agent of severe diarrhea in both developed and nondeveloped countries. This invention embodies an attenuated rotavirus as a vaccine. The claims of the invention relate to the generation of a cold-adapted virus that is not efficient in replication at normal human body temperatures and therefore may be capable of stimulating an immune response without causing illness. In a limited clinical trial, administration of a cold-adapted rotavirus vaccine to 26 adults demonstrated that the vaccine was safe, attenuated, and was capable of inducing a virus-specific serologic response. This invention has been PCT filed on July 11, 1995. (portfolio: Infectious Diseases—Vaccines, viral, non-AIDS)

Method for Generating Influenza A Viruses Bearing Attenuating Mutations in Internal Protein Genes

Murphy, B., Subbarao, K.E., Kawaoka, Y. (NIAID)
Filed 7 Jun 95
Serial No. 08/481,631 (CIP of 08/309,521, CIP of 08/123,933)

This invention describes a method of producing attenuated Influenza A strains for use as live Influenza A virus vaccine candidates. This method involves the introduction of three temperature-sensitive attenuating mutations into the polymerase basic protein 2 (PB2) gene of Influenza A virus. These mutations are introduced by site-directed mutagenesis at specific sites into a cDNA copy of the PB2 gene. An RNA transcript of this nutant PB2 gene is recovered into an infectious Influenza A virus using a host range restricted helper virus. This attending mutant PB2 gene can be transferred to each new variant of Influenza A virus as it appears in nature. The patent application covering this invention is available for licensing and contains claims to: The methods of producing the attenuated strains; the attenuated strains produced by the methods; and methods of vaccination using the attenuated strains. Viruses containing mutant PB2 genes are also available for licensing. (portfolio: Infectious Diseases—Vaccines, viral, non-AIDS)

Attenuated Influenza A Virus

Palese, P., Muster, T., Murphy, B.R., Enami, M., Bergmann, M., Subbaro, E.K., Chanock, R.M. (NIAID)
Filed 7 Jun 95 (priority to 3 Feb 92)
Serial No. 08/480,939 (FWC of 07/939,716)

This invention describes the development of a novel live attenuated influenza A virus for use in intranasal vaccines. This virus is unique in that it is a chimera of two influenza strains. This results in an attenuated virus capable of invoking an immune response and therefore protection against influenza. The claims of this invention cover a method for generating the attenuated influenza virus, introducing the viral construct into cell lines, and vaccinating a vertebrate with the attenated virus. Animal studies have demonstrated that infection with the chimeric virus leads to resistance to a challenge with wild-type virus. (portfolio: Infectious Diseases—Vaccines, viral, non-AIDS)

Pteridine Nucleotide Analogs as Fluorescent DNA Probes

Hawkins, M.E., Pfleiderer, W., Davis, M.D., Balis, F.M. (NCI)
Filed 26 May 95
Serial No. 08/451,641 (DIV of 08/245,923)

The invention concerns a series of pteridine deoxyribonucleotide analogs which are highly fluorescent and resemble purine nucleotides in chemical structure and properties. The phosphoramidite form of these fluorophores can be site-specifically incorporated into oligonucleotides using conventional DNA synthesis techniques. The fluorescence intensity of the pteridine nucleotide analogs is highly dependent on their physicochemical environment, thus making them ideal for the study of DNA-protein interactions. A real-time assay for HIV integrase has been developed using one of the pteridine nucleotide analogs that resembles guanosine. Other uses foreseen are as fluorescent labels for DNA probes and PCR primers and for investigating protein-DNA interactions. The claims include the phosphoramidite derivatives of the pteridine nucleotide analogs useful as starting materials for oligonucleotide synthesis and oligonucleotides incorporating the pteridine nucleotide analogs. (portfolio: Gene-Based Therapies—Research Tools and Reagents; Gene-Based Therapies—Diagnostics)

Dated: February 1, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–3073 Filed 2–9–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Review of Tuberculosis Academic Award Applications.
Date: March 5, 1996.
Time: 9:00 a.m.
Place: Holiday Inn Chevy Chase, Chevy Chase, Maryland.
Contact Person: Louise P. Corman, Ph.D., Two Rockledge Center, Room 7180, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0270.
Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: February 6, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3071 Filed 2–9–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee B.
Date: March 7–8, 1996.
Time: 5 p.m.–adjournment on March 8.
Place: Embassy Suites Hotel, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Ned Feder, Ph.D., Natcher Building, Room 6AS–25S, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8890.
Purpose/Agenda: To review and evaluate research grant applications.
Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee C.
Date: February 29–March 1, 1996.
Time: 8:30 a.m.–adjournment.
Place: Stouffer Mayflower Hotel, 1127 Connecticut Ave., NW., Washington, DC 20036.
Contact Person: Daniel Matsumoto, Ph.D., Natcher Building, Room 6AS–37B, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8894.
Purpose/Agenda: To review and evaluate research grant applications.
Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee D.
Date: March 1, 1996.
Time: 8 a.m.–adjournment.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.
Contact Person: Ann A. Hagan, Ph.D., Natcher Building, Room 6AS–43G, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8891.
Purpose/Agenda: To review and evaluate research grant applications.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: February 6, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3072 Filed 2–9–96; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Exclusive License: Cartilage-Derived Morphogenetic Proteins

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Public Health Service Employee Invention Report Number E–138–94/0 (PCT/US94/12814), entitled "Cartilage-Derived Morphogenetic Proteins" to Creative BioMolecules, Inc., having a place of business in Hopkinton, Massachusetts. The patent rights in this application have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention relates generally to the field of cartilage and bone development. More specifically, this invention relates to cartilage-derived morphogenetic proteins (CDMPs) that stimulate development and repair of cartilage *in vivo*. These proteins which exhibit chondrogenic properties are disclosed to be members of the TGF–B superfamily. Also disclosed are polynucleotides encoding two members of the CDMP family of proteins. Recombinant CDMP–1 protein was shown to have chondrogentic activity *in vivo*. The primary uses of this invention would be in orthopaedic reconstruction.

ADDRESSES: Requests for a copy of this patent application, inquires, comments, and other materials relating to the contemplated license should be directed to: John Fahner-Vihtelic, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: 301/496–7735 extension 285; Fax: 301/402–0220. A signed Confidentiality Agreement will be required to review copies of the patent application. Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before April 12, 1996 will be considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 1, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–3074 Filed 2–9–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; F–21901–05]

Notice for Publication; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to Doyon Limited for approximately 3,794 acres. The lands involved are in the vicinity of Eagle, Alaska, located within T. 2 N., R. 27 E., Fairbanks Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 13, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Carolyn A. Bailey,

Land Law Examiner, Branch of Gulf Rim Adjudication.

[FR Doc. 96–3001 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–JA–P

[OR–050–1220–00:G6–0058]

Prineville District; Closure of Public Lands; Oregon

January 31, 1996.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice is hereby given that the area immediately surrounding Paulina Cave, Crook County, Oregon, is closed to all visitor use.

Paulina Cave in Crook County, Oregon, and the surrounding area extending 150 feet from the rim of the sinkhole, are closed to all visitor use. The purpose of this closure is to protect the western big-eared bat (Plecotus townsendii) from human disturbance. This species is extremely sensitive to human disturbance; any disturbance that awakens the bats during hibernation may be sufficient to result in their death. Paulina Cave is a historical hibernaculum for the western big-eared bat. Human disturbance above the cave and surrounding the sinkhole creates significant noise and vibration to disturb roosting western big-eared bats. Human disturbance and visitation at the site would be sufficient to preclude attempts to re-establish use by the western big-eared bat at this site. Exemptions to this closure will apply to administrative personnel for monitoring purposes; other exemptions to this restriction may be made on a case-by-case basis by the authorized officer. Exemptions could include approved research, essential search and rescue, and other emergency actions or administrative operations for cave resources protection. The authority for this closure is 43 CFR 8364.1: Closure and restriction orders.

A more specific location of public lands under this closure order is not provided in order to protect sensitive cave resources. Cave locations are exempt from the Freedom of Information Act under the Federal Cave Resources Protection Act of 1988.

FOR FURTHER INFORMATION CONTACT: Sarah Nichols, Wildlife Biologist, BLM Prineville District, P.O. Box 550, Prineville Oregon 97754, telephone (541) 416–6700.

SUPPLEMENTARY INFORMATION: Violation of this closure order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

Dated: January 31, 1996.

Don Smith,

Acting District Manager, Prineville District Office.

[FR Doc. 96–2954 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–33–M

[D–930–1020–01]

Notice of Intent (NOI) To Modify Land Use Plans (LUPS) and To Prepare an Environmental Impact Statement (EIS) or Other National Environmental Policy Act (NEPA) Documentation To Adopt Standards for Rangeland Health and Guidelines for Grazing Management for BLM Lands in Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Revised notice of intent to modify Land Use Plans and to prepare appropriate NEPA documentation to adopt Standards for Rangeland Health and Guidelines for Grazing Management in Idaho.

SUMMARY: The Bureau of Land Management (BLM) in Idaho published an NOI on page 58092 in the issue of Friday, November 24, 1995, to, among other actions, (1) modify all Idaho Management Framework Plans (MFPs) and Resource Management Plans (RMPs) and (2) prepare an EIS to adopt standards for rangeland health and guidelines for grazing management in Idaho. It is now necessary to revise that NOI in order to clarify the preliminary alternatives identified and to extend the public comment period on the NOI and the Planning Criteria which were published in a notice of availability (NOA) on page 65352 in the issue of Friday, December 19, 1995.

DATES: Comments on the NOI of November 24, 1995, on the NOA of December 19, 1995, and this NOI will be accepted for 30 days from the publication date of this NOI.

FOR FURTHER INFORMATION CONTACT: J. David Brunner, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706; Phone 208–384–3056.

SUPPLEMENTARY INFORMATION: The three preliminary alternatives identified in the Notice of Intent of November 24, 1995, were: (1) The continuation of current management (no action alternative) as provided for in existing land use plans, (2) application of the fall back standards and guidelines contained in the regulations, and (3) the adoption of standards and guidelines developed locally and in consultation with Idaho BLM's three Resource Advisory Councils. The three preliminary alternatives identified above to modify land use plans in Idaho are amended as follows: (1) Adoption of new Standards and Guidelines specific to Idaho and developed in consultation with Idaho BLM's three Resource Advisory Councils, and (2) adoption of the Fall back Standards and Guidelines specified in the new grazing regulations. These preliminary alternatives are subject to change pending analysis of comments at the conclusion of scoping. Any changes will be reflected in the NEPA document.

J. David Brunner,

Deputy State Director for Resource Services.

[FR Doc. 96–2932 Filed 2–9–96; 8:45 am]

BILLING CODE 1020–GG–M

National Park Service

60 Day Notice of Intention to Request Clearance of Information Collection, Opportunity for Public Comment

AGENCY: National Park Service, The Department of Interior.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13,44 U.S.C., Chapter 3507) and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park Service invites public comments on a proposed information collection request (ICR). Comments are invited on: (1) the need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The primary purpose of the ICR is to nominate properties for listing in the National Register of Historic Places, the official list of the Nation's cultural resources worthy of preservation, which public law requires that the Secretary of the Interior maintain and expand. Properties are listed in the National Register upon nomination by State Historic Preservation Officers and Federal Preservation Officers. Law also requires Federal agencies to request determinations of eligibility for property under their jurisdiction or affected by their programs or projects. The forms provide the historic documentation on which decisions for listing and eligibility are based.

DATES: Public comments will be accepted for sixty days from the date listed at the top of this page in the **Federal Register.**

ADDRESSES: Send comments to Carol Shull, Keeper of the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Copies of the proposed ICR requirement can be obtained from Carol Shull, Keeper of the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127.

For further information, contact Carol Shull, (202) 343–9500.

SUPPLEMENTARY INFORMATION:

Title: National Register of Historic Places Registration Form, National Register of Historic Places Continuation Sheet, and National Register of Historic Places Multiple Property Documentation Form.

Form: NPS 10–900, -a, -b.

OMB Number: NPS 1024–0018.

Expiration Date: March 31, 1996.

Type of Request: Extension of the expiration date.

Description of need: The National Historic Preservation Act requires the Secretary of the Interior to maintain and expand the National Register of Historic Places, and to establish criteria and guidelines for including properties in the National Register. The National Register of Historic Places Registration Form documents properties nominated for listing in the National Register and demonstrates that they meet the criteria established for inclusion. The documentation is used to assist in preserving and protecting the properties and for heritage education and interpretation. National Register properties must be considered in the planning for Federal or federally assisted projects. National Register listing is required for eligibility for the federal rehabilitation tax incentives.

Description of respondents: The affected public are State, tribal, and local governments, federal agencies, businesses, non-profit organizations, and individuals. Nominations to the National Register of Historic Places are voluntary.

Estimated annual reporting burden: 36,000 hours.

Estimated average burden hours per response: 18 hours.

Estimated average number of respondents: 1000.

Estimated frequency of response: 2000 annually.

Dated: February 6, 1996.

Terry N. Tesar,

Information Collection Clearance Officer, Management Services Division, National Park Service.

[FR Doc. 96–3059 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Deer Management Plan and Environmental Assessment; Fire Island National Seashore, NY

ACTION: Notice of intent.

SUMMARY: The National Seashore, working cooperatively with the public and with other agencies, had begun a process to develop three separate deer management plans tailored to unique problems and needs at each of three sites: the William Floyd Estate in Mastic Beach, the Wilderness Area of Fire Island National Seashore (from Smith Point west to Watch Hill), and the western end of the Seashore (from Watch Hill to the Fire Island Lighthouse). The management planning process involved the formation of task groups and included public scoping meetings. This process would have culminated with a National Environmental Policy Act (NEPA), Environmental Assessment.

Based on the results of the first five scoping meetings and the controversies that were apparent in the meetings, the National Park Service, Fire Island National Seashore has decided to dismiss the task groups, bypass the Environmental Assessment process, and go directly to a NEPA, Environmental Impact Statement (EIS) process.

Further scoping meetings, for the same three areas, are being planned. The Seashore will continue to invite participants from the past task groups, and are hereby inviting all other

interested parties, to all future scoping meetings. Please be advised that these future meetings will be announced through the local media.

ADDRESSES: Inquiries on future meeting dates should be submitted to the Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, NY 11772, telephone (516) 289–4810.

SUPPLEMENTARY INFORMATION: As at many locations in the Northeast, increasing populations of white-tailed deer are causing concern about impacts to the natural resource values of the Seashore as well as the various kinds of impacts within the communities that are integral with Seashore property. To devise the safest, most practical, and least disruptive plans, the Seashore is seeking the input of all parties affected by the issue, such as the residents of Fire Island and Mastic Beach communities and managers of public lands also bordering the Seashore. For example, both the Robert Moses State Park and the Smith Point County Park (both located on Fire Island) have been asked to participate in the planning process.

The focus of each of the public scoping meetings will be to discuss NPS and other local issues pertaining to deer in each of the three management areas; to begin to define the problems, and to set management planning objectives. When the issues and objectives have been delineated, the next step is development of management alternatives for resolving the issues and meeting objectives.

The NEPA EIS document will describe each management alternative (as developed through the scoping meetings), state the Seashore's preferred alternative and analyze the impacts of each alternative. This document, as a Draft EIS, will be made available for public review by subsequent notice in the **Federal Register**, and through the local media.

Members of the National Seashore's staff will participate in all the scoping meetings to answer questions specific to white-tailed deer, park operational issues related to deer, park management objectives, alternative development or any other aspect of the deer management planning process.

For further information, please contact the superintendent at 516–289–4810 or by writing to: Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, New York 11772.

Jack Hauptman,

Superintendent.

[FR Doc. 96–2953 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0095), Washington, DC, 20503, telephone 202–395–7340.

Title: Initial Regulatory Program; 30 CFR Part 710.

OMB Approval Number: 1029–0095.

Abstract: Information collected in Part 710 is used to ensure States are conducting minesite inspections under the initial regulatory program established by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Information collected is also used to bring pre-existing, nonconforming structures into compliance during the phase-in of the initial regulatory program under SMCRA, and to grant small operators exemptions from some of the initial regulatory program requirements.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: State regulatory authorities and surface coal mining operators.

Annual Responses: One.

Annual Burden Hours: One.

Average Burden Hours Per Response: One.

Bureau Clearance Officer: John A. Trelease (202) 208–2617.

Dated: December 7, 1995.

Gene E. Krueger,

Acting Chief, Office of Technology Development and Transfer.

[FR Doc. 96–2925 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–05–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the Provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0027), Washington, D.C. 20503, telephone 202–395–7340.

Title: General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands—30 CFR Part 740

OMB Approval Number: 1029–0027.

Abstract: Section 522 of the Surface Mining Control and Reclamation Act of 1977 (Act) requires that a Federal lands program be established to govern surface coal mining and reclamation operations on Federal lands. The information requested is needed to assist the regulatory authority in determining the eligibility of the applicant and compliance with the requirements of the Act.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Coal mine operators and State regulatory authorities.

Estimated completion time: 21 hours.

Annual Responses: 30.

Annual Burden Hours: 643.

Bureau Clearance Officer: John A. Trelease (202) 208–2617.

Dated: December 7, 1995.

Gene E. Krueger,

Acting Chief, Office of Technology Development and Transfer.

[FR Doc. 96–2924 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Notice of Public Information Collections being Reviewed by the Agency for International Development; Comments Requested

SUMMARY: Agency for Intenrational Development (AID), is making efforts to reduce the paperwork burden. AID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Send comments on these information collection on or before April 12, 1996.

FOR FURTHER INFORMATION CONTACT:

Mary Ann Ball, Bureau for Management, Office of Administrative Services, Information Support Services Division, Agency for Intenrational Development, Room B930, N.S., Washington, D.C., (202) 736–4743 or via e-mail MABall@USAID.GOV

SUPPLEMENTARY INFORMATION:

Title: A.I.D. Consultant Registry Information System (ACRIS) Instruction Books for the Organization Profile.

Form No.: AID 1420–50 (12/95).

OMB NO: OMB 0412–0506.

Type of Review: Extension of Information Collection.

Abstract: A.I.D. procuring activities are required to establish bidders mailing lists "to assure access to sources and to obtain meaningful competition" (CFR 1–2.205). In compliance with this requirement, A.I.D.'s Office of Small and Disadvantaged Business Utilization/Minority Resource Center has responsibility for "developing and maintaining a Contractor's Index of bidders/offerors capable of furnishing services for use by the A.I.D. procuring activities." (AID 7.704–29(b)(4)).

Respondents: Business or other for-profit, Not-for-profit institutions.

Number of Respondents: 1,000.

Estimated Total Annual Hour Burden on Respndents: 1,000 hours.

Dated: February 5, 1996.

Genease E. Pettigrew,

Chief, Information Support Services Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 96–2931 Filed 2–9–96; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Waste Reduction Technologies; Novel Reactor Design Joint Venture

Notice is hereby given that, on December 19, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), the Center for Waste Reduction Technologies, for itself and for the participants in the Novel Reactor Design project, (hereinafter "Noval Reactor Design Joint Venture") filed a written notification simultaneously with the Attorney General and with the Federal Trade Commission disclosing (1) the identities of the parties participating in the joint venture and (2) the nature and objectives of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Center for Waste Reduction Technologies, New York, NY; American Institute of Chemical Engineers, New York, NY; Air Products and Chemicals, Inc., Allentown, PA; Eastman Chemical Company, Batesville, AK; Monsanto Company, St. Louis, MO; Olin Corporation, Lake Charles, LA; Rhone Poulenc Inc., Monmouth Junction, NJ; SRI International, Menlo Park, CA; and U.S. Department of Energy, Washington, DC.

The nature and objectives of this joint venture are to conduct an experimental demonstration to confirm the operational utility and advantages of the basic concept for a novel reactor design for complex, exothermic reactions, such as oxidations or sulfonations, in such a way that yields are maximized and by-product formation and waste generation are minimized.

Participation in this joint venture will remain open to qualified persons and organizations. Information regarding participation in this joint venture may be obtained from: Center for Waste Reduction Technologies, 345 East 47th Street, New York, NY 10017–2395.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3010 Filed 2–9–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Management Forum

Notice is hereby given that, on November 30, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Network Management Forum ("the Forum") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership. The additional notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members to the venture are as follows: StrataCom, Inc., San Jose, CA is a Corporate Member. Euristix Ltd., Dublin, IRELAND; ITEC Solutions, Inc., Ottawa, Ontario, CANADA; National Computing Centre Limited, Manchester, ENGLAND; and Teleglobe Canada Inc., Montreal, Quebec, CANADA are Associate Members. GMD Fokus, Berlin, GERMANY; Hydro-Quebec, Montreal, Quebec, CANADA; Logica, London, UK; and SETA Corporation, McLean, VA are Affiliate Members.

No other changes have been made since the last notification filed with the Department, in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, the Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on August 7, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 13, 1995 (60 FR 57022).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3011 Filed 2–9–96; 8:45 am]

BILLING CODE 4410–01–M

Immigration and Naturalization Service

[INS No. 1708–95]

RIN 1115–AE08

Notice of Policy Regarding Contracts Between the Immigration and Naturalization Service and Transportation Lines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice announces a change in the policy involving contracts with transportation lines that are entered into with the Immigration and Naturalization Service ("the Service") under section 238 of the Immigration and Nationality Act ("the Act). Beginning March 13, 1996, the Service intends to evaluate a transportation line's fines, liquidated damages, and user fee payment record before entering into any agreements with the transportation line. The Service will also evaluate existing transportation line agreements for possible cancellation, if it is determined that fines, liquidated damages, or user fees imposed against or owed by the transportation line are not paid to the Service in a timely manner. This action is necessary to ensure timely payment of a transportation line's fines, liquidated damages, and user fees.

EFFECTIVE DATE: March 13, 1996.

FOR FURTHER INFORMATION CONTACT: Robert F. Hutnick, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW., Room 7228, Washington, DC 20536, telephone number (202) 616–7499.

SUPPLEMENTARY INFORMATION: This notice announces to all interested parties that in order to encourage the timely payment of fines, liquidated damages, and user fees, the Service intends to condition future agreements with transportation lines upon payment of overdue fines, liquidated damages, and user fees. The Service will also terminate existing agreements with transportation lines whose payments are outstanding for more than 30 days. Section 238 of the Act provides for those actions.

Delinquent carrier fines, liquidated damages, and user fee payments have made this policy a necessity. Service records reflect that over five million dollars of carrier fines, liquidated damages, and user fees are outstanding for more than 30 days. Existing administrative means to enforce collection of these monies are insufficient and have led to litigation. This policy will address the outstanding obligations of commercial transportation lines in a more timely and cost effective manner.

The Service intends to deny transportation line requests for the following contracts, based on an unacceptable fines, liquidated damages, or user fee payment record: (1) entry and inspection of aliens from foreign contiguous territory or adjacent islands agreements (Form I–420); (2) pre-clearance and pre-inspection agreements (Form I–425); (3) progressive clearance agreement requests; (4) Immediate and Continuous Transit agreements, also known as Transit Without Visa (TWOV) agreements (Form I–426); (5) In-Transit Lounge (ITL) agreements; and, (6) Visa Waiver Pilot Program (VWPP) agreements (Form I–775). An unacceptable fines payment record is one that includes fines or liquidated damages that are delinquent 30 days and have been affirmed by either a final decision or formal order. An unacceptable user fee payment record is one that includes user fees that are delinquent 30 days.

The Service also intends to evaluate existing carrier agreements for possible cancellation and will notify the affected carrier in writing of the proposed Service decision. The Service will allow the carrier 30 days to make full payment of the debt or to show cause why the debt is not valid. The Service will issue a final determination after the close of the 30 day period.

Dated: September 14, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–2926 Filed 2–9–96; 8:45 am]

BILLING CODE 4410–10–M

National Institute of Corrections

Advisory Board Meeting

TIME AND DATE: 8:00 a.m., Tuesday, February 27, 1996.

PLACE: Old Town Holiday Inn, 480 King Street, Alexandria, VA.

STATUS: Open.

MATTERS TO BE CONSIDERED: Office of Justice Programs' update on the Violent Offender and Truth In Sentencing Grant Program, a Gains briefing, a plan for reimbursement for NIC services, matching NIC board expenses to reductions in the NIC budget, election of officers, report on the NIC FY 1996 appropriation and the expected future of NIC, and NIC's budget and funding.

CONTACT PERSON FOR MORE INFORMATION: Larry Solomon, Deputy Director, (202) 307–3106, ext. 155.

Morris L. Thigpen,

Director.

[FR Doc. 96–3062 Filed 2–9–96; 8:45 am]

BILLING CODE 4410–36–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96–1 CARP]

Copyright Arbitration Royalty Panels; List of Arbitrators

AGENCY: Copyright Office, Library of Congress.

ACTION: Publication of the 1996 CARP arbitrator list.

SUMMARY: The Copyright Office is publishing the list of arbitrators eligible for selection to a Copyright Arbitration Royalty Panel (CARP) during 1996. This CARP arbitrator list will be used to select the arbitrators who will serve on panels initiated in 1996 for determining the distribution of royalty fees or the adjustment of royalty rates.

EFFECTIVE DATE: February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or Tanya M. Sandros, Copyright Arbitration Royalty Panel Specialist, at Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

For royalty rate adjustments and distributions that are in controversy, the Copyright Act requires the selection of a Copyright Arbitration Royalty Panel (CARP) consisting of three arbitrators from "lists provided by professional arbitration associations." See 17 U.S.C. 802(b). The Librarian of Congress selects two of the arbitrators for a CARP from a list of nominated arbitrators; those selected then choose a third arbitrator to serve as chairperson of the panel. If the two arbitrators cannot agree, the Librarian is instructed to select the third arbitrator.

On December 7, 1994, the Copyright Office issued final regulations implementing the CARP selection process. 59 FR 63025 (December 7, 1994). Section 251.3(a) of the regulations allows any professional arbitration association or organization to nominate qualified individuals, as described in § 251.5, to serve as arbitrators on a CARP. The regulations require that the submitting arbitration association supply the following information for each person:

(1) The full name, address, and telephone number of the person.

(2) The current position and name of the person's employer, if any, along with a brief summary of the person's employment history, including areas of expertise, and, if available, a description of the general nature of clients represented and the types of proceedings in which the person represented clients.

(3) A brief description of the educational background of the person, including teaching positions and membership in professional associations, if any.

(4) A statement of facts and information which qualify the person to serve as an arbitrator under § 251.5.

(5) A description or schedule detailing fees proposed to be charged by the person for service on a CARP.

(6) Any other information which the professional arbitration association or organization may consider relevant. 37 CFR 251.3(a).

Section 251.3(b) of the regulations requires the Copyright Office to publish a list of qualified persons and mandates that this list must include between 30 and 75 names of persons who were nominated from at least three arbitration associations. The newly comprised list of arbitrators is in effect until the end of the calendar year and any and all arbitrators selected for a CARP during the year would come from this list. The list includes the name of the nominee and the nominating association.

The publication of today's list satisfies the requirement of 37 CFR 251.3. The information submitted by the arbitration association with respect to each person listed is available for copying and inspection at the Licensing Division of the Copyright Office. Thus, for example, if the Librarian is required to convene a CARP in 1996 for a royalty fee distribution, parties to that proceeding may review that information as a means of formulating objections to listed arbitrators under § 251.4. The Licensing Division of the Copyright Office is located in the Library of Congress, James Madison Building, Room 458, 101 Independence Avenue, SE., Washington, DC 20540.

Deadline for Filing Financial Disclosure Statement

Publication of today's list also triggers a requirement imposed by the regulations on the individuals named in the list. Section 251.32(a) of the CARP rules provides that, within one month of date of publication of this list in the **Federal Register**, each listed person must "file with the Librarian of Congress a confidential financial disclosure statement as provided by the Library of Congress." The Copyright Office sent financial disclosure statements to the nominating associations, with specific instructions for completing and filing the statement, and asked each organization to distribute the forms to its nominees for the CARP arbitrator list. The Librarian of Congress will use the financial disclosure form to determine what conflicts of interest, if any, may preclude the nominee from serving as an arbitrator in a CARP proceeding. Unlike information submitted by the arbitration associations under § 251.3(a), the information contained in the financial disclosure statements is confidential and is not available to the public or to the parties to the proceeding. Failure to file the statement in a timely manner may preclude consideration of the person for service on an arbitration panel.

The 1996 CARP Arbitration List

Howard B. Abrams, Esq.—American Arbitration Association
Miles J. Alexander, Esq.—Center for Public Resources Inc.
Richard Bennett, Esq.—American Arbitration Association
The Honorable John W. Cooley—JAMS/Endispute
Robert A. Creo, Esq.—JAMS/Endispute
Joel Davidow, Esq.—American Arbitration Association
Edward Dreyfus, Esq.—American Arbitration Association
Corydon B. Dunham, Esq.—American Arbitration Association
The Honorable Lenore G. Ehrig—American Arbitration Association & Judicate, Inc.
The Honorable Jesse Etelson—Judicate, Inc.
John B. Farmakides, Esq.—American Arbitration Association
The Honorable Thomas A. Fortkort—Center for Litigation Alternatives
Richard G. Green, Esq.—American Arbitration Association
Joseph A. Greenwald, Esq.—American Arbitration Association
The Honorable Lewis Hall Griffith—Center for Litigation Alternatives
The Honorable Jeffrey S. Gulin, Esq.—Judicate, Inc.
Professor Hugh C. Hansen—Center for Litigation Alternatives
David C. Hilliard, Esq.—Center for Public Resources, Inc.
The Honorable Mel R. Jiganti—JAMS/Endispute
The Honorable William B. Lawless—"Judge-Net"
Michael K. Lewis, Esq.—Center for Public Resources, Inc.
The Honorable Reuben Lozner—Judicate
Steve A. Mains, Esq.—JAMS/Endispute
The Honorable H. Curtis Meanor—Center for Public Resources, Inc.
The Honorable James R. Miller—JAMS/Endispute
Charles B. Molineaux, Esq.—American Arbitration Association
The Honorable Timothy Murphy—Center for Litigation Alternatives
The Honorable Sharon T. Nelson—American Arbitration Association & Judicate
David W. Plant, Esq.—American Arbitration Association
The Honorable Kathleen A. Roberts—JAMS/Endispute
Peter Carey Schaumber, Esq.—American Arbitration Association
The Honorable Herbert Silberman—Judicate
Linda R. Singer, Esq.—Center for Public Resources, Inc.
John M. Townsend, Esq.—American Arbitration Association
The Honorable Ronald P. Wertheim—JAMS/Endispute & Judicate, Inc.
Bruce Zagaris, Esq.—American Arbitration Association

Dated: February 7, 1996.

Marilyn J. Kretsinger,

Acting General Counsel.

[FR Doc. 96–2993 Filed 2–9–96; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis in Civil and Mechanical Systems (#1205).

Date and Time: February 28, 1996, 8:00 a.m. to 5:00 p.m.

Place: Room 580, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Shi-Chi Liu, Program Director in the Division of Civil and Mechanical Systems, Rm 545, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1362.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Structural Control Initiative proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 7, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3060 Filed 2–9–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and soliciation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review or continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection:

10 CFR Part 73—Physical Protection of Plants and Materials

2. Current OMB approval number: 3150–0002.

3. How often the collection is required: On occasion. Required reports are collected and evaluated on a continuing basis as events occur.

4. Who is required or asked to report: Persons who possess, use, import, export, transport, or deliver to a carrier for transport, special nuclear material.

5. The number of annual responses: 68,643.

6. The number of hours needed annually to complete the requirement or request: 410,602 hours.

7. Abstract: 10 CFR Part 73 prescribes requirements for establishment and maintenance of a physical protection system with capabilities for protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used. The revision reflects an increase in burden because of requirements for the physical fitness, day firing, and vehicle bomb rulemakings that were previously approved by OMB. There was also an adjustment to the burden because of the elimination of the requirement to have licensees submit quarterly log reports.

Submit by April 12, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem within 30 days of the signature date of this notice on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 1st day of February, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2986 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment. The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision/Extension

2. The title of the information collection: 10 CFR Part 52, "Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants."

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion and every 10 to 20 years for applications for renewal.

5. Who will be required or asked to report: Designers of commercial nuclear power plants, electric power utilities, and any person eligible under the Atomic Energy Act to apply for a construction permit for a nuclear power plant.

6. An estimate of the number of responses: Two applications for design certification will be under review during the next three years.

7. An estimate of the total number of hours needed annually to complete the requirement or request: Approximately 65,333 hours per year for both applications in addition to the burden associated with 10 CFR Parts 20, 50, 73 and 100 (approved by OMB under Clearance Nos. 3150–0014, 3150–0011, 3150–0002, and 3150–0093, respectively).

8. An indication of whether Section 3507(d), Public Law 104–13 applies: Not applicable.

9. Abstract: 10 CFR Part 52 establishes requirements for the granting of early site permits, certifications of standard nuclear power plant designs, and licenses which combine in a single license a construction permit and an operating license with conditions (combined licenses). Part 52 also establishes requirements for renewal of these permits, certifications, and licenses; amendments to them; exemptions from certifications; and variances from early site permits.

NRC uses the information collected to assess the adequacy and suitability of an applicant's site, plant design, construction, training and experience, and plans and procedures for the protection of the public health and safety. The NRC review of such information and the findings derived from that information form the basis of NRC decisions and actions concerning the issuance, modification, or revocation of site permits, design certifications, and combined licenses for nuclear power plants.

Copies of the submittal may be inspected or obtained from the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20555–0001.

Comments and questions should be directed to the OMB reviewer by March 13, 1996: Troy Hillier, Office of Information and Regulatory Affairs (3150–0151), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 2nd day of February 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–2985 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–P

Notice of Issuance of Amendment to Materials License SNM–2506 Northern States Power Company

[Docket 72–10]

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Materials License No. SNM–2506 held by Northern States Power Company (NSPC) for the receipt and storage of spent fuel at the Prairie Island independent spent fuel storage installation (ISFSI), located in Goodhue County, Minnesota. The amendment is effective as of the date of issuance.

The amendment request dated October 2, 1995, consists of changes to page 6–1 of Appendix A to the license to correct an inconsistency between the Prairie Island ISFSI Technical Specifications and the Prairie Island Nuclear Generating Plant Technical Specifications. The amendment eliminates the requirements that the ISFSI Annual Radioactive Effluent Release Report be submitted as part of the Nuclear Generating Plant Annual Radioactive Effluent Release Report. The requirement was intended as a convenience since both reports initially had the same due date. Subsequently, the due date for the plant report was extended by a license amendment for the plant technical specifications. However, the ISFSI technical specifications still require that both reports be submitted by the original earlier date. By separating the due dates for the two reports, the additional time now allowed in the plant technical specifications for the submittal of the plant report can be utilized. These changes do not affect fuel receipt, handling, and storage safety.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether the health and safety of the public will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c)(11), an environmental assessment need not be prepared in connection with issuance of the amendment.

Documents related to this action are available for public inspection at the Commission's Public Document Room at the Gelman Building, 2120 L Street, NW, Washington, DC 20555, and at the Local Public Document Room at the Minneapolis Public Library, Technology & Science Department, 300 Nicollet Mall, Minneapolis, MN 55401.

Dated at Rockville, Maryland this 1st day of February 1996.

For the Nuclear Regulatory Commission.

William D. Travers,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–2983 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Company Turkey Point Unit Nos. 3 and 4; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the technical specifications (TS) for Facility Operating License No. DPR–31 and DPR–41, issued to Florida Power and Light Company (FPL or the licensee) for operation of Turkey Point Unit Nos. 3 and 4 located in Dade County, Florida.

Environmental Assessment

Identificotion of the Proposed Action

The proposed action would modify the Index of the TS to remove reference to the TS Bases pages.

The proposed action is in accordance with the licensee's application for amendment dated November 22, 1995.

The Need for the Proposed Action

The proposed action deletes reference to the TS Bases pages and is in accordance with 10 CFR 50.36(a), which indicates that the Bases shall not become a part of the TS.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the modification to the Index of the TS is administrative in nature.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Turkey Point Unit Nos. 3 and 4.

Agencies and Persons Consulted

In accordance with its stated policy, on February 5, 1995, the NRC staff consulted with the Florida State official, Dr. Lyle Jerrett of the State Office of Radiation Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 22, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Florida International University, University Park, Miami, Florida 33199.

Dated at Rockville, Maryland, this 6th day of February 1996.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96- 2982 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–P

Notice of Organization of Agreement States Technical Workshop

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff plans to hold a public meeting for technical representatives of the Organization of Agreement States (OAS). Agreement States are States which have assumed regulatory authority over certain radioactive materials. The purpose of the meeting is to discuss Agreement State Program issues with Agreement State technical representatives. Current topics for discussion include a Status Report on NRC Program Activities, i.e., NRC/EPA Interface Issues, Implementation Procedures for Compatibility Policy and Decommissioning Rule; and individual break out sessions on NRC's review of the National Academy of Sciences Report/Medical Program Area; Industrial Radiography; and Radioactive Devices. In an attempt to better accomodate the number of attendees for this workshop, advanced registration is required by February 14, 1996.

DATES: The meeting will be held from 8:30 a.m. til 5:00 p.m on March 5, 1996, and from 8:30 a.m. til 4:00 p.m. on March 6, 1996.

ADDRESSES: The meeting will be held at the Red Lion Inn at the Quay, 100 Columbia Street, Vancouver, Washington, 360/694–8341. Vancouver is located directly across the Columbia River from Portland, Oregon, and is served by the Portland airport.

FOR REGISTRATION INFORMATION CONTACT: Brenda Usilton, Office of State Programs, Mail Stop OWFN–3–D–23, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone 301/415–2348.

FOR FURTHER INFORMATION CONTACT: Rosetta Virgilio or Stephen Salomon, Office of State Programs, Mail Stop OWFN–3–D–23, U.S. Nuclear Regulatory Commission, Washington, D.C. at 301/415–2307 and 301/415–2368, respectively.

CONDUCT OF THE MEETING: The meeting will be conducted in a manner that will expedite the orderly conduct of business. A transcript of the second day of the meeting will be available for inspection, and copying for a fee, at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, D.C. 20555, on or about May 5, 1996.

The following procedures apply to public attendance at the meeting:

1. Questions or statements will be entertained as time permits on a first-come, first-served basis, following breakout session discussion and summary.

2. Seating will be on a first-come, first-served basis.

Dated at Rockville, Maryland, this 2nd day of February, 1996.

For the U.S. Nuclear Regulatory Commission.

Richard L. Bangart,

Director, Office of State Programs.

[FR Doc. 96–2984 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Probabilistic Risk Assessment will hold a meeting on February 27 and 28, 1996, Room T–2B3, 11545 Rockville Pike, Rockville, MD.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, February 27, 1996—8:30 a.m. until the conclusion of business.

Wednesday, February 28, 1996—8:30 a.m. until the conclusion of business.

The Subcommittee will continue to discuss topics related to Risk-Based Regulatory Applications (RBRA), including identification of the models, analyses and regulatory issues that are currently amenable to risk-based regulatory approach, and the use of PRA in the regulatory decision-making process. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Mike Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: February 6, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–2981 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–P

Comparisons of Industry Standards Cited in the NRC Standard Review Plan and Related Documents: Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) has published the following three NUREG/CR documents for review and comment: NUREG/CR–6382 entitled "Comparisons of ASTM Standards Cited in the NRC Standard Review Plan, NUREG–0800, and Related Documents," NUREG/CR–6385 entitled "Comparisons of ANS, ASME, AWS, and NFPA Standards Cited in the NRC Standard Review Plan, NUREG–0800, and Related Documents," and NUREG/CR–6386 entitled "Comparisons of ANSI Standards Cited in the NRC Standard Review Plan, NUREG–0800, and Related Documents " In addition, comparisons of selected structural codes and standards cited in the Standard Review Plan or recent NRC staff evaluation reports are presented in Appendix B of NUREG/CR–6358 entitled "Assessment of United States Industry Structural Codes and Standards for Application to Advanced Nuclear Power Reactors." Given recent and ongoing efforts by the NRC to revise Regulatory Guides related to standards issued by the Institute of Electrical and Electronics Engineers (IEEE), comparisons for IEEE standards were not included in these NUREG/CR documents.

These reports provide the results of comparisons of the cited and latest versions of selected industry standards cited in the Nuclear Regulatory Commission Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants (NUREG–0800) and associated Regulatory Guides and Code of Federal Regulations sections. The comparisons in NUREG/CR–6382, -6385, and -6386 were performed by Battelle Pacific Northwest Laboratories. The comparisons in Appendix B of NUREG/CR–6358 were performed by Stevenson and Associates. The work was performed in support of the NRC's Standard Review Plan Update and Development Program, and will be used by the NRC to evaluate whether the SRP citations to the industry standards should be updated. The purpose of this Notice is to solicit public comments on whether the industry standard citations should be updated, and if so, what exceptions should be included with the citations.

DATES: Submit comments on NUREG/CR–6382, –6385, –6386, and Appendix B of NUREG/CR–6358 by May 13, 1996. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Mail Stop T–6 D59, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may be hand-delivered to 11545 Rockville Pike, Maryland between 7:45 a.m. and 4:15 p.m. on Federal workdays.

NUREG/CR–6382, –6385, –6386, and –6358 are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington DC 20555–0001. Copies of these documents can also be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington DC 20402–9328 or the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161–0002.

FOR FURTHER INFORMATION CONTACT: Gene Y. Suh, Office of Nuclear Reactor Regulation, Mail Stop O–12 E4, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–1263.

SUPPLEMENTARY INFORMATION: The standard comparisons presented in these documents have been prepared by Battelle Pacific Northwest Laboratories and Stevenson and Associates and have not been reviewed by the NRC staff. Therefore the suggestions and recommendations contained in these reports are the work of the contractors, and their implementation is contingent upon NRC acceptance of justifications for revisions to the SRP. It is anticipated that the contractor's recommendations for SRP citations in the straightforward standard comparisons presented in Section 2 of NUREG/CR–6382, –6385, and –6386 will be implemented, subject to NRC staff review and NRC resolution of public comments. Further staff review and evaluation, including resolution of public comments, will be needed prior to updating the SRP citations for the problematic standard comparisons presented in Section 3 of NUREG/CR–6382, –6385, –6386, and in Appendix B of NUREG/CR–6358. Comments and suggestions concerning the comparisons are solicited, specifically on whether an update to the latest version is appropriate and on any necessary exceptions and qualifications required to update the citations to the latest version.

Dated at Rockville, Maryland, this 5th day of February, 1996.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Chief, Inspection Program Branch, Division of Inspection and Support Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2987 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel No. IC–21736; Int'l Series Release No. 928; 812–9188]

The CountryBasket Index Fund, Inc., et al.; Notice of Application

February 6, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The CountryBasket Index Fund, Inc. (the "Fund"), Deutsche Morgan Grenfell/C.J. Lawrence Inc. (the "Adviser"), and ALPS Mutual Fund Services, Inc. (the "Distributor").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 thereunder and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order permitting the Fund to issue securities of limited redeemability that are intended to trade on the New York Stock Exchange ("NYSE") at negotiated prices. The order also would permit certain transactions between the Fund and affiliated persons and permit the Fund to make payment for redeemed securities more than seven days from the date such securities are tendered in certain circumstances.

FILING DATE: The application was filed on August 19, 1994 and amended on October 28, 1994, November 30, 1994,

January 10, 1995, March 30, 1995, and June 30, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 4, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is an open-end management investment company that initially will consist of nine series. Each series will invest in a portfolio of equity securities included in one of the component indexes of the Financial Times/Standard & Poor's Actuaries World Indices™ ("FT/S&P Indices") concentrating in a specific country. The initial nine series will represent the FT/S&P Indices for Australia, France, Germany, Hong Kong, Italy, Japan, South Africa, the United Kingdom, and the United States.

2. The Adviser will serve as adviser to the Fund. The Distributor will be the principal underwriter and distributor of the Fund's shares. State Street Bank and Trust Company is expected to provide custodian, transfer agency and fund accounting services for each series.

3. There will be no sales charge for purchases of shares of any series. Applicants expect that pursuant to a plan adopted by the board of directors of the Fund for each series under rule 12b–1 under the Act, each series will pay the Distributor a distribution services fee and a fee for marketing and promotional services. The Adviser will receive an annual fee for its services. Additional fees also will be charged to compensate the providers of custodian, transfer agency, and fund accounting services.

4. Each series of the Fund will issue only aggregations of a specified number of shares ("Creation Units") that will be separable at the option of the holder into a specified number of identical components (each a "CB™ Share"). The initial net asset value of the Creation Units are expected to range from approximately $2,000,000 to $5,000,000. The Creation Unit size of each series will be chosen to yield an initial per CB™ Share price, expected to be in the $30 to $50 range, equal to a designated percentage of the value of the relevant FT/S&P Index. Applicants intend to list CB™ Shares of each Fund series on the NYSE where the shares would traded in the secondary market as individual shares in the same manner as other equity securities.

5. Creation Units will be sold continuously at net asset value principally in exchange for a portfolio of equity securities (the "Fund Basket"), substantially corresponding to the securities represented in the designated component of the FT/S&P Indices and an amount of cash (the "Cash Component"), which together constitute the "Fund Deposit." Immediately before the opening of business on the NYSE on each Business Day, as defined below, the Distributor and the National Securities Clearing Corporation will announce the securities and the proportion of such securities that will constitute the Fund Basket for that particular Business Day. At the same time, the Adviser will determine, and the Distributor will announce, the amount of the Cash Component necessary to constitute the Fund Deposit. The Cash Component will be equal to the difference between the value of the Fund Basket on that day and the net asset value of the Creation Unit purchased.

6. In order for payment of the Cash Component to be made on the same date as the shares are issued, it is necessary for the Fund's custodian to be open for business for purposes of receiving fund transfers. Consequently, for each series, other than the United States series, a Business Day is any day on which the NYSE, the Fund's custodian and subcustodians, and the relevant stock exchanges are open. For the United States series, a Business Day is any day on which the NYSE and the Fund's custodian are open.

7. An investor making a Fund Deposit will be charged a cash transaction fee on the cash portion of the purchase to cover brokerage and other transaction costs. In addition, investors purchasing or redeeming shares in-kind will bear the costs of transferring the securities to or from the Fund.

8. In the event that the Adviser determines, in its discretion, that a particular security is likely to be unavailable or available in insufficient quantity for delivery to the Fund as part of a Fund Basket on the date of purchase, the cash equivalent value of such security may be required or permitted to be included as part of the Cash Component in lieu of the particular security.

9. To purchase Creation Units, an investor must be, or place its order through, a participant organization (a "DTC Participant") in the Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York (the "Depository"). All orders to purchase Creation Units from the Fund must be placed with the Distributor. The Distributor will be responsible for distributing prospectuses to purchasers of Creation Units.

10. Broker-dealers and other persons will be cautioned in the prospectus and/or the Fund's statement of additional information ("SAI") that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act of 1933. For example, a broker-dealer firm may be deemed a statutory underwriter if it purchases Creation Units from the Fund, breaks them down into the constituent CB™ Shares, and sells the CB™ Shares directly to its customers; or if it chooses to couple the creation of a supply of new CB™ Shares with an active selling effort involving solicitation of a secondary market demand for CB™ Shares. The prospectus and/or the SAI will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's and his client's activities. The prospectus and/or the SAI will explain that dealers who are not statutory underwriters, but are participating in a distribution (as contrasted to ordinary secondary trading transactions), and thus dealing with CB™ Shares that are part of an "unsold allotment" within the meaning of section 4(3) of the Securities Act of 1933, would be unable to take advantage of the prospectus-delivery exemption provided by section 4(3) of the Securities Act of 1933.

11. Redemption requests will be accepted on each day that the NYSE is open. An investor redeeming a Creation Unit generally will receive a Fund Basket of securities and cash equal to the difference in value between such Fund Basket and the net asset value of the Creation Unit aggregation of shares next determined after receipt of the redemption request. A redeeming beneficial holder or DTC Participant acting on behalf of such beneficial holder must maintain appropriate securities broker-dealer, bank, or other custody arrangements in the jurisdiction in which the portfolio securities are customarily traded to which account such portfolio securities will be delivered. If neither the redeeming beneficial holder nor the DTC Participant has appropriate arrangements to take delivery of the portfolio securities in the applicable foreign jurisdiction, and it is not possible to make other such arrangements, or if it is not possible to effect deliveries of the portfolio securities in such jurisdiction, the Fund will redeem such shares in cash. In such circumstances, or if the Fund concludes that operating on an exclusively in-kind basis presents marketing or operational problems for a specific series, the Fund reserves the right to offer a cash option for sales and to make redemptions in cash in respect of any series. When investors redeem in cash, in whole or in part, the Fund will charge a cash redemption fee to cover brokerage and other transactions costs.

12. Fund shares will be registered in book-entry form only; certificates will not be issued. The Depository or its nominee will be registered owner of all outstanding Fund shares. Records reflecting the beneficial owners of Fund shares will be maintained by the Depository or a DTC Participant.

13. Owner of Creation Units may hold the units or sell them into the secondary market as CB™ Shares. The CB™ Shares are intended to be listed on the NYSE and trade in the secondary market in the same manner as other equity securities. The price of CB™ Shares on the NYSE will be based on a current bid/offer market. Transactions involving the sale of CB™ Shares will be subject to customary brokerage commissions and charges. Brokers will deliver a Fund prospectus to each investor in connection with the secondary market purchase by such investor of CB™ Shares on the NYSE. The Fund will provide copies of its annual and semi-annual shareholder reports to beneficial holders of CB™ Shares. Each individual CB™ Share will have one vote with respect to matters regarding the Fund or the respective series upon which a shareholder vote is required.

14. In order to avoid confusion in the public's mind between the Fund and a conventional "open-end investment company" or "mutual fund," the Fund will limit the designation of the Fund in all marketing materials, including the Fund's prospectus and SAI, to the term "investment company," without reference to "open-end fund" or "mutual fund." The term "mutual fund" will not be used at any time. The term "open-end investment company" will be used in the prospectus only to the extent required by item 4 of Form N–1A.[1] The cover page of the prospectus and the summary will include a distinct paragraph stating that the CB™ Shares will not be individually redeemable. The description of the Creation Units and the method of their purchase and redemption will follow such paragraph on the CB™ Shares. The SAI will include an explanation of the issuance and redemption procedures for Creation Units. All marketing materials that describe the method of obtaining, buying, or selling CB™ Shares, will state that the CB™ Shares are non-redeemable.

15. Applicants believe that purchasers of Creation Units will include institutional investors who desire a foreign index-based fund with the liquidity provided by exchange traded shares. In addition, arbitrageurs may purchase Creation Units to take advantage of a premium in the market price of CB™ Shares. Finally, the exchange specialist, acting in its role to provide a fair and orderly secondary market for the CB™ Shares, may find it appropriate at times to create CB™ Shares for use in its market-making activities on the exchange.

16. Applicants believe that arbitrage activity will enhance the liquidity of the CB™ Shares in the secondary market and help ensure that CB™ Shares will not trade at a material discount or premium in relation to the Fund's net asset value.

Applicants' Legal Analysis

Section 6(c)

1. Applicants request relief under section 6(c) of the Act from sections 2(a)(32), 5(a)(1), 17(a)(1), 17(a)(2), 22(d), and 22(e) and rule 22c–1 and under sections 6(c) and 17(b) from sections 17(a)(1) and 17(a)(2). Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy of the Act. Section 17(b) authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the proposed transaction is consistent with the general policy of the Act. Section 17(b) could be interpreted to exempt only a single transaction. However, the SEC, under section 6(c), may exempt a series of transactions that otherwise would be prohibited by section 17(a).

Sections 2(a)(32) and 5(a)(1)

1. Section 5(a)(1) defines an "open-end company" as a "management company which is offering for sale or has outstanding any redeemable security of which it is the issuer." The term "redeemable security" is defined in section 2(a)(32) as a security which entitles the holder to receive, upon presentation of the security to the issuer, approximately his or her proportionate share of the issuer's current net assets.

2. Because the Creation Units are separable into CB™ Shares that are not individually redeemable, a question arises as to whether the definition of a "redeemable security" or an "open-end company" under the Act would be met if such shares are viewed as non-redeemable securities. In light of this question, the Fund requests an order to permit it to maintain its registration as an open-end investment company and to issue shares that are redeemable only in Creation Units.

3. Applicants note that owners of CB™ Shares wishing to redeem may purchase additional CB™ Shares and tender the resulting Creation Unit for redemption. Moreover, NYSE listing will afford shareholders the benefit of liquidity. Applicants believe that because Creation Units always may be purchased and redeemed at net asset value, arbitrage opportunities will ensure that the price of CB™ Shares on the secondary market will not vary substantially from the net asset value of Creation Units. Also, the investor has the ability to purchase or redeem Creation Unit aggregations of shares rather than trade in the secondary market.

Section 22(d) and Rule 22c–1

1. Section 22(d), among other things, prohibits a dealer from selling a

[1] Item 4 of Form N–1A requires an investment company to state in its prospectus its classification and subclassification under sections 4 and 5 of the Act.

redeemable security that is being currently offered to the public by or through an underwriter except at the current public offering price described in the prospectus. Rule 22c–1 generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its net asset value. Secondary market transactions in CB™ Shares will take place at negotiated prices and not at a current offering price described in the prospectus or on the basis of net asset value. Thus, purchases and sales of CB™ Shares by dealers in the secondary market may not comply with section 22(d) and rule 22c–1.

2. While there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been enacted (a) to prevent dilution caused by certain risk-free trading schemes by principal underwriters and contract dealers, (b) to prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) to assure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price. Applicants believe that the concerns sought to be addressed by section 22(d) and rule 22c–1 with respect to pricing are equally satisfied by the proposed method of pricing CB™ Shares. First, secondary market trading in CB™ Shares, because it does not involve the Fund as a party, cannot result in dilution of a beneficial owner's investment. Second, to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand and interest rates, not as a result of unjust or discriminatory manipulation. Therefore, secondary market trading in CB™ Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of CB™ Shares and their net asset value remains narrow.

Section 22(e)

1. Section 22(e) provides that an investment company may not postpone the date of payment or satisfaction upon the redemption of any redeemable security for more than seven calendar days following tender of such security for redemption. To the extent that Creation Units may be deemed to be redeemable securities, applicants request an exemption to permit the Japan series to redeem Creation Units within ten days, and the United Kingdom series to redeem Creation Units within twelve days at certain times during the calendar year. The custodian has advised the Fund that local holiday schedules combined with local settlement periods will require more than seven calendar days for delivery of redemption proceeds several times during the calendar year for these two series. Applicants expect, however, that these series will be able to deliver redemption proceeds within seven days at all other times. Applicants do not request an exemption from section 22(e) with respect to the other series.[2]

2. The Fund believes that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. The prospectus, SAI, and all relevant sales literature for the Japan and the United Kingdom series will disclose that redemption payments will be effected within the specified number of calendar days following the date on which a request for redemption is made. Applicants contend that the redemption mechanism described above will not lead to unreasonable, undisclosed, or unforeseen delays in the redemption process.

3. Applicants believe that requiring the Fund to deliver securities upon redemption on a basis other than that utilized by all other investors trading portfolio securities in the particular local market (e.g., irrespective of whether a holiday occurs during the relevant settlement period), would be highly burdensome to the series and possibly unacceptable to local market participants. The same concerns are relevant to both redemptions in-kind and redemptions for cash. Since the Fund will be fully invested at almost all times, generally it will need to liquidate portfolio holdings in order to generate the cash needed to finance cash redemptions. It would be highly burdensome if the Fund were forced to do this outside of the settlement cycles of the local market for the reasons discussed above.

4. Applicants believe that allowing redemption payments for Creation Units of a series to be made within the number of days indicated above would not be inconsistent with the spirit and intent of section 22(e).

Section 17(a)

1. Applicants request an exemption under sections 6(c) and 17(b) from section 17(a) of the Act to permit affiliated persons of the Fund to purchase and redeem Creation Units. Section 17(a) generally prohibits an affiliated person of a registered investment company from purchasing from or selling to such company any security or other property. Because purchases and redemptions will be in-kind rather than cash transactions, section 17(a) may prohibit affiliated persons of the Fund from purchasing or redeeming Creation Units. Moreover, because the definition of affiliated person includes anyone owning 5% or more of an issuer's outstanding voting stock, at least one purchaser of a Creation Unit will be affiliated with the Fund so long as there are twenty or fewer holders of Creation Units.

2. Applicants contend that no useful purpose would be served by prohibiting affiliated persons from making in-kind purchases or redemptions of Creation Units. In-kind purchases and redemptions will be valued pursuant to verifiable objective standards. The securities to be used for the in-kind purchase or redemption will be those in the Fund Basket, which is based on the FT/S&P Indices. The FT/S&P Indices are widely publicized and not subject to manipulation by the Fund or its affiliates. Thus, in-kind purchases and redemptions will afford no opportunity for affiliated persons to effect a transaction detrimental to the other shareholders. Applicants believe that in-kind purchases and redemptions will not result in abusive self-dealing or overreaching by affiliated persons of the Fund. Accordingly, applicants believe that the requested relief meets the section 6(c) and section 17(b) standards for relief.

Applicants' Arguments

1. Applicants assert that CB™ Shares will allow investors to have a beneficial interest in a standardized portfolio of foreign equity securities based on a major market index. Applicants believe that the Fund should be able to track the FT/S&P Indices more closely than other basket products that must allocate a portion of their assets for cash redemptions. Even though a series may in some instances redeem in cash, applicants believe that they can still keep their assets fully invested; they expect there will be fewer redemptions than would be the case for a conventional mutual fund in view of the need to accumulate a Creation Unit to tender for redemption. In addition, applicants believe that CB™ shares will provide a relatively low-cost market-basket security that, unlike open-end index funds, can be treated at negotiated prices throughout the business day. Finally, CB™ shares will broaden the trading, investing and hedging opportunities available to investors with respect to a significant segment of the international and domestic securities markets.

2. Applicants state that they will take such steps as may be necessary to avoid confusion in the public's eye between the Fund and a conventional "open-end investment company" or "mutual fund." In addition, applicants state that brokers will deliver a prospectus to each investor in connection with the secondary market purchasers by investors of CB™ Shares on the NYSE. Thus, applicants believe that the requested relief meets the section 6(c) standards.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Fund will not be advertised or marketed as an open-end investment company, *i.e.*, as a mutual fund, which offers redeemable securities. The Fund prospectus will prominently disclose that the CB™ Shares are *not* redeemable units of shares and will disclose that the owners of the CB™ Shares may acquire and tender those shares for redemption to the Fund in Creation Unit aggregations only. Any advertising material where features of obtaining, buying, or selling Creation Units are described or where there is reference to redeemability will prominently disclose that owners of CB™ Shares may acquire and tender those shares for redemption to the Fund in Creation Unit aggregations only.

2. The Fund will provide copies of its annual and semiannual shareholder reports to beneficial owners of the CB™ Shares.

3. Applicants will not seek to have the Fund's registration statement declared effective until the SEC has approved such proposed rule change pursuant to rule 19b–4 under the Securities Exchange Act of 1934 as may be necessary to enable a national securities exchange to list the CB™ Shares.

4. In addition, as long as the Fund operates in reliance on the requested order, the CB™ Shares will be listed on a national securities exchange.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3043 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

[2] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Securities Exchange Act of 1934. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

[Rel. No. IC–21734; No. 812–9856]

The Evergreen Variable Trust, et al.

February 5, 1996.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: The Evergreen Variable Trust ("Trust") and Evergreen Asset Management Corporation ("Evergreen Asset").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and sub-paragraph (b)(15) of Rules 6e–2 and 6e–3(T) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit shares of the Trust and shares of any other investment company that is designed to fund variable insurance products and for which Evergreen Asset or its affiliates may serve as investment adviser, administrator, manager, principal underwriter or sponsor (collectively with the Trust, "Funds") to be sold to and held by: (1) variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies; and (2) qualified pension and retirement plans outside the separate account context.

FILING DATE: The application was filed on November 14, 1995. An amended application was filed on January 29, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 1, 1996 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: c/o Joseph J. McBrien, Esq., Evergreen Asset Management Corp., 2500 Westchester Avenue, Purchase, New York 10577.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. The Trust is an open-end, management investment company organized as a Massachusetts Business Trust. The Trust currently consists of three separately managed series (collectively, "Portfolios"). Additional series may be offered in the future ("Future Portfolios").

2. Evergreen Asset serves as investment adviser to the Trust and is a registered investment adviser under the Investment Advisers Act of 1940. Evergreen Asset is a wholly-owned subsidiary of First Union National Bank of North Carolina, a national bank, which is, in turn, a wholly-owned subsidiary of First Union Corporation, a bank holding company.

3. Applicants state that shares of the Trust currently are proposed to be offered only to variable annuity separate accounts, registered with the Commission under the 1940 Act as unit investment trusts, established by The Nationwide Life Insurance Company ("Nationwide").

4. Applicants state further that shares of the funds will be offered in the future to insurance company separate accounts [1] that fund variable annuity and variable life insurance established by Nationwide and its affiliate insurance companies and by unaffiliated insurance companies (collectively, "Participating Insurance Companies") that fund variable annuity and variable life insurance contracts (including single premium, scheduled premium, modified single premium and flexible premium) (collectively "Variable Contracts"). Each Participating Insurance Company will enter into a fund participation agreement ("Participation Agreement")

[1] Applicants represent that these separate accounts will be either registered as investment companies under the 1940 Act or exempt from registration under the 1940 Act pursuant to Section 3(c)(1).

with the Trust on behalf of the Fund in which the Participating Insurance Company invests. Applicants state that the Participating Insurance Companies will rely on Rules 6e–2 or 6e–3(T) and may rely on individual exemptive orders.

5. In connection with any Variable Contract issued by a Participating Insurance Company, the application states that each such company will have the legal obligation of satisfying all applicable requirements under federal securities laws. Applicants further state that the role of the Funds under this arrangement, insofar as the federal securities laws are applicable, will consist of offering shares to the separate accounts of Participating Insurance Companies and fulfilling any conditions that the Commission may impose upon granting the order requested in the application.

6. Applicants also states that shares of the Funds also may be offered directly to qualified pension and retirement plans ("Plans") outside of the separate account context.

7. Applicants state that applicable tax law permits the Funds to increase their asset base through the sale of Fund shares to Plans without endangering the tax status of Variable Contracts issued by Participating Insurance Companies. The Plans may choose any of the Funds as the sole investment option under the Plan or as one of several investment options. Participants may be given an investment choice depending upon the Plan. Shares of any of the Funds sold to Plans will be held by the trustees of the Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act ("ERISA"). Evergreen Asset currently has no plans to offer investment advisory services to Plans that will purchase shares of the Funds or to participants in such Plans ("Plan Participants"). Applicants note that, pursuant to ERISA, pass-through voting is not required to be provided to Plan Participants.

Applicants' Legal Analysis

1. Applicants requests an order that would exempt variable life insurance separate accounts of Participating Insurance Companies (and any principal underwriters and depositors of such separate accounts), from Sections 9(a), 13(a), 15(a) and 15(b) and the 1940 Act, and paragraph (b)(15) of Rules 6e–2 and 6e–3(T) thereunder, to the extent necessary to permit shares of the Funds to be sold to, and held by: (a) variable annuity and variable life separate accounts of both affiliated and unaffiliated life insurance companies; and (b) qualified pension and retirement plans outside of the separate accounts context.

Mixed and Shared Funding and Sales to Plans

2. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust ("Separate Account-UIT"), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The relief provided by Rule 6e–2(b)(15) extends to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available, however, only where the management investment company underlying the Separate Account-UIT offers its shares "exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company."

3. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is referred to as "mixed funding." The use of a common management investment company as the underlying investment medium for variable annuity and/or variable life insurance separate accounts of unaffiliated insurance companies is referred to as "shared funding." "Mixed and shared funding" denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. The relief granted by Rule 6e–2(b)(15), thus, is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company.[2] Rule 6e–2(b)(15), therefore, precludes mixed and shared funding.

4. In connection with flexible premium variable life insurance contracts issued through a Separate Account-UIT Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 15(a) and 15(b) of the 1940 Act. The exemptive relief extends to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where all the assets of the separate account consist of shares of one or more registered management investment companies which offer their shares "exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance * * *." Rule 6e- 3(T) thus permits mixed funding with respect to a flexible premium variable life insurance separate account, subject to certain conditions, but precludes shares funding.

5. Applicants state that various factors have kept certain insurance companies from offering variable annuity and variable life insurance contracts. According to Applicants, these factors include: the cost of organizing and operating an investment funding medium; the lack of expertise with respect to investment management; the lack of name recognition by the public of certain insurers as investment professionals. Applicants argue that use of the Funds as common investment media for the Variable Contracts would east these concerns. Participating Insurance Companies would benefit not only from the investment and administrative expertise of the Funds' investment advisers, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Applicants state that making the Funds available for mixed and shared funding may encourage more insurance companies to offer variable contracts such as the Variable Contracts which may, in turn, increase competition with respect to both the design and pricing of variable contracts. Applicants submit that this can be expected to result in greater product variation and lower charges. Applicants thus argue that Variable Contract owners would benefit because mixed and shared funding will eliminate a significant portion of the costs of establishing and administering separate funds. Moreover, Applicants assert that sales of shares of the Funds to Plans should increase the amount of assets available for investment by the Funds. This should, in turn, promote

[2] Applicants note that amendments to Rule 6E–2 have been proposed by the Commission and, if adopted, would permit shares of one underlying fund to be sold to separate accounts of the insurer, or any affiliated life insurance company offering variable annuity contracts or scheduled premium or flexible premium variable life insurance. *See* Release No. IC–14421 (Mar. 15, 1985). The proposed amendment, however, would not permit shares of one underlying fund to be sold to separate accounts of unaffiliated companies.

economies of scale, permit increased safety of investment through greater diversification, and make the addition of new portfolios more feasible.

6. Applicants state that, because relief under paragraph (b)(15) of Rules 6e–2 and 6e–3(T) is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds also are to be sold to Plans. Applicants assert that the relief granted by paragraph (b)(15) of Rules 6e–2 and 6e–3(T) should not be affected by the proposed sale of fund shares to Plans because such sales may allow for the development of larger pools of assets resulting in the potential for greater investment and diversification opportunities, and for decreased expenses at higher asset levels resulting in greater cost efficiencies. Applicants further assert that they are not aware of any stated rationale for the exclusion of separate accounts and investment companies engaged in shared funding from the exemptive relief provided under paragraph (b)(15) of Rules 6e–2 and 6e–3(T), or for the exclusion of separate accounts and investment companies engaged in mixed funding from the exemptive relief provided under rule 6e–2(b)(15). Similarly, Applicants are not aware of any stated rationale for excluding Participating Insurance Companies from the exemptive relief requested because the Funds also may sell their respective shares to qualified pension and retirement plans.

7. Applicants state that current tax law permits funds to increase their asset base through the sale of Fund shares to plans. Applicants state that Section 817(h) of the Internal Revenue Code of 1986, as amended ("Code"), imposes certain diversification requirements on the underlying assets of Variable Contracts invested in the Funds. The Code provides that such Variable Contracts shall not be treated as an annuity contract or life insurance contract for any period in which the underlying assets are not adequately diversified, as prescribed by Treasury Department regulations; to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies, subject to certain exceptions. Treas. Reg. § 1.817–5 (1989). For example, shares in an investment company may be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company also to be held by the separate accounts of insurance companies in connection with the variable contracts. Treas. Reg. § 1.817–5(b)(3)(iii).

8. Applicants state that the promulgation of rules 6e–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury regulations, and that the sale of shares of the same investment company to both separate accounts and Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

9. Applicants therefore request relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and paragraph (b)(15) of Rules 6e–2 and 6e–3(T) thereunder to the extent necessary to permit shares of the Funds to be offered and sold now and in the future to separate accounts of Participating Insurance Companies in connection with both mixed and shared funding, and to be sold directly to Plans. Relief is requested for a class or classes of persons and transactions consisting of Participating Insurance Companies and their scheduled premium variable life insurance separate accounts and flexible premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such separate accounts) investing in any of the Funds.

Disqualification

10. Section 9(a) of the 1940 Act makes it unlawful for any company to serve as an investment adviser to, or principal underwriter for, any registered open-end investment company if an affiliated person of that company is subject to a disqualification specified in Sections 9(a)(1) or 9(a)(2).

11. Rules 6e–2(b) and 6e–3(T)(b)(15) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. The relief provided by subparagraphs (b)(15)(i) of Rules 6e–2 and 6e–3(T) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund. The relief provided by subparagraph (b)(15)(ii) of Rules 6e–2 and 6e–3(T) permits the life insurer to serve as the underlying fund's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) are participating in the management or administration of the fund.

12. Applicants state that the partial relief from Section 9(a) found in subparagraph (b)(15) of Rules 6e–2 and 6e–3(T), in effect, limits the monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of the Section. Applicants state that those 1940 Act rules recognize that it is not necessary for the protection of investors or for the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in an insurance company complex, most of whom will have no involvement in matters pertaining to investment companies within that organization. Applicants note that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds. Therefore, Applicants assert, applying the restrictions of Section 9(a) serves no regulatory purpose. The application states that the relief requested should not be affected by the proposed sale of shares of the Funds to the Plans. Plans are not investment companies and are not, therefore, subject to Section 9(a).

Pass-Through Voting

13. Sections 13(a), 15(a) and 15(b) of the 1940 Act require "pass-through" voting with respect to underlying investment company shares held by a separate account. Subparagraph (b)(15)(iii) of Rules 6e–2 and 6e–3(T) assumes the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Applicants represent that the participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners so long as the Commission interprets the 1940 Act to require such privileges, and that Participating Insurance Companies will vote all shares as to which no response from Variable Contract owners is timely received, as well as shares owned by them, in the same proportion as shares for which voting instructions are received.

14. Subparagraph (b)(15)(iii) of Rules 6e–2 and 6e–3(T) provides partial exemptions from the pass-through voting requirement with respect to several significant matters, assuming observance of the limitations on mixed and shared funding. Subparagraph (b)(15)(iii)(A) of Rules 6e–2 and 6e–3(T) provides that the insurance company may disregard voting instructions of its contract owners with respect to the subclassification or investment objectives of a fund or any contract between a fund and its investment advisor, when required to do so by an insurance regulatory authority.

15. Subparagraph (b)(15)(iii)(B) of Rule 6e–2 and subparagraph

(b)(15)(iii)(A)(2) of Rule 6e–3(T) provides that the insurance company may disregard voting instructions of its contract owners if the contract owners initiate any change in the company's investment objectives, principal underwriter or investment adviser, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraph (b(5)(iii) and (b)(7)(ii) (B) and (C) of each rule.

16. Applicants represent that the Funds' sale of shares to Plans does not affect the relief requested in this regard. As previously noted, shares of the Funds sold to Plans would be held by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the Plan with two exceptions: (a) when the Plan expressly provides that the trustee(s) are subject to the direction of the named fiduciary who is not a trustee, in which case the trustee(s) is (are) subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA.

17. Unless one of the two exceptions stated in Section 403(a) applies, Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager. the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the named fiduciary. In any event, there is no pass-through voting to the participants in such Plans. In addition, Applicants represent that there is no contractual or other relationship between the Participating Insurance Companies and any Plans which, for example, would affect the solvency of the insurer or the performance of its contractual obligations, or would be expected to increase the risks undertaken by the insurer. Accordingly, Applicants assert that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Plans are not entitled to pass-through voting privileges.

Applicants further assert that investment in the Funds by Plans will not create any of the voting complications occasioned by mixed and shared funding because Plan investor voting rights cannot be frustrated by veto rights of insurers or state regulators.

18. Applicants state that some Plans may provide participants with the right to give voting instructions. Applicants submit that there is no reason to believe that participants in Plans generally, or those in a particular Plan, either as a single group or in combination with other Plans, would vote in a manner that would disadvantage Variable Contract owners. Accordingly, Applicants assert that the purchase of Fund shares by Plans that provide voting rights to participants does not present any complications not otherwise occasioned by mixed and shared funding.

Conflicts of Interest

19. Applicants state that no increased conflicts of interest would be present by the granting of the requested relief. Applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several, or all, states. Applicants note that where insurers are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one insurance company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other insurance companies are domiciled. Applicants submit that this possibility is no different and no greater than exists where a single insurer and its affiliates offer their insurance products in several states.

20. Applicants further submit that affiliation does not reduce the potential, if any exists, for differences among state regulatory requirements. In any event, the conditions (adapted from the conditions included in Rule 6e–3(T)(b)(15)) discussed below are designed to safeguard against any adverse effects that these differences may produce. If a particular state insurance regulator's decision conflicts with the decisions of a majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Funds.

21. Applicants also argue that affiliation does not eliminate the potential, if any, for divergent judgments as to when a Participating Insurance Company could disregard Variable Contract owner voting instructions. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specific good faith determinations. However, if a Participating Insurance Company's decision to disregard Variable Contract owner instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its investment in that Fund. No charge or penalty will be imposed as a result of such withdrawal.

22. Applicants state that there is no reason why the investment policies of a Fund with mixed funding would or should be materially different from what those policies would or should be if such investment company or series thereof funded only variable annuity or variable life insurance contracts. Applicants therefore argue that there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, Applicants represent that the Funds will not be managed to favor or disfavor any particular insurance company or type of Variable Contract.

23. Applicants note that Section 817(h) imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits "qualified pension of retirement plans" and insurance company separate accounts to share the same underlying investment company. Therefore, Applicants have concluded that neither the Code, nor the Treasury regulations, nor the revenue rulings thereunder, present any inherent conflicts of interest if Plans, variable annuity separate accounts and variable life insurance separate accounts all invest in the same management investment company.

24. Applicants state that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Plans, these tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account of the Participating Insurance Company or the Plan is unable to net purchase payments to make the distributions, the separate account or the Plan will redeem shares of the Funds at their respective net asset value. The Plan will then make distributions in accordance with the terms of the Plan. A Participating Insurance Company will surrender values from the separate account into the general account to make

distributions in accordance with the terms of the Variable Contract.

25. Applicants state that they do not see any greater potential for material irreconcilable conflicts arising between the interests of Plan Participants and owners of the Variable Contracts issued by the separate accounts of Participating Insurance Companies from possible future changes in the federal tax laws than that which already exists between variable annuity contract owners and variable life insurance contract owners.

26. With respect to voting rights, Applicants state that it is possible to provide an equitable means of giving such voting rights to Variable Contract owners and to Plans. Applicants represent that a Fund will inform each shareholder, including each separate account and Plan, of information necessary for the shareholder meeting, including their respective share ownership in the respective Funds. A Participating Insurance Company will then solicit voting instructions in accordance with the "pass-through" voting requirements of Rules 6e-2 and 6e–3(T).

27. Applicants argue that the ability of the Funds to sell their respective shares directly to Plans does not create a "senior security," as such term is defined under Section 18(g) of the 1940 Act, with respect to any Variable Contract owner as opposed to a participant under a Plan. Regardless of the rights and benefits of participants and Variable Contract owners under their respective Plans and Variable Contracts, Plans and separate accounts of Participating Insurance Companies, have rights only with respect to their respective shares of the Funds. Such shares may be redeemed only at net asset value. No shareholder of the Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

28. Applicants state that there are no conflicts between Variable Contract owners and Plan Participants with respect to the state insurance commissioner's veto powers (direct with respect to variable life insurance and indirect with respect to variable annuities) over investment objectives. The basic premise of corporate democracy and shareholder voting is that not all shareholders may agree with a particular proposal. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies can not simply redeem their separate accounts out of one fund and invest those assets in another fund. Generally, to accomplish such redemptions and transfers, complex and time consuming transactions must be undertaken. Conversely, trustees of (or participants in) Plans can redeem shares of the Funds held by them and reinvest in another Fund without the same regulatory impediments or, as is the case with most Plans, even hold cash or other liquid assets pending suitable alternative investment. Based on the foregoing, Applicants represent that even should there arise issues where the interests of Variable Contract owners and the interests of the Plans conflict, the issues can be almost immediately resolved in that trustees of the Plans can, independently, redeem shares out of the Funds.

29. Applicants have concluded that the addition of Plans as eligible shareholders should not increase the risk of material irreconcilable conflicts among shareholders. However, Applicants assert further that, even if a material irreconcilable conflict involving Plans arose, the trustees of (or participants in) the Plans, unlike the separate accounts, can redeem their shares and make alternative investments. Applicants thus submit that allowing Plans to invest directly in shares of the Funds should not increase the opportunity for conflicts of interest.

30. Further, Applicants state that, regardless of the types of Fund shareholders, Evergreen Asset is legally obligated to manage the Funds in accordance with each Fund's investment objectives, policies and restrictions as well as any guidelines established by the relevant Board of Directors or Trustees of the Funds. Applicants assert that Evergreen Asset works with a pool of money without consideration for the identity of shareholders, and, thus, manage the Funds in the same manner as any other mutual fund.

31. Applicants believe that there is no significant legal impediment to permitting mixed and shared funding. Additionally, Applicants note the previous issuance of orders permitting mixed and shared funding where shares of a fund were sold directly to qualified plans, such as the Plans. Applicants note further that there is ample precedent for extending exemptive relief to members of a class or classes or persons, not currently identified, that may be similarly situated in the future. Such class relief has been granted in various contexts and from a wide variety of the 1940 Act's provisions including class exemption in the context of mixed and shared funding.

Applicants' Conditions

The Applicants have consented to the following conditions if the order requested in the application is granted:

1. A majority of the Board of Trustees or Board of Directors (each a "Board") of each Fund shall consist of persons who are not "interested persons" of the Funds, as defined by Section 2(a)(19) of the 1940 Act and Rules thereunder and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of death, disqualification, or bona fide resignation of any Director or Trustee, then the operation of this condition shall be suspended: (i) for a period of 45 days, if the vacancy or vacancies may be filed by the appropriate Board; (ii) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Funds for the existence of any material irreconcilable conflict among the interests of the Variable Contract owners of all the separate accounts of Participating Insurance Companies and of Plan Participants investing in the respective Funds, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including (a) an action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Funds are managed; (e) a difference in voting instructions given by owners of variable annuity and variable life insurance contracts; (f) a decision by a Participating Insurance Company to disregard voting instructions of Variable Contract owners; or (g) if applicable, a decision by a Plan to disregard the voting instructions of Plan Participations.

3. Participating Insurance Companies, Evergreen Asset (or any other investment manager of a Fund), and any Plan that executes a Participation Agreement upon becoming an owner of 10% of more of the assets of a Fund (collectively, "Participants") shall report any potential or existing conflicts to the relevant Board. Participants will be responsible for assisting the appropriate Board in carrying out its

responsibilities under these conditions by providing the Board with all information reasonably necessary for it to consider any issues raised. This responsibility includes, but is not limited to, an obligation by Evergreen Asset and each Participating Insurance Company to inform the Board whenever it has determined to disregard Variable Contract holders' voting instructions and, if pass-through voting is a applicable, an obligation by Evergreen Asset and a Plan to inform the Board whenever it has determined to disregard Plan Participants voting instructions. The responsibility to report such information and conflicts and the assist the Board will be a contractual obligation of the Participants investing in the Funds under their agreements governing participation in the Funds, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of the Variable Contract owners and, if applicable, Plan Participants.

4. If it is determined by a majority of the Board of a Fund, or by a majority of its disinterested members, that a material irreconcilable conflict exists, the Participants shall, at their expense and to the extent reasonably practicable (as determined by a majority of disinterested trustees or members of the Board), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) withdrawing the assets allocable to some or all of the separate accounts from a Fund or its portfolio and reinvesting such assets in a different investment medium (including another series of a Fund or another Fund); (b) in the case of Participating Insurance Companies, submitting the question as to whether such segregation should be implemented to a vote of all affected Variable Contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity or variable life insurance contract owners of one or more Participating insurance Companies) that votes in favor of such segregation, or offering to the affected Variable Contract owners the option of making such a change; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard contractowner voting instructions, and that decision represents a minority position or would preclude a majority vote, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its separate account's investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Plan's decision to disregard Plan Participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Plan may be required, at the election of the Fund, to withdraw its investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal.

The responsibility to take remedial action in the event of a Board determination that an irreconcilable material conflict exists, and to bear the cost of such remedial action, shall be a contractual obligation of the Participants under their agreements governing participating in the Funds, and these responsibilities shall be carried out with a view only to the interests of the Variable Contract owners and, as applicable, Plan Participants.

For purposes of this Condition "4.," a majority of disinterstated members of the applicable Board shall determine whether any proposed action adequately remedies any irreconcilable material conflict, but in no event will the relevant Fund or Evergreen Asset (or any other investment adviser to the Funds) be required to establish a new funding medium for any Variable Contract. Further, no Participating Insurance Company shall be required by this Condition "4." to establish a new funding medium for any Variable Contract if an offer to do so has been declined by a vote of a majority of Variable Contract owners materially affected by the irreconcilable material conflict. No Participating Plan shall be required by this Condition "4." to establish a new funding medium for such Plan if (a) a majority of Plan Participants materially and adversely affected by the irreconcilable material conflict vote to decline such offer, or (b) pursuant to governing plan documents and applicable law, the Participating Plan makes such decision without Plan Participant vote.

5. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly in writing to the Participants.

6. Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract owners. Accordingly, such Participating Insurance Companies, where applicable, will vote shares of the Fund held in in its separate accounts in a manner consistent with voting instructions timely received from Variable Contract owners.

Also, each Participating Insurance Company will vote shares of a Fund held in its separate accounts for which no timely voting instructions from contractowners are received, as well as shares it owns, in the same proportion as those shares for which voting instructions are received. Participating Insurance Companies will be responsible for assuring that each of their separate accounts investing in a Fund calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to vote a Fund's shares and calculate voting privileges in a manner consistent with all other separate accounts will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Funds.

7. All reports received by the Board of potential or existing conflicts, and all Board action with regard to (a) determining the existence of a conflict; (b) notifying Participants of a conflict; and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

8. Each Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund shall disclose in its prospectus that: (a) Its shares may be offered to insurance company separate accounts that fund both variable annuity and variable life insurance contracts, as well as to qualified pension and retirement plans; (b) differences in tax treatment or other considerations may cause the interests of various Variable Contract owners participating in the Funds and the interests of Plans investing in the Funds to conflict; and (c) each Fund's Board will monitor the Funds for any material conflicts and determine what action, if any, should be taken.

9. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (for these purposes, the persons having a voting interest in the shares of the Funds). In particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although none of the Funds shall be one of the trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a) and, if applicable, Section 16(b) of the 1940 Act. Further, each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent Rule 6e–2 or Rule 6e–3(T) is amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested, then the Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 or Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

11. No less than annually, the Participants shall submit to each Board such reports, materials or data as each Board may reasonably request so that such Boards may fully carry out the obligations imposed upon them by the conditions stated in the application. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the Boards. The obligations of the Participants to provide these reports, materials, and data upon reasonable request of a Board shall be a contractual obligation of all Participants under their agreements governing their participation in the Funds.

12. If a Plan or Plan Participant should become an owner of 10% or more of the assets of a Fund, such Plan will execute a Fund participation agreement with the applicable Fund, including the conditions set forth herein to the extent applicable. A Plan or Plan Participant will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the shares of any Fund.

Conclusion

For the reasons stated above, Applicants assert that the requested exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2 and 6e–3(T) thereunder are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3044 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21737; Int'l Series Release No. 929; 812–9234]

The Foreign Fund, Inc., et al.; Notice of Application

February 6, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Foreign Fund, Inc. (the "Fund"), BZW Barclays Global Funds Advisors (the "Adviser"), and Fund Distributor, Inc. (the "Distributor").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 thereunder and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order permitting the Fund to issue securities of limited redeemability that are intended to trade on the American Stock Exchange (the "AMEX") at negotiated prices. The order also would permit certain transactions between the Fund and affiliated persons and permit the Fund to make payment for redeemed securities more than seven days from the date such securities are tendered in certain circumstances.

FILING DATE: The application was filed on August 19, 1994 and amended on December 23, 1994, May 19, 1995, and January 17, 1996. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 4, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 400 Bellevue Parkway, Wilmington, Delaware 19809.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is an open-end management investment company that initially will consist of seventeen series (the "Index Series"). Each Index Series will invest in a portfolio of equity securities consisting of some or all of the component securities of a specified foreign securities index (the "Portfolio Securities"). Applicants have selected the indices compiled by Morgan Stanley Capital International (the "MSCI Indices") as the indices for the seventeen Index Series. The seventeen Index Series will represent, respectively, the MSCI Indices for Australia, Austria, Belgium, Canada, France, Germany, Hong Kong, Italy, Japan, Malaysia, Mexico, the Netherlands, Singapore, Spain, Sweden, Switzerland, and the United Kingdom.

2. The Fund will be managed and advised by the Adviser. PFPC Inc. is expected to provide certain administrative services to each Index Series. The principal underwriter and distributor of the Fund's shares will be the Distributor.

3. The Fund may impose a sales commission on all cash sales orders received during the initial subscription period of an Index Series. Applicants expect that pursuant to a plan adopted by the board of directors of the Fund for each Index Series under rule 12b–1 under the Act, each Index Series will pay fees to the Distributor, calculated daily and payable monthly, on an annualized basis, of a specified percentage of the average daily net assets of the Index Series (subject to the maximum of .25% per annum thereof). Such monies may be used to cover the expenses of the Distributor primarily intended to result in the sale of shares of each Index Series. The Adviser and PFPC Inc. also will receive fees for their services.

4. Each Index Series will issue shares referred to as "World Equity Benchmark Shares℠" (the "WEBS"). WEBS of an Index Series will be issued and sold by the Fund only in aggregations of a specified number of WEBS (the "Creation Units") that will be separable at the option of the holder into WEBS. Shareholders of an Index Series will have one vote per WEB with respect to matters regarding the Fund or the respective Index Series upon which a shareholder vote is required. The initial net asset value of the Creation Units is expected to range from approximately $450,000 to $10,000,000. Applicants intend to list the WEBS on the AMEX.

5. The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York (the "Depository") or its nominee will be the record or registered owner of all outstanding WEBS. Beneficial ownership of WEBS will be shown on the records of the Depository or its participating organizations ("DTC Participants"). Creation Units of WEBS may be purchased only by or through a DTC Participant that has entered into an Authorized Participant Agreement with the Fund and the Distributor (an "Authorized Participant"). The Distributor will be responsible for distributing prospectuses to purchasers of Creation Units.

6. The Fund will offer, issue, and sell Creation Units through the Distributor on a continuous basis at the net asset value per share next determined after it receives an order in proper form. Creation Units generally will be issuable in exchange for the deposit of portfolio securities and a specified cash payment; redemptions of Creation Units generally will be for portfolio securities and a specified cash payment. The Fund will sell shares of each Index Series only on Business Days. A "Business Day" is defined with respect to each Index Series as any day that the New York Stock Exchange and the stock exchange(s) and Fund subcustodian(s) relevant to such Index Series are open for business.

7. Payment with respect to orders placed through the Distributor will be made by in-kind deposit or, when available in respect of a particular Index Series, by cash. An in-kind purchase will be made by the in-kind deposit with the Fund of a portfolio of securities that is of essentially the same composition and weighting as the component shares selected by the Adviser to correspond to the returns of the relevant index (the "Deposit Securities"), together with a cash payment in an amount equal to the Dividend Equivalent Payment (as defined below), plus or minus a Balancing Amount (as defined below). The "Dividend Equivalent Payment" is an amount equal, on a per Creation Unit basis, to the dividends on all the Portfolio Securities with exdividend dates within the accumulation period for such distribution, net of expenses and liabilities for such period, as if all of the Portfolio Securities had been held by the Fund for the entire period. The "Balancing Amount" is an amount equal to the difference between the net asset value (per Creation Unit) of the Index Series and the sum of the Dividend Equivalent Payment and the market value (per Creation Unit) of the securities deposited with the Fund. The Dividend Equivalent Payment and the Balancing Amount are collectively referred to as the "Cash Component," and the deposit of the Deposit Securities together with the appropriate Cash Component is referred to as a "Portfolio Deposit." In addition, investors purchasing shares in-kind will bear the costs of transferring the securities to the Fund. All purchases will be subject to a transaction fee, with a higher fee charged for cash purchases.

8. The Adviser will make available through the Distributor and by other means on each Business Day, immediately prior to the opening of business on the AMEX, the names and required number of shares of each Deposit Security included in the current Portfolio Deposit for each Index Series. Such Portfolio Deposit will be applicable, subject to any adjustments, for purchases of Creation Unit aggregations of shares of a given Index Series until such time as the next-announced Portfolio Deposit composition is made available. The adjustments will reflect changes, known to the Adviser on the date of announcement to be in effect by the time of delivery of the Portfolio Deposit, in the composition of the subject index being tracked by the Relevant Index Series, or resulting from stock splits and other corporate actions.

9. Broker-dealers and other persons will be cautioned in the prospectus and/or the Fund's statement of additional information ("SAI") that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act of 1933. For example, a broker-dealer firm may be deemed a statutory underwriter if it purchases Creation Units from the Fund, breaks them down into the constituent WEBS, and sells the WEBS directly to its customers; or if it chooses to couple the creation of a supply of new WEBS with an active selling effort involving solicitation of a secondary market demand for WEBS. The prospectus and/or the SAI will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's and his client's activities. The prospectus and/or the SAI will explain that dealers who are not statutory underwriters, but are participating in a distribution (as contrasted to ordinary secondary trading transactions), and thus dealing with WEBS that are part of an "unsold allotment" within the meaning of section 4(3) of the Securities Act of 1933, would be unable to take advantage of the prospectus-delivery exemption provided by section 4(3) of the Securities Act of 1933.

10. Creation Units will be redeemable for a portfolio of securities generally consisting of Deposit Securities as announced by the Distributor on the Business Day that the request for redemption is received in proper form, together with a cash redemption payment, which on any given Business Day will be an amount identical to the amount of the Cash Component. A redeeming beneficial owner, or Authorized Participant acting on behalf of such beneficial owner, must maintain appropriate securities broker-dealer, bank, or other custody arrangements in each jurisdiction in which any of the Portfolio Securities are customarily traded, to which account such Portfolio Securities will be delivered. If neither the redeeming beneficial owner nor the Authorized Participant has appropriate arrangements to take delivery of the Portfolio Securities in the applicable foreign jurisdiction, and it is not possible to make other such arrangements, or if it is not possible to effect deliveries of the Portfolio Securities in such jurisdiction, the Fund may in its discretion redeem such shares for cash. In such circumstances, or if the Fund concludes that operating on an exclusively in-kind basis presents marketing or operational problems for a specific series, the Fund reserves the right to offer a cash option for sales and to make redemptions in cash in respect of any Index Series. A transaction fee to cover brokerage and other transaction costs will be deducted from the redemption proceeds, with a higher fee charged for cash redemptions. In addition, investors redeeming shares in-kind will bear the costs of transferring the securities from the Fund.

11. Owners of Creation Units may hold the units or sell some or all of them into the secondary market as WEBS. Applicants intend to list the WEBS on the AMEX so that they may trade in the secondary market in the same manner as other equity securities. However, the WEBS may not be redeemed from the Fund unless reconstituted into Creation Units. The price of WEBS on the AMEX will be based on a current bid/offer market. Transactions involving the sale of WEBS will be subject to customary brokerage commissions and charges. The Distributor will act as coordinator in connection with the distribution of prospectuses to broker-dealers. In addition, the Fund will provide copies of its annual and semi-annual shareholder reports to the DTC Participants for distribution to the beneficial holders of WEBS.

12. In order to avoid confusion in the public's mind between the Fund and a conventional "open-end investment company" or "mutual fund," the Fund will limit the designation of the Fund in all marketing materials, including the Fund's prospectus and SAI, to the term "investment company," without reference to "open-end fund" or "mutual fund." The term "mutual fund" will not be used at any time. The term "open-end investment company" will be used in the prospectus only to the extent required by item 4 of Form N-1A.[1] The cover page of the prospectus and the summary will include a distinct paragraph stating that the WEBS will not be individually redeemable. The description of the Creation Units and the method of their purchase and redemption will follow such paragraph on the WEBS. The SAI will include an explanation of the issuance and redemption procedures for Creation Units. All marketing materials that describe the method of obtaining, buying, or selling WEBS, will state that the WEBS are non-redeemable.

13. Applicants believe that there are two large categories of investors who are likely to be interested in purchasing Creation Units. One is the institutional investor who desires a foreign index-based fund with the liquidity provided by exchange traded shares. The other likely institutional investor is the arbitrageur, who will purchase or redeem Creation Units in pursuit of arbitrage profit. Applicants believe that arbitrage activity will enhance the liquidity of the WEBS in the secondary market and also help ensure that WEBS will not trade at a material discount or premium in relation to the Fund's net asset value.

[1] Item 4 of Form N1A requires an investment company to state in its prospectus its classification and subclassification under sections 4 and 5 of the Act.

14. Applicants expect WEBS to be purchased and traded by "retail" investors that primarily seek to invest in WEBS in smaller quantities exclusively through purchases and sales executed on the AMEX and institutional investors that may purchase and redeem Creation Unit aggregations of WEBS directly with the Fund in addition to trading such shares on the AMEX.

15. Because applicants expect that "retail" investors will purchase WEBS on the AMEX and not Creation Units, the prospectus of an Index Series would include only a minimal description of the creation and redemption mechanics pertaining to Creation Units. The SAI will contain a detailed description of the mechanics for purchasing and redeeming Creation Units. Applicants contemplate that in all cases the SAI would be delivered along with the prospectus to any investors in connection with purchases of Creation Units.

Applicants' Legal Analysis

Section 6(c)

1. Applicants request relief under section 6(c) of the Act from sections 2(a)(32), 5(a)(1), 17(a)(1), 17(a)(2), 22(d), and 22(e) and rule 22c-1 and under sections 6(c) and 17(b) from sections 17(a)(1) and 17(a)(2). Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy of the Act. Section 17(b) authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the proposed transaction is consistent with the general policy of the Act. Section 17(b) could be interpreted to exempt only a single transaction. However, the SEC, under section 6(c), may exempt a series of transactions that otherwise would be prohibited by section 17(a).

Sections 2(a)(32) and 5(a)(1)

2. Section 5(a)(1) of the Act defines an "open-end company" as a "management company which is offering for sale or has outstanding any redeemable security of which it is the issuer." The term "redeemable security" is defined in section 2(a)(32) as a security which entitles the holder to receive, upon presentation of the security to the issuer, approximately his or her proportionate share of the issuer's current net assets.

2. Because the Creation Units are separable into WEBS that are not individually redeemable, a question arises as to whether the definition of a "redeemable security" or an "open-end company" under the Act would be met if such shares are viewed as non-redeemable securities. In light of this question, the Fund requests an order to permit it to maintain its registration as an open-end investment company and to issue shares that are redeemable only in Creation Units.

3. Applicants note that owners of WEBS wishing to redeem may purchase additional WEBS and tender the resulting Creation Unit for redemption. Moreover, AMEX listing will afford shareholders the benefit of liquidity. Applicants believe that because Creation Units may always be purchased and redeemed at net asset value, arbitrage opportunities will ensure that the price of WEBS on the secondary market will not vary substantially from the net asset value of Creation Units. Also, the investor has the ability to purchase or redeem Creation Unit aggregations of shares rather than trade in the secondary market.

Section 22(d) and Rule 22c-1

1. Section 22(d), among other things, prohibits a dealer from selling a redeemable security that is being currently offered to the public by or through an underwriter except at the current public offering price described in the prospectus. Rule 22c-1 generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its net asset value. Secondary market transactions in WEBS will take place at negotiated prices and not at a current offering price described in the prospectus or on the basis of net asset value. Thus, purchases and sales of WEBS by dealers in the secondary market may not comply with section 22(d) and rule 22c-1.

2. While there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c-1, appear to have been enacted (a) to prevent dilution caused by certain risk-free trading schemes by principal underwriters and contract dealers, (b) to prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) to assure an orderly distribution of investment company shares by eliminating price competition from

dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price. Applicants believe that the concerns sought to be addressed by section 22(d) and rule 22c–1 with respect to pricing are equally satisfied by the proposed method of pricing WEBS. First, secondary market trading in WEBS, because it does not involve the Fund as a party, cannot result in dilution of a beneficial owner's investment. Second, to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand and interest rates, not as a result of unjust or discriminatory manipulation. Therefore, secondary market trading in WEBS will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of WEBS and their net asset value remains narrow.

Section 22(e)

1. Section 22(e) provides that an investment company may not postpone the date of payment or satisfaction upon the redemption of any redeemable security for more than seven calendar days following tender of such security for redemption. To the extent that Creation Units may be deemed to be redeemable securities, applicants request an exemption to permit the Spain Index Series to redeem Creation Units within eight days, the Belgium and Netherlands Index Series within nine days, the Austria, Germany, Hong Kong, Italy, Mexico, Singapore, Sweden, and Switzerland Index Series within ten days, the Malaysia Index Series within eleven days, and the Japan Index Series within thirteen days at certain times during the calendar year. The custodian has advised the Fund that local holiday schedules combined with local delivery cycles will require more than seven calendar days for delivery of redemption proceeds several times during the calendar year for these Index Series. Applicants expect, however, that these Index Series will be able to deliver redemption proceeds within seven days at all other times. Applicants do not request an exemption from section 22(e) with respect to the other four Index Series.[2]

2. The principal reason for the requested exemption is that settlement of redemptions in respect of the Fund's Index Series is contingent not only on the settlement cycle of the United States market but also on the delivery cycles possible in the local markets for the underlying foreign securities of each Index Series. Applicants believe that the Fund will be able to comply with the delivery requirement of section 22(e) except where the holiday schedule applicable to the specific foreign market will not permit delivery of redemption proceeds within seven calendar days.

3. Applicants intend to utilize in-kind redemptions to the maximum extent possible to assure the fullest investment of Fund assets in portfolio securities. Applicants believe that the requested exemption will make issuance and redemption of Fund shares less costly to administer, enhance the appeal of the product to professional participants, and thereby promote the liquidity of WEBS in the secondary market which would benefit all shareholders.

4. The Fund believes that Congress adopted section 22(e) to prevent unforeseen delays in the actual payment of redemption proceeds. The prospectus, SAI, and all relevant sales literature for the affected Index Series will disclose that redemption requests for those series will be honored within the specified number of days following the date on which a request for redemption is made. Applicants contend that the redemption mechanism described above will not lead to unreasonable, undisclosed, or unforeseen delays in the redemption process.

5. Applicants believe that allowing redemption payments for Creation Units of an Index Series to be made within the number of days indicated above would not be inconsistent with the spirit and intent of section 22(e), and that a redemption payment occurring within such number of calendar days following redemption request would adequately afford investor protection.

Section 17(a)

1. Applicants request an exemption under sections 6(c) and 17(b) from section 17(a) of the Act to permit affiliated persons of the Fund to purchase and redeem creation Units. Section 17(a) generally prohibits an affiliated person of a registered investment company from purchasing from or selling to such company any security or other property. Because purchases and redemptions will be in-kind rather than cash transactions, section 17(a) may prohibit affiliated persons of the Fund from purchasing or redeeming Creation Units. Moreover, because the definition of affiliated person includes anyone owning 5% or more of an issuer's outstanding voting stock, at least one purchaser of a Creation Unit will be affiliated with the Fund so long as there are twenty or fewer holders of Creation Units.

2. Applicants contend that no useful purpose would be served by prohibiting affiliated persons from making in-kind purchases or redemptions of Creation Unites. Both the deposit procedures for in-kind purchases of shares and the redemption procedures for in-kind redemptions will be effected in exactly the same manner for all creations and redemptions, regardless of size or number. The securities to be used for the in-kind purchase or redemption will be determined by the Portfolio Deposit, which is based on the MSCI Indices. The MSCI Indices are widely publicized and not subject to manipulation by the Fund or its affiliates. Portfolio securities will be valued in the same manner as those portfolio securities currently held by the Fund and the valuation of portfolio securities will be made in an identical manner regardless of the identity of the person purchasing or redeeming. Thus, applicants believe that there will be no opportunity for affiliated persons to effect a transaction detrimental to the other shareholders. Applicants believe that in-kind purchases and redemptions will not result in abusive self-dealing or overreaching by affiliated persons of the Fund. Accordingly, applicants believe that the requested relief meets the section 6(c) and section 17(b) standards for relief.

Applicants' Arguments

1. Applicants assert that WEBS will allow investors to have a beneficial interest in a standardized portfolio of foreign equity securities in a size comparable to a share of common stock. Applicants believe that the ability to take deposits and make redemptions in-kind will help the Index series that offer this feature to track closely the relevant foreign securities index and therefore aid in achieving the Index Series' objectives.

2. Applicants state that they will take such steps as may be necessary to avoid confusion in the public's mind between the Fund and a conventional "open-end investment company" or "mutual fund,." In addition, applicants state that brokers will deliver a prospectus to each investor in connection with the secondary market purchases by

[2] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Securities Exchange Act of 1934. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

investors of WEBS on the AMEX. For the above reasons, applicants believe that the requested relief meets the section 6(c) standards for relief.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Fund will not be advertised or marketed as an open-end investment company. *i.e.*, as a mutual fund offering redeemable securities. The Fund's or any Index Series' prospectus will prominently disclose that WEBS are not redeemable shares and will disclose that the owners of WEBS may acquire and tender those shares for redemption to the Fund in Creation Unit aggregations only. Any advertising material where features of obtaining, buying or selling Creation Units are described or where there is reference to redeemability will prominently disclose that WEBS are not redeemable and that owners of WEBS may acquire and tender those shares for redemption to the Fund in Creation Unit aggregations only.

2. The Fund will provide copies of its annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial holders of WEBS.

3. Applicants will not seek to have the Fund's registration statement declared effective until the SEC has approved such proposed rule change pursuant to rule 19b–4 under the Securities Exchange Act of 1934 as may be necessary to enable a national securities exchange to list the WEBS.

4. In addition, as long as the Fund operates in reliance on the requested order, the WEBS will be listed on a national securities exchange.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3045 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21735; 812–9900]

J.P. Morgan Index Funding Company, LLC; Notice of Application

February 6, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: J.P. Morgan Index Funding Company, LLC.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicant from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant requests an order that would permit it to sell certain preferred equity securities and use the proceeds to finance the business activities of its parent company. J.P. Morgan & Co. Incorporated ("J.P. Morgan"), and certain companies controlled by J.P. Morgan.

FILING DATE: The application was filed on December 15, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 4, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 60 Wall Street, New York, New York 10260–0060.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Delaware limited liability company formed in November, 1995. Applicant's outstanding voting securities are owned by J.P. Morgan and J.P. Morgan Ventures Corporation.[1] J.P. Morgan is a holding company for a group of global subsidiaries that provide a variety of financial services to corporations and other entities. Morgan Guaranty Trust Company of New York ("Morgan Guaranty") is a New York State chartered banking institution, a member of the Federal Reserve System and the Federal Deposit Insurance Corporation, and is a subsidiary of J.P Morgan.

2. Applicant was organized to engage in financing activities that will provide funds for use in the operations of J.P. Morgan, Morgan Guaranty, and certain of their subsidiaries (the "Morgan Entities"). Applicant proposes to obtain funds through the offer and sale of its preferred equity securities in the United States and in overseas markets, and to lend the proceeds to the Morgan Entities.

3. Due to the nature of the capital markets, applicant may, from time to time, issue securities in amounts exceeding the amounts required by the Morgan Entities at any given time. However, at least 85% of the cash or cash equivalents raised by applicant through the sale of preferred securities will be loaned to the Morgan Entities as soon as practicable, but in no event later than six months after applicant's receipt of such cash or cash equivalents. Amounts that are not loaned to the Morgan Entities will be invested in government securities, securities of J.P Morgan, Morgan Guaranty or a company controlled by J.P Morgan or Morgan Guaranty (or, in the case of a partnership or joint venture, the securities of the partners or participants in the joint venture), or securities which are exempted from the provisions of the Securities Act of 1933 by section 3(a)(3) of that Act.

4. Before applicant issues any securities, J.P. Morgan will enter into a master guarantee agreement (the "Guarantee Agreement") with applicant under which J.P. Morgan will guarantee the payment of principal and dividends on the securities issued by applicant, in accordance with rule 3a–5(a)(2) as interpreted by the staff.[2] The Guarantee Agreement will give each holder of applicant's securities a direct right of action against J.P. Morgan's obligations under the Guarantee Agreement without first proceeding against applicant.

Applicant's Legal Analysis

1. Applicant requests an exemption from all provisions of the Act. The Commission has stated that it is appropriate to exempt a finance subsidiary from all provisions of the Act where the primary purpose of the finance subsidiary is to finance the business operations of its parent or other subsidiaries of its parent and where any purchaser of the finance subsidiary's securities ultimately looks

[1] Applicant's counsel has stated that J.P. Morgan Ventures Corporation is a wholly-owned subsidiary of J.P. Morgan.

[2] See Chieftain International Funding Corp., (pub. avail. Nov. 3, 1992) and Cleary, Gottlieb, Steen & Hamilton, (pub. avail. Dec. 23, 1985).

to the parent for repayment and not to the finance subsidiary.[3]

2. Rule 3a–5(b)(2)(i) in relevant part defines "parent company" to be a corporation, partnership, or joint venture that is not considered in investment company under section 3(a) or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules or regulations under section 3(a). J.P. Morgan technically is not a "parent company" within the meaning of rule 3a–5(b)(2)(i) because it meets the definition of investment company in section 3(a) of the Act and is excepted by such definition by section 3(c)(6).

3. Rule 3a–5(b)(3)(i) in relevant part defines a "company controlled by the parent company" to be a corporation, partnership, or joint venture that is not considered an investment company under section 3(a) or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules and regulations under section 3(a). Certain of the Morgan Entities do not fit within the technical definition of "companies controlled by the parent company" because they derive their non-investment status from section 3(c).

4. In the release adopting rule 3a–5, the Commission stated that it may be appropriate to grant exemptive relief to the finance subsidiary of a section 3(c) issuer, but only on a case-by-case basis upon an examination of all relevant facts. According to the adopting release, the concern was that a company may be considered a non-investment company for the purposes of the Act under section 3(c) of the Act and still be engaged primarily in investment company activities.

5. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicant states that none of the Morgan Entities to which applicant may loan money are engaged primarily in investment company activities. In addition, if J.P. Morgan or Morgan Guaranty were themselves to issue the securities that are to be issued by applicant and use the proceeds, none of the Morgan Entities would be subject to regulation under the Act. While J.P. Morgan has chosen instead to use applicant as a financing vehicle, the Guarantee Agreement ensures that holders of applicant's securities will have direct access to J.P. Morgan's credit. Accordingly, applicant submits that the relief requested satisfies the section 6(c) standard.

[3] Investment Company Act Release No. 14275 (Dec. 14, 1984) (release adopting rule 3a–5 under the Act). Rule 3a–5 provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

Applicant's Condition

Applicant agrees that the order granting the requested relief shall be subject to the following condition:

1. Applicant will comply with all of the provisions of rule 3a-5 under the Act, except: (a) J.P. Morgan will not meet the portion of the definition of "parent company" in rule 3a-5(b)(2)(i) solely because it is excluded from the definition of investment company under section 3(c)(6) of the Act; (b) Morgan Guaranty will not meet the portion of the definition of "company controlled by the parent company" in rule 3a-5(b)(3)(i) solely because it is excluded from the definition of investment company under section 3(c)(3) of the Act; and (c) applicant will be permitted to invest in or make loans to corporations, partnerships, and joint ventures that do not meet the portion of the definition of "company controlled by the parent company" in rule 3a-5(b)(3)(i) solely because they are excluded from the definition of investment company by sections 3(c)(2), 3(c)(3), 3(c)(4), or 3(c)(6) of the Act, provided that any such entity excluded from the definition of investment company under section 3(c)(6) of the Act will not be engaged primarily, directly or through majority owned subsidiaries, in one or more of the businesses described in section 3(c)(5) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3046 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21733; 811–131]

National Bond Fund; Notice of Application

February 5, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: National Bond Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 3, 1995 and amended on January 11, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 1, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, One American Row, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust. On July 1, 1986, applicant registered under the Act as an investment company and filed a registration statement under the Securities Act of 1933. The registration statement was declared effective, and applicant's initial public offering commenced, on August 29, 1986.

2. On June 30, 1993, applicant's Board of Trustees and the Board of Trustees of the Phoenix Series Fund unanimously approved an agreement and plan of reorganization (the "Plan"), in accordance with rule 17a–8 of the Act, whereby applicant would transfer all of its assets to the High Yield Fund Series (the "High Yield Series") of the Phoenix Series Fund, a Massachusetts business trust.[1] Proxy materials were filed with the SEC and were distributed to shareholders on September 30, 1993. At a special meeting held on November 18, 1993, applicant's shareholders approved the Plan.

3. On December 3, 1993 (the "Closing Date"), applicant transferred all of its assets to the High Yield Series. Accordingly, securityholders of applicant became securityholders of the High Yield Series. In consideration for the transfer, the High Yield Series assumed all of applicant's liabilities and delivered to applicant full and fractional shares of beneficial interest of the High Yield Series equal to that number of full and fractional High Yield Series shares as determined based on the relative net asset values per share of applicant and the High Yield Series as of the close of trading of the New York Stock Exchange on the Closing Date. Applicant distributed such High Yield Series shares *pro rata* to its securityholders and simultaneously applicant's shares held by its securityholders were canceled.

4. Phoenix Investment Counsel, Inc., an affiliate of applicant, paid all of the direct and indirect expenses of the reorganization, including any brokerage fees relating to transactions resulting from the reorganization.

5. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant filed Articles of Dissolution to terminate its existence as a Maryland corporation and was dissolved on June 16, 1995.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3047 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant and the Phoenix Series Fund may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and/or common officers. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers.

[Rel. No. IC–21730; 811–4131]

National Federal Securities Trust; Notice of Application

February 5, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: National Federal Securities Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 3, 1995 and amended January 11, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 1, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street; N.W., Washington, D.C. 20549. Applicant, One American Row, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust. On October 17, 1984, applicant registered under the Act as an investment company, and filed a registration statement under the Securities Act of 1933. The registration statement was declared effective on November 21, 1984, and applicant's initial public offering commenced on December 10, 1984.

2. On June 30, 1993, applicant's Board of Trustees and the Board of Trustees of the Phoenix Series Fund unanimously approved an agreement and plan of reorganization (the "Plan"), in accordance with rule 17a–8 of the Act, whereby applicant would transfer all of its assets to the U.S. Government Securities Fund Series (the "Government Series") of the Phoenix Series Fund, a Massachusetts business trust.[1] Proxy materials were filed with the SEC and were distributed to shareholders on September 3, 1993. At a special meeting held on November 4, 1993, applicant's shareholders approved the Plan.

3. On December 3, 1993 (the "Closing Date"), applicant transferred all of its assets to the Government Series. Accordingly, securityholders of applicant became securityholders of the Government Series. In consideration for the transfer, the Government Series assumed all of applicant's liabilities and delivered to applicant full and fractional shares of beneficial interest of the Government Series equal to that number of full and fractional Government Series shares as determined based on the relative net asset values per share of applicant and the Government Series as of the close of trading of the New York Stock Exchange on the Closing Date. Applicant distributed such Government Series shares *pro rata* to its securityholders and simultaneously applicant's shares held by its securityholders were canceled.

4. Phoenix Investment Counsel, Inc., an affiliate of applicant, paid all of the direct and indirect expenses of the reorganization, including any brokerage fees relating to transactions resulting from the reorganization.

5. At the time of the application, applicant had no securityholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant has filed documents necessary to terminate its existence as a Massachusetts business trust.

[1] Applicant and the Phoenix Series Fund may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and/or common officers. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a-8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3048 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21732; 811–2660]

National Securities Tax Exempt Bonds, Inc.; Notice of Application

February 5, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: National Securities Tax Exempt Bonds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 3, 1995 and amended on January 11, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 1, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, One American Row, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Maryland corporation. On September 6, 1976, applicant registered under the Act as an investment company and filed a registration statement under the Securities Act of 1933. The registration statement was declared effective, and applicant's initial public offering commenced, on November 5, 1976.

2. On June 30, 1993, applicant's Board of Directors and the Board of Trustees of the Phoenix Multi-Portfolio Fund unanimously approved an agreement and plan of reorganization (the "Plan"), in accordance with rule 17a–8 of the Act, whereby applicant would transfer all of its assets and liabilities to the Phoenix Tax-Exempt Bond Portfolio (the "Tax-Exempt Portfolio") of the Phoenix Multi-Portfolio Fund, a Massachusetts business trust.[1] Proxy materials were filed with the SEC and were distributed on September 16, 1993. At a special meeting held on November 4, 1993, applicant's shareholders approved the Plan.

3. On November 12, 1993 (the "Closing Date"), applicant transferred all of its assets to the Tax-Exempt Portfolio. Accordingly, securityholders of applicant became securityholders of the Tax-Exempt Portfolio. In consideration for the transfer, the Tax-Exempt Portfolio assumed all of applicant's liabilities and delivered to applicant full and fractional shares of beneficial interest of the Tax-Exempt Portfolio equal to that number of full and fractional Tax-Exempt Portfolio shares as determined based on the relative net asset values per share of applicant and the Tax-Exempt Portfolio as of the close of trading of the New York Stock Exchange on the Closing Date. Applicant distributed such Tax-Exempt Portfolio shares *pro rata* to its securityholders and simultaneously applicant's shares held by its securityholders were canceled.

4. Phoenix Investment Counsel, Inc., an affiliate of applicant, paid all of the direct and indirect expenses of the reorganization, including any brokerage fees relating to transactions resulting from the reorganization.

5. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant filed Articles of Dissolution to terminate its existence as a Maryland corporation and was dissolved on June 16, 1995.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3049 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21731; 811–4725]

National Total Return Fund; Notice of Application

February 5, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: National Total Return Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 3, 1995 and amended on January 11, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 1, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, One American Row, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust. On July 1, 1986, applicant registered under the Act as an investment company, and filed a registration statement under the Securities Act of 1933. The registration statement was declared effective, and applicant's initial public offering commenced, on August 29,1986. The registration statement was filed in anticipation of a reorganization of applicant, a series of National Securities Funds. Applicant is the successor to National Securities Funds, whose registration statement was originally filed on August 17, 1945.

2. On June 30, 1993, applicant's Board of Trustees and the Board of Directors of the Phoenix Total Return Fund, Inc. ("PTRF") unanimously approved an agreement and plan of reorganization (the "Plan"), in accordance with rule 17a–8 of the Act, whereby applicant would transfer all of its assets to PTRF, a Massachusetts corporation.[1] Proxy materials were filed with the SEC and were distributed to shareholders on September 3, 1993. At a special meeting held on November 11, 1993, applicant's shareholders approved the Plan.

3. On December 3, 1993 (the "Closing Date"), applicant transferred all of its assets to PTRF. Accordingly, securityholders of applicant became securityholders of PTRF. In consideration for the transfer, PTRF assumed all of applicant's liabilities and delivered to applicant full and fractional shares of common stock of PTRF equal to that number of full and fractional PTRF shares as determined based on the relative net asset values per share of applicant and PTRF as of the close of trading of the New York Stock Exchange on the Closing Date. Applicant distributed such PTRF shares *pro rata* to its securityholders and simultaneously applicant's shares held by its securityholders were canceled.

4. Phoenix Investment Counsel, Inc., an affiliate of applicant, paid all of the direct and indirect expenses of the reorganization, including any brokerage fees relating to transactions resulting from the reorganization.

5. At the time of the application, applicant had no secruityholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant has filed documents necessary to terminate its existence as a Massachusetts business trust.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3050 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Rockwell International Corporation, Common Stock, $1 Par Value; its $4.75 Convertible Preferred Stock, Series A) File No. 1–1035

February 6, 1996.

Rockwell International Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the Boston Stock Exchange, Inc. ("BSE") and Philadelphia Stock Exchange, Inc. ("Phlx").

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, there is low trading volume on these exchanges (in 1994, 471,696 on the BSE and 354,525 on the Phlx compared to 71,562,300 on the NYSE in the same year) and the Company has a desire to reduce expenses and administrative and reporting burdens.

Any interested person may, on or before February 28, 1996 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–3051 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36811; File No. SR–DTC–95–15]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Processing Securities With Indexed Principal Features Through the Receiver Authorized Delivery Facility

February 5, 1996.

On August 23, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–95–15) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on November 6, 1995.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Under the rule change, DTC will require transactions in securities issued under a Money Market Instrument ("MMI") program having an indexed principal feature[3] and settling in DTC's sameday funds settlement system to be directed to DTC's Receiver Authorized Delivery facility ("RAD").[4] RAD will require mandatory authorization from receivers of securities having an

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[1] Applicant and the Phoenix Multi-Portfolio Fund may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and/or common officers. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers.

[1] Applicant and PTRF may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and/or common officers. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers.

[1] 15 U.S.C. § 78s(b) [1] (1988).

[2] Securities Exchange Act Release No. 36437 (October 30, 1995), 60 FR 56081.

[3] A security with an indexed principal feature is one having its principal amount directly derived by reference to a currency, composite currency, commodity, or other financial index.

[4] For a description of DTC's RAD facility, refer to Securities Exchange Act Release Nos. 25886 (July 8, 1988), 53 FR 26698 [File No. SR–DTC–88–07] (notice of filing and immediate effectiveness of the RAD facility) and 35720 (May 16, 1995), 60 FR 27360 [File No. SR–DTC–95–07] (order granting accelerated approval of proposal to implement a $15 million per transaction minimum threshold to utilize the RAD facility for approval or cancellation of deliveries).

indexed principal feature before DTC will process the transaction.[5]

Because the value of MMI securities with an indexed principal feature may change dramatically in a short period of time, DTC participants desire to have a mechanism by which they can determine whether a particular MMI issue has this feature before accepting a delivery. DTC determined that it could provide its participants the service they desired by processing these securities types through DTC's existing RAD facility and by revising its CUSIP descriptions to include a unique identifier that will indicate whether a particular issue has an indexed principal feature. In this way, DTC participants immediately will be able to tell from an issue's special CUSIP identifier that it has an index principal feature and then take appropriate action to affirmatively authorize or reject the delivery of the securities. These procedures should reduce the likelihood that a DTC participant inadvertently will complete a purchase transaction involving this type of security without full knowledge of its indexed principal feature.

II. Discussion

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that DTC's proposed rule change is consistent with DTC's obligations under the Act before the new procedures will give DTC participants better information as to whether a particular issue of securities has an indexed principal feature. This should help DTC participants to avoid inadvertently completing a purchase transaction in a securities issue having an indexed principal feature when such a purchase is not intended.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b) (2) of the Act, that the proposed rule change (File No. SR–DTC–95–15) be, and hereby is, approved.

[5] Although these transactions will be directed to DTC's existing RAD facility, such transactions will be subject to a separate approval and reporting process.

[6] 15 U.S.C. § 78q–1 (b) (3) (F) (1988).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3042 Filed 2–9–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0223]

ABN Capital (USA) Inc.; Notice of Issuance of a Small Business Investment Company License

On Friday, October 27, 1995, a notice was published in the **Federal Register** (Vol. 60, No. 208, FR 55076) stating that an application had been filed by ABN AMRO Capital (USA) Inc., at 135 South LaSalle Street, Chicago, IL 60674, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) for a license to operate as a small business investment company.

Interested parties were given until close of business Monday, November 13, 1995 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0233 on January 31, 1996, to ABN AMRO Capital Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 5, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–2934 Filed 2–9–96; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Published Social Security Acquiescence Rulings

AGENCY: Social Security Administration.

ACTION: Notice of Published Social Security Acquiescence Rulings.

SUMMARY: Social Security Acquiescence Rulings (ARs) explain the manner in which the Social Security Administration (SSA) applies holdings of the United States Courts of Appeals that conflict with SSA's interpretation of a provision of the Social Security Act (the Act) or regulations when adjudicating claims under title II and title XVI of the Act and part B of the Black Lung Benefits Act. This notice lists ARs and rescissions of ARs that were published in the **Federal Register** from January 11, 1990, through December 31, 1995. In addition, we have included **Federal Register** references for three prior notices of cumulative listings of ARs. The purpose of this notice is to assist individuals in finding ARs.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: Even though we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), SSA's regulations were amended on January 11, 1990, to provide that ARs are to be published in their entirety in the **Federal Register** under authority of the Commissioner of Social Security (20 CFR 422.406(b)(2)). An AR explains how SSA will apply a holding of a United States Court of Appeals that is at variance with SSA's interpretation of the Act or regulations in adjudicating claims under title II and title XVI of the Act and part B of the Black Lung Benefits Act.

Although regulations and ARs are published in the **Federal Register**, only the regulations are subsequently published in the Code of Federal Regulations (CFR). The CFR is a codification of the general and permanent rules published in the **Federal Register** by the Executive departments and agencies of the Federal Government. Consequently, the CFR may not state the circuitwide standard in effect when we have determined that the holding in a decision of a United States Court of Appeals is at variance with our national interpretation. Therefore, we are publishing this listing to assist individuals who need to reference ARs in effect as a result of holdings of the United States Courts of Appeals.

If an AR is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect, as provided for in 20 CFR 404.985(e), 410.670c(e), or 416.1485(e). If we decide to relitigate an issue covered by an AR as provided for by 20 CFR 404.985(c), 410.670c(c), or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation and not the standard expressed in the AR, and explain why we have decided to relitigate the issue. In either of these situations, we will include the information in notices of published ARs such as this one.

This notice contains a listing of all ARs published under the requirements of 20 CFR 422.406(b)(2) during the period January 11, 1990, through December 31, 1995. The listing includes the AR number, title, publication date and the **Federal Register** reference number. This notice also lists ARs which were rescinded during this period. We anticipate publishing a notice each year that will list similar information.

(Catalog of Federal Domestic Assistance Programs Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.004 Social Security-Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income.)

Dated: February 6, 1996.

Walter H. Burton, Jr.

Social Security Administration

Published Social Security Acquiescence Rulings

Published cumulative lists of ARs relating to claims under title II and title XVI of the Social Security Act and part B of the Black Lung Benefits Act were issued for ARs published prior to January 11, 1990.

1. The first notice announcing 14 ARs, issued during the period from January 23, 1986, through April 30, 1986, was published in the **Federal Register** on June 4, 1986 (51 FR 20354).

2. A second notice announcing 12 additional ARs, issued during the period from May 20, 1986, through March 31, 1987, was published in the **Federal Register** on August 7, 1987 (52 FR 29941).

3. A third notice announcing 11 more ARs, issued during the period from May 1, 1987, through November 14, 1988, the withdrawal of one AR which was issued earlier, and the withdrawal of one of the ARs issued during this period was published in the **Federal Register** on July 10, 1990 (55 FR 28302).

This notice lists ARs published in the **Federal Register** including the period from January 11, 1990, through December 31, 1995. It includes three ARs which were issued earlier, rescinded and replaced by revised ARs under their original AR number. It also includes the outright rescission of five ARs issued during this period, and the outright rescission of 12 ARs issued earlier. One AR published during this period was revised. Two ARs published during this period required correction. The correction notices are also discussed in this notice. (The parenthetical number that follows each AR number refers to the United States judicial circuit involved.)

Acquiescence Rulings

AR 86-2R(2) *Rosenberg* v. *Richardson*, 538 F.2d 487 (2d Cir. 1976); *Capitano* v. *Secretary of HHS*, 732 F.2d 1066 (2d Cir. 1984)—Entitlement of a Deemed Widow When a Legal Widow is Entitled on the Same Earnings Record—Title II of the Social Security Act.

Published: June 25, 1992, at 57 FR 28527.

Note: The original AR for the Second Circuit Court of Appeals' holding in *Rosenberg* and *Capitano* (AR 86-2(2)), issued January 23, 1986, was rescinded and replaced by this revised AR.

AR 86-18R(5) *Woodson* v. *Schweiker*, 656 F.2d 1169 (5th Cir. 1981)—Interpretation of the Deemed Marriage Provision—Title II of the Social Security Act.

Published: June 25, 1992, at 57 FR 28529 as AR 860918R(5).

Note: The original AR for the Fifth Circuit Court of Appeals' holding in *Woodson* (AR 86-18(5)), issued May 22, 1986, was rescinded and replaced by this revised AR.

AR 86-19R(11) *Woodson* v. *Schweiker*, 656 F.2d 1169 (5th Cir. 1981)—Interpretation of the Deemed Marriage Provision—Title II of the Social Security Act.

Published: June 25, 1992, at 57 FR 28524.

Note: The original AR applicable in the Eleventh Circuit for the Fifth Circuit Court of Appeals' holding in *Woodson* (AR 86-19(11)), issued May 22, 1986, was rescinded and replaced by this revised AR.

AR 90-1(9) *Paxton* v. *Secretary of Health and Human Services*, 856 F.2d 1352 (9th Cir. 1988)—Treatment of a Dependent's Portion of an Augmented Veterans Benefit Paid Directly To a Veteran—Title XVI of the Social Security Act.

Published: July 16, 1990, at 55 FR 28946. Rescinded—See section on Rescissions in this notice.

AR 90-2(2) *Ruppert* v. *Bowen*, 871 F.2d 1172 (2d Cir. 1989)—Evaluation of a Rental Subsidy as In-Kind Income for Supplemental Security Income (SSI) Benefit Calculation Purposes—Title XVI of the Social Security Act.

Published: July 16, 1990, at 55 FR 28947.

AR 90-3(4) *Smith* v. *Bowen*, 837 F.2d 635 (4th Cir. 1987)—Use of Vocational Expert or Other Vocational Specialist in Determining Whether a Claimant Can Perform Past Relevant Work—Titles II and XVI of the Social Security Act.

Published: July 16, 1990, at 55 FR 28949.

AR 90-4(4) *Culbertson* v. *Secretary of Health and Human Services*, 859 F.2d 319 (4th Cir. 1988); *Young* v. *Bowen*, 858 F.2d 951 (4th Cir. 1988)—Waiver of Administrative Finality in Proceedings Involving Unrepresented Claimants Who Lack the Mental Competence to Request Administrative Review—Titles II and XVI of the Social Security Act.

Published: July 16, 1990, at 55 FR 28943.

AR 90-5(2) *Kier* v. *Sullivan*, 888 F.2d 244 (2d Cir. 1989), *reh'g denied*, January 22, 1990- -Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Published: September 18, 1990, at 55 FR 38400. Rescinded—See section on Rescissions in this notice.

AR 90-6(1) *Cassas* v. *Secretary of Health and Human Services*, 893 F.2d 454 (1st Cir. 1990), *reh'g denied*, April 9, 1990—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Published: September 18, 1990, at 55 FR 38398. Rescinded—See section on Rescissions in this notice.

AR 90-7(9) *Ruff* v. *Sullivan*, 907 F.2d 915 (9th Cir. 1990)—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.

Published: September 18, 1990, at 55 FR 38402. Rescinded—See section on Rescissions in this notice.

AR 91-1(5) *Lidy* v. *Sullivan*, 911 F.2d 1075 (5th Cir. 1990)—Right to Subpoena an Examining Physician for Cross-examination Purposes—Titles II and XVI of the Social Security Act.

Published: December 31, 1991, at 56 FR 67625 as AR 91-X(5).

Correction Notice Published: May 1, 1992, at 57 FR 18899—AR number changed to 91-1(5).

AR 92-1(3) *Mazza* v. *Secretary of Health and Human Services*, 903 F.2d 953 (3d Cir. 1990)—Order of Effectuation in Concurrent Application Cases (Title II/Title XVI).

Published: January 10, 1992, at 57 FR 1190 as AR 91-X(3).

Correction Notice Published: May 1, 1992, at 57 FR 18899—AR number changed to 92-1(3).

AR 92-2(6) *Difford* v. *Secretary of Health and Human Services*, 910 F.2d 1316 (6th Cir. 1990), *reh'g denied*, February 7, 1991—Scope of Review on Appeal in a Medical Cessation of Disability Case—Title II of the Social Security Act.

Published: March 17, 1992, at 57 FR 9262.

AR 92-3(4) *Branham* v. *Heckler*, 775 F.2d 1271 (4th Cir. 1985); *Flowers* v. *U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990)—What Constitutes a Significant Work-Related Limitation of Function.
Published: March 10, 1992, at 57 FR 8463.

AR 92-4(11) *Bloodsworth* v. *Heckler*, 703 F.2d 1233 (11th Cir. 1983)—Judicial Review of an Appeals Council Dismissal of a Request for Review of an Administrative Law Judge (ALJ) Decision.
Published: April 8, 1992, at 57 FR 11961.

AR 92-5(9) *Quinlivan* v. *Sullivan*, 916 F.2d 524 (9th Cir. 1990)—Meaning of the Term "Against Equity and Good Conscience" in the Rules for Waiver of Recovery of an Overpayment—Titles II and XVI of the Social Security Act; Title IV of the Federal Mine Safety and Health Act of 1977.
Published: June 22, 1992, at 57 FR 27783.

AR 92-6(10) *Walker* v. *Secretary of Health and Human Services*, 943 F.2d 1257 (10th Cir. 1991)—Entitlement to Trial Work Period Before Approval of an Award for Benefits and Before 12 Months Have Elapsed Since Onset of Disability—Titles II and XVI of the Social Security Act.
Published: September 17, 1992, at 57 FR 43007.

AR 92-7(9) *Ganzalez* v. *Sullivan*, 914 F.2d 1197 (9th Cir. 1990)—Effect of Initial Determination Notice Language on the Application of Administrative Finality—Titles II and XVI of the Social Security Act.
Published: September 30, 1992, at 57 FR 45061.

AR 93-1(4) *Branham* v. *Heckler*, 775 F.2d 1271 (4th Cir. 1985); *Flowers* v. *U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990)—What Constitutes a Significant Work-Related Limitation of Function.
Published: April 29, 1993, at 58 FR 25996.
Note: The original AR for the Fourth Circuit Court of Appeals' holding in *Branham* and *Flowers* (AR 92-3(4)), issued March 10, 1992, was revised to reflect a regulatory change regarding the IQ Listing range. There were no other substantive changes to this AR.

AR 93-2(2) *Conley* v. *Bowen*, 859 F.2d 261 (2d Cir. 1988)—Determination of Whether an Individual With a Disabling Impairment Has Engaged in Substantial Gainful Activity Following a Reentitlement Period—Title II of the Social Security Act.
Published: May 17, 1993, at 58 FR 28887.

AR 93-3(6) *Akers* v. *Secretary of Health and Human Services*, 966 F.2d 205 (6th Cir. 1992)—Attorney's Fees Based in Part on Continued Benefits Paid to Social Security Claimants—Title II of the Social Security Act.
Published: July 29, 1993, at 58 FR 40662.

AR 93-4(2) *Condon and Brodner* v. *Bowen*, 853 F.2d 66 (2d Cir. 1988)—Attorney's Fees Based in Part on Continued Benefits Paid to Social Security Claimants—Title II of the Social Security Act.
Published: July 29, 1993, at 58 FR 40663.

AR 93-5(11) *Shoemaker* v. *Bowen*, 853 F.2d 858 (11th Cir. 1988)—Attorney's Fees Based in Part on Continued Benefits Paid to Social Security Claimants—Title II of the Social Security Act.
Published: July 29, 1993, at 58 FR 40665.

AR 93-6(8) *Brewster on Behalf of Keller* v. *Sullivan*, 972 F.2d 898 (8th Cir. 1992)—Interpretation of the Secretary's Regulation Regarding Presumption of Death—Title II of the Social Security Act.
Published: August 16, 1993, at 58 FR 43369. Rescinded—See section on Rescissions in this notice.

AR 94-1(10) *Wolfe* v. *Sullivan*, 988 F.2d 1025 (10th Cir. 1993)—Contributions To Support re: Posthumous Illegitimate Child—Title II of the Social Security Act.
Published: June 27, 1994, at 59 FR 33003.

AR 94-2(4) *Lively* v. *Secretary of Health and Human Services*, 820 F.2d 1391 (4th Cir. 1987)—Effect of Prior Disability Findings on Adjudication of a Subsequent Disability Claim Arising Under the Same Title of the Social Security Act—Titles II and XVI of the Social Security Act.
Published: July 7, 1994, at 59 FR 34849.

AR 95-1(6) *Preslar* v. *Secretary of Health and Human Services*, 14 F.3d 1107 (6th Cir. 1994)—Definition of Highly Marketable Skills for Individuals Close to Retirement Age—Titles II and XVI of the Social Security Act.
Published: May 4, 1995, at 60 FR 22091.

AR 95-2(9) *Hodge* v. *Sholala*, 27 F.3d 430 (9th Cir. 1994)—Workers' Compensation—Proration of a Lump-Sum Award for Permanent Disability Over the Remainder of an Individual's Working Life Under Oregon Workers' Compensation Law—Title II of the Social Security Act.
Published: July 12, 1995, at 60 FR 35987.

Rescissions Without Replacement ARs

AR 86-1(9) *Summy* v. *Schweiker*, 688 F.2d 1233 (9th Cir. 1982)—Third party payments for medical care or services—Title XVI of the Social Security Act.
Notice of Rescission Published: July 5, 1994, at 59 FR 34444.

AR 86-6(3) *Aubrey* v. *Richardson*, 462 F.2d 782 (3d Cir. 1972); *Shelnutt* v. *Heckler*, 723 F.2d 1131 (3d Cir. 1983)—Interpretation of the Secretary's Regulation Regarding Presumption of Death.
Notice of Rescission Published: July 14, 1995, at 60 FR 36327.

AR 86-7(5) *Autrey* v. *Harris*, 639 F.2d 1233 (5th Cir. 1981); *Wages* v. *Schweiker*, 659 F.2d 59 (5th Cir. 1981)—Interpretation of the Secretary's Regulation Regarding Presumption of Death.
Notice of Rescission Published: July 14, 1995, at 60 FR 36327.

AR 86-8(6) *Johnson* v. *Califano*, 607 F.2d 1178 (6th Cir. 1979)—Interpretation of the Secretary's Regulation Regarding Presumption of Death.
Notice of Rescission Published: July 14, 1995, at 60 FR 36327.

AR 86-9(9) *Secretary of Health, Education and Welfare* v. *Meza*, 386 F.2d 389 (9th Cir. 1966); *Gardner* v. *Wilcox*, 370 F.2d 492 (9th Cir. 1966)—Interpretation of the Secretary's Regulation Regarding Presumption of Death.
Notice of Rescission Published: July 14, 1995, at 60 FR 36327.

AR 86-10(10) *Edwards* v. *Califano*, 619 F.2d 865 (10th Cir. 1980)—Interpretation of the Secretary's Regulation Regarding Presumption of Death.
Notice of Rescission Published: July 14, 1995, at 60 FR 36327.

AR 86-11(11) *Autrey* v. *Horris*, 639 F.2d 1233 (5th Cir. 1981)—Interpretation of the Secretary's Regulation Regarding Presumption of Death.
Notice of Rescission Published: July 14, 1995, at 60 FR 36327.

AR 87-1(6) *Webb* v. *Richardson*, 472 F.2d 529 (6th Cir. 1972)—Attorneys' Fees - Single Fee, Not to Exceed 25 Percent of Past-Due Benefits, Set by Tribunal Which Ultimately Upholds the Claim.
Notice of Rescission Published: March 3, 1995, at 60 FR 11977.

AR 87-3(9) *Hart* v. *Bowen*, 799 F.2d 567 (9th Cir. 1986)—Current Market Value of an Installment Sales Contract as an Excess Resource.
Notice of Rescission Published: February 9, 1995, at 60 FR 7782.

AR 87-5(3) *Velazquez* v. *Heckler*, 802 F.2d 680 (3d Cir. 1986)—Consideration of Vocational Factors in Past Work Determinations.
Notice of Rescission Published: July 16, 1990, at 55 FR 28943.

AR 88-5(1) *McCuin* v. *Secretary of Health and Human Services*, 817 F.2d 161 (1st Cir. 1987)—Reopening by the Appeals Council of Decisions of Administrative Law Judges under Titles II and XVI of the Social Security Act.
Notice of Rescission Published: February 23, 1994, at 59 FR 8650.

AR 88-7(5) *Hickman* v. *Bowen*, 803 F.2d 1377 (5th Cir. 1986)—Evaluation of Loans of In-Kind Support and Maintenance for Supplemental Security Income Benefit Calculation Purposes.
Notice of Rescission Published: September 8, 1992, at 57 FR 40918.

AR 90-1(9) *Paxton* v. *Secretary of Health and Human Services*, 856 F.2d 1352 (9th Cir. 1988)—Treatment of a Dependent's Portion of an Augmented Veterans Benefit Paid Directly To a Veteran—Title XVI of the Social Security Act.
Notice of Rescission Published: November 17, 1994, at 59 FR 59416.

AR 90-5(2) *Kier* v. *Sullivan*, 888 F.2d 244 (2d Cir. 1989), *reh'g denied*, January 22, 1990—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.
Notice of Rescission Published: May 22, 1991, at 56 FR 23592.

AR 90-6(1) *Cassas* v. *Secretary of Health and Human Services*, 893 F.2d 454 (1st Cir. 1990), *reh'g denied*, April 9, 1990—Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.
Notice of Rescission Published: May 22, 1991, at 56 FR 23591.

AR 90-7(9) *Ruff* v. *Sullivan*, 907 F.2d 915 (9th Cir. 1990)— Assessment of Residual Functional Capacity in Disabled Widows' Cases—Title II of the Social Security Act.
Notice of Rescission Published: May 22, 1991, at 56 FR 23592.

AR 93-6(8) *Brewster on Behalf of Keller* v. *Sullivan*, 972 F.2d 898 (8th Cir. 1992)—Interpretation of the Secretary's Regulation Regarding Presumption of Death.
Notice of Rescission Published: July 14, 1995, at 60 FR 36327.

[FR Doc. 96–3070 Filed 2–9–96; 8:45 am]
BILLING CODE 4190–29–F

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Title 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from CSX Transportation (CSXT), Burlington Northern Santa Fe and New York Air Brake Corporation (NYAB) requests for a waiver of compliance with a requirement of Federal rail safety standards. The petitions are described below, including the regulatory provisions involved and the nature of the relief being requested.

CSX Transportation (CSXT) Burlington Northern Santa Fe (BNSF) and New York Air Brake Corporation (NYAB) Waiver Petition Docket Number H–95–3

The CSXT, BNSF and NYAB individually seek waivers of compliance with certain provisions of the Locomotive Safety Regulations (Title 49 CFR Part 229). CSXT, BNSF and NYAB are each requesting a temporary waiver of compliance with § 229.29, for all of their locomotives equipped with the New York Air Break Company/Knorr Brake Corporation Computer Controlled Brake (CCB). This includes all locomotives currently built or on order plus any that may be ordered for delivery up to month 48 of the test period.

The National Railroad Passenger Corporation (Amtrak) has also petitioned the FRA for a similar waiver. This was published in the **Federal Register** on July 31, 1995 (Vol. 60, No. 146, Page 39069). Since the three petitions apply to the same type of brake equipment and for the same time interval, FRA is combining the three petitions under Docket Number H–95–3.

Section 229.29 stipulates that all brake valves must be cleaned, tested and inspected every 736 calendar days. On January 29, 1985, FRA published a notice granting approval for the 26–L type air brake equipment to be cleaned, inspected and tested every 1104 calendar days (Vol. 50, No. 19, Page 3910). The petition requests that the CCB brake valves be maintained on a 5-year test interval.

The CCB brake equipment combines certain pneumatic features of the 26L brake with microprocessor controls. The CCB pneumatic and electro-pneumatic devices rely on poppet valve and seat technology which has been proven in service in other Knorr brake equipment.

The CCB system consists of a console desk controller, an electronic control system unit and a pneumatic interface unit. The electronic control system unit contains the logic processor (computer), power supply, input/output interfaces, diagnostic program and brake operation programs. The desk console controller contains the standard automatic and independent brake operating handles. The console controller also contains a direct connection to brake pipe which is utilized for emergency brake applications. The pneumatic interface unit contains the connections to the standard train line and locomotive multiple unit pneumatic lines. The pneumatic unit contains all of the devices which are driven by the electronic control system to perform all functions currently carried out by the 26–L brake system.

The brake system includes advanced diagnostics and a self test program. The self test program is manually initiated and provides a test of all electronic and pneumatic interface functions. Any faults detected are displayed on the system unit. In-service faults are detected and stored in nonvolatile memory. The railroad states that safety is enhanced by the CCB Equipment in (1) Constant vigilance for deviation from performance by the microcomputer, (2) the control of faults to a known safe condition, and (3) the capability of warning the operator of a fault condition. These features are not available in the existing 26–L Brake Equipment. Life of all components are rated in excess of 5-years.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify ERA, in writing, before and end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number H–95–3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, ERA, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of publication of this notice will be considered by FRA before final action action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201,

Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC, on February 7, 1996.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 96–3005 Filed 2–9–96; 8:45 am]

BILLING CODE 4190–06–M

National Highway Traffic Safety Administration

Research and Development Programs Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will describe and discuss specific research and development projects. Further, the notice requests suggestions for topics to be presented by the agency.

DATES AND TIMES: The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on March 12, 1996, beginning at 1:30 p.m. and ending at approximately 5 p.m. The deadline for interested parties to suggest agenda topics is 4:15 p.m. on February 22, 1996. Questions may be submitted in advance regarding the agency's research and development projects. They must be submitted in writing by March 4, 1996, to the address given below. If sufficient time is available, questions received after the March 4 date will be answered at the meeting in the discussion period. The individual, group, or company asking a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by March 4 will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at the Royce Hotel-Detroit Metro Airport, 31500 Wick Road, Romulus, Michigan 48174. Suggestions for specific R&D topics as described below and questions for the March 12, 1996, meeting relating to the agency's research and development programs should be submitted to the Office of the Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh St., SW., Washington, DC 20590. The fax number is 202–366–5930.

SUPPLEMENTARY INFORMATION: NHTSA intends to provide detailed presentations about its research and development programs in a series of public meetings. The series started in April 1993. The purpose is to make available more complete and timely information regarding the agency's research and development programs. This twelfth meeting in the series will be held on March 12, 1996.

NHTSA requests suggestions from interested parties on the specific agenda topics to be presented. NHTSA will base its decisions about the agenda, in part, on the suggestions it receives by close of business at 4:15 p.m. on February 22, 1996. Before the meeting, it will publish a notice with an agenda listing the research and development topics to be discussed. The agenda can also be obtained by calling or faxing the information numbers listed elsewhere in this notice. NHTSA asks that the suggestions be limited to six, in priority order, so that the presentations at the March 12 R&D meeting can be most useful to the audience. Specific R&D topics are listed below. Many of these topics have been discussed at previous meetings. Suggestions for agenda topics are not restricted to this listing, and interested parties are invited to suggest other R&D topics of specific interest to their organizations.

Specific R&D topic is:
- On-line tracking system for NHTSA's research projects.

Specific Crashworthiness R&D topics are:
- Improved frontal crash protection (program status, problem identification, offset testing),
- Advanced glazing research,
- Vehicle aggressivity and fleet compatibility,
- Upgrade side crash protection,
- Upgrade seat and occupant restraint systems,
- Child safety research (ISOFIX),
- Child restraint/air bag interaction (CRABI) dummy testing,
- Electric and alternate fuel vehicle safety,
- Truck crashworthiness/occupant protection,
- Highway traffic injury studies,
- Head and neck injury research,
- Lower extremity injury research,
- Thorax injury research,
- Human injury simulation and analysis,
- Refinements to the Hybrid III dummy, and
- Crash test dummy component development.

Specific Crash Avoidance R&D topics are:
- Truck tire traction,
- Portable data acquisition system for crash avoidance research (DASCAR),
- Systems to enhance EMS response (automatic collision notification),
- Vehicle motion environment data collection system,
- Crash causal analysis,
- Human factors guidelines for crash avoidance warning devices,
- Longer combination vehicle safety,
- Drowsy driver monitoring,
- Driver workload assessment,
- Pedestrian detection devices for school bus safety,
- Performance guidelines for ITS systems (approach),
- Variable dynamics test vehicle,
- Engineering description of precrash events,
- Preliminary rearend collision avoidance system guidelines,
- Preliminary road departure collision avoidance system guidelines,
- Preliminary intersection collision avoidance system guidelines, and
- Preliminary lane change/merge collision avoidance system guidelines.

Specific National Center for Statistics and Analysis topic is:
- Status and plans for calendar year 1996 for the National Accident Sampling System Crashworthiness Data System (NASS CDS).

Separately, questions regarding research projects that have been submitted in writing not later than close of business on March 4, 1996, will be answered. A transcript of the meeting, copies of materials handed out at the meeting, and copies of the suggestions offered by commenters will be available for public inspection in the NHTSA's Technical Reference Division, Room 5108, 400 Seventh St., SW., Washington, DC 20590. Copies of the transcript will then be available at 10 cents a page, upon request to NHTSA's Technical Reference Division. The Technical Reference Division is open to the public from 9:30 a.m. to 4 p.m.

NHTSA will provide technical aids to participants as necessary, during the Research and Development Programs Meeting. Thus, any person desiring the assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Rita Gibbons on 202–366–4862 by close of business March 6, 1996.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–4862. Fax number: 202–366–5930

Issued: February 7, 1996.

William A. Boehly,

Associate Administrator for Research and Development.

[FR Doc. 96–3006 Filed 2–9–96; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board [1]

[Finance Docket No. 32846]

Soo Line Railroad Company—Trackage Rights Exemption—CMC Heartland Partners

CMC Heartland Partners (CMC) has agreed to grant local and overhead trackage rights to Soo Line Railroad Company (Soo) over approximately 2.10 miles of its rail line between milepost 96.76 near Richards Street and milepost 97.07 at the Western edge of North Booth Street (near East Locust Street), including the trackage known as the Snake Line, in Milwaukee County, WI. Under the trackage rights agreement, Soo will obtain the right to continue operations over CMC's track in Milwaukee, WI. The trackage rights were scheduled to become effective on January 4, 1996.[2]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) [formerly 10505(d)] may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, D.C. 20423 and served on: Larry Starns, 1000 Soo Line Building, 105 South Fifth Street, P.O. Box 530, Minneapolis, MN 55402.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: February 6, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–3040 Filed 2–9–96; 8:45 am]

BILLING CODE 4915–00–P

[Finance Docket No. 32847]

Soo Line Railroad Company—Trackage Rights Exemption—CMC Heartland Partners

CMC Heartland Partners (CMC) has agreed to grant local and overhead trackage rights to Soo Line Railroad Company (Soo) over approximately 1.04 miles of its rail line between milepost 3.50, near Diversey Parkway, and milepost 2.57, near Clybourn Avenue, in Cook County, IL.

Under the trackage rights agreement, Soo will obtain the right to continue to operate its trains over CMC's track in Chicago, IL. The trackage rights were scheduled to become effective on January 4, 1996, the effective date of the exemption.[2]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) [formerly 10505(d)] may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Larry D. Starns, 1000 Soo Line Building, 105 South Fifth Street, P.O. Box 530, Minneapolis, MN 55402.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: February 6, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–3041 Filed 2–9–96; 8:45 am]

BILLING CODE 4915–00–P

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[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323. Therefore, this notice applies the law in effect prior to the Act.

[2] The line segment is one of the lines of railroad owned and operated by the Chicago, Milwaukee, St. Paul & Pacific Railroad Company (Milwaukee Road). CMC subsequently became the corporate successor of the reorganized debtor order in *The Milwaukee Road, Inc. Authorized to Use Tracks And/Or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilive, Trustee)*, Service Order No. 1500 (ICC served Jan. 17, 1986), although an ongoing dispute existed between CMC and Soo as to the amount of compensation owed by Soo for use or possible purchase of the line. On July 20, 1995, the United States District Court for the Northern District of Illinois, Eastern Division ordered Soo and CMC to enter into a contractual relationship to resolve the dispute and established the values which are reflected in the trackage rights agreement dated November 20, 1995.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323. Therefore, this notice applies the law in effect prior to the Act.

[2] On January 3, 1996, the United Transportation Union (UTU) filed a petition requesting that the verified notice filed by Soo on December 28, 1995, be rejected, alleging that CMC is a noncarrier, and, therefore, does not qualify for the class exemption under 49 CFR 1180.2(d)(7). Soo replied on January 30, 1996.

CMC is the corporate successor of the reorganized debtor railroad, Chicago, Milwaukee, St. Paul and Pacific Railroad Company (the Milwaukee). By the Asset Purchase Agreement of April 6, 1984, Soo acquired from CMC most of the operating property and core assets of the Milwaukee; but CMC retained this line segment. At the time, abandonment proceedings initiated by the Trustee were pending in the United States District Court for the Northern District of Illinois, Eastern Division (Court). Soo continued to operate the line under a service order in *The Milwaukee Road, Inc. Authorized to Use Tracks And/Or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilive, Trustee)*, Service Order No. 1500 (ICC served Jan. 17, 1986), although an ongoing dispute existed between CMC and Soo as to the compensation owed Soo for use or possible purchase of the line. On July 20, 1995, the Court ordered Soo and CMC to enter into a contractual relationship to resolve the dispute and established the values for compensation and billing.

Soo states that the Court in its various decisions has uniformly referred to the rights acquired by Soo as trackage rights. It also states that CMC's filing of abandonment applications with respect to lines of railroad which were not conveyed to Soo under the asset purchase agreement, the Interstate Commerce Commission's actions in these proceedings, and UTU's objections to those abandonments demonstrate that all parties have consistently recognized that CMC's rail property is subject to the regulatory mandate established by Subtitle IV of Title 49 of the United States Code and subject to regulatory oversight with respect to railroad line abandonments.

In this case, Soo's trackage rights, which will permit Soo's operation over CMC's rail property, are properly filed under the class exemption procedures under 49 CFR 1180.2(d)(7). Therefore, UTU's petition to reject the notice is denied.

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 6, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0068.
Form Number: CF–28.
Type of Review: Extension.
Title: Request for Information.
Description: The CF–28, "Request for Information", is used to request additional information from importers if sufficient information is not provided on the invoice or entry documentation for Customs to carry out their responsibilities.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 60,000.
Estimated Burden Hours Per Respondent: 33 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 40,480 hours.
Clearance Officer: Norman Waits (202) 927–1551, U.S. Customs Service, Printing and Records Management Branch, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmentol Reports Management Officer.
[FR Doc. 96–2992 Filed 2–9–96; 8:45 am]
BILLING CODE 4820–02–P

Public Information Collection Requirements Submitted to OMB for Review

February 6, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1477.
Regulation ID Number: EE–34–95 NPRM and Temporary.
Type of Review: Extension.
Title: Notice of Significant Reduction in the Rate of Future Benefit Accrual.
Description: In order to protect the rights of participants in qualified pension plans, plan administrators must provide notice to plan participants and other parties, if the plan is amended in a particular manner. No government agency receives the information.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 3,000.
Estimated Burden Hours Per Respondent: 5 hours.
Frequency of Response: Other (once).
Estimated Total Reporting Burden: 15,000 hours.
OMB Number: 1545–1478.
Regulation ID Number: INTL–9–95 NPRM and Temporary.
Type of Review: Extension.
Title: Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations.
Description: Transfers of stock or securities by U.S. persons in tax-free transactions are treated as taxable transactions when the acquirer is a foreign corporation, unless an exception applies (section 367(a)). Under the new regulations, no U.S. person will qualify for an exception unless the U.S. target company complies with certain reporting requirements.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 100.
Estimated Burden Hours Per Respondent: 10 hours.
Frequency of Response: Other (once).
Estimated Total Reporting Burden: 1,000 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 96–2991 Filed 2–9–96; 8:45 am]
BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

February 5, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0078.
Form Number: ATF F 1533 (5000.18).
Type of Review: Extension.
Title: Consent of Surety.
Description: A consent of surety is executed by both the bonding company and a proprietor and acts as a binding legal agreement between the two parties to extend the terms of a bond. A bond is necessary to cover specific liabilities on the revenue produced from untaxpaid commodities. The consent of surety is filed with ATF and a copy is retained by ATF as long as it remains current and in force.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 2,000.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion and Other (with application and permit change).
Estimated Total Reporting Burden: 2,000 hours.
OMB Number: 1512–0100.
Form Number: ATF F 1740.1 and ATF F 1740.2.
Type of Review: Extension.
Title: Environment Information (ATF F 1740.1); and Supplemental Information on Water Quality Considerations Under 33 U.S.C. 1341(a).
Description: ATF F 1740.1 and 1740.2 implement regulations of the Clean Water Act and the National Environmental Policy Act (NEPA). The NEPA authorizes ATF through ATF F 1740.1 to require a license or permit application to state the location of existing or proposed activities concerned with land, air pollution, water and activities related to ATF.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 8,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4,400 hours.
OMB Number: 1512–0216.
Form Number: ATF F 5120.17.
Type of Review: Extension.
Title: Report of Wine Premises Operations.
Description: Report is used to monitor wine operations, insure collection of wine tax revenue, and insure wine is produced in accordance with law and regulations. Report also provides raw data for ATF's monthly statistical release on wine.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1,722.
Estimated Burden Hours Per Respondent: 1 hour, 6 minutes.
Frequency of Response: Monthly and Annually.
Estimated Total Reporting Burden: 10,364 hours.
OMB Number: 1512–0220.
Form Number: ATF F 5170.4.
Type of Review: Extension.
Title: Application for Importer's and/or Wholesaler's Basic Permit Under Federal Alcohol Administration Act.
Description: Form 5170.4 is completed by persons intending to engage in the business of importing and/or wholesaling alcoholic beverages. The information provided allows ATF to identify the applicant and the location of the business and to determine whether the applicant qualifies for a basic permit under the Federal Alcohol Administration Act.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 1,300.
Estimated Burden Hours Per Respondent: 3 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 3,900 hours.
OMB Number: 1512–0418.
Form Number: ATF F 5000.12.
Type of Review: Extension.
Title: Application for Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms.
Description: Application to practice before the Bureau of Alcohol, Tobacco and Firearms is necessary so that the Bureau may evaluate the qualification of applicants in order to assure only competent, reputable persons are authorized to represent claimants.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 8.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Other (initial application and renewal every 5 years).
Estimated Total Reporting Burden: 2 hours.
Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 96–2990 Filed 2–9–96; 8:45 am]
BILLING CODE 4810–31–P

[Treasury Order Number 105–13]

Temporary Arrangements for Functions Relating to Enforcement, Authority Delegation

Pursuant to the authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b), and notwithstanding Treasury Order (TO) 101–05 (dated May 4, 1995), it is ordered that the following arrangements shall be temporarily in effect with respect to enforcement functions.

1. All duties and powers formerly carried out by the Under Secretary (Enforcement) shall be carried out by the Deputy Assistant Secretary (Law Enforcement).

2. Those officials subject to the supervision of the Under Secretary (Enforcement) or Assistant Secretary (Enforcement) pursuant to TO 101–05, shall report to the Deputy Assistant Secretary (Law Enforcement).

3. The Deputy Assistant Secretary (Law Enforcement) shall report to the Deputy Secretary.

4. *Redelegation.* The duties and powers assigned by this Order may be redelegated. Any such redelegation shall be in writing.

5. *Effective Date.* The foregoing arrangements shall be effective at the close of business, February 5, 1996.

6. *Cancellation.* This temporary Order shall terminate without any further action when a new Under Secretary (Enforcement) or Assistant Secretary (Enforcement) executes the oath of office, whichever may occur first.

Dated: February 5, 1996.

Robert E. Rubin,
Secretory of the Treasury.
[FR Doc. 96–2989 Filed 2–9–96; 8:45 am]
BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that the Executive Committee, Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will meet March 14–15, 1996, at the Disabled American Veterans National Service and Legislative Headquarters, 807 Maine Avenue, SW., Washington, DC. The Meeting is scheduled from 8 a.m.–4:30 p.m. on March 14 and from 8 a.m.–12 p.m. on March 15.

The NAC consists of fifty six national organizations and advises the Under Secretary for Health and other members of the Department of Veterans Affairs Central Office staff on how to coordinate and promote volunteer activities within VA facilities. The Executive Committee consists of nineteen representatives from the NAC member organizations and acts as the NAC governing body in the interim period between NAC Annual Meetings. Business topics for the Executive Committee meeting include: VAVS program progress ince the 1995 NAC Annual Meeting; 1996 and 1997 NAC Annual Meeting planning, process recommendations pending NAC approval at the 1996 Annual Meeting; VAVS 50th anniversary commemoration planning; and subcommittee reports.

The meeting is open to the public. Individuals interested in attending are encouraged to contract Mr. Jim Mayer, Administrative Officer, Voluntary Service Office (162), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–7405.

Dated: February 1, 1996.

By Direction of the Secretary.

Heyward Bannister,
Committee Management Officer.
[FR Doc. 96–2949 Filed 2–9–96; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 61, No. 29

Monday, February 12, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m. Thursday, February 15, 1996.

PLACE: Marriner S Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets. N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 8, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96-3121 Filed 2-8-96; 10:38 am]

BILLING CODE 6210-01-P

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

DATE AND TIME: February 14, 1996 10 a.m.

PLACE: 888 First Street, NE., Room 2C, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary. Telephone (202) 208-0400. For a recording listing items stricken from or added to the meeting, call (202) 208-1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 646th Meeting—February 14, 1996, Regular Meeting (10:00 a.m.)

CAH-1.
Docket# P-401, 016, Indiana Michigan Power Company
CAH-2.
Docket# P-2287, 005, Public Service Company of New Hampshire
Other#S P-2288, 006, Public Service Company of New Hampshire
P-2300, 005, James River-New Hampshire Electric, Inc.
P-2311, 005, James River-New Hampshire Electric, Inc.
P-2326, 005, James River-New Hampshire Electric, Inc.
P-2327, 006, James River-New Hampshire Electric, Inc.
P-2422, 007, James River-New Hampshire Electric, Inc.
CAH-3.
Docket# P-5772, 004, City of Augusta, Georgia
Other#S P-746, 000, City of Augusta, Georgia
CAH-4.
Docket# P-349, 030, Alabama Power Company
CAH-5.
Docket# P-11430, 000, Northern Wasco County People's Utility District
Other#S P-11462, 000, Public Utility District No. 1 Klickitat County, Washington

Consent Agenda—Electric

CAE-1.
Docket# ER95-1258, 000, Idaho Power Company
CAE-2.
Docket# ER96-333, 000, Portland General Electric Company
CAE-3.
Docket# ER96-705, 000, Southern Indiana Gas & Electric Company
CAE-4.
Docket# ER95-1474, 000, Wisconsin Electric Power Company
Other#S EL95-61, 000, Wisconsin Electric Power Company
ER94-1625, 000, Wisconsin Electric Power Company
ER95-264, 000, Wisconsin Electric Power Company
ER95-1084, 000, Wisconsin Electric Power Company
CAE-5.
Omitted
CAE-6.
Docket# ER93-540, 000, American Electric Power Service Corporation
CAE-7.
Docket# ER94-1090, 000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
Other#S ER94-1113, 000, Northern States Power Company (Minnesota) and Northern States Power Company. (Wisconsin)
ER94-1402, 000, Cenergy, Inc.
CAE-8.
Omitted
CAE-9.
Docket# ER94-475, 006, Wisconsin Power and Light Company
Other#S EL96-29, 000, Wisconsin Power and Light Company
ER94-108, 006, Wisconsin Power and Light Company
ER95-1510, 001, Wisconsin Power and Light Company
CAE-10.
Docket# ER95-1468, 001, Southern Company Services, Inc.
Other#S ER95-976, 001, Southern Energy Marketing, Inc.
CAE-11.
Docket# EL96-7, 000, Puget Sound Power & Light Company
CAE-12.
Docket# EL95-42, 000, Black Hills Corporation V. Pacificorp
CAE-13.
Docket# EL95-46, 000, Laidlaw Gas Recovery Systems, Inc. and Coyote Canyon Landfill Gas Power Plant
Other#S QF88-389, 001, Laidlaw Gas Recovery Systems, Inc. and Coyote Canyon Landfill Gas Power Plant

Consent Agenda—Gas and Oil

CAG-1.
Docket# RP95-396, 003, Tennessee Gas Pipeline Company
Other#S RP95-396, 004, Tennessee Gas Pipeline Company
RP95-396, 005, Tennessee Gas Pipeline Company
RP95-396, 006, Tennessee Gas Pipeline Company
CAG-2.
Docket# RP96-118, 000, Eastern Shore Natural Gas Company
CAG-3.
Omitted
CAG-4.
Docket# RP89-161, 034, ANR Pipeline Company
CAG-5.
Docket# RP95-197, 005, Transcontinental Gas Pipe Line Corporation
CAG-6.
Docket# RP95-408, 000, Columbia Gas Transmission Corporation
CAG-7.
Docket# RP96-4, 001, Transcontinental Gas Pipe Line Corporation
CAG-8.
Docket# RP96-17, 000, Florida Gas Transmission Company
CAG-9.
Docket# RP85-181, 010, Texas Gas Transmission Corporation
CAG-10.
Docket# RP95-447, 000, Williams Natural Gas Company
CAG-11.
Docket#S RP90-137, 024, Williston Basin Interstate Pipeline Company
Other#S RP90-137, 027, Williston Basin Interstate Pipeline Company
RP90-137, 029, Williston Basin Interstate Pipeline Company
TM95-3-49, 003, Williston Basin Interstate Pipeline Company
CAG-12.
Docket# RP94-220, 010, Northwest Pipeline Corporation
CAG-13.
Docket# RP95-447, 001, Williams Natural Gas Company
Other#S RP89-183, 059, Williams Natural Gas Company
CAG-14.
Docket# RP95-31, 009, National Fuel Gas Supply Corporation
Other#S CP95-50, 000, National Fuel Gas Supply Corporation
CP95-324, 000, National Fuel Gas Supply Corporation
CP95-578, 000, National Fuel Gas Supply Corporation
CP95-727, 000, National Fuel Gas Supply Corporation
CP95-787, 000, National Fuel Gas Supply Corporation
RP94-367, 000, National Fuel Gas Supply Corporation
RP94-367, 002, National Fuel Gas Supply Corporation
RP95-31, 008, National Fuel Gas Supply Corporation
RP95-31, 010, National Fuel Gas Supply Corporation
RP95-298, 001, National Fuel Gas Supply Corporation
RP95-360, 000, National Fuel Customer Group and Elizabethtown Gas Co. et al., v. National Fuel Gas Supply Corporation
CAG-15.
Docket# PR94-8, 000, Louisiana Intrastate Gas Company L.L.C.
Other#S PR91-12, 000, Louisiana Intrastate Gas Company L.L.C.
PR92-7, 000, Louisiana Intrastate Gas Company L.L.C.
PR94-8, 001, Louisiana Intrastate Gas Company L.L.C.
PR94-8, 002, Louisiana Intrastate Gas Company L.L.C.
ST88-2555, 006, Louisiana Intrastate Gas Company L.L.C.
ST88-2905, 002, Louisiana Intrastate Gas Company L.L.C.
ST88-3337, 002, Louisiana Intrastate Gas Company L.L.C.
ST88-4985, 001, Louisiana Intrastate Gas Company L.L.C.
ST89-229, 001, Louisiana Intrastate Gas Company L.L.C.
ST89-1708, 003, Louisiana Intrastate Gas Company L.L.C.
ST89-1775, 002, Louisiana Intrastate Gas Company L.L.C.
CAG-16.
Docket# RP94-423, 003, Texas Gas Transmission Corporation et al.
CAG-17.
Docket# RP95-454, 001, Transwestern Pipeline Company
CAG-18.
Docket# FA94-15, 000, Florida Gas Transmission Company
CAG-19.
Docket# RP95-364, 004, Williston Basin Interstate Pipeline Company
CAG-20.
Omitted
CAG-21.
Docket# RP95-185, 010, Northern Natural Gas Company
CAG-22.
Docket# IS95-24, 001, Kaneb Pipe Line Operating Partnership, L.P.
Other#S IS95-24, 000, Kaneb Pipe Line Operating Partnership, L.P.
CAG-23.
Docket# RP95-143, 002, Northwest Pipeline Corporation
CAG-24.
Docket# RP94-425, 006, Tennessee Gas Pipeline Company
CAG-25.
Docket# OR95-5, 001, Mobil Oil Corporation v. SFPP, L.P.
Other#S OR92-8, 006, SFPP, L.P.
OR94-4, 003, SFPP, L.P.
CAG-26.
Docket# RP94-294, 006, Panhandle Eastern Pipe Line Company
CAG-27.
Docket# RP91-203, 059, Tennessee Gas Pipeline Company
Other#S RP92-132, 046, Tennessee Gas Pipeline Company
CAG-28.
Docket# IS94-4, 000, All American Pipeline Company
Other#S IS95-3, 000, All American Pipeline Company
IS95-9, 000, All American Pipeline Company
CAG-29.
Docket# MG96-5, 000, Crossroads Pipeline Company
CAG-30.
Docket# MG96-2, 000, Sea Robin Pipeline Company
CAG-31.
Docket# CP91-1910, 001, Southwestern Public Service Company v. Red River Pipeline
CAG-32.
Docket# CP95-177, 001, Burton McDaniel, M.D. v. East Tennessee Natural Gas Company
CAG-33.
Omitted
CAG-34.
Docket# CP95-611, 000, Northern Natural Gas Company
Other#S CP95-611, 001, Northern Natural Gas Company
CAG-35.
Docket# CP95-737, 000, Texas Eastern Transmission Corporation and Transcontinental Gas Pipe Line Corporation
CAG-36.
Docket# CP95-375, 000, Great Lakes Gas Transmission Limited Partnership
CAG-37.
Omitted
CAG-38.
Docket# CP95-12, 000, Williams Gas Processing-Kansas Hugoton Company
Other#S CP95-11, 000, Williams Natural Gas Company
CP95-11, 001, Williams Natural Gas Company
CP95-11, 002, Williams Natural Gas Company
CP95-12, 001, Williams Gas Processing-Kansas Hugoton Company
CAG-39.
Docket# CP95-239, 000, Interenergy Corporation
Other#S CP95-235, 000, Williston Basin Interstate Pipeline Company
CP95-236, 000, Williston Basin Interstate Pipeline Company
CAG-40.
Omitted
CAG-41.
Docket# RP96-115, 000, CNG Transmission Corporation
CAG-42.
Docket# RP96-122, 000, CNG Transmission Corporation
CAG-43.
Docket# RP96-125, 000, ANR Pipeline Company
CAG-44.
Docket# RP96-117, 000, Texas Eastern Transmission Corporation
CAG-45.
Docket# RP95-88, 004, Tennessee Gas Pipeline Company

Hydro Agenda

H-1.
Reserved

Electric Agenda

E-1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.
Reserved

II. Pipeline Certificate Matters

PC-1.
Reserved

Dated: February 7, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96-3163 Filed 2-8-96; 2:27 pm]

BILLING CODE 6717-01-P

UNITED STATES ENRICHMENT CORPORATION

Board of Directors

TIME AND DATE: 10:15 a.m., Tuesday, February 13, 1996.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

- Review of commercial and financial issues of the Corporation. (This meeting will encompass new business as well as business items that were originally scheduled for the

January 9, 1996 meeting which was canceled due to inclement weather.)

CONTACT PERSON FOR MORE INFORMATION:
Barbara Arnold 301–564–3354.

Dated: February 7, 1996.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 96–3107 Filed 2–7–96; 4:23 am]

BILLING CODE 8720–01–M

Corrections

Federal Register
Vol. 61, No. 29
Monday, February 12, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

Third Annual National Security Education Program (NSEP) Institutional Grants Competition

Correction

In notice document 96–231 appearing on page 643 in the issue of Tuesday, January 9, 1996, make the following correction:

In the second column, under the heading **FOR FURTHER INFORMATION CONTACT**, the seventh line should read "collier@nsep.policy.osd.mil.".

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 1417-001 and 1835-013]

Central Nebraska Public Power and Irrigation District and Nebraska Public Power District; Notice of Public Briefing

Correction

In notice document 95–1809, appearing on page 3394, in the issue of Wednesday, January 31, 1996, the project numbers were inadvertently omitted and should appear as set forth above.

BILLING CODE 1505–01–D

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 95-3]

Registrability of Pictorial, Graphic, or Sculptural Works Where a Design Patent Has Been Issued

Correction

Rule document 95–7363 beginning on page 15605 in the issue of Friday, March 24, 1995, was inadvertently published in the Notices section. It should have appeared in the Rules section.

BILLING CODE 1505–01–D

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Federal Register

Monday
February 12, 1996

Part II

Department of the Interior

Minerals Management Service

30 CFR Parts 202 and 206
Revision of Valuation Regulations Governing Oil and Gas Transportation and Processing Allowances, and Coal Washing and Transportation Allowances; Final Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202 and 206

RIN 1010–AC00

Revision of Valuation Regulations Governing Oil and Gas Transportation and Processing Allowances, and Coal Washing and Transportation Allowances

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: The Royalty Management Program (RMP) of the Minerals Management Service (MMS) is amending its valuation regulations for oil and gas transportation and processing allowances for production from Federal leases. It also is amending the regulations for coal washing and transportation allowances for production from Federal leases. The principal change is to eliminate allowance forms filing for Federal mineral leases. These changes will affect Federal oil and gas and coal leases only. The rule will not change the existing regulations applicable to Indian leases at this time.

EFFECTIVE DATE: March 1, 1996.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Procedures Staff, at (303) 231–3432.

SUPPLEMENTARY INFORMATION: The principal authors of this final rule are Thomas K. Brozovich, Financial Compliance Branch, Compliance Verification Division, and Harold E. Corley, Solid Minerals Valuation Branch, Valuation and Standards Division, RMP, MMS, Lakewood, Colorado.

This rule is effective March 1, 1996, because mineral royalties are reported monthly, and a reporting change in the middle of the month would complicate reporting for both industry and MMS. The earlier effective date of March 1 is also preferable because the rule reduces the administrative reporting for the minerals industry for production from Federal mineral leases.

I. Background

This final rule consolidates two proposed rules. In the Notices of Proposed Rulemaking, MMS explained the process by which it administers the allowance form filing requirements and asked for input on several related issues (60 FR 40120, August 7, 1995, and 60 FR 40127, August 7, 1995). The current valuation regulations for oil, gas, and coal require that certain forms be filed as a prerequisite to the deduction of allowances on Form MMS–2014, Report of Sales and Royalty Remittance for transportation, processing, and washing costs. Failure to timely file required forms can result in significant consequences, including loss of the allowance. An Allowance Study Group examined this issue at length in 1993 and made certain recommendations to improve allowance administration. Proposed rules incorporating the Allowance Study Group's recommendations were published in the **Federal Register** on August 7, 1995.

The purpose of these final regulations is to revise the oil and gas allowance regulations for production from Federal leases which became effective March 1, 1988, and the coal allowance regulations for production from Federal leases which became effective March 1, 1989.

As explained further below, MMS is not making any changes at this time to the regulations applicable for Indian leases. Instead, we will keep the rulemaking regarding Indian leases open and will issue amended regulations in the near future.

II. Comments on Proposed Rules

The proposed rulemakings provided for a 60-day public comment period, which ended October 6, 1995, and, was extended to October 20, 1995, by a subsequent notice (60 FR 51963, October 4, 1995).

The Allowance Study Group and others within MMS identified issues for which opinions were sought from interested parties during the comment period. Specifically, the issues addressed:

a. The need for and usefulness of the current regulatory requirement for allowance forms submission, including the information on each form.

b. The need for and equity of allowance payback and late payment interest charges for failure to file forms.

c. The need for regulatory approval thresholds or limits on the amount of allowances which could be claimed without gaining permission.

d. The need to establish an assessment when payors improperly net their allowances when reporting on Form MMS–2014.

e. The need to eliminate the current treatment of transportation factors in arm's-length contracts as reductions in value.

f. The need to assess payors for exceeding allowance limits in certain circumstances prior to receiving MMS approval.

g. The need to assess payors for erroneously reporting information on allowance forms.

Twenty commenters submitted timely comments during the comment period. Two additional commenters submitted late comments that were received on October 24, 1995. Twenty of the comments were from industry while two were from representatives of Indian lessors.

Comments from industry overwhelmingly suggested that we cease using allowance forms as a means to track allowances while comments from the Indian community supported the need to be able to track and verify allowances.

When the original allowance regulations were implemented in 1988, MMS was not contemporaneous with its audit efforts and forms were needed to properly track allowances. However, we are now keeping contemporaneous with our audits and have a reduced need for such forms. Also, the Federal Gas Valuation Negotiated Rulemaking Committee recommended, among other things, in its March 1995 report, that MMS discontinue requiring transportation and processing allowance form filings for gas production. The Indian Gas Valuation Negotiated Rulemaking Committee is still discussing options. Accordingly, MMS has decided to adopt this final rule to change allowance regulations for Federal leases only at this time and to leave the rulemaking open for allowance regulations for Indian leases. The existing regulations are redesignated for Indian leases and are changed to remove references to Federal leases.

Having different allowance rules for Federal leases than for Indian leases requires completely separate valuation regulations. Therefore, the current subparts are redesignated as Subpart C—Federal Oil, Subpart D—Federal Gas, and Subpart F—Federal Coal, and references to Indian leases are removed. The new designation for Indian valuation regulations which will be unchanged from the existing regulations, will be Part 206—Product Valuation, Subpart B—Indian Oil, Subpart E—Indian Gas, and Subpart J—Indian Coal.

General Comments

Most of the commenters stated that we should not implement the proposed rule, but that we should improve it and, in fact, go several steps beyond the proposal.

Response. MMS has determined, except for requirements on Indian leases, that the commenters pose strong arguments for further streamlining the regulations for allowance form filing requirements. Accordingly, we have changed the regulations for Federal leases to implement many of the suggestions. However, the current regulations remain intact for Indian leases, pending further evaluation and decisions.

Specific Comments

(a) Almost every industry commenter suggested that MMS adopt the recommendation of The Federal Gas Negotiated Rulemaking Committee to cease requiring allowance form filings for natural gas. The commenters also suggested we cease requiring such forms for oil and coal as well as gas.

Response. MMS agrees with the industry commenters on this issue and has incorporated their suggestions for Federal leases.

(b) Many of the industry commenters correctly stated that discontinuing the forms filing requirement will make the issue of payback bills and late payment interest moot.

Response. MMS agrees with this conclusion and has deleted such consequences for violations on Federal leases.

(c) No comments were received on the issue of requiring approval to exceed established oil and gas allowance limits.

Response. MMS believes that allowances should have established limits which cannot be unilaterally exceeded. However, we also understand that, occasionally, circumstances are such that the cost of transporting or processing may exceed the allowable percentage limits. Therefore, we are keeping the established limits which have been effective since March 1, 1988.

(d) Most commenters said that an assessment for improperly netting allowances on the Form MMS–2014 was not necessary because payors do not purposely report in that manner. Further, they stated that such exceptions should be addressed on a case-by-case basis.

Response. MMS believes it is necessary to have a deterrent for improper reporting, especially netting allowances. We recognize that some reporting may be inadvertent, and therefore, have implemented an assessment provision which allows us to bill *up to 10 percent* of the allowance reported as a netted amount but not to exceed $250 per lease selling arrangement per sales period. This provision gives us the flexibility to work with the payor who has infrequently or never netted its allowances while being able to more aggressively address the situation with the payor who chronically nets allowances.

(e) Many commenters recommended that MMS retain the oil and gas transportation factors in arm's-length contracts to ease the buying, selling, and reporting burden.

Response. MMS agrees that transportation factors should remain as a viable industry mechanism for buying and selling even though some problems differentiating factors from allowances existed in the past. Therefore we have retained transportation factors for arm's-length contracts.

(f) Few commenters responded on the need to assess payors for exceeding oil and gas allowance limits prior to receiving MMS approval.

Response. MMS believes that exceeding established allowance limits without prior MMS approval unjustly benefits industry and penalizes the Federal Government. Accordingly, we have adopted an assessment, based on an interest calculation methodology, presented in 30 CFR 218.54 to bill companies which exceed established allowance limits without prior MMS approval.

(g) Few commenters responded to the proposal to assess payors for erroneous reporting and other violations. Those who did held the general opinion that MMS has enough assessments to encourage correct reporting and such violations should be handled on a case-by-case basis.

Response. MMS agrees with the commenters. We have enough assessments in many areas to encourage correct reporting the first time. Therefore, only the additional limited assessments for netting and exceeding allowance limits heretofore discussed will be implemented in this rulemaking.

For the reasons discussed above, MMS is amending its valuation regulations to have new allowance requirements for oil, gas, and coal production from Federal lands. Allowance form filing requirements for production from Indian lands are not being changed pending further evaluation and discussions.

Allowance requirements for production from Federal lands are being changed to eliminate unnecessary regulatory burdens on industry. However, Federal allowance requirements will also reflect an assessment for "improper netting" because this concealment of information has adverse effects on MMS' efforts to monitor the accuracy of royalty payments.

III. Section by Section Analysis

a. Federal Oil.

1. The only change to several sections within Subpart C—Federal Oil involves the removal of Indian references. Therefore, the changes to these sections will not be separately discussed for the purposes of this rulemaking. The sections which are deleted entirely or partially revised to eliminate the reference to Indian leases are:

§ 206.100 Purpose and scope.

§ 206.101 Definitions.

The following terms are changed or removed: Audit, BIA, Gross proceeds, Indian allottee, Indian Tribe, Lease products, Lessee, and Net profit share.

§ 206.102 Valuation standards.

Section 206.102(a)(2)(i) and (ii); (d), (i), (k) and (l) are revised or removed to eliminate the reference to Indian leases.

§ 206.105 Determination of transportation allowances.

Section 206.105(b)(5) and (e)(2) are revised to eliminate the reference to Indian leases.

2. We are also amending several sections of Subpart C—Federal Oil to reflect comments from industry for elimination of allowance forms. Further, based on recommendations of our Allowance Study Group, we are revising the current assessment structure to focus our efforts on administration of allowance information provided on Form MMS–2014 by the payor, rather than generating a revenue stream from sanctions for the untimely submission of allowance forms.

Accordingly, we are revising the following sections:

§ 206.101 Definitions.

Allowance We changed the definition to remove any implication of a forms filing requirement, or of having to seek MMS approval prior to claiming an allowance on Form MMS–2014.

Netting We added this definition to clarify the reporting situation which will result in an assessment for not reporting allowances as a separate line item on Form MMS–2014.

§ 206.104 Transportation allowances—general.

Section 206.104(b)(2) is amended to specify that Form MMS–4393 is the application form used to request an exception to exceed the regulatory allowance limitation of 50 percent for oil transportation.

Section 206.104(d) is amended to add the caveat about *netting* to further clarify improper reporting of allowances on Form MMS–2014.

§ 206.105 Determination of transportation allowances.

Section 206.105(a)(1)(i) is amended to remove the requirement to file Form

MMS–4110 (and the related 3-month retroactivity period) and specify that the lessee/payor can use a self-implementing approach to claim an allowance under an arm's-length contract by reporting an allowance as a separate line entry on the Form MMS–2014.

Section 206.105(a)(3) is revised to reflect a change in the cost allocation approval process. The lessee is still required to request and receive approval for a cost allocation method for transportation of both gaseous and liquid products through the same delivery system. However, that approval process will no longer be tied to allowance form filing. Instead, the lessee must submit the proposal within 3 months of claiming the deduction on the Form MMS–2014.

Section 206.105(b)(1) is amended to remove the requirement to file Form MMS–4110 (and the related 3-month retroactivity period) and specify that the lessee/payor may use a self-implementing approach to claim an allowance under a non-arm's-length or no contract by reporting an allowance as a separate line entry on Form MMS–2014.

Section 206.105(b)(2)(v) is amended to specify that the reporting period will be based on a calendar year as opposed to a forms filing reporting period. We retained the use of the Standard and Poor's BBB rating.

Section 206.105(b)(4) is amended to reflect a change in the cost allocation approval process. The lessee is still required to request and receive approval for a cost allocation method for transportation of both gaseous and liquid products through the same delivery system. However, that approval process will no longer be tied to allowance form filing; instead, the lessee must submit the proposal within 3 months of claiming the deduction on Form MMS–2014. Section 206.105(c)(1)(i) is amended for sales under arm's-length contracts to specify that the lessee must take the transportation allowance by reporting a separate line item on the Form MMS–2014. Submitting the Form MMS–4110 is no longer applicable.

Sections 206.105(c)(1) (ii) and (iii) these paragraphs are removed because of the elimination of allowance forms.

Section 206.105(c)(1)(iv) is redesignated as Section 206.105(c)(1)(ii) because of paragraph renumbering. We will still require the lessee to document its transportation costs and to make that data available upon MMS request. Sections 206.105(c)(1)(v) and (vi) are removed because of the elimination of allowance forms.

Section 206.105(c)(2)(i) is amended for sales under non-arm's-length or no contracts to specify that the lessee takes the transportation allowance by reporting a separate line item on the Form MMS–2014. Submitting the Form MMS–4110 is no longer applicable.

Sections 206.105(c)(2) (ii) and (iii) are removed because of the elimination of allowance forms.

Section 206.105(c)(2)(iv) is redesignated § 206.105(c)(2)(ii) because of paragraph renumbering. We are removing reference to Form MMS–4110 and are retaining the lessee's use of cost estimates for the current calendar year until such time as actual cost data becomes available. Section 206.105(c)(2)(v) is removed because of the elimination of allowance forms.

Section 206.105(c)(2)(vi) is redesigned as § 206.105(c)(2)(iii) to conform with the change in paragraph numbering. We will still require the lessee to document its transportation costs and to make that data available upon MMS request. We are removing reference to Form MMS–4110.

Section 206.105(c)(2)(vii) is removed because of the elimination of allowance forms.

Section 206.105(c)(2)(viii) is redesignated as § 206.105(c)(2)(iv) to conform with paragraph renumbering. The lessee may use a FERC-approved or State regulatory agency-approved tariff as its transportation cost. Section 206.105(c)(3) is removed because of the elimination of allowance forms.

Section 206.105(c)(4) is removed because it duplicates the requirement to report a separate line entry on the Form MMS–2014 when claiming an allowance.

Section 206.105(d)(1)–(2) is amended to remove the sanction language associated with untimely filing of allowance forms, and replaces it with an assessment for improper netting. We have imposed this new assessment, described under Section 206.105(d)(1), because of the impact concealing allowance information on the Form MMS–2014 has on MMS' ability to verify the allowance taken. The new assessment provision allows us to bill *up to 10 percent* of the allowance reported as a netted amount but not to exceed $250 per lease selling arrangement per sales period. This provision gives us the flexibility to work with the payor who has infrequently or never netted its allowances, while being able to more aggressively address the situation with the payor who chronically nets its allowances (*i.e.*, a repeat offender). Use of this new assessment is consistent with the conclusions and recommendations of the multiconstituent Allowance Study Group.

We also have included under new Section 206.105(d)(2) the current policy of assessing interest on the amount of an allowance taken in excess of the threshold (50 percent of the value of the oil transported) from the date the excess allowance is taken to the date the lessee files an exception request (Form MMS–4393) with MMS.

Section 206.105(d)(2) is redesignated as § 206.105(d)(3) to conform with paragraph renumbering.

Section 206.105(d)(3) is redesignated as § 206.105(d)(4) due to paragraph renumbering.

Section 206.105(e)(1) is amended to remove reference to the allowance form filing period. This paragraph still authorizes the lessee to make adjustments to estimated allowances based on actual cost data for the allowance reporting period. However, it clarifies that when such adjustments result in an underpayment of royalty, the interest for such underpayment is computed from the date the lessee took the deduction to the date the lessee repays the difference to MMS.

b. Federal Gas

(1) The only change to several sections within Subpart D—Federal Gas involves the removal of references to Indian leases or lessors. The sections which are deleted entirely or partially revised to eliminate the reference to Indian leases or lessors are:

§ 206.150 Purpose and scope.

§ 206.151 Definitions.

The following terms are changed or removed: Audit, BIA, Gross proceeds, Indian allottee, Indian Tribe, Lease products, Lessee, and Net profit share

§ 206.152 Valuation standards—unprocessed gas.

Section 206.152 (a)(3) (i) and (ii); (e)(2), (i), (k) and (l) are revised or removed to eliminate the reference to Indian leases or lessors.

§ 206.153 Valuation standards—processed gas.

Section 206.153 (a)(3) (i) and (ii); (e)(2), (i), (k) and (l) are revised to eliminate the reference to Indian leases or lessors.

§ 206.154 Determination of quantities and qualities for computing royalties.

Section 206.154(c)(4) is revised to eliminate the reference to Indian leases or lessors.

§ 206.155 Accounting for comparison.

Section 206.155(b) is revised to eliminate the reference to Indian leases or lessors.

§ 206.157 Determination of transportation allowances.

Section 206.157(e)(2) is revised to eliminate the reference to Indian leases or lessors.

§ 206.159 Determination of processing allowances.

Section 206.159(c)(2)(v) is revised to eliminate the reference to Indian leases or lessors.

(2) We are also amending several sections of Subpart D—Federal Gas to update the current regulations (e.g., removal of Notice to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL)) and to reflect comments from industry for elimination of allowance forms. Further, based on recommendations of our Allowance Study Group, we are revising the current assessment structure to focus our efforts on verifying allowance information provided on Form MMS–2014 by the payor, rather than generating a revenue stream from sanctions on the filing and timely submission of allowance forms.

Accordingly, we are revising the following sections:

§ 206.150 Purpose and scope.

Section 206.150(e) is eliminated in its entirety because NTL's were terminated by the **Federal Register** Notice published on January 15, 1988, (53 FR 1230).

§ 206.151 Definitions.

Allowance We changed the definition to remove any implication of a forms filing requirement, or of having to seek MMS approval prior to claiming an allowance on Form MMS–2014.

Netting We added this definition to clarify the reporting situation which will result in an assessment for not reporting allowances as a separate line item on Form MMS–2014.

§ 206.156 Transportation allowances—general.

Section 206.156(c)(3) is amended to specify that Form MMS–4393 is the application form used to request an exception to exceed the regulatory allowance limitation of 50 percent for gas transportation.

Section 206.156(d) is amended to add the caveat about netting to further clarify improper reporting of allowances on Form MMS–2014.

§ 206.157 Determination of transportation allowances.

Section 206.157(a)(1)(i) is amended to remove the requirement to file Form MMS–4295, Gas Transportation Allowance Report (and the related 3-month retroactivity period) and specify that the lessee/payor may use a self-implementing approach to claim an allowance under an arm's-length contract by reporting a separate line entry on Form MMS–2014.

Section 206.157(a)(3) is amended to clarify that the lessee is still required to request and receive approval for a cost allocation method for transportation of both gaseous and liquid products through the same delivery system. It also will clarify that the approval process will no longer be tied to allowance form filing; instead, the lessee must submit the proposal within 3 months of claiming the deduction on Form MMS–2014.

Section 206.157(b)(1) is revised to remove the requirement to file Form MMS–4295 (and the related 3-month retroactivity period) and specify that the lessee/payor may use a self-implementing approach to claim an allowance under a non-arm's-length or no contract by reporting a separate line entry on Form MMS–2014.

Section 206.157(b)(2)(v) is amended to specify that the reporting period will be based on a calendar year basis as opposed to a forms filing reporting period. We retained the use of the Standard and Poor's BBB rating.

Section 206.157(b)(4) is amended to clarify the approval for cost allocation methods. The lessee is still required to request and receive approval for a cost allocation method for transportation of both gaseous and liquid products through the same delivery system. The approval process will no longer be tied to allowance form filing; instead, the lessee must submit the proposal within 3 months of claiming the deduction on Form MMS–2014.

Section 206.157(c)(1)(i) is amended for sales under arm's-length contracts to specify that the lessee takes the transportation allowance by reporting a separate line item on Form MMS–2014. Submitting Form MMS–4295 is no longer applicable.

Sections 206.157(c)(1) (ii) and (iii) are removed because of the elimination of allowance forms.

Section 206.157(c)(1)(iv) is redesignated as § 206.157(c)(1)(ii) due to paragraph renumbering. We will still require the lessee to document its transportation costs and to make all documentation available upon MMS request.

Sections 206.157(c)(1) (v) and (vi) are removed because of the elimination of allowance forms.

Section 206.157(c)(2)(i) is amended for sales under a non-arm's-length or no contract to specify that the lessee takes the transportation allowance by reporting a separate line item on MMS–2014. Submitting Form MMS–4295 is no longer applicable.

Sections 206.157(c)(2) (ii) and (iii) are removed because of the elimination of allowance forms.

Section 206.157(c)(2)(iv) is redesignated as § 206.157(c)(2)(ii) because of paragraph renumbering. We are removing reference to Form MMS–4295 and are retaining the lessee's use of cost estimates for the current calendar year until such time as actual cost data become available.

Section 206.157(c)(2)(v) is removed because of the elimination of allowance forms.

Section 206.157(c)(2)(vi) is redesignated as § 206.157(c)(2)(iii) because of paragraph renumbering. We will still require the lessee to document its transportation costs and to make that data available upon MMS request. We are removing reference to Form MMS–4295.

Section 206.157(c)(2)(vii) is removed because of the elimination of allowance forms.

Section 206.157(c)(2)(viii) is redesignated as § 206.157(c)(2)(iv) because of paragraph renumbering. The lessee may use a FERC-approved or State regulatory agency-approved tariff as its transportation cost.

Section 206.157(c)(3) is removed because of the elimination of allowance forms.

Section 206.157(c)(4) is removed because it duplicates the requirement to report a separate line entry on Form MMS–2014 when claiming an allowance.

Sections 206.157(d) (1)–(2) are amended to remove the sanction language associated with timely filing of allowance forms, and replace it with an assessment for improper netting. We have imposed this new assessment, described under § 206.157(d)(1), because of the impact concealing allowance information on Form MMS–2014 has on MMS' ability to verify the allowance taken. The new assessment provision allows us to bill *up to 10 percent* of the allowance reported as a netted amount but not to exceed $250 per lease selling arrangement per sales period. This provision gives us the flexibility to work with the payor which has infrequently or never netted its allowances while being able to more aggressively address the situation with

the payor who chronically nets its allowances (*i.e.*, a repeat offender). Use of this new sanction is consistent with the conclusions and recommendations of the multiconstituent Allowance Study Group.

We also have included under new § 206.157(d)(2) the current policy of assessing interest on the amount of an allowance taken in excess of the threshold (50 percent of the value of the gas transported) from the date the excess allowance is taken to the date the lessee files an exception request Form MMS–4393, Request to Exceed Regulatory Allowance Limitation with MMS.

Section 206.157(d)(2) is redesignated as § 206.157(d)(3) because of paragraph renumbering.

Section 206.157(d)(3) is redesignated as § 206.157(d)(4) because of paragraph renumbering.

Section 206.157(e)(1) is amended to remove reference to the allowance form filing period. This paragraph still authorizes the lessee to make adjustments to estimated allowances based on actual cost data for the allowance reporting period. However, it clarifies that when such adjustments result in an underpayment of royalty, the interest for such underpayment is computed from allowance reporting period when the lessee took the deduction to the date the lessee repays the difference to MMS.

§ 206.158 Processing allowances—general.

Section 206.158(c)(3) is amended to specify that Form MMS–4393 is the application form used to request an exception to exceed the regulatory allowance limitation of 66⅔ percent for gas processing.

Section 206.158(e) is amended to add the caveat about netting to further clarify improper reporting of allowances on Form MMS–2014.

§ 206.159 Determination of processing allowances.

Section 206.159(a)(1)(i) is amended to remove the requirement to file Form MMS–4109, Gas Processing Allowance Summary Report (and the related 3-month retroactivity period) and specify that the lessee/payor can use a self-implementing approach to claim an allowance under an arm's-length contract by reporting a separate line entry on Form MMS–2014. This change implements industry's comments requesting elimination of allowance forms.

Section 206.159(a)(3) is amended to clarify that the lessee is still required to request and receive approval for a cost allocation method for transportation of both gaseous and liquid products through the same delivery system. However, that approval process will no longer be tied to allowance form filing; instead, the lessee must submit the proposal within 3 months of claiming the deduction on Form MMS–2014.

Section 206.159(b)(1) is revised to remove the requirement to file Form MMS–4109 (and the related 3-month retroactivity period) and specify that the lessee/payor can use a self-implementing approach to claim an allowance under a non-arm's-length or no contract by reporting a separate line entry on Form MMS–2014. This change implements industry's comments requesting elimination of allowance forms.

Section 206.159(b)(2)(v) is amended to specify that the reporting period will be based on a calendar year basis as opposed to a forms filing reporting period. We retained the use of the Standard and Poor's BBB rating.

Section 206.159(c)(1)(i) is revised for sales under arm's-length contracts, to specify that the lessee takes the gas processing allowance by reporting a separate line item on Form MMS–2014. Submitting Form MMS–4109 is no longer required.

Section 206.159(c)(1) (ii)–(iii) are removed because of the elimination of allowance forms.

Section 206.159(c)(1)(iv) is redesignated as § 206.159(c)(1)(ii) because of paragraph renumbering. We still require the lessee to document their processing costs and to make that data available upon MMS request.

Sections 206.159(c)(1) (v) and (vi) are removed because of the elimination of allowance forms.

Section 206.159(c)(2)(i) is revised for sales under a non-arm's-length or no contract to specify that the lessee takes the gas processing allowance by reporting a separate line item on Form MMS–2014. Submitting Form MMS–4109 is no longer required.

Sections 206.159(c)(2)(ii) and (iii) are removed because of the elimination of allowance forms.

Section 206.159(c)(2)(iv) is redesignated as § 206.159(c)(2)(ii) because of paragraph renumbering. We are removing reference to form MMS–4109 and are retaining the lessee's use of cost estimates for the current calendar year until such time as actual cost data becomes available.

Section 206.159(c)(2)(v) is removed because of the elimination of allowance forms.

Section 206.159(c)(2)(vi) is redesignated as § 206.159(c)(2)(iii) because of paragraph renumbering. We will still require the lessee to document its processing costs and to make that data available upon MMS request. We are removing reference to Form MMS–4109.

Section 206.159(c)(2)(vii) is removed because of the elimination of allowance forms.

Section 206.159(c)(2)(viii) is redesignated as § 206.159(c)(2)(iv) due to paragraph renumbering.

Section 206.159(c)(3) is removed because of the elimination of allowance forms.

Section 206.159(c)(4) is removed because it duplicates the requirement to report a separate line entry on Form MMS–2014 when claiming an allowance.

Sections 206.159(d) (1) and (2) are revised to remove the consequences associated with untimely filing of allowance forms, and replacing them with an assessment for improper netting. We have imposed this new assessment language, described under § 206.159(d)(1), based on the severity of concealing allowance information on Form MMS–2014. The new assessment provision allows us to bill *up to 10 percent* of the allowance reported as a netted amount but not to exceed $250 per lease selling arrangement per sales period. This provision gives us the flexibility to work with the payor who has infrequently or never netted its allowances while being able to more aggressively address the situation with the payor who chronically nets its allowances (*i.e.*, a repeat offender). Use of this new assessment is consistent with the conclusions and recommendations of the multiconstituent Allowance Study Group.

We also have included under new § 206.159(d)(2) the current policy of assessing interest on the amount of an allowance taken in excess of the threshold (66 ⅔ percent of the value of the gas processed) from the date the excess allowance is taken to the date the lessee files an exception request (Form MMS–4393) with MMS.

Section 206.159(d)(2) is redesignated as § 206.159(d)(3) because of paragraph renumbering.

Section 206.159(d)(3) is redesignated as § 206.159(d)(4) because of paragraph renumbering.

Section 206.159(e)(1) is amended to remove reference to the allowance form filing period. This paragraph still authorizes the lessee to make adjustments to estimated allowances based on actual cost data for the allowance reporting period. However, it clarifies that when such adjustments result in an underpayment of royalty, the interest for such underpayment is

computed from the allowance reporting period when the lessee took the deduction to the date the lessee repays the difference to MMS.

c. Federal Coal

(1) The only change to several sections within Subpart F—Federal Coal involves the removal of references to Indian leases or lessors. The sections which are deleted entirely or partially revised, to eliminate the reference to Indian leases or lessors are:

§ 206.250 Purpose and scope.

§ 206.251 Definitions.

The following terms are changed or removed: Audit, BIA, Gross proceeds, Indian allottee, Indian Tribe, Lease, and Lessee.

§ 206.253 Coal subject to royalties—general provisions.

Section 206.253 (a) and (c) are revised to eliminate the reference to Indian leases or lessors.

§ 206.255 Point of royalty determination.

Section 206.255(a) and (b) are revised to eliminate the reference to Indian leases or lessors.

§ 206.256 Valuation standards for cents-per-ton leases.

Section 206.256(a) is revised to eliminate the reference to Indian leases or lessors.

§ 206.257 Valuation standards for ad valorem leases.

Section 206.257 (a), (d)(2), (h), (j), and (k) are revised to eliminate the reference to Indian leases or lessors.

§ 206.258 Washing allowances—general.

Section 206.258(c) is revised to eliminate the reference to Indian leases or lessors.

§ 206.261 Transportation allowances—general.

Section 206.261(a)(1), (a)(2), and (e) are revised to eliminate the reference to Indian leases or lessors.

§ 206.262 Determination of transportation allowances.

Section 206.262(b)(3) is revised to eliminate the reference to Indian leases or lessors.

(2) We are revising several sections of Subpart F—Federal Coal to reflect comments from industry for elimination of allowance forms. Further, based on recommendations of our Allowance Study Group, we are revising the current assessment structure to focus our efforts on verifying allowance information provided on Form MMS–2014, by the payor, rather than generating a revenue stream from sanctions on the filing and timely submission of allowance forms.

Accordingly, we are revising the following sections:

§ 206.251 Definitions.

Allowance We changed the definition to remove any implication of a forms filing requirement, or of having to seek MMS approval prior to claiming an allowance on the Form MMS–2014.

Netting We added this definition to clarify the reporting situation which will result in an assessment for not reporting allowances as a separate line item on Form MMS–2014.

§ 206.259 Determination of washing allowances.

Section 206.259(a)(1) is amended to remove the requirement to file Form MMS–4292, Coal Washing Allowance Report (and the related 3-month retroactivity period) and specifying that the lessee/payor can use a self-implementing approach to claim an allowance under an arm's-length contract by reporting a separate line entry on Form MMS–2014. This change implements industry's comments requesting elimination of allowance forms.

Section 206.259(b)(1) is amended to remove the requirement to file Form MMS–4292 (and the related 3-month retroactivity period) and specify that the lessee/payor may use a self-implementing approach to claim an allowance under a non-arm's-length or no contract by reporting a separate line entry on the Form MMS–2014.

Section 206.259(b)(2)(v) is amended to specify that the reporting period will be based on a calendar year basis as opposed to a forms filing reporting period. We retained the use of the Standard and Poor's BBB rating.

Section 206.259(c)(1)(i) is amended for sales under arm's-length contracts to specify that the lessee takes the coal washing allowance by reporting a separate line item on Form MMS–2014. Submitting the Form MMS–4292 is no longer required.

Sections 206.259(c)(1) (ii) and (iii) these paragraphs are removed because of the elimination of allowance forms. Section 206.259(c)(1)(iv) is redesignated as § 206.259(c)(1)(ii). We will still require the lessee to document its washing costs and to make all documentation available upon request by MMS.

Section 206.259(c)(1)(v) is removed because of the elimination of allowance forms.

Section 206.259(c)(1)(vi) is removed because of the elimination of allowance forms.

Section 206.259(c)(2)(i) is revised for sales under a non-arm's-length or no contract to specify that the lessee takes the coal washing allowance by reporting a separate line item on Form MMS–2014. Submitting Form MMS–4292 is no longer required.

Sections 206.259(c)(2) (ii)–(iii) are removed because of the elimination of allowance forms.

Section 206.259(c)(2)(iv) is redesignated as § 206.259(c)(2)(ii) due to paragraph renumbering. We are removing reference to Form MMS–4292 and are retaining the lessee's use of cost estimates for the current calendar year until such time as actual cost data become available.

Section 206.259(c)(2)(v) is removed because of the elimination of allowance forms.

Section 206.259(c)(2)(vi) is redesignated as § 206.259(c)(2)(iii) because of paragraph renumbering. We will still require the lessee to document its washing costs and to make that data available upon MMS request. We are removing reference to Form MMS–4292.

Section 206.259(c)(2)(vii) is removed because of the elimination of allowance forms.

Section 206.259(c)(3) is removed because of the elimination of allowance forms.

Section 206.259(c)(4) is removed because it duplicates the requirement to report a separate line entry on Form MMS–2014 when claiming an allowance.

Section 206.259(d)(1) is amended to remove the language associated with timely filing of allowance forms, and replaces it with an assessment for improper netting. We have imposed this new assessment, described under § 206.259 (d)(1), because of the impact concealing allowance information on Form MMS–2014 has on MMS' ability to verify allowances taken. The new assessment provision allows us to bill *up to 10 percent* of the allowance reported as a netted amount but not to exceed $250 per lease selling arrangement per sales period. This provision gives us the flexibility to work with the payor which has infrequently or never netted its allowances while being able to more aggressively address the situation with the payor which chronically nets its allowances (*i.e.*, a repeat offender). Use of this new assessment is consistent with the conclusions and recommendations of the multiconstituent Allowance Study Group.

Section 206.259(e)(1) is amended to remove reference to the allowance form filing period. This paragraph still authorizes the lessee to make

adjustments to estimated allowances based on actual cost data for the allowance reporting period. However, it clarifies that when such adjustments result in an underpayment of royalty, the interest for such underpayment is computed from the allowance reporting period when the lessee took the deduction to the date the lessee repays the difference to MMS.

§ 206.262 Determination of transportation allowances.

Section 206.262(a)(1) is amended to remove the requirement to file Form MMS–4293, Coal Transportation Allowance Report (and the related 3-month retroactivity period) and specify that the lessee/payor may use a self-implementing approach to claim an allowance under an arm's-length contract by reporting a separate line entry on Form MMS–2014.

Section 206.262(b)(1) is amended to remove the requirement to file Form MMS–4293 (and the related 3-month retroactivity period) and specify that the lessee/payor may use a self-implementing approach to claim an allowance under a non-arm's-length or no contract by reporting a separate line entry on Form MMS–2014.

Section 206.262(b)(2)(v) is amended to specify that the reporting period will be based on a calendar year basis as opposed to a forms filing reporting period. We retained the use of the Standard and Poor's BBB rating.

Section 206.262(c)(1)(i) is revised for sales under arm's-length contracts to specify that the lessee takes the coal transportation allowance by reporting a separate line item on Form MMS–2014. Submitting Form MMS–4293 is no longer applicable.

Section 206.262(c)(1) (ii)–(iii) are removed because of the elimination of allowance forms.

Section 206.262(c)(1)(iv) is redesignated as § 206.262(c)(1)(ii) because of paragraph renumbering. We will still require the lessee to document its transportation costs and to make that data available upon request by MMS.

Section 206.262(c)(1) (v)–(vi) are removed because of the elimination of allowance forms.

Section 206.262(c)(2)(i) is amended for sales under a non-arm's-length or no contract to specify that the lessee takes the coal transportation allowance by reporting a separate line item on Form MMS–2014. Submitting Form MMS–4293 is no longer applicable.

Sections 206.262(c)(2) (ii) and (iii) are removed because of the elimination of allowance forms.

Section 206.262(c)(2)(iv) is redesignated as § 206.262(c)(2)(ii) due to paragraph renumbering. We are removing reference to Form MMS–4293 and are retaining the lessee's use of cost estimates for the current calendar year until such time as actual cost data become available. Section 206.262(c)(2)(v) is removed because of the elimination of allowance forms.

Section 206.262(c)(2)(vi) is redesignated as § 206.262(c)(2)(iii) because of paragraph renumbering. We will still require the lessee to document its transportation costs and to make that data available upon MMS request. We are removing reference to Form MMS–4293.

Section 206.262(c)(2)(vii) is removed because of the elimination of allowance forms.

Section 206.262(c)(2)(viii) is redesignated as § 206.262(c)(2)(iv) because of paragraph renumbering. The lessee may use a FERC-approved or State regulatory agency-approved tariff as its transportation cost.

Section 206.262(c)(3) is removed because of the elimination of allowance forms.

Section 206.262(c)(4) is removed since it duplicates the requirement to report a separate line entry on Form MMS–2014 when claiming an allowance.

Section 206.262(d)(1) is amended to remove the language associated with timely filing of allowance forms, and replaces it with an assessment for improper netting. We have imposed this new assessment, described under § 206.259(d)(1), because of the impact of concealing allowance information on Form MMS–2014 has on MMS' ability to verify allowances taken. The new assessment provision allows us to bill *up to 10 percent* of the allowance reported as a netted amount but not to exceed $250 per lease selling arrangement per sales period. This provision gives us the flexibility to work with the payor which has infrequently or never netted its allowances while being able to more aggressively address the situation with the payor which chronically nets its allowances (*i.e.*, a repeat offender). Use of this new assessment is consistent with the conclusions and recommendations of the multiconstituent Allowance Study Group.

Section 206.262(e)(1) is amended to remove reference to the allowance form filing period. This paragraph still authorizes the lessee to make adjustments to estimated allowances based on actual cost data for the allowance reporting period. However, it clarifies that when such adjustments result in an underpayment of royalty, the interest for such underpayment is computed from the allowance reporting period when the lessee took the deduction to date the lessee repays the difference to MMS.

d. Indian Oil

(1) As stated earlier, since there will be different reporting requirements for claiming allowance deductions for Indian and Federal lands, we have established a new valuation subpart, designated Subpart B—Indian Oil. This new subpart mirrors what was the old combined Subpart C—Federal and Indian Oil.

The following changes in paragraphs involve removal of Federal references for new Subpart B—Indian Oil, and therefore will not be separately discussed:

§ 206.50 Purpose and scope.

Section 206.50 (a)–(c).

§ 206.51 Definitions.

Audit, Field, Gathering, Gross proceeds, Lease products, Lessee, Net profit share, Outer Continental Shelf, Posted price, and Section 6 lease.

§ 206.52 Valuation standards.

Section 206.52 (d), (i), and (k).

§ 206.53 Point of royalty settlement.

Section 206.53 (a) (1)–(2) and (b).

§ 206.54 Transportation allowances-general.

Section 206.54 (a) (1)–(2).

§ 206.55 Determination of transportation allowances.

Section 206.55 (b)(5), (c)(2)(viii), and (e)(2)–(3).

(2) To specify the form used to request a waiver to allowance limitations, we made the following change:

§ 206.54 Transportation allowances-general.

Section 206.54(b)(2).

This further clarifies that the lessee must use Form MMS–4393 as the application form to request an exception to exceed the regulatory allowance limitation of 50 percent for oil transportation.

e. Indian Gas.

(1) Changes to the following paragraphs involve partial or total removal of Federal references for new Subpart E—Indian Gas, and therefore will not be separately discussed:

§ 206.170 Purpose and scope.

Section 206.170 (a)–(c), (e).

§ 206.171 Definitions.

Audit, Field, Gathering, Gross proceeds, Lease products, Lessee, Net profit share, Outer Continental Shelf, and Section 6 lease.

§ 206.172 Valuation standards-unprocessed gas.

Section 206.172 (e)(2), (i), and (k).

§ 206.173 Valuation standards-processed gas.

Section 206.173(e)(2), (i), and (k).

§ 206.174 Determination of quantities and qualities for computing royalties.

Section 206.174 (a)(1)–(2), (c)(4), and (d)(1).

§ 206.177 Determination of transportation allowances.

Section 206.177 (b)(5), (c)(2)(viii), and (e)(2)–(3).

§ 206.179 Determination of processing allowances.

Section 206.179 (c)(2)(v), (e)(2)–(3).

(2) To specify the form used to request a waiver to allowance limitations, we made the following change:

§ 206.176 Transportation allowances-general.

Section 206.176(c)(3).

This further clarifies that the lessee must use Form MMS–4393 as the application form to request an exception to exceed the regulatory allowance limitation of 50 percent for gas transportation.

§ 206.178 Processing allowances-general.

Section 206.178(c)(3).

This further clarifies that the lessee must use Form MMS–4393 as the application form to request an exception to exceed the regulatory allowance limitation of 66⅔ percent for gas processing.

f. Indian Coal

Changes to the following paragraphs involve removal of Federal references for new Subpart J—Indian Coal, and therefore will not be separately discussed:

§ 206.450 Purpose and scope.

Section 206.450 (a)–(b).

§ 206.451 Definitions.

Audit, Gross proceeds, Lease, and Lessee.

§ 206.453 Coal subject to royalties-general provisions.

Section 206.453(a), (c).

§ 206.455 Point of royalty determination.

Section 206.455 (a)–(b).

§ 206.456 Valuation standards for cents-per-ton leases.

Section 206.456(a).

§ 206.457 Valuation standards for ad valorem leases.

Section 206.457 (a), (d)(2), (h), and (j).

§ 206.458 Washing allowances-general.

Section 206.458(c).

§ 206.461 Transportation allowances-general.

Section 206.461 (a)(1)–(2), and (e).

§ 206.462 Determination of transportation allowances.

Section 206.462 (b)(3) and (c)(2)(viii).

g. Part 202—Royalties

Subpart D—Federal and Indian Gas

Section 202.151(a) is amended to revise the last sentence of this paragraph to refer to the separate subparts governing allowances for Federal and Indian gas.

IV. Procedural Matters

The Regulatory Flexibility Act

The Department has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule will streamline and improve existing regulatory reporting requirements related to allowances that are used to calculate royalty payments on oil and gas produced from Federal and Indian lands.

Executive Order 12630

The Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

Executive Order 12778

The Department has certified to the Office of Management and Budget that these final regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

Executive Order 12866

This document has been reviewed under Executive Order 12866 and is not a significant regulatory action.

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned Clearance Numbers 1010–0022, 1010–0061, and 1010–0075.

Notional Environmental Policy Act of 1969

We have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects 30 CFR Parts 206 and 202

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: January 26, 1996.

Bob Armstrong,

Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 206 is amended as set forth below:

PART 206—PRODUCT VALUATION

1. The authority citation for Part 206 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701.; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

2. The heading for Subpart B—Oil, Gas, and OCS Sulfur, General—[Reserved] is removed and a new Subpart B—Indian Oil is added to read as follows:

Subpart B—Indian Oil

Sec.
206.50 Purpose and scope.
206.51 Definitions.
206.52 Valuation standards.
206.53 Point of royalty settlement.
206.54 Transportation allowances—general.
206.55 Determination of transportation allowances.

Subpart B—Indian Oil

§ 206.50 Purpose and scope.

(a) This subpart is applicable to all oil production from Indian (Tribal and allotted) oil and gas leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma). The purpose of this subpart is to establish the value of production, for royalty purposes, consistent with the mineral leasing laws, other applicable laws, and lease terms.

(b) If the specific provisions of any Federal statute, treaty, settlement

agreement between the Indian lessor and a lessee resulting from administrative or judicial litigation, or oil and gas lease subject to the requirements of this subpart are inconsistent with any regulation in this subpart, then the statute, treaty, lease provision or settlement agreement shall govern to the extent of that inconsistency.

(c) All royalty payments made to MMS or Indian Tribes are subject to audit and adjustment.

(d) The regulations in this subpart are intended to ensure that the trust responsibilities of the United States with respect to the administration of Indian oil and gas leases are discharged in accordance with the requirements of the governing mineral leasing laws, treaties, and lease terms.

§ 206.51 Definitions.

For the purposes of this subpart:

Allowance means an approved or an MMS-initially accepted deduction in determining value for royalty purposes. Transportation allowance means an allowance for the reasonable, actual costs incurred by the lessee for moving oil to a point of sale or point of delivery off the lease, unit area, or communitized area, excluding gathering, or an approved or MMS-initially accepted deduction for costs of such transportation, determined by this subpart.

Area means a geographic region at least as large as the defined limits of an oil and/or gas field in which oil and/or gas lease products have similar quality, economic, and legal characteristics.

Arm's-length contract means a contract or agreement that has been arrived at in the market place between independent, nonaffiliated persons with opposing economic interests regarding that contract. For purposes of this subpart, two persons are affiliated if one person controls, is controlled by, or is under common control with another person. For purposes of this subpart, based on the instruments of ownership of the voting securities of an entity, or based on other forms of ownership: ownership in excess of 50 percent constitutes control; ownership of 10 through 50 percent creates a presumption of control; and ownership of less than 10 percent creates a presumption of noncontrol which MMS may rebut if it demonstrates actual or legal control, including the existence of interlocking directorates. Notwithstanding any other provisions of this subpart, contracts between relatives, either by blood or by marriage, are not arm's-length contracts. MMS may require the lessee to certify ownership control. To be considered arm's-length for any production month, a contract must meet the requirements of this definition for that production month, as well as when the contract was executed.

Audit means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Indian leases.

BIA means the Bureau of Indian Affairs of the Department of the Interior.

BLM means the Bureau of Land Management of the Department of the Interior.

Condensate means liquid hydrocarbons (normally exceeding 40 degrees of API gravity) recovered at the surface without resorting to processing. Condensate is the mixture of liquid hydrocarbons that results from condensation of petroleum hydrocarbons existing initially in a gaseous phase in an underground reservoir.

Contract means any oral or written agreement, including amendments or revisions thereto, between two or more persons and enforceable by law that with due consideration creates an obligation.

Field means a geographic region situated over one or more subsurface oil and gas reservoirs encompassing at least the outermost boundaries of all oil and gas accumulations known to be within those reservoirs vertically projected to the land surface. Onshore fields are usually given names and their official boundaries are often designated by oil and gas regulatory agencies in the respective States in which the fields are located.

Gathering means the movement of lease production to a central accumulation or treatment point on the lease, unit, or communitized area, or to a central accumulation or treatment point off the lease, unit, or communitized area as approved by BLM operations personnel for onshore leases.

Gross proceeds (for royalty payment purposes) means the total monies and other consideration accruing to an oil and gas lessee for the disposition of the oil produced. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as dehydration, measurement, and/or gathering to the extent that the lessee is obligated to perform them at no cost to the Indian lessor. Gross proceeds, as applied to oil, also includes, but is not limited to, reimbursements for harboring or terminating fees. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Indian royalty interest may be exempt from taxation. Monies and other consideration, including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through reasonable efforts are also part of gross proceeds.

Indian allottee means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation.

Indian Tribe means any Indian Tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians for which any land or interest in land is held in trust by the United States or which is subject to Federal restriction against alienation.

Lease means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, development or extraction of, or removal of lease products—or the land area covered by that authorization, whichever is required by the context.

Lease products means any leased minerals attributable to, originating from, or allocated to Indian leases.

Lessee means any person to whom an Indian Tribe, or an Indian allottee issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

Like-quality lease products means lease products which have similar chemical, physical, and legal characteristics.

Load oil means any oil which has been used with respect to the operation of oil or gas wells for wellbore stimulation, workover, chemical treatment, or production purposes. It does not include oil used at the surface to place lease production in marketable condition.

Marketable condition means lease products which are sufficiently free from impurities and otherwise in a condition that they will be accepted by a purchaser under a sales contract typical for the field or area.

Marketing affiliate means an affiliate of the lessee whose function is to acquire only the lessee's production and to market that production.

Minimum royalty means that minimum amount of annual royalty that the lessee must pay as specified in the lease or in applicable leasing regulations.

MMS means the Minerals Management Service of the Department of the Interior.

Net-back method (or workback method) means a method for calculating market value of oil at the lease. Under this method, costs of transportation, processing, or manufacturing are deducted from the proceeds received for the oil and any extracted, processed, or manufactured products, or from the value of the oil or any extracted, processed, or manufactured products at the first point at which reasonable values for any such products may be determined by a sale under an arm's-length contract or comparison to other sales of such products, to ascertain value at the lease.

Net profit share (for applicable Indian lessees) means the specified share of the net profit from production of oil and gas as provided in the agreement.

Oil means a mixture of hydrocarbons that existed in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and is marketed or used as such. Condensate recovered in lease separators or field facilities is considered to be oil. For purposes of royalty valuation, the term tar sands is defined separately from oil.

Oil shale means a kerogen-bearing rock (i.e., fossilized, insoluble, organic material). Separation of kerogen from oil shale may take place in situ or in surface retorts by various processes. The kerogen, upon distillation, will yield liquid and gaseous hydrocarbons.

Person means any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity).

Posted price means the price specified in publicly available posted price bulletins, onshore terminal postings, or other price notices net of all adjustments for quality (e.g., API gravity, sulfur content, etc.) and location for oil in marketable condition.

Processing means any process designed to remove elements or compounds (hydrocarbon and nonhydrocarbon) from gas, including absorption, adsorption, or refrigeration. Field processes which normally take place on or near the lease, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration, and compression are not considered processing. The changing of pressures and/or temperatures in a reservoir is not considered processing.

Selling arrangement means the individual contractual arrangements under which sales or dispositions of oil are made. Selling arrangements are described by illustration in MMS Royalty Management Program Oil and Gas Payor Handbook.

Spot sales agreement means a contract wherein a seller agrees to sell to a buyer a specified amount of oil at a specified price over a fixed period, usually of short duration, which does not normally require a cancellation notice to terminate, and which does not contain an obligation, nor imply an intent, to continue in subsequent periods.

Tar sands means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either contains a hydrocarbonaceous material with a gas-free viscosity greater than 10,000 centipoise at original reservoir temperature, or contains quarrying.

§ 206.52 Valuation standards.

(a)(1) The value of production, for royalty purposes, of oil from leases subject to this subpart shall be the value determined under this section less applicable allowances determined under this subpart.

(2) (i) For any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion of production (major portion) in determining value for royalty purposes, if data are available to compute a major portion, MMS will, where practicable, compare the value determined in accordance with this section with the major portion. The value to be used in determining the value of production, for royalty purposes, shall be the higher of those two values.

(ii) For purposes of this paragraph, major portion means the highest price paid or offered at the time of production for the major portion of oil production from the same field. The major portion will be calculated using like-quality oil sold under arm's-length contracts from the same field (or, if necessary to obtain a reasonable sample, from the same area) for each month. All such oil production will be arrayed from highest price to lowest price (at the bottom).

The major portion is that price at which 50 percent (by volume) plus 1 barrel of the oil (starting from the bottom) is sold.

(b)(1) (i) The value of oil which is sold under an arm's-length contract shall be the gross proceeds accruing to the lessee, except as provided in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section. The lessee shall have the burden of demonstrating that its contract is arm's-length. The value which the lessee reports, for royalty purposes, is subject to monitoring, review, and audit. For purposes of this section, oil which is sold or otherwise transferred to the lessee's marketing affiliate and then sold by the marketing affiliate under an arm's-length contract shall be valued in accordance with this paragraph based upon the sale by the marketing affiliate.

(ii) In conducting reviews and audits, MMS will examine whether the contract reflects the total consideration actually transferred either directly or indirectly from the buyer to the seller for the oil. If the contract does not reflect the total consideration, then MMS may require that the oil sold under that contract be valued in accordance with paragraph (c) of this section. Value may not be less than the gross proceeds accruing to the lessee, including the additional consideration.

(iii) If MMS determines that the gross proceeds accruing to the lessee under an arm's-length contract do not reflect the reasonable value of the production because of misconduct by or between two contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the oil production be valued under the first applicable of paragraph (c)(2), (c)(3), (c)(4), or (c)(5) of this section. When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value. If the oil production is then valued under paragraph (c)(4) or (c)(5) of this section, the notification requirements of paragraph (e) of this section shall apply.

(2) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the oil.

(c) The value of oil production from leases subject to this section which is not sold under an arm's-length contract shall be the reasonable value determined in accordance with the first applicable of the following paragraphs:

(1) The lessee's contemporaneous posted prices or oil sales contract prices used in arm's-length transactions for purchases or sales of significant quantities of like-quality oil in the same field (or, if necessary to obtain a reasonable sample, from the same area); provided, however, that those posted prices or oil sales contract prices are comparable to other contemporaneous posted prices or oil sales contract prices used in arm's-length transactions for purchases or sales of significant quantities of like-quality oil in the same field (or, if necessary to obtain a

reasonable sample, from the same area). In evaluating the comparability of posted prices or oil sales contract prices, the following factors shall be considered: Price, duration, market or markets served, terms, quality of oil, volume, and other factors as may be appropriate to reflect the value of the oil. If the lessee makes arm's-length purchases or sales at different postings or prices, then the volume-weighted average price for the purchases or sales for the production month will be used;

(2) The arithmetic average of contemporaneous posted prices used in arm's-length transactions by persons other than the lessee for purchases or sales of significant quantities of like-quality oil in the same field (or, if necessary to obtain a reasonable sample, from the same area);

(3) The arithmetic average of other contemporaneous arm's-length contract prices for purchases or sales of significant quantities of like-quality oil in the same area or nearby areas;

(4) Prices received for arm's-length spot sales of significant quantities of like-quality oil from the same field (or, if necessary to obtain a reasonable sample, from the same area), and other relevant matters, including information submitted by the lessee concerning circumstances unique to a particular lease operation or the salability of certain types of oil;

(5) A net-back method or any other reasonable method to determine value;

(6) For purposes of this paragraph, the term lessee includes the lessee's designated purchasing agent, and the term contemporaneous means postings or contract prices in effect at the time the royalty obligation is incurred.

(d) Any Indian lessee will make available, upon request to the authorized MMS or Indian representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased, or otherwise obtained by the lessee from the field or area or from nearby fields or areas.

(e) (1) Where the value is determined under paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value. Such data shall be subject to review and audit, and MMS will direct a lessee to use a different value if it determines that the reported value is inconsistent with the requirements of these regulations.

(2) A lessee shall notify MMS if it has determined value under paragraph (c)(4) or (c)(5) of this section. The notification shall be by letter to MMS Associate Director for Royalty Management or his/her designee. The letter shall identify the valuation method to be used and contain a brief description of the procedure to be followed. The notification required by this paragraph is a one-time notification due no later than the end of the month following the month the lessee first reports royalties on a Form MMS–2014 using a valuation method authorized by paragraph (c)(4) or (c)(5) of this section and each time there is a change from one to the other of these two methods.

(f) If MMS determines that a lessee has not properly determined value, the lessee shall pay the difference, if any, between royalty payments made based upon the value it has used and the royalty payments that are due based upon the value established by MMS. The lessee shall also pay interest on the difference computed under 30 CFR 218.54. If the lessee is entitled to a credit, MMS will provide instructions for the taking of that credit.

(g) The lessee may request a value determination from MMS. In that event, the lessee shall propose to MMS a value determination method and may use that value for royalty payment purposes until MMS issues a value determination. The lessee shall submit all available data relevant to its proposal. MMS shall expeditiously determine the value based upon the lessee's proposal and any additional information MMS deems necessary. In making a value determination, MMS may use any of the valuation criteria authorized by this subpart. That determination shall remain effective for the period stated therein. After MMS issues its determination, the lessee shall make the adjustments in accordance with paragraph (f) of this section.

(h) Notwithstanding any other provision of this section, under no circumstances shall the value of production, for royalty purposes, be less than the gross proceeds accruing to the lessee for lease production, less applicable allowances determined under this subpart.

(i) The lessee is required to place oil in marketable condition at no cost to the Indian lessor unless otherwise provided in the lease agreement or this section. Where the value established under this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the oil in marketable condition.

(j) Value shall be based on the highest price a prudent lessee can receive through legally enforceable claims under its contract. Absent contract revision or amendment, if the lessee fails to take proper or timely action to receive prices or benefits to which it is entitled, it must pay royalty at a value based upon that obtainable price or benefit. Contract revisions or amendments shall be in writing and signed by all parties to an arm's-length contract. If the lessee makes timely application for a price increase or benefit allowed under its contract but the purchaser refuses, and the lessee takes reasonable measures, which are documented, to force purchaser compliance, the lessee will owe no additional royalties unless or until monies or consideration resulting from the price increase or additional benefits are received. This paragraph shall not be construed to permit a lessee to avoid its royalty payment obligation in situations where a purchaser fails to pay, in whole or in part or timely, for a quantity of oil.

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value under this section shall be considered final or binding as against the Indian Tribes or allottees until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation allowances or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. § 552, or other Federal law. Any data specified by law to be privileged, confidential, or otherwise exempt, will be maintained in a confidential manner in accordance with applicable laws and regulations. All requests for information about determinations made under this part are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2. Nothing in this section is intended to limit or diminish in any manner whatsoever the right of an Indian lessor to obtain any and all information to which such lessor may be lawfully entitled from MMS or such lessor's lessee directly under the terms of the lease, 30 U.S.C. 1733, or other applicable law.

§ 206.53 Point of royalty settlement.

(a) (1) Royalties shall be computed on the quantity and quality of oil as measured at the point of settlement approved by BLM for onshore leases.

(2) If the value of oil determined under § 206.52 of this subpart is based upon a quantity and/or quality different from the quantity and/or quality at the point of royalty settlement approved by the BLM for onshore leases, the value shall be adjusted for those differences in quantity and/or quality.

(b) No deductions may be made from the royalty volume or royalty value for actual or theoretical losses. Any actual loss that may be sustained prior to the royalty settlement metering or measurement point will not be subject to royalty provided that such actual loss is determined to have been unavoidable by BLM.

(c) Except as provided in paragraph (b) of this section, royalties are due on 100 percent of the volume measured at the approved point of royalty settlement. There can be no reduction in that measured volume for actual losses beyond the approved point of royalty settlement or for theoretical losses that are claimed to have taken place either prior to or beyond the proved point of royalty settlement. Royalties are due on 100 percent of the value of the oil as provided in this subpart. There can be no deduction from the value of the oil for royalty purposes to compensate for actual losses beyond the approved point of royalty settlement or for theoretical losses that are claimed to have taken place either prior to or beyond the approved point of royalty settlement.

§ 206.54 Transportation allowances—general.

(a) Where the value of oil has been determined under Section 206.52 of this subpart at a point (e.g.. sales point or point of value determination) off the lease, MMS shall allow a deduction for the reasonable, actual costs incurred by the lessee to transport oil to a point off the lease; provided, however, that no transportation allowance will be granted for transporting oil taken as Royalty-In-Kind (RIK); or

(b) (1) Except as provided in paragraph (b)(2) of this section, the transportation allowance deduction on the basis of a selling arrangement shall not exceed 50 percent of the value of the oil at the point of sale as determined under § 206.52 of this subpart. Transportation costs cannot be transferred between selling arrangements or to other products.

(2) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitation prescribed by paragraph (b)(1) of this section. The lessee must demonstrate that the transportation costs incurred in excess of the limitation prescribed in paragraph (b)(1) of this section were reasonable, actual, and necessary. An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation necessary for MMS to make a determination. Under no circumstances shall the value, for royalty purposes, under any selling arrangement, be reduced to zero.

(c) Transportation costs must be allocated among all products produced and transported as provided in § 206.55. Transportation allowances for oil shall be expressed as dollars per barrel.

(d) If, after a review and/or audit, MMS determines that a lessee has improperly determined a transportation allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest.

§ 206.55 Determination of transportation allowances.

(a) *Arm's-length transportation contracts.*

(1)(i) For transportation costs incurred by a lessee under an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting oil under that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. Such allowances shall be subject to the provisions of paragraph (f) of this section Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report, in accordance with paragraph (c)(1) of this section A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4110 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

(ii) In conducting reviews and audits, MMS will examine whether the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the transporter for the transportation. If the contract reflects more than the total consideration, then MMS may require that the transportation allowance be determined in accordance with paragraph (b) of this section.

(iii) If MMS determines that the consideration paid under an arm's-length transportation contract does not reflect the reasonable value of the transportation because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the transportation allowance be determined in accordance with paragraph (b) of this section. When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.

(2)(i) If an arm's-length transportation contract includes more than one liquid product, and the transportation costs attributable to each product cannot be determined from the contract, then the total transportation costs shall be allocated in a consistent and equitable manner to each of the liquid products transported in the same proportion as the ratio of the volume of each product (excluding waste products which have no value) to the volume of all liquid products (excluding waste products which have no value). Except as provided in this paragraph, no allowance may be taken for the costs of transporting lease production which is not royalty-bearing without MMS approval.

(ii) Notwithstanding the requirements of paragraph (i), the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported. MMS shall approve the method unless it determines that it is not consistent with the purposes of the regulations in this part.

(3) If an arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use the oil transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all available data to support its proposal. The initial proposal must be submitted by June 30, 1988 or within 3 months after the last day of the month for which the lessee requests a transportation allowance, whichever is later (unless MMS approves a longer period). MMS shall then determine the oil transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary.

(4) Where the lessee's payments for transportation under an arm's-length contract are not on a dollar-per-unit basis, the lessee shall convert whatever

consideration is paid to a dollar value equivalent for the purposes of this section.

(5) Where an arm's-length sales contract price, or a posted price, includes a provision whereby the listed price is reduced by a transportation factor, MMS will not consider the transportation factor to be a transportation allowance. The transportation factor may be used in determining the lessee's gross proceeds for the sale of the product. The transportation factor may not exceed 50 percent of the base price of the product without MMS approval.

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length transportation contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable, actual costs as provided in this paragraph. All transportation allowances deducted under a non-arms-length or no-contract situation are subject to monitoring, review, audit, and adjustment. Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4110 in its entirety in accordance with paragraph (c)(2) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4110 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. MMS will monitor the allowance deductions to determine whether lessees are taking deductions that are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its actual transportation allowance deduction.

(2) The transportation allowance for non-arms-length or no-contract situations shall be based upon the lessee's actual costs for transportation during the reporting period, including operating and maintenance expenses, overhead, and either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the initial capital investment in the transportation system multiplied by a rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. Allowable capital costs are generally those for depreciable fixed assets (including costs of delivery and installation of capital equipment) which are an integral part of the transportation system.

(i) Allowable operating expenses include: Operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Allowable maintenance expenses include: Maintenance of the transportation system; maintenance of equipment; maintenance labor; and other directly allocable and attributable maintenance expenses which the lessee can document.

(iii) Overhead directly attributable and allocable to the operation and maintenance of the transportation system is an allowable expense. State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(iv) A lessee may use either depreciation or a return on depreciable capital investment. After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of MMS.

(A) To compute depreciation, the lessee may elect to use either a straight-line depreciation method based on the life of equipment or on the life of the reserves which the transportation system services or on a unit-of-production method. After an election is made, the lessee may not change methods without MMS approval. A change in ownership of a transportation system shall not alter the depreciation schedule established by the original transporter/lessee for purposes of the allowance calculation. With or without a change in ownership, a transportation system shall be depreciated only once. Equipment shall not be depreciated below a reasonable salvage value.

(B) MMS shall allow as a cost an amount equal to the initial capital investment in the transportation system multiplied by the rate of return determined under paragraph (b)(2)(v) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to transportation facilities first placed in service after March 1, 1988.

(v) The rate of return shall be the industrial rate associated with Standard and Poor's BBB rating. The rate of return shall be the monthly average rate as published in Standard and Poor's Bond Guide for the first month of the reporting period for which the allowance is applicable and shall be effective during the reporting period. The rate shall be redetermined at the beginning of each subsequent transportation allowance reporting period (which is determined under paragraph (c) of this section).

(3)(i) The deduction for transportation costs shall be determined on the basis of the lessee's cost of transporting each product through each individual transportation system. Where more than one liquid product is transported, allocation of costs to each of the liquid products transported shall be in the same proportion as the ratio of the volume of each liquid product (excluding waste products which have no value) to the volume of all liquid products (excluding waste products which have no value) and such allocation shall be made in a consistent and equitable manner. Except as provided in this paragraph, the lessee may not take an allowance for transporting lease production which is not royalty-bearing without MMS approval.

(ii) Notwithstanding the requirements of paragraph (i), the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported. MMS shall approve the method unless it determines that it is not consistent with the purposes of the regulations in this part.

(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS. The lessee may use the oil transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all available data to support its proposal. The initial proposal must be submitted by June 30, 1988 or within 3 months after the last day of the month for which the lessee requests a transportation allowance, whichever is later (unless MMS approves a longer period). MMS shall then determine the oil transportation allowance on the basis of the lessee's proposal and any additional information MMS deems necessary.

(5) A lessee may apply to MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(4) of this section. MMS will grant the exception only if the lessee has a tariff for the transportation system approved by the Federal Energy Regulatory Commission (FERC) for Indian leases. MMS shall deny the exception request if it determines that the tariff is excessive as compared to arm's-length transportation charges by pipelines, owned by the lessee or others, providing similar transportation services in that area. If there are no arm's-length transportation charges, MMS shall deny the exception request if:

(i) No FERC cost analysis exists and the FERC has declined to investigate under MMS timely objections upon filing; and

(ii) the tariff significantly exceeds the lessee's actual costs for transportation as determined under this section.

(c) *Reporting requirements*—(1) *Arm's-length contracts.* (i) With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report, prior to, or at the same time as, the transportation allowance determined, under an arm's-length contract, is reported on Form MMS–2014, Report of Sales and Royalty Remittance. A Form MMS–4110 received by the end of the month that the Form MMS–2014 is due shall be considered to be timely received.

(ii) The initial Form MMS–4110 shall be effective for a reporting period beginning the month that the lessee is first authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until the applicable contract or rate terminates or is modified or amended, whichever is earlier.

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4110 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.

(v) Transportation allowances which are based on arm's-length contracts and which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(2) *Non-arm's-length or no contract.*

(i) With the exception of those transportation allowances specified in paragraphs (c)(2)(v), (c)(2)(vii) and (c)(2)(viii) of this section, the lessee shall submit an initial Form MMS–4110 prior to, or at the same time as, the transportation allowance determined under a non-arm's-length contract or no-contract situation is reported on Form MMS–2014. A Form MMS–4110 received by the end of the month that the Form MMS–2014 is due shall be considered to be timely received. The initial report may be based upon estimated costs.

(ii) The initial Form MMS–4110 shall be effective for a reporting period beginning the month that the lessee first is authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until transportation under the non-arm's-length contract or the no-contract situation terminates, whichever is earlier.

(iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4110 containing the actual costs for the previous reporting period. If oil transportation is continuing, the lessee shall include on Form MMS–4110 its estimated costs for the next calendar year. The estimated oil transportation allowance shall be based on the actual costs for the previous reporting period plus or minus any adjustments which are based on the lessee's knowledge of decreases or increases that will affect the allowance. MMS must receive the Form MMS–4110 within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) For new transportation facilities or arrangements, the lessee's initial Form MMS–4110 shall include estimates of the allowable oil transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system or, if such data are not available, the lessee shall use estimates based upon industry data for similar transportation systems.

(v) Non-arm's-length contract or no-contract transportation allowances which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4110. The data shall be provided within a reasonable period of time, as determined by MMS.

(vii) MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(viii) If the lessee is authorized to use its FERC-approved tariff as its transportation cost in accordance with paragraph (b)(5) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

(3) MMS may establish reporting dates for individual lessees different from those specified in this subpart in order to provide more effective administration. Lessees will be notified of any change in their reporting period.

(4) Transportation allowances must be reported as a separate line item on Form MMS–2014, unless MMS approves a different reporting procedure.

(d) *Interest assessments for incorrect or late reports and for failure to report.*

(1) If a lessee deducts a transportation allowance on its Form MMS–2014 without complying with the requirements of this section, the lessee shall pay interest only on the amount of such deduction until the requirements of this section are complied with. The lessee also shall repay the amount of any allowance which is disallowed by this section.

(2) If a lessee erroneously reports a transportation allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.*

(1) If the actual transportation allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed under 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be entitled to a credit without interest.

(2) For lessees transporting production from Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in

accordance with instructions provided by MMS.

(f) *Actual or theoretical losses.* Notwithstanding any other provisions of this subpart, for other than arm's-length contracts, no cost shall be allowed for oil transportation which results from payments (either volumetric or for value) for actual or theoretical losses. This section does not apply when the transportation allowance is based upon a FERC or State regulatory agency approved tariff.

(g) *Other transportation cost determinations.* The provisions of this section shall apply to determine transportation costs when establishing value using a netback valuation procedure or any other procedure that requires deduction of transportation costs.

3. Subpart C—Federal and Indian Oil is amended by revising the heading to read as follows:

Subpart C—Federal Oil

4. Section 206.100 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 206.100 Purpose and scope.

(a) This subpart is applicable to all oil production from Federal oil and gas leases. The purpose of this subpart is to establish the value of production, for royalty purposes, consistent with the mineral leasing laws, other applicable laws, and lease terms.

(b) If the specific provisions of any Federal statute, settlement agreement between the United States and a lessee resulting from administrative or judicial litigation, or oil and gas lease subject to the requirements of this subpart are inconsistent with any regulation in this subpart, then the statute, lease provision or settlement agreement shall govern to the extent of that inconsistency.

(c) All royalty payments made to MMS are subject to audit and adjustment.

* * * * *

5. Section 206.101 is amended by adding in alphabetical order the definition for *Netting*, revising the definitions for *Allowance, Audit, Gross proceeds, Lease products, Lessee, Net Profit share*, and deleting the definitions *BIA, Indian allottee, Indian Tribe* to read as follows:

§ 206.101 Definitions.

For the purposes of this subpart:

Allowance means a deduction in determining value for royalty purposes. Transportation allowance means an allowance for the reasonable, actual costs incurred by the lessee for moving oil to a point of sale or point of delivery off the lease, unit area, or communitized area, excluding gathering.

* * * * *

Audit means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Federal leases.

* * * * *

Gross proceeds (for royalty payment purposes) means the total moneys and other consideration accruing to an oil and gas lessee for the disposition of the oil produced. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as dehydration, measurement, and/or gathering to the extent that the lessee is obligated to perform them at no cost to the Federal Government. Gross proceeds, as applied to oil, also includes, but is not limited to, reimbursements for harboring or terminaling fees. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Federal royalty interest may be exempt from taxation. Moneys and other consideration, including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through reasonable efforts are also part of gross proceeds.

* * * * *

Lease products means any leased minerals attributable to, originating from, or allocated to Outer Continental Shelf or onshore Federal leases.

Lessee means any person to whom the United States issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

* * * * *

Net profit share (for applicable Federal leases) means the specified share of the net profit from production of oil and gas as provided in the agreement.

Netting is the deduction of an allowance from the sales value by reporting a one line net sales value, instead of correctly reporting the deduction as a separate line item on the Form MMS–2014.

* * * * *

6. Section 206.102 is amended by redesignating paragraph (a)(1) as paragraph (a), removing paragraph (a)(2), and revising paragraphs (d), (i), (k), and (l) to read as follows:

§ 206.102 Valuation standards.

(a) * * *

* * * * *

(d) Any Federal lessee will make available, upon request to the authorized MMS or State representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased, or otherwise obtained by the lessee from the field or area or from nearby fields or areas.

* * * * *

(i) The lessee is required to place oil in marketable condition at no cost to the Federal Government unless otherwise provided in the lease agreement or this section. Where the value established under this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the oil in marketable condition.

* * * * *

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value under this section shall be considered final or binding as against the Federal Government or its beneficiaries until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation allowances or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 552, or other Federal law. Any data specified by law to be privileged, confidential, or otherwise exempt, will be maintained in a confidential manner in accordance with applicable laws and regulations. All requests for information about determinations made under this part are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2.

7. Section 206.104 is amended by revising paragraphs (b)(2), and (d) to read as follows:

§ 206.104 Transportation allowances-general.

* * * * *

(b) * * *

(2) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitation prescribed by paragraph (b)(1) of this section. The lessee must demonstrate that the transportation costs incurred in excess of the limitation prescribed in paragraph (b)(1) of this section were reasonable, actual, and necessary. An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation necessary for MMS to make a determination. Under no circumstances shall the value, for royalty purposes, under any selling arrangement, be reduced to zero.

* * * * *

(d) If, after a review and/or audit, MMS determines that a lessee has improperly determined a transportation allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest. If the lessee takes a deduction for transportation on the Form MMS–2014 by improperly netting the allowance against the sales value of the oil instead of reporting the allowance as a separate line item, the lessee may be assessed an amount under § 206.105(d).

8. In § 206.105, paragraphs (c)(1)(ii), (c)(1)(iii), (c)(1)(v), (c)(1)(vi), (c)(2)(ii), (c)(2)(iii), (c)(2)(v), (c)(2)(vii), (c)(3), and (c)(4) are removed; paragraphs (c)(1)(iv), (c)(2)(iv), (c)(2)(vi), and (c)(2)(viii) are redesignated as paragraphs (c)(1)(ii), (c)(2)(ii), and (c)(2)(iii), and (c)(2)(iv) respectively; and revising paragraphs (a)(1)(i), (a)(3), (b)(1), (b)(2)(v), (b)(4), (c)(1)(i), (c)(2)(i), newly designated (c)(2)(ii), newly designated (c)(2)(iii), (d), and (e) to read as follows:

§ 206.105 Determination of transportation allowances.

(a) Arm's-length transportation contracts.

(1)(i) For transportation costs incurred by a lessee under an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting oil under that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. MMS' prior approval is not required before a lessee may deduct costs incurred under an arm's-length contract. Such allowances shall be subject to the provisions of paragraph (f) of this section. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form MMS–2014.

* * * * *

(3) If an arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use the oil transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all available data to support its proposal. The initial proposal must be submitted within 3 months after the last day of the month for which the lessee requests a transportation allowance. MMS shall then determine the oil transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary.

* * * * *

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length transportation contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable, actual costs as provided in this paragraph. All transportation allowances deducted under a non-arms-length or no-contract situation are subject to monitoring, review, audit, and adjustment to ensure that they are reasonable and allowable. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form MMS–2014. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual transportation allowance deduction.

(2) * * *

(i) * * *

(v) The rate of return must be the industrial rate associated with Standard and Poor's BBB rating. The rate of return must be the monthly average rate as published in Standard and Poor's Bond Guide for the first month for which the allowance is applicable. The rate must be redetermined at the beginning of each subsequent calendar year.

* * * * *

(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS. The lessee may use the oil transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all available data to support its proposal. MMS shall then determine the oil transportation allowance on the basis of the lessee's proposal and any additional information MMS deems necessary. The lessee must submit the allocation proposal within 3 months of claiming the allocated deduction on the Form MMS–2014.

* * * * *

(c) *Reporting requirements.*

(1) *Arm's-length contracts.*

(i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.

(ii) * * *

(2) *Non-arm's-length or no contract.*

(i) The lessee must notify MMS of an allowance based on the incurred costs by using a separate line entry on the Form MMS–2014.

(ii) For new transportation facilities or arrangements, the lessee's initial deduction shall include estimates of the allowable oil transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system or, if such data are not available, the lessee shall use estimates based upon industry data for similar transportation systems.

(iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction. The data shall be provided within a reasonable period of time, as determined by MMS.

(iv) * * *

(d) *Interest and assessments.*

(1) If a lessee nets a transportation allowance against the royalty value on the Form MMS–2014, the lessee shall be assessed an amount of up to 10 percent of the allowance netted not to exceed $250 per lease selling arrangement per sales period.

(2) If a lessee deducts a transportation allowance on its Form MMS–2014 that exceeds 50 percent of the value of the oil transported without obtaining prior approval of MMS under 206.104 of this subpart, the lessee shall pay interest on the excess allowance amount taken from the date such amount is taken to the date the lessee files an exception request with MMS.

(3) If a lessee erroneously reports a transportation allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(4) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.* (1) If the actual transportation allowance is less than the

amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall pay additional royalties due plus interest computed under 30 CFR 218.54 from the allowance reporting period when the lessee took the deduction to the date the lessee repays the difference to MMS. If the actual transportation allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall be entitled to a credit without interest.

(2) For lessees transporting production from onshore Federal leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

* * * * *

9. Subpart D is amended by revising the heading to read as follows:

Subpart D—Federal Gas

10. Section 206.150 is revised to read as follows:

§ 206.150 Purpose and scope.

(a) This subpart is applicable to all gas production from Federal oil and gas leases. The purpose of this subpart is to establish the value of production for royalty purposes consistent with the mineral leasing laws, other applicable laws and lease terms.

(b) If the specific provisions of any statute or settlement agreement between the United States and a lessee resulting from administrative or judicial litigation, or oil and gas lease subject to the requirements of this subpart are inconsistent with any regulation in this subpart, then the lease, statute, or settlement agreement shall govern to the extent of that inconsistency.

(c) All royalty payments made to MMS are subject to audit and adjustment.

(d) The regulations in this subpart are intended to ensure that the administration of oil and gas leases is discharged in accordance with the requirements of the governing mineral leasing laws and lease terms.

11. Section 206.151 is amended by adding in alphabetical order the definition for *Netting*, revising the definitions *Allowance, Audit, Gross proceeds, Lease products, Lessee, Net Profit share*, and removing the definitions *BIA, Indian allottee*, and *Indian Tribe* to read as follows:

§ 206.151 Definitions.

* * * * *

Allowance means a deduction in determining value for royalty purposes. Processing allowance means an allowance for the reasonable costs for processing gas determined under this subpart. Transportation allowance means an allowance for the cost of moving royalty bearing substances (identifiable, measurable oil and gas, including gas that is not in need of initial separation) from the point at which it is first identifiable and measurable to the sales point or other point where value is established under this subpart.

* * * * *

Audit means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Federal leases.

* * * * *

Gross proceeds (for royalty payment purposes) means the total monies and other consideration accruing to an oil and gas lessee for the disposition of the oil produced. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as dehydration, measurement, and/or gathering to the extent that the lessee is obligated to perform them at no cost to the Federal Government. Gross proceeds, as applied to oil, also includes, but is not limited to, reimbursements for harboring or terminaling fees. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Federal royalty interest may be exempt from taxation. Monies and other consideration, including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through reasonable efforts are also part of gross proceeds.

* * * * *

Lease products means any leased minerals attributable to, originating from, or allocated to Outer Continental Shelf or onshore Federal leases.

Lessee means any person to whom the United States issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

* * * * *

Net profit share (for applicable Federal leases) means the specified share of the net profit from production of oil and gas as provided in the agreement.

Netting is the deduction of an allowance from the sales value by reporting a one line net sales value, instead of correctly reporting the deduction as a separate line item on the Form MMS–2014.

* * * * *

12. Section 206.152 is amended by revising paragraph (a)(2), removing paragraph (a)(3), and revising paragraphs (e)(2), (h), (i), (k) and (l) to read as follows:

§ 206.152 Valuation standards—unprocessed gas.

(a) * * *

(2) The value of production, for royalty purposes, of gas subject to this subpart shall be the value of gas determined under this section less applicable allowances.

* * * * *

(e) * * *

(2) Any Federal lessee will make available upon request to the authorized MMS or State representatives, to the Office of the Inspector General of the Department of the Interior, or other person authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased or otherwise obtained by the lessee from the field or area or from nearby fields or areas.

* * * * *

(h) Notwithstanding any other provision of this section, under no circumstances shall the value of production for royalty purposes be less than the gross proceeds accruing to the lessee for lease production, less applicable allowances.

(i) The lessee is required to place gas in marketable condition at no cost to the Federal Government unless otherwise provided in the lease agreement. Where the value established under this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the gas in marketable condition.

* * * * *

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value under this section shall be considered final or binding as against the Federal Government or its beneficiaries until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. § 552, or other Federal Law. Any data specified by law to be privileged, confidential, or otherwise exempt will be maintained in a confidential manner in accordance with applicable law and regulations. All requests for information about determinations made under this subpart are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2.

13. Section 206.153 is amended by removing paragraph (a)(3), and revising paragraphs (e)(2), (i), (k), and (l) to read as follows:

§ 206.153 Valuation standards—processed gas.

* * * * *

(e) * * *

(2) Any Federal lessee will make available upon request to the authorized MMS or State representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality residue gas and gas plant products sold, purchased or otherwise obtained by the lessee from the same processing plant or from nearby processing plants.

* * * * *

(i) The lessee is required to place residue gas and gas plant products in marketable condition at no cost to the Federal Government unless otherwise provided in the lease agreement. Where the value established under this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the residue gas or gas plant products in marketable condition.

* * * * *

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value under this section shall be considered final or binding against the Federal Government or its beneficiaries until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation allowances, processing allowances or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 552, or other Federal law. Any data specified by law to be privileged, confidential, or otherwise exempt, will be maintained in a confidential manner in accordance with applicable law and regulations. All requests for information about determinations made under this Part are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2.

14. Section 206.154 is amended by revising paragraph (c)(4) to read as follows:

§ 206.154 Determination of quantities and qualities for computing royalties.

* * * * *

(c) * * *

(4) A lessee may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease. If approved, such method will be applicable to all gas production from Federal leases that is processed in the same plant.

* * * * *

15. Section 206.155 is amended by revising paragraph (b) to read as follows:

§ 206.155 Accounting for comparison.

* * * * *

(b) The requirement for accounting for comparison contained in the terms of leases will govern as provided in Section 206.150(b) of this subpart. When accounting for comparison is required by the lease terms, such accounting for comparison shall be determined in accordance with paragraph (a) of this section.

16. Section 206.156 is amended by revising paragraphs (c)(3), and (d) to read as follows:

§ 206.156 Transportation allowances—general.

* * * * *

(c) * * *

(3) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitations prescribed by paragraphs (c)(1) and (c)(2) of this section. The lessee must demonstrate that the transportation costs incurred in excess of the limitations prescribed in paragraphs (c)(1) and (c)(2) of this section were reasonable, actual, and necessary. An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation necessary for MMS to make a determination. Under no circumstances shall the value for royalty purposes under any selling arrangement be reduced to zero.

(d) If, after a review and/or audit, MMS determines that a lessee has improperly determined a transportation allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest, determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest. If the lessee takes a deduction for transportation on the Form MMS–2014 by improperly netting the allowance against the sales value of the oil instead of reporting the allowance as a separate line item, he may be assessed an additional amount under 206.157(d).

17. In § 206.157, paragraphs (c)(1)(ii), (c)(1)(iii), (c)(1)(v), (c)(1)(vi), (c)(2)(ii), (c)(2)(iii), (c)(2)(v), (c)(2)(vii), (c)(3) and, (c)(4) are removed; paragraphs (c)(1)(iv), (c)(2)(iv), (c)(2)(vi), and (c)(2)(viii) are redesignated as paragraphs (c)(1)(ii), (c)(2)(ii), (c)(2)(iii), and (c)(2)(iv) respectively; and revising paragraphs (a)(1)(i), (a)(3), (b)(1), (b)(2)(v), (b)(4), (c)(1)(i), (c)(2)(i), newly designated (c)(2)(ii), newly designated (c)(2)(iii). (d), (e)(1) and (e)(2) to read as follows:

§ 206.157 Determination of transportation allowances.

(a) *Arm's-length transportation contracts.* (1)(i) For transportation costs incurred by a lessee under an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting the unprocessed gas, residue gas and/or gas plant products under that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. MMS' prior approval is not required before a lessee may deduct costs incurred under an arm's-length contract. Such allowances shall be subject to the provisions of paragraph (f) of this section. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form MMS–2014.

* * * * *

(3) If an arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use the transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall

submit all relevant data to support its proposal. MMS shall then determine the gas transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary. The lessee must submit the allocation proposal within 3 months of claiming the allocated deduction on the Form MMS–2014.

* * * * *

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length transportation contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable actual costs as provided in this paragraph. All transportation allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and adjustment. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form MMS–2014. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual transportation allowance deduction.

(2)* * *

(v) The rate of return must be the industrial rate associated with Standard and Poor's BBB rating. The rate of return must be the monthly average rate as published in Standard and Poor's Bond Guide for the first month for which the allowance is applicable. The rate must be redetermined at the beginning of each subsequent calendar year.

* * * * *

(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS. The lessee may use the transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all relevant data to support its proposal. MMS shall then determine the transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary. The lessee must submit the allocation proposal within 3 months of claiming the allocated deduction on the Form MMS–2014.

* * * * *

(c) *Reporting requirements.*

(1) *Arm's-length contracts.* (i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.

* * * * *

(2) *Non-arm's-length or no contract.*

(i) The lessee must notify MMS of an allowance based on the incurred costs by using a separate line entry on the Form MMS–2014.

(ii) For new transportation facilities or arrangements, the lessee's initial deduction shall include estimates of the allowable gas transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system or, if such data are not available, the lessee shall use estimates based upon industry data for similar transportation systems.

(iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction. The data shall be provided within a reasonable period of time, as determined by MMS.

* * * * *

(d) *Interest and assessments.* (1) If a lessee nets a transportation allowance against the royalty value on the Form MMS–2014, the lessee shall be assessed an amount of up to 10 percent of the allowance netted not to exceed $250 per lease selling arrangement per sales period.

(2) If a lessee deducts a transportation allowance on its Form MMS–2014 that exceeds 50 percent of the value of the gas transported without obtaining prior approval of MMS under section 206.156, the lessee shall pay interest on the excess allowance amount taken from the date such amount is taken to the date the lessee files an exception request with MMS.

(3) If a lessee erroneously reports a transportation allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(4) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.* (1) If the actual transportation allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall be required to pay additional royalties due plus interest computed under 30 CFR 218.54 from the allowance reporting period when the lessee took the deduction to the date the lessee repays the difference to MMS. If the actual transportation allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall be entitled to a credit without interest.

(2) For lessees transporting production from onshore Federal leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

* * * * *

18. Section 206.158 is amended by revising paragraphs (c)(3) and (e) to read as follows:

§ 206.158 Processing allowances—general.

* * * * *

(c)* * *

(3) Upon request of a lessee, MMS may approve a processing allowance in excess of the limitation prescribed by paragraph (c)(2) of this section. The lessee must demonstrate that the processing costs incurred in excess of the limitation prescribed in paragraph (c)(2) of this section were reasonable, actual, and necessary. An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation for MMS to make a determination. Under no circumstances shall the value for royalty purposes of any gas plant product be reduced to zero.

* * * * *

(e) If MMS determines that a lessee has improperly determined a processing allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest. If the lessee takes a deduction for transportation on the Form MMS–2014 by improperly netting the allowance against the sales value of the oil instead of reporting the allowance as a separate line item, he may be assessed an additional amount under 206.159(d).

19. In § 206.159, paragraphs (c)(1)(ii), (c)(1)(iii), (c)(1)(v), (c)(1)(vi), (c)(2)(ii), (c)(2)(iii), (c)(2)(v), (c)(2)(vii), (c)(3), and (c)(4) are removed; paragraphs (c)(1)(iv), (c)(2)(iv), (c)(2)(vi), and (c)(2)(viii) are redesignated as paragraphs (c)(1)(ii), (c)(2)(ii), (c)(2)(iii) and (c)(2)(iv) respectively; and revising paragraphs (a)(1)(i), (a)(3), (b)(1), (b)(2)(v), (c)(1)(i), (c)(2)(i) newly designated (c)(2)(ii), newly designated (c)(2)(iii), (d), (e)(1) and (e)(2) to read as follows:

§ 206.159 Determination of processing allowances.

(a) *Arm's-length processing contracts.*

(1)(i) For processing costs incurred by a lessee under an arm's-length contract, the processing allowance shall be the reasonable actual costs incurred by the lessee for processing the gas under that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. MMS' prior approval is not required before a lessee may deduct costs incurred under an arm's-length contract. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form MMS–2014.

* * * * *

(3) If an arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use its proposed allocation procedure until MMS issues its determination. The lessee shall submit all relevant data to support its proposal. MMS shall then determine the processing allowance based upon the lessee's proposal and any additional information MMS deems necessary. No processing allowance will be granted for the costs of processing lease production which is not royalty bearing. The lessee must submit the allocation proposal within 3 months of claiming the allocated deduction on Form MMS–2014.

* * * * *

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length processing contract or has no contract, including those situations where the lessee performs processing for itself, the processing allowance will be based upon the lessee's reasonable actual costs as provided in this paragraph. All processing allowances deducted under a non-arm's-length or no-contract situation are subject to monitoring, review, audit, and adjustment. The lessee must claim a processing allowance by reflecting it as a separate line entry on the Form MMS–2014. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual processing allowance.

(2)* * *

(v) The rate of return must be the industrial rate associated with Standard and Poor's BBB rating. The rate of return must be the monthly average rate as published in Standard and Poor's Bond Guide for the first month for which the allowance is applicable. The rate must be redetermined at the beginning of each subsequent calendar year.

* * * * *

(c) *Reporting requirements* (1) *Arm's-length contracts.* (i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.

* * * * *

(2) *Non-arm's-length or no contract.*

(i) The lessee must notify MMS of an allowance based on the incurred costs by using a separate line entry on the Form MMS–2014.

(ii) For new processing plants, the lessee's initial deduction shall include estimates of the allowable gas processing costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the plant or, if such data are not available, the lessee shall use estimates based upon industry data for similar gas processing plants.

(iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction. The data shall be provided within a reasonable period of time, as determined by MMS.

(d) *Interest and assessments.*

(1) If a lessee nets a processing allowance against the royalty value on the Form MMS–2014, the lessee shall be assessed an amount of up to 10 percent of the allowance netted not to exceed $250 per lease selling arrangement per sales period.

(2) If a lessee deducts a processing allowance on its Form MMS–2014 that exceeds 66⅔ percent of the value of the gas processed without obtaining prior approval of MMS under Section 206.158, the lessee shall pay interest on the excess allowance amount taken from the date such amount is taken to the date the lessee files an exception request with MMS.

(3) If a lessee erroneously reports a processing allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(4) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.*

(1) If the actual processing allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall pay additional royalties due plus interest computed under 30 CFR 218.54 from the allowance reporting period when the lessee took the deduction to the date the lessee repays the difference to MMS. If the actual processing allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall be entitled to a credit without interest.

(2) For lessees transporting production from onshore Federal leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

* * * * *

20. The subpart heading Subpart E—Solid Minerals, General [Reserved] is removed and a new Subpart E—Indian Gas is added to read as follows:

Subpart E—Indian Gas

Sec.

206.170 Purpose and scope.
206.171 Definitions.
206.172 Valuation standards—unprocessed gas.
206.173 Valuation standards—processed gas.
206.174 Determination of quantities and qualities for computing royalties.
206.175 Accounting for comparison.
206.176 Transportation allowances—general.
206.177 Determination of transportation allowances.
206.178 Processing allowances—general.
206.179 Determination of processing allowances.

Subpart E—Indian Gas

§ 206.170 Purpose and scope.

(a) This subpart is applicable to all gas production from Indian (Tribal and allotted) oil and gas leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma). The purpose of this subpart is to establish the value of production for royalty purposes consistent with the mineral leasing laws, other applicable laws, and lease terms.

(b) If the specific provisions of any statute, treaty, or settlement agreement between the Indian lessor and a lessee resulting from administrative or judicial litigation, or oil and gas lease subject to the requirements of this subpart are inconsistent with any regulation in this subpart, then the lease, statute, treaty provision or settlement agreement shall govern to the extent of that inconsistency.

(c) All royalty payments made to any Tribe or allottee are subject to audit and adjustment.

(d) The regulations in this subpart are intended to ensure that the trust responsibilities of the United States with respect to the administration of Indian oil and gas leases are discharged in accordance with the requirements of the governing mineral leasing laws, treaties, and lease terms.

§ 206.171 Definitions.

For purposes of this subpart:

Allowance means an approved or an (MMS)-initially accepted deduction in determining value for royalty purposes. Processing allowance means an allowance for the reasonable, actual costs incurred by the lessee for

processing gas, or an approved or MMS-initially accepted deduction for costs of such processing, determined pursuant to this subpart. Transportation allowance means an allowance for the reasonable, actual costs incurred by the lessee for moving unprocessed gas, residue gas, or gas plant products to a point of sale or point of delivery off the lease, unit area, communitized area, or away from a processing plant, excluding gathering, or an approved or MMS-initially accepted deduction for costs of such transportation, determined pursuant to this subpart.

Area means a geographic region at least as large as the defined limits of an oil and/or gas field, in which oil and/or gas lease products have similar quality, economic, and legal characteristics.

Arm's-length contract means a contract or agreement that has been arrived at in the marketplace between independent, nonaffiliated persons with opposing economic interests regarding that contract. For purposes of this subpart, two persons are affiliated if one person controls, is controlled by, or is pursuant to common control with another person. For purposes of this subpart, based on the instruments of ownership of the voting securities of an entity, or based on other forms of ownership: ownership in excess of 50 percent constitutes control; ownership of 10 through 50 percent creates a presumption of control; and ownership of less than 10 percent creates a presumption of noncontrol which MMS may rebut if it demonstrates actual or legal control, including the existence of interlocking directorates. Notwithstanding any other provisions of this subpart, contracts between relatives, either by blood or by marriage, are not arm's-length contracts. MMS may require the lessee to certify ownership control. To be considered arm's-length for any production month, a contract must meet the requirements of this definition for that production month, as well as when the contract was executed.

Audit means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Indian leases.

BIA means the Bureau of Indian Affairs of the Department of the Interior.

BLM means the Bureau of Land Management of the Department of the Interior.

Compression means the process of raising the pressure of gas.

Condensate means liquid hydrocarbons (normally exceeding 40 degrees of API gravity) recovered at the surface without resorting to processing. Condensate is the mixture of liquid hydrocarbons that results from condensation of petroleum hydrocarbons existing initially in a gaseous phase in an underground reservoir.

Contract means any oral or written agreement, including amendments or revisions thereto, between two or more persons and enforceable by law that with due consideration creates an obligation.

Field means a geographic region situated over one or more subsurface oil and gas reservoirs encompassing at least the outermost boundaries of all oil and gas accumulations known to be within those reservoirs vertically projected to the land surface. Onshore fields are usually given names and their official boundaries are often designated by oil and gas regulatory agencies in the respective States in which the fields are located.

Gas means any fluid, either combustible or noncombustible, hydrocarbon or nonhydrocarbon, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely. It is a substance that exists in a gaseous or rarefied state pursuant to standard temperature and pressure conditions.

Gas plant products means separate marketable elements, compounds, or mixtures, whether in liquid, gaseous, or solid form, resulting from processing gas, excluding residue gas.

Gathering means the movement of lease production to a central accumulation and/or treatment point on the lease, unit or communitized area, or to a central accumulation or treatment point off the lease, unit or communitized area as approved by BLM operations personnel for onshore leases.

Gross proceeds (for royalty payment purposes) means the total monies and other consideration accruing to an oil and gas lessee for the disposition of unprocessed gas, residue gas, or gas plant products produced. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as compression, dehydration, measurement, and/or field gathering to the extent that the lessee is obligated to perform them at no cost to the Indian lessor, and payments for gas processing rights. Gross proceeds, as applied to gas, also includes but is not limited to reimbursements for severance taxes and other reimbursements. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Indian royalty interest may be exempt from taxation. Monies and other consideration, including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through reasonable efforts are also part of gross proceeds.

Indian allottee means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation.

Indian Tribe means any Indian Tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians for which any land or interest in land is held in trust by the United States or which is subject to Federal restriction against alienation.

Lease means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States pursuant to a mineral leasing law that authorizes exploration for, development or extraction of, or removal of lease products—or the land area covered by that authorization, whichever is required by the context.

Lease products means any leased minerals attributable to, originating from, or allocated to Indian leases.

Lessee means any person to whom an Indian Tribe, or an Indian allottee issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

Like-quality lease products means lease products which have similar chemical, physical, and legal characteristics.

Marketable condition means lease products which are sufficiently free from impurities and otherwise in a condition that they will be accepted by a purchaser pursuant to a sales contract typical for the field or area.

Marketing affiliate means an affiliate of the lessee whose function is to acquire only the lessee's production and to market that production.

Minimum royalty means that minimum amount of annual royalty that the lessee must pay as specified in the lease or in applicable leasing regulations.

MMS means the Minerals Management Service of the Department of the Interior.

Net-back method (or work-back method) means a method for calculating market value of gas at the lease. Pursuant to this method, costs of transportation, processing, or manufacturing are deducted from the proceeds received for the gas, residue gas or gas plant products, and any extracted, processed, or manufactured products, or from the value of the gas, residue gas or gas plant products, and any extracted, processed, or manufactured products, at the first point at which reasonable values for any such products may be determined by a sale pursuant to an arm's-length contract or comparison to other sales of such products, to ascertain value at the lease.

Net output means the quantity of residue gas and each gas plant product that a processing plant produces.

Net profit share (for applicable Indian leases) means the specified share of the net profit from production of oil and gas as provided in the agreement.

Person means any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity).

Posted price means the price, net of all adjustments for quality and location, specified in publicly available price bulletins or other price notices available as part of normal business operations for quantities of unprocessed gas, residue gas, or gas plant products in marketable condition.

Processing means any process designed to remove elements or compounds (hydrocarbon and nonhydrocarbon) from gas, including absorption, adsorption, or refrigeration. Field processes which normally take place on or near the lease, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration, and compression, are not considered processing. The changing of pressures and/or temperatures in a reservoir is not considered processing.

Residue gas means that hydrocarbon gas consisting principally of methane resulting from processing gas.

Selling arrangement means the individual contractual arrangements pursuant to which sales or dispositions of gas, residue gas and gas plant products are made. Selling arrangements are described by illustration in the MMS Royalty Management Program Oil and Gas Payor Handbook.

Spot sales agreement means a contract wherein a seller agrees to sell to a buyer a specified amount of unprocessed gas, residue gas, or gas plant products at a specified price over a fixed period, usually of short duration, which does not normally require a cancellation notice to terminate, and which does not contain an obligation, nor imply an intent, to continue in subsequent periods.

Warranty contract means a long-term contract entered into prior to 1970, including any amendments thereto, for the sale of gas wherein the producer agrees to sell a specific amount of gas and the gas delivered in satisfaction of this obligation may come from fields or sources outside of the designated fields.

§ 206.172 Valuation standards—unprocessed gas.

(a) (1) This section applies to the valuation of all gas that is not processed and all gas that is processed but is sold or otherwise disposed of by the lessee pursuant to an arm's-length contract prior to processing (including all gas where the lessee's arm's-length contract for the sale of that gas prior to processing provides for the value to be determined on the basis of a percentage of the purchaser's proceeds resulting from processing the gas). This section also applies to processed gas that must be valued prior to processing in accordance with § 206.175 of this subpart. Where the lessee's contract includes a reservation of the right to process the gas and the lessee exercises that right, § 206.173 of this subpart shall apply instead of this section.

(2) The value of production, for royalty purposes, of gas subject to this subpart shall be the value of gas determined pursuant to this section less applicable allowances determined pursuant to this subpart.

(3) (i) For any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion of production (major portion) in determining value of production for royalty purposes, if data are available to compute a major portion MMS will, where practicable, compare the value determined in accordance with this section with the major portion. The value to be used in determining the value of production for royalty purposes shall be the higher of those two values.

(ii) For purposes of this paragraph, major portion means the highest price paid or offered at the time of production for the major portion of gas production from the same field. The major portion will be calculated using like-quality gas sold pursuant to arm's-length contracts from the same field (or, if necessary to obtain a reasonable sample, from the same area) for each month. All such sales will be arrayed from highest price to lowest price (at the bottom). The major portion is that price at which 50 percent (by volume) plus 1 mcf of the gas (starting from the bottom) is sold.

(b)(1) (i) The value of gas which is sold pursuant to an arm's-length contract shall be the gross proceeds accruing to the lessee, except as provided in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section. The lessee shall have the burden of demonstrating that its contract is arm's-length. The value which the lessee reports, for royalty purposes, is subject to monitoring, review, and audit. For purposes of this section, gas which is sold or otherwise transferred to the lessee's marketing affiliate and then sold by the marketing affiliate pursuant to an arm's-length contract shall be valued in accordance with this paragraph based upon the sale by the marketing affiliate. Also, where the lessee's arm's-length contract for the sale of gas prior to processing provides for the value to be determined based upon a percentage of the purchaser's proceeds resulting from processing the gas, the value of production, for royalty purposes, shall never be less than a value equivalent to 100 percent of the value of the residue gas attributable to the processing of the lessee's gas.

(ii) In conducting reviews and audits, MMS will examine whether the contract reflects the total consideration actually transferred either directly or indirectly from the buyer to the seller for the gas. If the contract does not reflect the total consideration, then MMS may require that the gas sold pursuant to that contract be valued in accordance with paragraph (c) of this section. Value may not be less than the gross proceeds accruing to the lessee, including the additional consideration.

(iii) If MMS determines that the gross proceeds accruing to the lessee pursuant to an arm's-length contract do not reflect the reasonable value of the production because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the gas production be valued pursuant to paragraphs (c)(2) or (c)(3) of this section, and in accordance with the notification requirements of paragraph (e) of this section. When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, the value of gas sold pursuant to a warranty contract shall be determined by MMS, and due consideration will be given to all valuation criteria specified in this section. The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract;

provided, however, that any value determination for a warranty contract in effect on the effective date of these regulations shall remain in effect until modified by MMS.

(3) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the gas.

(c) The value of gas subject to this section which is not sold pursuant to an arm's-length contract shall be the reasonable value determined in accordance with the first applicable of the following methods:

(1) The gross proceeds accruing to the lessee pursuant to a sale pursuant to its non-arm's-length contract (or other disposition other than by an arm's-length contract), provided that those gross proceeds are equivalent to the gross proceeds derived from, or paid pursuant to, comparable arm's-length contracts for purchases, sales, or other dispositions of like-quality gas in the same field (or, if necessary to obtain a reasonable sample, from the same area). In evaluating the comparability of arm's-length contracts for the purposes of these regulations, the following factors shall be considered: price, time of execution, duration, market or markets served, terms, quality of gas, volume, and such other factors as may be appropriate to reflect the value of the gas;

(2) A value determined by consideration of other information relevant in valuing like-quality gas, including gross proceeds pursuant to arm's-length contracts for like-quality gas in the same field or nearby fields or areas, posted prices for gas, prices received in arm's-length spot sales of gas, other reliable public sources of price or market information, and other information as to the particular lease operation or the salability of the gas; or

(3) A net-back method or any other reasonable method to determine value.

(d) (1) Notwithstanding any other provisions of this section, except paragraph (h) of this section, if the maximum price permitted by Federal law at which gas may be sold is less than the value determined pursuant to this section, then MMS shall accept such maximum price as the value. For purposes of this section, price limitations set by any State or local government shall not be considered as a maximum price permitted by Federal law.

(2) The limitation prescribed in paragraph (d)(1) of this section shall not apply to gas sold pursuant to a warranty contract and valued pursuant to paragraph (b)(2) of this section.

(e) (1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value. Such data shall be subject to review and audit, and MMS will direct a lessee to use a different value if it determines that the reported value is inconsistent with the requirements of these regulations.

(2) Any Indian lessee will make available upon request to the authorized MMS or Indian representatives, to the Office of the Inspector General of the Department of the Interior, or other person authorized to receive such information, arm's-length sales and volume data for like-quality production sold, purchased or otherwise obtained by the lessee from the field or area or from nearby fields or areas.

(3) A lessee shall notify MMS if it has determined value pursuant to paragraph (c)(2) or (c)(3) of this section. The notification shall be by letter to MMS Associate Director for Royalty Management or his/her designee. The letter shall identify the valuation method to be used and contain a brief description of the procedure to be followed. The notification required by this paragraph is a one-time notification due no later than the end of the month following the month the lessee first reports royalties on a Form MMS–2014 using a valuation method authorized by paragraph (c)(2) or (c)(3) of this section, and each time there is a change in a method pursuant to paragraph (c)(2) or (c)(3) of this section.

(f) If MMS determines that a lessee has not properly determined value, the lessee shall pay the difference, if any, between royalty payments made based upon the value it has used and the royalty payments that are due based upon the value established by MMS. The lessee shall also pay interest on that difference computed pursuant to 30 CFR 218.54. If the lessee is entitled to a credit, MMS will provide instructions for the taking of that credit.

(g) The lessee may request a value determination from MMS. In that event, the lessee shall propose to MMS a value determination method, and may use that method in determining value for royalty purposes until MMS issues its decision. The lessee shall submit all available data relevant to its proposal. MMS shall expeditiously determine the value based upon the lessee's proposal and any additional information MMS deems necessary. In making a value determination MMS may use any of the valuation criteria authorized by this subpart. That determination shall remain effective for the period stated therein. After MMS issues its determination, the lessee shall make the adjustments in accordance with paragraph (f) of this section.

(h) Notwithstanding any other provision of this section, pursuant to no circumstances shall the value of production for royalty purposes be less than the gross proceeds accruing to the lessee for lease production, less applicable allowances determined pursuant to this subpart.

(i) The lessee is required to place gas in marketable condition at no cost to the Indian lessor unless otherwise provided in the lease agreement. Where the value established pursuant to this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the gas in marketable condition.

(j) Value shall be based on the highest price a prudent lessee can receive through legally enforceable claims pursuant to its contract. If there is no contract revision or amendment, and the lessee fails to take proper or timely action to receive prices or benefits to which it is entitled, it must pay royalty at a value based upon that obtainable price or benefit. Contract revisions or amendments shall be in writing and signed by all parties to an arm's-length contract. If the lessee makes timely application for a price increase or benefit allowed pursuant to its contract but the purchaser refuses, and the lessee takes reasonable measures, which are documented, to force purchaser compliance, the lessee will owe no additional royalties unless or until monies or consideration resulting from the price increase or additional benefits are received. This paragraph shall not be construed to permit a lessee to avoid its royalty payment obligation in situations where a purchaser fails to pay, in whole or in part or timely, for a quantity of gas.

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value pursuant to this section shall be considered final or binding as against the Indian Tribes or allottees until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation, processing, or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 552, or other Federal Law. Any data specified by law to be privileged, confidential, or otherwise exempt will be maintained in a confidential manner in accordance with applicable law and regulations. All requests for information about determinations made pursuant to this subpart are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2. Nothing in this section is intended to limit or diminish in any manner whatsoever the right of an Indian lessor to obtain any and all information as such lessor may be lawfully entitled from MMS or such lessor's lessee directly pursuant to the terms of the lease, 30 U.S.C. 1733, or other applicable law.

§ 206.173 Valuation standards—processed gas.

(a) (1) This section applies to the valuation of all gas that is processed by the lessee and any other gas production to which this subpart applies and that is not subject to the valuation provisions of § 206.172 of this part. This section applies where the lessee's contract includes a reservation of the right to process the gas and the lessee exercises that right.

(2) The value of production, for royalty purposes, of gas subject to this section shall be the combined value of the residue gas and all gas plant products determined pursuant to this section, plus the value of any condensate recovered downstream of the point of royalty settlement without resorting to processing determined pursuant to section of this part, less applicable transportation allowances and processing allowances determined pursuant to this subpart.

(3) (i) For any Indian leases which provide that the Secretary may consider the highest price paid or offered for a major portion of production (major portion) in determining value for royalty purposes, if data are available to compute a major portion MMS will, where practicable, compare the values determined in accordance with this section for any lease product with the major portion determined for that lease product. The value to be used in determining the value of production for royalty purposes shall be the higher of those two values.

(ii) For purposes of this paragraph, major portion means the highest price paid or offered at the time of production for the major portion of gas production from the same field, or for residue gas or gas plant products from the same processing plant, as applicable. The major portion will be calculated using like-quality lease products sold pursuant to arm's-length contracts from the same field or processing plant (or, if necessary to obtain a reasonable sample, from the same area or nearby processing plants) for each month. All such sales will be arrayed from highest price to lowest price (at the bottom). The major portion is that price at which 50 percent (by volume) plus 1 mcf of the gas (starting from the bottom) is sold, or for gas plant products, 50 percent (by volume) plus 1 unit.

(b)(1) (i) The value of the residue gas or any gas plant product which is sold pursuant to an arm's-length contract shall be the gross proceeds accruing to the lessee, except as provided in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section. The lessee shall have the burden of demonstrating that its contract is arm's-length. The value that the lessee reports for royalty purposes is subject to monitoring, review, and audit. For purposes of this section, residue gas or any gas plant product which is sold or otherwise transferred to the lessee's marketing affiliate and then sold by the marketing affiliate pursuant to an arm's-length contract shall be valued in accordance with this paragraph based upon the sale by the marketing affiliate.

(ii) In conducting these reviews and audits, MMS will examine whether or not the contract reflects the total consideration actually transferred either directly or indirectly from the buyer to the seller for the residue gas or gas plant product. If the contract does not reflect the total consideration, then MMS may require that the residue gas or gas plant product sold pursuant to that contract be valued in accordance with paragraph (c) of this section. Value may not be less than the gross proceeds accruing to the lessee, including the additional consideration.

(iii) If MMS determines that the gross proceeds accruing to the lessee pursuant to an arm's-length contract do not reflect the reasonable value of the residue gas or gas plant product because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the residue gas or gas plant product be valued pursuant to paragraphs (c)(2) or (c)(3) of this section, and in accordance with the notification requirements of paragraph (e) of this section. When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's value.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, the value of residue gas sold pursuant to a warranty contract shall be determined by MMS, and due consideration will be given to all valuation criteria specified in this section. The lessee must request a value determination in accordance with paragraph (g) of this section for gas sold pursuant to a warranty contract; provided, however, that any value determination for a warranty contract in effect on the effective date of these regulations shall remain in effect until modified by MMS.

(3) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the residue gas or gas plant product.

(c) The value of residue gas or any gas plant product which is not sold pursuant to an arm's-length contract shall be the reasonable value determined in accordance with the first applicable of the following methods:

(1) The gross proceeds accruing to the lessee pursuant to a sale pursuant to its non-arm's-length contract (or other disposition other than by an arm's-length contract), provided that those gross proceeds are equivalent to the gross proceeds derived from, or paid pursuant to, comparable arm's-length contracts for purchases, sales, or other dispositions of like quality residue gas or gas plant products from the same processing plant (or, if necessary to obtain a reasonable sample, from nearby plants). In evaluating the comparability of arm's-length contracts for the purposes of these regulations, the following factors shall be considered: price, time of execution, duration, market or markets served, terms, quality of residue gas or gas plant products, volume, and such other factors as may be appropriate to reflect the value of the residue gas or gas plant products;

(2) A value determined by consideration of other information relevant in valuing like-quality residue gas or gas plant products, including gross proceeds pursuant to arm's-length contracts for like-quality residue gas or gas plant products from the same gas plant or other nearby processing plants, posted prices for residue gas or gas plant products, prices received in spot sales of residue gas or gas plant products, other reliable public sources of price or market information, and other information as to the particular lease operation or the salability of such residue gas or gas plant products; or

(3) A net-back method or any other reasonable method to determine value.

(d) (1) Notwithstanding any other provisions of this section, except paragraph (h) of this section, if the maximum price permitted by Federal law at which any residue gas or gas plant products may be sold is less than

the value determined pursuant to this section, then MMS shall accept such maximum price as the value. For the purposes of this section, price limitations set by any State or local government shall not be considered as a maximum price permitted by Federal law.

(2) The limitation prescribed by paragraph (d)(1) of this section shall not apply to residue gas sold pursuant to a warranty contract and valued pursuant to paragraph (b)(2) of this section.

(e) (1) Where the value is determined pursuant to paragraph (c) of this section, the lessee shall retain all data relevant to the determination of royalty value. Such data shall be subject to review and audit, and MMS will direct a lessee to use a different value if it determines upon review or audit that the reported value is inconsistent with the requirements of these regulations.

(2) The Indian lessee will make available upon request to the authorized MMS, or Indian representatives, to the Office of the Inspector General of the Department of the Interior, or other persons authorized to receive such information, arm's-length sales and volume data for like-quality residue gas and gas plant products sold, purchased or otherwise obtained by the lessee from the same processing plant or from nearby processing plants.

(3) A lessee shall notify MMS if it has determined any value pursuant to paragraph (c)(2) or (c)(3) of this section. The notification shall be by letter to MMS Associate Director for Royalty Management or his/her designee. The letter shall identify the valuation method to be used and contain a brief description of the procedure to be followed. The notification required by this paragraph is a one-time notification due no later than the end of the month following the month the lessee first reports royalties on a Form MMS–2014 using a valuation method authorized by paragraph (c)(2) or (c)(3) of this section, and each time there is a change in a method pursuant to paragraph (c)(2) or (c)(3) of this section.

(f) If MMS determines that a lessee has not properly determined value, the lessee shall pay the difference, if any, between royalty payments made based upon the value it has used and the royalty payments that are due based upon the value established by MMS. The lessee shall also pay interest computed on that difference pursuant to 30 CFR 218.54. If the lessee is entitled to a credit, MMS will provide instructions for the taking of that credit.

(g) The lessee may request a value determination from MMS. In that event, the lessee shall propose to MMS a value determination method, and may use that method in determining value for royalty purposes until MMS issues its decision. The lessee shall submit all available data relevant to its proposal. MMS shall expeditiously determine the value based upon the lessee's proposal and any additional information MMS deems necessary. In making a value determination, MMS may use any of the valuation criteria authorized by this subpart. That determination shall remain effective for the period stated therein. After MMS issues its determination, the lessee shall make the adjustments in accordance with paragraph (f) of this section.

(h) Notwithstanding any other provision of this section, pursuant to no circumstances shall the value of production for royalty purposes be less than the gross proceeds accruing to the lessee for residue gas and/or any gas plant products, less applicable transportation allowances and processing allowances determined pursuant to this subpart.

(i) The lessee is required to place residue gas and gas plant products in marketable condition at no cost to the Indian lessor unless otherwise provided in the lease agreement. Where the value established pursuant to this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds have been reduced because the purchaser, or any other person, is providing certain services the cost of which ordinarily is the responsibility of the lessee to place the residue gas or gas plant products in marketable condition.

(j) Value shall be based on the highest price a prudent lessee can receive through legally enforceable claims pursuant to its contract. Absent contract revision or amendment, if the lessee fails to take proper or timely action to receive prices or benefits to which it is entitled it must pay royalty at a value based upon that obtainable price or benefit. Contract revisions or amendments shall be in writing and signed by all parties to an arm's-length contract. If the lessee makes timely application for a price increase or benefit allowed pursuant to its contract but the purchaser refuses, and the lessee takes reasonable measures, which are documented, to force purchaser compliance, the lessee will owe no additional royalties unless or until monies or consideration resulting from the price increase or additional benefits are received. This paragraph shall not be construed to permit a lessee to avoid its royalty payment obligation in situations where a purchaser fails to pay, in whole or in part, or timely, for a quantity of residue gas or gas plant product.

(k) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value pursuant to this section shall be considered final or binding against the Indian Tribes or allottees until the audit period is formally closed.

(l) Certain information submitted to MMS to support valuation proposals, including transportation allowances, processing allowances or extraordinary cost allowances, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 552, or other Federal law. Any data specified by law to be privileged, confidential, or otherwise exempt, will be maintained in a confidential manner in accordance with applicable law and regulations. All requests for information about determinations made pursuant to this Part are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2. Nothing in this section is intended to limit or diminish in any manner whatsoever the right of an Indian lessor to obtain any and all information as such lessor may be lawfully entitled from MMS or such lessor's lessee directly pursuant to the terms of the lease, 30 U.S.C. 1733, or other applicable law.

§ 206.174 Determination of quantities and qualities for computing royalties.

(a) (1) Royalties shall be computed on the basis of the quantity and quality of unprocessed gas at the point of royalty settlement approved by BLM for onshore leases.

(2) If the value of gas determined pursuant to § 206.172 of this subpart is based upon a quantity and/or quality that is different from the quantity and/or quality at the point of royalty settlement, as approved by BLM or MMS, that value shall be adjusted for the differences in quantity and/or quality.

(b) (1) For residue gas and gas plant products, the quantity basis for computing royalties due is the monthly net output of the plant even though residue gas and/or gas plant products may be in temporary storage.

(2) If the value of residue gas and/or gas plant products determined pursuant to § 206.173 of this subpart is based upon a quantity and/or quality of residue gas and/or gas plant products that is different from that which is attributable to a lease, determined in accordance with paragraph (c) of this section, that value shall be adjusted for the differences in quantity and/or quality.

(c) The quantity of the residue gas and gas plant products attributable to a lease shall be determined according to the following procedure:

(1) When the net output of the processing plant is derived from gas obtained from only one lease, the quantity of the residue gas and gas plant products on which computations of royalty are based is the net output of the plant.

(2) When the net output of a processing plant is derived from gas obtained from more than one lease producing gas of uniform content, the quantity of the residue gas and gas plant products allocable to each lease shall be in the same proportions as the ratios obtained by dividing the amount of gas delivered to the plant from each lease by the total amount of gas delivered from all leases.

(3) When the net output of a processing plant is derived from gas obtained from more than one lease producing gas of nonuniform content, the quantity of the residue gas allocable to each lease will be determined by multiplying the amount of gas delivered to the plant from the lease by the residue gas content of the gas, and dividing the arithmetical product thus obtained by the sum of the similar arithmetical products separately obtained for all leases from which gas is delivered to the plant, and then multiplying the net output of the residue gas by the arithmetic quotient obtained. The net output of gas plant products allocable to each lease will be determined by multiplying the amount of gas delivered to the plant from the lease by the gas plant product content of the gas, and dividing the arithmetical product thus obtained by the sum of the similar arithmetical products separately obtained for all leases from which gas is delivered to the plant, and then multiplying the net output of each gas plant product by the arithmetic quotient obtained.

(4) A lessee may request MMS approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease. If approved, such method will be applicable to all gas production from Indian leases that is processed in the same plant.

(d) (1) No deductions may be made from the royalty volume or royalty value for actual or theoretical losses. Any actual loss of unprocessed gas that may be sustained prior to the royalty settlement metering or measurement point will not be subject to royalty provided that such loss is determined to have been unavoidable by BLM.

(2) Except as provided in paragraph (d)(1) of this section and 30 CFR 202.171(c), royalties are due on 100 percent of the volume determined in accordance with paragraphs (a) through (c) of this section. There can be no reduction in that determined volume for actual losses after the quantity basis has been determined or for theoretical losses that are claimed to have taken place. Royalties are due on 100 percent of the value of the unprocessed gas, residue gas, and/or gas plant products as provided in this subpart, less applicable allowances. There can be no deduction from the value of the unprocessed gas, residue gas, and/or gas plant products to compensate for actual losses after the quantity basis has been determined, or for theoretical losses that are claimed to have taken place.

§ 206.175 Accounting for comparison.

(a) Except as provided in paragraph (b) of this section, where the lessee (or a person to whom the lessee has transferred gas pursuant to a non-arm's-length contract or without a contract) processes the lessee's gas and after processing the gas the residue gas is not sold pursuant to an arm's-length contract, the value, for royalty purposes, shall be the greater of (1) the combined value, for royalty purposes, of the residue gas and gas plant products resulting from processing the gas determined pursuant to § 206.173 of this subpart, plus the value, for royalty purposes, of any condensate recovered downstream of the point of royalty settlement without resorting to processing determined pursuant to § 206.52 of this subpart; or (2) the value, for royalty purposes, of the gas prior to processing determined in accordance with § 206.172 of this subpart.

(b) The requirement for accounting for comparison contained in the terms of leases, particularly Indian leases, will govern as provided in § 206.170(b) of this subpart. When accounting for comparison is required by the lease terms, such accounting for comparison shall be determined in accordance with paragraph (a) of this section.

§ 206.176 Transportation allowances—general.

(a) Where the value of gas has been determined pursuant to § 206.172 or § 206.173 of this subpart at a point (*e.g.*, sales point or point of value determination) off the lease, MMS shall allow a deduction for the reasonable actual costs incurred by the lessee to transport unprocessed gas, residue gas, and gas plant products from a lease to a point off the lease including, if appropriate, transportation from the lease to a gas processing plant off the lease and from the plant to a point away from the plant.

(b) Transportation costs must be allocated among all products produced and transported as provided in § 206.177.

(c) (1) Except as provided in paragraph (c)(3) of this section, for unprocessed gas valued in accordance with § 206.172 of this subpart; the transportation allowance deduction on the basis of a selling arrangement shall not exceed 50 percent of the value of the unprocessed gas determined in accordance with § 206.172 of this subpart.

(2) Except as provided in paragraph (c)(3) of this section, for gas production valued in accordance with § 206.173 of this subpart the transportation allowance deduction on the basis of a selling arrangement shall not exceed 50 percent of the value of the residue gas or gas plant product determined in accordance with § 206.173 of this subpart. For purposes of this section, natural gas liquids shall be considered one product.

(3) Upon request of a lessee, MMS may approve a transportation allowance deduction in excess of the limitations prescribed by paragraphs (c)(1) and (c)(2) of this section. The lessee must demonstrate that the transportation costs incurred in excess of the limitations prescribed in paragraphs (c)(1) and (c)(2) of this section were reasonable, actual, and necessary. An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation necessary for MMS to make a determination. Pursuant to no circumstances shall the value for royalty purposes pursuant to any selling arrangement be reduced to zero.

(d) If, after a review and/or audit, MMS determines that a lessee has improperly determined a transportation allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest, determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest.

§ 206.177 Determination of transportation allowances.

(a) *Arm's-length transportation contracts.*

(1) (i) For transportation costs incurred by a lessee pursuant to an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting the unprocessed gas,

residue gas and/or gas plant products pursuant to that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. Such allowances shall be subject to the provisions of paragraph (f) of this section. Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4295 (and Schedule 1), Gas Transportation Allowance Report, in accordance with paragraph (c)(1) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4295 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

(ii) In conducting reviews and audits, MMS will examine whether or not the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the transporter for the transportation. If the contract reflects more than the total consideration, then MMS may require that the transportation allowance be determined in accordance with paragraph (b) of this section.

(iii) If MMS determines that the consideration paid pursuant to an arm's-length transportation contract does not reflect the reasonable value of the transportation because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the transportation allowance be determined in accordance with paragraph (b) of this section. When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.

(2) (i) If an arm's-length transportation contract includes more than one product in a gaseous phase and the transportation costs attributable to each product cannot be determined from the contract, the total transportation costs shall be allocated in a consistent and equitable manner to each of the products transported in the same proportion as the ratio of the volume of each product (excluding waste products which have no value) to the volume of all products in the gaseous phase (excluding waste products which have no value). Except as provided in this paragraph, no allowance may be taken for the costs of transporting lease production which is not royalty bearing without MMS approval.

(ii) Notwithstanding the requirements of paragraph (i), the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported. MMS shall approve the method unless it determines that it is not consistent with the purposes of the regulations in this subpart.

(3) If an arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use the transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all relevant data to support its proposal. The initial proposal must be submitted by June 30, 1988, or within 3 months after the last day of the month for which the lessee requests a transportation allowance, whichever is later (unless MMS approves a longer period). MMS shall then determine the gas transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary.

(4) Where the lessee's payments for transportation pursuant to an arm's-length contract are not based on a dollar per unit, the lessee shall convert whatever consideration is paid to a dollar value equivalent for the purposes of this section.

(5) Where an arm's-length sales contract price or a posted price includes a provision whereby the listed price is reduced by a transportation factor, MMS will not consider the transportation factor to be a transportation allowance. The transportation factor may be used in determining the lessee's gross proceeds for the sale of the product. The transportation factor may not exceed 50 percent of the base price of the product without MMS approval.

(b) *Non-arm's-length or no contract.* (1) If a lessee has a non-arm's-length transportation contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable actual costs as provided in this paragraph. All transportation allowances deducted pursuant to a non-arm's-length or no contract situation are subject to monitoring, review, audit, and adjustment. Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4295 in accordance with paragraph (c)(2) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4295 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. MMS will monitor the allowance deductions to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its actual transportation allowance deduction.

(2) The transportation allowance for non-arm's-length or no-contract situations shall be based upon the lessee's actual costs for transportation during the reporting period, including operating and maintenance expenses, overhead, and either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the initial depreciable investment in the transportation system multiplied by a rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. Allowable capital costs are generally those costs for depreciable fixed assets (including costs of delivery and installation of capital equipment) which are an integral part of the transportation system.

(i) Allowable operating expenses include: Operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Allowable maintenance expenses include: Maintenance of the transportation system; maintenance of equipment; maintenance labor; and other directly allocable and attributable maintenance expenses which the lessee can document.

(iii) Overhead directly attributable and allocable to the operation and maintenance of the transportation system is an allowable expense. State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(iv) A lessee may use either depreciation or a return on depreciable capital investment. After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of MMS.

(A) To compute depreciation, the lessee may elect to use either a straight-line depreciation method based on the life of equipment or on the life of the reserves which the transportation system services, or a unit of production method. After an election is made, the lessee may not change methods without MMS approval. A change in ownership of a transportation system shall not alter the depreciation schedule established by the original transporter/lessee for purposes of the allowance calculation. With or without a change in ownership, a transportation system shall be depreciated only once. Equipment shall not be depreciated below a reasonable salvage value.

(B) MMS shall allow as a cost an amount equal to the allowable initial capital investment in the transportation system multiplied by the rate of return determined pursuant to paragraph (b)(2)(v) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to transportation facilities first placed in service after March 1, 1988.

(v) The rate of return shall be the industrial rate associated with Standard and Poor's BBB rating. The rate of return shall be the monthly average rate as published in Standard and Poor's Bond Guide for the first month of the reporting period for which the allowance is applicable and shall be effective during the reporting period. The rate shall be redetermined at the beginning of each subsequent transportation allowance reporting period (which is determined pursuant to paragraph (c) of this section).

(3) (i) The deduction for transportation costs shall be determined on the basis of the lessee's cost of transporting each product through each individual transportation system. Where more than one product in a gaseous phase is transported, the allocation of costs to each of the products transported shall be made in a consistent and equitable manner in the same proportion as the ratio of the volume of each product (excluding waste products which have no value) to the volume of all products in the gaseous phase (excluding waste products which have no value). Except as provided in this paragraph, the lessee may not take an allowance for transporting a product which is not royalty bearing without MMS approval.

(ii) Notwithstanding the requirements of paragraph (i), the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported. MMS shall approve the method unless it determines that it is not consistent with the purposes of the regulations in this part.

(4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS. The lessee may use the transportation allowance determined in accordance with its proposed allocation procedure until MMS issues its determination on the acceptability of the cost allocation. The lessee shall submit all relevant data to support its proposal. The initial proposal must be submitted by June 30, 1988 or within 3 months after the last day of the month for which the lessee begins the transportation, whichever is later, unless MMS approves a longer period. MMS shall then determine the transportation allowance based upon the lessee's proposal and any additional information MMS deems necessary.

(5) A lessee may apply to MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(4) of this section. MMS will grant the exception only if the lessee has a tariff for the transportation system approved by the Federal Energy Regulatory Commission (FERC) for Indian leases. MMS shall deny the exception request if it determines that the tariff is excessive as compared to arm's-length transportation charges by pipelines, owned by the lessee or others, providing similar transportation services in that area. If there are no arm's-length transportation charges, MMS shall deny the exception request if: (i) No FERC cost analysis exists and the FERC has declined to investigate pursuant to MMS timely objections upon filing; and (ii) the tariff significantly exceeds the lessee's actual costs for transportation as determined pursuant to this section.

(c) *Reporting requirements.*

(1) *Arm's-length contracts.* (i) With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4295 (and Schedule 1) prior to, or at the same time as, the transportation allowance determined pursuant to an arm's-length contract is reported on Form MMS–2014, Report of Sales and Royalty Remittance. A Form MMS–4295 received by the end of the month that the Form MMS–2014 is due shall be considered to be timely received.

(ii) The initial Form MMS–4295 shall be effective for a reporting period beginning the month that the lessee is first authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until the applicable contract or rate terminates or is modified or amended, whichever is earlier.

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4295 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.

(v) Transportation allowances which are based on arm's-length contracts and which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(2) *Non-arm's-length or no contract.*

(i) With the exception of those transportation allowances specified in paragraphs (c)(2)(v), (c)(2)(vii), and (c)(2)(viii) of this section, the lessee shall submit an initial Form MMS–4295 prior to, or at the same time as, the transportation allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–2014, Report of Sales and Royalty Remittance. A Form MMS–4295 received by the end of the month that the Form MMS–2014 is due shall be considered to be timely received. The initial report may be based upon estimated costs.

(ii) The initial Form MMS–4295 shall be effective for a reporting period beginning the month that the lessee first is authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until the transportation pursuant to the non-arm's-length contract or the no contract situation terminates, whichever is earlier.

(iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4295 containing the actual costs for the previous reporting period. If the transportation is continuing, the lessee shall include on Form MMS–4295 its estimated costs for the next calendar year. The estimated transportation allowance shall be based

on the actual costs for the previous reporting period plus or minus any adjustments which are based on the lessee's knowledge of decreases or increases which will affect the allowance. Form MMS–4295 must be received by MMS within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) For new transportation facilities or arrangements, the lessee's initial Form MMS–4295 shall include estimates of the allowable transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system, or if such data are not available, the lessee shall use estimates based upon industry data for similar transportation systems.

(v) Non-arm's-length contract or no contract based transportation allowances which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4295. The data shall be provided within a reasonable period of time, as determined by MMS.

(vii) MMS may establish in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(viii) If the lessee is authorized to use its FERC-approved tariff as its transportation cost in accordance with paragraph (b)(5) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

(3) MMS may establish reporting dates for individual lessees different than those specified in this subpart in order to provide more effective administration. Lessees will be notified of any change in their reporting period.

(4) Transportation allowances must be reported as a separate line item on Form MMS–2014, unless MMS approves a different reporting procedure.

(d) *Interest assessments for incorrect or late reports and failure to report.*

(1) If a lessee deducts a processing allowance on its Form MMS–2014 without complying with the requirements of this section, the lessee shall pay interest only on the amount of such deduction until the requirements of this section are complied with. The lessee also shall repay the amount of any allowance which is disallowed by this section.

(2) If a lessee erroneously reports a transportation allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.* (1) If the actual transportation allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be entitled to a credit, without interest.

(2) For lessees transporting production from onshore Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

(f) *Actual or theoretical losses.* Notwithstanding any other provisions of this subpart, for other than arm's-length contracts no cost shall be allowed for transportation which results from payments (either volumetric or for value) for actual or theoretical losses. This section does not apply when the transportation allowance is based upon a FERC or state regulatory agency approved tariff.

(g) *Other transportation cost determinations.* The provisions of this section shall apply to determine transportation costs when establishing value using a net-back valuation procedure or any other procedure that requires deduction of transportation costs.

§ 206.178 Processing allowances—general.

(a) Where the value of gas is determined pursuant to § 206.173 of this subpart, a deduction shall be allowed for the reasonable actual costs of processing.

(b) Processing costs must be allocated among the gas plant products. A separate processing allowance must be determined for each gas plant product and processing plant relationship. Natural gas liquids (NGL's) shall be considered as one product.

(c) (1) Except as provided in paragraph (d)(2) of this section, the processing allowance shall not be applied against the value of the residue gas. Where there is no residue gas MMS may designate an appropriate gas plant product against which no allowance may be applied.

(2) Except as provided in paragraph (c)(3) of this section, the processing allowance deduction on the basis of an individual product shall not exceed 66⅔ percent of the value of each gas plant product determined in accordance with § 206.173 of this subpart (such value to be reduced first for any transportation allowances related to postprocessing transportation authorized by § 206.176 of this subpart).

(3) Upon request of a lessee, MMS may approve a processing allowance in excess of the limitation prescribed by paragraph (c)(2) of this section. The lessee must demonstrate that the processing costs incurred in excess of the limitation prescribed in paragraph (c)(2) of this section were reasonable, actual, and necessary. An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and supporting documentation for MMS to make a determination. Under no circumstances shall the value for royalty purposes of any gas plant product be reduced to zero.

(d)(1) Except as provided in paragraph (d)(2) of this section, no processing cost deduction shall be allowed for the costs of placing lease products in marketable condition, including dehydration, separation, compression, or storage, even if those functions are performed off the lease or at a processing plant. Where gas is processed for the removal of acid gases, commonly referred to as "sweetening," no processing cost deduction shall be allowed for such costs unless the acid gases removed are further processed into a gas plant product. In such event, the lessee shall be eligible for a processing allowance as determined in accordance with this subpart. However, MMS will not grant any processing allowance for processing lease production which is not royalty bearing.

(2) (i) If the lessee incurs extraordinary costs for processing gas production from a gas production operation, it may apply to MMS for an allowance for those costs which shall be in addition to any other processing allowance to which the lessee is entitled pursuant to this section. Such an allowance may be granted only if the lessee can demonstrate that the costs are, by reference to standard industry conditions and practice, extraordinary, unusual, or unconventional.

(ii) Prior MMS approval to continue an extraordinary processing cost allowance is not required. However, to retain the authority to deduct the allowance the lessee must report the deduction to MMS in a form and manner prescribed by MMS.

(e) If MMS determines that a lessee has improperly determined a processing allowance authorized by this subpart, then the lessee shall pay any additional royalties, plus interest determined in accordance with 30 CFR 218.54, or shall be entitled to a credit, without interest.

§ 206.179 Determination of processing allowances.

(a) Arm's-length processing contracts.

(1) (i) For processing costs incurred by a lessee pursuant to an arm's-length contract, the processing allowance shall be the reasonable actual costs incurred by the lessee for processing the gas pursuant to that contract, except as provided in paragraphs (a)(1)(ii) and (a)(1)(iii) of this section, subject to monitoring, review, audit, and adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4109, Gas Processing Allowance Summary Report, in accordance with paragraph (c)(1) of this section. A processing allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4109 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

(ii) In conducting reviews and audits, MMS will examine whether the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the processor for the processing. If the contract reflects more than the total consideration, then MMS may require that the processing allowance be determined in accordance with paragraph (b) of this section.

(iii) If MMS determines that the consideration paid pursuant to an arm's-length processing contract does not reflect the reasonable value of the processing because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and lessor, then MMS shall require that the processing allowance be determined in accordance with paragraph (b) of this section. When MMS determines that the value of the processing may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's processing costs.

(2) If an arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product can be determined from the contract, then the processing costs for each gas plant product shall be determined in accordance with the contract. No allowance may be taken for the costs of processing lease production which is not royalty-bearing.

(3) If an arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS. The lessee may use its proposed allocation procedure until MMS issues its determination. The lessee shall submit all relevant data to support its proposal. The initial proposal must be submitted by June 30, 1988 or within 3 months after the last day of the month for which the lessee requests a processing allowance, whichever is later (unless MMS approves a longer period). MMS shall then determine the processing allowance based upon the lessee's proposal and any additional information MMS deems necessary. No processing allowance will be granted for the costs of processing lease production which is not royalty bearing.

(4) Where the lessee's payments for processing pursuant to an arm's-length contract are not based on a dollar per unit basis, the lessee shall convert whatever consideration is paid to a dollar value equivalent for the purposes of this section.

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length processing contract or has no contract, including those situations where the lessee performs processing for itself, the processing allowance will be based upon the lessee's reasonable actual costs as provided in this paragraph. All processing allowances deducted pursuant to a non-arm's-length or no contract situation are subject to monitoring, review, audit, and adjustment. Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4109 in accordance with paragraph (c)(2) of this section. A processing allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4109 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. MMS will monitor the allowance deduction to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its actual processing allowance.

(2) The processing allowance for non-arm's-length or no contract situations shall be based upon the lessee's actual costs for processing during the reporting period, including operating and maintenance expenses, overhead, and either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the initial depreciable investment in the processing plant multiplied by a rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. Allowable capital costs are generally those costs for depreciable fixed assets (including costs of delivery and installation of capital equipment) which are an integral part of the processing plant.

(i) Allowable operating expenses include: Operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Allowable maintenance expenses include: maintenance of the processing plant; maintenance of equipment; maintenance labor; and other directly allocable and attributable maintenance expenses which the lessee can document.

(iii) Overhead directly attributable and allocable to the operation and maintenance of the processing plant is an allowable expense. State and Federal income taxes and severance taxes, including royalties, are not allowable expenses.

(iv) A lessee may use either depreciation or a return on depreciable capital investment. When a lessee has elected to use either method for a processing plant, the lessee may not later elect to change to the other alternative without approval of MMS.

(A) To compute depreciation, the lessee may elect to use either a straight-line depreciation method based on the life of equipment or on the life of the reserves which the processing plant services, or a unit-of-production method. After an election is made, the lessee may not change methods without MMS approval. A change in ownership of a processing plant shall not alter the depreciation schedule established by the original processor/lessee for purposes of the allowance calculation. With or without a change in ownership, a processing plant shall be depreciated

only once. Equipment shall not be depreciated below a reasonable salvage value.

(B) MMS shall allow as a cost an amount equal to the allowable initial capital investment in the processing plant multiplied by the rate of return determined pursuant to paragraph (b)(2)(v) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to plants first placed in service after March 1, 1988.

(v) The rate of return shall be the industrial rate associated with Standard and Poor's BBB rating. The rate of return shall be the monthly average rate as published in Standard and Poor's Bond Guide for the first month of the reporting period for which the allowance is applicable and shall be effective during the reporting period. The rate shall be redetermined at the beginning of each subsequent processing allowance reporting period (which is determined pursuant to paragraph (c)(2) of this section).

(3) The processing allowance for each gas plant product shall be determined based on the lessee's reasonable and actual cost of processing the gas. Allocation of costs to each gas plant product shall be based upon generally accepted accounting principles. The lessee may not take an allowance for the costs of processing lease production which is not royalty bearing.

(4) A lessee may apply to MMS for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(3) of this section. MMS may grant the exception only if: (i) The lessee has arm's-length contracts for processing other gas production at the same processing plant; and (ii) at least 50 percent of the gas processed annually at the plant is processed pursuant to arm's-length processing contracts; if MMS grants the exception, the lessee shall use as its processing allowance the volume weighted average prices charged other persons pursuant to arm's-length contracts for processing at the same plant.

(c) *Reporting requirements.*

(1) *Arm's-length contracts.*

(i) With the exception of those processing allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4109 (and Schedule 1) prior to the time, or at the same time as, the processing allowance determined pursuant to an arm's-length contract is reported on Form MMS–2014, Report of Sales and Royalty Remittance. A Form MMS–4109 received by the end of the month that the Form MMS–2014 is due shall be considered to be timely received.

(ii) The initial Form MMS–4109 shall be effective for a reporting period beginning the month that the lessee is first authorized to deduct a processing allowance and shall continue until the end of the calendar year, or until the applicable contract or rate terminates or is modified or amended, whichever is earlier.

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page 1 of Form MMS–4109 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) MMS may require that a lessee submit arm's-length processing contracts and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.

(v) Processing allowances which are based on arm's-length contracts and which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purpose of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations became effective.

(vi) MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(2) *Non-arm's-length or no contract.*

(i) With the exception of those processing allowances specified in paragraphs (c)(2)(v), (c)(2)(vii) and (c)(2)(viii) of this section, the lessee shall submit an initial Form MMS–4109 prior to, or at the same time as, the processing allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–2014, Report of Sales and Royalty Remittance. A Form MMS–4109 received by the end of the month that the Form MMS–2014 is due shall be considered to be timely received. The initial report may be based upon estimated costs.

(ii) The initial Form MMS–4109 shall be effective for a reporting period beginning the month that the lessee first is authorized to deduct a processing allowance and shall continue until the end of the calendar year, or until the processing pursuant to the non-arm's-length contract or the no contract situation terminates, whichever is earlier.

(iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4109 containing the actual costs for the previous reporting period. If gas processing is continuing, the lessee shall include on Form MMS–4109 its estimated costs for the next calendar year. The estimated gas processing allowance shall be based on the actual costs for the previous period plus or minus any adjustments which are based on the lessee's knowledge of decreases or increases which will affect the allowance. Form MMS–4109 must be received by MMS within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) For new processing plants, the lessee's initial Form MMS–4109 shall include estimates of the allowable gas processing costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the plant, or if such data are not available, the lessee shall use estimates based upon industry data for similar gas processing plants.

(v) Processing allowances based on non-arm's-length or no contract situations which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate for gas production from Indian leases. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) Upon request by MMS, the lessee shall submit all data used by the lessee to prepare its Form MMS–4109. The data shall be provided within a reasonable period of time, as determined by MMS.

(vii) MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(viii) If the lessee is authorized to use the volume weighted average prices charged other persons as its processing allowance in accordance with paragraph (b)(4) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

(3) MMS may establish reporting dates for individual leases different from those specified in this subpart in order to provide more effective administration. Lessees will be notified of any change in their reporting period.

(4) Processing allowances must be reported as a separate line on the Form MMS–2014, unless MMS approves a different reporting procedure.

(d) *Interest assessments for incorrect or late reports and failure to report.*

(1) If a lessee deducts a processing allowance on its Form MMS–2014 without complying with the requirements of this section, the lessee shall pay interest only on the amount of such deduction until the requirements of this section are complied with. The lessee also shall repay the amount of any allowance which is disallowed by this section.

(2) If a lessee erroneously reports a processing allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.54.

(e) *Adjustments.*

(1) If the actual gas processing allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.54, retroactive to the first day of the first month the lessee is authorized to deduct a processing allowance. If the actual processing allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance period, the lessee shall be entitled to a credit, without interest.

(2) For lessees processing production from onshore Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

(f) *Other processing cost determinations.* The provisions of this section shall apply to determine processing costs when establishing value using a net back valuation procedure or any other procedure that requires deduction of processing costs.

21. Subpart F—Coal is amended by revising the heading to read as follows:

Subpart F—Federal Coal

22. Section 206.250 is amended by removing paragraph (d) and revising paragraphs (a) and (b) to read as follows:

§ 206.250 Purpose and scope.

(a) This subpart is applicable to all coal produced from Federal coal leases. The purpose of this subpart is to establish the value of coal produced for royalty purposes, of all coal from Federal leases consistent with the mineral leasing laws, other applicable laws and lease terms.

(b) If the specific provisions of any statute or settlement agreement between the United States and a lessee resulting from administrative or judicial litigation, or any coal lease subject to the requirements of this subpart, are inconsistent with any regulation in this subpart then the statute, lease provision, or settlement shall govern to the extent of that inconsistency.

* * * * *

23. Section 206.251 is amended by adding in alphabetical order a definition for *Netting*, revising the definitions *Allowance, Audit, Gross proceeds; Lease, Lessee,* and removing the definitions *BIA, Indian allottee,* and *Indian Tribe* to read as follows:

§ 206.251 Definitions.

* * * * *

Allowance means a deduction used in determining value for royalty purposes. Coal washing allowance means an allowance for the reasonable, actual costs incurred by the lessee for coal washing. Transportation allowance means an allowance for the reasonable, actual costs incurred by the lessee for moving coal to a point of sale or point of delivery remote from both the lease and mine or wash plant.

* * * * *

Audit means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Federal leases.

* * * * *

Gross proceeds (for royalty payment purposes) means the total monies and other consideration accruing to a coal lessee for the production and disposition of the coal produced. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as crushing, sizing, screening, storing, mixing, loading, treatment with substances including chemicals or oils, and other preparation of the coal to the extent that the lessee is obligated to perform them at no cost to the Federal Government. Gross proceeds, as applied to coal, also includes but is not limited to reimbursements for royalties, taxes or fees, and other reimbursements. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Federal royalty interest may be exempt from taxation. Monies and other consideration, including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through reasonable efforts are also part of gross proceeds.

Lease means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States for a Federal coal resource under a mineral leasing law that authorizes exploration for, development or extraction of, or removal of coal—or the land covered by that authorization, whichever is required by the context.

Lessee means any person to whom the United States issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

* * * * *

Netting is the deduction of an allowance from the sales value by reporting a one line net sales value, instead of correctly reporting the deduction as a separate line item on the Form MMS–2014.

* * * * *

24. Section 206.253 is amended by revising paragraphs (a) and (c) to read as follows:

§ 206.253 Coal subject to royalties—general provisions.

(a) All coal (except coal unavoidably lost as determined by BLM under 43 CFR part 3400) from a Federal lease subject to this part is subject to royalty. This includes coal used, sold, or otherwise disposed of by the lessee on or off the lease.

* * * * *

(c) If waste piles or slurry ponds are reworked to recover coal, the lessee shall pay royalty at the rate specified in the lease at the time the recovered coal is used, sold, or otherwise finally disposed of. The royalty rate shall be that rate applicable to the production method used to initially mine coal in the waste pile or slurry pond; i.e., underground mining method or surface mining method. Coal in waste pits or slurry ponds initially mined from Federal leases shall be allocated to such leases regardless of whether it is stored on Federal lands. The lessee shall maintain accurate records to determine to which individual Federal lease coal in the waste pit or slurry pond should be allocated. However, nothing in this section requires payment of a royalty on

coal for which a royalty has already been paid:

* * * * *

25. Section 206.255 is amended by revising paragraphs (a) and (b) to read as follows:

§ 206.255 Point of royalty determination.

(a) For all leases subject to this subpart, royalty shall be computed on the basis of the quantity and quality of Federal coal in marketable condition measured at the point of royalty measurement as determined jointly by BLM and MMS.

(b) Coal produced and added to stockpiles or inventory does not require payment of royalty until such coal is later used, sold, or otherwise finally disposed of. MMS may ask BLM to increase the lease bond to protect the lessor's interest when BLM determines that stockpiles or inventory become excessive so as to increase the risk of degradation of the resource.

* * * * *

26. Section 206.256 is amended by revising paragraph (a) to read as follows:

§ 206.256 Valuation standards for cents-per-ton leases.

(a) This section is applicable to coal leases on Federal lands which provide for the determination of royalty on a cents-per-ton (or other quantity) basis.

* * * * *

27. Section 206.257 is amended by revising paragraphs (a), (d)(2), (h), (j), and (k) to read as follows:

§ 206.257 Valuation standards for ad valorem leases.

(a) This section is applicable to coal leases on Federal lands which provide for the determination of royalty as a percentage of the amount of value of coal (ad valorem). The value for royalty purposes of coal from such leases shall be the value of coal determined under this section, less applicable coal washing allowances and transportation allowances determined under §§ 206.258 through 206.262 of this subpart, or any allowance authorized by § 206.265 of this subpart. The royalty due shall be equal to the value for royalty purposes multiplied by the royalty rate in the lease.

* * * * *

(d) * * *

(2) Any Federal lessee will make available upon request to the authorized MMS or State representatives, to the Inspector General of the Department of the Interior or other persons authorized to receive such information, arm's-length sales value and sales quantity data for like-quality coal sold, purchased, or otherwise obtained by the lessee from the area.

* * * * *

(h) The lessee is required to place coal in marketable condition at no cost to the Federal Government. Where the value established under this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds has been reduced because the purchaser, or any other person, is providing certain services, the cost of which ordinarily is the responsibility of the lessee to place the coal in marketable condition.

* * * * *

(j) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value under this section shall be considered final or binding as against the Federal Government or its beneficiaries until the audit period is formally closed.

(k) Certain information submitted to MMS to support valuation proposals, including transportation, coal washing, or other allowances under § 206.265 of this subpart, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 522. Any data specified by the Act to be privileged, confidential, or otherwise exempt shall be maintained in a confidential manner in accordance with applicable law and regulations. All requests for information about determinations made under this Part are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2.

28. Section 206.258 is amended by revising paragraph (c) to read as follows:

§ 206.258 Washing allowances—general.

* * * * *

(c) Lessees shall not disproportionately allocate washing costs to Federal leases.

* * * * *

29. Section 206.259 is amended by removing paragraphs (c)(1)(ii), (c)(1)(iii), (c)(1)(v), (c)(1)(vi), (c)(2)(ii), (c)(2)(iii), (c)(2)(v), (c)(2)(vii), (c)(3), and (c)(4); redesignating paragraphs (c)(1)(iv), (c)(2)(iv), and (c)(2)(vi) as (c)(1)(ii), (c)(2)(ii), and (c)(2)(iii) respectively; and by revising paragraphs (a)(1), (b)(1), (b)(2)(v), (c)(1)(i), (c)(2)(i), newly designated (c)(2)(ii), newly designated (c)(2)(iii), (d), and (e)(1) to read as follows:

§ 206.259 Determination of washing allowances.

(a) *Arm's-length contracts.*

(1) For washing costs incurred by a lessee under an arm's-length contract, the washing allowance shall be the reasonable actual costs incurred by the lessee for washing the coal under that contract, subject to monitoring, review, audit, and possible future adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. MMS' prior approval is not required before a lessee may deduct costs incurred under an arm's-length contract. The lessee must claim a washing allowance by reporting it as a separate line entry on the Form MMS–2014.

* * * * *

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length contract or has no contract, including those situations where the lessee performs washing for itself, the washing allowance will be based upon the lessee's reasonable actual costs. All washing allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and possible future adjustment. The lessee must claim a washing allowance by reporting it as a separate line entry on the Form MMS–2014. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual washing allowance.

(2) * * *

(v) The rate of return must be the industrial rate associated with Standard and Poor's BBB rating. The rate of return must be the monthly average rate as published in Standard and Poor's Bond Guide for the first month for which the allowance is applicable. The rate must be redetermined at the beginning of each subsequent calendar year.

* * * * *

(c) *Reporting requirements.*

(1) *Arm's-length contracts.*

(i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.

(ii) * * *

(2) *Non-arm's-length or no contract.*

(i) The lessee must notify MMS of an allowance based on the incurred costs by using a separate line entry on the Form MMS–2014.

(ii) For new washing facilities or arrangements, the lessee's initial washing deduction shall include estimates of the allowable coal washing costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the processing system or, if such data are not available, the lessee shall use estimates based upon industry data for similar washing systems.

(iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction. The data shall be provided within a reasonable period of time, as determined by MMS.

(d) *Interest and ossessments.*

(1) If a lessee nets a washing allowance on the Form MMS–2014, then the lessee shall be assessed an amount up to 10 percent of the allowance netted not to exceed $250 per lease selling arrangement per sales period.

(2) If a lessee erroneously reports a washing allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.202.

(e) *Adjustments.* (1) If the actual coal washing allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall pay additional royalties due plus interest computed under 30 CFR 218.202 from the date when the lessee took the deduction to the date the lessee repays the difference to MMS. If the actual washing allowance is greater than the amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall be entitled to a credit without interest.

* * * * *

30. Section 206.261 is amended by revising paragraphs (a)(1), (a)(2), and (e) to read as follows:

§ 206.261 Transportation allowances—general.

(a) * * *

(1) Transport the coal from a Federal lease to a sales point which is remote from both the lease and mine; or

(2) Transport the coal from a Federal lease to a wash plant when that plant is remote from both the lease and mine and, if applicable, from the wash plant to a remote sales point. In-mine transportation costs shall not be included in the transportation allowance.

* * * * *

(e) Lessees shall not disproportionately allocate transportation costs to Federal leases.

31. Section 206.262 is amended by removing paragraphs (c)(1)(ii), (c)(1)(iii), (c)(1)(v), (c)(1)(vi), (c)(2)(ii), (c)(2)(iii), (c)(2)(v), (c)(2)(vii), (c)(3) and (c)(4); redesignating paragraphs (c)(1)(iv), (c)(2)(iv), (c)(2)(vi), and (c)(2)(viii) as paragraphs (c)(1)(ii), (c)(2)(ii), (c)(2)(iii), and (c)(2)(v) respectively; and revising paragraphs (a)(1), (b)(1), (b)(2)(v), (b)(3), (c)(1)(i), (c)(2)(i), newly designated (c)(2)(ii), newly designated (c)(2)(iii), (d) and (e) to read as follows:

§ 206.262 Determination of transportation allowances.

(a) *Arm's-length contracts.*

(1) For transportation costs incurred by a lessee pursuant to an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting the coal under that contract, subject to monitoring, review, audit, and possible future adjustment. The lessee shall have the burden of demonstrating that its contract is arm's-length. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form MMS–2014.

* * * * *

(b) Non-arm's-length or no contract.

(1) If a lessee has a non-arm's-length contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable actual costs. All transportation allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and possible future adjustment. The lessee must claim a transportation allowance by reporting it as a separate line entry on the Form MMS–2014. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual transportation allowance deduction.

(2) * * *

(v) The rate of return must be the industrial rate associated with Standard and Poor's BBB rating. The rate of return must be the monthly average rate as published in Standard and Poor's Bond Guide for the first month for which the allowance is applicable. The rate must be redetermined at the beginning of each subsequent calendar year.

(3) A lessee may apply to MMS for exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) and (b)(2) of this section. MMS will grant the exception only if the lessee has a rate for the transportation approved by a Federal agency or by a State regulatory agency (for Federal leases). MMS shall deny the exception request if it determines that the rate is excessive as compared to arm's-length transportation charges by systems, owned by the lessee or others, providing similar transportation services in that area. If there are no arm's-length transportation charges, MMS shall deny the exception request if:

(i) No Federal or State regulatory agency costs analysis exists and the Federal or State regulatory agency, as applicable, has declined to investigate under MMS timely objections upon filing; and

(ii) The rate significantly exceeds the lessee's actual costs for transportation as determined under this section.

(c) Reporting requirements.

(1) *Arm's-length contracts.*

(i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–2014.

(ii) * * *

(2) *Non-arm's-length or no contract.*

(i) The lessee must notify MMS of an allowance based on the incurred costs by using a separate line entry on Form MMS–2014.

(ii) For new transportation facilities or arrangements, the lessee's initial deduction shall include estimates of the allowable coal transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system or, if such data are not available, the lessee shall use estimates based upon industry data for similar transportation systems.

(iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction. The data shall be provided within a reasonable period of time, as determined by MMS.

(iv) * * *

(d) *Interest and assessments.*

(1) If a lessee nets a transportation allowance on Form MMS–2014, the lessee shall be assessed an amount of up to 10 percent of the allowance netted not to exceed $250 per lease selling arrangement per sales period.

(2) * * *

(3) * * *

(e) *Adjustments.*

(1) If the actual coal transportation allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall pay additional royalties due plus interest computed under 30 CFR 218.202 from the date when the lessee took the deduction to the date the lessee repays the difference to MMS. If the actual transportation allowance is greater than amount the lessee has taken on Form MMS–2014 for each month during the allowance reporting period, the lessee shall be entitled to a credit without interest.

* * * * *

32. A new Subpart J is added to read as follows:

Subpart J—Indian Coal

Sec.

206.450 Purpose and scope.

206.451 Definitions.

206.452 Coal subject to royalties—general provisions.
206.453 Quality and quantity measurement standards for reporting and paying royalties.
206.454 Point of royalty determination.
206.455 Valuation standards for cents-per-ton leases.
206.456 Valuation standards for ad valorem leases.
206.457 Washing allowances—general.
206.458 Determination of washing allowances.
206.459 Allocation of washed coal.
206.460 Transportation allowances—general.
206.461 Determination of transportation allowances.
206.462 Contract submission.
206.463 In-situ and surface gasification and liquefaction operations.
206.464 Value enhancement of marketable coal.

Subpart J—Indian Coal

§ 206.450 Purpose and scope.

(a) This subpart prescribes the procedures to establish the value, for royalty purposes, of all coal from Indian Tribal and allotted leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma).

(b) If the specific provisions of any statute, treaty, or settlement agreement between the Indian lessor and a lessee resulting from administrative or judicial litigation, or any coal lease subject to the requirements of this subpart, are inconsistent with any regulation in this subpart, then the statute, treaty, lease provision, or settlement shall govern to the extent of that inconsistency.

(c) All royalty payments are subject to later audit and adjustment.

(d) The regulations in this subpart are intended to ensure that the trust responsibilities of the United States with respect to the administration of Indian coal leases are discharged in accordance with the requirements of the governing mineral leasing laws, treaties, and lease terms.

§ 206.451 Definitions.

Ad valorem lease means a lease where the royalty due to the lessor is based upon a percentage of the amount or value of the coal.

Allowance means an approved, or an MMS-initially accepted deduction in determining value for royalty purposes. Coal washing allowance means an allowance for the reasonable, actual costs incurred by the lessee for coal washing, or an approved or MMS-initially accepted deduction for the costs of washing coal, determined pursuant to this subpart. Transportation allowance means an allowance for the reasonable, actual costs incurred by the lessee for moving coal to a point of sale or point of delivery remote from both the lease and mine or wash plant, or an approved MMS-initially accepted deduction for costs of such transportation, determined pursuant to this subpart.

Area means a geographic region in which coal has similar quality and economic characteristics. Area boundaries are not officially designated and the areas are not necessarily named.

Arm's-length contract means a contract or agreement that has been arrived at in the marketplace between independent, nonaffiliated persons with opposing economic interests regarding that contract. For purposes of this subpart, two persons are affiliated if one person controls, is controlled by, or is under common control with another person. For purposes of this subpart, based on the instruments of ownership of the voting securities of an entity, or based on other forms of ownership: ownership in excess of 50 percent constitutes control; ownership of 10 through 50 percent creates a presumption of control; and ownership of less than 10 percent creates a presumption of noncontrol which MMS may rebut if it demonstrates actual or legal control, including the existence of interlocking directorates. Notwithstanding any other provisions of this subpart, contracts between relatives, either by blood or by marriage, are not arm's-length contracts. MMS may require the lessee to certify ownership control. To be considered arm's-length for any production month, a contract must meet the requirements of this definition for that production month, as well as when the contract was executed.

Audit means a review, conducted in accordance with generally accepted accounting and auditing standards, of royalty payment compliance activities of lessees or other interest holders who pay royalties, rents, or bonuses on Indian leases.

BIA means the Bureau of Indian Affairs of the Department of the Interior.

BLM means the Bureau of Land Management of the Department of the Interior.

Coal means coal of all ranks from lignite through anthracite.

Coal washing means any treatment to remove impurities from coal. Coal washing may include, but is not limited to, operations such as flotation, air, water, or heavy media separation; drying; and related handling (or combination thereof).

Contract means any oral or written agreement, including amendments or revisions thereto, between two or more persons and enforceable by law that with due consideration creates an obligation.

Gross proceeds (for royalty payment purposes) means the total monies and other consideration accruing to a coal lessee for the production and disposition of the coal produced. Gross proceeds includes, but is not limited to, payments to the lessee for certain services such as crushing, sizing, screening, storing, mixing, loading, treatment with substances including chemicals or oils, and other preparation of the coal to the extent that the lessee is obligated to perform them at no cost to the Indian lessor. Gross proceeds, as applied to coal, also includes but is not limited to reimbursements for royalties, taxes or fees, and other reimbursements. Tax reimbursements are part of the gross proceeds accruing to a lessee even though the Indian royalty interest may be exempt from taxation. Monies and other consideration, including the forms of consideration identified in this paragraph, to which a lessee is contractually or legally entitled but which it does not seek to collect through reasonable efforts are also part of gross proceeds.

Indian allottee means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation.

Indian Tribe means any Indian Tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians for which any land or interest in land is held in trust by the United States or which is subject to Federal restriction against alienation.

Lease means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States for an Indian coal resource under a mineral leasing law that authorizes exploration for, development or extraction of, or removal of coal—or the land covered by that authorization, whichever is required by the context.

Lessee means any person to whom the Indian Tribe or an Indian allottee issues a lease, and any person who has been assigned an obligation to make royalty or other payments required by the lease. This includes any person who has an interest in a lease as well as an operator or payor who has no interest in the lease but who has assumed the royalty payment responsibility.

Like-quality coal means coal has similar chemical and physical characteristics.

Marketable condition means coal that is sufficiently free from impurities and otherwise in a condition that it will be accepted by a purchaser under a sales contract typical for that area.

Mine means an underground or surface excavation or series of excavations and the surface or underground support facilities that contribute directly or indirectly to mining, production, preparation, and handling of lease products.

MMS means the Minerals Management Service of the Department of the Interior.

Net-back method means a method for calculating market value of coal at the lease or mine. Under this method, costs of transportation, washing, handling, etc., are deducted from the ultimate proceeds received for the coal at the first point at which reasonable values for the coal may be determined by a sale pursuant to an arm's-length contract or by comparison to other sales of coal, to ascertain value at the mine.

Net output means the quantity of washed coal that a washing plant produces.

Person means by individual, firm, corporation, association, partnership, consortium, or joint venture.

Selling arrangement means the individual contractual arrangements under which sales or dispositions of coal are made to a purchaser.

Spot market price means the price received under any sales transaction when planned or actual deliveries span a short period of time, usually not exceeding one year.

§ 206.452 Coal subject to royalties—general provisions.

(a) All coal (except coal unavoidably lost as determined by BLM pursuant to 43 CFR Group 3400) from an Indian lease subject to this part is subject to royalty. This includes coal used, sold, or otherwise disposed of by the lessee on or off the lease.

(b) If a lessee receives compensation for unavoidably lost coal through insurance coverage or other arrangements, royalties at the rate specified in the lease are to be paid on the amount of compensation received for the coal. No royalty is due on insurance compensation received by the lessee for other losses.

(c) If waste piles or slurry ponds are reworked to recover coal, the lessee shall pay royalty at the rate specified in the lease at the time the recovered coal is used, sold, or otherwise finally disposed of. The royalty rate shall be that rate applicable to the production method used to initially mine coal in the waste pile or slurry pond; i.e., underground mining method or surface mining method. Coal in waste pits or slurry ponds initially mined from Indian leases shall be allocated to such leases regardless of whether it is stored on Indian lands. The lessee shall maintain accurate records to determine to which individual Indian lease coal in the waste pit or slurry pond should be allocated. However, nothing in this section requires payment of a royalty on coal for which a royalty has already been paid.

§ 206.453 Quality and quantity measurement standards for reporting and paying royalties.

(a) For leases subject to § 206.456 of this subpart, the quality of coal on which royalty is due shall be reported on the basis of percent sulfur, percent ash, and number of British thermal units (Btu) per pound of coal. Coal quality determinations shall be made at intervals prescribed in the lessee's sales contract. If there is no contract, or if the contract does not specify the intervals of coal quality determination, the lessee shall propose a quality test schedule to MMS. In no case, however, shall quality tests be performed less than quarterly using standard industry-recognized testing methods. Coal quality information shall be reported on the appropriate forms required under 30 CFR Part 216.

(b) For all leases subject to this subpart, the quantity of coal on which royalty is due shall be measured in short tons (of 2,000 pounds each) by methods prescribed by the BLM. Coal quantity information shall be reported on appropriate forms required under 30 CFR Part 216 and on the Report of Sales and Royalty Remittance, Form MMS–2014, as required under 30 CFR Part 210.

§ 206.454 Point of royalty determination.

(a) For all leases subject to this subpart, royalty shall be computed on the basis of the quantity and quality of Indian coal in marketable condition measured at the point of royalty measurement as determined jointly by BLM and MMS.

(b) Coal produced and added to stockpiles or inventory does not require payment of royalty until such coal is later used, sold, or otherwise finally disposed of. MMS may ask BLM or BIA to increase the lease bond to protect the lessor's interest when BLM determines that stockpiles or inventory become excessive so as to increase the risk of degradation of the resource.

(c) The lessee shall pay royalty at a rate specified in the lease at the time the coal is used, sold, or otherwise finally disposed of, unless otherwise provided for at § 206.455(d) of this subpart.

§ 206.455 Valuation standards for cents-per-ton leases.

(a) This section is applicable to coal leases on Indian Tribal and allotted Indian lands (except leases on the Osage Indian Reservation, Osage County, Oklahoma) which provide for the determination of royalty on a cents-per-ton (or other quantity) basis.

(b) The royalty for coal from leases subject to this section shall be based on the dollar rate per ton prescribed in the lease. That dollar rate shall be applicable to the actual quantity of coal used, sold, or otherwise finally disposed of, including coal which is avoidably lost as determined by BLM pursuant to 43 CFR Part 3400.

(c) For leases subject to this section, there shall be no allowances for transportation, removal of impurities, coal washing, or any other processing or preparation of the coal.

(d) When a coal lease is readjusted pursuant to 43 CFR Part 3400 and the royalty valuation method changes from a cents-per-ton basis to an ad valorem basis, coal which is produced prior to the effective date of readjustment and sold or used within 30 days of the effective date of readjustment shall be valued pursuant to this section. All coal that is not used, sold, or otherwise finally disposed of within 30 days after the effective date of readjustment shall be valued pursuant to the provisions of § 206.456 of this subpart, and royalties shall be paid at the royalty rate specified in the readjusted lease.

§ 206.456 Valuation standards for ad valorem leases.

(a) This section is applicable to coal leases on Indian Tribal and allotted Indian lands (except leases on the Osage Indian Reservation, Osage County, Oklahoma) which provide for the determination of royalty as a percentage of the amount of value of coal (ad valorem). The value for royalty purposes of coal from such leases shall be the value of coal determined pursuant to this section, less applicable coal washing allowances and transportation allowances determined pursuant to § 206.457 through § 206.461 of this subpart, or any allowance authorized by § 206.464 of this subpart. The royalty due shall be equal to the value for royalty purposes multiplied by the royalty rate in the lease.

(b) (1) The value of coal that is sold pursuant to an arm's-length contract shall be the gross proceeds accruing to the lessee, except as provided in paragraphs (b)(2), (b)(3), and (b)(5) of this section. The lessee shall have the burden of demonstrating that its contract is arm's-length. The value

which the lessee reports, for royalty purposes, is subject to monitoring, review, and audit.

(2) In conducting reviews and audits, MMS will examine whether the contract reflects the total consideration actually transferred either directly or indirectly from the buyer to the seller for the coal produced. If the contract does not reflect the total consideration, then MMS may require that the coal sold pursuant to that contract be valued in accordance with paragraph (c) of this section. Value may not be based on less than the gross proceeds accruing to the lessee for the coal production, including the additional consideration.

(3) If MMS determines that the gross proceeds accruing to the lessee pursuant to an arm's-length contract do not reflect the reasonable value of the production because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the coal production be valued pursuant to paragraphs (c)(2)(ii), (c)(2)(iii), (c)(2)(iv), or (c)(2)(v) of this section, and in accordance with the notification requirements of paragraph (d)(3) of this section. When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's reported coal value.

(4) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the coal production.

(5) The value of production for royalty purposes shall not include payments received by the lessee pursuant to a contract which the lessee demonstrates, to MMS' satisfaction, were not part of the total consideration paid for the purchase of coal production.

(c) (1) The value of coal from leases subject to this section and which is not sold pursuant to an arm's-length contract shall be determined in accordance with this section.

(2) If the value of the coal cannot be determined pursuant to paragraph (b) of this section, then the value shall be determined through application of other valuation criteria. The criteria shall be considered in the following order, and the value shall be based upon the first applicable criterion:

(i) The gross proceeds accruing to the lessee pursuant to a sale under its non-arm's-length contract (or other disposition of produced coal by other than an arm's-length contract), provided that those gross proceeds are within the range of the gross proceeds derived from, or paid under, comparable arm's-length contracts between buyers and sellers neither of whom is affiliated with the lessee for sales, purchases, or other dispositions of like-quality coal produced in the area. In evaluating the comparability of arm's-length contracts for the purposes of these regulations, the following factors shall be considered: price, time of execution, duration, market or markets served, terms, quality of coal, quantity, and such other factors as may be appropriate to reflect the value of the coal;

(ii) Prices reported for that coal to a public utility commission;

(iii) Prices reported for that coal to the Energy Information Administration of the Department of Energy;

(iv) Other relevant matters including, but not limited to, published or publicly available spot market prices, or information submitted by the lessee concerning circumstances unique to a particular lease operation or the salability of certain types of coal;

(v) If a reasonable value cannot be determined using paragraphs (c)(2)(i), (c)(2)(ii), (c)(2)(iii), or (c)(2)(iv) of this section, then a net-back method or any other reasonable method shall be used to determine value.

(3) When the value of coal is determined pursuant to paragraph (c)(2) of this section, that value determination shall be consistent with the provisions contained in paragraph (b)(5) of this section.

(d) (1) Where the value is determined pursuant to paragraph (c) of this section, that value does not require MMS' prior approval. However, the lessee shall retain all data relevant to the determination of royalty value. Such data shall be subject to review and audit, and MMS will direct a lessee to use a different value if it determines that the reported value is inconsistent with the requirements of these regulations.

(2) An Indian lessee will make available upon request to the authorized MMS or Indian representatives, or to the Inspector General of the Department of the Interior or other persons authorized to receive such information, arm's-length sales and sales quantity data for like-quality coal sold, purchased, or otherwise obtained by the lessee from the area.

(3) A lessee shall notify MMS if it has determined value pursuant to paragraphs (c)(2)(ii), (c)(2)(iii), (c)(2)(iv), or (c)(2)(v) of this section. The notification shall be by letter to the Associate Director for Royalty Management or his/her designee. The letter shall identify the valuation method to be used and contain a brief description of the procedure to be followed. The notification required by this section is a one-time notification due no later than the month the lessee first reports royalties on the Form MMS–2014 using a valuation method authorized by paragraphs (c)(2)(ii), (c)(2)(iii), (c)(2)(iv), or (c)(2)(v) of this section, and each time there is a change in a method under paragraphs (c)(2)(iv) or (c)(2)(v) of this section.

(e) If MMS determines that a lessee has not properly determined value, the lessee shall be liable for the difference, if any, between royalty payments made based upon the value it has used and the royalty payments that are due based upon the value established by MMS. The lessee shall also be liable for interest computed pursuant to 30 CFR 218.202. If the lessee is entitled to a credit, MMS will provide instructions for the taking of that credit.

(f) The lessee may request a value determination from MMS. In that event, the lessee shall propose to MMS a value determination method, and may use that method in determining value for royalty purposes until MMS issues its decision. The lessee shall submit all available data relevant to its proposal. MMS shall expeditiously determine the value based upon the lessee's proposal and any additional information MMS deems necessary. That determination shall remain effective for the period stated therein. After MMS issues its determination, the lessee shall make the adjustments in accordance with paragraph (e) of this section.

(g) Notwithstanding any other provisions of this section, under no circumstances shall the value for royalty purposes be less than the gross proceeds accruing to the lessee for the disposition of produced coal less applicable provisions of paragraph (b)(5) of this section and less applicable allowances determined pursuant to § 206.457 through § 206.461 and § 206.464 of this subpart.

(h) The lessee is required to place coal in marketable condition at no cost to the Indian lessor. Where the value established pursuant to this section is determined by a lessee's gross proceeds, that value shall be increased to the extent that the gross proceeds has been reduced because the purchaser, or any other person, is providing certain services, the cost of which ordinarily is the responsibility of the lessee to place the coal in marketable condition.

(i) Value shall be based on the highest price a prudent lessee can receive through legally enforceable claims under its contract. Absent contract revision or amendment, if the lessee fails to take proper or timely action to receive prices or benefits to which it is entitled, it must pay royalty at a value based upon that obtainable price or benefit. Contract revisions or amendments shall be in writing and signed by all parties to an arm's-length contract, and may be retroactively applied to value for royalty purposes for a period not to exceed two years, unless MMS approves a longer period. If the lessee makes timely application for a price increase allowed under its contract but the purchaser refuses, and the lessee takes reasonable measures, which are documented, to force purchaser compliance, the lessee will owe no additional royalties unless or until monies or consideration resulting from the price increase are received. This paragraph shall not be construed to permit a lessee to avoid its royalty payment obligation in situations where a purchaser fails to pay, in whole or in part or timely, for a quantity of coal.

(j) Notwithstanding any provision in these regulations to the contrary, no review, reconciliation, monitoring, or other like process that results in a redetermination by MMS of value under this section shall be considered final or binding as against the Indian Tribes or allottees until the audit period is formally closed.

(k) Certain information submitted to MMS to support valuation proposals, including transportation, coal washing, or other allowances pursuant to § 206.457 through 206.461 and § 206.464 of this subpart, is exempted from disclosure by the Freedom of Information Act, 5 U.S.C. 522. Any data specified by the Act to be privileged, confidential, or otherwise exempt shall be maintained in a confidential manner in accordance with applicable law and regulations. All requests for information about determinations made under this Part are to be submitted in accordance with the Freedom of Information Act regulation of the Department of the Interior, 43 CFR Part 2. Nothing in this section is intended to limit or diminish in any manner whatsoever the right of an Indian lessor to obtain any and all information as such lessor may be lawfully entitled from MMS or such lessor's lessee directly under the terms of the lease or applicable law.

§ 206.457 Washing allowances—general.

(a) For ad valorem leases subject to § 206.456 of this subpart, MMS shall, as authorized by this section, allow a deduction in determining value for royalty purposes for the reasonable, actual costs incurred to wash coal, unless the value determined pursuant to § 206.456 of this subpart was based upon like-quality unwashed coal. Under no circumstances shall the washing allowance and the transportation allowance authorized by § 206.461 of this subpart reduce the value for royalty purposes to zero.

(b) If MMS determines that a lessee has improperly determined a washing allowance authorized by this section, then the lessee shall be liable for any additional royalties, plus interest determined in accordance with 30 CFR 218.202, or shall be entitled to a credit, without interest.

(c) Lessees shall not disproportionately allocate washing costs to Indian leases.

(d) No cost normally associated with mining operations and which are necessary for placing coal in marketable condition shall be allowed as a cost of washing.

(e) Coal washing costs shall only be recognized as allowances when the washed coal is sold and royalties are reported and paid.

§ 206.458 Determination of washing allowances.

(a) *Arm's-length contracts.*

(1) For washing costs incurred by a lessee pursuant to an arm's-length contract, the washing allowance shall be the reasonable actual costs incurred by the lessee for washing the coal under that contract, subject to monitoring, review, audit, and possible future adjustment. MMS' prior approval is not required before a lessee may deduct costs incurred under an arm's-length contract. However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4292, Coal Washing Allowance Report, in accordance with paragraph (c)(1) of this section. A washing allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4292 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. MMS will monitor the allowance deduction to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its actual washing allowance.

(2) In conducting reviews and audits, MMS will examine whether the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the washer for the washing. If the contract reflects more than the total consideration paid, then MMS may require that the washing allowance be determined in accordance with paragraph (b) of this section.

(3) If MMS determines that the consideration paid pursuant to an arm's-length washing contract does not reflect the reasonable value of the washing because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the washing allowance be determined in accordance with paragraph (b) of this section. When MMS determines that the value of the washing may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's washing costs.

(4) Where the lessee's payments for washing under an arm's-length contract are not based on a dollar-per-unit basis, the lessee shall convert whatever consideration is paid to a dollar value equivalent. Washing allowances shall be expressed as a cost per ton of coal washed.

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length contract or has no contract, including those situations where the lessee performs washing for itself, the washing allowance will be based upon the lessee's reasonable actual costs. All washing allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and possible future adjustment. Prior MMS approval of washing allowances is not required for non-arm's-length or no contract situations. However, before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4292 in accordance with paragraph (c)(2) of this section. A washing allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4292 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. MMS will monitor the allowance deduction to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its actual washing allowance.

(2) The washing allowance for non-arm's-length or no contract situations shall be based upon the lessee's actual costs for washing during the reported period, including operating and maintenance expenses, overhead, and either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the depreciable investment in the wash plant multiplied by the rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. Allowable capital costs are generally those for depreciable fixed assets (including costs of delivery and

installation of capital equipment) which are an integral part of the wash plant.

(i) Allowable operating expenses include: Operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Allowable maintenance expenses include: Maintenance of the wash plant; maintenance of equipment; maintenance labor; and other directly allocable and attributable maintenance expenses which the lessee can document.

(iii) Overhead attributable and allocable to the operation and maintenance of the wash plant is an allowable expense. State and Federal income taxes and severance taxes, including royalties, are not allowable expenses.

(iv) A lessee may use either paragraph (b)(2)(iv)(A) or (b)(2)(iv) (B) of this section. After a lessee has elected to use either method for a wash plant, the lessee may not later elect to change to the other alternative without approval of MMS.

(A) To compute depreciation, the lessee may elect to use either a straight-line depreciation method based on the life of equipment or on the life of the reserves which the wash plant services, whichever is appropriate, or a unit of production method. After an election is made, the lessee may not change methods without MMS approval. A change in ownership of a wash plant shall not alter the depreciation schedule established by the original operator/lessee for purposes of the allowance calculation. With or without a change in ownership, a wash plant shall be depreciated only once. Equipment shall not be depreciated below a reasonable salvage value.

(B) MMS shall allow as a cost an amount equal to the allowable capital investment in the wash plant multiplied by the rate of return determined pursuant to paragraph (b)(2)(v) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to plants first placed in service or acquired after March 1, 1989.

(v) The rate of return shall be the industrial rate associated with Standard and Poor's BBB rating. The rate of return shall be the monthly average rate as published in Standard and Poor's Bond Guide for the first month of the reporting period for which the allowance is applicable and shall be effective during the reporting period. The rate shall be redetermined at the beginning of each subsequent washing allowance reporting period (which is determined pursuant to paragraph (c)(2) of this section).

(3) The washing allowance for coal shall be determined based on the lessee's reasonable and actual cost of washing the coal. The lessee may not take an allowance for the costs of washing lease production that is not royalty bearing.

(c) *Reporting requirements.*

(1) *Arm's-length contracts.*

(i) With the exception of those washing allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4292 prior to, or at the same time, as the washing allowance determined pursuant to an arm's-length contract is reported on Form MMS–2014, Report of Sales and Royalty Remittance. A Form MMS–4292 received by the end of the month that the Form MMS–2014 is due shall be considered to be received timely.

(ii) The initial Form MMS–4292 shall be effective for a reporting period beginning the month that the lessee is first authorized to deduct a washing allowance and shall continue until the end of the calendar year, or until the applicable contract or rate terminates or is modified or amended, whichever is earlier.

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4292 within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) MMS may require that a lessee submit arm's-length washing contracts and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.

(v) Washing allowances which are based on arm's-length contracts and which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) MMS may establish, in appropriate circumstances, reporting requirements that are different from the requirements of this section.

(2) *Non-arm's-length or no contract.*

(i) With the exception of those washing allowances specified in paragraphs (c)(2)(v) and (c)(2)(vii) of this section, the lessee shall submit an initial Form MMS–4292 prior to, or at the same time as, the washing allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–2014, Report of Sales and Royalty Remittance. A Form MMS–4292 received by the end of the month that the Form MMS–2014 is due shall be considered to be timely received. The initial reporting may be based on estimated costs.

(ii) The initial Form MMS–4292 shall be effective for a reporting period beginning the month that the lessee first is authorized to deduct a washing allowance and shall continue until the end of the calendar year, or until the washing under the non-arm's-length contract or the no contract situation terminates, whichever is earlier.

(iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4292 containing the actual costs for the previous reporting period. If coal washing is continuing, the lessee shall include on Form MMS–4292 its estimated costs for the next calendar year. The estimated coal washing allowance shall be based on the actual costs for the previous period plus or minus any adjustments which are based on the lessee's knowledge of decreases or increases which will affect the allowance. Form MMS–4292 must be received by MMS within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) For new wash plants, the lessee's initial Form MMS–4292 shall include estimates of the allowable coal washing costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the plant, or if such data are not available, the lessee shall use estimates based upon industry data for similar coal wash plants.

(v) Washing allowances based on non-arm's-length or no contract situations which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) Upon request by MMS, the lessee shall submit all data used by the lessee to prepare its Forms MMS–4292. The data shall be provided within a reasonable period of time, as determined by MMS.

(vii) MMS may establish, in appropriate circumstances, reporting requirements which are different from the requirements of this section.

(3) MMS may establish coal washing allowance reporting dates for individual leases different from those specified in this subpart in order to provide more effective administration. Lessees will be notified of any change in their reporting period.

(4) Washing allowances must be reported as a separate line on the Form MMS–2014, unless MMS approves a different reporting procedure.

(d) *Interest assessments for incorrect or late reports and failure to report.*

(1) If a lessee deducts a washing allowance on its Form MMS–2014 without complying with the requirements of this section, the lessee shall be liable for interest on the amount of such deduction until the requirements of this section are complied with. The lessee also shall repay the amount of any allowance which is disallowed by this section.

(2) If a lessee erroneously reports a washing allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.202.

(e) *Adjustments.*

(1) If the actual coal washing allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest computed pursuant to 30 CFR 218.202, retroactive to the first month the lessee is authorized to deduct a washing allowance. If the actual washing allowance is greater than the amount the lessee has estimated and taken during the reporting period, the lessee shall be entitled to a credit, without interest.

(2) The lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

(f) *Other washing cost determinations.* The provisions of this section shall apply to determine washing costs when establishing value using a net-back valuation procedure or any other procedure that requires deduction of washing costs.

§ 206.459 Allocation of washed coal.

(a) When coal is subjected to washing, the washed coal must be allocated to the leases from which it was extracted.

(b) When the net output of coal from a washing plant is derived from coal obtained from only one lease, the quantity of washed coal allocable to the lease will be based on the net output of the washing plant.

(c) When the net output of coal from a washing plant is derived from coal obtained from more than one lease, unless determined otherwise by BLM, the quantity of net output of washed coal allocable to each lease will be based on the ratio of measured quantities of coal delivered to the washing plant and washed from each lease compared to the total measured quantities of coal delivered to the washing plant and washed.

§ 206.460 Transportation allowances—general.

(a) For ad valorem leases subject to § 206.456 of this subpart, where the value for royalty purposes has been determined at a point remote from the lease or mine, MMS shall, as authorized by this section, allow a deduction in determining value for royalty purposes for the reasonable, actual costs incurred to:

(1) Transport the coal from an Indian lease to a sales point which is remote from both the lease and mine; or

(2) Transport the coal from an Indian lease to a wash plant when that plant is remote from both the lease and mine and, if applicable, from the wash plant to a remote sales point. In-mine transportation costs shall not be included in the transportation allowance.

(b) Under no circumstances shall the washing allowance and the transportation allowance authorized by § 206.456 of this subpart reduce the value of coal under any selling arrangement to zero.

(c) (1) When coal transported from a mine to a wash plant is eligible for a transportation allowance in accordance with this section, the lessee is not required to allocate transportation costs between the quantity of clean coal output and the rejected waste material. The transportation allowance shall be authorized for the total production which is transported. Transportation allowances shall be expressed as a cost per ton of cleaned coal transported.

(2) For coal that is not washed at a wash plant, the transportation allowance shall be authorized for the total production which is transported. Transportation allowances shall be expressed as a cost per ton of coal transported.

(3) Transportation costs shall only be recognized as allowances when the transported coal is sold and royalties are reported and paid.

(d) If, after a review and/or audit, MMS determines that a lessee has improperly determined a transportation allowance authorized by this section, then the lessee shall pay any additional royalties, plus interest, determined in accordance with 30 CFR 218.202, or shall be entitled to a credit, without interest.

(e) Lessees shall not disproportionately allocate transportation costs to Indian leases.

§ 206.461 Determination of transportation allowances.

(a) *Arm's-length contracts.*

(1) For transportation costs incurred by a lessee pursuant to an arm's-length contract, the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting the coal under that contract, subject to monitoring, review, audit, and possible future adjustment. MMS' prior approval is not required before a lessee may deduct costs incurred under an arm's-length contract. However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4293, Coal Transportation Allowance Report, in accordance with paragraph (c)(1) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4293 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.

(2) In conducting reviews and audits, MMS will examine whether the contract reflects more than the consideration actually transferred either directly or indirectly from the lessee to the transporter for the transportation. If the contract reflects more than the total consideration paid, then MMS may require that the transportation allowance be determined in accordance with paragraph (b) of this section.

(3) If MMS determines that the consideration paid pursuant to an arm's-length transportation contract does not reflect the reasonable value of the transportation because of misconduct by or between the contracting parties, or because the lessee otherwise has breached its duty to the lessor to market the production for the mutual benefit of the lessee and the lessor, then MMS shall require that the transportation allowance be determined in accordance with paragraph (b) of this section. When

MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.

(4) Where the lessee's payments for transportation under an arm's-length contract are not based on a dollar-per-unit basis, the lessee shall convert whatever consideration is paid to a dollar value equivalent for the purposes of this section.

(b) *Non-arm's-length or no contract.*

(1) If a lessee has a non-arm's-length contract or has no contract, including those situations where the lessee performs transportation services for itself, the transportation allowance will be based upon the lessee's reasonable actual costs. All transportation allowances deducted under a non-arm's-length or no contract situation are subject to monitoring, review, audit, and possible future adjustment. Prior MMS approval of transportation allowances is not required for non-arm's-length or no contract situations. However, before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4293 in accordance with paragraph (c)(2) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4293 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. MMS will monitor the allowance deductions to ensure that deductions are reasonable and allowable. When necessary or appropriate, MMS may direct a lessee to modify its estimated or actual transportation allowance deduction.

(2) The transportation allowance for non-arm's-length or no contract situations shall be based upon the lessee's actual costs for transportation during the reporting period, including operating and maintenance expenses, overhead, and either depreciation and a return on undepreciated capital investment in accordance with paragraph (b)(2)(iv)(A) of this section, or a cost equal to the depreciable investment in the transportation system multiplied by the rate of return in accordance with paragraph (b)(2)(iv)(B) of this section. Allowable capital costs are generally those for depreciable fixed assets (including costs of delivery and installation of capital equipment) which are an integral part of the transportation system.

(i) Allowable operating expenses include: Operations supervision and engineering; operations labor; fuel; utilities; materials; ad valorem property taxes; rent; supplies; and any other directly allocable and attributable operating expense which the lessee can document.

(ii) Allowable maintenance expenses include: Maintenance of the transportation system; maintenance of equipment; maintenance labor; and other directly allocable and attributable maintenance expenses which the lessee can document.

(iii) Overhead attributable and allocable to the operation and maintenance of the transportation system is an allowable expense. State and Federal income taxes and severance taxes and other fees, including royalties, are not allowable expenses.

(iv) A lessee may use either paragraph (b)(2)(iv)(A) or paragraph (b)(2)(iv)(B) of this section. After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of MMS.

(A) To compute depreciation, the lessee may elect to use either a straight-line depreciation method based on the life of equipment or on the life of the reserves which the transportation system services, whichever is appropriate, or a unit of production method. After an election is made, the lessee may not change methods without MMS approval. A change in ownership of a transportation system shall not alter the depreciation schedule established by the original transporter/lessee for purposes of the allowance calculation. With or without a change in ownership, a transportation system shall be depreciated only once. Equipment shall not be depreciated below a reasonable salvage value.

(B) MMS shall allow as a cost an amount equal to the allowable capital investment in the transportation system multiplied by the rate of return determined pursuant to paragraph (b)(2)(B)(v) of this section. No allowance shall be provided for depreciation. This alternative shall apply only to transportation facilities first placed in service or acquired after March 1, 1989.

(v) The rate of return shall be the industrial rate associated with Standard and Poor's BBB rating. The rate of return shall be the monthly average as published in Standard and Poor's Bond Guide for the first month of the reporting period of which the allowance is applicable and shall be effective during the reporting period. The rate shall be redetermined at the beginning of each subsequent transportation allowance reporting period (which is determined pursuant to paragraph (c)(2) of this section).

(3) A lessee may apply to MMS for exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) and (b)(2) of this section. MMS will grant the exception only if the lessee has a rate for the transportation approved by a Federal agency for Indian leases. MMS shall deny the exception request if it determines that the rate is excessive as compared to arm's-length transportation charges by systems, owned by the lessee or others, providing similar transportation services in that area. If there are no arm's-length transportation charges, MMS shall deny the exception request if:

(i) No Federal regulatory agency cost analysis exists and the Federal regulatory agency has declined to investigate pursuant to MMS timely objections upon filing; and

(ii) The rate significantly exceeds the lessee's actual costs for transportation as determined under this section.

(c) *Reporting requirements.*

(1) *Arm's-length contracts.*

(i) With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4293 prior to, or at the same time as, the transportation allowance determined pursuant to an arm's-length contract is reported on Form MMS–2014, Reports of Sales and Royalty Remittance.

(ii) The initial Form MMS–4293 shall be effective for a reporting period beginning the month that the lessee is first authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until the applicable contract or rate terminates or is modified or amended, whichever is earlier.

(iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4293 within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period). Lessees may request special reporting procedures in unique allowance reporting situations, such as those related to spot sales.

(iv) MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by MMS.

(v) Transportation allowances that are based on arm's-length contracts and which are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For the purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) MMS may establish, in appropriate circumstances, reporting requirements that are different from the requirements of this section.

(2) *Non-arm's-length or no contract.*

(i) With the exception of those transportation allowances specified in paragraphs (c)(2)(v) and (c)(2)(vii) of this section, the lessee shall submit an initial Form MMS–4293 prior to, or at the same time as, the transportation allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–2014, Report of Sales and Royalty Remittance. The initial report may be based on estimated costs.

(ii) The initial Form MMS–4293 shall be effective for a reporting period beginning the month that the lessee first is authorized to deduct a transportation allowance and shall continue until the end of the calendar year, or until the transportation under the non-arm's-length contract or the no contract situation terminates, whichever is earlier.

(iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4293 containing the actual costs for the previous reporting period. If the transportation is continuing, the lessee shall include on Form MMS–4293 its estimated costs for the next calendar year. The estimated transportation allowance shall be based on the actual costs for the previous reporting period plus or minus any adjustments that are based on the lessee's knowledge of decreases or increases that will affect the allowance. Form MMS–4293 must be received by MMS within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).

(iv) For new transportation facilities or arrangements, the lessee's initial Form MMS–4293 shall include estimates of the allowable transportation costs for the applicable period. Cost estimates shall be based upon the most recently available operations data for the transportation system, or, if such data are not available, the lessee shall use estimates based upon industry data for similar transportation systems.

(v) Non-arm's-length contract or no contract-based transportation allowances that are in effect at the time these regulations become effective will be allowed to continue until such allowances terminate. For purposes of this section, only those allowances that have been approved by MMS in writing shall qualify as being in effect at the time these regulations become effective.

(vi) Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4293. The data shall be provided within a reasonable period of time, as determined by MMS.

(vii) MMS may establish, in appropriate circumstances, reporting requirements that are different from the requirements of this section.

(viii) If the lessee is authorized to use its Federal-agency-approved rate as its transportation cost in accordance with paragraph (b)(3) of this section, it shall follow the reporting requirements of paragraph (c)(1) of this section.

(3) MMS may establish reporting dates for individual lessees different than those specified in this paragraph in order to provide more effective administration. Lessees will be notified as to any change in their reporting period.

(4) Transportation allowances must be reported as a separate line item on Form MMS–2014, unless MMS approves a different reporting procedure.

(d) *Interest assessments for incorrect or late reports and failure to report.*

(1) If a lessee deducts a transportation allowance on its Form MMS–2014 without complying with the requirements of this section, the lessee shall be liable for interest on the amount of such deduction until the requirements of this section are complied with. The lessee also shall repay the amount of any allowance which is disallowed by this section.

(2) If a lessee erroneously reports a transportation allowance which results in an underpayment of royalties, interest shall be paid on the amount of that underpayment.

(3) Interest required to be paid by this section shall be determined in accordance with 30 CFR 218.202.

(e) *Adjustments.*

(1) If the actual transportation allowance is less than the amount the lessee has taken on Form MMS–2014 for each month during the allowance form reporting period, the lessee shall be required to pay additional royalties due plus interest, computed pursuant to 30 CFR 218.202, retroactive to the first month the lessee is authorized to deduct a transportation allowance. If the actual transportation allowance is greater than the amount the lessee has estimated and taken during the reporting period, the lessee shall be to a credit, without interest.

(2) The lessee must submit a corrected Form MMS–2014 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.

(f) *Other transportation cost determinations.* The provisions of this section shall apply to determine transportation costs when establishing value using a net-back valuation procedure or any other procedure that requires deduction of transportation costs.

§ 206.462 Contract submission.

(a) The lessee and other payors shall submit to MMS, upon request, contracts for the sale of coal from ad valorem leases subject to this subpart. MMS must receive the contracts within a reasonable period of time, as specified by MMS. Lessees shall include as part of the submittal requirements any contracts, agreements, contract amendments, or other documents that affect the gross proceeds received for the sale of coal, as well as any other information regarding any consideration received for the sale or disposition of coal that is not included in such contracts. At the time of its contract submittals, MMS may require the lessee to certify in writing that it has provided all documents and information that reflect the total consideration provided by purchasers of coal from ad valorem leases subject to this subpart. Information requested under this section may include contracts for both ad valorem and cents-per-ton leases and shall be available in the lessee's offices during normal business hours or provided to MMS at such time and in such manner as may be requested by authorized Department of the Interior personnel. Any oral sales arrangement negotiated by the lessee must be placed in a written form and be retained by the lessee. Nothing in this section shall be construed to limit the authority of MMS to obtain or have access to information pursuant to 30 CFR Part 212.

(b) Lessees and other payors shall designate, for each contract submitted pursuant to this section whether the contract in arm's-length or non-arm's-length.

(c) A lessee's or other payor's determination that its contract is arm's-length is subject to future audit to verify that the contract meets the criteria of the arm's-length contract definition in § 206.251 of this subpart.

(d) Information required to be submitted under this section that constitutes trade secrets and commercial and financial information that is identified as privileged or confidential shall not be available for public inspection or made public or disclosed without the consent of the lessee or other payor, except as otherwise provided by law or regulation.

§ 206.463 In-situ and surface gasification and liquefaction operations.

In an ad valorem Federal coal lease is developed by in-situ or surface gasification or liquefaction technology, the lessee shall propose the value of coal for royalty purposes to MMS. MMS will review the lessee's proposal and issue a value determination. The lessee may use its proposed value until MMS issues a value determination.

§ 206.464 Value enhancement of marketable coal.

If, prior to use, sale, or other disposition, the lessee enhances the value of coal after the coal has been placed in marketable condition in accordance with § 206.456(h) of this subpart, the lessee shall notify MMS that such processing is occurring or will occur. The value of that production shall be determined as follows:

(a) A value established for the feedstock coal in marketable condition by application of the provisions of § 206.465(c)(2)(i) through (iv) of this subpart; or,

(b) In the event that a value cannot be established in accordance with paragraph (a) of this section, then the value of production will be determined in accordance with § 206.456(c)(2)(v) of this subpart and the value shall be the lessee's gross proceeds accruing from the disposition of the enhanced product, reduced by MMS-approved processing costs and procedures including a rate of return on investment equal to two times the Standard and Poor's BBB bond rate applicable under § 206.458(b)(2)(v) of this subpart.

PART 202—ROYALTIES

1. The authority citation for part 202 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*; 1701 *et seq.*; 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.*; 1331 *et seq.*, 1801 *et seq.*

Subpart D—Federal and Indian Gas

2. Section 202.151 is amended by revising paragraph (a) to read as follows:

§ 202.151 Royalty on processed gas.

(a)(1) A royalty, as provided in the lease, shall be paid on the value of:

(i) any condensate recovered downstream of the point of royalty settlement without resorting to processing; and

(ii) residue gas and all gas plant products resulting from processing the gas produced from a lease subject to this subpart.

(2) MMS shall authorize a processing allowance for the reasonable, actual costs of processing the gas produced from Federal and Indian leases. Processing allowances shall be determined in accordance with 30 CFR part 206 subpart D for gas production from Federal leases and 30 CFR part 206 subpart E for gas production from Indian leases.

* * * * *

[FR Doc. 96–2641 Filed 2–9–96; 8:45 am]

BILLING CODE 4310–MR–P

Federal Register

Monday
February 12, 1996

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

1996 Summer Olympic Games, Atlanta, GA; Airspace and Flight Operations Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 28420 Special Federal Aviation Regulation (SFAR) No. 74]

RIN 2120–AGO2

Airspace and Flight Operations Requirements for the 1996 Summer Olympic Games, Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Special Federal Aviation Regulation (SFAR), applicable May 15, 1996, through August 11, 1996, establishes airspace and flight operations requirements for the XXVI Olympic Games. The FAA believes this regulation is necessary for the security of the venues, safe operation, and management of aircraft operating to, within, and from these areas, and to prevent any unsafe congestion of sightseeing and other aircraft over the various game sites.

EFFECTIVE DATE: March 13, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Apple, Air Traffic Rules Branch, ATP–230, Airspace Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

The 1996 Olympic Games will be held from July 19 through August 4, 1996, primarily in the Atlanta, Georgia, area and will mark the 100th anniversary of the modern Olympic Games. The event is the largest single, peace-time event in the history of the world. Over 350,000 visitors a day are expected to attend the games. In terms of air traffic demand, the pregame, game, and postgame activities from July 19 through August 4 are expected to generate substantial increases in aircraft operations in the Atlanta area as well as other sites in the United States. Those sites are:

The Olympic Village—Atlanta, GA
The Olympic Ring—Atlanta, GA
Wolf Creek Skeet Range—Atlanta, GA
Atlanta Beach—Jonesboro, GA
International Horsepark—Covington, GA
Stone Mountain Park—Stone Mountain, GA
Lake Sidney Lanier—Gainesville, GA
Sanford Stadium—Athens, GA
Golden Park—Columbus, GA
Lee College—Cleveland, TN
U.S. Highway 64—Tennessee
Ocoee River—Tennessee
Legion Field—Birmingham, AL
The Olympic Village—Savannah, GA
Sail Harbor and Wilmington River Transit Zone—Savannah, GA
Sailing Venue—Savannah, GA
The Citrus Bowl—Orlando, FL
The Orange Bowl—Miami, FL
RFK Stadium—Washington, DC
The Olympic Village—Davie, FL
The Olympic Village—Columbus, GA

The Special Federal Aviation Regulation (SFAR)

This rule establishes an SFAR to provide for the security of persons and property in the air and on the ground, and for the safe and efficient movement of air traffic during the Olympic period. To accomplish this goal, the SFAR is designed for flexibility and adaptability.

Traffic Management Arrival/Departure Slot Reservation System

During the busy Olympic period, the FAA must ensure continued safe and efficient use of airspace and air traffic control capacity. To achieve this objective while minimizing disruption to the air traveling public, the FAA establishes an arrival/departure slot reservation system for fixed-wing aircraft to manage air traffic into and out of key airports in the Atlanta area.

For purposes of this SFAR the following definitions apply: (1) Domestic air transportation (domestic)—the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail by aircraft, in commerce originating in the United States and commencing any place within the United States. (2) Foreign air transportation (foreign)—the carriage by aircraft of persons or property as a common carrier for compensation or hire, or carriage of mail by aircraft, in commerce between a place in the United States and any place outside of the United States. (3) Scheduled operations—foreign and domestic air carrier and cargo operations published in the Official Air Line Guide (OAG) as of June 30, 1996, and/or routine consistent operations operated same time, day and number of days per week as in regularly scheduled cargo operations. This category also includes additional operations by scheduled operators at the same airport if those operations are listed in the OAG as of June 30, 1996. (4) Non-scheduled operations—foreign and domestic charters and cargo operations not published in the OAG as of June 30, 1996, and/or not operated on a routine consistent basis during the same time, day and number of days per week, excluding helicopters. This category also includes additional operations by scheduled operators at the same airport that are not listed in the OAG as of June 30, 1996. (5) Other operations—all operations conducted by operators that do not hold either an air carrier certificate or an operating certificate for common carriage issued under SFAR 38–2 or Part 119 of the Federal Aviation Regulations or any operations conducted under Part 129 of the Federal Aviation Regulations. These operations exclude helicopters and include, but are not limited to, general aviation and business operations conducted under Part 91.

The slot reservation system will be applicable to visual flight rules (VFR) arrivals at four specified airports, VFR departures at four specified airports, and to non-scheduled instrument flight rules (IFR) operations at 11 specified airports. As with most special events, airborne holding will not be authorized in lieu of a ground delay. Thus, aircraft without reservations may anticipate lengthy delays at departure airports.

VFR arrival slot reservations are required for: Cobb County-McCollum Field Airport (RYY), Marietta, GA; DeKalb-Peachtree Airport (PDK), Atlanta, GA; Fulton County-Brown Field Airport (FTY), Atlanta, GA; and Gwinnett County-Briscoe Field Airport (LZU), Lawrenceville, GA.

VFR departure slot reservations are required for: Cobb County Airport-McCollum Field (RYY), Marietta, GA; DeKalb-Peachtree Airport (PDK), Atlanta, GA; Fulton County-Brown Field Airport (FTY), Atlanta, GA; and Gwinnett County-Briscoe Field Airport (LZU), Lawrenceville, GA.

Non-scheduled IFR slot reservations are required for: Clayton County-Tara Field Airport (4A7), Hampton, GA; Cobb County-McCollum Field Airport (RYY), Marietta, GA; Covington Municipal Airport (9A1), Covington, GA; DeKalb-Peachtree Airport (PDK), Atlanta, GA; Ben Epps Field Airport (AHN), Athens, GA; Peachtree City-Falcon Field Airport (FFC), Peachtree City, GA; Fulton County Airport-Brown Field Airport (FTY), Atlanta; GA; Lee Gilmer Memorial Airport (GVL), Gainesville, GA; Gwinnett County-Briscoe Field Airport (LZU), Lawrenceville, GA; the William B. Hartsfield Atlanta International Airport (ATL), Atlanta, GA; and Richard B. Russell Airport (RMG), Rome, GA.

Beginning May 15, 1996, through June 30, 1996, non-scheduled operators may submit their request for slot reservations for the affected airports via Internet address [atcslots@mail.hq.faa.gov] or facsimile number [(770) 946–7938]. Request confirmations will be provided within 72 hours of receipt via the form of request. From the period July 1 through July 13, 1996, the FAA will not receive any requests. However, beginning July 14, 1996, 7:00 a.m. (EDT), all operators can reserve VFR arrival and departure or IFR arrival and departure slots at these airports by calling 1–800–96FAA96 (1–800–963–2296), 24 hours a day. Reservation slots may be reserved no sooner than 72 hours before your estimated time of arrival or departure.

The following information must be provided for all requests (reservation requests beginning May 15 through June 30, 1996, via Internet address or facsmile number, and via the telephone number as of July 14, 1996): Arrival Reservations: destination airport, estimated time of arrival, call sign, direction of arrival to the Atlanta area and type aircraft; Departure Reservations: departure airport, estimated time of departure, call sign, destination airport, first fix after departure and type aircraft; and Confirmation Method: operator's Internet address or facsimile number for return confirmation for arrival and departure reservations for those reservations processed prior to July 1, 1996.

Temporary Flight Restriction (TFR) Areas

The FAA establishes TFR areas over the Olympic Villages and competition sites. The establishment of TFR areas over the competition venues would result in the restriction of aircraft operations in these areas; however, access to these areas may be accommodated with an appropriate authorization from the designated using agency. Aircraft operating under exclusions approved by the Administrator are required to contact the designating using agency for appropriate authorization to enter a TFR. ATC will retain the ability to manage aircraft through the TFR areas in accordance with normal traffic flows.

Operating restrictions within the airspace overlying competition venues are established for the period from three hours before to three hours after each event. The additional time that the restrictions are imposed, before and after each event, will accommodate the observation and planning of ground traffic movement as well as facilitate the orderly movement of aircraft in and through the airspace above each event. Flight operations will be restricted within the airspace from the surface to approximately 2500 feet above the ground (AGL) to provide a safe environment.

These TFR areas generally will be circular areas of 1 to 4 NM in radius from the surface to approximately 2,500 AGL. Aircraft operations through, into, or out of these TFR areas will not be allowed during the effective dates and times unless specifically authorized by the designated using agency or ATC.

The locations, dimensions, effective times of the TFR area will be published for use by all pilots on air navigation charts and in the **Federal Register** with specific details disseminated by NOTAM. Requests for access to the airspace areas can be obtained by contacting the using agency for the particular venue as designated via NOTAM.

Certain Olympic venues fall within Class B surface area; specifically, RFK Stadium in Washington, DC, Wolf Creek Skeet Range in Atlanta, GA, and The Orange Bowl in Miami, Fl. These venues will be charted along with those outside of Class B airspace to ensure consistency.

Exceptions

This SFAR contains provisions to provide flexible and efficient management and control of air tariff, such as the authority to give priority to or exclude from certain requirements of the special regulation, flight operations dealing with or containing essential military, medical emergency, rescue, law enforcement, public health and welfare, Presidential, Olympic family, and heads of state. However, regardless of any exclusion of a requirement of this SFAR, the requirement to contact the designated using agency for access to a TFR is mandatory.

Discussion of Comments

The proposed Airspace and Flight Operations requirements for the 1996 Summer Olympic Games were published in a notice of proposed rulemaking (NPRM) on December 29, 1995 (60 FR 67506).

The FAA received seven written comments in reference to the NPRM. Responding to the notice were the Aircraft Owners and Pilots Association (AOPA), Federal Express (FedEx), Delta Air Lines, Air France, Scandinavian Airlines System (SAS), National Air Carrier Association, Inc. (NACA), and Georgia Emergency Management Agency (GEMA). AOPA commented that it does not oppose the establishment of TFRs and reservation requirements outlined in the NPRM. Several commenters supported the NPRM in concept and acknowledged that the slot reservations, as proposed, were essential.

The following is representative of the issues presented to the docket: FedEx believes that the imposition of regulatory barriers would impede its ability to conduct special, non-scheduled air cargo operations into and out of Atlanta, GA. FedEx also expressed concern that the slot reservation program would adversely impact its ability to service the Atlanta area. As a result, FedEx recommends that scheduled cargo service operations be exempted from the slot reservation program.

The FAA is unclear of FedEx's definition of 'special non-scheduled' operation. The final rule specifies that Scheduled cargo operations, such as those conducted by FedEx, are exempt from the slot reservation program. The definition of a Scheduled operation includes domestic cargo operations that are routine consistent operations operated same time, day and number of days per week. Non-scheduled operations have the opportunity to request a slot beginning May 15 through June 30, 1996, via Internet address or facsimile number or by telephone on July 14, 1996. However, any operation not published in the OAG as of June 30, 1996, and not operated in a routine consistent manner would constitute an operation under the Other category and would still require a slot reservation. Operations are restricted under this SFAR for the period July 17 through August 6, 1996.

Delta Air Lines commented that since Atlanta is a primary hub for Delta, it is necessary that the following activities be conducted without meeting the slot reservation requirement: (1) pilot training conducted during Olympic off peak hours, (2) ferry flights into or out of Atlanta to meet contractual obligations, (3) unanticipated routine mechanical diversions, and (4) unanticipated aircraft diversions due to weather. Delta stated that these operations may result in an additional 5 to 10 flights per day. Also, Delta commented that an additional 5 to 10 commercial flights per day may be needed to accommodate Olympic traffic.

The FAA has determined that flights conducted during off peak hours will have minimal problems operating within their preferred time; however, reservations will be required. For those unscheduled flights during peak Olympic hours, the FAA contends that slot reservations remain necessary for these operations to provide for the safe operation and management of aircraft operating to, within, and from these areas, and to prevent any unsafe

congestion in the Atlanta area. Therefore, Delta's above-described activities will not be exempted from the requirements of this SFAR.

Air France recognizes and supports the FAA's concern for the safety of operations during the Olympic games. However, Air France and SAS suggest that the language in the SFAR clarify the slot reservation requirements for Scheduled and Non-scheduled international operations. Air France suggested the establishment of a procedure that will allow carriers such as Air France to request a slot at least 120 days in advance of scheduled arrival or departure and allow for a trade of slots (one for one) but that the slots not be bought or sold.

The FAA agrees with their request for clarification on the slot reservation requirements and has defined Scheduled, Non-scheduled, and Other operations in the rule. Furthermore, the rule specifies the procedures for Non-scheduled operations to request a slot reservation beginning May 15 through June 30, 1996, via Internet address or facsimile number. The telephone slot reservation system will be available to all operators starting July 14, 1996.

The FAA disagrees with the request by Air France to allow 120 days in advance to request a slot reservation. The FAA contends that the 60 days advance provision is adequate for Non-scheduled operations.

The FAA agrees with Air France's request to trade slots on a (one-for-one basis) and that slots should not be bought or sold. The FAA provides further clarification by restricting the trade of slots only within the same company or air carrier.

NACA agrees that the slot reservation system is essential; however, it is concerned that all operations have equal access to slots and that those Scheduled operations not included in the OAG are not considered Scheduled for the purpose of this SFAR. NACA suggested that the submitted schedule for Miami Air International be included in the OAG information.

The FAA has defined Scheduled operations to include those operations published in the OAG as of June 30, 1996, and/or routine consistent operations operated same time, day and number of days per week. Miami Air International will be treated on an equal and consistent basis as any other Non-scheduled operator. Miami Air International's schedule information may be submitted beginning May 15, 1996, via Internet address or facsimile number. The FAA is unable to incorporate that schedule information under this SFAR rulemaking.

GEMA objected to the proposed broad scope of exclusions to the SFAR that may be granted at the discretion of the Administrator listed in the amendatory section, section A.3(b) (1)–(8). GEMA commented that aircraft operating under an exemption of this SFAR could enter and exit the TFRs without any communication or coordination with the using agency. It stated that unidentified aircraft operating within the designated TFR area would present a major security problem. GEMA suggested exemptions not be granted under this paragraph.

The FAA does not concur with GEMA's recommendation to disallow exclusion authority in this SFAR. The FAA believes that the exclusion authority is necessary for unusual situations and that it is imperative to have that authority in the interest of aviation safety. For additional clarification, the rule states that aircraft granted an exclusion to this SFAR are not relieved of the responsibility to contact the designated using agency for authorization prior to entering a TFR.

In addition, GEMA recommended that VFR slot reservations not apply to public safety aircraft. It stated that many public safety flights are conducted in response to emergency situations for which there can be no prior coordination. The FAA responds that aircraft operating in an emergency capacity will be given priority handling and will not be required to obtain a slot reservation. An emergency operation would be handled the same as in today's air traffic environment.

Obtaining U.S. Air Navigation Charts

The following provides information on how to obtain the special air navigation charts for the Olympic Games as well as other air navigation charts for use in the U.S.

The National Ocean Service (NOS) publishes and distributes aeronautical charts of the U.S. National airspace system (NAS). Charts are readily available through a network of sales agents located at and near principal civil airports. Because of the large variety, all NOS products may not be available locally; users can procure these products directly from NOS. Chart prices, subscription rates, and catalogs of related publications are available on request and are obtainable by writing to: National Oceanic and Atmospheric Administration, National Ocean Service, Distribution Branch, N/CG33, Riverdale, Maryland 20737, USA, Phone (301) 436–6990—General Information: (301) 436–6993, Subscription Only: (301) 436–8194—One Time Sales Only.

NOS products will be shipped via United Parcel Service, First Class Mail, or priority package within the U.S. For foreign surface shipment to addresses in other countries, please add 5 percent to the total cost of order. Please write to NOS for a transportation cost quotation if faster foreign delivery is required. All mail order purchases must be accompanied by check or money order made payable to "NOS, Department of Commerce, N/CG33". Remittance must be made in U.S. funds; i.e., by check payable on a U.S. bank, or by international money order. Returned checks will result in cancellation of orders.

Chart sales offices are maintained at the following locations:

National Ocean Service, Chart Sales & Control Data Office, 701 C Street, Anchorage, Alaska 99513, USA

National Ocean Service, Chart Sales Office, 6501 Lafayette Avenue, Riverdale, Maryland 20737, USA

Pacific Marine Center, National Ocean Service, 1801 Fairview Avenue East, Seattle, Washington 98102, USA

Atlantic Marine Center, National Ocean Service, 439 West York Street, Norfolk, Virginia 23510, USA.

Chart prices are subject to recomputation, based on cost of production, in accordance with Federal law. Price changes, when required, will be published 60 days in advance of the effective date.

The first of 13 charts that will show some of the Olympic TFR's will be published beginning with an effective date of February 1, 1996.

Notice to Airmen (NOTAM) Information

ATC and air traffic flow management systems will monitor and assess the air traffic demand so that restrictions are kept to an essential minimum. To assure maximum flexibility, NOTAMs will be issued to announce all restrictions and other actions including the lifting of any restrictions taken by the FAA in response to changing airport and air traffic conditions.

Time-critical aeronautical information that is of a temporary nature or is not sufficiently known in advance to permit publication on aeronautical charts or in other operational publications, receives immediate dissemination via the National NOTAM system. All domestic operators planning flight to the Olympics need to pay particular attention to NOTAM D and Flight Data Center (FDC) NOTAM information. NOTAM D information could affect a pilot's decision to make a flight. NOTAM D pertains to information on airports, runways, navigational aids, radar services, and other information essential to flight. An FDC NOTAM will contain information which is regulatory in nature, such as amendments to aeronautical charts and restrictions to flight. FDC NOTAM and NOTAM D information will also be provided to international operators in the form of International NOTAMs. NOTAMs are distributed through the National Communications Center in Kansas City, Missouri, USA, for transmission to all air traffic facilities having telecommunications access.

Pilots and operators should consult the biweekly Notices to Airmen Domestic/International publication. This publication contains the NOTAM FDC and D NOTAMs. Special information, including graphics, will be published in the biweekly publication several weeks in advance of the Olympics. In addition, a booklet will be published detailing information about the different venues. Distribution will be the same as for the biweekly publication. For more detailed information concerning the NOTAM system, refer to the Aeronautical Information Manual, "Preflight" Section.

Other U.S. Laws and Regulations

Aircraft operators should clearly understand that the SFAR is in addition to other laws and regulations of the U.S. The SFAR will not waive or supersede any U.S. law or obligation. When operating within the jurisdictional limits of the U.S., operators of foreign aircraft must conform with all applicable requirements of U.S. Federal, State, and local governments. In particular, aircraft operators planning flights into the U.S. must be aware of and conform to the rules and regulations established by the:

1. U.S. Civil Aeronautics Board regarding flights entering the U.S.;
2. U.S. Customs Service, Immigration and other authorities regarding customs, immigrations, health, firearms, and imports/exports;
3. U.S. FAA regarding flight in or into U.S. airspace. This includes compliance with Federal Aviation Regulations regarding operations into or within the U.S. through air defense identification zones, and compliance with general flight rules; and
4. Airport management authorities regarding use of airports and airport facilities.

Environmental Effects

This rule establishes TFR areas for safety and security purposes and will curtail or limit certain aircraft operations within designated areas at defined dates and times, rather than require aircraft to be operated along specified routings or in accordance with specific procedures. Additionally, this regulation will be temporary in nature and effective only for the dates and times necessary to provide for the safety and protection of participants and spectators on the ground, as well as law enforcement and security personnel operating in the air at Olympic game venues. ATC will retain the ability to direct aircraft through the restricted areas in accordance with normal traffic flows. The FAA believes, therefore, that the establishment of temporary flight restriction areas will have minimal impact on ATC routings or procedures.

Further, this action will result in a reduction in aircraft activity in the vicinity of the Olympic games by restricting aircraft operations. Therefore, there will be fewer aircraft operations in the vicinity of the Olympic games than will have occurred if the restricted areas were not in place and noise levels associated with that greater aircraft activity will also be reduced. Additionally, aircraft avoiding the restricted areas will not be routed over any specific area. This rule will, therefore, not result in any long-term action which will routinely route aircraft over noise-sensitive areas. For the reasons stated above, the FAA concludes that this rule will not significantly affect the quality of the human environment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation organization Standards and Recommended Practices (SARP) to the maximum extent practicable.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the small amount of paper burden associated with the rule will be submitted to the Office of Management and Budget for review.

Regulatory Evaluation

This regulatory evaluation examines the costs and benefits of the SFAR applicable for the period July 19 through August 4, 1996, the SFAR establishes TFR's overlying the various competition venues for the 1996 Olympic games. This rule requires slot reservations for arrivals and departures at specified airports in the vicinity of the Olympics. Since the impacts of the changes are relatively minor this economic summary constitutes the analysis and no regulatory evaluation will be placed in the docket.

Costs and Benefits

There are two major areas where economic impacts are likely: Slot Reservation System and Temporary Flight Restrictions.

A. Slot Reservation System

During the Olympic period, the FAA must assure the continued safe and efficient use of airspace over the affected areas. To achieve this objective while minimizing disruption to the air traveling public, the FAA will establish an arrival and departure slot reservation system to manage air traffic into and out of airports serving the Olympic Games.

As a result of the slot reservation system some flights may be canceled and others rerouted. The cost of the cancellations will be the value of the flights to airlines and passengers less aircraft operating cost to conduct the flights. Other flights may be diverted to other airports in the Olympic Games area. Diversions will result in additional costs of trips to and from places of intended lodging and possible extra aircraft operation costs. The major economic impact in the case of a diversion will be an inconvenience to operators who may have wanted to land at a given airport. Because such occurrences are of limited duration, the FAA believes that costs associated with any diversions from one airport to another in the affected area will probably be minimal. The additional FAA administrative workload generated by the rule will be absorbed by current personnel and equipment resources. The slot provision will not require any additional air traffic controllers nor additional radar control equipment.

The benefits of the slot reservation system will be better control of the airspace over Atlanta and other areas affected by the Olympics. Arrivals are expected to increase 25 percent during the 3 weeks of the Olympic season. There will be an increased risk of accidents due to this unprecedented congestion in the Atlanta area if greater controls are not implemented. There is also the potential benefit of reduced delay times for operators attempting to land in the Atlanta area. The slot provision will assure that the FAA will have sufficient capacity to handle the many possible extra flights carrying spectators, athletes, media personnel, and dignitaries during the Olympic period without unnecessary delay.

B. Temporary Flight Restriction Areas

Due to the substantial increase in aircraft operations that are expected in the Atlanta area as well as other sites, the FAA will establish TFR areas over the Olympic village and competition sites. The establishment of TFR's over competition venues will result in the restriction of aircraft operations from the surface to 2500 feet.

The major economic impact of circumnavigation in this case will be an inconvenience to operators who may have wanted to operate within the area of the TFR. Because such occurrences are of limited duration and the restricted areas are limited in size, the FAA believes that any circumnavigation cots will be negligible. An aircraft operator could avoid the restricted airspace by flying over it without significantly deviating from their current routes or by circumnavigating the restricted airspace.

The benefits of the TFR airspace primarily will be enhanced safety to the public. Enhanced safety will take the form of the reduced possibility of fatalities and property damage as a result of a lowered risk of accidents due to increased positive control of TFR airspace. While benefits cannot be quantified, the FAA believes the benefits are commensurate with the small costs attributed to the temporary inconvenience of the flight restrictions for operators near the TFR.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires the FAA to review each rule that may have a significant economic impact on a substantial number of small entities.

The FAA's criteria for a "substantial number" is a number that is not less than 11 and that is more than one third of the small entities subject to the rule. The small entities that could be potentially affected by the implementation of the proposed rule are operators of aircraft for hire owning nine or fewer aircraft. Because of the negligible impact of this regulatory action, the FAA initially determines that this proposed amendment would not have a significant impact on a substantial number of small entities.

Federalism Implications

The regulation set forth herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Trade Impact Assessment

This rule will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services to the United States. This rule will not impose additional temporary costs to aircraft operators. There should be no effect on U.S. or foreign aircraft manufacturers. Therefore, the FAA has determined that the rule will neither have an effect on the sale of foreign aviation products nor services in the United States, nor will it have an effect on the sale of U.S. products or services in foreign countries.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this regulation is not a "significant regulatory action" under Executive Order 12866. The FAA has determined that the rule will impose temporary additional costs to the public. The magnitude of these costs, while undetermined, are negligible. The benefits will be increased aviation safety resulting from a lower risk of accidents due to increased congestion during the Olympics. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. A Regulatory Flexibility Determination and International Impact Assessment are set out above. Because the economic impact of this rule is likely to be minimal, no formal regulatory evaluation has been prepared.

List of Subjects in 14 CFR Part 91

Aircraft flight, Airspace, Aviation safety, Air Traffic Control.

The Special Federal Aviation Regulation (SFAR)

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 91 as follows:

PART 91—[AMENDED]

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. By adding Special Federal Aviation Regulation No. 74 to read as follows:

SFAR No. 74 Airspace and Flight Operations Requirements for the 1996 Summer Olympic Games, Atlanta, Georgia

A. General

1. Each person shall be familiar with all NOTAMs issued pursuant to this SFAR and all other available information concerning that operation before conducting any operation into or out of an airport or area specified in this SFAR or in NOTAMs pursuant to this SFAR. In addition, each person operating an international flight that will enter the U.S. shall be familiar with any international NOTAMs issued pursuant to this SFAR. NOTAMs are available for inspection at operating FAA air traffic facilities and regional air traffic division offices.

2. Notwithstanding any provision of the Federal Aviation Regulations to the contrary, no person may operate an aircraft contrary to any restriction procedure specified in this SFAR or by the Administrator, through a NOTAM issued pursuant to this SFAR.

3. As conditions warrant, the Administrator is authorized to—

(a) Restrict, prohibit, or permit IFR/VFR operations at any airport, terminal, or enroute airspace area designated in this SFAR or in a NOTAM issued pursuant to this SFAR;

(b) Give priority to or exclude the following flights from certain provisions of this SFAR and NOTAMs issued pursuant to this SFAR: (The requirement to contact the designated using agency for authorization to enter a TFR is mandatory.)

(1) Essential military.

(2) Medical and rescue.

(3) Essential public health and welfare.

(4) Presidential and Vice Presidential.

(5) Flights carrying visiting heads of state.

(6) Flights in the service of the Olympic Committee and media flights whose planned activities have been coordinated and accredited by the Atlanta Committee for the Olympic Games.

(7) Law enforcement and security.

(8) Flights authorized by the Director, Air Traffic Service; and/or

(c) Implement flow control management procedures.

4. For security purposes, the Administrator may issue NOTAMs during the effective period of this SFAR to cancel or modify provisions of this SFAR and NOTAMs issued pursuant to this SFAR if such action is

consistent with the safe and efficient use of airspace and the safety and security of persons and property on the ground as affected by air traffic.

5. No person may operate an aircraft to or from an airport listed in this SFAR or NOTAM issued pursuant to this SFAR unless that person complies with the requirements of this SFAR and NOTAMs issued pursuant to this SFAR that are applicable to his/her operations.

B. Slot Reservation System

1. General Description

Slot reservations for arrivals and departures at specified airports in the vicinity of the Olympic Games are required for the period July 17 through August 6, 1996. The FAA believes this action is necessary for the security of the venues, safe operation and management of aircraft operating to, within, and from these areas, and to prevent any unsafe congestion of sightseeing and other aircraft over the various venues.

2. Definitions

For purposes of this SFAR the following definitions apply:

(a) Domestic air transportation (domestic)—the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail by aircraft, in commerce originating in the United States and commencing any place within the United States.

(b) Foreign air transportation (foreign)—the carriage by aircraft of persons or property as a common carrier for compensation or hire, or carriage of mail by aircraft, in commerce between a place in the United States and any place outside of the United States.

(c) Scheduled operations—foreign and domestic air carrier and cargo operations published in the Official Air Line Guide (OAG) as of June 30, 1996, and/or routine consistent operations operated same time, day and number of days per week as in regularly scheduled cargo operations. This category also includes additional operations by scheduled operators at the same airport if those operations are listed in the OAG as of June 30, 1996.

(d) Non-scheduled operations—foreign and domestic charters and cargo operations not published in the OAG as of June 30, 1996, and/or not operated on a routine consistent basis during the same time, day and number of days per week, excluding helicopters. This category also includes additional operations by scheduled operators at the same airport that are not listed in the OAG as of June 30, 1996.

(e) Other operations—all operations conducted by operators that do not hold either an air carrier certificate or an operating certificate for common carriage issued under SFAR 38–2 or part 119 of the Federal Aviation Regulations or any operations conducted under part 129 of the Federal Aviation Regulations. These operations exclude helicopters and include, but are not limited to, general aviation and business operations conducted under part 91.

3. Method

Beginning May 15 through June 30, 1996, non-scheduled operations may submit their request for slot reservations for the affected airports via Internet address (atcslots@mail.hq.faa.gov) or facsimile number [(770) 946–7938]. Request confirmation will be provided within 72 hours of receipt via the form of request. From the period July 1 through July 13, 1996, the FAA will not receive any requests.

Beginning July 14, 1996, 7:00 a.m. (EDT), all operators can reserve VFR arrival and departure or IFR arrival and departure slots at these airports by calling 1–800–96FAA96 (963–2296), 24 hours a day. Reservation slots may be reserved no sooner than 72 hours before your estimated time of arrival or departure.

4. Necessary Information

The following information must be provided for all requests (reservation requests beginning May 15 through June 30, 1996, via Internet address or facsimile number, and via the telephone number as of July 14, 1996): Arrival Reservations: destination airport, estimated time of arrival, call sign, direction of arrival to the Atlanta area and type aircraft; Departure Reservations: departure airport, estimated time of departure, call sign, destination airport, first fix after departure and type aircraft; Confirmation Method: operator's Internet address or facsimile number for return confirmation for arrival and departure reservations.

5. Affected Airports

For purposes of the SFAR:

(a) Airports and airspace areas associated with Olympic activity which require restriction or prohibition of aviation activity will be designated in NOTAMs issues pursuant to this SFAR.

(b) Airports listed below and in NOTAMs issued pursuant to this SFAR are identified as:

VFR Arrival Slot Reservation Airports

Cobb County-McCollum Field Airport (RYY), Marietta, GA
DeKalb-Peachtree Airport (PDK), Atlanta, GA
Fulton County Airport-Brown Field Airport (FTY), Atlanta, GA
Gwinnett County-Briscoe Field Airport (LZU), Lawrenceville, GA

VFR Departure Slot Reservation Airports

Cobb County-McCollum Field Airport (RYY), Marietta, GA
DeKalb-Peachtree Airport (PDK), Atlanta, GA
Fulton County Airport-Brown Field Airport (FTY), Atlanta, GA
Gwinnett County-Briscoe Field Airport (LZU), Lawrenceville, GA

Non-Scheduled IFR Slot Reservation Airports

Clayton County-Tara Field Airport (4A7), Hampton, GA
Cobb County-McCollum Field Airport (RYY), Marietta, GA
Covington Municipal Airport (9A1), Covington, GA
DeKalb-Peachtree Airport (PDK), Atlanta, GA
Ben Epps Field Airport (AHN), Athens, GA
Peachtree City-Falcon Field Airport (FFC), Peachtree City, GA
Fulton County Airport-Brown Field Airport (FTY), Atlanta, GA
Lee Gilmer Memorial Airport (GVL), Gainesville, GA
Gwinnett County-Briscoe Field Airport (LZU), Lawrenceville, GA
The William B. Hartsfield Atlanta International Airport (ATL), Atlanta, GA
Richard B. Russell Airport (RMG), Rome, GA

C. Temporary Flight Restriction (TFR) Areas

The FAA establishes TFR areas over the Olympic Village and competition sites. The establishment of TFR areas over the competition venues will result in the restriction of aircraft operations in these areas; however, access to these areas may be accommodated with an appropriate authorization from the designated using agency. Aircraft operating under exclusions approved by the Administrator are required to contact the designated using agency for appropriate authority to enter a TFR. ATC will retain the ability to manage aircraft through the TFR areas in accordance with normal traffic flow.

Operating restrictions within the airspace overlying competition venues are for the period from 3 hours before to 3 hours after each event. The additional time that the restrictions are to be imposed, before and after each event, will accommodate the observation and planning of ground traffic movement as well as facilitate the orderly movement of aircraft in and through the airspace above each event. Flight operations will be restricted within the airspace from the surface to approximately 2500 feet AGL to provide a safe environment.

At the following locations, flight is restricted during the times of designation:

1. The Olympic Village; Atlanta, Georgia

That airspace within a 1 NM radius of latitude (lat.) 33° 46′ 35″ N. longitude (long.) 84° 23′ 52″ W (ATL 012R/8.5 NM distance measuring equipment (DME) fix).

Designated altitudes: Surface to but not including 3,500 feet mean sea level (MSL).

Times of Designation: July 6, 1996, to August 11, 1996, 24 hours per day.

Using agency: Georgia State Patrol. Contact: SFC W.S. Smith (770) 919–9929

2. The Olympic Ring; Atlanta, Georgia

That airspace within a 3 NM radius of lat. 33° 45′ 27″ N, long. 84° 24′ 05″ W (ATL 013R/7.4 NM DME fix).

Designated altitudes. Surface to but not including 3,500 feet MSL.

Times of Designation. July 19, 1996, from 7:00 p.m. local time to July 20, 1996 at 2:00 a.m.; July 20, 1996 until August 5, 1996, 5:00 a.m. until 2:00 a.m.

Using agency: Georgia State Patrol. Contact: SFC W.S. Smith (770) 919–9929.

3. Wolf Creek Skeet Range; Atlanta, Georgia

That airspace within a 1 NM radius of lat. 33° 40′ 12″ N long. 84° 33′ 54″ W. (ATL 286R/6 NM DME fix).

Designated altitudes: Surface to but not including 2,500 feet MSL.

Times of Designation:

July 20, 1996, from 8:00 a.m. until 8:00 p.m.
July 21, 1996, from 8:00 a.m. until 8:00 p.m.
July 22, 1996, from 8:00 a.m. until 4:30 p.m.

July 23, 1996, from 8:00 a.m. until 7:00 p.m.
July 24, 1996, from 8:00 a.m. until 5:30 p.m.
July 25, 1996, from 8:00 a.m. until 8:30 p.m.
July 26, 1996, from 8:00 a.m. until 7:00 p.m.
July 27, 1996, from 12:00 a.m. until 7:00 p.m.

Using agency: Georgia State Patrol.
Contact: SFC W.S. Smith (770) 919–9929.

4. Stone Mountain Park, Stone Mountain, Georgia

That airspace within a 3 NM radius of lat. 33° 48′ 24″ N, long. 84° 08′ 06″ W (PDK 117R/9 NM DME fix).

Designated altitudes. Surface to and including 2,500 feet AGL.

Times of Designation:

July 22, 1996, from 9:00 a.m. until 9:00 p.m.
July 23, 1996, from 9:00 a.m. until 9:00 p.m.
July 24, 1996, from 9:00 a.m. until 9:00 p.m.
July 25, 1996, from 9:00 a.m. until 9:00 p.m.
July 26, 1996, from 9:00 a.m. until 9:00 p.m.
July 27, 1996, from 8:00 a.m. until 9:00 p.m.
July 28, 1996, from 8:00 a.m. until 9:00 p.m.
July 29, 1996, from 8:00 a.m. until 11:00 p.m.
July 30, 1996, from 8:00 a.m. until 11:00 p.m.
July 31, 1996, from 9:00 a.m. until 7:00 p.m.
August 1, 1996, from 9:00 a.m. until 8:00 p.m.
August 2, 1996, from 9:00 a.m. until 9:00 p.m.
August 3, 1996, from 9:00 a.m. until 12:00 a.m.

Using agency: Georgia State Patrol.
Contact: SFC W.S. Smith, (770) 919–9929.

5. Atlanta Beach; Jonesboro, Georgia

That airspace within a 1 NM radius of lat. 33°31′23″ N, long. 84°18′39″ W (ATL 137R/9 NM DME fix).

Designated altitudes. Surface to but not including 3,500 feet MSL.

Times of Designation:

July 23, 1996, from 6:00 a.m. until 9:00 p.m.
July 24, 1996, from 6:00 a.m. until 9:00 p.m.
July 25, 1996, from 6:00 a.m. until 9:00 p.m.
July 26, 1996, from 6:00 a.m. until 9:00 p.m.
July 27, 1996, from 6:00 a.m. until 9:00 p.m.
July 28, 1996, from 8:00 a.m. until 9:00 p.m.

Using agency: Georgia State Patrol.
Contact: SFC W.S. Smith, (770) 919–9929.

6. International Horsepark; Covington, Georgia

That airspace within a 3 NM radius of lat. 33°40′28″ N, long. 83°56′58″ W (ATL 084R/24 NM. DME fix) excluding that airspace along and south of Interstate 20.

Designated altitudes. Surface to and including 2,500 feet AGL.

Times of Designation:

July 21, 1996, from 9:00 a.m. until 6:00 p.m.
July 22, 1996, from 9:00 a.m. until 6:00 p.m.
July 23, 1996, from 9:00 a.m. until 5:00 p.m.
July 24, 1996, from 8:30 a.m. until 11:00 p.m.
July 25, 1996, from 9:00 a.m. until 4:00 p.m.
July 26, 1996, from 9:00 a.m. until 1:00 p.m.
July 27, 1996, from 8:00 a.m. until 6:00 p.m.
July 28, 1996, from 9:00 a.m. until 6:00 p.m.
July 29, 1996, from 9:00 a.m. until 6:00 p.m.
July 30, 1996, from 8:00 a.m. until 9:30 p.m.
July 31, 1996, from 9:00 a.m. until 5:00 p.m.
August 1, 1996, from 8:00 a.m. until 7:30 p.m.
August 4, 1996, from 9:00 a.m. until 4:00 p.m.

Using agency: Georgia State Patrol.
Contact: SFC W.S. Smith, (770) 919–9929.

7. Lake Sidney Lanier; Gainesville, Georgia

That airspace within a 2 NM radius of lat. 34°21′00″ N, long. 83°47′11″ W (PDK 042R/38 NM DME fix).

Designated altitudes. Surface to and including 2,500 feet AGL.

Times of Designation:

July 21, 1996, from 8:00 a.m. until 2:00 p.m.
July 22, 1996, from 8:00 a.m. until 1:30 p.m.
July 23, 1996, from 8:00 a.m. until 1:00 p.m.
July 24, 1996, from 8:00 a.m. until 11:30 a.m.
July 25, 1996, from 8:00 a.m. until 12:30 p.m.
July 26, 1996, from 8:00 a.m. until 12:30 p.m.
July 27, 1996, from 7:30 a.m. until 1:30 p.m.
July 28, 1996, from 7:30 a.m. until 1:30 p.m.

Using agency: Georgia State Patrol.
Contact: SFC W.S. Smith, (770) 919–9929.

8. Sanford Stadium; Athens, Georgia

That airspace with a 1 NM radius of lat. 33°56′59″ N, long. 83°22′24″ W (AHN 258R/2 NM DME fix).

Designated altitudes: Surface to and including 2,500 feet AGL.

Times of Designation:

July 31, 1996, from 2:00 p.m. until 7:00 p.m.
August 1, 1996, from 9:00 a.m. until 7:00 p.m.
August 2, 1996, from 9:00 a.m. until 6:00 p.m.
August 3, 1996 from 12:00 p.m. until 6:00 p.m.

Using agency: Georgia State Patrol
Contact: SFC W.S. Smith (770) 919–9929.

9. Golden Park; Columbus, Georgia

That airspace within a 1 NM radius of lat. 32°27′09″ N, long. 84°59′30″ W (CSG 172R/10 NM DME fix).

Designated altitudes: Surface to and including 2,500 feet AGL.

Times of Designation:

July 21, 1996, through July 27, 1996, 8:00 a.m. until 11:30 p.m.;
July 29, 1996, from 5:30 p.m. until 11:30 p.m.
July 30, 1996, from 3:30 p.m. until 11:00 p.m.

Using agency: Georgia State Patrol
Contact: SFC W.S. Smith (770) 919–9929.

10. Olympic Village; Columbus, Georgia.

That airspace within a 1 NM radius of lat. 32°21′44″ N, long. 84°58′15″ W (CSG 171R/16 NM DME fix).

Designated altitudes. Surface to and including 2,000 feet AGL.

Times of Designation: July 5, 1996, through August 8, 1996, when Ft. Benning Class D airspace is not effective.

Using agency: Georgia State Patrol
Contact: SFC W.S. Smith (770) 919–9929.

11. Lee College; Cleveland, Tennessee

That airspace within a 0.5 NM radius of lat. 35°09′58″ N, long. 84°52′13″ W (CHA 049R/18 NM DME fix).

Designated altitudes: Surface to and including 2,500 feet AGL.

Times of Designation: July 6, 1996, from 6:00 a.m. until July 30, 1996, at 12:00 a.m.

Using agency: Ocoee River Venue Law Enforcement Committee (ORVLEC)
Contact: William J. Ferris III (423) 265–3601.

12. U.S. Highway 64; Tennessee

0.5 NM on either side of U.S. Highway 64 from Cleveland, Lee College, TN., latitude 35°09′58″ N, longitude 84°52′13″ W, thence following U.S. Highway 64 to latitude 35°04′02″ N, longitude 84°28′37″ W.

Designated altitudes. Surface to and including 2,500 feet AGL.

Times of Designation: July 26, 1996, through July 28, 1996, from dawn until dusk.

Using agency: ORVLEC
Contact: William J. Ferris III (423) 265–3601.

13. Ocoee River; Tennessee

That airspace within a 2 NM radius of lat. 35°04′02″ N, long. 84°27′37″ W (CHA 080R/34 NM DME fix).

Designated altitudes. Surface to and including 2,500 feet AGL.

Times of Designation: July 26, 1996, through July 28, 1996, from dawn until dusk.

Using agency: ORVLEC
Contact: William J. Ferris III (423) 265–3601.

14. Legion Field; Birmingham, Alabama

That airspace within a 1 NM radius of lat. 33°30′42″ N, long. 86°50′34″ W (VUZ 160R/10 NM DME fix).

Designated altitudes: Surface to 2,000 feet AGL.

Times of designation:

July 20, 1996, from 3:30 p.m. until 11:00 p.m.,
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July 22, 1996, from 3:30 p.m. until 11:00 p.m.,
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July 27, 1996, from 3:30 p.m. until 11:00 p.m.,
July 28, 1996, from 12:00 p.m. until 7:30 p.m.

Using agency: Federal Bureau of Investigation
Contact: Jim Brant (205) 252–7705.

15. The Olympic Village; Savannah, Georgia

That airspace within a 1 NM radius of lat. 32°04′45″ N, long. 81°04′50″ W (SAV 158R/6 NM DME fix).

Designated altitudes. Surface to and including 2,000 feet AGL.

Times of Designation: July 6, 1996, until August 7, 1996, 24 hours a day.

Using agency: Georgia State Patrol
Contact: SFC W.S. Smith (770) 919–9929.

16. Sail Harbor and Wilmington River Transit Zone; Savannah, Georgia

That airspace within a 1 NM radius of lat. 32°00′20″ N, long. 81°00′00″ W (SAV 147R/11 NM DME fix). Airspace within a 1 NM radius of the Sheraton Hotel, and airspace over the Wilmington River from this point south to Wassaw Sound.

Designated altitudes. Surface to and including 2,000 feet AGL.

Times of Designation: July 12, 1996, until August 4, 1996, during daylight hours.

Using agency: Georgia State Patrol

Contact: SFC W.S. Smith (770) 919–9929.

17. Sailing Venue; Savannah, Georgia

That airspace within a 4 NM radius of lat. 31°55′00″ N, long. 80°53′00″ W (SAV 141R/19 NM DME fix).

Designated altitudes. Surface to and including 2,000 feet AGL.

Times of Designation: July 22, 1996, until August 1, 1996, during daylight hours.

Using agency. Georgia State Patrol
Contact: SFC W.S. Smith (770) 919–9929.

18. The Citrus Bowl; Orlando, Florida

That airspace within a 1 NM radius of lat. 28°32′20″ N, long. 81°24′10″ W (ORL 260R/4 NM DME fix).

Designated altitudes: Surface to but not including 1,600 feet MSL.

Times of Designation:

July 20, 1996, from 2:00 p.m. until 8:00 p.m.,
July 21, 1996, from 2:00 p.m. until 10:30 p.m.,
July 22, 1996, from 5:00 p.m. until 11:00 p.m.,
July 23, 1996, from 5:00 p.m. until 1:30 p.m.,
July 24, 1996, from 5:00 p.m. until 11:00 p.m.,
July 25, 1996, from 5:00 p.m. until 1:30 a.m.

Using agency: Orange County Sheriff Office.
Contact: Cmdr. Richard Silverman (407) 836–3820.

19. Olympic Village; Davie, Florida.

That airspace within a 1 NM radius of lat. 26°04′29″ N, long. 80°14′31″ W (FLL 270R/05 NM DME fix).

Designated altitudes. Surface to and including 2,000 feet MSL.

Times of Designation: July 6, 1996, until July 31, 1996, 24 hours a day.

Using Agency. Davie Police Department
Contact: Lt. Steve Seefchak (305) 797–1224.

20. The Orange Bowl; Miami, Florida

That airspace within a 1 NM radius of lat. 25°46′40″ N, long. 80°13′12″ W (DHP 100R/7 NM DME fix).

Designated altitudes. Surface to and including 2,500 feet MSL.

Times of Designation:

July 20, 1996, from 12:00 p.m. until 11:00 p.m.,
July 21, 1996, from 1:00 p.m. until 11:00 p.m.,
July 22, 1996, from 4:00 p.m. until 12:00 a.m.,
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July 24, 1996, from 4:00 p.m. until 12:00 a.m.,
July 25, 1996, from 3:00 p.m. until 2:00 a.m.,
July 27, 1996, from 3:00 p.m. until 11:00 p.m.,
July 28, 1996, from 3:00 p.m. until 11:00 p.m.

Using agency. Miami Police Department.
Contact: Capt. Paul Shepard (305) 579–6181.

21. RFK Stadium; Washington, DC

That airspace within a 1 NM radius of lat. 38°53′23″ N, long. 76°58′19″ W (DCA 067R/3.5 NM DME fix).

Designated altitudes. Surface to and including 2,500 feel AGL.

Times of Designation:

July 20, 1996, from 11:30 p.m. until 5:30 p.m.,
July 21, 1996, from 11:30 p.m. until 8:00 p.m.,
July 22, 1996, from 5:00 p.m. until 11:00 p.m.,
July 23, 1996, from 5:00 p.m. until 1:30 a.m.,
July 24, 1996, from 5:00 p.m. until 11:00 p.m.,
July 25, 1996, from 5:00 p.m. until 1:30 a.m.

Using agency: Special Operations Division of the Washington, DC, Metropolitan Police.
Contact: Don Pope (202) 727–4582 or Aviation Division (301) 248–7585.

D. Expiration Date

This SFAR expires on August 12, 1996.

Issued in Washington, DC on February 6, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–2988 Filed 2–7–96; 2:57 pm]

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470).

H.R. 2924/P.L. 104-103

To guarantee the timely payment of social security benefits in March 1996. (Feb. 8, 1996; 110 Stat. 55)

S. 652/P.L. 104-104

Telecommunications Act of 1996 (Feb. 8, 1996; 110 Stat. 56)

Last List February 8, 1996

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
4	(869–026–00003–4)	5.50	Jan. 1, 1995
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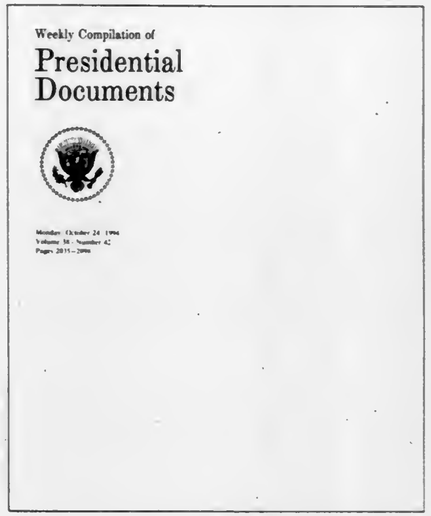
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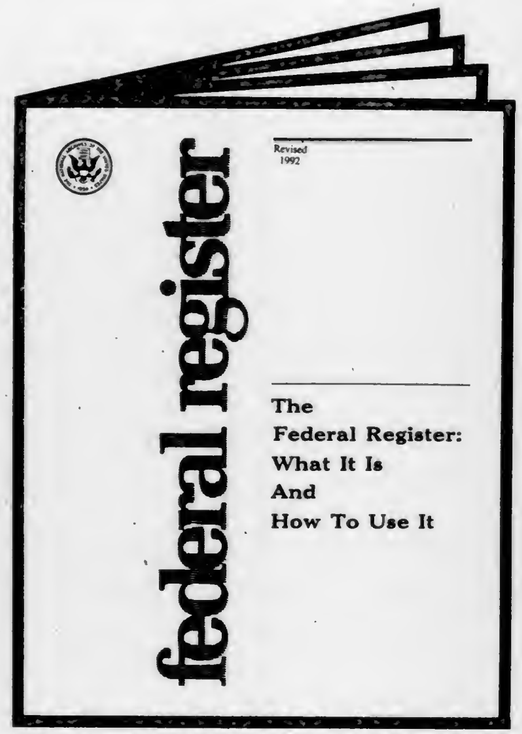
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–08–AD; Amendment 39–9508; AD 96–03–11]

Airworthiness Directives; American Champion Aircraft Corporation Models 8KCAB, 8GCBC, 7GCBC, and 7ECA Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to American Champion Aircraft Corporation (American Champion) Models 8KCAB, 8GCBC, 7GCBC, and 7ECA airplanes that are equipped with metal spar wings. This action requires inspecting (one time) the wing front strut fittings for cracks or scratches, replacing any wing front strut fittings found cracked or scratched, and reporting the inspection results to the Federal Aviation Administration (FAA). Fatigue cracks found on the wing front strut fittings on two Model 8KCAB airplanes prompted this action. The actions specified by this AD are intended to prevent structural failure of a wing assembly caused by cracked or scratched wing front strut fittings, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Effective February 26, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 26, 1996.

Comments for inclusion in the Rules Docket must be received on or before April 12, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96–CE–08–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from the American Champion Aircraft Corporation, 32032 Washington Avenue, Rochester, Wisconsin 53167. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96–CE–08–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Forest, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon, room 232, Des Plaines, Illinois 60018; telephone (847) 294–7697; facsimile (847) 294–7834.

SUPPLEMENTARY INFORMATION: The FAA has received a report of an American Champion Model 8KCAB airplane breaking apart in flight and resulting in a fatal accident. The cause of the accident is attributed to the pilot operating the airplane outside of its approved flight envelope during aerobatic instruction. During the accident investigation, the National Transportation Safety Board (NTSB), American Champion, and the FAA examined the remains of the accident airplane, including the separated pieces of the wing and fuselage structure. This examination revealed fatigue cracking of the wing front strut fittings.

The design of the wing and fuselage structure is such that the outboard ends of the wing fittings for each primary strut are bolted to the web of the wing's front spar. One fitting is on the forward side of the web and one is on the aft side of the web. The fittings then transition to a wider area where the strut is attached with a bolt. In the above-referenced accident, the forward fitting fractured through the transition area (approximately in the center of the fitting length), causing the fitting to separate. This wing strut fitting transition area contains an aft leg that is assembled against the forward face of the wing spar web and a forward leg.

Investigation of the fitting from the accident aircraft revealed that small, sharp scratches in the forward edge of the shorter portion of the aft leg contributed to the fatigue cracking in the wing fitting. Metallurgical examination of the fitting indicates that these fatigue cracks formed in scratches and surface deformities that resulted during the manufacturing process, and existed prior to the accident.

Since the accident, the FAA and American Champion have inspected another Model 8KCAB airplane and found fatigue cracks on two of the four wing strut fittings. These fatigue cracks also originated from scratches and surface deformities in the wing front strut fitting. In addition, evaluation of new uninstalled wing front strut fittings reveal these scratches and surface deformities.

American Champion Models 8GCBC, 7GCBC, and 7ECA airplanes incorporate the same design fitting that the Model 8KCAB airplanes incorporate. The fittings of these airplanes do incur lower stress levels compared to the fittings of the Model 8KCAB airplanes; however, the FAA does not know at what stress levels fatigue cracks will form in the area of scratches or surface deformities of these fittings, and how many or which fittings have scratches or surface deformities as a result of the manufacturing process.

The FAA does know that the accident airplane had accumulated approximately 890 hours time-in-service (TIS) and the airplane inspected that had fatigue cracks in two of the four wing front strut fittings had accumulated about 200 hours TIS. While a full analysis of the fatigue crack growth on these fittings is currently taking place, the FAA feels that the above range of hours TIS on the two aircraft found with fatigue cracks presents an immediate unsafe condition on the American Champion Models 8KCAB, 8GCBC, 7GCBC, and 7ECA airplanes that may have scratches or surface deformities on any wing front strut fitting.

American Champion has issued Service Letter 408, dated January 24, 1996, which specifies procedures for inspecting the wing front strut fittings for cracks or scratches. This service letter includes a figure that depicts the crosshatched areas of the wing front strut fittings to be inspected.

After examining the circumstances and reviewing all available information

related to the incidents described above including the referenced service letter, the FAA has determined that (1) the wing fittings of all American Champion airplane models that incorporate metal wing spars should be inspected to detect and correct any cracks, scratches, or surface deformities; and (2) AD action should be taken to prevent structural failure of a wing assembly caused by cracked or scratched wing front strut fittings, which, if not detected and corrected, could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other American Champion Models 8KCAB, 8GCBC, 7GCBC, and 7ECA airplanes of the same type design that are equipped with metal spar wings, this AD requires inspecting (one-time) the wing front strut fittings for cracks, scratches, or surface deformities, and replacing any wing front strut fittings found with cracks, scratches, or surface deformities. The proposed AD would also require the owners/operators of the affected airplanes to report the results of the one-time inspection to the FAA. The FAA will then analyze these reports to determine whether additional rulemaking (repetitive inspections, modifications, etc.) is necessary for these airplanes. Accomplishment of the inspection is in accordance with American Champion Service Letter 408. This service letter also depicts the crosshatched areas of the wing front strut fittings to be inspected. The replacement (if necessary) is accomplished in accordance with the applicable maintenance manual.

Since a situation exists (possible structural failure of the wing assembly caused by cracked or scratched wing front strut fittings) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–CE–08–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

96–03–11 American Champion Aircraft Corporation: Amendment 39–9508; Docket No. 96–CE–08–AD.

Applicability: The following airplane models and serial numbers, certificated in any category, that are equipped with metal spar wings:

—Model 8KCAB airplanes, serial numbers 643–90 through 762–95;
—Model 8KCAB airplanes, all serial numbers, that are equipped with metal spar wings, wing assembly part number 7–1521 (installed in accordance with American Champion Service Kit 403);
—Model 8GCBC airplanes, serial numbers 361–91 through 374–95;
—Model 8GCBC airplanes, all serial numbers, that are equipped with metal spar wings, wing assembly part number 7–1542;
—Model 7GCBC airplanes, serial numbers 1200–94 through 1212–95;
—Model 7GCBC airplanes, all serial numbers, that are equipped with metal spar wings, wing assembly part number 7–1541;
—Model 7ECA airplanes, serial numbers 1355–95 through 1357–95; and
—Model 7ECA airplanes, all serial numbers, that are equipped with metal spar wings, wing assembly part number 7–1567.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as follows:

—Within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished; and
—Upon the installation of metal spar wings, unless the replacement wings have been inspected in accordance with this AD prior to installation.

To prevent structural failure of a wing assembly caused by cracked or scratched wing front strut fittings, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Inspect the wing front strut fittings for cracks, scratches, or surface deformities in accordance with the instructions in American Champion Aircraft Corporation Service Letter 408, dated January 24, 1996. Figure 3 of Service Letter 408 depicts the crosshatched areas of the fittings that must be inspected. This service letter specifies both a visual inspection and the choice of either a dye penetrant, Zyglo test, ultrasonic, or x-ray inspection. Prior to further flight, replace any wing front strut fitting that has any crack, scratch, or surface deformity, with a wing front strut fitting that is found to be free of cracks, scratches, and surface deformities. Accomplish this replacement in accordance with the instructions in the applicable maintenance manual.

Note 2: American Champion Aircraft Corporation Service Letter 408 specifies replacing the wing strut fitting if scratches are found that are deeper than 0.010 inch. This AD requires replacing the wing strut fitting if any scratch is found and takes precedence over that specified in the service letter.

Note 3: American Champion Service Letter 408 only references wing front strut fittings, part numbers 3–1632–1 and 3–1632–2. Certain airplanes will incorporate wing front strut fittings, part numbers 3–1646R and 3–1646L, depending on the specific airplane design. The design of the critical area of the strut is the same and the inspection procedures apply to all of the above-referenced wing front strut fitting part numbers.

(b) Send the results of the inspection required by paragraph (a) of this AD within 10 calendar days after the inspection to the Manager, Chicago Aircraft Certification Office (ACO); 2300 E. Devon, room 232, Des Plaines, Illinois 60018. Include the airplane serial number, and the condition and number of hours time-in-service of each cracked or scratched wing front strut fitting at the time of inspection. (Reporting approved by the Office of Management and Budget under OMB no. 2120–0056.)

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Chicago ACO, at the address specified in paragraph (b) of this AD. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago ACO.

(e) The inspections required by this AD shall be done in accordance with American Champion Aircraft Corporation Service Letter 408 dated January 24, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Champion Aircraft Corporation, 32032 Washington Avenue, Rochester, Wisconsin 53167. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(f) This amendment (39–9508) becomes effective on February 26, 1996.

Issued in Kansas City, Missouri, on January 31, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2684 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 95–AWP–28]

Establishment of Class E Airspace; Willcox, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Willcox, AZ. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runways (RWYs) 21/3 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Cochise County Airport, Willcox, AZ.

EFFECTIVE DATE: 0901 UTC April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Willcox, AZ (60 FR 65042). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWYs 21/3 at Cochise County Airport, Willcox, AZ.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Willcox, AZ. The development of a GPS SIAP to RWYs 21/3 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWYs 21/3 SIAP at Cochise County Airport, Willcox, AZ.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective

September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AWP AZ E5 Willcox, AZ [New]

Cochise County Airport, AZ
(Lat. 32°14'39"N, long. 109°53'38"W

That airspace extending upward from 700 feet above the surface within an 6.5-mile radius of Cochise County Airport.

* * * * *

Issued in Los Angeles, California on January 25, 1996.

Rose L. Marino,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–3173 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AWP–39]

Amendment of Class E Airspace; Columbia, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Columbia, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Columbia Airport, Columbia, CA.

EFFECTIVE DATE: 0901 UTC April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Columbia, CA (60 FR 65045). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 35 at Columbia Airport, Columbia, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Columbia, CA. The development of a GPS SIAP to RWY 35 has made this action necessary. This action will provide adequate controlled airspace for aircraft executing the GPS RWY 35 SIAP at Columbia Airport, Columbia, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Columbia, CA [Revised]

Columbia Airport, CA
(Lat. 38°01'50"N, long. 120°24'53"W)
Columbia NDB
(Lat. 38°01'52"N, long. 120°24'50"W)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Columbia Airport and within 2.6 miles each side of the 211° bearing from the Columbia NDB extending from the 5-mile radius to 10.4 miles south of the NDB and within 2 miles east of the 189° bearing from the Columbia NDB extending from the 5-mile radius to 7.8 miles south of the NDB.

* * * * *

Issued in Los Angeles, California, on January 25, 1996.

Rose L. Marino,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–3174 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–AWP–43]

Amendment of Class E Airspace; Vacaville, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Vacaville, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 20 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Nut Tree Airport, Vacaville, CA.

EFFECTIVE DATE: 0901 UTC April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Vacaville, CA (60 FR 65043). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 20 at Nut Tree Airport, Vacaville, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Vacaville, CA. The development of a GPS SIAP to RWY 20 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWY 20 SIAP at Nut Tree Airport, Vacaville, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Vacaville, CA [Revised]

Nut Tree Airport, CA
(Lat. 38°22'37" N, long. 121°57'45" W)
Sacramento VORTAC
(Lat. 38°38'26" N, long. 121°33'06" W)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Nut Tree Airport and within 2.2 miles each side of the Sacramento VORTAC 259° radial, extending from the 5-mile radius to 11.3 miles west of the VORTAC and within 2.6 miles each side of the 034° bearing from the Nut Tree Airport, extending from the 5-mile radius to 10.5 miles northeast of the airport.

* * * * *

Issued in Los Angeles, California, on January 30, 1996.

James H. Snow,

Acting Management, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–3175 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, and 524

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 35 approved new animal drug applications (NADA's) from Syntex Animal Health, Division of Syntex Agri-business, Inc., to Fort Dodge Laboratories, Division of American Home Products.

EFFECTIVE DATE: February 13, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Syntex Animal Health, Division of Syntex Agri-business, Inc., 3401 Hillview Ave., Palo Alto, CA 94303, has informed FDA that it has transferred the ownership of, and all rights and interests in, the following approved NADA's to Fort Dodge Laboratories, Division of American Home Products Corp., 800 Fifth St. NW., Fort Dodge, IA 50501:

NADA No.	Drug Name
9–576	Synovex® S and Synovex® C Implants (progesterone and estradiol benzoate)
11–427	Synovex® H Implants (testosterone propionate and estradiol benzoate)
15–126	Spectinomycin Injectable & Tablets (spectinomycin)
30–414	Flucort® (V Solution (flumethasone)
30–415	Flucort® Tablets (flumethasone)
32–168	DOMOSO® Solution (dimethyl sulfoxide)
36–211	Anaprime® Suspension (flumethasone)
36–212	Fluosmin® Suspension (flumethasone acetate)
37–586	Erythromast® '36' Solution (erythromycin)
38–801	Anaprime® Ophthalmic Solution (flumethasone)
41–629	Spectinomycin® Oral Solution and Spectogard® Oral Solution (spectinomycin)
41–665	Tranvet® Chewable Tablets (propiopromazine hydrochloride)
45–512	Synotic® Otic Solution (fluocinolone acetonide and dimethyl sulfoxide)
45–716	Tranvet® Injectable Solution (propiopromazine hydrochloride)
47–334	Synsac® Solution (flucinolone acetonide and dimethyl sulfoxide)
47–925	DOMOSO® Gel (dimethyl sulfoxide)
49–725	Anaprime® Opthakote® Ophthalmic Solution (flumethasone with neomycin sulfate and polymyxin B sulfate)

NADA No.	Drug Name
49–726	Optiprime® Opthakote® Ophthalmic Solution (neomycin sulfate and polymyxin B sulfate)
96–674	Equiproxen® Granules (naproxen)
96–675	Equiproxen® Injectable (naproxen)
100–254	Synchrocept® (prostalene)
110–776	Benzelmin® Powder for Suspension (oxfendazole)
110–777	Benzelmin® Top Dress Pellets (oxfendazole)
115–578	Di-Trim® Tablets (trimethoprim and sulfadiazine)
128–549	Bovilene® Sterile Solution (fenprostalene)
128–967	Repose® (sodium secobarbital and dibucaine hydrochloride)
132–105	Benzelmin® 37.5% Paste (oxfendazole)
132–486	Di-Trim® 24% Injection (trimethoprim and sulfadiazine)
133–841	Benzelmin® 9.06% Suspension (oxfendazole)
134–778	Di-Trim® 48% Injection (trimethoprim and sulfadiazine)
136–342	Di-Trim® 400 Oral Paste (trimethoprim and sulfadiazine)
136–740	Benzelmin® Plus Paste (oxfendazole plus trichlorfon)
138–903	Porcilene® Sterile Solution (fenprostalene)
140–854	Synanthic® 9.06% and 22.5% Suspension(oxfendazole)
140–892	Synanthic® 18.5% Paste (oxfendazole)

Accordingly, the agency is amending 21 CFR parts 510, 520, 522, and 524 to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, and 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by revising the entry for "Fort Dodge Laboratories" to read "Fort Dodge Laboratories, Division of American Home Products Corp., 800 Fifth St. NW., Fort Dodge, IA 50501"; and in the table in paragraph (c)(2) in the entry for "000856" by revising the sponsor name and address to read, "Fort Dodge Laboratories, Division of American Home Products, 800 Fifth St. NW., Fort Dodge, IA 50501."

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.960 [Amended]

4. Section 520.960 *Flumethasone tablets* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 520.1468 [Amended]

5. Section 520.1468 *Naproxen granules* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 520.1628 [Amended]

6. Section 520.1628 *Oxfendazole powder and pellets* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 520.1629 [Amended]

7. Section 520.1629 *Oxfendazole paste* is amended in paragraph (a)(2) and (b)(2) by removing "000033" and adding in its place "000856".

§ 520.1630 [Amended]

8. Section 520.1630 *Oxfendazole suspension* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 520.1631 [Amended]

9. Section 520.1631 *Oxfendazole and trichlorfon paste* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 520.2002 [Amended]

10. Section 520.2002 *Propiopromazine hydrochloride* is amended in paragraph (c) by removing "000033" and adding in its place "000856".

§ 520.2122 [Amended]

11. Section 520.2122 *Spectinomycin dihydrochloride oral solution* is amended in paragraph (b)(2) by removing "000033" and adding in its place "000856".

§ 520.2610 [Amended]

12. Section 520.2610 *Trimethoprim and sulfadiazine tablets* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 520.2611 [Amended]

13. Section 520.2611 *Trimethoprim and sulfadiazine oral paste* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

14. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.842 [Amended]

15. Section 522.842 *Estradiol benzoate and testosterone propionate in combination* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 522.914 [Amended]

16. Section 522.914 *Fenprostalene solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 522.960a [Amended]

17. Section 522.960a *Flumethasone suspension* is amended in paragraph (c) by removing "000033" and adding in its place "000856".

§ 522.960b [Amended]

18. Section 522.960b *Flumethasone acetate injection* is amended in paragraph (c) by removing "000033" and adding in its place "000856".

§ 522.960c [Amended]

19. Section 522.960c *Flumethasone solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 522.1468 [Amended]

20. Section 522.1468 *Naproxen for injection* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 522.1940 [Amended]

21. Section 522.1940 *Progesterone and estradiol benzoate in combination* is amended in paragraph (b) and (d)(1)(iii) by removing "000033" and adding in its place "000856".

§ 522.2002 [Amended]

22. Section 522.2002 *Propiopromazine hydrochloride injection* is amended in paragraph (c) by removing "000033" and adding in its place "000856".

§ 522.2012 [Amended]

23. Section 522.2012 *Prostalene solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 522.2120 [Amended]

24. Section 522.2120 *Spectinomycin injection* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 522.2610 [Amended]

25. Section 522.2610 *Trimethoprim and sulfadiazine sterile suspension* is amended in paragraph (a)(2) and (b)(2) by removing "000033" and adding in its place "000856".

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

26. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 524.660a [Amended]

27. Section 524.660a *Dimethyl sulfoxide solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 524.660b [Amended]

28. Section 524.660b *Dimethyl sulfoxide gel* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 524.960 [Amended]

29. Section 524.960 *Flumethasone, neomycin sulfate, and polymyxin B sulfate ophthalmic solutions* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 524.981d [Amended]

30. Section 524.981d *Fluocinolone acetonide, dimethyl sulfoxide solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

§ 524.1484e [Amended]

31. Section 524.1484e *Neomycin sulfate and polymyxin B sulfate ophthalmic solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

Dated: February 1, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–3078 Filed 2–12–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, 1919, 1926, and 1928

Office of Management and Budget Control Numbers Under the Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is adding new sections to its Safety and Health Regulations for General Industry, Construction and Shipyard Employment. These new sections will be used to consolidate and display all of the control numbers assigned by the Office of Management and Budget (OMB) for "approved" information collection requirements. OSHA is also identifying information collection requirements found in certain of its other regulations and displaying the OMB control number at the end of each section containing a collection of information. None of the requirements are new; they have been promulgated by OSHA at various times over the past 25 years. The display of OMB control numbers is required under the implementing rules and regulations of OMB and under the Paperwork Reduction Act of 1995.

EFFECTIVE DATE: February 13, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, Office of Information and Consumer Affairs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647; 200 Constitution Avenue, NW, Washington, DC 20210 (202–219–8148, FAX 202–219–5986).

SUPPLEMENTARY INFORMATION:

I. Background

OSHA has a number of provisions within its occupational safety and health standards that require employers to collect or prepare information. These types of provisions are broadly classified as "information collection requirements." All information collection requirements are subject to review and approval by OMB on not more than a three-year cycle. It should be noted that OSHA cannot impose a penalty on employers for violating collection of information (recordkeeping, reporting, etc.) requirements if the agency has failed to obtain OMB approval of the requirement. When OMB approves collection of information requirements, it issues a "control number" for the collection of information provision. All agencies are required to display [show to the public] the OMB control numbers so the public will know that OMB has given the agency approval to require the information [report, record, documentation, form, etc.] to be collected. In the past, OSHA has displayed the OMB control number by printing it at the end of each section or subpart in which the requirement to collect information appeared. However, to enable the public easily and readily to identify all of the collection of information requirements, OSHA is dedicating one section in part 1910 (Safety and Health Standards for General Industry), one section in part 1915 (Shipyard Employment Standards), and one section in part 1926 (Construction Safety and Health Standards) to list those requirements and show the OMB control number. As a result of this new format, the parenthetical notes and approval/control numbers now printed at the end of the individual sections or subparts can be removed. This procedure is not being used for collections of information in 29 CFR Parts 1917, 1918, 1919, and 1928 because there are only one, two, or three collection of information

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requirements in each of these parts and it would serve no useful purpose to dedicate a specific section for such a small number. In these CFR parts, OSHA will continue to display the OMB control number at the end of the section which contains the information collection requirement.

None of the specific requirements to collect and provide information is new. The control numbers listed in this document were assigned previously by OMB; but not necessarily published in the regulations. This document makes no substantive change to the current OMB information collection budget or to any regulatory provision.

II. Exemption From Notice and Comment Procedures

With regard to this action, OSHA has determined that it is not necessary to provide for public notice and comment under either section 4 of the Administrative Procedures Act (5 U.S.C. 553) or under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655(b)). This action does not affect the substantive requirements or coverage of the standards themselves. Furthermore, this document does not modify or revoke existing rights or obligations, nor does it establish new ones. With this action, the Agency is only providing information. OSHA, therefore, finds that notice and public procedure are impracticable and unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B). For the same reasons, OSHA also finds that, in accordance with 29 CFR 1911.5, good cause exists for dispensing with the public notice and comment procedures prescribed in section 6(b) of the Occupational Safety and Health Act.

III. Exemption From Delayed Effective Date Requirement

Under 5 U.S.C. 553, OSHA finds that there is good cause for making this document effective upon publication in the **Federal Register**. This display of control numbers simply provides additional information on the existing regulatory burden without increasing that burden.

List of Subjects in 29 CFR Parts 1910, 1915, 1917, 1918, 1919, 1926, and 1928

Reporting and recordkeeping requirements.

Signed at Washington, DC this 8th day of February 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

Accordingly, pursuant to sections 4, 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333), Sec. 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR Part 1911, 29 CFR Parts 1910, 1915, 1917, 1918, 1919, 1926, and 1928 are amended as set forth below.

PART 1910—[AMENDED]

1. The authority citation for Subpart A of part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable.

Sections 1910.7 and 1910.8 also issued under 29 CFR part 1911.

2. Subpart A of part 1910 is amended by adding a new § 1910.8 to read as follows:

§ 1910.8 OMB control numbers under the Paperwork Reduction Act

The following sections or paragraphs each contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed.

29 CFR citation	OMB control No.
1910.7	1218–0147
1910.20	1218–0065
1910.23	1218–0199
1910.66	1218–0121
1910.67(b)	1218–0210
1910.68	1218–0210
1910.95	1218–0048
1910.96	1218–0103
1910.106(b)	1218–0210
1910.111	1218–0208
1910.119	1218–0200
1910.120	1218–0202
1910.132	1218–0205
1910.134	1218–0099
1910.142	1218–0096
1910.145	1218–0132
1910.146	1218–0203
1910.147	1218–0150
1910.156	1218–0075
1910.157(e)(3)	1218–0210
1910.157(f)(16)	1218–0210
1910.177(d)(3)(iv)	1218–0210
1910.179(j)(2)(iii) and (iv)	1218–0210
1910.179(m)(1) and (m)(2)	1218–0210
1910.180(d)(6)	1218–0210
1910.180(g)(1) and (g)(2)(ii)	1218–0210
1910.181(g)(1) and (g)(3)	1218–0210
1910.184(e)(4), (f)(4) and (i)(8)(ii)	1218–0210
1910.217(e)(1)(i) and (ii)	1218–0210
1910.217(g)	1218–0070
1910.217(h)	1218–0143
1910.218(a)(2)(i) and (ii)	1218–0210
1910.252(a)(2)(xiii)(c)	1218–0207
1910.255(e)	1218–0210
1910.266	1218–0198
1910.268	1218–0210
1910.269	1218–0190
1910.272	1218–0206
1910.420	1218–0069
1910.421	1218–0069
1910.423	1218–0069
1910.430	1218–0069
1910.440	1218–0069
1910.1001	1218–0133
1910.1003	1218–0085
1910.1004	1218–0084
1910.1006	1218–0086
1910.1007	1218–0083
1910.1008	1218–0087
1910.1009	1218–0089
1910.1010	1218–0082
1910.1011	1218–0090
1910.1012	1218–0080
1910.1013	1218–0079
1910.1014	1218–0088
1910.1015	1218–0044
1910.1016	1218–0081
1910.1017	1218–0010
1910.1018	1218–0104
1910.1025	1218–0092
1910.1027	1218–0185
1910.1028	1218–0129
1910.1029	1218–0128
1910.1030	1218–0180
1910.1043	1218–0061
1910.1044	1218–0101
1910.1045	1218–0126
1910.1047	1218–0108
1910.1048	1218–0145
1910.1050	1218–0184
1910.1200	1218–0072
1910.1450	1218–0131

§§ 1910.7, 1910.20, 1910.66, 1910.95, 1910.96, 1910.134, 1910.142, 1910.145, 1910.147, 1910.156, 1910.217, 1910.272, 1910.420, 1910.421, 1910.423, 1910.430, 1910.440, 1910.1001, 1910.1003, 1910.1004, 1910.1006–1910.1018, 1910.1025, 1910.1027–1910.1030, 1910.1043–1910.1045, 1910.1047, 1910.1048, 1910.1050, 1910.1200 and 1910.1450 [Amended]

3. Remove the parenthetical note relating to the OMB control number that appears at the end of each of the following sections: 1910.7; 1910.20; 1910.66; 1910.95; 1910.96; 1910.134; 1910.142; 1910.145; 1910.147; 1910.156; 1910.217; 1910.272; 1910.420; 1910.421; 1910.423; 1910.430; 1910.440; 1910.1001; 1910.1003; 1910.1004; 1910.1006 through 1910.1018; 1910.1025; 1910.1027 through 1910.1030; 1910.1043 through 1910.1045; 1910.1047; 1910.1048; 1910.1050; 1910.1200; 1910.1450.

PART 1915—[AMENDED]

4. The authority citation for part 1915 continues to read in part as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

* * * * *

5. Part 1915 is amended by adding a new § 1915.8 to Subpart A to read as follows:

§ 1915.8 OMB control numbers under the Paperwork Reduction Act

The following sections or paragraphs contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed.

29 CFR citation	OMB control No.
1915.11—1915.16	1218–0011
1915.113	1218–0210
1915.152	1218–0099
1915.172	1218–0210
1915.1001	1218–0195
1915.1003	1218–0085
1915.1004	1218–0084
1915.1006	1218–0086
1915.1007	1218–0083
1915.1008	1218–0087
1915.1009	1218–0089
1915.1010	1218–0082
1915.1011	1218–0090
1915.1012	1218–0080
1915.1013	1218–0079
1915.1014	1218–0088
1915.1015	1218–0044
1915.1016	1218–0081
1915.1017	1218–0010
1915.1018	1218–0104
1915.1025	1218–0092
1915.1027	1218–0185
1915.1028	1218–0129
1915.1030	1218–0180
1915.1044	1218–0101
1915.1045	1218–0126
1915.1047	1218–0108
1915.1048	1218–0145
1915.1050	1218–0184
1915.1120	1218–0065
1915.1200	1218–0072
1915.1450	1218–0131

§§ 1915.1001, 1915.1003, 1915.1004, 1915.1006–1915.1018, 1915.1025, 1915.1028, 1915.1030, 1915.1044, 1915.1045, 1915.1047, 1915.1048, 1915.1050, 1915.1120 and 1915.1450 [Amended]

6. Remove the parenthetical note relating to the OMB control number that appears at the end of the following sections: 1915.1001, 1915.1003, 1915.1004, 1915.1006 through 1915.1018, 1915.1025, 1915.1028, 1915.1030, 1915.1044, 1915.1045, 1915.1047, 1915.1048, 1915.1050, 1915.1120, and 1915.1450.

PART 1917—[AMENDED]

7. The authority citation for part 1917 continues to read in part as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

* * * * *

§ 1917.28 [Amended]

8. Add a parenthetical note at the end of § 1917.28 to read as follows:

(Section 1917.28 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218–0072.)

§ 1917.50 [Amended]

9. Revise the parenthetical note at the end of § 1917.50 to read as follows:

(Section 1917.50 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218–0003)

§§ 1917.23, 1917.24, 1917.25, and 1917.116 [Amended]

10. Remove the parenthetical note relating to the OMB control number that appears at the end of the following sections: 1917.23; 1917.24; 1917.25; and 1917.116.

PART 1918—[AMENDED]

11. The general authority citation for part 1918 is revised to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

* * * * *

§ 1918.90 [Amended]

12. Add a parenthetical note at the end of § 1918.90 to read as follows:

(Section 1918.90 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218–0072)

PART 1919—[AMENDED]

13. The authority citation for part 1919 is revised to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

§ 1919.3 [Amended]

14. Add a parenthetical note at the end of § 1919.3 to read as follows:

(Section 1919.3 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218–0003.)

§ 1919.51 [Amended]

15. Add a parenthetical note at the end of § 1919.51 to read as follows:

(Section 1919.51 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218–0003)

§ 1919.90 [Amended]

16. Add a parenthetical note at the end of § 1919.90 to read as follows:

(Section 1919.90 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218–0003)

PART 1926—[AMENDED]

17. The authority citation for subpart A of part 1926 is revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), of 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

18. Part 1926 is amended by adding a new § 1926.5 to read as follows:

§ 1926.5 OMB control numbers under the Paperwork Reduction Act.

The following sections or paragraphs each contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed.

29 CFR citation	OMB control No.
1926.33	1218–0065
1926.50	1218–0093
1926.52	1218–0048
1926.53	1218–0103
1926.59	1218–0072
1926.60	1218–0183
1926.62	1218–0189
1926.64	1218–0200
1926.65	1218–0202
1926.103	1218–0099
1926.152	1218–0210
1926.200	1218–0132
1926.250	1218–0093
1926.251	1218–0210
1926.403	1218–0130
1926.404	1218–0130
1926.405	1218–0130
1926.407	1218–0130
1926.408	1218–0130
1926.502	1218–0197
1926.503	1218–0197
1926.550(a)(1)	1218–0115
1926.550(a)(6)	1218–0113
1926.550(a)(11)	1218–0054
1926.550(b)(2)	1218–0210
1926.550(g)	1218–0151
1926.552	1218–0210

29 CFR citation	OMB control No.
1926.652	1218–0137
1926.703	1218–0095
1926.800	1218–0067
1926.803	1218–0067
1926.900	1218–0210
1926.903	1218–0210
1926.1001	1218–0210
1926.1002	1218–0210
1926.1080	1218–0069
1926.1081	1218–0069
1926.1083	1218–0069
1926.1090	1218–0069
1926.1091	1218–0069
1926.1101	1218–0133
1926.1103	1218–0085
1926.1104	1218–0084
1926.1106	1218–0086
1926.1107	1218–0083
1926.1108	1218–0087
1926.1109	1218–0089
1926.1110	1218–0082
1926.1111	1218–0090
1926.1112	1218–0080
1926.1113	1218–0079
1926.1114	1218–0088
1926.1115	1218–0044
1926.1116	1218–0081
1926.1117	1218–0010
1926.1118	1218–0104
1926.1127	1218–0186
1926.1128	1218–0129
1926.1129	1218–0128
1926.1144	1218–0101
1926.1145	1218–0126
1926.1147	1218–0108
1926.1148	1218–0145

§§ 1926.33, 1926.50, 1926.53, 1926.60, 1926.62, 1926.65, 1926.98, 1926.103, 1926.250, 1926.403–1926.405, 1926.407, 1926.408, 1926.550, 1926.703, 1926.800, 1926.803, 1926.1080, 1926.1081, 1926.1083, 1926.1090, 1926.1091, 1926.1101, 1926.1103, 1926.1104, 1926.1106–1926.1118, 1926.1127, 1926.1128, 1926.1129, 1926.1144, 1926.1145, 1926.1147, and 1926.1148 [Amended]

19. Remove the parenthetical notes relating to the OMB control number that appear at the end of the following sections: 1926.33, 1926.50, 1926.53, 1926.60, 1926.62, 1926.65, 1926.98, 1926.103, 1926.250, 1926.403 through 1926.405, 1926.407, 1926.408, 1926.550, 1926.703, 1926.800, 1926.803, 1926.1080, 1926.1081, 1926.1083, 1926.1090, 1926.1091, 1926.1101, 1926.1103, 1926.1104, 1926.1106 through 1926.1118, 1926.1127, 1926.1128, 1926.1129, 1926.1144, 1926.1145, 1926.1147, and 1926.1148.

PART 1928—[AMENDED]

20. The authority citation for part 1928 continues to read in part as follows:

Authority: Secs. 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

* * * * *

§ 1928.21 [Amended]

21. Add a parenthetical note at the end of § 1928.21 to read as follows.

(Section 1928.21 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218–0072)

[FR Doc. 96–3118 Filed 2–12–96; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 351

Offering of United States Savings Bonds, Series EE

CFR Correction

In Title 31 of the Code of Federal Regulations, parts 200 to end, revised as of July 1, 1995, page 272, the text of § 351.2(g)(3)(i) is corrected to read:

§ 351.2 Description of bonds.

* * * * *

(g) * * *

(3) * * *

(i) *Guaranteed minimum investment yield and resulting values during an extended maturity period.* A bond may be subject to one guaranteed minimum investment yield during its original maturity period and to another such yield during each of its extended maturity periods. Bonds that entered an extended maturity period from May 1, 1989, through February 1, 1993, have a guaranteed minimum investment yield of 6 percent per annum, compounded semiannually, during that extended maturity period. Bonds that entered or enter an extended maturity period on or after March 1, 1993, have a guaranteed minimum investment yield of 4 percent per annum, compounded semiannually, during that extended maturity period, or the guaranteed minimum investment yield in effect at the beginning of that period. In order to determine values for a bond during its first extended maturity period, the value of the bond at the end of its original maturity period is determined using the guaranteed minimum investment yield applicable to that period. This value is then used as the base upon which interest accrues during the first extended maturity period at the applicable guaranteed minimum investment yield for that period. The value thus attained at first extended maturity (10 years after original maturity) is then used as the base upon which interest accrues during the second extended maturity period at the applicable guaranteed minimum investment yield for that period. The resulting semiannual values are then compared with the corresponding values determined using the applicable market-based variable investment yields.

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BILLING CODE 1505–01–D–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 290

[DCAA Regulation 5410.8]

Defense Contract Audit Agency (DCAA), Freedom of Information Act Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This amendment removes reference to the availability of the Contractor Alpha Listing from DCAA. This record is now available from the Defense Technical Information Center (DTIC), as the Directory of Federal Contractors because it is no longer available from DCAA.

EFFECTIVE DATE: February 13, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall, DCAA Information and Privacy Advisor, ATTN: CMR, Defense Contract Audit Agency, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219, Telephone: (703) 767–1244.

SUPPLEMENTARY INFORMATION: The Directory of Federal Contractors is identified as a "document" and is available in disk form (ADM000491) or hard copy format (ADA286830). Interested requesters should contact the DTIC Registration Branch, (703) 767–8238, if not registered as a DTIC customer, or the DTIC Reference Branch, (703) 767–8274, if already a registered customer.

List of Subjects in 32 CFR Part 290

Freedom of Information.

Accordingly 32 CFR Part 290 is amended as follows:

PART 290—[AMENDED]

1. The authority citation for Part 290 continues to read as follows:

Authority: 5 U.S.C. 552.

Appendix B to Part 290 [Amended]

Appendix B to Part 290 is amended under the heading VIRGINIA, by removing paragraph (a)(1)(i) and redesignating paragraphs (a)(1)(ii) and (a)(1)(iii) as (a)(1)(i) and (a)(1)(ii).

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3081 Filed 2–12–96; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL106–1–6707a; FRL–5411–3]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On May 5, 1995, and May 26, 1995, the State of Illinois submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) tightening existing rules for certain surface coating operations, as part of the State's 15 percent (%) Rate of Progress (ROP) plan control measures for Volatile Organic Matter (VOM) emissions. VOM, as defined by the State of Illinois, is identical to "volatile organic compounds" (VOC), as defined by USEPA. VOC is one of the air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. ROP plans are intended to bring areas which have been exceeding the public health based Federal ozone air quality standard closer toward the goal of reaching and maintaining attainment with this standard. Illinois expects the control measures specified in this surface coating SIP revision will reduce VOM emissions by 10.16 tons per day (TPD) in the Chicago area and 0.39 TPD in the Metro-East St. Louis area. The tightened rules lower the VOM content limit for certain types of coatings used by industries to apply to cans, paper, coil, fabric, vinyl, metal furniture, large appliances, and miscellaneous parts and products. Compliance with the rules can be met through using compliant coatings, add-on control equipment, or through a new method known as cross-line averaging.

DATES: The "direct final" is effective on April 15, 1996, unless USEPA receives adverse or critical comments by March 14, 1996. If the effective date is delayed, timely notice will appear in the **Federal Register.**

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address:

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

Written comments should be sent to:

J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

On September 9, 1994, the USEPA approved an Illinois SIP revision which was submitted on September 11, 1991, and March 15, 1993, in order to correct deficiencies in the State's VOM Reasonably Available Control Technology (RACT) rules. Part of this SIP revision included regulations found in subpart F of Parts 218 and 219 of the 35 Illinois Administrative Code (IAC), which established State VOM RACT requirements for surface coating operations in the Chicago and Metro-East ozone nonattainment areas, and which replaced part of the Chicago Federal Implementation Plan (FIP).

Section 182(b)(1) of the Clean Air Act (the Act) requires all moderate and above ozone nonattainment areas to achieve a 15% reduction of 1990 emissions of VOC (VOM) by 1996. In Illinois, the Chicago area is classified as "severe" nonattainment for ozone, while the Metro-East area is classified as "moderate" nonattainment. As such, these areas are subject to the 15% ROP requirement.

In order to meet this requirement, the State of Illinois has to adopt and submit as SIP revisions several post-1990 control measures to meet the 15% VOM reductions. One of the control measures Illinois has decided to implement is to tighten existing VOM emission limits contained in subpart F of Parts 218 and 219 for certain surface coating operations in the Chicago and Metro-East ozone nonattainment areas.

On September 12, 1994, the Illinois Environmental Protection Agency (IEPA) filed the proposed revision to the surface coating rule with the Illinois Pollution Control Board (Board). A public hearing on the rule was held on November 4, December 2, and December 16, 1994, in Chicago, Illinois; on April 20, 1995, the Board adopted a Final Opinion and Order for the proposed amendment. The rule became effective on May 9, 1995; it was published in the Illinois State Register on May 19, 1995. The IEPA formally submitted the coating rule to USEPA on May 5, 1995, and May 26, 1995, as a revision to the Illinois SIP for ozone. USEPA made a finding of completeness in a letter dated July 13, 1995.

II. Analysis of State Submittal

The May 5, 1995, and May 26, 1995, submittals include the following new or revised rules:

Part 218: Organic Material Emission Standards and Limitations for the Chicago Area

Subpart F: Coating Operations

218.204 Emission Limitations
218.205 Daily-Weighted Average Limitations
218.207 Alternative Emission Limitations
218.208 Exemptions From Emission Limitations
218.210 Compliance Schedule
218.212 Cross-line Averaging to Establish Compliance for Coating Lines
218.213 Recordkeeping and Reporting for Cross-line Averaging Participating Coating Lines
218.214 Changing Compliance Methods
218.App.H Baseline VOM Content Limitations for Subpart F, Section 218.212 Cross-Line Averaging

Part 219: Organic Material Emission Standards and Limitations for the Metro-East St. Louis Area

Subpart F: Coating Operations

219.204 Emission Limitations
219.205 Daily-Weighted Average Limitations
219.207 Alternative Emission Limitations
219.208 Exemptions From Emission Limitations
219.210 Compliance Schedule
219.212 Cross-line Averaging to Establish Compliance for Coating Lines
219.213 Recordkeeping and Reporting for Cross-line Averaging Participating Coating Lines
219.214 Changing Compliance Methods
219.App.H Baseline VOM Content Limitations for Subpart F, Section 219.212 Cross-line Averaging

The tightened VOM content limits established in revisions to sections 218/

219.204 are specified below. The values not marked by an asterisk were the limits previous to this revision, whereas the values marked by an asterisk are the new limits. Subject sources will need to meet these new limits beginning March 15, 1996, while the limits not marked by an asterisk must be met until March 15, 1996. The limits are expressed in units of VOM per volume of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

	kg/l	lb/gal
Can Coating		
(1) Sheet basecoat and overvarnish:		
(A) Sheet basecoat ...	0.34	2.8
	*0.26	*2.2
(B) Overvarnish	0.34	2.8
	*0.34	*2.8
(2) Exterior basecoat and overvarnish	0.34	2.8
	*0.25	*2.1
(3) Interior body spray coat:		
(A) Two Piece	0.51	4.2
	*0.44	*3.7
(B) Three Piece	0.51	4.2
	*0.51	*4.2
(4) Exterior end coat	0.51	4.2
	*0.51	*4.2
(5) Side seam spray coat	0.66	5.5
	*0.66	*5.5
(6) End sealing compound coat	0.44	3.7
	*0.44	*3.7
Paper Coating	0.35	2.9
	*0.28	*2.3
Coil Coating	0.31	2.6
	*0.20	*1.7
Fabric Coating	0.35	2.9
	*0.28	*2.3
Vinyl Coating	0.45	3.8
	*0.28	*2.3
Metal furniture coating:		
(1) Air dried	0.36	3.0
	*0.34	*2.8
(2) Baked	0.36	3.0
	*0.28	*2.3
Large appliance coating:		
(1) Air dried	0.34	2.8
	*0.34	*2.8
(2) Baked	0.34	2.8
	*0.28	*2.3
Miscellaneous metal parts and products coating:		
(1) Clear coating	0.52	4.3
	*0.52	*4.3
(2) Extreme performance coating:		
(A) Air dried	0.42	3.5
	*0.42	*3.5
(B) Baked	0.42	3.5
	*0.40	*3.3
(3) Steel pail and drum interior coating	0.52	4.3
	*0.52	*4.3
(4) All other coatings:		
(A) Air dried	0.42	3.5
	*0.40	*3.3
(B) Baked	0.36	3.0
	*0.34	*2.8
(5) Marine engine coating:		
(A) Air Dried	0.42	3.5
	*0.42	*3.5
(B) Baked:		
(i) Primer/Topcoat ..	0.42	3.5
	*0.42	*3.5
(ii) Corrosion resistant basecoat	0.42	3.5
	*0.28	*2.3
(C) Clear Coating	0.52	4.3
	*0.52	*4.3
(6) Metallic Coating:		
(A) Air Dried	0.42	3.5
	*0.42	*3.5
(B) Baked	0.36	3.0
	*0.36	*3.0

A coating line can comply with the rule through (a) the use of coatings which meet the applicable VOM content limits specified in the rule; (b) demonstration that the daily-weighted average VOM content of all coatings used on the coating line meet the VOM content limit for those coatings; (c) use of a capture system and control device which either reduces the overall emissions of VOM from the coating line by 81 percent, or achieves VOM emission reduction greater than or equal to that which could be achieved through meeting applicable VOM content limits, or (d) through cross-line averaging.

Cross-line averaging is a new method established by this rule as an alternative to complying with the tightened VOM content limits. For those sources operating coating lines which were in existence prior to January 1, 1991, but have been replaced with lines using a lower VOM coating for the same purpose as the pre-existing lines, cross-line averaging can be used to take VOM reduction credit for such operational changes in order to offset those pre-existing lines which cannot, for one reason or another, meet the tightened emission limitations. Sources using cross-line averaging must demonstrate that the calculated actual daily VOM emissions from all participating coating lines are less than the calculated daily allowable VOM emissions from the same group of coating lines. Use of cross-line averaging is for complying with tightened VOM content limits only; VOM content limits established in the surface coating rule prior to this revision must still be met by all applicable coating lines.

Also established in this rule revision is an exemption for "touch-up and repair coatings" used by can, coil, vinyl, metal furniture, magnet wire, miscellaneous metal parts and products, and plastic parts coating operations from meeting VOM content limitations. This exemption holds provided that the source-wide volume of such coatings used does not exceed 0.95 l (1 quart) per eight-hour period or 209 l/yr (55 gal/yr) for any rolling twelve month period. The surface coating rule defines touch-up and repair coatings as any coating used to cover minor scratches and nicks that occur during manufacturing and assembly processes.

In addition to meeting these control requirements, sources will have to meet applicable provisions for coating analysis and capture efficiency and control device efficiency test methods under sections 218/219.105, as well as applicable recordkeeping and recording requirements under sections 218/219.211. Also included in sections 218/219.105 are monitoring requirements for sources using add-on control equipment. Sections 218/219.105 and 218/219.211 were approved and incorporated in the Illinois SIP on September 9, 1994 (See 59 FR at 46562). Finally, 218/219.213 has been added to provide additional recordkeeping and recording requirements for sources complying with the rule through cross-line averaging.

III. Final Rulemaking Action

The USEPA has undertaken its analysis of the SIP revision request, and is approving this SIP revision because it tightens the stringency of the Illinois SIP. Although the SIP revision does add an exemption for touch-up and repair coatings from control requirements, this type of exemption is acceptable under USEPA VOC policy. The surface coating rule contains all the appropriate test methods and recordkeeping/recording requirements necessary to be an enforceable SIP.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on April 15, 1996, unless USEPA receives adverse or critical comments by March 14, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 15, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: January 12, 1996.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(119) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(119) On May 5, 1995, and May 26, 1995, the State submitted a revised rule tightening volatile organic compound emission limitations for certain surface coating operations in the Chicago and Metro-East St. Louis areas.

(i) *Incorporation by reference.* Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart F: Coating Operations, Sections 218.204 Emission Limitations, 218.205 Daily-Weighted Average Limitations, 218.207 Alternative Emission Limitations, 218.208 Exemptions From Emission Limitations, 218.210 Compliance Schedule, 218.212 Cross-line Averaging to Establish Compliance for Coating Lines, 218.213 Recordkeeping and Reporting for Cross-line Averaging Participating Coating Lines, 218.214 Changing Compliance Methods, 218 Appendix H Baseline VOM Content Limitations for Subpart F, Section 218.212 Cross-Line Averaging, amended at 19 Ill. 6848, effective May 9, 1995.

(B) Part 219: Organic Material Emissions Standards and Limitations for the Metro-East Area, Subpart F: Coating Operations, Sections 219.204 Emission Limitations, 219.205 Daily-Weighted Average Limitations, 219.207 Alternative Emission Limitations, 219.208 Exemptions From Emission Limitations, 219.210 Compliance Schedule, 219.212 Cross-line Averaging to Establish Compliance for Coating Lines, 219.213 Recordkeeping and Reporting for Cross-line Averaging Participating Coating Lines, 219.214 Changing Compliance Methods, 219 Appendix H Baseline VOM Content Limitations for Subpart F, Section 219.212 Cross-line Averaging, amended at 19 Ill. Reg. 6958, effective May 9, 1995.

[FR Doc. 96–3084 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–60–P

40 CFR Part 52

[WI54–01–7000a; FRL–5416–2]

Approval and Promulgation of State Implementation Plan; Wisconsin; Iron and Steel Foundries SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves a revision to the Wisconsin State Implementation Plan (SIP) for ozone that was submitted by the State of Wisconsin on June 30, 1994, and supplemented on July 15, 1994. This revision consists of a volatile organic compound (VOC) regulation which establishes reasonably available control technology (RACT) for iron and steel foundries. This regulation was submitted to address, in part, the requirement of section 182(b)(2)(C) of the Clean Air Act (CAA or Act) that States revise their SIPs to establish RACT regulations for major sources of VOCs for which the USEPA has not issued a control technology guidelines (CTG) document. In addition, emission reductions resulting from this rule are being used by the State to fulfill, in part, the requirement of section 182(b)(1) of the Act that States submit a plan which provides for a 15 percent reduction in VOC emissions by 1996.

In the proposed rules section of this **Federal Register**, the EPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's rule that has been incorporated by reference.

DATES: The "direct final" is effective on April 15, 1996, unless EPA receives adverse or critical comments by March 14, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–1767.

SUPPLEMENTARY INFORMATION: Section 182(b) of the Clean Air Act sets forth the requirements for ozone nonattainment areas which have been classified as moderate or above. In Wisconsin, the counties of Kewaunee, Manitowoc, and Sheboygan and the Milwaukee area (including Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties) are classified as moderate or above. Section 182(b)(2)(C) requires that States submit revisions to the SIP for major sources of VOCs for which the EPA has not issued a CTG document. Because the EPA has not issued a CTG for iron and steel foundries, the State of Wisconsin developed a non-CTG regulation for this category. This regulation was submitted to the EPA by the State on June 30, 1994 and supplemented on July 15, 1994.

Additionally, section 182(b)(1)(A) requires those states with ozone nonattainment areas classified as moderate or above to submit plans to reduce VOC emissions by at least 15 percent from the 1990 baseline emissions. The 1990 baseline, as described by EPA's emission inventory guidance, is the amount of anthropogenic VOC emissions emitted on a typical summer day. Wisconsin submitted its 15 percent plan on June 14, 1995. Included in this plan were reductions generated by the iron and steel foundries rule.

The Wisconsin rule at NR 419.08(1) applies to the manufacture of cores or molds for use at iron or steel foundries at any facility which is: 1) located in the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha and has maximum theoretical emissions of VOCs from core and mold manufacturing of greater than or equal to 25 tons per year, or 2) is located in the counties of Kewaunee, Manitowoc, or Sheboygan and has maximum theoretical emissions of VOCs from core and mold manufacturing or greater than or equal to 100 tons per year. Sources are required to achieve final compliance with this regulation no later than May 31, 1995.

Specifically, the State has established the following limits at NR 419.08(2)(a) for the as-applied VOC content of core and mold coatings: (1) 30%, by weight, including water, for core or mold coatings that have an as purchased density of 15.0 pounds per gallon or greater; and (2) 70%, by weight, including water, for core or mold coatings that have an as-purchased density of less than 15.0 pounds per gallon. At NR 491.08(2)(b) the regulation requires that all core and mold coating storage vessels and containers remain covered. At NR 419.08(2)(c) the rule requires that VOC emissions from the catalysis step in the formation of a urethane cold box binder be controlled with an overall efficiency of at least 90 percent.

A more detailed analysis of the State's submittal is contained in technical support documents dated May 1, 1995, and November 8, 1995. In determining the approvability of this VOC rule, EPA evaluated the rule for consistency with Federal requirements, including section 110 and part D of the Clean Air Act. The EPA has found that this rule meets the requirements applicable to ozone and is, therefore, approvable for incorporation into the State's ozone SIP.

Because the EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on April 15, 1996. However, if we receive adverse comments by March 14, 1996, EPA will publish a document that withdraws this action.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities

with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 256–66 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves preexisting-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: January 22, 1996.

Valdas V. Adamkus,

Regional Administrator.

40 CFR part 52 is amended as follows:

Subpart YY—Wisconsin

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.2570 is amended by adding paragraph (c)(88) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(88) A revision to the ozone State Implementation Plan (SIP) was submitted by the Wisconsin Department of Natural Resources on June 30, 1994, and supplemented on July 15, 1994. This revision consists of volatile organic compound regulations which establish reasonably available control technology for iron and steel foundries.

(i) *Incorporation by reference.* The following sections of the Wisconsin Administrative Code are incorporated by reference.

(A) NR 419.02(1s), (1t), (1u), (3m) and (6m) as created and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

(B) NR 419.08 as created and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

[FR Doc. 96–3082 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; SO_2: Conewango Township, Warren County Implementation Plan

CFR Correction.

In Title 40 of the Code of Federal Regulations, part 52, revised as of July 1, 1995, § 52.2020 paragraph (c)(93) appearing on page 814 should be removed and reserved.

BILLING CODE 1505–01–D–M

40 CFR Part 52

[CA 140–5–7275a; FRL–5402–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District; Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Santa Barbara County Air Pollution Control District (SBCAPCD) and the Kern County Air Pollution Control District (KCAPCD). This approval action will incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control VOC emissions from organic liquid loading and storage, and petroleum sumps, pits, and well cellars. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: This action is effective on April 15, 1996 unless adverse or critical comments are received by March 14, 1996. If the effective date is delayed, a timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Kern County Air Pollution Control District, 2700 M Street, Suite 290, Bakersfield, CA 93301.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section (A–5–3), Air and Toxics Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: SBCAPCD Rule 344, Petroleum Sumps, Pits, and Well Cellars; KCAPCD Rule 411, Storage of Organic Liquids; and KCAPCD Rule 413, Organic Liquid Loading.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the South Central Coast Air Basin and the San Joaquin Valley Air Basin.[1] 43 FR 8964, 40 CFR 81.305. The South Central Coast Air Basin and the San Joaquin Valley Air Basin did not attain the ozone standard by their approved attainment dates.[2] On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2) of the 1977 Act, that the SBCAPCD and KCAPCD portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for States to submit corrections of those deficiencies.

On May 20, 1991, the San Joaquin Valley Unified Air Pollution Control District was formed. This district has authority over the San Joaquin Valley Air Basin Portion of Kern County. Thus, as of March 20, 1991, the KCAPCD has authority over only the Southeast Desert Air Basin portion of Kern County.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the CAA amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in EPA's pre-amendment guidance.[3] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The South Central Coast Air Basin is classified as moderate; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline. All of Kern County is classified as serious. However, the Southeast Desert Air Basin portion of Kern County was not a pre-amendment nonattainment area and, therefore, was not designated and classified upon enactment of the amended Act. For this reason, KCAPCD is not subject to the section 182(a)(2)(A) RACT fix-up requirement. The KCAPCD is, however, still subject to the requirements of EPA's SIP-Call because the SIP-Call included all of Kern County.[4] The substantive requirements of the SIP-Call are the same as those of the statutory RACT fix-up requirement.

This notice addresses EPA's direct final action for SBCAPCD Rule 344, Petroleum Sumps, Pits, and Well Cellars; KCAPCD Rule 411, Storage of Organic Liquids; and KCAPCD Rule 413, Organic Liquid Loading. SBCAPCD adopted Rule 344 on November 10, 1994, and the State of California submitted Rule 344 for incorporation into its SIP on January 24, 1995. The submitted rule was found to be complete on February 24, 1995, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.[5] KCAPCD Rule 411 and Rule 413 were both adopted on April 6, 1995, and submitted on May 25, 1995. These rules were found to be complete on July 24, 1995.

SBCAPCD Rule 344 controls VOC emissions from petroleum liquids in sumps, pits, and well cellars. KCAPCD Rule 411 controls VOCs from organic liquid storage tanks, and Rule 413 controls VOCs during organic liquid loading operations. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of district efforts to achieve the National Ambient Air Quality Standard for ozone and in response to EPA's SIP-Call. The following is EPA's evaluation and direct final action for these rules.

EPA Evaluation

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to SBCAPCD Rule 344 is "Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds," EPA 450/2–77–025. There are two CTGs applicable to KCAPCD Rule 411: "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA 450/2–78–047, and "Control of Volatile Organic Emissions from Petroleum Liquid Storage in Fixed Roof Tanks," EPA 450/2–77–036. The two CTGs applicable to KCAPCD Rule 413 are "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," EPA 450/2–77–026, and "Control of Volatile Organic Emissions from Bulk Gasoline Plants," EPA 450/2–77–035. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 3. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SBCAPCD Rule 344 is a new rule which controls VOC emissions from the use of petroleum sumps, pits, and well cellars. The rule prohibits the use or installation of primary sumps. Pits and post-primary sumps must be either replaced by storage tanks or installed with well-maintained covers.

KCAPCD's submitted Rule 411 is an amended rule that includes the following significant changes from the current SIP:

- Adds definitions, recordkeeping requirements, and test methods.
- Deletes outdated compliance schedules.
- KCAPCD Rule 413 is also an amended rule and contains the following significant changes from the current SIP:
- Adds definitions, recordkeeping requirements, and test methods.
- Adds a VOC limit for bulk terminals, a pressure limit for delivery tanks, and a bottom loading requirement for bulk terminals.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SBCAPCD Rule 344, KCAPCD Rule 411, and KCAPCD Rule 413 are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 15, 1996, unless, by March 14, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 15, 1996.

Regulatory Process

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this State implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Small Businesses

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 15, 1995.

David P. Howekamp,

Acting Regional Administrator.

Subpart F of part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(214)(i)(C)(*2*) and (c)(221) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(214) * * *

(i) * * *

(C) * * *

(*2*) Rule 344, adopted on November 10, 1994.

* * * * *

(c) * * *

(221) New and amended regulations for the following APCDs were submitted on May 25, 1995 by the Governor's designee.

(i) Incorporation by reference.

(A) Kern County Air Pollution Control District.

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[1] At the time, Kern County was included in the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin was designated as nonattainment and the Southeast Desert Air Basin was designated as unclassified.

[2] The South Central Coast Air Basin received an extension of its attainment date to December 31, 1987. Kern County's attainment date remained December 31, 1982.

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[4] The South Central Coast Air Basin and the San Joaquin Valley Air Basin portion of the KCAPCD retained their nonattainment designations and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. The Southeast Desert Air Basin portion of the KCAPCD was designated nonattainment on November 6, 1991. See 56 FR 56694 (November 6, 1991).

[5] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

(1) Rule 411 and Rule 413, adopted on April 6, 1995.

* * * * *

[FR Doc. 96–2971 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–W

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 150

Compatibility of Cargoes

CFR Correction

In Title 46 of the Code of Federal Regulations, parts 140 to 155, revised as of October 1, 1995, on page 23 following § 150.170, Figure 1.–Compatibility Chart was inadvertently omitted. The table should appear as follows:

FIGURE 1—COMPATIBILITY CHART

[X INDICATES INCOMPATIBLE GROUPS]

Figure 1.—Compatibility Chart

CARGO COMPATIBILITY

CARGO GROUPS	REACTIVE GROUPS	1. NON OXIDIZING MINERAL ACIDS	2. SULFURIC ACID	3. NITRIC ACID	4. ORGANIC ACIDS	5. CAUSTICS	6. AMMONIA	7. ALIPHATIC AMINES	8. ALKANOLAMINES	9. AROMATIC AMINES	10. AMIDES	11. ORGANIC ANHYDRIDES	12. ISOCYANATES	13. VINYL ACETATE	14. ACRYLATES	15. SUBSTITUTED ALLYLS	16. ALKYLENE OXIDES	17. EPICHLOROHYDRIN	18. KETONES	19. ALDEHYDES	20. ALCOHOLS, GLYCOLS	21. PHENOLS, CRESOLS	22. CAPROLACTAM SOLUTION		
1. NON-OXIDIZING MINERAL ACIDS			x			x	x	x	x	x	x	x	x	x			x	x							1
2. SULFURIC ACID		x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		2
3. NITRIC ACID			x			x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x			3
4. ORGANIC ACIDS			x			x	x	x	x				x				x	x							4
5. CAUSTICS		x	x	x	x							x	x				x	x		x	x	x	x		5
6. AMMONIA		x	x	x	x						x	x	x	x			x	x		x					6
7. ALIPHATIC AMINES		x	x	x	x							x	x	x	x	x	x	x	x	x	x	x	x		7
8. ALKANOLAMINES		x	x	x	x							x	x	x	x	x	x	x		x					8
9. AROMATIC AMINES		x	x	x								x	x							x					9
10. AMIDES		x	x	x			x						x									x			10
11. ORGANIC ANHYDRIDES		x	x	x		x	x	x	x	x															11
12. ISOCYANATES		x	x	x	x	x	x	x	x	x	x										x		x		12
13. VINYL ACETATE		x	x	x			x	x	x																13
14. ACRYLATES			x	x				x	x																14
15. SUBSTITUTED ALLYLS			x	x				x	x																15
16. ALKYLENE OXIDES		x	x	x	x	x	x	x	x																16
17. EPICHLOROHYDRIN		x	x	x	x	x	x	x	x																17
18. KETONES			x	x				x																	18
19. ALDEHYDES			x	x		x	x	x	x	x															19
20. ALCOHOLS, GLYCOLS			x	x		x		x					x												20
21. PHENOLS, CRESOLS			x	x		x		x			x														21
22. CAPROLACTAM SOLUTION			x			x		x					x												22
30. OLEFINS			x	x																					30
31. PARAFFINS																									31
32. AROMATIC HYDROCARBONS				x																					32
33. MISCELLANEOUS HYDROCARBON MIXTURES				x																					33
34. ESTERS			x	x																					34
35. VINYL HALIDES				x																			x		35
36. HALOGENATED HYDROCARBONS																									36
37. NITRILES			x																						37
38. CARBON DISULFIDE								x	x																38
39. SULFOLANE																									39
40. GLYCOL ETHERS			x										x												40
41. ETHERS			x	x																					41
42. NITROCOMPOUNDS						x	x	x	x	x															42
43. MISCELLANEOUS WATER SOLUTIONS			x										x												43
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22		

BILLING CODE 4910–14–C

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Office of the Secretary

48 CFR Parts 1403, 1425, and 1452

RIN 1090–AA54

Department of the Interior Acquisition Regulation; Internal Procedures

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: In the interests of streamlining processes and improving relationships with contractors, this final rule amends the Department of the Interior Acquisition Regulation (DIAR) by removing nonessential portions of those regulations. The material being removed deals with exclusively internal procedures. Other regulations that are not obsolete and not currently part of 48 CFR are being added.

EFFECTIVE DATE: March 14, 1996.

FOR FURTHER INFORMATION CONTACT: Mary L. McGarvey, Office of Acquisition and Property Management, (202) 208–3158.

SUPPLEMENTARY INFORMATION: Under the auspices of the National Performance Review, a thorough review of the DIAR was conducted. The review revealed unnecessary and outdated regulations, and some excessively burdensome procedures.

In the interests of streamlining processes and improving relationships with contractors, nonessential portions of the DIAR are being removed from the CFR. The two subparts and two sections being removed from Parts 1403 and 1425 deal with exclusively internal procedures so codification is not necessary. Sections 1403.570 and 1452.203–70 concerning Restrictions on Endorsements are being added to the CFR.

When the DIAR was issued in 1984 as a supplement to the Federal Acquisition Regulation (FAR), FAR Part 3 required Agency regulations prescribing "Standards of Conduct". The Department of the Interior (DOI) regulations governing the conduct and responsibilities of regular and special employees are contained in 43 CFR Part 20. Additional guidance is contained in the DOI publication of "Ethics, An Employee Guide". This information is strictly limited to internal agency procedures and information and is issued as a supplement to the FAR Section 3.101–3.

FAR 3.203 specifically requires agency personnel to report suspected violations of the Gratuities clause to the contracting officer or other designated official in accordance with agency procedures. DIAR 1403.2 provides the implementation of FAR 3.203 as required by the FAR. These are strictly limited to agency procedures in implementation of FAR 3.203. These agency procedures do not have a significant effect beyond the internal operating procedures of the agency nor do they have a significant cost or administrative impact on contractors or offerors. This language merely implements a higher level issuance (FAR) that has previously undergone the public comment process, and does not pose additional significant cost or administrative impact on contractors or offerors or effect beyond the internal operating procedures of DOI.

DIAR 1425—Foreign Acquisition implements FAR 25.202, 25.203, 25.204, and 25.205. This action will effect the removal of DIAR 1425.202 and 1425.204 from 48 CFR. These are strictly limited to internal agency procedures in implementation of FAR. These agency procedures do not have a significant effect beyond the internal operating procedures of the agency or have a significant cost or administrative impact on contractors or offerors. This language merely implements a higher level issuance (FAR) that has previously undergone the public comment process, and does not pose additional significant cost or administrative impact on contractors or offerors or effect beyond the internal operating procedures of DOI. DIAR 1425.203 and 1425.205 are revised and will be retained in 48 CFR. The revision and retained language will be submitted and published under another interim final action.

DIAR Section 1403.570 Restrictions on Contractor Advertising and Section 1452.203–70 Restrictions on Endorsements are being added to 48 CFR. This section and related clause inform contractors of DOI's position on endorsements and may have a minimal administrative impact on contractors.

Required Determinations

The Department believes that public comment is unnecessary because the material being removed is outdated or deals exclusively with internal procedures. The added material is primarily normal Government operating procedures. Therefore, in accordance with 5 U.S.C. 553(b)(B), the Department finds good cause to publish this document as a final rule. This rule was not subject of Office of Management and Budget review under Executive Order 12866. This rule does not contain a collection of information subject to the Paperwork Reduction Act of 1995 as amended (P.L. 104–13). In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq), the Department has determined that this rule will not have a significant economic impact on a substantial number of small entities because no requirements are being added for small businesses and no protections are being withdrawn. The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969. The Department has certified that this rule meets the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects in 48 CFR Parts 1403, 1425, and 1452

Government procurement, Reporting and recordkeeping requirements.

Dated: January 26, 1996.

Bonnie Cohen,

Assistant Secretary—Policy, Management and Budget.

Chapter 14 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR parts 1403, 1425 and 1452 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

2. Part 1403 is amended by removing Subpart 1403.1 and 1403.2 and by adding new Subpart 1403.5 to read as follows:

PART 1403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1403.5—Other Improper Business Practices

Sec.

1403.570 Restrictions on contractor advertising.
1403.570–1 Policy.
1403.570–3 Contract clause.

Subpart 1403.5—Other Improper Business Practices

1403.570 Restrictions on contractor advertising.

1403.570–1 Policy.

Award of a contract does not signify endorsement of the supplies or services purchased, nor does it signify agreement with any views espoused by officials of the awards. It is vital to the integrity of the procurement system to avoid even the appearance of an improper preference toward a particular vendor. Therefore, contractors shall not be permitted to publicize, or otherwise circulate, promotional materials which

state or imply Governmental endorsement of a product, service or position which the contractor represents.

1403.570–3 Contract clause.

CO's shall include the clause at 48 CFR 1452.203–70, Restriction on Endorsements, in all solicitations, contracts and agreements which are not executed in accordance with SAT procedures.

3. Part 1425 is amended by removing Sections 1425.202 and 1425.204.

4. Part 1452 is amended by adding new Section 1452.203–70 to read as follows:

PART 1452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1452.203–70 Restriction on endorsements.

As prescribed in 48 CFR 1403.570–3, insert the following clause in all solicitations, contracts and agreements which are expected to exceed the simplified acquisition threshold.

Restriction on Endorsements—Department of the Interior (Nov 1995)

The contractor shall not refer to contracts awarded by the Department of the Interior in commercial advertising, as defined in FAR 31.205–1, in a manner which states or implies that the product or service provided is approved or endorsed by the Government, or is considered by the Government to be superior to other products or services. This restriction is intended to avoid the appearance of preference by the Government toward any product or service. The contractor may request a determination as to the propriety of promotional material from the CO.

(End of Clause)

[FR Doc. 96–3205 Filed 2–12–96; 8:45 am]

BILLING CODE 4310–RF–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9904

Cost Accounting Standards Board; Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors; Increase in Minimum Acquisition Cost Criterion for Capitalization of Tangible Capital Assets

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Final rule.

SUMMARY: The Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), hereby amends the Cost Accounting Standards (CAS) relating to the treatment of gains or losses attributable to tangible capital assets subsequent to mergers or business combinations by government contractors, and relating to the minimum acquisition cost criterion for capitalization of tangible capital assets by raising the prescribed criterion from $1,500 to $5,000.

To resolve the problems that have been identified in this area, the Board hereby amends CAS 9904.404, "Capitalization of Tangible Assets" and CAS 9904.409, "Depreciation of Tangible Capital Assets". These amendments are based on an approach involving a "no step-up, no step-down" of asset bases and no recognition of gain or loss on a transfer of assets following a business combination by contractors subject to CAS.

Section 26(g)(1) of the Office of Federal Procurement Policy Act requires that the Board, prior to the promulgation of any new or revised Cost Accounting Standard, publish a final rule. This final rule addresses the Board's proposal to amend CAS 9904.404 and CAS 9904.409 to deal with the issue of gains and losses subsequent to a merger or business combination.

EFFECTIVE DATE: This rule is effective April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Rein Abel, Director of Research, Cost Accounting Standards Board (telephone 202–395–3254).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

The Cost Accounting Standards Board's rules and regulations are codified at 48 CFR Chapter 99. Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. § 422(g)(1), requires that the Board, prior to the establishment of any new or revised Cost Accounting Standard, complete a prescribed rulemaking process. This process consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of government contracts as a result of a proposed Standard.

2. Promulgate an Advance Notice of Proposed Rulemaking.

3. Promulgate a Notice of Proposed Rulemaking.

4. Promulgate a final rule.

This final rule is step four in the four step process.

B. Background

Prior Promulgations

The issues addressed in this proposal were first identified by commenters in response to the Board's request for agenda topics in November 1990. Subsequently, two Staff Discussion Papers (SDPs) were issued.

The first SDP, dated August 26, 1991 and titled "Recognition and Pricing of Changing Capital Asset Values Resulting from Mergers and Business Combination by Government Contractors," (56 FR 42079) raised broad issues such as the scope of the proposed project, the basis for any Government claim to gains or losses resulting from a business combination and the likely economic consequences of a policy that would prohibit revaluation of assets following a merger.

The responses to this SDP were used by the Board as the basis for discussing the basic issues involved in this case. As a result of this discussion, the Board decided to issue a second SDP dealing with a series of questions concerning the specific procedures needed to deal effectively with the recognition, allocation and recovery of the gain or loss subsequent to a merger or business combination. The second SDP, entitled "Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors," was issued on November 4, 1993 (58 FR 58882). On the basis of comments received in response to that SDP, an Advance Notice of Proposed Rulemaking (ANPRM) was developed and published in the **Federal Register** on May 24, 1994 (59 FR 26774). The responses to the ANPRM were of significant assistance to the Board in developing a Notice of Proposed Rulemaking (NPRM). The NPRM was published in the **Federal Register** on March 8, 1995 (60 FR 12725).

Public Comments

Ten sets of public comments were received in response to the NPRM from government contractors, professional and industrial associations, law firms and Federal agencies.

The views expressed by the various parties were, in essence, consistent with the views expressed by the same parties earlier when the ANPRM was published. The basic no step-up, no step-down approach was supported by the Government commenters and it was generally opposed by other commenters although some of these other commenters did not explicitly express their views on this basic issue.

Besides expressing their views on the proposed approach outlined in the NPRM and the Board's arguments supporting this chosen approach, many commenters offered editorial as well as more substantive detailed comments on the various specific provisions of the document.

These comments are discussed below in greater detail, under Section E.; Public Comments. The Board and the CASB staff express their appreciation for the generally constructive and thoughtful responses provided by the commenters.

Benefits

After consideration of all the comments received in response to the NPRM, the Board continues to believe that amendments to CAS 9904.404, "Capitalization of Tangible Assets," and CAS 9904.409, "Depreciation of Tangible Capital Assets," as set forth in the ANPRM and essentially restated in the NPRM, and this final rule, will significantly improve and clarify the implementation of CAS and related procurement regulations in accounting for tangible capital assets after completion of a merger or business combination. In particular, the Board continues to believe that the proposal embodied in this final rule will clarify the current ambiguities in this area and thus should lead to reductions in negotiations and litigation. This point is of particular significance in the current economic and budgetary environment where the need to realize economies in the defense budget can be expected to lead to mergers, business combinations and restructurings among contractors. It is also anticipated that increasing the capitalization criterion for tangible capital assets in CAS 9904.404 from $1,500 to $5,000, will significantly reduce record keeping burden in many instances. The Board believes that the potential benefit to the audit, negotiation, and general contract administration processes accruing from the added clarity and uniformity in the measurement of the cost of depreciation and cost of money subsequent to a business combination will be substantial and will greatly outweigh any added costs.

Summary of Proposed Amendments

A brief description of the proposed amendments follows:

a. The capitalization criterion for tangible capital assets in subsection 9904.404–40(b)(1) is increased from $1,500 to $5,000.

b. The current subsection 9904.404–50(d) is deleted and is replaced by an amended section that prescribes:

(1) That for contract costing purposes, tangible capital assets following a business combination shall retain their net book value recognized during the most recent cost accounting period prior to the business combination provided that the assets generated either depreciation expense or cost of money charges that were allocated during the period either as direct or indirect costs to Federal government contracts and subcontracts negotiated on the basis of cost.

(2) That the cost of tangible capital assets shall be restated after the business combination at a figure not to exceed the fair value at the date of the acquisition pursuant to a business combination where the assets during the most recent cost accounting period prior to the business combination did not generate either depreciation expense or cost of money charges that were allocated either as direct or indirect costs to Federal government contracts negotiated on the basis of cost.

c. A new subparagraph 9904.409–50(j)(5), is added to current subsection 9904.409–50(j). The purpose of this new subparagraph is to make it clear that the CAS 9904.409 provisions dealing with the recapture of gains and losses on disposition of tangible capital assets should not apply when assets are transferred subsequent to a business combination.

C. Paperwork Reduction Act

The Paperwork Reduction Act, Public Law 96–511, does not apply to this rulemaking, because this rule imposes no paperwork burden on offerors, affected contractors and subcontractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Executive Order 12866 and the Regulatory Flexibility Act

The economic impact of this rule on contractors and subcontractors is expected to be minor. As a result, the Board has determined that this final rule will not result in the promulgation of a "major rule" under the provisions of Executive Order 12866, and that a regulatory impact analysis will not be required. Furthermore, this final rule will not have a significant effect on a substantial number of small entities because small businesses are exempt from the application of the Cost Accounting Standards. Therefore, this final rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

E. Public Comments

This final rule was developed after consideration of the public comments received in response to the Board's NPRM published on March 8, 1995 (60 FR 12725). The comments have provided valuable input to the Board's rulemaking process. The comments received and the action taken by the Board are summarized in the paragraphs that follow:

Comment: Several commenters indicated that the final rule should make it clear that this revised rule is to be applied on a prospective basis only. One commenter suggested that the language in 9904.404–63 and 9904.409–63 be supplemented to reflect the requirements of paragraph (a)(3) of the contract clause at 9903.201–4(a) which requires the receipt of a new CAS-covered contract for a new CAS requirement to be applicable.

Response: Sections 9904.404–63 and 9904.409–63 have been supplemented to make it clear that these revisions are to be applied prospectively.

Comment: Several commenters stressed once more that they believe there is a conflict between the CAS allocability provisions and the Federal Acquisition Regulation (FAR) allowability provisions in this area. It was suggested again, as in earlier comments, that the OFPP Administrator should address this issue.

Response: The Board is aware that there is an appearance of conflict between the provisions of CAS 9904.404 and FAR 31.205–52. As stated in the proposed rulemakings, the OFPP Administrator will determine whether any changes may be necessary in the FAR cost principles to make them fully compatible with amended CAS 9904.404 and 9904.409.

Comment: One commenter pointed out the apparent inconsistency in the language between sections 9904.404–50(d) (1) and (2) when describing the scope of the two paragraphs. In one paragraph the reference is to costs charged to "Federal Government contracts", while in the other, the reference is to "Federal Government contracts subject to CAS". In addition, another commenter pointed out that these references did not make clear whether contractors subject to modified CAS coverage are affected by this amendment.

Response: In order to make clear that the amendment applies to those tangible capital assets that were charged to Federal government contracts and subcontracts negotiated on the basis of cost before the business combination, the phrase "subject to CAS" has been

eliminated. This should make it clear that this revised rule applies to tangible capital assets that generated costs allocated to Federal government contracts and subcontracts negotiated on the basis of cost, where such costs were allocated to contracts and subcontracts by the seller during the most recent cost accounting period prior to the business combination.

Comment: Several suggestions were received dealing with different aspects of materiality in applying this revision. First, several contractors and industry associations suggested that specific materiality criteria be introduced, such as total dollar value of assets acquired or the percentage of commercial or competitively awarded fixed-priced contracts in relation to total sales. One Government commenter suggested that the coverage of the amendment should be extended also to those tangible capital assets that generated relevant costs chargeable to CAS-covered contracts "anytime during the three accounting periods prior to the business combination".

Response: The Board does not believe that the introduction of additional materiality criteria is advisable at this time. By its very nature, under full CAS coverage, the amended Standard's requirements apply to major contractors that perform significant amounts of CAS-covered work.

CAS 9904.404–50(d) has been revised to clearly state that the costs of tangible capital assets acquired from a seller (whether CAS-covered or non-CAS covered) which generated depreciation expense or cost of money charges that were allocated to Federal government contracts or subcontracts shall not be written up by the buyer. The primary issue is whether or not a material amount of asset costs have been charged to Federal government contracts and subcontracts that were negotiated on the basis of cost, where such costs were allocated to contracts and subcontracts during the most recent cost accounting period prior to the acquisition date, not the amount of CAS-covered effort performed by the seller.

Comment: One commenter suggested that the acquisition cost criterion in section 9904.404 be raised from $1,500 to $5,000.

Response: The Board accepts this suggestion and therefore section 9904.404–40(b)(1) is modified to increase the minimum acquisition cost criterion from $1,500 to $5,000.

Comment: One Government commenter expressed the view that the provisions of the amendment should also be extended to non-CAS-covered contractors: "The proposed rule does not provide uniformity or consistency since it provides for different treatment for acquired assets of CAS-covered from non-CAS-covered contractors".

Response: CAS 9904.404–50(d) has been revised to clearly establish that the acquired tangible capital asset valuations shall be determined in a consistent manner. As revised, application of the prescribed techniques in 9904.404–50(d)(1) and 9904.404–50(d)(2) is dependant upon whether or not the acquired assets were previously utilized in the performance of either CAS-covered and/or non-CAS covered Federal contracts that were negotiated on the basis of cost.

Comment: Several commenters expressed their disagreement with the abandonment of GAAP principles in this revision to CAS 9904.404. The view was expressed that the CASB should deviate from GAAP only in exceptional cases and, in the view of these commenters, such an approach is not warranted in the present case.

Response: The Board has pointed out in its Statement of Objectives, Policies and Concepts that it will make every reasonable effort to avoid conflict or disagreement with other bodies having similar responsibilities. However, it also pointed out that the nature of the Board's authority and its mission is such that it must retain and exercise full responsibility for meeting its objectives.

As stated in previous discussions, the Board adopted the "no step-up, no step-down" approach after extensive consideration of the possible alternative approaches. In particular, the issues associated with the recognition, allocation and recovery of the gain or loss subsequent to a merger or business combination were extensively explored in a Staff Discussion Paper (SDP) entitled "Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors." It was only after careful consideration of the responses to the SDP that the Board decided to proceed with the "no step-up, no step-down" approach thereby establishing a cost accounting practice that diverges from the corresponding practice recognized for GAAP purposes.

Comment: Several commenters pointed out that since this issue has been under review by the CAS Board, there have been significant changes in the statutes and regulations covering mergers and business combinations by Government contractors. The Government, in order to encourage contractors to consolidate, has recognized "external restructuring" which allows, in certain circumstances, contractors' restructuring costs to be charged to Government contracts to the extent that the restructuring results in savings that exceed the costs. The commenters argued that the same rationale should be applied to increased deprecation associated with the revaluation of a purchased company's assets if the business combination is regarded as an "external restructuring", and, that it would be inequitable for the Government to benefit from all of the savings resulting from restructuring, while it is unwilling to recognize all of the costs needed to implement such restructuring.

Response: In issuing this revision, the Board does not intend to encourage or discourage contractors to consolidate or restructure their operations. Rather, the Board's intent, in accordance with its stated objectives, in promulgating this revision, is to increase the degree of uniformity and consistency in like circumstances in the cost accounting practices that are used by Government contractors to record tangible capital asset values subsequent to mergers or business combinations. The Board believes that this action will result in cost allocations that are fair and equitable.

Comment: Several commenters offered editorial comments to the proposed revisions.

Response: All of these comments were considered and, as a result, the essence of several of these comments were incorporated in the final rule.

List of Subjects in 48 CFR Part 9904

Cost accounting standards, Government procurement.

Richard C. Loeb,

Executive Secretary, Cost Accounting Standards Board.

For the reasons set forth in this preamble, chapter 99 of title 48 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for part 9904 continues to read as follows:

Authority: Public Law 100–679, 102 Stat. 4056, 41 U.S.C. 422.

PART 9904—COST ACCOUNTING STANDARDS

9904.404 Capitalization of tangible assets.

2. Section 9904.404–40 is amended by revising paragraph (b)(1) to read as follows:

9904.404–40 Fundamental requirement.

* * * * *

(b) * * *

(1) The contractor's policy shall designate a minimum service life criterion, which shall not exceed 2 years, but which may be a shorter period. The policy shall also designate a minimum acquisition cost criterion which shall not exceed $5,000, but which may be a smaller amount.

* * * * *

3. Section 9904.404–50 is amended by revising paragraph (d) to read as follows:

9904.404–50 Techniques for application.

* * * * *

(d) The capitalized values of tangible capital assets acquired in a business combination, accounted for under the "purchase method" of accounting, shall be assigned to these assets as follows:

(1) All the tangible capital assets of the acquired company that during the most recent cost accounting period prior to a business combination generated either depreciation expense or cost of money charges that were allocated to Federal government contracts or subcontracts negotiated on the basis of cost, shall be capitalized by the buyer at the net book value(s) of the asset(s) as reported by the seller at the time of the transaction.

(2) All the tangible capital asset(s) of the acquired company that during the most recent cost accounting period prior to a business combination did not generate either depreciation expense or cost of money charges that were allocated to Federal government contracts or subcontracts negotiated on the basis of cost, shall be assigned a portion of the cost of the acquired company not to exceed their fair value(s) at the date of acquisition. When the fair value of identifiable acquired assets less liabilities assumed exceeds the purchase price of the acquired company in an acquisition under the "purchase method," the value otherwise assignable to tangible capital assets shall be reduced by a proportionate part of the excess.

* * * * *

4. Section 9904.404–63 is revised to read as follows:

9904.404–63 Effective date.

(a) This Standard is effective April 15, 1996.

(b) This Standard shall be applied beginning with the contractor's next full cost accounting period beginning after the receipt of a contract or subcontract to which this Standard is applicable.

(c) Contractors with prior CAS-covered contracts with full coverage shall continue to follow Standard 9904.404 in effect prior to April 15, 1996, until this Standard, effective April 15, 1996, becomes applicable after the receipt of a contract or subcontract to which this revised Standard applies.

5. Section 9904.409–50 is amended by adding a new paragraph (j)(5) to read as follows:

9904.409–50 Techniques for application.

* * * * *

(j) * * *

(5) The provisions of this subsection 9904.409–50(j) do not apply to business combinations. The carrying values of tangible capital assets acquired subsequent to a business combination shall be established in accordance with the provisions of subsection 9904.404–50(d).

* * * * *

6. Section 9904.409–63 is revised to read as follows:

9904.409–63 Effective date.

(a) This Standard is effective April 15, 1996.

(b) This Standard shall be applied beginning with the contractor's next full cost accounting period beginning after the receipt of a contract or subcontract to which this Standard is applicable.

(c) Contractors with prior CAS-covered contracts with full coverage shall continue to follow Standard 9904.409 in effect prior to April 15, 1996, until this Standard, effective April 15, 1996, becomes applicable after the receipt of a contract or subcontract to which this revised Standard applies.

[FR Doc. 96–3061 Filed 2–12–96; 8:45 am]

BILLING CODE 3110–01–P

Proposed Rules

Federal Register
Vol. 61, No. 30
Tuesday, February 13, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 3

[Docket No. 95–099–1]

Dogs and Cats in Commercial Pet Trade; Public Meetings

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meetings.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service is hosting two public meetings to gather information on the current Animal Welfare Act regulations and standards that apply to the care of dogs and cats in the commercial pet trade. In line with our commitment to ensure appropriate care for animals regulated under the Animal Welfare Act, we are reviewing these regulations and standards and are seeking recommendations and opinions from the affected industries and concerned public to determine whether revisions are necessary.

DATES: Each meeting will be held on two consecutive half days—from 1 p.m. until 5 p.m. on the first day and from 8 a.m. until noon on the second day. The first meeting will be held in Kansas City, MO, February 21 and 22, 1996. The second meeting will be held in St. Louis, MO, February 23 and 24, 1996.

ADDRESSES: The public meetings will be held at the following locations:

1. Kansas City, MO: Kansas City Convention Center, Bartle Hall, 301 W. 13th Street, Kansas City, MO. Telephone 1–800–821–7060 or (816) 871–3700. Parking at the Convention Center (between Central Street and Broadway) is approximately $6 per day. Participants should enter the meeting areas (2200 Series) through Lobby 200 on the first floor of Bartle Hall. Members of the public requiring lodging reservations in Kansas City can contact the Kansas City Marriott Hotel Downtown, 200 W. 12th Street, Kansas City, MO 64105, Telephone 1–800–548–4782 or (816) 421–6800.

2. St. Louis, MO: Regal Riverfront Hotel, 200 South 4th Street, St. Louis, MO, Telephone 1–800–325–7353 or (314) 241–9500, Fax (314) 421–3555.

For hotel reservations at either location, request lodging for "USDA Public Meeting."

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Animal Health Technician, Animal Care Staff, REAC, APHIS, USDA, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–4972.

SUPPLEMENTARY INFORMATION: Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) is responsible for regulating the care provided to certain animals, including dogs and cats in the commercial pet trade. APHIS believes the AWA regulations and standards pertaining to such dogs and cats may need to be updated. APHIS officials are reviewing the pertinent AWA regulations and standards.

In conducting this review, the agency is seeking recommendations and opinions regarding the housing, care, handling, and transportation of dogs and cats in the commercial pet trade. APHIS officials have decided to hold three meetings to gather input from the public, animal protection organizations, and members of affected industries, such as dealers, research facilities, and commercial animal transporters. The locations of the meetings were selected based on the high concentrations of licensed animal dealers operating within close proximity. We also anticipate holding a meeting in the Washington, DC, area. Notice of this meeting will be given in a future **Federal Register** notice.

The meetings will include four workshops facilitated by trained APHIS facilitators: (1) Space requirements for primary enclosures, including room for exercise; (2) sanitation, materials, flooring, and construction of primary enclosures; (3) veterinary care and breeding frequency; and (4) transportation by land and by air. In these workshops, group participation will be used to develop recommendations within specific topic areas. After the workshops have concluded, each workshop group will report its recommendations to the entire meeting.

APHIS will consider these recommendations in developing any revisions to the current AWA regulations and standards. The Agency will initiate rulemaking for any changes deemed appropriate.

Participants should attend the same workshop for the entire meeting. Registration for workshop sessions will be held from 11 a.m.–1 p.m. on the first day of each meeting, with the general session beginning at 1 p.m. Meeting participants should select a first and second choice for workshop attendance because of space availability.

Done in Washington, DC, this 8th day of February 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–3241 Filed 2–12–96; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–59–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require inspections to detect cracking of the Hi-lok bolt holes in the main hinge fittings of the horizontal stabilizer, and repair, if necessary. The proposed AD also would require modification of the main hinge fitting, modification or replacement of rib connecting angles, and modification of ribs. This proposal is prompted by a report that cracking was found in the main hinge fittings of the horizontal stabilizer during fatigue testing. The cracking was a result of higher-than-anticipated loads induced during operation of the thrust reverser. The actions specified by the proposed AD are intended to prevent deterioration of the fatigue life of the main hinge fittings of the horizontal stabilizer and reduced structural integrity of the horizontal stabilizer due to higher induced loads.

DATES: Comments must be received by March 25, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–59–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–59–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–59–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that it received a report indicating that, during full-scale fatigue tests of a Model F28 Mark 0100 test article, cracking was found in the flanges of the left and right-hand main hinge fittings of the horizontal stabilizer. Such cracking is attributed to higher than anticipated loads on the horizontal stabilizer during operation of the thrust reverser. This condition, if not corrected, could result in a deteriorated fatigue life of the main hinge fittings of the horizontal stabilizer, and reduced structural integrity of the horizontal stabilizer.

Fokker has issued Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993, which describes procedures for a rotor probe inspection and a pencil probe inspection to detect cracking of the Hi-lok bolt holes in the main hinge fittings of the horizontal stabilizer. For airplanes on which either no cracking or cracking within specified limits is found, the service bulletin describes procedures for the following:

1. Modification of the main hinge fittings on the horizontal stabilizer and modification or replacement of the connecting angles at Rib 215; and
2. Modification of Rib 215 of the horizontal stabilizer to close the lightening holes.

These modifications entail modifying the Hi-lok bolt holes by cold expansion, and stiffening the ribs at Station 215. Accomplishment of these modifications will increase the fatigue life of the main hinge fittings.

The RLD classified this Fokker service bulletin as mandatory and issued Netherlands airworthiness directive BLA 93–137/2 (A), dated February 21, 1994, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a rotor probe inspection and a pencil probe inspection to detect cracks of the Hi-lok bolt holes in the main hinge fittings of the horizontal stabilizer for. For certain airplanes, the proposed AD also would require modification of the Hi-lok bolt holes by cold expansion and stiffening of the ribs at Station 215. The inspections and modification would be required to be accomplished in accordance with the service bulletin described previously. For certain other airplanes, the proposed AD would require the correction of certain cracking found, in accordance with a method approved by the FAA.

The FAA estimates that 90 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 136 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,800 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $896,400, or $9,960 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT

Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106 (g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–59–AD.

Applicability: Model F28 Mark 0100 airplanes; having serial numbers 11244 through 11420 inclusive, 11422, 11424 through 11428 inclusive, 11432 through 11439 inclusive, and 11443 through 11445 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the horizontal stabilizer, accomplish the following:

Note 2: Inspections and modifications accomplished prior to the effective date of this amendment in accordance with Fokker Service Bulletin SBF100–55–021, Revision 1, dated September 6, 1993, are considered acceptable for compliance with the inspections and modifications required by this amendment.

(a) Prior to the accumulation of 15,000 total flight cycles, or within 1 year after the effective date of this AD, whichever occurs later: Perform a rotor probe inspection and a pencil probe inspection to detect cracking of the Hi-lok bolt holes in the main hinge fittings of the horizontal stabilizer, in accordance with Part 5 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993. This inspection is not required for airplanes that have been modified as specified in paragraph (b) of this AD, provided that the modification is accomplished prior to the accumulation of 1,000 total flight cycles.

(b) Either prior to the accumulation of 1,000 total flight cycles; or prior to further flight after the inspection required by paragraph (a) of this AD if, as a result of that inspection, no cracking is found, or all cracks that are found are less than or equal to the values specified in the Decision Diagram (Figure 2) of Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993: Accomplish the modification requirements specified in paragraph (b)(1) and (b)(2) of this AD.

(1) Modify the main hinge fittings of the horizontal stabilizer; and replace or modify the connecting angles at Rib 215, as applicable; in accordance with Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993, and as specified in either paragraph (b)(1)(i) or (b)(1)(ii) of this AD, as applicable.

(i) For airplanes that have accumulated less than 1,000 total flight cycles at the time of modification: Accomplish the modification in accordance with either Part 3 or Part 4 of the Accomplishment Instructions of the service bulletin, as applicable.

(ii) For airplanes that have accumulated 1,000 or more total flight cycles at the time of modification: Accomplish the modification in accordance with either Part 6 or Part 7 of the Accomplishment Instructions of the service bulletin, as applicable.

(2) Modify Rib 215 of the horizontal stabilizer to close the lightening holes in accordance with Part 8 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993.

(c) If any cracking is found as a result of the inspection required by paragraph (a) of this AD, and the cracking exceeds the values specified in the Decision Diagram (Figure 2) of Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993: Prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 7, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3151 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL106–1–6707b; FRL–5411–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' State Implementation Plan (SIP) revision request, submitted on May 5, 1995, and May 26, 1995, which tightens the stringency of Volatile Organic Matter emission limitations for certain surface coating operations in the Chicago and Metro-East St. Louis ozone nonattainment areas. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 14, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: January 12, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–3085 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WI54–01–7000b; FRL–5416–3]

Approval and Promulgation of Implementation Plan; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a revision to the Wisconsin State Implementation Plan (SIP) for ozone that was submitted on June 30, 1994, and supplemented on July 15, 1994. This revision consists of a volatile organic compound (VOC) regulation which establishes reasonably available control technology (RACT) for iron and steel foundries. This regulation was submitted to address, in part, the requirement of section 182(b)(2)(C) of the Clean Air Act (CAA or Act) that States revise their SIPs to establish RACT regulations for major sources of VOCs for which the USEPA has not issued a control technology guidelines (CTG) document. In addition, emission reductions resulting from this rule are being used by the State to fulfill, in part, the requirement of section 182(b)(1) of the Act that States submit a plan which provides for a 15 percent reduction in VOC emissions by 1996. In the final rules section of this **Federal Register**, the EPA is approving this action as a direct final without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received by March 14, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, (312) 886–1767.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the following address: (Please telephone Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 22, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–3083 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[CA 140–5–7275b; FRL–5402–6]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Santa Barbara County Air Pollution Control District; Kern County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from organic liquid storage and loading, and petroleum sumps, pits and well cellars. The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 14, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Kern County Air Pollution Control District, 2700 M Street, Suite 290, Bakersfield, CA 93301.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION: This document concerns Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 344, Petroleum

Sumps, Pits, and Well Cellars; Kern County Air Pollution Control District (KCAPCD) Rule 411, Storage of Organic Liquids; and KCAPCD Rule 413, Organic Liquid Loading. SBCAPCD Rule 344 was submitted to EPA on January 24, 1995, by the California Air Resources Board. KCAPCD Rule 411 and Rule 413 were both submitted on May 25, 1995. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 15, 1995.

David P. Howekamp,

Acting Regional Administrator.

[FR Doc. 96–2972 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Parts 261, 271, and 302

[SWH-FRL–5421–7]

Extension of Comment Period for the Proposed Identification and Listing of Hazardous Waste/Petroleum Refining

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period; notice of data availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is extending the comment period for the proposed listing determination for the petroleum refining industry, which appeared in the **Federal Register** on November 20, 1995(see 60 FR 57747). The public comment period for this proposed rule was to end on February 20, 1996. The purpose of this notice is to extend the comment period to end on March 21, 1996, and to provide notice of additional information that has been added to the docket.

DATES: EPA will accept public comments on this proposed listing determination until March 21, 1996.

ADDRESSES: The public must send an original and two copies of their comments to EPA RCRA Docket Number F–94–DPLP–FFFFF, RCRA Information Center (5305W), U.S. EPA, 401 M Street SW., Washington, D.C. 20460. To hand-deliver comments, or to review docket materials, the address is U.S. EPA, Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9 am to 4 pm, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, please contact Max Diaz, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260–4786.

SUPPLEMENTARY INFORMATION: This proposed rule was issued under Section 3001(b) of RCRA. EPA proposed to list certain wastes generated during the refining of petroleum because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 60 FR 57747 (November 20, 1995) for a more detailed explanation of the proposed rule.

Extension of Comment Period

The comment period for this proposed rule was scheduled to end on February 20, 1996. However, the RCRA Docket was closed due to the partial government shutdown from December 15, 1995 until January 6, 1996, and from January 8 until January 12, 1996 due to inclement weather. In addition, the Agency received five requests from interested parties to extend the comment period. Therefore, EPA is extending the comment period until March 21, 1996.

New Information in Docket

EPA added the following materials to the docket based on suggestions from outside parties:

(1) Preliminary Refinery Waste Questions, submitted by the Environmental Defense Fund, dated January 22, 1996;

(2) Summary of Meeting with EDF on January 24, 1996; which includes a) EPA's responses to EDF's January 22, 1996, Preliminary Refinery Waste Questions; b) Discussion prepared by EPA of the Presence of Bis(2-ethylhexyl) phthalate in Refinery Residuals dated June 5, 1995; c) Listing of 1992 On-site Land Treatment Units and On-site Landfills; d) Memoranda referencing residual information used to conduct the listing determination; e) Summary of 1992 Petroleum Refining Data Base Listing Residuals-Volume and Management Statistics;

(3) Risk Assessment Modeling Questions, submitted by the American Petroleum Institute, dated December 13, 1995; and

(4) EPA's responses to API's December 13, 1995, Risk Modeling Questions. EPA is anticipating additional meetings with interested parties in the future; the docket will be updated accordingly.

Dated: February 6, 1996.

Michael Shapiro,

Director, Office of Solid Waste.

[FR Doc. 96–3198 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 61, No. 30

Tuesday, February 13, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Southwest Region; California

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Southwest Region to publish legal notices of all decisions subject to appeal under 36 CFR 215 and 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after January 1, 1996. The list of newspapers will remain in effect until January 1997 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Sue Danner, Regional Appeals Coordinator, Pacific Southwest Region, 630 Sansome Street, San Francisco, CA 94111, phone: (415) 705–2553.

SUPPLEMENTARY INFORMATION: On November 4, 1993, 36 CFR Parts 215 and 217 were published requiring publication of legal notice of decisions subject to appeal. Sections 215.5 and 217.5 require notice published in the **Federal Register** advising the public of the principal newspapers to be utilized for publishing legal notices. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins is the day following publication of the notice.

In addition to the principal newspaper listed for each unit, some Forest Supervisors and District Rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Pacific Southwest Regional Office

Pacific Southwest Regional Forester decisions:
Sacramento Bee, Sacramento, California

Angeles National Forest

Angeles Forest Supervisor decisions:
Los Angeles Times, Los Angeles, California
Arroyo-Seco District Ranger decisions:
Pasadena Star News, Pasadena, California
Newspaper providing additional notice of Arroyo-Seco decisions:
Daily News, Los Angeles, California
Mount Baldy District Ranger decisions:
Inland Valley Bulletin, Los Angeles, California
Newspaper providing additional notice of Mount Baldy decisions:
San Gabriel Valley Tribune, eastern San Gabriel Valley, California
Saugus District Ranger decisions:
Daily News, Los Angeles, California
Newspaper providing additional notice of Saugus decisions:
Antelope Valley Press, Palmdale, California
Tujunga District Ranger decisions:
Daily News, Los Angeles, California
Valyermo District Ranger decisions:
Antelope Valley Press, Palmdale, California
Newspaper providing additional notice of Valyermo decisions:
Mountaineer Progress, Wrightwood, California

Cleveland National Forest

Cleveland Forest Supervisor decisions:
San Diego Union-Tribune, San Diego, California
Descanso District Ranger decisions:
San Diego Union-Tribune, San Diego, California
Newspaper providing additional notice of Palomar decisions:
Riverside Press Enterprise, Riverside, California
Palomar District Ranger decisions:
San Diego Union-Tribune, San Diego, California
Trabuco District Ranger decisions:
Orange County Register, Santa Ana, California
Newspaper providing additional notice of Trabuco decisions:
Riverside Press-Enterprise, Riverside, California

Eldorado National Forest

Eldorado Forest Supervisor decisions:
Mountain Democrat, Placerville, California
Amador District Ranger decisions:
Mountain Democrat, Placerville, California
Georgetown District Ranger decisions:
Mountain Democrat, Placerville, California
Pacific District Ranger decisions:
Mountain Democrat, Placerville, California
Placerville District Ranger decisions:
Mountain Democra, Placerville, California

Inyo National Forest

Inyo Forest Supervisor decisions:
Inyo Register, Bishop, California
Mammoth District Ranger decisions:
Inyo Register, Bishop, California
Mono Lake District Ranger decisions:
Inyo Register, Bishop, California
Mount Whitney District Ranger decisions:
Inyo Register, Bishop, California
White Mountain District Ranger decisions:
Inyo Register, Bishop, California

Klamath National Forest

Klamath Forest Supervisor decisions:
Siskiyou Daily News, Yreka, California
Happy Camp District Ranger decisions:
Siskiyou Daily News, Yreka, California
Goosenest District Ranger decisions:
Siskiyou Daily News, Yreka,

California
Oak Knoll District Ranger decisions:
Siskiyou Daily News, Yreka, California
Salmon River District Ranger decisions:
Siskiyou Daily News, Yreka, California
Scott River District Ranger decisions:
Siskiyou Daily News, Yreka, California
Ukonom District Ranger decisions:
Siskiyou Daily News, Yreka, California

Lake Tahoe Basin

Lake Tahoe Basin Forest Supervisor decisions:
Tahoe Daily Tribune, So. Lake Tahoe, El Dorado County, California

Lassen National Forest

Lassen Forest Supervisor decisions:
Lassen County Times, Susanville, Lassen County, California
Almanor District Ranger decisions:
Chester Progressive, Plumas County, California
Eagle Lake District Ranger decisions:
Lassen County Times, Susanville, Lassen County, California
Hat Creek District Ranger decisions:
Intermountain News, Burney, Shasta County, California
Newspaper providing additional notice of Hat Creek decisions:
Mountain Echo, Fall River Mills, Shasta County, California

Los Padres National Forest

Los Padres Forest Supervisor decisions:
Santa Barbara News Press, Santa Barbara, California
Ojai District Ranger decisions:
Star Free Press, Ventura, California
Monterey District Ranger decisions:
Salinas Californian, Monterey, California
Mount Pinos District Ranger decisions:
The Bakersfield Californian, Kern, California
Santa Barbara District Ranger decisions:
Santa Barbara News Press, Santa Barbara, California
Santa Lucia District Ranger decisions:
Telegram Tribune, San Luis Obispo, California

Mendocino National Forest

Mendocino Forest Supervisor decisions:
Chico Enterprise-Record, Chico, California
Corning District Ranger decisions:
Chico Enterprise-Record, Chico, California
Covelo District Ranger decisions:
Ukiah Daily Journal, Ukiah, California
Stonyford District Ranger decisions:
Chico Enterprise-Record, Chico, California
Upper Lake District Ranger decisions:
Ukiah Daily Journal, Ukiah, California
Chico Tree Improvement Center Director decisions:
Chico Enterprise-Record, Chico, California

Modoc National Forest

Modoc Forest Supervisor decisions:
Modoc County Record, Alturas, Modoc County, California
Big Valley District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Devil's Garden District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Doublehead District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Newspaper providing additional notice of Doublehead decisions:
Herald News, Klamath Falls, Oregon
Warner Mountain District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California

Plumas National Forest

Plumas Forest Supervisor decisions:
Feather River Bulletin, Quincy, California
Beckwourth District Ranger decisions (formerly Beckwourth and Milford Ranger Districts):
Portola Reporter, Portola, California
Feather River District Ranger decisions (formerly Oroville and La Porte Ranger Districts):
Oroville Mercury Register, Oroville, California
Mt. Hough District Ranger decisions (formerly Quincy and Greenville Ranger Districts):
Feather River Bulletin, Quincy, California

San Bernardino National Forest

San Bernardino Forest Supervisor decisions:
San Bernardino Sun, San Bernardino, California
Arrowhead District Ranger decisions:
Mountain News, Blue Jay, California
Big Bear District Ranger decisions:
Big Bear Life and Grizzly, Big Bear, California
Cajon District Ranger decisions:
San Bernardino Sun, San Bernardino, California
San Gorgonio District Ranger decisions:
Yucaipa News Mirror, Yucaipa, California
San Jacinto District Ranger decisions:
Idyllwild Town Center, Idyllwild, California

Sequoia National Forest

Sequoia Forest Supervisor decisions:
Porterville Recorder, Porterville, California
Cannell Meadow District Ranger decisions:
Porterville Recorder, Porterville, California
Greenhorn District Ranger decisions:
Porterville Recorder, Porterville, California
Hot Springs District Ranger decisions:
Porterville Recorder, Porterville, California
Hume Lake District Ranger decisions:
Porterville Recorder, Porterville, California
Tule River Ranger District decisions:
Porterville Recorder, Porterville, California

Shasta-Trinity National Forest

Shasta-Trinity National Forest decisions:
Record Searchlight, Redding, Shasta County, California
Big Bar District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Hayfork District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
McCloud District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Mount Shasta District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Shasta Lake District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Weaverville District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Yolla Bolla District Ranger decisions:
Record Searchlight, Redding, Shasta County, California

Sierra National Forest

Sierra Forest Supervisor decisions:
Fresno Bee, Fresno, California
Kings River District Ranger decisions:
Fresno Bee, Fresno, California
Pineridge District Ranger decisions:
Frestno Bee, Fresno, California
Mariposa District Ranger decisions:
Fresno Bee, Fresno, California
Minarets District Ranger decisions:
Fresno Bee, Fresno, California

Six Rivers National Forest

Six Rivers Forest Supervisor decisions:
Times Standard, Eureka, California
Gasquet District Ranger decisions:
Del Norte Triplicate, Crescent City, California
Lower Trinity District Ranger decisions:
The Kourier, Willow Creek, California
Mad River District Ranger decisions:
Times Standard, Eureka, California
Orleans District Ranger decisions:
The Kourier, Willow Creek, California

Stanislaus National Forest

Stanislaus Forest Supervisor decisions:
The Union Democrat, Sonora, California
Calaveras District Ranger decisions:
The Union Democrat, Sonora, California
Groveland District Ranger decisions:
The Union Democrat, Sonora, California
Mi-Wok District Ranger decisions:
The Union Democrat, Sonora, California
Summit District Ranger decisions:
The Union Democrat, Sonora, California

Tahoe National Forest

Tahoe Forest Supervisor decisions:
Grass Valley Union, Grass Valley, California
Downieville District Ranger decisions:
Mountain Messenger, Downieville, California
Foresthill District Ranger decisions:
Auburn Journal, Auburn, California
Nevada City District Ranger decisions:
Grass Valley Union, Grass Valley, California
Sierraville District Ranger decisions:
Mountain Messenger, Downieville, California
Newspapers providing additional notice of Sierraville decisions:
Sierra Booster, Loyalton, California
Portola Recorder, Portola, California
Truckee District Ranger decisions:
Sierra Sun, Truckee, Nevada County, California
Newspaper providing additional notice of Truckee decisions:
Tahoe World, Tahoe City, Placer County, California

Dated: February 1, 1996.

James A. Lawrence,

Deputy Regional Forester.

[FR Doc. 96–3146 Filed 2–12–96; 8:45 am]

BILLING CODE 3410–11–M

Five Points Timber Sales and Related Projects, Wallowa-Whitman National Forest, Union and Umatilla Counties, Oregon

AGENCY: Forest Service, USDA.

ACTION: Cancellation Notice.

SUMMARY: The Wallowa-Whitman National Forest gave notice that an environmental impact statement would be prepared for three timber sales and other related projects within the La Grande Ranger District. The Notice of Intent was published in the January 2, 1991, **Federal Register** (56 FR 13106) and revised April 30, 1992 (57 FR 18465). Change of Forest Plan direction in Regional Forester Forest Plan Amendments 1 and 2 invalidated the Five Points Timber Sales proposal. The decision was made to postpone this environmental analysis. This notice is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this Cancellation to Cindy Whitlock, Resource Analyst, La Grande Ranger District, 3502 Highway 30, La Grande, Oregon 97850, or phone (541) 496–3532.

Dated: February 5, 1996.

R.M. Richmond,

Forest Supervisor.

[FR Doc. 96–3147 Filed 2–12–96; 8:45 am]

BILLING CODE 3401–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Georgia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on March 8, 1996, at the offices of Kilpatrick & Cody, Conference Room, Suite 2800, 1100 Peachtree Street NE, Atlanta, Georgia 30309. The purpose of this meeting is to discuss current projects on the status of civil rights in Georgia, and on the affirmative action and equal opportunity programs of the Atlanta Committee on the Olympic Games, and discuss civil rights problems and/or progress in Georgia and the United States.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Elaine Alexander, 404–233–8414, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 5, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3090 Filed 2–12 –96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No. 960129017–6017–01]

RIN 0690–XX01

Unfunded Mandates Reform Act; Intergovernmental Consultation

AGENCY: Department of Commerce.

ACTION: Notice of proposed statement of policy.

SUMMARY: The Department of Commerce (DOC) is publishing its Proposed Statement of Policy on Intergovernmental Consultation under the Unfunded Mandates Reform Act of 1995 for public comment. DOC's proposed policy reflects the guidelines and instructions the Director of the Office of Management and Budget (OMB) provided to each agency to develop an intergovernmental consultation process with regard to significant intergovernmental mandates contained in a notice of proposed rulemaking with input from State, local, and tribal officials.

DATES: Comments on this proposed statement of policy are due on or before April 15, 1996.

ADDRESSES: Comments may be submitted to the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, HCHB Room 5876, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Daniel Cohen, Attorney Advisor, at (202) 482–4144.

SUPPLEMENTARY INFORMATION: The President signed the Unfunded Mandates Reform Act of 1995 (the Act) into law as Public Law 104–4 on March 22, 1995. Section 204(a) of the Act requires each agency to develop, to the extent permitted by law, an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments in the development of a regulatory proposal containing a proposed "significant intergovernmental mandate" that is not a requirement specifically set forth in law. 2 U.S.C. 1531, 1534(a). A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that: (1) would impose an enforceable duty upon State, local, or tribal governments (except as a condition of Federal assistance); and (2) may result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year.

See 2 U.S.C. 658(5)(A)(i), 1532(a). DOC does not believe it has regulations to which the Act applies, nor does it anticipate that the legal authorities under which it promulgates regulations make future unfunded mandates, as defined in the Act, likely. Nonetheless, DOC publishes this notice and invites comments from State, local, and tribal governments, to conform fully with the spirit, intent and letter of the Act, and to have in place a process for any unfunded mandate which could affect the operations of the Department in the future.

Section 204(b) of the Act excepts intergovernmental communications in certain circumstances from the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. Those circumstances involve meetings: (1) exclusively between Federal officials and State, local elected officials or their designees; and (2) solely for the purposes of exchanging views, information, or advice relating to Federal programs established pursuant to a statute that explicitly or inherently provides for sharing intergovernmental responsibilities or administration. 2 U.S.C. 1534(b).

Section 204(c) of the Act requires the President to issue guidelines and instructions for implementing sections 204 (a) and (b). 2 U.S.C. 1534(c). This authority was delegated to the Director of OMB who published the guidelines and instructions on September 29, 1995 (60 FR 50651).

Paragraph I of the OMB guidelines and instructions provides that each agency develop, in consultation with State, local, and tribal governments, the intergovernmental consultation process required by section 204(a) of the Act. Paragraph I also calls for agencies to develop the process by making a proposal for comments by State, local and tribal governments. Accordingly, DOC is sending copies of today's proposed statement of policy to a list of elected State and local officials and of associations representing State and local governments compiled by the Deputy Assistant Secretary for Intergovernmental Affairs. To ensure that all such officials have the opportunity to participate and because there may be wider interest in DOC's process for intergovernmental consultation under the Act, DOC is also publishing this notice for public comment.

Section 203 of the Act supplements section 204(a). 2 U.S.C. 1533. It requires that, prior to establishing regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals. The Act defines "small government" to mean any small governmental jurisdiction defined in the Regulatory Flexibility Act, 5 U.S.C. 601(5), and any tribal government. 2 U.S.C. 658(11).

Both the Act and the OMB guidelines and instructions imply that agencies must make affirmative efforts to notify State, local, and tribal officials in addition to publishing a notice of proposed rulemaking in the **Federal Register**. Today's proposed statement of policy describes the extent and content of the pre-proposal notice and opportunity to consult.

The proposed policy differentiates between State elected officials (or their designees) on the one hand and local elected officials (or their designees) on the other. DOC will attempt to send notices to the former, but the latter are so numerous that DOC proposes to give notice through appropriate associations who represent local governments, and through the **Federal Register**.

The Act requires agencies to estimate the dollar impact of prospective Federal mandates to determine whether they exceed the $100 million annual threshold, and therefore are "significant," as defined in the Act. The Act requires adjustment of the $100 million figure for inflation in years after 1995, but it is silent on: (1) how to adjust for inflation; and (2) whether and how to adjust estimated future expenditures for the time value of money. Under the proposed policy, DOC would adjust for inflation using the figures provided in the Annual Report of the President's Council of Economic Advisers, and discount to present value using OMB Circular A–94 which currently provides for 7 percent as a discount rate for government-wide use.

Dated: January 30, 1996

Jane Bobbitt,

Assistant Secretary for Legislative and Intergovernmental Affairs.

Based of the foregoing, DOC proposes this Statement of Policy:

Statement of Policy on the Process for Intergovernmental Consultation Under the Unfunded Mandates Reform Act of 1995

I. Purpose

This Statement of Policy implements sections 203 and 204 of the Unfunded Mandates Reform Act of 1995 (Act), 2 U.S.C. 1533, 1534, consistent with the guidelines and instructions of the Director of the Office of Management and Budget (OMB).

II. Applicability

This Statement of Policy applies to the development of any regulation (other than a regulation for a financial assistance program) containing a significant intergovernmental mandate under the Act. A significant intergovernmental mandate is a mandate that: (1) would impose an enforceable duty upon State, local, or tribal governments (except as a condition of Federal assistance); and (2) may result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. DOC officials may apply this Statement of Policy selectively if there is a need for immediate agency action that would warrant waiver of prior notice and opportunity for public comment under the Administrative Procedure Act, 5 U.S.C. 553.

III. Intergovernmental Consultation

When to begin. As early as practicable in the development of a notice of proposed rulemaking (for other than a financial assistance program) that involves an enforceable duty on State, local, or tribal governments, the responsible Secretarial Officer, in consultation with the Office of the General Counsel, should estimate whether the aggregate compliance expenditures will be in the amount of $100 million or more in any one year. In making such an estimate, the Secretarial Officer should adjust the $100 million figure in years after 1995 using the rate of inflation in the Annual Report of the President's Council of Economic Advisers, and should discount estimated future expenditures to present value, using the discount rate under OMB Circular A–94.

Content of notice. Upon determining that a proposed regulatory mandate on State, local, or tribal governments may be a significant intergovernmental mandate, the Secretarial Officer responsible for the rulemaking should provide adequate notice to pertinent government officials: (1) describing the nature and authority for the rulemaking; (2) explaining DOC's estimate of the resulting increase in their governmental expenditure level; (3) inviting them to participate in developing the notice of proposed rulemaking by participating in meetings with DOC or by presenting their views in writing on the likely effects of the regulatory requirement or legally available policy alternatives that DOC should take into account. If the authorizing statute for a rule requires publication of an advance notice of proposed rulemaking, then those content requirements may be addressed in that advance notice.

How to notify State and tribal officials. With respect to State and tribal governments, Secretarial Officers should give notice by letter, making use of mailing lists maintained by the Deputy Assistant Secretary for Intergovernmental Affairs, that includes, among others, elected chief executives (or their designees), the National Governors Association, and the National Conference of State Legislatures. The Secretarial Officer should also publish a notice in the **Federal Register**.

How to notify local officials. With respect to local governments, the Secretarial Officer should provide notice through the **Federal Register** and by letter to the following associations: the National League of Cities, the National Association of Counties, and the U.S. Conference of Mayors. If a significant intergovernmental mandate might affect local governments in a limited area of the United States, the Secretarial Officer, in consultation with the Deputy Assistant Secretary for Intergovernmental Affairs, should, if practicable, give notice by letter to appropriate local officials.

Exemption from the Federal Advisory Committee Act. Secretarial Officers are encouraged to meet with elected officials (or their designees) to exchange views, information, and advice concerning the implementation of intergovernmental responsibilities or administration. Meetings for this purpose that do not include other members of the public are exempt from the Federal Advisory Committee Act. 2 U.S.C. 1534(b).

Small government consultation plan. If the proposed regulatory requirements might significantly or uniquely affect small governments, as defined in the Regulatory Flexibility Act, 5 U.S.C. § 601(5), then the Secretarial Officer should summarize the agency's plan for intergovernmental consultation under section 203 of the Act in the Supplementary Information section of the notice of proposed rulemaking. Unless impracticable, the plan should provide for notice by letter to potentially affected small governments.

Documenting compliance. The Supplementary Information section of any notice of proposed and final rulemaking involving a significant intergovernmental mandate should describe DOC's determinations and compliance activities under the Act. The Supplementary Information section of the notice of proposed rulemaking should describe the estimated impact of such a mandate, the assumptions underlying its calculation, and the resulting determination of whether the rulemaking involves a significant intergovernmental mandate. It should discuss, as appropriate, cost and benefit estimates and any reasonable suggestions received during prior intergovernmental consultations. Any substantive pre-notice written communications on the proposed rulemaking should be described in the Supplementary Information, and should be made available for inspection in the Central Reference and Records Facility, Room 6204, Herbert Clark Hoover Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. The final rule should contain a response to significant comments received.

Reporting. Pursuant to OMB guidelines and instructions, the DOC Office of the General Counsel, with assistance from the Secretarial Officers, will prepare the annual report to OMB on compliance with the intergovernmental consultation requirements of the Act (initially due on January 15, 1996, and annually on that date thereafter).

[FR Doc. 96–3113 Filed 2–12–96; 8:45 am]

BILLING CODE 3510–GB–P

Bureau of Export Administration

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held March 7, 1996, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion on Executive Order on licensing processing.
4. Discussion on Export Administration Regulations reform.

Executive Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OAS/EA/BXA—Room 3886C, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 13, 1995, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: February 7, 1996.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 96–3204 Filed 2–12–96; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Scope Rulings and Anticircumvention Inquiries.

SUMMARY: The Department of Commerce (the Department) hereby publishes a list of scope rulings and anticircumvention inquiries completed between October 1, 1995, and December 31, 1995. In conjunction with this list, the Department is also publishing a list of

pending requests for scope clarifications and anticircumvention inquiries. The Department intends to publish future lists within 30 days of the end of each quarter.

EFFECTIVE DATE: February 13, 1996.

FOR FURTHER INFORMATION CONTACT: Ronald M. Trentham, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC. 20230; telephone: (202) 482–4793.

Background

The Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months.

This notice lists scope rulings and anticircumvention inquiries completed between October 1, 1995, and December 31, 1995, and pending scope clarification and anticircumvention inquiry requests. The Department intends to publish in April 1996 a notice of scope rulings and anticircumvention inquiries completed between January 1, 1996, and March 31, 1996, as well as pending scope clarification and anticircumvention inquiry requests.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

I. Scope Rulings Completed Between October 1, 1995, and December 31, 1995

Country: Sweden

A–401–040—*Stainless Steel Plate*
Armco, Inc., G.O. Carlson, Allegheny Ludlum Corp., and Washington Steel Corp.—Stavax, Ramax, and 904 L when forged are within the scope of the order. 11/2/95.

Country: Japan

A–588–405—*Cellular Mobile Telephones and Subassemblies*
Matsushita Communications Industrial Corporation of America and its related entities—the Matsushita EB–H70, EB–H705, EB–H7071, and EB–H7075 portable cellular telephones (PCTs) are outside the scope of the order. 10/24/95.

A–588–702—*Stainless-Steel Butt-Weld Pipe Fittings*
Daido Steel Co., Ltd.—primet joint metal seal fittings and primet joint weld fittings produced by Daido are outside the scope of the order. 10/24/95.

Benkan America, Inc. and Benkan UCT Corporation (Benkan)—sleeves of clean vacuum couplings (CVCs) and super-clean microfittings (SCMs) manufactured by Benkan are outside the scope of the order. 10/24/95.

A–588–809—*Small Business Telephone Systems and Subassemblies and Parts Thereof*
Iwatsu America, Inc. and Iwatsu Electric Co.—certain dual use subassemblies (a caller ID trunk unit and a station interface circuit card) are outside the scope of the order. 11/3/95.

II. Anticircumvention Rulings Completed Between October 1, 1995, and December 31, 1995

Country: Japan

A–588–602—*Carbon Steel Butt-Weld Pipe Fittings*
U.S. Fittings Group—Anticircumvention inquiry to determine whether a producer of carbon steel butt-weld pipe fittings in Japan is circumventing the antidumping duty order by shipping parts to Thailand for processing and importing the finished product into the United States. Negative final determination of circumvention published 11/27/95.

III. Scope Inquiries Terminated Between October 1, 1995 and December 31, 1995

Country: Canada

A–122–823—*Certain Cut-to-Length Carbon Steel Plate*
Sidbec-Dosco Inc., and Canberra Industries—Clarification to determine whether hot-rolled carbon steel plate containing little or no Cobalt 60 is within the scope of the order. Scope inquiry terminated on 11/6/95.

Country: Japan

A–588–029—*Fishnetting of Man Made Fiber*
Trans-Pacific Trading, Inc.—Clarification to determine whether salmon gill fish netting of man-made fibers are within the scope of the order. Scope inquiry terminated on 11/6/95.

A–588–405—*Cellular Mobile Telephones and Subassemblies*
TDK Corporation of America—Clarification to determine whether duplexers, voltage control oscillators, and isolators are within the scope of the order. Scope inquiry terminated on 10/26/95.

IV. Anticircumvention Inquiries Terminated Between October 1, 1995 and December 31, 1995

Country: Germany

A–428–811—*Hot-Rolled Lead and Bismuth Carbon Steel Products*
Inland Steel Bar Company and USS Kolbe Steel Company—Anticircumvention inquiry to determine whether a producer of steel in Germany is circumventing the antidumping duty order by shipping leaded steel billets to its wholly-owned subsidiary in the Netherlands, hot-rolling the billets into bars and rods, and then exporting them to the United States. Anticircumvention inquiry terminated on 10/5/95.

V. Pending Scope Clarification Requests as of December 31, 1995

Country: Mexico

A–201–802—*Gray Portland Cement and Cement Clinker*
Cementos de Chihuahua S.A. de C.V. and Mexcement, Inc.—Clarification to determine whether masonry cement is within the scope of the order.

A–201–805—*Circular Welded Non-Alloy Steel Pipe*
Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.
Tubacero International Corporation—Clarification to determine whether circular welded carbon steel piping, 16 inches in outside diameter with 3/8 inch wall thickness, for use in extremely heavy load bearing applications, is within the scope of the order.

Country: Venezuela

A–307–805—*Circular Welded Non-Alloy Steel Pipe*
Self-initiation. Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

Country: Brazil

A–351–809—*Circular Welded Non-Alloy Steel Pipe*
Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

A–351–817, C–351–818—*Certain Cut-to-Length Carbon Steel Plate*
Wirth Limited—Clarification to determine whether profile slabs produced by Companhia Siderurgica de Tubarao and imported by Wirth Limited are within the scope of the order.

Country: France

A–427–078—*Sugar*
Boiron-Borneman, Inc.—Clarification to determine whether manufactured homeopathic sugar pellets are within the scope of the finding.

Country: Germany

A–428–801—*Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof*
Marquardt Switches—Clarification to determine whether certain medium carbon steel balls are within the scope of the order.
Enkotec Company, Inc.—Clarification to determine whether the "main bearings" imported for incorporation into Enkotec Rotary Nail Machines are slewing rings and, therefore, outside the scope of the order.

Country: Turkey

A–489–501—*Welded Carbon Steel Standard Pipe and Tube Products*
Allied Tube and Conduit Corporation, Wheatland Tube Company, Laclede Steel Company, Sharon Tube Company, and Sawhill Tubular Division of Armco, Inc.—Clarification to determine whether pipe and tube which meets the order's physical specifications, when intended for or actually used as standard pipe and tube, is included within the scope of the order.

Country: Singapore

A–559–801—*Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof*
Rockwell International Corporation—Clarification to determine whether an automotive component known as a cushion suspension unit (or cushion assembly unit or bearing assembly) is within the scope of the order.

Country: People's Republic of China

A–570–504—*Petroleum Wax Candles*
Mervyn's—Clarification to determine whether a candle, article no. 20172, in the shape of a cube is within the scope of the order.
Enesco Corporation—Clarification to determine whether 10 styles of candles imported from the PRC are within the scope of the order.
Midwest of Cannon Falls—Clarification to determine whether 7 styles of candles imported from the PRC are within the scope of the order.

A–570–808—*Chrome-Plated Lug Nuts*
Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.
Wheel Plus, Inc.—Clarification to determine whether imported zinc-plated lug nuts which are chrome-plated in the United States are within the scope of the order.

A–570–820—*Certain Compact Ductile Iron Waterworks (CDIW) Fittings and Glands*
Star Pipe Products, Inc.—Clarification to determine whether "retainer glands" are within the scope of the order.

Country: Korea

A–580–809—*Circular Welded Non-Alloy Steel Pipe*
Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

Country: Taiwan

A–583–810—*Chrome-Plated Lug Nuts*
Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.

Country: Japan

A–588–055—*Acrylic Sheet from Japan*
Sumitomo Chemical Co., Ltd.—Clarification to determine whether Sumielec, an acrylic based antistatic material, is within the scope of the order.

A–588–405—*Cellular Mobile Telephones and Subassemblies*
Matsushita Communication Industrial Corporation and related entities—Clarification to determine whether Panasonic portable cellular telephone (PCT) hands-free device, model number EB–HF7002, is within the scope of the order.

A–588–702—*Stainless Steel Butt-Weld Pipe Fittings*
Benkan America, Inc. and Benkan UCT Corporation—Clarification to determine whether the superclean fittings (SCFs) manufactured by Benkan UCT are within the scope of the order.

A–588–802—*3½" Microdisks*
TDK Inc., TDK Electronics Co.—Clarification to determine whether certain web roll media are within the scope of the order.

A–588–804—*Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof*
Dana Corporation—Clarification to determine whether an automotive component known variously as a center bracket assembly, center bearing assembly, support bracket, or shaft support bearing, is within the scope of the order.
Rockwell International Corporation—Clarification to determine whether an automotive component known as a cushion suspension unit (or cushion assembly unit or center bearing assembly) is within the scope of the order.

A–588–807—*Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured*

Honda Power Equipment Manufacturing Inc. (HPE)—Clarification to determine whether certain belts HPE imports from Japan for use in manufacturing lawn tractors and riding lawn mowers are within the scope of the order.

A–588–809—*Small Business Telephone Systems and Subassemblies and Parts Thereof*

Iwatsu America, Inc. and Iwatsu Electric Co.—Clarification to determine whether certain dual use subassemblies (central processing units and read-only-memory units) are within the scope of the order.

A–588–810—*Mechanical Transfer Presses*

Komatsu Ltd.—Clarification to determine whether certain mechanical transfer press parts exported from Japan are within the scope of the order.

A–588–815—*Gray Portland Cement and Clinker*

Surecrete, Inc.—Clarification to determine whether New Super Fine Cement manufactured by Nittetsu Cement Co., Ltd., is within the scope of the order.

VI. Pending Anticircumvention Inquiries as of December 31, 1995

None.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 5, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–3202 Filed 2–12–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 020596C]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting via conference call on February 15, 1996.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates and times.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for location of listening phones.

Council Address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to consider emergency action to reduce the commercial size limit for red snapper from 15 inches (38.10 cm) to 14 inches (35.56 cm) (total length). This action is being considered due to delays in implementing two other amendments that proposed to make this change. These delays resulted from the budget furlough of Federal employees.

The conference call is scheduled for February 15, 1996 beginning at 10:00 a.m. e.s.t./9:00 a.m. c.s.t.

Listening phones will be located at each of the following locations:

NMFS Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, FL; telephone: 813–570–5335;

NMFS Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL; telephone: 904–234–6541;

NMFS Pascagoula Laboratory, 3209 Fredrick Street, Pascagoula, MS; telephone: 601–762–4591;

NMFS Galveston Laboratory, 4700 Avenue U, Galveston, TX; telephone: 409–766–3500;

Community Center, Louisiana Highway 1, Grand Isle, LA; telephone: 504–787–2163.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: February 7, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3111 Filed 2–12–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 013196B]

Mid-Atlantic Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council), together with the Atlantic States Marine Fisheries Commission's (ASFMC) Summer Flounder Board, the Surfclam and Ocean Quahog Committee, and the Industry Advisory Subcommittee, will hold public meetings.

DATES: The meetings will be held on February 20–22, 1996.

ADDRESSES: The meetings will be held at the Sheraton Inn Resort and Conference Center, 6821 Black Horse Pike, W. Atlantic City, NJ; telephone: 1–800–782–9237.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: The Surfclam and Ocean Quahog Committee will meet on February 20, from 1:00 p.m. to 4:00 p.m. The Demersal Species Committee together with the ASMFC's Summer Flounder Board will meet February 21, from 8:00 a.m. until 12 noon. The Council will meet from 1:00 p.m. to 5:00 p.m. The Council will meet February 22, from 8:00 a.m. until 12 noon. Main agenda items for this meeting are to review overfishing definitions for surfclams and ocean quahogs and discuss alternatives for Amendment 9 to the Summer Flounder Plan.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting dates.

Dated: February 6, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3088 Filed 2–12–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Coverage of Import Limits and Visa and Certification Requirements for Certain Part-Categories Produced or Manufactured in Various Countries

February 7, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending coverage for import limits and visa and certification requirements.

EFFECTIVE DATE: February 14, 1996.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

To facilitate implementation of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), and textile agreements and export visa arrangements based upon the Harmonized Tariff Schedule (HTS), for goods entered into the United States for consumption or withdrawn from warehouse for consumption on and after January 1, 1996 for part-Categories 647–W and 669–P, regardless of the date of export, certain HTS classification numbers are being changed on all import controls and on all visa and certification arrangements for countries with these part-categories. These changes were published in the 1996 Harmonized Tariff Schedule.

The changes in the HTS numbers will be reflected in the 1996 CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see 60 FR 65299, published on December 19, 1995).

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 7, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all monitoring and import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which include man-made fiber textile products in part-Categories 647–W and 669–P, produced or manufactured in various countries and imported into the United States on and after January 1, 1996.

Also, this directive amends, but does not cancel, all directives establishing visa and certification requirements for part-Categories 647–W and 669–P for which visa arrangements are in place with the Government of the United States.

Effective on February 14, 1996, you are directed to make the changes shown below in the aforementioned directives for goods entered in the United States for consumption or withdrawn from warehouse for consumption on and after January 1, 1996 for part-Categories 647–W and 669–P, regardless of the date of export:

Category	Obsolete number	New number
647–W	6203.49.2010	6203.49.2015.
	6203.49.2040	6203.49.2045.
669–P	6305.31.0010	6305.32.0010.
		6305.33.0010.
	6305.31.0020	6305.32.0020.
		6305.33.0020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–3203 Filed 2–12–96; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Request for Comments Concerning Proposed Request for Approval of a Collection of Information—Safety Standard for Automatic Residential Garage Door Operators

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed request for approval of a collection of information from manufacturers and importers of residential garage door operators. The collection of information consists of testing and recordkeeping requirements in certification regulations implementing the Safety Standard for Automatic Residential Garage Door Operators (16 CFR Part 1211). The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than April 15, 1996.

ADDRESSES: Written comments should be captioned "Residential Garage Door Operators" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the proposed request for approval of the collection of information, or to obtain a copy of 16 CFR Part 1211, call or write Nicholas V. Marchica, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416, extension 2243.

SUPPLEMENTARY INFORMATION: In 1990, Congress enacted legislation requiring residential garage door operators to comply with the provisions of a standard published by Underwriters Laboratories to protect against entrapment. The Consumer Product Safety Improvement Act of 1990 (the Improvement Act) (Pub. L. 101–608, 104 Stat. 3110) includes requirements that residential garage door operators manufactured on or after January 1, 1993, must comply with the entrapment protection provisions in UL Standard 325 in effect on or before January 1, 1992. The entrapment protection requirements of UL Standard 325 are codified as the Safety Standard for Automatic Residential Garage Door Operators, 16 CFR Part 1211.

A. Certification Requirements

The Improvement Act provides that UL Standard 325 shall be considered to be a consumer product safety standard issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2058). Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, importers, and private labelers of a consumer product subject to a consumer product safety standard to issue a certificate stating that the product complies with all applicable consumer product safety standards. Section 14(a) of the CPSA also requires that the certificate of compliance must be based on a test of each product or upon a reasonable testing program.

Section 14(b) of the CPSA (15 U.S.C. 2063(b)) authorizes the Commission to issue regulations to prescribe a

reasonable testing program to support certificates of compliance with a consumer product safety standard. Section 14(b) of the CPSA allows firms which are required to issue certificates of compliance to use an independent third-party organization to conduct the testing required to support the certificate of compliance.

Section 16(b) of the CPSA (15 U.S.C. 2065(b)) authorizes the Commission to issue rules to require establishment and maintenance of records necessary to implement the CPSA or determine compliance with rules issued under the authority of the CPSA. On December 22, 1992, the Commission issued rules prescribing requirements for a reasonable testing program to support certificates of compliance with the Safety Standard for Automatic Residential Garage Door Operators (57 FR 60449). These regulations also require manufacturers, importers, and private labelers of residential garage door operators to establish and maintain records to demonstrate compliance with the requirements for testing to support certification of compliance. 16 CFR Part 1211, Subparts B and C.

The Commission uses the information compiled and maintained by manufacturers and importers of residential garage door operators to protect consumers from risks of death and injury resulting from entrapment accidents associated with garage door operators. More specifically, the Commission uses this information to determine whether the products produced and imported by those firms comply with the standard. The Commission also uses this information to facilitate corrective action if any residential garage door operators fail to comply with the standard in a manner that creates a substantial risk of injury to the public.

B. Estimated Burden

The Commission staff estimates that about 14 firms are subject to the testing and recordkeeping requirements of the certification regulations. Information available to the Commission staff indicates that all of these firms use the services of an independent third-party organization to conduct the testing and maintain the records necessary to satisfy the requirements of the certification regulations.

The Commission staff estimates that after an initial one-time test to establish that a garage door operator complies with the requirements of the standard, the annual cost to a manufacturer or importer of garage door operators for the inspection and certification services of a third-party organization is approximately $1,200 per year. Thus, the total annual burden imposed by the certification regulations on all manufacturers and importers of garage door operators is about $16,800.

During a typical year, the Commission will expend approximately one week of professional staff time reviewing records required to be maintained by the certification regulations for residential garage door operators. The annual cost to the Federal government of the collection of information in these regulations is estimated to be $1,400.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed request for approval of the collection of information in the certification and recordkeeping regulations for residential garage door operators. The Commission specifically solicits information about the hourly burden and monetary costs imposed by the collection of information on firms subject to this collection of information. The Commission also seeks information relevant to the following topics:

- Whether the collection of information is necessary for the proper performance of the Commission's functions;
- Whether the information will have practical utility for the Commission;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other form of information technology.

Dated: February 7, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–3199 Filed 2–12–96; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of Meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered are partnership successes within DoD and action items related to the Defense Partnership Council Plan of Action.

DATES: The meeting is to be held Wednesday, March 6, 1996, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by March 1, 1996, in order to be considered at the March 6 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-served basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B–200, Arlington, VA 22209–5144, (703) 696–6301, ext. 704.

Dated: February 6, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3079 Filed 2–12–96; 8:45 am]

BILLING CODE 5000–04–M

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on March 5, 1996; March 12, 1996; and March 26, 1996, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: February 6, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3080 Filed 2–12–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Surface Warfare Center, Carderock Division, Annapolis Detachment

SUMMARY: This Notice provides information regarding (a) the redevelopment authority that has been established to plan the reuse of the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD, (b) the surplus property that is located at that base closure site, and (c) the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Mr. Scott L. Whiteford, Director, Real Estate Division, Engineering Field Activity-Chesapeake, 901 M Street, SE, Building 212, Washington, DC 20374, telephone (202) 685–3071. For more detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Commander Roger Walker, Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, 3A Leggett Circle, Annapolis, MD 21402–5067, telephone (410) 293–2536.

SUPPLEMENTARY INFORMATION: In 1995, the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, on 28 September 1995, land and facilities at this installation were declared excess to the Department of the Navy and available for use by other federal agencies. No interest has been expressed.

Notice of Surplus Property

Pursuant to paragraph (7)(b) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the redevelopment authority for and surplus property at the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Surface Warfare Center, Annapolis Detachment, Carderock Division, Annapolis, MD for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Anne Arundel County Local Reuse Planning Authority, chaired by Mr. Samuel F. Minnitte, Jr. The Anne Arundel County Local Reuse Planning Authority was appointed by County Executive to provide advice concerning the redevelopment of the closing base. A cross section of community interest is represented on the Anne Arundel County Local Reuse Planning Authority. Day to day operations of the Anne Arundel County Local Reuse Planning Authority are handled by the Project Manager, Mr. Minnitte. The address of the redevelopment authority is Anne Arundel County Maryland, Office of Land Use and Environment, 2662 Riva Road, Annapolis, MD 21401–7374, telephone (410) 222–7502.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD that are surplus to the federal government.

Land

Approximately 67.43 acres of improved and unimproved fee simple land at the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD. 43.67 acres are at the main site and 23.76 acres are at the Nike Field Site on Bayhead Road. In general, all areas will be available upon the closure of the base, anticipated for December 1999.

Buildings

The following is a summary of the facilities located on the above described land, (with square footage), which will also be available when the base closes in December 1999, unless otherwise indicated. Property numbers are available on request. 30 Storage Buildings (62,759), 1 Anechoic Facility (17,980), 1 Research Lab/Office (126,244), 1 Cafeteria (7,632), 3 Chemical Labs/Office (21,050), 1 Detection Systems Labs (2,600), 9 Electrical Systems Labs (20,087), 2 Environmental Labs (16,370), 1 Gun Mount/Lab (400), 1 Lab Silo (4,351), 1 Lab/Shop/Office (80,507), 6 Marine EQ Labs/Offices (20,393), 1 Marine Systems Lab (9,361), 15 Materials Labs (92,729), 1 Metrology/Calibration Lab (5,187), 3 Propulsion Systems Labs (65,624), 1 Public Works Equipment Shed (1,600), 3 Public Works Shops (10,786), 2 Recreation Pavilions (1,654), 1 Small Craft Fuel Station (120), 1 Technical Service Lab (1,080), 1 Tennis Court (7,200), 1 Underwater Equipment Lab (16,116), 1 Vehicle Shop/Office (10,881), 1 Welding/Fabrication Shop (10,729), 1 Welding RDT&E Lab (800), 3 Transformer Stations (7,625).

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, state and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Surface Warfare Center, Annapolis Detachment, Carderock Division, Annapolis, MD shall submit to the said redevelopment authority (Anne Arundel County Local Reuse Planning Authority) a notice of interest, of such governments, representatives and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(c) and (d) of said Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Maryland the date by which expressions of interest must be submitted.

Dated: February 1, 1996.

Michael A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–3087 Filed 2–12–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 14, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 7, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Revision.
Title: The Even Start Family Literacy Program for Federally Recognized Indian Tribes and Tribal Organizations.
Frequency: Annually.
Affected Public: State, Local, Tribal Governments.
Annual Reporting and Recordkeeping Burden:
Responses: 50.
Burden Hours: 750.
Abstract: The Even Start Family Literacy Program for federally recognized Indian tribes and tribal organizations is designed to help break the cycle of poverty and improve literacy by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified literacy program.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.
Title: Consolidated State Plan, Section 14302 of the ESEA.
Frequency: One Time.
Affected Public: State, Local, Tribal Governments, SEAs or LEAs.
Annual Reporting and Recordkeeping Burden:
Responses: 54.
Burden Hours: 12,744.
Abstract: In order to improve teaching and learning through better coordination and integration of program activities, SEAs may submit final consolidated State plans under Section 14302 of the ESEA. Submitting a consolidated plan will allow a State to obtain funds under many Federal programs through a single plan, rather than through separate program plans or applications.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.
Title: Early Intervention Program for Infants & Toddlers with Disabilities Under the Individuals with Disabilities Education Act (IDEA)
Frequency: Annually.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs
Reporting Burden and Recordkeeping:
Responses: 57.
Burden Hours: 1,140.
Abstract: Grant application package including certifications and forms. Each eligible State submits an application that contains descriptions of required components of statewide system of early intervention services to ensure compliance with the statute. Completion of items in the application package assures a level of uniformity of system's information provided across the States for services for infants and toddlers with disabilities and their families.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: State Student Incentive Grant (SSIG) Program.
Frequency: Annually.
Affected Public: State, local or Tribal Gov't, SEAs, LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 57
Burden Hours: 228
Abstract: The SSIG Program uses matching Federal/State funds to provide a nationwide system of grants to assist postsecondary education students with substantial financial need. On this application the states provide information the Department requires to obligate program funds and for program management. The signed assurance legally bind the states to administer the program according to regulatory and statutory requirements.

[FR Doc. 96–3086 Filed 2–12–96; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Requested Transmission Rate Adjustment Under Northwest Regional Transmission Association Agreement, Public Hearing, and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of special arbitration proceeding under section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839e(i) and Section 12.5 of the Northwest Regional Transmission Association Governing Agreement.

SUMMARY: BPA File No: NRTA–BPA–1. BPA requests that all comments and documents intended to become part of the Official Record in this process contain the file number designation NRTA–BPA–1.

BPA and the British Columbia Power Exchange Corporation (Powerex) are signatories to the Northwest Regional Transmission Association (NRTA) Governing Agreement (Agreement). The NRTA is intended to facilitate the efficient use of existing transmission facilities, coordinate the planning of transmission system expansions, and expedite the resolution of disputes concerning transmission. Members of the Association may obtain arbitration of transmission disputes, including disputes over transmission access and rates.

This proceeding is undertaken pursuant to section 12.5 of the NRTA Governing Agreement to determine a BPA Rate Issue Dispute between the parties. Section 12.5 provides for an expedited BPA rate proceeding pursuant to section 7(i) of the Northwest Power Act and the additional procedures set forth in Section 12.5 of the Agreement when a Rate Issue Dispute arises in an NRTA dispute resolution between BPA, as the transmission provider, and another NRTA member. The proceeding shall determine the issue in dispute unless (1) BPA has previously initiated a hearing under section 7(i) which includes the issue in dispute and (2) the arbitrator finds on the basis of standards in the Governing Agreement that the Rate Issue Dispute should be resolved in the previously-initiated rate proceeding. Because Powerex has raised similar issues in the current BPA 1996 transmission rate case, the Hearing Officer will first determine the appropriateness of initiating an additional proceeding.

DATES: Persons wishing to become a formal "party" or a "participant" to the proceeding must notify the Hearing Officer in writing of their intention to do so in accordance with requirements stated in this Notice. See also Procedures Governing Bonneville Power Administration Rate Hearings, 51 FR 7611 (March 5, 1986), which the Hearing Officer may adopt for this proceeding. Petitions to intervene must be received by close of business February 21, 1996, and should be addressed as follows:

Michael C. Dotten, Hearing Officer,
Heller, Ehrman, White & McAuliffe,
200 S.W. Market, Suite 1750,
Portland, Oregon 97201, (503) 227–7400

In addition, a copy of the petition must be served concurrently on BPA's Office of Legal Services and on counsel for Powerex:

Janet L. Prewitt—LQ, Stephen Larson—LN, Office of Legal Services, Bonneville Power Administration, Box 3621, Portland, Oregon 97208–97212

Paul W. Fox, Bracewell & Patterson, L.L.P., 100 Congress Ave, Suite 1900, Austin, Texas 78701–4052

Admission to the proceeding as an intervenor party or as a participant will be determined by the Hearing Officer. Parties seeking to intervene with "party" status should so specify; parties seeking only "participant" status should so specify. A "participant" is person who submits written or oral recommendations for the record but is not a party. Intervention in this proceeding will be subject to the dispute resolution provisions of Section 12 of the Governing Agreement.

Briefs on Issue Number 1 and Issue Number 2 of the Disputing Parties' Agreed Statement of the Issues (below) ("the threshold procedural issues") must be filed with the Hearing Officer by close of business February 21, 1996. A prehearing conference will be held before the Hearing Officer at 9 a.m. on February 28, 1996, in the Auditorium, 911 N.E. 11th Street, Portland, Oregon. Registration for the prehearing conference will begin at 8:30 a.m. The Hearing Officer will act on all intervention petitions and oppositions to intervention petitions, rule on the threshold procedural issues, rule on any motions and, if necessary, establish procedures to govern this proceeding, establish a service list, establish a procedural schedule, and consolidate parties with similar interests for purposes of filing jointly sponsored testimony and briefs, and for expediting any necessary cross-examination. A notice of the dates and times of any additional hearings will be mailed to all parties of record. Objections to orders made by the Hearing Officer at the prehearing conference must be made in person or through a representative at the prehearing conference.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Hansen, Public Involvement and Information Specialist-CK, P.O. Box 12999, Portland, OR 97212, (503) 230–4328 or call toll-free 1–800–622–4519.

SUPPLEMENTARY INFORMATION: Powerex's Request is made under the NRTA Agreement. Powerex in its Request seeks firm and nonfirm Point-to-Point Transmission Service over the Northern Intertie and the Network at a single rolled-in-rate. Powerex also seeks nondiscriminatory discounting of such rate, and to treat the points of interconnection between the FCRTS and the BC Hydro system on the United States-Canada border near Blaine, Washington and Nelway, British Columbia as Points of Integration and Points of Delivery for the Network. BPA has denied Powerex's Request and Powerex has initiated this NRTA dispute resolution proceeding.

In the previously initiated 1996 BPA transmission rate proceeding, BPA has proposed to continue separately identifying a rate for the Northern Intertie segment. Powerex has opposed this rate and has argued that the Northern Intertie facilities should no longer be treated by BPA as a separate segment. Consequently, the parties have agreed to first obtain the Hearing Officer's determination of the threshold procedural issues, i.e., whether pursuant to the criteria described in the Agreement, the substantive issues in dispute should be addressed in this proceeding or in the previously-initiated rate proceeding. The criteria for addressing the substantive issues in the arbitration proceeding explained in the "Disputing Parties' Agreed Statement of the Issues."

Disputing Parties' Agreed Statement of the Issues

BPA and Powerex are members of the Northwest Regional Transmission Association. BPA and Powerex jointly agree that the following issues ("BPA Rate Issue Dispute") arising from Powerex's September 27, 1995, request to BPA for transmission service ("Request") shall be resolved by arbitration pursuant to Section 12 of the NRTA Governing Agreement:

Issue Number 1

Whether, under Subsection 12.5.1 of the NRTA Governing Agreement, resolution of this BPA Rate Issue Dispute in a separate proceeding under Subsection 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act ("Northwest Power Act") would frustrate or unnecessarily avoid the ongoing proceedings in BPA Docket WP–96/TR–96.

Issue Number 2

Whether, under Subsection 12.5.1 of the NRTA Governing Agreement, resolution of this BPA Rate Issue Dispute in the ongoing proceedings in BPA Docket WP–96/TR–96 would not materially frustrate Powerex's need for an expeditious decision regarding its Request.

Issue Number 3

Whether Powerex's Request is a "good faith transmission request" within the meaning of Subsection 10.4.1 of the NRTA Governing Agreement, the currently applicable standards and policies of the Federal Energy Regulatory Commission (FERC) regarding such requests and Section 213 of the Federal Power Act (FPA).

Issue Number 4

Whether the NRTA Governing Agreement, Subsection 212(i)(1)(ii) of the FPA and FERC's currently applicable standards and policies, require BPA to render firm and non-firm point-to-point service to Powerex over BPA's Northern Intertie and Network facilities, effective October 1, 1996, at rates under the PTP–96, RNF–96 and ET–96 and successor rate schedules that:

A. Reflect the roll-in of the costs of the Northern Intertie to Network revenue requirements;

B. Treat the points of interconnection between the Federal Columbia River Transmission System and the British Columbia Hydro and Power Authority System on the United States-Canada border near Blaine, Washington and Nelway, British Columbia as Points of Integration and Points of Delivery for the Network; and

C. Are subject to the Short Distance Discount for firm service and to nondiscriminatory discounting for nonfirm service.

Bonneville and Powerex have agreed on a qualified arbitrator who will also serve as the Hearing Officer (Hearing Officer) in the Special Proceeding to resolve such issues. Bonneville and Powerex agree to the Arbitrator deciding Issue Number 1 and Issue Number 2 at the initial prehearing conference to be scheduled in the **Federal Register** notice prescribed by Subsection 12.5.3.ii of the NRTA Governing Agreement (this Notice). Bonneville and Powerex further agree:

1. If the Hearing Officer at such prehearing conference makes affirmative findings with respect to both Issue Number 1 and Issue Number 2, the Hearing Officer shall also determine the procedural effect of the ruling, including but not limited to:

(a) Suspension of further arbitration procedures with respect to Issue Number 3 and Issue Number 4 until after the Administrator issues his decision in WP–96/TR–96; or

(b) Termination of this arbitration, without prejudice to Powerex pursuing such other and further rights as may be available to it under the NRTA governing agreement; and

2. That if the Arbitrator at such prehearing conference fails to make affirmative findings with respect to both Issue Number 1 and Issue Number 2, then the Arbitrator shall establish a procedural schedule for a separate proceeding under Subsection 7(i) of the Northwest Power Act to resolve Issue Number 3 and Issue Number 4.

BPA and Powerex agree that the remaining issues arising from Powerex's Request shall not be subject to arbitration at this time, without prejudice to Powerex seeking at a later date to invoke the dispute resolution provisions of the NRTA governing Agreement in the event:

1. Ongoing discussions between Bonneville and Powerex do not result in a satisfactory mutual agreement regarding available transmission capacity on the Northern Intertie; or

2. The transmission service issues raised by Powerex in the Request are not resolved to Powerex's satisfaction in BPA Docket TC–96.

If the Hearing Officer determines that the proceeding shall address the substantive issues, the relevant documents and testimony from WP/TR–96 will be identified and made available to all parties to the proceeding.

Issued in Portland, Oregon, on February 7, 1996.

Sue F. Hickey,

Chief Operating Officer.

[FR Doc. 96–3189 Filed 2–12–96; 8:45 am]

BILLING CODE 6450–01–P

Pittsburgh Energy Technology Center; Notice of Non-Competitive Financial Assistance Award

AGENCY: Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Determination of Non-Competitive award of a Cooperative Agreement with the Electric Power Research Institute.

SUMMARY: The U.S. Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC) announces that pursuant to 10 CFR 600.7(b)(2)(i), criteria (D), it intends to award a Cooperative Agreement to the Electric Power Research Institute for "DOE/EPRI Cooperation on Indian Greenhouse Gas Pollution Prevention Project". The Electric Power Research Institute has been determined to be a unique organization with unique qualifications in accordance with 10 CFR 600.7(b)(2)(i), criteria (D) and a competitive solicitation would be inappropriate.

ADDRESSES: U. S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236–0940.

FOR FURTHER INFORMATION CONTACT: William R. Mundorf, Contract Specialist, 412/892–4483.

SUPPLEMENTARY INFORMATION:

Cooperative Agreement No.

DE-FC22–96PC9

Title of Effort:

DOE/EPRI Cooperation on Indian Greenhouse Gas Pollution Prevention Project

Awardee

Electric Power Research Institute

Term of Assistance Award

Five (5) Years

Cost of Assistance Effort

The total estimated project value is $2,300,000.

Objective

The objectives of this project are to: (1) Reduce carbon dioxide emissions per kilowatt-hour generated in existing Indian coal-fired power plants, and (2) encourage Indian sugar mills to use of biomass fuels, rather than fossil fuels, year round in higher efficiency cogeneration plants. The effort will require extensive training, plant efficiency studies, and technology transfer.

Richard D. Rogus,

Contracting Officer.

[FR Doc. 96–3188 Filed 2–12–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP85–221–061]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

February 7, 1996.

Take notice that on January 31, 1996, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu, not to exceed 5 Bcf of Frontier's gas storage inventory on an "as metered" basis to WBI Gas Services, Company, for term ending January 31, 1997.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is "authorized to commence the sale of its inventory under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter."

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the **Federal Register,** file with the Federal Energy Regulatory Commission (888 1st Street N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–3102 Filed 2–12–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–138–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes In FERC Gas Tariff

February 7, 1996.

Take notice that on February 2, 1996, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective March 3, 1996:

Third Revised Sheet No. 403

Koch Gateway states that this filing is submitted as a limited application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. § 717c (1988), and Part 154 of the Rules and Regulations of the Federal Energy Regulatory Commission.

Koch Gateway states the above tariff sheet is being submitted to provide a more flexible injection schedule for its firm storage customers by increasing its injection capability near the end of the injection season at its Bistineau Storage Facility.

Koch Gateway also states that copies of its filing are being served upon Koch Gateway customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3105 Filed 2–12–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–157–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

February 7, 1996.

Take notice that on February 1, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP96–167–000 a request pursuant to Sections 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.216) for authorization to abandon certain facilities at the Glenns Ferry Meter Station in Elmore County, Idaho and to construct and operate upgraded replacement facilities at this station to more efficiently accommodate existing firm maximum daily delivery obligations at this delivery point to Intermountain Gas Company under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest states that since the existing regulators can not efficiently accommodate the existing peak hourly flow rates, it proposes to upgrade the Glenns Ferry Meter Station by replacing the two existing 1-inch regulators and appurtenances with two new 1-inch regulators and appurtenances.

In addition, Northwest states that, as a result of this replacement, the maximum design capacity of the meter station will increase from 1,117 Dth per day (as limited by the existing regulators) to approximately 1,867 Dth per day at 150 psig (as limited by the existing meters).

Northwest also states that no abandonment of service will occur and no impact on Northwest's system peak day or annual deliveries is projected to result from the proposed facility replacements at the Glenns Ferry Meter Station.

Northwest further states that the total cost of the proposed facility replacement at the Glenns Ferry Meter Station is estimated to be approximately $16,600; comprised of $15,600 for installation of the new facilities and $1,000 for removal of the old facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rue 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3103 Filed 2–12–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–40–000]

Southern Natural Gas Company; Notice of Refund Report

February 7, 1996.

Take notice that on December 14, 1995, Southern Natural Gas Company (Southern) tendered for filing with the Commission a Refund Report reflecting its refund of certain amounts to its eligible firm shippers. These amounts represent a flowthrough of refunds received from the Gas Research Institute (GRI). The report states that Southern refunded $943,835 to its eligible shippers on October 17, 1995, which represents the amount received from GRI as required by the Commission's Order dated February 22, 1995.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 14, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3104 Filed 2–12–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–2–17–001]

Texas Eastern Transmission Corporation; Notice of Proposed Changes In FERC Gas Tariff

February 7, 1996.

Take notice that on February 2, 1996, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following revised tariff sheets:

Second Revised Sheet No. 34C
Seventh Revised Sheet No. 631

The proposed effective date of these revised tariff sheets is January 1, 1996.

Texas Eastern states that the revised tariff sheets filed herewith are submitted pursuant to the Commission's Opinion No. 402 in supplement to those tariff sheets already filed by Texas Eastern and accepted by the Commission establishing revised GRI surcharges on Texas Eastern's system effective January 1, 1996. Texas Eastern states that it inadvertently excluded from its original 1996 GRI surcharge filing a revised tariff sheet reflecting the revised GRI surcharges as applicable to Texas Eastern's Rate Schedule FT–1 service utilizing facilities authorized in Docket No. CP94–654, Texas Eastern's Riverside/Flex-X® firm transportation project, as well as a reference to such tariff sheet in Texas Eastern's GRI tariff provision contained in Section 15.4 of the General Terms and Conditions.

Texas Eastern states that the sole purpose of this supplemental filing is to properly reflect the revised 1996 GRI surcharges pursuant to Opinion No. 402 for such Rate Schedule FT–1 Riverside project service.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern, interested state commissions, and all interruptible shippers as of the date of the filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3106 Filed 2–12–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–38–000, et al.]

NRGenerating Holdings (No. 4) B.V., et al.; Electric Rate and Corporate Regulation Filings

February 6, 1996.

Take notice that the following filings have been made with the Commission:

1. NRGenerating Holdings (No. 4) B.V.

[Docket No. EG96–38–000]

On February 2, 1996, NRGenerating Holdings (No. 4) B.V. ("Applicant"), with its principal office at c/o NRG Energy, Inc., Level 50, Rialto South Tower, 525 Collins Street, Melbourne, Victoria, 3000, Australia, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it holds an interest in a joint venture partnership organized under the laws of Australia, formed to acquire, own and operate a 1,450 megawatt brown coal-fired electric generating facility and adjacent brown coal open cut mine located in Victoria, Australia (the "Facility"). Electric energy produced by the Facility will be sold at wholesale to the Victoria Power Exchange. In no event will any electric energy be sold to consumers in the United States.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Northern States Power Company

[Docket No. EL94–94–000]

Take notice that on January 25, 1996, Northern States Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Company

[Docket No. ER95–491–000]

Take notice that on January 26, 1996, New England Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Century Power Corporation

[Docket No. ER96–768–000]

Take notice that on January 24, 1996, Tucson Electric Power Company tendered for filing a Certificate of Concurrence in the above-referenced docket.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Central Illinois Public Service Company

[Docket No. ER96–889–000]

Take notice that on January 23, 1996, Central Illinois Public Service Company (CIPS) submitted two Service Agreements, dated January 16, 1996, establishing Delhi Energy Services, Inc. (Delhi) and K N Marketing, Inc. (KNM) as customers under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of January 16, 1996 for the service agreements with Delhi and KNM. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Delhi, KNM and the Illinois Commerce Commission.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–890–000]

Take notice that on January 23, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for Cenergy, Inc. (Cenergy).

Con Edison states that a copy of this filing has been served by mail upon Cenergy.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–891–000]

Take notice that on January 23, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for Montaup Electric Company (Montaup).

Con Edison states that a copy of this filing has been served by mail upon Montaup.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of Colorado

[Docket No. ER96–892–000]

Take notice that on January 23, 1996, Public Service Company of Colorado, tendered for filing amendments to its Service Agreement No. 1 under FERC Electric Tariff, Original Volume No. 1. Under the proposed amendments Public Service is submitting revisions to Exhibits B and C, which set forth points of delivery and levels of power and energy transmitted by Platte River Power Authority and Public Service Company of Colorado, respectively. These amendments will have no impact on the rates for service under this Agreement.

Public Service requests an effective date of January 1, 1996 for the proposed amendments.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER96–893–000]

Take notice that on January 23, 1996, Southern California Edison Company (Edison), tendered for filing a change in rate for scheduling and dispatching services in Edison's Firm Transmission Service Agreement between the Arizona Public Service Company (APS) and Edison, FERC Rate Schedule No. 348.

Edison is requesting waiver of the 60-day prior notice requirements, and requests the Commission to assign to the Agreement an effective date concurrent with the effective date of the 1995 Settlement Agreement between Edison and APS in Docket Nos. ER76–205 *et al.*

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Houston Lighting & Power Company

[Docket No. ER96–895–000]

Take notice that on January 23, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Valero Power Services Company (Valero) for Economy, Energy and Emergency Power Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service to, from and over Certain HVDC Interconnections. HL&P has requested an effective date of January 19, 1996.

Copies of the filing were served on Valero and the Public Utility Commission of Texas.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Northern Indiana Public Service Company

[Docket No. ER96–896–000]

Take notice that on January 24, 1996, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Central Illinois Light Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Central Illinois Light Company under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Central Illinois Light Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Citizens Utilities Company

[Docket No. ER96–899–000]

Take notice that on January 22, 1996, Citizens Utilities Company tendered for filing copies of the Customer Service Agreement with Rochester Electric Light & Power Company.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. SuperSystems, Inc.

[Docket No. ER96–906–000]

Take notice that on January 24, 1996, SuperSystems, Inc. tendered for filing a Petition for Blanket Authorizations, certain waivers, and an order Approving Rate Schedule.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Union Electric Company

[Docket No. ER96–923–000]

Take notice that on January 22, 1996, Union Electric Company (UE) tendered for filing a letter approving UE's application for membership in the Western Systems Power Pool.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Direct Access Management, L.P.

[Docket No. ER96–924–000]

Take notice that on January 25, 1996, Direct Access Management, L.P. tendered for filing a Petition for Blanket Authorization, Certain Waivers and Order Approving Rate Schedule.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Company of New Mexico

[Docket No. ER96–957–000]

Take notice that on January 17, 1996, Public Service Company of New Mexico tendered for filing executed copies of an Assignment Agreement between Century Power Corporation and Tri-State Generation and Transmission Association, Inc.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Aquila Power Corporation and UtiliCorp United Inc.

[Docket Nos. ER96–988–000 and ER96–1000–000]

Take notice that on February 1, 1996, Aquila Power Corporation (Aquila) and UtiliCorp United Inc. (UtiliCorp) filed companion applications under Rule 205 and Section 205 of the Federal Power Act respectively (1) renewing a request to charge market-rates for wholesale service and (2) requesting the Commission to accept and place into effect open access transmission tariffs in strict conformance with the pro forma tariff sheets contained in the Commission's notice of proposed rulemaking in Docket No. RM95–8, all as more fully set forth in the applications on file with the

Commission and open to public inspection.

Comment date: February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3164 Filed 2–12–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5421–3]

Agency Information Collection Activities Up for Renewal: National Recycling and Emissions Reduction Program, OMB Number: 2060–0256

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR): National Recycling and Emissions Reduction Program, OMB Number: 2060–0256, EPA Control Number: 1626.03, is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before April 15, 1996.

ADDRESSES: Comments should be submitted in duplicate to the attention of Air Docket No. A–92–01 VIII.J at: Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The Air and Radiation Docket and Information Center is located in Room M–1500, Waterside Mall (Ground Floor), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Dockets may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Deborah Ottinger, (202) 233–9149. Facsimile number: (202) 233–9577. For questions only, you may use the electronic address: ottinger.deborah@epamail.epa.gov. All comments must be sent to the docket.

SUPPLEMENTARY INFORMATION: *Affected entities:* Entities affected by this action are refrigeration and air conditioning service and repair shops, plumbing, heating, and air conditioning contractors, refrigerated transport service dealers, scrap metal recyclers, and automobile dismantlers and recyclers. Additional entities affected include Clean Air Act Section 608 technician certification programs, equipment certification programs, refrigerant wholesalers and reclaimers, and other establishments that perform refrigerant removal at service and disposal.

Title: "National Recycling and Emissions Reduction Program" OMB Control Number: 2060–0256. EPA Control Number: 1626.03. Expiration Date: May 31, 1996.

Abstract: In 1993, EPA promulgated regulations under Section 608 of the Clean Air Act Amendments of 1990 (Act) for the recycling of CFCs and HCFCs in air-conditioning and refrigeration equipment. These regulations were published in 58 FR 28660, and are codified at 40 CFR Subpart F (§ 82.150 et seq.). The reasons the information is being collected, the way the information is to be used, and whether the requirements are mandatory, voluntary, or required to obtain a benefit, are described below. The ICR renewal does not include any burden for third-party or public disclosures not previously reviewed and approved by OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

Equipment Testing Organizations. Equipment testing organizations must apply to EPA to become approved. Approved equipment testing organizations must maintain records of the tests performed and their results, and must submit a list of all certified equipment to EPA annually. Testing organizations must notify EPA whenever a new model of equipment is certified or whenever an existing certified models fails a recertification test. Information collected from equipment certifiers is required to ensure that recycling and recovery equipment meets the performance standards of the regulation and that all approved testing laboratories have the equipment and expertise to test equipment to these standards.

Servicing and Disposal Establishments. Persons maintaining, servicing, repairing, or disposing of appliances must certify to EPA that they have acquired certified recycling or recovery equipment and are complying with the requirements of the rule. This certification must be renewed in the event of a change of ownership of the service or disposal establishment. In addition, service establishments are required to maintain adequate documentation of technician certification. These requirements help the Agency to target its enforcement efforts.

Reclaimers. Refrigerant reclaimers must maintain records of the names and addresses of persons sending them material for reclamation as well as the quantity of the material (the combined mass of refrigerant and contaminants) sent. In addition, reclaimers must maintain records of the mass of refrigerant reclaimed and the mass of waste products. Reclaimers must report this information (total quantities) to the Agency annually. This information helps the Agency track refrigerant use to insure that no refrigerant is vented at service or disposal.

Refrigerant Wholesalers. Wholesalers must maintain records indicating the names of purchasers, dates of sales, and quantities of refrigerant purchased. This information helps the Agency to track refrigerant use and identify points of noncompliance. The Agency believes that wholesalers already maintain such records. In addition to normal business records, wholesalers have to maintain records verifying that purchasers of refrigerant are properly certified. These records will be used by EPA inspectors to ensure that refrigerants are only sold to certified technicians. This is to guarantee that individuals who purchase refrigerant are aware of the legal restrictions on its use.

Disposers. Persons disposing of small appliances, room air conditioners, and MVACs must maintain copies of signed statements attesting that the refrigerant has been removed prior to final disposal of each appliance. This information helps EPA to verify that refrigerant is recovered at some point during the disposal process even if the final disposer does not have recovery equipment.

Technicians. In order for technicians to use recycling and recovery equipment, they have to pass a certification test. Technicians have to maintain a wallet-sized certification card. The test is necessary to ensure that technicians understand refrigerant recovery procedures and regulations. The card is necessary to ensure that only certified technicians perform work on air conditioning and refrigeration equipment or purchase refrigerants.

Technician Certification Programs. Organizations operating technician certification programs have to apply to EPA to have their program approved. Approved technician certification programs have to maintain records including the names of certified technicians and the unique numbers assigned to each technician certified through their programs. Approved technician certification programs also have to submit a report to EPA every six months including the pass/fail rate and testing schedules.

The application process ensures that the technician certification programs meet minimum standards for generating, tracking, and grading tests, and keeping records. Record maintenance allows both the Agency and the certification program to verify certification claims and monitor the certification process. The semiannual reports give the Agency the ability to evaluate certification programs and modify the certification test if necessary.

Refrigeration and air conditioning equipment owners. Owners of refrigeration or air conditioning equipment that contain more than 50 pounds of refrigerant must maintain records of the quantity of refrigerant used during each service procedure performed for the equipment. This ensures that owners can determine when they are subject to leak repair requirements. In addition, equipment owners who decided not to repair leaks must develop and maintain a record of a plan that states that the equipment will be either retired, replaced or retrofitted. The development of such a plan ensures that equipment owners intend to take action to reduce emissions.

Owners of Industrial Process Refrigeration. Under an amendment to the section 608 rule that was promulgated on August 8, 1995 (60 FR 40420), owners of industrial process refrigeration equipment who wish to receive an extension or exclusion under the leak repair amendment are subject to the following reporting and recordkeeping requirements. (The Office of Management and Budget approved the amendment to the ICR reflecting this amendment on September 28, 1995.)

(1) Those persons wishing to extend leak repair compliance beyond the required 30 days must maintain and submit to EPA information identifying the facility, the leak rate, the method used to determine the leak rate and full charge, the date a leak rate greater than allowable was discovered, the location of the leaks, any repair work completed thus far and date completed, a plan to fix other outstanding leaks to achieve allowable leak rate, reasons why greater than 30 days is needed, and an estimate of when repair work will be completed. Any dates and results of static and dynamic tests must also be maintained and submitted to EPA.

(2) Those persons wishing to extend retrofit compliance beyond the required one year must maintain and submit to EPA information identifying the facility, the leak rate, the method used to determine the leak rate and full charge, the date a leak rate of greater than the allowable rate was discovered, the location of leaks, any repair work that has been completed thus far and date completed, a plan to complete the retrofit or replacement of the system, the reasons why more than one year is necessary, the date of notification to EPA, an estimate of when retrofit or replacement work will be completed, if time changes for original estimates occur, documentation of the reason why, and the date of notification to EPA regarding a change in the estimate of when the work will be completed.

(3) Those persons wishing to exclude purged refrigerants that are destroyed from the annual leak rate calculations must maintain records on-site to support the amount of refrigerant claimed sent for destruction. These records must include flow rate, quantity or concentration of the refrigerant in the vent stream, and periods of purge flow.

(4) Those persons wishing to calculate the full charge of an affected appliance by establishing a range based on the best available data, regarding the normal operating characteristics and conditions for the appliance, must maintain records on-site to support the methodology used in selecting or modifying the particular range.

The sum of these changes represents an increase in reporting requirements only for those persons wishing to receive an extension or exclusion under the leak repair amendment.

These reporting and recordkeeping requirements allow determinations to be made regarding requested extensions and exclusions under the amendments to the leak repair provisions, which were written in response to industry concerns and with the concurrence of industry. Specifically, the amendments allow for persons to extend their compliance deadlines, to exclude destroyed purged refrigerants from leak rate calculations, or to use a range rather than calculate the full charge, when certain circumstances exist. EPA would be unable to make determinations as to the viability of a claim regarding the need for an extension without the information under the recordkeeping and reporting requirements. In negotiating the settlement agreement with members of CMA, those members agreed with the proposed recordkeeping and reporting requirements.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The annual burden is reported in this Notice by annual respondent burden. The burden hours shown have been significantly reduced from the original ICR because most of the burden hours in the original ICR (technician certification, certification by service establishments, applications by equipment and technician certifiers) were associated with the start-up of the program. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Collection activities	Burden hours
i. Equipment Testing Organizations:	
Annual Respondent Burden:	
Submit to EPA annual list of all equipment previously certified	1
Notify EPA of certification of new models	5
Maintain records of equipment tested and its performance	0
Notify EPA of equipment failing retests or inspections	2
Total Annual Burden: Hour total (8)×Number of Respondents (2)=16 hours.	
ii. Certification by Service Establishments that Change Ownership or Enter the Market:	
Annual Respondent Burden:	
Compile information, complete certification requirements	.25
Maintain proof of employee certification	.25
Total Annual Burden: Hour total (.5)×Number of Respondents (2,250)=1125 hours.	
iii. Certification by Disposal Establishments that Change Ownership or Enter the Market:	
Annual Respondent Burden:	
Compile information, complete certification requirements	.25
Maintain proof of employee certification	.25
Total Annual Burden: Hour total (.5)×Number of Respondents (25)=12.5 hours.	
iv. Maintenance of copies of signed statements by disposal establishments:	
Annual Respondent Burden:	
Maintain copies of signed statements verifying evacuation of refrigerant	20
Total Annual Burden: Hour total (20)×Number of Respondents (500)=10,000 hours.	
v. Certification by Refrigerant Reclaimers that Change Ownership or Enter the Market:	
Annual Respondent Burden:	
Completing certification and submitting it to EPA Headquarters	2
Total Annual Burden: Hour Total (2)×Number of respondents (20)=40.	
vi. Reclaimer Reporting:	
Annual Respondent Burden:	
Compiling information and submitting it to EPA Headquarters	5
Total Annual Burden: Hour Total (5)×Number of respondents (80)=400.	
vii. Refrigerant Wholesalers:	
Annual Respondent Burden:	
Maintain usual business records of refrigerant sales transactions	0
Maintain normal invoices	0
Maintain records of technician certification	8
Total Annual Burden: Hour total (8)×Number of respondents (5,000)=40,000.	
viii. Technician Certification Programs Applying for Approval:	
Annual Respondent Burden:	
Compiling information to become approved and submitting it to EPA Headquarters	30
Total Annual Burden: Hour Total (30)×Number of respondents (10)=300.	
ix. Recordkeeping by Existing Technician Certification Programs:	
Annual Respondent Burden:	
Maintain records of certified technicians, individuals taking the tests, test scores, locations, and dates of tests	0
Submit report to EPA every 6 months	16
Total Annual Burden: Hour Total (16)×Number of respondents (100)=1600 hours.	
x. Technicians Acquiring Certification and Maintaining Certification Cards:	
Annual Respondent Burden:	
Register and take certification test	3
Maintain certification card	.02
Total Annual Burden: Hour Total (3)×Number of respondents (30,000)=90,000 hours.	
Hour Total (.02)×Number of respondents (300,000)=6,000 hours.	
Total: 96,000 hours.	
xi. Owners of Refrigeration and Air-Conditioning Equipment:	
Annual Respondent Burden:	
Keep records of the quantity of refrigerant used during service procedures	.1
Develop and maintain plan to retire, replace, or retrofit equipment	2
Total Annual Burden: Hour Total (.1)×Number of respondents (1,968,000)= 196,800.	
Hour Total (2)×Number of respondents (35,850)=71,700.	
Total: 268,500 hours.	
xii. Owners of Industrial Process Refrigeration Equipment:	
Annual Respondent Burden:	
Prepare requests for 30-day extensions	5
Prepare requests for retrofit extensions	8
Maintain information on purged and destroyed refrigerant	4
Maintain information on the calculation of the full charge using a range	4
Perform and document results of static and dynamic tests	4
Total Annual Burden (same order as above):	
Hour total (5)×Number of respondents (30)=150.	
Hour total (8)×Number of respondents (30)=240.	
Hour total (4)×Number of respondents (60)=240.	
Hour total (4)×Number of respondents (30)=120.	
Hour total (4)×Number of respondents (60)=240.	
Total: 990 hours.	

Send comments regarding these matters, or any other aspects of the information collection, including suggestions for reducing the burden, to the address listed above under **ADDRESSES** near the top of this Notice.

Dated: February 6, 1996.

Paul M. Stolpman,

Director, Office of Atmospheric Programs.

[FR Doc. 96–3193 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5421–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 14, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 940.13.

SUPPLEMENTARY INFORMATION:

Title: Ambient Air Quality Surveillance, (OMB Number 2060–0084; EPA ICR # 940.13). This is a request for extension of a currently approved collection.

Abstract: The general authority for the collection of ambient air quality data is contained in sections 110 and 319 of the Clean Air Act (Act) (42 USC 1857). Section 110 makes it clear that State-generated air quality data are central to the air quality management process through a system of State implementation plans (SIP's). Section 319 was added via the 1977 Amendments to the Act and spells out the key elements of an acceptable monitoring and reporting scheme. To a large extent, the requirements of section 319 had already been anticipated in the detailed strategy document prepared by EPA's Standing Air Monitoring Work Group (SAMWG). The regulatory provisions to implement these recommendations were developed through close consultation with the State and local agency representatives serving on SAMWG and through reviews by ad-hoc panels from the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO). These modifications to the previous regulations were issued as final rules on May 10, 1979 (44 FR 27558) and are contained in 40 CFR Part 58.

Major amendments, which affect the hourly burdens, were made in 1983 for lead, 1987 for PM–10, and 1993 for the enhanced monitoring for ozone. The specific required activities for the burden include establishing and operating ambient air monitors and samplers, conducting sample analyses for all pollutants for which a National Ambient Air Quality Standard (NAAQS) has been established, preparing, editing and quality assuring the data, and submitting the ambient air quality data and quality assurance data to EPA.

Some of the major uses of the data are for judging attainment of the NAAQS, evaluating progress in achieving/maintaining the NAAQS or State/local standards, developing or revising SIP's, evaluating control strategies, developing or revising national control policies, providing data for model development and validation, supporting enforcement actions, documenting episodes and initiating episode controls, documenting population exposure, and providing information to the public and other interested parties.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on October 25, 1995.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 13.910 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State and Local Air Pollution Control Agencies.

Estimated Number of Respondents: 130.

Frequency of Response: Quarterly.

Estimated Total Burden: 1,808,355 hours.

Estimated Total Annualized Cost Burden: $100,901,490.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 940.13, and OMB Control No. 2060–0084 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information (2136), 401 M Street SW., Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

Dated: February 7, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–3197 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5421–1]

Mobile Sources Technical Advisory Committee Meeting

The Mobile Sources Technical Advisory Sub-Committee to the Clean Air Act Committee is convening a meeting on February 21, 1996 from 9:30–3:30 at the Ramada Detroit Metro Airport, 8270 Wickham Road, Romulus, Michigan.

FOR FURTHER INFORMATION CONTACT: Katherine McMillan at (202) 260–3420.

Katherine McMillan,

Assistant Director, Division of Policy, Planning and Budget, Office of Mobile Sources.

[FR Doc. 96–3196 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–P–M

[OPPTS–00181; FRL–5349–2]

Forum on State and Tribal Toxics Action (FOSTTA) Projects; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The four Projects of the Forum on State and Tribal Toxics Action (FOSTTA) will hold meetings open to the public at the time and place listed below in this notice.

DATES: The four Projects will meet March 4, 1996, from 8 a.m. to 5 p.m., with a plenary session on Community-Based Environmental Protection from 8 a.m. to 9:30 a.m., and on March 5, 1996, from 8 a.m. to noon.

ADDRESSES: The meetings scheduled will be held at The Holiday Inn, 480 King St., Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Darlene Harrod, Office of Pollution Prevention and Toxics (7408), U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone: (202) 260–6904. E-mail Harrod.darlene@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: FOSTTA, a group of state and tribal toxics environmental managers, is intended to foster the exchange of toxics-related program and enforcement information among the states/tribes and between the states/tribes and U.S. EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and Office of Enforcement and Compliance Assurance (OECA). FOSTTA currently consists of the Coordinating Committee and four issue-specific Projects. The Projects are: (1) The Toxics Release Inventory Project; (2) The State and Tribal Enhancement Project; (3) The Chemical Management Project; and (4) The Lead (Pb) Project.

List of Subjects

Environmental protection.

Dated: February 5, 1996.

Susan B. Hazen,

Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–3192 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5421–5]

Proposed CERCLA Section 122(g)(4) De Minimis Administrative Order on Consent for the Bohaty Drum Site in Medina, OH

AGENCY: United States Environmental Protection Agency ("USEPA").

ACTION: Proposal of CERCLA section 122(g)(4) *de minimis* administrative order on consent for the Bohaty Drum Site in Medina, OH .

SUMMARY: United States Environmental Protection Agency USEPA proposes to address the potential liability of nine parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Public Law 99–499, for past and future costs incurred in connection with a federal fund lead removal action conducted at the Bohaty Drum Site ("the Site") located in Medina, Ohio. The USEPA proposes to address the potential liability of Ashland Chemical Company, Dow Chemical Company, General Motors Corporation, Quaker Oats Company, State Chemical Manufacturing Company, Inc., Synthetic Products Company, Uniroyal Chemical Company, Inc. and Upjohn Company by execution of a CERCLA Section 122(g)(4) *De Minimus* Administrative Order on Consent ("AOC") prepared pursuant to 42 U.S.C. 9622(g)(4). The key terms and conditions of the AOC may be briefly summarized as follows: (1) USEPA has determined that the amount of hazardous substances contributed to the Site by each party and the toxic or other hazardous effects of the hazardous substances contributed to the Site by each party are minimal in comparison to other hazardous substances at the Site within the meaning of Section 122(g)(1)(A) of CERCLA, 42 U.S.C. 9622(g)(1)(A); (2) Each party agrees to pay USEPA $1,050.00 in satisfaction of claims for past and future costs incurred at the Site in connection with the removal and disposal of approximately 1000 drums and their contents; (3) The parties agree to waive all claims against the United States that arise out of response activities conducted at the Site; and (4) USEPA affords the parties a covenant not to sue for past and future costs incurred at the Site and contribution protection as provided by CERCLA Sections 113(f)(2) and 122(g)(5) upon satisfactory completion of obligations under the Settlement. The Site is not on the NPL, and no further response activities at the Site are anticipated at this time. The Attorney General has approved the Settlement.

DATES: Comments on the proposed AOC must be received by USEPA on or before March 14, 1996.

ADDRESSES: A copy of the proposed AOC is available for review at USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Andrew Warren at (312) 353–5483, prior to visiting the Region 5 office.

Comments on the proposed AOC should be addressed to Andrew Warren, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code CS–29A), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Andrew Warren at (312) 353–5485, of the USEPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this notice, is open pursuant to Section 122(i) of CERCLA, 42 U.S.C. 9622(i), for comments on the proposed AOC. Comments should be sent to the addressee identified in this notice.

Valdas V. Adamkus,

Regional Administrator, U.S. Environmental Protection Agency, Region 5.

[FR Doc. 96–3195 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5421–4]

Notice of Proposed Administrative De Minimis Settlement Under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act, Regarding the Carroll & Dubies Superfund Site, Town of Deerpark, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative agreement and opportunity for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 622(i), the U.S. Environmental Protection Agency ("EPA") Region II announces a proposed administrative *de minimis* settlement pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. 9622(g)(4), relating to the Carroll & Dubies Superfund Site (the "Site"), Town of Deerpark, Orange County, New York. This Site is on the National Priorities List established pursuant to Section 105(a) of CERCLA, 42 U.S.C. 9605(a). This notice is being published to inform the public of the proposed settlement and of the public's opportunity to comment.

The settlement, memorialized in an Administrative Order on Consent ("Order") is being entered into by EPA and the Reynolds Metals Company ("Respondent"). The Respondent has agreed to pay EPA $75,094.65 which represents a base payment ($38,727.29) based on the Respondent's proportionate share of EPA's past costs for the Site and the projected first operable unit remedy costs, and a premium ($36,367.36) which takes into consideration the risk that the ultimate cleanup costs for the first operable unit will exceed EPA's current estimates.

DATES: EPA will accept written comments relating to the proposed settlement on or before March 14, 1996.

ADDRESSES: Comments should be addressed to Sharon E. Kivowitz, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor New York, New York 10007–1866 and should refer to: In Re: Carroll & Dubies Superfund Site, Town of Deerpark, New York, EPA Index No. II-CERCLA–95–0217.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, 17th Floor, 290 Broadway, New York, New York 10007–1866, (212) 637–3183, Attention: Sharon E. Kivowitz.

Dated: January 22, 1996.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 96–3194 Filed 2–12–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

January 31, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 15, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0392.

Title: Pole Attachment Complaint Procedures—Sections 1.1401 –1.1415.

Form No.: N/A.

Type of Review: Extension.

Respondents: Businesses or other for-profit, including small businesses, State or local governments.

Number of Respondents: 7.

Estimated Time Per Response: 3 hours.

Total Annual Burden: 42 hours.

Needs and Uses: Congress mandated pursuant to 47 U.S.C. Section 224 that the FCC ensures that the rates, terms and conditions under which cable television operators attach their hardware to utility poles are just and reasonable. Section 224 also mandates establishment of an appropriate mechanism to hear and resolve complaints concerning the rates, terms and conditions for pole attachments. Sections 1.1401–1.1415 contained in Subpart J of Part 1 were promulgated to implement Section 224. See 47 CFR Sections 1.1401–1.1415. The information is submitted primarily by cable television operators in regards to complaints concerning the rates, terms and conditions for pole attachments. The information will be used to either determine the merits of the complaint including calculating the maximum rate under the Commission's formula. The respondents affected are cable television operators and utility companies.

OMB Approval No.: 3060–0233.

Title: Part 36, Jurisdictional Separations Procedures.

Form No.: N/A.

Type of Review: Revision.

Respondents: Businesses or other for-profit.

Number of Respondents: 3090.

Estimated Time Per Response: 20 hours.

Total Annual Burden: 61,800.

Needs and Uses: Telephone companies are required to submit data annually to the National Exchange Carrier Association for the filing of access tariffs. State or local telephone companies who want to participate in the federal assistance program must make certain informational showings to demonstrate eligibility.

OMB Approval No.: 3060–0400.

Title: Tariff Review Plan.

Form No.: N/A.

Type of Review: Revision.

Respondents: Businesses or other for-profit.

Number of Respondents: 46.

Estimated Time Per Response: 40 hours.

Total Annual Burden: 1840 hours.

Needs and Uses: Certain local exchange carriers are required annually to submit Tariff Review Plan in partial fulfillment of cost support material required by 47 CFR Part 61. The information is used by FCC and the public to determine the justness and reasonableness of rates, terms and conditions in tariffs as required by the Communications Act of 1934, as amended.

OMB Approval No.: 3060–0099.

Title: Form M - Annual Report Form M.

Form No.: FCC Form M.

Type of Review: Extension.

Respondents: Businesses or other for-profit.

Number of Respondents: 3.

Estimated Time Per Response: 1120 hours.

Total Annual Burden: 3360.

Needs and Uses: FCC Form M is the Annual Report of financial and operating information from all subject telephone companies having annual operating revenues in excess of $100 million. It is needed to provide the Commission with the data required to fulfill its regulatory responsibilities.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3125 Filed 2–12–96; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Approved by Office of Management and Budget

February 6, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Dorothy Conway, Federal Communications Commission, (202) 418–0217.

Federal Communications Commission

OMB Control No.: 3060–0170.
Expiration Date: 1/31/99.
Title: Section 73.1030 Notifications Concerning Interference to Radio Astronomy, Research and Receiving Installations.
Estimated Annual Burden: 30 total annual hours; average 1 hour per respondent; 30 respondents.
Description: Section 73.1030 requires broadcast licensees to provide written notification to the interference office at Green Bank, WV, setting forth the particulars of a proposed station within the geographic coordinates of the National Radio Astronomy Observatory or the Naval Radio Research Observatory in WV. Data is used by Interference Office to enable them to file objections with the FCC to minimize potential interference.

OMB Control No.: 3060–0449.
Expiration Date: 1/31/99.
Title: Section 1.65(c) Substantial and Significant Changes in Information Furnished by Applicants to the Commission.
Estimated Annual Burden: 9 total annual hours; 1 hour and 30 minutes per respondent; 6 respondents.
Description: Section 1.65(c) requires broadcast permittees and licensees to report annually any finding or adverse final action that involves conduct bearing on their character qualifications. This information enables the Commission to determine whether broadcast permittees and licensees maintain the requisite character qualifications to be a broadcast permittee or licensee during their license term.

OMB Control No.: 3060–0180.
Expiration Date: 1/31/99.
Title: Section 73.1610 Equipment Tests.
Estimated Annual Burden: 306 total annual hours; average 30 minutes per respondent; 612 respondents.
Description: Section 73.1610 requires the permittee of a new broadcast station to notify the FCC of its plans to conduct equipment tests for the purpose of making adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit and applicable engineering standards. The data are used by FCC staff to assure compliance with the terms of the construction permit and applicable engineering standards.

OMB Control No.: 3060–0691.
Expiration Date: 4/30/96.
Title: Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz Bands Allotted to the SMR licensees.
Estimated Annual Burden: 800 total annual hours; 2–7 hours per respondent; 1,020 respondents.
Description: This information will be used by the Commission to determine whether the applicant is legally technically and financially qualified to be a licensee. Without such information the Commission could not determine whether to issue the licenses to the applicants that provide telecommunications services to the public and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. The information will also be used to ensure the market integrity of the auction.

OMB Control No.: 3060–0194.
Expiration Date: 1/31/99.
Title: Section 74.21 Broadcasting Emergency Information.
Estimated Annual Burden: 2 total annual hours; average 30 minutes per respondent; 2 respondents.
Description: Section 74.21 requires that a licensee of an auxiliary broadcast station notify the FCC in Washington, DC, as soon as practicable, when that station is operated in a manner other than that for which it is authorized. This notification shall specify the nature of the emergency and the use to which the station is being put. The licensee shall also notify the FCC when the emergency operation has been terminated. These notifications are used by FCC staff to evaluate the need and nature of the emergency broadcast and to confirm that an actual emergency exists.

OMB Control No.: 3060–0184.
Expiration Date: 1/31/99.
Title: Section 73.1740 Minimum Operating Schedule.
Estimated Annual Burden: 203 total annual hours; average 30 minutes ; 405 respondents.
Description: Section 73.1740 requires licensees of commercial broadcast stations to notify the FCC in Washington, DC, when events beyond their control make it impossible to continue operation or to adhere to the required operating schedules set forth in this section. In addition, the FCC must be notified when normal operation is resumed. No further authority is needed for limited operation or discontinued operation for a period not exceeding 30 days. Should events beyond the licensees control make it impossible for compliance with in the required 30 day time period, an informal written request shall be submitted to the FCC requesting the amount of additional time that the licensee deems necessary. The data are used by FCC staff to authorize temporarily a limited operation or discontinuance of operation.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96–3126 Filed 2–12–96; 8:45 am]
BILLING CODE 6712–01–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Policy Statement on Securing Leased Space

AGENCY: Federal Deposit Insurance Corporation (FDIC).
ACTION: Statement of policy.

SUMMARY: The FDIC has adopted a statement of policy which establishes the procedures that the FDIC will use when it leases space. The procedures have been designed to generate sufficient competition to ensure a good economic deal for the FDIC while providing a level playing field for all competitors. Most of the procedures contained in the policy have been in use for the past five years.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Lynn T. Anderson, Chief, Leasing & Insurance Unit, Facilities Development Section, (202–942–3259), Division of Administration, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The text of the policy statement follows:

Policy Statement on Securing Leased Space

I. *Purpose.* To establish:
A. The procedures that the FDIC will follow when leasing space; and
B. Official written guidance for FDIC personnel who have the responsibility of carrying out those procedures.

II. *Applicability.* The procedures outlined in this policy statement will be used for all FDIC lease acquisitions over 10,000 square feet, except for those executed by the FDIC when acting as the conservator of a failed financial institution or when operating as a bridge bank.

III. *Policy.* It is the policy of the FDIC to lease space which provides a safe, efficient and pleasant work environment for its employees, meets the programmatic needs of the organization and provides the FDIC with the best value in terms of cost and other factors. Further, the method of competition used to select space will be fair for all offerors that meet the basic criteria.

IV. *Procedures.* Depending on whether the lease acquisition represents a new lease, a lease renewal or a lease extension, the process for securing leased space will be as follows:

A. *New Leases.*

(1) *Define Geographic Boundaries.* Once the general location for a new office has been determined or it is determined that an existing office should remain in a general metropolitan area, the FDIC will define the specific geographic boundaries.

The FDIC will conduct a survey to determine the general market conditions, including current rental rates, vacancy rates and a listing of buildings with sufficient space to fulfill the FDIC's requirements. This information enables the FDIC to set the geographic area in which the space will be competed so that there are a reasonable number of buildings to ensure sufficient competition.

The geographic boundaries are set based on the information in the market survey and the following criteria:
(a) Access to other FDIC offices.
(b) Access to other financial and/or regulatory agencies.
(c) Access to public transportation (walking distance).
(d) Access to major highways and airport.
(e) Located in an area with a low crime rate in order to assure the safety of the FDIC's employees and visitors.

(2) *Advertise.* Once geographic boundaries have been established, the FDIC will advertise in the local newspaper and the local commercial real estate paper to solicit letters of interest for space meeting the following minimum criteria:
(a) The location must be within the described geographic boundaries; and
(b) The building must meet the minimum space requirements.

(3) *Issue the Request For Proposal (RFP).* Upon receipt of all letters of interest, the FDIC will call each of the interested parties to verify that they meet the minimum criteria, and if they are a broker, they will be required to submit evidence that they represent the owner of the particular building. RFP's which detail the basic space and facility requirements and include the FDIC's Standard Lease and the Leasing Representations and Certification forms will then be mailed to all offerors who meet the minimum criteria.

(4) *Review Responses.* When the responses to the RFP are received, an initial review will be made to determine if all basic information is included, especially the Leasing Representations and Certifications Form. The information provided on this form is the basis for determining the fitness and integrity of each of the respondents and whether or not they can do business with the FDIC. Each offeror must submit the form correctly and completely prior to the request for Best and Final Offers (BAFO).

Also, a preliminary financial analysis is made on each proposal.

(5) *Tour Buildings.* The FDIC tours all buildings that submit a response to the RFP, accompanied by a licensed independent appraiser who is familiar with the local real estate market. The appraiser determines the designation of each building (Class A, B, C, etc.). During this tour, specific issues with each building are noted so that they can be addressed in the request for BAFO's.

(6) *Issue Request for BAFO's.* The FDIC will compile a short list of potential landlords based on their proposals and the results of the tours. This list will be developed using the below listed items to qualify or disqualify landlords:
(a) Did the ownership clear all conflict and fitness and integrity issues?
(b) Did the space qualify for FDIC use? (Typically, the FDIC utilizes Class A space. In some cases, however, due to market conditions, the FDIC may consider Class B space.)
(c) Are the economics of the proposal in the competitive range?
(d) Is there enough contiguous space to meet the requirement?
(e) Will the space be available within the required time frame?
(f) Does the landlord offer the required flexibility for early termination or downsizing?

It should be noted that when requests for BAFO's are issued, any offeror who has not provided the required fitness and integrity information on the Representations and Certifications Form will be disqualified from further consideration. Unless there is sufficient information to determine that the building owner has no conflicts, it will be assumed that one or more conflicts exist.

(7) *Review Best and Final Offers.* An economic analysis including all cost factors and using the same criteria/assumptions will be performed for each proposal. To assure each proposal is judged fairly, and to take into consideration the time value of money, a net present value analysis is performed.

The following items are factored into the financial analysis:
(a) Cost per square foot.
(b) Efficiency of the building in rentable vs. actual useable square feet.
(c) Rent abatement or lease assumption offered (if any).
(d) Cash concessions, incentives, and non-cash concessions, such as construction, materials, etc.
(e) Estimated cost of architectural fees.
(f) Estimated cost to build-out the space.
(g) Estimated relocation costs for the office move.
(h) Estimated cabling and telecommunication costs.
(i) Estimated increases in operating expenses over the base year amount.
(j) Estimated cost of parking, when applicable.

The location of the office and the availability of public transportation will determine whether or not parking will be included in the financial analysis. If parking is included, participants in the RFP process will be advised in the initial RFP of the approximate number of spaces needed.

A financial analysis is prepared for each building for which a BAFO has been received. In addition, the FDIC performs calculations from building plans to verify each offeror's stated usable square footage.

(8) *Award Lease.* Based on the financial analysis of the BAFO's, the FDIC awards the lease to the offeror whose proposal is the most favorable to the FDIC, considering cost and other factors, after obtaining appropriate approvals in accordance with the Corporate Delegations of Authority.

B. *Lease Renewals.* Normally, when the need for space will continue beyond the lease expiration date, the FDIC will begin the process of seeking competitive offers for the continuing requirement

prior to lease expiration. However, if the lease contains an option to renew and the FDIC determines that it is in its best interest to remain at the same location, the option can be exercised provided the following information is collected and shows that remaining in the same location is the best alternative:

(1) *Market Survey.* Contract with a local real estate professional to perform a market survey that will report on current vacancy rates, current asking rates, and the effective rates of recently completed comparable deals.

(2) *Proposal from Landlord.* Solicit a proposal from the current landlord that addresses the criteria and needs of the FDIC.

(3) *Fitness and Integrity.* Obtain a new Representations and Certifications form from the landlord to check fitness and integrity.

(4) *Cost Comparison.* Compare the cost of staying at the current location under the renewal option to the estimated cost of relocating.

If it appears that the best option is to remain at the current location after gathering and analyzing this data, the FDIC will attempt to renegotiate any terms of the current lease that caused problems during the initial lease term.

If the economic terms of the proposed extension prove that it will be less expensive to stay in the existing space, and if there are no remaining problems with the terms of the lease, a lease amendment will be prepared and executed after appropriate approvals are obtained in accordance with the Corporate Delegations of Authority.

C. *Lease Extensions.* A lease extension differs from a lease renewal because (1) There are no options to exercise and the FDIC needs to remain in the space beyond the lease expiration date, or (2) the existing option(s) are unacceptable and the FDIC needs to remain in the space beyond the lease expiration date.

A lease extension is not meant to be a long-term solution to a space acquisition problem or to circumvent the competitive space acquisition process. It is meant to provide the FDIC additional time to determine its long-term requirements, which will then be included in a formal competition. Therefore, a lease extension will not be longer than three years.

(1) *Long-Term Lease Extensions.* As with a lease renewal, the following requirements need to be fulfilled if the lease is to be extended for a period longer than six months:

(a) *Market Survey.* Contract with a local real estate professional to perform a market survey that will report on current vacancy rates, current asking rates, and the effective rates of recently completed comparable deals.

(b) *Proposal from Landlord.* Solicit a proposal from the current landlord that addresses the criteria and needs of the FDIC.

(c) *Fitness and Integrity.* Obtain a new Representations and Certifications form from the landlord to check fitness and integrity.

(d) *Cost Comparison.* Compare the cost of staying at the current location versus the estimated cost of relocating.

(e) *Negotiate.* Renegotiate any terms of the lease that may have caused problems during the initial term.

(f) *Obtain Approvals and Execute Lease Amendment.* Since a long-term lease extension could be considered a non-competitive procurement, the Board of Directors must approve all such extensions before the lease amendment is executed.

(2) *Short-Term Extensions.* When the term of the proposed lease extension will be six months or less, the lease amendment can be executed after appropriate approvals are obtained in accordance with the Corporate Delegations of Authority.

By order of the Board of Directors, dated at Washington, DC, this 6th day of February, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3130 Filed 2–12–96; 8:45 am]

BILLING CODE 6714–01–P

Policy Statement on the Fitness and Integrity of Lessors of Real Property to the FDIC

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Statement of policy.

SUMMARY: The FDIC has adopted a statement of policy which establishes the standards of fitness and integrity for Lessors who lease space to the FDIC. The policy statement ensures that the FDIC addresses conflicts of interest associated with the ownership of buildings leased by the Corporation. The policy statement is consistent with the purposes of section 19 of the RTC Completion Act.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Joanna K. Lyckberg, Policy Analyst, (202–942–3217), Division of Administration, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The text of the policy statement follows:

Policy Statement on the Fitness and Integrity of Lessors of Real Property to the FDIC

I. *Purpose.* To establish:

A. Minimum standards governing Conflicts of Interest and ethical responsibilities for Lessors who have entered into Leases with the FDIC, or who seek to lease real property to the FDIC; and

B. Official written guidance for FDIC personnel including, without limitation, personnel in the Division of Administration, the Division of Supervision and the Office of the Executive Secretary, on the implementation of those minimum standards.

II. *Applicability.* This policy will apply to:

A. All Leases of 10,000 square feet or more awarded as a result of Requests for Proposals issued after the date of this policy; and

B. All Lease Amendments entered into after the date of this policy to (1) Existing Leases of 10,000 square feet or more, or (2) existing Leases of less than 10,000 square feet where the total square footage of the Lease will be 10,000 square feet or more if the Lease Amendment is executed.

III. *Definitions.* As used in this policy statement:

A. *Company* means any corporation, firm, partnership, society, joint venture, business trust, association or similar organization, or any other trust, or any other organization or institution.

B. *Conflict of Interest* means a situation in which:

(1) A Lessor or a Lessor's Affiliate is adverse to the FDIC, RTC, Federal Savings and Loan Insurance Corporation (FSLIC), or their successors in a lawsuit, for which no final adjudication or settlement has occurred; or

(2) A Lessor or a Lessor's Affiliate has caused a Substantial Loss to Federal Deposit Insurance Funds within the ten year period preceding the submission of its offer; or

(3) A Lessor or a Lessor's Affiliate has been convicted of a Fraud Offense or of conspiring to commit a Fraud Offense affecting any Insured Depository Institution; or

(4) A Lessor or a Lessor's Affiliate has Defaulted on a Material Obligation within the last five years; or

(5) A Lessor or a Lessor's Affiliate has been removed from, or prohibited from participating in the affairs of any Insured Depository Institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the FDIC or their successors; or

(6) A situation in which the FDIC determines, in its sole discretion, that the FDIC's award of a Lease to a Lessor could cause a reasonable person to question the integrity of the FDIC's operations. An example (without limitation) of a Conflict of Interest determined by the FDIC is a situation in which an individual who is not a Lessor's Affiliate, but has a direct or indirect equity interest in the Lessor, or directly or indirectly controls the Lessor, has been convicted of a Fraud Offense.

C. *Default on a Materiol Obligation* means a loan or advance from an Insured Depository Institution which has been delinquent for 90 or more days as to payment of principal or interest, or a combination thereof, with a remaining balance of principal, and accrued interest on the ninetieth day, or any time thereafter, in an amount in excess of $1,000,000.

D. *Family Member* means the Lessor's spouse or dependent child.

E. *FDIC* means the Federal Deposit Insurance Corporation in its receivership and corporate capacities. It does not mean the FDIC in its conservatorship capacity or when it is operating a bridge bank.

F. *Fraud Offense* means any felony offense under the sections of title 18 U.S. Code as listed in Part IX, or similar offenses under state laws.

G. *Insured Depository Institution* means any bank or savings association the deposits of which are insured by the FDIC.

H. *Insurer* means the FDIC, RTC, FSLIC or their successors; or the Bank Insurance Fund, the Savings Association Insurance Fund, the FSLIC Resolution Fund, or funds maintained by the RTC for the benefit of insured depositors.

I. *Lease* means a lease or sublease of real property for the use of the FDIC (including its contractors) as tenant, including but not limited to warehouse, office and retail space. As used herein, "Lease" does not include contracts for storage services.

J. *Lease Amendment* means any change to a Lease which extends the term of the Lease, increases the rentable square footage of the premises leased, or increases the rent paid under the Lease. As used herein, however, "Lease Amendment" does not refer to the exercise of a priced renewal option or an expansion option at a predetermined rental rate under any Lease entered into prior to the date of this policy.

K. *Lessor* means an individual or a Company which intends to or has submitted an Offer to lease or sublease real property to the FDIC, or which has entered into a Lease or a sublease with the FDIC.

L. *Lessor's Affiliate* means:

(1) if the Lessor is a Company, (a) any general partner of the Lessor, or (b) any beneficial owner of a 25% or greater equity interest in the Lessor; or

(2) any Company of which the Lessor is (a) A general partner, or (b) in which the Lessor is the beneficial owner of a 25% or greater equity interest; or

(3) if the Lessor is an individual, any Family Member of the Lessor.

A Lessor's Affiliate may be either an individual or a Company.

M. *Obligation* means a commitment to pay money to an Insurer, that is currently owing to, and held by, an Insurer, and which currently is not performing in accordance with the terms thereof (including any modifications thereto), including, without limitation, (1) Any unsatisfied final judgment, and (2) any guarantee of any Obligation.

N. *Offer* means a proposal to enter into a Lease.

O. *RTC* means the Resolution Trust Corporation in any of its capacities.

P. *Substantial Loss to Federal Deposit Insurance Funds* means: An Obligation that is or has been delinquent for 90 or more days as to payment of principal, interest, or a combination thereof and on which there remains a legal duty to pay an amount in excess of $50,000. A Substantial Loss to Federal Deposit Insurance Funds does NOT include situations where the Obligation (1) has been fully resolved and the debtor has been released in full by the applicable Insurer, or (2) has been sold or transferred by the applicable Insurer and such Insurer retains no interest therein.

IV. *Policy.*

A. *General.* The FDIC will not consider Offers from Lessors, award Leases to Lessors, or enter into Lease Amendments with Lessors that either (a) fail to provide any of the information required by this policy; or (b) have Conflicts of Interest, unless such Conflicts of Interest are eliminated by the Lessor or waived by the FDIC.

B. *Waivers.* Waivers of Conflicts of Interest will be granted only when, in light of all relevant circumstances, the Executive Secretary, or the designee of the Executive Secretary determines in his or her discretion that the interests of the FDIC in entering into a Lease or a Lease Amendment with the Lessor outweigh the concern that a reasonable person may question the integrity of the FDIC's operations.

V. *Procedures.*

A. *Conflicts of Interest.*

(1) *Conflicts of Interest in existence prior to submission of an Offer.*

(a) A Lessor shall provide all information and certifications required in paragraph V.B. hereof at the time it makes an Offer to the FDIC.

(b) A Lessor that has a Conflict of Interest as defined at paragraph III.B.(1) through (4) of this policy statement shall, with its Offer, request that the Conflict of Interest be waived in accordance with paragraph IV.B., or propose how the Lessor will eliminate the Conflict of Interest.

(c) The Executive Secretary or designee, in his or her discretion, may waive the Conflict of Interest in accordance with paragraph IV.B., or may approve in writing a Lessor's proposal to eliminate the Conflict of Interest for purposes of the specific Lease.

(2) Conflicts of Interest arising after submission of an Offer but prior to entering into a Lease.

(a) If, after submitting its Offer, but prior to entering into a Lease, a Lessor discovers that it has a Conflict of Interest, it must notify the FDIC in writing within five business days of such discovery. The Lessor shall include with such notification a detailed description of the Conflict of Interest, and either (i) A statement of how it intends to eliminate the Conflict of Interest; or (ii) a request for a waiver of the Conflict of Interest.

(b) The Executive Secretary or designee, in his or her discretion, may waive the Conflict of Interest in accordance with paragraph IV.B., or may approve in writing a Lessor's proposal to eliminate the Conflict of Interest for purposes of the specific Lease.

(3) Conflicts of Interest that arise after entering into a Lease. FDIC Lease agreements shall require that the Lessor notify the FDIC in writing within five business days after discovering a Conflict of Interest that arises after the Lessor and the FDIC have entered into a Lease. The Lessor shall include with such notification a detailed description of the Conflict of Interest, and either (i) A statement of how it intends to eliminate the Conflict of Interest; or (ii) a request for a waiver of the Conflict of Interest. After receipt of such notice from the Lessor, the FDIC shall take such action as it determines is in the FDIC's best interests, including:

(a) The FDIC shall notify the Lessor in writing of its finding as to whether a Conflict of Interest exists. If the FDIC finds that a Conflict of Interest exists, the FDIC shall also notify the Lessor in

writing of the basis for such determination, and when applicable

(i) whether a waiver will be granted, and if so, the terms and conditions of such waiver; or

(ii) a description of the corrective actions, if any, that the Lessor will take in order to eliminate the Conflict of Interest. Corrective actions must be completed by the Lessor not later than 30 days after notification is mailed by the FDIC unless the FDIC, in its sole discretion, determines that it is in the best interests of the FDIC to grant the Lessor an extension in which to complete such corrective action.

(b) Unless the FDIC waives the Conflict of Interest or the Lessor eliminates the Conflict of Interest the FDIC shall not enter into any Lease Amendments with the Lessor.

(4) Conflicts of Interest discovered by the FDIC. The FDIC will review all information provided by the Lessor with its Offer, as well as information from other sources that the FDIC determines is relevant. If the FDIC, in its sole discretion determines, based on such reviews, that a Conflict of Interest exists, an FDIC representative shall notify the Lessor of the basis for such determination.

(a) If the FDIC discovers a Conflict of Interest after submission of an Offer, but prior to entering into a Lease:

(i) The Lessor must respond to the FDIC in writing, within five business days of the FDIC's notification of its determination in one of the following ways:

[1] Stating how it intends to eliminate the Conflict of Interest; or

[2] Requesting that the FDIC waive the Conflict of Interest; or

[3] If the FDIC's determination was based solely on information from a source other than the Lessor, and the Lessor can demonstrate that such information was incomplete or incorrect, the Lessor may provide additional or corrected facts and request that the FDIC consider such facts and reevaluate its determination that a Conflict of Interest exists. After reviewing the Lessor's additional or corrected information, the FDIC will notify the Lessor promptly whether it confirms its determination that a Conflict of Interest exists.

(ii) If the Lessor does not respond in writing to the FDIC within five business days, the FDIC shall deem the Lessor's Offer to have been withdrawn.

(b) If the FDIC discovers a Conflict of Interest after entering into a Lease, the FDIC shall take such action as it determines is in the FDIC's best interest, including the actions described at V.A.(3) (a) and (b). As detailed at V.A.(4)(a)(i)[3], the Lessor can request that the FDIC reevaluate its determination if the FDIC's determination was based solely on information from a source other than the Lessor, and the Lessor can demonstrate that such information was incomplete or incorrect. After reviewing the Lessor's additional or corrected information, the FDIC will notify the lessor promptly whether or not it will reverse its determination that a Conflict of Interest exists.

(5) Reconsideration of decisions. The Lessor may request that the Chairman or designee(s) reconsider FDIC decisions regarding acceptance of a Lessor's proposal for the elimination of a Conflict of Interest, or the issuance of a requested waiver to a Conflict of Interest. Such requests must be in writing and contain the reasons for the request. The Chairman or designee(s) shall have the right to decline reconsideration.

B. *Information required to be submitted.*

(1) Initial submission. Every Lessor shall submit a completed "FDIC Leasing Representations and Certifications" form, including Part II, "Lessor Fitness and Integrity Certification" and such other information as the FDIC may deem appropriate to permit it to make a determination with respect to Conflicts of Interest at the time the Lessor submits an Offer and prior to entering into any Lease Amendment. Among other items, the form shall require that the Lessor provide the following:

(a) Certifications that no Conflicts of Interest, as defined in paragraph III.B. (1) through (4) exist, or;

(b) In the event that one or more Conflicts of Interest exist, the following information:

(i) When applicable, a description of any lawsuit in which the Lessor or any Lessor's Affiliate is adverse to the FDIC, RTC, FSLIC, or their successors and for which no final adjudication or settlement has occurred;

(ii) When applicable, a list and description of any instance during the five years preceding the submission of the Offer in which the Lessor or any Lessor's Affiliate has caused a Substantial Loss to Federal Deposit Insurance Funds;

(iii) When applicable, a list and description of any Fraud Offense of which the Lessor or any Lessor's Affiliate has been convicted;

(iv) When applicable, a list and description of any instance during the five years preceding the submission of the Offer in which the Lessor or any Lessor's Affiliate has Defaulted on a Material Obligation;

(v) When applicable, a list and description of any instances in which the Lessor or any Lessor's Affiliate has been removed from, or prohibited from participating in the affairs of any Insured Depository Institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the FDIC or their successors; and

(vi) The Lessor's request for waiver of such Conflicts of Interest or proposal for elimination of such Conflicts of Interest; and

(c) A description of any commitment to pay $50,000 or more to an Insurer that has been fully released by the Insurer but for which the Insurer received less than 100% (including interest, late charges and other costs of collection) of the amount due; and

(d) Any other information which the FDIC may deem appropriate.

(2) Subsequent submissions. FDIC Lease agreements shall require that during the term of the Lease, the Lessor shall:

(a) immediately notify the FDIC if any of the information submitted pursuant to this policy was incorrect at the time of submission or has subsequently become incorrect; and

(b) at any time, submit such information as the FDIC requests in order to permit the FDIC to determine if a Conflict of Interest exists.

(3) Failure to provide information. Any Lessor who fails to provide any of the information required by this policy will neither be considered for, nor be eligible for, the award of a Lease or a Lease Amendment.

(4) Misstatement of material fact. Any Lessor who misstates or fails to disclose to the FDIC a material fact or any Conflict of Interest, as defined in paragraph III.B.(1) through (4), whether prior to or during the term of the Lease, will not be considered eligible for the award of any Lease or Lease Amendment.

VI. *Lease agreement requirements*

A. *Retention of information.* FDIC Lease agreements shall specify that the Lessor shall retain the information upon which it relied in preparing its certification(s) during the term of the Lease and for a period of three years following the termination or expiration of the Lease or any extension thereof, and shall make such information available for review by the FDIC upon request.

B. *Response to requests for additional information.* FDIC Lease agreements shall specify that any Lessor who fails to respond to a request for information made by the FDIC pursuant to Section V.B.2.(b) of this policy, shall be in default under the Lease for which such information was requested.

C. *Additional Lease agreement provisions.* In addition to the provisions of this policy, the FDIC may include in its Lease agreements such provisions, conditions and limitations as the FDIC deems necessary, including additional standards for Lessor fitness and integrity, and minimum standards of ethical responsibility for Lessors.

VII. *Delayed compliance in emergencies.* In emergencies, when unforeseeable circumstances make it necessary to enter into a Lease immediately in order to protect FDIC personnel or property, the FDIC may delay compliance with this policy.

VIII. *Finality of determination.* Any determination made by the FDIC pursuant to this policy shall be in the FDIC's sole discretion and shall not be subject to further review, except as otherwise provided pursuant to a specific Lease agreement.

IX. *General.* Felony offenses as used in the standards set forth in this statement of policy mean the following statutes that establish standards to which a Lessor's conduct must conform and which shall not have been violated. This list is as follows:

A. Bribery of Public Officials (18 U.S.C. 201).

B. Offer of a loan or gratuity to bank examiners (18 U.S.C. 212).

C. Continuing financial crimes enterprise (18 U.S.C. 225).

D. Taking or using papers relating to claims (18 U.S.C. 285).

E. Conspiracy to defraud the Government with respect to claims (18 U.S.C. 286).

F. False, fictitious or fraudulent claims (18 U.S.C. 287).

G. Bonds and obligations of certain lending agencies (18 U.S.C. 493).

H. Contractors' bonds, bids, and public records (18 U.S.C. 494).

I. Contracts, deeds, and powers of attorney (18 U.S.C. 495).

J. Chapter 31 Embezzlement and Theft (18 U.S.C. 642 through 668).

K. Statements or entries generally (18 U.S.C. 1001).

L. Possession of false papers to defraud United States (18 U.S.C. 1002).

M. Bank entries, reports and transactions (18 U.S.C. 1005).

N. Federal credit institution entries, reports and transactions (18 U.S.C. 1006).

O. Federal Deposit Insurance Corporation transactions (18 U.S.C. 1007).

P. Loans and credit applications generally (18 U.S.C. 1014).

Q. Concealment of assets from conservator, receiver, or liquidating agent of financial institution (18 U.S.C. 1032).

R. Chapter 63 Mail Fraud (18 U.S.C. 1341 through 1344).

S. Laundering of monetary instruments (18 U.S.C. 1956).

By order of the Board of Directors, dated at Washington, DC, this 6th day of February, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3129 Filed 2–12–96; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1094–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland (FEMA–1094–DR), dated January 23, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective January 31, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3141 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1088–DR]

New Jersey; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Jersey, (FEMA–1088–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New Jersey, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union, and Warren Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3136 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1095–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York, (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

The counties of Albany, Allegany, Cattaraugus, Cayuga, Chenango, Cortland, Dutchess, Montgomery, Orange, Rensselaer, and Tompkins for Public Assistance and Hazard Mitigation Assistance (already designated for Individual Assistance).

The counties of Franklin, Jefferson, Lewis, Livingston, Madison, Ontario, Putnam, Schuyler, Washington, Wyoming and Yates

for Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3138 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1083–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York, (FEMA–1083–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 12, 1996:

Albany, Bronx, Columbia, Delaware, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3144 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1087–DR]

North Carolina; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Carolina, (FEMA–1087–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Carolina, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Alamance, Alexander, Alleghany, Ashe, Avery, Bertie, Buncombe, Burke, Cabarrus, Caldwell, Camden, Caswell, Catawba, Chatham, Cherokee, Chowan, Cleveland, Davidson, Davie, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, High Point, Iredell, Jackson, Johnston, Lee, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, Northampton, Orange, Pasquotank, Person, Pitt, Polk, Randolph, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wilkes, Wilson, Yadkin, and Yancey Counties and the Eastern Band of Cherokee Indians Reservation for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3135 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1097–DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1097–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: January 27, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 27, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Ohio, resulting from severe storms and flooding on January 20, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. Public Assistance may be added at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Phil Zaferopulos of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster:

Belmont, Columbiana, Jefferson, Meigs, Monroe, and Washington Counties for Individual Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–3140 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996 .

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 1, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3137 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

The counties of Armstrong, Centre, Cumberland, Elk, Indiana, Juniata, McKean, Mifflin, Monroe, Schuylkill, Snyder and Somerset for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3142 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1085–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1085–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Adams, Allegheny, Armstrong, Bedford, Berks, Blair, Bradford, Bucks, Cambria, Carbon, Centre, Chester, Clearfield, Clinton, Columbia, Cumberland, Dauphin, Delaware, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Union, Washington, Wayne, Westmoreland, Wyoming, and York Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3143 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1096–DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–1096–DR), dated January 25, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 2, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3139 Filed 2–12–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

[Docket No. 96–03]

F&D Loadline Corporation Possible Violations of Section 10(b)(1) of the Shipping Act of 1984; Order of Investigation

F&D Loadline Corp. ("F&D"), a non-vessel-operating common carrier ("NVOCC"), has a tariff on file [1] at the Federal Maritime Commission ("Commission") which provides for ocean transportation services between the United States, including the U.S. Virgin Islands and Puerto Rico, and Asia, including Bangladesh, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, Philippines, Singapore, Taiwan, and Thailand. F&D's principal place of business is located at 2f, 145, Fu Sheng N. Road, Taipei, Taiwan. Its resident agent in the United States is Washington International Insurance Company ("Washington Insurance"), located at 1930 Thoreau Drive, Suite 1101, Schaumberg, IL 60173. Washington Insurance also issued to

[1] On January 18, 1996, the Commission's Bureau of Tariffs, Certification and Licensing received notice that F&D's NVOCC bond will be canceled, effective March 17, 1996. In accordance with section 583.6(a) of the Commission's rules and regulations, 46 C.F.R. 583.6(a), F&D's tariff also will be canceled, effective March 17, 1996.

F&D a $50,000 NVOCC surety bond, No. 8941199, effective June 12, 1994.

According to information developed by the Commission's Bureau of Enforcement, F&D appears to have transported at least 32 shipments from Taiwan to the United States between June 30, 1994 and March 1, 1995 at rates other than those set forth in its tariff on file with the Commission.

The Shipping Act of 1984 ("1984 Act"), provides that pursuant to section 10(b)(1), 46 U.S.C. app. 1709(b)(1), a common carrier is prohibited from charging, demanding, collecting, or receiving greater, less, or different compensation for transportation of property than the rates shown in its tariffs or service contracts. Section 11 of the 1984 Act, 46 U.S.C. app. 1710, sets forth the Commission's authority to investigate violations of the 1984 Act. In the event violations are found, section 13 of the 1984 Act, 46 U.S.C. app. 1712, provides that the Commission may assess civil penalties and suspend tariffs as remedies for violations of section 10(b)(1). Section 14(a) of the 1984 Act, 46 U.S.C. app. 1713(a), empowers the Commission to issue orders relating to violations of the 1984 Act.

Now *therefore it is ordered*, That pursuant to sections 10(b)(1), 11, 13 and 14(a), of the 1984 Act, an investigation is hereby instituted to determine:

1. Whether F&D violated section 10(b)(1) of the 1984 Act by transporting shipments at rates lower than those filed in its tariff;

2. Whether, in the event F&D is found to have violated section 10(b)(1) of the 1984 Act, civil penalties should be assessed against F&D and, if so, the amount of such penalties;

3. Whether, in the event F&D is found to have violated section 10(b)(1) of the 1984 Act, a cease and desist order should be issued; and

4. Whether, in the event F&D is found to have violated section 10(b)(1) of the 1984 Act, its tariff should be suspended pursuant to section 13 of the 1984 Act.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.61. The hearing shall include oral testimony and cross-examination at the discretion of the Presiding Officer only after consideration has been given by the parties and the Predsiding Officer to the use of alternative forms of dispute resolution, and upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That F&D Loadline Corporation is named Respondent in this proceeding;

It is further ordered, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served on parties of record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.72;

It is further ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC. 20573, and comply with Subpart H of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.111–119, and shall be served on parties of record; and

It is further ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.61, the initial decision of the Administrative Law Judge shall be issued by February 7, 1997, and the final decision of the Commission shall be issued by June 9, 1997.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–3075 Filed 2–12–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Jerome Dansker, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 27, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Jerome Dansker, New York, New York; to acquire an additional 24.06 percent, for a total of 26.23 percent, of the voting shares of Intervest Bancshares Corporation, New York, New York, and thereby indirectly acquire Intervest Bank, Clearwater, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Planters Bank & Trust Company Employee Stock Ownership Plan & Trust, Indianola, Mississippi; to acquire an additional 12.71 percent, for a total of 24.99 percent, of the voting shares of Planters Holding Company, Indianola, Mississippi, and thereby indirectly acquire Planters Bank & Trust Company, Indianola, Mississippi.

Board of Governors of the Federal Reserve System, February 7, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3108 Filed 2–12–96; 8:45 am]

BILLING CODE 6210–01–F

Fort Wayne National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 8, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Fort Wayne National Corporation, Fort Wayne, Indiana; to merge with Valley Financial Services, Inc., Mishawaka, Indiana, and thereby indirectly acquire Valley American Bank and Trust Company, South Bend, Indiana.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. JWL-GSW, Ltd., Houston, Texas; to become a bank holding company by acquiring 20.1 percent of the voting shares of Gulf Southwest Bancorp, Inc., Houston, Texas, and thereby indirectly acquire Gulf Southwest Nevada Bancorp, Inc., Reno, Nevada, and Merchants Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, February 7, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3109 Filed 2–12–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Notice of Meetings

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following Subcommittees of the Health Services Research and Developmental Grants Review Committee scheduled to meet during the months of February and March 1996:

Name: HEALTH SERVICES RESEARCH REVIEW SUBCOMMITTEE

Date and Time: February 14–15, 1996, 8:00 a.m.

Place: Embassy Suites Hotel, 4300 Military Road NW., Tenleytown II, Washington, DC 20015.

Open February 14, 8:00 a.m. to 8:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research (AHCPR).

Agenda: The open session of the meeting on February 14, from 8:00 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), it has been determined that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Patricia G. Thompson, Ph.D., Scientific Review Administrator, Office of Scientific Affairs, Agency for Health Care Policy and Research, Suite 400, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1451.

Name: HEALTH SERVICES DEVELOPMENT GRANTS REVIEW SUBCOMMITTEE

Date and Time: March 25–26, 1996, 8:00 a.m.

Place: The Hyatt Regency Bethesda, One Bethesda Metro Center, Conference Room TBA, Bethesda, Maryland 20814.

Open March 25, 8:00 a.m. to 8:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing experimental, analytical and theoretical research on costs, quality, access, effectiveness, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research (AHCPR).

Agenda: The open session of the meeting on March 25 from 8:00 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), it has been determined that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact J. Terrell Hoffeld, D.D.S., Ph.D., Scientific Review Administrator, Office of Scientific Affairs, Agency for Health Care Policy and Research, Suite 400, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Agenda items for all meetings are subject to change as priorities dictate.

Dated: February 7, 1996.

Clifton R. Gaus,

Administrator.

[FR Doc. 96–3076 Filed 2–12–96; 8:45 am]

BILLING CODE 4160–90–M

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Administration on Aging.

The Administration on Aging (AoA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511):

Title of Information Collection: State Performance Report: Reporting Requirements for Titles III and VII of the Older Americans Act;

Type of Request: Extension and Revision;

Use: To revise an existing information collection form to conform to amendments to the Older Americans Act which directed the Administration on Aging to improve State reporting requirements;

Frequency: Annually;

Respondents: State Agencies on Aging;

Estimated Number of Responses: 57;

Total Estimated Burden Hours: 294,000.

Additional Information or Comments: The Administration on Aging intends to submit to the Office of Management and Budget for approval a new reporting system for the State programs under the Older Americans Act. AoA printed a similar set of reporting specifications in the **Federal Register** on September 29, 1994 requesting a three-year phase-in of the reporting requirements starting in FY 1995. OMB permitted the implementation of the FY 1995 reporting requirements, but withheld approval of the FY 1996 and FY 1997 components of the reporting specifications, pending a field test of

some of the proposed information collection requirements. The field test has been completed with favorable results and a report on the field test will be provided with the proposed reporting specifications upon request.

Call the Administration on Aging, Office of State and Community Programs at (202) 619–0011 for copies of the proposed reporting requirements and a report on the field test. Written comments and recommendations for the proposed information collection requirements should be sent within 60 days of the publication of this notice directly to the following address: Edwin L. Walker, Director, Office of Program Operations and Development, Administration on Aging, 330 Independence Avenue SW., Washington, DC 20201.

Dated: February 7, 1996.

William F. Benson,

Deputy Assistant Secretary for Governmental Affairs and Elder Rights.

[FR Doc. 96–3152 Filed 2–12–96; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and Date: 9 a.m.–5:30 p.m., March 11, 1996.

Place: The Washington Court Hotel, Ballroom East, 525 New Jersey Avenue NW., Washington, DC 20001.

Status: Open to the public, limited only by the space available.

Purpose: The Board reviews research activities to provide guidance on the quality, timeliness, and efficacy of the Institute's programs.

Matters To Be Discussed: Agenda items include a report from the Director of NIOSH, an update on the National Occupational Research Agenda, NIOSH Agriculture Program, a report on workplace violence, a report from the National Foundation for the Centers for Disease Control and Prevention, Inc., an evaluation of the construction program, and future activities of the Board.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Bryan Hardin, Ph.D., Acting Executive Secretary, BSC, NIOSH, and Acting Deputy Director, NIOSH, CDC, 1600 Clifton Road, NE, Mailstop D–35, Atlanta, Georgia 30333, telephone 404/639–3773.

Dated: February 6, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–3120 Filed 2–12–96; 8:45 am]

BILLING CODE 4163–19–M

Centers for Disease Control and Prevention

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on State and Community Health Statistics: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following subcommittee meeting.

Name: NCVHS Subcommittee on State and Community Health Statistics.

Time and Date: 9 a.m.–5 p.m., March 14, 1996.

Place: Room 503A–529A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee will receive testimony from public and private agencies and/or individuals concerning the methods and materials for community health assessment.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8:30 and 9 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number 301/436–7050.

Dated: February 6, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–3119 Filed 2–12–96; 8:45 am]

BILLING CODE 4163–18–M

Centers for Disease Control and Prevention

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Mental Health Statistics: Meeting

Pursuant to Pub. L. 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following subcommittee meeting.

Name: NCVHS Subcommittee on Mental Health Statistics.

Time and Date: 9 a.m.–5 p.m., February 28, 1996.

Place: Room 503A–529A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee will continue deliberations with respect to enrollment and encounter data, consider new epidemiological findings regarding alcohol abuse, and review new developments in managed care.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8:30 and 9 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number 301/436–7050.

Dated: February 8, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–3287 Filed 2–12–96; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 96N–0029]

Reed & Carnrick Pharmaceuticals, et al.; Withdrawal of Approval of 2 New Drug Applications and 67 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 2 new drug applications (NDA's) and 67 abbreviated new drug applications (ANDA's). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: March 14, 1996.

FOR FURTHER INFORMATION CONTACT: Lola Batson, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1038.

SUPPLEMENTARY INFORMATION: The holders of the NDA's and ANDA's listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

Application no.	Drug	Applicant
6–309	Kwell Lotion/Kwell Cream	Reed & Carnrick Pharmaceuticals, 257 Cornelison Ave., Jersey City, NJ 07302–3198.
10–718	Kwell Shampoo	Do.
70–021	Metronidazole Tablets, USP, 250 milligrams (mg)	Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233.
70–205	Diphenhydramine Hydrochloride Cough Syrup, 12.5 mg/5 milliliters (mL).	Barre-National, Inc., Johns Hopkins Bayview Research Campus, 333 Cassell Dr., suite 3500, Baltimore, MD 21224.
70–593	Metronidazole Tablets, USP, 500 mg	Halsey Drug Co., Inc.
70–635	Indomethacin Capsules, USP, 50 mg	Do.
70–782	Indomethacin Capsules, USP, 25 mg	Do.
70–906	Metoclopramide Tablets, USP, 10 mg	Do.
71–027	Ibuprofen Tablets, USP, 200 mg	Do.
71–028	Ibuprofen Tablets, USP, 300 mg	Do.
71–029	Ibuprofen Tablets, USP, 400 mg	Do.
71–030	Ibuprofen Tablets, USP, 600 mg	Do.
71–292	Diphenhydramine Hydrochloride Syrup, 12.5 mg/5 mL	L. Perrigo Co.,117 Water St., Allegan, MI 49010.
71–434	Lorazepam Tablets, USP, 0.5 mg	Halsey Drug Co., Inc.
71–435	Lorazepam Tablets, USP, 1 mg	Do.
71–436	Lorazepam Tablets, USP, 2 mg	Do.
71–753	Methyldopa Tablets, USP, 500 mg	Do.
71–772	Propranolol Hydrochloride and HydrochlorothiazideTablets, USP, 80 mg/ 25 mg.	Warner Chilcott, 201 Tabor Rd., Morris Plains, NJ 07950.
72–137	Ibuprofen Tablets, USP, 800 mg	Halsey Drug Co., Inc.
72–646	Diphenhydramine Hydrochloride Syrup, 12.5 mg/5 mL	Silarx Pharmaceuticals, Inc., 19 West St., P.O. Box 449, Spring Valley, NY 10977.
80–015	Propylthiouracil Tablets, USP, 50 mg	Halsey Drug Co., Inc.
80–304	Prednisolone Tablets, USP, 1 mg, 2.5 mg, and 5 mg	Do.
80–498	Rauwolfia Serpentina Tablets, USP, 50 mg and 100 mg	Do.
83–518	Dienestrol Cream, USP, 0.01%	Marion Merrill Dow, Inc., P.O. Box 9627, Kansas City, MO 64134–0627.
83–538	Propoxyphene Hydrochloride Capsules, USP, 65 mg	Halsey Drug Co., Inc.
83–546	Estradiol Valerate Injection, USP, 10 mg/mL	Steris Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043–4705.
83–583	Quinidine Sulfate Tablets, USP, 200 mg	Halsey Drug Co., Inc.
83–598	Folic Acid Tablets, USP, 1 mg	Do.
83–871	Acetaminophen and Codeine Phosphate Tablets, USP, 300 mg/15 mg.	Do.
83–872	Acetaminophen and Codeine Phosphate Tablets, USP, 300 mg/30 mg.	Do.
83–891	Hydrochlorothiazide Tablets, USP, 50 mg	Do.
84–677	Pentobarbital Sodium Capsules, USP, 100 mg	Do.
84–685	Chlordiazepoxide Hydrochloride Capsules, USP, 25 mg	Do.
84–719	Butabarbital Sodium Tablets, USP, 15 mg and 30 mg	Do.
84–723	Butabarbital Sodium Elixir, USP, 30 mg/5 mL	Do.
85–067	Hydrochlorothiazide Tablets, USP, 25 mg	Inwood Laboratories, Inc., 909 Third Ave., New York, NY 10022–4731.
85–148	Theophylline Sodium Glycinate Tablets, USP, 150 mg	Sandoz Pharmaceuticals Corp., 59 Route 10, East Hanover, NJ 07936–1080.
85–211	Diphenoxylate Hydrochloride and Atropine Sulfate Tablets, USP, 2.5 mg/0.025 mg.	Halsey Drug Co., Inc.
85–339	Chlordiazepoxide Hydrochloride Capsules, USP, 10 mg	Do.
85–340	Chlordiazepoxide Hydrochloride Capsules, USP, 5 mg	Do.
85–409	Aminophylline Tablets, USP, 100 mg	Vintage Pharmaceuticals, Inc., 3241 Woodpark Blvd., Charlotte, NC 28206.
85–410	Aminophylline Tablets, USP, 200 mg	Do.
85–922	Amitriptyline Hydrochloride Tablets, USP, 25 mg	Halsey Drug Co., Inc.
86–194	Erythrityl Tetranitrate Tablets (chewable), 10 mg	Burroughs Wellcome Co., 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709– 2700.
86–504	Hydrochlorothiazide Tablets, USP, 25 mg	Halsey Drug Co., Inc.
86–549	Acetaminophen and Codeine Phosphate Tablets, USP, 300 mg/60 mg.	Do.
86–588	Phenobarbital with Belladonna Alkaloids Tablets	Do.

Application no.	Drug	Applicant
86–652	Phenobarbital with Belladonna Alkaloids Elixir	Solvay Pharmaceuticals, 901 Sawyer Rd., Marietta, GA 30062.
86–662	Phenobarbital with Belladonna Alkaloids Elixir	Pharmaceutical Associates, P.O. Box 128, Conestee, SC 29636.
87–136	Hydrocortisone Cream, USP, 0.5%, 1%, and 2.5%	Westwood-Squibb Pharmaceuticals, 100 Forest Ave., Buffalo, NY 14213– 1091.
87–200	Aminophylline Injection USP, 25 mg/mL	Fujisawa USA, Inc., 3 Parkway North, 3d Floor, Deerfield, IL 60015–2548.
87–480	Prednisone Tablets, USP, 20 mg	Halsey Drug Co., Inc.
87–802	Dipyridamole Tablets, USP, 25 mg	Do.
87–803	Dipyridamole Tablets, USP, 75 mg	Do.
87–914	Diphenhydramine Hydrochloride Capsules, USP, 50 mg	Do.
88–048	Fluocinolone Acetonide Topical Solution, USP, 0.01%	Pharmaderm, Division of Altana, Inc., 60 Baylis Rd., Melville, NY 11747.
88–192	Triprolidine and Pseudoephedrine Hydrochloride Tablets, USP, 2.5 mg/60 mg.	Halsey Drug Co., Inc.
88–466	Dipyridamole Tablets, USP, 50 mg	Do.
88–662	Chlorpropamide Tablets, USP, 250 mg	Do.
89–218	Hydralazine Hydrochloride Tablets, USP, 10 mg	Do.
89–321	Chlorpropamide Tablets, USP, 100 mg	Do.
89–366	Hydroxyzine Hydrochloride Tablets, USP, 10 mg	Do.
89–396	Hydroxyzine Hydrochloride Tablets, USP, 50 mg	Do.
89–448	Butalbital, Aspirin, and Caffeine Tablets, USP, 50 mg/325 mg/40 mg.	Do.
89–465	Leucovorin Calcium for Injection, 50 mg/vial	Burroughs Wellcome Co.
89–476	Quinidine Gluconate Extended-Release Tablets, USP, 324 mg.	Halsey Drug Co., Inc.
89–738	Chlorthalidone Tablets, USP, 25 mg (Peach)	Mutual Pharmaceutical Co., Inc., 1100 Orthodox St., Philadelphia, PA 19124–3131.
89–739	Chlorthalidone Tablets, USP, 50 mg (Aqua)	Do.
89–833	Leucovorin Calcium for Injection, 25 mg/vial	Burroughs Wellcome Co.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed above, and all amendments and supplements thereto, is hereby withdrawn, effective March 14, 1996.

Dated: January 29, 1996.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 96–3077 Filed 2–12–96; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Heart, Lung, and Blood Institute; Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Development of Lymphocyte ADP-Ribosyltransferase and its Corresponding Hydrolase as a Potential Target for Therapeutic Intervention in Diseases of the Immune System

AGENCY: Department of Health and Human Services, National Institutes of Health.

ACTION: Notice.

SUMMARY: The National Heart, Lung, and Blood Institute (NHLBI), of the National Institutes of Health is seeking capability statements from parties interested in entering into a Cooperative Research and Development Agreement (CRADA) on the further characterization of lymphocyte ADP-ribosyltransferase as a potential target for therapeutic intervention in diseases of the immune system. This project is with the National Heart, Lung, and Blood Institute, Division of Intramural Research, Pulmonary-Critical Care Medicine Branch, located in Bethesda, Maryland.

The goal is to use the respective strength of both partners in (1) identifying molecular targets of ADP-riboslylation in lymphocytes and muscle cells, and, (2) evaluating the potential use of this enzyme and its various substrates as targets of novel treatment modalities in certain diseases of the immune system and in hematological, pulmonary, and cardiac diseases.

ADP-ribosylation is a post-translational modification of proteins, in which the ADP-ribose moiety of NAD is transferred to a protein acceptor. In the case of certain bacterial toxins (e.g. pertussis toxin, cholera toxin), ADP-ribosylation modifies hormone action on their human target cells and is the mechanism responsible for toxin action and, in large part, the pathogensis of disease. Human cells have endogenous ADP-ribosylation pathways: the pathways are composed of enzymes that place ADP-ribose on proteins, ADP-ribosyltransferases, which catalyze a reaction similar to the bacterial toxins, and enzymes that remove ADP-ribose, ADP-ribosylarginine hydrolases. Hence, ADP-ribosylation may be reversible, with ADP-ribosyltransferases and ADP-ribosylarginine hydrolases serving as components of a regulatory cycle.

ADP-ribosyltransferases have been found in peripheral blood mononuclear cells and in skeletal and cardiac muscle. These enzymes have been cloned and are identical. The transferases, are linked to the cell surface through glycosylphosphatidylinositol (GPI)-anchors. In the muscle, they ADP-ribosylate the extracellular domain of an integrin and hence may participate in the regulation of cell-matrix interactions. Other data suggest that ADP-ribosylation may be involved in the regulation of cytotoxic lymphocyte activity. The cell surface location of the transferases may facilitate their specific targeting by chemotherapeutic agents. In particular, they may be targeted in diseases where lymphocytes are readily accessible (e.g., lymphocytic alveolitis amenable to inhalation therapy).

It is anticipated that the commercial collaborator will participate in ongoing studies to determine whether modifying ADP-ribosyltransferase activity and cell surface ADP-ribosylation can affect the immune system (e.g., mononuclear cell function) and cardiac skeletal and muscle function, and hence the progression of some hematological, pulmonary, cardiac, and musculoskeletal diseases. It is expected that the collaborator will assist in the development of specific inhibitors. These would be focussed on the structure of known NAD-binding sites that participate in ADP-ribosylation reactions, taking into account the facts that a cell surface enzyme is being targeted and the enzyme is preferentially located on lymphocytes, and cardiac and skeletal muscle. In diseases of the pulmonary system characterized by lymphocytic infiltration, one route for selective targeting of the transferase may involve the use of inhalation therapies that minimize systemic toxicity. Collaborator may also be expected to contribute funding for supplies and personnel to support this project. The NHLBI has applied for patents, both domestic and foreign, claiming this core technology. Non-exclusive and/or exclusive licenses for these patents covering core aspects of this project are available to interested parties.

Capability statements should be submitted to: Ms. Lili M. Portilla, Technology Transfer Specialist, National Institutes of Health, National Heart, Lung, and Blood Institute, Technology Transfer and Commercialization Team, 31 Center Drive MSC 2490, Room 31/5A48 Bethesda, MD 20892–2490. Capability statements must be received by NHLBI 30 days after date of publication in the **Federal Register.**

Dated: February 1, 1996

Claude Lenfant,

Director, NHLBI.

[FR Doc. 96–3179 Filed 2–12–96; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Notice of Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by the Department of Health and Human Services and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development.

U.S. Patent 4,405,712, issued on September 20, 1983 and entitled "LTR Vectors"—This patent broadly claims processes of obtaining the expression of any gene via the use of retroviral expression vectors containing long terminal repeat (LTR) sequences. The processes claimed in this patent are of fundamental significance for the retroviral mediated expression of genes *in vitro* for research and biopharmaceutical production and *in vivo* for research, biopharmaceutical production, and therapeutic applications such as somatic cell gene therapy. The invention claimed in this patent is available for licensing on a nonexclusive basis.

Favorable licensing terms will be offered to companies filing a license application within three months of the publication of this notice. After that deadline May 13, 1996, licensing fees will be increased.

ADDRESSES: Licensing information may be obtained by writing to: George H. Keller, Ph.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804 (telephone 301/496–7057; fax: 301/402–0220).

Dated: February 5, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–3182 Filed 2–12–96; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing specialist at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7057; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Antipsychotic Composition and Method for Treatment

Pickar, D., Litman, R.E., Potter, W.Z. (NIMH)
Filed 7 Jun 95
Serial No. 08/479,039 (CIP of 07/987,728)
Licensing Contact: Stephen Finley, 301/496–7735 ext 215

This invention comprises a novel treatment method for patients suffering from serious psychotic mental illness that offers to significantly improve the treatment of such illnesses. Conventional antipsychotic drugs are effective in improving symptoms of schizophrenia, but a significant number of patients have proven resistant to such treatments. Recently, the drug clozapine has been found effective in treating such drug-resistant patients; however, clozapine has severe toxic side effects. This newly developed treatment method, which combines the use of an α_2-adrenergic receptor antagonist with a standard antipsychotic drug, is effective in treating psychosis without serious side effects. It is especially effective in patients who previously had been resistant to treatment with standard antipsychotic drugs alone. (portfolio: Central Nervous System—Therapeutics, psychotherapeutics, antipsychotics)

Amino Acid Sequencing Peptides and Methods for Their Use

Parmelee, D.C., Sechi, S. (NCI)
Filed 6 Feb 95
Serial No. 08/384,212 (DIV of 07/920,130)
Licensing Contact: J. Peter Kim, 301/496–7056 ext 264

The present invention provides a novel internal standard for amino acid sequencing which consist of a peptide containing at least two different unnatural amino acid residues, such as ornithine, norvaline, norleucine and α-aminobutyric acid. The PTH-derivatives of these have retention times distinct from those of natural amino acids. This peptide can be sequenced simultaneously with an unknown peptide or protein without interfering with the analysis. Simultaneous sequencing of this standard provides information which allows for the determination of repetitive yields, lags, N-terminal blockage and discrimination between blank cycles caused by missed injection and blank cycles caused by faulty delivery of chemicals during the sequencing reactions. (portfolio: Gene-

Based Therapies—Research Tools and Reagents)

4′ -and 4′,4″-Substituted-3α(Diphenylmethoxy)Tropane Analogs as Cocaine Therapeutics

Newman, A.H., Allen, A.C., Kline, R.H., Izenwasser, S., Katz, J.L. (NIDA)
Filed 21 Jun 95
Serial No. 60/000,378
Licensing Contact: Leopold J. Luberecki, Jr., 301/496–7735 ext 223

The invention provides a series of 4′- and 4′,4″-substituted benztropine analogs that demonstrate high affinity binding (K_i<30nM) to the dopamine transporter and bind selectively (>100-fold) over the other monoamine transporters. These compounds block dopamine reuptake *in vitro* and yet do not demonstrate a cocaine-like behavioral profile in animal models of psychomotor stimulant abuse. Structure-Activity Relationships suggest that these compounds interact at a binding domain that differs from that of cocaine at the dopamine transporter. These compounds represent an unprecedented class of dopamine uptake inhibitors that may have potential as cocaine-abuse therapeutics, since they have neurochemical similarities to cocaine and yet do not appear to have abuse liability. Further, radiolabeled analogs will be suitable for imaging the dopamine transporter in mammalian brain using SPECT and PET and thus would be useful in the diagnoses and monitoring of neurodegenerative disorders involving the dopaminergic system (e.g., Parkinson's disease). In addition, the invention provides pharmaceutical compositions comprising an analog of the invention and a pharmaceutically acceptable carrier excipient. (portfolio: Central Nervous System—Therapeutics, psychotherapeutics, drug dependence; Central Nervous System—Therapeutics, neurological, antiparkinsonian)

Alzheimer's Disease Index (ADI)

Alkon, D.L. (NINDS)
Filed 26 Sep 95
DHHS Reference No. E–092–93/2
Licensing Contact: Stephen Finley, 301/496–7735 ext 215

Under currently available technology, Alzheimer's disease can only be presumptively diagnosed by pathological examination of brain tissue during autopsy in conjunction with a clinical history of dementia. The present invention provides a highly reliable laboratory method of identifying Alzheimer's disease in a patient. The method consists of: measuring the presence or absence of a specific potassium channel, measuring the effect of potassium channel blockers specific for the 113 pS potassium channel on intracellular calcium levels, measuring the increase of intracellular calcium in response to an activator of intracellular calcium release in the cells of a patient, and measuring the amount of the G-protein, cp20. An index calculated on the basis of any two of these four tests identifies Alzheimer's disease with very high sensitivity and specificity (n=100, initial sample) in comparisons between Alzheimer's disease patients and other non-Alzheimer's dementias as well as age-matched controls. (portfolio: Central Nervous System—Diagnostics, *in vitro*, other).

Dated: February 6, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–3184 Filed 2–12–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Chronic Fatigue Syndrome Interagency Coordinating Committee; Public Meeting

Notice is hereby given of the public meeting of the Chronic Fatigue Syndrome (CFS) Interagency Coordinating Committee, Department of Health and Human Services, on April 10, 1996 at the William H. Natcher Conference Center, Room E1/2, 45 Center Drive, Bethesda, MD.

The meeting will be open to the public from 1:00 p.m. to 4:00 p.m., on April 10, to discuss the current CFS activities and future plans of the various member agencies. It will be chaired by the Assistant Secretary for Health. During the meeting there will be an opportunity for interested persons to present information and views on issues related to CFS. Attendance by the public will be limited only by space available.

If you plan to attend the meeting, please provide your name, organization, address, telephone and FAX numbers to Dr. John La Montagne, Co-Chair, Chronic Fatigue Syndrome Interagency Coordinating Committee, Division of Microbiology and Infectious Diseases, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Solar Building, Room 3A18 MSC 7630, Bethesda, MD 20892–7630. Telephone: 301–496–1884, FAX: 301–480–4528. If you also plan to make a presentation, please notify Dr. La Montagne. The time available will be allocated among the individuals who request an opportunity for a presentation (limited to five minutes). Formal written statements (five copies) may be presented to the Chair on the day of the meeting for inclusion in the minutes.

Dated: January 22, 1996.

Anthony S. Fauci,

Director, NIAID, NIH.

[FR Doc. 96–3206 Filed 2–12–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: National Cooperative Drug Discovery Groups for the Treatment of Opportunistic Infection in AIDS.
Date: March 25–27, 1996.
Time: 8:30 a.m.
Place: Holiday Inn Gaithersburg, 2 Montgomery Village Avenue, Gaithersburg, MD 20879, (301) 948–8900.
Contact Person: Dr. Vassil Georgiev, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C04, Bethesda, MD 20892–7610, (301) 496–8206.
Purpose/Agenda: To evaluate grant applications.
The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: February 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3180 Filed 2–12–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Studies of Therapies for Virus Infections.
Date: March 5, 1996.
Time: 11:00 a.m.
Place: Solar Bldg., Room 4C21, 6003 Executive Boulevard, Bethesda, MD 20892.
Contact Person: Dr. Gary S. Madonna, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C21, Bethesda, MD 20892–7610, (301) 496–3528.
Purpose/Agenda: To evaluate and review a contract proposal.
The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: February 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3181 Filed 2–12–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review individual grant applications.
Nome of SEP: Behavioral and Neurosciences.
Date: February 14–16, 1996.
Time: 8:00 a.m.
Place: Omni Shoreham Hotel, Washington, DC.
Contact Person: Dr. Carole Jelsema, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, Maryland 20892, (301) 435–1248.
The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
This notice is being published less than 15 days prior to the meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Biological and Physiological Sciences.
Date: February 13, 1996.
Time: 12:00 p.m.
Place: Double Tree Hotel, Rockville, Maryland.
Contact Person: Dr. Sooja Kim, Scientific Review Administrator, 6701 Rockledge Drive, Room 4120, Bethesda, Maryland 20892, (301) 435–1780.
Name of SEP: Biological and Physiological Sciences.
Date: February 13, 1996.
Time: 1:00 p.m.
Place: Double Tree Hotel, Rockville, Maryland.
Contact Person: Dr. Sooja Kim, Scientific Review Administrator, 6701 Rockledge Drive, Room 4120, Bethesda, Maryland 20892, (301) 435–1780.
This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.
The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3166 Filed 2–12–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–1990–01]

Notice of Availability for the Round Mountain Mill and Tailings Facility Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability for the Round Mountain Mill and Tailings Facility final environmental impact statement (EIS), for the Smoky Valley Common Operation, Nye County, Nevada.

SUMMARY: Pursuant to section 102 (2) (C) of the National Environmental Policy Act, 40 CFR 1500–1508, and 43 CFR 3809, notice is given that the Bureau of Land Management (BLM) has prepared and made available a Final EIS on the proposed Round Mountain Mill and Tailings Facility.

DATES: The U.S. Environmental Protection Agency will publish a Notice of Availability for this project in the **Federal Register** on February 16, 1996. That publication begins the official 30-day availability period for a Final EIS as required by 40 CFR 1506.10.

ADDRESSES: Correspondence may be addressed to: Bureau of Land Management, Battle Mountain District, Post Office Box 1420, Battle Mountain, Nevada 89820, Attn.: Christopher J. Stubbs, Round Mountain EIS Project Manager. A limited number of copies of the Final EIS may be obtained at the same address or by calling Christopher J. Stubbs at (702) 635–4000. In addition, the Final EIS and supporting documentation are available for review at the following locations: BLM, Battle Mountain District Office, Battle Mountain, Nevada; BLM, Nevada State Office, Reno, Nevada; and the Getchell Library, University of Nevada, Reno, Nevada.

FOR FURTHER INFORMATION CONTACT: Christopher J. Stubbs, Round Mountain EIS Project Manager, Bureau of Land Management, Post Office Box 1420, Battle Mountain, Nevada 89820, (702) 635–4000.

SUPPLEMENTARY INFORMATION: The Smoky Valley Common Operation has submitted a Plan of Operations Amendment for the construction, operation, and reclamation of a mill and tailings facility at the Round Mountain Mine. The mine currently consists of 4,767 acres of surface disturbance: 3,659 acres of land administered by the BLM, 515 acres of land administered by the Toiyabe National Forest, and 593 acres

of patented land owned by the Smoky Valley Common Operation. The proposed facilities would comprise an expansion of the existing operation at the Round Mountain Mine to improve the recovery of gold from ore that is being mined from the existing open pit. Ancillary facilities would include a new primary crusher; a power line; fresh water, reclaim water, and tailings pipelines; and a septic system. The proposed facilities would be located on approximately 757 acres of public land administered by the BLM, Battle Mountain District Office, Tonopah Resource Area. Construction is scheduled to begin in 1996; operation of the mill and tailings facility would begin in 1997 and continue until 2008.

This full-text Final EIS analyzes the environmental impacts associated with the proposed mill and tailings facility and ancillary facilities, a range management alternative, an alternative tailings impoundment site, and the no action alternative. In addition, the Final EIS analyzes potential impacts associated with pit dewatering and pit water quality, and the leach offload piles. Issues analyzed in the Final EIS include geology and minerals, water resources, soils and watershed, vegetation, wildlife and fisheries, range resources, paleontological resources, cultural resources and Native American traditional and religious values, air quality, access and land use, recreation and wilderness, social and economic values, visual resources, noise, and hazardous materials.

Public participation has occurred throughout the EIS process. A Notice of Intent to prepare an EIS was published in the **Federal Register** in August 1993, and an open scoping period was held for 120 days. Two public scoping meetings to solicit comments and ideas were held in November 1993, and a newsletter was issued to keep the public informed of the progress of the EIS. A Notice of Availability for the Draft EIS was published in the **Federal Register** in September 1995. The Draft EIS was issued to the public and agencies in September 1995, and comments on the document were accepted during a 60-day comment period. Comments were also accepted during two public comment meetings on the Draft EIS, held in October 1995.

The Final EIS contains in its entirety the analyses originally published in the Draft EIS as well as responses to public comments received during the public comment period. The comments received include 15 letters and 2 public meeting transcripts, which are reproduced in the Final EIS. These comments have been responded to by clarifying or updating the analyses, making factual revisions, or explaining why a comment does not warrant further response.

Comments on the Final EIS, if any, will be reviewed to determine if they have merit (i.e., if they identify significant issues not previously addressed or introduce new significant information). If so, the official responsible for preparing the EIS will determine whether additional analysis is warranted. If not, a Record of Decision will be issued following the 30-day availability period for this Final EIS.

A copy of the Final EIS will be sent to all individuals, agencies, and groups who have expressed interest in the project or as mandated by regulation or policy.

Dated: February 5, 1996.

Thomas H. Jury,

Acting District Manager.

[FR Doc. 96–3091 Filed 2–12–96; 8:45 am]

BILLING CODE 4310–HC–P

[AZ-933–06–1310–01; AZA 26597]

Oil and Gas Leases: Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease AZA 26597 for lands in Mohave County, Arizona, was timely filed and was accompanied by all required rental and royalties accruing from June 1, 1995, the date of termination. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 USC 188), and the Bureau of Land Management is proposing to reinstate the lease effective June 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited below.

FOR FURTHER INFORMATION CONTACT: Mary Hyde, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 650–0518.

SUPPLEMENTARY INFORMATION: No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre or fraction thereof, and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of the **Federal Register** notice.

Dated: January 25, 1996.

Mary Jo Yoas,

Chief, Lands and Mineral Operations Section.

[FR Doc. 96–3092 Filed 2–12–96; 8:45 am]

BILLING CODE 4310–32–P

Fish and Wildlife Service

Availability of a Draft Environmental Assessment and Receipt of an Application for an Incidental Take Permit of the Atlantic Coast Piping Plover in Massachusetts

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Massachusetts Division of Fisheries and Wildlife has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit, which is for a period of two years, would authorize the incidental take of the threatened piping plover (*Charadrius melodus*) in Massachusetts. The proposed take would occur as a result of specific actions relating to the management of recreational use of beaches where breeding piping plovers are found.

The Service has prepared a draft environmental assessment (EA) for the incidental take application. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application and EA should be received on or before March 14, 1996.

ADDRESSES: Written comments regarding the application and requests for copies of the draft EA and the conservation plan should be addressed to Field Supervisor, New England Field Office, 22 Bridge St.; Unit 1, Concord, New Hampshire 03301–4986, telephone (603) 225–1411. Comments regarding the conservation plan will be forwarded to the Massachusetts Division of Fisheries and Wildlife for review and response.

FOR FURTHER INFORMATION CONTACT: Susanna L. von Oettingen at the above address.

SUPPLEMENTARY INFORMATION: The Atlantic Coast piping plover was listed as a threatened species on January 10, 1986. Because of its listing as threatened, the piping plover is protected by the Act's prohibitions against "take". However, the Service may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife

under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23 and 17.32. For threatened species, such permits are available for scientific purposes, incidental take, or special purposes consistent with the purposes of the Act.

The Massachusetts Division of Fisheries and Wildlife (Division) has applied to the Service for an incidental take permit pursuant to Section 10(a) of the Act. This permit would authorize the incidental take of piping plovers through otherwise lawful activities occurring on plover breeding beaches. 0.Included in the application is a conservation plan prepared by the Division detailing the activities that would result in incidental take and describing measures that mitigate, minimize and monitor the amount of take.

The draft revised recovery plan for the Atlantic Coast piping plover (U.S. Fish and Wildlife Service. 1995. Piping Plover (*Charadrius melodus*), Atlantic Coast Population, Revised Recovery Plan. Technical/Agency Draft. Hadley, MA. 238pp) identified New England (which includes Massachusetts) as a recovery unit. Guidelines in the draft recovery plan state that permits for incidental take that will reduce the productivity of breeding piping plovers should only be allowed in recovery units where the subpopulation has achieved at least 70% of its portion of the recovery goal. As of 1995, the piping plover population in the New England recovery unit had reached 89% of the recovery goal (555 pairs) specified in the draft recovery plan. Furthermore, under an intensive management program, the Massachusetts piping plover population has increased more than three-fold over the last eight years, from 126 pairs in 1987 to 445 pairs in 1995.

The purpose of the proposed incidental take permit is to provide increased flexibility in managing Massachusetts beaches for use by recreationists and homeowners, while assuring continued progress toward the recovery of the Massachusetts and Atlantic Coast populations of the piping plover. The additional flexibility in managing beaches will prevent a disproportionate expenditure of resources directed at the protection of a few nests or broods in areas where they may significantly disrupt beach access by large numbers of people and be highly vulnerable to disturbance and/or mortality. Management flexibility also will create incentives for the continued participation by beach management agencies and organizations involved in protecting piping plovers.

The proposed action establishes strict eligibility criteria for landowners seeking to participate in permitted activities, and requires that these landowners make additional plover protection commitments, including the use of predator exclosures, prohibition of dogs, and plover monitoring and reporting. The proposed permit would be effective during the 1996 and 1997 plover breeding seasons. Authorized take would only affect piping plovers; take of other federally-listed species is specifically excluded from the proposed action.

Incidental take likely to occur on eligible sites may result from several management options outlined in the conservation plan. Landowners that choose to undertake such actions may apply to be included under the Division's proposed permit that will authorize the incidental take. Proposed authorized activities are (1) reduction of symbolically-fenced buffer areas around plover nests, applicable to one plover nest per site per year; (2) limited use of escorted off-road vehicle caravans or beach taxis for recreational access during periods when unfledged chicks are present on the beach; (3) use of essential vehicles during daylight hours without shorebird monitor escorts; (4) limited use of vehicles for homeowner access after dark through areas with unfledged chicks; and (5) moving eggs from heavily-used pedestrian or vehicle access points.

Take of piping plovers primarily will occur either through direct mortality of chicks, harassment of chicks or adults, or mortality of eggs that occurs as the result of nest abandonment or inadequate incubation or nest defense. As a result of these takings, overall reproductive success will be reduced at individual sites, and adverse effects may occur to immediate habitats of individual pairs or broods. However, the level of incidental take likely to occur will not reduce productivity enough to substantially slow progress toward recovery. Take that occurs as a result of a permit issued to the Division will not include mortality of adults, nor will actions undertaken within the scope of such a permit permanently degrade otherwise suitable habitat.

The Division has proposed to minimize and monitor the level of incidental take through a number of measures. Continued population growth over the duration of the permit should be ensured by conditioning the authorization of incidental take on maintaining average productivity of 1.5 chicks fledged per pair for the entire state, individual Management Units and individual sites. The conservation plan encompasses a sufficiently large geographic area that should some sites experience adverse effects from environmental or demographic stochasticity, unsuccessful management, or larger incidental take than predicted, those set-backs may be balanced by more favorable conditions or results of management elsewhere in the planning unit. Finally, the proposed permit duration of 2 years will allow for a relatively rapid evaluation of the conservation plan in light of management results and changes in the overall status of the Massachusetts and New England plover populations that may occur in 1996 and 1997.

Alternatives presented by the Division in the conservation plan are limited to the proposed action and the no-action alternative (continuation of current management recommendations without increased flexibility for limited take). In the draft EA, the Service considers four additional alternatives limitation of authorized take to pedestrian activities, limitation of authorized take to motorized activities, issuance of the permit for a duration of one year, and issuance of the permit for a duration of five years.

(**NOTICE:** Availability of a draft environmental assessment and receipt of an application for an incidental take permit of the Atlantic Coast piping plover in Massachusetts)

Dated: February 2, 1996.

Cathy Short,

Acting Regional Director, Region 5.

[FR Doc. 96–3145 Filed 2–12–96; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Hart Communication Foundation

Notice is hereby given that, on September 28, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Hart Communication Foundation ("HCF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members are: Peek Measurement Ltd., Winchester, Hampshire, ENGLAND;

Robertshaw Tennessee, Knoxville, TN; Rossel Messtechnik GmbH & Co., Werne, GERMANY; Softing GmbH, Muchen, GERMANY; Solartron Transducers, Farnborough, Hampshire, ENGLAND; The Foxboro Company, Foxboro, MA; and Yamatake-Honeywell Co., Ltd., Samukawa-machi, JAPAN.

The following are no longer members of HCF: AIM Automation and Instr. Management Oy; and UTSI International Corp.

No other changes have been made in the membership, nature and objectives of the consortium. Membership in HCF remains open, and HCF intends to file additional written notifications disclosing all changes in membership.

On March 17, 1994, HCF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 5, 1994 (59 FR 23234). The last notification was filed with the Department on June 26, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 5, 1995 (60 FR 62260).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3095 Filed 2–12–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PIMA Research Task Force

Notice is hereby given that, on January 18, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the PIMA Third Generation Blowing Agent Research Task Force (the "Research Task Force") filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Research Task Force. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: The Polyisocyanurate Insulation Manufacturers Association ("PIMA"), Washington, DC; AlliedSignal Inc., Morristown, NJ; BASF Corp., Mount Olive, NJ; Bayer, Pittsburgh, PA; The Dow Chemical Company, Midland, MI; Elf Atochem North America, Inc., Philadelphia, PA; Exxon Chemical Co., Baytown, TX; Goldschmidt Chemical Co., Hopewell, VA; ICI Americas, West Gurnee, IL; Solvay Performance Chemicals, Greenwich, CT; Phillips Chemical Co., Bartlesville, OK; Stepan Co., Northfield, IL; E.I. DuPont de Nemours & Co., Wilmington, DE; and Premium Polymers, Austin, TX. Pursuant to an EPA ozone layer protection mandate, the polyisocyanurate insulation industry must cease its use of "HCFC 141b" as a blowing agent for the production of polyisocyanurate foam by 2002. The Research Task Force is being established in order to conduct research and testing of alternative blowing agents and to develop baseline performance data so as to ensure the availability of an acceptable blowing agent by 2002.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3093 Filed 2–12–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Collaboration Agreement Relating to High Temperature Superconducting Josephson Junction Technology

Notice is hereby given that, on November 29, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), TRW, Inc., for itself and for the participants in the Collaboration Agreement Relating to High Temperature Superconducting Josephson Junction Technology (the "Collaboration Agreement"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Collaboration Agreement. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the Collaboration Agreement are: TRW, Inc., Redondo Beach, CA; Westinghouse Electric Corporation, Pittsburgh, PA; and Conductus, Inc., Sunnyvale, CA. The general areas of planned activity for the parties to the Collaborative Agreement are research and development with the intent to establish a joint road map for the development of a multilayer high temperature superconducting junction technology which will support the fabrication of integrated circuits with no on-chip redundancy containing at least 20 Josephson Junctions with greater than 10% yield, by April, 1996.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3094 Filed 2–12–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 20, 1995, Ansys, Inc., 2 Goodyear, Irvine, California 92718, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Heroin (9200)	I
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbo -nitrile (8603).	II
Levorphanol (9220)	II

The firm plans to manufacture the listed controlled substances to produce standards and controls for in-vitro diagnostic drug testing systems.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quituplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA **Federal Register** Representative (CCR), and must be filed no later than April 15, 1996.

Dated: February 2, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–3169 Filed 2–12–96; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 17, 1995, Isotec, Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymetham -phetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
Codeine (9050)	II
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo-Alphacetylmethadol (9603).	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbo -nitrile (8603).	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Levo-Alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to use small quantities of the listed controlled substances to produce standards for analytical laboratories.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: February 2, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–3170 Filed 2–12–96; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 7, 1995, Orpharm, Inc., 728 West 19th Street, Houston, Texas 77008, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Methadone intermediate (9254)	II
Levo-alphacetylmethadol (9648)	II

The firm plans to manufacture methadone and methadone intermediate for the production of LAAM.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistance Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: February 2, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–3171 Filed 2–12–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

February 8, 1996.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical; or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Housing Occupancy Certificate.

OMB Number: 1215–0158.

Agency Number: WH–520.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Farms.

Number of Respondents: 25.
Estimated Time Per Respondent: 3 minutes.
Total Burden Hours: 2.
Description: Section 203(b)(1) of the Migrant and Seasonal Agricultural Worker Protection Act requires any person owning or controlling any facility or real property to be occupied by migrant agricultural workers to obtain a certificate of occupancy. Form WH–520 is the form used when the Department of Labor Wage and Hour Division inspects and approves such housing.

Agency: Employment Standards Administration.
Title: Comparability of Current Work to Coal Mine Employment; Coal Mine Employment Affidavit; Affidavit of Deceased Miner's Condition.
OMB Number: 1215–0056.
Agency Number: CM–913; CM–918 CM–1093.
Frequency: On occasion.
Affected Public: Individuals or households.

Form	Number of respondents	Estimated time per respondent	Subtotal burden hours
CM–913	3,600	30 min.	1,800
CM–918	100	10 min.	17
CM–1093	100	20 min.	33
Total Burden Hours.	.....	.....	1,850

Description: These forms are used to gather information which is reviewed by the Division of Coal Mine Workers' Compensation to determine eligibility of individuals applying for benefits under the Black Lung Benefits Act. The CM–913 is completed by beneficiaries and claimants and compares non-coal mine work to coal mine work. The CM–918 is completed by persons with knowledge of the miner's coal mine work. The CM–1093 is completed by persons with knowledge of the deceased miners medical condition, when medical evidence is insufficient.

Theresa M. O'Malley,
Acting Departmental Clearance Officer.
[FR Doc. 96–3162 Filed 2–12–96; 8:45 am]
BILLING CODE 4510–27–M

Pension and Welfare Benefits Administration

[Application No. D–09904, et al.]

Proposed Exemptions; Aultman Retirement Savings Plan (the Plan)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Aultman Retirement Savings Plan (the Plan), Located in Canton, Ohio

[Application No. D–09904]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed guarantee (the Guarantee) by Aultman Health Services Association (the Employer), the sponsor of the Plan, of amounts due the Plan with respect to four guaranteed investment contracts issued by Confederation Life (Confederation Life), including the Employer's potential cash advances to the Plan (the Advances) pursuant to the Guarantee and the potential repayment of the Advances (the Repayments); provided that the following conditions are satisfied:

(A) All terms of the transactions are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) The Plan does not incur any expenses or pay any interest with respect to the transactions;

(C) The Repayments, if any, are restricted to (1) excess Advances made by the Employer, and (2) GIC Proceeds, defined as all amounts actually received by the Plan with respect to the GICs from Confederation Life, any conservator, trustee or person performing similar functions with respect to Confederation Life or acting as surety or insurer with respect to Confederation Life, and/or any state guaranty fund or other entity paying the obligations of Confederation Life with respect to the GICs;

(D) The Repayments will be made only after the Plan has recovered, through the Advances plus GIC Proceeds, the amount guaranteed by the Employer with respect to the GICs; and

(E) To the extent the Advances exceed GIC Proceeds, repayment of the difference will be waived.

Summary of Facts and Representations

Introduction: The Plan's assets currently include four guaranteed investment contracts (the GICs) issued by Confederation Life Insurance Company (Confederation). Confederation has been placed in receivership and, consequently, payments and withdrawals with respect to the GICs are prohibited. The Plan sponsor, Aultman Health Services Association (the Employer), proposes to guarantee that in the eventual resolution of the receivership the Plan will recover fully its investments in the GICs, including interest guaranteed under the GICs through their maturity dates and interest after the maturity dates at a rate described below. The exemption proposed herein would enable this guarantee under the terms and conditions described below.

1. The Plan is a defined contribution money purchase pension plan which provides for individual participant accounts (the Accounts), with 3,496 participants and approximately $42 million in assets as of June 30, 1994. The Plan is sponsored by the Employer, a nonprofit Ohio corporation engaged in the ownership and operation of Aultman Hospital in Canton, Ohio. The trustee of the Plan is the Society National Bank (the Trustee) in Canton, Ohio.

2. Under the terms of the Plan, participants direct individually the investment of their Accounts among several investment options offered by the Trustee, including one option which provides a return based on two items: (a) individual guaranteed investment contracts purchased by the Plan from insurance companies (the GIC Fund); and (b) Plan investments in the EB MaGic Fund (the EB Fund), a large collective investment fund maintained by the Trustee. The Plan is the sole investor in the individual contracts in the GIC Fund, which includes the GICs issued by Confederation Life, a Canadian life insurance company doing business in the United States through subsidiaries. The GICs were purchased by the Trustee as a general Plan asset before the Plan documents provided for individually-directed investment of the Accounts.

The GICs are identified as follows: (A) Contract no. 61931 purchased on January 5, 1990, principal amount $500,000; (B) Contract no. 61985 purchased on January 16, 1990, principal amount $1 million; (C) Contract no. 62754 purchased on April 28, 1993, principal amount $1 million; and (D) Contract no. 62773 purchased on August 3, 1993, principal amount $1 million. Each GIC is a non-benefit-responsive contract earning interest, payable annually (the Annual Payments), at a rate specified by its terms (the Contract Rates) over 60 months, at the end of which principal and accrued, unpaid interest are due on a specified date (the Maturity Date) in a final maturity payment (the Maturity Payment). The Employer represents that through 1994, all Annual Payments due under the GICs had been paid.

3. On August 11, 1994 (the Receivership Date), Confederation Life was placed in receivership (the Receivership) pursuant to rehabilitation proceedings by the State of Michigan.[1] Consequently, Confederation Life's assets and operations were frozen, and payments on all its guaranteed investment contracts, including the GICs held by the Plan, were suspended effective as of the Receivership Date. Maturity Payments on two of the GICs were due January 5 and January 16, 1995, but such payments were not made. The Employer represents that it is not known whether, when, or under what terms the Plan will receive any further Annual Payments and Maturity Payments due under the GICs, and further represents that the Plan is exposed to risk of loss on its investment in the GICs.

In order to protect the Accounts from any loss on the Plan's investment in the GICs, the Employer proposes to guarantee that the Plan will recover all amounts due under the GICs, plus post-maturity interest at a rate described below, and in its discretion to make advances to the Plan pursuant to this guarantee. The Employer requests an exemption for these transactions under the terms and conditions described herein.

4. The Guarantee: The Employer's proposed guarantee, including the potential advances and repayments of the advances, will be embodied in a written agreement between the Trustee and the Employer (the Agreement). Under the Agreement, the Employer undertakes a guarantee (the Guarantee) that the Plan will recover with respect to each GIC an amount referred to in the Agreement as the GIC's "Current Value", defined as follows: (a) The principal amount invested in the GIC, plus (b) interest thereon through the Maturity Date at the Contract Rate during any period for which the GIC's terms provide for interest at the Contract Rate, plus (c) interest after the Maturity Date (herein referred to as Post-Maturity Interest) at a daily rate of interest equal to one three-hundred-sixty-fifth (1/365) of the lesser of (i) the "Index" interest rate that was quoted in the Wall Street Journal on the GIC's issue date for the purchase of a new five-year guaranteed investment contract from an insurance company rated AAA by Standard and Poor's or by Duff & Phelps, or (ii) the GIC's Contract Rate; less (d) GIC Proceeds, defined as all amounts received by the Plan with respect to the GIC from Confederation Life, any conservator, trustee or person performing similar functions with respect to Confederation Life acting as surety or insurer with respect to Confederation Life, and/or any state guaranty fund or other entity otherwise paying the obligations of Confederation Life with respect to the GIC.

Accordingly, when each Maturity Payment becomes due under each GIC, the Employer becomes obligated to pay the Plan (not necessarily on each GIC's Maturity Date, but in no event later than December 31, 2001, as explained below) the difference between the amount of such Maturity Payment then due and the amount of GIC Proceeds, if any, actually received by the Plan with respect to such payment due (the Payment Obligation). After the Maturity Date of each GIC, the amount of any Payment Obligation then assumed by the Employer under the Agreement also includes interest, effective on the Maturity Date prospectively through the date of the Employer's final payment of the Payment Obligation, at the rates for Post-Maturity Interest set forth in the Agreement as described above. The Agreement requires the Trustee to notify the Employer of the amount of the Payment Obligation upon the Plan's failure to receive in full any Maturity Payment. As described below, the

[1] The Department notes that the decisions to acquire and hold the GICs are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GICs.

Employer's payment of amounts due the Plan as Payment Obligation under the Agreement will be made from time to time at the discretion of the Employer, and the total Payment Obligation must be paid to the Plan upon final resolution of the Receivership but no later than December 31, 2001.

5. Advances: The Agreement enables (but does not obligate) the Employer at any time to reduce the balance of amounts the Employer owes the Plan under the Guarantee by making "restorative payments" of cash to the Plan. These "restorative payments" (the Advances) are treated under the Agreement as interest-free advances of amounts guaranteed by the Employer under the Agreement. The Employer represents that although the Agreement allows Advances at any time, it expects to fulfill its Guarantee obligations upon eventual resolution of the Receivership, as discussed below, and that interim Advances are anticipated only in the event the Plan encounters unforeseen liquidity problems.

6. Repayments and Final Resolution: Prior to final resolution of the Receivership, any Advances made by the Employer will be repaid immediately to the Employer (the Repayments) if and whenever the total GIC Proceeds plus unrepaid Advances exceeds the GICs' Current Value. A final Repayment will be made to the Employer upon final resolution of the Receivership, if the sum of GIC Proceeds plus unrepaid Advances exceeds the Current Value, in the amount of such excess. The Employer will receive no interest on the amounts repaid under the Agreement.

Upon final resolution of the Receivership, but in no event later than December 31, 2001, if the GICs' Current Value exceeds the sum of total GIC Proceeds plus any Advances by the Employer, then the Employer must make a final Advance in the amount of the difference.

Execution of the Agreement is contingent upon (a) final grant of the exemption proposed herein and (b) execution of a "closing agreement" between the Employer, the Trustee and the Internal Revenue Service pursuant to Revenue Procedure 92–16.

7. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The transactions will protect the Plan against all risk of loss with respect to its investments in the GICs; (2) The Plan will recover all principal invested in the GICs plus all interest due under the GICs' terms; (3) The Plan will not pay any or incur any expenses with respect to the Advances or the Guarantee; (4) Repayment of the Advances will be limited to GIC Proceeds and excess Advances; and (6) Repayment of the Advances will be waived with respect to the amount by which the Advances exceed the amount the Plan receives from GIC proceeds.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Jack, Lyon & Jones, P.A. Profit Sharing Plan (the Plan), Located in Little Rock, AR

[Application No. D–10071]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the (1) proposed purchase by the Plan of certain improved real property (the Property) from Jack, Lyon & Jones, P.A., (the Employer), a party in interest with respect to the Plan; (2) the subsequent leasing (the Lease) of the Property by the Plan to the Employer; and (3) the potential future repurchase of the Property by the Employer from the Plan pursuant to the terms of an option agreement (the Option Agreement).

This proposed exemption is conditioned on the following requirements:

(a) The interests of the Plan with respect to the purchase of the Property, the execution and maintenance of the Lease and the potential repurchase of the Property by the Employer will be represented by First Commercial Trust Company (FCTC) of Little Rock, Arkansas, which will serve as the independent fiduciary.

(b) FCTC does not and will not derive more than one percent of its gross business revenues from the Employer and/or its principals for each fiscal year that it serves as the independent fiduciary for the Plan with respect to the transactions described herein.

(c) FCTC will evaluate the transactions, determine that such transactions are in the best interests of the Plan, and monitor and enforce compliance with the terms and conditions of the transactions and the exemption, at all times.

(d) The acquisition price for the Property will be paid by the Plan in cash and will be based upon the fair market value of the Property as determined by a qualified, independent appraiser.

(e) The fair market value of the Property will not exceed 25 percent of the assets of the Plan.

(f) The terms of the Lease will remain at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(g) The fair market rental amount will be redetermined every three years that the Lease is in effect by a qualified, independent appraiser who has been selected by FCTC and, FCTC will then make appropriate adjustments to such rent.

(h) The Employer will be obligated for all real estate taxes, utility costs, fees and insurance premiums that are incidental to the Lease.

(i) The Option Agreement will enable the Plan to sell the Property to the Employer in the event that FCTC determines that it is not in the best interest of the Plan to retain the Property.

(j) The Option Agreement will provide that the Employer repurchase the Property from the Plan for cash in an amount which is not less than the greater of (i) the Plan's acquisition cost for the Property or (ii) the fair market value of the Property as determined by a qualified, independent appraiser who has been selected by FCTC.

(k) The Plan will pay no real estate fees, commissions or other expenses in connection with the acquisition of the Property, the administration of the Lease or the repurchase of the Property by the Employer under the Option Agreement.

Summary of Facts and Representations

1. The Plan is a defined contribution plan that was established by the Employer on August 1, 1986. As of March 21, 1995, the Plan had 27 participants. As of March 31, 1995, the Plan had total assets of approximately $837,746. FCTC serves as the Plan trustee as well as the decisionmaker with respect to Plan investments. The Employer, a professional corporation engaged in the practice of law, maintains its principal place of business at 425 West Capitol Avenue, Little Rock, Arkansas.

2. Among the assets of the Employer is a parcel of improved real property which is located at 350 Ardsley Place, Nashville, Tennessee. The Property consists of a 3 bedroom condominium

end unit. The Employer purchased the Property for $169,900 from Paul J. Reynard, an unrelated party, on September 30, 1994. Since the date of purchase, the Employer has used the Property as a working office and living quarters for visiting attorneys who share time between the Employer's Nashville and Little Rock offices. The Property is not located in close proximity to other real property that is owned by the Employer or its principals.

At present, the Property is encumbered by a mortgage note in the original principal amount of $169,900. The note was executed between the Employer and Worthen Bank of Arkansas (Worthen), an unrelated party, on September 29, 1994. The note carries interest at 8 ½ percent per annum and initially required 5 interest only payments beginning October 31, 1994 and continuing at monthly intervals thereafter. Although a final payment of the unpaid principal balance plus accrued interest was to be due and payable on November 2, 1995, it is represented that the note has been extended by the parties under the prior terms and conditions.

3. The Property has been appraised by Mitzi L. Ayers, SRA and Shirley Adkins, MAI, qualified, independent appraisers who are affiliated with the appraisal firm of Adkins & Associates, located in Nashville, Tennessee. Using comparable market values as a basis for their analysis, the appraisers placed the fair market value of the Property at $170,000 as of January 24, 1995. Again using the sales comparison approach to valuation, the appraisers also placed the fair market rental value of the Property at $1,600 per month as of January 24, 1995.

4. Because it has assets available for reinvestment, the Plan proposes to purchase the Property from the Employer for cash at its appraised value of $170,000.[2] The Property will then represent approximately 21 percent of the Plan's assets. Contemporaneously with its purchase of the Property, the Plan will commence leasing the Property to the Employer under the terms of a written lease. The Lease also provides for the Employer's potential repurchase of the Property from the Plan. The Plan will not be required to pay any real estate fees or commissions in connection with its acquisition of the Property, the administration of the Lease or with respect to the future reacquisition of the Property by the Employer. Accordingly, the employer requests an administrative exemption from the Department under the terms and conditions described herein.

5. The interests of the Plan with respect to the proposed transactions will be represented by FCTC, as the independent fiduciary. Specifically, Mr. Albert M. Crawford, a Certified Employee Benefits Specialist for FCTC, will undertake the duties that are required of the independent fiduciary. Other than serving as the Plan's existing trustee, FCTC represents that it is not related in any way to the Employer or its principals through any common ownership, debt relationship, business dealings or family relationships, nor does it derive (or will it derive) more than one percent of its gross business revenues from the Employer and/or its principals for each fiscal year that it serves as the independent fiduciary for the Plan with respect to the transactions described herein. In addition, FCTC states that it has extensive experience as a fiduciary under the Act and that it acknowledges and accepts the duties, responsibilities and liabilities in acting as a fiduciary with respect to the Plan.

6. The proposed Lease will have a term of 15 years. It may be renewed by the Employer for three, successive five year periods provided the Employer notifies the Plan of its intent to renew 60 days prior to the expiration of the Lease term and it obtains FCTC's approval with respect to each such extension. The Lease provides that the Employer pay the Plan an initial monthly rental of $1,600 per month. In addition, the Employer is required to pay for all utilities that are associated with the Property, condominium fees, real estate taxes, insurance premiums and maintenance and repairs to the premises.

During every three years that the Lease is in effect, the Property will be reappraised, at the expense of the Employer, by a qualified, independent appraiser who has been selected by FCTC. FCTC will then adjust the rental for the Property. In the event that the adjusted rental amount is less than the rental paid by the Employer during the previous three year period, the Employer will pay the Plan the prior rental amount.

7. The Lease also contains a provision which authorizes FCTC to require the Employer to purchase the Property from the Plan under the terms of an Option Agreement. Any purchase of the Property pursuant to the Option Agreement will be for a cash amount that is not less than the greater of (a) The Plan's original acquisition price for the Property or (b) the fair market value of the Property as determined by a qualified, independent appraiser who has been selected by FCTC. FCTC may exercise the option only after it has determined that it is in the best interests of the Plan and its participants and beneficiaries. Notice of the exercise of the option must be presented to the Employer in writing before its expiration. (Expiration of the Option will occur upon the sale or transfer of the Property by the Plan.) Upon the presentment of notice, the Employer will have 60 business days to consummate the repurchase of the Property. The Option Agreement further requires that the Plan will not be responsible for any real estate fees, commissions or other expenses that are incurred in connection with Employer's repurchase of the Property.

8. FCTC believes that the proposed transactions are in the best interest of the Plan and its participants and beneficiaries for the following reasons: (a) the proposed purchase of the Property by the Plan and the leaseback to the Employer will guarantee participants an annual investment rate of return of approximately 11.92 percent or greater; (b) the terms of the Lease are comparable to the ones currently being negotiated in the Nashville area for similar properties; and (c) the Employer must, if requested, repurchase the Property under the Option Agreement for a price which may be at, or in excess of, the fair market value. In addition, FCTC considers the Employer creditworthy and able to meet any obligations it may have in the future to repurchase the Property.

In addition to these reasons, FCTC believes that the diversification of the Plan's investment portfolio in the Property would be beneficial to its participants and beneficiaries. FCTC notes that the Plan's investments in real property for the year ending 1994 would amount to less than 25 percent of the Plan's assets. As additional contributions and earnings are made to the Plan, the Property will represent a smaller percentage of the total Plan assets. Consequently, FCTC believes the decision to invest Plan assets in the Property is a prudent one.

Finally, FCTC represents that it has examined the Plan document, the investment portfolio for the Plan as well as the most recent Forms 5500 and allocations. In light of this examination, FCTC does not believe the liquidity of the Plan will be adversely affected if the proposed transactions are consummated. FCTC also asserts that the proposed transactions will promote the diversification of the Plan's assets

[2] It is represented that simultaneously with the Plan's purchase of the Property, the Employer will use the sale proceeds to pay off its indebtedness to Worthen.

and enable the Plan to achieve its investment objectives.

Aside from the duties that are described above, FCTC has agreed to monitor the proposed transactions throughout their duration on behalf of the Plan and take appropriate actions that are deemed necessary and proper to safeguard the interests of the Plan and its participants and beneficiaries. FCTC will also monitor the terms and conditions of the exemption, at all times.

9. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The interests of the Plan with respect to the purchase of the Property, the execution and maintenance of the Lease and the potential repurchase of the Property by the Employer will, at all times, be represented by FCTC.

(b) FCTC, which has evaluated the terms of the transactions and determined that the such transactions will be in the best interests of the Plan, will monitor and enforce compliance with the terms and conditions of the transactions and the exemption, at all times.

(c) The acquisition price for the Property will be paid by the Plan in cash and will be based upon the fair market value of the Property as determined by a qualified, independent appraiser.

(d) The fair market value of the Property will not exceed 25 percent of the assets of the Plan.

(e) The terms of the Lease will remain at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(f) The fair market rental amount will be redetermined every three years that the Lease is in effect by a qualified, independent appraiser who has been selected by FCTC and, FCTC will then make appropriate adjustments to such rent.

(g) The Employer will be obligated for all real estate taxes, utility costs, fees and insurance premiums that are incidental to the Lease.

(h) The Option Agreement will enable the Plan to sell the Property to the Employer in the event that FCTC determines that it is not in the best interest of the Plan to retain the Property.

(i) The Option Agreement will provide that the Employer repurchase the Property from the Plan for cash in an amount which is not less than the greater of (i) the Plan's acquisition price for the Property or (ii) the fair market value of the Property as determined by a qualified, independent appraiser who has been selected by FCTC.

(j) The Plan will pay no real estate fees, commissions or other expenses in connection with the acquisition of the Property, the administration of the Lease or the repurchase of the Property by the Employer under the Option Agreement.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Associated Claims Management 401(k) Plan (the Plan), Located in Walnut Creek, CA

[Application No. D–10121]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale of a group annuity contract (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit) by the Plan to Foundation Health Corporation (FHC), a party in interest with respect to the Plan, provided that the following conditions are satisfied: (a) The sale is a one-time transaction for cash; (b) the Plan suffers no loss nor incurs any expense in connection with the sale; (c) the purchase price is no less than the fair market value of the GAC as of the date of the sale; and (d) any payments under the GAC to FHC, or its successors, after the date of the sale in excess of FHC's purchase price are paid to the Plan.

Summary of Facts and Representations

1. The Plan is a 401(k) plan maintained by Associated Claims Management, Inc. (ACMI), a wholly-owned subsidiary of FHC. FHC, a Delaware corporation headquartered in Rancho Cordova, California, is a holding company that administers managed health care services, as well as offering life and disability insurance, through its subsidiaries. ACMI administers insurance claims and is located in Walnut Creek, California. As of September 15, 1995, the Plan had 109 participants who remain invested in the GAC and total assets of approximately $474,995. The trustees of the Plan are Laurie Stover, Director of Corporate Compensation and Benefits at FHC, and Danny O. Smithson, Senior Vice President of FHC.

2. Among the assets of the Plan is the GAC, No. GA–07773, which was acquired from Mutual Benefit on May 2, 1990 and was intended to serve as one of the investment options offered to Plan participants. The GAC is a variant on the insurance product known in the trade as an "annual window group annuity contract." Under the GAC, two certificates were issued to the Plan. The first certificate, effective January 1, 1990, provided for an interest rate of 7.65% and a maturity date of December 31, 1994 (the 1990 Certificate). The second certificate, effective January 1, 1991, provided for an interest rate of 8.10% and a maturity date of December 31, 1995 (the 1991 Certificate).

The GAC was designed to operate in the following manner. For each calendar year during the life of the GAC, Mutual Benefit would issue a certificate to the Plan setting the guaranteed rate of interest payable on funds deposited pursuant to the GAC certificate. For each certificate, the Plan could elect a maturity date of two, three, or four years from the first of the year. Mutual Benefit would establish a separate subfund with respect to each certificate such that the GAC, over a period of time, would be composed of a series of annual subfunds earning various rates of interest. The GAC could be discontinued by the Plan at any time. However, the funds deposited pursuant to the GAC certificates would continue to earn interest until the certificates' respective maturity dates.

3. On July 16, 1991, Mutual Benefit was placed into rehabilitation proceedings by the New Jersey Commissioner of Insurance (the Commissioner).[3] As a result, the assets of the Plan invested in the GAC were frozen, with the exception of certain hardship withdrawals. In 1994, the terms of the GAC were redefined under a rehabilitation plan approved by the Commissioner, and all liabilities and obligations of Mutual Benefit with respect to the GAC were assumed by the MBL Life Assurance Corporation (MBLLAC), a New Jersey stock life insurance company located in Newark, New Jersey. The Plan opted to remain invested in the GAC according to the terms of the rehabilitation plan, which provides that withdrawals are not permitted to participants without penalty until December 31, 1999, except in the event of hardship or upon retirement after attaining age 59½.

Under the restructured GAC, the interest due on the 1990 and 1991 Certificates is calculated as follows. From the GAC's inception in January 1, 1990 to December 31, 1991, interest is credited at the guaranteed rates set forth in the 1990 and 1991 Certificates, 7.65% and 8.10%, respectively. From January 1, 1992 onward, interest is credited at a rate pursuant to an insurance industry enhancement, or so-called "wrapper," 4% for 1992, 3.5% for 1993, 3.5% for 1994, and 3.55% for 1995. The wrapper is funded by a consortium of insurance companies (the Consortium), led by the Prudential Insurance Company of America and Metropolitan Life Insurance Company, and provides a rate of interest for insurance products that have been frozen due to the rehabilitory conservatorship of Mutual Benefit. Beginning with calendar year 1995, the interest rate set forth is based on the actual investment performance of a separate account allocated by the Consortium to the GAC. The applicant represents that it is still uncertain whether MBLLAC will be able to redeem the GAC at 100% of its accumulated value by December 31, 1999, as provided by the rehabilitation plan.

4. In order to protect the Plan participants and beneficiaries from any further risk of investment loss associated with the GAC, the applicant proposes to purchase the GAC from the Plan for an amount equal to the account balance of the GAC as determined by MBLLAC as of the date of the sale. As of September 1, 1995, the GAC had an account balance of $143,091. This figure represents the principal amounts deposited pursuant to the 1990 and 1991 Certificates, less withdrawals, plus (i) the interest that accrued under the 1990 and 1991 Certificates from January 1, 1990 to December 31, 1991, and (ii) the interest that accrued under the wrapper from January 1, 1992 to September 1, 1995. The purchase price will be adjusted to reflect any additional interest earned from September 1, 1995 to the date of the sale. The sale will be a one-time transaction for cash, and the Plan will incur no expenses in connection with the sale.

The applicant represents that the proposed transaction is in the interests of the Plan because it will enable the Plan to avoid any risk associated with continued holding of the GAC and to redirect assets to investments with a more attractive risk-return ratio. In addition, the proposed transaction will enable participants to obtain distributions, loans, and withdrawals attributable to GAC funds that have been frozen since 1991.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will suffer no loss nor incur any expense in connection with the sale; (c) the transaction will protect the Plan from any risk associated with continued holding of the GAC, as well as enabling participants to exercise all of their rights under the Plan to request distributions, loans, and withdrawals from the Plan; (d) the purchase price will be the account balance of the GAC as determined by MBLLAC as of the date of the sale; and (e) any payments under the GAC to FHC, or its successors, after the date of the sale in excess of FHC's purchase price will be paid to the Plan.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons by first-class mail, by overnight express delivery, or by posting the required information at ACMI's offices within 15 days of the date of publication of the notice of pendency in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and/or to request a hearing with respect to the proposed exemption. Comments and requests for a hearing are due within 45 days of the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

First Union Corporation (First Union), Located in Charlotte, NC

[Application No. D–10165]

Proposed Exemption

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[4]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in

[3] The Department notes that the decision to acquire and hold the GAC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GAC.

[4] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

certificates representing an interest in a trust containing assets sold or serviced by the same entity.[5] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[6]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D & P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. "Certificate" means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) above for which First Union is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either—

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)-(e) of this section B.(1);

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D & P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means:

(1) First Union;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with First Union; or

(3) Any member of an underwriting syndicate or selling group of which First Union or a person described in (2) is a manager or co-manager with respect to the certificates.

D. "Sponsor" means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. "Master Servicer" means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. "Forward delivery commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. "Reasonable compensation" has the same meaning as that term is defined in 29 CFR 2550.408c–2.

[5] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[6] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. "Qualified Equipment Note Secured By A Lease" means an equipment note:

(1) Which is secured by equipment which is leased;

(2) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as would be the case if the equipment note were secured only by the equipment and not the lease.

U. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(1) The trust holds a security interest in the lease;

(2) The trust holds a security interest in the leased motor vehicle; and

(3) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as would be the case if the trust consisted of motor vehicle installment loan contracts.

V. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

Summary of Facts and Representations

1. First Union is a North Carolina-based, multi-bank holding company registered under the Bank Holding Company Act of 1956, as amended, and the rules and regulations thereunder. First Union was incorporated on December 22, 1967. First Union provides a wide range of commercial and retail banking and trust services. First Union [7] also provides various other financial services, including mortgage banking, home equity lending, leasing, investment banking, insurance and securities brokerage services, through other subsidiaries. First Union Capital Markets Corp. (CMC), formerly First Union Securities, Inc., is a wholly-owned subsidiary of First Union and a broker-dealer registered with the Securities and Exchange Commission.[8]

Through its subsidiaries and affiliates (including CMC), First Union is a financial services organization servicing the financial needs of individuals, businesses, governments and financial institutions. As to the capital markets, CMC and certain of its bank affiliates, principally First Union National Bank of North Carolina, engage in a variety of activities that facilitate the flow of capital from investors to CMC's and such Bank's middle market customers. In particular, CMC engages in securities transactions as both principal and agent and provides underwriting, research and other financial services. CMC is actively involved in the issuance and trading of high yield corporate debt, investment grade fixed-income securities (including mortgage and asset-backed securities), U.S. government securities and municipal securities.

First Union represents that CMC has the legal authority to underwrite asset-backed securities. By order dated July 31, 1989, the Board of Governors of the Federal Reserve (the Board) granted CMC the power to underwrite and deal in residential mortgage-related and consumer-receivable related securities. By order dated May 30, 1995, the Board granted CMC the power to underwrite and deal in all types of debt securities, including securities issued by a trust, partnership or limited liability company or other vehicle secured by or representing interests in debt obligations (such as asset-backed securities not covered by the July 31, 1989 order). In each case, CMC's power to so underwrite and deal is subject to a framework of structural and operating limitations set forth in the applicable order, including a condition that it does not derive more than a certain percentage of its gross revenues from such activities. In addition, each of First Union's national bank association subsidiaries has the power to underwrite asset-backed securities representing interests in assets originated or acquired by such national bank association subsidiary.

Trust Assets

12. First Union seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts; [9] (2) motor vehicle receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[10]

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgages.[11]

[7] For purposes of this exemption, "First Union" shall include First Union Corporation, First Union Capital Markets Corp., the direct and indirect national bank association subsidiaries of First Union Corporation, and their respective subsidiaries and affiliates, except where the context otherwise requires.

[8] There are two other SEC-registered broker-dealers in the First Union family: First Union Brokerage Services, Inc., a North Carolina corporation (FUBS), and Lieber & Co., a New York general partnership (Lieber). Neither FUBS nor Lieber currently engages, nor is it currently contemplated that either will engage, in the underwriting or private placement of asset- or mortgage-backed securities.

[9] The Department notes that PTE 83–1 (48 FR 895, January 7, 1983), a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83-1 are met. First Union requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure. However, First Union has stated that it may still avail itself of the exemptive relief provided by PTE 83–1.

[10] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

[11] Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90–32 involving Prudential-Bache Securities, Inc. (55 FR 23147, June 6, 1990 at 23150).

Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables which may have been originated by a sponsor or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

On or prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. On the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. First Union, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. All of the public offerings of certificates presently contemplated are to be underwritten by First Union on a firm commitment basis. In addition, First Union anticipates that it may privately place certificates on both a firm commitment and an agency basis. First Union may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders will be entitled to receive monthly, quarterly or semi-annual installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable.

When installments or payments are made on a semi-annual basis, funds are not permitted to be commingled with the servicer's assets for longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of certificateholders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the certificates. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to deposit. Usually, the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account does not exceed one month. Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time this report is delivered to the trustee, it will be made available to certificateholders and delivered to or made available to each rating agency that has rated the certificates.

5. Some of the certificates will be multi-class certificates. First Union requests exemptive relief for two types of multi-class certificates: "strip" certificates and "fast-pay/slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[12]

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal, and/or earlier payment schedule, and only when that class of certificates has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing a certificate be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders then entitled to receive distributions will share in the amount distributed on a pro rata basis.[13]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates (within 120 days, except in the case of obligations having an original term of 30 years, in which case the period will not exceed two years). Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a home-owner or automobile purchaser, or leases property to the lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be entities that originate receivables in the ordinary course of their business, including finance companies for whom such origination constitutes the bulk of their operations, financial institutions for whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The *sponsor* will be one of three entities: (i) A special-purpose corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited

[12] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[13] If a trust issues subordinated certificates, holders of such subordinated certificates may not share in the amount distributed on a pro rata basis with the senior certificateholders. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

to acquiring the receivables to be included in the trust, establishing the trust, designating the trustee, and assigning the receivables to the trust.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to First Union, the trust sponsor or the servicer. First Union represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer or sponsor. The method of compensating the trustee which is specified in the pooling and servicing agreement will be disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, the receivables may be "subserviced" by their respective originators and a single entity may "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

Receivables of the type suitable for inclusion in a trust invariably are serviced with the assistance of a computer. After the sale, the servicer keeps the sold receivables on the computer system in order to continue monitoring the accounts. Although the records relating to sold receivables are kept in the same master file as receivables retained by the originator, the sold receivables are flagged as having been sold. To protect the investor's interest, the servicer ordinarily covenants that this "sold flag" will be included in all records relating to the sold receivables, including the master file, archives, tape extracts and printouts.

The sold flags are invisible to the obligor and do not affect the manner in which the servicer performs the billing, posting and collection procedures related to the sold receivables. However, the servicer uses the sold flag to identify the receivables for the purpose of reporting all activity on those receivables after their sale to investors.

Depending on the type of receivable and the details of the servicer's computer system, in some cases the servicer's internal reports can be adapted for investor reporting with little or no modification. In other cases, the servicer may have to perform special calculations to fulfill the investor reporting responsibilities. These calculations can be performed on the servicer's main computer, or on a small computer with data supplied by the main system. In all cases, the numbers produced for the investors are reconciled to the servicer's books and reviewed by public accountants.

The underwriter will be a registered broker-dealer that acts as underwriter or placement agent with respect to the sale of the certificates. Public offerings of certificates are generally made on a firm commitment basis. Private placement of certificates may be made on a firm commitment or agency basis. It is anticipated that the lead and co-managing underwriters will make a market in certificates offered to the public.

In some cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (although they may themselves be related) will be unrelated to First Union. In some cases the underwriter will be unrelated to First Union. In other cases, however, First Union may originate or service receivables included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. In some cases, the sponsor will obtain the receivables from various originators pursuant to existing contracts with such originators under which the sponsor continually buys receivables. In other cases, the sponsor will purchase the receivables at fair market value from the originator or a third party pursuant to a purchase and sale agreement related to the specific offering of certificates. In other cases, the sponsor will originate the receivables itself.

As compensation for the receivables transferred to the trust, the sponsor receives certificates representing the entire beneficial interest in the trust, or the cash proceeds of the sale of such certificates. If the sponsor receives certificates from the trust, the sponsor sells all or a portion of these certificates for cash to investors or securities underwriters.

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces, including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on receivables included in the trust minus a specified servicing fee.[14] This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon, rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor or an affiliate thereof, and receive fees for acting in that capacity) will retain the difference between payments received on the receivables in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases a portion of the payments on receivables may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer typically will be required to pay the administrative expenses of servicing the trust, including in some cases the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is either paid out of the interest income received on the receivables in excess of the pass-through rate or paid in a lump sum at the time the trust is established.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) prepayment fees; (b) late payment and payment extension fees; and (c) expenses, fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts maintained with itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on receivables are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. The underwriter will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what the underwriter receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. In a best efforts underwriting in which the underwriter would sell certificates in a public offering on an agency basis, the underwriter would receive an agency commission rather than a fee based on the difference between the price at which the certificates are sold to the public and what it pays the sponsor. In some private placements, the underwriter may buy certificates as principal, in which case its compensation would be the difference between what it receives for the certificates that it sells and what it pays the sponsor for these certificates.

Purchase of Receivables by the Servicer

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payments, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables remaining in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 to 10 percent) of the initial aggregate unpaid balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to: (1) The unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (2) the greater of (a) the amount in (1) or (b) the fair market value of such obligations in the case of a REMIC, or the fair market value of the receivables in the case of a trust that is not a REMIC.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as surety bonds, letters of credit, guarantees, or the creation of a class of certificates with subordinated cash flow) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

Provision of Credit Support

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e. act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be the master servicer or an affiliate thereof) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates, and the master servicer will advance such funds in a timely manner. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism. In some cases, however, the master servicer may not be obligated to advance funds but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a master servicer typically can recover advances either from the provider of credit support or from future payments on the affected assets.

If the master servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover delinquent payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights, as both a party to the pooling and servicing agreement and the owner of the trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the master servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time

[14] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly or semi-annually, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee; and

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount thereafter is subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the receivables contained in the trust, including the types of receivables, the diversification of the receivables, their principal terms, and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through securities to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets, payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the servicer, paying agent or trustee summarizing information regarding the trust and its assets. Such statement will include information regarding the trust and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Forward Delivery Commitments

24. To date, no forward delivery commitments have been entered into by First Union in connection with the offering of any certificates, but First Union may contemplate entering into such commitments. The utility of forward delivery commitments has been recognized with respect to offering similar certificates backed by pools of residential mortgages, and First Union may find it desirable in the future to enter into such commitments for the purchase of certificates.

Secondary Market Transactions

25. It is First Union's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter. First Union anticipates that it will make a market in certificates.

Summary

26. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which First Union seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) First Union anticipates that it will make a secondary market in certificates.

Discussion of Proposed Exemption

I. Differences between Proposed Exemption and Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 [46 FR 7520, January 23, 1981], Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 [48 FR 895, January 7, 1983].

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83-1 provides conditional exemptive relief from section 406 (a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled receivables, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[15]

III. Limited Section 406(b) and Section 407(a) Relief for Sales

First Union represents that in some cases a trust sponsor, trustee, servicer, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[16] In these cases, a direct or indirect sale of certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[17] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to

[15] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, D&P, Fitch or Moody's) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

[16] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which First Union or any of its affiliates is either (a) the sole underwriter or manager or co-manager of the underwriting syndicate, or (b) a selling or placement agent.

[17] The applicant represents that where a trust sponsor is an affiliate of First Union, sales to plans by the sponsor may be exempt under PTE 75–1, Part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if First Union is not a fiduciary with respect to plan assets to be invested in certificates.

purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, First Union represents that a trust sponsor, servicer, trustee, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. First Union represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, First Union represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor under receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

NOTICE TO INTERESTED PERSONS: The applicant represents that because those potentially interested participants and beneficiaries cannot all be identified, the only practical means of notifying such participants and beneficiaries of this proposed exemption is by the publication of this notice in the **Federal Register**. Comments and requests for a hearing must be received by the Department not later than 30 days from the date of publication of this notice of proposed exemption in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gary Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 2nd day of February, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 96–3117 Filed 2–12–96; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–013]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Imidyne Corporation, of 2425 Jamie Street, Merrick, New York 11566, has requested an exclusive license to practice the inventions disclosed in NASA Case No. LAR–15,437–P, entitled "A FIRE RESISTANT, MOISTURE BARRIER MEMBRANE," for which U.S. Patent Application No. 60/008,765, was filed on December 15, 1995; NASA Case No. LAR–15,020–1, entitled "DIRECT PROCESS FOR PREPARING SEMI-CRYSTALLINE POLYIMIDES," for which U.S. Patent No. 5,464,928, was issued on November 7, 1995; and NASA Case No. LAR–14,163–1, entitled "NOVEL POLYIMIDE MOLDING POWDER, COATING, ADHESIVE AND MATRIX RESIN," for which U.S. Patent No. 5,147,966, was issued on September 15, 1992, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. George F. Helfrich, Patent Counsel, NASA Langley Research Center.

DATES: Responses to this Notice must be received by April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. George F. Helfrich, Patent Counsel, NASA Langley Research Center, Mail Code 212, Hampton, VA 23681–0001; telephone (804) 864–3521.

Dated: April 1, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–3154 Filed 2–12–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice 96–012]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

SUMMARY: NASA hereby gives notice that Vannevar New Media, Inc., of Houston, Texas 77058 has requested an exclusive license to practice the invention protected by U.S. Patent No. 5,181,259 entitled "General Method of Pattern Classification Using the Two Domain Theory," NASA Case No. MSC–21,737–1, which was issued on January 19, 1993, and is assigned to the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. Hardie R. Barr, Patent Attorney, Johnson Space Center.

DATES: Responses to this Notice must be received by April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Code HA, Houston TX 77058–3696; telephone (713) 483–1003.

Dated: February 1, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–3153 Filed 2–12–96; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–390]

Watts Bar Nuclear Plant, Unit 1, Tennessee Valley Authority; Notice of Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF–90 (the license) to Tennessee Valley Authority (the licensee). This license authorizes operation of the Watts Bar Nuclear Plant, Unit 1 (the facility), by the licensee at reactor core power levels not in excess of 3411 megawatts thermal in accordance with the provisions of the license, the Technical Specifications (Appendix A to the license), and the Environmental Protection Plan (Appendix B to the license).

Watts Bar Nuclear Plant, Unit 1, is a pressurized-water nuclear reactor located at the licensee's site on the west bank of Chickamauga Lake in Rhea County, Tennessee.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on December 27, 1976 (41 FR 56244).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement (NUREG–0498), and Supplement 1, since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

Pursuant to 10 CFR 51.52, the Commission has determined that the issuance of exemptions included in this license will have no significant impact on the environment. These determinations were published in the **Federal Register** on April 18, 1985 (50 FR 15516) and April 25, 1995 (60 FR 20291).

For further details with respect to this action, see (1) Facility Operating License No. NPF–90 with appendices stated above; (2) the Commission's Safety Evaluation Report (NUREG–0847) dated June 1982, and Supplements 1 through 20; (3) the licensee's Final Safety Analysis Report as amended to Amendment No. 91; (4) The licensee's Environmental Report and supplements thereto; and (5) the Commission's Final Environmental Statement (NUREG–0498) dated December 1978 and Supplement 1 dated April 1995. These items are available at the NRC's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, D.C. 20555, and at the local public document room, Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of the Facility Operating License No. NPF–90 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects I/II. Copies of the Safety Evaluation Report (NUREG–0847) and Supplements 1–20, and the Final Environmental Statement (NUREG–0498) and Supplement 1 may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250–7954 (telephone no. 202–512–1800). All orders should clearly identify the NRC publication number and the requestor's GPO deposit account, or VISA or Mastercard number and expiration date.

Dated at Rockville, Maryland, this 7th day of February 1996.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects I/II.

[FR Doc. 96–3123 Filed 2–12–96; 8:45 am]

BILLING CODE 7590–01–P

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Public Information Collection Requirements Submitted to OMB for Review

DATE: February 13, 1996.

PADC has submitted the following extension of a public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511 (44 U.S.C. Ch. 35). Copies of the submission may be obtained by calling the PADC clearance offer listed. Send comments to the OMB reviewer listed and to the PADC clearance officer.

Pennsylvania Avenue Development Corporation

OMB Number: 3208.

Form Number: 3208–003.

Title: Affirmative Action Quarterly Workforce Report.

Decription: Under the authority of the Pennsylvania Avenue Development Corporation Act, as amended (Pub. L. 92–578), and PADC's Affirmative Action Policy and Procedure (36 CFR Part 906), PADC has requested the developer of the Federal Triangle site in Washington, DC to obtain, on a voluntary basis, detailed statistics of racial and ethnic composition workforce on the project.

Respondents: Construction Contractors.

Annual Reporting and Recordkeeping Burden: a. Number of respondents—75 construction contractors quarterly. b. Hours to fill out one form quarterly—one hour maximum.

Clearance Officer: Talbot J. Nicholas II, Attorney, (202) 724–9055, PADC, Suite 1220-North, 1331 Pennsylvania Avenue, NW., Washington, DC 20004.

OMB Reviewer: Nora Neureiter, (202) 395–7860, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW. (Room 10202), Washington, DC 20503.

Dated: January 31, 1996.

Lester M. Hunkele III,

Executive Director.

[FR Doc. 96–3089 Filed 2–12–96; 8:45 am]

BILLING CODE 7630–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21738; No. 812–9752]

IDS Life Insurance Company, et al.

February 7, 1996.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of application for an order pursuant to the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: IDS Life Insurance Company ("IDS Life") and IDS Life Variable Account 10 (the "Variable Account").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the 1940 Act granting exemptions from the

provisions of Sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of (a) the Variable Account in connection with the offer and sale of certain variable annuity contracts ("Existing Contracts"); (b) the Variable Account in connection with the issuance of variable annuity contracts that are substantially similar in all material respects to the Existing Contracts ("Future Contracts," together with Existing Contracts, the "Contracts"); and (c) any other separate account established in the future by IDS Life in connection with the issuance of Contracts ("Future Accounts").

FILING DATE: The application was filed on September 7, 1995, and amended on December 21, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on March 4, 1996, and must be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Applicants, c/o Mary Ellyn Minenko, Counsel, IDS Life Insurance Company, IDS Tower 10, Minneapolis, Minnesota 55440.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Senior Counsel, or Wendy Friedlander, Deputy Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application may be obtained for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. IDS Life is a stock life insurance company, organized under the laws of the State of Minnesota, which conducts life insurance business in the District of Columbia and all states except New York. IDS Life is a wholly-owned subsidiary of American Express Financial Corporation, which is a wholly-owned subsidiary of American Express Company. IDS Life, which will serve as the principal underwriter for the Variable Account, is registered as a broker-dealer pursuant to the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

2. The Variable Account was established on August 23, 1995, as a separate account pursuant to the laws of the State of Minnesota. The Variable Account is registered with the Commission pursuant to the 1940 Act as a unit investment trust and will be used to fund the Existing Contracts.

3. The Existing Contracts are available for purchase in connection with retirement plans that qualify for federal tax advantages available pursuant to the Internal Revenue Code ("qualified contracts") or for plans that do not so qualify ("non-qualified contracts").

4. The Existing Contracts provide for the accumulation of contract values and payment of annuity benefits on a fixed and/or variable basis. Purchase payments may be directed to the general account of IDS Life pursuant to a fixed account option (the "Fixed Account"), the Variable Account, or allocated between them. Existing Contracts may be purchased with either an initial purchase payment, of at least $2,000 for nonqualified contracts and $1,000 for qualified contracts, or installment payments. Additional purchase payments may be made in accordance with certain requirements.

5. The Variable Account currently has six subaccounts ("Subaccounts"), each of which will invest solely in the shares of one of the corresponding funds of a registered open-end management investment company managed by IDS Life (the "Funds"). IDS Life plans to create additional subaccounts and/or variable accounts to invest in additional Funds which will be available as future investment options.

6. Prior to the retirement date, the owner of an Existing Contract can, at any time, transfer all or part of the contract value held in one or more of the Subaccounts or the Fixed Account to another Subaccount or the Fixed Account. However, if an owner of an Existing Contract has made a transfer from the Fixed Account to a Subaccount, the contract owner may not transfer from any Subaccount back to the Fixed Account until the next contract anniversary. Once annuity payments begin, no transfers may be made to or from the Fixed Account, but transfers may be made once per contract year among the Subaccounts.

7. The Existing Contracts provide that if the contract owner or the annuitant dies (or, for qualified annuities, if the annuitant dies) before annuity payments begin, IDS Life will pay the beneficiary a death benefit as follows:

(1) If death occurs before the 75th birthday of the owner or the annuitant, the beneficiary receives the greatest of:

(a) The contract value,

(b) The contract value of the most recent sixth contract anniversary, minus any surrenders since that anniversary, or

(c) Purchase payments, minus any surrenders; or

(2) If death occurs on or after the owner's or annuitant's 75th birthday, the beneficiary receives the greater of:

(a) The contract value, or

(b) The contract value as of the most recent sixth contract anniversary, minus any surrenders since that anniversary.

8. IDS Life will assess an annual contract administrative charge ("Administrative Charge") of $30 on each contract anniversary or earlier when an Existing Contract is fully surrendered. IDS Life currently waives the Administrative Charge for any contract year in which total purchase payments under a contract, less any payments surrendered, equal or exceed $25,000 on the contract anniversary. However, IDS Life reserves the right to assess the Administrative Charge against all Existing Contracts. The Administrative Charge reimburses IDS Life for the administrative costs attributable to the Existing Contracts, and does not apply after retirement payments begin.

9. Applicants represent that they rely on Rule 26a–1 under the 1940 Act in connection with the Administrative Charge.

10. Certain state and local governments impose taxes of up to 3.5 percent of premiums. IDS Life will make a charge against the contract value for any premium taxes to the extent the taxes are payable.

11. No sales charge is collected or deducted at the time purchase payments are made, pursuant to the Existing Contracts. IDS Life will, however, assess a contingent deferred sales charge ("CDSC") on certain full or partial surrenders. The amounts obtained from the CDSC will be used to help defray expenses incurred in connection with the sale of the Existing Contracts, including commissions and other promotional or distribution expenses associated with the printing and distribution of prospectuses and sales material. the CDSC applies to all purchase payments surrendered in the first eight contract years. The CDSC is 7 percent of any purchase payments surrendered during the first three contract years, then declines by 1 percent per year from 6 percent in the fourth year to 2 percent in the eighth year. No CDSC applies after 8 contract years. In addition, no CDSC applies to earnings under Existing Contracts, to minimum required distributions from certain qualified plans, to Existing Contracts settled using an annuity payout plan or to death benefits.

12. IDS Life assumes certain mortality risks through its contractual obligation to continue to make retirement payments for the entire life of the annuitant under annuity obligations which involve life contingencies. This assures each annuitant that neither the annuitant's own longevity nor an improvement in life expectancy generally will have an adverse effect on the retirement payments received under the Existing Contracts. IDS Life assumes additional mortality risks under the Existing Contracts through its contractual obligation to pay a death benefit upon the death of the owner or annuitant prior to the retirement date.

13. IDS Life assumes an expense risk because the Administrative Charge may be insufficient to cover actual administrative expenses, which include the costs and expenses of: processing purchase payments, retirement payments, surrenders and transfers; furnishing confirmation notices and periodic reports; calculating mortality and expense risk charges; preparing voting materials and tax reports; updating registration statements; and actuarial and other expenses.

14. As compensation for assuming mortality and expense risks, IDS Life will assess a daily charge ("Mortality and Expense Risk Charge") equaling 1.25 percent of the average daily net assets of the Subaccounts on an annual basis. Approximately two-thirds of this charge is for the assumption of the mortality risk and one-third is for the assumption of the expense risk. The Mortality and Expense Risk Charge cannot be increased during the life of the Existing Contracts and does not apply to the Fixed Account.

15. If the Mortality and Expense Risk Charge is insufficient to cover the expenses and costs assumed, the loss will be borne by IDS Life. Conversely, if the amount deducted proves more than sufficient, the excess will represent a profit to IDS Life. IDS Life expects to profit from the Mortality and Expense Risk Charge. The profit will be available to IDS Life for an proper corporate purpose including, among other things, payment of distribution expenses.

Applicant's Legal Analysis

1. Pursuant to Section 6(c) of the 1940 Act, the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act or from any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services normally performed by the bank itself.

3. Applicants request an order pursuant to Section 6(c) of the 1940 Act exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the Mortality and Expense Risk Charge from the assets of the Variable Account and any Future Accounts in connection with the Contracts.

4. Applicants represent that the level of the Mortality and Expense Risk Charge is within the range of industry practice for comparable variable annuity products. IDS Life has reviewed publicly available information about other annuity products taking into consideration such factors as current charge levels, charge guarantees, sales loads, surrender charges, availability of funds, investment options available under annuity contracts, and market sector. IDS Life represents that it will maintain at its executive office, and make available on request of the Commission or its staff, a memorandum setting forth its analysis, including its methodology and results.

5. Applicants represent that, prior to offering Future Contracts, they will conclude that any mortality and expense risk charge under such contracts (which cannot exceed in amount the Mortality and Expense Risk Charge) will be within the range of industry practice for comparable annuity contracts. IDS Life represents that it will maintain at it executive office, and make available on request of the Commission or its staff, a memorandum setting forth its analysis, including its methodology and results.

6. Applicants acknowledge that, if a profit is realized from the Mortality and Expense Risk Charge, all or a portion of such profit may be available to pay distribution expenses not reimbursed under the Contracts. IDS Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account (or Future Accounts) and owners of the Existing Contracts (or Future Contracts). The basis for such conclusion is set forth in a memorandum which will be maintained by IDS Life at its executive office and will be available to the Commission or its staff on request.

7. IDS Life represents that the Variable Account, or future accounts will invest only in underlying mutual funds which, in the event they should adopt any plan under Rule 12b–1 of the 1940 Act to finance distribution expenses, would have such a plan formulated and approved by a board of directors, a majority of the members of which are not interested persons of such fund within the meaning of Section 2(a)(19) of the 1940 Act.

8. Applicants submit that their requires for exemptive relief for Future Contracts and Future Accounts would promote competitiveness in the variable annuity contract market by eliminating the need for redundant exemptive applications, thereby reducing Applicants' administrative expenses and maximizing the efficient use of their resources. Applicants further submit that the delay and expense involved in having repeatedly to seek exemptive relief would impair their ability effectively to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection.

Conclusion

For the reasons summarized above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3134 Filed 2–12–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36812; File No. SR–Amex–96–03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Options on the Networking Index

February 6, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 23, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or the "Exchange") proposes to trade options on the Networking Index ("Index"), a new index developed by the Amex comprised of 15 computer and telecommunication networking stocks which are traded on the Amex, the New York Stock Exchange, Inc. ("NYSE"), or through the facilities of the National Association of Securities Dealers Automated Quotation system and are reported national market system securities ("NASDAQ/NMS"). In addition, the Amex proposes to amend Rule 901C, Commentary .01, to reflect that 90% of the Index's numerical value will be accounted for by stocks that meet the current criteria and guidelines set forth in Rule 915.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to trade standardized options on the Networking Index ("Index"), a modified equal-dollar weighted index developed by the Amex, representing a portfolio of large, actively traded computer and telecommunication networking stocks.

1. Eligibility Standards for Index Components

The Networking Index currently conforms with Exchange Rule 901C, which specifies criteria for inclusion of stocks in an index on which standardized options will be traded. In addition, the Index also currently conforms to all the criteria set forth in Rule 901C, Commentary .02, which provides for the commencement of trading of options on an index thirty days after the date of filing, with the exception that the Index is calculated using a modified version of the equal-dollar weighting method. Therefore, the component securities all meet the following eligibility standards: (1) They are traded on the Amex or NYSE, or are NASDAQ/NMS securities; (2) component stocks comprising the top 90% of the Index by weight have a minimum market capitalization of $75 million, and those component stocks constituting the bottom 10% of the Index by weight have a market capitalization of at least $50 million; (3) stocks constituting the top 90% of the Index by weight have minimum monthly volume of 1,000,000 shares over the six months preceding this filing, and stocks constituting the bottom 10% of the Index by weight have a minimum monthly volume of at least 500,000 shares over the six months preceding this filing. The Exchange will assure that upon quarterly rebalancing (1) at least 90% of the index's numerical index value and at least 80% of the total number of component securities individually will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; (2) that no component security represent more than 25% of the weight of the Index; and (3) that the five highest weighted component securities in the index, in the aggregate, account for no more than 60% of the weight of the Index.

2. Index Calculation

The Index is calculated using a "modified equal-dollar weighting" methodology. Four of the fifteen component securities are given higher weightings to reflect their higher market capitalizations than the rest of the group, while not allowing them to dominate the Index to the extent they would in a straight market capitalization weighted Index. This method of calculation is important given the great disparity in market value of a few of the Index's components. It has been the Exchange's experience that options on market value weighted indexes dominated by relatively few component stocks are less useful to investors, since the index will tend to represent these few components and not the industry as a whole. At the same time, the increase in Index weight for the smaller, less liquid stocks is lower than if the index had been straight equal-dollar weighted; and the decrease in Index weight of the larger, more liquid stocks also is less dramatic than using straight equal-dollar weighting.

The following is a description of how the modified equal-dollar weighting calculation method works. As of the market close on October 20, 1995, a portfolio of networking stocks was established representing an investment of $12,000 in each of the four highest capitalized stocks of the companies in the Index and $4,727.27 in the 11 remaining stocks (rounded in the nearest whole share). The value of the Index equals the current market value (i.e., based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the Index divisor. The Index divisor was initially determined to yield the benchmark value of 200.00 at the close of trading on October 20, 1995. Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio will be ranked in descending market capitalization order and the Index portfolio adjusted by changing the number of whole shares of each component stock so that the four largest capitalized stocks in the Index each represents 12% of the Index value for a total of 48%, and the remaining 52% of the Index value is evenly distributed over the remaining securities. At the inception of the Index, each of the remaining 11 components had a weight of approximately 4.73%. The Exchange has chosen to rebalance following the close of trading on the quarterly expiration cycle because it allows an option contract to be held for up to three months without a change in the Index portfolio while at the same time, maintaining the equal-dollar weighting feature of the Index. If necessary, a divisor adjustment is made at the rebalancing to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

As noted above, the number of shares of each component stock in the Index portfolio remain fixed between quarterly [2] reviews except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components in the same weighting tier of the stock being replaced (*i.e.*, either the top four stocks by market capitalization as of the last rebalance, or the remaining stocks) will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

3. Maintenance of the Index [3]

The Exchange will review the Index quarterly,[4] and maintain it so that (1) the total number of component securities will not increase or decrease by more than 33⅓% from the number of components in the Index at the time of its initial listing and in no event will the Index have fewer than nine components; (2) component stocks constituting the top 90% of the Index by weight will have a minimum market capitalization of $75 million and the component stocks constituting the bottom 10% of the Index by weight will have a minimum market capitalization of $50 million; (3) the monthly trading volume for each of the past six months [5] for each component security shall be at least 500,000 shares, or for each of the lowest weighted components in the Index that in the aggregate account for no more than 10% of the weight of the Index, the monthly trading volume shall be at least 400,000 shares; and (4) no single component will represent more than 25% of the weight of the Index and the five highest weighted components will represent no more than 60% of the Index at each quarterly rebalancing.

The Exchange shall not open for trading any additional option series should the Index fail to satisfy any of the maintenance criteria set forth above unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination.

4. Expiration and Settlement

The proposed options on the Index will be European style (i.e., exercises permitted at expiration only), and cash settled. Standard option trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply. The options on The Networking Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). The last trading day in an expiring option series will normally be the second to last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday). Trading in expiring options will cease at the close of trading on the last trading day.

The Exchange plans to list options series with expirations in the three near-term calendar months and in the two additional calendar months in the January cycle. In addition, longer term option series having up to thirty-six months to expiration may be traded. In lieu of such long-term options on a full value Index level, the Exchange may instead list long-term, reduced value put and call options based on one-tenth (1/10) the Index's full value. Ineither event, the interval between expiration months for either a full value or reduced value long-term option will be not less than six months. The trading of any long term options would be subject to the same rules which govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures, and all options will have European style exercise. Position limits on reduced value long term Networking Index options will be equivalent to the position limits for regular (full value) Index options and would be aggregated with such options (for example, if the position limit for the full value options is 9,000 contracts on the same side of the market, then the position limit for the reduced value options will be 90,000 contracts on the same side of the market).

The exercise settlement value for all of the Index's expiring options will be calculated based upon the primary exchange regular way opening sale prices for the component stocks. In the case of securities traded through the NASDAQ/NMS, the first reported regular way sale price will be used. If any component stock does not open for trading on its primary market on the last trading day before expiration, then the prior day's last sale price will be used in the calculation.

5. Exchange Rules Applicable to Stock Index Options

Amex Rules 900C through 980C will apply to the trading of option contracts based on the Index. These Rules cover issues such as surveillance, exercise prices, and position limits. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Networking Index. The Index is deemed to be a Stock Index Option under Rule 901C(a) and a Stock Index Industry Group under Rule 900C(b)(1). With respect to Rule 903C(b), the Exchange proposes to list near-the-money option series on the Index at 2½ point strike (exercise) price intervals when the value of the Index is below 200 points. In addition, the Exchange expects that the review required by Rule 904C(c) will result in a position limit of 9,000 contacts with respect to options on this Index.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Telephone Conversation between Claire McGrath, Managing Director and Special Counsel, Amex, and Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on February 2, 1996 ("Telephone Conversation").

[3] The Amex has stated that the Index will be maintained so as to conform with the generic maintenance listing standards for options on narrow-based indexes (Amex Rule 901C, Commentary .02). Telephone Conversation between Claire McGrath, Managing Director and Special Counsel, Amex, and Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on February 6, 1996.

[4] Telephone Conversation, *supra* note 2.

[5] *Id.*

facilitating transactions in, securities, and in general to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–Amex–96–03 and should be submitted by March 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3100 Filed 2–12–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36813; File No. SR–NYSE–96–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Voting of Proxies by Its Member Firms for Holders of Auction Rate Preferred Securities

February 6, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 1, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The New York Stock Exchange, Inc. ("NYSE" or "Exchange") is proposing amendments to its rules governing the voting by its member firms for holders of auction rate preferred securities.[1] These requirements are contained in Exchange Rule 452 and Section 402.08 of its Listed Company Manual. The amendments would allow the Exchange's member firms to vote the shares of auction rate preferred securities in the absence of instructions provided by beneficial holders as long as certain conditions are met.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's proxy rules prohibit member firms from voting, without customer instructions, on non-routine items submitted to a vote of shareholders. Auction rate preferred securities are substantially short term instruments sold primarily to institutional investors. At the auction date, which typically runs every seven days but in some instances can be one to five years, the investor receives their entire investment along with accrued dividends, and may, if they so chose, participate in the repurchase of shares at the new dividend rate for the ensuing rate period. Because of the turnover and the little interest that auction rate preferred shareholders have in the performance of the issuer and its governance structure, corporate issuers find it extraordinarily difficult to obtain requisite approval.

In addition, some state laws require the approval of at least a majority of preferred holders in any matter taken to a vote of preferred holders. The failure to obtain a quorum in such cases effectively blocks the approval of the matters which are overwhelmingly voted in favor of by common shareholders, when a vote of all classes is required, and those preferred voters who do vote.

The proposed rule change will allow member firms to vote the shares of auction rate preferred securities with auction reset periods of less than one year, on non-routine items, in proportion to those votes cast by beneficial holders, as long as: (i) The issuer has transmitted proxy soliciting material to the beneficial owner or its designee; (ii) it has not received voting instructions from the beneficial owner or its designee within the time period specified in the proxy material; (iii) at least 30% of the issue has been voted by beneficial holders or their designee; (iv) less than 10% of the issue has voted against the proposal; (v) for any proposal taken to preferred and common shareholders, proportional voting would not be allowed unless common shareholders have also approved the item: (vi) a majority of the independent directors of the issuer's board of directors have approved the item; and (vii) adequate disclosure of proportional voting has been provided.

The proposed rule change will insert a new Rule 452.12 into the Exchange's Rules of Board of Governors as well as an identical Paragraph 402.08(C) into the Exchange's Listed Company Manual.[2] These provisions will allow member firms to vote on non-routine items for auction rate preferred securities only, enabling corporate issuers, as well as shareholders, to obtain approval of matters overwhelmingly supported by those investors who do vote.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act[3] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–96–02 and should be submitted by March 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3133 Filed 2–12–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36818; File No. SR–OCC–95–14]

Self-Regulatory Organization; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to the Processing of Late Exercise Requests for Eligible Option Contracts

February 7, 1996.

On September 15, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–OCC–95–14) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On December 19, 1995, OCC filed an amendment to the proposed rule change to clarify certain language in the proposal.[2] Notice of the proposal was published in the **Federal Register** on December 27, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description of the Proposal

The proposed rule change amends OCC Rule 801(e) regarding late exercises by changing the cut-off times for filing a late exercise notice and by eliminating any references to trading volume. The proposed rule change also modifies OCC Rule 801(a) to provide expressly for the submission of exercise notices through electronic means.

OCC Rule 801(e) currently permits OCC clearing members to file, revoke, or modify exercise notices after the 7:00 p.m. (all time references are Central Time unless stated otherwise) deadline for the purpose of correcting bona fide errors. Once a late instruction is accepted, Rule 801(e) requires the clearing member submitting an instruction to pay a late filing fee and explain in writing the error that caused the late submission of the instruction. The filing fees for late instructions are imposed using a graduated fee schedule with variable cut-off times to reflect the fact that the earlier that a late exercise notice is submitted the easier and less costly it is for OCC to process the request.[4]

OCC clearing members have requested that OCC provide them with data from nightly processing earlier on the night of processing. Presently, Rule 801(e) requires OCC to wait until 10:00 p.m. to begin critical processing even if it has received all necessary data from exchanges[5] and clearing members

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[6] 17 CFR 200.30–3(a)(12) (1994).

[1] The proposed change defines an auction rate preferred security as a preferred security pursuant to which the dividend rate is established periodically by auction or remarketing at specified "reset periods."

[2] The proposed rule change also renumbers existing Exchange Rules 452.12 through 452.16 without change to Rules 452.13 through 452.17 and Listed Company Manual Paragraphs 402.08(C) through (G) without change to 402.08(D) through (H).

[3] 15 U.S.C. 78f(b)(5).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from Michael G. Vitek, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (December 19, 1995).

[3] Securities Exchange Act Release No. 36607 (December 20, 1995), 60 FR 67007.

[4] For a detailed description of OCC's procedures for processing late option exercise notices on non-expiring option contracts, and earlier amendments to the late exercise fee schedule cut-off times, refer to Securities Exchange Act Release Nos. 29390 (July 1, 1991), 56 FR 31454 [File No. SR–OCC–90–3] (order approving procedures for processing late exercise notices) and 33247 (November 24, 1993), 58 FR 63419 [SR–OCC–93–2] (order approving changes to OCC's late exercise fee schedule cut-off times).

[5] The term "exchange" is defined in Article I, Section E(4) of OCC's by-laws as a national securities exchange or a national securities association that has qualified for participation in OCC pursuant to the provision of Article VII of OCC's by-laws.

earlier in the night. Due to the many technical improvements implemented by the exchanges in recent years, the exchanges now send daily trading data to OCC much earlier. Thus, there are many nights when OCC could begin critical processing by 9:00 p.m. To accommodate the requests by clearing members for earlier data distribution, OCC has decided to advance the late exercise cut-off times by one hour and to eliminate the volume conditions affecting the cut-off times.

The volume conditions were initially incorporated into Rule 801(e) to ensure that clearing members had adequate time to reconcile their records with exchange trade comparison reports. Since that time, the exchanges have continued to improve their systems and operations in the trade matching process, particularly with respect to intraday trade matching. These technological improvements have enabled the exchanges to send daily trade data to OCC and its clearing members much earlier in the day. Accordingly, OCC is eliminating any references to volume in the revised Rule 801(e). OCC does not believe removing the volume considerations will have any negative affect on its clearing members.

The proposed rule change also amends OCC's late exercise fee schedule. The time at which a $500 fee will be imposed is being changed from between 7:00 p.m. to 9:00 p.m. to between 7:00 p.m. to 8:00 p.m. The late exercise cut-off time associated with a $2000 fee will be changed from between 9:01 p.m. and the start of critical processing to between 8:01 p.m. and the start of critical processing.

In addition to the changes described above, Rule 801(a) is being revised to provide expressly for the submission of exercise instructions through electronic means.

II. Discussion

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes OCC's proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) because the proposal advances the late exercise cut-off times by one hour without regard to volume restrictions. This should allow clearing members to obtain earlier data distribution from OCC thus promoting the prompt and accurate clearance and settlement of securities transactions.

[6] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

Because the exchanges' improvements to their intraday trade matching processes enable them to send daily trade comparison reports to clearing members much earlier in the day, the Commission believes that clearing members should continue to have adequate time to reconcile their records with exchange trade comparison reports and should not be negatively effected by the removal of volume restrictions or the earlier cut-off times for late exercise notices. These changes also should enable OCC to begin its critical processing earlier in the evening and, in turn, provide earlier distribution of data from nightly processing to its clearing members thus facilitating the prompt and accurate clearance and settlement of securities transactions consistent with Section 17A of the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–95–14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3132 Filed 2–12–96; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.20–3(a)(12) (1995).

[Release No. 34–36819; File No. SR–OCC–95–12]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Amending the Agreements Governing Non-Proprietary Cross-Margining Accounts of Market Professionals in Cross-Margining Programs

February 7, 1996.

On August 15, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–OCC–95–12) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On September 12, 1995, and on October 11, 1995, OCC filed amendments to the proposed rule change to include, in addition to proposed changes to the agreements governing non-proprietary cross-margining ("XM") accounts in the XM program among OCC, The Intermarket Clearing Corporation ("ICC"), and the Chicago Mercantile Exchange ("CME"), proposed changes to the agreements governing non-proprietary XM accounts in the XM program between OCC and ICC and in the XM program between OCC and the Kansas City Board of Trade Clearing Corporation ("KCC"), respectively.[2] On January 11, 1996, OCC filed an amendment to the proposed rule change to correct minor typographical errors in two of the agreements that are the subject of the proposed rule change.[3] Notice of the proposal was published in the **Federal Register** on December 11, 1995.[4] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

[1] 15 U.S.C. § 78s(b)(1) (1988).

I. Description of the Proposal

OCC is amending the agreements governing non-proprietary XM accounts of market professionals in the OCC/ICC/CME XM program, in the OCC/ICC XM program, and in the OCC/KCC XM program in order to make the agreements correspond with the revised distributional scheme adopted by the Commodity Futures Trading Commission ("CFTC") in the new appendix to the CFTC's bankruptcy rules.[5] The proposed rule change also conforms the terms of the agreements governing the proprietary and non-proprietary XM accounts in the OCC/KCC XM program with the terms of the agreements used in the OCC/ICC/CME XM program and in the OCC/ICC XM program.

The Commission and the CFTC approved non-proprietary cross-margining in November 1991.[6] As part of the CFTC's approval, it required each futures commission merchant ("FCM") participating in cross-margining to agree that all funds and property in a non-proprietary XM account would be treated as customer property subject to the segregation requirements of the Commodity Exchange Act[7] and to agree to segregate such funds and property from that of non-XM customers. The CFTC also required each market professional to subordinate its XM related claims to customer claims based on non-XM positions.

Pursuant to that subordination requirement, if a clearing member became insolvent, all non-XM customers of the FCM would be paid their pro rate share of the combined segregated funds pool, including funds of XM market professionals, before the XM market professionals received any portion of their claims. The subordination was intended to insulate non-XM customers from losses arising from XM accounts and to ensure that the XM accounts of market professionals would not be treated as accounts of securities customers subject to liquidation under the Securities Investor Protection Act of 1970 ("SIAP")[8] or the stock broker liquidation provisions of the Bankruptcy Code.[9] As a result, the accounts would be liquidated as accounts of commodity customers under the commodity broker liquidation provisions of the Bankruptcy Code[10] and the CFTC's bankruptcy rules,[11] and both the Commission's order and the CFTC's order approving non-proprietary XM provide for such result.

The revised distribution rules adopted by the CFTC continue the concept of subordination for the purpose of ensuring that the market professionals' securities included in a XM account will be subject to commodity broker liquidation rules but modify the method for property distribution in the event of the liquidation of the firm(s) carrying the non-proprietary XM account.[12] Under the revised distributional scheme, FCMs will continue to make separate calculations for non-XM customers and XM market professionals, and funds deposited pursuant to those calculations will continue to be separately maintained. However, in the event of the failure of the firm(s) carrying the non-proprietary XM accounts, the respective shortfalls, if any, of the pools of funds would be determined as a percentage of the segregation requirement for each pool.

In the event of (i) No shortfall in either pool, (ii) an equal percentage of shortfall in both pools, (iii) a shortfall in the non-XM pool only, or (iv) a greater percentage of shortfall in the non-XM pool than in the XM pool, then the two pools of segregated funds would be combined and non-XM customers and XM market professionals would share pro rata in the combined pool. In the event of (i) A shortfall in the XM pool only or (ii) a greater percentage shortfall in the XM pool than in the non-XM pool, then the two pools of segregated funds would not be combined. Instead, XM market professionals would share pro rata in the pool of XM segregated funds while non-XM customers would share pro rata in the pool of non-XM segregated funds.

In order to implement the CFTC's new distributional requirements, the clearing organizations operating non-proprietary XM programs must submit amended agreements to the respective regulatory authorities deleting the subordination requirement and substituting a reference to the CFTC's distribution rules. Accordingly, OCC is making those and other conforming changes[13] to the agreements governing non-proprietary XM accounts for the XM program among OCC, CME, and ICC, the XM program between OCC and ICC, and the XM program between OCC and KCC.

In addition, pursuant to the amendment filed on October 11, 1995, OCC is revising the agreements governing the proprietary XM accounts in the OCC/KCC XM program to conform the terms of those agreements to the terms of the agreements used in the OCC/ICC/CME and OCC/ICC XM programs. These revisions primarily consist of the use of uniform definitions under the agreements.

II. Discussion

Section 17A(b)(3)(F)[14] of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes OCC's proposed rule change amending the agreements governing the OCC/ICC/CME XM program, the OCC/ICC XM program, and the OCC/KCC XM program to correspond with the revised bankruptcy distribution scheme adopted by the CFTC is consistent with the requirements of Section 17A(b)(3)(F).

The Commission previously has noted the widespread belief that XM systems can provide (i) A more accurate measure of intermarket risk exposure for clearing organizations, (ii) added liquidity and depth to markets by reducing cash flow levels for clearing members and by reducing potential for financial gridlock, particularly during volatile markets when clearing organizations may demand additional clearing margin from their members, (iii) more efficient use of broker-dealer capital due to a more accurate measure of market risk, (iv) reduced clearing costs by the integration of clearing functions and the centralization of asset management, and (v) safer broker-dealer liquidation mechanisms by simplifying and clarifying the unwinding of each side of an intermarket hedge.[15] The Commission believes that by conforming the terms of OCC's agreements governing the OCC/ICC/CME XM program, the OCC/ICC XM program, and the OCC/KCC XM program with the CFTC's new distributional framework, the proposal should help facilitate the continued benefits derived from the operation of OCC's XM programs. The agreements also should provide that any claim asserted by an XM market professional arising out of or based upon an XM non-proprietary account will be subordinated to the claims of all other customers, as defined in Subchapter III of Chapter 7 of the Bankruptcy Code[16] or SIPA,[17] to the extent that such a claims would otherwise be a claim against customer property. The Commission believes the foregoing amendments to the agreements should ensure that XM accounts of market professionals will continue to be treated as non-customer accounts for purposes

[2] Letters from Jean M. Cawley, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation ("Division"), Commission (September 11, 1995, and October 10, 1995).

[3] Letter from Jean M. Cawley, OCC, to Jerry W. Carpenter, Assistant Director, Division, Commission (January 8, 1996).

[4] Securities Exchange Act Release No. 36551, (December 4, 1995), 60 FR 63558.

[5] The CFTC's distributional requirements are set forth in Appendix B to Part 190 of the CFTC's General Regulations. 17 CFR 190. The CFTC's distributional framework was adopted in April 1994. 59 FR 17468 (April 13, 1994).

[6] Securities Exchange Act Release Nos. 29991 (November 26, 1991), 56 FR 61458 (order approving OCC/CME non-proprietary XM program); 56 FR 61404 (CFTC 1991) (order approving OCC/CME non-proprietary XM program); 30041 (December 5, 1991) 56 FR 64824 [File Nos. SR–OCC–90–04 and SR–ICC–90–03] (order approving OCC/ICC non-proprietary, market professional cross-margin program); and 56 FR 61406 (CFTC 1991) (order approving OCC/ICC non-proprietary cross-margin program. In August 1993, the Commission approved expansion of the OCC/KCC XM program established in February of 1992 to include non-proprietary positions. Securities Exchange Act Release No. 32708 (August 2, 1993), 58 FR 42586 [File No. SR–OCC–93–13] (order approving OCC/KCC non-proprietary XM program).

[7] 7 U.S.C. § 6d(2) (1988) and 17 CFR 1.20 (1991).

[8] 15 U.S.C. §§ 78aaa–78*lll* (1988).

[9] 11 U.S.C. §§741–752 (1988).

[10] 11 U.S.C. §§ 761–766 (1988).

[11] 17 CFR 190.1–190.10.

[12] *Supra* note 5.

[13] The conforming changes include provisions that ensure that non-broker-dealer XM market professional will not be treated as "customers" for purposes of Rule 15c3–3 under the Act pursuant to the conditions set forth in the Commission's no-action letter from Michael Macchiaroli, Associate Director, Division of Market Regulation, Commission, to Jean Cawley, OCC (July 31, 1995).

[14] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[15] Securities Exchange Act Release No. 30041 (December 5, 1991), 56 FR 64824 [File Nos. SR–OCC–90–04 and SR–ICC–90–03] (order approving OCC/ICC non-proprietary, market professional cross-margining program).

[16] 11 U.S.C. §§ 741–752.

[17] 15 U.S.C. §§ 78aaa–78*lll*.

of Rule 15c3–3 under the Act.[18] The amendments to the agreements facilitating the treatment of XM accounts in this manner foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by helping to assure that the liquidation of a FCM can be done in accordance with the CFTC's distribution framework, thus helping to assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–95–12) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3131 Filed 2–12–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 2327]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Radiocommunications and Search and Rescue; Notice of Meetings

The Working Group on Radiocommunications and Search and Rescue of the Subcommittee on Safety of Life at Sea will conduct open meetings at 9:30 a.m. on Wednesday, March 20, and Friday, May 17, 1996. The March 20 meeting will be held in the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC 20950. The May 17 meeting will be held at the Radio Technical Commission for Maritime Services Assembly, in the Princess Hotel, 1404 West Vacation Road, San Diego, CA 92109. The purpose of these meetings is to discuss the results of the 1st Session and prepare for the 2nd Session of the International Maritime Organization (IMO) Subcommittee on Radiocommunications and Search and Rescue which is scheduled for early 1997, at the IMO headquarters in London, England.

Among other things, the items of particular interest are:

—The implementation of the Global Maritime Distress and Safety System (GMDSS)

—Maritime Search and Rescue matters

Further information, including meeting agendas with meeting room numbers, minutes, and input papers, can be obtained from the Coast Guard Navigation Information Center computer bulletin board, accessible by modem by dialing: (703) 313–5910. This information is also accessible through Internet World Wide Web by entering: "http://www.navcen.uscg.mil/marcomms/imo.htm"

Members of the public may attend these meetings up to the seating capacity of the rooms. Interested persons may seek information, including meeting room numbers, by writing: Mr. Ronald J. Grandmaison, U.S. Coast Guard Headquarters, Commandant (G–TTM), Room 6306, 2100 Second Street, SW., Washington, DC 20593–0001, by calling: (202) 267–1389, or by sending Internet electronic mail to r.grandmaison/g–t07@cgsmtp.uscg.mil.

Dated: February 2, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–3098 Filed 2–12–96; 8:45 am]

BILLING CODE 4710–7–M

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 17, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–839.

Date filed: November 16, 1995.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: December 14, 1995.

Description: Application of Northwest Territorial Airways Limited pursuant to 49 U.S.C. 41304, and Subpart Q of the Regulations, applies for amendment of its foreign air carrier permit to authorize it to provide scheduled and charter foreign air transportation of persons, property, and mail from any point or points in Canada to any point or points in the United States.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–3200 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–62–P

[Docket 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 95–12–23 established the currently effective two-month SFFL applicable through January 31, 1996.

In establishing the SFFL for the two-month period beginning February 1, 1996, we have projected non-fuel costs based on the year ended September 30, 1995 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 96–2–11 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic—1.4152
Latin America—1.4549
Pacific—1.4462

For further information contact: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: Dated: February 7, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–3114 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Availability of Solicitation for Aviation Research Grants and Cooperative Agreements Proposals

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Availability.

SUMMARY: the Federal Aviation Administration (FAA) is soliciting proposals for grants and cooperative agreements which address the long and short-term technical needs of the National Airspace System (NAS) pursuant to Section 9205, Aviation Research Grant Program, and Section 9208, Catastrophic Failure Prevention Research Program, of the FAA Research, Engineering, and Development Authorization Act of 1990 (Public Law 101–508), and section 107 of the Aviation Security Improvement Act of 1990 (Public Law 101–604).

DATES: Proposals may be submitted to the address below at until the solicitation closes on August 30, 1996.

ADDRESSES: Inquiries or requests for a solicitation and application material should be directed to: Grants Officer, AAR–201, Office of Research and Technology Applications, FAA Technical Center, Building 270, Room B115, Atlantic City International Airport, New Jersey 08405; Voice: (609) 485–8410; Fax: (609) 485–6509.

SUPPLEMENTARY INFORMATION:

Background

Title IX, The Aircraft Safety and Capacity Expansion Act of 1990 (Public Law 101–508), Section 9205, states its purpose is "to conduct aviation research into areas deemed by the Administrator to be required for the long-term growth of civil aviation." The Catastrophic Failure Prevention Research Grant Program, Section 9208, directs the FAA "to conduct aviation research relating to development of technologies and methods to assess the risk and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft." And the Aviation Security Grant Program (Public Law 101–604) provides for grants for "the conduct of research, development, and implementation of technologies and procedures to counteract terrorist act against civil aviation."

A detailed description of specific research areas, additional requirements, and selection criteria are set out in the solicitation: Grants for Aviation Research, Solicitation 96.1.

Dated: January 30, 1996.

Andres G. Zellweger,

Director, Office of Aviation Research.

[FR Doc. 96–3176 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Morgantown Municipal Airport, Morgantown, West Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Morgantown Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 14, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal Building, 469 Airport Circle, Beaver, West Virginia 25813–6216.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. William Plutt, Airport Manager of the Morgantown Municipal Airport at the following address: Morgantown Municipal Airport, Morgantown, West Virginia 26505.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Morgantown under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal Building, 469 Airport Circle, Beaver, West Virginia 25813–6216 (Tel. 304–252–6216). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Morgantown Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 11, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Morgantown was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 27, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $2.00.

Proposed charge effective date: December 1, 1999.

Proposed charge expiration date: January 1, 2000.

Total estimated PFC revenue: $242,000.

Brief description of proposed projects: The PFC funds will be utilized to fund the local share of the following proposed AIP projects.

—Construct Public Facilities Within the North Terminal (Phase III)

—Purchase Snow Removal Equipment

—Rehabilitate Airport Access Road

—Purchase Disable Passenger Chairlift

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA Regional Airports Office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Morgantown.

Issued in Jamaica, New York on February 5, 1996.

Anthony P. Spera,

Acting Manager, Airports Division, Eastern Region.

[FR Doc. 96–3177 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of

[18] 17 CFR 240.15c3–3.

[19] 17 CFR 200.30–3(a)(12) (1995).

Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before March 14, 1996.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11596–N	Matheson Gas Products, Secaucus, NJ.	49 CFR 173.314	To authorize the transportation in commerce of hydrogen sulfide german contained in IMO/IMDG approved containers. (Modes 1, 3).
11600–N	Strombecker Corporation, Chicago, IL.	49 CFR 172.101	To authorize the transportation in commerce of toy caps as ORM–D consumer commodity instead of Division 1.4S. (Modes 1, 2, 3, 4).
11609–N	Rubbermaid Commercial Products Inc., Winchester, VA.	49 CFR 171.8, 172.101 Col. 8(c), 172.197, 178.803, 178.810–178.819.	To authorize the manufacture, mark and sale of specially designed trucks for use in transporting regulated medical waste. (Mode 1).
11613–N	Monsanto Co., St. Louis, MO	49 CFR 174.67(i)	To authorize rail cars to remain connected during entire unloading process without the physical presence of an unloader. (Mode 2).
11615–N	Allied-Signal Aerospace Co., Kansas City, MO.	49 CFR 178.65, 178.65–11, 178.65–12.	To authorize an alternative testing method for DOT-Specification 39 (non-reusable/non-refillable cylinders) used as part of specially designed equipment for use in transporting various hazardous materials (Mode 1).
11619–N	Univ. of New Hampshire, Durham, NH.	49 CFR 173.304, 178.36	To authorize the transportation in commerce of the Solar Energetic Particle Ionic Charge Analyzer (SEPICA) which contains isobutane, a Division 2.1 material, in non-DOT specification containers. (Mode 1).
11620–N	Advanced Monobloc Corp., Hermitage, PA.	49 CFR 173.306(3)(ii)	To authorize the manufacture, mark and sale of non-DOT specification cylinders which are comparable to a DOT Specification 39 cylinder for the transportation of refrigerant gas 134A, Division 2.2 (Modes 1, 2, 3, 4).
11621–N	Aerojet Industrial Products, North Las Vegas, NV.	49 CFR 172.101(i), 173.301(h), 173.302(a), 173.34(e).	To authorize the manufacture, mark and sale of non-DOT Specification cylinders as permanently mounted equipment for use in transporting non-liquefied compressed gases Division 2.2 (Mode 1).
11622–N	Monsanto Co., St. Louis, MO	49 CFR 173.35(b)	To authorize the transportation in commerce of re-used flexible intermediate bulk containers used to ship up to 1200 lbs. per container of Class 9 granular solids. (Mode 1).
11624–N	Laidlaw Environmental Services, Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To authorize the transportation in commerce of household hazardous waste identified as paint or paint related material, Class 3 material, in quantities greater than those presently authorized. (Mode 1).
11625–N	Exxon Chemical Co., Baytown, TX	49 CFR 173.34(e)(10)	To authorize an alternative testing schedule for DOT Specification 4BW240 cylinders from 5 to 8 years when used in corrosive service. (Mode 1).
11626–N	DeVibiss Health Care, Inc., Ft. Pierce, FL.	49 CFR 178.57–8(b)	To authorize the transportation of non-DOT specification vacuum insulated cylinders similar to 4L for use in transporting oxygen for ambulatory patients. (Modes 1, 2, 3, 4, 5).
11627–N	Propack Inc., Essington PA	49 CFR 173.227(a)	To authorize the transportation in commerce of toxic liquid, corrosive inorganic, n.o.s. PIH, Zone B material for shipment in composite packaging. (Mode 1).
11631–N	Health Care Incinerators, Fargo, ND.	49 CFR 106, 107, 171–180, 171.8, 172.101 Col. 8(c), 173.197.	To authorize the transportation of specially designed containers for use in transporting medical waste in bulk. (Mode 1).

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11634–N	Avon Products, Inc., New York, NY.	49 CFR 173.24a(a)(3)	To authorize the transportation in commerce of materials classed as ORM–D consumer commodities without inner packagings being packed, secured and cushioned to control their movement within the outer packaging. (Modes 1, 2).
11635–N	SEAS Pure Gas Inc., San Luis Obispo, CA.	49 CFR 173.212	To authorize the transportation in commerce of a specially designed argon gas purifier containing a flammable solid, inorganic, n.o.s. Division 4.1. (Modes 1, 3, 4).

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 7, 1995.

J. Suzanne Hedgepeth,

Director, Office Hazardous Materials, Exemptions and Approvals.

[FR Doc. 96–3116 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before February 28, 1996.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
8196–M	Compagnie Des Containers Reservoirs, 92975 Paris La Defense 2 Cedex, FR (See Footnote 1)	8196
9266–M	Compagnie Des Containers Reservoirs, 92975 Paris La Defense 2 Cedex, FR (See Footnote 2)	9266
9778–M	Western Atlas International, Houston, TX (See Footnote 3)	9778
10239–M	Allied Signal Inc., Morristown, NJ (See Footnote 4)	10239
10511–M	Schlumberger Technology Corporation, Houston, TX (See Footnote 5)	10511
11215–M	Orbital Sciences Corp., Dulles, VA (See Footnote 6)	11215
11571–M	AlliantTechsystems Inc., New Brighton, MN (See Footnote 7)	11571
11588–M	Browning-Ferris Industries, Washington, DC (See Footnote 8)	11588

(1) To modify the exemption to provide for the transportation of trifluorochlorethylene, Division 2.3 in non-DOT specification portable tanks equipped with insulation system.

(2) To modify the exemption to provide for the transportation of trifluorochlorethylene, Division 2.3, in non-DOT specification IMO Type 5 portable tanks equipped with insulation system.

(3) To modify the exemption to provide for an additional size non-DOT specification cylinder for the use transporting sulfur hexafloride, Division 2.2.

(4) To modify the exemption to provide for Class 8 material as an additional class of material for shipment in DOT 111A100W5 tank cars equipped with surge baffle in the safety vent assembly.

(5) To modify the exemption to provide for additional designed shipping vessels for use in transporting sulfur hexafluoride, classed in Division 2.2.

(6) To modify the exemption to provide for a cross country flight of a rocket configuration (pegasus), containing a Division 1 material, secured beneath a L–1011 aircraft.

(7) To reissue exemption originally issued on an emergency basis to authorize the transportation of Division 4.1 material in bulk in DOT Specification MC307 and MC312 cargo tanks.

(8) To reissue exemption originally issued on an emergency basis to authorize the offering and transportation in commerce to certain cultures and stocks of infectious substances, as related medical waste, under the requirements of Sections 173.134 and 173.197.

Application number	Applicant	Parties to exemption
6670–P	Solkatronic Chemicals, Fairfield, NJ	6670
8236–P	United Technologies Corp.—Chemical Systems Div., San Jose, CA	8236

Application number	Applicant	Parties to exemption
8451–P	Eagle-Picher Industries, Inc., Joplin, MO	8451
8453–P	Dyno Southeast, Inc., Whitesburg, GA	8453
8723–P	ETI Export, Inc., Wilmington, DE	8723
8723–P	ETI Explosives Technologies International, Inc., Wilmington, DE	8723
8915–P	Solkatronic Chemicals, Fairfield, NJ	8915
9723–P	Eagle Environmental Services, Corp., Barceloneta, PR	9723
9723–P	Crown Trucking Company, Inc., Oklahoma City, OK	9723
9723–P	Envirosolve Waste Services, Inc., Tulsa, OK	9723
9723–P	Dillard Environmental Services, Byron, CA	9723
9723–P	Envirosolve Southwest, Inc., Albuquerque, NM	9723
9723–P	Dynecol, Inc., Detroit, MI	9723
9769–P	ECOFLO, Inc., Greensboro, NC	9769
9769–P	Inland Waters Pollution Control, Inc., Detroit, MI	9769
9769–P	City Environmental, Inc., Detroit, MI	9769
9769–P	Universal Waste and Transit, Inc., Tampa, FL	9769
9781–P	U.S. Department of Energy, Germantown, MD	9781
10441–P	ECOFLO, Inc., Greensboro, NC	10441
10441–P	Eagle Environmental Services, Corp., Barceloneta, PR	10441
10818–P	T.J. Egan Waste Systems, Bloomfield, NJ	10818
10933–P	ECOFLO, Inc., Greensboro, NC	10933
10933–P	Eagle Environmental Services, Corp., Barceloneta, PR	10933
10949–P	Dynecol, Inc., Detroit, MI	10949
10996–P	Kosdon Enterprises of Ventura, California, Ventura, CA	10996
11043–P	ECOFLO, Inc., Greensboro, NC	11043
11088–P	Advanced Materials Laboratories, Inc., Forest Hills, NY	11088
11109–P	Alaska-Pacific Powder Company, Olympia, WA	11109
11156–P	Econex North Incorporated, Standish, MI	11156
11197–P	IT Corporation, Inc., Torrance, CA	11197
11200–P	U.S. Department of Defense, Falls Church, VA	11200
11207–P	Central Louisiana Electric Co., Inc., Pineville, LA	11207
11241–P	Hoechst Celanese Chemical Group, Ltd., Dallas, TX	11241
11373–P	Environmental Transport Systems, Jamestown, ND	11373
11454–P	Olin Corporation, East Alton, IL	11454
11454–P	Olin Ordnance, St. Marks, FL	11454
11588–P	SafeWaste Corporation, Charlotte, NC	11588
11588–P	T.J. Egan Waste Systems, Bloomfield, NJ	11588
11588–P	Health Care Waste Services, Inc., Bronx, NY	11588
11588–P	Micro-Med Industries, Inc., Jacksonville, FL	11588
11588–P	Sharps Incinerator of Fort, Inc., Fort Atkinson, WI	11588
11588–P	Allegro Carting & Recycling, Inc., Hoboken, NJ	11588
11588–P	Interboro Disposal & Recycling Corp., Hoboken, NJ	11588
11588–P	Oregon Refuse & Recycling Association, Salem, OR	11588
11588–P	Med Compliance Services, Inc. of Texas, El Paso, TX	11588
11588–P	Regional Carting, Inc., Keyport, NJ	11588
11588–P	Sci-Med Waste Systems, Inc., Glen Allen, VA	11588
11588–P	Biosystems, Farmingdale, NY	11588
11588–P	Environmental Waste Reductions, Inc., Atlanta, GA	11588
11588–P	Envirotech Enterprises, Inc., Tucson, AZ	11588
11588–P	Applied Recovery, Inc., Beaver Dam, KY	11588
11588–P	Bluegrass Med-Waste, Inc., Beaver Dam, KY	11588
11588–P	Bluegrass Med-Waste of Pa, Inc., Beaver Dam, KY	11588
11588–P	New York Environmental Services Corporation, Oneonta, NY	11588

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 7, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 96–3115 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Claim for Drawback of Tax on Cigars, Cigarettes, Cigarette Papers and Cigarette Tubes.

DATES: Written comments should be received on or before April 15, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary Lou Blake, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Claim for Drawback of Tax on Cigars, Cigarettes, Cigarette Papers and Cigarette Tubes.

OMB Number: 1512–0117.

Form Number: ATF F 5620.7.

Abstract: ATF F 5620.7 (2147) documents that cigars, cigarettes, cigarette papers and tubes were shipped to a foreign country, Puerto Rico, the Virgin Islands or a possession of the United States and that the tax was already paid on these tobacco articles. ATF F 5620.7 (2147) is the claim form that a person who paid the tax on the articles uses to file for a drawback or refund for the tax that has already been paid.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 288.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 144.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96–3156 Filed 2–12–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Federal Alcohol Administration Act Basic Permit to Produce, Distill, Rectify, Blend, Bottle and Warehouse, Wholesale or Import.

DATES: Written comments should be received on or before April 15, 1996 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Robert Ruhf, Tax Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8220.

SUPPLEMENTARY INFORMATION:

Title: Application for Federal Alcohol Administration Act Basic Permit to Produce, Distill, Rectify, Blend, Bottle and Warehouse, Wholesale or Import.

OMB Number: 1512–0089.

Form Number: ATF F 5100.24.

Abstract: ATF F 5100.24 is completed by persons intending to engage in the business involving beverage alcohol operations at distilled spirits plants and bonded wineries. The information allows ATF to identify the applicant and the location of the business and to determine whether the applicant qualifies for a basic permit under the Federal Alcohol Administration Act.

Current Actions: The revision proposed for ATF F 5100.24 eliminates a number of information collection items, clarifies instructions and simplifies filing. As a result, we expect that it will take about one-third less time for applicants to complete.

Type of Review: Revision.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 600.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96–3155 Filed 2–12–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation.

DATES: Written comments should be received on or before April 15, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary Lou Blake, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation.

OMB Number: 1512–0190.

Form Number: ATF F 5100.11.

Abstract: ATF F 5100.11 is completed by exporters to report the withdrawal of spirits, denatured spirits, and wines from internal revenue bonded premises, without payment of tax for direct exportation, transfer to a foreign trade zone, customs manufacturer's bonded warehouse or customs bonded warehouse or for use as supplies on vessels or aircraft.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 6,000.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96–3157 Filed 2–12–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Report of Theft or Loss—Explosive Materials.

DATES: Written comments should be received on or before April 15, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dottie Morales, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8576.

SUPPLEMENTARY INFORMATION:

Title: Report of Theft or Loss-Explosive Materials.

OMB Number: 1512–0185.

Form Number: ATF F 5400.5.

Abstract: Losses or theft of explosives must, by statute, be reported within 24 hours of the discovery of the loss or theft. This form contains the minimum information necessary for ATF to initiate criminal investigations.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 1 hour and 48 minutes.

Estimated Total Annual Burden Hours: 450.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96–3158 Filed 2–12–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Marks on Wine Containers.

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to David Brokaw, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Marks on Wine Containers.

OMB Number: 1512–0503.

Recordkeeping Requirement ID Number: ATF REC 5120/3.

Abstract: ATF requires that wine on wine premises be identified by statements of information on labels or contained in marks. ATF uses this information to validate the receipts of excise tax revenue by the Federal government. Consumers are provided with adequate identifying information.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,560.

Estimated Total Annual Burden Hours: 1 hour.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96–3159 Filed 2–12–96; 8:45 am]

BILLING CODE 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Personnel Questionnaire-Alcohol and Tobacco Products.

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to David Brokaw, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Personnel Questionnaire-Alcohol and Tobacco Products.

OMB Number: 1512–0034.

Form Number: ATF F 5000.9.

Abstract: The information on ATF F 5000.9 enables ATF to determine whether or not an applicant for an alcohol or tobacco permit meets the minium qualifications. The form identifies the individual, residence, business background and financial sources for business and criminal record. If the applicant is found not to be qualified, the permit may be denied.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 10,000.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96–3160 Filed 2–12–96; 8:45 am]

BILLING CODE CODE: 4810–31–P

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Operating Permit Under 26 U.S.C. 5171(d).

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7768.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Tami Light, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Application for Operating Permit Under 26 U.S.C. 5171(d).

OMB Number: 1512–0195.

Form Number: ATF F 5110.25.

Abstract: ATF F 5110.25 is completed by proprietors of distilled spirits plants who engage in certain specified types of activities. ATF personnel use the information on the form to identify the applicant, the location of the business and the types of activities to be conducted.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 80.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 20.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

DATED: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96–3161 Filed 2–12–96; 8:45 am]

BILLING CODE 4810–31–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–98]

Section 304 Determinations: Certain Discriminatory Canadian Communications Practices

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determinations.

SUMMARY: The United States Trade Representative (USTR) has determined

pursuant to section 304(a)(1)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)(A)(ii)) that certain acts, policies and practices of the Government of Canada with respect to the granting or termination of authorizations for U.S.-owned programming services to be distributed in Canada via cable carriage deny market access for such services and are unreasonable and discriminatory and constitute a burden or restriction on U.S. commerce. The USTR has further determined pursuant to section 304(a)(1)(B) of the Trade Act that, as commercial negotiations to restore the market access previously denied a U.S. programming service are ongoing and the Government of Canada has taken no subsequent action to terminate the authorizations of other U.S.-owned programming services in Canada, the appropriate action at this time is to direct the Section 301 Committee to recommend the implementation of appropriate responsive action pursuant to section 301 should market access not be restored to the U.S.-owned programming service and to monitor pursuant to section 306 Canadian Government measures with respect to the restoration of this market access and with respect to the granting or termination of authorizations for other U.S.-owned programming services in Canada.

DATES: The sections 304 determinations were made and the investigation was terminated on February 6, 1996.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Claude Burcky, Director for Canadian Affairs, (202) 395–3412, or William Kane, Assistant General Counsel, (202) 395–7305.

SUPPLEMENTARY INFORMATION: On February 6, 1995, the USTR initiated an investigation under section 302(a) of the Trade Act in response to a petition filed on December 23, 1994, by Country Music Television (CMT) pursuant to Section 302(a) of the Trade Act to determine whether certain acts, policies or practices of the Government of Canada regarding the authorization for distribution via cable carriage of U.S.-owned programming services that have resulted in the denial of market access for U.S.-owned programming services to distribute in Canada via cable carriage and in the termination of the authorization of a U.S.-owned programming service are unreasonable or discriminatory and burden or restrict U.S. commerce. By **Federal Register** notice dated February 10, 1995 (60 FR 8101), the USTR requested public comment on the issues raised in the investigation, including on (i) the acts, policies and practices that are the subject of the investigation, (ii) the amount of burden or restriction on U.S. commerce caused by them, (iii) the determinations required under section 304 of the Trade Act, and (iv) appropriate action under Section 301 which could be taken in response. Numerous comments were received in response.

Pursuant to section 303(a) of the Trade Act, the USTR requested consultations with the Government of Canada concerning the issues under investigation. On July 22, 1995, CMT and the Canadian network, New Country Network (NCN), reached a tentative agreement to form a single Canadian country music network, to be called CMT: Country Music Television (Canada), which if it were to become final and be approved by the Canadian Government, could result in the restoration of CMT's market access and resolution of this dispute. To date the parties have not reached a final agreement.

Section 304(a)(1)(A) of the Trade Act requires the USTR to determine whether any act, policy or practice of the Government of Canada described in section 301(b)(1) exists. If that determination is affirmative, the USTR must determine, subject to the specific direction of the President, what action, if any, is appropriate in response to any such act, policy or practice.

Reasons for Determinations

(1) Canada's Acts, Policies and Practices

Having concluded the investigation undertaken pursuant to section 302 of the Trade Act and on the basis of public comments received and the consultations with the Government of Canada, affected U.S. firms and the relevant private sector advisory committees, the USTR has determined pursuant to section 304(a)(1)(A)(ii) of the Trade Act that certain acts, policies and practices of the Government of Canada with respect to the granting or termination of authorizations for U.S.-owned programming services to be distributed in Canada via cable carriage deny market access for such services and are unreasonable and discriminatory and constitute a burden or restriction on U.S. commerce. Pursuant to the policy set forth in Public Notice CRTC 1984–81 of the Canadian Radio-television and Telecommunications Commission (CRTC), the CRTC may terminate authorizations of non-Canadian-owned programming services which, in the CRTC's opinion, could be considered either totally or partially competitive with existing or newly-available Canadian-owned programming services. On June 6, 1994, following a regulatory proceeding to consider new applications for authority to distribute programs over cable television in Canada, the CRTC at the request of NCN revoked CMT's authorization to be distributed in Canada once NCN began distribution. NCN began distribution on January 1, 1995 and, at that time, CMT was evicted from the Canadian market.

(2) U.S. Action

As negotiations to restore the market access previously denied a U.S. programming service are ongoing and the Government of Canada has taken no subsequent action to terminate the authorizations of other U.S.-owned programming services in Canada, the USTR has further determined pursuant to section 304(a)(1)(B) of the Trade Act that the appropriate action at this time is to direct the Section 301 Committee to recommend the implementation of appropriate responsive action pursuant to section 301 should market access not be restored to the U.S.-owned programming service and to monitor pursuant to section 306 Canadian Government measures with respect to the restoration of this market access and with respect to the granting or termination of authorizations for other U.S.-owned programming services in Canada.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 96–3172 Filed 2–12–96; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register

Vol. 61, No. 30

Tuesday, February 13, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, February 20, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. Lobby Level Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Financial Reporting and Debt-Equity Ratio Requirements, proposed amendments.

First Quarter Review FY 96.

Review of the Registration Fitness Program of the National Futures Association.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–3331 Filed 2–9–96; 2:40 pm]

BILLING CODE 6351–01–M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 96–2930.

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, February 14, 1996, 10:00 a.m. Meeting Open to the Public.

THE FOLLOWING ITEM WAS DELETED FROM THE AGENDA:

Advisory Opinion 1996–2: Stephen M. Heaton of CompuServe, Inc.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 96–3332 Filed 2–9–96; 3:07 pm]

BILLING CODE 6715–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, February 20, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any item carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3338 Filed 2–9–96; 3:51 pm]

BILLING CODE 6210–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 12, 19, 26, and March 4, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of February 12

There are no meetings scheduled for the Week of February 12.

Week of February 19—Tentative

There are no meetings scheduled for the Week of February 19.

Week of February 26—Tentative

Monday, February 26

10:00 a.m.
Briefing by Organization of Agreement States (Public Meeting)
(Contact: Kathy Schneider, 301–415–2320)

Tuesday, February 27

10 a.m.
Briefing by Staff on Steam Generator Issues (Public Meeting)
(Contact: Jack Strosnider, 301–415–2795)

2:00 p.m.
Briefing by National Academy of Sciences on Review of Medical Use Program (Public Meeting)
(Contact: Trish Holahan, 301–415–7847)

Wednesday, February 28

9:30 a.m.
Briefing by NARUC on Utility Deregulation (Public Meeting)
(Contact: Spiros Droggitis, 301–415–2367)

Week of March 4—Tentative

There are no meetings scheduled for the Week of March 4.

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: February 8, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–3255 Filed 2–9–96; 8:45 am]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Amendment to Closed Meeting Agenda

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 61 FR 2581, January 26, 1996; 61 FR 3088, January 30, 1996.

PREVIOUSLY ANNOUNCED DATE OF MEETING: February 5, 1996.

CHANGE: Addition of the following item to the closed meeting agenda: Consideration of Track and Trace Development Testing Project.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, (202) 268–4800.

At its meeting on February 5, 1996, the Board of Governors of the United States Postal Service voted unanimously to add to the agenda "Consideration of Track and Trace Development Testing Project," and that discussion on the item was closed to the public pursuant to section 552b(c)(9)(B) of Title 5, United States Code; and section 7.3(i) of Title 39, Code of Federal Regulations and that no earlier announcement was possible. In accordance with 552b(f)(1) of Title 5, United States Code, and

section 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service certified that in her opinion discussion of this item could be properly closed to public observation.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–3289 Filed 2–9–96; 1:56 pm]

BILLING CODE 7710–12–M

STATE JUSTICE INSTITUTE

TIME AND DATE:
Friday, March 1, 1996, 9 a.m.–5 p.m.
Saturday, March 2, 1996, 9 a.m.–1 p.m.

PLACE: Hyatt Regency Lake Tahoe, Country Club Drive, Incline Village, NV 89450–3239.

MATTERS TO BE CONSIDERED: FY 1996 grant requests and internal Institute business.

PORTIONS OPEN TO THE PUBLIC: All matters other than those noted as closed below.

PORTIONS CLOSED TO THE PUBLIC: Internal personnel matters; Board committee meetings.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, (703)–684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 96–3285 Filed 2–9–96; 1:56 pm]

BILLING CODE 6820–SC–M

Federal Register

Tuesday
February 13, 1996

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675
Consolidation of Regulations Including Recordkeeping and Reporting Requirements; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 950727194–6005–02; I.D. 062795C]

RIN 0648–AG54

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Consolidation of Regulations Including Recordkeeping and Reporting Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is consolidating and revising several sections of regulations, including the recordkeeping and reporting requirements, for use in the groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI). The changes made by this rule are expected to facilitate management of the groundfish fisheries, promote compliance with groundfish regulations, and facilitate enforcement efforts. This action is intended to further the goals and objectives of the fishery management plans (FMPs) for the groundfish fisheries off Alaska.

EFFECTIVE DATE: March 13, 1996.

ADDRESSES: Individual copies of the environmental assessment/regulatory impact review prepared for this action may be obtained from Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone (EEZ) of the BSAI and the GOA is managed by NMFS in accordance with the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations that appear at 50 CFR parts 672, 675, and 676. General regulations that also govern the groundfish fisheries appear at 50 CFR part 620.

This rule consolidates several sections of regulations in parts 672 and 675, corrects errors, clarifies vague text, removes outdated requirements, as well as simplifies and streamlines the remaining regulations, including the recordkeeping and reporting requirements.

A proposed rule addressing these concerns was published in the **Federal Register** on September 8, 1995 (60 FR 46936). Public comment was invited through October 10, 1995. NMFS received 21 letters containing 50 comments. Similar comments were grouped together, resulting in 32 comments. The comments are summarized and responded to below in the Response to Comments section.

Changes in the Final Rule From the Proposed Rule

The final rule includes the following changes from the proposed rule:

1. In addition to catcher vessels less than 5 net tons (4.5 mt), catcher vessels under 60 feet (18.3 m) length overall (LOA) will not be required to maintain a Daily Fishing Logbook (DFL), and therefore will not submit the blue discard copy to shoreside processors, motherships, or buying stations.

2. Beginning with 1996, catcher vessels delivering unsorted codends to a Mothership or Shoreside Processor will be exempt from the requirement to submit a blue DFL discard logsheet with the harvest.

3. With catcher vessels logging only total round fish weight, documenting individual fishing quota (IFQ) catch by area currently is not required. To promote compliance with recent changes allowing fishing in multiple areas on the same trip, the DFL format and procedure are changed to require catcher vessels to enter daily in the DFL estimated IFQ sablefish harvest amounts by reporting area in the "Comments" column.

4. The processor permit application is revised to allow motherships and catcher/processors under 125 feet (38.1 m) LOA that process pollock in the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands (BSAI) and/or Pacific cod in the GOA to choose to process in either the inshore or offshore component for the entire fishing year.

5. The definition of "round-weight equivalent" at § 672.2 is revised by changing the words, "as listed in § 672.20(j)" to read "as listed in Table 3 of this part."

6. The definition for fishing trip is revised at §§ 672.20(h)(2), 672.20(i)(4), 675.20(i)(2), and 675.20(j)(4). The term, fishing trip, formerly had two separate but similar definitions. With this change, only one definition exists.

7. The following figures are revised: Figures 1a, 4a, 5a, 6, and 7, pages 46961, 46966, 46968, 46970, and 46971 (page numbers refer to the document published on September 8, 1995, at 60 FR 46936, *et seq.*, are revised to remove a duplicate title; Figure 2, page 46963, is revised to reflect new boundaries of the Catcher Vessel Operational Area (CVOA) as changed by a recent final rule and also to remove a duplicate title; and Figure 3a, page 46964, is revised to add lines that reflect the boundaries of GOA reporting areas 649 and 659 and also to remove a duplicate title.

8. Cross references were added to § 672.2 for the following terms: Fixed gear; fishing trip.

9. The definitions of inshore component and offshore component are revised at § 672.2 to be consistent with a recent final rule making that change.

10. Paragraph 672.4(l) is removed and paragraphs 672.7 (i) and (j) and 675.7 (l) and (m) are revised to make allowance for the eventual reopening of the Donut Hole if an international agreement is in place under the Convention of the Conservation and Management of Pollock Resources in the Central Bering Sea to manage pollock fisheries in the Donut Hole. Paragraph 672.4(m) is renumbered as 672.4(l).

11. Table 2, pages 46953 and 46954, is revised to add a species code 888 for mixed species tote (for use with Product Transfer Reports only).

12. Four product recovery rate values in Table 3, page 46954, for FMP species = sablefish, are corrected as follows:

H&G with roe (6) should be blank;
H&G western cut (7) should be 0.68;
H&G eastern cut (8) should be 0.63; and
H&G without tail (10) should be 0.50.

13. Three retainable percentage values in Table 10, page 46959, are corrected as follows:

For basis species versus bycatch species:

Flathead sole versus sablefish should be 15;

Flathead sole versus aggregated rockfish should be 15; and

Flathead sole versus demersal shelf rockfish (DSR) in the Southeast Outside District of the Eastern Regulatory Area of the GOA (SEEO) should be 1.

14. One retainable percentage value in Table 11, page 46960, is corrected as follows:

For basis species versus bycatch species:

Pacific Ocean perch versus Greenland turbot should be 35.

15. A typographical error on page 46942, third column, seventh line is corrected as follows: "weekly production" should be "weekly production" report.

Response to Comments

Catcher Vessel Daily Fishing Logbook (DFL)

Comment 1. Redesign the catcher vessel DFL format and submittal procedure to: (1) Revise blue DFL logsheet delivery schedule and procedure for deliveries of unsorted codends to motherships; (2) Allow multiple entries on one DFL logsheet for each fishing trip; (3) Determine procedure for multiple offloads of a single catcher vessel in one day.

Response. NMFS concurs. The catcher vessel logbook format is revised and the procedure for submittal of the DFL is revised. (1) For deliveries of unsorted codends, the catcher vessel would be exempt from recording of discards in the DFL and submittal of the blue logsheet (discards copy) for that delivery. The operator of the catcher vessel would check an "unsorted codend" box on the DFL, and the blue logsheet would remain with the DFL. For presorted deliveries, or in the event a catcher vessel has "bled" a codend prior to delivery to a processor, the operator would check a "presorted delivery" box, enter estimated amount of discards by species, and submit the blue logsheet to the processor with each harvest delivery.

(2) and (3). Instead of requesting daily information on one DFL page, the DFL format is revised to request start and end dates of a fishing trip. The fishing trip date would be 1 day for those vessels making multiple trips in 1 day, or the fishing trip could be as long as 7 days within a weekly reporting period. The operator would complete one logsheet for multiple trips (offloads) in 1 day or multiple days in one trip. In either case, the operator would submit only one blue logsheet to the processor for the trip (unless more than one logsheet is used to document the trip).

The operator of the catcher vessel still would be required to account for each day of the fishing year in the DFL, and the time periods would need to be consecutive in the logbook. The mothership would sort catch received from unsorted codends and record the discarded species in the Daily Cumulative Production Logbook (DCPL) as discard at sea. The precedent for allowing one or more options in the use of a single logsheet has been successfully demonstrated through the use of the shoreside processor logsheet.

Comment 2. Revise the DFL format and procedure for submittal of a blue discard logsheet as follows: (1) Require only the last blue logsheet per fishing trip be submitted; (2) have each catcher vessel submit a blue logsheet only if discard occurs at sea; and (3) have catcher vessel submit discard data via radio to mothership.

Response. The difficulties addressed by these comments concerning submittal of the blue logsheet have been corrected by the revised DFL format and submittal procedure as indicated in Response to Comment 1.

Comment 3. Change position reporting requirements in the DFL, catcher/processor DCPL, and mothership DCPL for haul set and retrieve data from degrees and minutes to degrees, minutes, and tenths of minutes or change to degrees, minutes, and seconds to improve data used for Global Positioning System (GPS) research by the Alaska Fisheries Science Center of spatial patterns of resource use and the occurrence of bycatch. At the current level of spatial resolution, heavily fished areas have many reported hauls at basically the same latitude and longitude when reported in degrees and minutes.

GOA and BSAI fishermen use one of two radionavigation systems: Loran C and the GPS. Loran C, planned for phase-out by the U.S. Coast Guard (USCG) in the year 2000, converts to latitude and longitude in degrees, minutes, and fractions of minutes. GPS systems generally have the option to read latitude and longitude in degrees, minutes, seconds or fractions of minutes.

Response. NMFS concurs. The proposed rule included a revision to record position in degrees, minutes, and seconds. However, based on discussions among NMFS management, NMFS Enforcement, and the USCG, position resolution finer than degrees and minutes will be included as an option rather than a requirement, because finer resolution is not needed for management of groundfish quotas or for enforcement of fisheries regulations.

Comment 4. Revise the DFL to request set-specific tally on the target species. This would allow the operator to use the DFL to see how each set performed and at what depths from beginning to end.

Response. NMFS will consider this comment with the next recordkeeping and reporting revision.

Comment 5. On the DFL, add a box in the remarks section of the "active, but no fishing activity" that says, "Non-groundfish fishery. No groundfish retained for sale."

Response. NMFS disagrees. Currently, the operator is requested to write the reason for not fishing. The box should remain blank, because reasons for inactivity exist other than participation in a non-groundfish fishery.

Comment 6. Require catcher vessels involved in the IFQ sablefish fisheries to estimate and record in the DFL the weight of IFQ sablefish brought on board.

Response. NMFS concurs. With catcher vessels logging only total round fish weight, documenting IFQ catch by area currently is not required. To promote compliance with recent changes allowing fishing in multiple areas on the same trip, the DFL format and procedure are changed to require catcher vessels to enter daily in the DFL estimated IFQ sablefish harvest amounts by reporting area in the "Comments" column.

Comment 7. Require a vessel to have a quota share on board in order to conduct a directed hook-and-line fishery for halibut or sablefish.

Response. "Quota share" refers back to the original percentage of sablefish or Pacific halibut for which a person is eligible (see § 676.20(f)). This information does not need to be on board while fishing for one of those species. However, NMFS: Requires that a valid IFQ permit and IFQ card in the name of the shareholder be onboard (see § 676.16(c)); prohibits the retention of IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ that is held by all IFQ card holders aboard the vessel (see § 676.16(d)); and provides that the IFQ assigned to a person represents the maximum amount of halibut or sablefish that may be harvested by that person (see § 676.20(f)).

Comment 8. Require vessels to enter appropriate IFQ number(s) in the logbooks for all hook-and-line sablefish landings.

Response. NMFS will consider this comment with the next recordkeeping and reporting revision.

Comment 9. Combine groundfish DFL with other related recording and reporting systems, specifically: (1) Require catcher vessels involved in the IFQ fisheries to record in the DFL, IFQ sablefish information and IFQ permit information; (2) combine groundfish DFL with International Pacific Halibut Commission (IPHC) halibut logbooks; and (3) incorporate the marine mammal logbook into the DFL.

Response. NMFS concurs and will consider this comment in the next recordkeeping and reporting revision.

Comment 10. Add the effective date of the logbooks on the front cover.

Response. NMFS concurs. The logbook covers are revised to include this information.

Comment 11. Add to vessel logbooks, space to record the USCG documentation number, state registration number, and the marine mammal exemption number.

Response. NMFS will consider this comment with the next recordkeeping and reporting revision.

Comment 12. Revise the logbook formats to include additional information: (1) Print the address where logsheet quarterly submittals must be mailed; and (2) print reporting codes, species and product codes.

Response. NMFS concurs. Logbooks have been revised to include the mailing information on the back cover. The reporting codes, species codes, and product codes are included in an instruction packet enclosed in the cover of each logbook.

Comment 13. Expand authorized gear definitions to include the definitions of fixed gear, for purposes of IFQ.

Response. The GOA and BSAI groundfish regulations define specific groundfish gear types at 50 CFR § 672.2 under the definition for authorized fishing gear. The term, fixed gear, is defined at 50 CFR § 676.11 with respect to IFQ sablefish and IFQ halibut. A cross-reference for fixed gear to § 676.11 is added to the definitions at § 672.2.

Comment 14. Add questions addressing safety requirements for fishing vessels to the Federal Fisheries Permit application. These questions would be answered by operators of fishing vessels required to carry observers under 50 CFR part 677.

Response. NMFS will consider this comment with the next recordkeeping and reporting revision.

Comment 15. Add target species to the Weekly Production Report (WPR) to enhance calculation of halibut mortality for deep-water versus shallow-water targets in the GOA and trawl fisheries in the BSAI.

Response. NMFS disagrees. The calculation of halibut mortality for these targets is performed at NMFS after receipt of WPR based on formulae written into the programs.

Comment 16. Reinstate reporting exemption for incidental groundfish catches for small boats.

Response. Adjustments in recordkeeping and reporting requirements are needed due to changes in regulations brought on by the IFQ Program and the North Pacific Fisheries Research Plan. Because time is insufficient to make these adjustments for 1996, regulations at 50 CFR § 672.5 are revised to include an exemption from compliance with recordkeeping requirements for vessels less than 60 ft (18.3 m) LOA participating in GOA or BSAI groundfish fisheries.

Comment 17. Relocate paragraph 672.22(d) to section 672.7 Prohibitions.

Response. NMFS concurs. This prohibition already appears at § 672.7(c), so § 672.22(d) is removed.

Comment 18. Add a species composition table to the regulations for use with the annual specifications notice.

Response. While this comment has merit, NMFS is not implementing it in this rulemaking. Currently, the species composition tables appear in the **Federal Register** each year as footnotes to Table 1 for both GOA and BSAI specifications. The public can refer to these tables for updated species composition upon which the interim, proposed, and final specifications are based.

Comment 19. Change the wording in the condition section of Federal Fisheries Permit to make allowance for the eventual reopening of the Donut Hole to permitted vessels.

Response. NMFS agrees. The text in the condition section of the permit is revised to allow fishing in the Donut Hole if an international agreement is in place under the Convention of the Conservation and Management of Pollock Resources in the Central Bering Sea to manage pollock fisheries in the Donut Hole (Public Law 104–43, section 104(d)).

Comment 20. Revisions and addition of maps: (1) In Figure 3, draw lines to reflect the bounds of GOA reporting areas 649 and 659; (2) add a map with place names for the area around the Bering Sea and Gulf of Alaska reporting area 610; and (3) add a map for Pribilof Islands closure area and change regulations text to refer to the figure.

Response. (1) NMFS agrees. The figure is revised; however, the figure depicting the GOA is not to scale and merely indicates that boundaries exist rather than depicting accurately the boundaries themselves; (2) NMFS will review this comment in the next revision of the recordkeeping and reporting regulations; and (3) NMFS concurs; however, this comment will be addressed in the next revision of the recordkeeping and reporting regulations.

Comment 21. NMFS could use DFL information for research purposes, for example: (1) Build an adequate shelf model distribution for depth and area through use of a bar scanner to project handwritten set positions and catch performance on a chart; and (2) develop regional/seasonal correlatives through observers recording spawning times in an area, then analyze the results for possible closures during these times by using block chart areas.

Response. NMFS agrees that utilization of groundfish data collected for monitoring of the fisheries could be used for further research; however, this comment is not relevant to the recordkeeping and reporting proposed rule.

Comment 22. Change the definition of a fishing trip for a catcher vessel.

Response. NMFS concurs, although the definition of a fishing trip is standardized rather than revised. The text of the regulations at §§ 672.20(h)(2) and (i)(4) and 675.20(i)(2) and (j)(4) is revised, so that a standard definition of a fishing trip exists in both the GOA and BSAI. A cross reference to the term, fishing trip, is added at § 672.2.

Comment 23. The logbook instructions tell how to submit quarterly logsheets for an inactive period that includes the end of one fishing quarter and the start of another fishing quarter. This information should be included in the regulations.

Response. NMFS concurs. This language is added to the regulations at § 672.5(a)(14)(c).

Comment 24. Allow the use of the number "0" or the word "ZERO" as well as "NO DISCARDS" to account for discard species when no discards occurred.

Response. NMFS concurs. This language is added to the regulations at § 672.5(a)(10)(iv).

Comment 25. For purposes of the Vessel Activity Report (VAR), why is there a distinction made between "the seaward boundary of the EEZ off Alaska" and "the United States/Canada international boundary"?

Response. Entering directly into Alaska State waters from Canadian waters is possible, thus avoiding the "seaward boundary of the EEZ off Alaska."

Comment 26. Add a prohibition against adjusting scale weights for water content of fish.

Response. NMFS concurs; however this comment will be considered in the next revision of the recordkeeping and reporting regulations.

Comment 27. Standardize format of regulations as follows: (1) Capitalization of the words: Shoreside processor, mothership, catcher/processor, buying station, catcher vessel, support vessel, tender vessel, processor vessel, Federal Fisheries Permit number, Federal Processor Permit number, Alaska Department of Fish & Game (ADF&G) vessel number, and ADF&G processor code; (2) the word, codend, is one word, not two; (3) standardize the use of either of the terms, shoreside processor and shoreside processing operation; (4) standardize capitalization of report names.

Response. (1) NMFS concurs; capitalization is made consistent within the final rule; (2) NMFS concurs; the correction is made; (3) NMFS concurs, and standardization of the terms is accomplished within the breadth of this final rule. However, many other instances of the inconsistent use of shoreside processor and shoreside processing operation occur in other areas of the regulations. Because more time is needed to complete this task, this comment will be considered more fully in the next revision of the recordkeeping and reporting regulations; (4) NMFS concurs; capitalization is made consistent within the final rule.

Comment 28. The requirement to disclose the number of days fished on logbooks and on the WPR should remain rather than be removed as proposed, as this is an excellent cross-check with other reports to determine number of days fished for vessels. The number of days fished is important to calculate observer coverage requirements.

Response. NMFS disagrees. Number of days fished may be calculated from other information in the logbooks.

Comment 29. WPRs should not list ADF&G Fish Ticket numbers, because Fish Tickets are completely voluntary for processors operating in the EEZ. The Federal government cannot enforce a voluntary State of Alaska program.

Response. Although issuance of ADF&G Fish Tickets is voluntary for processors operating in the EEZ, many of those processors comply with the State of Alaska requirement. If a fish ticket is issued, NMFS requests that the fish ticket number be listed on the WPR.

Comment 30. Add to the regulations that groundfish caught incidental to the non-groundfish fishery may be retained on board the vessel for use as bait during the period of the non-groundfish fishery. They may not be retained after closure of the non-groundfish fishery, or sold, or transferred from the vessel.

Response. NMFS concurs; however, this comment will be considered in the next revision of the recordkeeping and reporting regulations.

Comment 31. Product Transfer Report submittal requirements should not be changed from 1 week to 24 hours after the completion of the offload. Management offices need 1 week to maintain oversight of the vessels reporting.

Response. NMFS disagrees; more timely information is generally more accurate.

Comment 32. Create provisions in the regulations to deal with weekend reporting where a management office chooses to oversee the vessels reporting. Without time to complete reporting requirements in the management office, reporting would have to come straight from the vessel. Not only is it more costly, it would prevent management offices from being up to date on where the vessels are checked in and whether or not they have complied with regulations.

Response. NMFS disagrees; processor vessels are required to submit timely reports. Submission of reports to NMFS will not preclude the management office from monitoring their vessels' reporting.

Classification

The Director, Alaska Region, NMFS, determined that the regulatory amendment is necessary for the conservation and management of the GOA and BSAI management area fisheries and it is consistent with the Magnuson Act and other applicable laws.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The reasons were published in the notice of proposed rule (60 FR 46936, September 8, 1995). As a result, a regulatory flexibility analysis was not prepared.

This rule has been determined to be not significant for purposes of E.O. 12866.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collections of information have been approved by the Office of Management and Budget (OMB), OMB Control Numbers 0648–0213 and 0648–0206. Additional burden would result from the requirements set forth for the new Buying Station DCL and Check-in/Check-out report, and also from revisions to existing reports.

An estimated additional response time for compliance with these new forms is expected to be between 25 minutes and 2.0 hours annually for the operator or manager of each processor or Buying Station and 27 minutes for each Catcher Vessel operator. The additional annual burden to Shoreside Processors and Buying Stations to comply with requirements for Check-in/Check-out reports is estimated to average about 8 minutes and 6 minutes, respectively, for each Check-in or Check-out report. Revisions to the format of other logbooks and/or additions to information collected by logbooks are minimal and are not anticipated to significantly increase reporting burden to the industry. The requirements include: The U.S. Vessel Activities Report, 15 minutes; Weekly Production Report, 18 minutes; Daily Production Report, 10 minutes; Processor Product Transfer Report, 11 minutes; the Catcher Vessel Logbook, 15 minutes; and Federal Fishing Permits, 20 minutes.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: January 31, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.1, paragraph (a) is revised to read as follows:

§ 672.1 Purpose and scope.

(a) Regulations in this part, along with parts 602, 620, 676, and 677 of this chapter, implement the Fishery Management Plan for Groundfish of the Gulf of Alaska.

* * * * *

3. Section 672.2 is revised to read as follows:

§ 672.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Active/inactive periods—(1) *Active periods*—(i) *Catcher Vessel.* An active period for a catcher vessel means a period of time when the catcher vessel is in a reporting area (except 300, 400, 550, or 690) or gear remains on the grounds in a reporting area (except 300, 400, 550, or 690) regardless of the vessel location.

(ii) *Shoreside Processor, Mothership, Catcher/Processor, and Buying Station.*

An active period for a shoreside processor, mothership, catcher/processor, and buying station means a period of time when checked-in.

(2) *Inactive periods*—(i) *Catcher Vessel.* An inactive period for a catcher vessel means any period which does not qualify as an active period.

(ii) *Shoreside Processor, Mothership, Catcher/Processor, or Buying Station.* An inactive period for a shoreside processor, mothership, catcher/processor, or buying station means a period of time when not checked-in.

ADF&G means the State of Alaska Department of Fish and Game.

Alaska local time (A.l.t.) means the current Alaska time, either daylight savings time or standard time.

Alaska State waters means waters shoreward of the exclusive economic zone (EEZ) off Alaska.

Aleutian Islands Subarea (AI) of the BSAI means that portion of the EEZ contained in Statistical Areas 541, 542, and 543 (see Figure 1 of this part).

Authorized fishing gear means hook-and-line, jig, longline, longline pot, nonpelagic trawl, nontrawl, pelagic trawl, pot-and-line, and trawl; defined as follows:

(1) *Hook-and-line* means a stationary, buoyed, and anchored line with hooks attached, or the taking of fish by means of such a device;

(2) *Jig* means a single non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device;

(3) *Longline* means a stationary, buoyed, and anchored line with hooks or two or more groundfish pots attached, or the taking of fish by means of such a device (see § 672.24(b) or § 675.24(b) of this chapter);

(4) *Longline pot* means a stationary, buoyed, and anchored line with two or more pots attached, or the taking of fish by means of such a device;

(5) *Nonpelagic trawl* means a trawl other than a pelagic trawl;

(6) *Nontrawl* means hook-and-line, jig, longline, and pot-and-line gear;

(7) *Pelagic trawl* means a trawl that:

(i) Has no discs, bobbins, or rollers;

(ii) Has no chafe protection gear attached to the foot rope or fishing line;

(iii) Except for the small mesh allowed under paragraph (7)(ix) of this defmition:

(A) Has no mesh tied to the fishing line, head rope, and breast lines with less than 20 inches (50.8 cm) between knots, and has no stretched mesh size of less than 60 inches (152.4 cm) aft from all points on the fishing line, head rope, and breast lines and extending past the fishing circle for a distance equal to or greater than one half the vessel's LOA; or

(B) Has no parallel lines spaced closer than 64 inches (162.6 cm), from all points on the fishing line, head rope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm), extending aft for a distance equal to or greater than one half the vessel's LOA;

(iv) Has no stretched mesh size less than 15 inches (38.1 cm) aft of the mesh described in paragraph (7)(iii) of this definition for a distance equal to or greater than one half the vessel's LOA;

(v) Contains no configuration intended to reduce the stretched mesh sizes described in paragraphs (7) (iii) and (iv) of this definition;

(vi) Has no flotation other than floats capable of providing up to 200 lb (90.7 kg) of buoyancy to accommodate the use of a net-sounder device;

(vii) Has no more than one fishing line and one foot rope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle;

(viii) Has no metallic component except for connectors (e.g., hammerlocks or swivels) or net-sounder device aft of the fishing circle and forward of any mesh greater than 5.5 inches (14.0 cm) stretched measure;

(ix) May have small mesh within 32 ft (9.8 m) of the center of the head rope as needed for attaching instrumentation (e.g., net-sounder device); and

(x) May have weights on the wing tips;

(8) *Pot-and-line* means a stationary, buoyed line with a single pot attached, or the taking of fish by means of such a device; and

(9) *Trawl* means a conical-shaped net that is towed through the water for catching fish or other organisms. The net accumulates its catch in the closed, small end (usually called the codend). This definition includes, but is not limited to, Danish and Scottish seines and otter trawls.

Bering Sea and Aleutian Islands Management Area (BSAI) means the Bering Sea and Aleutian Islands subareas (see Figure 1 of this part).

Bering Sea Subarea (BS) of the BSAI means that portion of the EEZ contained in Statistical Areas 508, 509, 512, 513, 514, 516, 517, 518, 519, 521, 523, 524, and 530 (see Figure 1 of this part).

Bogoslof District means that part of the Bering Sea Subarea contained in Statistical Area 518 (see Figure 1 of this part).

Breast line means the rope or wire running along the forward edges of the side panels of a net, or along the forward edge of the side rope in a rope trawl.

Buying Station means a person or vessel that receives unprocessed groundfish from a vessel for delivery at a different location to a shoreside processor or mothership and that does not process those fish.

Bycatch Limitation Zone 1 (Zone 1) means that part of the Bering Sea Subarea that is contained within the boundaries of Statistical Areas 508, 509, 512, and 516 (see Figure 1 of this part).

Bycatch Limitation Zone 2 (Zone 2) means that part of the Bering Sea Subarea that is contained within the boundaries of Statistical Areas 513, 517, and 521 (see Figure 1 of this part).

Catcher/Processor means a vessel that is used for catching fish and processing that fish.

Catcher Vessel means a vessel that is used for catching fish and that does not process on board.

Catcher Vessel Operational Area (CVOA) (see Figure 2 of this part and § 675.22(g) of this chapter).

Central Aleutian District means that part of the Aleutian Islands Subarea contained in Statistical Area 542 (see Figure 1 of this part).

Community Development Plan (CDP) (applicable through December 31, 1998) means a plan for a specific Western Alaska community or group of communities approved by the Governor of the State of Alaska and recommended to NMFS under §§ 675.27 and 676.24 of this chapter.

Community Development Quota (CDQ) (applicable through December 31, 1998) means a percentage of the CDQ reserve for a BSAI subarea or district as defined at § 675.20(a)(3)(ii) of this chapter that is allocated to a CDP.

Community Development Quota Program (CDQ Program) (applicable through December 31, 1998) means the Western Alaska Community Development Program implemented under § 675.27 of this chapter.

Community Development Quota Reserve (CDQ Reserve) (applicable through December 31, 1998) means one half of the pollock TAC that is placed into the reserve for each subarea and district of the BSAI as specified at § 675.20(a)(3) of this chapter and that is set aside for the CDQ program.

Daily reporting period or day is the period from midnight until the following midnight using Alaska local time (A.l.t.).

Directed fishing means any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under §§ 672.20 (g) and (h) and 675.20 (h) and (i) of this chapter.

Donut Hole means international waters of the Bering Sea outside the limits of the EEZ and Russian economic zone as depicted on the current edition of NOAA chart INT 813 Bering Sea (Southern Part).

Eastern Aleutian District means that part of the Aleutian Islands Subarea contained in Statistical Area 541 (see Figure 1 of this part).

Exclusive Economic Zone (EEZ) (see § 620.2 of this chapter).

Federal waters means waters within the EEZ off Alaska.

Fish product weight means the weight of the fish product in pounds or to at least the nearest hundredth of a metric ton (0.01 mt). Fish product weight is based upon the number of production units and the weight of those units. Production units include pans, cartons, blocks, trays, cans, bags, and individual fresh or frozen fish. The weight of a production unit is the average weight of representative samples of the product, and may include additives but not packaging. Any allowance for water added cannot exceed 5 percent of the gross product weight (fish, additives, and water).

Fishing activity (see definition for fishing in § 620.2 of this chapter).

Fishing circle means the circumference of a trawl intersecting the center point on a fishing line, and that is perpendicular to the long axis of a trawl.

Fishing day (see § 677.2 of this chapter).

Fishing line means a length of chain or wire rope in the bottom front end of a trawl to which the webbing or lead ropes are attached.

Fishing month (see §§ 672.26 or 675.26 of this chapter).

Fishing trip (see § 672.20(h)(2) of this chapter).

Fishing year means the period of time beginning at 0001 hours, A.l.t., on January 1 and ending at 2359 hours, A.l.t., on December 31 (see §§ 672.23(a) and 675.23(a) of this chapter).

Fixed gear (see § 676.11 of this chapter).

Foot rope means a chain or wire rope attached to the bottom front end of a trawl and attached to the fishing line.

Gear Deployment—(1) *For trawl gear* means where the trawl gear reaches the fishing level and begins to fish.

(2) *For jig/troll, hook-and-line, or longline gear* means where the gear enters the water.

(3) *For pot-and-line gear* means where the first pot enters the water.

Gear Retrieval—(1) *For trawl gear,* gear retrieval means where retrieval of trawl cable commences.

(2) *For jig/troll gear,* gear retrieval means where the jig/troll gear leaves the water.

(3) *For hook-and-line or longline pot gear,* gear retrieval means where the last hook-and-line or longline pot gear of a set leaves the water, regardless of where the majority of the haul or set took place.

(4) *For pot-and-line gear,* gear retrieval means where the last pot of a set leaves the water.

Governor means the Governor of the State of Alaska.

Groundfish means target species and the "other species" category, specified annually pursuant to § 672.20(a)(1) or § 675.20(a)(1) of this chapter.

Gulf of Alaska (GOA) means that portion of the EEZ contained in Statistical Areas 610, 620, 630, 640, and 650 (see Figure 3 of this part).

Head rope means a rope bordering the top front end of a trawl.

Herring Savings Area means any of three areas in the BSAI presented in Figure 4 of this part (see also § 675.21(c)(2) of this chapter for additional closure information):

Inshore component (applicable through December 31, 1998) means the following three categories of the U.S. groundfish fishery that process pollock harvested in a directed fishery for pollock in the GOA or BSAI, or Pacific cod harvested in a directed fishery for Pacific cod in the GOA, or both:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft (38.1 m) in LOA, that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of those fish; and

(3) Vessels that process those fish at a single geographic location in Alaska State waters (waters adjacent to the State of Alaska and shoreward of the EEZ) during a fishing year. For the purposes of this definition, NMFS will determine the single geographic location in a fishing year for an individual processor from the geographic coordinates the vessel operator reports on the check-in report (§ 672.5(h)(1) of this chapter) when that vessel first engages in processing those fish.

IPHC means International Pacific Halibut Commission (see part 301 of this title).

Joint venture processing (JVP) (see § 611.2 of this chapter).

Landing means off-loading fish.

Length overall (LOA) of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments (see Figure 6 of this part).

Logbook means Daily Cumulative Production Logbook (DCPL), Daily Cumulative Logbook (DCL), or a Daily Fishing Logbook (DFL) required by § 672.5.

Manager, with respect to any shoreside processor or buying station, means the individual responsible for the operation of the shoreside processor operation or buying station.

Maximum sustainable yield (MSY) (see part 602 of this chapter).

Mothership means a vessel that receives and processes groundfish from other vessels.

Net-sounder device means a sensor used to determine the depth from the water surface at which a fishing net is operating.

nm means nautical mile.

Non-allocated or nonspecified species means those fish species, other than prohibited species, for which total allowable catch (TAC) has not been specified (e.g., grenadier, prowfish, lingcod).

Observer means any person certified under the NMFS Observer Plan (see part 677 of this chapter).

Offshore component (applicable through December 31, 1998) means all vessels not included in the definition of "inshore component" that process pollock caught in directed fisheries for pollock in the GOA or BSAI, or Pacific cod caught in directed fisheries for Pacific cod in the GOA, or both.

Optimum yield (OY) (see §§ 672.20 and 675.20 of this chapter).

"Other species" is a category that consists of groundfish species in each management area that are not specified as target species (see §§ 672.20 and 675.20 of this chapter).

Processing, or to process, means the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, or rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.

Processor Vessel means, unless otherwise restricted, any vessel that has been issued a Federal fisheries permit and that can be used for processing groundfish.

Quarter or quarterly reporting period means one of 4 successive 3-month periods during a calendar year, which begin at 0001 hours, A.l.t., on the first day of each quarter, and end at 2359 hours, A.l.t., on the last day of each quarter. The 4 quarters for each year are specified below:

1st quarter: January 1 through March 31;

2nd quarter: April 1 through June 30;

3rd quarter: July 1 through September 30; and

4th quarter: October 1 through December 31.

Regional Director means Director, Alaska Region, National Marine Fisheries Service.

Regulatory area means any of three areas of the EEZ in the GOA (see Figure 3 of this part) described as follows:

(1) *Eastern Regulatory Area* means Statistical Areas 640 and 650.

(2) *Central Regulatory Area* means Statistical Areas 620 and 630.

(3) *Western Regulatory Area* means Statistical Area 610.

Reporting area means any of the areas described in Figures 1 and 3 of this part.

Resident fisherman (see § 675.27(d)(7) of this chapter).

Round-weight equivalent means the weight of fish calculated by dividing the weight of the primary product made from that fish by the standard product recovery rate for that primary product as listed in Table 3 of this part, or, if not listed, the weight of fish calculated by dividing the weight of a primary product by the standard product recovery rate as determined using the best available evidence on a case-by-case basis.

Set means a string of pots or hook-and-line gear or a group of pots that are deployed in a similar location with similar soak time.

Shoreside processor or shoreside processing operation, means any person or vessel that receives unprocessed groundfish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving groundfish for use as bait or personal consumption.

Southeast Outside District of the GOA means that part of the Eastern Regulatory Area contained in Statistical Area 650 (see Figure 3 of this part).

Statistical area means the part of any reporting area defined in Figures 1 and 3 of this part, contained in the EEZ.

Steller Sea Lion Protection Areas (for BSAI, see Tables 4 and 5 of this part, §§ 672.24(e) and 675.24(f) of this chapter) and § 227.12 of this title; (for GOA, see Table 6 of this part).

Stem means the forward part of a vessel; that portion of the vessel where the sides are united at the fore end with the lower end attached to the keel and the bowsprit, if one is present, resting on the upper end.

Stern means the aft part of the vessel.

Stretched mesh size means the distance between opposite knots of a four-sided mesh when opposite knots are pulled tautly to remove slack.

Support Vessel means any vessel that is used in support of other vessels regulated under this part and part 675 of this chapter, including, but not limited to, supplying a fishing vessel with water, fuel, provisions, fishing equipment, fish processing equipment or other supplies, or transporting processed fish. The term "support vessel" does not include processor vessels or tender vessels. *Target species* are those species or species groups, except the "other species" category, for which a TAC is specified pursuant to § 672.20(a) and § 675.20(a) of this chapter.

Tender Vessel means a vessel that is used to transport unprocessed fish received from another vessel to a shoreside processor, mothership, or buying station.

Total allowable catch (TAC) (see §§ 672.20(a)(2) and 675.20(a)(2) of this chapter).

Transfer includes any loading, offloading, shipment or receipt of any groundfish product, including quantities transferred inside or outside the EEZ, within any state's territorial waters, within the internal waters of any state, at any shoreside processor, or any offsite meal reduction plant.

Trawl test areas (see Figure 7 of this part and §§ 672.24(f) and 675.24(g) of this chapter).

Vessel Activity Report (VAR) (see § 672.5(c)(5)).

Vessel operations category (see § 672.4).

Walrus Protection Areas (see § 675.22(f) of this chapter).

Weekly reporting period means a time period, which begins at 0001 hours, A.l.t., Sunday morning (except during the first week of each year, when it starts on January 1) and ends at 2359 hours, A.l.t., the following Saturday night (except during the last week of each year when it ends on December 31).

West Yakutat District of the GOA means that part of the Eastern Regulatory Area of the GOA contained in Statistical Area 640 (see Figure 3 of this part).

Western Aleutian District means that part of the Aleutian Islands Subarea contained in Statistical Area 543 (see Figure 1 of this part).

Wing tip means the point where adjacent breast lines intersect or where a breast line intersects with the fishing line.

4. In § 672.3, paragraphs (a) and (c) are revised to read as follows:

§ 672.3 Relation to other laws.

(a) *Foreign fishing.* Regulations governing foreign fishing for groundfish in the GOA are set forth at § 611.92 of this chapter. Regulations governing foreign fishing for groundfish in the BSAI are set forth at § 611.93 of this chapter. Regulations governing U.S. nationals fishing in the Russian fisheries are set forth in part 299 of this title.

* * * * *

(c) *Domestic fishing for groundfish.* Regulations governing the conservation and management of groundfish in the GOA for vessels of the United States are set forth at this part and parts 620, 676, and 677 of this chapter. Regulations governing the conservation and management of groundfish in the BSAI are set forth in this part and parts 620, 675, 676, and 677 of this chapter.

* * * * *

5. Section 672.4 is revised to read as follows:

§ 672.4 Fisheries permit.

(a) *General.* (1) No vessel of the United States may be used to fish for groundfish in the GOA or in the BSAI unless the owner first obtains a Federal fisheries permit for the vessel issued under this part, except as provided in paragraph (a)(2) of this section. A Federal fisheries permit is effective only until December 31 of the year in which it is issued. Fisheries permits are issued without charge.

(2) Vessels of the United States that fish in the GOA or BSAI for any non-groundfish species, including but not limited to, halibut, crab, salmon, scallops, and herring, and that do not retain any bycatch of groundfish are not required to obtain a Federal fisheries permit issued under this part.

(3) This section is effective from January 1, 1996, through December 31, 1998, unless otherwise specified. Unless specifically exempt under 50 CFR part 676, the owner of a vessel of the United States must obtain a moratorium permit issued under 50 CFR part 676 before using the vessel to conduct directed fishing for moratorium groundfish species, as defined at § 676.2 of this chapter, in the GOA or BSAI. The owner of a vessel of the United States that is not required to have a moratorium permit, because the vessel is specifically exempt under § 676.3 of this chapter, must obtain a fisheries permit issued under this part before using the vessel to fish for groundfish in the GOA or BSAI. Such permits shall be issued without charge.

(b) *Federal Fisheries Permit Application—(1) Request for application and permit.* A person may obtain an application for a Federal fisheries permit required under paragraph (a) of this section from: National Marine Fisheries Service, Restricted Access Management Division, P.O. Box 21668, Juneau, AK 99802–1668, telephone number: 800–304–4846 or 907–586–7202.

(2) *Completed application.* (i) A person may obtain the Federal fisheries permit required under paragraph (a) of this section by submitting a written permit application to the address given in paragraph (b)(1) of this section.

(ii) The owner or operator of a vessel must answer each question on the permit application in the manner set forth in paragraph (c) of this section.

(iii) The owner or operator must mail completed forms to the address given in paragraph (b)(1) of this section or fax completed forms to: 907–586–7354.

(iv) The owner or operator must complete a separate application for each vessel or processor and must retain a copy of each completed or revised application.

(v) The owner or operator must type or print legibly the information requested on the application.

(3) *Application deficiency.* Upon receipt of an incomplete or improperly completed fisheries permit application, the Regional Director will notify the applicant of the deficiency in the permit application. If the applicant fails to correct the deficiency, the permit will not be issued. No permit will be issued to an applicant until a complete application is received.

(c) *Permit application contents.* The owner or operator must record:

(1) If application is for an amended permit, the current Federal Fisheries Permit number and information that has changed.

(2) If for a vessel, the complete name and homeport (city and state) of the vessel; the ADF&G Vessel number; the U.S. Coast Guard documentation number or Alaska registration number; the vessel's LOA and registered net tonnage; and the telephone, fax, and COMSAT (satellite communication) numbers used on board the vessel.

(3) *Shoreside Processor Information.* Refer to § 677.4(b) of this chapter.

(4) *Owner Information.* The owner of the vessel or shoreside processor must record the owner's name, permanent business mailing address, telephone and fax numbers; and the name of any company (other than the owner) that manages the operations of the vessel or shoreside processor.

(5) *Federal Fisheries Permit Information.* The owner must record:

(i) The fishery or fisheries and the vessel operations category for which the permit would apply as set forth under paragraph (e) of this section and § 672.2;

(ii) If a catcher vessel or catcher/processor, the gear type(s) used for groundfish operations;

(iii) If a catcher vessel, whether groundfish is retained only as bycatch from halibut, crab, or salmon fisheries; and whether sablefish (black cod) is the only groundfish targeted in the GOA;

(iv) If a mothership or catcher/processor, check either inshore or offshore to indicate component in which Pacific cod in the GOA or pollock will be processed for the entire fishing year.

(6) *Signature.* The owner must sign and date the application.

(d) *Fisheries permit issuance.* (1) Except as provided in subpart D of 15 CFR part 904, upon receipt of a properly completed permit application, the Regional Director will issue a fisheries permit required by paragraph (a) of this section.

(2) The Regional Director will send the fisheries permit to the applicant along with the appropriate logbooks as provided under § 672.5.

(e) *Vessel operations category.* (1) A fisheries permit issued under paragraph (d)(1) of this section authorizes a vessel to conduct operations as a catcher vessel, catcher/processor, mothership, Tender Vessel, or support vessel.

(2) A vessel may be issued a fisheries permit as a support vessel or as any combination of the other four categories (catcher vessel, catcher/processor, mothership, Tender Vessel). A vessel permitted as a catcher vessel, catcher/processor, mothership, or Tender Vessel may also conduct all operations authorized for a support vessel.

(f) *Amended permit.* (1) An owner or operator who applied for and received a fisheries permit under this section must notify the Regional Director, in writing, of any change in the information provided under paragraph (c) of this section within 10 days of the date of that change.

(2) An application for an amended permit must be made on the permit application as set forth in paragraph (c) of this section.

(3) If the application is for an amended fisheries permit required under paragraph (a) of this section and designates a change or addition of a vessel operations category, the amended permit must be on board the vessel before the new type of operations begins.

(g) *Duration.* (1) A fisheries permit remains in effect through December 31 of the year for which it is issued unless it is revoked, suspended, or modified under 15 CFR part 904 (Civil Procedures), or unless it is surrendered or invalidated.

(2) A fisheries permit is surrendered when the original permit is submitted to and received by NMFS Enforcement Office in Juneau.

(h) *Alteration.* No person may alter, erase, or mutilate any fisheries permit issued under paragraph (a) of this section. Any fisheries permit that is intentionally altered, erased, or mutilated is invalid.

(i) *Transfer.* A fisheries permit issued under paragraph (a) of this section is not transferable or assignable and is valid only for the vessel for which it is issued.

(j) *Inspection.* (1) An original fisheries permit issued under paragraph (a) of this section must be carried on board the vessel whenever the vessel is fishing. Photocopied or faxed copies are not considered originals.

(2) A permit issued under paragraph (a) of this section must be presented for inspection upon the request of any authorized officer.

(k) *Sanctions.* Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(l) *Moratorium permit.* In addition to the Federal fisheries permit required by paragraph (a) of this section and any other permits that may be required by Federal or Alaska State regulations, a moratorium permit may be required by part 676 of this chapter for a vessel of the United States if the vessel is used to conduct directed fishing for moratorium groundfish species, as defined at § 676.2 of this chapter, in the GOA or BSAI.

6. Section 672.5 is revised to read as follows:

§ 672.5 Recordkeeping and reporting.

(a) *Applicability and general requirements—(1) Applicability.* (i) Except as otherwise provided, this section applies to:

(A) Any catcher vessel, mothership, catcher/processor, or Tender Vessel, 5 net tons or larger, which is required to have a fisheries permit under § 672.4; and

(B) Any shoreside processor, mothership, or buying station that receives groundfish from vessels required to have a fisheries permit under § 672.4.

(ii) Catcher vessels that are less than 60 ft (18.3 m) LOA, are not required to comply with recordkeeping and reporting requirements under this section.

(iii) A shoreside processor, mothership, or buying station subject to recordkeeping and reporting requirements must report all groundfish and prohibited species received, including:

(A) Fish received from vessels not required to have a fisheries permit;

(B) Fish received under contract for handling or processing for another processor.

(2) *Responsibility.* The operator of a catcher vessel, catcher/processor, mothership, or buying station delivering to a mothership (hereafter referred to as the operator) and the manager of a shoreside processor or buying station delivering to a shoreside processor (hereafter referred to as the manager) are each responsible for compliance with the applicable recordkeeping and reporting requirements of this section. In addition, the owner of a vessel, shoreside processor, or buying station must ensure that the operator, manager, or designated representative (see paragraph (b) of this section) complies with these requirements and is responsible for compliance.

(3) *Groundfish logbooks and forms.* The Regional Director will prescribe and provide logbooks and forms required under this section as shown in Table 9 of this part. The operator or manager must use these logbooks and forms or obtain approval from the Regional Director to use electronic versions of the logbooks and forms.

(4) *Participant identification information.* The operator or manager must record on all required records, reports, and logbooks:

(i) The name of the catcher vessel, catcher/processor, mothership, shoreside processor, or buying station as displayed in official documentation;

(ii) If a vessel, the Federal Fisheries Permit number and ADF&G Vessel number (if applicable);

(iii) If a processor, the Federal Processor Permit number and ADF&G Processor number;

(iv) If a buying station, the name and ADF&G Vessel number (if applicable) of the buying station; the name, ADF&G Processor number, and Federal Processor Permit number of associated processor;

(v) If a shoreside processor or land-based buying station, the geographic location of operations.

(5) *Representative identification.* The name, daytime business telephone number (including area code), fax or telex number, and the COMSAT number (if applicable) of the representative;

(6) *Maintenance of records*—(i) *General.* The operator or manager must maintain all records, reports, and logbooks in a legible, timely, and accurate manner; in English; if handwritten, in indelible ink; if computer-generated, a printed, paper copy; and based on Alaska local time.

(ii) The operator or manager must account for each day of the fishing year, starting with January 1 and ending with December 31, and the time periods must be consecutive in the logbook.

(iii) When applicable, the operator or manager must record in each report, form, and logbook the following information:

(A) *Page number.* Number the pages in each logbook consecutively, beginning with page one and continuing throughout the logbook for the remainder of the fishing year, except that the manager of a shoreside processor must number the DCPL pages within Part I and Part II separately beginning with page one;

(B) *Date,* presented as month-day-year;

(C) *Time,* in military format to the nearest hour, A.l.t.;

(D) *Position coordinates,* latitude and longitude to the nearest minute (optional: Record to the nearest second or fraction of minute);

(E) *Reporting area codes,* given in Figures 1 and 3 of this part;

(F) *Species codes,* each target species, the "other species" category, and prohibited species (see §§ 672.20(e) and 675.20(c) of this chapter), using the species codes given in Table 2 of this part;

(G) *Original/revised report.* If a report is the first one submitted to the Regional Director for a given date, gear type, and reporting area, "ORIGINAL REPORT." If report is a correction to a previously submitted report for a given date, gear type, and reporting area, "REVISED REPORT;"

(H) *Metric tons.* The required weight units used to record amounts of landings, product, and discards of groundfish and herring must be recorded in pounds (lb) or to the nearest 0.01 mt on all forms and logbooks;

(7) *Active and inactive periods.* The operator or manager must, in the DFL, DCL, or DCPL:

(i) Account for each day of the fishing year by indicating active and inactive periods, as defined in § 672.2;

(ii) Use a separate logbook page for each day of an active period;

(iii) Indicate on one page the first and last day of an inactive period;

(iv) *Fishing activity.* The operator or manager must indicate all fishing activity, which is defined for each type of vessel as follows:

(A) If a catcher vessel, harvest or discard of groundfish;

(B) If a catcher/processor, harvest, discard, or processing of groundfish;

(C) If a mothership or shoreside processor, receipt, discard, or processing of groundfish;

(D) If a buying station, receipt, discard, or delivery of groundfish;

(v) If in an active period and conducting fishing activity, the operator or manager must record:

(A) The gear type used to harvest the groundfish. If a catcher vessel or catcher/processor and using hook-and-line longline gear, the average number of hooks per skate;

(B) The reporting area code where gear retrieval was completed; whether gear retrieval was in Federal or Alaska State waters;

(C) If a catcher vessel, whether a NMFS-certified observer is on board the vessel. If a catcher/processor, mothership, or shoreside processor, the number of NMFS-certified observers on board or on site;

(D) The number of crew, except certified observer;

(E) Whether harvest is under a CDQ program; if yes, the CDQ number;

(F) If a catcher vessel or buying station, the name and ADF&G Processor number of the mothership or shoreside processor to which groundfish deliveries were made;

(vi) If in an active period and not conducting fishing activity, the operator or manager must indicate "NO FISHING ACTIVITY" and briefly describe the reason.

(8) *Landings information.* The manager of a shoreside processor must:

(i) Record and report groundfish landings by species codes and product codes as defined in Tables 1 and 2 of this part for each reporting area, whether from Alaska State waters or Federal waters, gear type, and CDQ number;

(ii) Record in the DCPL each day on the day such landings occur, the following additional information:

(A) The daily combined scale weight of landings retained for processing from a catcher vessel or any associated buying station, in pounds or to at least the nearest 0.01 mt;

(B) If more than one page is used during a weekly reporting period, the total amount of landings carried forward from the previous page;

(C) At the end of each weekly reporting period, the cumulative total weight, calculated by adding the daily totals and total carried forward for that week;

(iii) If no landings occurred, write "NO LANDINGS" for that day.

(9) *Product information.* The operator or manager of a catcher/processor, mothership, or shoreside processor must, where required:

(i) Record and report groundfish products by species codes, product codes, and product designations as defined in Tables 1 and 2 of this part for each reporting area, whether in Alaska State waters or Federal waters, gear type, and CDQ number;

(ii) Record in the DCPL each day on the day such production occurs, the daily total, balance brought forward (except for shoreside processor), and cumulative total fish product weight (see § 672.2) for each product of groundfish in pounds or to at least the nearest 0.01 mt;

(iii) If no production occurred, write "NO PRODUCTION" for that day.

(10) *Discarded/donated species information.* The manager or operator must, where required:

(i) Record and report discards and donations by species codes and discard product codes as defined in Tables 1 and 2 of this part for each reporting area, whether in Alaska State waters or Federal waters, gear type, and CDQ number;

(ii) Record the estimated daily total, balance brought forward, and cumulative total round fish weight in the DFL, DCL, or DCPL each day on the day such discards and donations occur for each discard and donation of groundfish species, groundfish species groups, and Pacific herring in pounds or to at least the nearest 0.01 mt;

(iii) Record the estimated daily total, balance brought forward, and cumulative total numbers in the DFL, DCL, or DCPL each day on the day such discards and donations occur for each discard and donation of Pacific salmon, steelhead trout, Pacific halibut, king crab, and Tanner crab;

(iv) If there were no discards or donations, write "NO DISCARDS", "0", or "ZERO" for that day.

(v) *Catcher Vessel discards/donations.* (A) For deliveries of unsorted codends, the catcher vessel is exempt from recording of discards in the DFL and from submittal of the blue logsheet (discards copy) for that delivery. The operator is required to check the box entitled, "unsorted codend", and the blue DFL logsheet (discards copy) remains in the DFL;

(B) For presorted deliveries or in the event a catcher vessel has "bled" a codend prior to delivery to a processor, the operator must check the "presorted delivery" box, enter the amount of discards and donations by species, and submit the blue DFL logsheet (discards copy) to the mothership, buying station, or shoreside processor with each harvest delivery.

(vi) *Buying Station discards/donations.* (A) The operator or manager must record in the DCL on a daily basis on the day such discard occurs, all discards and donations that occur after receipt of harvest from a catcher vessel and prior to delivery to a mothership or shoreside processor;

(B) If a blue DFL logsheet is received from a catcher vessel and contains reports of discards or donations, the operator or manager must record in the DCL the discards and donations on the day the DFL logsheet is received from the catcher vessel;

(vii) *Catcher/Processor discards/donations.* The operator must record in the DCPL on the day such discard or donation occurs all discards and donations that occur prior to harvest, during harvest, and during processing;

(viii) *Mothership or shoreside processor discards/donotions.*

(A) The operator or manager must record in the DCPL on a daily basis on the day such discard or donation occurs, all discards and donations that occur on site after receipt of groundfish, and all discards and donations that occur during processing of groundfish;

(B) If an unsorted codend is received from a catcher vessel, the catcher vessel is not required to submit a blue discard logsheet to the mothership or shoreside processor. The operator or manager must sort the catch received from the unsorted codends and must record the discards by species in the DCPL as discard at sea on the day the harvest is received from the catcher vessel;

(C) If discards are reported on a blue DFL logsheet from a catcher vessel delivering a pre-sorted codend or if a catcher vessel reports an amount bled at sea, the operator or manager must record in the DCPL the discards on the day the DFL logsheet is received from the catcher vessel.

(D) If a yellow DCL logsheet is received from a buying station and discards and donations are reported, the operator or manager must record in the DCPL the discards and donations on the day the DCL logsheet is received from the buying station;

(11) *Contract processing.* (i) The manager of a shoreside processor or operator of a mothership who receives groundfish to be handled or processed under contract for another processor or business entity must report these fish to the Regional Director consistently throughout a fishing year using one of two methods:

(A) Record landings (if applicable), discards, and products of contract-processed groundfish routinely in the DCPL without separate identification; or

(B) Record landings (if applicable), discards, and products of contract-processed groundfish in a separate DCPL identified by the name, Federal Processor Permit number, Federal Fisheries Permit number (if applicable), and ADF&G Processor code of the associated business entity;

(ii) If contract-processed groundfish records are kept separate from the routine DCPL, the operator or manager of the mothership or shoreside processor must summarize and report that information on a WPR identified by the name, Federal Processor Permit number, Federal Fisheries Permit number (if applicable), and ADF&G Processor code of the associated business entity.

(12) *Alteration of records.* (i) The operator, manager, or any other person may not alter or change any entry or record in a logbook except that an inaccurate or incorrect entry or record may be corrected by lining out the original and inserting the correction, provided that the original entry or record remains legible.

(ii) No person except an authorized officer may remove any original page of any logbook.

(13) *Inspection of records.* The operator or manager of a catcher vessel, catcher/processor, mothership, or shoreside processor, must make all logbooks, reports, and forms required under paragraph (a)(3) of this section available for inspection upon the request of an authorized officer.

(14) *Submittal of logbooks, reports and forms*—(i) *Quarterly submittal of logbook.* (A) The operator of a catcher vessel, catcher/processor, mothership, or the manager of a shoreside processor must submit the yellow logsheets on a quarterly basis to: NMFS Alaska Fisheries Science Center, Logbook Program, 7600 Sand Point Way NE, Building 4, Seattle, WA 98115.

(B) The operator or manager must submit the yellow logsheets as follows: First quarter, by May 1 of that year; second quarter, by August 1 of that year; third quarter, by November 1 of that year; and fourth quarter, by February 1 of the following year.

(C) During an inactive period that extends across two or more quarters, the operator or manager must complete two separate logsheets: one to indicate the last day of the quarter and the next page to indicate the first day of the next quarter.

(ii) *Submittal of reports and forms.* Reports and forms may be submitted by the operator or manager by:

(A) Using the NMFS printed form and faxing it to the fax number on the form; or

(B) Transmitting a data file with required information and forms to NMFS by modem or satellite (specifically INMARSAT standards A, B, or C).

(15) *Record retention*—(i) *Original Copy.* (A) The operator of a catcher vessel, catcher/processor, or mothership and the manager of a shoreside processor must retain the original (white) copy of all logbooks and a paper copy of all reports and forms, including

those reports and forms that were originally submitted electronically;

(*1*) On site until the end of the fishing year during which the records were made and for as long thereafter as fish or fish products recorded in the logbook, reports, and forms are retained;

(*2*) For 3 years after the end of the fishing year during which the records were made;

(B) The operator or manager of a buying station must retain the original (white) copy of all DCLs required under paragraph (a)(2) of this section on site until the buying station has concluded receiving groundfish for a shoreside processor or mothership and for as long as fish and fish products recorded in the DCL are retained by the buying station;

(ii) *Yellow DCL logsheet.* When the operator of a mothership or the manager of a shoreside processor submits on a quarterly basis to NMFS, the yellow DCL logsheets received from associated buying stations per paragraph (a)(14) of this section, the operator or manager must retain a photocopy of the yellow DCL logsheets until the original DCL is received from the associated buying station operator or manager.

(iii) *Blue DFL logsheet.* (A) The operator of a mothership and the manager of a shoreside processor must retain the blue DFL logsheets (discard reports) submitted to them by operators of catcher vessels through the last day of the fishing year during which the records were made.

(B) The operator or manager of a buying station must submit to the mothership or shoreside processor any blue logsheets (discards copy) received from catcher vessels delivering groundfish to the buying station.

(iv) *Pink DCL logsheet.* The operator or manager of a buying station must retain the pink DCL logsheets for 3 years after the end of the fishing year during which the records were made.

(16) *Integration of Buying Station records.*(i) The operator or manager of a buying station must maintain a separate DCL for each shoreside processor or mothership to which the buying station delivers groundfish during a fishing year.

(ii) The operator or manager of a buying station must submit upon delivery of catch, the yellow DCL logsheets, to the shoreside processor or mothership to which it delivers groundfish, along with the blue DFL logsheets and ADF&G fish tickets or catch receipts for that delivery.

(iii) Upon conclusion of receiving groundfish for a shoreside processor or mothership, the buying station operator or manager must submit the original DCL to the shoreside processor manager or mothership operator to which deliveries were made.

(iv) If the mothership operator or the shoreside processor manager receives fish from a buying station, the operator or manager must incorporate all of the DCL information into the DCPL.

(b) *Designated Representative.* The operator or manager of a catcher vessel, mothership, catcher/processor, shoreside processor or buying station may identify one person to fill out and sign the logbook, complete the recordkeeping and reporting forms, or both, and to identify who will be the contact person for inquiries from NMFS. Designation of a representative under this paragraph does not relieve the owner, operator, or manager of responsibility for compliance with this part.

(c) *Catcher Vessel DFL and Catcher/Processor DCPL*—(1) *Requirement.* (i) The operator of each catcher vessel or catcher/processor subject to this part must:

(A) Answer each question on the DFL or DCPL in the manner set forth under paragraphs (c)(3) through (7) of this section; and

(B) Submit the DFL or DCPL in the manner set forth under paragraphs (a)(14) and (c)(2) of this section.

(ii) *Pair trawl.* If two catcher vessels are dragging a trawl between them (pair trawl), a separate DFL must be maintained by each of the vessels. Each vessel operator must log the amount of the catch retained by that vessel and any fish discarded by the vessel.

(2) *Time limit and submittal.* (i) The operator must record in the DFL or DCPL, the time, position, and estimated groundfish catch weight within 2 hours after gear retrieval;

(ii) The operator must record all other information required in the DFL or DCPL by noon of the day following gear retrieval if a catcher vessel or by noon of the day following completion of production if a catcher/processor;

(iii) The operator of a catcher vessel must submit the blue DFL logsheets with delivery of the harvest to the operator or manager of the buying station, mothership, or shoreside processor;

(iv) Notwithstanding other time limits, the operator of a catcher vessel must record all information required in the DFL within 2 hours after the vessel's catch is offloaded;

(3) The operator must record on each page:

(i) Page number as defined at paragraph (a)(6)(i) of this section;

(ii) The start date and end date of the fishing trip;

(iii) If a catcher vessel, the vessel name and ADF&G vessel registration number. If a catcher/processor, the name, ADF&G Processor number, and Federal Processor number of the catcher/processor;

(iv) The operator's signature;

(v) *Active/inactive period.* Whether catcher vessel or catcher/processor is in an active or inactive period as defined at paragraph (a)(7) of this section.

(4) The operator must record the following for each haul or set:

(i) Date (month-day-year);

(ii) *Gear deployment.* The number of haul or set, by sequence; begin time and position coordinates of gear deployment; average sea depth and average gear depth, recorded to the nearest meter or fathom.

(iii) *Gear retrieval.* The date, time, and position coordinates of gear retrieval. If the vessel is using longline hook-and-line gear, the number of skates set. If the vessel is using longline pot or single pot gear, the total number of pots set.

(iv) The estimated total round fish weight of the groundfish catch; and

(v) The species code of the intended target species from Table 2 of this part.

(vi) The estimated IFQ sablefish amounts in the "comments" column.

(5) The operator must record discard/donation information as defined at paragraph (a)(10) of this section.

(6) If a catcher vessel, the operator must record:

(i) The date of delivery.

(ii) The name, ADF&G processor code, and ADF&G fish ticket number(s) provided by the manager or operator of the mothership, shoreside processor, or buying station.

(7) If a catcher/processor, the operator must record product information as set forth at paragraph (a)(9) of this section.

(d) *Buying station DCL*—(1) *Requirement.* The operator or manager of each buying station subject to this part must:

(i) Answer each question on the DCL in the manner set forth under paragraphs (d) (3) through (5) of this section; and

(ii) Submit the DCL in the manner set forth under paragraphs (d)(2) and (a)(14), respectively, of this section.

(2) *Time limits.* (i) The operator or manager must record entries in the DCL as to catcher vessel delivery information within 2 hours after completion of receipt of the groundfish.

(ii) All other information required in the DCL must be recorded by noon of the day following the day the receipt of groundfish was completed or discard occurred.

(3) The operator or manager must record for each page:

(i) Page number as defined at paragraph (a)(6)(i) of this section;

(ii) The date;

(iii) The buying station name and, if a vessel, the ADF&G Vessel number;

(iv) The operator's or manager's signature.

(v) *Active/inactive period.* Whether buying station is in an active or inactive period as defined at paragraph (a)(7) of this section.

(vi) The name and ADF&G processor code of the mothership or shoreside processor to which groundfish deliveries were made;

(vii) The number of crew;

(4) The operator or manager must record the following information for each delivery of groundfish:

(i) The ADF&G fish ticket number issued to each catcher vessel delivering groundfish. If a fish ticket was not issued, the catch receipt number of the transaction;

(ii) Whether blue DFL logsheets were received from catcher vessel;

(iii) The time when receipt of groundfish catch was completed;

(iv) The name and ADF&G vessel registration number of the catcher vessel delivering the groundfish;

(v) The total groundfish delivery weight.

(5) The operator or manager must record discard/donation information as defined at paragraph (a)(10) of this section.

(e) *Mothership DCPL*—(1) *Requirement.* The operator of each mothership subject to this part must:

(i) Answer each question on the DCPL in the manner set forth under paragraphs (e) (3) through (6) of this section; and

(ii) Submit the DCPL in the manner set forth under paragraphs (e)(2) and (a)(14), respectively, of this section.

(2) *Time limits.* (i) The operator must record entries in the DCPL as to catcher vessel or buying station delivery information within 2 hours after completion of the groundfish receipt.

(ii) All other information required in the DCPL must be recorded by noon of the day following the day the catch receipt, discard, or production occurred.

(3) The operator must record on each page:

(i) Page number as defined at paragraph (a)(6)(i) of this section;

(ii) The date;

(iii) The name, ADF&G Processor number, and Federal Processor number;

(iv) The operator's signature.

(v) Whether mothership is in an active or inactive period as defined at paragraph (a)(7) of this section.

(4) The operator must record for each delivery:

(i) Whether delivery is from a catcher vessel or a buying station;

(ii) The name and ADF&G vessel registration number (if applicable) of the catcher vessel or buying station delivering the groundfish;

(iii) The time and position coordinates of the mothership when groundfish catch is received;

(iv) The estimated total round fish weight of the groundfish catch;

(v) The ADF&G fish ticket number issued to each catcher vessel delivering groundfish. If a fish ticket is not issued, record the catch receipt number of the transaction.

(5) The operator must record discard/donation information as defined at paragraph (a)(10) of this section.

(6) The operator must record product information as defined at paragraph (a)(9) of this section.

(f) *Shoreside Processor DCPL*—(1) *Requirement.* The manager of each shoreside processor subject to this part must:

(i) Answer each question on the DCPL in the manner set forth under paragraphs (f)(3) through (f)(7) of this section;

(ii) Submit the DCPL in the manner set forth under paragraphs (f)(2) and (a)(14) of this section.

(2) *Time limits.* (i) The manager must record in the DCPL all catcher vessel or buying station delivery information within 2 hours after completion of the groundfish receipt.

(ii) All other information required in the DCPL must be recorded by noon of the day following the day the catch receipt, discard, or production occurred.

(3) *Part IA.* The operator must record on each page:

(i) *Page number.* If page is for an individual day, the date. If page is for 1 week, week-ending date. See also paragraph (a)(6)(iii) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section;

(iii) The signature of the manager;

(iv) Whether the shoreside processor is in an active or inactive period as defined at paragraph (a)(7) of this section.

(4) *Delivery information (Part IB).* The manager must record the following information for each delivery:

(i) Date and time when receipt of groundfish catch was completed;

(ii) Whether delivery is from catcher vessel or buying station;

(iii) Whether blue DFL logsheets were submitted by catcher vessel;

(iv) The name and ADF&G vessel registration number (if applicable) of the catcher vessel or buying station delivering the groundfish;

(v) The total scale weight of groundfish delivery in pounds or to the nearest 0.01 mt;

(vi) The ADF&G fish ticket number issued to the catcher vessel delivering groundfish. If a fish ticket is not issued, record the catch receipt number of the transaction.

(5) *Landings information (Part IC).* The manager must record:

(i) The date next to the appropriate day of the week (SUN through SAT);

(ii) Landings information as defined at paragraph (a)(8) of this section.

(6) *Discarded/donated species information (Part ID).* The manager must record:

(i) The date next to the appropriate day of the week (SUN through SAT);

(ii) Discard information as defined at paragraph (a)(10) of this section.

(7) *Part II.* The manager must record:

(i) Page numbers must be consecutive within Part II, beginning with page one for the first day product was produced after the start of the fishing year and continuing throughout the section for the remainder of the fishing year;

(ii) The name, ADF&G processor code number, and Federal Processor number of shoreside processor;

(iii) The signature of the manager.

(iv) *Product information.* (A) The week-ending date;

(B) The management area (BSAI or GOA);

(C) The date next to the appropriate day of the week (SUN through SAT);

(D) Product information as defined at paragraph (a)(9) of this section.

(g) *Groundfish Product Transfer Report (PTR)*—(1) *Requirement.* (i) The operator of a mothership or catcher/processor or the manager of a shoreside processor must record each transfer of groundfish product on a separate PTR.

(ii) The operator or manager must answer each question on the PTR in the manner set forth under paragraphs (g)(3) through (g)(6) of this section for each transfer of groundfish or groundfish product and must submit the PTR in the manner set forth under paragraph (g)(2) of this section.

(iii) *Shoreside Processor transfer to offsite meal reduction plant.* The manager of a shoreside processor must report on a PTR those fish products which are subsequently transferred to an offsite meal reduction plant;

(iv) *Transfer of groundfish for bait.* The operator or manager must report on a PTR, daily sales or transfer of groundfish to vessels for bait. Individual sales of groundfish for bait purposes during a day may be aggregated when recording the amount of product leaving a facility that day.

(2) *Time limits and submittal.* The operator or manager must:

(i) Record all product transfer information on a PTR within 2 hours of the completion of the transfer;

(ii) Submit a copy of each PTR to the Regional Director to fax number 907–586–7313 within 24 hours of completion of transfer.

(3) The operator or manager must record on each page:

(i) Whether an original or revised report, as defined at paragraph (a)(6) of this section;

(ii) Page numbers must be numbered sequentially, with the first transfer of the fishing year as page 1 and continuing throughout the remainder of the fishing year;

(iii) If product (including raw fish) is received, "RECEIPT". If product (including raw fish) is offloaded from a mothership or catcher/processor, "OFFLOAD". If product (including raw fish) is shipped from a shoreside processor, "SHIPMENT";

(iv) Representative identification information, as defined at paragraph (a)(5) of this section;

(v) If a catcher/processor or mothership, the participant identification information as defined at paragraph (a)(4) of this section and USCG documentation number. If a shoreside processor, the participant identification information as defined at paragraph (a)(4).

(4) *Transfer information.* The operator or manager must record the following information for each transfer:

(i) If another vessel is involved with the transfer, the name and call sign of the vessel receiving or delivering groundfish or groundfish products;

(ii) If a mothership or catcher/processor and the transfer takes place in port, the port of landing and country, if a foreign location;

(iii) If transfer is made to an agent, the agent's name. For purposes of this part, agent is defined as the transport company, the buyer, or the distributor;

(iv) *Intended first destination of product.* (A) If an offload or shipment, the intended destination of vessel or agent receiving groundfish or groundfish product. If receipt, not applicable;

(B) If an offload or shipment has several destinations, the primary or first intended destination;

(C) If offload or shipment is going to a single agent and initial destination but requires loading on multiple vans, trucks, or airline flights, the transfer may be recorded on a single PTR page;

(v) *Date and time of product transfer*—(A) *Start date.* The date and time the transfer starts;

(B) *Finish date.* The date and time the transfer is completed;

(*1*) If shipment is an individual van load or flight, the date and time when each shipment leaves the plant;

(*2*) If shipment involves multiple vans or trucks, the date and time when loading of vans or trucks is completed for each day;

(*3*) If shipment involves air freight, record date and time when the last air freight shipment of the day leaves the plant;

(vi) *Position transferred.* If a catcher/processor or mothership and transfer of product is made at sea, the transfer position coordinates.

(5) *Products and quantities offloaded, shipped, or received.*

(i) If a catcher/processor or mothership, the Harvest Zone code of the area in which groundfish were harvested as defined in Table 8 of this part;

(ii) The species code and product code for each product transferred as defined in Tables 1 and 2 of this part;

(iii) The number of cartons or production units transferred;

(iv) The average net weight of one carton for each species and product code in kilograms or pounds;

(v) The total net weight (fish product weight, to the nearest 0.01 mt) of the products transferred;

(6) If a catcher/processor or mothership, whether transfer is a total or partial offload. If partial offload, the total fish product weight, to the nearest 0.01 mt, of the products (by harvest zone, species and product codes) remaining on board after this transfer;

(h) *Check-in/Check-out Report*—(1) *Requirement*—(i) *Check-in report (BEGIN Message).* Before a catcher/processor commences harvest of groundfish in Alaska State or Federal waters of any reporting area except 300, 400, 550, or 690 or before a mothership, shoreside processor or buying station commences receipt of groundfish from Alaska State or Federal waters of any reporting area except 300, 400, 550, or 690, the operator or manager must answer each question on the Check-in/Check-out Report in the manner set forth under paragraphs (h)(3), (h)(4), and (h)(6) of this section; and must submit the Check-in/Check-out Report in the manner set forth under paragraph (h)(2) of this section.

(ii) *Check-out report (CEASE Message).* (A) If a catcher/ processor departs a reporting area or moves between Alaska State and Federal waters in a reporting area, and gear retrieval is complete from that area, the operator or manager must answer each question on a Check-out report in the manner set forth in paragraphs (h)(3), (h)(5), and (h)(6) of this section and must submit the Check-in/Check-out Report in the manner set forth under paragraph (h)(2) of this section;

(B) If a mothership or shoreside processor, and groundfish receipt and processing are completed, the operator or manager must answer each question on a Check-out report in the manner set forth in paragraphs (h)(3), (h)(5), and (h)(6) of this section and must submit the Check-in/Check-out Report in the manner set forth under paragraph (h)(2) of this section;

(iii) *Transit between reporting areas.* If a vessel is transiting through a reporting area and is not fishing or receiving fish, a Check-in or Check-out report is not required from that area;

(iv) *Multiple vessel operations categories.* If a catcher/ processor is functioning simultaneously as a mothership in the same reporting area, the operator must submit a separate Check-in report for each vessel operations category. Upon completion of each activity, the operator must submit a Check-out report for each vessel operations category.

(2) *Time limits and submittal*—(i) *Check-in report.* (A) The operator of a catcher/processor must submit by fax a Check-in report (BEGIN message) to the Regional Director at fax number 907–586–7131 before commencing any harvest of groundfish.

(B) The operator or manager of a mothership, shoreside processor, or buying station must submit by fax a Check-in report (BEGIN message) to the Regional Director at fax number 907–586–7131 before commencing any receipt of groundfish.

(ii) *Check-out report.* (A) For a catcher/processor, mothership, or buying station, the operator must submit by fax a Check-out report (CEASE message) to the Regional Director at fax number 907–586–7131 within 24 hours after leaving either the Alaska State or Federal part of a reporting area.

(B) For a shoreside processor, the manager must submit by fax a Check-out report (CEASE message) to the Regional Director at fax number 907–586–7131 within 48 hours after the end of the applicable weekly reporting period that a shoreside processor ceases to process groundfish for the fishing year or has not processed groundfish for more than one weekly reporting period;

(3) The operator or manager must record on each page:

(i) Whether it is an original or revised report as defined at paragraph (a)(6) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section;

(iii) Representative identification information as defined at paragraph (a)(5) of this section;

(iv) For a mothership or catcher/processor, the processor type and gear type used to harvest the groundfish. If groundfish are received by a mothership in the same reporting area from more than one gear type, or if groundfish are caught by a catcher/ processor in the same reporting area using more than one gear type, the operator must submit a separate form for each gear type;

(v) Whether harvest is under a CDQ Program; if yes, the CDQ number;

(vi) If a buying station, the number of crew on the last day of the reporting week.

(4) *BEGIN Message.* The operator or manager must record:

(i) For a catcher/processor, date and time that gear is deployed. For a mothership, date and time that receipt of groundfish begins;

(ii) For a catcher/processor, position coordinates where gear is set. For a mothership, position coordinates where groundfish receipt is begun;

(iii) For a catcher/processor, the reporting area code of gear deployment and whether gear deployment was in Federal or Alaska State waters. For a mothership or buying station, the reporting area code where groundfish receipt begins and whether receipt of groundfish occurred in Federal or Alaska State waters;

(iv) For a shoreside processor, the date receipt of groundfish will begin; whether checking in for first time in fishing year or checking in to restart receipt and processing of groundfish after filing a Check-out report;

(v) For a mothership or catcher/processor, the primary and secondary species expected to be harvested. For a buying station, the intended primary target expected to be harvested. A change in intended target species within the same reporting area does not require a new BEGIN message.

(5) *CEASE Message.* The operator or manager must report:

(i) If a mothership or catcher/processor, the date, time and position coordinates where the vessel departed the reporting area or moved to Federal waters from Alaska State waters within a reporting area, or vice versa;

(ii) If a shoreside processor or buying station, the date that receipt of groundfish ceased.

(6) *Fish or fish product held at plant.* For a shoreside processor, the weight of the fish or fish products in pounds or to the nearest 0.01 mt by species and product codes.

(i) *Weekly Production Report (WPR)*—(1) *Requirement.* (i) The operator or manager of a mothership, catcher/processor, or shoreside processor must answer each question on the WPR in the manner set forth in paragraphs (i)(3) through (i)(7) of this section for any week the mothership, catcher/processor, or shoreside processor is checked in pursuant to paragraph (h)(1)(i) of this section and must submit a WPR in the manner set forth in paragraph (i)(2) of this section.

(ii) *Multiple vessel operations categories.* The operator of a vessel that is authorized to conduct operations as both a catcher/processor and as a mothership must submit separate WPRs to report production and discard as a catcher/processor and production and discard as a mothership.

(2) *Time limits and submittal.* The operator or manager must submit a WPR by fax to the Regional Director at fax number 907–586–7131 by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period.

(3) The operator or manager must record on each page:

(i) Whether an original or revised report, as defined at paragraph (a)(6) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section;

(iii) Representative identification information as defined at paragraph (a)(5) of this section and date WPR was completed;

(iv) If a mothership or catcher/processor, the processor type and gear type used to harvest the groundfish;

(v) Whether harvest is under a CDQ Program; if yes, the CDQ number;

(vi) The week-ending date;

(vii) The primary and secondary target codes for the next week;

(viii) If a mothership or catcher/processor, the number of crew on the last day of the reporting week;

(4) *Landings information.* If a shoreside processor, see landings information requirements at paragraph (a)(8) of this section.

(5) *Discarded/donated species information (Part ID).* For discard/donate information requirements, see paragraph (a)(10) of this section.

(6) *Product information.* For product information requirements, see at paragraph (a)(9) of this section.

(7) *Catcher Vessel delivery information.* If ADF&G fish tickets are issued by the mothership or shoreside processor, list the fish ticket numbers issued to catcher vessels for the weekly reporting period.

(j) *Daily Production Report (DPR)*—(1) *Notice.* If the Regional Director determines that DPRs are necessary to avoid exceeding a groundfish TAC or prohibited species bycatch allowance, NMFS may require submission of DPRs for reporting one or more specific species, in addition to a WPR. NMFS will publish a document in the **Federal Register** specifying the fisheries that require DPRs and the effective dates that submittal of DPRs is required.

(2) *Requirement.* (i) If a catcher/processor, mothership, or shoreside processor is checked in to the specified reporting area and is harvesting, receiving, processing, or discarding the specified species or is receiving reports from a catcher vessel of discard at sea of the specified species, the operator or manager must submit a DPR.

(ii) The operator of a mothership or catcher/processor or manager of a shoreside processor must:

(A) Answer each question on the DPR in the manner set forth in paragraphs (j)(4) through (j)(7) of this section;

(B) Submit the DPR in the manner set forth in paragraph (j)(3) of this section;

(C) Use a separate DPR for each gear type, processor type, and CDQ number.

(3) *Time limit and submittal.* The operator or manager must submit a DPR by fax to the Regional Director at fax number 907–586–7131 by 1200 hours, A.l.t., the day following each day of landings, discard, or production.

(4) The operator or manager must record on each page:

(i) Whether it is an original or revised report as defined at paragraph (a)(6) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section and processor type;

(iii) Representative identification information as defined at paragraph (a)(5) of this section;

(iv) The gear type used to harvest the groundfish, date landings were received, and Federal reporting area where landings were harvested;

(v) Whether harvest is under a CDQ Program; if yes, the CDQ number.

(5) *Landing information.* If a shoreside processor, see landings information requirements at paragraph (a)(8) of this section.

(6) *Product information.* For a mothership or catcher/ processor, see product information requirements at paragraph (a)(9) of this section.

(7) *Discard/donate information.* For discard/donate information requirements, see paragraph (a)(10) of this section.

(k) *U.S. Vessel Activity Report (VAR)*—(1) *Requirement.* The operator of a catcher vessel, a catcher/processor, or a mothership regulated under this part that crosses the seaward boundary of the EEZ off Alaska or crosses the

United States/Canada international boundary between Alaska and British Columbia must answer each question on the VAR in the manner set forth in paragraphs (k)(3) and (k)(4) of this section and must submit a VAR in the manner set forth in paragraph (k)(2) of this section.

(2) *Time limits and submittal.* The operator must submit a VAR by fax to NMFS Alaska Enforcement Division at fax number 907–586–7313 before the vessel crosses the seaward boundary of the EEZ off Alaska or the U.S./Canada international boundary between Alaska and British Columbia.

(3) The operator must record on each page:

(i) Whether an original or revised report as defined at paragraph (a)(6) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section;

(iii) Representative identification information as defined at paragraph (a)(5) of this section and date VAR was completed;

(iv) If vessel is crossing into the seaward boundary of the EEZ off Alaska or crossing the U.S./Canada international boundary between Alaska and British Columbia, the operator must indicate "return" report. If vessel is crossing out of the seaward boundary of the EEZ off Alaska or crossing the U.S./Canada international boundary between Alaska and British Columbia into Canadian waters, the operator must indicate "depart" report.

(v) Port of landing;

(vi) Whether vessel is returning from fishing or departing to fish in the Russian Zone;

(vii) Date and time vessel will cross the EEZ off Alaska or the U.S./Canada international boundary between Alaska and British Columbia;

(viii) Latitude and longitude at the point of crossing the EEZ off Alaska or U.S./Canada international boundary between Alaska and British Columbia.

(4) *Fish or fish product on board the vessel when crossing the EEZ off Alaska or U.S./Canada international boundary.* (i) The Harvest Zone code of the area in which groundfish were harvested as defined in Table 8 of this part;

(ii) The species code and product code for each species on board as defined in Tables 1 and 2 of this part;

(iii) The fish product weight of products on board in pounds or to the nearest 0.01 mt.

7. In § 672.7, paragraphs (p) and (q) are added, and paragraphs (i) and (j) are revised to read as follows:

§ 672.7 Prohibitions.

* * * * *

(i) Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing the Secretary to issue Donut Hole fishing permits (Public Law 104–43, section 104(d)), it is unlawful for any person to fish in the Donut Hole from a vessel for which a Federal fisheries permit has been issued pursuant to section 672.4 of this part during the year for which the permit was issued;

(j) Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing the Secretary to issue Donut Hole fishing permits (Public Law 104–43, section 104(d)), it is unlawful for any person to possess within the EEZ fish harvested from the Donut Hole on board a vessel for which a Federal fisheries permit has been issued pursuant to section 672.4 of this part during the year for which the permit was issued.

* * * * *

(p) Fail to comply with or fail to ensure compliance with requirements at § 672.5.

(q) Use a catcher vessel or catcher/processor as a Tender Vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

8. In § 672.20, paragraphs (a)(1), (e)(1), (h)(2) and the headings for paragraphs (c)(1), (c)(2)(i), (c)(2)(ii), and paragraphs (i)(4), and (j) are revised; headings for paragraphs (c)(1)(i)(A), (i)(1), (i)(2), (i)(3), and (i)(6) are added to read as set forth below. In paragraphs (g)(1) and (g)(3) the phrase, "Table 2 to this section" is removed and the phrase "Table 10 of this part" is added in its place; and tables 1 and 2 to the section are removed.

§ 672.20 General limitations.

(a) * * * (1) *Optimum yield (OY).* The OY for the fishery regulated by this section and by § 611.92 of this chapter is a range of 116,000 to 800,000 mt for target species and the "other species" category in the GOA, to the extent this amount can be harvested consistently with this part and part 611 of this chapter, plus the amounts of "non-specified species" taken incidentally to the harvest of target species and the "other species" category. The species categories are defined in Table 1 of the specifications as provided in paragraph (c)(1) of this section.

* * * * *

(c) * * * (1) *Proposed specifications, interim harvest limits, and final specifications.* (i) * * * (A) *Proposed specifications.* * * *

(2) * * *

(i) *Directed fishing allowance—Applicable after December 31, 1998.*

* * *

(ii) *Directed fishing allowance—Applicable through December 31, 1998.*

* * *

(e) * * *

(1) Prohibited species, for the purpose of this part, means any of the species of Pacific salmon (*Oncorhynchus* spp.), steelhead trout (*Oncorhynchus mykiss*), Pacific halibut (*Hippoglossus stenolepis*), Pacific herring (*Clupea harengus pallasi*), king crab (*Paralithodes* spp. and *Lithodes* spp.), and Tanner crab (*Chionoecetes* spp.) caught by a vessel regulated under this part while fishing for groundfish in the GOA, unless retention is authorized by other applicable laws, including the Pacific Halibut Fishery Regulations (part 301 of this title).

* * * * *

(h) * * *

(2) *Fishing trip.* For purposes of this section, an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing of groundfish is begun or resumed until:

(i) The transfer or offloading of all groundfish product;

(ii) The vessel leaves the area where fishing activity commenced; or

(iii) The end of a weekly reporting period, whichever comes first.

(i) * * *

(1) *Pollock roe.* * * *

(2) *Primary product.* * * *

(3) *Pollock product recovery rates.*

* * *

(4) *Fishing trip.* For purposes of this paragraph, a fishing trip is defined as set forth under paragraph (h)(2) of this section.

* * * * *

(6) *Primary pollock product.* * * *

* * * * *

(j) *Standard product types and standard product recovery rates (PRRS)—(1) Calculating round-weight equivalents from standard PRRs.* Round-weight equivalents for groundfish products are calculated using the product codes and standard PRRs specified in Table 3 of this part.

(2) *Adjustments to Table 3 of this part.* The Regional Director may adjust standard PRRs and product types specified in Table 3 of this part if he determines that existing standard PRRs are inaccurate or if new product types are developed.

(3) *Procedure.* Adjustments to any standard PRR listed in Table 3 of this part that are within and including 15 percent of that standard PRR may be made without providing notice and opportunity for prior public comment. Adjustments of any standard PRR during a calendar year, when aggregated with all other adjustments made during that year, will not exceed 15 percent of the standard PRR listed in Table 3 of this part at the beginning of that calendar year, and no new product type will be announced until NMFS publishes the proposed adjustment and/or new product type in the **Federal Register** and provides the public with at least 30 days opportunity for public comment. Any adjustment of a PRR that acts to further restrict the fishery will not be effective until 30 days after the date of publication in the **Federal Register**. If NMFS makes any adjustment or announcement without providing a prior notice and opportunity for prior public comment, the Regional Director will receive public comments on the adjustment or announcement for a period of 15 days after its publication in the **Federal Register**.

§ 672.22 [Amended]

9. In § 672.22, paragraph (d) is removed.

10. Section 672.23 is revised to read as follows:

§ 672.23 Seasons.

(a) *Fishing year.* Fishing for groundfish is authorized from 0001 hours, A.l.t., January 1, through 2359 hours, A.l.t., December 31, subject to the other provisions of this part, except as provided in paragraphs (c) through (e) of this section.

(b) *Time of openings and closures.* The time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hours, A.l.t.

(c) *Directed fishing for trawl rockfish.* Directed fishing for rockfish of the genera *Sebastes* and *Sebastolobus* with trawl gear is authorized from 1200 hours, A.l.t., on the first day of the third quarterly reporting period of a fishing year, through 2359 hours, A.l.t., December 31, subject to other provisions of this part.

(d) *Opening dote for trawl groundfish.* Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the Gulf of Alaska is prohibited from 0001 hours, A.l.t. on January 1 through 1200 hours, A.l.t., January 20.

(e) *Directed fishing for pollock.* Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized: From 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 1; from 1200 hours, A.l.t., June 1, through 1200 hours, A.l.t., July 1; from 1200 hours, A.l.t., July 1, through 1200 hours A.l.t., October 1; and from 1200 hours A.l.t., October 1, through 2359 hours, A.l.t., December 31.

11. In § 672.24, paragraphs (d)(3) and (d)(4) are redesignated as paragraphs (d)(4) and (d)(5), respectively; headings for paragraphs (c)(4), redesignated paragraphs (d)(4) and (d)(5), (f)(2) and (f)(3) are added; paragraph (d)(3) is added; headings of paragraphs (a), (b), and (d) are revised; and paragraphs (d)(1), (d)(2), (e), (f)(4), and (f)(5) are revised to read as follows:

§ 672.24 Gear limitations.

(a) *Marking of gear—longline marker buoys.* * * *

(b) *Gear restrictions—pots.* * * *

(c) * * *

(4) *Longline pot gear.* * * *

(d) *Trawls other than pelagic trawls—Kodiak Island—(1) Type I Closures.* No person may trawl in waters of the EEZ within the vicinity of Kodiak Island, as shown in Figure 5 of this part as Type I areas, from a vessel having any trawl other than a pelagic trawl either attached or on board.

(2) *Type II Closures.* From February 15 to June 15, no person may trawl in waters of the EEZ within the vicinity of Kodiak Island, as shown in Figure 5 of this part as Type II areas, from a vessel having any trawl other than a pelagic trawl either attached or on board.

(3) *Type III Closures.* Type III areas are open to any trawl other than a pelagic trawl gear year round.

(4) *Net-sounder device.* * * *

(5) *Footrope of the trawl.* * * *

(e) *Steller sea lion protection areas—*

(1) *Year-round closures.* Trawling is prohibited in the GOA within 10 nm of the 14 Steller sea lion rookeries designated in Table 6a of this part.

(2) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 675.20(a)(8) of this chapter, trawling is prohibited in the GOA within 20 nm of each of the three Steller sea lion rookeries presented in Table 6b of this part.

(f) * * *

(2) *Trawl gear testing.* * * *

(3) *Test area criteria.* * * *

(4) *Kodiak Test Area.* Trawl gear testing is allowed in an area (Figure 7 of this part) bounded by straight lines connecting the following coordinates in the order listed at all times:

W. longitude	*N. latitude*
152°02′	57°37′
151°25′	57°37′
151°25′	57°23′
152°02′	57°23′
152°02′	57°37′

(5) *Sand Point Test Area.* Trawl gear testing is allowed in an area (Figure 7 of this part) bounded by straight lines connecting the following coordinates in the order listed at all times:

W. longitude	*N. latitude*
161°00′	54°50′
160°30′	54°50′
160°30′	54°35′
161°00′	54°35′
161°00′	54°50′

12. In Part 672, figures 1 and 2 are revised, figures 3 through 7 and tables 1 through 11 are added to read as follows:

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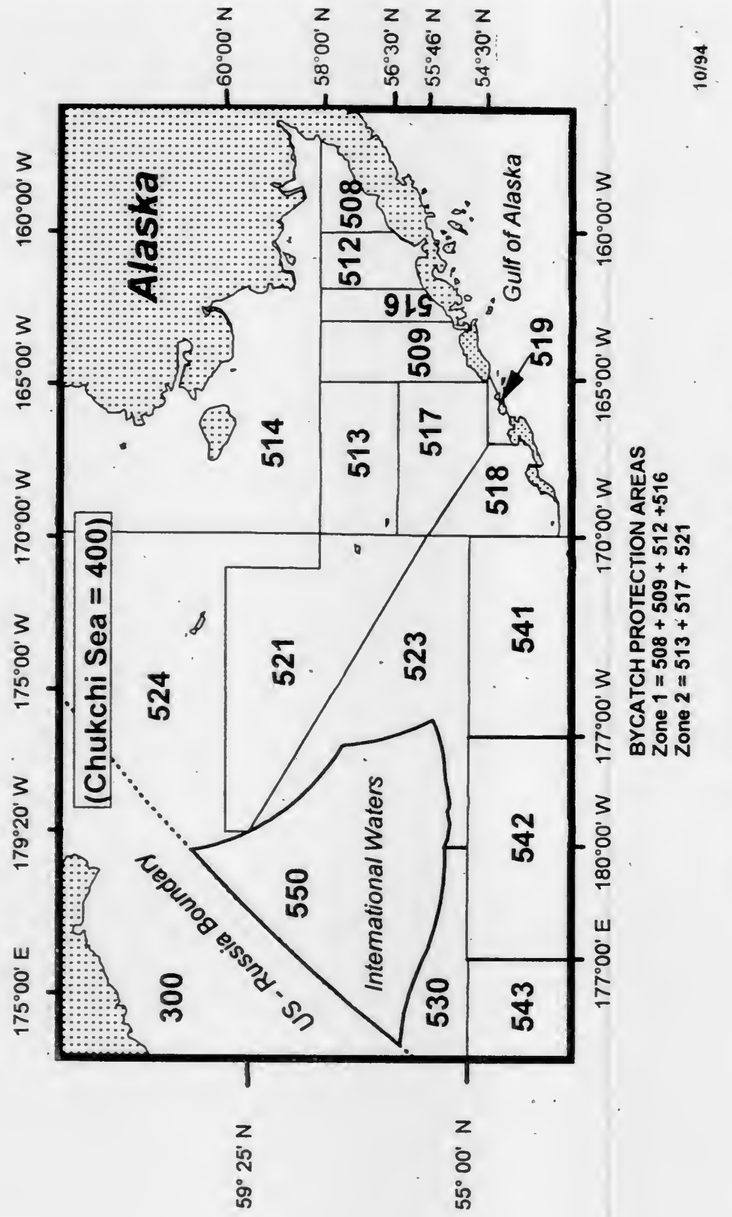


Figure 1.—BSAI Statistical and Reporting Areas

a. Map

BILLING CODE 3510-22-C

FIGURE 1.—BSAI STATISTICAL AND REPORTING AREAS

[b. Coordinates of Reporting Areas]

Code	Description
300	*Russian waters.* Those waters inside the Russian 200 mile limit as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart INT 814 Bering Sea (Northern Part).
400	*Chukchi Sea.* North of a diagonal line between 66°00′N, 169°42.5′W (Cape Dezhneva, Russia); and 65°37.5′N, 168°7.5′W (Cape Prince of Wales, Alaska) and to the limits of the U.S. EEZ as described in the current edition of NOAA chart INT 814 Bering Sea (Northern Part).
508	South of 58° 00′ N between the intersection of 58° 00′ North lat with the Alaska Peninsula and 160° 00′ W long.
509	South of 58° 00′ N lat between 163° 00′ W long and 165° 00′ W long.
512	South of 58° 00′ N lat, north of the Alaska Peninsula between 160° 00′ W long and 162° 00′ W long.
513	Between 58° 00′ N lat and 56° 30′ N lat, and between 165° 00′ W long and 170° 00′ W long.
514	North of 58° 00′ N to the southern boundary of the Chukchi Sea, area 400, and east of 170° 00′ W long.
516	South of 58° 00′ N lat, north of the Alaska Peninsula, and between 162° 00′ and 163° 00′ W long.
517	South of 56° 30′ N lat, between 165° 00′ W long and 170° 00′ W long; and north of straight lines between: 54° 30′ N lat, 165° 00′ W long, 54° 30′ N lat, 167°00′ W long, and 55° 46′ N lat, 170° 00′ W long.
518	*Bogoslof District:* South of a straight line between 55° 46′ N lat, 170° 00′ W long and 54° 30′ N lat, 167° 00′ W long, and between 167° 00′ W long and 170° 00′ W long, and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 52° 49.2′ N, 169° 40.4′ W, 52° 49.8′ N, 169° 06.3′ W, 53° 23.8′ N, 167° 50.1′ W, 53° 18.7′ N, 167° 51.4′ W.
519	South of a straight line between 54° 30′ N lat, 167° 00′ W long and 54° 30′ N lat, 164° 54′ W long; east of 167° 00′ W long; west of Unimak Island; and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 53° 59.0′ N, 166° 17.2′ W, 54° 02.9′ N, 166° 03.0′ W, 54° 07.7′ N, 165° 40.6′ W, 54° 08.9′ N, 165° 38.8′ W, 54° 11.9′ N, 165° 23.3′ W, 54° 23.9′ N, 164° 44.0′ W.
521	The area bounded by straight lines connecting the following coordinates in the order listed: 55° 46′ N, 170° 00′ W, 59° 25′ N, 179° 20′ W, 60° 00′ N, 179° 20′ W, 60° 00′ N, 171° 00′ W, 58° 00′ N, 171° 00′ W, 58° 00′ N, 170° 00′ W, 55° 46′ N, 170° 00′ W.
523	The area bounded by straight lines connecting the following coordinates in the order listed: 59° 25′ N, 179° 20′ W; 55° 46′ N, 170° 00′ W; 55° 00′ N, 170° 00′ W; 55° 00′ N, 180° 00′ W; and north to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
524	The area west of 170° 00′ W bounded south by straight lines connecting the following coordinates in the order listed: 58° 00′ N, 170° 00′ W, 58° 00′ N, 171° 00′ W; 60° 00′ N, 171° 00′ W; 60° 00′ N, 179° 20′ W; 59° 25′ N, 179° 20′ W and to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
530	The area north of 55° 00 N lat and west of 180° 00 W long to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
541	*Eastern Aleutian District.* The area south of 55° 00′ N lat, west of 170° 00′ W long, and east of 177° 00′ W long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
542	*Central Aleutian District.* The area south of 55° 00′ N lat, west of 177° 00′ W long, and east of 177° 00′ E long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
543	*Western Aleutian District.* The area south of 55° 00′ N lat and west of 177° 00′ E long, and bounded on the south and west by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
550	*Donut Hole.* International waters of the Bering Sea outside the limits of the EEZ and Russian economic zone as depicted on the current edition of NOAA chart INT 813 Bering Sea (Southern Part).

Statistical Area. A statistical area is the part of a reporting area contained in the EEZ.

BILLING CODE 3510-22-W

Figure 2.—BSAI Catcher Vessel Operational Area

Figure 3.—Gulf of Alaska Statistical and Reporting Areas
a. Map

BILLING CODE 3510–22–C

FIGURE 3.—GULF OF ALASKA STATISTICAL AND REPORTING AREAS

[b. Coordinates of Reporting Areas]

Code	Description
610	*Western Regulatory Area, Shumagin District.* Along the south side of the Aleutian Islands and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed: 52° 49.2′ N, 169° 40.4′ W; 52° 49.8′ N, 169° 06.3′ W; 53° 23.8′ N, 167° 50.1′ W; 53° 18.7′ N, 167° 51.4′ W; 53° 59.0′ N, 166° 17.2′ W; 54° 02.9′ N, 166° 03.0′ W; 54° 07.7′ N, 165° 40.6′ W; 54° 08.9′ N, 165° 38.8′ W; 54° 11.9′ N, 165° 23.3′ W; 54° 23.9′ N, 164° 44.0′ W; and southward to the limits of the US EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), between 170° 00′ W long and 159° 00′ W long.
620	*Central Regulatory Area, Chirikof District.* Along the south side of the Alaska Peninsula, between 159° 00′ W long and 154° 00′ W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).
630	*Central Regulatory Area, Kodiak District.* Along the south side of continental Alaska, between 154° 00′ W long and 147° 00′ W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.
640	*Eastern Regulatory Area, West Yakutat District.* Along the south side of continental Alaska, between 147° 00′ W long and 140° 00′ W long, and southward to the limits of the US EEZ, as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.
649	*Prince William Sound.* Includes those waters of the State of Alaska inside the base line as specified in Alaska State regulations at 5 AAC 28.200.
650	*Eastern Regulatory Area, Southeast Outside District.* East of 140° 00′ W long and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 659.
659	*Southeast Inside District.* As specified in Alaska State regulations at 5 AAC 28.105(a) (1) and (2).
690	*Gulf of Alaska Outside the U.S. EEZ* as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).

Statistical Area. A statistical area is the part of a reporting area contained in the EEZ.

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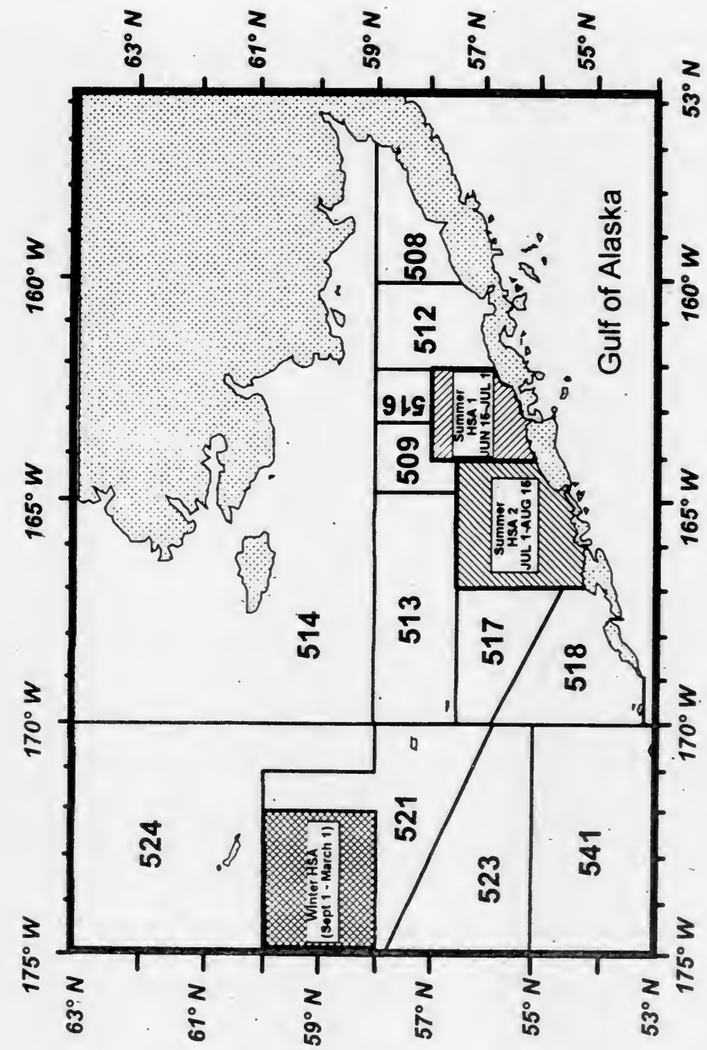


Figure 4.—Herring Savings Areas in the BSAI
a. Map

BILLING CODE 3510–22–C

FIGURE 4.—HERRING SAVINGS AREAS IN THE BSAI

[b. Coordinates]

Name	Description and effective date
Summer Herring Savings Area 1	That part of the Bering Sea subarea that is south of 57° N. latitude and between 162° and 164° W. longitude from 1200 hours, A.l.t., June 15 through 1200 hours, A.l.t. July 1 of a fishing year.
Summer Herring Savings Area 2	That part of the Bering Sea subarea that is south of 56°30' N. latitude and between 164° and 167° W. longitude from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t. August 15 of a fishing year.
Winter Herring Savings Area	That part of the Bering Sea subarea that is between 58° and 60° N. latitude and between 172° and 175° W. longitude from 1200 hours, A.l.t. September 1 of the current fishing year through 1200 hours, A.l.t. March 1 of the succeeding fishing year.

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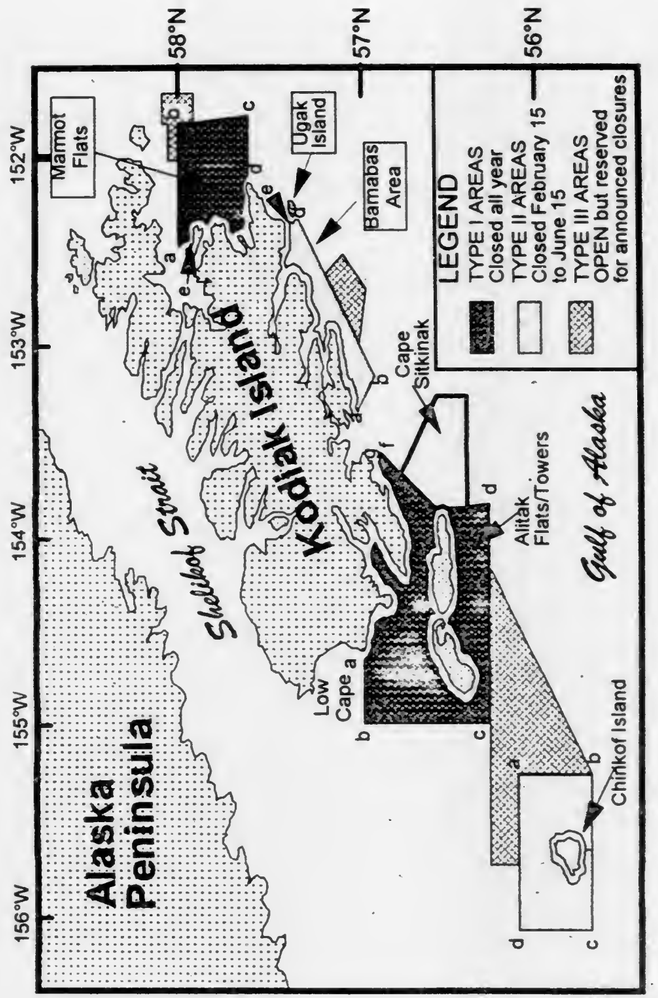


Figure 5.—Kodiak Island Areas Closed to Non-pelagic Trawl Gear
a. Map

BILLING CODE 3510–22–C

FIGURE 5.—KODIAK ISLAND AREAS CLOSED TO NON-PELAGIC TRAWL GEAR

[b. Coordinates]

Name and description of reference area reference point	North latitude/West longitude
Alitak Flats and Towers Areas—All waters of Alitak Flats and the Towers Areas enclosed by a line connecting the following 7 points in the order listed:	
b	57° 00′ 0″ 155° 00′ 0″.
c	56° 17′ 0″ 155° 00′ 0″.
d	56° 17′ 0″ 153° 52′ 0″.
e	56° 33′ 5″ 153° 52′ 0″ Cape Sitkinak.
f	56° 54′ 5″ 153° 32′ 5″ East point of Twoheaded Island.
g	56° 56′ 0″ 153° 35′ 5″ Kodiak Island, thence, along the coastline of Kodiak Island until intersection of Low Cape.
a	56° 59′ 4″ 154° 31′ 1″ Low Cape.
Marmot Flats Area—All waters enclosed by a line connecting the following five points in the clockwise order listed:	
a	58° 00′ 0″ 152° 30′ 0″.
b	58° 00′ 0″ 151° 47′ 0″.
c	57° 37′ 0″ 151° 47′ 0″.
d	57° 37′ 0″ 152° 10′ 1″ Cape Chiniak, thence, along the coastline of Kodiak Island to
e	57° 54′ 5″ 152° 30′ 0″ North Cape.
a	58° 00′ 0″ 152° 30′ 0″.
Chirikof Island Area—All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counter-clockwise order listed:	
a	56° 07′ 0″ 155° 13′ 0″.
b	56° 07′ 0″ 156° 00′ 0″.
c	55° 41′ 0″ 156° 00′ 0″.
d	55° 41′ 0″ 155° 13′ 0″.
a	56° 07′ 0″ 155° 13′ 0″.
Barnabas Area—All waters enclosed by a line connecting the following six points in the counter clockwise order listed:	
a	57° 00′ 0″ 153° 18′ 0″ Black Point.
b	56° 56′ 0″ 153° 09′ 0″.
c	57° 22′ 0″ 152° 18′ 5″ South Tip of Ugak Island.
d	57° 23′ 5″ 152° 17′ 5″ North Tip of Ugak Island.
e	57° 25′ 3″ 152° 20′ 0″ Narrow Cape, thence, along the coastline of Kodiak Island.
f	57° 04′ 2″ 153° 30′ 0″ Cape Kasick to
a	57° 00′ 0″ 153° 18′ 0″ Black Point, including inshore waters.

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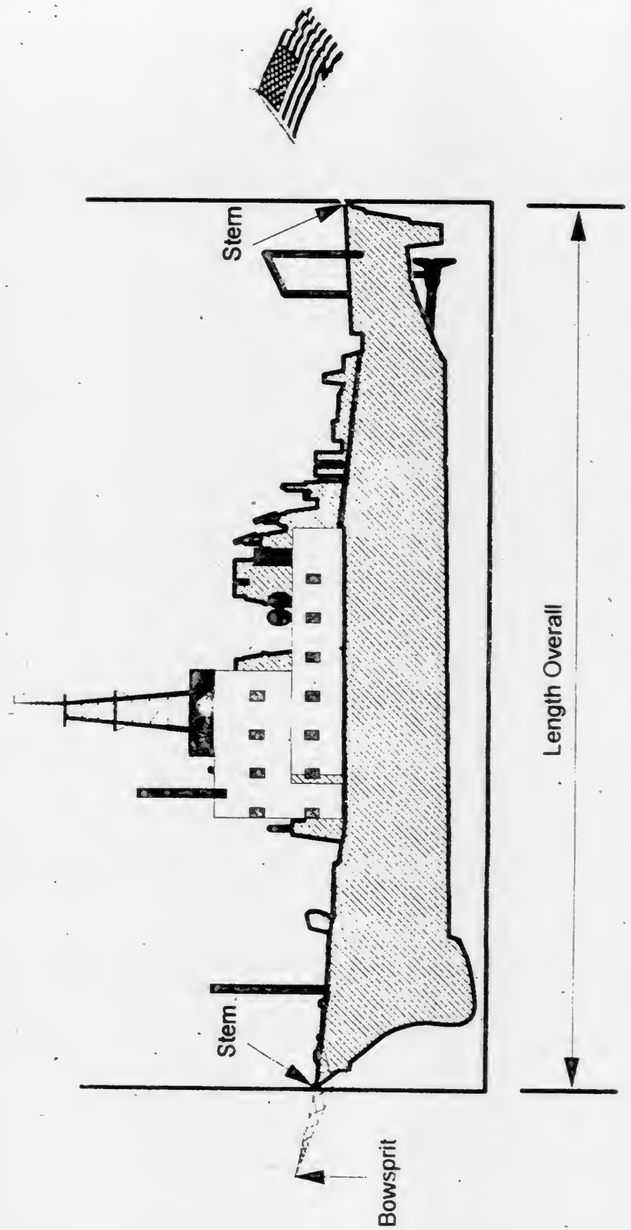


Figure 6.—Length Overall of Vessel here

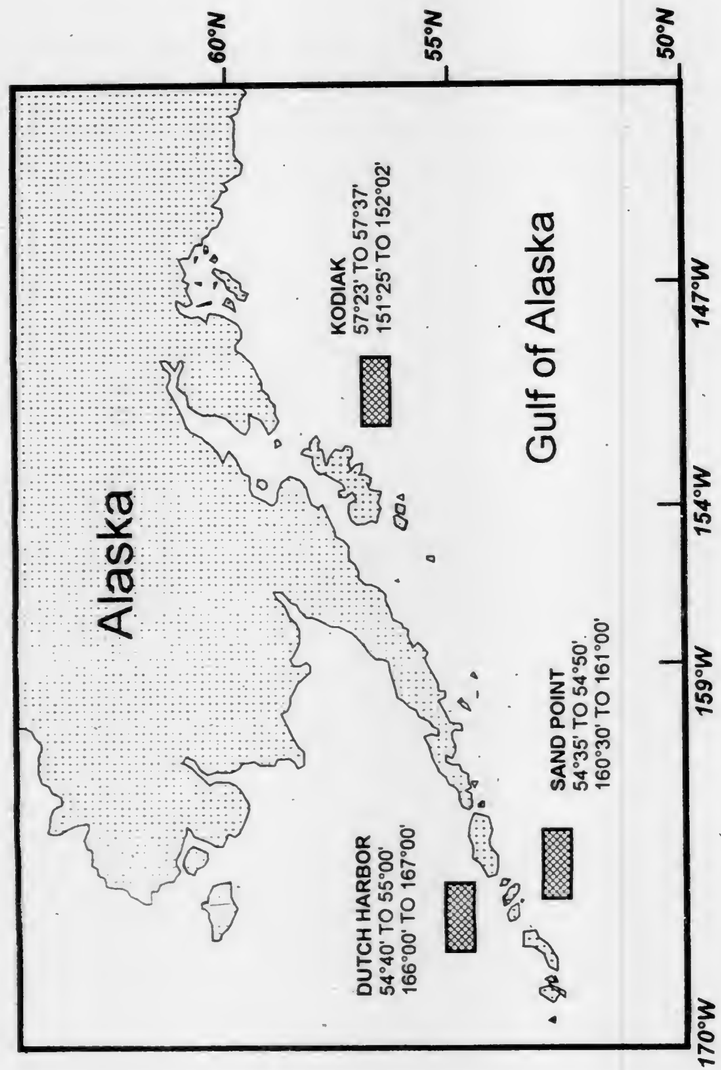


Figure 7.—Location of trawl gear test areas in the GOA and the BSAI

BILLING CODE 3510–22–C

TABLES—PART 672

TABLE 1.—PRODUCT CODES

Fish product code/description
1. Whole fish/food fish.
2. Whole fish/bait. Processed for bait.
3. Bled only. Throat, or isthmus, slit to allow blood to drain.
4. Gutted only. Belly slit and viscera removed.
6. Head and gutted, with roe.
7. Headed and gutted, Western cut. Head removed just in front of the collar bone, and viscera removed.
8. Headed and gutted, Eastern cut. Head removed just behind the collar bone, and viscera removed.
10. Headed and gutted, tail removed. Head removed usually in front of collar bone, and viscera and tail removed.
11. Kirimi. Head removed either in front or behind the collar bone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak.
12. Salted and split. Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted.
13. Wings. On skates, side fins are cut off next to body.
14. Roe. Eggs, either loose or in sacs, or skeins.
15. Pectoral girdle. Collar bone and associated bones, cartilage and flesh.
16. Heads. Heads only, regardless where severed from body.
17. Cheeks. Muscles on sides of head.
18. Chins. Lower jaw (mandible), muscles, and flesh.
19. Belly. Flesh in region of pelvic and pectoral fins and behind head.
20. Fillets with skin and ribs. Meat and skin with ribs attached, from sides of body behind head and in front of tail.
21. Fillets with skin, no ribs. Meat and skin with ribs removed, from sides of body behind head and in front of tail.
22. Fillets with ribs and no skin. Meat with ribs with skin removed, from sides of body behind head and in front of tail.
23. Fillets, skinless/boneless. Meat with both skin and ribs removed, from sides of body behind head and in front of tail.
24. Deep-skin fillet. Meat with skin, adjacent meat with silver lining, and ribs removed from sides of body behind head and in front of tail, resulting in thin fillets.
30. Surimi. Paste from fish flesh and additives.
31. Minced. Ground flesh.
32. Fish meal. Meal from fish and fish parts, including bone meal.
33. Fish oil. Rendered oil.
34. Milt. (in sacs, or testes).
35. Stomachs. Includes all internal organs.
36. Octopus/squid mantles. Flesh after removal of viscera and arms.
37. Butterfly, no backbone. Head removed, belly slit, viscera and most of backbone removed; fillets attached.
39. Bones (if meal, report as 32).
86. Donated Salmon. Includes salmon retained and donated under Salmon Donation Program.
97. Other retained product
Discard Product Codes
92. Discard, bait. Whole fish used as bait on board vessel.
94. Discard, consumption. Fish or fish products eaten on board or taken off the vessel for personal use.
96. Previously discarded fish (decomposed) taken with trawl gear in current fishing efforts. Discarded.
98. Discard, at sea. Whole groundfish and prohibited species discarded by catcher vessels, Catcher/Processors, Motherships, or Buying Stations delivering to Motherships.
99. Discard, dockside. Discard after delivery and before processing; Discard, at plant. In-plant discard of whole groundfish and prohibited species by Shoreside Processors and Buying Stations delivering to Shoreside Processors before and during processing.
M99 Discard, off site meal reduction plant. Discarded fish that are transferred to any off site facility for reduction to fish meal, fish oil and/or discard at sea.
Product Designation
A Ancillary. Product made in addition to a primary product from the same fish.
P Primary. Product made from each fish with the highest recovery rate.
R Reprocessed. Product that results from processing a previously reported product.

TABLE 2.—SPECIES CODES

Code	Species
110	Pacific cod.
120	Miscellaneous flatfish (all flatfish without separate codes).
121	Arrowtooth flounder and/or Kamchatka flounder.
122	Flathead sole.
123	Rock sole.
124	Dover sole.
125	Rex sole.
126	Butter sole.
127	Yellowfin sole.
128	English sole.
129	Starry flounder.
131	Petrale sole.
132	Sand sole.
133	Alaska Plaice flounder.

TABLE 2.—SPECIES CODES—Continued

Code	Species
134	Greenland turbot.
135	Greenstripe rockfish.
136	Northern rockfish.
137	Bocaccio rockfish.
138	Copper rockfish.
141	Pacific ocean perch (*S. alutus* only).
142	Black rockfish.
143	Thornyhead rockfish (all *Sebastolobus* species).
145	Yelloweye rockfish.
146	Canary rockfish.
147	Quillback rockfish.
148	Tiger rockfish.
149	China rockfish.
150	Rosethorn rockfish.
151	Rougheye rockfish.
152	Shortraker rockfish.
153	Redbanded rockfish.
154	Dusky rockfish.
155	Yellowtail rockfish.
156	Widow rockfish.
157	Silvergray rockfish.
158	Redstripe rockfish.
159	Darkblotched rockfish.
160	Sculpins.
166	Sharpchin rockfish.
167	Blue rockfish.
175	Yellowmouth rockfish.
176	Harlequin rockfish.
177	Blackgill rockfish.
178	Chilipepper rockfish.
179	Pygmy rockfish.
181	Shortbelly rockfish.
182	Splitnose rockfish.
183	Stripetail rockfish.
184	Vermilion rockfish.
185	Aurora rockfish.
193	Atka mackerel.
270	Pollock.
510	Smelt.
511	Eulachon.
516	Capelin.
689	Sharks.
700	Skates.
710	Sablefish.
870	Octopus.
875	Squid.

GROUP CODES

These group codes may be used if individual species cannot be identified.

144	Slope rockfish (aurora, blackgill, Bocaccio, redstripe, silvergray, chilipepper, darkblotched, greenstriped, harlequin, pygmy, shortbelly, splitnose, stripetail, vermillion, yellowmouth, sharpchin)
168	Demersal shelf rockfish (china, copper, quillback, rosethorn, tiger, yelloweye, canary)
169	Pelagic shelf rockfish (blue, dusky, yellowtail, widow).
171	Shortraker/rougheye rockfish

PROHIBITED SPECIES CODES

000	Unspecified salmon.
200	Pacific halibut.
235	Pacific herring.
410	Salmon, Chinook.
420	Salmon, Sockeye.
430	Salmon, Coho.
440	Salmon, Pink.
450	Salmon, Chum.
540	Steelhead trout.
920	Unspecified king crab.
921	Red king crab.
922	Blue king crab.
923	Gold/brown king crab.
930	Unspecified tanner crab.
931	Bairdi tanner crab.
932	Opilio tanner crab.

TABLE 3.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES REFERENCED IN 50 CFR 672.20(a)(1) AND/OR 50 CFR 675.20(a)(1)

FMP species	Species code	Product code: Whole food fish 1	Whole bait fish 2	Bled 3	Gutted 4	H&G with roe 6	H&G western cut 7	H&G eastern cut 8	H&G w/o tail 10	Kirimi 11	Salted & split 12	Wings 13	Roe 14
PACIFIC COD	110	1.00	1.00	0.98	0.85	0.63	0.57	0.47	0.44	.....	0.45	.....	0.05
ARROWTOOTH FLOUNDER	121	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
ROCKFISH[1]	.....	1.00	1.00	0.98	0.88	.....	0.60	0.50	.....	.....	.....	.....	.....
SCULPINS	160	1.00	1.00	0.98	0.87	.....	0.50	0.40	.....	.....	.....	.....	.....
ATKA MACKEREL	193	1.00	1.00	0.98	0.87	0.67	0.64	0.61	.....	.....	.....	.....	.....
POLLOCK	270	1.00	1.00	0.98	0.80	0.70	0.65	0.56	0.50	.....	.....	.....	0.04
SMELTS	510	1.00	1.00	0.98	0.82	.....	0.71	.....	.....	.....	.....	.....	.....
EULACHON	511	1.00	1.00	0.98	0.82	.....	0.71	.....	.....	.....	.....	.....	.....
CAPELIN	516	1.00	1.00	0.98	0.89	.....	0.78	.....	.....	.....	.....	.....	.....
SHARKS	689	1.00	1.00	0.98	0.83	.....	0.72	.....	.....	.....	.....	.....	.....
SKATES	700	1.00	1.00	0.98	0.90	.....	.....	0.32	.....	.....	.....	0.32	.....
SABLEFISH	710	1.00	1.00	0.98	0.89	0.68	0.63	0.50	.....	.....	.....	.....	.....
OCTOPUS	870	1.00	1.00	0.98	0.69	.....	.....	.....	.....	.....	.....	.....	.....
Target species categories only at 50 CFR 672.20(a)													
DEEP WATER FLATFISH	118	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
FLATHEAD SOLE	122	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
REX SOLE	125	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
SHALLOW WATER FLATFISH	119	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
THORNYHEAD ROCKFISH	143	1.00	1.00	0.98	0.88	0.55	0.60	0.50	.....	.....	.....	.....	.....
Target species categories only at 50 CFR 675.20(a)													
OTHER FLATFISH	120	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
ROCK SOLE	123	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
YELLOWFIN SOLE	127	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
GREENLAND TURBOT	134	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
SQUID	875	1.00	1.00	0.98	0.69	.....	.....	.....	.....	.....	.....	.....	.....

FMP species	Species code	Product code: Pectoral girdle 15	Heads 16	Cheeks 17	Chins 18	Belly 19	Fillets w/skin & ribs 20	Fillets skin on no ribs 21	Fillets w/ribs no skin 22	Fillets skinless/ boneless 23	Fillets deep skin 24	Surimi 30	Mince 31	Meal 32
PACIFIC COD	110	0.05	.....	0.05	.....	0.01	0.45	0.35	0.25	0.25	.....	0.15	0.5	0.17
ARROWTOOTH FLOUNDER	121	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
ROCKFISH	.....	.....	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	.....	.....	.....	0.17
SCULPINS	160	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17
ATKA MACKEREL	193	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17
POLLOCK	270	.....	0.15	.....	.....	.....	0.35	0.30	0.30	0.21	0.16	0.15	.....	0.17
												0.16[2]	0.22	0.17
												0.17[3]		
SMELTS	510	.....	.....	.....	.....	.....	.....	0.38	.....	.....	.....	.....	.....	0.22
EULACHON	511	.....	.....	.....	.....	.....	.....	0.38	.....	.....	.....	.....	.....	0.22
CAPELIN	516	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.22
SHARKS	689	.....	.....	.....	.....	.....	.....	0.30	0.30	0.25	.....	.....	.....	0.17
SKATES	700	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17
SABLEFISH	710	.....	.....	0.05	.....	.....	0.35	0.30	0.30	0.25	.....	.....	.....	0.22
OCTOPUS	870	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17
Target species categories only at 50 CFR 672.20(a)														
DEEP WATER FLATFISH	118	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
FLATHEAD SOLE	122	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
REX SOLE	125	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
SHALLOW WATER FLATFISH	119	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
THORNYHEAD ROCKFISH	143	.....	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	.....	.....	.....	0.17
Target species categories only at 50 CFR 675.20(a)														
OTHER FLATFISH	120	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
ROCK SOLE	123	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
YELLOWFIN SOLE	127	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	0.18	.....	0.17
GREENLAND TURBOT	134	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....	0.17
SQUID	875	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.17

TABLE 3.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES REFERENCED IN 50 CFR 672.20(a)(1) AND/OR 50 CFR 675.20(a)(1) (continued)

FMP species	Species code	Product code: Oil	Milt	Stomachs	Mantles	Butterfly backbone removed	Decomposed fish	Discards						
		33	34	35	36	37	96	92, 94, 98, 99, M99						
PACIFIC COD	110					0.43	0.00	1.00						
ARROWTOOTH FLOUNDER	121						0.00	1.00						
ROCKFISH							0.00	1.00						
SCULPINS	160						0.00	1.00						
ATKA MACKEREL	193						0.00	1.00						
POLLOCK	270					0.43	0.00	1.00						
SMELTS	510						0.00	1.00						
EULACHON	511						0.00	1.00						
CAPELIN	516						0.00	1.00						
SHARKS	689						0.00	1.00						
SKATES	700						0.00	1.00						
SABLEFISH	710						0.00	1.00						
OCTOPUS	870				0.85	1.00	0.00	1.00						
Target species categories only at 50 CFR 672.20(a)														
DEEP WATER FLATFISH	118						0.00	1.00						
FLATHEAD SOLE	122						0.00	1.00						
REX SOLE	125						0.00	1.00						
SHALLOW WATER FLATFISH	119						0.00	1.00						
THORNYHEAD ROCKFISH	143						0.00	1.00						
Target species categories only at 50 CFR 675.20(a)														
OTHER FLATFISH	120						0.00	1.00						
ROCK SOLE	123						0.00	1.00						
YELLOWFIN SOLE	127						0.00	1.00						
GREENLAND TURBOT	134						0.00	1.00						
SQUID	875				0.75	1.00	0.00	1.00						

[1] Rockfish means all species of *Sebastes* and *Sebastolobus*.
[2] Standard pollock surimi rate during January through June.
[3] Standard pollock surimi rate during July through December.

TABLE 4.—BERING SEA SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at 50 CFR 227.12(a)(2)				
a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).				
Sea Lion Rocks	55°28.0′ N	163°12.0′ W		
Ugamak Island	54°14.0′ N	164°48.0′ W	54°13.0′ N	164°48.0′ W
Akun Island	54°18.0′ N	165°32.5′ W	54°18.0′ N	165°31.5′ W
Akutan Island	54°03.5′ N	166°00.0′ W	54°05.5′ N	166°05.0′ W
Bogoslof Island	53°56.0′ N	168°02.0′ W		
Ogchul Island	53°00.0′ N	168°24.0′ W		
Adugak Island	52°55.0′ N	169°10.5′ W		
Walrus Island	57°11.0′ N	169°56.0′ W		
b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under 50 CFR 672.30(a)(8), Trawling Prohibited Within 20 nm).				
Sea Lion Rocks	55°28.0′ N	163°12.0′ W		
Akun Island	54°18.0′ N	165°32.5′ W	54°18.0′ N	165°31.5′ W
Akutan Island	54°03.5′ N	166°00.0′ W	54°05.5′ N	166°05.0′ W
Ugamak Island	54°14.0′ N	164°48.0′ W	54°13.0′ N	164°48.0′ W
Seguam Island	52°21.0′ N	172°35.0′ W	52°21.0′ N	172°33.0′ W
Agligadak Island	52°06.5′ N	172°54.0′ W		

Note: The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 5.—ALEUTIAN ISLANDS SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at 50 CFR 227.12(a)(2)				
a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).				
Yunaska Island	52°42.0′ N	170°38.5′ W	52°41.0′ N	170°34.5′ W
Seguam Island	52°21.0′ N	172°35.0′ W	52°21.0′ N	172°33.0′ W
Agligadak Island	52°06.5′ N	172°54.0′ W		
Kasatochi Island	52°10.0′ N	175°31.0′ W	52°10.5′ N	175°29.0′ W
Adak Island	51°36.5′ N	176°59.0′ W	51°38.0′ N	176°59.5′ W
Gramp Rock	51°29.0′ N	178°20.5′ W		
Tag Island	51°33.5′ N	178°34.5′ W		
Ulak Island	51°20.0′ N	178°57.0′ W	51°18.5′ N	178°59.5′ W
Semisopochnoi	51°58.5′ N	179°45.5′ E	51°57.0′ N	179°46.0′ E
Semisopochnoi	52°01.5′ N	179°37.5′ E	52°01.5′ N	179°39.0 E
Amchitka Island	51°22.5′ N	179°28.0′ E	51°21.5′ N	179°25.0′ E.
Amchitka Is/Column Rocks	51°32.5′ N	178°49.5′ E		
Ayugadak Point	51°45.5′ N	178°24.5′ E		
Kiska Island	51°57.5′ N	177°21.0′ E	51°56.5′ N	177°20.0′ E
Kiska Island	51°52.5′ N	177°13.0′ E	51°53.5′ N	177°12.0′ E
Buldir Island	52°20.5′ N	175°57.0′ E	52°23.5′ N	175°51.0′ E
Agattu Is./Gillion Pt	52°24.0′ N	173°21.5′ E		
Agattu Island	52°23.5′ N	173°43.5′ E	52°22.0′ N	173°41.0′ E
Attu Island	52°54.5′ N	172°28.5′ E	52°57.5′ N	172°31.5′ E
b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under 50 CFR 675.20(a)(8). Trawling Prohibited Within 20 nm).				
Seguam Island	52°21.0′ N	172°35.0′ W	52°21.0′ N	172°33.0′ W
Agligadak Island	52°06.5′ N	172°54.0′ W		

Note: Each rookery extends in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 6.—GULF OF ALASKA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at 50 CFR 227.12(a)(2)				
a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).				
Outer Island	59°20.5′ N	150°23.0′ W	59°21.0′ N	150°24.5′ W
Sugarloaf Island	58°53.0′ N	152°02.0′ W		
Marmot Island	58°14.5′ N	151°47.5′ W	58°10.0′ N	151°51.0′ W
Chirikof Island	55°46.5′-N	155°39.5′ W	55°46.5′ W	155°43.0′ W
Chowiet Island	56°00.5′ N	156°41.5′ W	56°00.5′ N	156°42.0′ W
Atkins Island	55°03.5′ N	159°18.5′ W		
Chernabura Island	54°47.5′ N	159°31.0′ W	54°45.5′ N	159°33.5′ W
Pinnacle Rock	54°46.0′ N	161°46.0′ W		
Clubbing Rocks-N	54°43.0′ N	162°26.5′ W		
Clubbing Rocks-S	54°42.0′ N	162°26.5′ W		
Ugamak Island	54°14.0′ N	164°48.0′ W	54°13.0′ N	164°48.0′ W
Akun Island	54°18.0′ N	165°32.5′ W	54°18.0′ N	165°31.5′ W
Akutan Island	54°03.5′ N	166°00.0′ W	54°05.5′ N	166°05.0′ W
Ogchul Island	53°00.0′ N	168°24.0′ W		
b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under 50 CFR 672.30(a)(8). Trawling Prohibited Within 20 nm).				
Akun I	54°18.0′ N	165°32.5′ W	54°18.0′ N	165°31.5′ W
Akutan I	54°03.5′ N	166°00.0′ W	54°05.5′ N	166°05.0′ W
Ugamak I	54°14.0′ N	164°48.0′ W	54°13.0′ N	164°48.0′ W

Note: The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS

[Other communities may also be eligible, but do not appear on this table]

Aleutian Region:
1. Atka
2. False Pass
3. Nelson Lagoon
4. Nikolski
5. St. George
6. St. Paul

Bering Strait:
1. Brevig Mission
2. Diomede/Inalik
3. Elim
4. Gambell
5. Golovin
6. Koyuk
7. Nome
8. Savoonga
9. Shaktoolik
10. St. Michael
11. Stebbins
12. Teller
13. Unalakleet
14. Wales
15. White Mountain

Bristol Bay:
1. Alegnagik
2. Clark's Point
3. Dillingham

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS—Continued

[Other communities may also be eligible, but do not appear on this table]

4. Egegik
5. Ekuk
6. Manokotak
7. Naknek
8. Pilot Point/Ugashi
9. Port Heiden/Meschick
10. South Naknek
11. Sovonoski/King Salmon
12. Togiak
13. Twin Hills

Southwest Coastal Lowlands:
1. Alakanuk
2. Chefornak
3. Chevak
4. Eek
5. Emmonak
6. Goodnews Bay
7. Hooper Bay
8. Kipnuk
9. Kongiganak
10. Kotlik
11. Kwigillingok
12. Mekoryuk
13. Newtok
14. Nightmute
15. Platinum

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS—Continued

[Other communities may also be eligible, but do not appear on this table]

16. Quinhagak
17. Scammon Bay
18. Sheldon's Point
19. Toksook Bay
20. Tununak
21. Tuntutuliak

TABLE 8.—HARVEST ZONE CODES FOR USE WITH PRODUCT TRANSFER REPORTS AND VESSEL ACTIVITY REPORTS

Harvest zone	Description
A	EEZ off Alaska.
D	Donut Hole.
F	Foreign Waters Other than Russia.
I	International Waters other than Donut Hole and Seamounts.
R	Russian waters.
S	Seamounts in International waters.
U	U.S. EEZ other than Alaska.

TABLE 9.—REQUIRED LOGBOOKS, REPORTS AND FORMS FROM PARTICIPANTS IN THE FEDERAL GROUNDFISH FISHERIES

Name of logbook/form	Catcher-vessel	Catcher-processor	Mothership	Shoreside processor	Buying station
Daily Fishing Logbook (DFL)	Yes	No	No	No	No.
Daily Cumulative Production Logbook (DCPL)	No	Yes	Yes	Yes	No.
Daily Cumulative Logbook (DCL)	No	No	No	No	Yes.
Check-in/check-out Report	No	Yes	Yes	Yes	Yes.
U.S. Vessel Activity Report (VAR)	Yes	Yes	Yes	No	No.
Weekly Production Report (WPR)	No	Yes	Yes	Yes	No.
Daily Production Report (DPR)*	No	Yes	Yes	Yes	No.
Product Transfer Report (PTR)	No	Yes	Yes	Yes	No.

*When required by Regional Director.

TABLE 10.—GULF OF ALASKA RETAINABLE PERCENTAGES REFERENCED IN 50 CFR 672.20

Basis species[1]	Bycatch species[1]											
	Pollock	Pacific cod	Deep flatfish	Rex sole	Flathead sole	Shallow flatfish	Arrowtooth	Sablefish	Aggregated rockfish[2]	DSR SEEO[3]	Atka mackerel	Other species
Pollock	[4]na	20	20	20	20	20	35	1	5	10	20	20
Pacific cod	20	[4]na	20	20	20	20	35	1	5	10	20	20
Deep-water flatfish	20	20	[4]na	20	20	20	35	15	15	1	20	20
Rex sole	20	20	20	[4]na	20	20	35	15	15	1	20	20
Flathead sole	20	20	20	20	[4]na	20	35	15	15	1	20	20
Shallow-water flatfish	20	20	20	20	20	[4]na	35	1	5	10	20	20
Arrowtooth	0	0	0	0	0	0	[4]na	0	0	0	0	0
Sablefish	20	20	20	20	20	20	35	[4]na	15	1	20	20
Pacific Ocean Perch	20	20	20	20	20	20	35	15	15	1	20	20
Shortraker/rougheye	20	20	20	20	20	20	35	15	15	1	20	20
Other rockfish	20	20	20	20	20	20	35	15	15	1	20	20
Northern rockfish	20	20	20	20	20	20	35	15	15	1	20	20
Pelagic rockfish	20	20	20	20	20	20	35	15	15	1	20	20
DSR-Southeast Outside	20	20	20	20	20	20	35	15	[4]na	20	20	20
Thornyhead	20	20	20	20	20	20	35	15	15	1	20	20
Atka mackerel	20	20	20	20	20	20	35	1	5	10	[4]na	20
Other species	20	20	20	20	20	20	35	1	5	10	20	[4]na

TABLE 10.—GULF OF ALASKA RETAINABLE PERCENTAGES REFERENCED IN 50 CFR 672.20—Continued

Basis species[1]	Bycatch species[1]											
	Pollock	Pacific cod	Deep flatfish	Rex sole	Flathead sole	Shallow flatfish	Arrowtooth	Sablefish	Aggregated rockfish[2]	DSR SEEO[3]	Atka mackerel	Other species
Aggregated amount non-groundfish species	20	20	20	20	20	20	35	1	5	10	20	20

[1] For definition of species, see Table 1 of the Gulf of Alaska groundfish specifications.
[2] Aggregated rockfish means rockfish of the general Sebastes and Sebastolobus except in the southeast Outside District where demersal shelf rockfish (DSR) is a separate category.
[3] SEEO—Southeast Outside District.
[4] na=not applicable.

TABLE 11.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES REFERENCED IN 50 CFR 675.20

Basis species[5]	Bycatch species[1]												
	Pollock	Pacific cod	Atka mackerel	Arrowtooth	Yellowfin sole	Other flatfish	Rock sole	Flathead sole	Greenland turbot	Sablefish	Aggregated rockfish[6]	Squid	Other species
Pollock	[7]na	20	20	35	20	20	20	20	1	1	5	20	20
Pacific cod	20	[3]na	20	35	20	20	20	20	1	1	5	20	20
Atka mackerel	20	20	[3]na	35	20	20	20	20	1	1	5	20	20
Arrowtooth	0	0	0	[3]na	0	0	0	0	0	0	0	0	0
Yellowfin sole	20	20	20	35	[3]na	35	35	35	1	1	5	20	20
Other flatfish	20	20	20	35	35	[3]na	35	35	1	1	5	20	20
Rocksole	20	20	20	35	35	35	[3]na	35	1	1	5	20	20
Flathead sole	20	20	20	35	35	35	35	[3]na	35	15	15	20	20
Greenland turbot	20	20	20	35	20	20	20	20	[3]na	15	15	20	20
Sablefish	20	20	20	35	20	20	20	20	35	[3]na	15	20	20
Other rockfish	20	20	20	35	20	20	20	20	35	15	15	20	20
Other red rockfish-BS	20	20	20	35	20	20	20	20	35	15	15	20	20
Pacific Ocean perch	20	20	20	35	20	20	20	20	5	15	15	20	20
Sharpchin/Northern-AI	20	20	20	35	20	20	20	20	35	15	15	20	20
Shortraker/Rougheye-AI	20	20	20	35	20	20	20	20	35	15	15	20	20
Squid	20	20	20	35	20	20	20	20	1	1	5	[3]na	20
Other species	20	20	20	35	20	20	20	20	1	1	5	20	na[3]
Aggregated amount non-groundfish species	20	20	20	35	20	20	20	20	1	1	5	20	20

[1] For definition of species, see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
[2] Aggregated rockfish of the genera Sebastes and Sebastolobus.
[3] na=not applicable.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

13. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

14. In § 675.1, paragraph (a) is revised to read as follows:

§ 675.1 Purpose and scope.

(a) Regulations in this part, along with parts 620, 672, 676, and 677 of this chapter implement the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area.

* * * * *

15. Section 675.2 is revised to read as follows:

§ 675.2 Definitions.

Definitions for this part are identical to the definitions for part 672. See § 672.2 of this chapter.

16. Section 675.3 is revised to read as follows:

§ 675.3 Relation to other laws.

Regulations for this section are located in § 672.3 of this chapter.

17. Section 675.4 is revised to read as follows:

§ 675.4 Permits.

Fisheries permit requirements for vessels fishing for groundfish in the BSAI are located at § 672.4 of this chapter.

18. Section 675.5 is revised to read as follows:

§ 675.5 Recordkeeping and reporting.

Recordkeeping and reporting requirements regulated under this part and § 672.4 of this chapter are located at § 672.5 of this chapter.

19. In § 675.7, paragraphs (a), (l), and (m) are revised, and paragraphs (q) and (r) are added to read as follows:

§ 675.7 Prohibitions.

* * * * *

(a) Fish for groundfish in the BSAI with a vessel of the United States that does not have on board a valid permit issued under § 672.4 of this chapter.

* * * * *

(l) Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing the Secretary to

issue Donut Hole fishing permits (Public Law 104–43, section 104(d)), it is unlawful for any person to fish in the Donut Hole from a vessel for which a Federal fisheries permit has been issued pursuant to section 672.4 of this chapter during the year for which the permit was issued;

(m) Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing the Secretary to issue Donut Hole fishing permits (Public Law 104–43, section 104(d)), it is unlawful for any person to possess within the EEZ fish harvested from the Donut Hole on board a vessel for which a Federal fisheries permit has been issued pursuant to section 672.4 of this chapter during the year for which the permit was issued.

* * * * *

(q) Fail to comply with or fail to ensure compliance with requirements at § 672.5 of this chapter.

(r) Use a catcher vessel or catcher/processor as a Tender Vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

20. In § 675.20, paragraphs (a)(1), (c)(1), (i)(2), and (j)(4) are revised; headings for paragraphs (a)(8) through (a)(12), (d), (j)(1), (j)(2) and (j)(3) are added; paragraphs (h)(1) and (h)(3) are amended by revising the words, "Table 1 to this section" to read "Table 11 of part 672," and Table 1 to § 675.20 is removed.

§ 675.20 General limitations.

(a) * * *

(1) *Optimum yield (OY).* The OY for the fishery regulated by this section and by § 611.93 of this chapter is a range of 1.4 million to 2.0 million mt for target species and the "other species" category in the BSAI, to the extent this amount can be harvested consistently with this part and part 611 of this chapter, plus the amounts of "non-specified species" taken incidentally to the harvest of target species and the "other species" category. The species categories are defined in Table 1 of the specifications as provided in paragraph (a)(7) of this section.

* * * * *

(8) *Directed fishing allowance.* * * *
(9) *Prohibited species closure.* * * *
(10) *Overfishing closure.* * * *
(11) *JVP or TALFF prohibitions.* * * *
(12) *Factors to be considered.* * * *

* * * * *

(c) * * *

(1) Prohibited species, for the purpose of this part, means any of the species of Pacific salmon (*Oncorhynchus* spp.), steelhead trout (*Oncorhynchus mykiss*), Pacific halibut (*Hippoglossus stenolepis*), Pacific herring (*Clupea harengus pallasi*), king crab (*Paralithodes* spp. and *Lithodes* spp.), and Tanner crab (*Chionoecetes* spp.) caught by a vessel regulated under this part while fishing for groundfish in the BSAI, unless retention is authorized by other applicable law, including Part 301—Pacific Halibut Fisheries Regulations.

* * * * *

(d) *Winter Halibut Savings Area.*

* * *

* * * * *

(i) * * *

(2) *Fishing trip.* For purposes of this paragraph, a fishing trip is defined as set forth under paragraph 672.20(h)(2) of this chapter.

(j) * * *

(1) *Pollock roe.* * * *
(2) *Primary product.* * * *
(3) Standard product recovery rates.

* * *

* * * * * *

(4) For purposes of this paragraph, a fishing trip is defined as set forth under part 672.20(h)(2) of this chapter.

* * * * * *

21. In § 675.21, headings are added to paragraphs (a)(1) through (a)(6), and (b)(4), to read as follows:

§ 675.21 Prohibited Species Catch (PSC) Limitations.

(a) * * *

(1) *Red king crab, Zone 1.* * * *
(2) *Tanner crab, Zone 1.* * * *
(3) *Tanner crab, Zone 2.* * * *
(4) *Pacific halibut, trawl.* * * *
(5) *Pacific herring.* * * *
(6) *Pacific halibut, non-trawl.* * * *

(b) * * *

(4) *Bycatch allowances and seasonal apportionments.* * * *

* * * * * *

22. In § 675.22, paragraph (a) is revised and headings are added to paragraphs (b) through (f) to read as follows:

§ 675.22 Time and area closures.

(a) *Year-round closures, Area 512.* No fishing with trawl gear is allowed at any time in that part of Zone 1 in the Bering Sea subarea that is south of 58°00′ N. lat. and between 160°00′ W. long. and 162°00′ W. long. (see Figure 1 to part 672), except as described in paragraph (c) of this section.

(b) *Seasonal closures, Area 516.*

* * *

(c) *Partial closures, Area 512.* * * *
(d) *Partial closures, Area 516.* * * *
(e) *Red king crab closures.* * * *
(f) *Walrus Protection Areas.* * * *

* * * * * *

23. In § 675.23, paragraphs (a) and (d) are revised and headings are added to paragraphs (b) and (c) to read as follows:

§ 675.23 Seasons.

(a) *Fishing year.* Fishing for groundfish in the subareas and statistical areas of the BSAI is authorized from 0001 hours, A.l.t., January 1, through 2359 hours, A.l.t., December 31, subject to the other provisions of this part, except as provided in paragraphs (c) through (e) of this section.

(b) *Time of openings and closures.*

* * *

(c) *Directed fishing for arrowtooth flounder and Greenland turbot.* * * *

(d) *Trawl gear prohibition, BSAI.* Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the BSAI is prohibited from 0001 hours, A.l.t. on January 1, through 1200 hours, A.l.t., January 20.

* * * * * *

24. In § 675.24, paragraph (e) is removed; paragraphs (f), (g), and (h) are redesignated as paragraphs (e), (f), and (g) respectively; headings are added to paragraphs (c)(1), (c)(2), (c)(3), (d)(1), (d)(2), and newly redesignated paragraphs (f)(2) and (f)(3); the headings for paragraph (b) and newly redesignated paragraph (f) are revised; newly redesignated paragraphs (e) and (f)(4) are revised; and paragraph (a)(4) is added to read as follows:

§ 675.24 Gear limitations.

* * * * *

(a) * * *

(4) Marking shall be in characters at least 4 inches (10.2 cm) in height and one-half inch (1.3 cm) in width, in a contrasting color visible above the water line, and shall be maintained in good condition.

(b) *Gear restrictions—pots.* * * *

* * * * * *

(c) * * * (1) *Sablefish.* * * *
(2) *Pollock.* * * *
(3) *Longline pot gear.* * * *
(d) * * *
(1) *Directed fishing closures.* * * *
(2) *PSC closures.* * * *

* * * * * *

(e) *Steller sea lion protection areas—*(1) *Bering Sea Subarea and Bogoslof District—*(i) *Year-round closures.* Trawling is prohibited within 10 nm (18.5 km) of each of the eight Steller sea lion rookeries shown in Table 4a to part 672 of this chapter.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15 if adjusted under § 675.20(e)(8), trawling is prohibited within 20 nm (37 km) of each of the six Steller sea lion rookeries shown in Table 4b to part 672 of this chapter.

(2) *Aleutian Islands Subarea—*(i) *Year-round closures.* Trawling is prohibited within 10 nm (18.4 km) of each of the 19 Steller sea lion rookeries shown in Table 5a of part 672 of this chapter.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15 if adjusted under § 675.20(a)(8), trawling is prohibited within 20 nm (37 km) of each of the two Steller sea lion rookeries shown in Table 5b of part 672 of this chapter.

(f) *Trawl gear testing areas.* * * *
(2) *Test area conditions.* * * *
(3) *Test area criteria.* * * *
(4) *Bering Sea Testing Area.* Trawl gear testing is allowed in an area (Figure 7 to part 672 of this chapter) bounded by straight lines connecting the following coordinates in the order listed, at all times:

W. longitude	*N. latitude*
167° 00′	55° 00′
166° 00′	55° 00′
166° 00′	54° 40′
167° 00′	54° 40′
167° 00′	55° 00′

* * * * *

25. In § 675.27, the table to § 675.27 is removed; paragraph (d)(2) introductory text and paragraph (g) are revised; the heading of paragraph (c) is revised, and headings are added to paragraphs (a)(1), (a)(2), (c)(1), (c)(2), (e)(2), and (f)(1) through (f)(3), to read as follows:

§ 675.27 Western Alaska Community Development Quota Program (applicable through December 31, 1998).

(a) *State of Alaska CDQ regulations.—*(1) *Compliance.* * * *

(2) *Public hearing.* * * *

* * * * * *

(c) *Secretarial review and approval of CDPs.—*(1) *Consistent with criteria.*

* * *

(2) *Not consistent with criteria.* * * *
(d) *Evaluation criteria.* * * *

(2) Prior to approval of a CDP recommended by the Governor, NMFS will review the Governor's findings to determine that each community that is part of a CDP is listed on Table 7 to part 672 of this chapter or meets the following criteria for an eligible community:

* * * * * *

(e) * * *

(2) *Increase in CDQ allocation.* * * *

(f) * * *

(1) *Recommendation of Governor.*

* * *

(2) *Non-compliance.* * * *
(3) *Review of allocation.* * * *
(g) *CDQ fishing requirements.* Recordkeeping and reporting requirements are set out at § 672.5 of this chapter.

* * * * * *

26. Part 675 is amended by removing figures 1 through 3 to this part.

[FR Doc. 96–2574 Filed 2–12–96; 8:45 am]
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Tuesday
February 13, 1996

Part III

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51844; FRL–4992–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN), and test marketing exemption (TME) application requests received, both pending and expired. This is the consolidated report. The information contained in this is received from June 1995 to July 1995 and monthly status report(s) from June 1995 to July 1995.

ADDRESSES: Written comments, identified by the document control number "[OPPTS–51844]" and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51844]. No confidential business information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under "SUPPLEMENTARY INFORMATION" of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs, and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number "[OPPTS–51844]" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMNs, and TME application requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Generic use information on these substances will be provided. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P–95–1589	06/27/95	09/25/95	FMC Corporation	(S) Organic intermediate for synthesis of specialty chemical	(G) Silyloxy organochloride
P–95–1590	06/27/95	09/25/95	Hoechst Celanese Corporation	(S) Disperse dye for polyester fiber	(G) Azo substituted thiophene
P–95–1591	06/27/95	09/25/95	The Dow Chemical Company	(S) Injection molded toothbrush handles; injection mold	(G) Thermoplastic MDI based polyurethane resin
P–95–1592	06/27/95	09/25/95	The Dow Chemical Company	(S) Injection molded toothbrush handles; injection mold	(G) Thermoplastic MDI based polyurethane resin
P–95–1593	06/27/95	09/25/95	The Dow Chemical Company	(S) Injection molded toothbrush handles; injection mold	(G) Thermoplastic MDI based polyurethane resin
P–95–1594	06/27/95	09/25/95	The Dow Chemical Company	(S) Injection molded toothbrush handles; injection mold	(G) Thermoplastic MDI based polyurethane resin
P–95–1595	06/30/95	09/28/95	Ethox Chemicals, Inc	(S) Metal lubricant additive	(S) Phosphoric acid, alcohols C^{18} C^{32} ester
P–95–1596	06/30/95	09/28/95	CBI	(G) Used as a raw material in the formulation of organic coatings	(G) Saturated polyester resin
P–95–1597	06/30/95	09/28/95	Shipley Company, Inc.	(S) Chemical intermediate used in the manufacture of PH	(G) Naphthaquinone diazide sulfonyl ester mixture of a phenol aldehyde condensate
P–95–1598	06/28/95	09/26/95	CBI	(G) Resin for coating	(G) Silcone modified polyurethane
P–95–1599	06/28/95	09/26/95	CBI	(G) Coating	(G) Acrylic-silicone copolymer
P–95–1600	06/30/95	09/28/95	Optima Chemicals, Inc.	(S) Catalyst for manufacture of specialty chemical inte(s) boron trifluoride-propionic acid complex (1:2)	(S) Boron trifluoride propionic acid
P–95–1601	06/28/95	09/26/95	The University of Tennessee Knoxville	(S) Pseudomonas fluorescens strain designated **HK44**	(S)Fluorescan strain
P–95–1602	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P–95–1603	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P–95–1604	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P–95–1605	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P–95–1606	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P–95–1607	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P–95–1608	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P–95–1609	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1610	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1611	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1612	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1613	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1614	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1615	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1616	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1617	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1618	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl

I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P–95–1619	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1620	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1621	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1622	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1623	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1624	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1625	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1626	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1627	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1628	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1629	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1630	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1631	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1632	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1633	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1634	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1635	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1636	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1637	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1638	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1639	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1640	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1641	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1642	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1643	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, *N*-alkyl
P–95–1644	06/30/95	09/28/95	Ciba-Geigy Corporation	(S) Light stabilizer for polymers, especially polyolefin	(S) A binary mixture of: 2,9,11,13,15,22,24,26,27,28-decaza-tricyclo(21.3.1.1(10,14)] octacosa-1(27),10,12,14(28),23,25-hexaene-12,25- diamine, *N,N*-bis(1,1,3,3-tetramethylbutyl)-2,9,15,22-tetrakis(2,2,6,6- tetramethyl-4-piperidinyl)-(9ci); 2,9,11,13,14-pentaazabicyclo[8.3.1) tetradeca-1(14),10,12-trien-12-amine, *N*-(1,1,3,3-tetramethylbutyl)-2,9-bis(2,2,6,6-tetramethyl-4-piperidinyl)-(9Cl)
P–95–1645	06/30/95	09/28/95	CBI	(S) Resin for radically curable inks, coatings, adhesives	(G) Polyetherpolyol tetraacrylate
P–95–1646	07/05/95	10/03/95	Desilube Technology Inc	(S)Antiwear/extreme additive for metalworking compound	(G) A mixture of amine salts of fatty acids, aminephosphate, and inorganic sulfate and phosphate
P–95–1647	06/29/95	09/27/95	CBI	(G) Dehydration agent	(G) Propoxylated amine

I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P–95–1648	06/29/95	09/27/95	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Nonylphenoxypoly(oxyalkylene)
P–95–1649	06/29/95	09/27/95	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Nonylphenoxypoly(oxyalkylene)
P–95–1650	06/29/95	09/27/95	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Nonylphenoxypoly(oxyalkylene)
P–95–1651	06/29/95	09/27/95	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Alkylphenylpolyetheramine
P–95–1652	06/29/95	09/27/95	Huntsman Corporation	(S) Fuel additive	(G) Alkylphenyl polyether amidoalkanol amine
P–95–1653	06/29/95	09/27/95	Huntsman Corporation	(S) Fuel additive	(G) Alkylphenyl polyether amidoalkanol amine
P–95–1654	06/29/95	09/27/95	CBI	(G) Filler treatment	(G) Organosilane ester
P–95–1655	06/29/95	09/27/95	CBI	(G) Petroleum product additive	(G)Calcium alkylbenzene sulfonates
P–95–1656	07/05/95	10/03/95	CBI	(S) Additive in electroplating	(S) Iron (III) saccharate
P–95–1657	06/29/95	09/27/95	Boulder Scientific Company	(S) Polymerization catalyst	(S) Zirconium, dichloro[1,2-ethanediylbis[(1,2,3,3a,7a-eta)-1H-inden-1-ylidene
P–95–1658	07/05/95	10/03/95	ABCO Industries Inc	(S) Adhersion promoter for textile size on polyester fiber	(S) Poly ethyl 2-oxy isophthalate-co-ethyl 2-oxy ethyl 5-sodium carboxylate isophthalate-co-, ethyl 2-oxy ethyl 5-sodium sulfonate isophthalate-co-, ethyl 2-oxy ethyl 5-ammonium tri (2-hydroxyethyl) carboxylate-co-, ethyl 2-oxy ethyl 5-ammonium tri (2-hydroxyethyl) sulfonate isophthalate-co-, ethyl 2-oxy ethyl carboxylic acid isophthalate-co-, ethyl 2-oxy ethyl sulfonic acid isophthalate
P–95–1659	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P–95–1660	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P–95–1661	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P–95–1662	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P–95–1663	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P–95–1664	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P–95–1665	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P–95–1666	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P–95–1667	06/29/95	09/28/95	CBI	(G)Intermediate	(G) Polyamine acid
P–95–1668	06/29/95	09/27/95	Ciba-Geigy Corporation	(G) Destructive use, chemical intermediate	(G) Heterocyclic amine carboxylic acid
P–95–1669	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P–95–1670	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P–95–1671	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P–95–1672	06/30/95	09/28/95	CBI	I(G) Open,non-dispersive use	(G) Aromatic polycarbodimide
P–95–1673	07/05/95	10/03/95	Wacker Silicones Corporation	(G) Additive for silicone elastomers	G) Dimethylvinylgroup functional siloxane
P–95–1674	07/05/95	10/03/95	Eastman Chemical Company	(S) Water-dispersible, hot-melt adhesive	(G) Water-dispersible sulfopolyester
P–95–1675	07/05/95	10/03/95	CBI	G) Additive for silicone materials	(S) Silanol, trimethyl-
P–95–1676	07/06/95	10/04/95	Boulder Scientific Company	(S)Ligand	(S) Dimethylsiylene bis (2-methylindene)
P–95–1677	07/06/95	10/04/95	Keystone Aniline Corporation	(S) Colorant in textile	(S) Sodium 5-(aminosulphonyl)-2-[7-(diethylamino)-2-oxo-2*H*-1-benzopyran-3-yl]benzoxazolesulphonate
P–95–1678	07/05/95	10/03/95	CBI	(S) Sizing agent	(G) Acrylic acid, alkyl ester, polymer with monocarbocyclicalkene
P–95–1679	07/11/95	10/05/95	Texaco Lubricants Company North America	(S) Automotive bearings	(G) Diurea grease thickener prepared by the reaction of a diisocyanate with an aliphatic amine
P–95–1680	07/07/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1681	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1682	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer

I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P–95–1683	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1684	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1685	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1686	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1687	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1688	07/11/95	10/09/95	H. B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1689	07/11/95	10/09/95	H. B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1690	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1691	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1692	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1693	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1694	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1695	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1696	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1697	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P–95–1698	07/07/95	10/05/95	Henkel Corporation	(G) Radiation curing	(G) Aliphatic acryloure thane oligomer
P–95–1699	07/06/95	10/04/95	SDC Coatings Inc.	(S) An abrasion resistant coating for plastics	(G) Organofunctional silica
P–95–1700	07/07/95	10/05/95	Percy International Ltd.	(S) Epoxy resin curing agent in water	(S) A polymer of: tetraethylene pentamine; polyoxypropylene diglycidyl ether; cresyl glycidyl ether
P–95–1701	07/10/95	10/08/95	CBI	(G) Open, non-dispensive use	(G) Modified resin ester
P–95–1702	07/10/95	10/08/95	CBI	(G) Open, non-dispensive use	(G) Modified resin ester
P–95–1703	07/10/95	10/08/95	CBI	(G) Open, non-dispensive use	(G) Modified resin ester
P–95–1704	07/11/95	10/09/95	CBI	(G) Textile additive	(G) Amino alkoxy polydimethyl siloxane
P–95–1705	07/11/95	10/09/95	CBI	(G) Papermaking chemical	(G) Copolymer of tetra alkylammonium chloride and dialkylammonium chloride
P–95–1706	07/11/95	10/09/95	CBI	(G)Coating curative	(G)Polyamine epoxy resin adduct
P–95–1707	07/12/95	10/10/95	E. I. du Pont de Nemours & Company, Inc.	(G) Isolated intermediate in polyester manufacture	(G)Metal salt of aromatic sulfo carboxylate
P–95–1708	07/10/95	10/08/95	CBI	(G) Diels-alder adduct used in an open, non-dispersive	(G)High molecular weight unsaturated carboxylic acid
P–95–1709	07/12/95	10/10/95	CBI	(S)Leather auxiliary (softener)	(G) Polymer of acrylic acid with fatty alkyl esters and ethers,salt
P–95–1710	07/12/95	10/10/95	Arizona Chemical	(S) Resin component in production of heat-set, web off-	(G) Phenolic modified rosin ester
P–95–1711	07/13/95	10/11/95	Houghton International Inc.	(S) Emulsifier for hydraulic fluid	(S) 2,5-Furandione,dihydro-,monopolyisobutylene derivates reaction products with 1-(dimethylamino)-2-propanol and 4(or 5)-methyl-1*H*-benzotriazole
P–95–1712	07/11/95	10/09/95	Reichhold Chemicals Inc.	(G) Hot melt adhesive	(G) Polyurethane adhesive
P–95–1713	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1714	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1715	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1716	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1717	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1718	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1719	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin

I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P–95–1720	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1721	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1722	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1723	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1724	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1725	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1726	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1727	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1728	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1729	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1730	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1731	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P–95–1732	07/13/95	10/11/95	Eastman Kodak Company	(G) Contained use in an article	(G) *N*-Substitutedhaloaromatic benzotriazole aryl ester
P–95–1733	07/13/95	10/11/95	CBI	(G) Adhesives for open, non-dispersive use	(G) Polyurethane polymer
P–95–1734	07/13/95	10/11/95	CBI	(G) Wet end paper binder	(G) Starch, 2-Carboxy-2-substituted-ether
P–95–1735	07/13/95	10/11/95	CBI	(G) Wet end paper binder	(G) Starch, 2-carboxy-2-substituted-ether
P–95–1736	07/13/95	10/11/95	CBI	(G) Charge control agent	(G) Substituted napthalene iron complex
P–95–1737	07/13/95	10/11/95	Hoechst Celanese Corporation	(G) Destructive end use	(G) Polyesteramine quat
P–95–1738	07/14/95	10/12/95	CBI	(G) Colorant	(G) Polymeric colorant
P–95–1739	07/14/95	10/12/95	CBI	(G) Colorant	(G) Polymeric colorant
P–95–1740	07/18/95	10/16/95	Eastman Kodak Company	(G) Contained use in an article	G) Alkylthio substituted naphthalene carboxamide
P–95–1741	07/19/95	10/17/95	CBI	(S) Component of a waterless hand cleaner	(S) Fatty acids, C^{12-20} and C^{12-20}-unsaturated, me esters
P–95–1742	07/17/95	10/15/95	Engelhard Corporation	(S) As an organic pigment in plastics, coatings and ink	(G) Metallized azo yellow pigment
P–95–1743	07/18/95	10/16/95	Eastman Kodak Company	(G) Chemical intermediate	(S) 3,6,9,12-Tetraoxaeicosan-1-ol methanesulfonate
P–95–1744	07/18/95	10/16/95	Eastman Kodak Company	(G) Chemical intermediate	(S) 3,6,9,12-Tetraoxaeicosan-1-ol
P–95–1745	07/18/95	10/16/95	Huls America Inc	(S) Crosslinking agents for powder coatings	(G) Polymer of isophorone diisocyanate and aliphatic diols/aliphatic dicarboxylic acid
P–95–1746	07/18/95	10/16/95	Huls America Inc	(S) Crosslinking agent for powder coatings	(G) Polymer of isophorone diisocyanate and aliphatic polyol/oxoalkylimine blocked
P–95–1747	07/18/95	10/16/95	CBI	(G) Reaction product of an aromatic dianhydride and an aliphatic ester with aromatic diamines	
P–95–1748	07/18/95	10/16/95	CBI	(G) Water-borne coating	(G) Styrene acrylic polymer
P–95–1749	07/20/95	10/18/95	CBI	(S) Agricultural chemical intermediate	(G) Substituted pyridinedicarboxylic ester
P–95–1750	07/20/95	10/18/95	BASF Corporation	(S) Solvent	(G) Pentanediol light residues
P–95–1751	07/20/95	10/18/95	CBI	(G) Open, non-dispersive coating additive	(G) Methylenebis[substituted benzene]
P–95–1752	07/20/95	10/18/95	CBI	(G) Open, non-dispersive coating additive	(G) Methylenebis[substituted benzene]
P–95–1753	07/20/95	10/18/95	CBI	(G) Open, non-dispersive coating additive	(G) Methylenebis[substituted benzene]
P–95–1754	07/20/95	10/18/95	CBI	(G) Open, non-dispersive coating additive	(G) Methylenebis[substituted benzene]
P–95–1755	07/21/95	10/19/95	Percy International Ltd.	(S) Epoxy resin curing agent in water	(G) Polyamine adduct

I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P–95–1756	07/21/95	10/19/95	Shin-Etsu Silicones of America, Inc	(S) Polymer of siloxanes and silicones, di-me, 3-hydroxypropyl-, group-terminated, ethoxylated; cyclosiloxanes, di-me; cyclotetrasiloxane, octaphenyl-	
P–95–1762	07/24/95	10/22/95	Olin Corporation	(S) Binder for 2-compound urethane paints (industrial	(G) TDI prepolymer

II. 61 Notices of Commencement of Received Date of 6/23/95 to 07/25/95.

Case No.	Received date	Commencement Date	Chemical
P–93–1399	07/14/95	06/20/95	(S) Polymer of: hexanediol; trimethylolpropane; diphenylmethane diisocyanate
P–95–0493	07/14/95	06/14/95	(G) Acid functional acrylic dispersion
P–95–0607	07/18/95	06/13/95	(G) Aliphatic alcohol polymer
P–94–1464	07/18/95	06/14/95	(G) Polyurethane/acrylic grafted copolymer, dimethylaminoethanol salt
P–95–0620	07/18/95	06/13/95	(G) Fatty acid alkyd
P–95–0862	07/17/95	06/15/95	(G) Salt of a substituted mineral acid
P–95–0863	07/17/95	06/15/95	(G) Salt of a substituted mineral acid
Y–95–0006	07/11/95	06/19/95	(G) Aliphatic polyurethaneurea
P–93–0702	07/12/95	06/20/95	(G) Amide carboxylate
P–94–1460	07/12/95	06/20/95	(G) Amide carboxylate salt
P–94–1826	07/24/95	07/18/95	(G) Modified acrylic polymer
P–94–1903	07/18/95	06/25/95	(S) A polymer of: benzene, ethenyl; 2,5 furandione, dihydro 3-(tetrapropenyl); 1,6-hexandiol; hexanedioic acid; hexanedioic acid; soybean oil, epoxidized; 1,3-dihydroxy-2,2-dimethylpropane; 5-isobenzofurancarboxylic acid, 1,3-dihydro-1,3-dioxo; 2-propenoic acid, 2-methyl-oxiranylmethylester; 2-propenoic acid, 2-ethylhexyl ester; 1-propanol, 2-amino-2-methyl; 1,2-propanediol
P–94–2202	07/21/95	07/10/95	(S) Poly(oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-, with 1,6-diisocyanatohexane
P–95–0008	07/21/95	06/21/95	(G) Poly(acrylate alkyl ester/ acryl acid/ vinyl aryl)
P–95–0566	07/20/95	07/05/95	(G) Hexanedioic acid, polymer with alkandiols, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid, 2-ethyl-2-(hydroxymethyl)-1,3 propandiol, hydrazine, cycloaliphatic isocyanates
P–95–0619	07/18/95	07/12/95	(G) Chelate
P–95–0656	07/18/95	07/10/95	(S) Canola oil, lauric acid - high
P–95–0743	07/19/95	06/24/95	(G) Amine oxide, dimethyl (polyfluoro-hydro-alkyl)
P–95–0744	07/19/95	06/24/95	(G) Amine oxide, dimethyl (polyfluoro-alkyl)
P–95–0877	07/21/95	06/27/95	(G) Silicone polymer
P–95–0972	07/24/95	07/13/95	(S) Architectural coatings
P–95–1037	07/21/95	07/06/95	(S) Chemical intermediate used in the manufacture of ph
P–93–0560	07/07/95	06/06/95	(G) Fluorinated cyclophosphazene
P–95–0527	07/11/95	06/30/95	(G) Polyester/acrylic copolymer
P–95–0675	07/13/95	06/23/95	(G) Cresol, amino benzenesulfonic acid, formaldehyde condensate
P–95–0976	07/11/95	07/05/95	(S) Latex thickener
P–95–0639	07/12/95	06/13/95	(G) Acrylated alkyd polymer
P–95–0815	07/03/95	06/20/95	(S) Phenol, 2,6-dimethyl-, homopolymer, 2,4,6-trimethylphenyl-terminated
P–93–0308	07/11/95	06/21/95	(G) Salt of aminooxalkylate ester
P–93–1646	07/06/95	06/08/95	(G) Halogenated nitrile
P–94–1538	07/07/95	06/09/95	(G) Organoaluminum compound
P–94–1561	07/06/95	06/13/95	(G) Calcium salts of alkyl salicylate and alkyl phenate sulfide
P–95–0191	07/11/95	06/15/95	(G) Epoxy isocyanate adduct
P–95–0426	07/06/95	06/28/95	(S) 2-Decen-1-al, (e)-
P–95–0569	07/06/95	06/13/95	(G) Modified acrylic polymer
P–95–0611	06/22/95	06/15/95	(G) Dimethylaminoethyl methacrylate polymer salt
P–95–0612	06/22/95	06/14/95	(G) Dimethylaminoethyl methacrylate polymer salt
Y–95–0039	07/03/95	06/02/95	(G) Styrene/acrylic ester multipolymer
P–95–0006	07/06/95	06/29/95	(S) A Polymer of: bisphenol A, epichlorohydrine polymer;, polypropyleneglycol 1010; bisphenol A; diethanolamine; *N,N*-dimethylamino propylamine; 2-ethylhexylamine; acetic acid
P–95–0292	07/05/95	06/20/95	(G) 4,4′-(1-Methylethylidene)bis(2,6-dibromophenol), polymer with (chloromethyl)oxirane, ether

II. 61 Notices of Commencement of Received Date of 6/23/95 to 07/25/95.—Continued

Case No.	Received date	Commencement Date	Chemical
P–95–0270	06/23/95	05/27/95	(S) A Polymer of: 2-propenoic acid; 2-methyl-2-propenoic acid *N*-butyl ester; 2-propenoic acid ethylhexyl ester; styrene; 2-methyl-2-propenoic acid methyl ester; 2-methyl-2-propenoic acid hydroxypropyl ester; 1,3-isobenzofurandione; di-tert.-butylperoxide
P–95–0271	06/23/95	05/27/95	(S) A polymer of: glycidyl neodecanoate; 2-propenoic acid; 2-methylpropenoic acid isobutyl ester; 2-propenoic acid isobutyl ester; 1-methylpropenoic acid 2-ethyl hexyl ester; 2-methylpropenoic acid 2-hydroxyethyl ester; 2-methylpropenoic acid hydroxypropyl ester; styrene; di-tert-butylperoxide
P–95–0284	06/28/95	06/01/95	(G) Phosphoric acid derivative
P–95–0637	06/28/95	06/02/95	(S) Perfluoropent-2-ene
P–95–0638	06/28/95	06/26/95	(S) Pentane, 1,1,1,2,3,4,4,5,5,5-decafluoro
Y–95–0092	06/29/95	06/05/95	(G) Structural component for articles
P–95–0931	06/30/95	06/20/95	(S) Resin vehicle for the production of heat-seat, web
P–95–0742	06/30/95	06/06/95	(G) Modified polyamide
P–94–1736	06/22/95	05/19/95	(G) Unsaturated polyester
P–94–2205	06/23/95	05/30/95	(G) Fluorochemical urethane
P–94–2206	06/27/95	05/30/95	(G) Fluorosilicone acrylate
P–95–0673	06/27/95	06/13/95	(S) A Polymer of 1,2-ethanediol; 1,4-benzenedicarboxylic acid; 2,6-naphthalenedicarboxylic acid, dimethyl ester; 1,3-benzenedicarboxylic acid
Y–95–0094	07/05/95	06/28/95	(S) Water-dispersible, hot melt adhesive
P–95–0618	07/07/95	06/24/95	(G) Methacrylic acid copolymer
P–95–0622	07/10/95	06/09/95	(G) Acrylic resin salt
P–95–0942	07/10/95	06/29/95	(G) Substituted phenyl azo substituted naphthalene amino triazinyl amino substituted propane
P–95–0867	07/11/95	06/26/95	(G) Modified aliphatic amine
P–95–0346	07/11/95	06/22/95	(G) Polyurea prepolymer
P–94–2036	07/11/95	06/16/95	(S) Polymer of acrylic acid, sodium salt, acrylamide, 2,2′-azobis(2-amidinopropane)-dihydrochloride, 3-mercaptopropionic acid, methyl methacrylate
P–95–0604	07/24/95	06/27/95	(G) Polyurethane salt
P–95–0826	07/24/95	07/18/95	G) Substituted methyl ester of benzoic acid

List of Subjects

Environmental protection, Premanufacture notices, and Test marketing exemption applications.

Dated: January 31, 1996.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–2922 Filed 2–12–96; 8:45 am]

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Tuesday
February 13, 1996

Part IV

National Archives and Records Administration

36 CFR Parts 1206 and 1210
National Historical Publications and Records Commission, Grant Program Procedures; Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations; Final Rules

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1206

[RIN 3095–AA43]

National Historical Publications and Records Commission; Grant Program Procedures

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: The National Archives and Records Administration (NARA) is updating and clarifying current regulations in 36 CFR Part 1206 relating to the National Historical Publications and Records Commission (NHPRC) grant program. In particular, language has been revised to reflect an internal reorganization; to address revisions to the state historical records coordinator and advisory board program; to include mention of archival administration and documentary editing fellowships for individuals; to include prior approval requirements for changes in the grant project; to cite government-wide requirements for grant administration and audit; and to make grantees aware of the lobbying certification requirement for grants of $100,000 or more. The rule will affect NHPRC applicants and grantees.

EFFECTIVE DATE: This rule is effective March 14, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Sahli at 202–501–5603.

SUPPLEMENTARY INFORMATION: On September 8, 1995, NARA published a notice of proposed rulemaking in the **Federal Register** at 60 FR 46798. Twelve comments were received on the proposed rule. Eight of the comments were favorable and recommended adoption of the rule in its existing form. Four comments recommended changes or modifications to the rule which have been addressed as follows:

Two commenters associated with State archival organizations suggested that the sentence in § 1206.36 dealing with appointment of State historical agency officials other than the State archivist be clarified. Their concern was that the current wording might result in the required addition of numerous officials of State historical agencies to the State historical records advisory boards, thereby making the boards unwieldy in size. The wording of the sentence has been changed to read as follows: "If the State has another state-funded historical agency or agencies with archival and/or records responsibilities, the official(s) in charge of at least one of these shall be a member of the State historical records advisory board (board)."

One commenter, director of a State Department of Archives and History, suggested a modification to the language in § 1206.38(a), regarding the designation of the State historical records advisory board chair, to accommodate boards operating under state statutes that specify that a chair should be elected. The wording of the sentence in question has been changed to read as follows: "Each State desiring to participate in the program shall define an appointment process and appoint a State historical records advisory board consisting of at least seven members, including the State historical records coordinator, who chairs the board, unless otherwise specified in state statute."

The Territorial Archivist of American Samoa had two suggestions. First, he recommended that the term "international" be added to language in § 1206.2(f) to accommodate projects needing to involve state or territorial records held by countries outside the United States. We believe that his recommended wording change is better placed in § 1206.2(g) and have changed the wording of the first sentence to encompass activities of the type he has in mind: "The term national projects means records projects involving records or activities in several regions, in widely separated States, or that have an international component."

His second suggestion aimed at broadening the options for matching funds as described in § 1206.50(c) by adding the word "old." We believe that the same purpose is served by eliminating the word "new" that currently exists in the first sentence in the section. State and local government grantees would still be required to demonstrate that matching funds had been provided above and beyond funds previously allocated or planned for the agency's budget and that the funds are set aside exclusively to support the NHPRC grant. The revised sentence would read as follows: "An application for a matching grant should be made when an applicant has prospects of securing financial support from a third party, or, in the case of a State or local government agency, funds from the institution's own appropriation source are provided expressly for the project proposed in the application."

In addition to these changes suggested by commenters, NARA has replaced references to OMB Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations" with references to NARA's regulations in 36 CFR part 1210 that implement that Circular. These NARA regulations were published as an interim final rule on October 16, 1995, at 60 FR 53514. A final rule confirming the interim rule without change is published in today's **Federal Register**.

The information collections contained in this final rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act. This final rule has not been reviewed by the Office of Management and Budget under Executive Order 12866 of September 30, 1993. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1206

Grant programs—Archives and records, Grant administration.

For the reasons set forth in the preamble, Part 1206 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 1206—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

1. The authority citation of part 1206 continues to read as follows:

Authority: 44 U.S.C. 2104(a); 44 U.S.C. 2501–2506.

2. Section 1206.1 is revised to read as follows:

§ 1206.1 Scope of part.

This part prescribes the procedures and rules governing the operation of the grant program of the National Historical Publications and Records Commission.

3. Section 1206.2 is amended by revising paragraphs (e), (f), and (g) to read as follows:

§ 1206.2 Definitions.

* * * * *

(e) The term *State projects* means records projects directed by organizations operating within and involving records or activities within one State. Records or activities of such projects will typically be under the administrative control of the organization applying for the grant. The records or activities need not relate to the history of the State.

(f) The term *regional projects* means records projects involving records or activities in more than one State in a region. Regional projects include those undertaken by regional archival groups or consortia.

(g) The term *national projects* means records projects involving records or activities in several regions, in widely separated States, or that have an international component. In general, the location of the records and/or the site of grant-funded activities will determine the category of submission.

4. Section 1206.6 is revised to read as follows:

§ 1206.6 The Commission's Grant Program.

The Commission operates primarily through a grant program supporting publications projects (subpart B) and records projects (subpart C). Fellowships for individuals in archival administration and documentary editing are also offered, as well as an annual institute for the editing of historical documents.

5. Section 1206.7 is added to subpart A to read as follows:

§ 1206.7 Organization.

The Executive Director, Program Director, and the staff of the Commission administer the publications and records grants under the guidance of the Commission and the immediate administrative direction of its chairman, the Archivist of the United States.

6. Section 1206.10 is revised to read as follows:

§ 1206.10 General.

This subpart describes the scope, purpose, and operation of that part of the grant program relating to publications projects and prescribes requirements applicable to printed, microform, and electronic publication projects. Grant application and administration procedures are given in subpart D of this part.

7. Section 1206.12 is revised to read as follows:

§ 1206.12 Scope and purpose.

Publications projects are intended to ensure the dissemination and accessibility of documentary source material important to the study and understanding of U.S. history. Projects should therefore be based upon material of widespread interest among scholars, students, and informed citizens. Documents should have historical value and interest that transcend local and State boundaries.

§ 1206.14 [Removed]

8. Section 1206.14 is removed.

9. Section 1206.16 is revised to read as follows:

§ 1206.16 Project requirements.

(a) Each publications project shall include either the papers of a U.S. leader in a significant phase of life in the United States or documents relating to some outstanding event or to some topic or theme of national significance in U.S. history. These projects shall consist of collecting, compiling, editing, and publishing, either selectively or comprehensively, the papers or documents. Publication may be in the form of printed, microform, or electronic editions. Electronic formats for publication of documentary sources will be considered only when suitable preservation of the data can be assured. Three copies of each book publication should be deposited with the National Historical Publications and Records Commission (NHPRC), Washington, DC 20408. These copies may be included as part of the five complimentary copies to be sent by presses receiving subvention grants.

(b) For microform projects, the grantee shall make positive prints and all finding aids available to institutions, scholars, or students through interlibrary loan and for purchase. Five complimentary copies of guides and indexes produced by the projects shall be sent to the Commission.

10. In § 1206.18, paragraphs (a) and (c) are revised to read as follows:

§ 1206.18 Subsidies for printing costs.

(a) The Commission will consider grant applications from university and other nonprofit presses for the subvention of part of the costs of manufacturing and disseminating volumes that have been formally endorsed by the Commission. Grants not exceeding $10,000 per volume ($3,000 for reprints) are awarded upon recommendation of the Commission to promote the availability of Commission-supported documentary editions.

* * * * *

(c) The Commission shall receive five complimentary copies of each published volume for which a subvention grant is made.

11. Section 1206.20 is revised to read as follows:

§ 1206.20 Microform publication standards.

Technical standards for NHPRC-sponsored microform projects are stated in the brochure "National Historical Publications and Records Commission: Microform Guidelines," which will be supplied to applicants upon request and to grantee institutions at the time a grant is made for a microform project.

12. Section § 1206.30 is revised to read as follows:

§ 1206.30 General.

This subpart describes the scope, purpose, and operation of that part of the grant program relating to records projects. Grant application and administration procedures are given in subpart D of this part.

13. Section 1206.32 is revised to read as follows:

§ 1206.32 Scope and purpose.

Through its support for records projects, the National Historical Publications and Records Commission encourages a greater effort at all levels of government and by private organizations to preserve and make available for use those records, generated in every facet of life, that further an understanding and appreciation of U.S. history. In the public sector, these historical records document significant activities of State, county, municipal, and other units of government. In the private sector, historical records include manuscripts, personal papers, and family or corporate archives that are maintained by a variety of general repositories as well as materials in special collections relating to particular fields of study, including the arts, business, education, ethnic and minority groups, immigration, labor, politics, professional services, religion, science, urban affairs, and women. In addition to recommending the supporting of projects relating directly to a body of records, the Commission may also recommend support for projects to advance the state of the art, to promote cooperative efforts among institutions and organizations, and to improve the knowledge, performance, and professional skills of those who work with historical records.

§ 1206.34 [Removed]

14. Section 1206.34 is removed.

15. Section 1206.36 is revised to read as follows:

§ 1206.36 State historical records coordinator.

(a) The governor of each State desiring to participate fully in the program shall appoint a State historical records coordinator (coordinator), who shall be the full-time professional official in charge of the State archival program or agency. If the State has another state-funded historical agency or agencies with archival and/or records responsibilities, the official(s) in charge of at least one of these shall be a member of the State historical records advisory board (board). The coordinator is appointed to a minimum four-year term, but may continue to serve until replaced by the governor or until resignation. The coordinator shall serve as chair of the board and shall be the central coordinating officer for the historical records grant program in the

State. The person appointed will not be deemed to be an official or employee of the Federal Government and will receive no Federal compensation for such service. The pamphlet "Guidelines for State Historical Records Coordinators and State Historical Records Advisory Boards," which is available from the Commission and from State historical records coordinators, provides further information on the role of the coordinator.

(b) In the event of the resignation of the coordinator or other inability to serve, a deputy coordinator, if one has been designated, will serve as acting State coordinator until the governor makes an appointment. In the absence of a deputy coordinator, the NHPRC will recognize an acting coordinator, selected by the state board, who shall serve until the governor appoints a coordinator in order to conduct the necessary business of the board.

16. Section 1206.38 is revised to read as follows:

§ 1206.38 State historical records advisory board.

(a) Each State desiring to participate in the program shall define an appointment process and appoint a State historical records advisory board consisting of at least seven members, including the State historical records coordinator, who chairs the board, unless otherwise specified in state statute. The coordinator shall provide the Commission with a description of the appointment process. A majority of the members shall have recognized experience in the administration of government records, historical records, or archives. The board should be as broadly representative as possible of the public and private archives, records offices, and research institutions and organizations in the State. Board members will not be deemed to be officials or employees of the Federal Government and will receive no Federal compensation for their service on the board. They are appointed for three years with the possibility of renewal; and preferably terms are staggered so that one-third of the board is newly appointed or reappointed each year. If the board is not established in State law, members' terms continue until replacements are appointed. The board may adopt standards for attendance and may declare membership positions open if those standards are not met.

(b) The board is the central advisory body for historical records planning and for Commission-funded projects developed and carried out within the State. The board serves as a coordinating body to facilitate cooperation among historical records repositories and other information agencies within the state and as a state-level review body for grant proposals as defined in the Commission's guidelines. Specifically, the board may perform such duties as sponsoring and publishing surveys of the conditions and needs of historical records in the State; soliciting or developing proposals for projects to be carried out in the State with NHPRC grants; reviewing proposals by institutions in the State and making recommendations about these to the Commission; developing, revising, and submitting to the Commission State priorities for historical records projects following guidelines developed by the Commission; promoting an understanding of the role and value of historical records; acting in an advisory capacity to the state archives and other statewide archival or records agencies; and reviewing, through reports and otherwise, the operation and progress of projects in the State financed by NHPRC grants.

17. In § 1206.50, paragraph (c) is revised to read as follows:

§ 1206.50 Types of grants.

* * * * *

(c) *Matching grants.* An application for a matching grant should be made when an applicant has prospects of securing financial support from a third party or, in the case of a State or local government agency, funds from the institution's own appropriation source are provided expressly for the project proposed in the application. Upon Commission approval of a matching grant request, the applicant shall present written documentation certifying that matching funds have been provided for the project by the non-Federal source. In the case of a State or local government agency, the matching requirement may also be met through matching funds from the State or local government, provided that it can be demonstrated to the Commission's satisfaction that the matching amount has been provided above and beyond funds previously allocated or planned for the agency's budget and that the funds are set aside exclusively to support the project proposed for an NHPRC grant. Applicants need not, however, have money in hand to make a matching grant request; they need only assure the Commission that they have reasonable prospects of obtaining the needed amounts.

* * * * *

18. Section 1206.52 is revised to read as follows:

§ 1206.52 Grant limitations.

Grant limitations are described in the grant program guidelines pamphlet, available on request from the Commission.

19. Section 1206.54 is revised to read as follows:

§ 1206.54 Who may apply.

The Commission will consider applications from State and local government agencies, nonprofit organizations and institutions, Federally acknowledged or state-recognized Native American tribes or groups, and, under certain conditions, from individuals. Proposals for State projects falling under the Commission's goals, "To Assure the Preservation of the Nation's Documentary Heritage through State Collaborative Efforts" and "To Achieve Progress in the Preservation and Use of Original Source Material," as defined in the grant program guidelines, will be accepted only from applicants in States in which a State historical records coordinator and a State historical records advisory board are currently appointed. This requirement does not apply to regional or national projects.

20. Section 1206.56 is revised to read as follows:

§ 1206.56 When to apply.

Grant proposals are considered during Commission meetings held three times during the year. For current application deadlines contact the grant program staff or State historical records coordinators (for records grant proposals). Some State boards have established pre-submission review deadlines for records proposals; further information is available from State coordinators.

21. In § 1206.58, paragraphs (b), (c), and (d) are revised to read as follows:

§ 1206.58 How to apply.

* * * * *

(b) *Application forms.* Applicants for NHPRC grants shall use Standard Form 424, Application for Federal Assistance, and NA Form 17001, Budget Form (OMB Control Number 3095–0004). Applicants for subvention grants also submit the NHPRC subvention grant application (OMB Control Number 3095–0021), and applicants for archival administration fellowship host institution grants submit a special application (OMB Control Number 3095–0015). Applicants for NHPRC-sponsored fellowships complete the appropriate fellowship application

(OMB Control Numbers 3095–0011, 3095–0012, or 3095–0014). Copies of these applications and forms are available from the commission. Project proposals and related correspondence should be sent to the National Historical Publications and Records Commission (NHPRC), Washington, DC 20408.

(c) *Assurances and certifications.* All grant applications to the Commission must include the following assurances and certifications signed by an authorized representative of the applicant institution, or in the case of an individual applicant, by that individual: Standard Form 424B, Assurances: Non-Construction Programs; the Certification Regarding Debarment, Suspension, and Other Responsibility Matters specified in part 1209, appendix B; the Certification Regarding Drug-free Workplace Requirements specified in part 1209, appendix C, of this chapter; and, if the application requests more than $100,000 in Federal funds, a signed Certification for Grants, Loans, or Cooperative Agreements in Excess of $100,000 (certification regarding lobbying). Assurance and certification language is included in the program pamphlet.

(d) *Program guidelines pamphlet.* Supplementary information for applicants is contained in the pamphlet, "Program Guidelines: Applications and Grants," which is available from the Commission upon request. The pamphlet is also available from State historical records coordinators. This pamphlet includes copies of the application form and certifications, guidelines on the preparation of project budgets and program narrative statements, and other guidance on applying for and administering NHPRC grants. OMB Control Number 3095–0013 has been assigned to this information collection.

22. In § 1206.66, paragraphs (b) and (c) are revised to read as follows:

§ 1206.66 Review and evaluation of grant proposals.

* * * * *

(b) *Publications grant proposals.* The Commission staff reviews publications grant proposals for completeness, conformity with application requirements, and relevance to the objectives of the grant program. Proposals are sent to specialists in American history and documentary editing for review and recommendations. The recommendations are considered by the full Commission at regular meetings.

(c) *Subvention grant applications.* The Commission staff reviews subvention grant applications to ensure their adherence to established technical standards for the production of printed volumes, particular in the quality of paper and ink. Staff recommendations are considered by the full Commission at regular meetings.

* * * * *

23. Section 1206.68 is revised to read as follows:

§ 1206.68 Grant administration responsibilities.

Primary responsibility for the administration of grants is shared by the grantee institution and the project director designated by the institution. In the case of grants made to individuals, the individual named as project director has primary responsibility for the administration of the grant. Grants shall be administered in conformance with either the regulations in part 1210 of this chapter or, in the case of State and local governments, with the regulations in part 1207 of this chapter. All grants shall be in conformance with part 1209 of this chapter.

(a) *Changes in the grant project:*

(1) *Extension of the grant period.* Requests for extension of the grant period must be made before the end of the grant period and must be signed by the grantee institution's authorized representative as indicated on the grant application form (SF 424). No extensions will be allowed unless grantees are up-to-date in their submission of financial and narrative reports.

(2) *Rebudgeting.* To meet unanticipated program needs, grantees may adjust the amounts allocated to existing budget lines for both grant funds and cost sharing and may transfer grant funds among existing NHPRC-funded direct cost categories that appear in the final project budget approved by the Commission at the time of the grant award. Cost-sharing funds may also be shifted among existing cost-sharing categories. For grants where the NHPRC's award is less than $100,000, grantees may make these transfers without NHPRC approval. When Commission grant awards are for $100,000 or more, grantees must obtain prior approval from the NHPRC when cumulative transfers among direct cost categories total more than 10 percent of the total project budget (i.e., grant funds plus other funds). In addition, the Program Director of the Commission may approve the use of NHPRC grant funds for new cost categories for which Commission funds were not provided in the final approved budget where such action seems appropriate for the fulfillment of the original purposes of the grant and where the amount of funds involved does not exceed 10 percent of the amount of the award or $5,000, whichever is less. Requests to establish these new cost categories must be made in writing and signed by the grantee institution's authorized representative. Requests that exceed this limit are subject to approval by the full Commission.

(3) *Other changes requiring prior approval.* Prior written approval from the Commission must be obtained for financial or programmatic changes in all cases involving the following: revision of the scope or objectives of the project; change of the project director or other key project personnel who have been specifically named in the grant application or award or related correspondence; and, contracting out, subgranting, or otherwise obtaining the services of a third party to perform activities central to the purposes of the grant, unless specified in the grant proposal.

(b) *Submission of requests for changes.* All requests for approval of budget or programmatic changes must be submitted in the form of a letter signed by the grantee institution's authorized representative for the grant and addressed to the Program Director. A written response signed by the Program Director of the Commission will constitute approval for the changes.

24. Section 1206.78 is revised to read as follows:

§ 1206.78 Grant reports.

(a) Financial status reports and narrative progress reports are required for all grants. Standard Form 269, Financial Status Report, shall be used for all financial reports. The pamphlet, "Program Guidelines: Applications and Grants," which is provided to each grantee and is available from the Commission on request, specifies the content of the narrative progress reports (OMB Control Number 3095–0013).

(b) Financial reports are due annually 30 days after the end of each reporting period. Narrative progress reports are due 30 days after the end of each six-month period. Final financial and narrative reports are due within 90 days after the expiration or termination of the grant period. Grants with a duration of six months or less require a final report only. Additional rules on financial and performance reports are found in §§ 1210.51 and 1210.52 or §§ 1207.40 and 1207.41 of this chapter, as appropriate.

25. Section 1206.79 is added to read as follows:

§ 1206.79 Audits.

Grantees are responsible for obtaining audits in accordance with either the Single Audit Act of 1984 (31 U.S.C. 7501–7), for which audit requirements have been set forth in Office of Management and Budget (OMB) Circular A–128, "Audits of State and Local Governments," or requirements established under OMB Circular A–133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations," as appropriate. Copies are available from the Commission office or from OMB. The grantee is responsible for ensuring that the NHPRC receives a copy of the audit report for any audit performed during the grant period or for three years thereafter. A reasonable portion of grant funds, as defined in the OMB Circular, may be used to comply with audit requirements. The Commission prefers that the grantee assume such costs as institutional cost sharing.

26. Section 1206.94 is revised to read as follows:

§ 1206.94 Compliance with Governmentwide requirements.

In addition to the grant application and grant administration requirements outlined in this part 1206, grantees are responsible for complying with applicable Governmentwide requirements contained in part 1210 or part 1207 of this chapter, as appropriate, and part 1209 of this chapter.

Dated: February 6, 1996.

John W. Carlin,

Archivist of the United States.

[FR Doc. 96–3097 Filed 2–12–96; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1210

RIN 3095–AA43

Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations

AGENCY: National Archives and Records Administration.

ACTION: Final rule; confirmation of interim final rule.

SUMMARY: The National Archives and Records Administration (NARA) is adopting as a final rule the interim final rule establishing regulations incorporating the revised OMB Circular A–110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations." These regulations apply to grants administered by the National Historical Publications and Records Commission (NHPRC). The regulation provides standards for obtaining consistency and uniformity in the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations.

EFFECTIVE DATE: This rule is effective November 15, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Sahli or Nancy Copp at (202) 501–5603.

SUPPLEMENTARY INFORMATION: On October 16, 1995 at 60 FR 53514, NARA published an interim final rule that incorporates and reflects the provisions of the Office of Management and Budget (OMB) Circular A–110 in a new 36 CFR part 1210. A 60-day comment period was provided. No written comments were received. Accordingly, the interim rule is adopted as a final rule without change.

This rule is a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993, and was reviewed by the Office of Management and Budget before publication as an interim final rule. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1210

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Insurance, Reporting and recordkeeping requirements.

Accordingly, under the authority of 44 U.S.C. 2104(a), the interim final rule published at 60 FR 53514 adding 36 CFR part 1210 is adopted as final without change.

Dated: February 6, 1996.

John W. Carlin,

Archivist of the United States.

[FR Doc. 96–3096 Filed 2–12–96; 8:45 am]

BILLING CODE 7515–01–P

Federal Register

Tuesday
February 13, 1996

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 5, 812, et al.

Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 5, 812, 912, 950, and 982

[Docket No. FR–3029–F–04]

RIN 2501–AB68

Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937

AGENCY: Office of the Secretary.

ACTION: Final rule.

SUMMARY: This rule consolidates and revises portions of 24 CFR parts 812 and 912 into a new subpart D of part 5, makes a conforming change to part 982, and revises part 950 to provide general requirements for the implementation of the United States Housing Act of 1937 that are in addition to the Act's explicit requirements.

EFFECTIVE DATE: March 14, 1996.

FOR FURTHER INFORMATION CONTACT: Issues related to part 812 as it relates to programs administered by the Assistant Secretary for Housing/Federal Housing Commissioner: Barbara D. Hunter, Director, Program Management Division, Office of Multifamily Asset Management and Disposition, Room 6182, 451 Seventh Street SW., Washington, DC 20410, Telephone (202) 708–4162. A telecommunications device for speech or hearing impaired persons (TDD) is available at (202) 708–4594. (These are not toll-free telephone numbers.)

Issues related to part 812 (as it relates to section 8 certificates, vouchers, and Mod Rehab), part 912 and programs administered by the Assistant Secretary for Public and Indian Housing: MaryAnn Russ, Deputy Assistant Secretary for Public and Assisted Housing Operations, Office of Public and Indian Housing, Room 4204, 451 Seventh Street SW., Washington, DC 20410, Telephone (202) 708–1380. A telecommunications device for speech or hearing impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

Issues related to part 950 and Native American Housing Programs: Deborah Lalancette, Director, Housing Management Division, Office of Native American Programs, Department of Housing and Urban Development, room B–133, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755–0088; (TDD) (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Statutory and Rulemaking Background

Section 573(a) of the National Affordable Housing Act (NAHA) (approved November 28, 1990, Pub. L. 101–625) amended clause (D) of section 3(b)(3) of the United States Housing Act of 1937 (the 1937 Act), to include in the definition of "families," "any other single persons" who are not 62 years old or older, disabled, handicapped, displaced, or the remaining member of a tenant family. (Hereinafter, an individual in the category of "other single persons" will be referred to simply as a single person.) Before this NAHA amendment, the number of single persons eligible for assisted housing was restricted under the 1937 Act to a percentage of the units in the public housing agency's or Indian housing authority's jurisdiction.

However, the NAHA amendment added a new restriction on the admission of any single person to housing units assisted under the 1937 Act. "In no event", reads (in part) section 573(a)(1), "may any single person [who is not 62 years old or older, disabled, handicapped, displaced, or the remaining member of a tenant family] * * * be provided a housing unit assisted under this Act of 2 bedrooms or more."

A proposed rule was published in the **Federal Register** on April 10, 1992 (57 FR 12686) to add the NAHA section 573(a) requirements to the Department's regulations at 24 CFR parts 812 and 912. This rule also addressed section 5(b) of the Fair Housing Amendments Act of 1988 (FHAA) (Pub. L. 100–430, approved September 13, 1988), codified at 42 U.S.C. 3602(k), which states that, "the protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years."

Section 621 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992), also amended section 3(b)(3) of the 1937 Act, the same section amended by 573(a) of NAHA. The section 621 amendment is in the nature of a housekeeping revision that reorganizes the 1937 Act definition of "family," rather than an amendment that makes substantive changes in the definition. Section 621 redefines "elderly family" by taking out the references to disabled and handicapped persons, and combines the definitions of "disabled person" and "handicapped person" into a single definition of "person with disabilities." The "any other single persons" amendments of NAHA section 573(a) are also a part of the HCDA 1992 section 621 revision of 3(b)(3), which slightly modifies section 573(a)'s language on the unit size limitation for single persons from "2 bedrooms or more" to read "2 or more bedrooms."

Section 301 of the Multifamily Housing Property Disposition Reform Act of 1994 (MHPDRA) (Pub. L. 102–233, approved April 11, 1994) made a technical correction to the HCDA 1992 section 621 revision of section 3(b)(3) of the 1937 Act. Section 621 had changed the introductory language of the definition of "families" from, "The term 'families' includes * * *." to, "The term 'families' means * * *.". Section 301 of MHPDRA amends the introductory language of 3(b)(3) of the 1937 Act back to the original "The term 'families' includes * * *.".

To resolve the issue of the basic eligibility of single persons, HUD published on July 26, 1993 (58 FR 39658) a final rule that eliminated the former statutory restrictions, which were included in parts 812 and 912, on the admission of single persons to public and assisted housing. The final rule published on July 26, 1993 also removed the restrictions at § 905.301(d), now § 950.301(d), concerning the admissibility of single persons to Indian housing. Although section 573(a) of NAHA did not apply to Indian housing, section 103(b) of HCDA 1992 expressly makes sections 573 and 574 of NAHA applicable to Indian Housing Authorities (IHAs). At the same time, HCDA 1992 section 626 expressly excludes IHAs from the coverage of the entire HCDA 1992 subtitle that includes the section 621 reorganization of the definition of family.

Two other regulatory amendments are relevant to the changes made in this final rule. On March 20, 1995 (60 FR 14855), parts 812 and 912 were amended by designating their existing provisions as subpart A, and adding a subpart B that dealt with restrictions on assistance to noncitizens. Definitions pertinent to these restrictions were also added. Finally, on April 10, 1995, at 60 FR 18186, the Indian Housing consolidated regulations were revised and moved from part 905 to part 950 of title 24.

II. Reinventing Parts 812 and 912

In keeping with the President's mandate to reinvent and reform regulations, subparts A of parts 812 and 912 are streamlined in this rule by combining them into a single, new subpart D of part 5 (subparts B and C are reserved for other requirements). One of the methods by which the Department is streamlining and reducing its regulations is to eliminate repetitious regulatory language. The subpart A provisions of parts 812 and 912 are virtually identical, covering general requirements related to the 1937 Act, such as definitions and basic eligibility for assistance. These general requirements were originally set forth in separate CFR parts that were designated for offices that administered different forms of assistance under the 1937 Act. Such a practice, however, has resulted in the proliferation of repetitious, unnecessary regulations which the Department is now acting to curb.

Another method of reinventing regulations by the Department is to remove rule text that only repeats statutory language. Rules will only contain legally binding requirements that are in addition to those contained in a statute. Besides reducing the sheer bulk of rules, this practice will remove the problems that result when a rule that echoes the language of a statute becomes inconsistent with new statutory amendments. The period before such a rule is amended to conform to new statutory language is often one of confusion and uncertainty as to which law applies: the old provisions in the regulations or the new provisions in the statute. The new subpart D of part 5 promulgated here does not, therefore, repeat any statutory language, but only implements requirements that are in addition to those in the 1937 Act. However, for purposes of convenience and clarity, this final rule also includes definitions of the terms "family," "elderly family," "disabled family," and "near-elderly family," for which the elements must be assembled from different parts of section 3(b)(3) of the 1937 Act in order to arrive at a complete definition. For example, section 3(b)(3)(B) provides:

> The term "families" includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

Sufficient information is not given in section 3(b)(3)(B) to formulate a complete definition of "elderly family;" for a complete definition of this term, it is necessary to incorporate with the 3(b)(3)(B) information the definition of "elderly person" in section 3(b)(3)(D). The final rule makes this incorporation.

The April 10, 1992 proposed revisions to parts 812 and 912, which concern section 5(b) of the Fair Housing Amendments Act of 1988 (FHAA) and the treatment of single, pregnant women and individuals in the process of obtaining custody, are not included in this final rule. The statutory prohibition against housing discrimination towards such persons is sufficiently clear and enforceable. Since the percentage limit for occupancy by single persons (which could have been used to mask instances of discrimination against persons in these protected classes) has been eliminated, it is no longer necessary to distinguish persons in these FHAA-protected classes from other single persons.

The definitions that were added to parts 812 and 912 for purposes of the March 20, 1995 rule on restrictions on assistance to noncitizens are being moved to revised §§ 812.5(a) and 912.5(a). The provisions in subparts B of parts 812 and 912 will remain in effect until the publication of a single, streamlined noncitizens rule.

For purposes of uniformity, the definition of *applicant* is being added to the Indian Housing regulation at § 950.102. The provisions dealing with the preference over single persons and the housing assistance limitation for single persons are being added to § 950.301 of the Indian Housing regulation, with a conforming change made to § 950.303(b)(1)(ii).

The combined statutory and regulatory definitions and general requirements that apply with respect to public housing and Section 8 housing assistance under the 1937 Act have been placed in an appendix to this final rule. The final rule will be codified in the Code of Federal Regulations; the appendix will not be codified. However, the appendix is available to the public as a single document which provides a unified overview of these general requirements under the 1937 Act.

III. Response to Public Comments

A total of 182 comments were received on the proposed rule from 39 Public Housing Authorities, 103 elderly tenants, 30 managers, 6 interest groups, 2 legal assistant organizations, and 2 individuals. The comments and HUD's responses are addressed in the discussion below.

Concerns Over Removing Eligibility Restrictions on Single Persons

Numerous comments were received on the scope of the proposed rule, with particular emphasis on the amendment to the definition of "family" to include "any other single person." The comments took the form of suggested changes to narrow the scope or impose limits on single persons who could be admitted, general observations about the impact of this rule, inquiries about the application of the rule to specific programs and situations, and requests for clarification.

Over two thirds of the comments received on the proposed rule were directed at the mix of elderly people with young single people that the commenters believed will result from the implementation of this rule. They expressed concern about the occupancy issues that arise when elderly and non-elderly persons live in the same housing. Concerns were also raised about the eligibility of single persons as a group for housing or assistance under the 1937 Act.

HUD Response

These comments from elderly residents, owners of elderly projects, and management companies appear to have been submitted under the belief that the proposed rule would have superseded the basic admission requirements for a particular project. It is important to note that the change in the status of single persons is the result of legislative amendments to the 1937 Act. Even so, the inclusion of single persons in the definition of "family" without a percent occupancy limitation, as was previously the case, does not automatically constitute admission into every form of assisted housing. The single person, as well as any other family, must still meet all of the eligibility requirements for the particular project and for the type of housing assistance which is sought. This has always been the case, and the rule, at § 5.403(a), now expressly states that, "An applicant must meet all of the eligibility requirements of the housing assistance for which an application is made in order to obtain the housing assistance."

One of the basic eligibility requirements under the 1937 Act is that the applicant must be a "family." However, the definition of "family" in the 1937 Act is broadly expressed as, "The term 'families' *includes* * * *" (emphasis added) and is not exclusive or exhaustive. Given this broad statutory definition, HUD has historically permitted PHAs and housing owners the flexibility to make the determination of "family," in accordance with their local laws and policies, including state and local fair housing laws, as long as such a determination does not conflict with

the 1937 Act or the Federal Fair Housing Act.

Preference for Admission

Seven commenters sought further explanation of the practical application of extending a preference for housing units to elderly, disabled, handicapped and displaced persons over single persons in §§ 812.3(a) and 912.3(a) of the proposed rule (Note: the use of the term "handicapped" is eliminated by HCDA 1992 sec. 621). The central issue presented by these commenters was whether elderly, disabled, handicapped and displaced families *always* have a priority in the admission process over single persons, regardless of the Federal preferences. One commenter asked if the proposed rule gave a "Federal preference" or simply a priority. A couple of commenters asked whether a single person with a Federal preference would get a certificate or voucher first before an elderly, handicapped, disabled or displaced person without a Federal preference, and other commenters posed that question in the converse. Still more commenters, objecting to what they considered the unanticipated consequences of the proposed rule, assumed both that proposed §§ 812.3(a) and 912.3(a) did not give a "Federal preference" and that in practice the single person would receive the certificate or voucher first, in spite of the fact that the rule is careful to indicate the elderly, disabled, and displaced have a priority.

HUD Response

The basis for treating single persons differently from elderly, disabled, or displaced persons is that the statute requires it. This requirement does not, in any way, violate applicable nondiscrimination provisions.

The final rule clarifies that a PHA or private owner must give preference to applicants who are elderly, disabled, or displaced families consisting of no more than two persons over applicants who are single persons, regardless of the applicant's Federal or local preferences. Admitting these elderly, disabled, and displaced families that do not have a Federal Preference over a single person with a Federal Preference does not draw on the local preference limit (10%/30%/50%). The 1937 Act provides for both the Federal preference and the preference over single persons, but does not prescribe the order of these statutory preferences. HUD has determined that the singles preference should govern over the Federal preference scheme.

This final rule further clarifies that elderly, disabled, and displaced one- or two-person family applicants have a preference over single persons who are not elderly, disabled, or displaced for all types of assisted housing under the 1937 Act, including general occupancy public and Indian housing and Section 8, not just for public and Indian housing and privately owned housing for the elderly.

Unit Size Limitation

Nine commenters addressed the unit size limitation for single persons who are not elderly, disabled, displaced or the remaining member of a tenant family in §§ 812.3(b), 882.209(i)(1), 887.253(c), and 912.3(b) of the proposed rule. The consensus of these commenters was that the provision stating that "any Single Person may not be provided a unit with two or more bedrooms" was unnecessarily restrictive.

PHAs objected to the different treatment between single persons and other persons under the same programs, citing a variety of reasons, such as: How this restriction penalizes people for being single; the absence of a rational justification for this restriction when the gross rent for a larger unit is reasonable and less than the 1 bedroom fair market rent; the fact that elderly, handicapped, disabled and displaced people are not subject to the same restriction; and the hardships to management and owners from not being able to offer the next bedroom size to single persons on the list in light of the high vacancy rates in some parts of the country.

Another PHA felt that the restriction goes too far because it would extend to a single person with special health needs who requires a 2 bedroom unit for purposes of accommodating additional equipment or other needs. In the opinion of this commenter, the NAHA section 573(a) language, "In no event may any single person under clause (D) be provided a housing unit assisted under this Act of 2 bedrooms or more", is not intended to cover single persons with special health needs.

HUD response

Sections 573(a) and 621 both agree that, "In no event may any single person * * * be provided a housing unit assisted under this Act of 2 or more bedrooms." The rule implements this provision for purposes of the rental certificate and voucher programs as a limitation on family unit size, and therefore on the amount of subsidy paid on behalf of the single person. The rule does not prohibit a single person from residing in a larger unit (2 or more bedrooms) with the amount of subsidy for a zero or one-bedroom family unit size.

It is likely that an individual who needed a larger unit to accommodate medical equipment because of a health need would qualify as a "person with disabilities," not as a "single person," and so could be provided a larger unit.

Other Matters

Regulatory Planning and Review

This rule has been reviewed in accordance with Executive Order 12866, issued by the President on September 30, 1993 (58 FR 51735, October 4, 1993). Any changes to the rule resulting from this review are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order. This rule merely makes certain statutorily required changes in definitions that will not have substantial, direct effects on States, on their political subdivisions, or on their relationships with the Federal government, or on the distribution of power and responsibilities between them and other levels of government.

Family Impact

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule will not have a potentially significant negative impact on family formation, maintenance, and general well-being, and thus, is not subject to review under the Order. The rule only implements statutorily required changes in the definition of "family" under the United States Housing Act of 1937.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule is only an implementation of statutory requirements that adjust the way the term "family" is defined.

List of Subjects

24 CFR Part 5

Admnistrative practice and procedure, Grant programs—housing and community development, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 812

Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 912

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 950

Aged, Energy conservation, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 24 CFR parts 5, 812, 912, 950, and 982 are amended, as set forth below:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

1. Subparts B and C of part 5 are reserved.

2. A new subpart D to part 5 is added to read as follows:

Subpart D—Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937

Sec.

5.400 Applicability.
5.403 Definitions.
5.405 Basic eligibility; preference over single persons; and housing assistance limitation for single persons.

Authority: 42 U.S.C. 1437a and 3535(d).

§ 5.400 Applicability.

This part applies to public housing (other than Indian housing under 24 CFR part 950) and Section 8 programs.

§ 5.403 Definitions.

(a) The terms *displaced person, elderly person, near-elderly person, and person with disabilities* are defined at paragraph 3 of section 3(b) of the 1937 Act (42 U.S.C. 1437a(b)(3)).

(b) In addition to the terms listed in paragraph (a) of this section, the following definitions apply:

Applicant means a person or a family that has applied for housing assistance.

Disabled family means a family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Displaced family means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Elderly family means a family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Family includes but is not limited to:

(1) A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

(2) An elderly family;

(3) A near-elderly family;

(4) A disabled family;

(5) A displaced family;

(6) The remaining member of a tenant family; and

(7) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(1) Is determined to be essential to the care and well-being of the persons;

(2) Is not obligated for the support of the persons; and

(3) Would not be living in the unit except to provide the necessary supportive services.

Near-elderly family means a family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

§ 5.405 Basic eligibility; preference over single persons; and housing assistance limitation for single persons.

(a) *Basic eligibility.* An applicant must meet all of the eligibility requirements of the housing assistance for which an application is made in order to obtain the housing assistance. At a minimum, the applicant must be a family, and must be income-eligible. Eligible applicants include single persons who are not elderly persons, or displaced persons, or persons with disabilities.

(b) *Preference over single persons.* An applicant that is a one- or two-person elderly, disabled or displaced family, must be given a preference over an applicant that is a single person who is not an elderly or displaced person, or a person with disabilities, regardless of the applicant's Federal or local preferences.

(c) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family may not be provided:

(1) For public housing and other project-based assistance, a housing unit with two or more bedrooms; or

(2) For tenant-based assistance, housing assistance for which the family unit size exceeds the one-bedroom level.

(d) This section shall not apply to the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals set forth at 24 CFR part 882, subpart H.

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

3. The authority citation for part 812 continues to read as follows:

Authority: 42 U.S.C. 1436a, 1437a, and 3535(d).

Subpart A—[Removed and Reserved]

4. Subpart A of part 812 is removed and reserved.

5. In § 812.5, paragraphs (a) and (b) are redesignated as paragraphs (b) and (c), respectively, and a new paragraph (a) is added, to read as follows:

§ 812.5 General.

(a) *Definitions.* In addition to the definitions that appear at paragraph 3 of section 3(b) of the United States

Housing Act of 1937 (the 1937 Act) (42 U.S.C. 1437a(b)(3)) and part 5 of this title, the following definitions apply to this subpart:

Child. A member of the family, other than the family head or spouse, who is under 18 years of age.

Citizen. A citizen or national of the United States.

Evidence of citizenship or eligible immigration status. The documents which must be submitted to evidence citizenship or eligible immigration status. (See § 812.6(b).)

HA. A housing authority—both a public housing agency and an Indian housing authority.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

INS. The U.S. Immigration and Naturalization Service.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Noncitizen. A person who is neither a citizen nor national of the United States.

Responsible entity. The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status:

(1) For the Section 8 Rental Certificate, the Section 8 Rental Housing Voucher, and the Section 8 Moderate Rehabilitation programs, the housing authority (HA) administering the program under an ACC with HUD.

(2) For all other Section 8 programs, the owner.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214.

Section 214 covered programs. Programs to which the restrictions imposed by Section 214 apply are programs that make available financial assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437–1440), Section 235 or Section 236 of the National Housing Act (12 U.S.C. 1715z and 1715z–1) and Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

* * * * *

PART 912—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

6. The authority citation for part 912 continues to read as follows:

Authority: 42 U.S.C. 1436a, 1437a, and 3535(d).

Subpart A—[Removed and Reserved]

7. Subpart A of part 912 is removed and reserved.

8. In § 912.5, paragraphs (a) and (b) are redesignated as paragraphs (b) and (c), respectively, and a new paragraph (a) is added, to read as follows:

§ 912.5 General.

(a) *Definitions.* In addition to the definitions that appear at paragraph 3 of section 3(b) of the United States Housing Act of 1937 (the 1937 Act) (42 U.S.C. 1437a(b)(3)) and part 5 of this title, the following definitions apply to this subpart:

Child. A member of the family, other than the family head or a spouse, who is under 18 years of age.

Citizen. A citizen or national of the United States. *Evidence of citizenship or eligible immigration status.* The documents which must be submitted to evidence citizenship or eligible immigration status (see § 912.6(b)).

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Noncitizen. A person who is neither a citizen nor national of the United States.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214.

Section 214 covered programs. Programs to which the restrictions imposed by Section 214 apply are programs that make available financial assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437–1440), Section 235 or Section 236 of the National Housing Act (12 U.S.C. 1715z and 1715z–1) and Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

* * * * *

PART 950—INDIAN HOUSING PROGRAMS

9. The authority citation for part 950 continues to read as follows:

Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437aa–1437ee, and 3535(d).

10. In § 950.102, the definition of *Applicant* is added in alphabetical order, to read as follows:

§ 950.102 Definitions.

* * * * *

Applicant means a person or a family that has applied for admission to a housing program under this part 950.

* * * * *

11. In § 950.301, paragraph (d) is revised, and a new paragraph (g) is added, to read as follows:

§ 950.301 Admission policies.

* * * * *

(d) *Preference over single persons.* An applicant that is a one or two person elderly, disabled or displaced family, must be given a preference over an applicant that is a single person who is not an elderly or displaced person, or a person with disabilities, regardless of the applicant's Federal or local preferences.

* * * * *

(g) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family may not be provided a housing unit with two or more bedrooms.

12. In § 950.303, paragraph (b)(1)(ii) is revised to read as follows:

§ 950.303 Selection preferences.

* * * * *

(b) * * *

(1) * * *

(ii) *Singles preference.* See § 950.301(d).

* * * * *

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM

13. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

14. In § 982.207, paragraph (d) is revised, to read as follows:

§ 982.207 Waiting list: Use of preferences.

* * * * *

(d) *Primary preference.* An HA must give preference to an applicant that is a one or two person elderly, disabled or displaced family over an applicant that is a single person who is not elderly, disabled, or displaced, regardless of the applicant's Federal or local preferences.

* * * * *

Dated: December 15, 1995.

Henry G. Cisneros,

Secretary.

[**Note:** The following appendix will not appear in the Code of Federal Regulations.]

Appendix—Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937

Section

1. Purpose.
2. Definitions
3. Eligibility; preferences; and unit size limitations.

1. Purpose.

The purpose of this guide is to present, in a single document, the statutory and regulatory definitions and other general requirements that apply to public and Indian housing and section 8 assistance under the United States Housing Act of 1937 (the 1937 Act). Although it presents the regulatory and statutory requirements in a combined format, this guide is a secondary source for these requirements. The Code of Federal Regulations (CFR), at 24 CFR, is the primary, governing source for regulatory requirements, and the 1937 Act is the primary, governing source for statutory requirements.

2. Definitions

The following definitions apply with respect to public housing and Section 8 housing assistance under the 1937 Act:

Applicant means a person or a family that has applied for housing assistance.

Disabled family means a family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Displaced family means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Displaced person means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Elderly family means a family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person means a person who is at least 62 years of age.

Family includes but is not limited to:

(a) A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

(b) An elderly family;

(c) A near-elderly family;

(d) A disabled family;

(e) A displaced family;

(f) The remaining member of a tenant family; and

(g) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(a) Is determined to be essential to the care and well-being of the persons;

(b) Is not obligated for the support of the persons; and

(c) Would not be living in the unit except to provide the necessary supportive services.

Near-elderly family means a family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Near-elderly person means a person who is at least 50 years of age but below the age of 62.

Person with disabilities includes the term disabled person and means a person who:

(a) Has a disability as defined in section 223 of the Social Security Act;

(b) Has a physical, mental, or emotional impairment that:

(1) Is expected to be of long-continued and indefinite duration;

(2) Substantially impedes his or her ability to live independently; and

(3) Is of such a nature that such ability could be improved by more suitable housing conditions; or

(c) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

The term "person with disabilities" does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

3. *Basic eligibility; preference over single persons; and housing assistance limitation for single persons.*

(a) *Basic eligibility.* An applicant must meet all of the eligibility requirements of the housing assistance for which an application is made in order to obtain the housing assistance. At a minimum, the applicant must be a family, and must be income-eligible. Eligible applicants include single persons who are not elderly persons, or displaced persons, or persons with disabilities.

(b) *Preference over single persons.* An applicant that is a one or two person elderly, disabled or displaced family, must be given a preference over an applicant that is a single person who is not an elderly or displaced person, or a person with disabilities, regardless of the applicant's Federal or local preferences.

(c) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family may not be provided:

(1) For public housing and other project-based assistance, a housing unit with two or more bedrooms, or

(2) For tenant-based assistance, housing assistance for which the family-unit size exceeds the one bedroom level.

(d) This section shall not apply to the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals set forth at 24 CFR part 882, subpart H.

[FR Doc. 96–3101 Filed 2–12–96; 8:45 am]

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H.R. 2029/P.L. 104–105
Farm Credit System Reform Act of 1996 (Feb. 10, 1996; 110 Stat. 162)

S. 1124/P.L. 104–106
National Defense Authorization Act for Fiscal Year 1996 (Feb. 10, 1996; 110 Stat. 186)

Last List February 12, 1996

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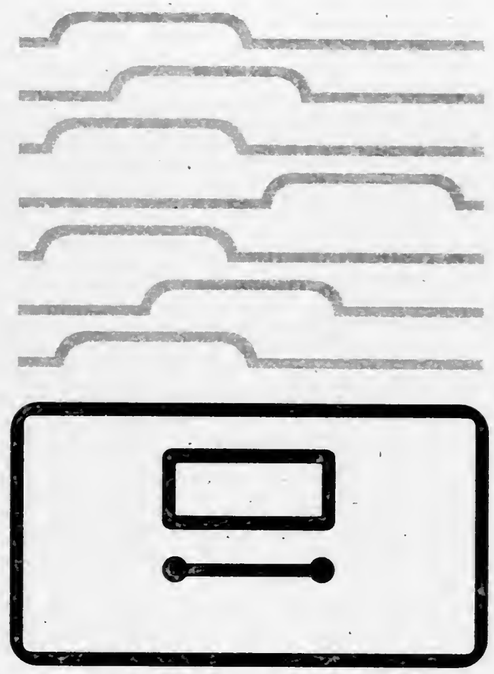
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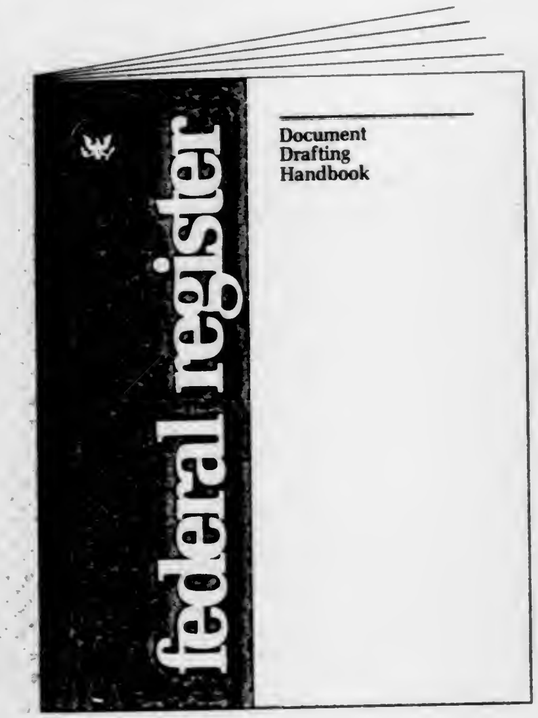
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The President

Memorandum of February 5, 1996

Delegation of Authority Regarding Provision on Haiti under the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1996, as Enacted by the Balanced Budget Downpayment Act, I (P.L. 104–99)

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in me under section 586 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1996 as enacted by the Balanced Budget Downpayment Act, I, title III, section 301 (Public Law 104–99).

Any reference in this memorandum to any Act shall be deemed to be a reference to such Act as amended from time to time.

The functions delegated by this memorandum may be redelegated within the Department of State, as appropriate.

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, February 5, 1996.

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Vol. 61, No. 31
Wednesday, February 14, 1996

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 346

RIN 3064–AB62

Foreign Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Final rule.

SUMMARY: Section 107 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal Act) amended section 6 of the International Banking Act of 1978 (IBA) to provide that the FDIC shall amend its regulation concerning domestic retail deposit activities by state-licensed branches of foreign banks. The final rule amends the FDIC's regulations to restrict the amount and types of initial deposits of less than $100,000 which can be accepted by an uninsured state-licensed branch of a foreign bank. The final rule is intended to afford equal competitive opportunities to foreign and domestic banks.

EFFECTIVE DATE: The final rule is effective on April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Charles V. Collier, Assistant Director, Division of Supervision, (202) 898–6850; Jeffrey M. Kopchik, Counsel, Legal Division, (202) 898–3872, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

Background

Section 107 of the Riegle-Neal Act (Pub. L. 103–328, 108 Stat. 2358) amended section 6 of the IBA (12 U.S.C. 3104) to provide that the FDIC shall amend its regulation concerning domestic retail deposit activity by state-licensed branches of foreign banks (state-licensed branches).[1] Section 6 of the IBA, 12 U.S.C. 3104, concerns the insurance of deposits maintained at domestic branches and subsidiaries of foreign banks. Generally, section 6 provides that United States branches of foreign banks may not accept domestic retail deposits unless the branch is insured by the FDIC. Section 6 goes on to state that, after December 19, 1991, foreign banks may not establish any *de novo* insured branches in the United States. Section 107 of the Riegle-Neal Act added a new subsection (a) to section 6 of the IBA. This new subsection provides that:

> In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.

12 U.S.C. 3104(a).

In revising section 6 of the IBA, Congress made it clear that foreign banks operating in the United States should not have an unfair competitive advantage over domestically chartered banks. Thus, Congress directed the FDIC and the OCC to revise their respective regulations implementing IBA section 6 to ensure that foreign banks do not receive an unfair competitive advantage over United States banks by affording equal competitive opportunities to both.

The Current Regulatory Scheme

Section 346.4 of the FDIC's regulations (12 CFR 346.4) requires that any state-licensed branch which is engaged in "domestic retail deposit activity" shall be an insured branch. Section 346.6 provides that a state-licensed branch will not be deemed to be engaged in domestic retail deposit activity which requires the branch to be insured if initial deposits of less than $100,000 are derived solely from certain enumerated sources. The acceptance of initial deposits of $100,000 or more is not considered to be retail deposit activity and, thus, deposit insurance is not required for a state-licensed branch which accepts only these types of initial deposits.

Section 346.6 delineates five categories of depositors from which a state-licensed branch may accept initial deposits of less than $100,000 without triggering the insurance requirement. The five categories of depositors are:

(1) Any business entity, including any corporation, partnership, sole proprietorship, association or trust, which engages in commercial activity for profit;

(2) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of the foregoing;

(3) Any international organization which is comprised of two or more nations;

(4) Funds received in connection with any draft, check, or similar instrument issued by the branch for the transmission of funds; and

(5) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit.

This section of the regulation also includes a general exception (commonly referred to as the "*de minimis* exception") which provides that an uninsured state-licensed branch may accept initial deposits of less than $100,000 from any depositor if the amount of such deposits does not exceed on an average daily basis five percent of the average of the branch's deposits for the last 30 days of the most recent calendar quarter.

The Riegle-Neal Act

In directing the FDIC to amend its regulation to ensure that foreign banking organizations do not have an unfair competitive advantage over United States banking organizations, Congress directed the FDIC to "consider whether to permit" an uninsured state-licensed branch of a foreign bank to accept initial deposits of less than $100,000 from a smaller class of depositors than is currently delineated in § 346.6. This suggested smaller class is limited to:

(1) Individuals who are not citizens or residents of the United States at the time of the initial deposit;

(2) Individuals who:

(i) Are not citizens of the United States;

(ii) Are residents of the United States; and

[1] The Riegle-Neal Act requires the FDIC to consult with the Office of the Comptroller of the Currency (OCC) in the process of making these amendments in order to assure uniformity. The FDIC has worked in close consultation with the OCC in order to achieve substantive uniformity.

(iii) Are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(3) Persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

(4) Foreign businesses and large United States businesses;

(5) Foreign governmental units and recognized international organizations; and

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds.

Moreover, section 107(b)(3) of the Riegle-Neal Act provides that any *de minimis* exception shall not exceed one percent of the average deposits at the branch, as opposed to the current five percent. The FDIC may establish a reasonable transition rule to facilitate any termination of deposit taking activities. *See* section 107(b)(5)(B) of the Riegle-Neal Act.

As pointed out in the preamble to the proposed regulation, if Congress had intended the FDIC to adopt these suggested criteria verbatim, it could have so required. *See* 60 FR 36075. However, the statute explicitly provides that the FDIC "shall consider whether to permit" an uninsured state-licensed branch to accept initial deposits of less than $100,000 from the enumerated sources. By requiring only that the FDIC consider the statutory criteria, Congress explicitly recognized that the ultimate decision should be made by the FDIC, consistent with the statutory objective set forth in IBA section 6(a), in the exercise of its regulatory discretion and expertise.

The Proposal

On July 13, 1995, the FDIC published for public comment a notice of proposed rulemaking seeking to implement section 107 of the Riegle-Neal Act. 60 FR 36074 (July 13, 1995).[2] The proposal provided that uninsured state-licensed branches of foreign banks would be permitted to accept initial deposits of less than $100,000 from the six categories of depositors specified in sections 107(b)(2) (A) through (F) of the Riegle-Neal Act. In addition, the proposal expanded and added certain exceptions, consistent with Congressional intent. The comment period closed on September 11, 1995. In response to the notice, the FDIC received a total of four comment letters, three from industry trade associations and one from an association representing state bank regulators. One commenter fully supported the FDIC's proposal with no suggested revisions. The remaining three commenters supported the proposal, but suggested certain revisions. Of the three commenters who suggested revisions, two urged the FDIC to expand the § 346.6 exceptions to permit uninsured state-licensed branches to accept more types of initial deposits of less than $100,000. Conversely, one commenter urged the FDIC to restrict one of the proposed exceptions in order to lessen the number of initial deposits of less than $100,000 that may be accepted by an uninsured branch. The commenters' specific suggestions and the FDIC's responses thereto are discussed in detail below.

[2] The OCC's notice of proposed rulemaking was published at 60 FR 34907 (July 5, 1995).

Deposit Taking Activities of Uninsured Foreign Branches

The objective set forth by Congress in section 6(a) of the IBA is to afford equal competitive opportunities to foreign and United States banking organizations by ensuring that foreign banks do not receive an unfair competitive advantage. The preamble to the proposed regulation set forth in great detail the information and data which the FDIC reviewed in considering this question. 60 FR 36075. The FDIC concluded that "uninsured state-licensed branches of foreign banks do not have an overall unfair competitive advantage over domestic banking organizations." *Id.* All of the comment letters agreed with this conclusion.

The Comments and Final Rule

Two commenters suggested that the proposed § 346.6(a)(3) exception, the so-called "nondeposit banking services exception", be expanded to include affiliates of the person to whom the branch or foreign bank has extended credit or provided some other nondeposit banking service as well as persons who have received such services from an affiliate of the branch or foreign bank. The commenters urged this change by pointing out that, in today's complex business world, depositors often operate through affiliates. Similarly, foreign banks which operate uninsured branches in the United States often offer certain financial services through affiliates of the bank. The commenters urged the FDIC to recognize this characteristic of the contemporary business environment in the final regulation. Significantly, one commenter pointed out that since the definition of "foreign bank" in the IBA, 12 U.S.C. 3101(7), explicitly includes any affiliate of the foreign bank, § 346.6(a)(3) of the final regulation should include these affiliates as well.

The FDIC has carefully considered this comment and agrees that the § 346.6(a)(3) exception should be expanded to include persons who have received a loan or other nondeposit banking service from an affiliate of the branch or foreign bank. This revision recognizes that the IBA definition of "foreign bank" includes affiliates. However, this exception does not include a person who has dealt with any affiliate of a foreign bank in any capacity. In crafting this regulation, the FDIC is required to interpret and harmonize section 107 of the Riegle-Neal Act, the IBA and the Federal Deposit Insurance Act (FDI Act). Despite the fact that the IBA definition of "foreign bank" includes any subsidiary or affiliate, the § 346.1(a) definition of "foreign bank" includes only the bank itself. This difference recognizes that § 346 of the FDIC's rules regulates the deposit taking activities of foreign banks operating branches in the United States. It is not intended to regulate or somehow sanction the activities of affiliates or subsidiaries of the foreign bank which may desire to operate in this country. Section 107(b)(2)(C) of the Riegle-Neal Act is limited to "persons to whom the branch or foreign bank *has extended credit or provided other nondeposit banking services.*" [Emphasis added]. It does not cover persons who have dealt with any affiliate of the foreign bank in any capacity. The FDIC interprets this qualifying phrase to indicate Congress' intent that, despite the broad definition of "foreign bank" contained in the IBA, the only affiliates of a foreign bank which should be included in the § 346.6(a)(3) exception are those which are capable of extending credit or providing some other nondeposit banking service to a prospective depositor. For example, if a depositor desiring to make an initial deposit of less than $100,000 in an uninsured branch has leased a safe deposit box from an affiliate of the foreign bank within the past twelve months, that deposit would qualify under the § 346.6(a)(3) exception since the prospective depositor would be the recipient of a nondeposit banking service. Any state-licensed branch that is unsure whether a deposit of less than $100,000 could be accepted pursuant to the § 346.6(a)(3) exception should contact the FDIC for guidance.

With regard to affiliates of the depositor, the arguments are not as compelling. First, and most persuasively, the IBA does not define the term "depositor", "customer" or "person". Thus, there is no indication that Congress intended to include affiliates of persons to whom the branch or foreign bank has extended credit or provided some other nondeposit banking service. Second, while depositors may operate through affiliates in a fashion similar to the foreign branch or bank, the inclusion of affiliates in this context may very well conflict with the section 107(b)(2)(D) exception which limits retail deposit taking to "large United States businesses". That is, the inclusion of affiliates of a depositor who has received some nondeposit banking service could very well include small subsidiaries of the depositor. Thus, the FDIC has decided not to expand this exception to include affiliates of the depositor.

It was also suggested that the proposed § 346.6(a)(3) nondeposit banking service exception be expanded to apply to situations where the affiliate has provided depository services to the customer or its affiliate. The FDIC is of the opinion that this further expansion of the exception is unwarranted. The key to section 107(b)(2)(C) of the Riegle-Neal Act is its limitation to "nondeposit" banking services. It would be inappropriate for the FDIC to disregard this limitation even while recognizing that, except for the mandatory change to the *de minimis* rule, Congress provided the Corporation with only suggested parameters for the types of deposits of less than $100,000 that uninsured state-licensed branches should be permitted to accept.

One commenter recommended that the FDIC modify the proposal to permit uninsured state-licensed branches to accept initial deposits of less than $100,000 from all businesses, including foundations and other entities which are not engaged in commercial activity for profit. Section 346.6(a)(1) of the current regulation exempts initial deposits of less than $100,000 from "any business entity * * * engaged in commercial activity for profit". It is the FDIC's understanding that, after the *de minimis* exception, this exception is the one most often utilized by state-licensed branches. The commenter argued that adopting this suggestion would make the regulation less burdensome and easier to administer, as well as promote international trade finance.

The FDIC remains unconvinced that the final regulation should permit uninsured branches to accept deposits of less than $100,000 from any business entity, including those not engaged in a commercial activity for profit, such as foundations. Section 107 of the Riegle-Neal Act expresses Congress' expectation that the overall scope of § 346.6 would be reduced. While the ultimate decision concerning what exceptions should be included in the final regulation is to be made by the FDIC in the exercise of its regulatory discretion and expertise, the FDIC cannot ignore Congressional intent.

In the alternative, the commenter who suggested an exception for all business deposits also suggested that the proposed § 346.6(a)(4) exception for large United States' businesses should be expanded by revising the definition of "large United States business" that appears in § 346.1(t) of the proposal. The commenter proposed that alternate criteria be added to the definition so that any business with total assets of more than $1 million or 50 or more employees would also be considered a "large United States business". However, the commenter did not include any support for its use of the $1 million of assets or 50 or more employees criteria. Another commenter expressed the opposite concern, that the FDIC's suggested $1 million in gross revenue figure should be increased to $25 million or possibly $100 million, in order to narrow the exception. In view of these contradictory suggestions and the absence of data supporting them, the FDIC has decided not to make any changes to the definition of "large United States business" as set forth in the proposed regulation.

One comment letter requested clarification of the application of the proposed transition rule which is set forth in § 346.6(c) of the proposed regulation. That commenter pointed out that, with regard to time deposits, the proposal could require state-licensed branches to reclassify or divest some time deposits very shortly after the effective date of the final regulation if the deposit matures during this period. This commenter suggested that the proposal be modified to give state-licensed branches a reasonable period of time to reclassify or divest time deposits that mature very shortly after the final regulation's effective date. The FDIC agrees with this suggestion and has amended § 346.6(c)(2) of the proposal to provide that state-licensed branches will have at least 90 days after the effective date of the final regulation to reclassify or divest such time deposits.

This comment letter also recommended that branches should be required to reclassify or divest only those deposits which were accepted under the five percent *de minimis* exception, as opposed to deposits accepted pursuant to any of the § 346.6(a) exceptions. The FDIC considered this option at great length, but in order to achieve the uniformity required by the statute, the agency is adhering to the transition rule as described in the proposal which requires the reclassification or divestiture of all deposit accounts which were originally accepted pursuant to any of the § 346.6(a) exceptions.

This same comment letter expressed some confusion concerning other aspects of how the FDIC will apply the transition rule. In an effort to avoid confusion, the FDIC would like to clarify that a deposit (including a time deposit) may be reclassified at any time during the transition period. If a time deposit matures prior to the end of the five year transition period, it must be reclassified or divested at that time. However, no time deposit need be reclassified or divested sooner than 90 days after the effective date of the final regulation.

In the preamble to the proposed regulation, 60 FR 36077, the FDIC noted that it was considering adding a new exception that would permit an uninsured state-licensed branch to accept initial deposits of less than $100,000 from immediate family members of individuals who qualify for any of the exceptions listed in proposed §§ 346.6(a) (1) through (6). The one commenter who mentioned this issue supported the idea of including such an additional exception in the final rule and stated that such an exception would not create any unfair competitive advantage for foreign banks. The FDIC has considered this issue at length and has concluded that such an exception would be overly broad and inconsistent with Congressional intent. However, the FDIC has decided to revise § 346.6(a)(3) of the proposal to include immediate family members of natural persons to whom the branch or foreign bank (including any affiliate thereof) has extended credit or provided other nondeposit banking services within the past twelve months or has entered into a written agreement to provide such services within the next twelve months.

With regard to § 346.6(b), "Application for an exemption", it was suggested that the FDIC should permit the request to be submitted by the bank's senior management rather than requiring authorization by the foreign bank's board of directors. The FDIC agrees that this change would make the regulation less burdensome. Moreover, in a somewhat different context, § 346.101(d) of the FDIC's regulations permits an application evidencing approval by senior management if a board resolution is not required by the foreign bank's organizational

documents. Thus, the FDIC has decided to amend § 346.6(b) in the same fashion.

One commenter requested confirmation of its interpretation of the preamble to the proposed rule that existing deposits which were not originally subject to the § 346.6 exceptions, because the initial deposit establishing the account was $100,000 or more, would not be subject to the revised regulation even if the first deposit in the account after the effective date of final regulation is less than $100,000. This interpretation is correct. The only deposits which must be reclassified or divested after this final rule becomes effective are those which were established with less than $100,000 pursuant to one of the exceptions set forth in current §§ 346.6(a) (1) through (6).

Calculation of the De Minimis

One commenter expressed some confusion concerning how the *de minimis* amount should be calculated and whether this amendment changes the calculation method currently being used under the existing regulation. This final amendment to § 346 is not intended to change how the *de minimis* amount is calculated. The *de minimis* amount is computed as a fraction, the numerator of which consists of the total amount of deposits which have been accepted pursuant to the *de minimis* exception. The FDIC wishes to make it clear that the numerator is comprised of the total amount of deposits accepted under the *de minimis* exception, not just the amount of the initial deposits of less than $100,000 which were accepted to open the accounts. The denominator of the fraction consists of the average amount of third party deposits maintained by the branch during the last thirty calendar days of the most recent calendar quarter. See 44 FR 40057, 40061 (July 9, 1979); FDIC Legal Division Staff Advisory Opinion (unpublished) dated December 16, 1985 from Katharine H. Haygood, Esq.

Effective Date

Section 302(b) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, September 29, 1994) provides that new regulations and amendments to regulations prescribed by the federal banking agencies shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulation is published in final form, unless the agency determines for good cause that the regulation should become effective at an earlier date or the regulation is required to become effective at some other date determined by law. The Administrative Procedure Act (5 U.S.C. 551 *et seq.*) provides that regulations shall become effective thirty days after their publication in the **Federal Register**. 5 U.S.C. 553. Thus, this amendment to Part 346 of its regulations shall become effective on April 1, 1996.

List of Subjects in 12 CFR Part 346

Bank deposit insurance, Foreign banking, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the FDIC Board of Directors hereby amends 12 CFR part 346 to read as follows:

PART 346—FOREIGN BANKS

1. The authority citation for part 346 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 3103, 3104, 3105, 3108.

2. Section 346.1 is amended by adding a sentence to the end of paragraph (a), revising paragraph (o), and adding paragraphs (s) through (v) to read as follows:

§ 346.1 Definitions.

(a) * * * For purposes of § 346.6, the term foreign bank does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Corporation pursuant to the Federal Deposit Insurance Act.

* * * * *

(o) *Affiliate* means any entity that controls, is controlled by, or is under common control with another entity. An entity shall be deemed to "control" another entity if the entity directly or indirectly owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity or controls in any manner the election of a majority of the directors or trustees of the other entity.

* * * * *

(s) *Foreign business* means any entity, including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust, which is organized under the laws of a country other than the United States or any United States entity which is owned or controlled by an entity which is organized under the laws of a country other than the United States or a foreign national.

(t) *Large United States business* means any entity including but not limited to a corporation, partnership, sole proprietorship, association, foundation or trust which is organized under the laws of the United States or any state thereof, and:

(1) Whose securities are registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System; or

(2) Has annual gross revenues in excess of $1,000,000 for the fiscal year immediately preceding the initial deposit.

(u) *Person* means an individual, bank, corporation, partnership, trust, association, foundation, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

(v) *Immediate family member of a natural person* means the spouse, father, mother, brother, sister, son or daughter of that natural person.

3. Section 346.6 is revised to read as follows:

§ 346.6 Exemptions from the insurance requirement.

(a) *Deposit activities not requiring insurance.* A state branch will not be deemed to be engaged in a domestic retail deposit activity which requires the branch to be an insured branch under § 346.4 if initial deposits in an amount of less than $100,000 are derived solely from the following:

(1) Individuals who are not citizens or residents of the United States at the time of the initial deposit;

(2) Individuals who:

(i) Are not citizens of the United States;

(ii) Are residents of the United States; and

(iii) Are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(3) Persons (including immediate family members of natural persons) to whom the branch or foreign bank (including any affiliate thereof) has extended credit or provided other nondeposit banking services within the past twelve months or has entered into a written agreement to provide such services within the next twelve months;

(4) Foreign businesses, large United States businesses, and persons from whom an Edge Corporation may accept deposits under § 211.4(e)(1) of Regulation K of the Board of Governors of the Federal Reserve System, 12 CFR 211.4(e)(1);

(5) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of any of the foregoing, and recognized international organizations;

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds or the transmission of such funds by any electronic means; and

(7) Any other depositor but only if the amount of deposits under this paragraph (a)(7) does not exceed on an average daily basis one percent of the average of the branch's deposits for the last 30 days of the most recent calendar quarter, excluding deposits in the branch of other offices, branches, agencies or wholly owned subsidiaries of the bank and the branch does not solicit deposits from the general public by advertising, display of signs, or similar activity designed to attract the attention of the general public. A foreign bank which has more than one state branch in the same state may aggregate deposits in such branches (excluding deposits of other branches, agencies or wholly owned subsidiaries of the bank) for the purpose of this paragraph (a)(7). The average shall be computed by using the sum of the close of business figures for the last 30 calendar days ending with and including the last day of the calendar quarter divided by 30. For days on which the branch is closed, balances from the last previous business day are to be used.

(b) *Application for an exemption.* (1) Whenever a foreign bank proposes to accept at a state branch initial deposits of less than $100,000 and such deposits are not otherwise excepted under paragraph (a) of this section, the foreign bank may apply to the FDIC for consent to operate the branch as a noninsured branch. The Board of Directors may exempt the branch from the insurance requirement if the branch is not engaged in domestic retail deposit activities requiring insurance protection. The Board of Directors will consider the size and nature of depositors and deposit accounts, the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State economy, whether the exemption would give the foreign bank an unfair competitive advantage over United States banking organizations, and any other relevant factors in making this determination.

(2) Any request for an exemption under this paragraph should be in writing and authorized by the board of directors of the foreign bank. If a resolution is not required pursuant to the applicant's organizational documents, the request shall include evidence of approval by the bank's senior management. The request should be filed with the Regional Director of the Division of Supervision for the region where the state branch is located.

(3) The request should detail the kinds of deposit activities in which the branch proposes to engage, the expected source of deposits, the manner in which deposits will be solicited, how this activity will maintain or improve the availability of credit to all sectors of the United States economy, including the international trade finance sector, that the activity will not give the foreign bank an unfair competitive advantage over United States banking organizations and any other relevant information.

(c) *Transition period.* An uninsured state branch may maintain a retail deposit lawfully accepted pursuant to this section prior to April 1, 1996:

(1) If the deposit qualifies pursuant to paragraph (a) or (b) of this section; or

(2) If the deposit does not qualify pursuant to paragraph (a) or (b) of this section, no later than:

(i) In the case of a non-time deposit, five years from April 1, 1996; or

(ii) In the case of a time deposit, the first maturity date of the time deposit after April 1, 1996 or the date that is 90 days after April 1, 1996, whichever is later.

By order of the Board of Directors, dated at Washington, D.C., this 6th day of February, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3274 Filed 2–13–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–CE–21–AD; Amendment 39–9516; AD 94–07–10 R1]

Airworthiness Directives; Fairchild Aircraft SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises AD 94–07–10, which currently requires the following on Fairchild Aircraft SA226 and SA227 series airplanes: Repetitively inspecting (visually) the wing skin for cracks; dye penetrant inspecting the rib straps if the wing skin is found cracked; and, if any crack is found in the rib straps, repairing the rib straps and modifying the wing skin. That AD references an incorrect dye penetrant inspection when the wing skin is found cracked. This action maintains the requirements of AD 94–07–10, but incorporates reference to the correct dye penetrant inspection for when the wing skin is found cracked. The actions specified by this AD are intended to prevent failure of the wing skin at the top aft outboard corner of the battery box, which could result in structural damage to the wing.

DATES: Effective March 25, 1996.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of May 27, 1994.

ADDRESSES: Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (210) 824–9421. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Hung Viet Nguyen, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5155; facsimile (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Fairchild Aircraft SA226 and SA227 series airplanes was published in the **Federal Register** on June 23, 1995 (60 FR 32628). The action proposed to revise AD 94–07–10 to retain the requirement of repetitively inspecting the wing skin for cracks, and would maintain the dye penetrant inspection requirement but require it in accordance with the correct portion of the ACCOMPLISHMENT INSTRUCTIONS section of the applicable service bulletin. This action also proposed to maintain the option of modifying the wing skin as terminating action for the repetitive inspections. Accomplishment of the proposed actions would be in accordance with one of the following, as applicable:

—Fairchild Service Bulletin (SB) 226–57–018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 4 through 11 and 13 through 15), Revised: July 1, 1993 (page 12) and Revised: October 25, 1993 (pages 1 through 3);

—Fairchild SB 227–57–005, Issued: December 21, 1992, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); or

—Fairchild Aircraft SB CC7–57–002, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12).

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposal and no comments were received regarding the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 776 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish the required visual inspection of the upper wing skin on both wings, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $46,560. This figure does not include the cost of any dye penetrant inspections of the rib strap that will be required if the wing skin is found cracked, and it does not include the cost of the repetitive inspections or the optional modification. Incorporating the optional modification terminates the need for the repetitive inspection requirement. The figure above is based upon the assumption that no affected airplane owner/operator has accomplished this inspection-terminating modification.

In addition, the actions required by this AD impose the same cost impact upon U.S. operators as is already required by AD 94–07–10.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13, is amended by removing Airworthiness Directive (AD) 94–07–10, Amendment 39–8868 (59 FR 15329; April 1, 1994), and by adding a new AD to read as follows:

94–07–10 R1 Fairchild Aircraft: Amendment 39–9516; Docket No. 93–CE–21–AD. Revises AD 94–07–10, Amendment 39–8868.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
SA226–T	T201 through T275, and T277 through T291.
SA226–T(B)	T(B)276, and T(B)292 through T(B)417.
SA226–AT	AT001 through AT074.
SA226–TC	TC201 through TC419.
SA227–TT	TT421 through TT541.
SA227–AT	AT423 through AT631, and AT695.
SA227–AC	AC406, AC415, AC416, and AC420 through AC789.
SA227–BC	BC420 through BC789.
SA227–CC	CC784, and CC790 through CC822.
SA227–DC	DC784, and DC790 through DC822.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it. Compliance: Required initially upon the accumulation of 2,500 hours time-in-service (TIS) or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished (compliance with AD 94–07–10), and thereafter as indicated in the body of the AD.

To prevent failure of the wing skin at the top aft outboard corner of the battery box, which could result in structural damage to the wing, accomplish the following:

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Visually inspect the right and left upper wing skin by the top aft outboard corner of the battery box for cracks in accordance with Figure 1 and the ACCOMPLISHMENT INSTRUCTIONS, A. Inspection, section of whichever of the following is applicable:

(1) Fairchild Service Bulletin (SB) 226–57–018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 4 through 11 and 13 through 15), Revised: July 1, 1993 (page 12) and Revised: October 25, 1993 (pages 1 through 3);

(2) Fairchild SB 227–57–005, Issued: December 21, 1992, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); or

(3) Fairchild Aircraft SB CC7–57–002, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12).

(b) If cracks are not found during the visual inspection required by paragraph (a) of this AD, within 500 hours TIS after this initial visual inspection, accomplish one of the following:

(1) Reinspect the right and left upper wing skin by the top aft outboard corner of the battery box for cracks in accordance with Figure 1 and the ACCOMPLISHMENT INSTRUCTIONS, A. Inspection, section of the applicable service information presented in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, and reinspect thereafter at intervals not to exceed 500 hours TIS; or

(2) Modify the upper wing skin in accordance with the ACCOMPLISHMENT INSTRUCTIONS, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Accomplishing this modification terminates the repetitive visual inspections that are specified in paragraph (b)(1) of this AD, and the modification may be accomplished at any time to eliminate this repetitive inspection requirement.

(c) If cracks are found during the inspection required by paragraph (a) of this AD, prior to further flight, dye penetrant inspect the 27–31130 straps in the wheel wells as specified in the ACCOMPLISHMENT INSTRUCTIONS, A. Inspection section, paragraph (1)(b), of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) If cracks are found in either of the 27–31130 straps during the inspection required by paragraph (c) of this AD, prior to further flight, accomplish the following:

(i) Repair the 27–31130 strap in accordance with a scheme obtained from the manufacturer through the Fort Worth Airplane Certification Office (ACO) at the address specified in paragraph (e) of this AD; and

(ii) Modify the upper wing skin in accordance with the ACCOMPLISHMENT INSTRUCTIONS, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(2) If no cracks are found in either of the 27–31130 straps, within 150 hours TIS after the initial dye penetrant inspection required by paragraph (c) of this AD, accomplish one of the following:

(i) Reinspect (dye penetrant) the 27–31130 straps in the wheel well for cracks as specified in the ACCOMPLISHMENT INSTRUCTIONS, A. Inspection section, paragraph (1)(b), of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Continue to reinspect at intervals not to exceed 150 hours TIS provided no cracks are found, and repair and modify as specified in paragraphs (c)(1) and (c)(2) of this AD if any cracks are found.

(ii) Modify the upper wing skin in accordance with the ACCOMPLISHMENT INSTRUCTIONS, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Accomplishing this modification terminates the repetitive dye penetrant inspections that are specified in paragraph (c)(2)(i) of this AD, and the modification may be accomplished at any time to eliminate this repetitive inspection requirement.

Note 3: Certain Limited Approved Repair (LAR) and Approved Repair Procedure (ARP) documents issued by Fairchild Aircraft specify procedures for accomplishing the same modification referenced in paragraphs (b)(2), (c)(1)(ii), and (c)(2)(ii) of this AD. Check with the Fort Worth ACO at the address presented in paragraph (e) of this AD to find out which LAR's and ARP's are considered "unless already accomplished" as they relate to this AD.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Fort Worth ACO, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76137–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(f) Alternative methods of compliance approved in accordance with AD 94–07–10 (revised by this action) are considered approved as alternative methods of compliance with this AD.

(g) The inspections, possible repair, and optional modification required by this AD shall be done in accordance with Fairchild Service Bulletin 226–57–018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 4 through 11 and 13 through 15), Revised: July 1, 1993 (page 12) and Revised: October 25, 1993 (pages 1 through 3); Fairchild Service Bulletin 227–57–005, Issued: December 21, 1992, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); or Fairchild Aircraft Service Bulletin CC7–57–002, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12), as applicable. This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street NW., 7th Floor, suite 700, Washington, DC.

(h) This amendment (39–9516) revises AD 94–07–10, Amendment 39–8868.

(i) This amendment (39–9516) becomes effective on March 25, 1996.

Issued in Kansas City, Missouri, on February 7, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3286 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771, 776, and 799

[Docket No. 960205023–6023–01]

RIN 0694–AA38

Expansion of General License GFW; Editorial Corrections to the Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This final rule revises the Export Administration Regulations (EAR) by expanding General License GFW eligibility to include certain semiconductor manufacturing equipment controlled under ECCN 3B01A, except a.2., a.3., e. and f. The expansion of General License GFW to include these items is expected to result in a decrease in the number of license applications submitted, thereby reducing the paperwork burden on exporters.

This final rule also makes three editorial corrections to the EAR to correct inconsistencies which appeared in an interim rule titled "Revisions to the Export Administration Regulations: Reform of Computer Export Controls; Establishment of General License G-CTP", which was published in the **Federal Register** on January 25, 1996.

EFFECTIVE DATE: This rule is effective February 14, 1996.

FOR FURTHER INFORMATION CONTACT: For questions of a general nature, call Nancy Crowe, Bureau of Export Administration, Regulatory Policy Division, Telephone: (202) 482–2440.

For questions of a technical nature call Jerry Beiter, Bureau of Export Administration, Telephone: (202) 482–6105.

SUPPLEMENTARY INFORMATION:

Background

This rule expands GFW eligibility to include semiconductor manufacturing equipment controlled under ECCN 3B01A, except a.2. (metal organic chemical vapour deposition reactors), a.3. (molecular beam epitaxial growth equipment using gas sources), e. (automatic loading multi-chamber central wafer handling systems *only* if connected to equipment controlled by a.2., a.3., and f.), and f. (lithography equipment).

General License GFW is eligible for exports of certain commodities subject to national security controls. Shipments of eligible commodities may be made to

any destination in Country Groups T or V, except the People's Republic of China (PRC), Iran and Syria, subject to the provisions of § 771.23 of the EAR and the prohibitions on General License shipments contained in § 771.2(c) of the EAR.

This final rule also makes three editorial corrections to the EAR to correct inconsistencies that appeared in an interim rule titled "Revisions to the Export Administration Regulations: Reform of Computer Export Controls; Establishment of General License G-CTP", which was published in the **Federal Register** on January 25, 1996 (61 FR 2099). This final rule revises § 771.28(a) by revising the phrase "equipment performing analog-to-digital or digital-to-analog conversions" to read "equipment performing analog-to-digital conversions". This change will conform § 771.28(a) with the controls under ECCN 4A03.e on the CCL. This rule revises §§ 771.28(d)(1) and 776.19(f)(1) by removing "Laos" from the list of countries in Tier 3. Laos appeared in both Tier 2 and Tier 3 in the January 25 rule. With the changes in this rule, Laos will correctly be retained in Tier 2.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, and notice of August 15, 1995 (60 FR 42676).

Rulemaking Requirements

1. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0007, 0694–0010, 0694–0013, and 0694–0073.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

List of Subjects in 15 CFR Parts 771, 776, and 799

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 771, 776, and 799 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

1. The authority citations for 15 CFR Parts 771 and 799 continue to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O 12918 of May 26, 1994 (59 FR 28205, May 31, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); notice of August 15, 1995 (60 FR 42767); and E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994).

2. The authority citation for 15 CFR Part 776 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12867 of September 30, 1993 (58 FR 51747 of October 4, 1993); E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994); notice of August 15, 1995 (60 FR 42767); and E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994).

PART 771—[AMENDED]

§ 771.28 [Amended]

3. In § 771.28(a), the second sentence is amended by revising the phrase "equipment performing analog-to-digital or digital-to-analog conversions" to read "equipment performing analog-to-digital conversions".

4. Section 771.28(d)(1) is amended by removing "Laos," from the list of countries.

PART 776—[AMENDED]

§ 776.10 [Amended]

5. Section 776.10(f)(1) is amended by removing "Laos," from the list of countries.

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

6. In Supplement No. 1 to § 799.1, Category 3 (Electronics Design, Development and Production), ECCN 3B01A is amended by revising the heading and the Requirements section to read as follows:

3B01A Equipment for the manufacture or testing of semiconductor devices or materials, as follows, and specially designed components and accessories therefor.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $500
GCT: Yes
GFW: Yes, *except* a.2, a.3, e. (only if connected to equipment controlled by a.2., a.3., and f.), and f.

* * * * *

Dated: February 8, 1996.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 96–3201 Filed 2–13–96; 8:45 am]

BILLING CODE 3510–DT–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission's Appliance Labeling Rule requires that Table 1, in § 305.9, which sets forth the representative average unit energy costs for five residential energy sources, be revised periodically on the basis of updated information provided by the Department of Energy ("DOE").

This document revises the table to incorporate the latest figures for average unit energy costs as published by DOE in the **Federal Register** on January 19, 1996.[1]

DATES: The revisions to § 305.9(a) and Table 1 are effective March 15, 1996. The mandatory dates for using these revised DOE cost figures in connection with the Appliance Labeling Rule are detailed in the Supplementary Information Section, below.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035 Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final rule in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201.[2] The rule requires the disclosure of energy efficiency, consumption, or cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that the energy costs, consumption, or efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in § 305.9(a) of the rule sets forth the representative average unit energy costs to be used for all cost-related requirements of the rule. As stated in § 305.9(b), the Table is to be revised periodically on the basis of updated information provided by DOE.

On January 19, 1996, DOE published the most recent figures for representative average unit energy costs. Accordingly, Table 1 is revised to reflect these latest cost figures as set forth below.

The dates when use of the figures in revised Table 1 becomes mandatory in calculating cost disclosures for use in labeling and catalog sales of products covered by the Commission's rule and/or EPCA are as follows:

For 1996 Submissions of Data Under Section 305.8 of the Commission's Rule: Manufacturers no longer need to use the DOE cost figures in complying with the data submission requirements of section 305.8 of the rule. Pursuant to amendments to the rule published on July 1, 1994[3] (with extended compliance dates published on December 8, 1994),[4] the estimated annual operating cost is no longer the primary energy usage descriptor for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters. Under the amendments, the energy usage and the ranges of comparability for those product categories must be expressed in terms of estimated annual energy consumption (kilowatt-hour use per year for electricity, therms per year for natural gas, or gallons per year for propane and oil). Thus, the 1996 (and all subsequent) data submissions under section 305.8 for these product categories (which are to enable the Commission to publish ranges of comparability) must be made in terms of estimated annual energy consumption, for the determination of which the DOE cost figures are unnecessary. The 1996 (and all subsequent) submissions also must be made in terms of the new product sub-categories created by the above-mentioned amendments. The energy efficiency energy usage descriptors for the other products covered by the rule (room air conditioners, furnaces, boilers, central air conditioners, heat pumps, and pool heaters) are unaffected by the amendments mentioned above. The annual data submission requirements for those products, which are not based on the DOE cost figures, will continue to be in terms of energy efficiency (although submissions for room air conditioners, furnaces, and boilers must be made in terms of the new product sub-categories created by the amendments). For convenience, the annual dates for data submission are repeated here:

Fluorescent lamp ballasts: March 1
Clothes washers: March 1
Water heaters: May 1
Furnaces: May 1
Room air conditioners: May 1
Pool Heaters: May 1
Dishwashers: June 1
Central air conditioners: July 1
Heat pumps: July 1
Refrigerators: August 1
Refrigerator-freezers: August 1
Freezers: August 1

For Labeling and Catalog Sales of Products Covered by the Commission's Rule: The July 1, 1994, amendments require that labels for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners contain a secondary energy usage disclosure in terms of an estimated annual operating cost (labels for clothes washers and dishwashers will show two such secondary disclosures—one based on operation with water heated by natural gas, and one on operation with water heated by electricity). The labels must also disclose, below the secondary estimated annual operating cost disclosure, the fact that the estimated annual operating cost is based on the appropriate DOE energy cost figure and identify the year in which the cost figure was published.[5] Manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and room air conditioners began making these disclosures on the labels required by the amendments and in catalogs beginning ninety days after the Commission published new energy consumption ranges of comparability based on the 1995 submissions required by § 305.8. They must continue to use the 1995 DOE cost figures until the Commission publishes new ranges of comparability based on future annual submissions of estimated annual energy consumption data. At that time, these manufacturers must use the then-current DOE energy cost figures when they prepare new labels in response to the new energy consumption ranges of comparability. When such new ranges are published, the effective date for

[1] 61 FR 1366.

[2] 44 FR 66466. since its promulgation, the rule has been amended four times to include new product categories—central air conditioners (52 FR 46888, Dec. 10, 1987), fluorescent lamp ballasts (54 FR 1182, Jan. 12, 1989), certain plumbing products (58 FR 54955, Oct. 25, 1993), and certain lamp products (59 FR 25176, May 13, 1994). Obligations under the rule concerning fluorescent lamp ballasts, lighting products, and plumbing products are not affected by the cost figures in this notice.

[3] 59 FR 34014.

[4] 59 FR 63688.

[5] The secondary estimated annual operating cost disclosures on the initial group of revised labels for storage-type water heaters are based on the 1994 DOE cost figures that were published by the Commission on February 8, 1994 (59 FR 5699). The secondary estimated annual operating cost disclosures on the initial group of revised labels for refrigerators, refrigerator-freezers, clothes washers, dishwashers, and room air conditioners are (or will be) based on the 1995 DOE cost figures that were published by the Commission on February 17, 1995 (60 FR 9295).

labeling new products will be ninety days after the publication of the ranges in the **Federal Register**. Similarly, manufacturers of storage-type water heaters, who began to comply with the amendments in 1994, used the 1994 DOE cost figures in determining the secondary energy use disclosures on the labels on their products. They must continue to use 1994 cost figures to calculate these estimated annual operating cost figures on their labels until the Commission publishes new ranges of comparability for those products. As in the past, products that have been properly labeled prior to the effective date of any range modification need not be relabeled.

For Energy Cost Representations Respecting Products Covered by EPCA but not by the Commission's Rule: Manufacturers of products covered by section 323(c) of EPCA, 42 U.S.C. 6293(c), but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, and space heaters) must use the 1996 representative average unit costs for energy in all operating cost representations beginning May 14, 1996.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR Part 305 is amended as follows:

1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

Section 305.9(a) is revised to read as follows:

§ 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this part.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (1996)

Type of energy	In commonly used terms	As required by DOE test procedure	Dollars per million Btu[1]
Electricity	8.6¢/kWh[2 3]	$0.086/kWh	$25.21
Natural Gas	62.6¢/therm[4] or $6.43/MCF[5 6]	0.000006626/Btu	6.26
No. 2 heating oil	.92/gallon[7]	0.00000663/Btu	6.63
Propane	0.90/gallon[8]	0.00000984/Btu	9.84
Kerosene	1.00/gallon[9]	0.00000739/Btu	7.39

[1] Btu stands for British thermal unit.
[2] kWh stands for kilowatt hour.
[3] 1 kWh=3,412 Btu.
[4] 1 therm=100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,027 Btu.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

Donald S. Clark,
Secretary.
[FR Doc. 96–3263 Filed 2–13–96; 8:45 am]
BILLING CODE 6750–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–95–029]

Special Local Regulations; Great Lakes Annual Marine Events

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising its list of annual marine events which occur within the Ninth Coast Guard District. Publication of this list in part 100 of the Code of Federal Regulations will establish permanent special local regulations for marine events within the Ninth Coast Guard District which recur on an annual basis and which have been determined by the District Commander to require the issuance of special local regulations. This action is being taken to ensure the safety of life, limb and property during each event, while avoiding the necessity of publishing a separate temporary regulation each year for each event. The list reflects the approximate dates and locations of each annual marine event.

DATE: This rule is effective February 14, 1996.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Second Class Jeffrey M. Yunker, Ninth Coast Guard District, Aids to Navigation Branch, 1240 East Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of these regulations are Lieutenant Junior Grade Byron D. Willeford, Project Officer, Ninth Coast Guard District, Aids to Navigation Branch and Lieutenant Commander Michael Zack, Project Attorney, Ninth Coast Guard District Legal Office.

Regulatory History

On November 1, 1995, the Coast Guard published a notice of proposed rulemaking entitled Special Local Regulations; Great Lakes Annual Marine Events in the **Federal Register** (60 FR 55511). The deadline for the submission of comments was December 18, 1995. The Coast Guard received no letters commenting on the proposal. A public hearing was not requested and one was not held. The Commander Ninth Coast Guard District has decided to publish the final rule as proposed.

Background and Purpose

This rulemaking updates an existing list of anticipated annual events. Each year various public and private organizations sponsor marine events on the navigable waters of the United States within the Ninth Coast Guard District. These events include slow moving boat parades, sailboat races, high speed hydroplane races, fireworks displays, and other water related events. The listed events are held in approximately the same location during the same general period of time each year. Exact times and dates will be published in the Local Notice to Mariners instead of being published in this final rule. This will streamline the marine event process for those regattas

and marine events that have very little annual variation and will significantly reduce the Coast Guard's administrative burden for managing these type of events with no reduction in services to the maritime community. The nature of each event is such that special local regulations are deemed necessary to ensure the safety of life, limb, and property on and adjacent to navigable waters during the events. Group Commanders have consulted and will continue to consult with parties potentially affected by any significant changes to the nature, date, time, and location proposed by an event sponsor for any of the events covered in this rule.

Table 1 gives the approximate dates, times, and locations for the annual events listed. Each year, one or more Local Notice to Mariners will be published giving the exact dates, times, and locations for the annual events. It should be noted that Table 1 in the regulation is not a complete list of all marine events that will occur in the Ninth Coast Guard District. It does not include events which do not require special local regulations for the safety of life, limb, and property on or adjacent to navigable waters. It also does not include nonannual events or events which have not been scheduled in time for this publication.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard is simply proposing to revise its list of annual marine events. The listing itself will not affect the environment. Upon receipt of applications, the Coast Guard will conduct an environmental analysis for each event in accordance with section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, and the Coast Guard Notice of final agency procedures and policy for categorical exclusions found at 59 FR 38654 (July 29, 1994).

Economic Assessment and Certification

These regulations are not a significant regulatory action under section 3(f) of Executive Order 12866 and do not require an assessment of potential costs and benefits under section 6(a)(3) of that order. They have been exempted from review by the Office of Management and Budget under that order. They are not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of these regulations to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of the DOT is unnecessary.

Collection of Information

These regulations will impose no collection information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulations

In consideration of the foregoing, the Coast Guard is amending Part 100 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.901 is amended by revising Table 1 to read as follows:

§ 100.901 Great Lakes Annual Marine Events.

* * * * *

Table 1

Group Buffalo, NY:

Fireworks by Grucci

Sponsor: New York Power Authority.
Date: Last weekend of July.
Location: Lake Ontario, Wright's Landing/Oswego Harbor, NY within an 800 foot radius of the fireworks launching platform located in approximate position 43°28′10″ N 076°31′04″ W.

Flagship International Kilo Speed Challenge

Sponsor: Presque Isle Powerboat Racing Association.
Date: 3rd or 4th weekend of June.
Location: That portion of Lake Erie, Presque Isle Bay, south of a line drawn from 42°08′54″ N 080°05′42″ W; to 42°07′ N 080°21′ W will be a regulated area. That portion of Lake Erie, Presque Isle bay, north of a line drawn from 42°08′54″ N 080°05′42″ W; to 42°07′ N 080°21′ W will be a "caution area". All vessels transiting the caution area will be operated at bare steerageway, keeping the vessel's wake at a minimum, and will exercise a high degree of caution in the area. The bay entrance will not be effected.

Flagship International Offshore Challenge

Sponsor: Presque Isle Powerboat Racing Association.
Date: 3rd or 4th weekend of June.
Location: That portion of Lake Erie, Presque Isle Bay, Entrance Channel, and the enclosed area from Erie Harbor Pier Head Light (LLNR 3430) northeast to 42°12′48″ N 079°57′24″ W, thence south to shore just east of Shades Beach.

Friendship Festival Airshow

Sponsor: Friendship Festival
Date: 4th of July holiday.
Location: That portion of the Niagara River and Buffalo.
Harbor from:

Latitude	Longitude
42°54.4′ N	078°54.1′ W, thence to
42°54.4′ N	078°54.4′ W, thence
along the International Border to	
42°52.9′ N	078°54.9′ W, thence to
42°52.5′ N	078°54.3′ W, thence to
42°52.7′ N	078°53.9′ W, thence to
42°52.8′ N	078°53.8′ W, thence to
42°53.1′ N	078°53.6′ W, thence to
42°53.2′ N	078°53.6′ W, thence to
42°53.3′ N	078°53.7′ W, thence
along the breakwall to	
42°54.4′ N	078°54.1′ W.

Geneva Offshore Grand Prix

Sponsor: Great Lakes Offshore Powerboat Racing Association.
Date: 3rd or 4th weekend of May.
Location: That portion of Lake Erie from:

Latitude	Longitude
41°51.5′ N	080°58.2′ W, thence to
41°52.4′ N	080°53.4′ W, thence to
41°53′ N	080°53.4′ W, thence to
41°52.2′ N	080°58.2′ W, thence to
41°51.5′ N	080°58.2′ W.

NFBRA Red Dog Kilo Time Trials

Sponsor: Niagara Frontier Boat Racing Association.
Date: 4th or 5th weekend of September.
Location: That portion of the Niagara River, Tonawanda Channel, between Tonawanda Channel Buoy 31 to approximately ½ mile southwest of Twomile Creek along a line drawn from 43°00′45″ N 078°55′06″ W to 43°00′28″ N 078°54′56″ W (Sipco Oil Company).

Offshore Series Grand Prix

Sponsor: Great Lakes Offshore Powerboat Racing Assn.
Date: 2nd or 3rd weekend of September.
Location: That portion of Lake Erie from:

Latitude	Longitude
41°51.5′ N	080°58.2′ W, thence to
41°52.4′ N	080°53.4′ W, thence to
41°53.0′ N	080°53.4′ W, thence to
41°52.2′ N	080°58.2′ W, thence to
41°51.5′ N	080°58.2′ W.

Sodus Bay 4th of July Fireworks

Sponsor: Sodus Bay Historical Society.
Date: 4th of July holiday.
Location: Lake Ontario, within a 500 foot radius around a barge anchored in approximate position 43°15.73′ N 076°58.23′ W, in Sodus Bay.

Tallship Erie

Sponsor: Erie Maritime Programs, Inc.
Date: 1st or 2nd weekend of July.
Location: That portion of Lake Erie, Presque Isle Bay
Entrance Channel and Presque Isle Bay from:

Latitude	Longitude
42°10′ N	080°03′ W, thence to
42°08.1′ N	080°07′ W, thence to
42°07.9′ N	080°06.8′ W, thence east along the shoreline and structures to:
42°09.2′ N	080°02.6′ W, thence to
42°10′ N	080°03′ W.

Thomas Graves Memorial Fireworks Display

Sponsor: Port Bay Improvement Association.
Date: 1st or 2nd weekend of July.
Location: That portion of Lake Ontario, Port Bay Harbor, NY within a 500 ft radius surrounding a barge anchored in approximate position 43°17′46″ N 076°50′02″ W.

Thunder Island Offshore Challenge

Sponsor: Thunder on the Water Inc.
Date: 3rd or 4th weekend of June.
Location: That portion of Lake Ontario, Oswego Harbor from the West Pier Head Light (LLNR 2080) north to:

Latitude	Longitude
43°29′02″ N ...	076°32′04″ W, thence to
43°26′18″ N ...	076°39′30″ W, thence to
43°24′55″ N ...	076°37′45″ W, thence along the shoreline to the West Pier Head Light (LLNR 2080).

We Love Erie Days Fireworks

Sponsor: We Love Erie Days Festival, Inc.
Date: 3rd weekend of August.
Location: That portion of Lake Erie, Erie Harbor, within a 300 foot radius, surrounding the Erie Sand and Gravel Pier, located in position 42°08′16″ N 080°05′40″ W.

Group Detroit, MI:

Bay City Fireworks Display

Sponsor: Bay City Fraternal Order of Police, Lodge 103.
Date: 4th of July holidy.
Location: Saginaw River, from the Veterans Memorial Bridge to approximately 1000 yards south to the River Walk Pier, near Bay City, MI.

Detroit APBA Gold Cup Race

Sponsor: Spirit of Detroit Association.
Date: 1st or 2nd weekend of June.
Location: Detroit River, between Belle Isle and the U.S. shoreline, near Detroit, MI. Bound on the west by the Belle Isle Bridge and on the east by a north-south line drawn through the Waterworks Intake Crib Light (LLNR 1022).

Buick Watersports Weekend

Sponsor: Adore Ltd. and APBA.
Date: 3rd or 4th weekend of July.
Location: That portion of the Saginaw River from the Liberty Bridge on the north to the Veterans Memorial Bridge on the south, near Bay City, MI

Cleveland Charity Classic

Sponsor: Lake Erie Offshore Racing, Ltd.
Date: 3rd or 4th weekend of July.
Location: That portion of Lake Erie, Cleveland Harbor from the Cleveland Waterworks Intake Crib Light (LLNR 4030) to:

Latitude	Longitude
41°30.7′ N	081°43.1′ W (West Pierhead Light, LLNR 4160), thence along the breakwater to,
41°30.4′ N	081°42.9′ W (West Breakwater Light, LLNR 4175), thence to,
41°30.2′ N	081°42.8′ W (West Pier Light, LLNR 4185), thence along the shoreline and structures to,
41°32.5′ N	081°38.3′ W (Disposal Light B, LLNR 4045). thence to.
41°33′ N	081°45′ W (Cleveland Waterwork Intake Crib Light LLNR 4030).

Cleveland National Air Show

Sponsor: Cleveland National Air Show.
Date: Labor Day Weekend.
Location: That portion of Lake Erie and Cleveland Harbor (near Burke Lakefront Airport) from a line running perpendicular from Dock No. 34 on the west, to 2000 feet north of the breakwater, then parallel to the breakwater, to a line running perpendicular from the east end of the Burke Lakefront Airport land fill.

Cleveland Offshore Grand Prix

Sponsor: Great Lakes Offshore Powerboat Racing Assn.
Date: 1st or 2nd weekend of August.
Location: That portion of Lake Erie, Cleveland Harbor from the Cleveland Waterworks Intake Crib Light to:

Latitude	Longitude
41°30.7′ N	081°43.1′ W (West Pierhead Light, LLNR 4160), thence along the breakwater to,
41°30.4′ N	081°42.9′ W (West Breakwater Light, LLNR 4175), thence to,
41°30.2′ N	081°42.8) W (West Pier Light, LLNR 4185), thence along the shoreline and structures to,
41°32.5′ N	081°38.3′ W (Disposal Light B, LLNR 4045). thence to,
41°33′ N	081°45′ W (Cleveland Waterworks Intake Crib Light LLNR 4030).

Flatsfest

Sponsor: Flats Riverfest Corporation.
Date: 3rd or 4th weekend of July.
Location: Cuyahoga River, Conrail Railroad Bridge at Mile 0.8 above the mouth of the river to the Eagle Avenue Bridge, near Cleveland, OH.

International Bay City River Roar

Sponsor: Bay City River Roar, Inc.
Date: 3rd or 4th weekend of June.
Location: That portion of the Saginaw River from the Liberty Bridge on the north to the Veterans Memorial Bridge on the south, near Bay City, MI.

International Freedom Festival Fireworks

Sponsor: Detroit Renaissance Foundation.
Date: 3rd or 4th week of June.
Location: The Detroit River between 083°03′ W (Cobo Hall) and 083°01′27″ W (Huron Cement).

International Freedom Festival Tug Across the River

Sponsor: Detroit Renaissance Foundation.
Date: 3rd or 4th week of June.
Location: That portion of the Detroit River bounded on the south by the International Boundary, on the west by 083°03′ W, on the east by 083°02′ W, and on the north by the U.S. shoreline.

Port Clinton Offshore Grand Prix

Sponsor: Great Lakes Offshore Powerboat Racing Association.
Date: 1st or 2nd weekend of July.
Location: That portion of western Lake Erie:

Latitude	Longitude
41°31.2′ N	082°56.1′ W, thence along the shoreline and structures to
41°33.3′ N	082°51.3′ W, thence to
41°33.3′ N	082°52.8′ W, thence to
41°31.2′ N	082°56.1′ W.

Port Huron to Mackinac Island Race

Sponsor: Bayview Yacht Club.
Date: 2nd or 3rd weekend of July.
Location: That portion of the Black River, St. Clair River, and Lower Lake Huron from:

Latitude	Longitude
42°58.8′ N	082°26′ W, to
42°58.4′ N	082° 24.8′ W, thence northward along the International Boundary to
43° 02.8′ N	082°23.8′ W, to
43° 02.8′ N	082°26.8′ W, thence southward along the U.S. shoreline to
42°58.9′ N	082°26′ W, thence to
42° 58.8′ N	082° 26′W.

Thunder on the River Hydroplane Race

Sponsor: Toledo Prop Spinners.
Date: 3rd or 4th weekend of August.
Location: Maumee River, between the Martin Luther King and Anthony Wayne bridges, near Toledo, OH.

Toledo 4th of July Fireworks

Sponsor: City of Toledo.
Date: 4th of July weekend.
Location: Maumee River, between the Martin Luther King and Anthony Wayne bridges, near Toledo, OH.

Toledo Labor Day Fireworks

Sponsor: Reams Broadcasting Corporation.
Date: Labor Day.
Location: Maumee River, between the Martin Luther King and Anthony Wayne bridges, near Toledo, OH.

Group Sault Ste. Marie, MI:

Bridgefest Regatta

Sponsor: Bridgefest Committee.
Date: 2nd weekend of June.
Location: Keweenaw Waterway, from the Houghton Hancock Lift Bridge to 1000 yards west of the bridge, near Houghton, MI.

Duluth Fourth Fest Fireworks

Sponsor: Office of the Mayor, Duluth, MN.
Date: 4th of July weekend.
Location: That portion of the Duluth Harbor Basin Northern Section bounded on the south by a line drawn on a bearing of 087° true from the Cargill Pier through Duluth Basin Lighted Buoy #5 (LLNR 15905) to the opposite shore on the north by the Duluth Aerial Bridge. That portion of Duluth Harbor Basin Northern Section within 600 yards of position 46°46′47″ N 092°06′10″ W.

July 4th Fireworks

Sponsor: City of Sault Ste Marie, MI.
Date: 4th of July weekend.
Location: That portion of the St. Marys River, Sault Ste. Marie, MI within a 1000 foot radius of Brady Park, located on the south shore of the river. These waters are enclosed by the Locks to the west and to the east from a line drawn from the pier light of the east center pier to the U.S. Coast Guard Base to the southeast.

National Cherry Festival Blue Angels Air Demonstration

Sponsor: National Cherry Festival Inc.
Date: 1st week of July.
Location: That portion of the Western arm of the Grand Traverse Bay, Traverse City, MI, enclosed by straight lines connecting the following geographic coordinates:

Latitude	Longitude
44°46.8′ N	085°38.3′ W, to
44°46.5′ N	085°35.5′ W, to
44°46′ N	085°35.8′ W, to
44°46.5′ N	085°38.5′ W, thence to
44°46.8′ N	085°38.3′ W.

Venetian Festival Yacht Parade

Sponsor: Charlevoix Chamber of Commerce.
Date: 3rd or 4th weekend of July.
Location: That portion of the upper and lower section of the Pine River, to include Round Lake, from:

Latitude	Longitude
45°19.3′ N	085°15.9′ W, (North Pierhead Light, LLNR 17920) thence to,
45°18.9′ N	085°14.7′ W, (Pine River Light 3, LLNR 17945) thence to,
45°18.8′ N	085°14.7′ W, (Pine River Channel Lighted Buoy 2, LLNR 17950) thence to,
45°19′ N	085°15.9′ W, (South Pierhead Light, LLNR 17925) thence to,
45°19.3′ N	085°15.9′ W.

Group Grand Haven, MI:

City Fireworks

Sponsor: City of Frankfort, MI.
Date: 4th of July Holiday.
Location: Lake Michigan, Frankfort, MI within a 1000 foot radius of the fireworks launching site located on Lake Michigan Beach in approximate position 44°38′ N 086°14′50″ W.

Coast Guard Festival Fireworks

Sponsor: Grand Haven Coast Guard Festival, Inc.
Date: 1st weekend of August.
Location: That portion of the Grand River, Grand Haven, MI, from a north-south line drawn from the North Pierhead Light Number 1 (LLNR 18045) on the north to the South Pierhead Entrance Light (LLNR 18035) on the south, thence down river to the US 31 Bascule Bridge (mile 2.89).

4th of July Fireworks

Sponsor: WSJM & WIRX RADIO.
Date: 4th of July Holiday.
Location: St. Joseph River, within a 1000 foot radius of the fireworks launching site, located at the St. Joseph South Pier, in approximate position 42°06′48″ N 086°29′15″ W.

Grand Haven Area Jaycees Annual 4th of July Fireworks Display

Sponsor: Grand Haven Area Jaycees.
Date: 1st week of July.
Location: That portion of the Grand River, Grand Haven, MI from the pier heads (mile 0.0) to the US 31 Bascule Bridge (mile 2.89).

Holland Jaycees Fireworks

Sponsor: Holland Jaycees
Date: 4th of July Holiday
Location: The portion of Lake Michigan, Holland, MI within a 1000 foot radius of the fireworks launching site, located in Kollen Park, in approximate position 42°47′20″ N 086°07′12″ W.

Ludington Area Jaycees Freedom Festival Fireworks

Sponsor: Ludington Area Jaycees.
Date: 4th of July Holiday.
Location: Lake Michigan, Ludington Harbor, MI, within a 1000 foot radius of the fireworks launching site located at the Loomis Street Boat Launch, in approximate position 43°57′16″ N 086°27′42″ W.

Muskegon Summer Celebration Fireworks

Sponsor: The Muskegon Summer Celebration.
Date: 4th of July Holiday.
Location: That portion of Muskegon Lake, in the vicinity of Heritage Landing, within a 1000 foot radius of the fireworks launching site, located in approximate position 43°13′52″ N 086°15′48″ W.
Impact on Special Anchorage Area regulations: Regulations for that portion of the Muskegon Lake East Special Anchorage Area, as described in 33 CFR 110.81(b), which are overlapped by this regulation, are suspended during this event. The remaining area of the Muskegon Lake East Special Anchorage Area not impacted by this regulation remains available for anchoring during this event.

South Haven 4th of July Fireworks

Sponsor: South Haven Jaycees.
Date: 4th of July Holiday.
Location: Lake Michigan, Black River, South Haven, MI within a 1000 foot radius of the fireworks launching site located on the North Pier, in

approximate position 42°24'08" N 086°17'03" W. Datum: NAD 1902.

Tulip Time Fireworks and Water Ski Show

Sponsor: Holland Tulip Time Festival Inc.

Date: 1st weekend of May.

Location: That portion of Lake Macatawa, Holland Harbor, east of a north-south line, from shore to shore, at position 086°08' W.

Tulip Time Water Ski Show

Sponsor: Holland Tulip Time Festival Inc.

Date: 2nd weekend of May.

Location: That portion of Lake Macatawa, Holland Harbor, east of a north-south line, from shore to shore, at position 086°08' W.

Van Andel Fireworks Show

Sponsor: Amway Corporation, Ada, MI.

Date: 4th of July Holiday.

Location: Lake Michigan, Holland Harbor, MI, South Pier, within a 1000 foot radius of the fireworks launching site located in approximate position 42°46'21" N 086°12'48" W.

Venetian Festival Fireworks Display

Sponsor: Venetian Festival on the St. Joseph River Inc.

Date: 3rd weekend of July

Location: St. Joseph River, within a 1,000-foot radius of the fireworks launching site, located at the St. Joseph South Pier, in approximate position 42°06'48" N 086°29'15" W.

Waves of Thunder Offshore Spectacular

Sponsor: Michigan Offshore Powerboat Racing Association

Date: 3rd weekend of June

Location: That portion of Lake Michigan, from the South Pierhead Light (LLNR 18520) south along the shoreline to:

Latitude	Longitude
42°19' N	086°19.3' W, thence to
42°19.5' N	086°19.8' W, thence to
42°23.9' N	086°18.7' W, thence to
42°23.9' N	086°17' W.

West Michigan Offshore Powerboat Challenge

Sponsor: Michigan Offshore Powerplant Racing Association

Date: 1st or 2nd weekend of September

Location: That portion of Lake Michigan from:

Latitude	Longitude
43°03.4' N	086°15.3' W (Grand Haven South Pierhead Entrance Light, LLNR 18965), thence along the breakwater and shoreline to
42°54.8' N	086°13' W, thence to
42°54.8' N	086°15.7' W, thence to
43°03.4' N	086°15.7' W, thence to
43°03.4' N	086°15.3' W (Grand Haven South Pierhead Entrance Light, LLNR 18965).

Group Milwaukee, WI:

Chicago Air and Water Show

Sponsor: Chicago Park District

Date: 3rd or 4th weekend of August

Location: That portion of Lake Michigan from 41°55'54" N at the shoreline, then east to a point at 41°55'54" N 87°37'12" W, thence southeast to a point at 41°54' N 87°36' W, then a line drawn southwestward to the northeast corner of the Central District Filtration Plant Breakwall, thence due west to shore.

Festa Italiana

Sponsor: The Italian Community Center

Date: 3rd weekend of July

Location: The uncharted lagoon or basin in Milwaukee Harbor north of the mouth of the Milwaukee River and directly adjacent to the Summerfest grounds, enclosed by shore on the west and a "comma" shaped man-made rock wall on the east. The construction of the lagoon is such that a small "basin" has been created with one entrance located at the northwest end, thus, there is no "thru traffic".

Milwaukee Summerfest

Sponsor: Milwaukee World Festival, Inc.

Date: Last week of June through 2nd weekend of July

Location: the unchartered lagoon or basin in Milwaukee Harbor north of the mouth of the Milwaukee River and directly adjacent to the Summerfest grounds, enclosed by shore on the west and a "comma" shaped man-made rock wall on the east. The construction of the lagoon is such that a small "basin" has been created with one entrance located at the northwest end, thus, there is no "thru traffic". Four special buoys will be set by the sponsor to delineate the entrance to the lagoon.

Racine on the Lakefront Airshow

Sponsor: Rotary Club of Racine

Date: 2nd weekend of June

Location: That portion of Racine Harbor, Lake Michigan bounded by the following corner points:

Southeast Corner—42°41.95' N 87°45.5' W

Southwest Corner—42°41.95' N 87°47.2' W

Northwest Corner—42°45.6' N 87°46.2' W

Northeast Corner—42°45.6' N 87°45.5' W

* * * * *

Dated: January 25, 1996.

G.F. Woolever,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 96–3254 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596–AA26

Sale and Disposal of National Forest System Timber; Appraisal Procedures for Determining Fair Market Value

AGENCY: Forest Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: This technical amendment clarifies the appraisal procedures for determining fair market value when appraising timber on National Forest System lands for timber sale contracts. Currently, Forest Service regulations at 36 CFR 223.60 indicate an analytical or residual value appraisal procedure as the primary method for determining the fair market value of timber sold on national forests. This technical amendment removes the residual value appraisal procedure as the primary method for determining fair market value. The intended effect of this change is to clarify that the Chief of the Forest Service has the flexibility to select appropriate appraisal methods for determining fair market value of timber to be sold.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Rex Baumback, Timber Management Staff, (202) 205–0855.

SUPPLEMENTARY INFORMATION:

Background

The National Forest Management Act (16 U.S.C. 472a(a)) directs that all timber sold from the national forests be sold at not less than its appraised, or fair market, value, Under the current rule at 36 CFR 223.60, the basic procedure for determining fair market value is the analytical or residual value appraisal method. However, the regulation also

authorizes the use of other valid appraisal methods, as approved by the Chief, including the transaction evidence method. The analytical or residual value appraisal method determines fair market value by subtracting all manufacturing and harvesting costs and an allowance for profit and risk from the value received for the end products produced. The transaction evidence appraisal method determines fair market value based on the prices received for comparable sales of standing timber.

An Office of Inspector General audit (08627–3–SF, January 1986) recommended implementation of transaction evidence appraisals in the West. The audit found that implementing transaction evidence appraisals would bring bid values closer to advertised values, increase stumpage receipts, and reduce personnel costs. In response to this audit and pursuant to the existing rule, the Chief has approved the transaction evidence method for use in all Forest Service regions, except for Alaska (Region 10).

The current regulation was developed when the residual value appraisal method was the primary appraisal method used by all Forest Service regions. This rule does not prohibit or suspend use of the residual value appraisal method; it merely removes this method as the preferred method for determining fair market value for all timber sale contracts. Because of the narrow scope of this amendment, the Chief's authorization of the use of the transaction evidence appraisal method, and the growing use of that method of appraisal on timber sale contracts, the agency finds that this amendment is a technical amendment for which notice and comment pursuant to the Administrative Procedures Act (5 U.S.C. 553) is not necessary. National Forest System purchasers are aware of the agency's intention to use the transaction evidence appraisal method as the preferred method. Moreover, purchasers are familiar with other appraisal methods.

Regulatory Impact

This technical rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This rule will not have any effect on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this rule is not subject to OMB review under Executive Order 12866.

Moreover, this rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by this act.

Environmental Impact

This action falls within a category of actions excluded from documentation in an Environmental Impact Statement and an Environmental Assessment. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The agency's assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Controlling Paperwork Burdens on the Public

This rule does not require any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR 1320 not already approved for use and, therefore, impose no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting requirements, Timber sales.

Therefore, for the reasons set forth in the preamble, part 223 of title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; 104 Stat. 714–726, 16 U.S.C. 620–620h, unless otherwise noted.

Section 223.60 is revised as follows:

§ 223.60 Determining fair market value.

The objective of Forest Service timber appraisals is to determine fair market value. Fair market value is estimated by such methods as are authorized by the Chief, Forest Service, through issuance of agency directives (36 CFR 200.4). Valid methods to determine fair market value include, but are not limited to, transaction evidence appraisals, analytical appraisals, comparison appraisals, and independent estimates based on average investments. Pertinent factors affecting market value also considered include, but are not limited to, prices paid and valuations established for comparable timber, selling value of products produced, estimated operating costs, operating difficulties, and quality of timber. Considerations and valuations may recognize and adjust for factors which are not normal market influences.

Mark A. Reimers,

Acting Chief.

[FR Doc. 96–3301 Filed 2–13–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AC82

Subsistence Management Regulations for Public Lands in Alaska, Subpart C & Subpart D—1995–1996 Subsistence Taking of Fish and Wildlife Regulations; Correcting Amendments

AGENCY: Forest Service, USDA, Fish and Wildlife Service, Interior.

ACTION: Correcting amendments.

SUMMARY: These corrections amend the Subsistence Management Regulations for Public Lands in Alaska (published in the **Federal Register** on June 15, 1995) implementing the subsistence priority for rural residents of Alaska under Title VIII of the Alaska National Interest Lands Conservation Act of 1980.

EFFECTIVE DATE: These corrections are effective July 1, 1995 through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3864. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA—Forest

Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802–1628; telephone (907) 586–7921.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability which are consistent with ANILCA, and which provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The court's ruling in *McDowell* required the State to delete the rural preference from the subsistence statute, and therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170). Consistent with Subparts A, B, and C of these regulations, a Federal Subsistence Board (Board) was established to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service, the Alaska State Director, U.S. Bureau of Land Management; the Alaska Area Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies have participated in development of regulations for Subparts A, B, and C, and the annual Subpart D regulations. All Board members have reviewed these corrections and agree with their substance. Because Subparts C and D relate to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical correcting text will be incorporated into 36 CFR Part 242 and 50 CFR Part 100.

Proposed Subpart C regulations for customary and traditional use determinations and Subpart D regulations for the 1995–1996 seasons and bag limits, and methods and means were published on September 2, 1994, in the **Federal Register** (59 FR 45924–45961). A 60-day comment period providing for public review of the proposed rule was advertised by mail, radio, and newspaper. Subsequent to that 60-day review period, the Board prepared a booklet describing all proposals for change. The public then had an additional 30 days in which to comment on the proposals for changes to the regulations. The Federal Subsistence Regional Advisory Councils met in regional centers, received public comments, and formulated recommendations to the Board on proposals for their respective regions. The final regulations, published on June 15, 1995 (60 FR 31542–31594) reflect Board review and consideration of Regional Council recommendations and public comments submitted to the Board during their April meeting. The Board heard public testimony and deliberated Requests for Reconsideration and Special Action in public forum on September 26 and November 9, 1995.

These correcting amendments are a result of Requests for Reconsideration of some of the Board's decisions in April and some requests for Special Action as a result of resource concerns. Below are summaries of each action.

Subpart D

Units 11, 12, 13, 20, and 25(C)—Lynx—The Board acted on a request from the Alaska Department of Fish and Game (ADF&G) to lengthen the season in 25(C) and parts of Unit 20, and shorten the season in Units 11, 12, 13, and parts of Unit 20. This follows the Board's previous agreement to follow a harvest tracking strategy where possible. The strategy calls for shortening or closing trapping seasons when lynx numbers are low and lengthening or opening seasons when lynx are abundant. The Regional Councils for the affected areas supported this action to protect the viability of the lynx populations in those Units.

Unit 13—Caribou—Upon receipt of a request for Special Action the Board, at its November 9, 1995, meeting deliberated the issue of opening Unit 13 to caribou hunting. The caribou herd had increased by about 6,000 animals and remained in an accessible area. The Board opened a season to coincide with the State season to provide subsistence users an opportunity to harvest caribou.

Unit 17(A)—Caribou (Mulchatna Herd)—Upon receipt of a request for Special Action the Board, as its September 26, 1995, meeting deliberated the issue of opening Unit 17(A) to caribou hunting. The Mulchatna caribou herd which numbers about 160,000 animals is moving into the western portion of Unit 17(A). The Board established a season to be announced when enough caribou have moved into the area to allow a harvest without jeopardizing smaller resident herds.

Unit 17 (A) and (C)—Caribou—Upon receipt of request for Special Action the Board, at its September 26, 1995, meeting deliberated the issue of opening Unit 17 (A) and (C) to caribou hunting one month earlier. The past year's harvest was lower than anticipated due to poor travel conditions. Because this is a quota hunt the opening of the season one month earlier will not cause any additional harvest other than what is planned.

Unit 22(A)—Moose—Upon receipt of a Request for Reconsideration of an action taken at the April meeting, the Board deliberated the issue of the health of the moose population in Unit 22(A). As a result, the Board closed public lands to non-subsistence moose hunting from December 1, 1995, through January 31, 1996.

Only the items described above are being changed; but for clarity, the entire table section for the pertinent species in each Unit is reproduced.

The above actions were supported by the Regional Councils in the affected areas. Notice of the Board meeting and the subjects to be considered were widely circulated and the public had an opportunity to comment and participate.

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for this extension are impracticable, unnecessary, and contrary to the public interest. A lapse in regulatory control could seriously affect the continued viability of wildlife populations, adversely impact future subsistence opportunities for rural Alaskans and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive the public notice and comment procedures prior to publication of this rule correction. The Board also finds good cause under 5 U.S.C. 553(d)(3) to make this rule correction effective July 1, 1995, the effective date of the Subsistence Management Regulations for Public Lands in Alaska.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment period, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture—Forest Service, to implement a modified Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C, published May 29, 1992 (57 FR 22940–22964) implements the Federal Subsistence Management Program and includes a framework for an annual cycle for subsistence hunting and fishing regulations.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appears in the April 6, 1992, ROD which found that the Federal Subsistence Management Program, under a modified Alternative IV with an annual process for setting hunting and fishing regulations, had no significant possibility of a significant restriction of subsistence uses.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the U.S. Fish and Wildlife Service has received approval for this collection of information, with approval number 1018–0075, with the expiration date of July 31, 1996.

The collection of information will be achieved through the use of the Federal Subsistence Hunt Permit Application. This collection of information will establish whether the applicant qualifies to participate in a Federal subsistence hunt on public land in Alaska and will provide a report of harvest and location of harvest.

The likely respondents to this collection of information are rural Alaska residents who wish to participate in specific subsistence hunts on Federal land. The collected information is necessary to determine harvest success and harvest location in order to make management decisions relative to the conservation of healthy wildlife populations. The annual burden of reporting and recordkeeping is estimated to average 0.25 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. The estimated number of likely respondents under these correcting amendments is less than 200, yielding a total annual reporting and recordkeeping burden of fifty hours or less. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0075), Washington, DC 20503. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

This rule was not subject to OMB review under Executive Order 12866.

Economic Effects

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

These regulations do not meet the threshold criteria of "Federalism Effects" as set forth in Executive Order 12612. Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no significant takings implication relating to any property rights as outlined by Executive Order 12630.

Drafting Information

These regulations were drafted under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Peggy Fox, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; John Borbridge, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National Forests, Public Lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, Public Lands,

Reporting and recordkeeping requirements, Subsistence, Wildlife.

For the reasons set out in the preamble, Title 36, Part 242, and Title 50, Part 100, of the Code of Federal Regulations, are amended as set forth below.

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR Part 242 and 50 CFR Part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

2. Section ____.25(k)(11) is amended in the table under "Trapping" by revising the entry for Lynx to read as follows:

§ ____.25 Subsistence taking of wildlife.

* * * * *

(k) * * *

(11) * * *

Harvest limits	Open season
. . . . .	
Trapping:	
. . . . .	
Lynx: No limit	Dec. 15–Jan. 15.
. . . . .	

* * * * *

3. Section ____.25(k)(12) is amended in the table under "Trapping" by revising the entry for Lynx to read as follows:

* * * * *

(k) * * *

(12) * * *

Harvest limits	Open season
. . . . .	
Trapping:	
. . . . .	
Lynx: No limit	Dec. 15–Jan. 15.
. . . . .	

* * * * *

4. Section ____.25(k)(13)(iii) is amended in the table under "Hunting" by revising the entry for Caribou to read as follows:

* * * * *

(k) * * *

(13) * * *

(iii) * * *

Harvest limits	Open season
Hunting:	
. . . . .	
Caribou: 2 caribou by Federal registration permit only. Hunting within the Trans-Alaska Oil Pipeline right-of-way is prohibited. The right-of-way is identified by an area occupied by the pipeline (buried or above ground) and the cleared area 25 feet on either side of the pipeline..	Aug. 10–Sept. 30, Nov. 15–Dec. 31, Jan. 5–Mar. 31.
. . . . .	

* * * * *

5. Section ____.25(k)(13)(iii) is amended in the table under "Trapping" by revising the entry for Lynx to read as follows:

* * * * *

(k) * * *

(13) * * *

(iii) * * *

Harvest limits	Open season
. . . . .	
Trapping:	
. . . . .	
Lynx: No limit	Dec. 15–Jan. 15.
. . . . .	

* * * * *

6. Section ____.25(k)(17)(iii) is amended in the table under "Hunting" by revising the entry for Caribou to read as follows:

* * * * *

(k) * * *

(17) * * *

(iii) * * *

Harvest limits	Open season
Hunting:	
. . . . .	
Caribou:	
Unit 17(A)—that portion west of the Togiak River, south to Cape Newenham—2 caribou. Season to be opened by announcement sometime between Aug. 1–April 15.	Season to be announced.
Unit 17 (A) and (C)—that portion of 17 (A) and (C) consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—1 caribou by Federal registration permit. Public lands are closed to the taking of caribou except by the residents of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clark's Point, and Ekuk during seasons identified above.	Dec. 1–Mar. 31.
Unit 17 (B) and (C)—that portion of 17 (C) east of the Nushagak River—5 caribou; however, no more than 2 caribou may be bulls..	Aug. 1–Apr. 15
. . . . .	

* * * * *

7. Section ____.25(k)(20)(iii)(C) is amended in the table under "Trapping" by revising the entry for Lynx to read as follows:

* * * * *

(k) * * *

(20) * * *

(iii) * * *

(C) * * *

Harvest limits	Open season
. . . . .	
Trapping:	
. . . . .	
Lynx:	
Unit 20 (A), (B), (D), (E), and (C) East of the Teklanika River—No limit.	Dec. 15–Jan. 15.
Unit 20(F) and the remainder of 20(C)—No limit.	Dec. 1–Jan. 31.
. . . . .	

* * * * *

8. Section ____.25(k)(22)(ii)(C) is amended in the table under "Hunting" by revising the entry for Moose to read as follows:

* * * * *

(k) * * *

(22) * * *

(ii) * * *

(C) * * *

Harvest limits	Open season
Hunting	
. . . . .	
Moose:	
Unit 22(A)—1 antlered bull; however the period of Dec. 1–Jan. 31 is restricted to residents of Unit 22(A) only.	Aug. 1–Sept. 30, Dec. 1–Jan. 31.
Unit 22(B)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a cow accompanied by a calf.	Aug. 1–Jan. 31.
Unit 22(C)—1 antlered bull.	Sept. 1–Sept. 14.
Unit 22(D)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a cow accompanied by a calf.	Aug. 1–Jan. 31.
Unit 22(E)—1 moose; no person may take a cow accompanied by a calf.	Aug. 1–Mar. 31.
. . . . .	

* * * * *

9. Section ____.25(k)(25)(iii)(B) is amended in the table under "Trapping" by revising the entry for Lynx to read as follows:

* * * * *

(k) * * *

(25) * * *

(iii) * * *

(B) * * *

Harvest limits	Open season
Trapping:	
. . . . .	
Lynx:	
Unit 25(C)—No limit ..	Dec. 1–Jan. 31.
Remainder of Unit 25—No limit.	Nov. 1–Feb. 28.
. . . . .	

* * * * *

Dated: January 19, 1996.

Mitch Demientieff,

Chair, Federal Subsistence Board.

Dated: January 18, 1996.

Phil Janik,

Regional Forester, USDA—Forest Service.

[FR Doc. 96–3186 Filed 2–13–96; 8:45 am]

BILLING CODES 3410–11–M, 4310–55–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–049–1–7197a; FRL–5336–6]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 15, 1991, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP) to EPA. These revisions include the correcting of an address; the limiting of emissions of particulates from fuel burning indirect heat exchangers; the elimination of a conflicting statement on updating referenced regulations; the addition of compounds whose emissions will not be considered in nonattainment areas; the changing of the allowable emission limits for several boilers; and the clarification of the permit requirements for replacement of existing equipment and for sources subject to NSPS, NESHAPS and PSD requirements.

DATES: This action is effective April 15, 1996, unless notice is received by March 15, 1996, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the material submitted by the NCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 ext. 4212.

SUPPLEMENTARY INFORMATION: On May 15, 1991, the Environmental Management Commission submitted, to EPA, several amendments concerning North Carolina's air quality regulations. The submitted revisions include the limiting of emissions of particulates from fuel burning indirect heat exchangers; the elimination of a conflicting statement on updating referenced regulations; the addition of compounds whose emissions will not be considered in nonattainment areas; the changing of the allowable emission limits for several boilers; and several smaller administrative changes.

On August 23, 1991, EPA notified the State of corrections needing to be made prior to the approval of amendment 15A NCAC 2D .0501. Subsequently, North Carolina, in a December 19, 1991, letter, requested to have that amendment withdrawn. In a September 20, 1991, letter, North Carolina submitted a revised version of Rule 2D .0536 Particulate Emissions From Electric Utility Boilers to replace the version that was contained in the hearing record on this Rule. The original version submitted on May 15, 1991, contained changes made in the North Carolina Rule of which parts are not contained in the Federally approved SIP. The amended version is discussed later in this document. North Carolina also submitted, in a September 24, 1992, package, revisions to 15A NCAC 2D .1002 Applicability. These revisions are also being addressed in this rulemaking.

Revisions to rule 15A NCAC 2D .0531 Sources in Nonattainment Areas were addressed in the October 31, 1994 **Federal Register** Notice (59 FR 54388–54389.)

EPA is approving the following revisions to the North Carolina SIP, because they are consistent with the requirements set forth in the Clean Air Act (CAA).

15A NCAC 2D .0103 Copies of Referenced Federal Regulations

North Carolina amended this rule to update the location at which referenced material is available for public inspection.

15A NCAC 2D .0503 Particulates From Fuel Burning Indirect Heat Exchangers

North Carolina amended this rule to clarify the emissions of particulates from fuel burning indirect heat exchangers. This revision in no way changes the interpretation of the previous rule.

15A NCAC 2D .0530 Prevention of Significant Deterioration

North Carolina amended this rule to eliminate a conflicting statement on updating referenced federal regulations.

15A NCAC 2D .0536 Particulate Emissions From Electric Utility Boilers

North Carolina amended this rule to change the maximum allowable emissions rates from electric utility boilers at several utility facilities.

15A NCAC 2H .0601 Purpose and Scope

North Carolina amended this rule to clarify the types of sources for which construction or operating permits are required or not required.

15A NCAC 2H .0607 Copies of Referenced Documents

North Carolina amended this rule to update the location at which referenced materials are available for public inspection.

Final Action

EPA is approving the above referenced revision to the North Carolina SIP. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 15, 1996, unless, by March 15, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 15, 1996.

Under Section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2).)

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Particulate Matter, Reporting and recordkeeping requirements.

Dated: November 6, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(78) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(78) Miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on May 15, 1991.

(i) Incorporation by reference. (A) Amendments to North Carolina regulations 15A NCAC 2D.0103, 2D.0503, 2D.0530, 2D.0536, 2H.0601, and 2H.0607, of the North Carolina State Implementation Plan submitted on May 15, 1991, which were state effective on August 1, 1991.

(ii) Other material. None

* * * * *

[FR Doc. 96–3326 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[ME–20–01–6906a; A–1–FRL–5339–4]

Approval and Promulgation of Air Quality Implementation Plans; Maine: Revisions to the Requirements and Procedures for NSR/PSD License Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes and requires the implementation of the Clean Air Act Amendments (CAAA) of 1990 with regard to New Source Review (NSR) in areas which have not attained the National Ambient Air Quality Standards (NAAQS). In addition, the revision contains minor changes to Maine's Prevention of Significant Deterioration (PSD) program. The intended effect of this action is to approve the State's request to amend its SIP to satisfy the Federal requirements. This action is being taken in accordance with the Clean Air Act.

DATES: This action is effective April 15, 1996, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW. (LE–131), Washington, DC 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, (617) 565–3262.

SUPPLEMENTARY INFORMATION: On July 12, 1994, the Maine Department of Environmental Protection (DEP) submitted revisions to its SIP pertaining to the requirements and procedures for the processing and approval of license applications for new or modified stationary sources of air pollution. The revisions consist of modifications to Chapter 100, "Definitions Regulations," Chapter 113, "Growth Offset Regulation," and Chapter 115, "Emission License Regulation" and primarily affects major source licensing in nonattainment areas including the ozone nonattainment areas.

This notice is divided into four sections for clarity. Section I discusses the procedural background concerning Maine's SIP submittal. Section II discusses the revisions to the general requirements for nonattainment NSR. Section III discusses the revisions to the specific requirements for NSR in the ozone nonattainment areas. Section IV discusses revisions to Maine's PSD program. Section V discusses the EPA's final action.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 15, 1996, unless, by March 15, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 15, 1996.

I. Procedural Background

Section 110(k) of the CAA sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566, April 16, 1992). The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[1] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see CAA section 110(k)(1) and 57 FR 13565, April 16, 1992). The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) if a completeness determination is not made by EPA within 6 months after receipt of the submission.

The State of Maine held a public hearing on May 25, 1994, to entertain public comment on the NSR implementation plan. Following the public hearing, the plan was adopted by Maine's Board of Environmental Protection on June 22, 1994. The plan was filed with the Secretary of State on July 5, 1994, and became effective on July 11, 1994. The plan was submitted to EPA on July 12, 1994 as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria referenced above. The submittal was found to be complete on July 14, 1994 and a letter dated July 14, 1994 was forwarded to Debrah Richard, Acting Commissioner, Department of Environmental Protection, indicating the completeness of the submittal and the next steps to be taken in the review process.

II. General Requirements for Nonattainment NSR

A. Background

The air quality planning requirements for nonattainment NSR are set out in part D of subchapter I of the Act. The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment area NSR SIP requirements (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in today's proposal and the supporting rationale.

B. Summary of Maine's Regulation

The general nonattainment NSR requirements are found in sections 172 and 173 of part D of subchapter I of the Act and must be met by all nonattainment areas. The following paragraphs reference the nonattainment NSR requirements that were required to be submitted to EPA by November 15, 1992 and explain how Maine's rules meet those requirements. Some of these provisions were already contained in Maine's existing SIP while others are being approved today.

1. Chapter 113(2)(A) of Maine's regulations establishes provisions in accordance with section 173(a)(1)(A) of the CAA to assure that calculations of emissions offsets are based on the same

[1] Section 172(c)(7) of the Act provides that plan provisions for nonattainment areas shall meet the applicable provisions of section 110(a)(2).

emissions baseline used in the demonstration of Reasonable Further Progress (RFP).

2. Chapter 113(2)(C)(3) (a) and (b) of Maine's regulations establishes provisions in accordance with section 173(c)(1) of the CAA to allow offsets to be obtained in another nonattainment area if: (i) The area has an equal or higher nonattainment classification; and, (ii) emissions from the other nonattainment area contribute to a NAAQS violation in the area in which the source would construct.

3. Chapter 113(2)(E)(3) of Maine's regulations establishes provisions in accordance with section 173(c)(1) of the CAA that any license to a new or modified source must be in effect and enforceable by the time the new or modified source commences operation.

4. Chapter 113(2)(E)(3) of Maine's regulations establishes provisions in accordance with section 173(c)(1) of the CAA to assure that emissions increases from new or modified sources are offset by real reductions in actual emissions.

5. Chapter 113(2)(D) (1), (2) and (3) of Maine's regulations establishes provisions in accordance with section 173(c)(2) of the CAA to prevent emissions reductions otherwise required by the Act from being credited for purposes of satisfying part D offset requirements.

6. The 1990 CAAA modified the Act's provisions on growth allowances in nonattainment areas by (1) eliminating existing growth allowances in the nonattainment area that received a notice prior or subsequent to the Amendments that the SIP was substantially inadequate, and (2) restricting growth allowances to only those portions of nonattainment areas formally targeted as special zones for economic growth. Sections 173(b) and 173(a)(1)(B) of the CAA. Maine's regulations do not contain provisions for growth allowances and are consequently consistent with the Act. 9

7. Chapter 115(V)(B)(2)(C) of Maine's regulations establishes provisions in accordance with section 173(a)(5) of the CAA that, as a prerequisite to issuing any part D license, require an analysis of alternative sites, sizes, production processes, and analysis of alternative sites, sizes, production processes, and environmental control techniques for proposed sources that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

8. Maine and the EPA-New England office, have established a mechanism through the Regional grants program to supply information from nonattainment NSR licenses to EPA's RACT/BACT/LAER clearinghouse in accordance with section 173(d) of the CAA.

9. Chapter 115(V)(B)(2)(a) of Maine's regulations establishes provisions, in accordance with section 173(a)(3) of the CAA, to assure that owners or operators of each proposed new or modified major stationary source demonstrate, as a condition of license issuance, that all other major stationary sources under the same ownership in the State are in compliance with the CAA.

III. General Requirements for Ozone Nonattainment NSR

A. Background

The general nonattainment NSR requirements are found in sections 172 and 173 of part D of subchapter I of the Act and must be met by all nonattainment areas. The requirements for ozone that supplement or supersede these requirements are found in subpart 2 of part D. In addition to requirements for ozone nonattainment areas, subpart 2 includes section 182(f), which states that requirements for major stationary sources of VOC shall apply to major stationary sources of oxides of nitrogen (NO_X) unless the Administrator makes certain determinations related to the benefits or contribution of NO_X control to air quality, ozone attainment, or ozone air quality. States were required under section 182(a)(2)(C) to adopt new NSR rules for ozone nonattainment areas by November 15, 1992.

B. Summary of Maine's Submittal

Pursuant to section 172(c)(5) of the CAA, State implementation plans must require permits for the construction and operation of new or modified major stationary sources in nonattainment areas. The federal statutory permit requirements for ozone nonattainment areas are generally contained in revised section 173, and in subpart 2 of Subchapter I, part D of the CAA. These are the minimum requirements that States must include in an approvable implementation plan. For all classifications of ozone nonattainment areas and for ozone transport regions (OTRs), States must adopt the appropriate major source thresholds and offset ratios, and must adopt provisions to ensure that any new or modified major stationary source of NO_X satisfies the requirements applicable to any major source of VOC, unless a special NO_X exemption is granted by the Administrator under the provision of section 182(f). For serious and severe ozone nonattainment areas, State plans must implement sections 182(c) (6), (7) and (8) with regard to modifications of major sources. The State of Maine currently contains moderate, marginal and nonclassified nonattainment areas, as well as areas classified as attainment. However, the entire State is contained within the OTR (see section 184 of the CAA). The CAA provisions that apply to the OTR provide equal or more stringent requirements than those provisions applicable to the marginal and moderate nonattainment areas and under the CAA are applicable throughout the State. Therefore, Maine must adopt, as a minimum, the provisions of the CAA applicable to the OTR into its plans.

The following paragraphs reference the ozone nonattainment and OTR NSR requirements which Maine was required to submit to EPA by November 15, 1992 and how Maine has met those requirements.

1. Chapters 100(58) and 100(101) of Maine's regulations establish a major source threshold level for the OTR of 40 tons per year (tpy) for VOC. Because the major source threshold level for the OTR as required under section 184(b)(2) of the CAA is 50 tpy for VOC, Maine has met this requirement.

2. Chapters 100(58) and 100(101) of Maine's regulations establish, in accordance with sections 184(b)(2), 182(f) and 302(j) of the CAA, a major source threshold level for the OTR of 100 tpy for NO_X.

3. Chapter 113(2)(C) (1) and (2) of Maine's regulation establish, in accordance with sections 184(b)(2), 182(b)(5) and 182(f) of the CAA, an offset ratio of 1.15 to 1 for major sources or major modifications to major sources of VOC and NO_X in the OTR.

IV. Revisions to PSD and Other NSR Programs

Summary of Maine's Submittal

Permitting requirements for the construction of major new sources and major modifications to major sources in attainment/unclassifiable areas are set out in part C of Subchapter I of the CAA and in 40 CFR 51.166, and must be met by all State PSD program SIPs. Maine has revised various provisions in its PSD program to make them consistent with the Federal rules.

A brief description of the revisions is as follows:

(a) In Chapter 100(101) of Maine's regulation, the threshold level for new major sources of NO_X in NO_X attainment areas was changed from 40 to 100 tpy. This is consistent with the requirements at 40 CFR 51.166(b)(1)(i)(a).

(b) In Chapter 100(101) of Maine's regulations, the definition of "significant" was revised to include the significance levels for municipal waste combustor pollutants. The threshold levels are consistent with the requirements at 40 CFR 51.166(b)(23)(i).

(c) Chapter 115(II)(D) of Maine's regulations establishes provisions to exempt pollution control projects from Maine's air emissions license requirements to the extent allowed under the CAA. To be exempt, a project must meet all requirements of applicable State and EPA rules, policies and guidelines which specifically address exemptions from the NSR and PSD programs for pollution control projects.

V. Final Action

EPA is approving the revisions to the following parts of the State of Maine's regulations: Chapter 100, "Definition Regulations," Chapter 113, "Growth Offset Regulation" and Chapter 115, "Emissions License Regulation." These revisions became effective on the State level on July 11, 1994. These revisions meet the nonattainment area NSR provisions of part D of the CAA as well as the requirements of the General Preamble and other miscellaneous requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Madates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The OMB has exempted this action from review under Executive Order 12866.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 25, 1995.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart U—Maine

2. Section 52.1020 is amended by adding paragraph (c)(37) to read as follows:

§ 52.1020 Identification of plan

* * * * *

(c) * * *

(37) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on July 12, 1994.

(i) Incorporation by reference.

(A) Letter from the Maine Department of Environmental Protection dated July 5, 1994 submitting a revision to the Maine State Implementation Plan.

(B) Maine's Chapter 100 entitled, "Definition Regulations." This regulation was effective in the State of Maine on July 11, 1994.

(C) Maine's Chapter 113 entitled, "Growth Offset Regulation." This regulation was effective in the State of Maine on July 11, 1994.

(D) Maine's Chapter 115 entitled, "Emission License Regulation," except for Section 115(VII)(E) of this Chapter and all references to this Section. This regulation was effective in the State of Maine on July 11, 1994.

(ii) Additional materials.

(A) Nonregulatory portions of the State submittal.

3. In § 52.1031 Table 52.1031 is amended by adding new entries to the end of existing state citations for Chapters 100, 113 and 115 to read as follows:

§ 52.1031 EPA-approved Maine regulations.

* * * * *

TABLE 52.1031—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.1020	
100	Definitions Regulation.	6/22/94	2/14/96	[Insert FR citation from published date].	(c)(37)	Addition of 1990 Part D NSR and other CAAA requirements.
113	Growth Offset Regulation.	6/22/94	2/14/96	[Insert FR citation from published date].	(c)(37)	Addition of 1990 Part D NSR requirements.
115	Emission License Regulation.	6/22/94	2/14/96	[Insert FR citation from published date].	(c)(37)	Addition of 1990 Part D NSR and other CAAA requirements.

§ 52.1026 [Amended]

4. § 52.1026 is amended by adding the words "as amended by the CAAA of 1990." to the last sentence.

[FR Doc. 96–3235 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MI40–01–6998a; FRL–5418–1]

Approval and Promulgation of Implementation Plan; Michigan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: This notice approves a revision to the Michigan State Implementation Plan (SIP) to meet the requirements of the USEPA transportation conformity rule set forth at 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The transportation conformity SIP revision will enable the State of Michigan to implement and enforce the Federal transportation conformity requirements at the State or local level in accordance with 40 CFR 51.396(b). This notice of approval is limited only to 40 CFR part 51, subpart T (transportation conformity). SIP revisions submitted under 40 CFR part 51, subpart W, relating to conformity of general Federal actions, will be addressed in a separate USEPA notice. This notice provides the rationale for this approval and other information.

DATES: This "direct final" is effective April 15, 1996, unless USEPA receives adverse or critical comments by March 15, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the SIP revision, public comments and USEPA's responses are available for inspection at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Michael Leslie at (312) 353–6680 before visiting the Region 5 Office.)

A copy of this SIP revision is available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Regulation Development Section (AT–18J), Air Toxics and Radiation Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–6680.

SUPPLEMENTARY INFORMATION:

I. Background

Section 176(c) of the Clean Air Act (CAA), 42 U.S.C. 7506(c), provides that no Federal department, agency, or instrumentality shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to a SIP which has been approved or promulgated pursuant to the CAA. Conformity is defined as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

Section 176(c)(4)(A) of the CAA requires USEPA to promulgate criteria and procedures for determining conformity of all Federal actions (transportation and general) to applicable SIPs. The USEPA published the final transportation conformity rules in the November 24, 1993, **Federal Register** and codified them at 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The conformity rules require States and local agencies to adopt and submit to the USEPA a transportation conformity SIP revision not later than November 24, 1994. This notice does not address the conformity requirements applicable to general Federal actions which are set forth at 40 CFR part 51, subpart W. The USEPA will take action on SIP revisions relating to those requirements in a separate notice.

II. Evaluation of the State's Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the CAA, the Michigan Department of Natural Resources (MDNR) submitted a SIP revision to the USEPA on November 24, 1994. The USEPA found this submittal was complete on April 13, 1995. In its submittal, the State included provisions required by the USEPA transportation conformity rule (40 CFR part 51, subpart T), Memorandum of Agreement (MOA) between the affected agencies, and Metropolitan Planning Organization (MPO) resolutions.

Transportation conformity is required for all areas which are designated nonattainment or maintenance for any transportation related criteria pollutants. The State of Michigan currently has 25 areas designated ozone nonattainment, and one ozone maintenance area. The areas for which transportation conformity determinations are required and which are included as part of Michigan's submittal include the following nonurbanized counties: Allegan, Barry, Branch, Cass, Gratiot, Hillsdale, Huron, Ionia, Lenawee, Lapeer, Montcalm, Saint Joseph, Sanilac, Shiwassee, Tuscola, Van Buren. Urbanized areas include: Battle Creek Metropolitan Statistical Area (MSA) (Calhoun County), Benton Harbor MSA (Berrien County), Detroit-Ann Arbor Consolidated MSA (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties which are ozone maintenance), Flint MSA (Genesee County), Grand Rapids MSA (Kent and Ottawa Counties), Jackson MSA (Jackson County), Kalamazoo MSA (Kalamazoo County), Lansing-East Lansing MSA (Clinton, Eaton, and Ingham Counties), Muskegon MSA (Muskegon County), and Saginaw-Bay City-Midland MSA (Bay, Midland, and Saginaw Counties). In addition to the ozone nonattainment and maintenance areas, portions of three counties (Wayne, Oakland, and Macomb) are designated carbon monoxide nonattainment.

The MDNR held a public hearing on its transportation conformity submittal on October 21, 1994. One comment was received by MDNR and that comment was addressed in the submittal.

The consultation section of the USEPA transportation conformity rule (40 CFR 51.402) requires that the SIP revision include procedures for interagency consultation among the Federal, State, and local agencies and for resolution of conflicts in accordance with the criteria set forth in 40 CFR 51.402. Specifically, the SIP revision must include processes and procedures to be undertaken by Metropolitan Planning Organizations (MPO), State departments of transportation, and the United States Department of Transportation (USDOT) with State and local air quality agencies and USEPA before making a conformity determination, and by State and local air quality agencies and USEPA with MPOs, State departments of transportation, and USDOT in developing applicable SIPs.

In order to satisfy these requirements, the MDNR developed an ad hoc multi-agency committee, the Inter-agency Work Group (IAWG), which included representatives from the MDNR, Michigan Department of Transportation (MDOT), USDOT, and MPOs. The IAWG developed the final consultation rule by integrating the requirements of 40 CFR 51.402 and 23 CFR 450 with the local procedures and processes. Michigan's final consultation rule outlines the roles and responsibilities of each of the affected agencies for the process for determining conformity. The consultation rule further outline the procedures for conflict resolution in the transportation conformity process, for implementation of the public participation process, and for the submission of documentation relating to a conformity determination. The conformity SIP revision submitted by Michigan has adequately addressed all provisions of 40 CFR 51.402 and thus meets the USEPA SIP requirements.

Section 51.396 of the transportation conformity rule states that to be approvable by the USEPA, the SIP revision submitted to USEPA must address all requirements of the transportation conformity rule in a manner which gives them full legal effect. In particular, the revision must incorporate the provisions of the following sections of the rule in verbatim form, except insofar as needed to give effect to a stated intent in the revision to establish criteria and procedure more stringent than the requirements stated in these sections: 51.392, 51.394, 51.398, 51.400, 51.404, 51.410, 51.412, 51.414, 51.416, 51.418, 51.420, 51.422, 51.424, 51.426, 51.428, 51.430, 51.432, 51.434, 51.436, 51.438, 51.440, 51.442, 51.444, 51.446, 51.448, 51.450, 51.460, and 51.462. The State of Michigan incorporated into the SIP revision submittal all of the above sections in verbatim form.

On August 7, 1995, USEPA finalized an amendment to section 51.448. It should be noted that additional sections of the conformity rule are scheduled to be amended. The USEPA can not approve sections into the SIP where inconsistencies exist between the submittal and the final rule. Following these rule changes, the State of Michigan will be required to update the SIP to address the rule changes.

The MDNR, after consulting with the Michigan Attorney General, correctly concluded that this SIP revision will be enforceable pursuant to Michigan statutory law. Section 336.15 of the Michigan Compiled Laws (MCL), MSA § 14.58(5)(1965 Mich. Pub. Acts 348), authorizes MDNR: to promulgate rules to establish standards for ambient air quality and for emissions (including SIPs); to institute a civil action to compel compliance with such rules; to cooperate with USEPA with respect to the control of air pollution; and to take other actions necessary to enforce such rules. Section 336.26d of MCL, MSA § 14.58(16d)(1965 Mich. Pub. Acts 348), provides for the assessment of penalties by MDNR for SIP violations and Section 336.26e of MCL, MSA § 14.58(16e)(1965 Mich. Pub. Acts 348), authorizes the attorney general to seek both penalties and injunctive relief for such violations.

Additional enforcement authority is found in MCL § 691.1202, MSA § 14.528(202)(1970 PA 127), which authorizes the attorney general, any political subdivision of the State, any instrumentality or agency of the State, or any person or legal entity to bring a civil action for declaratory and equitable relief for the protection of the air from pollution, impairment or destruction. In determining whether a violation has occurred or is likely to occur, the court may adopt standards set forth in a SIP or may adopt another standard.

In addition, the MOA, which is the binding agreement among all of the affected agencies and which outlines each agency's roles and responsibilities in the transportation conformity process, contains an agreement by each agency to comply with the requirements of the federal transportation conformity rule. A total of 13 MOAs were included in the SIP revision: 12 MOAs between the local MPO, MDOT and MDNR for the 10 metropolitan areas, and one MOA between MDOT and MDNR for the remaining rural areas.

III. USEPA Action

The USEPA is approving the transportation conformity SIP revision for the State of Michigan. The USEPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal transportation conformity rules in accordance with 40 CFR part 51 subpart T. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this SIP revision. Because USEPA considers this action to be noncontroversial and routine, USEPA is approving it without prior proposal. This action will become effective on April 15, 1996. However, if we receive adverse comments by March 15, 1996, USEPA will publish a notice that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Dated: January 23, 1996.

Valdas V. Adamkus,

Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

Subpart X—Michigan

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C 7401–7671q.

2. Section 52.1174 is amended by adding paragraph (m) to read as follows:

§ 52.1174 Control strategy: Ozone.

* * * * *

(m) Approval—On November 24, 1994, the Michigan Department of Natural Resources submitted a revision to the ozone State Implementation Plan. The submittal pertained to a plan for the implementation and enforcement of the Federal transportation conformity requirements at the State or local level in accordance with 40 CFR part 51 subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act.

3. Section 52.1185 is added to read as follows:

§ 52.1185 Control strategy: Carbon Monoxide.

(a) Approval—On November 24, 1994, the Michigan Department of Natural Resources submitted a revision to the carbon monoxide State Implementation Plan. The submittal pertained to a plan for the implementation and enforcement of the Federal transportation conformity requirements at the State or local level in accordance with 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act.

(b) (reserved).

[FR Doc. 96–3328 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MA42–1–7174a; A–1–FRL–5329–5]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Automotive Refinishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes VOC emission standards for automotive refinishing. The intended effect of this action is to approve a revision to Massachusetts SIP which reduces VOC emissions from automotive refinishing. This action is being taken in accordance with Section 183(e) of the Clean Air Act.

DATES: This action is effective April 15, 1996, unless notice is received by March 15, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy, Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW. (LE–131), Washington, D.C. 20460; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove, (617) 565–3246.

SUPPLEMENTARY INFORMATION: Under section 183(a) of the Clean Air Act, EPA was required to issue a control techniques guideline (CTG) for the category of autobody refinishing. However, EPA has instead issued guidance for this category in the form of an Alternative Control Technology (ACT) guideline. While the ACT does not define reasonably available control technology (RACT) standards for autobody refinishing, it does include three control options with estimates of costs and emission reductions for each option. In addition to the section 183(a) requirements, Section 183(e) of the CAA, requires EPA to issue national VOC emissions standards for consumer and commercial products, which include automotive refinishing coatings. EPA expects to propose the national rule for automotive refinishing coatings in the fall of 1995. Massachusetts decided to adopt rules for autobody refinishing in advance of a federal rule, to get credit for reductions from this category in its 15% plan.

Massachusetts was required to submit, by November 15, 1993, a SIP revision for Reasonable Further Progress (RFP) for 15% reduction of VOCs as necessary for moderate areas and above. The entire state of Massachusetts is classified as serious nonattainment area, therefore the 15% plan must cover the entire state.

On August 18, 1994, the Massachusetts DEP submitted to EPA for comment, proposed amendments to the SIP to address the RFP requirements including new air pollution control regulations 7.18(28) "autobody refinishing." Massachusetts held public hearings during May 6–13, 1994 and on September 22 and 23, 1994 throughout the State for its proposed automotive refinishing rule. EPA submitted written comments regarding the proposed regulations on September 22, 1994. The rule was effective on December 16, 1994, upon publication in the Massachusetts Register.

On January 9, 1995, the Commonwealth of Massachusetts submitted a formal revision to its State Implementation Plan (SIP). The SIP revision amends 310 CMR 7.00 by adding Section 310 CMR 7.18(28) autobody refinishing.

The adopted regulation 310 CMR 7.18(28), "autobody refinishing," regulates the VOC content of automotive refinishing products. The regulation applies to any person who sells, offers for sale, or manufactures autobody refinishing coatings for sale within Massachusetts or who owns, leases, operates or controls an automotive refinishing facility.

Summary of SIP Revision

The adopted air pollution control regulation , 310 CMR 7.18(28) "autobody refinishing", establishes Reasonably Available Control Technology for all automobile refinishing facilities. Automotive Refinishing facility" is defined by Massachusetts as "any facility at which the interior or exterior bodies of automobiles, motorcycles, light/medium-duty trucks, or vans are painted. Refinishing of aftermarket vehicles and new vehicles damaged in transit before their initial sale are included under this definition." The rule established the following RACT emission limits, expressed as pounds of VOC per gallon of coating and grams of VOC per liter of coating, excluding water and exempt solvents:

TABLE 7.18(28)(c).—RACT EMISSION LIMITATIONS FOR AUTOMOTIVE REFINISHING PRODUCTS

Coating type	VOC Emission limitation	
	grams/liter	lbs/gal
Pretreatment Wash Primer	780	6.5
Primer/primer Surfacer	575	4.8
Primer Sealer	550	4.6
Topcoat	600	5.0
Three or Four-Stage Topcoat	620	5.2
Specialty Coating	840	7.0

The rule gives facilities the option of complying through the use of compliant coatings, or by installing emission control systems that result in VOC emissions less than or equal to the limits specified in Table 7.18(28)(c). The rule also contains the following provisions:

1. *Good housekeeping Requirements* to minimize solvent evaporation);

2. *Equipment Requirements* that specify the use of High volume Low Pressure spray equipment and require spray gun cleaning and solvent storage in a manner that limit solvent evaporation; and

3. *Training, recordkeeping, reporting, biennial compliance certification requirements.*

Facilities are required to comply with the regulation by August 1, 1995.

EPA's evaluation is detailed in a memorandum, entitled "Technical Support Document for Massachusetts Air Pollution Control Regulation, 310 CMR 7.18(28), Automotive Refinishing."

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 15, 1996 unless adverse or critical comments are received by March 15, 1996.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are

received, the public is advised that this action will be effective on April 15, 1996.

Final Action

EPA is approving Section 310 CMR 7.18(28) Automotive refinishing.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 183(e) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables.

The OMB has exempted this action from review under Executive Order 12866.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the Commonwealth of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 6, 1995.

John P. DeVillars,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(109) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(109) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on January 9, 1995.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection, dated January 9, 1995, submitting a revision to the Massachusetts State Implementation Plan.

(B) The following portions of the Rules Governing the Control of Air Pollution for the Commonwealth of Massachusetts effective on December 16, 1994: 310 Code of Massachusetts Regulations Section 7.18(28) Automotive Refinishing.

3. In § 52.1167 Table 52.1167 is amended by adding and new entry (28) to the end of entry 310 CMR 718 to read as follows:

§ 52.1167 EPA—approved Massachusetts State regulations.

* * * * *

TABLE 52.1167.—EPA—APPROVED MASSACHUSETTS REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
310 CMR 7.18(28)	Automotive Refinishing.	01/09/95	February 14, 1996	Supply Page	109	Reasonably Available Control Technology Requirement (RACT) for automotive refinishing.

[FR Doc. 96–3237 Filed 2–13–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[NE–9–1–7220a; FRL–5409–6]

Approval and Promulgation of Implementation Plans and Approval of 112(l) Authority; Lincoln-Lancaster County Health Department (LLCHD) and City of Omaha (Nebraska)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final action approves the State Implementation Plan (SIP) submitted by the state of Nebraska on behalf of the two local air pollution control agencies. The state has an approved program (published in the **Federal Register** on January 4, 1995), and the local agencies have adopted the same regulatory framework in order to issue Federally enforceable Class II permits. This request is sound, since the local agencies will administer independent Title V programs and should also offer relevant sources the alternative Class II permits. Furthermore, all applicable sources in the state (and in the local agencies' jurisdiction) are already subject to the requirements of the Class II operating permit program. Therefore, the only practical change created by this SIP revision for sources in Omaha or Lincoln-Lancaster County is that these Class II permits will be issued by the local agencies instead of the state.

This revision includes the creation of a Class II operating permit program and adopts the state's Part D (nonattainment) new source review rule changes, SO_2 rule corrections, and provisions for compliance and enforcement information. These revisions are identical to those adopted by the state and have been approved by EPA in the January 4, 1995 **Federal Register**. The EPA's rationale for that approval is contained in the cited **Federal Register** document and in the "Technical Support Document (TSD) for a Revision to the Nebraska SIP and Request for Approval under Section 112(l)" dated August 12, 1994, which is also part of the rationale for this approval.

The creation of a Class II operating permit program enables the local agencies, like the state, to have a Federally enforceable program for sources not covered by the requirements for Title V sources under the Clean Air Act Amendments of 1990 and part 70 of the Code of Federal Regulations (CFR), and for sources not subject to Title V because they are able to obtain a Class II permit.

DATES: This action is effective April 15, 1996 unless by March 15, 1996 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air and Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION: In February 1994, the state of Nebraska submitted an SIP revision to create a Class II operating permit program for sources not otherwise subject to Title V which became effective on March 6, 1995. Thereafter, the two local agencies adopted the state's regulations in order to create Class II operating permit programs in their respective jurisdictions as well.

Specifically, the LLCHD has used Title 129 (Nebraska's Air Quality Regulations) to create the "Lincoln-Lancaster County Air Pollution Control Program" (adopted May 16, 1995), but uses a different reference system (article and section) instead of Title 129's system of chapter and section. Nevertheless, the content of the local program rules as it applies to operating permits is identical to Title 129. The city of Omaha has incorporated the state's regulation by reference (adopted March 23, 1995).

Following the adoption of these rules, the state submitted a request on May 31, 1995, on behalf of LLCHD to completely replace the LLCHD portion of the SIP with the regulations cited above to create a Federally enforceable Class II program. On June 2, 1995, the state submitted a similar request on behalf of the city of Omaha for the same purpose. The state has also requested approval of these programs pursuant to section 112(l) of the Act, which governs state programs for regulation of hazardous air pollutants (HAP).

Since the local agencies use the same regulatory basis as the state's, and this revision merely enables the local agencies to administer the requirements that sources in their jurisdictions are already subject to, this notice does not duplicate the topics addressed at 60 FR 372–375 published in the **Federal Register** on January 4, 1995. The reader may consult that notice for a review of the provisions for which the EPA has already provided analysis and determined approvability. In summary, EPA reviewed the state, and subsequently the local, Class II programs to determine if they are consistent with the guidance for approval of Federally enforceable state operating permit programs (54 FR 27281, June 28, 1989). EPA determined that the state program is consistent with that guidance, and has now determined that the local programs meet the guidance as well.

Furthermore, the reader may request the TSD for a revision to the Nebraska SIP and request for approval under section 112(l) dated August 12, 1994, for a complete and thorough discussion of the revision as it relates to the state Class II program. The reader may also request the TSD for a revision to the Nebraska SIP creating a Class II Operating Permit Program for the city of Omaha and LLCHD dated September 1, 1995. These documents are available at

the locations stated in the **ADDRESSES** section of this document.

Approval of 112(l) Authority

The state has also requested that the local agencies' operating permits program be approved pursuant to section 112(l) of the Act. By approving the program under this provision, the local agencies may impose requirements for HAPs which are subject to EPA enforcement under the Clean Air Act (CAA). One effect of this rule is that limitations on potential-to-emit hazardous pollutants, issued in accordance with the approved program will be recognized as Federally enforceable by EPA. Thus, sources may voluntarily restrict their potential emissions of HAPs and be issued a Class II permit to avoid the more extensive requirements of Title V.

In order to receive approval, the programs must meet specific criteria for approval under 112(l) which include:

1. Adequate authority within the program to ensure compliance by all sources with each applicable standard, regulation, or requirement established by the Administrator. As part of the state's submittal to create the Class II program, an Attorney General's statement was provided which ensures necessary legal authority and compliance by all sources within the state. The local agencies have also provided statements of adequate authority from their legal counsels.

2. Adequate authority to implement the program. As part of the state's SIP revision, appropriate copies of state statutes, regulations, and other requirements which contain the relevant provisions demonstrating authority to implement and enforce the state rule upon approval have been submitted to the EPA and deemed approvable. The local agencies have also submitted provisions which demonstrate adequate authority to implement the program.

3. Adequate resources to implement the program. Both local agencies have committed to provide adequate resources in resource demonstrations that comprehensively address requirements of the Title V and SIP-based operating permit programs which is inclusive of 112(l) requirements.

4. An expeditious schedule for implementing the program and ensuring compliance by the affected sources. Class II permit applications are due within 12 months of the effective date of the regulations (May 1995).

Based on the review described above, the EPA is approving the Class II operating permit program for the control of air toxics that allow sources to limit their potential to emit of HAPs under section 112(l) of the Act.

Prevention of Significant Deterioration (PSD)

Although the local agencies' adoption of the state's rules include PSD regulations, the EPA herein notes that only the state program includes an approved part 51 program to issue PSD permits. As part of the Class II program, the local agencies will act as agents of the state to administer and enforce requirements applicable under PSD, although only the state will actually issue these permits.

Variances

Both local agencies have the authority to issue a variance from requirements imposed by state or local law based on Nebraska Revised Statute § 81–1513.

However, the EPA has no authority to approve provisions of state and local authority, such as the variance provisions, which are inconsistent with the Act. Thus, any proposed variance must be submitted as a request for a revision to the SIP.

Furthermore, the EPA reserves the right to enforce provisions of the Act where the permitting authority purports to grant relief in a manner inconsistent with the requirements of the Act.

EPA Action

EPA is taking final action to approve revisions submitted May 31 and June 2, 1995, for the LLCHD and city of Omaha, respectively. All revisions discussed in this notice are considered approvable by the EPA. This action also approves the revisions under section 112(l) of the Act for these local programs.

This action does not include several requirements unique to the local programs, such as the regulation of odors, which do not address CAA requirements. These excluded portions are specified in the TSD for this action, dated September 1, 1995.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule, based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Nothing in this action should be construed as permitting, or allowing or establishing a precedent for any future request for revision to any SIP. Each request for a revision shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation.

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP revision, the state has elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions, and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law.

Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to state or local governments in the aggregate or to the private sector.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 7, 1995.

William Rice,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart CC—Nebraska

2. Section 52.1420 is amended by adding paragraph (c)(44) to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

(44) On May 31 and June 2, 1995, the Director of the Nebraska Department of Environmental Quality (NDEQ) submitted revisions to the SIP to update the local ordinances of the Lincoln-Lancaster County Health Department and city of Omaha, respectively, and to create Federally enforceable Class II operating permit programs for these agencies.

(i) Incorporation by reference.

(A) 1993 Lincoln-Lancaster County Air Pollution Control Program, Version March 1995, effective May 16, 1995. This includes the following citations: Article I (except Section 6); Article II, Sections 1–12, 14–17, 19–20, 22, 24–25, 32–38; and Appendix I.

(B) Ordinance No. 33102 dated November 2, 1993, which adopts Chapter 41, Article I, Sections 41–4 through 41–6; 41–9; 41–10; Article II, Sections 41–23; 41–27; 41–38; and 41–40 and Article IV of the Omaha Municipal Code. Ordinance No. 33506 dated March 21, 1995, amends Chapter 41, Article I, Sections 41–2 and 41–9 of the Omaha Municipal Code and adopts Title 129, Nebraska Air Quality Regulations, approved December 2, 1994.

(ii) Additional material.

(A) Letter from the city of Omaha dated September 13, 1995, regarding adequate authority to implement section 112(l).

(B) Letter from the NDEQ dated November 9, 1995, regarding rule omissions and PSD.

3. Section 52.1427 is added to read as follows:

§ 52.1427 Operating permits.

Emission limitations and related provisions which are established in the city of Omaha and Lincoln-Lancaster operating permits as Federally enforceable conditions shall be enforceable by EPA. The EPA reserves the right to deem permit conditions not Federally enforceable. Such a determination will be made according to appropriate procedures and be based upon the permit, permit approval procedures, or permit requirement which do not conform with the operating permit program requirements or the requirements of EPA underlying regulations.

[FR Doc. 96–3233 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–60–P

40 CFR Part 52

[CA 95–9–7273a; FRL–5411–1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action granting limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP). The revisions concern a rule from the San Diego County Air Pollution Control District (SDCAPCD). The revised rule controls VOC emissions from kelp processing and bio-polymer manufacturing operations. This final action will incorporate this rule into the federally approved SIP. The intended effect of finalizing this action is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing a simultaneous limited approval and limited disapproval of the revised rule under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because the rule, while strengthening the SIP, also does not fully meet the CAA provisions regarding plan submissions and plan requirements for nonattainment areas. As a result of the limited disapproval portion of this action, EPA will be required to impose highway funding or emission offset sanctions under the CAA unless the State submits and EPA approves corrections to the identified deficiencies within 18 months of the effective date of this disapproval. Moreover, EPA will be required to promulgate a Federal Implementation Plan (FIP) unless the deficiencies are corrected within 24 months of the effective date of this disapproval.

EFFECTIVE DATE: This action is effective on April 15, 1996, unless adverse or critical comments are received by March 15, 1996. If the effective date is delayed, a timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the rule and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460
San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT:
Patricia A. Bowlin, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being incorporated into the California SIP is SDCAPCD Rule 67.10, Kelp Processing and Bio-Polymer Manufacturing Operations. This rule was submitted by the California Air Resources Board (CARB) to EPA on July 13, 1994.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the San Diego Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the SDCAPCD's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. San Diego Area is classified as Serious;[2] therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on July 13, 1994, including the rule being acted on in this notice. This notice addresses EPA's direct-final action for SDCAPCD Rule 67.10, Kelp Processing and Bio-Polymer Manufacturing Operations. SDCAPCD adopted Rule 67.10 on June 15, 1994. This submitted rule was found to be complete on September 12, 1994 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V[3] and is being finalized for limited approval and limited disapproval into the SIP.

Rule 67.10 controls the emissions of VOCs from kelp processing and bio-polymer manufacturing operations. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of SDCAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and has been revised in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). For source categories that do not have an applicable CTG (such as kelp processing and bio-polymer manufacturing operations), state and local agencies may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. Within the SDCAPCD there is only one facility that performs kelp processing and bio-polymer manufacturing operations. For this source category, the RACT determination required an evaluation of the manufacturing processes and the emissions specific to this facility. The evaluation also considered the technological and economic feasibility of proposed controls at individual emission points.

Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, the EPA policy guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SDCAPCD's submitted Rule 67.10, Kelp Processing and Bio-Polymer Manufacturing Operations, includes the following revisions from the current SIP:

- Expansion of rule applicability to include pilot plant facilities
- More stringent recordkeeping requirements for claiming exemptions
- Addition of an exemption for any VOC with normal boiling point of 185 °C or greater
- Addition of an exemption for temporary equipment in pilot plants
- Addition of new definitions
- Revision of the VOC definition to eliminate the vapor pressure exemption
- Revision of the fugitive liquid leak definition to three drops per minute, or a visible mist, with greater than 10% by weight VOC
- Deletion of the exemption of presses from fugitive liquid leak provisions
- Revisions to the add-on control efficiency requirements for manufacturing lines and pilot plants
- Revision to the compliance determination period for add-on control devices
- Deletion of the provision allowing source to appeal conditional approval/disapproval of an operation and maintenance program
- Deletion of the provision allowing the Air Pollution Control Officer to recommend relaxations of the VOC control efficiency requirements for driers and reactors
- Addition of equipment and operational standards to minimize fugitive emissions
- Addition of capture and control requirements for presses and spent pots
- Specification of recordkeeping requirements and test methods for compliance determinations

EPA has evaluated the submitted rule for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in a clearer, more enforceable rule. Furthermore, the addition of more stringent standards in submitted Rule 67.10 should lead to more emission reductions.

Although SDCAPCD Rule 67.10 will strengthen the SIP, the rule still contains deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of Part D of the CAA. The remaining deficiencies include the following:

- Fifty percent by weight VOC fugitive liquid leak standard for incorporators
- No provisions for frequency of monitoring or inspection for fugitive liquid leaks
- No capture efficiency protocol provision
- Determinations of compliance based on shorter test periods than allowed for determinations of non-compliance

Moreover, the submitted rule adds another significant deficiency: an exemption of VOCs based on boiling point. A detailed discussion of rule deficiencies can be found in the Technical Support Document for Rule 67.10 (1/96), which is available from the U.S. EPA's Region IX office. Because of these deficiencies, the rule is not approvable pursuant to section 182(a)(2)(A) of the CAA because it is not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and Part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is finalizing a limited approval of SDCAPCD's submitted rule 67.10 under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also finalizing a limited disapproval of this rule because it contains deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rule does not fully meet the requirements of Part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of this final limited disapproval. Moreover, this final limited disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this direct final rulemaking has been adopted by the SDCAPCD and is currently in effect in the District. EPA's final limited disapproval action will not prevent the District or EPA from enforcing this rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing a limited approval and limited disapproval of the SIP revision should adverse or critical comments be filed. This action will be effective April 15, 1996, unless by March 15, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 15, 1996.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

Limited approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. Under the CAA, EPA may not base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

EPA's limited disapproval of the State request under sections 110 and 301 and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state enforceability. Moreover, EPA's limited disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this limited disapproval action does not have a significant impact on a substantial number of small entities because it does not remove

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The San Diego Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991). The San Diego Area was reclassified from Severe-1S to Serious on January 19, 1995, 60 FR 3771.

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

existing requirements nor does it impose any new Federal requirements.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. This rule may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rule being incorporated into the SIP by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 16, 1996.

Felicia Marcus,

Regional Administrator.

Subpart F of part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Subpart F—California

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.220 is amended by adding paragraph (c)(198)(i)(I) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(I) San Diego County Air Pollution Control District.

(*1*) Rule 67.10, adopted on June 15, 1994.

* * * * *

[FR Doc. 96–3231 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[WA40–1–7099; WA42–1–7115; AK11–1–6944; FRL–5337–8]

Approval and Promulgation of Implementation Plans: Washington and Alaska

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to procedures described at 54 FR 2214 (January 19, 1989), EPA has recently approved a number of minor State implementation plan (SIP) revisions submitted by the Washington Department of Ecology (WDOE) and the Alaska Department of Environmental Conservation (ADEC). These revisions included local air pollution control regulations submitted by WDOE from the Puget Sound Air Pollution Control Agency (PSAPCA) which are at least as stringent as the WDOE statewide rules. The revisions also included the carbon monoxide (CO) contingency measure for Fairbanks, AK., submitted by ADEC. ADEC's SIP revision, identified as the repair technician training and certification program, was previously approved by EPA on April 5, 1995 (60 FR 17232) as part of the State's inspection and maintenance program in the Fairbanks North Star Borough, but no credit had been taken by the State for the program at that time. Therefore, the CO contingency measure in Fairbanks was submitted as a separate element to meet the requirements of the Clean Air Act, as amended in 1990 (the "Act"). This document lists the revisions EPA has approved and incorporates the relevant material into the Code of Federal Regulations.

EFFECTIVE DATE: February 14, 1996.

ADDRESSES: Copies of Washington's and Alaska's State SIP revision requests and EPA's letter notices of approval are available for public inspection during normal business hours at the following locations: EPA, Region 10, Office of Air, Docket # WA–40–1–7099, WA–42–1–7115, AK–11–1–6944, 1200 Sixth Avenue, Seattle, WA. 98101; WDOE, Mail Stop PV–11, Olympia, WA. 98504–8711; and ADEC, 410 Willoughby Ave., Suite 105, Juneau, AK. 99801–1795.

FOR FURTHER INFORMATION CONTACT: Montel Livingston, Office of Air (AT–082), EPA, Seattle, WA. 98101, (206) 553–0180.

SUPPLEMENTARY INFORMATION: EPA Region 10 has approved the following minor SIP revision requests under section 110(a) of the Act:

State	Subject matter	Date of submission	Date of approval
WA ...	Amendment to SIP affecting PSAPCA's regulation I. Clarifies intent of requirement, repeals redundancies.	5–17–95	6–19–95

State	Subject matter	Date of submission	Date of approval
WA ...	Amendment to SIP incorporating guidelines for evaluating toxic air contaminant emissions into the regulations.	9–7–95	10–23–95
AK	Amendment to SIP adding a carbon monoxide contingency measure for Fairbanks.	7–12–95	9–7–95

EPA has determined that each of these SIP revisions complies with all applicable requirements of the Act and EPA policy and regulations concerning such revisions. Due to the minor nature of these revisions, EPA concluded that conducting notice-and-comment rulemaking prior to approving the revisions would have been "unnecessary and contrary to the public interest," and hence, was not required by the Administrative Procedure Act, 5 U.S.C. 553(b). Each of these SIP approvals became final and effective on the date of EPA approval as listed in the chart above.

The Office of Management and Budget has exempted all SIP approvals from the requirements of section 3 of Executive Order 12866.

Under 5 U.S.C. 605(b), I certify that these SIP revisions will not have a significant impact on a substantial number of small entities. See 46 FR 8709.

Under section 307(b)(1) of the Act, as amended, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit by April 15, 1996. These actions may not be challenged later in proceedings to enforce their requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plans for the States of Washington and Alaska were approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: November 14, 1995.

Chuck Clarke,

Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(26) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(26) Submittal to EPA from the ADEC of CO contingency measure for Fairbanks, AK.

(i) Incorporation by reference.

(A) Letter dated July 12, 1995 from the Commissioner of the ADEC to the EPA Regional Administrator submitting its repair technician and certification program element found in State regulation 18 AAC 52.400–410, effective June 24, 1994.

Subpart WW—Washington

3. Section 52.2470 is amended by adding paragraph (c)(59) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(59) Various minor revisions consisting of amended regulations affecting a local air agency, PSAPCA, were submitted to EPA from the WDOE for inclusion into the Washington SIP.

(i) Incorporation by reference.

(A) Letters dated May 17, and September 7, 1995 from the Director of the WDOE to the EPA Regional Administrator submitting minor revisions to PSAPCA's regulations for inclusion into the SIP: PSAPCA, Regulation I adopted on May 22, 1995; PSAPCA, Regulation III adopted on September 11, 1995.

[FR Doc. 96–3230 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[TN–NASH–96–01; FRL–5422–4]

Clean Air Act Final Full Approval of Operating Permits Program; Metropolitan Health Department, Metropolitan Government of Nashville and Davidson County, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the Operating Permits Program submitted by the State of Tennessee on behalf of the Metropolitan Health Department ("Nashville-Davidson County" or "the County"), located in the geographic area of Nashville-Davidson County. The County's program was submitted for the purpose of complying with Federal requirements which mandate that states or local authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: March 15, 1996.

ADDRESSES: Copies of the Nashville-Davidson County submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365, on the 3rd floor of the Tower Building. Interested persons wanting to examine these documents, contained in EPA docket number TN–NASH–96–01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Title V Program Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347–3555, Ext. 4150.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act ("the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states or authorized local agencies develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one

year after receiving the submittal. EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal program.

On October 11, 1995, EPA proposed full approval, or in the alternative, interim approval of the operating permits program for Nashville-Davidson County. *See* 60 FR 52890. The October 11, 1995, notice also proposed approval of the County's interim mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal. On December 28, 1995, the State of Tennessee submitted on behalf of Nashville-Davidson County a package containing revisions to the operating permits program, which addressed the deficiency discussed in the full/interim approval notice. As required by 40 CFR 70.5(c), the County adopted revisions to M.C.L. section 10.56.050 to ensure that information needed to determine the applicability of, or to impose, any applicable requirement, or to collect any permit fees is not excluded from the application. Specifically the new provision, M.C.L. section 10.56.050(F), reads as follows: "Notwithstanding any exemptions in this Section, any application submitted in accordance with Section 10.56.020 and Section 10.50.040 of this Chapter shall include all emission sources and quantify emissions if needed to determine major source status, to determine compliance with an applicable requirement and/or the applicability of any applicable requirement such as a NSPS, NESHAPS, or MACT standard, etc., or in [the] calculation [of] permit fees in accordance with Section 10.56.080." This change became locally effective on December 14, 1995.

In this action, EPA is promulgating full approval of the Nashville-Davidson County operating permits program, and approving the section 112(g) and section 112(l) mechanisms noted above.

II. Final Action and Implications

A. Title V Operating Permits Program

The EPA is promulgating full approval of the operating permits program submitted by the State of Tennessee, on behalf of Nashville-Davidson County, on November 13, 1993, and supplemented on April 19, 1994; September 27, 1994; December 28, 1994; and December 28, 1995. The October 11, 1995, notice established that the County would receive full approval of its program if changes to M.C.L. section 10.56.050 were adopted prior to final promulgation. Such changes became locally effective on December 14, 1995. Nashville-Davidson County has demonstrated that the program will be adequate to meet the minimum elements of a state or local operating permits program as specified in 40 CFR part 70.

The scope of the County's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within Nashville-Davidson County, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

B. Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Nashville-Davidson County's preconstruction review program found in M.C.L. section 10.56.020 as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and the County's adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by Nashville-Davidson County to implement section 112(g). The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide the County with adequate time to adopt regulations consistent with Federal requirements.

C. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the County's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of Nashville-Davidson County's program for receiving delegation of section 112 standards and programs that are unchanged from Federal rules as promulgated. In addition, EPA is approving the delegation of all existing standards and programs under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Docket

Copies of the Nashville-Davidson County submittal and other information relied upon for the final full approval are contained in docket number TN–NASH–96–01 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 1, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for Tennessee in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Tennessee

(a) (Reserved)

(b) The Metropolitan Health Department, Metropolitan Govenment of Nashville-Davidson County; submitted on November 13, 1993, and supplemented on April 19, 1994; September 27, 1994; December 28, 1994; and December 28, 1995; full approval effective on March 15, 1996.

* * * * *

[FR Doc. 96–3283 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 81

[MI39–03–7248; FRL–5421–9]

Designation of Areas for Air Quality Planning Purposes; Correction of Designation of Nonclassified Ozone Nonattainment Areas; State of Michigan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On August 8, 1995 the USEPA simultaneously published a direct final notice of rulemaking and notice of proposed rulemaking in which USEPA published its decision to correct erroneous ozone designations made in 1980 for the Allegan County, Barry County, Battle Creek (Calhoun County), Benton Harbor (Berrien County), Branch County, Cass County, Gratiot County, Hillsdale County, Huron County, Ionia County, Jackson (Jackson County), Kalamazoo (Kalamazoo County), Lapeer County, Lenawee County, Montcalm (Montcalm County), Sanilac County, Shiawassee County, St. Joseph County, Tuscola County, and Van Buren County nonattainment nonclassified/incomplete data areas and the Lansing-East Lansing (Clinton County, Eaton County, and Ingham County) nonattainment nonclassified/transitional area. Pursuant to section 110(k)(6) of the Act, the USEPA published the designation correction of these areas to attainment/unclassifiable for ozone. The 30-day comment period concluded on September 7, 1995. During this comment period, the USEPA received two comment letters in response to the August 8, 1995, rulemaking. This final rule summarizes comments and USEPA's responses, and finalizes the USEPA's decision to correct the designations of 20 of these areas to attainment/unclassifiable for ozone. The USEPA will respond to comments relevant to Allegan County, Michigan and publish a final rulemaking on this area in a separate rulemaking action in a future **Federal Register**.

EFFECTIVE DATE: This action will be effective March 15, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for inspection at the following address: (It is recommended that you telephone Jacqueline Nwia at (312) 886–6081 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Jacqueline Nwia, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–6081.

SUPPLEMENTARY INFORMATION:

I. Background Information

On August 8, 1995, the USEPA published a direct final rulemaking (60 FR 40297) correcting the designation for 21 of 23 ozone nonattainment nonclassified incomplete/no data and transitional areas in Michigan to attainment/unclassifiable due to the lack of in-county ozone monitoring data showing violations of the 0.12 parts per million (ppm) National Ambient Air Quality Standard (NAAQS).

At the same time that the USEPA published the direct final rule, a separate notice of proposed rulemaking was published in the **Federal Register** (60 FR 40338). This proposed rulemaking specified that USEPA would withdraw the direct final rule if adverse or critical comments were filed on the rulemaking. The USEPA received two letters containing adverse comments regarding the direct final rule within 30 days of publication of the proposed rule and withdrew the direct final rule on October 2, 1995 (60 FR 51360).

The specific rationale the USEPA used to correct certain ozone nonattainment nonclassified areas to attainment is explained in the direct final rule and will not be restated here.

This final rule contained in this **Federal Register** addresses the comments which were received during the public comment period and announces USEPA's final action regarding these determinations, with the exception of comments relevant to and a final determination regarding Allegan County.

II. Public Comments and USEPA Responses

Two letters were received in response to the August 8, 1995, direct final rulemaking. One was a letter from the Citizens Commission for Clean Air in the Lake Michigan Basin (Citizens Commission) and the other from the New York State Department of Environmental Conservation (NYSDEC). The following discussion summarizes and responds to the comments received, with the exception of those relevant to Allegan County. Comments received relevant to and a final action on Allegan County will be published in a future rulemaking action.

Citizens Commission Comment

The commenter states that the rulemaking is improper and an abuse of the Administrator's authority to correct errors in designation of areas pursuant to Clean Air Act (Act) section 110(k)(6). The commenter restates section 110(k)(6) emphasizing the provision that determinations pursuant to 110(k)(6) and their basis must be provided to the State and public. The commenter further states that the basis of the direct final rule, the lack of air quality data in the affected areas during the 1970s and 1980s, is insufficient grounds for changing the designation of the affected areas under the Act.

USEPA Response

The USEPA disagrees with the commentor's contention that the rulemaking is an improper use and/or abuse of section 110(k)(6). The commenter doesn't provide information or a rationale for this comment. Consistent with section 110(k)(6), the USEPA determined that the designations of these 21 nonattainment nonclassified areas were in error based on the lack of in county monitoring data and, consequently, acted to correct the designation in the same manner as the original designation [1] without requiring any further submission from the State. The determination and its basis were provided to the State and the public through the publication of the direct final and proposed rulemaking actions in the **Federal Register**.

The commenter does not explain why they believe that the basis of the correction is insufficient grounds for changing the designation of the affected

[1] The original designations were processed in a proposal and subsequent final **Federal Register** document. The direct final process used in this instance requires a simultaneous proposal and thus, affords the public the opportunity to comment.

areas under the Act. These areas were designated nonattainment based on their proximity to nonattainment areas and the regional nature of the ozone problem (45 FR 25092, April 14, 1980). This could imply that, if the areas had monitored elevated ozone levels, the elevated levels likely could have been a result of ozone and precursors transported from adjacent nonattainment areas. It would be unreasonable to impose the rigorous redesignation requirements of the Act amendments to these areas where an ozone problem, which could be due to transport from other areas, was not monitored but assumed.

Furthermore, the USEPA believes that this basis is appropriate particularly in light of the 1990 Act which significantly relies on ambient monitoring data to classify areas and establish control requirements.

Citizens Commission Comment

The commenter states that the direct final rule is inconsistent with prior agency policy established in the General Preamble (General Preamble for the Implementation of Title 1, 57 FR 13501, April 16, 1992) regarding transitional and incomplete data areas. The General Preamble establishes that incomplete data or no data areas are subject to section 172(b) requirements and requires States to submit a redesignation request and maintenance plan as defined in section 107(d)(3)(E) for such areas. (The commenter cited section 107(d)(1)(E). USEPA believes that this was a typographical error since this section of the Act does not address redesignation requirements.) According to the General Preamble designation of such areas may be changed by individual redesignation requests and not by a correction.

USEPA Response

Since this rulemaking is not based on the redesignation criteria of section 107(d)(3)(E), USEPA redesignation policy or the general preamble redesignation criteria and requirements are irrelevant to this rulemaking. The rulemaking is consistent with section 110(k)(6) of the Act.

Citizens Commission Comment

The commenter states the USEPA is deliberately ignoring the Lake Michigan Ozone Study (LMOS) modeling results, which indicate that many of these areas are not in attainment of the standard, and is, therefore, countering efforts of neighboring nonattainment areas struggling to satisfy the Title I requirements. The commenter states that the current LMOS modeling, which USEPA has accepted and approved for purposes of demonstrating attainment, predicts continued exceedances for many of these Michigan counties in the future. The commenter refers to Episode 4 which shows that exceedances of the NAAQS observed in northwest Indiana can be attributed to emissions originating from many of the Michigan counties proposed for redesignation. The commenter maintains that this finding is verified by recently completed back trajectories for Episode 4. (Trajectories provided by the commenter). The commenter believes that this redesignation is particularly outrageous, given the 6 exceedances recorded in Michigan City, Indiana in the summer of 1995. The commenter further suggests that USEPA use the ambient monitoring data collected during the 1991 LMOS field study to designate Delta, Benzie, and Mason Counties to nonattainment.

USEPA Response

The USEPA is not ignoring the LMOS. The USEPA recognizes that the Lake Michigan States of Michigan, Wisconsin, Illinois and Indiana are conducting urban airshed modeling (UAM) which is being coordinated by LADCO that will be used for purposes of demonstrating attainment throughout the Lake Michigan region. The modeling is currently being refined. The USEPA also recognizes the importance of the modeling effort and subsequent results. The USEPA has determined that the model performance evaluation for UAM, Version V, submitted by LADCO on behalf of the Lake Michigan States on October 1, 1994, could be used for regulatory purposes. This means, however, that the method of showing attainment has been approved, rather than that actual attainment demonstrations have been approved.

UAM has been submitted to the USEPA on three occasions; November 14, 1994, with an attainment date extension request for the Western Michigan moderate ozone nonattainment areas, on November 15, 1994, with an attainment date extension request for Sheboygan, Manitowoc, and Kewaunee Counties in Wisconsin, and on July 13, 1994, with a section 182(f) NO_x exemption request for areas in Michigan, Wisconsin, Illinois and Indiana. The UAM submitted fo the USEPA to date does not and was not intended to demonstrate attainment. The USEPA has reviewed this modeling and cannot conclusively determine that the 20 nonclassified areas in Michigan subject to this correction are not attaining the standard, will not be attaining the standard in the future, or may contribute to ozone concentrations in downwind areas. Although, a few Episode 2 modeling runs indicate that portions of Berrien and Van Buren Counties fall between 120 ppb and 130 ppb isopleths[2] and, in two modeling runs, possibly between the 120 ppb and 140 ppb isopleths, the actual predicted ozone concentrations in these areas cannot be determined.

The USEPA does not agree that Episode 4 (June 21–21, 1991) shows that exceedances of the NAAQS observed in northwest Indiana can be attributed to emissions originating from these areas and it is unclear how the trajectories provided by the commenter support this conclusion. Episode 4 illustrates the scenario of north-northeasterly winds. Although, Episode 4 modeling runs show that Michigan emissions may impact downwind areas, the modeling does not clearly demonstrate that the ozone precursor emissions from these counties are the cause of exceedances in the downwind areas. Similarly, although the trajectories may indicate north-northeasterly wind patterns and therefore, airflow from Michigan to Indiana, the extent to which the ozone precursor emissions from these counties contribute to ozone concentrations cannot be determined conclusively.

The USEPA is aware of monitored ozone exceedances in Michigan City, Indiana, during the 1995 ozone season. The USEPA does not expect this rulemaking to have an impact on the likelihood of Michigan City being designated to nonattainment.

Ozone monitoring data collected during the 1990 and 1991 field studies in Delta, Benzie and Mason counties are not relevant to this rulemaking action.

Finally, the USEPA would also note that the Lake Michigan States are participating in the Phase I/Phase II process as provided for within the March 2, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, entitled *Ozone Attainment Demonstrations*. Phase II of the analysis would assess the need for regional control strategies and refine the local control strategies. Phase II would also provide the States and USEPA the opportunity to determine appropriate regional strategies to resolve transport issues including any impacts these areas may have on ozone concentrations in their downwind areas. The USEPA has the authority under sections 110(a)(2)(A) and 110(a)(2)(D) of the Act to ensure that the required and necessary reductions are achieved in

[2] Isopleths are the lines generated by the results of the urban airshed model indicating ozone concentrations.

these areas should subsequent modeling become available, such as the modeling that will be available through completion of the Phase II analysis, or any other subsequent modeling data. USEPA has authority, and the state has an obligation, under section 110(a)(2)(A) (in the case of intrastate areas) and section 110(a)(2)(D) (in the case of interstate areas), to address transported emissions from upwind areas that significantly contribute to air quality problems in downwind areas. This action, therefore, does not preclude the USEPA from requiring control measures in these areas in the future.

Citizens Commission Comment

The commenter believes that the State and USEPA were correct when they concluded in 1980 (the commenter cites 1989. However, USEPA believes this was a typographical error and that the commenter intended to cite 1980) that these Michigan counties should be designated as nonattainment and reevaluated once appropriate monitoring data become available. Appropriate monitoring data can only be obtained if the State establishes a comprehensive monitoring network and contributes to a comprehensive, regional attainment strategy.

USEPA Response

Michigan's November 8, 1979 analysis concluded that in light of the new 0.12 ppm standard, changes to the March 3, 1978 designations were not warranted and that the designations would be reevaluated as more data on rural ozone levels became available. The USEPA approved this submittal on June 2, 1980. Since 1979, the State of Michigan expanded the ozone monitoring network to Branch, Cass, Clinton, Eaton, Ingham (relocated), and Tuscola Counties and later to Benzie, Berrien, Huron, Kalamazoo, Lenawee, Montcalm, and Van Buren Counties. Exceedances of the 0.12 ppm NAAQS were recorded in a number of counties and violations were recorded in Huron County in 1980 (2 exceedances in 1980 at two separate monitors),[3] and Cass County in 1980 (3 exceedances in 2 years, 1979–1980)[4] and Tuscola County in 1988 (1 exceedances in 1988).[5] Subsequently, Cass, Huron and Tuscola Counties have monitored attainment.

Regarding the State's contribution to a comprehensive, regional attainment strategy, as noted previously, the Lake Michigan States are participating in the Phase I/Phase II process. This process will provide the States and USEPA with information to determine appropriate regional strategies to resolve transport issues including any impacts these Michigan areas may have on ozone concentrations in their downwind areas. The USEPA has the authority to ensure that the required and necessary reductions are achieved in these areas should subsequent modeling become available.

Citizens Commission Comment

The commenter states that the direct final rule does not explain why the June 2, 1980 designation does not remain in effect pursuant to the general savings clause, section 193 of the Act. The general savings clause requires that "no control requirement in effect * * * may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant." The commenter states that if these areas are designated to attainment/unclassifiable, they would not achieve equivalent or greater emission reductions in ozone precursor emissions.

USEPA Response

Section 193 of the Act states that each rule promulgated by the Administrator, in effect before November 15, 1990, must remain in effect, unless revised by the Administrator. This action is a correction to a designation, it is not a revision to any control requirement, so that section 193 is not applicable. In any event, section 193 also stipulates that no control requirement may be modified in any manner unless the modification insures equivalent or greater emission reductions. This component of section 193 was intended to preserve the control programs and measures already implemented in the area. Since programs and measures already implemented in the area that achieved emission reductions are not being removed, replacement reductions are not necessary.

NYSDEC Comment

The NYSDEC disagrees that an error was made in determining the ozone designations for the nonclassified areas in southern Michigan. The air monitoring network used by Michigan to designate these areas nonattainment in 1978 and uphold them in 1980, complied with the federal Act citing criteria and provisions for establishing air quality control regions. The NYSDEC also questions the rationale for correcting the ozone designation fifteen years later and believes that even if an error was made that it does not warrant a direct final rulemaking.

USEPA Response

The USEPA is not implying that the ambient monitoring network established by the Michigan Department of Natural Resources (MDNR) at that time was inadequate. The USEPA believes, however, that the monitoring network that operated during the mid-1970s was not appropriate for purposes of designating all of these areas to nonattainment. There was no data available demonstrating that these areas were in violation of the ozone NAAQS to warrant a nonattainment designation. However, the State of Michigan chose this designation for these areas based on their proximity to nonattainment areas and the regional nature of the ozone problem (45 FR 25092, April 14, 1980). The basis of the original designations and rationale implies that if the areas had monitored elevated ozone levels, the elevated levels likely would have been a result of ozone and precursors transported from adjacent nonattainment areas. It would be unreasonable to impose the rigorous redesignation requirements of the Act amendments to these areas if an ozone problem, likely due to transport from other areas, was not monitored but assumed. Furthermore, as previously noted, the USEPA believes that this basis is appropriate, particularly in light of the 1990 Act, which significantly relies on ambient monitoring data to classify areas and establish control requirements.

NYSDEC Comment

The commenter cites elevated ozone levels observed in southern Michigan and notes that the August 8, 1995, direct final rule states a violation in Lenawee County has probably occurred in the period 1993–1995.

USEPA Response

The correction is based on the ambient monitoring data available at the time the original designations were promulgated. The preliminary data which indicated that a violation may have occurred in Lenawee County were subsequently invalidated due to a malfunctioning ambient monitor which was replaced by the MDNR.

NYSDEC Comment

NYSDEC also requested additional time to review the AIRS data and documentation used in the USEPA's analysis of which they recently obtained copies.

USEPA Response

The public was afforded 30 days to comment on this rulemaking action. The USEPA does not believe that any

[3] The monitor was established in 1980.
[4] This monitor was established in 1979.
[5] Poor data capture in 1980.

extension of time is necessary as an adequate comment period has already been provided.

III. Final Rulemaking Action

In this action the USEPA is promulgating a correction to correct the ozone designation status of the Barry County, Battle Creek (Calhoun County), Benton Harbor (Berrien County), Branch County, Cass County, Gratiot County, Hillsdale County, Huron County, Ionia County, Jackson (Jackson County), Kalamazoo (Kalamazoo County), Lapeer County, Lenawee County, Montcalm (Montcalm County), Sanilac County, Shiawassee County, St. Joseph County, Tuscola County, and Van Buren County nonattainment nonclassified/incomplete data and the Lansing-East Lansing (Clinton County, Eaton County, Ingham County) nonattainment nonclassified/transitional area to attainment/unclassifiable for ozone pursuant to section 110(k)(6).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Today's determination does not create any new requirements, but suspends the indicated requirements. Therefore, because this notice does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rulemaking that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. Under section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements.

The USEPA has determined that today's final action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under section 307(b)(1) of the Act, petitions for judicial review of this final action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

Dated: February 7, 1996.

Carol M. Browner,

Administrator.

40 CFR Part 81 is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES

1. The authority citation of part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 - 7671q.

2. In § 81.323 the ozone table is amended by revising the entries for Barry County Area, Battle Creek Area, Benton Harbor Area, Branch County Area, Cass County Area, Gratiot County Area, Hillsdale County Area, Huron County Area, Ionia County Area, Jackson Area, Kalamazoo Area, Lapeer County Area, Lenawee County Area, Montcalm Area, Sanilac County Area, Shiawassee County Area, St. Joseph County Area, Tuscola County Area, Van Buren County Area and Lansing-East Lansing Area to read as follows:

§ 81.323 Michigan.

* * * * *

MICHIGAN—OZONE

Designated areas	Designation		Classification	
	Date [1]	Type	Date	Type
Barry County Area, Barry County	Mar. 15, 1996	Unclassifiable/Attainment.		
Battle Creek Area, Calhoun County	Mar. 15, 1996	Unclassifiable/Attainment.		
Benton Harbor Area, Berrien County	Mar. 15, 1996	Unclassifiable/Attainment.		
Branch County Area, Branch County	Mar. 15, 1996	Unclassifiable/Attainment.		
Cass County Area, Cass County	Mar. 15, 1996	Unclassifiable/Attainment.		
Gratiot County Area, Gratiot County	Mar. 15, 1996	Unclassifiable/Attainment.		
Hillsdale County Area, Hillsdale County	Mar. 15, 1996	Unclassifiable/Attainment.		
Huron County Area, Huron County	Mar. 15, 1996	Unclassifiable/Attainment.		
Ionia County Area, Ionia County	Mar. 15, 1996	Unclassifiable/Attainment.		
Jackson Area, Jackson County	Mar. 15, 1996	Unclassifiable/Attainment.		
Kalamazoo Area, Kalamazoo County	Mar. 15, 1996	Unclassifiable/Attainment.		
Lansing-East Lansing Area:				
Clinton County	Mar. 15, 1996	Unclassifiable/Attainment.		
Eaton County	Mar. 15, 1996	Unclassifiable/Attainment.		
Ingham County	Mar. 15, 1996	Unclassifiable/Attainment.		
Lapeer County Area, Lapeer County	Mar. 15, 1996	Unclassifiable/Attainment.		
Lenawee County Area, Lenawee County	Mar. 15, 1996	Unclassifiable/Attainment.		

MICHIGAN—OZONE—Continued

Designated areas	Designation		Classification	
	Date [1]	Type	Date	Type
Montcalm Area, Montcalm County	Mar. 15, 1996	Unclassifiable/Attainment.		
Sanilac County Area, Sanilac County	Mar. 15, 1996	Unclassifiable/Attainment.		
Shiawassee County Area, Shiawassee County	Mar. 15, 1996	Unclassifiable/Attainment.		
St. Joseph County Area, St. Joseph County	Mar. 15, 1996	Unclassifiable/Attainment.		
Tuscola County Area, Tuscola County	Mar. 15, 1996	Unclassifiable/Attainment.		
Van Buren County Area, Van Buren County	Mar. 15, 1996	Unclassifiable/Attainment.		

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 96–3330 Filed 2–13–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 180

[PP 5E4598/R2197; FRL–4994–9]

RIN 2070–AB78

Imidacloprid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a time-limited tolerance for indirect or inadvertent combined residues of the insecticide (1-[6-chloro-3-pyridinyl]methyl]-*N*-nitro-2-imidazolidinimine) (referred to in this document as imidacloprid) and its metabolites resulting from crop rotational practices in or on the raw agricultural commodities in the cucurbit vegetables crop group. The Interregional Research Project No. 4 (IR-4) requested the regulation to establish a maximum permissible level for residues of the insecticide pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective February 14, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [PP 5E4598/R2197], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Highway., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 5E4598/R2197]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8783, e-mail:jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 13, 1995 (60 FR 64006), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, New Brunswick, NJ 08903, had submitted pesticide petition 5E4598 to EPA on behalf of the Agricultural Experiment Stations of California, Florida, Georgia, South Carolina, and Texas. This petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) amend 40 CFR 180.472 by establishing a time-limited tolerance for indirect or inadvertent, combined residues of the insecticide imidacloprid (1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine) and its metabolites containing the 6-chloropyridinyl moiety, all expressed as 1-[(6-chloro-3-pyridinyl)-methyl]-*N*-nitro-2-imidazolidinimine, resulting from crop rotational practices in or on the raw agricultural commodities in the cucurbit vegetables crop group at 0.2 part per million (ppm). There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A

copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number (PP 5E4598/R2197] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines "a significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 30, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In §180.472, by adding new paragraph (f), to read as follows:

§ 180.472 1-[(6-Chloro-3-pyridinyl)methyl-N-nitro-2-imidazolidinimine; tolerances for residues.

* * * * *

(f) Time-limited indirect or inadvertent tolerance: A time-limited tolerance, to expire on December 31, 1996, is established for indirect or inadvertent combined residues of the insecticide 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine and its metabolites containing the 6-chloropyridinyl moiety, all expressed as 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine, when present therein as a result of the application of the pesticide to growing crops listed in this section and other nonfood crops as follows:

Commodities	Parts per million
Vegetables, cucurbit ..	0.2

[FR Doc. 96–3024 Filed 2–13–96; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300399A; FRL–4987–7

RIN 2070–AB78

Octadecanoic Acid, 12-Hydroxy-, Homopolymer, Octadecanoate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate (CAS Reg. No. 58128-22-6) when used as an inert ingredient (surfactant and dispersing agent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, under 40 CFR 180.1001(c). ICI Americas, Inc., requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective February 14, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP-300399A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP-300399A] . No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, Registration Support Branch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8811; e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of October 25, 1995 (60 FR 54641), which announced that ICI Americas, Inc., Concord Plaza, 3411 Silverside Rd., P.O. Box 15391, Wilmington, DE 19850, had submitted pesticide petition (PP) 5E04506 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 346a(e)), amend 40 CFR 180.1001(c) by exempting octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate from the requirement of a tolerance when used as an inert ingredient (surfactant and dispersing agent) in pesticide formulations applied to growing crops or to raw agricultural commodiites after harvest, under 40 CFR 180.1001(c). The inert ingredient meets the definition of a polymer under 40 CFR 723.250(b) and the criteria listed in 40 CFR 723.250(e) that define a chemical substance that poses no unreasonable risk under section 5 of the Toxic Substance Control Act (TSCA).

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohol and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceouse earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted on the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, tolerance exemption is established as set forth below.

In response to the proposed rule for this inert tolerance exemption action, the Agency received a comment from ICI Surfactants requesting the expansion of its uses to include suspending agent and related adjuvant of surfactant as well as surfactant and dispersing agent. The Agency has decided to make this expansion, accordingly, on the judgement that it poses no additional risk to humans or the environment.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

EPA has established a record for this rulemaking under docket number [OPP-300399A] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall 1B2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the

environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 1, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate (CAS Reg. No. 58128-22-6), minimum number-average molecular weight 1,370..	.....	dispersing agent, related adjuvant of surfactants, surfactant, suspending agent.

* * * * *

[FR Doc. 96–3021 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP PP 5F4534/R2199; FRL–4995–2]

RIN 2070–AC18

Imidacloprid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide 1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine) (proposed common name "imidacloprid") and its metabolites in or on canola seed. Gustafson, Inc. requested this regulation to establish maximum permissible levels for residues of the insecticide.

EFFECTIVE DATE: This regulation became effective February 7, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [PP 5F4534/R2199), may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to:
opp-docket@epamail.epa.gov

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 5F4534/R2199). No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Product Manager (PM 19), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 207, CM #2 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-6386; e-mail: edwards.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of August 17, 1995 (60 FR 42884), which announced that Gustafson, Inc., P.O. Box 660065, Dallas, TX 75266-0065, had submitted to amend 40 CFR part 180 by establishing a regulation to permit residues of the insecticide (1-[6-chloro-3-pyridinyl) methyl]-N-nitro-2-imidazolidinime, in or on the raw agricultural commodity canola seed at 0.05 parts per million (ppm).

The Agency is currently issuing a 2-year conditional registration for use of "imidacloprid" on canola seed. Additional residue trials are needed. On June 2, 1994, the Agency issued a guidance document on crop residue trials. Among other things, this document provided guidance on the number and location of domestice crop field trials for establishment of pesticide residue trials. Based on this guidance document, the Agency determined that additional field trials are needed for canola. However, the Agency does not believe that this data will significantly change its risk assessment.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance include:

1. A three-generation rat reproduction study with no-observed-effect level (NOEL) of 100 ppm (8 mg/kg/bwt); rat and rabbit developmental toxicity studies were negative at doses up to 30 mg/kg/bwt, respectively.

2. A 2-year rat feeding/carcinogenicity study that was negative for carcinogenic effects under the conditions of the study and had a NOEL of 100 ppm (5.7 mg/kg/bwt in male and 7.6 mg/kg/bwt female) for noncarcinogenic effects that included decrease body weight gain in females at 300 ppm and increased thyroid lesions in males at 300 ppm and females at 900 ppm.

3. A 1-year dog feeding study with a NOEL of 1,250 ppm (41/mg/kg/bwt).

4. A 2-year mouse carcinoginicity study that was negative for carcinogenic effects under conditions of the study and that had a NOEL of 1,000 ppm (208/mg/kg/day).

There is no cancer risk associated with exposure to this chemical. Imidacloprid has been classified under "Group E" (no evidence of carcinogenicity) by EPA's OPP/HED's Reference Dose (RFD) Committee.

The reference dose (RfD) based on the 2-year rat feeding/ carcinogenic study with a NOEL of 5.7 mg/kg/bwt and 100-fold uncertainity factor, is calculated to be 0.057 mg/kg/bwt. The theoretical maximum residue contribution (TMRC) for published uses is 0.008189 mg/kg/bwt/day utilizing 14.4% of the RFD. The proposed tolerance will increase the TMRC by .000077 mg/kg/day representing an increase in the ADI of 1.5%. The TMRC will be .008266 mg/kg/day utilizing 15.9% of the RFD. For exposure of subgroups in the population, children (1-6), the TMRC for the published and proposed tolerances is 0.016934 mg/kg/day. This is equal to 29.7% of the RFD. Dietary exposure from the existing uses and proposed use will not exceed the reference dose for any subpopulation (including infants and children) based on the information available from EPA's Dietary Risk Evaluation System.

The nature of the imidacloprid residue in plants and livestock is adequately understood. The residues of concern are combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all calculated as imidacloprid. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary GC-MS selective ion monitoring. Imidacloprid and its metabolites are stable in the commodities when frozen for at least 24 months. There are adequate amounts of geographically representative crop field trial data to show that combined residues of imidacloprid and its metabolites, all calculated as imidacloprid will not exceed the proposed tolerance when used as directed. Canola meal is a livestock feedstuff ruminant, and poultry feeding studies show transfer of imidacloprid from feedstuff to meat, milk, poultry, and eggs. The secondary tolerances in meat, milk, poutry, eggs are adequate to cover the additional use on canola.

There are presently no actions pending against the continued registration of this chemical.

This pesticide is considered useful for the purposes for which the tolerance is sought and capable of achieving the intended physical or technical effect. Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 5F4535/R2199) (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or

State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 9–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 7, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.472, by amending paragraph (a) in the table therein by adding and alphabetically inserting the following commodity to read as follows:

§ 180.472 1-[(6-Chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Canola	0.05
* * * * *	

Residues in these commodities not in excess of the established tolerances resulting from the use described in this paragraph remaining after expiration of the conditional registration will not be considered to be actionable if the insecticide is applied during the term of and in accordance with the provisions of the above regulation.

* * * * * *

[FR Doc. 96–3280 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 4F4396/R2202; FRL–5348–9]

RIN 2070–AC78

Pelargonic Acid; Exemption From the Requirement of a Tolerance on Apples and Pears

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of pelargonic acid when used as a blossom thinning agent on apples and pears. A request for an exemption from the requirement of a tolerance was submitted by Mycogen Corporation. This regulation eliminates the need to establish a maximum permissible level for residues of this plant regulator on apples and pears.

EFFECTIVE DATE: Effective on February 14, 1996.

ADDRESSES: Written objections and hearing requests, identified bythe docket number [PP 4F4396/R2202] may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202. Fees accompanying objections shall be labeled "tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (tolerance Fees) P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor CS, 2800 Crystal Drive, Arlington, VA 22202, (Telephone No. (703)–308–8715), e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 8, 1995 (60 FR 7539), which announced that Mycogen Corporation, 4980 Carroll Canyon Rd., San Diego, CA 92121 had submitted a pesticide petition (PP) 4F4396 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish an exemption from the requirement of a tolerance for the plant growth regulator pelargonic acid on apples and pears.

There were no adverse comments, or requests for referral to an advisory committee received in response to the notice of filing of the PP 4F4396.

I. Existing Food Clearances

Pelargonic acid is an approved secondary direct food additive under 21 CFR 173.315 for use in the lye peeling of fruits and vegetables. An aliphatic acid mixture of valeric, caproic, enanthoic, caprylic and pelargonic acids may be used at a level not to exceed 1 percent in a lye peeling solution. The conditions for use include a stipulation that following the use of chemicals cleared under 21 CFR 173.315 the fruit and vegetables must be rinsed with potable water to remove, to the extent possible, residues of the chemical.

Pelargonic acid is listed by the U.S. Department of Agriculture under the USDA List of Authorized Substances, 1990, section 5.14, Fruit and Vegetable Washing Compounds.

Pelargonic acid is approved as part of a sanitizing solution for use on food-processing equipment and utensils, and dairyprocessing equipment. Its use must be in combination with decanoic acid, phosphoric acid, propionic acid, and sodium 1octanesulfonate. The pelargonic acid-containing sanitizing solution must be drained from the treated equipment and utensils before contact with food. (21 CFR 178.1010(b)(42))

Pelargonic acid also is approved as a synthetic food flavoring agent (21 CFR 172.515) provided the minimum quantity required to produce its intended effect is used in accordance with the principles of good manufacturing practice.

II. Pelargonic Acid Natural Occurrence and Treated Apple Residue Data

Pelargonic acid is naturally present at levels up to 224 parts per billion (ppb) in apples, 385 parts per million (ppm) in the skin of grapes, and 143 ppm in grape pulp. It has been determined to be present in a number of other foods as well. The highest residues of pelargonic acid reported in apples subsequent to blossom treatment were less than 360 ppb.

A. Toxicology Assessment; Supporting Data

1. *Acute toxicology of a 60% pelargonic acid emulsifiable concentrate.*

Acute Oral LD_{50} > 5,000 mg/kg
Acute Dermal LD_{50} > 2,000 mg/kg
Acute Inhalation LC_{50} = 5.29 mg/L
Primary Dermal Irritation - Moderate Irritant
Primary Eye Irritation - Severe Irritant
Dermal Sensitization - Non-sensitizer

2. *Mammalian cells in culture gene mutation assay in mouse lymphoma cells (L5178Y TK ±).* Pelargonic acid was considered weakly positive for inducing mutations at the TK locus of culture mouse L5178Y TK ± cells in the presence of S9-induced metabolic activation. Mutations were induced at levels greater than or equal to 50 µg/ml. However, this occurred in the presence of increasing moderate-to-severe cytotoxicity and small colony development and may reflect gross chromosomal changes or damage rather than actual mutational changes within the TK gene locus.

3. *In vivo mammalian cytogenetics - mouse micronucleus assay.* In an *in vivo* mouse micronucleus assay, groups of ICR mice (15/sex/dose) were administered single oral doses of 1,250, 2,500, and 5,000 mg/kg *n*-pelargonic acid. The bone marrow cells were harvested 24, 48, and 72 hours post-treatment. No significant increases in the frequency of micronucleated polychromatic erythrocytes (PCEs) were observed in either sex at any dose; thus, *n*-pelargonic acid was negative in the micronucleus assay.

4. *Reverse gene mutation assay (Ames Test).* Pelargonic acid was not mutagenic under the conditions of the study.

5. *Metabolism.* Pelargonic acid is a naturally occurring, nine-carbon saturated fatty acid. The oxidative degradation of fatty acids is a central metabolic pathway in both animals and plants. Fatty acids of varying chain lengths are metabolized into two-carbon fragments through a sequence of enzyme-catalyzed reactions. The metabolic products are then incorporated into fats, carbohydrates and amino acids.

6. *Carcinogenicity.* A summary of the results of a dermal carcinogenicity study in mice with pelargonic acid was submitted. Fifty mice were treated twice-weekly with 50 mg doses of undiluted pelargonic acid for 80 weeks. No evidence of severe dermal or systemic toxicity was seen. Histopathology revealed no tumors of the skin or the internal organs.

7. *Developmental toxicity.* The results of a developmental toxicity study in rats with pelargonic acid was submitted. Groups of 22 pregnant CD rats were given oral administration of 0 mg (corn oil) or 1,500 mg/kg pelargonic acid during days 6 through 15 of gestation. No evidence of maternal toxicity was seen. Maternal body weights and weight gain were comparable to that of the controls. No treatment-related effects were seen at C-section. No developmental toxicity was seen. Based on the above information, EPA concludes that the quantity of pelargonic acid that is proposed for use will not be harmful to humans since:

(1) The lowest level shown to weakly induce mutations in an *in vitro* test system in the presence of cytotoxicity was at the 50,000 parts per million level and the highest residues seen in treated apples were less than 360 parts per billion (ppb).

(2) Other than weak mutation at high levels in an *in vitro* test system and eye irritation, the data on pelargonic acid show no other adverse effects.

(3) The maximum application rate of pelargonic acid for blossom-thinning is 4.2 pounds per acre in a spray solution containing up to 0.31% pelargonic acid.

(4) Pelargonic acid is applied before fruit set.

B. Analytical Enforcement Method

This rule establishes an exemption from the requirement of a tolerance; therefore, the Agency has concluded that a analytical method is not required for enforcement purposes for pelargonic acid.

III. Conclusion

Based on the low toxicity of pelargonic acid and the low residue levels expected in apples and pears, the Agency concludes that establishment of a tolerance is not necessary to protect the public health for blossom thinning uses. Therefore, the exemption from tolerance is established as set forth below.

IV. Filing of Objections

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

V. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 6, 1996.

Daniel1 M. Barolo,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, by adding § 180.1159, to read as follows:

§ 180.1159 Pelargonic acid.

Pelargonic acid is exempt from the requirement of a tolerance on apples and pears provided it is used as a blossom thinner only and is in a dilution of 100 gallons of water applied to blooms at a rate not to exceed 4.2 lbs/acre with the maximum number of applications not exceeding two per year.

[FR Doc. 96–3278 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 271

[FRL–5420–5]

Alabama; Final Authorization of a Revision to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Alabama has applied for final authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Alabama's revision consists of the Corrective Action provision contained in HSWA Cluster I. This requirement is listed in Section B of this document. The Environmental Protection Agency (EPA) has reviewed Alabama's application and has made a decision, subject to public review and comment, that Alabama's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Alabama's hazardous waste program revision. Alabama's application for program revision is available for public review and comment.

DATES: Final authorization for Alabama's program revision shall be effective April 15, 1996, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Alabama's program revision application must be received by the close of business, March 15, 1996.

ADDRESSES: Copies of Alabama's program revision application are available during 8:00 am to 4:30 pm at the following addresses for inspection and copying: Alabama Department of Environmental Management, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109–2608, (334) 271–7700; U.S. EPA, Region 4, Library, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Al Hanke at the address listed below.

FOR FURTHER INFORMATION CONTACT: Al Hanke, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347–2234 vmx 2018.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority.

States exercising the latter option receive "interim authorization" for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 124, 260–268 and 270.

B. Alabama

Alabama initially received final authorization for its base RCRA program effective on December 22, 1987. Alabama received authorization for revisions to its program on January 28, 1992, July 12, 1992, December 21, 1992, May 17, 1993, November 23, 1993, April 4, 1994, January 13, 1995 and October 13, 1995. On March 1, 1990, Alabama submitted a program revision application for additional program approvals. Today, Alabama is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Alabama's application and has made an immediate final decision that Alabama's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modification to Alabama. The public may submit written comments on EPA's immediate final decision up until March 15, 1996.

Copies of Alabama's application for this program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice. Approval of Alabama's program revisions shall become effective April 15, 1996, unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Alabama is today seeking authority to administer the following Federal requirement promulgated on July 15, 1985, for Corrective Action.

Federal requirement	FR reference	FR promulgation date	State authority
Checklist 17L HSWA Codification Rule; Corrective Action	50 FR 28702	7/15/85	335–14–5–.06(1)(a). 335–14–5–.06(12)(a)(b). 335–14–8–.06.

Alabama's application for this program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Alabama is granted final authorization to operate its hazardous waste program as revised.

Alabama now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. Alabama also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Alabama's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Dated: January 31, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

[FR Doc. 96–3026 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7184

[OR–958–1430–01; GP6–0038; OR–50500]

Withdrawal of National Forest System Lands to Protect the Elk River Wild and Scenic Corridor; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 4,921 acres of National Forest System lands in the Siskiyou National Forest from mining for a period of 20 years to protect the recreational and visual resources of the Elk River Wild and Scenic Corridor. The lands have been and will remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: February 14, 1996.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM, Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the significant recreational and visual resources along the Elk River Wild and Scenic Corridor:

Willamette Meridian

Siskiyou National Forest

Tracts of land located within the following described townships and sections as more particularly identified and described below:

T. 33 S., R. 13 W.,
Secs. 13 to 24, inclusive, secs. 29 and 30.
T. 33 S., R. 14 W.,
Secs. 7, 8, 13, 15, 16, 17, and secs. 20 to 24, inclusive; Beginning at the northeast corner of the SW¼NE¼ of sec. 7, T. 33 S., R. 14 W.; Thence westerly to the northwest corner of the SW¼NE¼ of sec. 7; Thence southerly to the south quarter corner of sec. 7; Thence easterly to the southeast corner of sec. 7; Thence southerly along the west boundary of sec. 17 to the northwest corner of the SW¼SW¼ of sec. 17; Thence easterly to the southwest corner of the E½NW¼SW¼ of sec. 17; Thence northerly to the northwest corner of the E½NW¼SW¼ of sec. 17; Thence easterly to the northeast corner of the W½NE¼SW¼ of sec. 17; Thence southerly to the southeast corner of the W½SE¼SW¼ of sec. 17; Thence

easterly along the south boundary of sec.17 to the south quarter corner of sec. 17; Thence southerly along the north-south centerline of sec. 20 to the northeasterly right-of-way of Forest Service (FS) road 5502 020 as described in Curry County Book of Records 1, pages 308 and 429; Thence easterly along said northeasterly right-of-way line to the east boundary of sec. 20, EXCEPT that portion of land in the NE¼ and northeast of the road as described in deed to Maude S. Kohl, et al., recorded June 20, 1969, in Book 11 page 313 of Curry County; Thence northerly to the northeast corner of the SE¼NE¼ of sec. 20; Thence southeasterly to the summit of Pearce Peak; Thence easterly along the ridge to the summit of Purple Mountain; Thence southeasterly along the ridge to the east-west centerline of sec. 22; Thence easterly along said centerline to the northeast corner of the SW¼ of sec. 22; Thence southerly along the north-south centerline of sec. 22 to the divide between Bald Mountain Creek and Elk River; Thence southeasterly along said divide to the northerly most point of Father Mountain; Thence northeasterly to the east quarter corner of sec. 23; Thence northeasterly to a point in an unnamed tributary to Elk River at 42°42'15.45" N., 124°18'32.56" W.; Thence northeasterly to a point in a borrow pit and 50 foot offset from FS Road No. 5325 180 at 42°42'31.08" N., 124°18'26.24" W.; Thence easterly and parallel to said FS road at a 50 foot northerly offset to a point at 42°42'27.22" N., 124°17'47.98" W.; Thence northeasterly to a point at the end of FS Road No. 5325 182 at 42°42'40.41" N., 124°17'22.11" W.; Thence northeasterly to a point on the divide between Panther Creek and Elk River at 42°42'49.13" N., 124°17'07.24" W.; Thence southerly to 42°42'44.66" N., 124°17'04.49" W.; Thence southerly to 42°42'36.55" N., 124°17'04.22" W.; Thence southwesterly to 42°42'21.93" N., 124°17'13.85" W.; Thence southeasterly to 42°42'15.44" N., 124°17'09.72" W.; Thence southwesterly to 42°42'08.94" N., 124°17'11.10" W.; Thence southerly to the junction of the West Fork and Main Fork of Panther Creek; Thence southeasterly along the thread of the Main Fork to the junction of the East Fork of Panther Creek; Thence northeasterly to the west sixteenth corner of secs. 20 and 29, T. 33 S., R. 13 W.; Thence northeasterly to the north quarter of sec. 20; Thence northeasterly to a point at the end of a logging spur on a prominent ridge at 42°43'03.31" N., 124°15'52.92" W.; Thence following said ridge and logging spur, southeasterly to a point at a 50 foot northerly offset from FS Road No. 5544; Thence parallel to said road at a 50 foot northerly offset to a point on the ridge where the road turns southerly at 42°43'19.14" N., 124°15'35.57" W.; Thence southeasterly to a point at the end of FS Road 5544 040 at 42°43'13.04" N., 124°14'36.19" W.; Thence southeasterly to the south quarter of sec. 15; Thence southeasterly to a point in Blackberry Creek at 42°42'37.34" N., 124°13'41.38" W.; Thence southeasterly following spur ridge to divide between McCurdy Creek and Blackberry Creek; Thence easterly and northerly along ridge to a 50 foot southerly offset from FS Road No. 5325 starting at 42°42'07.12" N., 124°12'48.52" W. to 42°42'08.54" N., 124°12'38.61" W. to 42°42'16.05" N., 124°12'19.62" W. to 42°42'28.23" N., 124°12'20.18" W. to 42°42'36.75"' N., 124°12'27.34" W. to 42°42'49.14" N., 124°12'26.52" W.; Thence easterly to a point in the south fork of Elk River at 42°42'49.75" N., 124°12'09.18" W.; Thence northwesterly along thread of South Fork of Elk River to junction with the Main and North Forks of Elk River; Thence northwesterly to 42°43'07.00" N., 124°12'25.16" W.; Thence northwesterly to 42°43'12.68" N., 124°12'38.10" W.; Thence northwesterly along spur ridge which divides the North Fork and Main Fork of the Elk River to a prominent point at 42°43'16.33" N., 124°12'43.61" W.; Thence southwesterly along said ridge to a point at 42°43'04.76" N., 124°12'59.84" W.; Thence northwesterly to the intersection of a tributary to Bungalow Creek and the west boundary of sec. 14; Thence northerly along said section line to the northwest corner of sec. 14; Thence westerly along the south boundary of secs. 10, 9, and 8 to a point on the Grassy Knob Wilderness Boundary; Thence along the Grassy Knob Wilderness Boundary line to a point on the east-west centerline of the NE¼ of sec. 7, T. 33 S., R. 14 W.; Thence west along said east-west centerline to the point of beginning.

The areas described aggregate approximately 4,921 acres in Curry County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System lands under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: February 7, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–3259 Filed 2–13–96; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

Saint Lawrence Seaway Development Corporation

46 CFR Ch. III

46 CFR Parts 401 and 402

Organization and Delegation of Powers and Duties Great Lakes Pilotage Regulations

AGENCY: United States Coast Guard; Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard's responsibility for administering the Secretary's functions under the Great Lakes Pilotage Act of 1960, as amended, (the Act) was transferred from the Coast Guard to the Saint Lawrence Seaway Development Corporation (SLSDC) on December 11, 1995. This rule revises those portions of the Coast Guard's Great Lakes Pilotage Regulations and Great Lakes Pilotage Rules and Orders that are necessary for SLSDC to carry out its responsibilities under the Act. This rule is necessary to reflect the changed responsibilities.

DATES: This rule is effective on February 14, 1996.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, United States Department of Transportation, 400 7th Street SW., Washington, DC 20590, room 5424, (202) 366–6823, or Pamela M. Pelcovitz, Chief, Regulations and Administrative Law Division, United States Coast Guard, United States Department of Transportation, 400 7th Street, SW., Washington, DC 20590 (202) 267–1534.

SUPPLEMENTARY INFORMATION: By final rule published in the **Federal Register** on December 11, 1995 (60 FR 63444), the Coast Guard's responsibility for administering the Secretary's functions under the Great Lakes Pilotage Act of 1960, as amended, (the Act) was transferred to the Saint Lawrence Seaway Development Corporation (SLSDC), effective on the date of publication. This final rule makes changes to those portions of the Coast Guard's Great Lakes Pilotage Regulations and Great Lakes Pilotage Rules and Orders that are necessary for SLSDC to carry out its responsibilities under the Act.

This rule revises the references in the Great Lakes Pilotage Regulations (46 CFR part 401) and the Great Lakes Pilotage Rules and Orders (46 CFR part 402) from the Coast Guard to the SLSDC. It also changes the title of 46 CFR chapter III, in which parts 401 and 402 are contained, from "COAST GUARD (GREAT LAKES PILOTAGE), DEPARTMENT OF TRANSPORTATION" to "SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION (GREAT LAKES PILOTAGE), DEPARTMENT OF TRANSPORTATION." If any revisions are needed in the remainder of Chapter III, specifically the Great Lakes Pilotage Uniform Accounting System (46 CFR part 403) and Great Lakes Pilotage Ratemaking (46 CFR part 404), they will be made in a Great Lakes Pilotage Rate Methodology rulemaking, which will be published in the **Federal Register** shortly.

Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Because the transfer of Great Lakes Pilotage responsibility has already occurred, it is necessary to reflect the redesignation in the Code of Federal Regulations immediately. Accordingly, this rule is effective on the date of its publication in the **Federal Register.**

46 CFR Part 401

Administration practice and procedure, Coast Guard, Great Lakes, Navigation (water).

46 CFR Part 402

Coast Guard, Great Lakes, Navigation (water).

Accordingly, 46 CFR chapter III is amended as follows:

CHAPTER III—[AMENDED]

1. The heading of chapter III is revised to read as follows:

CHAPTER III—SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION (GREAT LAKES PILOTAGE), DEPARTMENT OF TRANSPORTATION

2. Sections 401.110 (a)(2) and (a)(9) are revised to read as follows:

§ 401.110 [Amended]

* * * * *

(a) * * *

(2) Administrator means Administrator, St. Lawrence Seaway Development Corporation, 400 Seventh St., SW., Washington, DC 20590 or 180 Andrews St., Massena, NY 13662–1763.

* * * * *

(9) Director, means Director, Great Lakes Pilotage, on the staff of the Administrator, St. Lawrence Seaway Development Corporation.

* * * * *

3. In 46 CFR parts 401 and 402, remove the word "Commandant" and add, in its place, the word "Director" in the following places:

(a) Section 401.210(a)(4);
(b) Section 401.210(a)(7);
(c) Section 401.220(b);
(d) Section 401.240(d);
(e) Section 401.320(d)(2);
(f) Section 401.320(d)(3);
(g) Section 401.510(b)(3), introductory text;
(h) Section 401.710(g); and
(i) Section 402.100.

4. In 46 CFR parts 401 and 402, remove the words "Coast Guard", "United States Coast Guard", and "U.S. Coast Guard" and add, in their place, the words "Saint Lawrence Seaway Development Corporation" in the following places:

(a) Section 401.211(e);
(b) Section 401.230(c);
(c) Section 401.230(d);
(d) Section 401.240(a);
(e) Section 401.250(c);
(f) Section 401.320(d)(4);
(g) Section 401.425;
(h) Section 401.510(b)(2);
(i) Section 401.510(b)(3);
(j) Section 401.600(a);
(k) Section 401.615(b); and
(l) Section 401.620(a).

§ 401.230 [Amended]

5. In the second sentence of 46 CFR 401.230(b) add the words "or other official of the Saint Lawrence Seaway Development Corporation" after the word "Director".

§ 401.431 [Amended]

6. In 46 CFR 401.431(e) remove the word "Administration" and add, in its place, the words "Saint Lawrence Seaway Development Corporation".

§ 401.510 [Amended]

7. In 46 CFR 401.510(b)(5) add the words "or the Director" after the words "local Coast Guard unit having jurisdiction" and "Coast Guard officer to whom the violation was reported".

8. In 46 CFR part 401 remove the word "Commandant" and add, in its place, the word "Administrator" in the following places:

(a) Section 401.615(b); and
(b) Section 401.650.

9. Section 401.250(d) is revised to read as follows:

§ 401.250 [Amended]

* * * * *

(d) Every U.S. Registered Pilot shall, whenever his license is revoked or suspended under the provisions of Part 5 of Title 46, deliver his Certificate of Registration to the Director. If the license is suspended, the Certificate of Registration will be held and returned to the holder upon expiration of the suspension period.

Issued at Washington, DC, this 7th day of February 1996.

A.E. Henn,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

Gail C. McDonald,

Administrator, Saint Lawrence Seaway Development Corporation.

[FR Doc. 96–3253 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–148; RM–8693]

Radio Broadcasting Services; Big Sky, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 283A to Big Sky, Montana, in response to a petition filed by George Russell & Associates, Inc. *See* 60 FR 49242, September 22, 1995. Channel 283A can be allotted to Big Sky without a site restriction at coordinates 45–16–03 and 111–18–04. With this action, this proceeding is terminated.

DATES: Effective March 25, 1996. The window period for filing applications will open on March 25, 1996, and close on April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 95–148, adopted January 26, 1996, and released February 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Big Sky, Channel 283A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–3210 Filed 2–13–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 93–169; RM–8246]

Radio Broadcasting Services; Walterboro and Ridgeville, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Gresham Communications, Inc., reallots Channel 265C3 from Walterboro to Ridgeville, South Carolina, and modifies Station WPAL-FM's construction permit accordingly. *See* 58 FR 34556, June 28, 1993. Channel 265C3 can be reallotted to Ridgeville in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.7 kilometers (1.7 miles) west at petitioner's requested site. The coordinates for Channel 265C3 at Ridgeville are North Latitude 33–06–00 and West Longitude 80–20–30. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 25, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93–169, adopted January 24, 1996, and released February 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 265C3 at Walterboro and adding Ridgeville, Channel 265C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–3211 Filed 2–13–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket No. PS–102, Notice No.1]

Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations Alcohol Misuse Prevention Program

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Availability of guidelines and interpretations.

SUMMARY: This notice provides information on how to obtain copies of guidance and interpretation documents RSPA has issued to assist operators in complying with part 199.

ADDRESSES: Copies of the documents referenced in this notice may be obtained by writing or telephoning the Transportation Safety Institute, Research and Special Programs Administration, DTI–60, 6500 South MacArthur Boulevard, Oklahoma City, OK 73169; (405) 954–4643.

FOR FURTHER INFORMATION CONTACT: Ms. Catrina Pavlik, Drug/Alcohol Program Analyst, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, Room 2335, 400 Seventh Street, SW., Washington, DC 20590–0001; (202) 366–6199.

TEXT SUPPLEMENTARY INFORMATION: On November 21, 1988, RSPA published a final rule (53 FR 47084) entitled "Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations." On February 15, 1994, RSPA published a final rule (59 FR 7430) entitled "Alcohol Misuse Prevention Program." The rules require pipeline operators to have an anti-drug program and alcohol misuse prevention program. The anti-drug program includes pre-employment, post-accident, random, and reasonable cause drug testing, and an Employee Assistance Program (EAP) for education and training regarding the effects and consequences of drug use. The alcohol misuse prevention program includes post-accident, reasonable suspicion alcohol testing, and the provision of resources for evaluating, resolving problems, and education associated with the misuse of alcohol.

Since publication of the November 1988 and February 1994 final rules, RSPA has received numerous requests for interpretations of 49 CFR part 199 subpart A and subpart B. In September 1989, RSPA issued "Guidelines for Implementing an Anti-Drug Program For Pipeline Personnel" (correction issued June 13, 1990), and in April 1990, issued "Additional Guidelines For Implementing An Anti-Drug Program For Pipeline Personnel." In September 1994, RSPA issued "Implementation Guidelines for the Alcohol Misuse Prevention Program in the Pipeline Industry." Also in April 1990, a compilation of questions and answers was issued entitled, "Most Frequently Asked Questions Concerning the Implementation of 49 CFR 199" ("Questions"). Although these documents have been widely distributed, RSPA believes it is important to publish a notice in the **Federal Register** of their availability from the Office of Pipeline Safety at the address noted above under **ADDRESSES.**

Issued in Washington, DC on February 9, 1996.

Richard B. Felder,

Associate Administrator, Office of Pipeline Safety.

[FR Doc. 96–3305 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register

Vol. 61, No. 31

Wednesday, February 14, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Play Facilities

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Establishment of regulatory negotiation committee and first committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has decided to establish a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered play facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act. The regulatory negotiation committee will be composed of organizations who represent the interests affected by the accessibility guidelines for play facilities. This document also announces the times and location of the first meeting of the regulatory negotiation committee.

DATES: The first meeting of the regulatory negotiation committee is scheduled for March 5, 6 and 7, 1996, beginning at 9:00 a.m. each day. The meeting will end at 4:30 p.m. on March 5 and 6, 1996 and at 2:00 p.m. on March 7, 1996.

ADDRESSES: The first meeting of the regulatory negotiation committee will be held at the Embassy Suites, 1250 22nd Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC. 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: On December 22, 1995, the Architectural and Transportation Barriers Compliance Board (Access Board) published a notice of intent to establish a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered play facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act. 60 FR 66538 (December 22, 1995). The notice identified the interests that are likely to be significantly affected by the accessibility guidelines: manufacturers and designers of play facilities; State and local governments; schools, parks, and day care centers; individuals with disabilities; voluntary standard groups; and the Federal government. The notice proposed a list of 17 organizations to represent these interests on the regulatory negotiation committee. Comments were requested on the proposal to establish the regulatory negotiation committee and the proposed committee membership.

Eighteen comments were received in response to the notice. All the commenters supported the establishment of the regulatory negotiation committee. The comments identified two additional interests that are likely to be significantly affected by the accessibility guidelines: parents and playground surface manufacturers. The National Parent-Teacher Association and the ASTM [1] Playground Surfaces Task Group (F8.52.01) will be added as members to the regulatory negotiation committee to represent these interests.

The following 19 organizations will comprise the regulatory negotiation committee:

Access Board
ASTM [1] Playground Surfaces Task Group (F8.52.01)
ASTM [1] Public Playground Committee (F15.29)
ASTM [1] Soft Contained Play Committee (F15.36)
American Society of Landscape Architects
The Council for Exceptional Children
International City/County Management Association
National Association of Counties
National Association of Elementary School Principals
National Child Care Association
National Council on Independent Living
National Easter Seal Society
National League of Cities
National Parent-Teacher Association
National Recreation and Park Association
Playground Equipment Manufacturers Association
Spina Bifida Association of America
TASH [2]
United Cerebral Palsy Association

Several commenters indicated that they wanted to present information to the regulatory negotiation committee on playground surfaces, soft contained play facilities, and other topics. The Access Board agrees that making such information available to the regulatory negotiation committee will greatly assist its work and will recommend that the committee hold informational meetings where organizations and individuals can present information to the committee.

The first meeting of the regulatory negotiation committee will be held in Washington, DC on March 5, 6 and 7, 1996. The times and location of the meeting are listed at the beginning of this notice. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by February 26, 1996, by calling (202) 272–5434 extension 34 (voice) or (202) 272–5449 (TTY).

Issued on February 8, 1996.

John H. Catlin,

Chairman, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 96–3315 Filed 2–13–96; 8:45 am]

BILLING CODE 8150–01–P

[1] American Society for Testing and Materials.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–049–1–7197b; FRL–5336–7]

Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

[2] The Association for Persons with Severe Handicaps

ACTION: Proposed rule.

SUMMARY: On May 15, 1991, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP) to EPA. These revisions include the correcting of an address; the limiting of emissions of particulates from fuel burning indirect heat exchangers; the elimination of a conflicting statement on updating referenced regulations; the addition of compounds whose emissions will not be considered in nonattainment areas; the changing of the allowable emission limits for several boilers; and the clarification of the permit requirements for replacement of existing equipment; and for sources subject to PSD requirements. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 15, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, ext. 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: November 6, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–3327 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[ME–20–01–6906b; A–1–FRL–5339–5]

Approval and Promulgation of Air Quality Implementation Plans; Maine; NSR Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes and requires the implementation of the Clean Air Act Amendments (CAAA) of 1990 with regard to New Source Review (NSR) in areas that have not attained the National Ambient Air Quality Standards (NAAQS). In addition, the revision contains minor changes to Maine's Prevention of Significant Deterioration program. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and the Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, (617) 565–3262.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 25, 1996.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 96–3236 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MI40–01–6998b; FRL–5418–7]

Approval and Promulgation of Implementation Plan; Michigan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve a revision to the Michigan State Implementation Plan (SIP) to meet the requirements of the USEPA transportation conformity rule. The transportation conformity SIP revisions enable the State of Michigan to implement and enforce the Federal transportation conformity requirements at the State or local level in accordance with 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act.

DATES: Comments on this proposed action must be received by March 15, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development section, Air Toxics and Radiation Branch (AT–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the following address: USEPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. (Please telephone Michael G. Leslie at (312) 353–6680 before visiting the Region 5 office.)

Authority: 42 U.S.C. 7401–7671q.

Dated: January 23, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–3329 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MA42–1–7174b; A–1–FRL–5329–6]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Automotive Refinishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires VOC emission standards for automotive refinishing coatings. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule.

If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Jeanne Cosgrove , (617) 565–3246.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 6, 1995.

John P. DeVillars,

Regional Administrator, EPA New England.

[FR Doc. 96–3238 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NE–9–1–7220b; FRL–5409–8]

Approval and Promulgation of Implementation Plans and Delegation of 112(l) Authority; Lincoln-Lancaster County Health Department and City of Omaha (Nebraska)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Nebraska on behalf of the two local air pollution control agencies. The state has an approved program (published in the **Federal Register** on January 4, 1995), and the local agencies have adopted the state's regulatory framework. The state has made this request so that the local agencies may issue Federally enforceable Class II permits as an alternative to Title V.

Like the state's program, this SIP revision includes the creation of a Class II operating permit program and adopts the state's Part D (nonattainment) new source review rule changes, SO_2 rule corrections, and provisions for compliance and enforcement information. In the final rules section of the **Federal Register**, the EPA is approving this revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule.

If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 15, 1996.

ADDRESSES: Comments may be mailed to Christopher D. Hess, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: December 7, 1995.

William Rice,

Acting Regional Administrator.

[FR Doc. 96–3234 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CA 95–9–7273b; FRL–5411–2]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from kelp processing and bio-polymer manufacturing operations.

The intended effect of proposing limited approval and limited disapproval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is finalizing a simultaneous limited approval and limited disapproval of the state's SIP

revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this limited approval and limited disapproval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by March 15, 1996.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION: This document concerns San Diego County Air Pollution Control District Rule 67.10, Kelp Processing and Bio-Polymer Manufacturing Operations, submitted to EPA on July 13, 1994 by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Final Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 16, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–3232 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 180

[PP–9F3798/P642; FRL–5349–1]

RIN 2070–AC18

Lactofen; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to renew a time-limited tolerance for residues of the herbicide lactofen, 1-(carboethoxy)ethyl-5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate, and its metabolites containing the diphenyl ether linkage on the raw agricultural commodity (RAC) cottonseed at 0.05 part per million (ppm). The tolerance would establish the maximum permissible level of residues of the herbicide in or on this RAC. The Valent USA Corp. requested this tolerance pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA). The time-limited tolerance would expire on December 31, 1996.

DATES: Comments identified by the docket number, [PP 9F3798/P642], must be received on or before March 15, 1996.

ADDRESSES: Submit written comments by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC. In person, bring comments to: Public Docket, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures as set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the above address, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [PP 9F3798/P642]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the SUPPLEMENTARY INFORMATION unit of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM 23), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-305-6224; e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 14, 1990 (55 FR 24084), EPA established a time-limited tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for residues of the herbicide lactofen, 1-(carboethoxy)ethyl-5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate, and its associated metabolites containing the diphenyl ether linkage in or on the raw agricultural commodity (RAC) cottonseed at 0.05 ppm. This tolerance was requested by Valent U.S.A. Corp., 1333 North California Blvd., P.O. Box 8025, Walnut Creek, CA 94596-805, and establishes the maximum permissible level for residues of the herbicide in or on this RAC.

The tolerance was issued as a time-limited tolerance because EPA required animal metabolism studies and additional information on the cottonseed processing study. EPA's review of the processing study resulted in a preliminary determination that concentration does not occur in processed food, but additional information on the study was required to confirm that determination. Information was submitted and the determination was confirmed. The animal metabolism studies were required to determine the likelihood of secondary residues in meat, fat, milk, poultry, and eggs.

The animal metabolism studies were received at the Agency in September 1992 and placed into review. The Agency completed an evaluation of the animal metabolism studies in March 1993, and concluded that the nature of the residue in animals was tentatively adequately understood. For the purposes of this tolerance with an expiration date, the Agency determined that finite residues in animal commodities would be minimal from the use of lactofen on cotton, based on results of metabolism studies. However, for the proposed permanent tolerance, additional information was required.

This included the following: (1) Further characterization of metabolites from animal metabolism studies; (2) a ruminant feeding study; (3) independent Method Evaluation and EPA Method Validation of the proposed analytical methodology if tolerances on animal commodities are required; (4) an Independent Method Validation and EPA Method Validation of revised analytical methodology for cottonseed; and (5) revised product labeling. The ruminant feeding study, Independent Method Validation of the revised analytical methodology for cottonseed and other information were received at the Agency in September 1993 and January 1994, and placed in review. The Agency completed an evaluation of this information in May 1995, and concluded that the nature of the residue in animals is adequately understood, pending receipt of additional information on the ruminant feeding study. However, Agency review identified the following additional deficiencies: (1) Based on the results of the ruminant feeding study, a tolerance of 0.02 ppm is required for the lactofen metabolite PPG-2838 in or on ruminant meat byproducts, as well as an Independent Method Validation and EPA Method Validation of the proposed analytical methodology for this metabolite in or on meat byproducts; (2) revised analytical methodology for cottonseed and a revised Section F proposing to raise the tolerance for cottonseed to 0.25 ppm are required; (3) residue data for cotton gin byproducts are required as a result of recent revisions to the Residue Chemistry Guidelines (Subdivision O of the Pesticide Assessment Guidelines). On December 7, 1995, Valent submitted a response to these deficiencies, excluding the newly required residue data for cotton gin byproducts.

The company's response has been placed in review. Since Agency review has not been completed, it is inappropriate to establish a permanent tolerance at this time. Nevertheless, the Agency believes that the existing data support an extension of the time-limited tolerance to December 31, 1996. The data considered in support of the time-limited tolerance are identified in the **Federal Register** of June 14, 1990 (55 FR 24084).

There are no pending regulatory actions against the registration of this pesticide. The pesticide is considered useful for the purposes for which it is sought.

Adequate analytical methodology (gas chromatography) is available for enforcement purposes. Prior to its publication in the *Pesticide Analytical Manual, Vol. II*, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide residue enforcement when requested from: By mail, Calvin Furlow, Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Mall #2, Rm. 1132, 1921 Jefferson Davis Highway, Arlington, VA, (703)-305-5805.

Based on the information and data considered, the Agency concludes that the proposed tolerance will protect the public health. Therefore, it is proposed that the tolerance be continued as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains the ingredient listed herein, may request within 30 days after the publication of this document in the **Federal Register** that this proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA).

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket control number, [PP 9F3798/P642). All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch at the above address from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this proposal under docket number (PP 9F3798/P642) (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this proposal, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this executive order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 6, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.432, paragraph (b) is revised as follows:

§180.432 Lactofen; tolerances for residues.

* * * * *

(b) A time-limited tolerance, that expired December 31, 1995, is renewed for 1 year and will now expire December 31, 1996, for residues of the herbicide lactofen, 1-(carboethoxy)ethyl-5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate, and its metabolites containing the diphenyl ether linkage in or on the following raw agricultural commodity:

Commodity	Parts per million	Expiration date
Cottonseed	0.05	December 31, 1996

[FR Doc. 96–3020 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300412; FRL–4995–3]

RIN 2070–AC18

Oxo-Alkyl Acetates; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that residues of a group of chemicals known as oxo-alkyl acetates [oxo-hexylacetate (CAS Reg. No. 88230-35-7), oxo-heptyl acetate (CAS Reg. No. 90438-79-2), oxo-octyl acetate (CAS Reg. No. 108419-32-5), oxo-nonyl acetate (CAS Reg. No.108419-34-7), oxo-decyl acetate (CAS Reg. No. 108419-33-6), and oxo-tridecyl acetate (CAS Reg. No. 108419-35-8)] be exempted from the requirement of a tolerance when used as a solvent in pesticide formulations. This proposed regulation was requested by Exxon Chemical Co., Performance Products Group.

DATES: Comments, identified by the docket control number [OPP–300412], must be received on or before March 15, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person deliver comments to: Rm. 1132, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [OPP–300412]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 2800 Crystal Drive, North Tower, Arlington, VA, (703)-308-8375; e-mail: acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Exxon Chemical Co., Performance Products Group, Linden, NJ 07036, submitted pesticide petition (PP) 3E04267 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for oxo-alkyl acetates [oxo-hexyl acetate (CAS Reg. No. 88230-35-7), oxo-heptyl acetate (CAS Reg. No. 90438-79-2), oxo-octyl acetate (CAS Reg. No. 108419-32-5), oxo-nonyl acetate (CAS Reg. No. 108419-34-7), oxo-decyl acetate (CAS Reg. No. 108419-33-6), and oxo-tridecyl acetate (CAS Reg. No. 108419-35-8)] when used as solvents in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient.

The data submitted for this petition are primarily for the oxo-octyl acetate and oxo-tridecyl acetate for which the Agency has decided are representative of the entire class of oxo-alkyl acetates having the general structure CH_3COOR where R is a branched alkyl group having carbon numbers in the range of C_6 through C_{14} and that no data, in addition to that described below will need to be submitted. The rationale for this decision is described below:

1. A subchronic oral toxicity study using oxo-octyl acetate in rats with a No Observed Effect Level (NOEL) of 100 mg/kg/day and a Lowest Effect Level (LEL) of 500 mg/kg/day based on increased liver weight in both sexes which indicate an overall low degree of systemic toxicity when administered orally to rats for 13 weeks.

2. A subchronic oral toxicity study using oxo-tridecyl acetate in rats with a NOEL of 100 mg/kg and a LEL of 500 mg/kg based on increased incidence of tubular nephropathy in the males and increased kidney and liver weights in both sexes indicating an overall low degree of systemic toxicity following subchronic oral administration of oxo-tridecyl acetate in rats.

3. The microbial mutagenesis study including *Salmonella* mammalian microsome plate incorporation assays showed no evidence that oxo-octyl acetate or oxo-tridecyl acetate produces any mutagenic effects at any dose tested, either with or without exogenous metabolic activation.

4. An *in vivo* mammalian bone marrow micronucleus assay oral gavage dosing method did not significantly increase the frequency of micronucleated polychromatic erythrocytes in mouse bone marrow at any dose of oxo-octyl acetate or oxo-tridecyl acetate (625, 1,250 or 2,500 mg/kg body weight) or sampling time (24, 48, and 72 hours post-treatment).

5. A developmental toxicity study with oxo-octyl acetate and oxo-tridecyl acetate in rats with the maternal systemic NOEL of 100 mg/kg/day and the maternal LOEL of 500 mg/kg based on decreased body weight and the developmental toxicity NOEL of 500 mg/kg/day and the developmental LOEL of 1,000 mg/kg based on increased incidence of various types of vertebral malformations.

6. An acute oral toxicity study with an acute oral LD_{50} of 5,000 mg/kg in rats indicating that oxo-octyl acetate or oxo-tridecyl acetate has little or no potential for hazard to rats.

7. An acute oral toxicity study with an acute oral LD_{50} of greater than 2,250 mg/kg in bobwhite quail indicating that oxo-octyl acetate or oxo-tridecyl acetate has little or no potential for hazard to avian species.

8. A dietary study with LC_{50} of greater than 5,620 ppm in bobwhite quail indicating that oxo-octyl acetate or oxo-tridecyl acetate are practically nontoxic to avian species.

Based upon the above evaluation of the toxicological data which shows no evidence of mutagenicity (Ames Test), and no significant acute and subchronic or developmental toxicity of the branched alkyl acetates in this molecular weight range (C_8-C_{13} alkyl acetates), the Agency concludes that this chemical poses no significant risks under the proposed conditions of use and that no further data are required.

Based upon the toxicological data evaluated above, the physico-chemical properties of oxo-alkyl acetates and information regarding their use, the Agency has found that, when used in accordance with good agricultural practice, these ingredients are useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket control number, [OPP–300412]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

A record has been established for this proposal under docket number [OPP–300412] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this proposal, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Office of Management and Budget has exempted this proposed rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: January 31, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the

following inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(d) * * *

* * * * * *

Inert ingredients	Limits	Uses
Oxo-decyl acetate (CAS reg. No. 108419-33-6)		Solvent
Oxo-heptyl acetate (CAS Reg. No. 90438-79-2)		Solvent
Oxo-hexyl acetate (CAS Reg. No. 88230-35-7)		Solvent
Oxo-nonyl acetate (CAS Reg. No. 108419-34-7)		Solvent
Oxo-octyl acetate (CAS Reg. No. 108419-32-5)		Solvent
Oxo-tridecyl acetate (CAS Reg. No. 108419-35-8)		Solvent

* * * * * * *

[FR Doc. 96–3018 Filed 2–13–96; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 575

[Docket No. 96–09, Notice 01]

RIN 2127–AF81

Federal Motor Vehicle Safety Standards, Truck-Camper Loading; Consumer Information Regulations, Truck-Camper Loading

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to rescind Federal Motor Vehicle Safety Standard (Standard) No. 126, *Truck-camper loading*, and combine its provisions with 49 CFR 575.103, *Truck-camper loading*. This action is being proposed because a review of all of this agency's standards and regulations pursuant to the President's regulatory reinvention initiative led the agency to the tentative conclusion that combining these two rules into one will make their respective requirements easier to understand and apply.

DATE: Comments must be received on or before April 15, 1996.

ADDRESSES: Comments must refer to the docket number and notice number set forth above and be submitted, preferably in 10 copies, to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street SW, Room 5109, Washington, DC 20590. Docket hours are from 9:30 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For technical issues: Robert M. Clarke, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5307, Washington, DC 20590. Telephone (202) 366–5278, FAX (202) 366–4329. For legal issues: Walter Myers, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5219, Washington, DC 20590. Telephone: (202) 366–2992; FAX (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Background

Standard No. 126 was initially established by final rule published on August 15, 1972 (37 FR 16497) to provide information that can be used by consumers to reduce overloading and improper load distribution in truck-camper combinations. The standard requires manufacturers of slide-in campers to affix a label to each camper specifying, among other things, the maximum weight of the camper and its equipment. The standard also requires that the owner's manual for the camper contain a picture showing the location of the longitudinal center of gravity of the camper when properly loaded. When initially published, the standard also required manufacturers of trucks capable of accommodating slide-in campers to include in the truck operator's manual a picture showing the manufacturer's recommended longitudinal center of gravity for the cargo weight rating of the camper and a picture of the proper match of a truck and slide-in camper.

On the same day, August 15, 1972, NHTSA published a notice of proposed rulemaking (NPRM) proposing to require that slide-in campers be identified by a vehicle identification number "to facilitate any future defect notification and recall campaigns that might occur" (37 FR 16505).

In a notice published on December 14, 1972 (37 FR 26605), NHTSA adopted the requirement for a vehicle identification number. In the same notice, in response to petitions for reconsideration of the final rule of August 15, 1972, which established Standard No. 126 (37 FR 16497), NHTSA withdrew the truck requirements from the standard and reissued them in 49 CFR 575.103, a consumer information regulation (37 FR 26607).

Pursuant to the March 4, 1994 directive entitled *Regulatory Reinvention Initiative* from the President to the heads of all Federal departments and agencies, NHTSA reviewed all its Federal motor vehicle safety standards and related regulations. As a result of that review, NHTSA identified several standards and regulations, or portions thereof, that it would propose to rescind or amend. The agency tentatively determined that the camper requirements of Standard No. 126 and the truck requirements of 49 CFR 575.103 should be combined into one regulation as before, but this time as a consumer information regulation rather than as a safety standard.

Agency Proposal

a. Truck Camper Loading

After reviewing the requirements for truck-camper loading, which involve labeling and certain information in the owner's manual, the agency has tentatively concluded that it serves no useful purpose to keep the camper requirements separate from the truck requirements in the CFR. The agency believes that it would be easier, more convenient, and more efficient for manufacturers, regulators, and the public to apply those provisions if they were combined rather than maintained as separate provisions in the CFR. Indeed, placing them together is appropriate since their subject matter is so closely related. Accordingly, the agency proposes to rescind Standard No. 126 and consolidate its requirements into 49 CFR 575.103.

b. Slide-in Camper Vehicle Identification Number

As stated in the *Background* discussion above, Standard No. 126 requires camper manufacturers to assign a vehicle identification number (VIN) to each slide-in camper they produce. Specifically, paragraph S5.1.1(e) provides that manufacturers must assign a number to each slide-in camper "for identification purposes consisting of arabic numerals, roman letters, or both." The same paragraph further provides that no two campers produced within a 10-year period shall have the same identification number.

The final rule of December 14, 1972 stated that the purpose of the camper VIN was to increase the accuracy and efficiency of recall campaigns conducted by manufacturers to remedy safety defects. However, out of the 26 recalls that have been conducted under Standard No. 126 since its inception in 1972, none have involved or relied on the camper VIN. Information available to NHTSA discloses that while some camper manufacturers use a 17-digit VIN similar to the VIN required on vehicles by Standard No. 115 and 49 CFR Part 565, others combine the camper VIN and the camper serial number. Thus, there is no uniformity in the industry as to the application of the camper VIN. Agency experience in past slide-in camper recalls has been that the manufacturer's model and serial numbers are sufficient to identify the campers and/or the models involved in the recall. NHTSA has tentatively concluded, therefore, that requiring slide-in campers to have a VIN is redundant and does not serve its intended purpose. Accordingly, NHTSA proposes to delete the requirement for a vehicle identification number on slide-in campers.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, *Regulatory Planning and Review*. NHTSA has considered the impact of this rulemaking action under the DOT's regulatory policies and procedures and has determined that it is not "significant" within the meaning of those policies and procedures.

The amendments proposed in this rulemaking action are intended to reorganize certain existing requirements and to eliminate a separate, unneeded requirement, thereby simplifying and streamlining the body of Federal regulations. The agency estimates that there would be no cost impact or lead time effects for either manufacturers, dealers, or consumers.

Elimination of the requirement for assigning and affixing a camper VIN would result in only minimal cost savings. Currently, camper manufacturers are required to place the camper VIN on the label containing other information about campers. Since camper manufacturers would continue to be required to place that label on their campers, being relieved of the necessity of placing a camper VIN on the label would at most enable the manufacturers to use a slightly smaller label.

Accordingly, the agency believes that impacts would be so minimal as not to warrant the preparation of a full preliminary regulatory evaluation.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. For the reasons stated above, this proposal would have no significant impact on manufacturers of slide-in campers and trucks capable of accommodating slide-in campers, thus would have no impact on the costs of those products. Accordingly, the agency has not prepared a preliminary regulatory flexibility analysis.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No state laws would be affected.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, Pub. L. 96–511, the agency notes that there are no information collection requirements associated with this rulemaking action.

Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision thereof may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle only if the state's standard is identical to the Federal standard. However, the United States government, a state or political subdivision thereof may prescribe a standard for a motor vehicle or motor vehicle equipment for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. This section does not require submission of a petition for reconsideration or other administrative procedures before parties may file suit in court.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that comments be submitted in 10 copies.

Comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion. Necessary attachments may be appended to these submissions without regard to the 15-page limit.

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and 7 copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in 49 CFR Part 512, the agency's confidential business information regulation.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. The agency will continue to file relevant information in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket section should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket

supervisor will return the postcard by mail.

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

49 CFR Part 575

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, 49 CFR Parts 571 and 575 would be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.126 [Removed]

2. Section 571.126 would be removed.

PART 575—CONSUMER INFORMATION REGULATIONS

3. The authority citation for Part 575 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

4. Section 575.103 would be revised to read as follows:

§ 575.103 Truck-camper loading.

(a) *Scope.* This section requires manufacturers of slide-in campers to affix to each camper a label that contains information relating to identification and proper loading of the camper and to provide more detailed loading information in the owner's manual. This section also requires manufacturers of trucks that would accommodate slide-in campers to specify the cargo weight ratings and the longitudinal limits within which the center of gravity for the cargo weight rating should be located.

(b) *Purpose.* The purpose of this section is to provide information that can be used to reduce overloading and improper load placement in truck-camper combinations and unsafe truck-camper matching in order to prevent accidents resulting from the adverse effects of these conditions on vehicle steering and braking.

(c) *Application.* This section applies to slide-in campers and to trucks that are capable of accommodating slide-in campers.

(d) *Definitions. Camper* means a structure designed to be mounted in the cargo area of a truck, or attached to an incomplete vehicle with motive power, for the purpose of providing shelter for persons.

Cargo Weight Rating means the value specified by the manufacturer as the cargo-carrying capacity, in pounds or kilograms, of a vehicle, exclusive of the weight of occupants in designated seating positions, computed as 150 pounds or 68 kilograms times the number of designated seating positions.

Slide-in Camper means a camper having a roof, floor, and sides, designed to be mounted on and removable from the cargo area of a truck by the user.

(e) *Requirements.*

(1) *Slide-in Camper.*

(i) *Labels.* Each slide-in camper shall have permanently affixed to it, in such a manner that it cannot be removed without defacing or destroying it, and in a plainly visible location on an exterior rear surface other than the roof, steps, or bumper extension, a label containing the following information in the English language lettered in block capitals and numerals not less than 2.4 millimeters (three thirty-seconds of an inch) high, of a color contrasting with the background, in the order shown below and in the form illustrated in Figure 1 to this section.

(A) Name of camper manufacturer. The full corporate or individual name of the actual assembler of the camper shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals may be used. The name of the manufacturer shall be preceded by the words "Manufactured by" or "Mfd by."

(B) Month and year of manufacture. It may be spelled out, such as "June 1995" or expressed in numerals, such as "695."

(C) The following statement completed as appropriate:

"Camper weight is _____ kg. (_____ lbs.) maximum when it contains standard equipment, _____ liters (_____ gal.) of water, _____ kg. (_____ lbs.) of bottled gas, and _____ cubic meters (_____ cubic ft.) refrigerator (or icebox with _____ kg. (_____ lbs.) of ice, as applicable). Consult owner's manual (or data sheet, as applicable) for weights of additional or optional equipment."

(D) "Liters (or gal.) of water" refers to the volume of water necessary to fill the camper's fresh water tanks to capacity. "Kg. (or lbs.) of bottled gas" refers to the amount of gas necessary to fill the camper's bottled gas tanks to capacity. The statement regarding a "refrigerator" or "icebox" refers to the capacity of the refrigerator with which the vehicle is equipped or the weight of the ice with which the icebox may be filled. Any of these items may be omitted from the statement if the corresponding accessories are not included with the camper, provided that the omission is noted in the camper owner's manual as required in paragraph (e)(1)(ii) of this section.

(ii) *Owner's manual.* Each slide-in camper manufacturer shall provide with each camper a manual or other document containing the information specified in paragraphs (e)(1)(ii)(A) through (F) of this section.

(A) The statement and information provided on the label as specified in paragraph (e)(1)(i) of this section. Instead of the information required by paragraphs (e)(1)(i)(B) and (C) of this section, a manufacturer may use the statements "See camper identification label located (as applicable) for month and year of manufacture." If water, bottled gas, or refrigerator (icebox) has been omitted from this statement, the manufacturer's information shall note such omission and advise that the weight of any such item when added to the camper should be added to the maximum camper weight figure used in selecting an appropriate truck.

(B) A list of other additional or optional equipment that the camper is designed to carry, and the maximum weight of each if its weight is more than 9 kg. (20 lbs) when installed.

(C) The statement: "To estimate the total cargo load that will be placed on a truck, add the weight of all passengers in the camper, the weight of supplies, tools, and all other cargo, the weight of installed additional or optional camper equipment, and the manufacturer's camper weight figure. Select a truck that has a cargo weight rating that is equal to or greater than the total cargo load of the camper and whose manufacturer recommends a cargo center of gravity zone that will contain the camper's center of gravity when it is installed."

(D) The statements: "When loading this camper, store heavy gear first, keeping it on or close to the camper floor. Place heavy things far enough forward to keep the loaded camper's center of gravity within the zone recommended by the truck manufacturer. Store only light objects on high shelves. Distribute weight to obtain even side-to-side balance of the loaded vehicle. Secure loose items to prevent weight shifts that could affect the balance of your vehicle. When the truck-camper is loaded, drive to a scale and weigh on the front and on the rear wheels separately to determine axle loads. The load on an axle should not exceed its gross axle weight rating (GAWR). The total of the axle loads should not exceed the gross vehicle weight rating (GVWR). These weight ratings are given on the vehicle certification label that is located on the left side of the vehicle, normally on the dash panel, hinge pillar, door latch post, or door edge next to the driver on trucks manufactured on or after January 1, 1972. If weight ratings are exceeded, move or remove items to bring all weights below the ratings."

(E) A picture showing the location of the longitudinal center of gravity of the camper within an accuracy of 5 centimeters (2 inches) under the loaded condition specified in paragraph (e)(1)(i)(D) of this section in the manner illustrated in Figure 2 of this section.

(F) A picture showing the proper match of a truck and slide-in camper in the form illustrated in Figure 3 to this section.

(2) *Trucks.*

(i) Except as provided in paragraph (e)(2)(ii) of this section, each manufacturer of a truck that is capable of accommodating a slide-in camper shall provide to the purchaser in the owner's manual or other document delivered with the truck, in writing and in the English language, the information specified in paragraphs (e)(2)(i) (A) through (E) of this section.

(A) A picture showing the manufacturer's recommended longitudinal center of gravity zone for the cargo weight rating in the form illustrated in Figure 4 to this section. The boundaries of the zone shall be such that when a slide-in camper equal in weight to the truck's cargo weight rating is installed, no GAWR of the truck is exceeded.

(B) The truck's cargo weight rating.

(C) The statements: "When the truck is used to carry a slide-in camper, the total cargo load of the truck consists of the manufacturer's camper weight figure, the weight of installed additional camper equipment not included in the manufacturer's camper weight figure, the weight of camper cargo, and the weight of passengers in the camper. The total cargo load should not exceed the truck's cargo weight rating and the camper's center of gravity should fall within the truck's recommended center of gravity zone when installed."

(D) A picture showing the proper match of a truck and slide-in camper in the form illustrated in Figure 3 to this section.

(E) The statements: "Secure loose items to prevent weight shifts that could affect the balance of your vehicle. When the truck camper is loaded, drive to a scale and weigh on the front and on the rear wheels separately to determine axle loads. Individual axle loads should not exceed either of the gross axle weight ratings (GAWR). The total of the axle loads should not exceed the gross vehicle weight rating (GVWR). These ratings are given on the vehicle certification label that is located on the left side of the vehicle, normally the dash, hinge pillar, door latch post, or door edge next to the driver. If weight ratings are exceeded, move or remove items to bring all weights below the ratings."

(ii) If a truck would accommodate a slide-in camper but the manufacturer of the truck recommends that the truck not be used for that purpose, the information specified in paragraph (E) of this section shall not be provided but instead the manufacturer shall provide a statement that the truck should not be used to carry a slide-in camper.

Mfd. By: (Camper Manufacturer's Name)

(Month and Year of Manufacture)

Camper weight is _____ kg (_____ lb) maximum when it contains standard equipment, _____ liters (_____ gal) of water, _____ kg (_____ lb) of bottled gas, and _____ cubic meters (_____ cubic ft) refrigerator (or icebox with _____kg (_____lb) of ice, as applicable). Consult owner's manual (or data sheet as applicable) for weights of additional or optional equipment.

Figure 1. Label for Camper

BILLING CODE 4910-59-P

FIGURE 2. CAMPER CENTER OF GRAVITY INFORMATION

FIGURE 3. EXAMPLE OF PROPER TRUCK AND CAMPER MATCH

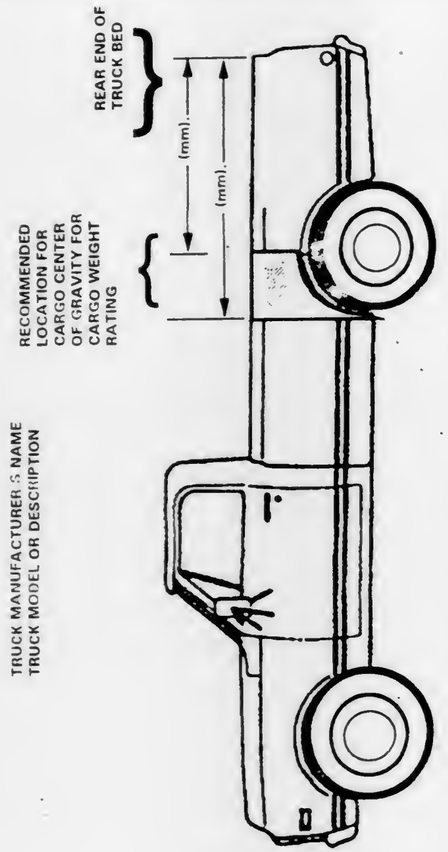


FIGURE 4. TRUCK LOADING INFORMATION

BILLING CODE 4910-59-C

Issued on February 8, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96-3178 Filed 2-13-96; 8:45 am]

BILLING CODE 4910-59-P

Notices

Federal Register

Vol. 61, No. 31

Wednesday, February 14, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Bureau of Land Management

Fish and Wildlife Service

National Biological Service

National Park Service

[WO-1550-00-7111-24 1A]

Federal Wildland Fire Management Policy and Program Review

AGENCIES: Forest Service, U.S. Department of Agriculture; Bureau of Indian Affairs, Bureau of Land Management, Fish & Wildlife Service, National Biological Service, National Park Service, U.S. Department of the Interior.

ACTION: Notice; availability of final Federal Wildland Fire Management Policy and Program Review report.

SUMMARY: The interagency Steering Group chartered to review Federal wildland fire policy and program management has prepared a final report recommending one set of umbrella policies to enhance effective and efficient operations across administrative boundaries and improve the capability to meet challenges posed by current wildland fire conditions.

DATES: The final report will be available on February 14, 1996.

ADDRESSES: Copies of the final report may be obtained by writing to External Affairs, National Interagency Fire Center, 3833 South Development Avenue, Boise, ID 83705; by calling the National Interagency Fire Center (208) 387-5437 or 5101; or via Internet: http://www.fs.fed.us/land/wdfire.htm

FOR FURTHER INFORMATION CONTACT: Mike Apicello, USDA Forest Service (208) 387-5460; John E. Wright, USDOI (202) 208-6416.

SUPPLEMENTARY INFORMATION: Prior Notices relating to this report were issued in the **Federal Register** on January 3, 1995 (60 FR 95-96), June 22, 1995 (60 FR 32485-32503), and August 11, 1995 (60 FR 41054).

For the Department of Agriculture.

William L. McCleese,

Associate Deputy Chief, S&PF USDAFS.

Dated: February 5, 1996.

For the Department of the Interior.

Claudia P. Schechter,

Director of Operations, USDOI.

Dated: February 1, 1996.

[FR Doc. 96-3243 Filed 2-13-96; 8:45 am]

BILLING CODE 4310-84-M; 1410-11-M

Rural Utilities Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Rural Utilities Service's (RUS) intentions to request an extension to a currently approved information collection.

DATES: Comments on this notice must be received by April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Dawn D. Wolfgang, Management Analyst, Program Support Staff, Rural Utilities Service, U.S. Department of Agriculture, 14th & Independence Ave., SW., AG Box 1522, Washington, DC 20250-1522. Telephone: (202) 720-0812. FAX: (202) 720-4120.

SUPPLEMENTAL INFORMATION:

Title: Inventory of Work Orders.

OMB Control Number: 0572-0019.

Type of Request: Extension of a currently approved information collection.

Abstract: When a prospective borrower requests and is granted an RUS loan, a loan contract is established between the Federal government, acting through the RUS Administrator, and the borrower. At the time this contract is entered into, the borrower must provide RUS with a list of projects for which loan funds will be spent, along with an itemized list of the estimated costs of these projects. Thus, the borrower receives loan funds based upon estimated cost figures. If, during or after completion of the project(s), the actual costs prove to be different from the estimated costs, the borrower must reconcile the discrepancies with RUS.

RUS Form 219, Inventory of Work Order, allows the borrower to adjust those estimated expenditures to reflect actual expenditures. The form serves as a connecting link and provides an audit trail that originates with the advance of funds and terminates with evidence supporting the propriety of expenditures for construction or retirement projects.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.5 hours per response.

Respondents: Small business or organizations.

Estimated Number of Respondents: 900.

Estimated Number of Responses per Respondent: 9.

Estimated Total Annual Burden on Respondents: 12,150.

Copies of this information collection, and related form and instructions, can be obtained from Dawn Wolfgang, Program Support Staff, at (202) 720-0812.

Comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments may be sent to: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Rural Utilities Service, U.S. Department of Agriculture, 14th & Independence Ave., SW., AG Box 1522, Washington, DC 20250-1522. FAX: (202) 720-4120.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 8, 1996.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 96–3266 Filed 2–13–96; 8:45 am]

BILLING CODE 3410–15–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

ADAAG Review Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) gives notice of the dates and location of the meeting of the ADAAG Review Advisory Committee.

DATES: The ADAAG Review Advisory Committee will meet on February 26, 27, 28, and 29, and March 1, 1996 beginning at 9:00 a.m. and ending not later than 5:00 p.m. each day.

ADDRESS: The meeting will be held at the Grand Hyatt, 1000 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meeting, please contact Marsha Mazz, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004–1111. Telephone (202) 272–5434 ext. 21 (voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disk) upon request.

SUPPLEMENTARY INFORMATION: In September 1994, the Access Board established an advisory committee to review the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities. 36 CFR part 1191, appendix A. The Advisory Committee will make recommendations to the Access Board for updating ADAAG to ensure that the guidelines remain a state-of-the-art document which is generally consistent with technological developments and changes in national standards and model codes, and continue to meet the needs of individuals with disabilities. The advisory committee is composed of organizations representing individuals with disabilities, model code organizations, professional associations, State and local governments, building owners and operators, and other organizations. The advisory committee has formed the following subcommittees to assist in its work: Editorial, Accessible Routes, Communications, Plumbing, and Special Occupancies. The subcommittees completed their work in November 1995 with presentation of reports to the full advisory committee.

The full advisory committee will meet on the dates and at the location announced in this notice to review the subcommittee reports in the following order: Accessible Routes, Plumbing, Special Occupancies, Communications.

The meeting is open to the public. For persons interested in attending the meeting for a particular subcommittee report, there will be a recorded message on (202) 272–5434, ext. 21 by 6:00 a.m. each day containing information regarding the agenda status for each day. Persons who use TTYs should call (202) 272–5449. There will be a public comment period before the full advisory committee reviews each subcommittee report for the public to present their views. To accommodate everyone, persons presenting public comments will be limited to two minutes. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Marsha Mazz by February 20, 1996, by calling (202) 272–5434 ext. 21 (voice) or (202) 272–5449 (TTY).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 96–3316 Filed 2–13–96; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

1996 Test Census—Enumerator Questionnaire

ACTION: Proposed Agency Information Collection Activity; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 15, 1996.

ADDRESSES: Direct all written comments to Margaret L. Woody, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Fred Borsa, Bureau of the Census, Room 1769, FOB #3, Washington, DC 20233, (301) 457–2050.

SUPPLEMENTARY INFORMATION:

I. Abstract

The 1996 Test Census is designed to test new and improved methodologies for reducing the differential in the census results among the various components of the population, and for containing costs associated with conducting a census. The Census Bureau will use the results of this test, in combination with other research, to decide how to conduct the 2000 census. The test will be conducted in two rural sites and one urban site with a combined housing unit total of about 10,000. The rural sites (roughly 2,000 housing units) will encompass two American Indian reservations. The urban site (roughly 8,000 housing units) will encompass six census tracts in Chicago, Illinois.

A primary objective for both the rural and urban components of the test is to refine the Integrated Coverage Measurement (ICM) program. Other objectives are listed below.

Major objectives for the rural component of the test:

- Use and evaluate tribal "administrative records," such as tribal rolls, utility records, tribal school records, and tribal voter registration as coverage improvement tools.
- Use improved address list development and collection methodology.
- Implement and evaluate a "partnership agreement" with the tribes, and expand the Tribal Liaison's role to include involvement in census operational activities.
- Test the use of statistical estimation techniques to improve the enumeration of residents on American Indian reservations and trust lands.

Major objectives for the urban component of the test:

- Test the ICM program in a reengineered census setting.
- Test techniques for measuring housing unit and noninstitutional group quarters coverage in a census setting.
- Test use of administrative records for coverage improvement.
- Test improved address listing techniques.

The 1996 Test Census will include four questionnaires—two self-enumeration simple forms (consisting of basic population and housing questions), a self-enumeration individual Census Report (used to gather population information from residents of group quarters), and a self-enumeration Be Counted form (used only in the rural sites and made available at convenient locations for persons who did not receive a questionnaire or believe they were not counted).

The two simple forms are identical in content, except for the household rostering questions.

Another component of this test will be to evaluate two alternative approaches to household rostering. One roster design, called the "rosterless" version, does not require the respondent to create a traditional roster list. It includes an abbreviated set of instructions on who should be included and not included, and ask the respondent to provide the number of persons in the household. The second roster design, called the "extended" roster, includes a sequential set of reminders about whom to include, such as non-relatives as well as related persons, mobile persons who may have more than one residence, and persons with no usual residence.

Enumerator-administered questionnaires, identical in content to the two simple forms discussed above, also will be used in this test to conduct nonresponse followup operations for housing units that do not return their questionnaires by mail. This request only addresses the enumerator questionnaire.

II. Method of Collection

We will conduct a complete census in the three test sites. In the rural sites, census enumerators will deliver the questionnaires to the households. Respondents will be asked to complete the questionnaires and return them by mail in the postage-paid envelopes. In the Urban site, census questionnaires will be mailed to the housing units and returned in postage-paid envelopes.

Those housing units that do not return a census questionnaire by mail will be visited by enumerators who will conduct interviews using enumerator-administered questionnaires.

III. Data

OMB Number: Not available.

Form Number: DT–1E (Enumerator Questionnaire).

Type of Review: Regular.

Affected Public: Individuals and households.

Estimated Number of Respondents: 6,500 Housing units.

Estimated Time Per Response: 5 minutes (DT–1E).

Estimated Total Annual Burden Hours: Total-541.66 hours. The burden reflects time taken by field enumerators to complete the enumerator-administered census questionnaires during nonresponse followup for the 65 percent of household that we expect will not respond by mail. The burden for the enumerator forms, includes the portion of the form that is completed for vacant units.

DT–1E=*541.66 hours* [5 minutes x 6500 housing units].

Estimated Total Annual Cost: Same as costs identified in previous submission for this test.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of Information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public records.

Margaret L. Woody,

Office of Management and Organization.

[FR Doc. 96–2952 Filed 2–13–96; 8:45 am]

BILLING CODE 3510–07–P

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

ACTION: Notice and Opportunity for Public Comment.

SUMMARY: The National Weather Service (NWS) is publishing proposed certifications for the proposed consolidations of:

(1) Residual Moline Weather Service Office (RWSO) into the future Quad Cities WFO;

(2) Residual Raleigh WSO into the future Raleigh/Durham WFO;

(3) Hartford Weather Service Office (WSO) into the future Boston, New York City and Albany Weather Forecast Offices (WFOs);

(4) Baltimore WSO into the future Baltimore, MD/Washington, DC; Philadelphia; and Wakefield WFOs;

(5) Norfolk WSO into the future Wakefield WFO;

(6) Richmond WSO into the future Wakefield, Roanoke, and Baltimore, MD/Washington, DC WFOs;

(7) Atlantic City WSO into the future Philadelphia WFO; and

(8) Wilmington (WSO) into the future Philadelphia WFO. In accordance with Public Law 102–567, the public will have 60-days in which to comment on these proposed consolidation certifications.

DATE: April 15, 1996.

ADDRESS: Requests for copies of the proposed consolidation packages should be sent to Janet Gilmer, Room 12316, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0276. All comments should be sent to Janet Gilmer at the above address.

FOR FURTHER INFORMATION CONTACT: Julie Scanlon at 301–713–1413.

SUPPLEMENTARY INFORMATION: NWS anticipates consolidating:

(1) The Residual Moline Weather Service Office (RWSO) with the future Quad Cities WFO;

(2) The Residual Raleigh WSO with the future Raleigh/Durham WFO;

(3) The Hartford Weather Service Office (WSO) with the future Boston, New York City and Albany Weather Forecast Offices (WFOs);

(4) The Baltimore WSO with the future Baltimore, MD/Washington, DC; Philadelphia; and Wakefield WFOs;

(5) The Norfolk WSO with the future Wakefield WFO;

(6) The Richmond WSO with the future Wakefield, Roanoke, and Baltimore, MD/Washington, DC WFOs;

(7) The Atlantic City WSC with the future Philadelphia WFO; and

(8) The Wilmington WSO with the future Philadelphia WFO.

In accordance with section 706 of Pub. L. 102–567, the Secretary of Commerce must certify that these consolidations will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation certifications in the FR. The documentation support each proposed certification includes the following:

(1) A draft memorandum by the meteorologist-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consolidation of public comments and completion of

consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degration in service will result from such action including the WSR–88D Radar Commissioning Report(s), User Confirmation of Services Report(s), and the Decommissioning Readiness Report (as applicable); and

(7) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Public Law 102–567. At their December 14, 1995 meeting the members "* * * resolved that the MTC modify its procedure to eliminate proposed certification consultations of noncontroversial closings, consolidations, relocations, and automation certifications but will provide final consultation on certifications after public comment and before final submission to the Secretary of Commerce."

Documentation supporting the proposed certifications is too voluminous to publish in its entirety. Copies of the supporting documentation can be obtained through the contact listed above.

Attached to this Notice are draft memoranda by the respective meteorologists-in-charge recommending the certifications.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certifications. If decisions to certify are made, the Secretary of Commerce must publish the final certifications in the FR and transmit the certifications to the appropriate Congressional committees prior to consolidating the offices.

Dated: February 9, 1996.

Louis J. Boezi,

Deputy Assistant Administrator for Modernization.

Memorandum For: Richard P. Augulis, Director, Central Region

From: Charles T. Fenley, MIC, NWSO Quad Cities, Davenport, IA

Subject: Recommendation for Consolidation Certification

In February 1995, a change of operations occurred when most personnel and most services provided by WSO Moline (located at the Quad City Airport), were transferred to the future WFO site in Davenport, Iowa. At that time, a Residual Weather Service Office (RWSO) was left in Moline to continue the surface and radar observational programs. Since that time, the Quad City Airport (Moline) ASOS has been commissioned (July 1, 1995), the WSR–88D radar has been commissioned (September 7, 1995), and the WSR–74C radar has been decommissioned (January 19, 1996). Radar observational services, and the responsibility thereof, that had been provided from the Moline Office have been transferred to the future Quad Cities WFO in Davenport, Iowa.

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Moline, Illinois Residual Weather Service Office (RWSO) with the future Quad Cities (Davenport, Iowa) Weather Forecast Office (WFO) will not result in any degradation in weather services to the Moline, Illinois service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided to the pre-modernized Moline, Illinois service area is included as Attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Quad Cities (Davenport, Iowa) WFO will not degrade these services.

2. A detailed list of the services currently provided, within the Moline, Illinois service area from the Moline, Illinois RWSO location and a list of services to be provided from the future Quad Cities (Davenport, Iowa) WFO location after the proposed consolidation is included as Attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the RWSO Moline, Illinois Area of Responsibility (i.e. "Affected Service Area") and the future Quad Cities (Davenport, Iowa) WFO Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of those services as a result of consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the RWSO Moline, Illinois service area is included as Attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed, and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for southeast, east central Iowa, and northwest Illinois is included as Attachment D. NWS operation radar coverage for the RWSO Moline, Illinois service area will be increased.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Quad Cities (Davenport, Iowa), Attachment E, validate that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. A full compliment of spares is on-station, but two national work-arounds remain in effect.

B. The User Confirmation of Services from the Quad Cities (Davenport, Iowa), Attachment F, document that no negative comments were received.

C. The Decommissioning Readiness Report, Attachment G, validates that the old WSR–74C radar at Moline, Illinois is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Moline, Illinois service area is included as Attachment H.

I have considered recommendations of the Modernization Transition Committee (Attachment I) and the _____ public comments received during the comment period (Attachment J). On _____, the Committee voted to endorse the proposed consolidation (Attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend certification.

Endorsement

I, Richard P. Augulis, Director, Central Region, endorse this consolidation certification.

Richard P. Augulis,

Attachments

Memorandum For: W/ER—John T. Forsing

From: Stephen Harned, AM/MIC NWSFO Raleigh/Durham, NC

Subject: Recommendation for Consolidation Certification

A change of operations occurred at the Raleigh Weather Service Forecast Office (WSFO), located at the Raleigh Airport, in January 1994 when most personnel were transferred to the facility of the future Raleigh/Durham Weather Forecast Office (WFO) on the campus of North Carolina State University in Raleigh to operate the WSR–88D and assume forecast and warning responsibility for the Raleigh service area. At the same time the Raleigh Airport (RDU) location was designated a Residual Weather Service Office (RWSO) to continue operating the existing WSR–74C radar and taking surface airways observations.

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the RWSO RDU with the future Raleigh/Durham Weather Forecast Office (WFO) will not result in any degradation in weather services to the Raleigh service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Raleigh service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Raleigh/Durham WFO will not degrade these services.

2. A detailed list of the services currently provided within the Raleigh service area from the RSWO RDU location and a list of services to be provided from the future Raleigh area WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the RWSO RDU Area of Responsibility (i.e. "Affected Service Area") and the future WFO Raleigh Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the RWSO RDU service area is included as attachment C. The new technology (i.e. ASOC, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 1,000 feet for North Carolina and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Raleigh service area will be increased and no area will be missed in coverage.

The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Raleigh area, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interface and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Raleigh attachment F, document that three negative comments were received. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Raleigh WSR–74C radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Raleigh service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing

From:

Robert M. Thompson, AM/MIC NWSFO Boston, MA

Michael E. Wyllies, AM/MIC NWSFO New York City, NY

Warren Snyder, Acting MIC NWSFO Albany, NY

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgement, consolidation of the Hartford Weather Service Office (WSO BDL) with the future Boston, New York City and Albany Weather Forecast Office (WFOs) will not result in any degradation in weather services to the Hartford service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Hartford service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Boston, New York City and Albany WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Hartford service area from the WSO BDL location and list of services to be provided from the future Boston Area, New York City Area and Albany Area WFOs locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO BDL Area of Responsibility (i.e. "Affected Service Area") and the future WFO Boston Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO BBL service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Connecticut and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Hartford service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Report from the Boston, New York City and Albany areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Boston, New York City and Albany WFOs areas, attachment F, document that a total of seven comments required follow-up.

All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Hartford local warning radar, WSR–74C, is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Hartford service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From:
James Travers, AM/MIC NWSFO Baltimore/Washington
G.C. Henricksen, AM/MIC NWSFO Philadelphia, PA
Anthony Siebers, MIC NWSO Wakefield, VA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Baltimore Weather Service Office (WSO BWI) with the future Wakefield, Baltimore/Washington and Philadelphia Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Baltimore service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Baltimore service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Wakefield, Baltimore/Washington and Philadelphia WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Baltimore service area from the WSO BWI location and list of services to be provided from the future Wakefield, Baltimore/Washington and Philadelphia WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO BWI Area of Responsibility (i.e. "Affected Service Area") and the future WFO Baltimore/Washington Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO BWI service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Maryland and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Baltimore service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Wakefield, Baltimore/Washington and Philadelphia areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Wakefield, Baltimore/Washington and Philadelphia WFO areas, attachment F, document that a total of six comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not necessary since WSO BWI does not have a radar.

6. A memorandum assigning the liaison officer for the Baltimore service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From: Anthony L. Siebers, MIC NWSO Wakefield, VA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Norfolk Weather Service Office (WSO ORF) with the future Wakefield Weather Forecast Office (WFO) will not result in any degradation in weather services to the Norfolk service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Norfolk service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Wakefield WFO will not degrade these services.

2. A detailed list of the services currently provided within the Norfolk service area from the WSO ORF location and a list of services to be provided from the future Wakefield WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO ORF Area of Responsibility (i.e. "Affected Service Area") and the future WFO Wakefield Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO ORF service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Virginia and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Norfolk service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Wakefield area, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Wakefield, attachment F, document that three responses required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not needed as WSO ORF does not have a radar.

6. A memorandum assigning the liaison officer for the Norfolk service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From:
Anthony Siebers, MIC NWSO Wakefield, VA
James Travers, AM/MIC NWSFO Baltimore/Washington
John V. Wright, MIC NWSO Roanoke, VA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Richmond Weather Service Office (WSO RIC) with the future Wakefield, Baltimore/Washington and Roanoke Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Richmond service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Richmond service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Wakefield, Baltimore/Washington and Roanoke WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Richmond service area from the WSO RIC location and list of services to be provided from the future Wakefield, Baltimore/Washington and Roanoke WFOs locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO RIC Area of Responsibility (i.e. "Affected Service Area") and the future WFO Wakefield Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO RIC service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Virginia and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Richmond service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Wakefield, Baltimore/Washington and Roanoke areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Wakefield, Baltimore/Washington and Roanoke WFO areas, attachment F, document that a total of 13 comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not necessary since WSO RIC does not have a radar.

6. A memorandum assigning the liaison officer for the Richmond service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From: Chet Henricksen, AM/MIC NWSFO Philadelphia, PA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Weather Service Office (WSO) Atlantic City, NJ with the Philadelphia Weather Forecast Offices (WFO) will not result in any degradation in weather services to the Atlantic City service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Atlantic City service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Philadelphia WFO will not degrade these services.

2. A detailed list of the services currently provided within the Atlantic City service area from WSO Atlantic City location and a list of services to be provided from the future Philadelphia WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Atlantic City Area of Responsibility (i.e. "Affected Service Area") and the future WFO Philadelphia Area of Responsibility. As discussed below, I find that there will be no degradation in the

quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Atlantic City service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for New Jersey and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Atlantic City service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Report from Philadelphia, attachment E validate that the WSR–88D meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Philadelphia, attachment F, document that no negative comments were received for the Philadelphia NWSFO area related.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Atlantic City WSR–57 radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Atlantic City service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From: Chet Henricksen, AM/MIC NWSFO Philadelphia, PA
Subject: Recommendation for Consolidation Certification

After reviewing the attached document, I have determined, in my professional judgement, consolidation of the Weather Service Office (WSO) Wilmington, DE with the future Philadelphia Weather Forecast Office (WFO) will not result in any degradation in weather services to the Wilmington service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Wilmington service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Philadelphia WFO will not degrade these services.

2. A detailed list of the services currently provided within the Wilmington service area from WSO Wilmington location and a list of services to be provided from the future Philadelphia WFO location after the proposed consolidation is included in attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Wilmington Area of Responsibility (i.e. "Affected Service Area") and the future WFO Philadelphia Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Wilmington service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Delaware and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Delaware service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from Philadelphia, attachment E validate that the WSR–88D meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Philadelphia, attachment F, document that no negative comments were received for the Philadelphia NWSFO area related.

C. WSO Wilmington does not have a radar, therefore, the Decommissioning Readiness Report, attachment G, is not necessary for this report.

6. A memorandum assigning the liaison officer for the Wilmington service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

[FR Doc. 96–3379 Filed 2–13–96; 8:45 am]

BILLING CODE 3510–12–M

National Weather Service Modernization and Associated Restructuring

ACTION: Notice and opportunity for public comment.

SUMMARY: The National Weather Service (NWS) is publishing proposed certifications for the proposed consolidations of:

(1) Residual Portland, ME Weather Service Office (RWSO) into the future Portland, ME WFO;

(2) Concord Weather Service Office (WSO) into the future Portland, ME and Boston Weather Forecast Offices (WFOs);

(3) Mansfield WSO into the future Cleveland WFO;

(4) Youngstown WSO into the future Cleveland and Pittsburgh WFOs;

(5) Dayton WSO into the future Cincinnati WFO;

(6) Toledo WSO into the future Cleveland and Cincinnati WFOs;

(7) Lynchburg WSO into the future Roanoke WFO;

(8) Roanoke WSO into the future Roanoke WFO;

(9) Cape Hatteras WSO into the future Morehead City and Wakefield WFOs;

(10) Akron WSO into the future Cleveland, Pittsburgh, and Charleston, WV WFOs;

(11) Columbus, OH WSO into the future Cincinnati, Cleveland, Pittsburgh, and Charleston, WV WFOs;

(12) Harrisburg WSO into the future Central Pennsylvania WFO; and

(13) Williamsport WSO into the future Central Pennsylvania and Binghamton WFOs.

In accordance with Public Law 102–567, the public will have 60-days in which to comment on these proposed consolidation certifications.

DATES: Comments are requested by April 15, 1996.

ADDRESSES: Requests for copies of the proposed consolidation packages should be sent to Janet Gilmer, Room 12316, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0276. All comments should be sent to Janet Gilmer at the above address.

FOR FURTHER INFORMATION CONTACT: Julie Scanlon at 301–713–1413.

SUPPLEMENTAL INFORMATION: NWS anticipates consolidating:

(1) The Residual Portland, ME Weather Service Forecast Office (WSFO) with the future Portland, ME WFO;

(2) The Concord Weather Service Office (WSO) with the future Portland, ME and Boston Weather Forecast Offices (WFOs);

(3) The Mansfield WSO with the future Cleveland WFO;

(4) The Youngstown WSO with the future Cleveland and Pittsburgh WFOs;

(5) The Dayton WSO with the future Cincinnati WFO;

(6) The Toledo WSO with the future Cleveland and Cincinnati WFOs;

(7) The Lynchburg WSO with the future Roanoke WFO;

(8) The Roanoke WSO with the future Roanoke WFO;

(9) The Cape Hatteras WSO with the future Morehead City and Wakefield WFOs;

(10) The Akron WSO with the future Cleveland, Pittsburgh, and Charleston, WV WFOs;

(11) The Columbus, OH WSO with the future Cincinnati, Cleveland, Pittsburgh, and Charleston, WV WFOs;

(12) The Harrisburg WSO with the future Central Pennsylvania WFO; and

(13) The Williamsport WSO with the future Central Pennsylvania and Binghamton WFOs.

In accordance with section 706 of Public Law 102–567, the Secretary of Commerce must certify that these consolidations will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation certifications in the FR. The documentation supporting each proposed certification includes the following:

(1) A draft memorandum by the meteorologist-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered reaching the conclusion that no degradation in service will result from such action including the WSR–88D Radar Commissioning Report(s), User Confirmation of Services Report(s), and the Decommissioning Readiness Report (as applicable); and

(7) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Public Law 102–567. At their December 14, 1995 meeting the members "* * * resolved that the MTC modify its procedure to eliminate proposed certification consultations of noncontroversial closings, consolidations, relocations, and automation certifications but will provide final consultation on certifications after public comment and before final submission to the Secretary of Commerce."

Documentation supporting the proposed certifications is too voluminous to publish in its entirety. Copies of the supporting documentation can be obtained through the contact listed above.

Attached to this Notice are draft memoranda by the respective meteorologists-in-charge recommending the certifications.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certifications. If decisions to certify are made, the Secretary of Commerce must publish the final certifications in the FR and transmit the certifications to the appropriate Congressional committees prior to consolidating the offices.

Dated: February 7, 1996.

Elbert W. Friday, Jr.,

Assistant Administrator for Weather Services.

Memorandum For: W/ER—John T. Forsing
From: Albert W. Wheeler, AM/MIC NWSFO Portland, ME
Subject: Recommendation for Consolidation Certification

A change of operations occurred at the Portland Weather Service Forecast Office (WSFO), located at the Portland Jet Port, in September 1994 when most personnel were transferred to the facility of the future Portland Area Weather Forecast Office (WFO) in Gray, Maine to operate the WSR–88D and assume forecast and warning responsibility for the Portland service area. At the same time the Portland Jet Port (PWM) location was designated a Residual Weather Service Office (RWSO) to continue operating the existing WSR–74S radar and taking surface airways observations.

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the RWSO PWM with the future Portland Area Weather Forecast Office (WFO) will not result in any degradation in weather services to the Portland service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Portland service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Portland Area WFO will not degrade these services.

2. A detailed list of the services currently provided within the Portland service area from the RWSO PWM location and a list of services to be provided from the future Portland area WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the RWSO PWM Area of Responsibility (i.e. "Affected Service Area") and the future WFO Portland Area of Responsibility. As discussed below, I find that there will be no degradation in the

quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the RWSO PWM service area is included as attachment C. The new technology (i.e. ASOC, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Maine and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Portland service area will be increased and no area will be missed in coverage.

The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Portland area, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Portland, attachment F, document that four negative comments were received. Three of these comments related to the Portland service area. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Portland WSR–74S radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Portland service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing

Attachments

Memorandum For: W/ER—John T. Forsing
From:
Albert W. Wheeler, AM/MIC NWSFO
Portland, ME
Robert M. Thompson, AM/MIC NWSFO
Boston, MA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Concord Weather Service Office (WSO CON) with the future Portland Weather Forecast Office (WFO) and the future Boston WFO, will not result in any degradation in weather services to the Concord service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1.A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Concord service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Portland and Boston WFOs will not degrade these services.

2. A detailed list of the services currently provided within the Concord service area from the WSO CON location and a list of services to be provided from the future Portland and Boston WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO CON Area of Responsibility (i.e. "Affected Service Area") and the future WFO Portland Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO CON service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for New Hampshire and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Concord service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Portland and Boston areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Portland and Boston, attachment F, document that four negative comments were received from the Portland area and two negative responses were received for the Boston area. None of the negative comments pertained to the Concord area. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not required as WSO CON did not have a radar.

6. A memorandum assigning the liaison officer for the Concord service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certificate.

John T. Forsing

Attachments

Memorandum For: W/ER—John T. Forsing
From: William Comeaux, AM/MIC NWSFO
Cleveland, OH
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Mansfield Weather Service Office (WSO MFD) with the future Cleveland Weather Forecast Office (WFO) will not result in any degradation in weather services to the Mansfield service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Mansfield service area is included as attachment A. As discussed below, I find that

providing the services which address these characteristics and concerns from the future Cleveland WFO will not degrade these services.

2. A detailed list of the services currently provided within the Mansfield service area from the WSO MFD location and a list of services to be provided from the future Cleveland WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO MFD Area of Responsibility (i.e. "Affected Service Area") and the future WFO Cleveland Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO MFD service area is included as attachment C. The new technology (i.e. ASOC, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Ohio and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Mansfield service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Cleveland area, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Cleveland, attachment F, document that seven responses required full-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not needed as WSO MFD does not have a radar.

6. A memorandum assigning the liaison officer for the Mansfield service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From:
William Comeaux, AM/MIC NWSFO
Cleveland, OH
Theresa Rossi, AM/MIC NWSFO
Pittsburgh, PA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined in our professional judgment, consolidation of the Youngstown Weather Service Office (WSO YNG) with the future Cleveland and Pittsburgh Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Youngstown service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Youngstown service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Cleveland and Pittsburgh WFOs, will not degrade these services.

2. A detailed list of services currently provided within the Youngstown service area from the WSO YNG location and list of services to be provided from the future Cleveland and Pittsburgh WFOs locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO YNG Area of Responsibility (i.e. "Affected Service Area") and the future WFO Cleveland Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO YNG service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Ohio and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Youngstown service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service.

A. The WSR–88D RADAR Commissioning Report from the Cleveland and Pittsburgh areas, attachment E. validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Cleveland and Pittsburgh WFO areas, attachment F, document that a total of 10 comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not necessary since WSO YNG does not have a radar.

6. A memorandum assigning the liaison officer for the Youngstown service area in included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____, public comments received during the comment period (attachment J). On _____ the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From: Kenneth J. Haydu, MIC NWSO
Cincinnati, OH
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgement, consolidation of the Dayton Weather Service Office (WSO DAY) with the future Cincinnati Weather Forecast Office (WFO) will not result in any degradation in weather services to the Dayton service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Dayton service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Cincinnati WFO, will not degrade these services.

2. A detailed list of the services currently provided within the Dayton service area from the WSO DAY location and list of services to be provided from the future Cincinnati WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO DAY Area of Responsibility (i.e. "Affected Service Area") and the future WFO Cincinnati Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO DAY service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Ohio and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Dayton service area will be increased and no area will be missed in coverage.

5. The following evidence, besed upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Report from the Cincinnati areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Cincinnati WFO areas, attachment F, document that four comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not needed as WSO DAY does not have radar.

6. A memorandum assigning the liaison officer for the Dayton service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From:
William Comeaux, AM/MIC NWSFO Cleveland, OH
Kenneth J. Haydu, MIC NWSO Cincinnati, OH
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgement, consolidation of the Toledo Weather Service Office (WSO TOL) with the future Cincinnati and Cleveland Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Toledo service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Toledo service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Cincinnati and Cleveland WFOs will not degrade these services.

2. A detailed list of the services currently provided within the Toledo service area from the WSO TOL location and list of services to be provided from the future Cincinnati and Cleveland WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO TOL Area of Responsibility (i.e. "Affected Service Area") and the future WFO Cleveland Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO TOL service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Ohio and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Toledo service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from Cincinnati and Cleveland areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Cincinnati and Cleveland WFO areas, attachment F, document that a total of 11 comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not necessary since WSO TOL does not have a radar.

6. A memorandum assigning the liaison officer for the Toledo service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From: John V. Wright, MIC NWSO Roanoke, VA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Lynchburg Weather Service Office (WSO LYH) with the future Roanoke Weather Forecast Office (WFO) will not result in any degradation in weather services to the Lynchburg service area. This proposed

certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Lynchburg service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Roanoke WFO will not degrade these services.

2. A detailed list of the services currently provided within the Lynchburg service area from the WSO LYH location and a list of services to be provided from the future Roanoke WFO location after the proposed consolidation is included in attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Lynchburg Area of Responsibility (i.e. "Affected Service Area") and the future WFO Roanoke Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO LYH service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Virginia and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Lynchburg service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Roanoke area, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Roanoke WFO area, attachment F, document that seven comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not needed as WSO LYH does not have a radar.

6. A memorandum assigning the liaison officer for the Lynchburg service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From: John V. Wright, MIC NWSO Roanoke, VA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgement, consolidation of the Roanoke Weather Service Office (WSO ROA) with the future Roanoke Weather Forecast Office (WFO) will not result in any degradation in weather services to the Roanoke service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Roanoke service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Roanoke WFO will not degrade these services.

2. A detailed list of the services currently provided within the Roanoke service area from the WSO ROA location and a list of services to be provided from the future Roanoke WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO ROA Area of Responsibility (i.e. "Affected Service Area") and the future WFO Roanoke Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO ROA service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Virginia and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Roanoke service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Roanoke area, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Roanoke WFO area, attachment F, document that seven comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not needed as WSO ROA does not have a radar.

6. A memorandum assigning the liaison officer for the Roanoke service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From:
Thomas E. Kriehn, MIC NWSO Morehead City, NC

Anthony L. Siebers, MIC MWSO
Wakefield, VA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgement, consolidation of the Weather Service Office Cape Hatteras, NC (WSO HAT) with the future Weather Forecast Offices (WFOs) Morehead City, NC and Wakefield, VA, will not result in any degradation in weather services to the Cape Hatteras service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Cape Hatteras service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Morehead City and Wakefield WFOs will not degrade these services.

2. A detailed list of the services currently provided within the Cape Hatteras service area from the WSO HAT location and a list of services to be provided from the future Morehead City and Wakefield WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO HAT Area of Responsibility (i.e. "Affected Service Area") and the future Morehead City WFO Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO HAT service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for North Carolina and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the WSO HAT service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from Morehead City and Wakefield, attachment E validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from Morehead City and Wakefield, attachment F, document that a total of five negative comments were received for both offices. All negative comments have been answered to the satisfaction of the users as reflected in the reports.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing WSO HAT WSR–57 radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Cape Hatteras service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From:
William Comeaux, AM/MIC NWSFO
Cleveland, OH
Theresa Rossi, AM/MIC NWSFO
Pittsburgh, PA
Alan Rezek, AM/MIC NWSFO Charleston, WV
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgement, consolidation of the Akron Weather Service Office (WSO CAK) with the future Cleveland, Pittsburgh, and Charleston Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Akron service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Akron service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Cleveland, Pittsburgh and Charleston WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Akron service area from the WSO CAK location and list of services to be provided from the future Cleveland, Pittsburgh, and Charleston WFO locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO CAK Area of Responsibility (i.e. "Affected Service Area") and the future WFO Cleveland Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO CAK service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Ohio and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Akron service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports for the Cleveland, Pittsburgh, and Charleston area radars, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Cleveland, Pittsburgh, and Charleston WFOs, attachment F, document that a total of 14 comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the reports.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Akron local warning radar, WSR–74C, is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Akron service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum For: W/ER—John T. Forsing
From:
Kenneth J. Haydu, MIC NWSO Cincinnati, OH
William Comeaux, AM/MIC NWSFO Cleveland, OH
Theresa Rossi, AM/MIC NWSFO Pittsburgh, PA
Alan Rezek, AM/MIC NWSFO Charleston, WV
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Columbus Weather Service Office (WSO CMH) with the future Cincinnati, Cleveland, Pittsburgh and Charleston Weather Forecast Offices (WFOs) will not result in any degradation in weather services to the Columbus service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Columbus service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Cincinnati, Cleveland, Pittsburgh and Charleston WFOs, will not degrade these services.

2. A detailed list of the services currently provided within the Columbus service area from the WSO CMH location and list of services to be provided from the future Cincinnati Area, Cleveland Area, Pittsburgh Area and Charleston Area WFOs locations after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO CMH Area of Responsibility (i.e. "Affected Service Area") and the future WFO Cincinnati Area of Responsibility. As discussed below, we find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO CMH service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planed NEXRAD coverage at an elevation of 10,000 feet for Ohio and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Columbus service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Reports from the Cincinnati, Cleveland, Pittsburgh and Charleston areas attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forcasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Cincinnati, Cleveland, Pittsburgh and Charleston WFOs area, attachment F, document that a total of 18 comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, verifies that the exiting Columbus local warning radar, WSR–74C, is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Columbus service area is included at attachment H.

We have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). We believe all negative comments have been addressed to the satisfaction of our customers and we continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certifcation.

John T. Forsing,

Attachments

Memorandum for: W/ER—John T. Forsing
From: Bruce W. Budd, MIC NWSO Central Pennsylvania, PA
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Harrisburg Weather Service Office (WSO HRCP1) with the future Central Pennsylvania Weather Forecast Office (WFO) will not result in any degradation in weather services to the Harrisburg service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Harrisburg service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the future Central Pennsylvania WFO will not degrade these services.

2. A detailed list of the services currently provided within the Harrisburg service area from the WSO HRCP1 location and a list of services to be provided from the future Central Pennsylvania WFO location after the proposed consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO HRCP1 Area of Responsibility (i.e. "Affected Service Area") and the future WFO Central Pennsylvania Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO HRCP1 service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Pennsylvania and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Harrisburg service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Report from the Central Pennsylvania area, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Central Pennsylvania WFO area, attachment F, document that three comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Harrisburg local warning radar, WSR–76C, is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Harrisburg service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing,

Attachments

Memorandum for: W/ER—John T. Forsing
From:
Bruce W. Budd, MIC NWSO Central Pennsylvania, PA
Peter R. Ahnert, MIC NWSO Binghamton, NY
Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, we have determined, in our professional judgment, consolidation of the Williamsport Weather Service Office (WSO IPT) with the future Central Pennsylvania and Binghampton Weather Forecast Office (WFO) will not result in any degradation in weather services to the Williamsport service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, we are recommending you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

Our recommendation is based on our review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Williamsport service area is included as attachment A. As discussed below, we find that providing the services which address these characteristics and concerns from the future Central Pennsylvania and Binghampton Area WFOs will not degrade these services.

2. A detailed list of the services currently provided within the Williamsport service area from the WSO IPT location and a list of services to be provided from the future Centrall Pennsylvania and Binghamton area WFOs locations after the proposed consolidation is included es attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO IPT Area of Responsibility (i.e. "Affected Service Area") and the future WFO Central Pennsylvania Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO IPT service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Pennsylvania and portions of surrounding areas is included as attachment D. NWS operational radar coverage for the Williamsport service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service:

A. The WSR–88D RADAR Commissioning Report from the Central Pennsylvania and Binghamton areas, attachment E, validate that the WSR–88Ds meet technical specifications (acceptance test); are fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services from the future Central Pennsylvania and Binghampton WFOs areas, attachment F, document that five comments required follow-up. All negative comments have been answered to the satisfaction of the users as reflected in the report.

C. The Decommissioning Readiness Report, attachment G, is not necessary since WSO IPT does not have a radar.

6. A memorandum assigning the liaison officer for the Williamsport service area is included at attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, John T. Forsing, Director, Eastern Region, endorse this consolidation certification.

John T. Forsing

Attachments

[FR Doc. 96–3380 Filed 2–13–95; 8:45 am]

BILLING CODE 3510–12–M

[I.D. 020796A]

Permits; Foreign Fishing

In accordance with a memorandum of understanding with the Secretary of State, the National Marine Fisheries Service publishes for public review and comment summaries of applications received by the Secretary of State requesting permits for foreign fishing vessels to operate in the Exclusive Economic Zone under provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*). This notice concerns the receipt of an application from the Government of the Russian Federation requesting authorization to conduct a joint venture in the Northwest Atlantic Ocean for Atlantic sea herring and Atlantic mackerel. The large stern trawlers DAURIYA, NADIR and NOVATOR, and the factoryship SERGEY VASILISIN, are identified as the vessels that will receive sea herring and mackerel from U.S. vessels. Send comments on this application to:

NOAA - National Marine Fisheries Service
Office of Fisheries Conservation and Management
1315 East-West Highway
Silver Spring, MD 20910
and/or, to one or both of the Regional Fishery Management
Councils listed below:
Douglas G. Marshall, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
617/231–0422
David R. Keifer, Executive Director
Mid-Atlantic Fishery Management Council
Federal Building, Room 2115
300 South New Street
Dover, DE 19901–6790
302/674–2331

For further information contact Robert A. Dickinson, Office of Fisheries Conservation and Management, (301) 713–2337.

Dated: February 7, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3222 Filed 2–13–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 020196B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of modification to permit no. 977 (P77–1#74).

SUMMARY: Notice is hereby given that Permit No. 977, issued to the National Marine Mammal Laboratory, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115–0070, was modified.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/712–2289);

Director, Southwest Region, NMFS, 501 West Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4001).

SUPPLEMENTARY INFORMATION: The subject modification has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of paragraphs (d) and (e) of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The Permit was modified to authorize: (1) Use of gas anesthesia on up to 16 adult female California sea lions during instrumentation and recapture; (2) increase in the number of females taken in one year from 20 to 32 under Special Conditions A.1.a. and b.; and (3) use of gas anesthesia on pups authorized to be taken in Special Condition A.1.d. of the Permit. All other Terms and Conditions of the original permit remain in force and effect.

Dated: January 16, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–3223 Filed 2–13–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Wing Conversion and Airspace Modification Georgia Air National Guard Notice of Availability of Record of Decision

On January 3, 1996, the United States Air Force signed the Record of Decision (ROD) for the proposed Wing Conversion and Airspace Modification, Georgia Air National Guard. The decisions rendered by the U.S. Air Force were as follows: (1) Conversion of F–15A/B aircraft of the 116th Fighter Wing (FW) at Dobbins Air Reserve Base, Marietta, Georgia to the B–1B aircraft and the relocation of the newly designated 116th Bomb Wing (BW) to Robins Air Force Base, Warner Robins, Georgia, will be implemented and; (2) The Coastal Military Operations Area will be proposed for establishment, Restricted Area R–3007 will be proposed for modification, and both will be presented to the Federal Aviation Administration as airspace actions for aeronautical analysis. The ROD was based on findings contained in a Final Environmental Impact Statement (FEIS) made available on 17 November 1995 through notification in the **Federal Register**.

Many factors were considered in the decision of converting the 116 FW to the 116 BW, relocating to Robins AFB and creation of the Coastal MOA. Potentially, the most significant were: noise impacts; socioeconomic concerns involving land use, residential encroachment, and economic impact on businesses; aircraft ground and flight safety, electromagnetic radiation, and hazardous materials management; impacts on general aviation and wildlife refuges. Based upon comment from public participation in the Environmental Impact Statement process, mitigation measures will be taken by the Air National Guard to ensure impacts are minimized.

The Office of the Secretary of the Air Force and the Director of the Air National Guard recognize the many unique and sensitive resources prominent with the southeastern United States. These resources have been effectively identified by the public, special interest organizations, and Federal, state, and local officials throughout the study process. The Air Force and the Air National Guard acknowledge that flying operations over these areas must be strictly managed and accomplished with great sensitivity.

Any questions regarding this matter should be directed to: Lt Col Steve Shiell, Air National Guard Readiness Center, ANG/CEVP, 3500 Fetchet Avenue, Andrews Air Force Base, MD 20331–5157, (301) 981–8804.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–3307 Filed 2–13–96; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0067]

Submission for OMB Review; Comment Request Entitled Incentive Contracts

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0067).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Incentive Contracts. A request for public comments was published at 60 FR 58338, November 27, 1995. No comments were received.

DATES: Comment Due Date: March 15, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0067, Incentive Contracts, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Office of Federal

Acquisition Policy, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

Incentive contracts are normally used when a firm fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs, and sometimes with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance.

The information required periodically from the contractor—such as cost of work already performed, estimated costs of further performance necessary to complete all work, total contract price for supplies or services accepted by the Government for which final prices have been established, and estimated costs allocable to supplies or services accepted by the Government and for which final prices have not been established—is needed to negotiate the final prices of incentive-related item and services.

The contracting officer evaluates the information received to determine the contractor's performance in meeting the incentive target and the appropriate price revision, if any, for the items or services.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,000;* responses per respondent, *1;* total annual responses, *3,000;* preparation hours per response, *1;* and total response burden hours, *3,000.*

Obtaining Copies of Proposals: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0067, Incentive Contracts, in all correspondence.

Dated: February 8, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–3321 Filed 2–13–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Gulf Intracoastal Waterway, Corpus Christi Bay to Port Isabel, TX

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent with request for comments.

SUMMARY: This notice provides a summary of the Corps of Engineers ongoing and planned study activities to prepare a Supplemental Environmental Impact Statement (EIS) for the Gulf Intracoastal Waterway (GIWW)—Corpus Christi Bay to Port Isabel, Texas. The purpose of the study is to develop a long-term plan for the placement of dredged material from continued maintenance dredging of the GIWW. The Corps of Engineers is soliciting public input as to the problems that need to be addressed and other study efforts that may be needed. Additionally, a series of public workshops to solicit input and concerns on this study are planned within the next several months.

FOR FURTHER INFORMATION CONTACT: If you have information or questions concerning this notice or the study, or if you wish to be on the mailing list for this study, please contact Mr. Rick Medina at (409) 766–3044 or Mr. Neil McLellan at (409) 766–3963, or you may write to: U.S. Army Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553–1229.

SUPPLEMENTARY INFORMATION:

Introduction

This notice provides a summary of the ongoing and planned study activities to prepare a Supplemental Environmental Impact Statement (EIS) for the Gulf Intracoastal Waterway (GIWW)—Corpus Christi Bay to Port Isabel, Texas. The purpose of the study is to develop a long-term plan for the placement of dredged material from continued maintenance dredging of the GIWW. Because of the public interest and concerns related to dredging and dredged material, the U.S. Army Corps of Engineers has decided to issue this notice and solicit public input regarding the study. This in no way prejudges the significance of new information and circumstances since 1975 nor predetermines the results of the ongoing studies.

Study Background

This section of the GIWW is a 12-foot deep by 125-foot wide channel which extends 117 miles from Corpus Christi Bay to Port Isabel through the Laguna Madre. This reach of the GIWW serves the Ports of Port Mansfield, Harlingen, Port Isabel, and Brownsville, transporting 2 million tons of commerce annually. This vital artery transports over 350 million gallons of gasoline to the Rio Grande Valley. Over 2 million cubic yards of material are dredged annually from this reach at an average annual cost of $1.2 million dollars. Within this reach there are 71 placement areas totaling over 9,000 acres.

The Laguna Madre is one of only three hypesaline lagoons in the world. This shallow, productive estuary produces over 50% of the State's coastal finfish harvest and serves as nursery grounds for the important Gulf shrimp fishery. Seagrasses are a significant resource in the Laguna and cover over 65 percent of the bay bottom. The seagrasses also provide feeding grounds for the largest population of redhead ducks in the world.

Interagency Coordination Team

To address the dredging and placement practices along the GIWW within the Laguna Madre, the Corps of Engineers began efforts in September 1994 to form an Interagency Coordination Team (ICT). Over the next several months, extensive coordination and consultation occurred to obtain the commitment of a broadbased Federal and State agency involvement. The ICT first met in February 1995 and has met nine times as of January 1996. In addition, the ICT has formed a Modelling Task Force which has met three times. The ICT is comprised of found Federal agencies and six State agencies. They include:

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- National Marine Fisheries Service
- Environmental Protection Agency
- Texas General Land Office
- Texas Water Development Board
- Texas Parks and Wildlife Department
- Texas Department of Transportation
- Texas Natural Resource Conservation Commission
- Corpus Christi Bay National Estuary Program (Advisory)

Study Process

The study process for developing a long-term dredged material management plan for the Laguna Madre is reflected in the goals established by the ICT. These goals are, in paraphrase, to (1) identify environmental concerns associated with the GIWW in the Laguna Madre, (2) develop scopes of work needed to address environmental concerns, (3) ensure effective team work among state and federal agencies, and (4) contribute to and expedite completion of the dredged material management plan and environmental study for the GIWW.

Study Status

To address these goals, the ICT has identified a problem list of concerns in the Laguna Madre associated with dredging and dredged material placement. Some of these concerns include:

- Impacts on the benthic community
- Effects of turbidity
- Impacts on seagrass populations
- Effects on circulation and hydrodynamics
- Effects on fishery productivity
- Contaminant concerns
- Viability of alternate placement areas
- Potential for beneficial uses of dredged material

The ICT has developed and approved several scopes of work to perform the necessary scientific studies to address these concerns. A variety of expertise is being utilized. The approved studies, the contractors, date of study initiation, and the estimated costs are shown below.

- Environmental Monitoring of Dredging and Processes in the Lower Laguna Madre. Texas A&M University, Conrad Blucher Institute—August 1994—$300,000
- Environmental Monitoring of Dredging and Processes in the Vicinity of Baffin Bay. Texas A&M University, Conrad Blucher Institute—October 1994—$328,769
- Hydrographic Characterization and Bottom Characterization, Laguna Madre, Texas. U.S. Army Waterways Experiment Station—February 1995—$586,550
- Temporal and Spatial Effects of Open Water Dredge Material Disposal on Habitat Utilization by Fishery Species in Laguna Madre, Texas. National Marine Fisheries Service—July 1995—$581,800
- Review of Available Water and Sediment Quality Data in the Laguna Madre. Espey, Huston, and Associates—July 1995—$22,722

Several other studies are currently under consideration by the ICT. The anticipated contractor and estimated costs include:

- Extension of the Monitoring in the Lower Laguna Madre. Texas A&M University, Conrad Blucher Institute—$190,000
- Extension of the Monitoring in the Upper Laguna Madre. Texas A&M University, Conrad Blucher Institute—$140,000
- Sediment Characteristics, History, and Recent Transport, Laguna Madre, Texas. University of Texas, Bureau of Economic Geology—$310,000
- Laguna Madre Fluid Mud Survey. U.S. Army Waterways Experiment Station—$125,000
- Laguna Madre Open Water Dredged Material Disposal Study. U.S. Army Waterways Experiment Station—$165,000
- Predictive Model of Seagrass Impact. Texas A&M University, University of Texas Marine Science Institute, and Texas Parks and Wildlife Department—$400,000
- Hydrodynamic Circulation of the Upper and Lower Laguna Madre. Contractor and cost are as yet undetermined

The total cost of both approved and proposed studies is approximately $3,150,000, not including the Hydrodynamic Model.

Schedule

The efforts to date are considered to be the first year of a four-year effort. The ICT has tentatively established this time frame to complete the studies, develop the long-term management plan, and prepare a supplemental Environmental Impact Statement. Should the study results indicate, and the ICT agree, that the National Environmental Policy Act (NEPA) process as described above should be modified, a separate notice will be published describing how the Corps will achieve NEPA compliance. In the interim, maintenance dredging of the GIWW will continue only when necessary, although changes to the placement plan will be made as study results warrant.

Public Participation

The ICT is soliciting public input as to the problems that need to be addressed and other study efforts that may be needed. Every effort will be made to address concerns identified. Additionally, a series of public workshops to solicit input and concerns on this study are planned within the next several months.

Dated: February 6, 1996.

Robert B. Gatlin,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 96–3276 Filed 2–13–96; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. DH–005]

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of Superior Fireplace Company From the DOE Vented Home Heating Equipment Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice grants an Interim Waiver to Superior Fireplace Company (Superior) from the existing Department of Energy (DOE or Department) test procedure regarding pilot light energy consumption and weighted average steady-state efficiency for its manually controlled vented heaters, models GI–3821, DSH–36T, DVH–33R, DVH–33T, DVA–33R, and DVA–33T.

Today's notice also publishes a "Petition for Waiver" from Superior. Superior's Petition for Waiver requests DOE to grant relief from the DOE vented home heating equipment test procedure relating to the use of pilot light energy consumption in calculating the Annual Fuel Utilization Efficiency (AFUE) and the calculation of weighted average steady state efficiency of its models GI–3821, DSH–36T, DVH–33R, DVH–33T, DVA–33R, and DVA–33T vented heaters. Superior seeks to delete the required pilot light measurement (Q_p) in the calculation of AFUE when the pilot is off, and to test at a minimum fuel input rate of two-thirds instead of the specified ±5 percent of 50 percent of the maximum fuel input rate in the calculation of AFUE. The Department is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than March 15, 1996.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Case No. DH–005, Mail Stop EE–43, Room 1J–018, Forrestal Building; 1000 Independence Avenue SW., Washington, D.C. 20585–0121, (202) 586–7140.

FOR FURTHER INFORMATION CONTACT: William W. Hui, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431,

Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585–0121, (202) 586–9145

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585–0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including vented home heating equipment. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making informed purchasing decisions. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the test procedure rules to provide for a waiver process by adding § 430.27 to Title 10 CFR Part 430, 45 FR 64108, September 26, 1980. Subsequently, DOE amended the waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. Title 10 CFR Part 430, § 430.27(a)(2).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

An Interim Waiver will be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. Title 10 CFR Part 430, § 430.27(g). An Interim Waiver remains in effect for a period of 180 days, or until DOE issues a determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On August 30, 1995, Superior filed an Application for Interim Waiver and a Petition for Waiver regarding (a) pilot light energy consumption and (b) weighted average steady state efficiency. On November 30, 1995, Superior submitted a letter to DOE requesting a modification to the minimum fuel input rate of the vented heaters submitted for consideration in the August 30, 1995 Waiver requests. On January 12, 1996, Superior Fireplace Company submitted a letter providing a list of companies that make similar products, confidential product performance data, and amending the list of models submitted for consideration in the August 30, 1995, Waiver requests.

Superior seeks an Interim Waiver from the DOE test provisions in section 3.5 of Title 10 CFR Part 430, Subpart B, Appendix O, that require measurement of energy input rate of the pilot light (Q_p), and the use of this data in section 4.2.6 for the calculation of AFUE, where:

$$AFUE=(4400\eta_{ss}\eta_u Q_{in\text{-}max}) /(4400\eta_{ss}Q_{in\text{-}max} + 2.5(4600)\eta_u Q_p)$$

Instead, Superior requests that it be allowed to delete Q_p and accordingly, the $(2.5(4600)\eta_u Q_p)$ term in the calculation of AFUE. Superior states that instructions to turn off the transient pilot by the user when the heater is not in use are in the User Instruction Manual and on a label adjacent to the gas control valve. Therefore, the additional energy savings that result when the pilot is turned off ($Q_p = 0$) should be credited. Since the current DOE test procedure does not address pilot light energy savings, Superior asks that the Interim Waiver be granted.

Superior also seeks an Interim Waiver from the DOE test provisions in section 3.1.1 of Title 10 CFR Part 430, Subpart B, Appendix O, which require steady state efficiency of manually controlled vented heaters with various input rates to be determined at a fuel input rate that is within ±5 percent of 50 percent of the maximum fuel input rate, and the use of this data in section 4.2.4 to determine the weighted average steady state efficiency needed in the calculation of AFUE. Instead, Superior requests that it be allowed to determine steady state efficiency, weighted average steady state efficiency, and AFUE at a minimum fuel input rate of two-thirds of the maximum fuel input rate for its manually controlled vented heaters which do not adjust to an input rate as low as 50 percent. Since the current DOE test procedure does not address steady state testing for manually controlled vented heaters with various input rates at fuel input rates other than within ± 5 percent of 50 percent of the maximum fuel input rate, Superior asks that the waiver be granted.

Previous Petitions for Waiver to exclude the pilot light energy input term in the calculation of AFUE for home heating equipment with a manual transient pilot control and allowance to determine weighted average steady state efficiency used in the calculation of AFUE at a minimum fuel input rate of 65.3 percent of the maximum fuel input rate instead of the specified ± 5 percent of 50 percent of the maximum fuel input rate have been granted by DOE to Appalachian Stove and Fabricators, Inc., 56 FR 51711, October 15, 1991, and Valor Incorporated, 56 FR 51714, October 15, 1991.

The Department published a Notice of Proposed Rulemaking on August 23, 1993, to amend the vented home heating equipment test procedure, which would allow the above issues. 58 FR 44583.

Thus, it appears likely that Superior's Petition for Waiver for pilot light and weighted average steady state efficiency for home heating equipment will be granted. In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Superior an Interim Waiver for its models GI–3821, DSH–36T, DVH–33R, DVH–33T, DVA–33R, and DVA–33T vented heaters. Superior shall be permitted to test its models GI–3821, DSH–36T, DVH–33R, DVH–33T, DVA–33R, and DVA–33T vented heaters on the basis of the test procedures specified in Title 10 CFR Part 430, Subpart B, Appendix O, with the modifications set forth below:

(i) Delete paragraph 3.5 of Appendix O.

(ii) Delete paragraph 4.2.4 of Appendix O and replace with the following paragraph:

4.2.4 Weighted Average Steady-State Efficiency. (a) For manually controlled heaters with various input rates, the weighted average steady-state efficiency ($\eta_{SS\text{-}WT}$) is:

(1) At ± 5 percent of 50 percent of the maximum fuel input rate as measured in either section 3.1.1 to this appendix for manually controlled gas vented heaters or section 3.1.2 to this appendix for manually controlled oil vented heaters, or,

(2) At the minimum fuel input rate as measured in either section 3.1.1 to this appendix for manually controlled gas vented heaters or section 3.1.2 to this appendix for manually controlled oil vented heaters if the design of the heater is such that ±5 percent of 50 percent of the maximum fuel input rate can not be set, provided the tested input rate is no greater than two-thirds of maximum input rate of the heater.

(b) For manually controlled heater with one single firing rate, the weighted average steady-state efficiency is the steady-state efficiency measured at the single firing rate.

(iii) Delete paragraph 4.2.6 of Appendix O and replace with the following paragraph:

4.2.6 Annual Fuel Utilization Efficiency. For manually controlled vented heaters, calculate the Annual Fuel Utilization Efficiency (AFUE) as a percent and defined as:

$AFUE = \eta_u$

where:

η_u=as defined in section 4.2.5 of this appendix.

(iv) With the exception of the modification set forth above, Superior shall comply in all respects with the procedures specified in Appendix O of Title 10 CFR Part 430, Subpart B.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified at any time upon a determination that the factual basis underlying the Application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Superior's Petition for Waiver requests DOE to grant relief from the DOE vented home heating equipment relating to the pilot light and weighted average steady state efficiency. Superior seeks (a) to exclude the pilot light energy consumption in the calculation of AFUE, and (b) to determine the weighted average steady state efficiency used in the calculation of AFUE at a minimum fuel input rate of two-thirds of the maximum fuel input rate instead of the specified ±5 percent of 50 percent of the maximum fuel input rate.

Pursuant to paragraph (b) of Title 10 CFR Part 430.27, the Department is hereby publishing the "Petition for Waiver."

The Petition contains confidential company information; thus, the confidential product performance data provided in Superior's January 12, 1996 submission is not being published. The Department solicits comments, data, and information respecting the Petition.

Issued in Washington, DC.
February 1, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

August 30, 1995

The Honorable Christine Ervin,

Assistant Secretary for Energy Efficiency & Renewable Energy, United States Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585

RE: Petition for Waiver and Application for Interim Waiver

Dear Secretary Ervin: Superior Fireplace Company is requesting you to accept two waivers as listed below, concerning Title 10 Code of Federal Regulations 430.27, as amended 14 November 1986.

These waivers are requested for model GI–3821, DSH–36T.

1. This waiver request refers to section 3.1.1.—Gas fueled vented home heating equipment and section 4.2.4—Weighted-average steady-state efficiency which states that for manually controlled heaters with various input rates the weighted-average steady-state efficiency is measured at a fuel input rate of ±5 percent of 50 percent of the maximum fuel input rate. In fact the above appliances have a gas control that comes with a variable pressure regulator control knob which can be adjusted from the maximum input rate to the minimum input rate. Specifically, Natural gas control knob has adjustment of manifold pressure from 3.5" W.C. to 2.5" W.C. and for Propane from 10.0" W.C. to 6.4" W.C. These pressure ranges allow the users to vary the fuel input rate as shown below in the table. It is impossible to achieve the fuel input rate of 50% according to the manufacturer's installation instructions. Because the above models cannot be operated at 50% of the maximum fuel input and usually operated at maximum fuel input rate we request that this requirement be modified to 80% of the difference between the maximum fuel input rate and the minimum fuel input rate.

	Maximum rate BTUH	Minimum rate BTUH	Percentage maximum rate	Manifold pressure
GI–3821–N	38000	30000	79	3.5–2.2 W.C.
GI–3821–P	34000	26000	76	10–6.4 W.C.
DSH–36T–N	27000	21000	77	3.5–2.2 W.C.
DSH–36T–P	25000	20000	80	10–6.4 W.C.

2. Second waiver refers to section 3.5—Pilot Light Measurement and section 4.26—Annual Fuel Utilization Efficiency. This section requires the calculation of the pilot light energy to be figured in for calculation of AFUE if the pilot is in operation all the time. The gas control knob on these appliances have three settings—"OFF," "ON" and "PILOT". The pilot can be lighted with the piezo igniter when the gas control knob is turned and depressed at the "PILOT" position. Once the pilot is lighted, it will heat the thermopile which generates enough voltage to the gas control valve to have the pilot remain lit. The gas control knob can then be turned to the "ON" position for the main burner to turn on. Instructions and labels next to the control will require users to turn the gas control knob to the "OFF" position during the off cycle will be provided. Therefore, additional energy will be conserved. Since the current test procedure does not allow any credit given in the calculations for AFUE for saving energy from the pilot during the off cycle, we request that the requirement to include energy input to the pilot light in the AFUE calculation be waived for these appliances. Copies of confidential test data confirming the energy savings will be forwarded to you upon request.

Superior Fireplace Company is confident that both waivers will be granted since similar waivers have been granted in the past to Appalachian Stove and Fabricators, Inc. and Valor Incorporated.

A copy of this petition for waiver and Application for Interim Waiver is being sent to the manufacturers that produce similar products in the U.S.A.

Sincerely,

Hardial Gore,

Sr. Project Engineer.

Nov. 30, 1995

The Honorable Christine Ervin,

Assistant Secretary for Energy Efficiency & Renewable Energy, United States Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585

RE: Amendment to Petition for Waiver and Application for Interim Waiver

Dear Secretary Ervin: In order to expedite the approval to petition for waiver and application for interim waiver requested in my letter dated Aug. 30th 1995, Superior Fireplaces Company is ready to accept the changes to the first waiver as follows:

Superior Fireplaces Company will adopt the test procedure proposed by DOE on 23 August, 1993.58 FR 44538. Accordingly, we request to calculate the weighted average steady state efficiency using the minimum obtainable fuel input rate provided this rate is no greater than ⅔ the maximum input rate of the fireplace. Specifically, the models included in this request will be tested at ⅔ of the maximum fuel input rate.

The second waiver requested in my first letter will remain unchanged.

We are very confident that both of these waivers will be granted since similar waivers have been granted to the other manufacturers.

Sincerely,

Hardial Gore,

Sr. Project Engineer.

January 12, 1996

The Honorable Christine Ervin, *Assistant Secretary for Energy, Efficiency & Renewable Energy, United States Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585*

RE: Additional information to Petition for Waiver and Application for Interim Waiver

Dear Secretary Ervin: Recent conversations with William Hui prompted me to send you the following information requested by the committee.

Per your first request following is a list of companies that Superior knows make similar products namely Heat and Glow, Majestic, Heatilator, CFM, Vermont Castings, Appalachian Stove and Fabricators, Inc. and Valor Incorporated.

Per your second request below is a table that shows a general trend of increase in efficiency as the input is increased. This information is confidential; please do not publish. This data was gathered from a DVH–33R model.

CONFIDENTIAL

As discussed with Mr. Hui we would like to add additional models DVH–33R, DVH–33T, DVA–33R, DVA–33T to the list for approval besides the GI 3821 and DSH–36T.

If you have any questions please feel free to contact me.

Sincerely,

Hardial Gore,

Sr. Project Engineer, Gas Products.

[FR Doc. 96–3056 Filed 2–13–96; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP95–408–000 and RP95–408–001]

Columbia Gas Transmission Corp.; Notice of Rescheduled Settlement Conference

February 8, 1996.

Take notice that the informal settlement conference scheduled for Wednesday, February 14, 1996, in this proceeding has been rescheduled to Thursday, February 22, 1996, at 10:00 a.m. The settlement conference will be convened at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations (18 CFR 385.214).

For additional information, contact Thomas J. Burgess at 208–2058 or David R. Cain at 208–0917.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3229 Filed 2–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–404–000]

Questar Energy Trading Company; Notice of Issuance of Order

February 9, 1996.

On November 20, 1995, as amended December 22, 1995, Questar Energy Trading Company (Questar) submitted for filing a rate schedule under which Questar will engage in wholesale electric power and energy transactions as a marketer. Questar also requested waiver of various Commission regulations. In particular, Questar requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Questar.

On January 29, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Questar should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Questar is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Questar's issuance of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 28, 1996. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3312 Filed 2–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1787–000]

Texaco Natural Gas Inc.; Notice of Issuance of Order

February 9, 1996.

On September 18, 1995, as amended November 1, 1995 and November 29, 1995, Texaco Natural Gas Inc. (Texaco) submitted for filing a rate schedule under which Texaco will engage in wholesale electric power and energy transactions as a marketer. Texaco also requested waiver of various Commission regulations. In particular, Texaco requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Texaco.

On January 25, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Texaco should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Texaco is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Texaco's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 26, 1996. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3311 Filed 2–13–96; 8:45 am]

BILLING CODE 6717–01–M

Williston Basin Interstate Pipeline Co.; Notice of Application

[Docket No. CP96–169–000]

February 8, 1996.

Take notice that on February 5, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP96–169–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon storage and transportation service for suppliers under Rate Schedule S–2 of Williston Basin's FERC Gas Tariff, Second Revised Volume No. 1, all as more fully set forth in the application on file with the Commission and open to public inspection.

Williston Basin states that on June 15, 1983, Montana-Dakota Utilities Co., now MDU Resources Group, Inc. (MDU), predecessor in interest to Williston Basin, was authorized by temporary certificate to store natural gas on behalf of certain of its suppliers and to provide incidental transportation of such gas pursuant to Rate Schedule S–2.

Williston Basin further states that on May 25, 1984, the Commission issued its Order Approving Contested Settlement which granted MDU a permanent certificate of public convenience and necessity authorizing the storage and transportation services proposed to be performed on behalf of its suppliers under Rate Schedule S–2. In addition, Williston Basin states that on February 13, 1985 in Docket No. CP82–487–000, *et al.*, Williston Basin was authorized to acquire and operate the interstate pipeline facilities previously owned and operated by MDU as well as to provide the certificated services previously provided by MDU.

It is stated that although the original certificate for the Rate Schedule S–2 service was limited to a maximum four-year term for injections into storage for each Rate Schedule S–2 service agreement, the May 22, 1990 Order Granting Rehearing and Denying Request for Clarification, 51 FERC ¶61,199, allowed the Rate Schedule certificate to run for each individual service contract until all of the gas injected into storage under that service contract was withdrawn from storage. It is further stated that service contract was withdrawn from storage. It is further stated that on November 28, 1995, the Commission accepted in Docket No. CP83–254–490, the termination of Williston Basin's final Rate Schedule S–2 service agreement. Therefore, Williston Basin requests abandonment of the certificate authorizing service under Rate Schedule S–2 effective as of the date Commission approval for such requested abandonment is received.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williston Basin to appear or be represented at the hearing

Lois D. Cashell,

Secretary.

[FR Doc. 96–3228 Filed 2–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–525–000]

Utility Management and Consulting, Inc.; Notice of Issuance of Order

February 8, 1996.

On December 5, 1995, as amended December 18, 1995, Utility Management and Consulting, Inc. (UMCI) submitted for filing a rate schedule under which UMCI will engage in wholesale electric power and energy transactions as a marketer. UMCI also requested waiver of various Commission regulations. In particular, UMCI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by UMCI.

On January 19, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by UMCI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, UMCI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any

security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of UMCI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 20, 1996. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3309 Filed 2–13–96; 8:45 am]

BILLING CODE 6717–01–M

Energy Transfer Group, L.L.C.; Notice of Issuance of Order

[Docket No. ER96–280–000]

February 9, 1996.

On November 3, 1995, as amended December 14, 1995, Energy Transfer Group, L.L.C. (Energy Transfer) submitted for filing a rate schedule under which Energy Transfer will engage in wholesale electric power and energy transactions as a marketer. Energy Transfer also requested waiver of various Commission regulations. In particular, Energy Transfer requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Energy Transfer.

On January 29, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Energy Transfer should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Energy Transfer is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, serety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Energy Transfer's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 28, 1996. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3313 Filed 2–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–588–000]

Ocean Energy Services, Inc., Notice of Issuance of Order

February 8, 1996.

On December 21, 1995, Ocean Energy Services, Inc. (Ocean Energy) submitted for filing a rate schedule under which Ocean Energy will engage in wholesale electric power and energy transactions as a marketer. Ocean Energy also requested waiver of various Commission regulations. In particular, Ocean Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Ocean Energy.

On January 19, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Ocean Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Ocean Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Ocean Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 20, 1996. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3310 Filed 2–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–332–000]

PowerMark, L.L.C., Notice of Issuance of Order

February 8, 1996.

On November 9, 1995, as amended December 6, 1995, PowerMark, L.L.C. (PowerMark) submitted for filing a rate schedule under which PowerMark will engage in wholesale electric power and energy transactions as a marketer. PowerMark also requested waiver of various Commission regulations. In particular, PowerMark requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by PowerMark.

On January 19, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by PowerMark should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, PowerMark is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of PowerMark's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 20, 1996. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3308 Filed 2–13–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00425; FRL–5349–3]

Pesticides; Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces and solicits comments on two Information Collection Requests (ICRs) that are coming up for renewal. The ICR for Data Generation for Reregistration (OMB No. 2070-0107), will expire on June 30, 1996, and the ICR for FIFRA Section 29 Annual Reports on Conditional Registrations (OMB No. 2070-0026), will expire on July 31, 1996.

DATES: Comments must be submitted on or before April 15, 1996.

ADDRESSES: Submit written comments identified by the docket control number OPP–00425 and the appropriate ICR number by mail to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments directly to the OPP docket which is located in Room 1132 of Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as a ASCII file avoiding the use of special characters and any form or encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–00425" and the appropriate ICR number. No Confidential Business nformation (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ellen Kramer, Policy and Special Projects Staff, Office of Pesticide Programs, Environmental Protection Agency Mail Code 7501C, 401 M St., SW., Washington, DC 20460, Telephone: (703) 305-6475, e-mail: kramer.ellen@epamail.epa.gov. Copies of the complete ICR and accompanying appendices may be obtained from the OPP docket at the above address or by contacting the person whose name appears under FOR FURTHER INFORMATION CONTACT.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of each ICR are available from the EPA Public Access gopher (gopher.epa.gov) at the Environmental Sub-Set entry for this document under "Rules and Regulations."

I. Information Collection Requests (ICRs)

EPA is seeking comments on the following ICRs:

1. **Title:** FIFRA Section 29 Annual Report on Conditional Registrations. ICR No. 0601.06. OMB No. 2070-0026. Expiration date: July 31, 1996.

Affected entities: Producers of pesticide products who seek conditional registrations.

Abstract: Under section 29 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA Administrator must submit an annual report to Congress. Included in this report is the total number of applications for conditional registration of pesticides under FIFRA section 3(c)(7)(B) and 3(c)(7)(C) that were filed during the immediately preceding fiscal year. The information collected under this information collection request is the pesticide production volume for the previous fiscal year.

The information collected under section 29 of FIFRA is required by Congress to monitor the conditional registration program. The submission of annual production data is a requirement of a conditional registration as described in 40 152.115(b).

There are no third party disclosures associated with this activity.

Burden Statement: This information is collected annually for each conditional registration of a new active ingredient or new use. The overall respondent burden hours associated with this collection have decreased from the current ICR estimate of 84 total hours per year to 36 total hours per year. This change is due to the decrease in the number of conditional registrations submitted. The annual cost of this ICR has only slightly decreased from $2,628 per year to $2,534.40 ($211.20 per respondent) per year due to more realistic labor rates supplied by the Bureau of Labor Statistics which reflect more accurately the costs borne by the pesticide manufacturers.

The annual respondent burden for this program is estimated to average 1.5 hours per response, including time for: reading correspondences, planning activities, gathering information, compiling and reviewing data, completing paperwork, and storing/maintaining data. On average, each respondent would submit two responses per year so the average burden per respondent would be 3 hours per year for this ICR.

2. **Title:** Data Generation for Pesticide Reregistration. ICR No. 1504. OMB No. 2070-0107. Expiration date: June 30, 1996.

Affected entities: Producers of pesticide products who seek to support reregistration of their product.

Abstract: FIFRA as amended in 1988 mandates that EPA reregister pesticides originally registered before November 1984. It establishes a process and a schedule for the development of the information EPA needs to assess

whether reregistration of a pesticide or pesticide product causes an unreasonable adverse effect on human health or the environment. Pesticide registrants seeking reregistration must generate and report the required data according to specified time tables.

The purpose of this information collection activity is for EPA to obtain the data needed to assess whether a certain pesticide should be reregistered. Data may consist of toxicology studies, fish and wildlife studies, environmental fate studies, chemistry studies or other data needed to analyze the potential risks and benefits associated with pesticide chemicals and products.

Pesticide chemicals were divided into List A-D; and the reregistration process was divided into five phases. Reregistration phases 1 through 4 for chemicals on Lists B, C, and D are completed.

In Phase 5, EPA must conduct a comprehensive review of all data received on the active ingredient, and decide whether or not it is eligible to be reregistered. Additional or supplemental data may be needed before a final reregistration decision can be made. Also, FIFRA '88 requires registrants to provide product-specific data within 8 months of receipt of an eligibility decision on a pesticide active ingredient.

Data Call-Ins (DCIs) may be completed during the current ICR authorization, however, there is a good possibility that the need for DCIs will carry over to the new ICR authorization. Additionally, follow up call-ins may be necessary after the data have been reviewed.

There are no third party disclosures associated with this activity.

Burden Statement: This information is collected on occasion when the DCI is needed for reregistration. The overall anticipated number of cases per year, the number per chemical list and the respondents affected has decreased from the previous ICR by approximately 60 percent. The previous ICR anticipated an average of 668 respondents and this ICR estimated a total of 269 respondents. Both the unit test costs and labor rates were updated to reflect more current values. The unit test costs for list "C" and "D" chemicals almost doubled from the prior ICR. The data requirements for list "B," "C," and "D" chemicals were revised.

This information collection request is expected to affect an average of 15 DCIs for list "A" chemicals and 6 for list "B," "C," and "D" chemicals per year. Approximately 90 companies and 805 products may be affected each year. The annual paperwork burden for respondents of DCIs is estimated as follows: list "A" chemicals/181 hours; list "B" chemicals/318 hours; list "C" and "D" chemicals/860 hours; and product specific information/368 hours.

The annual estimated costs of the paperwork burden for respondents of DCIs are as follows: list "A" chemicals/$11,337; list "B" chemicals/$19,830; list "C" and "D"/$53,841; and product specific DCIs/$23,042.

The annual respondent burden for this program is estimated to average 360 hours per response, including time for: reading correspondences, planning activities, gathering information, compiling and reviewing data, completing paperwork, and storing/maintaining data.

Any Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are contained in 40 CFR part 9.

II. Request for Comments

EPA solicits comments to:

(i) Evaluate whether the proposed collections of information described above are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the agency's estimates of the burdens of the proposed collections of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

Send comments regarding these matters, or any other aspect of these information collections, including suggestions for reducing the burdens, to the docket under ADDRESSES listed above.

III. Public Record

A record has been established for this action under docket number "OPP–00425" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: February 7, 1996.

Susan H. Wayland,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 96–3279 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00420; FRL–4980–9]

Nominations to the FIFRA Scientific Advisory Panel; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice provides the names, addresses, professional affiliations, and selected biographical data of persons nominated to serve on the FIFRA Scientific Advisory Panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Panel was created on November 28, 1975, and made a statutory Panel by amendment to FIFRA, dated October 25, 1988. Public comment on the nominations is invited. Comments will be used to assist the Agency in selecting nominees to comprise the Panel and should be so oriented.

DATES: Comments must be postmarked not later than March 15, 1996.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5805.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–00420." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit IV. of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Robert B. Jaeger, Designated Federal Official, FIFRA Scientific Advisory Panel (7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 819I, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5369.

SUPPLEMENTARY INFORMATION:

I. Background

Amendments to FIFRA enacted November 28, 1975, added among other things, a requirement set forth in section 25(d) that notices of intent to cancel or reclassify pesticide registrations pursuant to section 6(b)(2), as well as proposed and final forms of rulemaking pursuant to section 25(a), be submitted to a Scientific Advisory Panel prior to being made public or issued to a registrant. In accordance with section 25(d), the Scientific Advisory Panel is to have an opportunity to comment on the health and environmental impact of such actions.

II. Charter

A Charter for the FIFRA Scientific Advisory Panel has been issued (dated April 5, 1995) in accordance with the requirements of section 9(c) of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770 (5 U.S.C. App I). The qualifications of members as provided by the Charter follow.

A. Qualifications of Members

Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. No person shall be ineligible to serve on the Panel by reason of his/her membership on any other advisory committee to a Federal department or agency or his/her employment by a Federal department or agency (except the Environmental Protection Agency). The Deputy Administrator appoints individuals to serve on the Panel for staggered terms of 4 years. Panel members are subject to the provisions of 40 CFR part 3, subpart F—Standards of Conduct for Special Government Employees, and 5 CFR part 2635-Standards of Ethical Conduct for Employees of the Executive Branch, which include rules regarding conflicts-of-interest. Each nominee selected by the Deputy Administrator, before being formally appointed, is required to submit a Confidential Statement of Employment and Financial Interests, SF-450, which shall fully disclose, among other financial interests, the nominee's sources of research support, if any.

In accordance with section 25(d) of FIFRA, the Deputy Administrator shall require all nominees to the Panel to furnish information concerning their professional qualifications, their educational background, employment history, and scientific publications. The Agency is required to publish in the **Federal Register** the name, address, and professional affiliations of each nominee.

B. Applicability of Existing Regulations

With respect to the requirement of section 25(d) that the Administrator promulgate regulations regarding conflicts of interest, the Charter provides that EPA's existing regulations applicable to special government employees, which include advisory committee members, will apply to the members of the Scientific Advisory Panel. These regulations appear at 40 CFR part 3, subpart F. In addition, the Charter provides for open meetings with opportunities for public participation.

C. Process of Obtaining Nominees

In accordance with the provisions of section 25(d), EPA, in September 1994, requested the National Institutes of Health (NIH) and the National Science Foundation (NSF) to nominate scientists to fill two vacancies occurring on the Panel. NIH responded by letter dated October 3, 1994, enclosing a list of 12 nominees; NSF responded by letter dated February 24, 1995, with a list of 4 nominees.

III. Nominees

The following are the names, addresses, professional affiliations, and selected biographical data on nominees being considered for membership on the FIFRA Scientific Advisory Panel to fill two vacancies occurring during the calendar year 1995.

1. James Karr, Institute of Environmental Studies, University of Washington, Seattle, Washington.
Expertise: Aquatic ecologist.
Education: BS, Biology, Iowa State University (1965); MS, Ph.D. Zoology, University of Illinois, Urbana-Champaign (1967, 70).
Professional Experience: Assistant Professor, Ecology, Purdue University, 1972-75; Professor, Ecology, University of Illinois, 1975-84; Acting Director, Smithsonian Tropical Research Institute, Balboa, Panama, 1987-88; Professor, Biology, Virginia Polytechnic Institute State University, Blacksburg, Virginia, 1988-91; Professor, Environmental Studies/Ecological Health, University of Washington, 1991-present.
Concurrent Positions: Affiliate, Illinois Natural Historical Survey, 1981-91; Editor, Tropical Ecology, 1977-81, Ecology, 1981-84, Bioscience, 1985-94, Conservation Biology, 1991-present, Freshwater Biology, 1993-present, Ecosystem Health and Medicine, 1993-present.
Research: Communnity ecology from both basic and applied perspectives with emphasis on studies of tropical forest birds and stream fishes, including a wide range of land use and water resources problems.

2. Howard T. Odum, Environmental Engineering Sciences, University of FLorida.
Expertise: Ecosystem ecologist.

Education: AB, University of North Carolina, 1947; Ph.D., Zoology, Yale University, 1951.
Professional Experience: Assistant professor in Biology, University of Florida, 1950-54; Assistant professor in Zoology, Duke University, 1954-56; Director and resident scientist, Institute Marine Science, University of Texas, 1956-63; Chief scientist, Rain Forest Project, P.R. Nuclear Center, 1963-66; Professor in Ecology, University of North Carolina, 1966-70.
Concurrent Position: grants, NSF, Atomic Energy Comm., USPHS and Rockefeller Foundation, 1955-77.
Research: Energy analysis; biological oceanography; biogeochemistry; ecological engineering; tropical meteorology.

3. Susan Preston-Martin, Department of Preventive Medicine, School of Medicine, University of Southern California.
Expertise: Epidemiologist.
Education: B.A., Experimental Psychology, Swarthmore College, 1963; M.P.H., Health Services and Epidemiology, University of California (UCLA), 1972; Ph.D., Epidemioloyg, UCLA, 1978.
Professional Experience: Assistant Professor of Family and Preventive Medicine, USC School of Medicine; 1981-82, Associate Professor of Preventive Medicine, USC, 1982-90; Professor of Preventive Medicine, USC School of Medicine, 1990-present.
Concurrent Position: Adjunct Assistant Professor of Epidemiology, UCLA School of Public Health, 1978-85; Adjunct Associate Professor of Epidemiology, UCLA, 1985-present; Editorial Board Cancer Causes and Control, 1994-97; ref. (1977-present): American Journal of Epidemiology; American Journal of Ind. Medicine; British Journal of Cancer; Cancer; Cancer Epidemiology, Biomarkers and Prevention; Epidemiology; Cancer Research; International Journal of Cancer; International Journal of Epidemiology.; J.N.C.I.; Journal of Neurosurgery; Consultant to research projects for IARC, NIOSH, NCI, NAS, NRC, Central Brain Tumor Registry of the U.S. and the Electric Power Research Institute.
Research: Epidemiology of tumors of the central nervous system, leukemia, ionizing radiation, N-nitroso compounds and effects in human populations of exposure to electric and magnetic fields, and effects in offspring of parental exposures. Also case-control studies of: lip cancer in women; thyroid cancer in women in LA; spinal tumors in women, cancers of nose, sinus and nasopharynx; acute myeloid leukemia in LA; international collaborative study of brain tumors in children; childhood brain tumors on the U.S. West Coast; and gliomas in women in LA.

4. Steven D. Aust, Department of Chemistry and Biochemistry, Utah State University.
Expertise: Chemistry, Environmental Toxicology.
Education: B.S. Agriculture, Washington State University, 1960; M.S. Nutrition, Washington State University, 1962; Ph.D. Dairy Science, University of Illinois, 1965; U.S.P.H.S. Postdoctoral Fellow, Department of Toxicology, Karolinska Institute, Stockholm, Sweden.
Professional Experience: Professor, Department of Biochemistry, Michigan State University, 1977-87; Assistant Director, Environmental Toxicology Center, Michigan State University, 1980-84; Director, Center for the Study of Active Oxygen in Biology and Medicine, Michigan State University, 1985-87; Director, Center of Excellence in Biotechnology, Utah State University, 1987-91; Professor, Chemistry and Biochemistry, Utah State University, 1987-present.
Concurrent Positions: Advisory Committee on the Toxicology Information Program, NAS-NRC, 1978-present; Editorial Board, Archives of Biochemistry and Biophysics, 1978-present; Assistant Editor Journal of Biochemical Toxicology, 1984-present; Editorial Board, Free Radicals in Biology and Medicine, 1984-present.
Research: Role of iron in oxygen radical generation; biodegradation of environmental pollutants.

5. Morton A. Barlaz, Department of Civil Engineering, North Carolina State University.
Expertise: Chemical and environmental engineering.
Education: B.S. Chemical engineering, University of Michigan, 1978; M.S. Civil and Environmental engineering, University of Wisconsin, 1985; Ph.D. Civil and Environmental engineering, University of Wisconsin, 1988.
Professional Experience: Environmental Engineer, Israeli Environmental Protection Service, Jerusalem, Israel, 1981-82; Assistant Professor of Civil Engineering, North Carolina State University, 1989-94; Associate Professor of Civil Engineering, North Carolina State University, 1994-present.
Research: Biodegradation processes as they apply to the decomposition of municipal solid waste, hazardous waste and aquifer restoration; solid waste management.

6. Ronald J. Kendall, The Institute of Wildlife Environmental Toxicology, Department of Environmental Toxicology, Clemson University.
Expertise: Wildlife and Environmental Toxicology.
Education: B.S., Biology, University of South Caroline, 1974; M.S., Wildlife Biology, Clemson University, 1976; Ph.D., Fisheries and Wildlife Sciences, 1980.
Professional Experience: Assistant Professor Environmental Toxicology, Huxley College of Environmental Studies, 1980-85; Associate Professor/ Professor Environmental Toxicology and Director of the Institute of Wildlife Toxicology, Western Washington University, 1985-89; Director, Institute of Wildlife and Environmental Toxicology, Clemson University, 1989-present.
Concurrent Position: Executive Committee/President/Immediate Past President, Society of Environmental Toxicology and Chemistry (SETAC), 1991-95; Department of Interior's Biomonitoring of Environmental Status and Trends Program/NAS/NRC, 1994-present; Expert Advisor in Ecological Risk Assessment to Environmental Enforcement Section, U.S. Department of Justice, 1993-present; Editorial Annual Review Issue of Journal of Environmental Toxicology and Chemistry, 1991-present; Wildlife Criteria Subcommittee of Ecological Processes and Effects Committee, U.S. EPA Science Advisory Board, 1994-present.
Research: Effects of pesticides on fish and wildlife populations; behavioral toxicology of pesticides in wildlife; heavy metal and industrial contamination in the environment; toxicology of lead, cadmium, and PCBs in avian and mammalian wildlife species; ecological risk assessment.

7. Ronald H. Olsen, Department of Microbiology and Immunology, Medical School, University of Michigan.
Expertise: Microbiology, biochemistry, biotechnology.
Education: B.S. Microbiology/Zoology, University of Minnesota, 1957; M.S. Microbiology/Biochemistry, University of Minnesota, 1959; Ph.D. Microbiology/ Biochemistry, University of Minnesota, 1962.
Professional Experience: Assistant Professor Microbiology, Colorado Sate University, 1962-64; Assistant Professor Microbiology, University of Michigan Medical School, 1965-69; Associate Professor Microbiology, University of Michigan Medical School, 1969-75; Professor Microbiology, University of Michigan Medical School, 1975-present; Adjunct Professor Microbiology and Microbiology, Wayne State University, 1981-present; Director, Institute of

Science and Technology, 1988-91; Adjunct Professor Zoology, Michigan State University, 1989-present.
Research: Genetics of Pseudomonas and related gram negative bacteria and their metabolism of substituted aromatic compounds; in situ bioremediation; discreet and global regulation of pathways in response to limiting oxygen environments (DNA sequence analysis).

8. Joan Bray Rose, Department of Marine Science, University of South Florida.
Expertise: Environmental microbiology; microbial risk assessment; water pollution microbiology.
Education: B.S. Microbiology, University of Arizona, 1976; M.S. Microbiology, University of Wyoming, 1980; Ph.D. Microbiology, University of Arizona, 1985.
Professional Experience: Research Associate, Department of Microbiology and Immunology, and Nutrition and Food Science, University of Arizona, 1986-89; Assistant Professor, Department of Civil Engineering and Mechanics, University of South Florida, 1991-94; Assistant Professor, Department of Environmental and Occupational Health, University of South Florida, 1989-94; Associate Professor, Marine Science, University of Arizona, 1994-present.
Research: Microbial water quality of municipal water supplies; viral and bacterial indicators or anthropogenic stresses on the ecosystem in the Florida Keys; viruses associated with marine water impacted by septic tanks.

9. Genevieve M. Matanoski, Department of Epidemiology, School of Hygiene and Public Health, The Johns Hopkins University (JHU), Baltimore, Maryland,
Expertise: Epidemiologist.
Education: AB, Chemistry, Radcliff College (1951); MD, JHU (1955); MPH, JHU (1962); DrPH, JHU (1964).
Professional Experience: Research Assistant, JHU (1955); Intern, Pediatrics, JHU (1955-56); Assistant Professor, JHU (1956-57); Research Assistant, Epidemiology, JHU (1957-59); Pediatrician, JHU (1957-present); Associate Professor, Epidemiology, JHU (1969-76); Member of teaching faculty, International Agency for Research in Cancer (IARC) (1982); Instructor, Epidemiology, University of Minnesota (1983).
Current Positions: Associate Professor, Preventive Medicine, University of Maryland Dental School (1970-present); Professor, Epidemiology, JHU (1976-present); Program Director, Occupational Environmental Epidemiology, JHU (1978-present).
Research: Cancer risks from occupational and evironmental exposures; evaluation of health programs; family-based population studies; infant mortality and congenital malformations; screening tests for DNA repair mechanisms.

10. John D. Potter, Department of Epidemiology, University of Washington, Seattle.
Expertise: Epidemiologist.
Education: MBBS, Medicine, University of Queensland, Australia (1971) [equivalent to MD in USA]; Ph.D., Epidemiology, University of Queensland, Australia (1984).
Professional Experience: Resident Medical Officer, Princess Alexandra Hospital, Brisbane, Australia 1972-73; Registrar in Psychiatry, Christchurch Hospital, Adelaide, Australia, 1974-75; Research Fellow in Epidemiology, CSIRO Division of Human Nutrition, Adelaide, Australia, 1977-82; Associate Director, Division of Epidemiology, University of Minnesota, Minneapolis, 1988-94; Professor and Director, Cancer Research, Epidemiology, University of Minnesota, Minneapolis, 1992-94; Associate Director, Epidemiology, Biostatistics, and Prevention, University of Minnesota Cancer Center, 1993-94.
Concurrent Positions: Full Member and Head, Cancer Prevention Research Program, Fred Huchinson Cancer Research Center, Seattle, Washington, 1994-present; Professor, Department of Epidemiology, University of Washington, Seattle, WA, 1994-present; Executive Committee, American Society of Preventive Oncology, 1990-present; Editorial Board, European Journal of Cancer Prevention, 1990-present; Editorial Board, Cancer, Epidemiology, Biomarkers and Prevention, 1991-95, Associate Editor, 1995-present; Editor, American Journal of Epidemiology, 1995-present.
Research: Causative factors for colon cancer (diet and alcohol); progesterone and estrogen receptors and mammary neoplasia in women; host factors in carcinogenesis (emphasis on the colon).

11. Philip J. Landrigan, Department of Community Medicine, Mount Sinai School of Medicine.
Education: MD, Harvard Medical School; Medical Internship, Cleveland Metropolitan General Hospital; Pediatric Residency, Children's Hospital Medical Center (Boston); MS, Occupational Medicine and Diploma of Industrial Health, University of London.
Professional Experience: Commissioned Officer in Public Health Service, Epidemic Intelligence Service Officer, and Medical Epidemiologist, CDC (1970-85); Director of the Division of Surveillance, Hazard Evaluations and Field Studies, NIOSH (1979-85); co-founder and co-director, Beacon Hill Community Clinic, Decatur, GA (1971-77).
Concurrent Positions: Ethel H. Wise Professor, Chair of Community Medicine and Director of Environmental and Occupational Medicine, Mount Sinai School of Medicine (present); Professor, Pediatrics, Mt. Sinai School of Medicine; Member, Institute of Medicine of National Academy of Sciences; Editor-In-Chief, American Journal of Industrial Medicine; Editor, Environmental Research; Chair, Asbestos Advisory Board of the State of New York; Chair, New York State Advisory Council on Lead Poisoning Prevention.
Research: Clinical and epidemiologic evaluation of human diseases caused by toxic environmental and occupational exposures; heavy metal poisoning; pesticide intoxication; solvent neuropathy; chronic lung diseases; chemically induced renal disease; occupational carcinogenesis.

12. Sherman Athonia James, Department of Epidemiology, School of Public Health, The University of Michigan.
Education: A.B., Psychology/ Philosophy, Talladega College (1964); Ph.D., Social Psychology, Washington University, St. Louis (1973).
Professional Experience: Assistant Professor, Epidemiology, University of N. Carolina (UNC)(1974-79); Associate Professor, Epidemiology, UNC, (1980-84); Professor, Epidemiology, UNC, (1985-89).
Concurrent Positions: Adjunct Professor, Epidemiology, UNC, (1989-present); Research Scientist, Survey Research Center, Institute for Social Research, University of Michigan (1990-present); Professor of Epidemiology, University of Michigan (1989-present); Associate Dean for Academic Affairs, School of Public Health, University of Michigan (1993-present).
Research: Social factors and cardiovascular disease in African Americans; social factors and adverse pregnancy outcomes in African Americans.

13. Louis J. Guillette, Jr., Department of Zoology, University of Florida, Gainesville.
Education: B.S., Biology, New Mexico Highlands University (1976); M.A., Biology, University of Colorado, Boulder (1979); Ph.D., University of Colorada, Boulder (1981).
Professional Experience: Assistant Professor, Biology, Wichita State University (1981-85); Associate Professor, Zoology, University of Florida (Gainesville) (1987-92); Professor,

Zoology, University of Florida (Gainesville) (1992-present); Editorial Board: Copeia (1986-88), Journal of Herpetology (1984-86); Board of Directors, Society for the Study of Amphibians and Reptiles (1990-93); Manuscript Reviewer for several Scientific Journals.
Concurrent Positions: Affiliate Curator of Herpetology, Florida Museum of Natural History (1985-present); Adjunct Professor, Herpetology, University of Otago, Dunedin, New Zealand (1993-present); Board Member: IUCN, Species Survival Commission, Captive Breeding Specialist Group (1991-present); Crocodile Specialist Group (1990-present); President-Elect, Society for the Study of Amphibians and Reptiles (1995); Grant Reviewer: NSF, NIH, National Geographic Society, NY Zoological Society, Australian Research Council.
Research: Vertebrate reproductive biology; reproductive anatomy, physiology, endocrinology, and ecotoxicology; endocrine-disrupting environmental contaminants.

14. Raymond S. H. Yang, Director, Center for Environmental Toxicology and Technology, Colorado State University.
Education: B.S., Biology, National Taiwan University (1963); M.S., Toxicology/Entomology, North Carolina State University (1967); Ph.H., Toxicology/Entomology, N.C. State University (1970).
Professional Experience: Research Associate/Assistant Professor, Toxicology, Institute of Comparative and Human Toxicology (1973-76); Senior Scientist/Fellow/Manager, Biochemical Toxiciology, Bushy Run Research Center (Mellon Institute/Union Carbide Corp.) (1976-83); Adjunct Professor, Toxicology, University of Pittsburgh (1978-83); Principale Investigator/Chemical Manager, National Toxicology Program (NIEHS) (1987-90); Adjunct Professor, Toxicology, N.C. State University (1988-90); Head, Department of Environmental Health, CSU (College of Veterinary Medicine and Biochemical Sciences) (1990-95); Editorial Board: Fundamental and Applied Toxicology (1988-94).
Concurrent Positions: Professor of Toxicology, Department of Environmental Health, CSU (1990-present); Director, Center for Environmental Toxicology and Technology, CSU (1991-present); Program Director and Principal Investigator on Hazardous Waste Chemical Mixtures, NIEHS (1992-present); Editorial Board: Reviews of Environmental Contamination and Toxicology (1989-present); Air Quality Science Advisory Board, State of Colorado (1992-present); Member of Scientific Advisory Panel to Electric Power Research Institute (1989-present); Steering Committee, Decision Support Methodologies for Human Risk Assessment of Toxic Substances, ATSDR/DHHS (1994-present).
Research: Pharmacokinetics, biochemical toxicology of chemical mixtures/environmental contaminants.

15. Patricia A. Buffler, Dean, School of Public Health, University of California at Berkeley.
Professional Experience: Associate Dean for Research, University of Texas Health Sciences Center at Houston, School of Public Health (1980-84); U.S. Department of Health and Human Services, National Center for Health Statistics (1985-87); Director, Southwest Center for Occupational and Environmental Health, Health Sciences Center (1988); Ashbel Smith Professor in Public Health, University of Texas (1989); Dean, School of Public Health, University of California (1991-present).
Concurrent Positions: Chair, National Urban Air Toxics Research Center; Member of USEPA Science Advisory Board; Advisor to: World Health Organization, National Center for Occupational Safety and Health, US Department of Energy, USEPA, National Library of Medicine, and the National Research Council/National Academy of Sciences; DuPont Company's Epidemiologic Review Board (1990-present); Board of Directors, FMC Corporation (1994-present).
Research: Association of diet, smoking, air pollution, toxic chemical wastes, low-level radiation, and electromagnetic fields on the risks of cancer, lung diseases, fertility, pregnancy outcomes, and other diseases and conditions among working and non-working populations; protective effect of vitamin A and beta-carotene for laryngeal cancer.

IV. Public Record

A record has been established for this document under docket number "OPP-00420" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Dated: January 31, 1996.

Lynn R. Goldman,
Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 96–2725 Filed 2–13–96; 8:45 am]
BILLING CODE 6560–50–F

[OPPTS–62151A; FRL–4996–3]

Dialogue Group on Identification of Lead-Based Paint Hazards; Notice of Schedule Change

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has modified the schedule for meetings of the Dialogue Process to support the forthcoming rulemaking under section 403 of the Toxics Substances Control Act (TSCA).
DATES: The discussion on residential soil containing lead will be held on February 15, 1996, while the meeting on the format and structure of the section 403 Rule will take place on March 21, 1996. Both meetings will be held from 10 a.m. to 5 p.m.
ADDRESSES: The meetings will be held at: The Grand Hyatt Washington, 1000 H St., NW., Washington, DC 2001.

All written comments should be submitted in triplicate to: TSCA Document Receipts (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–G99, 401 M St., SW., Washington, DC 20460. All comments should be identified by the docket number "OPPTS–62151."

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–62151. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

FOR FURTHER INFORMATION CONTACT: For information on the Dialogue Process or the schedule, please contact: Andrea Yang, Chemical Management Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–4918, e-mail: yang.andrea@epamail.epa.gov.
SUPPLEMENTARY INFORMATION:

I. Dialogue Schedule

Section 403 of TSCA, 15 U.S.C. 2683 directs EPA to promulgate regulations that identify lead hazards in paint, household dust, and bare residential soil. Title IV of TSCA, titled "Lead Exposure Reduction," which includes section 403, was added to TSCA by the Residential Lead-Based Paint Hazard Reduction Act of 1992. To support the rulemaking, EPA has established a Dialogue Process to obtain input from interested parties early in the rulemaking process. Establishment of the Dialogue Process was announced in the **Federal Register** of July 18, 1995 (60 FR 36806).

Due to the federal government shutdowns, the November 16, 1995 and January 18, 1996 meetings of the Dialogue Participants were postponed. These meetings have been rescheduled as indicated.

All meetings are open to the public and will provide opportunity for public comment on a first-come, first-served basis. Thirty minutes will be allocated at each meeting for public comment. Due to the need to accommodate as many interested parties as possible during the public comment periods, EPA will limit comments to 5 minutes for representatives of organizations and 3 minutes for individuals. Members of the public interested in offering comment at a meeting of the Dialogue should sign-up at the meeting registration desk.

Individuals wishing to provide comments to EPA, but who cannot be accommodated during the comment period or cannot attend the Dialogue meetings may submit written comments to EPA at the address listed in the ADDRESSES unit of this Notice. Individuals who have information or data that they wish to share with Dialogue participants should send 30 copies to Andrea Yang at the address listed in the "FOR FURTHER INFORMATION CONTACT" unit of this Notice.

II. Confidential Business Information

A person may assert a claim of confidentiality for any information, including all or portions of written comments, submitted to EPA in connection with the Dialogue Process. Any person who submits a comment subject to a claim of confidentiality must also submit a nonconfidential version. Any claim of confidentiality must accompany the information when it is submitted to EPA. Persons must mark information claimed as confidential by circling, bracketing, or underlining it, and marking it with CONFIDENTIAL or some other appropriate designation. EPA will disclose information subject to a claim of confidentiality only to the extent permitted by section 14 of TSCA and 40 CFR part 2, subpart B. If a person does not assert a claim of confidentiality for information at the time it is submitted to EPA, EPA may make the information public without further notice to that person.

III. Public Docket

A record has been established for this action under docket number "OPP–62151" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

List of Subjects

Environmental protection and Lead.

Dated: February 8, 1996.

Joseph A. Carra,
Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 96–3424 Filed 2–12–96; 1:04 pm]
BILLING CODE 6560–50–F

[OPP–50814; FRL–5347–4]

Trichodex; Notice of Receipt of Request for an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has received from Makhteshim Chemical Works Ltd., a request (11678–R) for an Experimental Use Permit for the use of Trichodex (ABG–8007) on raw agricultural commodities. This request is associated with a petition for a temporary exemption from tolerances (PP) 6G4622 for all raw agricultural commodities treated with Trichodex. EPA considers this application to be of national or regional significance.
DATES: Written comments should be submitted to EPA by March 15, 1996.
ADDRESSES: By mail: submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted in ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number "OPP–50814." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under the

SUPPLEMENTARY INFORMATION unit of this document.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 5th Floor, CS #1, 2805 Jefferson Davis Highway, Arlington, VA, (703)–308–8097; e-mail: bacchus.shanaz@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received a request for an Experimental Use Permit for use of Trichodex on certain crops from Makhteshim Chemical Works Ltd., c/o Makhteshim-Agan of North America Inc., 551 Fifth Avenue, Suite 1100, New York, NY 10176. The request is associated with a petition (PP 6G4622) for a temporary exemption from the requirement of a tolerance for Trichodex in or on all raw agricultural commodities. The microbial pesticide Trichodex is also referred to as ABG–8007. It contains dried fermentation solids and solubles resulting from fermentation of *Trichoderma harzianum* isolate T–39, containing T–39 fungus propagules as either conidia or mycelia.

The request for the EUP is being submitted as a 2–year non-crop destruct program. The pesticide is to be applied to a total of 360 acres (A) as shown below: in Arizona (10 A), California (250 A), Florida (20 A), New York (25 A), Ohio (5 A), Oregon (25 A) and Washington (25 A). For this EUP, the registrant plans to treat wine grapes, table grapes and strawberry. The rates of application are 2 to 4 lb Trichodex per acre. One to four applications are to be made to wine grapes in a rotational program, while four to six applications are to be applied to wine grapes during pre-bloom, bloom, bunch closure, veraison, and preharvest stages. Table grapes are to be treated with one to three applications during pre-bloom to fruit set. Treatment for strawberry includes up to eight applications (once per week) throughout the growing season from pre-bloom to harvest. A total of 5,000 pounds of Trichodex will be used on wine grapes: California (3,500 lbs), New York (500 lbs), Oregon (500 lbs), Washington (500 lbs). Table grapes in Arizona will be treated with 120 lbs and in California with 600 lbs for a total of 720 lbs Trichodex. Strawberry treatment will include 1,200 lbs (CA), 960 lbs (FL), and 240 lbs (OH) for a total of 2,400 lbs of Trichodex. In total, 8,120 lbs of this microbial pesticide will be applied annually in this 2–year non-crop destruct program.

EPA has established a record for this notice under docket number OPP–50814; (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as (CBI), is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address listed under the "ADDRESSES" unit at the beginning of this document.

List of Subjects

Environmental protection, Experimental use permits.

Dated: February 1, 1996.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–3022 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30377A; FRL–4980–5]

Certain Companies; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Ciba-Geigy Corporation (Ciba Seeds) and Mycogen Plant Sciences, to conditionally amend two transgenic plant pesticide products involving a changed use pattern of the products pursuant to the provisions of section 3(c)(7)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Michael Mendelsohn, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8715; e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 13, 1995 (60 FR 3209), which announced that Ciba-Geigy Corporation (Ciba-Seeds), 3054 Cornwallis Road, P.O. Box 12257, Research Triangle Park, NC, 27709, and Mycogen Plant Sciences, 4980 Carroll Canyon Road, San Diego, CA 92121, had submitted applications to register the transgenic plant pesticides B.t.k. CryIA(b) Insect Control Protein as Produced in Corn and B.t.k. CryIA(b) Insect Control Protein as Produced in Corn (EPA File Symbols 66736–R and 68467–R), containing the active ingredient *Bacillus thuringiensis* delta-endotoxin as produced in corn by a cryIA(b) gene and its controlling sequences as found on plasmid vector pCIB4431 0.0001–0.0018 percent total plant protein respectively, an active ingredient not included in any previously registered products.

Both applications were approved on August 9, 1995 to include in their presently registered uses a new use for full commercial use in field corn (EPA Registration Numbers 66736–1 and 68467–1).

These registrations were conditionally amended to allow additional use of the products for food and feed in field corn in accordance with FIFRA section 3(c)(7)(B). This use is conditional upon data development in the area of resistance management research and limited by resistance management and expiration provisions of the registrations.

A conditional registration may be granted under section 3(c)(7)(B) of FIFRA for a product involving a changed use pattern where certain data are lacking, on condition that such data are received as specified by EPA and the applicant has submitted satsifactory data pertaining to the proposed additional use and the amended registration would not significantly increase the risk of any unreasonable adverse effect.

The Agency has considered the available data on the risks associated with the proposed use of *Bacillus thuringiensis* delta-endotoxin as produced in corn by a cryIA(b) gene and its controlling sequences as found on plasmid vector pCIB4431, and information on social, economic, and environmental benefits to be derived from such use. Based on these reviews, the Agency was able to make basic environmental, health, and safety determinations which show that use of *Bacillus thuringiensis* delta-endotoxin as produced in corn by a cryIA(b) gene and its controlling sequences as found on plasmid vector pCIB4431 consistent with the terms and conditions of registration during the period of conditional registration will not significantly increase the risk of unreasonable adverse effect on the environment.

These products are conditionally registered in accordance with FIFRA section 3(c)(7)(B). Submission of production information for these products for the fiscal year in which use of commercial field corn is conditionally registered, begins on October 1, and ends September 30. Production information will be submitted to the Agency no later than November 15, following the end of the preceding fiscal year. If the conditions are not complied with the registrations will be subject to cancellation in accordance with FIFRA section 6(e). These registrations will automatically expire on midnight August 2, 2000.

More detailed information on these conditional registrations is contained in an EPA Pesticide Fact Sheet on *Bacillus thuringiensis* delta-endotoxin as produced in corn by a cryIA(b) gene and its controlling sequences as found on plasmid vector pCIB4431.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: January 31, 1996.

Janet L. Andersen,

Acting Director, Biopesticides Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–2726 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30402; FRL–4995–7]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing a new active ingredient not included in any previously registered products and a product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by March 15, 1996.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30402] and the file symbol to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30402]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Keigwin, Product Manager (PM 10), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 210, CM #2, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703) 305–6788; e-mail: keigwin.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications to register pesticide products containing an active ingredient not included in any previously registered products and a product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

1. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 69075–E. Applicant: Rohm and Haas, 100 Independence Mall West, Philadelphia, PA 19106. Product name: RH–0345 2SC Turf Insecticide. Insecticide. Active ingredient: Benzoic acid, 4-chloro-, 2 benzoyl-2-(1,1-dimethylethyl) hydrazide at 23.1 percent. Proposed classification/Use: General. For control of immature stages of certain insects in turfgrass.

2. File Symbol: 69075–R. Applicant: Rohm and Haas. Product name: RH–0345 Technical Insecticide. Insecticide. Active ingredient: Benzoic acid, 4-chloro-, 2 benzoyl-2-(1,1-dimethylethyl) hydrazide at 92.6 percent. Proposed classification/Use: General. For repackaging, relabeling, formulation, or processing only.

II. Product Involving a Changed Use Pattern

File Symbol: 707–238. Applicant: Rohm and Haas, 100 Independence Mall West, Philadelphia, PA 19106. Product name: Confirm 2F Agricultural Insecticide. Insecticide. Active ingredient: Benzoic acid, 3,5-dimethyl-, 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide at 23 percent. Proposed classification/Use: General. To include in its presently registered use, a new use on pecans.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30402] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: February 5, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–3019 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30401; FRL–4994–2]

S. C. Johnson and Son, Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by March 15, 1996.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30401] and the file symbol (4822–UUN) to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30401]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: John Tice, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8295; e-mail: tice.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from S. C. Johnson and Son, Inc., 1525 Howe St., Racine, WI 53403, to register the pesticide product OFF! Moth Proofer 5 (EPA File Symbol 4822–UUN), containing the active ingredient lavandin oil at 11.49 percent, an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. The product is classified for general use as a moth repellant to be placed in drawers and closets as a freshner while protecting clothes from moth damage. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30401] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: January 30, 1996.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–2727 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50815; FRL–5347–5]

Aspergillus Flavus AF36; Notice of Receipt of a Request for an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the Interregional Research Project No. 4 (IR–4) an application for an Experimental Use Permit (EUP) (69224–EUP-R) for the use of *Aspergillus flavus* AF36 as an antimicrobial agent in or on cotton. EPA considers this EUP to be of regional or national significance and is associated with Petition No. 5E5475.

DATES: Written comments should be submitted to EPA by March 15, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted in ASCII file format avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number OPP–50815. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under the SUPPLEMENTARY INFORMATION unit of this document.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 5th Floor, CS #1, 2800 Jefferson Davis Highway, Arlington, VA, (703)-308–8097; e-mail: bacchus.shanaz@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received from IR–4, New Jersey Agricultural Experiment Station, P.O. Box 231, New Brunswick, NJ 08903–0231, an application for an EUP (69224–EUP-R) for the use of *Aspergillus flavus* AF36 (non-aflatoxin-producing strain) as an antimicrobial agent in or on cotton. EPA considers this EUP to be of regional or national significance and is associated with Petition No. 5E5475. The application was submitted on behalf of the Agricultural Research Service, United States Department of Agriculture, 1100 Robert E. Lee Boulevard, P.O. Box 19687, New Orleans, Louisiana, 70179–0687.

The use of *Aspergillus flavus* AF36 in the proposed manner is intended to prevent aflatoxin contamination of cottonseed by competitively excluding aflatoxin producing strains from infecting treated crop. The microbial pesticide is to be applied over a 3–year period at 10 pounds per acre to 1,120 acres of commercial cotton fields in Yuma County, Arizona. There will be one application per crop, thus allowing a total of 11,200 pounds per year. Applications will be made at last cultivation prior to first bloom with a cultivator mounted granular applicator. For this EUP program, the registrant proposes to treat 120 acres in year 1, and 500 acres each in years 2 and 3. *Aspergillus flavus* AF36 was initially isolated from this region which is most seriously affected by aflatoxin contamination. Cottonseed from treated and untreated fields will be sampled according to the Arizona Commercial Feed Law and monitored for aflatoxin content in a commercial laboratory. This experimental use program will be performed in order to assess grower response to the use of the microbial pesticide and to determine long-term and short-term influences of treating relatively large contiguous acreages. Impact within treated fields and outside treated fields will be determined and monitored over multiple years. Treated crops are intended for commercial use.

EPA has established a record for this document under docket number OPP–50815 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

The official record for this document, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address listed under the "ADDRESSES" unit at the beginning of this document.

List of Subjects

Environmental protection, Experimental use permits.

Dated: February 1, 1996.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–3023 Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

[PP 4G4409 and 5G4551/T683; FRL 4984–3]

Northrup King Corporation; Establishment of Exemptions From Requirement of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established exemptions from the requirement of tolerances for the combined residues of the plant pesticide *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material necessary for its production (plasmid vector pZ01502) and for the plant pesticide inert ingredient *phosphinothricin acetyltransferase* and the genetic material necessary for its production (plasmid vector pZ01502) in or on certain raw agricultural commodities.

DATES: These temporary exemptions from the requirement of tolerances expire May 30, 1996.

FOR FURTHER INFORMATION CONTACT: By mail: Michael Mendelsohn, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. Crystal Station, 5th Fl., 2800 Crystal Drive, Arlington, VA (703) 308–8712; e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Northrup King Corporation, 7500 Olson Memorial Hwy., Golden Valley, MN 55427, has requested in pesticide petitions PP 4G4409 and 5G4551 the establishment of exemptions from the requirement of tolerances in or on certain raw agricultural commodities as follows.

1. Pesticide petition (PP) 4G4409 has established an exemption from the requirement of a tolerance for the combined residues of the plant pesticide *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material necessary for its production (plasmid vector pZ01502) in corn, when used as a plant pesticide in all raw agricultural commodities of field corn, sweet corn, and popcorn.

2. Pesticide petition(PP) 5E4551 has established an exemption from the requirement of a tolerance for the combined residues of the plant pesticide inert ingredient *phosphinothricin acetyltransferase* and the genetic material necessary for its production (plasmid vector pZ01502) in corn, when used as a plant pesticide inert ingredient in all raw agricultural commodities of field corn, sweet corn, and popcorn.

These temporary exemptions from the requirement of tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 67979–EUP–1, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that exemptions from the requirement of tolerances will protect the public health. Therefore, the temporary exemptions from the requirement of tolerances have been established on the condition that the pesticides be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredients to be use must not exceed the quantity authorized by the experimental use permit.

2. Northrup King Corporation must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary exemptions from the requirement of tolerances expire May 30, 1996. Residues remaining in or on all raw agricultural commodities after this expiration date will not be considered actionable if the pesticides are legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemptions from the requirement of tolerances. These temporary exemptions from the requirement of tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

List of Subjects

Environmental protection, Administative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 31, 1996.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–2921; Filed 2–13–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2120]

Petition for Reconsideration of Actions in Rulemaking Proceedings

February 9, 1996.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed February 29, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Market Entry and Regulation of Foreign-affiliated Entities (IB Docket No. 95–22, RM–8355, RM–8392)
Number of Petitions Filed: 5

Subject: Amendment of the Commission's Rules Regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Bands (ET Docket No. 95–183, RM–8553)

Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 37.0–38.6 GHz and 38.6–40.0 GHz (PP Docket No. 93–253)
Number of Petitions Filed: 2

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3209 Filed 2–13–96; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applicants for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

SafeTech Int'l, Inc., 631 Silverleaf Road, Charlotte, NC 28217, Duane D. Simpson, Sole Proprietor.

Dated: February 8, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–3239 Filed 2–13–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

ABC Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 8, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. ABC Bancorp, Moultrie, Georgia; to merge with Southland Bancorporation, Dothan, Alabama, and thereby indirectly acquire Southland Bank, Dothan, Alabama.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First State Bank of Rushmore KSOP Plan and Trust, Worthington, Minnesota; to become a bank holding company by acquiring 30 percent of the voting shares of First Rushmore Bancorporation, Inc., Worthington, Minnesota, and thereby indirectly acquire First State Bank of Rushmore, Rushmore, Minnesota.

Board of Governors of the Federal Reserve System, February 8, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-3224 Filed 2-13-96; 8:45 am]

BILLING CODE 6210-01-F

BNCCorp, Inc.; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 28, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. BNCCORP, Inc., Bismarck, North Dakota; to engage *de novo* in retaining and servicing certain loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted throughout the State of North Dakota.

Board of Governors of the Federal Reserve System, February 8, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-3225 Filed 2-13-96; 8:45 am]

BILLING CODE 6210-01-F

Capital Corp of the West; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has given notice under § 225.23(a)(2) or (e) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (e)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than February 28, 1996.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Capital Corp of the West, Merced, California; to engage in furnishing general economic information and advice, general economic statistical forecasting services and industry studies, pursuant to § 225.25 (b)(4)(iv) of the Board's Regulation Y; and in providing advice, including rendering fairness opinions and providing valuation services, in connection with mergers, acquisitions, divestitures, joint ventures, leveraged buyouts, recapitalizations, capital structurings, and financing transactions (including private and public financing and loan syndications); and conducting financial feasibility studies, pursuant to § 225.25 (b)(4)(vi) of the Board's Regulation Y. The geographic scope for these activities will be limited to Arizona, California, Oregon and Nevada.

Board of Governors of the Federal Reserve System, February 8, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-3226 Filed 2-13-96; 8:45 am]

BILLING CODE 6210-01-F

Robert H. Croak, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 28, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Robert H. and Linda K. Croak, Midwest City, Oklahoma; to acquire an additional 24.48 percent, for a total of 38.01 percent, of the voting shares of First Midwest Bancorp, Inc., Midwest City, Oklahoma, and thereby indirectly acquire First National Bank of Midwest City, Midwest City, Oklahoma.

Board of Governors of the Federal Reserve System, February 8, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-3227 Filed 2-13-96; 8:45 am]

BILLING CODE 6210-01-F

Federal Open Market Committee; Domestic Policy Directive of December 19, 1995.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 19, 1995.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests a substantial slowing in the expansion of economic activity after a strong gain in the third quarter. Nonfarm payroll employment increased further in November, but the civilian unemployment rate edged up to 5.6 percent. Industrial production was little changed on average over October and November after a moderate rise in the third quarter. Total nominal retail sales rose somewhat on balance over October and November. Housing starts were down in October after a large increase in the third quarter. However, orders for nondefense capital goods point to substantial expansion of spending on business equipment in the near term, and nonresidential construction has risen appreciably further. Wage trends have been stable and consumer prices have risen relatively slowly on average in recent months.

Most market interest rates have declined slightly since the Committee meeting on November 15. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies has risen slightly on balance over the intermeeting period.

The substantial moderation in the growth of M2 and M3 since midsummer continued in November; however, for the year through November, M2 expanded at a rate in the upper half of its range for 1995 and M3 grew at a rate at the upper end of its range. Growth in total domestic nonfinancial debt has slowed somewhat in recent months but for the year to date remains around the midpoint of its monitoring range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the range it had established on January 31-February 1 for growth of M2 of 1 to 5 percent, measured from the fourth quarter of 1994 to the fourth quarter of 1995. The Committee also retained the monitoring range of 3 to 7 percent for the year that it had set for growth of total domestic nonfinancial debt. The Committee raised the 1995 range for M3 to 2 to 6 percent as a technical adjustment to take account of changing intermediation patterns. For, 1996, the Committee established on a tentative basis the same ranges as in 1995 for growth of the monetary aggregates and debt, measured from the fourth quarter of 1995 to the fourth quarter of 1996. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to decrease slightly the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, slightly greater reserve restraint or slightly lesser reserve restraint would be acceptable in the

[1] Copies of the Minutes of the Federal Open Market Committee meeting of December 19, 1995, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

intermeeting period. The contemplated reserve conditions are expected to be consistent with moderate growth in M2 and M3 over coming months.

By order of the Federal Open Market Committee, February 7, 1996.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 96–3314 Filed 2–13–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 011596 AND 012696

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Exor Group S.A., Xerox Corporation, Constitution Re Corporation	95–1065	01/15/96
Sprint Corporation, Telephone and Data Systems, Inc. Voting Trust, Ohio RSA No. 1 Limited Partnership	96–0691	01/17/96
PETsMart, Inc., State Line Tack, Inc., State Line Tack, Inc	96–0739	01/17/96
Occidental Petroleum Corporation, Castle Harlan Partners II, L.P., INDSPEC Holding Corporation	96–0740	01/17/96
The Harper Group, Inc., Celadon Group, Inc., Celadon-Jacky Maeder Company	96–0725	01/18/96
Newcourt Credit Group Inc., CRA, Inc., CRA, Inc	96–0762	01/18/96
George Soros, Oscar and Zlata Foundation, Indigo, N.V	96–0764	01/18/96
NGC Corporation, John Joseph Sherman, LPG Services Group, Inc	96–0769	01/18/96
Mallinckrodt Group Inc., Liebel-Flarsheim Company, Liebel-Flarsheim Company	96–0103	01/19/96
Aurora Health Care, Inc., Memorial Hospital Corporation of Burlington, Memorial Hospital Corporation of Burlington	96–0709	01/19/96
The Sumitomo Bank, Limited, The Daiwa Bank, Limited, The Daiwa Bank, Limited	96–0743	01/19/96
PriCellular Corporation, Telephone and Data Systems, Inc. Voting Trust, Pennsylvania RSA No. 9 Limited Partnership	96–0778	01/19/96
Loews Corporation, Arethusa (Off-Shore) Limited, Arethusa (Off-Shore) Limited	96–0687	01/21/96
Bastion Capital Fund, L.P., Telemundo Group, Inc., Telemundo Group, Inc	96–0715	01/21/96
International Paper Company, Federal Paper Board Company, Inc., Federal Paper Board Company, Inc	96–0346	01/22/96
Royal Dutch Petroleum Company, Texaco Inc., Texaco Exploration and Production Inc	96–0377	01/22/96
Alco Standard Corporation, Jon M. Malinski, JMM Enterprises, Inc	96–0697	01/22/96
Paragon Trade Brands, Inc., Pope & Talbot, Inc., Pope & Talbot, Inc	96–0741	01/22/96
Kotobuki Fudosan Ltd., Compagnie Generale des Eaux (a French Company), Compagnie Generale des Eaux	96–0754	01/22/96
Jordan Industries, Inc., William Weksel, E.F. Johnson Components Division	96–0761	01/22/96
General Electric Company, E.I. du Pont de Nemours and Company, Conoco Inc	96–0779	01/22/96
Richard E. Rainwater, Magellan Health Services, Inc. (fka Charter Medical Corp), Magellan Health Services, Inc. (fka Charter Medical Corp)	96–0780	01/22/96
Mellon Bank Corporation, Fund American Enterprises Holdings, Inc., Source One Mortgage Services Corporation	96–0788	01/22/96
FORE Systems, Inc., Alantec Corporation, Alantec Corporation	96–0752	01/23/96
Mirage Resorts, Incorporated, Capital Gaming International, Inc., Crescent City Capital Development Corp., debtor in poss	96–0786	01/23/96
Clear Channel Communications, Inc., Fleet Financial Group, Inc., WOOD Radio Limited Partnership	96–0790	01/23/96
Heartland Wireless Communications, Inc., Three Sixty Corp., TechniVision, Inc	96–0796	01/23/96
Caterpillar Inc., Brown Group Holdings Limited (a British company), Brown Group Holdings Limited	96–0732	01/24/96
Cellular Communications of Puerto Rico, Inc., Cellular Communications of Puerto Rico, Inc., San Juan Cellular Telephone Company	96–0757	01/24/96
Enron Corp., Forest Oil Corporation, Forest Oil Corporation	96–0781	01/24/96
James W.F. Brooks, Polar Corp., Polar Corp	96–0783	01/24/96
International Speedway Corporation, Roger S. Penske, PSH Corp	96–0793	01/24/96
U.S. Office Products Company, William J. Costigan, Jr., National Ofice Supply, Inc	96–0807	01/24/96
United Technologies Corporation, Ray H. Siegfried II, TKI, Inc., d/b/a/ The NORDAM Group, Inc	96–0808	01/24/96
Kaiser Ventures Inc., Rober S. Penske, Penske Speedways Holding Corp	96–0812	01/24/96
PRECISmetals, Inc., William Blair Leveraged Capital Fund, L.P., Sherwood Holdings, Inc	96–0813	01/24/96
Memorial Health Foundation, Mountainside Hospital Healthcare, Inc., Mountainside Hospital Healthcare, Inc	96–0722	01/25/96
Memorial Health Foundation, Overlook Health System, Inc., Overlook Health System, Inc	96–0728	01/25/96
Wolseley plc, Lary Victor Maxey, Building Material Supply Company, Inc. and Building Mat	96–0776	01/25/96
Wolseley plc, Robert R. Chambers, Building Material Supply Company, Inc. and Building Mat	96–0777	01/25/96
Temple-Inland Inc., Kevin A. Budde, Western Cities Mortgage Corporation	96–0801	01/25/96
Temple-Inland Inc., Robert and Bettina Russell, Western Cities Mortgage Corporation	96–0811	01/25/96
First Data Corporation, PHH Corporation, NTS, Inc	96–0815	01/25/96
Thomas H. Lee Equity Fund III, L.P., HomeAmerica Capital, Inc., HomeAmerica Capital, Inc	96–0819	01/25/96
HFS Incorporated, Richard L. Schlott, Electronic Realty Associates, L.P	96–0823	01/25/96
Madison Dearborn Capital Partners, L.P., HomeAmerica Capital, Inc., HomeAmerica Capital, Inc	96–0827	01/25/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 011596 AND 012696—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Bank of Boston Corporation, HomeAmerica Capital, Inc., HomeAmerica Capital, Inc	96–0828	01/25/96
Sprint Corporation, Global Partnership Corporation, Global Partnership Corporation	94–1765	01/26/96
France Telecom, Sprint Corporation, Sprint Corporation	94–1766	01/26/96
Deutsche Bundespost Telekom, Sprint Corporation, Sprint Corporation	94–1770	01/26/96
Deutsche Bundespost Telekom, Global Partnership Corporation, Global Partnership Corporation	94–1775	01/26/96
Pacific Scientific Company, Louis J. Petralli, Jr., Met One, Inc	96–0224	01/26/96
Echlin Inc., Robert A. Davis, Pilot Industries, Inc	96–0730	01/26/96
The Mead Corporation, Fosterlane Holdings Corporations, Evergreen Timberlands Corporation	96–0791	01/26/96
Pioneer Financial Services, Inc., Universal Fidelity Life Insurance Company, Universal Fidelity Life Insurance Company	96–0799	01/26/96
Prime Holding, Inc., Ackers P. Investment Company, Vibroplant U.S., Inc	96–0803	01/26/96
Sinclair Broadcast Group, Inc., Gerald J. Robinson, Flint T.V., Inc	96–0806	01/26/96
Principal Mutual Life Insurance Company, United HealthCare Corporation, MetraHealth Care Plan of St. Louis, Inc	96–0809	01/26/96
Harris Methodist Health System, Inc., Daughters of Charity National Health System, Inc., St. Paul Medical Center	96–0810	01/26/96
The Kaizen Breakthrough Partnership, L.P., LADD Furniture, Inc., Fournier Furniture, Inc	96–0814	01/26/96
Warburg, Pincus Ventures, L.P., Westinghouse Electric Corporation, The Knoll Group, Inc	96–0830	01/26/96
Jitney-Jungle Stores of America, Inc., McCarty-Holman Co., Inc., McCarty-Holman Co., Inc	96–0831	01/26/96
Jitney-Jungle Stores of America, Inc., Southern Jitney Jungle Company, Southern Jitney Jungle Company	96–0832	01/26/96
Bruckmann, Rosser, Sherrill & Co., L.P., Jitney-Jungle Stores of America, Inc., Jitney-Jungle Stores of America, Inc	96–0834	01/26/96
Windy Hill Pet Food Company L.L.C., H.J. Heinz Company, Heinz Pet Products Company	96–0837	01/26/96
Steuart Investment Company, The Community Center Fund II LP, The Community Center Fund II LP	96–0839	01/26/96
Dollar Tree Stores, Inc., Pamela J. Alper and Michael N. Alper, Terrific Promotions, Inc	96–0845	01/26/96
Metromedia International Group, Inc., Alliance Entertainment Corp., Alliance Entertainement Corp	96–0848	01/26/96
Worthington Industries Inc., William S. Dietrich, II Charitable Remainder Annuity Tr, Dietrich Industries, Inc.	96–0849	01/26/96

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–3264 Filed 2–13–96; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Criteria for Fixed Price Service Contracts

AGENCY: Office of the Chief Financial Officer, General Services Administration.

ACTION: Notice of Criteria.

SUMMARY: The General Services Administration issues payments via a fixed roll payment system process through the GSA Finance Division in Forth Worth, Texas, of fixed price recurring service contracts without the submission of invoices. Contracts must be fixed price for a period of at least two months and must not contain discount terms. Contracts are payable 30 days following completion of the service month. Contracts awarded to nonprofit workshops under the Javits-Wagner O'Day Act which are generally paid in 20 days and contracts awarded using commercial item procedures in Part 12 of the FAR do not qualify. Contracts on the fixed roll payment system may not be assigned to a financial institution.

FOR FURTHER INFORMATION CONTACT: Mike Gilmartin, Telephone number (202) 501–4444 (this is not a toll free number).

Dated: February 1, 1996.

Mike Gilmartin,

Chief, BCDP Payables and Cash Management Branch, Financial Information Control Division.

[FR Doc. 96–3220 Filed 2–13–96; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Proposed Program Priorities—ACF/ACYF/RHYP 96–1]

Runaway and Homeless Youth Program: Fiscal Year (FY) 1996 Proposed Program Priorities

AGENCY: Family and Youth Services Bureau, Administration on Children, Youth, and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of Fiscal Year 1996 Proposed Runaway and Homeless Youth (RHY) Program Priorities for the following programs for runaway and homeless youth: Basic Center, Street Outreach for Runaway and Homeless Youth and the Transitional Living Program for Homeless Youth.

SUMMARY: The Family and Youth Services Bureau of the Administration on Children, Youth and Families is publishing proposed program priorities and soliciting comments from the public regarding programmatic activities in fiscal year 1996 for the following programs:

Runaway and Homeless Youth Basic Center Grant Program (BCP): The purpose of the Runaway and Homeless Youth Basic Center Grant Program is to provide financial assistance to establish or strengthen locally-controlled centers that address the immediate needs (e.g., outreach, temporary shelter, counseling, and aftercare services) of runaway and homeless youth and their families.

Street Outreach for Runaway and Homeless Youth: Grants will be awarded for street-based outreach and education and referral for runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

Transitional Living Program for Homeless Youth (TLP): The purpose of the Transitional Living Program for

Homeless Youth is to support projects which provide long term shelter, skill training and support services in local communities to homeless youth to assist them in making a smooth transition to self-sufficiency and to prevent long-term dependency on social services.

The Family and Youth Services Bureau also administers the Drug Abuse Prevention Program (DAPP) which provides drug prevention and education services to runaway and homeless youth. At this time, neither the U.S. House of Representatives nor the U.S. Senate have proposed funding for this grant program in FY 1996. In the event that funds become available, applications for the program will be solicited and a grant competition will be held during FY 1996.

The proposed priorities for FY 1996 are similar to those of recent years in that the Department proposes to award 90 percent or more of the funds appropriated under the BCP and approximately 90 percent of the funds appropriated under the TLP to grantees providing direct services to runaway and homeless youth.

The proposed priorities are further similar to those of earlier years in that the Department proposes to award continuation funding to the National Communications System and to fund a number of program support activities.

Grants awarded under FYSB's discretionary activities in FY 1996 are subject to the availability of funds.

Central to all FYSB's programs and activities is a priority for a comprehensive youth development approach. Over the past several decades, the Federal government has established many programs designed to alleviate discrete problems identified among American youth. Examples are programs for school dropout prevention, juvenile delinquency prevention, abuse and neglect prevention, adolescent pregnancy prevention, youth gang prevention, drug abuse prevention, and compensatory programs to improve the performance of minority and non-English-speaking youth in the public schools. Among these many programs are the BCP, the DAPP, and the TLP.

A shared feature of all these programs is their emphasis on undesirable behavior, with a number of negative consequences. Youth "problems" are commonly used to define and blame, even to punish, the youth. Further, the labeling of a youth as a drug abuser or a delinquent may lead to interventions too narrow to take into account the full array of causes leading to the abuse or delinquency, such as parental neglect, school failure, or poverty. Practicing youth workers are well aware that "single-problem" youth are rare, and that interventions from many different perspectives, and supports, including funding, from many different sources, are required to effectively help troubled youth.

The disjointed services that often follow from this Federal pattern of categorical funding to correct undesirable behavior (funding that targets a single problem behavior of the youth) may be avoided if interventions are viewed from a "developmental" perspective which views adolescence and youth as the passage from the almost total dependence of the child into the independence and self-sufficiency of the young adult. The various emotional, intellectual and physical changes, stages, and growth spurts of the passage may be considered as the youth's natural, healthy responses to the challenges and opportunities provided by functional families, peers, neighborhoods, schools and churches.

The tasks of youth services providers are seen, thus, not as correcting the "pathologies" of troubled youth, but rather as providing for the successive "needs" of maturing individuals: the psychological need to develop a clear self-identity; the sociological need to resolve disagreements through talking and negotiating not through flight or fighting; the economic need to prepare for and enter into a career; and the familial needs for sharing, for trusting, for giving love and receiving love, for commitment, and for all that establishing a family entails. This developmental approach is fundamental to all of FYSB programs and activities.

a. Basic Center Program Grants

Approximately 340 Basic Center grants, of which about one-third will be competitive new starts and two-thirds will be non-competitive continuations, will be funded in FY 1996.

Eligible applicants for the new starts are current grantees with project periods ending in FY 1996 and otherwise eligible applicants not holding current grants. The applications will be reviewed by State, and awards will be made during the last quarter of FY 1996 (July–September 1996).

Section 385(a)(2) of the Act requires that 90 percent of the funds appropriated under Part A (The Runaway and Homeless Youth Grant Program) be used to establish and strengthen runaway and homeless youth Basic Centers.

b. Transitional Living Program Grants

Part B, Section 321 of the Runaway and Homeless Youth Act, as amended, authorizes grants to establish and operate transitional living projects for homeless youth. This program is structured to help older, homeless youth achieve self-sufficiency and avoid long-term dependency on social services. Transitional living projects provide shelter, skills training, and support services to homeless youth ages 16 through 21 for a continuous period not exceeding 18 months. It is projected that all potential FY 1996 TLP funds will be awarded in the form of continuation grants during the first and second quarter. In consequence, no applications for new start Transitional Living Program grants were solicited in FY 1995 for the use of FY 1996 funds. However, applications will be solicited in FY 1996 for TLP grants to be awarded in the first quarter of FY 1997.

Eligible applicants for the new starts are current grantees with project periods ending in FY 1996 and otherwise eligible applicants not holding current grants. The applications will be reviewed in a national competition, and awards will be made during the last quarter of FY 1996 (July–September 1996).

c. National Communications System

Part C, Section 331 of the Runaway and Homeless Youth Act, as amended, mandates support for a National Communications System to assist runaway and homeless youth in communicating with their families and with service providers. In FY 1994, a five-year grant was awarded to the National Runaway Switchboard, Inc., in Chicago, Illinois, to operate the system. Non-competitive continuation funding will be awarded to the grantee in FY 1996.

d. Street Outreach for Runaway and Homeless Youth

The Domestic Violence/Violence Against Women Act of the 1994 Crime Bill provides for education and prevention grants to reduce the sexual abuse of runaway, homeless, and street youth. Should FY 1996 appropriations become available, they will be used to fund agencies for street-based outreach as well as education and referral for runaway, homeless, and street youth who have been or at risk of being sexually abused.

e. Support Services for Runaway and Homeless Youth Programs

(1) Training and Technical Assistance

Part D, Section 342 of the Act authorizes the Department to make grants to statewide and regional nonprofit organizations to provide training and technical assistance (T&TA) to organizations that are eligible to receive service grants under the Act. Eligible organizations include the Basic Centers authorized under Part A of the Act (The Runaway and Homeless Youth Grant Program) and the service grantees authorized under Part B of the Act (The Transitional Living Grant Program). Section 3511 of the Anti-Drug Abuse Act of 1988, which authorizes the Drug Abuse Prevention Program for Runaway and Homeless Youth (DAPP), also authorizes support for T&TA to runaway and homeless youth service providers. The purpose of this T&TA is to strengthen the programs and to enhance the knowledge and skills of youth service workers.

In FY 1994, the Family and Youth Services Bureau made ten Cooperative Agreement Awards, one in each of the ten Federal Regions, to provide T&TA to agencies funded to provide services to runaway and homeless youth. Each Cooperative Agreement is unique, being based on the characteristics and different T&TA needs in the respective Regions. Each has a five-year project period that will expire in FY 1999.

Non-competitive continuation funding will be awarded to the ten T&TA grantees in FY 1996.

(2) National Clearinghouse on Runaway and Homeless Youth

In June 1992, a five-year contract was awarded by the Department to establish and operate the National Clearinghouse on Runaway and Homeless Youth. The purpose of the Clearinghouse is to serve as a central information point for professionals and agencies involved in the development and implementation of services to runaway and homeless youth. To this end, the Clearinghouse:

- Collects, evaluates and maintains reports, materials and other products regarding service provision to runaway and homeless youth;
- Develops and disseminates reports and bibliographies useful to the field;
- Identifies areas in which new or additional reports, materials and products are needed; and
- Carries out other activities designed to provide the field with the information needed to improve services to runaway and homeless youth.

Non-competitive continuation funding will be awarded to sustain the Clearinghouse in FY 1996.

(3) Runaway and Homeless Youth Management Information System (RHYMIS)

In FY 1992, a contract was awarded to implement the Runaway and Homeless Youth Management Information System (RHYMIS) across three FYSB programs: the BCP, the TLP, and the DAPP. In FY 1993, using an existing computer-based, information gathering protocol, the contractor began providing training and technical assistance to these grantees in the use of the RHYMIS. The data generated by the system are used to produce reports and information regarding the programs, including information for the required reports to Congress on each of the three programs. The RHYMIS also serves as a management tool for FYSB and for the individual programs.

Non-competitive continuation funding for the RHYMIS will be an option in FY 1996.

(4) Monitoring Support for FYSB Programs

In FY 1992, FYSB began developing a comprehensive monitoring instrument and set of site visit protocols, including a peer-review component for the BCP, the TLP, and the DAPP. Pilot implementation of the instrument and related protocols began in FY 1993. Also in FY 1993 a new contract to provide logistical support for the peer review monitoring process was awarded, including nationwide distribution of the new materials. Use of the new instrument and peer review process during the first full year of operation has resulted in identification of a number of strengths and areas for improvement among individual grantees. These findings have been used by the Regional T&TA providers as a basis for their activities. In FY 1996 a new procurement for this activity will be awarded.

f. Research and Demonstration Initiatives

Section 315 of the Act authorizes the Department to make grants to States, localities, and private entities to carry out research, demonstration, and service projects designed to increase knowledge concerning and to improve services for runaway and homeless youth. These activities serve to identify emerging issues and to develop and test models which address such issues.

(1) Services for Youth in Rural Areas

Because of geographic distances, population density and, in some cases, cultural differences, it is difficult to provide effective services to runaway and homeless youth in rural areas. In many such areas, scarcity of funds and other resources precludes funding of separate, autonomous Basic Center programs. The need exists for innovative and effective models for the provision of runaway and homeless youth services in rural areas, including Indian reservations. The new models should make services accessible to youth without setting up inordinately expensive service agencies in low populated areas. In FY 1993, first-year funding was awarded to eight grants to develop such models. Non-competitive continuation funding was provided in FY 1994 and 1995. These programs will complete their efforts during FY 1996 and information on their activities and findings will be developed and distributed.

(2) Analysis, Synthesis, and Interpretation of New Information Concerning Runaway and Homeless Youth Programs

Over the past few years, considerable new knowledge and information has been developed concerning the runaway and homeless youth programs administered by FYSB, and concerning the youth and families served. The main sources of this new information are the Runaway and Homeless Youth Management Information System (RHYMIS), the results of RHY monitoring visits, and a number of evaluation studies underway or recently completed. The RHYMIS, monitoring reports, and the evaluation studies contain descriptions of FYSB's grantee agencies, along with detailed data on the youth and families served, such as demographic profiles, presenting problems, services provided, and service outcomes. There is need for analysis, synthesis, and interpretation of this new information that will be useful in development of RHY plans and policies for the Family and Youth Services Bureau.

A contract was awarded in FY 1995 to analyze and synthesize valuable data and to explore program and policy implications. The study will be developed within a context of the most significant, current comprehensive theories of youth development.

(3) Youth Development Framework

In FY 1995 a contract was awarded to develop a youth development framework from a theoretical perspective. This framework will be designed to enhance the capacity of policy and program developers, program managers, and youth services professionals to develop service models and approaches that will redirect youth in high risk situations toward positive pathways of development.

(4) Consolidated Youth Services Demonstration Grants

The Family and Youth Services Bureau now administers three programs targeting runaway and homeless youth:

the BCP, the TLP, and the Drug Abuse Prevention Program (DAPP). Each program was established independently by the Congress to address a specific need or problem related to runaway and homeless youth. Funds for each program are appropriated annually by the Congress and are awarded to individual grantees across the country following submission and review of separate applications. In practice, there is considerable overlap among the populations and problems as well as considerable overlap among the grantee-administrators of the local projects; some grantees administer two of the three programs (BCP and DAPP, for example) and a few administer all three programs.

The overlap among targeted youth populations and youth services grantees suggests that program efficiency and coordination might be improved by consolidating the three programs into one, setting up comprehensive youth services programs designed to address the broad range of needs of at-risk runaway and homeless youth populations. An obvious immediate benefit would be that applicants wishing to provide services in all three areas would have to submit only one application instead of the three now required.

To this end and subject to the availability of funds, ACYF may consider funding in FY 1996 four to six "Consolidated Youth Services Demonstration Grants," each for a four-year project period and each at a funding level of $325,000 to $400,000 per year. Applicants would be invited to design and, if successful in the competition, to implement youth service models combining features of the BCP, the DAPP, and the TLP. Successful applicants would, in fact, be required to provide in their respective geographic areas the complete array of services mandated for the three programs and to coordinate these services through a single administration. In consequence, it would be appropriate to fund these demonstration grants from the regular runaway and homeless youth appropriations from the Congress. Each grantee would document the advantages and disadvantages of the consolidated approach and would participate in a comprehensive evaluation of the projects.

g. Priorities for Administrative Changes

A number of management or administrative changes will be implemented in the near future in order to effectuate a more streamlined process for soliciting applications, awarding grants and maintaining reasonable funding levels for grantee program operations. Those changes include the following:

- The Regional Offices have and will continue to play a significant role in the assessment of grant applications. This role includes Regional staff involvement (1) as chairpersons for peer review panels and (2) in conduct of administrative reviews of new start applications that take into account knowledge about the applicant's experience, effectiveness, and potential and of the geographic distribution of the grantees in their respective States and Regions. Final funding decisions will remain the responsibility of the Commissioner of the Administration on Children, Youth and Families.
- The Administration on Children and Families (ACF) will again change the deadline for receipt of a Runaway and Homeless Youth grant application from the postal date of the application to the actual receipt date of the application by ACF. Applicants should carefully examine receipt dates in this announcement to assure that they meet deadlines in the manner prescribed.
- Efforts will be continued to avoid the problems of gaps in financial support between the expiration of one grant and the beginning of a new grant for current grantees that are successful in competition.
- Where possible, FYSB will attempt to increase minimum grant funding levels to amounts sufficient to support the required youth services. However, no minimum levels will be established at this time and the recommendations of Regional staff will be considered in this matter. We suggest that all applicants examine carefully the program announcements to ensure that they request sufficient funds.

The closing time and date for receipt of comments is 4:30 p.m. (Eastern Time Zone) on April 15, 1996. Applications received after 4:30 p.m. (Eastern Time Zone) will be classified as late. Please address comments to: Olivia A. Golden, Commissioner, Administration on Children, Youth and Families. Attention: Family and Youth Services Bureau, P.O. Box 1182, Washington, D.C. 20013.

(Catalog of Federal Domestic Assistance Number 93.623, Runaway and Homeless Youth Program; and Number 93.550, Transitional Living Program for Homeless Youth)

Dated: February 6, 1996.

Olivia A. Golden,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 96–3299 Filed 2–13–96; 8:45 am]

BILLING CODE 4184–01–P

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: December 1995 and January 1996

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services for the months of December, 1995 and January, 1996. It includes both those proposals being considered under the standard waiver process and those being considered under the 30 day process. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since December 1, 1995. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

Comments: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove new proposals under the standard application process for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State contact listed for that project.

Comments on a proposal or requests for copies of a proposal should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade, SW., Aerospace Building, 7th Floor West, Washington DC 20447. Fax: (202) 205–3598 Phone: (202) 401–9220.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the

Federal Register (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

On August 16, 1995, the Secretary published a notice in the **Federal Register** (60 FR 42574) exercising her discretion to request proposals testing welfare reform strategies in five areas. Since such projects can only incorporate provisions included in that announcement, they are not subject to the Federal notice procedures. The Secretary proposed a 30 day approval process for those provisions. As previously noted, this notice lists all new or pending welfare reform demonstration proposals under section 1115. Where possible, we have identified the proposals being considered under the 30 day process. However, the Secretary reserves the right to exercise her discretion to consider any proposal under the 30 day process if it meets the criteria in the five specified areas and the State requests it or concurs.

II. Listing of New and Pending Proposals for the Months of December, 1995 and January, 1996

As part of our procedures, we are publishing a monthly notice in the **Federal Register** of all new and pending proposals. This notice contains proposals for the months of December, 1995 and January, 1996.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend Work Pays Demonstration Project by adding provisions to: reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.

Date Received: 3/14/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Glen Brooks, (916) 657–3291.

Project Title: California—Assistance Payments Demonstration Project (Amendment).

Description: Would amend the Assistance Payments Demonstration Project by: exempting certain categories of AFDC families from the State's benefit cuts; paying the exempt cases based on grant levels in effect in California on November 1, 1992; and renewing the waiver of the Medicaid maintenance of effort provision at section 1902(c)(1) of the Social Security Act, which was vacated by the Ninth Circuit Court of Appeals in its decision in *Beno* v. *Shalala.*

Date Received: 8/26/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.

Date Received: 11/9/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: Florida—Family Responsibility Act.

Description: Statewide, would require dependent children and caretaker relatives under age 18 to remain in school; pay half the AFDC benefit increment for the first child conceived by an AFDC recipient and provide no cash benefits for a second or subsequent child; exclude from the AFDC budget child support payments for children subject to the family cap; require AFDC recipients not participating in JOBS or actively seeking employment to engage in 20 hours per week of community employment or work experience.

Date Received: 10/4/95.

Type: Combined AFDC/Medicaid.

Current Status: New.

Contact Person: Sallie P. Linton, (904) 921–5572.

Project Title: Georgia—Jobs First Project.

Description: In ten pilot counties, would replace AFDC payment with paid employment; extend transitional Medicaid to 24 months; eliminate 100 hour employment rule for eligibility determination in AFDC–UP cases.

Date Received: 7/5/94.

Type: AFDC.

Current Status: Pending (not previously published).

Contact Person: Nancy Meszaros, (404) 657–3608.

Project Title: Hawaii—Families Are Better Together.

Description: Statewide, would eliminate 100-hour, attachment to the work force, 30 day unemployment and principal wage earner criteria for AFDC–UP families.

Date Received: 5/22/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia Murakami, (808) 586–5230.

Project Title: Illinois—Six Month Paternity Establishment Demonstration.

Description: In 20 counties, would require the establishment of paternity, unless good cause exists, within 6 months of application or redetermination as a condition of AFDC and Medicaid eligibility for both mother and child; would deny Medicaid to children age 7 and under, exclude children from filing rules, and exempt Department from making protective payments to eligible children, when custodial parent has not cooperated in establishing paternity; delegate the establishment of paternity in uncontested cases to caseworkers who perform assistance payment or social service functions under title IV–A or XX.

Date Received: 7/18/95.

TITLE: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Karan D. Maxson, (217) 785–3300.

Project Title: Indiana—Impacting Families Welfare Reform Demonstration—Amendments.

Description: Statewide, proposes expansions and amendments to current demonstration to impose a lifetime 24-month limit on cash assistance and categorical Medicaid eligibility (12 months for resident alien); allow 1 month AFDC credit (to a maximum of 24 at any one time) for each 6 consecutive months full-time employment; count each month of AFDC receipt from another state within the previous 3 years as 1 month against the lifetime limit; restrict permissible "specified relatives" for AFDC children and minor parents; extend AFDC, Medicaid, and food stamp fraud disqualification penalties; establish 3 unexcused absences per year as the statewide definition of unacceptable school attendance; provide a voucher equal to 50% of assistance amount for family cap child for goods and services related to child care; divert AFDC grants to subsidize child care costs; establish an option for an employed AFDC recipient to receive guaranteed child care or an AFDC payment equal to the family's benefit before employment; require a child's mother to establish paternity as a condition of eligibility for

the child and the caretaker; establish additional conditions of eligibility for AFDC; impose penalties for illegal drug use; base CWEP hours on the combined value of AFDC and Medicaid assistance; make JOBS volunteers subject to the same sanctions as mandatory participants; continue eligibility for AFDC recipients until countable income reaches 100% of the federal poverty guidelines; expand voluntary quit definition and penalties; impose income limits on transitional Medicaid and child care and limit each to 12 months in a person's lifetime; with some exceptions, deny Medicaid under all coverage provisions to those determined ineligible as a result of AFDC welfare reform provisions; restrict Medicaid payments made to employees with employer's health care benefits to the lesser of the employee's insurance premium or the amount the state would otherwise pay; and require minor parents to live with a legally responsible adult and count the income and resources of non-parent adults.

Date Received: 12/14/95.
Type: Combined AFDC/Medicaid.
Current Status: New.
Contact Person: James H. Hmurovich, (317) 232–4704.

Project Title: Kansas—Actively Creating Tomorrow for Families Demonstration.

Description: Would, after 30 months of participation in JOBS, make adults ineligible for AFDC for 3 years; replace $30 and ⅓ income disregard with continuous 40% disregard; disregard lump sum income and income and resources of children in school; count income and resources of family members who receive SSI; exempt one vehicle without regard for equity value if used to produce income; allow only half AFDC benefit increase for births of a second child to families where the parent is not working and eliminate increase for the birth of any child if families already have at least two children; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; extend Medicaid transitional benefits to 24 months; eliminate various JOBS requirements, including those related to target groups, participation rate of UP cases and the 20-hour work requirement limit for parents with children under 6; require school attendance; require minors in AFDC and NPA Food Stamps cases to live with a guardian; make work requirements and penalties in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities.

Date Received: 7/26/94.
Type: Combined AFDC/Medicaid.
Current Status: Pending.
Contact Person: Faith Spencer, (913) 296–0775.

Project Title: Louisiana—Individual Responsibility Project.

Description: Statewide, would limit AFDC benefits to 24 months out of a 60 month period for able-bodied recipients with extensions where the individual has been actively seeking employment, where job availability is unfavorable, where the individual loses a job for factors unrelated to his job performance, or where the individual requires up to one year to complete employment related education or training; require each child to attend school and be immunized or the child will be removed from the budget group; and applies a full family sanction where the parent has declined or refused an opportunity for full-time employment, without good cause.

Date Received: 9/22/95.
Type: AFDC.
Current Status: Pending.
Contact Person: Sammy Guillory, (504) 342–4089.

Project Title: Maine—Welfare to Work Program.

Description: Statewide, would require caretaker relatives to sign a family contract; require participation in parenting classes and health care services; provide one-time vendor payments in lieu of AFDC for the purpose of obtaining/retaining employment; provide voucher payments to both married and unmarried minor parents; limit JOBS exemptions; expand eligibility for Transitional Medicaid and Child Care and replace sliding-scale fees with flat-rate fees; reduce Transitional Medicaid reporting requirements; disregard entire value of one vehicle; and apply any federal savings to the JOBS program services. In selected sites, implement ASPIRE-Plus, a subsidized employment program, would cash out food stamps, divert AFDC benefits and pass through all child support collected to families who participate in ASPIRE-Plus.

Date Received: 9/20/95.
Type: AFDC/Medicaid.
Current Status: Pending.
Contact Person: Susan Dustin, (207) 287–3104.

Project Title: Mississippi—A New Direction Demonstration Program—Amendment.

Description: Requests amendments to the Work First Component (operating in Adams, Harrison, Hinds, Jones, Lee and Washington counties) of the Mississippi New Direction Demonstration Project which would: provide transitional Medicaid and child care to AFDC families even if they have not received AFDC for at least three months; and permit JOBS sanctions to be imposed for exempt clients that volunteer for JOBS and then drop out without good cause.

Date Received: 11/20/95.
Type: Combined AFDC/Medicaid.
Current Status: Pending.
Contact Person: Larry Temple, (601) 359–4476.

Project Title: New Hampshire—Earned Income Disregard Demonstration Project.

Description: AFDC applicants and recipients would have the first $200 plus ½ the remaining earned income disregarded.

Date Received: 9/20/93.
Type: AFDC.
Current Status: Pending.
Contact Person: Avis L. Crane, (603) 271–4255.

Project Title: New Hampshire—New Hampshire Employment Program and Family Assistance Program.

Description: Statewide, would replace AFDC with Employment Program administered by both Employment Security Agency and Family Assistance Program; require job search and other employment-related activities for first 26 weeks of receipt followed by work-related activities for 26 weeks; eliminate JOBS target group funding requirement and change JOBS reporting requirements; require recipients attending post-secondary or part-time vocational training to participate in work-related activities; eliminate JOBS services priority for volunteers; establish limits for provision of transportation and other JOBS services based on activity and local conditions; eliminate remoteness as exemption from JOBS; require non-custodial parents to participate in JOBS; increase earned income disregard to 50%; eliminate AFDC-UP eligibility requirements; allow transitional case management for up to one year; raise resource limit to $2,000 and exclude one vehicle and life insurance policies; pass through child support directly to family; take SSI income into account in determining eligibility/payment; eliminate conciliation and apply JOBS sanction of 50% of AFDC benefits for three months followed by no payment for three months, allowing option to increase initial sanction up to 100%; exempt pregnant women from JOBS only during third trimester; for minor parents cases, include in assistance unit any parent or sibling living in the home; eliminate gross income test; disregard educational grants; allow emergency assistance for

families with employment-related barriers; allow State to eliminate the certificate option for child care and development block grant funds and use of these funds for capital improvement; eliminate ceiling on At Risk Child Care funds; provide that FFP for AFDC not be reduced during life of demonstration; fund computer system modifications at 80% FFP; require pregnant recipients to cooperate with child support; require that AFDC apply for Medicaid as a unit and not individually; eliminate requirement of receipt of AFDC for 3 of last 6 months in order to receive transitional Medicaid; and allow State to require that some individuals be assigned to a managed care program; substitute outcome measures for JOBS participation rates; change participation requirements for parents with children under 6, UP recipients and minors; establish a medical deduction; increase the sanction for non-cooperation with child support; exempt individuals with significant employment barriers from JOBS; treat lump sum income and all real property, except a home, as a resource; and use 20% of gross earned income as a Medicaid disregard. Also contains various Food Stamp waivers.

Date Received: 9/18/95.
Type: AFDC.
Current Status: Pending.
Contact Person: Marianne Broshek, (603) 271–4442.

Project Title: New Hampshire—New Hampshire Employment Program.

Description: In three pilot sites, would require work after 6 months of AFDC receipt; eliminate the exemption from JOBS for women in the second trimester of pregnancy; eliminate the JOBS exemption for caretaker of a child under 3 but not less than 1 year of age; replace the earned income disregard of $90 and $30 and ⅓ with a 50% disregard which is not time-limited; raise the resource limit for recipients to $2,000; disregard full value of one vehicle per adult for applicants and recipients; apply a full family sanction voluntarily quitting a job or refusing to accept a job; apply a sanction of reducing the payment standard by 30% for one month for failure to comply with JOBS in the first instance, by 60% in the second instance for one month, and in the third instance apply a full-family sanction for three months or until compliance; and require non-custodial parents to participate in JOBS.

Date Received: 10/6/95.
Type: AFDC.
Current Status: Pending.
Contact Person: Marianne Broshek, (603) 271–4442.

Project Title: North Carolina—Work First Program.

Description: Statewide would eliminate increase in AFDC benefits resulting from a birth of a child, limit JOBS exemptions, require a self-sufficiency contract, and limit AFDC receipt to 24 cumulative months. Families who reach the time limit could not reapply for 3 years. The contract would require: cooperation with child support; child immunizations and medical check-ups; school attendance; and that teen parents live with a parent/adult and graduate from high school. Failure to sign the contract would result in denial of the AFDC application. Failure to comply would result in the loss of the adult's AFDC benefits and (starting with the second sanction) Medicaid coverage for a minimum of: 3 months for the first sanction, 3 months for the second, 6 months for the third, and 3 years for the fourth. The State would offer new applicants a one-time payment in lieu of AFDC; expand AFDC–UP eligibility; raise the resource limit to $3,000 and the vehicle asset limit to $5,000 for AFDC and Food Stamps; and provide for automatic food stamps eligibility for AFDC-eligible families.

Date Received: 9/20/95.
Type: AFDC/Medicaid.
Current Status: Pending.
Contact Person: Kevin Fitzgerald, (919) 733–3055.

Project Title: North Carolina—Cabarrus County Work Over Welfare Demonstration Project.

Description: In Cabarrus County, would require AFDC and Food Stamps applicants and recipients, with exemptions, to sign an agreement to participate in employment and training for up to 40 hours per week; would divert AFDC and Food Stamps benefits to private employers to supplement wages; and would disregard those wages for AFDC, Food Stamps, and Medicaid eligibility (for NPA participants). Also, would extend the $30 and ⅓ disregard to 2 years for unsubsidized earnings. Individuals who do not comply would be denied AFDC, Food Stamps, and Medicaid (unless pregnant) according to the following schedule: first, until compliance; second: for a minimum of 4 months; and third and subsequently: for a minimum of 8 months. Adults who do not sign an agreement would be denied AFDC, Food Stamps, and Medicaid (unless pregnant) until they sign.

Date Received: 10/5/95.
Type: AFDC/Medicaid.
Current Status: Pending.
Contact Person: Kevin Fitzgerald, (919) 733–3055.

Project Title: Ohio—Ohio First.

Description: Statewide, would replace current earned income disregards with $250 and ½ for twelve months for recipients; eliminate the work history requirement for married parents in AFDC–UP cases; eliminate 100-hour rule for AFDC–UP; disregard of stepparent income for four months; increase the vehicle asset limit; use established vacancies for subsidized employment slots; require applicant job search as a condition of family eligibility; maintain food stamp benefit levels when the AFDC benefit is reduced as a result of sanction; impose progressive sanctions for noncompliance with JOBS leading to whole family sanctions; establish that failure to comply with JOBS equates to failure to comply with work program requirements under the Food Stamp Program; limit AFDC eligibility to 36 months out of any 60 month period, unless exempt; allow the IV–D agency to determine good cause for noncooperation with Child Support Enforcement; change penalty for failure to cooperate with Child Support provisions to include a whole family sanction if the failure continues for two years; change penalty for fraud to include ineligibility for all assistance unit members until payments received fraudulently have been repaid; require development and signing of a self-sufficiency contract as a condition of eligibility for the assistance unit; require pregnant women receiving Medicaid to participate in substance abuse screening as part of prenatal care; implement sanctions for failure to cooperate with substance abuse screening leading to whole family sanctions.

Date Received: 10/27/95.
Type: AFDC/Medicaid.
Current Status: Pending.
Contact Person: Joel Rabb, (614) 466–3196.

Project Title: Oklahoma—Welfare Self-Sufficiency Initiative.

Description: In four pilots conducted in five counties each, would (1) extend transitional child care to up to 24 months; (2) require that all children through age 18 be immunized and require that responsible adults with preschool age children participate in parent education or enroll the children in Head Start or other preschool program; (3) not increase AFDC benefits after birth of additional children, but provide voucher payment for the increment of cash benefits that would have been received until the child is two years old; and (4) pay lesser of AFDC benefit or previous state of residence or Oklahoma's for 12 months for new residents.

Date Received: 10/27/95.
Type: AFDC.
Current Status: Pending.
Contact Person: Raymond Haddock, (405) 521–3076.

Project Title: Oregon—Oregon Option.
Description: As a statewide project, would incorporate waivers already approved in 1992 for JOBS Welfare Program and in 1994 for the JOBS Plus Demonstration with previously pending waiver requests to increase vehicle asset limit and extend transitional child care. Requests guaranteed level of federal funding, with funds not used for benefits to be used for other community support or prevention programs. Also would, with some exceptions, limit receipt of AFDC benefits to no more than 24 out of 84 months for families with employable parents; allow case manager to determine JOBS exemptions on an individual basis; eliminate the time restrictions on job search; impose progressive sanctions, leading to full-family ineligibility, for non-compliance with JOBS; require ineligible alien parents of AFDC children to participate in JOBS; require counseling for recipients with substance abuse problems; require teen parents to live in an adult-supervised setting; discontinue the AFDC–UP program from June through September each year and eliminate the 100-hour rule and work history requirements; increase asset limit to $2,500 for non-JOBS participants and $10,000 for JOBS participants, and treat lump-sum payments as an asset; require annual AFDC eligibility redeterminations; modify the rules for potential liability under Electronic Benefit Transfer.
Date Received: 7/10/95.
Type: AFDC/Medicaid.
Current Status: Pending.
Contact Person: Jim Neely, (503) 945–5607.

Project Title: Oregon—Expansion of the Transitional Child Care Program.
Description: Provide transitional child care benefits without regard to months of prior receipt of AFDC and provide benefits for 24 months.
Date Received: 8/8/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Jim Neely, (503) 945–5607.

Project Title: Oregon—Increased AFDC Motor Vehicle Limit.
Description: Would increase automobile asset limit to $9000.
Date Received: 11/12/93.
Type: AFDC.
Current Status: Pending.
Contact Person: Jim Neely, (503) 945–5607.

Project Title: Pennsylvania—School Attendance Improvement Program.
Description: In 7 sites, would require school attendance as condition of eligibility..
Date Received: 9/12/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: Pennsylvania—Savings for Education Program.
Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts..
Date Received: 12/29/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: South Carolina—Family Independence Program.
Description: Statewide, would, with exceptions, time limit AFDC benefits to families with able bodied adults to 24 months out of 120 months, not to exceed 60 months in a lifetime; eliminate increase in AFDC benefit resulting from birth of children 10 or more months after the family begins AFDC receipt, but provide benefits to such children in the form of vouchers for goods and services permitting child's mother to participate in education, training, and employment-related activities; eliminate deprivation requirements, principal earner provisions, work history requirements, and 100-hour rule for AFDC-UP; increase AFDC resource limit to $2,500 and disregard as resources one vehicle with a market value up to $10,000, the balance in an Individual Development Account (IDA) up to $10,000, and the cash value of life insurance; disregard from income up to $10,000 in lump sum payments deposited in an IDA within 30 days of receipt, earned income of children attending school, and interest and dividend income up to $400; require participation in a family skills training program; require certain AFDC recipients to submit to random drug tests and/or participate in alcohol or drug treatment; require children to attend school; increase amount of child support passed through to AFDC recipients; require more extensive information for child support enforcement purposes; modify JOBS exemptions and good cause criteria, and increase sanctions for non-compliance; make job search a condition of eligibility; allow non-custodial parents of AFDC children to participate in JOBS; pay transitional grant equaling 3 percent of the maximum family grant following employment; and provide transitional grant Medicaid and child care for 12 months from the date of employment for cases previously closed due to time limit.
Date Received: 6/12/95.
Type: AFDC.
Current Status: Pending.
Contact Person: Linda Martin (804) 737–6010.

Project Title: Texas—Achieving Change for Texans.
Description: Statewide, would implement requirement for a personal responsibility agreement which addresses issues such as child support cooperation, early medical screening for children, work requirements, drug and alcohol abuse, school attendance, and parenting skills training; would limit the caretaker exemption from employment services, disregard the earned income and resources from earnings of a child, set resource limits which promote independence from AFDC, eliminate work history and 100-hour rules for otherwise eligible two-parent families. In Bexar County would time-limit AFDC benefits to 12, 24, and 36 months depending on education and job experience, with extensions of the time-limit based on severe personal hardship, or in cases where the State could not provide supportive services, or the where the local economy was in such state that the recipient could not reasonably be expected to find employment, if State funds are available to continue assistance. Transitional Medicaid and child care services would be provided to individuals who exhaust their time-limited cash benefits. In two metropolitan statistical areas establish Individual Development Accounts to promote the transition to independence from AFDC, through allowable account deductions for education, business start-up costs and the like. In Fort Bend County would allow at recipient option, one-time AFDC cash emergency assistance payments of $1,000 in lieu of ongoing regular AFDC payments with prohibition from applying for regular AFDC for a period of 12 months from date of receipt. In Dallas-Fort Worth would require electronic imaging (fingerprinting combined with photographic identification).
Date Received: 10/6/95.
TItle: AFDC/Medicaid.
Current Status: Pending.
Contact Person: Kent Gummerman, (512) 438–3743.

Project Title: Utah—Untitled.
Description: Statewide, would exclude the value of a vehicle for AFDC recipient families, including those also receiving Food Stamps. Would not apply to initial eligibility determination.
Date Received: 10/3/95.
Type: AFDC.
Current Status: Pending.
Contact Person: Bill Biggs, (801) 538–4337.

III. Listing of Approved Proposals Since December 1, 1995

Project Title: California—School Attendance Demonstration Project.
Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: Connecticut—Reach for Jobs First (a modification of previously approved Fair Chance Demonstration).
Contact Person: Nancy Wiggett, (203) 424–5329.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562; Assistance Payments—Research)

Dated: February 7, 1996.

Karl Koerper,

Director, Division of Economic Independence, Office of Planning, Research and Evaluation.

[FR Doc. 96–3300 Filed 2–13–96; 8:45 am]

BILLING CODE 4184–01–P

Centers for Disease Control and Prevention

CDC WONDER Information Systems

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of three CDC WONDER information systems, effective February 15, 1996. This notice is in compliance with OMB Circular A–130 Transmittal 2, Management of Federal Information Resources to provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products.

EFFECTIVE DATE: February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Dianne Wylie, Assistant Chief, Public Health Information Systems Branch, Information Resources Management Office, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop F–51, Atlanta, Georgia 30341–3724, telephone (770) 488–7510.

SUPPLEMENTARY INFORMATION: (1) "CDC WONDER for the PC" is a microcomputer-based information and communications system that provides menu-driven access to more than 25 public health databases, including data on mortality, morbidity, hospitalizations, and documents on CDC health policies. A microcomputer and modem are required. Software and manuals may be ordered from USD, 2075 A West Park Place, Stone Mountain, Georgia 30087, telephone (770) 469–4098, fax (770) 469–0681. To order product literature and registration forms telephone (770) 469–0503. The full package WONDER User ID, software, and manual costs $50.00 (product number: USDCDCWS); documentation only is $25.00 (product number: USDCDCMO); a user account (ID and Password) only is $23.00 (product number: USDCDCUA); diskettes only are $10.00 (product number: USDCDCDO). The training video "Cafe WONDER" costs $19.95 (product number: USDCDCV).

Employees of State and local health departments may obtain User ID's only free of charge. State/local health department employees should mail a completed CDC WONDER user registration form along with a letter on official health department stationery to CDC WONDER User Support, 4770 Buford Highway, Mailstop F–51, Atlanta, Georgia 30341. The letter should state that, as an employee of the health department, individuals are requesting that CDC provide a CDC WONDER User ID at no charge. Note: (1) faxed letters cannot be accepted; and (2) no software will accompany these User IDs. Health department staff who receive a User ID in this way will need to acquire a copy of the WONDER software and documentation from a colleague, or by purchasing them from USD.

(2) "CDC WONDER on the Web" is an Internet information system that provides menu-driven access to more than 25 public health databases, including data on mortality, morbidity, hospitalizations, and documents on CDC health policies. It may be accessed at http://wonder.cdc.gov. A Web browser and access to the Internet is required. There are no user fees.

(3) "The CDC Prevention Guidelines on CD–ROM" is a compact disk that provides rapid access to one of the databases in CDC WONDER on the Web. This database contains more than 400 documents containing authoritative recommendations from CDC on a wide variety of public health topics. The documents range in length from a few pages to several hundred. The CD may be ordered for $49.95 from USD, 2075 A West Park Place, Stone Mountain, Georgia 30087, telephone (770) 469–4098; fax (770) 469–0681.

Dated: February 8, 1996.

Joseph R. Carter,

Acting Associate Director for Management and Operations Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–3260 Filed 2–13–96; 8:45 am]

BILLING CODE 4163–18–P

Clinical Laboratory Improvement Advisory Committee (CLIAC), Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Clinical Laboratory Improvement Advisory Committee.
Times and Dates: 2–5 p.m., March 5, 1996; 8 a.m.–4:30 p.m., March 6, 1996.
Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.
Status: Open to the public, limited only by the space available.
Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.
Matters To Be Discussed: The agenda will include an orientation for new members regarding the roles and responsibilities of an advisory committee member; a CDC update on the status of the publication of proposed rules for cytology, Accurate and Precise Technology, and waiver; a Health Care Financing Administration update on implementation of the Clinical Laboratory Improvement Amendments; a Federal Drug Administration update; and presentations on the use of automated cytology instruments.

Demonstrations will be provided of computer-based cytology proficiency testing (PT) developed in cooperative agreement with CDC. A major impediment in making cytology PT available on a national basis has been and continues to be the difficulty in obtaining a sufficient number of properly referenced glass slides. Computer-based programs offer the advantage of providing for the accumulation and assembly of sufficient numbers of well-documented, referenced cytology preparations that can be used for testing individuals in a consistent and uniform manner. In December 1993, the CLIAC recommended that studies be conducted to evaluate the effectiveness of

both glass slide PT programs and programs employing alternative media, including computer-based PT programs.

CLIAC solicits oral and written testimony on the use of computer-based cytology PT programs. Requests to make an oral presentation should be submitted in writing to the contact person listed below by close of business, March 1, 1996. Written comments should not exceed five single-spaced, typed pages in length and should be received by the contact person listed below by close of business, February 29, 1996.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: John C. Ridderhof, Dr. P.H., Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE., Mailstop G–25, Atlanta, Georgia 30341–3724, telephone (770) 488–7660, Fax (770) 488–7663.

Dated: February 8, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 96–3244 Filed 2–13–96; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 91N–0428]

Briefing Document for Biological Response Modifiers Advisory Committee; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled "Addendum to the Points to Consider on Human Somatic Cell and Gene Therapy (1991)." This draft addendum is being made available as briefing material for the February 1996 Biological Response Modifiers Advisory Committee meeting. This action is being taken to ensure that all interested parties are aware of the information in the document that will be the subject of the committee's discussion.

DATES: Written comments by March 28, 1996.

ADDRESSES: Submit written requests for single copies of the draft Points to Consider (PTC) addendum to the Division of Congressional and Public Affairs (HFM–11), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The document may also be obtained by mail, or FAX by calling the CBER Voice Information System at 1–800–835–4709.

Persons with access to the INTERNET may obtain the document in several ways. Users of "Web Browser" software, such as Mosaic, Netscape, or Microsoft Internet Explorer may obtain this document via the World Wide Web by using the following Uniform Resource Locators:

http://www.fda.gov/cber/cberftp.html
ftp://ftp.fda.gov/CBER/

The document may also be obtained via File Transfer Protocol (FTP). Requesters should connect to FDA's FTP Server, FTP.FDA.GOV (192.73.61.21). CBER documents are maintained in a subdirectory called "CBER" on the server. Logins with the user name of anonymous are permitted, and the user's e-mail address should be sent as the password. The "READ.ME" file in that subdirectory describes the available documents which may be available as an ASCII text file (*.TXT), or a WordPerfect 5.1 or 6.x document (*.w51,wp6), or both. Finally, the document can be obtained by "bounce-back e-mail". A message should be sent to: "GTSA@A1.CBER.FDA.GOV".

Submit written comments on the draft PTC addendum to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft PTC addendum and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Suzanne L. Epstein, Center for Biologics Evaluation and Research (HFM–521), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0450.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of briefing material being supplied to the advisory committee as background information for the meeting. The draft PTC addendum is being made available as briefing material prior to the advisory committee meeting to ensure that all interested parties have an opportunity to obtain and review the material in advance of the meeting. A notice announcing the February 1996 Biological Response Modifiers Advisory Committee meeting and agenda was published in the **Federal Register** of January 31, 1996 (61 FR 3427 at 3428).

In the **Federal Register** of November 29, 1991 (56 FR 61022), FDA announced the availability of a draft PTC document entitled "Points To Consider in Human Somatic Cell Therapy and Gene Therapy." At that time, most gene therapy proposals involved ex vivo use of retroviral vectors to transduce cultured cells, which were then administered to patients. Since that time, the range of proposals has expanded to include additional classes of vectors and also the in vivo use of vectors (direct vector administration to patients). Accordingly, FDA has drafted an addendum to the 1991 PTC in Human Somatic Cell and Gene Therapy that includes current information regarding the production, testing, and administration of recombinant vectors for gene therapy. Prior to making a draft PTC addendum available for industry use, FDA is presenting the issues discussed in the document at the next advisory committee meeting.

As with other PTC documents, FDA does not intend the draft PTC addendum to be all-inclusive and cautions that not all information may be applicable to all situations. The draft PTC addendum is intended to provide information and does not set forth requirements. FDA anticipates that manufacturers and other interested parties may develop alternative methods and procedures, and discuss them with FDA. FDA recognizes that advances will continue in the area of somatic cell and gene therapy, and FDA intends to update and revise the document in order to improve its usefulness. The draft PTC addendum does not bind FDA and does not create or confer any rights, privileges, or benefits on or for any person, but is intended merely for guidance.

Comments received from the meeting and comments submitted to the Dockets Management Branch will be considered in determining whether revision of the draft PTC addendum is warranted. At a later date after the meeting, a **Federal Register** notice will be published to announce the availability of the PTC addendum for industry use. The PTC addendum will provide CBER's current thinking regarding issues related to gene therapy.

The briefing document and received comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 8, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–3322 Filed 2–9–96; 3:00 pm]

BILLING CODE 4160–01–F

[Docket No. 96G–0035]

Solvay Enzymes, Inc.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Solvay Enzymes, Inc., has filed a petition (GRASP 6G0420) proposing to affirm that the use of dextranase enzyme preparation derived from *Chaetomium gracile* is generally recognized as safe (GRAS) in cane and beet sugar processing.

DATES: Written comments by April 29, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409(b)(5) (21 U.S.C. 321(s) and 348(b)(5)) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Solvay Enzymes, Inc., c/o 1001 G St. NW, suite 500 West, Washington, DC 20001, has filed a petition (GRASP 6G0420) proposing that dextranase enzyme preparation derived from *Chaetomium gracile* be affirmed as GRAS for use in cane and beet sugar processing.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 (21 CFR 170.30) and 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before April 29, 1996, review the petition and file comments with the Dockets Management Branch (address above). Two copies of any comments should be filed and should be identified with the docket number found in brackets in the heading of this document. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 29, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–3324 Filed 2–13–96; 8:45 am]

BILLING CODE 4160–01–F

Agency for Toxic Substances and Disease Registry

[ATSDR–104]

Quarterly Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice is a quarterly announcement which contains the following: A list of sites for which ATSDR has completed public health assessments, or issued an addendum to a previously completed public health assessment, during the period July–September 1995. This list includes sites that are on, or proposed for inclusion on, the National Priorities List (NPL), and non-NPL sites for which ATSDR has prepared a public health assessment, and a site for which an assessment was prepared in response to a request from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments and public health assessments with addenda was published in the **Federal Register** on October 30, 1995 [60 FR 55271]. The quarterly announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR Part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604(i)].

Availability

The completed public health assessments are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 487–4650. A charge is applied by NTIS for these public health assessments. The NTIS order numbers are listed in parentheses following the site name.

Public Health Assessments or Addendum Completed or Issued

Between July 1, 1995, and September 30, 1995, public health assessments were issued for the sites listed below:

NPL Sites

Connecticut

Linemaster Switch Corporation—Woodstock—(PB95–270468)

Illinois

Acme Solvent Reclaiming Incorporated—Winnebago—(PB95–261293)

Belvidere Municipal Landfill #1—Belvidere—(PB95–260790)

Ilada Energy Company—East Cape Girardeau—(PB95–260782)
Pagel's Pit—Rockford—(PB95–261202)
Tri-County Landfill Waste Management of Illinois—South Elgin—(PB95–263372)

Massachusetts

Blackburn and Union Privileges—Walpole—(PB96–100870)
Silresim Chemical Corporation—Lowell—(PB95–263182)

Michigan

American Anodco Incorporated—Ionia—(PB95–267571)
Ionia City Landfill—Ionia—(PB95–267647)
Ossineke Groundwater Contamination—Ossineke—(PB95–270641)
Packaging Corporation of America—Filer City—(PB95–271508)

New Jersey

JIS Landfill—South Brunswick—(PB95–263364)
Montclair/West Orange Radium Site—Montclair/West Orange—(PB95–256327)

New York

Onondaga Lake—Syracuse—(PB95–249736)

Ohio

Chem-Dyme Corporation—Hamilton—(PB95–270583)

Oregon

East Multnomah County Groundwater Contamination—Gresham—(PB95–239570)

South Carolina

Palmetto Recycling, Incorporated—Columbia—(PB95–270948)
Rochester Property—Traveler's Rest—(PB95–270823)

Texas

Alcoa (Point Comfort)/Lavaca Bay—Point Comfort—(PB95–263380)
RSR Corporation—Dallas—(PB95–262499)

Washington

Boomsnub/Airco—Vancouver—(PB95–249728)
Commencement Bay, South Tacoma Field (a/k/a Commencement Bay, South Tacoma Channel)—Tacoma—(PB95–270591)

Wisconsin

Sauk County Landfill—Excelsior—(PB95–274486)

Non-NPI Petitioned Site

Arizona

Phelps Dodge Corporation Douglas Reduction Works—Douglas—(PB95–274783)

Dated: February 8, 1996.

Claire V. Broome,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 96–3261 Filed 2–13–96; 8:45 am]

BILLING CODE 4163–70–P

Health Resources and Services Administration

Proposed Collection: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects

1. *Evaluation of the Ryan White HIV/AIDS Dental Reimbursement Program*—Title 776(b) of the Public Health Service Act authorizes the Secretary to make grants to assist accredited dental schools and post-doctoral dental programs to meet uncompensated costs for providing oral health care to HIV infected individuals. A survey will be conducted to determine the effect this reimbursement program has had on the conduct of HIV/AIDS education and services within institutions and their graduates receiving these funds. The survey will assess the effect the Program has had on (1) the support and commitment of institutions to HIV/AIDS education and the provision of care; (2) the scope, content and conduct of HIV/AIDS education in participating institutions, (3) increasing the access to oral health care by HIV/AIDS patients; and (4) improving the integration of oral health care with health care and long-term HIV/AIDS case management under other components of the Ryan White Act. The survey will compare dental schools and hospitals awarded Ryan White HIV/AIDS dental reimbursement monies with eligible institutions which did not participate in the reimbursement program. An initial telephone interview will be followed up by a mail questionnaire. Because this is a targeted survey with limited numbers, automated collection techniques will not be used. Burden estimates are as follows:

Type of respondent	No. of respondents	Responses per respondent	Burden per response	Total burden hours
Dental Schools Receiving Funds	50	2	1.25	125
Hospitals Receiving Funds	70	2	1.25	175
Dental Schools Not Receiving Funds	4	2	1.25	10
Hospitals Not Receiving Funds	26	2	1.25	65
Note: Estimated Total Annual Burden: 375 hours.				

2. *Health Education Assistance Loan (HEAL) Program: Lender's Application for Insurance Claim on a HEAL Loan and Request for Collection Assistance Under the HEAL Program (OMB Nos. 0915–0036 and 0915–0100)*—Revision and Extension—This clearance request is for extension of approval of two forms that were previously approved by OMB under separate OMB numbers (shown above). HEAL lenders use the Lender's Application for Insurance Claim to request payment from the Federal Government for federally insured loans lost due to borrowers' death, disability, bankruptcy, or default. The Request for Collection Assistance form is used by HEAL lenders to request federal assistance with the collection of delinquent payments from HEAL borrowers. No changes to these forms are proposed. The estimates of burden for the two forms are as follows:

Type of Form	No. of respondents	Responses per respondent	Burden per response	Total burden hours
Lender's Application for Insurance Claim (Form 510)	35	22.97	1.25	1,005
Request for Collection Assistance (Form 513)	35	957.74	.17	5,598
Total burden is estimated to be 6,603 hours.				

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 7, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–3212 Filed 2–13–96; 8:45 am]

BILLING CODE 4160–15–P

Indian Health Service

Availability of Funds for Loan Repayment Program for Repayment of Health Professions Educational Loans

AGENCY: Indian Health Service, HHS.

ACTION: Change of award dates.

SUMMARY: The Loan Repayment Program award date, published in 60 FR 50630, September 29, 1995, scheduled to begin November 30, 1995, has been postponed until March 29, 1996.

SUPPLEMENTARY INFORMATION: The Indian Health Service is changing the date on which the first awards under the Loan Repayment Program will be made from November 30, 1995 to March 29, 1996. The beginning award date had to be changed because the updated fiscal year 1996 site listings for the various health professions was not available until January, 1996. Also, during the interrupted work schedules loan applications were not able to be processed.

All other information previously published in 60 FR 50630, regarding the Indian Health Service Availability of Funds for Loan Repayment Program for Repayment of Health Professions Educational Loans, applies.

This program is not subject to review under Executive Order 12372.

The Catalog of Federal Domestic Assistance number is 93.164.

Dated: January 7, 1996.

Michael H. Trujillo,

Assistant Surgeon General Director.

[FR Doc. 96–3208 Filed 2–13–96; 8:45 am]

BILLING CODE 4160–16–M

Public Health Service

Health Professions Preparatory, Pregraduate and Indian Health Professions Scholarship Grant Programs

AGENCY: Indian Health Service, HHS.

ACTION: Update of standing notice of availability of funds for Health Professions Preparatory, Pregraduate and Indian Health Professions Scholarship Grant Programs, published in 60 FR 8663, February 15, 1995.

SUMMARY: For fiscal year (FY) 1996 the Indian Health Service (IHS) announces there will be no funds available to award new scholarships for the following IHS Scholarship Programs:

Health Professions Preparatory and Pregraduate Scholarship Grant Programs, authorized by section 103 of the Indian Health Care Improvement Act (IHCIA), Public Law 94–437, as amended by Public Law 100–713 and by Public Law 102–573.

Health Professions Scholarship (Professions) Program, authorized by section 104 of the IHCIA, Public Law 94–437, as amended by Public Law 100–713 and by Public Law 102–573.

Funding for these three scholarship programs will be limited to continuation awards only based on availability of appropriations. Continuation scholarships under the three programs will be awarded utilizing the Notice of Grant Award, form PHS–5152–1 (Rev. 7/92). For academic year 1996–1997, both full-time and part-time continuation scholarships will be funded for each of the three scholarship programs.

The Health Professions Preparatory Scholarship Grant Program is listed as No. 93.123 in the Office of Management and Budget Catalog of Federal Domestic Assistance (CFDA). The Health Professions Pregraduate Scholarship Grant Program is listed as No. 93.971, and the Indian Health Professions Scholarship Grant Program is listed as No. 93.972 in the CFDA.

DATE: The application deadline for continuation applications is April 1, 1996. Applications shall be considered as meeting the deadline if they are received by the Headquarters Grants Management Branch on the deadline date or postmarked on or before the deadline date. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications must be mailed to Ms. M. Kay Carpentier, Acting Director, Division of Acquisition and Grants Management, Indian Health Service, 5600 Fishers Lane, Room 6–25, Rockville, Maryland 20857.

Programmatic inquiries may be addressed to Ms. Patricia Lee-McCoy, Chief, Scholarship Branch, Indian Health Service, Twinbrook Metro Plaza, Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852; Telephone 301–443–6197. (This is not a toll-free number.) For grants information, contact Ms. M. Kay Carpentier, Grants Management Officer, Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, Room 300, 12300 Twinbrook Parkway, Rockville, MD 20852; Telephone 301–443–0243. (This is not a toll-free number.)

Dated: January 7, 1996.

Michael H. Trujillo,

Assistant Surgeon General Director.

[FR Doc. 96–3207 Filed 2–13–96; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

National Institute of Environmental Health Services; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Environmental Health Sciences Review Committee.
Date: March 25–27, 1996.
Time: 8:30 a.m. to Adjournment.
Place: National Institute of Environmental Health Sciences, Building 101, Conference Rooms A, B, and C, South Campus, Research Triangle Park, North Carolina.
Contact Person: Dr. Ethel Jackson, Scientific Review Administrator, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–7826.
Purpose: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health.)

Dated: February 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3317 Filed 2–13–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Review of Sudden Cardiac Death in Heart Failure Trial.
Date: February 26, 1996,
Time: 1:00 p.m.
Place: Hyatt Regency, Bethesda, Maryland.
Contact Person: David M. Monsees, Ph.D., Rockledge II, Room 7178, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0270.
Propose/Agenda: To review and evaluate grant applications.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

Name of SEP: Review of Short-Term Research Training for Minority Students (T35s).
Date: March 18, 1996.
Time: 8:00 a.m.
Place: Bethesda Marriott, Bethesda, Maryland
Contact Person: Joyce A. Hunter, Ph.D., Rockledge II, Room 7184, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0287.
Propose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: February 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3319 Filed 2–13–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.
Date: March 21, 1996.
Time: 8 a.m. to 5 p.m.
Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Mary Nekola, Ph.D., Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda MD 20892–7180, 301–496–8683.
Purpose/Agenda: To review and evaluate Small Grant applications. The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders.)

Dated: February 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3318 Filed 2–13–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–3604–N–02]

Housing Counseling Program: Announcement of Funding Awards for FY 1994

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of Housing Counseling Funding Awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding award decisions made by the Department under its Housing Counseling Program for Fiscal Year 1994. The announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Joe McCloskey, Director, Single Family Servicing Division, Department of Housing and Urban Development, Room 9178, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1672 (this is not a toll-free number). Hearing or speech impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: HUD's housing counseling program is authorized under section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). The purpose of the program is to promote and protect the interests of housing consumers participating in HUD and other housing programs, as well as to help protect the interests of HUD and mortgage lenders. Under the housing counseling program, HUD contracts with pre-qualified public or private nonprofit organizations to provide the services authorized by the statute. These organizations are referred to as "HUD approved housing counseling agencies". When Congress makes funds available for this purpose, HUD announces the availability of such funds, and invites applications from eligible agencies, through a notice of funding availability (NOFA) published in the **Federal Register**.

In a Notice of Funding Availability (NOFA) published in the **Federal Register** on March 21, 1994 (59 FR 13366), HUD announced the availability of $12 million to provide Housing Counseling Grants for FY 1994 in accordance with Section 106. From this amount, the funds were distributed as follows: (1) Approximately $11,375,000 for comprehensive housing counseling grants and technical support for grantees; (2) $125,000 to resolve a housing counseling litigation matter in Boston, Massachusetts; (3) $250,000 to continue the operation of the HUD toll-free housing counseling referral service; and (4) approximately $250,000 to continue the training of housing counselors under the Home Equity Conversion Mortgage Program (HECM). A Notice regarding the award of FY 1995 Housing Counseling grants was published in the **Federal Register** on October 27, 1995 (60 FR 55037).

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is hereby publishing the names and addresses of the HUD-approved agencies awarded funds under the FY 1994 Housing Counseling NOFA, and the amount of funds awarded to each agency. This information is provided in Appendix A to this document.

Dated: February 8, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix A

Housing Counseling Grantees for FY 1994

URBAN LEAGUE OF GREATER, NEW HAVEN, ONE STATE STREET, NEW HAVEN, CT 06510, Amount Awarded: $68,140
URBAN LEAGUE OF GREATER HARTFORD, 1229 ALBANY AVENUE, HARTFORD, CT 06112, Amount Awarded: $25,000
CCCS OF CONNECTICUT, 151 NEW PARK AVENUE, HARTFORD, CT 06106, Amount Awarded: $50,000
HOMEOWNER OPTIONS FOR MASS. ELDERLY, 30 WINTER ST. SUITE 1003, BOSTON, MA 02108, Amount Awarded: $30,000
CITY OF BOSTON METRO LIST, HSG OPPORT. CLEARING CENTER, RM 966, ONE CITY HALL PLAZA, BOSTON, MA 02201, Amount Awarded: $125,000
GREATER BOSTON LEGAL SERV, 68 ESSEX STREET, BOSTON, MA 02111, Amount Awarded: $85,000
QUINCY COMM. ACTION PROGRAM, INC., 1509 HANCOCK STREET, QUINCY, MA 02160, Amount Awarded: $4,500
NORTH SHORE ELDERLY SERVICES, INC., 152 SYLVAN STREET, DANVERS, MA 01923, Amount Awarded: $3,000
SOUTH SHORE HOUSING DEVELOPMENT, CORP, 169 SUMMER STREET, KINGSTON, MA 02364, Amount Awarded: $52,416
HAP, INC, 322 MAIN STREET, SPRINGFIELD, MA 01105, Amount Awarded: $30,000
RURAL HOUSING IMPROVEMENT, INC., 218 CENTRAL STREET, WINCHENDON, MA 01475, Amount Awarded: $15,000
CENTRAL MAINE AREA AGENCY ON AGING, 320 WATER STREET, AUGUSTA, ME 04330, Amount Awarded: $10,000
BLACKSTONE VALLEY COMM. ACTION, INC, 32 GOFF AVENUE, PAWTUCKET, RI 02860, Amount Awarded: $10,000
CHAMPLAIN VALLEY OF ECON. OPPORTUNITY, P.O. BOX 1603, BURLINGTON, VT 05402, Amount Awarded: $10,210
PATTERSON COALITION OF HOUSING, INC, 262 MAIN STREET, PETERSON, NJ 07505, Amount Awarded: $17,474
SHARP COMMITTEE, INC, P.O. BOX 362, PHOENICIA, NY 12464, Amount Awarded: $662
SOUTH BRONX ACTION GROUP, 384 E. 149TH STREET, BRONX, NY 10455, Amount Awarded: $50,000
TROY REHAB. & IMPROVEMENT PROGRAM, INC, 415 RIVER STREET, TROY, NY 12180, Amount Awarded: $6,707
RURAL ULSTER PRESERVATION, CO, 289 FAIR STREET, KINGSTON, NY 12401, Amount Awarded: $4,080
NORTH FORK HOUSING ALLIANCE, INC., 110 SOUTH STREET, GREENPORT, NY 11944, Amount Awarded: $17,500
DELAWARE OPPORTUNITIES, INC., 47 MAIN STREET, DELHI, NY 13753, Amount Awarded: $1,146
RURAL SULLIVAN CITY HSG OPPORT., P.O. BOX 1497, MONTICELLO, NY 12701, Amount Awarded: $25,000
THE SALT & LIGHT CO., INC., 78 WASHINGTON STREET; MT. HOLLY, NJ 08060, Amount Awarded: $6,782
LEWIS COUNTY OPPORTUNITIES, INC., P.O. BOX 111, NEW BREMEN, NY 13367, Amount Awarded: $1,974
MORRIS CITY FAIR HSG COUNCIL, 19 MARKET STREET, MORRISTOWN, NJ 07963, Amount Awarded: $10,000
URBAN LEAGUE OF ONONDAGA COUNTY, INC., 324 UNIVERSITY AVE., SYRACUSE, NY 13210, Amount Awarded: $8,750
UNITED TENANTS OF ALBANY, INC., 33 CLINTON AVENUE, ALBANY, NY 12207, Amount Awarded: $6,125
JERSEY COUNSELING & HSG DEV., 1840 SOUTH BROADWAY, CAMDEN, NJ 08104, Amount Awarded: $42,425
HSG ASSIST. PROG OF ESSEX CTY, P.O. BOX 157, ELIZABETHTOWN, NY 12932, Amount Awarded: $4,664
COURTLAND HOUSING ASSIST. COUNCIL, 4 LINCOLN AVENUE, COURTLAND, NY 13045, Amount Awarded: $4,252
DUTCHESS CTY OFFICE FOR THE AGING, 488 MAIN STREET, POUGHKEEPSIE, NY 12601, Amount Awarded: $2,902
FAIR HOUSING COUNCIL OF NORTHERN NJ, 131 MAIN STREET, HACKENSACK, NJ 07601, Amount Awarded: $20,000
BELLPORT,HAGERMAN,E. PATCHOGUE ALLIANCE, 1492 MONTAUK HWY, BELLPORT, NY 11713, Amount Awarded: $2,500
CATSKILL MOUNTAIN HSG DEV. CORP., P.O. BOX 473, CATSKILL, NY 12414, Amount Awarded: $5,000
MONMOUTH CTY BD OF CHOSEN FREEHOLDERS, P.O. BOX 1255, FREEHOLD, NJ 07728, Amount Awarded: $50,000
MARGERT COMMUNITY CORP., 1931 MOTT AVE. RM404, FAR ROCKAWAY, NY 11691, Amount Awarded: $9,405
MERCER COUNTY HISPANIC ASSOCIATION, 200 WEST STATE ST., TRENTON, NJ 08607, Amount Awarded: $10,844
METRO INTERFAITH SERVICES, INC., 21 NEW STREET, BINGHAMTON, NY 13903, Amount Awarded: $15,641
PATTERSON TSK FRCE FOR COMM. ACTION, 155 ELLISON STREET, PATERSON, NJ 07505, Amount Awarded: $11,576
RENSSELAER CTY COMM. HSG RES. BD, P.O. BOX 255, RENSSELAER, NY 12144, Amount Awarded: $10,430
SC UNITED COMM SERV OF CAMDEN CTY, 146 BLACK HORSE PIKE, MT EPHRAIM, NJ 08059, Amount Awarded: $4,755
FAMILY SER. LEAGUE OF SUFFOLK CTY, 642 NEW YORK AVENUE, HUNTINGTON, NY 11743, Amount Awarded: $10,080
OCEAN, INC., 40 WASHINGTON STREET, TOMS RIVER, NJ 08754, Amount Awarded: $3,133
ALBANY CITY RURAL HSG ALLIANCE, P.O. BOX 407, VOORHEESVILLE, NY 12186, Amount Awarded: $7,000
NORTHEAST HAWLEY DEVELOPMENT ASSOC., 101 GERTRUDE STREET, SYRACUSE, NY 13203, Amount Awarded: $3,773
CHAUTAUQUA OPPORTUNITIES, 188 S. ERIE STREET, MAYVILLE, NY 14757, Amount Awarded: $9,706
HOUSING COALITION OF CENTRAL JERSEY, 9 ELM ROW, NEW BRUNSWICK, NJ 08901, Amount Awarded: $43,750
PUTNAM COUNTY HOUSING CO., 7 SEMINARY HILL ROAD, CARMEL, NY 10512, Amount Awarded: $14,000
ATLANTIC HUMAN RESOURCES, INC., 10 S. TENNESSEE AVE., ATLANTIC CITY, NJ 08401, Amount Awarded: $5,000
COMMUNITY ACTION IN SELF HELP, 9 BROAD STREET, LYONS, NY 14489, Amount Awarded: $3,636
CATH. CHARITIES, DIOCESE OF METUCHEN, 540–550 ROUTE 22 E.,

BRIDGEWATER, NJ 08807, Amount Awarded: $4,723
URBAN LEAGUE OF ESSEX COUNTY, 508 CENTRAL AVENUE, NEWARK, NJ 07107, Amount Awarded: $17,155
MIDDLESEX CTY ECONOMIC OPPORT. CORP, 841 GEORGES ROAD, NORTH BRUNSWICK, NJ 08902, Amount Awarded: $6,340
URBAN LEAGUE OF UNION COUNTY, 272 NORTH BROAD ST, ELIZABETH, NJ 07207, Amount Awarded: $7,822
BETTER NEIGHBORHOODS, INC., 986 ALBANY STREET, SCHENECTADY, NY 12307, Amount Awarded: $12,700
BLACK RIVER HOUSING COUNCIL, INC., 216 WASHINGTON ST, WATERTOWN, NY 13601, Amount Awarded: $2,716
CHECK-MATE, INC., 550 COOKMAN AVENUE, ASBURY PARK, NJ 07712, Amount Awarded: $15,326
ENTERPRISE COMMUNITY DEVELOPMENT CORP, 777 BERGEN AVENUE, JERSEY CITY, NJ 07306, Amount Awarded: $4,009
BROOKLYN NEIGHBORHOOD IMPROVMT ASS., 648 WASHINGTON AVE., BROOKLYN, NJ 11238, Amount Awarded: $10,000
CCCS OF CNY, INC., 120 E. WASHINGTON, ST, SYRACUSE, NY 13202, Amount Awarded: $15,000
ORANGE CTY RURAL DEV. ADVISORY CORP, 365 ROUTE 211 EAST, MIDDLETOWN, NY 10940, Amount Awarded: $4,000
TEST CITY CHILD CARE, INC., 143 W. BROAD STREET, BRIDGETON, NJ 08302, Amount Awarded: $7,000
HSG ASST. CEN OF NIAGARA FRONTIER, 1223 MAIN STREET, BUFFALO, NY 14209, Amount Awarded: $19,735
CORNELL COOP. EXT OF SARATOGA . COUNTY, 50 WEST HIGH STREET, BALLSTON SPA, NY 12020, Amount Awarded: $5,633
NEIGHBORHOOD HSG SERVICES OF NYC, 121 W. 27TH STREET, NEW YORK, NY 10001, Amount Awarded: $15,000
URBAN LEAGUE OF METROP. TRENTON, 209 ACADEMY STREET, TRENTON, NJ 08618, Amount Awarded: $5,756
URBAN LEAGUE OF BERGEN CTY, 106 W. PALISADE AVE, ENGLEWOOD, NJ 07631, Amount Awarded: $25,095
COALITION FOR PEOPLE'S RIGHTS, 180 LIBERTY STREET, NEWBURGH, NY 12550, Amount Awarded: $1,399
FAMILY SER. ASSN. OF NASSAU CTY, INC., 336 FULTON AVENUE, HEMPSTEAD, NY 11550, Amount Awarded: $10,000
MICHAEL COLEMAN ASSOCIATES, INC., 1018 WASHINGTON ST., HOBOKEN, NJ 07030, Amount Awarded: $21,096
LONG ISLAND HOUSING SERVICES, INC., 1747 VETERAN MEM HWY, ISLANDIA, NY 11722, Amount Awarded: $29,348
COMMUNITY HOUSING, INC., 613 WASHINGTON ST., WILMINGTON, DE 19801, Amount Awarded: $21,666
NEIGHBORHOOD HOUSE, INC., 1218 B STREET, WILMINGTON, DE 19801, Amount Awarded: $18,848
FIRST STATE COMM. ACTION AGENCY, 308 N. RAILROAD AVE., GEORGETOWN, DE 19947, Amount Awarded: $20,239
HOUSING COUNSELING SERVICES, INC., 2430 ONTARIO ROAD, NW, WASHINGTON, DC 20009, Amount Awarded: $30,888
NEAR NORTHEAST (CIC), 1326 FLORIDA AVE, NE, WASHINGTON, DC 20002, Amount Awarded: $8,708
MARSHALL HEIGHTS, INC., 3917 MINN. AVE., SE, WASHINGTON, DC 20019, Amount Awarded: $12,257
PRINCE WILLIAM SERVICES, 8033 ACTION AVE., MANASSAS, VA 22110, Amount Awarded: $19,177
UNIVERSITY LEGAL SERVICES, 300 I STREET, NE, WASHINGTON, DC 20002, Amount Awarded: $35,280
DC HOUSING FINANCE AGENCY, 1275 K STREET, NW, WASHINGTON, DC 20001, Amount Awarded: $6,058
UNITED COMMUNITIES AGAINST POVERTY, 1400 DOEWOOD LANE, CAPITOL HEIGHTS, MD 20743, Amount Awarded: $24,318
ANN ARUNDEL COUNTY INC., P.O. BOX 1951, ANNAPOLIS, MD 21404, Amount Awarded: $22,452
ST. AMBROSE HOUSING AID CENTER, 321 EAST 25TH STREET, BALTIMORE, MD 21218, Amount Awarded: $34,959
COMMUNITY ORGANIZED TO IMPROVE LIFE, 11 S. CARROLLTON AVE, BALTIMORE, MD 21223, Amount Awarded: $6,883
COMMUNITY ASSISTANCE NETWORK, 7701 DUNMANWAY, BALTIMORE, MD 21222, Amount Awarded: $26,603
MARYLAND RURAL DEVELOPMENT CORP., 322 MARKET STREET, DENTON, MD 21629, Amount Awarded: $5,130
DORCHESTER COMMUNITY DEV. CORP., 435 HIGH STREET, CAMBRIDGE, MA 21613, Amount Awarded: $4,950
HARTFORD COUNTY PUBLIC AGENCY, 15 S. MAIN STREET, BEL AIR, MD 21014, Amount Awarded: $18,667
NEIGHBORHOOD SERVICE CENTER, INC., 126 PORT STREET, EASTON, MD 21601, Amount Awarded: $3,415
SHORE UP, INC., 520 SNOWHILL ROAD, SALISBURY, MD 21801, Amount Awarded: $10,560
CARROLL COUNTY BUREAU OF HOUSING, 225 N. CENTER STREET, WESTMINSTER, MD 21157, Amount Awarded: $4,607
URBAN LEAGUE OF METROPOLITAN HARRISBURG, 25 N. FRONT STREET, HARRISBURGH, PA 17101, Amount Awarded: $3,510
TABOR COMMUNITY SERVICES, INC., 439 EAST KING STREET, LANCASTER, PA 17602, Amount Awarded: $21,104
CCS OF LEHIGH VAL., 3671 CRESCENT COURT EAST, WHITEHALL, PA 18052, Amount Awarded: $10,290
COMM. OF ECON. OPPTY-LUZERNE CTY, 211–213 S. MAIN ST., WILKES-BARRE, PA 18701, Amount Awarded: $6,340
HOUSING ASSO. OF DELAWARE VALLEY, 658 N. WATTS STREET, PHILADELPHIA, PA 19123, Amount Awarded: $4,692
BERKS COMMUNITY ACTION, 227–229 N. FOURTH ST, READING, PA 19601, Amount Awarded: $24,266
HOUSING COUNCIL OF YORK, 116 N. GEORGE STREET, YORK, PA 17401, Amount Awarded: $32,000
NORTHWEST COUNSELING SERVICES, INC., 5001 N. BROAD STREET, PHILADELPHIA, PA 19141, Amount Awarded: $59,880
PHILADELPHIA COUNCIL FOR COMM. ADV., 100 N. 17TH STREET, PHILADELPHIA, PA 19103, Amount Awarded: $23,188
PHILADELPHIA HOUSING DEVELOPMENT CO, 1234 MARKET STREET, PHILADELPHIA, PA 19107, Amount Awarded: $17,514
TENANTS' ACTION GRP OF PHILADELPHIA, 21 S. 12TH STREET, PHILADELPHIA, PA 19107, Amount Awarded: $4,578
ECONOMIC OPPORTUNITY OF SCHUYLKILL, 118 E. NORWEGIAN ST, POTTSVILLE, PA 17901, Amount Awarded: $8,240
TREHAB CENTER OF N.E. PENNSYLVANIA, 7 LAKE AVENUE, MONTROSE, PA 18801, Amount Awarded: $4,556
HARRISBURG FAIR HOUSING COUNCIL, 1228 BAILEY STREET, HARRISBURG, PA 17103, Amount Awarded: $5,215
NEW KENSINGTON C.D.C., 2513–15 FRANKFORD AVE, PHILADELPHIA, PA 19125, Amount Awarded: $4,881
BAYFRONT NATO, INC., 312 CHESTNUT STREET, ERIE, PA 16507, Amount Awarded: $3,166
BOOKER T. WASHINGTON, 1720 HOLLAND STREET, ERIE, PA 16503, Amount Awarded: $4,326
LAWRENCE COUNTY SOCIAL SERVICES, 33–39 S JEFFERSON ST, NEW CASTLE, PA 16103, Amount Awarded: $5,161
MERCER COUNTY COMM. ACTION AGENCY, 309 OHIO STREET, SHARON, PA 16146, Amount Awarded: $6,132
SHENANGO VALLEY URBAN LEAGUE, 601 INDIANA AVENUE, FARRELL, PA 16121, Amount Awarded: $15,704
CCS OF WESTERN PA, 309 SMITHFIELD ST, PITTSBURGH, PA 15222, Amount Awarded: $40,680
ELDER–ADO, INC., 320 BROWNSVILLE RD, PITTSBURGH, PA 15210, Amount Awarded: $10,260
GARFIELD JUBILEE ASSN., 5138 PENN AVENUE, PITTSBURGH, PA 15224, Amount Awarded: $5,001
HOUSING OPPORTUNITIES, INC., 133 7TH STREET, MCKEESPORT, PA 15134, Amount Awarded: $49,600
URBAN LEAGUE HOUSING COUNSELING SERVICES, 1 SMITHFIELD STREET, PITTSBURGH, PA 15222, Amount Awarded: $39,704
WARREN-FOREST COUNTIES ECON. COUNCIL, P.O. BOX 547, WARREN, PA 16365, Amount Awarded: $5,322
GREATER ERIE COMM. ACTION COMMITTEE, 18 WEST 9TH STREET, ERIE, PA 16501, Amount Awarded: $1,222
FAYETTE COUNTY COMM. ACTION AGENCY, 137 N. BEESON AVENUE, UNIONTOWN, PA 15401, Amount Awarded: $7,397
CENTER FOR INDEPENDENT LIVING, 7110 PENN. AVENUE, PITTSBURGH, PA 15208, Amount Awarded: $9,135
TABLELAND SERVICES, INC., 131 N. CENTER AVENUE, SOMERSET, PA 15501, Amount Awarded: $3,845

COMMUNITY RESOURCES FOR INDEPENDENCE, INC, 2222 FILMORE AVENUE, ERIE, PA 16506, Amount Awarded: $2,476
COMMUNITY ACTION SOUTHWEST, 315 EAST HALLAM AVE., WASHINGTON, PA 15301, Amount Awarded: $6,587
NORTHERN TIER COMM. ACTION CORP, 135 WEST 4TH STREET, EMPORIUM, PA 15834, Amount Awarded: $3,829
ASSOCIATED FAMILY SERVICES, 213 CENTER STREET, MEADVILLE, PA 16335, Amount Awarded: $4,370
ARMSTRONG COUNTY ACTION AGENCY, ARMSDALE BLDG ROAD 8, KITTANNING, PA 16201, Amount Awarded: $3,474
INDIANA COUNTY ACTION PROGRAM, 827 WATER STREET, INDIANA, PA 15701, Amount Awarded: $4,528
MONTICELLO AREA ACTION AGENCY, 215 E. HIGH STREET, CHARLOTTESVILLE, VA 22901, Amount Awarded: $5,346
NEWPORT NEWS/OFFICE OF HUMAN AFFAIRS, P.O. BOX 37, NEWPORT NEWS, VA 23607, Amount Awarded: $14,112
SOUTHEASTERN TIDEWATER OPPORTUNITY, 2551 ALMEDA AVENUE, NORFOLK, VA 23510, Amount Awarded: $20,070
CITY OF ROANOKE HOUSING AUTHORITY, 2624 SALEM TURNPIKE, NW, SALEM, VA 24017, Amount Awarded: $6,172
HOUSING OPPORTUNITIES MADE EQUAL, 1218 W. CARY STREET, RICHMOND, VA 23220, Amount Awarded: $37,350
RICHMOND URBAN LEAGUE, 101 E. CLAY STREET, RICHMOND, VA 23219, Amount Awarded: $24,912
TOTAL ACTION AGAINST POVERTY, P.O. BOX 2868, ROANOKE, VA 24001, Amount Awarded: $5,166
PEOPLE INC., 988 W. MAIN STREET, ABINGDON, VA 24210, Amount Awarded: $2,156
CCC OF KANAWHA VALLEY, INC, 8 CAPITOL STREET, CHARLESTON, WV 25301, Amount Awarded: $24,290
FAMILY SERVICES—UPPER OHIO VALLEY, 51 11TH STREET, WHEELING, WV 26003, Amount Awarded: $9,789
CRISS-CROSS, INC, 115 S. 4TH STREET. CLARKSBURG, WV 26301, Amount Awarded: $11,118
CONSUMER CREDIT OF MID OHIO VALLEY, 2715 MURDOCH AVENUE, PARKERSBURG, WV 25301, Amount Awarded: $17,500
CONSUMER CREDIT OF BLUEFIELD, INC., P.O. BOX 6282, BLUEFIELD, WV 24701, Amount Awarded: $6,390
CCCS OF FAMILY SERVICE, 1304 FIFTH AVENUE, HUNTINGTON, WV 25701, Amount Awarded: $19,836
CITY OF ALBANY DEPT OF COM & ECON DEV, 230 S. JACKSON ST., ALBANY, GA 31701, Amount Awarded: $6,000
UNIFIED GOVT ATHENS-CLARKE CTY HED, 155 E. WASHINGTON ST, ATHENS, GA 30603, Amount Awarded: $45,000
MIDDLE GA COMMUNITY ACTION AGENCY, INC., 1570 WATSON BLVD., WARNER ROBINS, GA 31088, Amount Awarded: $3,900
GREATER MACON HOUSING CORPORATION, 682 CHERRY STREET, MACON, GA 31201, Amount Awarded: $10,000
AREA COMM. TO IMPROVE OPPORT. NOW, INC., 594 OCONEE STREET, ATHENS, GA 30603, Amount Awarded: $911
METRO FAIR HOUSING SERVICES, INC., 1083 AUSTIN AVENUE, NE, ATLANTA, GA 31107, Amount Awarded: $20,000
GEORGIA LEGAL SERVICES, 10 WHITAKER STREET, SAVANNAH, GA 31412, Amount Awarded: $25,000
DEKALB HOUSING COUNSELING CENTER, INC., 4151 MEMORIAL DRIVE, DECATUR, GA 30032, Amount Awarded: $150,000
CCCS, 1350 15TH AVENUE, COLUMBUS, GA 31902, Amount Awarded: $21,600
CCCS OF GREATER ATLANTA, 100 EDGEWOOD AVENUE, ATLANTA, GA 30303, Amount Awarded: $25,000
ECO. OPORT FOR SAVANNAH-CHATHAM CTY, 618 W. ANDERSON ST., SAVANNAH, GA 31401, Amount Awarded: $60,000
COMM ACT. AGCY OF CALHOUN, CLEBURNE & CHEROKEE, 1702 NOBLE STREET, ANNISTON, AL 36202, Amount Awarded: $75,000
CITY OF TUSCALOOSA HSG COUNSELING PROGRAM, P.O. BOX 2089, TUSCALOOSA, AL 35403, Amount Awarded: $30,000
HSG AUTH OF CITY OF MONTG., 1020 BELL STREET, MONTGOMERY, AL 36104, Amount Awarded: $25,000
COMM. ACT. AGCY OF N. CEN. ALABAMA, 107 SECOND AVENUE, DECATUR, AL 35602, Amount Awarded: $39,970
MOBILE HOUSING BOARD, 151 S. CLAIBORNE ST, MOBILE, AL 36633, Amount Awarded: $60,000
ALABAMA COUNCIL ON HUMAN RELATIONS, P.O. BOX 409, AUBURN, AL 36831, Amount Awarded: $6,478
COMM. SERVICE PROGRAMS OF W. ALABAMA, INC., 601 17TH STREET, TUSCALOOSA, AL 35401, Amount Awarded: $6,000
COMM. ACTION AGENCY OF NW ALABAMA, INC., 502 EAST COLLEGE ST, FLORENCE, AL 35630, Amount Awarded: $3,000
JEFFERSON COUNTY HOUSING AUTHORITY, 2100 WALKER CHAPEL RD, FULTONDALE, AL 35068, Amount Awarded: $15,000
HUMAN RESOURCE DEVELOPMENT CO., 101 GEORGE WALLACE DR., ENTERPRISE, AL 36331, Amount Awarded: $15,630
HOUSING AUTH OF BIRMINGHAM DISTRICT, 1826 3RD AVENUE S., BIRMINGHAM, AL 35233, Amount Awarded: $50,000
COMM ACT AGCY OF HUNTSVILLE/ MADISON & LIMESTONE COUNTIES, P.O. BOX 3975, HUNTSVILLE, AL 35810, Amount Awarded: $35,000
HGS AUTH OF CITY OF AUBURN, ALABAMA, 931 BOOKER STREET, AUBURN, AL 36830, Amount Awarded: $12,600
BIRMINGHAM URBAN LEAGUE, INC., 1717 4TH AVENUE N., BIRMINGHAM, AL 35202, Amount Awarded: $48,000
CEIBA HOUSING & ECON. DEVELOPMENT, P.O. BOX 203, CEIBA, PR 00735, Amount Awarded: $36,000
CCCS OF PUERTO RICO, INC., 1606 PONCE DE LEON AVE, SANTURCE, PR 00908, Amount Awarded: $25,000
INSTITUTO PONCENO DEL HOGAR, P.O. BOX 5009, PONCE, PR 00733, Amount Awarded: $25,000
SPECTRUM INSTITUTE, 3200 COLONIAL DRIVE, COLUMBIA, SC 29224, Amount Awarded: $50,000
FAMILY SERVICE CENTER, 2700 MIDDLESBURG DR., COLUMBIA, SC 29204, Amount Awarded: $20,000
TRIDENT UNITED WAY, 32 ANN STREET, CHARLESTON, SC 29413, Amount Awarded: $33,255
CAROLINA REGIONAL LEGAL SERV. CORP., 279 WEST EVANS ST, FLORENCE, SC 29503, Amount Awarded: $35,000
PIEDMONT LEGAL SERVICES, INC., 148 EAST MAIN STREET, SPARTANBURG, SC 29306, Amount Awarded: $19,000
SUNBELT HUMAN ADVANCEMENT RESOURCES, P.O. BOX 10204, GREENVILLE, SC 29603, Amount Awarded: $10,000
PEE DEE COMMUNITY ACTION AGENCY, 2685 SOUTH IRBY ST., FLORENCE, SC 29505, Amount Awarded: $30,000
PALMETTO LEGAL SERVICES, 2109 BULL STREET, COLUMBIA, SC 29202, Amount Awarded: $35,000
GREENVILLE URBAN LEAGUE, 15 REGENCY HILL DR., GREENVILLE, SC 29607, Amount Awarded: $100,000
CCCS OF S. FLORIDA, 11645 BISCAYNE BLVD., NORTH MIAMI, FL 33181, Amount Awarded: $75,000
CCCS OF PALM BEACH, 2330 CONGRESS AVE. S., W. PALM BEACH, FL.33406, Amount Awarded: $76,739
CCCS OF SW FLORIDA, INC, 2500 AIRPORT ROAD, S., NAPLES, FL 33962, Amount Awarded: $6,300
BROWARD COUNTY HOUSING AUTHORITY, 1773 N. STATE ROAD 7, LAUDERHILL, FL 33313, Amount Awarded: $26,800
URBAN LEAGUE OF PALM BEACH CTY, INC, 1700 N. AUSTRALIAN AVE, WEST PALM BEACH, FL 33407, Amount Awarded: $35,350
N.C. CLIENT COUNCILS, INC, 806 SOUTH THIRD ST., SMITHFIELD, NC 27577, Amount Awarded: $10,291
FAMILY HOUSING SERVICES, INC., 910 N. ALEXANDER ST., CHARLOTTE, NC 28206, Amount Awarded: $48,307
WESTERN PIEDMONT COUNCIL OF GOVT'S., 317 1ST AVENUE, NW, HICKORY, NC 28601, Amount Awarded: $16,200
JOINT ORANGE-CHATHAM COMM. ACT. INC, 105 W. CHATHAM ST., PITTSBORO, NC 27312, Amount Awarded: $39,500
DURHAM AFFORDABLE HSG COALITION, 331 W. MAIN STREET, DURHAM, NC 27701, Amount Awarded: $37,000
CCC OF WESTERN N.C., 50 S. FRENCH BROAD AVE, ASHEVILLE, NC 28801, Amount Awarded: $15,000
RESOURCES FOR SENIORS, 1001 NAVAHO DRIVE, RALEIGH, NC 27609, Amount Awarded: $4,047

SANDHILLS COMM. ACTION PROGRM, INC., 103 SAUNDERS STREET, CARTHAGE, NC 28327, Amount Awarded: $20,450
THE ALBEMARLE COMMISSION, P.O. BOX 646, HERTFORD, NC 27944, Amount Awarded: $9,000
JOHNSTON-LEE COMMUNITY ACTION INC., P.O. BOX DRAWER 711, SMITHFIELD, NC 27577, Amount Awarded: $40,000
CUMBERLAND COMMUNITY ACTION PROGRAM, INC, P.O. BOX 2009, FAYETTEVILLE, NC 28302, Amount Awarded: $60,000
CCCS OF FORSYTH COUNTY, 926 BROOKSTONE AVE., WINSTON-SALEM, NC 27101, Amount Awarded: $15,834
GUILFORD COUNTY COMM. ACTION PROGRAM, INC, 201 S. ELM STREET, GREENSBORO, NC 27420, Amount Awarded: $7,500
HOUSING EDUCATION AND ECON. DEV., P.O. BOX 11853, JACKSON, MS 39283, Amount Awarded: $45,000
NORTH MISSISSIPPI RURAL LEGAL SERV., 2134 W. JACKSON AVE., OXFORD, MS 38655, Amount Awarded: $25,000
GULF COAST COMMUNITY ACTION AGENCY, 500 24TH STREET, GULFPORT, MS 39502, Amount Awarded: $12,250
MISSISSIPPI DEPT OF HUMAN SERVICES, 750 NORTH STATE ST., JACKSON, MS 39202, Amount Awarded: $5,000
BIG RIVER HOUSING DEV. CORP., 201 HUMPHEREY ST., MARKS, MS 38646, Amount Awarded: $3,000
JACKSONVILLE URBAN LEAGUE, 233 WEST DUVALL ST., JACKSONVILLE, FL 32202, Amount Awarded: $24,000
TALLAHASSEE URBAN LEAGUE, INC., 923 OLD BAINBRIDGE RD, TALLAHASSEE, FL 32303, Amount Awarded: $20,000
KNOXVILLE AREA URBAN LEAGUE, 2516 MAGNOLIA AVE., KNOXVILLE, TN 37901, Amount Awarded: $50,000
UPPER E. TENNESSEE HUMAN DEV. AGENCY, 301 LOUIS STREET, KINGSPORT, TN 37662, Amount Awarded: $5,000
CHATTANOOGA HUMAN SERV. DEPT., 501 W. 12TH STREET, CHATTANOOGA, TN 37402, Amount Awarded: $8,000
CHATTANOOGA AREA URBAN LEAGUE, 730 M.L. KING BLVD., CHATTANOOGA, TN 37403, Amount Awarded: $10,000
CCCS OF GREATER KNOXVILLE, INC, 1012 HEISKELL AVE., KNOXVILLE, TN 37927, Amount Awarded: $18,500
DOUGLAS-CHEROKEE ECONOMIC AUTHORITY, 534 E. 1ST NORTH ST, MORRISTOWN, TN 37816, Amount Awarded: $2,796
FAM./CHILDREN'S SERV OF CHATTANOOGA, INC, 300 E. 8TH STREET, CHATTANOOGA, TN 37403, Amount Awarded: $12,000
EAST TENNESSEE HUMAN RESOURCE AGENCY, 408 N. CEDAR BLUFF RD, KNOXVILLE, TN 37923, Amount Awarded: $15,000
HOUSING PARTNERSHIP, INC., 801 VINE STREET, LOUISVILLE, KY 40204, Amount Awarded: $15,000
LOUISVILLE URBAN LEAGUE, INC., 1535 WEST BROADWAY, LOUISVILLE, KY 40203, Amount Awarded: $30,000
BRIGHTON CENTER, INC., 7TH & PARK STREET, NEWPORT, KY 41072, Amount Awarded: $16,013
TENANT SERVICES & HOUSING COUNSEL, INC, 200 EAST MAIN STREET, LEXINGTON, KY 40507, Amount Awarded: $20,000
LOUISVILLE CHAPTER AMER. RED CROSS (ACCEPT), 510 E. CHESTNUT ST., LOUISVILLE, KY 40201, Amount Awarded: $27,607
NORTHERN KENTUCKY COMM. CENTER, 824 GREENUP STREET, COVINGTON, KY 41011, Amount Awarded: $60,000
WEST TENNESSEE LEGAL SERVICES, 210 WEST MAIN STREET, JACKSON, TN 38302, Amount Awarded: $60,000
MEMPHIS NATIONAL BUSINESS LEAGUE, 3161 PARK AVENUE, MEMPHIS, TN 38111, Amount Awarded: $36,000
HOUSING OPPORTUNITIES CORP. II, 147 JEFFERSON AVE., MEMPHIS, TN 38103, Amount Awarded: $8,000
MEMPHIS URBAN LEAGUE, 2279 LAMAR AVENUE, MEMPHIS, TN 38114, Amount Awarded: $8,750
METRO. DEV. & HOUSING AGENCY, 701 S. SIXTH STREET, NASHVILLE, TN 37206, Amount Awarded: $20,000
NASHVILLE URBAN LEAGUE, INC., 1219 9TH AVENUE N., NASHVILLE, TN 37208, Amount Awarded: $75,000
TARGET COMMUNITY ASSOCIATION, 606 E. WASHINGTON ST, PULASKI, TN 38478, Amount Awarded: $15,680
HOPE INC., 1501 HERMAN STREET, NASHVILLE, TN 37208, Amount Awarded: $30,000
CITIZENS FOR AFFORDABLE HOUSING INC, 1719 WEST END AVE., NASHVILLE, TN 37203, Amount Awarded: $50,000
MID CUMBERLAND COMM. ACTION AGENCY, P.O. BOX 1048, SMYRNA, TN 37167, Amount Awarded: $15,000
METRO SOCIAL SERVICES, 25 MIDDLETON STREET, NASHVILLE, TN 37210, Amount Awarded: $100,000
METRO ORLANDO URBAN LEAGUE, 2512 W. COLONIAL DR, ORLANDO, FL 32804, Amount Awarded: $20,000
CCCS FL GULF COAST, 5201 W. KENNEDY BLVD, TAMPA, FL 33609, Amount Awarded: $60,000
AGRICULTURAL AND LABOR PROGRAM, INC, 7301 LYNCHBURG ROAD, WINTER HAVEN, FL 33881, Amount Awarded: $20,000
CITY OF TAMPA COMM. REDEVLP. AGENCY, 1310 E. 9TH AVENUE, TAMPA, FL 33605, Amount Awarded: $50,000
MANATEE OPPORTUNITY COUNCIL, INC., 236 9TH AVENUE WEST, BRADENTON, FL 34205, Amount Awarded: $20,000
HOUSING AUTH OF THE CTY OF LAKE, 33928 N. ROUTE 45, GRAYSLAKE, IL 60030, Amount Awarded: $20,000
WILL CTY CEN. FOR COMM. CONCERNS, 1 DORIS AVENUE, JOLIET, IL 60433, Amount Awarded: $2,200
COMM. SER COUNCL FOR N. WILL COUNTY, 719 PARKWOOD AVE., ROMEOVILLE, IL 60441, Amount Awarded: $90,000
CITY OF SPRINGFIELD DEPT OF HUMAN RELATIONS, 227 S. SEVENTH ST., SPRINGFIELD, IL 62701, Amount Awarded: $6,200
CHICAGO ROSELAND COAL. FOR COMM CONTROL, 11015 S. MICHIGAN AVE, CHICAGO, IL 60628, Amount Awarded: $25,000
DuPAGE HOMEOWNERSHIP CENTER, INC., 1333 N. MAIN STREET, WHEATON, IL 60187, Amount Awarded: $8,725
CHICAGO URBAN LEAGUE, 4510 S. MICHIGAN, CHICAGO, IL 60653, Amount Awarded: $35,220
CCCS OF E. CENTRAL ILLINOIS, 363 S. MAIN, DECATUR, IL 62523, Amount Awarded: $12,000
COMM. & ECON DEV. ASS. OF COOK CTY, 224 N. DES PLAINES ST, CHICAGO, IL 60661, Amount Awarded: $100,000
LAKE COUNTY COMM. ACTION PROJECT, 106 S. SHERIDAN RD, WAUKEGAN, IL 60085, Amount Awarded: $18,000
DISTRESSED HOMEOWNERS, INC., 11622 S. WESTERN AVE, CHICAGO, IL 60643, Amount Awarded: $20,010
SPANISH COALITION FOR HOUSING, 3439 W. NORTH AVENUE, CHICAGO, IL 60647, Amount Awarded: $100,000
CEFS ECONOMIC OPPORTUNITY CORP., 101 N. 4TH STREET, EFFINGHAM, IL 62401, Amount Awarded: $18,198
MADISON COUNTY URBAN LEAGUE, INC., 210 WILLIAM STREET, ALTON, IL 62002, Amount Awarded: $20,010
MONTGOMERY COUNTY COMM. ACTION, 318 S. MAIN STREET, DAYTON, OH 45401, Amount Awarded: $18,858
PROTECTIVE RESOURCES ORG, FOR SENIOR, INC., 105 E. FOURTH STREET, CINCINNATI, OH 45202, Amount Awarded: $6,062
BETTER HSG LEAGUE OF GREATER CIN., INC., 2400 READING ROAD, CINCINNATI, OH 45202, Amount Awarded: $60,000
CATHOLIC CHAR. DIOCESE OF YOUNGSTOWN, 225 ELM STREET, YOUNGSTOWN, OH 44503, Amount Awarded: $40,200
URBAN LEAGUE OF GREATER CLEVELAND, 1255 EUCLID AVENUE, CLEVELAND, OH 44115, Amount Awarded: $44,700
FAMILY SERVICES ASSOCIATION, 1704 N. ROAD, S.E., WARREN, OH 44484, Amount Awarded: $36,842
CHILDREN'S & FAMILY SER. AGENCY, 535 MARIMMION AVE., YOUNGSTOWN, OH 44502, Amount Awarded: $10,000
LUTHERAN HOUSING CORPORATION, 13944 EUCLID AVE, EAST CLEVELAND, OH 44112, Amount Awarded: $140,656
NEAR WEST SIDE MULTI-SERVICES CORP., 4115 BRIDGE AVENUE, CLEVELAND, OH 44113, Amount Awarded: $13,608
HOUSING DIRECTORS OF GREATER TOLEDO, 1326 COLLINGWOOD, TOLEDO, OH 43620, Amount Awarded: $10,000
FAIR HOUSING CONTACT SERVICE, 333 S. MAIN STREET, AKRON, OH 44308, Amount Awarded: $12,500
CCCS OF CENTRAL OHIO, INC., 697 E. BROAD STREET, COLUMBUS, OH 43215, Amount Awarded: $60,000
CONSOC HOUSING COUNSELING INC., 1889 E. LIVINGSTON, COLUMBUS, OH 43209, Amount Awarded: $80,000
PORTSMOUTH INNER-CITY DEV. CO., 1206 WALLER STREET, PORTSMOUTH, OH 45662, Amount Awarded: $10,000

MARION-CRAWFORD COMM. ACTION COMMISSION, 240 E. CHURCH STREET, MARION, OH 43301, Amount Awarded: $2,500
REGIONAL HOUSING CENTER, 595 E. BROAD STREET, COLUMBUS, OH 43205, Amount Awarded: $45,562
DETROIT NON-PROFIT HSG CO., 1200 SIXTH STREET, DETROIT, MI 48226, Amount Awarded: $58,005
CREDIT COUNSELING CENTERS, INC., 38505 COUNTY CLUB DR, FARMINGTON HILLS, MI, Amount Awarded: $60,627
R3 CORP, 12255 CAMDEN, DETROIT, MI 48203, Amount Awarded: $25,500
HUMAN DEVELOPMENT COMMISSION, 429 MONTAGUE AVE., CARO, MI 48723, Amount Awarded: $14,000
URBAN LEAGUE OF FLINT, 5005 CLOVERLAWN DR, FLINT, MI 48504, Amount Awarded: $25,025
MICHIGAN HOUSING COUNSELORS, INC., 237 S.B. GRATIOT AVE, MT. CLEMENS, MI 48043, Amount Awarded: $34,636
BURTON NEIGHBORHOOD HOUSING SERVICES, 1335 KENNETH STREET, BURTON, MI 48529, Amount Awarded: $24,532
VAN BUREN CTY & CASS CTY COMM., 488 S. PAW PAW ST., LAWRENCE, MI 49064, Amount Awarded: $2,500
HOUSING RESOURCE CENTER, 300 N. WASHINGTON SQ, LANSING, MI 48933, Amount Awarded: $25,000
NORTHWEST MICHIGAN HUMAN SERV. AGCY, 3963 THREE MILE ROAD, TRAVERSE CITY, MI 49684, Amount Awarded: $4,866
URBAN LEAGUE OF NW INDIANA, INC., 3101 BROADWAY, GARY, IN 46409, Amount Awarded: $36,807
HOUSING AUTHORITY OF SOUTH BEND, 501 SOUTH SCOTT ST., SOUTH BEND, IN 46634, Amount Awarded: $8,542
HOOSIER UPLAND ECONOMIC DEV. CORP., 521 W. MAIN STREET, MITCHELL, IN 47446, Amount Awarded: $27,500
HSG AUTH OF THE CITY OF FT WAYNE, INDIANA, 2013 S. ANTHONY BLVD, FORT WAYNE, IN 46869, Amount Awarded: $16,512
COMM. ACTION OF GREATER INDIANAPOLIS, INC., 2445 N. MERIDIAN ST., INDIANAPOLIS, IN 46208, Amount Awarded: $139,900
CCCS OF THE TRI-STATE, 715 1ST AVENUE, EVANSVILLE, IN 47724, Amount Awarded: $25,000
HOPE OF EVANSVILLE, INC., 100 WASHINGTON AVE., EVANSVILLE, IN 47713, Amount Awarded: $12,500
LAKE COUNTY, 2293 NORTH MAIN ST., CROWN POINT, IN 46307, Amount Awarded: $26,467
REAL SERVICE INC., 1151 S. MICHIGAN, SOUTH BEND, IN 46634, Amount Awarded: $5,000
HAMMOND HOUSING AUTHORITY, 7329 COLUMBIA CIR. W, HAMMOND, IN 46324, Amount Awarded: $13,749
CITY OF BLOOMINGTON, P.O. BOX 100, BLOOMINGTON, IN 47402, Amount Awarded: $3,000
HOUSING ASSISTANCE OFFICE, INC., 1138 LINCOLNWAY EAST, SOUTH BEND, IN 46634, Amount Awarded: $23,566
ANDERSON HOUSING AUTH., 528 W. 11TH STREET, ANDERSON, IN 46016, Amount Awarded: $29,137
RACINE/KENOSHA COMM. ACTION AGENCY, 72 7TH STREET, RACINE, WI 53403, Amount Awarded: $10,000
MILWAUKEE UNITED FOR BETTER HGS, INC, 4011 W. CAPITOL DR., MILWAUKEE, WI 53216, Amount Awarded: $30,000
COALITION OF WISCONSIN AGING GROUPS, 1245 E. WASH. AVE, MADISON, WI 53703, Amount Awarded: $7,348
WALKER'S POINT DEVELOPMENT CORP., 914 S. 5TH STREET, MILWAUKEE, WI 53204, Amount Awarded: $27,600
COMMUNITY ADVOCATES, 4906 W. FOND DU LAC, MILWAUKEE, WI 53216, Amount Awarded: $30,000
COMM. ACTION INC OF ROCK & WALWORTH COUNTIES, 2300 KELLOGG AVENUE, JANESVILLE, WI 53546, Amount Awarded: $5,033
WESTSIDE CONSERVATION CORPORATION, 3306 W. HIGHLAND BLVD, MILWAUKEE, WI 53208, Amount Awarded: $35,000
TENANT RESOUCE CENT. INC., 122 STATE STREET, MADISON, WI 53703, Amount Awarded: $7,644
SENIOR HOUSING INC., 1885 UNIVERSITY AVE. W., ST. PAUL, MN 55104, Amount Awarded: $15,730
ST. PAUL HOUSING, INFORMATION OFFICE, 21 WEST FOURTH ST., ST. PAUL, MN 55102, Amount Awarded: $17,500
CONSUMER CREDIT COUNSELING SERVICE, 1111 3RD AVENUE, MINNEAPOLIS, MN 55404, Amount Awarded: $21,361
SOUTHERN MINNESOTA REGIONAL, 700 MINNESOTA BLDG., ST. PAUL, MN 55101, Amount Awarded: $30,630
TACTICS, INC., 1315 PENN AVENUE N., MINNEAPOLIS, MN 55411, Amount Awarded: $20,000
CCCS-GREATER FT. WORTH, 807 TEXAS STREET, FORT WORTH, TX 76102, Amount Awarded: $25,000
CCCS-GREATER DALLAS, 8737 KING GEORGE RD, DALLAS, TX 75235, Amount Awarded: $169,500
HOUSING OPP. OF FT. WORTH, 1305 W. MAGNOLIA ST., FORT WORTH, TX 76104, Amount Awarded: $15,271
CCCS-N. CENTRAL TEXAS, 1600 RED BUD BLVD., MCKINNEY, TX 75069, Amount Awarded: $10,308
DALLAS CTY COMM. ACT., 2121 MAIN STREET, DALLAS, TX 75201, Amount Awarded: $6,000
ORG. OF CHRISTIANS ASSIST PEOPLE, P.O. BOX 1241, PORT ARTHUR, TX 77641, Amount Awarded: $480
GULF COAST COMM. SERV. ASSN., 6300 BOWLING GREEN, HOUSTON, TX 77021, Amount Awarded: $30,000
CCCS-GULF COAST AREA, 4600 GULF FREEWAY, HOUSTON, TX 77023, Amount Awarded: $199,000
HOUSING OPP. OF HOUSTON, 2900 WOODRIDGE, HOUSTON, TX 77087, Amount Awarded: $17,924
COMMUNITY CARE HOUSING, 10303 NORTHWEST FWY., HOUSTON, TX 77092, Amount Awarded: $15,900
HOUSTON AREA URBAN LEAGUE, 3215 FANIN, HOUSTON, TX 77004, Amount Awarded: $10,000
AUSTIN TENANTS COUNCIL, 1619 E. CESAR CHAVEZ ST, AUSTIN, TX 78702, Amount Awarded: $27,432
COLONIAS DEL VALLE, P.O. BOX 764, PHARR, TX 78577, Amount Awarded: $4,032
COMMUNITY DEVELOPMENT CORP., 1150 E. ADAMS STREET, BROWNSVILLE, TX 78520, Amount Awarded: $5,131
CHILD & FAMILY SERVICES, 1221 W. BEN WHTE BLVD, AUSTIN, TX 78704, Amount Awarded: $19,806
CCCS-GREATER SAN ANTONIO, 6851 CITIZENS PKWY, SAN ANTONIO, TX 78229, Amount Awarded: $13,482
CCCS OF GREATER NEW ORLEANS, 1539 JACKSON AVENUE, NEW ORLEANS, LA 70130, Amount Awarded: $2,755
S.M.I.L.E. COMM. ACTION AGENCY, 501 ST. JOHN STREET, LAFAYETTE, LA 70502, Amount Awarded: $11,539
CCCS OF LOUISIANA, 615 CHEVELLE COURT, BATON ROUGE, LA 70806, Amount Awarded: $60,000
PARISH OF JEFFERSON, 1221 ELMWOOD PK BLVD, HARAHAN, LA 70123, Amount Awarded: $20,000
ST. MARY COMM. ACTION COMM., INC., 1407 BARROW ST., FRANKLIN, LA 70538, Amount Awarded: $770
ST. LANDRY COMM. ACTION AGENCY, P.O. DRAWER 1510, OPELOUSAS, LA 70570, Amount Awarded: $6,376
DESIRE COMM. HOUSING CORPORATION, 3251 ST FERDINAND ST, NEW ORLEANS, LA 70126, Amount Awarded: $45,570
CENTRAL CITY HOUSING DEV. CORP., 2020 JACKSON AVE., NEW ORLEANS, LA 70113, Amount Awarded: $5,626
FAMILY SERVICE AGENCY, 628 W. BROADWAY, N. LITTLE ROCK, AR 72119, Amount Awarded: $6,122
FAMILY SUPPORT SERVICES, 1103 SE 15TH, BENTONVILLE, AR 72712, Amount Awarded: $713
UNIVERSAL HOUSING DEVELOPMENT, 301 EAST THIRD, RUSSELLVILLE, AR 72811, Amount Awarded: $2,247
URBAN LEAGUE OF ARKANSAS, P.O. BOX 164039, LITTLE ROCK, AR 72211, Amount Awarded: $3,380
WHITE RIVER REGIONAL HOUSING AUTH., P.O. BOX 650, MELBOURNE, AR 72556, Amount Awarded: $4,585
COMMUNITY HOUSING RESOURCE BOARD, 5302 AVENUE Q.S. DR, LUBBOCK, TX 79412, Amount Awarded: $19,976
GUADALUPE ECONOMIC SERVICES CORP., 1416 FIRST STREET, LUBBOCK, TX 79401, Amount Awarded: $58,328
GREATER EL PASO SERVICES, INC., 4838 MONTANA AVE., EL PASO, TX 79903, Amount Awarded: $17,837
CCCS OF CENTRAL OKLAHOMA, 3230 N. ROCHWELL, BETHANY, OK 73008, Amount Awarded: $13,623
HSG AUTH. OF THE CHICKASAW NATION, P.O. BOX 668, ADA, OK 74820, Amount Awarded: $25,155
NEIGHBORHOOD HOUSING SERVICE, 3034 LAKESHORE DRIVE, SHREVEPORT, LA 71133, Amount Awarded: $1,651

CENLA COMMUNITY ACTION COMMITTEE, 230 BOLTON AVENUE, ALEXANDRIA, LA 71301, Amount Awarded: $2,531
OUACHITA MULTI-PURPOSE COMM. ACTION AGENCY, P.O. BOX 3086, MONROE, LA 71210, Amount Awarded: $3,396
HSG AUTH. OF THE CITY OF MARSHALL, P.O. BOX 609. MARSHALL, TX 75671, Amount Awarded: $14,343
CADDO COMM. ACTION AGENCY, INC., 4055 ST. VINCENT AVE, SHREVEPORT, LA 71108, Amount Awarded: $1,561
CREDIT COUNS. CENTERS OF OKLAHOMA, P.O. BOX 4450, TULSA, OK 74159, Amount Awarded: $39,939
METROPOLITAN TULSA URBAN LEAGUE, 240 E. APACHE, TULSA, OK 74106, Amount Awarded: $1,750
CCCS OF NEW MEXICO, 2727 SAN PEDRO N.E., ALBUQUERQUE, NM 87110, Amount Awarded: $5,962
UNITED METH. URBAN MINISTRY OF WICHITA, 1611 NORTH MOSLEY, WITCHITA, KS 67214, Amount Awarded: $2,000
MO VALLEY HUMAN RES. COMM. ACT AGCY, P.O. BOX 550, MARSHALL, MO 65340, Amount Awarded: $1,000
GREATER KANSAS CITY HSG INFO CENTER, 3810 PASEO, KANSAS, MO 64109, Amount Awarded: $35,000
HAWKEYE AREA COMMUNITY ACTION PROGRAM, P.O. BOX 789, CEDAR RAPIDS, IA 52406, Amount Awarded: $6,000
FAMILY HOUSING ADVISORY SERVICES, INC, 2416 LAKE STREET, OMAHA, NB 68111, Amount Awarded: $23,821
URBAN LEAGUE OF WICHITA, INC., 1405 N. MINNEAPOLIS, WICHITA, KS 67214, Amount Awarded: $12,500
CNTR FOR INDP. LIVING OF CEN. NEB. INC, 1804 SOUTH EDDY ST., GRAND ISLAND, NE 68801, Amount Awarded: $6,000
NORTH AREA COMMUNITY FORUM, 1005 DUNN ROAD, FLORISSANT, MO 63031, Amount Awarded: $12,000
CITY OF DES MOINES, 602 E 1ST STREET, DES MOINES, IA 50307, Amount Awarded: $9,500
CCCS OF ST. LOUIS, INC., 1300 HAMPTON AVENUE, ST LOUIS, MO 63139, Amount Awarded: $21,920
HOUSING & CREDIT COUNSELING, INC., 1195 SW BUCHANAN, TOPEKA, KS 66604, Amount Awarded: $9,205
W. CENTRAL MISSOURI COMM. ACTION AGENCY, 106 W. 4TH, APPLETON CITY, MO 64724, Amount Awarded: $4,320
ECONOMIC OPPORT. FOUND. INC, 1542 MINNESOTA AVE, KANSAS CITY, KS 66102, Amount Awarded: $10,000
NEIGHBORHOOD PLACE INC., 1128 W. 6TH STREET, DAVENPORT, IA 52802, Amount Awarded: $3,500
LINCOLN ACTION PROGRAM, INC., 2202 SOUTH 11TH ST., LINCOLN, NE 68502, Amount Awarded: $2,500
A.I.D.(ASSISTANCE, INFO, DIRECTION), 206 6TH STREET, SIOUX CITY, IA 51101, Amount Awarded: $5,651
CONSUMER CREDIT COUNSELING SERVICE, INC, 1201 W. WALNUT, SALINA, KS 67402, Amount Awarded: $5,000
NORTHSIDE RESIDENTIAL HOUSING CORP., 5647 DELMAR, ST. LOUIS, MO 63112, Amount Awarded: $14,500
HSG OPTIONS PROVIDED F/THE ELDERLY, 4265 SHAW, ST. LOUIS, MO 63110, Amount Awarded: $2,079
URBAN LEAGUE OF METRO. ST. LOUIS, 3701 GRANDEL SQUARE, ST. LOUIS, MO 63108, Amount Awarded: $36,000
ADAMS COUNTY H.A., 7190 COLORADO BLVD, COMMERCE CITY, CO 80022, Amount Awarded: $60,000
BOULDER COUNTY H.A., 2040 14TH STREET, BOULDER, CO 80306, Amount Awarded: $34,495
BROTHER'S REDEVELOPMENT, 1111 OSAGE STREET, DENVER, CO 80204, Amount Awarded: $75,000
CATHOLIC SOCIAL SERVICES, 302 JEFFERSON STREET, PUEBLO, CO 81004, Amount Awarded: $25,000
CITY OF AURORA HOMEOWNERSHIP ASSIST. PROGRAM, 9801 E. COLFAX AVE., AURORA, CO 80010, Amount Awarded: $50,000
CCCS OF N. COLORADO S.E. WY, 1136 E. STUART, FT COLLINS, CO 80525, Amount Awarded: $13,500
CCCS OF S. COLORADO, 1233 LAKE PLAZA DR., COLO SPRINGS, CO 80906, Amount Awarded: $56,000
NEIGHBOR-TO-NEIGHBOR, 424 PINE STREET, FT. COLLINS, CO 80524, Amount Awarded: $24,350
N.E. DENVER HOUSING CENTER, 1735 GAYLORD STREET, DENVER, CO 80206, Amount Awarded: $13,920
S.W. COMMUNITY RESOURCES, 295 GIRARD STREET, DURANGO, CO 81301, Amount Awarded: $972
MOUNTAINLAND COMMUNITY ACTION, 257 E. CENTER STREET, PROVO, UT 84606, Amount Awarded: $6,500
SALT LAKE COMMUNITY ACTION PROGRAM, 764 S. 200 WEST, SALT LAKE CITY, UT 84101, Amount Awarded: $50,000
UTAH ST. UNIVERSITY, FAMILY LIFE CEN, 490 N. 700 E., LOGAN, UT 84321, Amount Awarded: $20,000
YOUR COMMUNITY CONNECTION, 2261 ADAMS AVENUE, OGDEN, UT 84401, Amount Awarded: $20,000
COMMUNITY ACTION OPPORTUNITIES, 420 3RD STREET, S.W., MINOT, ND 58702, Amount Awarded: $20,000
COMMUNITY ACTION PROGRAM/REG VII, 2105 LEE AVENUE, BISMARK, ND 58504, Amount Awarded: $2,500
QUAD CTY COMM. ACTION AGENCY, 27 1/2 S. 3RD STREET, GRAND FORKS, ND 58201, Amount Awarded: $5,016
S.E. NORTH DAKOTA COMM ACTION AGENCY, 3233 S. UNIVERSITY DR., FARGO, ND 58108, Amount Awarded: $12,000
CCCS OF THE BLACK HILLS, 621 6TH, RAPID CITY, SD 57709, Amount Awarded: $15,230
CCCS OF LUTHERAN SOCIAL SERVICES, 705 E. 41ST STREET, SIOUX FALLS, SD 57105, Amount Awarded: $5,000
DIST. 7 HUMAN RESOURCES DEV. COUNCIL, 17 N. 31ST STREET, BILLLINGS, MT 59103, Amount Awarded: $14,000
NW MONTANA HUMAN RESOURCES, #8 1ST & MAIN BLDG., KALISPELL, MT 59904, Amount Awarded: $4,000
CITY OF PHOENIX NEIGHBORHOOD SERV., 200 W. WASHINGTON, PHOENIX, AZ 85003, Amount Awarded: $150,000
CCCS SOUTHWEST, 2535 W. CMLBACK ROAD, PHOENIX, AZ 85017, Amount Awarded: $90,000
CPLC PHOENIX, 1112 E. BUCKEYE ROAD, PHOENIX, AZ 85034, Amount Awarded: $48,824
PHOENIX COMM. HSG RES. BOARD, 3627 E. IND. SCH. RD, PHOENIX, AZ 85108, Amount Awarded: $12,000
CPLC, 1525 N. ORACLE ROAD, TUCSON, AZ 85705, Amount Awarded: $40,000
CATHOLIC SOCIAL SERVICES, 155 W. HELEN STREET, TUCSON, AZ 85705, Amount Awarded: $35,000
CCC SOUTHWEST, 3810 N. ORACLE ROAD, TUCSON, AZ 85705, Amount Awarded: $28,000
CITY OF OAKLAND, 300 LAKESIDE DRIVE, OAKLAND, CA 94612, Amount Awarded: $12,222
SANTA CRUZ HOUSING AUTHORITY, 2160 41ST AVENUE, CAPITOLA, CA 95010, Amount Awarded: $3,973
COUNCIL ON AGING SON, 730 BENNETT VALLEY, SANTA ROSA, CA 95404, Amount Awarded: $4,000
PAC COMMUNITY SERVICE, 501 RAILROAD AVENUE, PITTSBURG, CA 94565, Amount Awarded: $15,000
ECHO, 770 A STREET, HAYWARD, CA 94541, Amount Awarded: $27,000
CITY OF VACAVILLE, 40 ELDRIDGE AVENUE, VACAVILLE, CA 95688, Amount Awarded: $21,000
PROJECT SENTINEL, 10 DEMPSEY ROAD, MILPITAS, CA 95035, Amount Awarded: $32,000
PROJECT MATCH, 555 MERIDAN, SUITE C, SAN JOSE, CA 95126, Amount Awarded: $1,960
HUMAN INVESTMENT PROJECT, 364 S. RAILROAD AVE., SAN MATEO, CA 94401, Amount Awarded: $6,000
BETTER VALLEY SERVICES, 8000 LAUREL CITY BLVD, N. HOLLYWOOD, CA 91605. Amount Awarded: $80,000
WESTMINSTER, 1776 E CENTURY BLVD, LOS ANGELES, CA 90002, Amount Awarded: $62,000
SANTA BARBARA HOUSING AUTHORITY, 815 W. OCEAN AVE., LOMPOC, CA 93436, Amount Awarded: $35,000
CCCS—LOS ANGELES, 1308 W. 8TH STREET, LOS ANGELES, CA 90017, Amount Awarded: $100,000
INLAND MED. BOARD, 420 N. LEMON AVENUE, ONTARIO, CA 91764, Amount Awarded: $48,000
FAIR HOUSING COUNCIL OF ORANGE, 1222 N. BROADWAY, SANTA ANA, CA 92701, Amount Awarded: $42,420
CATHOLIC CHARITIES, 150 N. OLIVE STREET, COLTON, CA 92324, Amount Awarded: $18,000
NEIGHBORHOOD HOUSING ASSOCIATION, 3043 4TH AVENUE, SAN DIEGO, CA 92103, Amount Awarded: $61,020
SAN DIEGO HOME LN., 2859 EL CAJON BLVD., SAN DIEGO, CA 92104, Amount Awarded: $70,300
CCCS OF SAN DIEGO, 1550 HOTEL CIRCLE, N., SAN DIEGO, CA 92108, Amount Awarded: $33,200
SACRAMENTO HOME LN., 2617 K STREET, SACRAMENTO, CA 95816, Amount Awarded: $4,269
STANISLAUS HOUSING AUTHORITY, 1701 ROBERTSON ROAD, MODESTO, CA 95351, Amount Awarded: $25,000
PPPT, 1801 N. J STREET, LAS VEGAS, NV 89103, Amount Awarded: $17,500
CCCS OF LAS VEGAS, 3650 S. DECATUR, LAS VEGAS, NV 89103, Amount Awarded: $16,000
HALE MAHALOU, 200 HINA AVENUE, KAHULUI, HI 96732, Amount Awarded: $4,000
CCCS OF HAWAII, 2153 N. KING STREET, HONOLULU, HI 96819, Amount Awarded: $49,000
ANCHORAGE NEIGHBORHOOD HGS SERV., 3700 WOODLAND DRIVE, ANCHORAGE, AK 99517, Amount Awarded: $6,000
CCC OF ALASKA, 208 E. 4TH AVENUE, ANCHORAGE, AK 99501, Amount Awarded: $10,000
COMMUNITY ACTION AGENCY, 124 NEW 6TH STREET, LEWISTON, ID 83501, Amount Awarded: $17,000
UMPQUA COMMUNITY ACTION NETWORK, 2448 W. HARVARD, ROSEBURG, OR 97470, Amount Awarded: $20,000
HOUSING SERVICES OF OREGON, 34420 SW TV HWY, HILLSBORO, OR 97123, Amount Awarded: $18,020
ACCESS INC., 48 HAWTHORNE STREET, MEDFORD, OR 97501, Amount Awarded: $10,000
PORTLAND HOUSING CENTER, 1605 45TH AVENUE, PORTLAND, OR 97213, Amount Awarded: $10,000
FREMONT PUBLIC ASSOCIATION, P.O. BOX 31151, SEATTLE, WA 98013, Amount Awarded: $12,086
ABERDEEN NEIGHBORHOOD HOUSING SERV., 710 E. MARKET STREET, ABERDEEN, WA 98520, Amount Awarded: $15,000
URBAN LEAGUE OF METROP. SEATTLE, 105 14TH AVENUE, SEATTLE, WA 98122, Amount Awarded: $35,085
PIERCE COUNTY COMM. ACTION DEPT., 8811 S. TACOMA WAY, TACOMA, WA 98499, Amount Awarded: $20,000
LA CLINICA MIGRANT HEALTH CENTER, 1517 N. 5TH AVENUE, PASCO, WA 99301, Amount Awarded: $27,000
SPOKANE NEIGHBORHOOD ACTION PROGRAM, E. 2116 FIRST AVE., SPOKANE, WA 99202, Amount Awarded: $60,000
HOUSING COUNCIL OF MONROE COUNTY, 111 EAST AVENUE, ROCHESTER, NY 14604, Amount Awarded: $50,000
CCCS OF CENTRAL FLORIDA, INC., 455 SOUTH ORANGE AVE, ORLANDO, FL 32801, Amount Awarded: $150,010
CCCS OF FAM. COUNSL CEN. OF BREVARD, 220 CORAL SANDS DR., ROCKLEDGE, FL 32955, Amount Awarded: $8,971
METROPOLITAN LUTHERAN MINISTRY, 3031 HOLMES STREET, KANSAS CITY, MO 64109, Amount Awarded: $18,375

[FR Doc. 96–3231 Filed 2–13–96; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–4130–02–24 1A]

RIN 1004–AC39

Notice of Proposed Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request approval for the collection of information annually from holders of unpatented mining claims concerning use and occupancy of their claims.

DATES: Comments on the proposed information collection must be received by April 15, 1996 to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: WO140@attmail.com. Please include "ATTN: U&O-Info" and your name and return address in your Internet message. Comments may be hand-delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street NW., Washington, DC. Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard E. Deery, (202) 452–0353.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.8(d) BLM is required to provide 60-day notice in the **Federal Register** concerning a proposed collection of information to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Accordingly, none of the information proposed to be collected as described below will be required until comments have been received and analyzed and approval has been obtained from OMB under 44 U.S.C. 3501 *et seq.* and a clearance number assigned.

In a proposed rule published in the **Federal Register** on September 11, 1992 (57 FR 41846), BLM proposed to established procedures for managing existing and future use and occupancy of mining claims on BLM-administered lands consistent with the mining law (30 U.S.C. 612) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733). Generally, under the terms of the proposed rule, any newly proposed activity on public lands involving occupancy or fencing to exclude the public would have to be acknowledged by BLM as reasonably related to mining prior to the initiation of occupancy or fencing. Under the proposed rule, anyone planning to use mining claims or the public lands under the mining law for occupancy would have to submit the following information to BLM, in addition to the information currently required by 43 CFR subparts 3802 and 3809:

1. A map is sufficient detail to identify the site and placement of (a) temporary or permanent structures, (b) fences and signs intended to exclude the public, and (c) public passage or access routes through or around the area; and

2. A written description of (a) how the proposed occupancy relates to activities reasonably incident to prospecting, mining, or processing operations, (b) how the proposed occupancy meets the standards of § 3715.2 of the proposed rule, and (c) the estimated period of use and schedule for removal and reclamation. The proposed rule would also allow a grace period during which existing occupancies would have to come into compliance with the provisions of the regulations. To take advantage of the grace period, existing occupancies would have to be recorded with BLM through submittal of the same information described above. The information is mandatory to obtain a benefit, use of the public lands open to the mining laws for occupancy reasonably incident to prospecting, mining, or processing operations.

Based on its review of comments on the proposed rule, BLM does not anticipate significant changes in the final rule. BLM is considering, however, changing the information requirements for existing occupancies by significantly reducing the up-front information required to obtain the one-year grace period. The reduction in the up-front reporting burden would be realized through the use of a simple form that takes about 10 minutes to fill out. The burden of providing the information would remain, but would be required for existing occupancies only after the benefit of the grace period is obtained. The information proposed to be collected from existing occupancies for recording purposes would subsequently be gathered by BLM field staff.

The public reporting burden for this entire collection, including the simplified form and collection of information during the inspection process, is estimated to average two hours per response. The respondents are mining claimants and operators of prospecting, exploration, mining, and processing operations. The number of responses per respondent is one per operation. The number of new responses is estimated to be 130 per year. The estimated total annual burden on new respondents is collectively 260 hours. The estimated number of respondents possessing existing occupancies is 1,950. The total annual burden on respondents with existing occupancies would be a function of the number of inspections carried out in any given year. The total burden for these respondents would collectively total 3,900 hours spread over a two- to three-year period, depending on the availability of funding to conduct inspections.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: February 7, 1996.

Annetta Cheek,

Leader, Regulatory Management Team.

[FR Doc. 96–3055 Filed 2–13–96; 8:45 am]

BILLING CODE 4310–84–M

[OR–030–00–1220–04; G6–010]

Notice of Prohibited Acts in the Wallowa/Grande Ronde Rivers Area

AGENCY: Vale District, Baker Resource Area, Oregon, Bureau of Land Management.

ACTION: Notice of prohibited acts and restrictions within the boundaries of the Wallowa/Grande Ronde Rivers Final Management Plan.

SUMMARY: The Vale District is initiating certain closures and restrictions as part of the implementation of the 1993 Wallowa/Grande Ronde Rivers Final Management Plan, and in order to protect and enhance the outstandingly remarkable values (ORV's) for which the river was designated. The closures and restrictions are the minimum necessary to protect ORV's and maintain recreation opportunities. Personnel that are exempt from the closures and restrictions include any Federal, State, or local officer, or member of any organized rescue or fire-fighting force in performance of an official duty, or any person authorized by the Bureau of Land Management. Pursuant to 43 CFR 8351.2–1(f), the following acts are prohibited on all public lands within the boundaries identified on the Wallowa/Grande Ronde Rivers Administered by the Bureau of Land Management:

Violation of these prohibitions is punishable by a fine of not more than $500 or imprisonment for not more than 6 months or both. (Title 16 U.S.C. 1281) and (Title 16 U.S.C. section 3).

1. Camping

A. Camping in any area posted as "Closed" to that use.

B. Installation of permanent camping facilities.

C. Camping below high water line.

2. Fire

A. Building or maintaining any open campfires except those contained in a fireblanket, firepan or similar metal container with sides measuring at least 2" in height.

B. Failure to remove campfire debris from the river corridor and disposing of it in a refuse container.

3. Sanitation and Refuse

A. Disposing of refuse in other than refuse receptacles.

B. Leaving campground equipment, site alterations or refuse after departing any campsite or in any unoccupied campsite.

C. Disposal of solid human waste except at designated locations or facilities provided for that purpose.

4. Vehicles

Accessing the river corridor by motor vehicle in areas closed to that use.

B. Operation of a motor vehicle in violation of any Oregon or Washington State law.

5. Other Acts

A. Failure to possess a commercial guide permit as required by the Bureau of Land Management (Baker Resource Area) and United States Forest Service (Walla Walla Ranger District).

B. Taking, attempting to take, or possession of any fish or wildlife in violation of any Oregon or Washington State law or other regulation.

C. Defacing, disturbing, or removing any historic or prehistoric feature or artifact.

D. Violation by commercial permittees of any stipulation outlined in the Guidelines for Commercial Use of Rivers in the Vale District, in cooperation with United States Forest Service (Walla Walla Ranger District).

E. Violation of any Oregon State Marine Board regulation.

The lands administered by the Bureau of Land Management to which this order applies are within the administrative boundary of the Wallowa/Grande Ronde Rivers. Legal Description of the administrative boundary can be viewed at the Vale District office or is available in the above mentioned management plan.

FOR FURTHER INFORMATION CONTACT: Gloria Brown, Baker Resource Area Manager, Bureau of Land Management, 1550 Dewey Avenue, Baker City, OR 97814, Telephone 541 523–1256.

James E. May,

District Manager.

[FR Doc. 96–3214 Filed 2–13–96; 8:45 am]

BILLING CODE 4310–33–M

[ES–030–6–1430–02]

Notice of Intent; Prepare Michigan Lighthouse Planning Analysis/ Environmental Assessment

ACTION: Notice of Intent.

SUMMARY: The Bureau of Land Management (BLM), Milwaukee District, is initiating the preparation of a Michigan Lighthouse Planning Analysis/Environmental Assessment (PA/EA) to address the future management and treatment of properties withdrawn for lighthouse purposes in the State of Michigan.

This notice is issued pursuant to Title 43, CFR, Sec. 1610.2 (C). The planning effort will follow the procedures set forth in 43 CFR, Subpart 1600.

The public is invited to participate in this land use planning effort. The BLM is seeking written comments providing suggestions, solutions and criteria for the long-term management of the public domain tracts withdrawn for lighthouse purposes in the State of Michigan.

DATES: Comments relating to the identification of additional issues and long-term management criteria will be accepted until March 14, 1996.

ADDRESSES: Comments should be sent to Bureau of Land Management, Milwaukee District Office, P.O. Box 631, Milwaukee, Wisconsin 53201–0631.

FOR FURTHER INFORMATION CONTACT: Larry Johnson at 414–297–4413 or Ed Ruda at 703–440–1671.

SUPPLEMENTARY INFORMATION: The United States Coast Guard (USCG) currently has jurisdictional authority over a number of parcels of public domain lands withdrawn between 1850 and 1920 for lighthouse purposes. The USCG has determined that these withdrawals are no longer needed for lighthouse purposes and has filed notices of relinquishment with the BLM under 43 CFR 2370.

The BLM has completed, or will be conducting, suitability determinations under 43 CFR 2372. These suitability determinations will decide whether all, or some, of the withdrawn parcels are suitable for return to the public domain. Those withdrawals found to be unsuitable for return to the public domain will be referred to the General Services Administration for disposal. Any withdrawn lands found to be suitable for return to the public domain will become the administrative responsibility of the BLM until such time that a decision is made on the disposition of the property. If the decision is made to dispose, transfer, or lease the lighthouse properties, the Michigan Lighthouse PA/EA will provide BLM managers with the authority to finalize these actions.

The plan will also consider alternatives which include management of the properties through partnership agreements with other Federal or State agencies, local governments, private historic preservation, recreational or conservation groups.

The issues BLM has identified thus far include:

1. How will significant historic, archaeological, and natural resources be protected?

2. Should BLM continue to manage the stations by itself or through partnerships with other government agencies, local lighthouse preservation, historical societies or conservation groups?

3. Should the lands be transferred to another Federal agency, such as the National Park Service, Fish and Wildlife Service or Forest Service?

4. Should the lands be transferred. leased or sold out of Federal Ownership?

Listed are those properties, to date, for which BLM has received notices from the USCG relinquishing their management responsibilities:

Big Sable (MIES–012614)
Section 7, T.19N., R.18W., Mason County, MI

Eagle Harbor (MIES–047394)
Section 6, T.58N., R.30W., Keweenaw County, MI

Grand Traverse (MIES–016817)
Lots 2 & 3, Section 6, T.32N., R.10W., Leelanau County, MI

Manitou Island Lighthouse (MIES–019212)
Section 15, T.58N., R.26W., Keweenaw County, MI

Manitou Island (MIES–002777)
Section 17, 20 & 21, T.58N., R.26W., Keweenaw County, MI

Passage Island (MIES–010244)
Section 18, T.67N., R.32W., Keweenaw County, MI

Point Betsie (MIES–033804)
Lot #5, Section 4, T.26N., R.16W., Benzie County, MI

Poverty Island (MIES–002537)
Section 8 & 9, T.36N., R.19W., Delta County, MI

Presque Isle (MIES–017076)
Section 8, T.34N., R.8E., Presque Isle County, MI

Thunder Bay (MIES–012677)
Section 3, T.30N., R.10E., and Lot #5, Section 33, Fractional Section 34, T.31N., R.10E., Alpena County, MI

Whitefish Point (MIES–047725)
Section 32, T.51N., R.5W., Chippewa County, MI

As additional relinquishment notices are received, the management decisions relating to the withdrawn lighthouse properties will be made using the same criteria as described in the final Michigan Lighthouse PA/EA document.

The planning issues and long-term management solutions will be available for public comment and subject to change based upon such public comments. The planning team, consisting of a number of Eastern States' technical specialists, will seek public involvement throughout the planning process. Currently, the BLM does not plan to hold public meetings. BLM will consider holding public meetings if significant public interest is expressed.

Complete records of all phases of the planning process will be available for public review and comment at the Bureau of Land Management, Milwaukee District Office, 310 West Wisconsin Avenue, Suite 450, Milwaukee, Wisconsin. Draft and final documents will be available upon request.

Dated: February 2, 1996.

Chris Hanson,

Acting District Manager.

[FR Doc. 96–3302 Filed 2–13–96; 8:45 am]

BILLING CODE 4310–GJ–P

[CA–063–1150–00]

Public Workshops for the Northern & Eastern Colorado Desert Coordinated Management Plan

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that a series of multi-agency meetings have been scheduled to update the public on the status of the Northern and Eastern Colorado Desert Coordinated Management Plan. The agencies urge interested individuals and organizations to review progress and offer specific suggestions on the preparation of the draft plan. The following public workshops are scheduled:

Monday, March 4, 7–10 p.m.
Holiday Inn, 2640 Lakewood Boulevard, Long Beach CA.

Wednesday, March 6, 7–10 p.m.
U.S. Forest Service, Cleveland National Forest, 10845 Rancho Bernardo Road, Suite 200, Rancho Bernardo, CA

Monday, March 11, 7–10 p.m.
BLM Palm Springs Resource Area, 63–500 Garnet Avenue, Palm Springs, CA

Wednesday, March 13, 7–10 p.m.
Blythe City Council Chambers, 220 North Spring Street, Blythe, CA

Tuesday, March 5, 7–10 p.m.
Imperial Irrigation District, 1285 Broadway, El Centro, CA

Thursday, March 7, 7–10 p.m.
BLM Riverside District Office, 6221 Box Springs Boulevard, Riverside, CA

Tuesday, March 12, 7–10 p.m.
BLM Needles Resource Area Office, 101 W. Spike's Road, Needles, CA

Thursday, March 14, 7–10 p.m.
Joshua Tree National Park, Park Headquarters, 54485 Joshua Tree National Park. Twentynine Palms, CA

ADDITIONAL INFORMATION: The purpose of the meetings includes: Updating the public on the status of the Plan, including the scope and summarized issues that will guide decision making; invite public inspection of some of the information collected on resources and uses that will be used in analyzing values and conflicts and in making decisions, focusing on wildlife habitats and the vehicle routes of travel inventories: gather public comment about the plan's direction and process to

date; the information that has been gathered; and advising the public how to review and study the information gathered and obtain copies of some of the data to be better prepared to review and comment on the draft plan when it is issued.

FOR MORE INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, External Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507; (909) 697–5215.

Dated: February 7, 1996.

Alan Stein,

Acting District Manager.

[FR Doc. 96–3148 Filed 2–13–96; 8:45 am]

BILLING CODE 4310–FP–M

[ES–030–6–1430–01; WIES–044180 & WIES–044183]

Notice of Realty Action; Sale of Public Land; Wisconsin

SUMMARY: The following land in Taylor County, Wisconsin has been found suitable for sale under authority of the Color-of-Title Act of December 22, 1928, as amended July 28, 1953, 43 U.S.C. 1068, 1068a (1982), as a claim of Class I at the estimated fair market value less equities presented by the applicant. The land will not be offered for sale until at least 60 days after the date of this notice.

Fourth Principal Meridian,

T.33N., R.2E.
Sec. 20, Lot #7 & #10
Containing 37.27 acres.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale to Arden and Donald Wiitala and James Hill. The mineral interest will not be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of those mineral interests under Sec. 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713).

The patent, when issued, will contain certain reservations to the United States. Detailed information concerning these reservations as well as specific conditions of the sale are available for review at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 450, Milwaukee, Wisconsin 53203.

DATES: For a period of 45 days from the date of publication of this notice, in the **Federal Register**, interested parties may submit comments to the District Manager, Milwaukee District, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

ADDRESSES: Detailed information concerning this sale is available at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 450, Milwaukee, Wisconsin 53203.

FOR FURTHER INFORMATION CONTACT: Larry Johnson at 414–297–4413.

Dated: January 30, 1996.

James W. Dryden,

District Manager.

[FR Doc. 96–3303 Filed 2–13–96; 8:45 am]

BILLING CODE 4310–GJ–P

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 3, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127. Written comments should be submitted by February 29, 1996.

Carol D. Shull,

Keeper of the National Register.

COLORADO

Clear Creek County

Dumont School, 150 Co. Rd. 260, Dumont, 96000201.

La Plata County

Rochester Hotel, 726 E. Second Ave., Durango, 96000200.

DISTRICT OF COLUMBIA

District of Columbia State Equivalent

Key, Francis Scott, Bridge, US 29 over the Potomac R., Washington, 96000199.

FLORIDA

Union County

Townsend, James W., House, 235 SW. 4th Ave., Lake Butler, 96000222.

GEORGIA

Bibb County

Lustron House at 3498 McKenzie Drive, (Lustron Houses in Georgia MPS), 3498 McKenzie Dr., Macon, 96000216.

De Kalb County

Farmer, Neville and Helen, Lustron House, (Lustron Houses in Georgia MPS), 513 Drexel Ave., Decatur, 96000211.
Pines, Russell and Nelle, Lustron House, (Lustron Houses in Georgia MPS), 2081 Sylvania Dr., Decatur, 96000207.

Dougherty County

Lustron House at 1005 Second Avenue, (Lustron Houses in Georgia MPS), 1005 Second Ave., Albany, 96000215.
Lustron House at 1001 Second Avenue, (Lustron Houses in Georgia MPS), 1001 Second Ave., Albany, 96000217.
Lustron House at 1200 Fifth Avenue, (Lustron Houses in Georgia MPS), 1200 Fifth Ave., Albany, 96000214.
Lustron House at 711 Ninth Avenue, (Lustron Houses in Georgia MPS), 711 Ninth Ave., Albany, 96000213.

Fulton County

Adams, Jack and Helen, Lustron House, (Lustron Houses in Georgia MPS), 832 Burchill St., SW., Atlanta, 96000212.
Epting, Thomas and Rae, Lustron House, (Lustron Houses in Georgia MPS), 1692 Brewer Blvd., SW., Atlanta, 96000210.
Knight, William and Ruth, Lustron House, (Lustron Houses in Georgia MPS), 1976 Northside Dr., Atlanta, 96000208.

Sumter County

Lustron House at 547 Oak Avenue, (Lustron Houses in Georgia MPS), 547 Oak Ave., Americus, 96000209.

LOUISIANA

Beauregard Parish

Beauregard Parish Training School, Jct. of Martin Luther King Dr. and Alexander St., DeRidder, 96000190.

Orleans Parish

TECUMSEH (towboat), Toulouse St. wharf, New Orleans, 96000202.

MINNESOTA

Meeker County

Litchfield Commercial Historic District, N. Sibley Ave. between Depot and 3rd Sts., Litchfield, 96000192.
Universal Laboratories Building, 901 First St. N., Dassel, 96000191.

MISSISSIPPI

Amite County

McGehee, Theodore L., Plantation House, 5924 Tangipahoa Rd., Summit vicinity, 96000189.

Bolivar County

Mound Bayou Bank, W. Main St., Mound Bayou, 96000187.

Copiah County

Copley, George Washington, House, (Copiah County MPS), 210 Copley St., Crystal Springs, 96000181.

Illinois Central Railroad Passenger Depot, (Copiah County MPS), 138 N. Ragsdale Ave., Hazlehurst, 96000182.
Marchetti Farm, (Copiah County MPS), 134 Dale Dr., Hazlehurst, 96000183.
Mississippi Mills Packing and Shipping Rooms, (Copiah County MPS), 2058 US 51, Wesson, 96000185.
Rea, James Samuel, House, (Copiah County MPS), 1193 US 51, Wesson, 96000184.

Hinds County

New Orleans Great Northern Railroad Passenger Depot, 618 Pearl St., Jackson, 96000188.

Madison County

Long Moss Plantation House, 305 Quail Rd., Canton vicinity, 96000180.

NEBRASKA

Dodge County

Fremont Post Office, Old, 605 N. Broad St., Fremont, 96000223.

Fillmore County

Cesko-narodni sin—Milligan Auditorium, Jct. of Main and Birch Sts., SW corner, Milligan, 96000224.

NEW HAMPSHIRE

Hillsborough County

Goffstown Congregational Church, 10 Main St., Goffstown, 96000193.
Peterborough Town House, 1 Grove St., Peterborough, 96000194.

NEW JERSEY

Monmouth County

Chauncy Jerome Jr Shipwreck Site, Address Restricted, Long Branch City vicinity, 96000205.

NEW YORK

Greene County

Prattsville Commercial Building, NY 23, Prattsville, 96000203.

Livingston County

Murray Street Historic District, (Mount Morris MPS), 33—47 and 32—46 Murray St., Mount Morris, 96000178.
South Main Street Historic District, (Mount Morris MPS), 123—159 and 124—158 S. Main St., Mount Morris, 96000177.
State and Eagle Streets Historic District, (Mount Morris MPS), 16—34 and 15—39 State St. and 6—12 Eagle St., Mount Morris, 96000179.

Nassau County

Jerusalem District No. 5 Schoolhouse, Old Jerusalem Rd., Levittown, 6000204.

Westchester County

Mandel, Richard H., House, 323 Haines Rd., Bedford Hills, 96000176.

NORTH CAROLINA

Avery County

Crossnore Presbyterian Church, US 221/NC 194 E side, opposite jct. with Dellinger Rd., Crossnore, 96000206.

Buncombe County

Weaverville United Methodist Church, 85 N. Main St., Weaverville, 96000195.

Guilford County

Taplin, A. E., Apartment Building, 408 W. Parkway Ave., High Point, 96000196.

Mecklenburg County

Hopewell Presbyterian Church and Cemetery, 10500 Beatties Ford Rd., Huntersville vicinity, 96000198.

Orange County

Hogan, Alexander, Plantation, Address Restricted, Chapel Hill vicinity, 96000186.

Wake County

Kamphoefner, Henry L., House, (Early Modern Architecture Associated with NCSU School of Design Faculty MPS), 3060 Granville Dr., Raleigh, 96000197.

OHIO

Delaware County

Historic Northwest District, Roughly bounded by Pennsylvania Ave., N. Sandusky St., W. William St., Elizabeth St., W. Fountain St. and N. Franklin St, Delaware, 96000225.

Hamilton County

Gruen Watch Company—Time Hill, 401 E. McMillan St., Cincinnati, 96000219.

Portage County

Mott Drug Store, 8107 Main St., Garrattsville, 96000221.

Summit County

Diamond Match Historic District, 3, 21 and 27 Fourth St., NW. and 8 Second St., NW., Barberton, 96000218.

SOUTH CAROLINA

McCormick County

Calhoun—Gibert House, SC Sec. Rd. 33–60, Willington, 96000220.

[FR Doc. 96–3240 Filed 2–13–96; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–741–743 (Preliminary)]

Melamine Institutional Dinnerware From China, Indonesia, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping Investigations Nos. 731–TA–741–743 (Preliminary) under section 733(a) of the Tariff Act of 1930 (the Act) as amended by section 212(b) of the Uruguay Round Agreements Act (URAA), Pub. L. 103–465, 108 Stat. 4809 (1944) (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China, Indonesia, and Taiwan of melamine institutional dinnerware, provided for in subheadings 3924.10.20, 3924.10.30, and 3924.10.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 22, 1996. The Commission's views are due at the Department of Commerce within five business days thereafter, or by March 29, 1996.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on February 6, 1996, by the American Melamine Institutional Tableware Association (AMITA).[1]

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary

[1] The members of AMITA are Continental/SiLite International Co., Oklahoma City, OK; Lexington United Corp. (National Plastics Corp.), Port Gibson, MS; and Plastics Manufacturing Co., Dallas, TX.

to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on February 27, 1996, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) not later than the day preceding the conference to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 1, 1996, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930, as amended by the URAA; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: February 8, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–3291 Filed 2–13–96; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation 332–366]

Country of Origin Marking: Review of Laws, Regulations, and Practices

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: February 5, 1996.

SUMMARY: Following receipt on January 11, 1996, of a request from the Committee on Ways and Means, U.S. House of Representatives, the Commission instituted Investigation No. 332–366, Country of Origin Marking: Review of Laws, Regulations, and Practices, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). As requested by the Committee, the Commission will provide a report that will include the following:

(1) A legislative and administrative history of U.S. marking rules, including a comparison of the concepts and approaches for determining country of origin for foreign and domestic goods;

(2) An analysis of the administrative processes in the United States for determining origin and appealing decisions on marking issues; and

(3) An evaluation of the problems which the country of origin marking rules create for industry, and the benefits of these rules to consumers, including the costs to government and industry of enforcement and compliance.

As requested by the Committee, the Commission in its investigation will focus on the industries producing electronics, steel, pharmaceuticals, hand tools, and frozen vegetables; other industries where information is available will be studied as well. Staff will contact U.S. producers and consumer groups to identify those that have major concerns or interests regarding country of origin marking requirements. Committee staff has indicated that this should include problems, as identified by industry and other sources in the course of the investigation, with foreign country of origin marking requirements. The Commission expects to submit its report of the investigation to the Committee by July 11, 1996.

FOR FURTHER INFORMATION CONTACT: General information on the investigation may be obtained from Dennis Fravel, Office of Industries (202–205–3404) or Mark Paulson, Office of Industries (202–205–3429); and legal aspects of section 332 investigations, from William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

BACKGROUND: In its letter, the Committee noted that it had held hearings in July 1995, on the issues of rules of origin and country of origin markings for both foreign and domestic goods. The Committee noted that views expressed at the hearings ranged widely, and included requests to modify or eliminate country of origin marking requirements, and also to harmonize rules for domestic and imported goods.

This investigation will focus on country of origin markings, including certain rule of origin issues that directly effect country of origin marking. International rules of origin issues are currently being examined in the Commission's Investigation No. 332–360, *International Harmonization of Customs Rules of Origin*, instituted in April 1995 at the request of the U.S. Trade Representative. The Commission's proposed rules and analysis pertaining to harmonized rules of origin will be published at various intervals in the **Federal Register**.

PUBLIC HEARING: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on April 10, 1996. The Commission requests that testimony focus on the issues noted in the SUMMARY section above. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., March 20, 1996. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., March 27, 1996; the deadline for filing post-hearing briefs or statements is 5:15 p.m., April 25, 1996. In the event that, as of the close of business on March 27, 1996, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after March 27, 1996, to determine whether the hearing will be held.

WRITTEN SUBMISSIONS: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. The Commission requests that written submissions focus on the issues noted in the SUMMARY section above. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on April 25, 1996. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: February 6, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–3290 Filed 2–13–96; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Extension of the Terms of Certain Section 337 Exclusion Orders in Conformity With Section 532(a) of the Uruguay Round Agreements Act

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the terms of patent-based exclusion orders issued in the investigations listed below have been extended in conformity with the provisions of section 532(a) of the Uruguay Round Agreements Act (URAA), Pub. L. No. 103–465, 108 Stat. 4809, 4983–4985 (1994) (codified at 35 U.S.C. §§ 154(a)(2) and 154(c)(1)).

Investigation	U.S. patent No.	Expiration date
337–TA–59 ..	4,113,147	June 6, 1997.
337–TA–114	4,131,869	June 21, 1996.
337–TA–140	4,136,359	April 11, 1997.
337–TA–161	4,109,343	March 10, 1996.
337–TA–170	4,356,600	August 25, 2000.
337–TA–170	4,394,791	May 26, 2001.
337–TA–174	4,174,100	March 27, 1998.
337–TA–174	4,436,126	September 17, 2001.
337–TA–228	4,494,028	September 30, 2002.
337–TA–240	4,392,476	December 23, 2000.
337–TA–254	4,577,263	June 6, 2004.
337–TA–276	4,223,394	February 13, 1999.
337–TA–276	4,519,050	June 17, 2002.
337–TA–276	4,103,189	October 1, 1996.
337–TA–276	4,685,084	June 7, 2005.
337–TA–276	4,392,476	December 23, 2000.
337–TA–287	4,376,966	April 7, 2000.
337–TA–308	4,653,455	June 19, 2005.
337–TA–314	4,558,263	December 6, 2003.
337–TA–314	4,709,958	September 22, 2006.
337–TA–319	4,177,931	October 4, 1998.
337–TA–319	4,676,390	July 22, 2006.
337–TA–319	4,765,505	June 22, 2006.
337–TA–320	4,559,872	April 30, 2004.
337–TA–324	4,740,213	October 22, 2006.
337–TA–333	4,805,505	March 2, 2008.
337–TA–337	4,446,436	May 18, 2001.
337–TA–344	4,336,652	August 1, 2000.
337–TA–365	4,950,107	October 12, 2008.

FOR FURTHER INFORMATION CONTACT: Mark D. Kelly, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3106.

SUPPLEMENTARY INFORMATION: Patent-based exclusion orders in Commission investigations instituted under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337, *et. seq.*) remain in force until the expiration dates of the underlying United States patents. Prior to the enactment of the URAA, the term of a United States utility patent was 17 years, measured from the date the patent was issued by the U.S. Patent and Trademark Office.

Section 532(a) of the URAA (35 U.S.C. 154(a)(2) and (c)(1)) provides that all utility patents in force on, or resulting from applications filed before, June 8, 1995, will have a term that is the greater of 17 years from the date of issue or 20 years from the date the application for patent was first filed. Accordingly, the terms of the exclusion orders issued in connection with the above listed investigations have been extended to the dates listed above in conformity with section 532(a) of the URAA. For further information, *see Certain Microsphere Adhesives Process for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes*, USITC Inv. No. 337–TA–366, Commission Opinion (Public Version) at 24 (December 15, 1995). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: February 9, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–3292 Filed 2–13–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 731–TA–726, 727, and 729 (Final)]

Polyvinyl Alcohol From China, Japan, and Taiwan

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: February 6, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION: On October 5, 1995, the Commission instituted the subject investigations and established a schedule for their conduct (60 FR 56614, November 9, 1995). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations from February 22, 1996, to March 21, 1996. The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than March 19, 1996; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on March 21, 1996; the prehearing staff report will be placed in the nonpublic record on March 13, 1996; the deadline for filing prehearing briefs is March 20, 1996; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on March 26, 1996; the deadline for filing posthearing briefs is April 1, 1996; the Commission will make its final release of information on April 18, 1996; and final party comments are due on April 24, 1996.

For further information concerning these investigations see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.20 of the Commission's rules.

Issued: February 7, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–3293 Filed 2–13–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Registration of U.S. Nationals' Claims Against Iraq.

This proposed information collection is published to obtain comments from the public. Comments and suggestions are encouraged and will be accepted for sixty (60) days from the date of publication of this notice.

Comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the Foreign Claims Settlement Commission's (FCSC's) estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Suggest ways in which the quality, utility and clarity of information proposed to be collected might be enhanced; and

4. Suggest ways in which the FCSC could minimize the burden of the proposed collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical or other collection techniques or other forms of information technology, such as permitting electronic submission of responses.

A complete copy of this notice is available in the following alternative format: electronic file on computer diskette.

Please address comments, suggestions and requests for additional information to: Mr. David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission of the United States, 600 E St., NW, Room 6002, Washington, DC 20579. Tel. 202–616–6975, FAX 202–616–6993.

SUPPLEMENTARY INFORMATION: This proposed collection of information will enable the FCSC to assess the number and magnitude of potential claims by U.S. nationals (individuals, corporations, and other entities) against the Government of Iraq which are outside the jurisdiction of the United Nations Compensation Commission in Geneva, Switzerland, for breach of contract, damage to and loss of property, physical injury and illness, and other losses and damages related to Iraq's August 1990 invasion and subsequent occupation of Kuwait.

Overview of This Proposed Information Collection

1. Type of information collection: New Collection.

2. Title of the form/collection: *Registration Form: Claims Against Iraq.*

3. Agency Form number, and name of component of the Department of Justice sponsoring the collection: FCSC Form 1–96; Foreign Claims Settlement Commission of the United States, United States Department of Justice.

4. Affected public who will be asked to respond, as well as a brief abstract: Primary Individuals; businesses and other for-profit entities; not-for-profit institutions. Other: none.

The information collected will be used to compile an accurate and comprehensive Registry of claimants and claims against Iraq, in preparation for the adjudication of those claims upon enactment of authorizing legislation. If such legislation is not passed, the information collected will be used to assure that all claims are taken into account in connection with any claims settlement negotiations that may be held with a future government of Iraq.

5. Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 3,000 responses at an average of 1 hour per response.

6. Estimate of the total public burden (in hours) associated with the collection: 3,000 annual burden hours at $10 per hour for a total burden cost of $30,000.

If additional information is required concerning this overview, please contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center Building, 1001 G St., NW, Washington, DC 20530.

Dated: February 8, 1996.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 96–3242 Filed 2–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on January 23, 1996, a proposed consent decree was lodged with the United States District Court for the District of Colorado in *United States* v. *Interstate Distribution Center Associates, Ltd., et al.*, CA No. 96–M–136. The proposed consent decree settles claims asserted by the United States, at the request of the United States Environmental Protection Agency (EPA) and the United States Department of the Army, and by the State of Colorado for releases and threatened releases of hazardous substances at the Chemical Sales Superfund Site near Denver, Colorado. The persons and entities named as defendants are Interstate Distribution Center Associates, Ltd., Crow Watson #9, Ltd., J. McDonald Williams, Trammell Crow Foundation, Ltd., TCF, Inc., Crow Family 1991 Limited Partnership, Mill Spring Holdings, Inc., Robert Watson, Norman Bledsoe, Gary D. Shafer, and Joel C. Peterson.

In the complaint, the United States and State asserted claims pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9607(a), for recovery of costs that have been and will be incurred in response to releases and threatened releases of hazardous substances at the Chemical Sales Superfund Site near Denver, Colorado. The consent decree includes a covenant not to sue, subject to certain reservations, under Sections 106 and 107(a) of CERCLA, 42 U.S.C. § 9606 and 9607(a), and the Solid Waste Disposal Act, 42 U.S.C. § 6901, *et seq.*, as amended by the Resource Conservation and Recovery Act of 1980 and the Hazardous and Solid Waste Amendments of 1984, for performance of the remedial actions and for recovery of past and future Response Costs incurred by the United States in connection with the Chemical Sales Facility. Under the proposed Consent Decree, the Defendants have made the following commitments: (1) Pay a total of $1.5 million in three payments of $500,000, $750,000, and $250,000, commencing ten days after the decree is entered and continuing annually for two years; and (2) pay 50% of the proceeds from the sale of the IDCA property.

The Department of Justice will receive written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Interstate Distribution Center Associates, Ltd., et al.*, D.J. Ref. No. 90–11–2–748B. Commenters may request a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d).

The proposed Consent Decree and exhibits may be examined at the following locations: The Region 8 Office of EPA, 999 18th Street, Suite 500, Denver, Colorado. The complete Administrative Record for the Chemical Sales Superfund Site may be reviewed at the same location.

A copy of the Consent Decree and exhibits (if requested) may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. In requesting copies, please enclose a check in the amount of $10.00 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–2662 Filed 2–13–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–30,216; TA–W–30,216A]

AEG Transportation Systems, A/K/A ABB Daimler-Benz Transportation (North America) Inc. Including Former Employees of ABB Traction; Pittsburgh, PA and Elmira, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1975 (19 USC 2273) the Department of Labor issued a Revised Determination on Reconsideration regarding eligibility to apply for worker adjustment assistance on February 2, 1995, applicable to all workers of AEG Transportation Systems, Pittsburgh, Pennsylvania. The notice was published in the **Federal Register** on February 14, 1995 (60 FR 8416).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that on January 1, 1996, the subject firm name changed to ABB Daimler-Benz Transportation (North America) Inc. The name change occurred as a result of a joint venture combining the subject firm with ABB Traction location in Elmira, New York. Accordingly, the Department is amending the certification to reflect the subject firm's name change and include workers of ABB Traction engaged in employment related to the production of transit vehicle systems and related equipment.

The intent of the Department's certification is to include all workers of the subject firm who were already affected by increased imports.

The amended notice applicable to TA–W–30,216 is hereby issued as follows:

All workers of AEG Transportation Systems, a/k/a ABB Daimler-Benz Transportation (North America) Inc., including former employees of ABB Traction, Pittsburgh, Pennsylvania (TA–W–30,216), and Elmira, New York (TA–W–30,216A) who became totally or partially separated from employment on or after August 4, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–3246 Filed 2–13–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,351, etc.]

Consolidated Natural Gas Transmission, Clarksburg, WV, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: Operations in various Locations in the following States:

TA–W–31,351B	PENNSYLVANIA
TA–W–31,351C	NEW YORK
TA–W–31,351D	OHIO
TA–W–31,351E	VIRGINIA
TA–W–31,351F	TEXAS

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 26, 1995, applicable to all workers at Consolidated Natural Gas Transmission located in Clarksburg, West Virginia. The notice was published

in the **Federal Register** on October 5, 1995 (60 FR 52213).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of natural gas. New information received from the company shows that worker separations have occurred at the subject firm operations in various locations in Pennsylvania, New York, Ohio, Virginia, and Texas. Based on these new findings, the Department is again amending the certification to cover workers of Consolidated Natural Gas Transmission in those states.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to TA–W–31,351 us hereby issued as follows:

"All workers of Consolidated Natural Gas Transmission, Clarksburg, West Virginia (TA–W–31,351), and the various operations located in the States of Pennsylvania (TA–W–31,351B), New York (TA–W–31,351C), Ohio (TA–W–31,351D), Virginia (TA–W–31,351E), and Texas (31,351F) who became totally or partially separated from employment on or after August 9, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 29th day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy ond Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 96–3247 Filed 2–13–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,407]

D & H Companies Odessa, TX; Notice of Termination of Certification

This notice terminates the Certification Regarding Eligibility to Apply For Worker Adjustment Assistance issued by the Department on September 22, 1995 for workers of D & H Companies located in Odessa, Texas. The notice was published in the **Federal Register** on October 5, 1995 (60 FR 52213).

The Department, on its own motion, reviewed the certification for workers of D & H Companies. Findings show that the petitioner was the self-employed owner and the only worker of the subject firm. The petitioner does not meet the definition of adversely affected worker engaged in adversely affected employment within the meaning of Section 247 the Trade Act of 1974.

Since there are no adversely affected workers of the subject firm, the continuation of the certification would serve no purpose and the certification has been terminated.

Signed at Washington, D.C., this 1st day of February 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–3245 Filed 2–13–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 26, 1996.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 26, 1996.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 29th day of January, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

Appendix

PETITIONS INSTITUTED ON 01/29/96

TA–W	Subject Firm (Petitioners)	Location	Date of Petition	Product(s)
31,791	Gothels Park Cutting, Inc (Wkrs)	Linden, NJ	12/28/95	Ladies' Sportswear.
31,792	Masonite/Int'l Paper (Wkrs)	Pilot Rock, OR	12/02/95	Nard Board, Asphalt Board, Tatami Mats.
31,793	Pershield, Inc (Wkrs)	Campaign, TN	12/20/95	Outdoor Equipment.
31,794	SmithKline Beecham (Comp)	Clifton, NJ	12/20/95	Scott's Emulsion—Food Supplement.
31,795	Cutting Services (Wkrs)	El Paso, TX	12/12/95	Garments.
31,796	Magee Apparel Mfg Co (Wkrs)	Magee, MS	12/14/95	Men's, Women's & Children's Pants.
31,797	Magee Apparel Mfg (Wkrs)	Collins, MS	12/14/95	Men's Women's & Children's Pants.
31,798	Miller Brewing Co (UAW)	Milwaukee, WI	12/18/95	Beer.
31,799	Pabst Brewing Co (UAW)	Milwaukee, WI	12/18/95	Beer.
31,800	DSI, Inc (UNITE)	Freeport, NY	12/14/95	Plastic Cosmetic Containers.
31,801	Shore Reboul Packaging (UNITE)	Freeport, NY	12/14/95	Plastic Cosmetics Containers.
31,802	Kirshner Medical Corp (Wkrs)	Fairlawn, NJ	12/13/95	Othopedic Implants.
31,804	Brazier Forest Industries (Co.)	Seattle, WA	11/15/95	Softwood Lumber.
31,805	Northland, A Scott Fetzer (IBEW)	Watertown, NY	01/10/96	Fractional HP Electric Motors.
31,806	Tailor Tech (Wkrs)	Catawissa, PA	12/14/96	Children's & Ladies' Clothing.
31,807	The Apparel Group (Unite)	Louisville, KY	01/05/96	Dress Shirts.

PETITIONS INSTITUTED ON 01/29/96—Continued

TA–W	Subject Firm (Petitioners)	Location	Date of Petition	Product(s)
31,808	Decor Home Fashions (ILGWU)	Brooklyn, NY	12/14/95	Shower Curtains, Table Cloths, Napkins.
31,809	Eaton Corporation (Co. IAM)	Bowling Green, KY	12/13/95	Industrial Electrical Controls.
31,810	Final Finish, Inc. (Co.)	El Paso, TX	12/12/95	Wash, Press, Inspect Jeans.
31,811	Northeast Manufacturing (Co.)	Booneville, MS	12/18/95	Ladies' Garments, Men's Shirts.
31,812	States Nitewear, Inc. (Wkrs)	New Bedford, MA	12/15/95	Ladies' Sleepwear, Loungewear, Robes.
31,813	Siemens Engery (Co.)	El Paso, TX	12/15/95	Circuit Breakers.
31,814	Shorty's Electric Motor (Co.)	The Dalles, OR	12/20/95	Electric Motors.
31,815	American National Can (Wkrs)	St. Louis, MO	12/26/95	Food Cans.
31,816	American National Can (Wkrs)	Pevely, MO	12/26/95	Food Cans.
31,817	B.B. & H. Manufacturers (Comp)	Moselle, MS	12/19/95	Denim Blue Jeans.
31,818	Cytec Industries (Wkrs)	Marietta, OH	12/29/95	Chemicals.
31,819	Electro-Scan Inc. (Wkrs)	Garfield, NJ	01/03/96	Jigs, Fixtures, Electron Mounts.
31,820	Everest & Jennings (IAM)	Earth City, MO	01/03/96	Homecare, Wheelchairs.
31,821	Fantasia Accessories (Wkrs)	New York, NY	12/28/95	Hair Accessories.
31,822	Ingersoll Dresser Pump Co (Wkrs)	Phillipsburg, NJ	01/02/96	Pumps.
31,823	Jackson Mills, Inc. (Comp)	Wellford, SC	12/27/95	Support Office (Woven Greige Fabric).
31,824	Jackson Mills, Inc. (Comp)	Iva, SC	12/27/95	Woven Greige Fabric.
31,825	McCulloch Corp. (Comp)	Lake Havasu, AZ	01/04/96	Chain Saws.
31,826	Lantz Lenses, Inc. (Wkrs)	St. Cloud, MN	01/03/96	Optical Lenses.
31,827	Major League, Inc. (Comp)	Jasper, GA	12/27/95	Sportswear.
31,828	Wrangler (Comp)	Troy, TN	12/12/95	Denim Jeans.
31,829	Movie Star of Sumrall (Comp)	Sumrall, MS	12/19/95	Ladies' Lingerie.
31,830	Rhone-Poulenc (Comp)	Newark, NJ	12/01/95	Defoamer & Chemicals for Paint etc.
31,831	Silver Leaf Paper (IAM)	Columbus, OH	11/07/95	Specialty Coated MG Papers.
31,832	Spring Town/Spring City (Wkrs)	Cartersville, GA	12/13/95	Men's T-Shirts.
31,833	Young Stuff Apparel Group (Wkrs)	New York, NY	12/14/95	Ladies' Sportswear.
31,834	Windsurfing Hawaii (Comp)	Stevenson, WA	01/05/96	Windsurfing Equipment.
31,835	Energy Fuels Nuclear (Comp)	Denver, CO	01/12/96	Uranium Oxide.
31,836	Energy Fuels Nuclear (Comp)	Blanding, UT	01/12/96	Uranium Oxide.
31,837	Weatherford U.S.A. (Wkrs)	Wichita Falls, TX	06/21/95	Oilfield Services.

[FR Doc. 96–3250 Filed 2–13–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than February 26, 1996.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 26, 1996.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of January, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services Office of Trade Adjustment Assistance.

APPENDIX

PETITIONS INSTITUTED ON 01/22/96

TA–W	Subject Firm (Petitioners)	Location	Date of Petition	Product(s)
31,755	Marshall Electric Corp (Comp)	Rochester, IN	12/08/95	Output Transformers.
31,756	Farr Co (Wkrs)	West Hazleton, PA	11/29/95	Air Filters for Heat & Air Conditioning.
31,757	Envirosys (Wkrs)	Moorhead, MN	12/29/95	Paper Pulp Cartons & Trays.
31,758	Campbell Industries (Wkrs)	San Diego, CA	12/11/95	Ship Building.
31,759	Carr Leather Co., Inc (UFCW)	Lynn, MA	12/11/95	Cow Hides, Leather Sides, Split Hides.
31,760	Windsor Textile & Process (UNITE)	Newburgh, NY	12/19/95	Dye Fabrics.
31,761	Dawson Home Fashions (Wkrs)	Passaic, NJ	12/11/95	Shower Curtains.

PETITIONS INSTITUTED ON 01/22/96—Continued

TA–W	Subject Firm (Petitioners)	Location	Date of Petition	Product(s)
31,762	Rose Art Lamps Shade (Wkrs)	Bronx, NY	12/13/95	Lamps & Lamp Shades.
31,763	U.S. Enertek (Wkrs)	Farmington, NM	12/16/95	Oilfield Equipment.
31,764	Elf Atochem North America (Comp)	Rosiclare, IL	12/30/95	Calcium Fluroride.
31,765	EIS Brake Parts (Wkrs)	Rural Retreat, VA	12/07/95	Brake Shoes.
31,766	Rockwell Int'l (Wkrs)	El Paso, TX	12/21/95	Semiconductors.
31,767	PMI Food Equipment (Wkrs)	Troy, OH	12/18/95	Commercial Dishwashers.
31,768	Newell Window Furnishings (UPIU)	Ogdensburg, NY	12/04/95	Window Shades.
31,769	James River Corporation (AWPPW)	Portland, OR	12/20/95	Poly Coated Paper—Frozen Food Packaging.
31,770	Allied Signal Safety (Wkrs)	Maryville, TN	11/14/95	Automobile Airbags.
31,771	Buster Brown Apparel (Wkrs)	Lafayette, GA	12/29/95	Childrens Apparel.
31,772	Buster Brown Apparel (Co.)	Ider, AL	12/18/95	Childrens Apparel.
31,773	Buster Brown Apparel (Co.)	Marion, VA	12/18/95	Children's Apparel.
31,774	Delta Apparel (Co.)	Tellico Plains, TN	12/12/95	Knit T-Shirts.
31,775	Delta Apparel (Co.)	Sparta, GA	12/12/95	Knit T-Shirts.
31,776	Communications and Power (Co.)	San Carlos, CA	12/12/95	Power Grid Vacuum Tubes.
31,777	Communications and Power (Co.)	Salt Lake City, UT	12/12/95	Power Grid Vacuum Tubes.
31,778	F.G. Montabert (UTWA)	Midland Park, NJ	12/07/95	Woven Garment Labels.
31,779	Dayton Racquet Co., Inc (Wkrs)	Arcanum, OH	12/01/95	Steel Racquets.
31,780	Cray Research, Inc (Comp)	Eagan, MN	12/06/95	Super Computer Systems.
31,781	CRI Customer Service (Wkrs)	Chippewa Falls, WI	12/06/95	Administrative Off. & Support Personnel.
31,782	Synergy Services, Inc (Wkrs)	Greenville, SC	12/29/95	Denim Garments.
31,783	Farris Fashion (Comp)	Brinkley, AR	12/19/95	Men's Knit Shirts.
31,784	Farris Fashion (Comp)	Marianna, AR	12/19/95	Men's Flannel Shirts.
31,785	Farris Fashion (Comp)	Hazen, AR	12/19/95	Men's Flannel Shirts.
31,786	Lauderdale Mills (Comp)	Lauderdale, MS	12/12/95	Ladies' & Children's T-Shirts.
31,787	Lee Apparel Co. (UFCW)	Fayetteville, TN	12/01/95	Denim Jeans.
31,788	Martin Blouse, Inc. (UNITE)	Shenandoah, PA	12/20/95	Men's Shirts & Women's Clothing.
31,789	Karl J. Marx (Wkrs)	New York, NY	12/11/95	Men's, Ladies' & Children's Clothing.
31,790	H.H. Cutler Co (Comp)	Grand Rapids, MI	12/14/95	Adult T-Shirts.

[FR Doc. 96–3248 Filed 2–13–96; 8:45 am]
BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

Annual Reporting and Disclosure Requirements; Correction

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Correction.

SUMMARY: In notice document 96–2140 beginning on page 3735 in the issue of Thursday, February 1, 1996, make the following correction:

On page 3736 in the second column, persons interested in commenting on the collection of information were directed to send their comments to Office of Information and Regulatory Affairs, OMB, Room 10235, NEOB, Washington, D.C. 20503, Attn: Desk Officer for PWBA. This should be changed to read Gerald B. Lindrew, U.S. Department of Labor, PWBA/OPLA, Room N–5647, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Furthermore, correcting the original notice, copies of the comments are not required to be filed with Mrs. Theresa O'Malley or with any other party.

As stated in the original notice, the comment period remains open for sixty days from the date of publication, February 1, 1996.

Signed at Washington, D.C. this 8th day of February, 1996.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 96–3249 Filed 2–13–96; 8:45 am]
BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369 and 50–370]

Duke Power Company, McGuire Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–9 and NPF–17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, located in Mecklenburg County, North Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the current combined Technical Specifications for Unit 1 and Unit 2 by separating them into individual volumes for each unit.

The proposed action is in accordance with the licensee's application for amendments dated July 18, 1994, as supplemented by letter dated October 9, 1995.

The Need for the Proposed Action

The proposed action would facilitate Technical Specification changes when it was required to be done separately for each unit. This would especially be important when, for a period of time, Unit 1 will have different steam generators than Unit 2.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the changes proposed by the licensee are administrative in nature and have no nonradiological or radiological environmental significance.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the McGuire Nuclear Station, Units 1 and 2.

Agencies and Persons Consulted:

In accordance with its stated policy, on January 4, 1996, the staff consulted with the North Carolina official, Mr. J. James of the Division of Radiation Protection, North Carolina Department of Environment, Health and Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of no Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 18, 1994, as supplemented by letter dated October 9, 1995, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina.

Dated at Rockville, Maryland, this 7th day of February 1996.

For the Nuclear Regulatory Commission.

Eugene V. Imbro,

Acting Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3256 Filed 2–13–96; 8:45 am]
BILLING CODE 7590–01–P

Biweekly Notice Involving No Significant Hazards Considerations; Applications and Amendments to Facility Operating Licenses

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 22, 1996, through February 2, 1996. The last biweekly notice was published on January 31, 1996 (61 FR 3497).

Notice of Consideration of Issuance of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By March 15, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714

which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: January 16, 1996.

Description of amendments request: The proposed amendments would revise the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Technical Specifications (TSs) to adopt Option B of 10 CFR Part 50, Appendix J, to require Type A containment leak rate tests to be performed on a performance-based testing schedule. Specifically, TSs 3/4.6.1.2 and 4.6.1.6.3 will be revised to reference a new Containment Leakage Rate Testing Program, TS 6.0 will be revised to add the new Containment Leakage Rate Testing Program, identify the programmatic controls for the new program, and reference the source of the programmatic guidelines, Regulatory Guide 1.116, "Performance-Based Containment Leak-Test Programs," dated September 1995. The TS Bases will be revised to reflect these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Containment leakage rate testing is performed in accordance with 10 CFR Part 50, Appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." The Appendix J containment leakage test requirements include performance of Type A tests, which measure the overall leakage rate of the containment, and Type B and C tests, which measure the leakage through containment penetrations and valves. The Commission has amended the regulations to provide a performance-based alternative, Option B, to the existing Appendix J. At this time, Baltimore Gas and Electric Company plans to adopt Option B for Type A testing only.

Implementation of Option B involves no physical or operational changes to the plant structures, systems or components. Furthermore, leakage rate testing and containment surface visual inspections do not contribute to the initiation of any postulated accidents; therefore, this proposed change does not involve an increase in the probability of any previously evaluated accidents.

Type A testing is necessary to demonstrate that leakage through the containment is within the limits assumed in the accident analyses. The only potential effect of the proposed change to the Type A test frequency is the possibility that containment leakage would go undetected between tests. As described in NUREG–1493, passive failures resulting in containment leakage in excess of that assumed in the accident analyses are extremely unlikely to develop between Type A tests. Additionally, the Calvert Cliffs Individual Plant Examination considered the phenomenological effects associated with severe accidents which could lead to containment failure. It was concluded that adopting a performance-based testing interval will not significantly affect the containment failure probabilities calculated for the Individual Plant Examination. Furthermore, the required frequency for containment surface examinations to identify containment degradation precursors will be relocated from the Technical Specifications to the Containment Leakage Rate Testing Program, but will remain at three examinations every ten years as recommended by Regulatory Guide 1.163, September 1995. Altogether, adoption of a performance-based testing frequency, as specified in 10 CFR Part 50, Appendix J, Option B, will not significantly decrease the confidence in the leak-tightness of the containment. Therefore, this change will not result in a significant increase in the probability of undetected containment degradation or in the consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed Technical Specification change adopts a performance-based approach to containment leakage rate testing. This change does not add any new equipment, modify any interfaces with any existing equipment, or change the equipment's function, or the method of operating the equipment. The proposed change does not affect normal plant operations or configuration, nor does it affect leakage rate test methods. As the proposed change would not change the design, configuration or operation of the plant, it could not cause containment leakage rate testing to become an accident initiator.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The purpose of the existing schedule for Type A tests is to ensure that the release of radioactive material will be restricted to those leak paths and leakage rates assumed in the accident analyses. The margin of safety associated with containment leakage rate is not reduced if containment leakage does not exceed the maximum allowable leakage rate defined in the Technical Specifications. The proposed Technical Specification change implements a performance-based Type A testing option, but does not affect the maximum allowable containment leakage rate. The proposed change does not affect a safety limit, a Limiting Condition for Operation, or the way in which the plant is operated.

In NUREG–1493, the Commission included a sensitivity study to explore the risk affect of several alternate leakage rate testing schedules. This study concludes that decreasing the Type A testing frequency to one test per twenty years would "lead to an imperceptible increase in risk." Additionally, it was determined that implementation of the performance-based testing option will not significantly affect the containment failure probability calculated in the Calvert Cliffs Individual Plant Examination. Based upon these studies, there is sufficient information to conclude that the risk increase, and that the probability of exceeding the maximum allowable containment leakage rate as a result of adopting Option B, is low.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Ledyard B. Marsh.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: November 27, 1995.

Description of amendment request: The proposed change would revise technical specification (TS) section 3.2 to remove requirements for the chemical and volume control system (CVCS). The CVCS requirements would be relocated to a licensee-controlled document and controlled by the 10 CFR 50.59 evaluation process.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change removes the Chemical and Volume Control System (CVCS) requirements from the Technical Specifications (TS) and relocates these requirement[s] to a licensee-controlled document. As such, the proposed change only affects plant documentation and does not change the operating requirements or the plant physical or operating configuration. The CVCS requirements will be controlled by the plant approved process for the licensee-controlled document using the 10 CFR 50.59 evaluation process. The proposed change relocating the CVCS requirements from the TS to licensee control will not affect the probability of an accident previously evaluated because the operating restrictions will remain in effect and any change to the operating restrictions will be performed in accordance with 10 CFR 50.59.

Examination of the H. B. Robinson Steam Electric Plant, Unit No. 2 Updated Final Safety Analysis Report (UFSAR) Chapter 15, Accident Analysis, finds that no CVCS structure, system, or component functions or actuates to mitigate a design basis accident or transient. Valves at the CVCS to Reactor Coolant System (RCS) interface perform a containment isolation function. However, the TS Section 3.2 does not address the containment isolation aspect of the CVCS. As such, the proposed change to remove the CVCS requirements from the TS will not affect the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change removes the CVCS requirements from the TS and relocates the requirements to a licensee-controlled document. As such, the proposed change only affects plant documentation and does not change the operating requirements or the plant physical or operating configuration. The CVCS requirements will be controlled by the plant approved process for the licensee-controlled document using the 10 CFR 50.59 evaluation process. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated because any future change to these operating restrictions will be performed in accordance with 10 CFR 50.59.

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed change removes the CVCS requirements from the TS based on the criteria of 10 CFR 50.36(c)(2)(ii). The CVCS requirements will be relocated to a licensee-

controlled document. As such, the proposed change only affects plant documentation and does not change operating requirements or the plant physical or operating configuration. The CVCS requirements will be controlled by the plant approved process for the licensee-controlled document using the 10 CFR 50.59 evaluation process. The proposed change will not result in any reduction in the margin of safety because any future change to the CVCS operating restrictions will be performed in accordance with 10 CFR 50.59. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: David B. Matthews.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: December 10, 1995.

Description of amendment request: The proposed change would revise technical specification (TS) section 3.5.1 and Tables 3.5–2, 3, and 4 concerning the reactor trip system (RTS), engineered safety feature actuation system (ESFAS), and isolation function. TS would be revised to (1) specify actions to be taken when an instrument channel becomes inoperable, (2) add an "Applicable Conditions" column that defines the applicability and/or mode of operation of each functional unit, and (3) make editorial enhancements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to upgrade the RTS and ESFAS TS to more closely agree with Westinghouse Standard TS (i.e., NUREG–0452) will not result in any hardware changes. The RTS and ESFAS are not assumed to be initiators of analyzed events.

The role of these systems is in mitigating and thereby limiting the consequences of accidents. The proposed changes will ensure the RTS and ESFAS remain capable of mitigating design basis events as described in the Updated Final Safety Analysis Report (UFSAR) and that the results of the analyses in the UFSAR remain bounding. Additionally, the proposed changes do not impose any new safety analyses limits or alter the plant's ability to detect and mitigate events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to upgrade the RTS and ESFAS TS to more closely agree with Westinghouse Standard TS (i.e., NUREG–0452) does not necessitate a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed change, which upgrades the RTS and ESFAS TS to be consistent with Westinghouse Standard TS (i.e., NUREG–0452) does not involve a significant reduction in a margin of safety. The proposed change has been developed to ensure the analyzed safety limits are not exceeded and ensures the RTS and ESFAS are available when necessary to mitigate the consequences of accidents. It also imposes additional requirements to ensure the RTS and ESFAS remain capable of mitigating the consequences of design basis accidents as described in the UFSAR accident analyses. In addition, this change provides a benefit of avoiding unnecessary plant transients when adequate compensatory measures are available to ensure the intended function of the instrumentation is satisfied.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: David B. Matthews.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut, and Northeast Nuclear Energy Company, et al., Docket Nos. 50–245, 50–336, and 50–423, Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3, New London County, Connecticut

Date of amendment request: November 22, 1995.

Description of amendment request: The amendments would revise the Technical Specifications (TS) for Haddam Neck and Millstone Unit Nos. 1, 2, and 3 to be consistent with the guidance of Generic Letter 93–07. The proposed changes will remove review of the emergency and security plans from the TS list of responsibilities of the Plant Operations Review Committee (PORC)/Site Operations Review Committee (SORC), and will also remove the requirement for PORC/SORC to review procedures and procedure changes necessary for the implementation of the emergency and security plans.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

* * * The proposed changes do not involve an SHC [significant hazards consideration] because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes delete the technical specification requirement to review the emergency plans, security plans, and their implementing procedures by PORC/SORC. The requirement which mandates PORC/SORC review will be maintained in the respective emergency plan and security plan. These changes are purely administrative in nature. These changes do not affect the configuration, operation, or performance of any system, structure, or component. The proposed changes are therefore not relevant to the probability of initiation of any accident previously evaluated, and they are not related to the prevention or mitigation of any accident previously evaluated. Thus they do not increase the consequences of any design basis accident.

Therefore, these proposed changes to the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes delete from the technical specifications the line item requiring the review of emergency plans, security plans, and their implementing procedures by PORC/SORC. Revisions to these plans will continue to be reviewed by PORC/SORC due to commitments to contain the requirement for PORC/SORC review in the emergency plan and security plan. These changes are purely administrative in nature.

None of the proposed changes described above alter the configuration, normal operation, design bases, function, or performance of any components or systems. Thus, the proposed administrative changes do not create the possibility of a new or different kind of accident from any previously evaluated since these changes do not introduce any new or different equipment, operating mode, or design basis functions for the existing licensed structures, systems and components. Thus, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

None of the above proposed changes alter the configuration, normal operation, design bases, function, or performance of any components or systems. Therefore, the proposed changes do not affect the margin of safety inherent in the design, analysis, function, or operation of the relevant structures, systems or components.

These proposed changes do not alter the fuel clad barrier, fuel integrity, reactor coolant system integrity or the containment boundary integrity; thus no margin of safety related to these barriers is involved.

None of the proposed administrative changes described above alter the configuration, normal operation, design bases, function or performance of any components, systems, or barriers to a radiological release. Thus, the proposed administrative changes do not affect the margin of safety inherent in the design, analysis, function, or operation of the relevant structures, systems or components.

Based on the above, these proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457 for the Haddam Neck Plant, and Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360 for Millstone Units 1, 2, and 3.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box.270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: January 11, 1996.

Description of amendment request: The Catawba Unit 1 and the Catawba Unit 2 containment process penetration M308 and associated containment isolation valves are currently not in service and serve no function other than providing containment integrity. The licensee plans to implement modifications for both units to remove containment isolation valves RN–429A and RN–432B of penetration M308, remove associated wiring and control room instrumentation, and cut and cap tubing providing containment valve injection water to these containment isolation valves during the forthcoming Unit 1 refueling outage, currently scheduled to begin by June 1996, and the Unit 2 refueling outage currently scheduled to begin in March 1997. The proposed Technical Specifications (TS) would be revised to delete these containment isolation valves and associated equipment to permit implementation of these modifications. The licensee's requested amendment removes process penetration M308 from TS Table 3.6–1 and removes containment isolation valves RN–429A and RN–432B from TS Table 3.6–2a and Table 3.6–2b due to planned modifications which physically remove these valves from process penetration M308.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

The physical removal of containment isolation valves RN–432B and RN–429A, associated control room instrumentation, containment valve injection water connections to these valves and the subsequent sealing of process penetration M308 will decrease unnecessary challenges to containment isolation, containment valve injection water leak-rate testing and the condition of control room instrumentation, as opposed to the current configuration.

Since the sealing of process penetration M308 will be performed per the requirements of the applicable ASME code piping safety class requirements, the confidence in the pressure boundary will be equivalent to the component as originally designed. Therefore, this Technical Specification amendment to remove process penetration M308 from Technical Specification Table[] 3.6–1 and to remove containment isolation valves RN–429A and 432B from Technical Specification Table 3.6–2a and Table 3.6–2b will not increase the probability or consequences of an accident that has been previously evaluated.

Criterion 2

Since no new failure modes are created, on the basis that the penetration is equivalent in confidence to the original design, and the plant will operate the same way it does now, this Technical Specification amendment to remove process penetration M308 from Technical Specification Table[] 3.6–1 and to remove containment isolation valves RN–429A and 432B from Technical Specification Table 3.6–2a and Table 3.6–2b does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

This proposed change to Technical Specifications will not cause a significant reduction in the margin of safety. Upon completion of the removal of containment isolation valves RN–432B and 429A and the subsequent sealing of process penetration M308, the penetration will be Type B leak rate tested as part of post-modification testing, and will be retested periodically and following each use of the penetration for temporary containment cooling purposes during refueling outages. Therefore, the fuel, cladding, reactor coolant pressure boundary, and containment are not negatively affected by the proposed Technical Specification amendment. No assumptions made in any accident analysis are compromised by this proposed Technical Specification amendment.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: January 4, 1996.

Description of amendment request: The proposed revisions rectify a discrepancy in Specification 3.5.3 for each St. Lucie unit, and provide assurance that administrative controls for High Pressure Safety Injection pumps remain effective in the lower operational modes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The amendment proposed for each St. Lucie Unit (1 and 2) rectifies an error in the Applicability statement for Technical Specification 3.5.3, which provides limiting conditions for operation (LCO) for the Emergency Core Cooling System (ECCS) subsystems during plant shutdown. The revision is administrative in nature and does not change the technical requirements within the LCO that are established to assure a minimum functional capability required of the ECCS systems to mitigate analyzed transients. Rather, the revision provides assurance that the effectiveness of certain administrative controls, established to restrict the number of operable HPSI [High Pressure Safety Injection] pumps during shutdown, will not be diminished by a misinterpretation of the modes and conditions for which the LCO must apply.

This proposal does not create any accident initiators, nor does it change the availability or method of operation of equipment that is assumed to function in the success path(s) for mitigating accidents evaluated in the plant safety analyses. Therefore, operation of either facility in accordance with its proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed administrative change to the LCO 3.5.3 Applicability statement for each St. Lucie unit will not change the physical plant or the modes of plant operation defined in the Facility License. The revision does not involve the addition or modification of equipment, nor does it alter the design or operation of plant systems. Therefore, operation of either facility in accordance with its proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed amendment involves an administrative change to LCO 3.5.3 for each St. Lucie unit, which applies to the ECCS subsystems during the plant shutdown modes. The revision rectifies a discrepancy in the Applicability statement, and thereby provides assurance that the effectiveness of administrative controls established within the LCO to limit the number of operable High Pressure Safety Injection pumps during the shutdown modes will not be diminished. The changes do not alter the basis for any technical specification that is related to the establishment of, or the maintenance of, a nuclear safety margin. Therefore, operation of either facility in accordance with its proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954–9003.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: David B. Matthews.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: January 18, 1996.

Description of amendment request: The proposed amendment would lower the Reactor Water Cleanup (RWCU) isolation setpoint from reactor low level to reactor low-low level.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed [technical specification] TS amendment will not significantly increase the probability or consequences of any previously evaluated accidents. The RWCU vessel level isolation occurs as a result of a [loss-of-coolant-accident] LOCA and therefore does not affect the probability of occurrence of a LOCA or any other previously evaluated accident.

An IES calculation demonstrates that for all RWCU breaks or cracks considered, high ambient temperature, high differential temperature and/or high differential flow will provide the RWCU isolation signal prior to reaching reactor low level. Therefore, the level setpoint acts as a backup isolation signal for a break in RWCU piping outside primary containment.

As discussed, this change will utilize four existing reactor level sensors. These reactor level sensors are safety related and located in the same physical area and in the same configuration as the four existing sensors. Therefore, the reliability of the RWCU vessel level isolation capablity is not reduced.

(2) The proposed changes will not create the possibility of a new or different kind of accident. The configuration of the RWCU isolation valves is unchanged. As before, the failure of any single active component in the new logic results in, at worst, failure of one containment isolation valve to close. Because the closure of one of the two valves is sufficient to achieve the containment isolation, the possibility of an accident of a different type is not increased.

The modification to the RWCU vessel level isolation logic has been designed to the same standards as the original logic. This change will require the same surveillance requirements for the reactor low-low level trip point circuitry that are currently required for the reactor low level trip point circuitry. All other RWCU isolation functions remain unchanged. Consequently, no new accidents are postulated as a result of this proposed change.

(3) The proposed change will not result in a significant reduction in any margin of safety. No margin of safety is affected by this change. The RWCU vessel level isolation occurs to establish primary containment and limit fluid loss. The proposed change will preserve these functions.

It can be noted, however, that for a RWCU piping break outside primary containment, high ambient temperature, high differential temperature and/or high differential flow will provide the RWCU isolation signal. In the unlikely event that these temperature and flow sensing devices fail, isolation will be initiated upon reactor level reaching 119.5" above [top of active fuel] TAF. Using blowdown rates and valve closure times, analysis shows reactor level will not drop below 105" above TAF. The is well above the TAF. Additionally, lowering the RWCU isolation setpoint does not increase the consequences of a LOCA.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Kathleen H. Shea, Morgan, Lewis, & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Project Director: Gail H. Marcus.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: January 30, 1996.

Description of amendment request: The proposed amendment would revise certain control rod scram insertion time testing limits. The proposed change is compatible with the limits specified in the Improved Standard Technical Specifications (ITS), NUREG 1433, Revision 1, "Standard Technical Specifications, General Electric Plants, BWR/4."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed amendment does not involve a change in the probability or consequences of an accident previously evaluated. The amount of reactivity inserted at rod position 46 (approximately 5% of rod insertion) is small and the time required to insert this amount of reactivity is not explicitly considered in the plant transient analysis. A generic BWR/2–5 study (Reference 3 [EAS–56–0889, "BWR/2–5 Scram Time Technical Specification", dated August 1989]) performed on behalf of the [boiling water reactor] BWR Owner's Group to support the ITS demonstrated that relaxing the 5% rod insertion time requirement had a negligible impact on plant transient performance provided the insertion time requirements to the other rod positions are met. We have confirmed that this study is applicable to the [Duane Arnold Energy Center] DAEC. Increasing the allowable average scram insertion time to rod position 46 for all Operable control rods in addition to increasing the allowable average scram insertion time to rod position 46 for the three fastest control rods in any 2X2 array would still demonstrate that the [control rod drive] CRD system will perform its intended function. Scram time is a measure of CRD performance for operability. As such, it is not the initiator of any plant event. Therefore, the proposed change will not result in an increase in the probability of an accident occurring.

(2) The amount of reactivity inserted at rod position 46 (approximately 5% of rod insertion) is small and the time required to insert this amount of reactivity is not explicitly considered in the transient analysis. A generic BWR/2–5 study showed that relaxing the 5% rod insertion time requirement had a negligible impact on plant transient performance. Increasing the allowable average scram insertion time to rod position 46 for all Operable control rods, while increasing the allowable average scram insertion time to rod position 46 for the three fastest control rods in any 2X2 array, would still demonstrate that the CRD system will perform its intended function. Therefore, increasing the limits proposed does not create the possibility of a new or different kind of accident from any previously evaluated. Scram time is a measure of CRD performance for operability. As such, it is not the initiator of any plant event.

(3) The safety limit most affected by an increase in scram times is the Minimum Critical Power Ratio (MCPR). The DAEC [technical specification] TS safety limit for MCPR is 1.07. To ensure that the MCPR safety limit is not exceeded during design basis transients and accidents, an operating limit is conservatively placed on the MCPR during normal plant operation (OLMCPR). The amount of reactivity inserted at rod position 46 (approximately 5% of rod insertion) is small. The analysis used to establish the OLMCPR does not consider the scram insertion time at position 46 but does consider the scram insertion time to rod position 38 for the most limiting transient (turbine load rejection without bypass). The required scram time to position 38 remains unchanged by this proposed amendment. A generic BWR/2–5 study showed that relaxing the 5% rod insertion time requirement had a negligible impact on plant transient performance. This change will not result in any changes to the calculated OLMCPR, which assures that the safety limit MCPR will not be exceeded. Therefore, this change will not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Kathleen H. Shea, Morgan, Lewis, & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Project Director: Gail H. Marcus.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London, Connecticut

Date of amendment request: December 18, 1995.

Description of amendment request: The Allowable Value for the Reactor Coolant Flow Instrumentation contained in Table 2.2–1 is proposed to be changed to reflect the design changes implemented during the last refueling outage. The Reactor Coolant System (RCS) Steam Generator Differential Pressure Instrumentation Loops have been modified to reflect a re-calibration of the differential pressure transmitter from "-8 to 64 psid" to "0 to 35 psid," and an elimination of the Foxboro signal characterizer modules from the instrument loop string.

Additionally, an editorial change is proposed for the text associated with the allowable value. The current wording "reactor coolant" is being changed to "reactor coolant flow."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Pursuant to 10 CFR 50.92, NNECO has reviewed the proposed changes. NNECO concludes that these changes do not involve a significant hazards consideration (SHC) since the proposed changes satisfy the criteria in 10 CFR 50.92(c). That is, the proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the Allowable Value of the Reactor Coolant Flow Instrumentation is based on design changes that reduce the uncertainties in the overall instrument loop, as well as improved calculation methodology for instrument uncertainty and setpoint. The new hardware configuration results in calculated uncertainties which are bounded by the Safety Analysis assumptions. There is no adverse impact on any design basis analysis due to this change, and, therefore does not affect the probability or consequence of any previously evaluated accident.

Additionally, the proposed change to add the word "flow" is an editorial correction and therefore does not affect the probability or consequence of any previously evaluated accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The new Allowable Value has been calculated using an improved methodology. The new hardware configuration results in calculated uncertainties which are bounded by the Safety Analysis assumptions. The function of the Allowable Value is not changed. Therefore no new accident scenarios are created.

Additionally, the proposed change to add the word "flow" is an editorial correction and therefore no new accident scenarios are created.

3. Involve a significant reduction in a margin of safety.

The change to the Allowable Value for the Reactor Coolant Flow Instrumentation reflects the design changes implemented during the last refueling outage. The design improvement of the loop performance ensures that the assumptions of the Safety Analysis are met. Since the proposed changes do not affect the consequences of any accident previously analyzed, there is no reduction in a margin of safety.

Additionally, the proposed change to add the word "flow" is an editorial correction and has no effect on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London, Connecticut

Date of amendment request: January 5, 1996.

Description of amendment request: Northeast Nuclear Energy Company (NNECO) is proposing to implement the guidance of Generic Letter 93–08 and relocate Tables 3.3–2, "Reactor Protective Instrumentation Response Times" and 3.3–5, "Engineered Safety Features Response Times" from the technical specifications to the Millstone Unit No. 2 Technical Requirements Manual (TRM). In accordance with Generic Letter 93–08, the Limiting Conditions for Operations for Technical Specifications 3.3.1.1, 3.3.2.1, and 3.7.1.6 are also proposed to be revised to eliminate their references to the aforementioned tables. NNECO has also proposed to revise Bases 3/4.3.1 and 3/4.3.2 to reference that the instrument response times are located in the TRM and that these tables in the TRM are now controlled under 10CFR50.59. NNECO also proposes to remove a cycle-specific note from Tables 3.3–3 and 3.3–4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

In accordance with 10CFR50.92, NNECO has reviewed the attached proposed changes and has concluded that they do not involve a significant hazards consideration. The basis of this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed changes do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed license amendment will remove the reactor protective system and engineered safety feature actuation response times from the technical specifications. This proposed change will not affect the operation of the reactor protective system and the engineered safety feature actuation system. Operability and surveillance requirements are still maintained in the technical specifications and the response times will be included and maintained in the Technical Requirements Manual (TRM). Once relocated to the TRM, any future proposed changes will require a safety evaluation and Plant Operations Review Committee review.

The proposed license amendment will also delete the cycle-specific note contained in Tables 3.3–2 and 3.3–4. This is administrative in nature and do not result in changes to plant configuration, operation, accident mitigation, or analysis assumptions. The notes was in effect only during Cycle 12.

Since the systems will not be affected by the proposed changes, there is no impact on the performance of these systems or on the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

There are no new failure modes associated with the proposed changes. Since the plant will continue to operate as designed, the proposed changes will not modify plant responses to the point where it can be considered a new or different kind of accident.

Involve a significant reduction in a margin of safety.

The proposed changes do not have any adverse impact on the protective boundaries nor do they affect the consequences of any accident previously analyzed. The portion of the change associated with Generic Letter 93–08 will not affect the technical specification operability and surveillance requirements which will still ensure that the systems are tested and are within limits. Changing the limits requires a safety evaluation and Plant Operations Review Committee review. This will ensure that the licensing basis is maintained.

The proposed changes to delete the cycle-specific notes are administrative in nature and do not result in changes to plant configuration, operation, accident mitigation, or analysis assumptions. The notes were in effect only during Cycle 12.

Therefore, the proposed changes will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Northeast Nuclear Energy Company, et al., Docket No. 50–335, Millstone Nuclear Power Station, Unit No. 2, New London, Connecticut

Date of amendment request: January 26, 1996.

Description of amendment request: The licensee proposes to modify the Technical Specifications for Millstone Unit No. 2 as follows:

1. Limiting Condition for Operation 3.6.1.2.a-c: Replace the less than or equal to sign with a "<" sign for consistency with Appendix J wording on leakage limits.

2. Surveillance Requirements:

a. Type "A" tests: Surveillance Requirements 4.6.1.2.a-c are revised to replace specific guidance with a reference to the Containment Leakage Testing Program.

b. Type "B & C" tests: Surveillance Requirement 4.6.1.2.d-e are revised to replace specific guidance with a reference to the Containment Leakage Testing Program.

c. Air lock tests: Surveillance Requirements 4.6.1.3.a-c are revised to replace specific guidance with a reference to the Containment Leakage Testing Program.

d. Containment Linear Plate Visual Inspection: Surveillance Requirement 4.6.1.6.3 is revised to replace specific guidance with a reference to the Containment Leakage Testing Program.

e. Other Surveillance Requirements: 4.6.1.1.d and 4.6.1.2.g-h are replaced by the reference to the Containment Leakage Testing Program.

3. Bases section 3/4.6.1.2 Containment Leakage is revised to reflect the above changes including a reference to the Containment Leakage Testing Program. In addition, the specifie value of Pa is being deleted. Since Pa is a calculated value it is possible for the value of Pa to change should the loss of coolant accident be reanalyzed.

4. Administrative Controls: Section 6.19 is added to establish a Containment Leakage Testing Program, as specified in Regulatory Guide 1.163, dated September 1995.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Pursuant to 10CFR50.92, NNECO has reviewed the proposed use of 10CFR50, Appendix J, Option B Containment Leak Rate Testing criteria for Millstone Unit No. 2. NNECO concludes that these changes do not involve a significant hazards consideration since the proposed change satisfies the criteria in 10CFR50.92(c). That is, the proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The changes involved in this license amendment request revise the testing criteria for the containment penetrations. The revised criteria will be based on the guidance in Regulatory Guide 1.163, "Performance-Based Containment Leak-Test Program." This guidance allows for the use of relaxed testing frequencies for containment penetrations that have performed satisfactorily on a historical basis. The Containment Leak Rate Testing Program considers the type of service, the design of the penetration, and the safety impact of the penetration in determining the testing interval of each penetration. The NRC Staff has reviewed the potential impact of performance-based testing frequencies for containment penetrations during the development of the Option B regulation. The NRC Staff review is documented in NUREG–1493 "Performance-Based Containment Leakage Test Program." The review concluded that reducing the frequency of Type A tests (Integrated Leak Rate Tests) from three per ten years to one per ten years leads to an imperceptible increase in risk. For Type B and C testing (Local Leak Rate Tests), the change in testing frequency should not have significant impact since this leakage contributes less than 0.1 percent of the overall risk-based on the existing regulations. The use of Option B will allow the extension of testing intervals with a minimal impact on the radiological release rates since most penetration leakage is continually well below the specified limits. In the accident risk evaluation, the NRC Staff noted that the accident risk is relatively insensitive to the containment leakage rate because the accident risk is dominated by accident sequences that result in failure of or bypass of the containment. The use of a performance-based testing program will continue to provide assurance that the accident analysis assumptions remain bounding. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

Changes to the Administrative section describe the containment testing program only and cannot increase the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed license amendment does not change the operation or equipment of the plant. The change in the test frequency is dependent on the establishment of a Containment Leak Test Program. This test program will ensure the performance history of each penetration is satisfactory prior to the changing of any test frequency. Since the performance history of the penetration will be known, there is no possibility of the implementation of the program creating a new or different kind of accident than previously analyzed. Since there is no change to the equipment or the operation of the plant, there is no possibility of creating a new or different kind of accident than previously analyzed. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed.

Changes to the Administrative section describe the containment testing program only and cannot create a different accident from any previously analyzed.

3. Involve a significant reduction in the margin of safety.

During the development of 10CFR50, Appendix J, Option B, the NRC Staff determined the reduction in safety associated with the implementation of the performance-based testing program. The results of this review are documented in NUREG–1493. The review concluded that reducing the frequency of Type A tests (Integrated Leak Rate Tests) from three per ten years to one per ten years leads to an imperceptible increase in risk. For Type B and C testing (Local Leak Rate Tests), the increase in testing frequency should not have significant impact since this leakage contributes less than 0.1 percent of the overall risk-based on the existing regulations. The use of Option B will allow the extension of testing intervals with a minimal impact on the radiological release rates since most penetration leakage is continually well below the specified limits. In the accident risk evaluation, the NRC Staff noted that the accident risk is relatively insensitive to the containment leakage rate because the accident risk is dominated by accident sequences that result in failure of or bypass of the containment. The use of a performance based testing program will continue to provide assurance that the accident analysis assumptions remain bounding. Therefore, this change does not involve a significant reduction in the margin of safety.

Changes to the Administrative section describe the containment testing program only and cannot reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: January 11, 1996.

Description of amendment request: The proposed amendments would revise Section 6.0 (Administrative Controls) of the Salem and Hope Creek Technical Specifications to: (1) relocate the requirements of Section 6.5 (Station Operations Review Committee, Nuclear Safety Review and Audit, and Technical Review and Control) to the Quality Assurance Program, (2) replace specific management titles with generic management functional positions, (3) change Operating Engineer to Assistant Operations Manager, (4) require a Senior Reactor Operator license be held by either the Operations Manager or one of the Assistant Operations Managers, and 5) correct some typographical errors in Section 6.0.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

A portion of the proposed changes involves the relocation of the requirements for the Station Operations Review Committee, Nuclear Safety Review and Audit, and Technical Review and Control. These requirements are contained in Administrative Controls Section 6.5 of the Salem and Hope Creek Technical Specifications. The requirements to be relocated do not meet the criteria set forth in the Commission's Final Policy Statement for inclusion in Technical Specifications and therefore, may be relocated to an appropriate licensee controlled document (i.e., the Quality Assurance Program). Another element of the proposed change involves a modification which consists of stating that either the Operations Manager or Assistant Operations Manager shall hold a Senior Reactor Operator (SRO) license and replacing the title of Operating Engineer with Assistant Operations Manager.

The requirements being changed are not required by 10 CFR 50.36 and are not required to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety. The changes are consistent with NUREG–1431 and NUREG–1433, Revision 1, and have been previously evaluated by the NRC. The remaining portions of the proposed changes consist of management title changes, including changing Operating Engineer to Assistant Operations Manager, and correction of typographical errors.

All of the proposed changes are administrative in nature and do not affect assumptions contained in the plant safety analysis, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. Implementation of these changes is expected to enable PSE&G [Public Service Electric & Gas] and the NRC to focus on requirements important to safety. Therefore, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are purely administrative and do not involve changes to operating procedures or physical modifications to the plants. Therefore, the proposed changes will not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The changes discussed herein will not involve a significant reduction in a margin of safety since the proposed changes do not eliminate any existing Technical Specification requirements. All requirements removed from Technical Specifications are relocated to another licensee controlled program (i.e., the Quality Assurance Program). The Quality Assurance Program is controlled by existing regulations which provide a more appropriate vehicle for addressing changes and compliance. There are no administrative control requirements removed from the Technical Specifications which are not addressed by other regulations and regulatory requirements (i.e., 10CFR50 Appendix B, 10CFR50.59, 10CFR50.54(a), and NUREG–0737).

Prior to this proposed change it was a Technical Specification requirement that the Operating Engineer hold an SRO license.

Specification 5.2.2.f of NUREG–1431 and NUREG–1433, Revision 1, states that an SRO license shall be held by either the Operations Manager or Assistant Operations Manager. The Operating Engineer and Assistant Operations Manager are equivalent positions at Salem and Hope Creek. Chapter 13 of the respective plant's Updated Final Safety Analysis Report, states that the Operations Manager is assisted by the Assistant Operations Manager (formerly the Operating Engineer) and other supervisory personnel. The Assistant Operations Manager reports directly to the Operations Manager and will assume the authority and responsibility of the department in the absence of the Operations Manager. The title change from Operating Engineer to Assistant Operations Manager reflects the organizational changes underway at Salem and Hope Creek. The duties and responsibilities associated with the two positions are identical. The option that either the Operations Manager or Assistant Operations Manager hold an SRO license is consistent with prior approved amendments for Salem and Hope Creek. These amendments [were] approved based on the fact that the organizational structure contained a direct report to the Operations Manager [who] is required to hold an SRO license. With the proposed change either the Operations Manager or a direct report (i.e., Assistant Operations Manager), is required to hold an SRO license. The change is also consistent with the 1993 version of ANSI/ANS 3.1, "American National Standard for Selection, Qualification and Training of Personnel for Nuclear Power Plants," and NUREG–1431 and 1433, Revision 1. This change will not involve a significant reduction in a margin of safety since it is still required that either the Operations Manager or Assistant Operations Manager holds an SRO license.

The other management title changes also will not involve a significant reduction in a margin of safety since all organizational responsibilities are and will continue to be implemented in accordance with applicable requirements.

The proposed changes are administrative in nature and do not relate to or modify a margin of safety defined and maintained by the Technical Specifications. Therefore, the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Attorney for licensee: M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Project Director: John F. Stolz.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: January 4, 1996.

Description of amendment request: The proposed amendments would change Technical Specification 3/4.8.2.5, "28-Volt D.C. Distribution-Operating." The amendments would make Unit 1 requirements similar to Unit 2 by defining the specific battery chargers that are required for each train and by restricting the use of the backup battery charger for a 7-day period. The amendments would also require the 28-Volt DC bus be energized for that bus to be OPERABLE.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not alter plant configuration or operation. The proposed changes do not invalidate any of the parameters assumed in the UFSAR [Updated Final Safety Analysis Report) accident analyses. The proposed changes provide additional guidance to be used to ensure the operability of the safety related batteries, and requires the DC buses to be operable and energized consistent with the Limiting Condition for Operation (LCO). Operability of these buses provide control room instrumentation power in support of mitigating Design Basis Accidents.

The changes to the Unit 1 Technical Specification (TS) 3.8.2.5 LCO and Action Statements restrict the use of the backup battery chargers, thereby limiting the amount of time that the chargers are allowed to be powered from another AC Vital bus. This change brings the Unit 1 TS into agreement with Unit 2, and results in a more conservative Unit 1 TS since both alternate battery chargers are fed from the same 230 V vital AC bus.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not introduce any design or physical configuration changes to the facility, or change the function of the 28-Volt DC Distribution System. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The proposed changes provide additional guidance to be used to ensure the operability of the safety related batteries. The changes to the Unit 1 Technical Specification (TS) 3.8.2.5 LCO and Action Statements restrict the use of the backup battery chargers, thereby limiting the amount of time that the chargers are allowed to be powered from another AC Vital bus. This change brings the Unit 1 TS into agreement with Unit 2, and results in a more conservative Unit 1 TS by precluding the possibility of both the 1A and 1B battery/buses from being supplied from a single bus. Therefore, the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005–3502.

NRC Project Director: John F. Stolz.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: January 11, 1996.

Description of amendment request: The proposed amendments would revise Section 6.0 (Administrative Controls) of the Salem and Hope Creek Technical Specifications to: (1) relocate the requirements of Section 6.5 (Station Operations Review Committee, Nuclear Safety Review and Audit, and Technical Review and Control) to the Quality Assurance Program, (2) replace specific management titles with generic management functional positions, (3) change Operating Engineer to Assistant Operations Manager, (4) require a Senior Reactor Operator license be held by either the Operations Manager or one of the Assistant Operations Managers, and (5) correct some typographical errors in Section 6.0.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

A portion of the proposed changes involves the relocation of requirements for the Station Operations Review Committee, Nuclear Safety Review and Audit, and Technical Review and Control. These requirements are contained in Administrative Controls Section 6.5 of the Salem and Hope Creek Technical Specifications. The requirements to be relocated do not meet the criteria set forth in the Commission's Final Policy Statement for inclusion in Technical Specifications and therefore, may be relocated to an appropriate licensee controlled document (i.e., the Quality Assurance Program). Another element of the proposed change involves a modification which consists of stating that either the Operations Manager or Assistant Operations Manager shall hold a Senior Reactor Operator (SRO) license and replacing the title of Operating Engineer with Assistant Operations Manager.

The requirements being changed are not required by 10 CFR 50.36 and are not required to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety. The changes are consistent with NUREG–1431 and NUREG–1433, Revision 1, and have been previously evaluated by the NRC. The remaining portions of the proposed changes consist of management title changes, including changing Operating Engineer to Assistant Operations Manager, and correction of typographical errors.

All of the proposed changes are administrative in nature and do not affect assumptions contained in the plant safety analysis, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. Implementation of these changes is expected to enable PSE&G [Public Service Electric & Gas Company] and the NRC to focus on requirements important to safety. Therefore, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are purely administrative and do not involve changes to operating procedures or physical modifications to the plants. Therefore, the proposed changes will not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The changes discussed herein will not involve a significant reduction in a margin of safety since the proposed changes do not eliminate any existing Technical Specification requirements. All requirements removed from Technical Specifications are relocated to another licensee controlled program (i.e., the Quality Assurance Program). The Quality Assurance Program is controlled by existing regulations which provide a more appropriate vehicle for addressing changes and compliance. There are no administrative control requirements removed from the Technical Specifications which are not addressed by other regulations and regulatory requirements (i.e., 10CFR50 Appendix B, 10CFR50.59, 10CFR50.54(a), and NUREG–0737).

Prior to this proposed change it was a Technical Specification requirement that the Operating Engineer hold an SRO license. Specification 5.2.2.f of NUREG–1431 and NUREG–1433, Revision 1, states that an SRO license shall be held by either the Operations Manager or Assistant Operations Manager. The Operating Engineer and Assistant Operations Manager are equivalent positions at Salem and Hope Creek. Chapter 13 of the respective plant's Updated Final Safety Analysis Report, states that the Operations Manager is assisted by the Assistant Operations Manager (formerly the Operating Engineer) and other supervisory personnel. The Assistant Operations Manager reports directly to the Operations Manager and will assume the authority and responsibility of the department in the absence of the Operations Manager. The title change from Operating Engineer to Assistant Operations Manager reflects the organizational changes underway at Salem and Hope Creek. The duties and responsibilities associated with the two positions are identical. The option that either the Operations Manager or Assistant Operations Manager hold an SRO license is consistent with prior approved amendments for Salem and Hope Creek. These amendments [were] approved based on the fact that the organizational structure contained a direct report to the Operations Manager [who] is required to hold an SRO license. With the proposed change either the Operations Manager or a direct report (i.e., Assistant Operations Manager) is required to hold an SRO license. The change is also consistent with the 1993 version of ANSI/ANS 3.1, "American National Standard for Selection, Qualification and Training of Personnel for Nuclear Power Plants", and NUREG–1431 and 1433, Revision 1. This change will not involve a significant reduction in a margin of safety since it is still required that either the Operations Manager or Assistant Operations Manager holds an SRO license.

The other management title changes also will not involve a significant reduction in a margin of safety since all organizational responsibilities are and will continue to be implemented in accordance with applicable requirements.

The proposed changes are administrative in nature and do not relate to or modify a margin of safety defined and maintained by the Technical Specifications. Therefore, the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005–3502.

NRC Project Director: John F. Stolz

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of amendment request: January 2, 1996.

Description of amendment request: The proposed amendment would revise TS 3.9.4 and its associated Bases section to allow the containment personnel airlock doors to be open during core alterations and movement of irradiated fuel in containment. In addition, TS Surveillance Requirement 4.9.4 would be revised to specify that each containment penetration should be in its "required position" instead of a "closed/isolated condition."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to TS 3.9.4 would allow the containment personnel airlock to be open during fuel movement and core alterations. The containment personnel airlock is currently closed during fuel movement and core alterations to prevent the escape of radioactive material in the event of a fuel handling accident.

The containment airlocks are passive components integral to the containment structure and are not evaluated to be accident initiators; therefore, the proposed amendment does not involve an increase in the probability of an accident previously evaluated.

The proposed change alters assumptions previously made in evaluating the radiological consequences of the fuel handling accident inside the containment building because the containment personnel airlock is assumed to be open. The

radiological consequences described in this change are bounded by the Loss of Coolant Accident and General Design Criteria 19. All doses for the proposed change are less than the acceptance criteria, therefore, there is no significant increase in the consequences of an accident previously analyzed.

In evaluating the consequences of this accident, NRC states in Section 15.4.6. of the Callaway Plant Safety Evaluation Report (NUREG–0830) that: "The potential doses for the fuel handling accident are well within the guideline values given in 10 CFR Part 100." Section II.1 of the Standard Review Plan defines "well within" to be 25% or less of the 10 CFR Part 100 exposure guideline values. NSAC 125, Guidelines for 10 CFR 50.59 Safety Evaluations, Section 3.6, states: "If in licensing the plant the NRC explicitly found that the plant's response to a particular event was acceptable because the dose was less than the SRP guidelines (without further qualification), then the NRC implicitly accepted the SRP guideline as the licensing basis for the plant and the particular event, and the licensee may make changes that increase the consequences for the particular event, up to this value without prior NRC approval." Therefore, in the case of the fuel handling accident, NRC has implicitly accepted 25% of the 10 CFR Part 100 exposure guidelines as the acceptance limit.

Since the probability of a fuel handling accident is unaffected by the airlock door positions, and the increased doses do not exceed acceptance limits, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to allow the containment personnel airlock to be open during core alteration and movement of irradiated fuel affects a previously evaluated accident (e.g., a fuel handling accident inside containment). The existing accident analysis has been modified to account for the containment personnel airlock doors being opened at the time of the accident. It does not represent a significant change in the configuration or operation of the plant. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety is reduced when the offsite and control room doses exceed the acceptance criteria in General Design Criteria 19 and the Standard Review Plan. As previously discussed in the response to Item 1, the offsite and control room doses are below the acceptance criteria. Therefore, operation of the facility in accordance with the proposed amendment would not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: William H. Bateman.

Washington Public Power Supply System, Docket No. 50–397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: January 19, 1996.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TS) for leak tests of containment isolation valves. The proposed amendment replaces the current specified surveillance intervals for containment leak testing with new surveillance requirements to conduct containment leak testing based on a performance-based containment leak test program. The licensee proposed use of performance-based testing in accordance with the revised 10 CFR Part 50 Appendix J (60 FR 49495), which would establish surveillance intervals based on the historical performance of the tested penetrations. In addition, the proposed amendment would extend the surveillance interval for leak testing of main steam isolation valves from the current 18 months to 30 months, consistent with Regulatory Guide 1.163.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes modify the interval at which the containment leak rate testing is performed. The proposed change does not affect the containment leakage limits currently in the plant licensing basis and specified in the existing TS. Consequently, the radiological consequences of containment leakage during and after an accident are unchanged. The frequency of testing and the test methodology for containment leak rate testing are not identified as factors in the initiation, progression, or mitigation of any accident previously evaluated. The proposed change, therefore, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change potentially affects the current surveillance intervals for conducting containment leak rate testing. A change in the length of the surveillance interval does not change the design or performance mode of structures, systems, or components, and thus does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety for containment leakage is based on meeting the potential radiation exposure for occupational or postulated post-accident conditions. The margin for WNP–2 is established by ensuring these exposures do not exceed 10 CFR Parts 20 and 100, respectively. Basing the surveillance intervals on containment leak rate performance is expected to lengthen the surveillance interval, thus the proposed change is expected to lower the cumulative occupational radiation exposure to conduct the leak rate testing.

The performance criteria for the containment is based on ensuring that postulated post-accident radiation exposures remain within 10 CFR Part 100 limits. The proposed containment leak rate test program is based on ensuring that containment leakage is maintained below the level that will assure that radiation exposures resulting from postulated accident scenarios will remain below the regulatory limits. The length of time between tests will be based on historical performance of the tested penetrations. The change in test interval does not modify the current TS acceptance limits for containment leakage, and thus the proposed change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Attorney for licensee: M. H. Philips, Jr., Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005–3502.

NRC Project Director: William H. Bateman.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: December 28, 1995.

Brief description of amendment request: The proposed amendment would change Hope Creek Generating Station Technical Specification (TS) 1.4, "Channel Calibration", to define actions required for channel calibration of instrument channels containing resistance temperature detector or thermocouple sensors.

Date of publication of individual notice in **Federal Register**: January 5, 1996 (61 FR 420).

Expiration date of individual notice: February 5, 1996.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: July 14, 1995, as supplemented September 12 and December 8, 1995.

Brief description of amendment: The amendment changes the scram insertion times, Section 3.3.C, Minimum Critical Power Ration section, Section 4.11.C and, the associated Bases in Sections 2.1.1 and 3/4.4.3.

Date of issuance: January 23, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 165.

Facility Operating License No. DPR–35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 2, 1995 (60 FR 39443) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 23, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 132 South Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of amendment request: August 4, 1995.

Brief description of amendment: The amendment changes the Technical Specifications to (1) reflect the use of a new type of fuel (GE13) and (2) modify the minimum critical power ratio safety limit and the standby liquid control system sodium pentaborate limits to accommodate the GE13 fuel.

Date of issuance: January 31, 1996.

Effective date: January 31, 1996.

Amendment No.: 212.

Facility Operating License No. DPR–62: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: September 27, 1995 (60 FR 49931).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: September 13, 1995, as amended on November 27, 1995, and January 29, 1996.

Brief Description of amendments: The amendments revise the Brunswick Steam Electric Plant, Units 1 and 2, Technical Specifications to permit the use of 10 CFR Part 50, Appendix J, Option B, Performance-Based Containment Leakage Rate Testing.

Date of issuance: February 1, 1996.

Effective date: February 1, 1996.

Amendment Nos.: 181 and 213.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register**: December 12, 1995 (60 FR 63739); repeated on January 3, 1996 (61 FR 188). The January 29, 1996, amendment to the application provided supplemental information that was not outside the scope of the December 12, 1995 notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 1, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: September 11, 1995.

Brief description of amendment: Changes Technical Specification to add an allowance for Rod Insertion Limits (RILs) to be exceeded for a time no greater than the time criteria established by the axial power distribution methodology or 1 hour, whichever is sooner. An action is also added for the reactor to be placed in the hot shutdown condition within 6 hours if compliance with the RILs cannot be restored within the specified time period.

Date of issuance: January 26, 1996.

Effective date: January 26, 1996.

Amendment No.: 167.

Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: October 25, 1995 (60 FR 54716).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 26, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: March 31, 1995, as supplemented November 14, 1995.

Brief description of amendment: The amendment revises the Haddam Neck Technical Specifications (TS) to delete TS Sections 1.38 and 1.39, "Definitions, Fuel Assembly Types," revise TS Sections 3/4.9.3, "Refueling Operations, Decay Time" and 3/4.9.14, "Refueling Operations, Spent Fuel Pool—Reactivity Condition," replace TS Sections 5.6.1.1, "Spent Fuel," and 5.6.3, "Capacity," and add a new TS Section 3/4.9.15, "Refueling Operations, Spent Fuel Pool Cooling." These changes support a rerack of the spent fuel pool to expand the spent fuel pool's storage capacity from 1168 assemblies to 1480 assemblies so as to accommodate a full-core-discharge through the current validity date of the Haddam Neck Operating License (2007).

Date of Issuance: January 22, 1996.

Effective date: As of the date of issuance, to be implemented within 6 months.

Amendment No.: 188.

Facility Operating License No. DPR–61. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 12, 1995 (60 FR 25740).

The November 14, 1995, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 22, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: August 8, 1995.

Brief description of amendments: The amendments revise Technical Specification Table 4.4–4, "Reactor Coolant Specific Activity Sample and Analysis Program," to allow reactor coolant system gross specific activity measurement method to be changed from the current degassed method to a non-degassed, or pressurized dilution, method.

Date of issuance: January 22, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—141—Unit 2—135.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 27, 1995 (60 FR 58400).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 22, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: August 17, 1995.

Brief description of amendments: The amendments revise Technical Specification Surveillance Requirement (SR) 4.2.5.2 to delete the requirement to calibrate the reactor coolant system (RCS) flowrate measurement instrumentation within 7 days prior to the performance of the flow measurement. Catawba Units 1 and 2 now utilize an RCS flowrate measurement method based on a one-time calibration of the cold leg elbow differential pressure taps as requested in the licensee's January 10, 1994, application and as approved in License Amendments 128 and 122 for Units 1 and 2, respectively. The January 10, 1994, application did not include a proposal to delete that portion of SR 4.2.5.2 which specifies that the measurement instrumentation shall be calibrated within 7 days prior to the performance of the flowrate measurement. This portion of the SR is now deleted since it only applies to the precision calorimetric heat balance method of RCS flowrate measurement.

Date of issuance: January 23, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—142—Unit 2—136.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 20, 1995 (60 FR 65676).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 23, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: August 20, 1992, as supplemented by letter dated December 5, 1995.

Brief description of amendments: The amendments revise the Technical Specifications related to the 60-month

125-volt surveillance requirement (SR). The change is to delete the words "during shutdown" from SR 4.8.2.1.2.e.

Date of issuance: February 1, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—163—Unit 2—145.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 20, 1995 (60 FR 65677).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 1, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Gulf States Utilities Company, Cajun Electric Power Cooperative, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: May 30, 1995, as supplemented by letters dated November 20 and December 12, 1995.

Brief description of amendment: The amendment revised the technical specifications for the drywell to permit bypass testing on a 10-year frequency with increased testing if performance degrades, changes the drywell air lock testing and surveillance requirements, deletes action notes for the drywell air lock and drywell isolation valves when the bypass leakage is not met, and deletes the specific leakage limits for the drywell air lock seal.

Date of issuance: January 29, 1996.

Effective date: January 29, 1996

Amendment No.: 87.

Facility Operating License No. NPF–47. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 6, 1995 (60 FR 62490).

The additional information contained in the supplemental letter dated December 12, 1995, was clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 29, 1996.

No significant hazards consideration comments received. No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: January 24, 1995

Brief description of amendment: The amendment revises Technical Specification 3.4.1, "Leakage Rate," and the associated Bases section. Specifically, the TS allowable Reactor Building leakage rate is reduced from 2000 cfm to 1600 cfm.

Date of issuance: January 22, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 156.

Facility Operating License No. DPR–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: March 1, 1995 (60 FR 11134)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket Nos. 50–245, 50–336, and 50–423, Millstone Nuclear Power Station, Unit Nos, 1, 2, and 3 New London County, Connecticut

Date of application for amendments: August 4, 1995.

Brief description of amendments: The amendments revise the Administrative Controls sections of the Technical Specifications for Millstone 1, 2 and 3 to allow the implementation of a Station Qualified Reviewer Program (SQRP) for the review and approval of selected procedures, programs and changes thereto.

Date of issuance: January 17, 1996.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment Nos.: 91, 193, and 125.

Facility Operating License Nos. DPR–21, DPR–65 and NPF–49: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45181)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 17, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: December 19, 1995.

Brief description of amendments: These amendments change the ventilation filter test program bypass and penetration leakage test acceptance criteria from less than 0.05 percent to less than 1.0 percent. The change corrects an administrative error that occurred during the development of the Peach Bottom Improved Technical Specifications which were issued as Amendments 210 and 214 to the Peach Bottom licenses on August 30, 1995.

Date of issuance: January 16, 1996.

Effective date: Unit 2, effective as of date of issuance, to be implemented concurrently with Amendment 210, issued August 30, 1995; Unit 3, effective as of date of issuance, to be implemented concurrently with Amendment 214, issued August 30, 1995.

Amendments Nos.: 213 and 218.

Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (60 FR 66997, December 27, 1995). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by January 26, 1996, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendments, finding of exigent circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated January 16, 1996

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Philadelphia Electric Company, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: December 9, 1993, as supplemented by letters dated July 5, September 9, October 19, November 15, and December 2, 1994, January 6, and January 23, 1995.

Brief description of amendment: The amendment changes the Operating License and the corresponding Appendix A to reflect the planned implementation of the Power Rerate Program at the Limerick Generating Station, Unit 1, and the corresponding increase in the authorized maximum reactor core power level by five percent to 3458 megawatts thermal (MWt) from the current limit of 3293 MWt.

Date of issuance: January 24, 1996.

Effective date: As of date of issuance and to be implemented prior to startup in Cycle 7.

Amendment No. 106.

Facility Operating License No. NPF–85. This amendment revised the Technical Specifications and the licensee.

Date of initial notice in **Federal Register**: February 16, 1994 (59 FR 7695).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 24, 1996.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: June 20, 1995.

Brief description of amendments: These amendments revise the Technical Specifications to reference 10 CFR Part 50, Appendix J, for the 1) Type A (Integrated Leakage Rate Test), and 2) Drywell-to-Suppression Chamber (bypass) leakage tests instead of providing explicit requirements in the TS.

Date of issuance: January 25, 1996.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment Nos. 108 and 71.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 16, 1995 (60 FR 42605).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 25, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: July 28, 1995.

Brief description of amendments: The amendments modify Technical Specifications (TS) Surveillance Requirements 4.9.1.1, 4.9.1.2, 4.9.3, 4.9.5, and 4.9.8 to delete specific requirements to perform surveillances *just prior* to beginning or resuming core alterations or control rod withdrawal associated with refueling activities. The amendments also delete the phrase "incore instrumentation" from the footnote in TS Section 3/4.9.5, "Communication."

Date of issuance: January 31, 1996.

Effective date: As of its date of issuance, to be implemented within 30 days.

Amendment Nos.: 109 and 72.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 27, 1995 (60 FR 49943).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 31, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: December 28, 1995.

Brief description of amendment: This amendment changes Hope Creek Generating Station Technical Specification 1.4, "Channel Calibration," to define actions required for channel calibration of instrument channels containing resistance temperature detector or thermocouple sensors.

Date of issuance: January 25, 1996.

Effective date: As of date of issuance.

Amendment No.: 90.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (61 FR 420, January 20, 1996). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by February 5, 1996, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 25, 1996.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: October 11, 1994, as supplemented December 13, 1994, September 6, 1995, and December 28, 1995.

Brief description of amendments: The amendments make two changes to Technical Specification 3/4.4.4 concerning pressurizer heaters. The first change adds the phrase "capable of being powered from an emergency power supply" to the Limiting Condition for Operation. The second change alters the frequency of surveillance requirement 4.4.4.2 from 92 days to every refueling outage.

Date of issuance: January 24, 1996.

Effective date: As of date of issuance, to be implemented within 60 days.

Amendment Nos. 179 and 160.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 23, 1994 (59 FR 60386).

The December 13, 1994, September 6, 1995, and December 28, 1995, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 24, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: May 1, 1995, supplemented December 20, 1995.

Brief description of amendment: The amendment revises the technical specifications to eliminate selected response time testing requirements as described in the Boiling Water Reactor Owners' Group topical report, NEDO–32291, "System Analyses for Elimination of Selected Response Time Testing Requirements," and to incorporate Generic Letter 93–08 guidance regarding relocation of technical specification tables dealing with instrument response time limits.

Date of issuance: January 11, 1996.

Effective date: January 11, 1996, and implemented not later than 90 days after issuance.

Amendment No.: 77.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 23, 1995 (60 FR 27345).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: January 5, 1996 (TXX–96007).

Brief description of amendments: The amendments were processed as exigent amendments following issuance of a notice of enforcement discretion (NOED) by NRC letter dated January 11, 1996. The NOED and exigent Technical Specification (TS) amendments authorize the licensee to continue operating the Comanche Peak Steam Electric Station, Unit 2 reactor at power with less than the minimum channels operable for Wide Range RCS (Reactor Coolant System) Temp. (Temperature)-T_h remote shutdown indication. The minimum number of channels required is being revised from one per RCS Loop for each RCS Loop to one per RCS Loop for three of the four RCS Loops. These changes are only applicable to CPSES Unit 2 and are being submitted on the CPSES Unit 1 docket for administrative purposes only because the CPSES TSs is a single document which applies to both units.

Date of issuance: February 2, 1996.

Effective date: February 2, 1996.

Amendment Nos.: Unit 1—Amendment No. 45; Unit 2—Amendment No. 31.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Public comments requested as to proposed significant hazards consideration: Yes (61 FR 1651, dated January 22, 1996). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by February 21, 1996, but stated that any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendments, finding of exigent circumstances, and final determination of no significant hazards consideration is contained in a Safety Evaluation dated February 2, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: October 18, 1995.

Brief description of amendment: The amendment revises Kewaunee Nuclear Power Plant Technical Specification (TS) 3.4, "Steam and Power Conversion System," by modifying and clarifying the operability requirements for the main steam safety valves (MSSVs), the auxiliary feedwater (AFW) System, and the condensate storage tank system. The amendment also eliminates inconsistencies within TS Section 3.4 and provides the basis for acceptable operation of the Auxiliary Feedwater System below 15% reactor power.

Date of issuance: January 3, 1996.

Effective date: January 3, 1996.

Amendment No.: 123.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 27, 1995 (60 FR 58407).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 3, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, Wisconsin 54311–7001.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: October 18, 1995.

Brief description of amendment: This amendment replaces the current fuel oil volume requirement in the emergency diesel generator (EDG) day tank in Technical Specifications 3.8.1.1.b.1) and 3.8.1.2.b.1) with a fuel oil level requirement. Associated Surveillance Requirement 4.8.1.1.2.a.1) is also changed to replace the visual check requirement on fuel oil level in the day tank with a requirement to verify that the fuel oil transfer pump starts on low level in the day tank standpipe. The associated Bases section is also revised to reflect the above changes.

Date of issuance: January 19, 1996.

Effective date: January 19, 1996, to be implemented prior to startup from the eighth refueling outage currently scheduled to begin in March 1996.

Amendment No.: 94.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 27, 1995 (60 FR 58049).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 19, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By March 15, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to *(Project Director):* petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: January 10, 1996.

Brief description of amendment: The amendment granted a one-time extension for surveillances relating to the main steam isolation valve leakage control system, the reactor mode switch and manual scram of the reactor protection system, and the scram discharge vent and drain valves in order for the plant to operate for six more days until its planned shutdown date for refueling outage.

Date of issuance: January 19, 1996.

Effective date: January 19, 1996.

Amendment No.: 78.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated January 19, 1996.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay E. Silberg, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, D.C. 20037.

NRC Project Director: Gail H. Marcus.

Dated at Rockville, Maryland, this 8th day of February 1996.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3124 Filed 2–13–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36817; File No. SR–OPRA–96–1]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Fee Schedule Revising the Information Fees Payable by Professional Subscribers to Last Sale and Quotation Information

February 7, 1996.

Pursuant to rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Exchange Act"), notice is hereby given that on January 22, 1996, the Options Price Reporting Authority ("OPRA")[1] submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("Plan"). The amendment revises the information fees payable by professional subscribers to last sale and quotation information.[2] OPRA has designated this proposal as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, permitting the proposal to become effective upon filing pursuant to Rule 11Aa3–2(c)(3)(i) under the Exchange Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to revise the fees payable to OPRA by professional subscribers for access to securities options market data and related information ("OPRA data"), so that a greater share of the cost of

[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3–2 thereunder. Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the five member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange ("AMEX"); the Chicago Board Options Exchange ("CBOE"); the New York Stock Exchange ("NYSE"); the Pacific Stock Exchange ("PSE"); and the Philadelphia Stock Exchange ("PHLX").

[2] In September 1995, OPRA previously filed an amendment to revise the fees payable by professional subscribers. *See* Securities Exchange Act Release No. 36364 (October 12, 1995), 60 FR 54093 (October 19, 1995). OPRA subsequently withdrew the proposed amendment on November 22, 1995. *See* Letter from Janet Angstadt, Schiff Hardin & Waite, Attorney for OPRA, to David Oestreicher, Attorney, Division of Market Regulation, SEC (November 22, 1995).

collecting, consolidating, processing and transmitting OPRA data will be covered by these fees.[3] Professional subscribers are those persons that subscribe to OPRA data and do not qualify for the reduced fees charged to nonprofessional subscribers. OPRA's professional subscriber fees were last revised in 1991, implemented over a four year period beginning in January 1992 and ending in January 1995.

The current schedule of professional subscriber fees offers volume discounts to larger subscribers by reducing the fee per device as the total number of devices maintained by a subscriber increases. There are six separate pricing tiers covering the range from One device to 750 or more devices per subscriber. For each tier above the single-device subscriber, a discount is provided to subscribers that are members of one or more of OPRA's participating exchanges.

The proposed amendment retains the concept of a volume discount and retains a member discount.[4] OPRA claims, however, that this proposal is the first step in a program that OPRA intends to implement over several years in order to reduce the number of member and non-member tiers and thereby simplify the administration of the professional subscriber fee for OPRA, its vendors and subscribers.

The changes in the level of OPRA's professional subscriber fees that are being proposed either will reduce or maintain at current levels the fees paid by small professional subscribers having no more than three devices, and will increase the fees paid by professional subscribers having four or more devices.[5] The net result of these changes in professional subscriber fees is estimated to result in an overall increase in professional subscriber fee revenue of approximately 4.75 percent, assuming no changes in the size or distribution of OPRA's total professional subscriber base.

OPRA is proposing these fee changes because, over the four years that have elapsed since the last professional subscriber fee change was authorized in 1991, the exchanges have absorbed increases in the costs of collecting, processing, consolidating and disseminating OPRA data. According to OPRA, the increases largely are due to the implementation of systems and equipment upgrades and additions that have increased the capacity and enhanced the reliability and security of the OPRA system. OPRA anticipates continued escalation of these costs.

OPRA believes that the costs associated with the processing of OPRA data are largely independent of trading volume and, therefore, it has determined that a larger share of such costs should be covered by revenues that also are largely independent of trading volume. OPRA claims that the proposed amendment is intended to achieve this objective, and to allocate market information fees fairly among the different categories of professional subscribers that pay such fees.

II. Solicitation of Comments

Pursuant to Rule 11Aa3–2(c)(3), the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a National Market System; or otherwise in furtherance of the purposes of the Exchange Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All submissions should refer to file number SR–OPRA–96–1 and should be submitted by March 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3217 Filed 2–13–96; 8:45 am]

BILLING CODE 8110–01–M

[3] This amendment only applies to OPRA's professional subscriber fees with respect to its basic service, which consists of market data on all listed options other than foreign currency options ("FCOs"). A separate subscriber fee is charged for FCO service. *See* Securities Exchange Act Release No. 36613 (December 30, 1995), 60 FR 67144 (December 28, 1995).

[4] The proposed tiers are as follows: (1) For 1–3 devices, members pay $34.00 per device, and non-members pay $35.00 per device; (2) for 4–9 devices, members pay $23.00 per device, and non-members pay $24.00 per device; (3) for 10–29 devices, members pay $13.65 per device, and non-members pay $15.00 per device; (4) for 30–99 devices, members pay $10.50 per device, and non-members pay $14.50 per device; (5) for 100–749 devices, members pay $10.50 per device, and non-members pay $12.00 per device; and (6) for 750+ devices, members pay $8.40 per device, and non-members pay $10.00 per device.

[5] The increases range from $.40 to $1.00 per device for members and from $1.00 to $3.50 per device for non-members.

[6] 17 CFR 200.30–3(a)(29).

SMALL BUSINESS ADMINISTRATION

Commerce Capital, L.P.; Notice of Filing of an Application for a License To Operate as a Small Business Investment Company

[Application No. 99000175]

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Commerce Capital, L.P., at 611 Commerce Street, Stouffer Tower Suite 2723, Nashville, Tennessee 37203 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Commerce Capital, L.P., is a Tennessee limited partnership, of which Commerce Equity Capital Corporation is the sole general partner.

The individual General Partners of Commerce Capital, L.P. are Andrew Higgins, Rudy E. Ruark, George M. Garrett and Joe B. Brandon. All four of these individuals have extensive experience in banking, finance, and investment analysis.

Commerce Capital, L.P. will begin operations with committed capital of $3.75 million and will be a source of equity and debt financings for qualified small business concerns.

The following partners will own 10 percent or more of the proposed SBIC:Tennessee Valley Authority, 53%; Columbia/HCA Healthcare Corporation, 26%.

The applicant intends to focus on subordinated debt and equity investments in small to medium size companies across a variety of industries. The applicant seeks to have a diversified portfolio with investments in companies from serveral industries, with emphasis on companies in manufacturing, health care, environment, and communication and information services industries.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Nashville, Tennessee.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: February 7, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–3215 Filed 2–13–96; 8:45 am]

BILLING CODE 8025–01–P

Societe Generale Capital Corporation; Notice of Filing of an Application for a License To Operate as a Small Business Investment Company

[Application No. 99000195]

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1996)) by Societe Generale Capital Corporation at 1221 Avenue of the Americas, 8th Floor, New York, New York 10020 for a license to operate as a non-leveraged small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. *et seq.*), and the Rules and Regulations promulgated thereunder.

The Applicant plans to make investments throughout the United States in small businesses with experienced management teams and credible strategies for growth and success. It is anticipated that approximately 50% of the Applicant's investments will be in the form of equity (including common and preferred stock), and 50% in mezzanine debt which may be convertible or come with warrants or other equity participation rights. The Applicant plans to begin operations with Regulatory Capital of $5 million.

Societe Generale Capital Holding Corporation will own 100% of the Common Stock of the Applicant. Societe Generale Capital Holding Corporation is a wholly-owned subsidiary of Societe Generale, one of the largest and most respected banking institutions in the world. Societe Generale operates as a conventional full-service bank in France through a network of 2,000 branches. Outside France, it is present in more than 500 offices in nearly 70 countries. The officers and directors of the Applicant are Steven A. Baronoff, President & CEO; Matthew B. Judson, Vice President & Treasurer; and Eric L. Hirschfield, Vice President & Secretary. These three investment professionals have extensive experience in investing in and advising both small and large businesses.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: Wednesday, February 7, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–3216 Filed 2–13–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD02–96–002]

Second Coast Guard District Industry Day

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: The Commander, Second Coast Guard District is sponsoring an Industry Day event in St. Louis, Missouri. This notice advertises the event which is open to the public.

DATES: Industry Day will be held on March 18, 1996 from 8:30 a.m. to 4:30 p.m. Registration forms and fees must be received by March 1, 1996.

ADDRESSES: Please forward your registration forms to: St. Louis Airport Marriott, Attn: Sales Office, c/o Mimi Patterson, I–70 at Lambert International Airport, St. Louis, Missouri 63134. Industry Day activities will be held at the St. Louis Airport Marriott, I–70 at Lambert International Airport, St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT: Lieutenant Amy B. Kritz or Lieutenant Commander Patrick G. Gerrity, Commander (mpb), Second Coast Guard District, 1222 Spruce Street, Room 2.102G, St. Louis, Missouri 63103–2832. The telephone number is: (314) 539–3900 (Ext. 268/263).

SUPPLEMENTARY INFORMATION: Industry Day is designed to provide an open exchange of information, ideas and opinions on matters of mutual interest or concern to the inland marine community and the Coast Guard. Industry Day activities will be held at the St. Louis Airport Marriott. The schedule of events follows:

Sunday, 17 March

5:00–7:00 p.m. Registration for early arrivals.

Monday, 18 March

7:30 a.m. Registration continues.

8:30 a.m. General Session: Opening comments and Keynote Address.

10:35 a.m. Panel Discussions: Two separate small group panels will focus on issues unique to the Towing Industry and Passenger Vessels.

12:00 p.m. Luncheon Program.

1:20 p.m. General Session focusing on various topics of general interest.

3:20 p.m. Panel Discussions: Three separate panels will focus on Safety and Occupational Health issues, Waterways Management issues and Environmental Compliance issues.

4:30 p.m. Open Forum for audience questions.

5:30 p.m. Industry Day concludes.

Advance registration and payment of a $27.00 conference fee is required. The fee includes the luncheon and refreshments.

Persons interested in attending Industry Day may request registration forms or additional information on Industry Day activities and on events scheduled by other groups to coincide with Industry Day at the address provided above. Persons interested in submitting written recommendations for

agenda discussion topics should mail their recommendations directly to Commander (mpb), also at the address provided above.

Completed registration forms and fees should be mailed directly to the address above.

Dated February 5, 1996.

Paul M. Blayney,

Rear Admiral; United States Coast Guard, Commander, Second Coast Guard District.

[FR Doc. 96–3252 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–14–M

Office of the Secretary, Office of Aviation Analysis

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) this notice announces the Department of Transportation's (DOT) intention to request an extension for and revision to a currently approved information collection.

DATES: Comments on this notice must be received by April 15, 1996.

ADDRESSES: Comments should be sent to the Special Authorities Division (X–57), Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 400 7th Street, S.W., Washington, DC 20590–0002.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Keller or Mr. Charles McGuire, Office of the Secretary, Office of Aviation Analysis, X–57, Department of Transportation, at the address above. Telephone: (202) 366–1031/4534.

SUPPLEMENTARY INFORMATION:

Title: Exemptions For Air Taxi and Commuter Air Carrier Operations.

OMB Control Number: 2106–0031.

Expiration Date: March 31, 1996.

Type of Request: Extension for and revision to a currently approved information collection.

Abstract: In 14 CFR Part 298 of its Economic Regulations the Department established two classifications of air carriers known as air taxi operators and commuter air carriers. The latter are air taxi operators that also offer scheduled passenger service. Generally, these carriers are small businesses and operate only aircraft of limited size. In Part 298 the Department has exempted these carriers from certain requirements of Chapter 411 of Title 49 of the United States Code to permit them to obtain operating authority by filing a single-sheet informational form, and otherwise complying with the provisions of Part 298. If this exemption did not exist these carriers would be required to formally seek operating authority by the lengthy and more costly process of applying for an operating certificate under Chapter 411.

The collection involved here requests only general information about a carrier. This information includes a list of the aircraft the carrier intends to use in its business. This list enables the Department to assure that liability insurance exists for these aircraft and, from a safety standpoint, it alerts the Federal Aviation Administration as to which of the carrier's aircraft must undergo an air taxi airworthiness examination. The collection is also used by the Department to protect the competitive interests of the air taxis. For example, each carrier is required to provide citizenship information in order that the Department can assure that the company qualifies as a U.S. citizen under Chapter 401 of the United States Code.

Respondents: Small air carriers operating aircraft with 60 seats or less or 18,000 pounds payload or less.

Estimated Number of Respondents: 2,119.

Average Annual Burden per Respondent: 30 minutes.

Estimated Total Burden on Respondents: 1,060 hours.

This information collection is available for inspection at the Special Authorities Division (X–57), Office of Aviation Analysis, DOT, at the address above. Copies of 14 CFR Part 298 can be obtained from Mr. Scott Keller at the address and telephone number shown above.

Comments are Invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC on February 5, 1996.

John V. Coleman,

Office of Aviation Analysis.

[FR Doc. 96–3004 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Availability of Solicitation for Center of Excellence (COE) in Operations Research

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: The FAA is soliciting competitive proposals from academic institutions to form an aviation operations research Center of Excellence (COE). The COE will be a consortium consisting of the FAA, universities, airlines, and other private industry to work collectively on business and operational issues of mutual interest and concern.

DATES: The closing date for submitting final proposals is April 15, 1996.

ADDRESSES: Solicitation packages may be obtained by contacting the COE Program Office. Contact Ms. Patricia Watts or Mr. David Nesterok, Office of Research and Technology Applications, AAR, Building 270, Atlantic City International Airport, New Jersey, 08405, Fax Number (609) 485–6509.

SUPPLEMENTARY INFORMATION: The FAA intends to award a grant to establish a Center of Excellence in Operations Research to a qualified college university, or to a team of such institutions.

The FAA has identified a need for a Center of Excellence in aviation operations research. The need was determined by surveying the aviation transportation community. This survey identified a series of functional areas that best represent the concerns of a broad spectrum of aviation transportation users. Accordingly, the Center will conduct basic research in the following seven functional areas:

1. Air Traffic Control
2. Human-in-the-Loop Systems
3. System Performance and Assessment Measures
4. Flow Control, Scheduling, and Work Load Distribution
5. Operations Research and Simulation "Tool kit" Enhancements
6. Inter and Intra Governmental Communication, and Communications among FAA and Airspace Users
7. Navigation, Communication, and Data Transfer

Eligibility

Colleges and universities are eligible for continuing grants to establish a Center of Excellence in Operations Research. The FAA is seeking to ensure an equitable geographical distribution of funds and to encourage the inclusion of minority institutions.

Matching Funds Requirement

A Center of Excellence receives funding annually in the form of single or multiple continuing research grants over a three-year period. The federal government provides 50 percent of the cost to establish and operate a Center of Excellence. The institution must show a continuing source of non-Federal matching funds available for the remaining research and operational expenses at the Center. Once the COE is established, a fiscal report declaring the sources and amount of funding and expenditures must be submitted for review every six (6) months to The Office of Research and Technology Applications at the FAA Technical Center. A full review and grant close-out takes place at the conclusion of each three-year phase.

The Center of Excellence and the agency shall agree upon the maximum expected costs in each fiscal year. Any cost incurred in excess of the maximum costs agreed upon with the agency shall be the sole obligation of the Center of Excellence.

The Center of Excellence is expected to account for all funds granted and matched, utilized to establish, operate, and conduct the specified research activities of the Center of Excellence.

Maintenance of Effort and Center Operations

The Center of Excellence is required to maintain its aggregate expenditures from all other sources for establishing and operating the Center of Excellence and related research activities at or above the average level of such expenditures in its two (2) fiscal years preceding November 5, 1990. The establishment of a Center of Excellence is intended to augment the level of aviation research activities at the institution.

The Center of Excellence shall maintain a close working relationship with the corresponding agency research program office. This relationship shall extend to participation in conferences, meetings, joint research efforts, and submission of significant activity reports to the FAA on a routine basis. The COE shall prepare quarterly and semi-annual reports, and a fully inclusive annual report on research projects and fiscal expenditures, and shall host an on-site review of all research activities.

The FAA may require the COE to hold an annual joint symposium with the agency on topics relating to the status and results of the designated technology area. Researchers at the COE may serve as consultants by providing technical advice to the sponsoring agency program office. They may also be asked to participate on major planning and investigative committees related to operations research.

The COE will be selected on the basis of the following criteria mandated by Congress:

—The extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.
—The demonstrated research and extension resources available to the applicant for carrying out the intent of the legislation.
—The capability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.
—The extent to which the applicant has an established air transportation program.
—The demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or region-wide continuing education program.
—The research projects that the applicant proposes to carry out under the grant.

Research Area

The COE is envisioned as a source of exceptional expertise in aviation operations research. We anticipate the COE will attract interest from other organizations such as the airline industry, other industrial groups, and governmental entities to solve unique and difficult aviation transportation problems. These other organizations may contribute funding to the COE. This work will require members of the COE to carry out sophisticated research on contemporary aviation transportation issues as noted in the seven functional areas. The functional areas are intended to give applicants a fee for the complexity and scope of work that *may* be required of the COE. Typical research areas may include, but are not limited to, issues such as free flight, airport or airspace capacity, controller workload, threat modeling, program analysis, risk assessment, and resource allocation. The COE may anticipate that work will not be required in all functional areas at the same time. Nevertheless the COE must anticipate that, over the life of the COE, work may be required in any of these functional areas from time to time. The COE should thus develop a plan that anticipates being able to do work in each of these functional areas as the COE matures and attracts more business. This philosophy reflects the FAA's vision of the DOE as a long-term, consistent, dependable source for tackling aviation operations research issues.

Who May Apply

1. Colleges and universities may submit proposals for continuing grant awards to establish and operate the Center of Excellence in Operations Research.

2. Individuals are not eligible for a COE designation and do not qualify for grants under this programs.

3. Before final proposal submission, the proposal may be discussed with the Center of Excellence Program Manager, Ms. Patricia Watts, or the Program Technical Advisor, David Nesterok, at (609) 485–5043/(609) 485–4042, or Fax (609) 485–6509.

Award Date

The final selection of the Center of Excellence in Operations Research will be announced by the Administrator within this fiscal year.

Issued in Atlantic County, New Jersey on February 7, 1996.

Andres Zellweger,

Director, Office of Aviation Research, AAR–1.

[FR Doc. 96–3295 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

Notice of Intent To Distribute and Request Comment on the National Airspace System (NAS) Architecture, Version 1.5

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Distribute and Request Comment on the NAS Architecture, Version 1.5.

SUMMARY: The FAA Office of System Architecture and Program Evaluation has developed a working version of the NAS Architecture. This working draft version of the architecture, Version 1.5, has not been formally coordinated with

all segments of the FAA. It is, however, sufficiently mature to warrant review by the broader aviation community. The FAA, therefore, invites public comment.

DATES: Comments must be received on or by May 15, 1996.

ADDRESS: Comments may be sent by facsimile to 202–484–1257 or by mail to: NAS Documentation Control Center, ATTN: K. Faison, Suite 700, 1250 Maryland Ave., SW., Washington, DC 20024.

SUPPLEMENTARY INFORMATION: The FAA Office of System Architecture and Program Evaluation invites public comment on a working draft version of the NAS Architecture, which it has developed.

The NAS is one of the most complex human constructed systems in the world. It comprises thousands of people, both within and outside of government, and billions of dollars of investment in aircraft and operations-related facilities and equipment. Our aviation system generates a substantial positive impact on the overall U.S. balance of payments.

Current efforts to balance the Federal budget dictate that the FAA role in supporting U.S. aviation, primarily in providing air traffic control services, be performed more efficiently and, perhaps, in a dramatically different way than in the past. To assist us in this reengineering effort, and in defining new ways of sharing the myriad responsibilities associated with operating the system safely, we have developed this initial, comprehensive NAS architecture. By taking this broad, all-encompassing view of the system, we hope to find possibilities for providing the same or better service while minimizing the necessary capital investment and the costs of operation.

The system architecture is contained in a relational data base and is available on compact disk (CD–ROM). It can be obtained free of charge by telephoning 202–776–1256, or by writing to: AMTECH, Inc., 1101 15th St., NW., Suite 900, ATTN: IADB Product Lead, Washington, DC 20005. Requests also may be made via facsimile at 202–452–0699. Orders will be filled on a first-come, first-served basis.

The CD can be run only on PC–DOS computers running Windows 3.1 or higher. It has been tested on a computer with a quad speed CD–ROM player, 486 microprocessor, 8 MB of random access memory, 10 MB available hard disk space, and a 256-color VGA display. It may be run on machines with lesser performance, in particular 16-color VGA displays, but this is not recommended.

A comment form is provided on the CD which can be printed, filled out, and returned to the FAA. The FAA encourages comments. While the FAA cannot guarantee a response to each and every comment received, each that is received by May 15, 1996, will be considered in developing the next version of the system architecture.

Issued in Washington, DC, on February 8, 1996.

Terry R. Hannah,

Deputy Director, Office of System Architecture and Program Evaluation, Designated Official.

[FR Doc. 96–3294 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Memphis International Airport, Memphis, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Memphis International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 2851 Directors Cove, Suite #3, Memphis, Tennessee 38131–0301.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry D. Cox, President of the Memphis-Shelby County Airport Authority at the following address: Memphis-Shelby County Airport Authority, 2491 Winchester Road, Memphis, Tennessee 38116.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Memphis-Shelby County Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry O. Bowers, Planner, Memphis Airports District office, 2851 Directors Cove, Suite #3, Memphis, Tennessee 38131–0301; telephone number 901–544–3495. The application may be reviewed in person at this location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Memphis International Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 7, 1996, the FAA determined that the application to use the revenue from a PFC submitted by Memphis-Shelby County Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 8, 1996.

The following is a brief overview of the application.

PFC application number: 95–03–U–00–MEM.

Level of the approved PFC: $3.00.

Actual charge effective date: August 1, 1992.

Estimated charge expiration date: March 1, 2005.

Total estimated PFC revenue to be collected at this airport: $147,253,000.

Total estimated PFC revenue to be used on projects in this application: $85,954,000.

Brief description of proposed project: Reconstruct and Extend Runway 18L–36R.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: A. On demand air taxi-commercial operators that do not enplane passengers at the Airport's main passenger terminal buildings, and B. Any carrier that enplanes less than 500 passengers per year at the Airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Memphis-Shelby County Airport Authority.

Issued in Memphis, Tennessee on February 7, 1996.

LaVerne F. Reid,

Manager, Memphis Airports District Office.

[FR Doc. 96–3298 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Request To Amend an Approved Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Memphis International Airport, Memphis, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on a request to amend an approved PFC application.

SUMMARY: The FAA proposes to rule and invites public comment on the request to amend the approved application to impose and use the revenue from a PFC at Memphis International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Comments on this request may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 2851 Directors Cove, Suite #3, Memphis, Tennessee 38131–0301.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry D. Cox, President of the Memphis-Shelby County Airport Authority at the following address: Memphis-Shelby County Airport Authority, 2491 Winchester Road, Memphis, Tennessee 38116.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Memphis-Shelby County Airport Authority under section 158.37(b) of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry O. Bowers, Planner, Memphis Airports District Office, 2851 Directors Cove, Suite #3, Memphis, Tennessee 38131–0301; telephone number 901–544–3495. The request may be reviewed in person at this location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to amend the application to impose and use the revenue from a PFC at Memphis International Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviations Regulations (14 CFR Part 158).

On January 9, 1996, the FAA received a request to amend the application to impose and use the revenue from a PFC submitted by Memphis-Shelby County Airport Authority within the requirements of section 158.37(b) of Part 158. The FAA will approve or disapprove the amendment no later than May 8, 1996.

The following is a brief overview of the request.

PFC amendment number: 93–02–C–01–MEM.

Proposed increase in total estimated PFC revenue: From $50,026,000 to $52,789,000.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Memphis-Shelby County Airport Authority.

Issued in Memphis, Tennessee on February 7, 1996.

LaVerne F. Reid,

Manager, Memphis Airports District Office.

[FR Doc. 96–3297 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Memphis International Airport, Memphis, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Memphis International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 2851 Directors Cove, Suite #3, Memphis, Tennessee 38131–0301.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry D. Cox, President of the Memphis-Shelby County Airport Authority at the following address: Memphis-Shelby County Airport Authority, 2491 Winchester Road, Memphis, Tennessee 38116.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Memphis-Shelby County Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry O. Bowers, Planner, Memphis Airports District Office, 2851 Directors Cove, Suite #3, Memphis, Tennessee 38131–0301; telephone number 901–544–3495. The application may be reviewed in person at this location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Memphis International Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 7, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by Memphis-Shelby County Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 8, 1996.

The following is a brief overview of the application.

PFC application number: 96–04–C–00–MEM.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 2003.

Proposed charge expiration date: March 1, 2005.

Total estimated PFC revenue to be collected at this airport: $147,253,000.

Total estimated PFC revenue to be collected and used for projects in this application: $15,847,000.

Brief description of proposed project(s): Rehabilitate Taxiway "N" (November).

Joint Seal and Slab Replacement Taxiway "M" (Mike) and Runway 18R–36L Class or classes of air carriers which the public agency has requested not be required to collect PFCs: A. On demand air taxi-commercial operators that do not enplane passengers at the Airport's main passenger terminal buildings, and B. Any carrier that enplanes less than 500 passengers per year at the Airport.

Any person may inspect the application in person at the FAA office listed above under "FOR FURTHER INFORMATION CONTACT".

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Memphis-Shelby County Airport Authority.

Issued in Memphis, Tennessee on February 7, 1996.

LaVerne F. Reid,

Manager, Memphis Airports District Office.

[FR Doc. 96–3296 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

[Docket S–932]

OMI Courier Transport, Inc.; OMI Patriot Transport, Inc.; OMI Rover Transport, Inc.; Notice of Application for Extension of the Subsidizable Life of the Patriot, Ranger, and Courier and for Extension or Renewal of Operating-Differential Subsidy Agreements, MA/MSB–167(a), (b), and (c) Using Unused Subsidy Days

By application dated January 31, 1996, OMI Courier Transport, Inc.; OMI Patriot Transport, Inc.; and OMI Rover Transport, Inc. (OMI subsidiaries), recipients of operating-differential subsidy (ODS) pursuant to Operating-Differential Subsidy Agreements (ODSA), MA/MSB–167(a), (b), (c), and (d) request: (1) The extension of the subsidizable life of the Patriot, Ranger, and Courier to the termination date of MA/MSB–167(d) on January 28, 1997, and (2) extension or renewal of ODSAs MA/MSB–167(a), (b), and (c) to permit the OMI subsidiaries to use unused subsidy days for the duration of the period through the termination of MA/MSB–167(d) on January 28, 1997.

The OMI subsidiaries advise that their first request is to extend the subsidizable life of the Patriot, Ranger, and Courier in order to permit these vessels to remain in U.S.-flag service to the fullest extent possible.

The OMI subsidiaries advise that their second request modifies their request of November 15, 1995, to extend or renew the ODSAs sufficiently to permit the full use of the OMI subsidiaries' unused subsidy days. This modification would permit the OMI subsidiaries to use unused subsidy days until the termination of MA/MSB–167(d). The OMI subsidiaries state that their request of November 15, 1995, to use the total number of unused subsidy days remains pending, but in the meantime approval of the more limited request would permit the OMI subsidiaries to plan for the continued operation of these vessels in U.S. flag service for at least another year. The OMI subsidiaries advise that permitting the use of unused subsidy days would preclude the need to establish a subsidy sharing arrangement among the four product tankers listed in the ODSAs and permit each vessel to take full advantage of any available U.S.-flag market opportunity.

The OMI subsidiaries advise that maintaining the opportunity for these vessels to continue operation in the U.S. merchant marine for the full extent of periods for which OMI subsidiaries can receive ODS would further the purposes and policies of the Merchant Marine Act, 1936, as amended, and help assure employment for U.S. seafarers for this period of time.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street SW., Washington D.C. 20590. Comments must be received no later than 5:00 p.m. on February 27, 1996. The Maritime Subsidy Board will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 2.804 Operating-Differential Subsidies)

By Order of the Maritime Subsidy Board.

Dated: February 8, 1996.

Joel C. Richard,

Secretary.

[FR Doc. 96–3257 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–81–P

Research and Special Programs Administration

Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations Alcohol Misuse Prevention Program

ACTION: Notice of Management Information System (MIS) Statistical Data.

SUMMARY: The RSPA has received and evaluated the 1994 Management Information System (MIS) Data Collection forms for the drug testing of pipeline personnel, the first year for collecting such data. The RSPA has determined that the random positive drug testing rate for pipeline industry for the period of January 1, 1994, through December 31, 1994, is 0.8 percent. Since two years of data are required to change the random rate it will remain at 50 percent for 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Catrina M. Pavlik, Office of Pipeline Safety, Compliance and State Programs, (DPS–23), Research and Special Programs Administration, 400 7th Street, SW., Washington, DC 20590; telephone (202) 366–6199.

SUPPLEMENTARY INFORMATION: In a final rule published on December 23, 1993 (57 FR 59720), the RSPA announced that it would require operators of gas, hazardous liquid and carbon dioxide pipelines and liquefied natural gas (LNG) facilities who are subject to 49 CFR parts 192, 193 and 195 to implement, maintain, and submit an annual report for their drug testing program data. Any operator with 51 or more covered employees had to submit this information on an annual basis. Operators with 50 or fewer covered employees had to maintain this information, and RSPA randomly selected 100 operators in this category to submit their data. The final rule was essential for RSPA to collect the drug testing statistical data and use the data to analyze its current approach to deterring and detecting illegal drug abuse in the pipeline industry, and, as appropriate, plan a more efficient and effective approach. The data collected in 1994, which was the first year that the data was collected, showed that the random positive drug testing rate was 0.8 percent. The data will continue to be collected in the future. Once RSPA has received two consecutive years of MIS Data Collection forms where the positive random testing rate is less than 1 percent industry-wide, then the RSPA Administrator may reduce the random testing rate to 25 percent.

Submission of MIS reports is due to the Office of Pipeline Safety, Research and Special Programs Administration, DPS–23, Room 2335, 400 7th Street SW., Washington, DC 20590 not later than March 15 of each calendar year. Notice of statistical data will be published in the future to report the results of each calendar year's MIS Data Collection. The RSPA will also publish at that time whether or not the random rate will be reduced or increased for the pipeline industry.

Issued in Washington, DC on February 9, 1996.

Richard B. Felder,

Associate Administrator for Office of Pipeline Safety.

[FR Doc. 96–3304 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMNET OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 533]

FEDERAL MARITIME COMMISSION

[Docket No. 96–04]

Noncontiguous Domestic Trade Tariffs

AGENCIES: Surface Transportation Board, Department of Transportation; Federal Maritime Commission.

ACTION: Request for Comments.

SUMMARY: The Surface Transportation Board (STB or Board) and the Federal Maritime Commission (FMC or Commission) seek comments on how best to implement the provisions of the ICC Termination Act of 1995 involving tariff filing and rate reasonableness in the noncontiguous domestic trade (49 U.S.C. 13701 and 13702).[1]

DATES: Comments are due on March 11, 1996. Replies are due on March 25, 1996.

ADDRESSES: Participants must send an original and 10 copies of their comments, referring to STB Ex Parte No. 533/FMC Docket No. 96-04 to: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Ave., N.W., Washington, DC 20423, and 10 copies to Secretary, Federal Maritime Commission, 800 N. Capitol St., N.W., Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT: Craig Keats, Office of the General Counsel, STB, (202) 927-6046 or C. Douglass Miller, Office of the General Counsel, FMC, (202) 523-5740. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: The ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (ICC Termination Act), abolished the Interstate Commerce Commission (ICC). The Act assigned responsibility over certain functions formerly handled by the ICC to either the Secretary of Transportation or the newly-established STB. Section 2 of the ICC Termination Act states that: "Except as otherwise provided in this Act, this Act shall take effect on January 1, 1996."

Historically, the Interstate Commerce Act and the laws administered by the FMC gave both agencies jurisdiction over operations in the "domestic offshore trade" (also referred to as the "noncontiguous domestic trade"). The ICC, under 49 U.S.C. 10521, had jurisdiction over motor carrier operations in the domestic offshore trade, while the FMC, under the Intercoastal Shipping Act, 1933 (1933 Act) (46 U.S.C. 843–848), had jurisdiction over water carriers operating in the trade. Because section 33 of the Shipping Act, 1916 (1916 Act) (46 U.S.C. 832) foreclosed the FMC from regulating operations that were already subject to ICC jurisdiction, the ICC asserted jurisdiction over joint motor/water rates in the domestic offshore trade, while the FMC asserted jurisdiction over "port to port" water carrier operations. *See Trailer Marine Transport Corp.* v. *FMC*, 602 F.2d 379 (D.C. Cir. 1979); *Puerto Rico Maritime Shipping Auth.* v. *ICC*, 645 F.2d 1102 (D.C. Cir. 1981).

The ICC Termination Act alters this regulatory scheme. By their terms, new 49 U.S.C. 13501 and 13521 give the Board jurisdiction over port to port water carrier transportation in the noncontiguous domestic trade. Moreover, the provisions of 49 U.S.C. 13702 require that, with certain exceptions, water carriers operating in the noncontiguous domestic trade file tariffs with the Board. Finally, 49 U.S.C. 13701 provides that water carrier services in the noncontiguous domestic trade are subject to rate regulation by the Board. All of these provisions, standing alone, would appear to establish that, as of January 1, 1996, carriers operating in the noncontiguous domestic trade would need to file tariffs at the Board, and at no other Federal agency.

Under section 335 of the ICC Termination Act, however, repeal of the 1933 Act and section 33 of the 1916 Act does not become effective until September 30, 1996. Given that fact, and the "Except as otherwise provided in this Act" language of section 2 of the ICC Termination Act, there is some ambiguity as to whether, at least until September 30, 1996, water carriers operating in the noncontiguous domestic trade must file their tariffs at the Board or the Commission,[2] and as to which agency shall be responsible for rate regulation during this interim period. The consequences of filing are not insubstantial, from either a regulatory or a practical perspective: FMC tariffs are filed electronically through an established Automated Tariff Filing and Information System, which the STB cannot practicably access or replicate; and the ICC Termination Act, through 49 U.S.C. 13701, established a zone of rate freedom that does not appear in the 1916 Act or the 1933 Act.

The transfer of jurisdiction over carriers in the domestic offshore trades from the FMC to the STB also may impact programs that will not be transferred. For example, there is a question regarding whether agreements currently filed pursuant to section 15 of the 1916 Act remain in effect until the repeal of the 1916 Act on September 30, 1996. Whether the FMC has jurisdiction to accept new agreements up to September 30, 1996 is also an issue. Similar questions may arise with regard to terminal operators and forwarders.

The Board and the Commission, therefore, request public comment on how the two agencies can, consistent with the ICC Termination Act and section 33 of the 1916 Act, best administer their respective statutes during the transition period ending September 30, 1996, in a manner that is most efficient and least disruptive to the industry and the shipping public.

Regulatory Flexibility Analysis

The Board and the Commission certify that this action will not have a significant impact on a substantial number of small entities. No new regulatory burdens are imposed, directly or indirectly, on such entities. The purpose of the decision is simply to seek comment on how best to make the transition to a new regulatory regime.

Environmental And Energy Analysis

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Decided: February 8, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary, Surface Transportation Board.

By the Commission, Chairman Creel, Comissioners Hsu, Scroggins, and Won.

Joseph C. Polking,

Secretary, Federal Maritime Commission.

[FR Doc. 96–3265 Filed 2–13–96; 8:45 am]

BILLING CODE 4915–00–P (1/2); 6730–01–P (1/2)

[1] The two agencies are handling this matter simultaneously.

[2] As noted, section 33 of the 1916 Act, as amended by section 205 of the ICC Termination Act, precludes the FMC from exercising concurrent power or jurisdiction over any matter within the power or jurisdiction of the Board.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–14; OTS No. 13495]

Catskill Savings Bank, Catskill, New York; Approval of Conversion Application

Notice is hereby given that on February 8, 1996, the Director,

Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Catskill Savings Bank, Catskill, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: February 8, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3270 Filed 2–13–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–11; OTS Nos. H–2137 and 04569]

Commonwealth M.H.C., Valley Forge, Pennsylvania; Approval of Conversion Application

Notice is hereby given that on January 31, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Commonwealth M.H.C., Valley Forge, Pennsylvania, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: February 8, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3267 Filed 2–13–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–12; OTS No. 0086]

Great American Federal Savings and Loan Association, Pittsburgh, Pennsylvania; Approval of Conversion Application

Notice is hereby given that on February 5, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Great American Federal Savings and Loan Association, Pittsburgh, Pennsylvania, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Dallas, Texas 75039–2010.

Dated: February 8, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3271 Filed 2–13–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–13; OTS Nos. H–2628 and 01405]

Pomona First Federal Savings and Loan Association, Pomona, California; Approval of Conversion Application

Notice is hereby given that on February 6, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Pomona First Federal Savings and Loan Association, Pomona, California, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the West Regional Office, Office of Thrift Supervision, 1 Montgomery Street, Suite 400, San Francisco, California 94104.

Dated: February 8, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3269 Filed 2–13–96; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Cost-of-Living Adjustments for Service-Connected Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the Veterans' Compensation Cost-of-Living Adjustment Act of 1995, Public Law 104–57, the Department of Veterans Affairs (VA) is hereby giving notice of cost-of-living adjustments (COLAs) in certain benefit rates. These COLAs affect the compensation and dependency and indemnity compensation (DIC) programs.

DATES. These COLAs are effective December 1, 1995, the date provided by Public Law 104–57.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: The Veterans' Compensation Cost-of-Living Adjustment Act of 1995, Public Law 104–57, provides for a COLA for each of the rates in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code. VA is required to increase these benefit rates by the same percentage as increases in the benefit amounts payable under title II of the Social Security Act. In the computation of increased rates, fractions of a dollar are rounded to the next lower dollar amount. The increased rates are required to be published in the **Federal Register.**

The Social Security Administration has announced that there will be a 2.6 percent cost-of-living increase in Social Security benefits. Therefore, applying the same percentage, the following increased rates for VA compensation and DIC programs will be effective December 1, 1995:

DISABILITY COMPENSATION (38 U.S.C. 1114)

Disability evaluation—in percent	Monthly rate
10%	$91
20	174
30	266
40	380
50	542
60	683
70	862
80	999
90	1,124
100	1,870
(38 U.S.C. 1114(k) through (s)):	
38 U.S.C. 1114(k)	$72; 2,326; 72; 3,261
38 U.S.C. 1114(l)	2,326
38 U.S.C. 1114(m)	2,565
38 U.S.C. 1114(n)	2,918
38 U.S.C. 1114(o)	3,261
38 U.S.C. 1114(p)	3,261
38 U.S.C. 1114(r)	1,400; 2,085
38 U.S.C. 1114(s)	2,093
Additional compensation for dependents (38 U.S.C. 1115(1)):	
38 U.S.C. 1115(1)	
38 U.S.C. 1115(1)(A)	109
38 U.S.C. 1115(1)(B)	186; 57
38 U.S.C. 1115(1)(C)	75; 57
38 U.S.C. 1115(1)(D)	88
38 U.S.C. 1115(1)(E)	205
38 U.S.C. 1115(1)(F)	172
Clothing allowance (38 U.S.C. 1162)—503 per year..	
DIC to a surviving spouse (38 U.S.C. 1311):	
Pay grade:	
E–1	810
E–2	810
E–3	810
E–4	810
E–5	810
E–6	810
E–7	837
E–8	883
E–9(1)	922
W–1	855
W–2	889
W–3	916
W–4	969
O–1	855
O–2	883
O–3	945
O–4	999
O–5	1,100
O–6	1,240
O–7	1,339
O–8	1,467
O–9	1,572
O–10(2)	1,724

(1) If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, the surviving spouse's monthly rate is $994.

(2) If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, the surviving spouse's monthly rate is $1,848.

DIC TO SURVIVING SPOUSE (38 U.S.C. 1311(a) THROUGH (D))

38 U.S.C. 1311(a) through (d)	Monthly rate
38 U.S.C. 1311(a)(1)	$810
38 U.S.C. 1311(a)(2)	177
38 U.S.C. 1311(b)	205
38 U.S.C. 1311(c)	205
38 U.S.C. 1311(d)	99
DIC to children (38 U.S.C. 1313):	
38 U.S.C. 1313	
38 U.S.C. 1313(a)(1)	344
38 U.S.C. 1313(a)(2)	496
38 U.S.C. 1313(a)(3)	643
38 U.S.C. 1313(a)(4)	769; 126
Supplemental DIC to children (38 U.S.C. 1314):	
38 U.S.C. 1314	
38 U.S.C. 1314(a)	205
38 U.S.C. 1314(b)	344
38 U.S.C. 1314(c)	174

Dated: February 5, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 96–3218 Filed 2–13–96; 8:45 am]

BILLING CODE 8320–01–P

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 103–446, gives notice that a meeting of the Advisory Committee on Minority Veterans will be held March 11–13, 1996, in Washington, DC. The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services for minority veterans and to assess the needs of minority veterans and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

The sessions will convene daily in room 230, VA Central Office (VACO) Building, 810 Vermont Avenue, NW, Washington, DC, from 8:30 a.m. to 4:30 On Monday March 11, five Veterans Service Organizations and five Community Based Organizations will testify about how their organizations inform and assist minority veterans. On March 12th, two VA Under Secretaries and the Assistant Secretary of Labor will testify about their agencies programs for minority veterans. On Wednesday March 13, the Committee will discuss subcommittee reports and findings. All sessions will be open to the public up to the seating capacity of the room. Because seating is limited, it will be necessary for those wishing to attend to contact Mrs. Angelia Sare, Department of Veterans Affairs (phone 202 273–6708) prior to March 7, 1996. No time will be allocated for the purpose of receiving oral presentations from the public, however, the Committee will accept appropriate written comments from interested parties on issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: February 5, 1996.

By Direction of the Secretary:

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–3219 Filed 2–13–96; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 61, No. 31
Wednesday, February 14, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: _____

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., February 13, 1996.

CHANGES IN MEETING: Meeting concerning Multiple Tube Mine & Shell Fireworks was canceled.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: February 12, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–3512 Filed 2–12–96; 3:12 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Tuesday, February 20, 1996.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS:

Open to the Public.

Matter to be Considered:

Multiple Tube Mine & Shell Fireworks

The staff will brief the Commission on a final rule addressing the tip-over of large multiple tube mine and shell fireworks devices.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: February 12, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–3513 Filed 2–12–96; 3:12 pm]

BILLING CODE 6355–01–M

NATIONAL SCIENCE FOUNDATION

NATIONAL SCIENCE BOARD

DATE AND TIME:

February 23, 1996, 11:00 a.m., Closed Session
February 23, 1996, 8:00 a.m., Open Session

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, Virginia 22230.

STATUS:

Part of this meeting will be open to the public.

Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Friday, February 23, 1996

(Open Session (8:00 a.m.–11:00 a.m.)

—Minutes, December 1995 Meeting
—Closed Session Agenda Items for March 1996 Meeting
—Chairman's Report
—Director's Report
—Committee Reports
—Other Business
—Presentations: Issues in Education
—National Academy of Sciences (NAS) Science Standards
—Education and Human Resources (EHR) Systemic Initiatives
—Presentation: Biological Sciences (BIO) Directorate

Friday, February 23, 1996

(Closed Session (11:00 a.m.–11:45 a.m.)

—Personnel
—Minutes, December 1995 Meeting
—Budget
—Grants and Contracts
—Adjourn

Marta Cehelsky,

Executive Officer.

[FR Doc. 96–3375 Filed 2–9–95; 4:43 p.m.]

BILLING CODE 7555–01–M

U.S. RAILROAD RETIREMENT BOARD

Notice is hereby given that the Railroad Retirement Board will hold a meeting on February 21, 1996, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Management Representation Letter
(2) Response to Inspector General's Reinvention Proposal
(3) Region 3 Vacancies
(4) Draft Agreements with the Internal Revenue Service
(5) Special Act/Service Awards
(6) Draft Language to amend RRA Provision
(7) Coverage Determination—Rail Investments, Inc.
(8) Transportation Communications Union Request for Extension to File Their Exceptions Regarding the Hearing Examiner's Report on CSX Intermodal, Inc.
(9) Administrative Circular REF (RRB)–4
(10) Labor Member Truth in Budgeting Status Report

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: February 9, 1996.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–3404 Filed 2–12–96; 11:22 am]

BILLING CODE 7905–01–M

Federal Register

Wednesday
February 14, 1996

Part II

Environmental Protection Agency

40 CFR Part 85

Air Pollution Control: Amendments to Regulations Governing the Importation of Nonconforming Vehicles; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[FRL–5419–8]

RIN 2060–AC58

Air Pollution Control: Amendments to Regulations Governing the Importation of Nonconforming Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With this action, EPA is amending 40 CFR part 85, subpart P to modify the emissions standards applicable to imported nonconforming light duty vehicles and light duty trucks. Such vehicles will now have to meet emission standards that were in effect in the year the vehicle was originally produced, using currently applicable testing methods. The Notice of Proposed Rulemaking (NPRM) for this rule proposed a number of other changes to the imported nonconforming vehicle program. EPA will address these additional issues in a subsequent final rulemaking.

EFFECTIVE DATE: This final rule is effective on February 1, 1996.

ADDRESSES: Materials relevant to this rule are contained in the EPA Air Docket LE–131, Attention: Docket No. A–89–20, located at the Air Docket Section, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, S.W. Washington, DC 20460. Telephone (202) 260–7548. The docket may be reviewed on weekdays between the hours of 8:00 a.m. to 5:30 p.m. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard D. Lazarus, Vehicle Programs and Compliance Division (6405J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. Telephone (202) 233–9240.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The imports program of the U.S. Environmental Protection Agency ensures that imported motor vehicles and motor vehicle engines comply with U.S. emission requirements to protect air quality and public health. In a **Federal Register** Notice of Proposed Rulemaking (NPRM) published on March 24, 1994 (57 FR 13912), EPA proposed a number of amendments to the imports program regulations. These proposed changes were intended to respond to new information about imports of nonconforming vehicles and changes in the Part 86 motor vehicle certification standards, which necessitate compensating adjustments in the imports program. EPA proposed additional amendments to clarify the imports program requirements and to ensure that the regulations clearly reflect current program implementation policies.

EPA intends to address the bulk of the proposed amendments to the imports regulations in a subsequent rulemaking, as the Agency is not ready at this time to take the final action on these aspects of the NPRM. However, EPA is finalizing one portion of the proposal today because the standards for imports of nonconforming light duty vehicles and light duty trucks need to be modified without delay, in order to avoid detrimental effects on independent commercial importers' (ICI) ability to continue to import such vehicles. The Administrator has determined that this is a § 307(d)(1) rulemaking.

Sections 203(a)(1) and 203(b)(2) of the Clean Air Act (CAA or the Act) provide the statutory authority for regulations relating to the importation of new motor vehicles and motor vehicle engines that are not covered by a certificate of conformity. Section 203(a)(1) prohibits any person from importing vehicles not covered by a certificate of conformity, except as provided by regulation of the Administrator. The exception for regulations of the Administrator in section 203(a)(1) refers to the grant of authority in section 203(b)(2). Section 203(b)(2) states that a vehicle not covered by a certificate of conformity and offered for importation shall be refused admission into the United States unless the Administrator, by regulation, provides for deferring final determination regarding admission and authorizing delivery of the vehicle upon such terms and conditions as may appear appropriate to insure that any imported vehicle will be brought into conformity with applicable standards, requirements and limitations. Additional detail regarding the authority for this regulatory action is provided in the NPRM. See 57 FR 13912 (March 24, 1994).

A. Emission Standards

As proposed, EPA is eliminating the requirement that nonconforming light-duty vehicles and light-duty trucks imported pursuant to 40 CFR 85.1505 or 85.1509 meet the part 86 emission standards in effect at the time of modification. These vehicles, with a few exceptions, will instead be required to meet emission standards (with applicable deterioration factors applied) that were in effect at the time of original vehicle production, using currently applicable testing procedures.

The specific standards applicable to these vehicles are contained in a new § 85.1515. Vehicles originally produced prior to the 1975 model year shall meet the 1975 model year exhaust emission standards. Vehicles produced in model year 1975 or subsequent model years shall meet the exhaust emission standards in effect during the corresponding production year. Gasoline-fueled vehicles produced prior to the 1978 model year must also meet the 1978 model year evaporative emission standard. Finally, every vehicle originally produced in the 1978 model year or subsequent model years shall meet all applicable emission standards that were in effect for that model year as specified in part 86. For vehicles with original production years up through 1993, the full set of applicable emissions standards is laid out in the tables in § 85.1515. For vehicles with original production years of 1994 and later, all emissions standards specified in Part 86 effective in that production year will apply, including standards for any requirements not listed in the section 85.1515 tables, such as standards for cold CO and the certification short test. The vehicles must meet all applicable current model year fuel economy requirements. Vehicles greater than 20 original production (OP) years old will continue to be exempted from the emission requirements and do not have to be tested.

As discussed in the proposal (Supplementary Document pp. 27–28, Docket No. A–89–20), when EPA promulgated the prior requirement to meet standards applicable at the time of modification, the Agency had no data or evidence suggesting that older vehicles could not be modified to meet current year emission standards. Since that rulemaking, EPA has obtained evidence indicating that many older vehicles cannot be modified to meet current year emission standards without extraordinary cost, which makes the conversion financially unfeasible for many owners of such vehicles. Today's rule would give owners of older vehicles a way to import their vehicles. In addition, it would have been significantly more difficult and costly for importers to modify vehicles to comply with the current model year standards beginning in January, 1996, when the standards applicable to small volume manufacturers became substantially more stringent. EPA agrees with the statements submitted by ICIs after the close of the comment period that the expense of such modifications would have a serious deleterious effect on their businesses and would not justify the costs.[1]

Certain commenters appear to request that EPA change the testing requirements as well as the standards to apply the testing procedures and requirements in effect in the year of original production.[2] However, these commenters provided no analysis of the effects of retaining the current testing requirements or justification for the change. EPA disagrees with the suggestion because applying the test procedures applicable in the year of original production would impose an obligation for EPA to maintain a separate certification facility in order to validate ICI testing using obsolete hardware and outdated procedures. Moreover, EPA does not believe that the existing requirement to use currently applicable testing requirements and procedures imposes costs on the ICIs that they are unable to meet or that outweigh the benefits in terms of practical ability to conduct the tests and improved accuracy of test results.

EPA has determined that the new emission standards in this rule will not have a substantial adverse impact on air quality. This determination is made, in large part, due to the relatively small number of vehicles subject to these requirements, which is not expected to increase significantly, if at all. For example, the numbers of vehicles imported pursuant to 40 CFR 85.1505 and 85.1509 have ranged from approximately 400 vehicles in 1989 to less than 200 vehicles in 1991. More importantly, only a small percentage of these vehicles would be affected by this change in the standards. Most of these vehicles were less than three years old at the time of importation, and the standards for most original production years would not have changed as of three years later.

B. Definition of FCT

EPA is also finalizing the proposed definition of Federal Compliance Testing (FCT), which is defined as the testing sequence that incorporates all of the testing requirements of part 86 applicable at the time of an emissions test conducted pursuant to subpart P. EPA has added this definition solely to make the imports regulations easier to read and understand. The reference to the FCT in section 85.1515 does not change any of the substantive requirements on importers. Prior to this final rule, ICIs had to meet Part 86 motor vehicle emissions standards and testing requirements applicable at the time of import. While this rule amends the emissions standards applicable to importers, it has no effect on the testing requirements. Thus, importers will still have to conduct any testing according to the currently applicable testing requirements. The imports regulations will refer to these applicable testing requirements under the concise term FCT. This rule incorporates the term "FCT" only in section 85.1515. The subsequent rulemaking will update and clarify the remaining references to testing in the imports regulations by substituting the term FCT where applicable.

C. Additional Information on the Effective Date

This rule will be effective upon signature, and EPA will make the rule available to interested parties at that time. Although EPA generally makes rules effective 30 days after the date of publication, it is not bound to do so. See section 307(d)(1) of the Clean Air Act, 42 U.S.C. 7607(d), and the Administrative Procedure Act, 5 U.S.C. 553(d).

EPA believes that there is good cause not to delay the effective date until 30 days after publication. This rule relieves regulatory burden, and hence affected parties will have no need of prior notice to allow them time to comply. In addition, as explained above, importers need this rule to become effective without delay, to avoid a substantial increase in the difficulty of meeting standards for imported nonconforming vehicles after that date. Any delay in the effectiveness of the rule could impose significant costs on these small businesses.

II. Public Participation and Discussion of Comments

No public hearing was requested on the proposed changes, and no hearing was held. During the comment period EPA received no comments relating to the narrow issues addressed in this final rule. After the close of the comment period, EPA received a number of comments supportive of this rulemaking as discussed above. EPA will address all of the other comments on the NPRM in the subsequent final rule.

III. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*, and have been assigned control number 2060–0095 (ICR No. 10.07). This rule does not add any additional information collection requirements to those approved by OMB.

B. Economic Impact

Little or no effect on the national economy will result from this rulemaking as the only effect of the amendments is to relieve the compliance burden on automobile importers. Additionally, imported nonconforming vehicles subject to these regulations represent only a very small number of the total number of vehicles sold in the United States.

C. Administrative Designation and Regulatory Analysis

Under Executive Order 12866, [58 F.R. 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

D. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis.

There will not be a significant impact on a substantial number of small business entities because the proposed

[1] See comments in docket, category III. D. Number IV–D–4 through IV–D–9.

[2] See letter from Les Weaver, December 4, 1995.

rule benefits the small businesses that import nonconforming vehicles into the United States, by reducing the stringency of the applicable standards for importing these vehicles and thereby reducing importers' costs.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Administrator certifies that this regulation does not have a significant impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This rule reduces the stringency of applicable standards for importation of nonconforming vehicles and thereby reduces costs to automobile importers. This rule will have no effect on State, local and tribal governments. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments, because small governments are not ordinarily involved in importations covered by this rule.

IV. Statutory Authority

Sec. 203, Clean Air Act, as amended (42 U.S.C. 7522).

V. Judicial Review

Under section 307(b) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 85

Environmental protection, Motor vehicle pollution, Reporting and recordkeeping requirements, Research.

Dated: February 1, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble part 85, subpart P, of title 40 of the Code of Federal Regulations is revised to read as follows:

PART 85—[AMENDED]

Subpart P—[Amended]

1. The authority citation for subpart P is revised to read as follows:

Authority: (42 U.S.C. 7522, 7525, 7541, 7542(a) and 7601(a).

2. Section 85.1502 is amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a)(5) through (15) as (a)(6) through (16) and adding a new paragraph (a)(5) to read as set forth below. Paragraph (b) is reserved.

§ 85.1502 Definitions.

(a) * * *

(5) *The Federal Compliance Testing sequence (FCT).* The testing sequence that incorporates all of the testing requirements of part 86 applicable at the time of an emissions test conducted pursuant to this subpart.

* * * * *

3. Section 85.1515 is revised to read as follows:

§ 85.1515 Emission standards and test procedures applicable to imported nonconforming motor vehicles and motor vehicle engines.

(a) Notwithstanding any other requirements of this subpart, any motor vehicle or motor vehicle engine conditionally imported pursuant to § 85.1505 or § 85.1509 and required to be emission tested shall be tested using the FCT at 40 CFR part 86 applicable to current model year motor vehicles and motor vehicle engines at the time of testing.

(b) The emission standards applicable to nonconforming light-duty vehicles and light-duty trucks imported pursuant to this subpart are outlined in Tables 1 and 2 of this section, respectively. The useful life as specified in Tables 1 and 2 of this section is applicable to imported light-duty vehicles and light-duty trucks, respectively.

(c) Nonconforming motor vehicles or motor vehicle engines of 1994 OP model year and later conditionally imported pursuant to § 85.1505 or § 85.1509 shall meet all of the emission standards specified in part 86 for the model year in which the motor vehicle or motor vehicle engine is modified. The useful life specified in part 86 for the model year in which the motor vehicle or motor vehicle engine is modified is applicable where useful life is not designated in this subpart.

(d) ICIs may not participate in emission-related programs for emissions averaging, banking and trading, or noncompliance penalties.

TABLE 1 TO § 85.1515.—EMISSION STANDARDS APPLICABLE TO IMPORTED LIGHT-DUTY MOTOR VEHICLES [1] [2] [3]

OP Year	Hydrocarbon	Carbon monoxide	Oxides of nitrogen	Particulate	Diesel hydrocarbon	Evaporative (years/miles)	Useful life
1968–76	1.5 gpm	15 gpm	3.1 gpm		6.0 g/test	5/50,000	

TABLE 1 TO § 85.1515.—EMISSION STANDARDS APPLICABLE TO IMPORTED LIGHT-DUTY MOTOR VEHICLES [1] [2] [3]—Continued

OP Year	Hydrocarbon	Carbon monoxide	Oxides of nitrogen	Particulate	Diesel hydrocarbon	Evaporative (years/miles)	Useful life
1977–79	1.5 gpm	15 gpm	2.0 gpm		6.0 g/test	5/50,000	
1980	0.41 gpm	7.0 gpm	2.0 gpm		6.0 g/test	5/50,000	
1981	0.41 gpm	3.4 gpm	1.0 gpm		2.0 g/test	5/50,000	
1982–86	0.41 gpm	3.4 gpm	1.0 gpm	0.60 gpm	2.0 g/test	5/50,000	
1987–93	0.41 gpm	3.4 gpm	1.0 gpm	0.20 gpm	2.0 g/test	5/50,000	
1994 and later	[4]	[4]	[4]	[4]	[4]	[4]	

[1] Diesel particulate standards apply only to diesel fueled light-duty vehicles. Evaporative hydrocarbon standards apply only to non-diesel fueled light-duty vehicles. For alternative fueled light-duty vehicles, the evaporative hydrocarbon standard is interpreted as organic material hydrocarbon equivalent grams carbon per test, as applicable.

[2] No crankcase emissions shall be discharged into the ambient atmosphere from any non-diesel fueled light-duty vehicle.

[3] All light-duty vehicles shall meet the applicable emission standards at both low and high-altitudes according to the procedures specified in 40 CFR part 86 for current model year motor vehicles at the time of testing.

[4] Specified in 40 CFR part 86 for the OP year of the vehicle, per 85.1515(c).

TABLE 2.—EMISSION STANDARDS APPLICABLE TO IMPORTED LIGHT-DUTY TRUCKS [1] [2] [3] [4] [5]

OP year	Hydrocarbon	Carbon monoxide	Oxides of nitrogen	Particulate	Diesel hydrocarbon	Evaporative (years/miles)	Useful life
1968–78	2.0 gpm	20 gpm	3.1 gpm		6.0 g/test	5/50,000	
1979–80	1.7 gpm	18 gpm	2.3 gpm		6.0 g/test	5/50,000	
1981	1.7 gpm	18 gpm	2.3 gpm		2.0 g/test	5/50,000	
1982–83	1.7 gpm (2.0)	18 gpm (26)	2.3 gpm (2.3)	0.60 gpm (0.60)	2.0 g/test (2.6)	5/50,000	
1984	0.80 gpm (1.0)	10 gpm (14)	2.3 gpm (2.3)	0.60 gpm (0.60)	2.0 g/test (2.6)	5/50,000	
1985–86	0.80 gpm (1.0)	10 gpm (14)	2.3 gpm (2.3)	0.60 gpm (0.60)	2.0 g/test (2.6)	11/120,000	
1987	0.80 gpm (1.0)	10 gpm (14)	2.3 gpm (2.3)	0.26 gpm (0.26)	2.0 g/test (2.6)	11/120,000	
1988–89	0.80 gpm (1.0)	10 gpm (14)	1.2 gpm[6] (1.2)	0.26 gpm[7] (2.0)	2.0 g/test (2.6)	11/120,000	
	0.80 gpm (1.0)	10 gpm (14)	1.7 gpm[6] (1.7)	0.45 gpm[7] (0.26)	2.0 g/test (2.6)	11/120,000	
	0.80 gpm (1.0)	10 gpm (14)	2.3 gpm[6] (2.3)	0.45 gpm[7] (0.26)	2.0 g/test (2.6)	11/120,000	
1990–93	0.80 gpm (1.0)	10 gpm (14)	1.2 gpm[8] (1.2)	0.26 gpm[7] (0.26)	2.0 g/test (2.6)	11/120,000	
	0.80 gpm (1.0)	10 gpm (14)	1.7 gpm[8] (1.7)	0.45 gpm[7] (0.26)	2.0 g/test (2.6)	11/120,000	
1994 and later	[9]	[9]	[9]	[9]	[9]	[9]	

[1] Diesel particulate standards apply only to diesel fueled light-duty trucks. Evaporative hydrocarbon standards apply only to non-diesel fueled light-duty trucks. For alternative fueled light-duty trucks, the evaporative hydrocarbon standard is interpreted as organic material hydrocarbon equivalent grams carbon per test, as applicable.

[2] No crankcase emissions shall be discharged into the ambient atmosphere from any non-diesel fueled light-duty truck.

[3] A carbon monoxide standard of 0.50% of exhaust flow at curb idle is applicable to all 1984 and later model year light-duty trucks sold to, or owned by, an importer for principal use at other than a designated high-altitude location. This requirement is effective for light-duty trucks sold to, or owned by an importer for principal use at a designated high-altitude location beginning with the 1988 model year.

[4] All 1982 OP year and later light-duty trucks sold to, or owned by, an importer for principal use at a designated high-altitude location shall meet high-altitude emission standards according to the requirements specified in 40 CFR part 86 for current model year light-duty trucks at the time of testing.

[5] Standards in parentheses apply to motor vehicles sold to, or owned by, an importer for principal use at a designated high-altitude location. These standards must be met at high-altitude according to the procedures specified in 40 CFR part 86 for current model year motor vehicles at the time of testing.

[6] The oxides of nitrogen standard of 1.2 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight and 6,000 pounds or less gross vehicle weight the 1.7 gpm standard applies to light-duty trucks greater than 3,750 pound loaded vehicle weight and 6,000 pounds or less gross vehicle weight; the 2.3 gpm standard applies to light-duty trucks 6,001 pounds gross vehicle weight and greater.

[7] The diesel particulate standard of 0.26 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight; the 0.45 gpm standard applies to light-duty trucks 3,751 pounds and greater loaded vehicle weight.

[8] The oxides of nitrogen standard of 1.2 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight; the 1.7 gpm standard applies to light-duty trucks 3,751 pounds and greater loaded vehicle weight.

[9] Specified in 40 CFR part 86 for the OP year of the vehicle, per 85.1515(c).

[FR Doc. 96–2915 Filed 2–13–96; 8:45 am]

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Part III

Department of Justice

Bureau of Prisons

28 CFR Part 540

Correspondence: Restricted Special Mail Procedures; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP–1048–P]

RIN 1120–AA48

Correspondence: Restricted Special Mail Procedures

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its regulations on correspondence to provide for restricted special mail procedures in instances where the Warden has reason to believe that the special mail either has posed a threat or may pose a threat of physical harm to the intended recipient. Under these procedures, special mail addressed to Federal court officials, members of Congress, or, if requested, by other intended special mail recipients would be subject to inspection, in the presence of the inmate, for contraband or the threat of physical harm. These amendments are intended to provide for the continued efficient and secure operation of the institution and to protect the public.

DATES: Comments must be received by April 15, 1996.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on correspondence (28 CFR part 540, subpart B). Current regulations on this subject were published in the **Federal Register** on October 1, 1985 (50 FR 40109) and were amended on February 1, 1991 (56 FR 4159).

Current provisions in § 540.18(c) state that outgoing special mail may be sealed by the inmate and is not subject to inspection. The Bureau is revising paragraph (c) to allow for restricted special mail procedures for special mail addressed to Federal court officials and members of Congress, and, if so requested, to other intended recipients. These restricted special mail procedures apply in cases where the Warden (with the concurrence of the Regional Counsel) documents in writing that the inmate's special mail either has posed a threat or may pose a threat of physical harm to the intended recipient. Any inmate placed on restricted special mail status would be notified in writing by the Warden of the reason for being so placed. The Warden is required to review an inmate's restricted special mail status at least once every 180 days and to notify the inmate in writing of the results of that review. The inmate may be removed from restricted special mail status if the Warden (with the concurrence of the Regional Counsel) determines that the inmate's special mail does not threaten or pose a threat of physical harm to the intended recipient.

An example of a case in which the inmate's special mail may pose a threat of physical harm is when an inmate's past criminal activity or current behavior suggests a propensity to harm others through use of the mail. Even though confined in an institution, an inmate convicted of sending explosives through the mail may be capable of assembling a device to be included in special mail, which poses a danger to the intended recipient.

Procedures for restricted special mail allow staff to inspect special mail material and then to observe the inmate sealing the material. This procedure is not dissimilar to the Bureau's procedures for the receipt of incoming special mail under which special mail addressed to an inmate is opened in the presence of the inmate for inspection for physical contraband and the qualification of any enclosures as special mail.

The intent of this amendment is to apply the status of restricted special mail only when the inmate's conduct warrants it. The Bureau estimates that the vast majority of outgoing inmate special mail will be unaffected by the amendment. An inmate who is so affected may appeal the action through the administrative remedy procedure which is available to inmates for the formal review of a complaint which relates to the inmate's imprisonment.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 540

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 540 in subchapter C of 28 CFR, chapter V is proposed to be amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

1. The authority citation for 28 CFR part 540 is revised to read as follows:

Authority: 5 U.S.C. 301, 551, 552a; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 540.18, paragraphs (c) and (d) are revised to read as follows:

§ 540.18 Special mail.

* * * * *

(c) (1) Except as provided for in paragraph (c)(2) of this section, outgoing special mail may be sealed by the inmate and is not subject to inspection.

(2) Special mail shall be screened in accordance with the provisions of paragraph (c)(2)(iii) of this section when the special mail is being sent by an inmate who has been placed on restricted special mail status and the special mail is addressed to a Federal court official, a member of Congress, or to any other intended recipient when that other intended recipient has requested such treatment.

(i) An inmate may be placed on restricted special mail status if the Warden, with the concurrence of the Regional Counsel, documents in writing that the special mail either has posed a threat or may pose a threat of physical harm to the recipient (e.g., the inmate has previously used special mail to threaten physical harm to a recipient).

(ii) The Warden shall notify the inmate in writing of the reason the inmate is being placed on restricted special mail status.

(iii) An inmate on restricted special mail status must present all materials and packaging intended to be sent as special mail to staff for inspection. Staff shall inspect the special mail material and packaging, in the presence of the inmate, for contraband or the threat of physical harm. Upon completion of the inspection, staff shall return the special mail material to the inmate if the material does not contain contraband, or pose a threat of physical harm to the intended recipient. The inmate must then seal the special mail material in the presence of staff. Special mail determined to pose a threat to the intended recipient shall be forwarded to the appropriate law enforcement entity. Staff shall send a copy of the material, minus the contraband, to the intended recipient along with notification that the original of the material was forwarded to the appropriate law enforcement entity.

(iv) The Warden shall review an inmate's restricted special mail status at least once every 180 days. The inmate is to be notified of the results of this review. An inmate may be removed from restricted special mail status if the Warden determines, with the concurrence of the Regional Counsel, that the special mail does not threaten or pose a threat of physical harm to the intended recipient.

(v) An inmate on restricted mail status may seek review of the restriction through the Administrative Remedy Procedure.

(d) Except for special mail processed in accordance with paragraph (c)(2) of this section, staff shall stamp the following statement directly on the back side of the inmate's outgoing special mail: "The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. If the writer encloses correspondence for forwarding to another addressee, please return the enclosure to the above address."

[FR Doc. 96–3288 Filed 2–13–96; 8:45 am]

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Part IV

Department of Housing and Urban Development

24 CFR Part 882

Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals; Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 882

[Docket No. FR–3929–I–01]

RIN 2506–AB75

Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals; Amendments

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends HUD's regulations for the Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals at 24 CFR part 882, subpart H. These amendments conform the program regulations with statutory and regulatory changes. The amendments will clarify and update the regulations according to current requirements.

DATES: Effective date: March 15, 1996. Comments due date: April 15, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address. Comments sent by FAX are not acceptable.

FOR FURTHER INFORMATION CONTACT: Maggie H. Taylor, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; (202) 708–4300; TTY for persons who are deaf, hard-of-hearing, or who have speech impairments (202) 708–2565. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Background

This interim rule makes several changes to conform the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) program regulations with statutory and regulatory changes. First, this interim rule eliminates the remaining provisions on the required use of housing authority (HA) waiting lists. In an interim rule published on March 15, 1993 (58 FR 13828), HUD conformed the process for selecting homeless persons for participation in the SRO program with the process used in HUD's other homeless programs. In place of the HA waiting list process, the interim rule required that HAs and/or Owners engage in outreach efforts to bring homeless individuals into the program, and that vacant units be rented directly to homeless individuals located through these outreach efforts. This interim rule deletes the remaining references to HA waiting lists that HUD inadvertently overlooked. This interim rule also clarifies the role of HAs in helping to identify homeless individuals during the outreach process (§ 882.808(a)(1)).

Second, this interim rule conforms the program regulations with section 1405 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992), which amended the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401). This statutory amendment includes a requirement for the participation of homeless individuals in considering and making policies and decisions regarding rehabilitation of structures receiving assistance under this program, and for the involvement of homeless individuals in the rehabilitation and operation of these structures. This interim rule implements the requirement at § 882.808(q).

The statutory amendment also requires a formal process for terminating assistance to individuals who violate program requirements. HUD has determined that the existing requirements for the termination of tenancy at § 882.808(l) sufficiently protect the rights of homeless individuals and should serve to prevent abuses such as lack of notice. Therefore, no change to the regulations is necessary to implement the requirement. (**Note**: This interim rule does not change the lawful grounds for terminating assistance. Termination of assistance due to unwillingness to accept supportive services or other activities that do not of themselves constitute a violation of the housing lease are not allowed.)

The statutory amendment further provides that private nonprofit organizations can apply directly for SRO assistance. Prior to the amendments, the only eligible applicants under the program were public housing agencies and Indian housing authorities. To implement this change, the interim rule adds definitions of "applicant" and "private nonprofit organization" at § 882.802. This revised section further provides that HUD will require private nonprofit applicants to subcontract with public housing agencies to administer their rental assistance.

Third, this interim rule conforms the program regulations with the environmental review procedures in 24 CFR part 58. The Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103–233, approved April 11, 1994) made these procedures applicable to the Section 8 Moderate Rehabilitation SRO program, and HUD published implementing regulations in the **Federal Register** on March 13, 1995 (60 FR 13518). Under part 58, it is the HA's responsibility to obtain an agreement with the responsible entity designated under part 58 for the performance of environmental reviews.

Fourth, this interim rule revises the provision on project eligibility at § 882.803(a)(2). This interim rule will provide that housing is ineligible for assistance under this program if it is receiving Federal funding for rental assistance or operating costs under other HUD programs. The current regulation provides that housing is not eligible for assistance if it is, or has been within 12 months before the Owner submits a proposal, subsidized under any Federal housing program. A number of nonprofit organizations and PHAs have requested clarification of the term "subsidized," and have indicated that the 12-month restriction eliminates a number of otherwise excellent facilities from consideration for SRO assistance. In response to these comments, HUD is revising this provision by adopting the clearer, less restrictive standard used in its Shelter Plus Care program. Under the revised standard, there is no restriction on the use of other Federal funding for acquisition and rehabilitation costs.

Fifth, this interim rule eliminates an obsolete date reference in the provisions for determining the maximum amount of rehabilitation allowable in the program. Although § 882.805(g)(1)(ii)(A) provides that the rehabilitation cost calculation should use the HUD-approved High Cost Percentage for Base Cities in use before April 1988, HUD recalculates this percentage periodically. Therefore, this interim rule will eliminate the date reference so that a more recent percentage can be used.

Finally, this interim rule corrects an error in a final rule published in the **Federal Register** on June 6, 1994 (59 FR 29326). That rule, which conformed HUD's regulations with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and its implementing regulations at 49 CFR part 24, added

§ 882.810 and intended to remove much of § 882.803(d). However, the most recent codification of part 882 (April 1, 1995) included both § 882.810 and § 882.803(d) in its entirety. Therefore, in order to correct the error, this rule removes much of § 882.803(d).

Justification for Interim Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its regulations on rulemaking at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted if HUD determines that it is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). With this interim rule, HUD is merely correcting several minor oversights and conforming the SRO regulations to statutory or regulatory provisions that are already effective. Therefore, HUD finds that prior public procedure would be unnecessary. However, HUD is inviting public comments for 60 days, after which it will consider the relevant issues raised by the commenters in developing a final rule.

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW, Washington, DC 20410.

Executive Order 12606, The Family

The General Counsel, as the designated official under Executive Order 12606, *The Family*, has determined that this interim rule does not have potential for significant impact on family formation, maintenance, and general well-being. To the extent that this interim rule benefits homeless individuals, it would benefit the families of such individuals. Since any effect of the interim rule would be beneficial, this interim rule is not subject to review under the Order.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies in this interim rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim rule is limited to conforming the regulations with statutory and regulatory requirements. Therefore the interim rule is not subject to review under the Order.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this interim rule before publication and by approving it certifies that this interim rule does not have a significant economic impact on a substantial number of small entities. Specifically, the interim rule is limited to making conforming changes to the program regulations.

List of Subjects in 24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 882 is amended as follows:

PART 882—SECTION 8 CERTIFICATE AND MODERATE REHABILITATION PROGRAMS

1. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

2. Section 882.802 is amended by adding definitions for the terms "applicant" and "private nonprofit organization" in alphabetical order, to read as follows:

§ 882.802 Definitions.

* * * * *

Applicant. A public housing agency or Indian housing authority (collectively referred to as housing agencies or HAs), or a private nonprofit organization that applies for assistance under this program. HUD will require private nonprofit applicants to subcontract with public housing agencies to administer their rental assistance.

* * * * *

Private nonprofit organization. An organization, no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual. The organization must:

(1) Have a voluntary board;

(2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles: and

(3) Practice nondiscrimination in the provision of assistance.

* * * * *

3. Section 882.803 is amended by revising paragraphs (a)(2) and (d) to read as follows:

§ 882.803 Project eligibility and other requirements.

(a) * * *

(2) Housing is not eligible for assistance under this program if it is receiving Federal funding for rental assistance or operating costs under other HUD programs.

* * * * *

(d) *Relocation.* A project assisted under this subpart H is subject to the requirements of § 882.810.

* * * * *

4. Section 882.804 is amended by revising paragraph (d) to read as follows:

§ 882.804 Other Federal requirements.

* * * * *

(d) The environmental review requirements of 24 CFR part 58, implementing the National Environmental Policy Act and related environmental laws and authorities listed in 24 CFR 58.5, are applicable to this program.

5. Section 882.805 is amended by removing and reserving paragraph (d), and by revising paragraph (g)(1)(ii)(A) to read as follows:

§ 882.805 PHA application process, HUD review and selection, ACC execution, and pre-rehabilitation activities.

* * * * *

(d) [Reserved]

* * * * *

(g) * * *

(1) * * *

(ii) * * *

(A) HUD may approve a higher per unit amount up to, but not to exceed, an amount computed by multiplying the HUD-approved High Cost Percentage for Base Cities (used for computing FHA high cost area adjustments) for the area, by the current published cost limitation plus the cost of the required fire and safety improvements.

* * * * *

6. Section 882.808 is amended by:

a. Revising paragraph (a)(1);

b. Removing paragraphs (a)(3), (b)(2), and (b)(4);

c. Redesignating paragraph (a)(4) as paragraph (a)(3) and revising it;

d. Redesignating paragraph (b)(3) as paragraph (b)(2);

e. Redesignating paragraphs (b)(5) through (b)(7) as paragraphs (b)(3) through (b)(5), respectively; and

f. Adding a new paragraph (q), to read as follows:

§ 882.808 Management.

(a) *Outreach to homeless individuals and appropriate organizations.* (1) The HA or the Owner shall undertake outreach efforts to homeless individuals so that they may be brought into the program. The outreach effort should include notification to emergency shelter providers and other organizations that could provide referrals of homeless individuals. In cases where the owner conducts the outreach effort, the HA shall be notified so that it may provide referrals of homeless individuals.

* * * * *

(3) *First priority for homeless individuals.* Homeless individuals shall have a first priority for occupancy of housing rehabilitated under this program.

* * * * *

(q) *Participotion of homeless individuals.* (1) Each approved applicant receiving assistance under this program, except HAs, shall provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that the entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this subpart. This requirement is waived if the applicant is unable to meet this requirement and presents a plan that HUD approves to consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(2) To the maximum extent practicable, each approved applicant must involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this subpart, and in providing services for occupants of such facilities.

Dated: January 18, 1996.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 96–3275 Filed 2–13–96; 8:45 am]

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Part V

Department of Housing and Urban Development

Office of the General Counsel

Reports of Lobbying Information Filed for 1994 Under Section 112 of the HUD Reform Act of 1989; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the General Counsel

[Docket No. FR–4008–N–01]

Reports of Lobbying Information Filed for 1994 Under Section 112 of the HUD Reform Act of 1989

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development is publishing a compilation of reports of lobbying information and registrations submitted to the Department under Section 112 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Assistant General Counsel, Ethics Law Division, Department of Housing and Urban Development, 451 7th Street, room 2158, S.W., Washington, DC 20410. Telephone (202) 708–3815; TDD (202) 708–3815. (These are not toll-free numbers.) Questions regarding this report should be submitted in writing to the above address.

SUPPLEMENTARY INFORMATION: Section 112 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235, approved December 15, 1989, added section 13 to the Department of Housing and Urban Development Act, (42 U.S.C. 3531, *et seq.*). Section 112 required the Department to, among other things, compile and publish expenditure and registration information filed with the Department during each calendar year. Section 112 was repealed, however, by Sections 11(b)(1) and 24(a) of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65, approved December 19, 1995). Nevertheless, the Department has determined, consistent with the intent of the Department of Housing and Urban Development Reform Act and the Lobbying Disclosure Act, that public disclosure of the identity of paid lobbyists will increase public confidence in the integrity of the Government. As a result, the Department is making this information available to the public.

The information contained in Appendices A through D of this notice reflects registrations and reports submitted to the Department for calendar year 1994. This notice does not involve analysis or make inferences from the information provided.

Appendix A is the annual report of persons making expenditures for lobbying activities.

Appendix B is the annual report of persons receiving payment for lobbying activities.

Appendix C is a list of individuals who registered as lobbyists under Section 112.

Appendix D is a list of entities who registered as lobbyists under Section 112.

Dated: February 6, 1996.

Nelson A. Díaz,

General Counsel.

BILLING CODE 4210–01–M

Appendix A

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Annual Report of "Persons" Making Expenditures for Lobbying Activities
Form HUD-2883 For Calendar Year 1994

Registrant Name and Address	To Whom Paid	Date of Agreement / Date of Expenditure	Amount / Amount
CARABETTA MANAGEMENT COMPANY ATTENTION: JOSEPH F. CARABETTA 200 PRATT STREET MERIDEN, CT 06450	THE MARCUS LAW FIRM 111 WHITNEY AVENUE NEW HAVEN, CT 06510 Federal Action No.: AUDIT 93-BO-214-1013	10/22/93 10/22/93	$ 45,000.00 $ 5,000.00
	THE MARCUS LAW FIRM 111 WHITNEY AVENUE NEW HAVEN, CT 06510 Federal Action No.: AUDIT 93-BO-214-1013	10/22/93 10/25/93	$ 45,000.00 $ 2,500.00
	THE MARCUS LAW FIRM 111 WHITNEY AVENUE NEW HAVEN, CT 06510 Federal Action No.: AUDIT 93-BO-214-1013	10/22/93 10/27/93	$ 45,000.00 $ 5,000.00
	THE MARCUS LAW FIRM 111 WHITNEY AVENUE NEW HAVEN, CT 06510 Federal Action No.: AUDIT 93-BO-214-1013	10/22/93 12/08/93	$ 45,000.00 $ 2,500.00
ALL STATE MANAGEMENT COMPANY, INC. TR ASSOCIATES, WESTERN HILLS LTD PARTNERSHIP 1650 KENDALE BOULEVARD, SUITE 200 EAST LANSING, MI 48823	BONIGMAN MILLER SCHWARTZ AND COHN 2290 FIRST NATIONAL BUILDING 660 WOODWARD AVENUE DETROIT, MI 48226 Federal Action No.: 044-92010	11/01/94 12/01/94	$ 7,300.40 $ 4,511.25
	PLANTE AND MORAN ATTENTION: WILLIAM DOYLE 27400 NORTHWESTERN HIGHWAY SOUTHFIELD, MI 48037 Federal Action No.:	11/01/94 / /	$ 1,490.00
BOROUGH OF TAMAQUA MUNICIPAL BUILDING 320 EAST BROAD STREET TAMAQUA, PA 18252	BALLARD SPAHR ANDREWS & INGERSOLL 555 13TH STREET, NW SUITE 900 EAST WASHINGTON, DC 20004 Federal Action No.: PA-16-11/F-73-008	11/08/93 12/31/94	$ 16,000.00 $ 4,000.00
BREWBROOK LIMITED PARTNERSHIP 111 WATER STREET SUITE 210 BALTIMORE, MD 21202	KROOTH AND ALTMAN 2101 L STREET, NW SUITE 210 WASHINGTON, DC 20037 Federal Action No.:	01/01/94 12/31/94	$ 6,379.30
C & K MANAGEMENT COMPANY, INC. 5150 OVERLAND AVENUE P.O. BOX 3623 CULVER CITY, CA 90230	FRIED FRANK HARRIS SHRIVER & JACOBSON 1001 PENNSYLVANIA AVENUE, NW SUITE 800 WASHINGTON, DC 20004-2505 Federal Action No.: B-87-AA-06-0619	07/14/86 01/04/94	$ 17,803.62
	FRIED FRANK HARRIS SHRIVER & JACOBSON 1001 PENNSYLVANIA AVENUE, NW SUITE 800 WASHINGTON, DC 20004-2505 Federal Action No.: B-87-AA-06-0619	07/14/86 12/09/94	$ 33,605.22
	FRIED FRANK HARRIS SHRIVER & JACOBSON 1001 PENNSYLVANIA AVENUE, NW SUITE 800 WASHINGTON, DC 20004-2505 Federal Action No.: B-87-AA-06-0619	07/14/86 11/21/94	$ 7,135.12
MILLER AND SCHROEDER FINANCIAL, INC. 220 SOUTH SIXTH STREET SUITE 300 MINNEAPOLIS, MN 55402	KROOTH AND ALTMAN 2101 L STREET, NW SUITE 210 WASHINGTON, DC 20037 Federal Action No.: HAP MT-02-0034004	03/03/93 03/10/94	$ 10,300.00 $ 10,300.00
NATIONAL HEALTH MANAGEMENT, INC. 4415 5TH AVENUE PITTSBURGH, PA 15213	HESSEL AND ALUISE, P.C. ONE THOMAS CIRCLE, NW SUITE 1250 WASHINGTON, DC 20005 Federal Action No.: 066-94013	/ / 12/31/94	$ 36,000.00
PRESBYTERIAN ASSOCIATION ON AGING 1215 HULTON ROAD OAKMONT, PA 15139-1196	COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036 Federal Action No.:	/ / 01/17/94	$ 2,737.39
	COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036 Federal Action No.:	/ / 04/30/94	$ 43.75
	COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036 Federal Action No.:	/ / 07/31/94	$ 6,555.04
	COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036 Federal Action No.:	/ / 08/17/94	$ 7,500.00
	COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036 Federal Action No.:	/ / 08/31/94	$ 2,468.74
	COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036 Federal Action No.:	/ / 10/15/94	$ 17,621.11
REYNOLDS METALS COMPANY ATTENTION: FRANKLIN R. ELLSWORTH, JR. 6601 WEST BROAD STREET RICHMOND, VA 23230-1701	KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: 067-94027	03/23/93 12/31/94	$ 30,000.00 $ 8,879.16

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REYNOLDS METALS COMPANY ATTENTION: FRANKLIN R. ELLSWORTH, JR. 6601 WEST BROAD STREET RICHMOND, VA 23230-1701	KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: 067-94026	03/23/93 12/31/94	$ 30,000.00 $ 8,879.15
REYNOLDS METALS COMPANY ATTENTION: FRANKLIN R. ELLSWORTH, JR. 6601 WEST BROAD STREET RICHMOND, VA 23230-1701	KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: 063-36601	08/21/92 08/01/93	$ 30,000.00 $ 22,000.00
ST. LOUIS DEVELOPMENT CORPORATION 330 N. 15TH ST. ST. LOUIS, MO 63103	JIM BROWN AND ASSOCIATES THE PARK PLAZA, SUITE 202 232 N. KINGS HIGHWAY ST. LOUIS, MO 63108 Federal Action No.: CITY OF ST. LOUIS	04/01/94 12/31/94	$ 24,000.00 $ 24,000.00

Appendix B

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Lobbyist & Consultant Activity
Annual Report of "Grass Roots Lobbying Payment For Lobbying
Form HUD-2883-A For Calendar Year 1994

Registrant Name and Business Address	Report of Money or Other thing of Value Received for Lobbying		Report of Money or Other Thing of Value Expended for Lobbying	
	Person Making Payment	Amount	Person Being Paid	Amount
THE MARCUS LAW FIRM 111 WHITNEY AVENUE NEW HAVEN, CT 06510	CARABETTA MANAGEMENT COMPANY ATTENTION: JOSEPH F. CARABETTA 200 PRATT STREET P.O. BOX 4840 Federal Action No.: AUDIT 93-RO-214-1013 Purpose: NEGOTIATE WAIVER/REDUCTION OF PENALTY INTEREST AND START TIME FOR RENT INCREASE	$ 15,000.00		
BALLARD SPAHR ANDREWS & INGERSOLL 555 13TH STREET, NW SUITE 900 EAST WASHINGTON, DC 20004	AMERICAN MORTGAGES, INC. 7600 WISCONSIN AVENUE SUITE 200 BETHESDA, MD 20814 Federal Action No.: Purpose: LEGAL SERVICES			$ 21,764.00
	PATRICIAN MORTGAGE COMPANY 4800 MONTGOMERY LANE SUITE 200 BETHESDA, MD 20814 Federal Action No.: Purpose: LEGAL SERVICES			$ 14,207.50
	BOROUGH OF TAMAQUA MUNICIPAL BUILDING 320 EAST BROAD STREET TAMAQUA, PA 18252 : PA-16-11/P-73-008 Federal Action No.: Purpose: LEGAL SERVICES			$ 16,000.00
COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036	CORAOPOLIS GARDENS HOUSING PARTNERSHIP ATTENTION: ANTHONY M. RODRIGUEZ, G.P. 641 WEST MARKET STREET AKRON, OH 44303 Federal Action No.: 033-35146 Purpose: PROJECT PARTICIPATION IN REFUNDING SAVINGS			$ 4,796.20
	VERONA GARDENS HOUSING PARTNERSHIP ATTENTION: ANTHONY M. RODRIGUEZ, G.P. 641 WEST MARKET STREET AKRON, OH 44303 Federal Action No.: 033-35147 Purpose: PROJECT PARTICIPATION IN REFUNDING SAVINGS			$ 5,744.91
	PRESBYTERIAN ASSOCIATION ON AGING 1215 HULTON ROAD OAKMONT, PA 15139-1196 Federal Action No.: 033-34054 Purpose: REFUNDING OF BONDS WITH A DEBENTURE LOCK, WORKOUT OF MORTGAGE DEFAULT THROUGH A REASSIGNMENT OF MORTGAGE IN CONNECTION WITH REFUNDING OF BONDS			$ 37,835.59
	SOUTHWESTERN REAL ESTATE SERVICES, INC. SPRING CREEK PARKWAY SUITE 224 PLANO, TX 75023-4181 Federal Action No.: 112-94008 Purpose: ASSIST OF MORTGAGE DEFAULT			$ 1,169.67
FRIED FRANK HARRIS SHRIVER & JACOBSON 1001 PENNSYLVANIA AVENUE, NW SUITE 800 WASHINGTON, DC 20004-2505	FEDERAL NATIONAL MORTGAGE ASSOCIATION 3900 WISCONSIN AVENUE, NW WASHINGTON, DC 20016 Federal Action No.: Purpose: USE OF GNMA GUARANTEES IN FNMA REMICS			$ 60,034.20
	WARNER THEATRE ASSOCIATES, L.P. 1100 KENNEDY PLACE WASHINGTON, DC 20036 Federal Action No.: R-85-AA-11-0031 Purpose: GRANT AGREEMENT AMENDMENT			$ 3,036.08
	O & K MANAGEMENT COMPANY, INC. 5300 WISCONSIN AVENUE P.O. BOX 1823 CULVER CITY, CA 90230 Federal Action No.: R-87-AA-05-0619 Purpose: GRANT AGREEMENT AMENDMENTS AND EVIDENTIARY MATERIALS			$ 58,544.16

FRIED FRANK HARRIS SHRIVER & JACOBSON (Continued)	JOGO ASSOCIATES G&K MANAGEMENT COMPANY, INC. 5150 OVERLAND AVENUE CULVER CITY, CA 90230 Federal Action No.: FHA 112-35069 Purpose: SEEKING TO NEGOTIATE WORKOUT TO AVOID FORECLOSURE	$ 276.50
HESSEL AND ALBISE, P.C. 1050 17TH STREET, NW SUITE 900 WASHINGTON, DC 20036	INTERSTATE REALTY MANAGEMENT COMPANY 1 EAST STOW ROAD P.O. BOX 994 MARLTON, NJ 08053-0994 Federal Action No.: AUDIT 92-TS-214-1015 Purpose: RESOLVE AUDIT	$ 1,632.00
	KENYON, L.P. 1218 CHESTNUT STREET SUITE 605 PHILADELPHIA, PA 19107 Federal Action No.: FHA 000-35301-PM/LD Purpose: TPA	$ 120.00
	1312 EUCLID, L.P. 1218 CHESTNUT STREET SUITE 605 PHILADELPHIA, PA 19107 Federal Action No.: FHA 000-35302-PM/LD Purpose: TPA	$ 120.00
	HALLMARK PROPERTIES, LTD. 2951 TWNTY EIGHTH ST. SUITE 2040 SANTA MONICA, CA 90405 Federal Action No.: FHA 031-32014 Purpose: MORTGAGE WORKOUT	$ 2,585.00
	FRONT ROYAL ASSOCIATES LP 11300 ROCKVILLE PIKE SUITE 500 ROCKVILLE, MD 20852 Federal Action No.: FHA 051-44161-LD Purpose: EXTEND SECTION 8 CONTRACT	$ 7,132.50
	MELLON MORTGAGE COMPANY TWO MELLON BANK CENTER SUITE M-70 PITTSBURGH, PA 15259 Federal Action No.: FHA 054-11013 Purpose: FHA INSURANCE COMMITMENT APPROVAL	$ 600.00
	NATIONAL HEALTH MANAGEMENT, INC. 4415 5TH AVENUE PITTSBURGH, PA 15213 Federal Action No.: FHA 066-94013 Purpose: MORTGAGE WORKOUT	$ 36,000.00
	WILDER RICHMAN CORPORATION 10 VALLEY DRIVE GREENWICH, CT 06831 Federal Action No.: FHA 073-35316-PM Purpose: MORTGAGE WORKOUT	$ 1,404.00
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005-2102	THE SHELTER GROUP HILLTOP GARDENS 218 NORTH CHARLES STREET, SUITE 500 BALTIMORE, MD 21201 Federal Action No.: 000-94003 Purpose: OBTAIN HUD'S AGREEMENT TO HOLD PURCHASER OF HUD-OWNED PROJECT HARMLESS REGARDING ENVIRONMENTAL COSTS	$ 1,297.00
	STARRETT HOUSING CORPORATION 909 THIRD AVENUE NEW YORK, NY 10022 Federal Action No.: 012-11088 Purpose: SEEK APPROVAL OF PLAN OF ACTION UNDER LIHPRHA IN CONNECTION WITH THE TOWER WEST PROJECT	$ 3,894.00
	TOWNE HOUSE VILLAGE NORTH OWNERS, INC. ATTENTION: GRAHME FISCHER 250 VILLAGE DRIVE HAUPPAUGE, NY 11788 Federal Action No.: 012-11206 Purpose: SEEK HUD APPROVAL OF REGULATORY AGREEMENT AMENDMENTS	$ 992.50

BROWNSTEIN ZEIDMAN AND LORE (Continued)	NEW YORK CITY HOUSING DEVELOPMENT CORPORATIO 75 MAIDEN LANE, 8TH FLOOR NEW YORK, NY 10038 Federal Action No.: 012-129 MI Purpose: TO OBTAIN HUD'S CONSENT FOR USE OF EXCESS SECTION 236 FUNDS FROM A REFUNDING FOR GENERAL HDC HOUSING PROGRAMS	2,579.84
	THE PRESBYTERIAN HOSPITAL IN THE CITY OF NY ATTENTION: HARRY J. BOLWELL, PRESIDENT COLUMBIA-PRESBYTERIAN MEDICAL CENTER NEW YORK, NY 10032-3784 Federal Action No.: 012-13040 Purpose: ASSIST WITH MORTGAGE	$ 505.75
	THE PRESBYTERIAN HOSPITAL IN THE CITY OF NY ATTENTION: HARRY J. BOLWELL, PRESIDENT COLUMBIA-PRESBYTERIAN MEDICAL CENTER NEW YORK, NY 10032-3784 Federal Action No.: 012-13042 Purpose: ASSIST WITH MORTGAGE	$ 505.75
	ROOSEVELT ISLAND ASSOCIATES STARRETT HOUSING CORPORATION 909 THIRD AVENUE, 16TH FLOOR NEW YORK, NY 10022 Federal Action No.: 012-32267 Purpose: SEEK HUD APPROVAL OF DEFAULT REFINANCING, MORTGAGE MODIFICATION, AND MODIFICATION OF OPERATING DEFICIT ESCROW AGREEMENT	$ 226.00
	AMERICAN PROPERTY FINANCING, INC. 115 EAST 57TH STREET 20TH FLOOR NEW YORK, NY 10022 Federal Action No.: 012-35586 Purpose: SEEK HUD APPROVAL OF LOAN RESTRUCTURING	$ 330.22
	THE BRODSKY ORGANIZATION ATTENTION: DANIEL BRODSKY 425 WEST 59TH STREET NEW YORK, NY 10019 Federal Action No.: 012-35632 Purpose: TO OBTAIN HUD APPROVAL FOR AMENDMENT TO ESCROW AGREEMENTS REGARDING PAYMENT OF INTEREST TO MORTGAGOR	$ 1,391.13
	NATIONAL HOUSING PARTNERSHIP, INC. 1225 EYE STREET, NW WASHINGTON, DC 20005 Federal Action No.: 012-55018 Purpose: OBTAIN HUD'S ACKNOWLEDGEMENT THAT THE OWNER MAY DISSOLVE THE RESIDUAL RECEIPTS ACCOUNT	$ 95.00
	LOEB AND LOEB ATTENTION: FREDRIC M. SANDERS 345 PARK AVENUE NEW YORK, NY 10154 Federal Action No.: 017-38034 Purpose: SEEK HUD APPROVAL FOR THE RELEASE OF SURPLUS CASH TO LIMITED PARTNERS	$ 699.00
	MARLBORO APARTMENT CORPORATION ATTENTION: JOSEPH TORRE, PRESIDENT 265 MAIN STREET RICHFIELD PARK, NJ 07660 Federal Action No.: 031-11042 Purpose: SEEK HUD POSITION REGARDING UNDERWRITING STANDARDS FOR REFINANCING	$ 408.00
	FOREST CITY RESIDENTIAL DEVELOPMENT 10800 BROOKPARK ROAD CLEVELAND, OH 44130 Federal Action No.: 043-11001 Purpose: SEEK HUD RETROACTIVE EXTENSION OF DEADLINE FOR ELECTING TO ASSIGN MORTGAGE	$ 203.50
	PARK CHARLES THE SHELTER GROUP 218 NORTH CHARLES STREET BALTIMORE, MD 21201 Federal Action No.: 052-32035 Purpose: SEEK HUD APPROVAL OF LOAN WORKOUT OR SOME OTHER RESTRUCTURING OF THE PROJECT	$ 167.50

BROWNSTEIN ZEIDMAN AND LORE (Continued)	LIBERTY TAX CREDIT PLUS, L.P. 625 MADISON AVENUE NEW YORK, NY 10022 Federal Action No.: 061-94039 Purpose: SEEK HUD APPROVAL OF LOAN WORKOUT	$ 935.00
	SHERIDAN ROAD LIFESTYLE PARTNERSHIP ATTENTION: WILLIAM KAPLAN 737 N. MICHIGAN, SUITE 900 CHICAGO, IL 60611 Federal Action No.: 071-94013 Purpose: OBTAIN A HUD COMMITMENT ON A SECTION 223(A) LOAN	$ 195.50
	ESCONDIDO RETIREMENT CENTER THE BANK OF NEW YORK 1 WALL STREET, 15TH FLOOR - LEGAL DEPARTMENT NEW YORK, NY 10286 Federal Action No.: 129-35082 Purpose: NEGOTIATIONS WITH HUD REGARDING PAYMENT	$ 1,579.25
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202	NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS 1225 EYE STREET, NW WASHINGTON, DC 20005 Federal Action No.: Purpose: 2530 CLEARANCES	442.00
	NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS 1225 EYE STREET, NW WASHINGTON, DC 20005 Federal Action No.: Purpose: OXFORD - HUD/FHA	8,555.00
	COTTINGTON ROAD, L.P. TRISTAR MANAGEMENT, INC. 40 YORK ROAD, SUITE 200 TOWSON, MD 21204 Federal Action No.: Purpose: BOND REFUNDER	$ 900.00
	WHITEHALL FUNDING CORPORATION 2125 EASTERN AVENUE DAVENPORT, IA 52806 Federal Action No.: Purpose: ASSIGNMENT OF HUD/FHA MORTGAGE	$ 1,206.00
	135 W. KINGSBRIDGE ASSOCIATES TIME EQUITIES, INC. 55 FIFTH AVENUE NEW YORK, NY 10003 Federal Action No.: FHA 012-94004 Purpose: MORTGAGE MODIFICATION AND GNMA REISSUANCE	$ 2,250.00
	ELK INVESTORS 641 LEXINGTON AVENUE NEW YORK, NY 10022 Federal Action No.: FHA 017-35048 Purpose: PROSPECTIVE PURCHASE OF PROJECT/PARTIAL PAYMENT OF CLAIM	$ 120.00
	BOSTON FINANCIAL ASSET MANAGEMENT SPEARSWOOD APARTMENTS, LTD. 101 ARCH STREET BOSTON, MA 02110-1106 Federal Action No.: FHA 062-36610 Purpose: FHA MORTGAGE MODIFICATIONS/GNMA SECURITIES REISSUANCE	$ 2,870.00
	WHITEHALL FUNDING CORPORATION 2125 EASTERN AVENUE DAVENPORT, IA 52806 Federal Action No.: FHA 071-36625 Purpose: ASSIGNMENT OF HUD COINSURED LOAN AND MORTGAGE WORKOUT	$ 1,717.00
	TERRACE LAKES APARTMENTS MELLON MORTGAGE COMPANY 1422 EUCLID AVENUE, SUITE 900 CLEVELAND, OH 44115-2092 Federal Action No.: FHA 071-94012 Purpose: FHA MORTGAGE MODIFICATION AND GNMA SECURITY REISSUANCE	$ 2,196.50
	MILTON EHRLICH COMPANY LOCKWOOD VILLAGE 18 EAST 22ND STREET NEW YORK, NY 10010 Federal Action No.: LOCKWOOD VILLAGE Purpose: MORTGAGE MODIFICATION	$ 1,472.50

HOLLAND AND KNIGHT (Continued)	HRC DEVELOPMENT ATTENTION: LYNDEL J. WISHCAMPER 177 HIGH STREET PORTLAND, ME 04101 Federal Action No.: MR16-HO17-357 Purpose: SALE OF PROJECTS/HUD ISSUES	$ 1,029.94
HONIGMAN MILLER SCHWARTZ AND COHN 2290 FIRST NATIONAL BUILDING 660 WOODWARD AVENUE DETROIT, MI 48226	HEMPHILL ROAD PROPERTIES 4400 KINGSLANE BURTON, MI 48529 Federal Action No.: 048-94008 Purpose: NEGOTIATE LOAN MODIFICATION IN ORDER TO REDUCE INTEREST RATE	$ 8,500.00
	BENEFICIAL PROPERTY CORPORATION 15770 N. DALLAS PARKWAY SUITE 902 DALLAS, TX 75248 Federal Action No.: 136-35546 Purpose: PREPARE TRANSFER OF ASSETS APPLICATION AND PROPOSED WORKOUT AGREEMENT; CLIENT NOT IN DEFAULT, BUT IS PROPOSED PURCHASER	$ 833.33
	BENEFICIAL PROPERTY CORPORATION 15770 N. DALLAS PARKWAY SUITE 902 DALLAS, TX 75248 Federal Action No.: 136-35547 Purpose: PREPARE TRANSFER OF ASSETS APPLICATION AND PROPOSED WORKOUT AGREEMENT; CLIENT NOT IN DEFAULT, BUT IS PROPOSED PURCHASER	$ 833.33
	BENEFICIAL PROPERTY CORPORATION 15770 N. DALLAS PARKWAY SUITE 902 DALLAS, TX 75248 Federal Action No.: 136-35600 Purpose: PREPARE TRANSFER OF ASSETS APPLICATION AND PROPOSED WORKOUT AGREEMENT; CLIENT NOT IN DEFAULT, BUT IS PROPOSED PURCHASER	$ 833.33
	BENEFICIAL PROPERTY CORPORATION 15770 N. DALLAS PARKWAY SUITE 902 DALLAS, TX 75248 Federal Action No.: 143-35030 Purpose: PREPARE TRANSFER OF ASSETS APPLICATION AND PROPOSED WORKOUT AGREEMENT; CLIENT NOT IN DEFAULT, BUT IS PROPOSED PURCHASER	$ 2,500.00
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004	LAUREL CROSSING ASSOCIATES, L.P. 7200 WISCONSIN AVENUE SUITE 1006 BETHESDA, MD 20814 Federal Action No.: 000-94006 Purpose: MORTGAGE MODIFICATION, BOND REFUNDING	$ 20,000.00
	RFI ASSOCIATES ARTERY PLAZA 7200 WISCONSIN AVENUE, SUITE 1006 BETHESDA, MD 20814 Federal Action No.: 000-94136 Purpose: MORTGAGE MODIFICATION	$ 20,000.00
	CAPITAL CROSSING ASSOCIATES, L.P. 7200 WISCONSIN AVENUE SUITE 1006 BETHESDA, MD 20814 Federal Action No.: 000-94136 Purpose: MORTGAGE MODIFICATION	$ 20,000.00
	LANDSMAN DEVELOPMENT CORPORATION 200 CANAL VIEW BOULEVARD ROCHESTER, NY 14623 Federal Action No.: 014-16NI Purpose: SECTION 236 BOND REFUNDING	$ 45,511.12
	THE ASPEN GROUP, INC. WORLD TRADE CENTER SUITE 318 SAN FRANCISCO, CA 94111 Federal Action No.: 031-55007 AND 031-55016 Purpose: EXTENSION OF OCCUPANCY RESTRICTIONS	$ 2,875.21

POWELL GOLDSTEIN FRAZER & MURPHY (Continued)	CROSLAND PROPERTIES P.O. BOX 11797 135 SCALYBARK ROAD CHARLOTTE, NC 28209 Federal Action No.: 053-35491 Purpose: MORTGAGE REASSIGNMENT, MODIFICATION	$ 25,081.85
	LINCOLN PROPERTY COMPANY, LTD. 310 N. WESTLAKE BOULEVARD, SUITE 200 WESTLAKE VILLAGE, CA 91362 Federal Action No.: 054-35460 Purpose: MORTGAGE REASSIGNMENT	$ 12,911.47
	MORAN AND COMPANY 200 WEST MADISON SUITE 2700 CHICAGO, IL 60606 Federal Action No.: 071-00259 Purpose: SECTION 223(F) REFINANCING	$ 8,306.00
	RICHCRAINE CORPORATION ATTENTION: JEOFFREY A. MEACHAM P.O. BOX 35617 LOS GATOS, CA 95030 Federal Action No.: 105-44009 Purpose: TRANSFER OF PHYSICAL ASSETS, SECTION 8 RENEWAL	$ 1,000.00
	DANMOUR AND ASSOCIATES 11730 GATEWAY BOULEVARD WEST LOS ANGELES, CA 90064 Federal Action No.: 112-35052 Purpose: MORTGAGE MODIFICATION	$ 1,889.98
	THE RELATED COMPANIES 625 MADISON AVENUE NEW YORK, NY 10022 Federal Action No.: 114-35195 Purpose: MORTGAGE RELIEF	$ 4,327.82
	DANMOUR AND ASSOCIATES 11730 GATEWAY BOULEVARD WEST LOS ANGELES, CA 90064 Federal Action No.: 122-55036 Purpose: PLAN OF ACTION MODIFICATION	$ 1,394.79
	THE PATRICIAN FINANCIAL COMPANY 4800 MONTGOMERY LANE SUITE 200 BETHESDA, MD 20814 Federal Action No.: GNMA CS MAP 700658C Purpose: ISSUER APPROVAL	$ 270.70
	BAYBANK BAYBANK TOWER 1500 MAIN STREET SPRINGFIELD, MA 01115 Federal Action No.: MA06-K052-013 Purpose: MODERATE REHABILITATION CONTRACT RENT REDUCTION	$ 1,498.56
	SECURITAD ASSOCIATES EMPIRE STATE BUILDING SUITE 2305 NEW YORK, NY 10118 Federal Action No.: NY36-0004-029 Purpose: SECTION 8 RENT SPECIAL ADJUSTMENT	$ 6,246.30
	R & S REALTY GROUP 2222 CORINTH AVENUE LOS ANGELES, CA 90064 Federal Action No.: SEE PURPOSE Purpose: MORTGAGE RELIEF, HELP LOANS FOR FEDERAL ACTIONS 121-10513, 121-10511, AND 122-10562	$ 32,283.51
	ASSOCIATED ESTATES REALTY 5025 SWETLAND COURT CLEVELAND, OH 44143 Federal Action No.: SEE PURPOSE Purpose: SECTION 8 BOND DEFEASANCES FOR FEDERAL ACTIONS OH12-0001-028 AND OH12-0001-040	$ 1,814.00
TECHNICAL ASSISTANCE CORPORATION FOR HOUSING 205 W. MONROE STREET SUITE 5 WEST CHICAGO, IL 60606	PAUL STEWART APARTMENTS ASSOCIATES, PHASE II; PEOPLES CO-OP FOR HOUSING PHASE III 400 E. 41ST STREET CHICAGO, IL 60653 Federal Action No.: 071-35319-PM/LS Purpose: MANAGEMENT AND OPERATIONS CONSULTING, INCLUDING ASSISTANCE IN OBTAINING RENT	$ 2,500.00

TECHNICAL ASSISTANCE CORPORATION FOR HOUSING (Continued)	INCREASES, RELEASE OF REPLACEMENT RESERVE FUNDS, DAY-TO-DAY MANAGEMENT OPERATIONS, ANNUAL AUDITS, COMMERCIAL LEASING, PARTNERSHIP REPORTING	
	PAUL G. STEWART APARTMENTS, PHASE V PEOPLES CONSUMER COOPERATIVE 400 EAST 41ST STREET CHICAGO, IL 60653 Federal Action No.: 071-35611 Purpose: HOUSING CONSULTANT FOR MULTIFAMILY HOUSING DEVELOPMENT INVOLVING FHA INSURANCE (PLUS LOW INCOME HOUSING TAX CREDITS AND TAX INCREMENT FINANCING ADMINISTERED BY THE CITY OF CHICAGO AND FEDERAL HOME FUNDS ADMINISTERED BY THE ILLINOIS HOUSING DEVELOPMENT AUTHORITY); HUD ACTION OBTAINED WAS ISSUANCE OF A COMMITMENT FOR FHA INSURANCE AND ACHIEVEMENT OF AN INITIAL ENDORSEMENT OF THE LOAN	$ 267,336.00
	PAUL STEWART APARTMENTS ASSOCIATES, PHASE I 400 EAST 41ST STREET CHICAGO, IL 60653 Federal Action No.: 071-44145 Purpose: MANAGEMENT AND OPERATIONS CONSULTING, INCLUDING ASSISTANCE IN OBTAINING RENT INCREASES, RELEASE OF REPLACEMENT RESERVE FUNDS, DAY-TO-DAY MANAGEMENT OPERATIONS, ANNUAL AUDITS, COMMERCIAL LEASING, PARTNERSHIP REPORTING	$ 9,000.00
	PAUL STEWART APARTMENTS ASSOCIATES, PHASE II 400 EAST 41ST STREET CHICAGO, IL 60653 Federal Action No.: 071-44175 Purpose: MANAGEMENT AND OPERATIONS CONSULTING, INCLUDING ASSISTANCE IN OBTAINING RENT INCREASES, RELEASE OF REPLACEMENT RESERVE FUNDS, DAY-TO-DAY MANAGEMENT OPERATIONS, ANNUAL AUDITS, COMMERCIAL LEASING, PARTNERSHIP REPORTING	$ 6,000.00
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005	MELLON BANK CORPORATION 500 GRANT STREET, SUITE 1910 1 MELLON BANK CENTER PITTSBURGH, PA 15258 Federal Action No.: 05120 Purpose: ASSISTANCE IN OBTAINING HUD APPROVAL OF BULK TRANSFER OF BRANCH OFFICES	$ 800.00
	BANK OF AMERICA 555 CALIFORNIA STREET SAN FRANCISCO, CA 94104 Federal Action No.: 1422 Purpose: ASSISTANCE IN RESOLVING GNMA RECERTIFICATIONS ISSUES	$ 1,066.00
	FIRST UNION MORTGAGE CORPORATION TWO FIRST UNION CENTER MC 0630 CHARLOTTE, NC 28288-0630 Federal Action No.: 35214 Purpose: ASSIST IN OBTAINING HUD APPROVAL OF BULK TRANSFER OF BRANCH OFFICES	$ 2,156.00
	GE CAPITAL ASSET MANAGEMENT CORPORATION 2001 N. BEAUREGARD STREET SUITE 1200 ALEXANDRIA, VA 22311 Federal Action No.: 3580 Purpose: ASSISTANCE WITH AMENDMENTS TO GNMA MANUFACTURED HOME SUBSERVICING CONTRACT	$ 1,035.00
	GE CAPITAL ASSET MANAGEMENT CORPORATION 2001 N. BEAUREGARD STREET SUITE 1200 ALEXANDRIA, VA 22311 Federal Action No.: 3580 Purpose: REQUEST FOR GNMA WAIVER OF TRANSFER FEES IN AFFILIATE TO AFFILIATE TRANSFER	$ 671.00
	BANK OF AMERICA 555 CALIFORNIA STREET SAN FRANCISCO, CA 94104 Federal Action No.: 3650 Purpose: ASSISTANCE IN OBTAINING GNMA ISSUER APPROVAL AND NEGOTIATING CORPORATE GUARANTY AGREEMENT	$ 928.00

WEINER BRODSKY SIDMAN & KIDER, P.C. (Continued)	BANK OF AMERICA 555 CALIFORNIA STREET SAN FRANCISCO, CA 94104 Federal Action No.: 3650 Purpose: ASSISTANCE IN UNITED MORTGAGE ACQUISITION AND GNMA TRANSFER OF ISSUER RESPONSIBILITY	$ 3,554.00
	BANK OF AMERICA 555 CALIFORNIA STREET SAN FRANCISCO, CA 94104 Federal Action No.: 3650 Purpose: ASSISTANCE WITH GNMA TRANSFER OF ISSUER RESPONSIBILITY FROM MARGARETTEN	$ 1,166.00
	SECURITY PACIFIC HOUSING SERVICES DIVISION OF BANK OF AMERICA, FSB 10124 OLD GROVE ROAD SAN DIEGO, CA 92132 Federal Action No.: 3650 Purpose: ASSISTANCE IN GNMA REVIEW OF REACTIVATION OF MANUFACTURED HOME ISSUER APPROVAL	$ 142.00
	NATIONAL LOAN SERVICENTER, INC. 11900 BOURNEFIELD WAY SILVER SPRING, MD 20904 Federal Action No.: 70406 Purpose: WORKOUT OF GNMA SERVICING SALE WITHIN CONSTRAINTS OF COMPANY'S FINANCIAL CONDITION	$ 4,729.00
	MORTGAGE FUNDING CORPORATION OF AMERICA 150 SECOND AVENUE NORTH SUITE 820 ST. PETERSBURG, FL 33701 Federal Action No.: 74814 Purpose: ASSISTANCE WITH OBTAINING APPROVAL OF GNMA TRANSFER OF ISSUER RESPONSIBILITY	$ 2,636.00
	FLEET MORTGAGE GROUP, INC. 1333 MAIN STREET COLUMBIA, SC 29211 Federal Action No.: 77706 Purpose: ASSISTANCE IN OBTAINING HUD MORTGAGEE APPROVAL	$ 249.00
	FLEET MORTGAGE GROUP, INC. 1333 MAIN STREET COLUMBIA, SC 29211 Federal Action No.: 77706 Purpose: ASSISTANCE IN HUD RECONSIDERATION OF RECONVEYANCE REQUEST	$ 1,749.00
	SPECTRUM FUNDING CORPORATION 11900 BOURNEFIELD WAY SILVER SPRING, MD 20904 Federal Action No.: 77763 Purpose: ASSISTANCE IN OBTAINING HUD MORTGAGEE APPROVAL	$ 322.00
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803	WMF/HUNTOON, PAIGE ASSOCIATES LIMITED NEWPORT FINANCIAL CENTER 111 PAVONIA AVENUE JERSEY CITY, NJ 07310 Federal Action No.: 012-11206 Purpose: INITIAL CLOSING	$ 500.00
	MERRILL LYNCH CAPITAL MARKETS 250 VESEY STREET NEW YORK, NY 10281 Federal Action No.: 012-13027-NF-EC Purpose: DEBENTURE LOCK REFUNDING	$ 10,000.00
	GOLDMAN SACHS MORTGAGE COMPANY 85 BROAD STREET NEW YORK, NY 10004 Federal Action No.: 012-13032-NF-EC Purpose: LOAN MANAGEMENT WAIVER REQUEST	$ 15,000.00
	MERRILL LYNCH CAPITAL MARKETS 250 VESEY STREET NEW YORK, NY 10281 Federal Action No.: 012-13045 Purpose: DEBENTURE LOCK REFINANCING	$ 10,000.00
	J. P. MORGAN 60 WALL STREET 33RD FLOOR NEW YORK, NY 19260-0060 Federal Action No.: 012-13918-NO-EC Purpose: TERMINATION OF INSURANCE	$ 5,000.00

KROOTH & ALTMAN (Continued)	SIMS MORTGAGE FUNDING, INC. 321 RIVERSIDE AVENUE WESTPORT, CT 06880 Federal Action No.: 012-43121 Purpose: INITIAL CLOSING AND RELATED MATTERS	$ 10,000.00
	SIMS MORTGAGE FUNDING, INC. 321 RIVERSIDE AVENUE WESTPORT, CT 06880 Federal Action No.: 012-43152 Purpose: INITIAL CLOSING	$ 7,500.00
	FLEET FUNDING 1600 STEWART AVENUE, FIFTH FLOOR WESTBURY, NY 11590 Federal Action No.: 012-43174 Purpose: INITIAL CLOSING	$ 35,000.00
	SIMS MORTGAGE FUNDING, INC. 321 RIVERSIDE AVENUE WESTPORT, CT 06880 Federal Action No.: 014-10008 Purpose: INITIAL CLOSING	$ 5,000.00
	SIMS MORTGAGE FUNDING, INC. 321 RIVERSIDE AVENUE WESTPORT, CT 06880 Federal Action No.: 014-43090 Purpose: INITIAL CLOSING	$ 5,000.00
	GOLDMAN SACHS MORTGAGE COMPANY 85 BROAD STREET NEW YORK, NY 10004 Federal Action No.: 023-57002 Purpose: DEBENTURE LOCK REFUNDING	$ 10,000.00
	WIRTH & COMPANY ATTENTION: PATRICIA WIRTH 279 EAST 44TH STREET NEW YORK, NY 10017 Federal Action No.: 024-43037-NF Purpose: FINAL ENDORSEMENT OF NURSING HOME'S MORTGAGE LOAN	$ 10,000.00
	SIMS MORTGAGE FUNDING, INC. 321 RIVERSIDE AVENUE WESTPORT, CT 06880 Federal Action No.: 024-43049 Purpose: REFINANCING	$ 4,000.00
	BEAR STEARNS & COMPANY, INC. 245 PARK AVENUE NEW YORK, NY 10167 Federal Action No.: 031-13011 Purpose: PREPAYMENT OF MORTGAGE LOAN	$ 10,000.00
	PAINEWEBBER INCORPORATED 1285 AVENUE OF THE AMERICAS NEW YORK, NY 10019 Federal Action No.: 031-13016 Purpose: ADVANCE FUNDING	$ 50,000.00
	WMF/HUNTOON, PAIGE ASSOCIATES LIMITED NEWPORT FINANCIAL CENTER 111 PAVONIA AVENUE JERSEY CITY, NJ 07310 Federal Action No.: 035-43056 Purpose: INITIAL CLOSING	$ 400.00
	WMF/HUNTOON, PAIGE ASSOCIATES LIMITED NEWPORT FINANCIAL CENTER 111 PAVONIA AVENUE JERSEY CITY, NJ 07310 Federal Action No.: 035-43188 Purpose: INITIAL CLOSING	$ 400.00
	TOWNE PROPERTIES ATTENTION: PHILIP T. MONTANUS 1055 ST. PAUL PLACE CINCINNATI, OH 45202 Federal Action No.: 046-94002 Purpose: REFINANCE EXISTING MORTGAGE	$ 21,175.06
	HELMSMAN PROPERTIES, INC. ATTENTION: MICHAEL R. GLICK 111 WATER STREET, SUITE 210 BALTIMORE, MD 21202 Federal Action No.: 052-10528-RKF Purpose: REFINANCE EXISTING MORTGAGE	$ 6,379.30

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KROOTH & ALTHAN
(Continued)

EDEN-OXFORD ASSOCIATES $ 26,307.79
OXFORD ASSET MANAGEMENT CORPORATION
7200 WISCONSIN AVENUE, 11TH FLOOR
BETHESDA, MD 20814
Federal Action No.: 052-35389-LD-LS
Purpose: REFINANCE EXISTING MORTGAGE

FAIRBROOK ASSOCIATES $ 13,967.65
QUESTAR PROPERTIES, INC.
124 SLADE AVENUE, SUITE 200
BALTIMORE, MD 21208
Federal Action No.: 052-35461
Purpose: REFINANCE EXISTING MORTGAGE

REYNOLDS METALS COMPANY $ 22,000.00
ATTENTION: FRANKLIN R. ELLSWORTH, JR.
6601 WEST BROAD STREET
RICHMOND, VA 23230-1701
Federal Action No.: 063-38601
Purpose: REFINANCE EXISTING MORTGAGE

FAIRWOOD VILLAGE, INC. $ 16,121.41
SIEBER CONSTRUCTION COMPANY
829 HIGHWAY 28
MILFORD, OH 45150
Federal Action No.: 064-35590-MP
Purpose: REFINANCE EXISTING MORTGAGE

BRANDON COVE ASSOCIATES, L.P. $ 5,984.22
ATTENTION: SCOTT F. SMITH
6575 ARROW DRIVE
STERLING HEIGHTS, MI 48134
Federal Action No.: 067-94038
Purpose: REFINANCE EXISTING MORTGAGE

SIMS MORTGAGE FUNDING, INC. $ 15,000.00
121 RIVERSIDE AVENUE
WESTPORT, CT 06880
Federal Action No.: 083-10013
Purpose: INITIAL CLOSING

STANLEY FOLB DEVELOPERS AND CONTRACTORS $ 50,289.75
6464 SUNSET BOULEVARD
HOLLYWOOD, CA 90028
Federal Action No.: 122-36601-PM(17)
Purpose: REFINANCE EXISTING MORTGAGE

SCHOMAC GROUP, INC. $ 4,645.54
ATTENTION: EDWARD M. SANDERS
17 WEST WETMORE, SUITE 300
TUCSON, AZ 85705
Federal Action No.: 123-11035-PM
Purpose: REFINANCE EXISTING MORTGAGE

MILLER & SCHROEDER $ 10,300.00
701 FIFTH AVENUE, SUITE 5730
SEATTLE, WA 98104
Federal Action No.: RAP MY02-0034-004
Purpose: REFINANCE EXISTING MORTGAGE

01/28/1995 Lobbyist & Consultant Activity Page 1
Registration (Individual)
Form HUD-2881-A For Calendar Year 1994

Registrant's Name and Business Address	Self-Employed	Registrant's Employer and Business Address	Person Registrant has been Retained By	Exempt From Annual Report
GROSS, MICHAEL BENJAMIN 5225 WISCONSIN AVENUE, NW SUITE 600 WASHINGTON, DC 20015 Was Gov't Empl.: No	No	Federal Action No.: 0579-053-REF	LEXINGTON GREEN ASSOCIATES, L.P. DINER DEVELOPMENT 3720 FARRAGUT AVENUE, 4TH FLOOR KENSINGTON, MD 20895	No
GROSS, MICHAEL BENJAMIN 5225 WISCONSIN AVENUE, NW SUITE 600 WASHINGTON, DC 20015 Was Gov't Empl.: No	No	Federal Action No.: 000-10752 REF	QUEENS MANOR GARDENS PARTNERSHIP ATTENTION: CATHY AUE BERNARD, O.P. 5309 38TH AVENUE, SUITE 7 RIVERDALE, MD 20738	No

03/28/1995 Lobbyist & Consultant Activity Registration (Entity) Page 1
Form HUD-2881-B For Calendar Year 1994

Registrant's Name and Address	Person Who has Retained Registrant for Lobbying	Registrant Representative's Name	Was Gov't Empl.	In What Capacity
BALLARD SPAHR ANDREWS & INGERSOLL 555 13TH STREET, NW SUITE 900 EAST WASHINGTON, DC 20004 Federal Action No.: FHA 065-35401-PM	MFI MANAGEMENT COMPANY, INC. ATTENTION: PETER ANZO 2000 RIVER RIDGE PARKWAY, SUITE 590 ATLANTA, GA 30328	CASEY, PAUL K. MILONE, GUY R., JR. WINN, ALLAN R. BUNNING-DUBROW, KAREN FANONE, JOSEPH A. HOOK, PAUL VAN WRENN, KELLY M. WASHINGTON, JOHN A., JR.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: FHA 123-43019-PM	RON HAYES AND ASSOCIATES THE BRIM COMPANIES 305 NE, 102ND AVENUE PORTLAND, OR 97220-4199	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH LEIBOLD, BRADLEY L. YOUNG, SANDRA E.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: SECTION 242 APPLICATION	UNITED HOSPITALS MEDICAL CENTER 15 SOUTH 9TH STREET ANNEX BUILDING NEWARK, NY 07107	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA	No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: 073-35349-PM-LS	NEW CASTLE HOUSING AUTHORITY ATTENTION: JERRY W. CASH, EXECUTIVE DIRECTOR 274 SOUTH 14TH STREET NEW CASTLE, IN 47362	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R.	No No No No No	

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BANC ONE CAPITAL CORPORATION (Continued)		BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: OH16-0013-026	JEFFERSON METROPOLITAN HOUSING AUTHORITY ATTENTION: MICHAEL M. MERICK, DIRECTOR 815 N. SIXTH AVENUE STEUBENVILLE, OH 43952	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: 073-43082-PM-IC	HEALTH QUEST REALTY XXI HEALTH QUEST CORPORATION 315 WEST JEFFERSON SOUTH BEND, IN 46601	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: 084-11017	INCOME PROPERTIES SERVICES, INC. ATTENTION: JOHN M. HOUTS 104 WEST 42ND STREET, P.O. BOX 32226 KANSAS CITY, MO 64111	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	

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BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: FHA 042-38006-MF-WAH	MENONAH PARK CENTER FOR THE AGING 27100 CEDAR ROAD BEACHWOOD, OH 44122	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: 121-35810-PM	GEM MANAGEMENT, INC. ATTENTION: GEMMA HWANG 21070 HOMESTEAD ROAD, SUITE 105 CUPERTINO, CA 95014	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: 121-35809-PM	GEM MANAGEMENT, INC. ATTENTION: GEMMA HWANG 21070 HOMESTEAD ROAD, SUITE 105 CUPERTINO, CA 95014	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: 052-43038	NORTHAMPTON MANOR, INC. PERINI SERVICES, INC. 14500 BYERS ROAD HAGERSTOWN, MD 21742	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W.	No No No No No	

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BANC ONE CAPITAL CORPORATION (Continued)		GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: IN36-0037-092	HOUSING AUTHORITY OF THE CITY OF MARION ATTENTION: JENNIFER J. JANNEY 601 S. ADAMS STREET MARION, IN 46952	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: 066-43059-PM	GRAMERCY PARK NURSING CARE CENTER SENIORS MANAGEMENT, INC. 1114 WYNWOOD AVENUE CHERRY HILL, NJ 08002	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (JOINED BANC ONE ON 04/01/93)
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. YOUNG, STEVEN R. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH YOUNG, SANDRA E.	No No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: FHA 121-35685-PM	GREEN OAKS ASSOCIATES 441 NORTH N STREET TULARE, CA 93274	ARAOZ, BUBANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	

BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 061-94019	LIBERTY TAX CREDIT PLUS, L.P. 625 MADISON AVENUE NEW YORK, NY 10022	LORE, KENNETH G. LEVY, HAROLD A.	No No	
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 012-11206	TOWNE HOUSE VILLAGE NORTH OWNERS, INC. ATTENTION: GRAHME FISCHER 250 VILLAGE DRIVE HAUPPAUGE, NY 11788	LORE, KENNETH G. LEVY, HAROLD A.	No No	
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 012-55115	USGI CAPITAL MARKETS GROUP, INC. 535 CONNECTICUT AVENUE NORWALK, CT 06854	LORE, KENNETH G. LEVY, HAROLD A.	No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT CHIEF ATTORNEY, LOAN MANAGEMENT AND PROPERTY DISPOSITION SECTION
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 071-35403	USGI CAPITAL MARKETS GROUP, INC. 535 CONNECTICUT AVENUE NORWALK, CT 06854	LORE, KENNETH G. LEVY, HAROLD A.	No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT CHIEF ATTORNEY, LOAN MANAGEMENT AND PROPERTY DISPOSITION SECTION
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 085-35197	USGI CAPITAL MARKETS GROUP, INC. 535 CONNECTICUT AVENUE NORWALK, CT 06854	LORE, KENNETH G. LEVY, HAROLD A.	No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT CHIEF ATTORNEY, LOAN MANAGEMENT AND PROPERTY DISPOSITION SECTION
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 012-35632-PM	THE BRODSKY ORGANIZATION ATTENTION: DANIEL BRODSKY 425 WEST 59TH STREET NEW YORK, NY 10019	LORE, KENNETH G. LEVY, HAROLD A.	No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT CHIEF ATTORNEY, LOAN MANAGEMENT AND PROPERTY DISPOSITION SECTION
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 012-94008	AMERICAN PROPERTY FINANCING, INC. 115 EAST 57TH STREET 20TH FLOOR NEW YORK, NY 10022	LORE, KENNETH G. LEVY, HAROLD A.	No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT CHIEF ATTORNEY, LOAN MANAGEMENT AND PROPERTY DISPOSITION SECTION
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 117-44032	ROLLING MEADOWS OF CHICKASHA, LTD. NEW TEXAS ASSOCIATES 625 MADISON AVENUE, 9TH FLOOR NEW YORK, NY 10022	LORE, KENNETH G. LEVY, HAROLD A.	No No	
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 071-94-013	SHERIDAN ROAD LIFESTYLE PARTNERSHIP ATTENTION: WILLIAM KAPLAN 737 N. MICHIGAN, SUITE 900 CHICAGO, IL 60611	LORE, KENNETH G. LEVY, HAROLD A.	No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT CHIEF ATTORNEY, LOAN MANAGEMENT AND PROPERTY DISPOSITION SECTION
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 129-35082	ESCONDIDO RETIREMENT CENTER THE BANK OF NEW YORK 1 WALL STREET, 15TH FLOOR - LEGAL DEPARTMENT NEW YORK, NY 10286	LORE, KENNETH G. HOWE, ANDREA HILTON	No No	
COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036 Federal Action No.: 024-44020-LDP-SUP	BROOK VILLAGE NORTH ASSOCIATES 56 KEARNEY ROAD NEEDHAM, MA 02194	COAN, CARL A. S., JR. JAMES, RAYMOND K.	No No	
DC COMPREHENSIVE AIDS RESOURCES AND EDUCATION CONSORTIUM 801 PENNSYLAVANIA AVENUE, SE WASHINGTON, DC 20003 Federal Action No.: DC39H92F013	DC COMPREHENSIVE AIDS RESOURCES AND EDUCATION CONSORTIUM 801 PENNSYLAVANIA AVENUE, SE WASHINGTON, DC 20003	BATES, CHRISTOPHER EDWARDS, CHERYL SPANN PATTON, ALINA	No No No	
DC COMPREHENSIVE AIDS RESOURCES AND EDUCATION CONSORTIUM 801 PENNSYLAVANIA AVENUE, SE WASHINGTON, DC 20003 Federal Action No.: DC39H93F014	DC COMPREHENSIVE AIDS RESOURCES AND EDUCATION CONSORTIUM 801 PENNSYLAVANIA AVENUE, SE WASHINGTON, DC 20003	BATES, CHRISTOPHER EDWARDS, CHERYL SPANN PATTON, ALINA	No No No	

DC DEPARTMENT OF HUMAN SERVICES AGENCY FOR HIV/AIDS 1660 L STREET, NW, 7TH FLOOR WASHINGTON, DC 20036 Federal Action No.: DC39H93F014	DC DEPARTMENT OF HUMAN SERVICES AGENCY FOR HIV/AIDS 1660 L STREET, NW, 7TH FLOOR WASHINGTON, DC 20036	HAVENNER, STEVEN KILKELLY, STEVEN BERRY-GAINES, CHERYL	No No No	
DC DEPARTMENT OF HUMAN SERVICES AGENCY FOR HIV/AIDS 1660 L STREET, NW, 7TH FLOOR WASHINGTON, DC 20036 Federal Action No.: DC39H92F013	DC DEPARTMENT OF HUMAN SERVICES AGENCY FOR HIV/AIDS 1660 L STREET, NW, 7TH FLOOR WASHINGTON, DC 20036	HAVENNER, STEVEN KILKELLY, STEVEN BERRY-GAINES, CHERYL	No No No	
FOLEY AND LARDNER 1 SOUTH PINCKNEY STREET, SUITE 701 P.O. BOX 1497 MADISON, WI 53701-1497 Federal Action No.: 075-35323-PM/WAH	VILLA ST. THERESA, INC. 5038 WEST BURLEIGH STREET MILWAUKEE, WI 53210	LAWRENCE, WAYMAN C. RADELET, TIMOTHY J. CROPSEY, DOUGLAS J.	No No No	
HESSEL AND ALUISE, P.C. 1050 17TH STREET, NW SUITE 900 WASHINGTON, DC 20036 Federal Action No.: 054-11013	MELLON MORTGAGE COMPANY TWO MELLON BANK CENTER SUITE M-70 PITTSBURGH, PA 15259	GURKIN, JOANNE SCHOMER, MORTON W. ALUISE, TIMOTHY J. HESSEL, ARTHUR R. SAUNDERS, JENNIFER L. GIVISKOS, CHRISTINE S.	No No No No No No	
HESSEL AND ALUISE, P.C. 1050 17TH STREET, NW SUITE 900 WASHINGTON, DC 20036 Federal Action No.: 052-11082	MELLON MORTGAGE COMPANY TWO MELLON BANK CENTER SUITE M-70 PITTSBURGH, PA 15259	GURKIN, JOANNE SCHOMER, MORTON W. ALUISE, TIMOTHY J. HESSEL, ARTHUR R. SAUNDERS, JENNIFER L. GIVISKOS, CHRISTINE S.	No No No No No No	
HONIGMAN MILLER SCHWARTZ AND COHN 2290 FIRST NATIONAL BUILDING 660 WOODWARD AVENUE DETROIT, MI 48226 Federal Action No.: 040-94008	HEMPHILL ROAD PROPERTIES 4400 KINGSLANE BURTON, MI 48529	RANAS, C. LESLIE CMICHINSKI, NANCY M.	No No	
LANE & MITTENDORF 919 18TH STREET, NW SUITE 800 WASHINGTON, DC 20006 Federal Action No.: DC39H92F013	DC COMPREHENSIVE AIDS RESOURCES AND EDUCATION CONSORTIUM 801 PENNSYLAVANIA AVENUE, SE WASHINGTON, DC 20003	BERG, JEFFREY C.	No	
LANE & MITTENDORF 919 18TH STREET, NW SUITE 800 WASHINGTON, DC 20006 Federal Action No.: DC39H93F014	DC COMPREHENSIVE AIDS RESOURCES AND EDUCATION CONSORTIUM 801 PENNSYLAVANIA AVENUE, SE WASHINGTON, DC 20003	BERG, JEFFREY C.	No	
LINOWES AND BLOCHER 1010 WAYNE AVENUE SUITE 1000 SILVER SPRING, MD 20910 Federal Action No.: FHA 000-10582	PATRICIAN MORTGAGE COMPANY 4800 MONTGOMERY LANE SUITE 200 BETHESDA, MD 20814	ORRICK, JOHN R., JR. SMITH, SCOTT R.	No No	
THE LOGS GROUP 4201 LAKE COOK ROAD NORTHBROOK, IL 60062 Federal Action No.: 351-2125101	CITICORP MORTGAGE MAIL STATION 306 P.O. BOX 790006 ST. LOUIS, MO 63179-0006	KAPPELER, ALAN J.	No	
THE LOGS GROUP 4201 LAKE COOK ROAD NORTHBROOK, IL 60062 Federal Action No.: 75337-0000-3	FIRST NATIONAL MORTGAGE CORPORATION 2600 INSURANCE CENTER DRIVE SUITE A-202 JACKSON, MS 39216	KAPPELER, ALAN J.	No	
PEPPER HAMILTON AND SCHEETZ 1300 GROUP 1300 19TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 000-44121-LDP-SUP	FOURTH B/W PARKWAY, L.P. 8027 LEESBURG PIKE SUITE 103 VIENNA, VA 22182	SCHREIBERG, SHELDON L.	No	
PEPPER HAMILTON AND SCHEETZ 1300 GROUP 1300 19TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 083-35365-LB	CARROUSEL PROPERTIES 935 EAST BROAD STREET COLUMBUS, OH 43205	SCHREIBERG, SHELDON L.	No	
PEPPER HAMILTON AND SCHEETZ 1300 GROUP 1300 19TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 071-35554	CAPITAL FUNDING GROUP, LTD. ATTENTION: MICHAEL H. MOSS 875 NORTH DEARBORN STREET CHICAGO, IL 60610	SCHREIBERG, SHELDON L.	No	
QUARLES AND BRADY 411 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202 Federal Action No.: 075-43099-PM	NEW PERSPECTIVE OF BROOKFIELD, INC. 530 WALNUT STREET P.O. BOX 754 WEST BEND, WI 53095	COMEN, ANN K. JOST, LAWRENCE J.	No No	

QUARLES AND BRADY 411 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202 Federal Action No.: 075-35317-PM	FOREST RIDGE OF MILWAUKEE, L.P. 11077 WEST FOREST HOME AVENUE HALES CORNERS, WI 53130	COMER, ANN K.	No
QUARLES AND BRADY 411 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202 Federal Action No.: 075-35331-PM	COUNTRY OAKS II, L.P. 7600 WEST HAMPTON AVENUE MILWAUKEE, WI 53218	COMER, ANN K.	No
QUARLES AND BRADY 411 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202 Federal Action No.: 075-35320	FIRST BANK (NA) 201 WEST WISCONSIN AVENUE MILWAUKEE, WI 53259	COMER, ANN K.	No
QUARLES AND BRADY 411 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202 Federal Action No.: 075-35346-PM	VALLEY TRUST COMPANY 221 WEST COLLEGE AVENUE BOX 1056 APPLETON, WI 54912-1056	COMER, ANN K.	No
1300 GROUP 1300 19TH STREET, NW SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 061-94039	THE RELATED COMPANIES 625 MADISON AVENUE NEW YORK, NY 10022	SALOMON, ROBERT S., III	No
1300 GROUP 1300 19TH STREET, NW SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 012-10551	THE RELATED COMPANIES 625 MADISON AVENUE NEW YORK, NY 10022	SALOMON, ROBERT S., III	No
1300 GROUP 1300 19TH STREET, NW SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 061-94039	THE RELATED COMPANIES 625 MADISON AVENUE NEW YORK, NY 10022	SALOMON, ROBERT S., III	No
1300 GROUP 1300 19TH STREET, NW SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 000-4056-LDF	KUTAK ROCK COHEN CAMPBELL AND PETERS ATTENTION: KIMBALL GRIFFITH 1101 CONNECTICUT AVENUE, NW, SUITE 1000 WASHINGTON, DC 20036	SALOMON, ROBERT S., III	No
1300 GROUP 1300 19TH STREET, NW SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: FHA 085-94006	MULLENIX PROPERTIES, INC. ATTENTION: MICHAEL MULLENIX 12312 OLIVE BOULEVARD, SUITE 260 CREVE COEUR, MO 63141	SALOMON, ROBERT S., III	No
1300 GROUP 1300 19TH STREET, NW SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 000-4056-LDF	KUTAK ROCK ATTENTION: KIMBALL GRIFFITH 1101 CONNECTICUT AVENUE, NW, SUITE 1000 WASHINGTON, DC 20036	SALOMON, ROBERT S., III	No
1300 GROUP 1300 19TH STREET, NW SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 780000416	TECHNICAL ASSISTANCE CORPORATON OF THE CITY OF ST. LOUIS 100 NORTH BROADWAY, SUITE 1625 ST. LOUIS, MO 63102	SALOMON, ROBERT S., III	No
1300 GROUP 1300 19TH STREET, NW SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 29-MC0006-020-02	TECHNICAL ASSISTANCE CORPORATON OF THE CITY OF ST. LOUIS 100 NORTH BROADWAY, SUITE 1625 ST. LOUIS, MO 63102	SALOMON, ROBERT S., III	No
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005 Federal Action No.: 75834-000-0	TEMPLE-INLAND MORTGAGE CORPORATION TEMPLE-INLAND BUILDING 303 CONGRESS AUSTIN, TX 78767	GOLD, LAURENCE H. SHEARER, ANN B. BRODSKY, JAMES A. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS P.	No No No No No No No No No No No
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005 Federal Action No.: 30275-0999-0	PHH US MORTGAGE CORPORATION 6000 ATRIUM WAY MT. LAUREL, NJ 08054	GOLD, LAURENCE H. SHEARER, ANN B. BRODSKY, JAMES A. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS P.	No No No No No No No No No No No

WILSON STRICKLAND AND HENSON, P.C. ONE MIDTOWN PLAZA, SUITE 1100 1360 PEACHTREE STREET, NE ATLANTA, GA 30309-3214 Federal Action No.: 061-10539-PM	LIFE COLLEGE 1269 BARCLAY CIRCLE MARIETTA, GA 30060	STRICKLAND, FRANK B.	No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: HAF A-76-164	KNOXVILLE COMMUNITY DEVELOPMENT CORPORATION P.O. BOX 3550 KNOXVILLE, TN 37927-3550	LEVINE, JERRY DUNNELLS, O. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN P. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 071-10512	SALEM CROSS APARTMENTS, L.P. REAL PROPERTY SERVICES CORPORATION 1935 CAMINO VIDA ROBLE CARLSBAD, CA 92008	LEVINE, JERRY DUNNELLS, O. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN P. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 071-36625	ONE EAST DELAWARE, L.P. WHITEHALL FUNDING, INC. 3399 PEACHTREE STREET ATLANTA, GA 30326	LEVINE, JERRY DUNNELLS, O. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN P. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 052-10518	NORTHBROOKE, L.P. ATTENTION: LOWELL R. GLAZER 7779 NEW YORK LANE GLEN BURNIE, MD 21061	LEVINE, JERRY DUNNELLS, O. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN P. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 062-36610	SPEARWOOD APARTMENTS, LTD. BOSTON FINANCIAL ASSET MANAGEMENT 101 ARCH STREET BOSTON, MA 02110-1105	LEVINE, JERRY DUNNELLS, O. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN P. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 062-36609	GARDEN COVE APARTMENTS, LTD. BOSTON FINANCIAL ASSET MANAGEMENT 101 ARCH STREET BOSTON, MA 02110-1106	LEVINE, JERRY DUNNELLS, O. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN P. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: 014-43036	CONTINENTAL SECURITIES CORPORATION 499 SOUTH WARREN STREET SYRACUSE, NY 13202	MAZER, MICHAEL E. PERNA, JAMES F. LIBRETTA, DONALD F. SMITH, HARRISON C. SELDON, ROBERT C. OPERT, JON I. ALTMAN, VICTOR A. RANSKY, DAVID A. GEORGE, MARY JO KIJEWSKI, JOSEPH A. TENNANT, WILLIAM S. CLANCY, PATRICK J. VIHSTADT, JOHN E. GRESZES, MARIO B. GRONER, FELICIA M. KNOLL, E. JOSEPH ALTMAN, NORMAN S. DELANEY, WILLIAM J. COLE, D. RANDOLPH, JR.	No No No No No No No No No No No No No No No No No No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: 126-11013	REILLY MORTGAGE GROUP, INC. 2000 CORPORATE RIDGE SUITE 925 MCLEAN, VA 22102	MAZER, MICHAEL E. PERNA, JAMES F. LIBRETTA, DONALD F. SMITH, HARRISON C. SELDON, ROBERT C. OPERT, JON I. ALTMAN, VICTOR A. RANSKY, DAVID A. GEORGE, MARY JO KIJEWSKI, JOSEPH A. TENNANT, WILLIAM S. CLANCY, PATRICK J. VIHSTADT, JOHN E. GRESZES, MARIO B. GRONER, FELICIA M. KNOLL, E. JOSEPH ALTMAN, NORMAN S. DELANEY, WILLIAM J.	No No No No No No No No No No No No No No No No No No

KROOTH & ALTMAN (Continued)		COLE, D. RANDOLPH, JR.	No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: FHA 064-35590-WP	FAIRWOOD VILLAGE, INC. SIEBER CONSTRUCTION COMPANY 829 HIGHWAY 28 MILFORD, OH 45150	TENNANT, WILLIAM S.	No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: FHA 052-15389-LD-L8	EDEN-OXFORD ASSOCIATES OXFORD ASSET MANAGEMENT CORPORATION 7200 WISCONSIN AVENUE, 11TH FLOOR BETHESDA, MD 20814	TENNANT, WILLIAM S.	No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: 052-35742	VICTORIA PLAZA ATTENTION: DR. JOSHUA R. MITCHELL, III 2200 GARRISON BOULEVARD BALTIMORE, MD 21216	BARSKY, DAVID A.	No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: FHA 012-43174	FLEET FUNDING 1600 STEWART AVENUE, FIFTH FLOOR WESTBURY, NY 11590	MAZER, MICHAEL E. PERNA, JAMES F. LIBRETTA, DONALD F. SMITH, HARRISON C. SELDON, ROBERT C. OPERT, JON I. ALTMAN, VICTOR A. BARSKY, DAVID A. GEORGE, MARY JO KIJEWSKI, JOSEPH A. TENNANT, WILLIAM S. CLANCY, PATRICK J. VIHSTADT, JOHN E. GRESZES, MARIO B. GRONER, FELICIA M. KNOLL, E. JOSEPH ALTMAN, NORMAN S. DELANEY, WILLIAM J. COLE, D. RANDOLPH, JR.	No No No No No No No No No No No No No No No No No No No No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: FHA 012-43171	FLEET FUNDING 1600 STEWART AVENUE, FIFTH FLOOR WESTBURY, NY 11590	MAZER, MICHAEL E. PERNA, JAMES F. LIBRETTA, DONALD F. SMITH, HARRISON C. SELDON, ROBERT C. OPERT, JON I. ALTMAN, VICTOR A. BARSKY, DAVID A. GEORGE, MARY JO KIJEWSKI, JOSEPH A. TENNANT, WILLIAM S. CLANCY, PATRICK J. VIHSTADT, JOHN E. GRESZES, MARIO B. GRONER, FELICIA M. KNOLL, E. JOSEPH ALTMAN, NORMAN S. DELANEY, WILLIAM J. COLE, D. RANDOLPH, JR.	No No No No No No No No No No No No No No No No No No No No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: 083-10013	SIMS MORTGAGE FUNDING, INC. 321 RIVERSIDE AVENUE WESTPORT, CT 06880	MAZER, MICHAEL E. PERNA, JAMES F. LIBRETTA, DONALD F. SMITH, HARRISON C. BELDON, ROBERT C. OPERT, JON I. ALTMAN, VICTOR A. BARSKY, DAVID A. GEORGE, MARY JO KIJEWSKI, JOSEPH A. TENNANT, WILLIAM S. CLANCY, PATRICK J. VIHSTADT, JOHN E. GRESZES, MARIO B. GRONER, FELICIA M. KNOLL, E. JOSEPH ALTMAN, NORMAN S. DELANEY, WILLIAM J. COLE, D. RANDOLPH, JR.	No No No No No No No No No No No No No No No No No No No No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: FHA-014-43090	SIMS MORTGAGE FUNDING, INC. 321 RIVERSIDE AVENUE WESTPORT, CT 06880	MAZER, MICHAEL E. PERNA, JAMES F. LIBRETTA, DONALD F. SMITH, HARRISON C. BELDON, ROBERT C. OPERT, JON I. ALTMAN, VICTOR A. BARSKY, DAVID A. GEORGE, MARY JO KIJEWSKI, JOSEPH A. TENNANT, WILLIAM S.	No No No No No No No No No No No

KROOTH & ALTMAN (Continued)		CLANCY, PATRICK J. VIHSTADT, JOHN E. GRESZES, MARIO B. GRONER, FELICIA M. KNOLL, E. JOSEPH ALTMAN, NORMAN S. DELANEY, WILLIAM J. COLE, D. RANDOLPH, JR.	No No No No No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 047-35048-LDP-SUP-WAH	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35164-PM	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35220-PM	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 047-44091-LDP-SUP-WAH	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 083-35207-L8-PM	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35241-PM-L8	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35239-PM-L8	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-44382-LDP	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35275-PM-L8	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35247-PM-L8	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35190-PM	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35249-PM-L8	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35170-PM	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-35292-PM-L8	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No

LANDMAN & BEATTY 1070 MARKET TOWER 10 WEST MARKET STREET INDIANAPOLIS, IN 46204 Federal Action No.: 073-44395-LDP	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35164-PM	VILLAGE APARTMENTS II, L.P. WILLIAMSBURG ON THE LAKE OF MISHAWAKA II 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	MCMURTREY, JOYCE MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35220-PM	VILLAGE APARTMENTS, L.P. WILLIAMSBURG ON THE LAKE OF MISHAWAKA I 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	MCMURTREY, JOYCE MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 083-35207-LB-PM	FAIRINGTON APARTMENTS OF LEXINGTON, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. KNAPP, SHARON SIMMS, DIANNE CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 047-35048-LDP-SUP-WAH	HICKORY VILLAGE ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 047-44091-LDP-SUP-WAH	PLYMOUTH ARMS ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35241-PM-LB	FAIRINGTON APARTMENTS OF FORT WAYNE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E.	No No No No No

GENE B. GLICK COMPANY, INC. D/B/A (Continued)		DONNELSON, DEAN PACKARD, CAROL LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35170	BRIARWOOD APARTMENTS, L.P. D/B/A WOODS I 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35190-PM	BRIARWOOD APARTMENTS II, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35249-PM-LB	THE ESSALL HOUSE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN PACKARD, CAROL LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35247-PM-LB	CAMBRIDGE SQUARE OF BEECH GROVE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. ORANGE-BENSON, LINDA DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35239-PM-LB	JAMESTOWN SQUARE NORTH, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M. BASILE, BARBARA	No No No No No No No No No No No No No No No

GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35275-PM-L8	NORTHWOOD APARTMENTS OF FRANKLIN, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. ORANGE-BENBOW, LINDA DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-44382-LDP	CARRIAGE HOUSE OF GREENWOOD ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. ORANGE-BENBOW, LINDA DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-44395-LDP	CAPRI MEADOWS ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35292-PM-L8	CAPRI II ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: 115-43033-PM	RENAISSANCE VILLAS ATTENTION: THOMAS B. ELIN 12262 LOMICA DRIVE SAN FRANCISCO, CA 94122	ARAOZ, SUSANA S. BEIBLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOY, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: 121-35831	COUNTRY CLUB VILLA PROPERTIES 1487 MCKEE ROAD SUITE 50 SAN JOSE, CA 95127	ARAOZ, SUSANA S. BEIBLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOY, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: 123-43019-PM	THE BRIM COMPANIES 305 N.E. 102ND AVENUE PORTLAND, OR 97220	ARAOZ, SUSANA S. BEIBLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOY, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 017-38034	LOEB AND LOEB ATTENTION: FREDRIC M. SANDERS 345 PARK AVENUE NEW YORK, NY 10154	LORE, KENNETH G. LEVY, HAROLD A.	No No	

BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 052-32035	PARK CHARLES THE SHELTER GROUP 218 NORTH CHARLES STREET BALTIMORE, MD 21201	LORE, KENNETH G. LEVY, HAROLD A.	No No	
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 012-55018 (LAWDS RWD II)	NATIONAL HOUSING PARTNERSHIP, INC. 1225 EYE STREET, NW WASHINGTON, DC 20005	LORE, KENNETH G. LEVY, HAROLD A.	No No	
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 085-35303	PINE-KING ASSOCIATES DEL-CORONADO APARTMENTS 4949 W. PINE BOULEVARD ST. LOUIS, MO 63108	LEVY, HAROLD A. BROWNSTEIN, PHILIP N.	No No	
COAN & LYONS 1100 CONNECTICUT AVENUE, NW SUITE 1000 WASHINGTON, DC 20036 Federal Action No.: MA00ZDG701	EDWARD BRICE, JR. P.O. BOX 9103 BOSTON, MA 02117	JAMES, RAYMOND K.	No	
FOLEY AND LARDNER 1 SOUTH PINCKNEY STREET, SUITE 701 P.O. BOX 1497 MADISON, WI 53701-1497 Federal Action No.: 075-44052-LDP	ASSISI HOMES HOWARD WOODS, INC. 5016 WEST BURLEIGH STREET MILWAUKEE, WI 53210	LAWRENCE, WAYMAN C. RADELET, TIMOTHY J. CROPSEY, DOUGLAS J.	No No No	
FRANCISCAN MINISTRIES, INC. 26 WEST 171 ROOSEVELT ROAD P.O. BOX 667 WHEATON, IL 60189 Federal Action No.: 075-35323-PM/WAH	VILLA S. THERESA, INC. 5016 WEST BURLEIGH STREET MILWAUKEE, WI 53210	CISEK, ROBERT CARLTON, LYNWELL NORDBERG, CHRISTINE SCHULTZ, PHILLIP JASENSKI, PAUL	No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-44395-LDP	CAPRI MEADOWS ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN PACKARD, CAROL LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 043-44055-LDF/SUP	COLUMBUS HOUSING ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. WALKER, KIMBERLY EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. KNAPP, SHARON SIMMS, DIANNE CANTRELL, DEAN	No No No No No No No No No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: FHA 123-43015-NP	CHRISTIAN CARE, INC. 2002 WEST SUNNYSIDE DRIVE PHOENIX, AZ 85071-3210	BEIBLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOY, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J. CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A. STOCKTON, CHRISTINE A. PETERS, TRACY W.	No No No No No No No No No Yes No Yes No No	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM FOR THREE YEARS JOINED BANC ONE 04/04/93 FEDERAL RESERVE BANK OF CHICAGO 12/90 - 03/93

BANC ONE CAPITAL CORPORATION (Continued)		LIM, Y. PRISCILLA KING, JAMES A. BLUHM, ELIZABETH B. HALLMEYER, R. BARTH LEIBOLD, BRADLEY L. YOUNG, SANDRA E.	No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35233-PM-LB	CAMBRIDGE SQUARE OF MUNCIE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN BROCK, MARY JO COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. WALKER, KIMBERLY EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Actibn No.: 047-44039-LDP-SUP	CAMBRIDGE SQUARE, GRAND RAPIDS ASSOCIATES II 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. WALKER, KIMBERLY EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-44033-LDP-SUP	CAMBRIDGE SQUARE OF GRAND RAPIDS ASSOCIATES I 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. WALKER, KIMBERLY EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-44901-LDP	MIAMI HILLS ASSOCIATES 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MCMURTREY, JOYCE MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. WALKER, KIMBERLY EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 047-44028-LDP-SUP	CARRIAGE HOUSE OF MUSKEGON ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. WALKER, KIMBERLY EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35292-PM-LB	CAPRI II ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E.	No No No No No

GENE B. GLICK COMPANY, INC. D/B/A (Continued)		DONNELSON, DEAN PACKARD, CAROL LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CHOSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 083-35176-LB-PM	CAMBRIDGE SQUARE OF COVINGTON, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. WALKER, KIMBERLY EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. KNAPP, SHARON SIMMS, DIANNE CANTRELL, DEAN	No No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 083-44056	FLORENCE HOUSING ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. WALKER, KIMBERLY EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. KNAPP, SHARON SIMMS, DIANNE CANTRELL, DEAN	No No No No No No No No No No No No No No No No
PEPPER HAMILTON AND SCHEETZ 1300 GROUP 1300 14TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 75-35325	SPRING ISLE, L.P. 1 13 WAYLAND STREET BEAVER DAM, WI 53916	SCHREIBERG, SHELDON L.	No
PEPPER HAMILTON AND SCHEETZ 1300 GROUP 1300 14TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-1685 Federal Action No.: 75-35346	SPRING ISLE LIMITED PARTNERSHIP II 1113 WAYLAND STREET BEAVER DAM, WI 53916	SCHREIBERG, SHELDON L.	No
PEABODY & BROWN 2300 M STREET, NW WASHINGTON, DC 20037 Federal Action No.: 102-55022	COMMERCIAL GROUP 3706 SW TOPEKA BOULEVARD SUITE 300 TOPEKA, KS 66609	PRICE, RICHARD M. STEVENS, HERBERT F.	No No
PEABODY & BROWN 2300 M STREET, NW WASHINGTON, DC 20037 Federal Action No.: 061-10539-PM LIFE COLLEGE	WILSON STRICKLAND AND BENSON, P.C. ONE MIDTOWN PLAZA, SUITE 1100 1360 PEACHTREE STREET, NE ATLANTA, GA 30309-3214	PRICE, RICHARD M. EDSON, CHARLES L. WILCOX, JUSTINE E.	No No No
KUTAK ROCK THE OMAHA BUILDING 1650 FARNAM STREET OMAHA, NE 68102-2186 Federal Action No.: FHA 053-94015	HOUSING AUTHORITY OF THE CITY OF KINSTON 608 NORTH QUEENS STREET KINSTON, NC 28501	PETR, JOHN L. PUTNAM, RANDALL L.	No No
HONIGMAN MILLER SCHWARTZ AND COHN 2290 FIRST NATIONAL BUILDING 660 WOODWARD AVENUE DETROIT, MI 48226 Federal Action No.: 143-35030	BENEFICIAL PROPERTY CORPORATION 15770 N. DALLAS PARKWAY SUITE 902 DALLAS, TX 75248	WINKELMAN, SHELDON P. BYRNES, THERESE KICKHAM, EDWARD F.	No No No
HONIGMAN MILLER SCHWARTZ AND COHN 2290 FIRST NATIONAL BUILDING 660 WOODWARD AVENUE DETROIT, MI 48226 Federal Action No.: 136-35600	BENEFICIAL PROPERTY CORPORATION 15770 N. DALLAS PARKWAY SUITE 902 DALLAS, TX 75248	WINKELMAN, SHELDON P. BYRNES, THERESE KICKHAM, EDWARD F.	No No No
HONIGMAN MILLER SCHWARTZ AND COHN 2290 FIRST NATIONAL BUILDING 660 WOODWARD AVENUE DETROIT, MI 48226 Federal Action No.: 136-35546	BENEFICIAL PROPERTY CORPORATION 15770 N. DALLAS PARKWAY SUITE 902 DALLAS, TX 75248	WINKELMAN, SHELDON P. BYRNES, THERESE KICKHAM, EDWARD F.	No No No

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HONIGMAN MILLER SCHWARTZ AND COHN 2290 FIRST NATIONAL BUILDING 660 WOODWARD AVENUE DETROIT, MI 48226 Federal Action No.: 136-35547	BENEFICIAL PROPERTY CORPORATION 15770 N. DALLAS PARKWAY SUITE 902 DALLAS, TX 75248	WINKELMAN, SHELDON P. BYRNES, THERESE KICKHAM, EDWARD F.	No No No	
HESSEL AND ALUISE, P.C. 1050 17TH STREET, NW SUITE 900 WASHINGTON, DC 20036 Federal Action No.: 122-44253-LDP	ONTARIO TOWNHOUSES, L.P. 4140 EAST-WEST HIGHWAY SUITE 300 BETHESDA, MD 20814	GURKIN, JOANNE SCHOMER, MORTON W. ALUISE, TIMOTHY J. HESSEL, ARTHUR R. SAUNDERS, JENNIFER L. GIVISKOS, CHRISTINE S. STURMAN, SUSAN M.	No No No No No No Yes	DEPARTMENT OF HOUSING -D URBAN DEVELOPMENT STAFF ATTORNEY, MULTI1 -LY MORTGAGE DIVISION
KUTAK ROCK THE OMAHA BUILDING 1650 FARNAM STREET OMAHA, NE 68102-2186 Federal Action No.: CO99-0001-118	COLORADO HOUSING AND FINANCE AUTHORITY 1981 BLAKE STREET DENVER, CO 80202-1275	KOBER, KARILYN E. WAGNER, JOHN J.	No No	
KUTAK ROCK THE OMAHA BUILDING 1650 FARNAM STREET OMAHA, NE 68102-2186 Federal Action No.: FL29-0057-068	FLORIDA HOUSING FINANCE AGENCY 2574 SEAGATE DRIVE SUITE 101 TALLAHASSEE, FL 32301-5026	KOBER, KARILYN E. WAGNER, JOHN J.	No No	
KUTAK ROCK THE OMAHA BUILDING 1650 FARNAM STREET OMAHA, NE 68102-2186 Federal Action No.: FL29-H142-021	FLORIDA HOUSING FINANCE AGENCY 2574 SEAGATE DRIVE SUITE 101 TALLAHASSEE, FL 32301-5026	KOBER, KARILYN E. WAGNER, JOHN J.	No No	
KUTAK ROCK THE OMAHA BUILDING 1650 FARNAM STREET OMAHA, NE 68102-2186 Federal Action No.: FL29-0057-001	FLORIDA HOUSING FINANCE AGENCY 2574 SEAGATE DRIVE SUITE 101 TALLAHASSEE, FL 32301-5026	KOBER, KARILYN E. WAGNER, JOHN J.	No No	
KUTAK ROCK THE OMAHA BUILDING 1650 FARNAM STREET OMAHA, NE 68102-2186 Federal Action No.: FL29-H142-016	FLORIDA HOUSING FINANCE AGENCY 2574 SEAGATE DRIVE SUITE 101 TALLAHASSEE, FL 32301-5026	KOBER, KARILYN E. WAGNER, JOHN J.	No No	
KUTAK ROCK THE OMAHA BUILDING 1650 FARNAM STREET OMAHA, NE 68102-2186 Federal Action No.: FL29-H142-020	FLORIDA HOUSING FINANCE AGENCY 2574 SEAGATE DRIVE SUITE 101 TALLAHASSEE, FL 32301-5026	KOBER, KARILYN E. WAGNER, JOHN J.	No No	
KUTAK ROCK THE OMAHA BUILDING 1650 FARNAM STREET OMAHA, NE 68102-2186 Federal Action No.: FL29-0057-051	FLORIDA HOUSING FINANCE AGENCY 2574 SEAGATE DRIVE SUITE 101 TALLAHASSEE, FL 32301-5026	KOBER, KARILYN E. WAGNER, JOHN J.	No No	
FRANCISCAN MINISTRIES, INC. 26 WEST 171 ROOSEVELT ROAD P.O. BOX 667 WHEATON, IL 60189 Federal Action No.: 075-44052-LDP	ASSISI HOMES HOWARD WOODS, INC. 5016 WEST BURLEIGH STREET MILWAUKEE, WI 53210	CISEK, ROBERT CARLETON, LYNNELL NORDBERG, CHRISTINE SCHULTZ, PHILLIP	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: CT26-8037-098	PIERCE ATWOOD AND SCRIBNER RIVER RUN, L.P. 1 MONUMENT SQUARE PORTLAND, ME 04101	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 031-55016	THE ASPEN GROUP, INC. WORLD TRADE CENTER SUITE 318 SAN FRANCISCO, CA 94111	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 067-35228	DEMETREE BROTHERS P.O. BOX 47050 JACKSONVILLE, FL 32247	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: FHA 053-35491	CROSLAND PROPERTIES P.O. BOX 11797 135 SCALYBARK ROAD CHARLOTTE, NC 28209	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	

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POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: FHA 071-00259	MORAN AND COMPANY 200 WEST MADISON SUITE 2700 CHICAGO, IL 60606	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: FHA 112-35052	DANMOUR AND ASSOCIATES 11730 GATEWAY BOULEVARD WEST LOS ANGELES, CA 90064	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: FHA 000-94006	RFI ASSOCIATES ARTERY PLAZA 7700 WISCONSIN AVENUE, SUITE 1006 BETHESDA, MD 20814	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 011-55007	THE ASPEN GROUP, INC. WORLD TRADE CENTER SUITE 318 SAN FRANCISCO, CA 94111	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 105-44009	RICHCRAINE CORPORATION ATTENTION: JEOFFREY A. MEACHAM P.O. BOX 35617 LOS GATOS, CA 95030	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 121-10513	R & B REALTY GROUP 2222 CORINTH AVENUE LOS ANGELES, CA 90064	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 121-10511	R & B REALTY GROUP 2222 CORINTH AVENUE LOS ANGELES, CA 90064	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 122-10562	R & B REALTY GROUP 2222 CORINTH AVENUE LOS ANGELES, CA 90064	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 014-16MI	LANDSMAN DEVELOPMENT CORPORATION 200 CANAL VIEW BOULEVARD ROCHESTER, NY 14623	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: 000-94136	RFI ASSOCIATES ARTERY PLAZA 7200 WISCONSIN AVENUE, SUITE 1006 BETHESDA, MD 20814	KNAPP, JOHN J. FREEDMAN, ANTHONY S. SIMONS, LAWRENCE B. MCILWAIN, JOHN K.	No No No No	
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35162-PM	BRIARWOOD VILLAGE APARTMENTS, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No	
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 083-44056	FLORENCE HOUSING ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No	
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 043-44055-LDP/SUP	COLUMBUS HOUSING ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No	
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-44395-LDP	CAPRI MEADOWS ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No	
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 092-44035-LD	CARRIAGE HOUSE ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No	

LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35233-PM-LB	CAMBRIDGE SQUARE OF MUNCIE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 083-35176-LB-PM	CAMBRIDGE SQUARE OF COVINGTON, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35247-PM-LB	CAMBRIDGE SQUARE OF BEECH GROVE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35190-PM	BRIARWOOD APARTMENTS II, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35249-PM-LB	THE RUSALL HOUSE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 048-44028-LD	CAMBRIDGE SQUARE OF FLINT ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35211-PM	CAMBRIDGE SQUARE OF LAPORTE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35240-PM-LB	CARRIAGE HOUSE OF LAPORTE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 047-44028-LDP-SUP	CARRIAGE HOUSE OF MUSKEGON ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-44901-LDP	MIAMI HILLS ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35292-PM-LB	CAPRI II ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 047-44033-LDP-SUP	CAMBRIDGE SQUARE OF GRAND RAPIDS ASSOCIATES I 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 047-44039-LDP-SUP	CAMBRIDGE SQUARE, GRAND RAPIDS ASSOCIATES II 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35431-PM-LB	CARRIAGE HOUSE OF LAPORTE II, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35251-PM-LB	JAMESTOWN OF VALPARAISO, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No

LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35408-PM-LB	CARRIAGE HOUSE OF LAFAYETTE ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35262-PM-LB	FAIRINGTON APARTMENTS OF LAFAYETTE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35358-PM-LB	RICHFIELD APARTMENTS OF WEST LAFAYETTE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35244-PM-LB	CAMBRIDGE SQUARE OF RICHMOND, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35450-PM-LB	CARRIAGE HOUSE OF MUNCIE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-3536D-PM-LB	CARRIAGE HOUSE OF RICHMOND, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35229-PM-LB	CAMBRIDGE SQUARE OF MARION, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-35245-PM-LB	CAMBRIDGE SQUARE OF ANDERSON, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 042-35240-PM-LB	BRIARWOOD APARTMENTS OF TOLEDO, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 054-35419-PM-PAH-LB	CARRIAGE HOUSE OF COLUMBIA, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 083-35249-LB-PM-WAH	BLAIRWOOD APARTMENTS OF LOUISVILLE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 083-35191-LB-PM-WAH	FAIRINGTON APARTMENTS OF LOUISVILLE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 000-10678	CSB ASSOCIATES MANAGEMENT CORPORATION P.O. BOX 647 RIVERDALE, MD 20738	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. FARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: 047-35091-PM-LB	KNOXVILLE COMMUNITY DEVELOPMENT CORPORATION P.O. BOX 3550 KNOXVILLE, TN 37927-3550	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. FARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No

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HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 053-94004	INSIGNIA FINANCIAL GROUP 1 INSIGNIA FINANCIAL PLAZA GREENVILLE, SC 29602	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 000-55095	INSIGNIA FINANCIAL GROUP 1 INSIGNIA FINANCIAL PLAZA GREENVILLE, SC 29602	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: MHFA 72-013-M	BOSTON FINANCIAL GROUP, INC. ATTENTION: PETER RICHARDSON 101 ARCH STREET BOSTON, MA 02110-1106	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: MN46-8023-007	SECURITY PROPERTIES, INC. 1601 FIFTH AVENUE SUITE 1900 SEATTLE, WA 98101	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 054-35554	DANBY DEVELOPMENT COMPANY 4142 DORCHESTER ROAD CHARLESTON, SC 29405	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FDA DB7-35124-PM-L8	KNOXVILLE COMMUNITY DEVELOPMENT CORPORATION P.O. BOX 3550 KNOXVILLE, TN 37927-3550	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 071-94012 (36602)	TERRACE LAKES APARTMENTS MELLON MORTGAGE COMPANY 1422 EUCLID AVENUE, SUITE 900 CLEVELAND, OH 44115-2092	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
THE MARCUS LAW FIRM 111 WHITNEY AVENUE NEW HAVEN, CT 06510 Federal Action No.: AUDIT 93-BO214-1013	CARABETTA MANAGEMENT COMPANY ATTENTION: JOSEPH F. CARABETTA 200 PRATT STREET MERIDEN, CT 06450	MARCUS, EDWARD L. STEINBERGER, RITA A. BERGAMO, MARK L.	No No No
THE MARCUS LAW FIRM 111 WHITNEY AVENUE NEW HAVEN, CT 06510 Federal Action No.: 023-35302	INTEGRATED RESOURCES, INC. 200 PRATT STREET MERIDEN, CT 06450	MARCUS, EDWARD L. STEINBERGER, RITA A. BERGAMO, MARK L.	No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: 125-35091-PM-L8	H&O PROPERTIES 28809 DRAPPER COURT HIGHLAND, CA 92346	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: 053-94004	INSIGNIA FINANCIAL GROUP 1 INSIGNIA FINANCIAL PLAZA GREENVILLE, SC 29602	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: 000-94009-HRD	MYCOR INCORPORATED ATTENTION: FRED MYERS 109 HOLIDAY PARK, SUITE B-4 FRANKLIN, TN 37064	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No

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HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: 114-94009-HRD	STONE MOUNTAIN PROPERTIES 806 MONRIS TURNPIKE P.O. BOX 405 SHORT HILLS, NJ 07078	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 000-10607	OXON RUN ASSOCIATES, L.P. MID CITY FINANCIAL CORPORATION 4340 EAST-WEST HIGHWAY, SUITE 300 BETHESDA, MD 20814	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 085-35285	FOX HILL PARTNERS PIERRE LACLEDE CENTER 7701 FORSYTH BOULEVARD, SUITE 900 ST. LOUIS, MO 63105-1813	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 062-35342	INSIGNIA FINANCIAL GROUP 1 INSIGNIA FINANCIAL PLAZA GREENVILLE, SC 29602	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 012-94004-HRD	135 W. KINGSBRIDGE ASSOCIATES TIME EQUITIES, INC. 55 FIFTH AVENUE NEW YORK, NY 10003	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 083-35191-L8-PM-WAH	FAIRINGTON APARTMENTS OF LOUISVILLE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BIBERI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. KNAPP, SHARON SIMMS, DIANNE CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 083-35249-L8-PM-WAH	BLAIRWOOD APARTMENTS OF LOUISVILLE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BIBERI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. KNAPP, SHARON SIMMS, DIANNE CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 054-35419-PM-PAH-L8	CARRIAGE HOUSE OF COLUMBIA, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	KELLEY, JOE THURSTON, MAX A. WOLFE, CHRISTINE BIBERI, JAMES T. RAGAN, TERRI MACFARLAND, BELENDA DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. SKINNER, MICHELLE EDMONDS, DENNIS BASILE, FRANK M. JONES, STEPHANIE ANTHON, DAVID	No No No No No No No No No No No No No No No

GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 042-3524D-PM-L8	BRIARWOOD APARTMENTS OF TOLEDO, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35245-PM-L8	CAMBRIDGE SQUARE OF ANDERSON, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN BROCK, MARY JO COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35229-PM-L8	CAMBRIDGE SQUARE OF MARION, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN BROCK, MARY JO COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35360-PM-L8	CARRIAGE HOUSE OF RICHMOND, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN BROCK, MARY JO COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35450-PM-L8	CARRIAGE HOUSE OF MUNCIE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN BROCK, MARY JO COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35244-PM-L8	CAMBRIDGE SQUARE OF RICHMOND, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN BROCK, MARY JO COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS	No No No No No No No No No No No No

GENE B. GLICK COMPANY, INC. D/B/A (Continued)		BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35350-PM-L8	RICHFIELD APARTMENTS OF WEST LAFAYETTE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN DEBOY, PHYLLIS COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35262-PM-L8	FAIRINGTON APARTMENTS OF LAFAYETTE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN DEBOY, PHYLLIS COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35400-PM-L8	CARRIAGE HOUSE OF LAFAYETTE ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN DEBOY, PHYLLIS COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35251-PM-L8	JAMESTOWN APARTMENTS OF VALPARAISO, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN DEBOY, PHYLLIS COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35431-PM-L8	CARRIAGE HOUSE OF LAPORTE II, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN DEBOY, PHYLLIS COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35240-PM-L8	CARRIAGE HOUSE OF LAPORTE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN DEBOY, PHYLLIS COTTRELL, L. JOHN	No No No No No No No

GENE B. GLICK COMPANY, INC. D/B/A (Continued)		VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35211-PM	CAMBRIDGE SQUARE OF LAPORTE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN DEBOY, PHYLLIS COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 048-44028-LD	CAMBRIDGE SQUARE OF FLINT ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35249-PM-LB	THE EDSALL HOUSE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN PACKARD, CAROL LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35190-PM	BRIARWOOD APARTMENTS II, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35247-PM-LB	CAMBRIDGE SQUARE OF BEECH GROVE, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. ORANGE-BENSON, LINDA DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 092-44035-LD	CARRIAGE HOUSE ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI	No No No No No	

GENE B. GLICK COMPANY, INC. D/B/A (Continued)		DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No	
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 073-35162-PM	BRIARWOOD VILLAGE APARTMENTS, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	THURSTON, MAX A. WOLFE, CHRISTINE BISESI, JAMES T. RAGAN, TERRI LEAVITT, NORMA E. DONNELSON, DEAN LYONS, JAMES COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. CROSBY, PAUL WILSON, DEANA EDMONDS, DENNIS BASILE, FRANK M.	No No No No No No No No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: FHA 0816-0013-026	JEFFERSON METROPOLITAN HOUSING AUTHORITY ATTENTION: MICHAEL M. MERICK, DIRECTOR 815 N. SIXTH AVENUE STEUBENVILLE, OH 43952	REIBLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. OLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J. CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A. STOCKTON, CHRISTINE A. PETERS, TRACY W. LIH, Y. PRISCILLA	No No No No No No No No No. Yes No Yes No No No	DEPARTMENT OF HOUSING A URBAN DEVELOPMENT DIRECTOR, SECTION 242 H MORTGAGE INSURANCE PROG JOINED BANC ONE 4/1/93. FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 3/93
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: DAY VILLAGE	ROGER GINS 18 EAST 22ND STREET NEW YORK, NY 10010	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN P. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No	
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: BURGUNDY PARK	CONTINENTAL WINGATE ASSOCIATES, INC. 4833 RUGBY AVENUE BETHESDA, MD 20814-3072	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN P. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No	
THE SCHIFF GROUP, INC. 7514 WISCONSIN AVENUE SUITE 500 BETHESDA, MD 20814 Federal Action No.: FY92/93 COMP GRANT FUNDS	HOUSING AUTHORITY OF THE CITY OF TACOMA 1728 EAST 44TH STREET TACOMA, WA 98404	SCHIFF, JOSEPH G.	Yes	DEPARTMENT OF HOUSING / D URBAN DEVELOPMENT ASSISTANT SECRETARY FO AND INDIAN HOUSING RESIGNED 1/20/93
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: CAMBRIDGE SQUARE APTS	FIRST INTERSTATE CAPITAL CORPORATION 1303 AVOCADO SUITE 225 NEWPORT BEACH, CA 92660	ARAOZ, SUSANA S. REIBLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: VICTORIAN PARK	VICTORIA PARK ASSOCIATES 3260 NORTH HAYDEN ROAD SUITE 102 SCOTTSDALE, AZ 85251	ARAOZ, SUSANA S. REIBLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	

BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: MICHIGAN BEACH APARTMENTS	MICHIGAN BEACH, L.P. 10 SOUTH LASALLE STREET SUITE 3440 CHICAGO, IL 60602	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: METRO TERRANCE APARTMENTS	M.T. APARTMENTS, L.P. 520 N. ORANGEWOOD PHOENIX, AZ 85021	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: WILLOWBEND APARTMENTS	WILLOWBEND APARTMENTS 1035 ASTER AVENUE SUNNYVALE, CA 94086	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: CHRISTIAN CARE NRSNG CNTR	CHRISTIAN CARE, INC. 2002 WEST SUNNYSIDE DRIVE PHOENIX, AZ 85071-3210	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: FHA 103-35115-PM	OVENLAND BANK CHERRY TREE VILLAS, LTD. 304 WEST THIRD GRAND ISLAND, NE 68802	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM; JOINED BANC ONE ON 04/01/93
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 TO 03/93
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH LEIBOLD, BRADLEY L. YOUNG, SANDRA E.	No No No No No No No No	
BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 000-94003	THE SHELTER GROUP HILLTOP GARDENS 218 NORTH CHARLES STREET, SUITE 500 BALTIMORE, MD 21201	LORE, KENNETH Q. LEVY, HAROLD A.	No No	
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: FHA 031-13016	PAINEWEBBER INCORPORATED 1285 AVENUE OF THE AMERICAS NEW YORK, NY 10019	MAZER, MICHAEL E. PERNA, JAMES F. LIBRETTA, DONALD F. SMITH, HARRISON C. SELDON, ROBERT C. OFFET, JON I. ALTMAN, VICTOR A. BARSKY, DAVID A. GEORGE, MARY JO KIJEWSKI, JOSEPH A. TENNANT, WILLIAM S. CLANCY, PATRICK J. VIHSTADT, JOHN E. ORSZER, MARIO S. ORONER, FELICIA M. KNOLL, E. JOSEPH ALTMAN, NORMAN S. DELANEY, WILLIAM J. COLE, D. RANDOLPH, JR.	No No No No No No No No No No No No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: SEVERN ROAD8	MERICARE ASSOCIATES 337 BRIGHTSEAT ROAD SUITE 100 LANDOVER, MD 20785	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L.	No No No No No	

BOCC FUNDING CORPORATION (Continued)		ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: UNIVERSITY GARDENS	UNIVERSITY GARDENS PARTNERSHIP ATTENTION: EUGENE H. LITMAN 980 LINCOLN HIGHWAY NORTH VERSAILLES, PA 15137	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: CASA FARNESE	CASA ENRICO FERMI ATTENTION: ANDREW FARNESE 1800 LOMBARD STREET PHILADELPHIA, PA 19147	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No	
TECHNICAL ASSISTANCE CORPORATION FOR HOUSING 205 W. MONROE STREET SUITE 5 WEST CHICAGO, IL 60606 Federal Action No.: 071-44134	NEIGHBORHOOD COMMONS ASSOCIATION, INC. NEIGHBORHOOD COMMONS APARTMENTS NORTH VINE STREET AND WEST NORTH AVENUE CHICAGO, IL 60656	BONNER, FRED L. BROWN, RALPH I.	No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: FHA 053-35371	VIRGINIA DARE ASSOCIATES ONE MANAGEMENT, INC. 6131 FALLS OF NEUS ROAD, SUITE 200 RELEIGH, NC 27609	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (THREE YEARS) JOINED BANC ONE ON 4/1/93
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OW CHICAGO 12/90 - 3/93 ECONOMIC FORECASTING
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH LEIBOLD, BRADLEY L. YOUNG, SANDRA E. MARTIN, DAVID C.	No No No No No No No No No	
BANC ONE CAPITAL CORPORATION 10 WEST BROAD STREET SUITE 400 COLUMBUS, OH 43215 Federal Action No.: FDA 033-35148-PM-WAH-L8	EDINLAKE ASSOCIATES ATTENTION: RAYMOND J. CZACHOWSKI 4415 FIFTH AVENUE PITTSBURGH, PA 15213	BEISLER, MARK C. GOODMAN, DAVID L. EWING, CHARLES W., JR. CROFT, JAMES F. ADAMS, JOHN W. GLASSER, TIMOTHY G. MACKOV, LINDA L. ROBERTS, WILLIAM E. BUTLER, SAMUEL J. BOLDEN, LISA J.	No No No No No No No No No Yes	U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT DIRECTOR, SECTION 242 HOSPITAL MORTGAGE INSURANCE PROGRAM (THREE YEARS) JOINED BANC ONE 4/1/93
		CINQUINI, ANTHONY D. MCMULLEN, CAROLYN A.	No Yes	FEDERAL RESERVE BANK OF CHICAGO 12/90 - 3/93 ECONOMIC FORECASTING
		STOCKTON, CHRISTINE A. PETERS, TRACY W. LIM, Y. PRISCILLA KING, JAMES A. BLUHM, ELIZABETH B. KALLMERTEN, R. BARTH LEIBOLD, BRADLEY L. YOUNG, SANDRA E. MARTIN, DAVID C.	No No No No No No No No No	

BROWNSTEIN ZEIDMAN AND LORE 1401 NEW YORK AVENUE, NW SUITE 900 WASHINGTON, DC 20005 Federal Action No.: 012-35634	QUEENS WEST APARTMENTS M.O. ASSOCIATES 200 PARK AVENUE NEW YORK, NY 10166	LORE, KENNETH Q. LEVY, HAROLD A.	No No
DUANE MORRIS HECKSCHER ONE LIBERTY PLACE PHILADELPHIA, PA 19103-7396 Federal Action No.: SECTION 8 FINANCING	PENNROSE PROPERTIES, INC. ONE LIBERTY PLACE SUITE 3010 PHILADELPHIA, PA 19103-7332	ADAMS, BARBARA	No
FOLEY AND LARDNER 1 SOUTH PINCKNEY STREET, SUITE 701 P.O. BOX 1497 MADISON, WI 53701-1497 Federal Action No.: 075-44045-LDF	ASSISI HOMES - ROCK VIEW, INC. 5016 WEST BURLEIGH STREET MILWAUKEE, WI 53210	LAWRENCE, WAYMAN C. RADELET, TIMOTHY J. CROPSEY, DOUGLAS J.	No No No
FOLEY AND LARDNER 1 SOUTH PINCKNEY STREET, SUITE 701 P.O. BOX 1497 MADISON, WI 53701-1497 Federal Action No.: 075-HD009-WPD	MADISON AIDS SUPPORT NETWORK, INC. THE RODNEY SCHEEL HOUSE FOUNDATION, LTD. 303 LATHROP STREET MADISON, WI 53705	RADELET, TIMOTHY J. CROPSEY, DOUGLAS J.	No No
FRANCISCAN MINISTRIES, INC. 26 WEST 171 ROOSEVELT ROAD P.O. BOX 667 WHEATON, IL 60189 Federal Action No.: 075-44045-LDFM8	ASSISI HOMES ROCK VIEW, INC. 121/207 EAST HENRY, 935 S. GAFKE JEFFERSON, WI 53549	CISEK, ROBERT SCHULTZ, PHILLIP JASENSKI, PAUL	No No No
GLUECK ARCHITECTS 116 NORTH FEW STREET MADISON, WI 53703 Federal Action No.: 075-HD009-WPD	MADISON AIDS SUPPORT NETWORK, INC. THE RODNEY SCHEEL HOUSE FOUNDATION, LTD. 303 LATHROP STREET MADISON, WI 53705	GLUECK, JAMES	No
HENNIG AND ASSOCIATES 309 W. WASHINGTON AVENUE, SUITE 345 P.O. BOX 2515 MADISON, WI 53701-2515 Federal Action No.: 075-HD009-WPD	MADISON AIDS SUPPORT NETWORK, INC. THE RODNEY SCHEEL HOUSE FOUNDATION, LTD. 303 LATHROP STREET MADISON, WI 53705	ROSNER, ELLEN	No
KROOTH & ALTMAN 1850 M STREET, NW SUITE 400 WASHINGTON, DC 20036-5803 Federal Action No.: FHA 123-35207	REILLY MORTGAGE GROUP, INC. 2000 CORPORATE RIDGE SUITE 925 MCLEAN, VA 22102	MAZER, MICHAEL E. PERNA, JAMES F. LIBRETTA, DONALD F. SMITH, HARRISON C. SELDON, ROBERT C. OPERT, JON I. ALTMAN, VICTOR A. BARSKY, DAVID A. GEORGE, MARY JO KIJEWSKI, JOSEPH A. TENNANT, WILLIAM G. CLANCY, PATRICK J. VINSTADT, JOHN E. GRESZES, MARIO B. GRONER, FELICIA M. KNOLL, E. JOSEPH ALTMAN, NORMAN S. DELANEY, WILLIAM J. COLE, D. RANDOLPH, JR.	No No No No No No No No No No No No No No No No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 066-44094-LDF	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-44035-LDF	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 073-44008-LDF	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 083-44056	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 043-44055-LDF/SUP	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No

LANDMAN AND BEATTY 1150 MARKET SQUARE CENTER 151 N. DELAWARE STREET INDIANAPOLIS, IN 46204-2518 Federal Action No.: 092-44035-LD	GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240	BEATTY, JAMES W. BEATTY, J. F. MCCARTY, VIRGINIA DILL GULLICK, ROBERT H.	No No No No
LATHAM AND WATKINS 1001 PENNSYLVANIA AVENUE, NW SUITE 1300 SOUTH WASHINGTON, DC 20004-2505 Federal Action No.: 143-94001	RETIREMENT HOUSING FOUNDATION 5150 EAST PACIFIC COAST HIGHWAY SUITE 500 LONG BEACH, CA 90804	KELLY, WILLIAM C., JR.	No
MADISON AIDS SUPPORT NETWORK, INC. 303 LATHROP STREET MADISON, WI 53705 Federal Action No.: 075-HD009-WPD	MADISON AIDS SUPPORT NETWORK, INC. THE RODNEY SCHEEL HOUSE FOUNDATION, LTD. 303 LATHROP STREET MADISON, WI 53705	MOWRY, MARY ALICE	No
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: MA06-K052-013	PHOENIX HOUSE FOUNDATION 164 WEST 74TH STREET NEW YORK, NY 10023	ROSTOW, VICTORIA P.	No
POWELL GOLDSTEIN FRAZER & MURPHY 1001 PENNSYLVANIA AVENUE, NW SUITE 600 WASHINGTON, DC 20004 Federal Action No.: MA06-K052-015	PHOENIX HOUSE FOUNDATION 164 WEST 74TH STREET NEW YORK, NY 10023	ROSTOW, VICTORIA P.	No
THE RODNEY SCHEEL HOUSE FOUNDATION, LTD. 303 LATHROP STREET MADISON, WI 53705 Federal Action No.: 075-HD009-WPD	MADISON AIDS SUPPORT NETWORK, INC. THE RODNEY SCHEEL HOUSE FOUNDATION, LTD. 303 LATHROP STREET MADISON, WI 53705	MOWRY, MARY ALICE	No
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 1200 WASHINGTON, DC 20005 Federal Action No.: 3580	GE CAPITAL ASSET MANAGEMENT CORPORATION 2001 N. BEAUREGARD STREET SUITE 1200 ALEXANDRIA, VA 22311	GOLD, LAURENCE H. SHEARER, ANN B. BRODSKY, JAMES A. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS P.	No No No No No No No No No No No
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005 Federal Action No.: 77706	FLEET MORTGAGE GROUP, INC. 1333 MAIN STREET COLUMBIA, SC 29211	GOLD, LAURENCE H. SHEARER, ANN B. BRODSKY, JAMES A. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS P.	No No No No No No No No No No No
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005 Federal Action No.: 3650	BANK OF AMERICA 555 CALIFORNIA STREET SAN FRANCISCO, CA 94104	GOLD, LAURENCE H. SHEARER, ANN B. BRODSKY, JAMES A. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS P.	No No No No No No No No No No No
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005 Federal Action No.: 1422	BANK OF AMERICA 555 CALIFORNIA STREET SAN FRANCISCO, CA 94104	GOLD, LAURENCE H. SHEARER, ANN B. BRODSKY, JAMES A. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS P.	No No No No No No No No No No No
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005 Federal Action No.: 70406	NATIONAL LOAN SERVICENTER, INC. 11900 BOURNEFIELD WAY SILVER SPRING, MD 20904	GOLD, LAURENCE H. SHEARER, ANN B. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS P.	No No No No No No No No No No

WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005 Federal Action No.: 77763	SPECTRUM FUNDING CORPORATION 11900 BOWNEYIELD WAY SILVER SPRING, MD 20904	GOLD, LAURENCE H. SHEARER, ANN S. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS F.	No No No No No No No No No No
WEINER BRODSKY SIDMAN & KIDER, P.C. 1350 NEW YORK AVENUE, NW SUITE 800 WASHINGTON, DC 20005 Federal Action No.: 1422	BANK OF AMERICA 555 CALIFORNIA STREET SAN FRANCISCO, CA 94104	GOLD, LAURENCE H. SHEARER, ANN S. BRODSKY, JAMES A. WEINER, HARVEY E. ANDREANO, RICHARD J., JR. KIDER, MITCHEL H. MELNICK, RICHARD J. NOEL, LISA M. HALPERN, DON J. LEDNER, SHERRI L. JONES, THOMAS F.	No No No No No No No No No No No
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: MORTGAGE INSURANCE	WELLINGTON RETIREMENT COMMUNITY CORPORATION 147 HENRICK AVENUE, EAST WELLINGTON, OH 44090	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: WILLOWWOOD NURSING HOME	SDRAKA TELLE AND ASSOCIATES, INC. ATTENTION: EDWARD E. TELLE 5025 ARLINGTON CENTRE BOULEVARD, SUITE 520 COLUMBUS, OH 43220	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No
BOCC FUNDING CORPORATION 1750 PRESIDENTS STREET SUITE 200 RESTON, VA 22090 Federal Action No.: PHASE I	NOBLE MANOR APARTMENTS MANK III MANAGEMENT CORPORATION 7321 SHADELAND STATION, SUITE 220 INDIANAPOLIS, IN 46256	ARAOZ, SUSANA S. BEISLER, MARK C. GOODMAN, DAVID L. ADAMS, JOHN W. MACKOV, LINDA L. ROBERTS, WILLIAM E. STOCKTON, CHRISTINE A.	No No No No No No No
DFC GROUP, INC. ATTENTION: ROBERT S. SALOMON, III 7201 WISCONSIN AVENUE, SUITE 620 BETHESDA, MD 20814 Federal Action No.: VA39-P019-051	KUTAK ROCK 1101 CONNECTICUT AVENUE, NW SUITE 600 WASHINGTON, DC 20036	SALOMON, ROBERT S., III	No
DFC GROUP, INC. ATTENTION: ROBERT S. SALOMON, III 7201 WISCONSIN AVENUE, SUITE 620 BETHESDA, MD 20814 Federal Action No.: PROVIDENCE SQUARE	PENNROSE PROPERTIES, INC. ONE LIBERTY PLACE SUITE 3810 PHILADELPHIA, PA 19103-7332	SALOMON, ROBERT S., III	No
DFC GROUP, INC. ATTENTION: ROBERT S. SALOMON, III 7201 WISCONSIN AVENUE, SUITE 620 BETHESDA, MD 20814 Federal Action No.: 085-55009	HOUSING AUTHORITY OF ST. LOUIS COUNTY 8865 NATURAL BRIDGE ROAD ST. LOUIS, MO 63121	SALOMON, ROBERT S., III	No
DFC GROUP, INC. ATTENTION: ROBERT S. SALOMON, III 7201 WISCONSIN AVENUE, SUITE 620 BETHESDA, MD 20814 Federal Action No.: 085-55004	HOUSING AUTHORITY OF ST. LOUIS COUNTY 8865 NATURAL BRIDGE ROAD ST. LOUIS, MO 63121	SALOMON, ROBERT S., III	No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: 067-94011	RETIREMENT CORPORATION OF AMERICA 1000 ABERNATHY ROAD, NE BUILDING 400, SUITE 800 ATLANTA, GA 30328-5603	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 042-94002	INSIGNIA FINANCIAL GROUP 1 INSIGNIA FINANCIAL PLAZA GREENVILLE, SC 29602	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 054-35407	DARBY DEVELOPMENT COMPANY 4142 DORCHESTER ROAD CHARLESTON, SC 29405	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F.	No No No No No

HOLLAND AND KNIGHT (Continued)		NESBITT, LA FONTE STERLING, SCOTT A.	No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: IPO	NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS 1225 EYE STREET, NW WASHINGTON, DC 20005	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 083-94007	AMERICAN DIVERSIFIED DEVELOPMENT 2121 SOUTH GREEN ROAD S. EUCLID, OH 44121	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 000-94079	GRG IMPERIAL-I LIMITED PARTNERSHIP 4833 RUGBY AVENUE BETHESDA, MD 20814	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: ME36-B017-357	WISHCAMPER PROPERTIES, INC. 177 HIGH STREET PORTLAND, ME 04101	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
HOLLAND AND KNIGHT 2100 PENNSYLVANIA AVENUE, NW SUITE 400 WASHINGTON, DC 20037-3202 Federal Action No.: FHA 017-35048	ELK INVESTORS 641 LEXINGTON AVENUE NEW YORK, NY 10022	LEVINE, JERRY DUNNELLS, G. RICHARD NILES, STEPHEN D. PARMET, SUZANNE H. FELTER, CAROLYN F. NESBITT, LA FONTE STERLING, SCOTT A.	No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 066-44094-LDF	CAMBRIDGE SQUARE OF HIALEAH ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	KELLEY, JOE MINNER, JULIE THURSTON, MAX A. WOLFE, CHRISTINE BIESZI, JAMES T. HAGAN, TERRI MACFARLAND, BELENDA DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. SKINNER, MICHELLE EDMONDS, DENNIS BASILE, FRANK M. JONES, STEPHANIE	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 092-44035-LD	CARRIAGE HOUSE ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BIESZI, JAMES T. HAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS FISHER, SHARON MACFARLAND, DOUGLAS BASILE, FRANK M. CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No
GENE B. GLICK COMPANY, INC. D/B/A GENE GLICK MANAGEMENT CORPORATION 8330 WOODFIELD CROSSING BOULEVARD, SUITE 200 INDIANAPOLIS, IN 46240 Federal Action No.: 043-44055-LDF/SUP	COLUMBUS HOUSING ASSOCIATES, L.P. 8330 WOODFIELD CROSSING BOULEVARD SUITE 200 INDIANAPOLIS, IN 46240	MURDOCK, CHARLES THURSTON, MAX A. WOLFE, CHRISTINE BIESZI, JAMES T. HAGAN, TERRI DONNELSON, DEAN COTTRELL, L. JOHN VALINET, STEPHEN L. JACKSON, BEVERLY J. EDMONDS, DENNIS MACFARLAND, DOUGLAS BASILE, FRANK M. KNAPP, SHARON SIMMS, DIANNE CANTRELL, DEAN HOUSTON, KIMBERLY	No No No No No No No No No No No No No No No

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03/28/1995		FLORENCE HOUSING ASSOCIATES, L.P.		
GENE B. GLICK COMPANY, INC. D/B/A		8330 WOODFIELD CROSSING BOULEVARD		
GENE GLICK MANAGEMENT CORPORATION		SUITE 200		
8330 WOODFIELD CROSSING BOULEVARD,	SUITE 200	INDIANAPOLIS, IN 46240		
INDIANAPOLIS, IN 46240				
Federal Action No.: 083-44056				
		CARRIAGE HOUSE OF MISHAWAKA ASSOCIATES I		
GENE B. GLICK COMPANY, INC. D/B/A		8330 WOODFIELD CROSSING BOULEVARD		
GENE GLICK MANAGEMENT CORPORATION		SUITE 200		
8330 WOODFIELD CROSSING BOULEVARD,	SUITE 200	INDIANAPOLIS, IN 46240		
INDIANAPOLIS, IN 46240				
Federal Action No.: 073-44008-LDP				
		CARRIAGE HOUSE OF MISHAWAKA ASSOCIATES II		
GENE B. GLICK COMPANY, INC. D/B/A		8330 WOODFIELD CROSSING BOULEVARD		
GENE GLICK MANAGEMENT CORPORATION		SUITE 200		
8330 WOODFIELD CROSSING BOULEVARD,	SUITE 200	INDIANAPOLIS, IN 46240		
INDIANAPOLIS, IN 46240				
Federal Action No.: 073-44235-LDP				

MCMURTREY, JOYCE			No
HURDOCK, CHARLES			No
THURSTON, MAX A.			No
WOLFE, CHRISTINE			No
BISESI, JAMES T.			No
RAGAN, TERRI			No
CONNELSON, DEAN			No
COTTRELL, L. JOHN			No
VALINET, STEPHEN L.			No
JACKSON, BEVERLY J.			No
EDMONDS, DENNIS			No
MACFARLAND, DOUGLAS			No
BASTLE, FRANK M.			No
SIPHS, DIANNE			No
CANTRELL, DEAN			No
HOUSTON, KIMBERLY			No
MCMURTREY, JOYCE			No
HURDOCK, CHARLES			No
THURSTON, MAX A.			No
WOLFE, CHRISTINE			No
BISESI, JAMES T.			No
RAGAN, TERRI			No
CONNELSON, DEAN			No
COTTRELL, L. JOHN			No
VALINET, STEPHEN L.			No
JACKSON, BEVERLY J.			No
EDMONDS, DENNIS			No
MACFARLAND, DOUGLAS			No
BASTLE, FRANK M.			No
CANTRELL, DEAN			No
HOUSTON, KIMBERLY			No
MCMURTREY, JOYCE			No
HURDOCK, CHARLES			No
THURSTON, MAX A.			No
BISESI, JAMES T.			No
RAGAN, TERRI			No
CONNELSON, DEAN			No
VALINET, STEPHEN L.			No
JACKSON, BEVERLY J.			No
EDMONDS, DENNIS			No
MACFARLAND, DOUGLAS			No
BASTLE, FRANK M.			No
CANTRELL, DEAN			No
HOUSTON, KIMBERLY			No

[FR Doc. 96–3251 Filed 2–13–96; 8:45 am]

BILLING CODE 4210–01–C

federal register

Wednesday
February 14, 1996

Part VI

Department of Labor

Office of Federal Contract Compliance Programs

41 CFR Part 60–741

Individuals With Disabilities; Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Proposed Rule

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–741

RIN 1215–AA84

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Proposed rule.

SUMMARY: The proposal published today would establish regulatory standards for granting "separate facility" waivers from the requirements of section 503 of the Rehabilitation Act of 1973. Section 503 requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. The Rehabilitation Act Amendments of 1992, among other things, amended section 503 to permit contractors and subcontractors to seek a waiver from the requirements of the regulations implementing section 503 for their facilities that are not connected with the performance of a Government contract or subcontract (i.e., "separate facilities"). The 1992 amendments also required the issuance of regulations that set forth the standards to be used for granting such a waiver. The Office of Federal Contract Compliance Programs proposes amending its regulations implementing Section 503 to list those factors that OFCCP will consider when determining whether a "separate facility" waiver might be granted.

DATES: To be assured of consideration, comments must be in writing and must be received on or before April 15, 1996.

ADDRESSES: Comments should be sent to Joe N. Kennedy, Deputy Director, Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue NW., Washington, D.C. 20210.

As a convenience to commenters, OFCCP will accept public comments transmitted by facsimile (FAX) machine. The telephone number of the FAX receiver is (202)219–6195. To assure access to the FAX equipment, only public comments of six or fewer pages will be accepted via FAX transmittal. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling OFCCP at (202)219–9430 (voice), 1(800)326–2577 (TDD).

Comments received in response to this proposed rule will be available for public inspection in OFCCP, Room C–3325, from 9 a.m. to 5 p.m., Monday through Friday, except legal holidays. Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. To schedule an apppointment, call (202)219–9430 (voice) or 1(800)326–2577 (TDD).

FOR FURTHER INFORMATION CONTACT: Joe N. Kennedy, Deputy Director, Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: (202) 219–9475 (voice), 1(800)326–2577 (TDD). Copies of this notice of proposed rulemaking, including copies in alternate formats, may be obtained by calling OFCCP at (202)219–9430 (voice) or 1(800)326–2577 (TDD). The alternate formats available are large print, electronic file on computer disk and audio-tape.

SUPPLEMENTARY INFORMATION:

I. Background

Section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793) (section 503 or the Act), requires parties holding Government contracts and subcontracts in excess of $10,000 to take affirmative action to employ and advance in employment qualified individuals with disabilities. The Department of Labor's Office of Federal Contract Compliance Programs enforces section 503 and has published implementing regulations at 41 CFR part 60–741.

Prior to a recent amendment, section 503(a) provided that Government contracts and subcontracts "shall contain a provision requiring that, *in employing persons to carry out such contract*, the party contracting with the United States shall take affirmative action to employ and advance in employment" qualified individuals with disabilities. (Emphasis added.) OFCCP implemented this provision by applying section 503 requirements to all of the contractor's work force unless the contractor sought, and was granted, a waiver. To clarify the scope of section 503 coverage, including the phrase "to carry out such contract," OFCCP issued a regulation in 1974 that authorized OFCCP to waive the applicability of section 503 for those facilities that were not connected to Government contracts. 39 FR 20566, 20568 (June 11, 1974) (originally codified at 20 CFR 741.25(a)(5)). Such waivers required an advance contractor request and findings by OFCCP that the activities in question were in fact unrelated to Federal contracts. Specifically, the waiver regulation provided as follows:

Facilities not connected with contracts. The Director may waive the requirements of the affirmative action clause with respect to any of a prime contractor's or subcontractor's facilities which he or she finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he or she also finds that such a waiver will not interfere with or impede the effectuation of the Act. Such waiver shall be considered only upon the request of the contractor or subcontractor.

41 CFR 60–741.3(a)(5).

Applying section 503 requirements in this manner was consistent with the scope of coverage under the other two Government contract-based civil rights laws administered by OFCCP. The section 503 separate facility waiver regulation mirrored the waiver provision in section 204 of Executive Order 11246, which imposes nondiscrimination and affirmative action obligations on Federal contractors with regard to race, color, religion, sex, and national origin. 30 FR 12319, 12321 (Sept. 28, 1965). *See also* 41 CFR 60–1.5(b)(2). In addition, the OFCCP regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, 38 U.S.C. 4212, which imposes nondiscrimination and affirmative action obligations on Federal contractors with regard to qualified special disabled veterans and Vietnam era veterans, contain an identical separate facility waiver at 41 CFR 60–250.3(a)(5).

The section 503 separate facility waiver regulation was invalidated, however, by a Federal district court in *Washington Metropolitan Area Transit Authority (WMATA)* v. *DeArment*, 55 EPD ¶ 40,507 (D.D.C. 1991). The court ruled that because the waiver regulation brings all contractor employees within the scope of the Act absent a waiver, the waiver provision was inconsistent with the express language of section 503 that only those employees who "carry out" Federal contracts are covered by the Act. *Contra E.E. Black, Ltd.* v. *Marshall* 497 F. Supp. 1088, 1092 (D. Haw. 1980).

In response to the *WMATA* decision, Congress enacted section 505(a)(2) of the Rehabilitation Act Amendments of 1992, Pub. L. 102–569, 106 Stat. 4344 (the 1992 amendments), to strike the limiting phrase ", in employing persons to carry out such contract," from section 503. This amendment expanded section 503 coverage to all of a contractor's work force at all of its facilities. As indicated in the legislative history of the enactment, the coverage amendment "clarifies that the scope of the obligation under section 503 is parallel to the scope under Executive Order 11246." S. Rep. No. 357, 102d Cong., 2d Sess. 72, *reprinted in* 1992 U.S. Code Cong. & Admin. News 3783.

In addition, "in order to avoid any confusion" regarding the effect of the coverage amendment on the waiver authority set forth in the OFCCP regulations at 41 CFR 60–741.3(a)(5), the 1992 amendments specifically included waiver authority in the legislation. S. Rep. No. 357, at 72 *reprinted in* 1992 U.S. Code Cong. & Admin. News 3783. Section 505(b) of the 1992 amendments codified the separate facility waiver regulation by expressly incorporating it (with minor editorial changes) into section 503. The full text of the waiver amendment, as it appears at section 503(c)(2) (A)–(B), 29 U.S.C. 793(c)(2) (A)–(B), reads as follows:

> (A) The Secretary of Labor may waive the requirements of the affirmative action clause required by the regulations promulgated under [section 503(a)] with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impeded the effectuation of this Act.
>
> (B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.

The affirmative action clause referenced in subsection (c)(2)(A) above appears at 41 CFR 60–741.4 and must be incorporated into all contracts and subcontracts covered by section 503. The clause sets out contractors' basic obligations under the Act, including the obligation to comply with the Act's implementing regulations. Accordingly, a waiver of the requirements of the affirmative action clause is effectively a waiver from the requirements of section 503 and its implementing regulations.

The waiver amendment requires OFCCP to make two separate findings in order to justify granting a waiver. First, as a threshold requirement, OFCCP must find that the facility for which the waiver is sought is in all respects separate and distinct from activities related to the performance of the contractor's Government contract. Second, if the facility is found to satisfy this "separate and distinct" prong, OFCCP must additionally find that the waiver will not interfere with or impede the effectuation of the Act.

II. Summary and Explanation of the Proposed Regulatory Standards

Section 505(b) of the 1992 amendments requires OFCCP to issue regulations that set forth the standards to be used for granting separate facility waivers under section 503. It should be noted that, historically, OFCCP has narrowly construed section 503 waiver provisions and similar waiver provisions under Executive Order 11246 (41 CFR 60–1.5(b)(2)) and VEVRAA (41 CFR 60–250.3(a)(5)). It is OFCCP's intent to continue its longstanding practice of interpreting the regulation narrowly so as to "jealously guard" the granting of waivers. Narrow interpretation of this exemption would be appropriate in light of the remedial nature of the Act and would be in accordance with the Act's purpose to improve employment opportunities for qualified individuals with disabilities. Moreover, such an approach is supported by the discretionary language of the 1992 statutory amendment. The 1992 amendment states that OFCCP "may" grant a waiver when a facility is in all respects separate and distinct and when the waiver would not interfere with or impede the effectuation of the Act, therefore, OFCCP is not compelled to grant a waiver in such circumstances.

OFCCP proposes to delete the current separate facility waiver regulation in 41 CFR 60–741.3(a)(5) and add the proposed separate facility waiver standards in new 41 CFR 60–741.3(b)(3). This reorganization would more logically group the separate facility waiver regulation with the other two waiver provisions under paragraph (b), i.e., waivers when there exist special circumstances in the national interest and waivers essential for national security reasons.

Proposed new paragraph (b)(3)(i) sets forth the general requirements for the granting of separate facility waivers.

Proposed subparagraphs (b)(3)(i) (A) and (B) recite the two threshold requirements codified in the 1992 amendments and present in the current regulation: (a) the facility is in all respects separate and distinct from activities of the contractor related to the performance of a contract; and (B) such a waiver will not interfere with or impede the effectuation of the Act. In compliance with the 1992 amendments, proposed paragraph (b)(3)(i) also indicates that waivers would only be considered by the "Secretary's designee (i.e., the Deputy Assistant Secretary) upon written request by a prime contractor or subcontractor.

Proposed paragraph (b)(3)(i) also specifies that the contractor bears the burden of demonstrating that the granting of a waiver is appropriate. OFCCP believes that this is reasonable because only the contractor knows how it will deploy its resources to perform its Federal contracts. The requesting contractor would have the necessary factual information to support a waiver application, such as information on how the contract will be performed, the contractor's employment practices, and the structure and relationship between the contractor's facilities. Under the proposed rule, the requesting contractor would have the burden of supplying OFCC with relevant supporting material.

Proposed paragraphs (b)(3) (ii) and (iii) contain non-exhaustive lists of factors that may be considered by the Deputy Assistant Secretary in making a decision about whether the contractor has made a sufficient demonstration that the facility meets these standards. As noted above, because the statutory amendment permits OFCCP discretion to deny a waiver even where it finds both criteria are met, it permits OFCCP to consider other factors in determining whether the waiver should be granted.

Proposed paragraph (b)(3)(ii) lists factors that are associated with the question of whether the facility is in all respects separate and distinct from the activities of the contractor or subcontractor related to the performance of a contract. The proposed factors focus on the activities and employees at the facility for which the waiver is requested. The factors listed include: (A) whether any work at the facility supports or contributes to the satisfaction of the work performed on a Government contract or subcontract; (B) whether the facility benefits from a Government contract or subcontract; (C) whether any costs associated with operating the facility are charged to a Government contract or subcontract; (D) whether working at the facility is a prerequisite for advancement in job responsibility or pay; and (E) whether employees or applicants for employment at the facility may perform work related to a Government contract or subcontract or another facility.

The proposal specifies that the factors relating to whether the work performed at the facility supports, contributes to, or benefits from the performance of a contract (subparagraphs (A)–(B)), would include activities directly related to the performance of a contract and indirectly related activities that are necessary to, or facilitate performance of, a contract. Consideration of activities which are necessary to, or facilitate performance of, a contract would reflect the practical reality that the performance of a contract generally requires the cooperation of a variety of individuals engaged in auxiliary and related functions beyond the direct production of the goods or the provision of the services that are the object of a contract.

These indirectly related activities may include, for example: (1) The services of the personnel office responsible for the employees directly performing a Government contract where the personnel services are not carried out at the same facility at which these employees are located; (2) corporate headquarters' management activities relating to a facility directly performing a Government contract; and (3) maintenance of equipment and buildings used in performing a contract where the workers who perform the maintenance are not stationed at the same facility at which the equipment and buildings are located.

Regarding proposed subparagraph (C) relating to whether any costs associated with operating the facility are charged to a Government contract or subcontract, these costs might involve "indirect" costs as well as "direct" costs. OFCCP may consider, for example, whether the cost of positions located at a facility is allocable as either a direct or an indirect cost of a contract under the cost principles set forth in the Federal Acquisition Regulations (FAR) (48 CFR chapter 1). Under the cost allocation principle set forth in FAR 31.201–4, a cost is allocable to a particular Government contract if it: (1) Is incurred specifically for the contract; (2) benefits both the contract and other work, and can be distributed to them in reasonable proportion to the benefits received; or (3) is necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown. A "direct cost" is any cost that is identified specifically with a particular final cost objective (such as a particular contract) and may be charged directly against that contract. FAR 31.202(a). An "indirect cost" is any cost not directly identified with a single final cost objective, but is identified with two or more final cost objectives, or an intermediate cost objective. Indirect costs are accumulated by logical cost groupings, and are then allocated among the final cost objectives included in the groupings on the basis of the benefits accruing to the objectives. FAR 31.203. OFCCP believes that if a contractor or subcontractor is receiving reimbursement from the Government for the costs of a position, then it is reasonable to conclude that the facility at which the position is located is contributing to the performance of the contract, and thus may not be "separate and distinct."

Proposed factors listed in (D) and (E) focus on the relationship between the employees at the facility for which the waiver is sought and facilities performing work on Government contracts. For example, under (D), if employees who work on a Federal contract at one facility must, at some future time, work at another facility for which a waiver is sought in order for them to advance in employment, the facility for which a waiver is sought may be inexorably linked to the employees working on the contract and, therefore, not "separate and distinct." Under (E), OFCCP may consider, for example, whether employees at the facility for which a waiver is sought travel to another site or facility to engage in work related to a Government contract.

As noted above, because the 1992 statutory amendment permits OFCCP discretion to deny a waiver even where it finds both criteria are met, it permits OFCCP to consider other factors in determining whether the waiver should be granted. Proposed subparagraph (b)(3)(ii)(F) notes that the Deputy Assistant Secretary may consider factors not explicitly listed in the regulations when he or she believes such additional factors are necessary or appropriate in determining whether a facility is in all respects separate and distinct.

Proposed paragraph (b)(3)(iii) lists factors that the Deputy Assistant Secretary may consider when determining whether granting a waiver will interfere with or impede the effectuation of the Act. The factors listed include: (A) whether the waiver will be used as a subterfuge to circumvent the contractor's or subcontractor's obligations under the Act or implementing regulations; (B) the extent that the contractor or subcontractor is in compliance with the Act or implementing regulations; and (C) the impact of granting the waiver on OFCCP enforcement efforts.

In determining whether a waiver will be used as a subterfuge to circumvent the contractor's section 503 obligations, the Deputy Assistant Secretary may consider under factor (A), for example, whether the contractor restructured its operations to concentrate its Government contract work in certain facilities, or whether the contractor sought a waiver only after learning that the facility at issue was being scheduled for a section 503 compliance review. Under factor (B), consideration may be given, for example, to the results of any past section 503 complaint investigations or compliance reviews of the facility at issue, or of other facilities of the contractor.

Factor (C) focuses on the impact of granting a waiver on OFCCP enforcement efforts. Under this factor OFCCP might examine, for example, whether granting a waiver would simplify OFCCP's compliance review activity, or would complicate such compliance reviews. Consideration may be given to the expected duration of the contractor's Government contract(s) or subcontract(s), or to whether the contractor or subcontractor is covered by the written affirmative action program requirement under the section 503 regulations (see 41 CFR 60–741.5(a)). OFCCP might also consider under factor (C) that the facility for which the waiver is sought is the largest employer in a small town, or that the number of employees which would be removed from section 503 protection by the issuance of a waiver would be small.

Proposed subparagraph (iii) (D) specifies that the Deputy Assistant Secretary may deem other factors to be necessary and appropriate for considering whether granting a waiver would interfere with or impede the effectuation of the Act.

Proposed paragraph (b)(3)(iv) provides that waivers granted in accordance with paragraph (b)(3) may be withdrawn by the Deputy Assistant Secretary at any time when, in his or her judgment, such action is necessary or appropriate to achieve the purposes of the Act. A similar regulation providing for withdrawals of waivers is contained in current 41 CFR 60–741.3(c). Withdrawals of waivers would be appropriate when, for example, the contractor's operations has changed since the granting of the waiver and the facility is no longer in all respects separate and distinct from activities related to the performance of a contract. In addition, withdrawal of a waiver would be appropriate if OFCCP subsequently determines that the relevant facts upon which it relied in granting the waiver did not accurately or fully describe the relationship between the facility and the contractor's activities related to the performance of a contract. OFCCP may also determine that the waiver, in fact, interferes with or impedes the effectuation of the Act, as described above.

III. Regulatory Analyses

Executive Order 12866

The Secretary of Labor has determined that this proposed rule is not a significant regulatory action as defined in Executive Order 12866, and therefore a regulatory impact analysis is not required.

Regulatory Flexibility Act

The proposed rule, if promulgated, will not change existing obligations for Federal contractors and will only permit waivers to be sought by contractors large enough to have facilities which are in all respects separate and distinct from the activities of the contractor related to the performance of a contract. Consequently, we certify that the rule will not have a significant economic impact on a substantial number of small business entities. Therefore, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This proposed rule does not contain substantive or material modifications to previously approved information collection requirements, but will only clarify existing requirements for Federal contractors who request "separate facility" waivers. In view of this fact, and because the proposed rule does not change existing obligations for Federal contractors, the proposed rule creates no additional paperwork requirements above those contained in the current Information Collection Report (1215–0072), which has been approved by the Office of Management and Budget.

List of Subjects in 41 CFR Part 60–741

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Handicapped, Individuals with disabilities, Investigations, Reporting and recordkeeping requirements.

Signed at Washington, D.C. this 8th day of February 1996.

Robert B. Reich,

Secretary of Labor.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

Shirley J. Wilcher,

Deputy Assistant Secretary for Federal Contract Compliance.

Accordingly, Title 41 of the Code of Federal Regulations, Part 60–741 is proposed to be amended as follows:

PART 60–741—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR HANDICAPPED WORKERS

1. The authority citation for part 60–741 is revised to read as follows:

Authority: Sec. 503, Pub. L. 93–112, 87 Stat. 393 (29 U.S.C. 793), as amended by sec. 111, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706); sec. 103(d)(2)(B), Pub. L. 99–506, 100 Stat. 1810, 1843, 1844 (29 U.S.C. 706); sec. 9, Pub. L. 100–259, 102 Stat. 31–32 (29 U.S.C. 706); sec. 512, Pub. L. 101–336, 104 Stat. 377 (29 U.S.C. 706); sec. 505, Pub. L. 102–569, 106 Stat. 4427–28 (29 U.S.C. 793); and E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

§ 60.741.3 [Amended]

2. In § 60–741.3, paragraph (a)(5) is removed.

3. A new paragraph (b)(3) is added to § 60–741.3 to read as follows:

§ 60–741.3 Coverage and waivers.

* * * * *

(b) * * *

(3) *Facilities not connected with contracts.*

(i) Upon the written request of the contractor, the Deputy Assistant Secretary may waive the requirements of the equal opportunity clause with respect to any of a contractor's facilities if the Deputy Assistant Secretary finds that the contractor has demonstrated that:

(A) The facility is in all respects separate and distinct from activities of the contractor related to the performance of a contract; and

(B) Such a waiver will not interfere with or impede the effectuation of the Act.

(ii) The Deputy Assistant Secretary's findings as to whether the facility is separate and distinct in all respects from activities of the contractor related to the performance of a contract may include consideration of the following factors:

(A) Whether any work at the facility directly or indirectly supports or contributes to the satisfaction of the work performed on a Government contract;

(B) The extent to which the facility benefits, directly or indirectly, from a Government contract;

(C) Whether any costs associated with operating the facility are charged to a Government contract;

(D) Whether working at the facility is a prerequisite for advancement in job responsibility or pay;

(E) Whether employees or applicants for employment at the facility may perform work related to a Government contract at another facility; and

(F) Such other factors that the Deputy Assistant Secretary deems are necessary or appropriate for considering whether the facility is in all respects separate and distinct from the activities of the contractor related to the performance of a contract.

(iii) The Deputy Assistant Secretary's findings as to whether granting a waiver will interfere with or impede the effectuation of the Act may include consideration of the following factors:

(A) Whether the waiver will be used as a subterfuge to circumvent the contractor's obligations under the Act;

(B) The section 503 compliance status of the contractor;

(C) The impact of granting the waiver on OFCCP enforcement efforts; and

(D) Such other factors that the Deputy Assistant Secretary deems are necessary or appropriate for considering whether the granting of the waiver would interfere with or impede the effectuation of the Act.

(iv) When a waiver has been granted for facilities not connected to a Government contract in accordance with paragraph (b)(3) of this section, the Deputy Assistant Secretary may at any time withdraw the waiver when in his or her judgment such action is necessary or appropriate to achieve the purposes of the Act.

* * * * *

[FR Doc. 96–3277 Filed 2–13–96; 8:45 am]

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Part VII

Department of Education

Inviting Applications for Designation as an Eligible Institution for Fiscal Year 1996 for the Strengthening Institutions, Hispanic-serving Institutions, and Endowment Challenge Grant Programs; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.031A, CFDA No. 84.031G]

Notice Inviting Applications for Designation as an Eligible Institution for Fiscal Year 1996 for the Strengthening Institutions, Hispanic-serving Institutions (HSIs), and Endowment Challenge Grant Programs

Purpose: Institutions of higher education must meet specific statutory and regulatory requirements to be designated eligible to receive funds under the Strengthening Institutions, HSI, and Endowment Challenge Grant Programs, authorized, respectively, under Part A, Section 316, and Part C of Title III of the Higher Education Act of 1965, as amended (HEA).

Beginning in Fiscal Year 1995, the Department of Education (Department) instituted biennial grant award competitions under both the Strengthening Institutions and HSI Programs. Under the biennial grant award competition system, an institution applied in Fiscal Year 1995 to be considered for either a Fiscal Year 1995 or Fiscal Year 1996 grant award. As part of that system, no new grant award applications would be accepted for Fiscal Year 1996 grant awards under either program. (See the **Federal Register** of March 7, 1995, 60 FR 12543, for the Strengthening Institutions Program Fiscal Year 1995 closing date notice and the **Federal Register** of March 23, 1995, 60 FR 15448, for the HSI Program Fiscal Year 1995 closing date notice.)

Under the biennial grant award competition system, field readers evaluated and ranked all applications for both the Strengthening Institutions and HSI Programs. An application not selected for funding under the Fiscal Year 1995 grant award competition would be selected for funding under the Fiscal Year 1996 grant award competition based upon the rank order score it received in the field reader evaluation and ranking, and available funds.

The biennial grant award competition system has the following institutional eligibility implications. To receive a new grant in Fiscal Year 1996 under either the Strengthening Institutions or HSI Program, an institution must submit a Title III eligibility application to the Department by the deadline dates set forth in this notice and must qualify as an eligible institution under this notice. However, interested institutions are advised that as of the date of this notice, Congress has not appropriated sufficient funds in Fiscal Year 1996 to fund new grants under either program.

The Endowment Challenge Grant Program is not under the biennial grant award system. Thus, if an institution of higher education wishes to apply for a new grant under a Fiscal Year 1996 funding competition, unless it is an Historically Black College or University, it must submit a Title III eligibility application to the Department by the deadline dates set forth in this notice and must qualify as an eligible institution under this notice. However, interested institutions are advised that as of the date of this notice, Congress has not appropriated any Endowment Challenge Grant Program funds for Fiscal Year 1996.

Additionally, institutions that wish to be considered for waivers of certain non-Federal share requirements under the Federal Work-Study (FWS) or Federal Supplemental Educational Opportunity Grant (FSEOG) Programs authorized under Title IV of the HEA must submit a Title III eligibility application to the Department by the deadline dates set forth in this notice and must qualify as an eligible institution under this notice. Qualified institutions may receive these waivers even if they are not recipients of grants funds under Title III.

Notwithstanding the absence of funding for new awards in Fiscal Year 1996, if an institution is interested in obtaining eligibility for purposes of receiving a new grant under the Strengthening Institutions or HSI Programs, applying for a new grant under the Endowment Challenge Grant Program, or receiving a waiver of the non-federal share under FWS or FSEOG Programs, it must submit its Title III eligibility application to the Department by June 3, 1996. However, if an institution submits its application by April 30, 1996, the Department will notify the applicants of its eligibility status by May 31, 1996. An applicant that believes it failed to be designated as an eligible institution because of errors in its application or insufficient information in its waiver request may submit an amended application to the Department no later than June 21, 1996.

If an applicant submits its initial application after April 30, 1996 but on or before June, 1996, the Department does not guarantee that it can review this delayed application and notify the applicant in time to allow revisions to the application by the June 21, 1996 deadline date for amended applications.

Deadline for Transmittal of Applications: April 30, 1996 for early applications, June 3, 1996 for all initial applications, and June 21, 1996 for amended applications.

Applications Available: March 15, 1996.

Eligibility Information: To qualify as an eligible institution under the Strengthening Institutions and Endowment Challenge Grant Programs, an applicant must (1) be accredited or preaccredited by a nationally recognized accrediting agency; (2) be legally authorized by the State in which it is located to be a junior or community college or to provide a bachelor's degree program; and (3) have a high enrollment of needy students. In addition, its educational and general (E&G) expenditures per full-time equivalent (FTE) undergraduate student must be low in comparison with the average E&G expenditures per FTE undergraduate student of institutions that offer similar instruction. The complete eligibility requirements are found in the Strengthening Institutions Program regulations, 34 CFR §§ 607.2–607.5, as revised in the **Federal Register** on August 15, 1994 (59 FR 41914, 41922).

Enrollment of Needy Students: Under 34 CFR § 607.3(a), an institution is considered to have a high enrollment of needy students if—(1) at least 50 percent of its degree students received financial assistance under one or more of the following programs: Pell Grant, Supplemental Educational Opportunity Grant, College Work Study, or Perkins Loan Program; or (2) the percentage of its undergraduate degree students who were enrolled on at least a half-time basis and received Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Pell Grants at comparable institutions that offer similar instruction. To qualify under this latter criterion, an institution's Pell Grant percentage for base year 1993–94 must be more than the median for its category of comparable institutions provided on the table in this notice.

E&G Expenditures Per FTE Student: An institution should compare its average E&G expenditure/FTE student to the average E&G expenditure/FTE student for its category of comparable institutions contained in the table in this notice. If the institution's average E&G expenditure for the 1993–94 base year is less than the average for its category of comparable institutions, it meets this eligibility requirement.

The institution's E&G expenditures are the total amount it expended during the base year for instruction, research, public service, academic support, student services, institutional support, operation and maintenance, scholarships and fellowships, and mandatory transfers.

The following table identifies the relevant median Pell Grant percentages and the average E&G expenditures per FTE student for the four categories of comparable institutions:

	Median Pell grant percentage	Average E&G per FTE student
2-year Public Institutions	31.58	$6,044
2-year Non-Profit Private Institutions	30.76	$8,839
4-year Public Institutions	28.87	$14,716
4-year Non-Profit Private Institutions	29.00	$21,012

Waiver Information: Institutions of higher education that are unable to meet the needy student enrollment requirement or the E&G expenditure requirement may apply to the Secretary for waivers of these requirements, as described in 34 CFR §§ 607.3(b) and 607.4(c) and (d). As discussed in the preamble to the final regulations published in the **Federal Register** on August 15, 1994 (59 FR 41914–41917), the Secretary has developed a set of more specific instructions relating to the waiver provisions for institutions unable to meet the needy student enrollment requirement. Institutions requesting a waiver of this requirement must include detailed information as set forth in the instructions for completing the application.

Under the waiver authority provided in 34 CFR § 607.3(b)(2), an institution must demonstrate that at least 30 percent of the students it served in base year 1993–94 were from low-income families. The regulations define "low-income" as an amount that does not exceed 150 percent of the amount equal to the poverty level as established by the U.S. Bureau of the Census, 34 CFR § 607.3(c). For the purposes of this waiver provision, the following table sets forth the low-income levels for the various sizes of families:

Base Year Low-Income Levels

Size of family unit	Contiguous 48 States, the District of Columbia, and outlying jurisdictions	Alaska	Hawaii
1	$6,970	$8,700	$8,040
2	9,430	11,780	10,860
3	11,890	14,860	13,680
4	14,350	17,940	16,500
5	16,810	21,020	19,230
6	19,270	24,100	22,140
7	21,730	27,180	24,960
8	24,190	30,260	27,780

For family units with more than eight members add the following amount for each additional family member: $2,460 for the contiguous 48 states, the District of Columbia and outlying jurisdictions; $3,080 for Alaska; and $2,820 for Hawaii.

The figures shown as low-income levels represent amounts equal to 150 percent of the family income levels established by the U.S. Bureau of the Census for determining poverty status. The Census levels were published by the U.S. Department of Health and Human Services in the **Federal Register** on February 12, 1993 (58 FR 8287–8289). In reference to the waiver option specified in § 607.3(b)(4) of the regulations, information about "metropolitan statistical areas" may be obtained by requesting the *Metropolitan Statistical Areas*, 1993, order number PB93–192664, from the National Technical Information Services, Document Sales, 5285 Port Royal Road, Springfield, Virginia 22161, telephone number (703) 487–4650. There is a charge for this publication. For general information about "metropolitan statistical areas," institutions of higher education may contact the Strengthening Institutions Program Branch.

Applicable Regulations: Regulations applicable to the eligibility process include: (a) The Strengthening Institutions Program Regulations in 34 CFR Part 607, as revised in the **Federal Register** on August 15, 1994 (59 FR 41914); (b) the Endowment Challenge Grant Program Regulations in 34 CFR Part 628; and (c) the Education Department General Administrative Regulations in 34 CFR Parts 74, 75, 77, 82, 85, and 86.

For Applications or Information Contact: Strengthening Institutions Program Branch, Division of Institutional Development, U.S. Department of Education, 600 Independence Avenue, S.W., (Suite 600–C, Portals Building), Washington, D.C. 20202–5335. Telephone: (202) 708–8839. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register.**

Program Authority: 20 U.S.C. 1057, 1059c and 1065a.

Dated: February 9, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–3320 Filed 2–13–96; 8:45 am]

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Part VIII

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 201 and 369
Over-the-Counter Drug Products Containing Phenylpropanolamine; Required Labeling; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201 and 369

[Docket No. 95N–0060]

Over-the-Counter Drug Products Containing Phenylpropanolamine; Required Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing new warning labeling for all over-the-counter (OTC) drug products containing phenylpropanolamine preparations (phenylpropanolamine bitartrate, phenylpropanolamine hydrochloride, and phenylpropanolamine maleate). Phenylpropanolamine is a sympathomimetic drug that is used in OTC weight control, cough-cold, nasal decongestant, and allergy drug products. The warnings will advise consumers not to take more than the recommended dose of phenylpropanolamine, not to take phenylpropanolamine with certain prescription drugs, and not to take phenylpropanolamine under certain conditions. The warnings will also advise consumers that they should not take a phenylpropanolamine drug product with any other drug product containing the ingredients phenylpropanolamine, phenylephrine, pseudoephedrine, or ephedrine, which are sympathomimetic drugs commonly found in allergy, asthma, cough-cold, nasal decongestant, and weight control drug products. These drugs could be harmful if taken together.

DATES: Submit comments on the proposed regulation by May 14, 1996. Written comments on the agency's economic impact determination by May 14, 1996. FDA is proposing that any final rule based on this proposal be effective 6 months after the date of its publication in the **Federal Register**.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2304.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 9, 1976 (41 FR 38312), the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products (Cough-Cold Panel) recommended that phenylpropanolamine be classified in Category I (generally recognized as safe and effective, and not misbranded) for nasal decongestant use at adult oral dosages equivalent to the following phenylpropanolamine hydrochloride dosages: 25 milligrams (mg) every 4 hours (h) or 50 mg every 8 h, not to exceed 150 mg in 24 h (41 FR 38312 at 38420). The agency has allowed these dosages for phenylpropanolamine hydrochloride for OTC cough-cold use and is including these dosages in this proposal. The **Federal Register** of February 26, 1982 (47 FR 8466), the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel) recommended that phenylpropanolamine hydrochloride be classified as Category I for weight control use in adult oral dosages of 25 to 50 mg, not to exceed 150 mg daily. As discussed below, the agency has limited OTC phenylpropanolamine hydrochloride dosages for weight control to 75 mg daily and, based on its indication for use, is including that dosage in this proposal.

After the Miscellaneous Internal Panel completed its report, the agency became award of studies indicating that certain dosages of phenylpropanolamine cause blood pressure elevation. These studies were discussed in the preamble to the advance notice of proposed rulemaking for OTC weight control drug products (47 FR 8466 through 8468). At that time, the agency specifically requested comments and information on the extent to which phenylpropanolamine induces or aggravates hypertension. The agency also stated that it would not allow any increase in OTC weight control dosages above those currently permitted: An immediate-release dose of up to 37.5 mg and a time-release dose of up to 75 mg phenylpropanolamine, with the total daily dose not to exceed 75 mg in either case.

Many comments were submitted in response to the agency's request for information concerning the safety of phenylpropanolamine. Some comments requested that phenylpropanolamine be removed from the OTC drug market because of its association with increased blood pressure and other adverse effects. Other comments contended that phenylpropanolamine is safe for OTC use.

After preliminary evaluation of the information submitted by these comments, FDA determined that phenylpropanolamine produces hemodynamic effects (raises blood pressure), but that the data were inadequate to respond to the agency's safety concerns. Subsequently, in meetings with industry on December 2, 1983, and April 11, 1984, the agency discussed its requirements for adequate studies to address this concern about phenylpropanolamine (Refs. 1 and 2). The agency concluded that data were required to: (1) Determine if phenylpropanolamine plays any role in adverse events such as stroke or seizure and other serious adverse reactions that have been reported in association with this drug, and (2) provide information on other possible risk factors (e.g., age, hypertension, concomitant drug use, or disease conditions) associated with phenylpropanolamine use.

In response to the agency's request for data and information, drug manufacturers submitted new dose-response studies designed to investigate the blood pressure effects of phenylpropanolamine. After reviewing all available information, FDA remains concerned about the possibility that phenylpropanolamine used in OTC drug products might increase the risk of hemorrhagic stroke (Ref. 3). The possible risk of stroke is suggested by a relatively small number of spontaneous reports (published and unpublished) of intracranial bleeding, typically in young, female users of phenylpropanolamine weight control drug products, and by the known ability of phenylpropanolamine to transiently increase blood pressure (Ref. 4). A possible mechanism of these reported events, if indeed they are caused by phenylpropanolamine, is an exaggerated hypertensive response, although in most cases no large elevation in blood pressure was detected in association with the hemorrhage. Based on the available data, the agency cannot rule out the possibility that phenylpropanolamine may increase the risk of stroke. This possible risk could be further increased if the recommended dose of phenylpropanolamine was inadvertently exceeded, e.g., taken from two products labeled for different uses.

Because of these concerns, in 1994 the OTC drug industry initiated a large-scale, population-based epidemiologic study of the relationship between OTC phenylpropanolamine drug products and the incidence of hemorrhagic stroke (Ref. 5). However, the study is not expected to be completed until 1998.

The agency believes this study will provide a sufficiently large data base to help determine whether the incidence of stroke associated with ingestion of phenylpropanolamine is greater than the spontaneous rate of stroke, i.e., the rate that would be expected to occur in a similar population not using the drug. The agency does not believe, however, based on information currently available, that phenylpropanolamine used in OTC weight control drug products represents a substantial public health risk. The agency, therefore, does not believe that it is necessary to remove phenylpropanolamine weight control drug products from the OTC market while additional data are being obtained.

While this study is being conducted, the OTC drug industry has proposed additional labeling for OTC phenylpropanolamine weight control drug products to help ensure that their use is confined to adults and that the recommended dose is not exceeded (Ref. 6). Industry's proposal includes a new warning that states: "If nervousness, dizziness, sleeplessness, palpitations, or headache occur, stop using this medication and consult your physician." The proposal also includes a new, separate drug interaction precaution that states:

DRUG INTERACTION PRECAUTION: If you are taking a cough-cold or allergy medication containing any form of phenylpropanolamine, or any type of nasal decongestant, do not take this product. Do not take this product if you are taking any prescription drug, except under the advice and supervision of a physician. Do not use this product if you are presently taking a prescription monoamine oxidase inhibitor (MAOI) for depression or for two weeks after stopping use of an MAOI without first consulting a physician.

In addition, the OTC drug industry's proposal includes a warning that states "Persons between 12 and 18 are advised to consult their physician before using this product." The agency believes that people under 18 years of age should not use an OTC weight control drug product unless specifically directed by a doctor and is modifying that statement in § 201.321(c)(1) of this proposal.

In considering these proposals, the agency notes that the Miscellaneous Internal Panel stated that ingestion of phenylpropanolamine can be expected to cause vasoconstriction, bronchodilation, and tachycardia, because of its alpha and beta adrenergic effects. Large doses would be expected to cause anxiety, excitement, insomnia, headache, cardiac arrhythmias, convulsions, and circulatory collapse (47 FR 8466 at 8474). The Miscellaneous Internal Panel was concerned that a person might ingest a dose of phenylpropanolamine to reduce nasal congestion and another dose from a different product for weight control, and that the combined doses might have adverse effects. Accordingly, the Miscellaneous Internal Panel recommended a warning statement concerning this possibility on all drug products containing phenylpropanolamine, and included the following language in its monograph for OTC weight control drug products (47 FR 8475): "If you are taking a cough-cold or allergy medication containing any form of phenylpropanolamine, do not take this product."

Many manufacturers of OTC phenylpropanolamine weight control drug products have voluntarily included this warning in product labeling following publication of the Miscellaneous Internal Panel's report. However, the rulemakings for OTC phenylpropanolamine nasal decongestant and weight control drug products will not be completed until after the phenylpropanolamine epidemiologic study is completed and the data assessed. The agency believes that implementation of these warnings should not await the completion of these monograph proceedings, but that a warning should be required on all OTC phenylpropanolamine drug products at this time.

Similarly, because phenylpropanolamine is a sympathomimetic drug (affects the central nervous system, cardiovascular system, and basal metabolic rate), the agency believes that phenylpropanolamine should not be used simultaneously with other sympathomimetic drugs, e.g., pseudoephedrine, ephedrine, or phenylephrine, that would have similar effects on the body. The agency believes that labeling OTC phenylpropanolamine drug products should advise consumers to avoid use while they are using any other sympathomimetic drugs.

FDA concurs with the industry's labeling proposals but has broadened the labeling to include other sympathomimetic drug ingredients and the kinds of products in which they are used. FDA has sufficient concern that adverse reactions could occur from taking phenylpropanolamine in different drug products or from combining sympathomimetic drugs; thus, this information should be included in the "Warnings" statement.

In the final rule for OTC nasal decongestant drug products, published in the **Federal Register** of August 23, 1994 (59 FR 43386), the agency included a drug interaction precaution statement regarding the use of sympathomimetic drugs in combination with MAOI drugs. That statement (in § 341.80(c)(1)(i)(D)) (21 CFR 341.80(c)(1)(i)(D) includes certain conditions (i.e., depression, psychiatric or emotional conditions, Parkinson's disease) for which MAOI drugs are used. A similar statement (but not listing Parkinson's disease) appears in § 341.80(c)(1)(ii)(D) for products labeled for children under 12 years of age. Products labeled for both adults and children under 12 years of age use the statement in paragraph (c)(1)(i)(D). In addition, the statement instructs consumers to consult a health professional if they are uncertain that they are using an MAOI drug. The agency is proposing a shortened version of this precaution statement in the labeling approach used in this current proposal. The agency is asking for comments on how to further shorten or improve this precaution statement. If a shortened version is eventually incorporated in a final rule, the agency will revise § 341.80 accordingly at that time.

II. References

The following information has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

(1) Memorandum of meeting between Industry and FDA Personnel, December 2, 1983, coded MM0002, Docket No. 81N–0022, Dockets Management Branch.

(2) Memorandum of meeting between Industry and FDA Personnel, April 11, 1984, coded MM0003, Docket No. 81N–0022, Dockets Management Branch.

(3) Comment No. LET86, Docket No. 81N–0022, Dockets Management Branch.

(4) Blackburn, G.L. et al., "Determinants of the Pressor Effect of Phenylpropanolamine in Healthy Subjects," *Journal of the American Medical Association*, 261:3267–3271, 1989, in Comment No. C94, Vol. 6, Docket No. 81N–0022, Dockets Management Branch.

(5) Comment No. MM11, Docket No. 81N–0022, Dockets Management Branch.

(6) Comment No. C107, Docket No. 81N–0022, Dockets Management Branch.

III. The Agency Proposal

The agency is proposing to amend part 201 (21 CFR part 201) by adding new § 201.321 entitled: "Over-the-counter drugs containing phenylpropanolamine as an active ingredient; required warnings." This section would require new warnings for all OTC drug products containing phenylpropanolamine. The agency has made an effort to shorten and simplify the labeling by combining the warnings and drug interaction precautions under

four new headings in the "Warnings" section. Manufacturers can use bullets or other identifying marks to emphasize the warnings. The format of the "Warnings" section of the product's labeling might look something like the following:

DO NOT TAKE MORE THAN (these words in bold print and capital letters) 75 milligrams per day (24 hours). Taking more can be harmful. DO NOT TAKE IF (these words in bold print and capital letters) you have

- Heart or thyroid disease
- High blood pressure
- An enlarged prostrate gland

Unless directed by a doctor.

STOP USING IF (these words in bold print and capital letters) you develop

- Nervousness
- Dizziness
- Sleeplessness
- Headache
- Palpitations.

If symptoms continue, ask a doctor. DO NOT USE WITH (these words in bold print and capital letters)

- A monoamine oxidase inhibitor (MAOI) (certain drugs for depression, psychiatric or emotional conditions, or Parkinson's disease), or for 2 weeks after stopping the MAOI drug. If unsure, ask a health professional.
- Any allergy, asthma, cough-cold, nasal decongestant, or weight control product (containing phenylpropanolamine, phenylephrine, pseudoephedrine, or ephedrine), or any prescription drug, unless directed by a doctor.

The agency is proposing this format as an example of how this warning information might be presented in a clearer and more readable way. The agency is currently considering a new standardized format for the labeling of all OTC drug products. (See the **Federal Register** of August 16, 1995, 60 FR 42578). Thus, the format proposed in this document may change in the future as a format is developed to label all classes of OTC drug products. At this time, the agency is primarily seeking specific comment on the wording of the proposed warnings for phenylpropanolamine. Comments on the labeling format will also be considered. As discussed below, the agency is encouraging manufacturers to implement this proposed labeling for their phenylpropanolamine drug products as soon as possible. The agency's proposed labeling format or any similar format would be acceptable to use at this time.

The agency is aware that the labeling proposed by the OTC drug industry is currently being used by some manufacturers of OTC phenylpropanolamine weight control drug products. FDA encourages manufacturers of all OTC drug products containing phenylpropanolamine to implement the agency's proposed labeling statements voluntarily as soon as possible, subject to the possibility that FDA may change the wording of the statements, or not require the statements, as a result of comments filed in response to this proposal. Because FDA is encouraging that the proposed labeling statements be used on a voluntary basis at this time, the agency advises that manufacturers will be given ample time after publication of a final rule based on this proposal to use up any labeling implemented in conformance with this proposal. The agency considers these warnings to be important to the safe use of OTC drug products containing phenylpropanolamine. Therefore, the agency proposes that this new labeling become effective 6 months after the date of publication of the final rule in the **Federal Register**. The agency proposes to revoke the existing warning statements in § 369.20 (21 CFR 369.20) for "NASAL PREPARATIONS: VASOCONSTRICTORS," and "PHENYLPROPANOLAMINE HYDROCHLORIDE PREPARATIONS, ORAL" at the time that any final rule based on this proposal becomes effective.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and, thus, is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed rule will require some relabeling for products containing phenylpropanolamine. This relabeling will impose direct one-time costs that are expected to be minimal. Accordingly, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on manufacturers of drug products containing phenylpropanolamine. Comments regarding the impact of this rulemaking on OTC phenylpropanolamine drug products should be accompanied by appropriate documentation. A period of 90 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

Paperwork Reduction Act of 1995

FDA tentatively concludes that the labeling requirements proposed in this document are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the proposed warning statements are a "public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

VI. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment not an environmental impact statement is required.

VII. Request for Comments

Interested persons may, on or before May 14, 1996, submit written comments on the proposed regulation to the Dockets Management Branch (address above). Written comments on the agency's economic impact determination may be submitted on or before May 14, 1996. Three copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 369

Labeling, Medical devices, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 201 and 369 be amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR Part 201 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 508, 510, 512, 530–542, 701, 704, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 358, 360, 360b, 360gg–360ss, 371, 374, 379e); secs. 215, 301, 351, 361 of the Public Health Service Act (42 U.S.C. 216, 241, 262, 264).

2. New § 201.321 is added to subpart G to read as follows:

§ 201.321 Over-the-counter drugs containing phenylpropanolamine as an active ingredient; required labeling.

(a) Phenylpropanolamine is a sympathomimetic drug used in both over-the-counter (OTC) weight control and nasal decongestant (cough-cold) drug products. The Food and Drug Administration is concerned that adverse reactions could occur if a consumer inadvertently ingests excessive amounts of phenylpropanolamine by taking a weight control and a cough-cold drug product containing phenylpropanolamine concurrently, or by taking products containing phenylpropanolamine and another sympathomimetic drug (nasal decongestant or bronchodilator) concurrently. In addition, because phenylpropanolamine is a sympathomimetic ingredient that interacts with monoamine oxidase inhibitor drugs and can cause serious adverse effects, the two types of drugs should not be taken concurrently. Further, phenylpropanolamine should not be used by persons with high blood pressure, heart or thyroid disease, or diabetes.

(b) Any allergy, cough-cold, or nasal decongestant drug product containing phenylpropanolamine bitartrate, phenylpropanolamine hydrochloride, or phenylpropanolamine maleate as an active ingredient in an oral dosage form for OTC use as described in paragraph (a) of this section is misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act (the act) unless its labeling bears the following statements under the heading "WARNINGS:"

(1) *For oral nasal decongestants labeled for adults only or for both adults and children under 12 years of age.*

(i) "DO NOT TAKE MORE THAN" (these five words in bold print and capital letters) (insert maximum 150 mg daily adult dose in a 24-hour period or maximum children's doses broken down by age groups, expressed in units such as capsules or teaspoonfuls) "per day (24 hours). Taking more can be harmful."

(ii) "DO NOT TAKE IF" (these four words in bold print and capital letters) "you have heart or thyroid disease, high blood pressure, or an enlarged prostate gland, unless directed by a doctor." (Information may be indented and/or preceded by a bullet or other identifying mark.)

(iii) "STOP USING IF" (these three words in bold print and capital letters) "you develop nervousness, dizziness, sleeplessness, headache, or palpitations. If symptoms continue, ask a doctor." (Information may be indented and/or preceded by a bullet or other identifying mark.)

(iv) "DO NOT USE WITH" (these four words in bold print and capital letters) (a) "a monoamine oxidase inhibitor (MAOI) (certain drugs for depression, psychiatric or emotional conditions, or Parkinson's disease), or for 2 weeks after stopping the MAOI drug. If unsure, ask a health professional." (b) "any allergy, asthma, cough-cold, nasal decongestant, or weight control product (containing phenylpropanolamine, phenylephrine, pseudoephedrine, or ephedrine), or any prescription drug, unless directed by a doctor." (Statements (a) and (b) under this heading may be indented and/or preceded by a bullet or other identifying mark.)

(2) *For oral nasal decongestants labeled only for children under 12 years of age.* The same labeling of the product contains the same warnings identified in paragraph (b)(i) of this section except that the words "or Parkinson's disease" under "DO NOT USE WITH" may be deleted.

(c) Any weight control drug product containing phenylpropanolamine bitartrate, phenylpropanolamine hydrochloride, or phenylpropanolamine maleate as an active ingredient in an oral dosage form for OTC use as described in paragraph (a) of this section is misbranded within the meaning of section 502 of the act unless its labeling bears the following statements under the heading "WARNINGS:"

(1) "For use by people 18 years of age and older."

(2) "DO NOT TAKE MORE THAN" (these five words in bold print and capital letters) (insert maximum 75 mg daily dose in a 24-hour period, expressed in units such as capsules or tablets) "per day (24 hours). Taking more WILL NOT (these two words in bold print and capital letters) increase weight loss and can be harmful."

(3) "DO NOT TAKE IF" (these four words in bold print and capital letters) "you have heart or thyroid disease, high blood pressure, or an enlarged prostate gland, unless directed by a doctor." (Information may be indented and/or preceded by a bullet or other identifying mark.)

(4) "STOP USING IF" (these three words in bold print and capital letters) "you develop nervousness, dizziness, sleeplessness, headache, or palpitations. If symptoms continue, ask a doctor." (Information may be indented and/or preceded by a bullet or other identifying mark.)

(5) "DO NOT USE WITH" (these four words in bold print and capital letters) (a) "a monoamine oxidase inhibitor (MAOI) (certain drugs for depression, psychiatric or emotional conditions, or Parkinson's disease), or for 2 weeks after stopping the MAOI drug. If unsure, ask a health professional." (b) "any allergy, asthma, cough-cold, nasal decongestant, or weight control product (containing phenylpropanolamine, phenylephrine, pseudoephedrine, or ephedrine), or any prescription drug, unless directed by a doctor." (Statements (a) and (b) under this heading may be indented and/or preceded by a bullet or other identifying mark.)

(d) After (date 6 months after date of publication of the final rule in the **Federal Register**), any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce, or any such drug product that is repackaged or relabeled after this date regardless of the date the product was manufactured, initially introduced, or initially delivered for introduction into interstate commerce, that is not in compliance with this section is subject to regulatory action.

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

3. The authority citation for 21 CFR part 369 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701 of the Federal Food, Drug,

and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371).

§ 369.20 [Amended]

4. Section 369.20 *Drugs; recommended warning and caution statements* is amended by removing the entries for "NASAL PREPARATIONS: VASOCONSTRICTORS," and "PHENYLPROPANOLAMINE HYDROCHLORIDE PREPARATIONS, ORAL."

Dated: February 6, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–3323 Filed 2–13–96; 8:45 am]

BILLING CODE 4160–01–P

federal register

Wednesday
February 14, 1996

Part IX

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 333

Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

21 CFR Part 333

[Docket No. 95N–0062]

RIN 0910–AA01

Topical Antimicrobial Drug Products For Over-The-Counter Human Use; Proposed Amendment of Final Monograph for OTC First Aid Antibiotic Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking that would amend the final monograph for over-the-counter (OTC) first aid antibiotic drug products (the regulation that establishes conditions under which these drug products are generally recognized as safe and effective and not misbranded). The amendment would add a warning statement concerning allergic reactions resulting from topical antibiotic drug products containing bacitracin, bacitracin zinc, neomycin, neomycin sulfate, polymyxin B, or polymyxin B sulfate. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments on the proposed regulation by May 14, 1996; written comments on the agency's economic impact determination by May 14, 1996. FDA is proposing that any final rule based on this proposal become effective 12 months after its date of publication in the **Federal Register**.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–105),Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2304.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 11, 1987 (52 FR 47312), FDA issued a final monograph for OTC first aid antibiotic drug products in part 333 (21 CFR part 333) subpart B. The monograph provides for single ingredient products containing bacitracin, bacitracin zinc, neomycin, or neomycin sulfate and various combinations containing bacitracin, neomycin sulfate, and polymyxin B sulfate.

FDA has been informed (Ref. 1) that manufacturers of OTC topical antibiotic drug products containing bacitracin zinc, neomycin sulfate, and polymyxin B sulfate voluntarily have added the following information about the possibility of allergic reactions associated with these antibiotics in the warnings for these products: "Stop use and consult a physician if * * * a rash or other allergic reaction develops. Do not use this product if you are allergic to any of the listed ingredients." This allergy warning resulted from an industry task group's review of adverse event reports involving products containing bacitracin zinc, neomycin sulfate, and polymyxin B sulfate. The reports showed that these products have been reported to be associated with hypersensitivity reactions in susceptible individuals and, in rare instances, nonfatal systemic hypersensitivity reactions.

The agency requested that the task group provide these reports for evaluation (Ref. 2), and the industry subsequently submitted them (Ref. 3). The reports included: (1) Listings from FDA's Spontaneous Reporting System (SRS) of adverse experience reports for prescription and OTC drug products containing bacitracin, neomycin, and polymyxin B sulfate, and (2) sublistings of reports of allergic reactions to bacitracin, neomycin, and polymyxin B sulfate in OTC, prescription, unclassified, and all types of products, not just topical first aid antibiotics. The sublistings showed 923 cases of allergic hypersensitivity; 631 related to prescription products, 261 related to OTC products, and 31 that could not be classified from the available information. No deaths attributable to allergic hypersensitivity have been reported from use of any OTC drug products containing these ingredients. Beginning in 1983, the total number of reports of allergic reactions associated with OTC antibiotic drug products containing bacitracin, neomycin, and/or polymyxin B sulfate increased. The industry believed this increase was associated with more OTC topical antibiotic drug products being marketed following publication of the tentative final monograph for these products in 1982. Industry reported that over the past 4 years, the number of units of these products sold per year has been constant at approximately 29 million units per year.

The industry stated that incidence figures cannot be generated from the data because the denominator (total number of exposures) cannot be accurately determined and the numerator may be confounded by over- and/or underreporting of adverse reactions. The industry concluded that reference to the possibility of allergic reactions in the products' label warnings would benefit consumers who use these products.

II. The Agency's Proposal

The agency has reviewed the adverse experience reports and determined that the labeling suggested by the industry would be beneficial to consumers who use these OTC first aid antibiotic drug products. For the OTC drug products, the majority of reports appear to be nonserious skin reactions characterized as either rash or contact dermatitis. No fatalities were reported for OTC drug products; however, the outcome was listed as unknown in the majority of the reports. More than 50 percent of the allergic reactions reported in the SRS involved antibiotic combination products (e.g., containing at least two of the ingredients, bacitracin, polymyxin B sulfate, and/or neomycin). As with all combination products, an adverse effect may be due to one or several of the ingredients in the product. However, the SRS lists allergic (or rash) reports individually for bacitracin and neomycin. The SRS also contains a few such reports for polymyxin B sulfate products singly. In addition, the Physicians' Desk Reference (Ref. 4) lists such allergic reactions for a single-ingredient polymyxin B sulfate powder for parenteral and/or ophthalmic use.

The final monograph for OTC first aid antibiotic drug products, issued on December 11, 1987, did not include an allergy warning for products containing bacitracin, neomycin, and polymyxin B sulfate. Based on the new information provided by industry, showing an increase in the total number of reports of allergic reactions since 1983, the agency is proposing to add a new warning for products containing bacitracin (zinc), neomycin (sulfate), and polymyxin B (sulfate). The warning adds the words "or if a rash or other allergic reaction develops. Do not use if you are allergic to any of the ingredients." in the middle of the existing warning in § 333.150(c)(2) that has been used for all OTC first aid antibiotic drug products for years. The new warning would read:

> Stop use and consult a doctor if the condition persists or gets worse, or if a rash or other allergic reaction develops. Do not use if you are allergic to any of the ingredients. Do not use longer than 1 week unless directed by a doctor.

The agency is including this new warning in proposed § 333.150(c)(3) under the heading *For any product containing bacitracin, bacitracin zinc, neomycin, neomycin sulfate, polymyxin B, and/or polymyxin B sulfate.* The agency is retaining the current warning in § 333.150(c)(2) for products containing chlortetracycline hydrochloride and tetracycline hydrochloride and is adding the heading *For products containing chlortetracycline hydrochloride or tetracycline hydrochloride* to § 333.150(c)(2). Combinations containing oxytetracycline hydrochloride and polymyxin B sulfate in § 333.120(a)(11) and (a)(12) would use the new warning in proposed § 333.150(c)(3).

Manufacturers of OTC topical first aid antibiotic drug products containing bacitracin, bacitracin zinc, neomycin, neomycin sulfate, and/or polymyxin or polymyxin B sulfate are encouraged to voluntarily implement this labeling addition as of the date of publication of this proposal, subject to the possibility that FDA may change the wording of the warning statement as a result of comments filed in response to this proposal. Manufacturers may include this labeling under the heading "FDA APPROVED INFORMATION" in accord with § 330.1(c)(2) (21 CFR 330.1(c)(2)) if that heading is used in product labeling. Because FDA is encouraging that the proposed additional warning statement be used on a voluntary basis at this time, the agency advises that manufacturers doing so will be given ample time after publication of a final rule to use up any labeling implemented in conformance with this proposal.

III. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

(1) Letter dated June 20, 1992, from R. W. Soller, Nonprescription Drug Manufacturers Association, to W. E. Gilbertson, FDA, in OTC Vol. 190036, Docket No. 95N–0062, Dockets Management Branch.

(2) Letter dated July 22, 1992, from W. E. Gilbertson, FDA, to R. W. Soller, Nonprescription Drug Manufacturers Association, in OTC Vol. 190036, Docket No. 95N–0062, Dockets Management Branch.

(3) Letter dated October 7, 1992, from R. W. Soller, Nonprescription Drug Manufacturers Association, to W. E. Gilbertson, FDA, in OTC Vol. 190036, Docket No. 95N–0062, Dockets Management Branch.

(4) Physicians' Desk Reference, 48th ed., Medical Economics Co., Montvale, NJ, p. 738, 1994.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and, thus, is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The proposed rule is estimated to generate a one-time label modification, the cost of which will not be significant. Similarly, the costs incurred by small businesses are estimated to be insufficient to warrant a regulatory flexibility analysis. FDA believes that small marketers use relatively simple and inexpensive packaging and labeling. Hence, labeling change costs (for one warning) to small firms are not expected to be substantial. Accordingly, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on manufacturers of OTC first aid antibiotic drug products that contain bacitracin (zinc), neomycin (sulfate), and/or polymyxin B (sulfate). Comments regarding the impact of this rulemaking on such manufacturers should be accompanied by appropriate documentation. The agency is providing a period of 90 days from the date of publication of this proposed rulemaking in the **Federal Register** for comments to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

V. Paperwork Reduction Act of 1995

FDA tentatively concludes that the labeling requirement proposed in this document is not subject to review by the Office of Management and Budget because it does not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the proposed warning statement is a "public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

VI. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before May 14, 1996, submit written comments to the Dockets Management Branch (address above). Written comments on the agency's economic impact determination may be submitted on or before May 14, 1996. Three copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 333

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 333 be amended as follows:

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 333 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371), unless otherwise noted.

2. Section 333.150 is amended by adding a heading to paragraph (c)(2) and by adding new paragraph (c)(3) to read as follows:

§ 333.150 Labeling of first aid antibiotic drug products.

* * * * *

(c) * * *

(2) *For products containing chlortetracycline hydrochloride or tetracycline hydrochloride.* * * *

(3) *For any product containing bacitracin, bacitracin zinc, neomycin, neomycin sulfate, polymyxin B and/or polymyxin B sulfate.* "Stop use and consult a doctor if the condition persists or gets worse, or if a rash or other allergic reaction develops. Do not use this product if you are allergic to any of the ingredients. Do not use longer than 1 week unless directed by a doctor."

* * * * *

Dated: February 6, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–3325 Filed 2–13–96; 8:45 am]

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Vol. 61, No. 31

Wednesday, February 14, 1996

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Export Administration Bureau
Export licensing:
- Semiconductor manufacturing equipment, General License GFW expansion; and computer export control reform; correction; published 2-14-96

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Air quality implementation plans; approval and promulgation; various States:
- Washington and Alaska; published 2-14-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Imidacloprid; published 2-14-96
- Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate; published 2-14-96
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INTERIOR DEPARTMENT
Land Management Bureau
Public land orders:
- Oregon; published 2-14-96

TRANSPORTATION DEPARTMENT
Coast Guard
Organization, functions, and authority delegations:
- Great Lakes pilotage regulations; responsibility transferred to Saint Lawrence Seaway Development Corporation; published 2-14-96

Regattas and marine parades:
- Great Lakes Annual Marine Events; published 2-14-96

TRANSPORTATION DEPARTMENT
Saint Lawrence Seaway Development Corporation
Organization, functions, and authority delegations:
- Great Lakes pilotage regulations; responsibility transferred from Coast Guard; published 2-14-96

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Spearmint oil produced in Far West; comments due by 2-23-96; published 1-24-96

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
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- Horses from contagious equine metritis-affected countries; States authorized to receive; comments due by 2-22-96; published 1-23-96

CONSUMER PRODUCT SAFETY COMMISSION
Bicycle helmet safety standards; comments due by 2-19-96; published 12-6-95

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- Allowable cost and payment clause; comments due by 2-20-96; published 12-21-95
- Contractors' purchasing systems reviews; comments due by 2-20-96; published 12-21-95

EDUCATION DEPARTMENT
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  - Prohibition on gasoline containing lead or lead additives for highway use; comments due by 2-20-96; published 2-2-96

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- Virginia; comments due by 2-23-96; published 1-24-96

Hazardous waste:
- Hazardous waste management system, identification and listing--
  - Petroleum refining process wastes; land disposal restrictions; comments due by 2-20-96; published 11-20-95
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  - Constituent-specific exit levels for low-risk solid wastes; comments due by 2-20-96; published 12-21-95

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
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- Recordkeeping requirements for certain financial records; comments due by 2-20-96; published 12-20-95

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- Contractors' purchasing systems reviews; comments due by 2-20-96; published 12-21-95

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  - Disodium decanedioate; comments due by 2-23-96; published 1-24-96
  - Tri[2(or 4)-C9-10-branched alkylphenyl] phosphorothioate; comments due by 2-22-96; published 1-23-96

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- Malibu-Newton Canyon, CA; comments due by 2-20-96; published 12-22-95

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  - Certificates of label approval, exemption from label approval, and distinctive liquor bottle approvals; comments due by 2-21-96; published 1-22-96

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Securities transactions; recordkeeping and confirmation requirements; comments due by 2-20-96; published 12-22-95

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Internal Revenue Service
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  - Treatment of gain from disposition of interest in certain natural resource recapture property; comments due by 2-20-96; published 12-21-95

LIST OF PUBLIC LAWS

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 1868/P.L. 104–107

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Feb. 12, 1996; 110 Stat. 704)

H.R. 2111/P.L. 104–108

To designate the Federal building located at 1221 Nevin Avenue in Richmond, California, as the "Frank Hagel Federal Building". (Feb. 12, 1996; 110 Stat. 762)

H.R. 2726/P.L. 104–109

To make certain technical corrections in laws relating to Native Americans, and for other purposes. (Feb. 12, 1996; 110 Stat. 763)

Last List February 13, 1996

Public Laws

104th Congress, 2nd Session, 1996

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregulary upon enactment, for the 104th Congress, 2nd Session, 1996.

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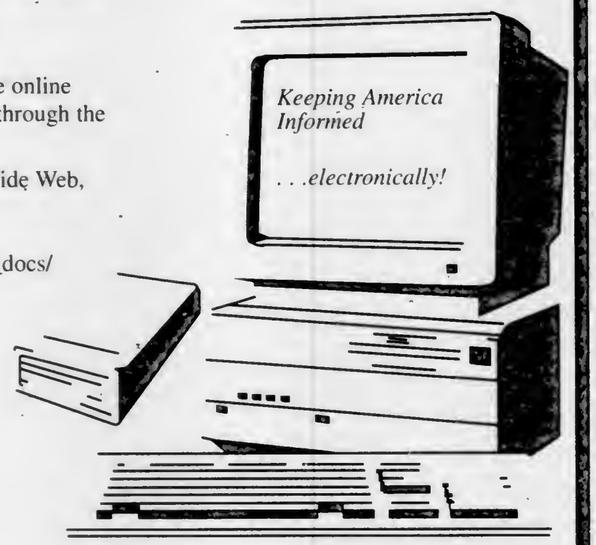
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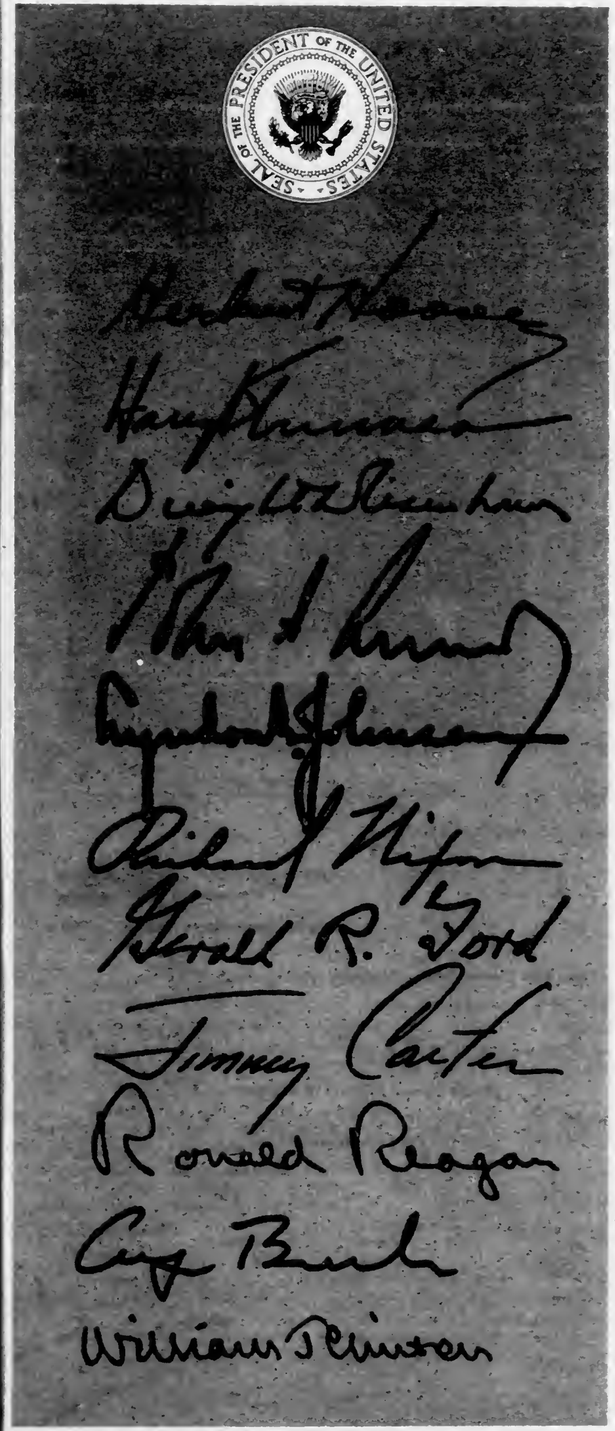
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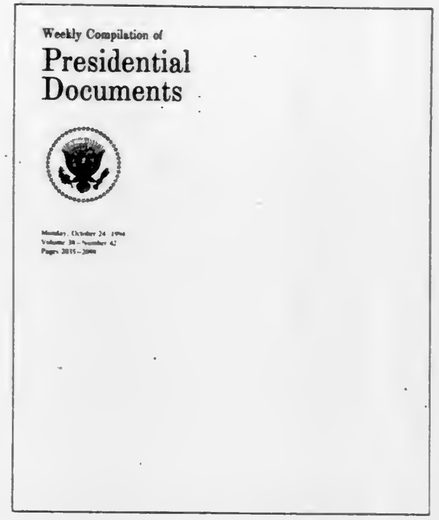
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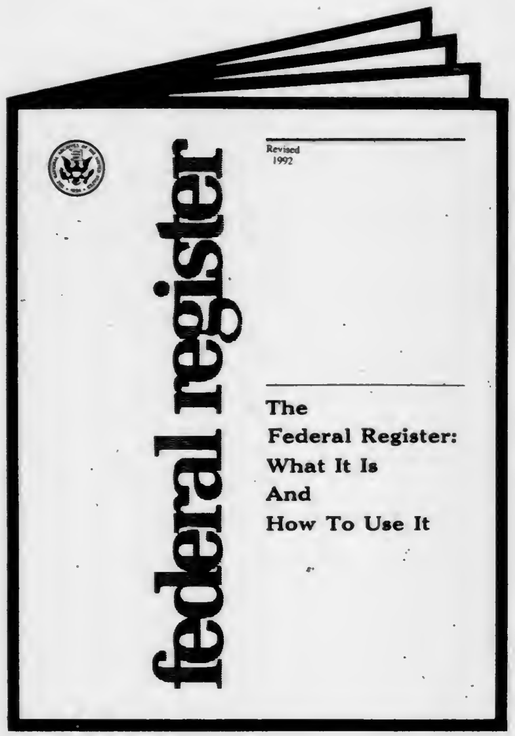
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2–15–96
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Briefings on How To Use the Federal Register
For information on briefing in Washington, DC, see announcement on the inside cover of this issue.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AH30

Prevailing Rate Systems; Abolishment of Merced, CA, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim rule to abolish the Merced, CA, nonappropriated fund (NAF) Federal Wage system (FWS) wage area and redefine the country having continuing FWS employment (Fresno County) as an area of application to the Kern, CA, NAF wage area for pay-setting purposes. The remaining Merced wage area county (Merced County) has no FWS employees and is being deleted.

DATES: This interim rule becomes effective on February 15, 1996. Comments must be received by March 18, 1996. Employees currently paid rates from the Merced, CA, NAF wage schedule will continue to be paid from that schedule until conversion to the Kern, CA, NAF wage schedule on April 4, 1996, 1 day before the effective date of the next Kern, CA, wage schedule.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–0824.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: The Department of Defense recommended to the Office of Personnel Management that the Merced, CA, FWS NAF wage area be abolished and that the county having continuing FWS employment (Fresno County) be added as an area of application to the Kern, CA, NAF wage area. The remaining Merced wage area county (Merced County) is being deleted because it has no FWS employment. This change is necessary because the closing of the wage area host activity, Castle Air Force Base, leaves the Merced wage area without an activity having the capability to conduct a wage survey.

As required in regulation, 5 CFR 532.219, the following criteria were considered in redefining these wage areas:

(1) Proximity of largest activity in each county;

(2) Transportation facilities and commuting patterns; and

(3) Similarities of the counties in:

(i) Overall population;

(ii) Private employment in major industry categories; and

(iii) Kinds and sizes of private industrial establishments.

Proximity favors redefining Fresno County to the San Joaquin wage area. However, because of declining employment in the wage area and a limited capability for conducting a wage survey, the possible abolishment of the San Joaquin wage area is currently under study. The second and third criteria favor redefinition to the Kern wage area. An additional consideration favoring redefinition of Fresno County to the Kern wage area is the fact that Fresno County is contiguous to Kings County, an area of application to the Kern wage area. On balance, the recommended redefinition of Fresno County to the Kern wage area is supported.

The Federal Prevailing Rate Advisory Committee reviewed this recommendation and by consensus recommended approval.

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days because preparations for the 1996 Merced, CA, NAF wage area survey must otherwise being immediately.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix B to Subpart B of Part 532 [Amended]

2. In appendix B to subpart B, the listing for the State of California is amended by removing the entry for Merced.

3. Appendix D to subpart B is amended by removing the wage area listing for Merced, California, and by revising the listing for Kern, California, to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

California

* * * * *

Kern

Survey Area

California: Kern

Area of Application. Survey Area Plus

California

Fresno (Effective date April 4, 1996)

Kings

* * * * *

[FR Doc. 96–3365 Filed 2–14–96; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AH20

Prevailing Rate Systems; Abolishment of Ocean, NJ, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to abolish the Ocean, NJ, nonappropriated fund (NAF) Federal Wage System wage area and redefine Ocean County as an area of application to the Burlington, NJ, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On November 1, 1995, OPM published an interim rule to abolish the Ocean, NJ, nonappropriated fund (NAF) Federal Wage System wage area and redefine Ocean County as an area of application to the Burlington, NJ, NAF wage area for paysetting purposes. On November 29, 1995, OPM published a correction of a typographical error in the interim rule. There are now two Burlington, NJ, wage area application area counties listed (Atlantic and Ocean)—not one "Atlantic Ocean" county as printed in the original interim rule. The interim rule provided 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on November 1, 1995 (60 FR 55423), and corrected on November 29, 1995 (60 FR 61290), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3364 Filed 2–14–96; 8:45am]

BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AH16

Prevailing Rate Systems; Abolishment of Marin-Sonoma, CA, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to abolish the Marin-Sonoma, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine the two counties having continuing FWS employment (Marin and Sonoma Counties) as areas of application to the Solano, CA, NAF wage area for pay-setting purposes. No employee's wage rate will be reduced as a result of this change.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On October 30, 1995, OPM published an interim rule to abolish the Marin-Sonoma, CA, nonappropriated fund (NAF) Federal Wage System wage area and redefine the two counties having continuing FWS employment (Marin and Sonoma Counties) as areas of application to the Solano, CA, NAF wage area for pay-setting purposes. The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on October 30, 1995 (60 FR 55174), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3363 Filed 2–14–96; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AG93

Prevailing Rate Systems; Redefinition of Guaynabo-San Juan, PR, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to redefine the Guaynabo-San Juan, Puerto Rico, nonappropriated fund Federal Wage System Wage area by adding Salinas Municipality as an area of application for pay-setting purspoes. No employee's wage rate will be reduced as a result of this change.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT:

Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On October 4, 1995, OPM published an interim rule to redefine the Guaynabo-San Juan, Puerto Rico, nonappropriated fund Federal Wage System wage area by adding Salinas Municipality as an area of applcation for pay-setting purposes. The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on October 4, 1995 (60 FR 51881), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3362 Filed 2–14–96; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 318

[Docket No. 95–028–2]

Sharwil Avocados From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to allow Sharwil avocados to be moved interstate from Hawaii after undergoing cold treatment for fruit flies under the supervision of an inspector of the Animal and Plant Health Inspection Service. This action will facilitate the interstate movement of Sharwil avocados from Hawaii while continuing to provide protection against the spread of injurious plant pests from Hawaii to other parts of the United States.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Grosser, Senior Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737–1236, (301) 734–8295.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian Fruits and Vegetables regulations, contained in 7 CFR 318.13 through 318.13–17 (referred to below as the regulations), govern, among other things, the interstate movement from Hawaii of avocados in a raw or unprocessed state. Regulation is necessary to prevent the spread of the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Dacus cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*). These types of fruit flies are collectively referred to as Trifly.

On October 2, 1995, we published in the **Federal Register** (60 FR 51373–51375, Docket No. 95–028–1) a proposal to amend the regulations to allow Sharwil avocados to be moved interstate from Hawaii after undergoing cold treatment for Trifly. In that document, we also proposed two nonsubstantive editorial changes to simplify the regulations.

We solicited comments concerning our proposal for 30 days ending November 1, 1995. We received two comments by that date. They were from a State agricultural agency and a representative of an avocado industry group. Both commenters requested additional information to substantiate the provisions of the proposed rule. The comments are discussed below.

Comment: The United States Department of Agriculture (USDA) must address the effect of a preconditioning heat treatment, prior to cold treatment, on Trifly eggs and larvae.

Response: The preconditioning heat treatment, which induces a tolerance to subsequent cold treatment in the Sharwil avocado variety, is recommended specifically for the purpose of maintaining fruit quality and not as a part of the quarantine treatment. However, research conducted by the Agricultural Research Service (ARS), USDA, indicates that the heat treatment does contribute to Trifly mortality. Additional information about this research may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Comment: The USDA must address the efficacy of cold treatment on eggs and larvae of the melon fly and the Oriental fruit fly, in addition to the Mediterranean fruit fly (Medfly). In addition, USDA must address the possible resistance of Medfly to cold treatment.

Response: Recent research conducted by ARS tested cold treatment against all three species of Trifly (see Armstrong, Silva, and Shishido, "Quarantine cold treatment for Hawaiian carambola fruit infested with Mediterranean fruit fly, Melon fly, or Oriental fruit fly (Deptera:Tephritidae) eggs and larvae." Journal of Economic Entomology 88(3):683–687 (1995)). In this study, cold treatment disinfested carambola of Trifly eggs and larvae, including eggs and larvae of Medfly, the most cold-tolerant of the Trifly species, providing a Probit 9 level of quarantine security (99.8 percent mortality). Therefore, we have determined that cold treatment is effective against the eggs and larvae of all three Trifly species.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Hawaii produced approximately 500,000 pounds of avocados during 1993, down approximately 29 percent from the 1992 level due, in part, to the interruption of avocado shipments to the U.S. mainland because of Oriental fruit fly infestation in 1992. Sharwil variety accounted for 75 percent of this total, or 375,000 pounds. Shipments of Sharwil avocados from Hawaii to the U.S. mainland and to Canada before the 1992 suspension peaked at 100,000 pounds.

Total production of avocados in the United States, excluding Hawaii, was approximately 302.8 million pounds in 1993. Of this total, California accounted for approximately 97 percent of the production. California continues to supply the major share of the U.S. avocado market. Total Hawaiian avocado production in 1993 accounted for less than two-tenths of a percent of the total U.S. production.

The total value of Hawaiian avocado production ($220,000 in 1993) is less than three-tenths of a percent of the total U.S. production, and all of the Hawaiian entities involved are considered small. This rule could reverse the downward trend in Hawaiian avocado production by providing a commercially feasible method of treating Sharwil avocados to be moved interstate. This would have a positive economic effect on Hawaiian avocado producers. Although a major share of the U.S. market is supplied by California producers, the addition of a Hawaiian supply is unlikely to have a significant negative impact upon California producers, as the two dominant avocado varieties, Sharwil (Hawaii) and Hass (California) have different peak seasons of production. The peak season for the Sharwil variety is between November and May; the peak season for the Hass variety is April through October. As a result, this rule is expected to have a complementary rather than competitive effect. The change is not expected to have any significant impact upon supply and price. Nevertheless, it is expected to have a positive impact upon consumers by providing for a more continuous and varied avocado supply.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are

inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, 7 CFR parts 300 and 318 are amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a), introductory text, is revised to read as follows:

§ 300.1 Materials incorporated by reference; availability.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted on November 30, 1992, and includes all revisions through November 1995, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

3. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, 164a, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

4. Section 318.13–1 is amended by revising the definition for *Inspector* to read as follows:

§ 318.13–1 Definitions.

* * * * *

Inspector. An inspector of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

* * * * *

5. Section 318.13–4d is revised to read as follows:

§ 318.13–4d Administrative instructions concerning the interstate movement of avocados from Hawaii.

(a) Subject to the requirements of §§ 318.13–3 and 318.13–4 and all other applicable provisions of this subpart, avocados may be moved interstate from Hawaii only if they are treated under the supervision of an inspector with a treatment authorized by the Administrator for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Dacus cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

(b) Treatments authorized by the Administrator are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

§ 318.13–4e [Removed and Reserved]

6. Section 318.13–4e is removed and reserved.

Done in Washington, DC, this 2nd day of February 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–3381 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV95–966–2FIR]

Tomatoes Grown in Florida; Exemption of Specialty Packed Red Ripe Tomatoes From Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which exempted shipments of specialty packed red ripe tomatoes from the container net weight requirements in the Florida tomato handling regulation. This exemption was unanimously recommended by the Florida Tomato Committee (committee) which locally administers the marketing order. This rule continues that exemption and allows handlers to ship specialty packed red ripe tomatoes in containers with different net weights than those currently authorized under the order. This rule will continue to facilitate the movement of such tomatoes, further the development of this relatively new market, and is expected to improve returns to producers of Florida tomatoes.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: Aleck Jonas, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: 941–299–4770, or FAX: 941–299–5169; or Mark Kreaggor, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2431, or FAX: 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Order No. 966 (7 CFR Part 966), both as amended, regulating the handling of tomatoes grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 75 handlers of tomatoes who are subject to regulation under the marketing order and approximately 90 producers of tomatoes in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of handlers and producers of Florida tomatoes may be classified as small entities.

Under the Florida tomato marketing order, tomatoes produced in the production area and shipped to fresh market channels outside of the regulated area are required to meet certain handling requirements specified in § 966.323. Current requirements include a minimum grade of U.S. No. 3 and a minimum size of 2$^{2}/_{32}$ inches in diameter. Pack and container specifications are also in effect. In addition, all lots are required to be inspected and certified as meeting these grade, size, pack and container requirements by authorized representatives of the Federal or Federal-State Inspection Service. The regulated area is defined as the portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico. Basically, it is the entire State of Florida, except the panhandle. The production area is part of the regulated area.

Prior to publication of the interim final rule in the **Federal Register** on November 24, 1995 (60 FR 57906), handlers were not allowed to ship specialty packed red ripe tomatoes exempt from container net weight requirements in § 966.323(a)(3)(i). To provide such an exemption, the interim final rule amended paragraph (d)(1) of § 966.323. The exemption is the same as the exemption provided for yellow meated tomatoes in paragraph (d)(1). This rule finalizes the interim final rule and continues to allow handlers to ship specialty packed red ripe tomatoes exempt from the container net weight requirements in § 966.323(a)(3)(i). The specialty packed red ripe tomatoes are still subject to all other provisions of the handling regulation, including established grade, size, container marking, condition and inspection requirements.

Section 966.52 of the Florida tomato marketing order provides authority for the modification, suspension, and termination of regulations. Section 966.323(a)(3)(i) currently requires certain types of tomatoes packed by registered handlers to be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of the contents cannot be less than the designated weight and cannot exceed the designated weight by more than two pounds. Section 51.1863 of the U.S. Standards for Grades of Fresh Tomatoes (7 CFR Part 51.1855 through 51.1877, hereafter referred to as the "standards") applies.

Specialty packed red ripe tomatoes are a product recently available from Florida. They are shipped in relatively small volume and marketed as a specialty item.

The interim final rule added a definition for specialty packed red ripe tomatoes to paragraph (g) of § 966.323. Specialty packed red ripe tomatoes are defined as tomatoes which, at the time of inspection, are light red (#5 color) or red (#6 color) according to color classification requirements in the standards, have their calyx ends and stems attached, and are cell packed in a single layer container.

Cell packed tomatoes are placed in containers with fiber board or plastic compartments for such tomatoes to provide separation and reduce bruising during transport and handling. This is especially important in shipping tomatoes at an advanced stage of ripeness when tomatoes have their calyx ends and stems attached. The separation provided by the individual compartments permits the tomatoes from moving around inside the shipping container during transport and handling, thus ensuring arrival at destination with tomato calyx ends and stems attached and no tomato stem punctures.

Most tomatoes shipped from Florida are shipped at the mature green stage without calyx ends and stems, and are packed in volume fill containers. When volume fill containers are packed, the tomatoes are placed by hand or machine into the container until the required net weight is reached. Mature green tomatoes are not as susceptible to bruising and other damage during transport as red ripe tomatoes. These specialty tomatoes have to be packaged so that they do not touch each other. If volume fill containers were used by registered handlers in Florida to ship specialty tomatoes, serious product bruising and stem punctures would result, which would detract from the unique appearance and marketability of these tomatoes.

However, the cell pack method of packaging needed to ensure that these specialty tomatoes arrive at markets in good condition does not lend itself well when packing to meet a required net weight. Normally, such packs are used when the product is packed by count per container. The tomatoes have to be properly sized to fit snugly in the container.

During the harvesting season, the weight of equal size tomatoes or the shape of tomatoes of equal weight may vary dramatically. If the red ripe tomatoes are light in weight, handlers cannot add extra tomatoes because all cells are full, or if the tomatoes are heavier than normal, the removal of a tomato by a handler results in an empty cell. Because the buyer expects a full tray, empty cells are viewed suspiciously and a marketing problem results.

To overcome this problem and allow this market to be further developed, the committee unanimously recommended that shipments of specialty packed red ripe tomatoes, as defined herein, be exempt from the container net weight requirements of the order. As stated earlier, all other order requirements will continue to apply to such shipments.

This rule reflects the committee's and the Department's appraisal of the need to exempt specialty packed red ripe tomatoes from the net weight requirements for tomatoes grown in Florida. The Department's view is that continuation of the exemption will have a beneficial impact on producers and handlers since it will allow tomato handlers to make additional supplies of tomatoes available to meet consumer needs consistent with crop and market conditions.

As stated earlier, the interim final rule on this matter was published in the **Federal Register** on November 24, 1995 (60 FR 57960). That rule provided that interested persons could file comments through December 26, 1995. No comments were received.

Based on these considerations, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found

that this final rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR Part 966 which was published at 60 FR 57906 on November 24, 1995, is adopted as a final rule without change.

Dated: February 8, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–3349 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

EFFECTIVE DATE: The amendments to part 201 (Regulation A) were effective February 5, 1996. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: William W. Wiles, Secretary of the Board (202/452–3257); for users of Telecommunications Device for the Deaf (TDD), please contact Dorothea Thompson, (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et.al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit. In decreasing the basic discount rate, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. Moderating economic expansion in recent months has reduced potential inflationary pressures going forward. In this environment, the decrease in rates is consistent with continued inflation and sustainable growth.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Paperwork Reduction Act

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for "good cause" finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR Part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et. seq.*, 347a, 347b, 347c, 347d, 348 *et. seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	5.00	February 1, 1996.
New York	5.00	January 31, 1996.
Philadelphia .	5.00	January 31, 1996.
Cleveland	5.00	January 31, 1996.
Richmond	5.00	February 1, 1996.
Atlanta	5.00	January 31, 1996.
Chicago	5.00	February 1, 1996.
St. Louis	5.00	February 5, 1996.
Minneapolis ..	5.00	January 31, 1996.
Kansas City ..	5.00	February 1, 1996.
Dallas	5.00	January 31, 1996.
San Francisco.	5.00	January 31, 1996.

By order of the Board of Governors of the Federal Reserve System, February 9, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–3389 Filed 2–14–96; 8:45 a.m.]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 359

RIN 3064–AB11

Regulation of Golden Parachutes and Other Benefits Which May Be Subject to Misuse

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Final rule.

SUMMARY: The FDIC is adopting a rule limiting golden parachute and indemnification payments to institution-affiliated parties by insured depository institutions and depository institution holding companies. The purpose of this rule is to prevent the improper disposition of institution assets and to protect the financial soundness of insured depository institutions, depository institution holding companies, and the federal deposit insurance funds.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Robert F. Miailovich, Associate Director, Division of Supervision, (202) 898–6918, 550 17th Street, N.W., Washington, D.C.; Michael D. Jenkins, Examination Specialist, Division of Supervision, (202) 898–6896, 1776 F Street, N.W., Washington, D.C. 20429; Jeffrey M. Kopchik, Counsel. Legal Division, (202) 898–3872; Federal Deposit Insurance Corporation, 550 17th Street, N.W.,.Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is contained in this rule. Consequently, no information was submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that this rule will not have a significant impact on a substantial number of small entities.

Background

On March 29, 1995, the FDIC published for public comment a notice of proposed rulemaking entitled "Regulation of Golden Parachutes and Other Benefits Which May Be Subject to Misuse". 60 FR 16069 (1995). This proposal (the Second Proposal) followed an earlier notice of proposed rulemaking concerning the same topic (the First Proposal), which was published in the **Federal Register** on October 7, 1991. 56 FR 50529 (1991). Both the First and Second Proposals were efforts to implement section 18(k) of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) (FDI Act). Section 18(k) provides that the FDIC may prohibit or limit, by regulation or order, any golden parachute or indemnification payment.

The FDIC received 23 comment letters in response to the Second Proposal. The comment letters were submitted by major financial institution trade associations, insured depository institutions, insured depository institution holding companies, a law firm and a trade association representing life insurance underwriters. Virtually all of the commenters expressed the view that the Second Proposal represented a significant improvement over the First Proposal in terms of the burden that the proposed regulation would place on the industry. In fact, the majority of commenters expressed support for the Second Proposal, while submitting well thought-out suggestions. These suggestions encompassed technical revisions to the regulation as well as broader proposals aimed at making it easier for insured depository institutions and holding companies to make golden parachute and indemnification payments in certain limited circumstances.

Issues Raised by the Commenters—Golden Parachute Payments

The FDIC has carefully reviewed and analyzed the comment letters it received in response to the Second Proposal. With respect to the golden parachute portion of the Second Proposal, the most significant issues raised by the comment letters and the FDIC's responses are discussed below.

1. Bona Fide Deferred Compensation Plans

The Second Proposal includes a definition of "bona fide deferred compensation plan or arrangement" that was created specifically for this regulation. This definition, which appears in § 359.1(d) of the Second Proposal, includes a provision that allows plans to provide for the crediting of a reasonable investment return on elective deferrals of compensation, wages or fees. Several commenters suggested that the definition of "bona fide deferred compensation plan or arrangement" should be expanded to further define the term "reasonable investment return". One comment letter included suggested language to be incorporated into the regulation. The FDIC is of the opinion that including an additional definition of "reasonable investment return" would not provide any advantage to the industry and would only serve to make the regulation more complicated. This provision is provided in the definition to permit financial institutions to follow normal business practices. It is not intended to have the regulators make close distinctions of what is a reasonable investment return. It is intended merely to prevent the inclusion of exorbitant returns that would result in a circumvention of the primary purpose of this regulation. The suggested definitions provided by the commenters are considered to clearly fit the requirements of this term; however, the FDIC also recognizes that there are several other definitions of "reasonable investment return" that also fit these requirements.

Several commenters asked whether a finding by the FDIC that a bona fide deferred compensation plan provided for an unreasonable investment return on elective deferrals would invalidate the entire plan. The FDIC is of the view that such a finding would not invalidate such a plan which otherwise conforms to § 359.1(d). However, that portion of the investment return which is found to be unreasonable would be a prohibited golden parachute payment.

2. Nondiscriminatory Severance Pay Plans

Section 359.1(f)(2) of the Second Proposal contains certain exceptions to the definition of "golden parachute payment". One of those exceptions is for nondiscriminatory severance pay plans. Second Proposal § 359.1(f)(2)(v). Several commenters suggested that the FDIC delete the requirement that the exception apply only in cases of a reduction in force (RIF). This section of the Second Proposal also would require 30 days prior written notice to the appropriate federal banking agency and the FDIC prior to making such a severance payment to a senior executive officer. Several commenters also urged the deletion of the prior notice requirement. After careful consideration, the FDIC agrees with these suggestions. If a nondiscriminatory severance pay plan conforms to the other requirements set forth in § 359.1(f)(2)(v), it should not be necessary that an employee's involuntary termination be part of a RIF in order for that employee to collect severance pay. This section's other requirements are more than adequate protection that the exception will not be used to circumvent the regulation's primary purpose, *i.e.*, the prohibition of golden parachute payments. Also, the advantages of the prior notice provision for severance payments to senior executive officers do not outweigh the burden such a requirement would place on the industry, so this requirement has been deleted.

3. Definition of Nondiscriminatory

Section 359.1(j) of the Second Proposal contains the definition of "nondiscriminatory" as it relates to severance pay plans or arrangements. These are the only type of severance pay plans or arrangements that may qualify as an exception to the regulation's prohibition. In order to be considered nondiscriminatory, a severance pay plan must apply to all employees of an

insured depository institution or depository institution holding company who meet reasonable and customary eligibility requirements applicable to all employees, such as minimum length of service requirements. The Second Proposal provides that a nondiscriminatory severance pay plan may provide different benefits to IAPs based only upon length of service and/or position. In the event that an employee's position is used as a basis for providing a different level of benefits, employees who are not senior executive officers shall be treated more favorably than senior executive officers.

The reason for this approach was the FDIC's concern that severance pay plans could be designed in such a way that they would circumvent the basic purpose of the regulation. In other words, as an example, to permit severance payments of one year's salary to the top five senior executive officers of an insured depository institution in contrast to one week's salary to all tellers on the basis that such payments are made pursuant to a *bona fide* severance pay plan, a recognized exception to the golden parachute prohibition, would undermine the purpose of FDI Act section 18(k). However, several commenters noted that many existing severance plans do pay somewhat more generous benefits to higher ranking IAPs. These commenters suggested that a modest disparity in severance benefits linked to objective criteria like job title or length of service should be permitted by the regulation since such plans are common in the financial services industry and do not violate the basic premise of FDI Act section 18(k). The FDIC has been persuaded that this position represents a good compromise between preventing the payment of prohibited golden parachutes and permitting insured depository institutions and holding companies to offer severance benefits that conform to well-established industry norms.

Based upon suggestions made in the comment letters, the definition of "nondiscriminatory" contained in § 359.1(j) of the Second Proposal has been amended to provide that a nondiscriminatory severance plan may provide for different levels of benefits based only on objective criteria such as salary, total compensation, length of service, job grade or classification. In addition, any group of employees which is designated for a different level of benefits based upon such acceptable objective criteria must consist of the lesser of not less than 33 percent of all employees or 1,000 employees. Furthermore, the differential in benefits between the groups shall not be more than plus or minus 10 percent.

4. White Knight Exception

Both the First and Second Proposals contained a provision which would permit a troubled depository institution or holding company to hire an individual and agree to pay him/her a golden parachute payment upon termination of employment, provided that the amount and terms of the payment receive the prior written consent of the appropriate federal banking agency and the FDIC. Second Proposal § 359.4(a)(2). All commenters that discussed the issue were supportive of the FDIC's "white knight" exception to the golden parachute prohibition. They were particularly supportive of the revisions to the exception that were made in response to comment letters concerning the First Proposal. However, a number of commenters reiterated the suggestion that the FDIC broaden the exception to include current officers and employees who are promoted to executive positions at a time when the institution is troubled.[1] The FDIC has carefully considered this suggestion once again and remains unconvinced that the regulation should be amended in this way. White knight severance payments will be approved in limited circumstances as a way to entice competent management to sever established ties with their current employer and take a calculated risk that they can assist in bringing a troubled institution back to financial health. This rationale does not apply to the case of a current employee of a troubled institution since he/she does not need to be enticed to give up an established, stable career with another employer.

5. Change In Control Exception

Section 359.4(a)(3) of the Second Proposal contains the change in control exception to the golden parachute prohibition. This exception permits an insured depository institution or holding company to make a reasonable severance payment, not to exceed twelve months salary, to an IAP in the event of a change in control with the prior consent of the appropriate federal banking agency. Once again, every commenter who discussed this exception expressed their support. However, a substantial number of those recommended that the FDIC delete the one year's salary cap.

This exception was added to the Second Proposal in response to comment letters received concerning the First Proposal. While the FDIC considers this to be an important exception, we believe that certain limits need to be placed on such payments. One year's salary appears to be a reasonable compromise between a prohibition on any payment and more generous payments. The FDIC is of the opinion that one year's salary will provide ample incentive for an IAP (usually a senior executive officer) to objectively consider a takeover bid which may result in the loss of that IAP's job. It must be remembered that this exception is relevant only in the event of the takeover of a troubled depository institution or holding company.

6. Condition of the Institution at Time of Termination

The FDIC specified in the preamble to the Second Proposal that a golden parachute payment which is prohibited from being paid at the time of an IAP's termination due to the troubled condition of the insured depository institution or holding company cannot be paid to that IAP at some later point in time once the institution or holding company is no longer troubled. See Second Proposal § 359.1(f)(1)(iii). Several commenters requested that the FDIC reconsider its position on this point.

The FDIC believes the position taken in the Second Proposal is consistent with the language and spirit of the statute. The language of section 18(k)(4)(A)(ii) of the FDI Act provides that any payment which is contingent on the termination of an IAP's employment and is received on or after an institution or holding company becomes troubled is a prohibited golden parachute. If this payment is prohibited under the prescribed circumstances, it is prohibited forever. However, the regulation contains several exceptions and procedures for affected individuals to avoid an undeserved prohibition on a potential golden parachute payment. Thus, the final regulation is consistent with the Second Proposal in this regard.

Issues Raised by the Commenters—Indemnification Payments

The vast majority of commenters were very supportive of the changes which the FDIC made to the indemnification payments portion of the First Proposal in response to the first set of comment letters. While most commenters indicated they thought the Second Proposal set forth a rational and fair scheme for determining indemnification, many commenters urged the FDIC to further amend the regulation to make it somewhat easier for IAPs to be indemnified. The FDIC has decided to adopt some, but not all, of the suggestions it received as discussed below.

[1] In the course of this preamble, the term "troubled" shall be used to refer to any of the criteria listed in § 359.1(f)(ii) of this final regulation.

1. Partial Indemnification

The most prevalent comment with regard to the indemnification portion of the Second Proposal noted that the proposed regulation would not permit partial indemnification in instances where it has been determined that an IAP has not violated certain banking laws or regulations or has not engaged in certain unsafe or unsound banking practices or breaches of fiduciary duty for which the individual has been charged. The FDIC has carefully considered this point and agrees with the commenters that indemnification should not be an "all or nothing" proposition. Therefore, the final regulation has been revised to permit partial indemnification for legal or professional expenses specifically attributable to particular charges for which there has been a formal and final adjudication or finding in connection with a settlement that the IAP has not violated certain banking laws or regulations or engaged in certain unsafe or unsound banking practices or breaches of fiduciary duty. Thus, in any administrative proceeding or civil action instituted by any federal banking agency which results in a final order or settlement pursuant to which the IAP is assessed a civil money penalty or is subject to a cease and desist order, indemnification will be permitted only for that portion of the liability or legal expenses incurred which relate to the particular charges for which an adjudication or finding in connection with a settlement in favor of the IAP has been made. Partial indemnification will not be permitted in cases where an IAP is removed from office and/or prohibited from participating in the affairs of an institution. Under no circumstances shall an IAP be indemnified for the amount of a civil money penalty or judgement assessed against him/her. See Final Regulation §§ 359.1(*l*) and 359.5(a). The FDIC recognizes that in many cases the appropriate amount of any partial indemnification will be difficult to ascertain with certainty.

2. Prior Notification of Indemnification Payments

Several commenters suggested that the FDIC delete the § 359.5(a)(5) requirement that the institution or holding company give the FDIC and the primary federal regulator prior written notification of the granting of any indemnification. The commenters pointed out that, in view of the limitations which the Second Proposal would place on the granting of indemnification payments and the various safeguards incorporated into the proposed regulation, prior notification would be unnecessary and burdensome. The FDIC agrees and this requirement has been deleted.

3. Prevention of Double Payments

Several commenters pointed out that § 359.5(a)(4) of the Second Proposal is worded in such a way that it could result in double payments to the institution in the event that a liability or legal expense incurred by the institution is reimbursed by insurance or a fidelity bond. The commenters are correct that the FDIC did not intend this result and the final regulation has been amended to make it clear that an IAP will not be obligated to reimburse the depository institution or holding company for indemnification payments made for his/her benefit to the extent that the institution or holding company is reimbursed by an insurance policy or fidelity bond.

4. Definition of Independent Counsel

A few comment letters noted that the Second Proposal does not contain a definition of the term "independent legal counsel", utilized in §§ 359.5 (c) and (d). The FDIC considered including such a definition when the Second Proposal was being written, but decided against it in an effort to shorten and simplify the regulation. The Corporation was of the opinion that the term "independent legal counsel" was not overly technical and could be determined on a case-by-case basis. Also, the preamble to the Second Proposal provided that:

> The FDIC would regard legal counsel as being "independent" (for purposes of this regulation) if the attorney(s) is not a member of the depository institution's or holding company's in-house legal staff, does not have an ongoing relationship with the depository institution or holding company and no other conflict of interest is present.

60 FR 16076 (1995). Thus, the FDIC has elected not to define this term in the final regulation.

5. Standard for Indemnification

In response to comments received with regard to the First Proposal, the FDIC made significant modifications to the indemnification portion of the proposed regulation in an effort to make it easier for an institution's or holding company's board of directors to approve IAPs to be indemnified for expenses incurred in administrative or civil actions commenced by a federal banking agency. Those modifications were discussed in great detail in the preamble to the Second Proposal. See 60 FR 16075–16076 (1995).

While all the commenters who raised the issue were supportive of these revisions, some commenters urged the FDIC to further revise the Second Proposal to make it even easier for IAPs to be indemnified. Several of these commenters referred to the Model Business Corporation Act (MBCA) and recommended that the FDIC adopt the indemnification standard set forth in section 8.51 thereof.

The Office of the Comptroller of the Currency (OCC) published a Notice of Proposed Rulemaking on March 3, 1995 concerning proposed modifications to 12 CFR part 7. See 60 FR 11924 (1995). This OCC proposal contained suggested revisions to OCC interpretive rulings concerning, among other topics, the indemnification of directors, officers and employees of national banks. Several of those who commented on the Second Proposal urged the FDIC and the OCC to adopt consistent regulations. In an effort to achieve inter-agency conformity, the FDIC and OCC have consulted with each other and have agreed to adopt consistent regulations.

While the Corporation understands the commenters' desires to make indemnification as easy as would be reasonable and to utilize the standard set forth in the MBCA, the FDIC Board has concluded that it is not required to follow the MBCA and that a slightly more stringent standard for insured depository institutions and their holding companies makes sense in view of the fact that this indemnification prohibition only applies to actions brought by the federal banking agencies. Such actions are only brought after substantial investigation and as part of a strict regulatory scheme. Such actions are intended to protect and maintain the solvency and integrity of the federal deposit insurance funds. Moreover, the FDIC Board is of the opinion that the indemnification standard set forth in the Second Proposal, with the revisions described above, appropriately balances the need to indemnify IAPs for actions taken in their official capacities with the necessity of making sure that they are held accountable for substantive violations of law or regulation. The standard also serves the purpose of protecting the financial viability of the insured depository institution or holding company which may make the indemnification payment. Thus, no further modifications to the standards are considered warranted.

6. Commencement of an Administrative Action

Several commenters suggested that the FDIC clarify when an administrative action is commenced by a federal banking agency. This time frame is important in view of the FDIC's position that expenses incurred prior to the commencement of a formal action are not subject to the regulation. See 60 FR 16077. The FDIC considers a formal administrative action to be commenced by the issuance of a "Notice of Charges". See *e.g.*, 12 CFR 308.18.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 359

Banks, banking, Golden parachute payments, Indemnity payments.

For the reasons set out in the preamble, the FDIC Board of Directors hereby amends part 303 and adds part 359 of title 12, chapter III, of the Code of Federal Regulations as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817(j), 1818, 1819("Seventh" and "Tenth"), 1828, 1831e, 1831o, 1831p-1; 15 U.S.C. 1607.

2. In § 303.7, a new paragraph (g) is added to read as follows:

§ 303.7 Delegation of authority to the Director (DOS) and to the associate directors, regional directors and deputy regional directors to act on certain applications, requests, and notices of acquisition of control.

* * * * *

(g) *Requests pursuant to section 18(k) of the Act.* Authority is delegated to the Director, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve or deny requests pursuant to section 18(k) of the Act to make:

(1) Excess nondiscriminatory severance plan payments as provided by 12 CFR 359.1(f)(2)(v); and

(2) Golden parachute payments permitted by 12 CFR 359.4.

3. New part 359 is added to read as follows:

PART 359—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Sec.

359.0 Scope.
359.1 Definitions.
359.2 Golden parachute payments prohibited.
359.3 Prohibited indemnification payments.
359.4 Permissible golden parachute payments.
359.5 Permissible indemnification payments.
359.6 Filing instructions.
359.7 Applicability in the event of receivership.

Authority: 12 U.S.C. 1828(k).

§ 359.0 Scope.

(a) This part limits and/or prohibits, in certain circumstances, the ability of insured depository institutions, their subsidiaries and affiliated depository institution holding companies to enter into contracts to pay and to make golden parachute and indemnification payments to institution-affiliated parties (IAPs).

(b) The limitations on golden parachute payments apply to troubled insured depository institutions which seek to enter into contracts to pay or to make golden parachute payments to their IAPs. The limitations also apply to depository institution holding companies which are troubled and seek to enter into contracts to pay or to make golden parachute payments to their IAPs as well as healthy holding companies which seek to enter into contracts to pay or to make golden parachute payments to IAPs of a troubled insured depository institution subsidiary. A "golden parachute payment" is generally considered to be any payment to an IAP which is contingent on the termination of that person's employment and is received when the insured depository institution making the payment is troubled or, if the payment is being made by an affiliated holding company, either the holding company itself or the insured depository institution employing the IAP, is troubled. The definition of golden parachute payment does not include payments pursuant to qualified retirement plans, nonqualified *bona fide* deferred compensation plans, nondiscriminatory severance pay plans, other types of common benefit plans, state statutes and death benefits. Certain limited exceptions to the golden parachute payment prohibition are provided for in cases involving the hiring of a white knight and unassisted changes in control. A procedure is also set forth whereby an institution or IAP can request permission to make what would otherwise be a prohibited golden parachute payment.

(c) The limitations on indemnification payments apply to all insured depository institutions, their subsidiaries and affiliated depository institution holding companies regardless of their financial health. Generally, this part prohibits insured depository institutions, their subsidiaries and affiliated holding companies from indemnifying an IAP for that portion of the costs sustained with regard to an administrative or civil enforcement action commenced by any federal banking agency which results in a final order or settlement pursuant to which the IAP is assessed a civil money penalty, removed from office, prohibited from participating in the affairs of an insured depository institution or required to cease and desist from or take an affirmative action described in section 8(b) (12 U.S.C. 1818(b)) of the Federal Deposit Insurance Act (FDI Act). However, there are exceptions to this general prohibition. First, an institution or holding company may purchase commercial insurance to cover such expenses, except judgments and penalties. Second, the institution or holding company may advance legal and other professional expenses to an IAP directly (except for judgments and penalties) if its board of directors makes certain specific findings and the IAP agrees in writing to reimburse the institution if it is ultimately determined that the IAP violated a law, regulation or other fiduciary duty.

§ 359.1 Definitions.

(a) *Act* means the Federal Deposit Insurance Act, as amended (12 U.S.C. 1811, *et seq.*).

(b) *Appropriate federal banking agency, bank holding company, depository institution holding company* and *savings and loan holding company* have the meanings given to such terms in section 3 of the Act.

(c) *Benefit plan* means any plan, contract, agreement or other arrangement which is an "employee welfare benefit plan" as that term is defined in section 3(1) of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1002(1)), or other usual and customary plans such as dependent care, tuition reimbursement, group legal services or cafeteria plans; provided however, that such term shall not include any plan intended to be subject to paragraphs (f)(2) (iii) and (v) of this section.

(d) *Bona fide deferred compensation plan or arrangement* means any plan, contract, agreement or other arrangement whereby:

(1) An IAP voluntarily elects to defer all or a portion of the reasonable compensation, wages or fees paid for services rendered which otherwise would have been paid to such party at the time the services were rendered (including a plan that provides for the crediting of a reasonable investment return on such elective deferrals) and the insured depository institution or depository institution holding company either:

(i) Recognizes compensation expense and accrues a liability for the benefit payments according to generally accepted accounting principles (GAAP); or

(ii) Segregates or otherwise sets aside assets in a trust which may only be used to pay plan and other benefits, except that the assets of such trust may be available to satisfy claims of the institution's or holding company's creditors in the case of insolvency; or

(2) An insured depository institution or depository institution holding company establishes a nonqualified deferred compensation or supplemental retirement plan, other than an elective deferral plan described in paragraph (e)(1) of this section:

(i) Primarily for the purpose of providing benefits for certain IAPs in excess of the limitations on contributions and benefits imposed by sections 415, 401(a)(17), 402(g) or any other applicable provision of the Internal Revenue Code of 1986 (26 U.S.C. 415, 401(a)(17), 402(g)); or

(ii) Primarily for the purpose of providing supplemental retirement benefits or other deferred compensation for a select group of directors, management or highly compensated employees (excluding severance payments described in paragraph (f)(2)(v) of this section and permissible golden parachute payments described in § 359.4); and

(3) In the case of any nonqualified deferred compensation or supplemental retirement plans as described in paragraphs (d) (1) and (2) of this section, the following requirements shall apply:

(i) The plan was in effect at least one year prior to any of the events described in paragraph (f)(1)(ii) of this section;

(ii) Any payment made pursuant to such plan is made in accordance with the terms of the plan as in effect no later than one year prior to any of the events described in paragraph (f)(1)(ii) of this section and in accordance with any amendments to such plan during such one year period that do not increase the benefits payable thereunder;

(iii) The IAP has a vested right, as defined under the applicable plan document, at the time of termination of employment to payments under such plan;

(iv) Benefits under such plan are accrued each period only for current or prior service rendered to the employer (except that an allowance may be made for service with a predecessor employer);

(v) Any payment made pursuant to such plan is not based on any discretionary acceleration of vesting or accrual of benefits which occurs at any time later than one year prior to any of the events described in paragraph (f)(1)(ii) of this section;

(vi) The insured depository institution or depository institution holding company has previously recognized compensation expense and accrued a liability for the benefit payments according to GAAP or segregated or otherwise set aside assets in a trust which may only be used to pay plan benefits, except that the assets of such trust may be available to satisfy claims of the institution's or holding company's creditors in the case of insolvency; and

(vii) Payments pursuant to such plans shall not be in excess of the accrued liability computed in accordance with GAAP.

(e) *Corporation* means the Federal Deposit Insurance Corporation, in its corporate capacity.

(f) *Golden parachute payment.* (1) The term *golden parachute payment* means any payment (or any agreement to make any payment) in the nature of compensation by any insured depository institution or an affiliated depository institution holding company for the benefit of any current or former IAP pursuant to an obligation of such institution or holding company that:

(i) Is contingent on, or by its terms is payable on or after, the termination of such party's primary employment or affiliation with the institution or holding company; and

(ii) Is received on or after, or is made in contemplation of, any of the following events:

(A) The insolvency (or similar event) of the insured depository institution which is making the payment or bankruptcy or insolvency (or similar event) of the depository institution holding company which is making the payment; or

(B) The appointment of any conservator or receiver for such insured depository institution; or

(C) A determination by the insured depository institution's or depository institution holding company's appropriate federal banking agency, respectively, that the insured depository institution or depository institution holding company is in a troubled condition, as defined in the applicable regulations of the appropriate federal banking agency (§ 303.14(a)(4) of this chapter); or

(D) The insured depository institution is assigned a composite rating of 4 or 5 by the appropriate federal banking agency or informed in writing by the Corporation that it is rated a 4 or 5 under the Uniform Financial Institutions Rating System of the Federal Financial Institutions Examination Council, or the depository institution holding company is assigned a composite rating of 4 or 5 or unsatisfactory by its appropriate federal banking agency; or

(E) The insured depository institution is subject to a proceeding to terminate or suspend deposit insurance for such institution; and

(iii)(A) Is payable to an IAP whose employment by or affiliation with an insured depository institution is terminated at a time when the insured depository institution by which the IAP is employed or with which the IAP is affiliated satisfies any of the conditions enumerated in paragraphs (f)(1)(ii) (A) through (E) of this section, or in contemplation of any of these conditions; or

(B) Is payable to an IAP whose employment by or affiliation with an insured depository institution holding company is terminated at a time when the insured depository institution holding company by which the IAP is employed or with which the IAP is affiliated satisfies any of the conditions enumerated in paragraphs (f)(1)(ii)(A), (C) or (D) of this section, or in contemplation of any of these conditions.

(2) *Exceptions.* The term *golden parachute payment* shall not include:

(i) Any payment made pursuant to a pension or retirement plan which is qualified (or is intended within a reasonable period of time to be qualified) under section 401 of the Internal Revenue Code of 1986 (26 U.S.C. 401) or pursuant to a pension or other retirement plan which is governed by the laws of any foreign country; or

(ii) Any payment made pursuant to a benefit plan as that term is defined in paragraph (c) of this section; or

(iii) Any payment made pursuant to a *bona fide* deferred compensation plan or arrangement as defined in paragraph (d) of this section; or

(iv) Any payment made by reason of death or by reason of termination caused by the disability of an institution-affiliated party; or

(v) Any payment made pursuant to a nondiscriminatory severance pay plan

or arrangement which provides for payment of severance benefits to all eligible employees upon involuntary termination other than for cause, voluntary resignation, or early retirement; *provided, however,* that no employee shall receive any such payment which exceeds the base compensation paid to such employee during the twelve months (or such longer period or greater benefit as the Corporation shall consent to) immediately preceding termination of employment, resignation or early retirement, and such severance pay plan or arrangement shall not have been adopted or modified to increase the amount or scope of severance benefits at a time when the insured depository institution or depository institution holding company was in a condition specified in paragraph (f)(1)(ii) of this section or in contemplation of such a condition without the prior written consent of the appropriate federal banking agency; or

(vi) Any severance or similar payment which is required to be made pursuant to a state statute or foreign law which is applicable to all employers within the appropriate jurisdiction (with the exception of employers that may be exempt due to their small number of employees or other similar criteria); or

(vii) Any other payment which the Corporation determines to be permissible in accordance with § 359.4.

(g) *Insured depository institution* means any bank or savings association the deposits of which are insured by the Corporation pursuant to the Act, or any subsidiary thereof.

(h) *Institution-affiliated party (IAP)* means:

(1) Any director, officer, employee, or controlling stockholder (other than a depository institution holding company) of, or agent for, an insured depository institution or depository institution holding company;

(2) Any other person who has filed or is required to file a change-in-control notice with the appropriate federal banking agency under section 7(j) of the Act (12 U.S.C. 1817(j));

(3) Any shareholder (other than a depository institution holding company), consultant, joint venture partner, and any other person as determined by the appropriate federal banking agency (by regulation or case-by-case) who participates in the conduct of the affairs of an insured depository institution or depository institution holding company; and

(4) Any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in: Any violation of any law or regulation, any breach of fiduciary duty, or any unsafe or unsound practice, which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured depository institution or depository institution holding company.

(i) *Liability or legal expense* means:

(1) Any legal or other professional fees and expenses incurred in connection with any claim, proceeding, or action;

(2) The amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

(3) The amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

(j) *Nondiscriminatory* means that the plan, contract or arrangement in question applies to all employees of an insured depository institution or depository institution holding company who meet reasonable and customary eligibility requirements applicable to all employees, such as minimum length of service requirements. A nondiscriminatory plan, contract or arrangement may provide different benefits based only on objective criteria such as salary, total compensation, length of service, job grade or classification, which are applied on a proportionate basis (with a variance in severance benefits relating to any criterion of plus or minus ten percent) to groups of employees consisting of not less than the lesser of 33 percent of employees or 1,000 employees.

(k) *Payment* means:

(1) Any direct or indirect transfer of any funds or any asset;

(2) Any forgiveness of any debt or other obligation;

(3) The conferring of any benefit, including but not limited to stock options and stock appreciation rights; and

(4) Any segregation of any funds or assets, the establishment or funding of any trust or the purchase of or arrangement for any letter of credit or other instrument, for the purpose of making, or pursuant to any agreement to make, any payment on or after the date on which such funds or assets are segregated, or at the time of or after such trust is established or letter of credit or other instrument is made available, without regard to whether the obligation to make such payment is contingent on:

(i) The determination, after such date, of the liability for the payment of such amount; or

(ii) The liquidation, after such date, of the amount of such payment.

(l) *Prohibited indemnification payment.* (1) The term *prohibited indemnification payment* means any payment (or any agreement or arrangement to make any payment) by any insured depository institution or an affiliated depository institution holding company for the benefit of any person who is or was an IAP of such insured depository institution or holding company, to pay or reimburse such person for any civil money penalty or judgment resulting from any administrative or civil action instituted by any federal banking agency, or any other liability or legal expense with regard to any administrative proceeding or civil action instituted by any federal banking agency which results in a final order or settlement pursuant to which such person:

(i) Is assessed a civil money penalty;

(ii) Is removed from office or prohibited from participating in the conduct of the affairs of the insured depository institution; or

(iii) Is required to cease and desist from or take any affirmative action described in section 8(b) of the Act with respect to such institution.

(2) *Exceptions.* (i) The term *prohibited indemnificotion payment* shall not include any reasonable payment by an insured depository institution or depository institution holding company which is used to purchase any commercial insurance policy or fidelity bond, provided that such insurance policy or bond shall not be used to pay or reimburse an IAP for the cost of any judgment or civil money penalty assessed against such person in an administrative proceeding or civil action commenced by any federal banking agency, but may pay any legal or professional expenses incurred in connection with such proceeding or action or the amount of any restitution to the insured depository institution, depository institution holding company or receiver.

(ii) The term *prohibited indemnificotion payment* shall not include any reasonable payment by an insured depository institution or depository institution holding company that represents partial indemnification for legal or professional expenses specifically attributable to particular charges for which there has been a formal and final adjudication or finding in connection with a settlement that the IAP has not violated certain banking laws or regulations or has not engaged in certain unsafe or unsound banking practices or breaches of fiduciary duty, unless the administrative action or civil proceeding has resulted in a final prohibition order against the IAP.

§ 359.2 Golden parachute payments prohibited.

No insured depository institution or depository institution holding company shall make or agree to make any golden parachute payment, except as provided in this part.

§ 359.3 Prohibited indemnification payments.

No insured depository institution or depository institution holding company shall make or agree to make any prohibited indemnification payment, except as provided in this part.

§ 359.4 Permissible golden parachute payments.

(a) An insured depository institution or depository institution holding company may agree to make or may make a golden parachute payment if and to the extent that:

(1) The appropriate federal banking agency, with the written concurrence of the Corporation, determines that such a payment or agreement is permissible; or

(2) Such an agreement is made in order to hire a person to become an IAP either at a time when the insured depository institution or depository institution holding company satisfies or in an effort to prevent it from imminently satisfying any of the criteria set forth in § 359.1(f)(1)(ii), and the institution's appropriate federal banking agency and the Corporation consent in writing to the amount and terms of the golden parachute payment. Such consent by the FDIC and the institution's appropriate federal banking agency shall not improve the IAP's position in the event of the insolvency of the institution since such consent can neither bind a receiver nor affect the provability of receivership claims. In the event that the institution is placed into receivership or conservatorship, the FDIC and/or the institution's appropriate federal banking agency shall not be obligated to pay the promised golden parachute and the IAP shall not be accorded preferential treatment on the basis of such prior approval; or

(3) Such a payment is made pursuant to an agreement which provides for a reasonable severance payment, not to exceed twelve months salary, to an IAP in the event of a change in control of the insured depository institution; *provided, however,* that an insured depository institution or depository institution holding company shall obtain the consent of the appropriate federal banking agency prior to making such a payment and this paragraph (a)(3) shall not apply to any change in control of an insured depository institution which results from an assisted transaction as described in section 13 of the Act (12 U.S.C. 1823) or the insured depository institution being placed into conservatorship or receivership; and

(4) An insured depository institution, depository institution holding company or IAP making a request pursuant to paragraphs (a)(1) through (3) of this section shall demonstrate that it does not possess and is not aware of any information, evidence, documents or other materials which would indicate that there is a reasonable basis to believe, at the time such payment is proposed to be made, that:

(i) The IAP has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the depository institution or depository institution holding company that has had or is likely to have a material adverse effect on the institution or holding company;

(ii) The IAP is substantially responsible for the insolvency of, the appointment of a conservator or receiver for, or the troubled condition, as defined by applicable regulations of the appropriate federal banking agency, of the insured depository institution, depository institution holding company or any insured depository institution subsidiary of such holding company;

(iii) The IAP has materially violated any applicable federal or state banking law or regulation that has had or is likely to have a material effect on the insured depository institution or depository institution holding company; and

(iv) The IAP has violated or conspired to violate section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18 of the United States Code, or section 1341 or 1343 of such title affecting a federally insured financial institution as defined in title 18 of the United States Code.

(b) In making a determination under paragraphs (a) (1) through (3) of this section, the appropriate federal banking agency and the Corporation may consider:

(1) Whether, and to what degree, the IAP was in a position of managerial or fiduciary responsibility;

(2) The length of time the IAP was affiliated with the insured depository institution or depository institution holding company, and the degree to which the proposed payment represents a reasonable payment for services rendered over the period of employment; and

(3) Any other factors or circumstances which would indicate that the proposed payment would be contrary to the intent of section 18(k) of the Act or this part.

§ 359.5 Permissible indemnification payments.

(a) An insured depository institution or depository institution holding company may make or agree to make reasonable indemnification payments to an IAP with respect to an administrative proceeding or civil action initiated by any federal banking agency if:

(1) The insured depository institution's or depository institution holding company's board of directors, in good faith, determines in writing after due investigation and consideration that the institution-affiliated party acted in good faith and in a manner he/she believed to be in the best interests of the institution;

(2) The insured depository institution's or depository institution holding company's board of directors, respectively, in good faith, determines in writing after due investigation and consideration that the payment of such expenses will not materially adversely affect the institution's or holding company's safety and soundness;

(3) The indemnification payments do not constitute prohibited indemnification payments as that term is defined in § 359.1(l); and

(4) The IAP agrees in writing to reimburse the insured depository institution or depository institution holding company, to the extent not covered by payments from insurance or bonds purchased pursuant to § 359.1(l)(2), for that portion of the advanced indemnification payments which subsequently become prohibited indemnification payments, as defined in § 359.1(l)

(b) An IAP requesting indemnification payments shall not participate in any way in the board's discussion and approval of such payments; *provided, however,* that such IAP may present his/her request to the board and respond to any inquiries from the board concerning his/her involvement in the circumstances giving rise to the administrative proceeding or civil action.

(c) In the event that a majority of the members of the board of directors are named as respondents in an administrative proceeding or civil action and request indemnification, the remaining members of the board may authorize independent legal counsel to review the indemnification request and provide the remaining members of the board with a written opinion of counsel as to whether the conditions delineated in paragraph (a) of this section have been met. If independent legal counsel

opines that said conditions have been met, the remaining members of the board of directors may rely on such opinion in authorizing the requested indemnification.

(d) In the event that all of the members of the board of directors are named as respondents in an administrative proceeding or civil action and request indemnification, the board shall authorize independent legal counsel to review the indemnification request and provide the board with a written opinion of counsel as to whether the conditions delineated in paragraph (a) of this section have been met. If independent legal counsel opines that said conditions have been met, the board of directors may rely on such opinion in authorizing the requested indemnification.

§ 359.6 Filing instructions.

Requests to make excess nondiscriminatory severance plan payments pursuant to § 359.1(f)(2)(v) and golden parachute payments permitted by § 359.4 shall be submitted in writing to the FDIC regional director (Supervision) for the region in which the institution is located. The request shall be in letter form and shall contain all relevant factual information as well as the reasons why such approval should be granted. In the event that the consent of the institution's primary federal regulator is required in addition to that of the FDIC, the requesting party shall submit a copy of its letter to the FDIC to the institution's primary federal regulator. In the case of national banks, such written requests shall be submitted to the OCC. In the case of state member banks and bank holding companies, such written requests shall be submitted to the Federal Reserve district bank where the institution or holding company, respectively, is located. In the case of savings associations and savings association holding companies, such written requests shall be submitted to the OTS regional office where the institution or holding company, respectively, is located. In cases where the prior consent of only the institution's primary federal regulator is required and that agency is not the FDIC, a written request satisfying the requirements of this section shall be submitted to the primary federal regulator as described in this section.

§ 359.7 Applicability in the event of receivership.

The provisions of this part, or any consent or approval granted under the provisions of this part by the FDIC (in its corporate capacity), shall not in any way bind any receiver of a failed insured depository institution. Any consent or approval granted under the provisions of this part by the FDIC or any other federal banking agency shall not in any way obligate such agency or receiver to pay any claim or obligation pursuant to any golden parachute, severance, indemnification or other agreement. Claims for employee welfare benefits or other benefits which are contingent, even if otherwise vested, when the FDIC is appointed as receiver for any depository institution, including any contingency for termination of employment, are not provable claims or actual, direct compensatory damage claims against such receiver. Nothing in this part may be construed to permit the payment of salary or any liability or legal expense of any IAP contrary to 12 U.S.C. 1828(k)(3).

By order of the Board of Directors, dated at Washington, DC, this 6th day of February, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3273 Filed 2–14–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AWA–1]

Revision to the Miami Class B Airspace Area; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action corrects the legal description of the Miami, FL, Class B airspace area. This action is necessary due to the decommissioning of two principal navigational aids (NAVAIDS), Biscayne Bay, FL, Very High Frequency Omnidirectional Range (VOR) and Miami, FL, VOR, used to describe the lateral limits of the present Miami, FL, Class B airspace area. This action does not alter the vertical or lateral limits of the existing Miami, FL, Class B airspace area.

EFFECTIVE DATE: February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION: This action is the last in a series of regulatory and nonregulatory actions that began in 1992 with Hurricane Andrew. In the summer of 1992, the Biscayne Bay (BSY) VOR was rendered inoperative by Hurricane Andrew and was replaced by the Andrew (AEW) Nondirectional Radio Beacon (NDB). The AEW NDB provided navigational guidance for air traffic operations in south Florida until March 30, 1995. At that time, the Virginia Keys (VKZ) Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) was commissioned to replace the AEW NDB.

In anticipation of changes to the airspace in South America and the Caribbean, the FAA initiated action to decommission and relocate another primary NAVAID, the Miami VOR, to support users of the airspace and the air traffic system. A new NAVAID, replacing the Miami VOR, was commissioned as the Dolphin (DHP) VOR on November 9, 1995.

The commissioning or decommissioning of these NAVAIDS prompted rulemaking action to realign Federal airways, jet routes, and revisions to standard instrument departure and arrival routes. Associated publications were updated subsequently to the rulemaking actions. However, the Miami, FL, visual flight rules Terminal Area Chart was not updated and as a result of this oversight, the published chart contained obsolete data.

This action will update the description of the Miami, FL, Class B airspace area and associated navigational charts by removing all notations relating to BSY and MIA VOR's. Since this action involves the removal of obsolete terms from the airspace designation and does not alter the vertical or lateral boundaries or operating requirements of the Miami Class B airspace area, the FAA finds that notice and public procedure under 5 U.S.C. 553(b), are not practicable. Also, because there is an immediate need to remove any reference to obsolete NAVAIDS from the airspace designation to avoid pilot confusion, the FAA finds that, good cause, pursuant to 5 U.S.C.(d), exists for making this amendment effective in less than 30 days.

Further, the FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic aeronautical charts, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The Amendment

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) redefines the current Miami, FL, Class B airspace designation due to the decommissioning of the Biscayne Bay, FL, and the Miami, FL, VOR's.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 3000—Subpart B-Class B Airspace

* * * * *

ASO FL B Miami, FL [Revised]

Miami International Airport (Primary Airport)
(lat. 25°47'35" N., long. 80°17'25" W.)
Miami, Kendall-Tamiami Executive Airport, FL
(lat. 25°38'52" N., long. 80°25'58" W.)
Dolphin VORTAC
(lat. 25°48'00" N., long. 80°20'57" W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of Miami International Airport, excluding that airspace north of lat. 25°52'03" N., (N.W. 103rd Street/49th Street in the City of Hialeah), and within and underlying Area F described hereinafter.

Area B. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within a 10-mile radius of Miami International Airport, excluding that airspace north of lat. 25°52'03" N., that airspace south of lat. 25°40'19" N., Area A previously described, and within Areas C and F described hereinafter.

Area C. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within an area bounded on the northeast by a 4.3-mile radius arc of Kendall-Tamiami Executive Airport, on the south by the lat. 25°40'19" N., and on the southwest by a 10-mile radius arc of Miami International Airport.

Area D. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL beginning northwest of Miami International Airport at the intersection of a 20-mile radius arc of Miami International Airport and lat. 25°57'48" N., thence east along lat. 25°57'48" N., to the intersection of a 15-mile radius arc of Miami International Airport, thence clockwise along the 15-mile radius arc to lat. 25°57'48" N., thence east along lat. 25°57'48" N., to the intersection of a 20-mile radius arc of Miami International Airport, thence clockwise along the 20-mile radius arc to the Dolphin VORTAC 151° radial, thence northwest along the Dolphin VORTAC 151° radial to the intersection of a 15-mile radius arc of Miami Internaitonal Airport, thence clockwise along the 15-mile radius arc to lat. 25°40'19" N., thence west along lat. 25°40'19" N., to the intersection of a 20-mile radius arc of Miami International Airport, thence clockwise along the 20-mile radius arc to the point of beginning, excluding the airspace within Areas A, B, and C previously described, and within Areas F and G described hereinafter.

Area E. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL bounded on the south by lat. 25°57'48" N., on the northwest by a 20-mile radius arc of Miami International Airport, on the northeast by a line from lat. 26°05'56" N., long. 80°26'23" W., to lat. 26°01'32" N., long. 80°23'40" W., and on the southeast by a 15-mile radius arc of Miami International Airport.

Area F. That airspace extending upward from but not including 1,000 feet MSL to and including 7,000 feet MSL bounded on the east by a 6-mile radius arc of Miami International Airport, and on the west by the west shoreline of Biscayne Bay.

Area G. That airspace extending upward from 5,000 feet MSL to and including 7,000 feet MSL bounded on the north by lat. 25°40'19" N., on the southwest by a 15-mile radius arc of Miami International Airport, and on the east by U.S. Route 1.

Area H. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL bounded on the northeast by U.S. Route 27, on the south by lat. 25°52'03" N., and on the northwest by a 10-mile radius arc of Miami International Airport.

* * * * *

Issued in Washington, DC, on February 8, 1996.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 96–3491 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 95–ANE–60]

Amendment to Class D and Class E Airspace; New England Region

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class D airspace areas at Beverly, MA (BVY); Bedford, MA (BED); Danbury, CT (DXR); Norwood, MA (OWD); Lebanon, NH (LEB); and Nashua, NH (ASH); and the associated Class E airspace areas at Beverly (BVY), Lebanon (LEB), and Nashua (ASH). The FAA has determined after a review of the elevation of the surrounding terrain in the vicinity of these airports that the lateral limits of the Class D areas at these airports may be reduced and the appropriate changes made to the Class E airspace areas.

EFFECTIVE DATE: 0901 UTC, April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, System Management Branch, ANE–533, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION:

History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by reducing the lateral limits of the Class D airspace areas at Beverly, MA (BVY); Bedford, MA (BED); Danbury, CT (DXR); Norwood, MA (OWD); Lebanon, NH (LEB); and Nashua, NH (ASH); and, as a consequence to those changes, by making the necessary changes to the associated Class E airspace areas at Beverly (BVY), Lebanon (LEB), and Nashua (ASH) (60 FR 65041). The proposed action was the result of an extensive review of the elevation of the surrounding terrain at airports in the New England region with Class D airspace areas. That review came in response to concerns expressed by operators and other interested parties over recent changes to the lateral limits of Class D airspace areas in the New

England region. By using more detailed topographical charts and more precise calculations, the FAA determined that reductions in the lateral limits of the Class D airspace areas at BVY, BED, DXR, OWD, LEB, and ASH were appropriate and would not affect aviation safety. As a result of the reductions to the Class D airspace areas at BVY, LEB, and ASH, the FAA determined that minor adjustments to the associated Class E areas at those airports were necessary.

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. One comment was received from the National Oceanic and Atmospheric Administration's Charting Division which noted some needed typographical corrections. The FAA has incorporated those corrections into this final rule. In addition, since the issuance of the Notice of Proposed Rulemaking, the FAA has determined that the proposed northerly extension to the LEB Class D airspace areas running to 6 miles north of the extended centerline of Runway 36 at LEB may be eliminated because that airspace is encompassed by the proposed Class E extensions to the LEB Class D airspace. Class D airspace designations, and Class E airspace designations for airspace areas extending upward from the surface of the earth defined as extensions to Class D airspace areas, are published in paragraphs 5000 and 6004, respectively, of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in this Order.

The Rule

The amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class D airspace areas at BVY, BED, DXR, OWD, LEB, and ASH, by reducing the lateral limits of those airspace areas, and by making the necessary changes to the associated Class E airspace areas at BVY, LEB, and ASH. The FAA has determined that these amendments only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, these regulations—(1) are not "significant regulatory actions" under Executive Order 12866; (2) are not "significant rules" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) do not warrant preparation of a Regulatory Evaluation as the anticipated impact will be so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that these rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 5000—Class D Airspace

* * * * *

ANE MA D Beverly, MA [Revised]

Beverly Municipal Airport, MA
(Lat. 42°35'03" N, long. 70°54'59" W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.1-mile radius of Beverly Municipal Airport, excluding that airspace within the Boston, MA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE MA D Bedford, MA [Revised]

Bedford, Lawrence G. Hanscom Field, MA
(Lat. 42°28'12" N, long. 71°17'20" W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.7-mile radius of Lawrence G. Hanscom Field, excluding that airspace within the Boston, MA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE CT D Danbury, CT [Revised]

Danbury Municipal Airport, CT
(Lat. 41°22'17" N, long. 73°28'56" W)
Carmel VORTAC
(Lat. 41°16'48" N, long. 73°34'53" W)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 6-mile radius of Danbury Municipal Airport, and within 1.2 miles on each side of the Carmel VORTAC 039° radial, extending from the 6-mile radius to the Carmel VORTAC. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE MA D Norwood, MA [Revised]

Norwood Memorial Airport, MA
(Lat. 42°11'27" N, long. 71°10'23" W)

That airspace extending upward from the surface to and including 2,600 MSL within a 4.5-mile radius of the Norwood Memorial Airport, excluding that airspace within the Boston, MA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE NH D Lebanon, NH [Revised]

Lebanon Municipal Airport, NH
(Lat. 43°37'35" N, long. 72°18'15" W)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4.8-mile radius of Lebanon Municipal Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE NH D Nashua, NH [Revised]

Nashua Boire Field, NH
(Lat. 42°46'54" N, long. 71°30'53" W)
Sports Center Airport, Pepperell
(Lat. 42°41'46" N, long. 71°33'00" W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5-mile radius of Boire Field; excluding that airspace within a 2-mile radius of Sports Center Airport, Pepperell, and that airspace within the Manchester Airport, NH, Class G airspace areas. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

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Subpart E—Class E Airspace

* * * * *

Paragraph 6004—Class E airspace areas extending from the surface of the earth defined as extensions to Class D airspace areas.

* * * * *

ANE MA E4 Beverly, MA [Revised]

Beverly Municipal Airport, MA
(Lat. 42°35'03" N, long. 70°54'59" W)

That airspace extending upward from the surface within 3.2 miles on each side of the Topsfield NDB 317° bearing extending from a 4.1-mile radius of Beverly Municipal Airport to 7 miles northwest of the Topsfield NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE NH E4 Lebanon, NH [Revised]

Lebanon Municipal Airport, NH
(Lat. 43°37'35" N, long. 72°18'15" W)
BURGR OM
(Lat. 43°43'57" N, long. 72°20'00" W)
Hanover NDB
(Lat. 43°42'08" N, long. 72°10'39" W)

That airspace extending upward from the surface within 3.3 miles each side of the BURGR OM 352° bearing from a 4.8-mile radius of Lebanon Municipal Airport to 8 miles north of the BURGR OM, and within 2.4 miles each side of the Hanover NDB 051° bearing extending from the 4.8-mile radius to 7 miles northeast of the Hanover NDB. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE NH E4 Nashua, NH [Revised]

Nashua, Boire Field, NH
(Lat. 42°46'54" N, long. 71°30'53" W)
CHERN NDB
(Lat. 42°49'24" N, long. 71°36'08" W)
Manchester VORTAC
(Lat. 42°52'06" N, long. 71°22'10" W)

That airspace extending upward from the surface within 2.6 miles on each side of the CHERN NDB 303° bearing extending from a 5-mile radius of Boire Field to 7 miles northwest of the CHERN NDB, and that airspace extending upward from the surface within 1.1 miles on each side of the Manchester VORTAC 231° radial extending from the 5-mile radius to 8.4 miles northeast of Boire Field. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Burlington, MA, on February 8, 1996.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 96–3492 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–ANE–01]

Removal of Class E Airspace; Fort Devens, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment removes the Class E airspace at Moore Army Air Field, Fort Devens, MA. With the closing of Fort Devens, the U.S. Army decommissioned the airport traffic control tower at Moore Army Air Field, and cancelled all the Standard Instrument Approach Procedures (SIAP's) to that airport. This action is necessary to remove the Class E airspace area at Fort Devens, which is no longer required.

DATES: Effective Date: 0901 UTC, April 25, 1996.

Comments must be received on or before March 18, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANE–530, Federal Aviation Administration, Docket No. 95–ANE–60, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7530; fax (617) 238–7596.

The official docket file may be examined in the Office of the Assistant Chief Counsel, New England Region, ANE–7, Room 401, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7040; fax (617) 238–7055.

An informal docket may also be examined during normal business hours in the Air Traffic Division, Room 408, by contacting the Manager, System Management Branch at the first address listed above.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, System Management Branch, ANE–533, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is a final rule, which involves removing the Class E airspace area at Fort Devens, MA, and was not preceded by notice and an opportunity for public comment, comments are invited on the rule. This rule will become effective on the date specified in the **DATES** section. However, after the review of any comments and, if the FAA finds that further changes are appropriate, it may initiate rulemaking proceedings to extend the effective date or to amend the regulation.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule, and in determining whether additional rulemaking is required. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule, which might suggest the need to modify the rule.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) removes the Class E airspace area at Moore Army Air Field, Fort Devens, MA. Since the closure of Fort Devens in 1993, the U.S. Army has decommissioned the airport traffic control over (ATCT) at Moore Army Air Field and cancelled all the Standard Instrument Approach Procedures (SIAP's) to that airport. Controlled airspace in the vicinity of Moore Army Air Field is, therefore, no longer required. This action removes the Class E airspace area at Fort Devens, MA. Class E airspace designations for airspace areas extending from 700 or more feet above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The removal of the Class E airspace designation listed in this document will be published subsequently in this Order.

Under the circumstances presented, the FAA concludes that notice and an opportunity for prior public comment under 5 U.S.C. 553(b) is unnecessary and contrary to the public interest. In addition, the FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated

impact will be so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Subpart E—Class E Airspace

* * * * *

Paragraph 6005 Class E surface areas extending from 700 or more feet above the surface of the earth.

* * * * *

ANE MA E5 Fort Devens, MA [Removed]

* * * * *

Issued in Burlington, MA, on February 8, 1996.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 96–3493 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 135

[Docket No. 26192; Amdt. No. 135–56]

RIN 2120–AD28

Improved Flammability Standards for Materials Used in the Interiors of Airplane Cabins

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of disposition of comments on final rule.

SUMMARY: On March 6, 1995, the Federal Aviation Administration (FAA) issued Amendment 135–56 which removed an unintended requirement in the previously issued Amendment 135–55 of part 135 of the Federal Aviation Regulations (FAR) (60 FR 13010). Amendment 135–56 was effective on March 6, 1995, however, the FAA invited public comments on the subject until April 10, 1995. Although the FAA has determined that there is no need for any further amendment to part 135, this document responds to the comments submitted by the public.

ADDRESSES: The complete docket for the final rule on Improved Flammability Standards for Materials Used in the Interiors of Airplane Cabins may be examined at the Federal Aviation Administration, Office of the Chief Counsel (AGC–10), Rules Docket, Room 915G, 800 Independence Avenue SW., Washington, DC 20591, weekdays, except Federal holidays between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Transport Airplane Directorate (ANM–100), FAA, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments in the information docket may be inspected weekdays, except Federal holidays, between 7:30 a.m., and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Regulations Branch, ANM–114, Transport Airplane Directorate, Aircraft Certification Service, FAA 1601 Lind Avenue SW., Renton, WA 98055–4956; telephone (206) 227–2194.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1995, the FAA issued Amendment 135–56 (60 FR 13010, March 9, 1995), which removed an unintended requirement in the previously-issued Amendment 135–55 (60 FR 6616, February 2, 1995) to part 135 of the FAR. This action ensued that commuter category airplanes operated under part 135 would not be grounded for failing to comply with the unintended requirement which became effective on March 6, 1995.

Specifically, § 135.170(b), as revised by Amendment 135–55, stated that no person may operate a "large" airplane unless it meets the flammability requirements contained in §§ 135.170(b)(1) and (2). Section 135.170(b)(2) states, in turn, that seat cushions, except for flight crewmember seat cushions, must comply with the fire blocking standards of § 25.853(c) that became effective on November 26, 1984. (Although these standards are commonly referred to as "fire blocking," § 25.853(c) actually provides the option of using a covering material, i.e., a "fire-blocking" layer, that isolates the cushion from a fire or using a seat cushion that can be shown by itself to provide the necessary fire resistance). Large airplanes are identified in part 1 of the FAR as those with "more than 12,500 pounds maximum certificated takeoff weight." Commuter category airplanes type-certificated under part 23 of the FAR may have a maximum certificated takeoff weight as great as 19,000 pounds, and each of the commuter category airplanes currently in service does in fact have a maximum certificated takeoff weight greater than 12,500 pounds. They are, therefore, "large" airplanes as defined in part 1. Taking literally the wording of § 135.170(b), as revised by Amendment 135–55, operators of these airplanes would have had to comply with the seat cushion fire-blocking standards in addition to the applicable flammability standards of part 23.

Although including commuter category airplanes in the requirements of § 135.170(b) pertaining to seat cushion fire blocking standards was due to an editing error, the FAA has adopted separate rulemaking (Amendment 121–23, 60 FR 65832, December 20, 1995) which requires the seat cushions of those airplanes to comply with the seat cushion fire blocking standards by December 20, 2010. In the meantime, the operators of those airplanes must continue to have seat cushions that meet the applicable flammability standards of part 23.

Discussion of Comments

Two commenters responded to the request for comments on Amendment 135–56. One commenter, a pilots association, agrees the final rule (Amendment 135–55) was in error. However, the commenter feels that this is a safety issue for all aircraft passengers, regardless of the aircraft size. The FAA responded to the commenter noting that the comment more accurately applied to proposals contained in Notice 95–5, Docket No. 28154. The commenter was advised that his comments would be placed in Docket 28154 and considered along with any other comments received in response to Notice 95–5. The second commenter, a manufacturer, wrote only to indicate that the FAA's timely action in correcting this error was appreciated.

Conclusion

After carefully considering the comments submitted in response to Amendment 135–56, the FAA has determined that no further rulemaking action is necessary at this time. Accordingly, Amendment No. 135–56 remains in effect as prescribed by the March 6, 1995, final rule. As noted above, the seat cushions in commuter category airplanes may, however, be required to meet the fire blocking standards at some future date as a result of separate rulemaking action.

Issued in Washington, DC, on February 8, 1996.

Thomas E. McSweeny,

Director, Aircraft Certification Service.

[FR Doc. 96–3490 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–36824]

Delegation of Authority to the Secretary of the Commission

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to delegate authority to the Secretary of the Commission to publish notice of proposed plans for distribution of funds ordered to be disgorged pursuant to an Order of the Commission. The delegation also provides authority to waive any of the requirements for a plan contained in Rule 611 of the Commission's Rules of Practice, and to issue an order approving the plan, if no negative comments or objections are submitted during the notice period. This delegation of authority will conserve the resources of the Commission as well as expedite the distribution of moneys paid in satisfaction of judgements.

EFFECTIVE DATE: February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Jonathan G. Katz, Secretary, Office of the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, telephone (202) 942–7070.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today announced amendments to its rules governing delegation of authority to the Office of the Secretary.

On June 9, 1995, the Commission adopted comprehensive revisions to its Rules of Practice for administrative proceedings. These rules, published in the **Federal Register** on June 23, 1995 (60 FR 32738), established procedures for the payment and distribution of penalties and disgorgements ordered in a Commission administrative proceeding.

The Commission is delegating to its Secretary the authority to publish the notice of proposed plans of disgorgement pursuant to Rule 612 of the Rules of Practice, and, if no comments opposing the proposed plan are received, to issue an order approving the proposed plan of distribution pursuant to Rule 613. The delegation also authorizes the Secretary to permit the staff to omit from the proposed plan of disgorgement any of the plan elements required by Rule 611, upon motion by the staff for good cause.

The Commission finds, in accordance with Section 553(b)(A) of the Administrative Procedure Act, 5 U.S.C. 553(b)(A), that this amendment relates solely to agency organization, procedure, or practice. Accordingly, notice and opportunity for public comment, as well as publication 30 days before its effective date, are unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

Text of Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200, Subpart A, continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 77sss, 80a–7, 80b–11, unless otherwise noted.

* * * * *

2. Section 200.30–7 is amended by removing the period at the end of paragraphs (a)(9) and (a)(10) and adding a semicolon in its place and by adding paragraph (a)(11) to read as follows:

§ 200.30–7 Delegation of authority to Secretary of the Commission.

* * * * *

(a) * * *

(11) To publish pursuant to Rule 612 of the Commission's Rules of Practice, § 201.612 of this chapter, notices of plans of disgorgement and, if no negative comments are received, to issue orders approving proposed plans of disgorgement pursuant to Rule 613 of the Commission's Rules of Practice, § 201.613 of this chapter. Upon the motion of the staff for good cause shown, to approve the publication of proposed plans of disgorgement that omit plan elements required by Rule 611 of the Commission's Rules of Practice, § 201.611 of this chapter.

* * * * *

By the Commission.

Dated: February 9, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–3359 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 401, 404, 416, 422, and 423

[Regulation Nos. 1, 4, 16, 22, and 23]

RIN 0960–AE32

Revision of Authority Citations

AGENCY: Social Security Administration.

ACTION: Final rule with request for comments.

SUMMARY: The authority citations for the Social Security Administration (SSA) regulations are being revised. As of March 31, 1995, new regulatory authority was given to the Commissioner of Social Security by the Social Security Independence and Program Improvements Act of 1994 (the Independence Act). The authority citations are being revised where appropriate to reflect this change in authority and other changes in the law to provide updated citations for the public.

DATES: This rule is effective February 15, 1996. We will consider any comments received no later than April 15, 1996.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by E-mail to "regulations@ssa.gov", or delivered to the Division of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Daniel T. Bridgewater, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3298 for information about this rule. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: SSA is revising the statutory authority citations for the following parts under 20 CFR chapter III:

1. Part 401—*Disclosure of Official Records and Information;*
2. Part 404—*Federal Old-Age, Survivors and Disability Insurance (1950–);*
3. Part 416—*Supplemental Security Income for the Aged, Blind, and Disabled;*
4. Part 422—*Organization and Procedures;* and
5. Part 423—*Service of Process.*

Prior to March 31, 1995, the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) and was based on section 1102 of the Social Security Act (the Act)(42 U.S.C. 1302). However, the Independence Act, Public Law 103–296, established the Social Security Administration as an independent agency in the Executive Branch of the Federal government and provided general regulatory authority effective March 31, 1995, in the Commissioner of Social Security (the Commissioner) in section 702(a)(5) of the Act (42 U.S.C. 902(a)(5)).

Where current authority citations in parts 401, 404, 416, 422, and 423 refer to the Secretary's authority, SSA is revising them to refer solely to the Commissioner's authority. SSA is also updating the citations to remove obsolete references and reflect changes in the law since the citations were last revised.

Electronic Version

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 A.M. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Act (42 U.S.C. 902(a)(5)), SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because these are minor technical changes which make no substantive change in the regulations and have no effect on the public. Therefore, opportunity for prior comment is unnecessary, and we are issuing these changes to our regulations as a final rule.

SSA is publishing these regulations as a final rule with a 60-day comment period. SSA will consider any timely comments and will revise and republish this rule if the public comments warrant.

In addition, SSA is not providing a 30-day delay in the effective date of this final rule under 5 U.S.C. 553(d). This is not a substantive rule, and there is no change in policy. Accordingly, the requirements of 5 U.S.C. 553(d) are inapplicable.

Executive Order 12866

SSA has consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

SSA certifies that this final rule will not have a significant economic impact on a substantial number of small entities since it makes no changes in policy. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This final rule imposes no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income; 96.007 Social Security—Research and Demonstration)

List of Subjects

20 CFR Part 401

Administrative practice and procedure, Disclosure, Privacy, Social security, Supplemental Security Income (SSI).

20 CFR Part 404

Administrative practice and procedure, Blind, Old-Age, Survivors and Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

20 CFR Part 422

Administrative practice and procedure, Freedom of information, Organization and functions (Government agencies), Social security.

20 CFR Part 423

Courts.

Dated: February 1, 1996.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, 20 CFR chapter III is amended as follows:

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

1. An authority citation is added after the table of contents for part 401 and before the regulatory text for part 401 to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b–11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

2. The authority citation for each subpart in part 401 is removed.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart A—[Amended]

1. The authority citation for subpart A of part 404 is revised to read as follows:

Authority: Secs. 203, 205(a), 216(j), and 702(a)(5) of the Social Security Act (42 U.S.C. 403, 405(a), 416(j), and 902(a)(5)).

Subpart B—[Amended]

2. The authority citation for subpart B of part 404 is revised to read as follows:

Authority: Secs. 205(a), 212, 213, 214, 216, 217, 223, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 412, 413, 414, 416, 417, 423, and 902(a)(5)).

Subpart C—[Amended]

3. The authority citation for subpart C of part 404 is revised to read as follows:

Authority: Secs. 202(a), 205(a), 215, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(a), 405(a), 415, and 902(a)(5)).

Subpart D—[Amended]

4. The authority citation for subpart D of part 404 is revised to read as follows:

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

Subpart E—[Amended]

5. The authority citation for subpart E of part 404 is revised to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205 (a) and (c), 222(b), 223(e), 224, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403, 404 (a) and (e), 405 (a) and (c), 422(b), 423(e), 424a, 425, and 902(a)(5)).

Subpart F—[Amended]

6. The authority citation for subpart F of part 404 is revised to read as follows:

Authority: Secs. 204(a)–(d), 205(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 404(a)–(d), 405(a), and 902(a)(5)); 31 U.S.C. 3720A.

Subpart G—[Amended]

7. The authority citation for subpart G of part 404 is revised to read as follows:

Authority: Secs. 202 (i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 402 (i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 902(a)(5)).

Subpart H—[Amended]

8. The authority citation for subpart H of part 404 is revised to read as follows:

Authority: Secs. 205(a) and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and 902(a)(5)).

Subpart I—[Amended]

9. The authority citation for subpart I of part 404 is revised to read as follows:

Authority: Secs. 205(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 702(a)(5), and 1143 of the Social Security Act (42 U.S.C. 405(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 902(a)(5), and 1320b–13).

Subpart J—[Amended]

10. The authority citation for subpart J of part 404 is revised to read as follows:

Authority: Secs. 201(j), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

Subpart K—[Amended]

11. The authority citation for subpart K of part 404 is revised to read as follows:

Authority: Secs. 202(v), 205(a), 209, 210, 211, 229(a), 230, 231, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(v), 405(a), 409, 410, 411, 429(a), 430, 431, and 902(a)(5)).

Subpart M—[Amended]

12. The authority citation for subpart M of part 404 is revised to read as follows:

Authority: Secs. 205, 210, 218, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 410, 418, and 902(a)(5)); sec. 12110, Pub. L. 99–272, 100 Stat. 287 (42 U.S.C. 418 note); sec. 9002, Pub. L. 99–509, 100 Stat. 1970.

Subpart N—[Amended]

13. The authority citation for subpart N of part 404 is revised to read as follows:

Authority: Secs. 205(a) and (p), 210(l) and (m), 215(h), 217, 229, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and (p), 410(l) and (m), 415(h), 417, 429, and 902(a)(5)).

Subpart O—[Amended]

14. The authority citation for subpart O of part 404 is revised to read as follows:

Authority: Secs. 202(l), 205(a), (c)(5)(D), (i), and (o), 210(a)(9) and (l)(4), 211(c)(3), and 702(a)(5) of the Social Security Act (42 U.S.C. 402(l), 405(a), (c)(5)(D), (i), and (o), 410(a)(9) and (l)(4), 411(c)(3), and 902(a)(5)).

Subpart P—[Amended]

15. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)).

Subpart Q—[Amended]

16. The authority citation for subpart Q of part 404 is revised to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

Subpart R—[Amended]

17. The authority citation for subpart R of part 404 is revised to read as follows:

Authority: Secs. 205(a), 206, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 406, and 902(a)(5)).

Subpart S—[Amended]

18. The authority citation for subpart S of part 404 is revised to read as follows:

Authority: Secs. 205(a) and (n), 207, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and (n), 407, and 902(a)(5)).

Subpart T—[Amended]

19. The authority citation for subpart T of part 404 is revised to read as follows:

Authority: Secs. 205(a), 233, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 433, and 902(a)(5)).

Subpart U—[Amended]

20. The authority citation for subpart U of part 404 is revised to read as follows:

Authority: Secs. 205 (a), (j), and (k), and 702(a)(5) of the Social Security Act (42 U.S.C. 405 (a), (j), and (k), and 902(a)(5)).

Subpart V—[Amended]

21. The authority citation for subpart V of part 404 is revised to read as follows:

Authority: Secs. 205(a), 222, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 422, and 902(a)(5)).

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart A—[Amended]

1. The authority citation for subpart A of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5) and 1601–1635 of the Social Security Act (42 U.S.C. 902(a)(5) and 1381–1383d); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note).

Subpart B—[Amended]

2. The authority citation for subpart B of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93–66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h note).

Subpart C—[Amended]

3. The authority citation for subpart C of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611, and 1631 (a), (d), and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382, and 1383 (a), (d), and (e)).

Subpart D—[Amended]

4. The authority citation for subpart D of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611 (a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382 (a), (b), (c), and (e), 1382a, 1382f, and 1383).

Subpart E—[Amended]

5. The authority citation for subpart E of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1601, 1602, 1611 (c) and (e), and 1631 (a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1381a, 1382 (c) and (e), and 1383 (a)–(d) and (g)).

Subpart F—[Amended]

6. The authority citation for subpart F of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1631 (a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383 (a)(2) and (d)(1)).

Subpart G—[Amended]

7. The authority citation for subpart G of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611, 1612, 1613, 1614, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382a, 1382b, 1382c, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

Subpart H—[Amended]

8. The authority citation for subpart H of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1601, 1614(a)(1) and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1382c(a)(1), and 1383).

Subpart I—[Amended]

9. The authority citation for subpart I of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

Subpart J—[Amended]

10. The authority citation for subpart J of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

Subpart K—[Amended]

11. The authority citation for subpart K of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

Subpart L—[Amended]

12. The authority citation for subpart L of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

Subpart M—[Amended]

13. The authority citation for subpart M of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611–1615, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382–1382d, 1382h, and 1383).

Subpart O—[Amended]

14. The authority citation for subpart O of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5) and 1631(d) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383(d)).

Subpart P—[Amended]

15. The authority citation for subpart P of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1614(a)(1)(B) and (e), and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c(a)(1)(B) and (e), and 1383); 8 U.S.C. 1254a; sec. 502, Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note).

Subpart Q—[Amended]

16. The authority citation for subpart Q of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1611(e)(3), 1615, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382(e)(3), 1382d, and 1383).

Subpart R—[Amended]

17. The authority citation for subpart R of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1614(b), (c), and (d), and 1631(d)(1) and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382c (b), (c), and (d), and 1383 (d)(1) and (e)).

Subpart S—[Amended]

18. The authority citation for subpart S of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5) and 1631 of the Social Security Act (42 U.S.C. 902(a)(5) and 1383).

Subpart T—[Amended]

19. The authority citation for subpart T of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1616, 1618, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382e, 1382g, and 1383); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 8(a), (b)(1)–(b)(3), Pub. L. 93–233, 87 Stat. 956 (7 U.S.C. 612c note, 1431 note and 42 U.S.C. 1382e note); secs. 1(a)–(c) and 2(a), 2(b)(1), 2(b)(2), Pub. L. 93–335, 88 Stat. 291 (42 U.S.C. 1382 note, 1382e note).

Subpart U—[Amended]

20. The authority citation for subpart U of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1106, 1631(d)(1), and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1306, 1383(d)(1), and 1383c).

Subpart V—[Amended]

21. The authority citation for subpart V of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1615, and 1631(d)(1) and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382d, and 1383(d)(1) and (o)); sec. 2344, Pub. L. 97–35, 95 Stat. 867 (42 U.S.C. 1382d note).

PART 422—ORGANIZATION AND PROCEDURES

1. The authority citation at the end of the table of contents is removed.

Subpart A—[Amended]

2. The authority citation for subpart A of part 422 is added after the heading and before the regulatory text for this subpart to read as follows:

Authority: Secs. 205, 218, 221, and 701–704 of the Social Security Act (42 U.S.C. 405, 418, 421, and 901–904).

Subpart B—[Amended]

3. The authority citation for subpart B of part 422 is revised to read as follows:

Authority: Secs. 205, 232, 702(a)(5), 1131, and 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b–1, and 1320b–13).

Subpart C—[Amended]

4. The authority citation for subpart C of part 422 is revised to read as follows:

Authority: Secs. 205, 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 421, and 902(a)(5)); 30 U.S.C. 923(b).

Subpart E—[Amended]

5. The authority citation for subpart E of part 422 is revised to read as follows:

Authority: Secs. 205(a), 702(a)(5), and 1106 of the Social Security Act (42 U.S.C. 405(a), 902(a)(5), and 1306); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923(b).

Subpart F—[Amended]

6. The authority citation for subpart F of part 422 is revised to read as follows:

Authority: Secs. 205 and 702(a)(5) of the Social Security Act (42 U.S.C. 405 and 902(a)(5)). Section 422.512 is also issued under 30 U.S.C. 901 *et seq.*

Subpart G—[Amended]

7. The authority citation for subpart G of part 422 is revised to read as follows:

Authority: 26 U.S.C. 9701–9708.

PART 423—SERVICE OF PROCESS

1. The authority citation for part 423 is revised to read as follows:

Authority: Sec. 701 and 702(a)(5) of the Social Security Act (42 U.S.C. 901 and 902(a)(5)).

[FR Doc. 96–3405 Filed 2–14–96; 8:45 am]
BILLING CODE 4190–29–P

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20 CFR Part 416

[Regulations No. 16]

RIN 0960–AD87

Supplemental Security Income for the Aged, Blind, and Disabled; Extension of Time Period for Not Counting as Resources, Funds Received for Repair or Replacement of Damaged or Destroyed Excluded Resources in the Supplemental Security Income Program

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on supplemental security income (SSI) recipients. To provide us with the flexibility to deal with these and future occurrences, we are modifying our current regulations regarding the period of time that cash and in-kind items received for the repair or replacement of certain destroyed or damaged excluded resources would not count toward the resource limit.

EFFECTIVE DATE: These rules are effective February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document—Henry D. Lerner, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1762; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: The regulations at § 416.1205(c) provide that SSI recipients can have no more than $2,000 in countable resources and SSI couples can have no more than $3,000. The regulations at § 416.1237 provide that assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a Federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States or comparable assistance received from a State or local government, or from a disaster assistance organization, is excluded permanently under the SSI program in determining countable resources.

The regulations at § 416.1232 complement the disaster assistance exclusion by providing that cash or in-kind items for the repair or replacement of lost, stolen, or damaged excluded resources are not treated as resources for 9 months.

The regulations also provide for one extension for a reasonable period up to an additional 9 months for good cause if circumstances do not permit repair or replacement within the initial 9-month period and the individual intends to use the funds for repair or replacement.

Excluded resources generally include the individual's home, household goods and personal effects, and the automobile, as are described in §§ 416.1212, 416.1216 and 416.1218 respectively.

Private insurance payments do not qualify as disaster assistance and, therefore, cannot be permanently excluded from resources. For some SSI recipients affected by natural disasters, the maximum period of 18 months during which monies received to repair or replace excluded resources are not treated as resources will not be sufficient and some of these individuals will consequently lose SSI and Medicaid eligibility.

In the past several years, portions of the United States have experienced natural disasters that have had unprecedented effects on SSI recipients. In August 1992, Hurricane Andrew devastated south Florida causing damage estimated in excess of $18 billion. Because of the extent of the devastation, SSI recipients in the area were unable to use insurance payments to repair or replace their damaged property within the maximum 18-month period provided by regulations during which those payments would not be treated as resources. With the expiration of this period, the payments would have counted as resources for SSI purposes. On March 17, 1994 (59 FR 12544), we published interim final regulations with a request for comments which provided victims of Hurricane Andrew with an additional 12-month time period in which to repair or replace their property.

History has shown that current regulations generally provide a sufficient time period for individuals to repair or replace their excluded resources destroyed or damaged by natural disasters. However, in the event disasters of the magnitude of Hurricane Andrew occur, we wish to have the flexibility in regulations to extend the period that payments or in-kind assistance for the repair or replacement of affected excluded resources will not count as resources.

We are revising our regulations to provide us with the flexibility to provide individuals with additional time to repair or replace destroyed or damaged excluded resources when such disasters occur and certain other criteria are met. These regulations will extend the maximum 18-month period during which cash or in-kind replacement received from any source for purposes of repairing or replacing an excluded resource is not counted as a resource for up to an additional 12 months. This additional time period only applies in the case of Presidentially declared major disasters as long as the individual intends to repair or replace the property and good cause still exists.

These regulations were published in the **Federal Register** (60 FR 26387) as a notice of proposed rulemaking (NPRM) on May 17, 1995. Interested parties were given 60 days to submit comments. Public comments were received from two legal services organizations who were concerned about how the regulations would affect individuals who suffered losses in recent disasters. These comments raised an issue regarding how we will apply the additional 12-month extension. We address this issue by clarifying the scope of the regulation in the response below. With this clarification, we are adopting the regulations as proposed.

Comment: The additional 12-month extension for not counting certain funds as a resource under these regulations should apply to individuals for whom the original 18-month noncounting period (9 months and 9-month good

cause extension) has expired prior to the effective date of these regulations.

Response: Prior to the promulgation of these rules, our regulations provided that cash or in-kind replacement received for purposes of repairing or replacing an excluded resource would not be counted as a resource for a maximum period of 18 continuous months, commencing with the month following the month of receipt. These rules provide, under certain circumstances, for an additional 12-month extension to the former maximum noncounting period, thereby establishing a new 30-month maximum period during which such cash or in-kind replacement will not be considered resources. The total noncounting period may not exceed 30 months from the month of receipt because it is reasonable to expect individuals to begin rebuilding or repairing within that timeframe. We chose not to provide a full 12-month extension to individuals whose prior 18-month noncounting period had expired because to do so would provide a noncounting period in excess of the 30-month maximum established by this regulation.

Therefore, if the original 18-month noncounting period (9 months plus 9-month good cause extension under § 416.1232(b)) has expired prior to the effective date of these regulations, we will extend the period for not counting the funds as a resource if the requirements in § 416.1232(c) are met, but only within the limits of the new 30-month maximum (9-months plus 9-month good cause extension plus 12-month good cause extension provided under § 416.1232(c)). The extension would be applicable with the first day of the month which immediately follows the month these regulations become effective, and will remain applicable for a period not to exceed the number of months remaining in the 30-month period that commences with the month following the month of receipt of the funds.

For example, if the individual's 18-month noncounting period expired 6 months prior to the effective date of these regulations, we would extend the period for not counting the funds as resources prospectively for up to an additional 6 months. There will be no retroactive effect. The last month of the noncounting period cannot exceed the 30th (thirtieth) month following the month of receipt of any payment.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they are not subject to OMB review.

Paperwork Reduction Act of 1980

These regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect eligibility for SSI payments of individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Waiver of 30-Day Delay in Effective Date

These new SSI resource regulations are effective on publication, rather than 30 days after publication. Section 702(a)(5) of the Social Security Act makes the regulations we prescribe subject to the rulemaking procedures established under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553. Section 553(d) of the APA requires that the effective date of a substantive rule be no less than 30 days after its publication, except in cases of: Rules which grant or recognize an exemption or relieve a restriction; interpretative rules and statements of policy; or as otherwise provided by the Agency for good cause found and published with the rule.

In accordance with 5 U.S.C. 553(d)(1), these rules grant or recognize an exemption or relieve a restriction because under certain circumstances, they remove from consideration as resources for a period, cash or in-kind replacement received for the repair or replacement of certain lost or damaged property. Furthermore, we have determined that under 5 U.S.C. 553(d)(3), good cause exists for dispensing with the minimum 30-day period between the publication date and the effective date. A delay in the application of these rules may result in the loss of SSI benefits for certain individuals who have been unable to repair or replace certain property lost or damaged as a result of a presidentially-declared disaster. We believe that making available to these individuals the relief provided by these rules as quickly as possible is good cause sufficient to dispense with the minimum 30-day period prescribed by 5 U.S.C. 553(d). Accordingly, these rules are effective on publication.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income.

Dated: February 2, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

Subpart L—[Amended]

1. The authority citation for subpart L of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

2. Section 416.1232 is amended by revising paragraph (b), by redesignating paragraph (c) as paragraph (d) and by adding a new paragraph (c), to read as follows:

§ 416.1232 Replacement of lost, damaged, or stolen excluded resources.

* * * * *

(b) The initial 9-month time period will be extended for a reasonable period up to an additional 9 months where we find the individual had good cause for not replacing or repairing the resource. An individual will be found to have good cause when circumstances beyond his or her control prevented the repair or replacement or the contracting for the repair or replacement of the resource. The 9-month extension can only be granted if the individual intends to use the cash or in-kind replacement items to repair or replace the lost, stolen, or damaged excluded resource in addition to having good cause for not having done so. If good cause is found for an individual, any unused cash (and interest) is counted as a resource beginning with the month after the good cause extension period expires.

Exception: For victims of Hurricane Andrew only, the extension period for good cause may be extended for up to an additional 12 months beyond the 9-month extension when we find that the individual had good cause for not replacing or repairing an excluded resource within the 9-month extension.

(c) The time period described in paragraph (b) of this section (except the time period for individuals granted an additional extension under the Hurricane Andrew provision) may be extended for a reasonable period up to an additional 12 months in the case of a catastrophe which is declared to be a major disaster by the President of the United States if the excluded resource is geographically located within the disaster area as defined by the Presidential order; the individual intends to repair or replace the excluded resource; and, the individual demonstrates good cause why he or she has not been able to repair or replace the excluded resource within the 18-month period.

* * * * *

[FR Doc. 96–3406 Filed 2–14–96; 8:45 am]
BILLING CODE 4190–29–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in March 1996, and to multiemployer plans with valuation dates in March 1996. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: March 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the March 1996 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the "single-employer regulation") and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the "multiemployer regulation").

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities," *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during March 1996 and multiemployer plans that have undergone mass withdrawal and have valuation dates during March 1996.

For annuity benefits, the interest rates will be 5.50% for the first 20 years following the valuation date and 4.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.25% for the period during which benefits are in pay status, and 4.0% during all years preceding the benefit's placement in pay status. The above annuity interest assumptions represent an increase (from those in effect for February 1996) of .10 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions are unchanged from those in effect for February 1996.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the **Federal Register** by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during March 1996, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during March 1996, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, **Code of Federal Regulations**, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B to part 2619, Rate Set 29 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{o:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49(b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of i_t set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
29	03–1–96	04–1–96	4.25	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{o:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_1	for t =	i_2	for t =	i_3	for t =
March 1996	.0550	1–20	.0475	>20	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B to part 2676, Rate Set 29 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{o:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13(b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
29	03–1–96	04–1–96	4.25	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{o:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13(b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_1	for t =	i_2	for t =	i_3	for t =
March 1996	.0550	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of February 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–3428 Filed 2–14–96; 8:45 am]

BILLING CODE 7708–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7634]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified

for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Acting Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region II				
New Jersey:				
North Wildwood, city of, Cape May County	345308	July 24, 1970, Emerg; March 5, 1971, Reg; Feb. 16, 1996, Susp.	2–16–96	Feb. 16, 1996.
Wildwood, city of, Cape May County	345329	June 5, 1970, Emerg; Dec. 31, 1970, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Wildwood Crest, borough of, Cape May County.	345330	July 31, 1970, Emerg; Feb. 26, 1971, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Region VI				
Wisconsin:				
Verona, city of, Dane County	550092	June 24, 1975, Emerg; Aug. 1, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Watertown, city of, Dodge and Jefferson Counties.	550107	May 23, 1975, Emerg; April 1, 1981, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Region VI				
Texas:				
Balcones Heights, city of, Bexar County	481094	Oct. 9, 1975, Emerg; April 15, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Bexar County, unincorporated areas	480035	April 7, 1972, Emerg; Oct. 16, 1984, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Castle Hills, city of, Bexar County	480037	Oct. 31, 1973, Emerg; Sept. 30, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
China Grove, city of, Bexar County	481141	Jan. 26, 1978, Emerg; June 15, 1984, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Converse, city of, Bexar County	480038	March 26, 1974, Emerg; June 15, 1981, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Fair Oaks Ranch, city of, Bexar County	481644	Dec. 20, 1993, Reg; Feb. 16, 1996, Susp	2–16–96	Do.
Hollywood Park, town of, Bexar County	480040	Oct. 3, 1974, Emerg; Nov. 19, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Kirby, city of, Bexar County	480041	Nov. 6, 1974, Emerg; Aug. 15, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Leon Valley, city of, Bexar County	480042	June 25, 1973, Emerg; June 1, 1977, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Live Oak, city of, Bexar County	480043	Nov. 3, 1972, Emerg; May 16, 1977, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Shavano Park, city of, Bexar County	480047	Dec. 26, 1973, Emerg; Sept. 3, 1980, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Somerset, city of, Bexar County	481264	June 14, 1994, Emerg; Feb. 16, 1996, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Universal City, city of, Bexar County	480049	Feb. 14, 1974, Emerg; May 16, 1977, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.
Windcrest, city of, Bexar County	480689	Jan. 21, 1974, Emerg; Aug. 15, 1977, Reg; Feb. 16, 1996, Susp.	2–16–96	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: February 12, 1996.

Richard W. Krimm,

Acting Associate Director, Mitigation Directorate.

[FR Doc. 96–3441 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 92–29; Notice 10]

RIN 2127–AF96

Federal Motor Vehicle Safety Standards; Stability and Control of Medium and Heavy Vehicles During Braking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule, petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of final rules that amended FMVSS No. 105, *Hydraulic Brake Systems,* and FMVSS No. 121, *Air Brake Systems,* to require medium and heavy vehicles to be equipped with an antilock brake system (ABS). In response to the petitions, this document requires continuous power for trailer ABS systems, in place of the dedicated power and separate ground previously required, and delays the implementation date for the in-cab trailer malfunction indicator by four years. It also extends by three years the period in which exterior ABS failure indicators are required on trailers.

DATES: *Effective Dates:* The amendments to 49 CFR 571.121 are effective March 1, 1997.

Compliance Dates: Compliance with the amendments to paragraphs S5.1.6.2(b) and S5.2.3.2 of 49 CFR 571.121 will be required on and after March 1, 2001. Compliance with the amendments to paragraph S5.1.6.3 for truck tractors will be required on and after March 1, 1997 and for single unit vehicles will be required on and after March 1, 1998. Compliance with the amendments to paragraph S5.2.3.2 will be required on and after March 1, 2001. Compliance with the amendments to S5.2.3.3 will be required on and after March 1, 1998.

Petitions for Reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than April 1, 1996.

ADDRESSES: Petitions for reconsideration of this rule should refer to the above referenced docket numbers and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Mr. Robert M. Clarke, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–5278.

For legal issues: Mr. Marvin L. Shaw, NCC–20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366–2992.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Petitions for Reconsideration.
III. NHTSA's Decision and Analysis of Issues.
A. Agency's Decision.
B. Trailer Powering.
1. Background and Previous NHTSA Rulings.
2. Petitions for Reconsideration of December 1995 Final Rule
3. Agency's Decision
C. In-Cab Trailer Malfunction Indicators
D. External Trailer Malfunction Indicators

I. Background

Section 4012 of the Motor Carrier Act of 1991, a part of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, P.L. 102–240, directed the Secretary of Transportation to initiate rulemaking concerning methods for improving braking performance of new commercial motor vehicles, including truck tractors, trailers, and their dollies. Congress specifically directed that such a rulemaking examine antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. The Act required that the rulemaking be consistent with the Motor Carrier Safety Act of 1984 (49 U.S.C. § 31136) and be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966 (now recodified as 49 U.S.C. § 30101 *et seq.* (Safety Act)).

On March 10, 1995 (60 FR 13216, 60 FR 13297), NHTSA issued final rules that required medium and heavy vehicles [1] to be equipped with an antilock brake system (ABS) to improve their directional stability and control during braking. The March 1995 final rules also reinstated stopping distance requirements for air-braked heavy vehicles and established stopping distance requirements for hydraulic-braked heavy vehicles.

In addition to the ABS requirement, the ABS final rule required truck

[1] Hereinafter referred to as "heavy vehicles"

tractors and other towing vehicles to supply dedicated, full time electrical power to a trailer ABS and required truck tractors and other towing vehicles to be equipped with two separate in-cab lamps: one indicating malfunctions in the towing vehicle ABS and the other indicating malfunctions in the ABS on one or more towed trailers and/or dollies. The rule also required all trailers, including dollies, produced during an eight-year transition period, to be equipped with an external malfunction indicator. In response to petitions for reconsideration of these requirements, NHTSA published a final rule on December 13, 1995 (60 FR 63965) affirming its decision to require these features.

II. Petitions for Reconsideration of December 1995 Final Rule

NHTSA received petitions for reconsideration of the December 1995 amendments to the final rule from the American Trucking Associations (ATA) which represents trucking fleets, the National Private Truck Council (NPTC) which represents private trucking fleets, the Truck Manufacturers Association (TMA)[2], the Truck Trailer Manufacturers Association (TTMA) which represents trailer manufacturers, the Heavy Duty Brake Manufacturers Council (HDBMC)[3] which represents heavy duty brake component manufacturers, Midland-Grau, Kelsey-Hayes, Rockwell WABCO, Vehicle Enhancement Systems (VES), AlliedSignal, General Motors, Ford, and the Recreational Vehicle Industry Association (RVIA).[4]

As did the petitioners for reconsideration of the March 1995 final rule, all petitioners for reconsideration of the December 1995 final rule agreed with and supported NHTSA's decision and schedule requiring all heavy vehicles to be equipped with ABS. ATA, TMA, and TTMA reference what they refer to as the ATA/TMA/TTMA Industry Consensus Position ABS Reconsideration petition,[5] with which they have stated their concurrence. The Industry Consensus Position states that the agency should retain the current overall requirements and timing. Similarly, TMA stated that its companies "continue to support the production, sale, and service of ABS within the specified time frames." Nevertheless, the Industry Consensus Position and each of the petitioners requested that the agency modify the requirements that address trailer ABS power and the in-cab trailer malfunction indicator. Specifically, the Industry Consensus Position is that the agency should (1) delete the requirement for continuous, dedicated power [6] to the trailer ABS and replace it with a requirement for continuous power but no dedicated circuit (with backup power on the stoplamp circuit) and delete the separate ABS ground requirement, and (2) delay the effective date for an in-cab trailer warning light, but specify another date that will accelerate the development of the specific means for achieving the goal of having that warning light. The petitioners supporting the Industry Consensus Position explained that the heavy vehicle manufacturers and users are working together and are committed to developing and deploying a satisfactory in-cab trailer warning light within the extended time period requested.

III. NHTSA's Decision and Analysis of Issues

As explained below, NHTSA has decided to amend FMVSS No. 121 consistent with the Industry Consensus Position and to replace the requirement for dedicated power to trailer ABS with a requirement for continuous power. Stoplamp power will continue to be required to provide back-up power for the ABS. In addition, the agency has decided to delete the requirement for a separate ABS ground and to allow a common ground for ABS trailer powering. The agency has also decided to delay the implemenation date for the in-cab trailer malfunction indicator until March 1, 2001.

A. Trailer Powering

1. Background and Previous NHTSA Rulings

A trailer's antilock brake system may receive its electrical power in one of the following ways: (1) intermittent power through the stoplamp circuit, (2) continuous power through a circuit that is shared and provides power to more than one electrical component or which is used to transmit one or more signals, or (3) continuous, dedicated power through a circuit whose sole function is to provide power to the trailer ABS. With stoplamp powering, electrical power to the ABS is only supplied when the brake pedal is applied and the stop lamp switch is activated. As a result, the trailer ABS must share power with stoplamp bulbs, which decreases the voltage available for powering the trailer ABS. With continuous powering, electrical power to the trailer ABS is present at all times, but other devices could be powered off the same circuit and multiplexed [7] communication signals could be carried on the circuit. With dedicated powering, electrical power to the trailer ABS is present at all times, but no other device can be powered off this circuit and communications signals cannot be carried on the circuit.

Trailers do not typically have their own electrical power source. Thus, an electrical connector is needed to provide electrical current between a tractor and a trailer. At present, the most common electrical connector used for this purpose in the United States is the SAE J560 plug/receptacle, which was developed in the 1950s and has been in widespread use ever since. This connector has seven pins, providing seven electrical paths: Pin one is used as a common ground for the other six positive power pins; pin two is used to power clearance and side marker lamps; pin three is used to power the left hand turn signal; pin four is used to power the stoplamp; pin five is used to power the right hand turn signal and hazard signal; pin six is used to power the taillamp, marker lamps, and license plate lamps; and pin seven is an auxiliary circuit that is not currently used in most vehicle combinations. In the past, it has been common practice to power trailer ABSs exclusively from pin 4, the stoplamp circuit. This involves sharing power with the stoplamp bulbs which are only activated when the brakes are applied.

In a fleet study [8] that NHTSA conducted to support the current ABS rulemaking, the agency evaluated other ABS powering approaches, including a single 13-pin connector, a separate six-pin connector, and another separate connector known as the International Standards Organization ("ISO") connector. These other powering approaches used dedicated electrical circuits, including separate, fully dedicated positive and ground wires, to power the trailer ABS.

In the March 1995 final rule, NHTSA decided to require dedicated powering for trailer ABSs and to require that towing vehicles have a corresponding separate circuit. (60 FR 13248–13250) The agency explained that this requirement provides the most dependable source of electrical power from the tractor to ensure the functioning of the trailer's ABS.

In petitions for reconsideration of the March 1995 final rule, American Automobile Manufacturers Association (AAMA), Midland-Grau, and TTMA requested that NHTSA interpret the requirement for dedicated power so that the ABS powering circuit need not be exclusively used for ABS. AAMA and Midland-Grau requested the agency to allow other uses for this circuit, such as powering interior van trailer lights and multiplex signaling. ATA reasserted its concern that the requirement for a separate circuit would be costly and would create operational problems, because it would result in the use of a second tractor/trailer electrical connector, which would be used only infrequently, until the number of tractors and trailers with ABS increased, to the point where a high percentage of vehicles in combination would be ABS equipped. ATA stated a strong preference for a requirement that would allow the continued use of the SAE J560 connector. In a September 6, 1995 letter, ATA requested that the agency interpret the requirement for a separate electrical circuit in such a way as to allow the continued use of the SAE J560 connector.

In the December 1995 final rule responding to petitions for reconsideration, NHTSA denied the petitioners' request to permit other uses for the separate ABS circuit. Based on information available at that time, NHTSA concluded that it was necessary for the ABS on towed vehicles to receive full-time power through a dedicated circuit to reduce the possibility of the ABS being inoperative due to lack of power. The agency found no basis in the publicly available data on which to alter its view that the dedicated circuit was necessary.

2. Petitions for Reconsideration of December 1995 Final Rule

In response to the December 1995 final rule, each petitioner supported the Industry Consensus Position to permit continuous powering to the trailer ABS. TMA stated that new information and industry commitments support a decision to delete the dedicated powering requirement and replace it with a continuous powering requirement. TMA, Midland-Grau, ATA, AlliedSignal, HDBMC, and VES supplied data which indicated that adequate levels of electrical power could be supplied to trailer ABSs on non-dedicated circuits. Midland-Grau strongly supported the continuous powering requirement with the stoplamp circuit as a back up, provided that the ABS circuit could be used to power warning and other monitoring systems. ATA supported the Industry Consensus Position. That organization continues to believe that intermittent powering through the stoplamp circuit provides adequate electrical energy to power the trailer ABS, citing its analysis of additional data and industry commitments to upgrade tractor electrical systems. Nevertheless, ATA agreed to a requirement for continuous power instead of stoplamp power, if the trailer ABS power supply circuit could be used for other purposes.

All petitioners opposed the requirement for dedicated powering with a separate ground. TMA, ATA, Midland-Grau, AlliedSignal, and HDBMC stated that the separate ground requirement, which is an integral part of dedicated powering, requires the use of diodes in the trailer ABS's electrical control unit (ECU) which reduce the voltage available for trailer ABS. They further stated that requiring two grounds could create "ground loop circuits," which may create unexpected voltage differences between various electrical systems on vehicles. This may result in electrical shorting and the possibility of electrical fires.

In support of their petitions, the petitioners provided new information relating to the voltage requirements of the new generation of ECUs, the amperage requirements of new modulators, and the voltage losses associated with dedicated power circuits. The petitions also stated that the petitioners are committed to meeting new voluntary powering standards and to completing the development of a new generation of electronic communications systems.

3. Agency's Decision

The agency's decisions are based on the new information provided in the public record by the petitioners, as described above and discussed more fully below. Based on this information, as well as recent studies [9] by the agency, NHTSA has decided to amend FMVSS No. 121 consistent with the Industry Consensus Position and to replace the requirement for dedicated power to the trailer ABS with a requirement for continuous power. Stoplamp power will continue to be required to provide back-up power for the trailer ABS. In addition, the agency has decided to delete the requirement for a separate ABS ground and to allow a common ground for ABS trailer powering. The agency emphasizes that continuous power rather than intermittent power through the stoplamp circuit is needed as a primary powering source to ensure the safe operation and reliability of trailer ABS and to provide the capability to signal a continuous warning of a trailer ABS malfunction to the cabs of towing units.

With respect to the safe operation of trailer ABS, an agency report [10] indicated that a problem can occur if power is interrupted to a trailer ABS while it is cycling. Specifically, under lightly loaded or empty trailer operating conditions on low coefficient of friction surfaces, if a brake application that activates the ABS is fully released and then fully applied again, the resulting interruption of electrical current through the stoplamp circuit can cause the reactivated ABS ECU to misinterpret the wheel speed signals it is receiving. The ECU could interpret the signals as meaning that the vehicle is stopped and thereupon allow the brakes to be fully applied. This would result in locked trailer wheels. Notwithstanding the fact that this type of brake application might occur infrequently in real-world operating conditions, this possibility underlines the importance of continuous powering as the primary method of powering trailer ABS, and indicates that the stoplamp circuit should not be relied on as more than a back-up to primary continuous powering. Data submitted by Midland-Grau support the agency's position.

With respect to the reliability of trailer ABS, NHTSA's decisions in earlier rulemakings focused on ensuring that the trailer ABS received adequate voltage. In the March 1995 final rule,

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[2] TMA member companies include Ford, Freightliner, General Motors, Mack Trucks, Navistar International, PACCAR, and Volvo GM Heavy Truck.

[3] HDBMC member companies include Abex, AlliedSignal, Eaton, Midland-Grau, Ferodo America, Haldex, Lucas, MGM Brakes, Motion Control/Carlisle, Rockwell, Rockwell WABCO, and Spicer/Dana.

[4] General Motors, Ford, Kelsey-Hayes, and the RVIA all address amendments to FMVSS No. 105. In this notice, the agency is responding to the issues relating to FMVSS No. 121. The agency will address the petitions raising FMVSS No. 105 issues in a future notice.

[5] Hereinafter referred to as "Industry Consensus Position."

[6] The terms continuous power, dedicated power, and connector are discussed in the next section.

[7] Multiplexing is defined by the Society of Automotive Engineers's (SAE's) Multiplex Subcommittee as "The process of combining several messages for transmission over the same signal path."

[8] "An In-Service Evaluation of the Performance, Reliability, Maintainability, and Durability of Antilock Braking Systems for Semitrailers," U.S. Department of Transportation/ NHTSA Report No. DOT HS 808 059, October 1993

[9] Winkler, C.B., Bogard, S.E., Bowen, M.A., Genduri, S.M., and Lindquist, D.J. "An Operational Field Test of Long Combination Vehicles Using ABS and C-Dollies", University of Michigan Transportation Research Institute Report No. 95–45–2, under USDOT/NHTSA Contract No. DTNH22–92–D–07003, November 1995

Flick, M. A., "NHTSA's Heavy Duty Vehicles Brake Research Program Report Number 10—Evaluation of Trailer Antilock Braking Systems Electrical Powering", USDOT Report No. HS 808 249, March 1995.

[10] USDOT Report No. HS 808 249, March 1995.

the agency specified a requirement for a dedicated trailer ABS power circuit as the best means to ensure adequate voltage levels (i.e., 9–10 volts) for trailer ABSs. The agency believed that a separate ground wire was also needed to ensure sufficient capacity to provide a return path for electrical current that would not be subject to excessive voltage drops because the ground wire carried too much current. This belief rested on data from the agency's fleet studies.

On the basis of this new information in the petitions for reconsideration, NHTSA has determined that a continuous, but non-dedicated, source of power and a shared ground will provide sufficient power to the trailer ABS. The HDBMC petition stated that all current versions of trailer ABSs function at levels as low as 8.5 volts, and that ABS modulators have now been designed to draw a maximum of 3 amps. The agency agrees with the HDBMC petition that the information previously available indicating that trailer ABSs require 9–10 volts to remain functional, and that ABS modulators draw 2–6 amps of current, has been superceded. This information about the lower power needs of new ABS systems indicates that a dedicated power source and a separate ground wire are not necessary for ABS power.

The agency agrees with petitioners that the addition of a separate ground wire would necessitate adding diodes to the trailer ECU powering circuitry to prevent inadvertent ground loops that may result in electrical short circuits or electrical fires. These added diodes would result in a 0.7 volt decrease to the trailer ECU, an outcome inconsistent with ensuring adequate power levels.

Based on the above considerations, NHTSA has decided to modify sections 5.1.6.3 and 5.5.2 to require continuous power to trailer ABSs, to permit the circuit to be shared with other devices and to allow trailer ABS powering circuits to share a common ground with other electrical powering circuits.

Powering electrical devices other than the trailer ABS from the ABS power circuit has the potential to compromise the circuit's ability to power the trailer ABS. A recently completed study on long combination-unit vehicles (LCVs) [11] highlights the need to design all the elements of tractor/trailer electrical system to ensure adequate electrical power levels. Among other things, that study considered whether sufficient voltage could be supplied to the rear trailers and dollies of multiple trailer combinations (especially triple trailer combinations) on the same circuit. The study found that even with special wiring and well maintained connectors, it was necessary for the electrical systems of tractors to supply 13.3 volts and for the ABS on dollies and trailers to operate on no more than 9.0 volts in order to ensure that sufficient electrical power could be supplied. Some of the tractors in the test program were not able to consistently provide the 13.3 volts of electrical power through the stoplamp circuit, and some of the ABSs needed more than 9.0 volts. In some cases, trailing unit ABSs ceased functioning. Accordingly, a manufacturer can ensure adequate powering for trailer ABSs by providing adequately sized electrical wiring in both towing and towed units, by providing towing units with heavy duty electrical charging systems, and by employing low voltage demand lighting systems.

The agency agrees with Midland-Grau's position that the only other devices which should share this circuit are warning, monitoring, or other signaling/communications devices. Additional uses that would not likely pose problems are low power demand components or devices which are powered when the vehicle is stopped or in reverse, conditions in which the ABS would not be in use. However, the agency has decided not to specify the devices that may share the use of the trailer ABS power circuit. The agency is confident heavy vehicle manufacturers and users recognize the need for appropriate restrictions and notes that industry is working, through various SAE and other technical committees, to establish performance standards for electrical systems that power tractor and trailer ABS systems. These anticipated industry standards are expected to include objective performance test procedures, measurement criteria, and, in some cases, target performance levels. Several of the petitioners specifically referenced SAE J2272, Truck Tractor Power Output for Trailer ABS, and its TMC equivalent, RP137, Antilock Electrical Supply for Tractors Through the SAE J560 Connector, and indicated that they were committed to designing and using products that meet these specifications. TTMA stated that it was developing a comparable companion standard for trailer electrical systems.

NHTSA will monitor these efforts to develop consensus industry standards and the commitment made by heavy vehicle manufacturers and users to meet these voluntary standards. Efforts to develop consensus on this topic have been under way since 1988, when WABCO submitted a petition on trailer ABS powering schemes (53 FR 39751, October 12, 1988). The agency anticipates that this powering issue can be resolved without further delays in the implementation schedule for the trailer powering and in-cab indicator requirements.

After evaluating these voluntary standards, NHTSA may consider further rulemaking to amend FMVSS No. 121 to require minimum voltage levels at the tractor or to limit the use of the ABS power circuit if such requirements appear necessary to ensure the adequacy of power to the trailer ABS. Such a rulemaking action would be consistent with the President's Regulatory Reinvention Initiative which encourages regulatory agencies, when appropriate, to adopt voluntary standards established and followed by the private sector.

B. Trailer Malfunction Indicators

FMVSS No. 101, *Controls and Displays*, sets forth requirements for the location, identification, and illumination of motor vehicle controls and displays. Table 2(a) of the standard lists various telltales that are required in a motor vehicle to advise the driver of the status of a variety of vehicle systems. For air brake equipped trucks, these include telltales for brake system air pressure and for ABS malfunction in the truck.

In the March 1995 final rule, NHTSA required lamps in the cab of truck tractors to indicate any malfunction with the ABS of any towed vehicles. (60 FR 13244, 13245) The agency also required trailers to supply trailer ABS malfunction signals to the tractor. The agency explained that it is essential that a driver be notified about an ABS malfunction in the trailer, so that the problem can be corrected. The agency cited results from the ABS fleet study which indicated that drivers are more likely to observe a tractor in-cab indication of a trailer ABS malfunction than they are a trailer-mounted lamp. The study also noted that some trailer ABS malfunctions were present for a long time, and not reported, because the drivers did not notice that the trailer-mounted malfunction lamps were activated. Based on these findings, the agency decided that it was necessary to require an in-cab trailer ABS malfunction warning light to adequately ensure that such malfunctions would be detected and corrected.

In response to the March 1995 final rule, ATA petitioned the agency to delete the requirement for in-cab indication of trailer ABS malfunctions. It argued that such a requirement was unnecessary and would needlessly complicate the electrical system of the tractor and the electrical connector arrangement between tractors and trailers.

In the December 1995 final rule, NHTSA denied ATA's request to delete the in-cab malfunction lamp for the trailer ABS. In explaining that the in-cab trailer malfunction lamp is necessary, the agency referenced a study that showed that an in-cab malfunction lamp is a more effective means of making the driver aware of an ABS malfunction, compared with an external malfunction lamp on the trailer.[12] NHTSA also disagreed with ATA's statement that the requirement for two malfunction indicators unreasonably complicates the electrical systems in combination vehicles, based on comments by brake and vehicle manufacturers stating that it was appropriate to have an indicator in the towing unit cab.

In response to the December 1995 final rule, the Industry Consensus Position stated that ultimately it is essential to provide drivers an in-cab indication of a trailer(s) ABS malfunction, but that requiring the in-cab indicator by 1997 would likely impede the implementation of a new high speed data transmission protocol SAE J1939 that is now being developed by the SAE. This new protocol is expected to become the recognized method for providing signaling capability between tractors and trailers for a wide variety and number of devices and systems, including trailer ABS malfunction indications. The Industry Consensus Position is that delaying the implementation date of the in-cab malfunction warning requirement for trailer ABS malfunctions to March 1, 2001, would provide sufficient time to fully develop the SAE J1939 protocol and would thus preclude the need for a two-step implementation process.

Based on information provided in the petitions, NHTSA has decided to grant the requested delay for the trailer in-cab malfunction indicator. By delaying the requirement, the agency will enable the manufacturers to move directly and promptly to in-cab failure indicators that will use the new SAE protocol, thereby saving the cost of installing indicators based on current technology. The delay will also avoid the compatibility problems between new and old tractors and trailers in the field and the associated costs and potential maintenance problems associated with such a transition. The petitions indicate a strong commitment to develop an SAE J1939-based final solution. The agency anticipates that heavy vehicle manufacturers and users will be able to develop and implement SAE J1939 and that further delays in the implementation of this requirement will neither be requested nor necessary.

NHTSA further notes that the external trailer indicator will still advise a driver about a trailer ABS malfunction during this interim period, when an in-cab indicator is not required. Notwithstanding the need to rely on the external trailer indicator during this interim period, NHTSA continues to view the in-cab trailer ABS malfunction indicator as the best method for informing a driver of a trailer ABS malfunction, based on the data and other information referenced in the final rule.

C. External Trailer Malfunction Indicator

In previous notices, NHTSA emphasized the interrelationship between the in-cab trailer malfunction indicator and the external trailer malfunction indicator. In the September 28, 1993, notice of proposed rulemaking (60 FR 13221, September 28, 1993) which led to the March 1995 final rule, the agency stated that the eight-year period for the interim external trailer requirement was intended to represent the average lifespan of a truck tractor and that

> The external lamp would not be necessary on new trailers manufactured after the end of that period because by that time, a significant majority of tractors in the heavy vehicle fleet, which would be responsible for the vast majority of miles driven by tractors, would be manufactured in compliance with the requirement for an in-cab lamp capable of receiving a malfunction signal from a trailer.

In the final rule, the agency reiterated this view, although it talked in terms of "ABS and non-ABS equipped tractors" as a shorthand for tractors equipped with ABS malfunction indicators.

NHTSA's decision to delay the in-cab malfunction indicator for trailer ABS from March 1, 1997 until March 1, 2001, will delay the entry of tractors equipped with such indicators into the fleet. To provide drivers of tractors without in-cab indicators with a warning of trailer ABS failure, the agency has decided to extend the transition period during which a trailer must be equipped with an external malfunction indicator. The external indicators will be required from March 1, 1998 until March 1, 2009, three years later than the date established in the December 1995 final rule. Accordingly, a trailer must still be equipped with an external ABS indicator during the time period in which there is no in-cab trailer ABS malfunction indicator requirement in effect as well as for an additional eight years after the in-cab trailer malfunction indicator requirement takes effect. As explained in previous notices, the additional eight-year transition period represents the typical life cycle of tractors. Based on these considerations, NHTSA has decided to amend S5.2.3.3 to require each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 and before March 1, 2009 to be equipped with an external ABS malfunction indicator lamp.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impacts of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. In connection with the March 1995 final rules, the agency prepared a Final Economic Assessment (FEA) describing the economic and other effects of this rulemaking action. Summary discussions of those effects were provided in the ABS final rule. For persons wishing to examine the full analysis, a copy is in the docket.

The amendments in this final rule do not make those effects any more stringent, and in some respects make it easier for a manufacturer to comply with them. Specifically, by eliminating the requirement for the dedicated ABS circuit and delaying the trailer in-cab malfunction indicator by four years, tractor and trailer manufacturers will be able to develop new methods of communicating trailer ABS information to the tractor. Thus, for these four years, tractor manufacturers will not have to provide a trailer in-cab malfunction indicator. After this four year period, truck and trailer manufacturers will incur some additional cost associated with ABS communications. This cost will depend on the communication technique employed, i.e., multiplexing, Radio Frequency (RF) signaling, or a separate circuit.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of both this final rule or the original final rule under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small

[11] University of Michigan Transportation Research Institute Report No. 95–45–2, under USDOT/NHTSA Contract No. DTNH22–92–D–07003, November 1995

[12] "An In-Service Evaluation of the Performance, Reliability, Maintainability, and Durability of Antilock Braking Systems for Semitrailers," U.S. Department of Transportation/NHTSA Report No. DOT HS 808 059, October 1993.

entities. Accordingly, the agency has not prepared a final regulatory flexibility analysis.

NHTSA concluded that the March 1995 final rule had no significant impact on a substantial number of small entities. Thus, the revised final rule, which temporarily reduces costs associated with the March 1995 final rule, will not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this action under the principles and criteria in Executive Order 12612. The agency has determined that this notice does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No State laws will be affected.

E. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency is amending Standard No. 121, *Air Brake Systems*, in title 49 of the Code of Federal Regulations at part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166, delegation of authority at 49 CFR 1.50.

2. Section 571.121 is amended by revising S5.1.6.2(b), S5.1.6.3, S5.2.3.2, S5.2.3.3 and S5.5.2 to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S5.1.6.2 *Antilock malfunction signal.*

* * *

(b) Each truck tractor manufactured on or after March 1, 2001, and each single unit vehicle manufactured on or after March 1, 2001, that is equipped to tow another air-braked vehicle, shall be equipped with an electrical circuit that is capable of transmitting a malfunction signal from the antilock brake system(s) on one or more towed vehicle(s) (e.g., trailer(s) and dolly(ies)) to the trailer ABS malfunction lamp in the cab of the towing vehicle, and shall have the means for connection of this electrical circuit to the towed vehicle. Each such truck tractor and single unit vehicle shall also be equipped with an indicator lamp, separate from the lamp required in S5.1.6.2(a), mounted in front of and in clear view of the driver, which is activated whenever the malfunction signal circuit described above receives a signal indicating an ABS malfunction on one or more towed vehicle(s). The indicator lamp shall remain activated as long as an ABS malfunction signal from one or more towed vehicle(s) is present, whenever the ignition (start) switch is in the "on" (run) position, whether or not the engine is running. The indicator lamp shall also be activated as a check of lamp function whenever the ignition is turned to the "on" or "run" position. The indicator lamp shall be deactivated at the end of the check of lamp function unless a trailer ABS malfunction signal is present.

* * * * *

S5.1.6.3 *Antilock power circuit for towed vehicles.* Each truck tractor manufactured on or after March 1, 1997, and each single unit vehicle manufactured on or after March 1, 1998, that is equipped to tow another air-braked vehicle shall be equipped with one or more electrical circuits that provide continuous power to the antilock system on the towed vehicle or vehicles whenever the ignition (start) switch is in the "on" (run) position. Such a circuit shall be adequate to enable the antilock system on each towed vehicle to be fully operable.

* * * * *

S5.2.3.2 *Antilock malfunction signal.* Each trailer (including a trailer converter dolly) manufactured on or after March 1, 2001, that is equipped with an antilock brake system shall be equipped with an electrical circuit that is capable of signaling a malfunction in the trailer's antilock brake system, and shall have the means for connection of this antilock brake system malfunction signal circuit to the towing vehicle. The electrical circuit need not be separate or dedicated exclusively to this malfunction signaling function. The signal shall be present whenever there is a malfunction that affects the generation or transmission of response or control signals in the trailer's antilock brake system. The signal shall remain present as long as the malfunction exists, whenever power is supplied to the antilock brake system. Each message about the existence of such a malfunction shall be stored in the antilock brake system whenever power is no longer supplied to the system, and the malfunction signal shall be automatically reactivated whenever power is again supplied to the trailer's antilock brake system. In addition, each trailer manufactured on or after March 1, 2001, that is designed to tow another air-brake equipped trailer shall be capable of transmitting a malfunction signal from the antilock brake system(s) of additional trailers it tows to the vehicle towing it.

* * * * *

S5.2.3.3 *Antilock malfunction indicator.* In addition to the requirements of S5.2.3.2, each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998, and before March 1, 2009, shall be equipped with an external indicator lamp that is activated whenever there is a malfunction that affects the generation or transmission of response or control signals in the trailer's antilock brake system. The indicator lamp shall remain activated as long as such a malfunction exists, whenever power is supplied to the antilock brake system. Each message about the existence of such a malfunction shall be stored in the antilock brake system whenever power is no longer supplied to the system, and the malfunction signal shall be automatically reactivated when power is again supplied to the trailer's antilock brake system. The indicator lamp shall also be activated as a check of lamp function whenever power is supplied to the antilock brake system and the vehicle is stationary. The indicator lamp shall be deactivated at the end of the check of lamp function unless there is a malfunction or a message about a malfunction that existed when power was last supplied to the antilock brake system.

* * * * *

S5.5.2 *Antilock system power—trailers.* On a trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 that is equipped with an antilock system that requires electrical power for operation, the power shall be obtained from the towing vehicle through one or more electrical circuits which provide continuous power whenever the powered vehicle's ignition (start) switch is in the "on" (run) position. The antilock system shall automatically receive power from the stoplamp circuit, if the primary circuit or circuits are not functioning. Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 that is equipped to tow another air-braked vehicle shall be equipped with one or more circuits which provide continuous power to the antilock system on the vehicle(s) it tows. Such circuits shall be adequate to enable the antilock system on each towed vehicle to be fully operable.

* * * * *

Issued on: February 12, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–3382 Filed 2–13–96; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 61, No. 32
Thursday, February 15, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 336

RIN 3064–AB43

Minimum Standards of Fitness for Employment With the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing for public comment regulations to implement the requirements contained in section 19 of the Resolution Trust Corporation Completion Act, which amended the Federal Deposit Insurance Act to prohibit certain persons from becoming employed or providing services to the FDIC.

DATES: Written comments must be received on or before March 15, 1996.

ADDRESSES: Written comments should be addressed to Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand delivered to Room F–402, 1776 F Street NW., Washington, DC 20429, on business days between 8:30 a.m. and 5:00 p.m. [Fax number: (202) 898–3838; Internet address: comments@fdic.gov]. Comments will be available for inspection and photocopying at the FDIC's Reading Room, Room 7118, 550 17th Street NW., Washington, DC between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Joy Crosser, Personnel Management Specialist, Division of Administration, (202) 942–3314; Michelle Borzillo, Counsel, Legal Division, (202) 898–7400; or Gladys C. Gallagher, Counsel, Legal Division, (202) 898–3833.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this proposed rule has been submitted to the Office of Management and Budget (OMB) for review and approval pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Comments regarding the accuracy of the burden estimate, and suggestions for reducing the burden, should be addressed to the Office of Management and Budget, Paperwork Reduction Project (3064–0117), Washington, D.C. 20503, with copies of such documents sent to Steven F. Hanft, Assistant Executive Secretary (Administration), FDIC, Room F–400, 550 17th Street NW., Washington, D.C. 20429.

The collection of information in this proposed rule is found in § 336.4(b) and takes the form of a certification of compliance. However, in addition to the certification, the person applying for employment must provide an attachment to the certification describing any instance in the preceding five years in which the applicant, or a company under the applicant's control, has defaulted on a material obligation to an insured depository institution. The information will be used by the FDIC to identify those persons prohibited from becoming employed by or providing services to the FDIC.

The estimated annual reporting burden for the collection of information requirement in this proposed rule is summarized as follows:

Number of Respondents	200
Number of Responses per Respondent	1
Total Annual Responses	200
Hours per Response	[1] 20
Total Annual Burden Hours	66.6

[1] Minutes.

Regulatory Flexibility Act

The Board hereby certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These regulations affect only those individuals who are employed or will become employed by the FDIC. Therefore, the provisions of that Act relating to an initial and final regulatory analysis (5 U.S.C. 603 and 604) do not apply here.

Background

The Resolution Trust Corporation Completion Act (hereafter referred to as the Completion Act), Pub. L. 103–204, enacted on December 17, 1993, amended section 12 of the Federal Deposit Insurance Act, 12 U.S.C. 1822, to prohibit any person from becoming employed or providing service to or on behalf of the FDIC who does not meet minimum standards of competence, experience, integrity, and fitness.

The Completion Act provides that FDIC employees are subject to title 18 of the U.S. Code, and are subject to the ethics and conflict of interest rules and regulations issued by the Office of Government Ethics, including those concerning employee conduct, financial disclosure, and post-employment activities. The statute also provides that the Corporation shall issue regulations implementing provisions that prohibit any person from becoming employed who: has been convicted of any felony; has been removed from, or prohibited from participating in the affairs of any insured depository institution pursuant to any final enforcement action by any appropriate federal banking agency; demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or caused a substantial loss to federal deposit insurance funds. The statute requires the collection from applicants for employment information describing any instance during the preceding 5 years in which the applicant or a company under the applicant's control defaulted on a material obligation to an insured depository institution, along with other information the Corporation may require by regulation. The Completion Act gives the Corporation sole discretion over any issues that arise as a result of these prohibitions, and any decisions made by the Corporation shall not be subject to review.

A. Scope of the Proposed Regulation

FDIC operates in a number of separate and distinct capacities and situations. This part will apply to all FDIC employees performing duties for or on behalf of the FDIC in any capacity.

This regulation is directed towards the implementation of the mandatory bars contained in section 19 of the Completion Act which amends 12

U.S.C. 1822(f)(4)(E). This part does not in any way modify other applicable rules and regulations governing employee conduct, ethics, or qualification standards. Further, there is no need to further augment in FDIC regulations the existing education and experience requirements defined in the U.S. Office of Personnel Management's (U.S. OPM) Operating Manual for General Schedule Qualification Standards.

B. Definitions

Section 336.3 contains definitions of terms used throughout this regulation.

Company: The proposed definition of company expands on that used in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)) to include firms, societies and joint ventures. These entities were included to amplify the original definition and for consistency with the application of the Completion Act to contractors providing services to the FDIC.

Default on a Material Obligation: The FDIC proposes to define this term to mean a delinquency of 90 or more days as to payment of principal or interest, or a combination thereof, on a loan or advance from an insured depository institution in any amount. As prescribed by the statute, this regulation requires that all applicants for employment submit a list and description of defaults on material obligations incurred by themselves or a company under their control during the 5 years preceding the submission. All defaults are to be listed regardless of whether or not they have been cured. The Corporation has set no minimum dollar value to this definition; information regarding the candidate's conduct in meeting obligations to insured depository institutions is significant in assessing the fitness and integrity of an individual for employment with the FDIC. Therefore, all defaults which meet this definition, regardless of outstanding balances, shall be reported, but are not automatic bars to employment in themselves.

Pattern or Practice of Defalcation Regarding Obligations: This proposed definition addresses two situations. The first concerns individuals who have a history of financial irresponsibility with regard to an open insured depository institution to such an extent that the FDIC's employment of such an individual reflects adversely on the FDIC's integrity and credibility. The second situation concerns individuals who have wrongfully refused to fulfill obligations to an insured depository institution.

In the first situation involving financial irresponsibility, a pattern or practice of defalcation regarding obligations exists when an employee has defaulted on obligations totalling in excess of $50,000 in the aggregate. Defaults caused by catastrophic events such as death, disability or illness, or loss of financial support will not be considered a violation of this standard. Examples are provided in the regulation's definition to clarify the meaning of "financial irresponsibility", including the example of failing to pay debts which were secured by uninsured property that was destroyed. Another example of such financial irresponsibility would be an abuse of credit cards or incurring excessive debt well beyond the individual's ability to repay.

The second part of this definition addresses individuals who wrongfully refuse to fulfill duties and obligations to insured depository institutions. Again, examples are provided, which illustrate the full scope of "wrongful refusal to fulfill duties and obligations". The examples include misconduct on the part of a borrower, such as use of false financial statements, misrepresentation of ability to repay a debt, or concealing assets. Additional examples focus on findings of misconduct on the part of officers, employees, contractors or others providing service to an insured depository institution, or who have committed fraud, embezzlement or similar misconduct.

Substantial Loss to Federal Deposit Insurance Funds: This proposed definition incorporates $50,000 as the threshold amount for establishing a substantial loss. This loss must have inured to one of the Federal Deposit Insurance Funds (Insurance Funds) maintained by the FDIC, the Resolution Trust Corporation (RTC), Federal Savings & Loan Insurance Corporation, or their successors. Two types of losses are addressed, which are: 1) debts in default for which there remain a legal obligation to pay; and 2) final judgments, regardless of whether forgiven in whole or in part in a bankruptcy proceeding.

C. Minimum Standards for Appointment to a Position With the FDIC

All applicants, including former employees of the FDIC who are reemployed after a break in service of more than 3 days, will be subject to this regulation for any noncompliance with the prohibitions which occurred either before or after the enactment of the Completion Act. Applicants will be required to submit a certification prior to employment which addresses each of the statutory prohibitions and further will be required to submit information regarding any default during the previous five years. Extending the statute's five-year reporting requirement by applicants was considered but was dismissed because investigations will be conducted on all new appointees to ascertain all relevant information regarding the individual's history of defaults. Regardless of the number of years for which an applicant is required to submit a written report regarding defaults, any pattern or practice of defalcation regarding obligations or substantial loss, as defined in this regulation, will be subject to these minimum standards. Similarly, any felony conviction and any removal from, or prohibition from participation in the affairs of, any insured depository institution by a federal banking agency will be subject to the prohibitions of this regulation without time limitation. A felony conviction that has been pardoned, as opposed to being overturned on appeal, remains a conviction and is therefore subject to the prohibition mandated by the Completion Act.

D. Minimum Standards for Employment With the FDIC

The Corporation finds sufficient support in the text of the statute for applying the terms of the Completion Act prospectively, and therefore will not require the enforcement of these minimum standards against incumbent employees of the FDIC under an appointment authorized by title 5 of the United States Code on or before June 17, 1994, for noncompliance which occurred prior to that date. However, any final enforcement action by any appropriate federal banking agency, any final judgment or any felony conviction which is finalized on or after June 18, 1994, even though the act or omission which is the basis of the action or judgment occurred prior to June 18, 1994, will be subject to the standards of this regulation. Additionally, eligibility for employment with the FDIC continues to be based on suitability standards for federal employment as measured from past and present conduct which determines whether or not an employee can perform his or her duties with efficiency and effectiveness.

All employees, regardless of date of first appointment or tenure, will be subject to this regulation for any noncompliance with the standards that occurs on or after June 18, 1994. Further, any noncompliance with the standards that first occurred prior to June 18, 1994, which meets the

definitions of causing a substantial loss to the Insurance Funds or a pattern or practice of defalcation regarding obligations to an insured depository institution based on financial irresponsibility and which resulted in indebtedness that remains uncured after June 18, 1994, cannot be excused.

Employees appointed prior to the June 18, 1994 effective date for section 19 of the Completion Act and who continue without a break in service of more than 3 days from one type of appointment with the FDIC to another will not be subject to the prohibitions for noncompliance prior to June 18, 1994. For example, an employee serving on an excepted-service temporary appointment who may be selected for a competitive-service time-limited or permanent appointment without a break in service would not be considered a new applicant for purposes of this regulation. This proposed regulation shall apply to all appointments, including co-operative student hires, experts and consultants, detailees from other agencies and any other individual appointed to provide service to or on behalf of the FDIC.

Employees assigned to the RTC were held to comparable minimum standards of fitness for employment in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101–73, as implemented by regulation in 12 CFR Part 1605, which were applied retroactively by statute. Therefore, unlike incumbent FDIC employees who were not covered by Pub. L. 101–73 minimum standards, any noncompliance with the standards by incumbent employees assigned to RTC prior to June 18, 1994, remain subject to the Pub. L. 101–73 minimum standards, and will not be excused.

Noncompliance occurring on or after June 18, 1994, with the standards contained in this regulation will be a basis for removal of the employee under the authority of the Completion Act.

E. Verification of Compliance

Under the authority provided by 12 U.S.C. 1819 and 1822, the FDIC will conduct background investigations to verify the information certified by applicants and to determine suitability for employment with the FDIC. In addition, the FDIC will screen the Financial Institutions Investigative and Enforcement Records System maintained internally by the FDIC's Division of Supervision regarding records of federal banking agency enforcement actions. The FDIC will also examine its own and other regulatory records systems for findings of a pattern or practice of defalcation regarding obligations and/or a substantial loss to the Insurance Funds as defined in this regulation.

F. Employee Responsibility, Counseling and Distribution of Regulation

Employees are required to familiarize themselves with the provisions of this regulation. Within ten days of the action or the discovery of the noncompliance, an employee shall report in writing to the Ethics Counselor regarding noncompliance with any of the prohibitions contained in § 336.5(a) (1) through (4) of this regulation. Also, if the employee receives a letter from the FDIC demanding payment on an obligation that was initially owed to an insured depository institution and is now owed to the FDIC, the employee must notify the Ethics Counselor within 10 days of receipt of such letter. Employees shall consult with the Ethics Counselor regarding the impact of this regulation on their continued employment. The Ethics Counselor shall provide counseling and guidance to employees regarding the statutes, regulations and Corporation's policies under this part. The Ethics Counselor will review all information presented by the employee and/or the employee's representative relevant to establishing responsibility for the debt and corrective actions taken. The employee has a duty to cooperate with the Ethics Counselor in providing the information that is necessary to the Ethics Counselor's determination of compliance or noncompliance.

G. Sanctions and Remedial Actions

There is no remedial action for an employee found in noncompliance with the standards at § 336.5(a) (1) and (2), for felony convictions and enforcement actions, as an employee is afforded the opportunity to remedy those findings through other proceedings. Also, there is no remedial action for an employee found in noncompliance with the standards of § 336.4(a)(4), as the Corporation's Division of Depositor and Asset Services provides the opportunity to work out debts owed to the Insurance Funds. Further, noncompliance with § 336.5(a)(3) based on wrongful refusal to fulfill duties on obligations to insured depository institutions cannot be remedied. However, employees will be provided a reasonable opportunity to remedy following notification of noncompliance with the prohibitions at § 336.5(a)(3) based on financial irresponsibility as defined in 336.3(i)(1). Such employees may establish an agreement to resolve the outstanding indebtedness that satisfies both the insured depository institution and the FDIC, or otherwise resolve the matter to the satisfaction of the FDIC. This remedial action provided employees will not be extended to applicants for employment. Filling a vacancy will not be delayed in order for an applicant to cure his or her debts that are deemed not in compliance with § 336.4(a) (3) through (4).

Individuals appointed by the President with the advice and consent of the Senate, which include both the appointed and *ex officio* members of the Board of Directors and the Inspector General, cannot be removed from their positions under the authority of the FDIC. Therefore, this regulation does not apply to individuals appointed to or serving on an acting basis in positions designated by Title 5 of the U.S. Code as officials of the Federal Executive Schedule. Federal employees who are serving the FDIC, but are employed by another agency, such as detailees or employees of the Office of Thrift Supervision or the Office of the Comptroller of the Currency, may be returned to the employing agency if found not to be in compliance with the minimum standards.

H. Finality of Determination

Section 336.9 of this proposed regulation tracks the language of the Federal Deposit Insurance Act, 12 U.S.C. 1822(f)(4)(D)(ii).

List of Subjects in 12 CFR Part 336

Conflict of interests.

For the reasons set out in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to revise part 336 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 336—FDIC EMPLOYEES

Subpart A—Employee Responsibilities and Conduct

Sec.

336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Subpart B—Minimum Standards of Fitness for Employment With the Federal Deposit Insurance Corporation

336.2 Authority, purpose and scope.
336.3 Definitions.
336.4 Minimum standards for appointment to a position with the FDIC.
336.5 Minimum standards for employment with the FDIC.
336.6 Verification of compliance.
336.7 Employee responsibility, counseling and distribution of regulation.
336.8 Sanctions and remedial actions.
336.9 Finality of determination.

Subpart A—Employee Responsibilities and Conduct

Authority: 5 U.S.C. 7301; 12 U.S.C. 1819(a).

§ 336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Federal Deposit Insurance Corporation (Corporation) are subject to the Executive Branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Corporation regulation at 5 CFR part 3201 which supplements the Executive Branch-wide Standards, the Executive Branch-wide financial disclosure regulations at 5 CFR part 2634, and the Corporation regulation at 5 CFR part 3202, which supplements the Executive Branch-wide financial disclosure regulations.

Subpart B—Minimum Standards of Fitness for Employment With the Federal Deposit Insurance Corporation

Authority: 12 U.S.C. 1819(Tenth), 1822(f).

§ 336.2 Authority, purpose and scope.

(a) *Authority.* This part is adopted pursuant to section 12(f) of the Federal Deposit Insurance Act, 12 U.S.C. 1822, and the rulemaking authority of the Federal Deposit Insurance Corporation (FDIC) found at 12 U.S.C. 1819. This part is in addition to, and not in lieu of, any other statutes or regulations which may apply to standards for ethical conduct or fitness for employment with the FDIC and is consistent with the goals and purposes of 18 U.S.C. 201, 203, 205, 208, and 209.

(b) *Purpose.* The purpose of this part is to state the minimum standards of fitness and integrity required of individuals who provide service to or on behalf of the FDIC and provide procedures for implementing these requirements.

(c) *Scope.* (1) This part applies to applicants for employment with the FDIC under title 5 of the U.S. Code appointing authority in either the excepted or competitive service, including Special Government Employees. This part applies to all appointments, regardless of tenure, including intermittent, temporary, time-limited and permanent appointments.

(2) In addition, this part applies to all employees of the FDIC who serve under an appointing authority under chapter 21 of title 5 of the U.S. Code.

(3) Further, this part applies to any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation.

§ 336.3 Definitions.

For the purposes of this part:

(a) *Company* means any corporation, firm, partnership, society, joint venture, business trust, association or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, or any other organization or institution, but shall not include any corporation the majority of the shares of which are owned by the United States, any state, or the District of Columbia.

(b) *Control* means the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company, the ability to direct in any manner the election of a majority of a company's directors or trustees, or the ability to exercise a controlling influence over the company's management and policies. For purposes of this definition, a general partner of a limited partnership is presumed to be in control of that partnership. For purposes of this part, an entity or individual shall be presumed to have control of a company if the entity or individual directly or indirectly, or acting in concert with one or more entities or individuals, or through one or more subsidiaries, owns or controls 25 percent or more of its equity, or otherwise controls or has power to control its management or policies.

(c) *Default on a material obligation* means a loan or advance from an insured depository institution which is or was delinquent for 90 or more days as to payment of principal or interest, or any combination thereof.

(d) *Employee* means any officer or employee, including a liquidation graded or temporary employee, providing service to or on behalf of the FDIC who has been appointed to a position under an authority contained in title 5 of the U.S. Code. This definition excludes those individuals designated by title 5 of the U.S. Code as officials in the Federal Executive Schedule.

(e) *Federal banking agency* means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, or their successors.

(f) *Federal deposit insurance fund* means the Bank Insurance Fund, the Savings Association Insurance Fund, the Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund, or the funds that were formerly maintained by the Resolution Trust Corporation (RTC) for the benefit of insured depositors.

(g) *FDIC* means the Federal Deposit Insurance Corporation, in its receivership and corporate capacities.

(h) *Insured depository institution* means any bank or savings association the deposits of which are insured by the FDIC.

(i) *Pattern or practice of defalcation regarding obligations* means:

(1) A history of financial irresponsibility with regard to debts owed to insured depository institutions which are in default in excess of $50,000 in the aggregate. Examples of such financial irresponsibility include, without limitation:

(i) Failure to pay a debt or debts totalling more than $50,000 secured by an uninsured property which is destroyed; or

(ii) Abuse of credit cards or incurring excessive debt well beyond the individual's ability to repay resulting in default(s) in excess of $50,000 in the aggregate.

(2) Wrongful refusal to fulfill duties and obligations to insured depository institutions. Examples of such wrongful refusal to fulfill duties and obligations include, without limitation:

(i) Any use of false financial statements;

(ii) Misrepresentation as to the individual's ability to repay debts;

(iii) Concealing assets from the insured depository institution;

(iv) Any instance of fraud, embezzlement or similar misconduct in connection with an obligation to the insured depository institution; and

(v) Any conduct described in any civil or criminal judgment against an individual for breach of any obligation, contractual or otherwise, or any duty of loyalty or care that the individual owed to an insured depository institution.

(3) Defaults shall not be considered a pattern or practice of defalcation where the defaults are caused by catastrophic events beyond the control of the employee such as death, disability, illness or loss of financial support.

(j) *Substantial loss to federal deposit insurance funds.* (1) *Substantial loss to federal deposit insurance funds* means:

(i) A loan or advance from an insured depository institution, which is now owed to the FDIC, RTC, FSLIC or their successors, or any federal deposit insurance fund, that is delinquent for ninety (90) or more days as to payment of principal, interest, or a combination thereof and on which there remains a

legal obligation to pay an amount in excess of $50,000; or

(ii) A final judgment in excess of $50,000 in favor of any federal deposit insurance fund, the FDIC, RTC, FSLIC, or their successors regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding.

(2) For purposes of computing the $50,000 ceiling in paragraphs (j)(1) (i) and (ii) of this section, all delinquent judgments, loans, or advances currently owed to the FDIC, RTC, FSLIC or their successors, or any federal deposit insurance fund, shall be aggregated. In no event shall delinquent loans or advances from different insured depository institutions be separately considered.

§ 336.4 Minimum standards for appointment to a position with the FDIC.

(a) No person shall become employed on or after June 18, 1994, by the FDIC or otherwise perform any service for or on behalf of the FDIC who has:

(1) Been convicted of any felony;

(2) Been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate federal banking agency;

(3) Demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or

(4) Caused a substantial loss to federal deposit insurance funds.

(b) Prior to an offer of employment, any person applying for employment with the FDIC shall sign a certification of compliance with the minimum standards listed in paragraphs (a) (1) through (4) of this section. In addition, any person applying for employment with the FDIC shall provide as an attachment to the certification any instance in which the applicant, or a company under the applicant's control, defaulted on a material obligation to an insured depository institution within the preceding five years.

(c) Incumbent employees who separate from the FDIC and are subsequently reappointed after a break in service of more than three days are subject to the minimum standards listed in paragraphs (a) (1) through (4) of this section. The former employee is required to submit a new certification statement including attachments, as provided in paragraph (b) of this section, prior to appointment to the new position.

§ 336.5 Minimum standards for employment with the FDIC.

(a) No person who is employed by the FDIC shall continue in employment in any manner whatsoever or perform any service for or on behalf of the FDIC who, beginning June 18, 1994 and thereafter:

(1) Is convicted of any felony;

(2) Is prohibited from participating in the affairs of any insured depository institution pursuant to any final enforcement action by any appropriate federal banking agency;

(3) Demonstrates a pattern or practice of defalcation regarding obligations to insured depository institution(s); or

(4) Causes a substantial loss to federal deposit insurance funds.

(b) Any noncompliance with the standards listed in paragraphs (a) (1) through (4) of this section is a basis for removal from employment with the FDIC.

§ 336.6 Verification of compliance.

The FDIC's Division of Administration shall order appropriate investigations as authorized by 12 U.S.C. 1819 and 1822 on newly appointed employees, either prior to or following appointment, to verify compliance with the minimum standards listed under § 336.4(a) (1) through (4).

§ 336.7 Employee responsibility, counseling and distribution of regulation.

(a) Each employee is responsible for being familiar with and complying with the provisions of this part.

(b) The Ethics Counselor shall provide a copy of this part to each new employee within 30 days of initial appointment.

(c) An employee who believes that he or she may not be in compliance with the minimum standards provided under § 336.5(a) (1) through (4), or who receives a demand letter from the FDIC for any reason, shall make a written report of all relevant facts to the Ethics Counselor within ten (10) business days after the employee discovers the possible noncompliance, or after the receipt of a demand letter from the FDIC.

(d) The Ethics Counselor shall provide guidance to employees regarding the appropriate statutes, regulations and corporate policies affecting employee's ethical responsibilities and conduct under this part.

(e) The Ethics Counselor shall provide the Personnel Services Branch with notice of an employee's noncompliance.

§ 336.8 Sanctions and remedial actions.

(a) Any employee found not in compliance with the minimum standards except as provided in paragraph (b) of this section shall be terminated and prohibited from providing further service for or on behalf of the FDIC in any capacity. No other remedial action is authorized for sanctions for noncompliance.

(b) Any employee found not in compliance with the minimum standards under § 336.5(a)(3) based on financial irresponsibility as defined in § 336.3(i)(1) shall be terminated consistent with applicable procedures and prohibited from providing future services for or on behalf of the FDIC in any capacity, unless the employee brings him or herself into compliance with the minimum standards as provided in paragraphs (b) (1) and (2) of this section.

(1) Upon written notification by the Corporation of financial irresponsibility, the employee will be allowed a reasonable period of time to establish an agreement that satisfies the creditor and the FDIC as to resolution of outstanding indebtedness or otherwise resolves the matter to the satisfaction of the FDIC prior to the initiation of a termination action.

(2) As part of the agreement described in paragraph (b)(1) of this section, the employee shall provide authority to the creditor to report any violation by the employee of the terms of the agreement directly to the FDIC Ethics Counselor.

§ 336.9 Finality of determination.

Any determination made by the FDIC pursuant to this part shall be at the FDIC's sole discretion and shall not be subject to further review.

By Order of the Board of Directors.

Dated at Washington, D.C. this 6th day of February 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3272 Filed 2–14–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AEA–17]

Proposed Amendment of Class D Airspace; Utica, NY, and Proposed Amendment of Class D Airspace and Class E4 Airspace, Rome, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would modify Class D airspace designated as a surface area for Oneida County Airport, Utica, New York and Griffiss AFB, Rome, New York. There is existing Class D airspace for each location. This proposal would redefine the boundaries of each area, and reduce the amount of of Class D airspace located to the east of these airports. The associated Class E4 airspace areas, at Griffiss AFB, designated as an extension to a Class D surface area, would also be modified and made effective only at the times the Griffiss AFB tower is operating. The actual use of the Class D airspace, by each airport, is based on the geographic division provided by the New York State Barge Canal; the modification would reflect this division.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Send comments on the rule in triplicate to: Manager, System Management Branch, AEA–530, Docket No. 95–AEA–17, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 95–AEA–17". The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments received will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, Air Traffic Division, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71). This proposed rule would modify the Class D airspace at Oneida County Airport, Utica, NY to designate the surface airspace that is actually utilized for the Oneida County Airport when the tower is in operation. This proposed rule would modify the Class D airspace and associated Class E4 airspace designated as an extension to a Class D surface area at Griffiss AFB. The air traffic control tower is no longer operating 24 hours a day at Griffiss AFB, and a "by NOTAM" clause would be added to the Class D and Class E4 airspace descriptions. This would result in the airport having surface controlled airspace, Class D, for a period of time; then reverting to uncontrolled Class G airspace under a 700 foot Class E5 airspace area. The weather observations are only available during those same hours as the control tower operates. Class D and Class E4 airspace designations are published in Paragraph 5000 and 6004, respectively, of FAA Order 7400.9C, dated August 17, 1995 and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995 and effective September 16, 1995, is amended as follows:

Paragraph 5000—Subpart D—Class D airspace, areas designated as a surface area for an airport.

* * * * *

AEA NY D Utica, NY [Revised]

Oneida County Airport, Utica, NY
(Lat. 43°08'42"N., long. 75°23'02"W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.2-mile radius of the Oneida County Airport, excluding the portion which is north and east of the New York State Barge Canal, along a line extending from lat. 43°12'02"N., long. 75°26'23"W. to lat. 43°11'56"N., long. 75°22'30"W. to lat 43°11'16"N., long. 75°20'53"W. to lat. 43°08'30"N., long. 75°17'22"W. This Class D airspace area is effective during the specific dates and times established in advance by a

Notice to Airmen. The effective date and time will thereafter be published in the Airport/Facility Directory.

* * * * *

AEA NY D Rome, NY [Revised]

Griffiss AFB, Rome, NY
(Lat. 43°14'02"N., long. 75°24'26")

That airspace extending upward from the surface to and including 3000 feet MSL within a 4.5-mile radius of Griffiss AFB, excluding the portion within the Utica, NY, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004—Subport E—Class E airspace areas designated as an extension to a Class D surface area.

* * * * *

AEA NY E4 Rome, NY [Revised]

Griffiss AFB, Rome, NY
(Lat. 43°14'02"N., long. 75°24'26"W.)

That airspace extending upward from the surface within 1.2 miles each side of a 314° bearing extending from the 4.5-mile radius of Griffiss AFB to 6.9 miles northwest of the airport and within 1.2 miles each side of a 134° bearing extending from the 4.5-mile radius of Griffiss AFB to 6.9 miles southeast of the airport, excluding that airspace within the Utica, NY, Class D airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York, on January 29, 1996.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 96–3489 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–AEA–16]

Proposed Establishment of Class E5 Airspace; Rome, NY, and Proposed Amendment of Class E5 Airspace, Utica, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would modify Class E5 airspace extending upward from 700 feet above the earth for Oneida County Airport, New York and for Griffiss AFB, Rome, New York. The proposal would add controlled airspace to accommodate Standard Instrument Approach Procedures (SIAPs) and for Instrument Flight Rule (IFR) operations at the Oneida County Airport and the Griffis AFB. This proposal would also establish a separate Class E5 airspace description for Griffiss AFB and Oneida County Airport.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Send comments on the rule in triplicate to: Manager, System Management Branch, AEA–530, Docket No. 95–AEA–16, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building, #111, John F. Kennedy International Airport, Jamaica, New York 11430. An informal docket may also be examined during normal business hours in the System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111 John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111 John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–AEA–16". The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments received will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, Air Traffic Division, AEA–530, F.A.A. Eastern Region, Federal Building, #111, John F. Kennedy International Airport, Jamaica, NY 11430.

Communications must identify the notice of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering amending part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying the Class E5 airspace at both Griffiss AFB and Oneida County Airport. This proposal would provide a Class E5 airspace description for each airport. The proposed modifications would accommodate SIAPs and instrument flight rules (IFR) operations at Oneida County Airport and provide additional controlled airspace for vectoring of aircraft. In addition, airspace efficiency would be enhanced by establishing additional controlled airspace at 700 feet above ground level on the northwest side of Griffiss AFB between 8.7 and 15 miles. Class E5 airspace areas extending upward from 700 feet or more above the earth are published in Paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995 and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects In 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The Authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995 and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the earth.

* * * * *

AEA NY E5 ROME, NY [New]

Griffiss AFB, Rome, NY
(Lat. 43°14'02" N. long. 75°24'26" W.)

That airspace extending upward from 700 feet above the surface within an 8.7-mile radius of Griffiss AFB and within 5.0 miles each side of the 315° bearing from Griffiss AFB extending from the 8.7-mile radius to 15 miles northwest of the Griffiss AFB, excluding the portion that coincides with the Utica, NY, Class E airspace.

* * * * *

AEA NY E5 UTICA, NY [Revised]

Oneida County Airport, Utica, NY
(Lat. 43°08'42" N., long. 75°23'02" W.)

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Oneida County Airport and within 113° bearing from Oneida County Airport, extending from the 10.5-mile radius of the Oneida County Airport to 23 miles southeast of the Oneida County Airport, then clockwise on the 23 mile radius to the 203° bearing of the Oneida County Airport.

* * * * *

Issued in Jamaica, New York, on January 29, 1996.

John S. Walker,

Manager, Air Traffic Division.

[FR Doc. 96–3488 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 217 and 241

[Docket No. OST–96–1049; Notice No. 96–2]

RIN 2105–AC34

Changes to International Data Submissions by Large Air Carriers (Form 41 Schedules T–100, T–100(f), and P–1.2)

AGENCY: Office of the Secretary, Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation (DOT or the Department) proposes to reduce the period of confidential treatment of international nonstop segment and on-flight market data from three years to immediately following the Department's determination that the database is complete, but no sooner than six months after the date of the data. The Department also proposes to collect aircraft capacity data from foreign air carriers and to rescind the requirement that Group III (large, U.S.) air carriers specify passenger revenues, passenger enplanements, passengers transported, and seating capacity by cabin configuration. This action is taken on the Department's initiative in order to make data available for planning and efficient resource allocation purposes, to ensure the accuracy of the data that are used by the Department in administering its program responsibilities, and to eliminate data that are no longer needed for regulatory purposes.

DATES: Comments are due April 15, 1996.

ADDRESSES: Comments should be directed to the Docket Clerk, Docket OST–96–1049, Room PL 401, Office of Secretary, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. Comments should identify the regulatory docket number and seven copies should be submitted. The Department encourages commenters who wish to do so also to submit comments to the Department through the Internet; our Internet address is dot_dockets@postmaster.dot.gov.[1] Note, however, that at this time the Department considers only the paper copies filed with the Docket Clerk to be the official comments. Comments will be available for inspection at this address from 10:00 a.m. to 5:00 p.m., Monday through Friday both before and after the closing date for comments.

[1] Our X.400 e-mail address is G=DOT/S=dockets/OU1=qmail/O=hq/p=gov+dot/a=attmail/c=us.

Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a stamped, self-addressed postcard on which the following statement is made: Comments on Docket OST–96–1049. The postcard will be date/time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: John Harman, Office of Aviation Analysis, or John Schmidt, Office of Aviation and International Economics, Office of the Assistant Secretary for Aviation and International Affairs, Office of the Secretary, U.S. Department of Transportation, 400 Seventh St. SW, Washington, DC 20590 at (202) 366–1059 or 366–5420, respectively.

SUPPLEMENTARY INFORMATION:

Program Requirements for and Importance of T–100 Data

The Department uses the traffic and capacity data reported on Schedules T–100 and T–100(f) to administer its aviation program responsibilities. In the original NPRM proposing the adoption of the T–100 data system (52 FR 26500–26502, July 15, 1987), the Department provided details of the 21 specific program areas that the T–100 data would support. The Department's responsibility in these program areas continues today and will continue into the future. Since the emphasis in this current rulemaking is on international T–100 data, the Department specifically recognizes the critical importance of accurate and reliable T–100 data that support evaluations of bilateral negotiations and international aviation developments. These data are also necessary in analyzing proposed operating plans in international air carrier selection cases, in developing international mail rates, and in establishing regulatory benchmarks for evaluating international fares and rates and International Air Transport Association agreements.

The availability and reliability of aviation data have recently taken on increased importance. The Department's *U.S. International Air Transportation Policy Statement* issued in April 1995 (60 FR 21841–21845, May 3, 1995) emphasized "the importance of sound economic analysis based on sufficient data in developing policies and strategies for achieving our overall aviation goals." The General Accounting Office (GAO) also reflected this recent emphasis on aviation data in its April 1995 Report to Congressional Requesters, entitled *International Aviation, Airline Alliances Produce Benefits, but Effect on Competition is Uncertain.* In its assessment, GAO

recommended, among other things, that the Secretary of Transportation "direct the agency's new economic unit to analyze DOT's existing data * * * to determine if the U.S. airline industry or consumers have been negatively affected before reapproving all strategic alliances and any other alliance that the Secretary deems significant." Furthermore, in his July 11, 1995, testimony before the Senate Committee on Commerce, Science, and Transportation, the Secretary of Transportation reiterated the importance of quality data when he stated, "we would emphasize the importance of sound economic analyses based on the best available data in developing policies and strategies for achieving our aviation goals." This present rulemaking is one means of achieving the Department's overall goal of requiring and using accurate, reliable, and consistent aviation data.

Background

When the Department instituted its Schedule T–100 reporting requirements for onboard traffic data, it granted a three-year confidentiality period to foreign carriers' data in order to address concerns by those carriers about disclosure of sensitive data. In order not to put U.S. carriers at a competitive disadvantage, the Department provided a three-year confidentiality period for U.S. carriers' international traffic data as well. The rule required U.S. air carriers to report capacity data, however, because of the concerns of foreign carriers and governments over the possible burden of reporting requirements, the Department elected not to require capacity data from foreign carriers, but to rely instead on commercial data sources.

After working with the data for five years, the Department and other users have found that three-year-old data are not relevant to the current conditions existing in the rapidly changing world of international commercial aviation. In addition, the Department has found the commercially available data on aircraft capacity to be unreliable for administering its program responsibilities.

Therefore, the Department proposes to narrow the confidentiality period on international data from three years to immediately following the Department's determination that the database is complete, but no earlier than six months. The Department also proposes to require foreign carriers to report two capacity data items already reported by U.S. air carriers: total available seats and available payload weight. The current international data reporting requirements for the largest (Group III) U.S. air carriers would be reduced by consolidating the data required into a smaller number of reporting elements. (Specifically, the reporting of cabin configuration (first, middle, and coach) data for the data elements of passengers enplaned, passengers transported, and available seats would be eliminated and a total by aircraft would be reported for each element. The reporting of corresponding transport revenue data by First Class and Coach on Schedule P–1.2, *Statement of Operations*, would also be eliminated. These data are not collected from foreign air carriers.)

Confidentiality of International T–100 Data

The Department published its final rule on November 16, 1988 (53 FR 46284), implementing the T–100 reporting system. The rule was effective January 1, 1990, and adopted a three-year confidentiality period for detailed nonstop segment and on-flight market data. By a separate final rule published January 25, 1991 (56 FR 2842), the Department eliminated the restrictions on disclosure of U.S. carriers' domestic Schedule T–100 data, making the data immediately available to the public after DOT validating, editing, and processing. Detailed international T–100 data submitted by U.S. and foreign air carriers continues to be withheld from public disclosure for a three-year period.

The Department has, as a matter of policy, consistently favored public release of information. This accords with the Administration's policy on dissemination of information. The President in his Freedom of Information memorandum of October 4, 1993, stated that, "Each agency has a responsibility to distribute information on its own initiative and to enhance public access through the use of electronic information systems." T–100 international data are valuable resources to airline and airport planners, consumers, academics, and others interested in the functioning of air transport markets. Exchanges of these types of data are usually regarded as procompetitive.

With the increasing globalization of the airline industry in the late 1980's and the 1990's, the public need for these data has grown. Air travel markets have become more open: large markets now usually enjoy economic competition among several carriers of various nationalities. International cross-ownership and cooperative marketing agreements, including the use of capacity on a given flight by more than one airline and other code-sharing arrangements, have become commonplace. Air travel consumer choice in any given market is more and more determined by service and price competition without regard to the carriers' nationalities, and less and less by division of markets through international agreements.

Carriers have stated that they use traffic data extensively for route studies, passenger traffic forecasts, market share analyses, and other planning activities. The failure of the Department to release international traffic data may impede the ability of carriers to enter new markets and to continue efficient and responsive operations in existing markets. At least one carrier (Alaska Airlines, Docket 46101) has stated its belief that the unavailability of traffic data may very likely result in the misapplication of carrier resources, may decrease the number of carriers entering new markets, and may decrease the level of competition among carriers as market decisions are made on imperfect and incomplete information. The T–100 data are particularly useful since, with extremely limited exceptions, they cover all passengers and all carriers in the markets where they are collected, and because their collection is comparatively economical, efficient, and accurate. There are relatively few other traffic data available. The Immigration and Naturalization Service (INS) currently collects information concerning passengers on international flights into the United States, including whether they are U.S. citizens or aliens (I–92 report), which has been made publicly available to planners and analysts. These data are not comparable with T–100 data either in terms of market coverage, collection methodology, or reliability. Moreover, there is some concern on the part of the public that the INS data may no longer be made available because of budget restrictions.

With globalization of the airline industry, more carriers appear to be supporting the advantages of greater data availability and fewer appear to be concerned with the disadvantages of loss of confidentiality. Some shifts of position came to light in the comments on the 1991 rulemaking (Docket 46101). More recently, DOT staff involved in international air negotiations and aviation data collection have received similar informal comments from carriers that they would no longer have objections to their international data being released and would have an interest in using the data for planning.

DOT proposes to reduce the confidentiality period from three years to immediately following the Department's determination that the database is complete, but no earlier than six months, for detailed international on-flight market and nonstop segment data in Schedules T–100 (U.S. carriers) and T–100(f) (foreign carriers). In order that U.S. air carriers not be placed at a competitive disadvantage because of data disclosure incomparability, DOT will continue to restrict availability of on-flight market and nonstop segment data for segments involving no U.S. points, for three years. (U.S. air carriers report all market and segment records, while foreign carriers only report those market and segment records that have a U.S. point.)

In sum, the benefits of changing the period of confidentiality from three years to six months are considerable. Six-month old data are much more relevant for planning and analysis than three-year old data. They also are significantly more useful than data released after one year since they would enable analysis and planning for the next season's schedules and operations (i.e., one year after the date of the data).

The impact on the reporting carriers will be minimal. Data released after six months are not so current as to allow day-to-day competitive strategies to be undermined. The requirement maintains a level playing field by reducing the time period for all carriers. Furthermore, the Department already makes domestic T–100 data immediately available to the public after DOT processing, and the T–100(f) data would enjoy greater protection. Because of the number and diversity of the carriers reporting international T–100 data (over 80 U.S. carriers and 170 foreign carriers), it would take a considerably longer time to edit and release them to the public even if they were to be made available immediately.

Reporting of Capacity Data by Foreign Air Carriers

Under the requirements of the final rule previously mentioned, 53 FR 46284, foreign air carriers are not required to report available seats and available payload weight. Instead, the Department decided that it would rely upon existing data sources in the private sector to estimate aircraft capacity data for foreign air carriers. At the time of issuing the final rule, the Department stated that these procedures for estimating capacity data would be effective for a trial period and, if they proved inadequate, the Department would employ *ad hoc* reporting requirements or would impose requirements to submit actual capacity data. As a result of its experience under this trial procedure, the Department has tentatively determined that the present methods for estimating capacity data are unreliable and proposes in this rulemaking to require foreign air carriers to report capacity data.

The Department's determination that the capacity estimates are unreliable is based, in part, upon the fact that use of the private sector sources for data on available aircraft seats has resulted in several instances of constructed load factors in excess of 100 percent for various foreign carriers, for various time periods, and in various markets. In constructing capacity figures from private sources, the Department encountered such problems as aircraft types not being on file or the same aircraft type for the same carrier having different capacities based on cabin configuration (first class, business, and coach, or all coach). In these scenarios, an estimate had to be used, which may not be close to the carrier's actual operation.[2]

Furthermore, the calculation of load factors in excess of 100 percent, while a definite indication of inaccurate data, does not enable the Department to evaluate how inaccurate the data are. DOT has also, on occasion, found reason to question whether a load factor may be too low, although it is obvious that the Department cannot reject it with the same degree of certainty that it would a load factor above 100 percent.

As with seat capacity data, the Department has tentatively decided that it no longer will depend upon commercially available data with regard to available payload weight for foreign air carriers to ensure that its program responsibilities are administered based on the most accurate data possible. The Department thus is proposing to require that the foreign air carriers report both available seats and available payload weight. Since U.S. air carriers now report those data, requiring foreign air carriers to report them will also further the Department's effort to achieve data reporting comparability.

Reduction of Capacity Detail Requirement for U.S. Carriers

The Department proposes to relax the current regulation requiring that Group III U.S. air carriers (those U.S. air carriers with total annual operating revenues of more than one billion dollars) report available seats, passenger enplanements, and passengers transported for each of three cabin configurations—first class cabin, middle class cabin, and coach class cabin—for all international operations. Thus, if this regulation is adopted, all carriers would report total available seats, total passenger enplanements, and total passengers transported by aircraft type. This action would reduce the reporting burden on U.S. air carriers while providing for data comparability among all reporting air carriers.

Form 41 Revenue Passenger Data by Fare Class

Since the Department is proposing not to collect passenger traffic and capacity data by cabin configuration, it is also proposing to collect a single passenger revenue figure rather than passenger revenue for first class and coach service on Form 41 Schedule P–1.2, *Statement of Operations.*

Rulemaking Analysis and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866, and therefore it was not reviewed by the Office of Management and Budget.

The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034), because it does not change Departmental policy concerning aviation information collection.

The economic impact of this regulation is not great. The proposed change in confidentiality restriction has no impact at all on the reporting burden of the carriers. The proposed changes in requirements for reporting capacity and revenue data by the eight largest U.S. air carriers will reduce the reporting burden for these air carriers by approximately 96 hours annually. On the other hand, the foreign air carriers will incur an increase in reporting burden. However, the Department does not believe that the increased reporting burden will be significant or onerous because this regulation adds only two capacity data items which are readily available from the carriers' computerized data files or other easily accessible reference documents. In order to quantify broadly the increased burden, the Department assumed that each of the 176 foreign air carriers would submit two new data items each month and that the process of collecting and transmitting the data would take no more than one hour each month. The

[2] For example, suppose a carrier had two seating configurations for a B–747–400 aircraft.(three class configuration for a total of 350 seats and single class configuration of 425 seats), which means the Department has three choices—the high of 425 seats, the low of 350 seats, or an average of 388 seats. None of these choices may approximate the carrier's actual operations.

resulting hourly burden would not exceed 12 hours on an annual basis for any foreign air carrier, and the resulting total hourly burden on an annual basis for all the foreign air carriers as a group would be 2,112 hours. For all air carriers, this would be a net burden of 2,016 hours annually or $20,966 based on an estimated industry salary rate of about $10.40 an hour. (See 60 FR 61478, November 30, 1995.)

The benefits to the public, the industry, and the Department of accurate capacity data reported on a reliable and consistent basis, although unquantifiable, outweigh the limited increase in reporting burden.

Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism") and DOT has determined the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

I certify this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed amendments would affect only large U.S. certificated air carriers and foreign air carriers.

Paperwork Reduction Act

The reporting and recordkeeping requirement associated with this rule is being sent to the Office of Management and Budget for approval in accordance with 44 U.S.C. Chapter 35 under OMB NO: 2139-new, formerly OMB NO: 2138–0040; ADMINISTRATION: Office of the Secretary; TITLE: T–100 International Data; NEED FOR INFORMATION: Passenger and Capacity Information for Aviation Planning and Regulation; PROPOSED USE OF INFORMATION: Electronic Dissemination to Transportation Planners and Analysts; FREQUENCY: Monthly; BURDEN ESTIMATE: 2,016 annual hours; AVERAGE BURDEN HOURS PER RESPONDENT: 12 annual hours; ESTIMATED NUMBER OF RESPONDENTS: 184 Air Carriers; FOR FURTHER INFORMATION CONTACT: Copies of the information collection request submitted to OMB may be obtained from the IRM Strategies Division, M–32, Office of the Secretary of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, (202) 366–4735. Comments on the proposed information collection request should be submitted to Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C., 20503, Attention: Desk Officer for the Department of Transportation. It is requested that comments sent to OMB also be sent to the Office of the Secretary Rulemaking Docket for this proposed action.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations, The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2105–AC34 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 14 CFR Parts 217 and 241

Air Carriers, Air Transportation, Foreign Air Carriers.

Proposed Rule

PART 217—[AMENDED]

Accordingly, the Department of Transportation proposes to amend Chapter II of 14 CFR Part 217 *Reporting Traffic Statistics by Foreign Air Carriers in Civilian Scheduled, Charter, and Non-scheduled Services*, as follows:

1. The authority for Part 217 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 413, 417.

2. Section 217.5 would be amended by adding paragraphs (b) (12) and (13) to read as follows:

§ 217.5 Data collected (data elements).

* * * * *

(b) * * *

(12) Available capacity-payload (Code 270) The available capacity is collected in kilograms. This figure shall reflect the available load (see *load, available in 14 CFR Part 241 Section 03*) or total available capacity for passengers, mail and freight applicable to the aircraft with which each flight stage is performed.

(13) Available seats (Code 310) The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310.

PART 241—[AMENDED]

Accordingly, the Department of Transportation proposes to amend Chapter II of 14 CFR Part 241 *Uniform System of Accounts and Reports for Large Certificated Air Carriers*, as follows:

1. The authority for Part 241 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 411, 417.

2. Section 19–5(c) (7), (8) and (18) would be revised to read as follows:

Section 19–5 Air transport traffic and capacity elements.

* * * * *

(c) * * *

(7) *110 Revenue passengers enplaned.* The total number of revenue passengers enplaned at the origin point of a flight, boarding the flight for the first time; an unduplicated count of passengers in a market. Under the T–100 system of reporting, these enplaned passengers are the sum of the passengers in the individual on-flight markets. Report only the total revenue passengers enplaned in item 110. For all air carriers and all entities, item 110 revenue passengers enplaned is reported on Form 41 Schedule T–100 in column C–1, as follows.

	Col.	All carrier groups and entities
C–1	110	Revenue passengers enplaned.

(8) *130 Revenue passengers transported.* The total number of revenue passengers transported over single flight stage, including those already on board the aircraft from a previous flight stage. Report only the total revenue passengers transported in item 130. For all carriers and all entities, item 130 revenue passengers transported is reported on Form 41 Schedule T–100 in column B–7, as follows.

	Col.	All carrier groups and entities
B–7	130	Revenue passengers transported.

* * * * *

(18) *310 Available seats.* The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310. For all air carriers and all entities, item 310 available seats, total is reported on Form 41 Schedule T–100 in column B–4, as follows.

	Col.	All carrier groups and entities
B–4	310	Available seats, total.

* * * * *

3. Section 19–6 would be amended by revising paragraph (b) introductory text to read:

Section 19–6 Public disclosure of traffic data.

(a) * * *

(b) Detailed international on-flight market and nonstop segment data in schedule T–100 and Schedule T–100(f) reports shall be publicly available immediately following the Department's determination that the data base is complete, but no earlier than six months, with the exception of any data for on-flight markets and nonstop segments involving no U.S. points, which shall not be made publicly available for three years. Industry and carrier summary data may be made public before the end of six months provided there are three or more carriers in the summary data disclosed. The Department may, at any time, publish international summary statistics without carrier detail. Further, the Department may release nonstop segment and on-flight market detail data by carrier before the end of the confidentiality periods as follows:

* * * * *

4. In the appendix to section 241.25, Form 41, Schedule P–1.2, Statement of Operations, would be revised to read as shown below. Certain conventions have been used to highlight the proposed revision. New language is shown inside bold-faced arrows, while language that would be removed is set off with brackets.

BILLING CODE 4910–62–P

US Department of Transportation
Research and Special Programs Administration

Air Carrier _____
Operation _____

STATEMENT OF OPERATIONS

	Account No.	Quarter Ended _____ 19____	12 Months Ended _____ 19____
OPERATING REVENUES			
Passenger-First Class	3901.1		
Passenger-Coach	3901.2		
Transport Revenues-Passenger	3901		
Mail	3905		
Property-Freight	3906.1		
Property-Excess Passenger Baggage	3906.2		
Charter-Passenger	3907.1		
Charter-Property	3907.2		
Reservation Cancellation Fees	3919.1		
Miscellaneous Operating Revenues	3919.2		
Public Service Revenues (Subsidy)	4808		
Transport-Related Revenues	4898		
Total Operating Revenues	4999		
OPERATING EXPENSES			
Flying Operations	5100		
Maintenance	5400		
Passenger Service*	5500		
Aircraft and Traffic Servicing*	6400		
Promotion and sales*	6700		
General and Administrative*	6800		
General Services and Administration +	6900		
Depreciation and Amortization	7000		
Transport-Related Expenses	7100		
Total Operating Expenses	7199		
Operating Profit or Loss	7999		
NONOPERATING INCOME AND EXPENSE			
Interest on Long-Term Debt and Capital Leases	8181		
Other Interest Expense	8182		
Foreign Exchange Gains and Losses	8185		
Capital Gains and Losses-Op. Prop.	8188.5		
Capital Gains and Losses-Other	8188.8		
Other Income and Expenses-Net	8189		
Nonoperating Income and Expense	8199		
Income before Income Taxes	8999		
INCOME TAXES FOR CURRENT PERIOD	9100		
Income before discontinued operations, extraordinary items and accounting changes	9199		
DISCONTINUED OPERATIONS	9600		
EXTRAORDINARY ITEMS	9796		
Income taxes applicable to extraordinary items	9797		
ACCOUNTING CHANGES	9800		
Net Income	9899		

* Denotes inverse amount; in accounts 8100, 9600, 9700, and 9800 denotes debit amount.

+ Group I Air Carriers Only.
* Group II and Group III Air Carriers Only.

RSPA Form 41 Schedule P-12 (6-88)

Issued in Washington, DC on January 26, 1996.

Mark L. Gerchick,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–3374 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–62–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Regulation To Prohibit the Attraction of White Sharks in the Monterey Bay National Marine Sanctuary; Clarification of Exception To Discharge Prohibition; Public Hearing

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule; public hearing.

SUMMARY: The National Oceanic and Atmospheric Administration's Sanctuaries and Reserves Division (SRD) has issued a proposed rule to amend the regulations for the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) to prohibit the attracting of white sharks by the use of food, chum, bait, or other means in the nearshore (seaward to 3 miles) waters of the MBNMS. The proposed rule, published February 12, 1996 (61 FR 5335), discusses the reasons SRD is proposing prohibiting this activity in the Sanctuary. A 30-day comment period closes on March 12, 1996. To maximize public input on this issue, a public hearing has been scheduled whereby the public will be allowed to provide written or oral comments. Individuals wishing to make a statement will be required to sign up at the door and will be limited to three minutes.

DATES: The public hearing will be held on Friday, March 1, 1996, starting at 6:30 p.m.

ADDRESSES: The public hearing will be held at the El Grenada Elementary School, 400 Santiago Avenue, El Grenada, California.

FOR FURTHER INFORMATION CONTACT:

Ed Ueber at (415) 556–3509 or Elizabeth Moore at (301) 713–3141.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: February 12, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–3440 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–08–M

FEDERAL TRADE COMMISSION

16 CFR Part 436

Franchise Rule Review Public Workshop Conference on the Application of the Franchise Rule to International Sales

AGENCY: Federal Trade Commission.

ACTION: Public Workshop Conference.

SUMMARY: The Federal Trade Commission ("Commission") will hold a Public Workshop Conference on the application of the Commission's Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures ("the Franchise Rule" or "Rule") to international franchise sales. This Public Workshop Conference is being conducted as part of the Commission's ongoing regulatory review of the Franchise rule.

DATES: The Public Workshop Conference will be held on March 11, 1996, at the Federal Trade Commission, Room 332, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580. Notification of interest in participating in the Public Workshop Conference should be submitted in writing on or before March 4, 1996. Interested parties may submit written comments in lieu of participating in the Public Workshop Conference. Accordingly, the Rule Review record will remain open. The Commission staff encourages interested parties to submit any comments before March 8, 1996, so they can be considered during the Conference.

ADDRESSES: Notification of interest in participating in the Public Workshop Conference should be submitted in writing to Steven Toporoff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580. Written comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580. Comments should be identified as "16 CFR Part 436—Comment."

FOR FURTHER INFORMATION CONTACT:

Steven Toporoff, (202) 326–3135, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: As part of its systematic review of trade regulations and guides, the Commission published a request for public comment on the Franchise Rule. 60 FR 17656 (April 7, 1995). In September 1995, the Commission held a Public Workshop Conference in Bloomington, Minnesota, to discuss the comments and issues raised during the Rule Review. *See* 60 FR 34485 (July 3, 1995).

Among other issues, the Commission solicited comment on what effects, it any, changes in relevant technology, economic conditions, and industry practices have had on the Rule. In response, the Commission received several comments noting that, since the Franchise Rule went into effect in the late 1970's, the market for franchises has grown both domestically and internationally. In the international arena, many American franchisors are selling territories and individual units to American and foreign investors to operate overseas. These commentors requested Commission guidance on whether the Franchise Rule applies to international sales and, if so, what form the disclosures should take.

A. The Public Workshop Conference

The Public Workshop Conference will afford Commission staff and interested parties an opportunity to discuss whether the Franchise Rule applies to international franchise sales transactions. Commission staff will consider the views and suggestions made during the Conference, as well as any written comments, in formulating its final recommendations to the Commission.

The Commission staff will select a limited number of parties to participate as panelists during the Conference. These parties will participate in an open discussion of the issues. It is contemplated that the panelists might ask and answer questions based upon their respective views.

In addition, the Conference will be open to the general public. Members of the general public who attend the Conference may have an opportunity to make a brief oral statement presenting their views on the application of the Franchise Rules to international sales transactions. Oral statements of views by members of the general public will be limited to a few minutes. The time allotted for these statements will be determined on the basis of the time available and the number of persons who wish to make statements. This discussion will be transcribed and placed on the public record. In addition, written submissions of views, or any other written or visual materials, will be accepted during the Conference and will be made part of the public record.

To the extent possible, Commission staff will select parties to represent the following affected interests: franchisors; franchisees; franchise brokers and consultants; economists and academicians; federal, state, and foreign

law enforcement and regulatory authorities; and any other interests that Commission staff may identify and deem appropriate for representation.

Parties representing the above-referenced interests will be selected on the basis of the following criteria:

1. The party notifies Commission staff in writing of its interest on or before March 4, 1996;

2. The party's participation would promote a balance of interests being represented at the Conference;

3. The party's participation would promote the consideration and discussion of a variety of issues raised;

4. The party has experience or expertise in international franchise sales transactions or related issues; and

5. The number of parties selected will not be so large as to inhibit effective discussion among them.

The Conference will be facilitated by a Commission staff member. It will be held on March 11, 1996, in Room 332, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580.

To foster discussion at the Conference, and to assist the Commission in considering possible enforcement strategies, the Commission requests that the Conference participants bring with them specific written recommendations with respect to the application of the Franchise Rule in international sales. For example, if a participant believes that the sale of franchises in the international arena should be exempt from the Rule, then the Commission requests that participant to bring a written draft of such an exemption. Similarly, if a participant believes that the Commission should issue a policy statement on international sales, then the Commission requests that participant to bring a written draft of such a policy statement.

B. Issues for Discussion

The Commission staff and panelists will discuss the following issues during a Public Workshop Conference:

(1) What is the current state of international franchising?

(a) How many American companies sell franchises internationally? How many outlets do American franchisors have located in foreign countries? Are the firms involved in international transactions primarily the larger franchise systems? What are the similarities and differences between franchisors that focus on domestic franchise sales and those that have an international presence?

(b) What is the expected rate of growth in international franchise sales?

(c) What is the state of franchise regulation in foreign countries?

(d) Is there any case law on the application of the Franchise Rule to international sales? Explain the facts and any court rulings.

(e) What are the relevant conflict of international law principles the Commission should consider?

(2) How do American franchisors market their franchises overseas?

(a) How do American franchisors attract prospective buyers?

(b) How are international sales transactions similar to or different from the sales of domestic franchises?

(c) How is the market for international sales similar to or different from the domestic market?

(d) What are the similarities and differences between domestic franchisees and international franchisees? To what extent are American franchisors' sales of international franchises being made to American citizens? To what extent do they involve sales to foreign nationals? Are there differences between purchasers of domestic and international franchises with respect to their level of business sophistication, financial resources, and/or prior experience with franchising?

(3) To what extent do American franchisors provide disclosure documents in international sales transactions?

(a) What format do these disclosure documents follow (an FTC disclosure document, a UFOC, a country specific disclosure document, an international disclosure document, an amendment to a domestic disclosure document)?

(b) What costs, over and above the costs of making disclosures on domestic sales, do American franchisors incur when they provide disclosure documents in international sales transactions?

(c) To what extent do American franchisors provide other disclosures in international franchise sales?

(4) What are the advantages and disadvantages, including costs, of complying with the Franchise Rule in international sales transactions?

(5) Is application of the Franchise Rule to international sales necessary or desirable to protect franchise purchasers?

(6) Is application of the Franchise Rule to international sales necessary or desirable to protect competition among American franchisors? Among American and foreign franchisors? Among American franchisors and other American business investment promoters not covered by the Franchise Rule?

(7) What other factors or policies should the Commission consider in formulating an enforcement policy with respect to the application of the Franchise Rule to international sales?

List of Subjects in 16 CFR Part 436

Advertising, Business and industry, Franchising, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–3416 Filed 2–14–96; 8:45 am]

BILLING CODE 6750–01–M

RAILROAD RETIREMENT BOARD

20 CFR Part 209

RIN 3220–AB16

Railroad Employers' Reports and Responsibilities

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend its regulations to add sections to permit employers to dispose of payroll records after five years, and for the utilization of payroll records to credit service under the Railroad Retirement Act in the case of employers that have ceased operations. These amendments would alleviate needless record retention and would ease reporting requirements for employers that have permanently ceased operations.

DATES: Comments must be submitted on or before April 15, 1996.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Employer reports are used to establish employee compensation and service records. These reports are based on payroll records. The Board's rules and procedures regarding the authorization of disposal of these records and the utilization of payroll records of employers who have abandoned service in lieu of employer reports are presently contained in Board Orders, which are not readily available to the public. Accordingly, the Board proposes to adopt regulations specifying that railroad employers may dispose of payroll records more than five years old where there is no dispute pending as to the compensation reported for the periods covered by those records. The Board also proposes to amend its regulations to provide that the Board will accept payroll records in lieu of prescribed reports if there is no official of the employer available to prepare and certify to the accuracy of such reports and if the tax liability involved has been discharged.

The Board, with the agreement of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866; therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 209

Railroad employees, Railroad retirement, Railroads.

For the reasons set out in the preamble, title 20, chapter II, part 209 of the Code of Federal Regulations is proposed to be amended as follows:

PART 209—RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

1. The authority citation for part 209 continues to read as follows:

Authority: 45 U.S.C. 231f.

2. Part 209 is amended by adding §§ 209.16 and 209.17 to read as follows:

§ 209.16 Disposal of payroll records.

Employers may dispose of payroll records for periods subsequent to 1936, *provided that* the payroll records are more than five years old and that there is no dispute pending pertaining to the compensation reported for the period of those records.

§ 209.17. Use of payroll records as returns of compensation.

Payroll records of employers which have permanently ceased operations may be accepted in lieu of prescribed reports *provided that* there is no official of the employer available to prepare and certify to the accuracy of such reports and, *provided further that* any employer and employee tax liability incurred under the Railroad Retirement Tax Act has been discharged.

Dated: February 5, 1996.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–3391 Filed 2–14–96; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To De-List the Maryland Darter (Etheostoma sellare)

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service announces a 90-day finding for a petition to remove the Maryland darter from the list of Endangered and Threatened Wildlife and Plants due to extinction. The Service finds that the petition does not present substantial scientific or commercial information indicating that delisting of this species may be warranted.

DATES: The finding announced in this document was made on February 7, 1996.

ADDRESSES: Submit data, information, comments or questions concerning this petition to Field Supervisor, Chesapeake Bay Field Office, U.S. Fish and Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401. The petition finding and supporting data are available for public inspection, by appointment, during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Andy Moser at the above address (telephone 410 573–4537).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to the Service at the time the petition is submitted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published in the **Federal Register.**

The Service has made a 90-day finding on a petition to delist the Maryland darter. The petition, dated July 6, 1995, was submitted to the Service by the Maryland Farm Bureau, Inc., of Randallstown, Maryland and was received by the Service on July 14, 1995. The petitioners contend that the species was last seen in Deer Creek (in Harford County, Maryland) more than 15 years ago and is now absent from Deer Creek, the only location where it had been found in recent decades.

The Service has carefully reviewed the petition and all other information currently available in the Service's files. On the basis of the best scientific and commercial data available, the Service finds the petition does not present substantial information that delisting this species may be warranted. This finding is based on the inadequacy of existing data to support the contention that the Maryland darter is extinct.

The following is a summary of the information available on the species' status. The species was originally described from two specimens taken from Swan Creek in Harford County, Maryland, in 1912 (Radcliffe and Welsh 1913). Over the next 50 years many efforts were made to collect this darter in this and nearby streams (USFWS 1985). All attempts failed until 1962, when a specimen was found in Gashey's Run, a tributary to Swan Creek. Although the species has not been documented in Gashey's Run since 1965, the species was subsequently found in 1965 at a single site in Deer Creek in Harford County, Maryland. It was first found at this site in 1965 and has since been observed there irregularly, but on numerous occasions, through 1988 by individuals using seines or snorkels. During this period the majority of sampling/observation efforts resulted in negative results. The last documented observation, seven years ago, was reported by Raesley (1991). Since 1988, despite fairly extensive efforts, no Maryland darters have been observed at the Deer Creek site; nor has the species been observed elsewhere.

In the past, there have been long gaps in the species being observed and collected in Maryland. This hiatus in reporting does not provide definitive evidence of the species' extinction in the wild. As pointed out by Etnier (1994), it is not uncommon for rare species to be absent from samples at a given location for long periods of time and then to reappear in samples taken subsequently in the same location. A recent example of this occurred with another darter, the stripeback darter (*Percina nottogramma*), in Maryland. The stripeback darter had been considered extirpated in Maryland because it had not been observed in Maryland streams for 51 years. However, it was rediscovered in Maryland in 1995 (Raesley, Frostburg State Univ., pers. comm.).

While the failure to find the Maryland darter in Deer Creek for the last seven

years provides evidence that the species has declined in Deer Creek and may be extirpated (at least temporarily) there, it does not provide sufficient evidence to declare the species extinct.

The species may continue to survive in the Susquehanna River adjacent to Deer Creek. To date, this area has not been extensively searched because of the very difficult sampling conditions there. Until this area has been adequately searched, we cannot rule out the survival of the Maryland darter there. Therefore, the Service finds that the information currently available to the Service is insufficient to support delisting of the Maryland darter.

References Cited

Etnier, D.A. 1994. Our Southeastern Fishes—What have we lost and what are we likely to lose. Proc. Southeastern Fisheries Council.

Radcliffe, L. and W.W. Welsh. 1913. Description of a new darter from Maryland. Bull. U.S. Bur. Fish 32:29–32.

Raesley, R.L. 1991. Population status of the endangered Maryland Darter (*Etheostoma sellare*) in Deer Creek Unpubl. Rpt. submitted to Maryland Natural Heritage Program. 28 pp.

U.S. Fish and Wildlife Service. 1985. Maryland Darter Recovery Plan, 1st revision. Newton Corner, MA. 38 pp.

Author

The primary author of this document is Andy Moser of the Service's Chesapeake Bay Field Office (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

Dated: February 7, 1996.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–3410 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 61, No. 32

Thursday, February 15, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Secretary of Agriculture's Special Cotton Quota Announcement Number 20

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 20, chapter 99, subchapter III, subheading 9903.52.20 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on January 17, 1996, and applies to upland cotton purchased not later than April 15, 1996 (90 days from the date the quota was established) and entered into the United States not later than July 14, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended January 11, 1996. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3357 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 19

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 19, chapter 99, subchapter III, subheading 9903.52.19 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on January 10, 1996, and applies to upland cotton purchased not later than April 8, 1996 (90 days from the date the quota was established) and entered into the United States not later than July 7, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended January 4, 1996. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3356 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 18

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 18, chapter 99, subchapter III, subheading 9903.52.18 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on January 3, 1996, and applies to upland cotton purchased not later than April 1, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 30, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended December 28, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3355 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 17

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 17, chapter 99, subchapter III, subheading 9903.52.17 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on December 27, 1995, and applies to upland cotton purchased not later than March 25, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 23, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended December 21, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3354 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 16

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 16, chapter 99, subchapter III, subheading 9903.52.16 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on December 20, 1995, and applies to upland cotton purchased not later than March 18, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 16, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended December 14, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2(a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3353 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 15

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 15, chapter 99, subchapter III, subheading 9903.52.15 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on December 13, 1995, and applies to upland cotton purchased not later than March 11, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 9, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended December 7, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2(a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3352 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Secretary of Agriculture's Special Cotton Quota Announcement Number 14

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: A special import quota for upland cotton equal to 43,657,604 kilograms (96,248,619 pounds) is established in accordance with section 103B(a)(5)(F) of the Agricultural Act of 1949, as amended (1949 Act). This quota is established under Proclamation 6301 of June 7, 1991, and is referenced as the Secretary of Agriculture's Special Cotton Quota Announcement Number 14, chapter 99, subchapter III, subheading 9903.52.14 of the Harmonized Tariff Schedule (HTS).

DATES: The quota was established on December 6, 1995, and applies to upland cotton purchased not later than March 4, 1996 (90 days from the date the quota was established) and entered into the United States not later than June 2, 1996 (180 days from the date the quota was established).

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, Farm Service Agency, United States Department of Agriculture, room 3756–S, Ag Code 0515, PO Box 2415, Washington, DC 20013–2415 or call (202) 720–8841.

SUPPLEMENTARY INFORMATION: The 1949 Act requires that a special import quota be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1–3/32 inch cotton, C.I.F. northern Europe, (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended November 30, 1995. The quota amount is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—August 1995 through October 1995. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: 7 U.S.C. 1444–2 (a) and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on February 9, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96–3351 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–05–P

Agricultural Marketing Service

[Docket No. PY–96–002]

Tentative Voluntary Poultry Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing that it is approving the test marketing of USDA grade identified cooked, boneless-skinless poultry products, based on tentative grade standards.

DATES: This test-market period begins February 15, 1996, and ends February 15, 1996.

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, Poultry Division, 202–720–3271.

SUPPLEMENTARY INFORMATION:

Background

Poultry grading is a voluntary program provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), and is offered on a fee-for-service basis. It is designed to assist the orderly marketing of poultry products. Quality in practical terms refers to the usability, desirability, and value of a product, as well as its marketability. Poultry grade standards identify and measure degrees of quality in poultry products. They permit important quality attributes to be evaluated uniformly and accurately; they provide a way for buyers and sellers to negotiate using a common language.

Once poultry has been graded according to these standards, it may be

identified with the USDA grademark. Over the years, processors have found it advantageous to market grade-identified poultry products and consumers have come to rely on the USDA grademark as assurance that they are getting the quality they want.

Poultry producers and processors are continually developing new, innovative products. Chicken and turkey, in particular, have been transformed into numerous boneless and/or skinless products, thus increasing poultry's share of the consumer's food dollar and responding to consumer demand for food with more built-in convenience and less fat. Currently, there are grade standards for boneless poultry breasts, thighs, and tenderloins (§ 70.231), as well as for skinless carcasses and parts (§ 70.232). On March 30, 1995, the Agency approved the test marketing of USDA grade-identified, boneless-skinless poultry legs and drumsticks, based on tentative grade standards, through April 1, 1996 (60 FR 16428). And, on June 12, 1995, the Agency approved the test marketing of USDA grade-identified, ready-to-cook, boneless-skinless poultry products without added ingredients, based on tentative grade standards, through June 12, 1996 (60 FR 30830).

The Agency has now been requested by industry to permit the grade identification of cooked, boneless-skinless poultry products without added ingredients. These products include cooked poultry that has been subdivided by cutting, slicing, cubing, or similarly reducing the size prior to grading, products that are currently marketed ungraded because there are no grade standards for them.

The Agency recognizes that before new standards of quality can be established or current standards of quality can be amended, appropriate investigation is needed. This includes the test marketing of experimental packs of grade-identified poultry products to determine production requirements and consumer acceptance, and to permit the collection of other necessary data. Current regulations (7 CFR Part 70) provide the Agency with the flexibility needed to permit such experimentation, so that new procedures and grading techniques may be tested.

The Agency has worked in partnership with members of the industry to develop tentative grade standards for cooked, boneless-skinless poultry products without added ingredients and is granting permission for a 1-year test marketing period. At the expiration of this 1-year period, the Agency will then evaluate the test results to determine if the current poultry grade standards should be amended, through notice-and-comment procedures, to include the following tentative standards.

Tentative Grade Standards for Cooked, Boneless-skinless Poultry Products without Added Ingredients—A Quality

1. The raw, ready-to-cook, boneless-skinless poultry products without added ingredients used to prepare the cooked product must be labeled in accordance with 9 CFR Part 381.

2. The cooked poultry products must be derived from ready-to-cook carcasses or parts that are cooked in accordance with 9 CFR Part 381. The cooking process or method must not detract from the uncooked appearance of the products.

3. The skin and bones shall be removed in a neat manner without undue mutilation of adjacent muscle.

4. The cooked poultry products may be further processed and subdivided by cutting, slicing, cubing, or similarly reducing the size prior to grading. Individual subdivided pieces of poultry meat must be relatively uniform and of sufficient size and shape to determine grade with respect to the quality factors set forth in this section.

5. The cooked poultry products shall be free of cartilage, tendons extending more than 1/2 inch beyond the meat tissue, blood clots, bruises, and discolorations other than slight discolorations, provided they do not detract from the appearance of the product.

6. Trimming and minor flesh abrasions due to preparation techniques are permitted provided they result in a relatively smooth outer surface with no angular cuts, tears, holes, or undue muscle mutilation in the meat portion.

Dated: February 9, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–3350 Filed 2–17–96; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Deadwood Ecosystem Analysis

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: Due to a change in scope and Public Law 104–19, an environmental impact statement for the Deadwood Ecosystem Analysis will not be prepared. The Notice of Intent, published in the Federal Register of September 15, 1994, is hereby rescinded. An environmental assessment will be completed for the part of the project that meets the definition of a salvage sale. The remaining projects in the analysis area will be analyzed at a later date and documented in an appropriate NEPA document.

ADDRESSES: Lowman Ranger District, HC 77 Box 3020, Lowman, ID 83637.

FOR FURTHER INFORMATION CONTACT: Walter B. Rogers, District Ranger, 208–259–3361.

Dated: February 16, 1996.

Cathy Barbouletos,

Deputy Forest Supervisor.

[FR Doc. 96–3429 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–11–M

Gypsy Moth Management in the United States

AGENCY: Forest Service, USDA.

ACTION: Notice: record of decision.

SUMMARY: On January 16, 1996, Forest Service Deputy Chief Joan Comanor and Animal and Plant Health Inspection Service Deputy Administrator Donald Husnik signed the Record of Decision on how the U.S. Department of Agriculture will carry out its gypsy moth management responsibilities nationally. The Record of Decision adopts alternative 6 of the Final Environmental Impact Statement entitled "Gypsy Moth Management in the United States: a cooperative approach." Alternative 6, includes three management strategies: suppression, eradication, and slow-the-speed treatments. Implementation of this alternative will require that site-specific environmental analyses be conducted to address local issues before Federal or cooperative suppression, eradication, or slow-the-spread treatments are conducted. The site-specific environmental analyses will be tiered to this environmental impact statement which is programmatic in nature.

EFFECTIVE DATE: Alternative 6 was effective January 16, 1996.

ADDRESSES: Copies of the Record of Decision and the final environmental impact statement are available by writing to John W. Hazel, USDA Forest Service, 5 Radnor Corporate Center, Suite 200, Radnor, PA 19087–4585; or Charles Bare, USDA Animal and Plant Health Inspection Service, 4700 River Road, Unit 134, Riverdale, MD 20737–1236.

FOR FURTHER INFORMATION CONTACT: John W. Hazel, Forest Service, at (610) 975–4150 or Charles Bare, Animal Plant Health Inspection Service, at (301) 734–8247.

SUPPLEMENTARY INFORMATION: The final environmental impact statement entitled " Gypsy Moth Management in the United States: A cooperative Approach" was filed with the Environmental Protection Agency (EPA) on November 24, 1995. Notice of its availability was published in the **Federal Register** by EPA on December 1, 1995 (60 FR 231). The Record of Decision documents the selection and rationale for selection of an alternative from the six alternatives analyzed in the final environmental impact statement. Forty-six days passed between the date the EPA published the notice of availability and the date of the decision, January 16, 1996. The decision is not subject to administrative appeal because it is neither a National Forest System project or activity subject to the appeal procedures of 36 CFR part 215 nor an amendment or revision of a National Forest land and resource management plan or regional guide subject to the appeal procedures of 36 CFR part 217. Copies of the Record of Decision are being mailed to organizations, groups, and individuals who were on the mailing list for the final environmental impact statement and will be mailed to anyone else who requests a copy.

Dated: February 9, 1996.

William L. McCleese,

Associate Deputy Chief.

[FR Doc. 96–3378 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–11–M

Timber Bridge Research Joint Venture Agreements; Solicitation of Applications and Application Guidelines

Program Description

Purpose

The Federal Highway Administration and the USDA, Forest Service, Forest Products Laboratory (FPL), are working cooperatively under Public Law 102–240, The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, on Research for the development of wood in transportation structures.

The FPL is now inviting proposals for specific areas of the research under the authority of the Food Security Act of 1985 (7 U.S.C. 3318(b) and will award competitive Research Joint Venture Agreements for cooperative research related to wood in transportation structures. The specific research areas are stated within this announcement.

Eligibility

Proposals may be submitted by any Federal Agency, university, private business, nonprofit organization, or any research or engineering entity.

An applicant must qualify as a responsible applicant in order to be eligible for an award. To qualify as responsible, an applicant must meet the following standards:

(a) Adequate financial resources for performance, the necessary experience, organizational and technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain same (including any to be obtained through subagreement(s)) or contracts;

(b) Ability to comply with the proposed or required completion schedule for the project;

(c) Adequate financial management system and audit procedures that provide efficient and effective accountability and control of all funds, property, and other assets;

(d) Satisfactory record of integrity, judgment, and performance, including, in particular, any prior performance under grants, agreements, and contracts from the Federal government; and

(e) Otherwise be qualified and eligible to receive an award under the applicable laws and regulations.

Available Funding

Available funding is shown under the specific research areas, below. The FPL will reimburse the cooperator not-to-exceed eighty percent (80%) of the total cost of the research. The proposing entity may contribute the indirect costs as its portion of the total cost of the research.

Indirect costs will not be reimbursed to State Cooperative Institutions. State Cooperative Institutions are designated by the following:

(a) The Act of July 2, 1862 (7 U.S.C. 301 and the following), commonly known as the First Morrill Act;

(b) The Act of August 30, 1890 (7 U.S.C. 321 and the following), commonly known as the Second Morrill Act, including the Tuskegee Institute;

(c) The Act of March 2, 1887 (7 U.S.C. 361a and the following), commonly known as the Hatch Act of 1887;

(d) The Act of May 8, 1914 (7 U.S.C. 341 and the following), commonly known as the Smith-Lever Act;

(e) The Act of October 10, 1962 (16 U.S.C. 582a and the following), commonly known as the McIntire-Stennis Act of 1962; and

(f) Sections 1429 through 1439 (Animal Health and Disease Research), sections 1474 through 1483 (Rangeland Research) of Public Law 95–113, as amended by Public Law 97–98.

Definitions:

(a) Grants, Agreements, and Licensing Officer means the Grants, Agreements, and Licensing Officer of the FPL and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(b) Awarding Official means the Grants, Agreements, and Licensing Officer and any other officer or employee of the Department of Agriculture to whom the authority to issue or modify awards has been delegated.

(c) Budget Period means the interval of time (usually twelve months) into which the project period is divided for budgetary and reporting purposes.

(d) Department of USDA means the U.S. Department of Agriculture.

(e) Research Joint Venture Agreement means the award by the Grants, Agreements, and Licensing Officer or his/her designee to a cooperator to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research problem area identified herein.

(f) Cooperator means the entity designated in the Research Joint Venture Agreement award document as the responsible legal entity to whom a Research Joint Venture Agreement is awarded.

(g) Methodology means the project approach to be followed to carry out the project.

(h) Peer review group means an assembled group of experts or consultants qualified by training and/or experience in particular scientific or technical field to give expert advice on the technical merit of grant applications in those fields.

(i) Principal Investigator means an individual who is responsible for the scientific and technical direction of the project, as designated by the cooperator in the application and approved by the Grants, Agreements, and Licensing Officer.

(j) Project means the particular activity within the scope of one or more of the research areas identified herein.

(k) Project Period means the total time approved by the Grants, Agreements, and Licensing Officer for conducting the proposed project as outlined in an approved application or the approved portions thereof.

(l) Research means any systematic study directed toward new or fuller knowledge of the subject field.

Areas: Proposals are currently being solicited in the following areas:

(a) Problem Area I: Stress-Laminated Wood T and Box Beam Bridge Superstructures: To complete an independent evaluation of stress-laminated wood T and box beam bridge research and field performance and to formulate recommendations as to the technical and economical feasibility of these bridge systems and additional research needs. Total estimated cost of the research: $81,250; estimated Federal funding: $65,000.

(b) Problem Area II: LRFD Calibration for Wood Bridges: To refine the LRFD design criteria for wood bridges currently given in the AASHTO LRFD Bridge Design Specifications. Total estimated cost of the research: $112,500; estimated Federal funding: $90,000.

(c) Problem Area III: Environmental Effects of Wood Preservatives: To develop recommendations and guidelines on the potential environmental impacts associated with the use of wood preservatives in transportation structures. Total estimated cost of the research: $243,750; estimated Federal funding: $195,000.

(d) Problem Area IV: Moisture Protection for Timber Members: To develop, refine, and/or evaluate a variety of coatings and coverings for protecting bridge members from moisture. total estimated cost of the research: $52,500; estimated Federal funding: $42,000.

(e) Problem Area V: Development of Nondestructive Evaluation Methods and Equipment for Wood Transportation Structures: To develop one or more advanced NDE techniques and equipment for the inspection, condition evaluation, and in-situ strength assessment of wood transportation structure components which provides a reliable evaluation procedure through enhanced information display and image processing technology. Total estimated cost of the research: $237,500; estimated Federal funding: $190,000.

(f) Problem Area VI: Remedial Treatments for Bridge Applications: To investigate new and current remedial treatments that will stop internal decay in bridge structural components, and to provide guidelines on their use, application, and effectiveness for applications involving wood bridge members. Total estimated cost of the research: $118,750; estimated Federal funding: $95,000.

For additional information, contact John G. Bachhuber, USDA, Forest Service, Forest Products Laboratory, One Gifford Pinchot Drive, Madison, WI 53705–2398.

Proposal Preparation

Application Materials

An Application Kit and a copy of this solicitation will be made available upon request. The kit contains detailed information on each Problem Area, required forms, certifications, and instructions for preparing and submitting agreement applications. Copies of the Application Kit and this solicitation may be requested from: Joanne M. Bosch, Grants and Agreements, USDA, Forest Service, Forest Products Laboratory, One Gifford Pinchot Drive, Madison, WI 53705–2398, Telephone Number (608) 231–9205.

Proposal Submission

What to Submit

An original and seven copies of a proposal must be submitted. Each copy of each proposal must be stapled securely in the upper left-hand corner (Do not bind). All copies of the proposal must be submitted in one package.

Where and When to Submit

Proposals must be received by the Grants, Agreements, and Licensing Officer by 2:00 p.m., May 3, 1996, and should be sent or delivered to the following address: Grants, Agreements, and Licensing Officer, USDA, Forest Service, Forest Products Laboratory, One Gifford Pinchot Drive, Madison, WI 53705–2398, Telephone (608) 231–9282.

Proposal Review, Evaluation, and Disposition

Proposal Review

All proposals received will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to this solicitation. Proposals that do not fall within solicitation guidelines will be eliminated from competition; one copy will be returned the applicant and the remainder will be destroyed. All accepted proposals will be reviewed by the Grants, Agreements, and Licensing Officer, qualified officers or employees of the Department, and by peer panel(s) of scientists or others who are recognized specialists in the areas covered by the proposals. Peer panels will be selected and organized to provide maximum expertise and objective judgment in the evaluation of proposals.

Evaluation Criteria

The peer review panel(s) will take into account the following criteria in carrying out its review of responsive proposals submitted:

(a) Scientific merit of proposal.

(1) Conceptual adequacy of hypothesis;

(2) Clarity and delineation of objectives;

(3) Adequacy of the description of the undertaking and suitability and feasibility of methodology;

(4) Demonstration of feasibility through preliminary data;

(5) Probability of success of project;

(6) Novelty, uniqueness, and originality.

(b) Qualifications of proposed project personnel and adequacy of facilities.

(1) Training and demonstrated awareness of previous and alternative approaches to the problem identified in the proposal and performance record and/or potential for future accomplishments;

(2) Time allocated for specific attainment of objectives;

(3) Institutional experience and competence in subject area; and

(4) Adequacy of available or obtainable support personnel, facilities, and instrumentation. January

Proposal Disposition

When the peer review panel(s) has completed its deliberations, the USDA program staff, based on the recommendations of the peer review panel(s), will recommend to the Awarding Official that the project be (a) approved for support from currently available funds or (b) declined due to insufficient funds or unfavorable review.

USDA reserves the right to negotiate with the Principal Investigator and/or the submitting entity regarding project revisions (e.g., reduction in scope of work), funding level, or period of support prior to recommending any project for funding.

A proposal may be withdrawn at any time before a final funding decision is made. One copy of each proposal that is not selected for funding (including those that are withdrawn) will be retained by USDA for one year, and remaining copies will be destroyed.

Supplementary Information

Grant Awards

Within the limit of funds available for such purpose, the awarding official shall make awards to those responsible eligible applicants whose proposals are judged most meritorious under the evaluation criteria and procedures set forth in this solicitation and application guidelines.

The date specified by the awarding official as the beginning of the project period shall not be later than September 1, 1995.

All funds awarded shall be expended only for the purpose for which the funds are awarded in accordance with the approved application and budget, the terms and conditions of any resulting award, and the applicable Federal cost principles.

Obligation of the Federal Government

Neither the approval of any application nor the award of any Research Joint Venture Agreement commits or obligates the United States in any way to provide further support of a project or any portion thereof.

Other Conditions

The FPL may, with respect to any class of awards, impose additional conditions prior to or at the time of any award, when, in the FPL's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of Research Joint Venture Agreement funds.

Done at Madison, WI, on February 5, 1996.

Thomas E. Hamilton,

Director.

[FR Doc. 96–3430 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Scientific International, Inc.

Order Denying Permission to Apply for or Use Export Licenses

In the Matter of: Scientific International, Inc., 143 Snowden Lane, Princeton, New Jersey 08543.

On June 29, 1992, Scientific International, Inc. (Scientific International) was convicted in the U.S. District Court for the District of New Jersey of violating the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1995)) (the Act),[1] among other crimes. Specifically, Scientific International was convicted of one count of knowingly and willfully exporting and causing to be exported 660 graphite seal assemblies to the Department of Atomic Energy in Bombay, India, through West Germany, without first having obtained the required validated export license from the Department of Commerce.

Section 11(h) of the Act, provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1995)) (the Regulations) for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the Act, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any export license previously issued to such a person.

Having received notice of Scientific International's conviction for violating the Act, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Scientific International permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of its conviction. The 10-year period ends on June 29, 2002. I have also decided to revoke all export licenses issued pursuant to the Act in which Scientific International had an interest at the time of its conviction.

Accordingly, *it is hereby ordered,*

I. All outstanding individual validated licenses in which Scientific International appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Scientific International's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until June 29, 2002, Scientific International, Inc., 143 Snowden Lane, Princeton, New Jersey 08543, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department, (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in Section 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Scientific International by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in Section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying its export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver,

[1] The Act expired on August 20, 1994. Executive Order 12924 (59 FR 43437, August 23, 1994), extended by Presidential Notice of August 15, 1995 (60 FR 42767, August 17, 1995), continued the Regulations in effect under the International Emergency Economic Powers Act, 50 U.S.C.A. 1701–1706 (1991).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act. Because of a recent Bureau of Export Administration reorganization, this responsibility now rests with the Director, Office of Exporter Services. Subsequent regulatory references herein to the "Director, Office of Export Licensing," should be read as meaning "Director, Office of Exporter Services."

store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until June 29, 2002.

VI. A copy of this Order shall be delivered to Scientific International. This Order shall be published in the **Federal Register**.

Dated: February 5, 1996.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 96–3431 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–DT–M

[Docket No. 5108–01]

Leif Kare Johansen, Constitutionsvei 21, 4085 Hundvaag, Norway; Respondent; Decision and Order

On January 26, 1996, the Administrative Law Judge (ALJ) entered his Recommended Decision and Order in the above-referenced matter. The Recommended Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. After describing the facts of the case and his findings based on those facts, the ALJ found that the Respondent had violated Section 787.4(a) of the Export Administration Regulations by transporting and selling a U.S.-origin model XL020+ computer to a consignee in Poland with knowledge or reason to know that a violation of the Export Administration Act, or its regulations, has occurred, is about to occur, or is intended to occur. The ALJ also found that the Respondent violated Section 787.6 of the Export Administration Regulations by reexporting U.S.-origin computer equipment to a consignee in Poland in violation of the Export Administration Act and its regulations.

The ALJ found that the appropriate penalty for the violations should be that all outstanding individual validated licenses in which the Respondent appears or participates and the respondent's ability to participate in any special licensing procedure be revoked, and that the Respondent and all representatives, agents and employees be denied for a period of ten years from this date all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities or technical data exported or to be exported from the United States and subject to the Export Administration Regulations.

Based on my review of the entire record, I affirm the Recommended Decision and Order of the Administrative Law Judge. I do note that, on page two, line six of the Recommended Decision and Order, the Administrative Law Judge indicates that a copy of the Charging Letter was mailed to the Respondent on "July 11, 1995." My review of the record clearly indicates that the Charging Letter was in fact mailed to the Respondent on July 11, 1994. Therefore, the Recommended Decision and Order will be modified to reflect that the Charging Letter was mailed to Leif Kare Johansen on July 11, 1994.

This constitutes final agency action in this matter.

Dated: February 8, 1996.

William A. Reinsch,

Under Secretary for Export Administration.

Recommended Decision and Order

On July 11, 1994, the Office of Export Enforcement, Bureau of Export Administration, U.S. Department of Commerce (the Department), issued a Charging Letter initiating an administrative proceeding against Lief Kare Johansen. The Charging Letter alleged that Leif Kare Johansen committed two violations of the Export Administration Regulations (the Regulations or the EAR),[1] issued pursuant to the Export Administration Act of 1979, as amended (the Act or the EAA).[2]

The Charging Letter alleged that, on or about July 12, 1989, Leif Kare Johansen reexported U.S.-origin computer equipment from Norway, via Denmark, to Poland without obtaining the reexport authorization he knew or had reason to know was required by Section 774.1 of the Regulations, in violation of Sections 787.4(a) and 787.6 of the Regulations.

A copy of the Charging Letter was filed with me, and the Charging Letter mailed to Leif Kare Johansen, on July 11, 1995. However, the documents mailed to Leif Kare Johansen were returned to the Department by the postal service without being delivered.

On April 19, 1995, I issued an Order requiring the Department to file a proposed default order in this case. On May 17, 1995, I granted the Department's May 15, 1995 Motion to Vacate Order, which explained that service on Leif Kare Johansen had not yet been accomplished. By its May 15, 1995 Motion, the Department also pledged to notify me when service was properly completed.

The Department has notified me that, on August 8, 1995, the Charging Letter was finally served on Leif Kare Johansen, and that Leif Kare Johansen has not answered the Charging Letter within 30 days after service as required by Section 788.7(a) of the Regulations. The Department has also filed supporting evidence for a default judgment against Leif Kare Johansen.

On the basis of the Department's submission and all of the supporting evidence presented, I have determined that Leif Kare Johansen violated Section 787.4(a) of the Regulations by transporting and selling a U.S.-origin model XL020+ computer to a consignee in Poland, with knowledge or reason to know that a violation of the Act, or any regulation, order or license issued under the Act has occurred, is about to occur, or is intended to occur with respect to the transaction. I have also determined that by reexporting U.S.-origin computer equipment to a consignee in Poland in violation of or contrary to the terms of the Act, or any regulation, order or license issued under the Act, Leif Kare Johansen violated Section 787.6 of the Regulations.

For these violations, the Department urged as a sanction that Johansen's export privileges be denied for 10 years. In light of the nature of the violations, I concur in the Department's recommendation.

Accordingly, *it is therefore ordered,*

First, that all outstanding individual validated licenses in which Leif Kare Johansen appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Exporter Services for cancellation. Further, all of Johansen's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

[1] The alleged violations occurred in 1989. The Regulations governing the violations at issue are found in the 1989 version of the Code of Federal Regulations, codified at 15 CFR Parts 768–799 (1989). The Export Administration Regulations are currently codified at 15 CFR Parts 768–799 (1995).

[2] The EAA is currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1995). The Act expired on August 20, 1994. Executive Order 12924 (59 FR 43437, August 23, 1994), extended by Presidential Notice on August 15, 1995 (60 FR 42767, August 17, 1995), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991)).

Second, Leif Kare Johansen, with an address at Constitutionsvei 21, 4085 Hundvaag, Norway (hereinafter referred to as Johansen), and all his representatives, agents, and employees, shall, for a period of 10 years from the date of final agency action, be denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, and subject to the Regulations.

A. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the Untied States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

B. After notice and opportunity for comment as provided in Section 788.3(c) of the Regulations, any person, firm, corporation, or business organization related to Johansen by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

C. As provided by Section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Exporter Services, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

Third, that a copy of this Order shall be served on Johansen and on the Department.

Fourth, that this Order, as affirmed or modified, shall become effective upon entry of the final action by the Under Secretary for Export Administration, in accordance with the Act (50 U.S.C.A. app. 2412(c)(1)) and the Regulations (15 CFR 788.23).

Dated: January 26, 1996.

Edward J. Kuhlmann,

Administrative Law Judge.

[FR Doc. 96–3342 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Order No. 801]

Grant of Authority for Subzone Status, R.G. Barry Corp. (Footwear & Thermal Comfort Products), Goldsboro, NC

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, for authority to establish special-purpose subzone status for the footwear and thermal comfort products distribution facility of R.G. Barry Corporation, located in Goldsboro, North Carolina, was filed by the Board on November 16, 1994, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 36–94, 59 FR 60603, 11/25/94); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest:

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 93D) at the R.G. Barry Corporation facility in Goldsboro, North Carolina, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of February 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3343 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 800]

Grant of Authority for Subzone Status, R.G. Barry Corp. (Footwear & Thermal Comfort Products), San Angelo, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of San Antonio, grantee of Foreign-Trade Zone 80, for authority to establish special-purpose subzone status for the footwear and thermal comfort products distribution facility of R.G. Barry Corporation, located in San Angelo, Texas, was filed by the Board on November 1, 1994, and notice inviting

public comment was given in the **Federal Register** (FTZ Docket 34–94, 59 FR 56459, 11/14/94); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest:

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 80D) at the R.G. Barry Corporation facility in San Angelo, Texas, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of February 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3344 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On January 26, 1996 Dofasco, Inc. filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination review made by the Secretaria de Comercio y Fomento Industrial, in the antidumping investigation respecting Cold-Rolled Steel Sheet Originating in or Exported from Canada. This determination was published in the *Diario Oficial de la Federacion* on December 27, 1995. The NAFTA Secretariat has assigned Case Number MEX–96–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 27, 1996, requesting panel review of the final antidumping duty investigation described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 26, 1996);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 11, 1996); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: February 8, 1996.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 96–3345 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–GT–M

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On January 29, 1996 The Titan Industrial Corporation, Dofasco, Inc., Stelco Inc. and Algoma Inc. filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination review made by the Secretaria de Comercio y Fomento Industrial, in the antidumping investigation respecting Hot-Rolled Steel Sheet Originating in or Exported from Canada. This determination was published in the *Diario Oficial de la Federacion* on December 30, 1995. The NAFTA Secretariat has assigned Case Number MEX–96–1904–03 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 29, 1996, requesting panel review of the final antidumping duty investigation described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 28, 1996);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 14, 1996); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: February 8, 1996.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 96–3347 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–GT–M

North American Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On January 29, 1996 The Titan Industrial Corporation, Dofasco, Inc., Stelco Inc. and Algoma Inc. filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination review made by the Secretaria de Comercio y Fomento Industrial, in the antidumping investigation respecting Rolled Steel Plate Originating in or Exported from Canada. This determination was published in the *Diario Official de lo Federacion* on December 28, 1995. The NAFTA Secretariat has assigned Case Number MEX–96–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on January 29, 1996, requesting panel review of the final antidumping duty investigation described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is February 28, 1996);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is March 14, 1996); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: February 8, 1996.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 96–3346 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–GT–M

National Institute of Standards and Technology

[Docket No. 951201284–5284–01]

RIN 0693–ZA04

Physics Laboratory 1996 Summer Undergraduate Research Fellowships (SURF)—Partnerships in Atomic, Molecular and Optical (AMO) Physics

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: Through Summer Undergraduate Research Fellowships, "SURFing the Physics Lab: A Partnerships for AMO Physics" will provide an opportunity for the Physics Laboratory of the National Institute of Standards and Technology and the National Science Foundation to join in partnership with American colleges and universities, stimulating outstanding physics students to pursue scientific careers by exposing them to the world class atomic, molecular, optical and radiation physicists and facilities in the NIST Physics Laboratory, and strengthening undergraduate AMO physics curricula by forming the basis for ongoing collaborations. The NIST program director will work with physics department chairs and directors of multi-disciplinary centers of excellence to identify outstanding undergraduates (including graduating seniors) who would benefit from off-campus summer research in an honors academy environment. We recommend a group of two candidates plus one alternate to be nominated by each institution, although larger or smaller groups will be given equal consideration. The selected group of about twenty (20) students will spend approximately twelve (12) weeks at the Physics Laboratory's Gaithersburg, MD campus, working one-on-one with NIST staff physicists; actively engaged in projects that combine the quest for fundamental knowledge and direct applications to problems of national importance; learning about non-academic alternatives for research careers; living science and seeing how they can make a difference. The 12-week stipend for the summer of 1996 will be $3600. Students and NIST research advisors will be paired based on the student's background and interests in the spring, to allow for adequate dialogue between the student, the student's physics professors and NIST advisor about the intended project, to ensure that the student arrives at NIST ready to contribute, and to prepare the student's physics professor for follow-up in the fall. Good

overlap of research interest will facilitate collaborations between NIST and the participating academic partners. The students will collectively live in a nearby furnished apartment complex and participate in the many NIST seminars and in a weekly SURFing the Physics Lab Summer Seminar Series. The students will all present a research seminar at NIST and be encouraged to participate in a local or national scientific conference during the following academic year. Given the significant lack of diversity in the present physics work force, we will aggressively seek out competitive students from under represented groups or persons with disabilities. Costs for this program (stipend, travel and housing) will be shared by NIST, NSF and the participating schools.

DATES: Proposals must be received no later than the close of business March 11, 1996.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, Standard Form 424 (Rev. 4/92) to: Physics Laboratory, Attn: Dr. Marc F. Desrosiers, National Institute of Standards and Technology, Building 245, Room C229, Gaithersburg, MD 20899–0001.

FOR FURTHER INFORMATION CONTACT: Dr. Marc F. Desrosiers, (301) 975–5639.

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance Name and Number: 11.609—Measurement and Engineering Research and Standards.

Authority: The Act of March 3, 1901, as amended (15 USC 278g–l) authorizes the National Institute of Standards and Technology to expend up to 1 per centum of the funds appropriated for activities of NIST in any fiscal year, as the Director deems appropriate, for financial assistance awards in the form of cooperative agreements to students at institutions of higher learning within the United States. These students must show promise as present or future contributors to the missions of NIST. Cooperative Agreements are awarded to assure continued growth and progress of science and engineering in the United States, including the encouragement of women and minority students to continue their professional development.

Program Description

The objective of this partnership will build upon a 1993 summer pilot program funded by NIST as a proof of concept and the 1994 and 1995 SURFing programs partially funded by the NSF Physics Division as a Research Experience for Undergraduates Site. Of the nearly 60 students involved during the past three years approximately one-third were Hispanic Americans, one-third were African Americans, half were women and 1 was legally blind. Between 20 to 50% of the associated student stipends, travel and housing was provided in cost sharing by the individual participating institutions.

NIST is the nation's premiere institute for the physics sciences and, as the lead agency for technology transfer, is providing a strong interface between government, industry, and academia; on-site researchers at NIST come from a broad range of colleges and industries. Owing to its unique mission to support the U.S. economy by working with industry, NIST embodies a special science culture, developed from a large and well equipped research staff that enthusiastically blends programs that address the immediate needs of industry with longer-term research that anticipates future needs. This occurs in few other places and enables the Physics Laboratory to offer unique research and training opportunities for undergraduates, providing them a research-rich environment and exposure to state of the art equipment, to scientists at work and to professional contacts that represent future employment possibilities.

Attending to the long term needs of many U.S. high-technology industries, NIST's Physics Lab conducts basic research in the areas of quantum, electron, optical, atomic, molecular, and radiation physics. This is complemented by applied research devoted to overcoming barriers to the next technological revolution, in which individual atoms and molecules will serve as the fundamental building blocks of electronic and optical devices. To achieve these goals, staff develop and utilize highly specialized equipment, such as polarized electron microscopes, scanning tunneling microscopes, lasers, and x-ray and synchrotron radiation sources. Research projects can be theoretical or experimental, and will range from quantum electrodynamics, through trapping atoms and choreographing molecular collisions, to ionizing radiation. SURFers will work one-on-one with our nation's top physical scientists both from NIST and from some of our nation's leading high tech industries. It is anticipated that successful SURFers will move from a position of reliance on guidance from their research advisors to one of research independence during the twelve-week period. One goal of this partnership is to provide opportunities for our nation's next generation of scientists and engineers to engage in world class scientific research at NIST, especially in ground breaking areas of emerging technologies. This carries with it the hope of motivating these individuals to pursue a Ph.D. in physics, and to consider alternative research careers. SURFing the Physics Lab will attempt to forge partnerships with NSF and with post-secondary institutions that demonstrate strong, hands-on undergraduate science curricula, especially those with a demonstrated commitment to the education of women, minorities and students with disabilities. This program will be open to all U.S. citizens interested in AMO physics.

Eligibility

Colleges and universities with degree granting programs in areas of AMO physics.

Funding Availability

The NIST Physics Laboratory will commit approximately $50,000 to support cooperative agreements under the program. The NIST Physics Laboratory's REU Program is supported by NSF at the level of $55,000 per year. The anticipated direct and indirect cost for stipends, travel and housing and conference attendance for twenty students is about $140,000. The actual number of awards made under this announcement will depend on the level of cost sharing by our academic partners. The issuance of awards is contingent upon the availability of funding.

Proposal Review Process

All proposals will be reviewed by a panel of three NIST scientists appointed by the Program Director. Proposals should include the following:

(A) Student Information: (1) Official transcript for each student nominated with a recommended G.P.A. of 3.0 or better, (2) a personal statement from each student and statement of commitment to participate in the 1996 SURF program, including a description of the student's prioritized research interests; (3) a resume for each student; and (4) two letters of recommendation for each student. All references to student include the proposed alternate.

(B) Information About the Applicant Institution: (1) Description of the applicant's education and research philosophy, faculty interests, on-campus research program(s) and opportunities, and overlapping research interests of NIST and the institution; and (2) a statement addressing issues of academic credit and commitment to cost sharing.

Application Kit

An application kit, containing all required application forms and certifications is available by calling Sandra Bogarde at (301) 975–5524. An application kit includes the following:

SF 424 (Rev 4/92)—Application for Federal Assistance
SF 424A (Rev 4/92)—Budget Information—Non-Construction Programs
SF 424B (Rev 4/92)—Assurances—Non-Construction Programs
CD 511 (7/91)—Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying
CD 512 (7/91)—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions and Lobbying
SF–LLL—Disclosure of Lobbying Activities

Evaluation Criteria

Evaluation of Student's Academic Ability and Commitment to Program Goals (35%): Includes, but is not limited to, evaluation of the following: completed course work; expressed research interest; prior research experience; grade point average in courses relevant to program; career plans, honors and activities.

Evaluation of Applicant Institution's Commitment to Program Goals (35%): Includes, but is not limited to, evaluation of the following: institution's focus on AMO physics; overlap between research interests of the institution and NIST; emphasis on undergraduate hands-on research; undergraduate participation in research conferences/programs; on-campus research facilities; past participation by students/institution in such programs; and commitment to educate women/minorities, and persons with disabilities.

Evaluation of Applicant Institution's Cost Sharing (30%): In the spirit of a true partnership, successful applicants will be encouraged to contribute matching funds. A suggested level of participation would be to directly cover student travel (one round trip by common carrier) and housing costs (approximately $1500); a higher level of participation, such as partial payment of the student's stipend, stated intent to support the participating students at a research conference, and/or awarding of academic credit, will be given extra merit in the evaluation process.

Award decisions shall be based upon total evaluation score.

Award Period

The 1996 Physics Laboratory SURFing Partnership is anticipated to run between May 28 through August 16, 1996; adjustments may be made to accommodate specific academic schedules (e.g., a twelve-week program from May 20 through August 9, or the awarding of a limited number of 10-week cooperative agreements).

Paperwork Reduction Act

The Standard Form 424 and other Standard Forms in the application kit are subject to the requirements of the Paperwork Reduction Act and have been approved by OMB under Control No. 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Additional Requirements

Primary Application Certifications

All primary applicants must submit a completed form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations must be provided:

1. *Nonprocurement Debarment and Suspension*

Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. Drug-Free Workplace

Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. *Anti-Lobbying*

Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. *Anti-Lobbying Disclosure*

Any applicant that has paid or will pay for lobbying using any funds must submit SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

5. *Lower-Tier Certifications*

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

Preaward Activities

Applicants who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of NIST to cover pre-award costs.

No Obligation for Future Funding

If an application is accepted for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

False Statements

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,
2. A negotiated repayment schedule is established and at least one payment is received, or
3. Other arrangements satisfactory to DoC are made.

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the

indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award of 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

Federal Policies and Procedures

Recipients and subrecipients under the Physics Laboratory Program shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards. The SURF program does not directly affect any state or local government.

Applicants are reminded of the applicability of Executive order 12372, "Intergovernmental Review of Federal Programs."

This rule making action has been determined to be "not significant" for purposes of Executive Order 12866.

Dated: February 9, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–3505 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–13–M

Announcement of a Meeting To Discuss Standards Development for Low-Level Light Standards for Luminometry

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on May 1, 1996 to plan, with the assistance of public and private sector stakeholders, a national program to develop standards and a standards traceability scheme for low-level light measurements. Attendees should come prepared to discuss standards specifications, their specific standards needs, as well as resources that they are able to provide toward meeting those needs. This program may become a consortium and attendees would have the opportunity to join through a Cooperative Research and Development Agreement.

Any program undertaken will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Public Law 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may provide "personnel, service, facilities, equipment or other resources with or without reimbursement (but not funds to non-federal parties)"—to the cooperative research program.

The meeting will be held on Wednesday May 1, 1996 at 8:00 a.m., Administration Building, Lecture Room A & B, at NIST in Gaithersburg, MD, for interested parties.

The meeting will discuss the possible formation of a research consortium including NIST and manufacturing industry to conduct research in this area. This is not a grant program.

DATES: The meeting will be held on May 1, 1996. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than April 17, 1996.

ADDRESSES: The meeting will be held at 8:00 a.m., Administration Building, Lecture Room A & B, National Institute of Standards and Technology, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Dr. Gary W., Kramer, Chemistry Building, Room B156, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–4132; FAX: 301–975–3845; e-mail: gkramer@enh.nist.gov.

Dated: February 9. 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–3506 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Monterey Bay National Marine Sanctuary Advisory Council Open Meeting

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

SUMMARY: The Advisory Council was established in December 1993 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Monterey Bay National Marine Sanctuary. The Advisory Council was convened under the National Marine Sanctuaries Act.

TIME AND PLACE: Friday, March 1, 1996, from 9:00 until 4:30. The meeting will be held at the Monterey City Council Chambers, at the corner of Pacific Street and Madison Street, Monterey, California.

AGENDA: General issues related to the Monterey Bay National Marine Sanctuary are expected to be discussed, including an update from the Sanctuary Manager, reports from the working groups, an update on the Council public relations campaign, and presentations on the proposed realignment of Highway One at Piedras Blancas and on kelp harvesting in the Sanctuary.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT:

Jane Delay at (408) 647–4246 or Elizabeth Moore at (301) 713–3141.

Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program

Dated: February 12, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–3438 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–08–M

Notice; Meeting of the Olympic Coast National Marine Sanctuary Advisory Council

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

SUMMARY: The Advisory Council was established in December 1995 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Olympic Coast National Marine Sanctuary. The Advisory Council was convened under the National Marine Sanctuaries Act.

TIME AND PLACE: Thursday, February 23, 1996, from 10:00 until 4:00. The meeting will be held at the Olympic Natural Resource Center, 1455 South Forks Avenue, Forks, Washington.

AGENDA: General subjects to be covered will include election of Council officers; reports on research and education projects; a report from the Sanctuary manager; and general introductory discussions.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT:

Nancy Beres at (360) 457–6622 or Elizabeth Moore at (301) 713–3141.

Dated: February 12, 1996.

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–3439 Filed 2–14–96; 8:45 am]

BILLING CODE 3510–08–M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Baby-Bouncers, Walker-Jumpers, and Baby-Walkers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC) requests comments on a proposed reinstatement of approval of a collection of information from manufacturers and importers of children's articles called baby-bouncers, walker-jumpers, or baby-walkers. The collection of information consists of requirements that manufacturers and importers of these products must establish and maintain records of inspections, testing, sales, and distributions to demonstrate that the products are not banned by rules issued under the Federal Hazardous Substances Act and codified at 16 CFR part 1500.

The CPSC will consider all comments received in response to this notice before requesting reinstatement of approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than April 15, 1996.

ADDRESSES: Written comments should be captioned "Baby-Bouncers" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the proposed reinstatement of approval of the collection of information, or to obtain a copy of 16 CFR part 1500, call or write Nicholas V. Marchica, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416, extension 2243.

SUPPLEMENTARY INFORMATION: Products called "baby-bouncers," "walker-jumpers," or "baby-walkers" are intended to support children younger than two years of age while they sit, bounce, jump, walk, or recline. Regulations issued under provisions of the Federal Hazardous Substances Act (15 U.S.C. 1261, 1262) establish safety requirements for these products.

A. Requirements for Baby-Bouncers, Walker-Jumpers, and Baby-Walkers

One CPSC regulation bans any such product if it is designed in such a way that exposed parts present hazards of amputations, crushing, lacerations, fractures, hematomas, bruises or other injuries to children's fingers, toes, or other parts of the body. 16 CFR 1500.18(a)(6).

A second CPSC regulation establishes criteria for exempting baby-bouncers, walker-jumpers, and baby walkers from the banning rule under specified conditions. 16 CFR 1500.86(a)(4). The exemption regulation requires certain labeling on these products and their packaging to identify the name and address of the manufacturer or distributor and the model number of the product. Additionally, the exemption regulation requires that records must be established and maintained for three years relating to testing, inspection, sales, and distributions of these products. The regulation does not specify a particular form or format for the records. Manufacturers and importers may rely on records kept in the ordinary course of business to satisfy the recordkeeping requirements if those records contain the required information.

The Office of Management and Budget (OMB) approved the collection of information requirements in the regulations under control number 3041–0019. OMB's most recent extension of approval expired on May 31, 1992. The CPSC now proposes to request reinstatement of approval without change for the regulations' information collection requirements.

The safety need for this collection of information remains. Specifically, if a manufacturer or importer distributes products that violate the banning rule, the records required by section 1500.86(a)(4) can be used by the firm and the CPSC (i) to identify specific models of products which fail to comply with applicable requirements, and (ii) to notify distributors and retailers if the products are subject to recall.

B. Estimated Burden

The CPSC staff estimates that about 25 firms are subject to the testing and recordkeeping requirements of the regulations. The CPSC staff estimates further that the burden imposed by the regulations on each of these firms is approximately 2 hours per year. Thus, the total annual burden imposed by the regulations on all manufacturers and importers is about 50 hours.

The CPSC staff estimates that the hourly wage for the time required to perform the required testing and to maintain the required records is about $13, and that the annual total cost to the industry is approximately $650. During a typical year, the CPSC will expend approximately two days of professional staff time reviewing records required to be maintained by the regulations for baby-bouncers, walker-jumpers, and baby-walkers. The annual cost to the Federal government of the collection of information in these regulations is estimated to be $560.

C. Request for Comments

The CPSC solicits written comments from all interested persons about the proposed extension of approval of the collection of information in the regulations for baby-bouncers, walker-jumpers, and baby-walkers. The CPSC specifically solicits information about the hourly burden and monetary costs imposed by the collection of information on firms subject to this collection of information. The CPSC also seeks information relevant to the following topics:

- Whether the collection of information is necessary for the proper performance of the CPSC's functions;
- Whether the information will have practical utility for the CPSC;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other form of information technology.

Dated: February 12, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–3507 Filed 2–14–96; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Training and Technical Assistance for State Commissions

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National Service (the Corporation) announces the availability of up to $500,000 for a cooperative agreement with a non-profit organization, an educational institution, or a for-profit organization to fund the provision of training and technical assistance support services to State Commissions involved in AmeriCorps programs, as provided by the National and Community Service Act of 1990, as amended.

DATES: Application materials will be available beginning on or about Wednesday, February 14, 1996. Applications must be received by 3:00 p.m. Eastern Standard Time on Friday, March 11, 1996.

ADDRESSES: Applications must be submitted to: Corporation for National Service, 1201 New York Avenue NW., Ninth Floor, Washington, DC 20525, Attention: Patricia L. Holliday. Applications may not be submitted by facsimile. This notice may be requested in an alternative format for the visually impaired.

FOR FURTHER INFORMATION CONTACT:

To obtain applications, contact the Corporation in writing or by facsimile at (202) 565–2786. For further information, contact Patricia L. Holliday, Grants and Contracts Officer, at (202) 606–5000, ext. 187 or (202) 565–2799 TDD.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, human, and environmental needs to achieve direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. Pursuant to the National and Community Service Act of 1990, as amended, the Corporation "shall make technical assistance available to State * * * to develop national service programs." 42 U.S.C. See 12575(b). Through a cooperative agreement, the Corporation will make one award to provide training and technical assistance support services to State Commissions involved in AmeriCorps programs. the Corporation anticipates that in program year 1995–96, there will be up to 450 AmeriCorps grant programs serving through over 1100 operating sites.

Period of Support

The cooperative agreement period will be approximately 12 months, with implementation beginning approximately in April 1996, with the possibility of renewal subject to performance, continuing need, and the availability of funds.

Eligible Applicants

Applicants must be a non-profit organization, an educational institution, or a for-profit organization. However, pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities is not eligible.

Program Elements

The required work will include, but will not be limited to:

1. Helping State Commissions develop appropriate methods for assessing the T/TA needs of subgrantees on an on-going basis;
2. Helping State Commissions develop a technical assistance strategy and network of possible T/TA providers;
3. Helping State Commissions in conceptualization and design of grant review processes.
4. Providing tailor-made orientations to newly-appointed State Commission Chairpersons and Executive Directors;
5. Helping State Commissions train commission staff in program assessment, management of T/TA, office management, cross program collaboration, fundraising, needs assessment, and identification of local, low-cost, T/TA resources;
6. Helping State Commissions to develop effective working relationships with CNS State Offices;
7. Helping State Commissions to involve national direct grantees in the trainings they provide;
8. Helping State Commissions to collaborate with other State Commissions on the delivery of T/TA services;
9. Helping State Commissions to broker T/TA services offered by national T/TA providers;
10. Facilitating mechanisms for peer exchange between commission staff and commission members in other states;
11. Helping State Commissions to design participant advisory vehicles through which they can engage participants in decision-making processes and feedback;
12. Helping State Commissions with tailored T/TA services that include communication via electronic networks, policy bulletins, conference calls, and local gatherings of program networks;
13. Helping State Commissions on various planning activities, including the development of both short term and strategic plans as well as assistance with State Plan updates;
14. Helping State Commissions plan and conduct effective planning retreats.

Corporation Involvement

Substantial involvement is expected between the Corporation and the successful applicant when carrying out the program. The applicant must keep relevant Corporation staff informed of its activities; work with Corporation staff during development, delivery and assessment of services provided; and attend meetings and conferences at the Corporation's request.

Overview of Application Requirements

Application requirements will be set forth in detail in the application materials. Each applicant must submit one original and three copies of its application package. The requirement will include a completed application form, a narrative section, an implementation timeline, a staffing plan, a self assessment plan, budget information, and certifications and assurances pertaining to recipients of federal funding.

Application Review

Initially all applications will be reviewed to confirm that the application is an eligible recipient and to ensure that the application complies with the application instructions and contains the information required. The Corporation will assess applications based on the criteria listed below (in descending other of importance):

(1) Quality.
(2) Organizational Capacity.
(3) Coordination Plans.
(4) Knowledge and Understanding of AmeriCorps.
(5) Description of proposed activities.
(6) Proposed Costs.

Dated: February 9, 1996.

Terry Russell,

General Counsel, Corporation for National Service.

[FR Doc. 96–3377 Filed 2–14–96; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University, DOD.

ACTION: Board of visitors meeting.

SUMMARY: A meeting of The Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Defense Systems Management College (DSMC), 9820 Belvoir Road, Fort Belvoir, Virginia on Thursday, March 7, 1996 from 0830 until 1600 and Friday March 8, 1996 from 0830 until 1500. The purpose of this meeting of the BoV is to consider the introduction of an acquisition research program and deliberate on topics of interest to the DAU.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere at (703) 805–5134.

Dated: February 8, 1996.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3333 Filed 2–14–96; 8:45 am]

BILLING CODE 5000–04–M

Privacy Act of 1974; Notice to Amend Systems of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The President signed Executive Order 12958 on April 17, 1995, replacing Executive Order 12356 effective October 14, 1995. Therefore, the Office of the Secretary of Defense is amending all DoD Privacy Act systems of records notices to reflect this change. Any DoD systems of records notices that cited E.O. 12356 will be amended to read E.O. 12958.

EFFECTIVE DATE: October 14, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler at (703) 607–2943 or DSN 327–2943.

SUPPLEMENTARY INFORMATION: The President signed Executive Order 12958 on April 17, 1995, replacing Executive Order 12356 effective October 14, 1995. Therefore, the Office of the Secretary of Defense is amending all DoD Privacy Act systems of records notices to reflect this change. Any DoD systems of records notices that cited E.O. 12356 will be amended to read E.O. 12958.

Dated: February 8, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3361 Filed 2–14–96; 8:45 am]

BILLING CODE 5000–04–F

Department of the Air Force

Notice of Intent To Prepare an Environmental Assessment for Realignment of Scott AFB, IL

The United States Air Force (Air Force) will prepare an Environmental Assessment (EA) to assess the potential environmental impacts of the realignment of an Illinois Air National Guard (ANG) unit to Scott Air Force Base (AFB) near Belleville, Illinois. The Mid-America civilian airport boarders the site to the north. This action is required in connection with implementation of the recommendations of the 1993 and 1995 Defense Base Closure and Realignment Commissions.

The proposed realignment would relocate 10 KC–135 aircraft and associated personnel and equipment to Scott AFB and entails approximately $80M in construction on the base. Under the No Action alternative, the ANG unit and its aircraft, personnel and equipment would not relocate. The purpose of the analysis is to determine the environmental impacts of the proposed realignment and if it requires the preparation of an Environmental Impact Statement (EIS).

The Air Force will conduct a public meeting to ensure the environmental assessment addresses the appropriate scope of issues. The public comments will be considered in the preparation of the EA. Notice of the date, time, and location of the meeting will be made available to public officials, the community, and the news media at a later date. Written comments on the scope of alternatives and impacts will also be accepted and considered. If the Air Force were to decide to propose an EIS, this process may also be substituted for the scoping process that would normally precede an EIS.

To ensure the Air Force will have sufficient time to consider all appropriate comments, please forward comments to the address listed below by 19 March 1996. The Air Force will accept appropriate input any time throughout this process.

Please direct any written comments or requests for further information concerning this action to: Ms. Jean Reynolds, HQ AMC/CEBP, 507 "A" Street, Scott AFB, IL 62225–5022, (618) 256–6128, ext. 394.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–3504 Filed 2–14–96; 8:45 am]

BILLING CODE 3910–01–P

Department of the Army

Corps of Engineers

[3710–AJ]

Jacksonville District, Jacksonville, FL; Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the C–7, C–8, and C–9 (North Dade) Canals General Reevaluation Report (GRR)

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps), along with the South Florida Water Management District (SFWMD), intends to prepare a Draft Environmental Impact Statement (DEIS) for the feasibility phase of the C–7, C–8, and C–9 (North Dade) Canals General Reevaluation Report (GRR).

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Mark Ziminske, Planning Division, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232–0019; Telephone 904–232–1786/Fax 904–232–3442.

SUPPLEMENTARY INFORMATION:

a. Authorization

Construction of the C–7 (Little River), C–8 (Biscayne), and C–9 (Snake Creek) canals, and associated water control structures, S–27, S–28, and S–29 was authorized by the Flood Control Act of 1948, which provided for construction of the first phase of a comprehensive plan for flood control, fish and wildlife preservation, regional groundwater control, salinity control, and navigation. The Energy and Water Development Act of 1955 authorized preparation of a GRR to review conveyance capacity of existing canals, document the quality of local maintenance, and to make recommendations for implementable solutions to flooding problems in the C–7, C–8, and C–9 drainage basins.

b. Study Area

The C–7, C–8, and C–9 basins are located in northeastern Dade County, Florida; all three canals as well as control structures S–27, S–28, and S–29 are previously constructed Corps' projects. The C–7 basin comprises 35 square miles, and is approximately 11 miles long. The western portion of the basin lies in Area B, an area of relatively poor drainage, west of the coastal ridge, eastern Dade County. S–27 is a double grated concrete spillway located in C–7.

which permits release of flood runoff and prevents over-drainage and saltwater intrusion through C–7.

The C–8 basin comprises about 31 square miles, is approximately 12 miles long, and its western portion is also located in Area B. S–28, located in C–8, is a double-gated spillway, which permits release of flood runoff from the C–8 basin and prevents saltwater intrusion through C–8.

The C–9 basin comprises an area of 98 square miles, 39 square miles in Dade County and 59 square miles in Broward County. The total canal length is approximately 11 miles. S–29 and S–30 are control structures located in the C–9 drainage basin. S–29 is a four-gated spillway which conveys flood runoff and prevents over-drainage and saltwater intrusion through C–9. S–30 is a gated concrete culvert which prevents excessive seepage losses from Water Conservation Area (WCA)–3A by permitting higher stages in the L–33 borrow canal and supplies water from L–33 borrow canal during dry periods to maintain stages and satisfy irrigation demands in the C–7, C–8, and C–9 drainage basins. All three canals discharge into northern Biscayne Bay, at Miami.

c. Project Scope and Preliminary Alternatives

The primary objective of this project is to develop a total watershed plan which identifies structural and/or operational modifications to the C–7, C–8, and C–9 canals and the associated water management facilities. While the project emphasis is to enhance flood control benefits in the project area, the GRR will also document the status and quality of maintenance on the existing project and identify environmental restoration opportunities in conjunction with proposed project modifications.

Alternatives will be developed and evaluated based on the project objectives, environmental studies, flood control feasibility, and economics. Standard Corps' programs HEC–2 and UNET will be used to develop hydraulic models of the existing and any proposed flood control features.

In addition to the without project and future conditions, four preliminary alternatives have been drafted which may be revised pending model results and public feedback. They include: (1) Modifications to existing canals to increase conveyance where appropriate and possible; (2) construction of levees adjacent to existing canals in areas identified as being susceptible to flooding, possibly in conjunction with canal cross-section modifications; (3) use of retention storage basins for peak discharge attenuation, possibly in conjunction with channel modifications and construction of levees; and (4) operational changes of existing control structures for the respective canals.

d. Scoping

The scoping process as outlined by the Council on Environmental Quality will be utilized to involve Federal, State, and local agencies, affected Indian Tribes, and other interested private organizations and parties.

A Scoping letter will be sent to interested Federal, State and local agencies, interested organizations and the public, requesting their comments and concerns regarding issues they feel should be addressed in the DEIS. Interested persons and organizations wishing to participate in the scoping process should contact the U.S. Army Corps of Engineers at the address above. Significant issues anticipated include concern for: maintenance of flood protection for the project area; water quality, particularly in the receiving waters of Biscayne Bay; wetlands; fish and wildlife; saltwater intrusion into project canals and the groundwater and; threatened and endangered plant and animal species. Public meetings will be held over the course of the study, the exact location, dates, and times will be announced in public notices and local newspapers.

e. It is estimated that the DEIS will be available to the public about July 1998.

A.J. Salem,

Chief, Planning Division.

[FR Doc. 96–3383 Filed 2–14–96; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 15, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 9, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: New
Title: Even Start Family Literacy Program Women's Prison Project
Frequency: One Time
Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Gov't, SEAs or LEAs
Annual Reporting and Recordkeeping Burden:
Responses: 100
Burden Hours: 1,510
Abstract: The Even Start Family Literacy Women's Prison Project is designed such that the grantee will operate a family literacy project in a prison that houses women and their preschool-aged children

Office of Elementary and Secondary Education

Type of Review: New
Title: Even Start Statewide Family Literacy Initiative Grants
Frequency: Annually
Affected Public: State, Local or Tribal Gov't, SEAs or LEAs
Annual Reporting and Recordkeeping Burden:
Responses: 50
Burden Hours: 375
Abstract: Under the Even Start Statewide Family Literacy Initiative Grants, States will plan and implement statewide family literacy initiatives designed to coordinate and integrate existing Federal, State, and local literacy resources. The Department analyzes the application to determine which applicants meet the absolute priority in the application package and are best qualified to receive Federal funds under the law and EDGAR

[FR Doc. 96–3408 Filed 2–14–96; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by February 23, 1996.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

DATES: A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 15, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Because an emergency review is requested, the additional information to be requested in this collection is included in the section on "Additional Information" in this notice.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: Application for Grants for Desegregation Assistance Centers under Civil Rights Technical Assistance and Training
Frequency: Annually
Affected Public: Not-for-profit institutions
Annual Reporting and Recordkeeping Burden:
Responses: 100
Burden Hours: 3,570
Abstract: The Department uses this information to evaluate the proposed projects and make awards in accordance with program regulations. Desegregation Assistance Centers use this application to apply for assistance under Title IV of the Civil Rights Act of 1964, Desegregation of Public Education Program

[FR Doc. 96–3409 Filed 2–14–96; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 18, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the

proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708-8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 9, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: New.
Title: Direct Loan Participant Survey.
Frequency: Annually.
Affected Public: Business or other for-profit; Not-for-profit institutions.
Annual Reporting and Recordkeeping Burden:
Responses: 1,500.
Burden Hours: 750.
Abstract: This information is being requested specifically for providing a higher level of Customer Service to Direct Loan schools. Collection of this information will allow us to provide better technical assistance to DL schools and to provide a network database to schools as an information device that would enable them to communicate with schools that have similar configurations, software needs, and process procedures.

[FR Doc. 96–3407 Filed 2–14–96; 8:45 am]

BILLING CODE 4000–01–P

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on April 13, 1994, an arbitration panel rendered a decision in the matter of *Betty Moffitt* v. *Tennessee Department of Human Services, (Docket No. R–S/92–8).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–2, upon receipt of a complaint filed by Betty Moffitt.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U. S. Department of Education, 600 Independence Avenue, SW., Room 3230, Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

Background

The complainant, Betty Moffitt, became a licensed manager in the Tennessee Business Enterprise Program on September 1, 1976, and was eventually assigned to Facility #299 at the Tennessee Valley Authority (TVA) Sequoyah Nuclear Power Plant on September 1, 1982. The Tennessee Department of Human Services (TDHS) is the designated State licensing agency (SLA) charged with the administration and operation of the Tennessee Vending Facility program. The Division of Internal Audit for TDHS conducted an in-depth examination and audit of Facility #299 for the calendar year 1987. TDHS found substantial and compelling discrepancies between the amounts of purchases and sales reported by the complainant and amounts of purchases and sales obtained by the auditors from independent sources.

After a thorough analysis of all information, including an independent audit conducted by the Tennessee Department of Revenue that also demonstrated major inconsistencies, TDHS issued a letter to the complainant terminating her license effective February 9, 1991. Complainant allegedly violated Tennessee Rule 1240–6–6.3 (4), which mandates termination of license for falsification of records.

The complainant appealed her termination of license by requesting and receiving a State fair hearing held on July 25 and 26, 1991. An opinion was issued by the hearing officer on January 31, 1992. The hearing officer sustained TDHS's termination of Ms. Moffitt's license based upon the evidence presented at the hearing. Specifically, the hearing officer ruled that the evidence substantiated the falsification allegations made by the SLA. Subsequently, the complainant filed a petition for reconsideration of the hearing officer's decision, which was denied in a written opinion on February 12, 1992. A notice of appeal was filed by the complainant, and on March 2, 1992, the hearing officer issued a final order adopting the earlier opinion of January 31, 1992.

The complainant applied for and received reconsideration of the final order on March 6, 1992, which was denied by the Director of Appeals on March 10, 1992.

On May 13, 1992, Ms. Moffitt filed a request with the Secretary of the U.S. Department of Education to convene an arbitration panel to review the final order of the hearing officer. A hearing by a Federal arbitration panel was held on September 3, 1993.

Arbitration Panel Decision

The arbitration panel reviewed the audit findings of TDHS's Division of Internal Audit of the complainant's Facility #299. The panel concluded that, while the findings of the audit were not conclusive, they were extraordinarily persuasive and were not satisfactorily rebutted. Further, the complainant's testimony and presentation of evidence did not satisfactorily rebut the evidence presented by TDHS. Accordingly, the panel found that in 1987 at Facility #299 the complainant underreported merchandise purchased by at least $58,000 and underreported sales by approximately $140,000 (this was a projected figure accepted by the panel). The panel further found that the underreporting was so significant that it could not be attributed to errors of negligence or inadvertence.

The panel found that TDHS had demonstrated by a preponderance of evidence that the complainant knowingly and intentionally filed false reports with the SLA that were misleading and that misrepresented the true financial status of Facility #299. The panel found that by doing so, the complainant avoided the payment of set-aside assessments on tens of thousands of dollars for 1987. The panel estimated that the actions of the complainant resulted in TDHS being deprived of approximately sixteen thousand dollars in fees for the year 1987, after considering allowances for legitimate losses in business and the set-aside fees paid by the complainant.

Therefore, the panel concluded that the maintenance of financial accountability among the TDHS's licensed managers is vital to protect the stability, integrity, and future growth of the vending facility program. The panel considered that the SLA must have the authority to take extreme measures in those cases that threaten to undermine the basic principles on which the program operates. The panel ruled that the actions of TDHS were proper and appropriate in terminating the license of the complainant for violation of the State rule 1240–6–6.03 (4). The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: February 12, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–3450 Filed 2–14–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP94–96–017 and RP94–213–014 (Consolidated)]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 9, 1996.

Take notice that on February 5, 1996, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Original Sheet No. 37A
Substitute Third Rev. Sheet No. 349
Substitute Third Rev. Sheet No. 350

CNG requests an effective date of July 1, 1994, for these substitute tariff sheets.

CNG states that it has filed Original Sheet No. 37A in order to comply with a directive contained in the December 21, 1995, Letter Order in this proceeding, by providing a summary of rates applicable to CNG's separately-priced incremental rate schedules. CNG indicates that the purpose of substitute Sheet Nos. 349 and 350 is to revise the proposed effective date of these sheets from January 1, 1996 to July 1, 1994. According to CNG, this effective date revision is consistent with Article III, Paragraph B of the June 28, 1996 Stipulation and Agreement in the instant proceedings.

CNG states that copies of this letter of transmittal and enclosures are being mailed to the parties to the captioned proceedings.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3370 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–062]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

February 9, 1996.

Take notice that on February 7, 1996, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu, not to exceed a 5 Bcf of Frontier's gas storage inventory on an "as metered" basis to Rainbow Gas Company, for term ending February 28, 1997.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is "authorized to commence the sale of its inventory under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter."

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission (888 1st Street N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3371 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–5–008]

Northwest Pipeline Corporation; Notice of Compliance Filing

February 9, 1996.

Take notice that on February 6, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective November 6, 1994:

Fifth Substitute Original Sheet No. 237–A
Fourth Substitute Original Sheet No. 237–B
Substitute Second Revised Sheet No. 237–C
Original Sheet No. 237–D

Northwest states that the purpose of this filing is to comply with the Commission's directives in its Order on Rehearing issued January 23, 1996 in Docket No. RP95–5–005.[1] Northwest's proposed tariff language specifies that Northwest will extend a shipper imbalance make-up period if Northwest is unable to accommodate an imbalance make-up nomination to eliminate a shipper imbalance due to force majeure or operating conditions, provided that the nomination is from a shipper's primary receipt point.

Northwest states that the revised tariff sheets are being served upon all intervenors in this proceeding.

[1] 74 FERC ¶ 61,059.

Any person desiring to protest with reference to said application should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3369 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–170–000]

Williston Basin Interstate Pipeline Company; Notice of Application

February 9, 1996.

Take notice that on February 5, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP96–170–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a compressor in Stark County, North Dakota, all as more fully set forth in the application on file with the Commission and open to public inspection.

Williston Basin proposes to abandon compressor No. 6 and related facilities in Stark County, North Dakota, since it is no longer needed. It is stated that there would be no impact on Williston Basin's current operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 1, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williston Basin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3372 Filed 2–14–96; 8:45 am]

BILLING CODE 6716–01–M

[Docket No. RP96–103–001]

Wyoming Interstate Company, Ltd.; Notice of Application

February 9, 1996.

Take notice that on February 7, 1996, Wyoming Interstate Company, Ltd. (WIC), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, the following substitute tariff sheets to be effective February 1, 1996.

Substitute First Revised Sheet No. 13
Substitute Second Revised Sheet No. 19
Substitute First Revised Sheet No. 20

WIC states that the substitute tariff sheets are filed to comply with the Letter Order issued January 31, 1996 in Docket No. RP96–103–000. Additionally, CIG is proposing the deletion of Note 3 on the top of Second Revised Sheet No. 19 which was inadvertently repeated on this sheet. It should only appear on First Revised Sheet No. 18.

Any person desiring to protest with reference to said application should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules Regulations. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3368 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–40–000, et al.]

CMS Generation Yallourn Limited Duration Company, et al.; Electric Rate and Corporate Regulation Filings

February 7, 1996.

Take notice that the following filings have been made with the Commission:

1. CMS Generation Yallourn Limited Duration Company

[Docket No. EG96–40–000]

On February 5, 1996, CMS Generation Yallourn Limited Duration Company ("Applicant"), with its principal office at c/o CMS Energy Asia Pte Ltd, 80 Raffles Place #26–20, UOB Plaza 2, Singapore 048624, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it holds an interest in a Cayman Islands limited duration company, formed to acquire, own and operate a 1,450 megawatt brown coal-fired electric generating facility and adjacent brown coal open cut mine located in Victoria, Australia (the "Facility"). Electric energy produced by the Facility will be sold at wholesale to the Victoria Power Exchange. In no event will any electric energy be sold to consumers in the United States.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy of accuracy of the application.

2. South Carolina Electric & Gas Company

[Docket No. ER96–178–000]

Take notice that on January 26, 1996, South Carolina Electric & Gas Company (SCE&G) tendered for filing a supplement to the filing of a prior supplement dated October 11, 1995, to the contract between SCE&G and the Southeastern Power Administration (SEPA) with respect to SEPA's marketing of capacity and energy from Federal Power Customers, Inc., the only party which previously moved to intervene in this proceeding.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company

[Docket No. ER96–897–000]

Take notice that on January 24, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide short-term firm transmission service to Koch Power Services, Inc. (Koch), under the NU System Companies' Transmission Service Tariff No. 5.

NUSCO states that a copy of this filing has been mailed to Koch.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Northern Indiana Public Service Company

[Docket No. ER96–898–000]

Take notice that on January 24, 1996, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Aquila Power Corporation.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Aquila Power Corporation under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Aquila Power Corporation request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Northern Indiana Public Service Company

[Docket No. ER96–900–000]

Take notice that on January 24, 1996, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Alpena Power Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Alpena Power Company under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Alpena Power Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service Company

[Docket No. ER96–901–000]

Take notice that on January 24, 1996, Northern Indiana Public Service Company tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Ohio Edison Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Ohio Edison Company under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Ohio Edison Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. UNITIL Power Corp.

[Docket No. ER96–902–000]

Take notice that on January 24, 1996, UNITIL Power Corp. (UPC), tendered for filing a Power Supply Agreement (Power Supply Agreement) between UPC and Concord Electric Company (CECo) and Exeter & Hampton Electric Company (E&H). The Power Supply Agreement sets forth the terms and conditions under which UPC will sell, and CECo and E&H will purchase, firm electric power supply for resale by CECo and E&H to retail customers under its newly approved Energy Bank Service. UPC requests an effective date for the Power Supply Agreement of March 24, 1996.

UPC states copies of the filing were served on E&H, CECo and on the New Hampshire Public Utilities Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. The Dayton Power and Light Company

[Docket No. ER96–903–000]

Take notice that on January 24, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Power Sales Agreement between Dayton and The Pennsylvania Power and Light (Pennsylvania).

Pursuant to the rate schedule attached as Exhibit B to the Agreement, Dayton will provide to Pennsylvania power and/or energy for resale.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Electric Power Company

[Docket No. ER96–904–000]

Take notice that on January 24, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Valero Power Services Company (Valero). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Valero, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER96–905–000]

Take notice that on January 24, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Coastal Electric Services Company (Coastal). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Coastal, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Virginia Electric and Power Company

[Docket No. ER96–907–000]

Take notice that on January 24, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between The Cincinnati Gas & Electric Company, PSI Energy, Inc. and Cinergy Services, Inc. and Virginia Power, dated November 1, 1995, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to The Cincinnati Gas & Electric Company, PSI Energy, Inc. and Cinergy Services, Inc. under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, the Ohio Public Utilities Commission, and the Indiana Utility Regulatory Commission.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER96–908–000]

Take notice that on January 24, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the Public Service Electric and Gas Company.

Cinergy and the Public Service Electric and Gas Company are requesting an effective date of January 1, 1996.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. New York State Electric & Gas Corporation

[Docket No. ER96–909–000]

Take notice that on January 25, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing an amendment to the Rate Schedule No. 117 filed with FERC corresponding to an Agreement with the Delaware County Electric Cooperative Inc. (the Cooperative). The proposed amendment would decrease revenues by $182.56 based on the twelve month period ending December 31, 1996.

This rate filing is made pursuant to 1(c) and 3(a) through (c) of Article IV of the June 1, 1977 Facilities Agreement between NYSEG and the Cooperative, filed with FERC. The annual charges of routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1994. The revised facilities charge is levied on the cost of the 34.5 kV tie line from Taylor Road to the Jefferson Substation, constructed by NYSEG for the sole use of the Cooperative.

NYSEG requests an effective date of January 1, 1996, and, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Delaware County Electric Cooperative Inc. and on the Public Service Commission of the State of New York.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Public Service Corporation

[Docket No. ER96–910–000]

Take notice that on January 25, 1996, Wisconsin Public Service Corporation, tendered for filing, executed service agreements with Coastal Electric Services Company and K N Marketing Inc. under its CS–1 Coordination Sales Tariff.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. New York State Electric & Gas Corporation

[Docket No. ER96–911–000]

Take notice that on January 25, 1996, New York State Electric & Gas Corporation (NYSEG), tendered for filing a supplement to its Agreement with the Municipal Board of the Village of Bath (the Village), designated Rate Schedule FERC No. 72. The proposed amendment would increase revenues by $46.82 based on the twelve month period ending December 31, 1996.

This rate filing is made pursuant to Section 2 (a) through (c) of Article IV of the December 1, 1977 Facilities Agreement—Rate Schedule FERC No. 72. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1994. The revised facilities charge is levied on the cost of the tap facility constructed and owned by NYSEG to connect its 34.5 Kv electric transmission line located in the Village of Bath to the Village's Fairview Drive Substation.

NYSEG requests an effective date of January 1, 1996, and, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Municipal Board of the Village of Bath and on the Public Service Commission of the State of New York.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Company Services, Inc.

[Docket No. ER96–912–000]

Take notice that on January 24, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an Interchange Service Contract between Southern Companies and Heartland Energy Services, Inc. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Company Services, Inc.

[Docket No. ER96–913–000]

Take notice that on January 24, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an Interchange Service Contract between Southern Companies and LG&E Power Marketing Inc. of Fairfax, Virginia. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Southern Company Services, Inc.

[Docket No. ER96–914–000]

Take notice that on January 24, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing an Interchange Service contract between Southern Companies and CATEX Vitol Electric, L.L.C. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER96–915–000]

Take notice that on January 24, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Enron Power Marketing, Inc.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 1, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER96–916–000]

Take notice that on January 24, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Rainbow Electric Marketing Corp. These Transmission Service Agreements replace the previously approved Limited and Interruptible Transmission Service Agreements which were in effect January 1, 1995, through December 31, 1995.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 1, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER96–917–000]

Take notice that on January 24, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Wisconsin Electric Power Company. These Transmission Service Agreements replace the previously approved Limited and Interruptible Transmission Service Agreements which were in effect January 1, 1995, through December 31, 1995.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 1, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Federal Energy Sales, Inc.

[Docket No. ER96–918–000]

Take notice that on January 24, 1996, Federal Energy Sales, Inc. (FES), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective no later than sixty (60) days from the date of its filing.

FES intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where FES sells electric energy, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Neither FES nor any of its affiliates are in the business of generating, transmitting, or distributing electric power.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices. Rate Schedule No. 1 also provides that no sales may be made to affiliates.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Kansas City Power & Light Company

[Docket No. ER96–919–000]

Take notice that on January 23, 1996, Kansas City Power & Light Company (KCPL), tendered for filing revised Service Schedule reflecting the rates which, pursuant to ER94–1011, would be based on the outcome of the proceeding in Docket No. ER94–1045.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Wisconsin Public Service Corporation

[Docket No. ER96–920–000]

Take notice that on January 25, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing executed Transmission Service Agreements between WPSC and Coastal Electric Services Company. The Agreements provide for transmission service under the Comparable Transmission Service Tariff, FERC Original Volume No. 7.

WPSC asks that the agreements become effective retroactively to the date of execution by WPSC.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Northeast Utilities Service Company

[Docket No. ER96–921–000]

Take notice that on January 19, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing on behalf of the Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Public Service Company of New Hampshire (together, the NU System Companies) an amendment to the Capacity Agreement previously filed by NUSCO in the above-referenced docket.

NUSCO renews its request that the proposed rate schedule changes be permitted to become effective January 24, 1996. NUSCO states that a copy of the filing has been mailed or delivered to the effected parties.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Union Electric Company

[Docket No. ER96–925–000]

Take notice that on January 25, 1996, Union Electric Company (UE), tendered for filing a Transmission Service Agreement dated July 21, 1995 between Electric Clearinghouse, Inc. (ECI) and UE. UE asserts that the purpose of the Agreement is to set out specific rates,

terms, and conditions for transmission service transactions from UE to ECI.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Calpine Power Marketing, Inc.

[Docket No. ER96–926–000]

Take notice that on January 25, 1996, Calpine Power Marketing, Inc. (CPMI), tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) approving CPMI's application for membership in the WSPP. CPMI requests that the Commission amend the WSPP Agreement to include it as a WSPP member.

CPMI requests that its membership be made immediately effective and therefore requests waiver of the Commission's notice requirement. CPMI also requests that the Commission waive such other filing requirements as may be necessary or appropriate to allow the filing to become effective.

Copies of the filing were served upon counsel for the WSPP and the members of WSPP Executive Committee.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. Northern States Power Company (Minnesota Company)

[Docket No. ER96–927–000]

Take notice that on January 25, 1996, Northern States Power Company (Minnesota) (NSP), tendered for filing an Agreement dated December 20, 1995, between NSP and the City of Shakopee (City). In a previous agreement dated June 30, 1995, between the two parties, City agreed to continue paying NSP the current wholesale distribution substation rate of $0.47/Kw-month until December 31, 1995. Since the June 30, 1995, agreement has terminated, this new Agreement has been executed to continue the current wholesale distribution substation rate of $0.47/Kw-month until June 30, 1996.

NSP request the Agreement be accepted for filing effective January 1, 1996, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

29. Connecticut Light & Power Company

[Docket No. ER96–928–000]

Take notice that on January 25, 1996, Northeast Utilities Service Company (NUSCO), on behalf of the Northeast Utilities System Companies, tendered for filing a First Amendment to Dispatchable System Power Sales Agreement between NUSCO and Sterling Municipal Light Department (Sterling).

NUSCO states that a copy of this filing has been mailed to Sterling.

NUSCO requests that the First Amendment to Dispatchable System Power Sales Agreement become effective on March 1, 1996.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

30. Pennsylvania Power & Light Company

[Docket No. ER96–930–000]

Take notice that on January 25, 1996, Pennsylvania Power & Light Company (PP&L), tendered for filing a request for approval of rate changes, under the Capacity and Energy Sales Agreement (Agreement) dated June 29, 1983, as supplemented, between PP&L and Atlantic City Electric Company. PP&L proposes to implement depreciation life study changes, to change accounting methods for Office Furniture, Tools and Equipment (FTE), and to segregate all FTE into certain General Plant accounts. PP&L also proposes to include as depreciation amortized portions of the expected negative salvage and dismantling costs of its fossil-fired power plants.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

31. Pennsylvania Power & Light Company

[Docket No. ER96–932–000]

Take notice that on January 25, 1996, Pennsylvania Power & Light Company (PP&L), tendered for filing a request for approval of rate changes under the Capacity and Energy Sales Agreement (Agreement) dated March 9, 1984, as supplemented, between PP&L and Jersey Central Power & Light Company. PP&L proposes to increase its rate under the Agreement to more accurately reflect the projected costs of decommissioning PP&L's nuclear-fueled Susquehanna Steam Electric Station units. PP&L also proposes to include as depreciation amortized portions of the expected negative salvage dismantling costs of its non-nuclear power plants. In addition, PP&L proposes to levelize its current modified sinking fund depreciation methodology for the Susquehanna Steam Electric Station units so that, rather than increasing each year, the depreciation amount will be consistent for the three years. PP&L also proposes to convert the depreciation of Hydraulic Production plant from the remaining life, straight-line, broad group system of depreciation to the remaining life, life-spanned system of depreciation. PP&L proposes to extend the deactivation dates for the life spanning system of depreciation for two jointly-owned plants. Finally, PP&L seeks to implement depreciation life study changes, to change accounting methods for Office Furniture, Tools and Equipment (FTE), and to segregate all FTE into certain General Plant accounts.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

32. Pennsylvania Power & Light Company

[Docket No. ER96–933–000]

Take notice that on January 25, 1996, Pennsylvania Power & Light Company (PP&L) tendered for filing a request for approval of rate changes under the Capacity and Energy Sales Agreement (Agreement) dated December 1, 1992, as supplemented, between PP&L and UGI Utilities, Inc. PP&L proposes to increase its rate under the Agreement to more accurately reflect the projected costs of decommissioning PP&L's nuclear-fueled Susquehanna Steam Electric Station units. PP&L also proposes to include as depreciation amortized portions of the expected negative salvage dismantling costs of its non-clear power plants. In addition, PP&L proposes to levelize its current modified sinking fund depreciation methodology for the Susquehanna Steam Electric Station units so that, rather than increasing each year, the depreciation amount will be constant for the next three years. PP&L also proposes to convert the depreciation of Hydraulic Production plant from the remaining life, straight-line, broad group system of depreciation to the remaining life, life-spanned system of depreciation. PP&L proposes to extend the deactivation dates for the life spanning system of depreciation for two jointly-owned plants. Finally, PP&L proposes to implement depreciation life study changes, to change accounting methods for Office Furniture, Tools and Equipment (FTE), and to segregate all FTE into certain General Plant accounts.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

33. Richard M. Kovacevich

[Docket No. ID–2937–000]

Take notice that on January 30, 1996, Richard M. Kovacevich (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director, Northern States Power Company

President, Chairman, and Chief Executive Officer, Norwest Corporation

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

34. David A. Christensen

[Docket No. ID–2938–000]

Take notice that on January 30, 1996, David A. Christensen (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director, Northern States Power Company (Minnesota)

Director, Norwest Corporation

Director, Norwest Bank South Dakota, N.A.

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

35. David A. Coulter

[Docket No. ID–2939–000]

Take notice that on January 30, 1996, David A. Coulter (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director, Pacific Gas and Electric Company

Director, Chief, Executive Officer and President, BankAmerica Corporation

Director, Chief Executive Officer and President, Bank of America National Trust and Savings Association

Comment date: February 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

36. Selkirk Cogen Partners, L.P.

[Docket No. QF89–274–013]

On January 29, 1996, Selkirk Cogen Partners, L.P. (Applicant), 24 Power Park Drive, Selkirk, New York 12158, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.205(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to Applicant, the topping-cycle cogeneration facility is located in Selkirk, New York. The Commission originally certified the facility as a qualifying cogeneration facility in *JMC Selkirk, Inc.*, 48 FERC ¶ 62,228 (1989) and recertified the facility in *Selkirk Cogen Partners, L.P.*, 51 FERC ¶ 61,264 (1990). Additionally, on June 18, 1990, October 16, 1992, March 10, 1993, and June 16, 1993, Applicant filed notices of self-recertification with respect to Phase I's qualifying status. The Commission recertified the facility, including Phase I and Phase II, in *Selkirk Cogen Partners, L.P.*, 59 FERC ¶ 62,254 (1992). On October 16, 1992, March 10, 1993, June 16, 1993, May 2, 1994, and August 25, 1994, Applicant filed notices of self-recertification with respect to the qualifying status of the facility. The Commission most recently recertified the facility in *Selkirk Cogen Partners, L.P.*, 70 FERC ¶ 62,084 (1995) and in *Selkirk Cogen Partners, L.P.*, 71 FERC ¶ 62,163 (1995). Applicant states that the instant recertification is requested due to changes in the operation of the facility.

Comment date: 30 days after the date of publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3373 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96–108–001, *et al.*]

Duke/Louis Dreyfus, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

February 8, 1996.

Take notice that the following filings have been made with the Commission:

1. Duke/Louis Dreyfus, L.L.C.

[Docket No. ER96–108–001]

Take notice that on January 16, 1996, Duke/Louis Dreyfus, L.L.C. tendered for filing its compliance filing in the above-referenced docket pursuant to the Commission's order issued in Docket No. ER96–108–000 on December 14, 1995.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Citizens Power & Light Corporation, InterCoast Energy Company, CRSS Power Marketing, Inc., Catex Vitol Electric L.L.C., C.C. Pace Energy Services, Valero Power Services, and JEB Corporation

[Docket Nos. ER89–401–025, ER94–6–002, ER94–142–008, ER94–155–001, ER94–1181–006, ER94–1394–006, ER94–1432–006 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1996, Citizens Power & Light Corporation filed certain information as required by the Commission's August 8, 1989 order in Docket No. ER89–401–000.

On January 31, 1996, InterCoast Energy Company filed certain information as required by the Commission's August 19, 1994 order in Docket No. ER94–6–000.

On January 30, 1996, CRSS Power Marketing, Inc. filed certain information as required by the Commission's December 30, 1993 order in Docket No. ER94–142–000.

On February 2, 1996, Catex Vitol Electric L.L.C. filed certain information as required by the Commission's January 14, 1994 order in Docket No. ER94–155–000.

On January 26, 1996, C.C. Pace Energy Services filed certain information as required by the Commission's July 25, 1994 order in Docket No. ER94–1181–000.

On January 30, 1996, Valero Power Services filed certain information as required by the Commission's August 24, 1994 order in Docket No. ER94–1394–000.

On January 31, 1996, JEB Corporation filed certain information as required by the Commission's September 8, 1994 order in Docket No. ER94–1432–000.

3. EDC Power Marketing, Inc., CNG Power Services Corporation, Destec Power Services, Inc., Citizens Lehman Power, PanEnergy Power Services, Inc., Koch Power Services Inc., and Williams Energy Services Co.

[Docket Nos. ER94–1538–005, ER94–1554–007, ER94–1612–006, ER94–1685–006, ER95–7–007, ER95–218–004, and ER95–305–005 (not consolidated)]

Take notice that the following informational filings have been made

with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1996, EDC Power Marketing, Inc. filed certain information as required by the Commission's September 14, 1994, order in Docket No. ER94–1538–000.

On January 31, 1996, CNG Power Services Corporation filed certain information as required by the Commission's October 25, 1994, order in Docket No. ER94–1554–000.

On January 30, 1996, Destec Power Services, Inc. filed certain information as required by the Commission's January 20, 1995, order in Docket No. ER94–1612–000.

On January 31, 1996, Citizens Lehman Power filed certain information as required by the Commission's February 2, 1995 order, in Docket No. ER94–1685–000.

On January 30, 1996, PanEnergy Services, Inc. filed certain information as required by the Commission's December 16, 1994, order in Docket No. ER95–7–000.

On January 30, 1996, Koch Power Services, Inc. filed certain information as required by the Commission's January 4, 1995, order in Docket No. ER95–218–000.

On January 31, 1996, Williams Energy Services Company filed certain information as required by the Commission's March 10, 1995, order in Docket No. ER95–305–000.

4. Howard Energy Company, Inc., IGI Resources, Inc., Conoco Power Marketing, Inc., Proler Power Marketing, Inc., Vantus Energy Corporation, USGEN Power Services, L.P., and Wicor Energy Services, Inc.

[Docket Nos. ER95–252–004, ER95–1034–002, ER95–1441–002, ER95–1433–001, ER95–1614–001, ER95–1625–002, and ER96–34–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On February 2, 1996, Howard Energy Company, Inc. filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–252–000.

On January 30, 1996, IGI Resources, Inc. filed certain information as required by the Commission's July 11, 1995, order in Docket No. ER95–1034–000.

On January 26, 1996, Conoco Power Marketing, Inc. filed certain information as required by the Commission's August 30, 1995, order in Docket No. ER95–1441–000.

On January 30, 1996, Proler Power Marketing, Inc. filed certain information as required by the Commission's October 16, 1995, order in Docket No. ER95–1433–000.

On January 26, 1996, Vantus Energy Corporation filed certain information as required by the Commission's October 20, 1995, order in Docket No. ER95–1614–000.

On January 30, 1996, USGEN Power Services, L.P. filed certain information as required by the Commission's December 13, 1995, order in Docket No. ER95–1625–000.

On January 31, 1996, Wicor Energy Services, Inc. filed certain information as required by the Commission's November 9, 1995, order in Docket No. ER96–34–000.

5. Stand Energy Corporation, Citizens Lehman Power, Tenneco Energy Marketing Company, Western Gas Resources Power, Marketing, Inc., CL Power Sales One, L.L.C., Delhi Energy Services, Inc. and CNB/Olympic Gas Services

[Docket Nos. ER95–362–004, ER95–393–007, ER95–428–004, ER95–748–002, ER95–892–003, ER95–940–003, ER95–964–003 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1996, Stand Energy Corporation filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–362–000.

On January 31, 1996, Citizens Lehman Power filed certain information as required by the Commission's January 20, 1995, order in Docket No. ER95–393–000.

On January 31, 1996, Tenneco Energy Marketing Company filed certain information as required by the Commission's February 22, 1995, order in Docket No. ER95–428–000.

On January 30, 1996, Western Gas Resources Power Marketing, Inc. filed certain information as required by the Commission's May 16, 1995, order in Docket No. ER95–748–000.

On January 31, 1996, CL Power Sales One, L.L.C. filed certain information as required by the Commission's June 8, 1995, order in Docket No. ER95–892–000.

On January 29, 1996, Delhi Energy Services, Inc. filed certain information as required by the Commission's June 1, 1995, order in Docket No. ER95–940–000.

On January 29, 1996, CNB/Olympic Gas Services filed certain information as required by the Commission's July 10, 1995, order in Docket No. ER95–964–000.

6. Duke Power Company

[Docket No. ER96–109–002]

Take notice that on January 16, 1996, Duke Power Company tendered for filing an amendment to its market-based rate schedule.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Public Service Company

[Docket No. ER96–934–000]

Take notice that on January 26, 1996, Central Illinois Public Service Company (CIPS) submitted a Service Agreement, dated January 18, 1996, establishing Coastal Electric Services Company (Coastal) as a customer under the terms of CIPS' Coordination Sales tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of January 18, 1996, for the service agreement with Coastal. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Coastal and the Illinois Commerce Commission.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power Corporation

[Docket No. ER96–935–000]

Take notice that on January 26, 1996, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and InterCoast Power Marketing Company (InterCoast). The contract provides for service under Schedule J, Negotiated Interchange Service and OS, Opportunity Sales. Cost support for both schedules has been previously filed and approved by the Commission. No specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rates.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on January 29, 1996. Waiver is appropriate because this filing does not change the rate under these two Commission accepted, existing rate schedules.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER96–936–000]

Take notice that on January 26, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Sonat Power Marketing, Inc. (Sonat). Duke states that the TSA sets out the transmission arrangements under which Duke will provide Sonat non-firm transmission service under its Transmission Service Tariff.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Power Company

[Docket No. ER96–937–000]

Take notice that on January 26, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Koch Power Services, Inc. (Koch). Duke states that the TSA sets out the transmission arrangements under which Duke will provide Koch non-firm transmission service under its Transmission Service Tariff.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Potomac Electric Power Company

[Docket No. ER96–938–000]

Take notice that on January 26, 1996, the Potomac Electric Power Company (Pepco), tendered for filing a Seventh Amendment to the 1982 agreement for electric service to its full requirements customer, Southern Maryland Electric Cooperative, Inc. (Smeco), including reduced rates for the years 1996 through 1998. These revisions to the Pepco-Smeco electric service agreement are the result of extensive negotiations and are supported by both parties. An effective date of January 1, 1996 for the revised rates and terms is requested, with waiver of notice.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company

[Docket No. ER96–939–000]

Take notice that on January 26, 1996, Public Service Company of Colorado (Public Service) and Cheyenne Light, Fuel and Power Company (Cheyenne) filed revised versions of their Point-to-Point Transmission Service Tariffs and their Network Integration Transmission Service Tariffs, which had previously been filed in Docket No. ER95–1268–000. Public Service and Cheyenne state that the purpose of their filing is to conform the terms and conditions of their comparable transmission tariffs to the terms and conditions of the Commission's *pro forma* tariffs as set out by the Commission in its Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking in Docket No. RM95–8–000.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. The Washington Water Power Company

[Docket No. ER96–940–000]

Take notice that on January 26, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, a signed service agreement under FERC Electric Tariff Volume No. 4 with Coastal Electric Services Company. Also submitted with this filing is a Certificate of Concurrence with respect to exchanges. WWP requests waiver of the prior notice requirement and requests an effective date of February 1, 1996.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Aquila Power Corporation

[Docket No. ER96–941–000]

Take notice that on January 26, 1996, Aquila Power Corporation (Aquila), tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) indicating that Aquila has satisfied the requirements for WSPP membership. Accordingly, Aquila requests that the Commission amend the WSPP Agreement to include it as a member.

Aquila requests waiver of the 60-day prior notice requirement to permit its membership in the WSPP to become effective as of January 23, 1996, the date Aquila accepted membership in the WSPP.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Power and Light Company

[Docket No. ER96–942–000]

Take notice that on January 29, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 2, 1996, establishing Jpower, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 2, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Power and Light Company

[Docket No. ER96–943–000]

Take notice that on January 29, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 2, 1996, establishing Valero Power Services Company as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 2, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Power and Light Company

[Docket No. ER96–944–000]

Take notice that on January 29, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 2, 1996, establishing Delhi Energy Services, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 2, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Power and Light Company

[Docket No. ER96–945–000]

Take notice that on January 29, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated January 23, 1996, establishing Louis Dreyfus Electric Power Company, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of January 23, 1996 and accordingly seeks waiver of the Commission's notice

requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. PECO Energy Company

[Docket No. ER96–946–000]

Take notice that on January 29, 1996, PECO Energy Company (PECO) filed a Service Agreement dated January 22, 1996, with Central Maine Power Company (CMP) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CMP as a customer under the Tariff.

PECO requests an effective date of January 22, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to CMP and to the Pennsylvania Public Utility Commission.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Northeast Utilities Service Company

[Docket No. ER96–948–000]

Take notice that on January 29, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to Phibro, Inc. (Phibro) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to Phibro.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER96–949–000]

Take notice that on January 29, 1996, Public Service company of Oklahoma and Southwestern Electric Power Company (collectively the Companies) submitted a Transmission Service Agreement, dated January 1, 1996, establishing Oklahoma Municipal Power Authority (OMPA) as a customer under the terms of the SPP Coordination Transmission Service Tariff.

The Companies request an effective date of January 1, 1996, for the service agreement. Accordingly, the Companies request waiver of the Commission's notice requirements.

A copy of the filing has been sent to OMPA, the Louisiana Public Service Commission, the Arkansas Public Service Commission and the Oklahoma Corporation Commission.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Houston Lighting & Power Company

[Docket No. ER96–950–000]

Take notice that on January 29, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Tenneco Energy Marketing Company (TEMC) for Economy Energy and Emergency Power Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of January 25, 1996.

Copies of the filing were served on TEMC and the Public Utility Commission of Texas.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Mid-Georgia Cogen, L.P.

[Docket No. QF96–26–000]

On February 5, 1996, Mid-Georgia Cogen, L.P., (Applicant) tendered for filing a supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The supplement provides additional information pertaining primarily to the ownership structure of the cogeneration facility.

Comment date: February 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. AES Puerto Rico, L.P.

[Docket No. QF96–28–000]

On January 31, 1996, AES Puerto Rico, L.P. of 1001 North 19th Street, Arlington; Virginia 22209, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the cogeneration facility will be located in the city of Barrio Jobos, in Guayama County, Puerto Rico. The facility will consist of two circulating fluidized bed boilers and one or two extraction/condensing steam turbine generators. Steam recovered from the facility will be used by Phillips Puerto Rico Core, Inc. for various process uses at a petrochemical facility. The maximum net power production capacity of the facility will be 454.3 MW. The primary energy source will be bituminous coal. Construction of the facility is expected to commence in late 1996.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3426 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–P

Notice of Application Filed With the Commission

February 9, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No:* 5276–036.

c. *Date Filed:* January 19, 1996.

d. *Applicant:* Niagara Mohawk Power Corp. and Northern Electric Power Co., L.P.

e. *Name of Project:* Hudson Falls Project.

f. *Location:* Hudson River, Saratoga and Warren Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. section 791(a)–825(r).

h. *Applicant Contact:*

Keith F. Corneau, Adirondack Hydro Development Hampshire Development Corporation, Civic Center Plaza, Suite 100, 5 Warren Street, Glens Falls, NY 12801, (518) 761–3085

Michael Murphy, Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, NY 13202, (315) 428–6941

i. *FERC Contact:* Hillary Berlin, (202) 219–0038.

j. *Comment Date:* March 15, 1996.

k. *Description of Application:* The licensee has filed as-built exhibit A showing the installed capacity (44 MW) and the hydraulic capacity (8,750 cfs) of the project.

l. The notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTESTS", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3367 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–161–000, et al.]

Texas Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

February 6, 1996.

Take notice that the following filings have been made with the Commission:

1. Texas Gas Transmission Corporation

[Docket No. CP96–161–000]

Take notice that on January 30, 1996, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP96–161–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a new natural gas delivery point for Eaton Corporation (Eaton) under Texas Gas's blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas proposes to construct and operate a side valve, 2-inch skid-mounted meter station, and appurtenant facilities on its Park City-Glasgow 8-inch Line located in Barren County, Kentucky. Texas Gas states that Eaton has requested up to 1,000 MMBtu per day of interruptible natural gas transportation service to its Glasgow plant. Texas Gas mentions that Western Kentucky Gas Company, a local distribution company and customer of Texas Gas, currently supplies Eaton on an interruptible and firm sales basis. Texas Gas asserts that Eaton would reimburse it for the cost of the new facilities estimated to be $59,600.

Comment date: March 22, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company

[Docket No. CP96–162–000]

Take notice that on January 30, 1996, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska, 68103–0330, filed in Docket No. CP96–162–000 a request pursuant to Section 157.205, and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for approval to install and operate three new delivery points to accommodate deliveries of natural gas to Greater Minnesota Gas Inc. (GMG), a local distribution company, under a currently effective transportation service agreement for residential and commercial consumption, under Northern's blanket certificate authority issued in Docket No. CP82–401–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to install and operate three new delivery points located in Blue Earth and Le Sueure Counties, Minnesota. Northern indicates that the three new delivery points will increase its peak day deliveries by 270 MMBtu, 1,020 MMBtu, and 1,020 MMBtu, respectively. It is further indicated that the three proposed delivery points will increase Northern's annual deliveries by 13,280 MMBtu, 79,250 MMBtu, and 79,250 MMBtu, respectively. Northern states that the total estimated cost to install the proposed facilities is $80,600.

Northern advises that the total volumes to be delivered to the customer after the request do not exceed the total volumes prior to the request. Northern states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes without detriment or disadvantage to Northern's other customers.

Comment date: March 22, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Florida Gas Transmission Company

[Docket No. CP96–163–000]

Take notice that on January 30, 1996, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP96–163–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, for a certificate of public convenience and necessity authorizing FGT to abandon (1) an emergency exchange service between FGT, South Georgia Natural Gas Company (South Georgia), and Southern Natural Gas Company (Southern), and (2) the related interconnecting facilities used to deliver the emergency natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT requests that the Commission issue an order authorizing the abandonment of the emergency exchange agreement performed under FGT's Rate Schedule E–16 and the related facilities that include a 3-inch orifice meter, valves, pressure regulator and miscellaneous connecting pipe. FGT states that, by a letter agreement dated November 14, 1994, South Georgia and Southern agreed to

terminate the emergency exchange agreement, and to make the termination effective September 26, 1995.

Comment date: February 26, 1996, in accordance with Standard Paragraph F at the end of this notice.

4. Tuscarora Gas Transmission Company

[Docket No. CP96–166–000]

Take notice that on January 31, 1996, Tuscarora Gas Transmission Company (Tuscarora), 6100 Neil Road, P.O. Box 30057, filed in Docket No. CP96–166–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate two taps and meter stations and appurtenant facilities in Klamath County, Oregon and Diskiyou County, California, for the delivery of gas to a new customer, WP Natural Gas for redelivery and resale to consumers in Malin, Oregon, under Tuscarora's blanket certificate issued in Docket No. CP93–685–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tuscarora proposes to install: (a) 7.34 miles of 4-inch line (b) a 1-inch pressure regulation and meter station, and (c) two 1-inch taps and associated meter stations, at an estimated cost of $889,000.

Comment date: March 22, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3427 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5423–4]

Clean Air Scientific Advisory Committee, Science Advisory Board; Emergency Notification of Public Advisory Committee Meetings: February 29, 1996 and March 1, 1996

This is an emergency notification for meetings of a Federal Advisory Committee and one of its subcommittees. Scheduling and announcement of these meetings has been delayed due to ongoing litigation that has set the schedule for the Advisory Committee's review of certain scientific documents. Information concerning this court schedule is given below.

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, notice is hereby given that two meetings of Committees of the Science Advisory Board (SAB) will be held on the dates and times indicated below. Times noted are Eastern Time and meetings are open to the public. Due to limited space, seating at these meetings will be on a first-come first-serve basis. Important Notice: Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning document availability from the relevant Program area is included below.

1. Clean Air Scientific Advisory Committee (CASAC)

The Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will meet on February 29, 1996 at the Omni Europa Hotel, One Europa Drive, Chapel Hill, North Carolina 27514. The hotel phone number is 919–968–4900. The meeting will begin at 8:30 am and end no later than 5:00 pm.

Purpose of the Meeting

The CASAC previously met on December 14–15, 1995 to review the draft criteria document for particulate matter (Air Quality Criteria for Particulate Matter) and the draft staff paper for particulate matter (Review of National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information) (See **Federal Register**, Vol 60, No. 232, pages 62089–62090 for further information concerning that meeting). At that meeting and in its subsequent report to the EPA Administrator (EPA–SAB–CASAC–LTR–96–003, dated January 5, 1996—see below for ordering information), the Committee reached closure on portions of the draft Criteria Document. However, it was the Committees' view that Chapters 1 (Executive Summary), 5 (Sources and Emissions), 6 (Air Quality) and 13 (Integrative Synthesis) of the draft Criteria Document required further review. The Committee also recommended revisions and further review of the draft Staff Paper. As part of their comments on the draft Staff Paper, the Committee recommended that the staff conduct and summarize the results of a quantitative risk assessment for the current and recommended alternative particle standards.

Preparation and review of the draft Criteria Document and draft Staff Paper are being conducted according to a schedule imposed by court orders entered in American Lung Association v. Browner, No. CIV 93–643 (D. Ariz.). That schedule would not permit the additional review and revisions recommended by CASAC. For this reason, the Agency has filed an unopposed motion with the Court, seeking to extend the schedule by the amount needed for further revisions and review. At the time of this submission to the **Federal Register**, there is no word as to when or whether this motion will be granted. In order to avoid unnecessary delays, however, EPA believes it is imperative to make arrangements that would be needed to meet the extended schedule. Accordingly, in order to secure meeting facilities and to provide CASAC and interested members of the public adequate notice of the meeting and the availability of documents, EPA is issuing this notice on the assumption that the Court will grant the motion to extend the schedule, even though there is no certainty that the Court will do so.

At the February 29, 1996 meeting, the Committee will review and provide advice to EPA on Chapters 1, 5, 6, and 13 of the draft Criteria Document. The Committee will consider presentations from Agency staff and the interested public prior to making recommendations to the Administrator. The Committee will also receive a briefing from the Office of Air Quality Planning and Standards (OAQPS) on the proposed methodology for conducting the recommended risk assessment. The proposed methodology is summarized in two documents: (a) Particulate Matter NAAQS Risk Analysis Project Plan, and (b) Proposed Methodology for PM Risk Analysis in Selected Cities. In addition, the Committee has tentatively scheduled a public review meeting in May 1996 for the revised Particulate Matter Staff Paper.

Availability of Review Materials

(a) Air Quality Criteria for Particulate Matter (The Draft Criteria Document)—Copies of revised Chapters 1, 5, 6 and 13 materials to be reviewed by the Committee at the February 29th meeting will be made available to the public at that meeting. Full copies of all PM Criteria Document draft chapters will also be available for public inspection at the February 29, 1996 CASAC meeting.

Hard copies of the revised materials will also be made available in the Air Docket at EPA Headquarters, 401 M Street, Washington, DC, and in each of the EPA Regional Office Libraries during the week of February 12, 1996, shortly after they are forwarded to the CASAC Review Panel. For information regarding locations and office hours for the EPA Air Docket or Regional Office Libraries, please consult 60 FR 20085, April 24, 1995. For the benefit of interested parties, an electronic version of the revised draft Particulate Matter Criteria materials (EPA 600/BP–95/001 a–c) will be available on the Agency's TTN Bulletin Board (reachable via modem on (919) 541–5742). To access the TTN Bulletin Board, a modem and communications software will be necessary. The terminal emulation needs to be VT100, VT102 or ANSI. The following parameters on the communications software are required: Data bits—8; Parity—N; and Stop Bits—1. The document will be located under the Clean Air Act Amendments BBS under Title I, Policy and Guidance. For INTERNET access—go to Telenet Site and enter TTNBBS.RTPNC.EPA.GOV or IP Number 134.67.234.17. For INTERNET, we do not have FTP to download documents. Requester must have Kermit Protocol Program or pay a fee for SLIP account for downloading capabilities. Once in the TTN Bulletin Board, you must register (there is no charge for this). At the prompt for name, you should enter your name; at the prompt for password, make up a password (8 characters); select registration and enter registration information including company name. Then follow instructions.

For assistance in assessing the draft materials, please contact the Help Desk at (919) 541–5384 in Research Triangle Park, NC. Copies of figures for some chapters (e.g., Chapter 6) may not be available by this electronic bulletin board, but can be obtained by contacting Ms. Diane Ray at the numbers given below. For further information concerning the availability of the four draft chapters under review (Chapters 1, 5, 6 and 13), please contact: Ms. Diane Ray at the numbers listed below.

Due to tight time constraints imposed for completion of the Particulate Matter Criteria Document, on the assumption that EPA's motion to extend the schedule is granted, EPA will accept written public comments received by March 15, 1996 only on the revised draft chapter (Chapters 1, 5, 6 & 13) materials reviewed at the February 29th CASAC meeting. Given prior opportunities for public comment and review on the other draft Criteria Document chapters and relatively limited revisions to them, EPA will not accept further comments on those other chapters. Written comments on revised Chapter 1, 5, 6 and 13 materials of the draft Particulate Matter Criteria Document must be received no later than March 15, 1996 by Ms. Diane Ray, US EPA, 3200 Progress Center, Highway 54, Research Triangle Park, NC 27709. Telephone: (919) 541–3637; fax: (919) 541–1818.

(b) *Particulate Matter NAAQS Risk Analysis Project Plan, and Proposed Methodology for PM Risk Analyses in Selected Cities*—Hard copies of these materials will be available from Ms. Tricia Crabtree, Office of Air Quality Planning and Standards (MD–15), U.S. EPA, Research Triangle Park, NC 27711. Ms. Crabtree can also be reached by telephone at (919) 541–5655 or by fax at (919) 541–0237. An electronic version of both documents will be available on the Agency's TTN Bulletin Board, under the Clean Air Act Amendments BBSA under Title I, Policy and Guidance. Other details for TTN access are as indicated above for the criteria document. To arrange for copies of specific figures/graphs, not adequately reproduced with the TTN Bulletin Board, contact Ms. Trish Crabtree at the previously stated location/phone number. The OAQPS will accept written comments from the public on both documents through March 7, 1996. Written comments should be sent to Ms. Crabtree at the previously stated address.

For Further Information

Members of the public desiring additional information about the meeting, including an agenda, should contact Mr. Robert Flaak, Designated Federal Official, Clean Air Scientific Advisory Committee, Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–5133; fax at (202) 260–7118; or via the INTERNET at FLAAK.ROBERT@EPAMAIL.EPA.GOV. To obtain copies of CASAC reports such as the one noted earlier, please contact Ms. Lori Gross on (202) 260–8414, fax on (202) 260–1889 or via the Internet at GROSS.LORI@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Friday, February 23, 1996 in order to be included on the Agenda. Since the Committee has already received oral and written public comments on the entire draft criteria document (including Chapters 1, 5, 6, and 13), public comments during this meeting will be limited to a discussion of those new issues contained in the relevant chapters of the Criteria Document (Chapters 1, 5, 6 and 13) and any comments concerning the risk assessment methodology. The request should identify the name of the

individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself.

Written comments to CASAC (as part of its FACA process) on Chapters 1, 5, 6 and 13 and the risk assessment methodology will be accepted up until the meeting, as is our normal practice. In case of extreme hardship, provision can be made for individual commentors to provide written comments directly to Committee members/consultants up through March 6, 1996. This limitation is imposed because, on the assumption that EPA's motion to extend the schedule is granted, the Committee must close on its review and forward its final recommendations on the Criteria Document to the EPA Administrator by Friday, March 15, 1996. Please contact Mr. Flaak (address above) for further details.

2. CASAC Technical Subcommittee for Fine Particle Monitoring

The CASAC Fine Particle Monitoring Subcommittee will meet on March 1, 1996 at the Omni Europa Hotel, One Europa Drive, Chapel Hill, North Carolina 27514. The hotel phone number is 919–968–4900. The meeting will begin at 8:30 a.m. and end no later than 1:00 p.m. This is the first meeting of this Subcommittee. An additional public meeting or public teleconference is planned but not yet scheduled.

Purpose of the Meeting

This technical subcommittee of CASAC has been established to provide advice and comment to EPA on appropriate methods and network strategies for monitoring fine particles in the context of implementing a possible revised national ambient air quality standard for particulate matter. In preparation for the meeting, EPA has produced the following three draft documents: (a) Office of Air Quality Planning and Standards Staff Recommendations for Characteristics of a Fine Particle Federal Reference Method; (b) Development of a Federal Reference Method for Fine Particles: Current Methodology; and (c) Regulatory Monitoring Strategy for a Revised PM NAAQS: A Blueprint for a New National Monitoring Program for PM.

At the meeting, staff from the Office of Air Quality Planning and Standards and the National Exposure Research Laboratory will provide a briefing regarding its approach to a possible fine particle Federal Reference Method and Performance Requirements for Reference and Equivalent Methods and give an overview of the draft guidance for network design, siting and operations.

Availability of Review Materials

Hard copies of the materials will be available from Ms. Tricia Crabtree, Office of Air Quality Planning and Standards (MD–15), U.S. EPA, Research Triangle Park, NC 27711. Ms. Crabtree can also be reached by telephone at (919) 541–5655 or by fax at (919) 541–0237. Electronic versions of the documents will be available on the Agency's TTN Bulletin Board, under the Clean Air Act Amendments BBSA under Title I, Policy and Guidance. Other details for TTN access are as indicated above for the criteria document. To arrange for copies of specific figures/graphs, not adequately reproduced with the TTN Bulletin Board, contact Ms. Trish Crabtree at the previously stated location/phone number. The OAQPS will accept written comments from the public on both documents through March 15, 1996. Written comments should be sent to Ms. Crabtree at the previously stated address.

For Further Information

Members of the public desiring additional information about the meeting, including an agenda, should contact Mr. Robert Flaak, Designated Federal Official, Clean Air Scientific Advisory Committee, Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–5133; fax at (202) 260–7118; or via the INTERNET at FLAAK.ROBERT@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation to the Subcommittee concerning the regulatory packages must contact Mr. Flaak in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Friday, February 23, 1996 in order to be included on the Agenda. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself.

Written comments to the Subcommittee concerning the regulatory packages will be accepted until March 15, 1996. Please send these comments directly to Mr. Flaak (35 copies please).

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. For conference call meetings, opportunities for oral comment are limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments of any length (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of its meeting, unless other publicly announced arrangements have been made.

Date: February 9, 1996.

Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 96–3484 Filed 2–14–96; 8:45 am]

BILLING CODE 6560–50–P 214

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

February 8, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 15, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: New Collection.
Title: Alternative Broadcast Inspection Program (ABIP) Compliance Notification.
Form No.: N/A.
Type of Review: New Collection.
Respondents: State broadcast associations; other broadcast related associations; small businesses.
Number of Respondents: 50.
Estimated Time Per Response: 5 minutes.
Total Annual Burden: 125 hours.
Needs and Uses: The Commission is establishing a voluntary ABIP where entities that conduct the ABIP inspection (usually state broadcast associations) will notify the Commission of the stations that have passed inspection. This information collection will require entities to file a statement with their local FCC field office, by regular or electronic mail, that a given station with the field office's geographic district has passed an ABIP inspection. The Commission will use the information to determine which stations are exempted for a two or three year period from random inspections conducted by the local FCC field office.

OMB Approval No.: 3060–0550.
Title: Certification of Franchising Authority to Regulate Basic Cable Service Rates and Initial Finding of Lack of Effective Competion.
Form No.: FCC Form 328.
Type of Review: Extension of currently approved collection.
Respondents: State, Local or Tribal Government.
Number of Respondents: 800.
Estimated Time Per Response: 30 minutes.
Total Annual Burden: 400 hours.
Needs and Uses: On 4/1/93, the Commission adopted a Report and Order, FCC 93–177, MM Docket No. 92–266. Among other things, this Report and Order implements Section 623(a)(3) of the Communications Act of 1934, as amended, wherein a local franchise authority is required to file with the Commission a written certification when it requests to regulate basic service rates. Subsequently, the Commission developed the FCC Form 328 to provide a standardized, simple form for meeting this requirement.

To fulfill the obligations set forth under Section 623(a)(3) a franchise authority must: (1) adopt regulations consistent with the Commission's regulations for basic cable service; (2) have legal authority to regulate basic service which comes from state law; (3) the personnel to administer such regulations; and (4) have procedural regulations allowing for public participation in rate regulation proceedings. The FCC Form 328 is reviewed by FCC staff to ensure that a franchising authority has met the criteria specified in Section 623(a)(3) of the Communications Act of 1934 as amended.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3421 Filed 2–14–96; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Requirement Submitted to OMB for Emergency Review and Approval

February 8, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the Functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the provided burden estimate; (c) ways to enhance the quality, utility, and clarity of the information colleted and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques. The Commission has requested an emergency OMB review of this collection with an approval by February 12, 1996.

DATES: Persons wishing to comment on this information collection should submit comments March 18, 1996.

ADDRESS: Direct all comments to Timothy Fain, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3561 or via internet at fain_t@a1.eop.gov, and Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: None.
Title: Past Performance Evaluation (in compliance with the Federal Acquisitions Regulations (FAR)).
Form No.: N/A.
Type of Review: New Collection.
Respondents: Business or other for-profit;small businesses or organizations, federal government, and State, local or Tribal government.
Number of Respondents: 50.
Estimated Time Per Response: 15 minutes (.25 hours per response).
Total Annual Burden: 125 hours total annual burden.
Needs and Uses: The information will be used by the Commission to evaluate past performance of potential offerors for various government contracts. The evaluation information will be used for determining responsibility and as a comparison of which offeror provides the best value for the Government. The Commission will focus on information that demonstrates quality of performance relative to the size and complexity of the procurement under consideration.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3422 Filed 2–14–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1092–DR]

Connecticut; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA–1092–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 24, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Connecticut resulting from "the Blizzard of 1996" which occurred on January 7–13, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Connecticut.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that were required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sharon L. Stoffel of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–3468 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1092–DR]

Connecticut; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Connecticut, (FEMA–1092–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Connecticut, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, and Windham Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3463 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1082–DR]

Delaware; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Delaware, (FEMA–1082–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Delaware is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 12, 1996:

Kent, New Castle, and Sussex Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3476 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1089–DR]

Kentucky; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky, (FEMA–1089–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Kentucky, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Adair, Allen, Anderson, Ballard, Barren, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clay, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Johnson, Kenton, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Livingston, Logan, Lyon, McCracken, McCreary, McLean, Madison, Magoffin, Marion, Marshall, Martin, Mason, Meade, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Wayne, Webster, Whitley, Wolfe, and Woodford Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3482 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1094–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland, (FEMA–1094–DR), dated January 23, 1996, and related determinations.

EFFECTIVE DATE: February 5, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 23, 1996:

Carroll County for Individual Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3465 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1081–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland, (FEMA–1081–DR), dated January 11, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 11, 1996:

Allegany, Calvert, Caroline, Cecil, Charles, Dorchester, Frederick, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, and Worcester Counties and Ocean City for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3475 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1090–DR]

Massachusetts; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Massachusetts, (FEMA–1090–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Massachusetts, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3473 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1090–DR]

Massachusetts; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA–1090–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 24,1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal

Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 24,1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Massachusetts, resulting from "the Blizzard of 1996", on January 7–13, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Commonwealth of Massachusetts.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that were required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sharon L. Stoffel of the Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–3469 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1095–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective January 30, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3466 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1097–DR]

Ohio; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1097–DR), dated January 27, 1966, and related determinations.

EFFECTIVE DATE: February 8, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 27, 1996:

Adams County for Individual Assistance, Public Assistance and Hazard Mitigation;
Brown County for Individual Assistance and Hazard Mitigation;
Gallia County for Public Assistance and Hazard Mitigation; and
Scioto County for Individual Assistance (already designated for Public Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3467 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: February 8, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Bucks and Jefferson Counties for Public Assistance (already designated for Individual Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3464 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: February 6, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Clearfield, Fayette, Fulton, Greene, Northampton, Perry, and Washington Counties for Public Assistance and Hazard Mitigation (already designated for Individual Assistance); and
Beaver, Berks, Bucks, Butler, Cambria, Chester, Clarion, Crawford, Delaware, Erie, Forest, Franklin, Jefferson, Lancaster, Lawrence, Lebanon, Mercer, Montgomery, Philadelphia, Venango, Warren, and York for Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3472 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1091–DR]

Rhode Island; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Rhode Island, (FEMA–1091–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Rhode Island, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

Bristol, Kent, Newport, Providence, and Washington Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3483 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1091–DR]

Rhode Island; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Rhode Island (FEMA–1091–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 24, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Rhode Island, resulting from "the Blizzard of 1996", on January 7–13, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Rhode Island.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that were required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sharon L. Stoffel of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–3471 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1098–DR]

Commonwealth of Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia (FEMA–1098–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective February 1, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3477 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1098–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, (FEMA–1098–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia, is hereby amended to include Public Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 27, 1996:

The counties of Alleghany, Augusta, Bath, Botetourt, Frederick, Loudoun, Page, Rockbridge, Rockingham and Shenandoah and the City of Covington for Public Assistance (already designated for Individual Assistance and Hazard Mitigation Assistance).

The counties of Bland, Giles, Grayson, Highland, Rappahanock, Washington and Wythe for Public Assistance and Hazard Mitigation Assistance.

The City of Harrisonburg for Individual Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3478 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1086–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, (FEMA–1086–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 6, 1996

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

The Cities of Bedford, Chesapeake, Fairfax, Hampton, Manassas Park, Norfolk, Poquoson, Suffolk, Williamsburg; and

The Counties of Accomack, Amherst, Appomattox, Bath, Brunswick, Carroll, Charlotte, Cumberland, Dinwiddie, Essex, Fauquier, Floyd, Fluvanna, Giles, Gloucester, Goochland, Grayson, Greensville, Hanover, Isle of Wight, King & Queen, King William, Mecklenburg, Middlesex, Nelson, Northampton, Northumberland, Nottoway, Page, Pittsylvania, Powhatan, Pulaski, Rappahannock, Southampton, Spotsylvania, Stafford, Sussex and Westmoreland for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3480 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1086–DR]

Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Virginia, (FEMA–1086–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Virginia, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

The Cities of Alexandria, Bristol, Buena Vista, Charlottesville, Clifton Forge, Colonial Heights, Covington, Danville, Emporia, Falls Church, Franklin, Fredericksburg, Galax, Harrisonburg, Hopewell, Lexington, Lynchburg, Manassas, Martinsville, Newport News, Norton, Petersburg, Portsmouth, Radford, Richmond, Roanoke, Salem, South Boston Town, Staunton, Virginia Beach, Waynesboro, and Winchester; and

The Counties of Alleghany, Albemarle, Amelia, Arlington, Augusta, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Caroline, Charles City, Chesterfield, Clarke, Craig, Culpeper, Dickenson, Fairfax, Franklin, Frederick, Greene, Halifax, Henrico, Henry, Highland, James City, King George, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Madison, Mathews, Montgomery, New Kent, Orange, Patrick, Prince Edward, Prince George, Prince William, Richmond, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Surry, Tazewell, Warren, Washington, Wise, Wythe, and York for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3481 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1098–DR]

Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Virginia (FEMA–1098–DR), dated January 27, 1996, and related determinations.

EFFECTIVE DATE: January 27, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 27, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Virginia, resulting from flooding on January 19, 1996, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Commonwealth of Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Virginia to have been affected adversely by this declared major disaster:

Alleghany, Bath, Botetourt, Shenandoah, and Warren Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–3470 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1079–DR]

Washington; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington, (FEMA–1079–DR), dated January 3, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Washington, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 3, 1996:

Pierce County for Public Assistance and Hazard Mitigation Assistance (already designated for Individual Assistance)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3474 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1084–DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia, (FEMA–1084–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West Virginia is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–3479 Filed 2–14–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Farmers State Corporation, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 96-2042) published on pages 3713 and 3714 of the issue for Thursday, February 1, 1996.

Under the Federal Reserve Bank of Minneapolis heading, the entries for JRS Investments, Limited Partnership, Billings, Montana, and Nbar5, Limited Partnership, Ranchester, Wyoming, are revised to read as follows:

1. JRS Investments, Limited Partnership, Billings, Montana; to become a bank holding company by acquiring 17.30 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Commerce, Billings, Montana, and First Interstate Bank of Commerce, Sheridan, Wyoming.

2. Nbar5, Limited Partnership, Ranchester, Wyoming; to become a bank holding company by acquiring 24.78 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Commerce, Billings, Montana, and First Interstate Bank of Commerce, Sheridan, Wyoming.

Comments on this application must be received by February 25, 1996.

Board of Governors of the Federal Reserve System, February 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3340 Filed 2–14–96; 8:45 am]

BILLING CODE 6210–01–F

FCNB Corp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has given notice under § 225.23(a)(2) or (e) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (e)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than February 29, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. FCNB Corp, Frederick, Maryland; to acquire Harbor Investment Corporation, Odenton, Maryland, and thereby indirectly acquire Odenton Federal Savings and Loan Association, Odenton, Maryland, and thereby engage in the operation of a savings and loan association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3339 Filed 2–14–96; 8:45 am]

BILLING CODE 6210–01–F

Magnolia Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than March 11, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Magnolia Bancorp, Inc., Magnolia, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Magnolia Company, Magnolia, Ohio.

Board of Governors of the Federal Reserve System, February 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3341 Filed 2–14–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. 42 CFR 50 Subpart B: Sterilization of Persons in Federally Assisted Family Planning Projects—0937–0166—Extension no Change—These regulations and informed consent procedures are associated with Federally-funded sterilization services. Selected consent forms are audited during site visits and program reviews to ensure compliance with regulations and the protection of the rights of individuals undergoing sterilization. Respondents: individuals, state or local governments, not-for-profit institutions; Burden Estimate for Consent Form—Annual Responses: 40,000; Burden per Response: one hour; Total Burden for Consent Form: 40,000 hours—Burden Estimate for Recordkeeping Requirement—Number of Recordkeepers: 4,000; Average Burden per Recordkeeper: 2.5 hours; Total Burden for Recordkeeping: 10,000 hours. Total Burden: 50,000 hours.

2. Evaluation of Family Preservation and Reunification Services—New—The key goals of family preservation programs are to avoid unnecessary foster care placement, ensure the safety of children, and improve family functioning. This evaluation will test, in six sites, whether these service delivery objectives are attained. The results will be used to inform policy decisions. Child welfare case workers, investigating workers and caretakers of families receiving services will be interviewed. Respondents: individuals or households, state or local governments, not-for-profit institutions. Burden Information—Investigating Worker Interviews—Numbers: 2,000; Times per Interview: 20 minutes; Burden: 667 hours—Caseworker Interviews—Number: 3,000; Frequency: twice; Time: 20 minutes; Burden: 2,000 hours—Caretaker Interviews—Number: 3,000; Frequency: 3 times; Average Time: 55 minutes; Burden: 8,250 hours—Staff Questionnaire—Number: 150: Time: 15 minutes; Burden: 38 hours—Contact Sheets—Number: 21,000; Time: 5 minutes; Burden: 1,750 hours—Administrative Burden—468 hours—Total Burden—13,173 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619–1053. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Dated: February 5, 1996.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 96–3336 Filed 2–14–96; 8:45 am]

BILLING CODE 4150–04–M

Program Support Center; Statement of Organization, Functions and Delegations of Authority

Part P, (Program Support Center) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (60 FR 51480, October 2, 1995 as amended most recently at 61 FR 1761, January 23, 1996) is amended to reflect changes in Chapter PA within Part P, Program Support Center (PSC), Department of Health and Human Services (DHHS).

Program Support Center

Under Section P–20, Functions, after the title and statement for Chapter PA, Office of the Director, add the following titles and statements:

Office of Budget and Finance (PA2)

(1) Prepares the PSC budget for presentation to and approval by the Board of Directors to the HHS Service and Supply Fund; (2) Executes approved PSC budgets, issuing allotments and allowances as approved by the Director, PSC, and consistent with funding levels approved by the Board; (3) Provides leadership and direction for PSC financial management activities; (4) Develops policies and instructions for PSC budget preparation and presentation; (5) Prepares periodic reports on the status of PSC funds; (6) Issues FTE ceiling vouchers to PSC components, controls FTEs allocated to the PSC components and prepares quarterly FTE reports for submission to the Department and OMB; (7) Collaborates in the development of financial planning for PSC; (8) Prepares responses and special analyses to answer inquiries with budgetary implications; (9) Provides technical financial consultation, advice and training to staff located in PSC components; and (10) Reviews and coordinates arrangements of inter- and intra-agency funding for projects and functions.

Office of Marketing (PA3)

(1) Provides an overall marketing program for the PSC to market services on a fee-for-service basis to current and prospective customers both internally and externally of DHHS; (2) Develops products to support and enhance the marketing of PSC services, including presentations, brochures, and detailed technical descriptions; (3) Develops, directs and markets strategic promotional plans to add to the customer base and enhance the visibility, credibility and utility of the PSC; and (4) Designs and conducts customer surveys and research projects to determine customer attitudes and determine if PSC Services' products are meeting customer requirements.

Office of Equal Employment Opportunity (PA4)

(1) Develops and recommends for adoption PSC-wide EEO policies, goals, and priorities designed to carry out the intent of the Office of Personnel Management, Equal Employment Opportunity Commission and DHHS equal employment opportunity policies and requirements under Executive Order 11478; (2) Provides leadership, direction, and technical guidance to PSC Services for the development of comprehensive EEO programs and plans; (3) Develops plans, programs, and procedures designed to assure the prompt receipt, investigation, and resolution of complaints of alleged discrimination by reason of race, sex, age, religion, national origin, or handicap; (4) Coordinates the development of comprehensive special emphasis programs to assure full recognition of the needs of women, Hispanics, other minorities, and the handicapped in hiring and employment; (5) Assures the development of training courses in EEO for all PSC supervisory personnel; (6) Monitors the effectiveness of EEO progress in PSC and prepares, or coordinates the preparation of, reports and analyses designed to show the status of employment of women and minorities in the PSC; and (7) Provides technical assistance and coordinates and monitors the development and preparation of the PSC-wide Affirmative Action Program.

Office of Management Operations (PA5)

(1) Provides administrative and staff support services to the Office of the Director, PSC; (2) Develops, coordinates, and implements policies, standards, and procedures governing the administration of the PSC delegations of authority; (3) Develops, coordinates, and implements policies, standards, and procedures governing the establishment and maintenance of effective organizational structures and functional alignments within the PSC; (4) Administers the Standard Administrative Code (SAC) system for the PSC; (5) Monitors, evaluates, and controls the preparation of PSC responses and proposed DHHS responses to PSC-related OIG reports (including internal reviews, analyses and inspections, and investigations); (6) Coordinates and implements DHHS policies and procedures regarding the Privacy Act of 1974 and the Freedom of Information Act for the PSC; (7) Coordinates the implementation of the Government Performance and Results Act (GPRA) within the PSC; and (8) Provides management analysis assistance to PSC components and/or task groups, conducts management improvement studies, and special management problem analyses.

This reorganization is effective upon date of signature.

Dated: February 9, 1996.

John C. West,

Acting Director, Program Support Center.

[FR Doc. 96–3486 Filed 2–14–96; 8:45 am]

BILLING CODE 4160–17–M

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) this notice is publishing the following summaries of proposed collections for public comment. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any

of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Hospital Standard for Potentially HIV Infectious Blood and Blood Products; *Form No.:* HCFA–R–190; *Use:* Hospitals must establish policies and procedures and document patient notification efforts if they have administered potentially HIV infectious blood and blood products; *Frequency:* On occasion; *Affected Public:* Business or other for profit, Not for profit institutions; *Number of Respondents:* 16; *Totol Annual Responses:* 16; *Total Annual Hours Requested:* 16.

To request copies of the proposed paperwork collection referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Zaneta Davis, 7500 Security Boulevard, Room C2–26–17, Baltimore, Maryland 21244–1850.

Dated: February 6, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff.

[FR Doc. 96–3434 Filed 2–14–96; 8:45 am]

BILLING CODE 4120–03–M

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Medicaid Eligibility Criteria; *Form No.:* HCFA–SP–1; *Use:* To standardize the display of information on the posteligibility process in the State's Medicaid plan. The State plan is issued as a basis for Federal Financial Participation in the State program; *Frequency:* On occasion; *Affected Public:* Federal Government and State, local, or tribal government; *Number of Respondents:* 56; *Total Annual Responses:* 896; *Total Annual Hours:* 529.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 8, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–3432 Filed 2–14–96; 8:45 am]

BILLING CODE 4120–03–P

Information Collection Requirements Submitted for Public Comment: Submission for Office of Management and Budget (OMB) Review

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement abstracted below has been submitted to the Office of Management and Budget (OMB) for review and comment. Because of the many concerns raised by both suppliers and physicians during this review process, HCFA has made several changes to the forms used to collect this information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection budget.

1. *Type of Information Collection Request:* Revision of a Currently Approved Collection; *Title of Information Collection:* Durable Medical Equipment Regional Carrier, Certificate of Medical Necessity; *Form No.:* HCFA–R–182; *Use:* A Certificate of Medical Necessity is a standardized format used to communicate information provide by an attending physician and a supplier of medical equipment and supplies. The information is used by carriers to determine the medical necessity of an item or service covered by the Medicare program and being used for the treatment of the Medicare beneficiary's condition. The CMNs currently under OMB review are necessary in order for HCFA to determine the medical necessity of the item or service. The information needed to make this determination requires application of medical judgment that can only be provided by a physician or other clinician who is familiar with the condition of the beneficiary. *Frequency:* On Occasion; *Affected Public:* Suppliers and Physicians, Business or other for profit, Federal Government; *Number of Respondents:* 140,000; *Total Annual Responses:* 6.8 million; *Total Annual Hours Requested:* 1.7 million.

The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 13, 1995. To request copies of the proposed paperwork collection referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collection should be sent before March 9, 1996, directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 8, 1996.

Kathleen B. Larson,

Director Management Planning and Analysis Staff.

[FR Doc. 96–3433 Filed 2–14–96; 8:45 am]

BILLING CODE 4120–03–P

Office of Inspector General

Program Exclusions: December 1995 and January 1996

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the months of December 1995 and January 1996, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
Program-Related Convictions	
Adeyemi, Mukaila B., Owings Mills, MD	02/15/96
Archuleta, Sheila K., Lakewood, CO	02/13/96
Armstrong Medical Transport, Bryan, TX	02/12/96
Balorac, Inc., TX	02/12/96
Branch, Freddie L., Baltimore, MD	02/15/96
Browder, Deborah A., Greenville, OH	12/28/95
Christmas, Harry M., Bunkie, LA	02/12/96
Coker, Ronald D., Anthony, NM	02/13/96
Delgado-Corbas, Froilan, Miami, FL	02/15/96
Fares, Abdelkader H., Dearborn Heights, MI	02/12/96
Franklin County EMS Inc., Christopher, IL	02/12/96
Gansz, Sherry L., Jerseyville, IL	02/12/96
Geiser, Grace Baldeo, Glendale, CA	02/14/96
Hale, Dan E., Morristown, TN	02/15/96
Hall, Sandra Y. Baltimore, MD	02/15/96
Hart, John, Kewanee, IL	12/28/95
Jaramillo, James D.C., Los Lumas, NM	02/13/96
Jenkins, Linda Faye, Bryan, TX	02/12/96
Johnson, Floyd, Cairo, IL	02/12/96
Jones, Thomas W., Gretna, LA	02/12/96
Keatts, James G. El Paso, TX	02/12/96
Lamas, Elva R., Hialeah, FL	02/15/96
Liebowitz, Theodore, N Woodmere, NY	02/13/96
Mares, Alberto, Three Rivers, TX	02/12/96
Miller, Gerald A., Ellicott City, MD	02/15/96
Monato, Benjamin A., Bloomfield Hills, MI	02/12/96
Peregoy, Karen L., Evans, CO	02/13/96
Pullen, Sonia A., Baltimore, MD	02/15/96
Rehman, Khalil, Shirley, NY	02/13/96
Reyes, Patricia A., N Little Rock, AR	02/12/96
Richardson, Carolyn E., Baltiomore, MD	02/15/96
Robinson, Bertha L., Bryan, TX	02/12/96
Rose, William W. Jr., Cerritos, CA	02/14/96
Sacay, Emmanuel E., Cincinnati OH	12/28/95
Vest, Thomas Bruce, Godlrey, IL	02/12/96
Villalva, Amado B., Grand Junction, CO	02/13/96
Walayat, Kahn A., MD, PC, Ypsilanti, MI	02/12/96
Patient Abuse/Neglect Convictions	
Aymat, Fernando, Cleveland, OH	02/12/96
Boles, Margaret A., N Little Rock, AR	02/12/96
Donaldson, Bridgette, Memphis, TN	02/15/96
Ehler, Richard G., Grady, AR	02/12/96
Griffin, James H., San Antonio, TX	02/12/96
Grippo, Michael A., Thorton, CO	02/13/96
Hudspeth, Robert III, Eunice, LA	02/12/96
Iqbal, Shahid, Madison Heights, MI	02/12/96
Kellogg, Lyle R., Harrison, MI	02/12/96
Kelly, Gary Don, Brickeys, AR	02/12/96
Kennedy, Richard D., Camp Hill, PA	02/15/96
Lee, Patricia M., Memphis, TN	02/15/96
McLaughlin, Joseph Eric, Hope, AR	02/12/96
Moore, Shelonda, Dayton, OH	12/28/95
Peh, Khang Hong, Xenia, OH	02/12/96
Woolridge, Clifton, Columbus, OH	02/12/96
Conviction for Health Care Fraud	
Briggs, Karen Marie, New Orleans, LA	02/12/96
Harmason, Tonya Laverne, Plaquemine, LA	02/12/96
Jones, Betty Channel, Plaquemine, LA	02/12/96
Landrum, Tammie B., New Orleans, LA	02/12/96
Neu, Nanette M., Milwaukee, WI	02/12/96
Richardson, Cassandra Yvette, New Orleans, LA	02/12/96
Swerdloff, Fred, Los Angeles, CA	02/14/96
Controlled Substance Convictions	
Gold, Arnold Z., Oil City, PA	02/15/96
Griffin, William R. Jr., Pickerington, OH	02/12/96
Parker, Kenneth C., Akron, OH	02/12/96
License Revocation/Suspension/Surrender	
Andrew, Dorothy W., Lubbock, TX	02/12/96
Boylan, Richard J., Sacramento, CA	02/14/96
Buckingham, Vada P., Tyngsboro, MA	02/13/96
Carey, Donna M., Arlington, MA	02/13/96
Cobb, Charles R., Saipan, MP 96950, CA	02/14/96
Cohen, Linda Willis Darlene, Sylmar, CA	02/14/96
Cohen, Steven S., Mercersburg, PA	02/15/96
Dibenedetto, Francis W., Galloway, OH	02/12/96
Dobrow, Bernard, Los Gatos, CA	02/14/96
Farmer, Robert A., Vacaville, CA	02/14/96
Frederick, Thomas B., Fond Du Lac, WI	02/12/96
Giannattasio, Vincent A., Brookfield, WI	02/12/96
Hardee, Myra J., Kerrville, TX	02/12/96
Hicks, William J., Rochester, NY	02/13/96
Jones, Jeanette N., San Antonio, TX	02/12/96
Lauzier, Peter L., Plymouth, MA	02/13/96
Martin, Richard A., Santa Rosa, CA	02/14/96
Navarro, Ernesto A., Laredo, TX	02/12/96
Odams, David J., Albuquerque, NM	02/13/96
Popovic, Deyan N., New York, NY	02/13/96
Reardon, Lynne, North Haven, CT	02/13/96
Sahlin, Peter B., Dedham, MA	02/13/96
Springfield, Steven Douglas, Little Rock, AR	02/12/96
Tobin, Mary, New London, CT	02/13/96

Subject, city, state	Effective date
Vasquez, Edward L., Victoria, TX	02/12/96
Westfall, Robert E., Berkeley, CA	02/14/96
Williams, David K., London, W1A 1GU	02/14/96
Wolkoff, Kenneth A., Palm Beach Garden, FL	02/13/96
Zuefelt, Sherri Lee, London Ontario, TX	02/12/96
Federal/State Exclusion/Suspension	
A&I Health Aids, NY	02/13/96
Akery, Earl J., Deming, NM	02/13/96
Aronoff, Nathaniel, Oceanside, NY	02/13/96
McFarland, James A., Redding, CA	02/14/96
Metellus, Fritz, Far Rockaway, NY	02/13/96
Piselli, Ronald R., Philadelphia, PA	02/15/96
Villanueva, Thelma C., Scarsdale, NY	02/13/96
Owned/Controlled by Convicted/Excluded	
Allant Health Care Inc., Miami, FL	02/15/96
Armstrong, Carolyn Ann, Bryan, TX	02/12/96
Barbara's Transportation, Bunkie, LA	02/12/96
Carolyn's Medical Transport, Bryan, TX	02/12/96
Courie Medical Center Corp., Miami, FL	02/15/96
Erickson Eye Clinic, Great Falls, NE	02/13/96
Express Health Care Services, Miami, FL	02/15/96
Genesis Services, Inc., Aurora, CO	02/13/96
Grove Health Care, Inc., Miami, FL	02/15/96
James D.C. Jaramillo, MD, PC., Los Lunas, NM	02/13/96
Joergens' Chiropractic Ctr., Staten Island, NY	02/13/96
Karil Health Care, Inc., Miami, FL	02/15/96
L & M Health Care and Mgmt Inc., Miami, FL	02/15/96
Morfa Healthcare, Inc., Miami, FL	02/15/96
Nutrition and Health Care Inc., Miami, FL	02/15/96
Pocono Immediate Medical Care, Stroudsburg, PA	02/15/96
Ron Coker Drug, Inc., Anthony, NM	02/13/96
Sterling Optical, West Seneca, NY	02/13/96
Default on Heal Loan	
Alvarado, Mario, Sacramento, CA	02/14/96
Atiga, Schubert Jusay, Chula Vista, CA	02/15/96
Becchetti, Sondra D., Belmont, CA	02/14/96
Cooke, Lawrence William, Riverside, CA	02/14/96
Cordes, John C., Bloomfield, MI	02/12/96
Dorman, Patrick L. Jr., San Diego, CA	02/14/96
Eslao, Caesar G., Carson, CA	02/14/96
Fagan, Barbara L., Minneapolis, MN	02/13/96
Farkas, Edward F., Brooklyn, NY	02/13/96
Fiore, Dominick, Bridgeport, CT	02/13/96
Gordon, Wanda C., Philadelphia, PA	02/15/96
Grubstein, Alan P., Rancho Cucamonga, CA	02/14/96
Hall, Barry S., Milpitas, CA	02/14/96
Hatfield, Brian L., Santa Monica, CA	02/14/96
Hempsey, William C., Sherman Oaks, CA	02/14/96
Leung, Leo S., Woodside, NY	02/13/96
Lindley, Frank A., Philadelphia, PA	12/14/96
Martin, Craig J., Appleton, WI	02/12/96
Moy, John R., Queens Village, NY	02/13/96
OSEI-Tutu, Ernest P., Sagamore Beach, MA	02/13/96
Smith, Larry W., Nashville, TN	02/15/96
Steinke, Charles T., Richmond Hill, NY	02/13/96
Ward, Stephanie A., Philadelphia, PA	02/15/96
Peer Review Organization Cases	
Burke, Bernard James, Little Falls, NY	01/05/96

Dated: February 6, 1995.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Civil Fraud and Administrative Adjudication.

[FR Doc. 96–3503 Filed 2–14–96; 8:45 am]

BILLING CODE 4150–04–P–M

Office of Refugee Resettlement

Modifications to the Standing Announcement Published in the Federal Register on January 17, 1995 (60 FR 3416)

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the ORR Standing Announcement, 60 FR 3416, with application due dates in March 1996, for Category 1 Preferred Communities, Category 2 Unanticipated Arrivals, and Category 3 Ethnic Communities will have the following changes.

Category 3 is hereby canceled. The intent of the director is to modify this program announcement later this year.

Also, notice is given that ORR offers prospective applicants to Category 2 to participate in a bidders' conference call. Applicants who intend to participate in the bidders' conference call, must reserve by leaving a message at (202) 401–9324 by February 26, 1996.

The bidders' conference call is scheduled for 2:00 PM, February 27, 1996. To participate in the conference call, applicants may call (700) 991–1838. The caller access code to give to the operator is 466–87. If the caller has difficulty, assistance is available by calling (800) 545–4387.

DATES: The application due date of March 15, 1996 is for Categories 1 and 2.

FOR FURTHER INFORMATION CONTACT: For information on Preferred Communities and Unanticipated Arrivals, call Marta Brenden (202) 205–3589. For information on Ethnic Community Organizations call AnnaMary Portz at (202) 401–1196.

Dated: February 9, 1996.

Regina Lee,

Deputy Director, Office of Refugee Resettlement.

[FR Doc. 96–3415 Filed 2–14–96; 8:45 am]

BILLING CODE 4184–01–P

Substance Abuse and Mental Health Services Administration

Cancellation of Receipt Date for SAMHSA Conference Grant Applications

AGENCY: Center for Substance Abuse Prevention and Center for Substance Abuse Treatment, SAMHSA

ACTION: Cancellation of May 10, 1996 Application Receipt Date.

SUMMARY: Pending certainty on the fiscal year 1996 appropriation for SAMHSA, the Center for Substance Abuse Prevention (CSAP) and the Center for Substance Abuse Treatment (CSAT) are canceling the May 10, 1996, receipt date for applications for the following grant programs:

CSAP's Knowledge Dissemination Conference Grants (CFDA No. 93.174)

CSAT's Substance Abuse Treatment Conference Grants (CFDA No. 93.218)

For information regarding future receipt dates or for programmatic assistance, potential applicants should contact the following individuals:

CSAP: Ms. Luisa del Carmen Pollard, Division of Public Education and Dissemination, CSAP, Rockwall II Building, Suite 800 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443–0377

CSAT: Ms. Nancy Kilpatrick, Office of Scientific Analysis and Evaluation, CSAT, Rockwall II Building, Suite 840, 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443–8831.

Dated: February 8, 1996.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 96–3385 Filed 2–14–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–040–1430–00; AA–76879, AA–77643, AA–77776, AA–76936 , AA–76935]

Management Framework Plan; Correction

ACTION: Correction to Notice of Intent to prepare an amendment to Southcentral Planning Area Management Framework Plan (MFP).

SUMMARY: The Notice of Intent published in the **Federal Register** on October 16, 1995, at page 53637, should have stated that Parcels Four and Five, approximately 46 acres of the proposed plan amendment, are within the Southwest Planning Area MFP dated November 11, 1981, *not* the Southcentral Planning Area MFP. This reduces the acreage in the Southcentral Planning Area MFP to 83 acres.

ADDRESSES: Comments should be sent to District Manager, Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599.

FOR FURTHER INFORMATION CONTACT: Dennis R. Benson, BLM, Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599, (907) 267–1212, or (800) 478–1263.

SUPPLEMENTARY INFORMATION: The BLM will prepare a MFP Amendment/EA and Record of Decision. A Notice of Availability/Notice of Realty action (NOA/NORA) will announce the availability of the Plan Amendment/EA and Record of Decision in a subsequent publication. This Corrected Notice of Availability/Notice of Realty Action (NOA/NORA) amends the previous publication for the plan amendment for the Southcentral MFP (60 FR 53637, October 16, 1995).

Dated: January 29, 1996.

Nicholas Douglas,

District Manager.

[FR Doc. 96–3399 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–JA–P

[AK–910–0777–51]

Alaska Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Alaska Resource Advisory Council Meeting.

SUMMARY: The Alaska Resource Advisory Council will conduct an open meeting Thursday, March 21, 1996, from 9 a.m. to 5 p.m. and Friday, March 22, 1996, from 8:30 a.m. until 4:30 p.m. in Anchorage, Alaska. The meeting will be held in room 154 of the Anchorage Federal Office Building. Public comments will be taken from 1:30 p.m. to 2:30 p.m. Thursday, March 21. Written comments may be submitted at the meeting. The council will elect officers and will discuss:

1. Fortymile River management;
2. Land selection program status;
3. Old and new business.

ADDRESSES: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Ave., #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson at (907) 271–5555.

Dated January 31, 1996

Tom Allen,

State Director.

[FR Doc. 96–3392 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–JA–P

[CA–026–1020–01]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Susanville Resource Advisory Council, Susanville, California.

ACTION: Notice of Meetings.

SUMMARY: Notice is hereby given in accordance with Public Law 95–579 (FLPMA) that the Bureau of Land Management's Susanville Resource Advisory Council will meet at the following locations and times:

1. Friday and Saturday, March 15 and 16, 1996, at the BLM office, 705 Hall Street, Susanville, CA. The March 15 meeting begins at 10 a.m. and includes a day-long field tour of livestock grazing allotments. The March 16 meeting is from 9 a.m. to 2 p.m. Public comments will be taken at 9:30 a.m. The council will continue development of standards for healthy rangelands and guidelines for livestock grazing. Managers of the BLM Alturas, Eagle Lake and Surprise resource areas will present status reports.

2. Friday and Saturday, April 5 and 6, 1996, at the BLM Office, 708 West 12th Street, Alturas, CA. The April 5 meeting begins at 10 a.m. and includes a field tour of rangeland areas near Alturas. The April 6 meeting runs from 9 a.m. to 2 p.m. Public comments will be taken at 9:30 a.m. Other agenda topics will include continued work on rangeland standards and guidelines development, information on deer herd management in northeast California, and resource area status reports.

3. Friday and Saturday, April 26 and 27, 1996, at the BLM Office, 602 Cressler Street, Cedarville, CA. The April 26 meeting begins at 10 a.m. and will include a tour of livestock grazing areas in extreme northwest Nevada. The April 27 meeting runs from 9 a.m. to 2 p.m. Public comments will be taken at 9:30 a.m. Other agenda items include continued work on rangeland standards and guidelines, a BLM briefing on wilderness status, wild horse and burro population modeling, and resource area status reports.

All meetings are open to the public. Depending on the number of people wishing to speak, time limits may be imposed during the public comment periods.

Summary meeting minutes of each meeting will be maintained at the Susanville BLM Office, 705 Hall Street, Susanville, CA.

FOR FURTHER INFORMATION, CONTACT: Jeff Fontana (916) 257–5381.

Linda D. Hansen,

Eagle Lake Resource Area Manager.

[FR Doc. 96–3461 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–40–P

[CA–026–1430–00; CA–4300, CA–4301, S–5810, SAC–079547]

Notice of Realty Actions; Recreation and Public Purposes (R&PP) Act Classification; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Conveyance Notice.

SUMMARY: The following public lands in Lassen County, California have been examined and found suitable for conveyance to the County of Lassen under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The County of Lassen is currently leasing these sites as landfills or transfer stations.

Mount Diablo Meridian

(CA–4300) T.33N., R.11.E., Sec. 15, SE¼NE¼SW¼NW¼, containing 2.5 acres more or less; (CA–4301) T.37N., R.13.E., Sec. 11, SW¼SW¼SW¼, containing 10 acres

more or less; (S–5810) T.29N., R.13E., Sec. 19, W½SE¼, N½NE¼SE¼, S½SE¼SE¼ and Sec. 30, NW¼NE¼, containing 160 acres more or less; and (SAC–79547) T.26N., R.16E., Sec. 10, E½NE¼NW¼, containing 20 acres more or less.

ADDRESSES: Any inquiries should be sent the Bureau of Land Management, Eagle Lake Resource Area Office, 705 Hall Street, Susanville, California.

FOR FURTHER INFORMATION CONTACT: Linda Hansen, Area Manager or Susan Wannebo, Realty Specialist, (916) 257–0456.

SUPPLEMENTARY INFORMATION: The lands are not essential to any Bureau of Land Management program and no resource needed by the public will be lost through the transfer to private ownership. Conveyance is consistent with current BLM land use planning and is in the public interest. Mineral interests would be conveyed pursuant to the Federal Land Policy and Management Act (FLPMA) of 1976, Section 209 entitled Reservation and Conveyance of Minerals.

The patent, when issued, will be subject to the following terms, conditions and reservations: (1) A right-of-way for ditches and canals constructed by the authority of the United States; (2) Those rights for roadway purposes granted to the County of Lassen under right-of-way CACA–8823; and (3) Those rights for roadway purposes granted to the State of California, Department of Transportation under right-of-way SAC–069790.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance of the lands to the Area Manager, Eagle Lake Resource Area Office, 705 Hall Street, Susanville, California 96130.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Linda D. Hansen,

Area Manager.

[FR Doc. 96–3435 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–43–P

[UT–040–06–1430–00; UTU–74777]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, recreation and public purpose conveyance.

SUMMARY: The following described public land in Garfield County, Utah has been examined and found suitable for lease or conveyance under the provisions of the Recreation and Public Purposes Amendment Act of 1988, (Pub. L. 100–648). The land to be leased or conveyed and the proposed patentee is:

Patentee: Garfield County

Location: Salt Lake Meridian, Utah T. 37 S., R. 3 W., Sec. 13, SW¼NE¼SE¼, NE¼SE¼NE¼SE¼, W½SE¼NE¼SE¼, containing 17.5 acres.

This land is hereby segregated from all forms of appropriation under the public land laws, including the mining laws.

Garfield County proposes to use approximately 8 acres of this land for a maintenance shed and storage area, and approximately 9½ acres for a recreational facility. The land is not needed for Federal purposes. Conveyance or Lease is consistent with current BLM land use planning and would be in the public interest.

The patent when issued will be subject to the following terms, conditions and reservations:

1. All minerals, including oil and gas, shall be reserved to the United States, together with the right to prospect for, mine and remove the same.

2. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

3. The conveyance will be subject to all valid rights and reservations of record.

4. Garfield County will assume all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees), or property growing out of, occurring, or the release of hazardous substances from the above listed tract, regardless of whether such claims shall be attributable to: (1) The concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.

5. Title may revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the lands in accordance with the approved plan of development on or before the date five years after the date of lease or conveyance, No portion of the land shall under any circumstance revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance.

DATES: Any comments shall be submitted by March 18, 1996. Comments may be sent to the District Manager, Cedar City District Office, 176 D. L. Sargent Drive, Cedar City, Utah 84720. Any adverse comments will be reviewed by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this notice will become the final determination of the Department of the Interior on [60 days after the date of publication].

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Escalante Resource Area office by contacting Darrell Olsen, P.O. Box 225, Escalante, Utah 84726, or telephone (801) 826–4291.

Dated: February 6, 1996.

A.J. Meredith,

District Manager.

[FR Doc. 96–3442 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–930–5410–00–B071; CACA 34911]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 88.190 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests

will be conveyed in whole or in part upon favorable mineral examination. The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, California State Office, Federal Office Building, 2800 Cottage Way, Room E–2845, Sacramento, California 95825, (916) 979–2858.

Mount Diablo Meridian

T. 22 S., R. 19E.,
Sec 30, Assessor's Parcel numbers 42–150–66 and 42–150–86
County—Kings.
Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated: February 6, 1996.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 96–3436 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–40–P

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–810740

Applicant: Exotic Feline Breeding Compound, Rosamond, CA.

The applicant requests a permit to import two pair of captive-held flat-headed cat (*Prionailurus planiceps*) from Taman Nor Badia Wildlife Park, Kuching, Sarawak, Borneo, for the purpose of enhancement of the species through captive breeding.

PRT–810453

Applicant: University of Georgia, Athens, GA.

The applicant requests a permit to import tissue samples taken from wild and captive born birds from Ardastra Gardens and Zoo, Nassau, Bahamas for the purpose of enhancement of the survival of the species through scientific research.

PRT–810443

Applicant: Cherie D. Ecker, Lake Forest, IL.

The applicant requests a permit to export one pair of White-eared pheasant (*Crossoptilon crossoptilon*), one pair of Brown-eared pheasant (*Crossoptilon montchuricum*), one pair of Swinhoe's pheasant (*Lophura swinhoii*), to Al Bustan Farms, Sharjah, United Arab Emirates for the purpose of enhancement of the survival of the species through propagation.

PRT–673366

Applicant: The Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to re-export and re-import captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–810428

Applicant: Bobby C. Hudson, Dacula, GA.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Andrew Austin, Grahamstown, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–810432

Applicant: Eric Golting, Englewood, CO.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Overberg Test Site, Bradasdorp, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–810457

Applicant: Harry P. Samarin, Bakersfield, CA.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Fred Burchell, Amatola, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–810445

Applicant: David R. White, Thompson Station, TN.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Contour, Ciskei, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–810859

Applicant: Ringling Bros.—Barnum & Bailey, Vienna, VA.

The applicant requests a permit to re-export and re-import captive-born tigers (*Panthera tigris*), Asian elephants (*Elephas maximus*), leopard (*Panthera pardus*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–810856

Applicant: Franklin T. Flynn, Towsend, MT.

The applicant requests a permit to import the sport-hunted trophy of one bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by Lewes Tonks, Graaff-Reinet, Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 9, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–3376 Filed 2–14–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information, the related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer listed below and to the Office of Management and Budget, Paperwork Reduction Project (1029–0090), Washington, DC 20503, telephone 202–395–7340.

Title: Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting, 30 CFR 870.

OMB Number: 1029–0090.

Abstract: Section 402 of the Surface Mining Control and Reclamation Act of 1977 requires fees to be paid to the Abandoned Mine Reclamation Fund by coal operators on the basis of coal tonnage produced. This information collection requirement is needed to support verification of the moisture deduction allowance. The information will be used by the regulatory authority during audits to verify that the amount of excess moisture taken by the operator is appropriate.

Bureau Form Number: None.

Frequency: On Occasion.

Description of Respondents: Coal Mine Operators.

Annual Responses: None.

Annual Burden Hours: 2,100.

Estimated Recordkeeping Time: 2 hours.

Bureau clearance officer: John A. Trelease (202) 208–2617.

Dated: January 26, 1996.

Gene E. Krueger,

Acting Chief, Division of Technology Development and Transfer.

[FR Doc. 96–3412 Filed 2–14–96; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: International Trade Commission.

ACTION: Notice of proposed collection; comment request.

SUMMARY: The proposed information collection is a 3-year extension, pursuant to the Paperwork Reduction Act of 1995 (Pub L. 104–13), of the current "generic clearance" (approved by the Office of Management and Budget under control no. 3117–0016) under which the Commission can issue specific questionnaires for the following types of investigations with statutory deadlines: countervailing duty, antidumping, escape clause, market disruption, and "interference with programs of the USDA." Comments concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d); such comments are described in greater detail in the section of this notice entitled supplementary information.

DATES: To be assured of consideration, written comments must be received not later than April 23, 1996.

ADDRESSES: Signed comments should be submitted to Donna R. Koehnke, Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection (and related instructions) and draft Paperwork Reduction Act Submission and Supporting Statement to be submitted to the Office of Management and Budget may be obtained from either of the following persons: Debra Baker, Office of Investigations, U.S. International Trade Commission, telephone 202–205–3180, or Lynn Featherstone, Director, Office of Investigations, U.S. International Trade Commission, telephone 202–205–3160.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are solicited as to (1) whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond (including through the use of appropriate automated, electronic, mechanical, or other technological forms of information technology, e.g., permitting electronic submission of responses). Comments are also solicited as to whether questionnaires gather adequate information on the burden respondents incur in answering the questionnaire. Historically, the Commission has requested that questionnaire respondents report the actual number of hours required and the cost to them of preparing the reply and completing the form. (This information is compiled by the Commission for each specific questionnaire issued under the "generic clearance" and submitted to the Office of Management and Budget for their review on a quarterly basis. It also forms the basis for the Commission's burden estimates reported below.) Under the proposed information collection, the Commission will request that respondents divide the cost data they report into two components (or wage rate categories), namely costs incurred (1) by managers, accountants, attorneys, and other professional and supervisory personnel and (2) for clerical support.

Need for the Proposed Information Collection

The Commission conducts countervailing duty and antidumping investigations under the provisions of Title VII of the Tariff Act of 1930 to determine whether domestic industries are being injured or threatened with injury by reason of imports of the product(s) in question which are being subsidized (countervailing duty cases) or sold at less than fair value (antidumping cases). Escape-clause investigations are conducted by the Commission to determine whether increased imports are a substantial cause of serious injury or threat of serious injury to a domestic industry. If the Commission makes an affirmative determination in escape-clause investigations it is also required to recommend a remedy that will eliminate the injury to the domestic industry. Market disruption investigations are conducted to determine whether imports of an article produced in a Communist country are causing injury to a domestic industry. In addition, the Commission conducts investigations to determine whether imports are interfering with programs of the Department of Agriculture for agricultural commodities or products.

Specific investigations are instituted in response to petitions received from U.S. manufacturers of the product(s) in question or, in rare instances, in response to a request from the U.S. trade representative or the Department of Commerce. Data received in response to the questionnaires issued under the terms of the proposed information collection (or "generic clearance") are consolidated and form much of the statistical base for the Commission's determinations in these statutorily-mandated investigations.

Information Collection Plan

Using the sample "generic clearance" questionnaires as a guide, questionnaires for specific investigations are prepared and are sent to all U.S. producers manufacturing the product(s) in question and to all significant importers of the products, particularly those importing from the country(ies) subject to investigation, except in cases involving an unusually large number of firms. In these instances, questionnaires are sent to a representative sample of firms. Purchaser questionnaires are also sent to all significant purchasers of the product(s) in cases involving as many as 50 consuming firms. Firms receiving questionnaires include businesses, farms, and/or other for-profit institutions; responses are mandatory.

Description of the Information to be Collected

Producer questionnaires generally consist of the following four parts: (part I) general questions relating to the organization and activities of the firm; (part II) data on capacity, production, inventories, employment, and the quantity and value of the firm's shipments and purchases from various sources; (part III) financial data, including income-and-loss data on the production in question, data on asset valuation, research and development expenses, and capital expenditures; and (part IV) price-related information. (Questionnaires may, on occasion, also contain part V, an abbreviated version of the above-listed parts, used for gathering data on additional product categories.)

Importer questionnaires generally consist of three parts: (part I) general questions relating to the organization and activities of the firm; (part II) data on the firm's imports and the shipment and inventories of its imports; and (part III) data on price-related information similar to that requested in the producer questionnaire.

Purchaser questionnaires generally consist of six parts: (part I) general questions relating to the organization and activities of the firm; (part II) data concerning the purchases of the product by the firm; (part III) general questions about the market for the production in question and about the purchaser's purchasing practices; (part IV) a number of questions related to competition between the domestic product and the subject imports; and (parts V and VI) actual purchase prices for specific types of domestic and subject imported products and the names of the firm's vendors.

The Commission solicits input from petitioners and other potential recipients when preparing questionnaires for individual investigations. Where possible, the Commission also circulates draft questionnaires to parties for their comment.

Estimated Burden of the Proposed Information Collection

The Commission estimates that questionnaires issued under the proposed information collection will impose an average annual burden of 90,000 response hours on 2,800 respondents (i.e., recipients that provide a response to the Commission's questionnaires). The tabulation below lists the estimated average annual burden for each type of questionnaire for August 1997 through July 2000.

	Producers' questionnaire	Importers' questionnaire	Purchasers' questionnaire
No. of respondents	940	980	880
Frequency of response	1	1	1
Total annual responses	940	980	880
Hours per response	36.4	37.2	22.0
Total hours	34,200	36,450	19,350

These estimates are based upon an analysis of the burden actually imposed by specific questionnaires issued under the Commission's currently approved "generic clearance" authority for fiscal years 1993 through 1995. The methodology is based on the average number of times questionnaires were sent to 10 or more recipients per investigation, the average number of responses per questionnaire, the average burden per respondent, and the Commission's anticipated workload. The estimates are annual averages and take into consideration the increase in workload expected for the Commission in fiscal years 1997 and 1998 resulting from the mandated sunset review of title VII determinations issued previously.

The estimated annual cost to respondents of the proposed information collection for August 1997 through July 2000 is $3.8 million in fiscal year 1995 dollars. The cost was obtained by multiplying the estimated number of questionnaires to be cleared under the generic clearance by the average cost of completing the questionnaire by respondents. In fiscal year 1995 dollars, the average reported cost per producing firm was $897; the average reported cost per importing firm was $1,734; the average reported cost per purchasing firm was $1,007. The cost estimate provided is an average and is not broken out by wage rate categories. (Information to be collected by the proposed information collection will permit such analysis in the future.) Because the specific questionnaires issued under the "generic clearance" are not repetitive, all of the costs imposed on respondents fall into the "total operation and maintenance and purchase of services" component. There are no known capital and start-up costs (e.g., purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities) to respondents. (Estimates of annualized cost to the Commission are presented in a draft Paperwork Reduction Act Submission and Supporting Statement available upon request from the Commission.)

Variation in Estimated Burden

The hourly burden estimates presented above can be expected to vary widely from one hour to several times the reported average burden. The reasons for the variation are as follows: (1) the respondent may not produce, import, or purchase the product(s) under investigation (such respondents need only to so certify and return the

first page of the questionnaire to the Commission); (2) the respondent may only produce, import, or purchase the products during a short time period or handle only one of the products reviewed; and (3) the questionnaires include the maximum number of reporting categories to ensure that meaningful data will be obtained from firms with complex business operations, and some sections of the questionnaires will not apply to smaller-sized firms.

In addition to variation in hourly burden among firms completing a specific questionnaire, there is also variation in hourly burden among questionnaires prepared for different investigations. The Tariff Act of 1930 identifies certain economic factors that the Commission is to take into account in arriving at determinations in countervailing duty and antidumping investigations; the Commission is also provided with guidelines concerning the relevant economic factors it is to assess in escape clause investigations. In some investigations, questionnaires will solicit data pertaining to other economic factors not listed in the statutes (e.g., channels of distribution) because such data have been found to be particularly useful in past Commission determinations or are relevant to the case in question. A key factor which leads to variation in hourly burden among investigations is the number of product categories for which data must be collected.

Description of Efforts to Reduce Burden

To facilitate the preparation of its questionnaires, the Commission has proposed to amend its rules to require that the petition identify the proposed domestic like product(s) and further identify each product on which the Commission should seek information in its questionnaires (see Notice of Proposed Amendments to Rules of Practice and Procedure, 60 FR 51748, Oct. 3, 1995). Further, the Commission has issued proposals to formalize the process for parties to comment on data collection in final phase countervailing and antidumping duty investigations. The Commission has also adopted a new format and otherwise revised the basic content of Commission questionnaires (60 FR 51748, Oct. 3, 1995). The content of the new generic forms are described above and are available from the Commission; they are much shorter in length than those used in the past and facilitate the development of a less burdensome questionnaire for use in specific investigations. Finally, the Commission may utilize a "short form" for use in cases were numerous small businesses must be surveyed. This form is a simplified and abbreviated version of the questionnaire sent to larger firms. To further reduce respondent burden, the Commission permits the submission of carefully prepared data estimates and will accept information in electronic format.

Issued: February 9, 1996.
By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 96–3334 Filed 2–14–96; 8:45 am]
BILLING CODE 7020–02–P

[Inv. No. 337–TA–370]

Certain Salinomycin Biomass and Preparations Containing Same; Notice of Commission Decision Not To Review a Final Initial Determination Terminating the Investigation Based on a Finding of No Violation of Section 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination (ID) issued on November 6, 1995, by the presiding administrative law judge (ALJ) in the above-captioned investigation, thereby terminating the investigation with a finding of no violation of section 337 of the Tariff Act of 1930.

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–3104.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of violations of section 337 of the Tariff Act of 1930 in the importation, sale for importation, and sale after importation of certain salinomycin biomass and preparations containing same on February 6, 1995. The Commission named the following firms as respondents: Hoechst Aktiengesellschaft, Hoechst Veterinar GmbH, and Hoechst-Roussel Agri-Vet Co. (collectively, Hoechst), and Merck & Co. Inc. (Merck).

An evidentiary hearing was held commencing June 5, 1995, and continuing through June 20, 1995, in which Kaken, Hoechst, and the Commission investigative attorney (IA) participated. On September 18, 1995, the ALJ issued an ID finding that Merck's activities did not violate section 337 and terminated Merck from the investigation. That ID became the Commission's final determination on October 10, 1995.

On November 6, 1995, the ALJ issued his final ID in which he found no violation of section 337. His decision was based on his finding that the patent at issue was invalid due to concealment of best mode and unenforceable due to inequitable conduct in its procurement. Petitions for review were filed by complainant Kaken and respondent Hoechst on November 21, 1995. Responses to the petitions were filed on December 1, 1995, by Kaken, Hoechst, and the IA.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and section 210.42(h)(3) of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.42(h)(3).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: February 9, 1996.
By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 96–3335 Filed 2–14–96; 8:45 am]
BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 to 9675

Notice is hereby given that a proposed consent decree in *United States* v. *Amtel, Inc., et al.*, Civil Action No. 91–CV–10366–BC, was lodged on December 18, 1995 with the United States District Court for the Eastern District of Michigan, Northern Division. The proposed consent decree resolves the United States' claims against Frank Barber for unreimbursed past costs incurred in connection with the Hedblum Superfund Site located in Oscoda, Michigan in return for a payment of $50,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Amtel, Inc., et al.*, DOJ Ref. #90–11–2–475.

The proposed consent decree may be examined at the office of the United States Attorney, 1000 Washington Street, 203 Federal Building, Bay City, Michigan 48707; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,
Chief, Environment and Natural Resources Division.

[FR Doc. 96–3395 Filed 2–14–96; 8:45 am]
BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on February 1, 1996, a proposed Consent Decree in *United States* v. *Estate of Richard R. Christopherson*, Civil Action No. C96–0166C (W.D. Washington), was lodged with the United States District Court for the Western District of Washington. This Consent Decree resolves the United States' claims in this action against the Estate of Richard R. Christopherson ("Estate") regarding its liability under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for response costs incurred or to be incurred by the United States in connection with the Advance Electroplating Site in Seattle, Washington.

The Decree requires, *inter alia*, that the Estate reimburse the United States' response costs in the amount of $100,000 plus interest through the date of payment. In addition, the Decree requires the Estate to take certain steps in an effort to market and sell specified real property and to pay to the United States, for deposit in the Superfund, eighty percent of the proceeds of any such sale. The Decree grants to the Estate the contribution protection afforded by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2). The Decree also contains a reopener that permits the United States, in certain situations, to institute additional proceedings to require that this defendant perform further response actions or to reimburse the United States for additional costs of response.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Estate of Richard R. Christopherson*, D.O.J. No. 90–11–2–1116A.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Washington, 800 Fifth Avenue, Suite 3600, Seattle, Washington, 98104–3190; the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (Tel: 202–624–0892). A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $7.75 (25 cents per page reproduction cost) payable to Consent Decree Library.

Joel Gross,
Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 96–3397 Filed 2–14–96; 8:45 am]
BILLING CODE 4410–01–M

Antitrust Division

United States v. Computer Associates International, Inc. and Legent Corporation, Civ. No. 1:95CV01398 (TPJ) (D. D.C.); Response of the United States to Public Comments Concerning the Proposed Final Judgment

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), the United States publishes below the written comments received on the proposed Final Judgment in *United States* v. *Computer Associates International, Inc. and Legent Corporation*, Civil Action No. 1:95CV01398 (TPJ), United States District Court for the District of Columbia, together with its response thereto.

Copies of the written comments and the response are available for inspection and copying in Suite 200 of the Antitrust Division, United States Department of Justice, 325 Seventh Street, N.W., Washington, D.C. 20530 (telephone 202/514–2481) and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, Third Street & Constitution Avenue, NW., Washington, D.C. 20001.

Constance K. Robinson,
Director of Operations.

Response of the United States to Public Comments

Pursuant to the Antitrust Procedures and Penalties Act ("APPA" or "TUNNEY Act"), 15 U.S.C. § 16(b)–(h), the United States is filing this Response to public comments it has received relating to the proposed Final Judgment in this civil antitrust proceeding. The United States has carefully reviewed the public comments on the proposed Final Judgment and continues to believe that entry of the proposed Final Judgment will be in the public interest. After the comments and this Response have been published in the **Federal Register**, under 15 U.S.C. § 16(d), the United States will move the Court to enter the proposed Final Judgment.

This action began on July 28, 1995, when the United States filed a Complaint charging that the acquisition of Legent Corporation ("Legent") by Computer Associates International, Inc. ("CA") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that the acquisition would eliminate significant competition between CA and Legent in five markets for systems management software used with mainframe computers that work with the VSE operating system: VSE tape management software; VSE disk management software; VSE security software; VSE job scheduling software; and VSE automated operations software. In addition, the Complaint alleges that the transaction would substantially lessen competition in the market for "cross-platform" systems management software, used in computer installations where a mainframe computer is linked together with other types of computer "platforms" (such as midrange computers or networks of workstations or personal computers).

Simultaneously with filing the Complaint, the United States filed a

proposed Final Judgment and a Stipulation signed by the defendants consenting to the entry of the proposed Final Judgment, after compliance with the requirements of the APPA.

Pursuant to the APPA, the United States filed a Competitive Impact Statement ("CIS") on August 18, 1995. The defendants filed a Submission Pursuant to 15 U.S.C. § 16(g) of the APPA, on August 11, 1995. A summary of the terms of the proposed Final Judgment and CIS, and directions for the submission of written comments relating to the proposal, were published in *The Washington Post* for 7 days from September 3, 1995 through September 9, 1995. The proposed Final Judgment and CIS were published in the **Federal Register** on September 8, 1995. 60 Fed. Reg. 46861–46870 (1995). The 60 day period for public comments began on September 8, 1995 and expired on November 7, 1995. The United States has received three comments, which are attached as Exhibits 1–3.

I. Background

The proposed Final Judgment is the culmination of an intensive two-month investigation of the proposed acquisition of Legent by CA. The Government interviewed 55 customers and 14 competitors, who would have been affected by the proposed acquisition in various product lines. In addition, the Government issued 49 Civil Investigative Demands ("CIDs") and reviewed over 950 boxes of documents in connection with this investigation.

At the conclusion of its investigation, the Government determined that the proposed acquisition violated the Clayton Act. The Government challenged the proposed acquisition and negotiated a proposed Final Judgment with the defendants that adequately resolves its competitive concerns.

II. The Legal Standard Governing the Court's Public Interest Determination

When the United States proposes an antitrust consent decree, the Tunney Act requires the Court to determine whether "the entry of such judgment is in the public interest." 15 U.S.C. § 16(e) (1988). As the D.C. Circuit explained, however, the purpose of a Tunney Act proceeding "is not to determine whether the resulting array of rights and liabilities 'is one that will *best* serve society,' but only to confirm that the resulting settlement is 'within the *reaches* of the public interest.'" *U.S.* v. *Microsoft Corp.*, 56 F.3d 1448, 1460 (D.C. Cir. 1995) (emphasis in original); *accord, United States* v. *Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993); *see also United States* v. *Bechtel*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass 1975).[1] Hence, a court should not reject a decree "unless 'it has exceptional confidence that adverse antitrust consequences will result—perhaps akin to the confidence that would justify a court in overturning the predictive judgments of an administrative agency.'" *Microsoft*, 56 F.3d at 1460 (quoting *Western Elec.*, 993 F.3d at 1577).

Tunney Act review is confined to the terms of the proposed decree and their adequacy as remedies for the violations alleged in the Complaint. *Microsoft*, 56 F.3d at 1459. The Tunney Act does not contemplate evaluating the wisdom or adequacy of the Government Complaint or considering what relief might be appropriate for violations that the United States has not alleged. *Id.* Nor does it contemplate inquiring into the Government's exercise of prosecutorial discretion in deciding whether to make certain allegations. To the extent that comments raise issues not charged in the Complaint, those comments are irrelevant to the court's review. *Id.* at 1460. The Court's inquiry here is whether the relief sought in the markets of concern in the Complaint has been tailored to maintain the level of competition that existed in those markets prior to the acquisition.

It is not the function of the Tunney proceeding "to make [a] de novo determination of facts and issues" but rather "to determine whether the Government's explanations were reasonable under the circumstances" for "[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General." *Western Elec.*, 993 F.2d at 1577 (internal quotations omitted). Courts have consistently refused to consider "contentions going to the merits of the underlying claims and defenses." *Bechtel*, 648 F.2d at 666.

In addition, no third party has a right to demand that the Government's proposed decree be rejected or modified simply because a different decree would better serve its private interests. For, as this Circuit has emphasized, unless the "decree will result in positive injury to third parties," a district court "should not reject an otherwise adequate remedy simply because a third party claims it could be better served." *Microsoft*, 56 F.3d at 1461 n.9.[2] The United States—not a third party—represents the public interest in Government antitrust cases. *See e.g., Bechtel*, 648 F.2d at 660, 666; *United States* v. *Associated Milk Products*, 534 F.2d 113, 117 (8th Cir.), *cert. denied*, 429 U.S. 940 (1976).

III. Entry of the Proposed Final Judgment is in the Public Interest

Entry of the proposed Final Judgment in this case is clearly within the reaches of the public interest under the standards articulated in *Microsoft* and other decided cases. The proposed Final Judgment resolves the competitive concerns that led to the filing of this case as to each of the five VSE systems management product markets and the cross-platform systems management software market identified in the Complaint.

IV. Response to Public Comments

We received only three comments, one from a customer, one from a competitor, and one from a former Legent employee.

A. Comment of Pete Clark (Exhibit 1)

Pete Clark, a VSE customer, submitted a comment expressing concerns as to: (1) Whether certain Legent products apart from the five named in the proposed Final Judgment (the "Subject Software Products," as defined in paragraph II.H. of the proposed Final Judgment, hereafter referred to as the "subject products") should also be included within the scope of relief; (2) the adequacy of CA licensing, rather than completely divesting, the subject products as an effective remedy to the competitive harm posed by CA's acquisition of Legent; and (3) the adequacy of provisions of the proposed Final Judgment aimed at helping a licensee recruit and hire former Legent personnel responsible for development of the subject products.

1. Product Coverage

Mr. Clark believes that six additional Legent products should also be covered by the proposed Final Judgment because of their close relationship in functionality to two of the subject products—FAQS/PCS, for VSE automated job scheduling, and FAQS/ASO, for VSE automated operations. Mr. Clark appears not to regard the six additional products as constituting markets of competitive concern apart from the markets alleged in the Complaint and addressed in the proposed Final Judgment, in which case, his criticism would not be cognizable. *Microsoft*, 56 F.3d at 1459. Rather, he asserts that being able to market the six products is important to the competitive viability of the eventual licensee of FAQS/PCS and FAQS/ASO in the markets for job scheduling software and automated operations software respectively.

In defining relevant markets and evaluating competitive capabilities of firms in the markets, the Government considered the possible effects of CA's acquisition of Legent with reference to many products and combinations of products marketed by either of the parties, including Mr. Clark's six candidates for coverage by the proposed Final Judgment. Our investigation did not, however, support Mr. Clark's view that a vendor's success or effectiveness in marketing FAQS/PCS or FAQS/ASO depends on its ability also to market any of the six additional products.

To whatever extent that it might be useful for users of FAQS/PCS or FAQS/ASO to also have access to any of Mr. Clark's six products, those products are likely to continue to be available in the marketplace. Having acquired Legent, CA now supplies the six products as well as FAQS/PCS and FAQS/ASO. If Mr. Clark is correct about the existence of valuable functional inter-relationships among these products, CA should have the same incentives to continue marketing all of them as Legent had before CA's acquisition of it, and customers will have the same access to them.

In addition, a licensee of CA under the proposed Final Judgment may, to the extent it deems necessary, seek licenses from CA as to any of the six products. Where appropriate, such additional licenses may be facilitated by application of paragraph II.H.2. of the proposed Final Judgment, which defines "subject software product" to include "all optional modules, add-ons, enhancements and software customization sold or distributed to customers for use with the Subject Software Product."

The overriding objective of the proposed Final Judgment is to ensure that the contemplated licenses will result in the establishment of a viable and effective new competitor in the markets where competition would otherwise be reduced substantially by CA's acquisition of Legent. Pursuant to paragraphs IV.A.8. and IV.C.2. of the proposed Final Judgment, the Government has the responsibility to determine, in its sole discretion, whether this objective is satisfied. The Government will be monitoring the license negotiation process and the scope of the proposed licenses carefully in exercising this responsibility. Moreover, the proposed Final Judgment, at paragraph IV.C.6., gives the Government the right to seek additional relief should a Court-appointed trustee's efforts to license the subject products fail to produce, to the satisfaction of the Government, an effective new competitor in any of the relevant markets. The Court is then authorized to enter additional orders "as it shall deem appropriate in order to carry out the purpose of the trust * * *." *Id.*

2. Adequacy of Licensing Remedy

Mr. Clark's general assertion that complete and total divestiture is the only means of effectively addressing the competitive concerns posed by CA's acquisition of Legent is unfounded. While Mr. Clark notes specific issues pertinent to the fashioning of appropriate relief in this case, all of his points had been fully anticipated and considered by the Government, and all have been addressed in the proposed Final Judgment with measures aimed at ensuring the establishment of an effective competitor for each of the subject products.

For example, Mr. Clark correctly points out the importance of ensuring that any new marketer of the subject products acquires not merely the right to sell the product but also capabilities to provide competitive levels of customer support and to engage in sufficient levels of product research and development necessary for long-term competitive viability. With respect to these points, various provisions of the proposed Final Judgment require CA to provide a licensee with all the software codes, specifications, development tools, and other information or know-how needed to compete effectively in terms of product support and development. Paragraph II.H. of the proposed Final Judgment. In addition, the proposed Final Judgment provides the licensee with the opportunity and assistance of CA to recruit and hire former Legent product development and technical support personnel retained by CA after acquiring Legent. Paragraph IV.B. 4–5. of the proposed Final Judgment.

In any event, as noted above, paragraph VI.C.6 of the proposed Final Judgment permits the Government to seek additional relief consistent with the purpose of the proposed Final Judgment, if that proves to be necessary. In such case, the Court is authorized to enter additional orders as appropriate, "which shall, if necessary, include disposing of any or all assets of the Subject Software Product businesses, including Customer contracts and/or software assets * * *." *Id.*

3. Access to Developers

Mr. Clark raised concerns that provisions of the proposed Final Judgment requiring CA to assist licensee recruitment of former Legent personnel are overly restrictive in applying only to individuals whose job duties related to development or technical support of the subject products as of the date on which the proposed Final Judgment was filed. Mr. Clark suggested that prior to filing of the proposed Final Judgment many Legent employees with relevant product development expertise were transferred to other assignments to avoid subjecting them to the provisions of the proposed Final Judgment governing licensee recruitment.

The proposed Final Judgment, at paragraph VI, prohibits CA from taking any action that would thwart the disposition of the Subject Software Products or undermine the Judgment's objectives. Thus, the proposed Final Judgment already addresses Mr. Clark's concern.

In any event, the Government investigated Mr. Clark's concerns, particularly in light of his suggestion that the parties may have engaged in conduct to frustrate a significant term of the proposed Final Judgment. Our investigation did not, however, substantiate Mr. Clark's concerns, and we are presently satisfied that expanding the scope of CA's obligations to assist in licensee recruitment efforts is not necessary. Moreover, nothing prevents any former Legent employees interested in working for a licensee—including employees not covered by the Judgment's recruitment terms—from seeking out the licensee and pursuing employment discussions without CA's assistance.

B. Comment of Syncsort, Inc. (Exhibit 2)

Syncsort, Inc. ("Syncsort") submitted a comment expressing concerns that the proposed Final Judgment does not address a VSE systems management software product known as sort software, which is commonly used in connection with two of the subject products, disk and tape management software. Syncsort markets a sort software product that it sells in competition with a CA product. Legent does not have a sort software product, so CA's acquisition of Legent does not reduce current competitive choices for VSE sort products. However, Legent has

[1] The *Western Elec.* decision involved a consensual modification of an antitrust decree. The Court of Appeals assumed that the Tunney Act standards were applicable in that context.

[2] *Cf. United States* v. *Associated Milk Producers, Inc.*, 534 F.2d 113, 116 n.3 (8th Cir.), *cert. denied*, 429 U.S. 940 (1976) ("The cases unanimously hold that a private litigant's desire for [the] *prima facie* effect [of a litigated government judgment] is not an interest entitling a private litigant to intervene in a government antitrust case.").

in the past cooperated with Syncsort by providing it with software interface information to help Syncsort develop a sort product that works well with Legent's disk and tape management products.

Syncsort believes that Legent's new owner, CA, being a competitor in sort software, will not have the incentives that Legent once had to cooperate with Syncsort; instead, CA may have incentives to try to disadvantage Syncsort by withholding information on future Legent interface developments and by making new versions of Legent's disk and tape management products increasingly less compatible with Syncsort's sort product. To address these concerns, Syncsort suggests that the proposed Final Judgment be modified to require CA and its licensee to maintain the levels of cooperation and interface information sharing that previously existed between Syncsort and Legent.

The issues raised by Syncsort are adequately addressed by the proposed Final Judgment. As noted before, the central purpose of the proposed Final Judgment is to enable another firm to step in Legent's place as a viable and effective competitor in the markets for the subject products. The accomplishment of this objective should alleviate Syncsort's concerns by establishing and maintaining an independent developer and marketer of tape and disk management software with which Syncsort could work to develop compatible sort software. There is little reason to suppose that Legent's competitive replacement would have any less incentives to cooperate with Syncsort on software interfaces than Legent had. To the extent that this interface cooperation confers significant marketplace advantages to the new supplier of the subject products, competitive pressures may compel CA itself to engage in such cooperation.

C. Comment of Brian W. Gore (Exhibit 3)

Brian W. Gore, a former employee of Legent, stated concerns similar to those of Pete Clark relating to the scope of the products that are the subject of the proposed Final Judgment. Although Mr. Gore identified different additional products for coverage than those named by Mr. Clark, his reasons in support of adding the products are similar to the views expressed by Mr. Clark. For the reasons previously stated in response to Mr. Clark's comments, the Government does not believe it appropriate or necessary to provide relief focusing on any of the products identified by Mr. Gore.

Mr. Gore also raised concerns similar to Mr. Clark's comments with respect to the primary requirement of the proposed Final Judgment that CA license with subject products rather than completely divest them. Again, the Government's previously stated response to Mr. Clark's comments is equally responsive to Mr. Gore's.

Lastly, Mr. Gore indicated that the proposed Final Judgment does not contain sufficient provision for actions against CA for violations of the proposed Final Judgment. Here, Mr. Gore's concerns appear largely to be based upon CA's terminations, previously brought to the Government's attention, of several former Legent employees associated with the subject products. The Government has thoroughly investigated these terminations and has concluded that they did not pose violations of any provisions of the proposed Final Judgment.

V. Conclusion

The Court should enter the proposed Final Judgment upon the Government's compliance with the APPA. The issue in this proceeding is whether the settlement is "within the reaches of the public interest." *Microsoft*, 56 F.2d at 1460. Because the proposed decree is within the scope of the public interest, the Court should enter it after the Government's responses to the public comments are published in the **Federal Register** and the Government certifies compliance with the APPA and moves for entry of judgment.

Dated: February 1, 1996.

Respectfully submitted,

John F. Greaney, Weeun Wang, Minaksi Bhatt,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Room 9901, Washington, D.C. 20001, Tel: 202/307–6200, Fax: 202/616–8544.

From: Pete Clark, Technical Support Manager, Olan Mills, Inc., P.O. Box 23456, Chattanooga, TN 37422

To: Judge Thomas Penfield Jackson, United States District Court for the District of Columbia, Washington, DC 20549

Weeum Wang, United States Department of Justice, Washington, DC 20549

Paku Kahn, Tennessee State Attorney General's Office, Nashville, TN

Christine Rosso, Illinois State Attorney General's Office, Chicago, IL 60601

Subject: Case # 1:95CV01398—Computer Associates/Legent Acquisition

The information following is a result of having read the Department of Justice Complaint, of having been gainfully employed in the VSE systems software arena for the last 30+ years, of having been a customer of both Legent and Computer Associates, and of having been immediately involved with this industry, its vendors, and its customers since the industry began.

Introduction

While it is somewhat presumptuous of myself to lay claim to being an expert in the field of VSE system software. It is perhaps more accurate to indicate that many users, many vendors (including Computer Associates and Legent) and many trade press persons have certainly labeled myself as "the expert in the VSE systems software arena".

I certainly have spent the last 30+ years in efforts to become proficient in the VSE systems software. In my 30+ years of employment, I have been involved in almost every position in a VSE data center. Operations, programming, system programming, education, systems design, system analysis and management are just a few of the areas. In addition to the preceding areas, I have taught various VSE-related college level courses, written many articles that have been published in national and international periodicals, have conducted many seminars for VSE user groups and VSE software vendors around the world and have done numerous private software/hardware consultations for both VSE vendors and users I have throughout the years written several modifications to the VSE operating system and/or vendor products that received wide spread adoption among users and these modifications have historically been incorporated into the facilities they were written for by the respective vendors.

The purpose of the preceding paragraph is simply to convince the court that I have sufficient knowledge of the VSE systems area to make valid, accurate observations that have merit.

I have several concerns with the Department of Justice Final Judgment, Civil Action Number 95 1398. These concerns all relate to maintaining a healthy competitive VSE system software market.

Product Issues

The DOJ Final Judgment specifically addresses five products. My concern is that there are several other products, that interrelate closely with the five products, that are not addressed. These products are FAQS/CALL, PREVAIL/PCS, PREVAIL/XPE, EXPLORE/VSE, EXPLORE/CICS and EXPLORE/VTAM. These six products are closely associated with one or more of the five products that are to be available for licensing.

Excluding these six products from the licensing agreement significantly devalues the original five products value to a vendor and to the ultimate customer. Not including these six products in the licensing program seriously impacts the probability of creating a successful competitive arena. There are defined interfaces and functional relationships between the five licensable products and the six excluded products that are critical to attracting and maintaining customers.

Separate licensing of the five products without some or all of the other six products results in a significant function loss for many of the customers. This loss of function dramatically affects the competitiveness of the VSE systems software market, requiring customers to remain with Computer Associates to prevent function loss, even if they prefer another product licensee.

To explain: FAQS/ASO and FAQS/PCS are closely allied with PREVAIL/PCS, FAQS/CALL, and PREVAIL/XPE Manager. WHY? Because all revolve closely around operator console automation and job scheduling. Having access to only FAQS/ASO and FAQS/PCS via the licensed vendor means I cannot institute cross platform scheduling. I cannot automatically notify persons of problems via computer and telephone interfaces of issues or problems. I cannot manage my complete multiple platform systems from a single control station. I basically have a very one dimensional automation and scheduling capability. THIS IS NOT ACCEPTABLE IN TODAY'S BUSINESS ENVIRONMENT. The functions discussed with automation and scheduling are critical to my business capability and strategy and to many other VSE customers.

The FAQS/ASO and FAQS/PCS relationship with the EXPLORE group of products (VSE/VTAM/CICS) are somewhat less dramatic but are definitely important. With the integrated EXPLORE products I can gather performance information and monitor critical performance thresholds and take action automatically via FAQS/PCS and FAQS/ASO to limit degradation, improve performance and thruput, and enable automatic notification of problem areas. Again a significant set of functions that would not be available without a consistent set of product interfaces, typically via a single vendor.

If licensing is appropriate for the 5 products identified in the Judgment then it is also especially appropriate for PREVAIL/XPE, PREVAIL/PCS and FAQS/CALL and definitely warrants serious consideration for EXPLORE/VSE, EXPLORE/CICS and EXPLORE/VTAM. The eleven products complete a cohesive functional product suite that can be truly competitive with Computer Associates existing product suite.

Having five products from the licensee and the other six products from Computer Associates presents a daunting challenge. I have personally had experience in this environment before, trying to interface Computer Associates products closely with other vendor products. Because of co-operation issues product problems and interface errors, after 2 years we closed that project and committed to not ever utilize that approach again. It simply is not a workable alternative.

We currently hold permanent licenses for four of the five licensed products and all six of the additional products mentioned in this document and in addition six other Legent products that were purchased by Computer Associates that are not discussed in this document.

Product Licensing

Is licensing an acceptable way to ensure competitiveness in this market place?

NO. I do not think so. This is system software, a significant competitive part of system software is ingenuity, unique solutions, complementary product interactions, proprietary system interfaces, product support, product enhancements, developer capability, and a close vendor/customer working relationship.

Most of these issues are not adequately addressed with this Judgment and all are very critical to maintaining a competitive environment. This Judgment does not address these issues in a manner that ensures and maintains a competitive market place.

This Judgment segregates and separates products preventing complementary product integration and negatively affecting competition and customer ability to effectively build a product suite that utilizes cross product synergy to maximize capabilities.

By instituting licensing rather than divestiture Computer Associates is the benefactor of having complete and total access to both their existing product line and complete and total access to all of Legents product line. A significant advantage Legent had over Computer Associates in the market place was incorporated into the software it had developed.

The licensee only has access to the licensed products and is definitely placed into the market at a distinct disadvantage. As if startup was not already enough of a challenge the licensee must deal with a competitor with "inside product knowledge". This scenario ensures that the licensee is NOT competing on equal footing within the market place.

Complete and total divestiture is the only way to ensure a truly competitive market

Access to Developers

While the Judgment makes provisions for the licensee to be able to potentially obtain developers with knowledge of the product set, it severely restricts who the licensee may considered. Perhaps it was not known that many of the developers, who had expertise in the area, were "transferred" to other assignments prior to this Judgment. This had the effect of making them ineligible for consideration by the licensee and severely limits the talent pool. Almost without exception the original developer was not associated with the licensed product on the day of Judgment signing.

This part of the Judgment must be modified to include persons involved with the product in any substantial way within one year prior to the initial Legent/Computer Associates acquisition agreement.

Conclusion

Three modifications must be made to the original Judgment to make it a viable competitive environment:

1. Add the following products PREVAIL/XPE, PREVAIL/PCS, FAQS/CALL, EXPLORE/VSE, EXPLORE/CICS and EXPLORE/VTAM into the Judgment.

2. Alter the Judgment to require divestiture instead of licensing of all 11 products.

3. Alter access to personnel to include anyone who has performed substantive work on any of the products in the past year, dating from 5/25/95.

Many VSE customers including myself believe that without these three modifications the Judgment has very little if any chance of being successful. Who will be impacted if these three issues are not addressed? Every Legent customer.

State's Attorney Generals

I respectively request that the State's Attorney General's of states with customers affected by this Judgment intervene to ensure that a fair, competitive market in VSE system software products is maintained and that active harm is not done to customers information systems installations by allowing this acquisition to proceed.

Thanks

Pete Clark,

Technical Support Manager, Olan Mills, Inc.

November 6, 1995.

VIA FEDERAL EXPRESS

John F. Greaney, Esq., Chief, Computers & Finance Section, Antitrust Division, United States Department of Justice, Suite 9901, 555 4th Street, N.W., Washington, D.C. 20001

Re: *United States v. Computer Associates International, Inc. and Legent Corporation* (95 CV 1398) (United States District Court for the District of Columbia)

Dear Mr. Greaney: On behalf of our client, Syncsort, Inc. ("Syncsort") we submit these comments to bring to your attention certain facts about competition in the market for VSE sort software and the impact of the proposed consent decree on that market which we believe require a minor, but nonetheless important, modification to the Final Judgment.

Syncsort is a company which, among other things, specializes in developing sophisticated, high performance sort software for main-frame computer environments, including the VSE system environment which is the subject of the proposed decree. A summary of the technical specifications of Syncsort's current VSE sort product, SyncSort VSE Release 2.3, is enclosed as Attachment A. Sorting software permits efficient operation of main-frame computers, effectively speeding their operation and increasing their practical capacity through use of sort algorithms in virtual memory. Competition in price and improvement of sorts benefits VSE computer users by reducing computer time and enabling them to use their computer resources with maximum efficiency, reducing overall computer costs.

Syncsort's sort product must interface with the systems management software which is the subject of the proposed decree, and particularly the disk/tape manager programs. In the VSE environment, this has meant attempting to interface either with the Dynam/D and Dynamt/T program of defendant Computer Associates International, Inc. ("CA") or the EPIC/VSE program of defendant Legent Corporation ("Legent").

CA markets its own sort product which competes with Syncsort's and therefore has an incentive not to cooperate with Syncsort. In fact, CA's systems management software is structured so that Syncsort's product does not have "PreOpen" access to file

information although CA's own sort product does have such access. Legent, on the other hand, does not offer its own sort product, and Legent has historically cooperated with Syncsort, permitting the sort to access crucial information through EPIC℠/VSE before a file is open.

Without the modification Syncsort proposes, there is a danger that the acquisition will disadvantage Syncsort—and ultimately VSE users—despite the best intentions of the proposed Final Judgment. Under the proposed Judgment, those VSE users who continue using the Legent products will now be divided among two companies (CA and the licensee). One of these companies has a history of not affording competitive third party sort products PreOpen access to file information through its disk and tape management software; the other company has no history either way but faces uncertain prospects for a long-term role in the market. As a step toward maintaining the status quo, the decree should provide that the EPIC℠/VSE PreOpen interface or its equivalent will be maintained—by both CA and the licensee—for all Legent/VSE products or VSE products subsequently derived from the Legent products.

Even with this relief, the competitive equation will change after the acquisition takes place. Another small step is therefore in order. Since current Legent users can choose to become CA users (and since some at least will conclude that this is the least risky choice), CA is likely to have even more users of its software management programs than in the past. CA will therefore have more market power and more opportunity than in the past to engage in strategic behavior to extend that market power into the sort product market. To deal with this change in market conditions, the decree should provide explicitly that neither CA nor the licensee will discriminate among other sort programs (including their own sort programs) in the interface and interface information made available for the sort function.

These are relatively minor modifications to the Final Judgment, entailing no real costs or burdens on the parties. They are nevertheless of considerable importance for the future. They serve much the same purpose as, and are even lesser mandatory in nature than, the provision in the decree requiring CA to assure competitors potential access to PIPES for cross-platform customers. (Final Judgment ¶ VII.) Suggested language to accomplish these purposes is set forth on the enclosed attachment B.

The need for provisions such as these is well illustrated by past history. Legent has cooperated with Syncsort in the development of EPIC℠/VSE so that file information is exchanged before a file to be sorted is opened. The information provided includes the following nine items:

1. file size
2. tape/disk
3. device type
4. blocksize/CIsize
5. concatenated
6. record length
7. record format
8. file type
9. spanned

The PreOpen availability afforded by EPIC℠/VSE permits *dynamic device switching* by the customer—switching between devices without the computer user having to change programs or its job control language ("JCL"). PreOpen availability also permits *dynamic reblocking*—changing from one blocksize to another without the computer user having to change programs or JCL. Finally, the PreOpen interface improves performance of the sort by allowing the *optimal sorting algorithms* to be chosen *before* the file is open. In short, the current, PreOpen EPIC℠/VSE interface permits Syncsort to design, and VSE customers to use, efficient, state of the art sorts without sacrificing flexibility; reduces the amount of computer time needed for a particular operation; and provides a high performance sort option for main frame users in the VSE environment.

Syncsort's history with CA, which markets its own program in competition with Syncsort's, has been quite different. CA has arbitrarily refused to provide PreOpen access to Syncsort of the type afforded by EPIC℠/VSE—but nevertheless has provided such access to its own sort product. File information can now be obtained by Syncsort's program only much later, after the file is actually opened. This denial of access means that, for many users, Syncsort is unable to provide dynamic device switching or dynamic reblocking, providing less flexibility and degrading the sort's potential utility for the customer. Moreover, without PreOpen information about file size, record length and the like, the Syncsort sort may be precluded from choosing the optimal sort algorithms.

There is no technological, cost or other acceptable reason for this difference in access. It has been explained to Syncsort as dictated entirely by CA's perceived competitive advantage. After the divestiture CA's ability to exploit this unfair competitive advantage is likely to be greater, not less, than it is today. According to the complaint, CA already has 96% of the market for one of the software management products (disk management, ¶ 19) with which the sort must interface; if even as few as one quarter of the Legent customers switch, CA will control nearly 60% of the other (tape management ¶ 18). There is no guarantee, absent the suggested decree modification, that CA will maintain PreOpen Access—or any access at all—for third party sorts for any of these users. If, ultimately, the licensee should fail or be unable to compete effectively with CA, CA could abandon or change the former Legent products and Syncsort and VSE sort users would have no protection at all.*

These circumstances mandate that the Judgment be modified so that whoever inherits a former Legent customer—the licensee or CA—will continue to maintain PreOpen access in EPIC℠/VSE. In addition, protection is required against the type of discrimination CA has employed in the past to favor its own sort product so that CA cannot anticompetitively translate any market power gained through the acquisition into a forclosure of the competition and VSE choices that now exist in the sort market.

Support for such terms can be found in the proposed Final Judgment in *United States* v. *AT&T and McCaw Cellular Communications, Inc.*, 59 F.R. 44158, August 26, 1994. There, the Department of Justice recognized that, after its merger with McCaw, AT&T would possess both the incentive and the ability to discriminate against additional third parties. 59 F.R. at 44168. As a means of requiring AT&T "to continue to deal with its customers on terms in place prior to the merger [with McCaw], and on terms not less favorable than those offered to McCaw," (59 FR at 44158), that decree proposes requiring AT&T to provide on-going support for "locked-in" customers and to arrange an alternative source of supply for certain products if they are discontinued by AT&T. 59 FR at 44164. Similarly, the Final Judgment here should be modified to require (i) that CA and the licensee maintain the EPIC℠/VSE PreOpen interface, or its equivalent, and (ii) that neither CA, nor the licensee, will discriminate among other sort programs in the interface and interface information made available for the sort function.

Respectfully submitted,

James B. Kobak, Jr.

cc: Richard Rosen, Esq., Arnold & Porter, 555 12th Street N.W., Washington, D.C. 20004

Michael Byowitz, Esq., Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019

Attachment A

SyncSort VSE

Technical specifications

Release 2.3

Introduction

SyncSort VSE is a high performance sort/merge/copy utility designed for IBM VS, VSE, VSE/SP, and VSE/ESA operating systems. SyncSort provides significant savings in program and supervisor CPU time, elapsed time, and I/O activity.

Performance

In benchmark tests of SyncSort VSE Release 2.3 against SM2 Release 5, SyncSort reduced total CPU time by 25–30%, elapsed time by 25–30%, and SIOs by 30–40%.

SyncSort achieves superior performance through optimization for specific computer make and model, proprietary sorting algorithms, advanced access methods, and Data Space utilization. SyncSort dynamically responds to system activity such as real and virtual storage availability, and paging rates to ensure optimum performance.

In a VSE/ESA environment, SyncSort VSE exploits Data Space technology with two unique features,"virtual library" and "virtual sortwork". These capabilities maximize the use of high speed virtual memory, minimizing resource consumption and reducing elapsed time.

SyncSort VSE's Dynamic Storage Manager ensures that all sorts attain optimum performance by intelligently managing a Data Space so that numberous concurrent sorts can exploit virtual sortwork.

Sort/Merge/Copy Processing

- EBCDIC or user-defined collating sequences.
- Up to 64 control fields, with length up to 4092 bytes. Fields in fixed length records may be located anywhere in the record.
- All standard field formats, including character, binary, packed decimal, zoned decimal, fixed point, floating point, and various signed formats.
- High performance MERGE combines up to 9 pre-presequenced data sets into one output dataset sequenced identically to the input datasets.
- High performance copy function (SORT FIELDS=COPY) can be used alone or with data editing.

Input/Output

SyncSort supports:

- SAM, VSAM, and VSAM-managed SAM formats and devices, including devices connected via the ESCON architecture.
- Fixed-length and variable-length records.
- Processing of variable-length records shorter than control field.

Intermediate Files

- Disk.
- Automatic secondary sortwork allocation with up to 31 extents.
- Automatic space release for DASD output files via disk space manager.

Resource Management Features

- Dynamic Storage Manager.

Automatically monitors and controls memory utilization, and reduces or eliminates physical sortwork I/O for concurrent sorts. Optimizes the use of a Data Space by allowing up to 15 concurrent sorts running in different partitions to use the virtual sortwork area. Maximizes sort performance while optimizing overall system throughput.

- Disk Space Manager Interface. Minimizes DASD resources used for sorting while preventing "sortwork capacity exceeded" abends. Compatible with all disk space managers.

Attachment B

Computer Associates and any licensee or successor in interest to Legent's interest in the Subject Software Programs ("Legent's Successor") shall each maintain and provide, from and after the effective date of this Final Judgment, at least the same degree of PreOpen Access to file information through EPIC/VSE (including without limitation any successor to or substitute for EPIC/VSE, any upgraded or modified version of EPIC/VSE or any program derived from the EPIC/VSE program) as that made available to sort programs through Legent's EPIC/VSE program prior to the acquisition of Legent by Computer Associates. In addition, and without limiting Computer Associate's or Legent's Successor's obligations with respect to the foregoing sentence, neither Computer Associates nor Legent's Successor shall, from and after the effective date of this Decree, discriminate among sort programs, including any sort program of its own, concerning (i) the timing and manner of access to any disk or tape manager or similar program made available to VSE customers and (ii) provision of relevent information.

*Syncsort believes the 25% figure for switching customers is low; if one half the Legent customers switch, CA would have market shares of approximately 95% and well over 70% and virtually no market constraints on its behavior.

November 7, 1995

U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Room 9903 JCB, Washington, D.C. 20001

Re: Civil Action No. 95 1398; *U.S.A.* v. *Computer Associates, Int'l. and Legent Corp.*

Gentlemen: This a comment concerning the Proposed Final Judgement for the aforementioned case. As a 20-year veteran of (IBM mainframe computer) VSE operating system software operations and support, I find the Proposed Final Judgement to be deficient in the following four areas:

1. No provisions for other Legent VSE products also using G.S.S. common code.

Explanation: G.S.S. is a proprietary integrated on-line transaction processor subsystem used by all (or at least most) Legent VSE products that contain an on-line component. While some of those products such as FAQS/ASO, FAQS/PCS and EPIC/VSE are covered by the Proposed Final Judgement, others such as Mastercat, SAR-Express/Delivery, FLEE, etc.) are not. This poses a serious dilemma for any Legent customers running VSE products in both of the aforementioned categories.

Because while it has already been ascertained from discussions with D.O.J. lawyers assigned to this case that the G.S.S. code would be included with any license agreement, there is no requirement that Computer Associates and the licensee keep their respective copies of G.S.S. compatible once a licensee has been assigned. Indeed, such a requirement would not be practical, and at some point (most likely soon) in the future, the Computer Associates and the licensee's versions of G.S.S. would become incompatible, requiring any customer running G.S.S.-based VSE products from both companies to run separate copies of G.S.S.

This type of arrangement would not be acceptable to most customers since it needlessly complicates installation, maintenance and usage of the VSE products, reduces integration and is fraught with operational problems since G.S.S. was never designed to be used in such a fashion. Thus all customers with G.S.S.-based VSE products that are not covered by the Proposed Final Judgement and remain only available from Computer Associates would be forced to get their G.S.S.-based VSE products that are covered by the Proposed Final Judgement from Computer Associates as well to avoid the complications of incompatible versions of G.S.S. This situation ends up creating a "restraint of competition" condition that would promulgate the Computer Associates monopoly in VSE products that the Proposed Final Judgement was originally designed to prevent (or at least reduce).

(I estimate this situation involves a substantial portion of the VSE product customer base, possibly even a majority.)

2. No provisions for other Legent VSE products also using the EPIC DSN catalog.

Explanation: The EPIC DSN catalog is a proprietary database file used by EPIC-based products on various mainframe platforms to accomplish disk and tape file management across those platforms. In this case, while the EPIC/VSE product is covered by the Proposed Final Judgement, other EPIC-base products, namely EPIC/CMS for the VM operating system, is not. This poses a serious dilemma for any Legent customers running EPIC-based products in both aforementioned categories, (or in this case, platforms).

The arguments for this point are essentially the same as those outlined in #1 above; however, this case concerns a database file shared across operating system platforms (VSE and VM) instead of a subsystem shared within the same operating system (VSE). The end result however, is the same: restraint of competition. Since there is no provision in the Proposed Final Judgement to keep the database file shared by these 2 products compatible nor any mention of the EPIC/CMS product (meaning that it would not be available from the licensee), those customers running both the EPIC/VSE and EPIC/CMS would effectively be forced to obtain them both from Computer Associates.

(I estimate that this situation affects about 10–20% of the EPIC/VSE customer base.)

3. No specific provisions for action(s) against Computer Associates when conditions of the Proposed Final Judgement are violated.

Explanation: It appears to most of us in the VSE community that Computer Associate's intent IS to create a monopoly in the VSE systems software market, and they are quite ruthless and devious about it. They have already directly violated certain provisions of the Proposed Final Judgement, and also seem to be deliberately delaying its execution. Specific retribution for willful disregard of the provisions of the Proposed Final Judgement need to be clearly defined and carried out.

For example, under section "VI. PRESERVATION OF ASSETS", Computer Associates is ordered to "* * * continue to commit resources, development and support to each Subject Software Product at a level not materially less than that committed prior to the announcement of the subject acquisition * * *". However within 2 weeks after the Proposed Final Judgement was issued, in just the EPIC/VSE group alone, 8 out of 20 employees were let go, including developers and technical support personnel. The D.O.J. was notified immediately, yet to date, nothing known has been done.

More recently, technical support was moved to a different office to be handled by inexperienced personnel, and EPIC/VSE developers have been assigned to other products. Computer Associates is definitely not pursuing a "hands-off" approach to the subject products while the terms of the Proposed Final Judgement are being carried out, but rather one that appears to be deliberately sabotaging them.

4. Non-exclusivity of the license proposal.

Explanation: In the VSE tape and disk management arena alone, Computer Associates started with a product it developed, called Dynam/T/D/FI. Then it brought up all the other major players: Epat, System/Manager, and IPIC/VSE, creating a complete monopoly. It appears that the D.O.J.

compromised with Computer Associate's lawyers in coming up with the non-exclusive license idea.

Who ever heard of 2 companies marketing the same product(s) to foster competition? Do Ford and GM market any of the same products? No, they market different products. If Computer Associates could be equated to General Motors, it would already own Ford and all the Japanese and European automobile manufacturers; and Legent would be Chrysler. Then the D.O.J. Proposed Final Judgement would be equivalent to an order requiring GM to jointly market Jeeps with Hyundai, while maintaining ownership of the engine and vehicle assembly plants. It's ludicrous, and simply won't work in the real world.

In conclusion, the only workable solution I see is to require Computer Associates to divest, i.e. completely sell-off and cease marketing, all Legent products that are in any way integrated with the five already covered by the Proposed Final Judgement. And this must be done quickly, before Legent's entire VSE product line and customer base are destroyed. And finally, Computer Associates should be severely fined for all present violations of the Proposed Final Judgement and forced in complete compliance ASAP.

One final note: although I am a former Legent employee, I am not "disgruntled". I worked in the VSE community long before I worked for Legent, and still desire to see it prosper. A Computer Associate's monopoly on VSE systems software is in no one's best interest except theirs. I urge the court to modify the Proposed Final Judgement to prevent such an occurrence at ALL levels.

Sincerely,

Brian W. Gore,

101 Mira Mesa, Rancho Santa Margarita, CA 92688.

Certificate of Service

The undersigned certifies that he is a paralegal employed by the Antitrust Division of the United States Department of Justice, and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that on February 1, 1996, he caused true copies of the Response of the United States to Public Comments, and this Certificate of Service, to be served upon the person at the place and address stated below:

Counsel for Computer Associates

Richard L. Rosen, Esq., Arnold & Porter, 555 12th Street, NW., Washington, D.C. 20004 (by hand delivery)

Dated: February 1, 1996.

Joshua Holian,

Paralegal, U.S. Department of Justice, Antitrust Division, Computers & Finance Section, 555 4th Street, NW., Room 9901, Washington, D.C. 20001, (202) 307–6200.

[FR Doc. 96–3393 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Decree in *United States of America* v. *Southern Ohio Coal Company*, Civil Action No. C2–96–0097, was lodged on January 30, 1996, with the United States District Court for the Southern District of Ohio, Eastern Division. The proposed consent decree would require the Settling Defendant to: (1) Perform actions necessary to restore two stream systems affected by certain of its discharges; (2) perform a detailed assessment and improvement plan for the entire watershed of the more severely affected stream system; (3) pay to the United States $1.9 million for damages to natural resources; (4) pay to the State of West Virginia $100,000 for benefaction of aquatic communities or habitat in the Ohio River; (5) pay to the United States a civil penalty of $300,000; and (6) reimburse the United States for $240,200 in costs incurred in connection with monitoring and assessing the impact of the discharges at issue.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. Comments should refer to *United States of America* v. *Southern Ohio Coal Company*, DOJ Ref. #90–5–1–1–5033.

The proposed consent decree may be examined at the office of the United States Attorney, 2 Nationwide Plaza, 280 N. High Street, 4th Floor, Columbus, OH 43215; the Region V the Environmental Protection Agency, Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, IL 60604–3590; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library.

In requesting a copy, please enclose a check in the amount of $37.50 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–3396 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States of America v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television Inc., Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b) through (h), that a proposed Final Judgment, Stipulations, and a Competitive Impact Statement have been filed with the United States District Court for the Southern District of Texas, Corpus Christi Division in *United States of America* v. *Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television Inc.*, Civil Action No. C–96–64.

The complaint in the case alleges that the three defendants, which respectively operate the ABC, NBC and CBS affiliates in Corpus Christi, engaged in a combination and conspiracy to increase the price of retransmission consent rights being sold to local cable operators, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. Retransmission consent rights, granted by a television broadcast station, permit a cable operator to carry that station on its cable system.

The proposed Final Judgment agreed to by the defendants prohibits them for a period of ten years from engaging in the type of combination of conspiracy alleged in the Complaint. Specifically, each defendant is enjoined from entering into any agreement with any broadcaster not affiliated with it that relates to retransmission consent or retransmission consent negotiations. The defendants are also prohibited from communicating to any non-affiliated broadcaster any information relating to retransmission consent or retransmission consent negotiations, or from communicating certain types of information that relate to any actual or proposed transaction with any cable operator or other multichannel video programming distributor.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Donald J. Russell, Chief; Telecommunications Task Force; United States Department of Justice; Antitrust Division, 555 4th Street N.W., Room 8100; Washington, D.C. 20001 (telephone: (202) 514–5621).

Rebecca P. Dick,

Deputy Director of Operations, Antitrust Division.

United States District Court, Southern District of Texas, Corpus Christi Division

In the matter of: United States of America, Plaintiff, v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. Civil Action No. C–96–64.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties to this Stipulation consent that a Final Judgment in the form attached may be filed and entered by the Court, upon any party's or the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice on the Defendant and by filing that notice with the Court.

2. If Plaintiff withdraws its consent or the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and its making shall be without prejudice to any party in this or any other proceedings.

Dated:

For the Plaintiff:

Anne K. Bingaman,

Assistant Attorney General.

Rebecca P. Dick,

Deputy Director of Operations.

Donald J. Russell,

Chief, Telecommunications Task Force..

Frank G. LaMancusa,

Andrew S. Cowan,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Suite 8100, Washington, D.C. 20001, (202) 514–5621

For the Defendant:

Jorge C. Rangel,

Federal I.D. No. 5698, State Bar No. 16543500, P.O. Box 880, 719 S. Shoreline Blvd., Ste. 500, Corpus Christi, Texas 78403–0880, (515) 883–8555, (512) 883–9187 (Facsimile)

Attorney in Charge for K-Six Television, Inc.

United States District Court, Southern District of Texas, Corpus Christi Division

In the matter of: United States of America, Plaintiff, v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. Civil Action No. C–96–64.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties to this Stipulation consent that a Final Judgment in the form attached may be filed and entered by the Court, upon any party's or the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice on the Defendant and by filing that notice with the Court.

2. If Plaintiff withdraws its consent or the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and its making shall be without prejudice to any party in this or any other proceedings.

Dated:

For the Plaintiff:

Anne K. Bingaman,

Assistant Attorney General.

Rebecca P. Dick,

Deputy Director of Operations.

Donald J. Russell,

Chief, Telecommunications Task Force.

Frank G. LaMancusa,

Andrew S. Cowan,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Ste. 8100, Washington, D.C. 20001, (202) 514–5621

For the Defendant:

Bruce L. James,

State Bar No. 10538000, Federal ID No. 1378, Kleberg & Head, P.C., 112 E. Pecan, Ste. 220, San Antonio, TX 78205, (210) 225–3247, (210) 212–8952 (Facsimile)

Attorney in Charge for Texas Television

United States District Court Southern District of Texas Corpus Christi Division

In the matter of: United States of America, Plaintiff vs. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. C.A. No. C–96–64.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties to this Stipulation consent that a Final Judgment in the form attached may be filed and entered by the Court, upon any party's or the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice on the Defendant and by filing that notice with the Court.

2. If Plaintiff withdraws its consent or the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and its making shall be without prejudice to any party in this or any other proceedings.

Dated:

For the Plaintiff:

Anne K. Bingaman,

Assistant Attorney General.

Rebecca P. Dick,

Deputy Director of Operations.

Donald J. Russell,

Chief, Telecommunications Task Force.

Frank G. Lamancusa,

Andrew S. Cowan,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Suite 8100, Washington, D.C. 2001, (202) 514–5621

For the Defendant:

Matthews & Branscomb,

A Professional Corporation, 802 N. Carancahua, Suite 1900, Corpus Christi, Texas 78470–0700, (512) 888–9261, (512) 888–8504 (FAX)

Douglas Mann,

TSB #12921500, Federal I.D. No. 1154

Attorney in Charge for Gulf Coast Broadcasting Company.

United States District Court, Southern District of Texas, Corpus Christi Division

In the matter of United States of America, Plaintiff, v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. Civil Action No.: C–96–64; Judge Janis G. Jack.

Final Judgment

Whereas Plaintiff, United States of America, filed it complaint on February 6, 1996 and Plaintiff and Defendants, Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., have consented to the entry of this Final Judgment without

trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And whereas Defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now, therefore, before the taking of any testimony and without trail or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

I. Jurisdiction and Venue

The Court has jurisdiction of the subject matter of this action and of each of the parties consenting to this Final Judgment. The complaint states a claim upon which relief may be granted against Defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II. Definitions

As used in this Final Judgment:

A. "Affiliated" means under common ownership or control.

B. "Multichannel video programming distributor" means a cable operator, a multichannel multipoint distribution service or any other person that sells multiple channels of video programming to subscribers or customers.

C. "Retransmission consent" means any authorization given by a television broadcast station to a multichannel video programming distributor to distribute that station's signal.

D. "Retransmission consent negotiation" means any communication between a television broadcast station and a multichannel video programming distributor relating to the compensation or consideration to be given by the distributor in exchange for retransmission consent.

E. "Television broadcaster" means:

1. each Defendant and each of its officers, directors, agents, employees, subsidiaries, successors and assigns;

2. each person that operates any television broadcast station; and

3. each person that possess an equity interest of at least five percent (5%) in any television broadcast station.

F. "Television broadcast station" means any broadcast station, as defined in 47 U.S.C. § 153(dd), that broadcasts television signals.

III. Applicability

This Final Judgment applies to each Defendant and to each of their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them which shall have received actual notice of this Final Judgment by personal service or otherwise.

IV Prohibited Conduct

A. Each Defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, soliciting or knowingly performing any act in furtherance of any contract, agreement, understanding or plan with any television broadcaster not affiliated with that Defendant relating to retransmission consent or retransmission consent negotiations.

B. Each Defendant is further enjoined and restrained from directly or indirectly communicating to any television broadcaster not affiliated with that Defendant:

1. Any information relating to retransmission consent or retransmission consent negotiations, including, but not limited to, the negotiating strategy of any television broadcaster, or the type or value of any consideration sought by any television broadcaster; or

2. Any information relating to the negotiating strategy of any television broadcaster, or to the type or value of any consideration sought by any television broadcaster relating to any actual or proposed transaction with any multichannel video programming distributor.

C. Nothing contained in Section IV.B of this Final Judgment shall prohibit any Defendant, in response to any question to it from any news organization related to retransmission consent or to any actual or proposed transaction with any multichannel video programming distributor, from providing to that news organization a response that does not disclose that Defendant's negotiating strategy, the content or progress of negotiations, any plan related to retransmission consent, or the type of value of any consideration being sought.

V. Notification Provisions

Each Defendant is ordered and directed:

A. To send a written notice, in the form attached as Appendix A to this Final Judgment, and a copy of this Final Judgment, within sixty (60) days of the entry of this Final Judgment, to each multichannel video programming distributor that distributes the television signal of any of Defendant's television broadcast stations transmitting in Corpus Christi;

B. To send a written notice, in the form attached as Appendix A to this Final Judgment, and a copy of this Final Judgment, to each multichannel video programming distributor, that contacts the Defendant within ten (10) years of entry of this Final Judgment to request retransmission consent for the television signal of any of Defendant's television broadcast stations transmitting in Corpus Christi, and which was not given such notice pursuant to Section V.A. Such notice shall be sent within seven (7) days after such multichannel video programming distributor first contacts the Defendant about carrying the Defendant's signal.

VI. Compliance Program

Each Defendant is ordered to establish and maintain an antitrust compliance program which shall include designating, within 30 days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for implementing the antitrust compliance program and achieving full compliance with this Final Judgment. The Antitrust Compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, be responsible for the following:

A. Furnishing a copy of this Final Judgment within thirty (30) days of entry of the Final Judgment to each of that Defendant's officers and directors and each of its employees, salespersons, sales representatives, or agents whose duties relate to retransmission consent for any of Defendant's television broadcast stations transmitting in Corpus Christi;

B. Distributing in a timely manner a copy of this Final Judgment to each person who succeeds to a position described in Section VI.A.; and

C. Obtaining from each person designated in Sections VI.A. or B. a signed certification that he or she has read, understands and agrees to abide by the terms of this Final Judgment and is not aware of any violation of the Final Judgment that has not already been reported to the Antitrust Compliance Officer and understands that failure to comply with this Final Judgment may result in conviction for criminal contempt of court.

VII. Certification

A. Within 75 days of the entry of this Final Judgment, Defendant shall certify to Plaintiff whether the Defendant has designated an Antitrust Compliance Officer and has distributed the Final Judgment in accordance with Section VI.A. above.

B. For ten years after the entry of this Final Judgment, on or before its anniversary date, the Defendant shall file with the Plaintiff an annual statement as to the fact and manner of its compliance with the provisions of Sections V and VI.

C. If Defendant's Antitrust Compliance Officer learns of any possible violation of any of the terms and conditions contained in this Final Judgment, Defendant shall forthwith take appropriate action to terminate or modify the activity so as to comply with this Final Judgment. Any such action shall be reported by Defendant in the respective annual statement required by paragraph VII.B. above.

VIII. Plaintiff Access

A. For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of Plaintiff shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a Defendant, be permitted, subject to any legally recognized privilege:

1. Access during that Defendant's office hours to inspect and copy all records and documents in the possession or under the control of that Defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

2. To interview that Defendant's officers, employees and agents, who may have counsel present, regarding any such matters. The interviews shall be subject to the Defendant's reasonable convenience.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division to any Defendant at its principal office, that Defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested, subject to legally recognized privilege.

C. No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by a Defendant to Plaintiff, that Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and that Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by Plaintiff to that Defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding), so that Defendant shall have an opportunity to apply to this Court for protection pursuant to Rule 26(c)(7) of the Federal Rules of Civil Procedure.

IX. Duration of Final Judgment

This final judgment will expire on the tenth anniversary of its date of entry.

X. Construction, Enforcement, Modification and Compliance

Jurisdiction is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

XI. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

United States District Judge

Appendix A

Dear Distributor: In February 1996, the Antitrust Division of the United States Department of Justice filed a civil suit that alleged that KIII, KRIS and KZTV violated the antitrust laws of the United States by conspiring with the intent and effect of raising the price of retransmission consent rights in the Corpus Christi region. Our station denies these allegations. Without admitting any violation of the law and without being subject to any monetary penalties, our station has agreed to the entry of civil Final Judgment that prohibits us from engaging in certain practices for a period of ten (10) years.

I have enclosed a copy of the Final Judgment for your information. Retransmission consent was authorized by Congress in the Cable Television Consumer Protection and Competition Act of 1992. Under the terms of the enclosed Final Judgment, our station may not enter into any agreement or understanding with any other television broadcast station relating to retransmission consent or retransmission consent negotiations. The Final Judgment also forbids our station from communicating certain related information to any other station.

If you learn that our station or its agents have violated the terms of the Final Judgment at any time after the its effective date, you should provide this information to our station in writiog.

Should you have any questions concerning this letter, please feel free to contact me.

Sincerely,

[General Manager of Station]

United States District Court, Southern District of Texas, Corpus Christi Division

In the matter of: United States of America, Plaintiff, v. Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., Defendants. Civil Action No.: C–96–64, Judge Janis G. Jack.

Competitive Impact Statement

The United States of America, pursuant to section 2 of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b), submits this Competitive Impact Statement in connection with the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On February 6, 1996, the United States filed a civil antitrust complaint under Section 4 of the Sherman Act, as amended, 15 U.S.C. § 4, alleging that the Defendants, Texas Television, Inc., Gulf Coast Broadcasting Company, and K-Six Television, Inc., engaged in a combination and conspiracy, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, to increase the price of retransmission rights to cable operators in Corpus Christi, Texas and surrounding areas. The complaint alleges that, in furtherance of this conspiracy, each Defendant from at least June of 1993 through December 1993:

a. agreed not to enter into a retransmission consent agreement with any cable company until that company had reached agreements with all three Defendants;

b. agreed not to accept a retransmission consent agreement with any cable company if that agreement gave that Defendant a competitive advantage over the other two Defendants; and

c. in order to carry out these agreements, exchanged information with each other on the progress being made and the terms being considered in each Defendant's retransmission consent negotiations.

The effect of this combination and conspiracy was to increase the price of retransmission consent and to restrain competition among the defendants in the sale of retransmission rights. The complaint alleges that the combination and conspiracy is illegal, and accordingly requests that this Court

prohibit Defendants from continuing or renewing such activity.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the United States withdraws its consent. The Court's entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings to construe, modify or enforce the Judgment, or to punish violations of any of its provisions.

II. Description of Practices Giving Rise to the Alleged Violation of the Antitrust Laws

Defendants are three television broadcast stations conducting business in Corpus Christi, Texas and the surrounding areas. Texas Television, Inc. owns and operates KIII-TV (Channel 3), the ABC affiliate. Gulf Coast Broadcasting Company owns and operates KRIS-TV (Channel 6), the NBC affiliate. K-Six Television, Inc., a subsidiary of Corpus Christi Broadcasting Company, Inc., owns and operates KZTV-TV (Channel 10), the CBS affiliate. The complaint alleges that these three local broadcasters colluded in order to raise the price of retransmission rights being sold to local cable companies in the Corpus Christi broadcast television market.

Retransmission rights allow a cable operator to carry a local television station on its cable network. Before the enactment of the 1992 Cable Act, cable companies could carry a local broadcast station on its cable system, without obtaining authorization from the station. In contrast, under the Act, *see* 47 U.S.C. § 325(b)(1), cable companies are forbidden from carrying the signal of a local television station without that broadcaster's express permission. If a station elects to pursue "retransmission consent" under the Act, a cable operator may carry the station's signal only after mutually agreeable terms are negotiated. The Act established October 5, 1993, as the last day that cable operators could carry a station's signal without its retransmission consent, effectively setting that date as the deadline for concluding retransmission consent agreements. As the Act requires retransmission consent to be renegotiated every three years, such negotiations will recur in the fall of 1996.

In the months leading up to October 1993, the cable and broadcast companies in Corpus Christi announced their initial negotiating positions. Each of the cable companies stated that they would not pay cash for signals that their subscribers could receive for free over the air, a position that had been taken by other cable companies nationwide. Each of the three Corpus Christi broadcasters announced that they expected to be paid cash for use of their signals, much as cable operators pay for cable channels such as HBO or ESPN. Negotiations between the broadcasters and the individual cable companies were unproductive. At the time of the October 5 deadline, no retransmission consent deals had been concluded between any of the three Corpus Christi broadcast stations and any of the major local cable operators: Tele-Communications, Inc. ("TCI") (in the city of Corpus Christi), Crown Media (in Kingsville, Texas), and Falcon Cable Media and Post-Newsweek Cable, Inc. (each serving various small outlying communities). As required by law, the cable companies dropped the broadcasters' signals on October 5 just before midnight. The signals were still available over the air from the broadcasters themselves.

Intermittent negotiations with TCI continued through October and November 1993, accompanied by an extensive public relations battle by both sides, in part a reaction to a barrage of cable subscriber complaints to the cable companies and the broadcasters. The stations swapped commercials that advocated their side of the dispute, spots that when aired on a given station featured the insignias of all three stations, a clear message of broadcaster solidarity. Negotiations with the other cable companies essentially ceased pending the resolution of the TCI dispute. Except for Falcon Cable, which obtained several extensions from the broadcasters, the stations' signals remained off the cable systems until final deals were signed, starting with TCI in mid-November.

In response to the position taken by each cable company, the three Corpus Christi broadcasters restrained competition among themselves by entering into an agreements that established a coordinated negotiating strategy. Through these agreements, the broadcasters intended to maximize the concessions they could each obtain from each cable company, and to ensure that any concession obtained through this strategy would not favor one broadcaster over the others. First, as the broadcasters stated repeatedly to cable negotiators and to the public, all three agreed not to return to a given cable system until all three broadcasters had concluded retransmission agreements with that cable operator. This allowed the broadcasters to eliminate any advantage a cable company could gain by being able to play one broadcaster off another. The broadcasters recognized that the first station to return to a cable system placed the other two at a competitive disadvantage, since these stations would lose advertising revenue through reaching fewer viewers until their signals were restored to cable. The last stations would therefore be forced to sign on less favorable terms with the cable company than the first. By agreeing not to sign with a cable company until the other broadcasters had reached agreements with the same cable company, the broadcasters eliminated such competition among themselves. The "holdout agreement" had no purpose other than to guarantee that the three stations collectively obtained better retransmission consent deals. As one of the broadcasters announced publicly during the standoff, "until we are all convinced that we can get the best deal that we can get, then we're not going to be on cable."

The broadcasters also told cable negotiators that they had agreed to reject any deal that would grant any Corpus Christi station a competitive advantage over the other two. This secondary agreement supported the holdout agreement by eliminating the possibility that the last station to sight might acquire especially favorable terms from the cable company, since it could effectively withhold the signals of all three stations until it had reached a deal.

Pursuant to their agreement, the broadcasters in fact refused to return their signals to each individual cable system until all three broadcasters had concluded deals with that cable operator. At the insistence of the broadcasters, all three signals were restored to each cable system at approximately the same time. In several instances, this meant that broadcasters which had already reached an understanding with a cable company waited days to sign the agreement, in order to give the other stations time to finish their negotiations. The broadcasters' desire to return to cable simultaneously required them to keep each other informed as to the progress and content of their negotiations. The broadcasters therefore made frequent telephone calls to each other. At times, a broadcaster told cable negotiators that he would have to check with the other stations before taking a certain action, for example, approving a deal point or an extension. On at least one occasion, representatives of two of the stations met in a Corpus Christi restaurant to talk and exchange written information.

The broadcasters' collusion succeeded in extracting more favorable terms from the cable companies than they would have otherwise obtained, even though the broadcasters failed to achieve their goal of direct cash payments. Local cable operators also lost revenue from increased subscriber cancellations during this period and from purchasing tens of thousands of "A/B" switches so that their subscribers could more conveniently obtain the stations' over the air signals. The amount of commerce affected by the conduct is difficult to establish but appears to be substantial in light of the lengthy disruption that resulted from the concerted action of the broadcasters.

III. Explanation of the Proposed Final Judgment

The parties have stipulated that the Court may enter the proposed Final Judgment at any time after compliance with the APPA. The proposed Final Judgment states that it shall not constitute an admission by either party with respect to any issue of fact or law.

The proposed Final Judgment enjoins any continuation or renewal, directly or indirectly, of the type of combination or conspiracy alleged in the Complaint. Specifically, Section IV.A. enjoins each Defendant from entering into any agreement with any broadcaster not affiliated with that Defendant that relates to retransmission consent or retransmission consent negotiations. Section IV.B. prohibits each Defendant from communicating to any non-affiliated broadcaster any information relating to retransmission consent or retransmission consent negotiations, or communicating certain types of information that relate to any actual or proposed transaction with any cable operator or other multichannel video programming distributor. Together, these provisions guarantee that there will be no recurrence of illegal activity by these broadcasters, whether with respect to retransmission consent or to any other transactions with cable companies or other multichannel video programming distributors that may occur in the future. Section IV.C. preserves the right of each Defendant to respond to news inquiries about retransmission consent negotiations, so long as the response does not reveal information about that Defendant's negotiating strategy, the content or progress of negotiations, its plans related to retransmission consent, or the type or value of consideration being sought for retransmission consent.

The Supreme Court has long recognized that certain types of concerted refusals to deal or group boycotts are *per se* violations of the Sherman Act, even when they fall short of outright price-fixing. *Northwest Wholesale Stationers, Inc. v. Pacific Stationery & Printing Co.*, 472 U.S. 284, 290 (1985). The agreements between the broadcasters fell into this category because they had the purpose and effect of raising the price of retransmission rights in the Corpus Christi area. Moreover, the Supreme Court has held that an agreement between rival companies that restrains competition between them is illegal when it lacks, as did the agreements among these broadcasters, any pro-competitive justification. *See Federal Trade Commission* v. *Indiana Federation of Dentists*, 476 U.S. 447, 459 (1986). Although the 1992 Cable Act gave broadcasters the right to seek compensation for retransmission of their television signals, the antitrust laws require that such rights be exercised individually and independently by broadcasters. When competitors in a market coordinate their negotiations so as to strengthen their negotiating positions against third parties and so obtain better deals, as did these Defendants, their conduct violates the Sherman Act.

Section V. of the proposed final judgment is designed to ensure that persons affected by Defendants' illegal conduct receive notice of the restrictions placed on Defendant's future conduct by the Final Judgment. Thus, paragraph V.A. and V.B. require each Defendant to send a designated notice to each cable, wireless or satellite television operator that currently distributes that Defendant's signal, and to all other such operators that may in the future request retransmission consent from that Defendant.

Sections VI. and VII. require each Defendant to set up an antitrust compliance program and designate an antitrust compliance officer. Under the program, each Defendant is required to furnish a copy of the Final Judgment and a less formal written explanation of it to each of its officers and directors and to each of its employees, sales representatives, or agents whose duties relate to retransmission consent for that Defendant's Corpus Christi television station.

The proposed Final Judgment also provides methods for determining and securing each Defendant's compliance with its terms. Section VIII. provides that, upon request of the Department of Justice, each Defendant shall submit written reports, under oath, with respect to any of the matters contained in the Final Judgment. Additionally, the Department of Justice is permitted to inspect and copy all books and records, and to interview the officers, directors, employees and agents of each Defendant.

Section IX. makes the Final Judgment effective for ten years from the date of its entry.

Section XI. of the proposed Final Judgment states that entry of the Final Judgment is in the public interest. The APPA conditions entry of the proposed Final Judgment upon a determination by the Court that the proposed Final Judgment is in the public interest.

The Government believes that the proposed Final Judgment is fully adequate to prevent the continuation of recurrence of the violation of Section 1 of the Sherman Act alleged in the Complaint, and that disposition of this proceeding without further litigation is appropriate and in the public interest.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Such comments should be made within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register.** The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to: Donald J. Russell, Chief,

Telecommunications Task Force, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Room 8100, Washington, D.C. 20001.

Under Section X. of the Proposed Final Judgment, the Court will retain jurisdiction over this matter for the purpose of enabling any of the parties to apply to the Court for such further orders or directions as may be necessary or appropriate for the construction, implementation, modification, or enforcement of the Final Judgment, or for the punishment of any violations of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The only alternative to the proposed Final Judgment considered by the Government was a full trial on the merits and on relief. Such litigation would involve substantial cost to the United States and is not warranted, because the proposed Final Judgment provides appropriate relief against the violations alleged in the Complaint.

VII. Determinative Materials and Documents

No particular materials or documents were determinative in formulating the proposed Final Judgment. Consequently, the Government has not attached any such materials or documents to the proposed Final Judgment.

Dated:

Respectfully submitted,

Frank G. Lamancusa

Andrew S. Cowan

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street N.W., Room 8100, Washington, D.C. 20001, (202) 514–5621.

[FR Doc. 96–3398 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Medical Practice Knowledge Bank

Notice is hereby given that, on November 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Allegheny-Singer Research Institute has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Allegheny-Singer Research Institute, Pittsburgh, PA; AT&T Corporation, Global Information Solutions, Human Interface Technology Center, Atlanta, GA; AT&T Corporation Global Information Solutions, Decision Enabling Systems Division, El Segundo, CA; AT&T Corporation, Business Communications Services, Holmdel, NJ; and InSoft, Inc., Mechnicsburg, PA. The name under which these parties will operate is the National Medical Practice Knowledge Bank. The general area of planned activity is to conduct cooperative research concerning multimedia information access, retrieval and associated software technologies.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3443 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Auto Body Consortium: Near Zero Stamping Joint Venture

Notice is hereby given that, on January 3, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Auto Body Consortium, Inc. ("the Consortium") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Auto Body Consortium, Inc. advised that A.J. Rose Manufacturing Company, Avon, OH; Classic Companies, Troy, MI; Data Instruments Inc., Acton, MA; and The HMS Company, Troy, MI have joined the Near Zero Stamping Joint Venture. The Consortium further advised that APX International, Madison Heights, MI; ASC Inc., Southgate, MI; Bethlehem Steel Corporation, Southfield, MI, The Budd Company, Auburn Hills, MI; Detroit Center Tool, Detroit, MI; ISI Automation Products Group, Mt. Clemens, MI; and ISI Robotics, Fraser, MI are no longer members.

No other changes have been made in either the membership or planned activity of the Consortium. Membership in the Consortium remains open, and the Consortium intends to file additional written notification disclosing all changes in membership.

On September 14, 1995, the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 31, 1996 (61 FR 3463).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3444 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Bay Area Multimedia Technology Alliance

Notice is hereby given that, on September 18, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Bay Area Multimedia Technology Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: CareSoft, Inc., San Jose, CA; Institute for Research on Learning, Palo Alto, CA; and UB Networks, Santa Clara, CA.

The nature and objectives of this joint venture are to promote the growth of the multimedia industry by accelerating the interaction among producers and customers and to stimulate the use of multimedia in business, in education, in the community, and at home. It is intended that the result will be the development of precompetitive technologies for networked multimedia applications

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3445 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Spray Drift Task Force

Notice is hereby given that, on July 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Spray Drift Task Force has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Industria Prodotti Chimici SpA, Novate Milanesi, ITALY has become a member.

No other changes have been made in either the membership, corporate name or planned activities of the venture.

On May 15, 1990, the Spray Drift Task Force filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of July 5, 1990 (55 FR 27701). The last notification was filed with the Department on January 25, 1995. A notice was published in the **Federal Register** on March 23, 1995 (60 FR 15305).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3448 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Mobile Information Infrastructure for Digital Video and Multimedia Applications Joint Venture

Notice is hereby given that, on September 28, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Mobile Information Infrastructure for Digital Video and Multimedia Applications Joint Venture ("MII JV"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: AT&T Corp., Basking Ridge, NJ; and Sun Microsystems Federal, Inc., Mountain View, CA.

The nature and objectives of this joint venture are to collaborate on the development and prototyping of a Mobile Information Infrastructure for Digital Video and Multimedia Applications.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3446 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Open Devicenet Vendor Association, Inc.

Notice is hereby given that, on June 21, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Open DeviceNet Vendor Association, Inc., Joint Venture has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: ABBA Drives, Inc., New Berlin, WI; ABB Robotics Products AB, Vasteras, SWEDEN; Act' 1 SA, Braine L'Alleud, BELGIUM; AEG Schneider Automation, Inc., North Andover, MA; Allen-Bradley Company, Inc., Milwaukee, WI; Rockwell International Corp., Seal Beach, CA; American Precision Industries, Inc., Amherst, NY; BMP Incorporated, Harrisburg, PA; Applied Materials, Inc., Santa Clara, CA; ASCO Pneumatic Controls, Charlotte, NC; Automatic Switch Co., Florham Park, NJ; AxNet, Ecully, FRANCE; Balluff, Inc., Florence, KY; Geohard Balluff BmbH & Co., Neuhausen/Filder, GERMANY; Banner Engineering Corporation, Minneapolis, MN; Belden Wire & Cable, Richmond, IN; Berk-Tek Inc., New Holland, PA; Alcatel NA Cable Systems, Inc., Hickory, NC; Brooks Instrument Company, Inc., Hatfield, PA; Clippard Instrument Laboratory, Incorporated, Cincinnati, OH; Codan Pty. Ltd., Newton, AUSTRALIA; Communications & ID Systems, Milwaukee, WI; Contemporary Control Systems, Inc., Downers Gove, IL; Control Technology, Inc., Knoxville, TN; Crouse-Hinds Division of Cooper Industries, Houston, TX; Crouzet Corporation, Carrollton, TX; Crouzet Automatismes, S.A., Valence, FRANCE; Cutler Hammer, Inc., Pittsburgh, PA; Eaton Corporation, Cleveland, OH; Daniel Woodhead Co., Northbrook, IL; Woodhead Industries, Inc., Buffalo Grove, IL; Datalogic, Inc., Scotts Valley, CA, Datalogic, SpA, Bologna, ITALY; Dearborn Group, Inc., Farmington Hills, MI; Digital Electronics Corporation, Osaka, JAPAN; D.I.P. Inc., Moreno Valley, CA; ECT International, Inc., Brookfield, WI; EMS Inc., Cincinnati, OH; Eurotherm PLC, Horsham, UK; Event Technologies, Inc., Hales Corners, WI; Festo Corporation, Hauppauge, NY; Festo KG, Esslingen, GERMANY; Furnas Electric Co., Batavia, IL; Grayhill Incorporated, LaGrange, IL; Hitachi, Ltd., Tokyo, JAPAN; Hohner Shaft Encorder Corp., Beamsville, CANADA; Huron Net Works, Inc., Ann Arbor, MI; Industrial Devices Corporation, Novato, CA; Institut Fuer Elektrische Messtech/ und Grundlagen Der Elektrotech Nik, Nindernechsen, GERMANY; Lumberg, Inc., Richmond, VA; Karl Lumberg GmbH & Co., Schalksmuehle, GERMANY; Lutze, Inc., Charlotte, NC; MAC Valves Europe, Inc., Wixom, MI; MagneTek, New Berlin, WI; Mannesmann Rexroth Pnuematics Division, Bethlehem, PA; Mannesmann AG, Dusseldorf, GERMANY; Micro Mo Electronics, Clearwater, FL; Mitsubishi Electronics America, Inc., Cypress, CA; Mitsubishi Electric Corp. Inc., Tokyo, JAPAN; MKS Instruments, Inc., Andover, MA; Moog Inc., East Aurora, NY; Namco Controls Corp; Highland Heights, OH; Acme Cleveland Corporation, Pepper Pike, OH; Nematron Corporation, Ann Arbor, MI; NSI, Cran-Gevrier, FRANCE; Numatics, Incorporated, Highland, MI; Omron Corporation, Kyoto, JAPAN, ONLINE Development, Inc., Knoxville, TN; Optimised Control Inc., Tampa, FL; Optimised Control, Ltd, Bristol, ENGLAND; ORMEC Systems Corporation, Rochester, NY; Pacific Scientific Company, Charlestown, MA; Parker Hannifin Corp., Cleveland, OH; Patriot Sensors & Controls Corp., Clawson, MI; Controls Holding Company, Clawson, MI; PDL Electronics Ltd., Napier, NEW ZEALAND; PDL Holdings, Ltd., Christchurch, NZ; Peperl & Fuchs, Twinsburg, OH; Pepperl + Fuchs GmbH, Mannheim, GERMANY; Phoenix Contact, Inc., Harrisburg, PA; Phoenix Contact GmbH & Co., Blomberg, GERMANY; Pro-Log Corp., Monterey, CA; RadiSys Corporation, Beaverton, OR; Reliance Electronic Industrial Company, Mayfield Hts., OH; Indramat Division of Rexroth Corporation, Bethlehem, PA; Ross Controls International, Inc., Troy, MI; S–S Technologies, Inc., Kitchener, CANADA; Schrader-Bellows, Inc., Cuyahoga Falls, OH; Sharp Manufacturing Systems Corporation, Yamato-Koriyama City, JAPAN; Showa Electric Wires & Cable Co., Ltd., Miyage-

Prf, JAPAN; SMC Corporation, Tokyo, JAPAN; Socapel, SA, Penthaz Vaud, SWITZERLAND; Softing GmbH, Munich, GERMANY; Square D Company, Palatine, IL; Groupe Schneider, Boulogne Billancourt, FRANCE; Toshiba International Corporation, Houston, TX; Toshiba Corporation, Tokyo, JAPAN; TURCK, Inc., Plymouth, MN; Uticor Technology, Inc., Cettendorf, IA; Vector Informatik GmbH, Ditzngen, GERMANY; Wago Corporation, Brown Deer, WI; Wago Knotakttechnik GmbH, Miden, GERMANY; Whedco, Inc., Ann Arbor, MI; Wonderwear Corporation, Irvine, CA; Yaskawa Electric Ameica, Inc., Northbrook, IL; and Yaskawa Electric Corporation, Kitakyushu, JAPAN.

The purpose of this venture is to promote the adoption of a viable industrial automation communication network standard based on the DeviceNet protocol to increase the range of options for builders of such industrial equipment systems and to produce products, processes or services consisting of or relating to the specification of the DeviceNet protocol and products or services designed to distinguish items that conform to such specification from those that do not.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3447 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 94–06

Notice is hereby given that, on December 12, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), the Members of the Petroleum Environmental Research Forum participating in ("PERF") Project No. 94–06 filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing a change in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following party has become a member: Aluminum Company of America, Alcoa Center, PA.

No other changes have been made in either the membership or the planned activities of PERF Project No. 94–06.

On March 20, 1995, PERF Project No. 94–06 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 27, 1995, (60 FR 20750).

The last notification was filed with the Department on November 21, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 20, 1995 (60 FR 65670).

Information regarding participation in Project No. 94–06 may be obtained from Mr. P.W. Becker, Exxon Research & Engineering Company, Florham Park, NJ.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3394 Filed 2–14–96; 8:45 am]

BILLING CODE 4410–01–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94–3 CARP–CD–90–92]

Distribution of 1990, 1991 and 1992 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice with request for comments.

SUMMARY: The Copyright Office directs all claimants to royalty fees collected for secondary transmissions by cable systems in 1990, 1991, and 1992 to submit comments as to whether Phase II controversies exist as to the distribution of these funds. The Office is also directing those claimants reporting the existence of Phase II controversies to file a Notice of Intent to Participate.

DATES: Comments on controversies and Notices of Intent to Participate are due March 15, 1996.

ADDRESSES: If sent by mail, an original and five copies of the comments on controversies and the Notice of Intent to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and five copies of the comments on controversies and the Notice of Intent to participate should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone (202) 707–8380. Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Each year, cable systems submit royalties to the U.S. Copyright Office for a statutory license to retransmit broadcast signals to their subscribers. 17 U.S.C. 111. These royalties are, in turn, distributed to the appropriate copyright owners by means of a cable royalty distribution proceeding. Distribution proceedings were formerly conducted by the Copyright Royalty Tribunal. However, on December 17, 1993, the Tribunal was abolished. Royalty distribution proceedings are now conducted by *ad hoc* copyright arbitration royalty panels (CARPs) convened and supported by the Library of Congress and the Copyright Office. Copyright Royalty Tribunal Reform Act of 1993, Public Law 103–198, 107 Stat. 2304 (1993).

Currently, the Copyright Office is conducting its first distribution of cable royalties under the new CARP regime. On March 21, 1995, the Office consolidated distribution of the 1990, 1991 and 1992 cable royalty funds into a single proceeding, and announced that it would conduct Phase I and Phase II controversies sequentially. 60 FR 14971 (March 21, 1995). The Office would first conduct a proceeding and convene a CARP to resolve all Phase I controversies for the 1990–92 funds, and, after the proceeding had been completed, would "ascertain the existence of any Phase II controversies and conduct separate proceedings." [1] 60 FR at 14974. The Office also announced that it would resolve the issue of whether to allow a single CARP to resolve more than one Phase II controversy at the time it determined the existence of any Phase II controversies. *Id.*

The CARP proceeding to resolve Phase I controversies for the 1990–92 royalties commenced on December 4, 1995, and will close on June 1, 1996. 60 FR 58680 (November 28, 1995). CARP proceedings to resolve Phase II controversies, if any, may therefore be scheduled anytime after June 1, 1996, in accordance with the Office's decision to handle them sequentially. See 60 FR 14971, 14974. Conversely, the Office also seeks to be advised of Phase II categories that are completely settled.

[1] The Copyright Office faces the possibility of initiating multiple CARP proceedings in 1996. Therefore, in the interest of establishing workable schedules for the Copyright Office and for the interested parties to these future proceedings, the Office requests comments concerning the ascertainment of Phase II controversies in the current cable distribution proceeding at this time.

II. Comments on Controversies

In order to schedule proceedings to resolve Phase II controversies as soon as possible after the conclusion of arbitration proceedings in Phase I, the Copyright Office directs all claimants to royalty fees collected in 1990, 1991 and 1992 for secondary transmissions by cable systems to submit comments as to whether controversies exist as to the distribution of these funds: If any controversies exist, the claimant should specifically name the claimants with whom he or she has a controversy. The Office also seeks comments as to whether each Phase II controversy should be handled by a separate CARP, or whether a single CARP should handle more than one or all controversies. Comments must be submitted no later than March 15, 1996.

III. Notice of Intent to Participate

In addition to comments on controversies, the Copyright Office requests those claimants who have identified the existence of a Phase II controversy and wish to participate in a Phase II distribution proceeding, to file a Notice of Intent to Participate in the proceeding by March 15, 1996. Failure of a claimant to file a timely Notice of Intent to Participate, or to be represented by another claimant filing a timely Notice, will subject the Phase II claim to dismissal. The filing of a timely Notice of Intent to Participate is thus critical to a claimant being able to present an effective claim in a Phase II proceeding.

Dated: February 12, 1996.

Marilyn J. Kretsinger,

Acting General Counsel.

[FR Doc. 96–3437 Filed 2–14–96; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Kristin Larson or Robert S. Cunningham, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On 27 October, 1995, the National Science Foundation published a notice in the **Federal Register** of permit applications received. A permit was issued on 11 January 1996 for the following applicant: Dr. Rennie Holt, Permit Number: 96WM1–NOAA, National Marine Fisheries, Effective Date: 11 January 1996, Expiration Date: 15 March 2001.

Kristin Larson,

Permit Office.

[FR Doc. 96–3390 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Advanced Scientific Computing; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Scientific Computing (#1185).

Date and Time: March 4, 1996, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. John Van Rosendale, Program Director, New Technologies Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Faculty Early Career Development (Career) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3452 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Astronomical Sciences (1186); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Astronomical Sciences (#1186).

Date and Time: March 7 and 8, 1996, 8:00 a.m.–5:00 p.m.

Place: Room 1020, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: James P. Wright, Program Director, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/306–1819.

Purpose of Meeting: To provide advice and recommendations on proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate proposals submitted to the CAREER Program in the Division of Astronomical Sciences.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3453 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: March 4, 5, and 6, 1996; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 565, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Edward N. Bryan, Program Director, Environmental Engineering, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CAREER proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including

technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3454 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: March 4th & 5th, 1996; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 370, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-Open.

Contact Persons: Dr. James Coleman, Program Director, Ecological & Evolutionary Physiology, Dr. Randy Nelson, Program Director, Animal Behavior Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: March 4th, 1996; 4:00 p.m. to 5:00 p.m.—for a discussion on research trends, opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. James Edwards, Executive Officer, Directorate for Biological Sciences. Closed Session: March 4th, 1996, 8:30 a.m.—4:00 p.m.; March 5th 1996; 8:30 a.m. to 5:00 p.m. To review and evaluate Ecological & Evolutionary Physiology & Animal Behavior proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3455 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Elementary, Secondary and Informal Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name of Committee: Special Emphasis Panel in Elementary, Secondary and Informal Education (#59).

Date and Time: February 29, 1996, 8:00 a.m. to 6:00 p.m., March 1, 1996, 8:00 a.m. to 6:00 p.m., March 2; 8:00 a.m. to 6:00 p.m.

Place: Arlington Renaissance Hotel, 950 North Stafford Street, Arlington, VA 22203.

Type of Meeting: Closed.

Contact Person: Dr. Jim Ellis, Program Director, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1614.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3456 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Human Resource Development (#1199).

Date and Time: March 4 & 5, 1996, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: Lawrence Scadden Y Mary Kohlerman, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1636.

Purpose of Meeting: To provide the opportunity for Project Directors who have awards from the Program for Persons with Disabilities to share their experiences with each other, and to allow NSF staff to learn of the progress and impact of the projects.

Agenda: To have Project Directors make brief presentations about the progress and impact of their activities as well as learn about all of the PPD awards.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3457 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Microelectronic Information Processing Systems

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Microelectronic Information Processing Systems (1206).

Date and Time: March 6, 1996, 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Conference Rooms: 310, 320, 360, 365, 370, 390.

Type of Meeting: Closed.

Contact Person: Dr. Michael Foster, Program Director, Experimental Systems Program, Microelectronic Information Processing Systems Division, National Science Foundation, Room 1155, Telephone No.: 703–306–1936.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate FY 96 Faculty Early Career Development (CAREER) proposals in the Microelectronic Information Processing Systems area of research.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3458 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Networking and Communications Research and Infrastructure (NCRI); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Networking and Communications (#1207).

Date and Time: March 7–8, 1996; 8:30 a.m. to 5:00 p.m.

Place: Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Darleen Fisher, National Science Foundation, Room 1175, Arlington, VA 22230 (703–306–1950).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review & evaluate proposals submitted for the Career Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3459 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Systemic Reform; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Nome: Special Emphasis Panel in Systemic Reform (#1765).

Dates and Times: 12:00 noon–6:30 p.m.; March 7, 1996, 8:00 a.m.–12:00 noon; March 8, 1996.

Doubletree Hotel, 300 Army Navy Drive, Arlington, Virginia 22202. Phone: (703) 416–4100, FAX (703) 416–4126.

Type of Meeting: Closed.

Contact: Dr. Richard J. Anderson, Head, Office of Experimental Program to Stimulate Competitive Research, National Science Foundation, Suite 875, 4201 Wilson Blvd., Arlington, VA 22203, (703) 306–1683.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF EPSCoR program for financial support.

Agenda: To review and evaluate science and technology (S&T) proposals from states participating in the Experimental Program to Stimulate Competitive Research. Proposals request support in one of two categories: (1) 12- to 24-month non-renewable EPSCoR Grant or (2) 36-month EPSCoR Cooperative Agreement. Proposals in both categories are submitted in response to NSF EPSCoR solicitation 95–141.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(b). (c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 12, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3460 Filed 2–14–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Nuclear Regulatory Commission Seeks Qualified Candidates for Advisory Committee on Nuclear Waste

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Request for résumés

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking qualified candidates for possible appointment to its Advisory Committee on Nuclear Waste (ACNW). One opening is expected on the committee in mid-1996.

ADDRESSES: Submit résumés to: Ms. Jude Himmelberg, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

FOR FURTHER INFORMATION, CALL: 1–800–952–9678. Please refer to Announcement Number 96–1000.

SUPPLEMENTARY INFORMATION: The ACNW is a part-time advisory group established by the NRC in 1988 to provide independent technical review and advice on the disposal of nuclear waste, including all aspects of nuclear waste disposal facilities, as directed by the Commission. This advice covers activities related to licensing, operation and closure of high- and low-level radioactive waste disposal facilities and associated rulemakings, regulatory guides and NRC staff technical positions. The ACNW also reviews performance assessment evaluations of waste disposal facilities.

The committee interacts with representatives of the NRC, the Advisory Committee on Reactor Safeguards, the Department of Energy, other Federal, State, and local agencies, Indian Nations and private organizations as appropriate.

A wide variety of engineering and scientific skills are needed to conduct the broadly based reviews required in the committee's work. Engineers and scientists are needed with work experience in the high- and low-level radioactive waste disposal programs coupled with broad experience in a pertinent technical field, such as nuclear engineering and technology, nuclear fuel cycle analysis, nuclear chemistry, earth sciences, and materials science.

Individuals should have a minimum of 20 years' work experience in related fields, or fields that can be applied directly to the work of the committee, and have achieved a level of distinction in their discipline. In addition, individuals must be able to devote approximately 50–100 days per year to committee business. Most meetings are held in Rockville, Maryland, although some additional travel is required to other sites.

Because conflict-of-interest regulations restrict the participation of members actively involved in areas related to nuclear waste disposal, the degree and nature of any such involvement will be weighed. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations before final appointment to the committee. This may result in the candidate being required to divest himself or herself of securities issued by nuclear industry entities, or discontinue or limit involvement in NRC or industry-funded research contracts or grants, based on a determination of possible conflicts of interest.

Copies of a résumé describing the educational and professional background of the candidate, including special accomplishments, professional references, current address, and telephone number should be provided. All qualified candidates will receive careful consideration. Appointment will be made without regard to race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States. Applications will be accepted until March 31, 1996.

Dated: February 9, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–3401 Filed 2–14–96; 8:45 am]

BILLING CODE 7590–01–P

Renewal of Charter for Nuclear Safety Research Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Renewal of the Nuclear Safety Research Review Committee.

SUMMARY: The Nuclear Safety Research Review Committee was established by the Nuclear Regulatory Commission as a Federal Advisory Committee in February 1988 to provide advice to the Director, Office of Nuclear Regulatory Research, on matters relating to NRC's nuclear safety research programs. The committee is composed of experts capable of providing a wide variety of technical and managerial viewpoints drawn from industrial national

laboratory, university and not-for-profit research organizations.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), and after consultation with the General Services Administration, the Nuclear Regulatory Commission has determined that there is a continuing need for the Nuclear Safety Research Review Committee and that renewal of the committee for a two year period beginning February 9, 1996 is in the public interest.

FOR FURTHER INFORMATION CONTACT: Dr. Jose Cortez, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–6596.

Dated: February 9, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

Nuclear Regulatory Commission, Charter, Nuclear Safety Research Review Committee

1. Committee's Official Designation

NRC Nuclear Safety Research Review Committee (NSRRC).

2. Committee's Objectives, Scope of Activities, and Duties

On a continuing basis, NSRRC will provide advice to the Director of the Office of Nuclear Regulatory Research and through him the Commission, on matters of overall management importance in the direction of the NRC's program of nuclear safety research. Matters requiring NSRRC's attention will be posed by the Commission by the Director of the Research Office, or as an outcome of prior NSRRC deliberations. Nuclear safety research is understood to encompass technical investigations of the implications for public health and safety of the peaceful uses of atomic energy and the reduction of those investigations to regulatory practice.

NSRRC activities will include assessment of and recommendations concerning:

a. Conformance of the NRC nuclear safety research program to the NRC Philosophy of Nuclear Regulatory Research, as stated in the Committee's Strategic Plan, and to specific Commission directions.

b. Likelihood of the program meeting the needs of the users of research.

c. Appropriateness of the longer range research programs and the correctness of their direction.

d. Whether the best people are doing the work at the best places; whether there are other options, including cooperative programs, that would yield higher quality work, or otherwise improve program efficiency.

e. Whether the program is free of obvious bias, and whether the research products have been given adequate, unbiased peer review.

In addition, NSRRC will conduct specialized studies when requested by the Commission or the Director of the Office of Nuclear Regulatory Research. If appropriate, these studies will be published as reports.

3. Time Period Necessary for the Commission To Carry Out Its Purpose

In view of the goals and purposes of the Committee, it is expected to be continuing in nature.

4. Office of Whom This Committee Reports

The Director of the Office of Nuclear Regulatory Research and, as appropriate, through the Director of the Commission.

5. Agency Responsible for Providing Necessary Support for This Committee

Nuclear Regulatory Commission. Within the Commission, support will be furnished by the Office of Nuclear Regulatory Research.

6. Description of Duties for Which the Committee Is Responsible

The duties of the NSRRC are solely advisory and are stated in paragraph 2, above.

7. Estimated Annual Operating Costs in Dollars and Man-Years

$185,000; 0.8 person-year.

8. Estimated Number and Frequency of Committee Meetings

The Committee will meet at such times and places as it deems necessary, but not less than once a year. Subcommittees may meet as deemed necessary to achieve their assigned tasks.

9. Committee's Termination Date

Two years from the filing date, subject to renewal by the Commission. See also, paragraph 3 above.

10. Members

a. Committee members, including the Chairperson, shall be appointed by the Commission following nomination by the Director of the Office of Nuclear Regulatory Research.

b. Approximate number of Committee members: 9 to 12.

c. Members will be chosen to ensure an appropriately balanced representation of the research management community, taking into account: (1) demonstrated experience in high-level management of programs in applied research; (2) demonstrated expertise in one or more disciplines of applied science and engineering; (3) broad acquaintance with the public health and safety issues associated with the peaceful uses of atomic energy, and (4) a balance of experience in the academic, industrial, and national and not-for-profit laboratory environments.

11. Date of Filing: February 9, 1996.

Andrew L. Bates,

Advisory Committee Management Office.

[FR Doc. 96–3403 Filed 2–14–96; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Company; H.B. Robinson Steam Electric Plant, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix R, to Carolina Power & Light Company (CP&L or the licensee), for H. B. Robinson Steam Electric Plant, Unit No. 2 (HBR), located in Darlington County, South Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption would allow the use of the diesel-backed security lighting system for access and egress to, and operation of, auxiliary feedwater (AFW) valves AFW–1 and AFW–104 and instrument air (IA) valve IA–297.

The Need for the Proposed Action

The proposed exemption is needed because failure to isolate valves AFW–1 and AFW–104 due to poor lighting could result in overfilling the condensate storage tank (CST) with service water after switchover of the AFW cooling source from the CST to the service water system.

Environmental Impacts of the Proposed Action

The proposed exemption does not involve any measurable environmental impacts since the proposed lighting would provide adequate lighting to allow for operation of the safe shutdown equipment identified in the licensee's request. Plant configuration and operations are not changed. Thus, the proposed exemption would not affect the probability or consequences of a potential reactor accident and would not otherwise affect radiological plant effluents. Consequently, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption does not affect nonradiological plant effluents and there are no other nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

The principal alternative to the exemption would be to require strict compliance with 10 CFR Part 50, Appendix R, Section III, for the licensee at HBR to provide emergency lighting units with at least an 8-hour battery power supply in all areas needed for operation of post-fire safe shutdown equipment and in access and egress routes thereto.

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action are of a very low likelihood and therefore insignificant.

Alternative Use of Resources

This exemption does not reduce the use of resources that were not already considered in the Final Environmental Statement of HBR. Thus, the requested exemption would provide only relief from the requirement to install 8-hour emergency lighting where existing security lighting is adequate to meet the underlying purpose of the rule.

Agencies and Persons Consulted

In accordance with its stated policy, on February 8, 1996, the NRC staff consulted with the South Carolina State official, Mr. James Peterson of the South Carolina Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action would not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application dated February 2, 1995, as supplemented May 15, 1995, and September 29, 1995, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Hartsville Memorial Library, 147 West College Avenue, Hartsville, SC 29550.

Dated at Rockville, Maryland, this 9th day of February 1996.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3400 Filed 2–14–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene its next regular meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on February 21–22, 1996. The meeting was noticed in the **Federal Register** on January 26, 1996. In addition to the discussion of the National Academy of Science's, Institute of Medicine report, the staff will discuss two additional issues. The first issue is a proposed rule requiring licensees to notify the NRC Operations Center within 24 hours of discovering an intentional or allegedly intentional diversion of licensed radioactive material from its intended or authorized use. The proposed rule would also require licensees to notify NRC when they are unable, within 48 hours of discovery of the event, to rule out that the use was intentional. The proposed rule would require reporting of events that cause, or have the potential to cause, an exposure of individuals whether or not the exposure exceeds the regulatory limits. The comment period for this rule closes March 1, 1996. The second issue is the lessons learned and action items resulting from the Augmented Inspection Team and Incident Investigation Team reviews of internal contamination events at the National Institutes of Health and Massachusetts Institute of Technology, respectively. These issues were added as agenda items at the request of the ACMUI Chairman. Because of the 30 day comment period, the February meeting is the only opportunity for ACMUI to discuss the proposed rule in a public meeting within the specified comment period.

The meeting will take place at the address provided below. All sessions of the meeting will be open to the public.

DATES: The meeting will begin at 8:30 a.m., on February 21 and 22, 1996.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Room T2B3, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION, CONTACT: Josephine M. Piccone, Ph.D., U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, telephone (301) 415–7270. For administrative information, contact Torre Taylor, telephone (301) 415–7900.

Conduct of the Meeting

Barry Siegel, M.D., will chair and conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Josephine M. Piccone (address listed previously), by February 16, 1996. The transcript of the meeting will be kept open until February 26, 1996, for inclusion of written comments submitted after February 16, 1996. Statements must pertain to the topics on the agenda for the meeting.

2. At the meeting, questions from members of the public will be permitted at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection, and copying, for a fee, at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555, telephone (202) 634–3273, on or about March 8, 1996. Minutes of the meeting will be available on or about April 5, 1996.

4. Seating for the public will be on a first-come, first-served basis.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App.); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations, Part 7.

Dated: February 9, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–3402 Filed 2–14–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26470]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

February 9, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 4, 1996, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Power System, Inc., et al. (70–8411)

Allegheny Power System, Inc. ("APS"), 12 East 49th Street, New York, New York, 10017, a registered holding company; AYP Capital, Inc. ("AYP"), 12 East 49th Street, New York, New York, 10017, a non-utility subsidiary company of APS; and Allegheny Power Service Corporation ("APSC"), 800 Cabin Hill Drive, Greensburg, Pennsylvania, 15601, a non-utility subsidiary company of APS, have filed a post-effective amendment to an application-declaration previously filed under sections 6(a), 7, 9(a), 10, 12(b), 13(b), 32 and 33 of the Act and rules 45, 50, 53, 87, 90 and 91 thereunder.

By order dated July 14, 1994 (HCAR No. 26085), APS was authorized to organize and finance AYP to: (i) explore investment opportunities in companies engaged in new technologies related to the core utility business of APS and (ii) invest in companies for the acquisition and ownership of exempt wholesale generators ("EWGs").

By order dated February 3, 1995 (HCAR No. 26229), AYP was authorized to engage in the development, acquisition, construction, ownership and operation of EWGs and in development activities with respect to (i) qualifying cogeneration facilities and small power production facilities ("SPPs"); (ii) nonqualifying cogeneration facilities, nonqualifying SPPs and independent power production facilities ("IPPs") located within the service territories of APS public utility subsidiary companies; (iii) EWGs; (iv) companies involved in new technologies related to the core business of APS; and (v) foreign utility companies ("FUCOs"). AYP Capital was also authorized to consult for nonaffiliate companies. APS was authorized to increase its investment in AYP Capital from $500,000 to $3 million.

By order dated October 27, 1995 (HCAR No. 26401), APS and AYP were authorized to form and finance special-purpose subsidiary companies ("NEWCOs") to acquire interests in EWGs and FUCOs, to provide energy management services and demand side management services, to factor accounts receivable, and to manage the real estate portfolio of the APS system. APS also was authorized to invest in AYP, and AYP was authorized to invest in NEWCOs, up to $100 million through December 31, 1999. AYP and the NEWCOs were authorized to obtain loans or to issue recourse obligations guaranteed by AYP or APS subject to the $100 million limit. Finally, the NEWCOs were authorized to issue partnership interests or trust certificates through December 31, 1999 to third parties to finance EWGs and FUCOs in an amount not to exceed $200 million.

This post effective amendment seeks Commission authorization for APS and AYP to increase the limit on loans and guarantees from $100 million to $300 million. This increase is requested in part because AYP has agreed to purchase the 50% interest of Duquesne Light Company in Fort Martin Generating Station Unit No. 1 ("Fort Martin") for $181 million.

Fort Martin is operated by Monongahela Power Company ("Monongahela"), an associate company of AYP and a wholly-owned public utility subsidiary of APS, pursuant to an Operating Agreement dated April 30, 1965. Monongahela was chosen to operate Fort Martin by an operating committee that consists of the three owners of Unit No. 1—Duquesne Light Company, Monongahela, and Potomac Edison Company. Certain common facilities are operated under a Common Facilities Operating Agreement dated November 14, 1968. The Operating Agreement has been approved by the FERC and by all state commissions with jurisdiction over the parties. The Operating Agreement, which details the allocation of costs for the operation and maintenance of Fort Martin, will remain in effect after the sale of the 50% interest.

Consolidated Natural Gas Company (70–8759)

Consolidated Natural Gas Company ("CNG"), CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222–3199, a registered holding company has filed an application-declaration under sections 3(b), 6(a), 7, 9(a), 10, 12(b), 13(b), 32 and 33 of the Act and rules 45, 53, 54, 83, 87, 90 and 91 thereunder.

CNG proposes to form CNG International Corporation ("CNGI") as a subsidiary which would exclusively invest either directly or, through intermediate subsidiaries ("Intermediate Subsidiaries"), indirectly in energy-related businesses outside the United States. CNG requests authority through March 31, 2001 to invest up to $300 million in any combination of debt and equity funds through CNGI in such businesses ("Investment Cap").

CNG additionally requests authority for CNGI to directly or, through one or more Intermediate Subsidiaries, indirectly acquire securities or interests in the business of one or more "exempt wholesale generators" ("EWGs") located outside of the United States and "foreign utility companies" ("FUCOs"). Any direct or indirect investment by CNGI in an EWG or a FUCO would not be subject to the Investment Cap, but would not be undertaken if, as a consequence, the aggregate direct and indirect investment by CNG in all EWG's and FUCO's exceeded 50% of CNG's consolidated retained earnings.

The types of energy-related businesses interests, other than EWGs and FUCOs, in which CNG requests authority for CNGI to acquire include: (a) The sale and servicing of energy equipment; (b) gas transmission and storage; (c) gas exploration, production, brokering and marketing; (d) brokering and marketing of electricity, gas and other energy commodities and (e) services related to the foregoing.

CNG also requests authority for CNGI and its affiliates to provide (a) energy consulting in foreign energy markets and (b) administrative, technical, operating, maintenance, and other management services to non-associates with respect to their foreign operations. All such services, together with the energy-related businesses described above are referred to as "Foreign Energy Activities." All such services would be provided to nonassociates at market-based rates.

CNGI and its affiliates may also provide similar goods and services to wholly-owned subsidiaries and to entities jointly owned by CNGI and its subsidiaries. Services provided to CNGI affiliates would be at market rates if such affiliate either (a) derives no material part of its income, directly or indirectly, from sources within the United States and is not a public-utility company operating within the United States or (b) does not provide services or sell goods directly or indirectly to CNG domestic utility affiliates.

CNGI and its affiliates may contract with CNG associates in order to provide the above services. Services obtained from utility associates would be performed at cost. Services from nonutility associates may be performed at market; provided, however, that services from nonutility associates substantially involved in the provision of services to CNG utility associates would be performed at cost.

CNGI may invest in Foreign Energy Activities through the acquisition of up to 100% of the voting or non-voting stock of corporations engaged exclusively in such activities. Alternatively, CNGI may invest and participate through wholly-owned limited purposes subsidiary corporations with nonassociates in partnerships or joint ventures exclusively engaged in Foreign Energy Activities.

CNG would provide funds to CNGI for the proposed activities by purchasing from CNGI up to 30,000 shares of its common stock, $10,000 par value. Although CNGI would issue no more than 30,000 shares, it proposes to authorize 50,000 shares of common stock, $10,000 par value. CNG would additionally fund CNGI's activities through open account advances and/or long-term loans. In addition, CNG proposes that CNG, CNGI and Intermediate Subsidiaries be authorized to enter guarantee arrangements, obtain letters of credit and otherwise provide credit support with respect to the obligations of their respective subsidiaries. The maximum aggregate limit on all such credit support would be $300 million.

CNG anticipates that most securities issued among CNGI and its affiliates, and most securities issued by CNGI and its affiliates to third parties, will be exempt from the requirements of section 6(a) and 7 of the Act. However, CNG requests authority for CNGI and its associates to issue securities in a transaction which would not qualify for exemption under rules of the Act at the time such securities would be issued.

Such securities would encompass interests in partnerships, joint ventures or other entities, and all other types of equity interests, regardless of preference with respect to, or condition on, distributions from the issuer of such securities, upon liquidation or otherwise.

CNG states that it would obtain the funds for any investment in CNGI from internally generated funds or as the Commission may otherwise authorize by separate order.

The Columbia Gas System, Inc. (70–8775)

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed an application-declaration under section 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 43, 45, 87, 90, and 91 thereunder.

Columbia proposes to form one or more direct or indirect subsidiaries ("Consumer Service Company") to engage in the business of providing energy-related consumer services ("Consumer Services"). To the extent these services are provided by a new subsidiary, Columbia seeks authorization, through December 31, 1997, to fund the new venture through the purchase of up to $5 million dollars of shares of common stock of Consumer Services Company, $25 par value per share, at a purchase price at or above par value. The acquisition may be made by either Columbia (in the case of a direct subsidiary) or by one of Columbia's subsidiary companies (in the case of an indirect subsidiary). To the extent that the services are provided by an indirect subsidiary, the funding by the direct subsidiary will come either from previously authorized funding or from cash on hand.

Columbia expects that its Consumer Services subsidiaries will conduct their businesses both within and outside of the states of Kentucky, Maryland, Ohio, Pennsylvania, and Virginia. Columbia states that the Consumer Services will primarily benefit Columbia's customers and Columbia's local distributing companies ("LDCs") (Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc. and Commonwealth Gas Services, Inc.). The Consumer Services offered would include the following: (1) Safety inspections (energy assessments and energy-related safety inspections such as carbon monoxide and radon testing, appliance efficiency ratings and wiring safety checks); (2) appliance financing (loans supporting the purchase of energy-related appliances); (3) billing insurance (to ensure payment of consumer utility bills in the event of death, disability or involuntary unemployment); (4) appliance repair warranty (repair service for heating and air conditioning and major appliances); (5) gas line repair warranty (warranty against the cost of repair of faulty gas service lines); (6) merchandising of energy-related goods (direct sales of energy-related devices); (7) commercial equipment service (warranty service for operators of commercial equipment); (8) bill risk management products (price protection services for gas consumers); (9) consulting and fuel management services (advisory and/or management services regarding energy consumption and measurement for commercial and industrial customers); (10) electronic measurement services (enhanced measurement and billing services for commercial and industrial customers to enable them to better monitor their energy consumption and expenditures); (11) incidental services (needed as a result of the services set forth above).

Columbia also proposes that its LDCs provide Consumer Services Company with billing, accounting, and other energy-related services. Columbia states that all services required to conduct the Consumer Services Company's business that are provided by the LDCs or any other Columbia company will be billed in accordance with section 13(b) of the Act and rules 87, 90 and 91 thereunder.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3417 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21739; 812–9840]

UAM Funds, Inc., et al.; Notice of Application

February 9, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: UAM Funds, Inc. ("Fund I"), UAM Funds Trust ("Fund II"), and

any future investment company for which any investment adviser named below or any investment adviser controlling, controlled by, or under common control with United Asset Management Corporation ("UAM"), serves as investment adviser and which are in the same "group of investment companies" as the UAM Funds as defined in rule 11a–3 under the Act ("Future Funds"); and Acadian Asset Management, Inc., Aldrich, Eastman & Waltch, L.P., Barrow, Hanley, Mewhinney & Strauss, Inc., C.S. McKee & Company, Inc., Cambiar Investors, Inc., Chicago Asset Management Company, Cooke & Bieler, Inc., Dewey Square Investors Corp., Dwight Asset Management Company, Fiduciary Management Associates, Inc., Hanson Investment Management Company, Investment Counselors of Maryland, Inc., Investment Research Company, Murray Johnstone International Ltd., Newbold's Asset Management, Inc., NWQ Investment Management Company, Rice, Hall, James & Associates, Sirach Capital Management, Inc., Spectrum Asset Management, Inc., Sterling Capital Management Company, Thompson, Siegel & Walmsley, Inc., Tom Johnson Investment Management, Inc. and any investment adviser which is controlling, controlled by, or under common control with UAM that, in the future, serves as an investment adviser to the UAM Funds or a Future Fund (the "Investment Advisers").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act that would grant an exemption from section 12(d)(1)(A)(ii), under sections 6(c) and 17(b) that would grant an exemption from section 17(a) and under rule 17d–1 to permit certain transactions in accordance with section 17(d) of the Act and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order that would permit certain money market funds to sell their shares to affiliated investment companies.

FILING DATES: The application was filed on November 13, 1995, and amended on January 18, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 5, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, One International Place, 44th Floor, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Fund I and Fund II are open-end management investment companies. Fund I currently offer 39 series, one of which is a money market fund subject to the requirements of the rule 2a–7 under the Act, and Fund II offers 10 series, none of which are money market funds.[1] Existing and future series of Fund I and Fund II and the Future Funds are collectively referred to as the "Portfolios." Portfolios that hold themselves out as money market funds are collectively referred to as the "Money Market Portfolios."

2. Acadian Asset Management, Inc., Aldrich, Eastman & Waltch, L.P., Barrow, Hanley, Mewhinney & Strauss, Inc., C.S. McKee & Company, Inc., Cambiar Investors, Inc., Chicago Asset Management Company, Cooke & Bieler, Inc., Dewey Square Investors Corp., Dwight Asset Management Company, Fiduciary Management Associates, Inc., Hanson Investment Management Company, Investment Counselors of Maryland, Inc., Investment Research Company, Murray Johnstone International LTD., Newbold's Asset Management, Inc., NWQ Investment Management Company, Rice, Hall, James & Associates, Sirach Capital Management, Inc., Spectrum Asset Management, Inc., Sterling Capital Management Company, Thompson, Siegel & Walmsley, Inc., Tom Johnson Investment Management, Inc. are the investment advisers for the Portfolios. The current Investment Advisers, except Aldrich, Eastman & Waltch, L.P., are wholly-owned subsidiaries of UAM, which is a holding company incorporated in Delaware for the purpose of acquiring and owning firms engaged primarily in institutional investment management. UAM is the sole limited partner of Aldrich, Eastman & Waltch, L.P. UAM Distributors, Inc. (the "Distributor") serves as the distributor for the Portfolios, and is a wholly-owned subsidiary of UAM.[2] Chase Global Fund Services Company ("Chase Global") is the administrator for the Portfolios[3] and Morgan Guaranty Trust Company of New York serves as custodian to the Portfolios.

3. The Money Market Portfolios seek current income, liquidity, and capital preservation by investing in short-term money market instruments issued or guaranteed by financial institutions, nonfinancial corporation, and the U.S. government, as well as repurchase agreements secured by government securities. These short-term debt securities are valued at their amortized cost pursuant to the requirements of rule 2a–7. The non-money market Portfolios invest in a variety of debt and/or equity securities in accordance with their respective investment objectives and policies. Each of the Portfolios has, or may be expected to have, uninvested cash in an account with the custodian. This cash either may be invested directly in individual short-term money market instruments or may not be otherwise invested in any portfolio securities.

4. Applicants seek an order that would permit (a) the Portfolios to utilize their cash reserves that have not been invested in portfolio securities to purchase shares of the Money Market Portfolios (each Portfolio, including Money Market Portfolios, purchasing shares of the Money Market Portfolios is an "Investing Portfolio") and (b) the Money Market Portfolios to sell or redeem their shares to or from each Investing Portfolio. By investing cash balances in the Money Market Portfolios as proposed, applicants believe that the Investing Portfolios will be able to combine their cash balances and thereby reduce their transaction costs, create more liquidity, enjoy greater returns, and further diversify their holdings.

5. The shareholders of the Investing Portfolios would not be subject to the imposition of double management fees. Applicants would cause each Investment Adviser and its respective affiliates to remit to the respective Investing Portfolios or waive investment advisory fees these service providers earn as a result of the Investing Portfolios' investments in the Money Market Portfolios to the extent the fees are based upon the Investing Portfolios' assets invested in shares of the Money Market Portfolios. Further, no sales charge, contingent deferred sales charge, rule 12b–1 fee, or other underwriting or distribution fee would be charged by the Money Market Portfolios, or by any underwriter, with respect to the purchase or redemption of their shares. If a Money Market Portfolio offers more than one class of shares, each Investing Portfolio will invest only in the class with the lowest expense ratio at the time of the investment.

6. Some of the Portfolios may have voluntary expense cap arrangements with the Investment Advisers for the purpose of keeping each Portfolio's total expenses below a certain predetermined percentage amount ("Expense Waiver"). To the extent actual expenses of the Portfolios exceed these caps, the Investment Advisers will reimburse a Portfolio in the amount of the excess. Any applicable Expense Waiver will not limit the advisory and administrative fee waiver or remittance discussed above.

7. Applicants also request relief that would permit the Portfolios to invest uninvested cash in a Money Market Portfolio in excess of the percentage limitations set out in section 12(d)(A)(ii) of the Act.[4] Applicants propose that each Portfolio be permitted to invest in shares of a single Money Market Portfolio so long as each Portfolio's aggregate investment in such Money Market Portfolio does not exceed the greater of 5% of such Portfolio's total net assets or $2.5 million. Applicants will comply with all other provisions of section 12(d)(1).

Applicants' Legal Analysis

1. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Section 12(d)(1), as noted above, sets certain limits on an investment company's ability to invest in the shares of another investment company. The perceived abuses section 12(d)(1) sought to address include undue influence by an acquiring fund over the management of an acquired fund, layering of fees, and complex structures. Applicants believe that none of these concerns are presented by the proposed transactions and that the proposed transactions meet the section 6(c) standards for relief.

3. Sections 17(a) (1) and (2) of the Act make it unlawful for any affiliated person of a registered investment company, or any affiliated person of such affiliated person, acting as principal, to sell or purchase any security to or from such investment company. Because each Portfolio may be deemed to be under common control with the other Portfolios, it may be an "affiliated person," as defined in section 2(a)(3) of the Act, of the other Portfolios. Accordingly, the sale of shares of the Money Market Portfolios to the Investing Portfolios, and the redemption of such shares from the Investing Portfolios, would be prohibited under section 17(a).

4. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the proposed transaction is consistent with the general policy of the Act. Section 17(b) could be interpreted to exempt only a single transaction. However, the Commission, under section 6(c) of the Act, may exempt a series of transactions that otherwise would prohibited by section 17(a).

5. The Investing Portfolios will retain their ability to invest their cash balances directly into money market instruments if they believe they can obtain a higher return. Each of the Money Market Portfolios has the right to discontinue selling shares to any of the Investing Portfolios if its board of trustees determines that such sales would adversely affect the portfolio management and operations of such Money Market Portfolio. In addition, the investment policies of each Portfolio permit the Portfolios to purchase money market instruments, and the registration statements to not prohibit the Portfolios from purchasing shares of other investment companies. The investment policies and registration statements of the Portfolios will be revised, as required, to state that the Portfolios may purchase shares of other investment companies. Therefore, applicants believe that the proposal satisfies the standards for relief as set forth in sections 6(c) and 17(b).

6. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Each Investing Portfolio, by purchasing shares of the Money Market Portfolios; each Investment Adviser of an Investing Portfolio, by managing the assets of the Investing Portfolios invested in the Money Market Portfolios; and each of the Money Market Portfolios, by selling shares to the Investing Portfolios, could be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d)(1) and rule 17d–1.

7. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the Commission is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants. Applicants believe that the proposal satisfies these standards.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Portfolios sold to and redeemed from the Investing Portfolios will not be subject to a sales load, redemption fee, or distribution fee under a plan adopted in accordance with rule 12b–1.

2. Applicants will cause the Investment Advisers and their affiliated persons to remit to the respective Investing Portfolio or waive the investment advisory and other fees such service provider earns as a result of the Investing Portfolio's investments in the Market Portfolios to the extent such fees are based upon the Investing Portfolio's assets invested in shares of the Money Market Portfolios. Any of these fees remitted or waived will not be subject to recoupment by the Investment Advisers or their affiliated persons from any Portfolio at a later date.

3. For the purpose of determining any amount to be waived and/or expenses to be borne to comply with any Expense Waiver, the adjusted fees for an Investing Portfolio (gross fees minus Expense Waiver) will be calculated

[1] Fund II formerly was known as Regis Fund Ii.

[2] The Distributor was formerly known as Regis Retirement Plan Services, Inc.

[3] Chase Global was formerly known as Mutual Funds Service Company.

[4] Section 12(d)(A)(ii) prohibits a registered investment company from acquiring the securities of another investment company if, immediately thereafter, the acquiring company would have more than 5% of its total assets invested in the securities of the selling company.

without reference to the amounts waived or remitted pursuant to condition 2. Adjusted fees then will be reduced by the amount waived pursuant to condition 2. If the amount waived pursuant to condition 2 exceeds adjusted fees, the Investment Advisers also will reimburse the Investing Portfolio in an amount equal to such excess.

4. Each of the Investing Portfolios will invest uninvested cash in, and hold shares of, a Money Market Portfolio only to the extent that the Investing Portfolio's aggregate investment in such Money Market Portfolio does not exceed the greater of 5% of the Investing Portfolio's total net assets or $2.5 million.

5. Each Investing Portfolio will vote its shares of each Money Market Portfolio in the same proportion as the votes of all other shareholders in such Money Market Portfolios entitled to vote on the matter.

6. As shareholders of a Money Market Portfolio, the Investing Portfolios will receive dividends and bear their proportionate shares of expenses on the same basis as other shareholders of such Money Market Portfolios. A separate account will be established in the shareholder records of each of the Money Market Portfolios for each of the Investing Portfolios.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3358 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36821; File No. SR-Amex–96–06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to a Pilot Program for Execution of Odd-Lot Orders

February 8, 1996

Pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 5, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for six months its existing pilot program under Amex Rule 205 requiring execution of odd-lot market orders at the prevailing Amex quote with no differential charged.[2]

The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved, on a pilot basis extending to February 8, 1996, amendments to Amex Rule 205 to require execution of odd-lot market orders at the Amex quote with no odd-lot differential charged.[3] The Commission initially approved these odd-lot pricing procedures as a pilot program in January 1989[4] and subsequently extended it eleven times.[5]

Under the pilot procedures, odd-lot market orders with no qualifying notations are executed at the Amex quotation at the time the order is represented in the market, either by being received at the trading post or through the Exchange's Post Execution Reporting ("PER") system.[6] Enhancements to the PER system have been implemented to provide for the automatic execution of odd-lot market orders entered through PER. For the purposes of the pilot program, limit orders that are immediately executable based on the Amex quote at the time the order is received, at the trading post or through PER, are executed in the same manner as odd-lot market orders.

In approving prior extensions to the Exchange's odd-lot pilot program, the Commission has expressed interest in the feasibility of the Exchange utilizing the Intermarket Trading System ("ITS") best bid or offer, rather than the Amex bid or offer, for purposes of the Exchange's odd-lot pricing system. In its most recent request for an extension of the pilot program, the Exchange stated that it had determined to proceed with a systems modification to provide for execution of odd-lot market orders at the ITS best bid or offer.[7]

In September 1995, the Commission approved amendments to Amex Rule 205 to accommodate the prospective modifications to the Exchange's odd-lot pricing system.[8] As amended, Amex Rule 205 would provide that odd-lot market orders to buy (sell) are filled at the "adjusted ITS offer" ("adjusted ITS bid"), which would be defined in Amex Rule 205, Commentary .04, as the lowest offer (highest bid) disseminated by the Amex or by another ITS participant market.[9] Where quotation information is not available (*e.g.*, when quotation collection or dissemination facilities are inoperable) odd-lot market orders would be executed at the prevailing Amex bid or offer, or at a price deemed appropriate under prevailing market conditions. These procedures also will apply to odd-lot limit orders that are immediately executable based on the Amex quote at the time the order is received at the trading post or through PER.

As the exchange noted in SR–Amex–95–24, it will implement these amendments upon completion of the necessary systems enhancements by the Exchange and the Securities Information Automation Corporation ("SIAC"). Upon implementation of the amended rule, the Exchange will notify the Commission, as well as Exchange members and member organizations. In order to provide the additional time necessary to implement the systems enhancements, the Exchange proposes to extend the existing pilot program procedures under Amex Rule 205 for an additional six-month period.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[10] of the Act in general and furthers the objectives of Section 6(b)(5)[11] and Section 11A(a)(1)[12] in particular in that it is designed to facilitate the economically efficient execution of odd-lot transactions and to improve the execution of customer's orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–96–06 and should be submitted by March 7, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the Exchange's proposal to extend its pilot program concerning the execution of odd-lot orders to August 8, 1996, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) and Section 11A(a)(1) of the Act[13] because the Exchange's proposed pricing procedures are designed to facilitate transactions in odd-lot orders, to help ensure the economically efficient execution of these transactions, and, in general, to protect investors and the public interest. The Commission further believes the revised procedures should provide investors with more timely executions of their odd-lot orders and should produce execution prices that more accurately reflect market conditions than would otherwise be the case under the pre-pilot pricing procedures.[14]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposed to continue using are identical to the procedures that were published previously in the **Federal Register** for the full comment period and were approved by the Commission.[15]

Because some odd-lot orders may not be receiving the best available price under the current pilot pricing procedures, the Commission is concerned that the Exchange was unable to implement the new odd-lot pricing procedures that provide for odd-lot market orders to be filled at the ITS best bid or offer as planned.[16] The Commission encourages the Exchange to complete the systems modifications upon which implementation of the new odd-lot pricing procedures depend as soon as possible. To ensure that the Commission is adequately informed of the Exchange's progress towards such completion, the Commission requests that the Exchange, beginning May 1, 1996, and every month thereafter until the systems modifications are completed, report to the Commission on the progress of this project. Finally upon completion of the systems modifications, the Exchange should give advance notice to the Commission of the date when the new odd-lot pricing procedures are to be implemented.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–96–06) is approved on a pilot basis for a six-month period ending on August 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3420 Filed 2–14–95; 8:45 am]

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[2] The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program, which expires on February 8, 1996, to continue without interruption.

[3] Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR–Amex–95–03).

[4] Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR–Amex–88–23).

[5] See Securities Exchange Act Release Nos. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR–Amex–95–03); 34949 (Nov. 8, 1994), 59 FR 58863 (approving File No. SR–Amex–94–47); 34496 (Aug. 8, 1994), 59 FR 41807 (approving File No. SR–Amex–94–28); 33584 (Feb. 7, 1994), 59 FR 6983 (approving File No. SR–Amex–93–45); 32726 (Aug. 9, 1993), 58 FR 43394 (approving File No. SR–Amex–93–24); 31828 (Feb. 5, 1993), 58 FR 8434 (approving File No. SR–Amex–93–06); 30305 (Jan. 20, 1992), 57 FR 4653 (approving File No. SR–Amex–92–04); 29922 (Nov. 8, 1991), 56 FR 58409 (approving File No. SR–Amex–91–30); 29186 (May 19, 1991), 56 FR 22488 (approving File No. SR–Amex–91–09); 28758 (Jan. 10, 1991), 56 FR 1656 (approving File No. SR–Amex–90–39); 27590 (Jan. 5, 1990), 55 FR 1123 (approving File No. SR–Amex–89–31).

[6] The PER system provides member firms with the means to electronically transmit equity orders, up to volume limits specified by the Exchange, directly to the specialist's post on the trading floor of the Exchange. Securities Exchange Act Release No. 34869 (Oct. 20, 1994), 59 FR 54016.

[7] See Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR–Amex–95–03).

[8] See Securities Exchange Act Release No. 36181 (Sept. 1, 1995), 60 FR 47194 (approving File No. SR–Amex–95–24).

[9] In order to protect against the inclusion of incorrect or stale quotations when determining the highest bid and lowest offer, Amex Rule 205, Commentary .04, contains seven criteria that must be met before a quotation in a stock from another ITS market center will be considered. If the ITS quotation fails to meet one of the specified criteria, the best bid or offer disseminated by the Exchange will be used. See Securities Exchange Act Release No. 36181 (Sept. 1, 1995), 60 FR 47194 (approving File No. SR–Amex–95–24).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78k–1(a)(1).

[13] 15 U.S.C. 78f(b)(5) and 78K–1(a)(1).

[14] Prior to the 1989 pilot program, odd-lot market orders were routed to a specialist and held in accumulation in the PER system or by the specialist until a round-lot execution in that security took place on the Exchange. Subsequent to the round-lot execution, the off-lot order received the same price as the last Exchange round-lot transaction, plus or minus and odd-lot dealer differential. See Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR–Amex–88–23).

[15] See Securities Exchange Act Release No. 35344 (Feb. 8, 1995) 60 FR 8430.

[16] See Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (noting that the Exchange's current pricing formula does not include quotations from other markets).

[17] 15 U.S.C. 78s(b)(2).

[18] 17 C.F.R. 200.30–3(a)(12)

[Release No. 34–36825; International Series Release No. 930; File No. SR–NASD–96–04]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Use of New York Stock Exchange Modified General Securities Representative Examinations (Series 37 and 38) To Qualify as a General Securities Representative

February 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 31, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD has filed a proposed change to Schedule C of the By-Laws that would allow persons in good standing with the Canadian securities regulators to qualify as general securities representatives (Series 7) by successfully completing one of two modified general securities representative examinations (Series 37 and 38) which have been developed by the New York Stock Exchange. The following is the full text of the proposed rule change to Schedule C. New language is italicized.

Schedule C of the NASD By-Laws

(2) Categories of Representative Registration

(a) General Securities Representative

(ii)

(g) A person presently registered and in good standing as a representative with any Canadian stock exchange, or with a securities regulator of any Canadian Province or Territory, or with the Investment Dealers Association of Canada, and who has completed the training course of the Canadian Securities Institute, and who has passed the Canada Module of the General Securities Registered Representative Examination, shall be qualified to be registered as a General Securities Representative except that such person's activities may not involve the solicitation, purchase and/or sale of municipal securities as defined in Section 3(a)(29) of the Act.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

It is the NASD's responsibility under Section 15A(g)(3) of the Act to prescribe standards of training, experience and competence for persons associated with NASD members. Pursuant to this statutory obligation, the NASD develops examinations, as well as administers examinations developed by other self-regulatory organizations. These examinations are designed to establish that persons associated with NASD members have attained specified levels of competence and knowledge.

Section 15(b)(8) of the Act requires most members of the New York Stock Exchange ("NYSE") to also be members of the NASD, resulting in a dual registration requirement with both the NYSE and the NASD for those individuals who perform certain functions with a NYSE member. The proposed amendment to Schedule C is intended to coordinate with the recent SEC approval of a NYSE rule which permits a qualified registered representative in good standing with the Canadian securities regulators to then become qualified as a general securities representative (Series 7) by passing one of the two modified versions (Series 37 or Series 38) of the general securities representative examination developed by the NYSE. At the present time the NASD has no rule which allows for NASD registration of a person who has passed the Series 37 or Series 38 version of the modified general securities representative examination.

The Series 37 version is for Canadian registrants who have successfully completed the basic core module of the Canadian Securities Institute program. The Series 38 version is for Canadian registrants who, in addition to having successfully completed the basic core module of the Canadian Securities Institute program, have also successfully completed the Canadian options and futures program. Both the Series 37 and Series 38 share topics and test questions with the parent Series 7 program but cover only subject matter that is not covered, or covered in sufficient detail, on the Canadian qualification examinations. The Series 37 has 90 questions and is 150 minutes in duration, while the Series 38, an abbreviated version of the Series 37, has only 45 questions and is 75 minutes in duration. Forty-five questions pertaining to options from the Series 37 were omitted from the Series 38.

The NASD believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(6) and 15A(g)(3) of the Act in that the NASD is required to prescribe standards of training, experience and competence for persons associated with NASD members. Pursuant to this statutory obligation, the NASD develops and administers examinations to establish that persons associated with NASD members have attained specified levels of competence and knowledge.

(B) Self-Regulation Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that the Commission find good cause for accelerated effectiveness pursuant to Section 19(b)(2) of the Act. Approval of the proposed rule change prior to the thirtieth day after publication in the **Federal Register**, will permit both dually registered NYSE/NASD members and NASD-only members to benefit from the recently approved NYSE modified general securities representatives examination.

IV. Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, in particular, the requirements of Section 15A(g)(3).

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof in that accelerated approval will allow dual NYSE/NASD and NASD-only members who were registered in good-standing with the Canadian securities regulators to utilize the recently approved versions of the modified general securities representative examination. The NASD's proposal is comparable to the NYSE's proposal (SR–NYSE–95–29) that was published in the **Federal Register** on October 23, 1995, and drew no comment. The Commission approved the NYSE's proposal on December 21, 1995. Accordingly, the Commission finds good cause for approving the NASD's analogous proposal prior to the thirtieth day after publication of notice of filing thereof.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 7, 1996.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[1] that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3419 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(2).

[2] 17 CFR 200.30–3(a)(12).

[Release No. 34–36823; File No. SR–OCC–95–13]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to Adjustments of Options for Ordinary Stock Dividends

February 8, 1996.

On September 19, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–OCC–95–13) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On October 16, 1995, OCC filed an amendment to the proposed rule change.[2] Notice of the proposal was published in the **Federal Register** on December 13, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

Article VI, Section 11 of OCC's by-laws sets forth general rules regarding adjustments that may be made by the standardized terms of options when certain events occur.[4] Each specific adjustment is determined by the vote of an OCC adjustment panel comprised of two designated representatives of each exchange that lists such option and the designee of OCC's chairman who votes only in the case of a tie.[5]

OCC is amending Article VI, Section 11 of its by-laws to provide for a general rule that no adjustments to options will be made as a result of ordinary distributions made on the underlying security. Article VI, Section 11(d) previously contained a general rule that required the adjustment of equity options whenever there was a stock dividend, stock distribution, or stock split.[6] Under the amendment, no adjustments will be made as a result of an ordinary stock dividend. Under the Interpretations and Policies to Article VI, Section 11 of OCC's by-laws, stock dividends and distributions that are paid on a quarterly basis by the issuer of the underlying security that do not exceed ten percent of the market value of the underlying security will be deemed to be ordinary stock dividends or distributions. The rule change will not affect the current adjustment practice with regard to ordinary cash dividends.[7] Because the rule change only applies to recurrent stock dividends, OCC anticipates that only in a small number of cases will adjustments be made for stock dividends or distributions. OCC believes that formalizing a policy of not adjusting for recurrent stock dividends will eliminate potential problems associated with the creation of an undesirable proliferation of options series and will eliminate the need to convene adjustment panels to make discretionary determinations for such dividends on a case-by-case basis.

Finally, pursuant to a request from Commission staff, OCC is deleting language from Article VI, Section 11 that provides for Commission review of the determinations made by any OCC adjustment panel.

II. Discussion

Section 17A(b)(3)(F) of the Act[8] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and generally, to protect investors and the public interest. The Commission believes the proposed rule change is consistent with OCC's obligations under

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Jacqueline R. Luthringshausen, OCC, to Jerry W. Carpenter, Esq., Division of Market Regulation, Commission (October 11, 1995).

[3] Securities Exchange Act Release No. 36558 (December 6, 1995), 60 FR 64087).

[4] The adjustment is made by proportionately changing the strike price, the unit of trading, or both.

[5] Article VI, Section 11(j) grants authority to the adjustment panel to make such exceptions to any of the general adjustment rules as it deems to be appropriate. Recently, two adjustment panels exercised their exception authority and determined not to adjust outstanding option contracts to reflect a stock dividend. In both instances, the issuer evidenced a pattern of declaring a small stock dividend in conjunction with a quarterly cash dividend. In determining not to adjust the options, each adjustment panel considered the provision in the Options Disclosure Document that states a stock dividend may be treated as an ordinary cash dividend by an adjustment panel if the issuer of the underlying security announces or exhibits a policy of declaring regular stock dividends that do not individually exceed 10% of the market value of the underlying security. The adjustment panels involved in making these adjustments requested that OCC amend its by-laws to provide explicitly for a general rule that no adjustment will be made to reflect ordinary stock dividends.

[6] In contrast, Section 11(c) states that it shall be the general rule that there will be no adjustment for ordinary cash dividends. This is because ordinary cash dividends generally are paid on a quarterly basis and adjusting outstanding options each time a dividend is paid could create a massive proliferation of option series that would dilute market liquidity and would overtax price reporting and other systems. Section 11(e) is being amended to include ordinary stock dividends or distributions in the coverage of the general rule.

[7] Interpretations and Policies .01 to Article VI, Section 11 of OCC's by-laws provides that cash dividends that do not exceed 10 percent of the market value of the market value of the underlying security generally will be deemed ordinary cash dividends. Ordinary cash dividends are not subject to adjustment.

[8] 15 U.S.C. 78q–1(b)(3)(F) (1988).

the Act because it should add certainty as to when and how adjustments will be made to option contracts due to an issuer's distribution of stock dividends. Removal of the requirement in OCC's rules providing for Commission review of OCC adjustment panel decisions also should add certainty and predictability to the options market. Furthermore, administrative inefficiencies should be reduced because adjustment panels will be convened only when there is an extraordinary stock dividend rather than each time issuers distribute an ordinary stock dividend.

As a self-regulatory organization, OCC has been granted significant authority under the Act. The use of an adjustment panel to administer the adjustment of standardized options is an example of the broad authority Congress granted to self-regulatory organizations. However, it is expected that OCC will notify the Commission of any adjustment panel's decision (i) to adjust standardized option contracts for stock or cash dividends that otherwise would be deemed ordinary under OCC's rules, interpretations, or policies or (ii) not to adjust standardized option contracts for stock or cash dividends that otherwise would not be deemed ordinary under OCC's rules, interpretations, or policies.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–95–13) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3418 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36822; File No. SR–Phlx–95–88]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Trading Rotations, Halts or Reopenings

February 8, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 12b–4 thereunder,[2] notice is hereby given that on December 26, 1995, the ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange submitted Amendment No. 1 to the Commission on January 29, 1996.[3] The Exchange submitted Amendment No. 2 to the Commission on February 8, 1996.[4] The Commission is approving this proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the terms of Substance of the Proposed Rule Change

The Exchange proposed to amend Floor Procedure Advice ("Advice") G–2, Trading Rotations, Halts or Reopenings, to add reference to Super Cap Index ("Index") options to correspond to recent amendments to Rule 1047A. Specifically, paragraph (a)(i) is proposed to be amended to add Super Cap Index options, providing that the opening rotation for Super Cap Index options may be held after underlying securities representing 75% of the current index value of all securities underlying the Index have opened for trading on the primary market, and at least 3 stocks underlying the Index are open for trading on the primary market.[5] The second paragraph will continue to require that an opening rotation be held as soon as practicable, respecting both industry index and Super Cap Index options, once underlying securities representing 90% of the current index value of all the securities underlying the index have opened for trading on the primary market.

The Exchange also proposes to amend provisions regarding reopenings in both Rule 1047A and Floor Procedure Advice G–2 by incorporating the requirements for a Super Cap Index opening rotation. Thus, the underlying securities representing 75% of the current Index value and three stocks must be open for trading on the primary market before Super Cap Index options may reopen after a trading halt.[6]

The Exchange also proposes to correct the recently approved text to Rule 1047A respecting Super Cap Index options opening rotations to state that 90% of the "current index value" of all the securities underlying the index must have opened for trading on the primary market in order for an opening to be required. Currently, the text incorrectly refers to 90% of the securities. The entire sentence referring to Super Cap Index options is proposed to be deleted, thus deleting the incorrect text, and replacing it with new language pertaining to the new "75% of the current Index value, and 3 underlying stocks" requirements. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In this filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposes to further amend Phlx Rule 1047A and Floor Procedure Advice G–2 to state that in addition to the requirement that 75% of the current index value must be open for trading on the primary market before an opening rotation in Super Cap Index options can commence, at least 3 stocks underlying the Super Cap Index must also be open for trading on the primary market. See Letter from Edith Hallahan, Special Counsel, Phlx, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated January 29, 1996 ("amendment No. 1").

[4] The Exchange proposes to further amend both Rule 1047A and Floor Procedure Advice G–2 by incorporating the opening rotation requirements for Super Cap Index options into Exchange Requirements regarding re-openings. See Letter from Gerald O'Connell, First Vice President, Market Regulation and Trading Operations, Phlx, to Michael Walinskas, Branch Chief, OMS, Market Regulation, Commission, dated February 8, 1996 ("amendment No. 2").

[5] See Amendment no. 1, *supra* note 3.

[6] See Amendment No. 2, *supra* note 4.

(A) Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

The Commission recently approved the listing and trading of Phlx Super Cap Index options, noting that the Index is not classified as either an "industry" or a "market" index.[7] Thus, the Exchange amended various rules, including Rule 1047A, respecting trading rotations, halts and reopenings. Currently, Rule 1047A, and the corresponding Advice G–2, provide that the opening rotation for industry index options may be held after underlying securities representing 50% of the current index value of all the securities underlying the index have opened for trading on the primary market. Further, once underlying securities representing 90% of the current index value of all the securities underlying the index have opened for trading on the primary market, the opening rotation shall be held as soon as practicable. With respect to a market index, the opening rotation shall be held at or as soon as practicable after the opening of business on the Exchange.

Rule 1047A was amended to state that the opening rotation for Super Cap Index options may be held only after underlying securities representing 74% of the current index value of all securities underlying the index have opened for trading on the primary market.[8] Moreover, an opening rotation is required to be held as soon as practicable, respecting both industry index and Super Cap Index options, once underlying securities representing 90% of the current index value of all the securities underlying the index have opened for trading on the primary market.

The Exchange is proposing at this time to incorporate these changes into Advice G–2. At the time Rule 1047A was being amended, the corresponding change to Advice G–2 was inadvertently omitted.[9] The Exchange is also proposing to correct a portion of Rule 1047A, which states that once 90% of the securities of the Super Cap Index are open for trading, the opening rotation for the options must be held. The corrected text would require that 90% of the current index value of the Index must be open.

The Exchange also proposes to amend provisions regarding reopenings in both Rule 1047A and Floor Procedure Advice G–2 by incorporating the requirements for a Super Cap Index opening rotation. Thus, the underlying securities representing 75% of the current Index value and three stocks must be open for trading on the primary market before Super Cap Index options may reopen after a trading halt.[10]

The Exchange notes that the remainder of Rule 1047A continues to apply to Super Cap Index options. For instance, modified rotations/SORT procedures are governed by paragraph (b), halts by paragraph (c), and closing rotations are not required for expiring options, pursuant to paragraph (e).

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act in order to promptly correct both Rule 1047A and Advice G–2 respecting Super Cap Index options. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular the requirements of section 6(b) (5) thereunder. Specifically, the Commission believes that the proposed rule change is appropriate because it makes Floor Procedure Advice G–2 consistent with recent amendments to Phlx Rule 1047A. The Commission notes further that the proposed rule change ensures that in addition to requiring that at least 75% of the current Super Cap Index value is open for trading on the primary market, the Exchange will require that at least 3 of the 5 components will be open for trading. Given the small number of Index components, the Commission believes that this requirement is important to ensure that trading in the Index options only commences, or reopens following a trading halt, if at least a majority of the Index components are also open for trading.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice thereof in the **Federal Register**. For reasons discussed above, the Commission notes that the proposed rule change does not raise any new or unique regulatory issues and is consistent with changes recently approved by the Commission for the Super Cap Index in Phlx Rule 1047A. The addition of the minimum 3 stock requirement also will strengthen the "75% of current index value" requirement by ensuring that trading in the Super Cap Index only commences, or reopens following a trading halt, when a sufficient number of component stocks have opened, or reopened for trading. Accordingly, the Commission believes that it is consistent with Sections 6(b) (5) and 19(b)(2) of the Act to approve this proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for

[7] See Securities Exchange Act Release No. 36369 (October 13, 1995), 60 FR 54274 (October 20, 1995) (SR–Phlx–95–22) ("Super Cap Index Options Approval Order").

[8] In addition to the 75% requirement for Super Cap Index options, the Exchange will also require that at least 3 stocks underlying the Super Cap Index must also be open for trading on the primary market before the opening rotation may commence. See Amendment No. 1, *supra* note 3.

[9] See Super Cap Index Options Approval Order, *supra* note 7.

[10] See Amendment No. 2, *supra* note 4.

inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95–88 and should be submitted by March 7, 1996.

It is therefore ordered, pursuant to Section 19(b) (2) of Act,[11] that the proposed rule change (File No. SR–Phlx–95–88), as amended, is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3360 Filed 2–14–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Office of International Aviation; Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and Request for Comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) the notice announces the Department of Transportation's (DOT) intentions to request an extension for and revision to a currently approved information collection.

DATES: Comments on this notice must be received by no later than April 15, 1996.

ADDRESSES: Four (4) copies of any comments should be sent to the Pricing and Multilateral Affairs Division (X–43), Office of International Aviation, Office of the Secretary, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590–0002.

FOR FURTHER INFORMATION CONTACT: Mr. Keith A. Shangraw or Mr. John H. Kiser, Office of the Secretary, Office of International Aviation, X–43, Department of Transportation, at the address above. Telephone: (202) 366–2435.

SUPPLEMENTARY INFORMATION:

Title: Tariffs.
OMB Control Number: 2106–0009.
Expiration Date: April 30, 1996.
Type of Request: Extension and revision of a currently approved information collection.

Abstract: Chapter 415 of Title 49 of the United States Code requires that every air carrier and foreign air carrier file with the Department of Transportation (DOT), publish and keep open (*i.e.* post) for public inspection, tariffs showing all "foreign" or international fares, rates, and related charges for air transportation between points served by it, and points served by it and any other air carrier or foreign air carrier when through fares, rates and related charges have been established; and showing, to the extent required by DOT regulations, all classifications, rules, regulations, practices, and services in connection with such air transportation. Once tariffs are filed and approved by DOT, they become a legally binding contract of carriage between carriers and users of foreign air transportation.

Part 221 of the Department's Economic Regulations (14 CFR Part 221) sets forth specific technical and substantive requirements governing the filing of tariff material with the DOT Office of International Aviation's Pricing and Multilateral Affairs Division. A carrier initiates a tariff filing whenever it wants to amend an existing tariff for commercial or competitive reasons or when it desires to file a new one. Tariffs filed pursuant to Part 221 are used by carriers, computer reservations systems, travel agents, DOT, other government agencies and the general public to determine the prices, rules and related charges for international passenger air transportation. In addition, DOT needs U.S. and foreign air carrier passenger tariff information to monitor international air commerce, carry out carrier route selections and conduct international negotiations.

Respondents: The vast majority of the air carriers filing international tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs.

Estimated Number of Respondents: 230.

Average Annual Burden Per Respondent: 5,700 hours.

Estimated Total Annual Burden on Respondents: 1,300,000 hours.

This information collection is available for inspection at the Pricing and Multilateral Affairs Division (X–43), Office of International Aviation, DOT. Copies of 14 CFR Part 221 can be obtained from Mr. Keith A. Shangraw at the address and telephone number shown above.

Comments Are Invited On: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, D.C. on February 12, 1996.

Jeffrey B. Gaynes,

Assistant Director, Regulatory Affairs, Office of International Aviation.

[FR Doc. 96–3485 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Meeting on Cargo Liability

The Department of Transportation (DOT) is required by the Interstate Commerce Commission Termination Act of 1995, Public Law 104–88, Sec. 103, to conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions relating to motor carriage, including those relating to limitations of liability. The statute requires the Secretary, at a minimum, to consider the following factors:

a. Efficient delivery of transportation services
b. International harmony
c. Intermodal harmony
d. The public interest; and
e. The interests of carriers and shippers

The study is to be completed in 12 months and be submitted to Congress, together with any recommendations of the Secretary, including legislative recommendations for implementing modifications or reforms identified by the Secretary as being appropriate.

The public is invited to a public meeting at DOT headquarters in order to comment on and contribute to the study. To do an adequate study the Department will need information about the volume and value of cargo being transported and about shippers' and carriers' loss and damage costs. Those who cannot attend are invited to send written comments to the contact person listed below.

Time and Dote: Friday, February 23, 1996 at 9:30 a.m.

Place: 400 7th Street S.W., Washington, DC 20590, Room 8236.

Contact person for more information: Paul B. Larsen, Office of the General Counsel, DOT, Room 10102, 400 7th St., SW, Washington, DC 20590, (202) 366–9161.

Dated: February 8, 1996.

Joseph F. Canny,

Deputy Assistant Secretary of Transportation for Transportation Policy.

[FR Doc. 96–3386 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Maritime Administration

[Docket No. OST–96–1066]

Request for Public Comment on Competition in the Noncontiguous Domestic Maritime Trades

AGENCY: Office of the Secretary, Maritime Administration, United States Department of Transportation.

ACTION: Notification of Open Docket for Public Comment.

SUMMARY: Section 407 of the "ICC Termination Act of 1995" calls for the Department of Transportation to conduct a study of competition in the noncontiguous domestic maritime trades to Hawaii, Alaska, Puerto Rico, and Guam. The Department seeks information on market conditions in each of these trades, including the composition of traffic, the extent of entry and exit, rates charged, the importance of liner service to the economic well-being of local economies, and any other institutional or economic factor that could influence competition in these markets.

Information is requested on the following specific issues: (1) carrier competition in both the regulated and unregulated portions of each of the trades, (2) the rate structure that exists in each trade, (3) the impact of tariff filing on marine carrier pricing, (4) the extent of parallel pricing, and (5) the impact on domestic cargo prices on foreign cargo services. The Department is also soliciting comments as to whether additional protections are needed to protect shippers from the abuse of market power and the extent to which there needs to be continued reliance on tariff filing and rate regulation to further the transportation policy of meeting the Nation's commercial and defense waterborne needs.

DATES: Comments should be received by Monday, April 15, 1996. Comments that are received after that date will be considered to the extent possible.

ADDRESSES: To facilitate our review, we would appreciate having four copies of comments sent to: Docket Clerk, Docket No. OST–96–1066, Room PL–401, United States Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Laurence T. Phillips or Thomas E. Marchessault, P–37, Office of the Secretary, U.S. Department of Transportation, Washington DC 20590. Phone: (202) 366–5412; fax: (202) 366–3393; John Pisani, MAR 830, Office of Ports and Domestic Shipping, Maritime Administration, U.S. Department of Transportation, Washington DC. Phone: (202) 366–5123.

Joseph F. Canny,

Deputy Assistant Secretary for Transportation Policy.

[FR Doc. 96–3387 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Westover Metropolitan Airport/Air Reserve Base, Chicopee Falls, Massachusetts; FAA Approval of Noise Compatibility Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Westover Metropolitan Development Corporation under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-federal responsibilities in Senate Report No. 96–52 (1980). On August 11, 1995, the FAA determined that the noise exposure maps submitted by the Westover Metropolitan Airport Corporation under Part 150 were in compliance with applicable requirements. On January 26, 1996, the Associate Administrator approved the Westover Metropolitan Airport/Air Reserve Base noise compatibility program. Out of the 13 proposed program elements, 12 were approved and one was partially approved and partially disapproved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Westover Metropolitan Airport/Air Reserve Base noise compatibility program is January 26, 1996.

FOR FURTHER INFORMATION CONTACT: John C. Silva, Federal Aviation Administration, New England Region, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (617) 238–7602.

Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Westover Metropolitan Airport/Air Reserve Base noise compatibility program, effective January 26, 1996.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps.

The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR), Part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

(a) the noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

(b) program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

(c) program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the federal government; and

(d) program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable

[11] 15 U.S.C. 78s(b) (2).
[12] 17 CFR 200.30–3(a) (12).

airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator as prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action.

Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Burlington, Massachusetts.

The Westover Metropolitan Development Corporation submitted to the FAA, on January 26, 1994, noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from October 1990 to June 1995. The Westover Metropolitan Airport/Air Reserve Base noise exposure maps were determined by FAA to be in compliance with applicable requirements on July 31, 1995. Notice of this determination was published in the FEDERAL REGISTER on August 11, 1995.

The Westover study contains a proposed noise compatibility program comprised of actions designed for implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 1998. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on July 31, 1995, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 13 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator effective January 26, 1996.

Approval was granted for 12 specific program elements: preferential runway use, flight track changes, land acquisition, sound insulation, compatible land use zoning, land use airport overlay district, subdivision regulations, a pilot awareness program, a public awareness program, and a computer spread sheet program to monitor noise abatement performance.

One program element was partially approved and partially disapproved: monitoring nighttime operations and runway use.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator on January 26, 1996. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the office of the Westover Metropolitan Development Corporation, 3911 Pendleton Avenue, Chicopee, Massachusetts.

Issued in Burlington, Massachusetts, on February 5, 1996.

Bradley A. Davis,

Acting Manager, Airports Division, New England Region.

[FR Doc. 96–3495 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

Intent to Prepare an Environmental Impact Statement and To Hold Environmental Safety Area and Other Airport Master Plan Improvements at Bridgeport-Sikorsky Memorial Airport, Stratford, CT

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public environmental scoping meetings.

SUMMARY: The Federal Aviation Administration (FAA) is issuing notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposal by the City of Bridgeport and the Federal Aviation Administration to construct runway safety area improvements to Runway 06–24, relocate a portion of a public highway, install an approach light system to Runway 06, extend Runway 06–24, and undertake related Airport Master Plan development at Bridgeport-Sikorsky Memorial Airport, Stratford, Connecticut. To ensure that all significant issues related to the proposed action are identified, public scoping meetings will be held.

FOR FURTHER INFORMATION CONTACT: John Silva, Manager, Environmental Programs, Airports Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone number: 617–238–7602.

SUPPLEMENTARY INFORMATION: Because of the potential for significant adverse environmental effect, primarily to wetlands, floodplain areas, and highway traffic, comments and suggestions are invited from federal, state, and local agencies, and other interested parties, in order to ensure that a full range of issues related to the proposed projects are identified and addressed in the scope of work for the EIS. Comments and suggestions may be mailed to FAA at the above address.

PUBLIC SCOPING MEETINGS: In order to provide public input, a scoping meeting for federal, state, and local agencies will be held on Thursday, March 14, 1996, at 2 pm at the Avon Room, Ramada Inn, 225 Lordship Blvd., Stratford, Connecticut. An additional meeting to receive public input will be held on Thursday, March 14, 1996, at 5 pm, in the Grand Ballroom at the same Ramada Inn. These meetings will be preceded by a field tour of the project area at 11 am on the same day. The tour will commence from the entrance to the main terminal building at Sikorsky Memorial Airport, Great Meadow Road, Stratford, Connecticut. Representatives of federal, state, and local agencies are encouraged to attend all three events. Additional information may be obtained by contacting FAA at the above address or telephone number.

Issued in Burlington, Massachusetts, on February 6, 1996.

John C. Silva,

Acting Monoger, Airports Division FAA, New England Region.

[FR Doc. 96–3496 Filed 2–14–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 159; Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting to be held March 4–8, 1996, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda for March 4, March 5, March 6, and March 7 will address specific working group (WG) issues as follows: March 4–5, WG–6 Interference Issues; March 5, WG–1 GPS/GLONASS, WG–3A GPS/Inertial, WG–4 (Afternoon) Ad Hoc (DO–217 Change); March 6, WG–2 WAAS Precision; March 6–7, WG–4 Precision Landing Guidance and Airport Surface Surveillance.

The agenda for the March 8 Plenary Session will be as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Previous Meeting; (3) Review WG Progress and Identify Issues for Resolution: a. GPS/GLONASS (WG–1); b. GPS/WAAS Precision (WG–2); c. GPS/Other Navigation Systems (WG–3A/B); d. GPS/Precision Landing Guidance and Airport Surface Surveillance (WG–4A/B) and Ad Hoc; e. Fault Detection and Isolation (WG–5); f. Interference Issues (WG–6); (4) Review of EUROCAE Activities; (5) Assignment/Review of Future Work; (6) Other Business; (7) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on February 12, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–3487 Filed 2–14–96; 8:45 am]

BILLING CODE 4810–13–M

Surface Transportation Board [1]

[STB Finance Docket No. 32845]

Consolidated Rail Corporation and CSX Transportation, Inc.—Acquisition and Operation—Nicholas, Fayette and Greenbrier Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Notice of acceptance of application.

SUMMARY: The Board accepts for consideration the application filed January 16, 1996, by Consolidated Rail Corporation (Conrail) and CSX Transportation, Inc. (CSXT) to acquire from the Nicholas, Fayette and Greenbrier Railroad Company (NF&G) and operate approximately 143 miles of rail line located in West Virginia. The Board finds that this is a transaction subject to 49 U.S.C. 11325(d).

DATES: This decision is effective on February 15, 1996. Written comments, including comments from the Secretary of Transportation and the Attorney General of the United States, must be filed with the Board no later than March 15, 1996. The Board will issue a service list shortly thereafter. Comments must be served on all parties of record within 10 days after the Board issues the service list. Applicants' reply is due April 5, 1996.

ADDRESSES: Send an original and 10 copies of pleadings referring to STB Finance Docket No. 32845 to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423; (2) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, DC 20530; (3) Attorney General of the United States, Washington, DC 20530; (4) Charles M. Rosenberger, 500 Water Street, J150, Jacksonville, FL 32202; (5) Paul R. Hitchcock, 500 Water Street, J150, Jacksonville, FL 32202; and (6) Anne Treadway, 2001 Market Street, Two Commerce Square, Philadelphia, PA 19101.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: By application filed January 16, 1996, Conrail, CSXT, and NF&G (collectively, Applicants) seek approval under 49 U.S.C. 11323–25, for Conrail and CSXT to acquire and operate NF&G's rail lines in West Virginia.

The applicants recite that this is a minor transaction as defined in 49 CFR Part 1180, the regulations that implemented former 49 U.S.C. 11343–45. The Act has revised those statutory provisions and reenacted them as 49 U.S.C. 11323–25. The transaction here specifically is subject to the standards of 49 U.S.C. 11324(d), because the transaction does not involve the merger or control of two Class I railroads and the transaction is subject to the procedures set out at 49 U.S.C. 11325(d) of the Act. Section 204(a) provides that all ICC rules in effect on the date of the enactment of the Act "shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board . . . or operation of law." While the standards and procedures of former sections 11343–45 and current sections 11323–25 are substantially similar insofar as minor transactions are concerned, the procedures of current section 11325(d) differ slightly from those at 49 CFR 1180.4 and shall govern. Otherwise, the use of the regulations at 49 CFR Part 1180 for this proceeding appears proper.

Conrail and CSXT are Class I railroads. NF&G, which has approximately 143 miles of trackage, is jointly owned by Conrail and CSXT. Conrail and CSXT operate NF&G's lines as successors in interest under a lease dated June 25, 1929. Conrail and CSXT propose to terminate the lease and to dissolve NF&G and distribute its rail assets between them. Conrail will acquire NF&G's 8-mile line west of Peters Junction to Swiss Junction (Swiss segment). CSXT will acquire the remainder of NF&G's line east of Peters Junction to Meadow Creek, and branch lines between Rainelle Junction and Raders Run, Rupert Junction and Clearco, and G&E Junction and Brush Junction.

Applicants state that the joint management of the NF&G lines does not benefit them or the public. They state that the current lease arrangement establishes a burdensome management structure that requires joint approval by Conrail and CSXT of important decisions, such as whether to invest capital funds in track maintenance projects. CSXT has allegedly deferred substantial maintenance on the NF&G lines it operates because Conrail is reluctant to invest in those lines. Terminating the lease would assertedly allow Conrail and CSXT to decide these matters independently. They further maintain that Conrail and CSXT would also eliminate expenses incurred to administer the joint ownership arrangement. They state that they expect to experience substantial operating and administrative efficiencies as a result of the transaction.

Applicants maintain that the transaction will serve the public interest by preserving the quality of service that each carrier currently provides to its shippers and receivers. Each carrier represents that it will continue to operate its lines essentially the same as it does today, with only slight changes in traffic levels. According to the

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to railroad acquisitions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–25.

application, Conrail might lose some coal traffic and revenues for shipments that originate on NF&G lines acquired by CSXT, while CSXT would gain this traffic and revenue. Conrail and CSXT have made arrangements for Conrail to be able to honor its sole remaining transportation contract to haul coal originating on the old NF&G. Until the contract expires, CSXT will haul the coal to a Conrail interchange in Columbus, OH, and the coal will be delivered from there.

Applicants maintain that the proposal would have little effect on competition in any affected market or region. They assert that Conrail and CSXT do not compete in the same market, and that there is no market demand for CSXT to haul coal over the Swiss segment, or for Conrail to haul coal over the remaining NF&G lines CSXT will acquire. Moreover, CSXT indicates that there is no market demand for it to haul coal from mines on Conrail's Peters Creek Branch, connecting to that portion of the NF&G lines that Conrail will acquire.

Applicants anticipate that the transaction will have only a slight effect on employees. They indicate that CSXT employees currently perform all operations on NF&G trackage, including maintenance and train dispatching. After Conrail acquires the Swiss segment, it will assume maintenance functions on that line and thus CSXT maintenance of way employees would lose that work to Conrail employees. The transaction will also preclude Conrail from operating over NF&G trackage acquired by CSXT, but Conrail does not currently operate over that trackage. They anticipate that the Board will impose the conditions in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), to protect employees affected by this transaction.

Under 49 CFR 1180, we must determine whether a proposed transaction is major, significant, or minor. The proposed transaction, which involves two Class I carriers seeking to acquire the assets of their jointly-owned short line railroad, has no regional or national significance and will clearly not have any anticompetitive effects. Accordingly, we find the proposal to be a minor transaction under 49 CFR 1180.2(c), as now defined under 49 U.S.C. 11325(a). Because the application substantially complies with the applicable regulations governing minor transactions, we are accepting it for consideration.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Surface Transportation Board in Washington, DC. In addition, they may be obtained upon request from applicants' representatives named above.

Interested persons, including government entities, may participate in this proceeding by submitting written comments. Any person who files timely comments will be considered a party of record if the person so requests. No petition for leave to intervene need be filed.

Consistent with 49 CFR 1180.4(d)(1)(iii), written comments must contain:

(a) The docket number and title of the proceeding;

(b) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made;

(c) The commenting party's position, i.e., whether it supports or opposes the proposed transaction;

(d) A statement whether the commenting party intends to participate formally in the proceeding, or merely comment on the proposal;

(e) If desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can be resolved only at a hearing; and

(f) A list of all information sought to be discovered from applicant carriers.

Because we have determined that this proposal is a minor transaction, no responsive applications will be permitted. The time limits for processing this transaction are set forth at 49 U.S.C. 11325(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This application is accepted for consideration under 49 U.S.C. 11323–25 as a minor transaction under 49 CFR 1180.2(c).

2. The parties shall comply with all provisions stated above.

3. The decision is effective on February 15, 1996.

Decided: February 8, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–3411 Filed 2–14–96; 8:45 am]

BILLING CODE 4915–00–P–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the following existing regulations: INTL–292–90 (Regulation section 301.6114–1); INTL–361–89 (Regulation sections 301.6114–1 and 301.6712–1); INTL–103–89 (Regulation sections 301.6114–1T and 301.6712–1T); and INTL–121–90 (Regulation section 301.6114–1(b)(8) and 301.7701(b)-7(a)(4)(iv)(C), Treaty-Based Return Positions.

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treaty-Based Return Positions.

OMB Number: 1545–1126.

Regulation Project Number: INTL–292–90 Final; INTL–361–89 Final; INTL–103–89 Temporary; and INTL–121–90 Notice of proposed rulemaking.

Abstract: Regulation section 301.6114–1 sets forth reporting requirements under Code section 6114 relating to treaty-based return positions. Persons or entities subject to these reporting requirements must make the required disclosure on a statement attached to their return or be subject to a penalty. Section 301.7701(b)-7(a)(4)(iv)(C) sets forth the reporting requirement for dual resident S corporation shareholders who claim treaty benefits as nonresidents of the U.S. Persons subject to this reporting requirement must enter into an agreement with the S corporation to withhold tax pursuant to procedures prescribed by the Commissioner.

Current Actions: There is no change to the collection of information in these existing regulations.

Type of Review: Extension of OMB approval.

Affected Public: Individuals and businesses or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 5,000 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 9, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3501 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–U–M

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, EE–84–89, Changes with Respect to Prizes and Awards and Employee Achievement Awards. (Regulation section 1.74–1(c)).

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Changes with Respect to Prizes and Awards and Employee Achievement Awards.

OMB Number: 1545–1100.

Rulemaking Project Number: EE–84–89 Notice of Proposed Rulemaking.

Abstract: This regulation requires recipients of prizes and awards to maintain records to determine whether a qualifying designation has been made. The affected public are prize and award recipients who seek to exclude the cost of a qualifying prize or award.

Current Actions: There is no change to this existing notice of proposed rulemaking.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,100.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1,275 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection requests.

Approved: February 9, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3500 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–U–M

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing final regulation, LR–218–78, Product Liability Losses and Accumulations for Product Liability Losses. (Regulation section 1.172–13(c)).

DATES: Written comments should be received on or before April 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Product Liability Losses and Accumulations for Product Liability Losses.

OMB Number: 1545–0863.

Regulation Project Number: LR–218–78, Final.

Abstract: Generally, a taxpayer who sustains a product liability loss must carry the loss back 10 years. However, a taxpayer may elect to have such loss treated as a regular net operating loss under section 172. The election is made by attaching a statement to the tax return. This statement will enable the IRS to monitor compliance with the statutory requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,500 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 9, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3499 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–U–M

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing final regulation, GL–238–88, Preparer Penalties—Manual Signature Requirement. (Regulation section (1.6695–1(b)).

DATES: Written comments should be received on or before April 15, 1996, to be assured to consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Preparer Penalties—Manual Signature Requirement.

OMB Number: 1545–1385

Regulation Project Number: GL–238–88 Final.

Abstract: The reporting requirements affect returns preparers of fiduciary returns. They will be required to submit a list of the names and identifying numbers of all fiduciary returns which are being filed with a facsimile signature of the returns preparer.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: 1 hour and 17 minutes.

Estimated Total Annual Burden Hours: 25,825 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 9, 1996

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3498 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–U–M

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking and a temporary regulation, EE–45–93, Electronic Filing of Form W–4. (Regulation section 31.3402(f)(5)–2T).

DATES: Written comments should be received on or before April 15, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Electronic Filing of Form W–4.

OMB Number: 1545–1435.

Regulation Project Number: EE–45–93 Notice of proposed rulemaking and temporary regulations.

Abstract: Information is required by the Internal Revenue Service to verify compliance with section 31.3402(f)(2)–1(g)(1), which requires submission to the Service of certain withholding exemption certificates. The affected respondents are employers that choose to make electronic filing of Forms W–4 available to their employees.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: State and local governments, business or other for-profit institutions, federal agencies, and nonprofit institutions.

Estimated Number of Respondents: 2,000

Estimated Time Per Respondent: 20 hours

Estimated Total Annual Burden Hours: 40,000 hours

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques of the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 7, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3497 Filed 2–14–96; 8:45 am]

BILLING CODE 4830–01–P–M

Sunshine Act Meetings

Federal Register

Vol. 61, No. 32

Thursday, February 15, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, February 27, 1996, 2:00 p.m.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

STATUS: The Meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. Panel Discussion by Invited Experts on Employment Discrimination Issues Affecting African Americans.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.) Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

This Notice Issued February 12, 1996.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 96–3524 Filed 2–12–96; 4:02 pm]

BILLING CODE 6750–06–M

Corrections

Federal Register
Vol. 61, No. 32
Thursday, February 15, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 960111006-6006-01]

RIN 0694-AB29

Revision to the Commerce Control List: Items Controlled for Nuclear Nonproliferation Reasons, Addition of Argentina, New Zealand, Poland, South Africa, and South Korea to GNSG Eligible Countries

Correction

In Rule document 96–1575 beginning on page 3555 in the issue of Thursday, February 1, 1996 make the following correction:

Supplement No. 1 to §799.1 **[Corrected]**

On page 3560, in Supplement No. 1 to §799.1, in the second column, under the first **Requirement** heading, in *Reason for Control* "MP" should read "NP".

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 960116009-6009-01; I.D. 110695D]

RIN 0648-AE12

Sea Turtle Conservation; Restrictions Applicable to Fishery Activities; Summer Flounder Fishery-Sea Turtle Protection Area

Correction

In rule document 96–961 beginning on page 1846, in the issue of Wednesday, January 24, 1996, make the following corrections:

1.On page 1847, in the second column, under **SUPPLEMENTARY INFORMATION:**, in the heading entitled "**Changes from the Interim Final Rule**", in the second paragraph, in the eighth line, after the word "round" insert "except".

2.On the same page, in the same column, in the same paragraph, in the ninth line, "35°46.1" should read "35°46.1′ N. lat.".

BILLING CODE 1505–01–D

Federal Register

Thursday
February 15, 1996

Part II

Environmental Protection Agency

40 CFR Parts 30 and 33

Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 30 and 33

[FRL–5409–7]

RIN 2030–AA32

Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule; Request for comments.

SUMMARY: This interim final rule revises 40 CFR Part 30 and deletes Part 33 to incorporate the changes established by revised Office of Management and Budget (OMB) Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Institutions," published by OMB on November 29, 1993 (58 FR 62992).

DATES: This interim final rule is effective March 18, 1996. Written comments must be submitted on or before April 15, 1996.

ADDRESSES: Written comments should be sent to: Maureen M. Ross, Grants Policy and Procedures Branch (3903F) United States, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460 (202) 260–9297. Inquiries may also be submitted via electronic mail (e-mail) to: ross.maureen@epamail.epa.gov.

Electronic inquiries must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Inquiries will also be accepted on discs in WordPerfect in 5.1 file format or ASCII file format. No Confidential Business Information should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Maureen M. Ross, Grants Policy and Procedures Branch (3903F), United States Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, (202) 260–9297.

SUPPLEMENTARY INFORMATION: On November 29, 1993, OMB issued a revised Circular A–110, entitled "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations." The Circular provides standards for obtaining consistency and uniformity among Federal agencies in the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations.

OMB initially issued Circular A–110 in 1976 and, except for a minor revision in February 1987, the Circular contained its original provisions until the revised Circular was published in 1993. To update the Circular, OMB established an interagency review task force. The task force solicited suggestions for changes to the Circular from university groups, non-profit organizations and other interested parties and compared, for consistency, the provisions of similar provisions applied to State and local governments. The revised Circular reflects the results of these efforts.

In addition, OMB published a notice in the **Federal Register** (57 FR 39018) on August 27, 1992, requesting comments on proposed revisions to Circular A–110. Interested parties were invited to submit comments. OMB received over 200 comments from Federal agencies, non-profit organizations, professional organizations and others. All comments were considered in developing the final revision.

OMB directed Federal agencies responsible for awarding and administering grants and other agreements with institutions of higher learning, hospitals, and other non-profit organizations to adopt the language as it appears in the Circular unless different provisions are required by Federal statute or are approved by OMB.

This rule does not apply to grants, contracts, or other agreements between the Federal Government and units of State or local governments covered by OMB Circular A–102, "Grants and Cooperative Agreements with State and Local Governments," and EPA's regulation at 40 CFR Part 31. In addition, subawards and contracts to State or local governments are not covered by this rule. However, the rule applies to subawards made by State and local governments to organizations covered by this rule. The provisions of the rule may be applied to commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, and international organizations.

The Circular inadvertently misstates the applicability of the statute commonly known as the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352. The disclosure requirements apply to organizations which apply or bid for an award exceeding $100,000, not $100,000 or more. We have made this correction in Appendix A.

The provisions related to lobbying activities in the former regulation at 40 CFR 30.601 are not being carried forward in this revision of Part 30. However, the restrictions in Office of Management and Budget Circulars A–21 and A–122 on the use of grant funds for lobbying remain in effect. The general restriction in EPA's Appropriation Acts prohibiting Federal funding of non-federal parties to intervene in regulatory or adjudicatory proceedings may also remain in effect.

Two other changes have been made to Appendix A because of recent changes brought about by the Federal Acquisition Streamlining Act of 1994. The threshold for the requirement to include a provision for compliance with the Copeland "Anti-Kickback Act" (18 U.S.C. 874) was raised from $2,000 to $100,000.

The threshold for the requirement to include the provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333) was raised to $100,000.

The Environmental Protection Agency (EPA) is promulgating the Circular (with the changes discussed below) as an EPA regulation at 40 CFR Part 30. This regulation will supersede the existing regulations at both 40 CFR Part 30 and 40 CFR Part 33.

This rule adopts all of the OMB Circular provisions except for the following EPA-specific changes to the text:

1. 30.18 Hotel and motel fire safety. The Hotel and Motel Fire Safety Act of 1990 (P. L. 101–391) requires the General Services Administration (GSA) to limit its lodging directories and lodging expense per diem surveys to hotels and motels that meet the law's fire protection and control guidelines. The Act establishes a number of fire safety standards which must be met for hotels and motels to be so listed by GSA. Further, beginning October 1, 1994, Federal funds may not be used to sponsor a conference, meeting, or training seminar held in a hotel or motel which does not meet these standards. If necessary, the head of the Federal agency may waive this prohibition in the public interest.

2. 30.54 Quality assurance. A new section on quality assurance will be added to ensure that environmentally related measurements or data generation by recipients are performed in a manner designed to meet EPA's standards. This section will require recipients to develop procedures and standards to produce information of high quality and to minimize the potential for loss of data.

3. Except in the definitions, certain generic terms in the Circular are being changed, if appropriate, to reflect EPA's terminology and usage, e.g., the term "Federal awarding agency" and "Federal Government" and similar terms will be changed to "EPA." In appropriate cases the term "Federal awarding agency" has been changed to "EPA award official." Other minor editing has been done as well. None of the editing of this type alters the provisions of the Circular.

4. In certain cases the Circular includes indefinite language such as "The Federal government may require." EPA is changing such wording to "shall or will" to reflect EPA's policies or procedures, where appropriate.

5. At § 30.23 EPA is adding language stipulating that EPA will not require cost sharing or matching unless required by statute, regulation, Executive Order, or official Agency policy.

6. At § 30.25(c) the wording is being changed to specify the office/official (i.e., the responsible technical program office or the award official) from whom written approvals are to be obtained.

7. At § 30.25(f)(1)(ii) EPA is changing the language to provide that recipients may incur pre-award costs 90 days before award and more than 90 days before award with approval of the award official.

8. At § 30.27(b) EPA is adding language limiting the salary rate of consultants to the maximum daily rate for level 4 of the Executive Schedule. This is a requirement of EPA's Appropriations Act.

9. 30.44 Procurement procedures. EPA is adding language to ensure that if the prime contractor awards sub-contracts, the recipient must ensure that the prime contractor takes the same five steps as the recipient is required to take to utilize small businesses, minority-owned firms and women's business enterprises, whenever possible. This additional language is needed to meet the requirements of EPA's 1993 Appropriations Act, P.L. 102–389 (42 U.S.C. 4370d). That statute requires EPA for that fiscal year and for each one thereafter, to the fullest extent possible, to ensure at least eight percent of Federal funding for prime and subcontracts awarded in support of authorized programs be made available to business concerns owned or controlled by socially and economically disadvantaged individuals within the meaning of sections 8(a)(5) and (6) of the Small Business Act (15 U.S.C. §§ 637 (a)(5) and (6)), and includes women and historically black colleges and universities.

Public Participation

The policy of the Agency is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the interim final rule to the location identified in this preamble.

Regulatory Impact Analysis

EPA did not develop a Regulatory Flexibility Analysis for this interim final rule. This is because the rule is exempt from notice and comment rulemaking under section 553(a)(2) of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), and therefore not subject to the analytical requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 603 and 604.

EPA considers this rulemaking to be a significant action under section 3(f)(2) of Executive Order 12866. Therefore the text was submitted to and reviewed by the Office of Management and Budget prior to promulgation.

Paperwork Reduction Act

In keeping with the requirements of the Paperwork Reduction Act (PRA), as amended, 44 U.S.C. 3501 et seq, the information collection requirements contained in this rule have been approved by OMB as Standard Forms. This rule does not contain a collection of information beyond the already approved Standard Forms subject to the PRA.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the UMRA), P.L. 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments in the aggregate, or to the private sector, of $100 million in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of alternatives, and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's interim final rule contains no Federal mandates (within the meaning of the UMRA) for State, local, or tribal governments or the private sector. The UMRA excludes from the definitions of "Federal intergovernmental mandate" and "Federal private sector mandate" duties that arise from conditions of Federal assistance. This interim final rule prescribes as conditions of Federal assistance administrative requirements governing EPA grants to institutions of higher education, hospitals, and other non-profit organizations. Thus, it is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this interim final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Accordingly, it is not subject to the requirements of section 203 of the UMRA.

List of Subjects in 40 CFR Parts 30 and 33

Environmental protection, Accounting, Administrative practice and procedures, grant programs, Grants programs-environmental protection, Reporting and recordkeeping requirements.

Dated: January 11, 1996.

Carol Browner,

Administrator.

For the reasons set forth in the preamble, under the authority of 42 U.S.C. 7 U.S.C. 135 et seq.; 15 U.S.C. 2601 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 241, 242b, 243, 246, 300j-1, 300j-2, 300j-3, 1857 et seq., 6091 et seq.; and 42 U.S.C. 9601 et seq. 40 CFR part 33 is removed and part 30 is revised as set forth below:

PART 30—GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PRPFIT ORGANIZATIONS

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Appendix to part 30—Contract Provisions

Authority: 7 U.S.C. 135 et seq.; 15 U.S.C. 2601 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 241, 242b, 243, 246, 300f, 300j–1, 300j–2, 300j–3; 42 U.S.C. 1857 et seq.; 42 U.S.C. 7401 et seq.; 42 U.S.C. 6901 et seq.; 42 U.S.C. 9601 et seq.

Subpart A—General

§ 30.1 Purpose.

This subpart establishes uniform administrative requirements for Federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. The Environmental Protection Agency (EPA) may not impose additional or inconsistent requirements, except as provided in §§ 30.4, and 30.14 or unless specifically required by Federal statute or Executive Order. Non-profit organizations that implement Federal programs for the States are also subject to State requirements.

§ 30.2 Definitions.

(a) Accrued expenditures means the charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subrecipients, and other payees; and

(3) Other amounts becoming owed under programs for which no current services or performance is required.

(b) Accrued income means the sum of:

(1) Earnings during a given period from;

(i) Services performed by the recipient; and

(ii) Goods and other tangible property delivered to purchasers; and

(2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

(c) Acquisition cost of equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

(d) Advance means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

(e) Award means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.

(f) Cash contributions means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

(g) Closeout means the process by which a Federal awarding agency determines that all applicable administrative actions and all required work of the award have been completed by the recipient and Federal awarding agency.

(h) Contract means a procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.

(i) Cost sharing or matching means that portion of project or program costs not borne by the Federal Government.

(j) Date of completion means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which Federal sponsorship ends.

(k) Disallowed costs means those charges to an award that the Federal awarding agency determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

(l) Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5000 or more per unit. However, consistent with recipient policy, lower limits may be established.

(m) Excess property means property under the control of any Federal awarding agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

(n) Exempt property means tangible personal property acquired in whole or in part with Federal funds, where the Federal awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.

(o) Federal awarding agency means the Federal agency that provides an award to the recipient.

(p) Federal funds authorized means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

(q) Federal share of real property, equipment, or supplies means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.

(r) Funding period means the period of time when Federal funding is available for obligation by the recipient.

(s) Intangible property and debt instruments means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

(t) Obligations means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

(u) Outlays or expenditures means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

(v) Personal property means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

(w) Prior approval means written approval by an authorized official evidencing prior consent.

(x) Program income means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in § 30.24 (e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal awarding agency regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

(y) Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

(z) Project period means the period established in the award document during which Federal sponsorship begins and ends.

(aa) Property means, unless otherwise stated, real property, equipment, intangible property and debt instruments.

(bb) Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

(cc) Recipient means an organization receiving financial assistance directly from Federal awarding agencies to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term may include commercial organizations, foreign or international organizations (such as agencies of the United Nations) which are recipients, subrecipients, or contractors or subcontractors of recipients or subrecipients at the discretion of the Federal awarding agency. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.

(dd) Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(ee) Small award means a grant or cooperative agreement not exceeding the small purchase threshold fixed at 41 U.S.C. 403(11) (currently $100,000).

(ff) Subaward means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of "award" in paragraph (e) of this section.

(gg) Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations) at the discretion of the Federal awarding agency.

(hh) Supplies means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement ("subject

inventions"), as defined in 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

(ii) Suspension means an action by a Federal awarding agency that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the Federal awarding agency. Suspension of an award is a separate action from suspension under Federal agency regulations implementing Executive Orders 12549 and 12689, "Debarment and Suspension."

(jj) Termination means the cancellation of Federal sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

(kk) Third party in-kind contributions means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

(ll) Unliquidated obligations, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

(mm) Unobligated balance means the portion of the funds authorized by the Federal awarding agency that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

(nn) Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

(oo) Working capital advance means a procedure where by funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 30.3 Effect on other issuances.

For awards subject to Circular A–110, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of Circular A–110 shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 30.4.

§ 30.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of Circular A–110 when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of Circular A–110 shall be permitted only in unusual circumstances. EPA may apply more restrictive requirements to a class of recipients when approved by OMB. EPA may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by EPA.

§ 30.5 Subawards.

Unless sections of Circular A–110 specifically exclude subrecipients from coverage, the provisions of Circular A–110 shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of regulations in 40 CFR part 31 implementing the grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,".

§ 30.6 Availability of OMB circulars.

OMB circulars cited in this part are available from the Office of Management and Budget (OMB) by writing to the Executive Office of the President, Publications Service, 725 17th Street, NW., Suite 200, Washington, DC 20503.

Subpart B—Pre-Award Requirements

§ 30.10 Purpose.

Sections 30.11 through 30.18 prescribe forms and instructions and other pre-award matters to be used in applying for Federal awards.

§ 30.11 Pre-award policies.

(a) Use of Grants and Cooperative Agreements, and Contracts. In each instance, EPA shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public notice and priority setting.* EPA shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

(c) By submitting an application to EPA, the applicant grants EPA permission to share the application with technical reviewers both within and outside the Agency.

§ 30.12 Forms for applying for Federal assistance.

(a) EPA shall comply with the applicable report clearance requirements of 5 CFR part 1320, "Controlling Paperwork Burdens on the Public," with regard to all forms used by EPA in place of or as a supplement to the Standard Form 424 (SF–424) series.

(b) Applicants shall use the SF–424 series or those forms and instructions prescribed by EPA.

(c) For Federal programs covered by Executive Order 12372, "Intergovernmental Review of Federal Programs," the applicant shall complete the appropriate sections of the SF–424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from EPA or the Catalog of Federal Domestic Assistance. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

(d) If the SF–424 form is not used EPA should indicate whether the application is subject to review by the State under Executive Order 12372.

§ 30.13 Debarment and suspension.

EPA and recipients shall comply with the nonprocurement debarment and suspension regulations in 40 CFR part 32 implementing Executive Orders 12549 and 12689, "Debarment and Suspension." 40 CFR part 32 restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 30.14 Special award conditions.

If an applicant or recipient: has a history of poor performance, is not financially stable; has a management system that does not meet the standards prescribed in Circular A–110; has not conformed to the terms and conditions of a previous award; or is not otherwise responsible, EPA may impose additional requirements as needed, provided that such applicant or recipient is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 30.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205), declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. EPA shall follow the provisions of Executive Order 12770, "Metric Usage in Federal Government Programs."

§ 30.16 Resource Conservation and Recovery Act (RCRA).

Resource Conservation and Recovery Act (RCRA) (Public Law 94–580 codified at 42 U.S.C. 6962). Under the Act, any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA (40 CFR parts 247 through 254). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines. Further, pursuant to Executive Order 12873 (dated October 20, 1993) recipients are to print documents/reports prepared under an EPA award of assistance double sided on recycled paper. This requirement does not apply to Standard Forms. These forms are printed on recycled paper as available through the General Services Administration.

§ 30.17 Certifications and representations.

Unless prohibited by statute or codified regulation, EPA will allow recipients to submit certifications and representations required by statute, Executive Order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

§ 30.18 Hotel and motel fire safety.

The Hotel and Motel Fire Safety Act of 1990 (Public Law 101–391) establishes a number of fire safety standards which must be met for hotels and motels. The law provides further that Federal funds may not be used to sponsor a conference, meeting, or training seminar held in a hotel or motel which does not meet the law's fire protection and control guidelines. If necessary, the head of the Federal agency may waive this prohibition in the public interest.

Subpart C—Post-Award Requirements

Financial and Program Management

§ 30.20 Purpose of financial and program management.

Sections 30.21 through 30.28 prescribe standards for financial management systems, methods for making payments and rules for: satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of cost, and establishing fund availability.

§ 30.21 Standards for financial management systems.

(a) EPA shall require recipients to relate financial data to performance data and develop unit cost information whenever practical.

(b) Recipients' financial management systems shall provide for the following.

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in § 30.52. If EPA requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient shall not be required to establish an accrual accounting system. These recipients may develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101–453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the EPA guarantees or insures the repayment of money borrowed by the recipient, the recipient shall provide adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(d) Recipients shall obtain adequate fidelity bond coverage where coverage to protect the Federal Government's interest is insufficient.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies

holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

§ 30.22 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.

(b) Recipients are to be paid in advance, provided they maintain or demonstrate the willingness to maintain: written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and financial management systems that meet the standards for fund control and accountability as established in § 30.21. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the EPA to the recipient.

(1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(3) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

(d) Requests for Treasury check advance payment shall be submitted on SF–270, "Request for Advance or Reimbursement," or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. EPA may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, EPA shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients shall be authorized to submit request for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and EPA has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, EPA may provide cash on a working capital advance basis. Under this procedure, EPA shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, EPA shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, EPA shall not withhold payments for proper charges made by recipients at any time during the project period unless paragraph (h)(1) or (2) of this section applies.

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements.

(2) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A–129, "Managing Federal Credit Programs." Under such conditions, EPA may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.

(1) Except for situations described in paragraph (i)(2) of this section, EPA shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless paragraph (k)(1), (2) or (3) of this section applies.

(1) The recipient receives less than $120,000 in Federal awards per year.

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) For those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. Interest amounts up to $250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from EPA, it waives its right to recover the interest under CMIA. In keeping with Electronic Funds Transfer rules, (31 CFR Part 206), interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIRE Deposit system. Recipients which do not have this capability should use a check.

(m) Except as noted elsewhere in Circular A–110, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. EPA shall not require more than an original and two copies of these forms.

(1) SF–270, Request for Advance or Reimbursement. EPA shall adopt the SF–270 as a standard form for all nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. However, EPA has the option of using this form for construction programs in lieu of the SF–271, "Outlay Report and Request for Reimbursement for Construction Programs."

(2) SF–271, Outlay Report and Request for Reimbursement for Construction Programs. EPA shall adopt the SF–271 as the standard form to be used for requesting reimbursement for construction programs. However, the SF–270 may be substituted when EPA determines that it provides adequate information to meet its needs.

§ 30.23 Cost sharing or matching.

EPA shall not require cost sharing or matching unless required by statute, regulation, Executive Order, or official Agency policy.

(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are identified in the approved budget.

(7) Conform to other provisions of Circular A–110, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of the EPA Award Official.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If, after consultation with Agency property management personnel, the EPA Award Official authorizes recipients to donate buildings or land for construction or facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of paragraph (c) (1) or (2) of this section.

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, the EPA Award Official may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if paragraph (g) (1) or (2) of this section applies.

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the EPA technical program office, after consultation with EPA property management personnel, has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(5) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

§ 30.24 Program income.

(a) EPA shall apply the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with EPA regulations or the terms and conditions of the award, shall be used in one or more of the ways listed in the following.

(1) Added to funds committed to the project by EPA and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When EPA authorizes the disposition of program income as described in paragraphs (b)(1) or (2) of

this section, program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3) of this section.

(d) In the event that the EPA does not specify in its regulations or the terms and conditions of the award how program income is to be used, paragraph (b)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless EPA indicates in the terms and conditions another alternative on the award or the recipient is subject to special award conditions, as indicated in § 30.14.

(e) Unless EPA regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by EPA regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See §§ 30.30 through 30.37).

(h) Unless EPA regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

§ 30.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. The budget shall include both the Federal and non-Federal share. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, unless EPA regulations provide otherwise, recipients shall request prior written approvals from:

(1) The EPA Award Official for the following:

(i) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(ii) The need for additional Federal funding.

(iii) The inclusion of costs that require prior approval in accordance with OMB Circular A–21, "Cost Principles for Institutions of Higher Education," OMB Circular A–122, "Cost Principles for Non-Profit Organizations," or 45 CFR part 74 Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable.

(2) The technical program office for the following:

(i) Change in a key person specified in the application or award document.

(ii) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(iii) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

(iv) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(v) Unless described in the application and funded in the approved award, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(e) Except for requirements listed in paragraphs (c)(1)(i) and (ii) of this section, the EPA Award Official may waive cost-related and administrative prior written approvals required by this part and OMB cost principles. For awards that support research, these prior approval requirements are automatically waived unless:

(1) EPA provides otherwise in the award or agency regulation or

(2) One of the conditions in paragraph (f)(2)(i) of this section applies.

(f) Recipients are authorized without prior approval or a waiver to:

(1) Incur pre-award costs 90 calendar days prior to award.

(i) Pre-award costs incurred more than 90 calendar days prior to award require the prior approval of the EPA Award Official.

(ii) The applicant must include all pre-award costs in its application.

(iii) The applicant incurs such costs at its own risk (i.e., EPA is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(iv) EPA will only allow pre-award costs without approval if there are sufficient programmatic reasons for incurring the expenditures prior to the award (e.g., time constraints, weather factors, etc.), they are in conformance with the appropriate cost principles, and any procurement complies with the requirements of this rule.

(2) Extend the expiration date of the award one time for up to 12 months.

(i) A one-time extension may not be initiated if:

(A) The terms and conditions of the award prohibit the extension;

(B) The extension requires additional Federal funds; or

(C) The extension involves any change in the approved objectives or scope of the project.

(ii) For one-time extensions, the recipient must notify the EPA Award Official in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award.

(iii) This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(3) Carry forward unobligated balances to subsequent funding periods providing the recipient notifies the EPA Award Official by means of the Financial Status Report.

(g) The EPA technical program office may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by EPA. Except as provided for at paragraph (c) of this section, for awards in which the Federal share is less than $100,000 there are no restrictions on transfers of funds among direct cost categories. EPA shall not permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(h) All other changes to nonconstruction budgets, except for the changes described in paragraph (j) of this section, do not require prior approval.

(i) For construction awards, recipients shall request prior written approval promptly from EPA for budget revisions whenever paragraph (h)(1), (2) or (3) of this section applies.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Federal funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in § 30.27.

(j) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(k) When EPA makes an award that provides support for both construction and nonconstruction work, EPA may require the recipient to request prior approval before making any fund or budget transfers between the two types of work supported.

(l) For both construction and nonconstruction awards, EPA shall require recipients to notify the agency in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(m) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the EPA indicates that a letter clearly describing the details of the request will suffice.

(n) Within 30 calendar days from the date of receipt of the request for budget revisions, EPA shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, EPA shall inform the recipient in writing of the date when the recipient may expect the decision.

§ 30.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations shall be subject to the audit requirements contained in OMB Circular A–133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions."

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act (31 U.S.C. 7501–7) and 40 CFR part 31 implementing OMB Circular A–128, "Audits of State and Local Governments."

(c) Hospitals not covered by the audit provisions of OMB Circular A–133 shall be subject to the audit requirements of EPA.

(d) Commercial organizations shall be subject to the audit requirements of EPA or the prime recipient as incorporated into the award document.

§ 30.27 Allowable costs.

(a) For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, "Cost Principles for State and Local Governments." The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, "Cost Principles for Non-Profit Organizations." The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, "Cost Principles for Educational Institutions." The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals." The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31. In addition, EPA's annual Appropriations Acts may contain restrictions on the use of assistance funds. For example, the Acts may prohibit the use of funds to support intervention in Federal regulatory or adjudicatory proceedings.

(b) EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors to the maximum daily rate for level 4 of the Executive Schedule unless a greater amount is authorized by law. (Recipient's may, however, pay consultants more than this amount.) This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices. Contracts with firms for services which are awarded using the procurement requirements in this part are not affected by this limitation.

§ 30.28 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the grant only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by EPA.

Property Standards

§ 30.30 Purpose of property standards.

Sections 30.31 through 30.37 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award. EPA shall require recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of §§ 30.31 through 30.37.

§ 30.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

§ 30.32 Real property.

EPA shall prescribe requirements for recipients concerning the use and disposition of real property acquired in whole or in part under awards. Unless otherwise provided by statute, such requirements, at a minimum, shall contain the following.

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of EPA.

(b) The recipient shall obtain written approval by EPA for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by EPA.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section,

the recipient shall request disposition instructions from EPA or its successor Federal awarding agency. EPA shall observe one or more of the following disposition instructions.

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by EPA and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

§ 30.33 Federally-owned and exempt property.

(a) *Federally-owned property.* (1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to EPA's property management staff. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to EPA's property management staff for further utilization.

(2) If EPA has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless EPA has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (I)) to donate research equipment to educational and non-profit organizations in accordance with Executive Order 12821, "Improving Mathematics and Science Education in Support of the National Education Goals.") Appropriate instructions shall be issued to the recipient by EPA's property management staff.

(b) *Exempt property.* When statutory authority exists, EPA has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions EPA considers appropriate. Such property is "exempt property." Should EPA not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

§ 30.34 Equipment.

(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of EPA. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority: Activities sponsored by EPA, then activities sponsored by other Federal awarding agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by EPA; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by EPA. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of EPA.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following.

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates EPA for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify EPA.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of $5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from EPA. EPA shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported to the General Services Administration by EPA to determine whether a requirement for the equipment exists in other Federal agencies. EPA shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse EPA an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by EPA for such costs incurred in its disposition.

(4) EPA may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(ii) EPA shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If EPA fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.

(iii) When EPA exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

§ 30.35 Supplies and other expendable property.

(a) Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding $5000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.

§ 30.36 Intangible property.

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. EPA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

(c) Unless waived by EPA, the Federal Government has the right to paragraphs (c) (1) and (2) of this section.

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award.

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of EPA. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of § 30.34(g).

§ 30.37 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. Agencies may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

Procurement Standards

§ 30.40 Purpose of procurement standards.

Sections 30.41 through 30.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and Executive Orders. No additional procurement standards or requirements shall be imposed by EPA upon recipients, unless specifically required by Federal statute or Executive Order or approved by OMB.

§ 30.41 Recipient responsibilities.

The standards contained in this part do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to EPA, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning

violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 30.42 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

§ 30.43 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

§ 30.44 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that paragraphs (a) (1), (2) and (3) of this section apply.

(1) Recipients avoid purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.

(3) Solicitations for goods and services provide for all of the following.

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(6) If the prime contractor awards subcontracts, requiring the contractor to take steps in paragraphs (b)(1) through (5) of this section.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of Executive Orders 12549 and 12689, "Debarment and Suspension."

(e) Recipients shall, on request, make available for EPA, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in EPA's implementation of Circular A–110.

(2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently $100,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a "brand name" product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

§ 30.45 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 30.46 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum: Basis for contractor selection; justification for lack of competition when competitive bids or offers are not obtained; and basis for award cost or price.

§ 30.47 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 30.48 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, EPA may accept the bonding policy and requirements of the recipient, provided EPA has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, EPA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of the Appendix to Circular A–110, as applicable. Reports and Records.

§ 30.50 Purpose of reports and records.

Sections 30.51 through 30.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 30.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in § 30.26.

(b) EPA shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph (f) of this section, performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. EPA may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following.

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify EPA of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of

the action taken or contemplated, and any assistance needed to resolve the situation.

(g) EPA may make site visits, as needed.

(h) EPA shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

§ 30.52 Financial reporting.

(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients.

(1) *SF–269 or SF–269A, Financial Status Report.* (i) EPA shall require recipients to use the SF–269 or SF–269A to report the status of funds for all nonconstruction projects or programs. However, EPA has the option of not requiring the SF–269 or SF–269A when the SF–270, Request for Advance or Reimbursement, or SF–272, Report of Federal Cash Transactions, is determined to provide adequate information to meet its needs, except that a final SF–269 or SF–269A shall be required at the completion of the project when the SF–270 is used only for advances.

(ii) EPA shall prescribe whether the report shall be on a cash or accrual basis. If EPA requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) EPA shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) EPA shall require recipients to submit the SF–269 or SF–269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by EPA upon request of the recipient.

(2) *SF–272, Report of Federal Cash Transactions.* (i) When funds are advanced to recipients EPA shall require each recipient to submit the SF–272 and, when necessary, its continuation sheet, SF–272A. EPA shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) EPA may require forecasts of Federal cash requirements in the "Remarks" section of the report.

(iii) When practical and deemed necessary, EPA may require recipients to report in the "Remarks" section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall be required to submit not more than the original and two copies of the SF–272 15 calendar days following the end of each quarter. EPA may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(v) EPA may waive the requirement for submission of the SF–272 for any one of the following reasons:

(A) When monthly advances do not exceed $25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in EPA's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or

(C) When the electronic payment mechanisms provide adequate data.

(b) When EPA needs additional information or more frequent reports, the following shall be observed.

(1) When additional information is needed to comply with legislative requirements, EPA shall issue instructions to require recipients to submit such information under the "Remarks" section of the reports.

(2) When EPA determines that a recipient's accounting system does not meet the standards in § 30.21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. EPA, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.

(3) EPA may shade out any line item on any report if not necessary.

(4) EPA may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) EPA may provide computer or electronic outputs to recipients when such expedites or contributes to the accuracy of reporting.

§ 30.53 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. EPA shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by EPA. The only exceptions are the following.

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by EPA, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by EPA.

(d) EPA shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, EPA may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) EPA, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, EPA shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when it can be demonstrated that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to EPA.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the recipient submits to EPA or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation.* If the recipient is not required to submit to EPA or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

§ 30.54 Quality assurance.

If the project officer determines that the grantee's project involves environmentally related measurements or data generation, the grantee shall develop and implement quality assurance practices consisting of policies, procedures, specifications, standards, and documentation sufficient to produce data of quality adequate to meet project objectives and to minimize loss of data due to out-of-control conditions or malfunctions. The quality system must comply with the requirements of ANSI/ASQC E4, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs", which may be obtained from the National Technical Information Service (NTIS), 5885 Port Royal Road, Springfield, VA 22161.

Termination and Enforcement

§ 30.60 Purpose of termination and enforcement.

Sections 30.61 and 30.62 set forth uniform suspension, termination and enforcement procedures.

§ 30.61 Termination.

(a) Awards may be terminated in whole or in part only if paragraph (a)(1), (2) or (3) of this section applies.

(1) By EPA, if a recipient materiaiiy fails to comply with the terms and conditions of an award.

(2) By EPA with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to EPA written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if EPA determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraph (a)(1) or (2) of this secion.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 30.71(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 30.62 Enforcement.

(a) *Remedies for noncompliance.* If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, EPA may, in addition to imposing any of the special conditions outlined in § 30.14, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by EPA.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) *Hearings and appeals.* In taking an enforcement action, EPA shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved. EPA's Dispute Provisions found at 40 CFR part 31, subpart F, Disputes, are applicable to assistance awarded under the provisions of this Part.

(c) *Effects of suspension and termination.* Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless EPA expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if paragraphs (c)(1) and (2) of this section apply.

(1) The costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable.

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under Executive Orders 12549 and 12689 and EPA's implementing regulations (see § 30.13).

§ 30.63 Disputes.

(a) Disagreements should be resolved at the lowest possible level.

(b) If an agreement cannot be reached, the EPA disputes decision official will provide a written final decision. The EPA disputes decision official is the individual designated by the award official to resolve disputes concerning assistance agreements. If the dispute cannot be resolved the procedures outlined at 40 CFR part 31, subpart F, should be followed.

Subpart D—After-the-Award Requirements

§ 30.70 Purpose.

Sections 30.71 through 30.73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 30.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. EPA may approve extensions when requested by the recipient.

(b) Unless EPA authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) EPA shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that EPA has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A–129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, EPA shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 30.31 through 30.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, EPA shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 30.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following.

(1) The right of EPA to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 30.26.

(4) Property management requirements in §§ 30.31 through 30.37.

(5) Records retention as required in § 30.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of EPA and the recipient, provided the responsibilities of the recipient referred to in § 30.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 30.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, EPA may reduce the debt by paragraph (a) (1), (2) or (3) of this section.

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, EPA shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."

Appendix to Part 30—Contract Provisions

All contracts awarded by a recipient, including small purchases, shall contain the following provisions as applicable:

1. Equal Employment Opportunity—All contracts shall contain a provision requiring compliance with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts and subgrants in excess of $100,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to EPA.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a–7)—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to EPA.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)—Where applicable, all contracts awarded by recipients in excess of $100,000 for construction contracts and in excess of $2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by EPA.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal

contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (Executive Orders 12549 and 12689)—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

[FR Doc. 96–2502 Filed 2–14–96; 8:45 am]
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Thursday
February 15, 1996

Part III

Department of Education

Intent to Award Grantback Funds: Connecticut; Notice

DEPARTMENT OF EDUCATION

Intent To Repay to the Connecticut Board of Education and Services for the Blind Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Notice is given that under section 459 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234h, the U.S. Secretary of Education (Secretary) intends to repay to the State of Connecticut Board of Education and Services for the Blind (State agency), under a grantback arrangement, an amount equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final action taken by the Department on March 17, 1993 on an audit determination. This notice describes the State agency's plans for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. This notice invites comments on the proposed grantback.

DATES: All comments must be received on or before March 18, 1996.

ADDRESSES: Comments concerning the grantback should be addressed to Peg Covello, U.S. Department of Education, 600 Independence Avenue SW., Room 3223, Switzer Building, Washington, D.C. 20202–2735.

FOR FURTHER INFORMATION CONTACT: Peg Covello. Telephone: (202) 205–9357. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

A. Background

The Department has recovered $168,940 (the $159,755 disallowance plus interest) from the State of Connecticut Board of Education and Services for the Blind in response to a claim arising from an audit conducted by the Connecticut Office of Auditors of Public Accounts. The audit period was July 1, 1985 through June 30, 1987.

The claim involved the State agency's administration of the State Vocational Rehabilitation Services Program (CFDA No. 84.126), the Independent Living Services for Older Individuals Who Are Blind program (CFDA No. 84.177), and the Education of Children with Disabilities in State Operated or Supported Schools (Chapter 1 Handicapped program) (CFDA No. 84.009).

The final audit determination of the Regional Commissioner and the Assistant Secretary, which was issued on September 29, 1992, found that during the audit period the State agency had—

(a) Overexpended $110,085 in payroll costs associated with funds under section 110 of the Rehabilitation Act of 1973, as amended (the Act), for the Federal fiscal year (FY) that ended September 30, 1986. Although State funds were available to adjust grant charges to the proper funding levels between Federal and State match accounts, the State Office of Policy and Management would not permit the charging of Federal program salaries to State budgeted appropriation accounts. As a result, the agency carried forward the $110,085 in payroll costs and reported them as expenditures for the Federal fiscal year that ended September 30, 1987. For these Federal fiscal years, grantees were required to expend Federal funds for programs authorized by section 110 of the Act, which do not include reallotted funds, in the same Federal fiscal year for which they were appropriated by Congress. In addition, 34 CFR 76.707 requires that obligations for personal services by an employee of the State must be made when the services are performed. Because the State agency had no authority to charge salaries and wages of employees earned in one Federal fiscal year to a subsequent Federal fiscal year, the Department sought recovery of $88,068 (the Federal 80 percent share of the $110,085);

(b) Rolled over an unexpended and unobligated balance of $32,687 in Independent Living Services for Older Individuals Who Are Blind program funds for the Federal fiscal year that ended September 30, 1987, into the Federal fiscal year that ended September 30, 1988, for expenditure without proper Federal authorization. The Education Department General Administrative Regulations (EDGAR), 34 CFR 75.703, states that a grantee may use grant funds only for obligations it makes during the grant period. Because the State agency expended these FY 1987 funds in FY 1988, the Department sought recovery of the $32,687; and

(c) Charged to the Chapter 1 Handicapped program the total salary for one mobility instructor without the substantiation of time and effort reporting. Section 435(b)(5) of GEPA requires the State to use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Chapter 1 Handicapped program funds. Moreover, section 437(a) of GEPA requires each recipient of Federal funds under any applicable program to keep records that fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and any other records that will facilitate an effective audit. The Department sought return of those unsupported expenditures of $39,000 within the statutory period.

The final determination sought the recovery of a total of $159,755 from the State agency.

The State agency appealed the final determination to the Department's Office of Administrative Law Judges (OALJ) (Application of the State of Connecticut: Docket No. 92–120–R) on November 9, 1992, 10 days after expiration of the 30-day appeal limit. In an Initial Decision issued January 29, 1993, the OALJ dismissed the application because of failure to file the Application for Review on time. On March 17, 1993 the Secretary of Education affirmed the Initial Decision. On March 9, 1995 the State agency made the final repayment for a total recovery, with interest, of $168,940.

The Connecticut Board of Education and Services for the Blind has submitted a request for a grantback of $119,816 (75 percent of the $159,755 recovered by the Department of Education). In its request the State agency provided documentation of the actions taken to correct the practices that resulted in the final audit determination. In October 1994, the Department conducted a comprehensive on-site State Agency Financial Administrative Review (SAFAR) of the State agency. The review confirmed that all of the audit recommendations had been implemented and that the agency was in full compliance with the applicable laws and regulations.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA, 20 U.S.C. 1234h(a), provides that, whenever the Secretary has recovered program funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the State agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that the—

(1) Practices or procedures of the State agency that resulted in the final audit determination have been corrected, and

the State agency is, in all other respects, in compliance with requirements of the applicable program;

(2) State agency has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the State agency's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 459(a)(2) of GEPA, the State agency submitted a plan for the proposed use of the funds in its April 10, 1995 request for a grantback. In its plan, the State agency proposes to use the grantback of $66,051 plus the required State matching funds in the amount of $17,877 to supplement current State Vocational Rehabilitation Services Program activities.

Over the last two years new intake procedures have been instituted that have resulted in an increase in intakes, clients being served, and individuals being placed in competitive jobs. In FY 1992, 701 clients were served, with 108 placed into competitive jobs. In FY 1993, 1,014 individuals were served, with 170 placed into competitive jobs. In FY 1994, 1,098 were served, with 177 placed into competitive jobs. Over this same three-year period the agency has received level or marginal funding increases at both the State and Federal levels. At the same time, program costs have increased each year in the areas of: (1) Adaptive technology, 31 percent of the FY 1995 budget commitments, with an 11 percent increase in costs over FY 1994; (2) College training, 21 percent of the FY 1995 budget commitments, with a 35 percent increase in costs over FY 1994; (3) Employment related training, 20 percent of the FY 1995 budget, with an 81 percent increase in costs over FY 1994; and (4) Personal adjustment training, which shows a 200 percent increase over FY 1994. All of these factors combined have strained the available funds to meet program goals, and a grantback authorization would have a very positive impact on the agency's ability to continue increasing its number of competitive placement outcomes.

In its plan the State agency proposes to use the grantback of $24,515 plus the required State matching funds in the amount of $2,724 to supplement current Independent Living Services for Older Individuals Who are Blind activities. The grantback funds would be used specifically to design, pilot-test, and print a train-the-trainer guide.

The guide would be used by key service providers, senior center staff, day care staff, independent living staff, and other community services personnel. Emphasis would be placed on improving the daily independence of older visually impaired individuals.

The State agency would direct its outreach activities toward older individuals who are unserved and underserved by traditional agencies in the field of blindness.

In its plan the State agency proposes to use the grantback of $29,250 (no State match required) to supplement current activities authorized under Part B of IDEA that were previously authorized and funded under the Chapter 1 Handicapped program, which was terminated effective FY 1995. The funds will be used specifically to provide Computer Camp and Social and Recreational Camp experiences for legally blind children in State operated or supported schools. The children will learn applications of advanced technology to produce braille, large print, and synthesized speech. The summer camps also provide recreational and social skill development, low-vision evaluations, aids and devices, and follow-up training.

D. The Secretary's Determinations

The Secretary has reviewed the State agency's request for a grantback of funds, the State agency's plan (as outlined in the preceding section of this notice), and other information submitted by the State agency. Based upon that review, the Secretary has determined that the conditions contained in section 459 of GEPA have been met.

The determinations are based upon the best information available to the Secretary at the present time. If, at a later date, this information is discovered to have been inaccurate or incomplete, the Secretary will not be precluded from taking appropriate administrative action at that time. In finding that the conditions of section 459 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendation or final audit determination.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least 30 days prior to entering into an arrangement to award funds under a grantback, the Secretary publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 459(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Connecticut Board of Education and Services to the Blind under a grantback arrangement, as authorized by section 459. The grantback award will be in the amount of $119,816. This amount is 75 percent—maximum percentage authorized by section 459—of the amount of funds recovered by the Department. The Secretary's intent to award the maximum amount of grantback funds possible under section 459 is based upon the determinations outlined in section D of this notice.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

The State agency agrees to comply with the following terms and conditions under which payments under a grantback arrangement will be made:

(a) The funds awarded under the grantback and the required State matching funds must be expended in accordance with—

(1) All applicable statutory and regulatory requirements of The State Vocational Rehabilitation Services Program, including those provisions relating to an order of selection if such an order is in effect during the grantback period, the Independent Living Services for Older Individuals Who Are Blind program, and Part B of IDEA, as appropriate;

(2) The plan and the request for the grantback that were submitted on April 10, 1995, and any other amendments to that plan that are approved in advance of the grantback award by the Secretary; and

(3) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(b) Pursuant to section 459(c) of GEPA, all funds received under this grantback arrangement must be obligated no later than September 30, 1996.

(c) The State agency must submit two annual reports (not later than December 31, 1995 and December 31, 1996 respectively) to the Secretary that—

(1) Indicate how the funds awarded under the grantback and the State matching funds have been expended in accordance with the proposed plan; and

(2) Describe the results and effectiveness of the project for which the funds were expended.

(d) The State matching funds expended under the grantback arrangement in accordance with The State Vocational Rehabilitation Services Program will be counted for maintenance of effort purposes under The State Vocational Rehabilitation Services Program.

(e) Separate accounting records must be maintained documenting the expenditure of all funds under the grantback arrangement.

(f) Before funds will be repaid pursuant to this notice, the State agency must repay to the Department any debts that become overdue or enter into a repayment agreement for those debts.

(Catalog of Federal Domestic Assistance Numbers 84.126 The State Vocational Rehabilitation Services Program; 84.177 Independent Living Services for Older Individuals Who Are Blind; and 84.027 Assistance to States for Education of Children With Disabilities)

Dated: February 9, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–3451 Filed 2–14–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
February 15, 1996

Part IV

The President

Executive Order 12989—Economy and Efficiency in Government Procurement Through Compliance With Certain Immigration and Naturalization Act Provisions

Federal Register
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Thursday, February 15, 1996

Presidential Documents

Title 3—

The President

Executive Order 12989 of February 13, 1996

Economy and Efficiency in Government Procurement Through Compliance With Certain Immigration and Naturalization Act Provisions

This order is designed to promote economy and efficiency in Government procurement. Stability and dependability are important elements of economy and efficiency. A contractor whose work force is less stable will be less likely to produce goods and services economically and efficiently than a contractor whose work force is more stable. It remains the policy of this Administration to enforce the immigration laws to the fullest extent, including the detection and deportation of illegal aliens. In these circumstances, contractors cannot rely on the continuing availability and service of illegal aliens, and contractors that choose to employ unauthorized aliens inevitably will have a less stable and less dependable work force than contractors that do not employ such persons. Because of this Administration's vigorous enforcement policy, contractors that employ unauthorized alien workers are necessarily less stable and dependable procurement sources than contractors that do not hire such persons. I find, therefore, that adherence to the general policy of not contracting with providers that knowingly employ unauthorized alien workers will promote economy and efficiency in Federal procurement.

NOW, THEREFORE, to ensure the economical and efficient administration and completion of Federal Government contracts, and by the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 486(a) and 3 U.S.C. 301, it is hereby ordered as follows:

Section 1. (a) It is the policy of the executive branch in procuring goods and services that, to ensure the economical and efficient administration and completion of Federal Government contracts, contracting agencies should not contract with employers that have not complied with section 274A(a)(1)(A) and 274A(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)(A), 1324a(a)(2)) (the "INA employment provisions") prohibiting the unlawful employment of aliens. All discretion under this Executive order shall be exercised consistent with this policy.

(b) It remains the policy of this Administration to fully and aggressively enforce the antidiscrimination provisions of the Immigration and Nationality Act to the fullest extent. Nothing in this order relieves employers from their obligation to avoid unfair immigration-related employment practices as required by the antidiscrimination provisions of section 1324(b) of the INA (8 U.S.C. 1324b) and all other antidiscrimination requirements of applicable law, including the requirements of 8 U.S.C. 1324b(a)(6) concerning the treatment of certain documentary practices as unfair immigration-related employment practices.

Sec. 2. Contractor, as used in this Executive order, shall have the same meaning as defined in subpart 9.4 of the Federal Acquisition Regulation.

Sec. 3. Using the procedures established pursuant to 8 U.S.C. 1324a(e), the Attorney General: (a) may investigate to determine whether a contractor or an organizational unit thereof is not in compliance with the INA employment provisions;

(b) shall receive and may investigate complaints by employees of any entity covered under section 3(a) of this order where such complaints allege noncompliance with the INA employment provisions; and

(c) shall hold such hearings as are required under 8 U.S.C. 1324a(e) to determine whether an entity covered under section 3(a) is not in compliance with the INA employment provisions.

Sec. 4. (a) Whenever the Attorney General determines that a contractor or an organizational unit thereof is not in compliance with the INA employment provisions, the Attorney General shall transmit that determination to the appropriate contracting agency and such other Federal agencies as the Attorney General may determine. Upon receipt of such determination from the Attorney General, the head of the appropriate contracting agency shall consider the contractor or an organizational unit thereof for debarment as well as for such other action as may be appropriate in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation.

(b) The head of the contracting agency may debar the contractor or an organizational unit thereof based on the determination of the Attorney General that it is not in compliance with the INA employment provisions. The Attorney General's determination shall not be reviewable in the debarment proceedings.

(c) The scope of the debarment generally should be limited to those organizational units of a Federal contractor that the Attorney General finds are not in compliance with the INA employment provisions.

(d) The period of the debarment shall be for 1 year and may be extended for additional periods of 1 year if, using the procedures established pursuant to 8 U.S.C. 1324a(e), the Attorney General determines that the organizational unit of the Federal contractor continues to be in violation of the INA employment provisions.

(e) The Administrator of General Services shall list a debarred contractor or an organizational unit thereof on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs and the contractor or an organizational unit thereof shall be ineligible to participate in any procurement or nonprocurement activities.

Sec. 5. (a) The Attorney General shall be responsible for the administration and enforcement of this order, except for the debarment procedures. The Attorney General may adopt such additional rules and regulations and issue such orders as may be deemed necessary and appropriate to carry out the responsibilities of the Attorney General under this order. If the Attorney General proposes to issue rules, regulations, or orders that affect the contracting departments and agencies, the Attorney General shall consult with the Secretary of Defense, the Secretary of Labor, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, the Administrator for Federal Procurement Policy, and such other agencies as may be appropriate.

(b) The Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration shall amend the Federal Acquisition Regulation to the extent necessary and appropriate to implement the debarment responsibility and other related responsibilities assigned to heads of contracting departments and agencies under this order.

Sec. 6. Each contracting department and agency shall cooperate with and provide such information and assistance to the Attorney General as may be required in the performance of the Attorney General's functions under this order.

Sec. 7. The Attorney General, the Secretary of Defense, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, and the heads of contracting departments and agencies may delegate any of their functions or duties under this order to any officer or employee of their respective agencies.

Sec. 8. This order shall be implemented in a manner intended to least burden the procurement process. This order neither authorizes nor requires any additional certification provision, clause, or requirement to be included in any contract or contract solicitation.

Sec. 9. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final agency decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

William J. Clinton

THE WHITE HOUSE,
February 13, 1996.

[FR Doc. 96–3646
Filed 2–14–96; 8:45 am]
Billing code 3195–01–P

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H.R. 2353/P.L. 104–110

To amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to carry out certain programs and activities, to require certain reports from the Secretary of Veterans Affairs, and for other purposes. (Feb. 13, 1996; 110 Stat. 768)

H.R. 2657/P.L. 104–111

To award a congressional gold medal to Ruth and Billy Graham. (Feb. 13, 1996; 110 Stat. 772)

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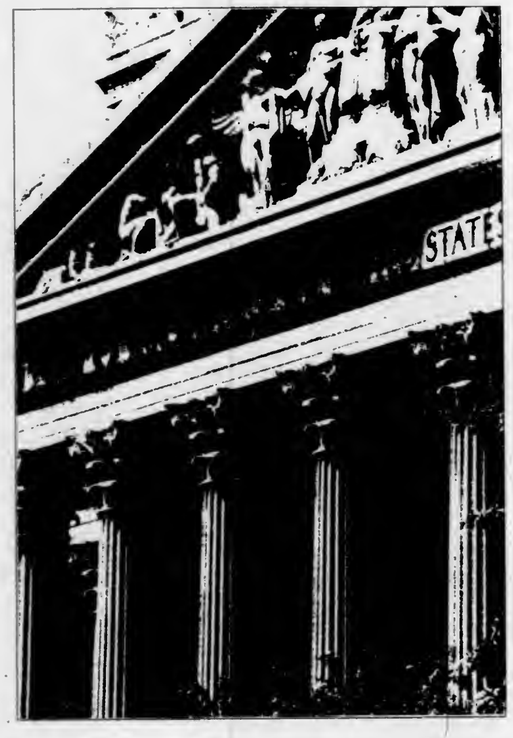
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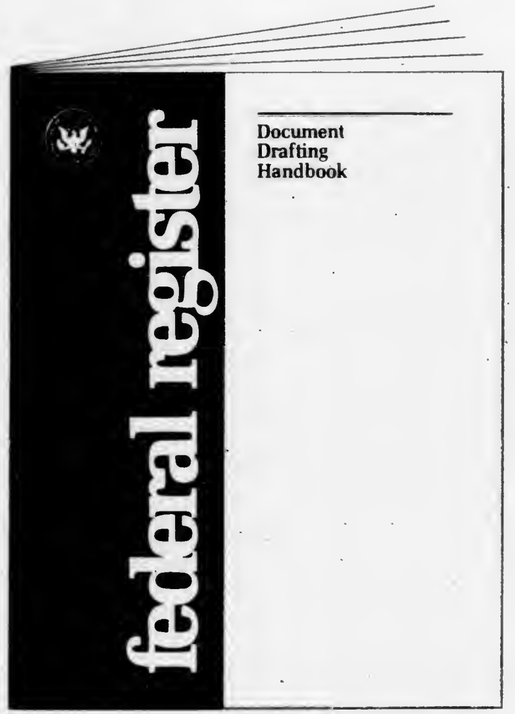
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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
Vol. 61, No. 33
Friday, February 16, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 108

[Notice 1996–6]

Document Filing

AGENCY: Federal Election Commission.

ACTION: Final Rule; Technical Amendments.

SUMMARY: On February 1, 1996, several technical amendments were published in the **Federal Register** conforming the Commission's regulations to a recent amendment to the Federal Election Campaign Act of 1971, as amended ("FECA"). The Commission today is publishing technical amendments to conform two additional regulations to the recently amended statute.

EFFECTIVE DATE: February 16, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Teresa A. Hennessy, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The FECA governs, *inter alia*, the filing of campaign finance reports by candidates, and the authorized committees of candidates, to the House of Representatives ("House"). 2 U.S.C. 432(g). On December 28, 1995, Public Law No. 104–79, 109 Stat. 791 (1995) amended the FECA to require that these reports be filed with the Federal Election Commission rather than the Clerk of the House. *See* Section 3. As noted above, the Commission has published in the **Federal Register** a technical amendment to 11 CFR 105.1 to conform to the amended statute and conforming amendments to several provisions that refer to the regulation. 61 FR 3549.

The Commission today is publishing additional technical amendments to conform the following regulations to the amended statute: 11 CFR 100.19(a) and 108.8. As noted in the original rulemaking, these technical requirements are exempt from the notice and comment requirements of the Administrative Procedure Act. *See* U.S.C. 553 (b)(B). They are also exempt from the legislative review provisions of the FECA. *See* 2 U.S.C. 438(d). Therefore, these technical amendments are effective on February 16, 1996.

Certification of No Effect Pursuant to 5 U.S.C. 605(B) (Regulatory Flexibility Act)

I hereby certify that the attached technical amendments will not have a significant economic impact on a substantial number of small entities. The basis of this certification is that the technical amendments are necessary to conform to the FECA and that these change only the location of filing reports. Therefore, no significant economic impact is caused by the technical amendments.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 108

Elections, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, subchapter A, chapter I, title 11 of the Code of Federal Regulations is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8)

§ 100.19(a) [Amended]

2. Section 100.19(a) is amended by adding "or" before "the Secretary" and by removing "; or the Clerk of the United States House of Representatives, House Records and Registration, 1036 Longworth House Office Building, Washington, DC 20515".

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS (2 U.S.C. 439)

3. The authority citation for Part 108 continues to read as follows:

Authority: 2 U.S.C. 434(a)(2), 438(a)(8), 439, 453.

§ 108.8 [Amended]

4. Section 108.8 is amended by removing "Clerk," and by removing the comma after "Secretary".

Dated: February 13, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–3571 Filed 2–15–96; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 353

RIN 3064–AB63

Suspicious Activity Reports

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending its regulation on the reporting of known or suspected criminal and suspicious activities by insured state nonmember banks. This final rule streamlines reporting requirements by providing that a state nonmember bank file a new Suspicious Activity Report (SAR) with the FDIC and the appropriate federal law enforcement agencies by sending a single copy of the SAR to the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN) to report a known or suspected criminal offense or a transaction that it suspects involves money laundering or violates the Bank Secrecy Act.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Carol A. Mesheske, Chief, Special Activities Section, (202) 898–6750, or Gregory Gore, Counsel, (202) 898–7109.

SUPPLEMENTARY INFORMATION:

Background

The FDIC, FRB, OCC, and OTS have issued for public comment substantially similar proposals to revise their regulations on the reporting of known or suspected criminal conduct and suspicious activities. The Department of the Treasury, through FinCEN, has issued for public comment a substantially similar proposal to require the reporting of suspicious transactions relating to money laundering activities..

The FDIC's proposed regulation (60 FR 47719, September 14, 1995) noted that the interagency Bank Fraud Working Group, consisting of representatives from the Agencies, law enforcement agencies, and FinCEN, has been working on the development of a single form, the SAR, for the reporting of known or suspected federal criminal law violations and suspicious activities. The FDIC's proposed regulation, as well as those proposed by the FRB, OCC, OTS, and FinCEN, would simplify and clarify the reporting requirements and reduce banks' reporting burdens by raising mandatory reporting thresholds for criminal offenses and by requiring the filing of only one report with FinCEN.

The final rule adopts the proposal with a few additional changes that generally have been made in response to the comments received. The changes will result in burden reductions even greater than those that were proposed.

Section-by-Section Analysis

The title of the regulation has been changed to conform to the name on the SAR.

Section 353.1 (Instruction No. 1 on the SAR) provides that a bank must file a SAR when it detects a known or suspected criminal violation of federal law or a suspicious activity pertinent to a money laundering offense.

Section 353.2 provides pertinent definitions.

Sections 353.3(a) (1), (2), and (3) (Instructions 1. a., b., and c. on the SAR) instruct a bank to file a SAR with FinCEN in order to comply with the requirement to notify federal law enforcement agencies and the Department of the Treasury if the bank detects any known or suspected federal criminal violation, or pattern of violations, committed or attempted against the bank, or involving one or more transactions conducted through the bank, and the bank believes it was an actual or potential victim of a crime, or was used to facilitate a crime. If the bank has a substantial basis for identifying one of its insiders or other institution-affiliated parties in connection with the known or suspected crime, reporting is required, regardless of the dollar amount involved. If the bank can identify a non-insider suspect, the applicable transaction threshold is $5,000. In cases in which no suspect can be identified, the applicable transaction threshold increases to $25,000. These sections were not changed from the proposed regulation published for public comment in September 1995.

Section 353.3(a)(4) (Instruction 1. d. on the SAR) instructs a bank to file a SAR for transactions involving $5,000 or more in funds or other assets when the bank knows, suspects or has reason to suspect that the transaction: (i) Involves money laundering, or (ii) is designed to evade any regulations promulgated under the Bank Secrecy Act, or (iii) has no business or apparent lawful purpose or is not the sort of transaction in which the particular customer normally engages, and, after examining the available facts, the bank knows of no reasonable explanation for the transaction. Section 353.3(a)(4) has been modified in the final rule to reflect comments received on the proposal. Most notably, the circumstances under which a transaction should be reported under this section were clarified, and a reporting threshold of $5,000 was added.

Section 353.3(a)(4) recognizes the emerging international consensus that the efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted by the reporting of suspicious transactions by financial institutions. The requirements of this section comply with the recommendations adopted by multi-country organizations in which the United States is an active participant, including the Financial Action Task Force of the G–7 nations and the Organization of American States and are consistent with the European Community's directive on preventing money laundering through financial institutions.

Section 353.3(b) (Instruction 2 on the SAR) provides that SARs must be filed within 30 calendar days of the initial detection of the criminal or suspicious activity. An additional 30 days is permitted in order to enable a bank to identify a suspect, but in no event may a SAR be filed later than 60 days after the initial detection of the reportable conduct. The FDIC and law enforcement must be notified in the case of a violation requiring immediate action, such as an on-going violation. These reporting requirements were not changed from the September 1995 proposal.

Section 353.3(c) encourages a bank to file a SAR with state and local law enforcement agencies. This section is unchanged from the September 1995 proposal.

Section 353.3(d) (Instruction 3 on the SAR) provides that a bank need not file a SAR for an attempted or committed burglary or robbery reported to the appropriate law enforcement agencies. In addition, a SAR need not be filed for missing or counterfeit securities that are the subject of a report pursuant to Rule 17f–1 under the Securities Exchange Act of 1934. The section of the final rule was modified to require reporting of larcenies to be consistent with the interagency SAR instructions.

Section 353.3(e) requires a bank to retain a copy of the SAR and the original or business record equivalent of supporting documentation for a period of five years. The section also requires that a bank identify and maintain supporting documentation in its files and that the bank make available such documentation to law enforcement agencies upon their request. The FDIC made three changes to this section from the version published for public comment in September 1995. First, the record retention period was shortened from ten years to five. Second, provision was made for the retention of business record equivalents of original documents, such as microfiche and computer imaged record systems, in recognition of modern record retention technology. The third change involves the clarification of a bank's obligation to provide supporting documentation upon request to law enforcement officials. Supporting documentation is deemed filed with a SAR in accordance with this section of the FDIC's final rule; as such, law enforcement authorities need not make their access requests through subpoena or other legal processes.

Section 353.3(f) requires the management of a bank to report the filing of all SARs to the board of directors of the bank, or a designated committee thereof. No change was made from the September 1995 proposal.

Section 353.3(g) provides that SARs are confidential. Requests for SARS or the information contained therein should be declined. The final rule also adds a requirement that a request for a SAR or the information contained therein should be reported to the FDIC. With the exception of the added requirement that requests for SARs be reported to the FDIC, no changes were made to this section from the September 1995 proposal.

Section 353.3(h) sets forth the safe harbor provisions of 31 U.S.C. 5318(g). This new section, which was added to the final rule as the result of many comments concerning this important statutory protection for banking organizations, states that the safe harbor provisions of the law are triggered by a report of known or suspected criminal violations or suspicious activities to law enforcement authorities, regardless of whether the report is made by the filing of a SAR in accordance with the FDIC's

regulation or by different means for other reasons.

Comments Received

The FDIC received letters from 14 public commenters. Comments were received from 4 community banks, 5 multinational or large regional banks, 2 trade and industry research groups, 2 regulatory bodies, and one consulting firm.

The large majority of commenters expressed general support for the FDIC's proposal. None of the commenters opposed the proposed new suspicious activity reporting rules. A number of suggestions and requests for clarification were received. They are as follows.

Criminal Versus Suspicious Activities

Almost one half of the commenters expressed confusion over the difference between the known or suspected criminal conduct that would be subject to the dollar reporting thresholds (provided such conduct does not involve an institution-affiliated party of the reporting entity) and the suspicious activities that would be reported regardless of dollar amount. Section 353.3(a)(4) has been revised to add a $5,000 reporting threshold and to clarify that the suspicious activity must relate to money laundering or Bank Secrecy Act violations. A threshold for the reporting of suspicious activities was added to reduce further the reporting burdens on banks.

Reporting of Crimes Under State Law

Two commenters requested clarification of whether activities constituting crimes under state law, but not under federal law, should be reported on the SAR. The FDIC continues to encourage banks to refer criminal and suspicious activities under both federal and state law by filing a Suspicious Activity Report. Under the new reporting system designed by the FDIC, the other Agencies, and FinCEN, state chartered, nonmember banks should be able to fulfill their state reporting obligations by filing a SAR with FinCEN.

Safe Harbor Protections; Potential Liability Under Federal and State Laws

Some commenters expressed the concern that banks and their institution-affiliated parties could be liable under federal and state laws, such as the Right to Financial Privacy Act, for filing SARs with respect to conduct that is later found not to have been criminal. Another concern was that the filing of SARs with state and local law enforcement agencies would subject filers to claims under state law. Both of these concerns are addressed by the scope of the safe harbor protection provided in 31 U.S.C. 5318(g).

The FDIC is of the opinion the safe harbor statute is broadly defined to include the reporting of known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, with state and local law enforcement authorities, as well as with the Agencies and FinCEN.

A few commenters requested that the FDIC make explicit the safe harbor protections of 31 U.S.C. 5318(g) (2) and (3) on the SAR. The safe harbor provisions are included in new § 353.3(h) of this regulation and on the form.

Record Retention

Half the commenters expressed the view that the proposed 10-year period for the retention of records in § 353.3(b) was excessive, especially in light of a five year record retention requirement contained in the Bank Secrecy Act. In recognition of the potential burden of document retention on financial institutions, the FDIC has limited the record retention period to five years.

Dollar Thresholds

A few comments encouraged the FDIC to raise the dollar thresholds for known or suspected criminal conduct by non-insiders, or to establish a dollar threshold for insiders. The FDIC has considered these comments, but at this time, it believes the thresholds meet and properly balance the dual concerns of prosecuting criminal activity involving banks and minimizing the burden on banks. With respect to the suggestion the FDIC adopt a dollar threshold for insider violations, it is noted that insider abuse has long been a key concern and focus of enforcement efforts at the FDIC. With the development of a new sophisticated and automated database, the FDIC and law enforcement agencies will have the benefit of a comprehensive and easily accessible catalogue of known or suspected insider wrongdoing. The FDIC does not wish to limit the information it receives regarding insider wrongdoing. Some petty crimes, for example, repetitive thefts of small amounts of cash by an employee who frequently transfers between banking organizations, may warrant enforcement action or criminal prosecution.

One commenter suggested an indexed threshold, based on the regional differences in the various dollar thresholds below which the federal, state, and local prosecutors generally decline prosecution. While the FDIC recognizes there may be regional variations in the dollar amount of financial crimes generally prosecuted, the FDIC's concern is to place the relevant information in the hands of the investigating and prosecuting authorities. The prosecuting authorities then may consider whether to pursue a particular matter. In the FDIC's view, the dollar thresholds adopted in this final rule best balance the interests of law enforcement and banks. The FDIC also believes indexed thresholds could create more confusion than benefit to banks.

Commenters also suggested the creation of a dollar threshold for the reporting of suspicious activities relating to money laundering offenses. A $5,000 threshold has been established for reporting of such suspicious activities.

Questions were raised regarding the permissibility of filing SARs in situations in which the dollar thresholds for known or suspected criminal conduct or suspicious activity are not met and the applicability of the safe harbor provisions of 31 U.S.C. 5318(g) to such non-mandatory filings. It is the opinion of the FDIC that the safe harbor provisions of 31 U.S.C. 5318(g) cover all reports of suspected or known criminal violations and suspicious activities to law enforcement authorities, regardless of whether such reports are filed pursuant to the mandatory requirements of the FDIC's regulations or are voluntary.

Notification of On-Going Violations and of State and Local Law Enforcement Authorities.

Proposed § 353.3(b)(2) required a bank to notify the law enforcement authorities immediately in the event of an on-going violation. Section 353.3(c) encourages the filing of a copy of the SAR with state and local law enforcement agencies, in appropriate cases. This requirement and guidance were found by some commenters to be unclear as to when immediate notification or the filing of the SAR with state and local authorities would be required. The FDIC wishes to clarify that immediate notification is limited to situations involving on-going violations, for example, when a check kite or money laundering has been detected and may be continuing. It is impossible for the FDIC to contemplate all of the possible circumstances in which it might be appropriate for a bank to advise state and local law enforcement authorities. Banks should use their best judgment regarding when to alert the

authorities regarding on-going criminal offenses or suspicious activities.

Supporting Documentation

The proposed requirements that an institution maintain "related" documentation and make "supporting" documentation available to the law enforcement agencies upon request were criticized as inconsistent and vague. As no substantive difference is intended, the FDIC has referred to "supporting" documentation in the final rule in reference both to the maintenance and production requirements. The FDIC believes the use of the word "supporting" is more precise and limits the scope of the information which must be retained to that which would be useful in proving that the crime has been committed and by whom it has been committed. As to the criticism that the meaning of "related" or "supporting" documentation is vague, it is anticipated banks will use their judgment in determining the information to be retained. It is impossible for the FDIC to catalogue the precise types of information covered by this requirement, as it necessarily depends upon the facts of a particular case.

Scope of Confidentiality Requirement

Two commenters correctly noted the proposed regulation is unclear as to whether the confidentiality requirement applies only to the information contained on the SAR itself, or whether the requirement extends to the "supporting" documentation. The FDIC takes the position that only the existence of a SAR and its supporting documentation are subject to the confidentiality requirements of 31 U.S.C. 5318(g). The supporting documentation itself is not subject to the confidentiality provisions of 31 U.S.C. 5318(g). The safe harbor provisions of 31 U.S.C. 5318(g), however, apply to the SAR and supporting documentation, as set forth in Part 353.3(h).

Provisions of Supporting Documentation to Law Enforcement Authorities Upon Request

Many commenters noted the guidance provided in the FDIC's proposed regulation regarding the provision of supporting documentation to law enforcement agencies upon their request after the filing of an SAR was unclear or contrary to law. Some questioned whether law enforcement agencies would still need to subpoena relevant documents from a bank. The FDIC's regulation requires banks filing SARs to identify, maintain and treat the documentation supporting the report as if it were actually filed with the SAR. This means that subsequent requests from law enforcement authorities for the supporting documentation relating to a particular SAR do not require the service of a subpoena or other legal processes normally associated with providing information to law enforcement agencies.

Civil Litigation

The FDIC was encouraged to adopt regulations that would make SARs undiscoverable in civil litigation, in order to avoid situations in which a bank could be ordered by a court to produce a SAR in civil litigation and could be confronted with the prospect of having to choose between being found in contempt or violating the FDIC's rules. In the opinion of the FDIC, 31 U.S.C. 5318(g) precludes the disclosure of SARs. The final rule requires a bank that receives a subpoena or other request for a SAR to notify the FDIC so that the FDIC may, if appropriate, intervene in litigation or seek the assistance of the U.S. Department of Justice.

Maintenance of Originals

Proposed § 353.3(e) required the maintenance of supporting documentation in its original form. A number of commenters noted electronic storage of documents is becoming the rule rather than the exception, and requiring the storage of paper originals would impose undue burdens on financial institutions. Moreover, some records are retained only in a computer database. The proposed regulation reflected the concerns of the law enforcement agencies that the best evidence be preserved. However, upon further consideration, the FDIC wishes to clarify that the electronic storage of original documentation related to the filing of a SAR is permissible. In addition, the FDIC recognizes a bank will not always have custody of the originals of documents, and some documents will not exist at the bank in paper form. In those cases, preservation of the best available evidentiary documents, for example, computer disks or photocopies, should be acceptable. This has been reflected in the final rule by changing the reference to original documents to original documents or "business record equivalent".

Investigation and Proof Burdens

Two commenters expressed the concern a bank would need to establish probable cause before reporting crimes for which an essential element of the proof of the crime was the intent of the actor. The FDIC does not intend that banks assume the burden of proving illegal conduct; rather, banks are required to report known or suspected crimes or suspicious activities in accordance with this final rule.

Supplementary or Corrective Information; Reporting of Multiple Crimes or Suspects

Material information that supplements or corrects an SAR should be filed with FinCEN by means of a subsequent SAR. The first page of the SAR provides boxes for the reporter to indicate whether the report is an initial, a corrected, or a supplemental report.

Two commenters requested guidance on the reporting of multiple crimes or related crimes committed by more than one individual. The instructions to the SAR contemplate that additional suspects may be reported by means of a supplemental page. Likewise, multiple crimes committed by a suspect may be reported by means of multiple check-offs on the SAR, or if needed, by a written addendum to the SAR. In the event related crimes have been committed by more than one person, a description of the related crimes may be made by addendum to the SAR. The FDIC encourages filers to make a complete report of all known or suspected criminal or suspicious activity. The SAR may be supplemented in order to facilitate a complete disclosure.

Calculation of Time Frame for Reporting

A few commenters requested the FDIC clarify the application of the deadline for filing SARs. The FDIC's proposed regulation used the broadest possible language to set the time frames for the reporting of known or suspected criminal offenses and suspicious activities in order to best guide reporting institutions. Absolute deadlines for the filing of SARs are important to the investigatory and prosecutorial efforts of law enforcement authorities. It is expected banks will meet the filing deadlines once conduct triggering the reporting requirements is identified. Further clarification of the time frames is not needed in the FDIC's view.

Boord of Directors Notification Requirements

The commenters expressed general support for the modification of the reporting requirement which permits reporting of SARs to a committee of the board of directors. As a matter of clarification, notification of a committee of the bank's board relieves the bank of the obligation to disclose the SARs filed to the entire board. It would be expected, however, that the designated committee, for example, the audit committee, would report to the full board of directors at regular meetings with respect to routine matters in the same manner and to the same extent as other committees report at regular board meetings. With respect to serious crimes or insider malfeasance, the appointed committee likely should consider it appropriate to make more immediate disclosure to the full board of directors. Some larger banking organizations expressed the view that prompt disclosure of SARs to the board of directors or a committee would impose a serious burden since larger organizations typically file a larger number of criminal referral forms (now, SARs). While the FDIC acknowledges that larger institutions may have more SARs to report to the board of directors or a committee, this does not alter the directors' fiduciary obligation to monitor the condition of the institution and to take action to prevent losses. The final regulation does not dictate the content of the board of directors or committee notification, and, in some cases, such as when relatively minor non-insider crimes are to be reported, it may be completely appropriate to provide only a summary listing of SARs filed. The FDIC expects the management of banks to provide a more detailed notification of SARs involving insiders or a potential material loss to the institution to the board of directors or committees.

Information Sharing

It was suggested the final regulations should somehow facilitate the sharing of information among banking organizations in order to better detect new fraudulent schemes. It is anticipated that the Treasury Department, through FinCEN, and the Agencies, will keep reporting entities apprised of recent developments and trends in banking-related crimes through periodic pronouncements, meetings, and seminars.

Single Filing Requirement; Acknowledgment of Filings

The FDIC wishes to clarify that the filing of the SAR with FinCEN is the only filing of the SAR that is required. Federal and state law enforcement and bank supervisory agencies will have access to the database created and maintained by FinCEN on behalf of the Agencies and the Department of Treasury; thus, a single filing with FinCEN is all that is required under the new reporting system.

Commenters also requested that the final rule permit the filing of SARs via telecopier. Such filings are not compatible with the system developed by the Agencies and FinCEN. Banks can file the SAR via magnetic media using the computer software to be made available to all banks by the FDIC and each of the other Agencies with respect to the institutions they supervise. Larger banking organizations that currently file currency transaction reports via magnetic tape with FinCEN may also file SARs by magnetic tape.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the FDIC hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule primarily reorganizes the process for making criminal referrals and has no material impact on banks, regardless of size. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This final rule revises a collection of information that is currently approved by the Office of Management and Budget (OMB) under control number 3064–0077. The revisions raise the reporting thresholds and permit reporting institutions to use a simplified, shorter form; to file one form only; and to eliminate the submission of supporting documentation with a report. These revisions have been reviewed and approved by OMB in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

The estimated average burden associated with the collection of information contained in a SAR is approximately .6 hours per respondent. The burden per respondent will vary depending on the nature of the suspicious activity being reported.

Estimated Number of Respondents: 6,500.

Estimated Total Annual Burden Hours: 3,900

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Assistant Executive Secretary (Regulatory Analysis), Room F–400, Federal Deposit Insurance Corporation, Washington, DC 20429, and to the Office of Management and Budget, Paperwork Reduction Project (3064–0077), Washington, DC 20503.

List of Subjects in 12 CFR Part 353

Banks, Banking, Crime, Currency, Insider abuse, Money laundering, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 12 CFR part 353 of the Code of Federal Regulations is revised to read as follows:

PART 353—SUSPICIOUS ACTIVITY REPORTS

Sec.
353.1 Purpose and scope.
353.2 Definitions.
353.3 Reports and records.

Authority: 12 U.S.C. 1818, 1819; 31 U.S.C. 5318.

§ 353.1 Purpose and scope.

The purpose of this part is to ensure that an insured state nonmember bank files a Suspicious Activity Report when it detects a known or suspected criminal violation of federal law or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act. This part applies to all insured state nonmember banks as well as any insured, state-licensed branches of foreign banks.

§ 353.2 Definitions.

For the purposes of this part:

(a) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(b) *Institution-affiliated party* means any institution-affiliated party as that term is defined in sections 3(u) and 8(b)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u) and 1818(b)(5)).

§ 353.3 Reports and records.

(a) *Suspicious activity reports required.* A bank shall file a suspicious activity report with the appropriate federal law enforcement agencies and the Department of the Treasury, in accordance with the form's instructions, by sending a completed suspicious activity report to FinCEN in the following circumstances:

(1) *Insider abuse involving any amount.* Whenever the bank detects any known or suspected federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank, where the bank believes it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying one of the bank's directors, officers, employees, agents, or other institution-affiliated parties as having committed or aided in the commission of the criminal violation, regardless of the amount involved in the violation;

(2) *Transactions aggregating $5,000 or more where a suspect can be identified.* Whenever the bank detects any known or suspected federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank, and involving or aggregating $5,000 or more in funds or other assets, where the bank believes it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an "alias", then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as driver's license or social security numbers, addresses and telephone numbers, must be reported;

(3) *Transactions aggregating $25,000 or more regardless of potential suspects.* Whenever the bank detects any known or suspected federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank, involving or aggregating $25,000 or more in funds or other assets, where the bank believes it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, even though the bank has no substantial basis for identifying a possible suspect or group of suspects; or

(4) *Transactions aggregating $5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act.* Any transaction (which for purposes of this paragraph (a)(4) means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the bank and involving or aggregating $5,000 or more in funds or other assets, if the bank knows, suspects, or has reason to suspect that:

(i) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law;

(ii) The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

(iii) The transaction has no business or apparent lawful purpose or is not the sort of transaction in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(b) *Time for reporting.* (1) A bank shall file the suspicious activity report no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a suspicious activity report. If no suspect was identified on the date of detection of the incident requiring the filing, a bank may delay filing a suspicious activity report for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction.

(2) In situations involving violations requiring immediate attention, such as when a reportable violation is ongoing, the bank shall immediately notify, by telephone, an appropriate law enforcement authority and the appropriate FDIC regional office (Division of Supervision) in addition to filing a timely report.

(c) *Reports to state and local authorities.* A bank is encouraged to file a copy of the suspicious activity report with state and local law enforcement agencies where appropriate.

(d) *Exemptions.* (1) A bank need not file a suspicious activity report for a robbery or burglary committed or attempted, that is reported to appropriate law enforcement authorities.

(2) A bank need not file a suspicious activity report for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f–1.

(e) *Retention of records.* A bank shall maintain a copy of any suspicious activity report filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the suspicious activity report. Supporting documentation shall be identified and maintained by the bank as such, and shall be deemed to have been filed with the suspicious activity report. A bank must make all supporting documentation available to appropriate law enforcement authorities upon request.

(f) *Notification to board of directors.* The management of a bank shall promptly notify its board of directors, or a committee thereof, of any report filed pursuant to this section. The term "board of directors" includes the managing official of an insured state-licensed branch of a foreign bank for purposes of this part.

(g) *Confidentiality of suspicious activity reports.* Suspicious activity reports are confidential. Any bank subpoenaed or otherwise requested to disclose a suspicious activity report or the information contained in a suspicious activity report shall decline to produce the suspicious activity report or to provide any information that would disclose that a suspicious activity report has been prepared or filed citing this part, applicable law (*e.g.*, 31 U.S.C. 5318(g)), or both, and notify the appropriate FDIC regional office (Division of Supervision).

(h) *Safe Harbor.* The safe harbor provisions of 31 U.S.C. 5318(g), which exempts any bank that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law or regulation of any state or political subdivision, cover all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are filed pursuant to this part or are filed on a voluntary basis.

By Order of the Board of Directors.

Dated at Washington, D.C., this 6th day of February 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3519 Filed 2–15–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 96–6]

RIN 1550–AA62

Operations—Suspicious Activity Reports and Other Reports and Statements

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations that require savings associations and service corporations to file criminal referral and suspicious transaction reports. This final rule streamlines reporting requirements by providing that savings associations and service corporations file a new Suspicious Activity Report (SAR) with the OTS and the appropriate federal law enforcement agencies by sending SARs to the Financial Crimes Enforcement Network of the Department of the Treasury (FinCEN) to report a known or suspected criminal offense or a transaction that an institution suspects involves money laundering or violates the Bank Secrecy Act (BSA).

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Stearns, Deputy Chief Counsel, Enforcement Division, (202) 906–7966, or Gary Sutton, Counsel (Banking and Finance), Regulations and Legislation Division, (202) 906–5761, Chief Counsel's Office; or Francis Raue, Policy Analyst, Supervision Policy, (202) 906–5750, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION:

Background

The OTS, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB) and the Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies) issued for public comment substantially similar proposals to revise their regulations on the reporting of known or suspected criminal conduct and suspicious activities by the institutions under their supervision.[1] The Department of the Treasury, through FinCEN, issued for public comment a substantially similar proposal to require the reporting of suspicious activities.[2]

The OTS's proposed regulation noted that the interagency Bank Fraud Working Group, consisting of representatives from the Agencies, law enforcement agencies, and FinCEN, has been working on the development of a single form, the SAR, for the reporting of known or suspected federal criminal law violations and transactions that an institution suspects involve money laundering or violate the BSA. The new SAR reporting system will: (1) Combine the current criminal referral rules of the Agencies with the Department of the Treasury's suspicious activity reporting requirements; (2) create a uniform reporting form, the new SAR, for use by financial institutions in reporting known or suspected criminal offenses and transactions that an institution suspects involve money laundering or violate the BSA; (3) provide a system whereby an institution need only refer to the SAR and its instructions in order to complete and file the form in conformance with the Agencies' and FinCEN's reporting regulations; (4) require the filing of only one form with FinCEN; (5) eliminate the need to file supporting documentation with a SAR; (6) enable a filer, through computer software that the OTS will provide to all savings associations, to prepare a SAR on a computer and file it by mailing a computer disc or tape; (7) establish a database that will be accessible to the Federal and state financial institutions regulators and law enforcement agencies; (8) raise the thresholds for mandatory reporting in two categories and create a threshold for the reporting of transactions that an institution suspects involve money laundering or violate the BSA in order to reduce the reporting burdens on banking organizations; and (9) emphasize recent changes in the law that provide a safe harbor from civil liability to financial institutions and their employees when they report known or suspected criminal offenses or suspicious activities, by filing a SAR or by reporting by other means, and that provide criminal sanctions for the disclosure of such a report to any party involved in the reported transaction.

Comments Received

The OTS received letters from eight commenters, including four savings associations, two holding companies, one trade association and one law firm. We have also considered comments received by the other Agencies. The large majority of commenters expressed general support for the proposal. None of the commenters opposed the proposed new suspicious activity reporting rules, although, as discussed below, a number of commenters made suggestions for improving the rule and requests for clarification.

Description of the Final Rule and Responses to Comments Received

After consideration of the public comments received, the Agencies are each promulgating a substantially identical final rule regarding the filing of SARs. Under the OTS's final rule, savings associations and service corporations need only follow the SAR instructions for completing and filing the SAR to be in compliance with the OTS's and FinCEN's reporting requirements.

This final rule adopts the proposal with a few additional changes made in response to the comments received. The final rule makes several changes that reduce unnecessary regulatory burden in addition to those that were proposed. In particular, the final rule further reduces burden by: (1) Adding a $5,000 threshold for reporting transactions that an institution suspects involve money laundering or violate the BSA; (2) eliminating the requirement that an institution report a transaction that is "suspicious for any reason" by modifying the description of the types of suspicious activity that must be reported; (3) reducing the record retention period from ten years to five; and (4) permitting an institution to maintain the business record equivalent of a document rather than requiring that it maintain the original.

Section-by-Section Discussion

Purpose and scope (§ 563.180(d)(1))

The proposal clarified the scope of the current rule. The OTS received no comments on this paragraph, which is adopted as proposed.

Definitions (§ 563.180(d)(2))

The proposal added definitions for several terms used in the operative provisions of the rule. The OTS received one comment on this provision. The commenter argued that the use of the term "institution-affiliated party" instead of "affiliated person" creates too broad a coverage for the rule, and will result in the requirement that SARs must be filed with respect to petty crimes by officers below the level of vice president and non-officer employees. The OTS has considered this comment and believes that the broader coverage is appropriate, given the possibility that even petty crimes, if repetitive, may require enforcement action. The definition of "known or suspected violation" in the proposal has been incorporated into each of the reporting requirement provisions in § 563.180(d)(3) to conform the rule to that of the other Agencies. This section is otherwise adopted as proposed, with minor technical changes.

SARs required (§ 563.180(d)(3))

The proposal clarified and revised the provision in the current rule that requires an institution to file reports, raised the dollar thresholds that trigger filing requirements, modified the scope of events that an institution must report,

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[1] 60 FR 36366 (July 17, 1995) (OTS), 60 FR 34476 (July 3, 1995) (OCC), 60 FR 34481 (July 3, 1995) (FRB) and 60 FR 47719 (September 14, 1995)(FDIC).

[2] 60 FR 46556 (September 7, 1995).

and eliminated the requirement for multiple filings with several Federal agencies.

Most of the comments received by the Agencies addressed this provision. Many of the commenters encouraged the Agencies to change proposed § 563.180(d)(3)(iv)(C), which required institutions to report all financial transactions that are suspicious "for any reason." The commenters stated that this language was too broad and made meaningless the $5,000 reporting threshold of § 563.180(d)(3)(ii) (requiring institutions to report suspected crimes committed by an identifiable suspect) and the $25,000 reporting threshold of § 563.180(d)(3)(iii) (requiring institutions to report suspected crimes for which no suspect is identified). They asserted that requiring institutions to report all financial transactions that are suspicious for any reason required them to report transactions that would otherwise fall under the appropriate threshold and therefore be exempt from the reporting requirement. Several commenters also encouraged the Agencies to adopt a threshold for reporting transactions that are suspicious.

The OTS and the other Agencies agree with the concerns expressed by these commenters. Section 563.180(d)(3)(iv) has been substantially revised to add a $5,000 reporting threshold for transactions that are suspicious and to clarify that this provision of the rule requires an institution to report only transactions that it suspects involve money laundering or violations of the BSA. Under the final rule, a savings association or service corporation must file a SAR for any transaction of $5,000 or more if it knows, suspects, or has reason to suspect that the transaction: (A) involves money laundering; (B) is designed to evade any regulations promulgated under the BSA; or (C) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction. For purposes of § 563.180(d)(3)(iv), the term "transaction" means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, or purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through or to a financial institution, by whatever means effected. The text of this section recognizes that efforts to deter, substantially reduce, and eventually eradicate money laundering are greatly assisted when institutions report transactions that they suspect may involve money laundering or violate the BSA. The requirements of this section comply with the recommendations adopted by multi-country organizations in which the United States is an active participant, including the Financial Action Task Force of the G–7 nations and the Organization of American States, and are consistent with the European Community's directive on preventing money laundering through financial institutions.

A few commenters encouraged the Agencies to raise the dollar thresholds for known or suspected criminal conduct by non-insiders, and several commenters urged the Agencies to establish a dollar threshold for insiders. The OTS has considered these comments, but has concluded that the thresholds, as proposed, properly balance the dual concerns of prosecuting criminal activity involving savings associations and service corporations and minimizing the burden on such institutions. With respect to the suggestion that the OTS adopt a dollar threshold for insider violations, the OTS notes that insider abuse has long been a key concern and focus of enforcement efforts. With the development of a new sophisticated and automated database, the OTS and law enforcement agencies will have the benefit of a comprehensive and easily accessible catalogue of known or suspected insider wrongdoing. When insiders are involved, even small-scale offenses—for example, repetitive thefts of small amounts of cash by an employee who frequently moves between banking organizations—may undermine the integrity of such organizations and warrant enforcement action or criminal prosecution. Therefore, the OTS does not wish to limit the information it receives regarding insider wrongdoing.

One commenter suggested an indexed threshold, based on the regional differences in the various dollar thresholds below which the Federal, state, and local prosecutors generally decline prosecution. Any regional variations in the dollar amount of financial crimes generally prosecuted involve issues pertaining to the exercise of prosecutorial discretion that are not within the OTS's province to resolve. The OTS's objective is to ensure that institutions place the relevant information in the hands of the investigating and prosecuting authorities. In the OTS's view, the dollar thresholds proposed and adopted in this final rule best balance the interests of law enforcement authorities and financial institutions. The OTS also believes that indexed thresholds could generate additional regulatory burden for institutions by creating a standard that is unclear and confusing.

One commenter noted that the OTS and OCC proposals keyed the reporting thresholds to the amount of loss or potential loss to the institution (which is the standard used in the OTS's current rule), while the FRB keyed its reporting thresholds to events that "involve or aggregate" more than the appropriate threshold. The commenter urged all Agencies to use the proposed OTS and OCC standard. Upon further consideration, the OTS believes that the standard used in the FRB's proposal provides greater predictability in determining when to file a SAR because the amount of loss or potential loss may differ from the actual sum involved in the event and may be difficult to calculate in many instances. The OTS believes that, were the Agencies to rely on the amount of loss or potential loss, an institution might consider the potential for recovery of funds to estimate loss. Instead, to avoid potential uncertainty, the final rule conforms to the FRB's proposal and requires an institution to file SARs whenever it detects a known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against it or involving a transaction conducted through it that involves or aggregates more than the appropriate threshold.

One commenter expressed the concern that a banking organization would need to establish probable cause before reporting crimes for which an essential element of the proof of the crime was the intent of the actor. This is not the case, however. Nothing in the rule requires that savings associations assume the burden of proving illegal conduct; rather, institutions are required only to report actual or suspected crimes or suspicious activities for possible action by the appropriate authorities.

One commenter requested clarification of whether the proposal required an institution to file multiple SARs for a crime committed by several individuals, multiple crimes by the same individual, or related crimes committed by more than one individual. Financial institutions should complete one SAR to describe a suspected or known criminal offense committed by several individuals. The instructions to the SAR permit institutions to report additional suspects by means of a supplemental page. An institution should file a separate SAR whenever an individual commits a suspected or known crime. If the same individual commits multiple or related crimes within the same reporting period, the institution may consider reporting the crimes on one SAR if doing so will present clearly what has occurred.

Savings associations and service corporations are encouraged to file the SAR via magnetic media using the computer software to be provided to them by the OTS. Savings associations and service corporations that currently file currency transaction reports via magnetic tape with FinCEN may also file SARs by magnetic tape. FinCEN has advised the Agencies that it will be unable to accept filings via telecopier.

Service corporations (§ 563.180(d)(4))

The proposal retained the current provision permitting a report required of a service corporation to be filed by the service corporation or by a savings association which wholly or partially owns it. No comments addressed this provision and it is unchanged in the final rule.

Time for reporting (§ 563.180(d)(5))

Proposed § 563.180(d)(5) substantially modified the current requirements with respect to the timing of the reporting of known or suspected criminal offenses and transactions that an institution suspects involve money laundering or violate the BSA. It required an institution to file a SAR within 30 calendar days after detecting the act triggering the reporting requirement, provided that if no suspect is identified at such time, the institution may delay filing for an additional 30 days after identification of a suspect, but filing may not be delayed for more than 60 days after initial detection.

Several commenters requested that the Agencies clarify the application of the filing deadline for SARs when no suspect is identified at the initial detection of the suspicious activity, the amount of the transaction is less than the applicable $25,000 mandatory reporting threshold, and the institution later identifies a suspect. For example, some commenters wondered if they would be in violation of the rule if a suspect were identified after 60 days had passed.

These comments reflect a misunderstanding of how the filing requirements operate. The time period for reporting commences only at the point in time when an institution identifies a potential violation that fits within the thresholds. Therefore, if an institution uncovers a transaction involving less than $25,000 (but more than $5,000), but does not identify a potential suspect until after the passage of 60 days, the 30-day period for filing a SAR would begin to run only when the suspect is identified. To make this point clear, the final rule inserts the word "reportable" and states that in no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction, *i.e.*, a transaction that must be reported because the amount involved is greater than the appropriate reporting threshold. OTS has also reorganized this paragraph, to conform with the other Agencies' rules.

Section 563.180(d)(5) also requires an institution to notify law enforcement authorities immediately in the event of an on-going violation. The OTS wishes to clarify that immediate notification is limited to situations involving ongoing violations, for example, when a check kite or money laundering has been detected and may be continuing. It is not feasible, however, for the OTS to contemplate all of the possible circumstances in which it might be appropriate for a savings association or service corporation to immediately advise state and local law enforcement authorities. Savings associations and service corporations should use their best judgment regarding when to alert these authorities regarding on-going criminal offenses or suspicious activities that involve money laundering or violate the BSA.

Reports to state and local authorities (§ 563.180(d)(6))

The proposal encouraged savings associations and service corporations to file SARs with state and local law enforcement agencies when appropriate. Some commenters expressed the concerns that banking organizations and their institution-affiliated parties could be liable under Federal and state laws, such as the Right to Financial Privacy Act (12 U.S.C. 3401 *et seq.*)(RFPA), for filing SARs with respect to conduct that is later found not to have been criminal, and that the filing of SARs with state and local law enforcement agencies would subject filers to claims under state law. Both of these concerns are addressed by the scope of the safe harbor protection provided in 31 U.S.C. 5318(g) and, as discussed below, stated in new § 563.180(d)(13).

Exception (§ 563.180(d)(7))

Proposed § 563.180(d)(8), which set forth one exception to the SAR filing requirement, did not substantively change its predecessor provision. The OTS received no comments on this section and adopts it as proposed. The final rule, however, reverses the order of proposed paragraphs (d)(7) and (d)(8) and changes the caption of proposed paragraph (d)(8) from "exemption" to "exception", to conform with the other Agencies' rules.

Retention of records (§ 563.180(d)(8))

The proposal required an institution to retain a copy of the SAR and the original of any underlying documentation relating to the SAR for ten years. Many commenters expressed the view that the 10-year period for the retention of records was excessive, especially in light of the BSA's five-year record retention requirement, and recommended that the Agencies reduce the period to five years. The 10-year period in the proposed regulation would have continued the OTS's existing record retention requirement for criminal referral forms. However, in recognition of the potential burden of document retention on financial institutions, the OTS has reduced the record retention period to five years.

Many commenters asserted that the provision that required institutions to disclose supporting documentation to law enforcement agencies upon their request was either unclear or posed potential RFPA liability. Some therefore questioned whether law enforcement agencies would still need to subpoena relevant documents from a savings association or service corporation. The final regulation requires organizations filing SARs to identify, maintain and treat the documentation supporting the report as if it were actually filed with the SAR. This means that subsequent requests from law enforcement authorities for the supporting documentation relating to a particular SAR do not require the service of a subpoena or other legal process normally associated with the provision of information to law enforcement agencies. This treatment of supporting documentation is not a substantive change from the current rule's requirement that supporting documentation be filed with each referral, since it only changes the timing of when an agency will have access to the supporting documentation, not the fact that the information is assembled and made available for law enforcement purposes. The Agencies therefore believe that the final rule's treatment does not give rise to RFPA liability.

Proposed § 563.180(d)(7) required the maintenance of supporting documentation in its original form. A number of comments noted that electronic storage of documents has become the rule rather than the exception, and that requiring the storage

of paper originals would impose undue burdens on financial institutions. Moreover, some records are retained only in a computer database. The proposed regulation reflected the concerns of the law enforcement agencies that the best evidence be preserved. However, this can include the electronic storage of original documentation related to the filing of a SAR. The OTS recognizes that a savings association or service corporation will not always have custody of the originals of documents and that some documents will not exist at the organization in paper form. In those cases, preservation of the best available evidentiary documents, for example, computer discs or photocopies, will be acceptable. This has been reflected in the final rule by allowing institutions to retain business record equivalents of supporting documentation.

Several commenters criticized as inconsistent and vague the proposed requirements that an institution maintain "related" documentation and make "supporting" documentation available to the law enforcement agencies upon request. One commenter questioned whether the OTS intended a substantive difference in meaning between these terms. As a substantive difference is not intended, the OTS has referred to "supporting" documentation in the final rule in stating both the maintenance and production requirements. The OTS believes that the use of the word "supporting" is more precise and limits the scope of the information which must be segregated and retained to information that would be relevant in proving the crime and identifying the individuals involved. The OTS expects that savings associations and service corporations will use their best judgment in determining the scope of the information to be retained. It is not feasible for the OTS to catalogue the precise types of information covered by this requirement, because the scope necessarily depends upon the facts of a particular case.

Notification to the board of directors (§ 563.180(d)(9))

The proposal reduced the burden on boards of directors to review criminal referrals by allowing the management of an institution to notify either the board of directors or a committee of directors or executive officers designated by the board to receive notice of the filing of a SAR. The proposal prohibited a savings association or service corporation from giving notice of a SAR filing to any director or officer who is a suspect with regard to such filing. The proposal also required management to notify all directors, except the suspect, when an executive officer or director is a suspect.

Most commenters supported this provision of the proposal. One commenter, however, questioned whether the provision that required prompt notification of the board of directors required notice prior to the next board meeting. This commenter said that a requirement to provide notice between board meetings would be more burdensome than the current rule, which requires notification not later than the next board meeting.

The OTS did not intend this change to be more burdensome than the current rule and does not construe the requirement for prompt notification to mean that notice must necessarily be provided before the next board meeting. The final rule is intended to be flexible. For example, the OTS expects that, with respect to serious crimes, the appointed committee may consider it appropriate to make more immediate disclosure to the full board. The final rule does not dictate the content of the board or committee notification, and, in some cases, such as when relatively minor non-insider crimes are to be reported, it may be completely appropriate to provide only a summary listing of SARs filed.

Compliance (§ 563.180(d)(10))

The proposal included a new provision stating that the failure to file a SAR in accordance with the regulation and instructions may result in supervisory actions, including enforcement actions. The OTS received no comments on this section and adopts it as proposed.

Obtaining SARs (§ 563.180(d)(11))

The proposal added § 563.180(d)(11), which provides savings associations and service corporations with information on how to obtain SARs. The OTS received no comments on this section and adopts it as proposed.

Confidentiality of SARs (§ 563.180(d)(12))

The proposal contained a new provision preserving the confidential nature of SARs and the information contained in SARs. One commenter correctly noted that the proposed regulation is unclear as to whether the confidential treatment applies only to the information contained on the SAR itself, or also extends to the "supporting" documentation. The OTS takes the position that only the SAR and the information on the SAR are confidential under 31 U.S.C. 5318(g). However, as stated below in the discussion of new § 563.180(d)(13), the safe harbor provisions of 31 U.S.C. 5318(g) for disclosure of information to law enforcement agencies apply to both SARs and the supporting documentation.

The OTS was encouraged to adopt regulations that would make SARs undiscoverable in civil litigation, in order to avoid situations in which a savings association or service corporation could be ordered by a court to produce a SAR in civil litigation and could be confronted with the prospect of having to choose between being found in contempt or violating the OTS's rules. In the opinion of the OTS, 31 U.S.C. 5318(g) precludes the disclosure of SARs in discovery.[3] However, the final rule requires an institution that receives a subpoena or other request for a SAR to notify the OTS so that the OTS can take appropriate action. This notification requirement is consistent with 12 CFR 510.5.

Safe harbor (§ 563.180(d)(13))

Several commenters expressed concern that disclosure of SARs and supporting documentation to law enforcement agencies could give rise to potential RFPA liability. In particular, the commenters questioned the permissibility of filing SARs with state agencies or in situations in which the amount of a transaction falls below the appropriate minimum threshold for the known or suspected criminal conduct, or when a transaction involving money laundering or the BSA does not meet the requisite standards or thresholds. Commenters questioned the applicability of the safe harbor provisions of 31 U.S.C. 5318(g) to mandatory and voluntary filings alike.[4]

The Agencies are of the opinion that the broad safe harbor protections of 31 U.S.C. 5318(g)(3) include the reporting of known or suspected criminal offenses or suspicious activities with state and local law enforcement authorities, as well as with the Agencies and FinCEN, regardless of whether such reports are filed pursuant to the mandatory requirements of the OTS's regulations or are voluntary. The OTS takes the same position with regard to the disclosure of

[3] Section 5318(g)(2) prohibits financial institutions and directors, officers, employees, or agents of financial institutions from notifying any person involved in a suspicious transaction that the transaction has been reported.

[4] Section 5318(g)(3) states that a financial institution will not be held liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any state for making a disclosure of any possible violation of law or regulation.

supporting documentation. The final rule adds new § 563.180(d)(13), which states this position.

Comments on information sharing

Comments to other Agencies suggested that the final regulations should somehow facilitate the sharing of information among banking organizations in order to better detect new fraudulent schemes. It is anticipated that the Treasury Department, through FinCEN, and the Agencies, will keep reporting entities apprised of recent developments and trends in banking-related crimes through periodic pronouncements, meetings, and seminars.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule primarily reorganizes the process for reporting crimes and suspicious activities and has no material impact on savings associations and service corporations, regardless of size. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

The OTS has determined that this document is not a significant regulatory action under Executive Order 12866.

Paperwork Reduction Act

The reporting and recordkeeping requirements contained in this final rule were submitted to the Office of Management and Budget for review at the proposed rule stage in accordance with the Paperwork Reduction Act of 1995 (PRA) and were approved. Comments on the collection of information should be sent to the Office of Management and Budget (OMB), Paperwork Reduction Project (1550–0003), Washington, DC 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

The reporting and recordkeeping requirements in this final rule are found in 12 CFR 563.180(d). The collection of information is necessary for the proper performance of the OTS's functions and the information has practical utility. The information is needed to inform appropriate law enforcement agencies of known or suspected criminal or suspicious activities that take place at or were perpetrated against financial institutions.

The Unfunded Mandates Reform Act of 1995

The OTS has determined that this final rule will not result in expenditure by State, local, or tribal governments or by the private sector of more than $100 million. Accordingly, the Unfunded Mandates Reform Act does not apply.

List of Subjects in 12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Authority and Issuance

For the reasons set out in the preamble, part 563 of chapter V of title 12 of the Code of Federal Regulations is amended as set forth below:

PART 563—OPERATIONS

1. The authority citation for part 563 is revised to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, 4128.

2. Section 563.180 is amended by revising the section heading and paragraph (d) to read as follows:

§ 563.180 Suspicious Activity Reports and other reports and statements.

* * * * *

(d) *Suspicious Activity Reports*—(1) *Purpose and scope.* This paragraph (d) ensures that savings associations and service corporations file a Suspicious Activity Report when they detect a known or suspected violation of Federal law or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act.

(2) *Definitions.* For the purposes of this paragraph (d):

(i) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(ii) *Institution-affiliated party* means any institution-affiliated party as that term is defined in sections 3(u) and 8(b)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u) and 1818(b)(9)).

(iii) *SAR* means a Suspicious Activity Report on the form prescribed by the OTS.

(3) *SARs required.* A savings association or service corporation shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury in accordance with the form's instructions, by sending a completed SAR to FinCEN in the following circumstances:

(i) *Insider abuse involving any amount.* Whenever the savings association or service corporation detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the savings association or service corporation or involving a transaction or transactions conducted through the savings association or service corporation, where the savings association or service corporation believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that it was used to facilitate a criminal transaction, and it has a substantial basis for identifying one of its directors, officers, employees, agents or other institution-affiliated parties as having committed or aided in the commission of a criminal act, regardless of the amount involved in the violation.

(ii) *Violations aggregating $5,000 or more where a suspect can be identified.* Whenever the savings association or service corporation detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the savings association or service corporation or involving a transaction or transactions conducted through the savings association or service corporation and involving or aggregating $5,000 or more in funds or other assets, where the savings association or service corporation believes that it was either an actual or potential victim of a criminal violation or series of criminal violations, or that it was used to facilitate a criminal transaction, and it has a substantial basis for identifying a possible suspect or group of suspects. If it is determined prior to filing this report that the identified suspect or group of suspects has used an alias, then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' license or social security numbers, addresses and telephone numbers, must be reported.

(iii) *Violations aggregating $25,000 or more regardless of potential suspects.* Whenever the savings association or service corporation detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the savings association or service corporation or involving a transaction or transactions conducted through the savings association or service corporation and involving or aggregating $25,000 or more in funds or other assets, where the savings association or service corporation believes that it was either an actual or potential victim of a criminal violation or series of criminal violations, or that it was used to

facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

(iv) *Transactions aggregating $5,000 or more that involve potential money laundering or violations of the Bank Secrecy Act.* Any transaction (which for purposes of this paragraph (d)(3)(iv) means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected) conducted or attempted by, at or through the savings association or service corporation and involving or aggregating $5,000 or more in funds or other assets, if the savings association or service corporation knows, suspects, or has reason to suspect that:

(A) The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under Federal law;

(B) The transaction is designed to evade any regulations promulgated under the Bank Secrecy Act; or

(C) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(4) *Service corporations.* When a service corporation is required to file a SAR under paragraph (d)(3) of this section, either the service corporation or a savings association that wholly or partially owns the service corporation may file the SAR.

(5) *Time for reporting.* A savings association or service corporation is required to file a SAR no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of detection of the incident requiring the filing, a savings association or service corporation may delay filing a SAR for an additional 30 calendar days to identify a suspect. In no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations requiring immediate attention, such as when a reportable violation is ongoing, the savings association or service corporation shall immediately notify, by telephone, an appropriate law enforcement authority and the OTS in addition to filing a timely SAR.

(6) *Reports to state and local authorities.* A savings association or service corporation is encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(7) *Exception.* A savings association or service corporation need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(8) *Retention of records.* A savings association or service corporation shall maintain a copy of any SAR filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of the filing of the SAR. Supporting documentation shall be identified and maintained by the savings association or service corporation as such, and shall be deemed to have been filed with the SAR. A savings association or service corporation shall make all supporting documentation available to appropriate law enforcement agencies upon request.

(9) *Notification to board of directors—*(i) *Generally.* Whenever a savings association (or a service corporation in which the savings association has an ownership interest) files a SAR pursuant to this paragraph (d), the management of the savings association or service corporation shall promptly notify its board of directors, or a committee of directors or executive officers designated by the board of directors to receive notice.

(ii) *Suspect is a director or executive officer.* If the savings association or service corporation files a SAR pursuant to this paragraph (d) and the suspect is a director or executive officer, the savings association or service corporation may not notify the suspect, pursuant to 31 U.S.C. 5318(g)(2), but shall notify all directors who are not suspects.

(10) *Compliance.* Failure to file a SAR in accordance with this section and the instructions may subject the savings association or service corporation, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

(11) *Obtaining SARs.* A savings association or service corporation may obtain SARs and the instructions from the appropriate OTS Regional Office listed in 12 CFR 516.1(b).

(12) *Confidentiality of SARs.* SARs are confidential. Any institution or person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the SAR or to provide any information that would disclose that a SAR has been prepared or filed, citing this paragraph (d), applicable law (*e.g.*, 31 U.S.C. 5318(g)), or both, and shall notify the OTS.

(13) *Safe harbor.* The safe harbor provision of 31 U.S.C. 5318(g), which exempts any financial institution that makes a disclosure of any possible violation of law or regulation from liability under any law or regulation of the United States, or any constitution, law or regulation of any state or political subdivision, covers all reports of suspected or known criminal violations and suspicious activities to law enforcement and financial institution supervisory authorities, including supporting documentation, regardless of whether such reports are filed pursuant to this paragraph (d), or are filed on a voluntary basis.

* * * * *

Dated: February 5, 1996.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 96–3110 Filed 2–15–96; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28461; Amdt. No. 1710]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on February 9, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective 25 April 1996*

St. Paul Island, AK, St. Paul Island, LOC/DME BC RWY 18, Amdt 1
Ash Flat, AR, Cherokee Village, NDB RWY 4, Amdt 1
Ash Flat, AR, Cherokee Village, GPS RWY 4, Orig
Fresno, CA, Fresno-Chandler Downtown, GPS RWY 30L, Orig
Greeley, CO, Greeley-Weld County, GPS RWY 9, Orig
Greeley, CO, Greeley-Weld County, GPS RWY 27, Orig
Lamar, CO, Lamar Muni, GPS RWY 36, Orig
Pueblo, CO, Pueblo Memorial, GPS RWY 17, Orig
Pueblo, CO, Pueblo Memorial, GPS RWY 35, Orig
Madison, GA, Madison Muni, GPS RWY 14, Orig
Chicago/Romeoville, IL, Lewis University, GPS RWY 27, Orig
Dodge City, KS, Dodge City Regional, GPS RWY 14, Orig
Homer, LA, Homer Municipal, GPS RWY 30, Orig

New Roads, LA, False River Air Park, GPS RWY 18, Orig
Boston, MA, General Edward Lawrence Logan Intl, ILS RWY 22L, Amdt 5
Marshfield, MA, Marshfield, GPS RWY 6, Orig
Glasgow, MT, Glasgow Intl, GPS RWY 12, Orig
Lincoln Park, NJ, Lincoln Park, GPS RWY 19, Orig
Gallup, NM, Gallup Municipal, GPS RWY 24, Orig
Charlotte, NC, Charlotte/Douglas Intl, RADAR–1, Amdt 19, CANCELLED
Port Clinton, OH, Carl R. Keller Field, GPS RWY 27, Orig
Casper, WY, Natrona County Intl, GPS RWY 26, Orig
Morgantown, WV, Morgantown Muni-Walter L. Bill Hart Field, ILS RWY 18, Amdt 10

** * * Effective 28 March 1996*

Mount Carmel, IL, Mount Carmel Muni, VOR or GPS RWY 22, Amdt 8
Mount Carmel, IL, Mount Carmel Muni, NDB or GPS RWY 4, Amdt 4
Auburn, IN, De Kalb County, VOR or GPS–A, Amdt 9
Auburn, IN, De Kalb County, VOR or GPS RWY 9, Amdt 7
Gastonia, NC, Gastonia Muni, RADAR–1 Amdt 4, CANCELLED
Celina, OH, Lakefield, NDB or GPS RWY 8, Amdt 4
Celina, OH, Lakefield, VOR/DME RNAV or GPS RWY 26, Amdt 6
Cleveland, OH, Cuyahoga County, LOC BC RWY 5, Amdt 10
Cleveland, OH, Cuyahoga County, NDB or GPS RWY 23, Amdt 8
Cleveland, OH, Cuyahoga County, ILS RWY 23, Amdt 12
Pottstown, PA, Pottstown Limerick, RNAV RWY 28, Orig, CANCELLED
Racine, WI, John H. Batten Field, VOR RWY 22, Amdt 8, CANCELLED

** * * Effective Upon Publication*

Burnet, TX, Burnet Muni Kate Craddock Field, NDB OR GPS RWY 1, Amdt 4
Burnet, TX, Burnet-Muni Kate Craddock Field, VOR/DME RNAV OR GPS RWY 19, Amdt 3

Note: The following procedure published in Transmittal Letter 94–06 dated 02/25/94 is hereby rescinded:

Chandler, AZ, Chandler Muni, NDB RWY 4R, Orig, PROPOSED EFF 28 APR 94

Note: The following procedure published in Transmittal Letter 93–23 dated 10/22/93 is hereby rescinded:

Payson, AZ, Payson, NDB–A, Orig, PROPOSED EFF 06 JAN 94

Note: The FAA published an Original Procedure in Docket No. 28426, Amdt. No. 1703 to Part 97 of the Federal Aviation Regulations (Vol. 61 FR, No. 20, Page 2907; dated Tuesday, January 30, 1996, which is hereby amended as follows:

Farmington, MO, Farmington Regional, GPS RWY 2, Orig, Effective 25 APR 96.

[FR Doc. 96–3604 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28462; Amdt. No. 1711]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20491;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in the rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on February 9, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective Upon Publication*

FDC Date	State	City	Airport	FDC No.	SIAP
01/30/96	WA	Spokane	Spokane Intl	FDC 6/0671	NDB RWY 21, AMDT 14A...
01/31/96	AK	Cold bay	Cold bay	FDC 5/6546	ILS RWY 14, AMDT 15... THIS CORRECTS NOTAM IN TL96–01.
01/31/96	IN	Indianapolis	Greenwood Muni	FDC 6/0695	NDB OR GPS RWY 1 AMDT 2...
01/31/96	TX	Mesquite	Phil L. Hudson Muni	FDC 6/0686	NDB OR GPS RWY 17, AMDT 4A...
01/31/96	TX	Mesquite	Phil L. Hudson Muni	FDC 6/0687	LOC BC RWY 35, AMDT 1A...
01/31/96	WV	Bluefield	Mercer County	FDC 6/0692	ILS RWY 23 AMDT 14...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0715	ILS RWY 18R, AMDT 4A...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0716	ILS RWY 18L, AMDT 15...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0718	Converging ILS RWY 18R, AMDT 2A...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0719	Converging ILS RWY 18L, AMDT 2...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6.0720	ILS RWY 35R, AMDT 5...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0721	NDB or GPS RWY 35R; AMDT 8...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0722	ILS RWY 36R, AMDT 1...
02/91/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0725	Converging ILS RWY 36L, AMDT 2...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0726	Converging ILS RWY 36R, ORIG...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0729	ILS RWY 17L, AMDT 5B...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0730	ILS RWY 17R, AMDT 17...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0731	Converging ILS RWY 35R, AMDT 3...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0738	ILS RWY 35L, ORIG...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0745	Converging ILS RWY 13R, AMDT 3...
02/01/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0746	ILS RWY 36L, AMDT 4...
02/01/96	WV	Huntington	Tri-State/Milton J. Ferguson Field	FDC 6/0734	ILS RWY 30 AMDT 4...
02/01/96	WV	Lewisburg	Greenbrier valley	FDC 6/0736	ILS RWY 4 AMDT 7A...
02/05/96	MS	Olive Branch	Olive Branch	FDC 6/0829	NDB or GPS RWY 18, AMDT 3...
02/05/96	MS	Olive Branch	Olive Branch	FDC 6/0830	NDB or GPS RWY 36, AMDT 4...
02/05/96	TN	Memphis	Memphis Intl	FDC 6/0835	ILS RWY 36L AMDT 11...
02/06/96	LA	Vivian	Vivian	FDC 6/0856	NDB or GPS RWY 9, AMDT 1...
02/06/96	TX	Arlington	Arlington Muni	FDC 6/0855	VOR/DME RWY 34, AMDT 5...
02/06/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0851	Effective...
02/06/96	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	FDC 6/0853	Effective...
02/06/96	WI	Oshkosh	Wittman Regional	FDC 6/0863	VOR RWY 9 AMDT 8...
02/08/96	IA	Fairfield	Fairfield Muni	FDC 6/0893	NDB RWY 36, AMDT 7B. S–36...

FDC Date	State	City	Airport	FDC No.	SIAP
02/08/96	IA	Fairfield	Fairfield Muni	FDC 6/0898	VOR/DME RNAV RWY 36, AMDT 1B...
02/09/96	IA	Fairfield	Fairfield Muni	FDC 6/0897	VOR/DME RNAV or GPS RWY 18, AMDT 1B...

[FR Doc. 96–3605 Filed 2–15–96; 8:45 am]
BILLING CODE 4910–13–M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1303

Property Management

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: Tennessee Valley Authority is issuing regulations, as required by the "Prohibition of Cigarette Sales to Minors in Federal Buildings and Lands Act," to prohibit the vending machine sale of, or the free distribution of, tobacco products on TVA property.

EFFECTIVE DATE: February 16, 1996.

FOR FURTHER INFORMATION CONTACT: Vada Ables, 423–751–2251.

SUPPLEMENTARY INFORMATION: The "Prohibition of Cigarette Sales to Minors in Federal Buildings and Lands Act," section 634 of Public Law 104–52, requires Federal agencies to promulgate regulations prohibiting the vending machine sale of, or the free distribution of, tobacco products in or around any Federal building. The TVA Board of Directors has delegated authority to implement this Act to TVA's Senior Manager, Facilities Services.

The Act authorizes agencies, as appropriate, to designate areas not subject to the Act if such areas also prohibit the presence of minors. Tobacco product vending machines already in place on TVA property as of November 15, 1995 (the date of the Act), may continue in operation for one year from the date of these regulations while TVA completes review of whether they meet this exemption standard and whether exemption is appropriate.

Matters of Regulatory Procedures

TVA has found that good cause exists under 5 U.S.C. 553(b) and (d)(3) for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to these rules. Furthermore, this rulemaking is related to TVA organization, procedure, and practice.

TVA has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that these regulations will not have a significant impact on a substantial number of small business entities, because they affect only TVA employees, visitors, and on-premise vendors. Similarly, it is not a significant regulatory action for purposes of Executive Order 12866.

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 18 CFR Part 1303

Cigars and cigarettes, Government property, Tobacco.

For the reasons set forth in the preamble, title 18, chapter XIII of the Code of Federal Regulations is amended by adding part 1303 to read as follows:

PART 1303—PROPERTY MANAGEMENT

Subpart A—General Information

Sec.
1303.1 Applicability.

Subpart B—Tobacco Products

1303.2 Definition.
1303.3 Prohibitions on tobacco products.

Authority: 16 U.S.C. 831–831dd.

Subpart A—General Information

§ 1303.1 Applicability.

This part sets out certain regulations applicable to buildings, structures, and other property under TVA control.

Subpart B—Tobacco Products

§ 1303.2 Definition.

Tobacco project means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

§ 1303.3 Prohibition on tobacco products.

(a) Sale of tobacco products by vending machine on TVA property is prohibited. Tobacco product vending machines already in place on TVA property as of November 15, 1995, may continue in operation for one year from February 16, 1996 while TVA completes review of whether such machines should be exempted under paragraph (c) of this section.

(b) Distribution of free samples of tobacco products on TVA property is prohibited.

(c) TVA may, as appropriate, designate areas not subject to this section if individuals under the age of 18 are not allowed in such areas.

Dated: February 7, 1996.

David H. Gentry,

Senior Manager, Facilities Services.

[FR Doc. 96–3449 Filed 2–15–96; 8:45 am]
BILLING CODE 8120–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 113, 141, 144 and 181

[T.D. 96–14]

RIN 1515–AB87

North American Free Trade Agreement (NAFTA)—Implementation of Duty-Deferral Program Provisions

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations; corrections.

SUMMARY: This document makes two corrections to the document published in the **Federal Register** which set forth interim regulations establishing procedural and other requirements that apply to the collection, waiver and reduction of duties under the duty-deferral program provisions of the North American Free Trade Agreement (NAFTA). The corrections involve the discussion of the Paperwork Reduction Act under the **SUPPLEMENTARY INFORMATION** portion of the document and a cross-reference citation within the interim regulatory texts.

EFFECTIVE DATE: These corrections are effective January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Angela Downey, Office of Field Operations (202–927–1082).

SUPPLEMENTARY INFORMATION:

Background

On January 30, 1996, Customs published in the **Federal Register** (61 FR 2908) as T.D. 96–14 a document setting forth interim regulations establishing procedural and other requirements that apply to the collection, waiver and reduction of duties under the duty-deferral program provisions of the North American Free Trade Agreement (NAFTA). The document prescribed the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program either for exportation to another NAFTA country or for entry into a duty-deferral program of another NAFTA country, the procedures that must be followed in filing a claim for a waiver or reduction of duties collected on such merchandise, and the procedures for finalization of duty collections and duty waiver or reduction claims. The document prescribed a January 1, 1996, effective date for the interim regulatory amendments.

The discussion of the Paperwork Reduction Act within the **SUPPLEMENTARY INFORMATION** portion of the document included figures regarding the reporting and/or recordkeeping burden associated with the information collection requirements under the interim regulatory texts, as reported to the Office of Management and Budget (OMB); however, the document incorrectly stated the hours reported to OMB with regard to the estimated total annual reporting and/or recordkeeping burden which should have read "213,960" hours. In addition, within the text of interim § 181.53(b)(4) as set forth in the document, the reference in the introductory sentence to "paragraph (e)(1) or (e)(2)" should have read "paragraph (b)(4)(i) or (b)(4)(ii)". This document corrects these two errors.

Corrections of Publication

Accordingly, the document published in the **Federal Register** as T.D. 96–14 on January 30, 1996 (61 FR 2908) is corrected as set forth below.

Correction to the **SUPPLEMENTARY INFORMATION** *Section*

On page 2910, in the second column under the heading Paperwork Reduction Act, the figure "405,070 hours" after "Estimated total annual reporting and/or recordkeeping burden:" is corrected to read "213,960 hours".

Correction to the Interim Regulations

On page 2913, in the second column, in the introductory sentence of § 181.53(b)(4), the reference "paragraph (e)(1) or (e)(2)" is corrected to read "paragraph (b)(4)(i) or (b)(4)(ii)".

Dated: February 8, 1996.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 96–3591 Filed 2–15–96; 8:45 am]
BILLING CODE 4820–02–P

DEPARTMENT OF STATE

22 CFR Part 42

[Public Notice 2336]

Bureau of Consular Affairs; Visas: Documentation of Immigrants Under the Immigration and Nationality Act as Amended; Correction

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Correction to final rule.

SUMMARY: This document corrects the final rule published in the **Federal Register** on January 22, 1996 [61 FR 1523] which promulgates changes to the regulations implementing the Diversity Immigrant Program provided for in INA 201(a)(3), 201(e), 203(c), and 204(a)(1)(G), as amended. This document corrects the effective date of the final rule by amending it to read January 22, 1996.

EFFECTIVE DATE: The effective date published in the Department of State rule published at 61 FR 1523 was incorrectly printed as February 21, 1996. The correct effective date is January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, Bureau of Consular Affairs, Department of State, (202) 663–1184.

SUPPLEMENTARY INFORMATION: The Department's Public Notice 2319 published at 61 FR 1523 incorrectly showed an effective date of February 21, 1996. The effective date of this rule should be January 22, 1996. This rule amends § 42.33 of 22 CFR Part 42. This rule modified the petitioning procedure by requiring aliens petitioning for selection to compete for visas, sign their petition and include a photograph. This rule also proves authority for collection of a processing fee in case it should be decided that a fee should be charged.

Dated: February 9, 1996.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 96–3414 Filed 2–15–96; 8:45 am]
BILLING CODE 4710–06–P

Bureau of Political Military Affairs

22 CFR Parts 123 and 126

[Public Notice 2294]

Amendment to the International Traffic in Arms Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule would amend the International Traffic in Arms Regulations (ITAR) by establishing an exemption for the temporary export of cryptographic products for personal use. The effect of the change would be to ease the burden on U.S. citizens and lawful permanent residents who have the need to temporarily export cryptographic products when leaving the U.S. for brief periods of time.

EFFECTIVE DATE: February 16, 1996.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Deputy Director for Licensing, Office of Defense Trade Controls, Department of State, (703) 875–6643 or FAX (703) 875–6647.

SUPPLEMENTARY INFORMATION: The U.S. Government has since 1993, at the direction of the President, been reviewing the U.S. policy regarding the domestic use of, and export controls on, cryptographic technology. While U.S. national security and foreign policy compel maintaining appropriate export controls on cryptography, the Department of State has continued to reform the export control procedures applicable to those products incorporating cryptography which are controlled by the ITAR in Category XIII(b)(1). For example, on September 2, 1994, the Department published (at 59 FR 45621) a final rule change which created a new Section 124.15. The section provides for a new arrangement by which the Department of State may provide approval for category XIII(b)(1) cryptography products to be distributed by U.S. manufacturers directly to foreign end users without obtaining an individual license for each transaction.

After extensive review, the Department of State has decided to further amend the regulations to provide for an exemption for the temporary export of cryptographic products for personal use. The exemption does not apply to other circumstances, for example, those in which a person contemplates sales, marketing or demonstration. Nor does the exemption apply to exports to destinations listed in Section 126.1 of the ITAR which are prohibited by a United Nations Security Council Resolution or to which the export (or for which the issuance of a

license for the export) would be prohibited by a U.S. statute (e.g., by Section 40 of the Arms Export Control Act, 22 U.S.C. 2780, to countries that have been determined to have repeatedly provided support for acts of international terrorism, i.e., Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria).

This rule amends Part 123 to add a new Section 123.27 to reduce the burden on individual users of cryptographic products by providing an exemption for the temporary export for personal use of products covered by Category XIII(b)(1) when the product remains in the possession of the exporter or the possession of another U.S. citizen or lawful permanent resident traveling with him/her. For purposes of this exemption, a product is considered to be in the possession of the exporter if the exporter takes normal precautions to ensure the security of the product by locking the product in a hotel room, safe, or other comparably secure location; and, while in transit, the exporter keeps the product in his/her carry-on luggage or locked in baggage accompanying the exporter which has been checked with the carrier.

This amendment involves a foreign affairs function of the United States and thus is excluded from the procedures of Executive Order 12866 (58 FR 51735) and 5 U.S.C. 553 and 554.

However, interested parties are invited to submit written comments to the Department of State, Director, Office of Defense Trade Controls, Attn: Regulatory Change, Personal Use Cryptographic Products, Room 200, SA–6, Washington, DC 20520–0602.

This rule affects collection of information subject to the Paperwork Reduction Act (44 U.S.C. 3501 et seq), and will serve to reduce the burden on exporters by adding an exemption which will remove the current requirement for a license.

Paperwork Reduction Act

The record-keeping requirement contained in section 123.27(b) has been approved by OMB and has a control number of 1405–0103. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

22 CFR Part 123

Arms and munitions, Exports, Reporting and recordkeeping requirements.

22 CFR Part 126

Arms and munitions, Exports.

Accordingly, for the reasons set forth in the preamble, title 22, chapter I, subchapter M, of the Code of Federal Regulations, is amended as set forth below:

PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES

1. The authority citation for part 123 continues to read as follows:

Authority: Secs. 2 and 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311, 3 CFR 1977 Comp. 79; 22 U.S.C. 2658.

2. A new § 123.27 is added to read as follows:

§ 123.27 Temporary export for personal use of Category XIII(b)(1) cryptographic products.

(a) District Directors of Customs may permit a U.S. citizen or a U.S. person who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) to temporarily export from the United States without a license not more than one each of any unclassified Category XIII(b)(1) cryptographic hardware product and not more than a single copy of each type of unclassified Category XIII(b)(1) cryptographic software product provided that:

(1) The software product(s) are to be used only on a simultaneously temporarily exported Category XIII(b)(1) hardware product or a simultaneously exported item on the Commerce Control List (CCL); and

(2) The cryptographic products covered by Category XIII(b)(1) are not destined for export to a destination listed in § 126.1 of the ITAR (22 CFR 126.1) which is prohibited by a United Nations Security Council Resolution or to which the export (or for which the issuance of a license for the export) would be prohibited by a U.S. statute (e.g., by Section 40 of the Arms Export Control Act, 22 U.S.C. 2780, to countries that have been determined to have repeatedly provided support for acts of international terrorism—currently Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria); and

(3)(i) The encryption products remain in the possession of the exporting person or the possession of another U.S. citizen or lawful permanent resident traveling with him/her, are for their exclusive use and not for copying, demonstration, marketing, sale, re-export or transfer of ownership or control. The export of cryptographic products identified in Category XIII(b)(1) in any other circumstances, for example, those in which a person contemplates sales, marketing, or demonstration must be licensed in accordance with policies and procedures established in this subchapter.

(ii) *Special definition.* For purposes of paragraph (a)(3)(i) of this section, a product is considered to be in the possession of the exporter if:

(A) The exporter takes normal precautions to ensure the security of the product by locking the product in a hotel room, safe, or other comparably secure location; and

(B) While in transit, the exporter keeps the product in his/her carry-on luggage or locked in baggage accompanying the exporter which has been checked with the carrier; and

(4) At the time of export from the U.S. and import into the U.S., the cryptographic products are with the individual's accompanying baggage or effects. They may not be exported or imported in unaccompanied baggage, mailed or transmitted by any other means (e.g., electronically); and, the cryptographic products must be returned to the U.S. at the completion of the stay abroad; and

(5) The exporter, upon request of a U.S. Customs officer, will submit the products to inspection at the time of export and/or import.

(b) Use of this exemption requires the exporter, in lieu of filing a Shippers' Export Declaration, to maintain, for a period of 5 years from the date of each temporary export, a record of that temporary export and the subsequent import. Included in this record must be a self certification that the individual complied with the conditions of paragraph (a) of this section and a self certification that he/she has no reason to believe that any of the temporarily exported cryptographic products were stolen, lost, copied, sold or otherwise compromised or transferred while abroad. The record should include the following information: A description of the unclassified cryptographic products; the countries entered, including the dates of entry and exit for each foreign country; and, the dates of temporary export from and subsequent import into the United States.

(c) In any instance where a product exported under this exemption is stolen, lost, copied, sold or otherwise compromised or transferred while abroad, the exporting person must, within 10 days of his/her return to the United States, report the incident to the Department of State, Office of Defense Trade Controls, Washington, D.C. 20520–0602. Also, any person who knows or has reason to know that cryptographic products exported under this exemption are being transferred, exported, or used for any other activity which must be licensed or otherwise authorized in writing by the Department of State, should immediately inform the Department of State, Office of Defense Trade Controls, Washington D.C. 20520–0602.

PART 126—GENERAL POLICIES AND PROVISIONS

1. The authority citation for part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42 and 71, Arms Export Control Act, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791 and 2797); E.O. 11958, 41 FR 4311; E.O. 11322, 32 FR 119; 22 U.S.C. 2658; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205.

2. Section 126.1(a) is amended by designating the three sentences of the undesignated paragraph as the third, fourth and fifth sentences of paragraph (a) and by adding a new sixth sentence at the end of paragraph (a) to read as follows:

§ 126.1 Prohibited exports and sales to certain countries.

(a) * * * With regard to § 123.27 the exemption does not apply with respect to articles originating in or for export to countries prohibited by a United Nations Security Council Resolution or to which the export (or for which the issuance of a license for the export) would be prohibited by a U.S. statute (e.g., by Section 40 of the Arms Export Control Act, 22 U.S.C. 2780, to countries that have been determined to have repeatedly provided support for acts of international terrorism, i.e., Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria).

* * * * *

Dated: November 17, 1995.

Lynn E. Davis,

Under Secretary for Arms Control and International Security Affairs.

[FR Doc. 96–3190 Filed 2–15–96; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 357 and 370

Regulations Governing Book-Entry Treasury Bonds, Notes and Bills; Regulations Governing Payments by the Automated Clearing House Method

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the general regulations governing book-entry Treasury securities, which apply to investors in the TREASURY DIRECT system, to require the Bureau of the Public Debt to send prenotification messages when an investor has requested that payments on his account be made by the Automated Clearing House (ACH) method, and to modify the number of days required to wait after a prenotification message is sent before live dollar entries can be initiated. This amendment will bring the procedures for prenotification messages for TREASURY DIRECT ACH payments in conformity with the procedures for the National Automated Clearing House Association (NACHA). Part 370 governs payments by the ACH method when such payments are made by Treasury on account of United States securities, including ACH payments in the TREASURY DIRECT system. This rule affects only ACH payments in the TREASURY DIRECT system. Because the amended Part 357 will contain some prenotification procedures inconsistent with Part 370, Part 370 will indicate that it applies to ACH payments made by Treasury on account of United States securities, except as otherwise provided.

EFFECTIVE DATE: February 16, 1996.

FOR FURTHER INFORMATION CONTACT: Maureen Parker, Director, Division of Securities Systems, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328, (304) 480–7761 or Susan Klimas, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–5192.

SUPPLEMENTARY INFORMATION: This final rule amends the general regulations governing book-entry Treasury securities to require that, when payments are made by the ACH method, prenotification messages be sent by the Bureau of the Public Debt to the financial institution to which such payments are to be directed, and to change the current waiting period after a prenotification message is sent before live dollar entries can be transmitted from 15 days to 10 days, to conform with the standard practice of NACHA. Prior to this amendment, the regulations provided for prenotification messages to be sent, but did not specifically require such messages. Accordingly, Part 357 is amended by changing § 357.26(b)(3) to provide that prenotification messages must be sent and to require a 10 day waiting period after the prenotification message is sent before a live money transfer can be made. Additionally, the provisions of 31 CFR 370.5 relating to the sending of prenotification messages, which were formerly incorporated by reference, are added to this regulation. Because the amended Part 357, governing the TREASURY DIRECT system, will contain some procedures inconsistent with Part 370, which applies to payments made by the Bureau of the Public Debt by the ACH method of payment, Part 370 is amended to indicate that it applies except as otherwise provided.

Procedural Requirements

It has been determined that this final rule does not meet the criteria for a "significant regulatory action," as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This rule relates to matters of public contract and procedures for U.S. securities, as well as the borrowing power and fiscal authority of the United States. Accordingly, pursuant to 5 U.S.C. 553(a)(2), the notice, public comment and delayed effective date provisions of the Administrative Procedure Act do not apply. As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

There are no new collections of information contained in this Final Rule, and, therefore, the Paperwork Reduction Act (44 U.S.C. 3504(h)) does not apply.

List of Subjects in 31 CFR Parts 357 and 370

Banks, Banking, Bonds, Federal Reserve System, Government securities, Electronic funds transfer, Government securities, Securities.

Dated: January 11, 1996.

Gerald Murphy,

Fiscal Assistant Secretary.

For the reasons set out in the preamble, 31 CFR Parts 357 and 370 are amended as follows:

PART 357—GENERAL REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS

1. The authority citation for Part 357 continues to read as follows:

Authority: 31 U.S.C. Chapter 31, 5 U.S.C. 301 and 12 U.S.C. 391.

2. Section 357.26(b)(3) is revised to read as follows:

§ 357.26 Payments.

* * * * *

(b) * * *

(3) *Prenotification.* A prenotification message must be sent to the financial

institution designated to receive ACH payments to confirm the accuracy of the account information furnished by an owner, or other person or entity entitled to make the designation, and to advise the financial institution that such account has been so designated. Prenotification messages may be sent at any time, but not less than 10 calendar days prior to the first ACH payment. A prenotification message may also be sent whenever there is a change in the payment instructions. The prenotification message shall contain the ABA routing/transit number of the financial institution to which payments with respect to a security are to be made, as well as a depositor name, reference, deposit account number, and type or classification of account at the institution to which such payments are to be credited. Responses to a prenotification message will be received in accordance with the provisions in 31 CFR 370.5. Where the circumstances indicate that there is insufficient time to effect the change received in response to the prenotification message, payment will be made by check in accordance with paragraph (c) of this section.

* * * * *

PART 370—REGULATIONS GOVERNING PAYMENTS BY THE AUTOMATED CLEARING HOUSE METHOD ON ACCOUNT OF UNITED STATES SECURITIES

1. The authority citation for Part 370 continues to read as follows:

Authority: 31 U.S.C. Chapter 31.

2. Section 370.0 is revised to read as follows:

§ 370.0 Applicability.

The regulations in this part apply to the Automated Clearing House method of payment where employed by the Bureau of the Public Debt in connection with United States securities, except as otherwise provided.

[FR Doc. 96–3168 Filed 2–15–96; 8:45 am]

BILLING CODE 4810–39–W

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC–28–1–7164a; FRL–5316–7]

Approval and Promulgation of Implementation Plans; South Carolina: Approval of Revisions to the South Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the South Carolina State Implementation Plan (SIP) submitted on March 3, 1995, by the State of South Carolina, through the South Carolina Department of Environment, Health and Natural Resources. These revisions involve R.61–62.5 Standard Number 7. Prevention of Significant Deterioration. The intended effect of these revisions is to bring the South Carolina rules into compliance with the current EPA terminology.

DATES: This action is effective April 16, 1996 unless notice is received by March 18, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the SCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

South Carolina Department of Environment, Health and Natural Resources, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555 ext. 4212.

SUPPLEMENTARY INFORMATION: On March 3, 1995, the State of South Carolina, through the South Carolina Department of Environment, Health and Natural Resources, submitted revisions to the South Carolina State Implementation Plan (SIP). These revisions involve R.61–62.5 Standard Number 7. Prevention of Significant Deterioration.

EPA is approving the following and revisions of existing rules in the South Carolina SIP. These new rules and revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

I.C(4)

This rule has been revised to add a reference to the definition of particulate matter (PM–10).

I.N(1)(c), I.O(2)(b), and I.O(3)

These rules have been revised to add references to the PM–10 increments in Parts N and O.

II.A

This section was revised to replace all references to total suspended particulate increments with references to PM–10 increments and to convert all limits to PM–10 standards.

II.D

This section which covered exclusions from increment consumption was removed and labeled "reserved."

III.D

This section was revised to replace "allow able" with "allowable."

III.H(1)

This rule was revised to delete a reference to total suspended particulate matter.

III.I(1) through III.I(2)(ii)

These rules were revised to ensure that Part I conforms to the federal rule governing the maximum allowable increase of PM–10. This was accomplished by requiring all owners or operators applying for a plant permit or modification of an existing permit after November 25, 1994, to meet the requirements of Federal PM–10 Regulations as in effect on the aforementioned date.

IV.D(1)&(2)

These rules were revised to ensure that Part D reflects the changes in requirements of Federal modeling due to the revision of the manual "Guidelines to Air Quality Models."

IV.H(4)

This rule was revised to correct the PM–10, 24-hour maximum standard from 10μg/m³ to 30μg/m³.

Final Action

In this notice, EPA is approving the revisions to the South Carolina Environmental Management regulations listed above. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective on April 16, 1996. However, if notice is received by March 18, 1996 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent documents will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 16, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607(b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 19, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart PP—South Carolina

2. Section 52.2120, is amended by adding paragraph (c)(39) to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

(39) The PSD regulation revisions to the South Carolina State Implementation Plan which were submitted on March 3, 1995.

(i) Incorporation by reference.

(A) Regulations 61–62.5, Standard No. 7 Prevention of Significant Deterioration; I.C(4), I.N(1)(c), I.O(2)(b), I.O(3), II.A, II.D, III.D(10)(b), III.H(1), III.I(1) through III.I(2)ii, IV.D (1) & (2), and IV.H(4) effective on November 25, 1994.

(ii) Other material. none

* * * * *

[FR Doc. 96–2583 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5420–9]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Deletion of Flowood Site from the National Priorities List (NPL).

SUMMARY: EPA, Region 4, announces the deletion of the Flowood Site from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). EPA and the State of Mississippi (State) have determined that all appropriate CERCLA actions have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA

and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: February 16, 1996.

ADDRESSES: Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at the Region 4 office and is available for viewing by appointment only from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 Docket Office.

The address for the Regional Docket Office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone No. (404) 347–3555, extension 6217

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: Pearl Public Library, 3470 Highway 80 East, Pearl, Mississippi 39208, Telephone No. (601) 932–2562.

FOR FURTHER INFORMATION CONTACT: Betty L. Winter, Community Involvement Specialist, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, Georgia 30365, (404) 347–2643 ext. 6264.

SUPPLEMENTARY INFORMATION: EPA announces the deletion of the Flowood Site in Rankin County, Mississippi from the National Priorities List (NPL), which is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to 42 U.S.C. section 9605 (40 CFR 300.425(e)(3) of the NCP), any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action.

EPA published a Notice of Intent to Delete the Flowood Site from the NPL on June 15, 1995 in the **Federal Register** (60 FR 31440). EPA received no comments on the proposed deletion; and, therefore, no responsiveness summary is necessary for attachment to this Notice of Deletion. Deletion of a site from the NPL does not affect the responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 12, 1996.

Phyllis P. Harris,

Acting Regional Administrator, EPA Region 4.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 191 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site "Flowood Site, Flowood, Mississippi".

[FR Doc. 96–3281 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–250

RIN 1215–AA62

Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era; Correction

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the Office of Federal Contract Compliance Programs (OFCCP) final regulations implementing the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), which were published January 5, 1995 (60 FR 1986). Those final regulations incorporated, among other things, statutory changes in the mandatory job listing obligations of Federal contractors and subcontractors. The statutory changes eliminated the $25,000 per year salary ceiling and otherwise broadened the scope of job openings that Federal contractors and subcontractors must list with the State employment service.

EFFECTIVE DATE: February 16, 1996.

FOR FURTHER INFORMATION CONTACT: Joe N. Kennedy, Deputy Director, Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 219–9475 (voice) and 1–800–326–2577 (TDD). Copies of this correction document are available in the following alternate formats at the above office: electronic file on computer disk, large print and audio tape.

SUPPLEMENTARY INFORMATION:

Background

Prior to amendment in 1994, the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) ("VEVRAA" or "Section 4212"), required that Federal contractors and subcontractors covered by VEVRAA must list "all * * * suitable employment openings" with the appropriate local employment service office. VEVRAA required those offices, in turn, to give priority referrals to veterans for such openings. This obligation to list job openings with the local employment service office is often referred to as the "mandatory listing" requirement. Although Section 4212 did not define the term "all * * * suitable employment openings," this term was defined in OFCCP implementing regulations at 41 CFR 60–250.4(h).

Section 702(a) of the Veterans' Benefits Improvements Act of 1994 (Pub. L. 103–446, 108 Stat. 4645, 4674 (1994)), expanded the scope of the employment openings to be listed with the State employment service office by dropping the word "suitable" from the statutory phrase "all * * * suitable employment openings," broadly defining the term "all * * * employment openings," and limiting the exceptions to the mandatory listing requirement.

The statutory amendment to the mandatory listing requirement does not list all of the exceptions to mandatory listing permitted previously by OFCCP regulations. The amendment eliminated the salary ceiling of $25,000 per year which was in the OFCCP regulations, and now requires the listing of all employment openings except executive and top management positions, positions that will be filled from within the contractor's organization, and positions lasting three days or less. The final regulation published on January 5, 1995, amended OFCCP's regulation at 41 CFR 60–250.4, which contains the affirmative action clause for disabled veterans and veterans of the Vietnam era. Specifically, OFCCP intended to amend the paragraphs prescribing the employment openings to be listed with the State employment service in order to make the VEVRAA affirmative action clause consistent with the 1994 statutory amendment.

Need for Correction

A few inadvertent errors were made in the January 5, 1995, rule amending the VEVRAA affirmative action clause. First, two sentences at the end of paragraph (b) relating to contractors' reporting obligations, which were not changed by the statutory amendment, were inadvertently left out of the published final rule. Second, part of paragraph (g) refers to an exemption no longer permitted under the statutory amendment, that is, openings to be filled pursuant to a "customary and traditional employer-union hiring arrangement," and such reference should have been deleted. Third, minor errors of punctuation were made in the authority citation for 41 CFR Part 60–250. As described below, these errors were inadvertent, clerical mistakes that need correction.

The two sentences at the end of paragraph (b) that were inadvertently left out of the final rules read as follows:

> The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.
>
> State and local government agencies holding Federal contracts of $10,000 or more shall also list all their employment openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

These two sentences involve VEVRAA-related reporting responsibilities, and it must be highlighted that the 1994 statutory amendments did not amend the VEVRAA reporting requirements. OFCCP only intended to make regulatory revisions on January 5, 1995, that were nondiscretionary changes mandated by the 1994 statutory amendments. Indeed, the final rule evoked the good cause exemption under the Administrative Procedure Act, 5 U.S.C. 553(b)(B), for dispensing with the issuance of a proposal and the provision of public notice and comment procedures because it was a "nondiscretionary, ministerial action which merely incorporates, without change, two statutory amendments into pre-existing regulations." 60 FR 1986. Making substantive changes to the reporting requirements, including what amounts to eliminating an exemption from certain reporting for State and local government agencies holding covered Federal contracts, was beyond OFCCP's statutory authority without providing the public with notice and an opportunity to comment. The agency's intent to retain the reporting provisions in paragraph (b) is also evidenced by the fact that other reporting provisions were left in the affirmative action clause in paragraph (d), which explicitly reference the provisions in (b) that were mistakingly left out of the January 5 **Federal Register** publication.

Regarding paragraph (g), as noted above, the statutory amendments expressly limited the number of exemptions from the mandatory listing requirement and did not provide for the exemption in paragraph (g) for openings to be filled pursuant to a "customary and traditional employer-union hiring arrangement." In accordance with the 1994 Congressional mandate, the January 5, 1995, final rule removed the reference to the employer-union exemption in paragraph (h)(1) and deleted the definition of the term that had appeared in paragraph (h)(4). The language in paragraph (g) referring to exemptions for openings which the contractor proposes "to fill pursuant to a customary and traditional employer-union hiring arrangement" is also contrary to the 1994 statutory amendments, and the agency intended to eliminate it. Accordingly, paragraph (g) is revised by deleting all references to exemptions for employer-union arrangements.

In addition, this publication makes minor technical corrections involving the punctuation of the authority citation for 41 CFR Part 60–250.

All of the above errors were inadvertent, clerical mistakes that are within OFCCP authority to correct.

Waiver of Proposed Rulemaking

These amendments correct inadvertent errors in the January 5, 1995, final regulations that were a nondiscretionary, ministerial action which merely sought to incorporate, without change, statutory amendments into pre-existing regulations. Publication of these technical corrections in proposed form serves no useful purpose, and therefore is unnecessary and contrary to the public interest within the meaning of the Administrative Procedure Act (5 U.S.C. 553(b)(B)). Thus, good cause exists to dispense with notice of proposed rulemaking.

Effective Date

Pursuant to 5 U.S.C. 553(d) the undersigned have determined that good cause exists for making these correcting amendments effective upon publication. This determination is based upon the fact that these correcting amendments are nondiscretionary, ministerial actions which merely incorporate, without change, a statutory amendment into preexisting regulations. Moreover, the rules that are being corrected were made effective upon their publication on January 5, 1995. Accordingly, it is unnecessary and contrary to the public interest to delay the effective date of these corrections and, therefore, this regulation will be effective upon publication.

List of Subjects in 41 CFR Part 60–250

Administrative practice and procedure, Civil Rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Investigations, Veterans.

Signed at Washington, D.C. this 9th day of February 1996.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

Shirley J. Wilcher,

Deputy Assistant Secretary for Federal Contract Compliance.

PART 60–250—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

For the reasons set forth above, 41 CFR Part 60–250 is corrected by making the following correcting amendments:

1. The authority citation for Part 60–250 is revised to read as follows:

Authority: 38 U.S.C. 4211 and 4212; 29 U.S.C. 793; Executive Order 11758 (3 CFR 1971–1975 Comp. p. 841).

2. Section 60–250.4 is corrected by adding two sentences to the end of paragraph (b) and by revising paragraph (g) to read as follows:

§ 60–250.4 Affirmative action clause.

* * * * * *

(b) * * * The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their employment openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

* * * * * *

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to

openings which the contractor proposes to fill from within his own organization. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside his own organization for that opening.

* * * * *

[FR Doc. 96–3425 Filed 2–15–96; 8:45 am]
BILLING CODE 4510–27–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

42 CFR Parts 57 and 58

RIN: 0906–AA38

Grants for Construction of Teaching Facilities, Educational Improvements, Scholarships, and Student Loans and Grants for Training of Public Health and Allied Health Personnel

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final regulation.

SUMMARY: This final rule revises existing regulations which govern various Public Health Service (PHS) health professions, nursing, and allied health training grant, scholarship, traineeship, and loan programs. The affected regulations are amended primarily by the Health Professions Extension Amendments of 1992 which: Renumbered the various PHS Act section numbers and their corresponding United States Code numbers; repealed the authority for the National Advisory Council on Health Professions Education; and repealed and eliminated various title VII and VIII health professions, nursing, and allied health training grant and traineeship programs. Some of the currently codified regulations no longer reflect the current provisions of the statute and are not modifiable as such and, therefore, are also being removed from the Code of Federal Regulations (CFR). The definition of "State" is being revised in each of the program regulations in accordance with the 1994 Compact of Free Association with [the Republic of] Palau. Other changes for consistency are made to the regulations and are technical or clarifying in nature.

EFFECTIVE DATE: These regulations are effective February 16, 1996.

FOR FURTHER INFORMATION CONTACT: Betty B. Hambleton, Chief, Planning, Evaluation, and Legislation Branch, Office of Research and Planning, Bureau of Health Professions, Health Resources and Services Administration, room 8–67, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 443–1590.

SUPPLEMENTARY INFORMATION: This final rule amends various Public Health Service (PHS) health professions, nursing, and allied health training grant, traineeship, scholarship, and student loan program regulations under title 42, parts 57 and 58 to bring these programs into conformity with statutory amendments made to the various sections of the PHS Act under titles VII and VIII. The following ministerial and technical changes are being made to the various titles VII and VIII programs:

(1) The Health Professions Extension Amendments of 1992, Pub. L. 102–408, reorganized and renumbered the sections in the Public Health Service (PHS) Act and their corresponding United States Code numbers. Technical changes affecting the various programs under titles VII and VIII are being made to revise the PHS section numbers in the regulations (see part 57, subparts C, H, I, L, Q, S, V, CC, DD, EE, FF; part 58, subparts C, and D);

(2) The reference to former sections 799A and 845 of the PHS Act (referenced in each of our regulatory sections entitled, "*What additional Department regulations apply to grantees?*") codified under 45 CFR part 83 is being revised to read "section 794" and "section 855" of the PHS Act. The footnote to the citation "45 CFR part 83" is being deleted (see part 57, subparts C, D, F, H, L, Q, R, S, V, Y, Y, Z, CC, DD, EE, FF, OO, and PP; and part 58, subparts C and D). Former section 799A, 42 U.S.C. 295h–9, "Discrimination on Basis of Sex Prohibited" was redesignated as section 704 by Pub. L. 94–484 and was renumbered as section 794 (42 U.S.C. 295m) by Pub. L. 102–408. Former section 845 was redesignated as section 855 (42 U.S.C. 298b-2), "Prohibition Against Discrimination by Schools on the Basis of Sex" by Pub. L. 94–63;

(3) Pub. L. 102–408 amended title VII programs by repealing the National Advisory Council on Health Professions Education effective October 1, 1992. Therefore, in accordance with the repealing of this National Advisory Council, as it affects the evaluation and recommendation process of awarding grant applications, the Department is removing the definition of "Council" and the reference to the National Advisory Council on Health Professions Education in the various programs to reflect current statutory language under section 798(a)(2)(A) of the PHS Act (see part 57, subparts H, L, Q, S, V, EE, and FF);

(4) Section 212 of Pub. L. 102–408 amended section 851 of the PHS Act by revising the title of the National Advisory Council on Nurse Training to read "National Advisory Council on Nurse Education and Practice". Therefore, the Department is revising the reference to the Advisory Council's name in the following nursing programs: part 57, subparts Y and Z;

(5) Pub. L. 101–219, the 1994 Compact of Free Association with [the Republic of] Palau, ended the United States' responsibility for Palau under the Trusteeship Agreement (the Trust Territories of the Pacific Islands). The reference to the "Trust Territories of the Pacific Islands" in the definition of "State" is removed (see part 57, subparts C, D, F, H, L, Q, R, S, V, Y, Z, CC, DD, EE, FF, OO, and PP; and part 58, subparts C, and D); the reference to "Trust Territories of the Pacific Islands (TTPI)" in the program regulations (regarding eligibility in relation to a resident, citizen, or national of the United States) is removed (see part 57, subparts C, D, F, S, CC, and DD; part 58, subpart D). The reference to Palau is now stated as "the Republic of Palau".

(6) The reference to former section 705 of the PHS Act (now renumbered as section 798(e)) concerning audit and inspection requirements is being removed. The reference to section 705 is redundant to the requirements that are already covered under 45 CFR part 74—Administration of Grants, which is referenced in each training grant regulatory section entitled, "*What other audit and inspection requirements apply to grantees?*" (see part 57, subparts H, L, Q, S, V, CC, DD, EE, FF, and OO; and part 58, subparts C & D);

(7) Additionally, the parenthetical phrase citing the OMB approval number "0915–0060" regarding information collection requirements at the end of each regulatory section entitled, "*What other audit and inspection requirements apply to grantees?*", is no longer necessary and is also being removed (see part 57, subparts H, L, Q, S, V, EE, and FF, and OO);

(8) The preamble also includes discussions on those subparts under parts 57 and 58 that are no longer viable programs (see part 57, subparts T, AA, HH, and NN; and part 58, subparts A, B, E, and F). Some of these regulations no longer reflect the current provisions of the statute and are not modifiable as such, or their legislative authorities have expired or were eliminated or repealed by Pub. L. 102–408. Therefore, the above subparts are being removed and placed in reserve status in the CFR.

Additional revisions to the following programs, implemented by the Health Resources and Services Administration, Bureau of Health Professions, codified at 42 CFR parts 57 and 58, are discussed below according to the subparts, section numbers, and headings affected.

Subpart C—Health Professions Student Loans

This final rule amends Part 57, subpart C governing the Health Professions Student Loan program under sections 721–735 of the PHS Act to:

1. Revise § 57.202, entitled "Definitions.", by revising the definitions of "Health professions school or school" and "State" to reflect current Department policy language for consistency in title 42, part 57 and part 58 definitions.

2. Revise § 57.205, entitled "Health professions student loan funds.", by adding a parenthetical phrase at the end of the section citing the current OMB control number.

3. Revise § 57.206, entitled "Eligibility and selection of health professions student loan applicants.", by removing paragraph (a)(2) regarding the repayment of loans by service obligation in a health professions shortage area. (The provisions in former section 741(f) were eliminated by Pub. L. 102–408.) Paragraph (a)(3) is redesignated as (a)(2).

4. Revise § 57.210, entitled "Repayment and collection of health professions student loans", by revising the parenthetical phrase at the end of the section providing the current OMB control number; and by removing the phrase "or cancellation or repayment under section 741(f) of the Act" in paragraph (b)(2)(i), in accordance with Pub. L. 102–408 which eliminated the HPSL loan repayment by service obligation authority.

5. Remove and reserve in the CFR § 57.212, entitled "Repayment or cancellation of loans for practice in a health professional shortage area.", in accordance with Pub. L. 102–408 which eliminated the HPSL loan repayment by service obligation authority. Succeeding section numbers under this subpart (§§ 57.213—57.218) will *not* be redesignated but remain the same.

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

This final rule amends Part 57, subpart S governing the Educational Assistance to Individuals from Disadvantaged Backgrounds program under section 740 of the PHS Act to revise paragraph (b) in § 57.1804, entitled "Who is eligible for educational assistance?". Paragraph (b) indicates a requirement for eligibility that individuals must "have completed at least the junior year of high school (or its equivalent)". The Department is adding the words "except in the case of Model Demonstration programs" at the end of the sentence to provide flexibility for the Department to administer a limited number of awards to test the feasibility or viability of a Model Demonstration program permitting students prior to the junior year to receive assistance under these programs.

Subpart T—Nursing Special Project Grants

Section 820 of the PHS Act, 42 U.S.C. 296k, as it was in effect for Nursing Special Project Grants, was amended by Pub. L. 102–408, the Health Professions Extension Amendments of 1992, to substitute for the existing authority a new four-part authority and revised former project purposes, eligibility provisions, and other requirements. The Department is, therefore, removing from title 42, part 57 of the *Code of Federal Regulations* this program under subpart T, consisting of §§ 57.1901 through 57.1910, and placing it in reserve status.

Subpart Z—Grants for the Advanced Nurse Education Programs

This final rule amends Part 57, subpart Z governing the Grants for Advanced Nurse Education Programs under section 821 of the PHS Act to:

1. Revise § 57.2501, entitled "Applicability.", by revising the phrase "expand" in (b) to read "significantly expand existing programs" and removing the phrase "maintain programs" in (c) in accordance with the amendments in Pub. L. 102–408. This section is further revised to remove two types of nurse specialties that can obtain support under this authority in accordance with Pub. L. 102–408. The two types of specialties that are being removed are nurse administrators and nurse researchers.

2. Revise § 57.2503, entitled "Eligibility.", by revising paragraph (b)(2) to indicate that a grant would meet the cost for a project to "significantly" expand an advanced nurse education program through the indicated activities listed. Paragraph (b)(3), that indicates that a grant would meet the cost for a project to "maintain" an advanced nurse education program, is being removed in accordance with Pub. L. 102–408.

3. Revise § 57.2504, entitled "Application.", by revising paragraph (c)(1) to state the current statutory language for grants to contain a proposal for a project to: (i) Plan, develop, and operate new programs, or (ii) significantly expand an advanced nurse education program. Former paragraph (c)(1)(iii) is removed and paragraph (d) is revised to reflect the current statutory language.

4. Revise § 57.2506, entitled "Evaluation and grant awards.", by removing the reference to the funding priority for educational programs in geriatric and gerontological nursing. Pub. L. 102–408 repealed the funding priority.

Subpart AA—Grants for Nurse Practitioner and Nurse Midwifery Traineeship Programs

Section 822(b) of the PHS Act, 42 U.S.C. 296m, as it was in effect for Grants for Nurse Practitioner and Nurse Midwifery Traineeship Programs for service-conditional nurse practitioner and nurse midwifery traineeships was eliminated by section 204 of Public Law 102–408, the Health Professions Extension Amendments of 1992 (106 Stat. 2072). The Department is, therefore, removing from title 42, part 57 of the Code of Federal Regulations this program under subpart AA, consisting of §§ 57.2601 through 57.2617, and placing it in reserve status.

Subpart DD—Financial Assistance for Disadvantaged Health Professions Students

This final rule amends Part 57, subpart DD governing the program for Financial Assistance for Disadvantaged Health Professions Students under section 740 of the PHS Act to:

1. Revise § 57.2904, entitled "Eligibility and selection of aid recipients.", by revising the parenthetical phrase at the end of the section providing the current OMB control number.

2. Revise § 57.2909, entitled "What other records, audit, and inspection requirements apply to schools?", by revising the parenthetical phrase at the end of the section providing the current OMB control number.

Subpart HH—Programs for the Training of Expanded Function Dental Auxiliaries

Section 2740(c)(1) of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, 95 Stat. 922, amended section 783(a) of the PHS Act to authorize provisions only for physician assistant training. Concurrently, section 2744 of Pub. L. 97–35 (95 Stat. 924) restructured the provisions in section 783(a)(2) for Grants for Programs for the Training of Expanded Functional Dental Auxiliaries and the provisions were subsumed under the authority of redesignated section 788(b), as it was in effect for Conversion and Curriculum Grants for Various Health Professions, 42 U.S.C. 295g–8. Subsequently, the provisions

under section 788(b) were amended by Pub. L. 99–129, the Health Professions Training Assistance Act of 1985, to provide for more broad provisions in health promotion and disease prevention, various curriculum development training, and health professions initiatives.

Pub. L. 102–408, the Health Professions Education Extension Amendments of 1992, repealed several existing definitions under former section 701 of the PHS Act (now renumbered as section 799), including the definition for "program for the training of expanded function dental auxiliaries", as being no longer needed for administration of title VII programs. The Department is, therefore, removing from title 42, part 57 of the Code of Federal Regulations this program under subpart HH, consisting of §§ 57.3301 through 57.3303, and placing it in reserve status.

Subpart NN—Various Health Professions Projects (Model Education)

Pub. L. 102–408 repealed section 788(b) of the PHS Act, the authority as it was in effect for grants or contracts for the development and implementation of model projects in areas such as faculty and curriculum development, and development of new clinical training sites. The Department is, therefore, removing from title 42, part 57 of the Code of Federal Regulations this program under subpart NN, consisting of §§ 57.3901 through 57.3910, and placing it in reserve status.

Part 58—Grants for Training of Public Health and Allied Health Personnel

Subpart A—Grants to Graduate Programs in Health Administration

Section 791 of the PHS Act, 42 U.S.C. 295h, as it was in effect for Grants to Graduate Programs in Health Administration for institutional grants to graduate programs in health administration was repealed by Pub. L. 102–408, the Health Professions Extension Amendments of 1992. The Department is, therefore, removing from title 42, part 58 of the Code of Federal Regulations this program under subpart A, consisting of §§ 58.1 through 58.11, and placing it in reserve status.

Subpart B—Special Project Grants for Graduate Programs in Public Health

Section 788(b) of the PHS Act, 42 U.S.C. 295g–8, as it was in effect for Special Project Grants for Graduate Programs in Public Health was repealed by section 2744 of Public Law 97–35, the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 923). The Department is, therefore, removing from title 42, part 58 of the Code of Federal Regulations this program under subpart B, consisting of §§ 58.20 through 58.29, and placing it in reserve status.

Subpart C—Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs

This final rule amends Part 58, subpart C governing the Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs under section 761 of the PHS Act to:

1. Revise § 58.202, entitled "Definitions.", to amend the definitions of "Educational entity", "Nonprofit", and "State" to reflect current Department policy language for consistency in title 42, part 57 and part 58 definitions.

2. Revise § 58.205, entitled "How is the amount of the award determined?", to:

(a) Remove paragraph (a)(1) to reflect current Department policy language for consistency in title 42 CFR part 58 regulations; and

(b) Redesignate paragraph (a)(2) as paragraph (a) and revise the eligibility element in the formula for the distribution of funds as follows: The proportion of eligible full-time and full-time equivalent graduate students of each applicant enrolled in severe shortage occupations targeted for support (epidemiology, environmental health, biostatistics, toxicology, public health nutrition, and maternal and child health) to the total full-time and full-time equivalent enrollment of students in these fields of all applicants having approved applications. Modifications in the formula are the result of statutory changes in Pub. L. 102–408. The number of full-time equivalent students means the number of part-time students converted to full-time by dividing the total number of credit hours in which part-time students are enrolled by nine.

Subsequently, Pub. L. 103–43, the National Institutes of Health Revitalization Act of 1993, enacted June 10, 1993 (107 Stat. 217) added "maternal and child health" as a severe shortage health professions field eligible for support.

3. Revise § 58.208, entitled "What are the requirements for traineeships and the appointment of trainees?", to:

(a) Remove the words "traineeships and the" in the heading and remove paragraphs (a) through (e), in accordance with Pub. L. 102–408 which eliminated requirements for traineeships (paragraphs (f) through (i) are redesignated as paragraphs (a) through (d)); and

(b) Add the current OMB control number for information collections at the end of the section.

4. Revise in its entirety § 58.209, entitled "Who is eligible for financial assistance as a trainee?", to reflect the change in eligibility criteria in accordance with Pub. L. 102–408. The changes in criteria were announced in the **Federal Register** by proposed notice on April 13, 1993. A comment period of 30 days was established to allow public comment concerning the proposed review criteria. No comments were received. A final notice was published June 11, 1993. Further, Pub. L. 103–43, added the health professions field of "maternal and child health" to the list of fields in which there is a severe shortage of health professionals.

5. Revise § 58.213, entitled "What additional Department regulations apply to grantees?", to add a new CFR citation to bring this program into compliance with governmentwide requirements established for this Department under 45 CFR part 93, in accordance with Pub. L. 101–121, section 319, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, enacted on October 23, 1989, and an Interim-Final Rule, published in the **Federal Register** on February 26, 1990 (55 FR 6736). This CFR citation is cited in the amendatory language as "45 CFR part 93—New restrictions on lobbying".

Subpart D—Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

This final rule amends Part 58, subpart D governing the Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other than Schools of Public Health under section 771 of the PHS Act to:

1. Revise the heading of Subpart D to read "Grants for Health Administration Traineeships and Special Projects Program", in accordance with Pub. L. 102–408.

2. Revise § 58.222, entitled "Definitions.", to amend the definitions of "Nonprofit" and "State" to reflect current Department policy language for consistency in title 42, part 57 and part 58 definitions.

3. Revise § 58.224, entitled "How will applications be evaluated?", to reflect current Department policy language for consistency in 42 CFR part 57 and part 58 regulations and add the statutory criteria for the review of applications.

4. Remove § 58.228, entitled "What are the requirements for traineeships and the appointment of trainees?", in its entirety. Pub. L. 102–408 eliminated the traineeship requirements.

5. Redesignate § 58.229, entitled "Who is eligible for financial assistance as a trainee?", as § 58.228 and revise paragraph (a) concerning an eligible individual's citizenship status, the Immigration and Naturalization Service policy as it relates to the admission into the United States, its territories and possessions, to reflect current Department policy language for consistency in title 42, part 57 and part 58 regulations.

6. Redesignate § 58.230, entitled "What financial support is available to trainees?", as § 58.229.

7. Redesignate § 58.231, entitled "Duration of traineeships." as § 58.230.

8. Redesignate § 58.232, entitled "Termination of traineeships.", as § 58.231.

9. Redesignate § 58.233, entitled "What additional Department regulations apply to grantees?" as § 58.232 and revise it to add a new CFR citation to bring this program into compliance with governmentwide requirements established for this Department under 45 CFR part 93, in accordance with Pub. L. 101–121, section 319, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, enacted on October 23, 1989, and an Interim-Final Rule, published in the **Federal Register** on February 26, 1990 (55 FR 6736). This CFR citation is cited in the amendatory language as "45 CFR part 93—New restrictions on lobbying".

10. Redesignate § 58.234, entitled "What other audit and inspection requirements apply to grantees?" as § 58.233, remove the legislative authority citations in parenthesis at the end of the section, and revise the section text to reflect Department policy concerning audit and inspection.

11. Redesignate § 58.235, entitled "Additional conditions." as § 58.234.

Subpart E—Grants for Allied Health Projects

The authority for section 796(a) of the PHS Act, 42 U.S.C. 295h–5, as it was in effect for Grants for Allied Health Projects was not extended by Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981 (special projects relating to the training of allied health personnel was modified under former section 788(b), subpart NN). Pub. L. 100–607, the Health Professions Reauthorization Act of 1988 reinstated a section 797 for Allied Health Projects, but under different provisions. Because the current regulatory provisions and authority under former section 796(a) is not modifiable to the current section 797 provisions, the Department is removing from title 42, part 58 of the Code of Federal Regulations this program under subpart E, consisting of §§ 58.401 through 58.414, and placing it in reserve status.

Subpart F—Grants for Traineeships for the Advanced Training of Allied Health Personnel

The authority for section 797 of the PHS Act, 42 U.S.C. 295h–6, as it was in effect for Grants for Traineeships for the Advanced Training of Allied Health Personnel was not extended by Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. The provisions were modified under former section 788(b), subpart NN. Pub. L. 100–607, the Health Professions Reauthorization Act of 1988 reinstated a section 797 for Allied Health Traineeships, but under different provisions. Because the current regulatory provisions and authority under former section 797 is not modifiable to the current section 797 provisions, the Department is removing from title 42, part 58 of the Code of Federal Regulations this program under subpart F, consisting of §§ 58.501 through 58.515, and placing it in reserve status.

Further, PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Justification for Omitting Notice of Proposed Rulemaking

Since these amendments are of a technical nature, the Secretary has determined, pursuant to 5 U.S.C. 553 and departmental policy, that it is unnecessary and impractical to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Economic Impact

Executive Order 12866 requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding unnecessary burden. Regulations which are "significant" because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department believes that the resources required to implement the requirement in these regulations are minimal. Therefore, in accordance with the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant impact on a substantial number of small entities. For the same reasons, the Secretary has also determined that this is not a "significant" rule under Executive Order 12866.

Paperwork Reduction Act of 1980

The following list of subparts in this final rule contains information collection language which have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and have been assigned control numbers for each affected section as listed below under each subpart.

Section No.	OMB control No.
Part 57	
Subpart C—Health Professions Student Loan Program:	
§ 57.205	0915–0047
§ 57.206	0915–0047
§ 57.208	0915–0047
§ 57.210	0915–0047
§ 57.211	0915–0047
§ 57.215	0915–0047
§ 57.216a	0915–0047

Section No.	OMB control No.
Subpart D—Nursing Student Loan Program:	
§ 57.305	0915–0047
§ 57.306	0915–0047
§ 57.308	0915–0047
§ 57.310	0915–0047
§ 57.311	0915–0047
§ 57.312	0915–0047
§ 57.315	0915–0047
§ 57.316a	0915–0047
Subpart F—Grants for Nurse Anesthetist Traineeships:	
§ 57.509	0915–0060
§ 57.510	0915–0060
§ 57.512	0915–0060
Subpart H—Grants for Physician Assistant Training Programs:	
§ 57.704	0915–0060
§ 57.705	0915–0060
Subpart L—Grants for Residency Training and Advanced Education in the General Practice of Dentistry:	
§ 57.1104	0915–0060
Subpart Y—Grants for Nurse Practitioner and Nurse Midwifery Programs:	
§ 57.2404	0915–0060
§ 57.2405	0915–0060
Subpart Z—Grants for Advanced Nurse Education Programs:	
§ 57.2504	0915–0060
Subpart CC—Scholarships for Students of Exceptional Financial Need (EFN):	
§ 57.2803	0915–0028
§ 57.2804	0915–0028
§ 57.2809	0915–0028
Subpart DD—Financial Assistance for Disadvantaged Health Professions Students (FADHPS):	
§ 57.2904	0915–0028
§ 57.2909	0915–0028
Subpart EE—Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics:	
§ 57.3003	0915–0060
§ 57.3004	0915–0060
§ 57.3007	0915–0060
Subpart FF—Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics:	
§ 57.3104	0915–0060
Subpart PP—Grants for Faculty Training Projects in Geriatric Medicine and Dentistry:	
§ 57.4103	0915–0060
§ 57.4110	0915–0060
Part 58	
Subpart C—Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs:	
§ 58.208	0915–0060
Subpart D—Grants for Health Administration Traineeships and Special Projects Program:	
§ 58.224	0915–0060

List of Subjects in 42 CFR Parts 57 and 58

Aged, Dental health, Education of the disadvantaged, Educational facilities, Educational study programs, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs, Medical and dental schools, Student aid, Reporting and recordkeeping requirements, Scholarships and fellowships, Public health.

Dated: November 2, 1995.

Ciro V. Sumaya,

Administrator, Health Resources and Services Administration.

Approved: February 6, 1996.

Donna E. Shalala,

Secretary.

Accordingly, section 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216), 42 CFR parts 57 and 58 are amended as set forth below:

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subpart C—Health Professions Student Loans

1. The authority for subpart C is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 740–747 of the Public Health Service Act, 77 Stat. 170–173, as amended, 90 Stat. 2266–2268, 91 Stat. 390–391, 95 Stat. 920, 99 Stat. 532–536, and 102 Stat. 3125 (42 U.S.C. 294m-q); renumbered as secs. 721–735, as amended by Pub. L. 102–408, 106 Stat. 2011–2022 (42 U.S.C. 292q—292y).

2. Section 57.202 is amended by revising section number "741(b)" in the definition of *Full-time student* to read "722(b)"; and by revising the definitions of *Health professions school* or *school* and *State* to read as follows:

§ 57.202 Definitions.

* * * * *

Health professions school or *school*, for purposes of this subpart, means a public or private nonprofit school of medicine, school of dentistry, school of osteopathic medicine, school of pharmacy, school of podiatric medicine, school of optometry, or school of veterinary medicine as defined in section 799(1)(A) of the Act.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

§ 57.203 [Amended]

3. Section 57.203 is amended by revising section number "740" in paragraph (c) to read "721".

4. Section 57.205 is amended by revising section number "743" in paragraph (a)(1)(ii) to read "728"; and by adding the OMB information collections control number at the end of the section to read as follows:

§ 57.205 Health professions student loan funds.

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0047)

5. Section 57.206 is amended by removing paragraph (a)(2) and redesignating paragraph (a)(3) as paragraph (a)(2); and by revising paragraph (a)(1)(i) to read as follows:

§ 57.206 Eligibility and selection of health professions student loan applicants.

(a) * * *

(1) * * *

(i) Residents of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

* * * * *

6. Section 57.210 is amended by revising section number "741(c)" in paragraph (b)(2)(ii) to read "722(c)"; by revising the first sentence in paragraph (b)(2)(i); and by revising the parenthetical phrase at the end of the section to read as follows:

§ 57.210 Repayment and collection of health professions student loans.

* * * * *

(b) * * *

(2) *Late change.* (i) For any health professions student loan made after June 30, 1969, but prior to October 22, 1985, the school may fix a charge for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment under section 722(c) of the Act for any failure to file timely and satisfactory evidence of the entitlement.

* * *

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0047)

§ 57.211 [Amended]

7. Section 57.211 is amended by revising section number "741(d)" in paragraph (a) and (b) to read "722(d)".

§ 57.212 [Removed and Reserved]

8. Section 57.212 is removed and reserved.

§ 57.213 [Amended]

9. Section 57.213a is amended by revising section number "743" in paragraph (a)(2) to read "728".

§ 57.214 [Amended]

10. Section 57.214 is amended by revising section number 741(1)" in the introductory text to read "722(k)".

§ 57.215 [Amended]

11. Section 57.215 is amended by revising section number "705" in paragraph (a)(3) to read "798(e)".

§ 57.216 [Amended]

12. Section 57.216 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

Subpart D—Nursing Student Loans

1. The authority citation for subpart D is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); secs. 835–842 of the Public Health Service Act, 77 Stat. 913–916, as amended by 99 Stat. 397–400, 536–537, and 102 Stat. 3160–3161 (42 U.S.C. 297 a–i).

2. Section 57.302 is amended by revising the definition of *State* to read as follows:

§ 57.302 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

3. Section 57.305 is amended by adding the OMB information collections control number at the end of the section to read:

§ 57.305 Nursing student loan funds.

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0047)

4. Section 57.306 is amended by revising paragraph (a)(1)(i) to read as follows:

§ 57.306 Eligibility and selection of nursing student loan applicants.

(a) * * *

(1) * * *

(i) Residents of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

* * * * *

§ 57.310 [Amended]

5. Section 57.310 is amended by revising the Office of Management and Budget control number "0915–0094" in the parenthetical phrase at the end of the section to read "0915–0047".

§ 57.312 [Amended]

6. Section 57.312 is amended by revising section number "836(h)(1)(A)" in paragraph (a)(1) to read "846(a)(1)".

§ 57.313 [Amended]

7. Section 57.313 is amended by revising section number "836(i)" in paragraph (b) to read "836(h)".

§ 57.314 [Amended]

8. Section 57.314 is amended by revising section number "836(j)" in the introductory text to read "836(i)".

§ 57.316 [Amended]

9. Section 57.316 is amended by removing footnote three to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

Subpart F—Grants for Nurse Anesthetist Traineeships

1. The authority for subpart F is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 67 Stat. 631 (42 U.S.C. 216); sec. 831(a) of the Public Health Service Act, 93 Stat. 580, as amended by 96 Stat. 2061, and 99 Stat. 396–397 (42 U.S.C. 297–1).

2. Section 57.502 is amended by revising the definition of State to read as follows:

§ 57.502 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

3. Section 57.509 is amended by revising paragraph (a) to read as follows:

§ 57.509 Who is eligible for financial assistance as a trainee?

* * * * *

(a) Be a resident of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

* * * * *

§ 57.513 [Amended]

4. Section 57.513 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

Subpart H—Grants for Physician Assistant Training Programs

1. The authority for subpart H is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 783(a)(1) of the Public Health Service Act, 90 Stat. 2314, and 99 Stat. 524 (42 U.S.C. 295g–3(a)(1)); redesignated as sec. 788(d) and amended by 102 Stat. 3135 (42 U.S.C. 295g–8(d)); renumbered as sec. 750, as amended by Pub. L. 102–408, 106 Stat. 2044 (42 U.S.C. 293n).

§ 57.701 [Amended]

2. Section 57.701 is amended by revising the citation "788(d) of the Public Health Service Act (42 U.S.C. 295g–8(d))" to read "750 of the Public Health Service Act (42 U.S.C. 293n)".

3. Section 57.702 is amended by removing the term *Council*; by revising section number "701(5)" in the definition of *School of medicine or school of osteopathic medicine* to read "799(1)(E)"; and by revising the definition of *State* to read as follows:

§ 57.702 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

§ 57.704 [Amended]

4. Section 57.704 is amended by revising the citation "788(d) of the Act" in paragraph (c)(1) to read "750 of the Act".

5. Section 57.706 is amended by revising paragraph (a) introductory text and paragraph (a)(2) to read as follows:

§ 57.706 Evaluation of applications.

(a) As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will approve or disapprove all applications filed in accordance with § 57.704, taking into consideration:

* * * * *

(2) The potential effectiveness of the project in carrying out the purposes of section 750 of the Act and this subpart;

* * * * *

§ 57.707 [Amended]

6. Section 57.707 is amended by revising the citation "788(d) of the Act" in paragraph (a)(1) to read "750 of the Act".

§ 57.709 [Amended]

7. Section 57.709 is amended by revising the citation "788(d) of the Act" in paragraph (a) to read "750 of the Act".

§ 57.710 [Amended]

8. Section 57.710 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

9. Section 57.711 is revised to read as follows:

§ 57.711 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart I—Programs for the Training of Physician Assistants

1. The authority for subpart I is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 701(8)(B), 90 Stat. 2247, as amended by 95 Stat. 913 and 99 Stat. 525–526 (42 U.S.C. 292a(8)(B)); renumbered as sec. 750, as amended by Pub. L. 102–408, 106 Stat. 2044 (42 U.S.C. 293n).

§ 57.801 [Amended]

2. Section 57.801 is amended by revising the citation "701(8)(B) of the Public Health Service Act (42 U.S.C. 292a(8)(B))" in paragraph (a) to read "750 of the Public Health Service Act (42 U.S.C. 293n)".

Subpart L—Grants for Residency Training and Advanced Education in the General Practice of Dentistry

1. The authority for subpart L is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 786(b) of the Public Health Service Act, 90 Stat. 2317, as amended by 99 Stat. 540–541 (42 U.S.C. 295g–6(b)); redesignated as sec. 785 and amended by 102 Stat. 3130–3131 (42 U.S.C. 295g–5); renumbered as sec. 749, as amended by Pub. L. 102–408, 106 Stat. 2043–2044 (42 U.S.C. 293m).

§ 57.1101 [Amended]

2. Section 57.1101 is amended by revising the citation "785 of the Public Health Service Act (42 U.S.C. 295g–5)" in the introductory text to read "749 of the Public Health Service Act (42 U.S.C. 293m)".

3. Section 57.1102 is amended by removing the phrase "as defined in 42 CFR part 57, subpart HH" at the end of the sentence in paragraph (4) of the definition of *Practice of general dentistry;* by revising section number "701(5)" in the definition of *School of dentistry* to read "799(1)(E)"; and by revising the definition of *State* to read as follows:

§ 57.1102 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

4. Section 57.1106 is amended by revising the introductory text to read as follows:

§ 57.1106 What are the criteria for deciding which applications are to be funded?

As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will approve or disapprove applications filed in accordance with § 57.1104, taking into consideration, among other pertinent factors:

* * * * *

§ 57.1107 [Amended]

5. Section 57.1107 is amended by revising the section number "785" in paragraph (a)(1) to read "749".

§ 57.1110 [Amended]

6. Section 57.1110 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

7. Section 57.1111 is revised to read as follows:

§ 57.1111 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine

1. The authority for subpart Q is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 786(a) of the Public Health Service Act, 90 Stat. 2316, and as amended by 102 Stat. 3146 (42 U.S.C. 295g–6(a)); renumbered as sec. 747, as amended by Pub. L. 102–408, 106 Stat. 2042–2043 (42 U.S.C. 293k).

§ 57.1601 [Amended]

2. Section 57.1601 is amended by revising the citation "786(a) of the Public Health Service Act (42 U.S.C. 295g–6(a))" in the introductory text to read "747 of the Public Health Service Act (42 U.S.C. 293k)".

3. Section 57.1602 is amended by revising section number "701(5)" in the definition of *School of medicine or osteopathic medicine* to read "799(1)(E)"; and by revising the definition of *State* to read as follows:

§ 57.1602 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

4. Section 57.1605 is amended by revising paragraph (a) introductory text to read as follows:

§ 57.1605 How will applications be evaluated?

(a) As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will approve projects which best promote the purposes of section 747 of the Act and these regulations. The Secretary will consider, among other factors:

* * * * *

§ 57.1608 [Amended]

5. Section 57.1608 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

6. Section 57.1609 is revised to read as follows:

§ 57.1609 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart R—Grants for the Establishment of Departments of Family Medicine

1. The authority for subpart R continues to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 780, Public Health Service Act, 90 Stat. 2311, as amended by 95 Stat. 221 and 102 Stat. 3146 (42 U.S.C. 295g); renumbered as sec. 747, as amended by Pub. L. 102–408, 106 Stat. 2042–2043 (42 U.S.C. 293k).

2. Section 57.1702 is amended by revising the definition of *State* to read as follows:

§ 57.1702 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

§ 57.1708 [Amended]

3. Section 57.1708 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

1. The authority for subpart S is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 787 of the Public Health Service Act, 90 Stat. 2317, as amended by 95 Stat. 923, 99 Stat. 541, and 102 Stat. 3131–3132 (42 U.S.C. 295g–7); renumbered as sec. 740, as amended by Pub. L. 102–408, 106 Stat. 2032–2033 (42 U.S.C. 293d).

§ 57.1801 [Amended]

2. Section 57.1801 is amended by revising the citation "787 of the Public Health Service Act" to read "740 of the Public Health Service Act"; and by adding the United States Code "(42 U.S.C. 293d)" after the word "Act."

3. Section 57.1802 is amended by revising the section numbers "701(4)" and "701(5)" respectively, in the definition of *Health professions schools* to read "799(1) (A), (B), (C), and (D)" and "799(1)(E)" respectively; by revising the section number "701(10)" in the definition of *School of allied health* to read "799(4)"; and by revising the definition of *State* to read as follows:

§ 57.1802 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau,

the Republic of the Marshall Islands and the Federated States of Micronesia.

4. Section 57.1804 is amended by revising paragraphs (a) and (b) to read as follows:

§ 57.1804 Who is eligible for educational assistance?

* * * * *

(a) Be a resident of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

(b) Have completed at least the junior year of high school (or its equivalent), except in the case of Model Demonstration programs; and

* * * * *

5. Section 57.1806 is amended by revising paragraph (a) introductory text and the first and last sentence in paragraph (b) to read as follows:

§ 57.1806 How will applications be evaluated?

(a) As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will decide which applications to approve by considering, among other factors:

* * * * *

(b) Within the limits of funds available, the Secretary will award grants to approved applicants with projects that will best promote the purposes of section 740 of the Act. * * * Section 740(a)(2)(G) authorizes the payment of such stipends as the Secretary may approve for participants in a project for any period of education at any school eligible for a grant under this subpart.

* * * * *

§ 57.1809 [Amended]

6. Section 57.1809 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

6. Section 57.1810 is revised to read as follows:

§ 57.1810 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart T (§§ 57.1901–57.1910)—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart T (consisting of §§ 57.1901 through 57.1910).

Subpart V—Grants for Centers of Excellence

1. The authority for subpart V is revised to read as follows:

Authority: Sec. 788A of the Public Health Service Act, Pub. L. 100–97, 101 Stat. 713–714 (42 U.S.C. 295g–8a), and redesignated as section 782, as amended by Pub. L. 100–607, 102 Stat. 3136 (42 U.S.C. 295g–2); renumbered as sec. 739, as amended by Pub. L. 102–408, 106 Stat. 2027–2031 (42 U.S.C. 293c).

§ 57.2101 [Amended]

2. Section 57.2101 is amended by revising the citation "782 of the Public Health Service Act (42 U.S.C. 295g–2)" to read "739 of the Public Health Service Act (42 U.S.C. 293c)".

3. Section 57.2102 is amended by revising the section numbers "701(4)" and "701(5)" respectively, in the definition of *Health professions school* to read "799(1) (A), (B), (C), and (D)" and "799(1)(E)" respectively; and by revising the definition of *State* to read as follows:

§ 57.1202 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

§ 57.2103 [Amended]

4. Section 57.2103 is amended by revising the section number "701(4)" in the first sentence to read "799(1) (A), (B), (C), and (D) of the Act".

5. Section 57.2105 is amended by revising paragraph (a) introductory text to read as follows:

§ 57.2105 How will applications be evaluated?

(a) As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will decide which applications to approve by considering, among other factors:

* * * * *

§ 57.2108 [Amended]

6. Section 57.2108 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

7. Section 57.2109 is revised to read as follows:

§ 57.2109 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart Y—Grants for Nurse Practitioner and Nurse Midwifery Programs

1. The authority for subpart Y continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 822(a) of the Public Health Service Act, 89 Stat. 361, as amended by 99 Stat. 394–395 and 548 (42 U.S.C. 296m).

2. Section 57.2402 is amended by revising paragraphs (c) and (k) to read as follows:

§ 57.2402 Definitions.

* * * * *

(c) *Council* means the National Advisory Council on Nursing Education and Practice (established by section 851 of the Act).

* * * * *

(k) *State* means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

§ 57.2409 [Amended]

3. Section 57.2409 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

Subpart Z—Grants for Advanced Nurse Education Programs

1. The authority for subpart Z is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 821 of the Public Health Service Act, 89 Stat. 361; as amended by 95 Stat. 930, 99 Stat. 394 and 548, and Pub. L. 102–408, 106 Stat. 2072 (42 U.S.C. 296l).

2. Section 57.2501 is revised to read as follows:

§ 57.2501 Applicability.

The regulations of this subpart apply to the award of grants to public and private nonprofit collegiate schools of nursing under section 821 of the Public Health Service Act (42 U.S.C. 296l) to meet the costs of projects to:

(a) Plan, develop, and operate new programs; or

(b) Significantly expand existing programs leading to advanced degrees that prepare nurses to serve as nurse educators or public health nurses, or in other clinical nurse specialties determined by the Secretary to require advanced education.

3. Section 57.2502 is amended by revising the definitions of *Council* and *State* to read as follows:

§ 57.2502 Definitions.

* * * * *

Council means the National Advisory Council on Nurse Education and Practice established by section 851(a) of the Act.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

4. Section 57.2503 is amended by removing paragraph (b)(3) and by revising the introductory text of (b)(2) to read as follows:

§ 57.2503 Eligibility.

* * * * *

(b) * * *

(2) A project to significantly expand an advanced nurse education program through one or more of the following activities:

* * * * *

5. Section 57.2504 is amended by revising paragraphs (c)(1) and (d) to read as follows:

§ 57.2504 Application.

* * * * *

(c) * * *

(1) A proposal for a project to:

(i) Plan, develop, and operate; or

(ii) Significantly expand an advanced nurse education program;

* * * * *

(d) In the case of a project to significantly expand an advanced nurse education program, the application shall contain an assurance satisfactory to the Secretary that the applicant will expend, in carrying out the program for which a grant under this subpart is sought, an amount of non-Federal funds (excluding costs of construction) at least as great as the average amount of non-Federal funds (excluding expenditures of a nonrecurring nature, including costs of construction) expended for this purpose during the 3 fiscal years immediately preceding the fiscal year for which the grant is sought.

* * * * *

6. Section 57.2506 is amended by revising paragraph (b) to read as follows:

§ 57.2506 Evaluation and grant awards.

* * * * *

(b) *Funding preference.* In determining the funding of applications approved under paragraph (a) of this section, the Secretary may from time to time announce in the **Federal Register** special factors relating to national needs.

* * * * *

§ 57.2509 [Amended]

7. Section 57.2509 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

Subpart AA (§§ 57.2601–57.2617)—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart AA (consisting of §§ 57.2601 through 57.2617).

Subpart CC—Scholarships for Students of Exceptional Financial Need

1. The authority for subpart CC is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 758 of the Public Health Service Act, 90 Stat. 2289, as amended by 102 Stat. 3126–3127 (42 U.S.C. 294z); renumbered as sec. 736, as amended by Pub. L. 102–408, 106 Stat. 2022 (42 U.S.C. 293).

§ 57.2801 [Amended]

2. Section 57.2801 is amended by revising the citation "758 of the Public Health Service Act (42 U.S.C. 294z)" to read "736 of the Public Health Service Act (42 U.S.C. 293)".

3. Section 57.2802 is amended by revising the citation "701(4) of the Act" in the definition of Full-time student to read "799(1)(A) of the Act"; by revising the citation "701(4) of the Act" and "701(5) of the Act" respectively, in the definition of *Health professions school or school* to read "799(1)(A) of the Act" and "799(1)(E) of the Act" respectively; and by revising the definition of *State* to read as follows:

§ 57.2802 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

4. Section 57.2804 is amended by revising paragraph (a)(1) to read as follows:

§ 57.2804 Students eligible for scholarships.

(a) * * *

(1) Is a resident of the United States, and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia.

* * * * *

§ 57.2805 [Amended]

5. Section 57.2805 is amended by revising the citation "751(g)(3) of the Act" in paragraph (c) to read "338A(g)(3) of the Act".

§ 57.2808 [Amended]

6. Section 57.2808 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

7. Section 57.2809 is amended by revising paragraph (a) to read as follows:

§ 57.2809 What other records, audit, and inspection requirements apply to grantees?

(a) Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

* * * * *

Subpart DD—Financial Assistance for Disadvantaged Health Professions Students

1. The authority for subpart DD is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 787 of the Public Health Service Act, 90 Stat. 2309, as amended by 95 Stat. 923, 99 Stat. 541 (42 U.S.C. 295g–7); renumbered as sec. 740, as amended by Pub. L. 102–408, 106 Stat. 2032–2033 (42 U.S.C. 293d).

§ 57.2901 [Amended]

2. Section 57.2901 is amended by revising the section number "787(a)(2)(F) and (b)" to read "740(a)(2)(F) and (d)".

3. Section 57.2902 is amended by revising the citation "701(4) of the Act" in the definitions of *Full-time student and School* to read "799(1)(A) of the Act"; and by revising the definition of *State* to read as follows:

§ 57.2902 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

5. Section 57.2904 is amended by revising the OMB control number "0915–0110" in the parenthetical phrase at the end of the section to read "0915–0028"; and by revising paragraph (a)(1) to read as follows:

§ 57.2904 Eligibility and selection of aid recipients.

(a) * * *

(1) Is a resident of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia.

* * * * *

§ 57.2908 [Amended]

6. Section 57.2908 is amended by revising the section number "704" in the heading of citation 45 CFR part 83 to read "794".

7. Section 57.2909 is amended by revising the OMB control number "0915–0110" in the parenthetical phrase at the end of the section to read "0915–0028"; and by revising paragraph (a) to read as follows:

§ 57.2909 What other records, audit, and inspection requirements apply to schools?"

(a) Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

* * * * *

Subpart EE—Grants for Residency Training in Preventive Medicine

1. The authority for subpart EE is revised to read as follows:

Authority: Sec. 793 of the Public Health Service Act, 95 Stat. 928 (42 U.S.C. 295h–1c); redesignated as section 788(c) of the Public Health Service Act, 102 Stat. 3134–3135 (42 U.S.C. 295g–8(e)); renumbered as sec. 763, as amended by Pub. L. 102–408, 106 Stat. 2047 (42 U.S.C. 294b).

§ 57.3001 [Amended]

2. Section 57.3001 is amended by revising the citation "788(c) of the Public Health Service Act (42 U.S.C. 295g–8(e))" to read "763 of the Public Health Service Act (42 U.S.C. 294b)".

3. Section 57.3002 is amended by revising the definition of *State* to read as follows:

§ 57.3002 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

4. Section 57.3005 is amended by revising paragraph (a) introductory text and paragraph (a)(1) to read as follows:

§ 57.3005 How will applications be evaluated?

(a) As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will decide which applications to approve by considering, among other factors:

(1) The potential effectiveness of the proposed project in carrying out the training purposes of section 763 of the PHS Act;

* * * * *

§ 57.3009 [Amended]

5. Section 57.3009 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

6. Section 57.3010 is revised to read as follows:

§ 57.3010 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart FF—Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics

1. The authority for subpart FF is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 63 Stat. 35 (42 U.S.C. 216); sec. 784 of the Public Health Service Act, 90 Stat. 2315, as amended by 95 Stat. 922–923 and 99 Stat. 540 (42 U.S.C. 295g–4); renumbered as sec. 748, as amended by Pub. L. 102–408, 106 Stat. 2043 (42 U.S.C. 293l).

§ 57.3101 [Amended]

2. Section 57.3101 is amended by revising the citation "784 of the Public Health Service Act (42 U.S.C. 295g–4)" in the introductory text to read "748 of the Public Health Service Act (42 U.S.C. 293l)".

3. Section 57.3102 is amended by revising section number "701(5)" in the definition of *School of medicine and osteopathic medicine* to read "799(1)(E)"; by revising section number "784" in the definition of *Trainee* to read "748"; and by revising the definition of *State* to read as follows:

§ 57.3102 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

4. Section 57.3106 is amended by revising paragraph (a) introductory text to read as follows:

§ 57.3106 How will applications be evaluated?

(a) As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. The Secretary will award grants to applicants whose projects best promote the purposes of section 748 of the Act. The Secretary will take into consideration, among other factors:

* * * * *

§ 57.3110 [Amended]

5. Section 57.3110 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

6. Section 57.3111 is revised to read as follows:

§ 57.3111 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart HH (§§ 57.3301–57.3303)—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart HH (consisting of §§ 57.3301 through 57.3303).

Subpart NN (§§ 57.3901–57.3910)—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart NN (consisting of §§ 57.3901 through 57.3910).

Subpart OO—Grants for Geriatric Education Centers

1. The authority for subpart OO continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 788(d) of the Public Health Service Act, 99 Stat. 542 (42 U.S.C. 295g–8); redesignated as sec. 789(a), as amended by Pub. L. 100–607, 102 Stat. 3136–37 (42 U.S.C. 295g–9(a)); renumbered as sec. 777(a), as amended by Pub. L. 102–408, 106 Stat. 2052–54 (42 U.S.C. 294o).

2. Section 57.4002 is amended by revising the definition of *State* to read as follows:

§ 57.4002 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

§ 57.4008 [Amended]

3. Section 57.4008 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

4. Section 57.4009 is revised to read as follows:

§ 57.4009 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart PP—Grants for Faculty Training Projects in Geriatric Medicine and Dentistry

1. The authority for subpart PP continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 789(b) of the PHS Act, as amended by Pub. L. 100–607, 102 Stat. 3136–3138 (42 U.S.C. 295g–9(b)); renumbered as sec. 777(b), as amended by Pub. L. 102–408, 106 Stat. 2052–54 (42 U.S.C. 294o).

2. Section 57.4102 is amended by revising the definition of *State* to read as follows:

§ 57.4102 Definitions.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

3. Section 57.4109 is amended by revising paragraph (a) to read as follows:

§ 57.4109 Who is eligible for financial assistance as a fellow?

* * * * *

(a) Be a resident of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

* * * * *

§ 57.4113 [Amended]

4. Section 57.4113 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855".

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

Subpart A (§§ 58.1–58.11)—[Removed and Reserved]

1. Part 58 is amended by removing and reserving subpart A (consisting of §§ 58.1 through 58.11).

Subpart B (§§ 58.20–58.29)—[Removed and Reserved]

1. Part 58 is amended by removing and reserving subpart B (consisting of §§ 58.20 through 58.29).

Subpart C—Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs

1. The authority for subpart C is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 748 of the Public Health Service Act, 90 Stat. 2279, as amended by 91 Stat. 1505; as amended and redesignated as sec. 792 of the Public Health Service Act by 95 Stat. 927 (42 U.S.C. 295h–1b); renumbered as sec. 761, as amended by Pub. L. 102–408, 106 Stat. 2045 (42 U.S.C. 294).

§ 58.201 [Amended]

2. Section 58.201 is amended by revising the citation "792 of the Public Health Service Act (42 U.S.C. 295h–1b)" to read "761 of the Public Health Service Act (42 U.S.C. 294)".

3. Section 58.202 is amended by revising the section number "701(5)" in the definition of *School of Public Health* to read "799(1)(E)"; and by revising the definitions of *Educational entity, Nonprofit,* and *State* to read as follows:

§ 58.202 Definitions.

* * * * *

Educational entity means a school, college, or university which is accredited by a body or bodies recognized for this purpose by the Secretary of Education or an institution which provides specialized training in public health.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully insure, to the benefit of any private shareholder or individual.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the

Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

§ 58.203 [Amended]

4. Section 58.203 is amended by revising the section number "791A" in the footnote of paragraph (b) to read "771".

§ 58.204 [Amended]

5. Section 58.204 is amended by revising the section number "792" in the concluding text of paragraph (b) to read "761".

6. Section 58.205 is amended by revising paragraph (a) to read as follows:

§ 58.205 How is the amount of the award determined?

(a) *Grants to schools of public health.* The Secretary will use a formula to determine the amount of the grant to be awarded to each school of public health with an approved application.

This formula is

$$G = \frac{SS}{TS} \times AF$$

G is the amount of the grant award; SS is the number of eligible full-time and full-time equivalent students of each applicant enrolled in severe shortage occupations targeted for support (epidemiology, environmental health, biostatistics, toxicology, public health nutrition, and maternal and child health); TS is the total number of students enrolled in graduate and specialized training in all schools of public health with approved applications; and AF is the amount of traineeship funds under this program that the Secretary has designated for award to schools of public health for that fiscal year. The Secretary will determine the number of students enrolled in graduate and specialized training in public health at the school (SS) with the formula

$$SS = FTS + \frac{PTC}{9}$$

FTS is the number of full-time students, and PTC is the total number of credit hours in which part-time students are enrolled. If necessary, the figure for

$$\frac{PTC}{9}$$

will be rounded to the next highest number. Students will be counted as of October 15 of the fiscal year in which application is made. The amount of a grant will never exceed the amount requested by the applicant.

* * * * *

7. Section 58.208 is amended by removing paragraphs (a) through (e); by redesignating paragraphs (f) through (i) as paragraphs (a) through (d); by revising the heading of the section; and by adding the OMB information collections control number at the end of the section to read as follows:

§ 58.208 What are the requirements for appointment of trainees?

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0060)

8. Section 58.209 is revised as follows:

§ 58.209 Who is eligible for financial assistance as a trainee?

(a) To be eligible for a traineeship, an individual must meet the following conditions:

(1) Trainees must be United States citizens, non-citizen nationals, or foreign nationals having in their possession a visa permitting permanent residence in the United States.

(2) New trainees must be pursuing a graduate degree in a health professions field in which there is a severe shortage of health professionals (including the fields of epidemiology, environmental health, biostatistics, toxicology, public health nutrition, and maternal and child health). Ongoing traineeship commitment will be continued.

(3) All trainees must meet the school's admission requirements specified in the approved grant application.

(b) Traineeship support may not be provided to:

(1) Individuals who do not meet the qualifications for admission as specified in the approved application;

(2) Full-time Federal employees unless they are on Leave Without Pay status;

(3) Students pursuing training at the undergraduate level;

(4) Students in programs designed to prepare them for careers in research;

(5) Preventive medicine and dental public health residents (section 763 of the Act may be used for these students); or

(6) Individuals on temporary or student visas.

9. Section 58.213 is amended by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855"; and by adding the following CFR reference at the end of the section to read as follows:

§ 58.213 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 93—New restrictions on lobbying

10. Section 58.214 is revised as follows:

§ 58.214 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

Subpart D—Grants for Health Administration Traineeships and Special Projects Program

1. The authority for subpart D is revised to read as follows:

2. The heading for subpart D is revised as set forth above.

Authority: Sec. 215 of the Public Health Service Act. 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 749 of the Public Health Service Act, 90 Stat. 2280, Pub. L. 94–484 (42 U.S.C. 294s); redesignated as sec. 791A, amended by 95 Stat. 927, Pub. L. 97–35 and 96 Stat. 2061, Pub. L. 97–414 (42 U.S.C. 295h–1a); renumbered as sec. 771, amended by 106 Stat. 2049, Pub. L. 102–408 (42 U.S.C. 294i).

§ 58.221 [Amended]

3. Section 58.221 is amended by revising the citation "791A of the Public Health Service Act" to read "771 of the Public Health Service Act (42 U.S.C. 294i)".

4. Section 58.222 is amended by revising the citation "701(5) of the Act" in the definition of *School of public health* to read "799(1)(E) of the Act"; and by revising the definitions of *Nonprofit* and *State* to read as follows:

§ 58.222 Definitions.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

* * * * *

§ 58.223 [Amended]

4. Section 58.223 is amended by revising the citation 701(5) of the Act" to read "799(1)(E) of the Act."

5. Section 58.224 is revised as follows:

§ 58.224 How will applications be evaluated?

(a) As required by section 798(a) of the Act, each application for a grant under this subpart shall be submitted to a peer review group, composed principally of non-Federal experts, for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

(b) The following criteria will be used for review of applications:

(1) The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner;

(2) The adequacy of the staff and faculty;

(3) The adequacy of institutional resources available to conduct graduate level education, to include the adequacy of teaching facilities;

(4) The adequacy of recruitment and placement assistance for students in accord with the legislative purpose and intent; and

(5) The extent to which the application justifies the purpose, scope, and need for traineeship and or special project grant.

(Approved by the Office of Management and Budget under control number 0915–0060)

§ 58.225 [Amended]

6. Section 58.225 is amended by revising the section number "791A in the formula to read "771".

§ 58.228 [Removed]

7. Section 58.228 is removed.

§ 58.229 [Redesignated as § 58.228]

8. Section 58.229 is redesignated as § 58.228 and is amended by revising paragraph (a) to read as follows:

§ 58.228 Who is eligible for financial assistance as a trainee?

* * * * *

(a) The individual must be a resident of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands or a citizen of the Federated States of Micronesia.

* * * * *

§ 58.230 [Redesignated as § 58.229]

9. Section 58.230 is redesignated as § 58.229.

§ 58.231 [Redesignated as § 58.230]

10. Section 58.231 is redesignated as § 58.230.

§ 58.232 [Redesignated as § 58.231]

11. Section 58.232 is redesignated as § 58.231.

§ 58.233 [Redesignated as § 58.232]

12. Section 58.233 is redesignated as § 58.232 and is amended by removing the parenthetical phrase at the end of the section; by removing the footnote to the CFR citation "45 CFR part 83" and by revising the section numbers "799A and 845" in the citation's heading to read "794 and 855"; and by adding the following CFR reference at the end of the section to read as follows:

§ 58.232 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 93—New restrictions on lobbying

§ 58.234 [Redesignated as § 58.233]

13. Section 58.234 is redesignated as § 58.233 and is revised to read as follows:

§ 58.233 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must meet the requirements of 45 CFR part 75 concerning audit and inspection.

§ 58.235 [Redesignated as § 58.234]

14. Section 58.235 is redesignated as § 58.234.

Subpart E (§§ 58.401–58.414)—[Removed and Reserved]

1. Part 58 is amended by removing and reserving subpart E (consisting of §§ 58.401 through 58.414).

Subpart F (§§ 58.501–58.515)—[Removed and Reserved]

1. Part 58 is amended by removing and reserving subpart F (consisting of §§ 58.501 through 58.515).

[FR Doc. 96–3054 Filed 2–15–96; 8:45 am]

BILLING CODE 4160–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–260; FCC 95–503]

Cable Home Wiring

AGENCY: Federal Communications Commission.

ACTION: Final rule; First Order on Reconsideration.

SUMMARY: The First Order on Reconsideration denies petitions for reconsideration of the Commission's cable home wiring rules, except to specify the procedure a cable operator must follow when a subscriber terminates cable service. This order will facilitate competition in the video marketplace by clarifying rules governing the disposition of wiring.

EFFECTIVE DATE: Upon approval by the Office of Management and Budget. At a later date, the Commission will publish a document reflecting the actual effective date.

FOR FURTHER INFORMATION CONTACT: Lynn Crakes or Rick Chessen, Cable Services Bureau, (202) 416–0800. For additional information concerning the information collections contained in this Order contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This First Order on Reconsideration contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 ("PRA"), Pub. L. No. 104–13. It has been submitted to the Office of Management and Budget ("OMB") for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

Title: 47 CFR 76.802 Disposition of Cable Home Wiring
Type of Review: New Collection
Respondents: Business of other for profit; individuals or households
Number of Respondents: 11,400 cable operators
Estimated Time Per Response: .083 hours (5 minutes)
Total Annual Burden: 18,039 hours

Needs and Uses: This information disclosure requirement ensures that consumers are informed of their cable home wiring purchase rights upon termination of cable service, including information regarding the purchase of their home wiring in a single contact, and the use of wiring to connect to an alternative video programming service. This rule promotes competition by clarifying the disposition of wiring upon termination of cable service. Cable operators' responsibilities are clearly defined and their property rights protected.

This is a synopsis of the Commission's First Order on Reconsideration in MM Docket No. 92–260, FCC No. 95–508, adopted December 15, 1995 and released January 26, 1996.

I. Introduction

1. In this First Order on Reconsideration, we grant in part and

deny in part petitions for reconsideration of the Commission's initial cable home wiring regulations implementing Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act"). Generally, we: (1) deny the petitions for reconsideration of the Commission's cable home wiring rules, except (a) to specify the procedure a cable operator must follow when a subscriber voluntarily terminates cable service, if the operator wishes to remove the home wiring, and (b) to shorten from 30 days to seven business days the time period after termination of service within which the cable operator has the right to remove any home wiring it owns.

2. The Commission received three petitions for reconsideration of the Report and Order in MM Docket No. 92–260 ("Cable Wiring Order"), 58 FR 11970 (March 2, 1993)—all from potential or current competitors to cable operators—as well as replies to these petitions from cable operators. Petitioners' arguments include the following (a) that subscribers should be permitted to purchase or to control the cable home wiring upon installation rather than upon termination of service, (b) that cable operators should be prohibited from misrepresenting whether they intend to remove or abandon the home wiring following termination of service, (c) that the demarcation point for multiple dwelling units should be relocated, (d) that loop-through wiring configurations should be included within our rules under certain circumstances, and (e) that passive cable equipment should be included within the definition of cable home wiring.

II. Order on Reconsideration

A. Customer Access to Cable Home Wiring Prior to Termination of Service

1. Background

3. Section 16(d) of the 1992 Cable Act requires the Commission to "prescribe rules concerning the disposition, after a subscriber terminates service, of any cable installed by the cable operator within the premises of such subscriber." The Commission's regulations implementing Section 16(d) provide that, when a customer voluntarily terminates service, the cable operator must give that subscriber the opportunity to acquire the wiring before the operator removes it. The subscriber may purchase the wiring inside his or her premises up to the demarcation point, which we defined as a point at or about twelve inches outside the subscriber's premises. The operator may not charge the subscriber any more than the replacement cost of the wire, priced on a per-foot basis. If the subscriber declines to purchase the wiring, the operator must remove it within 30 days or make no subsequent attempt to remove it or to restrict its use.

4. In the 1993 Cable Wiring Order, we said that it was not "necessary or appropriate under the statute" to apply our cable home wiring rules prior to the time the customer terminates cable service. We noted that the plain language of Section 16(d) of the 1992 Cable Act refers only to the disposition of cable home wiring after termination of service, and that cable home wiring is different from telephone wiring in that, for example, cable operators have the responsibility to prevent signal leakage which can cause harmful interference to licensed radio spectrum users, a responsibility telephone companies do not have. We also cited the House Report on the 1992 Cable Act which stated that Section 16(d) itself "does not address matters concerning the cable facilities inside the subscriber's home prior to termination of service." At the same time, the Commission stated:

> [a]lthough we generally believe that broader cable home wiring rules could foster competition and could potentially be considered in the context of other proceedings, because of the time constraints under which we must promulgate rules as required by the Cable Act of 1992, we decline to address such rule proposals in this proceeding.

2. Petitions

5. Some petitioners urge the Commission to apply the cable home wiring rules prior to termination of service so that the subscriber may control cable home wiring immediately upon installation. NYNEX asserts, among other things, that consumers should be able to control the cable home wiring upon installation so that they can obtain additional services from other multichannel video programming service providers through simultaneous use of the wire's spare capacity. On the other hand, NCTA states that the Commission's current rules fully effectuate the statutory language and the underlying purposes of the 1992 Cable Act. NCTA and Time Warner claim that the Commission lacks the authority under the 1992 Cable Act to mandate that operators convey ownership to subscribers at the time of installation. Time Warner also asserts that the Commission's current rules violate the takings clause by providing that if a cable operator fails to remove its home wiring within 30 days following termination of service, the operator is prohibited from subsequently attempting to remove the wiring or restrict its use.

3. Discussion

6. The Commission's current cable home wiring rules implement the specific directive of Section 16(d) of the 1992 Cable Act, i.e., to establish rules governing the disposition of cable home wiring upon termination of cable service. Our current rules promote the goals of Section 16(d), which are to protect customers from unnecessary disruption and expense caused by the removal of home wiring and to allow subscribers to use the wiring for an alternative multichannel video programming delivery system. On reconsideration, we are not persuaded, based on the record in this proceeding at this time, to expand our cable home wiring rules under Section 16(d) of the 1992 Cable Act. At the same time, we recognize that new competitors, such as wireless cable, satellite master antenna television services ("SMATVs") and telephone companies, and new technologies, such as video dialtone, are likely to change the video programming delivery marketplace. The Commission must therefore consider broad telecommunications issues which extend beyond the 1992 Cable Act and the record in this proceeding in determining whether to expand the cable home wiring rules in ways that could have competitive implications for cable operators and other multichannel video programming providers, as well as other providers of telecommunications services. Given the potential for the convergence of telephone, data and video technologies, it may be appropriate to consider requiring cable operators to permit subscriber access to inside wiring prior to termination of service in order to promote consumer choice and competition. Parity with telephone inside wiring may also be desirable if a cable operator wants to provide telephone or other common carrier service over its coaxial cable, but the record in this proceeding does not provide us with sufficient information upon which to base such a determination. The Commission will therefore further explore this issue in the Notice of Proposed Rulemaking ("NPRM") in CS Docket No. 95–184 being adopted concurrently herewith.

7. In addition, we determine that our current rules (as well as our revised rules described below) do not constitute an unconstitutional taking, because they implement a clear statutory directive and provide that, upon termination of service, the cable operator can receive just compensation for its home wiring or remove the wiring. Nor do we believe that our rules are rendered unconstitutional by the fact that the cable operator is deemed to have waived the availability of compensation if it fails to remove its home wiring within a given time period following termination of service. Compensation is available, under reasonable terms and conditions, if the cable operator chooses to take that option. See United States v. Locke, 471 U.S. 84, 107 (1985), which rejects a Fifth Amendment taking claim where the plaintiff failed to comply with a statutory requirement for filing a mining claim that would have indicated its intent to retain its property right. Texaco, Inc. v. Short notes that the U.S. Supreme Court has never required giving compensation to a private property owner who fails to take reasonable actions imposed by law for the consequences of his own neglect, 454 U.S. 516, 530 (1982). We note that the prescribed time period (formerly 30 days and, as described below, now seven business days) within which a cable operator may remove the cable home wiring it owns provides the operator with a reasonable opportunity to remove the wire if it so wishes.

8. With regard to NYNEX's contention that consumer access to cable home wiring prior to termination of service would allow consumers to obtain broadband services from more than one multichannel video programming service provider simultaneously over one coaxial cable, it is our understanding that, while such simultaneous use may be possible in the laboratory, it is not technically or economically feasible in the marketplace at the present time. Apparently, for example, broadband networks are highly susceptible to signal impairments from outside sources, such as over-the-air broadcast signals, a danger that would be magnified significantly by the insertion of an additional broadband service within the wiring itself. Therefore, we deny NYNEX's petition as premature insofar as it seeks rules designed to allow simultaneous use by a broadband video competitor of excess capacity on cable home wiring. Furthermore, we note that the current cable wiring rules do not prohibit simultaneous use, regardless of whether the cable operator or the subscriber owns or controls the cable home wiring. Because we agree that simultaneous use of the same wire by competitors could promote competition and increase consumer choice, however, if simultaneous use of cable wiring becomes economically and technically feasible, the Commission may address any issues raised at that time.

B. Disposition of Cable Home Wiring Upon Termination of Service

1. Background

9. The Cable Wiring Order provides that when a subscriber calls to voluntarily terminate cable service, the operator is required, if it proposes to remove the wiring, to inform the subscriber (a) that he or she may purchase the wire, and (b) what the cost per-foot charge is. If the subscriber declines to purchase the home wiring, the operator must remove it within 30 days or lose the right to remove it or restrict its use.

2. Petitions

10. Some petitioners assert that cable operators may attempt to deter subscribers from switching to alternative multichannel video programming service providers by claiming that they intend to remove the cable wiring even if they intend to abandon it. They posit that the cable operator might falsely proclaim such an intent in order to prevent an alternative provider from using the wiring during the 30-day period afforded the operator to remove the wiring, and that since some subscribers might elect to remain with the incumbent cable operator rather than face such a choice, the current rules could defeat the purpose behind Section 16(d).

11. WCA proposes that the Commission: (a) decrease the period following termination during which cable operators must remove cable home wiring from 30 days to seven days; (b) prohibit cable operators from terminating service until either the cable is removed or the seven-day period expires; and (c) establish procedures for the filing of complaints against cable operators that demonstrate a pattern of misrepresenting their intentions to remove wiring. Finally, WCA suggests that the "appointment window" rules adopted in MM Docket No. 92–263 (Customer Service Standards) apply to appointments to remove wiring, and that a failure to comply would result in the automatic transfer of the wiring to the subscriber.

12. In response, some cable companies argue that WCA's claim that operators will falsely state their intention to remove the wiring is "speculative," and, even if true, would not warrant action on reconsideration. They assert that WCA's concern that cable operators will discriminate against customers who choose an alternative service provider is unfounded because a cable operator cannot require any subscriber to purchase his home wiring. Moreover, NCTA argues that WCA's proposals are merely an attempt by alternative video programming service providers to gain a "free ride" off wiring installed by and belonging to the incumbent cable operator. As an alternative, NCTA states that alternative providers could offer to purchase the wiring from the incumbent operator, or at least offer to reimburse the subscriber if the subscriber chooses to purchase the wiring.

13. In reply, WCA asserts that none of the responses addresses the fundamental unfairness of permitting cable operators to discriminate against subscribers who terminate service in favor of an alternative service provider.

14. Ameritech proposes that ownership of cable home wiring should transfer to the subscriber upon termination. Ameritech proposes that, at a minimum, in cases of voluntary termination where a subscriber is notified of the right to purchase his or her home wiring and the subscriber exercises that right, constructive ownership should vest with the subscriber immediately and the subscriber should be free to authorize the connection of the wiring to a competing service provider.

3. Discussion

15. As we noted in the Cable Wiring Order, the purpose of Section 16(d) is to promote consumer choice and competition by permitting subscribers to avoid the disruption of having their home wiring removed upon voluntary termination, and to subsequently utilize that wiring for an alternative video programming service. While we believe that our current rules advance these goals, we believe that they do not address certain issues—such as when actual control of the home wiring transfers to the subscriber—that could cause needless consumer confusion and marketplace uncertainty. We therefore believe that the goals of Section 16(d) would be better served if our rules set forth a simple, clear process by which: (a) consumers can obtain, in a single contact, the information they need to decide whether they wish to purchase their home wiring upon termination; (b) consumers can thereafter quickly and easily use the wiring to connect to an alternative video programming service provider; and (c) cable operators' legitimate property rights are protected. Thus, we hereby amend our rules regarding the disposition of home wiring upon the voluntary termination of service as follows.

16. During the initial telephone call in which a subscriber advises the cable operator that he or she is voluntarily terminating service, the operator—if it owns and intends to remove the home wiring—must inform the subscriber of four things:

(a) that the cable operator owns the home wiring—as discussed in the Cable Wiring Order, the record reveals that, in many circumstances, the subscriber already owns the home wiring at termination (e.g., where the operator has charged the subscriber for the wiring upon installation, has treated the wiring as belonging to the subscriber for tax purposes, or where state and/or local law treats cable home wiring as a fixture); it is the operator's responsibility to maintain adequate records to document its ownership;

(b) that the cable operator intends to remove the home wiring;

(c) that the subscriber has a right to purchase the home wiring; and

(d) what the per-foot replacement cost and total charge for the wiring would be, including the replacement cost for any passive splitters attached to the wiring on the subscriber's side of the demarcation point—our current rules state that the operator must inform the subscriber of the per-foot replacement cost, and that its charge for the wiring may be based on "a reasonable approximation" of the length of cabling in the subscriber's premises. In the Cable Wiring Order (at n. 39), we stated that we expected the per foot charge to be based on the replacement cost of coaxial cable in the community; for instance, we noted that the record indicated that new coaxial cable was being sold for six cents per foot by District Cablevision in Washington, D.C. An operator has two options for making a "reasonable approximation" of the total charge during the contact terminating service. First, the operator can develop schedules to make such approximations based on readily available information, such as whether the subscriber lives in a single family dwelling or an apartment, the number of outlets installed, or the number of television sets in use. If the operator chooses to develop such schedules, it must place them in a public file and make them available for public inspection during regular business hours. In the alternative, the operator may maintain records reflecting the actual amount of home wiring installed on subscribers' premises, but this information must be available for calculating the total charge for the wiring during the initial phone call.

Where an operator fails to adhere to the above procedures, it will be deemed to have relinquished immediately any and all ownership interests in the home wiring; thus, the operator will not be entitled to compensation for the wiring and may make no subsequent attempt to remove it or restrict its use. By referring to "subscriber" herein, we do not intend to prohibit a subscriber from delegating to an agent the task of terminating service and authorizing the purchase of home wiring on his or her behalf.

17. If a subscriber voluntarily terminates cable service in person (i.e., at the cable operator's offices), the same procedures apply. If a subscriber requests termination in writing, it is the operator's responsibility—if it intends to remove the wiring—to make reasonable efforts to contact the subscriber prior to the date of service termination and provide the subscriber with the information set forth above.

18. If the cable operator informs the subscriber as described above, and, at that point, the subscriber agrees to purchase the wiring, constructive ownership over the home wiring will transfer to the subscriber immediately, and the subscriber will be permitted to authorize a competing service provider to connect with and use the home wiring. Of course, the alternative video programming service provider is free to reimburse the subscriber for the cost of the home wiring. We believe that such a transfer of control presents no Fifth Amendment difficulties, since the operator will ultimately be compensated for its wiring (at which point actual ownership of the wiring will transfer to the subscriber). We are, however, cognizant of the potential for harmful signal leakage if this change-over is mishandled. Thus, where the incumbent cable operator has not yet terminated service and "capped off" its line, the alternative video programming service provider will be responsible for ensuring that the incumbent's wiring is properly capped off in accordance with the Commission's signal leakage requirements. "Capping off" is a procedure whereby a terminating "cap" is placed over a wire to prevent potentially harmful signal leakage. If there is no alternative provider—i.e., if the subscriber is terminating service but will not be using the home wiring to receive another multichannel video service—the cable operator will remain responsible for properly capping off its own line. We require incumbent cable operators to take reasonable steps within their control to ensure that the alternative service provider has access to the home wiring at the demarcation point (e.g., by providing prompt access to the cable operator's lockbox where the placement of the lockbox impedes access to the demarcation point), and for incumbents and alternative multichannel video programming delivery service providers to minimize the potential for signal leakage, theft of service and unnecessary disruption of the consumer's premises.

19. If, on the other hand, the subscriber declines to purchase the home wiring, the operator will have seven business days, rather than the current 30 days, to remove the wiring. If the operator does not remove the home wiring within this seven business day period, the operator may make no subsequent attempt to remove it or restrict its use. We believe that requiring subscribers to wait 30 days before learning whether the cable operator would remove its wiring causes needless uncertainty for the consumer and the possibility of a lengthy disruption in service. We also believe that, under normal operating conditions, it is not unreasonable to require cable operators to remove their wiring within seven business days. However, we decline at this time to apply the Commission's "appointment window" rules to appointments to remove wiring; we believe that WCA has not submitted sufficient evidence to demonstrate that such a change is necessary at this time. Given the uniform federal and industry standard on installations, we reject Time Warner's contention that a seven-day removal period is a forced, rather than a voluntary, abandonment of property. It is the operator's failure to act within a reasonable time after the subscriber requests that its wiring be removed—not the Commission's rule—that extinguishes the cable operator's rights. We also reject NCTA's assertion that a 30-day removal period is required to ensure that consumers have adequate time to decide whether or not to purchase the wiring. If the subscriber asks for more time to make a decision on whether to purchase the home wiring, the seven business-day period will not begin running until the subscriber declines to purchase the wiring. Until the subscriber contacts the operator with a decision, he or she may not use the wiring to connect to an alternative service provider.

20. We believe that the above procedures may not be necessary in most circumstances. We understand that cable operators typically abandon cable home wiring because the cost and effort required to remove it generally outweigh its value. Accordingly, in most cases, the cable operator may simply remain silent on the subject of home wiring when the subscriber requests termination of service. If, for whatever reason, the cable operator does not discuss the disposition of the home wiring with the subscriber in accordance with the above procedures, the operator will be deemed to have relinquished immediately any and all ownership interests in the home wiring. Thus, the operator will not be entitled to compensation for the wiring and may make no subsequent attempt to remove it or restrict its use.

21. While we acknowledge WCA's concerns that cable operators could misrepresent their intention to remove the wiring, or that operators may discriminate against subscribers who terminate service in favor of an alternative provider, there is no evidence in the record for us to conclude that these are significant problems. Moreover, we believe we have alleviated WCA's concern regarding subscribers being without service for up to 30 days by requiring cable operators to remove the home wiring within seven business days.

C. Demarcotion Point for Multiple Dwelling Units With Non-Loop-Through Wiring

1. Background

22. Section 16(d) of the 1992 Cable Act states that the Commission shall prescribe rules concerning cable wire "within the premises of [the] subscriber." Section 76.5(ll) of the Commission's rules defines cable home wiring as the "internal wiring contained within the premises of a subscriber which begins at the demarcation point." Under the current rules, the demarcation point is the point from which the customer has the right to purchase cable home wiring upon voluntary termination of service, the location from which the subscriber may control the internal home wiring if he or she owns it, and the point where a potential alternative multichannel video programming service provider can attach its wiring to the subscriber's wiring in order to provide service.

23. The wiring in multiple dwelling unit buildings is generally in either a non-loop-through or loop-through configuration. In a non-loop-through configuration, each subscriber has a dedicated line extending from a trunk or feeder line to the individual's premises. The point at which the drop meets the feeder line in multiple dwelling unit buildings is usually in a security box or utility closet. A loop-through configuration is one in which a single cable provides service to a group of subscribers by being strung from one subscriber's unit to the next subscriber's unit in the same building.

2. Petitions

24. Some commenters ask that the Commission reconsider its decision to locate the demarcation point for multiple dwelling units at or about twelve inches outside of where the cable enters a subscriber's individual dwelling unit. NYNEX states that the Commission's current rules are anti-competitive because they require an alternative cable service provider to install duplicate wire up to the twelve-inch point outside of where the wire enters the subscriber's premises, which would either be prohibitively expensive or impossible due to space limitations or the location of the wiring inside a wall in a building. Liberty asks that the demarcation point for multiple dwelling units be at the point outside a subscriber's premises and within the common areas of the multiple dwelling unit building where the individual subscriber's wires can be detached from the cable operator's common wires without harming the multiple dwelling unit and without interfering with the cable operator's provision of service to other residents in the building. Liberty contends that this would enhance competition by making it easier for the subscriber to switch from one alternative multichannel video programming service provider to another.

25. On the other hand, cable companies oppose proposals to change the demarcation point for multiple dwelling units, arguing that the proposals do not definitively measure the exact point of demarcation and are contrary to the plain language of the statute. NCTA states that allowing a new service provider to go much beyond twelve inches invades the common wiring, which is the cable operator's property. Time Warner recommends that the most practical demarcation point in multiple dwelling units is the wall plate in each individual unit, not beyond twelve inches from where the wiring enters the individual dwelling unit.

3. Discussion

26. We deny reconsideration of our rule setting the demarcation point for multiple dwelling units at or about twelve inches outside of where the cable wire enters the subscriber's dwelling unit. While the record in this proceeding does indicate that the Commission's current rules with regard to location of the demarcation point in multiple dwelling units may impede competition in the multichannel video programming delivery marketplace, the record is insufficient at this time to indicate whether a different demarcation point might better promote competition and consumer choice in the multichannel video programming delivery marketplace without an undue impact on competition in the market for other telecommunications services. We are concerned with more than simple competition in the broadband multichannel video programming market. We want to promote competition and consumer choice in all types of telecommunications markets through multiple technologies and services. The Commission therefore must consider broad telecommunications issues which extend beyond the 1992 Cable Act and the record in this proceeding before modifying the cable home wiring rules in ways that could have competitive implications for cable operators and other telecommunications service providers. Accordingly, while we deny reconsideration of our current definition of the cable demarcation point for multiple dwelling unit buildings, we believe that it would be appropriate to revisit this issue in a broader competitive context. We are, therefore, requesting comment on this demarcation point issue in our NPRM in CS Docket No. 95–184 being adopted concurrently herewith. We expect to act quickly in the NPRM proceeding to resolve the demarcation point issue.

D. Multiple Dwelling Unit Buildings With Loop-Through Wiring

1. Background

27. In a loop-through cable wiring system, a single cable is used to provide service to either a portion of or an entire multiple dwelling unit building. Every subscriber on the loop is limited to receiving video services from the same provider; there is no capacity for individual choice. In the Cable Wiring Order, the Commission excluded multiple dwelling unit loop-through wiring from the cable home wiring rules, reasoning that applying our rules to loop-through wiring would give the building manager or the initial subscriber control over cable service for all subscribers in the loop.

2. Petitions

28. Telephone companies ask that loop-through cable be included in the home wiring rules and controlled by the multiple dwelling unit building owner, and propose that the Commission require that loop-through and other configurations based on common use of unpowered coaxial cable be eliminated in all future multiple dwelling unit installations of cable home wiring. In

addition, Bell Atlantic urges the Commission to bar exclusive contracts between cable operators and the owners or managers of multiple dwelling unit buildings, because such contracts allegedly circumvent the Commission's cable home wiring rules and deny residents the ability to choose between competing services. While the current record does not contain sufficient evidence to bear out Bell Atlantic's assertions—and thus we do not address them further here—the parties are free to raise this issue in the context of the NPRM in CS Docket No. 95–184, adopted concurrently herewith.

29. On the other hand, cable companies agree with the Commission's exclusion of multiple dwelling unit building loop-through configurations from the home wiring rules. Time Warner argues that the frequent turnover of multiple dwelling unit residents makes inclusion of loop-through multiple dwelling units impractical.

3. Discussion

30. On reconsideration, we continue to exclude loop-through wiring from our cable home wiring rules. Inclusion of loop-through systems within these rules would be impractical, in part because establishing a separate demarcation point for each subscriber on a loop-through system and deciding how much wiring each subscriber should have the option to buy are not feasible. Furthermore, loop-through configurations, by their nature, preclude individual subscriber control, an essential element of the Commission's cable home wiring rules. Therefore, cable operators are not required to offer to sell loop-through wiring to subscribers upon termination of service, and no loop-through subscriber has the right to purchase loop-through home wiring. We will, however, consider and request comment in our Further Notice of Proposed Rulemaking ("FNPRM") published simultaneously in this issue regarding Liberty's proposal that we allow the building owner to purchase the home wiring when all of the subscribers on a loop simultaneously decide to switch to an alternative video programming service provider. We will also request comment on NYNEX's and USTA's proposal that we prohibit future loop-through wiring installations and our authority, if any, to do so.

E. Inclusion of Passive Splitters Within Cable Home Wiring

1. Background and Petitions

31. Section 76.5(ll) of the Commission's rules defines cable home wiring as the internal wiring contained within the subscriber's premises which begins at the demarcation point. The rule specifically excludes from cable home wiring any active elements such as amplifiers, converter or decoder boxes, or remote control units. In its petition for reconsideration, Liberty asks the Commission to "clarify that cable home wiring includes passive ancillary equipment such as splitters and conduits or molding in which the cable is installed." Liberty asserts that including such passive equipment within the definition of cable home wiring will allow Liberty and other cable competitors to avoid problems that arise when space constraints prohibit the installation of multiple splitters or conduits to access an individual subscriber's wires. Cable companies oppose this request, contending that it was the specific intent of Congress to exclude any cable equipment other than actual wiring. Time Warner further contends that conduit and molding should be excluded from the Commission's definition of cable home wiring because they are not cable equipment, but rather the property of the premises owner. Time Warner states that, at a minimum, splitters, which are passive cable equipment, should only be considered part of the home wiring if located within, or up to twelve inches outside the subscriber's premises.

2. Discussion

32. We grant Liberty's request that we include passive splitters within the definition of cable home wiring. Because passive splitters are a physically integral part of the home wiring, we believe that their exclusion could frustrate the purposes behind Section 16(d) of the 1992 Cable Act—i.e., to permit subscribers to avoid the disruption of having their home wiring removed, and to subsequently utilize the home wiring for an alternative video programming service. Therefore, operators will be required to offer to sell to a terminating subscriber any passive splitters attached to the home wiring on the subscriber's side of the demarcation point, at no more than the replacement cost of the splitters.

33. However, we deny Liberty's request that other passive equipment be included within the cable home wiring definition. We believe that molding and conduit are not necessarily cable equipment and are often the property of the premises owner. In addition, we believe that, considering the wide variety of passive equipment and related property, it would be too burdensome to require cable operators to be prepared to quote the replacement cost of such equipment and property upon the subscriber's termination of service. Nevertheless, we understand Liberty's concern that cable operators not be permitted to use their ownership of other property relating to the cable home wiring to frustrate the purposes of our cable home wiring rules and Section 16(d) of the 1992 Cable Act. We will therefore prohibit cable operators from using any ownership interests they have in property located on the subscriber's side of the demarcation point, for example, cable molding or conduit, to prevent, impede, or in any way interfere with, a subscriber's right to use his or her home wiring to receive an alternative service.

III. Regulatory Flexibility Analysis

34. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, the Commission's final analysis with respect to the First Order on Reconsideration is as follows:

35. Need and Purpose of this Action. The Commission amends its rules pertaining to cable home wiring to better effectuate the purposes of Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. 544(i) (1992).

36. Summary of Issues Raised by the Public in response to the Initial Regulatory Flexibility Analysis. There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

37. Significant Alternatives Considered and Rejected. Petitioners representing cable interests and competitive video providers did not submit comments regarding the administrative burden of the home wiring rules.

IV. Procedural Provisions

38. Initial Paperwork Reduction Act of 1995 Analysis. This First Order on Reconsideration contains either a proposed or modified information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget ("OMB") to take this opportunity to comment on the information collections contained in this Order as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due at the same time as other comments on the FNPRM; OMB comments are due 60 days from the date of publication of this Order in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

39. Ex parte Rules—Non-Restricted Proceeding. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in Commission's rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

40. Written comments by the public on the proposed and/or modified information collections are due March 18, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

V. Ordering Clauses

41. Accordingly, it is ordered that the Petitions for Reconsideration in MM Docket No. 92–260 are granted in part and denied in part, as provided above herein.

42. It is further ordered that Part 76 of the Commission's rules is hereby amended as shown below, effective upon approval by the Office of Management and Budget. The portions of the First Order on Reconsideration imposing information collections will not go into effect until approved by the Office of Management and Budget.

43. It is further ordered that the Secretary shall send a copy of this First Order on Reconsideration to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Revised Rules

Part 76 of Title 47 of the Code of Federal Regulation is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended 1064, 1065, 1066, 1081, 1082, 1084, 1085, 1101; 47 U.S.C. § 152, 153, 154, 301, 303, 307, 308, 309; Secs. 612, 614–615, 623, 632 as amended, 106 Stat. 1460, 47 U.S.C. 532; Sec. 632, as amended, 106 Stat. 1460; 47 U.S.C. 532, 533, 543, 552.

2. Section 76.5 is amended by revising paragraph (ll) to read as follows:

§ 76.5 Definitions.

* * * * *

(ll) Cable home wiring. The internal wiring contained within the premises of a subscriber which begins at the demarcation point. Cable home wiring includes passive splitters on the subscriber's side of the demarcation point, but does not include any active elements such as amplifiers, converter or decoder boxes, or remote control units.

* * * * *

3. Section 76.802 is revised to read as follows:

§ 76.802 Disposition of cable home wiring.

(a) Upon voluntary termination of cable service by a subscriber, a cable operator shall not remove the cable home wiring unless it gives the subscriber the opportunity to purchase the wiring at the replacement cost, and the subscriber declines. The cost is to be determined based on the replacement cost per foot of the cable home wiring multiplied by the length in feet of the cable home wiring, and the replacement cost of any passive splitters located on the subscriber's side of the demarcation point. If the subscriber declines to acquire the cable home wiring, the cable system operator must then remove it within seven (7) business days, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

(b) During the initial telephone call in which a subscriber contacts a cable operator to voluntarily terminate cable service, the cable operator—if it owns and intends to remove the home wiring—must inform the subscriber:

(1) That the cable operator owns the home wiring;

(2) That the cable operator intends to remove the home wiring;

(3) That the subscriber has the right to purchase the home wiring; and

(4) What the per-foot replacement cost and total charge for the wiring would be (the total charge may be based on either the actual length of cable wiring and the actual number of passive splitters on the customer's side of the demarcation point, or a reasonable approximation thereof; in either event, the information necessary for calculating the total charge must be available for use during the initial phone call).

(c) If the subscriber voluntarily terminates cable service in person, the procedures set forth in paragraph (b) of this section apply.

(d) If the subscriber requests termination of cable service in writing, it is the operator's responsibility—if it wishes to remove the wiring—to make reasonable efforts to contact the subscriber prior to the date of service termination and follow the procedures set forth in paragraph (b) of this section.

(e) If the cable operator fails to adhere to the procedures described in paragraph (b) of this section, it will be deemed to have relinquished immediately any and all ownership interests in the home wiring; thus, the operator will not be entitled to compensation for the wiring and shall make no subsequent attempt to remove it or restrict its use.

(f) If the cable operator adheres to the procedures described in paragraph (b) of this section, and, at that point, the subscriber agrees to purchase the wiring, constructive ownership over the home wiring will transfer to the subscriber immediately, and the subscriber will be permitted to authorize a competing service provider to connect with and use the home wiring.

(g) If the cable operator adheres to the procedures described in paragraph (b) of this section, and the subscriber asks for more time to make a decision regarding whether to purchase the home wiring, the seven (7) business day period described in paragraph (b) of this section will not begin running until the subscriber declines to purchase the wiring; in addition, the subscriber may not use the wiring to connect to an alternative service provider until the subscriber notifies the operator whether or not the subscriber wishes to purchase the wiring.

(h) If an alternative video programming service provider connects its wiring to the home wiring before the incumbent cable operator has terminated service and has capped off its line to prevent signal leakage, the

alternative video programming service provider shall be responsible for ensuring that the incumbent's wiring is properly capped off in accordance with the Commission's signal leakage requirements. See Subpart K (technical standards) of the Commission's Cable Television Service rules (47 CFR 76.605(a)(13) and 76.610 through 76.617).

(i) Where the subscriber terminates cable service but will not be using the home wiring to receive another alternative video programming service, the cable operator shall properly cap off its own line in accordance with the Commission's signal leakage requirements. See Subpart K (technical standards) of the Commission's Cable Television Service rules (47 CFR 76.605(a)(13) and 76.610 through 76.617).

(j) Cable operators are prohibited from using any ownership interests they may have in property located on the subscriber's side of the demarcation point, such as molding or conduit, to prevent, impede, or in any way interfere with, a subscriber's right to use his or her home wiring to receive an alternative service. In addition, incumbent cable operators must take reasonable steps within their control to ensure that an alternative service provider has access to the home wiring at the demarcation point. Cable operators and alternative multichannel video programming delivery service providers are required to minimize the potential for signal leakage in accordance with the guidelines set forth in 47 CFR 76.605(a)(13) and 76.610 through 76.617, theft of service and unnecessary disruption of the consumer's premises.

(k) Definitions—Normal operating conditions—The term "normal operating conditions" shall have the same meaning as at 47 CFR 76.309(c)(4)(ii).

[FR Doc. 96–3128 Filed 2–15–96; 8:45 am]
BILLING CODE 6712–01–P

47 CFR Part 90

[PR Docket No. 93–144; PP Docket No. 93–253; FCC 95–501]

The Future Development of SMR Systems in the 800 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *First Report* and Order in PR Docket No. 93–144, and *Eighth Report* and Order in PP Docket No. 93–253, the Commission adopts final service and competitive bidding rules for the "upper 10 MHz block" of 800 MHz Specialized Mobile Radio (SMR) spectrum and adopts rules which streamline the licensing process for SMR services in the 800 MHz band.

In this *First Report and Order* ("*First R&O*"), the Commission designates a portion of 800 MHz SMR spectrum for wide-area licensing using license areas defined by the Economic Areas (EAs) established by the U.S. Department of Commerce Bureau of Economic Analysis. Under this wide-area licensing plan the Commission has allocated three channel blocks, one 120-channel block, one 60-channel block, and one 20-channel block.

In this *Eighth Report and Order* ("*Eighth R&O*"), the Commission reiterated that competitive bidding is an appropriate licensing tool for the 800 MHz SMR service. The Commission also adopts specific auction rules for the upper 10 MHz block, including rules pertaining to competitive bidding design, license grouping, bidding procedures, and treatment of "designated entities" (that is, small businesses, businesses owned by minorities and/or women, and rural telephone companies). The intended effect of this action is to facilitate future deployment of SMR systems in the 800 MHz band through licensing procedures and the use of competitive bidding.

EFFECTIVE DATE: March 18, 1996.

FOR FURTHER INFORMATION CONTACT: David Furth or Lisa Warner at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This *First Report and Order* in PR Docket No. 93–144, and this *Eighth Report and Order* in PP Docket No. 93–253, adopted December 15, 1995, and released December 15, 1995, is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.E., Suite 140, Washington, D.C. 20037 (telephone (202) 857–3800).

Synopsis of *First Report and Order* and *Eighth Report and Order:*

I. Background

1. The Commission's current rules for the 800 MHz Specialized Mobile Radio (SMR) service were designed primarily to license dispatch radio systems on a transmitter-by-transmitter basis in local markets. In recent years, however, some SMR licenses have been authorized through waivers and extended implementation rules to expand the geographic scope of their services and aggregate large numbers of channels to provide service more directly comparable to that provided by cellular operators and that envisioned for Personal Communications Services (PCS). While the 800 MHz SMR rules have proven sufficiently flexible to permit such expansion, the licensing process remains cumbersome because of the need to license each SMR transmitter site individually. In May 1993, the Commission adopted a *Notice of Proposed Rule Making* in PR Docket No. 93–144, 58 FR 33062 (June 15, 1993) ("*Notice*"), proposing wide-area licensing of the 800 MHz SMR service. In August of 1993, Congress amended the Communications Act of 1934 to modify the regulatory treatment of mobile services. In the *Second Report and Order* in GN Docket No. 93–252, 59 FR 18493 (April 19, 1994) ("*CMRS Second R&O*"), the Commission reclassified all mobile services into two statutorily-defined categories: commercial mobile radio services (CMRS) and private mobile radio services (PMRS). The Commission concluded that all SMR systems providing or authorized to provide interconnected service would be reclassified as CMRS.

2. In the *Third Report and Order* in GN Docket No. 93–252, 59 FR 59945 (November 21, 1994) ("*CMRS Third R&O*"), the Commission concluded that 800 MHz SMR licensees either compete or have the potential to compete with other CMRS providers. As a result, the Commission determined that the technical and operational requirements for the 800 MHz SMR service should be made comparable, to the extent feasible, to those applicable to other CMRS providers. In this connection, the Commission concluded that: (1) wide-area licensing should be implemented in the 800 MHz SMR service; and (2) licensing of the 800 MHz SMR spectrum should be accomplished through competitive bidding procedures.

3. On October 20, 1994, the Commission adopted a *Further Notice of Proposed Rule Making* in PR Docket No. 93–144, 59 FR 60111 (November 22, 1994) ("*Further Notice*"), proposing a new framework for licensing of 800 MHz SMR systems. Specifically, the Commission proposed to assign 10 MHz of SMR spectrum (consisting of 200 contiguous channels) in defined market-based service areas to facilitate the development of wide-area, multi-channel SMR systems, while the remaining 4 MHz of spectrum (consisting of 80 non-contiguous channels) would be designated for continued licensing on a local basis to accommodate the needs of smaller SMR systems primarily seeking to provide local, more dispatch-oriented service.

II. First Report and Order

A. Wide-Area SMR Licensing in the 800 MHz Band

1. Spectrum Designated for Wide-Area Licensing

4. In the *CMRS Third R&O*, the Commission determined that assigning contiguous spectrum, where feasible, is likely to enhance the competitive potential of wide-area SMR providers. The Commission indicated its belief that contiguous spectrum is essential to the competitive viability of a wide-area SMR system, because it permits use of spread spectrum and other broadband technologies that are available to other CMRS providers but unavailable to systems operating on non-contiguous spectrum. In the *Further Notice*, the Commission proposed to designate the upper 10 MHz block of 800 MHz SMR spectrum for wide-area SMR licensing.

5. In the *First R&O*, the Commission concludes that the 800 MHz SMR spectrum most suitable to be designated primarily for wide-area use is the upper 10 MHz block, as it is the only contiguous SMR spectrum in the 800 MHz band. The Commission further concludes that the entire 10 MHz block should be used, rather than a portion thereof, because it is equivalent in size to the smallest amount of spectrum presently authorized for broadband PCS.

2. Service Areas

6. In the *CMRS Third R&O*, the Commission concluded that the use of service areas based on Rand McNally Major Trading Areas (MTAs), identical to those adopted for broadband PCS, would be preferable for wide-area licensing of the 800 MHz SMR service. The Commission noted that allowing licensees to operate over MTAs as opposed to smaller areas, such as Rand McNally Basic Trading Areas (BTAs), would enhance their ability to invest in technology and to re-use channels more effectively.

7. In this *First R&O*, the Commission determines that, despite its previous conclusion in the CMRS proceeding that MTAs appear to be the most suitable building blocks for 800 MHz SMR licensees seeking to construct wide-area systems, a broad range of commenters expressed support for Economic Areas (EAs) established by the U.S. Department of Commerce Bureau of Economic Analysis rather than MTAs. The Commission agrees with the majority of commenters that EAs reflect the actual coverage provided by 800 MHz SMR systems and concludes that use of EAs will further the public interest because it will result in the dissemination of licenses among a variety of applicants as anticipated by Section 309(j) of the Communications Act. The Commission further concludes that use of these smaller geographic areas ultimately will result in a more diverse group of prospective bidders, because small and medium-sized operatives will have incentives to seek EA licenses.

8. Thus, 800 MHz SMR wide-area licenses in the upper 10 MHz block will be based on the 172 EAs covering the continental United States and Alaska, and three additional licensing regions covering the five U.S. possessions, Guam, Northern Marina Islands, Puerto Rico, U.S. Virgin Islands, and American Samoa.

3. EA Spectrum Blocks

9. In the *CMRS Third R&O*, the Commission observed that most commenters agreed that wide-area SMR systems must have the ability to use (and reuse) a large number of channels, preferably on contiguous frequencies, to compete successfully with cellular and broadband PCS. Based on the record established earlier in the 800 MHz SMR proceeding and the comments submitted in the CMRS proceeding, the *Further Notice* proposed to divide the upper 10 MHz block of 800 MHz SMR spectrum into four blocks of 2.5 MHz, corresponding to 50 channels per block, under the Commission's existing frequency allocation rules. In addition, the Commission chose not to propose to issue a single license covering the entire 10 MHz upper block of 800 MHz SMR spectrum because it determined that a single 10 MHz license would preclude licensing of multiple wide-area licensees in each market.

10. In this *First R&O*, the Commission concludes that dividing the upper 10 MHz block into multiple spectrum blocks is both feasible and desirable. The Commission concludes that allocating varying size blocks will accomplish its goal of creating opportunities for wide-area SMR providers with differing spectrum needs. Thus, the Commission adopts a licensing plan which allocates one 120-channel block, one 60-channel block, and one 20-channel block for each EA. The Commission believes that these channel block sizes will provide opportunities for a variety of licensees of different sizes to participate in the provision of wide-area service.

4. 800 MHz SMR Spectrum Aggregation Limit

11. In the *CMRS Third R&O*, the Commission concluded that a 45 MHz limit on aggregation of broadband PCS, cellular, and SMR spectrum, combined with existing service-specific caps for cellular and PCS, was sufficient to maintain a competitive CMRS market. In light of this conclusion, in the *Further Notice*, the Commission concluded that an additional aggregation limit within the 800 MHz SMR service was unnecessary.

12. The Commission concludes in this *First R&O* that allowing unrestricted aggregation of 800 MHz SMR spectrum would not impede CMRS competition. The Commission expresses concern that limiting aggregation of 800 MHz SMR spectrum may result in a competitive disadvantage to SMR licensees as potential competitors to broadband PCS and cellular providers. Thus, the Commission further concludes that SMR licensees will be permitted to seek and (if they are the high bidders for all EA licenses) obtain all three of the EA licenses in a particular license area. The Commission reiterates, however, that even though it has declined to adopt a spectrum aggregation limit specific to the 800 MHz SMR service, such licensees remain subject to the 45 MHz CMRS spectrum aggregation limit and to the competitive component of the public interest standard.

5. Licensing in Mexican and Canadian Border Areas

13. In the *Further Notice*, the Commission tentatively concluded that attempting to create different allocations in border areas would be administratively unworkable, and, thus, proposed to license wide-area spectrum blocks on a uniform basis without distinguishing border from non-border areas. The Commission further proposed to license the channels in border areas not contained in the wide-area spectrum block on a channel-by-channel basis under the same rules it ultimately adopts for the lower 80 channels in non-border areas.

14. The Commission concludes that EA spectrum blocks should be licensed on a uniform basis, without distinguishing border from non-border areas. EA licenses will be entitled to use any available border area channels within their spectrum blocks, subject to international assignment and coordination of such channels. The Commission also concludes that the limited channel availability and other operating restrictions in the border areas are matters to be assessed by EA

applicants in their valuation of EA spectrum blocks for competitive bidding purposes. The Commission, however, defers a decision regarding treatment of 800 MHz SMR channels licensed in border areas, but not included within the EA spectrum blocks, until the resolution of the *Second Further Notice of Proposed Rule Making* in PR Docket No. 93–144.

B. Rights and Obligations of EA Licensees

1. Operational Flexibility

15. In the *Further Notice*, the Commission tentatively concluded that wide-area SMR licensees in the 800 MHz band should be authorized to construct stations at any available site and on any available channel within their respective spectrum blocks. In addition, the Commission proposed to allow wide-area licensees to "self-coordinate" system modifications within their service areas—that is, to add, subtract, move, and otherwise modify their base station facilities without prior Commission consent, provided they notify the Commission of the coordinates and certify compliance with its co-channel interference protection and emission requirements.

16. The Commission concludes that grant of EA licenses will provide licensees with: (1) the right to construct at any available site within the EA, and to add, subtract, or move site locations within the EA during the license term, on a "self-coordinated" basis; and (2) the right to use any available spectrum within the EA licensee's designated spectrum block on a self-coordinated basis, including full discretion over channelization of available spectrum within the block (provided that emission mask requirements are met, and co-channel interference protection is afforded to incumbent licensees and co-channel EA licensees in neighboring EAs). The Commission further concludes that simplified initial licensing and subsequent system modification substantially will reduce the existing administrative burden on both SMR licensees and the Commission, and will establish greater consistency with its cellular and PCS licensing rules.

2. Spectrum Management Rights—Acquisition and Recovery of Channels Within Spectrum Blocks

17. In the *Further Notice*, the Commission recognized that the operational flexibility afforded to wide-area 800 MHz SMR licensees would be limited by the large number of systems already authorized and operating in the band, particularly in major markets. The Commission noted that even if wide-area licensees do not immediately obtain clear spectrum comparable to its allocations for cellular or broadband PCS, wide-area licensing should confer other valuable rights that would enhance a licensee's ability to establish wide-area service. Thus, the Commission proposed to assist wide-area licensees in consolidating spectrum within their respective blocks by providing that (1) if an incumbent fails to construct, discontinues operations, or otherwise has its license terminated by the Commission, the spectrum covered by the incumbent's authorization automatically reverts to the wide-area licensee; and (2) if a wide-area licensee negotiates to acquire an incumbent system by assignment or transfer, the assignment or transfer presumptively will be considered in the public interest.

18. In this *First R&O*, the Commission concludes that an EA licensee has the right to use any spectrum within the EA block that is recovered by the Commission. In addition, the Commission determines that assignments from incumbents operating in an EA spectrum block to the respective EA licensee generally will be presumed to be in the public interest. The Commission concludes that granting these rights to EA licensees will give them greater flexibility in managing their spectrum, establish greater consistency with its cellular and PCS rules, and reduce regulatory burdens on both licensees and the Commission with respect to future management of the spectrum within the wide-area blocks. The Commission also eliminates all waiting lists for SMR Category channels within the upper 10 MHz block, and dismisses all applications on such waiting lists. The Commission determines that continuing such lists would be inconsistent with the wide-area licensing scheme it has adopted.

19. With respect to the impact of these rights on the finders' preference program, the Commission concludes that successful applicants for a finders' preference program will be considered an "incumbent" within the meaning of the rules adopted in the *First R&O*. In addition, the Commission no longer will accept finders' preference requests following the adoption of this *First R&O*. As a result, the EA licensee will have the exclusive right to recover unconstructed or non-operational channels on blocks for which it is licensed.

3. License Term and Renewal Expectancy

20. In the *CMRS Third R&O*, the Commission determined that every Part 90 licensee that is reclassified and treated as a CMRS licensee when its current license term expires thereafter shall have a ten-year license term and be afforded a renewal expectancy, provided it is able to demonstrate that it: (1) has provided "substantial" service during the license term; and (2) has complied with applicable Commission rules and policies, and the Communications Act. Furthermore, the Commission determined that "grandfathered" Part 90 licensees, because they retain their "private" status until August 10, 1996, would not be afforded either the ten-year license term or the renewal expectancy during the statutory transition period.

21. In this *First R&O*, the Commission determines that EA licenses should be granted for a ten-year license term. In addition, EA licensees generally will be afforded a renewal expectancy as determined in the *CMRS Third R&O*.

C. Treatment of Incumbent Systems

1. Mandatory Relocation

22. In the *Further Notice*, the Commission tentatively concluded that incumbent SMR systems should not be subject to mandatory relocation to new frequencies pursuant to Nextel's band-clearing proposal. The Commission also expressed concern that mandatory relocation could impose significant costs and disruption on incumbent licensees.

23. The Commission concludes in this *First R&O* that, based on the record in this proceeding, a smooth and expedient transition to the new licensing framework for 800 MHz SMR service cannot be accomplished without some form of mandatory relocation. Thus, the Commission has created a two-phase mandatory relocation mechanism under which there is a fixed one-year period for voluntary negotiations between EA licensees and incumbents and a two-year period for mandatory negotiations. Under this mechanism, if an EA licensee and an incumbent licensee fail to reach an agreement by the conclusion of the mandatory negotiation period, then the EA licensee may request involuntary relocation of the incumbent's system provided that it: (1) guarantees payment of all costs of relocating the incumbent to a comparable facility; (2) completes all activities necessary for placing the new facilities into operation, including engineering and frequency coordination, if necessary; and (3) builds and tests the new system. Specifically, any relocation of an incumbent must be conducted in such a fashion that there is a "seamless" transition from the incumbent's "old" frequency to its "relocated" frequency (that is, there is no significant disruption in the incumbent's operations). In connection with this mandatory relocation mechanism, EA licensees will be required to notify incumbents operating on frequencies included in their spectrum block of their intention to relocate such incumbents within 90 days of the release of the Public Notice commencing the voluntary negotiation period. If an applicant does not receive timely notification of relocation, the EA licensee loses the right to require that incumbent to relocate.

24. The Commission also initiates a partial lifting of the freeze on acceptance of new applications for SMR and General Category channels to permit those assignments and transfers of control that involve modifications to licensed facilities, provided such assignments and transfers are designed to accommodate market-driven, voluntary relocation arrangements between incumbents and potential EA applicants, and do not change the 22dBu service contour of the facilities to be relocated. This option is not available for purposes of relocating incumbents from one part of the upper 10 MHz block to another. Moreover, potential EA applicants and relocating incumbents utilizing this option must be completely unaffiliated. Processing of these assignments and transfers will continue until the date the Commission releases the Public Notice announcing the upper 10 MHz auction.

2. Incumbent Operation Flexibility

25. In the *Further Notice*, the Commission tentatively concluded that in those situations in which incumbents are allowed to continue operating on already-licensed facilities, incumbent systems should not be allowed to expand beyond their existing service areas on those channels designated for wide-area licensing, without the consent of the wide-area licensee.

26. The Commission concludes that allowing non-EA licensees to expand their systems at will after wide-area licensing has occurred would diminish substantially the value of the EA license and would create continuing uncertainty for EA applicants and licensees alike. The Commission recognizes, however, that there may be circumstances in which an EA licensee should be required to permit incumbents to make minor alterations to their service areas to preserve the viability of their systems. Thus, the Commission granted operational flexibility to incumbent SMR licensees to add, subtract, or move site locations within their current 22 dBu contours, on a "self-coordinated" basis. The incumbent must, however, still comply with the short-spacing criteria in Section 90.621(b) of the Commission's rules, even if its modifications do not extend its 22 dBu interference contour. Incumbent licensees will be required to notify the Commission of any changes in technical parameters or additional stations constructed, including agreements with an EA licensee to expand beyond their signal strength contour, through a minor modification of their license.

D. Co-channel Interference Protection

1. Incumbent SMR Systems

27. In the *CMRS Third R&O*, the Commission concluded that, as a general matter, it would retain its existing co-channel protection rules for CMRS licensees. Under the current rules, a wide-area licensee would be required to afford protection to incumbents, either by locating its stations at least 113 km (70 mi) from the facilities of any incumbent, or by complying with the co-channel separation standards set forth in its "short-spacing" rule if it seeks to operate stations located less than 113 km (70 mi) from an incumbent licensee's facilities.

28. In this *First R&O*, the Commission determines to require EA licensees to afford interference protection to incumbent SMR systems, as provided in Section 90.621 of the Commission's rules. As a result, an EA licensee will be able to satisfy its co-channel protection obligations with respect to incumbents in one of three ways: (1) by locating its stations at least 113 km (70 miles) from any incumbent's facilities; (2) by complying with the short-spacing rule if it seeks to operate stations less than 113 km from an incumbent's facilities; or, (3) by negotiating an even shorter distance with the incumbent licensee. The Commission concludes that these requirements will ensure adequate protection of incumbent operations, without hampering the ability of EA licensees to construct stations throughout their authorized service areas. The Commission believes that this rule will afford maximum flexibility to EA licensees, allow incumbents to fill in "dead spots," and protect incumbent licensees from actual interference.

2. Adjacent EA Licensees

29. In the *CMRS Third R&O*, the Commission concluded that the co-channel interference protection obligations of geographic-area licensees with respect to other geographic-area licensees would be similar to those imposed in the cellular and PCS services. In the *Further Notice*, the Commission tentatively concluded, therefore, that wide-area SMR licensees in the 800 MHz band should not be allowed to exceed a signal level of 22 dBuV/m at their service area boundaries (unless they negotiate a different signal strength limit with all potentially affected adjacent licensees).

30. In this *First R&O*, the Commission prohibits EA licensees from exceeding a signal level of 40 dBuV/m at their service area boundaries, unless all bordering EA licensees agree to a higher field strength. The Commission requires coordination of frequency use between co-channel adjacent EA licensees and all other affected parties. This approach provides EA licensees with a signal strength level sufficient to operate their systems up to the borders of their EAs, while also providing protection to adjacent operations. As an exception to this requirement, when a single entity obtains licenses for adjacent EAs on the same spectrum block, it will not be required to coordinate its operations in this manner.

3. Emission Masks

31. To protect against adjacent channel interference, the Commission has emission mask rules in most mobile radio services to restrict transmitter emissions on the spectrum adjacent to the licensee's assigned channel. In the *CMRS Third R&O*, the Commission affirmed its out-of-band emission rules for CMRS services and determined that out-of-band emission rules should apply only where emissions have the potential to affect other licensees' operations. With respect to licensees that have exclusive use of a block of contiguous channels, the Commission concluded that out-of-band emission rules would be applied only to the extent necessary to protect operations outside of the licensee's authorized spectrum.

32. The Commission concludes that out-of-band emission rules should apply only to the "outer" channels included in an EA license and to spectrum adjacent to interior channels used by incumbents. The Commission believes that these channels alone have the potential to affect operations outside of the EA licensee's authorized bandwidth. The Commission also believes that this requirement will facilitate dual mode

SMR/cellular operation, similar to that in the PCS/cellular context, which ultimately will add capacity to the systems operated by the EA licensees.

E. Construction Requirements

1. EA Licensees

33. In the *CMRS Third R&O*, the Commission determined that the record in the CMRS proceeding generally supported use of longer construction periods, combined with interim coverage requirements, to ensure that wide-area CMRS licensees provide service to portions of their service area before the construction period expires. In the *Further Notice*, the Commission noted that such an approach has been used for cellular service and recently was adopted for both broadband and narrowband PCS. In the *Further Notice*, the Commission tentatively concluded that wide-area SMR licensees should have five years to construct their systems.

34. In this *First R&O*, the Commission concludes that EA licensees should have a five-year construction period. While this construction period is shorter than that imposed for PCS systems, we agree with the majority of commenters that it is the most appropriate time period for the 800 MHz SMR service. In addition, given the substantial construction of 800 MHz SMR systems (including wide-area systems) to date, the ten-year construction period applicable to PCS appears excessive for the service. Although a five-year construction period may give some EA licensees more time to construct certain facilities than otherwise might have been allowed, the Commission believes that EA licensees should have this flexibility. Furthermore, the Commission believes that use of competitive bidding to select geographic-area licensees provides ample incentives for rapid system construction, since this permits license winners to recover their bidding expenses.

2. Extended Implementation Authority

35. The Commission noted in the *Further Notice* that some existing SMR licensees have been granted extended implementation periods of up to five years to construct their systems, pursuant to either a waiver of its construction and loading rules or Section 90.629 of its Rules. The Commission's rules require SMR licensees with extended implementation authority to submit annual certifications of compliance with their yearly station construction commitments. Moreover, if the Commission concludes, at any time, that the licensee has failed to meet such construction commitments, it may terminate extended implementation authority and give the licensee six months from the termination date to complete construction of the system.

36. Following the Commission's adoption of the *Further Notice*, some SMR licensees filed requests for extended implementation authority, which remain pending. With respect to two such requests filed by Chadmoore and PCC Management Corp., the Wireless Telecommunications Bureau ("Bureau") released a Public Notice seeking comment on whether the requests should be granted. In its extended implementation authority request, Chadmoore sought three years to construct a non-contiguous "wide-area" SMR system that will extend from the southeastern United States through the upper Midwest and use new technology. Chadmoore argued that grant of its extended implementation request was warranted on four grounds: (a) Chadmoore's principals have demonstrated expertise in SMR sales and service; (b) Chadmoore previously has demonstrated its ability to acquire and construct those licenses granted to SMR "investors;" (c) Chadmoore's proposal would assist those licensees "who have, as yet, not constructed" their stations, and who are in danger of losing their investment once their already extended deadline has expired; and, (d) grant of Chadmoore's proposal would promote competition in the SMR equipment manufacturing market. Similarly, PCC sought a period of three years to construct a regional, and ultimately nationwide, network of SMR systems. PCC's proposed system would include 2,181 channels, 849 conventional channels and 269 trunked channels, encompassing 1,118 licenses. PCC argued that grant of its extended implementation request was warranted for the following reasons: (a) climatic conditions for the region(s) in which the SMR systems are located preclude construction during certain seasons of the year; (b) grant of PCC's proposal would assist licensees who have not yet constructed their authorized facilities; (c) PCC's implementation plan would result in a more cost-effective build-out for the stations included in its proposal; and (d) grant of PCC's proposal would facilitate the implementation of an integrated nationwide network.

37. The Commission initially established extended implementation authority for SMRs to facilitate construction of wide-area systems. In the *First R&O*, the Commission concludes that the availability of extended implementation authority in the 800 MHz SMR service is no longer necessary. In fact, the Commission is concerned that both existing and future grants of extended implementation authority would be contrary to the underlying goals of this proceeding. Specifically, the Commission believes that allowing licensees to retain extended implementation authority of up to five years after adoption of the wide-area licensing approach detailed in this *First R&O* would impinge upon the construction requirements imposed on EA licensees. Thus, the Commission believes that it is necessary not only to cease acceptance of requests for extended implementation authority but also to accelerate the termination date of existing implementation periods so that EA licensees will not be unnecessarily hampered in their efforts to comply with the construction requirements associated with their authorizations.

38. In addition, several licensees and commenters contend that such extended implementation grants have resulted in spectrum warehousing. To address these spectrum warehousing concerns, the Commission will require all incumbent 800 MHz SMR licensees who have received extended implementation authority to demonstrate that allowing them extended time to construct their facilities is warranted and furthers the public interest. Specifically, a licensee seeking to retain extended implementation authority must: (a) indicate the duration of its extended implementation period (including commencement and termination date); (b) provide a copy of its implementation plan, as originally submitted and approved by the Commission, and any Commission-approved modifications thereto; (c) demonstrate its compliance with Section 90.629 of its rules if authority was granted pursuant to that provision, including confirmation that it has filed annual certifications regarding fulfillment of its implementation plan; and (d) certify that all facilities covered by the extended implementation authority proposed to be constructed as of the adoption date of this *First R&O* are fully constructed and that service to subscribers has commenced as defined in the *CMRS Third R&O*. These showings must be submitted within 90 days from the effective date of this *First R&O*. The Commission notes that all of the information to be included in the showing presently is required by Section 90.629 of its Rules. The Commission delegated to the Bureau the authority to review and take appropriate action upon such showings.

39. If a licensee's extended implementation authority showing is approved by the Bureau, such licensee will be afforded a construction period of two years or the remainder of its current extended implementation period, whichever is shorter. The Commission recognizes that some licensees were initially granted extended implementation periods which exceed this two-year period. In those instances where a licensee demonstrates that it has fully complied with the requirements of Section 90.629 of the Commission's rules and that its system cannot reasonably be completed within the two-year period, the Commission will entertain requests for the minimum period of time necessary to complete implementation of the licensee's proposal provided that the licensee explains why the two-year period is an insufficient amount of time. The Commission anticipates that such explanation would entail the same type of public interest showing associated with a request for waiver of the Commission's rules under Section 1.3 of the rules.

40. Upon the termination of this two-year period, authorizations for facilities that remain unconstructed will cancel automatically. If a licensee either fails to submit the showing described above within the designated time frame or submits an insufficient or incomplete showing, such licensee will have six months from the last day on which it could timely file such a showing or six months from the denial of its request to construct the remaining facilities covered under its implementation plan. After this six-month period, authorizations for facilities still unconstructed will cancel automatically.

41. With respect to pending requests for extended implementation authority, the Commission determines that grant of these requests would conflict with its goal of uniformly implementing wide-area licensing. It also reiterates that parties that remain interested in obtaining extended implementation authority are free to apply for an EA license under the Commission's new rules.

3. Interim Coverage Requirements

42. In the *CMRS Third R&O*, the Commission concluded that 800 MHz wide-area SMR licensees should be subject to interim coverage requirements that are similar to those in the cellular and PCS rules. In the *Further Notice*, the Commission proposed that geographic-area licensees be required to provide coverage to one-third of the population within their license area within three years of initial license grant, and to two-thirds of the population by the end of their five-year construction period.

43. In the *CMRS Third R&O*, the Commission noted that any interim coverage requirements for wide-area SMR systems must account for the fact that geographic-area licensees may be required to provide co-channel protection to incumbent systems within their service area. In the *Further Notice*, the Commission indicated its belief that when a licensee acquires a wide-area license, it assumes the responsibility of obtaining the right to use sufficient spectrum to provide coverage if such spectrum is not already available. The Commission further indicated its expectation that coverage be achieved directly by constructing facilities on available spectrum authorized to the wide-area licensee or acquiring such spectrum through buy-outs of incumbent licensees within its authorized spectrum block. To the extent that the *Further Notice* could be read to propose that coverage could be met through use of resale or similar agreements, the Commission clarifies its intention that the wide-area licensee is free to engage in resale activities, but must satisfy its construction requirements through use of its facilities and not capacity acquired from others through resale.

44. The Commission will require EA licensees to provide coverage to one-third of the population of their respective EAs within three years of initial license grant and to two-thirds by the end of their five-year construction period. This requirement is consistent with the Commission's 900 MHz SMR rules. Unlike its approach in the 900 MHz SMR context, the Commission is not adopting a "substantial service" benchmark for the upper 10 MHz block as an alternative to the population coverage criteria. Given the already extensive licensing in the upper 10 MHz block, the Commission believes it is unlikely that an EA licensee could provide substantial service without buying incumbent systems or relocating incumbents. Similarly, the Commission did not adopt a "substantial service" standard in the Multipoint Distribution Service (MDS) because of extensive incumbent presence in that spectrum.

4. Channel Use Requirement

45. Given the extensive licensing of the upper 10 MHz block, the Commission shares the concern of several commenters that interim coverage requirements alone may not ensure efficient spectrum use unless a channel use requirement is added. Specifically, the Commission is concerned that an EA licensee potentially could satisfy the interim coverage requirements by constructing only one channel in its spectrum block. This would result in inefficient use of 800 MHz SMR spectrum, for which there is great demand. In addition, unlike the 900 MHz SMR service and other lightly encumbered auctionable services, the substantial incumbent presence in the 800 MHz SMR service presents the potential for a bidder who is incapable of building out a wide-area system to participate in the auction solely to restrict a competing incumbent licensee's ability to expand. Accordingly, the Commission will require EA licensees to construct 50 percent of the total channels included in their spectrum blocks in at least one location in their respective EAs within three years of initial license grant. Although the Commission does not impose an additional channel use requirement at the fifth year, EA licensees nonetheless are required to maintain their compliance with the initial channel usage requirement for the remainder of their construction period.

5. Non-compliance With Interim Coverage Requirements

46. The Commission concluded that an EA licensee's failure to meet either the three-year or five-year coverage requirements or the channel usage requirement will result in forfeiture of the entire EA license. Forfeiture of the EA license, however, will not result in the loss of any constructed facilities authorized to the licensee prior to the auction.

F. EA License Application Issues

1. Initial Eligibility

47. In the *CMRS Third R&O* and the *Further Notice*, the Commission tentatively concluded that the initial application process for wide-area SMR licenses should be open to any qualified applicant. The Commission also sought comment on whether it was necessary to restrict eligibility for EA licenses to incumbent licensees (or to restrict eligibility based on other criteria) if competitive bidding procedures are used in the upper 10 MHz block.

48. In this *First R&O*, the Commission concludes that restrictions on eligibility for EA licenses are not warranted, except that EA applicants will be presumptively classified as CMRS, and therefore will be required to comply with the alien ownership requirements specified in Section 310 of the Act. The Commission has adopted specific provisions in the service rules for the upper 10 MHz block to address these concerns, *e.g.*, imposition of construction periods combined with

interim coverage and channel use requirements. Moreover, the Commission believes that the competitive bidding process itself will deter speculation by those not genuinely interested in providing service to the public. In addition, the Commission believes that open eligibility for the EA licensees will be pro-competitive and potentially will result in a diverse group of entities providing wide-area SMR service in the upper 10 MHz block.

49. With respect to foreign ownership, all applicants will be subject to Section 310(b) of the Communications Act, except to the extent they have received waiver of preexisting ownership interests. In the CMRS docket, the Commission established specific procedures for private mobile services licensees reclassified as CMRS to file waiver petitions to retain existing foreign ownership interests. Thus, any reclassified private mobile services licensees that have levels of alien ownership or control that would be prohibited when these licensees assume CMRS status must already have filed a petition seeking to have such interests grandfathered.

2. Regulatory Classification of EA Licensees

50. In the *CMRS Second R&O*, the Commission determined that SMR licensees would be classified as CMRS if they offered interconnected service and as PMRS if they did not offer such service. In the *Further Notice*, the Commission indicated its view that most, if not all, EA licensees will be classified as CMRS, because they are likely to provide interconnected service as part of their service offering. As a result, the Commission proposed to classify all EA licensees presumptively as CMRS providers. The Commission also proposed that EA applicants or licensees who do not intend to provide CMRS service would be able to overcome this presumption by demonstrating that their service does not fall within the CMRS definition. The Commission further proposed that the statutory grandfathering period also would apply with respect to the operation of this presumption. As a result, entities licensed in the SMR service as of August 10, 1993, would not be subject to CMRS regulation, other than foreign ownership restrictions, until August 10, 1996.

51. The Commission reiterates its conclusion that EA licensees will be classified presumptively as CMRS providers. The Commission also concluded that EA applicants and licensees, like other CMRS providers (such as broadband PCS applicants and licensees), will be able to overcome this presumption if they demonstrate that their service does not fall within the CMRS definition provided in Section 332(d)(1) of the Communications Act.

G. Redesignation of Other 800 MHz Spectrum—General Category Channels and Inter-Category Sharing

52. Currently, 800 MHz SMR systems may be licensed on the General Category channels or licensed under its inter-category sharing rules on 100 channels in the Industrial/Land Transportation and Business Categories (collectively, "Pool Channels"). In the *Further Notice*, the Commission indicated that although it believes that SMR licensees with existing operations on the General Category or Pool Channels should be allowed to operate on such channels, the Commission also believes that some restriction on future SMR applications for General Category or Pool Channels might be appropriate.

1. General Category Channels

53. In the *Further Notice*, the Commission asked commenters to address whether the entire General Category or some portion thereof should be designated for future licensing exclusively to SMR applicants. The Commission's licensing records indicate that the overwhelming majority of General Category channels are used for SMR as opposed to non-SMR service. As a result, the Commission concludes that the demand for additional spectrum by SMR providers is significantly greater than the demand by non-SMR services. In addition, given the already extensive licensing on the upper 10 MHz block and the mandatory relocation established in this *First R&O*, as part of its wide-area licensing for the 800 MHz SMR service, the Commission expects that demand for additional SMR spectrum will increase, as EA licensees seek frequencies for relocation of incumbents. The Commission believes that by prohibiting SMR eligibility on the Pool Channels it will relieve much of the pressure on such frequencies. The Commission concludes that the most efficient use of the General Category channels is to redesignate them exclusively for SMR use.

2. Inter-Category Sharing

54. In the *Further Notice*, the Commission noted that the Pool Channels are intended for non-commercial internal use by Business and Industrial/Land Transportation licensees, and their availability for SMR licensees was to be on a limited basis only. After the release of the *Further Notice*, the Bureau placed a freeze on inter-category sharing.

55. The Commission is concerned that continuing to allow SMR applications for the Pool Channels could cause a scarcity of frequencies for PMRS uses. Specifically, if these channels remain available to SMR licensees, but are not subject to auctions, demand for the channels by SMR applicants seeking to avoid auctions may render them unavailable to other eligible Part 90 services. Thus, the Commission revises current eligibility rules for inter-category sharing of the Pool Channels to eliminate the risk of SMR encroachment on spectrum allocated for PMRS purposes. SMR licensees no longer will be eligible to apply for Pool Channels on an inter-category sharing basis.

56. In light of its elimination of SMR eligibility for the Pool Channels, the Commission concludes that non-SMR licensees no longer will be eligible for SMR channels, including the General Category channels. With respect to the upper 10 MHz block, the Commission concludes that non-SMR incumbent licensees, like SMR incumbent licensees, will receive the operational rights extended to incumbents and will be subject to the mandatory relocation mechanism.

III. Eighth Report and Order

A. Auctionability of the Upper 10 MHz Block of 800 MHz SMR Spectrum

57. Section 309(j) of the Communications Act, permits auctions only where: (1) mutually exclusive applications for initial licenses or construction permits are accepted for filing by the Commission; (2) the principal use of the spectrum will involve or is reasonably likely to involve the receipt by the licensee of compensation from subscribers in return for enabling those subscribers to receive or transmit communications signals; and, (3) the objectives set forth in Section 309(j)(3) would be promoted.

58. In the *Second Report and Order* in PP Docket No. 93–253, 59 FR 22980 (May 4, 1994) *(Competitive Bidding Second R&O)*, the Commission concluded that SMR as a class of service, including 800 MHz SMR, would satisfy the Section 309(j) criteria for auctionability. The Commission noted that its rules explicitly contemplate and expect that SMR licensees will provide service to eligible subscribers for compensation. The Commission concluded that the use of competitive bidding will speed the development and rapid deployment of SMR service, including service in rural areas, with minimal administrative or judicial

delays, as required by Section 309(j)(3)(A). The Commission also determined that competitive bidding would promote the objectives of Section 309(j)(3)(C) in the SMR service by recovering for the public a portion of the value of SMR spectrum made available for commercial use, and avoiding unjust enrichment.

59. In the *CMRS Third R&O*, the Commission concluded that it generally should use competitive bidding procedures to select among mutually exclusive CMRS applications where it has the authority to do so and where the Commission find such processing to be in the public interest. The Commission specifically concluded that competitive bidding procedures should be used to select between mutually exclusive initial applications in the 800 MHz SMR service. The Commission also concluded that, because the number of mutually exclusive applications in future licensing in the 800 MHz SMR service may be considerable, the use of competitive bidding will ensure that the qualified applicants who place the highest value on the available spectrum will prevail in the selection process.

60. The Commission reiterates its conclusion that competitive bidding is an appropriate licensing tool for the 800 MHz SMR service. The Commission emphasizes that the use of auctions will apply only to issuance of initial licenses in the upper 10 MHz block, the EA licenses. These EA licenses previously have not been issued by the Commission, and include certain rights and obligations that previously were not granted to or required of licensees. Significantly, its granting of these EA licenses does not affect rights afforded to licensees under existing authorizations, because incumbent licensees will be able to continue to operate their systems. Even though incumbents will be subject to mandatory relocation under certain circumstances, their existing operations will be protected. Furthermore, auctions will be used only in the event that there are competing applications for the same EA license.

61. The Commission concludes that use of competitive bidding in the upper 10 MHz block is authorized by Section 309(j) of the Communications Act. The Commission affirmed its previous conclusion that 800 MHz SMR, as a service, satisfies the criteria set forth by Congress for determining when competitive bidding should be used. SMR licenses are used to provide service to subscribers for compensation, so a precondition to competitive bidding under Section 309(j)(2)(A) is met. Moreover, competitive bidding will further the public interest requirements of Section 309(j)(3), by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use. Where competitive bidding is utilized, a diverse group of entities, including incumbent licensees and potential new entrants, will be able to participate in the auction process, because the Commission has decided not to restrict eligibility for these EA licenses, an outcome which furthers the goals of Section 309(j)(3)(B) of the Communications Act.

62. Additionally, the Commission believes that competitive bidding procedures will minimize administrative or judicial delays in licensing, particularly when compared to other licensing alternatives—comparative hearings, lotteries (which specifically are prohibited since the 800 MHz SMR service is auctionable), or first-come, first-served procedures. The Commission employed first-come, first-served procedures in the 800 MHz SMR service prior to its implementation of the Budget Act. The Commission's experience is that such procedures have resulted in processing delays. By contrast, the Commission expects that use of competitive bidding will allow interested parties to obtain expeditious access to 800 MHz SMR spectrum and to use such spectrum efficiently. The Commission concludes that this result furthers both Section 309(j)(3)(A) and Section 309(j)(3)(D) of the Communications Act.

63. The Commission disagrees with those commenters who argue that the Commission's competitive bidding authority does not extend to existing services. Section 309(j) of the Communications Act does not distinguish between new services (such as PCS) and existing services in terms of whether initial licenses in a given service should be subject to competitive bidding. Accordingly, the Commission concludes that its determination that the 800 MHz SMR service is auctionable is fully consistent with Section 309(j) of the Communications Act.

B. Competitive Bidding Methodology for Upper 10 MHz Block

1. Competitive Bidding Design

64. *Simultaneous Multiple Round Auctions.* Based on the record in this proceeding and the Commission's successful experience conducting simultaneous multiple round auctions for other CMRS services (*e.g.*, narrowband and broadband PCS), the Commission believes a simultaneous multiple round auction is the most appropriate competitive bidding design for the 10 MHz upper block of 800 MHz SMR spectrum. The Commission has developed and successfully conducted auctions with software capable of handling numerous licenses in a simultaneous multiple round auction. Thus, this methodology will afford the Commission administrative convenience and enable it to hold an auction quickly and efficiently. For certain bidders, the value of these licenses will be significantly interdependent because of the desirability of aggregation across geographic regions. Given this high degree of interdependency among licenses, the Commission rejects SBA's suggestion that single round sealed bidding is a more appropriate competitive bidding design for licensing the upper 10 MHz SMR spectrum blocks. The Commission believes that simultaneous multiple round bidding will generate more information about license values during the course of the auction and provide bidders with more flexibility to pursue back-up strategies, than if the licenses were auctioned separately or through sealed bidding. As the Commission decided in the 900 MHz SMR service, the Bidder Information Package for the 10 MHz upper block licenses will provide all the information about incumbent licensees that is available in its licensing records as of 60 days prior to the filing deadline for participation in the auction. In this connection, upon release of the Public Notice announcing the date of the auction for the upper 10 MHz block of 800 MHz SMR spectrum, all pending applications for frequencies within this spectrum will be returned without prejudice to the applicants. These applicants then will be able to seek licenses for these frequencies through the competitive bidding process. In addition, the Commission encourages all potential bidders to examine these records carefully and do their own independent investigation regarding existing licensees' operations in each EA in which they intend to bid in order to maximize their success in the auction. The Commission will hold a seminar for prospective bidders to acquaint them with this competitive bidding design. The Commission will announce the date and location for such seminar by Public Notice. The Commission concludes, therefore, that simultaneous multiple round bidding is most likely to award licenses to the bidders who value them the most highly and to provide bidders with the greatest likelihood of obtaining the license

combinations that best satisfy their service needs.

65. *Stopping Rules.* The Commission will adopt a simultaneous stopping rule for the upper 10 MHz block 800 MHz SMR auction. The simultaneous stopping rule is designed to allow bidders to decide how long the auction will run, based on bidding strategy and demand for each license. Under a simultaneous stopping rule, bidding will remain open on all licenses in an auction until bidding stops on every license. In this *Eighth R&O*, the Commission concludes that the substitutability between licenses within the same EA and the ability to pursue back-up strategies support the use of a simultaneous stopping rule.

66. As a result, the upper 10 MHz block 800 MHz SMR auction will close after one round passes in which no new valid bids or proactive activity rule waivers are submitted. The Commission retains the discretion to keep the auction open even if no new acceptable bids and no proactive waivers are submitted in a single round. In the event that the Commission exercise this discretion, the effect will be the same as if a bidder has submitted a proactive waiver. The Commission also retains the discretion to announce market-by-market closings.

67. The Commission further retains the discretion to declare after 40 rounds that the auction will end after some specified number of additional rounds. Bids will be accepted only on licenses where the high bid has increased in the last three rounds. This will deter bidders from continuing to bid on a few low value licenses solely to delay the closing of the auction. It also will enable the Commission to end the auction when it determines that the benefits of terminating the auction and issuing licenses exceed the likely benefits of continuing to allow bidding. The Commission will announce by Public Notice the number of remaining rounds and other final bidding procedures. In this *Eighth R&O*, the Commission delegates authority to the Bureau to issue such Public Notices.

68. *Activity Rules.* In the *Further Notice*, the Commission proposed that if simultaneous multiple round auctions are used for the upper 10 MHz block, the Commission would use activity rules the same as or similar to those used in simultaneous multiple round bidding for MTA-based PCS licenses. The Commission has used the Milgrom-Wilson activity rule to award broadband and narrowband PCS licenses. In the *Competitive Bidding Fifth R&O*, the Commission permitted broadband PCS bidders one "automatic" waiver from the activity rule during each stage of an auction. An automatic waiver is exercised by the Commission if a bidder fails to bid and fails to submit a "proactive" waiver, unless the bidder chooses to override the automatic waiver process to intentionally decrease eligibility: a "proactive" waiver is one which can be submitted by the bidder when it chooses not to bid in a round and wishes to maintain its current eligibility level. With respect to broadband PCS auctions, the Commission initially determined that only proactive waivers, and not automatic waivers, would keep an auction open. In that context, however, the Commission later modified the rule by retaining the discretion to keep an auction open even if no new acceptable bids and no proactive waivers are submitted in a single round. The Commission will employ the Milgrom-Wilson activity rule in conjunction with the simultaneous stopping rule. Under the Milgrom-Wilson approach, the minimum activity level, measured as a fraction of the bidder's eligibility in the current round, increases during the course of the auction. The three-stage Milgrom-Wilson approach encourages bidders to participate in early rounds by limiting their maximum participation to some multiple of their minimum participation level.

69. Absent waivers, a bidder's eligibility (in terms of activity units) in the current round is determined by the bidder's activity level and eligibility in the previous round. In the first round, however, eligibility is determined by the bidder's upfront payment and is equal to the upfront payment divided by $0.02 per activity unit.

70. In each round of Stage I, a bidder who wishes to maintain its current eligibility must be active on licenses encompassing at least one-half (50 percent) of the activity units for which it currently is eligible. Failure to maintain the requisite activity level will result in a reduction in the amount of activity units upon which a bidder will be eligible to bid in the next round of bidding (unless an activity rule waiver is used). During Stage I, if bidding activity is below the required minimum level, eligibility in the next round will be calculated by multiplying the current round activity by two. Eligibility for each applicant in the first round of the auction is determined by the amount of the upfront payment received and the licenses identified in its auction application. In each round of Stage II, a bidder who wishes to maintain its current eligibility in the next round is required to be active on at least 75 percent of the activity units for which it is eligible in the current round. During Stage II, if activity is below the required minimum level, eligibility in the next round will be calculated by multiplying the current round activity by four-thirds (4/3). In each round of Stage III, a bidder who wishes to maintain its current eligibility must be active on licenses encompassing at least 95 percent of the activity units for which it is eligible in the current round. In Stage III, if activity in the current round is below 95 percent of current eligibility, eligibility in the next round will be calculated by multiplying the current round activity by twenty nineteenths (20/19). The Commission reserve the discretion to set and, by announcement before or during the auction, vary the requisite minimum activity levels (and associated eligibility calculations) for each auction stage. Retaining this flexibility will improve the Commission's ability to control the pace of the auction and help ensure that the auction is completed within a reasonable period of time.

71. As in prior auctions, the Commission will determine the transition from one stage to the next in the 800 MHz SMR auction by the aggregate level of bidding activity, subject to its discretion. The transition rule also may be defined in terms of the "auction activity level"—the sum of activity units of those licenses whose high bid increased in the current round, as a percentage of the total activity units of all licenses in that auction. The auction will start in Stage I and move to Stage II when the auction activity level is below ten percent for three consecutive rounds in Stage I. The auction will move from Stage II to Stage III when the auction activity level is below five percent for three consecutive rounds in Stage II. In no case can the auction revert to an earlier stage. The Commission retains the discretion, however, to determine and announce during the course of an auction when, and if, to move from one auction stage to the next. These determinations will be based on a variety of measures of bidder activity including, but not limited to, the auction activity level defined above, the percentage of licenses (measured in terms of activity units) on which there are new bids, the number of new bids, and the percentage increase in revenue.

72. To avoid the consequences of clerical errors and to compensate for unusual circumstances that might delay a bidder's bid preparation or submission on a particular day, the Commission will provide bidders with five activity rule waivers that may be used in any round during the course of the auction.

If a bidder's activity level is below the required activity level a waiver automatically will be applied. That is, if a bidder fails to submit a bid in a round, and its activity level from any "standing" high bids (*i.e.*, high bids at the end of the bid withdrawal period in the previous round) falls below its required activity level, a waiver automatically will be applied. A waiver will preserve current eligibility in the next round, but cannot be used to correct an error in the bid amount. An activity rule waiver applies to an entire round of bidding and not to a particular EA service area.

73. Bidders will be afforded an opportunity to override the automatic waiver mechanism when they place a bid, if they wish to reduce their bidding eligibility and do not want to use a waiver to retain their eligibility at its current level. If a bidder overrides the automatic waiver mechanism, its eligibility permanently will be reduced, and it will not be permitted to regain its bidding eligibility from a previous round. An automatic waiver invoked in a round in which there are no valid bids will not keep the auction open. Bidders will have the option to enter a "proactive" waiver during the bid submission period. If a bidder submits a proactive waiver in a round in which no other bidding activity occurs, the auction will remain open.

74. The Commission retains the discretion to issue additional waivers during the course of an auction for circumstances beyond a bidder's control. The Commission also retains the flexibility to adjust, by Public Notice prior to an auction, the number of waivers permitted, or to institute a rule that allows one waiver during a specified number of bidding rounds or during specified stages of the auction. In this *Eighth Report and Order*, the Commission delegated to the Bureau the discretion to issue additional waivers or restrict the use of such waivers.

2. License Grouping

75. In the *Further Notice*, the Commission tentatively concluded that if simultaneous multiple round auctions were used for the 800 MHz SMR wide-area spectrum blocks, the wide-area licenses covering these spectrum blocks should be auctioned simultaneously, because of the relatively high value and significant interdependence of the licenses.

76. The Commission believes that the licenses for the upper 10 MHz band are significantly interdependent. The Commission believes that grouping interdependent licenses and putting them up for bid at the same time will facilitate awarding licenses to bidders who value them most highly by providing bidders with information about the prices of complementary and substitutable licenses during the course of an auction. Because potential bidders may be interested in aggregating spectrum across geographic areas as well as across spectrum blocks, the Commission disagrees with Cellcall's suggestion to auction each geographic area individually. As a result, the Commission concludes that all EA licenses for the upper 10 MHz block should be auctioned simultaneously. The Commission further concludes that holding a single auction for all 176 EAs in the 800 MHz SMR band will be the fairest, fastest, and most efficient means of distributing these licenses.

3. Bidding Issues for Upper 10 MHz Block of 800 MHz SMR Spectrum

77. *Bidding Procedures.* In the *Further Notice*, the Commission proposed that if simultaneous multiple round auctions are used for wide-area SMR licenses, the Commission would use the same or similar bidding procedures to those used in simultaneous multiple round bidding for broadband PCS licenses. The Commission adopts the same bidding procedures used for MTA-based PCS licenses. Under these procedures, bidders will be able to submit bids via remote bidding, using special bidding software, or via telephone. The Commission has established a schedule of fees that participants in the competitive bidding process will be assessed for certain on-line computer services, bidding software, and for Bidder Information Packages. In addition, bidders will be permitted to bid electronically only if they have filed a short-form application electronically. Bidders who file their short-form manually may bid only telephonically. When submitting bids telephonically, bidders may utilize the Internet to learn the round-by-round results of the auction. Online services such as CompuServe, Prodigy, and America Online provide Internet access at a reasonable cost. Bidders also may, at negligible cost, use a computerized bulletin board service, accessible by telephone lines, from which auction results can be downloaded to a personal computer. The Commission intends to hold a seminar for prospective bidders to acquaint them with these bidding procedures.

78. *Bid Increments.* In the *Further Notice*, the Commission proposed that if simultaneous multiple round auctions are used for the upper 10 MHz block, the Commission would use the same or similar procedures for bid increments as those used in simultaneous multiple round bidding for MTA-based PCS licenses.

79. The Commission will announce, by Public Notice prior to the auction, the general guidelines for bid increments. The Commission retains the discretion to set and, by announcement before or during the auction, vary the minimum bid increments for individual licenses or groups of licenses over the course of the auction.

80. *Duration of Bidding Rounds.* In simultaneous multiple round auctions, the Commission recognize that bidders may need a significant amount of time to evaluate back-up strategies and develop their bidding plans. The Commission delegated to the Bureau the discretion to vary the duration of the bidding rounds or the interval at which bids are accepted (*e.g.*, to run more than one round per day) in order to move the auction to closure more quickly. The Bureau will announce any changes to the duration of and intervals between bidding rounds, either by Public Notice prior to the auction or by announcement during the auction.

4. Procedural and Payment Issues

81. *Pre-Auction Application Procedures.* In the *Competitive Bidding Second R&O*, the Commission determined that it should require only a short-form application (FCC Form 175) prior to auction, and that only winning bidders should be required to submit a long-form license application (FCC Form 600) after the auction. In this connection, the Commission determined that such a procedure would fulfill the statutory requirements and objectives and adequately protect the public interest. In the *Further Notice*, the Commission proposed to treat all wide-area applicants as initial applicants for public notice, application processing, and competitive bidding purposes, regardless of whether they already are incumbent licensees in the 800 MHz band. In addition in the *Further Notice*, the Commission proposed to require applicants for wide-area SMR licenses to file an initial "short-form" application in order to qualify for competitive bidding.

82. The Commission will extend the pre-auction application procedures established in the *Competitive Bidding Second R&O* to the competitive bidding process for the upper 10 MHz block. With respect to the definition of "initial" application in the upper 10 MHz block of 800 MHz SMR spectrum, the Commission believes that the most appropriate basis for this determination is an evaluation of the nature of the EA license. As EA licensees will gain use of

a large geographic area and the freedom to locate base stations anywhere within that larger geographic region, they differ from the existing 800 MHz SMR licensees that essentially are confined to smaller geographic areas, are site-specific, and do not encompass a large number of frequencies. Accordingly, the Commission will treat all EA applicants as initial applicants for public notice, application processing, and auction purposes, regardless of whether they already are incumbent operators.

83. Prior to the start of the 800 MHz SMR auction, the Commission will release an initial Public Notice announcing the auction. The initial Public Notice will specify the licenses to be auctioned and the time and place of the auction in the event that mutually exclusive applications are filed. The Public Notice will specify the method of competitive bidding to be used, applicable bid submission procedures, stopping rules, activity rules, the deadline by which short-form applications must be filed, and the amounts and deadlines for submitting upfront payments. The Commission will not accept applications filed before or after the dates specified in the Public Notice. Applications submitted before the release of the Public Notice will be returned as premature. Likewise, applications submitted after the deadline specified by the Public Notice will be dismissed, with prejudice, as untimely.

84. Soon after the release of the initial Public Notice, a Bidder Information Package will be made available to prospective bidders. The Bidder Information Package for the 800 MHz SMR service will contain information on the incumbents occupying blocks on which bidding will be available.

85. Section 309(j)(5) provides that no party may participate in an auction "unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing." Moreover, "[n]o license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to Section 309(a), Section 308(b), and Section 310" of the Communications Act. As the legislative history of Section 309(j) makes clear, the Commission may require that bidders' applications contain all information and documentation sufficient to demonstrate that the application is not in violation of the Commission's rules, and the Commission will dismiss applications not meeting those requirements prior to the auction.

86. Thus, all bidders will be required to submit short-form applications on FCC Form 175 (and FCC Form 175–S, if applicable), by the date specified in the initial Public Notice. Applicants are encouraged to file FCC Form 175 electronically. Detailed instructions regarding electronic filing will be contained in the Bidder Information Package. Those applicants filing manually will be required to submit one paper original and one diskette original of their application, as well as two diskette copies. In addition, applicants filing manually will not be permitted to bid electronically. The short-form applications will require applicants to provide the information required by Section 1.2105(a)(2) of the Commission's rules. Specifically, each applicant will be required to specify on its FCC Form 175 application certain identifying information, including its status as a designated entity, its classification (*i.e.*, individual, corporation, partnership, trust, or other), the EAs and spectrum blocks for which it is applying, and, assuming that the licenses will be auctioned, the names of persons authorized to place or withdraw a bid on its behalf. The Commission requests applicants indicate their designated entity status in order to assist us in analyzing the applicant pool and the auction results to determine whether the Commission has accomplished substantial participation by minorities, women, small businesses, and rural telephone companies. In this connection, the Commission notes that Section 309(j) of the Communications Act requires us to prepare a report on the participation of designated entities in the auction and in the provision of spectrum-based services.

87. As the Commission indicated in the *Competitive Bidding Second R&O*, if it receives only one application that is acceptable for filing for a particular license, and thus there is no mutual exclusivity, the Commission will issue a Public Notice cancelling the auction for this license and establishing a date for the filing of a long-form application, the acceptance of which will trigger the procedures permitting petitions to deny. If no petitions to deny are filed, the application will be grantable after 30 days. By ensuring that bidders and license winners are serious, qualified applicants, these rules will minimize the need to re-auction licenses and will prevent delays in the provision of 800 MHz SMR service to the public. In response to those commenters concerned about the ability of unsuccessful bidders to participate in geographic-area licensing, the Commission reiterated its decision in the *First R&O* that incumbents, post-auction, will be able to trade-in their multiple licenses for a single authorization in a particular area, provided certain conditions are satisfied.

88. *Amendments and Modifications.* The Commission will adopt the following procedures for amendments to and modifications of short-form applications in the 800 MHz SMR service. Upon reviewing the short-form applications, the Commission will issue a Public Notice listing all defective applications, and applicants with minor defects will be given an opportunity to cure them and resubmit a corrected version. By the resubmission date, all applicants will be required to submit an upfront payment to the Commission, as discussed below, to the Commission's lock-box by the date specified in the Public Notice, which should be no later than 14 days before the scheduled auction. After the Commission receives from its lock-box bank the names of all applicants who have submitted timely upfront payments, the Commission will issue a second Public Notice announcing the names of all applicants that have been determined to be qualified to bid. An applicant who fails to submit a sufficient upfront payment to qualify it to bid on any license being auctioned will not be identified on this Public Notice as a qualified bidder. Each applicant listed on this Public Notice will be issued a bidder identification number and further information and instructions regarding auction procedures.

89. On the date set for submission of corrected applications, applicants that on their own have discovered minor errors in their applications (*e.g.*, typographical errors, incorrect license designations, *etc.*) will be permitted to file corrected applications. The Commission also will waive the *ex parte* rules as they apply to the submission of amended short-form applications for the 800 MHz SMR auctions, to maximize applicants' opportunities to seek Commission staff advice on making such amendments. Applicants will not be permitted to make any major modifications to their applications, including, but not limited to, changes in license areas and changes in control of the applicant, or additions of other bidders into the bidding consortia, until after the auction. Applicants also may modify their short-form applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided such changes will not result in a change in *de jure* or *de facto* control of the applicant, and provided that the parties forming consortia or entering into ownership agreements have not applied for licenses in any of the same geographic license areas, *i.e.*, EAs. In addition, applications that are not signed will be dismissed as unacceptable for filing, as will applications in which no market designations are made.

90. In addition, a single member of a bidding consortium may withdraw from a consortium only in a particular EA(s), but otherwise remain in the consortium for purposes of bidding on all other markets specified on the short-form application. However, such arrangements to assign the member's interests in particular licenses to other consortium members after the auction must be disclosed on an original or amended short-form application, and a request to transfer or assign the license also must be filed in conjunction with the long-form application.

5. Upfront Payments

91. In the *Competitive Bidding Second R&O*, the Commission established a minimum upfront payment of $2,500 and stated that this amount could be modified on a service-specific basis. In the *Further Notice*, the Commission proposed to require 800 MHz SMR auction participants to tender in advance to the Commission a substantial upfront payment, $0.02 per activity unit for the largest combination of activity units on which a bidder anticipates bidding in any round, as a condition of bidding in order to ensure that only serious, qualified bidders participate in auctions, and to ensure payment of the monetary assessment in the event of bid withdrawal or default. The Commission also sought comment on the upfront payment formula and minimum upfront payment most appropriate for the 800 MHz SMR service.

92. The Commission adopts the standard $0.02 per activity unit formula to calculate the upfront payment. The Commission also adopts a minimum upfront payment of $2,500 for the 800 MHz SMR service. In the initial Public Notice issued prior to the auction, the Commission will announce population information corresponding to each license and the upfront payment amount for each EA license. In general, population coverage for each channel block in each EA will be based on a formula that takes into account the presence of incumbent licensees.

93. Upfront payments will be due by a date specified by Public Notice, but generally no later than 14 days before a scheduled auction. Each qualified bidder will be issued a bidder identification number and further information and instructions regarding the auction procedures. During the auction, bidders will be required to provide their bidding identification numbers when submitting bids.

6. Down Payments and Full Payments

94. *Down Payments.* In the *Competitive Bidding Second R&O*, the Commission generally required successful bidders to tender a 20 percent down payment on their bids to discourage default between the auction and licensing, and to ensure payment of the monetary assessment if such default occurs. In the *Further Notice*, the Commission proposed to require the winning bidders for 800 MHz SMR licenses to supplement their upfront payments with a down payment sufficient to bring their total deposits up to 20 percent of their winning bid(s).

95. The Commission concludes that winning bidders must supplement their upfront payments with a down payment sufficient to bring their total deposits up to 20 percent of their winning bid(s). If the upfront payment already tendered by a winning bidder, after deducting any bid withdrawal and default payments due, amounts to 20 percent or more of its winning bids, no additional deposit will be required. If the upfront payment amount on deposit is greater than 20 percent of the winning bid amount after deducting any bid withdrawal and default payments due, the additional monies will be refunded. If a bidder has withdrawn a bid or defaulted, but the amount of the payment cannot yet be determined, the bidder will be required to make a deposit of 20 percent of the amount bid on such licenses. When it becomes possible to calculate and assess the payment, any excess deposit will be refunded. Upfront payments will be applied to such deposits, and to bid withdrawal and default assessments due, before being applied toward the bidder's down payment on licenses the bidder has won and seeks to acquire.

96. The Commission also will require winning bidders to submit the required down payment by cashier's check or wire transfer to its lock-box bank by a date and time to be specified by Public Notice, generally within five business days following the close of bidding. The Commission will hold the down payment until the high bidder is awarded the license and has paid the remaining balance due on such license, or until the winning bidder is found unqualified to be a licensee or has defaulted, in which case it will be returned, less applicable monetary assessments. All auction winners generally will be required to make full payment of the balance of their winning bids within five business days following Public Notice that the Commission is prepared to award the license. The Commission generally will grant uncontested licenses within ten business days after receiving full payment. During the period that deposits are held pending the ultimate award of the license, the interest that accrues, if any, will be retained by the U.S. Treasury.

97. *Long-Form Applications.* The Commission will follow these procedures if the winning bidder makes the down payment in a timely manner: A long-form application filed on FCC Form 600 must be filed by a date specified by Public Notice, generally within ten business days after the close of bidding. After the Commission receives the winning bidder's down payment and long-form application, the Commission will review the long-form application to determine if it is acceptable for filing. Upon acceptance for filing of the long-form application, the Commission will issue a Public Notice announcing this fact, triggering the filing window for petitions to deny. If the Commission denies all petitions to deny, and otherwise is satisfied that the applicant is qualified, the license(s) will be granted to the auction winner.

98. *Petitions to Deny and Limitations on Settlements.* A party filing a petition to deny against an 800 MHz SMR application will be required to demonstrate standing and meet all other applicable filing requirements. The restrictions in Section 90.162 were established to prevent the filing of speculative applications and pleadings (or threats of the same) designed to extract money from 800 MHz SMR applicants. Thus, the Commission will limit the consideration that an applicant or petitioner is permitted to receive for agreeing to withdraw an application or petition to deny to the legitimate and prudent expenses of the withdrawing applicant or petitioner.

99. With respect to petitions to deny, the Commission need not conduct a hearing before denying an application if it determines that an applicant is not qualified and no substantial and material issue of fact exists concerning that determination. In the event the Commission identifies substantial and material issues of fact, Section 309(i)(2) of the Communications Act permits the submission of all or part of evidence in written form in any hearing and allows employees other than administrative law judges to preside over the taking of written evidence.

100. *Bid Withdrawal, Default, and Disqualification.* In the *Further Notice*, the Commission proposed to adopt bid withdrawal, default, and disqualification rules for the 800 MHz SMR service, based on the procedures established in its general competitive bidding rules.

101. The Commission believes that forfeiture of the entire upfront payment is too extreme for the bidder who withdraws only one bid. Since commenters have not stated why the 800 MHz SMR service differs in this respect from the narrowband and broadband PCS services, there is no justification for departing from the already tested narrowband and broadband PCS withdrawal, default, and disqualification assessments. Therefore, the Commission believes applying Section 1.2104(g)(1) of its Rules to the 800 MHz SMR auction is more equitable and is consistent with its practice in prior auctions. Section 1.2104(g)(1) provides that any bidder that withdraws a high bid during an auction before the Commission declares bidding closed will be required to reimburse the Commission in the amount of the difference between its high bid and the amount of the winning bid the next time the license is offered by the Commission, if this subsequent winning bid is lower than the withdrawn bid.

102. If a license is re-offered by auction, the "winning bid" refers to the high bid in the auction in which the license is re-offered. If a license is re-offered in the same auction, the winning bid refers to the high bid amount, made subsequent to the withdrawal, in that auction. If the subsequent high bidder also withdraws its bid, that bidder will be required to pay an assessment equal to the difference between its withdrawn bid and the amount of the subsequent winning bid the next time the license is offered by the Commission. If a license which is the subject of withdrawal or default is not re-auctioned, but instead is offered to the highest losing bidders in the initial auction, the "winning bid" refers to the bid of the highest bidder who accepts the offer. Losing bidders will not be required to accept the offer, *i.e.*, they may decline without penalty. The Commission wish to encourage losing bidders in simultaneous multiple round auctions to bid on other licenses, and therefore the Commission will not hold them to their losing bids on a license for which a bidder has withdrawn a bid or on which a bidder has defaulted.

103. After bidding closes, the Commission will apply Section 1.2104(g)(2) of its Rules to assess a defaulting auction winner an additional payment of three percent of the subsequent winning bid or three percent of the amount of the defaulting bid, whichever is less. The additional three percent payment is designed to encourage bidders who wish to withdraw their bids to do so before bidding ceases. The Commission will hold deposits made by defaulting or disqualified auction winners until full payment is made. In the unlikely event that there is more than one bid withdrawal on the same license, the Commission will hold each withdrawing bidder responsible for the difference between its withdrawn bid and the amount of the winning bid the next time the licenses are offered for auction by the Commission.

104. These payment requirements will discourage default and ensure that bidders meet all eligibility and qualification requirements. If a default or disqualification involves gross misconduct, misrepresentation or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

105. If the EA license winner defaults, is otherwise disqualified after having made the required down payment, or the license is terminated or revoked, then the Commission will re-auction the license. If the default occurs within five business days after the bidding has closed, the Commission retains the discretion to offer the license to the second highest bidder at its final bid level, or if that bidder declines the offer, to offer the license to other bidders (in descending order of their bid amounts) at the final bid levels. If only a short time has passed since the initial auction, the Commission may choose to offer the license to the highest losing bidders if the cost of running another auction exceeds the benefits.

7. Regulatory Safeguards

106. *Rules Prohibiting Collusion.* The Commission's rules prevent parties from agreeing in advance to bidding strategies that divide the market according to their strategic interests and/or disadvantage other bidders. Bidders will be required to (i) disclose all parties with whom they have entered into any agreement that relates to the competitive bidding process, and (ii) certify they have not entered into any explicit or implicit agreements, arrangements, or understandings with any parties, other than those identified, regarding the amount of their bid, bidding strategies, particular properties on which they will or will not bid or any similar agreement.

107. The Commission will subject 800 MHz SMR licensees to the reporting requirements and rules prohibiting collusion embodied in Sections 1.2105 and 1.2107 of the Commission's rules. Bidders will be required by Section 1.2105(a)(2) to identify on their FCC Form 175 applications all parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate to the competitive bidding process. If parties agree in principle on all material terms, those parties must be identified on the short-form application, even if the agreement has not been reduced to writing. Only at such level of agreement can it be fairly stated that the parties have entered into a bidding consortium or other joint bidding arrangement. If the parties have not agreed in principle by the short-form filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with those parties. Bidders will be required to certify that they have not entered and will not enter into any explicit or implicit agreements, arrangements or understandings with any parties, other than those identified, regarding the amount of their bid, bidding strategies or the particular properties on which they will or will not bid. In this connection, any communications between EA bidders and incumbent licensees should take place prior to the deadline for filing FCC Form 175 applications.

108. After the FCC Form 175 filing deadline, applicants may not discuss the substance of their bids or bidding strategies with bidders, other than those identified on their FCC Form 175 application, that are bidding in the same license areas, *i.e.*, EAs. This prohibition on discussions extends to providing indirect information that affects bids or bidding strategy. For example two applicants not listed on each other's FCC Form 175 applications for the 800 MHz SMR auctions may not discuss bids or bidding strategies with each other if they are bidding for licenses in any of the same EAs, even if they are not bidding for the same spectrum blocks.

109. Section 1.2105(c) of the Commission's rules, however, provides certain exceptions to the rule prohibiting discussions with other applicants after the filing of the short-form application. First, applicants may make agreements to bid jointly for licenses, so long as the applicants have not applied for licenses in any of the same license areas. Second, an applicant may modify its short-form application to reflect formation of bidding agreements or changes in ownership at any time before or during the auction, as long as the changes do not result in change of *de jure* or *de facto* control of the applicant, and the parties forming the bidding agreement have not applied for licenses in any of the same license areas. Finally, a holder of a non-controlling attributable interest in an applicant may acquire an ownership interest in, or enter into a bidding agreement with other applicants in the same license area, if (1) the owner of the attributable interest certifies that it has not communicated and will not communicate bids or bidding strategies of more than one of the applicants in which it holds an attributable interest or with which it has a bidding agreement; and (2) the arrangements do not result in any change of control of the applicant. However, once the short-form application has been filed, a party with an attributable interest in once bidder may not acquire a controlling interest in another bidder bidding for licenses in any of the same license areas.

110. Where the applicant does not meet one of these exceptions, it may not discuss matters relating to bidding with other applicants. Even when an applicant has withdrawn its application after the short-form filing deadline, the applicant may not enter into a bidding agreement with another applicant bidding on authorizations in the license areas from which the first applicant withdrew.

111. If an applicant has the high bid for a license, Section 1.2107(d) of the Commission's rules requires the applicant to include with its long-form application a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement it had entered into relating to the competitive bidding process prior to the time bidding was completed. Under the Commission's rules prohibiting collusion, the term "applicant" includes the entity submitting the application, owners of 5 percent or more of the entity, and all officers and directors of such entity.

112. The Commission noted that even where the applicant discloses parties with whom it has reached on agreement on the short-form application, thereby permitting discussions with those parties, the applicant nevertheless is subject to existing antitrust laws. As discussed in the *Competitive Bidding Fourth Memorandum Opinion & Order* in PP Docket No. 93–253, 59 FR 53364 (October 24, 1994) (*"Competitive Bidding MO&O"*), under the antitrust laws, the parties to an agreement may not discuss bid prices if they have applied for licenses in the same license area. In addition, agreements between actual or potential competitors to submit collusive, non-competitive or rigged bids are *per se* violations of Section One of the Sherman Antitrust Act. Further, actual or potential competitors may not agree to divide territories horizontally in order to minimize competition, regardless of whether they split a license area in which they both do business, or whether they merely reserve one license area for one and another for the other.

113. The Commission noted that where specific instances of collusion in the competitive bidding process are alleged during the petition to deny process, the Commission may conduct an investigation or refer such complaints to the United States Department of Justice for investigation. Bidders who are found to have violated the antitrust laws, in addition to any penalties they incur under the antitrust laws, or who are found to have violated the Commission's rules in connection with their participation in the auction process may be subject to a variety of sanctions, including forfeiture of their down payment or their full bid amount, revocation of their license(s), and may be prohibited from participating in future auctions.

114. *Transfer Disclosure Requirements.* In Section 309(j)(4)(E) of the Communications Act, Congress directed the Commission to "require such transfer disclosures and anti-trafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits." In the *Competitive Bidding Second R&O*, the Commission adopted safeguards designed to ensure that the requirements of Section 309(j)(4)(E) are satisfied. The Commission decided that it was important to monitor transfers of licenses awarded by competitive bidding to accumulate the necessary data to evaluate its auction designs and to judge whether "licenses [have been] issued for bids that fall short of the true market value of the license." Therefore, the Commission imposed a transfer disclosure requirement on licenses obtained through the competitive bidding process, whether such licenses were held by a designated entity or not. The Commission proposed in the *Further Notice* to adopt the transfer disclosure requirements of Section 1.2111(a) of its Rules to all 800 MHz SMR licenses obtained through the competitive bidding process.

115. The Commission believes that a three-year holding period is unnecessary. In other auctionable services, the Commission has required holding periods only in limited circumstances. For example, the Commission's broadband PCS rules require those successful bidders benefitting from special provisions for designated entities to hold their licenses for a certain period of time and restrict the type of transfers and assignments of such licenses during that time. The Commission is not adopting special provisions for designated entities on the upper 10 MHz block of 800 MHz SMR spectrum. When the Commission has not established special provisions for designated entities in other auctionable services, the Commission generally has required only disclosure of certain information regarding transfers or assignments within the first three years after initial license grant. The Commission concludes that this is the most appropriate course of action here. Thus, the Commission will apply Section 1.2111(a) to all 800 MHz SMR licenses obtained through the competitive bidding process. Generally, licensees transferring their licenses within three years after the initial license grant will be required to file, together with their transfer applications, the associated contracts for sale, option agreements, management agreements, and all other documents disclosing the total consideration received in return for the transfer of their licenses. The Commission will give particular scrutiny to auction winners who have not yet begun commercial service and who seek approval for a transfer of control or assignment of their licenses within three years after the initial license grant, so that the Commission may determine if any unforeseen problems relating to unjust enrichment have arisen.

116. *Performance Requirements.* The Communications Act requires the Commission to "include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services." In the *Competitive Bidding Second R&O*, the Commission decided it was unnecessary and undesirable to impose additional performance requirements, beyond those already provided in the service rules, for all auctionable services. In the *Further Notice*, the Commission did not propose

to adopt any additional performance requirements for competitive bidding purposes.

117. The service rules for the upper 10 MHz block contain specific performance requirements, such as the requirement to construct within a specific period of time, channel construction requirements, and interim coverage requirements. Because the failure to meet these requirements will result in automatic cancellation of the EA license, the Commission believes this is a sufficient incentive to promote prompt service and prevent spectrum warehousing. Thus, the Commission will not adopt any performance requirements for the 800 MHz SMR service beyond those required by Section 90.685 of the Rules.

8. Treatment of Designated Entities

118. *Overview, Objectives, and the Impact of Adarand Constructors* v. *Peña.* The Communications Act provides that, in developing competitive bidding procedures, the Commission shall consider various statutory objectives and consider several alternative methods for achieving them. Specifically, the statute provides that in establishing eligibility criteria and bidding methodologies the Commission shall "promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." Small businesses, rural telephone companies and businesses owned by minorities and/or women are collectively referred to as "designated entities." Section 309(j)(4)(A) provides that in order to promote the Communications Act's objectives, the Commission shall "consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods * * * and combinations of such schedules and methods." The Communications Act also requires the Commission to "ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services."

119. To meet the statutory objectives of providing opportunities for designated entities, the Commission has employed a wide range of special provisions and eligibility criteria in other spectrum-based services. The measures adopted thus far for each service were established after closely examining the specific characteristics of the service and determining whether any particular barriers to accessing capital impeded opportunities for designated entities. After examining the record in the Competitive Bidding proceeding in PP Docket 93–253, the Commission established provisions to enable designated entities to overcome the barriers to accessing capital in each particular service. Moreover, these provisions were designed to increase the likelihood that designated entities who win licenses in the auctions become strong competitors in the provision of wireless services.

120. *Impact of Adarand Constructors, Inc.* v. *Peña.* In the broadband PCS docket, the Commission determined that, on separate entrepreneurs' blocks, the bidding credits would vary according to the type of designated entity that applied (*i.e.*, a small business would receive a 10 percent bidding credit, a business owned by minorities or women would receive a 15 percent bidding credit, and a small business owned by women or minorities would receive an aggregated bidding credit of 25 percent), and all entrepreneurs' block licensees would be eligible for varying degrees of installment payments. The Commission adopted special provisions for businesses owned by members of minority groups or women and analyzed their constitutionality using the "intermediate scrutiny" standard of review articulated in *Metro Broadcasting* v. *FCC*, because, as in *Metro Broadcasting*, the proposed provisions involved Congressionally-mandated benign race- and gender-conscious measures.

121. After the release of the *Further Notice*, the Supreme Court decided *Adarand Constructors, Inc.* v. *Peña*, which overruled *Metro Broadcasting* "to the extent that *Metro Broadcasting* is inconsistent with" the holding in *Adarand* that "all racial classifications . . . must be analyzed by a reviewing court under strict scrutiny." As a result of the *Adarand* decision, the constitutionality of any federal program that makes distinctions on the basis of race must serve a compelling governmental interest and must be narrowly tailored to serve that interest. In this connection, the Bureau issued a Public Notice requesting further comment on the effect of the decision in *Adarand* on the proposals made in the *Further Notice* in order to supplement the record in the 800 MHz SMR proceeding.

122. *Special Provisions for Designated Entities.* In instructing the Commission to ensure the opportunity for designated entities to participate in auctions and provision of spectrum-based services, Congress was well aware of the problems that designated entities would have in competing against large, well-capitalized companies in auctions and the difficulties these bidders encounter in accessing capital. For example, the legislative history accompanying Congress's grant of auction authority states generally that the Commission's regulations "must promote economic opportunity and competition," and "[t]he Commission will realize these goals by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women." The House Report states that the House Committee was concerned that, "unless the Commission is sensitive to the need to maintain opportunities for small businesses, competitive bidding could result in a significant increase in concentration in the telecommunications industries." More specifically, the House Committee was concerned that adoption of competitive bidding should not have the effect of "excluding" small businesses from the Commission's licensing procedures, and anticipated that the Commission would adopt regulations to ensure that small businesses would "continue to have opportunities to become licensees."

123. Consistent with Congress's concern that auctions not operate to exclude small businesses, the provisions relating to installment payments clearly were intended to assist small businesses. The House Report states that these related provisions were drafted to "ensure that all small businesses will be covered by the Commission's regulations, including those owned by members of minority groups and women." It also states that the provisions in Section 309(j)(4)(A) relating to installment payments were intended to promote economic opportunity by ensuring that competitive bidding does not inadvertently favor incumbents with deep pockets "over new companies or start-ups."

124. In addition, with regard to access to capital, Congress previously made specific findings in the Small Business Credit and Business Opportunity Enhancement Act of 1992, that "small business concerns, which represent higher degrees of risk in financial markets than do large businesses, are

experiencing increased difficulties in obtaining credit." As a result of these difficulties, Congress resolved to consider carefully legislation and regulations "to ensure that small business concerns are not negatively impacted" and to give priority to passage of "legislation and regulations that enhance the viability of small business concerns."

125. In the 800 MHz SMR service, as in other auctionable services, the Commission is committed to meeting the statutory objectives of promoting economic opportunity and competition, of avoiding excessive concentration of licenses, and of ensuring access to new and innovative technologies by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women. Accordingly, in balancing the objectives set forth in the Communications Act, the *Further Notice* proposed bidding credits and a tax certificate program for businesses owned by women and minorities and installment payments for small businesses on all 800 MHz SMR channel blocks in each MTA.

126. The Commission concludes that special provisions for small businesses are appropriate for the 800 MHz SMR service because build-out of an EA license may require a significant amount of capital. Although the Commission believes that the 800 MHz SMR service is less capital intensive than PCS, the Commission also believes that it is more capital-intensive than the 900 MHz SMR service. The Commission further believes that small entities may be disadvantaged in their efforts of acquiring 800 MHz SMR licenses if required to bid against existing large companies. For instance, if one or more of these big firms targets a market for strategic reasons, there is almost no likelihood that it could be outbid by a small business. The Commission will address this potential outcome in two ways. First, for the upper 10 MHz block, the Commission will adopt the same "tiered" installment payments approach adopted in the 900 MHz SMR service. Specifically, licensees who qualify for installment payments will be entitled to pay their winning bid amount in quarterly installments over the term of the license, with interest charges to be fixed at the time of licensing at a rate equal to the rate for ten-year U.S. Treasury obligations plus 2.5 percent. Small businesses with gross revenues less than $15 million will be required to pay interest only for the first two years of the license term at the same interest rate as set forth above. Interest will accrue at the Treasury note rate plus 2.5 percent. Small businesses with gross revenues less that $3 million will be able to make interest-only payments for five years. Interest will accrue at the Treasury note rate without the additional 2.5 percent. Timely payment of all quarterly installments will be a condition of the license grant, and failure to make such timely payment will be grounds for revocation of the license. As the Commission have noted previously, allowing installment payments reduces the amount of private financing needed by prospective small business licensees and therefore mitigates the effect of limited access to capital by small businesses. In determining eligibility for these installment payment plans, the Commission will not attribute gross revenues of investors that hold less than a 20 percent interest in the applicant, but the Commission will include the gross revenues of the applicant's affiliates and investors with ownership interests of 20 percent or more in the applicant. As has been the case in prior auctions where special provisions for small businesses have been made, it also is the Commission's expectation that a qualifying small business or principals of a qualifying small business will retain *de facto* and *de jure* control of the applicant. In determining attribution when 800 MHz SMR licensees are held indirectly through intervening corporate entities, the Commission will use the same multiplier employed for the 900 MHz SMR service.

127. Second, the Commission has proposed additional special provisions for small businesses seeking licenses for the lower 80 and General Category channels in the *Second Further Notice of Proposed Rule Making* in PR Docket No. 93–144, because the Commission believes that most, if not all, of the incumbent licensees relocated will qualify as small businesses under its proposed definition, and the lower 80 and General Category channels will be the spectrum to which they most likely will be relocated. This approach is consistent with the Commission's approach in the broadband PCS context in which the Commission designated certain frequency blocks as "entrepreneurs' blocks" and restricted eligibility based on size limitations. The Commission also believes that the service areas and spectrum blocks for the upper 10 MHz block the Commission adopted in the *First R&O* will permit operators of smaller SMR systems to participate in the upper 10 MHz block auction.

128. At this time the Commission concludes that there is an insufficient record to support the adoption of special provisions solely benefitting minority- and women-owned businesses (regardless of size) for the upper 10 MHz block auction. The Commission notes, however, that in the *Second Further Notice of Proposed Rule Making*, the Commission is seeking comment on this issue with respect to the lower 80 and General Category channels. Moreover, the Commission believes that most minority- and women-owned businesses will be able to take advantage of the installment plan described above. The Commission expects that the vast majority of minority- and women-owned businesses will be able to qualify as small businesses under any definition the Commission adopts.

129. *Partitioning.* In the *Further Notice*, the Commission did not propose any special provisions for rural telephone companies, on the basis that: (1) they, like other wireline carriers, then were ineligible to hold SMR licenses; (2) even if wireline entry into SMR was permitted, the Commission questioned whether special bidding provisions would be necessary to ensure the participation of rural telephone companies in the provision of SMR service given the relatively modest build-out costs involved to serve rural areas; and (3) in view of the fact that rural telephone companies may use their existing infrastructure to support integrated 800 MHz SMR service in their rural service areas, the Commission anticipated that they would have ample opportunity to participate in 800 MHz SMR.

130. Since adoption of the *Further Notice*, rural telephone companies have gained eligibility to hold SMR licenses. Thus, the Commission concludes that rural telephone companies will be permitted to acquire partitioned EA licenses in either of two ways: (1) They may form bidding consortia to participate in auctions, and then partition the licenses won among consortia participants; and (2) they may acquire partitioned 800 MHz SMR licenses from other licensees through private negotiation and agreement either before or after the auction. Each member of a consortium will be required to file a long-form application, following the auction, for its respective mutually agreed-upon geographic area. Partitioned areas must conform to established geo-political boundaries (such as county lines), and each area must include all portions of the wireline service area of the rural telephone company applicant that lie within the EA service area. The Commission also will use the definition for rural telephone companies used in its

broadband PCS and 900 MHz SMR rules. Thus, rural telephone companies will be defined as "local exchange carriers having 100,000 or fewer access lines, including all affiliates." In the *Second Further Notice of Proposed Rule Making*, the Commission seeks comment on its proposal to extend the partitioning option to SMR licensees generally.

131. *Set-Aside Spectrum.* In the *Further Notice*, the Commission expressed its concern, based on its experience with PCS, that designated entities may have difficulties competing for 800 MHz SMR licenses against large firms with significant financial resources. The Commission tentatively concluded, however, that it would not be feasible to designate a wide-area spectrum block as an entrepreneurs' block because the large number of incumbents already licensed throughout the spectrum designated for wide-area licensing make it virtually impossible to identify a suitable block.

132. The Commission does not adopt an entrepreneurs' block in the upper 10 MHz block of 800 MHz SMR spectrum. The Commission concluded that an entrepreneur's block in this portion of 800 MHz SMR spectrum is not feasible, given the substantial number of licensees already licensed on such spectrum. However, the Commission is interested in ensuring that small businesses have a meaningful opportunity to continue to participate in the provision of 800 MHz SMR service. Thus, in the *Second Further Notice of Proposed Rule Making* the Commission seeks additional comment on whether designation of an entrepreneurs' block for other 800 MHz spectrum would be feasible.

IV. Procedural Matters and Ordering Clauses

A. Final Regulatory Flexibility Analysis

133. With respect to this *First Report and Order* and *Eighth Report and Order*, pursuant to the Regulatory Flexibility Act of 1980, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Further Notice of Proposed Rule Making* in PR Docket No. 93–144. Written comments on the IRFA were requested. The Commission's final analysis is as follows:

Need for and purpose of the action. The rule making proceeding has implemented Sections 332 and 3(n), respectively, of the Communications Act of 1934, as amended. The rules adopted herein will carry out Congress's intent to establish a consistent framework for all commercial mobile radio services (CMRS).

Issues raised in response to the IRFA. No comments were submitted in response to the IRFA.

Significant alternatives considered and rejected. All significant alternatives have been addressed in the *First Report and Order* in PR Docket No. 93–144, the *Third Report and Order* in GN Docket No. 93–252, and the *Eighth Report and Order* in PP Docket No. 93–253.

B. Paperwork Reduction Act

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 16, 1996. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554, or via Internet to dconway@fcc.gov; and Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th St., NW., Washington, DC 20503, or via Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Dorothy Conway, (202) 418–0217, or via Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

Title: Amendment to the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band.

Type of Review: Revised collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 9,570.

Estimated Time Per Response: Approximately 2 hours.

Total Annual Burden: Approximately 17,254 hours.

Total Annual Cost: $6,468,260 this includes the costs for filing the information electronically or mailing submissions and hiring consultants that may be necessary to respond the requests.

Needs and Uses: The information will be used by the Commission for the following purposes: (a) To determine if the grant or retention of an extended implementation schedule is warranted; (b) to update the Commission's licensing database and thereby facilitate the successful coexistence of EA licensees and incumbents in the upper 10 MHz block of 800 MHz SMR spectrum; (c) to ensure that incumbents are timely notified of possible relocation thus allowing relocation to occur in an orderly, efficient, and expedient manner; and (d) to determine whether an applicant is eligible for special provisions for small businesses provided for applicants in the 800 MHz SMR service.

C. Ex Parte Rules—Non-Restricted Proceeding

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules, 47 CFR §§ 1.1202, 1.1203, 1.1206(a).

D. Authority

The legal authority for this proposed information collection includes 47 U.S.C. Sections 154(i), 303(c), 303(f), 303(g), 303(r), 309(j) and 332 47 U.S.C. §§ 154(i), 303(c), 303(f), 303(g), 303(r), 309(j), 332, as amended. The information collection would not affect any FCC forms. The proposed collection would increase minimally the burden on 800 MHz SMR service applicants.

E. Ordering Clauses

It is ordered that the rule changes made herein will become effective March 18, 1996. This action is taken pursuant to Sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 309(j).

It is further ordered that all requests for extended implementation authority for the 800 MHz SMR service filed pursuant to Section 90.629 of the Commission's rules and currently pending before the Commission are denied.

It is further ordered that the Secretary shall send a copy of this *First Report and Order* and *Eighth Report and Order* to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

The authority citation for Part 90 is revised to read as follows:

Authority: 47 U.S.C. §§ 154, 303, and 332, unless otherwise noted.

Section 90.7 is amended by adding the definitions for "EA-based or EA license" and "Economic Areas (EAs)" in alphabetical order to read as follows:

§ 90.7 Definitions.

* * * * *

EA-based or EA license. A license authorizing the right to use a specified block of SMR spectrum within one of the 175 Economic Areas (EAs) as defined by the Department of Commerce Bureau of Economic Analysis. The EA Listings and the EA Map are available for public inspection at the Wireless Telecommunications Bureau's public reference room, Room 5608, 2025 M St. NW, Washington, DC 20554 and Office of Operations—Gettysburg, 1270 Fairfield Road, Gettysburg, PA 17325.

Economic Areas (EAs). A total of 175 licensing regions based on the United States Department of Commerce Bureau of Economic Analysis Economic Areas available from the Bureau of Economic Analysis at (202–606–3700) defined as of February 1995, with the following exceptions:

(1) Guam and Northern Mariana Islands are licensed as a single EA-like area

(2) Puerto Rico and the U.S. Virgin Islands are licensed as a single EA-like area

(3) American Samoa is licensed as a single EA-like area

* * * * *

3. Section 90.155 is amended by revising paragraph (a) to read as follows:

§ 90.155 Time in which station must be placed in operation.

(a) All stations authorized under this part, except as provided in paragraphs (b) and (d) of this section and in §§ 90.629, 90.631(f), 90.665, and 90.685, must be placed in operation within eight (8) months from the date of grant or the authorization cancels automatically and must be returned to the Commission.

* * * * *

4. Section 90.173 is amended by revising paragraph (k) and adding a new paragraph (n) to read as follows:

§ 90.173 Policies governing the assignment of frequencies.

* * * * *

(k) Notwithstanding any other provisions of this part, any eligible person may seek a dispositive preference for a channel assignment on an exclusive basis in the 220–222 MHz, 470–512 MHz, and 800/900 MHz (except on frequencies designated exclusively for SMR service) bands by submitting information that leads to the recovery of channels in these bands. Recovery of such channels must result from information provided regarding the failure of existing licensees to comply with the provisions of §§ 90.155, 90.157, 90.629, 90.631 (e) or (f), or 90.633 (c) or (d). Any recovered channels in the 900 MHz SMR service will revert automatically to the MTA licensee.

* * * * *

(n) Any recovered channels in the 800 MHz SMR service will revert automatically to the holder of the EA license within which such channels are included. If there is no EA licensee for recovered channels, such channels will be retained by the Commission for future licensing.

Section 90.210 is amended by adding a new footnote 3 to the entry for "806–821/851–866" in the introductory paragraph table to read as follows:

§ 90.210 Emission masks.

* * * * *

APPLICABLE EMISSION MASKS

Frequency Band MHz.	Mask for equipment with audio low path filter.	Mask for equipment without audio low path filter.
. . .	. . .	. . .
806–821/851–866[3].	B	G.
. . .	. . .	. . .

[3] Equipment used in this band licensed to EA systems shall comply with the emission mask provisions of § 90.691.

* * * * *

6. Section 90.609 is amended by revising paragraphs (c) and (d) introductory text to read as follows:

§ 90.609 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems above 800 MHz.

* * * * *

(c) Licensees of constructed systems in any category other than Spectrum Block D frequencies in the 800 MHz SMR service (formerly General Category) are permitted to make partial assignments of an authorized grant to an applicant proposing to create a new system or to an existing licensee that has loaded its system to 70 mobiles per channel and is expanding that system. An applicant authorized to expand an existing system or to create a new system with frequencies from any category other than Spectrum Block D frequencies in the 800 MHz SMR service obtained through partial assignment will receive the assignor's existing license expiration date and loading deadline for the frequencies that are assigned. A licensee that makes a partial assignment of a station's frequencies will not be authorized to obtain additional frequencies for that station for a period of one year from the date of the partial assignment.

(d) A constructed system originally licensed in the General Category that is authorized to operate in the conventional mode may be combined with an existing SMR system above 800 MHz authorized to operate in the trunked mode by assignment of an authorized grant of the General Category station to the SMR station.

* * * * *

7. Section 90.611 is amended by revising paragraphs (a) and (c) and by removing and reserving paragraph (d) to read as follows:

§ 90.611 Processing of applications.

* * * * *

(a) All applications will first be considered to determine whether they are substantially complete and acceptable for filing. If so, except as otherwise specifically provided for in this subpart, they will be assigned a file number and put in pending status. If not, they will be returned to the applicant.

* * * * *

(c) Each application will be reviewed to determine whether it can be granted. Applicants must specify the intended frequency (or frequencies) of operation.

* * * * *

8. Section 90.615 is revised to read as follows:

§ 90.615 Frequencies available in Spectrum Block D in the 800 MHz SMR service (formerly General Category).

(a) Except as indicated in § 90.619, as of March 18, 1996, frequencies in the 800 MHz Spectrum Block D (Channels 1–150) previously designated as General Category channels are re-allocated for use exclusively by the SMR service for either trunked or conventional operations. The frequencies are available to SMR licensees in areas farther than 110 km (68.4 miles) from the U.S./Mexico border and farther than 140 km (87 miles) from the U.S./Canada border.

(b) Non-SMR stations that were authorized to transmit on these frequencies prior to March 18, 1996 and have remained so authorized continuously since that time may continue to operate in accordance with their current authorizations. Such authorizations may be renewed unchanged or with minor modifications as described in § 90.693.

9. Section 90.617 is amended by revising introductory paragraphs (b) and (c) (the Tables remain unchanged), paragraph (d) and Table 4A of paragraph (d) to read as follows:

§ 90.617 Frequencies in the 809.750–824/854.750–869 MHz, and 896–901/935–940 MHz bands available for trunked or conventional system use in non-border areas.

* * * * *

(b) The channels listed in Table 2A are available to eligible applicants in the Industrial/Land Transportation Category (consisting of the Power, Petroleum, Forest Products, Film and Video Production, Relay Press, Special Industrial, Manufacturers, Telephone Maintenance, Motor Carrier, Railroad, Taxicab and Automobile Emergency Radio Services). These frequencies are available in areas farther than 110 km (68.4 miles) from the U.S./Mexico border and farther than 140 km (87.0 miles) from the U.S./Canada border. Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies. These channels are available for inter-category sharing as indicated in § 90.621(g).

* * * * *

(c) The channels listed in Table 3A are available to eligible applicants in the Business Radio Category. This category does not include Specialized Mobile Radio Systems as defined in § 90.7. These frequencies are available in areas farther than 110 km (68.4 miles) from the U.S./Mexico border and farther than 140 km (87.0 miles) from the U.S./Canada border. Specialized Mobile Radio Systems will not be authorized on these frequencies. These channels are available for inter-category sharing as indicated in § 90.621(g).

* * * * *

(d) The channels listed in Tables 4A and 4B are available only to eligibles in the SMR category which consists of Specialized Mobile Radio (SMR) stations and eligible end users. The frequencies listed in Table 4A are available to SMR eligibles desiring to be authorized for EA-based service areas in accordance with § 90.681. SMR licensees licensed on Channels 401–600 on or before March 18, 1996 may continue to utilize these frequencies within their existing service areas, subject to the mandatory relocation provisions of § 90.699. Systems licensed on the channels listed in Table 4A as Spectrum Block D or E Channels will be licensed on a site-specific basis. This paragraph deals with the assignment of frequencies only in areas farther than 110 km (68.4 miles) from the U.S./Mexico border and farther than 140 km (87) miles from the U.S./Canada border. See § 90.619 for the assignment of SMR frequencies in these border areas. For stations located within 113 km (70 miles) of Chicago, channels 401–600 will be assigned in blocks as outlined in Table 4C.

TABLE 4A.—SMR CATEGORY 806–821/851–866 MHZ BAND CHANNELS

Spectrum block	Channel No.
EA-Based SMR Category Systems (200 channels):	
A	401–420.
B	421–480.
C	481–600.
SMR Category (230 channels):	
D	1–150.
E	201–208, 221–228, 241–248, 261–268, 281–288, 301–308, 321–328, 341–348, 361–368, 381–388.

* * * * *

10. Section 90.619 is amended by revising introductory paragraph (a)(3), the introductory text of paragraph (a)(5) and Table 4A of paragraph (a)(5), Table 12 in paragraph (b)(8), Table 16 in paragraph (b)(9), Table 20 in paragraph (b)(10), and Table 24 in paragraph (b)(11) to read as follows:

§ 90.619 Frequencies available for use in the U.S./Mexico and U.S./Canada border areas.

(a) * * *

(3) Tables 2A and 2B list the channels that are available for assignment to eligible applicants in the Industrial/Land Transportation Category (consisting of the Power, Petroleum, Forest Products, Video Production, Relay Press, Special Industrial, Manufacturers, Telephone Maintenance, Motor Carrier, Railroad, Taxicab and Automobile Emergency Radio Services). New applications for Specialized Mobile Radio systems will not be accepted for these channels after March 18, 1996.

* * * * *

(5) Tables 4A and 4B list the channels that are available for assignment for the SMR Category (consisting of Specialized Mobile Radio systems as defined in § 90.7). These channels are not available for inter-category sharing.

TABLE 4A.—UNITED STATES-MEXICO BORDER AREA, SMR CATEGORY 806–821/851–866 MHZ BAND (95 CHANNELS)

Spectrum block	Offset channel No.
EA-Based SMR Category (30 Channels):	
A	None.
B	429, 431, 433, 435, 437,439, 469, 471, 473, 475, 477, 479.
C	509, 511, 513, 515, 517, 519, 549, 551, 553, 555, 557, 559, 589, 591, 593, 595, 597, 599.
SMR Category (65 Channels):	
D	None.
E	None.
Other	228–240, 268–280, 308–320, 348–360, 388–400.

* * * * *

(b) * * *

(8) * * *

TABLE 12.—SMR CATEGORY—95 CHANNELS

[Regions 1, 4, 5, 6]

Spectrum block	Channel No.
EA-Based SMR Category (90 Channels):	
A	None.
B	463–480.
C	493–510, 523–540, 553–570, 583–600.
SMR Category (5 Channels):	
D	30, 60, 90, 120, 150.
E	None.

(9) * * *

TABLE 16.—SMR CATEGORY—60 CHANNELS

[Region 2]

Spectrum block	Channel No.
EA-Based SMR Category (55 Channels):	
A	None.
B	None.
C	518–528, 536–546, 554–564, 572–582, 590–600.
SMR Category (5 Channels):	
D	18, 36, 54, 72, 90.
E	None.

(10) * * *

TABLE 20.—SMR CATEGORY—135 CHANNELS

[Region 3]

Spectrum block	Channel No.
EA-Based SMR Category (120 Channels):	
A	417–420.
B	421–440, 457–480.
C	497–520, 537–560, 577–600.
SMR Category (15 Channels):	
D	38, 39, 40, 78, 79, 80, 118, 119, 120.
E	None.
Other	158, 159, 160, 198, 199, 200.

(11) * * *

TABLE 24.—(REGIONS 7, 8) SMR CATEGORY—190 CHANNELS

Spectrum block	Channel No.
EA-Based SMR Category (80 Channels):	
A	None.
B	425–440, 465–480.

TABLE 12.—SMR CATEGORY—95 CHANNELS—Continued

[Regions 1, 4, 5, 6]

Spectrum block	Channel No.
D	30, 60, 90, 120, 150.
E	None.

(9) * * *

TABLE 16.—SMR CATEGORY—60 CHANNELS

[Region 2]

Spectrum block	Channel No.
EA-Based SMR Category (55 Channels):	
A	None.
B	None.
C	518–528, 536–546, 554–564, 572–582, 590–600.
SMR Category (5 Channels):	
D	18, 36, 54, 72, 90.
E	None.

(10) * * *

TABLE 20.—SMR CATEGORY—135 CHANNELS

[Region 3]

Spectrum block	Channel No.
EA-Based SMR Category (120 Channels):	
A	417–420.
B	421–440, 457–480.
C	497–520, 537–560, 577–600.
SMR Category (15 Channels):	
D	38, 39, 40, 78, 79, 80, 118, 119, 120.
E	None.
Other	158, 159, 160, 198, 199, 200.

(11) * * *

TABLE 24.—(REGIONS 7, 8) SMR CATEGORY—190 CHANNELS—Continued

Spectrum block	Channel No.
C	505–520, 545–560, 585–600.
SMR Category (110 Channels):	
D	35–40, 75–80, 115–120.
E	225–228, 265–268, 305–308, 345–348, 385–388.
Other	155–160, 195–200, 229–240, 269–280, 309–320, 349–360, 389–400.

* * * * *

11. Section 90.621 is amended by revising paragraphs (a) introductory text, (a)(1)(iii), (b) introductory text, (c), and (e) introductory text, removing paragraph (a)(1)(iv), and removing and reserving paragraphs (e)(2), (e)(3), and (e)(4) to read as follows:

§ 90.621 Selection and assignment of frequencies.

(a) Applicants for frequencies in the Public Safety, Industrial/Land Transportation, and Business Categories must specify on the application the frequencies on which the proposed system will operate pursuant to a recommendation by the applicable frequency coordinator. Applicants for frequencies in the SMR Category must request specific frequencies by including in their applications the frequencies requested.

(1) * * *

(iii) There are no limitations on the number of frequencies that may be trunked. Authorizations for non-SMR stations may be granted for up to 20 trunked frequency pairs at a time in accordance with the frequencies listed in §§ 90.615, 90.617, and 90.619.

* * * * *

(b) Stations authorized on frequencies listed in this subpart, except for those stations authorized pursuant to paragraph (g) of this section and EA-based and MTA-based SMR systems, will be afforded protection solely on the basis of fixed distance separation criteria. The separation between co-channel systems will be a minimum of 113 km (70 mi) with the following exceptions:

* * * * *

(c) Conventional systems authorized on frequencies in the Public Safety (except for those systems that have participated in a formal regional planning process as described in § 90.16), Industrial/Land Transportation, Business, and Spectrum Block D frequencies in the 800 MHz SMR service (formerly General) Categories which have not met the loading levels necessary for channel exclusivity will not be afforded co-channel protection.

* * * * *

(e) Frequencies in the 806–821/851–866 MHz bands listed as available for eligibles in the Public Safety, Industrial/Land Transportation, and Business Categories are available for inter-category sharing under the following conditions:

* * * * *

12. Section 90.629 is amended by adding a new paragraph (e) to read as follows:

§ 90.629 Extended implementation period.

* * * * *

(e) As of March 18, 1996, Specialized Mobile Radio systems are not eligible for extended implementation periods under this section. Additionally, all 800 MHz SMR licensees that are operating under extended implementation authority as of March 18, 1996 must, by May 16, 1996, demonstrate that continuing to allow them to have an extended period of time to construct their facilities is warranted and furthers the public interest. If a licensee's extended implementation authority showing is approved by the Bureau, such licensee will be afforded an extended implementation of two years or the remainder of its current extended implementation period, whichever is shorter. Upon the termination of this period, the authorizations for those facilities that remain unconstructed will terminate automatically. If a licensee with a current extended implementation period fails to submit the showing mentioned above within the designated timeframe or submits an insufficient or incomplete showing, such licensee will have six months from the last day on which it could timely file such a showing or from the disapproval of its request to construct the remaining facilities covered under its implementation plan to construct any unconstructed facilities for which it is authorized. The authorizations for those facilities remaining unconstructed after this six-month period will terminate automatically.

13. Section 90.631(b) is amended by removing the words "General Category" and adding in their place "Spectrum Block D frequencies in the 800 MHz SMR service (formerly General Category)".

14. Subpart S is amended by adding a new centered heading following Section 90.671 to read as follows:

Policies Governing the Licensing and Use of EA-Based SMR Systems in the 816–821/861–866 Band

15. A new § 90.681 is added to Subpart S to read as follows:

§ 90.681 EA-based SMR service areas.

EA licenses for SMR spectrum blocks in the 816–821/861–866 band listed in Table 4A of § 90.617(d) are available in 175 Economic Areas (EAs) as defined in § 90.7.

16. A new § 90.683 is added to Subpart S to read as follows:

§ 90.683 EA-Based SMR system operations.

(a) EA-based licensees authorized in the 816–821/861–866 MHz band pursuant to § 90.681 may construct and operate base stations using any of the base station frequencies identified in their spectrum block anywhere within their authorized EA, provided that:

(1) The EA licensee affords protection, in accordance with § 90.621(b), to all previously authorized co-channel stations that are not associated with another EA license;

(2) The EA licensee complies with any rules and international agreements that restrict use of frequencies identified in their spectrum block, including the provisions of § 90.619 relating to U.S./Canadian and U.S./Mexican border areas;

(3) The EA licensee limits the field strength of its base stations at any location on the border of the EA service area in accordance with § 90.689;

(4) The EA licensee notifies the Commission within 30 days of the completion of the addition, removal, relocation or modification of any of its facilities within the EA. Such notification must be made by submitting an FCC Form 600 and must include the appropriate filing fee, if any; and

(5) For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, licensees must notify the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460–1) and file a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, WTB, Support Services Branch, Gettysburg, PA 17325.

(6) Any additional transmitters placed in operation must not have a significant environmental effect as defined by §§ 1.1301 through 1.1319 of this chapter.

(b) In the event that the authorization for a previously authorized co-channel station within the EA licensee's spectrum block is terminated or revoked, the EA licensee's co-channel obligations to such station will cease upon deletion of the facility from the Commission's official licensing records, and the EA licensee then will be able to construct and operate without regard to that previous authorization.

17. A new § 90.685 is added to Subpart S to read as follows:

§ 90.685 Authorization, construction and implementation of EA licenses.

(a) EA licenses in the 816–821/861–866 MHz band will be issued for a term not to exceed ten years. Additionally, EA licensees generally will be afforded a renewal expectancy only for those stations put into service after August 10, 1996.

(b) EA licensees in the 816–821/861–866 band will be permitted five years to construct their stations. This five-year period will commence with the issuance of the EA-based license and will apply to all of the licensee's stations within the EA spectrum block, including any stations that may have been subject to an earlier construction deadline arising from a pre-existing authorization.

(c) EA licensees in the 816–821/861–866 MHz band must, within three years, construct and place into operation a sufficient number of base stations to provide coverage to at least one-third of the population of its EA-based service area. Further, each EA licensee must provide coverage to at least two-thirds of the population of the EA-based service area within five years.

(d) *Channel use requirement.* In addition to the population coverage requirements described in this section, we will require EA licensees to construct 50 percent of the total channels included in their spectrum block in at least one location in their respective EA-based service area within three years of initial license grant and to retain such channel usage for the remainder of the construction period.

(e) An EA licensee's failure to meet the population coverage requirements of paragraphs (c) and (d) of this section, will result in forfeiture of the entire EA license. Forfeiture of the EA license, however, would not result in the loss of any constructed facilities authorized to the licensee prior to the date of the commencement of the auction for the EA licenses.

18. A new § 90.687 is added to Subpart S to read as follows:

§ 90.687 Special provisions regarding assignments and transfers of authorizations for incumbent SMR licensees in the 816–821/861–866 MHz band.

An SMR licensee initially authorized on any of the channels listed in Table 4A of § 90.617 may transfer or assign its channel(s) to another entity subject to the provisions of §§ 90.153 and 90.609(b). If the proposed transferee or assignee is the EA licensee for the spectrum block to which the channel is allocated, such transfer or assignment presumptively will be deemed to be in the public interest. However, such presumption will be rebuttable.

19. A new § 90.689 is added to Subpart S to read as follows:

§ 90.689 Field strength limits.

(a) For purposes of implementing §§ 90.689 through 90.699, predicted 40 dBuV/m contours shall be calculated using Figure 10 of § 73.699 of this chapter with a correction factor of −9 dB, and predicted 22 dBuV/m contours shall be calculated using Figure 10a of § 73.699 of this chapter with a correction factor of −9 dB.

(b) The predicted or measured field strength at any location on the border of the EA-based service area for EA licensees must not exceed 40 dBuV/m unless all bordering EA licensees agree to a higher field strength. In the event that this standard conflicts with the EA licensee's obligation to provide co-channel protection to incumbent licensees pursuant to § 90.621(b), the requirements of § 90.621(b) shall prevail.

20. A new § 90.691 is added to Subpart S to read as follows:

§ 90.691 Emission mask requirements for EA-based systems.

(a) Out-of-band emission requirement shall apply only to the "outer" channels included in an EA license and to spectrum adjacent to interior channels used by incumbent licensees. The emission limits are as follows:

(1) For any frequency removed from the EA licensee's frequency block by up to and including 37.5 kHz, the power of any emission shall be attenuated below the transmitter power (P) in watts by at least 116 $\text{Log}_{10}(f/6.1)$ decibels or 50 + 10 $\text{Log}_{10}(P)$ decibels or 80 decibels, whichever is the lesser attenuation, where f is the frequency removed from the center of the outer channel in the block in kilohertz and where f is greater than 12.5 kHz.

(2) For any frequency removed from the EA licensee's frequency block greater than 37.5 kHz, the power of any emission shall be attenuated below the transmitter power (P) in watts by at least 43 + 10Log_{10}(P) decibels or 80 decibels, whichever is the lesser attenuation, where f is the frequency removed from the center of the outer channel in the block in kilohertz and where f is greater than 37.5 kHz.

(b) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

21. A new § 90.693 is added to Subpart S to read as follows:

§ 90.693 Grandfathering provisions for incumbent licensees in spectrum blocks A, B, and C.

(a) These provisions apply to "incumbent licensees", all 800 MHz SMR licensees who obtained licenses or filed applications on or before December 15, 1995. An incumbent licensee's service area shall be defined by its originally-licensed 40 dBu field strength contour and its interference contour shall be defined as its originally-licensed 22 dBu field strength contour. Incumbent licensees are permitted to add, remove or modify transmitter sites within this existing service area without prior notification to the Commission so long as their original 22 dBu field strength contour is not expanded and the station complies with the Commission's short-spacing criteria in §§ 90.621(b)(4) through 90.621(b)(6). The incumbent licensee must, however, notify the Commission within 30 days of the completion of any changes in technical parameters or additional stations constructed through a minor modification of their license. Such notification must be made by submitting an FCC Form 600 and must include the appropriate filing fee, if any. These minor modification applications are not subject to public notice and petition to deny requirements or mutually exclusive applications.

(b) Incumbent licensees operating at multiple sites may, after grant of EA licenses has been completed, exchange multiple site licenses for a single license, authorizing operations throughout the contiguous and overlapping 40 dBu field strength contours of the multiple sites. Incumbents exercising this license exchange option must submit specific information for each of their external base sites after the close of the 800 MHz SMR auction.

22. A new § 90.699 is added to Subpart S to read as follows:

§ 90.699 Transition of the upper 200 channels in the 800 MHz band to EA licensing.

In order to facilitate provision of service throughout an EA, an EA licensee may relocate incumbent licensees in its EA by providing "comparable facilities" on other frequencies in the 800 MHz band. Such relocation is subject to the following provisions:

(a) EA licensees may negotiate with incumbent licensees as defined in § 90.693 operating on frequencies in Spectrum Blocks A, B, and C for the purpose of agreeing to terms under which the incumbents would relocate their operations to other channels in the 800 MHz band, or alternatively, would accept a sharing arrangement with the EA licensee that may result in an otherwise impermissible level of interference to the incumbent licensee's operations. EA licensees may also negotiate agreements for relocation of the incumbents' facilities within Spectrum Blocks A, B or C in which all interested parties agree to the relocation of the incumbent's facilities elsewhere within these bands. "All interested parties" includes the incumbent licensee, the EA licensee requesting and paying for the relocation, and any EA licensee of the spectrum to which the incumbent's facilities are to be relocated.

(b) The relocation mechanism consists of two phases that must be completed before an EA licensee may proceed to request the involuntary relocation of an incumbent licensee.

(1) *Voluntary period.* There is a one year voluntary period during which an EA licensee and an incumbent may negotiate any mutually agreeable relocation agreement. The Commission will announce the commencement of the first phase voluntary period by Public Notice. EA licensees must notify incumbents operating on frequencies included in their spectrum block of their intention to relocate such incumbents within 90 days of the release of the Public Notice that commences the voluntary negotiation period. Failure on the part of the EA licensee to notify the incumbent licensee during this 90 period of its intention to relocate the incumbent will result in the forfeiture of the EA licensee's right to request involuntary relocation of the incumbent at any time in the future.

(2) *Mandatory period.* If no agreement is reached by the end of the voluntary period, a two-year mandatory period will begin during which both the EA licensee and the incumbent must negotiate in "good faith". Failure on the part of the EA licensee to negotiate in good faith during this mandatory period will result in the forfeiture of the EA licensee's right to request involuntary relocation of the incumbent at any time in the future.

(c) If no agreement is reached during either the voluntary or mandatory negotiating periods, the EA licensee may request involuntary relocation of the incumbent's system. In such a situation, the EA licensee must:

(1) Guarantee payment of all costs of relocating the incumbent to a comparable facility;

(2) Complete all activities necessary for placing the new facilities into operation; and

(3) Build and test the new system.

(d) If an EA licensee cannot provide comparable facilities to an incumbent licensee as defined in this section, the incumbent licensee may continue to operate its system on a primary basis in accordance with the provisions of this part.

23. A new Subpart V, Sections 90.901 through 90.913, is added to read as follows:

Subpart V—Competitive Bidding Procedures for 800 MHz Specialized Mobile Radio Service

§ 90.901 800 MHz SMR spectrum subject to competitive bidding.
§ 90.902 Competitive bidding design for 800 MHz SMR licensing.
§ 90.903 Competitive bidding mechanisms.
§ 90.904 Aggregation of EA licenses for spectrum blocks A, B, and C.
§ 90.905 Withdrawal, default and disqualification payments.
§ 90.906 Bidding application (FCC Form 175 and 175–S Short-form).
§ 90.907 Submission of upfront payments and down payments.
§ 90.908 Long-form applications.
§ 90.909 License grant, denial, default, and disqualification for spectrum blocks A, B, and C.
§ 90.910 Installment payments for licenses for spectrum blocks A, B, and C.
§ 90.911 Procedures for partitioned licenses in spectrum blocks A, B, and C.
§ 90.912 Definitions for spectrum blocks A, B, and C.
§ 90.913 Eligibility for small business status for spectrum blocks A, B, and C.

§ 90.901. 800 MHz SMR spectrum subject to competitive bidding.

Mutually exclusive initial applications for Spectrum Blocks A, B, and C in the 800 MHz band are subject to competitive bidding procedures. The general competitive bidding procedures provided in part 1, subpart Q of this chapter will apply unless otherwise indicated in this subpart.

§ 90.902 Competitive bidding design for 800 MHz SMR licensing.

The Commission will employ a simultaneous multiple round auction design when selecting from among mutually exclusive initial applications for EA licenses for Spectrum Blocks A, B, and C in the 800 MHz band, unless otherwise specified by the Wireless Telecommunications Bureau before the auction.

§ 90.903 Competitive bidding mechanisms.

(a) *Sequencing.* The Wireless Telecommunications Bureau will establish and may vary the sequence in which 800 MHz SMR licenses for Spectrum Blocks A, B, and C will be auctioned.

(b) *Grouping.* All EA licenses for Spectrum Blocks A, B, and C will be auctioned simultaneously, unless the Wireless Telecommunications Bureau announces, by Public Notice prior to the auction, an alternative competitive bidding design.

(c) *Minimum Bid Increments.* The Wireless Telecommunications Bureau will, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms.

(d) *Stopping Rules.* The Wireless Telecommunications Bureau will establish stopping rules before or during the multiple round auctions in order to terminate an auction within a reasonable time.

(e) *Activity Rules.* The Wireless Telecommunications Bureau will establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple round auction, each bidder will be entitled to request and will be automatically granted a certain number of waivers of such rule during the auction.

§ 90.904 Aggregation of EA licenses for spectrum blocks A, B, and C.

The Commission will license each Spectrum Block A, B, and C in the 800 MHz band separately. Applicants may aggregate across spectrum blocks within the limitations specified in § 20.6 of this chapter.

§ 90.905 Withdrawal, default and disqualification payments.

(a) During the course of an auction conducted pursuant to § 90.902, the Commission will impose payments on bidders who withdraw high bids during the course of an auction, who default on payments due after an auction closes, or who are disqualified.

(b) *Bid withdrawal prior to close of auction.* A bidder who withdraws a high bid during the course of an auction will be subject to a payment equal to the difference between the amount bid and the amount of the winning bid the next time the license is offered by the Commission. No withdrawal payment would be assessed if the subsequent winning bid exceeds the withdrawn bid. This payment amount will be deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(c) *Default or disqualification after close of auction.* If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (b) of this section plus an additional monetary asssessment equal to three (3) percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent payment will be calculated based on the defaulting bidder's bid amount. These amounts will be deducted from any upfront payments or down payments that the defaulting or disqualified bidder has deposited with the Commission. If the default occurs within five (5) business days after the bidding has closed, the Commission retains the discretion to offer the license to the second highest bidder at its final bid level, or if that bidder declines the offer, to offer the license to other bidders (in descending order of their bid amounts) at the final bid levels.

§ 90.906 Bidding application (FCC Form 175 and 175–S Short-form).

All applicants to participate in competitive bidding for 800 MHz SMR licenses in Spectrum Blocks A, B, and C must submit applications on FCC Forms 175 and 175–S pursuant to the provisions of § 1.2105 of this chapter. The Wireless Telecommunications Bureau will issue a Public Notice announcing the availability of these 800 MHz SMR licenses and, in the event that mutually exclusive applications are filed, the date of the auction for those licenses. This Public Notice also will specify the date on or before which applicants intending to participate in a 800 MHz SMR auction must file their applications in order to be eligible for that auction, and it will contain information necessary for completion of the application as well as other important information such as the materials which must accompany the Forms, any filing fee that must accompany the application or any upfront payment that will need to be submitted, and the location where the application must be filed. In addition to identifying its status as a small business or rural telephone company, each applicant must indicate whether it is a minority-owned entity and/or a women-owned entity, as defined in § 90.912(e).

§ 90.907 Submission of upfront payments and down payments.

(a) Bidders in the 800 MHz SMR auction for Spectrum Blocks A, B, and C will be required to submit an upfront payment of $0.02 per activity unit, in accordance with § 1.2106 of this chapter.

(b) Winning bidders in a 800 MHz SMR auction for Spectrum Blocks A, B, and C must submit a down payment to the Commission in an amount sufficient to bring their total deposits up to 20 percent of their winning bids within five (5) business days after the auction closes, and the remaining balance due on the license shall be paid within five (5) business days after Public Notice announcing that the Commission is prepared to award the license.

§ 90.908 Long-form applications.

Each winning bidder will be required to submit a long-form application on FCC Form 600 within ten (10) business days after being notified by Public Notice that it is the winning bidder. Applications on FCC Form 600 shall be submitted pursuant to the procedures set forth in § 90.119 of this part and any associated Public Notices. Only auction winners (and rural telephone companies seeking partitioned licenses pursuant to agreements with auction winners under § 90.911) will be eligible to file applications on FCC Form 600 for initial 800 MHz SMR licenses in the event of mutual exclusivity between applicants filing FCC Form 175.

§ 90.909 License grant, denial, default, and disqualification for spectrum blocks A, B, and C.

(a) Except with respect to entities eligible for installment payments (*see* § 90.912) each winning bidder will be required to pay the balance of its winning bid in a lump sum payment within five (5) business days following Public Notice that the license is ready for grant. The Commission will grant the license within ten (10) business days after receipt of full and timely payment of the winning bid amount.

(b) A bidder who withdraws its bid subsequent to the close of bidding, defaults on a payment due, or is disqualified, will be subject to the payments specified in § 90.905 or § 1.2109 of this chapter, as applicable.

(c) EA licenses pursued through competitive bidding procedures will be granted pursuant to the requirements specified in § 90.166.

§ 90.910 Installment payments for licenses for spectrum blocks A, B, and C.

(a) Each licensee for Spectrum Blocks A, B, and C that qualifies as a small business may pay the remaining 90 percent of the net auction price for the license in quarterly installment payments pursuant to § 1.2110(e) of this chapter. Licensees who qualify for installment payments are entitled to pay

their winning bid amount in installments over the term of the license, with interest charges to be fixed at the time of licensing at a rate equal to the rate for ten-year U.S. Treasury obligations plus 2.5 percent. Payments shall include both principal and interest amortized over the term of the license. An EA license issued to an eligible small business that elects installment payments will be conditioned on the full and timely performance of the license holder's quarterly payments. The additional following terms apply:

(1) An eligible licensee qualifying as a small business under § 90.912(b)(1)(i) may make interest-only payments for five years. Interest will accrue at the Treasury note rate. Payments of interest and principal shall be amortized over the remaining five years of the license term.

(2) An eligible licensee qualifying as a small business under § 90.912(b)(1)(ii) may make interest-only payments for the first two years of the license term. Interest will accrue at the Treasury note rate plus an additional 2.5 percent. Payments of interest and principal shall be amortized over the remaining eight years of the license term.

(b) *Unjust enrichment.* (1) If a licensee that utilizes installment financing under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for installment payments, the licensee must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of assignment or transfer as a condition of approval.

(2) If a licensee that utilizes installment financing under this section seeks to make any change in ownership structure that would result in the licensee losing eligibility for installment payments, the licensee shall first seek Commission approval and must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of such change as a condition of approval.

(3) If a licensee that utilizes installment financing under this section seeks to assign or transfer control of a license to an entity that does not qualify for as favorable an installment payment plan, the installment payment plan for which the acquiring entity qualifies will become effective immediately upon transfer.

§ 90.911 Procedures for partitioned licenses in spectrum blocks A, B, and C.

(a) Notwithstanding § 90.661, a rural telephone company, as defined in § 90.912, may be granted a 800 MHz SMR license that is geographically partitioned from a separately licensed EA, so long as the EA applicant or licensee has voluntarily agreed (in writing) to partition a portion of the license to the rural telephone company.

(b) If partitioned licenses are being applied for in conjunction with a license(s) to be awarded through competitive bidding procedures—

(1) The applicable procedures for filing short-form applications and for submitting upfront payments and down payments contained in this part and part 1 of this chapter shall be followed by the applicant, who must disclose as part of its short-form application all parties to agreement(s) with or among other entities to partition the license pursuant to this section, if won at auction (see § 1.2105(a)(2)(viii) of this chapter);

(2) Each rural telephone company that is a party to an agreement to partition the license shall file a long-form application for its respective, mutually agreed-upon geographic area together with the application for the remainder of the EA filed by the auction winner.

(c) If the partitioned license is being applied for as a partial assignment of the EA license following grant of the initial license, request for authorization for partial assignment of a license shall be made pursuant to § 90.153.

(d) Each application for a partitioned area (long-form initial application or partial assignment application) shall contain a partitioning plan that must propose to establish a partitioned area to be licensed that meets the following criteria:

(1) Conforms to established geopolitical boundaries (such as county lines);

(2) Includes the wireline service area of the rural telephone company applicant; and

(3) Is reasonably related to the rural telephone company's wireline service area.

Note to paragraph (d)(3): A partitioned service area will be presumed to be reasonably related to the rural telephone company's wireline service area if the partitioned service area contains no more than twice the population overlap between the rural telephone company's wireline service area and the partitioned area.

(e) Each licensee in each partitioned area will be responsible for meeting the construction requirements in its area set forth in § 90.685.

§ 90.912 Definitions for spectrum blocks A, B, and C.

(a) *Scope.* The definitions in this section apply to §§ 90.910 and 90.911, unless otherwise specified in those sections.

(b) *Small business: Consortium of small businesses.*

(1) A small business is an entity that either:

(i) Together with its affiliates, persons or entities that hold attributable interests in such entity, and their affiliates, has average gross revenues that are not more than $3 million for the three preceding years; or

(ii) Together with its affiliates, persons, or entities that hold attributable interests in such entity, and their affiliates, has average gross revenues that are not more than $15 million for the preceding three years.

(2) For purposes of determining whether an entity meets the $3 million or $15 million average annual gross revenues size standard set forth in paragraph (b)(1) of this section, the gross revenues of the entity, its affiliates, persons, or entities holding interests in the entity and their affiliates shall be considered on a cumulative basis and aggregated, subject to the exceptions set forth in § 90.912(h).

(3) A small business consortium is conglomerate organization formed as a joint venture between or among mutually-independent business firms, each of which individually satisfies the definition of a small business in paragraphs (b)(1) and (b)(2) of this section. In a consortium of small businesses, each individual member must establish its eligibility as a small business, as defined in this section.

(c) *Rural telephone company.* A *rural telephone company* is a local exchange carrier having 100,000 or fewer access lines, including all *affiliates.*

(d) *Gross revenues.* For applications filed after December 31, 1994, gross revenues shall be evidenced by audited financial statements for the preceding relevant number of calendar or fiscal years. If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate.

(e) *Businesses owned by members of minority groups and/or women.* A business owned by members of minority groups and/or women is one in which minorities and/or women who are U.S. citizens control the applicant, have at least 50.1 percent equity ownership and, in the case of a corporate applicant, a 50.1 percent voting interest. For applicants that are partnerships, every general partner either must be a minority and/or woman (or minorities and/or women) who are U.S. citizens and who individually or together own at

least 50.1 percent of the partnership equity, or an entity that is 100 percent owned and controlled by minorities and/or women who are U.S. citizens. The interests of minorities and women are to be calculated on a fully-diluted basis; agreements such as stock options and convertible debentures shall be considered to have a present effect on the power to control an entity and shall be treated as if the rights thereunder already have been fully exercised. However, upon a demonstration that options or conversion rights held by non-controlling principals will not deprive the minority and female principals of a substantial financial stake in the venture or impair their rights to control the designated entity, a designated entity may seek a waiver of the requirement that the equity of the minority and female principals must be calculated on a fully-diluted basis.

(f) *Members of minority groups.* Members of minority groups includes Blacks, Hispanics, American Indians, Alaskan Natives, Asians, and Pacific Islanders.

(g) *Attributable interests.* Partnership and other ownership interests and any stock interest amounting to 20 percent or more of the equity, or outstanding stock, or outstanding voting stock of a licensee or applicant will be attributable.

Note to paragraph (g): Ownership interests that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that if the ownership percentages for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest.

(h) *Affiliate.* (1) *Basis for affiliation.* An individual or entity is an affiliate of an applicant or of a person holding an attributable interest in an applicant (both referred to herein as "the applicant") if such individual or entity:

(i) Directly or indirectly controls or has the power to control the applicant;

(ii) Is directly or indirectly controlled by the applicant;

(iii) Is directly or indirectly controlled by a third party or parties that also controls or has the power to control the applicant; or

(iv) Has an "identity of interest" with the applicant.

(2) *Nature of control in determining affiliation.* (i) Every business concern is considered to have one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example for paragraph (h)(2)(i). An applicant owning 50 percent of the voting stock of another concern would have negative power to control such concern since such party can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting to block any actions taken by the other stockholders in the other entity. Affiliation exists when the applicant has the power to control a concern while at the same time another person, or persons, are in control of the concern at the will of the party or parties with the power of control.

(ii) Control can arise through stock ownership; occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. A key employee is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.

(iii) Control can arise through management positions where a concern's voting stock is so widely distributed that no effective control can be established.

Example for paragraph (h)(2)(iii). In a corporation where the officers and directors own various size blocks of stock totaling 40 percent of the corporation's voting stock, but no officer or director has a block sufficient to give him or her control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control. If persons with such management control of the other entity are persons with attributable interests in the applicant, the other entity will be deemed an affiliate of the applicant.

(3) *Identity of interest between and among persons.* Affiliation can arise between or among two or more persons with an identity of interest, such as members of the same family or persons with common investments. In determining if the applicant controls or is controlled by a concern, persons with an identity of interest will be treated as though they were one person.

Example 1. Two shareholders in Corporation Y each have attributable interests in the same SMR application. While neither shareholder has enough shares to individually control Corporation Y, together they have the power to control Corporation Y. The two shareholders with these common investments (or identity of interest) are treated as though they are one person and Corporation Y would be deemed an affiliate of the applicant.

Example 2. One shareholder in Corporation Y, shareholder A, has an attributable interest in a SMR application. Another shareholder in Corporation Y, shareholder B, has a nonattributable interest in the same SMR application. While neither shareholder has enough shares to individually control Corporation Y, together they have the power to control Corporation Y. Through the common investment of shareholders A and B in the SMR application, Corporation Y would still be deemed an affiliate of the applicant.

(i) *Spousal affiliation.* Both spouses are deemed to own or control or have the power to control interests owned or controlled by either of them, unless they are subject to a legal separation recognized by a court of competent jurisdiction in the United States.

(ii) *Kinship affiliation.* Immediate family members will be presumed to own or control or have the power to control interests owned or controlled by other immediate family members. In this context "immediate family member" means father, mother, husband, wife, son, daughter, brother, sister, father- or mother-in-law, son- or daughter-in-law, brother- or sister-in-law, step-father, or -mother, step-brother, or -sister, step-son, or -daughter, half brother or sister. This presumption may be rebutted by showing that

(A) The family members are estranged,

(B) The family ties are remote, or

(C) The family members are not closely involved with each other in business matters.

Example for paragraph (h)(3)(ii). A owns a controlling interest in Corporation X. A's sister-in-law, B, has an attributable interest in an SMR application. Because A and B have a presumptive kinship affiliation, A's interest in Corporation X is attributable to B, and thus to the applicant, unless B rebuts the presumption with the necessary showing.

(4) *Affiliation through stock ownership.* (i) An applicant is presumed to control or have the power to control a concern if he or she owns or controls or has the power to control 50 percent or more of its voting stock.

(ii) An applicant is presumed to control or have the power to control a concern even though he or she owns, controls or has the power to control less than 50 percent of the concern's voting stock, if the block of stock he or she owns, controls or has the power to control is large as compared with any other outstanding block of stock.

(iii) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, such minority holdings are equal or approximately equal in size, and the aggregate of these minority holdings is large as compared with any other stock holding, the presumption arises that each one of these persons individually controls or has the power to control the concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(5) *Affiliation arising under stock options, convertible debentures, and agreements to merge.* Stock options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements will generally be treated as though the rights held thereunder had been exercised. However, neither an affiliate nor an applicant can use such options and debentures to appear to terminate its control over another concern before it actually does so.

Example 1 for paragraph (h)(5). If company B holds an option to purchase a controlling interest in company A, who holds an attributable interest in an SMR application, the situation is treated as though company B had exercised its rights and had become owner of a controlling interest in company A. The gross revenues of company B must be taken into account in determining the size of the applicant.

Example 2 for paragraph (h)(5). If a large company, BigCo, holds 70% (70 of 100 outstanding shares) of the voting stock of company A, who holds an attributable interest in an SMR application, and gives a third party, SmallCo, an option to purchase 50 of the 70 shares owned by BigCo, BigCo will be deemed to be an affiliate of company, and thus the applicant, until SmallCo actually exercises its options to purchase such shares. In order to prevent BigCo from circumventing the intent of the rule which requires such options to be considered on a fully diluted basis, the option is not considered to have present effect in this case.

Example 3 for paragraph (h)(5). If company A has entered into an agreement to merge with company B in the future, the situation is treated as though the merger has taken place.

(6) *Affiliation under voting trusts.* (i) Stock interests held in trust shall be deemed controlled by any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will.

(ii) If a trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the stock interests held in trust will be deemed controlled by the grantor or beneficiary, as appropriate.

(iii) If the primary purpose of a voting trust, or similar agreement, is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may meet the Commission's size standards, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not recognized within the appropriate jurisdiction.

(7) *Affiliation through common management.* Affiliation generally arises where officers, directors, or key employees serve as the majority or otherwise as the controlling element of the board of directors and/or the management of another entity.

(8) *Affiliation through common facilities.* Affiliation generally arises where one concern shares office space and/or employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operations, or where such concerns were formerly affiliated, and through these sharing arrangements one concern has control, or potential control, of the other concern.

(9) *Affiliation through contractual relationships.* Affiliation generally arises where one concern is dependent upon another concern for contracts and business to such a degree that one concern has control, or potential control, of the other concern.

(10) *Affiliation under joint venture arrangements.* (i) A joint venture for size determination purposes is an association of concerns and/or individuals, with interests in any degree or proportion, formed by contract, express or implied, to engage in and carry out a single, specific business venture for joint profit for which purpose they combine their efforts, property, money, skill and knowledge, but not on a continuing or permanent basis for conducting business generally. The determination whether an entity is a joint venture is based upon the facts of the business operation, regardless of how the business operation may be designated by the parties involved. An agreement to share profits/losses proportionate to each party's contribution to the business operation is a significant factor in determining whether the business operation is a joint venture.

(ii) The parties to a joint venture are considered to be affiliated with each other.

§ 90.913 Eligibility for small business status for spectrum blocks A, B, and C.

(a) *Short-form applications: Certifications and disclosure.* Each applicant for an EA license for Spectrum Blocks A, B, or C which qualifies as a small business or consortium of small businesses shall append the following information as an exhibit to its short-form application (FCC Form 175):

(1) The identity of the applicant's affiliates, persons or entities that hold attributable interests in such entity, and their affiliates, and, if a consortium of small businesses, the members of the joint venture; and

(2) The applicant's gross revenues, computed in accordance with § 90.912.

(b) *Long-form applications: Certifications and disclosure.* In addition to the requirements in this subpart, each applicant submitting a long-form application for license(s) for Spectrum Blocks A, B, or C and qualifying as a small business shall, in an exhibit to its long-form application:

(1) Disclose separately and in the aggregate the gross revenues, computed in accordance with § 90.912, for each of the following: the applicant, the applicant's affiliates, the applicant's attributable investors, affiliates of its attributable investors, and, if a consortium of small businesses, the members of the joint venture;

(2) List and summarize all agreements or other instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under §§ 90.910 and 90.911, including the establishment of de facto and de jure control; such agreements and instruments include articles of incorporation and bylaws, shareholder agreements, voting or other trust agreements, franchise agreements, and any other relevant agreements (including letters of intent), oral or written; and

(3) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees.

(c) *Records maintenance.* All winning bidders qualifying as small businesses, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including any document necessary to establish eligibility as a small business and/or consortium of small businesses under § 90.912. Licensees (and their successors in interest) shall maintain such files for the term of the license.

(d) *Audits.* (1) Applicants and licensees claiming eligibility as a small business and/or consortium of small businesses under §§ 90.910 and 90.911 shall be subject to audits by the Commission, using in-house and

contract resources. Selection for audit may be random, on information, or on the basis of other factors.

(2) Consent to such audits is part of the certification included in the short-form application (FCC Form 175). Such consent shall include consent to the audit of the applicant's or licensee's books, documents and other material (including accounting procedures and practices) regardless of form or type, sufficient to confirm that such applicant's or licensee's representations are, and remain, accurate. Such consent shall include inspection at all reasonable times of the facilities, or parts thereof, engaged in providing and transacting business, or keeping records regarding licensed 800 MHz SMR service and shall also include consent to the interview of principals, employees, customers and suppliers of the applicant or licensee.

(3) Definitions. The terms affiliate, attributable interests, consortium of small businesses, gross revenues, small business used in this section are defined in § 90.912.

[FR Doc. 96–3509 Filed 2–13–96; 5:06 pm]
BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 504, 507, 510, 511, 512, 514, 515, 538, 539, 543, 546, 552 and 570

[APD 2800.12A, CHGE 70]

RIN 3090–AF86

General Services Administration Acquisition Regulation; Acquisition of Commercial Items

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule with request for comments.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to implement Items I and III of Federal Acquisition Circular 90–32 which amended the Federal Acquisition Regulation (FAR) to implement the portions of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) dealing with the Truth in Negotiations Act and with the acquisition of commercial items. The GSAR is revised to conform to the FAR as revised by FAC 90–32 and to implement portions of the FAR where necessary to provide agency procedures. The Multiple Award Schedule (MAS) Policy Statement of October 1, 1982 (47 FR 50242, November 5, 1982) is canceled.

DATES: *Effective Date:* March 4, 1996. (See **SUPPLEMENTARY INFORMATION** for further guidance.)

Comment Date: Comments should be submitted in writing to the address shown below on or before April 16, 1996 to be considered in formulating the final rule.

ADDRESSES: Interested parties should submit written comments to the Office of Acquisition Policy (MV), General Services Administration, Room 4010, 18th & F Streets, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Les Davison, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION: All new solicitations for commercial items and open season solicitations issued under the multiple award schedule program issued after March 4, 1996 shall conform to this interim rule. To the maximum extent practical, solicitations for commercial items and open season solicitations, that have been issued but where no contract has been awarded shall be amended to conform to this interim rule. However, offerors shall not be required to resubmit information on commercial sales practices and any requests for additional information shall be limited to the minimum needed. Existing MAS contracts may be modified, at the discretion of contracting officers, to conform to all or part of this interim rule.

A. Determination To Issue an Interim Rule

A determination has been made under the authority of the Administrator of General Services that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. Federal Acquisition Circular 90–32 (60 FR 48206, September 18, 1995) revised the Federal Acquisition Regulation (FAR) to implement Title VIII of Public Law 103–355. Title VIII of Public Law 103–355 contained requirements for the acquisition of commercial items and required publication of implementing FAR revisions by October 1, 1995. The FAR rule became available for use on October 1, 1995, and is mandatory for use by all Federal agencies in commercial items solicitations issued after December 1, 1995. This GSAR rule implements GSA unique requirements and revises the GSAR to bring it into conformance with the FAR. Immediate GSAR coverage is needed to permit GSA contracting activities to comply with Pub. L. 103–355 and the implementing FAR requirements pertaining to the acquisition of commercial items and Truth in Negotiations Act.

B. Executive Order 12866

This rule was not submitted to the Office of Management and Budget (OMB) because it is not a significant rule as defined in Executive Order 12866, Regulatory Planning and Review.

C. Regulatory Flexibility Act

This interim rule is expected to have a positive economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule simplifies procedures for GSA acquisition of commercial items. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated above. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments from small entities will be considered in accordance with Section 610 of the Act.

D. Paperwork Reduction Act

The Paperwork Reduction Act applies to this interim rule. The information collection requirements in 515.804–8 and related provisions and clauses have been approved by the Office of Management and Budget (OMB) under OMB Control Number 9000–0013. The information collection requirements in 552.212–70, Preparation of Offer (Multiple Award Schedule), represent customary commercial practice and are approved under OMB Control Number 3090–0250.

List of Subjects in 48 CFR Parts 501, 504, 507, 510, 511, 512, 514, 515, 538, 539, 543, 546, 552, and 570

Government procurement.

Accordingly, 48 CFR Parts 501, 504, 507, 510, 511, 512, 514, 515, 538, 539, 543, 546, and 552 and 570 are amended as follows:

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

1. The authority citation for 48 CFR Parts 501, 504, 507, 510, 511, 512, 514, 515, 538, 539, 543, 546, 552 and 570 continues to read as follows:

Authority: 40 U.S.C. 486(c).

501.105 [Amended]

2. Section 501.105 is amended by removing the following GSAR references and corresponding OMB control numbers: 510.004–70–3090–0203, 510.011(i)–3090–0246, 512.104(a)(2) and 512.104(a)(4)–3090–0204.

PART 504—ADMINISTRATIVE MATTERS

3. Section 504.803 is amended by revising paragraphs (a)(12) and (a)(25) to read as follows:

504.803 Contents of contract files.

(a) * * *

(12) Cost or pricing data and information other than cost or pricing data. Where the requirement for submission of cost or pricing data is waived, as provided in FAR 15.804–1(b)(5), the waiver and documentation supporting the waiver should be filed under this tab.

* * * * *

(25) Any required approvals—GSA 1535, Recommendation for Award, or documentation of approval of Subcontracting Plan (as applicable). The contracting officer's and any other departing procurement official's certificate of procurement integrity, required by FAR 3.104–7(a) and 48 CFR 503.104–7 and the record of individuals authorized access to proprietary or source selection information, required by FAR 3.104–5(d)(2) and 3.104–9(e)(iii) should be filed under this tab.

* * * * *

PART 507—ACQUISITION PLANNING

507.103 [Amended]

4. Section 507.103 is amended by removing "510.002" and inserting "48 CFR 511.002".

5. Part 510 heading is revised to read as follows:

PART 10—MARKET RESEARCH

510.001 [Redesignated as 511.001]

6. Section 510.001 is redesignated as 511.001.

510.002 [Redesignated as 511.002 and amended]

7. Section 510.002 is redesignated as 511.002 and the first sentence is amended by removing "FAR 10.002(c)" and inserting "FAR 11.002(b)."

510.004 [Removed]

510.004–70 [Removed]

510.004–71 [Removed]

510.007 [Removed]

510.007–70 [Removed]

8. Sections 510.004, 510.004–70, 510.004–71, 510.007 and 510.007–70 are removed.

510.011 [Redesignated as 511.204 and amended]

9. Section 510.011 is redesignated as 511.204 and paragraph (a) is amended by removing "552.210–70" and inserting "48 CFR 552.211–711"; by removing "552.210–71" and inserting "48 CFR 552.211–72" in paragraph (b); by removing paragraphs (c) and (d); by redesignating paragraph (e) as (c) and in newly designated paragraph (c) removing "552.210–75" and inserting "48 CFR 552.211–73"; by redesignating paragraph (f) as (d), and in newly designated paragraph (d) removing "552.210–76" and inserting "48 CFR 552.211–74", and by removing "552.210–75" and inserting "48 CFR 552.211–73"; by redesignating paragraph (g) as (e) and in newly designated paragraph (e), by removing "552.210–77" and inserting "48 CFR 552.211–75"; by redesignating paragraph (h) as (f) and in newly designated paragraph (f) removing "552.210–78" and inserting "48 CFR 552.211–76"; by redesignating paragraph (i) as (g), and in newly designated paragraph (g) removing "552.210–79" and inserting "48 CFR 552.211–77."

510.070 [Removed]

510.070–1 [Removed]

510.070–2 [Removed]

510.070–3 [Removed]

510.070–4 [Removed]

510.071 [Removed]

PART 510—[RESERVED]

10. Sections 510.070, 510.070–1, 510.070–2, 510.070–3, 510.070–4 and 510.071 are removed and Part 510 is reserved.

11. Part 511 heading is revised to read as follows:

PART 511—DESCRIBING AGENCY NEEDS

511.003 [Removed]

511.070 [Removed]

12. Sections 511.003 and 511.070 are removed.

13. Subpart 511.1 consisting of sections 511.103 and 511.170 are added to read as follows:

Subpart 511.1—Selecting and Developing Requirements Documents

Sec.
511.103 Market acceptance.
511.170 Use of brand name or equal product descriptions.

Subpart 511.1—Selecting and Developing Requirements Documents

511.103 Market acceptance.

The contracting officer may require offerors to meet market acceptance criteria in accordance with FAR 11.103 when such criteria determined necessary to satisfy the agency's needs.

511.170 Use of brand name or equal product descriptions.

(a) *Policy.* When a "brand name or equal" purchase description is used the purchase description should—

(1) Cite all brand name products known to be acceptable and of current manufacture;

(2) Specify each physical or functional characteristic essential to the intended use of the product including permissible tolerances;

(3) Avoid specifying characteristics that cannot be shown to materially affect the intended end use and which unnecessarily restrict competition; and

(4) Give prospective offerors the opportunity to offer products other than those specifically referenced by brand name, as long as they meet the needs of the Government in essentially the same manner as the brand name product.

(b) *Solicitation provisions.* The solicitation—

(1) May require bid samples for "or equal" offers, but not for "brand name" offers.

(2) Must provide for full consideration and evaluation of "or equal" offers against the salient characteristics specified in the purchase description. Do not reject offers for minor differences in design, construction, or features which do not affect the suitability of the product for its intended use.

(3) Must include the following immediately after the item description—

Offering on:
Manufacturer's Name _____
Brand _____
Model or Part No. _____

(4) Should include the following notice, unless bid samples are required for "or equal" offers, in the item listing after each brand name or equal item (or component part) or at the bottom of each page listing several items:

OFFERORS OFFERING OTHER THAN BRAND NAME ITEMS IDENTIFIED HEREIN MUST PROVIDE ADEQUATE INFORMATION TO ENSURE THAT A DETERMINATION CAN BE MADE AS TO EQUALITY OF THE PRODUCT(S) OFFERED.

(c) *Contract clause.* The contracting officer shall include a clause substantially the same as the clause at 48 CFR 552.211–70, Brand Name or Equal, when a brand name or equal

purchase description is used. When component parts or an end item are described by brand name or equal descriptions and application of the clause to some or all of the components is impracticable, either do not use the clause or limit its application to specified components.

14. Subpart 511.2 is added to read as follows:

Subpart 511.2—Using and Maintaining Requirements Documents

PART 512—ACQUISITION OF COMMERCIAL ITEMS

15. Part 512 heading is revised as set forth above.

Subpart 512.1 [Redesignated as Subpart 511.4]

512.101 [Redesignated as 511.401]

512.104 [Redesignated as 511.404 and amended]

15a. Subpart 512.1 is redesignated as subpart 511.4, section 512.101 is redesignated as 511.401, and section 512.104 is redesignated as 511.404.

16. Newly designated section 511.404 is amended by redesignating paragraph (a)(5) as paragraph (a)(6) and amending paragraph (a)(6) by removing "552.212–72" and inserting "48 CFR 552.211–83"; by redesignating paragraph (a)(4) as paragraph (a)(5), and amending paragraph (a)(5) by removing "552.212–71" and inserting "48 CFR 552.211–82"; by redesignating paragraph (a)(3) as paragraph (a)(4) and amending paragraph (a)(4) by removing "552.212–70" and inserting "48 CFR 552.211–81" and by removing "552.212–72" and inserting "48 CFR 552.211–83"; by removing "552.212–1(a)" in paragraph (a)(1) and inserting "48 CFR 552.211–1"; amending paragraph (b) by removing "552.212–74" and inserting "48 CFR 552.211–84"; and by revising paragraph (a)(2) and adding a new paragraph (a)(3) to read as follows:

511.404 Contract clauses.

(a) * * *

(2) 48 CFR 552.211–78, Commercial Delivery Schedule (Multiple Award Schedule), in solicitations issued and contracts awarded under the multiple award schedule program.

(3) 48 CFR 552.211–79, Acceptable Age of Supplies, or 48 CFR 552.211–80, Age on Delivery, in solicitations and contracts if the contractor will be required to furnish shelf-life items within a specified number of months from the date of manufacture or production of the supplies. (See 101–27.206–2 of the Federal Property Management Regulation.) The Acceptable Age of Supplies clause at 48 CFR 552.211–79 should be used when the required shelf-life period is 12 months or less, and lengthy acceptance testing may be involved. For items having a limited shelf-life, Alternate I to 48 CFR 552.211–79 must be substituted for the basic clause when required by the director of the 48 CFR 552.211–80 should be used when the required shelf-life period is more than 12 months, or when source inspection can be performed within a short time period.

* * * * *

17. Subpart 512.2 consisting of sections 512.203 and 512.209 is added to read as follows:

Subpart 512.2—Special Requirements for the Acquisition of Commercial Items

Sec.

512.203 Procedures for solicitation, evaluation, and award.

512.209 Pricing of commercial items when contracting by negotiation.

Subpart 512.2—Special Requirements for the Acquisition of Commercial Items

512.203 Procedures for solicitation, evaluation, and award.

Contracting officers shall use the policies in FAR Part 12 and 48 CFR Part 512 in conjunction with the policies and procedures for Federal Supply Schedules in FAR Part 38 and 48 CFR Part 538.

512.209 Pricing of commercial items when contracting by negotiation.

When awarding multiple award schedule contracts for commercial items, the policies and procedures in FAR Part 15 and 48 CFR Part 515 shall be used to establish the reasonableness of prices.

18. Subpart 512.3 consisting of sections 512.301 and 512.302 is added to read as follows:

Subpart 512.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

Sec.

512.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

512.302 Tailoring of provisions and clauses for the acquisition of commercial items.

512.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(a) *Solicitation provisions/clauses.* The contracting officer shall insert the following provisions or clauses in solicitations for the acquisition of commercial items in accordance with the prescriptions provided:

(1) The provision at 48 CFR 552.212–70, Preparation of Offer (Multiple Award Schedule), in solicitations issued under the multiple award schedule program.

(2) The clause at 48 CFR 552.212–71, Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items when listed clauses apply and are incorporated by reference. The clause provides for the incorporation by reference of terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practice. The contracting officer may tailor this clause.

(3) The clause at 48 CFR 552.212–72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisitions of Commercial Items when listed clauses apply and are incorporated by reference. The clause provides for the incorporation by reference of terms and conditions which are required to implement provisions of law or executive orders applicable to acquisitions of commercial items.

(4) The provision at 48 CFR 552.212–73, Evaluation—Commercial Items (Multiple Award Schedule), shall be used instead of FAR 52.212–2 in solicitations issued under the multiple award schedule program.

(b) *Use of required GSAR provisions and clauses.* Notwithstanding prescriptions contained elsewhere in the GSAR (48 CFR Chapter 5), when acquiring commercial items, contracting officers shall be required to use only those provisions and clauses prescribed in this part. The provisions and clauses prescribed in this part shall be revised, as necessary, to reflect the applicability of statutes and executive orders to the acquisition of commercial items.

(c) *Discretionary use of GSAR provisions and clauses.* The contracting officer may include in solicitations and contracts by addendum other GSAR provisions and clauses when their use is consistent with the limitations contained in FAR 12.302(c).

(d) *Use of additional provisions and clauses.* Provisions or clauses that are not prescribed in the FAR or GSAR for use in contracts for commercial items may not be used unless approved by the Senior Procurement Executive (see 48 CFR 502.101) or determined to be consistent with customary commercial practice through market research.

512.302 Tailoring of provisions and clauses for the acquisition of commercial items.

Requests for waivers shall be prepared in accordance with FAR 12.302(c) and submitted for approval by the chief of the contracting office (see 48 CFR 502.101) if an individual contract is involved or by the contracting director (see 48 CFR 502.101) if a class of contracts is involved.

PART 514—SEALED BIDDING

19. Section 514.201–70 is revised to read as follows:

514.201–70 GSA Forms.

The GSA Form 1602, Notice Concerning Solicitation, may be used to:

(a) Describe the type of contract, the duration of the contract, and the type of supplies or services being procured;

(b) Direct the attention of prospective offerors to special requirements which if overlooked, may result in rejection of the offer;

(c) Highlight significant changes from previous solicitations covering the same supplies and services; and

(d) Include other special notices as appropriate.

PART 515—CONTRACTING BY NEGOTIATION

20. Section 515.106–70 is revised to read as follows:

515.106–70 Examination of records by GSA clause.

The contracting officer shall insert the clause at 48 CFR 552.215–70, Examination of Records by GSA or at 48 CFR 552.215–71 Examination of Records by GSA (Multiple Award Schedule), in solicitations and contracts that

(a) Involve the use or disposition of Government-furnished property,

(b) Provide for advance payments, progress payments based on cost, or guaranteed loan,

(c) Contain a price warranty or price reduction clause,

(d) Involve income to the Government where income is based on operations that are under the control of the contractor,

(e) Include an economic price adjustment clause,

(f) Are requirements, indefinite-quantity or letter type contracts as defined in FAR Part 16,

(g) Are subject to adjustment based on a negotiated cost escalation base or

(h) Contain the provision at FAR 52.223–4, Recovered Material Certification. The clause at 48 CFR 552.215–71 shall be used for solicitations issued and contracts awarded under the multiple award schedule program. The contracting officer may modify the clause to define the specific area of audit (e.g., the use or disposition of Government-furnished property, compliance with the price reduction clause). Counsel and the Assistant Inspector General-Auditing or Regional Inspector General-Auditing, as appropriate, must concur in any modifications to the clause.

515.412 [Removed]

21. Section 515.412 is removed.

22. Section 515.414–70 is revised to read as follows:

515.414–70 GSA Forms.

The GSA Form 1602, Notice Concerning Solicitation, may be used as prescribed in 48 CFR 514.201–70.

23. The section heading for 515.804 is revised to read as follows:

515.804 Cost or pricing data and information other than cost or pricing data.

515.804–3 [Reserved]

24. Section 515.804–3 is removed and reserved.

25. Section 515.804–6 is revised to read as follows:

515.804–6 Instructions for submission of cost or pricing data or information other than cost or pricing data.

(a) Contracting officers should use Alternate IV of the FAR provision at 52.215–41, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data, to provide the format for submission of information other than cost or pricing data for multiple award schedule (MAS) contracts. To provide for uniformity in request under the MAS program, contracting officers should insert the following in paragraph (b) of the provisions:

(1) An offer prepared and submitted in accordance with the provision at 552.212–70, Preparation of Offer (Multiple Award Schedule);

(2) Commercial sales practices submitted in the format provided in this solicitation in accordance with the instructions at Table 515–1 of the GSA Acquisition Regulation (48 CFR 515–1); and

(3) Any additional supporting information requested by the Contracting Officer to determine whether the price(s) offered is fair and reasonable.

(4) By submission of an offer in response to this solicitation or a request for modification, the Offeror grants the Contracting officer or an authorized representative the right to examine, at any time before award, books, records, documents, papers, and other directly pertinent records to verify any request for and exception to the requirement for cost or pricing data, and the reasonableness of prices(s) and for two years after award or modification of this contract to verify that the information submitted was complete, current and accurate. Access does not extend to cost or profit information or other data relevant solely to the Offeror's determination of the prices to be offered in the catalog or marketplace.

(b) Contracting officers shall insert the following format for commercial sales practices in the exhibits or attachments section of the solicitation (see FAR 12.303). Paragraph (5) may be included when the contracting officer, based on market research, anticipates receipt of offers from dealers without significant commercial sales.

Commercial Sales Practices

Name of Offeror _____

SIN _____

Note: Please refer to provision 552.212–70, PREPARATION OF OFFER (MULTIPLE AWARD SCHEDULE), for additional information concerning your offer.

(1) Request for exception to the requirement for cost and pricing data.

(a) Do you request an exception to the requirement for submission of cost or pricing data [Check applicable item]

(i) _____ based on the fact that you have sold substantial quantities of the commercial items offered to the general public at or based on an established catalog or market price (see FAR 15.804–1(b)(2)(iv)); or

(ii) _____ under the authority of FAR 15.804–1(a)(2) for commercial items.

(b) Provide the dollar value of sales to the general public at or based on an established catalog or market price during the previous 12 month period or the offerors last fiscal year. $_____. in the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item (FAR 15.804–1(b)(2)(iv). You may qualify for an exception under the authority of FAR 15.804–1(a)(2), even though substantial sales have not been made, although that exception requires that special post award access to records be included in the contract (see 52.215–43, Audit–Commercial Items).

(2) Show total estimated sales to the Government for the contract term, excluding options, for the SIN offered. $_____

(3) Are the discounts which you offer the Government equal to or better than your best discount to any customer acquiring the same items offered for this SIN regardless of quantity or terms and conditions? YES _____ NO _____ See definition of "discount" in 552.212–70.

(4)(a) Provide information as requested for each SIN (or group of SINs for which the information is the same) in accordance with the instructions at 48 CFR Table 515–1 which is provided in this solicitation for your convenience. The information should be provided in the chart below. Rows should be added to accommodate as many customers as required.

Column 1—customer	Column 2—discount	Column 3—quantity/volume	Column 4—FOB term	Column 5—additional discounts or concessions

(b) Do any deviations from the discounting practices disclosed ever result in better discounts (lower prices) than indicated? YES _____ NO _____. If YES, explain deviations in accordance with the instructions at 48 CFR Table 515–1 which is provided in this solicitation for your convenience.

(5) If the Offeror is a dealer/reseller, the sales information relative to the manufacturer's pricing to the dealer required by paragraph (b)(1) through (4) above together with written access to the manufacturer's records in accordance with 52.215–41 (Alt IV), should be provided separately by the offeror for each item/SIN from a single manufacturer whose total sales under any resulting contract are expected to exceed $500,000. The information is required in order to enable the Government to make a determination that the offered price is fair and reasonable. To expedite the review and processing of offers the dealer/reseller submitting the offer should advise the manufacturer(s) of this requirement. The contracting officer may require the information be submitted on electronic media with commercially available spreadsheet(s). The information may be provided by the manufacturer directly to the Government. If the manufacturer's items(s) is being offered by multiple dealers/resellers, only one copy of the requested information should be submitted to the Government. In addition, the dealer/reseller submitting the offer shall submit the following information along with a listing of contact information regarding each of the manufacturers whose products and/or services are included in the offer (include the manufacturer's name, address, the manufacturer's contact point, telephone number, and FAX number) for each model offered by SIN:

(a) Manufacturer's Name
(b) Manufacturer's Part Number
(c) Dealer's/Reseller's Part Number
(d) Product Description
(e) Manufacturer's List Price
(f) Dealer's/Reseller's percentage discount from List Price or net prices

(End of Format)

(c) The contracting officer should include the instructions for completing the commercial sales practices format in Table 551–1 in solicitations issued under the multiple award schedule program.

TABLE 515–1.—INSTRUCTIONS FOR COMMERCIAL SALES PRACTICES FORMAT

If you responded "YES" to question (3), on the COMMERCIAL SALES PRACTICES FORMAT, complete the chart for the customer(s) who receive your best discount. If you responded "NO" to question (3), complete the chart for all customers or customer categories to whom you sell at a discount which equals or exceeds the discount(s) offered to the Government under this solicitation or with which the Offeror has a current agreement to sell at a discount which equals or exceeds the discount(s) offered under this solicitation. Such agreement shall be in effect on the date the offer is submitted or contain an effective date during the proposed multiple award schedule contract period. The Offeror shall also disclose any changes to discount(s) and discount policies which occur after the offer is submitted, but before the close of negotiations. If the Offeror's discount practices vary by model or product line, the discount information should be by model or product line as appropriate. The offeror may limit the number of models or product lines reported to those which in total anticipated sales exceed 75% of the estimated value of the special item number (SIN).

Column 1—Identify the applicable customer or category or customer. A "customer is any entity, except the Federal Government, which acquires supplies or services from the Offeror. The term customer includes, but is not limited to original equipment manufacturers, value added resellers, state and local governments, distributors, educational institutions (an elementary, junior high, or degree granting school which maintains regular faculty and established curriculum and an organized body of students), dealers, national accounts, and end users. In any instance where the Offeror is asked to disclose information for a customer, the Offeror may disclose information by category or customer if the offeror's discount policies are the same for all customers in the category. (Use a separate line for each customer or category of customer.)

Column 2—Identify the discount. The term "discount" is as defined in solicitation provision 552.212–70 Preparation of Offer (Multiple Award Schedule). Indicate the best discount at which the Offeror customarily or repetitively sells to the customer or category of customer identified in column 1, without regard to quantity; terms and conditions of the agreements under which the discounts are given, and whether they are written or oral. Net prices or discounts off of other price lists should be expressed as percentage discounts from the price list which is the basis for your offer. If the price lists which are the basis of the discounts given to the customers identified in the chart are different than the price list submitted upon which your offer is based, identify the type of title and date of each price list. The contracting officer may require submission of these price lists. To expedite evaluation, offerors may provide these price lists at the time of submission.

Pricing information need be provided only on customary or repetitive sales. Information need not include erratic, ad hoc discounting; however, the existence of such discounting shall be disclosed. This disclosure should include a discussion of ad hoc discounting practices, including the types of circumstances when ad hoc discounts are given and the frequency of occurrence: i.e., a statement "the ad hoc sales do not exceed $_____ per year" or "the ad hoc sales do not exceed _____% of total sales." To be considered "ad hoc discounting" the practice shall not: (a) represent a significant pricing practice: that is, accounting for more than a marginal portion of the total commercial sales; (b) establish a preferred customer: e.g., discounts to state and local governments, or repetitive discounts received by a single customer; (c) include other than low value, extraordinary price reductions due to unique situations.

Column 3—Identify the quantity or volume of sales. Irlsert the minimum quantity or sales volume which the identified customer or category of customer must either purchase/order, per order or within a specified period, to earn the discount. Specify the period of relevant sales accumulation.

Column 4—Indicate the FOB delivery term for each identified customer. (See FAR 47.3 for an explanation of FOB delivery terms.)

Column 5—Indicate additional discounts or concessions regardless of quantity granted to the identified customer or category of customer. The additional discounts may include per order quantity discount; aggregate discount, prompt payment discount. Concessions are defined in solicitation provision 552.212–70 Preparation of Offers (Multiple Award Schedule). If the space provided is inadequate, the disclosure should be made on a separate sheet by reference.

(d) The contracting officer shall insert the clause at 48 CFR 552.215–72, Price Adjustment for Incomplete, Not Current or Inaccurate Information Other Than Cost or Pricing Data, in solicitations and contracts to be awarded under the multiple award schedule program.

PART 538—FSS SCHEDULE CONTRACTING

26. Part 538 heading is revised as set forth above.

538.000 [Removed]

27. Section 538.000 is removed.

28. Section 538.270 is added to read as follows:

538.270 Evaluation of multiple award schedule offers.

(a) The Government will seek to obtain the offeror's best discount (most favored customer). However, the Government recognizes that the terms and conditions of commercial sales vary and that there may be legitimate reasons why the best discount is not achieved.

(b) The contracting officer will establish negotiation objectives and determine price reasonableness subject to the requirements of paragraphs (c) through (e) of this section.

(c) The contracting officer will establish negotiation objectives based on a review of relevant data. If an exception may apply pursuant to FAR 15.804–1(a)(2), then information to be acquired pursuant to FAR 15.804–5(b) (1) and (2) shall be limited to that which is reasonably available and quantifiable.

(d) When establishing negotiation objectives and determining price reasonableness, contracting officers will compare the terms and conditions of agreements with customers. The contracting officer will consider the following factors to determine the Government's price negotiation objectives:

(1) Aggregate volume of anticipated purchases;

(2) The purchase of a minimum quantity or a pattern of historic purchases;

(3) Discounts/prices offered;

(4) Length of the contract period;

(5) Warranties, training, maintenance included in the purchase price or provided at additional cost to the product prices;

(6) Ordering and delivery practices; and

(7) Any other relevant information including differences between the MAS solicitation and commercial terms and conditions that may warrant differentials between the offer and the discounts offered to the best customers. In cases where the best discount is not offered to the Government, the offeror is responsible for identifying, substantiating and valuating any asserted differences.

(e) The contracting officer may not award a contract containing pricing which is less favorable than the best discount the offeror extends to any commercial customer purchasing under circumstances comparable to the Government, unless the contracting officer makes a written determination that

(1) The prices offered to the Government are fair and reasonable, even though comparable discounts were not negotiated, and

(2) Award of a contract is otherwise in the best interest of the Government.

29. Section 538.271 is added to read as follows:

538.271 MAS contract awards.

(a) MAS awards will, to the maximum extent practicable, be commercial items negotiated as a discount from established catalog prices for items sold in substantial quantities to the general public.

(b) Before awarding any MAS contract, the contracting officer will determine whether offered prices are fair and reasonable in accordance with FAR subparts 15.8 and 15.9 and 48 CFR 538.270.

PART 539—MANAGEMENT, ACQUISITION, AND USE OF INFORMATION RESOURCES—RESERVED

30. Part 539 is reserved.

539.000 [Removed]

31. Section 539.000 is removed

PART 543—CONTRACT MODIFICATIONS

32. Section 543.205 is amended by adding paragraph (c) to read as follows:

543.205 Contract clauses.

* * * * *

(c) The contracting officer shall insert the clause at 48 CFR 552.243–72, Modifications (Multiple Award Schedule), in solicitations and multiple award schedule contracts. Alternate I should be used when stable technology is involved and few changes are expected.

PART 546—QUALITY ASSURANCE

33. Section 546.710 is amended by revising paragraph (a)(2) to read as follows:

546.710 Contract Clauses.

(a) * * *

(2) If commercial products or items are being acquired under a program other than Multiple Award Schedules, the contracting officer shall use the clause at 48 CFR 552.247.17 with its Alternate I.

* * * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.209–73 [Amended]

34. The clause at section 552.209–73 is amended by revising the date of the clause to read "(FEB 1996)" and by inserting a period after the word "default" and removing all remaining text beginning with the word "under."

552.210–70 [Redesignated as 552.211–71 and amended]

35. Section 552.210–70 is redesignated as 552.211–71, the introductory paragraph is amended by removing "510.011(a)" and inserting "48 CFR 511.204(a)", and the date of the clause is revised to read "(FEB 1996)".

552.210–71 [Redesignated as 552.211–72 and amended]

36. Section 552.210–71 is redesignated as 552.211–72, the introductory paragraph is amended by removing "510.011(b)" and inserting "48 CFR 511.204(b)", and the date of the clause is revised to read "(FEB 1996)".

552.210–72 [Redesignated as 552.211–79]

37. Section 552.210–72 is redesignated as 552.211–79, the introductory paragraph is amended by removing "510.011(c)" and inserting "48 CFR 511.404(a)", by revising the date of the basic clause and the Alternate I to read "(FEB 1996)" and by removing all the text in the last sentence in the basic clause after the phrase "reject the supplies" and inserting a period after "supplies".

552.210–73 [Redesignated as 552.211–80 and amended]

38. Section 552.210–73 is redesignated as 552.211.80, the introductory paragraph is amended by removing "510.011(c)" and inserting "48 CFR 511.404(a)", by revising the date of the clause to read "(FEB 1996)" and by removing all the text in the last sentence after the phrase "reject the supplies" and inserting a period after the word "supplies".

552.210–74 [Redesignated as 552.211–70]

39. Section 552.211–70 is removed, section 552.210–74 is redesignated as 552.211–70, the introductory paragraph is amended by removing "510.011(d)" and inserting "48 CFR 511.170(c)" and by revising the date of the clause to read "(FEB 1996)".

552.210–75 [Redesignated as 552.211–73]

40. Section 552.210–75 is redesignated as 552.211–73, the introductory paragraph is amended by removing "510.011(e)" and inserting

"48 CFR 511.204(c)" and by revising the date of the clause to read "(FEB 1996)".

552.210–76 [Redesignated as 552.211–74 and amended]

41. Section 552.210–76 is redesignated as 552.211–74, the introductory paragraph is amended by removing "510.011(f)" and inserting "48 CFR 511.204(d)", by revising the date of the clause to read "(FEB 1996)", and by removing "552.210–75" from the text of the clause and inserting "48 CFR 552.211–73".

552.210–77 [Redesignated as 552.211–75 and amended]

42. Section 552.211–77 is redesignated as 552.211–75, the introductory paragraph is amended by removing "510.011(g)" and inserting "48 CFR 511.204(e)" and by revising the date of the clause to read "(FEB 1996)".

552.210–78 [Redesignated as 552.211–76 and amended]

43. Section 552.210–78 is redesignated as 552.211–76, the introductory paragraph is amended by removing "510.011(h)" and inserting "48 CFR 511.204(f)" and by revising the date of the clause to read "(FEB 1996)".

552.210–79 [Redesignated as 552.211–77 and amended]

44. Section 552.210–79 is redesignated as 552.211–77, the introductory paragraph is amended by removing "510.011(i)" and inserting "48 CFR 511.204(g)" and by revising the date of the clause to read "(FEB 1996)".

45. Section 552.211–78 is added to read as follows:

552.211–78 Commercial Delivery Schedule (Multiple Award Schedule).

As prescribed in 48 CFR 511.404(a)(2), insert the following clause:

Items or group of items (special item No. or nomenclature)	Government's stated delivery time (days ARO)	Contractor's normal commercial delivery time

(b) *Expedited Delivery Times.* For those items that can be delivered quicker than the delivery times in paragraph (a), above, the Offeror is requested to insert below, a time (hours/days ARO) that delivery can be made when expedited delivery is requested.

Item or group of items (special item No. of nomenclature)	Expedited delivery time (hours/days ARO)

(c) *Overnight and 2-Day Delivery Times.* Ordering activities may require overnight or 2-day delivery. The Offeror is requested to annotate its price list or by separate attachment identify the items that can be delivered overnight or within 2 days. Contractors offering such delivery services will be required to state in the cover sheet to its FSS price list details concerning this service.
(End of Clause)

§ 552.212–1 [Redesignated as 552.211–1 and amended]

46. Section 552.212–1 is redesignated as 552.211–1, paragraph (a) is amended by removing the paragraph designation "(a)" and by removing "512.104(a)(1)" and inserting "48 CFR 511.404(a)(1)", by revising the date of the clause and the Alternate I to read "(FEB 1996)" and by removing paragraph (b).

§ 552.212–70 [Redesignated as 552.211–81 and amended]

47. Section 552.212–70 is redesignated as 552.211–81, the introductory paragraph is amended by removing "512.104(a)(3)" and inserting "48 CFR 511.404(a)(4)" and by revising the date of the basic clause and the Alternate I clause to read "(FEB 1996)".

§ 552.212–71 [Redesignated as 552.211–82 and amended]

48. Section 552.212–71 is redesignated as 52.211–82, the introductory paragraph is amended by removing "512.104(a)(4)" and inserting "48 CFR 511.404(a)(5)" and by revising the date of the clause to read "(FEB 1996)".

§ 552.212–72 [Redesignated as 552.211–83 and amended]

50. Section 552.212–72 is redesignated as 552.211–83, the introductory paragraph is amended by removing "512.104(a)(5)" and inserting "48 CFR 511.404(a)(6)" and by revising the date of the basic and alternate clause to read "(FEB 1996)".

§ 552.212–74 [Redesignated as 552.211–84 and amended]

51. Section 552.212–74 is redesignated as 552.211–84, the introductory paragraph is amended by removing "512.104(b)" and inserting 48 CFR 511.404(b)" and by revising the date of the clause to read "(FEB 1996)".

52. Section 552.212–70 is added to read as follows:

552.212–70 Preparation of Offer (Multiple Award Schedule)

As prescribed in 48 CFR 512.301(a)(1), insert the following clause:

552.212–70 Preparation of Offer (Multiple Award Schedule) (Feb 1996)

(a) Definitions. *Concession,* as used in this solicitation, means a benefit, enhancement or privilege (other than a discount), which either reduces the overall costs of a customer's acquisition or encourages a customer to consummate a purchase. Concessions include, but are not limited to freight allowance, extended warranty, extended price guarantees, free installation and bonus goods.

Discount, as used in this solicitation, means a reduction to catalog prices (published or unpublished). Discounts include, but are not limited to, rebates, quantity discounts, purchase option credits, and any other terms or conditions which reduce the amount of money a customer ultimately pays for goods or services ordered or received. Any net price lower than the list price is considered a "discount" by the percentage difference from the list price to the net price.

(b) For each Special Item Number (SIN) included in an offer, the Offeror shall provide the information outlined in paragraph (c). Offerors may provide a single response

covering more than one SIN, if the information disclosed is the same for all products under each SIN. If discounts and concessions vary by model or product line, offerors shall ensure that information is clearly annotated as to item or items referenced.

(c) Provide information described below for each SIN:

(1) Two copies of the offeror's current published (dated or otherwise identified) commercial descriptive catalogs and/or price list(s) from which discounts are offered. Special catalogs or price lists printed for the purpose of this offer, showing only net prices to the Government or references to previous submissions, are not acceptable.

(2) Next to each offered item in the commercial catalog and/or price list, the Offeror shall write the special item number under which the item is being offered. All other items shall be marked "excluded," lined out, and initialed by the offeror.

(3) The discount(s) offered under this solicitation.

(4) A description of any additional discounts offered, such as prompt payment discounts, quantity/dollar volume discounts (indicate whether models/products can be combined within the SIN or whether SINs can be combined to earn discounts, blanket purchase agreement discounts, or purchase option credits. If the terms of sale appearing in the commercial catalogs or price list on which an offer is based are in conflict with the terms of this solicitation the latter shall govern.

(5) A description of concessions offered under this solicitation which are not granted to other customers. Such concessions may include, but are not limited to, an extended warranty, a return/exchange goods policy, or enhanced or additional services.

(6) If the Offeror is a dealer/reseller or the Offeror will use dealers to perform any aspect of contract awarded under this solicitation, describe the functions, if any, that the dealer/reseller will perform.
(End of Provision)

53. Section 552.212–71 is added to read as follows:

§ 552.212–71 Contract terms and conditions applicable to GSA acquisition of commercial items.

As prescribed in 48 CFR 512.301(a)(2), insert the following provision:

Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items (Feb 1996)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial times or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

[The contracting officer should either check the clauses that apply or delete the clauses that do not apply from the list. The contracting officer may add the date of the clause if desired for clarity.]

—552.203–70 Restriction on Advertising
—552.211–73 Marking
—552.215–70 Examination of Records by GSA
—552.212–71 Examination of Records by GSA (Multiple Award Schedule)
—552.25–72 Price Adjustment for Incomplete, Not Current or Inaccurate Information Other Than Cost or Pricing Data
—552.219–71 Allocation of Orders—Partially Set-Aside Items
—552.228–75 Workmen's Compensation
—552.229–70 Federal, State, and Local Taxes
—552.232–8 Discounts for Prompt Payment
—552.232–23 Assignment of Claims
—552.232–70 Payments by Electronic Funds Transfer
—552.232–77 Availability of Funds
—552.232–78 Adjusting Payments
—552.232–79 Final Payment
—552.237–70 Qualifications of Offerors
—552.237–71 Qualifications of Employees
—552.238–72 Contractor's Report of Sales
—552.238–74 Submission and Distribution of Authorized FSS Schedule Price List
—552.238–76 Price Reductions
—552.242–70 Status Report of Orders and Shipments
—552.243–72 Modifications (Multiple Award Schedule)
—552.246–73 Warranty—Multiple Award Schedule
—552.246–76 Warranty of Pesticides
(End of Provision)

54. Section 552.212–72 is added to read as follows:

552.212–73 Contract terms and conditions required to implement statutes or Executive Orders applicable to GSA acquisition of commercial items.

As prescribed in 48 CFR 512.301(a)(3), insert the following provision:

Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items (Feb 1996)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement provisions of law or Executive Orders applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

[The contracting officer should either check the clauses that apply or delete the clauses that do not apply from the list. The contracting officer may add the date of the clause if desired for clarity.]

—552.223–70 Hazardous Substances
—552.223–71 Hazardous Material Information
—552.223–72 Nonconforming Hazardous Material
—552.225–70 Buy American Act—Hand or Measuring Tools or Stainless Steel Flatware
—552.225–71 Notice of Procurement Restriction—Hand or Measuring Tools or Stainless Steel Flatware
—552.238–70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped
—552.238–75 Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes
—552.238–77 Industrial Funding Fee
(End of Clause)

55. Section 552.212–73 is added to read as follows:

552.212–73 Evaluation—Commercial Items (Multiple Award Schedule).

As prescribed in 48 CFR 512.301(a)(4), insert the following provision:

552.212–73 Evaluation—Commercial Items (Multiple Award Schedule) (Feb 1996)

(a) The Government may make multiple awards for the supplies or services offered in response to this solicitation that meet the definition of a "commercial item" in FAR 52.202–1. Award is to be based upon a catalog or market price exception (FAR 15.804–1(a) (i) and (ii)) to the requirement for cost or pricing data or if other exceptions are not available, an exception for commercial items (FAR 15.804–1(a)(2)), without submission of cost or pricing data. Awards may be made to those responsible offerors that offer reasonable pricing, conforming to the solicitation, and will be most advantageous to the Government, taking into consideration the multiplicity and complexity of items of various manufacturers and the differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, and other pertinent factors. By providing a selection of comparable supplies or services, ordering activities are afforded the opportunity to fulfill their requirements with the item(s) that constitute the best value and that meet their needs at the lowest overall cost. In exceptional circumstances, if an item does not qualify for an exception from cost or pricing data requirements, the contracting officer may consider cost or pricing data if pricing cannot be reasonably evaluated without it, and procurement of the item is the best interest of the Government.

(b) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.
(End of Provision)

Alternate I (FEB 1996)

When anticipating competition of identical items, add the following paragraph after paragraph (b) of the basic provision.

(c) The Government reserves the right to award only one contract for all or part of a manufacturer's product line. When two or more offerors (e.g., dealer/resellers) offer the identical product, award may be made competitively to only one offeror on the basis of the lowest price. (Discounts for early payment will not be considered as an evaluation factor in determining the low offeror). During initial open season for an option period, any offers that are equal to or lower than the current contract price received for identical items will be considered. Current contractors will also be allowed to submit offers for identical items during this initial open season. The current contractor which has the identical item on contract will be included in the evaluation process. The Government will evaluate all offers and may award only one contract for each specified product or aggregate group.

56. Section 552.215–70 is amended by revising the date of the clause and the last sentence of the clause to read as follows:

552.215–70 Examination of records by GSA.

* * * * *

Examination of Records by GSA (Feb 1996)

* * * * *

The term "subcontract" as used in this clause excludes (a) purchase orders not exceeding $100,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

57. Section 552.215–71 is added to read as follows:

552.215–71 Examination of records by GSA (Multiple Award Schedule).

As prescribed in 48 CFR 515.106–70, insert the following clause:

Examination of Records by GSA (Multiple Award Schedule) (Feb 1996)

The Contractor agrees that the Administrator of General Services or any duly authorized representative shall, until the expiration of 2 years after the end of the basic contract period or after the end of the option period for any option periods, have access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this contract for overbillings, billing errors, compliance with the Price Reduction clause and compliance with the Industrial Funding Fee clause of this contract. This right is in addition to the right to examine information provided by FAR 52.215–41 (Alt IV) and FAR 52.215–43, if applicable)

(End of Clause)

58. Section 552.215–72 is added to read as follows:

552.215–72 Price adjustment for incomplete, not current or inaccurate information other than cost or pricing data.

As prescribed in 48 CFR 515.804–6(d), insert the following clause:

Price Adjustment for Incomplete, not Current or Inaccurate Information Other Than Cost or Pricing Data (Feb 1996)

(a) If, subsequent to the award of any contract resulting from this solicitation or modification of this contract, it is found that any price negotiated in this contract was increased by a significant amount because of the occurrence of (1), (2) or (3) below, the contract price shall be reduced by such amount of the increase.

(i) The information requested by the Government and submitted by the offeror (contractor) was not complete; or

(2) The information submitted was not current and accurate; or

(3) Changes in the Contractor's commercial prices, discounts or discount policies which occurred after the original submission were not disclosed prior to the completion of negotiations.

(b) The Government will consider information submitted to be current, accurate and complete if the data is current, accurate and complete as of 14 calendar days prior to the solicitation closing date or the date it is submitted whichever is later. Failure to agree on the amount of the decrease shall be resolved as a dispute.

(End of Clause)

552.216–71 [Amended]

59. Section 552.216–71 is amended by revising the date of the clause to read "FEB 1996" and amending paragraph (d)(2) by removing "Discount Schedule and Marketing Data" and inserting "Commercial Sales Price format."

552.238–74 [Amended]

60. Section 552.238–74 is amended by removing "GSA" in the section heading, clause heading, paragraphs (b), (c)(1)(i), (c)(1)(ii), (c)(2)(i) and (e) and inserting "FSS" and by revising the date of the clause to read "(FEB 1996)".

61. Section 552.243–72 is added to read as follows:

552.243–72 Modifications (Multiple Award Schedule).

As prescribed in 48 CFR 543.205(c), insert the following clause:

552.243–72 MODIFICATIONS (MULTIPLE AWARD SCHEDULE) (FEB 1996)

(a) General. The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (e) of this clause. A separate request should be submitted for each type of proposed modification. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) Types of Modifications.

(1) Additional items/additional SIN's. When requesting additions, the following information must be submitted:

(i) A request for an exemption from the requirement to submit cost and pricing data as required by 52.215–41 (ALT IV) shall be provided. To add items, submit the information requested in paragraph 1(a) of the Commercial Sales Format. To add SIN's provide the information requested in paragraph (1) and (2) of the Commercial Sales Practice Format.

(ii) Discount information for the new item(s) or new SIN(s) as required by 52.215–41 (ALT IV) must be provided. Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice Format. If this information is the same as the initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or new SIN(s) as described in 552.212–70, Preparation of Offer (Multiple Award Schedule) is required.

(iv) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with 552.211–78, Commercial Delivery Schedule (Multiple Award Schedules).

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215–20, Place of Performance.

(vi) Hazardous Material information (if applicable) must be submitted as required by 52.223–3 (ALT I), Hazardous Material Identification and Material Safety Data; and 552.223–71, Hazardous Material Information; and as requested by the Separate Charge for Performance Oriented Packaging clause of this contract, if applicable.

(vii) Recovered Material estimate(s) and certification (if applicable) must be submitted as required by 52.223–8 (or 52.223–8 (ALT I) or 52.223–8 (ALT II), Estimate of Percentage of Recovered Material for Designated Items to be used in the Performance of the Contract; and 52.223–9, Certification of Recovered Material Content for EPA Designated Items used in Performance of the Contract.

(viii) A statement that the request for additional item(s) or item(s) under the new SIN(s) is in compliance with 552.225–9, Trade Agreements Act, and 552.225–8, Trade Agreements Act Certificate is required.

(2) Deletions. The Contractors shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) Price Reduction. The Contractor shall indicate whether the price reduction falls under the item (i), (ii), or (iii) of subparagraph (c)(1) of the Price Reduction clause at 552.238–76. If the price reduction falls under item (i) or (ii), the Contractor shall submit a copy of the dated commercial price list. If the price reduction falls under item (iii), the Contractor shall submit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(4) Revision of Commercial Price List. The Contractor may request a modification to substitute a new catalog or price list for the one originally submitted if, after award and no later than 30 calendar days before the start of the schedule contract period, the Contractor changes its established commercial catalog or price list on which the contract was awarded. The new catalog or price list shall be submitted to the Contracting Officer along with a statement that (i) the new commercial price list is or will be in effect prior to the start of the contract period, and (ii) the discount(s) offered to the Government remain at the same ratio to those available to the customer (or category of customer) which was the basic of award.

(c) Effective dates. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reduction clause at 552.238–76.

(d) Electronic file updates. The Contractor shall update electronic file submissions to reflect all modifications. Except for price reductions and corrections, the Contractor shall obtain the contracting officer's approval before transmitting changes. Contract modifications will not be made effective until updates to electronic files are received. Price reductions and correction may be transmitted without prior approval. However, the contracting officer shall be notified as set forth in the Price Reduction clause at 552.238–76.

(e) Amendments to paper Federal Supply Schedule Price Lists. The Contractor shall distribute a supplemental paper Federal Supply Schedule Price List reflecting accepted changes within 15 days after the effective date of the modification. At a minimum, distribution shall be made to these ordering activities that previously received the basic document. In addition, two copies of the supplemental price list shall be submitted to the contracting officer, and one copy shall be submitted to the FSS Schedule Information Center.

(End of Clause)

Alternate I (Feb 1996)

Substitute the following introductory text in subparagraph (1) for the introductory text in subparagraph (1) of the basic clause.

(1) Additional items/additional SIN's. Consideration for adding new items or new SIN's will be given 3 months into the contract period. After then, the contractor may request additions at any time. When requesting additions the following information must be submitted.

62. Section 552.246–73 is amended by revising the date of the clause and the basic clause to read as follows:

552.246–73 Warranty—Multiple Award Schedule.

* * * * *

Warranty—Multiple Award Schedule (Feb 1996)

Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the Contractor's commercial price list will apply to this contract.

(End of Clause)

552.253–70 [Removed]

63. Section 552.253–70 is removed.

PART 570—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY

570.308–2 [Amended]

64. Section 570.308–2 is amended in paragraph (c) by removing "and 515.804–3" at the end of the sentence.

570.602–2 [Amended]

65. Section 570.602–2 is amended in paragraphs (c)(3) and (d) by removing "and 515.804–3".

Dated: February 6, 1996.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 96–3593 Filed 2–15–96; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 90–3; Notice 6]

RIN 2127–AF63

Federal Motor Vehicle Safety Standards; Air Brake Systems; Air Compressor Cut-In

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This document concludes a rulemaking proceeding begun in response to a petition for rulemaking submitted by the Truck Trailer Manufacturers Association (TTMA). It amends Standard No. 121, *Air Brake Systems*, to require the automatic activation of the air compressor on a powered vehicle whenever the pressure in the air brake system drops below 100 pounds per square inch (psi). The agency has concluded that the amendment will ensure that new truck tractors provide trailers with sufficient air pressure for release of the trailer parking brakes and provide adequate service braking. In addition, the amendment will provide greater air reserves on all air braked vehicles.

DATES: *Effective date.* The amendment becomes effective March 18, 1996. *Compliance date.* Compliance with the amendment will be required on and after March 1, 1997.

Petitions for reconsideration. Any petitions for reconsideration of this rule must be received by NHTSA no later than April 1, 1996.

ADDRESSES: Petitions for reconsideration of this rule should refer to the above referenced docket numbers and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Mr. Richard Carter, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 366–5274.

For legal issues: Mr. Marvin L. Shaw, NCC–20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–366–2992).

SUPPLEMENTARY INFORMATION:

I. Background

Standard No. 121, *Air Brake Systems*, specifies performance and equipment requirements for braking systems on vehicles equipped with air brakes, including a requirement specifying the minimum air pressure at which a towing vehicle's air compressor governor must automatically activate the compressor. The governor maintains reservoir air pressure between predetermined minimum and maximum pressures. Under the current requirement in S5.1.1.1, the governor must automatically activate the air compressor when air pressure in the reservoir falls to 85 pounds per square inch (psi). Currently manufactured air brake systems typically operate between 100 psi and 120 psi.

NHTSA adopted the air compressor governor minimum cut-in requirement on October 8, 1991. (56 FR 50666) In adopting the requirement, the agency explained that the requirement will ensure, in the event of an air leak in a tractor's brake supply system, the air compressor for the system will be activated to restore or maintain pressure in the system until the air leak is detected and corrected. The agency further stated that since most vehicles already complied with the cut-in requirement, it would not result in an undue burden for manufacturers.

The October 1991 final rule also amended Standard No. 121 by deleting the requirement for each trailer to have a separate protected reservoir for the purpose of releasing the parking brake. Under the rule, air pressure from the tractor supply lines may be used to

release the trailer parking brakes instead of air from a separate reservoir. The final rule also specified requirements for a minimum air pressure of 70 psi in the trailer's supply line in the event of pneumatic failure. The final rule also prevents the automatic application of the trailer parking brakes while the minimum trailer supply line air pressure is maintained.

II. Rulemaking Petition

On August 2, 1994, the Truck Trailer Manufacturers Association (TTMA) submitted a petition for rulemaking to amend S5.1.1.1 of Standard No. 121 to increase the minimum air pressure, at which the governor is required to activate the air compressor, from 85 psi to 100 psi. The petitioner stated that its requested amendment is necessary to assure that new truck tractors provide air braked trailers with sufficient pressure for release of the trailer parking brakes and to provide adequate service braking. TTMA said that the current 85 psi air pressure compressor cut-in requirement may not be sufficient to ensure that adequate pressure is supplied to a trailer being towed by a tractor. TTMA also stated that higher truck or tractor air pressures increase the speed at which trucks or tractors can resupply trailers with air and that these higher pressures will store more air for use by the braking systems. The petitioner further stated that "all tractor manufacturers are now building tractors whose nominal compressor cut-in pressure is at least 100 psi."

III. NHTSA Proposal

On June 13, 1995, NHTSA published a notice of proposed rulemaking (NPRM) proposing to increase the required minimum air compressor cut-in pressure from 85 psi to 100 psi. (60 FR 31135) The agency set forth the following reasons for its decision to propose increasing the cut-in air pressure above the current 85 psi level. First, the agency believed that the proposed amendment would enhance safety by better ensuring that new truck tractors are capable of providing trailers with sufficient pressure for release of the trailer parking brakes and provide adequate service braking. Specifically, raising the minimum cut-in pressure would allow the storage of an additional volume of compressed air that would be available for an air brake system. Second, the agency stated that the proposal to maintain an overall higher system air pressure would allow a better "match up" of protection valve settings between the tractors and trailers. Third, the agency stated that a greater margin of safety would be provided for long stroke brake chambers, which need more compressed air.

After explaining its tentative conclusion that increasing the cut-in pressure to 100 psi would not result in any safety problems, NHTSA invited comments about whether the proposed amendment would affect safety.

NHTSA further stated that its analysis of current manufacturing practices confirmed TTMA's statement that manufacturers are typically building vehicles with a cut-in pressure of at least 100 psi. The docket includes a memorandum summarizing the agency's discussions with vehicle manufacturers and the American Trucking Associations (ATA) in which they indicate that new truck tractors are typically equipped with governors that activate the air compressor when air pressure drops to 100 psi. In addition, Midland-Grau and Allied Signal, which together produce over 95 percent of the air compressors and governors in the United States, stated that they set their air compressors and governors at 100 psi or higher. Based on its research, NHTSA was aware of no company that manufactures these devices with a cut-in pressure between 85 and 100 psi nor of any purchaser that requests a cut-in pressure in this lower range. Accordingly, NHTSA believed that the proposed amendment would codify existing industry practice, since equipment on new vehicles are being built with the proposed settings.

IV. Comments on the NPRM and Final Rule

NHTSA received comments from ATA, the Truck Manufacturing Association (TMA), the Heavy Duty Brake Manufacturing Council (HDBMC), the Truck Trailer Manufacturers Association (TTMA), the Advocates for Highway Safety (Advocates), vehicle manufacturers (Ford, Mack Truck, Navistar, and PACCAR), brake manufacturers (Allied Signal and Midland-Grau), and an engineering consultant.

The commenters generally supported the proposal to raise the air compressor cut-in pressure to 100 psi or more. Even though it did not oppose the proposal, TMA stated that there was little need for adopting the proposal since the vast majority of vehicles already meet the proposed requirements and the rest will soon comply. That organization expressed concern that while most domestic manufacturers already comply with the cut-in requirements, new entries and imports may be designed to the 85 psi requirement. However, NHTSA believes that in Europe, cut-in pressure is typically over 100 psi. Should TMA have specific data on this issue, it is encouraged to present it to the agency. TMA, Navistar, AlliedSignal, Mack Trucks, and HDBMC requested that the agency modify the wording to state that the cut-in pressure shall be "100 psi or greater." These commenters believed that this modified wording will accommodate variations in manufacturers' recommended cut-in pressures.

Based on its review of the comments and the available information, NHTSA has decided to amend Standard No. 121 to require the automatic activation of the air compressor whenever the pressure in the air brake system drops below 100 psi. As the agency stated in the NPRM, this amendment will ensure that new truck tractors are capable of providing trailers with sufficient pressure for release of the trailer parking brakes and provide adequate service braking. Specifically, raising the cut-in pressure allows the storage of an additional volume of compressed air that will be available for an air brake system. Second, requiring an overall higher system air pressure will allow a better "match up" of protection valve settings between the tractors and trailers. Third, the amendment will provide a greater margin of safety for long stroke brake chambers, which need more compressed air. The agency anticipates no safety problems as the result of this amendment.

ATA commented that it had no objection to the proposal if it applied only to towing trucks and tractors. However, that organization opposed applying the proposal to single unit vehicles.

NHTSA has decided to apply the air compressor cut-in pressure requirements to all powered vehicles, including single unit vehicles. The agency believes that raising the air compressor cut-in pressure to 100 psi provides potential safety benefits in addition to providing faster brake release times between the tractor and trailers and better balancing of pressures. The agency has decided to include single unit vehicles in the requirements because of its concern over increased air consumption with long stroke brake chambers combined with ABS. The agency is currently reviewing petitions for reconsideration on its rule allowing long stroke brake chambers and, subsequent to its response, encourages ATA and others to reexamine this issue. Even though ATA stated that it was concerned that there may be some special applications or vehicle types where a lower air pressure is desirable or necessary, the agency is not aware of any specific examples of any such special conditions that preclude the use of the higher air pressure.

In the NPRM, NHTSA proposed that compliance date for the final rule be 30 days after its publication in the **Federal Register**. The agency stated that this amendment would have no adverse effect on manufacturers since all manufacturers currently comply with the proposed requirements. NHTSA requested comments about whether a leadtime of 30 days would be appropriate or whether more lead time was necessary.

Advocates favored a compliance date of 30 days after the notice's publication. Mack requested that the compliance date not occur before March 1, 1996, since that company manufactures two low volume truck tractor models and a high volume truck model that require a longer leadtime to convert to the higher cut-in pressure. PACCAR, commenting through TMA, stated that it will need 12 months to adapt to the proposed change.

NHTSA has decided to set a compliance date of March 1, 1997 for the amended air compressor cut-in pressure. The agency believes that providing additional leadtime is necessary given that some manufacturers will need additional time to modify certain vehicles. Given that these manufacturers would have to make significant changes to certain air brake systems, they would not be able to make the modifications within the 30 day period that was initially proposed. This compliance date also corresponds to that for the antilock brake system and stopping distance requirements for truck tractors.

V. Rulemaking Analyses and Notices

1. Executive Order 12866 (Federal Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. A full regulatory evaluation is not required because the rule will have a minimal effect on the costs or performance of the existing air brake systems. For most manufacturers and most vehicles, today's amendment merely codifies an existing industry practice.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendment will not have a significant economic impact on a substantial number of small entities. Vehicle and brake manufacturers typically do not qualify as small entities. Vehicle manufacturers, small businesses, small organizations, and small governmental units which purchase motor vehicles will not be significantly affected by the requirements since the cost of new vehicles will not change. Accordingly, no regulatory flexibility analysis has been prepared.

3. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rule will not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws will be affected.

4. National Environmental Policy Act

Finally, the agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that the rule will not significantly affect the human environment.

5. Civil Justice Reform

This rule will not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (49 U.S.C. 30111), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (49 U.S.C. 30161) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency is amending part 571 of Title 49 of the Code of Federal Regulations as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.G. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. In § 571.121, S5.1.1.1 is revised to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S5.1.1.1 Air compressor cut-in pressure. The air compressor governor cut-in pressure shall be 100 p.s.i. or greater.

* * * * *

Issued on: February 8, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–3258 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–69–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 950725189–5260–02; I.D. 021296B]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS closes the commercial run-around gillnet fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast sub-zone. This closure is necessary to protect the overfished Gulf king mackerel resource.

EFFECTIVE DATE: The closure is effective 12 noon, local time, February 12, 1996, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act.

Catch limits recommended by the Councils and implemented by NMFS for the Gulf of Mexico migratory group of

king mackerel set the commercial quota of king mackerel in the Florida west coast sub-zone at 865,000 lb (392,357 kg). That quota was further divided into two equal quotas of 432,500 lb (196,179 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook-and-line gear.

Under 50 CFR 642.26(a), NMFS is required to close any segment of the king mackerel commercial fishery when its allocation or quota is reached, or is projected to be reached, by publishing a notification in the **Federal Register**. NMFS has determined that the commercial quota of 432,500 lb (196,179 kg) for Gulf group king mackerel for vessels using run-around gillnets in the Florida west coast sub-zone was reached on February 12, 1996. Hence, the commercial fishery for king mackerel for such vessels in the Florida west coast sub-zone is closed effective 12:00 noon, local time, February 12, through June 30, 1996, the end of the fishing year.

The Florida west coast sub-zone extends from the Alabama/Florida boundary (87°31'06" W. long.) to: (1) The Dade/Monroe County, FL, boundary (25°20.4' N. lat.) from November 1 through March 31; and (2) the Monroe/Collier County, FL, boundary (25°48' N. lat.) from April 1 through October 31.

Classification

This action is taken under 50 CFR 642.26(a) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 12, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3520 Filed 2–12–96; 3:44 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 61, No. 33

Friday, February 16, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 312

[Docket No. 95N–0138]

Disqualification of a Clinical Investigator

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the investigational new drug regulation that provides for disqualification of clinical investigators for submitting false information. It has come to the agency's attention that, as written, the regulation may be unclear. The proposed amendment would clarify the agency's authority to reach sponsor-investigators under the existing regulation.

DATES: Written comments by May 16, 1996. FDA proposes that any final rule based on this proposal become effective 60 days after its date of publication in the **Federal Register**.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard P. Muller, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1046.

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA is proposing to amend the regulations governing disqualification of clinical investigators to clarify that existing § 312.70 (21 CFR 312.70) reaches sponsor-investigators. Although the proposed amendment would not signify a change in policy, it has come to the agency's attention that, as written, the regulation may be unclear.

Generally, clinical investigators who conduct clinical trials to investigate new drugs submit their data to individual or corporate sponsors. Part 312 (21 CFR part 312) requires sponsors to monitor the progress of clinical investigations and to submit clinical investigation reports to the agency. Thus, data generated by the clinical investigator become the subject of reports that are submitted to the agency.

Sponsor-investigators both directly conduct investigations and report data to the agency. Section 312.3(b) defines "sponsor-investigator" as "an individual who both initiates and conducts an investigation, and under whose immediate direction the investigational drug is administered or dispensed." The definition specifically states that "(t)he requirements applicable to a sponsor-investigator under this part include both those applicable to an investigator and a sponsor." Therefore, existing § 312.70 covers the disqualification of sponsor-investigators. However, the language of § 312.70, as it applies to sponsor-investigators, may be confusing.

Under existing § 312.70(b), the agency may disqualify an investigator who has "deliberately or repeatedly submitted false information to the sponsor in any required report." However, unlike investigators, sponsor-investigators submit information directly to FDA and not to a separate sponsor. Although FDA believes that § 312.70 encompasses the disqualification of sponsor-investigators, because a sponsor-investigator does not submit information to a sponsor, the existing regulatory language may be ambiguous. Therefore, the agency is proposing to amend § 312.70 for clarity.

The proposed rule, if finalized, would clarify that the agency can disqualify clinical investigators and sponsor-investigators for submitting to sponsors, or to FDA, false information in any required report.

II. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this proposed regulation does not impose paperwork or recordkeeping burdens, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

IV. Effective Date

FDA proposes that any final rule based on this proposal become effective 60 days after its date of publication in the **Federal Register**.

V. Request for Comments

Interested persons may, on or before May 16, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 312 be amended as follows:

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

1. The authority citation for 21 CFR part 312 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

2. Section 312.70 is amended by revising the first sentences of paragraphs (a) and (b) to read as follows:

§ 312.70 Disqualification of a clinical investigator.

(a) If FDA has information indicating that an investigator (including a sponsor-investigator) has repeatedly or deliberately failed to comply with the requirements of this part, part 50, or part 56 of this chapter, or has submitted to FDA or to the sponsor false information in any required report, the Center for Drug Evaluation and Research or the Center for Biologics Evaluation and Research will furnish the investigator written notice of the matter complained of and offer the investigator an opportunity to explain the matter in writing, or, at the option of the investigator, in an informal conference. * * *

(b) After evaluating all available information, including any explanation presented by the investigator, if the Commissioner determines that the investigator has repeatedly or deliberately failed to comply with the requirements of this part, part 50, or part 56 of this chapter, or has deliberately or repeatedly submitted false information to FDA or to the sponsor in any required report, the Commissioner will notify the investigator and the sponsor of any investigation in which the investigator has been named as a participant that the investigator is not entitled to receive investigational drugs. * * * * * * * * *

Dated: February 9, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–3384 Filed 2–15–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–95–062]

RIN 2115–AA97

Security Safety Zone Regulations Savannah, GA

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing; request for comments.

SUMMARY: The Coast Guard will hold a public hearing to receive comments on proposals to establish security and safety zones during the 1996 Centennial Olympic Games to be held in the Savannah, Georgia area. The Coast Guard believes these security and safety zones are necessary to protect both Olympic athletes and the maritime public during a variety of activities associated with the Olympic sailing competitions. The proposed regulations are to establish the security and safety zones as early as July 2, 1996 and disestablish them as late as August 5, 1996.

DATES: The public hearing will be held on February 29, 1996, from 7 p.m. to 9 p.m. at the Juliette Low Federal Building, 100 West Oglethorpe Avenue, Room 1015, Savannah, Georgia 31402.

ADDRESSES: The public hearing will be held at the Juliette Low Federal Building, 100 West Oglethorpe Avenue, Room 1015, Savannah, Georgia 31402. Those wishing to make presentations at this public meeting should contact LT L. Fagan or CPO P. Webber at (912) 652–4353. Written comments may be mailed to CPO P. Webber at 222 West Oglethorpe Avenue, Suite 402, Savannah, Georgia 31401. Comments will become part of this docket and will be available for inspection or copying at 222 West Oglethorpe Avenue, Suite 402, Savannah, Georgia 31401, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT L. Fagan, Coast Guard Marine Safety Office Savannah at (912) 652–4353.

SUPPLEMENTARY INFORMATION:

The Coast Guard is proposing to establish security and safety zones to protect both the Olympic athletes and the maritime community from the potential hazards associated with the large influx of boaters anticipated during the festivities and sailing venue competitions of the Olympic Games. (January 3, 1996; 61 FR 136) These security and safety zones will affect the following waterways: Bull River; Savannah River; Wassaw Sound; Wilmington River; Tybee Cut; Turners Creek; and Half Moon River, as early as July 2, 1996 and as late as August 5, 1996.

The Coast Guard will hold a public hearing on February 29, 1996 at 7 p.m. at the Juliette Low Federal Building, 100 West Oglethorpe Avenue, Room 1015, Savannah, Georgia 31402, to receive comments/presentations regarding whether the Coast Guard should establish all or amend some of the proposed security and safety zones.

Attendance is open to the public. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed above under the **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted prior to, during, or after the meeting until March 4, 1996.

Dated: February 12, 1996.

Roger T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 96–3602 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC–28–1–7164b; FRL–5316–8]

Approval and Promulgation of Implementation Plans; South Carolina: Approval of Revisions to the South Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 3, 1995, the State of South Carolina, through the South Carolina Department of Environment, Health and Natural Resources, submitted revisions to the South Carolina State Implementation Plan (SIP). These revisions involve R.61–62.5 Standard Number 7. Prevention of Significant Deterioration. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 18, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

South Carolina Department of Environment, Health and Natural Resources, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, ext. 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: September 19, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–2584 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[NM28–1–7087; FRL–5423–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Mexico; Albuquerque/Bernalillo County; Approval of the Vehicle Inspection and Maintenance Program, Emissions Inventory, and Maintenance Plan; Redesignation of the Nonattainment Area to Attainment; and Carbon Monoxide Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 14, 1995, the Governor of New Mexico submitted a request for redesignation to attainment for the Albuquerque/Bernalillo County carbon monoxide (CO) nonattainment area. This request included a revision to the State Implementation Plan (SIP) for the administration of a vehicle inspection and maintenance (I/M) program, a 1993 emissions inventory for Albuquerque/Bernalillo County, and an attainment maintenance plan. The submission of the revised I/M program was intended to fulfill previously unfulfilled requirements for an I/M program. In this action, the EPA is proposing approval of the Albuquerque/Bernalillo County I/M program, 1993 periodic emissions inventory, and the request for redesignation, because all meet the requirements set forth in the Clean Air Act (Act).

DATES: All written comments must be received by March 18, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the addresses listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza Room 3023, Albuquerque, New Mexico 87102

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Witosky, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

I. Background

Albuquerque/Bernalillo County, New Mexico, was designated nonattainment for CO and classified as moderate with a design value below 12.7 parts per million (ppm) (specifically 11.1 ppm), under sections 107(d)(4)(A) and 186(a) of the Act, upon enactment of the Clean Air Act Amendments (CAAA) of 1990 (the Act).[1] Please reference 56 FR 56694 (November 6, 1991) and 57 FR 13498 and 13529 (April 16, 1992). On November 5, 1992, the Governor of New Mexico submitted to the EPA a SIP revision for CO concerning Albuquerque/Bernalillo County that was intended to satisfy the Act's requirements due on November 15, 1992. The Act outlines certain required items to be included in CO SIPs. The required items for the Albuquerque/Bernalillo County CO SIP, due November 15, 1992, included: (1) a comprehensive, accurate, and current inventory of actual emissions from all sources of CO in the nonattainment area (sections 172(c)(3) and 187(a)(1) of the Act); (2) no later than September 30, 1995, and no later than the end of each three year period thereafter, until the area is redesignated to attainment, a revised inventory meeting the requirements of sections 187(a)(1) and 187(a)(5) of the Act; (3) a permit program to be submitted by November 15, 1993, which meets the requirements of section 173 for the construction and operation of new and modified major stationary sources of CO (section 172(c)(5)); (4) contingency measures due November 15, 1993, that are to be implemented if the EPA determines that the area has failed to attain the primary standards by the applicable date (section 172(c)(9)); (5) a commitment to upgrade and submit a SIP revision for the I/M program by November 15, 1993, (section 187(a)(4)); and (6) an oxygenated fuels program (section 211(m)).

The Albuquerque/Bernalillo County Air Quality Control Board has ambient monitoring data showing attainment of the CO National Ambient Air Quality Standards (NAAQS) during the period from 1992 through September of 1995. Therefore, in an effort to comply with

[1] The Clean Air Act as amended (1990 Amendments) made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the CO NAAQS (see Pub. L. No. 101–549, 104 Stat. 2399). References herein are to the CAAA, 42 U.S.C. sections 7401 *et seq.*

the Act and to ensure continued attainment of the CO NAAQS, on April 14, 1995, the Governor of New Mexico submitted a CO redesignation request and a maintenance plan for the Albuquerque/Bernalillo County area. The redesignation request and maintenance plan were both approved by the Albuquerque/Bernalillo County Air Quality Control Board (hereafter referred to as City/County) after a public hearing held on April 13, 1995.

II. Evaluation Criteria

The Act revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment. These five requirements follow below:

1. The area must have attained the applicable NAAQS;
2. The area must have a fully approved SIP under section 110(k) of the Act;
3. The air quality improvement must be permanent and enforceable; and
4. The area must have a fully approved maintenance plan pursuant to section 175A of the Act.
5. The area must have met all applicable requirements under section 110 and Part D of the Act.

III. Review of City/County Submittal

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to the EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[2] See also section 110(l) of the Act. Also, the EPA must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565 of April 16, 1992). The EPA's completeness criteria for SIP submittals are set out at 40 CFR 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by the EPA six months after receipt of the submission.

After providing adequate notice, City/County held a public hearing on April 13, 1995, to entertain public comment on the CO redesignation request and maintenance plan. Following the public hearing, these elements were adopted by the City/County, signed by the Governor on April 14, 1995, and submitted to the EPA as a proposed revision to the SIP.

The SIP revision was reviewed by the EPA shortly after its submittal to determine if it was administratively complete in accordance with the criteria referenced above. A letter dated June 2, 1995, was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process.

The information contained in the City/County redesignation request demonstrates that the area has met the five requirements of section 107(d)(3)(E) of the Act as noted above. The following is a brief description of how the City/County fulfilled each of these requirements. For a more detailed analysis of the submittal, refer to the Technical Support Document. In addition, because the maintenance plan is a critical element of the redesignation request, the EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

1. Attainment of the CO NAAQS

The City/County request contains an analysis of quality- assured CO air monitoring data which is relevant to the maintenance plan and to the redesignation request. The ambient air CO monitoring data for calendar years 1992 through September of 1995 show no violations of the CO NAAQS in the City of Albuquerque and Bernalillo County area. Since the area has complete quality- assured data showing no violations of the CO NAAQS over at least two consecutive years, the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.9 and 40 CFR 50 appendix C).

2. Fully Approved SIP Under Section 110(k) of the CAA

The City/County CO SIP is made up of a number of elements which were approved at different times prior to this action. The 1990 base year inventory, the oxygenated fuels program, and the winter wood burning program were approved on November 29, 1993, at 58 FR 62535. The nonattainment New Source Review program was approved on December 21, 1994, at 58 FR 67326. Required contingency measures were approved on May 5, 1995, at 59 FR 23167. In addition, a Clean Fuel Fleet demonstration project was approved with the contingency measures. Though not a requirement and not a contingency measure, it was approved because it could provide some emission reductions. Transportation conformity rules were approved on November 8, 1995, at 60 FR 56238. This action proposes to approve the 1993 emissions inventory, the vehicle inspection and maintenance program, maintenance plan, and maintenance contingency provisions.[3] If approved, the City/County will have a completely approved SIP for the purposes of redesignation. Although the EPA has not approved City/County's general conformity SIP provision, the EPA believes it is reasonable to proceed with redesignation, and approve the state's general conformity provisions in a subsequent notice. See section C titled Conformity of this notice for the EPA's rationale for proceeding with the redesignation.

A. Emission Inventory

Under cover dated November 5, 1992, the State of New Mexico submitted a comprehensive inventory of CO emissions from the Albuquerque/Bernalillo County area. The inventory included emissions from area, stationary, and mobile sources using 1990 as the base year for calculations. The 1990 inventory was approved after the EPA performed the Level I, II, and III reviews required to determine that the submission positively fulfilled the evaluation criteria. The comprehensive base year emissions inventory was submitted in the National Emission Data System format.

Section 187(a)(5) of the Act requires that nonattainment plan provisions include a periodic comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area after the 1990 base year inventory has been prepared. Albuquerque/Bernalillo County included the requisite periodic inventory in the CO Redesignation SIP. The periodic inventory was for 1993, using a three month CO season of November 1993 through January 1994. Stationary point, stationary area, on-road mobile, and non-road mobile sources of CO were included in the inventory. Stationary sources with emissions greater than 100 tons per year within a 25-mile buffer of the designated area were also included in the inventory. The periodic inventories are to be prepared with the same guidance used in preparing the 1990 base year inventory. The available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

[2] Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

[3] The attainment contingency measure approved on May 5, 1995 at 59 FR 23167 would become one of two maintenance contingency measures through final action on this petition.

Section 110(k) of the Act sets out provisions governing EPA's review of base year emission inventory submittals in order to determine approval or disapproval under section 187(a)(5) (see 57 FR 13565–66, April 16, 1992). The EPA is granting approval of the Albuquerque/Bernalillo County 1993 periodic CO emissions inventory submitted on May 11, 1995, based on the EPA review guidance. Please refer to the technical support document for a description of the EPA review process.

The following list presents a summary of the CO peak season daily emissions estimates in tons per day by source category: point sources, 3.18 tons per day; Area sources, 111.60 tons per day; Mobile Onroad sources, 274.16 tons per day; Mobile Nonroad sources, 45.74 tons per day; Total sources, 434.69 tons per day.

The EPA is approving this emission inventory as having met the requirements of Section 187(a)(5) of the Act as well as approving the inventory for redesignation purposes. Please reference appendix A of the Albuquerque/Bernalillo County CO Redesignation SIP for specific details on the inventory.

B. Vehicle Inspection and Maintenance

(1) *Background.* In a letter dated April 14, 1995, the State of New Mexico submitted to the EPA rules for an Albuquerque SIP revision to implement an I/M program in the Albuquerque/Bernalillo County carbon monoxide (CO) nonattainment area. These rules were submitted as part of the SIP revision regarding requirements pursuant to Section 182 of the Act and 40 CFR Part 51, Subpart S of the Federal I/M rule. The SIP was submitted in conjunction with a redesignation request and maintenance plan since the area has the air quality data to support such a request. In addition to the State regulations (Air Quality Control Board Regulation 28, Motor Vehicle Inspection), Albuquerque has submitted its I/M "Procedures Manual" narrative describing the I/M program, Analyzer Specification Manual, the legal authority for the program (NM Air Quality Control Act 74–2, NM Statutes Chapter 66, Motor Vehicles) and other supporting documents relating to the I/M program.

As a moderate CO nonattainment area, the City of Albuquerque was required to submit an I/M SIP by November 15, 1993, which met all the requirements of the Federal I/M Rule for a basic I/M program. Since a SIP was not received by EPA, on January 14, 1994, EPA issued a finding of nonsubmittal which initiated an 18 month sanction clock. EPA stopped the sanction clock on June 2, 1995, upon the determination that the SIP submitted by the State on April 14, 1995, was complete.

On January 5, 1995, EPA issued rules providing basic I/M areas such as Albuquerque that were redesignating to attainment significant amounts of flexibility determining which features in the I/M program the State would implement (See 60 FR 1735–38). Essentially, the rule allows that areas having an ultimately approvable redesignation request could keep their current I/M program without upgrades, if upgrades were not needed to maintain the standard in the ten year maintenance plan. For this reason EPA is publishing the approval of the I/M SIP at the same time as the redesignation to attainment. Since such a program would not be fully upgraded to meet the requirements of a basic program as contained in 40 CFR Part 51, Subpart S of the Federal I/M rule, the program implemented would have to assume an 80% rule effectiveness for the purposes of modeling in the ten year maintenance plan.

(2) Review Criteria and Determination. The criteria used to review the submitted SIP revision is based on the requirements contained in the I/M redesignation rule published January 5, 1995. This notice lists four criteria that are needed for the Agency to approve the redesignation request and the I/M program if the program is not fully upgraded to meet all the requirements in the Federal I/M rule. These criteria are: (1) legal authority for a basic I/M program, meeting all the requirements of Subpart S such that implementing regulations can be adopted without further legislation; (2) a request to place the I/M plan or upgrades, as defined in the I/M redesignation rule, (as applicable) in the contingency measures portion of the maintenance plan upon redesignation as described in the fourth element below; (3) a contingency measure to go into effect as soon as a triggering event occurs, consisting of a commitment by the Governor or the designee to adopt regulations to implement the I/M program in response to the specified triggering event; and (4) a commitment that includes an enforceable schedule for adopting and implementing the I/M program, including appropriate milestones, in the event the contingency measure is triggered (milestones shall be defined by states in terms of months since the triggering event).

Legal Authority

Legal authority for the current I/M program along with a potential future upgrade is contained in the New Mexico Air Quality Control Act as well as the New Mexico Motor Vehicle Code. Specifically, authority for the implementation of the I/M program is contained in Article 2 of the Air Quality Control Act, section 74–2–4. This section gives the local authority the ability to adopt rules, regulations and guidelines, set fees, and operate alternate program types in case of a federally required contingency. Authority for enforcement of the program by requiring a valid emission inspection certificate before a registration is granted is found in the New Mexico Motor Vehicle Code 66–3–7.1. No other legal authority is needed to fully upgrade the program to meet the basic I/M requirements of 40 CFR Part 51.

I/M Program Upgrades In Contingency Measure

Air Quality Control Board Regulation 28.23, Motor Vehicle Inspection contains the provision for program automatic upgrades as a contingency measure if the area experiences a violation of the ambient carbon monoxide standard. By regulation the program will convert to an annual testing program and will be upgraded to meet the performance standards as outlined in 40 CFR Part 51.

I/M Contingency Effective Upon Triggering Mechanism

By Regulation 28.23, the triggering mechanism is effective upon an EPA confirmed violation of the federal ambient carbon monoxide standard. The effective date of Regulation 28.23 is July 1, 1995.

Schedule for Implementing Triggered I/M Upgrade

Regulation 28.23 sets forth the schedule for implementing program upgrades, a major feature of which would be to increase the testing frequency from biennial to annual. The regulation calls for I/M program upgrades 120 days after the EPA confirmed violation of the carbon monoxide standard.

In addition to these four criteria being met, the redesignation portion of the SIP has incorporated the 80% rule effectiveness in its calculations demonstrating that the area can

maintain the standard for ten years. See pages 30 and Appendix Ba of the redesignation SIP for these calculations.

(3) Current I/M Program Parameters

Parameter	Albuquerque I/M program
Network Type	Decentralized, Test and Repair.
Emission Test	Two Speed idle test with BAR90 as of 1/1/96. BAR84 analyzers allowed prior to that date. Visual check includes catalytic converter, air injection system, and oxygen sensor.
Vehicle Coverage	1975 and later spark ignition motor vehicles between 1,000 and 26,000 pounds, including fleets operating within Bernalillo County and vehicles operating on Federal installations in the county.
Test Frequency	Biennial.
Extensions	Excludes an emission-related tune-up. Motorists have 12 months to perform repairs up to $300 and 24 months for repairs over $300.
Waivers	None.
Enforcement Penalties against Test Stations or Inspectors	Monetary penalties and/or denial, suspension or revocation of certification.
Enforcement Penalty against Motorists	Registration Denial.
Contingency Measure	Annual testing and upgrades to meet the performance standards in 40 CFR Part 51.
Upgrade Triggering Mechanism	An EPA-confirmed violation of the carbon monoxide standard.

(4) Finding of the EPA Review. EPA has reviewed the Albuquerque I/M SIP submittal SIP revision submitted to the EPA, using the criteria stated above. Albuquerque's regulations and accompanying materials contained in the SIP represent an acceptable approach to the I/M requirements in view of the approvable redesignation request.

C. Conformity

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act (transportation conformity). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the Act required the EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, the EPA's General Preamble for the Implementation of Title I informed States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)).

The EPA promulgated final conformity regulations on November 24, 1993, (58 FR 62188) and November 30, 1993, (58 FR 63214). These conformity rules require that the States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under the Act's section 175A. The City/County submitted both transportation and general conformity rules to the EPA for approval. The transportation conformity rule was approved at 60 FR 56280 on November 8, 1995.

Although this redesignation request was submitted to EPA after the due dates for the SIP revisions for transportation conformity (58 FR 62188) and general conformity (58 FR 63214) rules, the EPA believes it is reasonable to proceed with a redesignation while approval of general conformity rules is under consideration by the EPA. The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continues to apply to areas after redesignation to attainment. Therefore, the State remains obligated to enforce the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in approving State general conformity rules does not relieve an area from the obligation to implement such requirements. Hence, EPA believes the area has met these requirements for the purpose of a redesignation request.

3. Improvement in Air Quality Due to Permanent and Enforceable Measures

The control measures producing emission reductions are comprised of the following: (1) the Federal Motor Vehicle Control Program; (2) the oxyfuels program; (3) the winter wood burning program; and (4) the I/M program. The EPA finds that these control measures contribute to the permanence and enforceability of reductions in ambient CO levels that have allowed the area to attain the NAAQS.

4. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation that is adequate to assure prompt correction of any air quality problems. In this action, the EPA is proposing to approve the City/County's maintenance plan because the EPA finds that the plan meets the requirements of section 175A.

A. Demonstration of Maintenance—Projected Inventories

Total CO emissions were projected from a 1990 base year out to 2006. These projected inventories were prepared in accordance with EPA guidance. The redesignation request contains the detailed inventory data and summaries by source category. Like the base year inventory, the inventory projections were prepared in accordance with EPA guidance. The following table summarizes the 1990 base year inventory and inventory projections to the year 2006.

CO Emissions Inventory Summary

[Tons per day]

Year	Area	Non-road	Mobile	Point	Total
1993	111.60	45.75	274.16	3.18	434.69
1996	116.28	48.12	235.50	0.00	399.90
1999	120.98	50.48	207.95	0.00	379.41
2002	125.71	52.86	197.13	0.00	375.70
2005	130.42	55.22	199.12	0.00	384.76
2006	131.98	55.98	202.95	0.00	390.91

Please reference appendix B for specific details of the projected inventories. The projections show that calculated CO emissions are not expected to exceed the level of the base year inventory during this time period. Therefore, it is anticipated that the City/County area will maintain the CO standard.

B. Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Albuquerque/ Bernalillo County area depends, in part, on the City/County's efforts in tracking the indicators of continued attainment during the maintenance period. The City/County has also committed to submit periodic inventories of CO emissions every three years to fulfill the requirements of sections 187(a)(1) and 187(a)(5).

C. Contingency Plan

In accordance with section 175A(d) of the Act, the City/County has submitted contingency measures designed to "assure that the state will promptly correct any violation of the standard which occurs after the redesignation." The City/County submitted one contingency measure to correct a violation of the CO standard, and another contingency measure designed to forestall such a violation. The EPA appreciates the quality of both contingency measures for several reasons.

The City/County submitted a "primary" contingency measure that will take effect without further action by the City/County or the State of New Mexico. If EPA confirms that two exceedences have occurred in the maintenance area, and issues a notice of violation, two automatic policy changes will occur. One, the vehicle inspection and maintenance program will become annual rather than biannual. Two, the oxygenated fuel regulation will require that all fuel sold in the nonattainment area contain no less than 3.0 percent oxygenate by weight. The change in the I/M program will take place within 120 days after the violation is confirmed by EPA. The requirement to increase the oxygenate content will be effective at the beginning of the next CO season. For this area, the CO season begins on November 1 and concludes the last day of February. The EPA favors the contingency measures as corrective actions because they produce real and quantifiable reductions of CO, that are readily enforceable.

The City/County submitted a "secondary" contingency measure that can take effect if the periodic emissions inventory exceeds the baseline inventory used in this request for redesignation. In this contingency measure, the City/County authority will consider implementing the primary contingency measures if the periodic emissions inventory surpasses the amount of emissions quantified in the baseline inventory.

It is important to note that a CO inventory every three years after redesignation is not a requirement of the Act. The City/County has volunteered to perform such an inventory in addition to the requirements to submit a ten year maintenance plan, and revise the SIP eight years after the designation to attainment, to assure maintenance of the standard for an additional 10 years.

This contingency measure is particularly advantageous to the City/County because the consideration of contingency measures is required through the use of a forecasting model. By properly using the periodic emissions inventory as a forecasting tool, the City/County should be able to act to prevent any exceedences. This secondary measure is therefore protective of air quality and the status of attainment.

D. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the City/County has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. This SIP revision must provide for the maintenance of the CO standard for an additional ten years.

5. Applicable Requirements of Section 110 and Part D

The 1990 Amendments modified section 110(a)(2) and revised section 172 of part D, by adding new requirements for all nonattainment areas. The EPA has reviewed the SIP to ensure that it contains all measures that were due under the Act prior to or at the time the City/County submitted its redesignation request.

Under section 187(a), areas designated nonattainment for CO under the Act and classified as moderate were required to meet several requirements by November 15, 1992. The City/County was required to submit a 1990 Emission Inventory. The EPA has reviewed and approved the 1990 base year emission inventory (see 58 FR 62535–62539, November 29, 1993). Section 211(m) further required the City/County to submit an oxygenated fuels regulation. This rule was submitted to the EPA and approved on November 29, 1993, in the FR. Finally, the I/M program requirement has been met by the City/County's submittal to the EPA on May 8, 1995.

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Two requirements under section 172(c) for Albuquerque/ Bernalillo County were: (1) to submit a preconstruction permit program for new or modified major stationary sources that wish to locate in a nonattainment area (section 172(c)(5)); and (2) to submit contingency measures to be implemented if the area failed to make reasonable further progress (RFP) or to attain the applicable NAAQS by the

applicable date (section 172(c)(9)). The City/County submitted both of the above programs, which were fully approved in the FR (Please reference 58 FR 67326–67330, December 21, 1993, for the nonattainment New Source Review (NSR) program approval, and 59 FR 23167–23169, May 6, 1994, for the contingency measures approval). Upon redesignation to attainment, the Prevention of Significant Deterioration (PSD) permitting program will be applicable. City/County's PSD program was approved in the FR on December 21, 1993, at 58 FR 67330–67334. In addition, City/County's preconstruction permit program was approved in the FR on March 15, 1994, at 59 FR 12170–12172, and the winter wood burning program was approved on November 29, 1993, at 58 FR 62535–62539.

IV. Proposed Action

The EPA is proposing to approve the request of the State of New Mexico to redesignate to attainment the Albuquerque CO nonattainment area to attainment status. The EPA is also proposing approval of the vehicle inspection and maintenance program, the 1993 periodic emissions inventory, and the attainment maintenance plan. The EPA will take final action on this notice following analysis of public comments on this proposal.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the FR on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Miscellaneous

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. §§ 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. § 7410(a)(2)).

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. The EPA has also determined that this action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: January 30, 1996.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 96–3583 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 61 and 63

[FRL–5423–8]

Request for Approval of Section 112(l) Delegated Authority; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval and delegation.

SUMMARY: EPA invites public comment on today's proposal to approve the state of Washington Department of Ecology (Ecology) request for delegation of authority to implement and enforce state-adopted hazardous air pollutant regulations which adopt by reference the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) contained within 40 CFR Parts 61 and 63. EPA as well invites public comment on its proposal to approve specific rules submitted to EPA by Ecology in order to recognize conditions and limitations established pursuant to these rules as federally enforceable. These adopted regulations would be implemented and enforced by both Ecology and the seven local air authorities (The Benton County Clean Air Authority (BCCAA), the Northwest Air Pollution Authority (NWAPA), the Olympic Air Pollution Control Authority (OAPCA), the Puget Sound Air Pollution Control Agency (PSAPCA), the Southwest Air Pollution Control Authority (SWAPCA), the Spokane County Air Pollution Control Authority (SCAPCA), and the Yakima County Clean Air Authority (YCCAA); collectively referred to as "the Washington permitting authorities") within the state of Washington.

DATES: All comments on this submittal must be received by the close of business on March 18, 1996.

ADDRESSES: Copies of this submittal are available for inspection and copying during normal business hours at the following addresses: U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, and the State of Washington Department of Ecology, 300 Desmond Drive, Lacey, Washington, 98504. Written comments should be addressed to: Chris Hall, U.S. EPA Region 10, 1200 Sixth Avenue (AT–082), Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Chris Hall at 206–553–1949.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Section 112(l) of the amended Clean Air Act of 1990 ("the Act") established new, more stringent requirements upon a state or local agency who wish to implement and enforce an air toxics program pursuant to section 112 of the Act. Prior to November 15, 1990, delegation of the federal NESHAP regulations to the State and Local agencies occurred without formal rulemaking by EPA. The new section 112(l) of the Act requires EPA to approve state and local toxics rules and programs under this authority, through formal notice and comment rulemaking. Now, State and Local air agencies who wish to implement and enforce a federally-approved air toxic program must make a showing to EPA that they have adequate legal authorities and adequate resources to implement and enforce the delegated NESHAP regulations. Approval is granted by the EPA through the authority contained in section 112(l), and implemented through the federal rule found at 40 CFR Part 63, subpart E, if the Agency finds that: (1) The State program or rule is "no less stringent" than the corresponding federal rule or program, (2) adequate authority and resources exist to implement the State or Local program, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the State or Local program is otherwise in compliance with federal guidance.

II. Discussion of the Washington 112(l) Submittal

On January 5, 1995 (as supplemented on May 8, 1995, October 18, 1995, and January 9, 1996), the Washington permitting authorities submitted to EPA an application requesting delegation of authority to implement and enforce specific 40 CFR Part 61 and Part 63 NESHAP regulations adopted into Washington state and local law [Washington Administrative Codes (WAC) Chapter 173, Division 400, Section 075, as in effect on February 16, 1993; NWAPA Regulation 104.2 as in effect December 8, 1993; PSAPCA Regulation III, Section 2.02 as in effect on October 19, 1995; SWAPCA Regulation 400–075 as in effect on February 1, 1995; and YCCAA Section 12.02 of the Restated Regulation I, as in effect on September 14, 1994].

Contained within the Washington permitting authorities' section 112(l) application are the following documents: a written finding by the State Attorney General and the independent legal counsel for the seven local air authorities stating that the Washington permitting authorities have the legal authority to implement and enforce their state and locally-adopted regulations as well as assure compliance by all sources within their respective jurisdiction; a copy of the relevant state and local regulations, which contain the fully-adopted NESHAP regulations which are to be substituted for the federal NESHAP regulations upon approval, and which contain the permitting requirements for each source subject to them, including the State regulatory order regulations and the State new source review regulations; and complete program descriptions for both Ecology and the seven local air authorities. The full program submittal is available for review for more detailed information.

A. Emission Standards for Hazardous Air Pollutants

Pursuant to 40 CFR 63.91, the Washington permitting authorities are seeking delegated federal authority to implement and enforce 40 CFR Part 61; subparts A, C through F, J, L through P, V, Y, BB, and FF, as adopted into state and local law. EPA has previously delegated authority for 40 CFR Part 61 subparts H and I to the state of Washington Department of Health (see 60 FR 39263, August 2, 1995, "Interim approval of Delegation Authority; National Emission Standards for Hazardous Air Pollutants; Radionuclides; Washington").

Three local air agencies, NWAPA, PSAPCA, and SWAPCA are also requesting delegated authority to implement and enforce specific 40 CFR Part 63 NESHAP regulations adopted into local law (see section IV.A which lists the specific 40 CFR Part 63 regulations adopted by these agencies).

B. Voluntary Limits on Emissions

The Washington permitting authorities are also requesting federal approval of specific regulations adopted into state and local law (WAC 173–400–091, 110, 112, 113, and 114, WAC 173–460; NWAPA sections 300 through 303; OAPCA Regulation 1, Article 7; PSAPCA Regulation I, Article 6, and Regulation III, Appendix A; SCAPCA Regulation I, Article II and V; SWAPCA 400–090, –110, –112, –113, and –114; and, YCCAA Restated Regulation I, Sections 4.02 and 12.01) which would allow the Washington permitting authorities to establish federally-enforceable emission limitations by permit for the purpose of limiting a source's potential to emit hazardous air pollutants (HAP) below major source thresholds. On May 8, 1995, the Washington permitting authorities withdrew their request for EPA approval of WAC 173–460 as a federally-enforceable regulation for limiting a source's potential to emit HAP, therefore EPA will not be proposing to take any action in regard to this rule. Additionally, since EPA has previously approved the provisions of WAC 173–400–091 as a mechanism for limiting a sources potential to emit HAP under the authority of section 112(l), it is not necessary to take any further action in regard to this rule (see 60 FR 28726, June 2, 1995, "Approval and Promulgation of State Implementation Plans: Washington Approval of Section 112(l) Authority; Operating Permits; Washington").

If approved, these state and local potential-to-emit (PTE) regulations (including WAC 173–400–091 which has already been approved under section 112(l)) would provide the mechanism for the owner or operator of a source to apply for and obtain federally-enforceable conditions that would limit their potential to emit HAP. Such limitations would be contained in a permit issued by Ecology or one of the seven local air authorities, after public notice and an opportunity for comment, and would include monitoring, recordkeeping and reporting requirements sufficient to ensure that the source complies with these limitations. As mentioned previously, if approved, limits established pursuant to these regulations would be considered federally-enforceable, providing the Washington permitting authorities with the ability to set limits which would be sufficient to exempt a source from the requirement to obtain a WAC 173–401 issued operating permit and/or comply with federal, state or local hazardous air pollutant regulations. Approval under section 112(l) is necessary because the Washington SIP-approved rules extends solely to the control of criteria pollutants. Federally-enforceable limits on criteria pollutants (i.e., volatile organic compounds or particulate matter) may have the incidental effect of limiting emissions for the majority of the HAPs listed pursuant to section 112(b), however, section 112 of the Act provides the underlying authority for establishing federally-enforceable limits for all HAP emissions.

C. Section 112(g)

As part of their original delegation request the Washington permitting authorities requested approval for specific state and locally-adopted regulations for the purpose of implementing section 112(g) of the Act (WAC 173–400–110, –112, –113, and

–114, and WAC 173–460; NWAPA Regulations sections 300 through 303; OAPCA Regulation 1, Article 7; and PSAPCA Regulation I, Article 6, and Regulation III, Appendix A). On May 8, 1995, the Washington permitting authorities officially withdrew their request for approval of these rules for the purposes of implementing section 112(g); therefore EPA will not be taking any action in regard to section 112(g).

III. Authority and Commitments for Section 112 Implementation

Under 40 CFR 63.91 the minimum documentation needed to be provided to EPA for a straight delegation request are: (1) A written finding by the State attorney general (and the independent legal counsel for the Local air authorities) confirming that the State (Local) has adequate legal authorities to implement and enforce the State (Local) rule(s) or program(s); (2) copies of the State and/or Local statutes, regulations and other documents which contain the appropriate provisions for which the State and/or Local are requesting delegation; (3) a demonstration of adequate resources to implement and enforce all aspects of the delegated rules or program; (4) a schedule demonstrating expeditious implementation of the delegated rules or program; (5) a plan that assures expeditious compliance by all sources; and, (6) a demonstration of adequate legal authority to implement and enforce all delegated rules or program and to assure compliance by all sources upon approval.

A. Written Findings by Legal Counsel

40 CFR 63.91 (b)(1) and (b)(6) requires that at a minimum a state and/or local agency requesting section 112(l) delegation have the following authorities: (1) Enforcement authorities that meet the requirements of 40 CFR 70.11 of this chapter; (2) authority to request information from regulated sources regarding their compliance status; (3) authority to inspect sources and any records required to determine a source's compliance status; and (4) if the State delegates authorities to a Local agency, the state must retain enforcement authority unless the Local agency's authorities meet the requirements of 40 CFR 70.11 of this chapter.

The Washington permitting authorities have provided to EPA legal opinions from both the Washington state Attorney General's office and the independent legal counsel for the seven local air authorities which clearly outline their enforcement authorities as they pertain to the requirements of 40 CFR 63.91(b)(1) and (b)(6). EPA has previously reviewed Washington's civil and criminal enforcement authorities contained in the Revised Code of Washington (RCW) where EPA determined that the authorities in RCW 70.94.430 do not fully meet the requirements of 40 CFR 70.11 and therefore 40 CFR 63.91 (see 59 FR 42552, August 18, 1994, for a detailed explanation of this issue). However, although EPA believes that Washington's criminal authorities do not fully meet 40 CFR 70.11 requirements, EPA has granted a two-year interim approval of the Washington permitting authorities 40 CFR Part 70 operating permit programs, effective December 9, 1994, thereby allowing the state of Washington until December 9, 1996, to correct their statutory deficiencies.

The Washington permitting authorities would implement and enforce the delegated federal regulations throughout the State of Washington under the authority of RCW 70.94. RCW 70.94.331(3) gives the seven local air authorities authority to implement and enforce WAC 173–400 and –401, or adopt their own more stringent rules.

B. Copies of State Statutes and Regulations

Complete copies of WAC 173–400, WAC 173–401, and RCW 70.94; BCCAA regulation 1, NWAPA sections 104, 200, 300–303, 320–324, and 326; OAPCA regulation 1, article 7; PSAPCA regulation I–III; SCAPCA regulation I, article II and V; SWAPCA 400 and 401; and YCCAA regulation I sections 4.02, 12.01 and 12.02; have been provided to EPA as required by 40 CFR 63.91(b)(2). In addition, OAPCA Regulation I, Article 5 was provided to EPA with the Washington permitting authorities Title V application submittal.

C. Demonstration of Adequate Resources

40 CFR 63.91(b)(3) requires the State and Local to provide for adequate resources to implement and enforce all aspects of the delegated program or rule. Specifically, 40 CFR 63.91(b)(3) requires a State to provide: (1) A description in narrative form of the scope, structure, coverage, and processes of the State program; (2) a description of the organization and structure of the agency or agencies that will have responsibility for administering the program; and (3) a description of the agency staff who will carry out the State program, including the number, occupation, and general duties of the employees.

EPA believes the Washington permitting authorities have taken the necessary steps to provide for adequate resources to support implementation and enforcement of the respective HAP programs which are at least as stringent as the 40 CFR 63.91(b)(3) requirements. The recently adopted regulations cited in section III.B. provide the regulatory framework for administering the respective HAP programs. The stringency requirement of 40 CFR 63.91(b)(1) is met because the relevant Washington state and local regulations adopt by reference all the 40 CFR Part 61 and Part 63 NESHAP regulations being requested for delegation. Therefore, if approved, the Washington permitting authorities' air toxics programs would cover the same sources and the same pollutants which are presently being covered under the federal Part 61 NESHAP regulations.

Further, on November 9, 1994, EPA granted interim approval to the Washington permitting authorities operating permit programs, where EPA found that Washington substantially possesses adequate resources to implement and enforce their statewide operating permit program (see 59 FR 42552, August 18, 1994, and 59 FR 55813, November 9, 1994, for further discussion regarding the interim approval of state of Washington Part 70 operating permit programs, which includes discussion of adequate resources).

Program costs for major sources subject to the state-adopted NESHAP regulation would be funded through four separate fee programs: annual operating permit fees; new source review fees; source registration fees; and RACT determination fees. EPA believes that these four program fee collection mechanisms will be adequate to cover the costs of implementing and enforcing the federal NESHAP regulations proposed for delegation. The EPA plans to continually monitor the implementation of the respective HAP programs for each of the Washington permitting authorities to ensure that adequate resources are in fact available.

D. Demonstration of Expeditious Implementation of 40 CFR Part 61 Requirements

40 CFR 63.91(b)(4) requires the state or local authority to demonstrate that they can expeditiously implement each delegated NESHAP regulation or program upon approval. EPA believes that the Washington permitting authorities' statutory and regulatory authorities are more than adequate to expeditiously implement these 40 CFR Parts 61 and 63 regulations which they have adopted into state and local law to date. RCW 70.94 provides the Washington permitting authorities with the broad legal authority to implement and enforce all federal NESHAP regulations adopted into state or local law or included in a state or locally-issued operating permit issued pursuant to WAC 173–401. The Washington permitting authorities would adopt, implement and enforce all new and amended NESHAP regulations through their respective HAP programs. Operating permits will be issued to all major NESHAP sources, where each permit will contain all federal, state, and local air pollution control requirements applicable to that source, including all NESHAP requirements. By law, the Washington permitting authorities are to have issued operating permits to all existing major sources by December 9, 1997, three years from the date of EPA approval of the WAC 173–401 operating permit program. New major sources will be issued an operating permit at startup.

E. Demonstration of Expeditious Compliance by Sources Subject to 40 CFR Part 61 Requirements

The EPA believes that the HAP program regulations for each of the Washington permitting authorities provide for an expeditious schedule for assuring that sources are in compliance with the NESHAP regulations as required by 40 CFR 63.91(b)(5). The Washington permitting authorities have demonstrated to EPA that they indeed have the resources and authority to assure compliance for all major sources covered under WAC 173–400 and WAC 173–401 (or equivalent local regulation), which includes those sources that are subject to the federal NESHAP regulations. Nothing in Washington state or local regulations would allow a source to avoid or delay compliance with any CAA requirement beyond the date required by the federal NESHAP regulations.

The framework for the Washington permitting authorities compliance and enforcement programs are outlined in the State/EPA "Compliance Assurance Agreement" (included in Washington's Title V program submittal). The Washington permitting authorities' compliance programs will be run through the WAC 173–401 operating permit program (or equivalent local program), in which sources are required by federal, state, and local law to comply with all conditions and requirements of the operating permit upon issuance.

IV. Programs for Proposed Approval and Disapproval

A. 40 CFR Part 61 and Part 63 NESHAP Regulations

With this notice EPA proposes to grant interim approval to the state of Washington Department of Ecology's January 5, 1995, request for delegated authority to implement and enforce 40 CFR Part 61, subparts A, C through F, J, L through P, V, Y, BB, and FF, as adopted into WAC 173–400, NWAPA Section 104.2, PSAPCA Regulation III Section 2.02, SWAPCA 400 Section 075, and YCCAA Regulation I Section 12.02, as these rules apply to Part 70 sources (i.e., those major sources which will be issued a Title V operating permit). EPA is also proposing to grant interim approval to the NWAPA, PSAPCA, and SWAPCA request for delegated authority to implement and enforce the locally-adopted 40 CFR Part 63 NESHAP regulation as these rules apply to Part 70 sources only (NWAPA regulation 104.2 which adopts by reference 40 CFR Part 63 subparts A through D, F through I, L, M, and Q, as amended on October 19, 1994; PSAPCA Regulation III, Section 2.02 as in effect on October 19, 1995, which adopts by reference all 40 CFR Part 63 NESHAP regulations in effect as of July 1, 1995; and, SWAPCA regulation 400–075 as in effect on February 1, 1995, which adopts by reference 40 CFR Part 63 subparts A, B, D, F–I, L–O, R, Q, T, and EE).

It is EPA's belief that the Washington permitting authorities' request for delegation substantially meets the requirements of 40 CFR 63.91. However, since EPA has determined that Washington's criminal authorities under RCW 70.94.430 do not meet the stringency requirement of 40 CFR 70.11, EPA is therefore only proposing to grant interim approval to the Washington permitting authorities' request for delegated authority. This interim delegation of authority would apply to all of the state-adopted NESHAP regulations being requested for delegation by the Washington permitting authorities, but only as these regulations apply to Part 70 sources. EPA will retain implementation and enforcement authority for these rules as they apply to non-Part 70 sources during the interim period until such time as the Washington permitting authorities demonstrate that their criminal authorities meet EPA requirements.

Interim delegation has been deemed by EPA to be an acceptable delegation option for states who substantially, but do not fully meet the stringency requirements of 40 CFR 63.91 (see December 10, 1993, John Seitz memo "Straight Delegation Issues Concerning Sections 111 and 112 Requirements and Title V"). In this respect EPA is allowing the Washington permitting authorities the opportunity to amend their state regulations within a specified timeframe while at the same time delegating federal authority to allow them to implement and enforce the federal NESHAP regulations as adopted into state law.

Finally, this delegation of authority to implement and enforce the federal NESHAP regulations would only extend until December 9, 1996, which coincides with the end of the interim delegation period for the Washington permitting authorities Part 70 operating permit program. EPA will not extend this interim delegation past December 9, 1996.

B. Voluntary Limits on HAP Emissions

EPA is also proposing to approve WAC 173–400–091, 110, 112, 113, and 114; NWAPA sections 300 through 303; OAPCA Regulation 1, Article 7; PSAPCA Regulation I, Article 6, and Regulation III, Appendix A; SCAPCA Regulation I, Article II and V; SWAPCA 400–090, –110, –112, –113, and –114; and, YCCAA Restated Regulation I, Sections 4.02 and 12.01, under the authority of section 112(l) of the Act in order to recognize these regulations as federally-enforceable for purposes of establishing PTE limitations. Approval of these regulations would provide the Washington permitting authorities the ability to create federally-enforceable emission limits by order for those sources which have the potential to emit HAPs above major threshold levels but have actual HAP emissions which are below major source levels (thereby becoming a "synthetic area source").

The EPA plans to codify the approval criteria for synthetic area source programs through amendments to subpart E of 40 CFR Part 63, the regulations promulgated to implement section 112(l) of the Act. The EPA believes it has authority under section 112(l) to approve programs which limit potential to emit HAP prior to this revision to subpart E. The EPA is proposing approval of the Washington permitting authorities' synthetic area source program regulations now so that they may begin to issue federally-enforceable permits as soon as possible. EPA believes it is consistent with the intent of section 112 and the Act for states to provide a mechanism through which sources may avoid classification as a major source by obtaining a

federally-enforceable limit on their potential to emit HAP.

EPA, as well, believes that the five approval criteria for approving state operating permit programs into the SIP, as specified in the June 28, 1989 **Federal Register** notice, are also appropriate for evaluating and approving state synthetic area source programs under section 112(l) of the Act. The June 28, 1989 notice does not address HAP because it was written prior to the 1990 amendments to section 112, not because it establishes requirements unique to criteria pollutants. The EPA currently anticipates that the regulatory criteria to be set forth in the revisions to 40 CFR part 63, subpart E rule, as they apply to state synthetic area source permit programs, will mirror those set forth in the June 28, 1989 **Federal Register** notice.

Therefore, EPA proposes to approve the Washington permitting authorities' state and locally-adopted PTE regulations under the authority of section 112(l) of the Act. Furthermore, EPA proposes that after final approval of this section, synthetic area source permits issued pursuant to these regulations (including terms and conditions for HAPs contained therein) would be enforceable by EPA and by citizens under section 304 of the Act regardless of whether such permits were issued prior to EPA approval of these regulations. However, such permits would have to have been issued after the effective date of the applicable state or local regulation and in accordance with the provisions set forth within such regulation. Additionally, the EPA believes that since state new source review permit programs approved pursuant to section 112(l) prior to the planned subpart E revisions will have been approved as meeting these criteria, further approval actions for those programs will also not be necessary.

C. Requirements for "Full" Approval

It is EPA's position that the state of Washington criminal enforcement authorities do not meet the requirements of 40 CFR 63.91(b)(1) and (b)(6). In order for the Washington permitting authorities to receive full delegation of authority for the NESHAP regulations requested they need to demonstrate to EPA that their criminal enforcement authorities are consistent with the enforcement requirements of 40 CFR 70.11(a), and therefore 40 CFR 63.91(b)(1) and (b)(6). Specifically the state of Washington will need to:

(1) Revise RCW 70.94.430 to provide for maximum criminal penalties of not less than $10,000 per day per violation, as required by 40 CFR 70.11(a)(3)(ii),

(2) Revise RCW 70.94.430 to allow the imposition of criminal penalties against any person who knowingly makes any false material statement, representation or certification in any form, in any notice or report required by a permit, as required by 40 CFR 70.11(a)(3)(iii). This provision must include maximum penalties of not less than $10,000 per day per violation, and

(3) Revise RCW 70.94.430 to allow the imposition of criminal penalties against any person who knowingly renders inaccurate any required monitoring device or method, as required by 40 CFR 70.11(a)(3)(iii). This provision must include maximum penalties of not less than $10,000 per day per violation, or

(4) Demonstrate to the satisfaction of EPA that these authorities are consistent with 40 CFR 70.11, and therefore 40 CFR 61.91.

Though EPA is proposing interim delegation of authority to enforce the NESHAP regulations to the Washington permitting authorities, it is important to note that EPA retains oversight authority for sources subject to these federal CAA requirements. EPA has the authority and responsibility to enforce the federal regulations in those situations where the State or Local does not have sufficient authority to file criminal charges against a facility. Therefore, even though EPA believes that the Washington permitting authorities' criminal authorities are not fully adequate, EPA believes that Ecology and the seven local air authorities, in conjunction with EPA, can provide for adequate enforcement of the federal NESHAP regulations.

D. Typographical Error

EPA has noted an error in a cross-reference to a regulation in support of the Washington permitting authorities' request for approval of their PTE regulations. EPA is assuming that the reference in WAC 173–400–171(i) to WAC 173–400–090 meant to reference WAC 173–400–091.

V. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of today's proposed interim approval. Copies of the state of Washington submittal and other information relied upon for this action are contained in a docket maintained at the EPA Regional Office. The docket is a file of information submitted to, or otherwise considered by, EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review. The EPA will consider any comments received by March 18, 1996.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

NESHAP rule or program delegations approved under the authority of section 112(l) of the Act do not create any new requirements, but simply confer federal authority for those requirements that the state of Washington is already imposing. Therefore, because section 112 delegation approvals do not impose any new requirements, I certify that it would not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning State programs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct 1976); 42 U.S.C. 7410(a)(2).

If EPA's final action is a disapproval, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the state of Washington submittal does not affect its State-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new federal requirement. Therefore, EPA certifies that any final disapproval action would not have a significant impact on a substantial number of small entities because it does not remove existing State requirements nor does it substitute a new federal requirement.

D. Unfunded Mandates Reform Act

EPA has determined that the proposed approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

VI. Summary of Action

Pursuant to the authority of section 112(l) of the Act EPA is soliciting public comment on today's proposal to delegate in the interim the authority to implement and enforce specific federal NESHAP regulations which have been adopted into Washington state law. Additionally, EPA is proposing to approve specific state and local air regulations for the purpose of conferring federal enforceability to PTE permits or orders issued pursuant to these regulations.

Interested parties are invited to comment on all aspects of this proposed rule. Comments should be submitted in triplicate, to the address listed in the front of this Notice. Public comments postmarked by March 18, 1996, will be considered in the final rulemaking action taken by EPA. Issues raised by those comments will be carefully reviewed and considered in the decision to approve or disapprove the submittal. The EPA expects to make a final decision on whether or not to approve the Washington submittal within 30 days after the close of the public comment period. EPA will give notice of this decision in a final **Federal Register** rulemaking. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 6, 1996.

Chuck Clarke,

Regional Administrator.

[FR Doc. 96–3584 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[WT Docket No. 96–6; FCC 96–17]

Flexible Service Offerings in the Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice of Proposed Rule Making ("Notice"), we propose that broadband Commercial Mobile Radio Service ("CMRS") ("broadband CMRS") providers be authorized to offer fixed wireless local loop service. We also solicit comment on whether other or all fixed services should be permitted in addition to the mobile and related fixed services now permitted. We initiate this proceeding on our own motion to address the uncertainty in our existing rules on the extent to which fixed services may be provided by broadband Personal Communications Service ("PCS"), Cellular Radiotelephone Service ("cellular"), and Special Mobile Radio ("SMR") providers. The measures we propose should increase competition within wireless services and promote competition between wireless and wireline services.

DATES: Comments are to be filed on or before February 26, 1996. Reply Comments are to be filed on or before March 18, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sandra Danner, Legal Branch, Commercial Wireless Division, Wireless Telecommunications Bureau at (202) 418–0620.

SUPPLEMENTARY INFORMATION:

This *Notice of Proposed Rule Making* in WT Docket No. 96–6, adopted January 24, 1996, and released January 25, 1996, is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.E., Suite 1400, Washington, D.C. 20037 (telephone (202) 857–3800).

I. Introduction

1. In this *Notice of Proposed Rule Making* ("Notice") in WT Docket No. 96–6, we propose that broadband Commercial Mobile Radio Service ("CMRS") ("broadband CMRS")[1] providers be authorized to offer fixed wireless local loop service. We also solicit comment on whether other or all fixed services should be permitted in addition to the mobile and related fixed services now permitted. We initiate this proceeding on our own motion to address the uncertainty in our existing rules on the extent to which fixed services may be provided by broadband Personal Communications Service ("PCS"), Cellular Radiotelephone Service ("cellular"), and Special Mobile Radio ("SMR") providers. The measures we propose should increase competition within wireless services and promote competition between wireless and wireline services.

II. Background

2. The Communications Act[2] defines "mobile service" as a "radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves and includes (1) both one-way and two-way radio communication services, (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment to the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90–314; ET Docket No. 92–100), or any successor proceeding." 47 U.S.C. 153(n).

3. In the *Second Report and Order* in GN Docket No. 93–252, 59 FR 18493 (April 19, 1994) ("*CMRS Second Report & Order*"), the Commission interpreted the statutory definition of mobile service to include "all auxiliary services provided by mobile services licensees," but then distinguished between fixed point-to-point services and those services capable of being provided in a "mobile mode." The *CMRS Second Report and Order* excludes from the mobile definition those services which are solely fixed in nature (*e.g.*, Basic Exchange Telephone Radio Service (BETRS)), but categorizes other services that have some fixed uses as mobile by virtue of having a mobile component or mobile capabilities. For example, we determined that services provided through dual-use equipment, such as Inmarsat-M terminals that can be moved while transmitting, are mobile.

4. Our current rules for broadband CMRS services allow licensees to provide all forms of mobile services, including local loop services that are mobile in nature. In addition, broadband CMRS providers may

[1] The services under "broadband CMRS" includes Broadband Personal Communications Service, Cellular Radiotelephone Service and Specialized Mobile Radio. *See in the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93–252, 59 FR 59945 (November 12 1994), *Third Report and Order*, 9 FCC Rcd 7988, 8105–8110, ¶¶ 252–265 (1994).

[2] Communications Act of 1934, as amended, 47 U.S.C. 332 ("Communications Act").

provide some forms of fixed service subject to certain limitations. Our PCS rules, for instance, permit PCS licensees to provide any fixed service that is ancillary to their mobile operations. Likewise, SMR providers may use licensed spectrum for certain fixed uses on a secondary, non-interference basis to the primary mobile operations of any other licensee. Cellular carriers may provide auxiliary common carrier services and services premised on the use of alternative cellular technologies, so long as such services do not interfere with the authorized cellular service. Fixed services also may be provided by cellular licensees as incidental communication services under our incidental service rules.

5. Local exchange service delivered by radio link may be provided using architectures consisting of mobile, fixed, or a combination of those components. For example, one possible architecture would be radio-based telephone instruments that are mobile, whether in the home, office, or any other fixed location. Another example would combine wired telephone instruments with a fixed wireless link from the street to a demarcation box on the side of a house, building, or other premises to which wiring connects. Our current rules are unclear, however, on the scope of fixed ancillary services that may be provided by PCS carriers, and as to the types of secondary, auxiliary or incidental services that may be provided by other CMRS providers. Although we previously held that all auxiliary services provided by mobile service licensees would be considered in the definition of "mobile" service by such carriers, we are finding that carriers are hesitant to take advantage of that flexibility without further guidance from the Commission. We note our original purpose in limiting this spectrum to mobile and related services was to ensure that adequate spectrum was available for these services, which cannot feasibly be provided at higher frequencies. However, it appears that the characterization of permissible use in our rules may be inhibiting carriers intending to use radio links to replace existing wireline service or to bring service to rural or less attractive areas otherwise not being adequately served by wireline providers.

6. We propose to define "wireless local loop" as the path between the subscriber and the first point of switching or aggregation of traffic. We seek comment on whether this definition will encompass the anticipated service needs of consumers and whether such a definition gives certainty to CMRS providers that are planning and marketing competitive wireless telecommunications networks. We propose a definition for wireless local loop that is sufficiently broad that it is unnecessary to examine the mobile or fixed nature of each particular application.

7. The Commission has discretion under Section 303 of the Communications Act to prescribe the nature of the service to be rendered over radio frequencies and to assign or allocate frequencies to various classes of stations. Nothing in the language of Section 303 (or its legislative history) suggests that the Commission is prohibited from assigning spectrum to stations for more than one permissible use. Furthermore, the Commission is guided by the policies set forth in the Communications Act to encourage the provision of new technologies and services to the public.

8. The federal government as well as state governments are interested in removing barriers to competitive provision of local exchange service throughout the United States. Over the last several years, the Commission and various state governments have taken a number of actions that increased opportunities for competitive provision of local telecommunications services. A number of states have already enacted legislation or completed other measures to introduce new local exchange service providers. In a series of decisions from 1992 to 1994, the Commission implemented expanded interconnection and collocation policies that created new opportunities for competitive provision of access services that have been traditionally offered by only the local telephone companies. These decisions were fundamental to opening the interstate special access and switched transport markets to competition.

9. More recently, in a *Third Notice of Proposed Rule Making and Supplemental Tentative Decision* in CC Docket No. 92–297, 60 FR 43740 (August 23, 1995), the Commission noted that the Local Multipoint Distribution Service—a wireless technology operating in the 28 GHz band—"may provide services that compete with local exchange carriers in the provision of local exchange service * * *" By the instant *Notice*, the Commission takes additional steps to foster competitive local exchange service by proposing that broadband CMRS providers also be able to offer the equivalent of local exchange service using existing allocations for PCS, cellular and SMR. The flexible regulatory scheme proposed in this *Notice* will help eliminate the need for the Commission to initiate a rule making or grant multiple waivers each time a broadband CMRS provider or new entrant to a market wishes to adjust its operational mode to respond to consumers' changing communications requirements. Our proposed approach here is consistent with prior decisions and current proposals.

III. Discussion

A. Expanded Service Options on PCS Channels

10. In the *Notice of Proposed Rule Making* in GEN Docket No. 90–314 and ET Docket No. 92–100, 57 FR 40672 (September 4, 1992) ("*PCS NPRM*"), we observed that personal communications requirements are changing rapidly as our society becomes more mobile and the demand for nearly instantaneous communications and universal access increases. We proposed to define PCS as a family of services that could provide communications to individuals and business, and be integrated with a variety of competing networks. Most of the commenters in the PCS proceeding agreed that PCS should be flexible enough to provide a wide range and variety of services, envisioned generally as mobile or portable radio communications. The *PCS NPRM* further proposed that fixed services generally be allowed only as ancillary to mobile PCS services. Some parties in the PCS proceeding argued, however, that restrictions on use of PCS spectrum for fixed services on PCS channels are inadequate to define an emerging technology and implementation of a new service.

11. A number of early trials under PCS experimental licenses included a variety of technologies and service concepts, including personal communications networks (PCN), private branch exchange (PBX), and wireless local loop. We indicated that wireless local loop service is a type of PCS in the *PCS NPRM*. Based upon concepts expressed in comments, the experimental applications granted, and the pioneer preference requests, we concluded in the PCS Second Report and Order that proposed services and devices would likely range from advanced wireless replacements for ordinary telephones to radio communications devices capable of sending and receiving voice and data to and from virtually anywhere. Specific kinds of PCS services and devices cited in the *Second Report and Order* in GEN Docket No. 90–314, 8 FCC Rcd 7700, 7712, 58 FR 59174 (Nov. 8, 1993) ("*PCS Second Report and Order*") were expected to include advanced forms of cellular telephone service, advanced digital cordless telephone service, portable facsimile services, wireless PBX services, and wireless local area network (LAN) services, among others. We predicted that these new services and devices would operate through existing public switched networks, or through alternative local networks such as cable television systems. We also indicated, however, that PCS also would exist independent of local wired networks, "filling gaps in existing communications services and creating new markets." *See "PCS Second Report and Order".*

12. Accordingly, our current PCS rules permit licensees to provide any mobile communications service on their assigned frequencies to satisfy mobile communications needs. The rules also provide that "fixed services (except for broadcast services) may be provided if ancillary to mobile operations." 47 C.F.R. § 24.3. Otherwise, a carrier must seek a waiver to offer primarily fixed service, demonstrating that such service best meets the demands of an area. The rationale for prohibiting broadcast and non-ancillary fixed services in PCS spectrum was the limited amount of spectrum available to provide mobile service and the availability of other frequency bands or other media to provide broadcast and fixed services. The ancillary fixed use language was not intended, however, to exclude fixed services totally, but to preserve the anticipated mobile operations attributable to PCS technologies as understood in the earlier stages of PCS development.

13. The current restriction on fixed use of the channels in our PCS rules may not reflect current stages of the developing PCS market and could hinder carriers from quickly and economically using channel capacity to meet changing market demand. As indicated in the earlier PCS proceedings, we always have intended wireless local loop to be a part of the family of services that meet our definition of PCS, whether implemented as a mobile or fixed service. We therefore propose to amend our existing broadband PCS rules to clarify that broadband PCS providers may provide wireless local loop services, as defined above, along with mobile service as principal uses of spectrum allocated to broadband PCS. Under this proposal, the permissible communications language in the existing broadband PCS rules would be amended to explicitly encompass fixed wireless local loop.

14. While broadband PCS systems will use digital or other highly efficient technology to achieve tremendous system capacity, current technology supports economical mobile services only up to approximately 3 GHz. Given this technological constraint, we seek comment on whether the currently allocated broadband PCS spectrum will provide sufficient capacity for mobile uses if fixed wireless local loop services are provided on broadband PCS spectrum. Alternatively, should the Commission allow the operation of the market to determine the most efficient use of the broadband PCS spectrum?

15. Finally, we seek comment on whether additional interference or other operational rules are needed to accommodate fixed wireless local loop uses of the broadband PCS channels. What changes are needed to our existing technical rules? Are additional technical rules required to govern fixed wireless local loop uses in the broadband PCS bands? Our intent is to have the necessary technical rules to minimize interference without unduly hindering a carrier's ability to offer a variety of services.

B. Expanded Service Options on Other CMRS Channels

16. The proposed changes in the broadband PCS rules to expand the service offerings permissible on broadband PCS channels to include fixed wireless local loop services would suggest that similar treatment be afforded to other categories of CMRS that have the potential to directly compete with PCS. The Commission previously has held that all commercial mobile radio services are "substantially similar" by virtue of existing competition or the potential for competition among the CMRS categories. In our recent report to Congress on CMRS competition, we reiterated our previous findings in the CMRS proceeding that cellular and SMR services in the short term are most likely to directly compete with each other and with broadband PCS, because each service consists largely of two-way, mobile telephony. Broadening the permissible service options for cellular and SMR results in those CMRS providers having more flexibility to meet market demand, including meeting demand that traditionally has been serviced by wireline common carriers. We therefore propose to permit licensees to provide fixed wireless local loop services on their licensed cellular and SMR spectrum.

17. As with PCS, we seek comment regarding (1) whether and to what extent cellular and SMR service rules should be changed to permit flexibility in the provision of fixed wireless local loop as well as mobile services; (2) implications on the availability of spectrum for mobile services (*see ¶ 14, supra*); and (3) specific operational, interference or technical rules to permit fixed wireless local loop uses of the cellular and SMR channels.

18. In recognition that CMRS consists of "substantially similar" services by virtue of potential competition among and between all of those services, we also request comment on whether the public interest would be served by also permitting "narrowband" CMRS providers the operational flexibility to offer fixed wireless local loop services as proposed for broadband CMRS. These other "narrowband" CMRS offerings include paging, narrowband PCS, commercial 220 MHz service, and interconnected business radio service (collectively, "narrowband CMRS").

C. Regulatory Treatment When Fixed Wireless Local Loop

Services Are Provided On CMRS Systems.

19. If we ultimately decide to allow fixed wireless local loop services by CMRS providers, we also must decide how such services are to be regulated. It is clear that PCS providers intend to integrate mobile, wireless fixed, wireline networks, and cable facilities into seamless packaged offerings that could span several states. Some of these networks will go beyond regional coverage to achieve seamless nationwide coverage. The Omnibus Reconciliation Act of 1993 ("Budget Act"), which amended the Communications Act to create the CMRS regulatory classification, reflects Congress' intent to establish regulatory symmetry among mobile services. The broad goal of this legislation was to ensure that economic forces—not disparate regulatory requirements—shape the development of the CMRS marketplace. In addition, we established in the *CMRS Second Report and Order* that all auxiliary services provided by mobile services licensees would be included within the definition of mobile services, including ancillary fixed communications offered by PCS providers, to preserve the flexibility necessary to meet growing consumer demand for a broad range of mobile services.

20. The ability of a carrier to offer consumers a "menu" of services, which could include fixed wireless local loop services, adds value to the carrier's mobile services because it gives the mobile customer the option of using the fixed and mobile applications offered by a single provider. Presumably, to achieve economies of scale with such integrated networks, those carriers

would use the same facilities, regardless of whether the services are provided intrastate or interstate. Consequently, we do not want to discourage the development of such integrated networks by subjecting carriers to multiple layers of regulation. We, therefore, propose to treat fixed wireless local loop services as an integral part of the CMRS services offered by a CMRS provider, so long as the carrier otherwise offers interconnected, for-profit mobile service to the public on licensed CMRS spectrum as provided by the Communications Act. We seek comment on this proposal and invite commenters to offer alternate proposals. We note that in the *CMRS Second Report and Order* we presumptively classified PCS as CMRS, allowing each PCS provider to make a showing that one or more of its services are private by demonstrating that the service is not within the CMRS definition. We will continue to allow PCS licensees to overcome the CMRS presumption upon the proper demonstration that such services do not qualify as CMRS.

D. Universal Service Obligations

21. The Commission has a number of universal service programs in place that seek to promote the availability of telephone service. Our Lifeline and Link Up programs provide assistance to low income and elderly residential subscribers, and the Universal Service Fund program provides assistance to telephone companies operating in high cost areas. These programs are administered by the National Exchange Carrier Association in cooperation with the states pursuant to Commission requirements. Should we ultimately adopt the rules we propose herein, CMRS licensees would be permitted to provide fixed wireless local loop services that in some respects could be similar to wireline telephone local exchange service. We seek comment on the extent to which any of our universal service programs should be modified to encompass, or impose obligations on, CMRS providers that offer the equivalent of local exchange service. We currently are examining universal service issues more broadly in separate proceedings, including the extent to which competitive local exchange service providers should be eligible for high cost support. As stated in those proceedings, competition in local exchange service can be provided by different kinds of service providers, including cellular carriers, and our universal service programs should not favor a particular technology. It is the Commission's preference, if feasible, to treat the universal service obligation issues raised in this proceeding in our decisions in the universal service proceedings.

E. Other Possible Fixed Services for CMRS

22. In addition to proposing that CMRS providers be allowed to offer fixed as well as mobile wireless local loop, we seek comment on whether certain other fixed services should be allowed as well, or alternatively, whether CMRS providers should be allowed to provide any form of fixed service without restriction. We note that wireless local telephone service may not be the only technically and economically viable fixed service that could be accommodated on spectrum allocated to CMRS providers. Other potential wireless fixed services may include wireless Internet access, electronic funds transfers, point-of-purchase credit card verification, and remote monitoring. We seek comment on whether these potential uses are included or excluded in our proposed definition of wireless local loop. If excluded, should CMRS providers be allowed to provide these services in addition to wireless local loop? Are there other potential fixed services for which demand may exist? We seek comment on whether allowing CMRS providers to offer fixed wireless local loop but not other fixed services may unduly restrict the ability of carriers to develop wireless networks that otherwise would meet various needs of the consuming public.

23. Assuming that we allow CMRS providers to offer fixed services other than fixed wireless local loop, we also seek comment on whether there should be any restrictions on fixed use of this spectrum. Allowing CMRS spectrum to be used for certain fixed applications does not necessarily mean that all fixed services should be permitted. On the other hand, imposing restrictions on fixed use of this spectrum could impose a regulatory burden on carriers, increase the need for oversight of CMRS operations by the Commission to verify compliance, and might inhibit development of beneficial uses of the spectrum that we cannot anticipate. We note that, as a practical matter, technical factors may limit CMRS providers' ability to offer some fixed services on channels allocated for mobile telecommunications. There are many point-to-point operations which may not be feasible on a system designed for mobile use. Under what circumstances should we limit fixed services by CMRS providers in order to ensure technical compatibility?

24. We believe that our regulatory approach should allow licensees to adapt quickly to technological innovation and changing consumer demands. We also seek to ensure, however, that our approach to fixed use of this spectrum does not restrict the potential future growth of mobile services, particularly in light of the relatively limited portion of the spectrum in which mobile use is feasible as compared to the much larger amount compatible with fixed use. Recently, the National Telecommunications and Information Administration concluded that demand for mobile spectrum will substantially increase over the next decade, while demand for fixed use will decrease. We solicit comment on these conclusions, including ways to ensure that spectrum is available to meet future mobile needs, and on the implications for our proposals herein. Parties identifying a potential deficiency for mobile services should also address whether that deficiency could be remedied by authorizing mobile services in spectrum currently designated for fixed services. Would the public benefit more from continuing to provide CMRS spectrum for principally mobile uses, from broadening our definition of permissible fixed services to include specific additional applications, or from permitting all fixed and mobile uses in the same spectrum?

25. To the extent that we permit CMRS providers to offer fixed services other than fixed wireless local loop, the issues raised in previous sections may also apply. We seek comment on those issues applicable to other fixed services. In particular, if we permit CMRS providers to offer fixed services in addition to fixed wireless local loop, we must determine how those services are to be regulated. We therefore ask for comment on the issues raised in ¶¶ 19–20, *supra*.

F. Proposed Changes to Table of Frequency Allocations

26. In accordance with our proposals listed above, we propose to amend the domestic Table of Frequency Allocations as set forth below. *See* 47 CFR § 2.105. Currently, wide-area SMR and cellular bands are allocated internationally to fixed and mobile services on a co-primary basis, but within the United States they are allocated only to land mobile services. Therefore, we propose to amend the domestic Table of Frequency Allocations for the 806–821, 851–866, 896–901, and 935–940 MHz bands to permit them to make use of the allocations for both fixed and mobile services on a co-primary basis. The extent to which such allocations may be used will be determined by final decisions resulting from the service rules proposals in this proceeding. We request comment on this proposal.

IV. Conclusion

27. The proposals set forth in this Notice expand the services available to consumers and the service options available to broadband CMRS providers developing competitive wireless offerings. The Notice proposes to allow all broadband CMRS providers the regulatory flexibility to offer fixed wireless local loop services, and seeks comment on whether the public interest is served by further expansion to include some or all other fixed services. Where fixed wireless local loop services are offered, we propose that CMRS regulation continue to apply if a carrier offers interconnected, for-profit mobile service to subscribers. Comment is sought on similar treatment for other categories of fixed services. Our purpose is to reduce any undue regulatory burdens on CMRS providers, as contemplated by the Communications Act, and to enhance competition. Our efforts should promote the development and deployment of new and innovative wireless telecommunications networks.

V. Procedural Matters

A. Regulatory Flexibility Act

28. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix A of the proposed rule. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

B. Paperwork Reduction Act

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments should be submitted on or before April 16, 1996. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554, or via Internet to dconway@fcc.gov; and Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th St., N.W., Washington, DC 20503, or via Internet to fain____t@al.eop.gov.

For further information contact: Dorothy Conway, (202) 418–0217, or via Internet at dconway@fcc.gov.

Title: Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services.

Type of Review: New collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 2,500.

Estimated Time Per Response: Approximately 1–2 hours.

Total Annual Burden: Approximately 1,875 hours.

Total Annual Cost: $337,688; this includes the costs for filing the information electronically or mailing submissions and hiring consultants that may be necessary to respond to the requests.

Needs and Uses: The information will be used by the Commission to determine if the service provider is technically qualified to offer fixed wireless local services and as part of the Commission's management of spectrum for commercial uses. Without such information, the Commission could not determine whether the provider is operating in compliance with the Commission's Rules.

C. Ex Parte Rules—Non-Restricted Proceeding

29. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

D. Comment Dates

30. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments by February 26, 1996; reply comments are due on or before March 18, 1996. To file formally in this proceeding you must file an original and four copies of all comments and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send your comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. A copy of all comments should also be filed with the Commission's copy contractor, ITS, Inc., 2100 M Street, N.W., Suite 140, (202) 857–3800. Comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, 2025 M Street, N.W., Room 5608, Washington, D.C. 20554.

E. Ordering Clause

31. Authority for issuance of this *Notice of Proposed Rule Making* is contained in Sections 4(i), 4(j), 7(a), 303(b), 303(f), 303(g), 303(r), 309(j), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 157(a), 303(b), 303(f), 303(g), 303(r), 309(j) and 332(c).

F. Contact Person

32. For further information concerning this proceeding, contact Sandra K. Danner (Acting Chief, Legal Branch, Commercial Wireless Division, Wireless Telecommunications Bureau) at (202) 418–0620.

List of Subjects in 47 CFR Part 2

Common carriers, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

Part 2 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303 and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. The entries for the 470–790 through 942–960 MHz frequency bands are removed.

b. New entries for 470–512 through 944–960 MHz are added.

c. International Footnote Nos. 675, 676, 678, 697, and 703 in the listing of International Footnotes are revised.

d. International Footnote Nos. 682 and 708 are removed and reserved.

The additions and revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
•	•	•	•	•	•	•
470–512 BROADCASTING	470–512 BROADCASTING Fixed Mobile	470–512 FIXED MOBILE BROADCAST-ING	470–512	470–512 BROADCASTING LAND MOBILE	RADIO BROAD-CAST (TV) (73) PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22) Auxiliary Broad-casting (74)	
676 677A 683 684 685 686 686A 687 689 693 694	674 675	673 677 679		NG66 NG114 NG127 NG149		
512–585 BROADCASTING	512–585 BROADCASTING	512–585 FIXED MOBILE BROADCAST-ING	512–585	512–585 BROADCASTING	RADIO BROAD-CAST (TV) (73) Auxiliary Broad-casting (74)	
676 677A 683 684 685 686 686A 687 689 693 694	678	673 677 679		NG149		
585–608 BROADCASTING	585–608 BROADCASTING	585–608 FIXED MOBILE BROADCAST-ING RADIO-NAVIGATION	585–608	585–608 BROADCASTING	RADIO BROAD-CAST (TV) (73) Auxiliary Broad-casting (74)	
676 677A 683 684 685 686 686A 687 689 693 694	678	688 689 690		NG149		
608–610 BROADCASTING	608–610 RADIO ASTRON-OMY Mobile-Satellite except aero-nautical mobile-satellite (Earth-to-space)	608–610 FIXED MOBILE BROADCAST-ING RADIO-NAVIGATION	608–610 RADIO ASTRON-OMY	608–610 RADIO ASTRON-OMY		
676 677A 683 684 685 686 686A 687 689 693 694	688 689 690	US74 US246	US74 US246			
610–614	610–614	610–614	610–614	610–614		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
BROADCASTING	RADIO ASTRON-OMY Mobile-Satellite except aero-nautical mobile-satellite (Earth-to-space)	FIXED MOBILE BROADCAST-ING RADIO-NAVIGATION	RADIO ASTRON-OMY	RADIO ASTRON-OMY		
676 677A 683 684 685 686 686A 687 689 693 694		677 688 689 690 691 693 701	US74 US246	US74 US246		
614–790 BROADCASTING	614–790 BROADCASTING Fixed Mobile	614–790 FIXED MOBILE BROADCAST-ING	614–790	614–790 BROADCASTING	RADIO BROAD-CAST (TV) (73) Auxiliary Broad-casting (74)	
676 677A 683 684 685 686 686A 687 689 693 694	675 692 692A 693	677 688 689 690 691 693 701		NG30 NG128 NG149		
790–806 FIXED BROAD-CASTING	790–806 BROADCASTING Fixed Mobile	790–806 FIXED MOBILE BROADCAST-ING	790–806	790–806 BROADCASTING	RADIO BROAD-CAST (TV) (73) Auxiliary Broad-casting (74)	
694 695 695A 696 697 700B 702	675 692 692A 693	677 688 689 690 691 693 701		NG30 NG43 NG128 NG149		
806–821 FIXED BROAD-CASTING	806–821 FIXED MOBILE BROADCAST-ING	806–821 FIXED MOBILE BROADCAST-ING	806–821	806–821 FIXED LAND MO-BILE	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	
694 695 695A 696 697 700B 702	692A 700 700A	677 688 689 690 691 693 701		NG30 NG31 NG43 NG63 NG128		
821–824 FIXED BROAD-CASTING	821–824 FIXED MOBILE BROADCAST-ING	821–824 FIXED MOBILE BROADCAST-ING	821–824	821–824 LAND MOBILE	PRIVATE LAND MOBILE (90)	
694 695 695A 696 697 700B 702	692A 700 700A	677 688 689 690 691 693 701		NG30 NG43 NG63 NG128		
824–849 FIXED BROAD-CASTING	824–849 FIXED MOBILE BROADCAST-ING	824–849 FIXED MOBILE BROADCAST-ING	824–849	824–849 LAND MOBILE	PUBLIC MOBILE (22)	
694 695 695A 696 697 700B 702	692A 700 700A	677 688 689 690 691 693 701		NG30 NG43 NG63 NG128 NG151		
849–851 FIXED BROAD-CASTING	849–851 FIXED MOBILE BROADCAST-ING	849–851 FIXED MOBILE BROADCAST-ING	849–851	849–851 AERONAUTICAL MOBILE	PUBLIC MOBILE (22)	
694 695 695A 696 697 700B 702	692A 700 700A	677 688 689 690 691 693 701		NG30 NG63 NG128		
851–862 FIXED BROAD-CASTING	851–862 FIXED MOBILE BROADCAST-ING	851–862 FIXED MOBILE BROADCAST-ING	851–862	851–862 FIXED LAND MO-BILE	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
694 695 695A 696 697 700B 702	692A 700 700A	677 688 689 690 691 693 701		NG30 NG31 NG63 NG128		
862–866 FIXED MOBILE except aeronautical mobile BROADCASTING 703	862–866 FIXED MOBILE BROADCASTING	862–866 FIXED MOBILE BROADCASTING	862–866	862–866 FIXED LAND MOBILE	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	
866–869 FIXED MOBILE except aeronautical mobile BROADCASTING 703 700b 704	866–869 FIXED MOBILE BROADCASTING 692a 700 700a	866–869 FIXED MOBILE BROADCASTING 677 688 689 690 691 693 701	866–869	866–869 LAND MOBILE NG30 NG63 NG128	PRIVATE LAND MOBILE (90)	
869–890 FIXED MOBILE except aeronautical mobile BROADCASTING 703 700B 704	869–890 FIXED MOBILE BROADCASTING 692A 700 700A	869–890 FIXED MOBILE BROADCASTING 677 688 689 691 693 701	869–890	869–890 LAND MOBILE NG30 NG63 NG128 NG151	PUBLIC MOBILE (22)	
890–894 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	890–894 FIXED MOBILE except aeronautical mobile Radiolocation 700A 704A 705	890–894 FIXED MOBILE BROADCASTING Radiolocation 706	890–894 US116 US268 G2	890–894 LAND MOBILE US116 US268 NG151	PUBLIC MOBILE (22)	
894–896 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	894–896 FIXED MOBILE except aeronautical mobile Radiolocation 700A 704A 705	894–896 FIXED MOBILE BROADCASTING Radiolocation 706	894–896 US116 US268 G2	894–896 AERONAUTICAL MOBILE US116 US268	PUBLIC MOBILE (22)	
896–901 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	896–901 FIXED MOBILE except aeronautical mobile Radiolocation 700A 704A 705	896–901 FIXED MOBILE BROADCASTING Radiolocation 706	896–901 US116 US268 G2	896–901 FIXED LAND MOBILE US116 US268	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	
901–902 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	901–902 FIXED MOBILE except aeronautical mobile Radiolocation 700A 704A 705	901–902 FIXED MOBILE BROADCASTING Radiolocation 706	901–902 US116 US268 G2	901–902 FIXED MOBILE US116 US268 US330	PERSONAL COMMUNICATIONS (24)	
902–928	902–928	902–928	902–928	902–928		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	FIXED Amateur Mobile except aeronautical mobile Radiolocation 705 707 707A	FIXED MOBILE BROADCASTING Radiolocation 706	RADIOLOCATION 707 US215 US218 US267 US275 G11 G59	 707 US215 US218 US267 US275	Amateur (97)	915 ± 13 MHz: Industrial, scientific and medical frequency
928–929 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	928–929 FIXED MOBILE except aeronautical mobile Radiolocation 705	928–929 FIXED MOBILE BROADCASTING Radiolocation 706	928–929 US116 US215 US268 G2	928–929 FIXED US116 US215 US268 NG120	PRIVATE LAND MOBILE (90) PRIVATE OPERATIONAL FIXED MICROWAVE (94) PUBLIC MOBILE (22)	
929–930 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	929–930 FIXED MOBILE except aeronautical mobile Radiolocation 705	929–930 FIXED MOBILE BROADCASTING Radiolocation 706	929–930 US116 US215 US268 G2	929–930 LAND MOBILE US116 US215 US268 NG120	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	
930–931 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	930–931 FIXED MOBILE except aeronautical mobile Radiolocation 705	930–931 FIXED MOBILE BROADCASTING Radiolocation 706	930–931 US116 US215 US268 G2	930–931 FIXED MOBILE US116 US215 US268 US330 NG120	PERSONAL COMMUNICATIONS (24)	
931–932 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	931–932 FIXED MOBILE except aeronautical mobile Radiolocation 705	931–932 FIXED MOBILE BROADCASTING Radiolocation 706	931–932 US116 US215 US268 G2	931–932 LAND MOBILE US116 US215 US268 NG120	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	
932–935 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	932–935 FIXED MOBILE except aeronautical mobile Radiolocation 705	932–935 FIXED MOBILE BROADCASTING Radiolocation 706	932–935 FIXED US215 US268 G2	932–935 FIXED US215 US268 NG120	DOMESTIC FIXED (21) PUBLIC MOBILE (22)	
935–940	935–940	935–940	935–940	935–940		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	FIXED MOBILE except aeronautical mobile Radiolocation 705	FIXED MOBILE BROADCASTING Radiolocation 706	US116 US215 US268 G2	FIXED LAND MOBILE US116 US215 US268 NG120	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	
940–941 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	940–941 FIXED MOBILE except aeronautical mobile Radiolocation 705	940–941 FIXED MOBILE BROADCASTING Radiolocation 706	940–941 US116 US268 G2	940–941 FIXED MOBILE US116 US268 US330 NG120	PERSONAL COMMUNICATIONS (24)	
941–942 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	941–942 FIXED MOBILE except aeronautical mobile Radiolocation 705	941–942 FIXED MOBILE BROADCASTING Radiolocation 706	941–942 FIXED US268 62	941–942 FIXED US268 NG120	DOMESTIC PUBLIC FIXED (21) PUBLIC MOBILE (22)	
942–944 FIXED MOBILE except aeronautical mobile BROADCASTING 703 704	942–944 FIXED MOBILE	942–944 FIXED MOBILE BROADCASTING 701	942–944 FIXED US301 US302	942–944 FIXED US301 US302 NG120	DOMESTIC PUBLIC FIXED (21)	
944–960 FIXED MOBILE except aeronautical mobile BROADCASTING 703 704	944–960 FIXED MOBILE	944–960 FIXED MOBILE BROADCASTING 701	944–960	944–960 FIXED NG120	AUXILIARY BROADCASTING 74 PUBLIC MOBILE (22) INTERNATIONAL PUBLIC FIXED (23) PRIVATE OPERATIONAL FIXED (94)	
.	.	.	.	.	.	.

International Footnotes

* * * *

675 Additional allocation: in Chile, Colombia, Cuba, Ecuador, the United States, Guyana, Honduras, Jamaica, Mexico and Panama, the allocation of the bands 470–512 MHz and 614–806 MHz to the fixed and mobile services is on a primary basis (see No. 425), subject to agreement obtained under the procedure set forth in Article 14.

676 Additional allocation: in Burundi, Cameroon, the Congo, Ethiopia, Israel, Kenya, Lebanon, Libya, Malawi, Senegal, Sudan, Syria, and Yemen, the band 470–582 MHz is also allocated to the fixed service on a secondary basis.

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678 Additional allocation: in Costa Rica, Cuba, El Salvador, Ecuador, the United States, Guatemala, Guyana, Honduras, Jamaica, Mexico and Venezuela, the band 512–608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under the procedures set forth in Article 14.

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682 [Reserved]

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697 Additional allocation: in the Federal Republic of Germany, Burkina Faso, Cameroon, Côte d'Ivoire, Denmark, Egypt, Finland, Israel, Kenya, Libya, Liechtenstein, Monaco, Norway, the Netherlands, Portugal, Sweden, Switzerland and Yugoslavia, the band 790–830 MHz, and in these same countries and in Spain, France, Malta, the Gabonese Republic and Syria, the band 830–862 MHz, are also allocated to the mobile, except aeronautical mobile, service on a primary basis. However, stations of the mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, stations of services operating in accordance with the Table in countries other than those mentioned in connection with this band.

* * * * *

703 In Region 1, in the band 862–960 MHz, stations of the broadcasting service shall be operated only in the African Broadcasting Area (see Nos. 400 to 403) excluding Algeria, Egypt, Spain, Libya and Morocco, subject to agreement obtained under the procedure set forth in Article 14.

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708 [Reserved]

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[FR Doc. 96–3557 Filed 2–15–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Parts 22 and 90

[WT Docket No. 96–18; PP Docket No. 93–253; FCC 96–52]

Future Development of Paging Systems and Implementation of Section 309(j) of the Communications Act—Competitive Bidding

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In this *Notice of Proposed Rule Making* in WT Docket No. 96–18 and PP Docket No. 93–253 (*Notice*), the Commission proposes to implement geographic licensing for paging services to streamline licensing procedures for Common Carrier Paging (CCP) and Private Carrier Paging (PCP). The Commission proposes to transition to a geographic licensing approach, and issue licenses for geographic areas, rather than on a transmitter-by-transmitter basis. The Commission also proposes to adopt competitive bidding rules to select among mutually exclusive paging applications.

The Commission also addresses how paging applications should be treated during the pendency of this rulemaking. The Commission proposes to hold in abeyance and not process applications for paging channels received after the adoption date of this *Notice*, except during the pendency of this proceeding incumbent licensees may add sites to existing systems or modify existing sites, so long as such additions or modifications do not expand the interference contour of the incumbent's existing system. With respect to CCP and PCP licensees who have obtained nationwide exclusivity, the Commission will allow applications for additional sites, without restrictions.

With respect to paging applications that were filed prior to the February 8, 1996 adoption date of this *Notice* and remain pending, the Commission proposes to process such applications provided that they are not mutually exclusive with other applications, and the relevant period for filing competing applications has expired as of the adoption date of this *Notice*. The processing of mutually exclusive pending applications and applications for which the relevant period for filing competing applications has not yet expired will be held in abeyance until the conclusion of this proceeding. In the Notice, the Commission examines ways to promote continued growth and preserve vigorous competition in the paging industry through revisions to the common carrier and private carrier paging regulations. The Commission seeks to establish a comprehensive and consistent regulatory scheme that will simplify and streamline licensing procedures. To reach this objective, the Commission proposes to transition to geographic licensing and to adopt competitive bidding rules for mutually exclusive paging applications.

DATES: Comments are to be filed on or before March 18, 1996. Reply Comments are to be filed on or before April 2, 1996. Comments on the Interim Licensing Proposal are to be filed on or before March 1, 1996. Reply Comments on the Interim Licensing Proposal are to be filed on or before March 11, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mika Savir or Rhonda Lien, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This *Notice of Proposed Rule Making* in WT Docket No. 96–18 and PP Docket No. 93–253, adopted February 8, 1996, and released February 9, 1996, is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.E., Suite 140, Washington, D.C. 20037 (202) 857–3800).

Synopsis of *Notice of Proposed Rule Making:*

I. Background

1. The Commission first allocated spectrum for the CCP service in 1949. The Commission responded to the growth of the paging market in 1982 by allocating 40 new channels in the 931 MHz band exclusively for use by CCP operators and dedicating three of these channels for use by nationwide systems.

2. PCP was established by the Commission, and authorized on specified channels within each private radio service category, with licensees authorized either to operate systems for their own internal use or to provide service to limited categories of eligible users. In 1982, the Commission allocated 40 channels in the 929 MHz band for PCP, with some channels to be licensed for internal-use systems and others for PCP systems that could provide commercial paging service to eligible users under Part 90. In 1993, the Commission allowed PCP operators to provide service to the public on virtually the same unrestricted basis as CCP operators.

3. The Omnibus Budget Reconciliation Act of 1993 amended the Communications Act of 1934, as amended (the Act) to divide all mobile services into two categories: Commercial Mobile Radio Services (CMRS) and private mobile radio service (PMRS), and mandated that "substantially similar" mobile services receive comparable regulatory treatment. The Commission concluded in the *CMRS Second Report and Order*, Implementation of Sections 3(n) and 332 of the Communications Act, *Second Report and Order*, GN Docket No. 93–252, 59 Fed. Reg. 18493 (April 19, 1994) (*CMRS Second Report and Order*), that PCP services were subject to reclassification as CMRS as of August 10, 1996. In the *CMRS Third Report and Order*, Implementation of Sections 3(n) and 332 of the Communications Act, *Third Report and Order*, GN Docket No. 93–252, 59 Fed. Reg. 59945 (Nov. 21, 1994) (*CMRS Third Report and Order*), the Commission concluded that PCP and CCP are substantially similar services that should be subject to comparable regulation to the extent feasible, and that geographic licensing should be considered in both services.

A. Common Carrier Paging

a. Current Licensing Procedures

4. Under current rules, a CCP channel is assigned to a single licensee in each area on an exclusive basis. Licensees' protected service areas are based upon predicted coverage of the transmitters in their systems; licensees must apply for additional transmitter locations when expanding their systems. On all CCP allocations other than 931 MHz, known as lower band CCP channels, applicants specify which channels they want. Applications filed within the designated filing window for the same channel in the same area are, by definition, mutually exclusive. The 931 MHz band applications are not channel-specific. Therefore, when there are more available channels in an area than there are applications for new channel assignments, 931 MHz applications are not mutually exclusive. In most major markets, the number of applications often exceeds the number of available channels, resulting in all applications being treated as mutually exclusive.

b. Part 22 Rewrite Order

5. In the *Part 22 Rewrite Order*, Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, *Report and Order*, CC Docket No. 92–115, 59 Fed. Reg. 59502 (Nov. 17, 1994) (*Part 22 Rewrite Order*), the Commission revised its licensing rules for all Part 22 services, including adoption of new licensing rules for 931 MHz paging frequencies. The *Part 22 Rewrite Order* provided that, as of January 1, 1995, all 931 MHz applicants, including those who had applications pending under the old rules, would be required to specify channels in their applications. After a 60-day filing window for such channel-specific applications, the Commission would grant those applications that were not mutually exclusive and use competitive bidding to select among the mutually exclusive applications.

B. Private Carrier Paging

a. Current Licensing Procedures

6. Historically, PCP channels have been licensed on a shared basis, such that licensees would not obtain exclusive rights to a particular channel and may be required to share the channel with others in the same area. Under the current rules, PCP applicants for all non-929 MHz PCP channels and five of the forty 929 MHz channels must submit their applications to a frequency coordinator who recommends a channel to be assigned by the Commission. PCP applicants are not currently subject to competing applications or mutual exclusivity selection procedures, such as lotteries, comparative hearings, or auctions.

7. As a result of the Commission's adoption of the *PCP Exclusivity Order*, Amendment of the Commission's Rules to Provide Channel Exclusivity to Qualified Private Paging Systems at 929–930 MHz, *Report and Order*, PR Docket No. 93–35, 58 Fed. Reg. 62289 (Nov. 26, 1993) (*PCP Exclusivity Order*), thirty-five of the forty 929 MHz PCP channels may be licensed on an exclusive basis. Licensees whose systems operate on these channels were allowed to earn exclusivity on a local, regional, or nationwide basis, by constructing multi-transmitter systems meeting certain build out criteria. The remaining incumbent licensees are allowed to continue operating without being forced to change channels or location. Applicants for exclusive PCP channels continue to submit their applications to a frequency coordinator, and applications are processed on a first-come, first-served basis.

II. Discussion

A. Geographic Licensing Proposal

a. Overview

8. Paging operators currently choose the areas they seek to serve by applying for licenses on a site-by-site basis. The boundary of the licensee's service area is derived from the composite service areas of existing base stations. Geographic licensing for paging channels would enhance regulatory symmetry with other CMRS services. In this *Notice*, the Commission considers geographic licensing in the context of all paging channels, including 931 MHz, 929 MHz, and lower band CCP and PCP channels.

9. The Commission tentatively concludes that the public interest would be served by converting to geographic licensing for all paging channels that are licensed on an exclusive, non-nationwide basis. Licensing such systems by geographic areas for ten-year license terms, rather than by individual sites, would simplify paging system expansion and substantially reduce the administrative burden on both paging licensees and the Commission.

10. The Commission proposes that all incumbent systems be entitled to continue operating under existing authorizations with full protection from interference. Geographic licensees and incumbents could enter into voluntary negotiations with respect to the purchase or relocation of the incumbents' facilities. Any request for transfer or assignment of an incumbent authorization to the geographic licensee is presumed to be in the public interest, although each request will be reviewed as required by Section 310(d) of the Act. In addition, if an incumbent fails to construct, discontinues operations, or otherwise has its license terminated, the Commission proposes that the geographic area covered by the incumbent's authorization revert automatically to the geographic licensee. To the extent geographic licensing is adopted, the Commission proposes to eliminate the finder's preference under Part 90 of the Commission's rules. The Commission seeks comment on the geographic licensing proposal.

11. *931 MHz and 929 MHz Channels.* Under the geographic licensing proposal in this *Notice*, 931 and 929 MHz licensees would be extended the same flexibility, to the extent feasible, as cellular and PCS licensees in terms of the location, design, construction, and modification of their facilities throughout their geographic areas. The Commission tentatively concludes that geographic licensing would decrease the filing burden on 931 and 929 MHz licensees and provide additional operational flexibility. Such licensing also would expedite the processing of applications by reducing the number of licenses to be issued and simplifying the determinations of which license applications are mutually exclusive. The Commission seeks comment on this tentative conclusion.

12. *Nationwide Channels.* The Commission proposes to exclude from geographic licensing the following channels that have been assigned to single licensees on a nationwide basis under the existing rules: the three CCP channels (931.8875, 931.9125, and 931.9375 MHz) dedicated for nationwide use and all PCP channels for which licensees have met the construction requirements for nationwide exclusivity as of the adoption date of this *Notice*. The Commission will announce, by Public Notice, the specific PCP channels excluded for nationwide use at a later time. The Commission tentatively concludes that a licensee who has obtained nationwide exclusivity on a paging channel should be given a single nationwide license for use of the channel instead of continuing to operate under site-specific authorizations. The Commission tentatively concludes that if a licensee fails to comply with the construction and service requirements for nationwide exclusivity, the channel should be made available for geographic licensing, and such licensee would receive protection as an incumbent only

for those areas where it has completed construction and commenced service. The Commission seeks comment on whether MTel's second channel (931.4375 MHz) used virtually on a nationwide basis, should be designated a nationwide channel, and whether it should be excluded from our geographic licensing proposal.

13. *Lower Band CCP Channels.* The Commission also tentatively concludes that geographic licensing should be extended to CCP channels in the 35, 43, 152, and 454 MHz bands. The Commission asks commenters to address the relative costs and benefits of converting lower band channels to geographic licensing. The Commission also seeks comment on whether competitive bidding should be used to select among mutually exclusive paging and BETRS applications, and whether to allow geographic partitioning of licensing areas to make spectrum available to BETRS operators in sparsely populated regions.

14. *Shared PCP Channels.* The Commission seeks comment on whether and when to use geographic licensing for lower band PCP channels (*i.e.*, those PCP frequencies in the 152/158 MHz, 462 MHz, 465 MHz bands), which currently are licensed on a shared basis. The Commission also seeks comment on whether to (1) convert lower band shared PCP channels to exclusive use and implement geographic licensing; (2) issue only a certain number of licenses per shared channel and use competitive bidding to choose among mutually exclusive applications once the limit is reached; or (3) retain the *status quo*. The Commission tentatively concludes that if the shared paging channels were to convert to exclusive licensing, a geographic licensing approach would be appropriate.

15. The Commission requests comment on the costs and benefits of continuing to license some channels on a shared basis versus licensing all channels on an exclusive basis, how such licensing plans would affect the rights of incumbent licensees, and whether a geographic plan is the most practical way in which to begin licensing these channels on an exclusive basis.

b. Defining the Service Areas

16. The Commission seeks comment on the use of Metropolitan Statistical Areas (MTAs) and on other options for defining service areas for all of the various paging services. The Commission tentatively concludes that MTAs form the most appropriate geographic area boundaries for paging systems, because they are economically-defined regions that appear to best mirror the size and development of existing paging systems. MTAs also offer advantages from an administrative perspective, because they are more efficient for the Commission to license than smaller areas that require issuance of more licenses. Commenters should provide empirical data on the area covered by existing paging systems and how such coverage areas compare to MTAs.

17. The Commission tentatively concludes that, if MTA service areas are adopted, three licensing regions in addition to the 47 Rand McNally MTAs would be used to cover United States territories: Guam and the Northern Mariana Islands would be licensed as a single area, Puerto Rico and the U.S. Virgin Islands as a single area, and American Samoa as a single area. Alaska would be licensed as a single area separate from the Seattle MTA.

18. Rand McNally is the copyright owner of the MTA/BTA Listings, which list the counties contained in each BTA/MTA, as embodied in Rand McNally's Trading Area System BTA/MTA Diskette and geographically represented in the map contained in Rand McNally's *Commercial Atlas & Marketing Guide*. Rand McNally has licensed the use of its copyrighted MTA/BTA Listings and maps for certain services such as PCS, 800 MHz and 900 MHz SMR, and Local Multipoint Distribution Services. These blanket licensing agreements authorize the conditional use of Rand McNally's copyrighted material in connection with these particular services, require interested persons using the material to include a legend on reproductions (as specified in the license agreement) indicating Rand McNally's ownership, and provide for a payment of a license fee to Rand McNally. Currently, paging services are not covered by a blanket copyright license agreement. A paging authorization grantee who does not obtain a copyright license (either through a blanket license agreement or some other arrangement) from Rand McNally for use of the copyrighted material may not rely on grant of a Commission authorization as a defense to any claim of copyright infringement brought by Rand McNally against such grantee.

c. Treatment of Incumbents

19. The Commission tentatively concludes that there is no feasible means to relocate incumbents to alternative channels. Therefore, incumbent licensees would be allowed to continue to operate under their existing site-specific authorizations or a single system-wide license, and geographic licensees would be required to provide protection to all co-channel systems that are constructed and operating within their service areas. No incumbent licensee would be allowed to expand beyond its existing interfering contour and into the geographic licensee's territory without the consent of the geographic licensee unless the incumbent in question is itself the geographic licensee for the relevant channel.

20. The Commission proposes that incumbent licensees should be permitted to modify or add transmitters in their existing service area without prior notification to the Commission, as long as the interfering contour of the pre-existing system is not expanded. Incumbents would be free to negotiate voluntary arrangements with geographic licensees to allow expansion within a geographic area. The Commission seeks comment on whether this proposal strikes a proper balance between the competing interests of geographic and incumbent licensees and whether there are any circumstances under which incumbents should be permitted to expand into unserved areas without the geographic licensee's consent.

d. Coverage Requirements

21. The Commission seeks comment on whether geographic paging licensees should be subject to minimum coverage requirements as a condition of licensing. The Commission tentatively concludes that geographic licensees should be required to provide coverage to one-third of the population within their geographic areas within three years of initial license grant and to two-thirds of the population by the end of five years, or in the alternative, provide substantial service to the geographic license area at five years. A geographic licensee must, three years from license grant, either submit a showing that the one-third population coverage standard has been met, or provide written notification that it has elected to show substantial service to the geographic license area five years from license grant. Each geographic licensee must, three years from license grant, indicate how it expects to demonstrate substantial service at five years. The Commission tentatively concludes that population-based coverage requirements are more appropriate than geographic-based coverage requirements, because strictly geographic-based requirements may lead to coverage in sparsely populated areas where service is not needed or is economically unjustified. The Commission requests comment on the costs and benefits of imposing coverage requirements on geographic licensees,

the specific coverage criteria proposed, and any alternative criteria.

22. The Commission tentatively concludes that under this geographic licensing scheme, "slow growth" extensions for paging systems in the 929–930 MHz spectrum are unnecessary and that such extensions could hinder geographic licensing because an incumbent licensee obtaining a construction extension could effectively occupy an entire market area. Therefore, the Commission proposes to dismiss all "slow growth" applications pending at the time an order pursuant to this *Notice* is adopted, without prejudice to refile under the new geographic licensing scheme. The Commission seeks comment on its tentative conclusion and proposal to dismiss pending "slow-growth" extensions.

23. The Commission also tentatively concludes that, regardless of the extent to which their respective service areas are occupied by co-channel incumbents, geographic licensees should be responsible for meeting their coverage requirements. This rule will deter applicants who have a limited ability to provide coverage in a geographic area from seeking the geographic license for anti-competitive reasons, *e.g.*, to block expansion by an incumbent who already provides substantial coverage. The "substantial service" option will provide an incentive for incumbents already providing substantial coverage to seek geographic licenses in the areas they serve. The Commission proposes to require the geographic licensee to meet its coverage requirement directly (*e.g.*, by utilizing vacant spectrum or acquiring such spectrum through buy-outs of incumbent licensees). The Commission asks commenters to address the advantages and disadvantages of these proposals and any alternatives.

24. The Commission tentatively concludes that a geographic licensee's failure to meet the coverage requirements should result in automatic cancellation of the geographic license. The Commission also tentatively concludes that if a licensee loses its geographic license for failure to comply with coverage requirements authorizations that the licensee held prior to the auction for sites constructed and operating would be reinstated. The Commission requests comment on this proposal and any alternatives.

e. Co-Channel Interference Protection

25. The Commission seeks comment on the appropriate interference protection criteria for incumbent co-channel facilities and to co-channel licensees in neighboring service areas.

a. *Protection of Incumbent Systems*

26. Paging systems are currently protected from co-channel interference by a variety of rules that govern transmitter height and power, distance between stations, the licensee's protected service area, and/or the field strength of the licensee's service and interfering signals. The Commission proposes to retain these criteria to define the interference protection rights of incumbent licensees under any geographic licensing scheme that may be adopted. There are some variations in the specific methodologies used to measure interference in the different paging services. Therefore, the Commission seeks comment on whether to adopt a standard methodology for measuring interference in all paging bands or to retain existing criteria in our rules.

27. *Lower Band CCP Channels.* In the *Part 22 Rewrite Order*, the Commission adopted a series of mathematical formulas to determine service and interfering contours in each CCP frequency range, other than 931 MHz. If lower band CCP channels are converted to geographic licensing, the Commission proposes to retain the mathematical formulas and contour overlap provisions adopted in the *Part 22 Rewrite Order* to define the interference protection rights of incumbents. The Commission seeks comment on this proposal, and asks commentators to provide empirical evidence showing whether the current Part 22 formulas would provide satisfactory co-channel protection to incumbents.

28. *931 MHz Channels.* The Commission seeks comment on whether incumbents licensed in the 931 MHz band should continue to be protected based on our existing tables of standard radii if geographic licensing is adopted for 931 MHz channels. The Commission tentatively concludes that the eight-radial contour method and mathematical formulas used for the lower band CCP channels may be preferable to a fixed table of standard radii, because it will more reasonably predict potential interference to incumbents and provide geographic licensees with greater flexibility in placing their facilities. The Commission invites comment on this tentative conclusion.

29. The Commission seeks comment on the appropriate mathematical formula for determining service and interference contours if the eight-radial contour method for 931 MHz channels is adopted. The Commission proposes to use the following mathematical formula, which is similar to the formulas used in the lower band CCP services:

$d = k \times h^x \times p^y$

The proposed formula is derived from the form of equations commonly used for propagation path loss. In this formula, "d" is the radial distance to the contour, "h" is the antenna center of radiation height above average terrain along the cardinal radial, "p" is the radial effective radiated power. The remaining factor "k" and exponents "x" and "y" are numerical figures that can be determined experimentally by matching the resulting curve to that of an established propagation model for a given signal field strength. The Commission proposes to assume a median field strength of 47 dBμV/m as the basis for the service contour to determine the appropriate formula for the 931 MHz service and interference contour calculations. Statistically, this equates to a reasonably strong field strength (in the 32 to 40 dBμV/m range) at more than 90% of locations in a suburban environment. The Commission proposes to assume a median field strength of 21 dBμV/m as the basis for the interfering contour. The Commission proposes to derive corresponding distances from these field strengths by using the Okumura 900 MHz propagation curves as the propagation model. The specific formulas would be:

Service: $d_{km} = 0.108 \times h_m^{0.61} \times p_w^{0.32}$

Interfering: $d_{km} = 3.033 \times h_m^{0.38} \times p_w^{0.16}$

In these formulas, "km" represents kilometers, "m" represents meters, and "w" represents watts. The Commission seeks comment on these formulas and their suitability for calculating service and interfering contours for 931 MHz paging systems. Applying the formula, a paging station operating at 1000 watts effective radiated power with an antenna height of 305 meters (1000 feet) above average terrain would have a service contour of approximately 32.2 kilometers (20 miles), which is consistent with the service radius afforded under the current rules. The Commission seeks comment on whether any variations in the formula are needed, and on the field strength proposed for service and interfering contours.

30. *929 MHz Exclusive Channels.* Interference protection for exclusive 929 MHz licensees currently is provided by rules requiring standard minimum geographic separations between stations, which are based on station height and power. These separations are based on the same height-power table that is used for 931 MHz paging. The PCP rules, unlike the CCP rules, do not formally define a protected service contour or interference contour for each station. The Commission proposes to adopt service and interference contour criteria for 929 MHz paging using the same methodology proposed for 931 MHz paging.

31. *Non-Exclusive PCP Channels.* Rules for paging systems on non-exclusive PCP channels prescribe operating requirements such as monitoring prior to transmitting to determine if the channel already is in use, minimizing the length of messages, and yielding to others transmitting communications related to the immediate safety of life. The Commission requests comment on whether incumbent licensees should receive interference protection.

b. Maximum Power and Height-Power Limits

32. *Maximum Power Limits.* In the *Part 22 Rewrite* proceeding, the Commission concluded that a maximum power limit of 3500 Watts ERP is appropriate for paging facilities in the 931 MHz band, because it allows for the use of high power facilities where needed, yet provides sufficient protection from intermodulation interference and receiver desensitization. The Commission tentatively concludes that the maximum ERP limit for these facilities should be raised to a maximum of 3500 Watts in order to bring the rules governing non-nationwide 929 MHz facilities into conformity with those already in effect for 931 MHz, nationwide 929 MHz, and Narrowband PCS facilities. This would provide 929 MHz licensees with the benefits of higher power operation without unduly increasing the risk of interference. The Commission proposes to retain the current maximum ERP limits for the various lower band paging channels and seeks comment on this proposal and any alternatives.

33. *Maximum Height-Power Limits.* Height-power limits serve to limit the service and interfering range of a facility to a constant distance. The Commission proposes to eliminate the height-power limit for 929 MHz licensees. With respect to the lower band channels, most of which continue to be occupied by smaller systems, the Commission proposes to maintain the current height-power limits, to continue to limit the range of each facility and promote spectrum efficiency.

c. Adjacent Geographic Licensees

34. The Commission tentatively concludes that geographic licensees should provide interference protection either by (1) reducing the signal level at their service area boundary (*e.g.*, by positioning directional antennas in such a way that the contour does not encroach on a geographic licensee's adjacent territory), or (2) negotiating some other mutually acceptable agreement with all potentially affected geographic licensees in adjacent areas. The Commission seeks comment on this proposal and any alternatives.

f. Licensing in Mexican and Canadian Border Areas

35. In the Mexican and Canadian border areas, paging channel availability may be restricted by treaty and limitations on ERP and antenna height may be placed on additional channels. The Commission tentatively concludes that all geographic areas should be licensed on a uniform basis without distinguishing border from non-border areas, even if some spectrum is unusable, if paging services are converted to geographic licensing. The Commission proposes that geographic licensees be entitled to use any available border-area channels, subject to the relevant rules regarding international assignment and coordination of such channels.

g. Eligibility

36. The Commission tentatively concludes that both incumbents and new entrants should be allowed to apply for geographic licenses without restrictions on eligibility. In cases where there are multiple co-channel incumbents in a geographic area, the Commission tentatively concludes that incumbents can form consortia or joint ventures and apply collectively for the geographic license, or enter into partitioning agreements. The Commission seeks comment on these proposals. In particular, commenters are requested to discuss the relationship between the coverage already provided by an incumbent in a geographic area and the perceived value of the geographic license to that incumbent and other potential applicants.

h. Channel Aggregation Limit

37. The Commission proposes to assign geographic licenses on a channel-by-channel basis. The Commission seeks comment on whether an aggregation limit is appropriate for paging frequencies, and if so, what that limit should be. The Commission seeks comment on whether it would be more appropriate to cap the combined aggregation of paging and narrowband PCS spectrum rather than imposing a limit on paging only.

B. Competitive Bidding Issues

a. Auctionability of Paging Services

38. The Commission proposes to adopt comparable competitive bidding procedures for both exclusive PCP channels and CCP channels, and seeks comment on this proposal. The Commission seeks comment on what competitive bidding methods should be used to award licenses in conjunction with the proposal to adopt geographic licensing for CCP services. The Commission also seeks comment on whether to adopt equivalent competitive bidding procedures for competing applications for exclusive PCP channels.

b. Competitive Bidding Design

a. Bidding Methodology

39. In the *Competitive Bidding Second Report and Order*, Implementation of Section 309(j) of the Communications Act—Competitive Bidding, *Second Report and Order*, PP Docket No. 93–253, 59 Fed. Reg. (May 4, 1994) (*Competitive Bidding Second Report and Order*), the Commission established criteria to select which auction design method to use for particular auctionable services. The two most important design elements are the number of auction rounds (single or multiple), and the order in which licenses are auctioned (sequentially or simultaneously). These two elements can be combined to create four basic auction designs: sequential single round, simultaneous single round, sequential multiple round, and simultaneous multiple round. The Commission seeks comment on which of the above auction methodologies should be used for the auction of paging licenses.

40. In the *Competitive Bidding Second Report and Order*, the Commission stated that simultaneous multiple round auctions would be the preferred method where licenses have strong value interdependencies. The Commission seeks comment on whether simultaneous multiple round auctions would be too burdensome to implement from an administrative perspective, given the large number of paging licenses, and whether simultaneous multiple round auctions or another competitive bidding methodology such as oral outcry is most appropriate for the paging services.

b. License Grouping

41. Depending upon the auction methodology chosen, there are several alternatives for grouping of paging licenses. The Commission seeks comment on how paging licenses should be grouped for competitive

bidding purposes and on possible license groupings.

c. Bidding Procedures

42. In the *Competitive Bidding Second Report and Order*, the Commission established general procedures for simultaneous multiple round auctions, including bid increments, duration of bidding rounds, stopping rules, and activity rules. The Commission seeks comment on the bidding procedures that should be used for licensing of paging services.

43. *Bid Increments.* If a multiple round auction is used, the Commission proposes to establish minimum bid increments for bidding in each round of the auction, based on the same considerations in prior orders. The Commission proposes to adopt a minimum bid increment of five percent of the high bid in the previous round or $0.01 per activity unit, whichever is greater. The Commission proposes to retain the discretion to vary the minimum bid increments for individual licenses or groups of licenses at any time before or during the course of the auction, based on the number of bidders, bidding activity, and the aggregate high bid amounts. The Commission also proposes to retain the discretion to keep an auction open if there is a round in which no bids or proactive waivers are submitted.

44. *Stopping Rules for Multiple Round Auctions.* In a multiple round auction, a stopping rule must be established for determining when the auction is over. Markets may close individually, simultaneously, or a hybrid approach may be used. The Commission seeks comment on whether a stopping rule is needed and if so, which one should be used. A market-by-market stopping rule would be the least complex approach from an administrative perspective, if a multiple round auction is used. Under a market-by-market approach, bidding closes on each license after one round passes in which no new acceptable bids are submitted for that particular license. With a simultaneous stopping rule, bidding remains open on all licenses until there is no bidding on any license. Under a hybrid approach, a simultaneous stopping rule, coupled with an activity rule designed to bring the markets to close within a reasonable period of time, could be used to close auctions with high value licenses. For lower value licenses, the simpler market-by-market closing could be employed.

45. *Activity Rules.* The Commission tentatively concludes that it is unnecessary to implement an activity rule if a market-by-market stopping rule is employed. An activity rule is less important when markets close one by one, because failure to participate in any given round may result in a lost opportunity to bid at all, if that round turns out to be the last. The Commission seeks comment on this tentative conclusion.

46. The Commission tentatively concludes that if an activity rule is used, the Milgrom-Wilson approach should be used. The Commission seeks comment on this tentative conclusion. Under the Milgrom-Wilson approach, the minimum activity level, measured as a fraction of the self-declared maximum eligibility, will increase during the course of the auction. During the first stage of the auction, a bidder is required to be active on licenses encompassing at least 60 percent of the activity units for which it is eligible. The penalty for falling below that activity level is a reduction in eligibility. During the first stage, if activity is below the required minimum level, eligibility in the next round will be calculated by multiplying the current round activity by five-thirds (5/3). In the second stage, a bidder who wishes to maintain its current eligibility is required to be active on 80 percent of the activity units for which it is eligible in the current round. During the second stage, if activity is below the required minimum level, eligibility in the next round will be calculated by multiplying the current round activity by five-fourths (5/4). In the third stage, a bidder who wishes to maintain its current eligibility is required to be active on licenses encompassing 95 percent of the activity units for which it is eligible in the current round. In the final stage, if activity in the current round is below the required activity level, eligibility in the next round will be calculated by multiplying the current round activity by twenty-nineteenths (20/19).

47. *Duration of Bidding Rounds.* The Commission proposes to retain the discretion to vary the duration of bidding rounds or the interval at which bids are accepted (*e.g.*, run two or more rounds per day rather than one), in order to move the auction toward closure more quickly. If this mechanism is used, the Commission would most likely shorten the duration and/or intervals between bidding rounds where there are relatively few licenses to be auctioned, where the value of the licenses is relatively low, or in early rounds to speed the auction process. Where license values are expected to be high or where large numbers of licenses are being auctioned, the Commission proposes to increase the duration and/or intervals between bidding rounds. The Commission proposes to announce by Public Notice the duration and intervals between bidding rounds. The Commission also proposes to announce by Public Notice, before each auction, the stopping rule to be used. The Commission seeks comment on these proposals.

48. *Anti-Collusion Rules.* In the *Competitive Bidding Second Report and Order*, the Commission adopted a special rule designed to prevent collusive conduct in the context of competitive bidding. The Commission tentatively concludes that the anti-collusion rules should be applied to the auctions for paging services. The Commission proposes to apply Section 1.2105(c) of the rules, which prohibits bidders that have applied for any of the same geographic license areas from communicating with one another regarding the substance of their bids or bidding strategies after short-form applications (FCC Form 175) have been filed. Additionally, applicants may not discuss the substance of their bids or bidding strategies with bidders, other than those identified on the short-form application, that are bidding in the same geographic license areas. The post-filing deadline prohibition on discussions extends to providing indirect information that affects bids or bidding strategy. Communications among bidders concerning matters unrelated to the license auction would be permitted. Even when an applicant has withdrawn its application after the short-form filing deadline, the applicant may not enter into a bidding agreement with another applicant bidding on the geographic license areas from which the first applicant withdrew. In addition, once the short-form application has been filed, a party with an attributable interest in one bidder may not acquire a controlling interest in another bidder bidding for licenses in any of the same geographic license areas. Additionally, the Commission proposes to amend Section 22.129 of the rules to prohibit settlements between applicants after the short-form deadline has passed. The Commission also proposes to require winning bidders to submit with their long-form application a detailed explanation of the terms, conditions, and parties involved in any auction-related consortium, joint venture, partnership, or other agreement entered into prior to the close of bidding.

49. There are three exceptions to the rule prohibiting discussions with other applicants after the filing of the short-form application. First, an applicant may modify its short-form application to reflect formation of bidding agreements or changes in ownership at any time before or during the auction, as long as the changes do not result in change of control of the applicant, and the parties forming the bidding agreement have not applied for licenses in any of the same geographic license areas. Applicants may also make agreements to bid jointly for licenses, so long as the applicants have not applied for licenses in any of the same geographic license areas. Finally, a holder of a non-controlling attributable interest in an applicant may acquire an ownership interest in, or enter into a bidding agreement with other applicants in the same geographic license area, if the owner of the attributable interest certifies that it has not communicated and will not communicate bids or bidding strategies of more than one of the applicants in which it holds an attributable interest or with which it has a bidding agreement, and the arrangements do not result in any change of control of an applicant.

50. Bidders who are found to have violated the Commission's anti-collusion rules or who are in violation of U.S. antitrust laws in connection with participation in the auction process may, among other sanctions, be subject to the loss of their down payment or their full bid amount, cancellation of their licenses, and may be prohibited from participating in future auctions. The Commission seeks comment on these proposals.

c. Procedural and Payment Issues

a. *Pre-Auction Application Procedures*

51. As geographic licensees gain use of a large geographic area and the freedom to locate base stations anywhere within that larger geographic region, they differ from the existing paging service licenses that are essentially confined to a smaller region. Accordingly, the Commission proposes to treat all geographic applicants as initial applicants for Public Notice, application processing, and auction purposes, regardless of whether they are already incumbent operators.

52. In the *Competitive Bidding Second Report and Order*, the Commission determined that only a short-form application prior to competitive bidding should be required, and that only winning bidders should be required to submit a long-form license application after the auction. The Commission proposes to extend the application of these rules to the competitive bidding process for paging services.

53. Under this proposal, before a paging services auction, the Wireless Telecommunications Bureau would release an initial Public Notice announcing the auction. The initial Public Notice would specify the licenses to be auctioned and the time and place of the auction in the event that mutually exclusive applications are filed. The Public Notice would specify the method of competitive bidding to be used, applicable bid submission procedures, stopping rules, activity rules, and the deadline by which short-form applications must be filed and the amounts and deadlines for submitting the upfront payment. Applications submitted before the release of the Public Notice would be returned as premature. Likewise, applications submitted after the deadline specified by Public Notice would be dismissed, with prejudice, as untimely.

54. All bidders would be required to submit short-form applications on FCC Form 175 (and FCC Form 175–S, if applicable), by the date specified in the initial Public Notice. Applicants would be encouraged to file FCC Form 175 electronically. Detailed instructions regarding electronic filing would be contained in a bidder information package. Those applicants filing manually would be required to submit one paper original and one diskette original of their application, as well as two diskette copies. The short-form applications would require applicants to provide the information required by Section 1.2105(a)(2) of the Commission's rules. Specifically, each applicant would be required to specify on its FCC Form 175 application certain identifying information, including its status as a designated entity (if applicable), its classification (*i.e.*, individual, corporation, partnership, trust, or other), the geographic areas and channel(s) or channel blocks(s) for which it is applying, and assuming that the licenses will be auctioned, the names of persons authorized to place or withdraw a bid on its behalf. The Commission seeks comment on this proposal and specifically on whether further ownership disclosure should be required.

55. The Commission proposes that if only one application that is acceptable for filing for a particular license is received, and thus there is no mutual exclusivity, a Public Notice would be issued cancelling the auction for that license and establishing a date for the filing of a long-form application (FCC Form 600), the acceptance of which would trigger the procedures permitting petitions to deny. If no petitions to deny are filed, the application would be grantable after 30 days. The Commission would require that bidders' applications contain all information and documentation sufficient to demonstrate that the application is not in violation of Commission rules, and may dismiss applications not meeting those requirements prior to the competitive bidding.

b. *Amendments and Modifications*

56. To encourage maximum bidder participation, the Commission proposes to provide applicants with an opportunity to correct minor defects in their short-form applications prior to the auction. On the date set for submission of corrected applications, applicants that on their own discover minor errors in their applications (*e.g.*, typographical errors, incorrect license designations, etc.) would be permitted to file corrected applications. Applicants would not be permitted to make any major modifications to their applications until after the auction. Applicants could modify their short-form applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided such changes would not result in a change in control of the applicant, and provided that the parties forming consortia or entering into ownership agreements have not applied for licenses in any of the same geographic license areas. In addition, applications that are not signed would be dismissed as unacceptable.

57. Upon reviewing the short-form applications, the Commission would release a Public Notice listing all accepted, rejected, and incomplete applications. Applicants would be given an opportunity to cure incomplete applications. An applicant who fails to submit a sufficient upfront payment to qualify it to bid on any license being auctioned would not be identified on this Public Notice as a qualified bidder. Each applicant listed on the Public Notice would be issued a bidder identification number and further information and instructions regarding auction procedures.

c. *Upfront Payments*

58. The Commission proposes to require paging auction participants to tender a substantial upfront payment as a condition of bidding, in order to ensure that only serious, qualified bidders participate in auctions and to ensure payment of the penalty in the event of bid withdrawal or default. For services that are licensed by simultaneous multiple round auction, the Commission proposes a standard upfront payment formula of $0.02 per activity unit for the largest combination of MHz-pops a bidder anticipates bidding on in any single round of bidding. The Commission proposes a minimum upfront payment of $0.02 per

activity unit or $2,500, whichever is greater. The Commission tentatively concludes that a minimum $2,500 upfront payment should be required regardless of the bidding methodology.

59. Upfront payments would be due approximately fourteen days before a scheduled auction. This period should be sufficient to allow the Commission time to process upfront payment data and release a Public Notice listing all qualified bidders. The specific procedures to be followed in the tendering and processing of upfront payments are set forth in Section 1.2106 of the Commission's rules.

d. *Down Payment and Full Payment*

60. The Commission proposes to apply the 20 percent down payment requirement set forth in the *Competitive Bidding Second Report and Order* to winning bidders for paging licenses. Such a down payment would be due within five business days following the Public Notice announcing the winning bidders. The Commission proposes to require paging auction winners to pay the full balance of their winning bids within five business days following Public Notice that the Commission is about to award the license.

e. *Bid Withdrawal, Default, and Disqualification*

61. The Commission proposes to adopt bid withdrawal, default, and disqualification rules for the paging services based on the procedures in the general competitive bidding rules. Under these procedures, any bidder who withdraws a high bid during an auction before the Commission declares bidding closed, or defaults by failing to remit the required down payment within the prescribed time, would be required to reimburse the Commission. The bidder would be required to pay the difference between its high bid and the amount of the winning bid the next time the license is offered by the Commission, if the subsequent winning bid is lower. A defaulting auction winner would be assessed an additional payment of three percent of the subsequent winning bid or three percent of the amount of the defaulting bid, whichever is less. The additional payment would be satisfied first from the upfront payment, and additional funds would be required if necessary. In the event that an auction winner defaults or is otherwise disqualified, the Commission proposes to re-auction the license either to existing or new applicants. The Commission would retain discretion, however, to offer the license to the next highest bidder at its final bid level if the default occurs within five business days of the close of bidding.

f. *Long-Form Applications*

62. If the winning bidder makes the down payment in a timely manner, the Commission proposes the following procedures: A long-form application would be filed by a date specified by Public Notice, generally within ten business days after the close of bidding. After the winning bidder's down payment and long-form application is received, the Commission will review the application to determine if it is acceptable for filing. In addition to the information required in the FCC Form 600, designated entities will be required to submit evidence to support their claim to any special provision available for designated entities ultimately adopted by an Order as a result of this *Notice*. This information may be included in an exhibit to FCC Form 600. This information will enable the Commission, and other interested parties, to ensure the validity of the applicant's certification of eligibility for bidding credits, installment payment options, and any other special provisions. Upon acceptance for filing of the long-form application, the Commission will issue a Public Notice announcing this fact, triggering the filing window for petitions to deny. If the Commission denies all petitions to deny, and is otherwise satisfied that the applicant is qualified, the license(s) will be granted to the auction winner.

g. *Petitions to Deny and Limitations on Settlements*

63. The petition to deny procedures in Sections 22.130 and 90.163 of the Commission's rules will apply to the processing of applications for the paging services. Thus, a party filing a petition to deny against a paging application will be required to demonstrate standing and meet all other applicable filing requirements. The Commission will limit the consideration that an applicant or petitioner is permitted to receive for agreeing to withdraw an application or a petition to deny to the legitimate and prudent expenses of the withdrawing applicant or petitioner.

h. *Transfer Disclosure Requirements*

64. The Commission tentatively concludes that the transfer disclosure requirements of Section 1.2111(a) of the Commission's rules should apply to all paging services licenses obtained through the competitive bidding process. Generally, licensees transferring their licenses within three years after the initial license grant would be required to file, together with their transfer applications, the associated contracts for sale, option agreements, management agreements, and all other documents disclosing the total consideration received in return for the transfer of its license.

i. *Performance Requirements*

65. Section 309(j)(4)(B) of the Act requires the Commission to establish rules for auctionable services that "include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittee, and to promote investment in and rapid deployment of new technologies and services." The Commission decided, in the *Competitive Bidding Second Report and Order*, that in most auctionable services, existing construction and coverage requirements provided in the service rules would be sufficient to meet this standard, and that it was unnecessary to impose additional performance requirements. In this *Notice* the Commission proposed service rules for paging that would require geographic licensees either to meet minimum population coverage requirements or demonstrate substantial service in their licensing areas. The Commission tentatively concludes that these proposed coverage requirements are sufficient to meet the requirements of Section 309(j)(4)(B) of the Act. The Commission proposes that failure to meet these requirements would result in automatic license cancellation, and does not propose to adopt additional performance requirements for paging services.

d. Treatment of Designated Entities

a. *Overview and Objectives*

66. Section 309(j)(3)(B) of the Act provides that in establishing auction eligibility criteria and bidding methodologies, the Commission shall "promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." The Commission seeks comment on various proposals and tentative decisions regarding designated entity provisions that should be incorporated into the competitive bidding procedures for paging services.

b. *Eligibility for Designated Entity Provisions*

67. *Small Businesses.* The Commission tentatively concludes that it is appropriate to establish special provisions in the paging rules for competitive bidding by small businesses. The Commission believes that small businesses applying for paging licenses should be entitled to some form of bidding credit and should be allowed to pay their bids in installments, and seeks comment on this tentative conclusion.

68. *Minority and Women-Owned Businesses.* Prior to the Supreme Court's decision in *Adarand Contractors, Inc.* v. *Pena*, 115 S.Ct. 2097 (1995) (*Adarand*), the Commission concluded that in licensing of broadband and narrowband PCS, minority and women-owned businesses might have difficulty accessing sufficient capital to be viable auction participants or service providers in the absence of special provisions in our auction rules. In *Adarand*, however, the Supreme Court ruled that racial classifications imposed by the federal government are subject to strict scrutiny. At this time, the Commission does not have a sufficient factual record with respect to spectrum-based services generally or paging services specifically to sustain such measures under strict scrutiny.

69. The Commission proposes to limit special provisions in the paging auction rules to small businesses. The Commission seeks comment on this proposal. The Commission seeks comment on the possibility that in addition to small business provisions, separate provisions for women and minority-owned entities should be adopted for paging services. To comply with the Supreme Court's ruling in *Adarand*, any race-based classification must be a narrowly tailored measure that furthers a compelling governmental interest. The Commission seeks comment on whether the capital requirements of paging pose a barrier to entry by minorities and women, and whether assisting women and minorities to overcome such a barrier, if it exists, would constitute a compelling governmental interest. The Commission seeks comment on whether separate provisions for women and minorities are necessary to further such an interest and whether such provisions can be narrowly tailored to satisfy the strict scrutiny standard.

c. *Set-Aside Spectrum*

70. The Commission tentatively concluded that it is not necessary to adopt an entrepreneurs' block for paging. The Commission tentatively concludes that the capital requirements of the paging service are not so substantial that certain blocks of spectrum should be insulated from very large bidders in order to provide meaningful opportunities for designated entities.

d. *Bidding Credits*

71. Bidding credits allow eligible designated entities to receive a payment discount (or credit) on their winning bid in an auction. In the *Competitive Bidding Second Report and Order*, the Commission determined that competitive bidding rules applicable to individual services would specify the entities eligible for bidding credits and the bidding credit amounts for each particular service. As a result, the Commission has adopted a variety of bidding credit provisions for small businesses and other designated entities in auctionable services. The Commission seeks comment on the appropriate level of bidding credit for paging in comparison to other auctionable services.

72. The Commission also seeks comment on the possibility of offering tiered bidding credits for different sizes of small businesses. The Commission proposes to establish two levels of bidding credits: a 10 percent bidding credit for all small businesses and a 15 percent credit for small businesses that meet a more restrictive gross revenue threshold. These two levels of bidding credits would not be cumulative.

73. The Commission also seeks comment on the appropriate definition of small business to be applied for purposes of the bidding credits proposed above. In conjunction with the proposal to provide two levels of bidding credits, the Commission proposes to establish two small business definitions: to obtain the 10 percent bidding credit, an applicant would be limited to $15 million in average gross revenues for the previous three years; to obtain a 15 percent credit, the applicant would be limited to $3 million in gross revenues for the previous three years. In both cases, the applicant would be required to aggregate the gross revenues of its affiliates and attributable investors for purposes of determining eligibility. If a control group is formed, the applicant must aggregate the gross revenues of its affiliates and attributable investors for purposes of determining eligibility. The Commission seeks comment on whether these thresholds, and the proposed bidding credit amounts associated with them, are sufficient for paging in light of the build-out costs associated with constructing a paging system throughout a market area, or whether alternative definitions would be more suitable. Comment is also sought on whether the proposed small business definitions are sufficiently restrictive to protect against businesses receiving bidding credits when in fact they do not need them.

74. The Commission seeks comment on the degree to which the revenues of affiliates and major investors should be considered in determining small business eligibility. The Commission also seeks comment on which attribution threshold should be applied to paging applicants seeking to qualify as small businesses.

75. The Commission proposes to make the small business bidding credit available on all paging channels that are licensed on a geographic basis, rather than limiting its availability to certain channels. The Commission seeks comment on this proposal, and on whether there is a reasonable basis for providing credits on some channels and not others.

e. *Installment Payments*

76. The Commission proposes to adopt an installment payment option for small businesses that successfully bid for paging licenses. Under this proposal, licensees who qualify for installment payments would be entitled to pay their winning bid amount in quarterly installments over the ten-year license term, with interest charges to be fixed at the time of licensing at a rate equal to the rate for ten-year U.S. Treasury obligations plus 2.5 percent. In addition, the Commission proposes to tailor installment payments to the needs of different size entities. Small businesses with $3 million or less in gross revenues for the preceding three years would make interest-only payments for the first five years of the license term, while small businesses with $15 million or less in gross revenues for the preceding three years would make interest-only payments during the first two years.

77. The Commission tentatively concludes that small businesses eligible for installment payments may pay a reduced down payment. Five percent of the winning bid would be due five days after the auction closes, with the remaining five percent down payment due five days after Public Notice that the license is ready for grant. Under this proposal, the license would be granted within ten business days after receiving such down payment. The Commission seeks comment on this proposal, and the need, if any, for a reduced upfront payment for entities qualifying as a small business.

f. *Unjust Enrichment Provisions*

78. The Commission seeks comment on whether, in services such as paging, where there is no entrepreneurs' block to further restrict the class of entities eligible for substantial governmental benefits, the public interest would be served by adopting an approach similar to that used in the narrowband PCS context, in which bidding credits and installment payments immediately become due upon transfer to an ineligible entity. The Commission also seeks comment on whether an approach to unjust enrichment similar to that adopted for the 900 MHz SMR service, in which a holding period was imposed, would be optimal for the paging services.

g. *Rural Telephone Company Partitioning*

79. The Act directs the Commission to ensure that rural telephone companies have the opportunity to participate in the provision of spectrum-based services. Rural areas, because of their more dispersed populations, tend to be less profitable to serve than more densely populated urban areas. Rural telephone companies, however, are well positioned because of their existing infrastructure to serve these areas. The Commission seeks comment on whether similar provisions should be incorporated into the paging rules. Commenters are specifically encouraged to provide information on the extent to which paging service is available in rural areas.

80. The Commission believes that geographic partitioning should be made available to rural telephone companies on the same basis as in PCS. Such a partitioning scheme would provide rural telephone companies with the flexibility to serve areas in which they already provide service, while the remainder of the service area could be served by other providers. Under this proposal, rural telephone companies would be permitted to acquire partitioned paging licenses in one of two ways: (1) by forming bidding consortia consisting entirely of rural telephone companies to participate in auctions, and then partitioning the licenses won among consortia participants, or (2) by acquiring partitioned paging licenses from other licensees through private negotiation and agreement either before or after the auction. Partitioned areas would be required to conform to established geopolitical boundaries (such as county lines) and that each area include all portions of the wireline service area of the rural telephone company applicant that lies within each PCS area. In addition, if a rural telephone company receives a partitioned license post-auction from another PCS licensee, the partitioned area must be reasonably related to the rural telephone company's wireline service area. The Commission also proposes to use the definition for rural telephone companies implemented in the *Competitive Bidding Fifth Report and Order* for broadband PCS. Rural telephone companies would be defined as local exchange carriers having 100,000 or fewer access lines, including all affiliates. The Commission seeks comment on whether CCP and PCP paging applicants would benefit from expanding this concept to other designated entities or to all paging licensees in general, and whether partitioning should be extended to small businesses that may be able to provide niche services in a specific geographic area.

C. Interim Licensing

a. Freeze on New Applications

81. Because of the fundamental changes proposed in the paging licensing rules, the Commission is suspending the acceptance of new applications for paging channels as of the adoption date of this *Notice*, except as provided below. This interim policy will not apply to assignment or transfer of control applications, which will continue to be processed under existing procedures.

82. Incumbent licensees will be allowed to add sites to existing systems or modify existing sites, provided that such additions or modifications do not expand the interference contour of the incumbent's existing system. Under the current Part 22 rules, such additions or modifications are allowed by CCP licensees without prior Commission approval if the added site is within both existing service and interference contours. The Commission finds that the public interest is served by continuing to allow such modifications because they will give incumbents the flexibility to make internal site modifications without affecting spectrum availability to others. The Commission also believes that it serves the public interest to exempt incumbents from the requirement that the service area not be modified so long as the licensee's interference contour is maintained. Using the interference contour as the sole basis for modification provides the same protection to other licensees as the current rules but provides a simpler analysis of determining permissible modifications.

83. The Commission also finds that it is in the public interest to allow 929 MHz licensees on exclusive channels the same flexibility as Part 22 licensees to make similar changes within their interference contours. Such modifications afford incumbents flexibility and will not prejudice other licensees, as no expansion is allowed beyond the incumbent's interference contour. The Commission believes that such modifications will not affect any auction for geographic area licenses, as the size of an incumbent's protected interference contour will not change.

84. CCP and PCP licensees with nationwide exclusivity on a paging channel will be allowed to apply for additional sites without restrictions. The addition of such sites by the nationwide licensee will not affect the spectrum availability to others.

85. The Commission seeks comment on an expedited basis on whether during the pendency of this proceeding, incumbents should be allowed to file new applications that would expand or modify their existing systems beyond their existing interference contours with such modifications receiving only secondary site authorization. Secondary operations may not cause interference to operations authorized on a primary basis, and they are not protected from interference from primary operations. Thus, under this alternative, applications to expand an incumbent's existing interference contour would receive no interference protection in the event that the Commission ultimately adopts the geographic licensing proposals in this *Notice*. Such an approach would be similar to the interim licensing policy in the 900 MHz SMR service. The Commission seeks comment on this alternative and on whether any limitations on secondary licensing are needed.

b. Processing of Pending Applications

86. With respect to paging applications that were filed prior to the adoption of this *Notice* and that remain pending, the Commission will process such applications provided that (1) they are not mutually exclusive with other applications as of the adoption date of this *Notice*, and (2) the relevant period for filing competing applications has not expired will be held in abeyance until the conclusion of this proceeding. Upon the adoption of an order in this proceeding, the Commission will process or dismiss all remaining pending applications in accordance with such new rules as are adopted.

a. *Licensing of 931 MHz CCP Frequencies*

87. The Commission adopted new processing rules for 931 MHz CCP licenses in the *Part 22 Rewrite Order* based on channel-specific applications and use of competitive bidding to select licensees in the event of mutually exclusive applications. The Commission issued a temporary stay of the new Part 22 licensing rules for 931 MHz until it resolved certain pending applications. The Commission retains the existing stay of the new Part 22 licensing rules until competitive bidding procedures are established in this proceeding. The Commission will therefore continue processing 931 MHz CCP applications which were pending prior to the adoption date of this *Notice*, and for which the 60 day window for filing competing applications has expired, under the application procedures in effect prior to January 1, 1995. Consequently, pending 931 MHz CCP applications that are not mutually exclusive with other applications will be processed, while mutually exclusive 931 MHz applications will be held pending the outcome of this proceeding. Upon the adoption of an order in this proceeding, the Commission will process or dismiss all remaining pending applications in accordance with such new rules as are adopted.

b. *Licensing of Lower Band CCP Channels*

88. The Commission will process non-mutually exclusive lower band CCP applications under the existing rules, provided that the window for filing competing applications has closed as of the adoption date of this *Notice*. The Commission will continue to hold all mutually exclusive lower band CCP applications until competitive bidding rules are established.

c. *Licensing of 929 MHz PCP Exclusive Channels*

89. The Commission will continue to process non-mutually exclusive PCP applications that were filed before the adoption date of this *Notice*, pending the outcome of this proceeding. Because these applications are subject to coordination, they are generally not subject to mutually exclusive applications. Nonetheless, to the extent that pending mutually exclusive applications may exist, processing of such applications will be held in abeyance until the conclusion of the rulemaking.

90. Under the current PCP exclusivity rules, applicants are granted conditional exclusivity when they are licensed, and permanent exclusivity is awarded when the licensee demonstrates that it has constructed and is operating a qualified system. As a result, numerous requests for conditional and permanent exclusivity are pending before the Commission. Because of the proposed changes to the PCP rules in this proceeding, the Commission believes that consideration of such requests should be postponed while this proceeding is pending. In the event that the geographic area licensing proposals are adopted, all existing PCP facilities would receive full protection as incumbents, and such pending exclusivity requests would be moot. The Commission will therefore suspend action on all pending exclusivity requests until the conclusion of this rulemaking.

d. *Licensing of Non-Exclusive PCP Channels*

91. The Commission will continue to process pending applications for non-exclusive PCP channels pending the outcome of this proceeding. Applications will be processed through the frequency coordinator under existing procedures.

IV. Procedural Matters and Ordering Clauses

Final Regulatory Flexibility Analysis

Summary: This *Notice* contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

Dates: Written comments by the public on the proposed and/or modified information collections are due March 18, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the **Federal Register**.

Address: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington D.C., 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington D.C. 20503, or via the Internet to fain_t@al.eop.gov.

Further Information: For additional information concerning the information collections contained in this *Notice*, contact Dorothy Conway at (202) 418–0217 or via the Internet at dconway@fcc.gov.

Supplementary Information:

Paperwork Reduction Act: This *Notice* contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *Notice*, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due on March 18, 1996, at the same time as the other comments in the *Notice*. OMB comments are due 60 days from the date of publication of this *Notice* in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Title Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems and Implementation of Section 309(j) of the Communications Act—Competitive Bidding.

Form No.: N/A.

Type of Review: New Collection.

Respondents: Existing and prospective private paging and common carrier paging licensees.

Number of Respondents: Approximately 750 existing licensees; approximately 525 auction winners.

Estimated Time Per Response: Approximately 845 hours for list of existing transmitter sites; 1,221 hours for request for single authorization for multiple site licenses; 262.5 hours for demonstration of compliance with relocation notification requirements; 721 hours for ownership and gross

revenue information for small businesses; 262.5 hours for disclosure of terms of joint bidding agreements; 787.5 hours for transfer disclosure information.

Total Annual Burden: A one-time burden of approximately 4,099.5 hours.

Total Respondents Costs: $1,008,036.

Needs and Uses: On February 8, 1996, the Commission adopted a *Notice of Proposed Rule Making* that examines ways to establish a comprehensive and consistent regulatory scheme that will simplify and streamline licensing procedures and provide a flexible operating environment for both common carrier and private paging services. To this end, the *Notice* proposes to establish a geographic, rather than a site-based, licensing approach. The *Notice* also proposes to adopt auction rules for mutually exclusive paging applications so that available channels may be assigned rapidly to applicants, who will, in turn, expedite service to the public.

To ensure that the process of streamlining our paging regulations correctly gauges current usage of the applicable spectrum, it may be necessary for us to request that existing paging licensees notify the Commission of the location of their various transmitter sites. The *Notice* also proposes to require that licensees submit information that they meet applicable coverage requirements. Further, the *Notice* proposes that incumbent licensees operating at multiple sites may exchange their multiple site license for a single license after the completion of the auction for the spectrum blocks within which their frequencies are included provided they submit a showing that their authorized facilities have been constructed and placed in operation and the contours associated with these facilities are contiguous and overlapping. The *Notice* also proposes that auction winners submit proof of their notification to incumbents operating on frequencies included within the auction winners' spectrum blocks of their intention to relocate such incumbent.

In addition, the proposed auction procedures include (1) a requirement that auction winners claiming status as a small business submit detailed ownership and gross revenue information necessary to determine whether they qualify as a small business pursuant to Commission rules; (2) a requirement that auction winners disclose the terms of joint bidding agreements, if any, with other auction participants in order to ensure the integrity of the market structure; and (3) a requirement that licensees who transfer licenses within three years maintain a file of all documents and contracts pertaining to the transfer.

Ex Porte Rules—Non-Restricted Proceeding

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules, 47 CFR §§ 1.1202, 1.1203, 1.1206(a).

Ordering Clauses

It is ordered that the pending applications for paging licenses that are not mutually exclusive with other paging applications will be processed to the extent possible under our existing licensing rules.

It is further ordered that applications for PCP exclusivity and waiver requests received after the adoption date of this *Notice of Proposed Rulemaking* will be held in abeyance and not processed until further notice, except as otherwise indicated above with respect to Interim Licensing.

List of Subjects

47 CFR Part 22

Communications common carriers, Recordkeeping requirements.

47 CFR Part 90

Common carriers, Recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3657 Filed 2–15–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 76

[MM Docket No. 92–260; FCC 95–503]

Cable Home Wiring

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Further Notice of Proposed Rulemaking ("FNPRM") requests comment on wiring issues concerning loop-through wiring and the right of persons other than the subscriber to purchase cable home wiring. The FNPRM will assist the Commission in devising additional regulations in this area.

DATES: Written comments by the public on the proposed and/or modified information collections are due March 18, 1996. Interested parties may file comments on or before March 18, 1996 and reply comments on or before April 17, 1996. Written comments must be submitted by OMB on the proposed and/or modified information collections on or before April 16, 1996.

ADDRESSES: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Lynn Crakes or Rick Chessen, Cable Services Bureau, (202) 416–0800. For additional information concerning the information collections contained in this Order and FNPRM contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

This is a synopsis of the Commission's Further Notice of Proposed Rulemaking in MM Docket No. 92–260, FCC No. 95–503, adopted December 15, 1995 and released January 26, 1996.

I. Further Notice of Proposed Rulemaking

A. Multiple Dwelling Unit Buildings with Loop-Through Wiring

1. We solicit comment on Liberty's request that the Commission require cable operators to allow a building owner to purchase loop-through wiring in the limited situation where all subscribers in a multiple dwelling unit building want to switch to a new service provider. We ask whether we should apply the same rules regarding compensation (i.e., wiring may be purchased at the per-foot replacement cost) and technical standards to loop-through wiring that we now apply to non-loop-through wiring. We solicit comment on the appropriate demarcation point for this limited application of the home wiring rules. We note, however, that we are concerned with allowing the multiple dwelling unit building owner to control the wiring since such control could arguably supersede subsequent subscribers' wishes. We therefore solicit comment on how to apportion control of a loop-through wiring system, including how to assure that subscribers have a choice of multichannel video programming service providers. We further solicit comment on whether we should prohibit future installations of loop-through wiring configurations, and whether we have the statutory authority to do so.

B. Others' Rights to Cable Home Wiring

2. We solicit comment on several issues raised in this proceeding regarding the rights of persons other than the subscriber or the cable operator to cable home wiring. For instance, it has been asserted that the Commission's cable home wiring rules do not apply when the owner of a multiple dwelling unit building terminates cable service for the entire building in favor of an alternative multichannel video programming service provider. According to the record, at least one cable operator has contended that no "voluntary termination by the subscriber," as provided in Section 76.802 of our rules, has occurred when it is the building owner or condominium association that terminates the service, or at least that the subscriber has not voluntarily terminated the cable service. In order to promote the goals of Section 16(d) and our rules thereunder, it may be appropriate for the subscriber (where there is a non-loop-through wire configuration) or the building owner (where there is a loop-through wire configuration) to be given the opportunity to purchase the cable home wiring under these circumstances. We request comment on this matter. In addition, we seek comment on whether this right of a building owner with a loop-through system should only apply if all of the individual subscribers want to terminate service and switch to a new video service provider, as described in Section III.A. above.

3. In addition, we ask for comment on the disposition of the cable home wiring in the event that a subscriber terminates cable service, elects not to purchase the wire and vacates the premises within the time period the operator has to remove the home wiring. Apparently some cable operators believe that our rule providing that the cable operator must remove the wire within 30 days (now seven business days) or make no subsequent attempt to remove it or to restrict its use does not apply if the subscriber vacates the premises before the 30-day (now seven-business-day) period elapses. We believe that, as long as the cable operator has been allowed access to the premises to remove its wiring if it so wishes, whether the subscriber vacates the premises has no bearing on the application of our rules, and that the cable operator must therefore remove the wire within seven business days of the subscriber's termination of service, or make no subsequent attempt to remove it or to restrict its use, regardless of who subsequently resides in the premises. We request comment on this matter. Furthermore, we seek comment on whether, when the subscriber voluntarily terminating cable service does not own the premises, the premises owner should have the right to purchase the cable home wiring if and only if the subscriber elects not to purchase the wire.

II. Initial Regulatory Flexibility Act Analysis for the Further Notice of Proposed Rulemaking

4. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following initial regulatory flexibility analysis ("IRFA") of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the FNPRM, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of the FNPRM, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq.* (1981).

5. Reason for Action. Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992 requires the Commission to prescribe rules and regulations regarding the disposition of cable wiring within the subscriber's premises after the subscriber terminates service. This FNPRM proposes to allow the multiple dwelling unit building owner to purchase the loop-through cable wiring in the situation where all subscribers on a loop in a multiple dwelling unit building want to simultaneously switch to the same alternative multichannel video programming service provider. This FNPRM also proposes: (a) to require that the subscriber (where there is a non-loop-through wire configuration) or the building owner (where there is a loop-through wire configuration) be provided with the opportunity to purchase the cable home wiring when the owner of a multiple dwelling unit building terminates cable service for the entire building in favor of an alternative multichannel video programming service provider; (b) to clarify that, as long as the cable operator has been allowed access to the premises to remove its wiring if it so wishes, the cable operator must remove the wire within seven business days of the subscriber's termination of service, or make no subsequent attempt to remove it or to restrict its use, regardless of when the subscriber vacates the premises and who subsequently resides in the premises; and (c) when the subscriber voluntarily terminating cable service does not own the premises, to give the premises owner the right to purchase the cable home wiring, if and only if the subscriber elects not to purchase the wire.

6. Objectives. To propose rules which implement Section 16(d) of the 1992 Cable Act and promote its goals of protecting subscribers from unnecessary disruption and expense caused by the removal of home wiring and to allow subscribers to use the wiring for an alternative multichannel video programming service provider.

7. Legal Basis. Action as proposed for this rulemaking is contained in Sections 1, 4(i), 4(j) and 624(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 151, 154(i), 154(j) and 544(i).

8. Description, Potential Impact and Number of Small Entities Affected. The proposals, if adopted, will not have a significant effect on a substantial number of small entities.

9. Reporting, Recordkeeping and Other Compliance Requirements. None.

10. Federal Rules which Overlap, Duplicate or Conflict with these Rules. None.

11. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives. None.

III. Ordering Clauses

12. It is ordered that, pursuant to Sections 4(i), 4(j) and 624(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 544(i), notice is hereby given of proposed amendments to Part 76, in accordance with the proposals, discussions, and statement of issues in this Further Notice of Proposed Rulemaking, and that comment is sought regarding such proposals, discussion, and statement of issues. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before March 18, 1996 and reply comments on or before April 17, 1996. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. I'

you want each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W. Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington D.C. 20554.

13. It is further ordered that the Secretary shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3127 Filed 2–15–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 90

[PR Docket No. 93–144; PP Docket No. 93–253; FCC 95–501]

Future Development of SMR Systems in the 800 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Second Further Notice of Proposed Rule Making (*Second Further Notice*) in PR Docket No. 93–144, the Commission seeks comment on disaggregation of channel blocks and partitioning on the upper 200 channels of 800 MHz Specialized Mobile Radio (SMR) spectrum, certain aspects of mandatory relocation as adopted in the *First Report and Order* (*First R&O*) in PR Docket No. 93–144, and eligibility of Basic Exchange Telecommunications Radio Service (BETRS) operators for certain upper 200 channels. In addition, we propose to adopt service and competitive bidding rules for the lower 80 SMR channels and the General Category channels in the 800 MHz band. Further, we have redesignated the General Category channels for exclusive SMR use. The intended effect of this action is to facilitate future development of SMR systems in the 800 MHz band through implementation of streamlined licensing procedures and the use of competitive bidding.

DATES: Comments are to be filed on or before February 15, 1996, and Reply Comments are to be filed on or before March 1, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David Furth, or David Kirschner at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This *Second Further Notice*, adopted December 15, 1995, and released December 15, 1995, is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street N.W., Washington, D.C. 20037 (telephone: (202) 857–3800).

I. Disaggregation of Channel Blocks on the Upper 200 Channels of 800 MHz SMR Spectrum

1. *Background.* In the *Further Notice of Proposed Rule Making* in PR Docket No. 93–144, 59 FR 60111 (November 22, 1994) (*Further Notice*), we asked commenters to address whether licensees should be allowed to sublicense portions of larger blocks instead of aggregating smaller blocks.

2. *Comments.* Total Com, AMTA, AMI and Motorola contend that licensees with service areas based on Economic Areas (EAs) established by the United States Department of Commerce, Bureau of Economic Analysis should be permitted to sublicense portions of their spectrum blocks. Motorola argues that allowing sublicensing on a spectrum basis would allow excess spectrum capacity to be made available for alternative uses and provide small SMR licensees with the opportunity to participate in the provision of wide-area service at levels commensurate with their business and customer interests and their financial resources. AMTA argues that such sublicensing should be permitted as long as construction and coverage requirements are satisfied, because such an approach would encourage development of bidding consortia of smaller operators, which otherwise might be incapable of participating in the competitive bidding process. Parkinson, *et al.* express concern that, by allowing sublicensing, an incumbent's operations unfairly and unreasonably would be restricted by the EA licensee.

3. *Discussion.* Given the extensive incumbent presence in the upper 10 MHz block of the 800 MHz SMR spectrum, we tentatively conclude that EA licensees should be permitted to disaggregate their spectrum blocks. We believe that this additional tool will enable EA licensees to manage their spectrum blocks more effectively and efficiently. We further believe that disaggregation not only will facilitate the coexistence of EA licensees and incumbents in the upper 200 channels, but also will result in the most efficient use of the 800 MHz SMR spectrum. We seek comment on this tentative conclusion.

4. As a general matter, we believe that any disaggregation agreements must comply with the Commission's pro-competitive policies. We propose that spectrum covered by an EA license may be sublicensed in either of two ways: (1) a group of licensees or entities may form bidding consortia to participate in auctions, and then disaggregate or partition the EA license(s) won among consortia participants; and (2) an EA licensee, through private negotiation and agreement before or after the auction, may elect to disaggregate or partition its spectrum block. We seek comment on this proposal.

5. Although we are interested in affording EA licensees optimal flexibility for spectrum management, we nonetheless do not want to undermine our goal to facilitate an effective and efficient wide-area licensing scheme. We ask commenters to discuss the conditions under which EA licensees should be permitted to disaggregate their spectrum blocks. Should EA licensees be required to retain a specified portion of their spectrum block, and if so, what is an appropriate amount? In addition, should there be a minimum amount of spectrum that EA licensees must disaggregate in order to utilize this spectrum management tool? Should geographic area licensees be permitted to disaggregate only after they have satisfied applicable construction and coverage requirements? We also ask commenters to discuss any other type of considerations applicable to disaggregation.

II. Partitioning on the Upper 200 Channels of 800 MHz SMR Spectrum

6. *Background.* In the *Eighth Report and Order* (*Competitive Bidding Eighth R&O*) in PP Docket No. 93–253 we adopted a partitioning option for rural telephone companies.

7. *Comments.* Nextel contends that smaller, local operators wishing to participate in wide-area service could become involved through arrangements with the EA licensee to partition its service area.

8. *Proposal.* We tentatively conclude that partitioning should be an option not only for rural telephone companies but also for incumbents and eligible SMR licensees generally. We tentatively conclude that extending the partitioning option will further the goal of Section 309(j) in the dissemination of licenses to a variety of licensees because small businesses will have additional flexibility and opportunities to serve areas in which they already provide service, while the remainder of the service area could be served by other providers.

9. We propose that SMR licensees be permitted to acquire partitioned EA licenses in either of two ways: (1) they may form bidding consortia to participate in auctions, and then partition the licenses won among consortia participants; or (2) they may acquire partitioned 800 MHz SMR licenses from other licensees through private negotiation and agreement either before or after the auction. Each member of a consortium would be required to file a long-form application, following the auction, for its respective mutually agreed-upon geographic area. We propose that partitioned areas be required to conform to established geo-political boundaries (such as county lines). We further propose that these entities be subject to the same interim coverage and channel use requirements as EA licensees with respect to the geographic areas covered by their partitioned authorizations. We seek comment on our proposals and tentative conclusions and any alternatives.

10. As a general matter, we believe that any partitioning agreement must comply with the Commission's pro-competitive policies. We ask commenters to discuss the conditions under which EA licensees should be permitted to partition their service areas to other SMR licensees. Should EA licensees be required to retain a specified portion of their service area, and if so, what is an appropriate amount? Should geographic area licensees be permitted to partition only after they have satisfied applicable construction and coverage requirements? We also ask commenters to discuss any other type of considerations applicable to partitioning.

III. Mandatory Relocation in the Upper 200 Channels

A. Distributing Relocation Costs Among EA Licensees

11. In the *First R&O*, we determined that EA licensees must notify incumbents operating on the upper 200 channels of their intention to relocate such incumbents within 90 days of the release of the Public Notice commencing the voluntary negotiation period. We also determined that any incumbent licensee who has been so notified may require all EA licensees in whose spectrum blocks it operates to negotiate collectively with the incumbent. Because an incumbent licensee can compel simultaneous negotiations with all affected EA licensees, we tentatively conclude that the elaborate cost-sharing plan proposed for broadband PCS is unnecessary for the 800 MHz SMR service. Therefore, we propose to require EA licensees to share the relocation costs on a pro rata basis (based on the actual number of the incumbent's channels located in the EA licensees' respective spectrum blocks), unless all such licensees agree to a different cost-sharing arrangement. We believe that this approach would enhance significantly the speed of relocation given that incumbent licensees most likely will elect to negotiate with EA licensees collectively rather than individually to accommodate system-wide relocation agreements. This would in turn result in faster delivery of wide-area SMR service to the public. We seek comment on our tentative conclusions and on the advantages and disadvantages of our cost-sharing proposal.

B. Relocation Costs

12. *Compensable Costs.* When relocation will benefit multiple licensees, the issue arises as to what relocation costs should be shared by the benefitting licensees. Relocation costs can be divided roughly into two categories: (1) the actual cost of relocating an incumbent licensee to comparable facilities, and (2) payments above the cost of providing comparable facilities, also referred to as "premium payments."

13. *Comments.* Louisville believes that relocation costs should include expenses for: engineering, equipment, labor, construction, testing, FCC application fees, local fees, additional recurring operating costs, pay for lost time, cost analysis, frequency coordination, and any other expenses incurred by the incumbent as long as the expenses were caused by the new facilities not being comparable with the old facilities and they occurred within one year after the incumbent took control of the new facilities. Clarus argues that expenses paid by the EA licensee should include administrative costs and any loss of goodwill that the incumbent might suffer. Nextel believes that all out-of-pocket costs associated with retuning should be borne by the auction winner, such costs include those covered by the Commission's Emerging Technologies relocation plan.

14. *Proposal.* We tentatively conclude that premium payments should not be reimbursable, because such payments are likely to be paid by EA licensees to accelerate relocation so that they can be the first licensee in the market area to implement wide-area SMR service. Because other EA licensees have not received the corresponding advantage of being first to market and did not actively participate in the relocation negotiations, we do not believe that such licensees should be required to contribute to premium payments. We therefore propose to limit the calculation of reimbursable costs for the 800 MHz SMR service to actual relocation costs, unless the EA licensees involved mutually and expressly agree to share any premium payments. We tentatively conclude that "actual relocation costs" would include, but not be limited to: SMR equipment; towers and/or modifications; back-up power equipment; engineering costs; installation; system testing; FCC filing costs; site acquisition and civil works; zoning costs; training; disposal of old equipment; test equipment; spare equipment; project management; and site lease negotiation. We request comment on this proposal. We also ask commenters to address any additional costs they believe should be reimbursable and a supporting rationale for such treatment.

15. *Creation of Reimbursement Rights.* We tentatively conclude that an EA licensee who negotiates a relocation agreement that benefits one or more other EA licensees should obtain a right to reimbursement of a share of the relocation costs. We seek comment on how such rights should be created procedurally. We believe that some form of reimbursement rights should be conferred on EA licensees so that it will be possible to enforce the right to reimbursement and collect reimbursement from other EA licensees. We seek comment on these tentative conclusions and any alternatives.

16. *Payment.* We seek comment on when reimbursement payments should be due. Specifically, we ask commenters to address whether such payments should be due when the benefitting EA licensee begins to use the particular frequency or when the EA licensee commences testing of its wide-area system in the EA.

17. *Dispute Resolution Issues. Comments.* PCIA, AMI, and Motorola all argue that the Commission should establish a mediation mechanism to

resolve disputes. PCIA believes that the EA winner should pay for the mediation unless the mediator finds that the incumbent is not acting in good faith. If mediation is not successful, Motorola and PCIA believe that the Commission should resolve the dispute.

18. *Proposal.* We tentatively conclude that incumbents and EA licensees should attempt to resolve disputes arising over the amount of reimbursement required, in the first instance, amongst themselves. We encourage parties to use expedited alternative dispute resolution ("ADR") procedures, such as binding arbitration or mediation. We seek comment on this proposal and on any other mechanisms that would expedite resolution of these disputes should they arise.

19. Similarly, to the extent that disputes arise between incumbents and EA licensees over relocation negotiations (including disputes over the comparability of facilities and the requirement to negotiate in good faith), we also encourage parties to use alternative dispute resolution techniques. We believe such techniques are an appropriate first step during both the voluntary and mandatory negotiation periods. We emphasize again that resolution of such disputes entirely by our adjudication processes would be time consuming and costly to all parties.

20. We also seek comment on whether either the industry trade associations or the FCC's Compliance and Information Bureau should be designated as arbiters for such disputes. We ask commenters to discuss the advantages and disadvantages of such designations as well as suggested dispute resolution procedures in the event that they were so designated. In addition, we seek comment on whether failure to comply with the relocation obligations or requirements should be taken into consideration by the Commission when deciding on renewal or transfer of control or assignment applications.

C. Comparable Facilities

21. *Background.* Under the mandatory relocation scheme we adopt in the *First R&O*, we require EA licensees to provide incumbents with "comparable facilities" as a condition for involuntary relocation. In the broadband PCS context, we also adopted a mandatory relocation scheme in which PCS licensees are required to provide microwave incumbents with comparable facilities as a condition for involuntary relocation. Although we have not adopted a definition of comparable facilities in the broadband PCS context, we have indicated that we generally require that comparable facilities be equal to or superior to existing facilities. We also indicated that we would consider, *inter alia*, system reliability, speed, bandwidth, throughput, overall efficiency, bands authorized for such services, and interference protection in making a determination regarding comparability. In the *Further Notice*, we asked commenters to discuss the meaning of comparable facilities in the 800 MHz SMR context.

22. *Comments.* Some commenters suggest, as a general matter, that a comparable system is one that is as good as or superior to the incumbent's existing system. The majority of commenters attempt to define comparable facilities by specifying what would need to be provided to the Incumbent being relocated. These commenters argue that comparable facilities would include: (1) the same number of channels as are currently held by the incumbent; (2) the retuned frequencies being compatible in a multi-channel system at the incumbent's current location; (3) the retuned frequencies not having any co-channel licensees within the EA; (4) incumbents having 70-mile co-channel interference protection; (5) base station equipment being modified to operate on the retuned frequencies; (6) all user units and user control units being reprogrammed or recrystallized to the retuned frequencies (or, if modification of the incumbent's equipment is not possible, the EA licensee would be required to provide new equipment); (7) the incumbent's "retuned" system providing the same, if not superior, performance as the incumbent's existing system operating at the same antenna height, and with the same power and interference protection; and, (8) the same channel separation for the retuned frequencies.

23. Some commenters define "comparable facilities" on the basis of operational characteristics. For example, commenters contend that comparable facilities mean that the incumbent's retuned system should have the same or superior coverage as its existing system. Nextel argues that comparable facilities means having the same 40 dBu contour as the incumbent's current system. Several commenters argue that only other 800 MHz SMR channels could constitute comparable frequencies. In this connection, Spectrum believes that incumbents should be relocated elsewhere on the 800 MHz spectrum or to the 900 MHz spectrum, or the auction winner should buy-out the incumbent's system.

24. PCIA, supported by other commenters, proposes that retuned incumbents receive the following rights and privileges associated with mandatory relocation: (1) The ability to obtain geographic area licenses on retuned channels; (2) protection against being relocated more than once; (3) the right to demand one unified retuning plan from all EA license holders in whose spectrum blocks their frequencies are located; (4) a requirement of "seamless" transition, such that the EA holder would complete retuning before the incumbent moves; (5) no obligation to cease operations on the original channels unless alternative frequencies are identified and accepted; and, (6) the right to timely notification by the EA licensee that incumbents will be moved. PCIA also suggests that EA licensees be given one year in which to complete retuning, so that incumbents can make future business plans. Several commenters argue that there should be no selective retuning of incumbent channels; rather, all of an incumbent's channels within an EA spectrum block should be retuned. Moreover, several commenters argue that in terms of an EA licensee's relocation obligations, an incumbent system should be defined as all licenses issued to an entity or multiple entities participating in an integrated network. Nextel, on the other hand, contends that selective retuning should be allowed, so long as the channels are "comparable."

25. *Proposal.* Although we wish to provide parties with sufficient flexibility to negotiate mutually agreeable terms for determining comparability, based on our experience in the broadband PCS context, we tentatively conclude that comparable facilities, at a minimum, should provide the same level of service as the incumbents' existing facilities. We propose that by "comparable facilities," a relocated incumbent would: (a) Receive the same number of channels with the same bandwidth; (b) have its entire system relocated, not just those frequencies desired by a particular EA licensee; and, (c) once relocated, have a 40 dBu service contour that encompasses all of the territory covered by the 40 dBu contour of its original system. We believe that this definition will ensure that incumbents' operations will not be adversely affected. We further believe that such definition would not preclude incumbents and EA licensees from negotiating to trade-off any of these system parameters for premium payments or other operational rights which are consistent with our rules. We believe that this flexibility in designing replacement facilities will expedite relocation, given the many variables involved with the system design of each individual system. We seek comment on our proposed definition of and tentative conclusions regarding "comparable facilities." We ask commenters to discuss whether the "comparable facilities" definition should include additional operational characteristics, if so, what characteristics should be specified.

26. With respect to old and new SMR equipment, we tentatively conclude that an EA licensee's relocation obligations to an incumbent will not require the EA licensee to replace existing analog equipment with digital equipment when there is an acceptable analog alternative that satisfies the comparable facilities definition. In the event that an incumbent still wishes to obtain digital equipment under these circumstances, we believe that the incumbent should be required to bear the additional costs associated with such an upgrade of its system. Consequently, we propose that under these circumstances, the cost obligation of the EA licensee would be the minimum cost the incumbent would incur if it sought to replace, but not upgrade, its system. However, if an analog alternative fails to meet any of the criteria included in the comparable facilities definition, the incumbent would not be required to accept such an alternative. In those instances in which an incumbent licensee is operating with digital equipment prior to relocation, we tentatively conclude that the incumbent's new system also must be digital, unless the EA licensee and incumbent mutually agree to different terms. We believe that the proposed definition of comparability would facilitate negotiations between incumbents and EA licensees during the voluntary period, because both parties would be better informed about the EA licensees' minimum obligation under our rules. We seek comment on our proposals and tentative conclusions and any alternatives.

D. Relocation Guidelines—Good Faith Requirement During Mandatory Negotiations

27. In the *First R&O*, we establish a mandatory relocation mechanism for the upper 10 MHz block. Under this mechanism, incumbents and EA licensees have a one-year voluntary negotiation period during which EA licensees are free to offer incumbents a variety of incentives to expedite relocation. If a relocation agreement is not reached during this period, the EA licensee may initiate a mandatory negotiation period during which the parties are required to negotiate in "good faith."

28. We believe that additional clarification of the term "good faith" will facilitate negotiations and help reduce the number of disputes that may arise over varying interpretations of what constitutes good faith. We tentatively conclude that, for purposes of the mandatory negotiation period, an offer by an EA licensee to replace an incumbent's system with comparable facilities constitutes a good faith offer. Likewise, an incumbent that accepts such an offer presumably would be acting in good faith; whereas, failure to accept an offer of comparable facilities would create a rebuttable presumption that the incumbent is not acting in good faith. Comparable facilities would be limited to actual costs associated with providing a replacement system and would exclude any expenses incurred by the incumbent without securing the approval, in advance, of the EA licensee. We believe that the time for expansive negotiation is during the voluntary negotiation period and that, by the time the parties have reached the mandatory negotiation period, only the bare essentials of comparability should be required. We seek comment on our proposal. We also seek comment on the appropriate penalty to impose on a licensee that fails to act in good faith.

IV. BETRS Eligibility on the Upper 200 Channels of 800 MHz SMR Spectrum

29. *Background.* Under Section 90.621(h) of the Commission's rules, Channel Numbers 401–410, 441–450, 481–490, 521–530, and 561–570 are available on co-primary basis to stations in Basic Exchange Telecommunications Radio Service (BETRS) as described in Part 22 of the Commission's rules.

30. *Proposal.* According to our licensing records, there are few BETRS facilities currently licensed on these frequencies. Based on the limited BETRS licensing on these frequencies and the goals of the wide-area licensing plan adopted in the *First R&O* (in which these channels are included), we propose that BETRS stations no longer be authorized on these frequencies. In addition, as of the adoption of this *Second Further Notice*, we will no longer accept applications for BETRS facilities on these channels.

V. Licensing of Lower 80 and General Category Channels

A. Geographic Area Licensing

31. *Background.* Under our current rules the lower 80 and General Category channels are licensed on a site-specific basis. In the *Further Notice*, we sought comment on whether to continue site-specific licensing or to adopt a form of geographic area licensing on these channels.

32. *Comments.* Several commenters advocate that we continue licensing channels designated for local SMR use based on the geographic separation and channelization criteria in our current SMR rules. These commenters argue that continued site-specific licensing would: (1) Allow local operators to define their own markets; (2) permit construction of niche systems designed to meet unique and customized needs; and, (3) minimize disruption to operations of existing licensees.

33. Other commenters advocate discontinuing site-specific licensing of the lower 80 and General Category channels and instead offering licenses for individual channels or small channel blocks covering defined geographic areas. Cumulous argues that market-area licensing would allow local SMR operators to grow and develop into geographic area licensees in the future. Dru Jenkinson, *et al.* contend that market-area licensing would permit more efficient service area coverage than site-specific authorizations. Total Com believes that market-area licensing will be advantageous to market development, with minimal regulation.

Some commenters expressly oppose market-area licensing on the basis that: (1) There is no reason to license these channels on a market-defined area basis given the scarcity of vacant channels; and, (2) it could create an artificial shortage of local channels simply because a licensee secures an authorization covering a particular geographic area. Pittencrief contends that such an approach, if adopted, should be used only in those areas where the spectrum currently is not being used.

35. Although AMTA does not expressly support this licensing approach, it notes that there are certain advantages associated with geographic area licensing, including facilitation of future integration of local systems into wide-area operations should additional spectrum be desired. Pittencrief contends that even if site-specific licensing is retained, geographic area licensing would not necessarily be foreclosed in the future. In this regard, Pittencrief recommends that in order to secure a market-based license, a local licensee would be required to demonstrate either that: (a) No other co-channel systems serve the geographic area; or, (b) it has secured the consent of all affected co-channel licensees. In either case, Pittencrief suggests that the local licensee should be required to

serve a certain percentage of the Commission-defined service area or face loss of the wide-area authorization.

36. *Proposal.* We tentatively conclude that the lower 80 and General Category channels should be converted to geographic area licensing. We believe that this new licensing approach will afford smaller SMR operators the flexibility to provide service to a defined geographic area on the same basis as licensees in the upper 10 MHz block. We further believe that geographic licensing would simplify system expansion and substantially reduce the administrative burden on both lower 80 and General Category licensees and the Commission. In fact, we expect that in many instances, existing licensees will seek to obtain market-area licenses for those areas in which they already operate, which would enable them to consolidate and expand their operations under a more flexible regulatory regime. We seek comment on our tentative conclusion.

B. Service Areas

37. *Background.* In the *Further Notice*, we indicated our belief that the Basic Trading Areas (BTAs), established by Rand McNally, could be an appropriate service area for geographic area licensing on the lower 80 channels. In the *First R&O*, we adopt EAs as the service area for licenses in the upper 10 MHz block.

38. *Comments.* AMTA recommends using EAs rather than BTAs, partly because EAs appear to approximate more closely the coverage range of existing systems. Pittencrief also supports use of EAs. DCL Associates and Telecellular support use of BTA service areas, because they believe that such licensing would permit substantially more operational flexibility than the traditional 35-mile radius licensing areas. E.F. Johnson believes use of BTAs is contrary to the public interest because it potentially would require operators to construct facilities where they did not anticipate providing service; and, it would limit the possibility that a co-channel licensee legitimately could reuse those channels to serve an adjacent area. CellCall favors licensing the lower 80 channels based on Rand McNally's Major Trading Areas (MTAs). Dru Jenkinson, *et al.* believe that uniformity and efficiency of administration suggest that the lower 80 channels be licensed on the same geographic area as the upper 200 channels. Similarly, AMTA contends that such uniformity will preserve the value of lower 80 channels.

39. *Proposal.* We tentatively conclude that EAs would be the most appropriate service areas for a geographic area licensing approach on the lower 80 and General Category channels. As discussed in the *First R&O*, EAs are based on urban, suburban, and rural traffic patterns that accurately reflect the coverage provided by most 800 MHz SMR operators other than the largest wide-area systems. We therefore believe that this is an appropriate service area definition for the smaller systems that we anticipate will occupy the lower 80 and General Category channels. We also believe that using the same service area definition for licenses on these channels as for licenses on the upper 200 channels will result in greater administrative efficiency. We seek comment on this tentative conclusion and on alternative area definitions.

C. Channel Assignments

40. *Background.* In the *Further Notice*, we indicated that by continuing to license the lower channels in five-channel blocks, as we do currently, we would enable existing licensees to expand local systems on the same channels they are using presently. We also indicated that licensing fewer channels in each block might be an option that would give SMR operators more flexibility in channel configuration.

41. *Comments.* CellCall, Telecellular, AMI, Dru Jenkinson, *et al.*, and Palmer support licensing the lower 80 channels in five-channel blocks. Palmer believes that such an approach would limit spectrum warehousing severely because channels would not be sitting idle while reserved for future service areas within a larger defined geographic region. Dru Jenkinson, *et al.* believes that a five-channel block is an appropriate grouping which would permit limited service application on a local basis, yet provide flexibility for system modification within the designated area.

42. *Proposal.* The five-channel blocks, which proved to be administratively convenient under a site-by-site licensing scheme, may also continue to be feasible under a geographic area licensing approach since incumbent licensees have established their systems based on such channelization. We anticipate that licensees operating on the lower 80 channels increasingly may become more interested in expanding the geographic areas served by their systems and preoccupied less with the number of frequencies utilized by such systems. We tentatively conclude that the lower 80 channels should be licensed in the same five-channel blocks under a geographic licensing approach in order to allow SMR operators to build upon the systems they have already established. Thus, we propose to license the lower 80 channels in five-channel blocks. We seek comment on this tentative conclusion and any alternatives.

43. For the General Category channels, we are not convinced that five-channel blocks would be the best licensing alternative. Unlike the lower 80 channels, the General Category channels are contiguous. As a result, licensees may be interested in establishing multiple-channel system networks. In addition, we are concerned that the competitive bidding process for these frequencies may be administratively unmanageable if they are licensed on a channel-by-channel basis, given the large number of channels involved. Thus, we tentatively conclude that the General Category channels should be licensed in channel blocks. We seek comment on our tentative conclusion. We also ask commenters to discuss what specific channel block size would be appropriate. One alternative is to license channel blocks of different sizes, *e.g.*, a 120-channel block, a 20-channel block, and a 10-channel block. Another alternative is to license channel blocks of the same size, *e.g.*, 25-channel or 10-channel blocks. We seek comment on these, as well as other, alternatives.

D. Operationol and Eligibility Restrictions

Background. In the *Further Notice*, we proposed to allow licensees to use the lower 80 channels for any purpose that is technically consistent with our rules. We also did not propose to restrict the ability of licensees on the lower 80 channels to aggregate channels or integrate local systems to provide service over a larger area.

45. *Comments.* The majority of commenters addressing this issue endorse the Commission's proposal to allow licensees to use the lower 80 channels for any purpose that is technically consistent with our rules. Cumulous believes that the Commission should pursue licensing policies that allow the same use to be made of both the upper 10 MHz block of 800 MHz SMR spectrum and the lower 80 channels. OneComm believes that such a regime would make local channels more fungible in relocation negotiations and preserve the value of the lower 80 channels.

46. Some commenters, on the other hand, oppose allowing EA licensees to be able to obtain lower 80 channels. Ericsson believes that such channels should be reserved as a safe haven for any local licensees who currently operate in the upper 10 MHz block and do not obtain the EA license if a mandatory relocation plan is adopted. UTC believes that, in order to ensure the benefits of competition within all geographic markets, an entity should be restricted from holding EA licenses and authorizations for the lower 80 channels in the same geographic area. Fisher urges the Commission to clarify that if an EA licensee also holds licenses for systems made up of frequencies from the lower 80 channels, it would be allowed to incorporate such frequencies into its wide-area system. Fisher believes that such use would further the Commission's goal of efficient and full utilization of spectrum.

47. *Proposal.* We tentatively conclude that lower 80 and General Category SMR licensees should be permitted to use these channels for any purpose which is technically consistent with our rules. In light of our designation of 10 MHz of 800 MHz spectrum for wide-area licensing, however, we wish to ensure that our rules do not inadvertently allow licensees in the upper 10 MHz to acquire large numbers of additional SMR channels primarily intended for other use. As discussed *infra*, 2we propose to adopt size restrictions on eligibility for the lower 80 and General Category channels by designating these channels as an entrepreneurs' block. As a result of the economic size limitations associated with such designation, the largest licensees in the upper 10 MHz block would likely be ineligible for the lower 80 and General Category channels. Aside from this proposed restriction, however, we tentatively conclude that limiting the potential uses of lower 80 and General Category licenses would not serve the public interest. We believe that operational restrictions ultimately may restrict the ability of smaller SMR operators to expand their service area and service offerings by such means as integrating their frequencies into a wide-area system or establishing a multiple-channel network. Thus, we do not propose any additional restrictions for these channels.

E. Channel Aggregation Limit

48. *Background.* In the *Further Notice*, we tentatively concluded that a limit should be placed on the number of lower 80 channels that an applicant may obtain at one time in an area without constructing and commencing operations on previously licensed channels in the same area. We proposed to limit grants of the lower 80 channels to no more than five channels at one time, which is the applicable limit under our current rules.

49. *Comments.* All commenters addressing this issue agree that a limit should be placed on the number of lower 80 channels that an applicant may obtain at one time in an area without constructing and commencing operations on previously licensed channels in the same area. CellCall proposes a five-channel limit in a particular area for the lower 80 frequencies. Russ Miller believes, however, that a five-channel limit is too restrictive over a geographic area as large as a BTA service area. It proposes a five-channel limit, per location, not per area, for requested frequencies not licensed to the applicant within its existing footprint. Russ Miller suggests that the limit apply to any of the 800 MHz frequencies, not just SMR channels. Telecellular believes that lower 80 licensees should be permitted to apply for additional channels only after construction has been completed for any frequencies covered by previously issued authorizations in a given area, with "area" defined as any location within 40 miles of the unbuilt site. Total Com suggests that any licensee must have 90 percent of its channels constructed in each market before additional channels are authorized.

50. *Proposal.* We propose not to limit the number of frequencies a single applicant can request at one time. Under our site-specific 800 MHz SMR licensing rules, we generally have restricted the number of channels for which an entity could apply in a particular area at one time, to deter spectrum warehousing. We believe that the risk of channel warehousing would be limited because these licenses will be subject to competitive bidding and we anticipate that licensees will not bid for more channels than they actually need or can use. We also believe that lower 80 and General Category licensees should have the flexibility to pursue plans to establish wide-area systems by aggregating the lower 80 and General Category frequencies. We note, however, that Commercial Mobile Radio Services (CMRS) spectrum holdings by these licensees still would be subject to the CMRS spectrum aggregation limit provided in Section 20.6 of our Rules. We seek comment on these proposals and any alternatives.

F. Construction Requirements

1. Construction Period

51. *Background.* In the *Third Report and Order* in GN Docket No. 93–252, 59 FR 59945 (November 21, 1994) (*CMRS Third R&O*), we established a uniform 12-month period for constructing a standard base station in all CMRS services that are licensed on a site specific basis. In the *Further Notice*, we indicated that licensees of-SMR systems presumptively are subject to this 12-month construction period. In the *CMRS Third R&O*, we also indicated that CMRS providers would be required to commence service to subscribers by the end of their construction period, with "service to subscribers" defined to mean the provision of service to at least one party not affiliated with, controlled by, or related to the CMRS provider.

52. *Comments.* All commenters addressing this issue endorse the Commission's proposal of a 12-month construction period, coupled with a commencement of service to subscribers requirement.

53. *Proposal.* Consistent with our conclusions in the *CMRS Third R&O*, we propose that lower 80 and General Category licensees be subject to a 12-month construction period. We further propose that these licensees be required to construct their facilities and commence "service to subscribers" within twelve months from the grant of their licenses. We seek comment on this proposal and any alternatives.

2. Coverage Requirements

54. We seek comment on whether geographic area SMR licensees operating on the lower 80 and General Category frequencies should be subject to minimum coverage requirements as a condition of licensing. In the *First R&O*, we require EA licensees operating in the upper 200 channels to provide coverage to one-third of the population within their EA within three years of initial license grant and to two-thirds of the population by the end of their five-year construction period. We propose to apply these same requirements to lower 80 and General Category geographic area licensees. We believe that these coverage requirements serve the public interest by deterring spectrum warehousing and ensuring the speedy delivery of SMR service to the public. We also propose that lower 80 and General Category licensees be able to satisfy their coverage requirements by meeting a "substantial service" standard, like that adopted in the broadband PCS 10 MHz blocks and 900 MHz SMR services. We ask commenters to address the advantages and disadvantages of imposing coverage requirements on lower 80 and General Category licensees, the specific coverage criteria proposed, and any alternative criteria that could be used.

55. We also tentatively conclude that the geographic area lower 80 and General Category licensees should be

responsible for meeting their coverage requirements, regardless of the extent to which their service areas are occupied by co-channel incumbents. We believe that incumbents that already provide substantial coverage in certain areas will have sufficient incentive to seek geographic area licenses for these areas. Thus, we propose to require the geographic area licensees for the lower 80 and General Category channels to satisfy their coverage requirements directly. This proposal is consistent with our approach for EA licensees on the upper 200 channels. We seek comment on these proposals and any alternatives, including the impact, if any, on the construction period for the lower 80 and General Category channels. Assuming a twelve-month construction period, we ask commenters to address whether the coverage requirements should be imposed earlier in the license term. If so, we ask commenters to discuss what would be the appropriate time frame.

56. If we adopt coverage requirements, we also must determine what penalty should be imposed if the geographic area licensee fails to comply with such requirements. We tentatively conclude that a geographic area licensee's failure to meet the coverage requirements should result in forfeiture of the market-area license. We also tentatively conclude that in the event that a licensee loses its geographic area license for failure to comply with coverage requirements, any authorizations that such licensee held in that area prior to the auction for facilities that are constructed and operating would be reinstated. This approach is consistent with the sanctions provided for in our rules for the upper 10 MHz block of 800 MHz SMR spectrum, 900 MHz SMR, and broadband PCS. We seek comment on our proposal and any alternatives.

G. Treatment of Incumbents

57. Given the extensive licensing of the 800 MHz SMR service, we remain concerned about the ramifications of implementing a market-area licensing approach where systems have been licensed already on a site-specific basis. In the *First R&O*, we adopt a mandatory relocation mechanism for the upper 10 MHz block. With respect to the lower 80 and General Category channels, however, we believe that there are no equitable means of relocating incumbents to alternative channels, and that there are no identifiable alternative channels to accommodate all such incumbents. We also believe that incumbent licensees relocated from the upper 200 channels should not be subject to relocation a second time. We therefore tentatively conclude that there should be no mandatory relocation mechanism for SMR operators operating on the lower 80 and General Category channels. We propose that incumbent SMR licensees on these frequencies be allowed to continue to operate under their existing site-specific authorizations, and geographic area licensees would be required to provide protection to all co-channel systems that are constructed and operating within their service areas. We further propose that no incumbent SMR licensee be allowed to expand beyond its existing service area (as discussed in further detail, *infra*) and into the geographic area licensee's territory without obtaining the prior consent of the geographic area licensee (unless, of course, the incumbent in question is itself the market-area licensee for the relevant channel). We seek comment on this proposal. In addition, we ask commenters to address how non-SMR licensees operating on the lower 80 and General Category channels should be treated. Should these licensees be relocated to non-SMR channels, and if so, under what circumstances and pursuant to what type of relocation plan?

58. Because incumbent licensees' ability to expand their service areas would be restricted as a result of our proposal, we believe that it is imperative that they be given the optimum amount of operational flexibility possible, without encroaching upon market-area licensees' operations. Consistent with our approach on the upper 200 channels, we propose that incumbent licensees on lower 80 and General Category channels be able to modify or add transmitters in their existing service area without prior notification to the Commission, so long as their 22 dBu interference contour is not expanded. As we note in the *First R&O*, we believe that by using the 22 dBu interference contour as the benchmark for defining an incumbent's service area, incumbents will be afforded significant operational flexibility without detracting from the market-area licensee' operational capabilities. We seek comment on this proposal. We ask commenters to address whether our proposal strikes the appropriate balance between the competing interests of market-area and incumbent licensees. We also ask commenters to discuss whether a basis other than the 22 dBu interference contour should be used to determine an incumbent's service area.

59. In addition, similar to our approach in the upper 200 channels and the 900 MHz SMR service, we propose to allow SMR incumbents operating on the lower 80 and General Category channels to have their licenses reissued if they are not the successful bidder for the geographic area license which includes the area in which they are currently operating. Under this procedure, which will be granted post-auction upon the request of the incumbent, an incumbent may convert its current multiple site licenses to a single license, authorizing operations throughout the contiguous and overlapping 22 dBu contours of the incumbent's previously authorized sites. We propose that incumbents seeking such reissued licenses be required to make a one-time filing identifying each of their external base station sites to assist the staff in updating the Commission's database after the close of the auction for the lower 80 and General Category channels. We also propose to require evidence that such facilities are constructed and placed in operation and that, by operation of our rules, no other licensee would be able to use these channels within this geographic area. We believe that facilities added or modified within the 22 dBu contour without prior approval or subsequent notification under this procedure will not receive interference, because they will be protected by the presence of surrounding stations of the same licensee on the same channel or channel block. We seek comment on this proposal.

H. Co-Channel Interference Protection

60. Under our market-area licensing proposal for the lower 80 and General Category channels, market-area licensees will be required to provide interference protection both to incumbent co-channel facilities and to co-channel licensees in neighboring market areas. With respect to incumbent co-channel facilities, we propose to retain the level of protection afforded under our existing rules. Thus, a market-area licensee would be required either to locate its stations at least 113 km (70 mi) from the facilities of any incumbent or to comply with the co-channel separation standards set forth in our short-spacing rule if it seeks to operate stations located less than 113 km (70 mi) from an incumbent licensee's facilities. With respect to adjacent market-area licensees, we propose that market-area licensees provide interference protection either by reducing the signal level at their service area boundary, or negotiating some other mutually acceptable agreement with all potentially affected adjacent licensees. We seek comment on these proposals and we invite commenters to provide alternatives.

I. Licensing in Mexican and Canadian Border Areas

61. We recognize that a limited number of lower 80 channels are available for SMR licensing in the Mexican and Canadian border areas. In the *First R&O*, we have decided not to distinguish between border areas and non-border areas for licensing purposes. We propose the same approach for the lower 80 channels in the border areas, *i.e.*, all market areas should be licensed on a uniform basis without distinguishing border from non-border areas, even if some spectrum is unusable. We believe that lower 80 and General Category applicants, like those in the upper 10 MHz block and other services, will be able to assess the impact of more limited spectrum availability when valuing those market areas for competitive bidding purposes. Moreover, we believe that altering the size of particular market areas because they are located near an international border is likely to be administratively unworkable. Thus, we propose that market-area licensees be entitled to use any available border-area channels, subject to the relevant rules regarding international assignment and coordination of such channels. We seek comment on this proposal.

VI. Regulatory Classification of Lower 80 and General Category Channels

62. *Background.* In the *CMRS Third R&O*, we determined that SMR licensees would be classified as CMRS if they offered interconnected service and as Private Mobile Radio Service (PMRS) if they did not offer such service. In the *Further Notice*, we sought comment on whether the presumption of CMRS status should apply to licensees authorized for the lower 80 channels.

63. *Comments.* All of the commenters addressing this issue believe that there should not be a CMRS presumption for the lower 80 channels or any other channels designated primarily for local service. E.F. Johnson and Genesee opine that there is a significant difference between the type of services provided by local SMR systems and wide-area systems. AMTA opines that it is not persuaded that Congress intended to adopt a definition of CMRS so sweeping as to encompass even the smallest, most rural SMR system, irrespective of its practical ability to provide a service substantially similar to cellular or other CMRS systems.

64. *Proposal.* Based on our geographic area licensing proposal for the lower 80 and General Category channels, we believe that it is not evident that the operations of the licensees on these frequencies will be local in nature. In fact, some licensees may desire to establish regional networks on these frequencies. Furthermore, contrary to the suggestion by some commenters, the CMRS definition provided in the Communications Act does not distinguish mobile service providers based on their economic size. Instead, a service provider's regulatory classification is determined based on factors associated with the nature of its operations. In this connection, we believe that the operational opportunities for the lower 80 and General Category channels are not significantly different. Thus, we tentatively conclude that most if not all geographic area licensees on these channels will be classified as CMRS, because they are likely to provide interconnected service as part of their service offering. We therefore propose to classify all geographic area licensees on the lower 80 and General Category channels presumptively as CMRS. We also propose that market-area applicants or licensees who do not intend to provide CMRS service may overcome this presumption by demonstrating that their service does not fall within the CMRS definition. We also propose not to apply this presumption prior to August 10, 1996 in the case of any geographic area licensee who previously was licensed in the SMR service as of August 10, 1993. We seek comment on our tentative conclusion and proposals.

VII. Competitive Bidding Issues for Lower 80 and General Category Channels

A. Auctionability of Lower 80 and General Category Channels

65. In the *Competitive Bidding Eighth R&O*, we affirmed our previous determination that the 800 MHz SMR service is auctionable. In addition, we concluded that use of competitive bidding in the upper 200 channels of 800 MHz SMR spectrum is fully consistent with Section 309(j) of the Communications Act. Because the lower 80 frequencies are SMR channels, and thus a subset of the 800 MHz SMR service, we believe that they also are auctionable. Consistent with our approach regarding the upper 200 channels, we propose to employ competitive bidding as a licensing tool to select among mutually exclusive applicants on the lower 80 channels. We seek comment on this proposal.

66. We also seek comment on whether to adopt equivalent auction procedures for competing applications for General Category channels. In the *Competitive Bidding Eighth R&O*, we determine that in the future the General Category Channels will be licensed exclusively for SMR use. Consistent with our approach for other 800 MHz SMR spectrum, we tentatively conclude that if two or more entities file mutually exclusive initial applications, we intend to use competitive bidding to select from among competing applications.

67. We anticipate that a large number of applicants will file mutually exclusive geographic area applications for SMR operations on General Category frequencies. Competitive bidding will ensure that the qualified applicants who place the highest value on the available spectrum, and who will provide valuable services rapidly to the public, will prevail in the selection process. Thus, we tentatively conclude that all potential conflicts among General Category applicants will not be eliminated by our proposed geographic area licensing scheme. Competitive bidding procedures will be necessary to select from among competing applicants for these channels. We seek comment on this tentative conclusion.

B. Competitive Bidding Design

1. Bidding Methodology

68. *Background.* In the *Second Report and Order* in PP Docket No. 93–253, 59 FR 22980 (May 4, 1994) (*Competitive Bidding Second R&O*) we established criteria to be used in selecting which auction design to use for particular auctionable services. Generally, we concluded that awarding licenses to parties who value them most highly will foster Congress's policy objectives of stimulating economic growth and enhancing access to telecommunications services. We further noted that, because a bidder's ability to introduce valuable new services and to deploy them quickly, intensively, and efficiently increases the value of a license to that bidder, an auction design that awards licenses to those bidders with the highest willingness to pay tends to promote the development and rapid deployment of new services and the efficient and intensive use of the spectrum. In determining how best to promote this objective, we identified several auction design elements which, in combination, produce many different auction types. The two most important design elements are: (1) the number of auction rounds (single or multiple), and (2) the order in which licenses are auctioned (sequentially or simultaneously). These two elements can be combined to create four basic auction designs: sequential

single round, simultaneous single round, sequential multiple round, and simultaneous multiple round.

69. In the *Further Notice*, we noted that because of the non-contiguous nature of the lower 80 channels, there did not appear to be a high degree of interdependency among them. We further noted that the limited geographic scope of the licenses is likely to make them less valuable than the licenses for the spectrum blocks for the upper 200 channels.

70. *Comments.* SBA supports use of single round sealed bidding. Genesee disagrees that one single round of auctions in sealed bidding would be fair, and suggests that at least two rounds be done with 30 day intervals. AMTA does not dispute the Commission's tentative conclusion regarding the appropriate competitive bidding methodology for local licenses. AMTA notes that it is reluctant to suggest an approach that might further complicate what would be an unjustifiably costly and complex process for those entities. AMTA contends that some grouping of frequency blocks and geographic areas might be necessary for this purpose, if the Commission determines to issue local licenses on a geographic, rather than site-specific basis. Morris proposes the use of multiple round auctions for local area licenses, limited to five rounds. Nextel proposes that after relocation is completed, the lower 80 channels and any other spectrum reallocated to exclusive SMR use, be auctioned on a single channel basis.

71. *Proposal.* We seek comment on which of the above auction methodologies should be used for the auction of the lower 80 and General Category licenses. In the *Competitive Bidding Second R&O*, we stated that simultaneous multiple round auctions would be the preferred method where licenses have strong value interdependencies. Accordingly, we have used this method in broadband and narrowband PCS services and the 900 MHz SMR service, and we will use the same methodology for the upper 200 channels in the 800 MHz SMR service.

72. Given our successful experience in conducting simultaneous multiple round auctions, we propose to use this competitive bidding methodology for the lower 80 and General Category channels as well. We seek comment on this proposal. We also note, however, that there is less interdependency between licenses for the lower 80 and General Category channels, both because channel aggregation is not required to provide SMR service and because channel selection may be largely dictated by which channels currently are licensed to incumbents in each license area. We therefore seek comment on alternatives to simultaneous multiple round bidding for these channels. One alternative would be to use the oral outcry method, *i.e.*, sequential multiple round bidding. This method may allow us to conduct auctions expeditiously and in a manner that is not burdensome to applicants.

2. License Grouping

73. *Background.* Depending upon the auction methodology chosen, several alternatives exist for grouping the lower 80 and General Category licenses. For example, the Commission determined in the *Competitive Bidding Second R&O* that in a multiple round auction, highly interdependent licenses should be grouped together and put up for bid at the same time, because such grouping provides bidders with the most information about the prices of complementary and substitutable licenses during the course of an auction. We also determined that the greater the degree of interdependence among the licenses, the greater the benefit of auctioning a group of licenses together in a simultaneous multiple round auction.

74. *Proposal.* We seek comment on how lower 80 and General Category licenses should be grouped for competitive bidding purposes. As noted above, it does not appear that licenses on these channels are likely to be highly interdependent. We therefore propose that lower 80 licenses be grouped in 16 five-channel blocks for each license area. We seek comment on this proposal. We also ask commenters to indicate if there are instances in which licenses on multiple channels should be grouped together for competitive bidding purposes.

75. Assuming that we group lower 80 licenses by 16 five-channel blocks, the issue remains whether all geographic area licenses for specific channel blocks should be grouped together for competitive bidding purposes. Given the large number of licenses, we believe that it would be administratively feasible to employ an additional means of grouping the five-channel blocks. We believe that some licensees may elect to pursue regional service plans. Thus, we propose to group the five-channel blocks on a regional basis. We seek comment on this proposal. We recognize that there are other sets of interdependencies which could form a basis for license grouping. In a simultaneous multiple round auction, for example, we could auction all of the market areas for a five-channel block simultaneously. Alternatively, we could begin with the largest (*i.e.*, most populated) markets and then move to smaller markets. We seek comment on these alternatives as well. Assuming that we group, the licenses on a regional basis, we ask commenters to discuss how the regions should be defined. For example, should the regions be defined by sequential groupings of EAs or some other basis? We also ask commenters to address whether there is a particular order in which the regions should be auctioned.

76. With respect to the General Category channels, which we propose to license in a 120-channel block, 20-channel block and 10-channel block, we believe that these licenses will be significantly interdependent, primarily due to their contiguity. Thus, we propose to auction the General Category geographic area licenses simultaneously. We seek comment on this proposal and any alternatives.

3. Bidding Procedures

77. *Background.* In the *Competitive Bidding Second R&O*, the Commission established general procedures for simultaneous multiple round auctions, including bid increments, duration of bidding rounds, stopping rules, and activity rules. We further noted that these procedures could be modified on a service-specific basis. We seek comment on the bidding procedures that should be used for licensing of the lower 80 and General Category channels.

78. *Bid Increments.* If we use a multiple round auction, we propose to establish minimum bid increments for bidding in each round of the auction, based on the same considerations in the *Competitive Bidding Eighth R&O*. The bid increment is the amount or percentage by which the bid must be raised above the previous round's high bid in order to be accepted as a valid bid in the current bidding round. The application of a minimum bid increment speeds the progress of the auction and, along with activity and stopping rules, helps to ensure that the auction closes within a reasonable period of time. Establishing an appropriate minimum bid increment is especially important in a simultaneous auction with a simultaneous closing rule, because all markets remain open until there is no bidding on any license and a delay in closing one market will delay the closing of all markets. We seek comment on the appropriate minimum bid increments for the lower 80 and General Category channels.

79. For example, if simultaneous multiple round auctions are employed for the lower 80 and General Category licenses, we believe that we should start such auctions with relatively large bid increments, and reduce the increments as the number of active bidders declines. We also propose to adopt a minimum bid increment of five percent of the high bid in the previous round or $0.01 per activity unit, whichever is greater. We believe that applying a $0.01 per activity unit minimum bid increment in addition to the percentage calculation is appropriate to provide flexibility for a wide range of different license values, and to ensure timely closure of auctions. In addition, we propose to retain the discretion to vary the minimum bid increments for individual licenses or groups of licenses at any time before or during the course of the auction, based on the number of bidders, bidding activity, and the aggregate high bid amounts. We also propose to retain the discretion to keep an auction open if there is a round in which no bids or proactive waivers are submitted. We seek comment on these proposals.

80. *Stopping Rules.* If multiple round auctions are used, a stopping rule must be established for determining when the auction is over. Three types of stopping rules exist that could be employed in simultaneous multiple round auctions: markets may close individually, simultaneously, or a hybrid approach may be used. We believe a market-by-market stopping rule is most appropriate for the lower 80 channels given the lack of strong interdependencies among these licenses. We also believe that a market-by-market stopping rule would be the least complex approach from an administrative perspective. Under a market-by-market approach, bidding closes on each license after three rounds pass in which no new acceptable bids are submitted for that particular license. We tentatively conclude that a simultaneous stopping rule is not appropriate for these licenses, because market-by-market closure will provide bidders with sufficient flexibility to bid on the license of their choice. In addition, the complexity of implementation and the vulnerability to strategic delay by bidders seeking to impede closure of the auction outweigh the benefits of a simultaneous stopping rule given the nature of these SMR licenses. With a simultaneous stopping rule, bidding remains open on all licenses until there is no bidding on any license. Under this approach, all markets will close if three rounds pass in which no new acceptable bids are submitted for any license. We seek comment on our tentative conclusions. We also ask commenters to address the advantages and disadvantages of using a hybrid stopping rule. Under a hybrid approach, a simultaneous stopping rule, coupled with an activity rule designed to bring the markets to close within a reasonable period of time, could be used to close auctions with high value licenses. For lower value licenses, the simpler market-by-market closing could be employed. For the General Category licenses, we tentatively conclude that a simultaneous stopping rule is most appropriate, given the significant interdependencies between these licenses. We seek comment on this tentative conclusion. Regardless of which stopping rule we ultimately apply, we further propose to retain the discretion to declare when the auction will end, whether it be after one additional round or some other specified number of rounds. This proposal will ensure ultimate Commission control over the duration of the auction. We seek comment on this proposal.

81. *Activity Rules.* Based on our proposal to employ a market-by-market stopping rule for the lower 80 licenses, we tentatively conclude that it is unnecessary to implement an activity rule. We believe that an activity rule is less important when markets close one-by-one, because failure to participate in any given round may result in losing the opportunity to bid at all, if that round turns out to be the last. We seek comment on this tentative conclusion. We also ask commenters to address what activity rules, if any, would be appropriate if an alternative stopping rule is adopted. For example, in order to ensure that simultaneous auctions with simultaneous stopping rules close within a reasonable period, we believe that it may be necessary to impose an activity rule to prevent bidders from waiting until the end of the auction before participating. Because simultaneous stopping rules generally keep all markets open as long as anyone wishes to bid, they also create incentives for bidders to hold back, until prices approach equilibrium, before making a bid and risking payment of a monetary assessment for withdrawing. We believe that this could lead to very long auctions.

82. Thus, in the *Competitive Bidding Second R&O*, we adopted the Milgrom-Wilson activity rule as our preferred activity rule where a simultaneous stopping rule is used. We subsequently have adopted or proposed the Milgrom-Wilson rule in each of our simultaneous multiple round auctions. The Milgrom-Wilson approach encourages bidders to participate in early rounds by limiting their maximum participation to some multiple of their minimum participation level. Bidders are required to declare their maximum eligibility in terms of activity units, and make the required upfront payment. That is, bidders will be limited to bidding on licenses encompassing no more than the number of activity units covered by their upfront payment. Licenses on which a bidder is the high bidder from the previous round, as well as licenses on which a new valid bid is placed, count toward this activity unit limit. Under this approach, bidders have the flexibility to shift their bids among any licenses for which they have applied, so long as the total activity units encompassed by those licenses does not exceed the number for which they made an upfront payment. Moreover, bidders have the freedom to participate at whatever level they deem appropriate by making a sufficient upfront payment. To preserve their maximum eligibility, however, bidders are required to maintain some minimum activity level during each round of the auction. Accordingly, we propose to employ the Milgrom-Wilson activity rule for the General Category licenses. We seek comment on this proposal and any alternatives.

83. Under the Milgrom-Wilson approach, the minimum activity level, measured as a fraction of the self-declared maximum eligibility, will increase during the course of the auction. For this purpose, Milgrom and Wilson divide the auction into three stages. During the first stage of the auction, a bidder is required to be active on licenses encompassing one-third of the activity units for which it is eligible. The penalty for falling below that activity level is a reduction in eligibility. At this stage, bidder would lose three activity units in maximum eligibility for each activity unit below the minimum required activity level. In other words, each bidder would retain eligibility for three times the activity units for which it is an active bidder, up to the activity units covered by the bidder's upfront payment. In the second stage, bidders are required to be active on two-thirds of the activity units for which they are eligible. The penalty for falling below that activity level would be a loss of 1.5 activity units in eligibility for each activity unit below the minimum required activity level. In the third stage, bidders are required to be active on licenses encompassing all of the activity units for which they are eligible. The penalty for falling below that activity level is a loss of one activity unit in eligibility for each

activity unit below the minimum required activity. Each bidder thus retains eligibility equal to its current activity level (1 times the activity units for which it is an active bidder). We seek comment on this alternative.

84. *Duration of Bidding Rounds.* We propose to retain the discretion to vary the duration of bidding rounds or the interval at which bids are accepted (*e.g.*, run two or more rounds per day rather than one), in order to close the auction more quickly. If this mechanism is used, we most likely would shorten the duration and/or intervals between bidding rounds where there are relatively few licenses to be auctioned, where the value of the licenses is relatively low, or in early rounds to speed the auction process. Where license values are expected to be high or where large numbers of licenses are being auctioned, we propose to increase the duration and/or intervals between bidding rounds. We would announce by Public Notice, and may vary by announcement during an auction, the duration and intervals between bidding rounds. We also propose to announce by Public Notice, before each auction, the stopping rule we adopt. We seek comment on these proposals.

4. Rules Prohibiting Collusion

85. *Background.* In the *Competitive Bidding Second R&O*, as modified on reconsideration, we adopted special rules prohibiting collusive conduct in the context of competitive bidding. In the *Further Notice*, we proposed to apply these rules prohibiting collusion to the 800 MHz SMR service. We want to prevent parties, especially large entities, from agreeing in advance to bidding strategies that divide the market according to their strategic interests and/or disadvantage other bidders. Bidders will be required to (i) reveal all parties with whom they have entered into any agreement that relates to the competitive bidding process, and (ii) certify they have not entered into any explicit or implicit agreements, arrangements, or understandings with any parties, other than those identified, regarding the amount of their bid, bidding strategies, particular properties on which they will or will not bid or any similar agreement.

86. *Proposals.* We tentatively conclude that we should subject the lower 80 and General Category licenses to the reporting requirements and rules prohibiting collusion embodied in Sections 1.2105 and 1.2107 of the Commission's rules. Specifically, we propose to implement Section 1.2105(a) to require bidders to identify on their short-form applications all parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate to the competitive bidding process. We propose to apply Section 1.2105(c) of our rules, which prohibits bidders from communicating with one another (if they have applied for any of the same markets) regarding the substance of their bids or bidding strategies after short-form applications (FCC Form 175) have been filed. Section 1.2105(c) also prohibits bidders from entering into consortium arrangements or joint bidding agreements after the deadline for short-form applications has passed. Prohibited communications between such bidders cannot take place directly or indirectly.

87. Further, in the *Fourth Memorandum Opinion and Order* in PP Docket No. 93–253, 59 FR 53364 (October 24, 1994), we noted that communications among bidders concerning matters unrelated to the license auction would be permitted. In making this proposal, it is not our intent to discourage potential applicants from entering into consortia, joint ventures, or similar joint bidding arrangements for geographic area licenses prior to the short form filing deadline. To the contrary, we intend to provide parties with time to negotiate such arrangements before the start of the application process. To avoid compromising the auction process, however, such negotiations must end at the point that short forms are filed. As in other services, we also propose to require winning bidders to submit with their long-form application a detailed explanation of the terms, conditions and parties involved in any auction-related consortium, joint venture, partnership, or other agreement entered into prior to the close of bidding. We seek comment on these proposals.

C. Procedural and Payment Issues

1. Pre-Auction Application Procedures

88. *Background.* In the *Competitive Bidding Second R&O*, the Commission established general competitive bidding rules and procedures, which we noted may be modified on a service-specific basis. We also determined that we should require only a short-form application (FCC Form 175) prior to auction, and that only winning bidders should be required to submit a long-form license application (FCC Form 600) after the auction. In this connection, we determined that such a procedure would fulfill the statutory requirements and objectives and adequately protect the public interest.

89. As discussed below, we propose to follow generally the processing and procedural rules established in the *Competitive Bidding Second R&O*, with certain modifications designed to address the particular characteristics of the lower 80 and General Category licenses. These proposed rules are structured to ensure that bidders and licensees are qualified and will be able to construct systems quickly and offer service to the public. By ensuring that bidders and license winners are serious, qualified applicants, these proposed rules will minimize the need to re-auction licenses and prevent delays in the provision of SMR services to the public.

90. Section 309(j)(5) of the Communications Act provides that no party may participate in an auction "unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing." Moreover, "[n]o license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to Section 309(a) and Section 308(b) and 310" of the Communications Act. As the legislative history of Section 309(j) makes clear, the Commission may require that bidders' applications contain all information and documentation sufficient to demonstrate that the application is not in violation of Commission rules, and we propose to dismiss applications not meeting those requirements prior to the competitive bidding.

91. Under this proposal, before the auction for the lower 80 and General Category channels, the Bureau would release an initial Public Notice announcing the auction. The initial Public Notice would specify the licenses to be auctioned and the time and place of the auction in the event that mutually exclusive applications are filed. The Public Notice would specify the method of competitive bidding to be used, applicable bid submission procedures, stopping rules, activity rules, and the deadline by which short-form applications must be filed and the amounts and deadlines for submitting the upfront payment. We would not accept applications filed before or after the dates specified in the Public Notice. Applications submitted before the release of the Public Notice would be returned as premature. Likewise, applications submitted after the deadline specified by the Public Notice would be dismissed, with prejudice, as untimely. We seek comment on these proposals.

92. Soon after the release of the initial Public Notice, a Bidder's Information Package will be made available to prospective bidders. The Bidder's Information Package will contain information on the incumbents occupying blocks on which bidding will be available. Incumbents will be expected to update information on file with the Commission, such as current address and phone number, so that such information will be of use to prospective bidders.

93. Under this proposal, all bidders would be required to submit short-form applications on FCC Form 175 (and FCC Form 175–S, if applicable), by the date specified in the initial Public Notice. Applicants would be encouraged to file Form 175 electronically. Detailed instructions regarding electronic filing would be contained in the Bidder Information Package. Those applicants filing manually would be required to submit one paper original and one microfiche original of their application, as well as two microfiche copies. The short form applications would require applicants to provide the information required by Section 1.2105(a)(2) of the Commission's rules. Specifically, each applicant would be required to specify on its Form 175 application certain identifying information, including its status as a designated entity (if applicable), its classification (*i.e.*, individual, corporation, partnership, trust, or other), the license areas and frequency blocks for which it is applying, and assuming that the licenses will be auctioned, the names of persons authorized to place or withdraw a bid on its behalf.

94. As we indicated in the *Competitive Bidding Second R&O*, if we receive only one application that is acceptable for filing for a particular license, and thus there is no mutual exclusivity, we propose to issue a Public Notice cancelling the auction for this license and establishing a date for the filing of a long-form application, the acceptance of which would trigger the procedures permitting petitions to deny. If no petitions to deny are filed, the application would be grantable after 30 days. We seek comment on the proposals discussed above.

2. Amendments and Modifications

95. *Background.* To encourage maximum bidder participation, we proposed in the *Competitive Bidding Second R&O* to provide applicants with an opportunity to correct minor defects in their short-form applications prior to the auction. We stated that applicants whose short-form applications are substantially complete, but contain minor errors or defects, would be provided an opportunity to correct their applications prior to the auction. In the broadband PCS context, we modified our rules to permit ownership changes that result when consortium investors drop out of bidding consortia, even if control of the consortium changes due to this restructuring. In the *CMRS Third R&O*, we decided to adopt the same or similar definitions for initial applications and major and minor amendments and modifications for all CMRS in Part 22 and Part 90, in order to facilitate similar system proposals and modifications for equal treatment of substantially similar services.

96. On the date set for submission of corrected applications, applicants that discover minor errors in their own applications (*e.g.*, typographical errors, incorrect license designations, etc.) also would be permitted to file corrected applications. Recently, the Commission waived the *ex parte* rules as they applied to the submission of amended short-form applications for the A and B blocks of the broadband PCS auctions, to maximize applicants' opportunities to seek Commission staff advice on making such amendments. We propose to apply the same principles to the SMR auctions. Under this proposal, applicants would not be permitted to make any major modifications to their applications, including changes in license areas and changes in control of the applicant, or additions of other bidders into the bidding consortia, until after the auction. Applicants could modify their short-form applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided such changes would not result in a change in control of the applicant, and provided that the parties forming consortia or entering into ownership agreements have not applied for licenses in any of the same geographic license areas. In addition, applications that are not signed would be dismissed as unacceptable.

97. Upon our review of the short-form applications, we propose to issue a Public Notice listing all defective applications, and applicants with minor defects would be given an opportunity to cure errors and resubmit a corrected version. After reviewing the corrected applications, the Commission would release a second Public Notice announcing the names of all applicants whose applications have been accepted for filing. These applicants would be required to submit an upfront payment to the Commission, as discussed below, to the Commission's lock-box by the date specified in the Public Notice, which generally would be no later than 14 days before the scheduled auction. After the Commission receives from its lock-box bank the names of all applicants who have submitted timely upfront payments, the Commission would issue a third Public Notice announcing the names of all applicants that are determined qualified to bid. An applicant who fails to submit a sufficient upfront payment to qualify it to bid on any license being auctioned would not be identified on this Public Notice as a qualified bidder. Each applicant listed on this Public Notice would be issued a bidder identification number and further information and instructions regarding auction procedures. We seek comment on the proposals discussed above.

3. Upfront Payments

98. *Background.* In the *Competitive Bidding Second R&O*, we established a minimum upfront payment of $2,500 and stated that this amount could be modified on a service-specific basis. In the *Further Notice*, we proposed to require 800 MHz SMR auction participants to tender in advance to the Commission a substantial upfront payment, $0.02 per activity unit for the largest combination of activity units a bidder anticipates bidding on in any round, as a condition of bidding in order to ensure that only serious, qualified bidders participate in auctions and to ensure payment of the penalty (discussed *infra*) in the event of bid withdrawal or default. We also sought comment on the upfront payment formula and minimum upfront payment most appropriate for the 800 MHz SMR service.

99. *Proposals.* As in the case of other auctionable services, we propose to require participants for the lower 80 and General Category auction to tender in advance to the Commission a substantial upfront payment as a condition of bidding, in order to ensure that only serious, qualified bidders participate in auctions and to ensure payment of the additional monetary assessments in the event of bid withdrawal or default. For services that are licensed by simultaneous multiple round auction, we have established a standard upfront payment formula of $0.02 per activity unit for the largest combination of activity units a bidder anticipates bidding on in any single round of bidding. We tentatively conclude that a minimum $2,500 upfront payment should be required, regardless of the bidding methodology we employ. We seek comment on our proposal regarding the appropriate minimum upfront payment for

applications for the lower 80 or General Category channels. In particular, we seek comment on whether a minimum upfront payment of $2,500 is sufficient to discourage frivolous or speculative bidders in the auction process.

100. We tentatively conclude that upfront payments should be due no later than 14 days before a scheduled auction. This period should be sufficient to allow the Commission to process upfront payment data and release a Public Notice listing all qualified bidders. The specific procedures to be followed in the tendering and processing of upfront payments are set forth in Section 1.2106 of the Commission's rules.

4. Down Payment and Full Payment

101. *Background.* In the *Competitive Bidding Second R&O,* we generally required successful bidders to tender a 20 percent down payment on their bids to discourage default between the auction and licensing and to ensure payment of the penalty if such default occurs. We concluded that this requirement was appropriate to ensure that auction winners have the necessary financial capabilities to complete payment for the license and to pay for the costs of constructing a system, while not being so onerous as to hinder growth or diminish access. In the *Further Notice,* we proposed to require the winning bidders for 800 MHz SMR licenses to supplement their upfront payments with down payments sufficient to bring their total deposits up to 20 percent of their winning bid(s).

102. *Proposals.* We propose to apply the 20 percent down payment requirement to winning bidders for lower 80 and General Category licenses. Such a down payment would be due within five business days following the Public Notice announcing the winning bidders. We further propose that auction winners be required to pay the full balance of their winning bids within five business days following Public Notice that the Commission is prepared to award the license. We seek comment on this proposal.

103. To the extent that an auction winner is eligible to make payments through an installment plan (small businesses, as proposed *infra*), we propose to apply different down payment requirements. Such an entity would be required to bring its deposit with the Commission up to five percent of its winning bid after the bidding closes (this amount would include the upfront payment), and would have to pay an additional five percent of its winning bid to the Commission within five business days following Public Notice that the Commission is prepared to award the license. We seek comment on whether a minimum upfront payment of $2,500 is sufficient to discourage frivolous or speculative bidders in the auction process.

5. Bid Withdrawal, Default, and Disqualification

104. *Background.* In the *Further Notice,* we proposed to adopt bid withdrawal, default, and disqualification rules for the 800 MHz SMR service based on the procedures established in our general competitive bidding rules. In the *Competitive Bidding Second R&O,* we noted that it is critically important to the success of our competitive bidding process that potential bidders understand that there will be a substantial penalty assessed if they withdraw a high bid, are found not to be qualified to hold licenses, or default on payment of a balance due. If a bidder withdraws a high bid before the Commission closes bidding or defaults by failing to timely remit the required down payment, it would be required to reimburse the Commission for any differences between its high bid and the amount of the winning bid, if the winning bid is lower. A defaulting auction winner also would be assessed three percent of either the subsequent winning bid or the amount of the defaulting bid, whichever is less.

105. *Proposal.* We propose to adopt bid withdrawal, default, and disqualification rules for the lower 80 and General Category licenses based on the procedures in our general competitive bidding rules. Under these procedures, any bidder who withdraws a high bid during an auction before the Commission declares bidding closed, or defaults by failing to remit the required down payment within the prescribed time, would be required to reimburse the Commission. The bidder would be required to pay the difference between its high bid and the amount of the winning bid the next time the license is offered by the Commission, if the subsequent winning bid is lower. A defaulting auction winner would be assessed an additional payment of three percent of the subsequent winning bid or three percent of the amount of the defaulting bid, whichever is less. The monetary assessment would be offset by the upfront payment. In the event that an auction winner defaults or is otherwise disqualified, we propose to re-auction the license either to existing or new applicants. The Commission would retain discretion, however, to offer the license to the next highest bidder at its final bid level if the default occurs within five business days of the close of bidding. We seek comment on these proposed procedures.

6. Long-Form Applications

106. *Background.* In the *Competitive Bidding Second R&O,* we established rules that require a winning bidder to submit a long-form application. The long-form application is required to be filed by a specific date, generally within ten business days after the close of the auction. We stated that after we received the high bidder's down payment and the long-form application, we would review the long-form application to determine if it is acceptable for filing. Once the long-form application is accepted for filing, we stated that we would release a Public Notice announcing this fact, triggering the filing window for petitions to deny. We also stated that if, pursuant to Section 309(d), we deny or dismiss all petitions to deny, if any are filed, and we otherwise are satisfied that the applicant is qualified, we would grant the license(s) to the auction winner. In the *Further Notice,* we proposed to use application procedures similar to those used for licensing PCS. Consistent with our approach in PCS, we proposed to require only the winning bidder to file a long-form application (FCC Form 600).

107. *Proposal.* If the winning bidder makes the down payment in a timely manner, we propose the following procedures: A long-form application filed on FCC Form 600 must be filed by a date specified by Public Notice, generally within ten (10) business days after the close of bidding. After the Commission receives the winning bidder's down payment and long-form application, we will review the long-form application to determine if it is acceptable for filing. In addition to the information required in the Form 600, designated entities will be required to submit evidence to support their claim to any special provision available for designated entities described in this Order. This information may be included in an exhibit to FCC Form 600. This information will enable the Commission, and other interested parties, to ensure the validity of the applicant's certification of eligibility for bidding credits, installment payment options, and other special provisions. Upon acceptance for filing of the long-form application, the Commission will issue a Public Notice announcing this fact, triggering the filing window for petitions to deny. If the Commission denies all petitions to deny, and is otherwise satisfied that the applicant is qualified, the license(s) will be granted to the auction winner. We seek comment on this proposal.

7. Petitions to Deny and Limitations on Settlements

108. *Background.* We determined in the *Competitive Bidding Second R&O* that the procedures concerning petitions to deny found in Section 309(j)(2) of the Communications Act, should apply to competitive bidding. We determined that we would adopt expedited procedures to resolve substantial and material issues of fact concerning qualifications. We stated that we would entertain petitions to deny the application of the auction winner if the petitions to deny otherwise are provided for under the Communications Act or our rules. We then determined that we would not conduct a hearing before denial if we determined that an applicant is not qualified and no substantial and material issue of fact exists concerning that determination. We also stated that if we identified substantial and material issues of fact in need of resolution, Sections 309(j)(5) and 309(j)(2) of the Communications Act permit submission of all or part of evidence in written form, and also allow employees other than administrative law judges to preside at the taking of written evidence. Additionally, we previously have stated that our anti-collusion and settlement procedures were designed to avoid the problem of entities filing applications solely for the purpose of demanding payment from other bidders in exchange for settlement or withdrawal.

109. As we have determined, the petition to deny procedures in Section 90.163 of the Commission's rules, adopted in the *CMRS Third R&O,* will apply to the processing of applications for the 800 MHz SMR service. Thus, a party filing a petition to deny against an application for the lower 80 and General Category channels will be required to demonstrate standing and meet all other applicable filing requirements. We also have adopted restrictions in Section 90.162 to prevent the filing of applications and pleading (or threats of the same) designed to extract money from SMR applicants. Thus, we will limit the consideration that an applicant or petitioner is permitted to receive for agreeing to withdraw an application or a petition to deny to the legitimate and prudent expenses of the withdrawing applicant or petitioner.

110. With respect to petitions to deny, the Commission need not conduct a hearing before denying an application, if it determines that an applicant is not qualified and no substantial issue of fact exists concerning that determination. In the event the Commission identifies substantial and material issues of fact, Section 309(i)(2) of the Communications Act permits the submission of all or part of evidence in written form in any hearing and allows employees other than administrative law judges to preside over the taking of written evidence. We seek comment on these proposals.

8. Transfer Disclosure Requirements

111. In Section 309(j) of the Communications Act, Congress directed the Commission to "require such transfer disclosures and anti-trafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits." In the *Competitive Bidding Second R&O,* the Commission adopted safeguards designed to ensure that the requirements of Section 309(j)(4)(E) are satisfied. We decided that it was important to monitor transfers of licenses awarded by competitive bidding to accumulate the necessary data to evaluate our auction designs and to judge whether "licenses [have been] issued for bids that fall short of the true market value of the license." Therefore, we imposed a transfer disclosure requirement on licenses obtained through the competitive bidding process, whether by a designated entity or not.

112. We tentatively conclude that the transfer disclosure requirements of Section 1.2111(a) should apply to all lower 80 and General Category licenses obtained through the competitive bidding process. Generally, licensees transferring their licenses within three years after the initial license grant would be required to file, together with their transfer applications, the associated contracts for sale, option agreements, management agreements, and all other documents disclosing the total consideration received in return for the transfer of their license. As we indicated in the *Competitive Bidding Second R&O,* we would give particular scrutiny to auction winners who have not yet begun commercial service and who seek approval for a transfer of control or assignment of their licenses within three years after the initial license grant, so that we may determine if any unforeseen problems relating to unjust enrichment have arisen outside the designated entity context. We seek comment on these proposals.

9. Performance Requirements

113. Section 309(j)(4)(B) of the Communications Act requires the Commission to establish rules for auctionable services that "include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services." In the *Competitive Bidding Second R&O,* we decided that in most auctionable services, existing construction and coverage requirements provided in our service rules would be sufficient to meet this standard, and that it was unnecessary to impose additional performance requirements. We have proposed service rules for SMR that would require market-area licensees to meet minimum population coverage requirements in their licensing areas. We tentatively conclude that these proposed coverage requirements are sufficient to meet the requirements of Section 309(j)(4)(B). As discussed *supra,* we propose that failure to meet these requirements would result in automatic license cancellation. Accordingly, we do not propose to adopt additional performance requirements for the lower 80 and General Category licenses. We seek comment on this proposal.

D. Treatment of Designated Entities

1. Overview and Objectives

114. Section 309(j)(3)(B) of the Communications Act provides that in establishing auction eligibility criteria and bidding methodologies, the Commission shall "promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." Section 309(j)(4)(A) provides that to promote the statute's objectives the Commission shall "consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods * * * and combinations of such schedules and methods."

115. In the *Competitive Bidding Second R&O,* we established eligibility criteria and general rules regarding special measures for small businesses, rural telephone companies, and businesses owned by women and minorities (sometimes referred to collectively as "designated entities"). We also identified several measures, including installment payments, spectrum set-asides, and bidding

credits, from which we could choose when establishing rules for auctionable services. We stated that we would decide whether and how to use these special provisions, or others, when we developed specific competitive bidding rules for particular services. In addition, we set forth rules designed to prevent unjust enrichment by designated entities who transfer ownership in licenses obtained through the use of these special measures or who otherwise lose their designated entity status.

116. When deciding which provisions to adopt to encourage designated entity participation in particular services, we have closely examined the specific characteristics of the service and determined whether any particular barriers to accessing capital have stood in the way of designated entity opportunities. In accordance with our statutory directive, we have adopted measures designed both to enhance the ability of designated entities to acquire licenses and to increase the likelihood that designated entity licensees will become strong competitors in the provision of wireless services. In narrowband PCS, for instance, we provided installment payments for small businesses and bidding credits for minority-owned and women-owned businesses. In broadband PCS, we designated certain spectrum blocks as entrepreneurs' blocks, allowed entrepreneurs' block licensees to make installment payments, and provided bidding credits for designated entities. In 900 MHz SMR, we adopted bidding credits and installment payments for small businesses. In the 800 MHz SMR service, we did not adopt special provisions for designated entities, with respect to the upper 200 channels. We nonetheless indicated that such approach would meet the statutory objectives of promoting economic opportunity and competition, avoiding excessive concentration of licenses, and ensuring access to new and innovative technologies by designated entities. As discussed in greater detail below, we seek comment on the type of designated entity provisions that should be incorporated into our competitive bidding procedures for the lower 80 and General Category channels.

2. Eligibility for Designated Entity Provisions

a. Small Businesses. i. Special Provisions. 117. *Proposal.* We tentatively conclude that it is appropriate to establish special provisions for small businesses in our competitive bidding rules for the lower 80 and General Category channels. We note that Congress specifically cited the needs of small businesses in enacting auction legislation. The House Report states that the statutory provisions related to installment payments were enacted to "ensure that all small businesses will be covered by the Commission's regulations, including those owned by members of minority groups and women." It also states that the provisions in Section 309(j)(4)(A) relating to installment payments were intended to promote economic opportunity by ensuring that competitive bidding inadvertently does not favor incumbents with "deep pockets" over new companies or start-ups.

118. In addition, Congress made specific findings with regard to access to capital in the Small Business Credit and Business Opportunity Enhancement Act of 1992: that "small business concerns, which represent higher degrees of risk in financial markets than do large businesses, are experiencing increased difficulties in obtaining credit." As a result of these difficulties, Congress resolved to consider carefully legislation and regulations "to ensure that small business concerns are not negatively impacted" and to give priority to passage of "legislation and regulations that enhance the viability of small business concerns." For these reasons, and as discussed in greater detail below, we tentatively conclude that small businesses applying for these licenses should be entitled to some form of bidding credit and should be allowed to pay their bids in installments. This is consistent with our approach in the 900 MHz SMR service. We seek comment on this tentative conclusion.

ii. Definition. 119. *Comments.* DCL Associates and Dru Jenkinson, *et al.* suggest that we adopt the SBA definition of small business initially adopted in the *Competitive Bidding Second Report and Order.* Under that definition, a "small business" is one which has a net worth not in excess of $6 million with average net income for the two preceding years not in excess of $2 million. Morris recommends using the small business definition utilized by the Internal Revenue Service. The SBA opines that a revenue test remains the best and least problematic guideline for determining whether a business is small. AMTA suggests that the better approach for the 800 MHz SMR service would be to incorporate preferential provisions for existing operators.

120. Several commenters offer other small business definitions. AMI suggests that small businesses be defined to have 30 channels licensed or managed and/or less than $540,000 in current system revenues. Genesee suggests using the U.S. Chamber of Commerce standard for retail/service companies of less than $5.5 million annually. Genesee and the SBA believe that the PCS small business definition, with a $40 million maximum would be inappropriate for the 800 MHz SMR service. The SBA believes that a smaller revenue figure, such as $15 million, would be more appropriate.

121. *Proposal.* We seek comment on the appropriate definition of "small business" to be applied for purposes of the bidding credits proposed above. We have stated previously that we would define eligibility requirements for small businesses on a service-specific basis, taking into account the capital requirements and other characteristics of each particular service in establishing the appropriate threshold. In broadband PCS and regional narrowband PCS, we defined small businesses based on a $40 million annual revenue threshold. In the 220 MHz service, we have proposed two small business definitions: (1) for purposes of bidding on a nationwide or regional license, small businesses would be defined as entities with $15 million in average gross revenues for the preceding three years; and (2) for purposes of bidding on EA licenses, small businesses be would be defined as entities with $6 million in average gross revenues for the preceding three years. After considering the record in the 900 MHz proceeding, we concluded that both $15 million and $3 million small business definitions were warranted, which would entitle applicants for MTA licenses to 10 percent and 15 percent bidding credits respectively.

122. In conjunction with our proposal to provide two levels of bidding credits, we propose to establish two small business definitions: to obtain the 10 percent bidding credit, an applicant would be limited to $15 million in average gross revenues for the previous three years; to obtain the 15 percent credit, the applicant would be limited to $3 million in gross revenues for the previous three years. In both cases, we would require the applicant to aggregate the gross and revenues of its affiliates and investors for the preceding three years for purposes of determining eligibility. These proposed thresholds are comparable to what we have adopted in 900 MHz SMR, and they reflect our tentative view of the capital requirements and potential barriers to entry in the 800 MHz SMR service. We seek comment on whether these thresholds, and the proposed bidding credit amounts associated with them, are sufficient for the lower 80 and General Category Channels in light of the build-out costs associated with constructing an SMR system throughout a market area, or whether alternative definitions would be more suitable. We also seek comment on whether our proposed small business definitions are sufficiently restrictive to protect against businesses receiving bidding credits which in fact do not need them.

b. Minority- and Women-Owned Businesses. 123. *Background.* Prior to the Supreme Court's decision in *Adarand Constructors, Inc.* v. *Peña*, we concluded that in the licensing of broadband and narrowband PCS, minority and women-owned businesses might have difficulty accessing sufficient capital to be viable auction participants or service providers, in the absence of special provisions in our auction rules. We therefore adopted special provisions for minorities and women in these services. We further determined that such provisions were constitutional under the "intermediate scrutiny" standard used in *Metro Broadcasting, Inc.* v. *FCC.*

124. In *Adarand*, however, the Supreme Court ruled that racial classifications imposed by the federal government are subject to strict scrutiny. This holding will apply to any proposal to incorporate race-based measures into our rules; thus, it introduces an additional level of complexity to implementing Congress' mandate to ensure that businesses owned by minorities and women are provided "the opportunity to participate in the provisions of spectrum-based services." We emphasize that we have not concluded that race or gender-based measures are unconstitutional or otherwise inappropriate for spectrum auctions we will hold in the future. At a minimum, however, we believe that *Adarand* requires us to build a thorough factual record concerning the participation of minorities and women in spectrum-based services to support race- and gender-based measures.

125. *Comments.* DCL Associates and Dru Jenkinson, *et al.*, the only commenters addressing this specific issue, propose that the PCS definitions of minority- and/or female-controlled firms should be utilized in the 800 MHz SMR service. Dru Jenkinson, *et al.* further suggest that there should be no difference in eligibility requirements for the wide-area and local licenses.

126. *Proposal.* We propose to adopt special provisions in the lower 80 and General Category competitive bidding rules for small businesses. We believe that such provisions can be structured in a way that would increase the likelihood of participation by women- and minority-owned businesses. In adopting designated entity measures for PCS, for example, we noted that such targeted provisions might not be necessary in services that are less capital intensive. We consider 800 MHz SMR to be significantly less capital-intensive than PCS and some other wireless services. In addition, we anticipate that our proposal to license each channel separately on an EA basis will mean lower entry costs for applicants. We also expect that the vast majority of minority and women-owned businesses will be able to qualify as small businesses under any definition we adopt. For example, U.S. Census Data shows that approximately 99 percent of all women-owned businesses and 99 percent of all minority-owned businesses generated net receipts of $1 million or less. Finally, in light of the statute's instruction to "design and test multiple alternative methodologies" we believe that it would be suitable to use more uniform measures for the lower 80 and General Category channels, because capital entry requirements are expected to be comparatively lower than other CMRS services. We seek comment on this proposal.

127. We also request comment on the possibility that in addition to small business provisions, separate provisions for women- and minority-owned entities should be adopted for the lower 80 and General Category channels. To comply with the Supreme Court's ruling in *Adarand*, any race-based classification must be a narrowly tailored measure that furthers a compelling governmental interest. We also believe that gender-based provisions, although not addressed in *Adarand*, should be subject to the broadest possible comment. We therefore ask that commenters discuss whether the capital requirements of the 800 MHz SMR service pose a barrier to entry by minorities and women, and whether assisting women and minorities to overcome such a barrier, if it exists, would constitute a compelling government interest. In particular, we seek comment on the actual costs associated with acquisition, construction, and operation of an 800 MHz SMR system with a service area based on a pre-defined geographic area and the proportion of existing 800 MHz SMR businesses that are owned by women and minorities. We also seek comment on the analytical framework for establishing a history of past discrimination in the 800 MHz SMR industry and urge parties to submit evidence (statistical, documentary, anecdotal or otherwise) about patterns or actual cases of discrimination in this and related communications services. Assuming that a compelling government interest is established, we seek comment on whether separate provisions for women and minorities are necessary to further this interest, and whether such provisions can be narrowly tailored to satisfy the strict scrutiny standard.

c. Reduced Down Payment. 128. *Background.* In the *Competitive Bidding Second R&O*, we noted that reduced upfront payments particularly may be appropriate for auctions of spectrum specifically set aside for designated entities as a means of encouraging participation in the auction, particularly by all eligible designated entities. For broadband PCS, we reduced the upfront payment requirement for designated entities in the entrepreneurs—blocks, observing that requiring full compliance with the upfront payment could discourage auction participation by designated entities.

129. *Comments.* Several commenters support offering a reduced upfront payment option to designated entities. DCL Associates strongly supports availability of reduced upfront payments for minority- and/or women-owned businesses. Dru Jenkinson, Inc., *et al.*, on the other hand, support offering the reduced upfront payment option to all designated entities. To encourage the participation of designated entities in an auction for a geographic area licenses, Pittencrief does not oppose a reduced upfront payment. Southern opines, however, that if the Commission imposes a higher than usual upfront payment, as other commenters suggest, then a reduced upfront payment option will not do much to facilitate participation by designated entities in the auctions for wide-area licenses.

130. *Proposal.* We propose to adopt reduced upfront payments for small businesses for geographic licenses on the lower 80 and General Category channels. We believe that this special provision will encourage participation in the auction by eligible designated entities. We seek comment on this proposal and tentative conclusion..

3. Bidding Credits

131. *Background.* Bidding credits allow eligible designated entities to receive a payment discount (or credit) for their winning bid in an auction. In the *Competitive Bidding Second R&O*, we determined that competitive bidding rules applicable to individual services would specify the entities eligible for bidding credits and the bidding credit amounts for each particular service. As a result, we have adopted a variety of bidding credit provisions for small businesses and other designated entities

in auctionable services. In the nationwide narrowband PCS auction, for example, we established a 25 percent bidding credit for minority and women-controlled businesses, while a 40 percent credit was used in the regional narrowband PCS auction. In broadband PCS, our pre-*Adarand* entrepreneurs' block rules included a 10 percent bidding credit for small businesses, a 15 percent credit for businesses owned by minorities or women, and an aggregated 25 percent credit for small businesses owned by women and/or minorities. In the Multipoint Distribution Service (MDS), we allowed small businesses a 15 percent bidding credit. In the 900 MHz SMR service, we adopted a 15 percent bidding credit for small businesses with gross revenues that are not more than $3 million for the preceding three years and a 10 percent bidding credit for small businesses with gross revenues that are more than $3 million but not more than $15 million for the preceding three years. Finally, in the 220 MHz service, we proposed a 40 percent small business bidding credit for nationwide and regional licenses and a 10 percent bidding credit for smaller EA licenses.

132. *Comments.* Few commenters addressed whether special provisions should be provided for businesses owned by minorities and/or women in the 800 MHz SMR auctions. With respect to bidding credits, Morris, Pittencrief, DCL Associates, Dru Jenkinson, *et al.* and the SBA support the Commission's proposal to provide bidding credits for such entities. DCL Associates, Dru Jenkinson, *et al.*, and the SBA support a forty percent bidding credit for minority-and women-owned entities for wide-area licenses. The SBA further supports affording minority- and women-owned entities a twenty-five percent bidding credit for local SMR licenses. Other commenters, however, oppose giving such entities any type of bidding credit. AMI opines that a bidding credit would be inappropriate, based on the uncertainty of the value of wide-area licenses at auction. Dial Call opposes bidding credits, contending the questionable constitutionality of such provisions only would serve to delay the ultimate resolution of the proceeding.

133. *Proposal.* We seek comment on the appropriate level of bidding credit for the lower 80 and General Category channels, in comparison to the services discussed above. We also seek comment on the possibility of offering "tiered" bidding credits for different classes of small businesses. We note that small businesses may vary in their ability to raise capital, depending on their size and gross revenues. By offering levels of bidding credits which depend on the size of the small business, we could increase the likelihood that the full range of small businesses would be able to participate in an auction and potentially provide service. We therefore propose to establish two levels of bidding credits: a 10 percent bidding credit for all small businesses, and a 15 percent credit for small businesses that meet a more restrictive gross revenue threshold. We believe that tiered bidding credits can help achieve our statutory objective under Section 309(j)(3)(B), by providing varying sizes of small businesses with a meaningful opportunity to obtain SMR licenses. We seek comment on this proposal.

134. We also seek comment on the degree to which the revenues of affiliates and major investors should be considered in determining small business eligibility. For example, in determining whether a PCS applicant qualifies as a small business, we include the gross revenues of the applicant's affiliates and investors with ownership interests of twenty-five percent or more in the applicant, but we do not attribute the gross revenues of investors who hold less than a twenty-five percent interest in the applicant unless they are members of the applicant's control group. We seek comment on what attribution standard should be applied to 800 MHz SMR applicants seeking to qualify as small businesses. Would a smaller attribution standard be more appropriate?

135. We propose to make the small business bidding credit available on all lower 80 and General Category Channels that are licensed on a market-area basis. We recognize that this would be a departure from our 900 MHz SMR rules, in which we offered bidding credits to small businesses on any available channel block. Our proposal is consistent, however, with our PCS rules in which bidding credits are available only on designated channels. We seek comment on this proposal. We also seek comment on whether there is a reasonable basis for providing credits on some channels and not others.

4. Installment Payments

136. *Background.* We previously have indicated that in the future we would not necessarily limit the availability of installment payments to small businesses, but would consider offering the installment option (with varying rates and payment schedules) to other classes of designated entities.

137. *Comments.* AMI, CellCall, DCL Associates, Genesee, Pittencrief, and the SBA support the proposal that small businesses be eligible for installment payments. AMI opines that the availability of installment payments may prove useful in facilitating the participation of small operators in the 800 MHz SMR auctions. In addition, CellCall, DCL Associates, and Morris advocate that the Commission afford small businesses reduced upfront payments. Telecellular believes that the Commission should maximize the opportunities for small businesses by granting them bidding credits. Telecellular suggests adoption of the bidding credits provided under the Commission's broadband PCS designated entity provisions.

138. DCL Associates strongly supports the availability of installment payments for minority and/or women-owned businesses. Pittencrief does not object to offering installment payments as a means to encourage participation of designated entities in the auctions for wide-area licenses.

139. *Proposal.* We propose to adopt an installment payment option for small businesses that successfully bid for lower 80 and General Category licenses. As we noted in the *Competitive Bidding Second R&O*, allowing installment payments reduces the amount of private financing needed by prospective small business licensees and therefore mitigates the effect of limited access to capital by small businesses. Under this proposal, licensees who qualify for installment payments would be entitled to pay their winning bid amount in quarterly installments over the ten-year license term, with interest charges to be fixed at the time of licensing at a rate equal to the rate for ten-year U.S. Treasury obligations plus 2.5 percent. In addition, we propose to tailor installment payments to reflect the needs of different size entities. Under our proposal, small businesses with $3 million or less in gross revenues would make interest-only payments for the first five years of the license term, while small businesses with $15 million or less in gross revenues would make interest-only payments during the first two years. We believe that this installment payment structure, which is consistent with our approach in 900 MHz SMR and the upper 200 channels, will enable entities with less immediate access to capital to increase their chances of obtaining licenses. Timely payment of all installments would be a condition of the license grant and failure to make timely payment would be grounds for revocation of the license. We seek comment on this proposal.

5. Set-Aside Spectrum

140. *Background.* In the *Competitive Bidding Eighth R&O*, we determined that designation of an entrepreneur's block for the upper 200 channels was not feasible. In the *Further Notice*, we indicated that an entrepreneurs' block could be feasible for the lower 80 channels which we contemplated would be used primarily by smaller SMR operators.

141. *Proposal.* We tentatively conclude that the lower 80 and the General Category Channels should be designated as an entrepreneurs' block. Such a designation would ensure that smaller SMR operators would have opportunities to maintain competitive and viable systems and also to pursue wide-area licensing strategies should they desire to do so. In our broadband PCS rules where we have authorized entrepreneurs' block licenses, we have required entrepreneurs to comply with financial caps based on gross revenues and total assets over a certain period of time. Because the 800 MHz SMR service is less capital-intensive than PCS, we believe that the entrepreneurs' block financial caps in the 800 MHz SMR service should be set at a lower level than those in broadband PCS. We seek comment on the feasibility of designating the lower 80 and General Category channels as an entrepreneurs' block. We also ask commenters to discuss what would be appropriate financial caps for such entrepreneurs' block.

6. Unjust Enrichment Provisions

142. *Background.* In the *Competitive Bidding Second R&O*, we indicated that licensees that received bidding credits and installment payments and also chose to transfer their licenses to entities not eligible for these benefit, were required to repay the amount of the bidding credit on a graduated basis. No repayment would be required six years after the license grant. In addition, the ineligible transferee would not have the benefit of installment payments, and principal and accrued interest would come due. For the 900 MHz SMR service, we adopted unjust enrichment provisions which required reimbursement of the benefit received by a small business through bidding credits and installment payments in the event that such small business transferred its license to an entity not qualifying as a small business. We previously adopted restrictions on the transfer or assignment of broadband PCS entrepreneurs' block licenses to ensure that designated entities do not take advantage of special provisions by immediately assigning or transferring control of their licenses.

143. *Proposal.* Permitting an immediate transfer of a discounted license to an entity that is not a small business could undermine our basis for offering special provisions to small businesses, but we note that in services with no entrepreneurs' block, we have limited unjust enrichment to repayment of bidding credits or installment payments. We therefore seek comment on whether we should use an approach similar to that adopted for the 900 MHz SMR service or that adopted for broadband PCS entrepreneurs' block licenses.

7. Partitioning

144. The Communications Act directs the Commission to ensure that rural telephone companies have the opportunity to participate in the provision of spectrum-based services. Rural areas, because of their more dispersed populations, tend to be less profitable to serve than more densely populated urban areas. Rural telephone companies, however, are well positioned because of their existing infrastructure to serve these areas. In other services, such as broadband PCS and 900 MHz SMR, we have acknowledged this fact by allowing rural telephone companies to partition their licenses on a geographic basis, thereby increasing the likelihood of rapid introduction of service into rural areas. We also afforded rural telephone companies this opportunity under our rules for the upper 200 channels of 800 MHz SMR spectrum. We seek comment on whether we should incorporate similar provisions into our rules for the lower 80 and General Category channels.

145. If we adopt geographic partitioning for rural telephone companies, geographic partitioning should be made available to them on the same basis as in PCS and the upper 200 channels. Such a partitioning scheme would provide rural telephone companies with the flexibility to serve areas in which they already provide service, while the remainder of the service area could be served by other providers. Under this proposal, rural telephone companies would be permitted to acquire partitioned SMR licenses in one of two ways: (1) By forming bidding consortia consisting entirely of rural telephone companies to participate in auctions, and then partitioning the licenses won among consortia participants, or (2) by acquiring partitioned paging licenses from other licensees through private negotiation and agreement either before or after the auction. We also would require that partitioned areas conform to established geo-political boundaries, include all portions of the wireline service area of the rural telephone company applicant, and be reasonably related to the rural telephone company's wireline service area. We also propose to use the definition for rural telephone companies implemented in broadband PCS. Rural telephone companies would be defined as local exchange carriers having 100,000 or fewer access lines, including all affiliates. We seek comment on this proposal. We also seek comment on whether we should extend partitioning options to entities other than rural telephone companies, as we did in MDS and as we proposed for the upper 200 channels in this service.

VIII. Procedural Matters

A. Regulatory Flexibility Analysis

With respect to this *Second Further Notice*, pursuant to the Regulatory Flexibility Act of 1980, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Further Notice of Proposed Rule Making* in PR Docket No. 93–144. Written comments on the IRFA were requested. The Commission's final analysis is as follows

147. *Need for and purpose of the action.* The rule making proceeding has implemented Sections 332 and 3(n), respectively, of the Communications Act of 1934, as amended. The rules adopted herein will carry out Congress's intent to establish a consistent framework for all commercial mobile radio services (CMRS).

148. *Issues raised in response to the IRFA.* No comments were submitted in response to the IRFA.

149. *Significant alternatives considered and rejected.* All significant alternatives have been addressed in the *First Report and Order* in PR Docket No 93–144, the *Third Report and Order* in GN Docket No. 93–252, and the *Eighth Report and Order* in PP Docket No. 93–253.

B. Paperwork Reduction Act

150. Summary: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) Whether the proposed c- llection of information is necessary for the proper performance of the functions of the Commission,

including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 16, 1996. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554, or via Internet to dconway@fcc.gov; and Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th St., NW., Washington, DC 20503, or via Internet to fain____t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Dorothy Conway, (202) 418–0217, or via Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

Title: Amendment to the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band.

Type of Review: Revised collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 12,195.

Estimated Time Per Response: Approximately 1 to 5 hours.

Total Annual Burden: Approximately 17,254 hours.

Total Annual Cost: $6,468,260 this includes the costs for filing the information electronically or mailing submissions and hiring consultants that may be necessary to respond the requests.

Needs and Uses: The information will be used by the Commission for the following purposes: (a) To determine if the grant or retention of an extended implementation schedule is warranted; (b) to update the Commission's licensing database and thereby facilitate the successful coexistence of EA licensees and incumbents in the upper 10 MHz block of 800 MHz SMR spectrum; (c) to ensure that incumbents are timely notified of possible relocation thus allowing relocation to occur in an orderly, efficient, and expedient manner; and (d) to determine whether an applicant is eligible for special provisions for small businesses provided for applicants in the 800 MHz SMR service.

C. Ex Parte Rules—Non-Restricted Proceeding.

151. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules, 47 CFR §§ 1.1202, 1.1203, 1.1206(a).

D. Authority.

152. The legal authority for this proposed information collection includes 47 U.S.C. Sections 154(i), 303(c), 303(f), 303(g), 303(r), 309(j), and 332, as amended. The information collection would not affect any FCC forms. The proposed collection would increase minimally the burden on 800 MHz SMR service applicants.

List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3511 Filed 2–13–96; 5:07 pm]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[I.D. 021296E]

Northeast Multispecies Fishery; Notice of Availability of Amendment 7

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS issues this notice that the New England Fishery Management Council (Council) has submitted Amendment 7 to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) for Secretarial review and is requesting comments from the public. This amendment contains a series of management measures designed to rebuild overfished stocks of groundfish, especially cod, haddock and yellowtail flounder. Copies of the amendment may be obtained from the Council (see **ADDRESSES**).

DATES: Comments must be received on or before April 11, 1996.

ADDRESSES: Send comments to Dr. Andrew A. Rosenberg, Regional Director, National Marine Fisheries Service, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930–3799. Mark the outside of the envelope "Comments on Amendment 7 to the Northeast Multispecies Plan."

Copies of proposed Amendment 7, its Regulatory Impact Review (RIR) and the Initial Regulatory Flexibility Analysis contained within the RIR, and the Final Supplemental Environmental Impact Statement are available from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (U.S. Rte. 1), Saugus, MA 01906–1097.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 508–281–9252.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C 1801 *et seq.*) requires each regional fishery management council to submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires the Secretary, upon receiving the plan or amendment, to immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan or amendment.

Proposed measures in the amendment include: (1) A procedure for setting annual target total allowable catch levels for regulated species; (2) an acceleration of the current days-at-sea effort reduction program; (3) elimination of current exemptions to the effort control program; (4) new closed areas; (5) a restriction on large mesh fisheries with more than a minimal bycatch of regulated species in the Gulf of Maine/Georges Bank and Southern New England regulated mesh areas; (6) a cod, haddock and yellowtail flounder possession limit restriction for vessels less than 30 ft (9.14 m); (7) establishment of the current experimental Nantucket Shoals dogfish fishery on a permanent basis; (8) modification to permit categories and qualifying criteria; (9) restrictions on charter/party and recreational vessels; and (10) revision and expansion of the existing framework provisions. Many of the current provisions to the FMP will be retained as the basic structure for the regulatory program.

NMFS, on behalf of the Secretary, disapproved three measures in

Amendment 7 before publishing the notice of availability as authorized under section 304(a)(1)(A) of the Magnuson Act. These measures include: (1) The additional allowance of days-at-sea (DAS) for trawl vessels enrolled in the Individual DAS category that use 8–inch (20–cm) mesh, (2) the 300–lb (136–kg) possession allowance of regulated species for trawl vessels that use an 8–inch (20–cm) mesh in an exempted fishery, and (3) the establishment of a limited access category for vessels that fished in the Possession Limit Open Access category under Amendment 5.

Day 1 of this amendment is February 12, 1996. Proposed regulations to implement this amendment are scheduled to be published within 15 days of this date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 12, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3552 Filed 2–13–96; 1:09 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 33
Friday, February 16, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 9, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Department Clearance Officer, USDA; OIRM, Ag Box 7630, Washington, D.C. 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Agricultural Marketing Service

Title: Regulations Governing the Grading of Shell Eggs.

Summary: The regulations provide a voluntary program for grading shell eggs on the basis of U.S. standards, grades, and weight classes.

Need and Use of the Information: The information will be used by the agency to administer and to provide the services of the voluntary program.

Description of Respondents: Business or other for-profit; Federal Government; State, Local or Tribal Government

Number of Respondents: 753.

Frequency of Responses: On occasion, Monthly, Semi-annually, Annually, Daily

Total Burden Hours: 6,301.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 96–3514 Filed 2–15–96; 8:45 am]

BILLING CODE 3410–01–M

Advisory Committee on Agricultural Concentration

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of intent to establish a Federal Advisory Committee.

SUMMARY: In response to the need for advice on concentration and vertical integration in the agricultural sector, the Secretary of Agriculture has decided to establish an advisory committee on agricultural concentration. The purpose of the committee is to provide advice regarding whether agricultural concentration exists and if so, the causes and effects of such concentration. Further, the committee is to provide advice related to the need for new legislation.

EFFECTIVE DATE: This notice is effective February 16, 1996.

NOTICE OF MEETING: The first meeting of this Committee will be Tuesday, February 27, 1996, from 9:30 a.m. to 4:30 p.m., in Room 104–A of the USDA Administration Building, 14th & Independence Avenue SW., Washington, D.C. The Committee will address business and organizational issues dealing with the committee, including approval for a second meeting time and place in March, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara Claffey, Assistant Deputy Administrator, Agricultural Marketing Service, Room 3064–S, 14th and Independence Avenue SW., Washington, D.C. 20250–1400, (202) 720–4276.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Department of Agriculture intends to establish the Advisory Committee on Agricultural Concentration. The purpose of the committee is to make findings and recommendations regarding the need for modification of laws to address any identified concentration or vertical integration in the agricultural sector, regarding the adequacy of price discovery or reporting in the livestock and poultry industries, regarding any necessary modification to departmental programs in order to address concentration, and regarding actions to take to ensure adequate rail car availability throughout the year.

The committee will consist of 21 members including: a Chairperson; two Vice Chairpersons; eight representatives of producers from the cattle, hog, lamb, poultry, and grain sectors; two representatives of packers and processors from the livestock, poultry, and grain sectors; two representatives of shippers, handlers, and transporters consisting of one each from grain elevator and railroad sectors; one representative of the retailing sector; two individuals with expertise in economics, competition, and/or finance; and three representatives of State government.

The committee is in the public interest in connection with the duties and responsibilities of the Department of Agriculture. Concentration in the agricultural sector is receiving increased attention in terms of its effect throughout the entire food industry.

All appointments to the committee will be made by the Secretary. Equal opportunity practices in line with Department policies will be followed in all appointments.

Dated: February 12, 1996.

Wardell C. Townsend,

Assistant Secretary for Administration.

[FR Doc. 96–3589 Filed 2–14–96; 8:45 am]

BILLING CODE 3410–01–P

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agriculture Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Nu Way Flume and Equipment Company of Delta, Colorado, an exclusive license for U.S. Patent Number 5,156,489 (U.S. Patent application Serial No. 07/770,258) issued October 20, 1992 entitled "Adjustable Flume." Notice of Availability for U.S. Patent application Serial No. 07/770,258 was published in the Federal Register on December 17, 1991.

DATES: Comments must be received on or before, April 16, 1996.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Nu Way Flume and Equipment Company has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

R.M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 96–3527 Filed 2–15–96; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112995E]

Marine Mammals and Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of scientific research permit (P278F).

SUMMARY: Notice is hereby given that Dr. Brent S. Stewart, Hubbs Sea World Research Institute, 2595 Ingraham St., San Diego, CA 92109, has been issued a permit to take two species of marine mammals for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment, in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001).

SUPPLEMENTARY INFORMATION: On September 29, 1995, a document was published in the **Federal Register** (60 FR 50555) that a request for a scientific research permit had been submitted by the above-named individual. The request was to take two species of marine mammals over a 5-year period. Twenty common dolphins (*Delphinus delphis*) and 20 Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) would be captured in southern California waters, fitted with satellite-linked radio transmitter tags, biologically sampled and scanned with an ultrasound device, released, and tracked. The requested permit has been issued, under the authority of the Marine Mammal Protection Act of 1972 (MMPA) as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: January 31, 1996.

Ann D. Terbush, Chief,

Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–3521 Filed 2–15–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 18, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION:

On November 13, December 1 and 29, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 F.R. 56987, 61685 and 67351) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and service, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List.

Accordingly. the following commodities and service are hereby added to the Procurement List:

Commodities

Office and Miscellaneous Supplies
(Requirements for Fort Bragg, North Carolina)
Office and Miscellaneous Supplies
(Requirements for Fort Jackson, South Carolina)
Dispenser, Tape
7520–00–240–2417

Service

Assembly of Backpack Pump Outfit, General Services Administration, Region 7, Fort Worth, TX

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–3598 Filed 2–15–96; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 18, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Stamp, Custom, Pre-inked
7520–01–381–8027
(Requirements for the GSA Customer Supply Centers)
NPA: The Lighthouse for the Blind, Inc., Seattle, Washington

Services

Janitorial/Custodial, Building 151, Picatinny Arsenal, New Jersey
NPA: Occupational Training Center of Morris County, Cedar Knolls, New Jersey
Janitorial/Custodial, Serrenti Memorial USARC, Scranton, Pennsylvania
NPA: Allied Health Care Services, Scranton, Pennsylvania
Linen Management, Basewide, Fort Hood, Texas
NPA: Goodwill Contract Services, Inc., Waco, Texas

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–3597 Filed 2–15–96; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the procurement list.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 18, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION:

On October 20, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (60 F.R. 5421) of proposed addition to the Procurement List.

Comments were received from a company which was the contractor for the service at the time it was proposed for addition to the Procurement List. This company's contract for the service, which lasted for five years, expired October 31, 1995. The company stated that a month previously it had unexpectedly lost another Government janitorial contract which represented the majority of the company's revenues at that time. As a result of losing these two contracts, the income of this family-owned company was substantially reduced and, in the opinion of the company's accountant, its ability to meet its financial obligations was severely impaired. The company, which claimed it had performed its contract well, also noted that Government janitorial business opportunities generally are declining, and the Committee's program has taken many of those remaining, such as the janitorial requirement for the rest of the installation where the contract at issue was performed. Accordingly, the company believes that addition of this service to the Procurement List would have a severe adverse impact on the company.

The service has been provided since the end of the commenting company's contract by the nonprofit agency which will perform the service under the Committee's program. The service has been performed under two small purchase contracts, for the periods November–December 1995 and January–February 1996, respectively. The current contract was awarded after the nonprofit agency won a competition with the commenting company and another bidder.

The Committee is required to consider impact of an addition to the Procurement List on the *current* contractor for the commodity or service being added. The commenting company is not the current contractor because it did not receive the contract, when it had the opportunity to do so through the most recent competitive bidding process.

Because no one is guaranteed a contract under the competitive bidding system, a company which is not the current contractor is only losing the opportunity to bid on future contracts because of an addition to the Procurement List. The Committee does not consider losing this opportunity to be severe adverse impact.

The Committee also does not agree with the company's assessment of its performance on its contract to perform this service. Contrary to what the company claimed, the Government contracting office for the service informed the Committee that the company's performance was bad enough that contracting personnel would not have recommended a subsequent contract award to the company for the service.

The originally proposed fair market price for the service under the Committee's program has been reduced to reflect the nonprofit agency's award price for the current contract. The nonprofit agency informed the Committee that one reason the reduced fair market price is acceptable to the nonprofit agency is that the earlier price included a charge to restore the buildings from the condition the commenting company's poor performance had left them in. This restoration was completed during the nonprofit agency's first contract for the service.

Addition of this service to the Procurement List will guarantee the creation of jobs for people with severe disabilities, who have an unemployment rate far above people without severe disabilities. The Committee believes that this outweighs the possible loss of employment by the commenting company's owners and employees, as they are more likely to find other employment than people with severe disabilities would be, even considering the state of the market for janitorial service. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:
Janitorial/Custodial DITCO Buildings 3600, 3178 and 3179 Scott Air Force Base, Illinois

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–3596 Filed 2–15–96; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

El Paso Natural Gas Co.; Notice of Application

[Docket No. CP96–173–000]

February 12, 1996.

Take notice that on February 6, 1996, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP96–173–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Natural Gas Pipeline Company of America, which was authorized in Docket No. CP78–239, *et al.*, all as more fully set forth in the application on file with the Commission and open to public inspection.

El Paso proposes to abandon the transportation service because it is no longer needed and has terminated on own its terms on May 1, 1989.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3532 Filed 2–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–165–000]

Florida Gas Transmission Co.; Notice of Request Under Blanket Authorization

February 12, 1996.

Take notice that on January 31, 1996, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed, in the above docket, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212), for authorization to construct and operate a new delivery point and realign natural gas volumes under its blanket authority issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, FGT proposes to construct and operate a delivery point near its existing 20-inch and 26-inch mainlines in Indian River County, Florida to serve City Gas Company of Florida, a Division of NUI Corporation (City Gas) under two firm transportation service agreements pursuant to FGT's FERC Rate Schedules FTS–1 and FTS–2. FGT also proposes to realign Maximum Daily Quantities and Maximum Daily Transportation Quantities to the proposed delivery point from the Cutler Ridge and St. Lucie Divisions.

FGT states that its tariff allows additional delivery points and the realignment of gas volumes. FGT also states that its gas deliveries to City Gas would remain within the currently authorized levels and have no disadvantageous impact on FGT's other existing customers.

FGT states that City Gas would reimburse it for all costs directly and indirectly incurred by FGT for the

construction which is estimated to be $128,200 and includes federal income tax gross-up.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest.

If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3531 Filed 2–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–175–000]

Koch Gateway Pipeline Co.; Notice of Request Under Blanket Authorization

February 12, 1996

Take notice that on February 7, 1996, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP96–175–000 a request pursuant to §§ 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act for authorization to upgrade an existing meter station at Geismar, Ascension Parish, Louisiana, under Koch's blanket certificate issued in Docket No. CP82–420–000 [1] pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch states that the replacement of existing regulators with larger regulators will better accommodate deliveries to the Borden Chemical & Plastics Plant (Borden) on behalf of Koch Gas Services (KGS). Koch states it will increase delivery capacity at the meter station from 40,000 to 82,000 MMBtu per day to Borden, under Koch's ITS Rate Schedule (ITS). Koch states that it currently provides interruptible service to KGS pursuant to Koch's blanket transportation certificate[2]; and that, the ITS agreement was filed with the Commission in Docket No. ST95–2504. Koch further states that the volumes proposed to be delivered for KGS will be within KGS's currently effective entitlement.

Koch states that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existed customers; and that its tariff does not prohibit the proposed modification of facilities. Koch states that the estimated cost is $4,866.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3533 Filed 2–15–96; 8:45 am]

BILLING CODE 6717–01–M

[1] *See,* 20 FERC ¶ 62,416 (1982).

[2] *See,* 42 FERC ¶ 62,027 (1988).

[Docket No. CP96–164–000]

Tennessee Gas Pipeline Co.; Notice of Application and Site Visit

February 12, 1996.

Take notice that on January 31, 1996, Tennessee Gas Pipeline Company (Tennessee), 1010 Milam St., Houston, Texas 77002, filed in Docket No. CP96–164–000 an application pursuant to Section 7 of the Natural Gas Act for authority to: (1) Transport up to 90,000 Dth of natural gas per day on a firm basis for Distrigas of Massachusetts Corporation (DOMAC); (2) construct and operate facilities to provide such service; and (3) abandon all or any part of the authorized facilities or service upon the expiration of the underlying contracts, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Tennessee proposes to transport gas for DOMAC from DOMAC's LNG plant in Everett, Massachusetts to fifteen delivery points in Zone 6 on Tennessee's pipeline system, commencing on November 1, 1998, in the following quantities:

Date	Quantity (Dth/day)
November 1, 1998	55,000
November 1, 1999	70,000
November 1, 2000	80,000
November 1, 2001	90,000

To provide the service, Tennessee proposes to construct and operate 7.54 miles of 20-inch pipeline and related facilities from DOMAC's LNG plant to a point on Tennessee's Revere lateral in Saugus, Massachusetts at an estimated cost of $25,871,276.

Tennessee would charge DOMAC its Part 284 rate under Rate Schedule FT–A for the service, and requests a binding determination from the Commission that the costs of the facilities will not be rolled-in to Tennessee's systemwide cost of service for the 15-year term of the proposed service.

Take further notice that on March 4, 1996, the Office of Pipeline Regulation staff, accompanied by representatives of Tennessee, will conduct a site visit to the locations of facilities being proposed a Tennessee in the DOMAC Project. The proposed facilities are located in the cities of Revere, Malden and Everett, and the town of Saugus, Massachusetts. Those planning to attend must provide their own transportation. For further information, call Ms. Lauren O'Donnell, (202) 208–0325.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1996, file with the Federal Energy Regulatory Commission (888 First Street, NE., Washington, DC 20426) a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment and grant of certificate are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3530 Filed 2–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–41–000, et al.]

Dominican Power Partners, LDC, et al.; Electric Rate and Corporate Regulation Filings

February 9, 1996.

Take notice that the following filings have been made with the Commission:

1. Dominican Power Partners, LDC

[Docket No. EG96–41–000]

On February 5, 1996, Dominican Power Partners (DPP) (c/o Jacquelyne M. Rocan, Akin, Gump, Strauss, Hauer & Feld, L.L.P., 711 Louisiana Street, Suite 1900, Houston, Texas 77022), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

DPP is a Cayman Island limited duration company that is engaged directly and exclusively in owning and operating the Los Mina electric generating facility (Los Mina facility) located in Santo Domingo, Dominican Republic. The Los Mina facility will consist of two gas turbine generators, rated at approximately 118 MW ISO each, a metering station, and associated transmission interconnection components.

Comment date: February 29, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. IES Utilities Inc.

[Docket No. ER95–1244–000]

Take notice that on February 2, 1996, IES Utilities Inc. tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. American Biomass Corporation

[Docket No. ER96–639–000]

Take notice that on January 26, 1996, American Biomass Corporation tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Idaho Power Company

[Docket No. ER96–761–000]

Take notice that on January 18, 1996, Idaho Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER96–951–000]

Take notice that on January 29, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing revisions to the Negotiated Capacity and Energy service schedule of its Coordination Sales Tariff, FERC Electric Tariff, Original Volume No. 2. Wisconsin Electric proposes to offer additional kinds of wholesale transactions, including options, diversity exchanges, fixed rate per megawatthour sales, and fuel as compensation for energy sales. Wisconsin Electric has also added a section to its tariff regarding customer creditworthiness.

Wisconsin Electric respectfully requests an effective date of April 1, 1996.

Copies of the filing have been served on all customers under its tariff as well as the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Electric and Gas Company

[Docket No. ER96–952–000]

Take notice that on January 29, 1996, Public Service Electric and Gas Company (PSE&G), tendered for filing an initial rate schedule to enable the opportunity to sell electric capacity and/or energy to Eligible Entities for resale at negotiated rates, capped by ceilings justified under traditional cost of service methodologies.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Company, Massachusetts Electric Company

[Docket No. ER96–953–000]

Take notice that on January 29, 1996, New England Power Company (NEP) and Massachusetts Electric Company (MECo) filed an Interconnection agreement among NEP, MECo, and the Massachusetts Water Resources Authority (MWRA). The Agreement memorializes a long-standing relationship among the parties under which MWRA has interconnected its MDC Cosgrove Project in Clinton, Massachusetts, with the systems of NEP and MECo. The project has interconnected with MECo's distribution system at a voltage level of 13.8 kV off of feeder numbers 216W1 and 216w2. NEP has requested an effective date of the day after the day of the filing.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER96–954–000]

Take notice that on January 29, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which LG&E Power Marketing, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER96–955–000]

Take notice that on January 29, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreement under which Sonat Power Marketing, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. American Electric Power Service Corporation

[Docket No. ER96–956–000]

Take notice that on January 29, 1996, the American Electric Power Service

Corporation (AEPSC), tendered for filing an amendment to the Station Agreement dated January 1, 1968, as amended, among Ohio Power Company, Buckeye Power, Inc. and Cardinal Operating Company.

The Amendment details the method for recovery of emission allowance costs associated with the Station Agreement dated January 1, 1968, as amended, by returned-in-kind allowances. AEPSC requests an effective date of January 1, 1995.

A copy of the filing was served upon Buckeye Power, Inc., Cardinal Operating Company and the Public Utilities Commission of Ohio.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Kentucky Utilities Company

[Docket No. ER96–958–000]

Take notice that on January 22, 1996, Kentucky Utilities Company (KU), tendered for filing service agreements between KU and Delhi Energy Services, and KU and Morgan Stanley Capitol Group, Inc. under its TS Tariff. KU requests an effective date of December 26, 1995.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Texas Utilities Electric Company

[Docket No. ER96–961–000]

Take notice that on January 26, 1996, Texas Utilities Electric Company (TU Electric), tendered for filing revisions to transmission service agreements (TSA's) previously filed herein.

TU Electric requests a January 1, 1996 effective date for the revisions. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on LG&E Power Marketing, Inc., Enron Power Marketing, Inc., and Electric Clearinghouse, Inc., as well as the Public Utility Commission of Texas.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Texas Utilities Electric Company

[Docket No. ER96–962–000]

Take notice that on January 26, 1996, Texas Utilities Electric Company (TU Electric), tendered for filing revisions to transmission service agreements (TSA's) previously filed herein.

TU Electric requests a January 1, 1996, effective date for the revisions. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on Western Gas Resources Power Marketing, Inc. and Destec Power Services, Inc., as well as the Public Utility Commission of Texas.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Maine Public Service Company

[Docket No. ER96–963–000]

Take notice that on January 29, 1996, Maine Public Service Company, tendered for filing a service agreement under its open access tariff.

Comment date: February 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Portland General Electric Company

[Docket No. ER96–964–000]

Take notice that on January 29, 1996, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, executed Service Agreements between PGE and K N Marketing, Inc., and AIG Trading Corporation.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreements to become effective February 1, 1996.

Copies of this filing were served upon the entities listed in the body of the filing letter.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Portland General Electric Company

[Docket No. ER96–965–000]

Take notice that on January 29, 1996, Portland General Electric Company (PGE), tendered for filing a Revision No. 6 to Exhibit C and Revision No. 1 to Exhibit D of the General Transfer Agreement for Integration of Resources between the Bonneville Power Administration and PGE, Contract No. DE–MS79–89BP92273, (Portland General Electric Rate Schedule FERC No. 185).

Copies of the filing have been served on the Bonneville Power Administration.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. American Electric Power Service Corporation

[Docket No. ER96–966–000]

Take notice that on January 29, 1996, the American Electric Power Service Corporation (AEPSC), tendered for filing service agreements, executed by AEPSC and the following parties, under the AEP Companies' Power Sales and/or Point-to-Point Transmission Service Tariffs: (1) AES Power, Inc., (2) American Municipal Power-Ohio, Inc., (3) Catex-Vitol Electric, L.L.C., (4) Citizens Lehman Power Sales, (5) CNG Power Services Corp., (6) Duke Power, (7) East Kentucky Power Cooperative, Inc. (8) Engelhard Power Marketing, Inc., (9) Enron Power Marketing, Inc., (10) Heartland Energy Services, Inc., (11) Indiana Municipal Power Agency, (12) Industrial Energy Applications, Inc. (13) Louis Dreyfus Electric Power, Inc. (14) Michigan Public Power Agency, (15) NorAm Energy Services, Inc., (16) PECO Energy Company, (17) Sonat Power Marketing, Inc., and (18) Wisconsin Electric Power Company (Parties).

The Power Sales Tariff has been designated as FERC Electric Tariff, Original Volume No. 2, effective October 1, 1995. AEPSC expects the Point-to-Point Transmission Tariff will be designated in Docket No. ER93–540–000 to supplement or replace AEPSC FERC Electric Tariff Original Volume No. 1. AEPSC requests waiver of notice to permit the Service Agreements to be made effective as of January 1, 1996.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Kentucky Utilities Company

[Docket No. ER96–967–000]

Take notice that on January 29, 1996, Kentucky Utilities Company (KU), tendered for filing information on transactions that occurred during January 1, 1996 through January 15, 1996, pursuant to the Power Services Tariff accepted by the Commission in Docket No. ER95–854–000.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Delmarva Power & Light Company

[Docket No. ER96–968–000]

Take notice that on January 30, 1996, Delmarva Power & Light Company (DPL), tendered for filing as an initial Rate Schedule an Agreement for Installed Capacity Credit Transactions between Public Service Electric and Gas Company (PSE&G) and DPL, dated January 31, 1996. This contract sets forth the terms under which DPL and PSE&G may purchase or exchange PJM installed capacity credits. In order to optimize the economic advantages to both DPL and PSE&G, DPL requests the Commission to waive its customary notice period and allow this Agreement to become effective on January 31, 1996.

DPL states that a copy of this filing has been sent to PSE&G and will be furnished to the New Jersey Board of Public Utilities, the Delaware Public Service Commission, the Maryland Public Service commission, and the Virginia State Corporation Commission.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Commonwealth Electric Company Cambridge Electric Light Company

[Docket No. ER96–969–000]

Take notice that on January 30, 1996, Commonwealth Electric Company (Commonwealth) on behalf of itself and Cambridge Electric Light Company (Cambridge), collectively referred to as the "Companies," tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Customers: Cenergy, Inc., Global Petroleum Corporation, Sonat Power Marketing, Inc.

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Power Sales and Exchanges Tariffs designated as Commonwealth's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 3) and Cambridge's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 5). These Tariffs, approved by FERC on April 13, 1995, and which have an effective date of March 20, 1995, will allow the Companies and the Customers to enter into separately scheduled transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree.

The Companies request an effective date as specified on each Service Agreement.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–977–000]

Take notice that on January 30, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing proposed supplements to its Rate Schedules FERC No. 92 and FERC No. 96.

The proposed supplement No. 7 to Rate Schedule FERC No. 96 decreases the rates and charges for electric delivery service furnished to public customers of the New York Power Authority (NYPA) by $2,462,000 annually based on the 12-month period ending March 31, 1997.

The proposed supplement No. 6 to Rate Schedule FERC No. 96, applicable to electric delivery service to NYPA's non-public, economic development customers, and the proposed supplement No. 4 to Rate Schedule FERC No. 92, applicable to electric delivery service to commercial and industrial economic development customers of the County of Westchester Public Service Agency (COWPUSA) or the New York City Public Utility Service (NYCPUS), decrease the rates and charges for the service by $146,000 annually based on the 12-month period ending March 31, 1997.

The proposed decreases are a part of a Company-wide general electric rate change application which Con Edison filed to implement rates for the second year of a multi-year rate plan previously approved by the New York Public Service Commission (NYPSC) and which is pending before the NYPSC.

Although the proposed supplements bear a nominal effective date of April 1, 1996, Con Edison will not seek permission to make these effective until the effective date, estimated to be April 1, 1996, of the rate changes, if any, authorized by the NYPSC.

A copy of this filing has been served on NYPA, COWPUSA, NYCPUS, and the New York Public Service Commission.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3529 Filed 2–15–96; 8:45 am]

BILLING CODE 3717–01–P

[Project No. 2232–303; North Carolina and South Carolina]

Duke Power Company; Notice of Availability of Environmental Assessment

February 12, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) reviewed Duke Power Company's Revised Shoreline Management Plan for the Catawba-Wateree Hydroelectric Project located on the Catawba-Wateree River in North and South Carolina. The Plan addresses 1,635 miles of shoreline area for 11 reservoirs, focusing primarily on land use classification, recreational shoreline uses, boating access, and shoreline aesthetics. The 11 reservoirs, in order from north to south, are:

North Carolina	South Carolina
1. Lake James	7. Lake Wylie.
2. Lake Rhodhiss	8. Fishing Creek Lake.
3. Lake Hickory	9. Great Falls Lake.
4. Lookout Shoals Lake.	10. Rocky Creek Lake.
5. Lake Norman	11. Lake Wateree.
6. Mountain Island Lake..	

In the Plan, the licensee proposes certain land uses at the 11 project reservoirs: commercial/non-residential; commercial/residential; residential; recreational; project operations; natural areas; and environmental areas.

In developing the Plan, the licensee evaluated and classified existing and future shoreline and lake use at the 11 reservoirs. The projected use levels are based on the classification of existing shoreline development and the results of a boating and lake use study.

The staff prepared an Environmental Assessment (EA) for the proposed plan and concluded that the effects on environmental resources would be nonsignificant if our recommendations are implemented, and the recreational opportunities at the project would be enhanced with additional facilities. On the basis of the independent environmental assessment, approval of the Plan would not constitute a major

federal action that would significantly affect the quality of the environment.

Copies of the EA are available for review in the Reference and Information Center, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3534 Filed 2–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 8679–004 California]

Sequoia Land and Power, Inc.; Notice of Availability of Environmental Assessment

February 12, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order 486, 52 F.R. 47897), the Commission's Office of Hydropower Licensing has reviewed an exemption surrender application for the Sequoia Ranch Project, No. 8679–004. The Sequoia Ranch Project is located on the Middle Fork of the Tule River in Tulare County, California. The exemptee is applying for a surrender of the exemption because the project is not economically viable. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Commission's Reference and Information Center, Room 1C–1, 888 First Street, N.E., Washington, D.C. 20426.

Please submit any comments within 20 days from the date of this notice. Any comment, conclusions, or recommendations that draw upon studies, reports or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix Project No. 8679–004 to all comments. For further information, please contact the project manager, Ms. Hillary Berlin, at (202) 219–0038.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3535 Filed 2–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11359–001 New Hampshire]

Northrop Engineering Corp.; Notice of Surrender of Preliminary Permit

February 12, 1996.

Take notice that the Northrop Engineering Corporation, permittee for the Murphy Project No. 11359, located on the Connecticut River in Coos County, New Hampshire, has requested that its preliminary permit be terminated. The preliminary permit was issued on May 30, 1995, and would have expired on April 30, 1998. The permittee states that the project would be economically infeasible.

The permittee filed the request January 25, 1996, and the preliminary permit for Project No. 11359 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3536 Filed 2–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11479–001 New York]

Trenton Falls Hydroelectric Co.; Notice of Surrender of Preliminary Permit

February 12, 1996.

Take notice that the Trenton Falls Hydroelectric Company, permittee for the Hawkinsville Project No. 11479, located on the Black River in Oneida County, New York, has requested that its preliminary permit be terminated. The preliminary permit was issued on November 30, 1994, and would have expired on October 31, 1997. The permittee states that the project would be economically infeasible.

The permittee filed the request on January 24, 1996, and the preliminary permit for Project No. 11479 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3534 Filed 2–15–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5423–7]

Air Pollution Control; Proposed Action on Clean Air Act Grant to the Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed determination with request for comments and notice of opportunity for public hearing.

SUMMARY: The EPA has made two proposed determinations that reductions in expenditures of non-Federal funds for the Bay Area Air Quality Management District (BAAQMD) in San Francisco, California are a result of non-selective reductions in expenditures. These determinations, when final, will permit the BAAQMD to keep the financial assistance awarded to it by EPA for FY–95 and to be awarded financial assistance for FY–96 by EPA under section 105(c) of the Clean Air Act (CAA).

DATES: Comments and/or requests for a public hearing must be received by EPA at the address stated below by March 18, 1996.

ADDRESSES: All comments and/or requests for a public hearing should be mailed to: Valerie Cooper, Air Grants Section (A–2–3), Air and Toxics Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901; FAX (415)744–1072.

FOR FURTHER INFORMATION CONTACT: Valerie Cooper, Air Grants Section (A–2–3), Air and Toxics Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901 at (415) 744–1294.

SUPPLEMENTARY INFORMATION: Under the authority of Section 105 of the CAA, EPA provides financial assistance to the BAAQMD, whose jurisdiction includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, and part of Solano and Sonoma Counties in California, to aid in the operation of its air pollution control programs. In FY'94, EPA awarded the BAAQMD $1,608,900 which represented approximately 5% of the BAAQMD's budget, and in FY'95 $1,320,885 which represented approximately 5% of the BAAQMD's budget.

Section 105(c)(1) of the CAA, 42 U.S.C. 7405(c)(1), provides that "[n]o agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year. In order for [EPA] to award grants under this section in a timely manner each fiscal year, [EPA] shall compare an agency's prospective expenditure level to that of its second preceding year." EPA may still award financial assistance to an agency not meeting this requirement, however, if EPA, "after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government." CAA section 105(c)(2). These statutory requirements are repeated in EPA's implementing regulations at 40 CFR 35.210(a).

In its FY–95 section 105 application, which EPA reviewed in July 1994, the BAAQMD projected expenditures of non-Federal funds for recurrent expenditures (or its maintenance of effort (MOE)) of $26,757,937. This MOE would have been sufficient to meet the MOE requirements of the CAA. In January of 1996, however, the BAAQMD submitted to EPA documentation which shows that its actual FY–95 MOE was $26,471,610. This amount represents a shortfall of $286,327 from the MOE of the preceding fiscal year. In addition, the projected FY–96 MOE of $24,778,132 represents a shortfall of $1,693,478 from the FY–95 MOE of $26,471,610. In order for the BAAQMD to be eligible to keep its FY–95 grant and to be awarded an FY–96 grant, EPA must make a determination under section 105(c)(2).

In FY–95, the BAAQMD determined that its MOE would decrease because revenues from property taxes and permit fees decreased. For FY–96 the BAAQMD once again determined that there would be continued reductions in these revenue sources. The reductions resulted in the loss of two permanent positions and the furlough of fifteen long-term temporary staff. In addition to the reduction in revenues, a general reserve and fund balance account were no longer available (because they had been depleted) to make up for shortages as they had in previous years. These were the contributing factors to a reduction in BAAQMD's FY–95 and FY–96 MOE level.

The BAAQMD's MOE reductions resulted from a loss of revenue from property taxes and permit fees. This loss of revenue and MOE reduction resulted from circumstances beyond the District's control. EPA proposes to determine that the BAAQMD's lower FY–95 and FY–96 MOE level meets the section 105(c)(2) criteria as resulting from a non-selective reduction of expenditures. Pursuant to 40 CFR 35.210, this determination will allow the BAAQMD to keep the funds received from EPA for FY–95 and to be eligible for an FY–96 award.

This notice constitutes a request for public comment and an opportunity for public hearing as required by the Clean Air Act. All written comments received by March 18, 1996 on this proposal will be considered. EPA will conduct a public hearing on this proposal only if a written request for such is received by EPA at the address above by March 18, 1996. If no written request for a hearing is received, EPA will proceed to a final determination.

Dated: February 6, 1996.

David P. Howekamp,

Director, Air and Toxics Division.

[FR Doc. 96–3585 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5422–3]

Air Pollution Control; Proposed Action on Clean Air Act Grant to the Pima County, Arizona, Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed determination with request for comments and notice of opportunity for public hearing.

SUMMARY: The U.S. EPA has made a proposed determination that a reduction in expenditures of non-Federal funds for the Pima County, Arizona, Department of Environmental Quality (PDEQ) in Tucson, Arizona is a result of a non-selective reduction in expenditures. This determination, when final, will permit the PDEQ to be awarded financial assistance for FY–96 by EPA under section 105(c) of the Clean Air Act (CAA).

DATES: Comments and/or requests for a public hearing must be received by EPA at the address stated below by March 18, 1996.

ADDRESSES: All comments and/or requests for a public hearing should be mailed to: Douglas K. McDaniel, Air Grants Section (A–2–3), Air and Toxics Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901; FAX (415)744–1076.

FOR FURTHER INFORMATION CONTACT: Douglas K. McDaniel, Air Grants Section (A–2–3), Air and Toxics Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901 at (415) 744–1246.

SUPPLEMENTARY INFORMATION: Under the authority of Section 105 of the CAA, EPA provides financial assistance to the PDEQ to aid in the operation of its air pollution control programs. In FY–95, EPA awarded the PDEQ $331,207, which represented approximately 25.4% of the PDEQ's air pollution control program budget.

Section 105(c)(1) of the CAA, 42 U.S.C. 7405(c)(1), provides that "[n]o agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year." EPA may still award financial assistance to an agency not meeting this requirement, however, if EPA, "after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government." CAA section 105(c)(2). These statutory requirements are repeated in EPA's implementing regulations at 40 CFR 35.210(a).

In January of 1996, the PDEQ submitted to EPA final documentation which shows that its actual FY–95 expenditures of non-Federal funds for recurrent expenditures (or its maintenance of effort (MOE)) were $973,959. In its FY–96 § 105 grant application the PDEQ projected MOE of $537,821. This amount represents a shortfall of $436,138 from the MOE for the preceding fiscal year (FY–95). In order for the PDEQ to be eligible to be awarded its FY–96 grant, EPA must make a determination under section 105(c)(2).

In December 1995, the PDEQ submitted documentation to EPA establishing that its reduced expenditures for FY–96 result from a loss of permit revenue, due to changes to Pima County's air quality rules mandated by new Arizona state law which required Arizona localities to amend their air quality rules that were more stringent than state rules. Rule changes adopted on November 14, 1995

by the Pima County Board of Supervisors included both raising permit thresholds and lowering fee schedules to make them identical in structure to the state program. Due to these changes, there will be a severe decline in permit revenue in FY–96.

The PDEQ's MOE reduction resulted from a loss of fee revenues due to circumstances beyond its control. EPA proposes to determine that the PDEQ's lower FY–96 MOE level meets the section 105(c)(2) criteria as resulting from a non-selective reduction of expenditures. Pursuant to 40 CFR section 35.210, this determination will allow the PDEQ to be awarded § 105 grant funds for FY–96.

This notice constitutes a request for public comment and an opportunity for public hearing as required by the Clean Air Act. All written comments received by March 18, 1996 on this proposal will be considered. EPA will conduct a public hearing on this proposal only if a written request for such is received by EPA at the address above by March 18, 1996.

If no written request for a hearing is received, EPA will proceed to a final determination. While notice of the final determination will not be published in the **Federal Register**, a copy of the determination can be obtained by sending a written request to Douglas McDaniel at the above address.

Dated: February 3, 1996.

David P. Howekamp,

Director, Air and Toxics Division, U.S. EPA, Region 9.

[FR Doc. 96–3582 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5422–2]

Public Water System Supervision Program: EPA Tentatively Approves Program Revisions Corresponding to the National Primary Drinking Water Regulations for Phase II, IIb, and V for the State of Nebraska

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of Nebraska is revising its approved State Public Water System Supervision (PWSS) Program. Nebraska has adopted regulations for the (1) synthetic organic chemicals and inorganic chemicals (Phase II), that correspond to the National Primary Drinking Water Regulations published by EPA on January 30, 1991 (56 FR 3526); (2) volatile organic chemicals (Phase IIb), that correspond to the National Primary Drinking Water Regulations published by EPA on July 1, 1991, (56 FR 32112); and (3) synthetic organic chemicals and inorganic chemicals (Phase V), that correspond to the National Primary Drinking Water Regulations published by EPA on July 17, 1992 (57 FR 31776).

The EPA has determined that these State program revisions are no less stringent than the corresponding Federal regulations. This determination was based upon an evaluation of Nebraska's PWSS program in accordance with the requirements stated in 40 CFR 142.10. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted to the Regional Administrator, within thirty (30) days of the date of this Notice, at the address shown below. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action. If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective thirty (30) days from this Notice date.

Insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Requests for a public hearing should be addressed to: Robert Morby, Chief; Drinking Water/Groundwater Management Branch; U.S. Environmental Protection Agency, Region VII; 726 Minnesota Avenue; Kansas City, Kansas 66101–2798.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Nebraska. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Nebraska. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination based upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

ADDRESSES: A copy of the primacy application relating to this determination is available for inspection between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday, at the following locations: U.S. EPA Region VII Drinking Water/Groundwater Management Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101–2798, and the Nebraska Department of Health, 301 Centennial Mall South, 3rd Floor, Lincoln, Nebraska 68509.

FOR FURTHER INFORMATION CONTACT: David Horak, EPA Region VII, Drinking Water/Groundwater Management Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101–2798, telephone (913) 551–7970.

Authority: Section 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR 142.10 of the National Primary Drinking Water Regulations.

Dated: December 18, 1995.

Dennis Grams,

Regional Administrator, EPA, Region VII.

[FR Doc. 96–3282 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5413–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed February 5, 1996 Through February 9, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960059, Draft EIS, MMS, AL, CA, DE, LA, NJ, AK, CT, FL, MS, NY, NC, RI, VA, OR, TX, WA, Gulf of Mexico and Offshore Alaska Outer Continental Shelf (OCS) Oil and Gas Leasing Program 1997 to 2002 for 16 Lease Sales on Five-Year Leasing Program, Due: May 09, 1996, Contact: Richard Wildermann (703) 787–1674.

EIS No. 960060, Final EIS, DOE, WY, CO, NM, UT, AZ, Salt Lake City Area Integrated Hydroelectric Power Plants Projects, Implementation, WY, CO, NM, UT and AZ, Due: March 18, 1996, Contact: David Sabo (801) 524–5392.

EIS No. 960061, Draft EIS, FRC, MI, Thunder Bay River Hydroelectric Project (FERC No. 2404) and Hillman Dam Project (FERC. No. 2419) Application for New License, Alpena, Montmorency, Alcona, Preque Isle and Oscada Counties, MI, Due: April 16, 1996, Contact: Patrick K. Murphy (202) 219–2659.

EIS No. 960062, Draft EIS, DOA, MI, IN, Programmatic EIS—La Grange County Sewer District Sanitary Sewer Collection System and a Wastewater Treatment System, Construction and Operation, MI and IN, Due: April 01, 1996, Contact: Mark S. Plank (202) 720–1649.

EIS No. 960063, Final EIS, FHW, CA, Alameda Railroad Corridor Consolidated Project, Construction from Downtown Los Angeles to the Badger Avenue Bridge/CA–91, Funding, COE Section 404 Permit and ICC Approval, Los Angeles County, CA, Due: March 18, 1996, Contact: Glenn Clinton (916) 551–1310.

EIS No. 960064, Final EIS, AFS, ID, Fish Bate Timber Sale, Implementation, North Fork Clearwater River, Clearwater National Forest, North Fork Ranger District, Clearwater County, ID, Due: March 18, 1996, Contact: Jennefer L. Sunberg (208) 476–3775.

EIS No. 960065, Draft EIS, FHW, MO, MO–21 Corridor Transportation Improvement, between Otto to DeSoto, COE Section 404 Permit and NPDES Permit, Jefferson County, MO, Due: April 12, 1996, Contact: Don Neumann (573) 636–7104.

EIS No. 960066, Draft EIS, FHW, CA, U.S. Highway 101 Transportation Improvement Project, between Vineyard Avenue to Johnson Drive, Funding, in the Cities of Oxnard and San Buenaventura, Ventura County, CA, Due: April 01, 1996, Contact: C. Glenn Clinton (916) 498–5037.

EIS No. 960067, Draft EIS, AFS, CO, Routt National Forest Land and Resource Management Plan, Implementation, Grand, Routt, Rio Blanco, Jackson, Moffat and Garfield Counties, CO, Due: May 16, 1996, Contact: Jerry E. Schmidt (970) 879–1722.

EIS No. 960068, Final EIS, BLM, NV, Round Mountain Mine Mill and Tailings Facility, Construction and Operation for the Smoke Valley Operation, Plan of Operations Amendment Approval, Nye County, NV, Due: March 18, 1996, Contact: Christopher Stubbs (702) 635–4000.

EIS No. 960069, Final EIS, BLM, OR, Tucker Hill Perlite Quarry Project, Implementation, Mining Plan of Operation Approval, Town of Lakeview, Lake County, OR, Due: March 18, 1996, Contact: Ted Davis (503) 947–2177.

EIS No. 960070, Draft EIS, GSA, GA, Savannah Federal Building—United States Courthouse, Site Selection and Construction of Annex within the existing Federal Building Courthouse, Savannah, GA, Due: April 01, 1996, Contact: Phil Youngberg (404) 331–1831.

EIS No. 960071, Final EIS, FHA, WV, Spring Hills Subdivision Housing Project, Construction, Funding, Charlestown, WV, Due: March 18, 1996, Contact: Robert D. Lewis (304) 291–4248.

EIS No. 960072, Draft EIS, USN, CA, Port Hueneme Naval Civil Engineering Laboratory (NCEL) Disposal and Reuse, Implementation, Ventura County, CA, Due: April 01, 1996, Contact: Mary Doyle (415) 244–3024.

EIS No. 960073, Final EIS, FAA, WA, Seattle-Tacoma (Sea-Tac) International Airport Master Plan Update for Development Actions, Funding, Airport Layout Plan Approval and COE Section 404 Permit, King County, WA, Due: March 18, 1996, Contact: Dennis Ossenkop (206) 227–2611.

EIS No. 960074, Draft EIS, COE, MS, Jackson Metropolitan Area Flood Control Project, In Portions of Pearl River Basin, Implementation, Madison, Hinds and Rankin Counties, MS, Due: April 01, 1996, Contact: Greg Ruff (601) 631–5456.

EIS No. 960075, Draft EIS, FHW, OH, Putnam Street Bridge Replacement across the Muskingum River, Construction and Funding, Marietta, Washington County, OH, Due: April 01, 1996, Contact: William Jones (614) 469–5877.

Amended Notices

EIS No. 950593, Draft EIS, AFS, CA, Dinkey Allotment Livestock Grazing Strategies, Implementation, Sierra National Forest, Fresno County, CA, Due: March 12, 1996, Contact: Terry Elliott (209) 297–0706. Published FR 01–26–96—Review Period Extended.

EIS No. 960019, Draft Supplement, FHW, VA, DC, MD, Woodrow Wilson Bridge Improvements, Updated Information, I–95 from the Telegraph Road/Capital Beltway Interchange in Alexandria, VA to the MD–210 Capital Beltway Interchange in Oxon Hill, MD, Funding, COE Section 10 and 404 Permits and CGD Bridge Permit, Fairfax County, VA; Prince George's County, MD and DC, Due: March 26, 1996, Contact: David C. Lawton (410) 962–2542. Published FR 01–26–96—Review Period Extended.

EIS No. 960030, Final EIS, DOE, CA, NV, Adoption—Alturas 345 Kilovolt (kv) Electric Power Transmission Line Project, Construction, Operation and Maintenance, Right-of-Way Grant Approval, Special-Use-Permit and COE Section 404 Permit, Susanville District, Modoc, Lassen and Sierra Counties, CA and Washoe County, NV, Contact: Richard Stone (503) 230–3797. Published FR-02–02–96—This EIS was Adopted by the Bonneville Power Administration (BPA). BPA was a Cooperating Agency on this Project. Recirculation of the Document was not necessary. Therefore there is no Comment Period for this EIS.

Dated: February 13, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–3658 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

[OPP–00427; FRL–5351–2]

Worker Protection Standard; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meetings.

SUMMARY: EPA intends to hold public meetings to solicit feedback from workers, owners, and all other interested individuals and groups on regulations designed to protect the health of 3.5 million agricultural workers from pesticide exposure. The meetings will be held at the following locations: California, the District of Columbia, Florida, Indiana, Mississippi, Missouri, Pennsylvania, Puerto Rico, Texas, and Washington. The first meeting is scheduled for February 22, 1996, in Winter Haven, Florida. The meetings will serve as one of the initial steps taken by EPA as part of its stated commitment to continually monitor and evaluate the impact and performance of the Worker Protection Standard (WPS) program. The public meetings are designed to provide an opportunity for agricultural workers and owners and all of those directly affected by WPS to relay their actual experiences and give their perceptions concerning its first full year of implementation. By reaching out to those on the frontlines and for whom

these regulations are intended to provide public health protection, EPA will better understand how the program is working and where meaningful improvements should be made.

DATES: The first meeting will be held on February 22, 1996.

ADDRESSES: The first meeting will be held at the Florida Citrus Building, Nora Mayo Hall, 500 3rd St., NW., Winter Haven, Florida. Registration will begin at 5 p.m. and the public meeting will begin at 7 p.m.

FOR FURTHER INFORMATION CONTACT: Jeanne Heying, Mail Code 7506C, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (703) 305–7164 or your EPA WPS contact in regions hosting public meetings.

Puerto Rico meeting: Fred Kozak, EPA Region 2, (908) 321–6769.

Pennsylvania and Washington, DC meetings: Magda Hunt, EPA Region 3, (215) 597–0442.

Florida and Mississippi meetings: Jane Horton, EPA Region 4, (404) 347–3555.

Indiana meeting: Don Baumgartner, EPA Region 5, (312) 886–7835.

Texas meeting: Jerry Oglesby, EPA Region 6, (214) 665–7563.

Missouri meeting: Kathleen Fenton, EPA Region 7, (913) 551–7874.

California meeting: Don Wood, EPA Region 9, (415) 744–1114.

Washington meeting: Allan Welch, EPA Region 10, (206) 553–1980.

SUPPLEMENTARY INFORMATION:

I. Background

In 1992, EPA issued final regulations governing the protection of employees on farms, forests, nurseries, and greenhouses from occupational exposure to agricultural pesticides. The WPS covers both workers in areas treated with pesticides, and employees who handle (mix, load, apply, etc.) pesticides. More specifically, the provisions of the Standard are intended to:

Inform employees about the hazards of pesticides:

- By requiring provisions for basic safety training, posting and distribution of information about the pesticides; and

Eliminate exposure to pesticides:

- By prohibiting against the application of pesticides in a way that would cause exposure to people,
- By requiring time-limited restrictions for workers to return to areas following the application of pesticides, and
- By requiring provisions for workers and handlers to wear proper protective clothing/equipment; and

Mitigate exposures that occur:

- By requiring arrangements for the supply of soap, water, and towels in the case of pesticide exposure, and
- By requiring provisions for emergency assistance.

II. Information Sought by EPA

EPA believes that agricultural workers, handlers and growers are best able to provide unique insights on the effects of the WPS requirements. Their input will be supplemented by data generated from other sources during the course of EPA's longer-term evaluation effort. As a follow-up to the public meetings, EPA will develop a summary of information gained. These tools will be used to develop strategies for improving the administration of the WPS. The Agency is specifically interested in hearing public comment, or receiving written comment, on the following topics.

1. Available assistance from regulatory partners and others involved with the WPS.
2. Usefulness of available assistance.
3. Understanding WPS requirements.
4. Success in implementing the requirements.
5. Difficulties in implementing the requirements.
6. Suggestions to improve implementation.

III. Registration to Make Comments

Persons who wish to speak at the public meeting are encouraged to register at the meeting location. The Agency encourages parties to submit data to substantiate comments whenever possible. All comments, as well as information gathered at the public meetings will be available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday (except legal holidays) at the Public Response and Program Resource Branch, Field Operations Division, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as part of any comment may be claimed as confidential by marking any or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by the Agency without prior notice to the submitter. The Agency anticipates that most of the comments will not be classified as CBI, and prefers that all information submitted be publicly available. Any records or transcripts of the open meetings will be considered public information and cannot be declared CBI.

IV. Structure of the Meeting

EPA will open the meeting with brief introductory comments. EPA will then invite those parties who have registered to present their comments. EPA anticipates that each speaker will be permitted 5 minutes to make comments. After each speaker, Agency and state representatives may ask the presenter questions of clarification. The Agency reserves the right to adjust the time for presenters depending on the number of speakers.

Members of the public are encouraged to submit written documentation to EPA at the meeting to ensure that their entire position goes on record in the event that time does not permit a complete oral presentation.

Any information may be delivered to Jeanne Heying at the address stated earlier in this Notice.

Dated: February 9, 1996.

William L. Jordan,

Director, Field Operations Division, Office of Pesticide Programs.

[FR Doc. 96–3725 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5423–6]

Notice of Proposed Administrative Order on Consent Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA")

In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given that the United States Environmental Protection Agency ("EPA"), the State of Oregon Department of Environmental Quality ("DEQ") and Winmar Pacific, Inc. ("WPI") have negotiated a proposed Administrative Order on Consent ("Consent Order") pursuant to Section 122(g) of CERCLA, 42 U.S.C. 9622(g), as amended, and applicable Oregon state law, to be issued jointly by EPA and DEQ to WPI, with respect to the East Multnomah County Groundwater Contamination Site in Oregon ("Site").

WPI owns undeveloped property in the South Shore Business Park area of the cities of Portland and Gresham, Oregon. This property is down gradient from known sources of hazardous substance groundwater contamination that are part of the Site. Groundwater contamination from these sources flows beneath the WPI property. Based on certifications and disclosures by WPI, EPA and DEQ have concluded that WPI has not disposed of or arranged for the disposal of hazardous substances at the Site, and has not caused or contributed to a release of hazardous substances at the Site. EPA and DEQ have a Memorandum of Agreement to coordinate their activities to require parties responsible for the contamination to cleanup the Site.

The major provisions of the Consent Order require a cash payment from WPI to DEQ, which is the lead Agency managing the cleanup of the Site, to help defray past and future response costs at or in connection with the Site, including costs incurred in connection with negotiation and entry of this Consent Order, and in order to facilitate community relations regarding response activities at the Site, and a grant of access by WPI to DEQ and EPA to the property for all response activities to be taken at the Site; in exchange for legal protection for WPI and its successors in interest for cleanup liability at the Site in the form of a covenant not to sue from EPA and DEQ.

EPA will receive comments relating to the proposed Consent Order for a period of thirty (30) days from the date of this publication. Comments should be addressed to Alan Goodman, Oregon Operations Office, 811 SW 6th Avenue, 3rd Floor, Portland, OR 97204, and refer to In the Matter of East Multnomah County Groundwater Contamination Site, Proposed Administrative Order on Consent for Winmar Pacific, Inc.

Copies of the proposed Consent Order may be examined at the Oregon Operations Office, 811 SW 6th Avenue, 3rd Floor, Portland, OR 97204. A copy of the proposed Consent Order may be obtained by mail or in person from the Oregon Operations Office.

Chuck Clarke,

Regional Administrator.

[FR Doc. 96–3586 Filed 2–15–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

[Notice 1996–7]

Computerized Magnetic Media Requirements for Presidential Committees

AGENCY: Federal Election Commission.

ACTION: Announcement of Changes to the Computerized Magnetic Media Requirements for Presidential Primary and General Election Committees.

SUMMARY: The Commission has revised its document entitled "Computerized Magnetic Media Requirements for Title 26 Candidates/Committees Receiving Federal Funding" ("CMMR"). The CMMR sets forth technical standards designed to ensure the compatibility of magnetic media provided for Commission use during the matching fund submission process and mandatory audits of these publicly-funded campaign committees.

EFFECTIVE DATE: January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph F. Stoltz, Deputy Assistant Staff Director; or Paul L. Laramee, Supervisory Computer Systems Analyst, Data Systems Development Division; 999 E Street N.W., Washington, D.C. 20463; (202) 219–3720 (Mr. Stoltz), (202) 219–3730 (Mr. Laramee), or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On June 21, 1990, the Federal Election Commission adopted a document entitled "Computerized Magnetic Media Requirements for Title 26 Candidates/Committees Receiving Federal Funding" ("CMMR"). The CMMR was revised on January 30, 1992 to reflect technological advances during the intervening period (see 57 FR 4453 (Feb. 5, 1992)), and again on January 11, 1996. This Notice summarizes the most recent revisions, which apply to all publicly-funded committees that participate in the 1996 presidential election.

The CMMR sets forth technical standards designed to ensure the compatibility of magnetic media provided for Commission use during the matching fund submission process and the mandatory audits of publicly-funded presidential campaign committees. Each presidential candidate must agree to maintain and provide computerized magnetic media in the format prescribed by the CMMR, if the committee maintains or uses computerized information containing any specified categories of data. See 11 CFR 9003.1(b)(4) and 9033.1(b)(5). The technical standards in the CMMR include general requirements for magnetic tape and magnetic diskettes, as well as file format specifications for records of receipts and disbursements, including contributors, vendors, invoices, bank accounts and check files.

In 1995, the Commission amended its public funding rules at 11 CFR 9036.2(a)(1)(vi) to give presidential committees the option of submitting contributions for matching funds through the use of digital imaging technology such as computer CD ROMs, instead of submitting paper photocopies of checks and deposit slips. The Commission has added Digital Image Specifications to the CMMR to provide guidance to those committees that utilize this new option, as well as conforming amendments throughout the document.

The revised public funding rules require presidential campaign committee reports that contain schedules generated from computerized files to list in alphabetical order the sources of the receipts, the payees and the creditors. See 11 CFR 9006.3, 9037.4. The CMMR has accordingly been revised to include guidance on how to record these names.

Finally, the CMMR has been revised to reflect technological advances in computer software since the 1992 revisions. It thus provides campaigns with more options than the previous version of the CMMR. The Commission continues to encourage committees to provide samples of their magnetic tape or magnetic diskettes, so that the Commission may determine whether the samples comply with the specifications established.

The CMMR is included as Appendix 2 to the Commission's Finance Control and Compliance Manual For Presidential Primary Candidates Receiving Public Funding (Jan. 1996). This ensures distribution to the committees covered by these requirements. It is also available from the Commission's Public Records Office or the Audit Division.

Please note that the technical requirements found in the CMMR are not intended to promote or discourage the use of any particular computer system or software. The Commission believes that committees should have as much discretion as possible in selecting the computer equipment they wish to use, determining what types of financial records and information should be computerized, and deciding how the computerized information is maintained. However, committees are expected to present this financial information to the Commission in the format specified in the CMMR.

Dated: February 13, 1996.

Lee Ann Elliott,

Chairman , Federal Election Commission.

[FR Doc. 96–3570 Filed 2–15–96; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of information collection to be submitted to OMB for review and

approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Board of Governors of the Federal Reserve System (Board) hereby gives notice that it has submitted to the Office of Management and Budget (OMB) a request for approval of the information collection system described below. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before March 18, 1996.

ADDRESSES: Comments, which should refer to the OMB control number, should be addressed to the OMB desk officer for the Board: Milo Sunderhauf, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503. Comments should also be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that have been submitted to OMB for review and approval may be requested from the agency clearance officer, whose name appears below.Mary M. McLaughlin, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to request approval from OMB of the extension, with revision, of the following report:

1. Report title: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks
Agency form number: FFIEC 002
OMB control number: 7100-0032
Frequency: Quarterly
Reporters: U.S. branches and agencies of foreign banks
Annual reporting hours: 48,653
Estimated average hours per response: 22.40
Number of respondents: 543
Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

General description of report: This information collection is mandatory [12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b)]. Except for select sensitive items, this information collection is not given confidential treatment (5 U.S.C. 552(b)(8)).

Abstract: On December 11, 1995, the three agencies jointly published a notice in the Federal Register (60 FR 63526) describing in detail and inviting comment on the proposed changes to this collection of information. All comments received by the agencies in response to that notice, including a change to the proposed revisions that the agencies made in response to those comments, were addressed in supporting statements that were developed to justify the proposed changes. This notice provides the public with the opportunity to obtain, review, and comment on, the Board's supporting statement.

Board of Governors of the Federal Reserve System, February 12, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-3548 Filed 2-15-96; 8:45AM]

Billing Code 6210-01-F

Forrest Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than March 11, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Forrest Bancshares, Inc., Forrest, Illinois; to merge with Erie Bancorp, Inc., Erie, Illinois, and thereby indirectly acquire Erie State Bank, Erie, Illinois.

Board of Governors of the Federal Reserve System, February 12, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3547 Filed 2–15–96; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Notice of Transmittal of the United States General Accounting Office Compliance Report to the President and the Congress Covering Reports and Presidential Orders Issued During the Session of Congress Ending on January 3, 1996, Reporting and Recording Requirements

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: The United States General Accounting Office has submitted its compliance report covering reports and presidential orders issued during the session of Congress ending on January 3, 1996, to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives.

SUPPLEMENTARY INFORMATION: Under the Omnibus Budget Reconciliation Act of 1990, as amended, 2 U.S.C. sec. 904(b), one day following issuance of its compliance report, the General Accounting Office must announce a notice of the report in the **Federal Register**.

Susan J. Irving,

Associate Director, Budget Issues, Accounting and Information Management Division.

[FR Doc. 96–3502 Filed 2–15–96; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to Carol Lavrich, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7735 ext 287; fax 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods for Treating Autoimmune Diseases and Transplantation Rejection

Singer, D.S., Kohn, L.D., Mozes, E., Saji, M. (NCI)

Serial No. 08/503,525 filed 21 Aug 95 (CIP of 08/480,525) and Serial No. 08/464,130 filed 7 Jun 95 (DIV of 08/073,830)

Methods for treating autoimmune diseases in mammals and for preventing or treating transplantation rejection in a transplant recipient are described in this invention. The invention relates to methods for treating and preventing these diseases, using drugs capable of suppressing expression of the major histocompatibility complex (MHC) Class I molecules. The invention further includes method for in vivo and in vitro assays, for the development and assessment of drugs capable of suppressing expression of MHC Class I molecules. Furthermore, the invention provides a method for preventing rejection of cells containing a recombinant gene transplanted into a mammal in need of a gene therapy. (portfolio: Internal Medicine—Therapeutics, anti-inflammatory)

Methods for Treating Autoimmune Diseases and Transplantation Rejection

Singer, D.S., Kohn; L.D., Mozes, E., Saji, M. (NCI)

Filed 7 Jun 95

Serial No. 08/480,525 (FWC of 08/073,830)

Methods for treating autoimmune diseases by suppressing the expression of the major histocompatibility complex (MHC) class I molecules by administering either methimazole, methimazole derivatives, carbimazole, propylthiouracil, thionamides, thiourelylenes, thioureas, and thiourea derivatives. These compounds can be used to treat diseases such as rheumatoid arthritis, psoriasis, juvenile diabetes, primary idiopathic myxedema, myasthenia gravis, scleroderma, De Quervains thyroiditis, systemic lupus erythematosus dermatomyositis, polyarteritis nodosa, and polymyositis. This invention also provides the means for inhibiting transplantation rejection in humans. Also provided are in vivo and in vitro means for assessing and developing drugs capable of suppressing the MHC class I molecules. (portfolio: Internal Medicine—Therapeutics, anti-inflammatory)

Mutants Having a Deficit of Functional Steroid Hormone Receptors

Korach, K.S. (NIEHS)

Filed 7 June 95

Serial Number 08/480,854

This invention concerns "knockout" animals, including mice, which have a deficit of functional steroid hormone receptors, DNA constructs containing the mutations, and methods for producing the animals. The mutation is introduced into the animal or its ancestors at an embryonic stage. These knockout animals provide a model system for studying the biological role of hormones, including steroid hormones and sex steroids, in growth, development, morphological differentiation, and sexual and reproductive behavior and cycles, etc. More specifically, the animals may serve as models for testing sex hormones and synthetics that mimic or antagonize sex hormones for use in birth control methods or as hormone replacement therapies. In addition, they provide a system for the characterization of materials suspected of precipitating or conferring protection against osteoporosis, cardiovascular disease, breast cancer, endometrial cancer, and other cancers. (portfolio: Internal Medicine—Miscellaneous)

Nitroxides as Protectors Against Oxidative Stress

Mitchell, J.B., Samui, A., DeGraff, W., Hahn, S. (NCI)

Filed 7 Jun 95

Serial No. 08/473,960 (CIP of 07/859,622, U.S. Patent 5,462,946 issued 31 Oct 95; CON of 07/494,532)

New metal-independent nitroxide compounds are antioxidants capable of protecting cells, tissues, and organs against the harmful effects of toxic oxygen-related species (hydroxyl radical, hydrogen peroxide, superoxide). These toxic oxygen-related species have been implicated in tissue damage from ionizing radiation, reperfusion injury, adult respiratory distress syndrome, inflammation, and agents involved in such processes as carcinogenesis and aging. These mimetic agents have several advantages over natural antioxidants such as superoxide dismutase in that they can exert protection inside the cell since they are small and uncharged. Additionally, long-term administration of these agents to animals induces weight reduction without untoward effects. (portfolio: Internal Medicine—Miscellaneous)

Heparin—and Sulfatide-Binding Peptides From the Type I Repeats of Human Thrombospondin

Roberts, D.D., Browing, P.J., Bryant, J., Inman, J.K., Krutzsch, H.C., Guo, N. (NCI)

Filed 21 Mar 94

Serial No. 08/215,085 (CIP of 07/801,812, U.S. Patent 5,357,041 issued 18 Oct 94)

This invention describes a new family of related peptides that bind with high affinity to heparin or to heparin sulfate proteoglycans and inhibit specific functions of these molecules. The peptides thus are antagonists of basic fibroblast growth factor. Some of the peptides contain a second sequence that mediates activation of transforming growth factor-β. Stable analogs of these peptides have been prepared that resist proteolysis and retain activity *in vivo*. The ability of these peptides to modulate tumor growth and angiogenesis has been demonstrated, and suggest that they might be useful as cancer therapeutic agents. Furthermore, the peptides may be useful for promoting adhesion to substrates coated with the peptides. The novel compounds, which are derived from the adhesive protein thrombospondin, have binding constants 10 to 100 times greater than those of currently available inhibitors; in addition, the heparin-binding sequence does not require an ionic charge, thus making them suitable

for pharmaceutical preparations. It is expected that the high potency of these agents will lower the effective dose needed, and, subsequently, will reduce the immunological response against the peptides and the risks of toxicity. (portfolio: Internal Medicine—Therapeutics, anti-inflammatory)

Peptide Derivatives of Cytochrome b558 and Their Use as Medicaments [as Anti-Inflammatory Agents]

Malech, H., Rotrosen, D. (NIAID)
Filed 24 May 90
Serial No. 07/527,767 (CIP of 07/331,652)
Licensing Contact: Carol Lavrich, 301/496–7735 ext 287

A new anti-inflammatory agent based on two c-terminal amino acid sequences of cytochrome b558 has been shown to inhibit the production of toxic oxygen products (superoxide, peroxide) by human phagocytic cells. Because of its specificity for phagocytic cells, it is expected that these peptide derivatives would not have the side effects of other anti-inflammatory agents in general use. (portfolio: Internal Medicine—Therapeutics, anti-inflammatory)

Dated: February 5, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–3517 Filed 2–15–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code, Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: February 28, 1996.

Time: 1:00–2:30 p.m.

Place: Room 400C, 6120 Executive Blvd., Rockville, MD 20852 (telephone conference call).

Contact Person: Marilyn Semmes, Ph.D., Acting Chief, Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301–496–8683.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: February 12, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3516 Filed 2–15–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Notice of Closed Meeting of the National Institute of Dental Research Special Grants Review Committee

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Dental Research Special Grants Review Committee.

Date: March 26–28, 1996.

Time: 8:30 a.m. to Adjournment.

Place: Hilton Hotel, 620 Perry Parkway, Gaithersburg, Maryland 20877.

Contact Person: Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, Natcher Building, Room 4AN–38E, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To review and evaluate grant applications and/or contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Dental Research Institute; National Institutes of Health, HHS)

Dated: February 12, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3515 Filed 2–15–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–72]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnson at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Veterans Affairs: Steve Koenig, Management Analyst, Department of Veterans Affairs, 811 Vermont Avenue, NW, Room 414, Lafayette Bldg., Washington, DC 20420; (202) 565–5424; (Those are not toll-free numbers).

Dated: February 9, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 02/16/96

Suitable/Available Properties

Buildings (by State)

Alabama

Bldg. 19, VA Medical Center
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 979220006
Status: Underutilized
Comment: Portion of a 5320 sq. ft. 4-story structure

California

Bldg. 20—VA Medical Center
Wilshire & Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979210003
Status: Unutilized
Comment: 8758 gross sq. ft., one story wooden, requires complete restoration meeting standards of national preservation laws and guidelines.

Bldg. 13, VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979220001
Status: Underutilized
Comment: Portion of 66,165 sq. ft. bldg., needs major rehab, no util., pres. of asbestos, in historic district, potential to be hazardous due to storage of radioactive material nearby.

Bldg. 156, VAMC
Wilshire and Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979230015
Status: Underutilized
Comment: Portion of 39,454 sq. ft. bldg., presence of asbestos, needs rehab, seismic reinforcement deficiencies, in his. district, potentially hazardous due to nearby radioactive material.

Indiana

Bldg. 140, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230007
Status: Underutilized
Comment: 60 sq. ft., concrete block bldg., most recent use—trash house, access restrictions.

Pennsylvania

Bldg. 25—VA Medical Center
Delafield Road
Pittsburgh Co: Allegheny PA 15215–
Landholding Agency: VA
Property Number: 979210001
Status: Unutilized
Comment: 133 sq. ft., one story brick guard house, needs rehab.

Tennessee

Bldg. 16, VAMC Mountain Home
Johnson Co: Washington TN 37604–
Landholding Agency: VA
Property Number: 979220007
Status: Unutilized
Comment: 3215 sq. ft., 3-story wood frame residence, needs repair, subject to historic preservation requirements.

Wisconsin

Bldg. 8
VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 979010056
Status: Underutilized
Comment: 2200 sq. ft., 2 story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

Land (by State)

Alabama

VA Medical Center
VAMC
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 979010053
Status: Underutilized
Comment: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped.

California

Land
4150 Clement Street
San Francisco Co: San Francisco CA 94121–
Landholding Agency: VA
Property Number: 979240001
Status: Underutilized
Comment: 4 acres; landslide area.

Maryland

VA Medical Center
9500 North Point Road
Fort Howard Co: Baltimore MD 21052–
Landholding Agency: VA
Property Number: 979010020
Status: Underutilized
Comment: Approx. 10 acres, wetland and periodically floods, most recent use—dump site for leaves.

Texas

Land
Olin E. Teague Veterans Center,
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010079
Status: Underutilized
Comment: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities.

VA Medical Center
4800 Memorial Drive
Waco Co: McLennan TX 76711–
Landholding Agency: VA
Property Number: 979010081
Status: Underutilized
Comment: 2.3 acres, negotiating lease w/ Owens-Illinois Glass Plant, most recent use—parking lot.

Wisconsin

VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA

Property Number: 979010054
Status: Underutilized
Comment: 12.4 acres, serves as buffer between center and private property, no utilities.

Suitable/Unavailable Properties

Buildings (by State)

California

Bldg. 116
VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding: Agency: VA
Property Number: 979110009
Status: Underutilized
Comment: 60309 sq. ft., 3 story brick frame, seismic reinforcement defics., underutil. port of bldg. used intermitly., needs rehab, poss. asbestos in pipes/floor tiles, site access lim.

Florida

Bldg. 36, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding: Agency: VA
Property Number: 979230009
Status: Underutilized
Comment: Portion of 15,984 sq. ft., 1 story concrete frame bldg. needs rehab, presence of asbestos, listed on Natl Register of Historic Places, access restrictions.

Bldg. 37, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding: Agency: VA
Property Number: 979230010
Status: Underutilized
Comment: Third floor of a concrete frame bldg. (13,900 sq. ft.), presence of asbestos, listed on Natl Register of Historic Places, access restrictions.

Indiana

Bldg. 24, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding: Agency: VA
Property Number: 979230005
Status: Underutilized
Comment: Portion of 4135 sq. ft. 2-story wood structure, needs major rehab, no sanitary or heating facilities, presence of asbestos, access restrictions.

Bldg. 105, VAMC
East 38th Street
Marion Co: Grant IN 46952–
Landholding: Agency: VA
Property Number: 979230006
Status: Underutilized
Comment: 310 sq. ft., 1 story stone structure, needs major rehab, no sanitary or heating facilities, access restrictions.

Minnesota

Bldg. 227
VA Medical Center
Fort Snelling
St. Paul Co: Hennepin MN 55111–
Landholding: Agency: VA
Property Number: 979010033
Status: Unutilized
Comment: 850 sq. ft., 2 story wood frame and brick residence, utilities disconnected.

New York

Bldg. 144, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding: Agency: VA
Property Number: 979210004
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence, needs rehab, potential utilities.

Bldg. 143, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding: Agency: VA
Property Number: 979210005
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence, needs rehab, potential utilities.

Bldgs. 142/146, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding: Agency: VA
Property Number: 979210006
Status: Unutilized
Comment: 5215 sq. ft., 2 story wood frame residence with 380 sq. ft. attached garage, needs rehab, potential utilities.

Pennsylvania

Bldg. 2, VAMC
1700 South Lincoln Avenue
Lebanon Co: Lebanon PA 17042–
Landholding: Agency: VA
Property Number: 979230011
Status: Underutilized
Comment: Portion of 16,360 sq. ft. 3-story structure, most recent use—storage.

Bldg. 3, VAMC
1700 South Lincoln Avenue
Lebanon Co: Lebanon PA 17042–
Landholding: Agency: VA
Property Number: 979230012
Status: Underutilized
Comment: Portion of bldg. (3850 and 4360 sq. ft.), most recent use—storage.

Bldg. 103, VAMC
1700 South Lincoln Avenue
Lebanon Co: Lebanon PA 17042–
Landholding: Agency: VA
Property Number: 979230014
Status: Underutilized
Comment: Portion of 1215 sq. ft. 2-story stone farm house, needs repair.

Wyoming

Bldg. 13
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding: Agency: VA
Property Number: 979110001
Status: Unutilized
Comment: 3613 sq. ft., 3 story wood frame masonry veneered, potential utilities, possible asbestos, needs rehab.

Bldg. 79
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding: Agency: VA
Property Number: 979110003
Status: Unutilized
Comment: 45 sq. ft., 1 story brick and tile frame, limited utilities, most recent use—reservoir house, use for storage purposes.

Land (by State)

Florida

Compound, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding: Agency: VA
Property Number: 979230017
Status: Underutilized
Comment: Approx. 7 acres, storage compound, partially wooded.

Illinois

VA Medical Center
3001 Green Bay Road
North Chicago Co: Lake IL 60064–
Landholding: Agency: VA
Property Number: 979010082
Status: Underutilized
Comment: 2.5 acres, currently being used as a construction staging area for the next 6–8 years, potential utilities.

Michigan

VA Medical Center
5500 Armstrong Road
Battle Creek Co: Calhoun MI 49016–
Landholding Agency: VA
Property Number: 979010015
Status: Underutilized
Comment: 20 acres, used as exercise trails and storage areas, potential utilities.

Minnesota

Bldg. 227–229 Land
VA Medical Center
Fort Snelling
St. Paul Co: Hennepin MN 55111–
Landholding Agency: VA
Property Number: 979010006
Status: Underutilized
Comment: 2.0 acres, potential utilities, buildings occupied, residence/garage.

VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Location: Land (Site of Building 15, 16, 21, 48, 64 T10)
Landholding Agency: VA
Property Number: 979010024
Status: Underutilized
Comment: 12.1 acres, most recent use—parking, potential utilities.

Land—12 acres
VAMC
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010031
Status: Unutilized
Comment: 12 acres, possible asbestos, leased to Department of Natural Resources as a park walking trail.

New York

VA Medical Center
Fort Hill Avenue
Canandaigua Co: Ontario NY 14424–
Landholding Agency: VA
Property Number: 979010017
Status: Underutilized
Comment: 27.5 acres, used for school ballfield and parking, existing utilities easements, portion leased.

Pennsylvania

VA Medical Center
New Castle Road
Butler Co: Butler PA 16001–
Landholding Agency: VA
Property Number: 979010016
Status: Underutilized
Comment: Approx. 9.29 acres, used for patient recreation, potential utilities.

Land No. 645
VA Medical Center
Highland Drive
Pittsburgh Co: Allegheny PA 15206–
Location: Between Campania and Wiltsie Streets.
Landholding Agency: VA
Property Number: 979010080
Status: Unutilized
Comment: 41.97 acres, heavily wooded, property includes dump area and numerous site storm drain outfalls.

Land—34.16 acres
VA Medical Center
1400 Block Horse Hill Road
Coatesville Co: Chester PA 19320–
Landholding Agency: VA
Property Number: 979340001
Status: Underutilized
Comment: 34.16 acres, open field, most recent use—recreation/buffer.

Suitable/To Be Excessed

Land (by State)

Minnesota

Land around Bldg. 240–249, 253
VA Medical Center
Fort Snelling
St. Paul Co: Hennepin MN 55111–
Landholding Agency: VA
Property Number: 979010007
Status: Unutilized
Comment: 3.76 acres, potential utilities.

Unsuitable Properties

Buildings (by State

Indiana

Bldg. 21, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230001
Status: Underutilized
Reason: Extensive deterioration.

Bldg. 22, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230002
Status: Underutilized
Reason: Extensive deterioration.

Bldg. 62, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952–
Landholding Agency: VA
Property Number: 979230003
Status: Underutilized
Reason: Extensive deterioration.

Mississippi

Bldg. 6, Boiler Plant
Biloxi VA Medical Center
Biloxi Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 979410001
Status: Unutilized
Reason: Floodway.

Bldg. 67
Biloxi VA Medical Center
Biloxi Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 979410008
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 68
Biloxi VA Medical Center
Biloxi Co: Harrison MS 39531–
Landholding Agency: VA
Property Number: 979410009
Status: Unutilized
Reason: Extensive deterioration.

North Carolina

Bldg. 9
VA Medical Center
1100 Tunnel Road
Asheville Co: Buncombe NC 28805–
Landholding Agency: VA
Property Number: 979010008
Status: Underutilized
Reason: Other
Comment: Friable asbestos.

Tennessee

Bldg. 60, VAMC Mountain Home
Johnson Co: Washington TN 37604–
Landholding Agency: VA
Property Number: 979220005
Status: Unutilized
Reason: Extensive deterioration.

Texas

Bldg. 24
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010050
Status: Unutilized
Reason: Other
Comment: Friable asbestos.

Bldg. 25
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010051
Status: Unutilized
Reason: Other
Comment: Friable asbestos.

Bldg. 26
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010052
Status: Unutilized
Reason: Other
Comment: Friable asbestos.

Wyoming

Bldg. 95
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110004
Status: Unutilized
Reason: Other
Comment: Sewage digester for disposal plant.

Bldg. 96
Medical Center
N.W. of town at end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110005
Status: Unutilized
Reason: Other
Comment: Pump house for sewage disposal plant.

Structure 99
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110006
Status: Unutilized
Reason: Other
Comment: Mechanical screen for sewage disposal plant.

Structure 100
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110007
Status: Unutilized
Reason: Other
Comment: Dosing tank for sewage disposal plant.

Strucuture 101
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110008
Status: Unutilized
Reason: Other
Comment: Chlorination chamber for sewage disposal plant.

Bldg. 97, Medical Center
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979410011
Status: Unutilized
Reason: Other
Comment: Sewage disposal plant.

Structure 98, Medical Center
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979410012
Status: Unutilized
Reason: Other
Comment: Sludge bed/sewage disposal plant.

Land (by State)

California

DVA Medical Center
4951 Arroyo Road
Livermore Co: Alameda CA 94550–
Landholding Agency: VA
Property Number: 979010023
Status: Unutilized
Reason: Other
Comment: 750,000 gallon water reservoir.

Florida

Wildlife Sanctuary, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504–
Landholding Agency: VA
Property Number: 979230004
Status: Underutilized
Reason: Other
Comment: Inaccessible.

Minnesota

VAMC
VA Medical Center
4801 8th Street No.
St. Cloud Co: Sterns MN 56303–

Landholding Agency: VA
Property Number: 979010049
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.

New York

Tract 1
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 979010011
Status: Unutilized
Reason: Secured Area.

Tract 2
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 979010012
Status: Underutilized
Reason: Secured Area.

Tract 3
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 979010013
Status: Underutilized
Reason: Secured Area.

Tract 4
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Number: 979010014
Status: Unutilized
Reason: Secured Area.

[FR Doc. 96–3348 Filed 2–14–96; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[WO–300–1310–00–24 1A]

Green River Basin Advisory Committee; Establishment

AGENCY: Bureau of Land Management, Interior.

ACTION: Green River Basin Advisory Committee—Notice of establishment and notice of first meeting.

SUMMARY: This notice announces that the Secretary of the Interior has established the Green River Basin Advisory Committee (GRBAC). The first meeting of the Committee will be held in Rock Springs, Wyoming, on March 7–8, 1996, and will be open to the public. The purpose of the Committee is to advise the Secretary of the Interior, through the Director, Bureau of Land Management (BLM), on matters pertinent to the BLM's management responsibilities for the natural resources, other than grazing, as defined in the Federal Land Policy and Management Act of 1976, with special focus on natural gas and oil in the greater Green River Basin of southwest Wyoming and northwest Colorado.

DATES: March 7–8, 1996, at 8:00 a.m.

ADDRESSES: Holiday Inn, 1675 Sunset Drive, Rock Springs, Wyoming 82901, Telephone: (307) 382–9200.

FOR FURTHER INFORMATION CONTACT: Robert Bennett, Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003, telephone number (307) 775–6148; or Frank Salwerowicz, Bureau of Land Management, 2850 Youngfield St., Lakewood, CO 80215, telephone number (303) 239–3745.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Secretary of the Interior has established the Green River Basin Advisory Committee following consultation with the General Services Administration. This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 92–463).

The Committee will provide advice on data generated and analyzed in Phases I and II of the Southwest Wyoming Resource Evaluation Project (SWREP) and options/recommendations for agency implementation that would ensure continuedreasonable development of the natural gas and oil resources underlying Federal public lands while protecting environmental values.

Committee members are appointed by the Secretary of the Interior. Membership includes individuals who have expertise, through education or practical experience, in natural gas and oil activities; natural resources management/conservation; regional social and economic conditions; and similar disciplines.

The first meeting will address the following topics:

a. Organizational issues
b. Status of SWREP
c. BLM-identified issues that relate to natural gas and oil activities in southwest Wyoming/Colorado
d. GRBAC-identified issues

The certification of establishment is published below.

CERTIFICATION: I hereby certify that the establishment of the Green River Basin Advisory Committee is necessary and in the public interest in connection with the Secretary of the Interior's statutory responsibilities to manage the lands and resources administered by the BLM.

Dated: February 14, 1996.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 96–3687 Filed 2–15–96; 8:45 am]
BILLING CODE 4310–84–P

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–810834

Applicant: Dr. Francesca Cuthbert, University of Minnesota, St. Paul, Minnesota.

The applicant requests a permit to take (capture and release, handle, temporarily hold, salvage abandoned eggs and chicks) Piping Plover (*Charadrius melodus*) in Michigan. The permit is sought for banding of adults and juveniles, habitat use study, salvage of abandoned eggs and chicks for captive propagation, rearing of chicks, and release into the wild. Proposed activities will aid in recovery of the species by providing demographic, dispersal, and site fidelity data that will assist in recovery efforts for this population. Salvaging of eggs and chicks may increase recruitment to the Great Lakes nesting population.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: February 8, 1996.

John A. Blankenship,

Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 96–3526 Filed 2–15–96; 8:45 am]
BILLING CODE 4310–55–M

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of recovery permits issued.

SUMMARY: Notice is hereby given that Region 1 of the U.S. Fish and Wildlife Service (Service) has issued the following recovery permits for take or interstate commerce of endangered species under section 10 of the Endangered Species Act of 1973, as amended (Act)(16 U.S.C. 1531 *et seq.*), between January 1, and December 31, 1995. These permits were issued in response to applications submitted to the Service under section 10(c) of the Act. Each permit was issued only after it was determined to be applied for in good faith, and to be consistent with the Act and applicable regulations.

Name	Permit No.	Issuance date
Branchiopod Research Group	787037	1/23/95
Monk & Associates	776608	1/23/95
Earth Technology	787917	1/23/95
Hydrozoology	796280	1/23/95
Biosystems Analysis	796282	1/23/95
Chris D. Rogers	796284	1/23/95
The Nature Conservancy	796286	1/23/95
California Department of Transportation	796288	1/23/95
Chris Wilcox	797259	2/6/95
KAS Consultants	797232	2/6/95
Strange Aquatic Resources	797266	2/6/95
Richard L. Bottorff	797231	2/6/95
Martin Brittan	797228	2/6/95
Thomas E. Kucera	796835	2/9/95
Entomological Consulting Services	797233	2/13/95
Jeffrey A. Halstead	769304	2/14/95
Baxter Consulting Services	751345	2/17/95
Western Ecological Services Company, Inc.	677215	2/17/95
Gibson & Sordal Wetland Consultants	795935	2/23/95
Sugnet & Associates	795933	2/23/95
EIP Associates	795938	2/23/95
Foster Wheeler Environmental Corporation	796012	2/23/95
Simpson Environmental	795929	2/23/95
Brent P. Helm	795930	2/23/95
Charles J. Striplen	795288	2/24/95
Michael Baad	797251	3/2/95
LSA Associates, Incorporated	797234	3/2/95
Amadeo M. Rea	795286	3/2/95
Michael W. Skenfield	798015	3/2/95
Tracy Erwin	797262	3/2/95
Douglas Alexander	797266	3/2/95
Coastal Resources Institute	787371	3/13/95
Harland Bartholomew & Associates	797265	3/15/95
H.T. Harvey & Associates	797267	3/15/95
San Joaquin County Mosquito Vector Control	797229	3/15/95
Biota Biological Consulting	795931	3/16/95
Michael L. Morrison	797315	3/17/95
California Desert Studies Consortium	798025	3/17/95
Kootenai Tribe of Idaho	798744	3/27/95
Wetlands Research Associates, Incorporated	795928	4/1/95
North State Resources, Incorporated	798003	4/12/95
Romona Swenson	793638	4/18/95
Jones and Stokes Associates	795934	4/20/95
Annamarie S. Jacobs	790722	4/21/95
Idaho Power Company	799558	4/28/95
Dana C. Bland	798017	4/28/95
Renee Y. Owens	799569	4/28/95
Janet A. Randall	799486	5/9/95
Sacramento-Yolo Mosquito and Vector Control District	797230	5/15/95
Frances R. Taylor	799489	5/31/95
Santa Barbara Museum of Natural History	799679	5/31/95
California Department of Transportation, District 8	800926	5/31/95
Aqua Farms, LLC	801019	6/1/95
John G. Coy	799566	6/12/95
Wymer and Associates	799546	6/14/95
Roger D. Gambs	799495	6/14/95
William G. Butler, Jr	801985	6/16/95
San Bernardino County Museum	787392	6/19/95
Ibis Environmental Services	800291	6/19/95
Prunuske Chatham, Incorporated	798011	6/20/95
Sycamore Environmental Consultants	799564	6/22/95
Entrix Incorporated	799561	6/22/95
Carol W. Witham	799570	6/22/95

Name	Permit No.	Issuance date
Ray Griffiths	800793	6/22/95
Zentner and Zentner, Incorporated	800794	6/22/95
James Deacon	794782	6/27/95
Patricia Ann Hobell	789266	6/27/95
San Marino Environmental Consultants	781377	7/3/95
Louis Courtois	802446	7/20/95
Elaine Harding-Smith	802445	8/4/95
Biosearch Wildlife Surveys	768251	8/9/95
Jepson Prairie Reserve	800777	8/9/95
Donald L. Davis	800797	8/9/95
Carl J. Page	802094	8/11/95
Patricia Baird	802107	8/11/95
Manomet Observatory for Conservation Sciences	800922	8/11/95
John E. Moeur	802092	8/13/95
Stephen J. Myers	804203	8/13/95
A.G. Crook Company	802456	8/18/95
California Department of Water Resources	801821	9/5/95
Regional Environmental Consultants	797665	9/5/95
Lisa Webber	802086	9/5/95
Thomas Roberts	802103	9/5/95
Carolee Caffrey	802104	9/5/95
Robert A. Aramayo	804207	9/20/95
Assistant Regional Director-Ecological Services, Region 1, U.S. Fish and Wildlife Service	702631	10/19/95
Arthur Davenport	802450	10/30/95
Patrice Ashfield	807056	11/3/95
Enterprise Advisory Services, Incorporated	806723	11/10/95
Janet Randall	799486	12/4/95
Becky Yeager	804076	12/6/95

FOR FURTHER INFORMATION CONTACT: Chief, Division of Consultation and Conservation Planning, U.S. Fish and Wildlife Service, Ecological Services, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (tel: 503–231–2063; fax: 503–231–6243).

Dated: February 9, 1996.

Thomas Dwyer,

Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 96–3565 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–55–P

Availability of an Environmental Assessment and Receipt of an Application Submitted by Ms. Suzanne Gasque and Ms. Jewel Felkel for an Incidental Take Permit for Red-cockaded Woodpeckers in Association With Timber Harvesting Activities on Their Property in Orangeburg County, South Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Ms. Suzanne Gasque and Ms. Jewel Felkel (Applicants) have applied to the U.S. Fish and Wildlife Service for an incidental take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The proposed permit would authorize the incidental take of a federally endangered species, the red-cockaded woodpecker *Picoides borealis* (RCW) known to occur on property owned by the Applicants in Orangeburg County, South Carolina. The Applicants propose to harvest 106 acres of timber on their 446-acre property located approximately 3.5 miles south of Elloree. The proposed permit would authorize incidental take of RCWs on this property in exchange for mitigation elsewhere as described further in the Supplementary Information Section below.

The Service also announces the availability of an environmental assessment (EA) and habitat conservation plan (HCP) for the incidental take application. Copies of the EA or HCP may be obtained by making a request to the Regional Office address below. Requests must be submitted in writing to be processed. This notice is provided pursuant to Section 10© of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, EA and HCP should be sent to the Regional Permit Coordinator in Atlanta, Georgia, at the address below and should be received on or before March 18, 1996.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office; or the Asheville, North Carolina or Charleston, South Carolina Field Offices. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Please reference permit under PRT–810934 in such comments.

U.S. Fish and Wildlife Service (AES/TE), 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345, Telephone: 404/679–7110, Fax: 404/679–7081

Field Supervisor, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801, Telephone: 704/258–3939

Field Supervisor, U.S. Fish and Wildlife Service, 217 Fort Johnson Road, Charleston, South Carolina 29422–2559, Telephone: 803/727–4707.

FOR FURTHER INFORMATION CONTACT: Janice Nicholls at the Asheville, North Carolina Field Office, or Lori Duncan at the Charleston, South Carolina, Field Office, or Rick G. Gooch at the Atlanta, Georgia, Regional Office.

SUPPLEMENTARY INFORMATION: The RCW is a territorial, non-migratory cooperative breeding bird species. RCWs live in social units called groups which generally consist of a breeding pair, the current year's offspring, and one or more helpers (normally adult male offspring of the breeding pair from previous years). Groups maintain year-round territories near their roost and nest trees. The RCW is unique among the North American woodpeckers in that it is the only woodpecker that excavates its roost and nest cavities in living pine trees. Each group member has its own cavity, although there may be multiple cavities in a single pine tree. The aggregate of cavity trees is called a cluster. RCWs forage almost exclusively on pine trees and they generally prefer pines greater than 10 inches diameter at breast height. Foraging habitat is contiguous with the cluster. The number of acres required to supply adequate foraging habitat depends on the quantity and quality of the pine stems available.

The RCW is endemic to the pine forests of the Southeastern United States and was once widely distributed across 16 States. The species evolved in a mature fire-maintained ecosystem. The RCW has declined primarily due to the conversion of mature pine forests to young pine plantations, agricultural fields, and residential and commercial developments, and to hardwood encroachment in existing pine forests due to fire suppression. The species is still widely distributed (presently occurs in 13 southeastern States), but remaining populations are highly fragmented and isolated. Presently, the largest populations occur on federally owned lands such as military installations and national forests.

In South Carolina, there are an estimated 681 active RCW clusters as of 1994; 67 percent are on Federal lands, 6 percent are on State lands, and 27 percent are on private lands. The populations on public lands are generally stable, and in some cases are increasing. The overall population trend on private lands in South Carolina, on the other hand, is downward. Most RCW populations on private lands are relatively small and isolated.

The Applicant's land in Orangeburg County hosts a small and isolated population of RCWs. As of 1995, there were 2 active RCW clusters; 1 breeding group and 1 solitary adult male. The nearest known RCW group occurs on private lands approximately 2.5 miles to the north of the Gasque/Felkel tract near Elloree. The nearest known RCW concentration (greater than 5 groups) occurs over 10–15 miles away on the Manchester State Forest/Shaw Air Force Base to the north in Sumter County, and on the privately-owned Norfolk Southern property located south of the Gasque/Felkel tract in Dorchester County. The Applicants propose to harvest timber on their property for supplemental income. Timber harvesting activities may result in death of, or harm to, any remaining RCWs through the loss of nesting and foraging habitat.

The EA considers the environmental consequences of three alternatives, including the proposed action. The proposed action alternative is issuance of the incidental take permit and implementation of the HCP as submitted by the Applicants. The HCP will provide for the provisioning of 4 clusters with artificial starts and cavities on suitable habitat on the Sandhills State Forest in Chesterfield County. The Sandhills State Forest is part of a designated recovery population for the RCW in the South Carolina Sandhills Physiographic Province. The State Forest has a total of 46,000 acres of which 40,000 acres are manageable pine lands (predominately longleaf pine). The State Forest currently has 55 active RCW groups with a long-term goal of increasing the population to assist with the recovery of the South Carolina Sandhills population. The HCP will also involve the translocation of any juveniles produced by the breeding pair on the Gasque/Felkel property to the provisioned sites at the Sandhills State Forest. Finally, the HCP will involve monitoring the provisioned sites for a specified time period at the State Forest to determine success of the provisioning efforts. The HCP provides a funding source for the mitigation measures.

Dated: January 9, 1996.

Noreen K. Clough,

Regional Director.

[FR Doc. 96–3566 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–55–P

Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service announces the dates and locations of the 1996 Federal Duck Stamp Contest; the public is invited to attend.

DATES: 1. The 1996 contest opens for submission July 1, 1996.

2. The public may view the 1996 Federal Duck Stamp Contest entries on Tuesday, October 15, 1996, from 10:00 a.m. to 2:00 p.m., in the Department of the Interior Auditorium.

3. This year's judging will be held from October 16–17, 1996, beginning at 10:30 a.m. on Wednesday, October 16, and continuing at 9:00 a.m. on Thursday, October 17.

4. Persons wishing to enter this year's contest may submit entries anytime after Monday, July 1, but *all* must be postmarked no later than midnight Sunday, September 15, 1996.

ADDRESSES: Requests for complete copies of the regulations, reproduction rights and the display and participation agreements should be addressed to: Federal Duck Stamp Contest, U.S. Fish and Wildlife Service, Department of the Interior, 1849 C Street NW., Suite 2058, Washington, DC 20240.

Location of Contest: Department of the Interior Building, Auditorium (C Street entrance), 1849 C Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Lita F. Edwards, Telephone (202) 208–4354 or Fax (202) 208–6296.

SUPPLEMENTARY INFORMATION: The following *five* eligible species for the 1996–97 duck stamp contest are as follows:

(1) Canada Goose
(2) Greater Scaup
(3) Green-Winged Teal
(4) Northern Pintail
(5) Black Duck

The primary author of this document is Mrs. Lita F. Edwards, U.S. Fish and Wildlife Service.

Dated: February 6, 1996.

John G. Rogers, Jr.,

Director.

[FR Doc. 96–3562 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[CACA 35919]

California; Classification of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice, CA–35919.

SUMMARY: The following described lands have been examined and found suitable for classification for recreation and public purposes under the provisions of the Recreation and Public Purposes Act (R&PP) of June 14, 1926, as amended (43 U.S.C. 869 et. seq.). The Bureau of Land Management will reclassify 160 acres of public land in San Bernardino County to facilitate the Colorado River Law Enforcement Shooting Range Project.

DATE: Comments must be received by April 1, 1996. Adverse comments will be reviewed by the State Director.

ADDRESS: Bureau of Land Management, Area Manager, Needles Resource Area, 101 W. Spikes Road, Needles, California, 92363.

FOR FURTHER INFORMATION CONTACT: George R. Meckfessel, Planning & Environmental Coordinator, (619) 326–3896.

SUPPLEMENTARY INFORMATION: On February 9, 1996 a decision was made

to lease the following lands to the Colorado River Law Enforcement Range Association to develop and operate a shooting range for the training of law enforcement officers.

San Bernardino Meridian, California

T8N, R23E, E½ NE¼ Section 19, and W½ NW¼ Section 20

The lease/patent when issued, will be subject to the provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

Publication of this notice in the **Federal Register** segregates the public lands from appropriation under any other public land law, including location under the mining laws. The segregative effect will end either upon issuance of patent or with the termination of this lease.

In the absence of any adverse comments the classification will become effective 60 days from the publication of this notice.

Phil Damon,

Acting Area Manager.

[FR Doc. 96–3558 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–40–P

[MT–027–1320–00, MTM 83859]

Notice of Amended Planning Area and Extension of Public Scoping Period, Coal Lease Application, MTM 83859, Spring Creek Coal Company

AGENCY: Bureau of Land Management (BLM), Montana, Miles City District, Interior.

ACTION: Notice.

SUMMARY: Notice of the initial Intent to Plan was published in the **Federal Register** (61FR1394) on Friday, January 19, 1996. This Notice amends the planning area and extends the public scoping comment period.

On November 9, 1995, Spring Creek Coal Company filed an amended lease application, MTM 83859, for federal coal resources within the Powder River Coal Region. The land included in the application is located in Big Horn County, Montana and is described as follows:

T. 8 S., R. 39 E., P.M.M.

Sec. 22: E½SW¼SW¼;
Sec. 25: SW¼SW¼;
Sec. 26 S½NE¼NE¼SW¼, NW¼NE¼SW¼, N½SW¼NE¼SW¼, SE¼NE¼SW¼, N½N½NW¼SW¼, SE¼NE¼NW¼SW¼, NE¼SE¼NW¼SW¼, S½NW¼SE¼, N½N½SW¼SE¼, SE¼NE¼SW¼SE¼, N½SE¼SE¼, NE¼SW¼SE¼SE¼, N½SE¼SE¼SE¼;
Sec. 27: N½SW¼NE¼, N½S½SW¼NE¼, SE¼SE¼SW¼NE¼, S½NW¼SE¼NE¼, S½SE¼NE¼, E½NW¼NW¼, N½NE¼SE¼NW¼, SE¼NE¼SE¼NW¼, NE¼NW¼SE¼NW¼;

T. 8 S., R. 40 E., P.M.M.

Sec. 30: S½NW¼NE¼SW¼, S½NE¼SW¼, SW¼NW¼SE¼, W½SW¼SE¼, W½SE¼SW¼SE¼.

The 320.00 acre tract contains an estimated 37.8 million tons of recoverable coal reserves.

An environmental analysis will be prepared to analyze the proposed lease of the federal coal resource and the reasonably foreseeable consequences of this action as well as the impacts of development of the coal. The planning area has been amended and encompasses the Lease Application area and includes portions of the following described lands:

T. 8 S., R39 E., P.M.M.
Sections 11 through 16, 21 through 28, and 34 through 36.
T. 9 S., R. 39 E., P.M.M.
Sections 1, 2, and 12.
T. 8 S., R. 40 E., P.M.M.
Sections 19, 20, and 30 through 32.
T. 9 S., R. 40 E., P.M.M.
Sections 5 through 8.

This document will amend the Powder River Resource Area Resource Management Plan. It will be based on the existing statutory requirements and will meet the requirements of the Federal Land Policy Management Act of 1976.

SUPPLEMENTARY INFORMATION: All interested parties including federal, state and local agencies are invited to participate in the environmental analysis scoping process. The scoping period which began January 19, 1996 has been extended and will end March 29, 1996.

The following issues and concerns have been identified:

—Possible impacts to the hydrologic resources;
—Potential for social and economic impacts to the area;
—Potential redesignation of crucial winter range for deer and antelope from unsuitable for mining to suitable for mining with stipulations;
—Cultural resources and traditional lifeway values;
—The level of environmental documentation necessary (EA or EIS).

The public is encouraged to present their ideas and views on these and other issues and concerns. All issues and concerns will be considered in the preparation of the environmental analysis.

The scoping process used to collect issues and concerns will involve one public meeting and a written comment period. The written comment period will begin immediately and will close on March 29, 1996. The public meeting will be held February 29, 1996, at 7:00 P.M. at the Sheridan County Fulmer Public Library, 335 West Alger Street, Sheridan, Wyoming 82801.

FOR FURTHER INFORMATION CONTACT: All comments and requests for further information should be addressed to Todd Christensen, Area Manager, Bureau of Land Management, Powder River Resource Area, 111 Garryowen Road, Miles City, Montana 59301, telephone number (406) 232–4331.

Dated: February 9, 1996.

Glenn A. Carpenter,

District Manager.

[FR Doc. 96–3545 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–DN–P

[OR–050–1220–00:GP6–0068]

Grant County, OR; Visitor Restrictions

February 8, 1996.

AGENCY: Bureau of Land Management (BLM), Department of the Interior (DOI), Prineville District.

ACTION: Notice is hereby given that two BLM administered access roads located in Grant County, Oregon, one within Township 13 South, Range 26 East, Sections 3, 4, 9, 17, 20 and 28 and another within Township 13 South, Range 26 East, Section 24, NW¼ are closed seasonally to motorized vehicles from December 1 to April 50.

The aforementioned lands located in Grant County, Oregon, near the town of Dayville, Oregon, are seasonally closed to motor vehicles from December 1 to April 30 each year. The purpose of this closure is to protect the road surface from vehicle damage during periods of muddy conditions, to protect soil and watershed resources from off-road vehicle damage, and to minimize harassment and poaching of wildlife.

Exemptions to this closure will apply to administrative and law enforcement personnel of the BLM or Oregon Department of Fish and Wildlife, and personnel performing law enforcement, firefighting, or other emergency duties.

The authority for this closure comes from 43 CFR 8364.1(a): Closure and restriction orders. Violation of this closure order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

A more specific location of public lands under this closure can be obtained at the BLM Prineville District Office.

FOR FURTHER INFORMATION CONTACT: Heidi Mottl, Recreation Planner, BLM Prineville District Office, P.O. Box 550, Prineville, Oregon 97754, telephone number (541) 416–6700.

Dated: February 8, 1996.

Harry R. Cosgriffe,

Area Manager, Central Oregon Resource Area.

[FR Doc. 96–3542 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–33–M

[AZ–040–7122–00–5567; AZA 29361]

Notice of Realty Action; Proposed Sale of Public Lands; Arizona

AGENCY: Bureau of Land Management, Safford District, Arizona, Interior.

ACTION: Notice.

SUMMARY: The following lands in Cochise County, Arizona have been found suitable for disposal under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 USC 1713). The land will not be offered for sale until at least 60 days after the date of this notice.

Gila and Salt River Meridian, Arizona

T. 23 S., R. 24 E.,
Sec. 10, all remaining public lands;
Sec. 11, all remaining public lands in the W½.

The area described contains 496 acres, more or less.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register** the lands described above are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

The land is being offered for direct sale to Phelps Dodge Corporation at not less than the appraised fair market value. If a determination is reached that the subject parcels contain no known mineral values, the mineral interests may be conveyed simultaneously under section 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757, 43 USC 1719). Detailed information concerning the sale will be available to interested parties from the Safford District Office, Bureau of Land Management, 711 14th Avenue, Safford, Arizona 85546.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Safford District, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: February 8, 1996.

Frank L. Rowley,

Associate District Manager.

[FR Doc. 96–3544 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–32–M

[CA–930–5410–00–B072; CACA 35625]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 141.00 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests will be conveyed in whole or in part upon favorable mineral examination. The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, California State Office, Federal Office Building, 2800 Cottage Way, Room E–2845, Sacramento, California 95825, (916) 979–2858.

Mount Diablo Meridian

T. 4 S., R. 16E.,
Sec. 24, E½SW¼ and W½SE¼.

County—Mariposa

Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated: February 8, 1996.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 96–3546 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–40–M

[ID–040–1430–00, IDI–31541]

Notice of Realty Action for the Lease of Public Lands for Airport Purposes for the Challis Resource Area in Lemhi County, Idaho

SUMMARY: The following public lands in Lemhi County, Idaho have been found suitable for lease to Idaho Department of Aeronautics for airport purposes under the Act of May 24, 1928, as amended.

Boise Meridian

T. 15 N., R. 22 E.,
Sec. 19: SE¼SW¼, S½N½SW¼SE¼, S½SW¼SE¼, S½SE¼SE¼;
Sec. 20: S½S½SW¼SW¼;
Sec. 29: N½NE¼NW¼, N½SE¼NE¼NW¼.

Containing approximately 125 acres.

Lease of the lands is consistent with applicable Federal and County land use plans and will help meet the needs of Lemhi and Custer County residents for air transportation.

In the absence of any objections, the decision to approve this realty action will become the final determination of the Department of the Interior.

ADDRESSES: For a period of 45 days from the date of this publication, interested parties may submit comments to the Challis Area Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467.

FOR FURTHER INFORMATION CONTACT: Mark Johnson, Challis Area Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467 or telephone (208) 756–5400. Documents relevant to this issue will be maintained in the Challis Resource Area Office at the above address and are available for public viewing during normal office hours.

This notice segregates the above described public lands from operation of the public land laws, including mining laws. The segregative effect will end upon issuance of the lease or one year from the date of this publication, whichever occurs first.

Dated: February 6, 1996.

Mark E. Johnson,

Area Manager.

[FR Doc. 96–3543 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–GG–M

[NV–930–1430–01; N–56806]

Notice of Realty Action: Non-Competitive Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Non-competitive sale of public lands in White Pine County, Nevada.

SUMMARY: The below listed public land in Lund, White Pine County, Nevada has been examined and found suitable for sale utilizing non-competitive procedures, at not less than the fair market value. Authority for the sale is Section 203 and Section 209 of the Federal Land Policy and Management Act of 1976 (FLPMA).

DATES: On or before April 1, 1996, interested parties may submit comments to the Manager, Egan Resource Area.

ADDRESSES: Written comments should be addressed to: Bureau of Land Management, Gene L. Drais, Manager Egan Resource Area, HC 33, Box 33500, Ely, NV 89301–9408.

FOR FURTHER INFORMATION CONTACT: Michael McGinty, Realty Specialist, at the above address or telephone (702) 289–1882.

SUPPLEMENTARY INFORMATION: The following described parcel of land, situated in White Pine County is being offered as a direct sale to Mr. William McLeod.

Mount Diablo Meridian, Nevada

T. 12 N., R. 62 E.,
Section 30: Lot 3.

Containing 36.62 acres, more or less.

This land is not required for any federal purposes. The sale is consistent with current Bureau planning for this area and would be in the public interest. In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 nonreturnable filing fee for the conveyance of the available mineral interests.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All the oil and gas mineral deposits in the land subject to this conveyance, including without limitation, the disposition of these substances under the mineral leasing laws. Its permittee, licensees and lessees, the right to prospect for, mine and remove the mineral owned by the United States under applicable law and such regulations as the Secretary of the Interior may prescribe. This reservation includes all necessary and incidental activities conducted in accordance with the provisions of the mineral leasing laws in effect at the time such activities are undertaken, including, without limitation, necessary access and exit rights, all drilling, underground, or surface mining operation, storage and transportation facilities deemed necessary and authorized under law and implementing regulations. Unless otherwise provided by separate agreement with surface owner, permittee, licensees and lessees of the United States shall reclaim disturbed areas to the extent prescribed by regulations issued by the Secretary of the Interior. All cause of action brought to enforce the rights of the surface owner under the regulations above referred to shall be instituted against permittee, licensees and lessees of the United States; and the United States shall not be liable for the acts or omissions of its permittee, licensees and lessees. Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except leasing under the mineral leasing laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

On or before April 1, 1996, interested parties may submit comments regarding this action to the Area Manager, Egan Resource Area at the address listed above. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA, or other applicable laws. The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Dated: February 1, 1996.

Gene A. Kolkman,

District Manager.

[FR Doc. 96–3541 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–HC–U

[NV–930–1430–01; N–58561 et al.]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public lands in Las Vegas and Henderson, Clark County, Nevada have been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The Clark County School District proposes to use the land for school sites.

MOUNT DIABLO MERIDIAN, NEVADA

	Legal description	Acreage	Purpose
T. 22 S., R. 63 E.:			
Serial No.:			
N–58561	Sec. 22, SE¼SE¼SW¼, SW¼SW¼SE¼	10	Junior high school.
N–58976	Sec. 16, SW¼NW¼NE¼	10	Elementary school.
T. 23 S., R. 62 E.:			
Serial No. N–58975	Sec. 6, Lot 5	37.980	Middle school.
T. 22 S., R. 61 E.:			
Serial No. N–41566–20/42	Sec. 22, NW¼SE¼SE¼	10	Elementary school.
T. 21 S., R. 60 E.:			
Serial No..			
N–41565–13/32	Sec. 9, NW¼SW¼NE¼	10	Elementary school.
T. 20 S., R. 59 E.:			

MOUNT DIABLO MERIDIAN, NEVADA—Continued

	Legal description	Acreage	Purpose
Serial No.:			
N–59348	Sec. 12, S½NE¼SE¼, N½SE¼SE¼	40	Senior high school.
N–59347	Sec. 12, W½NE¼SW¼SW¼, NW¼SW¼SW¼.	15	Elementary school.

The lands are not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for these areas and would be in the public interest. Each lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. Easements in favor of Clark County/City of Las Vegas/City of Henderson in accordance with the transportation plan for roads, public utilities and flood control purposes.

2. All valid and existing rights.

Detailed information concerning each action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the District Manager, Las Vegas District, P. O. Box 26569, Las Vegas, Nevada 89126.

Classification Comments: Interested parties may submit comments involving the suitability of the lands for school sites. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the lands for school sites.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: February 5, 1996.

Michael F. Dwyer,

District Manager, Las Vegas, NV

[FR Doc. 96–3539 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–HC–P

[NV–930–06–1430–01; N–19754]

Notice of Realty Action, Recreation and Public Purposes (R&PP) Act Classification; Nevada

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: Eureka County has made application to purchase 80 acres of Bureau administered lands which are currently under an R&PP lease for use as a sewage treatment facility. The original 40 acres in the application were classified for lease or sale in 1979. The lease was amended in 1982 to include an additional 40 acres, which were classified for lease only. To avoid confusion as to which parcel needs to be classified for sale, the entire 80 acres are being classified for conveyance under the R&PP Act. The lease classification remains in effect. The following described land has been examined and found suitable for conveyance under the R&PP Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.):

Mount Diablo Meridian, Nevada

T. 20 N., R. 53 E.,
Sec. 35, E½NE¼.

Containing 80 acres, more or less.

The lands are not required for Federal purposes. Conveyance is consistent with the Bureau's land use plan for the area and is in the public's interest.

FOR FURTHER INFORMATION, CONTACT: Mary Craggett, Realty Specialist, Bureau of Land Management, 50 Bastian Way, Box 1420, Battle Mountain, NV 89820, (702) 635–4000.

SUPPLEMENTARY INFORMATION: The lands are being offered to Eureka County for a sewage treatment facility.

The patent, when issued, will be subject to the provisions of the Recreation And Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945);

2. All mineral deposits shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits under applicable laws and regulations as the Secretary of the Interior may prescribe;

and will be subject to:

1. A 25′ right-of-way for a pipeline to Eureka County, N-19823;

2. A 10′ foot right of way for a phoneline to Nevada Bell, Nev-067106;

3. An oil and gas lease, N–53479, to Yates Petroleum Corporation;

4. All other valid existing rights.

Detailed information concerning this action is available for review at the office of the BLM, Battle Mountain District, 50 Bastian Road, Battle Mountain, NV 89820. Upon publication of this notice in the **Federal Register**, the land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance or classification to

the District Manager, Battle Mountain District, 50 Bastian Way, Box 1420, Battle Mountain, NV 89820.

Classification Comments: Comments may be made regarding the suitability of the land for the sewage treatment facility. Comments on the classification are restricted to whether the land is physically suitable for the proposal, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the conveyance application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a sewage treatment facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**. The lands will not be conveyed until after the classification is effective.

Dated: February 5, 1996.

Gerald M. Smith,

District Manager.

[FR Doc. 96–3563 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–HC–P

[NV–942–06–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATE: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert H. Thompson, Acting Chief, Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6541.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on October 27, 1995:

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 20 and 29, Township 13 South, Range 71 East, Mount Diablo Meridian, Nevada, under Group No. 744, was accepted October 20, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The Supplemental Plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on November 29, 1995.

The plat showing amended lottings in section 3, T. 34 N., R. 57 E., Mount Diablo Meridian, Nevada, was accepted November 29, 1995.

This plat was prepared at the request of Western Resource Management.

3. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on December 6, 1995:

The plat, in three sheets, representing the dependent resurvey of a portion of the subdivisional lines and a portion of the meanders of Lake Tahoe, the subdivision of sections 11, 12, 13, 14, 23, 24, 25, 27, 34, and 35, the metes-and-bounds survey along a portion of Hwy. 28, in section 11, and the survey of Lot 5, in section 22, Township 15 North, Range 18 East, Mount Diablo Meridian, Nevada, under Group No. 700, was accepted November 29, 1995.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

4. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on December 7, 1995:

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 9, 15, 16, and 27, Township 13 North, Range 23 East, Mount Diablo Meridian, Nevada, under Group No. 726, was accepted December 5, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

5. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on December 14, 1995:

The plat representing the retracement of portions of the 1872 survey of the Eastern Boundary of California, between mile corners 320+25 and 330+26, and the 1893–1899 U.S. Coast and Geodetic Survey California-Nevada Oblique Boundary Line between Point Numbers 58, 59 and 59½, and the dependent resurvey of a portion of Mount Diablo Base Line through Range 32 East and a portion of the subdivisional lines of Township 1 North, Range 32 East, Mount Diablo Meridian, California and Nevada, under Group No. 1213, California and Group No. 749, Nevada, was accepted December 12, 1995.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

6. The Plats of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on March 27, 1996:

The plat, in five sheets, representing the survey of a portion of the subdivisional lines of Township 27 North, Range 47 East, Mount Diablo Meridian, Nevada, under Group No. 747, was accepted February 8, 1996.

The plat, in five sheets, representing the dependent resurvey of a portion of the east boundary of Township 28 North, Range 46 East; a portion of the south boundary and a portion of the subdivisional lines of Township 28 North, Range 47 East; and a portion of Mineral Survey No. 4763 in Township 28 North, Ranges 46 and 47 East, Mount Diablo Meridian, Nevada, under Group No. 747, was accepted February 8, 1996.

These surveys were executed to meet certain administrative needs of Placer Dome U.S. Inc.

7. Subject to valid existing rights the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, those portions of the lands listed under item 6 that are original surveys are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to March 27, 1996, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

8. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the survey and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: February 8, 1996.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 96–3540 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–HC–P

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Meetings

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meetings of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held monthly for the remainder of calendar year 1996 (with the exception of August and December) to hear presentations on issues related to management of the Golden Gate National Recreation Area and Point Reyes National Seashore. Meetings of the Advisory Commission are scheduled for the following at San Francisco and at Point Reyes Station, California:

Wednesday, February 28—San Francisco, CA
Wednesday, March 20—San Francisco, CA
Saturday, April 13—Point Reyes Station, CA
Wednesday, April 17—San Francisco, CA
Wednesday, May 15—San Francisco, CA
Wednesday, June 19—San Francisco, CA
Wednesday, July 17—San Francisco, CA
Wednesday, September 18—San Francisco, CA or
Saturday, September 21—Point Reyes Station, CA
Wednesday, October 16—San Francisco, CA
Wednesday, November 20—San Francisco, CA

All meetings of the Advisory Commission will be held at 7:30 p.m. at GGNRA Park Headquarters, Building 201, Fort Mason, Bay and Franklin Streets, San Francisco or at the Dance Palace, corner of 5th and B Streets, Point Reyes Station, California, unless otherwise noticed. The time for the meetings at Point Reyes Station will be noticed to the public at least 15 days prior to these meetings. Information confirming the time and location of all Advisory Commission meetings can be received by calling the Office of the Staff Assistant at (415) 556–4484.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Ms. Naomi T. Gray
Dr. Howard Cogswell
Mr. Michael Alexander
Mr. Jerry Friedman
Ms. Lennie Roberts
Ms. Yvonne Lee
Ms. Sonia Bolaños
Mr. Trent Orr
Mr. Redmond Kernan
Ms. Jacqueline Young
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Lane

Anticipated agenda items at meetings this year will include:

- Presidio Lobos Creek plans.
- update reports on the Presidio Trust legislation.
- presentation of the GGNRA Presidio Stewardship Program.
- review of Army environmental remediation at the Presidio.
- reports on work of the Golden Gate National Park Association.
- reports on programs and projects of GGNRA "Park Partners".
- status reports on the proposed Bay Area Ridge Trail.
- reports on GGNRA education programs.
- report on activities and operations of the GGNRA Special Use Permit office.
- presentation on plans for the northern waterfront at Crissy Field.
- report on Joint NPS/GG Bridge Museum at Bridge Toll Plaza.
- Cliff House Restoration Plan.
- report on the transition and long-range planning for East Fort Baker.
- GGNPA annual briefing.
- update on former Mill Valley AFS (Mount Tamalpais) cleanup.
- San Mateo issues: update on Phleger estate, status of Thornton Beach, SF Watershed issues.
- update on VA/Fort Miley park entrance issue.
- presentation of exotic removal in Olema Valley.
- joint operations agreement between State of California and NPS.
- Alcatraz After Hours Program.
- Fort Mason Reuse.
- updates on issues concerning management and planning at Point Reyes NS.

These meetings will also contain Superintendent's and Presidio General Manager's Reports.

Specific final agendas for these meetings will be made available to the public at least 15 days prior to each meeting and can be received by contacting the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or by calling (415) 556–4484.

These meetings are open to the public. They will be recorded for documentation and transcribed for dissemination. Minutes of the meetings will be available to the public after approval of the full Advisory Commission. A transcript will be available three weeks after each meeting. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: January 9, 1996.

Brian O'Neill,

General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 96–3567 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

San Diego County Water Authority and City of San Diego's Water Repurification Project

AGENCY: Bureau of Reclamation, Interior and San Diego County Water Authority as Joints Leads for the Proposed Action.

ACTION: Notice of intent to prepare a draft environmental impact statement and notice of scoping meeting(s) for San Diego County Water Authority and City of San Diego's water repurification project.

SUMMARY: San Diego's Water Repurification Project involves the further treatment of about 20 million gallons per day of tertiary treated reclaimed water and transportation of this water to the City of San Diego's San Vicente Reservoir. Treatment of this water would occur at the North City Water Reclamation Plant (currently under construction), which upon completion, will treat waste water to tertiary levels. It is proposed to construct advanced water purification facilities at the North City Plant, which would treat the tertiary water from that plant to a level of purity which would allow the water to be stored in San Vicente Reservoir. At present, two potential alternatives pipeline routes from the North City Water Reclamation Plant to the reservoir have been identified: a northern route and a southern route. Specific locations for these potential routes have not as yet been determined. They, along with other reasonable routes, will be specified in the Draft Environmental Impact Statement. The repurified water would be stored in San Vicente Reservoir where it would mix with other water for eventual potable use. When needed, water from this reservoir would be pumped to the Alvarado Water Filtration Plant where the water would be treated prior to being distributed for potable water use.

DATE AND ADDRESSES: Scoping meetings are proposed for the project. However, the schedule and location of these scoping meetings have not as yet been determined. There will be ample notice given in the local papers of the times and locations of all scoping meetings.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be

addressed to Mr. Del Kidd, Bureau of Reclamation, Lower Colorado Region, P.O. Box 61470, Boulder City, NV 89006–1470, telephone: (702) 293–8698.

SUPPLEMENTARY INFORMATION: The City and County of San Diego depend upon imported water for about 90 percent of their needs. Most of this water comes from the State Water Project and the Colorado River. It is estimated that by 2010 the demand for potable water will reach 900,000 acre-feet per year. Imported water currently accounts for 690,000 acre-feet with another 60,000 acre-feet from local supplies. This means that in the near future there will be a short fall of 150,000 acre-feet of demand over supply. Federal, State, and local entities are actively investigating and planning other potential water sources for the southern California region, such as other water reclamation projects, groundwater development, seawater desalination, and water conservation. Some of these will be implemented in the future; others are infeasible at this time. This proposed project is one of the more feasible options for meeting future water demands.

The Bureau of Reclamation is authorized to participate in this proposed project by Section 1612 of Public Law 102–575.

Dated: February 9, 1996.

Thomas Shrader,

Deputy Office Director, Resource Management and Technical Services.

[FR Doc. 96–3564 Filed 2–15–96; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–62]

James W. Shore, M.D., Denial of Application

On July 6, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James W. Shore, M.D., (Respondent) of Martin, Tennessee, notifying him of an opportunity to show cause as to why DEA should not deny his pending application for registration as a practitioner, under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged, among other things, that (1) in May of 1991, the Respondent's medical license was placed on probation for two years, and his authority to handle Schedule II and III controlled substances was suspended for one year, as a result of his prescribing Schedule II controlled substances and anabolic steroids in a manner which violated State law; and (2) on October 25, 1991, the Respondent entered a guilty plea in the U.S. District Court for the Western District of Tennessee, to three felony counts of unlawfully prescribing a controlled substance, and he was sentenced to eighteen months probation and ordered to surrender his controlled substances registration.

On July 21, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Memphis, Tennessee, on January 11, 1995, before Administrative Law Judge Mary Ellen Bittner. At the hearing both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On July 10, 1995, Judge Bittner issued her Opinion and Recommended Ruling, recommending that the Respondent's application for DEA registration be denied. Neither party filed exceptions to her decision, and on August 28, 1995, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based uppon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that on June 16, 1993, the Respondent signed a DEA Application for Registration as a practitioner, seeking registration to handle Schedules II through V controlled substances. On that application, the Respondent disclosed that he had had restrictions placed upon his practice of medicine and his prescribing of controlled substances. The parties do not contest the facts concerning the Respondent's past misconduct in prescribing controlled substances. Also, the parties have stipulated that (1) Biphetamine is a brand name for a product containing amphetamine, a Schedule II controlled substance pursuant to 21 CFR 1308.12(d); (2) Percodan and Percocet are brand names for products containing oxycodone, a Schedule II narcotic controlled substance pursuant to 21 CFR 1308.12(b); (3) Fastin is a brand name for a product containing phentermine hydrochloride, a Schedule IV controlled substance pursuant to 21 CFR 1308.14(e); (4) Tylox is a brand name for a product containing oxycodone, a Schedule II narcotic controlled substance pursuant to 21 CFR 1308.12(b); and (5) anabolic steroids are Schedule III controlled substances pursuant to 21 CFR 1308.13(f).

The Deputy Administrator specifically finds that on May 8, 1986, an undercover agent for the Tennessee Bureau of Investigation (TBI), received two prescriptions for Biphetamine from the Respondent for no legitimate medical purpose and not in the usual course of his professional practice, for the Respondent had failed to take a medical history, to conduct a physical examination of the agent and to diagnose a condition requiring such medication. On July 10, 1986, a second TBI agent received two prescriptions for Biphetamine from the Respondent for no legitimate medical purpose and not in the usual course of his professional practice, for again the Respondent had failed to conduct a physical examination or any other clinical tests, and he had failed to identify a medical condition requiring such a prescription. In the same manner, on June 16, 1986, an undercover police officer acquired from the Respondent two prescriptions for the controlled substance Fastin for no legitimate medical purpose and not in the usual course of professional practice. Tape recordings were made of the conversations between these law enforcement officials and the Respondent, and transcripts of these tape recordings were made a part of the record.

As part of its investigation of the Respondent's conduct, the Tennessee Board of Pharmacy conducted a prescription audit of prescriptions issued by the Respondent in Weakley County, Tennessee, from February of 1984 through February of 1987. This prescription audit was sent to Dr. Harbison, a research scientist, pharmacist, and teacher at the University of Arkansas, for his review and comment. Dr. Harbison wrote that the Respondent had prescribed controlled substances not in the usual course of medical practice to more than a dozen patients, concluding that "it is my opinion that after reviewing the prescription records, [the Respondent] did not prescribe [] Biphetamine, Tylox, Percocet, Percodan [,] and Mepergan Fortis in a manner consistent with the usual course of medical practice."

In May of 1991, as a result of this conduct, the Respondent entered an agreed order with the State of Tennessee State Board of Medical Examiners (Medical Board), resulting in his medical license being placed on probation for two years, and his Schedule II and III controlled substances privileges being suspended for one year. The Medical Board found that the Respondent had prescribed Schedule II drugs "on a routine, chronic, long term basis with little or no documented medical reasoning for such continued prescribing," and that the Respondent had engaged in conduct which violated State law, to include State laws governing prescribing of controlled substances. Also, on October 25, 1991, the Respondent entered a guilty plea in the U.S. District Court for the Western District of Tennessee for three felony counts of unlawfully prescribing a controlled substance. As part of his plea agreement, the Respondent agreed to surrender his DEA registration in Schedules II through IV, which he did on November 26, 1991. He was also sentenced to eighteen months of supervised probation, which was successfully completed by the Respondent on April 9, 1993. In May of 1993, the Medical Board terminated the probation of the Respondent's medical license, renewing it without restrictions.

During the hearing before Judge Bittner, one of the Respondent's current employers, the business manager of the Martin Medical Center in Martin, Tennessee, testified that he was familiar with the criminal and administrative proceedings involving the Respondent. He opined that the Respondent would not engage in similar misconduct in the future, and that he was aware that the Respondent had received remedial training at the Vanderbilt University School of Medicine. He also testified about the professional limitations caused by the Respondent's lack of a DEA Certificate of Registration, including his suspension from practicing in a preferred provider organization, and his difficulties in participating in TennCare, Tennessee's Medicaid program. Also, the Respondent's patients had problems getting mail order prescription drug suppliers to fill the Respondent's prescriptions.

The Respondent testified that he had attended a two-day course at Vanderbilt University primarily for "impaired physicians." Specifically, the course focused on the philosophy of prescribing, giving the Respondent the ability to recognize drug-seeking behavior. The Respondent testified that the course "also made me look in my soul and my heart and try to identify my feelings toward why these people were able to manipulate me like they did." However, the course did not provide training in pharmacology or the therapeutics of pharmacology with regard to specific substances, and when questioned by the Government's counsel, the Respondent had difficulty discussing such concepts as "benzodiazepam loading", and in identifying the dangers of chronic use of sedative hypnotics. Finally, the Respondent testified about his need for a DEA Certificate of Registration in his current medical practice.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that granting the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, factors one through four are relevant in determining whether granting the Respondent's application would be inconsistent with the public interest. As to factor one, "recommendation of the appropriate State licensing board," the Medical Board found that the Respondent had prescribed Schedule II controlled substances in a manner which violated State law. Accordingly, that Board took disciplinary action against the Respondent.

As to factor two, the Respondent's "experience in dispensing * * * controlled substances," and factor four, the Respondent's "[c]ompliance with applicable State, Federal, or local laws relating to controlled substances," it is undisputed that the Respondent prescribed controlled substances without a legitimate medical purpose and outside the usual course of medical practice in violation of both State and Federal law. Specifically, his conduct of prescribing controlled substances without taking a medical history, conducting a medical examination or clinical tests, or identifying a medical condition warranting the medications, violated the legal requirements for prescribing controlled substances.

As to factor three, the Respondent's conviction record under Federal laws, the Respondent was convicted in Federal court of three felony counts of unlawfully prescribing a controlled substance as a result of the previously described unlawful conduct.

Further, the Deputy Administrator notes that the Respondent has taken some responsibility for his misconduct, as evidenced by his entering an agreed order with the Medical Board, and his entry of a guilty plea in Federal court. Further, he has successfully completed his probation and a course at the Vanderbilt University on prescribing practices. He has also stated remorse for his past misconduct.

However, the remedial course taken by the Respondent did not provide training in pharmacology or the therapeutics of pharmacology, and the Respondent's testimony before Judge Bittner disclosed the Respondent's deficiencies in this area. Further, the Deputy Administrator finds compelling Judge Bittner's observations:

> [The] Respondent's only explanation for his prescribing practices was that he was manipulated by his patients * * * Respondent did not, however, explain how he would avoid being manipulated in the future or why he prescribed controlled substances upon request in the first place. In any event, purported manipulation cannot justify prescribing thousands of dosage units of controlled substances over a period of several years.
>
> In addition, the transcripts of Respondent's conversations with the under cover officers show that Respondent initiated the discussion of stimulants * * *. Neither of these 'patients' manipulated [the] Respondent into issuing him prescriptions, and [the] Respondent does not contend otherwise * * *. In addition, [the] Respondent told the Medical Board that he believed that the Schedule II drugs he prescribed did no harm and presented only minimal risks to the patients, comments evidencing an extremely cavalier attitude toward controlled substances.

Therefore, the Deputy Administrator finds that the public interest is best served by denying the Respondent's application at this time. The Deputy Administrator realizes that the Respondent's misconduct occurred

almost ten years ago, but evidence of the Respondent's "cavalier attitude" occurred in 1991 before the Medical Board, and in 1994 in the hearing before Judge Bittner. As Judge Bittner noted, the DEA has previously determined that "[t]he paramount issue is not how much time has elapsed since [the Respondent's] unlawful conduct, but rather, whether during that time [the] Respondent has learned from past mistakes and has demonstrated that he would handle controlled substances properly if entrusted with a DEA registration." Leonardo V. Lopez, M.D., 54 FR 36915 (1989). Here, the Deputy Administrator is currently not convinced that the Respondent would properly handle controlled substances if his registration is granted.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 CFR 0.100(b) and 0.104, hereby orders that the pending DEA Certificate of Registration application of James W. Shore, M.D., be, and it hereby is, denied. This order is effective March 18, 1996.

Dated: February 12, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–3508 Filed 2–15–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interested in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" are listed by Volume and State:

Volume III

FL9550099 (Feb. 16, 1996)
FL9550100 (Feb. 16, 1996)
FL9550101 (Feb. 16, 1996)

Volume IV

Michigan
MI1950064 (Feb. 16, 1996)

Volume VI

California
CA950031 (Feb. 16, 1996)
CA950032 (Feb. 16, 1996)
CA950033 (Feb. 16, 1996)
CA950034 (Feb. 16, 1996)
CA950035 (Feb. 16, 1996)
CA950036 (Feb. 16, 1996)
CA950037 (Feb. 16, 1996)
CA950038 (Feb. 16, 1996)
CA950039 (Feb. 16, 1996)
CA950040 (Feb. 16, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Hampshire
NH950003 (Feb. 10, 1995)
New Jersey
NJ950002 (Feb. 10, 1995)
NJ950003 (Feb. 10, 1995)
New York
NY950008 (Feb. 10, 1995)
NY950010 (Feb. 10, 1995)
NY950018 (Feb. 10, 1995)
NY950021 (Feb. 10, 1995)
NY950026 (Feb. 10, 1995)
NY950031 (Feb. 10, 1995)
NY950034 (Feb. 10, 1995)
NY950037 (Feb. 10, 1995)
NY950044 (Feb. 10, 1995)

Volume II

None

Volume III

Florida
FL950010 (Feb. 10, 1995)
FL950015 (Feb. 10, 1995)
FL950034 (Feb. 10, 1995)
FL950055 (Feb. 10, 1995)
FL950060 (Feb. 10, 1995)
Georgia
GA950022 (Feb. 10, 1995)
GA950031 (Feb. 10, 1995)
GA950032 (Feb. 10, 1995)
GA950073 (Feb. 10, 1995)
GA950086 (Feb. 10, 1995)
GA950087 (Feb. 10, 1995)
GA950088 (Feb. 10, 1995)
Kentucky
KY950001 (Feb. 10, 1995)
KY950002 (Feb. 10, 1995)
KY950003 (Feb. 10, 1995)
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KY950029 (Feb. 10, 1995)
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MS950054 (Feb. 10, 1995)

Volume IV

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Michigan
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MI950004 (Feb. 10, 1995)
MI950030 (Nov. 03, 1995)
MI950041 (Feb. 10, 1995)
MI950049 (Feb. 10, 1995)
MI950051 (Feb. 10, 1995)
MI950057 (Feb. 10, 1995)
MI950060 (Feb. 10, 1995)
MI950063 (Feb. 02, 1996)
Minnesota
MN950005 (Feb. 10, 1995)
MN950007 (Feb. 10, 1995)
MN950008 (Feb. 10, 1995)
MN950015 (Feb. 10, 1995)
MN950027 (Feb. 10, 1995)
MN950031 (Feb. 10, 1995)
MN950035 (Feb. 10, 1995)
MN950039 (Feb. 10, 1995)
MN950058 (Feb. 10, 1995)
MN950061 (Feb. 10, 1995)

Volume V

Arkansas
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IA950001 (Feb. 10, 1995)
IA950002 (Feb. 10, 1995)
Missouri
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MO950002 (Feb. 10, 1995)
MO950006 (Feb. 10, 1995)
MO950009 (Feb. 10, 1995)
MO950011 (Feb. 10, 1995)
MO950013 (Feb. 10, 1995)
MO950050 (Feb. 10, 1995)
MO950058 (Feb. 10, 1995)
MO950067 (Feb. 10, 1995)

Volume VI

California
CA950001 (Feb. 10, 1995)
CA950002 (Feb. 10, 1995)
CA950004 (Feb. 10, 1995)
CA950027 (Feb. 10, 1995)
CA950029 (Jul. 21, 1995)
CA950030 (Jul. 21, 1995)
Colorado
CO950003 (Feb. 10, 1995)
CO950004 (Feb. 10, 1995)
CO950005 (Feb. 10, 1995)
CO950006 (Feb. 10, 1995)
CO950007 (Feb. 10, 1995)
CO950008 (Feb. 10, 1995)
CO950009 (Feb. 10, 1995)
CO950010 (Feb. 10, 1995)
CO950014 (Feb. 10, 1995)
Idaho
ID950001 (Feb. 10, 1995)
ID950003 (Feb. 10, 1995)
Oregon
OR950001 (Feb. 10, 1995)
Washington
WA950002 (Feb. 10, 1995)
WA950005 (Feb. 10, 1995)
WA950008 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 9th day of February 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–3337 Filed 2–15–96; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL TRANSPORTATION SAFETY BOARD

Integrated Bridge Systems: A Public Forum

A public forum on integrated bridge systems—latest in ship control technology, design standards, and human interaction—sponsored by the National Transportation Safety Board will be held March 6–7, 1996, at the Sheraton Premiere (Tysons Corner) Hotel, 8661 Leesburg Pike, Vienna, Virginia. For more information, contact the Marine Division, telephone (202) 382–6860/6863, fax (202) 382–0692 or Pat Cariseo, Office of Public Affairs, Washington, D.C. 20594, telephone (202) 382–0660.

Dated: February 12, 1996.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 96–3523 Filed 2–15–96; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Company; Zion Nuclear Power Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–39 and DPR–48, issued to Commonwealth Edison Company (the licensee), for operation of Zion Nuclear Power Station, Unit Nos. 1 and 2, located in Lake County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment will revise the existing Technical Specifications (TS) in its entirety and incorporate the guidance provided in NUREG–1431 (September 1992), "Standard Technical Specifications, Westinghouse Plants." The proposed action is in accordance with the licensee's amendment request dated November 3, 1995, as supplemented on November 22, 1995.

The Need for the Proposed Action

It has been recognized that nuclear safety in all plants would benefit from improvement and standardization of TS. The "NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors," (52 FR 3788) contained proposed criteria for defining the scope of technical

specifications. Later, the "NRC Final Policy Statement on TS Improvement for Nuclear Power Reactors," (58 FR 39132) incorporated lessons learned since publication of the interim policy statement and formed the basis for recent revisions to 10 CFR 50.36. The "Final Rule" (60 FR 36953) codified criteria for determining the content of technical specifications. To facilitate the development of standard TS, each reactor vendor owners' group (OG) and the NRC staff developed standard TS. For Westinghouse plants, the Standard Technical Specifications (STS) are NUREG–1431 (September 1992), "Standard Technical Specifications, Westinghouse Plants." This document formed the basis for the Zion Improved Standard TS (ISTS) conversion. The NRC Committee to Review Generic Requirements (CRGR) reviewed the STS, made note of its safety merits, and indicated its support of conversion by operating plants to the STS.

Description of the Proposed Change

The proposed revision to the TS is based on NUREG–1431 and on guidance provided in the Final Policy Statement. Its objective is to completely rewrite, reformat, and streamline the existing TS. Emphasis is placed on human factors principles to improve clarity and understanding. The Bases section has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1431, portions of the existing TS were also used as the basis for the development of the Zion ISTS. Plant specific issues (unique design features, requirements, and operating practices) were discussed at length with the licensee and generic matters with Westinghouse and other OGs.

The proposed changes from the existing TS can be grouped into four general categories. These groupings are characterized as relocated requirements, administrative changes, less restrictive changes involving deletion of requirements, and more restrictive changes; and are as follows:

1. Relocated requirements are items which are in the existing Zion TS, but do not meet the criteria set forth in the Final Policy Statement. The Final Policy Statement establishes a specific set of objective criteria for determining which regulatory requirements and operating restrictions should be included in TS. Relocation of requirements to documents with an established control program allows the TS to be reserved only for those conditions or limitations upon reactor operation which are necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety, thereby focusing the scope of the TS. In general, the proposed relocation of items from the Zion TS to the Updated Final Safety Analysis Report (UFSAR), appropriate plant specific programs, procedures and ISTS Bases follows the guidance of NUREG–1431. Once these items have been relocated to other licensee controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC staff approved control mechanisms which provide appropriate procedural means to control changes.

2. Administrative changes involve the reformatting and rewording of requirements, consistent with the style of the Westinghouse STS in NUREG–1431, to make the TS more readily understandable to plant operators and other users. These changes are purely editorial in nature or involve the movement or reformatting of requirements without affecting technical content. Application of a standardized format and style will also help ensure consistency is achieved among specifications. During this reformatting and rewording process, no technical changes (either actual or interpretational) to the TS were made unless they were identified and justified.

3. Less restrictive changes and the deletion of requirements involves portions of the existing specifications which provide information that is descriptive in nature regarding the equipment, systems, actions or surveillances, provide little or no safety benefit, and place an unnecessary burden on the licensee. This information is proposed to be deleted from the specifications and, in some instances, moved to the proposed Bases, Updated Final Safety Analysis Report (UFSAR), or procedures. The removal of descriptive information to the Bases of the TS, UFSAR or procedures is permissible, because the Bases, UFSAR or procedures will be controlled through a process which utilizes 10 CFR 50.59. The relaxations of requirements were the result of generic NRC action or other analyses. They have been justified on a case-by-case basis for Zion Nuclear Power Station as described in the Safety Evaluation to be issued with the license amendments.

4. More restrictive requirements are proposed to be implemented in some areas to impose more stringent requirements than presently exist. These more restrictive requirements are being imposed to be consistent with the Westinghouse STS. Such changes have been made after ensuring the previously evaluated safety analysis was not affected. Also, other more restrictive technical changes have been made to achieve consistency, correct discrepancies, and remove ambiguities from the specification. Examples of more restrictive requirements include: placing a Limiting Condition for Operation (LCO) on plant equipment which is not required by the present TS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS. Changes which are administrative in nature have been found to have no effect on the technical content of the TS and are acceptable. The increased clarity and understanding these changes bring to the TS are expected to improve the operators' control of the plant in normal and accident conditions.

Relocation of requirements to other licensee controlled documents does not change the requirements themselves. Future changes to these requirements may be made by the licensee under 10 CFR 50.59 or other NRC approved control mechanisms, which ensures continued maintenance of adequate requirements. All such relocations have been found to be in conformance with the guidelines of NUREG–1431 and the Final Policy Statement, and are, therefore, acceptable.

Changes involving more restrictive requirements have been found to enhance plant safety and to be acceptable.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit or to place unnecessary burden on the licensee, their removal from the TS was justified. In most cases, relaxations previously granted to individual plants on a plant specific basis were the result of a generic action, or of agreements reached during discussions with the OG and found to be acceptable for Zion. Generic relaxations contained in NUREG–1431 have also been reviewed by the NRC staff and have been found to be acceptable.

In summary, the proposed revisions to the TS were found to provide control of plant operations such that reasonable assurance will be provided that the health and safety of the public will be adequately protected.

These TS changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluent that may be released off site, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed TS amendments.

With regard to potential nonradiological impacts, the proposed amendments involve features located entirely within the restricted area as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological impacts associated with the proposed amendments.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendments, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to this action would be to deny the amendment request. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statement dated December 1972, related to the operation of the Zion Nuclear Power Station, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on January 5, 1996, the NRC staff consulted with the Illinois State Official, Mr. Frank Niziolek, Head, Reactor Safety Section, Division of Engineering, Illinois Department of Nuclear Safety; regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendments.

For further details with respect to this action, see the licensee's letter dated November 3, 1995, as supplemented on November 22, 1995, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 9th day of February 1996.

For the Nuclear Regulatory Commission.

Clyde Y. Shiraki,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3550 Filed 2–15–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 40–8964]

Rio Algom Mining Corp.; Final Finding of No Significant Impact Notice of Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to amend NRC Source Material License SUA–1548 to allow the licensee, Rio Algom Mining Corp. (Rio Algom), to employ deep well disposal of process waste waters at its Smith Ranch in-situ leach facility as an alternate disposal option for these wastes. An Environmental Assessment was performed by the NRC staff in accordance with the requirements of 10 CFR Part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Park, Uranium Recovery Branch, Mail Stop TWFN 7–J9, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone 301/415–6699.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1992, the NRC issued to Rio Algom an NRC Source Material License, SUA–1548, for commercial-scale uranium recovery operations at Rio Algom's Smith Ranch in-situ leach (ISL) facility in Converse County, Wyoming.

The NRC review of Rio Algom's license application is documented in an Environmental Assessment (EA), issued on January 10, 1992.

Since the issuance of SUA–1548, Rio Algom has deferred commercial-scale operations at the Smith Ranch facility due to the depressed market for uranium. However, Rio Algom has indicated that it plans to commence such operations in the Fall of 1997.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is an amendment to SUA–1548 to allow Rio Algom to employ deep well injection as an alternate disposal option for process waste waters to be generated at its Smith Ranch ISL facility. The NRC staff's review was conducted in accordance with the requirements of 10 CFR 40.32 and 10 CFR 40.45.

Need for the Proposed Action

Rio Algom requested NRC approval of the proposed action to allow it to employ deep well injection in the disposal of process solutions from various waste streams that would be produced at the Smith Ranch facility. Currently, Rio Algom is required by NRC license to return all liquid effluents from commercial operations to the uranium recovery process circuit or to discharge them to solution evaporation ponds.

Environmental Impacts of the Proposed Action

By this proposed action, Rio Algom is seeking to employ deep well injection to dispose of a variety of process waste streams. These process wastes would be injected at an average of 150 gallons per minute from an injection well drilled to a total depth of 10,100 feet below surface. The wastes would be injected into permeable portions of the Parkman, Teapot, and Teckla formations, at depths below surface ranging from 8700 to 9600 feet. Due to high levels of total dissolved solids, groundwater in these formations has been designated by the State of Wyoming, Department of Environmental Quality (WDEQ), as Class VI water (unsuitable for use).

The Smith Ranch facility is not currently operating. As a result, Rio Algom provided anticipated ranges in concentration of the principal chemical species to be contained in the composite solution. The ranges in concentration of constituents identified by Rio Algom are comparable to concentrations allowed by the NRC at other ISL facilities employing deep well disposal of process fluids.

The NRC staff limited its analysis to a review of the radiological aspects of

the proposed action, in accordance with 10 CFR 20.2002. To avoid duplication of review efforts with the State of Wyoming, the NRC staff relied on the State's analysis of the suitability of the proposed aquifers as injection zones. The WDEQ, on September 29, 1995, granted an Underground Injection Control (UIC) permit to Rio Algom for the construction and operation of a Class I injection well at the Smith Ranch ISL facility.

Based on the nature of the proposed action, the NRC staff considers the potential impacts to the general environment and offsite individuals to be negligible for the following reasons:

(1) Under the State of Wyoming's groundwater classification system, the groundwater in the formations to be impacted is considered to be Class VI (unsuitable for use);

(2) The risk of exposure to the general public from the injected fluids is negligible due to the depth below surface at which process fluids will be injected (approximately 8700 to 9600 feet);

(3) Rio Algom will be continuously monitoring the disposal well to detect and minimize a potential spill on the surface and thereby preclude the release of effluent to the unrestricted environment;

(4) Rio Algom's radiation protection program in place at the Smith Ranch facility will adequately minimize potential exposures to as low as is reasonably achievable (ALARA); and

(5) At the end of the disposal well's useful life, the disposal well system will be abandoned in accordance with the requirements of Rio Algom's Class I injection well permit with the WDEQ.

Conclusion

The NRC staff concludes that approval of Rio Algom's amendment request to employ deep well disposal as an alternate waste disposal option at its ISL facility will not cause significant environmental impacts. The NRC staff also finds that the proposed action is in accordance with 10 CFR 20.2002 and with the NRC "Staff Technical Position on Effluent Disposal at Licensed Uranium Recovery Facilities" (60 FR 27993; May 26, 1995).

Alternatives to the Proposed Action

Since the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the proposed action would be to deny the requested action. Since the environmental impacts of the proposed action and this no-action alternative are similar, there is no need to further evaluate alternatives to the proposed action.

Agencies and Persons Consulted

The NRC staff consulted with the State of Wyoming, Department of Environmental Quality, in the development of the Environmental Assessment. In a telephone conversation on February 5, 1996, Mr. Robert Lucht, UIC Program Supervisor, Water Quality Division of the WDEQ, stated that the WDEQ had no objections to the conclusions reached in the Environmental Assessment.

Finding of No Significant Impact

The NRC staff has prepared an Environmental Assessment for the proposed amendment of NRC Source Material License SUA–1548. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The Environmental Assessment and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW., Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR Part 2" (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Rio Algom Mining Corp., 6305 Waterford Boulevard, Suite 325, Oklahoma City, OK, 73118;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 8th day of February 1996.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Acting Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–3551 Filed 2–15–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Company, Old Dominion Electric Cooperative; North Anna Power Station, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. 50–338 and 50–339, issued to Virginia Electric and Power Company et al., (the licensee), for operation of the North Anna Power Station, Units 1 and 2, located in Louisa County.

Environmental Assessment

Identification of the Proposed Action

The proposed action would change references to the National Pollutant Discharge Elimination System (NPDES) to reflect the correct permit title, Virginia Pollutant Discharge Elimination System (VPDES), eliminate references to vegetation and aquatic biota studies that were previously completed, correct a reference to 10 CFR 51.60(b)(2), replace the existing reporting requirements for unusual or important environmental events with the reporting requirements currently identified in 10 CFR 50.72(b)(2)(vi), replace the reference to the current Environmental Protection Plan (EPP) audit program with a reference to the Audit Program established in accordance with 10 CFR 50, Appendix B, revise the two year records retention requirement for erosion control inspection field logs to five years, change the reference to the State Water Control Board which is now the Department of Environmental Quality, identify the licensee's obligation to comply with Virginia regulations concerning erosion and sediment control within the transmission corridor rights-of-way to eliminate redundancy with previous EPP commitments, and recognize the Virginia Soil and Water Conservation Board as the regulatory authority concerning erosion within the transmission corridor rights-of-way.

The proposed action is in accordance with the licensee's application for amendment dated November 29, 1994.

The Need for the Proposed Action

The proposed action is needed to update each EPP to reflect current requirements, eliminate inconsistencies, and identify the proper regulatory agencies for certain environmental issues.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the amendment will correct inconsistencies, identify current requirements, and identify the proper regulatory agencies within the North Anna Units 1 and 2 EPPs. The majority of the changes are administrative in nature and only serve to update or clarify the information currently contained in the EPPs. The change to increase the annual inspection interval for the transmission line corridor rights-of-way from once every 12 months to once every 3 to 5 years is being made to ensure uniformity with the licensee's other transmission corridor rights-of-way. In addition, the change is being made to identify current requirements imposed by the Virginia Soil and Water Conservation Board, which is responsible for reviewing and approving utility erosion and sediment control specifications.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located outside the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents. There is the possibility of a potential environmental impact associated with the change to increase the annual inspection interval for the transmission corridor rights-of-way. There is the potential for erosion to undermine the bases of a transmission tower if left unchecked. However, the licensee has noted that the erosion identified to date has not been severe. In addition, severe erosion occurs over a period of time and would allow the licensee to take action to prevent any environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action are of a very low likelihood and therefore insignificant.

Alternative Use of Resources:

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the North Anna Power Station, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on December 20, 1995, the staff consulted with the Virginia State official, L. Foldese, of the Virginia Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of no Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 29, 1994, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Dated at Rockville, Maryland, this 9th day of February 1996.

For the Nuclear Regulatory Commission

David B. Matthews,

Director, Project Directorate II–1, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3549 Filed 2–15–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 21744; 812–9726]

AIM Equity Funds, Inc., et al.; Notice of Application

February 12, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: AIM Equity Funds, Inc., AIM Funds Group, AIM International Funds, Inc., AIM Investment Securities Funds, AIM Strategic Income Fund, Inc., AIM Summit Fund, Inc., AIM Tax-Exempt Funds, Inc., AIM Variable Insurance Funds, Inc., Short-Term Investments Co., Short-Term Investments Trust, Tax-Free Investments Co. (collectively the "Funds"); each investment portfolio of the Funds; and each other registered investment company or investment portfolio for which AIM Advisors, Inc. ("AIM Advisors") or AIM Capital Management, Inc. ("AIM Capital

Management") (collectively, the "Advisers") serves in the future as an investment adviser (collectively, with the Funds, the "U.S. Portfolios"); Global Strategy Canada Growth Fund, Global Strategy U.S. Equity Fund, Short-Term Investments Company (Global Series) PLC (collectively, the "Non-U.S. Registered Funds"); and each investment portfolio of the Non-U.S. Registered Funds; each other pooled investment fund advised or in the future advised by either of the Advisers not engaged in a public offering of their shares in the United States (collectively with the Non-U.S. Registered Funds, the "Non-U.S. Registered Portfolios"); all existing private accounts, investment companies and other pooled investment funds and investment portfolios thereof that are exempt from registration as an investment company under the Act advised or in the future advised by either of the Advisers (the "Private Accounts") (the Non-U.S. Registered Portfolios and the Private Accounts are collectively referred to as the "Additional Participants"); and the Advisers.

REVELANT ACT SECTION: Exemption requested under section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek to amend an existing order that permits applicants to participate in joint accounts for the purpose of investing in repurchase agreements with remaining maturities not to exceed 60 days, and certain other short-term money market instruments with remaining maturities not to exceed 90 days. The amended order would extend such prior order's applicability to include additional participants.

FILING DATE: The application was filed on August 22, 1995, and amended on December 14, 1995 and February 12, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 8, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Eleven Greenway Plaza, Suite 1919, Houston, Texas 77046.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds is a registered management investment company for which AIM Advisors, a registered investment adviser, serves as investment adviser. AIM Capital Management, a wholly-owned subsidiary of AIM Advisors, also is a registered investment adviser and serves as subadviser to several portfolios of AIM Equity Funds, Inc., and as adviser to the Private Accounts.

2. Pursuant to a prior order (the "Prior Order"),[1] the U.S. Portfolios and the Advisers were given the authority to establish joint trading accounts ("Joint Accounts"). The Prior Order permits the U.S. Portfolios to pool some or all of their cash balances into Joint Accounts for the purpose of investing in: (a) Repurchase agreements with remaining maturities not to exceed 60 days; and (b) other short-term money market instruments, including tax-exempt money market instruments, that constitute "Eligible Securities" within the meaning of rule 2a–7 under the Act with remaining maturities or deemed maturities (pursuant to rule 2a–7) not to exceed 90 days.

3. The requested order would amend the Prior Order and extend its applicability to the Additional Participants. The Joint Accounts would invest in any "Investment" as defined in condition 2 below. All Funds that currently intend to rely on the requested order are named as applicants.

4. A U.S. Portfolio or an Additional Participant would only purchase a security through the use of a Joint Account if such security was consistent with its investment objectives, policies and restrictions.[2] Subject to differences in investment objectives, the Board of Trustees/Directors of each Fund has established the same systems and standards for evaluating and acquiring Investments through the Joint Accounts. The Additional Participants will use the same systems and standards employed by the Funds.

5. Applicants contend that, if the requested order is granted, the U.S. Portfolios and the Additional Participants will be able to realize trading and administrative efficiencies in the management of their uninvested cash balances. By pooling these balances in the Joint Accounts, higher yields may be obtained and administrative costs may be saved, because a larger position can be purchased by a Joint Account than by any U.S. Portfolio or Additional Participant (each a "Portfolio" and, collectively, the "Portfolios") individually.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Each Portfolio may be deemed an "affiliated person" of each other Portfolio under the definition set forth in section 2(a)(3) of the Act. Each Portfolio participating in the proposed Joint Account and each of the Advisers could be deemed to be "a joint participant" in a transaction within the meaning of section 17(d). In addition, the Joint Accounts could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of rule 17d–1.

2. The Board of Directors/Trustees of each Fund has determined that the Joint Account will not result in any conflicts of interest among the joint participants. Although the Advisers can gain some benefit through administrative convenience and possible reduction in clerical costs, the primary beneficiaries will be the participating Portfolios because the Joint Accounts may earn higher returns for the Portfolios and will be a more efficient means of administering investment transactions. The Boards of the Funds have determined that the operation of the Joint Accounts will be free of any inherent bias favoring one Portfolio over another. Prior to the participation by any Additional Participant in the Joint Accounts, the responsible persons of such Additional Participant must make findings similar to those made by the Boards of the Funds.

[1] Investment Company Act Release Nos. 20761 (Dec. 9, 1994) (notice) and 20821 (Jan. 4, 1995) (order).

[2] Currently, neither Global Strategy Canada Growth Fund nor Global Strategy U.S. Equity Fund may invest in repurchase agreements. Until they are permitted to invest in repurchase agreements, neither fund will participate in any Joint Account that invests in repurchase agreements in reliance on the requested order.

3. In passing upon applications under section 17(d) and rule 17d–1, the SEC considers whether participation in the proposed joint transaction by a registered investment company is consistent with the provisions, policies, and purposes of the Act, and not on a basis less advantageous than that of other participants. Applicants believe that the granting of the requested order is consistent with this standard.

Applicants' Conditions

Applicants consent to the following as express conditions to any order issued by the SEC in connection with this application:

1. Each Portfolio will transfer into one or more of the Joint Accounts the cash it wishes to invest through such Joint Accounts after the calculation of its daily cash available for investment and will specifically indicate whether the cash is to be used to purchase investments. The Joint Accounts will not be distinguishable from any other accounts maintained buy a Portfolio with its custodian bank except that monies from a Portfolio will be deposited on a commingled basis. The Joint Accounts will not have any separate existence and will not have indicia of separate legal entities. The sole function of the Joint Accounts will be to provide a convenient way of aggregating individual transactions which would otherwise require daily management by each Portfolio of its uninvested cash balances.

2. Cash in the Joint Accounts would be invested in one or more of the following, as directed by the Portfolio: (i) Repurchase agreements collateralized fully as defined in rule 2a–7 under the Act by: (a) U.S. Government obligations; (b) obligations issued or guaranteed as to principal and interest or otherwise backed by any of the agencies or instrumentalities of the U.S. Government; (c) certain obligations of the U.S. Government in the form of separately traded principal and interest components of securities issued or guaranteed by the U.S. Treasury; and (d) certain U.S. government agency securities such as mortgage-backed certificates issued by the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, representing ownership interests in mortgage pools; (ii) interest bearing or discounted commercial paper, including dollar denominated commercial paper of foreign issuers; and (iii) in any other short-term money market instruments, including tax-exempt money market instruments, that constitute "Eligible Securities" within the meaning of rule 2a–7 under the Act (collectively, the "Investments"). No Portfolio would be permitted to invest in a Joint Account unless the Investments in such Joint Account satisfied the investment policies and guidelines of that Portfolio. Investments that are joint repurchase transactions would have a remaining maturity or deemed maturity of 60 days or less and other Investments would have a remaining maturity of 90 days or less, each as determined pursuant to rule 2a–7 under the Act.

3. All assets held by a Joint Account would be valued on an amortized cost basis to the extent permitted by applicable SEC release, rule, or order.

4. Each participating Portfolio valuing its assets in reliance upon rule 2a–7 under the Act will use the average maturity of the instrument(s) in the Joint Account in which such Portfolio has an interest (determined on a dollar weighted basis) for the purpose of computing that Portfolio's average portfolio maturity with respect to the portion of its assets held in such Joint Account on that day.

5. In order to assure that there would be no opportunity for one Portfolio to use any part of a balance of a Joint Account credited to another Portfolio, no Portfolio will be allowed to create a negative balance in a Joint Account for any reason, although it would be permitted to draw down its entire balance at any time. Each Portfolio's decision to invest in a Joint Account would be solely at its option, and no Portfolio will be obligated either to invest in a Joint Account or to maintain any minimum balance in a Joint account. In addition, each Portfolio would retain the sole rights of ownership to any of its assets invested in a Joint Account, including interest payable on such assets invested in such Joint Account.

6. The Advisers would administer the investment of the cash balances in and operation of the Joint Accounts as part of their duties under the general terms of each Portfolio's existing or any future investment advisory contract or sub-advisory contract (the "Advisory Contracts") and would not collect any additional or separate fees for advising any Joint Account. The operation of the Joint Accounts is not provided for specifically under each Portfolio's Advisory Contract, but rather is covered under the general terms of each such Contract. The Advisers would collect their fees based upon the assets of each separate Portfolio as provided in each respective Advisory Contract.

7. The administration of the Joint Accounts will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

8. The Boards of Trustees/Directors of the Funds, the Corporate Trustee of the Non-U.S. Registered Funds and the responsible person of the Private Accounts (each a "Board" and collectively the "Boards") will adopt procedures pursuant to which the Joint Accounts will operate, which will be reasonably designed to provide that the requirements of the application will be met. Each of the Boards will make and approve such changes as it deems necessary to ensure that such procedures are followed. In addition, the Boards of each Portfolio will determine, no less frequently than annually, that the Joint Accounts have been operated in accordance with such procedures and will only permit a Portfolio to continue to participate therein if it determines that there is a reasonable likelihood that the Portfolio and its shareholders (or beneficiaries, as applicable) will benefit from the Portfolio's continued participation.

9. Any Investment made by a Portfolio or Portfolios through the Joint Accounts will satisfy the investment criteria of all Portfolios participating in that Investment.

10. The Advisers and the custodian of each Portfolio will maintain records documenting, for any given day, each Portfolio's aggregate investment in a Joint Account and each Portfolio's *pro rata* share of each Investment made through such Joint Account. The records maintained for each Portfolio that is a Fund or an investment portfolio thereof shall be maintained in conformity with section 31 of the Act and the rules and regulations thereunder. Each Portfolio that is not a registered investment company under the Act or an investment portfolio thereof shall make available to the SEC, upon request, books and records containing information related to its participation in the Joint Accounts.

11. Not every Portfolio participating in the Joint Accounts will necessarily have its cash invested in every Joint Account. However, to the extent a Portfolio's cash is applied to a particular Joint Account, the Portfolio will participate in and own a proportionate share of the Investment in such Joint Account, and the income earned or accrued thereon, based upon the percentage of such Investment in such Joint Account purchased with monies contributed by the Portfolio.

12. Investments held in a Joint Account generally will not be sold prior to maturity except: (a) If the Advisers believe that the Investment no longer presents minimal credit risk; (b) in the

case of commercial paper or tax-exempt securities, if as a result of a credit downgrading or otherwise, the Investment no longer satisfies the investment criteria of all Portfolios participating in that Investment; or (c) in the case of a repurchase agreement, if the counterparty defaults. A Portfolio may, however, sell its fractional portion of an Investment in a Joint Account prior to the maturity of the Investment in such Joint Account if the cost of such transaction will be borne solely by the selling Portfolio and the transaction would not adversely affect the other Portfolios participating in that Joint Account. In no case would an early termination be less than all participating Portfolios be permitted if it would reduce the principal amount or yield received by other Portfolios participating in a particular Joint Account or otherwise adversely affect the other participating Portfolios. Each Portfolio participating in such Joint Account will be deemed to have consented to such sale and partition of the Investment in such Joint Account.

13. Any Investment held through a Joint Account with a remaining maturity of more than seven days will be considered illiquid and, for any Portfolio that is an open-end management investment company registered under the Act, subject to the restriction that the Portfolio may not invest more than 15% (or such other percentage as set forth by the SEC from time to time) of its net assets in illiquid securities, if the Portfolio cannot sell its fractional interest in the Investment in such Joint Account pursuant to the requirements described in the preceding condition.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3574 Filed 2–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21740; International Series Release No. 933; File No. 812–9792]

Banco Santander, S.A.; Notice of Application

February 12, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Banco Santander, S.A. (the "Bank").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicant from section 17(f) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order to permit Banco Santander de Negocios Mexico, S.A. ("BSNM") to act as custodian for investment company assets in Mexico, Banco Santander S.A. ("BSA") to act as custodian for investment company assets in Argentina, and Banco Santander de Negocios Portugal, S.A. ("BSNP") (collectively, the "Foreign Subsidiaries") to act as custodian for investment company assets in Portugal.

FILING DATE: The application was filed on October 3, 1995 and amended on January 19, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 8, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Paseo de la Castellana, 24, 28406 Madrid, Spain; c/o Nora M. Jordan, Davis Polk & Wardell, 450 Lexington Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942–0571, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Bank is a full-service commercial bank organized under the laws of Spain and regulated in that country by the Bank of Spain. The Bank, together with its subsidiaries and associated companies (the "Group"), is engaged in a wide range of banking, financial, and related activities in Spain and has offices or subsidiaries in 30 other countries. The Group was, as of December 31, 1994, the largest commercial banking group in Spain in terms of total assets. As of December 31, 1994, the Bank had shareholders' equity of Ptas. 437.7 billion (U.S. $3.6 billion, based on the then current exchange rate), and the Group had shareholders' equity of Ptas. 519.9 billion (U.S. $4.0 billion, based on the then current exchange rate).

2. BSNM, BSA, and BSNP are wholly-owned indirect subsidiaries of the Bank. BSNM is incorporated and organized under the laws of Mexico and is regulated as a banking institution by Comisión Nacional Bancaria, which is the agency of the government of Mexico responsible for the regulation of banks. BSA is incorporated and organized under the laws of Argentina and is regulated as a banking institution by Banco Central de la Republica Argentina, which is the agency of the government of Argentina responsible for the regulation of banks. BSNP is incorporated and organized under the laws of Portugal and is regulated as a banking institution by Banco de Portugal, which is the agency of the government of Portugal responsible for the regulation of banks.

3. The Bank requests an order to permit the Bank, any investment company registered under the Act, other than those registered under section 7(d) of the Act ("U.S. Investment Companies"), and any custodian for a U.S. Investment Company, to maintain "Foreign Securities," as defined below, cash, and cash equivalents (collectively, "Securities") in the custody of BSNM, BSA, and BSNP as delegates for the Bank in Mexico, Argentina, and Portugal, respectively. As used herein, "Foreign Securities" includes (a) securities issued and sold primarily outside the United States by a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country; and (b) securities issued or guaranteed by the government of the United States or by any state or any political subdivision thereof or by any agency thereof or by any entity organized under the laws of the United States or any state thereof which have been issued and sold primarily outside the United States.

Applicant's Legal Analysis

1. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain enumerated entities, including a bank having at all times aggregate capital, surplus, and undivided profits of at least $500,000. A "bank," as that term is defined in section 2(a)(5) of the Act, includes: (a) A banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; and (c) any other banking institution or trust company doing business under the laws of any state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks, and which is supervised or examined by state or federal authority having supervision over banks.

2. The only entities located outside the United States that section 17(f) authorizes to serve as custodians for registered management investment companies are the overseas branches of qualified U.S. banks. Rule 17f–5 expands the group of entities that are permitted to serve as foreign custodians. Rule 17f–5(c)(2)(i) defines the term "Eligible Foreign Custodian" to include a banking institution or trust company, incorporated or organized under the laws of a country other than the United States, that is regulated as such by that country's government or an agency thereof and that has shareholders' equity in excess of U.S. $200 million or its equivalent.

3. The Bank qualifies as an Eligible Foreign Custodian under rule 17f–5. BSNM, BSA, and BSNP each satisfy the requirements of rule 17f–5 insofar as each is a banking institution or trust company incorporated or organized under the laws of a country other than the United States and is regulated as such by such country's government or an agency thereof. The Foreign Subsidiaries, however, do not meet the minimum shareholders' equity requirement of the rule. Accordingly, the Foreign Subsidiaries are not Eligible Foreign Custodians under the rule and, absent exemptive relief, could not serve as custodians for the Securities of U.S. Investment Companies.

4. Section 6(c) provides, in relevant part, that the SEC, by order, may exempt any person from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act. The Bank believes that its request satisfies this standard.

Applicant's Conditions

Applicant agrees that any order granting the requested relief shall be subject to the following conditions:

1. The foreign custody arrangements proposed with respect to BSNM, BSA, and BSNP will satisfy the requirements of rule 17f–5 in all respects, other than with regard to BSNM's, BSA's, or BSNP's level of shareholders' equity.

2. Securities of a U.S. Investment Company in Mexico, Argentina, or Portugal, as the case may be, will be maintained in the custody of BSNM, BSA, or BSNP, respectively, only in accordance with an agreement (the "Agreement"), required to remain in effect at all times during which the Foreign Subsidiaries fail to satisfy the requirements of rule 17f–5 relating to minimum shareholders' equity. Each Agreement will be a three-party contract among the Bank, the Foreign Subsidiary, and the U.S. Investment Company or custodian for the U.S. Investment Company pursuant to which the Bank would undertake to provide specified custodial or sub-custodial services for the U.S. Investment Company or custodian for such company and would delegate to the Foreign Subsidiary such of the Bank's duties and obligations as would be necessary to permit BSNM, BSA, or BSNP, as the case may be, to hold in custody the securities of the U.S. Investment Company or custodian in Mexico, Argentina, and Portugal, respectively. The Agreement would further provide that the Bank's delegation of duties to the Foreign Subsidiary would not relieve the Bank of any responsibility to the U.S. Investment Company or custodian for such company for any loss due to such delegation except such loss as may result from (i) political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife, or armed hostility) and (ii) other risks of loss (excluding bankruptcy or insolvency of the Foreign Subsidiary) for which neither the Bank nor the Foreign Subsidiary would be liable under rule 17f–5 (*e.g.*, despite the exercise of reasonable care, loss due to Acts of God, nuclear incident and the like).

3. The Bank currently satisfies and will continue to satisfy the minimum shareholders' equity requirement set forth in rule 17f–5(c)(2)(i).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3572 Filed 2–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21743; 811–8040]

TCW/DW North American Intermediate Income Trust; Notice of Application

February 12, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: TCW/DW North American Intermediate Income Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 11, 1996 and amended on February 7, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 8, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company organized as a Massachusetts business trust. On September 22, 1993, applicant registered under the Act and filed a registration statement under the Securities Act of 1933. Applicant's registration statement was declared effective, and an initial public offering of its shares commenced, on March 14, 1994.

2. At a meeting held on August 24, 1995, applicant's board of trustees unanimously approved a plan of liquidation and dissolution (the "Plan"). At the meeting, the trustees considered a number of factors, including the amount of the Fund's total assets and the inefficiencies, higher costs and disadvantageous economies of scale attendant with the Fund's small asset base, and the likelihood of whether additional sales of the Fund's shares could increase the assets to a more viable level. Accordingly, the board of trustees determined that adoption of the Plan would be in the interests of the Fund and its shareholders.

3. Proxy materials were filed with the SEC on September 14, 1995 and mailed to securityholders on or about the same date. On November 21, 1995, applicant's securityholders approved the Plan. Accordingly, on December 12, 1995, securityholders were paid a final liquidation distribution at net asset value equal to their proportionate interest in the applicant's assets.

4. All expenses incurred in connection with applicant's liquidation were paid by TCW Funds Management, Inc., applicant's adviser, and Dean Witter InterCapital Inc., applicant's manager.

5. Applicant has no securityholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3575 Filed 2–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21742; 811–3979]

Wood Island Growth Fund, Inc.; Notice of Application

February 12, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Wood Island Growth Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 7, 1995, and amended on February 8, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 8, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, Wood Island, Fourth Floor, 80 East Sir Francis Drake Boulevard, Larkspur, California 94939.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management company organized as a California corporation. On January 17, 1984, applicant filed a Notification of Registration on Form N–8A, and on April 6, 1984, applicant filed a registration statement on Form N–1A registering an indefinite number of shares. The registration statement also related to 57,800 common shares already issued and outstanding as of April 6, 1984, as a result of a prior private placement to qualified investors pursuant to exemptions under the Act and the Securities Act of 1933. On April 17, 1984, applicant's registration statement was declared effective, and the public offering commenced soon thereafter.

2. On or about November 8, 1995, applicant mailed proxy statements to its shareholders seeking approval to wind up and dissolve its business. Applicant's board of directors solicited written consent in lieu of a special meeting of shareholders and received written consent from the majority of applicant's shareholders on or about November 20, 1995.

3. At a meeting held on October 18, 1995, applicant's board of directors determined that it was in the best interest of the shareholder to liquidate. The board's decision was based primarily on the small size of applicant and its resulting high ratio of expenses to average net assets. Additionally, the relatively small size of applicant made it difficult to achieve the diversification and investment objectives sought by applicant.

4. On December 1, 1995, all of applicant's then issued and outstanding shares were redeemed. All redemptions were made at net asset value on the date of redemption.

5. Liquidation expenses of $4,190 for transfer agency, accounting, custody, tax reporting and legal fees were borne by applicant. Liquidation expenses of $921 for proxy solicitation and mailing costs were borne by Wood Island Associates, Inc., applicant's adviser.

6. Applicant has no securityholders, debts or liabilities at the time of filing this application. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant is not presently engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3576 Filed 2–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36826; International Series Release No. 931; File No. SR–CBOE–95–54]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Currency Warrants Based on the Value of the U.S. Dollar in Relation to the Brazilian Real

February 9, 1996.

On September 13, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade currency warrants based upon the value of the U.S. dollar in relation to the Brazilian Real ("Real warrants"). Notice of the proposal was published for comment and appeared in the **Federal Register** on November 16, 1995.[3] No comment letters were received on the proposal. On January 5, 1996, the Exchange filed Amendment No. 1 to the proposed rule change.[4] This order approves the CBOE's proposal, as amended.

I. Description of the Proposal

CBOE Rule 31.5(e) permits the exchange to list and trade currency warrants. The listing and trading of Real warrants will comply in all respects with CBOE Rule 31.5(E).

A. Currency Warrant Trading

Real warrants will be unsecured obligations of their issuers and will be cash-settled in U.S. dollars.[5] The warrants will be either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, the holder of a Real warrant structured as a "put" would receive payment in U.S. dollars to the extent that the value of the Brazilian Real has declined in relation to the U.S. dollar below a pre-stated base price. Conversely, holders of a Real warrant structured as a "call" would, upon exercise, receive payment in U.S. dollars to the extent that the value of the Brazilian Real in relation to the U.S. dollar has increased above the pre-stated base price. Warrants that are "out-of-the-money" at the time of expiration will expire worthless.

B. Warrant Listing Standards and Customer Safeguards

The Exchange has established revised generic listing standards for currency warrants, which are contained in CBOE Rule 31.5(E).[6] Any issue of Real warrants will conform to the listing criteria under Rule 31.5(E) which provide that: (1) The issuer shall have minimum tangible net worth in excess of $150,000,000 and otherwise substantially exceed the size and earnings requirements in Rule 31.5(A); (2) the term of the warrants shall be for a period ranging from one to five years from date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants, together with a minimum of 400 public holders, and have a minimum aggregate market value of $4,000,000. In addition, where an issuer has a minimum tangible net worth in excess of $150,000,000 but less than $250,000,000, the Exchange shall not list Real warrants of the issuer if the value of such warrants plus the aggregate value, based upon the original issuing price, of all outstanding stock index, currency index and currency warrants of the issuer (and its affiliates) that are listed for trading on a national securities exchange or traded through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ") exceeds 25% of the issuer's net worth.

Moreover, pursuant to the generic warrant listing order, Real warrants may be sold only to customers whose accounts have been approved for options trading pursuant to Exchange Rule 9.7. Moreover, the suitability standards of Exchange Rule 9.9, and the standards of Rule 9.10(a), regarding discretionary orders, will be applicable. Pursuant to CBOE Rule 30.53(d), the Exchange will require members and member organizations to report to the CBOE any positions of 100,000 or more Real warrants on the same side of the market.[7] Finally, prior to the commencement of trading of Real warrants, the Exchange will distribute a circular to its membership calling attention to certain of these compliance responsibilities when handling transactions in Real warrants.[8]

C. Margin Requirements

The new listing standards also set forth the applicable margin requirements for currency warrants. New Exchange Rule 30.53 requires minimum margin on any currency warrant carried "short" in a customer's account to be 100% of the current market value of each such warrant plus an "add-on" percentage of the product of the units of underlying currency per warrant and the spot price for such currency. The Exchange has calculated frequency distributions reflecting percentage price returns for all one (1) and five (5) day periods for the Brazilian Real for the period of September 1, 1992 through August 30, 1995. These distributions demonstrate that more than 97.5% of all five (5) day returns for the three (3) year period would have been covered by 10.0% of the underlying Real value.

Based upon these results, the Exchange is proposing to set the margin "add-on" percentage for Brazilian Real warrants at 10% for both initial and maintenance margin, with a minimum add-on for out-of-the money warrants of 7%.[9] Additionally, the Exchange will conduct periodic reviews of the volatility in the Brazilian Real. Pursuant to Rule 30.53(a), if the Exchange determines that a higher customer

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 36464 (November 8, 1995), 60 FR 57607 (November 16, 1995).

[4] In Amendment No. 1, the Exchange proposes to increase the minimum add-on margin for out-of-the-money Real warrants from 2% to 7%. Additionally, the Exchange clarifies that for purposes of determining the settlement value of the Real warrants, the Exchange will require the issuer or issuer's designee to use the Federal Reserve Board noon buying rate ("Fed noon buying rate") which is published by the Federal Reserve Bank of New York. Alternatively, in the event the Federal Reserve Bank were to discontinue publishing this figure, the Exchange would require the issuer to use the exchange rate published by the Central Bank of Brazil. See Letter from Timothy Thompson, Senior Attorney, CBOE, to James McHale, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated January 4, 1996 ("Amendment No. 1").

[5] As stated in note 4 *supra*, the CBOE will require the issuer or issuer's designee to use the Fed noon buying rate for determining settlement value, but if the Fed noon buying rate is unavailable, the Exchange will require the use of the exchange rate published by the Central Bank of Brazil ("Brazil rate"). The Brazil rate is disseminated daily by the Central Bank of Brazil through the SISBACEN, which is a large foreign-currency-exchange computer network linking the Central Bank to the interbank market. See Memorandum from the Division of Economic Analysis, Commodity Futures Trading Commission ("CFTC"), to Commissioners, CFTC, dated October 10, 1995 (regarding the application of the Chicago Mercantile Exchange for designation as a contract market in Brazilian Real futures and futures options).

[6] See Securities Exchange Act Release No. 36169 (August 29, 1995), 60 FR 46644 (September 7, 1995) ("generic warrant listing order").

[7] See generic warrant listing order, *supra* note 6.

[8] The circular should highlight: (1) That Real warrants may be sold only to customers with options approved accounts; (2) the applicable suitability requirements; (3) the standards regarding discretionary orders; (4) the reporting requirements for positions of 100,000 or more Real warrants on the same side of the market; and (5) the applicable customer margin requirements.

[9] See Amendment No. 1, *supra* note 4.

margin level would be appropriate, the CBOE will take immediate steps to implement the change. If, on the other hand, the Exchange determines that a lower margin percentage would be appropriate, the Exchange must file a proposal with the Commission pursuant to Section 19(b) of the Act to modify the margin add-on percentages applicable to Real warrants. Should the customer margin levels for Real warrants be changed, the Exchange will promptly notify the Exchange's membership and the public.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) [10] in that it will help remove impediments to a free and open securities market and facilitate transactions in securities by providing investors with a low-cost means to participate in the performance of the Brazilian economy or to hedge against the risk of investing in that economy. Specifically, the Commission believes that the trading of listed warrants on the Brazilian Real should provide investors with a hedging and risk transfer vehicle that will reflect the overall movement of the Brazilian Real in relation to the U.S. dollar. In this regard, Real warrants should provide investors with an efficient and effective means of managing risk associated with the Brazilian Real.

Moreover, Real warrants will conform to the listing standards in Rule 31.5(E), and the other provisions of the generic warrant listing order. These rules provide a regulatory framework for trading currency warrants, and should help to provide for fair and orderly markets in Real warrants. Under these rules, the Exchange will limit transactions in Real warrants to customers with options approved accounts and impose the CBOE's options suitability standards and discretionary accounts standards to transactions in Real warrants. Additionally, the requirements established by the Exchange for reporting positions of 100,000 or more Real warrants on the same side of the market should assist the CBOE in detecting and deterring attempts at manipulation.

Furthermore, the CBOE has proposed adequate customer margin requirements. The proposed add-on margin (*i.e.* 10% with a minimum add-on for out-of-the-money warrants of 7%) provides sufficient coverage to account for historical and potential volatility in the Brazilian Real in relation to the U.S. dollar. The Exchange will conduct periodic reviews of the volatility in the Brazilian Real and must take immediate steps to increase the existing customer margin levels if the Exchange determines that the existing levels are no longer adequate. As a result, the Commission believes that the proposed customer margin levels and the review and maintenance criteria for those margin levels will result in adequate coverage of contract obligations and are designed to reduce risks arising from inadequate margin levels.

Finally, the Exchange will prepare and distribute to its membership a circular describing each issue of Real warrants listed by the CBOE, calling attention to certain compliance responsibilities when handling transactions in Real warrants.[11]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the **Federal Register**. Specifically, Amendment No. 1 increases the minimum add-on margin for out-of-the-money Real warrants from 2% to 7%, to protect against greater fluctuations in the value of the Real. In addition, Amendment No. 1 clarifies that the Exchange will require any issuer of Real warrants to use a reliable, widely disseminated, and unbiased source for determining settlement value of the Real warrants. The Exchange will require the issuer or issuer's designee to use the Fed noon buying rate, published by the Federal Reserve Bank of New York for settlement purposes. Alternatively, in the event the Fed noon buying rate is unavailable, the Exchange will require the issuer to use the exchange rate published by the Central Bank of Brazil.[12] Based on the above, the Commission finds good cause to accelerate approval of Amendment No. 1.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–54 and should be submitted by March 8, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–95–54), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3579 Filed 2–15–96; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78f(b)(5).

[11] *See supra* note 8.

[12] *See* notes 4 and 5 *supra*.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[Release No. 34–36827; File No. SR–MSRB–95–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Reports of Sales and Purchases

February 9, 1996.

On December 13, 1995 the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–95–17), pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(2). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing an amendment to Board rule G–14, concerning reports of sales or purchases, and associated transaction reporting procedures (hereafter collectively referred to as "the proposed rule change"). The purpose of the proposed rule change is to enhance the Board's transaction reporting pilot program ("The program") to improve support for market surveillance and enforcement of Board rules. The proposed rule change would require brokers, dealers and municipal securities dealers ("dealers") to include the time of trade execution when submitting information on inter-dealer transactions to the Board under rule G–14. This would make it possible to reconstruct the time sequence of the transactions. Such information would be made available, through the Board's automated transaction reporting system, to the Commission and to organizations charged with inspection for compliance with, and enforcement of, Board rules ("enforcement agencies"). The Board is requesting that the proposed rule change become effective July 1, 1996.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the purposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Background

On November 9, 1994, the Commission approved an amendment to Board rule G–14, on reports of sales or purchases of municipal securities, and associated transaction reporting procedures for inter-dealer transactions.[1] The amendment enabled implementation of the Board's transaction reporting program and operation of the supporting computer system. The program is an important first step to increase transparency in the municipal securities market.

The goals of the program are to help provide market participants and the public with more information about the value of securities, and to help enforcement agencies identify transaction patterns as they carry out dealer inspections and conduct market surveillance. The Board stated in 1994 its plans to implement the program (the "1994 plan").[2] The 1994 plan called for the Board to disseminate a daily public report summarizing market activity for those municipal securities that traded "frequently"[3] on the previous day ("T+1 reporting"). The plan also called for the construction of a comprehensive "surveillance database," that would include details of each trade (the identity of the parties, the price, par value, etc.). The 1994 plan had four phases, of which the first three covered different types of municipal securities transactions: Inter-dealer transactions in Phase I, institutional customer transactions in Phase II,[4] and retail customer transactions in Phase III. The time-of-trade would be added to the surveillance database after initial implementation of Phase I and also would be included as transaction data in subsequent phases. Phase IV is the Board's plan ultimately to improve the public reporting of transaction data by capturing and reporting trade data intra-day, rather than reporting it on the following business day.

The 1994 plan called for data taken from the central confirmation/acknowledgment system to serve as the input stream for institutional customer transaction reporting in Phase II. Currently, dealers submit information on transactions with institutional customers to this system, pursuant to Board rule G–15(d), to facilitate automated clearance and settlement.[5] For Phase III, however, retail customer transaction data would be reported by dealers directly to the Board, since there is no central system to receive such information.

A study by the Board of sample data from the confirmation/acknowledgment system, conducted during the spring and summer of 1995, revealed that data submitted by dealers to this system is unsuitable for transaction reporting purposes, since the data available for T+1 reporting is not sufficiently reliable and complete to be usable as a source of published T+1 prices. The Board examined a number of possible measures to improve the data, but found no alternative to make confirmation/acknowledgment data sufficiently reliable and complete.[6] The Board consequently has revised the 1994 plan, and now plans to combine reporting of all dealer-customer transactions in one phase which will replace Phases II and III in a "customer transaction" phase. Under the revised plan, dealers, either directly or through intermediaries, would report selected information about institutional and retail customer trades to the Board by uploading the data from their own systems to the central system operated by the Board. A notice will be made available to the Commission and the industry, by the end of 1995, outlining the new plan and requesting comment from industry participants. Corresponding amendments to rule G–14 will be filed with the Commission in mid-1996. The planned starting date for the customer transaction phase is January 1998.[7]

Operation of Phase I System

Phase I of the transaction reporting system has been operational since January 23, 1995. Each day, the system has produced a report of price and volume of inter-dealer transactions in municipal securities that were executed the previous business day. In addition to the transparency component which produces these daily reports, the system has a second component, a surveillance database of detailed records about every inter-dealer transaction that has been successfully compared [8] by the automated comparison system. The surveillance database includes, among other things, the price and volume of each compared transaction, the trade date, identification of the security traded, and identification of all parties to each compared transaction.[9] This information is intended to enable the enforcement agencies to construct audit trails of inter-dealer transactions. The Board has provided on-line access to the surveillance database to the National Association of Securities Dealers, Inc. ("NASD") and is making information

[1] *See* Securities Exchange Act Release No. 34955 (November 9, 1994), 59 FR 59810.

[2] *See* letter from Robert Drysdale, MSRB, to Arthur Levitt, SEC, dated November 3, 1994.

[3] Currently, the threshold for "frequent" trading is four or more trades in one day.

[4] "Institutional" transactions were defined for the purpose of Phase II as customer transactions settled on a delivery *versus* payment/receipt vs. payment (DVP/RVP) basis. These are transactions in which the customer requires that settlement occur with an exchange of money and securities at the time of settlement. Generally, institutional customers require DVP/RVP settlement and retail customers do not.

[5] This system, operated by Depository Trust Corporation (DTC), is known as the Institutional Delivery (ID) system.

[6] In its study, the Board found nothing to indicate any problem with the reliability of the information as it relates to settlements. The data sample seems satisfactory for its intended purpose of facilitating automated clearance and settlement.

[7] The Commission notes that it has not approved this change in schedule for the transparency pilot program.

[8] In general, a "compared" transaction is one for which salient information items, provided by both parties to a trade, are matched and found to agree by the automated comparison system.

[9] The Commission has recently approved the requirement to identify all dealers that are parties to a trade when submitting transaction information to the Board. *See* Securities Exchange Act Release No. 35988 (July 18, 1995), 60 FR 38069.

from the surveillance database available to all agencies responsible for enforcing Board rules.

The input stream for inter-dealer transaction reporting is transaction information reported by dealers, pursuant to rule G–14, to the Board through the automated comparison system. The Board has designated National Securities Clearing Corporation ("NSCC"), the central facilities provider of the automated comparison system, as its agent for receiving inter-dealer transaction information.

Need for Time-of-Trade Information

The Commission has noted the need to make an "integrated audit trail" of transaction information available to the enforcement agencies. The Commission has expressed its belief that an audit trail will "provide valuable information for market surveillance and inspection purposes to the MSRB, the Commission, the NASD, and the relevant banking agencies."[10]

The proposed rule change will help to ensure that the audit trail information in the surveillance database includes the time of execution of each compared inter-dealer municipal securities transaction. Enforcement agencies are expected to utilize the time-of-trade information when examining a series of transactions in a given municipal security. The information currently available from the surveillance database enables one to determine the date on which a trade or group of trades was executed; the addition of time-of-trade will help determine the sequence of trades during the day.

The Requested Date of Effectiveness

Changes in the automated comparison system are underway to enable that system to incorporate time-of-trade information collected as part of the trade data submitted by dealers."[11] Dealers and providers of system services must make corresponding changes in dealer systems that provide input to the automated comparison systems, and some time will be needed to allow these changes to be made. Accordingly, the Board is requesting that the Commission make the proposed rule change effective on July 1, 1996, to provide market participants with sufficient time to make the necessary internal system changes.

[10] Securities Exchange Act Release No. 34955, *supra* note 1, at 19.

[11] The Board understands from conversations with NSCC representatives that the necessary changes to the automated comparison system will be complete and tested during the first quarter of 1996.

Effect of Proposed Rule Change Upon Dealers

Requiring trade reports to the Board to contain the time-of-trade would involve relatively minor changes in current practice. Currently, under Board rule G–8 on books and records, dealers are required to make and keep a record of the time of execution of each trade, to the extent feasible,[12] for each agency order and each transaction effected by the dealer as principal. Under the proposed rule change, each dealer reporting inter-dealer transactions to the Board would include the time of execution in each transaction submitted to the automated comparison system.[13] The time-of-trade would be reported by both the buyer and seller, to ensure that a time-of-trade is available on all transactions even when one side does not report the trade on the night of trade date.[14]

(b) The Board has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Securities Exchange Act of 1934, which requires, in pertinent part, that the Board's rules: Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating * * * transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition in that it applies equally to all dealers in municipal securities.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Board published a notice in February 1995, which among other things, described the proposed rule change and requested comment from market participants.[15] Two letters were received commenting on the proposed rule change. One commentator[16] stated that time-of-trade reporting would involve "major and possibly costly" system changes to dealer systems. This commentator believed time-of-trade reporting should be delayed until retail customer transactions are added to the transaction reporting program, so that dealers and clearing agencies could make the needed changes in conjunction with more extensive changes foreseen for the later phases. Another commentator[17] stated that many firms would incur development costs to modify their trading systems to accommodate time-to-trade information.

The Board believes that the proposed rule change is essential to facilitating effective surveillance and enforcement activities regarding inter-dealer transactions and should not be delayed until later phases of the transaction reporting program. The Board does not believe that incorporating time-of-trade data into current trade reporting systems represents a major system change. The proposed rule change would merely add one item of information to an existing reporting requirement. That information item already is required, for recordkeeping purposes, to be recorded by the dealer. The Board is proposing more than six months' lead time to allow dealers sufficient time to schedule the necessary system changes. In many cases, it would be expected that this change could be made in connection with other minor system adjustments that must be implemented in the ordinary course of business.

[12] The Board has clarified that the phrase "to the extent feasible" is intended to require municipal securities professional to note the time of execution for each agency and principal transaction "* * * except in extraordinary circumstances when it is impossible to determine the exact time of execution. In such cases, the municipal securities professional should note the approximate time of execution and indicate that it is an approximation." (MSRB Interpretation of July 29, 1997 regarding rules G–8(a)(vi) and (vii), *MSRB Manual* (CCH), para. 3536 [emphasis added].)

[13] Rule G–14 Transaction Reporting Procedures stipulate that the broker, dealer or municipal securities dealer may employ an agent that is a member of NSCC or a registered clearing agency for the purpose of submitting transaction information; however, the primary responsibility for timely and accurate submission continues to rest with the broker, dealer or municipal securities dealer that executed the transaction.

[14] The time, accurate to the nearest minute, would be reported as Eastern time. The time-of-trade would not be used to match submissions during the comparison process nor would it be made public in the daily reports. Requiring both the buyer and seller to report time-of-trade will ensure its presence in the surveillance database for those transactions where advisories are "stamped" in the automated comparison system. In "stamping" an advisory of a transaction to achieve comparison, one party indicates agreement with the transaction information submitted by the other party. If time-of-trade information were to be required of the party on only one side of the trade, transactions "stamped" by that party would not include any time-of-trade information for reporting purposes. In certain limited cases, involving syndicate transactions, however, NSCC comparison procedures require a submission only from one dealer: the syndicate manager. Accordingly, only one dealer (*i.e.*, the syndicate manager) is required in such a case to report the trade to the Board, and only that dealer would report the time-of-trade.

[15] *See* "Transaction Reporting Program for Municipal Securities: Phase II," *MSRB Reports*, Vol. 15, No. 1 (April 1995), at 11–15.

[16] The Public Securities Association provided this comment.

[17] Goldman, Sachs & Co. provided this comment.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

As discussed above, the Board is requesting that the Commission make the proposed rule change effective on July 1, 1996, to provide market participants with sufficient time to make the necessary internal system changes.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–95–17 and should be submitted by March 8, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3578 Filed 2–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36831; File No. SR–NYSE–95–43]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Amendments to Exchange Rules 27, 476(a)(11), and 477

February 12, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 5, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to New York Stock Exchange (the "Exchange") Rules 27, 476(a)(11) and 477, which require persons under Exchange jurisdiction to comply with information requests from commodities markets and associations and foreign self-regulatory organizations and associations.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to require persons under Exchange jurisdiction to comply with information requests from commodities markets and associations and foreign self-regulatory organizations and associations.

[1] 15 U.S.C. 78s(b)(1).

Currently, Rule 27 authorizes the Exchange to enter into information sharing agreements with domestic and foreign self-regulatory organizations and associations, but does not provide for such agreements with commodities regulatory organizations such as contract markets and registered futures associations.

Rule 476(a)(11) permits the Exchange to initiate a disciplinary proceeding against a member, member organization, allied member, approved person, registered or non-registered employee of a member organization or a person otherwise subject to the jurisdiction of the Exchange, for failure to furnish information to, or appear or testify before the Exchange or another domestic self-regulatory organization. The rule does not authorize the Exchange to initiate such a proceeding when someone under Exchange jurisdiction fails to cooperate with a commodities market or association or a foreign self-regulatory organization or association.

Rule 477 permits the Exchange to require a member, member organization, allied member, approved person or registered or non-registered employee of a member organization that is terminating his status as such to comply with a request to appear, testify, submit books, records, papers, or objects and to respond to written requests and attend hearings in the same manner and to the same extent as if such person had maintained his status, if, prior to such termination, or during the period of one year immediately following the receipt by the Exchange of written notice of the termination, the Exchange makes such a request in writing. The rule does not require the above parties to comply with such requests from commodities markets or associations or from foreign self-regulatory organizations or associations.

The Exchange is proposing to amend Rule 27 to add domestic contract markets and futures associations to the list of entities with which the Exchange is authorized to enter into information sharing agreements. The extent to which those under the Exchange's jurisdiction would be required to cooperate would be predicated on the subject matter or scope of the relevant information sharing agreement. Rule 476(a)(11) would be amended to require that those under its jurisdiction cooperate with information requests from domestic commodities markets and associations and foreign self-regulatory organizations and associations as well as from

domestic securities markets.[2] Rule 477 would be amended to require compliance with information requests submitted by the organizations specified in Rule 476(a)(11).[3]

The Exchange believes that it is appropriate to expand the scope of its disciplinary proceedings to include a failure to cooperate with contract markets, futures associations and foreign self-regulatory organizations and associations because of its continued commitment to the enhancement of its regulatory efforts and the regulatory efforts of other market centers with which the Exchange has agreed to share information.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.[4] The proposed amendments are consistent with these objectives in that they enhance the regulatory efforts of the Exchange and of other domestic and foreign securities markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[2] NYSE Rule 476(a)(11) is part of NYSE's minor rule violation plan set forth in NYSE Rule 476A. See Securities Exchange Act Release No. 25862 (Jun. 28, 1988), 53 FR 25400 (Jul. 6, 1988) (order approving File No. SR–NYSE–4–284).

[3] The NYSE has stated that, in connection with Rules 27, 476(a)(11), and 477, it is its policy to afford NYSE members the same rights and procedural protections that such person or entities would have if the Exchange had initiated the request for information or testimony. In furtherance of this, the Exchange will always act as an intermediary between another SRO, a contract market or a registered futures association and the exchange member, member organization, or other designated person under Rule 476(a)(11) from whom information or testimony is being sought for any inquiry made pursuant to an agreement under Rule 27. Telephone conversation on February 2, 1996 between Donald Siemer, Director, Market Surveillance, NYSE and George A. Villasana, Attorney, Division of Market Regulation, SEC.

[4] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–95–43 and should be submitted by March 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3577 Filed 2–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36832; File No. SR–Phlx–96–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Amendment of Its By-Laws to Require That the Chairman of Each Standing Committee Must Be a Member of the Board of Governors

February 12, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 22, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby proposes to amend Article X, Section 10–1(a) of its By-Laws, to require that the Chairman of each Standing Committee must be a member of the Phlx Board of Governors.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed amendment mandates that the Chairman of each Standing Committee of the Board of Governors shall be a member of the Board of Governors. The proposed amendment is intended to update the structural composition of the Standing Committees and make them more directly responsive to the Board.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[1] as it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange solicited comment from its membership on the proposed rule change in Phlx Circular No. 242–95. No written comments were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–96–04 and should be submitted by March 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3580 Filed 2–15–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78f(b)(5).

SELECTIVE SERVICE SYSTEM

Form Submitted to the Office of Management and Budget for Extension of Clearance

The following form, to be used only in the event that inductions into the armed services are resumed, has been submitted to the Office of Management and Budget (OMB) for the extension of clearance in compliance with the Paperwork Reduction Act (44 U.S. Chapter 35):

SSS–9

Title: Registrant Claim Form.

Purpose: Form is used to submit a claim for postponement of induction or reclassification.

Respondent: Registrants filing claims for either postponement or reclassification.

Frequency: One-time.

Burden: The reporting burden is five minutes or less per individual.

Copies of the above identified form can be obtained upon written request to Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia, 22209–2425.

Written comments and recommendations for the proposed extension of clearance of the form should be sent within 60 days of publication of this notice to Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia, 22209–2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, D.C. 20503.

Dated: February 7, 1996.

Gil Coronado,

Director.

[FR Doc. 96–3510– Filed 2–15–96; 8:45 am]

BILLING CODE 8015–01–M

SMALL BUSINESS ADMINISTRATION

Request for Ideas, Recommendations and Information on the Most Cost Efficient Method of Servicing Disaster Home Loans

AGENCY: Small Business Administration.

ACTION: Request for comments.

SUMMARY: The Small Business Administration requests ideas, suggestions and information as to the most efficient method of handling the servicing and collection functions of its Disaster Home Loan Program at a cost consistent with or below existing levels. This includes but is not limited to contracting with the private sector to perform all or part of this service. SBA also solicits comments on the public policy issue of how best to work with disaster loan borrowers to cure defaults in ways other than foreclosure and under what, if any, circumstances should disaster victims be permitted to remain in their home even if they cannot pay on the loan.

DATES: It is requested that comments be received by the SBA no later than April 16, 1996.

ADDRESSES: Comments should be addressed to Allan S. Mandel, Director, Office of Policy, Office of Borrower and Lender Servicing, SBA, Suite 8300, 409 Third Street SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Allan S. Mandel, Director, Office of Policy, Office of Borrower and Lender Servicing, SBA, 409 Third Street SW., Washington, DC 20416 (202/205–6488).

SUPPLEMENTARY INFORMATION: The U.S. Small Business Administration operates a Disaster Loan Program, under which direct government loans are made in Federally-declared disaster areas to eligible home and business owners to assist them in replacing, rebuilding and repairing their property damaged in the disaster. The Agency currently (10/31/95) has a portfolio of 198,000 Disaster Home Loans valued at $3.2 billion. Ninety-three percent of the loans are current on their payments. Most of this portfolio, 182,000 loans valued at $2.9 billion, are serviced by the SBA in four Disaster Home Loan Centers located in Birmingham, Alabama; New York City; El Paso, Texas; and Santa Ana, California. Most of the loans are in a second or lower lien position. Servicing functions may include approval of subordination of the SBA loan, approval of assumption of the SBA loan, approval of substitution of collateral, approval of partial release of collateral, making parcel map revisions due to boundary

changes, authorizing the issuance of insurance checks, responding to demands for payoff, approval of release of collateral documents and notes, responding to Freedom of Information Act requests, handling consumer disputes of credit bureau reports, and handling Congressional inquiries. Soon the servicing function will also include monitoring payment of flood insurance and flood plain maps to insure that any borrower required to purchase flood insurance or any borrower whose property becomes located in a flood plain actually purchases insurance. If they do not, the servicer will purchase it and add the cost to the loan balance. Collection functions include dealing with delinquent loans, deferral, reduction in payments or other loan restructuring, bankruptcy and probate, issuance of foreclosure and tax sale notices and other liquidation processes.

The SBA is hereby requesting ideas, suggestions and information as to the most efficient method of handling the servicing and collection functions at a cost consistent with or below existing levels. This includes but is not limited to contracting with the private sector to perform all or part of this service. (Such actions would require a change in law, as Section 5 (b) (7) of the Small Business Act currently prohibits SBA from contracting or delegating its responsibility for servicing direct loans to anyone other than SBA personnel.) SBA also solicits comments on the public policy issue of how best to work with disaster loan borrowers to cure defaults in ways other than foreclosure and under what, if any, circumstances should disaster victims be permitted to remain in their home even if they cannot pay on the loan.

Arnold S. Rosenthal,

Assistant Administrator for Borrower and Lender Servicing.

[FR Doc. 96–3538 Filed 2–15–96; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511, as amended (P.L. 104–13 effective October 1, 1995), The Paperwork Reduction Act. The information collection listed below, which was published in the **Federal Register** on December 22, 1995 has been submitted to OMB.

(Call the SSA Reports Clearance Officer on (410) 965–4142 for a copy of the form(s) or package(s), or write to her at the address listed after the information collections)

SSA Reports Clearance Officer: Charlotte S. Whitenight Application for U.S. Benefits Under the Canada-U.S. International Agreement—0960–0371. The information collected on form SSA–1294 is used to determine entitlement to benefits. The respondents are individuals who live in Canada and file for U.S. Social Security Benefits.

Number of Respondents: 1000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 250 hours.

Written comments and recommendations regarding this information collection should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, Washington, D.C. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235.

Dated: February 8, 1996.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–3423 Filed 2–15–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Directives Management Branch, Bureau of Management; Paperwork Reduction Act, Revision of Information Collection Requirement

This is a request for comments on the revised information collection requirement contained in 22 CFR 123.27(b), published in today's **Federal Register.** This revision has already been approved by OMB; its OMB control number is 1405–0103. Comments will be accepted for sixty days from the date listed at the top of this page in the **Federal Register.** Comments should address one or more of the following points:

(1) Evaluate whether the proposed revision of information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility and clarity of the information to be collected;

(4) Ways to further minimize the burden of the collection of information on those who are to respond.

If you have additional comments, suggestions or need additional information, please contact Ms. Rose Biancaniello, Office of Defense Trade Controls, Bureau of Political-Military Affairs, ATTN: Regulatory Change, Personal Use Cryptographic Products, U.S. Department of State, Room 200, SA–6, Washington, DC 20520.

Overview of this revised information collection requirement:

(1) Type of information collection: Revision of current approved information collection.

(2) The title of the form/collection: Not applicable. Revision removes requirement to complete and submit a government form and replaces it with self-certification and minimized record-keeping.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form number: nonapplicable. Sponsored by the Bureau of Political-Military Affairs, United States Department of State.

(4) Who will be asked or required to respond, as well as a brief abstract: Primary: U.S. persons temporarily exporting cryptographic products. Others: None. Before this revision, U.S. persons temporarily exporting cryptographic products were required to obtain a temporary export license from the Office of Defense Trade Controls prior to departing the United States and to complete Form 7525–V and deliver it to the U.S. Customs Service on their return. The revision allows travellers, in most circumstances, to temporarily export cryptographic products without a license and requires them merely to keep a personal log of such temporary exports and a self-certification that the restrictions on such temporary exports have been complied with. The log needs to be keep by the exporter for five years from the date of each temporary export. This record-keeping requirement is required by the Department of State in order to promote compliance with, and facilitate enforcement of, remaining restrictions on the temporary export of crytographic products for personal use. These include controls on the temporary export of such items to terrorism-supporting states and destinations subject to United Nations arms embargoes.

(5) An estimate of the total number of travellers and the annual amount of time estimated for an average traveller to record the relevant information: 10,000 travellers at 0.25 hours, or 15 minutes per year.

(6) An estimate of the total public burden (in hours) associated with the information collection: 2500 hours.

If additional information is required contact: Mr. Charles S. Cunningham, Forms Management Officer, United States Department of State, Directives Management Branch, Bureau of Management, Room B–264 M.S., 2201 'C' Street, NW., Washington DC 20520.

Public comment on this revised information collection is strongly encouraged.

Dated: February 8, 1996.

Charles S. Cunningham,

Forms Management Officer, United States Department of State.

[FR Doc. 96–3191 Filed 2–15–96; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–003]

Prevention Through People Report

AGENCY: Coast Guard, DOT.

ACTION: Notice; Quality Action Team report complete.

SUMMARY: The Coast Guard announces the completion and availability of the Prevention Through People (PTP) Quality Action Team (QAT) report.

ADDRESSES: Requests for the study should be sent to Commandant (G–MMS–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or by telephone at (202) 267–6827, or by fax at (202) 267–4816.

FOR FURTHER INFORMATION CONTACT: CDR Mark VanHaverbeke, Design and Engineering Standards Division, at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or by phone at (202) 267–2997.

SUPPLEMENTARY INFORMATION:

Background

Analyses of marine casualties which have occurred over the past thirty years have prompted the safety regime of the maritime community to evolve from one based primarily upon the development of equipment requirements to one which recognizes the importance of the human element in the system.

Despite the myriad of design requirements in place, significant marine casualties continue to occur. In an effort to further reduce casualties, the role of "human error" in the maritime safety equation needs to be evaluated. This evaluation must encompass not only the man/machine interface and ergonomics aspects, but also the assessment of entire processes, including navigating the vessel, cargo loading/unloading, responding to emergencies, and the relationship between management and vessel crews.

The PTP–QAT was assembled to develop a study to assess how to improve safety and pollution prevention through improvements in areas where people are the major factor in accidents. The report examines the extent of human error in the maritime transportation system; identifies candidate, high risk industries where human error prevails; examines the reasons why human error persists; offers a strategy to refocus prevention efforts on human error and root causes of marine casualties; and recommends an implementation plan to create a participatory, systematic approach to reduce human error related loss of life, injury, and pollution. The QAT developed long-term strategies to implement the PTP program. The study has now been completed and is available to the public.

Dated: February 12, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–3603 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Notice of Intent To Rule on Application Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Chico Municipal Airport, Chico, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chico Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 18, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA. 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas J. Lando, City Manager of the city of Chico at the following address: P.O. Box 3420, Chico, CA. 95927. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Chico under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from Chico Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 7, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the city of Chico was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 12, 1996.

The following is a brief overview of the use application number AWP–96–02–C–00–CIC.

Level of proposed PCF: $3.00.

Charge effective date: May 1, 1996.

Estimated charge expiration date: September 30, 1998.

Brief description of the impose and use project: Terminal Building Remodel.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER**

INFORMATION CONTACT and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd. Lawndale, CA, 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Chico.

Issued in Hawthorne, California, on February 7, 1996

Robert C. Bloom,

Acting Manager, Airports Division, Western Pacific Region.

[FR Doc. 96–3600 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Use the Revenue From a Passenger Facility Charge (PFC) at Modesto City-County Harry Sham Field Airport, Modesto, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to use revenue from a PFC at Modesto City-County Harry Sham Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and 14 CFR Part 158.

DATES: Comments must be received on or before March 18, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009 or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Howard Cook, Airport Manager of the Modesto City-County Airport at the following address: 617 Airport Way, Modesto, California 95354. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Modesto under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriquez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Modesto City-County Harry Sham Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). On February 6, 1996 the FAA determined that the application to use the revenue from a PFC submitted by the city of Modesto was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 10, 1996.

The following is a brief overview of the application.

Level of proposed PFC: $3.00.

Proposed charge effective date: August 1, 1994.

Proposed charge expiration date: August 1, 2000.

Total estimated PFC revenue to be used on this use project: $24,800.

Brief description of the use projects: Airports Perimeter Security Upgrade.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi Operators.

This project was previously approved as impose only project contained within an overall PFC package which was approved on May 23, 1994. Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Modesto, CA.

Issued in Hawthorne, California, on February 6, 1996.

Robert C. Bloom,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 96–3601 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[FRA Emergency Order No. 19, Notice No. 1]

Tonawanda Island Railroad; Emergency Order To Prevent Operation of Trains on Bridge 7708810

The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) has determined that public safety compels issuance of this Emergency Order requiring the Tonawanda Island Railroad (TIRL) of North Tonawanda, New York, to discontinue operation of trains or any railroad on-track equipment on a railroad bridge numbered 7708810 which spans the Little River between North Tonawanda and Tonawanda Island, New York, until necessary repairs have been made to the bridge.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR § 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws, 49 U.S.C. §§ 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an emergency situation involving a hazard of death or personal injury." 49 U.S.C. § 20104. These orders may impose such "restrictions and prohibitions * * * that may be necessary to abate the situation." (*Ibid.*)

Background

The Tonawanda Island Railroad (TIRL), a common carrier, is a part of the general system of railroads. Its owner is Mr. Corigan Sanoian, P.E., of Niagara Falls, New York.

The TIRL operates over about a 1.5 miles of track, extending from a junction with the Conrail Niagara Branch in North Tonawanda, New York, to Tonawanda Island. The single main track route includes two highway rail grade crossings. One crossing, at River Road in North Tonawanda, is equipped with automated warning devices. The other highway rail grade crossing is located at Main Street in North Tonawanda and is equipped with traffic control signals on each side of the crossing.

In addition to the main track, several auxiliary tracks are in service, both at the junction and on Tonawanda Island. To access Tonawanda Island, the TIRL crosses the Little River via a wood and metal bridge identified by a number affixed to its westernmost bent, 7708810. For the purposes of this Emergency Order, the bridge is hereinafter designated as "Bridge 7708810." The bridge consists of two timber trestle approaches, one on each side of a steel through truss swing span. The swing span has been inoperative for many years.

The Little River is a navigable waterway formed by a channel of the Niagara River, Ellicott Creek and Tonawanda Creek. It flows into the Niagara River approximately 10 miles above Niagara Falls. The Little River is the site of a significant concentration of pleasure boating during the summer. A marina is located adjacent to and downstream from the bridge. A highway bridge is located about 300 feet downstream.

The sole piece of rolling stock regularly used by the TIRL is a 50-ton industrial switcher type locomotive. The railroad's current customer base includes a consignee on Tonawanda Island which receives wood fibre in box cars. There are no consignors. Until approximately one year ago, the TIRL delivered building materials to another consignee on Tonawanda Island. However, that consignee discontinued service from the TIRL after Mr. Sanoian expressed an intent to shut down the railroad. Total traffic for TIRL in 1995 was about 51 cars.

FRA's history of inspecting the TIRL under Mr. Sanoian's ownership dates back to 1990. The following chronology highlights FRA activity with respect to the TIRL:

October 11, 1990: FRA Chief Inspector John Conklin conducted an operating practices inspection and issued inspection report No. 72, informing Mr. Sanoian that the TIRL was not in compliance with 49 CFR Part 225 (Accident/Incident Reporting), as well as 49 CFR Part 228 (Hours of Service Recordkeeping).

December 17, 1990: FRA Railroad Safety Inspector Daniel Feneziani inspected the TIRL locomotive and issued inspection report No. 171, informing Mr. Sanoian of 17 items not in compliance with the Federal railroad safety standards.

February 28, 1991: Chief Inspector Conklin conducted an operating practices inspection and issued inspection report No. 30, informing Mr. Sanoian that the TIRL still was not in compliance with 49 CFR Part 225.

December 10, 1992: Chief Inspector Conklin conducted an inspection of operating practices and issued inspection report No. 50, informing Mr. Sanoian that the TIRL was not in compliance with 49 CFR Parts 225, 228 and 240 (Qualification and Certification of Locomotive Engineers).

October 21, 1993: FRA Chief Inspectors Patrick Sullivan and William Robbins inspected the TIRL locomotive and issued inspection report No. 05, informing Mr. Sanoian of 22 items not in compliance with Federal railroad safety standards.

December 7, 1994: Chief Inspector Sullivan conducted an inspection of operating practices and issued inspection report No. 27, informing Mr. Sanoian that the TIRL was not in compliance with 49 CFR Parts 217 (Railroad Operating Rules), 225, 228, and 240.

August 9, 1995: FRA Principal Railroad Safety Inspector Bernard T. Lutz inspected the TIRL locomotive and issued inspection report No. 67, notifying Mr. Sanoian of 15 items of non-compliance with Federal railroad safety standards.

October 13, 1995: FRA Regional Administrator Mark McKeon mailed Mr. Sanoian a certified letter in which he enumerated the locomotive's conditions of non-compliance with the Federal railroad safety standards. The letter noted that some of the conditions have existed since December 17, 1990. The letter also acknowledged FRA's awareness that the TIRL is a small business with limited resources. Regional Administrator McKeon offered to discuss the defects with Mr. Sanoian in an effort to work with him to bring the railroad into compliance. United States Post Office records indicate that a notice of the certified letter was served on Mr. Sanoian on October 17, October 22, and November 2, before it was returned to the sender as "unclaimed."

January 2 and January 4, 1996: FRA Railroad Safety Inspector Ronald Anderson inspected bridge 7708810. His inspection was in response to concerns raised by a New York State Department of Transportation Railroad Safety Inspector. Inspector Anderson concluded that the bridge is unsafe. While inspecting the bridge on January 2, 1996, Inspector Anderson fell through the bridge due to the deteriorated condition of the bridge timbers.

January 12, 1996: Inspector Anderson and New York State Department of Transportation Inspector Keith McClain met with Mr. Sanoian to discuss the condition of the bridge. Mr. Sanoian disagreed with Inspector Anderson's assessment of the bridge and stated his belief that the bridge was safe for a load of 500,000 pounds.

January 15, 1996: Regional Administrator McKeon and Railroad Safety Inspector Michael Ziolkowski met with Mr. Sanoian to discuss both the locomotive and the bridge. Although he did not agree that the bridge was unsafe, Mr. Sanoian stated that he would not operate over it until it had been repaired and had been inspected by an FRA representative. He further stated that the locomotive would not be used until it was repaired.

Regional Administrator McKeon hand-delivered to Mr. Sanoian a copy of the letter of October 13, 1995, which previously had been returned to FRA unclaimed.

January 16, 1996: Regional Administrator McKeon prepared and signed a letter confirming the discussions of January 15. The letter, dated January 16, 1995, stated in part:

> The TIRL bridge is unsafe for the movement of trains, locomotives and other rolling stock. The bridge must not be operated over until it is repaired.

The letter noted Mr. Sanoian's verbal assurances that he had obtained the services of a contractor to repair the bridge and that he would provide FRA with an opportunity to inspect the bridge once the repairs were made. He also agreed to repair the locomotive before using it again.

The letter further stated that unless the TIRL took immediate steps to repair the bridge, Regional Administrator McKeon would recommend issuance of an Emergency Order prohibiting its use.

January 17, 1996: Inspector Ziolkowski hand-delivered the January 16 letter to Mr. Sanoian. Mr. Sanoian stated to Inspector Ziolkowski that the bridge did not have "a structural problem" but that it had a "lateral problem."

January 18, 1996: During a telephone conference with Regional Administrator McKeon and Deputy Regional Administrator Lawrence Hasvold, Mr. Sanoian requested permission to use the locomotive to move material to repair the bridge. Regional Administrator McKeon advised Mr. Sanoian that the locomotive could not be used until it was in compliance with the applicable Federal regulations.

January 19–22, 1996: The TIRL received loaded boxcar RBOX 40945 in interchange from Conrail, moved it across the bridge, and placed it at the consignee's facility on Tonawanda Island. This move presumably was made with the railroad's only locomotive.

January 25, 1996: Principal Inspector Lutz again inspected the TIRL locomotive and issued inspection report No. 1, informing Mr. Sanoian of 14 items not in compliance with Federal railroad safety standards. As a result of the inspection, Inspector Lutz removed the TIRL locomotive from service by issuing a Special Notice for Repairs, Form FRA 6180 ("Form 8"). A copy of the form was placed in the locomotive cab.

January 26, 1996: Inspector Ziolkowski hand-delivered a copy of the Form 8 to Mr. Sanoian. Despite the fact that the boxcar was placed on the trailing end of a stub track with the locomotive ahead of it, Mr. Sanoian

stated that he had not moved the locomotive and could not have done so because it "had no air."

January 29, 1996: FRA Inspector Ron Marx conducted a track inspection on the TIRL and identified five deficiencies, including a five-and-one-sixteenth-inch cross level deviation on Bridge 7708810. This serious track defect does not meet even the minimum track geometry standards contained in 49 CFR Part 213. In addition, the added load placed on one rail by a downward tilt of the track to the downstream side further overloads the already severely degraded bridge structural members supporting the bridge timbers to which that rail is attached. Inspector Marx also found combustible debris located against the southeast corner of the bridge.

January 29–31, 1996: Representatives of Parsons Brinckerhoff, Quade and Douglas, Inc. inspected Bridge 7708810. Parsons Brinckerhoff, an engineering consulting firm with nationally recognized expertise in bridges, including wooden structures, is under contract to DOT to inspect Bridge 7708810 and to advise FRA of the bridge's structural condition. Parsons Brinckerhoff evaluated the bridge in accordance with accepted principles of structural engineering as contained in the "Manual for Railway Engineering" published by the American Railway Engineering Association. Parsons Brinckerhoff determined, and reported to FRA, that the bridge is unsafe, even for the movement of TIRL's 50-ton locomotive.

Condition of the bridge

The investigation performed by Parsons Brinckerhoff on behalf of FRA disclosed that bridge 7708810 is in need of repair and should be closed to all rail traffic until adequate repairs have been made. A report of the investigation notes that severe deterioration and distress exist in the three northern stringers of the westernmost span of the bridge structure. The damage includes severe section loss caused by fungal attack, crushing of the bearing surfaces due to an inadequate bearing area, and horizontal shear cracks along most of the length of the stringers. The three stringers are so badly deteriorated that they are considered as failed. Because of the complete lack of support under one rail, the entire span is rated zero for live load capacity.

Failure of the bridge under load could have very serious consequences. In addition to killing or injuring railroad crew members, failure of the bridge also could kill or injure pleasure boaters on the river or at the marina. A catastrophic failure of the bridge causing any pollution of the Niagara River, whether from locomotive diesel fuel or from the contents of a boxcar, could have international impact. Furthermore, failure of the railroad bridge over the fast-moving current could damage the nearby highway bridge.

Finding and Order

The results of bridge engineers' inspection of Bridge 7708810 have led FRA to conclude that any future use of the bridge poses an imminent and unacceptable threat to public safety. A past pattern of failure by the TIRL to comply with Federal railroad safety laws and regulations persuades FRA that reliance upon the cooperation of the TIRL to repair the bridge to safe condition is inadequate to protect public safety. I find that the unsafe conditions discussed above create an emergency situation involving a hazard of death or injury to persons. Accordingly, pursuant to the authority of 49 U.S.C. § 20104, delegated to me by the Secretary of Transportation (49 CFR § 1.49) it is ordered that the Tonawanda Island Railroad shall discontinue, and shall not permit, the operation of trains or any railroad on-track equipment over Bridge 7708810 while this Emergency Order remains in effect.

Relief

The Tonawanda Island Railroad may obtain relief from this Emergency Order by providing the Federal Railroad Administrator with a report of inspection and evaluation of repairs, indicating to FRA's satisfaction that the Bridge 7708810 has been acceptably repaired. The report should be prepared by an engineer who is technically proficient and legally competent in the field of railroad bridge engineering, and it should state that the capacity of the bridge to carry safely railroad cars and locomotives has been restored. The configuration and weights of the loads for which the determination has been made should be stated in the report. Upon FRA's approval of the bridge engineer's assessment of the bridge restoration, and following an inspection by FRA if the agency deems it necessary, the Administrator will rescind this Emergency Order.

Penalties

Any violation of this order shall subject the person committing the violation to a civil penalty of up to $20,000. 49 U.S.C. § 21301. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. § 20112.

Effective Date and Notice to Affected Persons

This Emergency Order shall take effect at 12:01 a.m. (EST) on February 13, 1996, and apply to all operations of trains or railroad on-track equipment on Bridge 7708810 on or after that time. Notice of this Emergency Order will be provided by publishing it in the **Federal Register**. Copies of this Emergency Order will be sent by mail or facsimile prior to publication to Mr. Corigan Sanoian of the Tonawanda Island Railroad, the Consolidated Rail Corporation, International Filler Corporation, the City of North Tonawanda, New York Department of Transportation, and the Association of American Railroads.

Review

Opportunity for formal review of this Emergency Order will be provided in accordance with 49 U.S.C. § 20104(b) and section 554 of Title 5 of the United States Code. Administrative procedures governing such review are found at 49 CFR part 211. *See* 49 CFR §§ 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, D.C. on February 12, 1996.

Jolene M. Molitoris,

Administrator.

[FR Doc. 96–3592 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–06–P

Petition for Waiver of Compliance

In accordance with Title 49 CFR Sections 211.9 and 211.41 notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of Federal railroad safety regulations. The individual petition is described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Burlington Northern Railroad

Union Pacific Railroad

(Waiver Petition Docket Number H–95–4)

The Burlington Northern Railroad (BN) and Union Pacific Railroad (UP) seek a waiver of compliance from certain sections of Title 49 Code of Federal Regulations Parts 216, Special Notice and Emergency Order Procedures: Railroad Track, Locomotive and Equipment, 217, Railroad Operating Rules, 218, Railroad Operating Practices, 220, Radio Standards and Procedures, 229, Railroad Locomotive Safety Standards, 233, Signal Systems Reporting Requirements, 235, Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System or Relief from the Requirements Of Part 236, Rules, standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances, and 240, Qualification and Certification Of Locomotive Engineers, under Part 211.51, Tests, to allow them to develop, implement, and test technology designed to prevent train collisions and overspeed violations and to protect track maintenance personnel from trains. The program will enable the industry to demonstrate and validate the technology, referred to as for Positive Train Separation (PTS), before it is implemented on a larger scale.

PTS is a non-vital safety overlay that works in conjunction with existing methods of operation and signal and control systems to protect against the consequences of human error. This approach provides a "safety net" for train operations while retaining the existing systems as the primary means of control.

The PTS safety enhancements are achieved through a centrally controlled, communication-based system that enforces movement authority and speed restrictions for PTS-equipped trains. Three PTS segments work together to provide this enforcement: the server segment, the locomotive segment, and the communications segment. The server segment determines the enforceable movement authority and speed limit for each train under PTS control. This information is sent through the communications segment to the locomotive segment, located on board the controlling locomotive of each train. The locomotive segment enforces a train's movement and speed limits by monitoring the train's location and speed and applying the brakes to stop the train if necessary to prevent a violation.

The pilot program will focus on proving PTS concepts and technology and on laying the groundwork for a production system. While the purpose of PTS is to enhance safety, the pilot program itself is not expected to yield immediate safety benefits. The program will focus on testing the technology without adversely affecting the safety of operations under existing signal and control systems, operating rules, and procedures, all of which will remain in effect.

The PTS pilot program will be implemented on 863 miles of BN and UP track in the Pacific Northwest. The pilot territory includes portions of four BN operating divisions (Cascade, Pacific, Portland, and Pasco) and the Portland and Seattle subdivisions of UP's Boise Service Unit. Relief is sought for PTS test operations on all tracks of all types included in the pilot territory. The pilot territory includes single main track, two main tracks, sidings, and branch lines.

The following are the current waiver requests and their justifications.

Section 216.13

Special notice for repairs—locomotive. Waiver is requested for PTS-equipped locomotives to the extent that non-operation of PTS equipment installed on board (whether through malfunction or deactivation) shall not be construed as an unsafe condition requiring special notice for repairs; waiver is sought for non-PTS-equipped locomotives operating in the PTS pilot territory to the extent that the absence of PTS equipment on board shall not be construed as an unsafe condition requiring special notice for repairs.

Justification: With or without PTS equipment operating on board the controlling locomotive, a train remains subject to existing signal and control systems and to the railroad's operating rules. (PTS is an overlaid system enhancing current safety without affecting the operation of existing systems.) PTS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. The PTS pilot will equip only a small subset of locomotives operating in the pilot territory.

Section 217.9

Program of operational tests and inspections; recordkeeping. Waiver is requested exempting operation of PTS equipment and procedures from the requirements for operational tests and inspections and associated recordkeeping.

Justification: The PTS pilot is a test program during which procedures for using PTS equipment and functions will be refined and modified. Until such procedures are defined, they cannot be addressed in the code of operating rules, timetables, and timetable special instructions to which this section applies.

Section 217.11

Program of instruction on operating rules; recordkeeping; electronic recordkeeping. Waiver is requested exempting operation of PTS equipment and procedures from the requirements for instruction and associated recordkeeping.

Justification: The PTS pilot is a test program during which procedures for using PTS equipment and functions will be refined and modified. Until such procedures are defined they cannot be addressed in the code of operating rules to which this section applies. In any case PTS is expected to have minimal impact on the code of operating rules.

Part 218

[Subpart D] Prohibition Against Tampering With Safety Devices. Waiver is requested exempting on-board PTS equipment from the requirements of all sections under Subpart D of Part 218 (sections 51, 53, 55, 57, 59, and 61) to the extent that PTS equipment on board a locomotive shall not be considered a "safety device" according to the provisions of this subpart at any time during the pilot program.

Justification: The PTS pilot is a test program. PTS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. BN and UP also require the flexibility to permanently disable or remove PTS equipment in the event that a production system is not implemented.

Part 220

Radio Standards and Procedures. Clarification is requested establishing that digital radio communications are exempt from all requirements applicable to radio communications under Part 220.

Justification: Imposing the requirements of Part 220 would negate the efficiencies of digital data communications and, for some functions, violate the PTS concept of operations. Digital radio communications are expected to enhance safety by eliminating the sources of human error which Part 220 is designed to mitigate. Exemption of digital communications from Part 220 requirements is consistent with the statement of scope in Section 220.1, where the term "radio communications" is explicitly identified with voice communications.

Section 220.21

Railroad operating rules; radio communications; recordkeeping. Clarification is requested to establish that during the pilot program, neither railroad's operating rules with respect to radio communications shall be either construed or required to address procedures governing digital data communications.

Justification: The current operating rules were written to enhance the safety of voice radio communications. Whether new rules are needed to

accommodate digital communications is an open issue, on which the PTS pilot program can be expected to provide valuable input.

Section 220.23

Publication of radio information. Clarification is requested to establish that digital radio base stations and wayside interface units are exempt from the requirements for publication of radio information including locations, channels, and periods of operation.

Justification: The safety rationale for Section 220.21 does not apply to digital radio communications, especially for PTS, where communication management functions occur transparently to the user. Exemption of digital base stations and wayside interface units from Section 220.23 requirements is consistent with the statement of scope in Section 220.1, where the term "radio communications" is explicitly identified with voice communications.

Section 220.61

Transmission of train orders by radio. Clarification is requested establishing that both PTS enforceable authorities and digitally transmitted text authorities (including track warrants, track permits, track and time, authority to pass an absolute signal at stop, and authority to enter track at a location between block signals) are exempt from the requirements governing voice transmission of train orders, including the following requirements: voice exchange prior to transmission of a train order; limitations regarding when and to which crew member a train order may be sent; copying a train order in writing; repeating a train order back to the dispatcher; and requiring the conductor and engineer to have written copies of a train order before it is acted upon.

Justification: The safety rationale for Section 220.61 does not apply to digital transmission of either PTS enforceable authorities or displayed text authorities. PTS enforceable authorities remain unseen by the train crew and lie clearly outside the provisions of this section. Digitally transmitted track warrants are expected to enhance safety by eliminating the sources of communication error which the requirements of Section 220.61 are designed to mitigate. Exemption of digital communications from Part 220 requirements is also consistent with the statement of scope in Section 220.1, where the term "radio communications" is explicitly identified with voice communications. The PTS pilot program will give opportunity to test the efficacy of issuing digital track warrants and other text authorities apart from the procedural requirements of Section 220.61.

Section 229.7

Prohibited acts. Waiver is requested to the extent that PTS equipment on board a locomotive shall not be considered "appurtenances" rendering the locomotive subject to the constraints of this section.

Justification: The PTS pilot is a test program. PTS test require flexibility in installing, removing, turning on, and turning off the on-board equipment. BN and UP also require the flexibility to temporarily or permanently disable on-board PTS equipment. Whether or not PTS equipment on board a locomotive is functioning, the train remains subject to the safety provisions of the existing signal and control systems and to the railroad's operating rules.

Section 229.135

Event recorders. Waiver is requested to the extent that PTS equipment on board a locomotive shall not be considered an "event recorder" subject to the provisions of this section.

Justification: PTS equipment by design will operate intermittently during the pilot program. PTS test require flexibility in installing, removing, turning on, and turning off the on-board equipment. BN and UP also require the flexibility to temporarily or permanently disable on-board PTS equipment.

Section 233.9

Annual reports. Waiver is requested exempting PTS operations in the pilot program from the reporting requirement of this section.

Justification: While a PTS production system may belong to the category of "other similar appliances, methods, and systems" specified in Section 233.1, this requirement would impose an unnecessary paperwork burden for a test program.

Section 235.5

Changes requiring filing of application. Waiver is requested exempting the PTS pilot program from the filing requirements of this section.

Justification: The PTS pilot is a test program. PTS tests require flexibility in installing, removing, modifying, turning on, and turning off the on-board equipment. BN and UP also require the flexibility to permanently disable or remove PTS equipment in the event that a production system is not implemented.

Section 236.4

Interference with normal functioning of device. Waiver is requested to the extent that PTS equipment shall be excluded from this requirement during the pilot program.

Justification: The PTS pilot is a test program through which the "normal functioning" of PTS will be defined and refined. PTS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. With or without PTS equipment operating on board the controlling locomotive, the train remains subject to the safety provisions of existing signal and control systems and to the railroad's operating rules.

Section 236.5

Design of control circuits on closed circuit principle. Waiver is requested excepting PTS equipment from the closed circuit design requirement.

Justification: PTS is an overlay system using solid-state components. It will enhance railroad safety while in no way interfering with the operation of existing safety devices.

Section 236.11

Adjustment, repair, or replacement of component. Waiver is requested exempting PTS components on board a locomotive from the requirements of this section.

Justification: PTS is an overlay system designed to enhance safety while in no way affecting the operation of existing signal and control systems. Failure of a PTS component will not jeopardize the safety of train operations.

Section 236.15

Timetable instructions. Waiver is requested exempting the PTS pilot territory from the timetable designation requirement of this section.

Justification: Since the pilot program will consist of tests and demonstrations, identifying the test territory in the timetable as "PTS" (or some similar label) would be both premature and an unnecessary paperwork burden.

Section 236.23

Aspects and indications. Waiver is requested to the extent that the PTS display on board an equipped locomotive shall not be construed to represent or correspond to signal aspects or indications and shall therefore be exempt from the requirements of this section.

Justification: The PTS design excludes any visual display of signal aspects or indications. PTS enforceable authorities, which may or may not derive from signal indications, are not displayed on board. Only text authorities, such as track warrants, track permits, and track and time, are displayed to the train crew. Since PTS is a safety overlay, trains remain subject to wayside signals. Information on the PTS display will in no way either represent or qualify the authority conveyed through wayside signals.

Section 236.76

Tagging of wires and interference of wires or tags with signal apparatus. Waiver is requested exempting PTS equipment from the wire tagging requirement.

Justification: PTS hardware consists of computers, computer peripherals, and communication devices. While the inapplicability of this section to circuit boards, connectors, and cables would appear obvious, waiver is sought for clarification.

Section 236.101

Purpose of inspection and tests; removal from service of relay or device failing to meet test requirements. Waiver is requested exempting PTS equipment from the requirement for removal of failed equipment from service.

Justification: The PTS pilot is a test program. PTS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. With or without PTS equipment operating on board, a train remains subject to the safety provisions of existing signal and control systems and to the railroad's operating rules.

Section 236.107

Ground tests. Waiver is requested exempting PTS equipment in the pilot program from the requirement for ground testing.

Justification: PTS hardware consists of computers, computer peripherals, and communication devices. Ground tests would serve no purpose in ensuring safety and could be damaging to this equipment.

Section 236.109

Time releases, timing relays and timing devices. Waiver is requested exempting PTS equipment in the pilot program from the annual testing requirement.

Justification: The timing devices in PTS equipment are software-driven, have no moving parts, and are far more reliable than the devices for which this regulation was promulgated.

Section 236.110

Results of tests. Waiver is requested exempting PTS tests from the recordkeeping requirements of this section.

Justification: The PTS pilot is a test program during which the types of tests needed to ensure appropriate levels of maintenance will be defined.

Section 236.501

Forestalling device and speed control. Waiver is requested exempting PTS from the requirement for medium-speed restriction in paragraph 2 under provision b.

Justification: PTS is not connected with the signal system and will not enforce speed restrictions indicated solely through signals. PTS will enforce speed restrictions reflected in the track database or issued through the CAD system.

Section 236.502

Automatic brake application, initiation by restrictive block conditions stopping distance in advance. Waiver is requested exempting PTS automatic brake applications from the requirement tying brake applications to restrictive block conditions.

Justification: As an overlay system, PTS applies enforcement braking with reference to PTS enforceable authorities, independently of signal indications. Since PTS enforceable authorities are generated to keep trains apart, not to enforce signal indications, the enforceable limits may or may not correspond to restrictive signal indications. PTS enforceable speed limits do not reflect signal indications requiring a reduction in speed because information from signal systems is not available to the PTS system.

Section 236.504

Operation interconnected with automatic block-signal system. Waiver is requested exempting PTS from the requirement of interconnection with an automatic block-signal system.

Justification: PTS is an overlay system having no direct connection with the signal system.

Section 236.507

Brake application; full service. UP desires the option for PTS to initiate a emergency brake application if after the activation of the P2A valve the location determination system ascertains that the train will not stop within the authority limit.

Section 236.511

Cab signals controlled in accordance with block conditions stopping distance in 23 advance. Waiver is requested exempting any PTS on-board display from the cab-signal requirements in this section.

Justification: PTS is not an automatic cab signal system and will have no direct connection with the signal system.

Section 236.512

Cab signal indication when locomotive enters block where restrictive conditions obtain. Waiver is requested exempting any PTS on-board display from the cab-signal requirements in this section.

Justification: The PTS system will not incorporate information from or about intermediate signals. The information available to PTS from control points and interlockings does not include signal indications requiring a reduction in speed. PTS is not an automatic cab signal system. Since PTS is an overlay system the train crew remains responsible for adherence to wayside 24 signal indications.

Section 236.514

Interconnection of cab signal system with roadway signal system. Waiver is requested exempting PTS from the requirement of interconnection with the roadway signal system.

Justification: PTS is an overlay system having no direct connection with the signal system.

Section 236.515

Visibility of cab signals. Waiver is requested exempting any PTS display from the visibility requirement of this section.

Justification: PTS is not an automatic cab signal system. The PTS design excludes any visual representation of signal aspects or indications.

Section 236.534

Entrance to equipped territory; requirements. Waiver is requested exempting the PTS pilot 25 program from the requirements of this section.

Justification: The PTS pilot is a test program. PTS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment.

Section 236.551

Power supply voltage; requirement. Waiver is requested exempting the on-board PTS power supply from the voltage requirement in this section.

Justification: PTS on-board equipment will function with more than a 50% variation in voltage.

Section 236.552

Insulation resistance; requirement. Waiver is requested exempting PTS equipment from the insulation resistance requirement in this section.

Justification: PTS on-board equipment consists of computers, computer peripherals, 26 and communications

equipment. Insulation resistance tests could be damaging to such components.

Section 236.553

Seal, where required. Waiver is requested exempting PTS equipment from the seal requirement in this section.

Justification: The PTS system will allow for manual disablement of on-board PTS functions and equipment both remotely from the dispatching office and through an on-board manual function. Use of the on-board cutout function will be electronically monitored and reported to the dispatcher as an alarm.

Section 236.563

Delay time. Waiver is requested exempting PTS from the delay time requirement in this section.

Justification: The PTS braking algorithm continuously computes braking distance to the next speed restriction or point where a stop is required. Information from the signal system is not used in this function.

Section 236.566

Locomotive of each train operating in train stop, train control or cab signal territory; equipped. Waiver is requested to the extent that the equipment requirements in this section shall not apply to PTS during the test period.

Justification: The PTS pilot is a test program. A small subset of locomotives operating in the test territory will be PTS-equipped; the majority of trains will not be equipped. PTS tests require flexibility in installing, removing, turning on and turning off the on-board equipment. BN and UP also require the flexibility to permanently disable or remove PTS equipment.

Section 236.567

Restrictions imposed when device fails and/or is cut out enroute. Waiver is requested exempting PTS operations from the restrictions associated with device failure or cutout.

Justification: The PTS pilot is a test program requiring flexibility in installing, removing, turning on and turning off the on-board equipment. Since PTS is a safety overlay, a failure or deactivation of PTS equipment has the effect only of suspending the safety enhancements associated with PTS, without compromising the underlying safety provisions of existing systems and operating rules. If a PTS device fails, operations will continue in a normal mode. Moreover, the dispatcher is immediately notified if PTS equipment fails or is cut out eliminating any need for a reduction in speed.

Section 236.586

Daily or after trip test. Waiver is requested exempting the PTS pilot program from the test requirements of this section. Justification: The PTS pilot is a test program during which requirements for a daily or after-trip test, if necessary, will be defined. PTS equipment is many times more reliable than the equipment for which this regulation was promulgated.

Section 236.587

Departure test. Waiver is requested exempting the PTS pilot program from the test requirements of this section.

Justification: The PTS pilot is itself a test program during which the requirements for a departure test will be defined. Further, it is likely the departure test will be made without human intervention.

Section 236.588

Periodic test. Waiver is requested exempting the PTS pilot program from the test requirements of this section.

Justification: The PTS pilot is itself a test program during which the requirements for periodic testing will be defined.

Section 236.703

Aspect. Clarification is requested exempting the PTS display from this definition.

Justification: PTS is not an automatic cab signal system. The PTS design excludes any visual representation of signal aspects or indications.

Section 236.805

Signal, cab. Clarification is requested exempting the PTS display from this definition.

Justification: PTS is not an automatic cab signal system. The PTS design does not include any visual representation of signal aspects or indications.

Section 240.127

Criteria for examining skill performance. Waiver is requested exempting the PTS pilot 31 program from the testing procedures in this section.

Justification: The PTS pilot is itself a test program. Criteria and procedures for PTS performance evaluation do not yet exist; they will be determined during the program.

Section 240.129

Criteria for monitoring operational performance of certified engineers. Waiver is requested exempting the PTS pilot program from the performance monitoring procedures in this section.

Justification: The PTS pilot is itself a test program. Criteria and procedures for PTS performance evaluation do not yet exist; they will be determined during the program.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should identify the appropriate docket number (e.g., Waiver Petition Docket Number H–95–4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Communications received within 45 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on February 12, 1996.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 96–3556 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration (NHTSA)

Denial of Motor Vehicle Defect Petition

This notice sets forth the reasons for the denial of a petition submitted to NHTSA under section 30162 of Title 49 of the United States Code.

On December 27, 1995, Mr. John Chevedden of Redondo Beach, California, submitted a petition asking NHTSA to require all 1973 through 1978 Chevrolet and GMC C/K pickup trucks to be retrofitted with a low cost gas tank guard. The agency previously investigated alleged safety-related defects in the fuel tanks of these General Motors Corporation C/K pickup trucks. This investigation was among the most complex, costly, and comprehensive ever undertaken by NHTSA. On December 2, 1994, Secretary of Transportation Federico Peña announced the settlement of NHTSA's investigation into alleged post-impact fuel-fed fires in these vehicles. Under the terms of the settlement, General Motors provided $51,355,000 to support safety programs that will prevent thousands of deaths and injuries. In return, the agency closed the investigation.

The petition did not provide any new information that reasonably could lead to reopening the settlement agreement. The central issue is whether the petition has presented new evidence that bears on the issue of whether a safety defect exists. No new information was presented on this issue. The only "new" information presented in the petition was the suggestion of a particular repair for these vehicles. However, even in vehicles found to be defective, NHTSA has no statutory authority to require a manufacturer to provide a particular repair. See 49 U.S.C. 30120.

For these reasons, and because there is no reasonable possibility that the action requested by the petition would be undertaken, the agency denied the petition.

Authority: Section 124, Pub. L. 93–492; 88 Stat. 1470 (49 U.S.C. 30162); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 12, 1996.

Michael B. Brownlee,

Associate Administrator for Safety Assurance.

[FR Doc. 96–3606 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 95–90; Notice 2]

Decision That Nonconforming 1992 Lincoln Mark VII Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1992 Lincoln Mark VII passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 Lincoln Mark VII passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S. certified version of the 1992 Lincoln Mark VII), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective February 16, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to decide whether 1992 Lincoln Mark VII passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on November 15, 1995 (60 FR 57479) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–144 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1992 Lincoln Mark VII not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Lincoln Mark VII originally manufactured for sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 13, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–3561 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–89; Notice 2]

Decision That Nonconforming 1994 Mercedes-Benz SL280 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1994 Mercedes-Benz SL280 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1994 Mercedes-Benz SL280 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1994 Mercedes-Benz SL320), and they are capable of being readily altered to conform to the standards.

DATES: The decision is effective February 16, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor

vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Liphardt & Associates, Inc. of Ronkonkoma, New York (Registered Importer R–90–004) petitioned NHTSA to decide whether 1994 Mercedes-Benz SL280 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on November 27, 1995 (59 FR 58432) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comment were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 145 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1994 Mercedes-Benz SL280 (Body Style 129) is substantially similar to a 1994 Mercedes-Benz SL320 originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 13, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–3560 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–59–M

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; BMW

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of BMW of North America, Inc., (BMW) for an exemption of a high-theft line, the Carline 5, from the parts-marking requirements of the Federal motor vehicle theft prevention standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements.

DATES: The exemption granted by this notice is effective beginning with the 1997 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: On November 29, 1995, BMW submitted to NHTSA a petition for exemption from the parts-marking requirements of the Federal motor vehicle theft prevention standard (49 CFR Part 541) for the Carline 5, beginning with MY 1997. The petition has been filed pursuant to 49 CFR Part 543, *Exemption From Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for an entire vehicle line.

BMW's submittal is considered a complete petition, as required by 49 CFR Part 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. In its petition, BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. This antitheft device includes an electronic immobilizer system, consisting of a key with a transponder (a transmitter/receiver), which is a microchip that is integrated into the key. This transponder will allow the ignition to operate and fuel supply to be released when a correct signal has been received. The immobilizer device is automatically activated when the engine is shut off and the vehicle key is removed from the ignition lock cylinder. In addition to the key, the antitheft device can be activated using the radio frequency remote control. The vehicle is equipped with a central door locking system, including the hood and trunk. There are no audible or visual alarms.

In order to ensure reliability and durability of the device, BMW stated that it conducted performance tests under BMW Standard 600 13.0 Parts 1 and 2, e.g., climatic tests, high temperature endurance run, thermoshock test in water, chemical resistance, vibrational load, electrical ranges, mechanical shock test, and electromagnetic field compatibility.

BMW compared the device proposed for its new line with devices which NHTSA has previously determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of Part 541, and has concluded that the antitheft device proposed for this new line is likely to be no less effective than the devices installed in the lines for which NHTSA has already granted exemptions from the parts-marking requirements.

Additionally, BMW states that the immobilizer system fulfills the requirements of the European vehicle insurance companies, which became standard as of January 1995. The requirements prescribe that the vehicle must be equipped with an electronic vehicle immobilizing device which works independently from the mechanical locking system and prevents the operation of the vehicle through the use of coded intervention in the engine management system. In addition, the device must be self-arming (passive), must become effective upon leaving the vehicle or not later than the point at which the vehicle is locked, and must deactivate the vehicle only by electronic means and not with the mechanical key. In addition, BMW states that the Carline 5 door and ignition locks conform to Swedish Regulation F42–1975, which requires a minimum of 5 minutes resistance to the application of commonly available tools.

Based on evidence submitted by BMW, the agency believes that the antitheft device for the Carline 5 is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR Part 541).

The agency concludes that the device will provide the following aspects of performance listed in § 543.6(a)(3): Promoting activation, preventing defeat or circumvention of the device by unauthorized persons, preventing operation of the vehicle by unauthorized entrants, and ensuring the reliability and durability of the device. The device lacks the ability to attract attention to the efforts of unauthorized persons to enter or operate a vehicle by a means other than a key (§ 541.6(a)(3)(ii)).

As required by 49 U.S.C. 33106 and 49 CFR Part 543.6(a) (4) and (5), the agency finds that BMW has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information BMW provided about its device.

For the foregoing reasons, the agency hereby grants in full BMW's petition for exemption for the Carline 5 from the parts-marking requirements of 49 CFR Part 541.

If BMW decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 542.6 (marking of major component parts and replacement parts).

NHTSA notes that if BMW wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption." The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself.

The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: February 13, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–3599 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 12–41]

Delegation of Authority Concerning Equal Employment Opportunity (EEO); Programs and Regional Complaint Centers

February 8, 1996.

1. *Delegation.* This Directive delegates authority to the Director, Office of Equal Opportunity Program, to:

a. Direct the Department of the Treasury's EEO Programs including all areas of affirmative action, the Hispanic Employment Program (including the Educational Excellence for Hispanic Americans Program), the Federal Women's Program, the Historically Black Colleges and Universities Program, the Federal Equal Opportunity Recruitment Program, and the Disability Program;

b. Direct the Department's Discrimination Complaint Processing System, including administering the Regional Complaint Centers in such a manner as to process EEO complaints in an efficient, timely, and cost-effective manner, including accepting or dismissing complaints of discrimination, conducting complete and fair investigations, rendering all final decisions on individual and class complaints of discrimination, making findings regarding discrimination, rendering decisions on allegations of breach of settlement agreements, making determinations on attorney's fees, and requiring appropriate remedial action whenever necessary;

c. Develop policies, plans and procedures for implementation of the EEO Programs;

d. Evaluate the sufficiency of the programs and recommend to the Assistant Secretary for Management & CFO appropriate solutions for upgrading the programs;

e. Promulgate rules and regulations to carry out the responsibilities delegated by this Directive;

f. Approve the use of any administrative dispute resolution process used in resolving EEO complaints;

g. Review and evaluate effectiveness of bureau EEO-related training programs; and

h. Administer such projects as the Assistant Secretary for Management & CFO shall establish.

2. *Redelegation.* The authority delegated above, or any parts thereof, may be redelegated by the Director, Office of Equal Opportunity Program.

3. *Authority.* Treasury Order 102–02, "Delegation of Authority Concerning Equal Opportunity Programs."

4. *Cancellation.* Treasury Directive 12–41, "Delegation of Authority Concerning Equal Employment Opportunity Programs and Regional Complaint Centers," dated April 17, 1989, is superseded.

5. *Expiration Date.* This Directive shall expire three years from the date of issuance unless superseded or cancelled prior to that date.

6. *Office of Primary Interest.* Office of Equal Opportunity Program, Office of the Deputy Assistant Secretary (Departmental Finance and Management), Office of the Assistant Secretary for Management & CFO.

George Muñoz,

Assistant Secretary for Management & CFO.

[FR Doc. 96–3525 Filed 2–15–96; 8:45 am]

BILLING CODE 4810–25–P

Internal Revenue Service

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form SS–8, Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

DATES: Written comments should be received on or before April 16, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax withholding.

OMB Number: 1545–0004.

Form Number: SS–8.

Abstract: Form SS–8 is used by employers and workers to furnish information to IRS in order to obtain a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding. IRS uses the information on Form SS–8 to make the determination.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of OMB approval.

Affected Public: Businesses, individuals, Federal Government, farms, state, local or tribal government, and not-for-profit institutions.

Estimated Number of Respondents: 9,730.

Estimated Time Per Respondent: 35 hrs., 41 min..

Estimated Total Annual Burden Hours: 347,264.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 5, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3595 Filed 2–15–96; 8:45 am]

BILLING CODE 4830–01–U

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 2553, Election by a Small Business Corporation.

DATES: Written comments should be received on or before April 16, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Election by a Small Business Corporation.

OMB Number: 1545–0146

Form Number: 2553.

Abstract: Form 2553 is filed by a qualifying corporation to elect to be an S corporation as defined in Code section 1361. The information obtained is necessary to determine if the election should be accepted by the IRS. When the election is accepted, the qualifying corporation is classified as an S corporation and the corporation's income is taxed to the shareholders of the corporation.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of OMB approval.

Affected Public: Businesses, farms.

Estimated Number of Respondents: 500,000.

Estimated Time Per Respondent: 12 hrs., 25 min.

Estimated Total Annual Burden Hours: 6,205,000.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: February 5, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–3594 Filed 2–15–96; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy; Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on February 21 in Room 600, 301 4th Street SW., Washington, DC from 10:00 a.m. to 12:00 noon.

At 10:00 a.m. the Commission will hold a panel discussion on the following: (1) how new technologies are changing approaches to understanding foreign publics; and (2) the kind of open source information needed to make rational judgments in U.S. public diplomacy. The panelists are Dr. Barry Fulton, Associate Director, Bureau of Information, USIA; Mr. Douglas Naquin, Chief, Global Services Group, Foreign Broadcast Information Service; Ambassador Robert Pringle, Dean, the Senior Seminar, Department of State; and Mr. Robert Steele, Open Source Systems, Inc.

FOR FURTHER INFORMATION: Please call Betty Hayes (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: February 13, 1996.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 96–3590 Filed 2–15–96; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register

Vol. 61, No. 33

Friday, February 16, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 61 F.R. 5605.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, February 20, 1996.

CHANGES IN THE MEETING: The Commodity Futures Trading Commission has added to the open meeting:

—National Futures Association Status Report

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–3689 Filed 2–14–96; 1:34 pm]

BILLING CODE 6351–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, February 13, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Dated: February 13, 1996.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–3688 Filed 2–14–96; 1:34 pm]

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 61 FR 5442, February 12, 1996.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Thursday, February 15, 1996.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Review of a Federal Reserve Board program.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 13, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3647 Filed 2–13–96; 5:00 pm]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, February 21, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 14, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3656 Filed 2–14–96; 10:40 am]

BILLING CODE 6210–01–P

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation's Board of Directors will meet on February 23, 1996. The meeting will begin at 10:00 a.m. and continue until conclusion of the committee's agenda. Agenda item 4 will be jointly considered with the Provision for the Delivery of Legal Services Committee, which is to convene at 3 p.m. on February 23, 1996.

LOCATION: Legal Services Corporation, 750 First Street NE, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.

2. Consider and act on proposed regulation restricting representation in certain eviction proceedings and public comments thereon.

3. Consider and act on guidelines and the development of a form for directors' annual disclosure, pursuant to § 3.05 of the Corporation's bylaws.

4. Consider and act on proposed regulation governing competitive bidding of grants and contracts and public comments thereon.

5. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: February 14, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–3750 Filed 2–14–96; 3:40 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Provision for the Delivery of Legal Services Committee Meeting

TIME AND DATE: The Provision for the Delivery of Legal Services Committee of the Legal Services Corporation's Board of Directors will meet on February 23, 1996. The meeting will begin at 3:00 p.m. and continue until conclusion of the committee's agenda. Agenda item 2 will be jointly considered with the Operations and Regulations Committee.

LOCATION: Legal Services Corporation, 750 First Street NE, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Consider and act on proposed regulation governing competitive bidding of grants and contracts and public comments thereon.
3. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: February 14, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–3749 Filed 2–14–96; 3:40 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on February 24, 1996. The meeting will begin at 9:00 a.m. and continue until conclusion of the Board's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE, 11th Floor, Washington, DC 20002.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a unanimous vote of the Board of Directors to hold an executive session. At the closed session, in accordance with the aforementioned vote, the Board may be briefed by management on internal operational and personnel matters and by the Inspector General on activities of the Office of Inspector General.[1] In addition, the General Counsel will report to the Board on litigation to which the Corporation is or may become a party and the Board may act on the matters reported. Finally, the Board may be consulted and asked for direction on purely internal personnel policies.

The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. section 552b(c)(2) and (10)] and the corresponding regulation of the Legal Services Corporation [45 C.F.R. section 1622.5(a) and (h)]. A copy of the General Counsel's certification that the closing is authorized by law will be posted for public inspection at the Corporation's headquarters, located at 750 First Street NE, Washington, DC 20002, in its 11th floor reception area, and will also be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of agenda.
2. Approval of minutes of December 18, 1995, meeting.
3. Chairman's and members' reports.
4. Election of chair and vice chair of the Board.
5. President's report, including an update on the status of appropriations and authorization processes for the Corporation.
6. Inspector General's report.
7. Consider and act on the report of the Operations & Regulations Committee.
   a. Consider and act on guidelines and form for directors' annual disclosure, pursuant to § 3.05 of the Corporation's bylaws.
   b. Consider and act on proposed regulation restricting representation in certain eviction proceedings.
   c. Consider and act on proposed regulation governing competitive bidding of grants and contracts.
8. Consider and act on a revised budget request for FY '97.
9. Consider and act on the adoption of a funding policy for the remainder of FY '96.

CLOSED SESSION:

10. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation.
11. Briefing by the Office of Inspector General on its activities.
12. Briefing by management on internal operations and personnel matters.
13. Consider and act on matters relating solely to the internal personnel rules and practices of the Corporation.

OPEN SESSION:

14. Public comment.
15. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting should contact Barbara Asante, at (202) 336–8800.

Dated: February 14, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–3748 Filed 2–14–96; 3:40 pm]

BILLING CODE 7050–01–P

[1] Briefings do not constitute "meetings" as defined by the Government in the Sunshine Act. Notice of the briefing is here provided as a courtesy to the public.

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 9:30 a.m., Wednesday, February 21, 1996.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed:

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Request from a Federal Credit Union to Convert to a Community Field of Membership. Closed pursuant to exemption (8).
3. Requests from Federal Credit Unions for Field of Membership Amendments. Closed pursuant to exemption (8).
4. Request by Credit Union for Waivers from Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).
5. Administrative Action under Part 745 of NCUA's Rules and Regulations. Closed pursuant to exemption (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 96–3732 Filed 2–14–96; 2:13 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Wednesday, February 21, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Wednesday, February 21

3:30 p.m.

Affirmation Session (Public Meeting)

a. Kerr-McGee Chemical Corporation—Motion to Dismiss Proceeding and Vacate Underlying Decisions

(Contact: Andrew Bates, (301) 415–1963)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: February 13, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–3686 Filed 2–14–96; 1:34 pm]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

At its meeting on February 5, 1996, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for March 4, 1996, in Washington, DC. The members will consider: (1) the Postal Rate Commission Decision in Docket No. MC95–1, Mail Classification Reform; (2) a filing with the Postal Rate Commission for classification reform of nonprofit rates; and (3) overview of the international business unit and international rate setting process.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Dyhrkopp, Fineman, Mackie, McWherter, Rider and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Koerber, and General Counsel Elcano.

As to the first and second items, the Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing.

As to the third item, the Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information which is specifically exempted from disclosure by section 410(c)(2) of title 39, United States Code.

The Board further determined that the public interest does not require that the Board's discussion of these matters be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of title 5, United States Code; section 410(c)(2) and (4) of title 39, United States Code; and section 7.3(c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–3746 Filed 2–14–96; 3:18 pm]

BILLING CODE 7710–12–M

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Federal Register

Friday
February 16, 1996

Part II

Department of Transportation

Federal Transit Administration

49 CFR Part 661
Buy America Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 661

[Docket No. FTA–95–471]

RIN 2132–AA42

Buy America Requirements

AGENCY: Federal Transit Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule implements section 1048 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which amends the Federal Transit Administration's (FTA) Buy America requirements, and makes other amendments intended to update and clarify FTA's Buy America regulation.

EFFECTIVE DATE: February 16, 1996.

FOR FURTHER INFORMATION CONTACT: Rita Daguillard, Deputy Assistant Chief Counsel, Federal Transit Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–1936.

SUPPLEMENTARY INFORMATION:

I. The Notice of Proposed Rulemaking

On September 12, 1995, FTA issued a notice of proposed rulemaking (NPRM) seeking to implement section 1048 of the Intermodal Surface Transportation Efficiency Act (Pubic Law 102–240) (ISTEA), which amended its Buy America requirements. FTA requested comments on this proposal and on other proposed amendments intended to update and clarify its Buy America regulation, 49 CFR Part 661.

FTA received four comments: two from public transit agencies; one from a State department of transportation; and one from an organization representing mass transit systems, manufacturers and suppliers. All of the commenters supported the proposed amendments, although some suggested minor modifications, which are discussed below.

II. The ISTEA Amendments

A. Addition of "Iron" (§ 661.5(a)–(c))

In the NPRM, FTA explained that section 1048 of ISTEA amends 49 U.S.C. 5323(j) by adding "iron" to the products covered, and by inserting two new subsections concerning waivers of the Buy America requirements. By adding the word "iron," Congress extended Buy America protection to iron and iron products, in addition to steel and manufactured products, which were previously protected. FTA proposed to amend 49 CFR 661.5 (a) and (b) to reflect this statutory amendment. FTA also proposed to amend 49 CFR 661.5(c) to specify that both the iron and steel requirements apply to items made primarily from those materials and used in construction and rail projects. The NPRM proposed that these items include, but not be limited to, structural steel or iron, steel or iron beams and columns, running rail, and contact rail. The requirements would not apply to iron used as components or subcomponents of other manufactured products or rolling stock.

Two commenters opined that the use of the qualifier "primarily" may lead to confusion in the absence of greater specificity. They suggested that "primarily" may mean close to one hundred percent, and stated that some additional discussion or guidance on this issue might be appropriate. They also stated that the phrase "primarily steel and iron" should read "primarily steel or iron" to avoid an unintended implication that only products made primarily of both steel and iron are covered.

FTA believes that it is not appropriate to attach a percentage to the definition of section 661.5(c), since the percentage of steel or iron in a particular item may vary according to an individual producer's refinement or manufacturing processes. Generally, the definition refers to construction or building materials made either principally or entirely from either steel or iron. All other manufactured products, even though they may contain some steel or iron elements, would not be covered. Therefore, steel girders would fall within the definition while buses with frames made partially from steel, would not be covered. To clarify this point, FTA will modify the proposed definition to specify that it is intended to apply to construction materials used in infrastructure projects, such as transit or maintenance facilities, rail lines, or bridges. FTA will also adopt the commenters' suggestion that these items be described as made of "primarily steel or iron."

B. Intentional Violations (§ 661.18)

Section 1048(b) amends 49 U.S.C. 5323(j) by inserting subsection (5), which states that any person determined by a Federal agency or court to have affixed a false "Made in America" label to or misrepresented the origin of a foreign product, shall be ineligible to receive contracts funded under ISTEA. In the NPRM, FTA proposed to add new section 661.18, which would bar such persons from Federal assistance under ISTEA "pursuant to suspension and debarment proceedings under [49 CFR Part 29]."

Two commenters expressed the view that the wording of proposed section 661.18 could lead to a situation in which a person convicted of fraudulent misrepresentation under criminal statutes, but not processed through an administrative debarment/suspension proceeding, would remain eligible to receive ISTEA funds, contrary to Congressional intent. According to these commenters, the reference to debarment and suspension proceedings is unnecessary and should be removed. They stated that the remaining ineligibility under 49 CFR Part 29 is sufficient to implement Congress' intent without causing undue confusion.

FTA agrees that the use of the term "proceeding" in section 661.8 may create confusion since it could imply that only persons who have been suspended or debarred through a formal administrative process or hearing would be ineligible to receive ISTEA funds. In order to make it clear that any person suspended or debarred under 49 CFR Part 29, whether through a formal administrative hearing or under the general procedures of the regulation, will be so ineligible, FTA will delete its reference to "proceedings."

C. Limitation of the Applicability of Waivers (§ 661.7(h))

Section 1048(b) also amends 49 U.S.C. 5323(j) by adding subsection (4), which provides that if a foreign country is party to an agreement with the United States under which the Buy America requirements are waived, and the foreign country violates the agreement by discriminating against U.S. goods, products from that country shall not be eligible for waivers under 49 U.S.C. 5323(j). In the NPRM, FTA noted that there is currently no agreement between the United States and a foreign country which waives the Buy America requirements. FTA therefore stated that it considered this provision inoperative at the present time. FTA proposed to amend 49 CFR 661.7 to add a new subsection that will reflect this statutory change, and sought comment on whether its conclusion that 49 U.S.C. 5323(j)(4) is not applicable at this time requires further discussion or expansion.

Two commenters agreed that the provision should be adopted as proposed, but suggested that it be amended to provide clarification or guidance in the event that the type of international agreement contemplated in section 1048(b) should be concluded. Accordingly, FTA will adopt proposed subsection 661.7(h), subject to eventual amendment, should the United States become party to such an agreement.

III. Amendments to Update and Clarify the Buy America Regulation

In the NPRM, FTA also sought to update the regulation by removing provisions that are no longer applicable, and to clarify certain other provisions.

A. Definition of "Component" (§ 661.3)

The FTA Buy America regulation, 49 CFR Part 661, consistent with the Surface Transportation Assistance Act of 1982 (STAA) and the Surface Transportation and Uniform Relocation Assistance Act (STURAA), establishes separate requirements for rolling stock. To be considered domestic, rolling stock must be assembled in the United States and 60 percent of its components, by cost, must be of U.S. origin. For a manufactured product to be considered domestic, all manufacturing processes must take place in the United States and all of its components must be of U.S. origin. In both cases, then, to determine compliance with the Buy America requirements, it is necessary to identify those parts of a product which may be considered components.

Section 661.11 which sets out the separate requirements for rolling stock, defines, at subsection (e), component as "any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location." However, many suppliers of manufactured products have pointed out to FTA that neither section 661.3 (general definitions) nor section 661.5 (requirements for manufactured products) contains a similar definition of component. They have therefore asked FTA for guidance in determining what constitutes a component of a manufactured product.

FTA notes that the definition of component of subsection 661.11(e) parallels that of the Federal Acquisition Regulations implementing the Buy American Act of 1933 (51 U.S.C. 10(a)–(d)), which applies to manufactured products generally. FTA therefore considers that it is appropriate to apply this definition to components of manufactured products as well as to components of rolling stock. Accordingly, FTA proposed in the NPRM to add it to the definitions provision of the regulation, section 661.3. All comments on this issue were favorable, and FTA is adopting the definition as proposed.

B. Component Requirement for Manufactured Products (§ 661.5(d)(2))

Section 165(b)(3) of the STAA, as amended by section 337 of STURAA, imposes domestic preference requirements on the subcomponents of components of rolling stock and associated equipment. No such similar statutory changes were made to section 165(a) for manufactured products. Therefore, the agency concluded that a manufactured product is of domestic origin if it is manufactured in the United States. In other words, in determining the origin of a component of a manufactured product governed by section 165(a), FTA will look only to where the product is manufactured, and will not look to the origin of the various materials included in the product during the manufacturing process. However, subsection 661.5(d)(2) of the regulation provides that for a manufactured product to be considered of U.S. origin, "all items or material used in the product must be of United States origin."

In FTA's experience, the language of this provision has often created the incorrect assumption that in determining the origin of a manufactured product, FTA will consider all of its material content, even at the subcomponent level and below. In order to correct this misunderstanding, FTA proposed to amend subsection 661.5(d)(2) to state that for a manufactured product to be considered of domestic origin, all of its components must be of United States origin. FTA also proposed to treat a component as being of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. All of the commenters agreed that the proposal would correct the confusion and misunderstanding created by the current language of subsection 661.5(d)(2). FTA is amending this subsection as proposed.

C. Determination of Grandfathered Companies (§ 661.10)

Section 337 of the STURAA provided for a gradual increase in the domestic content requirements for buses and other rolling stock from 50 percent to 60 percent. Section 337(a)(2)(B) of STURAA stated that these revised requirements would not apply to any contract entered into prior to April 1, 1992, with any supplier or contractor or any successor in interest or assignee which had complied with the previous domestic content requirements. Section 661.10 of the regulation sets out the criteria for determining whether a company could qualify for grandfather treatment. Since the April 1, 1992, deadline has elapsed, and since there is little likelihood that contracts for rolling stock executed prior to that date are still outstanding, FTA will delete this grandfather provision from its Buy America regulation.

D. Domestic Content Requirements for Rolling Stock (§§ 661.11(a)–(d))

As indicated above, section 337 of STURAA provided for a gradual increase in the domestic content for rolling stock from the previous 50 percent level to 55 percent for contracts entered into after October 1, 1989, and to 60 percent for contracts entered into after October 1, 1991, and after April 1, 1992, for grandfathered companies. Subsections 661.11 (b) and (c) of Part 49 implemented these statutory provisions. Since the 60 percent domestic content requirement is now in effect for all contracts executed after April 1, 1992, FTA will delete subsections 661.11(a) to reflect this change. Subsections (k) and (n) will also be revised to indicate that the 60 percent domestic content requirements also apply to components of rolling stock. The remaining subsections of 49 CFR 661.11 will be re-numbered accordingly.

IV. Regulatory Impacts

A. Executive Order 12866

FTA has determined that this action is not significant under Executive Order 12866 or Department of Transportation regulatory policies and procedures. Since this final rule makes only technical amendments to current regulatory language, it is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

In accordance with 5 U.S.C. 603(a), as added by the Regulatory Flexibility Act, Pub. L. 96–354, FTA certifies that this rule will not have a significant impact on a substantial number of small entities with the meaning of the Act.

C. Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

D. Executive Order 12612

This action has been reviewed under Executive Order 12612 on Federalism and FTA has determined that it does not have implications for principles of Federalism that warrant the preparation of a Federalism Assessment. If

promulgated, this rule will not limit the policy making or administrative discretion of the States, nor will it impose additional costs or burdens on the States, nor will it affect the States' abilities to discharge the traditional State governmental functions or otherwise affect any aspect of State sovereignty.

List of Subjects in 49 CFR Part 661

Buy America, Domestic preference requirement, Government contracts, Grant programs—Transportation, Mass transportation.

Amendment of 49 CFR Part 661

Accordingly, for the reasons described in the preamble, Part 661 of Title 49 of the Code of Federal Regulations is amended as follows:

PART 661—[AMENDED]

1. By revising the authority citation to read as follows:

Authority: 49 U.S.C. 5323(j) (formerly sec. 165, Pub. L. 97–424; as amended by sec. 337, Pub. L. 100–17 and sec. 1048, Pub. L. 102–240); 49 CFR 1.51.

2. By adding in alphabetical order a definition of "Component" to § 661.3 to read as follows:

§ 661.3 Definitions.

* * * * *

Component means any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.

* * * * *

3. By revising § 661.5 to read as follows:

§ 661.5 General requirements.

(a) Except as provided in § 661.7 and § 661.11 of this part, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.

(b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

(c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock.

(d) For a manufactured product to be considered produced in the United States:

(1) All of the manufacturing processes for the product must take place in the United States; and

(2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

4. By adding new 661.7(h) to read as follows:

§ 661.7 Waivers.

* * * * *

(h) The provisions of this section shall not apply to products produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, determines that:

(1) That foreign country is party to an agreement with the United States pursuant to which the head of an agency of the United States has waived the requirements of this section; and

(2) That foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement.

* * * * *

5. By removing § 661.10.

§ 661.10 [Removed]

6. By revising § 661.11 to read as follows:

§ 661.11 Rolling stock procurements.

(a) The provisions of § 661.5 do not apply to the procurement of buses and other rolling stock (including train control, communication, and traction power equipment), if the cost of components produced in the United States is more than 60 percent of the cost of all components and final assembly takes place in the United States.

(b) The domestic content requirements in paragraph (a) of this section also apply to the domestic content requirements for components set forth in paragraphs (i), (j), and (l) of this section.

(c) A component is any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into an end product at the final assembly location.

(d) A component may be manufactured at the final assembly location if the manufacturing process to produce the component is an activity separate and distinct from the final assembly of the end product.

(e) A component is considered to be manufactured if there are sufficient activities taking place to advance the value or improve the condition of the subcomponents of that component; that is, if the subcomponents have been substantially transformed or merged into a new and functionally different article.

(f) Except as provided in paragraph (k) of this section, a subcomponent is any article, material, or supply, whether manufactured or unmanufactured, that is one step removed from a component (as defined in paragraph (c) of this section) in the manufacturing process and that is incorporated directly into a component.

(g) For a component to be of domestic origin, more that 60 percent of the subcomponents of that component, by cost, must be of domestic origin, and the manufacture of the component must take place in the United States. If, under the terms of this part, a component is determined to be of domestic origin, its entire cost may be used in calculating the cost of domestic content of an end product.

(h) A subcomponent is of domestic origin if it is manufactured in the United States.

(i) If a subcomponent manufactured in the United States is exported for inclusion in a component that is manufactured outside the United States and it receives tariff exemptions under the procedures set forth in 19 CFR 10.11 through 10.24, the subcomponent retains its domestic identity and can be included in the calculation of the domestic content of an end product even if such a subcomponent represents less than 60 percent of the cost of a particular component.

(j) If a subcomponent manufactured in the United States is exported for inclusion in a component manufactured outside the United States and it does not receive tariff exemption under the procedures set forth in 19 CFR 10.11 through 10.24, the subcomponent loses its domestic identity and cannot be included in the calculation of the domestic content of an end product.

(k) Raw materials produced in the United States and then exported for incorporation into a component are not considered to be a subcomponent for the purpose of calculating domestic content. The value of such raw materials is to be included in the cost of the foreign component.

(l) If a component is manufactured in the United States, but contains less than 60 percent domestic subcomponents, by cost, the cost of the domestic subcomponents and the cost of manufacturing the component may be included in the calculation of the domestic content of the end product.

(m) For purposes of this section, except as provided in paragraph (o) of this section:

(1) The cost of a component or a subcomponent is the price that a bidder or offeror must pay to a subcontractor or supplier for that component or subcomponent. Transportation costs to the final assembly location must be included in calculating the cost of foreign components and subcomponents.

(2) If a component or subcomponent is manufactured by the bidder or offeror, the cost of the component is the cost of labor and materials incorporated into the component or subcomponent, an allowance for profit, and the administrative and overhead costs attributable to that component or subcomponent under normal accounting principles.

(n) The cost of a component of foreign origin is set using the foreign exchange rate at the time the bidder or offeror executes the appropriate Buy America certificate.

(o) The cost of a subcomponent that retains its domestic identity consistent with paragraph (j) of this section shall be the cost of the subcomponent when last purchased, f.o.b. United States port of exportation or point of border crossing as set out in the invoice and entry papers or, if no purchase was made, the value of the subcomponent at the time of its shipment for exportation, f.o.b. United States port of exportation or point of border crossing as set out in the invoice and entry papers.

(p) In accordance with 49 U.S.C. 5323(j), labor costs involved in final assembly shall not be included in calculating component costs.

(q) The actual cost, not the bid price, of a component is to be considered in calculating domestic content.

(r) Final assembly is the creation of the end product from individual elements brought together for that purpose through application of manufacturing processes. If a system is being procured as the end product by the grantee, the installation of the system qualifies as final assembly.

(s) An end product means any item subject to 49 U.S.C. 5323(j) that is to be acquired by a grantee, as specified in the overall project contract.

(t) Train control equipment includes, but is not limited to, the following equipment:

(1) Mimic board in central control
(2) Dispatcher's console
(3) Local control panels
(4) Station (way side) block control relay cabinets
(5) Terminal dispatcher machines
(6) Cable/cable trays
(7) Switch machines
(8) Way side signals
(9) Impedance bonds
(10) Relay rack bungalows
(11) Central computer control
(12) Brake equipment
(13) Brake systems

(u) Communication equipment includes, but is not limited to, the following equipment:

(1) Radios
(2) Space station transmitter and receivers
(3) Vehicular and hand-held radios
(4) PABX telephone switching equipment
(5) PABX telephone instruments
(6) Public address amplifiers
(7) Public address speakers
(8) Cable transmission system cable
(9) Cable transmission system multiplex equipment
(10) Communication console at central control
(11) Uninterruptible power supply inverters/rectifiers
(12) Uninterruptible power supply batteries
(13) Data transmission system central processors
(14) Data transmission system remote terminals
(15) Line printers for data transmission system
(16) Communication system monitor test panel
(17) Security console at central control

(v) Traction power equipment includes, but is not limited to the following:

(1) Primary AC switch gear
(2) Primary AC transformer rectifiers
(3) DC switch gear
(4) Traction power console and CRT display system at central control
(5) Bus ducts with buses (AC and DC)
(6) Batteries
(7) Traction power rectifier assemblies
(8) Distribution panels (AC and DC)
(9) Facility step-down transformers
(10) Motor control centers (facility use only)
(11) Battery chargers
(12) Supervisory control panel
(13) Annunciator panels
(14) Low voltage facility distribution switch board
(15) DC connect switches
(16) Negative bus boxes
(17) Power rail insulators
(18) Power cables (AC and DC)
(19) Cable trays
(20) Instrumentation for traction power equipment
(21) Connectors, tensioners, and insulators for overhead power wire systems
(22) Negative drainage boards
(23) Inverters
(24) Traction motors
(25) Propulsion gear boxes
(26) Third rail pick-up equipment
(27) Pantographs

(w) The power or third rail is not considered traction power equipment and is thus subject to the requirements of 49 U.S.C. 5323(j) and the requirements of § 661.5.

(x) A bidder on a contract for an item covered by 49 U.S.C. 5323(j) who will comply with section 165(b)(3) and regulations in this section is not required to follow the application for waiver procedures set out in § 661.9. In lieu of these procedures, the bidder must submit the appropriate certificate required by § 661.12.

7. By adding § 661.18 to read as follows:

§ 661.18 Intentional violations.

A person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to part 29 of this title if it has been determined by a court or Federal agency that the person intentionally—

(a) Affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to a product not made in the United States, but sold in or shipped to the United States and used in projects to which this section applies, or

(b) Otherwise represented that any such product was produced in the United States.

Issued on: February 9, 1996.

Gordon J. Linton,

Administrator.

[FR Doc. 96–3388 Filed 2–15–96; 8:45 am]

BILLING CODE 4910–57–P

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2–20–96
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Tuesday
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DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 6

Dairy Tariff-Rate Import Quota Licensing

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule; technical corrections to import regulation 1, revision 7.

SUMMARY: Import Regulation 1, Revision 7 ("Revision 7") governs the administration of the import licensing system for certain dairy products. A license qualifies imports of certain dairy products for entry at the in-quota tariff rates established in the Harmonized Tariff Schedule of the United States (HTS). This document sets forth technical corrections to Appendix 3 of Revision 7 with respect to the in-quota quantities that may enter under supplementary license to be issued for certain cheeses from Poland and Hungary for quota year 1996.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Warsack, Import Programs Group, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, AG BOX 1021, Washington, DC 20250–1021, or telephone (202) 720–2916.

SUPPLEMENTARY INFORMATION:

Background

The Department of Agriculture (USDA) began to implement its Uruguay Round Agreement commitments for certain dairy articles when it published an interim rule on January 6, 1995 (60 FR 1989–1996) amending Revision 7. That interim rule added a new Appendix 3 which specified the quantities of articles of dairy products that, effective January 1, 1995, had become available for supplementary licenses during quota year 1995. The quantities specified reflected U.S. commitments to those countries which implemented their own Uruguay Round access commitments on January 1, 1995. On May 2, 1995, USDA published a second interim rule (60 FR 21425–21428) which again amended Revision 7 by revising Appendix 3 to reflect additional amounts of cheese and cheese products that became available, effective July 1, 1995, for supplementary licenses. These increases implemented U.S. access commitments to the six countries which began to implement their respective access commitments effective July 1, 1995. These countries included Poland and Hungary. That interim rule also added a footnote to Appendix 3 which clarified that the in-quota quantity allocated to Poland for Italian-type cheese was conditioned on the results of a bilateral agreement being negotiated between the Governments of the United States and Poland. On September 13, 1995, USDA published a third interim rule (60 FR 47453–47455) which again amended Revision 7 by amending Appendix 3 to reflect additional quantities of dairy articles that will be eligible, effective January 1, 1996, for supplementary licenses. These increases reflect the additional amounts of articles of dairy products available for supplementary licenses required to fulfill the second year of the six-year Uruguay Round access commitment. That interim rule inadvertently omitted the footnote regarding the in-quota quantity of Italian-type cheese for Poland and the in-quota quantity of Swiss cheese for Hungary.

Subsequent to the publication of the third interim rule, the United States and Poland signed a Record of Understanding between Poland and the United States of America on Agricultural Items which provides that the in-quota quantity for Italian-type cheese be increased. Presidential Proclamation 6859 of December 13, 1995 implemented this commitment by amending Additional U.S. Note 21 of chapter 4 of the HTS to increase the in-quota quantity of Italian-type cheese for Poland from 1,100,000 kilograms to 1,325,000 kilograms.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy Products, Imports, Reporting and recordkeeping requirements.

Technical Correction

Accordingly, 7 CFR Part 6, Subpart—Tariff-Rate Quotas is amended as follows:

PART 6—[AMENDED]

1. The authority citation for Subpart—Tariff-Rate Quotas continues to read as follows:

Authority: Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S. C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 404, Pub. L. 103–465, 108 Stat. 4819 and 4959 (19 U.S.C. 3513 and 3601).

2. Appendix 3 is amended by revising the entry for Poland under "Italian-Type cheeses" and by adding an entry for Hungary preceding Sweden under "Swiss and Emmenthaler cheese with eye formation" to read as follows:

Appendix 3—Articles Subject to the Supplementary Licensing Provisions of Import Regulation 1, Revision 7, and Respective Annual Tariff-Rate Import Quotas for the 1996 Quota Year

Article by HTS note No.	Annual supplementary quota (kilograms)
• • • • •	
Italian-Type cheeses, made from cow's milk (Romano made from cow's milk, Reggiano, Parmesan, Provolone, Provoletti, Sbrinz, and Goya not in original loaves) and cheese and substitutes for cheese containing, or processed from, such Italian-Type cheeses, whether or not in original loaves:	
(Note 21)	4,765,000
Argentina	1,890,000
EC	233,333
Uruguay	750,000
Hungary	400,000
Poland	1,325,000
Romania	166,667
• • • • •	
Swiss and Emmenthaler cheese with eye formation:	
(Note 25)	1,873,333
Austria	73,333
EC	233,333
Hungary	400,000
Sweden	300,000
Switzerland	66,667
Czech Republic	400,000

Signed at Washington, DC, on February 8, 1996.

Timothy J. Galvin,

Acting Administrator, Foreign Agriculture Service

[FR Doc. 96–3528 Filed 2–16–96; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV96–932–1IFR]

Expenses and Assessment Rate for Marketing Order Covering Olives Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenses and establishes an assessment rate for the California Olive Committee (Committee) under Marketing Order No. 932 for the 1996 fiscal year. The Committee is responsible for local administration of the marketing order which regulates the handling of California olives. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning January 1, 1996, through December 31, 1996. Comments received by March 21, 1996, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, Fax # (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone 209–487–5901; or Caroline C. Thorpe, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone 202–720–5127.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 932 (7 CFR part 932), as amended, regulating the handling of olives grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, olives grown in California are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable olives during the 1996 fiscal year, beginning January 1, 1996, through December 31, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 5 handlers of olives grown in California who are subject to regulation under the order and approximately 1,350 producers of olives in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. None of the olive handlers may be classified as small entities, while the majority of olive producers may be classified as small entities.

The order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable olives handled during the appropriate crop year, which for this season is August 1, 1995, through July 31, 1996. The budget of expenses for the 1996 fiscal year was prepared by the Committee and submitted to the Department for approval. The Committee consists of handlers and producers. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by actual receipts of olives by handlers during the crop year. Because that rate is applied to actual receipts, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses.

The recommended budget and rate of assessment is usually acted upon by the Committee after the crop year begins and before the fiscal year starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on December 14, 1995, and recommended 1996 marketing order expenditures of $2,600,785 for its budget. This is $280,865 less in expenses than the previous year. The major budget categories for the 1996 fiscal year include administration ($388,350), research ($213,000), and market development ($1,999,435).

The Committee also recommended an assessment rate of $28.26 per ton covering olives from the appropriate crop year. This is $1.78 less than last year's assessment rate of $30.04. The assessment rate, when applied to actual handler receipts of 62,182 tons from the 1995 olive crop year, would yield $1,757,726 in assessment income. This along with approximately $829,000 from the Committee's authorized reserves will be adequate to cover estimated expenses. Reserve funds for the 1996 fiscal year are estimated at $210,000 which is within the maximum permitted by the order of one fiscal year's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996 fiscal year began on January 1, 1996, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable olives handled during the fiscal year; (3) handlers are aware of this rule which was recommended by the Committee at a public meeting; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

NOTE: This section will not appear in the Code of Federal Regulations.

2. A new § 932.229 is added to read as follows:

§ 932.229 Expenses and assessment rate.

Expenses of $2,600,785 for the California Olive Committee are authorized, and an assessment rate of $28.26 per ton of assessable olives is established for the 1996 fiscal year ending on December 31, 1996. Unexpended funds may be carried over as a reserve.

Dated: February 12, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–3608 Filed 2–16–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 989

[FV95–989–5FIR]

Raisins Produced From Grapes Grown in California; Reduction in the Production Cap for the 1996 Raisin Diversion Program for Natural (sun-dried) Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which reduced the production cap for the 1996 Raisin Diversion Program (RDP) for Natural (sun-dried) Seedless raisins. The production cap, which limits the amount of raisin tonnage per acre for which an RDP participant can receive credit, was reduced from 2.75 tons per acre to 2.2 tons per acre for this program. This reduction is intended to bring the production cap for 1996 in line with 1995 production per acre, which was approximately 20 percent smaller than the 1994 crop yield per acre.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: 209–487–5901 or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: 202–205–2830.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempt therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his/her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the raisin marketing order, and approximately 4,500 producers in the production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts (from all sources) are less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. No more than eight handlers, and a majority of producers, of California raisins may be classified as small entities. Twelve of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining eight handlers have sales less than $5,000,000, excluding receipts from any other sources.

This rule finalizes the establishment of a production cap of 2.2 tons per acre for the 1996 RDP. This action was unanimously recommended by the Raisin Administrative Committee (Committee), the body which locally administers the order.

The interim final rule being finalized was issued on December 26, 1995, and published in the **Federal Register** (61 FR 100, January 3, 1996), with an effective date of January 3, 1996. That rule added a new paragraph (t) to § 989.156 of the rules and regulations in effect under the order. That rule provided a 15-day comment period which ended January 18, 1996. No comments were received.

The authority for the RDP and implementing rules and regulations are specified in § 989.56 and 989.156, respectively. The purpose of the RDP is to give producers the means to voluntarily reduce their raisin production. Each approved producer who has removed grapes in accordance with rules and regulations receives a diversion certificate from the Committee. Such certificates represent reserve tonnage raisins equal to the amount of raisins diverted. That is, the certificates represent the amount of grape acreage removed from production (for RDP purposes) multiplied by the producer's previous crop year yield in tons per acre, or multiplied by the production cap if the previous year's actual yield exceeds the cap.

These certificates may be submitted by producers only to handlers. The handler pays the producer for the free tonnage applicable to the diversion certificate minus the established harvest cost for the entire tonnage shown on the certificate. Factors reviewed by the Committee in determining allowable harvest costs are specified in § 989.156(a)(1).

Any handler holding diversion certificates may redeem such certificates with the Committee for reserve pool raisins. To redeem a certificate, the handler must present the certificate to the Committee and pay the Committee an amount equal to the established harvest costs plus an amount equal to the payment for receiving, storing, fumigating, handling, and inspecting reserve tonnage raisins specified in § 989.401 for the entire tonnage represented on the certificate.

The marketing order requires the Committee to meet on or before November 30 of each crop year to review production data, supply data, demand data, inventory, and other matters relating to the quantity of raisins available to or needed by the market. If the Committee decides that the current crop year's reserve pool has more than enough raisins to meet projected market needs, it can announce the amount of such excess eligible for diversion during the subsequent crop year. The administrative rules and regulations established under the order require that such announcement be made on or before November 30 of each year.

A production cap of 2.75 tons of raisins per acre is established under the order for any production unit of a producer approved for participation in an RDP. When the diversion tonnage is announced, the Committee may recommend, subject to the approval of the Secretary, that the production cap for that RDP be less than 2.75 tons per acre. The production cap limits the yield that a producer can claim and is designed to allow most high yield producers to participate in an RDP. When the cap was added to the marketing order in 1989, only 8 percent of raisin producers exceeded the 2.75 tons per acre yield. Producers who historically produce yields above the production cap can choose to produce a crop rather than participate in a diversion program. No producer is required to participate in an RDP.

A producer who wants to participate in an RDP must apply to the Committee. The producer must specify, among other things, the raisin production and the acreage covered by the application. The Committee verifies producers' production claims using handler acquisition reports and other available information. However, a producer could misrepresent production by claiming that some raisins produced on one ranch were produced on another, and use an inflated yield on the RDP application. Thus, the production cap limits the amount of raisins for which a producer participating in an RDP may be credited, and protects the program from overstated production yields.

For example, a producer whose actual yield was 2.5 tons per acre might claim that the yield was 3.5 tons per acre on the RDP application. The current production cap would allow that producer to receive a diversion certificate for 2.75 tons per acre, which is 0.25 tons above the actual yield but far less than the 1.0 ton which would have been improperly credited if the diversion certificate had been based on a yield of 3.5 tons per acre. The production cap reduces the amount of inflated tonnage which could be improperly credited and allows more producers to participate. When the production cap is more in line with the actual yield per acre, the total quantity of raisins available under the RDP can be allocated to more applicants. A producer who actually produced 3.5 tons per acre might decide to produce a raisin crop rather than apply for the RDP and be subject to the production cap.

The Committee met on November 27, 1995, and reviewed data relating to the quantity of reserve pool raisins and anticipated market needs. The Committee decided that the 1995–96 reserve pool had more raisins than necessary to meet projected market needs and announced that 20,000 tons of Natural (sun-dried) Seedless raisins would be eligible for diversion under the 1996 RDP.

The 20,000 ton maximum eligible level was determined to be inappropriate since later information indicated that the excess tonnage in the 1995–96 reserve pool was not as large as had been earlier expected. The Committee met again on December 18, 1995, and announced, therefore, that applications from producers who intended to remove their grape vines would be accepted, but that other applications would be rejected. After reviewing the applications, the Committee determined that approximately 2,221 tons of Natural (sun-dried) Seedless raisins will be eligible for diversion under the 1996 RDP.

The Committee members also believed that the former production cap was too high because 1995 crop year yields per acre were down 20 percent compared to 1994. The Committee, therefore, unanimously recommended a reduction in the production cap of 20 percent, from 2.75 tons per acre to 2.2 tons per acre for the 1996 RDP, based on 1995 production. Reducing the production cap proportionately to the decrease in yield per acre more accurately reflected actual production yields during the 1995 crop year.

The information collection requirement (i.e., the RDP application) referred to in this rule has been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and has been assigned OMB number 0581–0083.

Based on these considerations, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information presented, including the Committee's recommendations and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (61 FR 100, January 3, 1996) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 989 is amended to read as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 989, which was published at 61 FR 100 on January 3, 1996, is adopted as a final rule without change.

Dated: February 12, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–3609 Filed 2–16–96; 8:45 am]

BILLING CODE 3410–02–P

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1901 and 1942

A–95 Review, Evaluation, and Coordination of Projects

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This rule deletes the Agencies' regulation that implemented OMB Circular A–95 concerning review, evaluation, and coordination of projects. OMB Circular A–95 was revoked in compliance with Executive Order 12372.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Susan G. Wieferich, Senior Environmental Protection Specialist, Environmental Support Branch, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, Room 6309, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250–0700; telephone (202) 720–9619.

SUPPLEMENTARY INFORMATION:

Classification

This action is not subject to the provisions of Executive Order 12866 since it only involves internal Agency management. This action is not published for proposed rulemaking because it involves only internal Agency management and publication for notice and comment is unnecessary.

Discussion

Executive Order 12372 terminated the Memorandum of November 8, 1968, (56 FR 16467, November 10, 1968) and required the Director of the Office of Management and Budget to revoke OMB Circular A–95, which was issued pursuant to that Memorandum. The Farmers Home Administration (predecessor to the Agencies issuing the rule) did not delete FmHA Instruction 1901–H when FmHA Instruction 1940–J, was issued December 23, 1983, in accord with the Executive Order due to a requirement in section 306(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(3)) that projects be reviewed under OMB Circular A–95. Section 2316(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101–624, November 28, 1990) amended Section 306(a)(3) to remove the requirement.

Programs Affected

These programs or activities are listed in the Catalog of Federal Domestic Assistance under the following numbers:

10.760—Water and Waste Disposal Systems for Rural Communities
10.766—Community Facilities Loans
10.770—Water and Waste Disposal Loans and Grants (Section 306C)

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0575–0094 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This final rule does not revise or impose any new information collection requirement from those previously approved by OMB.

Unfunded Mandate Reform Act

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

List of Subjects

7 CFR Part 1901

Intergovernmental relations.

7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

Accordingly, under the Authority 5 U.S.C. 301, Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart H—[Removed and Reserved]

1. Subpart H, consisting of §§ 1901.351–1901.360 and Exhibit A, is removed and reserved.

PART 1942—ASSOCIATIONS

2. The authority citation for the part 1942 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—Community Facility Loans

3. In § 1942.2, the introductory text of paragraph (a)(1) is amended in the first sentence by revising the word "inquires" to "inquiries" and by revision of the third sentence to read as follows:

§ 1942.2 Processing applications.

(a) * * *

(1) * * * The District Director will assist applicants as needed in completing SF 424.2, and in filing written notice of intent and priority recommendation with the appropriate clearinghouse. * * *

* * * * *

Subpart C—Fire and Rescue Loans

4. Section 1942.106 is amended in paragraph (a) by removing the words "subpart H of part 1901 and" and in

paragraph (b) by removing the words "A–95 and".

Dated: November 29, 1995.

Jill Long Thompson,

Under Secretary for Rural Economic and Community Development.

Dated: January 11, 1996.

Eugene Moos,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 96–3221 Filed 2–16–96; 8:45 am]

BILLING CODE 3410–07–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 17

Reports by Futures Commission Merchants, Members of Contract Markets, and Foreign Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is amending rule 17.01 and modifying the form 102 required to be filed by clearing members, futures commission merchants (FCMs), and foreign brokers. This form identifies persons having financial interest in, or control of, special accounts in futures and options. The amendments being adopted clarify the information required on the form 102 for various kinds of special accounts reported to the Commission. The Commission is also amending rule 17.02 concerning the time in which a completed form 102 must be filed. The rule requires that firms provide certain specified identification information upon request by the Commission or its designee on the day when a special account is first reported, and that a completed form 102 be filed with the Commission within three business days.

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Supervisory Statistician, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–5310.

SUPPLEMENTARY INFORMATION:

I. Background

A. Large Trader Reporting System

Part 17 of the Commission's regulations requires that FCMs, clearing members, and foreign brokers (firms) submit a daily report to the Commission with respect to futures positions in all special accounts on their books.[1] Information required to be provided to the Commission includes quantities of reportable futures positions, exchanges of futures for cash, and delivery notices issued or stopped by each special account.[2] For reporting purposes, futures positions in all accounts controlled by the same person and those in which a person has a ten percent or more financial interest must be combined and treated as if they are held in a single account. The firm assigns a reporting number to the special account and reports all information to the Commission using this number.[3]

In addition to the reporting number and the position and transaction information mentioned above, the firm must file a CFTC form 102 showing the information specified under § 17.01 of the regulations for each special account.[4] This information identifies persons who have a financial interest in or trading control of a special account, informs the Commission of the type of account that is being reported, and gives preliminary information whether positions and transactions are commercial or noncommercial in nature. The form must be filed when the account first becomes reportable, and updated when information concerning financial interest in, or control of, the special account changes.[5] In addition to its use by the Commission, the form 102 is used by the exchanges to identify accounts reported through their large trader reporting systems for both futures and options.[6]

B. Proposed Rulemaking

In June 1995 the Commission published in the **Federal Register** a proposal to change its form 102 and §§ 17.01 and 17.02 of its regulations to resolve some of the ambiguities in the present form, making it more useful to both the exchanges and the Commission (60 FR 31653 June 16, 1995). The Commission also requested comment on a proposal set forth by the Chicago Mercantile Exchange (CME) to obtain information on the form 102 in machine-readable form.

The Futures Industry Association (FIA), two exchanges, and two FCMs commented on the Commission's proposal. All commentors supported Commission efforts to clarify information requested on its form 102 and supported the initiative of the CME to obtain data in machine-readable form. Some commentors took issue with certain of the new requirements, asking that they be eliminated or modified. These comments are discussed in detail below.[7] Commission staff will continue to explore the feasibility of obtaining information on the form 102 electronically, both with the FIA and the exchanges.

II. Comments on Proposed Rule Changes

A. Special Account Identifying Information

The proposed form requires that firms provide registration information if the person reported is registered as a commodity trading advisor (CTA) or securities investment advisor (SIA). The FIA opined that the responsibility for monitoring compliance with persons' registration status rested with the National Futures Association (NFA) and the Securities and Exchange Commission (SEC). In view of this, they recommended that this requirement be eliminated.

The Commission currently collects information concerning persons' registration status through means other than the form 102.[8] The request for firms to provide registration information on the form 102 comes principally from the exchanges. As explained in the notice of proposed rulemaking, the rules of some exchanges require that they obtain this information for enforcement purposes. The exchanges, however, collect information only from their members, not from their members' customers. The exchanges, therefore, rely solely on the form 102 for routine information concerning futures trading participants. Although the exchanges could design their own account identification forms to collect this information, a proliferation of such forms would be burdensome for the industry. Adding the requirement that this information be included on the form 102 will result in an overall reduction in paperwork and a savings for all parties involved. Moreover, if the firms provide this information to the Commission, it will be more timely and complete. In view of the above, the Commission is adopting this requirement as proposed.

The FIA also sought clarification concerning identifying information that must be provided in four different circumstances. The Commission announced in its notice of proposed rulemaking that Commission staff, after consulting with the exchanges, would provide written advisories on reporting issues raised by firms. The Commission believes that the questions raised by FIA are in this category and has asked that the Division of Economic Analysis respond to these issues.

B. Reporting Controlled Accounts

When identifying special accounts controlled by independent account controllers, the Commission proposed that firms provide the following information:

1. For publicly-offered managed or guided account programs in which ten or more accounts participate, the name and account number used for the program and, in addition, for commodity pools that participate in the program, the name and address of the commodity pool operator; and

2. For each controlled account not included in 1 above, the account number and the names and addresses of persons having a ten percent or more financial interest in the account.

As explained in the **Federal Register** release, amendments to rule 17.01 were made in June of 1993 to limit the information provided about controlled accounts (58 FR 33329 June 17, 1993).[9]

The FIA and the exchanges questioned the need for firms to provide a name for each customer trading program. The FIA noted that, since no definition or purpose is provided on the form itself for program name, firms are likely to provide the wrong information. The Commission agrees and has changed its form 102 accordingly. Rather than asking for program names, firms will only indicate whether a person controls ten or more accounts. Further instructions for reporting will be based on the answer to this question.

The FIA was also concerned that providing the proposed additional information for controlled accounts would often pose an administrative burden on the reporting firms. Except for requiring account numbers, the proposed requirements are the same as current requirements in regulation 17.01(b)(6). The Commission believes this information is important for properly combining accounts for the same traders and will adopt these amendments as proposed. The proposed amendments also provide that the required information be updated whenever it changes. The Commission is amending its proposal so that updates to the information required by these rules must be provided only on call by the Commission or its designee. The Commission believes this will alleviate much of the administrative burden imposed by these requirements.

C. Two-Part Filing Requirements

The Commission proposed that certain identification information be provided to the Commission on the first day that an account is reported to the Commission, and that a completed form be provided within three business days of that date. The FIA was concerned that the two-part filing requirement would not be beneficial to the industry and may impose additional administrative burdens upon operations' personnel. The FIA proposed that firms provide the identifying information by facsimile or telephone on the first day that a special account is reported only in response to a request by the Commission or its designee. In a majority of cases, Commission staff currently request form 102s when accounts are first reported. In view of this, the Commission is amending its proposal as recommended by the FIA. The Commission emphasizes however, that these amendments in no way alleviate the responsibility of firms to appropriately combine and report accounts. Accounts that are not combined to determine reporting status and for reporting may lead to a loss of important surveillance information.[10]

Two exchanges commenting on the Commission's proposal also expressed some concern about the two-part filing requirement. Under Commission regulations, firms report large trader option positions only to the exchanges which in turn report them to the Commission (17 CFR 16.02). Firms identify reportable option accounts on the form 102 and provide these to the exchanges. These also are provided to the Commission by the exchanges. The exchanges expressed concern that the two-part requirement would affect the current turnover period allowed the exchanges. Both exchanges suggested that, if it were necessary to obtain option account identification quickly, the Commission do so independently through the reporting firms. One exchange suggested that the Commission receive both the position information and form 102s for option traders directly from reporting firms to reduce duplication of effort and avoid delays.

In light of the final rule, which permits filing of the form 102 in three days unless called for by the Commission, the turnover time for the exchanges will be unaffected. Moreover, calls for information will go directly to the reporting firms as the exchanges suggested.

D. Clarification of Required Information

The FIA requested clarification concerning the distinction the Commission made, if any, between an individual and sole proprietorship, since both terms were used on the form. The Commission recognizes that there may be little, if any, distinction between the terms. At times, however, accounts have been reported in the name of a business organized as a sole proprietorship. This term has been included on the form only to prevent confusion when firms specify the organization of the trader being reported.[11]

The FIA also asked whether the omnibus clearing status of a United States or offshore bank trading for customers was discernible from the information requested on the form. The regulations require that firms determine if an account they carry is a house or customer omnibus account. The Commission relies on reporting firms to

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[1] Special account means any commodity futures or option account in which there is a reportable position, 17 CFR 15.00 (1994). Firms report futures information to the Commission and option information to the exchanges.

[2] A reportable position is any open position held or controlled by a trader at the close of business in any one futures contract of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the Commission in § 15.03 of the regulations, 17 CFR 15.03 (1994).

[3] The firm's reporting number may be the account number carried on its books. However, as noted above, the number may refer to a collection of accounts that are owned and/or controlled by the same person.

[4] 17 CFR 17.01 (1994).

[5] 17 CFR 17.02 (1994).

[6] Part 17 of the regulations requires that firms identify large traders in options on the form 102 and transmit the form to the appropriate exchange in accordance with their rules. Those exchanges that maintain a futures large trader reporting system also use the CFTC form 102 for identifying futures large traders.

[7] The Commission also proposed to amend rule 17.01 to require that option and futures accounts be reported using the same designator, which may be any string of alphanumeric characters up to the maximum number permitted. Commentors supported this proposal, since using the same designator for both types of accounts for the same persons reduces the number of form 102s that firms must file and that the Commission must process. In view of this, the Commission is adopting this rule as proposed.

[8] This is generally through the form 40 filed by reportable traders and through the NFA (17 CFR § 18.04, 1994).

[9] Previous to these amendments, firms were required to identify the beneficial owners of all controlled accounts even though, in general, accounts that were a part of customer trading programs were held by small traders whose identity for surveillance purposes was not needed on a routine basis.

[10] The Commission also proposed amendments to rule 17.02 concerning the submission of position and transaction information in hard-copy form. The Commission proposed that this information be supplied by facsimile or in accordance with instructions by the Commission or its designee. Since no comments were received concerning this requirement, the Commission is adopting this amendment as proposed.

[11] If the owner of a sole proprietorship trades an account in the name of the business and separately an individual account, the accounts should be aggregated and can be reported either in the name of the individual or the business.

obtain accurate information concerning the omnibus clearing status for accounts in whatever manner is necessary. This may require that firms obtain information not included on the form.

E. Effective Date

One exchange has asked for a substantial period of time between publication of the final rules in the **Federal Register** and the effective date of the amendments in order to change computer software that captures information on the form. A delayed effective date may also assist firms in implementing use of the new forms. Accordingly, the Commission has determined that the effective date of these amendments be six months after they are published in the **Federal Register**. However, the Commission can process the new forms immediately. Therefore, if at any time prior to the effective date exchanges request that the new form be used by firms reporting to them, the firms may also use the new form to identify accounts to the Commission.

III. Other Related Matters

A. The Regulatory Flexibility Act (RFA)

The RFA requires that agencies consider the impact of substantive rules on small businesses. These amendments affect large traders, FCMs, commodity pools, CTAs and other similar entities, such as foreign brokers and foreign traders. The Commission has defined "small entities" in evaluating the impact of its rule in accordance with the RFA, 47 FR 18618–18621 (April 30, 1982).

In that statement, the Commission concluded that large traders and FCMs are not considered to be small entities for purposes of the RFA. In this regard, the amendments to reporting requirements relating to the form 102 fall mainly upon FCMs. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable positions, *i.e.*, large positions. Thus, pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certified in its proposal for rulemaking that these proposed rules would not have a significant economic impact on a substantial number of small entities. The Commission however, invited comments from any firm which believed that these rules would have a significant economic impact upon its operation. No comments were received.

B. Paperwork Reduction Act (PRA)

The PRA of 1980, 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has submitted these rules and their associated information-collection requirements to the Office of Management and Budget (OMB). OMB approved the requirements associated with this rule on September 14, 1995.

The burden associated with the entire collection, including this rule, is as follows:

Average Burden Hours Per Response—.1587 hour.

Number of Respondents—3709.

Frequency of Response—Daily.

The burden associated with this specific proposed rule, is as follows:

Average Burden Hours Per Response—0.2 hour.

Number of Respondents—6,592.

Frequency of Response—On occasion.

Copies of the OMB-approved information-collection requirements may be obtained from Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 17

Brokers, Commodity Futures, Reporting and Recordkeeping Requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5, and 8a of the Act, 7 U.S.C. 6g, 6i, 7, and 12a (1994), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

1. The authority citation for part 17 continues to read as follows:

Authority: 7 U.S.C. 6a, 6d, 6f, 6g, 6i, 7, and 12a.

2. Section 17.01 is revised to read as follows:

§ 17.01 Special account designation and identification.

When a special account is reported for the first time, the FCM, clearing member, or foreign broker shall identify the account to the Commission or to the contract market on form 102 showing the information in paragraphs (a) through (f) of this section.

(a) Special account designator. A unique identifier for the account. *Provided*, that the same designator is assigned for option and futures reporting, and the identifier is not changed or assigned to another account without prior approval of the Commission or its designee.

(b) Special account identification. The name, address, business phone, and for individuals, the person's job title and employer for the following:

(1) The person originating the account, if the special account is a house omnibus or customer omnibus account; or

(2) The person (*i.e.*, individual, corporation, partnership, etc.) who owns the special account, if such person (or an employee or officer) also controls the trading of the special account. And, in addition:

(i) The registration status of the person as a commodity trading advisor or a securities investment advisor;

(ii) the legal organization of the person and the person's principal business or occupation;

(iii) account numbers and account names included in the special account, if different than supplied in paragraph (b)(2) of this section;

(iv) the name and location of all persons not identified in paragraph (b)(2) of this section having a ten percent or more financial interest in the special account, indicating those having discretionary trading over the account; and

(v) for special accounts with five or fewer persons having trading authority, the names and locations of all persons with trading authority that have not been identified in paragraphs (b)(2) or (b)(2)(iv) of this section; or

(3) the account controller, if trading of the special account is controlled by a person or legal entity who is an independent account controller for the account owners as defined in § 150.1(e). And, in addition:

(i) the registration status of the person as a commodity trading advisor or a securities investment advisor;

(ii) if ten or more accounts are controlled by the independent advisor, the account number and the name of each commodity pool that is controlled by the advisor and the name and location of the commodity pool operator;

(iii) if fewer than ten accounts are under control of the independent advisor, for each account the account number and the name and location of each person having a ten percent or more financial interest in the account. For commodity pools, provide the account number, name of the pool, and name and location of the commodity pool operator; and

(iv) on call by the Commission or its designee, for each account controlled by the independent advisor, the account number and account name and the name and location of each person having a ten percent or more financial interest in the account.

(c) Other accounts. If the person identified in paragraphs (b)(1), (b)(2) or (b)(3) of this section either controls or has a financial interest of ten percent or more in an account *not* included in this special account, report the account number and the name of the account.

(d) Commercial use. For futures or options, commodities in which positions or transactions in the account are associated with a commercial activity of the account owner in a related cash commodity or activity (*i.e.*, those considered as hedging, risk-reducing, or otherwise off-setting with respect to the cash commodity or activity).

(e) Account executive. The name and business telephone number of the associated person of the FCM who has solicited and is responsible for the account or, in the case of an introduced account, the name and business telephone number of the introducing broker who introduced the account.

(f) Reporting firm. The name and address of the FCM clearing member, or foreign broker carrying the account, the signature, title, and business phone of the authorized representative of the firm filing the report, and the date of signing the form 102.

(g) Form 102 updates. If, at the time an account is in special account status and a form 102 filed by an FCM, clearing member, or foreign broker is then no longer accurate because there has been a change in the information required under paragraph (b) of this section since the previous filing, the FCM, clearing member, or foreign broker shall file an updated form 102 with the Commission or the contract market, as appropriate, within three business days after such change occurs.

3. Section 17.02 is amended by revising the introductory text and paragraph (b), and adding a new paragraph (c) to read as follows:

§ 17.02 Place and time of filing reports.

Unless otherwise instructed by the Commission or its designee, the reports required to be filed by FCMs, clearing members, and foreign brokers under §§ 17.00 and 17.01 shall be filed at the nearest appropriate Commission office as specified in paragraphs (a), (b), and (c) of this section, wherein the times stated are eastern times for information concerning markets located in that time zone, and central time for information concerning all other markets.

(a) * * *

(b) For data submitted in hard-copy form pursuant to §§ 17.00 (a), or (h) at a Commission office by facsimile or as otherwise specified in accordance with instructions by the Commission or its designee. Data in hard-copy form required under § 17.00(a) shall be submitted no later than 9 a.m. on the business day following that to which the information pertains.

(c) For data submitted pursuant to § 17.01 on the form 102;

(1) on call by the Commission or its designee, the type of special account specified in 1(a), 1(b), or 1(c) of form 102, and the name and location of the person to be identified in 1(d) on the form 102 by facsimile or telephone on the same day that the special account in question is first reported to the Commission; and

(2) a completed form 102 within three business days of the first day that the special account in question is reported to the Commission.

Note: The following form will not appear in the Code of Federal Regulations.

Issued in Washington, DC, February 12th, 1996, by the Commission.

Jean A. Webb,

Secretary of the Commission.

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION
Identification of "Special Accounts"

OMB No. 3038-0009

CFTC Form 102 (Revised 01/96)

For Administrative Use Only	
Trader Code:	Firm Code:

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13 or 18 U.S.C. Sec. 1001.

INSTRUCTIONS TO FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, AND FOREIGN BROKERS

Assign a reporting number to each special account when it is reportable for the first time in futures or options. If an account has been assigned a number for reporting in futures (options), use the same number for reporting options (futures). Such reporting number must not be changed or assigned to any other special account without prior approval of the Commodity Futures Trading Commission. For a futures account, transmit the form to the Commission. For an option account, transmit the form to the appropriate contract market in accordance with their instructions.

PLEASE TYPE OR PRINT

1. Check one of (a), (b) or (c) for the special account and give identifying information as directed below:

(a) ☐ House omnibus or ☐ Customer omnibus account of an FCM, clearing member, or foreign broker. Report the information in (d) below for that firm. In addition, complete items 6-12.

(b) ☐ Account(s) owned and controlled by the same person or legal entity, such as a corporation or partnership (or controlled by an employee or officer of the entity). Report the information in (d) below for the person or other legal entity who owns and controls the accounts. In addition, complete items 2 and 4-12.

(c) ☐ Accounts controlled by an advisor or legal entity who is independent of the account owners. Report the information in (d) below for the advisor or legal entity controlling the special account. In addition, complete items 3 through 12.

(d) Name: _____ Reporting Number: _____
If individual, Last, First, Middle Initial

Street: _____ Business Phone: _____

City: _____ State/Country: _____ Zip/Postal Code: _____

If individual, Employer : _____ Job Title: _____

If (b) or (c) is checked, is the above-identified person or legal entity registered as a:

commodity trading advisor ☐ Yes ☐ No

securities investment advisor ☐ Yes ☐ No

If this special account is reported in the name of a business, such as a corporation, give the name of an officer or employee to contact:

Name: _____ Job Title: _____
Last, First, Middle Initial

2. If item 1(b) is checked, complete the following:

(a) Check as many as apply to the legal entity identified in 1(d) above:

☐ Individual ☐ Trust ☐ Partnership ☐ Joint

☐ Sole Proprietorship ☐ Corporation ☐ Other (Specify) _____

(b) Principal Business or Occupation: _____

(Continued on Reverse Side)

(c) Report on an attachment all account numbers and account names included in this special account if different than identified in 1(d) above.

(d) Report all persons or entities not identified in 1(d) above who have a 10% or more financial interest in this special account, including limited partners, indicating with an asterisk those having discretionary trading authority with respect to this account . If none, write "none". Use a continuation sheet, if necessary.

Name: _____
Last, First, Middle Initial

Location: _____
City and State or Country

(e) Report all persons other than those above who control the trading of accounts included in the special account. Use a continuation sheet, if necessary. If there are more than five such persons, show "multiple controllers" in the space below.

Name: _____
Last, First, Middle Initial

Location: _____
City and State or Country

3. Controlled Accounts. If you checked item 1(c), complete (a) or (b) below.

(a) If ten or more accounts are controlled by the advisor, provide on an attachment the account number and name of each pool controlled by the advisor, and the name and location of the CPO.

(b) If fewer than ten accounts are controlled by the advisor, provide on an attachment for each account the account number and names and locations of persons having a ten percent or more financial interest in the account. For commodity pools, provide the account number, name of the pool, and name and location of the CPO.

4. If the person or entity identified in 1(d) has trading authority over, or a 10% or more financial interest in, accounts not included in the special account, complete the information below for each such account. If none, write "none". Use a continuation sheet if necessary. Check "F" for financial interest and "C" for control.

Name: _____ Account Number: _____ ☐ F ☐ C

Name: _____ Account Number: _____ ☐ F ☐ C

5. Are trades and positions in this special account usually associated with commercial activity of the account owner in related cash commodities (i.e., positions considered as hedging in futures or options)? ☐ Yes ☐ No

If "yes," list those specific futures or option markets in which the trader hedges. Use a continuation sheet if necessary.

_____ _____ _____ _____ _____

6. Name, location and business phone number of the account executive handling the account. (If account executive is in a foreign country, list country and city.)

Name: _____ Business Phone: _____
Last, First, Middle Initial

Location: _____
City and State or Country

7. Firm Name and Address:	8. Name (Print):	
	9. Title:	
	10. Business Phone:	11. Date:
	12. Signature:	

[FR Doc. 96–3568 Filed 2–16–96; 8:45 am]
BILLING CODE 8351–01–C

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 113–96]

Exemption of Records System Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice, Bureau of Prisons (BOP), is exempting a Privacy Act system of records from subsections (c)(3) and (4), (d), (e)(2), and (3), (e)(5) and (e)(8), (f), and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is the BOP "Telephone Activity Record System (JUSTICE/BOP–011)." Information in this system relates to inmate telephone activity and may include information relating to official Federal investigations and matters of law enforcement of the BOP pursuant to 18 U.S.C. 2510 et. seq., 3621, 4003, 4042, and 4082. The exemptions are necessary to protect third party privacy and to avoid interference with law enforcement activities, e.g., to preclude the disclosure of investigative techniques, to prevent subjects of investigations from frustrating the investigative process, and to more effectively ensure the safety, security and good order of Federal correctional facilities.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely (202–616–0178).

SUPPLEMENTARY INFORMATION: On April 21, 1995 (60 FR 19871), a proposed rule was published in the **Federal Register** with invitation to comment by May 22, 1995. On May 26, 1995 (60 FR 27933), BOP extended the comment period to June 26, 1995. BOP informally provided a further extension of the comment period to the record subjects until July 26, 1995.

One comment was received from a record subject (an inmate) who contended that the proposed exemption would violate privacy rights of the record subjects. Although the basis for this contention is not clear, it appears to be based upon the commenter's belief that the exemptions are unnecessary since "conversations are monitored now and obviously this would deter anyone in his right mind from conducting criminal activities over the phone while incarcerated." However, while the monitoring of inmate telephone calls is successful in deterring many inmates from using BOP telephones to conduct criminal activities or violate BOP regulations, it nevertheless does not deter all inmates or all cases. Therefore, these exemptions are essential for the reasons stated in this final rule.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedure, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by the Attorney General Order No. 793–78, 28 CFR part 16 is amended as set forth below.

Dated: February 7, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

PART 16—[AMENDED]

The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g) and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717 and 9701.

2. 28 CFR 16.97 is amended by adding and reserving paragraph (d) and by adding paragraphs (e) and (f) to read as follows:

§ 16.97 Exemption of Federal Bureau of Prisons (BOP) Systems—limited access.

* * * * *

(d) [Reserved]

(e) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (2) and (3), (e)(5) and (e)(8), (f) and (g):

Telephone Activity Record System (JUSTICE/BOP–011).

(f) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and/or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) to the extent that this system of records is exempt from subsection (d), and for such reasons as those cited for subsection (d) in paragraph (f)(3) below.

(2) From subsection (c)(4) to the extent that exemption from subsection (d) makes this exemption inapplicable.

(3) From the access provisions of subsection (d) because exemption from this subsection is essential to prevent access of information by record subjects that may invade third party privacy; frustrate the investigative process; jeopardize the legitimate correctional interests of safety, security, and good order to prison facilities; or otherwise compromise, impede, or interfere with BOP or other law enforcement agency activities.

(4) From the amendment provisions from subsection (d) because amendment of the records may interfere with law enforcement operations and would impose an impossible administrative burden by requiring that, in addition to efforts to ensure accuracy so as to withstand possible judicial scrutiny, it would require that law enforcement information be continuously reexamined, even where the information may have been collected from the record subject. Also, some of these records come from other Federal criminal justice agencies or State, local and foreign jurisdictions, or from Federal and State probation and judicial offices, and it is administratively impossible to ensure that the records comply with this provision.

(5) From subsection (e)(2) because the nature of criminal and other investigative activities is such that vital information about an individual can be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely solely upon information furnished by the individual concerning his/her own activities since it may result in inaccurate information.

(6) From subsection (e)(3) because in view of BOP's operational responsibilities, application of this provision to the collection of information is inappropriate. Application of this provision could provide the subject with substantial information which may in fact impede the information gathering process or compromise an investigation.

(7) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Material which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance at a later date or as an investigation progresses. Also, some of these records may come from other Federal, State, local and foreign law enforcement agencies, and from Federal and State probation and judicial offices and it is administratively impossible to ensure that the records comply with this provision. It would also require that law enforcement information be continuously reexamined even where the information may have been collected from the record subject.

(8) From subsection (e)(8) because the nature of BOP law enforcement activities renders impractical the notice of compliance with compulsory legal process. This requirement could present a serious impediment to law enforcement such as revealing investigative techniques or the existence of confidential investigations, jeopardize the security of third parties, or otherwise compromise law enforcement efforts.

(11) From subsections (f) and (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

[FR Doc. 96–3681 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–05–M

28 CFR Part 16

[AAG/A Order No. 114–96]

Exemption of Records System Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is exempting a Privacy Act system of records from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(5) and (e)(8), and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is the "Bureau of Prisons, Office of Internal Affairs Investigative Records, Justice/BOP–012." Information in this system relates to official Federal investigations and law enforcement matters of the Office of Internal Affairs (OIA) of the Federal Bureau of Prisons (BOP), pursuant to the Inspector General Act of 1978, 5 U.S.C. App., as amended by the Inspector General Act amendments of 1988. The exemptions are necessary to avoid interference with the law enforcement functions of the BOP. Specifically, the exemptions are necessary to prevent subjects of investigations from frustrating the investigatory process; to preclude the disclosure of investigative techniques; to protect the identities and physical safety of confidential informants and of law enforcement personnel; to ensure OIA's ability to obtain information from information sources; to protect the privacy of third parties; and to safeguard classified information as required by Executive Order 12356.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely, 202–616–0178.

SUPPLEMENTARY INFORMATION: On August 29, 1995 (60 FR 44901), a proposed rule with invitation to comment was published in the **Federal Register.**

One late comment was received in which the individual was under the erroneous impression that the exemption of a Privacy Act system of records is promulgated to protect the record from disclosure to third parties. Subsection (b) of the Privacy Act already prohibits disclosure to third parties, except as otherwise expressly authorized by that subsection. As permitted by subsections (j) and (k) of the Privacy Act, the proposed rule was promulgated to permit BOP, where necessary and appropriate, to exempt itself from certain of the Act's provisions as they apply to the record subject. The exemptions are essential for the reasons stated in this final rule.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, 28 CFR part 16 is amended as set forth below.

Dated: February 7, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

PART 16—[AMENDED]

1. The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. 28 CFR 16.97 is amended by adding paragraphs (g) and (h) to read as follows:

§ 16.97 Exemption of the Federal Bureau of Prisons (BOP) Systems-limited access.

* * * * *

(g) The following system of records is exempt pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(5) and (e)(8), and (g) of 5 U.S.C. 552a. In addition, the following system of records is exempt pursuant to the provisions of 5 U.S.C. 552a (k)(1) and (k)(2) from subsections (c)(3), (d), and (e)(1) of 5 U.S.C. 552a:

Bureau of Prisons, Office of Internal Affairs Investigative Records, JUSTICE/BOP–012

(h) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1), and (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g., public source materials, the applicable exemption may be waived, either partially or totally, by the Office of Internal Affairs (OIA). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of disclosure accounting could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and the fact that they are subjects of the investigation, and reveal investigative interest by not only the OIA but also by the recipient agency. Since release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, release could result in activities that would impede or compromise law enforcement such as: the destruction of documentary evidence; improper influencing of witnesses; endangerment of the physical safety of confidential sources, witnesses, and law enforcement personnel; fabrication of testimony; and flight of the subject from the area. In addition, release of disclosure accounting could result in the release of properly classified information which could compromise the national defense or disrupt foreign policy.

(2) From subsection (c)(4) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(3) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could provide the subject of an investigation with information concerning law enforcement activities such as that relating to an actual or potential criminal, civil or regulatory violation; the existence of an investigation; the

nature and scope of the information and evidence obtained as to his activities; the identity of confidential sources, witnesses, and law enforcement personnel; and information that may enable the subject to avoid detection or apprehension. Such disclosure would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation; endanger the physical safety of confidential sources, witnesses, and law enforcement personnel; and/or lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, granting access to such information could disclose security-sensitive or confidential business information or information that would constitute an unwarranted invasion of the personal privacy of third parties. Finally, access to the records could result in the release of properly classified information which could compromise the national defense or disrupt foreign policy. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(4) From subsection (e)(1) because the application of this provision could impair investigations and interfere with the law enforcement responsibilities of the OIA for the following reasons:

(i) It is not possible to detect relevance or necessity of specific information in the early stages of a civil, criminal or other law enforcement investigation, case, or matter, including investigations in which use is made of properly classified information. Relevance and necessity are questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

(ii) During the course of any investigation, the OIA may obtain information concerning actual or potential violations of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the OIA should retain this information as it may aid in establishing patterns of criminal activity, and can provide valuable leads for Federal and other law enforcement agencies.

(iii) In interviewing individuals or obtaining other forms of evidence during an investigation, information may be supplied to an investigator which relates to matters incidental to the primary purpose of the investigation but which may relate also to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) From subsection (e)(2) because, in some instances, the application of this provision would present a serious impediment to law enforcement for the following reasons:

(i) The subject of an investigation would be placed on notice as to the existence of an investigation and would therefore be able to avoid detection or apprehension, to improperly influence witnesses, to destroy evidence, or to fabricate testimony.

(ii) In certain circumstances the subject of an investigation cannot be required to provide information to investigators, and information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct must be obtained from other sources.

(iii) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

(6) From subsection (e)(3) because the application of this provision would provide the subject of an investigation with substantial information which could impede or compromise the investigation. Providing such notice to a subject of an investigation could interfere with an undercover investigation by revealing its existence, and could endanger the physical safety of confidential sources, witnesses, and investigators by revealing their identities.

(7) From subsection (e)(5) because the application of this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment it is collected. In the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Material which may seem unrelated, irrelevant, or incomplete when collected may take on added meaning or significance as an investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigation report, and thereby impede effective law enforcement.

(8) From subsection (e)(8) because the application of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation, and could reveal investigation techniques, procedures, and/or evidence.

(9) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d) pursuant to subsections (j)(2), (k)(1), and (k)(2) of the Privacy Act.

[FR Doc. 96–3680 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–05–M

28 CFR Part 16

[AAG/A Order No. 115–96]

Exemption of Records System Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice, Bureau of Prisons (BOP), is exempting a Privacy Act system of records from the following subsections of the Privacy Act: (c)(3) and (4), (d), (e) (1), (2) and (3), (e)(5) and (e)(8), and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is the "Access Control Entry/ Exit System (JUSTICE/BOP–010)."

The exemptions are necessary to preclude the compromise of institution security, to ensure the safety of inmates, Bureau personnel and the public, to protect third party privacy, to protect law enforcement and investigatory information, and/or to otherwise ensure the effective performance of the Bureau's law enforcement functions.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely (202) 616–0178.

SUPPLEMENTARY INFORMATION: On October 4, 1995 (60 FR 51962), a proposed rule with invitation to comment was published in the **Federal Register**. No comments were received.

This Order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, this order will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedure, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, 28 CFR part 16 is amended as set forth below.

Dated: February 7, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

PART 16—[AMENDED]

1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g) and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717 and 9701.

2. 28 CFR 16.97 is amended by redesignating paragraph (c) as paragraph (i), by revising the first sentence of newly-redesignated paragraph (i), and by adding paragraphs (c) and (d) to read as follows:

§ 16.97 Exemption of Federal Bureau of Prisons (BOP) Systems—limited access.

* * * * *

(c) The following system of records is exempted pursuant to 5 U.S.C. 552a(j)(2) from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(5) and (e)(8), and (g). In addition, the following system of records is exempted pursuant to 5 U.S.C. 552a(k)(2) from subsections (c)(3), (d), and (e)(1):

Bureau of Prisons Access Control Entry/Exit, (JUSTICE/BOP–010).

(d) These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, e.g. public source materials, or those supplied by third parties, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) for similar reasons as those enumerated in paragraph (3).

(2) From subsection (c)(4) to the extent that exemption from subsection (d) will make notification of corrections or notations of disputes inapplicable.

(3) From the access provisions of subsection (d) to the extent that exemption from this subsection may appear to be necessary to prevent access by record subjects to information that may jeopardize the legitimate correctional interests of safety, security, and good order of Bureau of Prisons facilities; to protect the privacy of third parties; and to protect access to relevant information received from third parties, such as other Federal State, local and foreign law enforcement agencies, Federal and State probation and judicial offices, the disclosure of which may permit a record subject to evade apprehension, prosecution, etc.; and/or to otherwise protect investigatory or law enforcement information, whether received from other third parties, or whether developed internally by the BOP.

(4) From the amendment provisions of subsection (d) because amendment of the records would interfere with law enforcement operations and impose an impossible administrative burden. In addition to efforts to ensure accuracy so as to withstand possible judicial scrutiny, it would require that law enforcement and investigatory information be continuously reexamined, even where the information may have been collected from the record subject. Also, where records are provided by other Federal criminal justice agencies or other State, local and foreign jurisdictions, it may be administratively impossible to ensure compliance with this provision.

(5) From subsection (e)(1) to the extent that the BOP may collect information that may be relevant to the law enforcement operations of other agencies. In the interests of overall, effective law enforcement, such information should be retained and made available to those agencies with relevant responsibilities.

(6) From subsection (e)(2) because primary collection of information directly from the record subject is often highly impractical, inappropriate and could result in inaccurate information.

(7) From subsection (e)(3) because compliance with this subsection may impede the collection of information that may be valuable to law enforcement interests.

(8) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Data which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance as an investigation progresses or with the passage of time, and could be relevant to future law enforcement decisions.

(9) From subsection (e)(8) because the nature of BOP law enforcement activities renders notice of compliance with compulsory legal process impractical and could seriously jeopardize institution security and personal safety and/or impede overall law enforcement efforts.

(10) From subsection (g) to the extent that the system is exempted from subsection (d).

* * * * *

(i) Consistent with the legislative purpose of the Privacy Act of 1974 (Pub. L. 93–579) the BOP has initiated a procedure whereby federal inmates in custody may gain access and review their individual prison files maintained at the institution of incarceration. * * *

[FR Doc. 96–3679 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL–5345–3]

Underground Storage Tank Program: Approved State Program for Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under Sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions. This rule codifies in 40 CFR part 282 the prior approval of Rhode Island's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective April 22, 1996, unless EPA publishes a prior **Federal Register** notice withdrawing this immediate final rule. All comments on the codification of Rhode Island's underground storage tank program must be received by the close of business March 21, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of April 22, 1996, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST 5–2), Underground Storage Tank Program, HPU–CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203–

2211. Comments received by EPA may be inspected in the public docket, located in the Waste Management Division Record Center, 90 Canal St., Boston, MA 02203 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Stuart F. Gray, Underground Storage Tank Program, HPU–CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203–2211. Phone: (617) 573–9655.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a **Federal Register** document announcing its decision to grant approval to Rhode Island. (57 FR 220, November 13, 1992). Approval was effective on February 10, 1993.

EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Rhode Island underground storage tank program. This codification reflects only the state underground storage tank program in effect at the time EPA granted Rhode Island approval under section 9004(a), 42 U.S.C. 6991c(a). EPA provided notice and opportunity for comment earlier during the Agency's decision to approve the Rhode Island program. EPA is not now reopening that decision nor requesting comment on it.

Codification provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Rhode Island program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Rhode Island, the status of federally approved requirements of the Rhode Island program will be readily discernible. Only those provisions of the Rhode Island underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Rhode Island's underground storage tank program, EPA has added Section 282.89 to Title 40 of the CFR. § 282.89 incorporates by reference for enforcement purposes the state's statutes and regulations. Section 282.89 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under Subtitle I of RCRA.

The Agency retains the authority under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Rhode Island enforcement authorities will not be incorporated by reference. Forty CFR § 282.89 lists those approved Rhode Island authorities that would fall into this category.

The public also needs to be aware that some provisions of Rhode Island's underground storage tank program are not part of the federally approved state program. These are:

- Registration requirements for farm or residential tanks less than or equal to 1,100 gallons containing motor fuels for non-commercial use;
- Registration requirements for tanks used for storing heating oil for consumptive use on the premises; and
- Permanent closure requirements for tanks containing heating oil consumed on the premises where stored.

These non-approved provisions are not part of the RCRA Subtitle I program, because they are "broader in scope" than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.89 of the codification simply lists for reference and clarity the Rhode Island statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA. The State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (57 FR 220, Nov. 13, 1992) to approve the Rhode Island underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: September 14, 1995.

John P. DeVillars,

Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

2. Subpart B is amended by adding § 282.89 to read as follows:

Subpart B—Approved State Programs

§ 282.89 Rhode Island State-Administered Program.

(a) The State of Rhode Island is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Rhode Island Department of Environmental Management, was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of 40 CFR. EPA approved the Rhode Island program on January 11, 1993, and the approval was effective on February 10, 1993.

(b) Rhode Island has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Rhode Island must revise its approved program to adopt new changes to the federal Subtitle I program which make it more stringent, in accordance with Section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Rhode Island obtains approval for the revised requirements pursuant to Section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) Rhode Island has final approval for the following elements submitted to EPA in Rhode Island's program application for final approval and approved by EPA on January 11, 1995. Copies may be obtained from the Underground Storage Tank Program, Rhode Island Department of Environmental Management, 291 Promenade Street, Providence, RI 02908. The elements are listed as follows:

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Rhode Island Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Rhode Island Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Titles 46, 42, 38, 37, and 23 of the General Laws of Rhode Island, 1956, as amended.

(B) The regulatory provisions include: The State of Rhode Island Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Titles 46, 42, 38, 37, and 23 of the General Laws of Rhode Island, 1956, as amended, insofar as they refer to registration and closure requirements for tanks containing heating oil consumed on the premises where stored; and farm or residential tanks less than or equal to 1,100 gallons containing motor fuels for non-consumptive use.

(B) Rhode Island Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials, Section 8, Facility Registration and Notification, and Section 15, Closure; insofar as they refer to tanks less than or equal to 1,100 gallons containing motor fuels for non-commercial use and for tanks containing heating oil consumed on the premises where stored.

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval and appendixes" signed by the Attorney General of Rhode Island on July 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Rhode Island to EPA July 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application in July 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application in July 1992, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* On October 19, 1992, EPA and the Rhode Island Department of Environmental Management signed the Memorandum of Agreement. Though not incorporated by reference, the Memorandum of Agreement is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to part 282 is amended by adding in alphabetical order "Rhode Island" and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Rhode Island

(a) The statutory provisions include Rhode Island Statute Title 46 of the General Laws of Rhode Island, 1956, as amended:

Chapter 12 Water Pollution
Chapter 12.1 Underground Storage Tanks
Chapter 12.3 The Environmental Injury Compensation Act
Chapter 12.5 Oil Pollution Control
Chapter 13.1 Groundwater Protection
Chapter 14 Contamination of Drinking Water

(b) The statutory provisions include Title 42 of the General Laws of Rhode Island, 1956, as amended.

Chapter 35 Administrative Procedures

(c) The statutory provisions include Title 38 of the General Laws of Rhode Island, 1956, as amended.

Chapter 2 Access to Public Records

(d) The statutory provisions include Title 37 of the General Laws of Rhode Island, 1956, as amended.

Chapter 18 Narragansett Indian and Management Corp.

(e) The statutory provisions include Title 23 of the General Laws of Rhode Island, 1956, as amended.

Chapter 19.1 Hazardous Waste Management

(f) The regulatory provisions include State of Rhode Island, Agency of Natural Resources, Underground Storage Tank Regulations, February 1, 1991:

Section 1.00 Purpose
Section 2.00 Authority
Section 3.00 Superseded Rules and Regulations
Section 4.00 Severability
Section 5.00 Applicability
Section 6.00 Administrative Findings
Section 7.00 Definitions
Section 8.00 Facility Registration and Notification
Section 9.00 Financial Responsibility
Section 10.00 Minimum Existing Facility Requirements
Section 11.00 New Facility and Replacement Tank Requirements
Section 12.00 Facility Modification
Section 13.00 Maintaining Records
Section 14.00 Leak and Spill Response
Section 15.00 Closure
Section 16.00 Leak Detection Methods and Precision Tester Licensing Requirements

Section 17.00 Signatories to Registration and Closure Applications
Section 18.00 Transfer of Certificates of Registration or Closure
Section 19.00 USTs/Holding Tanks Serving Floor Drains
Section 20.00 Variances
Section 21.00 Appeals
Section 22.00 Penalties
Appendix A
Appendix B
Appendix C

[FR Doc. 96–3284 Filed 2–16–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 296

[Docket No. 951207292–5292–1; I.D. 102595A]

RIN 0648–AI55

Fishermen's Contingency Fund; Simplification of Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS amends the Fishermen's Contingency Fund (FCF) regulations for purposes of clarification and simplification in accordance with the President's Regulatory Reform Initiative.

EFFECTIVE DATE: February 20, 1996.

ADDRESSES: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles L. Cooper, Program Leader, 301–713–2396.

SUPPLEMENTARY INFORMATION: Title IV of the Outer Continental Shelf Lands Act Amendments (43 U.S.C. 1841 *et seq.*) established the FCF to compensate commercial fishermen for property or economic loss caused by oil and gas activities on the U.S. Outer Continental Shelf. The FCF comprises assessments collected from offshore energy interests.

In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reform Initiative. This initiative is part of the National Performance Review and calls for immediate, comprehensive regulatory reform. The President directed all agencies to undertake an exhaustive review of all their regulations with an emphasis on eliminating or modifying those that are obsolete or otherwise in need of reform. In response to this initiative, FCF regulations were reviewed to determine how they could be reformed. This rule implements the results of that review by making several changes to the FCF regulations. Regulatory provisions that do not facilitate accurate and expeditious adjustment of claims as well as those that impose unnecessary burdens upon claimants have been dropped. Program addresses and phone numbers have been updated. Program procedures have been streamlined by dropping regulatory provisions that stated that the amounts awarded in an initial determination would be disbursed only after the claimant (1) stated in writing that he/she would not appeal the initial determination, (2) signed an agreement to repay any subsequent reduction of the award, and (3) signed an agreement assigning his/her rights against those causing the casualty to NMFS. NMFS will incorporate agreements (2) and (3) into the application, thereby expediting the payment of claims. The claimant's right to appeal the initial determination within 30 days is preserved in the regulations, whether the amount awarded has been disbursed or not.

Classification

Because this rule only simplifies existing regulations without making any substantive changes, no useful purpose would be served by providing prior notice and opportunity for comment on this rule. Accordingly, under 5 U.S.C. 553(b)(B), it is unnecessary to provide such notice and opportunity for comment. Also, because this rule is only administrative in nature and is not a substantive rule it is not subject to the 30-day delay in effective date provision of 5 U.S.C. 533(d). As such, this rule is effective upon publication.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

List of Subjects in 50 CFR Part 296

Claims, Continental shelf, Fisheries, Fishing vessels, Oil and gas exploration, Reporting and recordkeeping requirements.

Dated: February 12, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 296 is amended as follows:

PART 296—FISHERMEN'S CONTINGENCY FUND

1. The authority citation for part 296 continues to read as follows:

Authority: Public Law 97–212 (43 U.S.C. 1841 *et seq.*).

2. Section 296.2 is amended in the definition for "Area affected by Outer Continental Shelf activities" by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; in the definition for "Negligence or fault" by redesignating paragraphs (a) through (e) as paragraphs (1) through (5), respectively; and by revising the definition for "Chief, FSD" to read as follows:

§ 296.2 Definitions.

* * * * *

Chief, FSD means Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; telephone: (301) 713–2396.

* * * * *

§ 296.4 [Amended]

3. In § 296.4, paragraphs (c) and (d) are removed, and paragraph (e) is redesignated as paragraph (c).

4. In § 296.5, paragraph (a)(3) is removed and paragraph (a)(4) is redesignated as paragraph (a)(3); in paragraph (e)(6)(ii) the word "hauled" is removed and the word "deployed" is added in its place; and paragraph (a)(2) is amended by removing the phrase "The fifteen-day report must be made to one of the following NMFS Offices:" and the list that follows it and adding the following sentence in its place:

§ 296.5 Instructions for filing claims.

(a) * * *

(2) * * * The fifteen-day report must be made to the Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; telephone: (301) 713–2396.

* * * * *

§ 296.6 [Amended]

5. In § 296.6, in paragraph (b)(1), the phrase "Convert the casualty coordinates into latitude and longitude," is removed and the word "plot" is capitalized.

6. Section 296.13 is revised to read as follows:

§ 296.13 Payment of award for claim.

(a) Upon an initial determination, the Chief, Financial Services Division, shall immediately disburse the claim awarded if the claimant signed as part of his/her application a statement agreeing to repay all or any part of the award if the award should for any reason be subsequently reduced.

(b) [Reserved]

7. In § 296.14, paragraph (a) introductory text is revised to read as follows:

§ 296.14 Subrogation.

(a) The claim application will contain a subrogation statement signed by the claimant as a condition of payment of the claim which:

* * * * *

[FR Doc. 96–3628 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 021396A]

Groundfish of the Bering Sea and Aleutian Area; Atka Mackerel in the Eastern Aleutian District and the Bering Sea Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Atka mackerel in the Eastern Aleutian District and Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the specification of Atka mackerel in these areas.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 14, 1996, until 12 midnight, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) for the BSAI established 22,695 metric tons (mt) as the initial total allowable catch of Atka mackerel for the Eastern Aleutian District and the Bering Sea subarea.

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Atka mackerel initial total allowable catch in the Eastern Aleutian District and Bering Sea subarea soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 21,695 mt after determining that 1,000 mt will be taken as incidental catch in directed fishing for other species in the Eastern Aleutian District and Bering Sea subarea. NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea to prevent exceeding the directed fishing allowance.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 13, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3626 Filed 2–13–96; 4:27 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 34
Tuesday, February 20, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 316, 335, and 338

RIN 3206–AG19

Promotion and Internal Placement; Accelerated Qualifications

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise the Federal merit promotion program to give agencies greater flexibility to design internal merit selection procedures consistent with merit principles and other applicable laws, to assign employees to other positions appropriate to the appointments, and to utilize intensive training programs for employees to acquire qualifications at an accelerated rate. These changes are consistent with recommendations of the National Performance Review.

DATES: Comments must be submitted on or before April 22, 1996.

ADDRESSES: Send or deliver written comments to Leonard R. Klein, Associate Director of Employment, Office of Personnel Management, Room 6F08, 1900 E Street NW., Washington, DC 20415 (FAX 202–606–2329).

FOR FURTHER INFORMATION CONTACT: Lee Edwards on 202–606–0830, TDD 202–606–0023, or FAX 202–606–2329.

SUPPLEMENTARY INFORMATION: The National Performance Review (NPR) recommended changes in the way the Government operates. Consistent with the NPR recommendations, these proposals would streamline regulations to give agencies more authority to design internal merit selection procedures (merit promotion plans), assign employees to other positions, and utilize intensive training programs for employees to acquire qualifications at an accelerated rate. These proposals would revise the current merit promotion program requirements in 5 CFR part 335 published in the **Federal Register** on December 29, 1994 (59 FR 67121) and effective on January 1, 1995.

Merit Promotion Program

A continuing thread throughout the history of the merit promotion program has been the balancing of merit considerations and uniformity with agency need for flexibility to tailor programs to meet their organizational needs. Up to the 1950's, agencies could promote any employee who met minimum qualification standards. In 1950, agencies received a set of basic principles to observe in their promotion programs but still retained much latitude.

In 1959, the first real Federal Merit Promotion Program was established in response to employee, Presidential, and Congressional concerns over the limited use of systematic means of selection. For the first time, agencies were required to have specific promotion plans for the systematic and competitive consideration of employees for promotion. But the program continued to give agencies the flexibility to design programs to meet their needs.

In 1969, the program underwent a major revision to assure equitable consideration of qualified employees and selection of the most able, and to strengthen employee confidence in the fairness of the program. At that point, very detailed requirements were introduced concerning such matters as areas of consideration, methods of locating candidates, use of supervisory performance appraisals, evaluation methods to determine the best-qualified candidates, limits on use of written tests, limits on the number of best-qualified candidates that could be referred for selection, and training requirements for new supervisors.

In 1973, OPM began the process of easing back on such detailed requirements by providing more room for collective bargaining. Then in 1979, agencies were given broad authority to develop, negotiate, and manage their own promotion programs. Adoption of the revised program coincided with implementation of the Civil Service Reform Act of 1978, which expanded delegation of personnel authority to agencies and broadened the scope of collective bargaining. In this current proposal, OPM would continue to move in the same direction by further relaxing OPM detailed requirements but emphasizing the statutory platform underpinning agency merit staffing programs.

Several of the earlier program revisions were undertaken to emphasize the need for open competition and selection from among the best-qualified applicants. Those same principles are at the heart of this proposal, with the intent to foster and environment in which agencies feel free to develop different approaches to satisfy these merit considerations. Whether justified or not, some agencies feel OPM's guidance has boxed them into a set way of filling positions. The process has created delays in filling jobs and often is very labor and paper intensive, resulting in a lack of confidence in the system by both managers and employees.

While speed and efficiency in filling positions are critical to effective operations, the process must also be in accord with merit principles. One suggestion has been to allow managers to promote their "logical" candidates or anyone having an exceptional performance rating and dispense with open competition and comparison with other candidates. Not only does that proposal conflict with merit principles, but it is the very type of action that led to widespread complaints and subsequent adoption of the first set of program requirements in 1959.

This proposal is not intended to return agencies to the loose policies of that earlier era nor to sacrifice principles of merit and open competition. Instead, by eliminating most OPM operational requirements, we hope to encourage agencies to be more creative in developing legal practices appropriate to their unique needs, resulting in more timely promotions and greater confidence of managers and employees that deserving employees are promoted. Agencies, for example, could design their programs around unique needs, try different evaluation techniques, use automated systems, use a variety of ways to satisfy open competition, and involve managers in the process more. Furthermore, while some problems with the system are due to OPM requirements, others flow from agency rules. OPM hopes that this proposal would also generate agency initiatives to review and eliminate procedural burdens unrelated to merit and open competition.

Following is a discussion of each proposed regulation section.

Section 335.102

Agencies must continue to adopt promotion plans that provide for systematic and competitive selection from among the best-qualified candidates, based on job-related criteria, after fair and open competition. Agencies would consult or negotiate, as appropriate, with employees and unions in developing policies and practices that are accepted as fair and result in selections of the best-qualified candidates.

The foundation of agency promotion plans would be existing laws. Some of the major laws are:.

—Merit system principles, which include equal employment opportunity (5 U.S.C. 2301).
—Prohibited personnel practices (5 U.S.C. 2302).
—Reporting of certain job announcements to OPM (5 U.S.C. 3329) as implemented by 5 CFR 335.105.
—Consideration of employees absent because of military duty (38 U.S.C. chapter 43), compensable injury that does not exceed 1 year (5 U.S.C. 8151), or service with international organizations (5 U.S.C. 3582).
—Due weight for incentive awards (5 U.S.C. 3362).
—Results of performance appraisals (5 U.S.C. 4302).
—Minimum qualification requirements (5 U.S.C. 5105 and 16 U.S.C. 470h–4).
—Management's right to select or not select from among properly ranked and certified candidates and to select from other appropriate sources of candidates (5 U.S.C. 7106 and 5 CFR 7.1).
—Employment practices (including job analysis) and antidiscrimination policy (5 U.S.C. 7201–7204) as implemented by 5 CFR Part 300, Subpart A, and Part 720.

These laws are incorporated into a framework of seven requirements contained in revised § 335.102

Requirement 1 would require agencies to adopt merit staffing plans for selecting employees for advancement based solely on relative ability, knowledge, and skills after fair and open competition which assures that all receive equal opportunity. Agencies would be required to assure that promotion practices conform to the merit system principles. Agency accountability mechanisms, as recommended by the NPR, would appropriately contain a human resource management accountability component, including actions under merit staffing plans. To assist agencies in this effort, OPM is offering agencies training in the merit system principles and assistance in refocusing their accountability efforts on the principles.

Requirement 2 deals with competition requirements. At present, part 335 lists promotions and six other actions that must be competitive and six actions that agencies may except from competition. Over the last several years, OPM made several changes in these exceptions. For example, employees who accept voluntary downgrades are no longer required by OPM rules to compete to regain their former grade levels. Many employees are being encouraged to change jobs voluntarily to avoid reduction in force situations, and this change eliminated a barrier that discouraged career transitions.

The need for revisions and the rapidly changing circumstances brought about by widespread reorganizations and downsizing have convinced us that OPM no longer should specify very detailed coverage and exceptions. Agencies need the flexibility to respond to changing needs without seeking waivers or regulatory changes. At the same time, employees need assurance that merit is the focus of promotion programs.

This proposal would continue to require competition for positions at higher grades or with greater advancement potential than an employee previously held. Agencies could continue to select employees competitively for a training opportunity that results in placement in a target position.

This proposal would continue to provide for the noncompetitive promotion of employees whose position are upgraded to correct a classification error or implement a new classification standard. The exclusion of reduction in force actions also would remain unchanged.

As under the current program, agencies could except actions from competition where an employee previously held an equivalent position. Actions for brief periods could be excepted from competition, but the agency rather than OPM would determine the cut-off point for competition. Agencies could continue noncompetitive promotions for job reclassifications due to accretion of higher grade duties, but the higher grade position would have to absorb the duties of the old position.

Where agencies fill positions below the performance grade level, they could continue to provide for noncompetitive career ladder promotions. In addition, the proposal expands on the career ladder concept by adding the flexibility to permit noncompetitive movement to any position within an occupational group with a career ladder that does not exceed the journey level for that occupation.

While traditional career ladders have several advantages for both employee and manager, they focus entirely on individual positions and not on career fields or broad occupational needs of the agency. Employees selected under the same competitive process for employment in the same occupational grouping often are assigned to positions having different career ladders, or full performance levels. As a result, some employees in similar positions have to compete further for the same level of advancement that others receive noncompetitively.

Under this proposal, agencies could move employees noncompetitively within an occupational group to similar positions with a higher full performance level that does not exceed the journey level for most positions in that occupational group. Competition would be required for assignment to positions above the journey level.

The agency would determine journey levels on the basis of job classification standards. Journey level is the nonsupervisory full performance grade level at which most positions in that occupational grouping under the first level of supervision could be classified. The agency also would determine occupational groupings of similar or closely related positions based on position classified and qualification standards. An occupational grouping might include all positions in an occupational family, such as all positions in the GS–200 family. Or, the agency might set more limited groupings, such as all positions in the GS–235 series, or even more narrow.

Use of this option could expand placement opportunities for surplus employees as well as meet broader occupational needs of the agency.

Finally, this proposal would delegate to agencies the authority to adopt other exceptions in their merit staffing plans when they determine the actions would be consistent with the spirit and intent of merit principles. The exceptions must be made a part of an agency's merit staffing plan.

Requirement 3 continues existing requirements concerning recruitment and job announcements.

Requirement 4 addresses evaluation procedures. An issue that continues to arise is whether different procedures

may be used on the number of applicants. This proposal requires that selection be from among the best-qualified candidates, without any reference to numbers. Identification of the best qualified requires a qualitative review, either by the selecting official or others. This proposal does not specify how the agency determines which applicants are the best qualified, except to require that the evaluation be based on job-related requirements and be applied fairly and consistently. Within these parameters, each agency would determined the specific job-related evaluation procedure to use.

Examples of abbreviated processes that some agencies use to identify the best-qualified candidates from among small numbers of applicants: a selecting official distinguishes the best-qualified candidates based on a key knowledge, skill, or ability, and selects from that group; a subject matter expert certifies that the referred candidates are the best qualified based on job-related criteria.

Requirement 5 covers existing management selection options.

Requirement 6 covers complaints and corrective actions. The existing part 335 allows employee complaints under appropriate grievance procedures except that an employee may not grieve nonselection from among a group of properly ranked and certified candidates. We have continued that policy in this proposal.

An agency would be required to take corrective action where a violation of law, regulation, or agency plan has occurred. OPM plans to develop nonregulatory guidance to assist agencies in taking corrective action.

Requirement 7 continues existing recordkeeping requirements.

Section 335.103

Revised § 335.103 contains a provision that would enable an agency to request OPM approval to adopt policies different from those in 5 CFR part 335 if not in conflict with law. Individual agency programs or occupations may be unique or highly specialized, justifying a different approach. For example, an agency might wish to experiment with alternative dispute resolution techniques, instead of grievance procedures, to settle complaints about promotion actions. Also, agencies might seek exceptions for pilot programs under the Government Performance and Results Act (Pub. L. 103–62, August 3, 1993) to improve the management and efficiency of agency programs. In no circumstance, however, could the merit system principles, prohibited personnel practices, or other requirements of law be waived.

Section 335.104

The current § 335.104 sets minimum performance requirements for noncompetitive career ladder promotions. These promotions should rest on high performance levels, but OPM believes eligibility requirements are an appropriate agency responsibility (beyond existing OPM requirements such as qualification standards). Furthermore, the level of performance to be met is only one of several factors, such as the range of skills to be acquired, the existence of higher level work, and sufficient funds, that an agency might wish to address. We propose to delete § 335.104 and instead provide in § 335.102 that agencies will establish requirements for noncompetitive promotions.

Agency Authority To Promote, Demote, or Reassign

Inherent in the agency power to appoint employees is the power to assign employees to other duties, consistent with any applicable law (5 U.S.C. 301). However, the current 5 CFR 335.102 limits the extent to which agencies may promote, demote, or reassign certain employees in the competitive service.

OPM proposes to eliminate these restrictions and authorize agencies in revised § 335.101 to move employees to other positions consistent with the appointments under which the employees serve. The proposed change would enable agencies to utilize employees in other positions where needed and for employees to seek other opportunities. This action would primarily benefit employees under temporary appointment pending establishment of a register (TAPER). Other provisions would continue to apply, such as competition provisions of § 335.102, the reduction in force retention rights in 5 U.S.C. chapter 35, and the procedural protections and appeal rights relating to performance based and adverse actions under 5 U.S.C. chapters 43 and 75.

Vacancy Announcements

This is a reminder that § 335.105 implements 5 U.S.C. 3330, which requires that information be given to the public about certain job vacancy announcements. In addition, OPM has issued career transition assistance requirements in part 330, under which agencies must notify OPM of competitive service vacancies to be filled for more than 90 days when applications will be accepted from outside an agency's own work force.

Accelerated Qualifications

The former Federal Personnel Manual authorized agencies to establish training agreements under which employees could acquire qualifications for a higher grade position at an accelerated rate. These intensive training programs are traditionally used for critical shortage occupations at entry levels where employees are given accelerated training to obtain the necessary skills more quickly. The programs provide a valuable recruitment incentive in filling positions where qualified applicants are in extremely short supply.

To establish continuing agency authority for employees to acquire qualifications at an accelerated rate under intensive training programs, OPM proposes to add such authority to part 338. Related to this, 5 CFR 300.603(b)(6) prohibits more than two promotions in any 52-week period on the basis of a training agreement and requires OPM approval of a training agreement that provides for consecutive promotions in less than 1 year. (OPM proposed to abolish the year-in-grade waiting period [59 FR 30717, June 15, 1994, and 60 FR 2546, January 10, 1995] but has not acted on the proposal.)

Other Related Actions

Under the current 5 CFR § 335.101(b), generally a position change does not change an employee's tenure except as shown in § 316.703, which deals with status quo employees. These are primarily individuals who fail to qualify for career-conditional employment when their excepted or nonfederal positions are brought into the competitive service. They are retained as nonpermanent employees in tenure group III and are called status quo employees.

Section 316.703 requires agencies to change status quo employees to a different type of nonpermanent appointment in tenure group III when changing the employee to a different position. If the agency moves the employee back to the original position, it must change the employee back to status quo.

We propose to eliminate § 316.703 as unnecessary. This would mean that a status quo employee would remain under a status quo appointment regardless of any position change. The employee would not gain or lose any benefits by the elimination of § 316.703.

Another exception to the general rule that tenure is not affected by a position change is contained in § 335.101(c). This provides that a career-conditional employee becomes a career employee when promoted, demoted, or reassigned to a position paid under chapter 45 of title 39, United States Code, which covers the Postal Service. This reference to title 39 positions is obsolete because the Postal Service was removed from the competitive service in 1971 by legislation. Since then, the Postal Service has operated under its own independent excepted service personnel system. Because these OPM regulations on competitive service appointments no longer apply to the Postal Service, we are eliminating the obsolete references in revised § 335.101(c) to positions paid under title 39.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they pertain only to Federal employees and agencies.

List of Subjects in 5 CFR Parts 316, 335, and 338

Government employees.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend parts 316, 335, and 338 of title 5, Code of Federal Regulations, as follows:

PART 316—TEMPORARY AND TERM EMPLOYMENT

1. The authority citation for part 316 is revised to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218. Sections 316.302 and 316.402 also issued under 5 U.S.C. 3112 and 3304(c), 22 U.S.C. 2506, 38 U.S.C. 2014, and E.O. 12721.

§ 316.703 [Removed]

2. Section 316.703 is removed.

PART 335—PROMOTION AND INTERNAL PLACEMENT

3. The authority citation for part 335 is revised to read as follows:

Authority: 5 U.S.C. 3301, 3302, 3330; E.O. 10577, 3 CFR 1954–58 Comp., p. 218.

§ 335.104 [Removed and reserved]

4. Sections 335.101, 335.102, and 335.103 are revised and § 335.104 is removed and reserved, to read as follows:

§ 335.101 Position changes.

(a) Consistent with § 335.102 and, when applicable, part 319 of this chapter, an agency head is authorized to promote, demote, or reassign an employee to any competitive service position appropriate to the type of appointment under which the employee serves and consistent with all applicable statutory and regulatory requirements.

(b) The authority in this section includes time-limited promotion for a definite period. The return of an employee at any time to the position from which temporarily promoted, or a position of equivalent grade and pay, is not subject to the procedures in parts 351, 432, or 752 of this chapter if the agency had given the employee advance written notice of the conditions of the time-limited promotion.

(c) This section covers all types of appointments in the competitive service except temporary appointments not to exceed 1 year authorized by subpart D of part 316 of this chapter.

(d) A position change does not change an employee's competitive status or tenure except that:

(1) A career-conditional employee who is promoted, demoted, or reassigned to a position required by law to be filled on a permanent basis becomes a career employee; and

(2) A career employee who is promoted, demoted, or reassigned from a position required by law to be filled on a permanent basis becomes a career-conditional employees unless he or she has completed the service requirement for career tenure in § 315.201 of this chapter.

§ 335.102 Internal merit selection programs.

An agency head may promote, demote, and reassign competitive service employees in accordance with § 335.101, detail them in accordance with § 300.301 of this chapter, and reinstate and transfer individuals in accordance with part 315 of this chapter, only to positions for which the agency is administering a merit-based selection program that ensures a systematic means of competitive selection from among the best-qualified candidates available. These programs shall conform with all applicable law, including the following requirements.

(a) *Requirement 1.* Each agency must establish a merit staffing plan(s) for selecting employees for advancement base solely on relative ability, knowledge, and skills after fair and open competition which assures that all receive equal opportunity. The plans must be available in writing and list exceptions to competition. All actions are subject to the merit system principles of 5 U.S.C. 2301 and the prohibited personnel practices of 5 U.S.C. 2302. (5 U.S.C. 2301, 2302, 3301, 3341, and 3361)

(b) *Requirement 2.* (1) Competition is required in assignment or detail, for other than a limited specified period, to a position at a higher grade or with a higher full performance grade level than an employee previously held on a permanent basis. Selection requirements for training are defined in part 410 of this chapter.

(2) Competition does not apply to reduction in force actions under part 351 of this chapter, and to the upgrading of a position without significant change in an employee's duties and responsibilities due to issuance of a new classification standard or correction of an initial classification error.

(3) An agency may except (and must document in its merit staffing plan) other types of actions from competition that it determines are consistent with the spirit and intent of merit principles, including:

(i) Movement within the same occupational grouping from one position to another position that has a higher full performance grade level but does not exceed the established journey level of that occupational grouping. Journey level is the nonsupervisory full performance grade level at which most positions in that occupational grouping under the first level of supervision could be classified, as determined by the agency (or component) based on position classification standards. Occupational grouping is a group of similar or closely related positions, as determined by the agency (or component) based on position classification and qualification standards; and

(ii) The upgrading of an employee's position due to accretion of additional higher grade duties and responsibilities where the successor position absorbs the old position.

(4) A noncompetitive action under this part may be based on a previously held excepted service position only when held under another merit system with which OPM has an interchange agreement approved under § 6.7 of this chapter. A Senior Executive Service career appointee who is eligible for reinstatement under § 315.401 of this chapter may be noncompetitively reinstated or assigned to any position or grade in the competitive service for which qualified. Agencies are authorized to establish eligibility criteria for noncompetitive promotions.

(c) *Requirement 3.* Recruitment methods should be designed to attract qualified individuals from appropriate sources in an endeavor to achieve a diverse work force that represents all segments of society, including persons with disabilities. The area of recruitment should be sufficiently broad to attract quality candidates. Procedures must provide for consideration of

employees absent because of military duty, compensable injury that does not exceed 1 year, and service with international organizations, individuals on a re-employment priority list, and for any other reasons required by law or regulation or determined by the agency. Agencies must give advance notice to OPM of all competitive service positions to be filled for more than 90 days when applications will be accepted from an outside agency's own work force (5 U.S.C. 2301, 2302, 3330, 3402(a)(1)(A), 3582, 7201–7204, and 8151; 38 U.S.C. chapter 43; 5 CFR § 330.102, § 330.706, § 335.105, and part 720).

(d) *Requirement 4.* To be eligible for placement, a candidate must meet an appropriate provision of the applicable OPM qualification manual and any other legal requirements that apply. Evaluation criteria must be based on the requirements of the job to be filled and applied in a fair and consistent manner. In qualification and selection decisions, due weight, as determined by the agency, shall be given to performance appraisals and to any incentive awards or other performance recognition received by applicants. Competitive selection must be from among the best-qualified available candidates. The agency may determine how to identify the best-qualified candidates, but that identification may not be waived (5 U.S.C. 2301, 3301, 3362, 4302, and 5105; 16 U.S.C. 470h–4; 5 CFR part 300, subpart A).

(e) *Requirement 5.* Agency procedures must provide for management's right to select or not select from among properly ranked and certified candidates and to select from other appropriate sources of candidates (5 U.S.C. 7106; 5 CFR part 7.1).

(f) *Requirement 6.* An individual may seek redress, under applicable procedures, of a complaint relating to a promotion decision or action other than nonselection from a group of properly ranked and certified candidates. There is no right of appeal to OPM of individual promotion actions. An agency must take appropriate action to correct violations of the agency's merit selection procedures identified through grievances or any other means and shall follow OPM instructions concerning violations of statute of OPM regulation (5 U.S.C. 1103, 1104, and 7121; 5 CFR part 5).

(g) *Requirement 7.* Each agency shall maintain a record of each competitive action sufficient to allow reconstruction. These records may be destroyed after 2 years or after OPM has evaluated the program, whichever comes first, if the time limit for complaints has expired. The basis for each noncompetitive promotion must be documented on the personnel action (5 U.S.C. 1103 and 1104; 5 CFR part 5).

§ 335.103 Exceptions.

At the request of an agency head, OPM may approve an exception to any provision in this part when the exception is consistent with applicable statutory provisions and would enable the agency to address more effectively a specific agency need in the administration of merit staffing programs.

PART 338—QUALIFICATION REQUIREMENTS (GENERAL)

5. The authority citation for part 338 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

6. Subpart C consisting of § 338.301 is added to read as follows:

Subpart C—Accelerated Qualifications

§ 338.301 Accelerated qualifications through intensive training programs.

Agencies are authorized to establish training programs that provide intensive and directly job-related training to employees selected in accordance with parts 335 and 410 of this chapter. Such training may be substituted for all or part of the experience required by an OPM qualification standard. Agencies are not authorized to substitute such intensive training for minimum educational requirements established by OPM, or for licensing, certification, or other specific credentials required by OPM qualification standards.

[FR Doc. 96–3122 Filed 2–16–96; 8:45 a.m.]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV95–959–3PR]

Onions Grown in South Texas; Change in Regulatory Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would change the end of the regulatory period for onions grown in South Texas under Marketing Order 959 from June 15 to June 4 of each year. Terminating the handling regulation on June 4 would relieve restrictions on handlers who ship late season onions and help them become more competitive with handlers from non-marketing order areas without diminishing South Texas marketing order objectives. A corresponding change in the dates for the import regulation also would be made in a second document.

DATES: Comments which are received by March 21, 1996 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456, FAX 202–720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Marketing Order Administration Branch, F&V, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: 210–682–2833; FAX 210–682–5942; or Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: 202–690–0464; FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement No. 143 and Marketing Order No. 959 (7 CFR part 959), as amended, regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is proposing this rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 35 handlers of South Texas onions who are subject to regulation under the marketing order and 89 producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of South Texas onions may be classified as small entities.

At a public meeting on November 8, 1994, the South Texas Onion Committee (committee) unanimously recommended, under the authority of § 959.52(c) of the order, changing the termination date of the regulatory period for all varieties of regulated onions from June 15 to June 4. Currently, order regulations are in effect from March 1 through June 15 each year. The early and mid-season crop is produced in the Lower Rio Grande Valley (District 1), which generally accounts for about 80 percent of the total. The remaining crop, generally 20 percent, is produced in the Laredo-Winter Garden area of South Texas (District 2). These are the last regulated shipments to leave the production area each season.

In April 1994, based on a committee recommendation, the regulatory period was extended from May 20 to June 15 [59 FR 17265; April 12, 1994]. At that time, the committee believed that the application of quality control requirements over a longer time was necessary to enhance the South Texas onion industry's market research and promotion efforts, and protect its quality image. The committee also believed that District 2 handlers should pay assessments on more of their shipments for the research and promotion programs that benefit the entire industry.

After one season's experience, District 2 growers and handlers requested the committee to reconsider the regulatory extension. Although assessment funds are still needed and maintaining the quality of the shipments remains of great importance, experience appears to indicate that the strong competition from other growing areas outweighs these problems.

Shipments made from District 2 compete with onions produced in West Texas and other areas of the United States not regulated under Federal marketing orders. Onion prices are usually quite low during this period and these unregulated areas have a competitive advantage over District 2 because inspection costs for quality control purposes and administrative assessments are not incurred by shippers from these areas. Ending regulations on June 4, rather than June 15, apparently would relieve restrictions on District 2 shippers and help them become more competitive with shippers from these production areas without diminishing program objectives.

Section 8e provides that whenever certain specified commodities, including onions, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity, subject to concurrence by the United States Trade Representative. The Act further provides that when two or more marketing orders covering the same commodity are concurrently in effect, imports will be subject to the requirements established for the commodity grown in the area with which the imported commodity is in most direct competition. Because this rule would change the regulatory period under the South Texas onion marketing order, corresponding changes would be needed in the onion import regulations. Such changes are to be addressed in a separate onion import rule.

Based on available information, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 959.322, the introductory text is revised to read as follows:

§ 959.322 Handling regulation.

During the period beginning March 1 and ending June 4, no handler shall handle any onions unless they comply with paragraphs (a) through (d), or (e), or (f) of this section. In addition, no handler may package or load onions on Sunday during the period March 1 through May 20.

* * * * *

Dated: February 12, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–3610 Filed 2–16–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 985

[Docket No. A0–79–2; FV95–985–4]

Spearmint Oil Produced in the Far West; Emergency Final Decision and Referendum Order on Proposed Amendment of Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This emergency final decision would amend the Federal marketing order for spearmint oil produced in the Far West (Order). The amendment was proposed by the Department of Agriculture (Department). The proposed amendment would remove from the regulated production area, the portions of California and Montana currently regulated under the Order.

DATES: A referendum shall be conducted from March 2 through March 15, 1996, for the purpose of determining whether the proposed amendment is favored by producers who were engaged in the production of spearmint oil in the production area during the representative period. The

representative period for the purpose of the referendum herein ordered is June 1, 1994, to May 31, 1995.

FOR FURTHER INFORMATION CONTACT: (1) Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, AMS, room 2526–S, P.O. Box 96456, Washington, DC 20090–6456; telephone, (202) 720–5127, or FAX: (202) 720–5698.

(2) Robert Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, Oregon, 97204; telephone: (503) 326–2725, or FAX: (503) 326–7440.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued October 4, 1995, and published in the **Federal Register** on October 11, 1995 (60 FR 52869); Correction to Notice of Hearing issued November 8, 1995, and published in the **Federal Register** on November 13, 1995 (60 FR 57144); and Notice of Order Filed on Proposed Rulemaking concerning the filing of post-hearing briefs issued November 30, 1995, and published in the **Federal Register** on December 5, 1995 (60 FR 62229).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

Preliminary Statement

A public hearing was held on November 14, 1995, to consider a proposed amendment of Marketing Order No. 985 (7 CFR Part 985), regulating the handling of spearmint oil produced in the Far West, hereinafter referred to collectively as the "Order". The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900).

The Notice of Hearing contained one proposal by the Department, which redefined the production area under the Order to exclude those portions of the area with no historic record of commercial production of spearmint oil.

After the conclusion of the hearing, the deadline for filing post-hearing briefs was set at December 22, 1995. Briefs and comments which were filed, are ruled upon elsewhere in this decision.

The material issues of record are as follows: (1) Should areas with no historic record of commercial production of spearmint oil continue to be regulated under the Order? (2) Does the "production area" as defined in the Order constitute the smallest practicable area which should be regulated consistent with carrying out the policy of the Act? (3) Do existing circumstances warrant expediting the amendment process by omitting the recommended decision?

Small Business Considerations

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural service firms, which include handlers regulated under the Order, have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $5,000,000. Small agricultural producers are defined as those with annual receipts of less than $500,000.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act have small entity orientation and compatibility. Interested persons were invited to present evidence at the hearing on the probable impact that the proposed amendment to the Order would have on small businesses.

During the 1994–95 marketing year from June 1, 1994, through May 31, 1995, approximately 8 handlers were regulated under the Order. In addition, there are about 260 growers of spearmint in the regulated area. The Act requires the application of uniform rules on regulated handlers. A minority of handlers and producers covered under the Order are small businesses. The Order itself is tailored to the size and nature of these small businesses. Marketing orders, and amendments thereto, are unique in that they are normally brought about through group action of entities on their own behalf. Thus, both the RFA and the Act are compatible with respect to small entities.

The proposed amendment to the Order would delete portions of the production area currently covered by the Order which have no historic record of commercial production of spearmint oil. This change would provide that the Order cover the smallest regional production area practicable, consistent with program objectives. The proposed amendment should not have a significant economic impact on handlers or producers.

The amendment proposed herein has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. If adopted, the proposed amendment would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the amendment.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of Act, any handler subject to an order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with law and requesting a modification of the Order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Findings and Conclusions

The following findings and conclusions are based on evidence presented at the hearing and the record thereof:

(1) Should areas with no historic record of commercial production of spearmint oil continue to be regulated under the Order?

The Order regulates Far West spearmint oil through the establishment of annual allotment percentages and salable quantities. The objective of such regulation is to balance supplies with market demand, thereby reducing price fluctuations and improving returns to producers. The Order, and regulations issued thereunder, apply only to spearmint oil produced in the defined "production area". The Order currently defines the production area as all the area within the States of Washington, Idaho, Oregon; that portion of California and Nevada north of the 37th parallel; and that portion of Montana and Utah west of the 111th meridian. This definition was established when the Order came into effect on April 14, 1980 (45 F.R. 25039), and was based on the record of a hearing held in October 1979.

At the time the Order became effective, the production area as defined was found to be the smallest regional production area practicable to effectuate the declared policy of the Act. This included all the areas in the Far West and northwestern United States having the potential of commercially producing quality spearmint oil.

Witnesses who testified at this amendment hearing included Department employees, a representative of the Spearmint Oil Administrative Committee (committee), a grower from Nevada, an official with the Montana Department of Agriculture, and representatives of the Montana Mint Growers' Association. All witnesses supported the proposal to no longer regulate portions of California and Montana under the Order.

The record supports excluding these two areas from coverage primarily because there has been no historic record of commercial production of spearmint oil in those areas. Record evidence shows that in 1994, there were 1,500 acres of spearmint harvested in Idaho, 10,500 acres in Washington, 1,700 acres in Oregon, and 160 acres in Utah and Nevada combined. No harvested acreage was recorded for those parts of California and Montana included under the Order. Likewise, evidence shows that spearmint oil was produced in all States regulated under the Order with the exception of California and Montana. There has been no recorded commercial production of spearmint oil in California or Montana since the inception of the Order. Testimony at the hearing also indicated that there is no evidence of current commercial production in those states.

2. Does the "production area" as defined in the Order constitute the smallest practicable area which should be regulated consistent with carrying out the policy of the Act?

The evidence of record is that the Order has been successful in establishing orderly marketing conditions for Far West spearmint oil. Specifically, the establishment of the Order has reduced price volatility and ensured market stability. In the 13 years preceding the Order's promulgation, prices for spearmint oil fluctuated between $4.16 and $11.62 per pound. From 1982 to 1992, while the Order was in effect, prices ranged between $11.29 and $14.03 per pound.

Inclusion in the production area requires a demonstration that the areas covered have similar crop and marketing conditions. When the Order was promulgated, the finding for including California and Montana in the production area was based on evidence that production and marketing conditions in those areas would be similar to those of other spearmint-producing States. This has proven to be incorrect. The record indicates that land in California and Montana suitable for the production of spearmint oil is limited, and weather conditions are a deterrent to consistent spearmint production. Amending the Order by removing California and Montana, would result in the Order covering the smallest regional production area practicable to effectuate the declared policy of the Act.

For the above reasons, it is concluded that the production area should be redefined to exclude California and Montana. Accordingly, the production area as defined in this amendment is found to be the smallest practicable area which should be regulated consistent with carrying out the policy of the Act.

Modification of Proposed Amendment

As a modification to the proposal, testimony was submitted for the record in support of the proposed amendment that further proposed the production area not be reduced again by amendment for at least 5 years. The intent of the modification was to provide sufficient time to gather and analyze data on the impact of removing California and Montana from Order coverage. As submitted for the record, the 5-year period would provide stability for the industry before any other amendments to reduce the production area are considered.

However, a prohibition on amending the Order's definition of production area for 5 years would unduly limit the Secretary's discretion and authority to administer the Order consistent with the terms of the Act. Therefore, this modification is denied.

One grower from Nevada testified that the hearing should be reopened to consider excluding Nevada from the production area. According to his testimony, there are only 37 acres of commercial spearmint production in the State of Nevada. As such, the witness concluded that Nevada is not a significant producer of spearmint oil and should be excluded from Order coverage.

One post-hearing brief and one comment were submitted in support of removing Nevada from regulation under the Order. There was no other information provided by those in the spearmint industry to support this action.

Record evidence shows that Nevada, unlike California and Montana, currently has commercial production of spearmint oil, and there has been production of spearmint oil in that State every year since the inception of the Order. Record evidence indicates that producing acreage in Nevada has been as high as 230 acres.

The evidence supports excluding from Order coverage only those areas with no history of commercial production of spearmint oil. There was no other evidence presented at the hearing as to whether there is a "significant" level of production that should justify an area's inclusion under the Order, nor any evidence as to what that threshold level should be. Also, no evidence was presented to show that the marketing of spearmint oil grown in Nevada does not impact or compete with the marketing of spearmint oil grown in other areas covered by the Order.

For these reasons, the proposal to exclude Nevada from the production area is denied.

This decision calls for a referendum to be conducted among producers of spearmint oil to determine if they support the proposed amendment to remove California and Montana from the Order's production area. If a sufficient number of producers support the amendment, the Order will continue in its amended form. To become effective, the amendment must be approved by a two-thirds majority, either by number of voters favoring it or by volume of production represented in the referendum. If the amendment is not approved by producers, the Secretary would consider terminating the Order.

As previously discussed, the Act requires that the Order must cover the smallest regional production area practicable. Based on the record evidence it is found that the production area as proposed to be amended constitutes the smallest practicable area.

3. Do existing circumstances warrant expediting the amendment process by omitting a recommended decision in this proceeding?

Witnesses who testified at the hearing strongly supported expedited handling of this formal rulemaking proceeding. The record indicates that there has been uncertainty within the spearmint oil industry for some time with respect to the possible redefinition of the Order's production area. Record evidence shows that such uncertainty has the potential of hampering the ability of individual producers and handlers to make sound economic decisions concerning their operations. The proposed amendment could affect planting, contracting, lending and other important economic decisions of those in the industry. There

was no evidence provided in opposition to expediting this proceeding.

Only through omission of a recommended decision in this proceeding is it possible to have the outcome of the amendment and the future of the Order determined prior to the next marketing year, which begins June 1, 1996. As stated on the record, this is very important to producers and handlers of spearmint oil who need to plan their marketing and production strategies for next year.

It is therefore found that good cause exists for omission of a recommended decision in accordance with § 900.12(d) of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900).

Rulings on Briefs Filed by Interested Persons

Four briefs and comments were filed in this proceeding. None opposed the proposed amendment.

One brief and one comment were filed after the filing deadline. However, they did not introduce issues which were different from those covered at the hearing or in the other briefs and comments.

The comments and briefs were carefully considered, along with evidence in the record, in making the findings and reaching the conclusions contained herein. To the extent that any suggested findings or conclusions contained in any of the briefs or arguments are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of facts found and stated in connection with this decision.

Marketing Order

Annexed hereto and made a part hereof is a document entitled, "Order Amending the Order Regulating the Handling of Spearmint Oil Produced in the Far West." This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions. *It is hereby ordered*, That this entire decision, be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*) to determine whether the issuance of the annexed order amending the order regulating the handling of spearmint oil produced in the Far West is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production of spearmint oil in the Far West.

The representative period for the conduct of such referendum is hereby determined to be June 1, 1994, through May 31, 1995.

The agents of the Secretary to conduct such referendum are hereby designated to be Gary D. Olson and Robert J. Curry, Marketing Order Administration Branch, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue Room 369 Portland, Oregon 97204, telephone (503) 326–2724; or FAX (503) 326–7440.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. chapter 35], the ballot materials used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0065 for spearmint oil. It has been estimated that it will take an average of 10 minutes for each of the approximately 260 producers of Far West Spearmint to cast a ballot. Participation is voluntary. Ballots postmarked after February 24, 1996, will not be included in the vote tabulation.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

Dated: February 13, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

Order Amending the Order Regulating the Handling of Spearmint Oil Produced in the Far West [1]

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings and Determinations Upon the Basis of the Hearing Record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held on the proposed amendment to the Marketing Agreement and Order No. 985 (7 CFR Part 985), regulating the handling of spearmint oil produced in the Far West.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The order, as hereby proposed to be amended, regulates the handling of spearmint oil produced in the Far West in the same manner as, and is applicable only to persons in the respective classes of oil specified in the marketing order upon which hearings have been held;

(3) The order, as hereby proposed to be amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The order, as hereby proposed to be amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of spearmint oil grown in the production area; and

(5) All handling of spearmint oil produced in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of spearmint oil produced in the Far West shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 985.5 is revised as follows:

§ 985.5 Production area.

Production area means all the area within the States of Washington, Idaho, Oregon, and that portion of Nevada north of the 37th parallel and that portion of Utah west of the 111th meridian. The area shall be divided into the following districts:

(a) District 1. State of Washington.

(b) District 2. The State of Idaho and that portion of the States of Nevada and Utah included in the production area.

(c) District 3. The State of Oregon.

[FR Doc. 96–3653 Filed 2–16–96; 8:45 am]

BILLING CODE 3410–02–P

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

19 CFR Part 132

Administration of Tobacco Tariff-Rate Quota

AGENCY: Office of the United States Trade Representative.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Office of the United States Trade Representative (USTR) is soliciting comments and views on the administration of the tariff-rate quota on leaf tobacco, established on September 13, 1995, which is currently operating on a first-come, first-served basis.

DATES: Public comments are due by noon May 20, 1996.

ADDRESSES: Comments may be sent to: Sybia Harrison, room 222, Office of the U.S. Trade Representative, 600 17th Street NW., Washington, DC 20508, attention: Tobacco Tariff-Rate Quota.

FOR FURTHER INFORMATION CONTACT: Tom Perkins, Senior Economist, Office of Agricultural Affairs, USTR, (202) 395–6127; or Rachel Shub, Assistant General Counsel, USTR, (202) 395–7305.

SUPPLEMENTARY INFORMATION:

Presidential Proclamation 6821 (60 FR 47663 (September 13, 1995)) established a tariff-rate quota (TRQ) on imports of flue-cured, burley and other light air-cured tobaccos that are imported for the manufacture of cigarettes. Under the TRQ, a tariff equal to the concession rates negotiated in the Uruguay Round is applied to tobacco imports until the in-quota quantity is filled, after which a tariff rate of 350% ad valorem is applied. For the quota year beginning on September 13, 1995, the in-quota quantity of the TRQ is 150,450 tons, which is subdivided into specific allocations for Argentina, Brazil, Chile, the European Union, Guatemala, Malawi, Philippines, Thailand, Zimbabwe, and a general allocation for countries other than those allocated specific TRQ quantities. Presidential authority to establish the TRQ is provided by section 125(c) of the Trade Act of 1974 (19 U.S.C. 2135(c)), section 421 of the Uruguay Round Agreements Act (19 U.S.C. 2135 note) and other provisions of law referenced in Presidential Proclamation 6821. The proclamation also provides that the quantitative limitations of the TRQ are subject to regulations as may be issued by USTR or its designated agency.

The TRQ is currently operating on a first-come, first-served basis, under the U.S. Customs Service's quota regulations at 19 CFR 132 ("Customs Quota regulations"). These regulations establish requirements for determining priority and status for importers presenting tobacco for importation and set forth specific procedures for prorating a TRQ category (such as a country-specific allocation) in the event the category is oversubscribed. Customs Quota regulations currently are applied to U.S. TRQs on beef, peanuts, peanut butter, certain sugar-containing products, certain cotton and cotton waste, and certain dairy products, as well as TRQ's applicable to Mexico (under the North American Free Trade Agreement) on orange juice, tomatoes and other safeguard products commodities.

Some cigarette manufacturers have suggested that the TRQ should be administered by means of import licenses issued to manufacturers in order to permit the orderly marketing of tobacco in the U.S. market. Accordingly, the Office of the United States Trade Representative (USTR) is soliciting comments on the administration of the TRQ. If comments reflect substantial problems or concerns regarding the current operation of the TRQ, USTR will consider alternative approaches, including an import licensing program. Any alternative method should aim to facilitate reasonable, efficient and orderly access to the U.S. tobacco market for those countries to which a quota allocation has been made, and provide equitable and efficient access for U.S. importers, manufacturers and other entities that import or use tobacco affected by the TRQ.

To better assess the need for change and the significance of that need, USTR invites public comment on the current operation of the TRQ. Comments should address the extent to which the current system is orderly, economically efficient and equitable. USTR is interested in aspects of the current system such as (1) the costs and benefits to the U.S. economy as a whole as well as firms, foreign and domestic, that participate in the markets for imported tobacco and related markets; (2) the distribution across firms of the TRQ, including market competition and concentration; (3) market access for small businesses; (4) the effect on the U.S. price support program; and (5) the impact on timing and storage of imports, and related costs and benefits; (6) the impact on exporters if other countries were to adopt similar practices for TRQs on products from the U.S.; and (7) administrative costs.

With respect to any alternative approaches, USTR would appreciate views on how such programs might be administered. For example, for licensing, comments could address: (1) the reasons and legal basis for adopting such an approach; (2) to whom and by what mechanism import licenses should be issued; (3) on what basis licenses should be issued (including eligibility criteria, license validity period and license renewability); (4) how licenses could be issued in light of the country-specific allocations and market demand for different types of tobacco; (5) how to address failure of importers to utilize their licenses; (6) the extent to which new importers should be issued licenses, taking into account the desirability of issuing licenses in sizes that are commercially viable; (7) whether licenses should be transferable, and under what conditions; (8) the benefits, costs, and administrative and distributional considerations associated with a market in licenses, including secondary markets; (9) the effect of any proposed alternative on the U.S. economy as a whole as well as firms, foreign and domestic, that participate in the markets for imported tobacco and related markets; (10) any effect on the U.S. price support program for tobacco; (11) effect of any proposed alternatives on small businesses; (12) effect of any proposed alternatives on market competition and concentration; (13) administrative costs that might be associated with a proposed alternative; (14) the impact of proposed alternatives on timing and storage of imports, and related costs and benefits; (15) the impact on exporters if other countries were to adopt similar practices for TRQs on products from the U.S.; and (16) any other issues arising in the context of a particular alternative to the current operation of the TRQ.

Persons submitting written comments should provide a statement, in ten copies, by noon, May 20, 1996 to Sybia Harrison, Office of the U.S. Trade Representative, Room 222, 600 17th Street, NW., Washington, DC 20508, attention: Tobacco Tariff-Rate Quota. Non-confidential information received will be available for public inspection by appointment, in the USTR Reading Room, Room 101, Monday through Friday, 10:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. For an appointment call Brenda Webb at (202) 395–6186. Business confidential information will be subject to the requirements of 15 CFR 2003.6. Any business confidential material must be clearly marked as such on the cover letter or page and each succeeding page.

and must be accompanied by a non-confidential summary thereof.

Michael Kantor,

United States Trade Representative.

[FR Doc. 96–3652 Filed 2–16–96; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 3500

[Docket No. FR–3780–N–05]

RIN 2502–AG40

Mortgage Broker Fee Disclosure Rule: Notice of Future Meetings of Negotiated Rulemaking Advisory Committee

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of committee meetings.

SUMMARY: The Department has established a Negotiated Rulemaking Advisory Committee to address certain issues concerning indirect payments to mortgage brokers and certain other mortgage originators (retail lenders) and volume-based compensation. The committee, which consists of representatives with a definable stake in the outcome of a proposed rule, convened on two prior occasions, the first time on December 13–14, 1995, and again on January 18–19, 1996, in Washington, DC. This notice announces the time and place for the next meeting, and the tentative schedule for subsequent meetings of the committee. Any changes in the schedule will be announced in the **Federal Register** as far in advance of the meetings as possible. All of these meetings are open to the public.

DATES: The third meeting of the committee will be on February 22–23, 1996. On Thursday, February 22, the meeting will start at 9:00 a.m. and will end at 5:00 p.m., and on Friday, February 23, the meeting will start at 9:00 a.m. and run until approximately 4:00 p.m. Additional meeting dates are included in the text of this notice.

ADDRESSES: The next meeting of the committee will be held in Courtroom A of the International Trade Commission Building, 500 E Street SW., Washington, D.C. 20436. Subsequent meetings announced in this notice are also expected to be held at the International Trade Commission Building.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, RESPA Enforcement Unit, Department of Housing and Urban Development, Room 5241, 451 Seventh Street, S.W., Washington, D.C. 20410–0500; telephone (202) 708–4560 (this is not a toll-free number); e-mail through Internet at david__r.__williamson@hud.gov. Persons who are hearing- or speech-impaired may access the above phone number by calling the Federal Information Relay Service at 1–800–877–TDDY (1–800–877–8339).

SUPPLEMENTARY INFORMATION: On December 8, 1995 (60 FR 63008), HUD published a notice announcing the establishment and first meeting of the Negotiated Rulemaking Advisory Committee on Mortgage Broker Disclosures, to discuss and negotiate a proposed rule on the treatment under RESPA, including disclosure requirements, of indirect payments to retail lenders and of volume-based compensation to mortgage brokers. The committee convened in Washington, D.C., on December 13–14, 1995, and January 18–19, 1996. The committee has decided on a schedule of subsequent meetings to continue its discussions, as follows:

- January 18–19, 1996;
- February 22–23, 1996;
- March 18–19, 1996; and
- April 8–9, 1996.

The meeting on February 22–23, 1996, will be at the International Trade Commission Building, 500 E Street SW., Washington, D.C., and is expected to continue substantive discussions on regulatory treatment of fees paid to mortgage brokers. Because of the difficulties in confirming arrangements for the meeting space and the intervening Federal Government shutdown and inclement weather, which affected HUD operations, the Department was unable to publish this notice earlier. It is expected that subsequent meetings will also be held at the International Trade Commission Building in Washington, D.C. Any changes in the schedule will be announced in the **Federal Register** as far in advance of the meetings as possible. The meetings are open to the public, with limited seating available on a first-come, first-served basis.

Authority: 42 U.S.C. 1437g; 3535(d).

Dated: February 14, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–3826 Filed 2–15–96; 11:39 am]

BILLING CODE 4210–27–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 91–045]

RIN 2115–AF27

Structural Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; extension of comment period.

SUMMARY: The Coast Guard is holding a public meeting on its proposed regulations under the Oil Pollution Act of 1990 (OPA 90) relating to structural measures for certain existing tank vessels of 5,000 gross tons or more that do not have double hulls. There is substantial public interest in the rulemaking. The Coast Guard also is extending the comment period an additional 14 days beyond the original 90 day comment period.

DATES: The meeting will be held March 19, 1996, and will begin at 9:00 a.m. Comments must be received on or before April 10, 1996.

ADDRESSES: The meeting will be held in room 4436–38 and 4436–40, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 91–045), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593–0001 or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters. Upon the request of the Department of Transportation, a new Regulatory Identification Number (RIN) has been assigned to the structural portion of this rulemaking. The former RIN was 2115–AE01.

FOR FURTHER INFORMATION CONTACT: LCDR Suzanne Englebert, Project Manager, Standards and Evaluation and Development Division, at (202) 267–6490. This number is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION: The supplemental notice of proposed rulemaking (SNPRM) (60 FR 67226), published on December 28, 1995, represents part of the Coast Guard's three-step effort to establish structural and operational measures that are economically and technologically feasible for reducing the threat of oil spills from tank vessels without double hulls, as required by the Oil Pollution Act of 1990 (OPA 90). It analyzes a number of measures and describes the results of extensive cost and benefit research on those measures deemed technologically feasible.

As stated in the SNPRM, the Coast Guard will hold a public meeting on March 19, 1996. The public is invited to comment on the technological and economic feasibility of structural measures analyzed in the SNPRM. The public meeting will also enable the public to receive clarification on the regulatory assessment as published in the SNPRM, if needed.

Attendance is open to the public. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed above under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted prior to, during, or after the meeting.

The Coast Guard finds that extending the comment period is appropriate in conjunction with holding a public meeting. Persons unable to attend the public meeting are encouraged to submit written comments. The comment period is extended until April 10, 1996.

Dated: February 13, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–3695 Filed 2–16–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–9; RM–8736]

Radio Broadcasting Services; Ukiah, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by LifeTalk Broadcasting Association ("petitioner"), seeking the allotment of Channel 246A to Ukiah, California, as that community's fourth local FM transmission service. Coordinates used for this proposal are 39–09–00 and 123–12–30.

DATES: Comments must be filed on or before April 5, 1996, and reply comments on or before April 22, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: LifeTalk Broadcasting Association, Attn: Rudy H. Dolinsky, 402 E. Yakima Avenue, Suite 1320, Yakima, WA 98901.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–9, adopted January 26, 1996, and released February 13, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–3659 Filed 2–16–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–147; RM–8694]

Radio Broadcasting Services; Meredosia, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal of.

SUMMARY: The Commission dismisses the request of Larry K. and Cathy M. Price to allot Channel 228A to Meredosia, IL, as the community's first local aural service. Neither the petitioners nor any other interested party expressed continuing interest in the allotment. Therefore, in accordance with Commission policy, the petition is dismissed.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–147, adopted January 31, 1996, and released February 13, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

John A Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–3660 Filed 2–16–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–10; RM–8738]

Radio Broadcasting Services; Farmersville, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Galen O. Gilbert proposing the allotment of Channel 260C3 at Farmersville, Texas, as the community's first local aural transmission service. Channel 260C3 can be allotted to Farmersville in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.9 kilometers (11.2 miles) north in order to avoid short-spacing conflicts

with the licensed sites of Station KPLX(FM), Channel 258C, Fort Worth, Texas; Station WACO(FM), Channel 260C, Waco, Texas, and Station KJMZ(FM), Channel 262C, Dallas, Texas. The coordinates for Channel 260C3 at Farmersville are 33–19–22 and 96–22–41.

DATES: Comments must be filed on or before April 5, 1996, and reply comments on or before April 22, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James P. Riley and Anne Goodwin Crump, Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street, Eleventh Floor, Rosslyn, Virginia 22209 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–10, adopted January 30, 1996, and released February 13, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–3661 Filed 2–16–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–11; RM–8742]

Radio Broadcasting Services; Waverly, NY, Altoona, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WSKG Public Telecommunications Council seeking the allotment of UHF TV Channel 57– to Waverly, NY, and its reservation for noncommercial educational use. To accommodate the Waverly allotment, petitioner also requests that the allotment reference coordinates for vacant and unapplied-for channel *57+ at Altoona, PA, be modified. Channel *57– can be allotted to Waverly in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.6 kilometers (4.7 miles) north, at coordinates 42–04–33 North Latitude and 76–30–48 West Longitude, to avoid a short-spacing to Station WGBY-TV, Channel 57+, Springfield, MA, and Station CITY-TV, Channel 57., Toronto, Ontario, Canada. The proposed allotment reference coordinates for Channel *57+ at Altoona, 40-24–30; 78–31–30, are 16.2 kilometers (10.1 miles) southwest. Waverly and Altoona are both located within 400 kilometers (250 miles) of the U.S.-Canadian border. Therefore, concurrence of the Canadian Government will be obtained for these allotments. Waverly is not affected by the Commission's temporary freeze on new television allotments in certain metropolitan areas. Altoona, however, lies within the Pittsburgh, PA, freeze zone. Therefore, even if the proposed change at Altoona is adopted, the freeze on applications will continue in force.

DATES: Comments must be filed on or before April 5, 1996, and reply comments on or before April 22, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard D. Marks, Esq., Margaret L. Miller, Esq., Dow, Lohnes & Albertson, 1255 Twenty-third Street, NW. , Suite 500, Washington, DC 20037 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–11, adopted January 31, 1996, and released February 13, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–3662 Filed 2–16–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–12; RM–8741]

Radio Broadcasting Services; The Dalles, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by LifeTalk Broadcasting Association seeking the allotment of Channel 268C3 to The Dalles, OR, and its reservation for noncommercial educational use. The allotment could provide The Dalles with its fourth local FM and first local noncommercial educational service. Channel 268C3 can be allotted to the community with a site restriction of 8.8 kilometers (5.5 miles) southwest, at coordinates 45–31–28 NL; 121–07–22 WL, to avoid a short-spacing to Station KPLZ, Channel 268C, Seattle, Washington. Use of this channel at the proposed reference coordinates requires an antenna tower of at least 209 meters (686) feet. Therefore, petitioner and any other interested parties are requested to affirmative state an intention to apply for and construct a station with the necessary high tower.

DATES: Comments must be filed on or before April 5, 1996, and reply comments on or before April 22, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Rudy H. Dolinsky, Vice President for Technical Development, LifeTalk Broadcasting Association, 402 E. Yakima Avenue, Suite 1320, Yakima, Washington 98901 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–12, adopted January 31, 1996, and released February 13, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–3663 Filed 2–16–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–13; RM–8740]

Radio Broadcasting Services; Georgetown and Millsboro, DE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Great Scott Broadcasting requesting the substitution of Channel 228B for Channel 228B1 at Georgetown, Delaware, and reallotment of the channel to Millsboro, Delaware. Great Scott also requests modification of its license for Station WZBH to show Channel 228B at Millsboro. The coordinates for Channel 228B at Millsboro are 38–18–53 and 75–13–50. We shall propose to modify the license for Station WZBH in accordance with Section 1.420(g) and (i) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availaility of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before April 5, 1996, and reply comments on or before April 22, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dennis P. Corbett, Deborah R. Coleman, Leventhal, Senter & Lerman, 2000 I Street, NW., Suite 600, Washington, DC 20006–1809.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–13, adopted January 31, 1996, and released February 13, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–3664 Filed 2–16–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 960206024–6024–01; I.D. 122795A]

RIN 0648–AG32

Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Reporting and Recordkeeping

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: NMFS requests comments on this advance notice of proposed rulemaking. If these proposed regulations were implemented, they would require operators of processor vessels participating in the pollock fisheries in the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI) to install scales to weigh catch. This document is necessary to obtain information from the operators of processing vessels about problems involved in the proposed installation, testing, and operation of marine scales to weigh fish more accurately.

DATES: Comments must be submitted by March 21, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone (EEZ) of the GOA and the BSAI are managed by NMFS in accordance with the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI FMP). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act. The FMPs are implemented by regulations that appear at 50 CFR parts 672, 675, and 676. General regulations that also govern the groundfish fisheries appear at 50 CFR part 620.

Public comment is requested on the following issues:

1. Is the three-part scale evaluation and approval process recommended by weights and measures officials necessary to assure that scales on processor vessels provide accurate information about fish weight?
2. How would "authorized weights and measures inspectors" be provided to perform scale inspections if they are not available from Federal or state weights and measures agencies due to staff and budget constraints? Are contract inspectors available? If so, what qualifications would be required for contracted inspectors?
3. If weights and measures inspectors can be identified, how can the location and timing of scale inspections be established to minimize the cost to processor vessels?
4. Belt-conveyor or "in-line flow" scales initially should be tested by comparing the recorded weight of several tons of fish with the known weight of this fish as determined by an independent certified scale. How will relatively small amounts of groundfish be provided to dockside locations in Washington or Alaska over a period of several months in order to test scales on 48 processor vessels?
5. What effect does NMFS' recommendation that scales be used to weigh total catch prior to discard or processing and that the weight of individual species in the catch be determined by applying observers' species composition data to the scale weight have on industry?
6. Are NMFS' cost estimates for purchase and installation of marine scale systems accurate?

The Council Recommendation

The Council initially requested NMFS to analyze a requirement to weigh catch processed at sea in 1990. In June 1994, the Council reviewed an initial draft Environmental Analysis/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) on improving total catch weight estimates in the groundfish fisheries, and the draft analysis was revised based on recommendations from the Council's Statistical and Scientific Committee and Advisory Panel. The revised draft analysis was sent out for public review on September 6, 1994, and presented to the Council at its September 1994 meeting.

The draft EA/RIR/IRFA explained current methods to estimate catch weight by species for all processor and catcher vessel types, and the potential problems with each method. Although NMFS can identify potential sources of uncertainty with current catch estimation procedures, NMFS currently is unable to quantify how these sources of uncertainty affect the accuracy of catch weight estimates.

The draft EA/RIR/IRFA analyzed several alternatives to improve total catch weight estimates including requirements that (1) trawl catcher/processors and motherships provide measured, marked, and certified fish receiving bins to improve observers' volumetric estimates of catch weight, (2) all processors with 100 percent observer coverage weigh all catch before processing or discard, (3) all processors, regardless of observer coverage, weigh all catch, and (4) all processors and catcher vessels weigh all catch. In addition, the Council considered an option to require that catch weight be assessed using any method that would provide estimates within a specified range of accuracy.

The draft EA/RIR/IRFA stated that the use of scale weights would not address all of the potential problems identified in the analysis. Observer species composition sampling would still be applied to the total catch weight to estimate the weight of each species or species group in the catch. Although properly designed and maintained marine scale systems provide the equipment necessary to account accurately for fish harvested by any vessel or processor type, no security or monitoring system exists that will guarantee that all fish will be weighed or that information from the scales will be accurately reported to NMFS. The observer can provide an important compliance monitoring role but, even with an observer aboard at all times, compliance cannot be assured. Observers can periodically test the accuracy of the scale and monitor use of the scale when they are on duty, but all activities on vessels that operate round the clock cannot be monitored by one person.

At its September 1994 meeting, the Council recommended that NMFS prepare proposed regulations to require all processors participating in the pollock fisheries to weigh their pollock catch on a scale, rather than to provide for improved volumetric estimates of total catch weight. The Council decided to focus initially only on processors participating in the pollock fisheries for two reasons. First, these fisheries represent the majority of groundfish catch off Alaska. Second, the Council expressed the need for parity in the methods used to estimate catch weight for purposes of the pollock allocations for processing by the inshore and offshore components.

These proposed regulations do not include additional requirements on shoreside processing plants because these scales already are regulated by state weights and measures agencies. NMFS believes that referencing these requirements or including additional requirements for shoreside plant scale testing or certification would be redundant.

What Will be Weighed?

Although the Council only specified that pollock was to be weighed, NMFS is recommending that all catch in the pollock fisheries be weighed. All catch in the pollock fisheries includes the catch of all pollock, all other groundfish species, and all nonallocated species. In other words, all fish and marine invertebrates must be weighed prior to discard or processing, unless otherwise specified in the regulations (e.g., prohibited species). For trawl catcher/processors or processor vessels taking deliveries of unsorted codends, all catch in each haul or delivery that occurred during a week in which the processor vessel was participating in the pollock fisheries would have to be weighed before discard or processing. For processors taking deliveries from trawl catcher vessels, all fish delivered by a catcher vessel participating in the pollock fisheries must be weighed before discard or processing. Operators of trawl catcher vessels could continue to discard at-sea before they delivered their catch. Processors could sort catch before weighing if the processors wish to weigh retained catch separately from discarded catch.

NMFS is considering requiring that all catch in the pollock fisheries be weighed for two reasons. First, if scales are to be required on processor vessels, NMFS believes that these scales should be used to improve estimates of the mortality of all fish and marine invertebrates—not just the pollock. Second, this requirement more closely follows current catch estimation procedures for trawl processor vessels, which apply observers' species composition sampling data to total catch weight estimates to estimate the weight of each species in the catch.

Observers currently use one of two methods to make volumetric-based estimates of total catch weight—codend volume estimates or bin volume estimates. For a codend volume estimate, the observer estimates the volume of fish in the net. For a bin volume estimate, the observer estimates the volume of fish in one or more of the holding bins into which fish are dumped from the net. After the volumetric estimate of catch weight is made, fish are conveyed from the fish holding bins into the factory. Observers sample unsorted catch as it is being conveyed out of the bins to estimate the species composition of the total catch. Almost immediately after the fish are conveyed out of the holding bins, vessel crew sort retained catch from discards.

The use of an accurate and reliable scale to weigh total catch would eliminate the need for the observers' volumetric estimates of total catch weight. However, observers would still need to sample unsorted catch to estimate the distribution of various species in the catch, including prohibited species. A requirement to weigh only pollock rather than total catch would result in the observer continuing to make volumetric estimates of total catch weight in order to estimate the weight of all nonpollock species in the catch. In addition, the requirement to weigh only pollock may add a step to processors' groundfish sorting, unless they are retaining all pollock and putting small and damaged fish into a meal plant. Weighing pollock separately from other groundfish catch would require processors to first sort all pollock from other groundfish, then weigh the pollock, and then sort out the pollock to be retained from that to be discarded.

Weighing at Sea

Scales in shoreside plants are regulated by state and local government agencies, based on national standards established by the National Conference on Weights and Measures (NCWM) and published by the U.S. Department of Commerce, National Institute for Standards and Technology (NIST) in Handbook 44. Handbook 44 includes design, use, and performance standards for many different weighing and measuring devices, including several different types of scales. All of the catch from the BSAI and GOA pollock fisheries landed at a shoreside processing plant is reported to be landed in Alaska and is regulated by the Alaska Division of Measurement Standards.

Under Handbook 44 standards, scales in shoreside processing plants usually must weigh certified test weights to within 0.20 percent of their known weight. These scales are required to be inspected once or twice a year, and most scales in large processing plants are inspected every 6 months. However, scales in smaller processing plants or in remote locations are often tested less than once a year due to limited staff and budget resources in the Alaska Division of Measurement Standards.

Groundfish catch processed at sea is not regulated by any weights and measures agency for two reasons. First, no commercial transaction occurs when a catcher/processor catches and processes groundfish. Second, even in circumstances where a processor vessel is purchasing catch from an independent catcher vessel in the EEZ, no state or local government has jurisdiction over this transaction. The only activity on processor vessels operating in the EEZ that is regulated by a weights and measures agency is the packaging of processed product by weight (e.g., a 10–kg box of fillets). Although the scales used to pack the fish product by weight are not required to be certified, the accuracy of the net weight indicated on the package label is regulated by the state in which the fish are landed and sold. In other words, while operators processor vessels are not required to have certified scales on board, they are required to report accurate weights on their packaged products. Testing of packaged product weight by a weights and measures inspector generally occurs on shore, if it occurs at all.

Obtaining an accurate weight at sea requires a scale that has the capability to compensate for vessel motion. Marine scales in use, or proposed for use, use information from two weighing units (or "load cells") to calculate an adjustment factor to apply to the scale weight of fish to compensate for the effect of vessel motion. However, most other features of the marine scales are similar to scales of the same general design, such as belt-conveyor scales or hopper scales, that are used on land. Handbook 44 includes standards that can be used to evaluate a marine scale's performance on land, but additional standards will have to be developed to evaluate the scale's performance at-sea or in motion. These standards have not yet been developed because, to date, no marine scale has been used for commercial purposes or within the jurisdiction of a weights and measures agency.

In December 1993, NMFS hosted a meeting with representatives from U.S. and international scale manufacturers. These representatives stated that scales designed to compensate for the effect of vessel motion could achieve a very high level of accuracy, perhaps to within 1 percent of known weight. Three processor vessels currently have motion compensated conveyor scales and weigh fish as the fish move along the conveyor belt between the holding bins and the factory. The same motion compensation technology currently is used in platform scales used to weigh packaged product and in roe grading machines.

NMFS believes that a requirement that a scale weigh standard test weights to within 3 percent of their known weight is achievable under all circumstances under which sorting and processing of groundfish would occur. This accuracy level is well within the accuracy standard recommended by the scale manufacturers and would provide a satisfactory estimate for fishery management purposes.

A proposed rule to govern the use of scales in the pollock fishery would include requirements that NMFS believes are necessary to monitor effectively the use of scales and to assure that accurate information is being obtained from the scales in the absence of direct oversight by a weights and measures agency. These requirements are discussed below.

Compliance Monitoring

Processors would be required to notify NMFS as to the type of scale that would be used on the processor vessel. Notification would include a written description of the scale system that would be used to weigh catch and a diagram of the location of the scale or scales on the processor vessel and the location where the observer would sample unsorted catch. Notification would be required 6 months prior to initial installation, major modification, or relocation of a scale. The purpose of this proposed requirement is to assure that on-board test procedures for the particular type of scale have been developed by NMFS in consultation with the scale manufacturer and the weights and measures agencies. In addition, NMFS-certified observers, U.S. Coast Guard personnel, NMFS Enforcement officers, and scale inspectors must be notified in advance of the types of scales they may be expected to evaluate. Currently, NMFS is proposing test procedures only for belt-conveyor scales and hopper scales.

No other type of scale would be approved for use by NMFS until the appropriate test procedures have been developed and included in NMFS regulations.

Processors would decide which particular scale or scales to use and where to install these scales, as long as installation or use of the scale does not prevent observers from taking random samples of unsorted catch.

NMFS proposes a monitoring system for scales on-board processor vessels that would comprise three elements. The first element of the scale monitoring program would be a one-time approval of each model of scale under the National Type Evaluation Program (NTEP). NTEP approval would assure that the scale is constructed and performs in the laboratory according to standards set forth in Handbook 44. In addition, the scale would be evaluated under a variety of "influence factors," such as temperature changes and voltage fluctuations. NTEP approval would be expected to take between 6 months and 1 year from the time the scale is submitted to the testing laboratory. No marine scale has NTEP approval or has been submitted for NTEP approval. NMFS believes that NTEP approval is an important first step in the monitoring process, because it would provide an independent assessment of the performance of the scales against established scale standards before a particular type of scale is purchased or installed on a processor vessel. Assuring that only high quality scales are installed on processor vessels would prevent NMFS and the industry from spending time or money on evaluating scales that cannot meet minimum standards. In addition, the State of Alaska would require NTEP approval for motion-compensated belt-conveyor scales, before they can be certified for use in shoreside processing plants.

Scale manufacturers would submit their scales for NTEP approval and provide processors with certification of approval. This certification must be kept on the processor vessel with the scale and be made available to the authorized officer. Four laboratories in the United States are approved by NCWM to provide NTEP certification. The State of California, Division of Measurement Standards in Sacramento, operates the NTEP laboratory for the West Coast.

The second element of the monitoring system would be inspection by a weights and measures inspector of each scale after it is installed on the processor vessel. The inspection of each scale would be necessary to assure that the scale is installed properly, the scale weighs accurately when not in motion, the appropriate on-board test weights are calibrated, and the vessel crew understands how to perform the on-board test procedure. The inspection would be based on Handbook 44 standards with two exceptions. First, accuracy standards for the scales would be specified in NMFS regulations. Second, scales would be exempted from Handbook 44 requirements for sealed calibration units, because this requirement would prevent the processor vessel crew from performing periodic, necessary calibration of the scale at sea.

Belt-conveyor scale systems, or flow scales, would be evaluated through a "material test," which tests the performance of the scale while weighing the material (i.e., fish) that it was designed to weigh in the specific installation. Because the weight reading from a belt-conveyor scale is a combination of information about the load on the scale and the speed at which material is passing across the scale, static testing, or the placement of a test weight on the scale, would not adequately evaluate the scale's accuracy. The scale must be tested by running material across the scale to evaluate the effect of the conveyor belt installation, the loading and unloading of fish from the scale, the belt speed, and other factors related to the installation of the scale that may affect its accuracy. Simply running a series of metal test weights across the scale is not considered an adequate test of the scale's performance for an annual inspection, because the material will not flow across the scale in the same way as fish, and because it would be difficult to supply enough test weights to test the scale at a capacity similar to its actual use capacity.

Once the scale has passed the material test, a standard test weight would be certified by the weights and measures inspector. The test weight would be a flat, stainless steel bar that could be placed on the scale in contact with the weighing unit of the scale, but not the belt. It would act as a continuous load on the scale for a 10–minute test period. The accumulated weight recorded by the scale at the time of the annual certification would be stamped on the test weight.

The initial inspection by a weights and measures inspector would require vessel owners to schedule and pay for an inspection by either a state weights and measures agency (i.e., State of Alaska or State of Washington inspectors) or a contracted inspector. Officials of the State of Alaska have notified NMFS that it cannot commit to providing inspectors at this time due to budget and staff constraints.

Handbook 44 requires that a belt-conveyor scale be tested with an amount of material equal to the capacity of the scale for 10 minutes. Flow scales with capacities between 50 metric tons per hour (mt/hr) and 80 mt/hr, would need to be tested with between 8 and 13 mt of fish. The material test of the flow scale could take a full day and would require that an appropriate amount of fish and a certified platform or hanging scale be available at a dockside location for the weights and measures inspector. Because the tests likely would be done outside of the commercial fishing seasons, the Council and NMFS would have to make approximately 500 mt of groundfish available for scale testing. Vessels owners would have to request authorization from the Director, Alaska Region, NMFS (Regional Director) to catch the amount of fish needed for their tests if the tests were performed outside of regular seasons.

The third element of the scale monitoring system would be periodic testing of each scale using the standard test weight. This element would be required because the NTEP approval process and the dockside inspections do not test the scale's performance in motion. It is only through periodic tests at sea that the efficacy of the "motion compensation" devices can be assessed. The test weight would be placed on the scale, the scale would run for 10 minutes, and a printed record of the scale weight would be compared with the number stamped on the test weight. The scale would be in compliance with these regulations if the percent difference in the number stamped on the test weight and the number recorded by the scale was 3 percent or less. As long as the scale weighed the standard test weight accurately, and absent other information, NMFS would assume that the scale was continuing to operate as it did upon successful completion of the initial certification.

The certification and monitoring of hopper scales (similar in design to those currently used in several shoreside processing plants) would be much less complicated than belt-conveyor scales. The hopper scales weigh successive batches of fish rather than a flow of fish. For the initial certification, a weights and measures inspector would evaluate the scale using standard, metal test weights in a range of sizes. No test materials or fish would be required. The on-board test procedure would involve the use of standard test weights that would periodically be placed on the scale. A comparison of the known weight of the test weights with the scale's recorded weight at sea would indicate whether the scale was weighing within the accuracy standard.

As an additional security measure, the scale would be required to maintain a cumulative record of the number of hours the scale has been operating and the weight of catch passing over or through the scale. This record must be permanent and accessible to the scale operator, the observer, or an authorized officer (read only) but must not be changed or deleted (no write capability). The purpose of this requirement is to provide information about the total catch weighed by the scale with the cumulative reports of catch weight from each haul.

Printed output from the scale on each haul must provide the following information: Starting date and time of haul, total weight of catch in each haul, and end date and time of haul. In addition, the scale must provide a printed record of the scale tests.

Initial Tests of At-sea Scales

One company participating in the 1995 pollock Community Development Quota (CDQ) fisheries installed two different models of belt-conveyor scales on two processors. Two observers were aboard each processor vessel during the CD fisheries, and an additional NMFS staff person was aboard for about 2 weeks. Observers performed limited material tests on these scales by weighing 20 baskets of fish (up to 50 kg of fish per basket) on either a motion-compensated or a beam-balance platform scale and then on the belt-conveyor scales. Test results were highly variable, ranging from less than 0.10 percent difference to almost 50 percent difference in weight between the platform and belt-conveyor scales. The scale on one of the vessels was judged to be improperly installed, because fish were allowed to fall onto the scale rather than flow across it. This likely resulted in inaccurate weights. In addition, the electric motor that drove the conveyor malfunctioned and was not successfully repaired by vessel crew.

These limited tests of scales on processor vessels illustrate several important points. The technology to accurately weigh fish processed at sea exists. However, accurate weight depends on the proper technology, proper installation of the scale, and the proper use of the scale. In other words, an improper installation can negate any benefits of a high quality scale. The proper functioning and installation of the scale must be verified by a qualified weights and measures official prior to use in the fishery. In the absence of this evaluation process, NMFS cannot be assured that accurate weight can be obtained from the scale. NMFS-certified observers cannot perform "material tests" involving weighing a ton of fish on two different scales each day due to time, space, and energy limitations. In addition, observers are not trained to determine whether the scale is properly installed or other technical aspects of the scale installation or operation.

The Number of Processors Affected

In 1994, 66 processor vessels reported as either trawl catcher/processors or motherships taking deliveries from trawl catcher vessels. Of these, 45 trawl catcher/processors and three motherships reported catch in the pelagic or bottom trawl pollock fisheries in the GOA or BSAI. Each of these 48 processor vessels would be required to provide a scale system that is capable of weighing catch before it is processed or discarded. Although these processors could choose to weigh catch in the other groundfish fisheries in which they participate, they would not be required to do so.

Cost of the Scale Requirement to Industry

NMFS estimates that each processor vessel would pay about $50,000 for each marine scale. One scale manufacturer estimates that a hopper scale system in development will cost about $20,000 each. However, this scale currently is not available for sale, so the price estimate is uncertain. Installation costs are much more difficult to estimate. Due to space constraints on many processor vessels, the likely need to relocate sorting space and processing equipment, the possibility that more than one scale would be required on some vessels, and the wide range of configurations on individual vessels, the installation cost range for the scales could be between $5,000 and $250,000 per vessel. Therefore, the total cost of purchasing and installing marine scales to weigh groundfish catch on processor vessels may range between $55,000 and $300,000 per vessel.

A variety of other costs are associated with a requirement for vessels to install marine scales, including the cost of reduced efficiency as a result of changes in procedures for harvesting, sorting, discarding, or processing groundfish. For example, sorting space may be reduced and processing equipment may have to be moved to accommodate the scale, possibly reducing the efficiency of the factory. These costs also will vary among the vessels, depending on factory configuration. Additional crew time may be required to monitor and record information from the scale and to test, maintain, and repair the scale. Finally, vessel operators may choose to purchase spare parts or a back-up scale depending on the amount of fishing time that could be lost if the scales break down.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: February 12, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.2, the definitions for "Belt-conveyor scale" and "Hopper scale" are added, in alphabetical order, to read as follows:

§ 672.2 Definitions.

* * * * *

Belt-conveyor scale means a device that employs a weighing element in contact with a belt to sense the weight of the material being conveyed and the speed (travel) of the material, and integrates these values to produce total delivered weight.

* * * * *

Hopper scale means a scale designed for weighing bulk commodities whose load-receiving element is a tank, box, or hopper mounted on a weighing element. The scale may be adapted to the automatic weighing of bulk commodities in successive drafts of predetermined amounts.

* * * * *

3. In § 672.24, paragraph (g) is added to read as follows:

§ 672.24 Gear limitations.

* * * * *

(g) *Weighing catch in the pollock fisheries in the EEZ*—(1) *Applicability.* Processor vessels participating in the pollock fisheries in the EEZ must weigh all catch on a scale that meets the requirements of this paragraph. A processor vessel is participating in the pollock fisheries if directed fishing for pollock is not prohibited and if, during any weekly reporting period, the round weight equivalent amount of retained pollock is greater than the round weight equivalent amount of any other retained groundfish species or species groups for

which a TAC has been specified under § 672.20 or § 675.20.

(2) *Required equipment.* (i) The processor vessel must provide a scale or scale system, a printer capable of providing printed output from the scale or scale system, and the appropriate standard test weights as described in paragraphs (g)(3)(ii)(A) and (B) of this section. Only belt-conveyor scales and hopper scales as defined at § 672.2 and meeting the certification and use requirements of this paragraph (g) are authorized for use.

(ii) *Installation.* The scale or scale system must be installed in the conveyor belt system that carries fish from fish holding bins to either processing equipment or a discard chute. The location or use of the scale or scales must not prevent the observer from sampling unsorted catch.

(iii) *Notification of proposed scale system.* Processor vessel operators must provide the Regional Director with a written description of the scale system that will be used to weigh catch, including: The name, manufacturer, and model number of the scale or scales; a diagram of the location of the scale or scales on the processor vessel; and the location where observers will obtain samples of unsorted catch. This notification is required only prior to initial installation, major modification, or relocation of a scale and must be received by the Regional Director 6 months prior to using the scale to meet the requirements of this paragraph.

(3) *Scale certification.* Each scale used to weigh catch under this paragraph (g) must meet the requirements of the following three-part scale certification process:

(i) *National Type Evaluation Program Certificate of Conformance.* The particular model of scale must be certified under the National Type Evaluation Program of the National Conference on Weights and Measures. Application forms may be obtained from the National Institute for Standards and Technology (NIST), Office of Weights and Measures, Building 820, Room 223, Gaithersburg, MD 20899–0000. A copy of the certificate of conformance for each model of scale must be maintained on board the processor vessel at all times.

(ii) *Initial installation or modification inspection.* Each scale or scale system must be tested and certified by an authorized weights and measures inspector upon initial installation, after major modification or installation of the scale at a different location on the vessel, or at the request of the Regional Director. Scales will be tested in accordance with the National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices", 1995 edition adopted by the 79th National Conference on Weights and Measures, which are incorporated by reference, with the exceptions listed in paragraphs (g)(3)(ii)(A) and (B) of this section. Copies of Handbook 44 may be obtained from the National Institute for Standards and Technology, Office of Weights and Measures, Building 820, Room 223, Gaithersburg, MD 20899–0000. Copies may be inspected at the NMFS Alaska Regional Office. Written certification must be provided to the Regional Director prior to January 1 of each year and a copy must be maintained on board the processor vessel at all times. A certification signed by the authorized weights and measures inspector must identify the vessel name, scale model, and date of test; and certify that the scale or scale system meets the standards specified for either belt-conveyor scale systems or hopper scales, with the following additional requirements or exceptions.

(A) *Belt-conveyor scale systems.* Belt-conveyor scales are not required to meet Handbook 44 provisions for sealing in section 2.21, paragraphs S.1.7, S.2.2, and UR.1.2. Certification of a belt-conveyor scale requires accurate weighing of fish as determined by a material test followed by calibration of a standard test weight to be used in on board tests of the scale under paragraph (g)(3)(iii) of this section.

(*1*) *Material test.* An official test of a belt-conveyor scale system is a material test. The material test must be performed with fish that have been preweighed on the day of the material test on a scale approved by the authorized weights and measures inspector. The scale used to preweigh fish must be tested by the authorized weights and measures inspector immediately prior to running the material test. The weight of fish used in the material test must be equal to the full capacity of the scale operating for 10 minutes. The belt-conveyor scale must weigh the fish to within 1 percent of the weight determined through preweighing.

(*2*) *Standard test weight.* The processor vessel must provide a stainless steel bar that fits on the carriage of the scale to be used as a standard test weight for on-board scale testing. Calibration of the standard test weight by the weights and measures inspector must be referenced to the results of the material test. The serial number of the scale and the target weight after a 10–minute simulated load test must be stamped on the standard test weight upon successful completion of the material test. The standard test weight must be retained on board the vessel at all times while the processor vessel is participating in the pollock fisheries.

(B) *Hopper scales.* Hopper scales are not required to meet Handbook 44 provisions for sealing in section 2.20 paragraph S.1.11. An official test of a hopper scale system is an increasing-load and decreasing-load test using certified standard test weights provided by the authorized weights and measures inspector and used according to procedures specified in Handbook 44. In addition, a set of standard test weights must be provided by the processor vessel to be used for on-board scale testing. The standard test weights must be stainless steel, must not exceed 10 kg each or 50 kg in total, and must be stamped with the serial number of the scale and the certified weight of the standard. The standard test weight must be retained on board the vessel at all times while the processor vessel is participating in the pollock fisheries.

(iii) *On-board tests of scale performance.* The NMFS certified observer or any other authorized officer may perform, or witness vessel crew performing, a test of the scale's performance at any time. The procedure for testing a scale's performance must be based on the use of a standard test weight or weights certified by an authorized weights and measures inspector as described in paragraphs (g)(3)(ii)(A) and (B) of this section. The standard test weights must be placed on, in, or across the weighing element of the scale while the scale is operating. The scale must record the weight of the certified test weight to within 3 percent of its certified weight as calculated by subtracting the scale weight from the known weight of the test weights, dividing this difference by the scale weight, and multiplying by 100 [–3.0 <= (((certified weight-scale weight)/scale weight)*100) <= 3.0]. The vessel operator must provide the observer with a printed record of the known weight of the certified test weights and the weight recorded by the scale for each test and a printed record of any adjustments to or calibrations of the scale.

(4) *Printed reports from the scale.* Printed reports from the scale must be maintained on board the processor vessel and be made available to observers and other authorized officers at any time during the current calendar year. Reports must be printed at least once each 24–hour period in which the scale is being used to weigh catch or before any information stored in the scale computer memory is replaced. A printed report must include the following information for each haul: The haul number; month, day, year, and time (to the nearest minute) weighing catch from the haul started; month, day, year, and time (to the nearest minute) weighing catch from the haul ended; and the total cumulative weight of catch in the haul for each haul brought on board the vessel. Scale weights may not be adjusted for the weight of water. The haul number recorded on the scale print-out must correspond with haul numbers recorded in the processor's daily cumulative production logbook. A printed report of any tests, adjustments, calibrations, or other procedures performed on the scale including month, day, year, and time (to the nearest minute) of procedure, name or description of procedure, result of procedure also must be provided. All printed output from the scale must be signed by the operator of the processor vessel.

(5) The scale system must record the cumulative number of hours in operation and the cumulative weight recorded by the scale in a format that cannot be edited or erased and that is accessible to the scale operator at any time. This information must be provided in printed form at any time at the request of an observer or other authorized officer.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

5. In § 675.24, paragraph (h) is added to read as follows:

§ 675.24 Gear limitations.

* * * * *

(h) Weighing catch harvested in the pollock fisheries. Requirements are set out at § 672.24(g).

[FR Doc. 96–3553 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 34
Tuesday, February 20, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 96–004–1]

Boll Weevil Control Program; Availability of Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and a finding of no significant impact for a program to eradicate the boll weevil in the South Texas/Wintergarden area. The environmental assessment provides a basis for our conclusion that the methods employed to eradicate the pest will not have a significant impact on the quality of the human environment.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Wickheiser, Writer/Editor, Environmental Analysis and Documentation, BBEP, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737–1237, (301) 734–8565. Copies of the environmental assessment and finding of no significant impact may be obtained by contacting Ms. Wickheiser or by calling Plant Protection and Quarantine's Central Region Office at (210) 504–4154.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 7 U.S.C. 147a, 148, and 450, the Secretary of Agriculture is authorized to cooperate with the States and certain other organizations and individuals to control and eradicate plant pests.

The boll weevil (*Anthonomus grandis Boheman*) is a destructive pest of cotton which causes annual economic losses to the agricultural industry and consumers. Since its introduction in southern Texas in the late 1800's, the boll weevil has spread across the area of the United States known as the Cotton Belt. Since the early 1950's, the United States agricultural community has acknowledged the need for a beltwide strategy for controlling the boll weevil. Since the first pilot program in 1971, programs implemented in an incremental fashion have been successful in eradicating the boll weevil from over 3.5 million acres in major areas of the Cotton Belt.

The U.S. Department of Agriculture (USDA), in cooperation with the State of Texas, the Texas Boll Weevil Eradication Foundation, Inc., and local cotton producers, has developed a program to eradicate boll weevil from cotton fields in the South Texas/Wintergarden area.

The Animal and Plant Health Inspection Service (APHIS), USDA, has prepared an environmental assessment to analyze the potential effects of this eradication program on the human environment. Based on the environmental assessment, APHIS has determined that the program to eradicate boll weevil in the South Texas/Wintergarden area will not significantly impact the quality of the human environment.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 13th day of February 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–3706 Filed 2–16–96; 8:45 am]

BILLING CODE 3410–34–P

Forest Service

Priest Lake Noxious Weed Control Project, Idaho Panhandle National Forests, Bonner and Boundary Counties, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose the potential environmental effects of noxious weed treatment on the Priest Lake Ranger District. Treatment sites would be at various locations across the district and are within the Priest River Ecosystem, Priest Lake Ranger District, Idaho Panhandle National Forests, Bonner and Boundary Counties, Idaho and Pend Oreille County, Washington. Most treatment sites are located near or along forest roads, trails, powerline corridors, recreation sites and meadows within grazing allotments.

The proposed action to control populations of noxious and undesirable weeds on certain travel corridors and areas is designed to prevent the spread of these weeds and promote the retention and health of native and/or desirable plants within this ecosystem. The proposed action would use an integrated pest management approach to control weeds. This approach includes mechanical, biological, cultural, and chemical control.

Over 13 new or potential species of weed will be considered for control. The major species considered for control include spotted knapweed (Centaurea maculosa), orange hawkweed (Hieracium aurantiacum), meadow hawkweed (Hieracium pratense), dalmation toadflax (Linaria dalmatica), Canada thistle (Cirsium arvense), goat weed (Hypericum perforatum L.), hound's tongue (cynoglossum officinale) and common tansy (Tanacetum vulgare). Other species may include diffuse knapweed (Centaurea diffusa), purple loosestrife (Lythrum salicaria), yellow starthistle (Centaurea solstitialis), musk thistle (Carduus nutans), and bull thistle (Cirsium vulgare).

This project level EIS will tier to the Idaho Panhandle National Forests Weed Pest Management EIS, October 1989; the Idaho Panhandle National Forests Land and Resource Management Plan (Forest Plan), September 1987; the Final EIS Noxious Weed Management Project, Bonners Ferry Ranger District, September 1995.

DATES: Written comments and suggestions should be received on or before April 5, 1996.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or requests to be placed on the project mailing list to Kent Dunstan, District Ranger, Priest Lake Ranger District, HCR 5, Box 207, Priest River, ID 83856–9612.

FOR FURTHER INFORMATION CONTACT: Judy York, EIS Team Leader, Sandpoint Ranger District, phone number (208) 263–5111.

SUPPLEMENTARY INFORMATION: Weed control is proposed on 128 sites that have been identified on the Priest Lake Ranger District. These sites range in size from single plants to approximately 25 acres. The total project area covers approximately 2,610 gross acres; of this area, approximately 313 net acres will be specifically treated. These sites represent less than 1% of the 322,527 acres in the Priest Lake Ranger District.

There are a variety of purposes for weed control on the Priest Lake Ranger District. The primary purposes are: (1) To protect the natural condition and biodiversity of the Priest River Ecosystem by preventing or limiting the spread of aggressive, non-native plant species that displace native vegetation; (2) prevent or limit the spread of weeds into areas containing little or no noxious weeds; (3) reduce weed seed sources at recreation sites and along main travel routes including roads and trails; (4) reduce the social and economic impacts of spreading noxious weed populations; (5) comply with Federal and State Laws regulating management of noxious weeds; and (6) protect sensitive and unique habitats.

The treatment sites are in scattered locations across the district. The Idaho Panhandle National Forests Land and Resource Management Plan provides guidance for management activities within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The Forest Plan directed that forest pests be managed by an integrated pest management approach.

The decision to be made is what actions, if any, should be taken to control weeds in the Priest River ecosystem, where treatment should be applied, and what type of treatment(s) should be used.

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative, in which none of the proposed treatment activities would be implemented. Additional alternatives will represent the range of control methods currently available for treatment of weeds, including non-chemical methods.

Public participation is an important part of the analysis and will play an important role in developing the alternatives. The initial scoping process (40 CFR 1501.7) will occur during February, March, and April, 1996. The mailing list for public scoping will be developed from responses to this NOI, and to the Idaho Panhandle National Forests Quarterly Schedule of Proposed Actions, October, 1995. In addition, the public is encouraged to visit with Forest Service officials during the analysis and prior to the decision. The Forest Service will also be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed actions.

Comments from the public and other agencies will be used in preparation of the Draft EIS. The scoping process will be used to:

1. Identify potential issues.
2. Identify major issues to be analyzed in depth.
3. Eliminate minor issues or those which have been covered by a relevant previous environmental analysis.
4. Identify alternatives to the proposed action.
5. Identify potential environmental effects of the proposed action and alternatives (i.e., cumulative effects).

Some public concerns have already been identified from initial interdisciplinary review of the weed control proposal. The following significant issues have been identified so far:

1. Current and potential impacts of the spread of noxious weeds on the physical, biological, and social environment within the Priest Lake Ranger District.
2. Potential impacts, effectiveness, and economics of various weed control methods.
3. Potential effects upon human health from the application of herbicides.

This list will be verified, expanded, or modified based on public scoping and interdisciplinary review of this proposal.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in June, 1996. At that time, the EPA will publish a Notice of Availability of the draft environmental impact statement in the **Federal Register**. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978)). Also, environmental objections that could be raised at the draft environmental statement stage but that are not raised until after completion of the final environmental statement may be waived or dismissed by the courts (*City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritage, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day scoping comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

I am the responsible official for this environmental impact statement. My address is Priest Lake Ranger District,

HCR 5, Box 207, Priest River, ID, 83856–9612.

Dated: February 9, 1996.

Kent L. Dunstan,

District Ranger.

[FR Doc. 96–3625 Filed 2–16–96; 8:45 am]

BILLING CODE 3410–11–M

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations and Corrections on Release of Records

AGENCY: Assassination Records Review Board.

ACTION: Notice of Formal Determinations and Corrections.

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on January 30–31, 1996, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions on a document-by-document basis in the **Federal Register** within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: T. Jeremy Gunn, General Counsel and Associate Director for Research and Analysis, Assassination Records Review Board, Second Floor, 600 E Street, NW., Washington, DC 20530, (202) 724–0088, fax (202) 724–0457.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the *President John F. Kennedy Assassination Records Collection Act of 1992*, 44 U.S.C. 2107.9(c)(4)(A) (1992). On January 30–31, 1996, the Review Board made formal determinations on records it reviewed under the JFK Act. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records Collection database maintained by the National Archives. For each document, the number of releases of previously redacted information immediately follows the record identification number, followed in turn by the number of postponements sustained, the status of the document, and, where appropriate, the date the document is scheduled to be released or re-reviewed.

FBI Documents: Open in Full

124–10023–10241; 1; 0; n/a
124–10023–10242; 1; 0; n/a
124–10027–10402; 9; 0; n/a
124–10034–10056; 8; 0; n/a
124–10063–10017; 1; 0; n/a
124–10068–10068; 1; 0; n/a
124–10069–10030; 1; 0; n/a
124–10069–10051; 5; 0; n/a
124–10069–10394; 5; 0; n/a
124–10070–10076; 2; 0; n/a
124–10070–10088; 3; 0; n/a
124–10070–10350; 3; 0; n/a
124–10072–10150; 4; 0; n/a
124–10072–10402; 1; 0; n/a
124–10081–10324; 1; 0; n/a
124–10084–10205; 5; 0; n/a
124–10087–10331; 13; 0; n/a
124–10087–10336; 1; 0; n/a
124–10095–10117; 1; 0; n/a
124–10100–10265; 2; 0; n/a
124–10111–10170; 8; 0; n/a
124–10119–10143; 4; 0; n/a
124–10119–10221; 2; 0; n/a
124–10119–10228; 3; 0; n/a
124–10119–10261; 3; 0; n/a
124–10128–10024; 1; 0; n/a
124–10142–10166; 4; 0; n/a
124–10163–10135; 7; 0; n/a
124–10167–10052; 5; 0; n/a
124–10171–10143; 1; 0; n/a
124–10171–10193; 9; 0; n/a
124–10178–10262; 9; 0; n/a
124–10183–10178; 1; 0; n/a
124–10184–10259; 1; 0; n/a
124–10228–10062; 1; 0; n/a
124–10228–10069; 1; 0; n/a
124–10229–10111; 1; 0; n/a
124–10230–10423; 1; 0; n/a
124–10240–10290; 1; 0; n/a
124–10249–10417; 9; 0; n/a
124–10257–10477; 5; 0; n/a

CIA Documents: Open in Full

104–10001–10008; 1; 0; n/a
104–10001–10035; 2; 0; n/a
104–10001–10103; 2; 0; n/a
104–10002–10039; 1; 0; n/a
104–10002–10084; 4; 0; n/a
104–10003–10006; 1; 0; n/a
104–10003–10030; 14; 0; n/a
104–10003–10032; 2; 0; n/a
104–10003–10179; 14; 0; n/a
104–10003–10193; 2; 0; n/a
104–10015–10032; 6; 0; n/a
104–10015–10298; 6; 0; n/a
104–10015–10305; 17; 0; n/a
104–10015–10339; 5; 0; n/a
104–10015–10344; 2; 0; n/a
104–10016–10042; 10; 0; n/a
104–10017–10056; 11; 0; n/a

HSCA Documents: Open in Full

180–10075–10092; 1; 0; n/a
180–10076–10011; 1; 0; n/a
180–10077–10207; 1; 0; n/a
180–10077–10208; 1; 0; n/a
180–10078–10450; 2; 0; n/a
180–10089–10019; 1; 0; n/a
180–10089–10024; 1; 0; n/a
180–10089–10215; 1; 0; n/a
180–10089–10227; 1; 0; n/a
180–10110–10082; 1; 0; n/a
180–10110–10106; 1; 0; n/a
180–10117–10177; 167; 0; n/a
180–10118–10068; 3; 0; n/a

NARA Documents: Open in Full

178–10004–10022; 1; 0; n/a
179–40001–10233; 1; 0; n/a
179–40001–10430; 1; 0; n/a
179–40001–10431; 1; 0; n/a

FBI Documents: Postponed in Part

124–10003–10038; 2; 2; 01/2006
124–10012–10057; 0; 1; 10/2017
124–10027–10396; 5; 1; 10/2017
124–10049–10006; 4; 2; 01/2006
124–10049–10007; 8; 2; 01/2006
124–10065–10076; 4; 2; 01/2006
124–10068–10016; 0; 1; 01/2006
124–10068–10034; 0; 1; 01/2006
124–10069–10000; 9; 1; 01/2006
124–10069–10065; 5; 5; 01/2006
124–10070–10083; 0; 1; 01/2006
124–10070–10297; 0; 1; 01/2006
124–10070–10309; 7; 3; 04/1996
124–10070–10347; 3; 3; 01/2006
124–10072–10190; 0; 2; 01/2006
124–10074–10030; 9; 1; 01/2006
124–10074–10142; 9; 1; 01/2006
124–10075–10040; 2; 2; 01/2006
124–10075–10086; 9; 1; 01/2006
124–10075–10087; 8; 2; 01/2006
124–10075–10088; 8; 2; 01/2006
124–10075–10121; 0; 1; 01/2006
124–10075–10209; 0; 1; 01/2006
124–10076–10049; 1; 1; 01/2006
124–10077–10025; 0; 3; 01/2006
124–10077–10059; 1; 2; 01/2006
124–10077–10195; 0; 1; 01/2006
124–10081–10142; 3; 3; 01/2006
124–10081–10224; 0; 1; 01/2006
124–10081–10228; 0; 1; 10/2017
124–10087–10328; 2; 1; 10/2017
124–10087–10332; 0; 5; 01/2006
124–10100–10040; 3; 3; 01/2006
124–10100–10306; 0; 1; 01/2006
124–10102–10077; 3; 3; 01/2006
124–10102–10200; 7; 3; 04/1996
124–10103–10219; 1; 1; 01/2006
124–10105–10245; 0; 1; 01/2006
124–10108–10046; 0; 1; 01/2006
124–10108–10090; 1; 2; 01/2006
124–10108–10141; 0; 2; 01/2006
124–10110–10420; 1; 1; 01/2006
124–10112–10058; 0; 1; 01/2006
124–10119–10129; 0; 3; 01/2006
124–10119–10134; 0; 1; 01/2006
124–10119–10142; 0; 1; 01/2006
124–10119–10287; 7; 3; 04/1996
124–10125–10102; 1; 1; 01/2006
124–10126–10080; 0; 1; 01/2006
124–10126–10124; 0; 1; 01/2006
124–10126–10345; 1; 1; 01/2006
124–10127–10018; 3; 3; 01/2006
124–10133–10055; 2; 2; 01/2006
124–10143–10394; 1; 1; 01/2006
124–10160–10009; 0; 1; 01/2006
124–10163–10133; 3; 1; 10/2017
124–10169–10052; 2; 2; 01/2006
124–10178–10493; 1; 1; 01/2006
124–10182–10122; 2; 1; 10/2017
124–10272–10091; 1; 1; 01/2006

CIA Documents: Postponed in Part

104–10015–10030; 18; 6; 01/2006
104–10015–10035; 13; 11; 01/2006
104–10015–10037; 5; 3; 01/2006
104–10015–10058; 5; 1; 01/2006
104–10015–10129; 1; 7; 03/1996
104–10015–10150; 20; 6; 01/2006
104–10015–10158; 7; 1; 03/1996
104–10015–10178; 11; 1; 03/1996
104–10015–10220; 4; 3; 03/1996
104–10015–10223; 7; 1; 03/1996

104–10015–10227; 4; 1; 03/1996
104–10015–10240; 12; 1; 01/2006
104–10015–10259; 9; 3; 01/2006
104–10015–10269; 4; 3; 01/2006
104–10015–10330; 1; 6; 01/2006
104–10015–10348; 5; 1; 01/2006
104–10015–10364; 5; 1; 01/2006
104–10015–10375; 18; 6; 01/2006
104–10015–10385; 15; 7; 03/1996
104–10015–10396; 13; 1; 03/1996
104–10015–10402; 11; 4; 01/2006
104–10015–10403; 7; 4; 01/2006
104–10015–10410; 5; 2; 03/1996
104–10015–10435; 8; 1; 01/2006
104–10015–10448; 5; 1; 01/2006
104–10016–10007; 5; 1; 01/2006
104–10016–10021; 7; 5; 01/2006
104–10016–10022; 5; 1; 03/1996
104–10017–10000; 10; 4; 01/2006
104–10017–10008; 14; 3; 01/2006
104–10017–10009; 13; 8; 03/1996
104–10017–10010; 15; 3; 01/2006
104–10017–10011; 6; 6; 01/2006
104–10017–10021; 13; 2; 01/2006
104–10017–10035; 13; 2; 01/2006
104–10017–10048; 5; 2; 03/1996
104–10017–10052; 8; 3; 03/1996
104–10017–10062; 9; 3; 01/2006
104–10017–10063; 10; 7; 01/2006
104–10017–10068; 9; 4; 01/2006
104–10017–10076; 12; 6; 01/2006
104–10017–10080; 9; 2; 03/1996
104–10018–10000; 6; 4; 03/1996
104–10018–10004; 41; 16; 03/1996
104–10018–10005; 7; 6; 03/1996
104–10018–10006; 5; 2; 03/1996
104–10018–10041; 4; 4; 03/1996
104–10018–10048; 5; 1; 01/2006
104–10018–10055; 6; 2; 03/1996
104–10018–10065; 13; 9; 01/2006
104–10018–10082; 8; 3; 01/2006
104–10018–10092; 8; 1; 01/2006
104–10018–10094; 18; 11; 01/2006
104–10018–10096; 12; 6; 03/1996
104–10095–10001; 9; 10; 09/2017

HSCA Documents: Postponed in Part

180–10084–10094; 0; 1; 01/2017
180–10086–10235; 0; 1; 01/2017
180–10101–10053; 0; 1; 01/2017
180–10102–10278; 0; 2; 01/2017
180–10106–10011; 0; 1; 01/2017
180–10107–10194; 0; 1; 01/2017
180–10111–10065; 615; 1; 01/2017
180–10112–10049; 0; 1; 01/2017
180–10115–10028; 0; 1; 01/2017
180–10120–10343; 0; 2; 01/2017

Additional Releases

After consultation with appropriate Federal Agencies, the Review Board determined that the following records from the House Select Committee on Assassinations may now be opened in full: 180–10110–10034; 180–10110–10035; 180–10110–10036; 180–10110–10037; 180–10110–10038; 180–10110–10039; 180–10110–10040; 180–10110–10041; 180–10110–10042; 180–10110–10043; 180–10110–10044; 180–10110–10045; 180–10110–10046; 180–10110–10047; 180–10110–10048; 180–10110–10049; 180–10110–10070; 180–10110–10072; 180–10110–10077; 180–10110–10096; 180–10110–10097; 180–10110–10110; 180–10110–10136; 180–10110–10137; 180–10110–10138; 180–10110–10139; 180–10110–10140; 180–10110–10141; 180–10110–10142; 180–10110–10143; 180–10110–10092; 180–10110–10093; 180–10110–10095.

On January 30, 1996, the Review Board adopted a policy to release duplicates of records on the same terms and conditions as those records on which it previously voted. The following determinations are noticed pursuant to that policy:

FBI Documents: Postponed in Part

124–10035–10420; 6; 5; 10/2017
124–10144–10355; 0; 1; 10/2017
124–10173–10071; 0; 1; 10/2017
124–10242–10265; 0; 1; 10/2017
124–10023–10245; 1; 1; 10/2017
124–10143–10038; 1; 1; 11/2005

FBI Documents: Open in Full

124–10230–10106; 7; 0; n/a

Corrections: On December 12 and 13, 1995, the Review Board made formal determinations that were published in the Tuesday, January 2, 1996, **Federal Register** (FR Doc. 95–31560, 61 FR 48). For that notice make the following corrections and additions:

On page 49, in the second, third, fourth, and fifth columns of the FBI documents table, make the following corrections and additions:

Record No.	Previously published	Corrected data
124–10079–10230	20, 13, Postponed in Part, 12/2005	15, 0, Open in Full, n/a.
124–10058–10007	[Omitted]	5, 13, Postponed in Part, 12/2005.

Dated: February 14, 1996.

David G. Marwell,

Executive Director.

[FR Doc. 96–3708 Filed 2–16–96; 8:45 am]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with January anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with January anniversary dates.

Initiation of Reviews

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a) (19 CFR 353.11(a)). We intend to issue the final results of these reviews not later than January 31, 1997.

	Period to be reviewed
Antidumping Duty Proceedings	
Canada:	
Brass Sheet and Strip—A–122–601	
Wolverine Tube Inc.	01/01/95–12/31/95

	Period to be reviewed
Color Picture Tubes—	
A–122–605	
Mitsubishi Electronics Industries Canada Inc	01/01/95–12/31/95
France:	
Anyhdrous Sodium Metasilicate—	
A–427–098	
Rhone-Poulene, Poulenc, S.A	01/01/95–12/31/95
Certain Stainless Steel Wire Rods—	
A–427–811	
Imphy, S.A. Ugine-Savoie	01/01/95–12/31/95
Japan:	
Color Picture Tubes—	
A–588–609	
Mitsubishi Electronics Corp	01/01/95–12/31/95
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
Colombia:	
Roses and other cut flowers—	
C–301–003	01/01/95–12/31/95
Miniature Carnations—C–301–601	01/01/95–12/31/95

If requested within 30 days of the date of publication of this notice, the Department will determine whether antidumping duties have been absorbed by an exporter or producer subject to any of these reviews if the subject merchandise is sold in the United States through an importer which is affiliated with such exporter or producer.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: February 13, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–3747 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–489–805]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Michelle Frederick, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5288 or (202) 482–0186, respectively.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act (URAA).

Scope of Investigation

The scope of this investigation consists of certain non-egg dry pasta in packages of five pounds (or 2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this investigation are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise under investigation is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Case History

On December 14, 1995, the Department of Commerce (the Department) made its affirmative preliminary determination of sales at less than fair value (*Preliminary Determination*) in the above-referenced investigation (61 FR 1351, January 19, 1996). On January 18 and 19, 1996, we disclosed our calculations for the preliminary determination to the respondents, Filiz Gida Sanayii ve Ticaret (Filiz) and Maktas Makarnacilik ve Ticaret T.A.S (Maktas), and to the petitioners, respectively, pursuant to their requests. On January 25, 1996, we received a submission from the petitioners alleging ministerial errors in the Department's preliminary determination calculations. The respondents, in their January 26, 1996, submission alleged that the Department made a ministerial error by failing to include appropriate language instructing Customs to limit the duration of provisional measures to four months.

For both Filiz and Maktas, the petitioners alleged two ministerial errors. First, the petitioners alleged that the Department understated U.S. packing expenses by mistakenly converting the expenses from Turkish lira to U.S. dollars twice. Second, the petitioners alleged that the Department inadvertently omitted selling expenses from its calculation of an amount for profit included in constructed value (CV).

With regard to U.S. packing expenses, we agree that the error as alleged by the petitioners constitutes a ministerial error within the meaning of 19 CFR 353.28(d). With regard to the petitioners' allegation concerning the calculation of CV profit, we disagree that the error alleged by the petitioners is a ministerial error. The Department in its margin programs correctly calculated the amount for CV profit for both respondents. (For specific details of these allegations and our analysis of them, see Memorandum from the Team to Barbara R. Stafford dated February 6, 1996.) With regard to the respondents' allegation concerning provisional measures, we have determined that their allegation does not constitute a ministerial error. For further discussion on this issue, see Memorandum from Marguerite Trossevin to Susan G. Esserman dated February 7, 1996.

Amendment of Preliminary Determination

The Department has stated that it will amend a preliminary determination only to correct for significant ministerial errors (*i.e.*, corrections that result in a difference of at least 5 absolute percentage points and that are at least 25 percent greater or less than the preliminary margin, and corrections resulting in a margin of zero or de minimis). See Notice of Amendment to Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Bicycles From the People's Republic of China, 60 FR 64016 (December 13, 1995).

Given the facts of this investigation, as noted above, we are amending Filiz's and Maktas' preliminary dumping margins to correct for the ministerial error regarding U.S. packing expenses, since the correction of this ministerial error results in a difference of at least five absolute percentage points and is at least 25 percent greater than the preliminary margin. The corrected dumping margins for Filiz and Maktas are 34.04 and 45.84 percent, respectively. As a result the "All Others" rate is now 41.33 percent.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of pasta from Turkey that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this amended preliminary determination notice in the **Federal Register**. As discussed in the *Preliminary Determination*, we are subtracting for deposit purposes, the rate attributable to the export subsidies found in the concurrent countervailing duty investigation (14.72 percent and 19.80 percent for Filiz and Maktas, respectively) from the antidumping margin percentages for Filiz and Maktas. The "All Others" deposit rate is based on subtracting the rate attributable to the export subsidies included in the countervailing duty investigation for those companies that are respondents in the antidumping investigation and that are found to have dumping margins. In keeping with Article 17.4 of the WTO Agreement on Subsidies and Countervailing Measures, the Department will terminate the suspension of liquidation in the companion countervailing duty investigation of Certain Pasta From Turkey, effective February 14, 1996, which is 120 days after the date of publication of the preliminary determination. Accordingly, on February 14, 1996, the antidumping deposit rate will revert to the full amount calculated in this amended preliminary determination. These suspension of liquidation instructions will remain in effect until further notice.

Manufacturer/producer/exporter	Original margin percentages	Revised margin percentages	Deposit percentages
Filiz	10.44	34.04	19.32
Maktas	18.80	45.84	26.04
All Others	15.61	41.33	23.41

ITC Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission of our amended preliminary determination.

This amended preliminary determination is published in accordance with section 733(f) of the Act.

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3618 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–702]

Stainless Steel Butt-Weld Pipe and Tube Fittings From Japan; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: In response to a request from Taikei Industries Co., Ltd. (Taikei) and Daido Steel Co., Ltd. (Daido), the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on stainless steel butt-weld pipe and tube fittings (SSPFs) from Japan. The review, initiated on April 14, 1995, covers imports of SSPFs from Japan by Taikei and Daido during the period March 1, 1994, through February 28, 1995. We received a timely request for withdrawal from this review from Taikei on July 7, 1995. On November 9, 1995, Daido requested that the Department formally terminate the administrative review since the products it sold to the United States during the period of review were outside the scope of the order on SSPFs from Japan. Because no other interested parties requested a review of these companies, we are terminating this review.

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed after January 1, 1995.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: David Genovese or Joseph Hanley, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 482–4697/3058.

SUPPLEMENTARY INFORMATION:

Background

On March 29, 1995, Daido and Taikei requested that the Department conduct an administrative review of the antidumping duty order on SSPFs from Japan for the period March 1, 1994, through February 28, 1995. On April 14, 1995, in accordance with 19 CFR 353.22(c), we initiated an administrative review of this order.

On July 7, 1995, we received a timely request for withdrawal from the review from Taikei. On August 24, 1995, Daido requested that the Department determine that the merchandise produced by Daido and sold in the United States during the period of review is not subject to the antidumping duty order on SSPFs from Japan since such merchandise does not fall within the scope of the antidumping duty order on SSPFs from Japan.

On October 24, 1995, the Department issued its ruling on Daido's scope inquiry and determined that Daido's products produced and exported to the United States during the period of review do not fall within the scope of the antidumping duty order on SSPFs from Japan. Subsequently, on November 9, 1995, Daido requested that the Department formally terminate the review of SSPFs from Japan for the period March 1, 1994, through February 28, 1995.

Pursuant to 19 CFR 353.22(a)(5) of the Department's regulations, the Department may allow a party that requests an administrative review to withdraw such request not later than 90 days after the date of publication of the notice of initiation of the administrative review. 19 CFR 353.22 (a)(5). The regulations further provide that the Department may extend this time limit

if the Department determines it is reasonable to do so. Although Daido's request for termination was submitted beyond the 90-day time limit, termination of the review is reasonable under the circumstances of this case, *i.e.*, because the Department has determined that merchandise produced by Daido and sold to the United States during the period of review is not within the scope of the antidumping duty order on SSPF's from Japan. Moreover, there were no requests for review from other interested parties. Accordingly, we are terminating this review.

This notice is published in accordance with 19 CFR 353.22(a)(5).

Dated: February 9, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–3620 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–823–803]

Titanium Sponge From Ukraine; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On November 22, 1995, the Department of Commerce (the Department) published the preliminary results of review of the antidumping duty order on titanium sponge from Ukraine (57 FR 36070, August 12, 1992). The review covers one manufacturer, Zaporozhye Titanium and Magnesium Combine (Zaporozhye) and exports of the subject merchandise to the United States from Ukraine during the period from August 1, 1992, through July 31, 1993.

We gave interested parties an opportunity to comment on the preliminary results of review. Since the Department received no comments, these final results of review remain unchanged from the preliminary results of review.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: David Genovese or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–5254.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1993 and August 31, 1993, respectively, two U.S. producers of titanium sponge, Oregon Metallurgical Corporation (OREMET) and Titanium Metals Corporation (TIMET), requested an administrative review of the antidumping finding on titanium sponge from Ukraine. The Department initiated the review on September 30, 1993, (58 FR 51053), covering the period August 1, 1992, through July 31, 1993. On November 22, 1995, the Department published the preliminary results of review. In the preliminary results of review, the Department determined that Zaporozhye was a non-shipper for the purposes of an antidumping review since all entries of the subject merchandise were entered under temporary importation bond (TIB) procedures.[1] The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Unless otherwise indicated, all citations to the statute and the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

The merchandise covered by this review is all imports of titanium sponge from Ukraine. Titanium sponge is chiefly used for aerospace vehicles, specifically in the construction of compressor blades and wheels, stator blades, rotors, and other parts in aircraft gas turbine engines.

Imports of titanium sponge are currently classifiable under the harmonized tariff schedule (HTS) item number 8108.10.50.10. The HTS item number is provided for convenience and Customs purposes; our written description of the scope of this finding is dispositive.

This review covers sales and entries by Ukrainian exporters, producers, sellers, and resellers of the subject merchandise during the period August 1, 1992, through July 31, 1993.

[1] Merchandise entered under TIB procedures are not entries for consumption, and therefore, cannot be considered merchandise subject to an antidumping duty order and included within a determination resulting from a 751(a) administrative review. Moreover, a review of TIB entries cannot serve as the basis for the assessment of antidumping duties on entries of the merchandise included within the determination and for deposits of estimated duties, which is the purpose of an administrative review.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. Since the Department received no comments, we have continued to treat Zaporozhye as a non-shipper of the subject merchandise for these final results. Accordingly, as provided by section 751(a)(1) of the Act, the cash deposit rate for all shipments of titanium sponge from Ukraine, entered or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, will be 83.96 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 8, 1996.

Susan G. Esserman,

Assistont Secretory for Import Administration.

[FR Doc. 96–3621 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–821–803]

Titanium Sponge From Russia; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On October 30, 1995, the Department of Commerce (the Department) published the preliminary results of review of the antidumping finding on titanium sponge from Russia (33 FR 12138, August 28, 1968). The review covers four manufacturers/exporters, VILS-All Union Institute of Light Alloys (VILS), Verkhnaya Salda Metallurgical Production Organization (VSMPO), V/O Techsnabexport (TENEX), and the Berezniki Titanium-Magnesium Works (AVISMA), and exports of the subject merchandise to the United States for the period August 1, 1992 through July 31, 1993.

We gave interested parties an opportunity to comment on the preliminary results of review. Since the Department received no comments, these final results of review remain unchanged from the preliminary results of review.

EFFECTIVE DATE: February 20, 1996.

FOR FURTHER INFORMATION CONTACT: David Genovese or Zev Primor, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 482–5254.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1993, Oregon Metallurgical Corporation (OREMET), a petitioner, requested an administrative review of TENEX and AVISMA. On August 27 and 31, 1993, Titanium Metals Corporation (TIMET), also a petitioner, requested an administrative review of VILS, VSMPO, TENEX, and AVISMA. The Department initiated the review on September 30, 1993 (58 FR 51053), covering the period August 1, 1992, through July 31, 1993. On October 30, 1995, the Department published the preliminary results of review (60 FR 55241). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of the Review

The merchandise covered by this review is titanium sponge from Russia. Titanium sponge is chiefly used for aerospace vehicles, specifically, in the construction of compressor blades and wheels, stator blades, rotors, and other parts in aircraft gas turbine engines.

Imports of titanium sponge are currently classifiable under the harmonized tariff schedule (HTS) subheading 8108.10.50.10. The HTS subheading is provided for convenience and U.S. Customs purposes; our written description of the scope of this finding is dispositive.

This review covers four manufacturers/exporters of titanium sponge, VILS, VSMPO, TENEX, and AVISMA. The review period is August 1, 1992, through July 31, 1993.

Final Results of Review

In the preliminary results of review, the Department determined that while there were entries of the subject merchandise during the period of review, AVISMA was a non-shipper since it lacked knowledge at the time of sale of the ultimate destination of the merchandise. We gave interested parties an opportunity to comment on the preliminary results. The Department received no comments. Accordingly, we have determined that, consistent with the preliminary results, the margin for Russian titanium sponge that entered the United States during the period of review will continue to be the rate from the most recent review, which is 83.96 percent. The Department will issue appraisement instruction directly to the U.S. Customs Service.

Furthermore, as provided by section 751(a)(1) of the Act, the cash deposit rate for all shipments of titanium sponge from Russia, entered or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, will be 83.96 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 8, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3619 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[Docket No. 951213300–5300–01; I.D. 120795A]

Weakfish; Interstate Fishery Management Plans

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of determination of noncompliance; notice of intent to implement a moratorium.

SUMMARY: In accordance with the Atlantic Coastal Fisheries Cooperative Management Act of 1993 (Act), the Secretary of Commerce (Secretary) has determined that the State of Maryland is not in compliance with the Atlantic States Marine Fisheries Commission's (Commission) Interstate Coastal Fishery Management Plan (FMP) for weakfish and that the measures Maryland has failed to implement are necessary for the conservation of the fishery in question. Pursuant to the Act, a Federal moratorium on weakfish-fishing within Maryland State waters is hereby declared. This moratorium will become effective on April 15, 1996, unless, by April 1, 1996, Maryland adopts measures to come into compliance with the Commission's FMP.

DATES: Date of moratorium declaration: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, 301–713–2334.

SUPPLEMENTARY INFORMATION:

Background

The Act, 16 U.S.C. 5101 *et seq.*, was enacted to support and encourage the development, implementation, and enforcement of the Commission's Interstate Coastal FMPs to conserve and

manage Atlantic coastal fishery resources.

Section 807 of the Act specifies that, after notification by the Commission that an Atlantic coastal state is not in compliance with a Commission's coastal FMP, the Secretary shall make a finding, no later than 30 days after receipt of the Commission's determination, on: (1) Whether the state has failed to carry out its responsibilities to implement and enforce the Commission's FMP; and (2) whether the measures that the state has failed to implement and enforce are necessary for the conservation of the fishery in question. If the Secretary finds that the state is not in compliance with the Commission's FMP, and if the measures the state has failed to implement are necessary for the conservation of the fishery, the Secretary shall declare (i.e., impose) a moratorium on fishing in that fishery within the waters of the noncomplying state. The Secretary shall specify the moratorium's effective date, which shall be any date within 6 months after declaration of the moratorium. In making such a finding, the Secretary shall carefully consider the comments of the Commission, the coastal state found out of compliance by the Commission, and the appropriate Regional Fishery Management Councils.

Activities Pursuant to the Act

On November 17, 1995, the Secretary received a letter from the Commission prepared pursuant to section 806(b) of the Act. The Commission's letter stated that the State of Maryland's weakfish regulations did not meet the provisions of the Commission's FMP, and, therefore, the Commission found the State of Maryland out of compliance with the FMP as described below:

> Maryland failed to implement appropriate mesh size restrictions in gill nets and finfish trawl nets in appropriate times and areas by July 1, 1995, to achieve 75 percent escapement of Maryland's minimum size weakfish.
>
> In order to come into compliance with Amendment #2 for the fishing year ending March 31, 1996, Maryland would have to increase its minimum otter trawl mesh-sizes to 3–3/4 inches diamond (inside measurement) and 3–3/8 inches square (inside measurement). Alternatively, Maryland could increase total seasonal reductions to 40.5 percent for the diamond mesh otter trawl fishery and 35.8 percent for the square mesh otter trawl fishery.

The Commission's letter also suggested that the Secretary use his discretionary authority under the Act to delay the date of the moratorium for up to 6 months, because Maryland appears to be taking administrative action to implement the management measures necessary to bring the State into compliance. On December 4, 1995, officials representing the Secretary met with representatives from Maryland's Department of Natural Resources, Tidal Fisheries Division. Maryland officials noted that Maryland had implemented most measures necessary under the Commission's weakfish FMP, such as a 12–inch (30–cm) size limit and seasonal restrictions to fishing, but had not, as yet, implemented the required mesh sizes. They noted that administrative procedures were underway to implement the required mesh sizes. The NMFS representatives received from the Maryland officials a memorandum that presented Maryland's intent to take administrative actions necessary to bring Maryland into compliance with the Commission's FMP. Their administrative actions would implement the required mesh sizes by February 12, 1996. Further comments were received from the New England, Mid-Atlantic, and South Atlantic Regional Fishery Management Councils; NMFS' Northeast and Southeast Science Centers; and the Department of the Interior's U.S. Fish and Wildlife Service.

Determination Regarding Compliance by the State of Maryland

Based on a careful analysis of all relevant information, and taking into account comments presented by the State of Maryland during the meeting on December 4, 1995, the Secretary has determined that the State of Maryland is not in compliance with the Commission's coastal FMP for weakfish. This determination is based on Maryland's failure to implement and enforce regulatory measures established in the Commission's weakfish FMP. Further, the Secretary has determined that enforcement of these measures is necessary for the conservation of weakfish.

Although it has been determined that the State of Maryland is not in compliance with the Commission's FMP for weakfish, it is recognized that expeditious efforts are being made to implement State regulations which would bring Maryland into compliance by February 12, 1996. In recognition of these efforts, the Secretary has agreed to allow Maryland until April 1, 1996, to promulgate appropriate regulations. If the State of Maryland has not complied by that date, a moratorium will be implemented on weakfish-fishing within the waters of the State of Maryland effective April 15, 1996. The delay of the effective date of the moratorium will not diminish conservation efforts, because the fishing season for this species has ended and will not resume until spring.

NMFS will notify the Governor of Maryland of this action and will promulgate regulations necessary to implement this moratorium in the **Federal Register**. This moratorium will be terminated immediately upon receipt of notification from the Commission, and concurrence by the Secretary, that the State has taken appropriate remedial actions to bring the State into compliance.

Dated: February 12, 1996.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–3607 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 020896A]

Gulf of Maine Aquaculture-Pinniped Interaction Task Force; Hearing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; public hearing; request for comments.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), the Gulf of Maine Aquaculture-Pinniped Interaction Task Force (Task Force) was established to advise NMFS of issues and problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. That advice comprises the Task Force's final report to NMFS, which is complete and is available to the public upon request (see **ADDRESSES**).

NMFS is required by the MMPA to consider the Task Force report and to prepare a separate report to Congress that will recommend alternatives to mitigate the effects of the aquaculture-pinniped interactions. To that end, NMFS is seeking public comment on the Task Force report, and will hold a public hearing.

DATES: Comments on the Task Force report must be submitted on or before March 21, 1996.

The hearing will be held on February 20, 1996 in two sessions from 3:00–5:00 p.m. and 6:30–8:00 p.m. Sessions will be extended if necessary.

ADDRESSES: The hearing will be held at the Washington County Technical College, Marine Trade Center, RR#1, Eastport, ME, 04631–9618. Written comments should be sent to, and copies of the Task Force report are available from Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Daniel Morris (508) 281–9388, or Dr. Edward Cyr (301) 713–2319.

SUPPLEMENTARY INFORMATION: The salmon aquaculture industry in the northeastern United States has grown substantially in the last decade and so have regional populations of harbor seals (*Phoca vitulina*) and gray seals (*Halichoerus grypus*). The seals occasionally attack the salmon pens. Industry proponents claim the losses caused by the seals are substantial and the frequency of attacks has increased in recent years. Seals are protected under the MMPA, and the actions salmon growers can take to protect their pens are thereby limited to non-lethal deterrence measures.

Per MMPA section 120(h), a seven-member Task Force was established by NMFS to examine the issues and problems associated with pinniped-aquaculture interactions in the Gulf of Maine. Task Force members were selected from the aquaculture industry, state government, the scientific community, and conservation organizations. The Task Force convened three times for multi-day meetings, visited pen-sites, conducted public hearings, met with salmon growers, conducted surveys, and reviewed literature related to the issue. The Task Force prepared a report consisting its findings along with recommendations to mitigate the seal predation, all of which represent the consensus of the Task Force. The report includes measures the Task Force believes would mitigate problems due to interactions.

At the hearing, the public will have an opportunity to provide oral or written testimony regarding the Task Force report. Persons planning to speak at the hearing must provide a written copy of their testimony to the NMFS representative at the hearing. Task Force members will be at the hearing to answer questions regarding the report and the Task Force process. The hearing is physically accessible to people with disabilities. Arrangements for sign language interpretation or other auxiliary aids will be made if NMFS is notified of such needs at least three days prior to the hearing (see **FOR FURTHER INFORMATION CONTACT**).

Dated: February 13, 1996.

Ann Terbush,

Chief, Permits Division, National Marine Fisheries Service.

[FR Doc. 96–3724 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 020796B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application to modify permit no. 840 (P351D).

SUMMARY: Notice is hereby given that Mr. Craig O. Matkin, North Gulf Oceanic Society, P.O. Box 15244, Homer, Alaska 99603, has requested a modification to Permit No. 840.

DATES: Written comments must be received on or before March 21, 1996.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668.

Written data or views, or requests for a public hearing on this request should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, National Marine Fisheries Service, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject modification is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The Permit Holder is currently authorized to take by harassment up to 3,500 killer whales (*Orcinus orca*) annually, over a 5-year period, during photo-identification and behavioral observation studies, a total of 94 of which may be biopsy sampled over the course of the permit. The permit is valid through October 31, 1998.

The Permit Holder is now requesting to expand the research area to include all Alaska waters.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 7, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–3627 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Pakistan

February 13, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased by recrediting unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 609 FR 65299, published on December 19, 1995). Also see 61 FR 62393, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the

implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 13, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on February 21, 1996, you are directed to amend the November 29, 1995 directive to increase the limits for the following categories, as provided for under the terms of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
363	40,163,970 numbers.
369–F/369–P [2]	2,007,571 kilograms.
369–R [3]	9,368,664 kilograms.
369–S [4]	612,925 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[3] Category 369–R: only HTS number 6307.10.2020.

[4] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–3723 Filed 2–16–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on International Arms Cooperation

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on International Arms Cooperation will meet in closed session on February 26–27 and March 25–26, 1996 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will develop a generic model of international arms cooperation for the 21st century and also identify specific management actions that must be implemented to allow successful program execution on international efforts.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c) (1) (1988), and that accordingly these meetings will be closed to the public.

Dated: February 14, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3709 Filed 2–16–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Information Warfare Defense

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Information Warfare Defense will meet in closed session on March 12–13, 1996 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will focus on protection of information interests of national importance through establishment and maintenance of a credible information warfare defensive capability in several areas, including deterrence. This study will be used to assist in analysis of information warfare procedures, processes, and mechanisms, and illuminate future options in defensive information warfare technology and policy.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: February 14, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3710 Filed 2–16–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Logistics Agency

Privacy Act of 1974; Notice to Alter a Record System.

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a record system.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration will add a routine use.

DATES: The alteration will be effective on March 21, 1996, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, DASC-RP, Alexandria, VA 22304–6100.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Christensen at (703) 617–7583.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

An altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on February 5, 1996, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated June 15, 1994 (59 FR 37906, July 25, 1994). The specific changes to the record system are set forth below followed by the system notice as altered in its entirety.

Dated: February 14, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base *(April 20, 1995, 60 FR 19738).*

CHANGES:

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add the following to paragraph 4(b) '; and for conducting computer matching as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services work force (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.'

Insert a new paragraph 20 'To Federal and Quasi-Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well being of the active duty and veteran population. DMDC will disclose information from this system of records for research purposes when DMDC:

a. Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.'

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location - W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93943–5000.

Decentralized segments - Portions of this file may be maintained by the military and non-appropriated fund personnel and finance centers of the military services, selected civilian contractors with research contracts in manpower area, and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DOD civilian employees since January 1, 1972. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey.

Individuals responding to recruiting advertisements since January 1987; survivors of retired milltary personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DOD contractors and are subject to the provisions of 10 U.S.C. 2397.

All U.S. Postal Service employees.

All Federal Civil Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse,

and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax I.D. of providers or potential providers of care.

Selective Service System registration data.

Department of Veteran Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

U.S. Postal Service employment/personnel records containing Social Security Number, name, salary, home and work address. U.S. Postal Service records will be maintained on a temporary basis for approved computer matching between the U.S. Postal Service and DOD.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT–1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Assistant Secretaries of Defense; Appointment Powers and Duties; 10 U.S.C. 2358; Research Projects; 5 U.S.C. App. 3 (Pub. L. 95–452, as amended (Inspector General Act of 1978)); and E.O. 9397.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions, to perform longitudinal statistical analyses, identify current and former DOD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified, and to collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Veteran Affairs (DVA):

a. To provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans.

b. To provide identifying military personnel data to the DVA and its contractor, the Prudential Insurance Company, for the purpose of notifying members of the Individual Ready Reserve (IRR) of their right to apply for Veteran's Group Life Insurance coverage.

c. To register eligible veterans and their dependents for DVA programs.

d. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

(1) Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program (38 U.S.C. 3104(c), 3006–3008). The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment.

(2) Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 106 – Selected Reserve and Title 38 U.S.C., Chapter 30 – Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

(3) Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 684) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

(4) Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law (38 U.S.C. 3104(c)) requires recoupment of severance payments before DVA disability compensation can be paid.

(5) Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 3104(c), 3006–3008). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

2. To the Office of Personnel Management (OPM):

a. Consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

b. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

(1) Exchanging personnel and financial information on certain military retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

(2) Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DOD to insure that annuities of DOD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

(3) Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DOD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

(4) Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

3. To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DOD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

4. To the Department of Health and Human Services (DHHS):

a. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DOD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

b. To the Office of Child Support Enforcement, DHHS, pursuant to 42 U.S.C. 653 and Pub. L. 94–505, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations; and for conducting computer matching as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services work force (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

c. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns or residents are counted for HCFA reimbursement to hospitals.

d. To the Center for Disease Control and the National Institutes of Mental Health, DHHS, for the purpose of conducting studies concerned with the health and well being of the active duty and veteran population.

5. To the Social Security Administration (SSA):

a. To the Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

b. To the Bureau of Supplemental Security Income to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members or their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

6. To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

7. To DOD Civilian Contractors and grantees for the purpose of performing research on manpower problems for statistical analyses.

8. To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DOD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

9. To the U.S. Coast Guard (USCG) of the Department of Transportation (DOT) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of exchanging personnel and financial information on certain retired USCG military members, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the U.S. Coast Guard and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

10. To the Department of Housing and Urban Development (HUD) to provide data contained in this record system that includes the name, Social Security Number, salary and retirement pay for the purpose of verifying continuing eligibility in HUD's assisted housing programs maintained by the Public Housing Authorities (PHAs) and subsidized multi-family project owners or management agents. Data furnished will be reviewed by HUD or the PHAs with the technical assistance from the HUD Office of the Inspector General

(OIG) to determine whether the income reported by tenants to the PHA or subsidized multi-family project owner or management agent is correct and complies with HUD and PHA requirements.

11. To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

12. To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DOD personnel.

13. To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

14. To Defense contractors to monitor the employment of former DOD employees and members subject to the provisions of 10 U.S.C. 2397.

15. To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DOD civilian employees and military members.

16. To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the United States Government under the Debt Collection Act of 1982 (Pub. L. 97–365).

17. To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

18. To the United States Postal Service:

a. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

b. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

c. Exchanging personnel and financial information on certain military retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

19. To the Armed Forces Retirement Home (AFRH), which includes the United States Soldier's and Airmen's Home (USSAH) and the United States Naval Home (USNH) for the purpose of verifying Federal payment information (military retired or retainer pay, civil service annuity, and compensation from the Department of Veterans Affairs) currently provided by the residents for computation of their monthly fee and to identify any unreported benefit payments as required by the Armed Forces Retirement Home Act of 1991, Pub.L. 101-510 (24 U.S.C. 414).

20. To Federal and Quasi-Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well being of the active duty and veteran population. DMDC will disclose information from this system of records for research purposes when DMDC:

a. Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

The 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center - Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location - Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

U.S. Postal Service records are temporary and are destroyed after the computer matching program results are verified.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, Personal Privacy and Rights of Individuals Regarding Their Personal Records; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veteran Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, Selective Service System, and the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–3711 Filed 2–16–96; 8:45 am]

BILLING CODE 5000–04–F

Department of the Navy

Notice of Availability of Inventions for Licensing; Government-Owned Inventions

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the copies of patent applications sold to avoid premature disclosure.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Erickson, Staff Patent Attorney, Office of Naval Research (Code OOCC), 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Patent 5,427,709: ENVIRONMENTALLY SAFE, READY-TO-USE, NON-TOXIC, NON-FLAMMABLE, INORGANIC AQUEOUS CLEANING COMPOSITION; filed 14 January 1994; patented 27 June 1995.

Patent 5,430,380: SENSOR FOR LOCATING OBJECTS IN THE SEA HAVING A CONDUCTIVE SHELL TO INJECT ELECTRIC CURRENT INTO THE SEA AND A SENSOR COIL IN THE SHELL; filed 26 February 1993; patented 4 July 1995.

Patent 5,430,813: MODE-MATCHED COMBINATION TAPER FIBER OPTIC PROBE; filed 30 December 1993; patented 4 July 1995.

Patent 5,432,302: HYDROSTATIC SEALING SLEEVE FOR SPLICED WIRE CONNECTIONS; filed 19 November 1992; patented 11 July 1995.

Patent 5,432,349: FOURIER TRANSFORM MICROSCOPE FOR X-RAY AND/OR GAMMA RAY IMAGING; filed 15 March 1993; patented 11 July 1995.

Patent 5,432,725: SELF-ADAPTING FILTER; filed 15 December 1993; patented 11 July 1995.

Patent 5,432,750: VERTICAL ARRAY DEPLOYMENT DEVICE (VADD); filed 7 November 1983; patented 11 July 1995.

Patent 5,432,942: DATA STRUCTURE EXTRACTION, CONVERSION AND DISPLAY TOOL; filed 10 June 1993; patented 11 July 1995.

Patent 5,433,002: FABRICATION PROCESS FOR COMPLEX COMPOSITE PARTS; filed 5 May 1994; patented 18 July 1995.

Patent 5,434,501: POLARIZATION INSENSITIVE CURRENT AND MAGNETIC FIELD OPTIC SENSOR; filed 29 April 1994; patented 18 July 1995.

Patent 5,434,583: COMMUNICATION WITH REENTRY VEHICLE THROUGH MODULATED PLASMA; filed 23 May 1994; patented 18 July 1995.

Patent 5,434,584: SUBMARINE COMMUNICATIONS SYSTEM; filed 11 December 1973; patented 18 July 1995.

Patent 5,435,224: INFRARED DECOY; filed 4 April 1979; patented 25 July 1995.

Patent 5,435,264: PROCESS FOR FORMING EPITAXIAL BAF2 ON GAAS; filed 19 May 1994; patented 25 July 1995.

Patent 5,436,565: NON-CONTACTING CAPACITANCE PROBE FOR DIELECTRIC CURE MONITORING; filed 14 September 1992; patented 25 July 1995.

Patent 5,436,832: FUZZY CONTROLLER FOR BEAM RIDER GUIDANCE; filed 5 November 1993; patented 25 July 1995.

Patent 5,437,058: WIRELESS SHIPBOARD DATA COUPLER; filed 28 May 1993; patented 25 July 1995.

Patent 5,437,821: PROCESS FOR MAKING CARBON-CARBON COMPOSITES BY USING ACETYLENE TERMINATED CONJUGATED SCHIFF'S BASE MONOMERS; filed 30 September 1993; patented 1 August 1995.

Patent 5,438,411: ELECTRONIC PHASE-TRACKING OPEN LOOP FIBER OPTIC GYROSCOPE; filed 31 August 1992; patented 1 August 1995.

Patent 5,438,572: MICROWAVE NON-LOGARITHMIC PERIODIC MULTIPLEXER WITH CHANNELS OF VARYING FRACTIONAL BANDWIDTH; filed 29 January 1993; patented 1 August 1995.

Patent 5,438,945: SLIDE VALVE ASSEMBLY; filed 27 July 1994; patented 8 August 1995.
Patent 5,438,948: ELASTOMERIC LAUNCH SYSTEM FOR SUBMARINES; filed 22 August 1994; patented 8 August 1995.
Patent 5,439,402: DESIGN OF AN INTEGRATED INLET DUCT FOR EFFICIENT FLUID TRANSMISSION: filed 30 September 1994; patented 8 August 1995.
Patent 5,440,232: SYSTEM FOR MONITORING AND ANALYZING FIELD ENERGY EXPOSURE; filed 6 December 1993; patented 8 August 1995.
Patent 5,440,414: ADAPTIVE POLARIZATION DIVERSITY DETECTION SCHEME FOR COHERENT COMMUNICATIONS AND INTERFEROMETRIC FIBER SENSORS; filed 2 February 1990; patented 8 August 1995.
Patent 5,440,481: SYSTEM AND METHOD FOR DATABASE TOMOGRAPHY; filed 28 August 1992; patented 8 August 1995.
Patent 5,440,660: FIBER OPTIC MICROCABLE PRODUCED WITH FIBER REINFORCED ULTRAVIOLET LIGHT CURED RESIN AND METHOD FOR MANUFACTURING SAME; filed 7 June 1994; patented 8 August 1995.
Patent 5,441,591: SILICON TO SAPPHIRE BOND; filed 7 June 1993; patented 15 August 1995.
Patent 5,441,720: PENTAFLUOROSULFANYLNITRAMIDE SALTS; filed 13 July 1993; patented 15 August 1995.
Patent 5,441,876: PROCESS FOR THE PREPARATION OF HEADGROUP-MODIFIED PHOSPHOLIPIDS USING PHOSPHATIDYLHYDROXALKANOLS AS INTERMEDIATES; filed 30 July 1993; patented 15 August 1995.
Patent 5,442,139: INSULATED MOUNTING SUPPORT FOR LADDER-LINE; filed 27 September 1993; patented 15 August 1995.
Patent 5,442,356: AIRBORNE SYSTEM FOR OPERATION IN CONJUNCTION WITH A MARKER BEACON; filed 23 March 1994; patented 15 August 1995.
Patent 5,442,364: ALIGNMENT AND BEAM SPREADING FOR GROUND RADIAL AIRBORNE RADAR; filed 22 July 1993; patented 15 August 1995.
Patent 5,442,365: TECHNIQUE FOR PROCESSING INTERFERENCE CONTAMINATED RADAR ENERGY; filed 2 September 1975; patented 15 August 1995.
Patent 5,442,510: CONTROL SYSTEM FOR TRACKING NONLINEAR SYSTEMS; filed 23 June 1993; patented 15 August 1995.
Patent 5,442,594: RIB STIFFENED SOUND WAVE PROJECTOR PLATE; filed 14 September 1994; patented 15 August 1995.
Patent 5,442,721: FIBER OPTIC ROTARY JOINT WITH BUNDLE COLLIMATOR ASSEMBLIES; filed 8 August 1994; patented 15 August 1995.
Patent 5,442,948: APPARATUS AND METHOD FOR DETERMINING AMOUNT OF GASES DISSOLVED IN LIQUIDS; filed 1 April 1991; patented 22 August 1995.
Patent 5,443,027: LATERAL FORCE DEVICE FOR UNDERWATER TOWED ARRAY; filed 20 December 1993; patented 22 August 1995.
Patent 5,444,668: ANECHOIC AND DECOUPLING COATING; filed 30 April 1979; patented 22 August 1995.
Patent 5,445,104: APPARATUS FOR THE STORAGE OF CYLINDRICAL OBJECTS; filed 30 June 1994; patented 29 August 1995.
Patent 5,445,105: TORQUE BALANCED POSTSWIRL PROPULSOR UNIT AND METHOD FOR ELIMINATING TORQUE ON A SUBMERGED BODY; filed 30 September 1995; patented 29 August 1995.
Patent 5,445,905: DUAL FLOW ALUMINUM HYDROGEN PEROXIDE BATTERY; filed 30 November 1993; patented 29 August 1995.
Patent 5,446,468: LAUNCHER TUBE DEPLOYED MARKER BEACON INCLUDING SETTLEMENT ATOP FOLIAGE FEATURE; filed 23 March 1994; patented 29 August 1995.
Patent 5,446,549: METHOD AND APPARATUS FOR NONCONTACT SURFACE CONTOUR MEASUREMENT; filed 14 January 1993; patented 29 August 1995.
Patent 5,446,828: NONLINEAR NEURAL NETWORK OSCILLATOR; filed 18 March 1993; patented 29 August 1995.
Patent 5,446,908: METHOD AND APPARATUS FOR PRE-PROCESSING INPUTS TO PARALLEL ARCHITECTURE COMPUTERS; filed 21 October 1992; patented 29 August 1995.
Patent 5,446,952: PNEUMATIC INDUCTION FIBER SPREADER WITH LATERAL VENTURI RESTRICTORS; filed 11 December 1987; patented 5 September 1995.
Patent 5,447,115: UNDERWATER VEHICLE RECOVERY SYSTEM; filed 30 June 1994; patented 5 September 1995.
Patent 5,447,520: REAL TIME STABILIZING SYSTEM FOR PULSATING ACTIVITY; filed 29 March 1994; patented 5 September 1995.
Patent 5,447,765: HIGH DAMPING RIB-STIFFENED COMPOSITE HOLLOW CYLINDER CORE CONFIGURATION; filed 3 May 1994; patented 5 September 1995.
Patent 5,448,235: SINGLE LASER METHOD AND SYSTEM FOR MARINE CHANNEL MARKING; filed 30 August 1993; patented 5 September 1995.
Patent 5,448,441: FAULT PROTECTION CIRCUIT FOR POWER SWITCHING DEVICE; filed 5 April 1994; patented 5 September 1995.
Patent 5,448,503: ACOUSTIC MONITOR; filed 31 March 1994; patented 5 September 1995.
Patent 5,448,643: AUTHENTICATION SYSTEM; filed 28 September 1962; patented 5 September 1995.
Patent 5,448,680: VOICE COMMUNICATION PROCESSING SYSTEM; filed 21 February 1992; patented 5 September 1995.
Patent 5,448,917: APPARATUS FOR CONDUCTING FATIGUE TESTS USING A CONVENTIONAL LATHE DEVICE; filed 1 March 1995; patented 12 September 1995.
Patent 5,448,918: BIAXIAL COMPRESSION TESTING DEVICE; filed 31 August 1994; patented 12 September 1995.
Patent 5,448,941: UNDERWATER DELIVERY SYSTEM; filed 29 December 1993; patented 12 September 1995.
Patent 5,448,962: TORPEDO TUBE SLIDE VALVE; filed 30 June 1994; patented 12 September 1995.
Patent 5,449,053: VIBRATION DAMPENER; filed 22 November 1993; patented 12 September 1995.
Patent 5,449,553: NONTOXIC ANTIFOULING SYSTEMS; filed 28 March 1994; patented 12 September 1995.
Patent 5,450,093: CENTER-FED MULTIFILAR HELIX ANTENNA; filed 20 April 1994; patented 12 September 1995.
Patent 5,450,519: FIBER OPTIC COUPLER ASSEMBLY; filed 2 May 1994; patented 12 September 1995.
Patent 5,450,794: METHOD FOR IMPROVING THE PERFORMANCE OF UNDERWATER EXPLOSIVE WARHEADS; filed 29 November 1963; patented 19 September 1995.
Patent 5,450,805: WARHEAD INFLUENCE; filed 14 June 1971; filed 19 September 1995.
Patent 5,450,807: SHUTTER DOOR ASSEMBLY; filed 12 September 1994; patented 19 September 1995.
Patent 5,451,378: PHOTON CONTROLLED DECOMPOSITION OF NONHYDROLYZABLE AMBIENTS; filed 31 March 1992; patented 19 September 1995.

Patent 5,451,618: PARTIALLY UNSATURATED TRIORGANOTIN COMPOUNDS FOR USE IN BIOCIDAL PAINT; filed 30 December 1993; patented 19 September 1995.
Patent 5,451,821: MAGNETOSTRICTIVE ACTUATOR WITH AUXILIARY LEAKAGE REDUCING MAGNETIC BIAS; filed 30 August 1993; patented 19 September 1995.
Patent 5,452,262: RADIO TELEMETRY BUOY FOR LONG-RANGE COMMUNICATION; filed 11 October 1994; patented 19 September 1995.
Patent 5,452,265: ACTIVE ACOUSTIC IMPEDANCE MODIFICATION ARRANGEMENT FOR CONTROLLING SOUND INTERACTION; filed 1 July 1991; patented 19 September 1995.
Patent 5,452,266: SUBMERSIBLE SENSOR SYSTEM; filed 19 September 1994; patented 19 September 1995.
Patent application 08/043,069: TELEPHONE LINE SELECTOR AND CALL ACCOUNTANT; filed 5 April 1993.
Patent application 08/123,944: MENISCUS REGULATOR SYSTEM; filed 3 October 1994.
Patent application 08/207,448: EPOXY SELF-PRIMING TOPCOATS; filed 7 March 1994.
Patent application 08/220,124: NON-COVALENT IMMOBILIZATION OF PROTEINS AND ENZYMES ON POLYMERIZED LIPID ASSEMBLIES; filed 30 March 1994.
Patent application 08/233,562: ADAPTIVE INFINITE IMPULSE RESPONSE (IIR) FILTER SYSTEM; filed 26 April 1994.
Patent application 08/252,474: HIGH VELOCITY ELECTROMAGNETIC MASS LAUNCHER HAVING AN ABLATION RESISTANT INSULATOR; filed 1 June 1994.
Patent application 08/258,028: MICROWAVE ELECTRO-OPTIC MIXER; filed 10 June 1994.
Patent application 08/269,278: HIGH POWER, BROADBAND FOLDED WAVEGUIDE GYROTRON-TRAVELING-WAVE-AMPLIFIER; filed 30 June 1994.
Patent application 08/289,910: BIAXIAL COMPRESSION TESTING DEVICE; filed 31 August 1994.
Patent application 08/294,457: FLOW-THROUGH ELASTOMERIC LAUNCH SYSTEM FOR SUBMARINES; filed 8 August 1994.
Patent application 08/296,881: UNITARY TRANSDUCER WITH VARIABLE RESISTIVITY; filed 29 August 1994.
Patent application 08/296,883: METHOD AND APPARATUS FOR SIGNAL FILTERING; filed 29 August 1994.
Patent application 08/299,388: ASH-BASED CERAMIC MATERIALS; filed 1 September 1994.
Patent application 08/302,013: IN-LINE FIBER ETALON STRAIN SENSOR; filed 9 September 1994.
Patent application 08/306,555: RIB STIFFENED SOUND WAVE PROJECTION PLATE; filed 14 September 1994.
Patent application 08/312,743: SHOCK RESISTANT OPTIC FIBER ROTARY SPLICE HOLDING DEVICE; filed 23 September 1993.
Patent application 08/314,281: ADVANCED SIGNAL PROCESSING FILTER; filed 30 September 1994.
Patent application 08/316,709: INFLATABLE LIFE VEST; filed 30 September 1995.
Patent application 08/317,253: LAND BASED SUBMARINE WEAPONS SYSTEM SIMULATOR WITH CONTROL PANEL TESTER AND TRAINER; filed 3 October 1994.
Patent application 08/318,456: GLASSY ORGANIC-DYE BASED OPTICAL MATERIALS AND THEIR METHOD OF PREPARATION; filed 5 October 1994.
Patent application 08/319,709: BALANCED, DOUBLE-SIDED CALIBRATION CIRCUIT FOR SENSOR ELEMENT DIFFERENTIAL PRE-AMPLIFIER; filed 7 October 1994.
Patent application 08/321,182: HYDROGEN SULFIDE ANALYZER WITH PROTECTIVE BARRIER; filed 29 September 1994.
Patent application 08/321,642: THIN-FILM EDGE FIELD EMITTER DEVICE AND METHOD OF MANUFACTURE THEREFOR; filed 11 October 1994.
Patent application 08/322,654: REMOVABLE ONE-PIECE TRUCK BED DIVIDER; filed 11 October 1994.
Patent application 08/322,655: PERMANENT MAGNET TORQUE/FORCE TRANSFER APPARATUS; filed 11 October 1994.
Patent application 08/322,656: RADIO TELEMETRY BUOY FOR LONG-RANGE COMMUNICATION; filed 11 October 1994.
Patent application 08/322,668: CABLE LOAD TRANSDUCER; filed 13 October 1994.
Patent application 08/324,638: SYSTEM AND METHOD FOR RAPIDLY TRACKING HIGHLY DYNAMIC VEHICLES; filed 18 October 1994.
Patent application 08/324,639: SYSTEM AND METHOD FOR RAPIDLY TRACKING VEHICLES OF SPECIAL UTILITY IN LOW SIGNAL-TO-NOISE ENVIRONMENTS; filed 18 October 1994.
Patent application 08/324,640: NEURAL NETWORK BASED THREE DIMENSIONAL OCEAN MODELER; filed 11 October 1994.
Patent application 08/324,641: NEURAL NETWORK BASED DATA FUSION SYSTEM; filed 18 October 1994.
Patent application 08/326,518: FLUORESCENT DETECTION OF HYDRAZINE, MONOMETHYLHYDRAZINE, AND 1,1–DIMETHYLHYDRAZINE BY DERIVATIZATION WITH AROMATIC DICARBOXALDEHYDES; filed 20 October 1994.
Patent application 08/329,417: SUPERCRITICAL WATER OXIDATION REACTOR WITH A CORROSION-RESISTANT LINING; filed 27 October 1994.
Patent application 08/331,231: SYSTEM FOR CONVENIENTLY PROVIDING LOAD TESTING TERMINATION OF AN AC POWER SOURCE HAVING AT LEAST ONE BATTERY; filed 3 October 1994.
Patent application 08/332,172: QUICK-POUR CONTAINER; filed 31 October 1994.
Patent application 08/332,294: SELECTIVE MULTI-CHEMICAL FIBER OPTIC SENSOR; filed 31 October 1994.
Patent application 08/334,088: APPARATUS AND METHOD FOR ACHIEVING GROWTH-ETCH DEPOSITION OF DIAMOND USING A CHOPPED OXYGEN-ACETYLENE FLAME; filed 4 November 1994.
Patent application 08/337,012: LINEAR CARBORANE-(SILOXANE OR SILANE)-ACETYLENE BASED COPOLYMERS; filed 7 November 1994.
Patent application 08/337,013: HIGH TEMPERATURE THERMOSETS AND CERAMICS DERIVED FROM LINEAR CARBORANE-(SILOXANE OR SILANE)-ACETYLENE COPOLYMERS; filed 7 November 1994.
Patent application 08/338,842: INTERBAND LATERAL RESONANT TUNNELING TRANSISTOR; filed 14 November 1994.
Patent 08/345,049: ELECTRICAL AND FIBER-OPTIC CONNECTOR; 25 November 1994.
Patent application 08/345,716: SHOCK RESISTANT OPTIC FIBER ROTARY SLICE HOLDING DEVICE; filed 22 November 1994.
Patent application 08/345,957: FIBER-OPTIC CONNECTOR; filed 25 November 1994.
Patent application 08/348,688: EXTERNAL COMBUSTION ENGINE HAVING AN ASYMMETRICAL CAM; filed 30 November 1994.

Patent application 08/349,656: ADJUSTABLE TWO-AXIS INSTRUMENT MOUNT; filed 5 December 1994.
Patent application 08/351,070: LASER OPTICS PROTECTIVE DEVICE; filed 30 November 1994.
Patent application 08/352,126: SELECTIVE ATTACHMENT OF NUCLEIC ACID MOLECULES TO PATTERNED SELF-ASSEMBLED SURFACES; filed 1 December 1994.
Patent application 08/353,642: MULTI-PITOT TUBE ASSEMBLY; filed 8 December 1994.
Patent application 08/353,852: SYSTEM AND METHOD FOR COMPENSATING FOR TOWED ARRAY MOTION INDUCED ERRORS; filed 9 December 1994.
Patent application 08/355,256: PHOSPHATE-BONDED FLY ASH; filed 9 December 1994.
Patent application 08/355,581: EPOXY PIPELINING COMPOSITION AND METHOD OF MANUFACTURE; 14 December 1994.
Patent application 08/358,289: PASSIVE SUBMARINE RANGE FINDING DEVICE AND METHOD; filed 19 December 1994.
Patent application 08/359,757: VARIABLE RATE OPTICAL ITERATIVE PROCESSING OF OPTICAL INFORMATION; filed 20 December 1994.
Patent application 08/360,475: NON-TURBULENT PULL DOWN EYE FOR BUOYANT TEST VEHICLE; filed 21 December 1994.
Patent application 08/361,710: METHOD AND APPARATUS FOR THE ACTIVE CONTROL OF A COMPACT WASTE INCINERATOR; filed 7 October 1993.
Patent application 08/366,637: DECAYING RADIOLABELLED LYMPHOCYTES AND METHOD OF USING SAME; filed 30 December 1994.
Patent application 08/367,074: GERMANATE GLASS CERAMIC; filed 23 December 1994.
Patent application 08/369,437: WIDEBAND FIBER-OPTIC SIGNAL PROCESSOR; filed 6 January 1995.
Patent application 08/371,305: ALL-OPTICAL RAPID READOUT, FIBER-COUPLED THERMOLUMINESCENT DOSIMETER SYSTEM; filed 11 January 1995.
Patent application 08/371,306: GLASS MATRIX DOPED WITH ACTIVATED LUMINESCENT NANOCRYSTALLINE PARTICLES; filed 11 January 1995.
Patent application 08/375,335: SPLIT GASKET ATTACHMENT METHOD; filed 17 January 1995.
Patent application 08/377,662: DECOY; filed 23 January 1995.
Patent application 08/378,138: HIGH PRESSURE, HIGH FREQUENCY RECIPROCAL TRANSDUCER; filed 24 January 1995.
Patent application 08/382,304: SURFACE PREPARATION FOR BONDING TITANIUM; filed 25 January 1995.
Patent application 08/382,708: ARBITRARY WAVEFORM GENERATOR; filed 2 February 1995.
Patent application 08/383,643: COMPOUND-CAVITY, HIGH POWER, MODELOCKED SEMICONDUCTOR LASER; filed 6 February 1995.
Patent application 08/393,799: GRAPHITE/EPOXY HEAT SINK/MOUNTING FOR COMMON PRESSURE VESSEL; filed 24 February 1995.
Patent application 08/394,082: INDUCED FLOW UNDERWATER VEHICLE MOTOR COOLING JACKET; filed 17 February 1995.
Patent application 08/394,106: ACOUSTIC AND ENVIRONMENTAL MONITORING SYSTEM; filed 24 February 1995.
Patent application 08/394,109: QUICK CHANGE FIN ASSEMBLY FOR BUOYANT TEST VEHICLES; filed 21 February 1995.
Patent application 08/399,102: OPTICALLY ADDRESSED SPATIAL LIGHT MODULATOR USING AN INTRINSIC SEMICONDUCTOR ACTIVE MATERIAL AND HIGH RESISTIVITY CLADDING LAYERS; filed 27 February 1995.
Patent application 08/405,642: METHOD AND APPARATUS FOR IMPROVING THE SENSITIVITY OF OPTICAL MODULATORS; filed 17 March 1995.
Patent application 08/412,260: SYSTEM AND METHOD FOR PROCESSING SIGNALS TO DETERMINE THEIR STOCHASTIC PROPERTIES; filed 28 March 1995.
Patent application 08/414,837: PSEUDOMONAS CHLORORAPHIS MICROORGANISM, POLYURETHANE DEGRADING ENZYME OBTAINED THEREFROM AND METHOD OF USING ENZYME; filed 31 March 1995.
Patent application 08/414,838: ELECTRON FIELD EMISSION; filed 31 March 1995.
Patent application 08/430,946: POLARIZATION-STABLE LASER; filed 28 April 1995.
Patent application 08/430,955: HIGH TEMPERATURE MERCURYCONTAINING SUPERCONDUCTORS AND METHOD OF MAKING THE SAME; filed 28 April 1995.
Patent application 08/437,742: SILOXANE UNSATURATED HYDROCARBON BASED POLYMERS; filed 9 May 1995.

Dated: February 7, 1996.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 96–3684 Filed 2–16–96; 8:45 am]

BILLING CODE 3810–FF–P

Department of the Navy

Notice of Intent to Grant Exclusive Patent License; Dynamic Safety Resources, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Dynamic Safety Resources, Inc., a revocable, nonassignable, exclusive license in the United States to practice the Government-Owned invention described in U.S. Patent Application Serial No. 08/295,581: "Projector Slides for Night Vision Training," filed August 25, 1994.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: February 7, 1996.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 96–3683 Filed 2–16–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES AND TIME: March 14, 1996 1:00 p.m.–5:00 p.m.; March 15, 1999 9:00 a.m.–5:00 p.m.

ADDRESSES: 555 New Jersey Avenue NW., Room 326, Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: Barbara Marenus, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, Room 400J, Washington, D.C. 20208–7575, telephone: (202) 219–1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under Section 406(c) (1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of the high quality and are not subject to political influence. In addition, ACES is required to advise the Commissioner of NCES and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress (NAEP). The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Reports from ACES's subcommittees on their proposed charters and related activities.
- A report from the ACES subcommittee on statistics on proposed advice from ACES to the National Assessment Governing Board in relation to redesigning NAEP.
- An update on NCES activities.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., Room 400J, Washington, D.C. 20208–7575.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 96–3727 Filed 2–16–96; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge.

DATES: Wednesday, March 6, 1996: 6:00 pm–9:00 pm.

ADDRESSES: Jacobs Engineering Group, Inc. Building, Einstein Conference Room, 125 Broadway, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

March Meeting Topics

The Board will work on the Environmental Management Risk Based Prioritization System for the Oak Ridge Reservation.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC on February 12, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–3632 Filed 2–16–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER96–659–000]

Bonneville Fuels Management Corporation; Notice of Issuance of Order

February 14, 1996.

On December 22, 1995, Bonneville Fuels Management Corporation (BFMC) submitted for filing a rate schedule under which BFMC will engage in wholesale electric power and energy transactions as a marketer. BFMC also requested waiver of various Commission regulations. In particular, BFMC requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by BFMC.

On February 8, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by BFMC should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, BFMC is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and

is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of BFMC's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is March 11, 1996. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE. Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3700 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–41–000]

Colorado Interstate Gas Company; Notice of Technical Conference

February 13, 1996.

A technical conference well be held to discuss issues raised in the above-captioned proceeding on Tuesday, March 5, 1996, at 9:30 a.m., in room 3M2B, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend. However, attendance does not confer party status.

For additional information, contact Timothy W. Gordon at (202) 208–2265.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3642 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–140–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 13, 1996.

Take notice that on February 8, 1996, Columbia Gas Transmission Corporation (Columbia) tendered the filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective April 1, 1996.

Original Sheet No. 99C
Original Sheet No. 99D

Columbia states that the instant filing is being submitted pursuant to Article VII, Section C, Accrued-But-Not-Paid Gas Costs, of the "Customer Settlement" in Docket No. GP94–2, et al., approved by the Commission on June 15, 1995 (71 FERC ¶61.337 (1995)). The Customer Settlement became effective on November 28, 1995, when the Bankruptcy Court's November 1, 1995, order approving Columbia's Plan of Reorganization became final. Under the terms of Article VII, Section C, Columbia is entitled to recover amounts for Accrued-But-Not-Paid Gas Costs. As directed by Article VII, Section C, the tariff sheets contained herein are being filed in accordance with Section 39 of the General Terms and Conditions of the Tariff, to direct bill the Accrued-But-Not-Paid Gas Costs that have been paid subsequent to November 28, 1995. The instant filing reflects Accrued-But-Not-Paid Gas Costs in the amount of $733,050.73 plus applicable FERC interest of $20,646.94. This is Columbia's first filing pursuant to Article VII, Section C, and Columbia reserves the right to make the appropriate additional filings pursuant to that provision. The allocation factors on Appendix F of the Customer Settlement were used as prescribed by Article VII, Section C.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3634 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–176–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

February 13, 1996.

Take notice that on February 7, 1996, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314–1599, filed in Docket No. CP96–176–000, a request pursuant to Sections 157.205 and 157.211 (18 CFR 157.205 and 157.211) of the Commission's Regulations under the Natural Gas Act, and Columbia's authorization in Docket No. CP83–76–000,[1] to establish an additional point of delivery to Pennzoil Products Company (Pennzoil), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia requests authorization to construct and operate an additional point of delivery to Pennzoil in Kanawha County, West Virginia. Columbia would construct and operate the additional point of delivery for interruptible transportation service and will provide the service pursuant to Part 284 of the Commission's Regulations and Columbia's Blanket Certificate issued in Docket No. CP86–240–000[2] under existing authorized rate schedules and within Columbia's certificated entitlement.

Columbia states that the additional point of delivery has been requested by Pennzoil for residential, commercial and industrial use. The quantities to be provided through the additional point of delivery will be provided on an interruptible basis and, therefore no impact on Columbia's existing design day and annual obligations to its customers as a result of the construction and operation of this delivery point is expected.

Columbia states that the estimated cost of the proposed new delivery point is $11,452. It is stated that Pennzoil has agreed to reimburse Columbia for the total costs to install the additional delivery point.

Columbia states that the estimated daily and annual volumes of natural gas to be delivered would be 50 Dth and 18,250 Dth, respectively. Columbia also states that the gas volumes would be transported and delivered under its Rate Schedule ITS and would be accomplished without disadvantage to Columbia's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed for filing a protest, the instant request shall be treated as an application for

[1] *Columbia Gas Transmission Corp.*, 22 FERC Paragraph 62.029 (1983).

[2] *Columbia Gas Transmission Corp.*, 34 FERC Paragraph 62.454 (1986).

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3640 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP96–97–000 and CP96–128–000 (Not Consolidated)]

Eastern Shore Natural Gas Company; Notice of Technical Conference

February 13, 1996.

Take notice that a technical conference will be convened in the above-docketed proceedings on Wednesday, March 6, 1996, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Any party, as defined in 18 CFR 385.102(c), any person seeking intervenor status pursuant to 18 CFR 385.214, and any participant, as defined in 18 CFR 385.102(b), is invited to participate.

For additional information, please contact Carolyn Van Der Jagt, 202–208–2246, or Tom Gooding, 202–208–1123, at the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3641 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–594–000]

International Utility Consultants, Inc.; Notice of Issuance of Order

February 14, 1996.

On December 14, 1995, as amended December 26, 1995, International Utility Consultants, Inc. (IUCI) submitted for filing a rate schedule under which IUCI will engage in wholesale electric power and energy transactions as a marketer. IUCI also requested waiver of various Commission regulations. In particular, IUCI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by IUCI.

On February 9, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by IUCI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, IUCI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of IUCI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is March 11, 1996. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3701 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–139–000]

National Fuel Gas Supply Corporation; Notice of Refund Filing

February 13, 1996.

Take notice that on February 7, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Eighth Revised Sheet Nos. 237A and 237B, proposed to be effective March 11, 1996.

National states that these tariff sheets propose to flow refunds through to National's former RQ and CD customers, including interest, received from certain of National's upstream pipeline-suppliers related to National's Account Nos. 191 and 186, as more fully described on the worksheets attached at Appendix B to the filing.

In accordance with Sections 21(c) and (d) of the General Terms and Conditions of National's tariff, National proposes to allocate the $50,860.16 in commodity credit and $14,454.45 in demand credit according to the customers' commodity sales based on the 12 months ending July 31, 1993, and their level of demand determinants on July 31, 1993.

National further states that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 20, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3635 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–168–000]

Northwest Pipeline Corporation; Notice of Application

February 13, 1996.

Take notice that on February 1, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP96–168–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA), Section 9 of the Alasken Natural Gas Transportation Act (ANGTA), and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, for a certificate of public convenience and necessity authorizing Northwest to abandon transportation of natural gas for Pacific Interstate Transmission Company (PITCO) under Rate Schedule T–1 in Northwest's FERC Gas Tariff, Third Revised Volume No. 1, in order to effectuate PITCO's conversion from Part 157 to Part 284 transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest also requests a waiver of any tariff provisions which could interfere with PITCO's replacement Part 284 services being implemented with the same capacity rights and priorities as its former Rate Schedule T–1 service. Specifically, Northwest requests waiver of Sections 12.3, 17.5(c), 25.3 and 26 of the General Terms and Conditions and

Section 1 of Northwest's Rate Schedule TI–1.

Northwest states that, under a certificated Rate Schedule T–1 agreement, it currently receives up to 243,467 MMBtu per day on a firm basis and up to 60,867 MMBtu per day on a best-efforts basis for PITCO's account from Pacific Gas Transmission Company at Stanfield, Oregon and delivers these volumes, less fuel, to Ignacio, Colorado for PITCO's account. Northwest further states that the term of this transportation agreement extends through October 31, 2012, and thereafter, as long as PITCO has the right to purchase Canadian gas under any extension of its contract with Northwest Alaskan Pipeline Company.

Northwest states that a letter agreement with PITCO dated December 12, 1995 sets forth the conditions upon which Northwest and certain of its shippers can support the conversion of PITCO's Section 7(c) service to a Part 284 service. Northwest states that, to effect the conversion of PITCO's transportation service according to the provisions set forth in the letter agreement, it and PITCO propose to terminate the effective Rate Schedule T–1 service agreement and implement two replacement open-access agreements:

(1) a Part 284 Rate Schedule TF–1 firm transportation agreement to provide a contract demand of 243,467 MMBtu per day from a primary receipt point at Stanfield to a primary delivery point at Ignacio; and

(2) a Part 284 Rate Schedule TI–1 transportation agreement to provide for 60,867 MMBtu per day of interruptible transportation at maximum rate from Stanfield to Ignacio to replace the best-efforts service currently available under PITCO's Schedule T–1 service agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 5, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3639 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–51–000]

Panhandle Eastern Pipe Line Company; Notice of Technical Conference

February 13, 1996.

In the Commission's order issued on December 29, 1995, in the above-captioned proceeding,[1] the Commission ordered that a technical conference be convened to resolve certain issues raised by the filing.

The conference to address the issues has been scheduled for Thursday, February 29, 1996 at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3636 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–112–000]

Tennessee Gas Pipeline Company; Notice of Informal Settlement Conference

February 13, 1996.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10:00 a.m., on February 22, 1996 and continuing on February 23, 1996, if necessary, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations (18 CFR 385.214).

For additional information, contact Sandra J. Delude at (202) 208–0583 or Edith A. Gilmore at (202) 208–2158.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3637 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–11–003]

Williams Natural Gas Company; Notice of Amendment

February 13, 1996.

Take notice that on February 9, 1996, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP95–11–000 an amendment to its application to abandon by conveyance to Williams Gas Processing—Mid-Continent Region Company (WGP–MCR), an affiliated company, its Kansas-Hugoton gathering system facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, WNG seeks authority to retain two 2,000 horsepower compressors, which, after piping reconfigurations, will function as transmission, compressing gas downstream of the Jayhawk plant. Before this amendment, the abandonment contemplated WNG transferring to WGP–KHC the United Station which is upstream of the Jayhawk processing plant and currently functions to compress gas into the Jayhawk plant. Due to higher than anticipated maintenance requirements and increased throughput at WNG's Hugoton transmission compressor station which is located downstream of the Jayhawk plant, additional transmission compression is needed.

WNG has determined that, by reconfiguring the station yard piping, two of the compressor units at the United Station can be used to compress gas downstream of the Jayhawk plant. WNG states that these two units would operate as part of WNG's existing transmission compression at the Hugoton Station and would provide the needed additional compression at reasonable cost. Thus, the function of these two units would change from gathering to transmission.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 27, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for WNG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3643 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–931–000, et al.]

Pennsylvania Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

February 13, 1996.

Take notice that the following filings have been made with the Commission:

1. Pennsylvania Power & Light Company

[Docket No. ER96–931–000]

Take notice that on January 25, 1996, Pennsylvania Power & Light Company (PP&L), tendered for filing a request for approval of rate changes under the Capacity and Energy Sales Agreement (Agreement) dated January 28, 1988, as supplemented, between PP&L and Baltimore Gas & Electric Company. PP&L proposes to increase its rate under the Agreement to more accurately reflect the projected costs of decommissioning PP&L's nuclear-fueled Susquehanna Steam Electric Station units. PP&L also proposes to implement depreciation life study changes, to change accounting methods for Office Furniture, Tools and Equipment (FTE) and to segregate all FTE into certain General Plant accounts.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company

[Docket No. ER96–985–000]

Take notice that on January 31, 1996, Boston Edison Company (Boston Edison), tendered for filing a Sixth Extension Agreement between Boston Edison and New England Power Company (NEP) regarding the provision of sub-transmission service for NEP under Boston Edison's FERC Rate Schedule No. 46. The Sixth Extension Agreement extends the date of termination of service from March 31, 1996 to July 31, 1996 and has been executed only by Boston Edison. Boston Edison requests an effective date of April 1, 1996.

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. The Washington Water Power Company

[Docket No. ER96–986–000]

Take notice that on January 31, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, a signed service agreement under FERC Electric Tariff Volume No. 4 with K N Marketing, Inc. Also submitted with this filing is a Certificate of Concurrence with respect to exchanges. WWP requests waiver of the prior notice requirement and requests an effective date of February 1, 1996.

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER96–987–000]

Take notice that on January 31, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies), tendered for filing as Interchange Service Contract between Southern Companies and PECO Energy Company. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Virginia Electric and Power Company

[Docket No. ER96–989–000]

Take notice that on February 1, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Aquila Power Corporation and Virginia Power, dated January 24, 1996, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Aquila Power Corporation under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Houston Lighting & Power Company

[Docket No. ER96–990–000]

Take notice that on February 1, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Western Gas Resources Power Marketing, Inc. (Western Gas) for Economy Energy and Emergency Power Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. I, for Transmission Service To, From, and Over Certain HVDC Interconnections. HL&P has requested an effective date of January 17, 1996.

Copies of the filing were served on Western Gas and the Public Utility Commission of Texas.

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[1] 73 FERC ¶ 61,391 (1995).

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. MidAmerican Energy Company

[Docket No. ER96–991–000]

Take notice that on February 1, 1996, MidAmerican Energy Company (MidAmerican) filed with the Commission Firm Transmission Service Agreements with Delhi Energy Services, Inc. (Delhi) dated January 9, 1996 and KN Marketing, Inc. (KN) dated January 17, 1996; and Non-Firm Transmission Service Agreements with Delhi dated January 9, 1996, Valero Power Services Company (Valero) dated January 15, 1996 and KN dated January 17, 1996, entered into pursuant to MidAmerican's Point-to-Point Transmission Service Tariff, FERC Electric Tariff, Original Volume No. 4.

MidAmerican requests an effective date of January 9, 1996, for the Agreements with Delhi, January 15, 1996, for the Agreement with Valero; and January 17, 1996 for the Agreements with KN, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Delhi, Valero, KN, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Co.

[Docket No. ER96–992–000]

Take notice that on February 2, 1996, Northeast Utilities Service Company (NUSCO), on behalf of its affiliates, the Northeast Utilities System companies, tendered for filing a Letter of Understanding concerning the assignment of a service agreement for sale of NU System power to the City of Chicopee Municipal Lighting Plant. NUSCO requests an effective date of February 1, 1996.

NUSCO states that copies of its submission have been mailed or delivered to the City of Chicopee Municipal Lighting Plant.

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Upper Peninsula Power Company

[Docket No. ER96–993–000]

Take notice that on February 1, 1996, Upper Peninsula Power Company (UPPCO), tendered for filing proposed Power Service Agreements for sales of electricity to two of its existing wholesale electric service customers: Alger-Delta Cooperative Electric Association (Alger-Delta) and Ontonagon County Rural Electrification Association (Ontonagon). UPPCO states that the rates established in each of the Power Service Agreements for 1996 will result in a decrease in revenues from sales to Alger-Delta of approximately 9.6% annually and a decrease in revenues from sales to Ontonagon of approximately 10% annually. UPPCO states that the Power Service Agreements also provide Alger-Delta and Ontonagon with a credit toward the acquisition of certain non-utility services from UPPCO. UPPCO proposes to make each of the Power Sales Agreements effective beginning April 3, 1996.

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Nevada Power Company

[Docket No. ER96–994–000]

Take notice that on February 1, 1996, Nevada Power Company (Nevada Power), tendered for filing a proposed Supplement to the Interconnection Agreement Between Nevada Power Company and Overton Power District No. 5 (Supplemental Agreement) having a proposed effective date of April 1, 1996.

The Supplemental Agreement provides for the sale of economy energy to Overton during any calendar month in which Overton agrees to purchase Nevada Power all of its economy energy requirements. Such economy energy is to be delivered using Overton's contractual allocation of Federal hydroelectric capacity purchased through the State of Nevada Colorado River Commission (CRC) or using the contractual allocation of Federal hydroelectric capacity received from other members of the Silver State Power Association, Inc. The total monthly amount of economy energy under Schedule D shall not exceed the amount of energy that when added to Overton's contractual allocation of Federal hydroelectric energy and the contractual allocation of Colorado-River hydroelectric energy received from other Silver State Power Association members, would provide 100 percent capacity factor utilization of these Federal hydroelectric resources.

The price of economy energy sold by Nevada Power and purchased by Overton pursuant to Schedule D shall be at Nevada Power's Average Hourly Marginal Cost of energy for each calendar month plus 1 mill per kilowatt-hour. Average Hourly Marginal Cost is defined as the monthly sum of the hourly incremental cost of the next cheapest megawatt-hour available to generate or purchase (excluding generation at Hoover Dam) to meet load in Nevada Power's control area divided by the number of hours in the month.

Copies of this filing have been served on the City of Overton and the Nevada Public Service Commission.

Comment date: February 27, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. The Washington Water Power Company

[Docket No. ER96–995–000]

Take notice that on February 1, 1996, The Washington Water Power Company, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, an Agreement for the sale of firm capacity and firm energy to Cogentrix Energy Power Marketing, Inc. The terms of the Agreement one to commence on April 1, 1996 and continue through August 31, 1998.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. The Washington Water Power Company

[Docket No. ER96–996–000]

Take notice that on February 1, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.11 and 35.12 a Transmission Service Agreement between WWP and Enron Power Marketing, Inc. WWP requests an effective time and date of 0000 hours, April 1, 1996.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. The Washington Water Power Company

[Docket No. ER96–997–000]

Take notice that on February 1, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.11 and 35.12 a Transmission Service Agreement between WWP and Cogentrix Energy Power Marketing, Inc. WWP requests an effective time and date of 0000 hours, April 1, 1996.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Cenerprise, Inc.

[Docket No. ER96–998–000]

Take notice that on February 1, 1996, Cenerprise, Inc. (Cenerprise), corporate successor to Cenergy, Inc. (Cenergy), filed an application pursuant to 205 of the Federal Power Act, Part 35 of the Commission's Regulations, and the Commission's Rules of Practice and Procedure, for an order supporting certain charges to Cenerprise's Rate Schedule FERC No. 1 and changes to its Standards of Conduct. Cenerprise proposes to change the name of the seller under its tariff from Cenergy To Cenerprise, eliminate the restrictions against power transactions with its affiliates, and to permit such transactions with its public utility affiliates pursuant to separate 205 filings. Cenerprise also proposes to modify its code of conduct to reflect the Commission's decision in *USGen Power Services, L.P.*, 73 FERC ¶ 61,302 (1995), and the standards proposed by the Commission in the Notice of Proposed Rulemaking on Real Time Information Networks and Standards of Conduct in Docket No. RM95–9–000.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by the Federal Power Act and the Commission's Rules of Practice and Procedure, a hearing may be held without further notice before the Commission or its designee on this application, if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that a grant of the application is in the public interest. If a motion for leave to intervene is timely filed, or the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Potomac Electric Power Company

[Docket No. ER96–999–000]

Take notice that on February 2, 1996, Potomac Electric Power Company (Pepco), tendered for filing a service agreement pursuant to Pepco's FERC Electric Tariff, Original Volume No. 1, entered into between Pepco and CNG Power Services Corporation. An effective date of January 8, 1996, for this service agreement, with waiver of notice, is requested.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Florida Power & Light Company

[Docket No. ER96–1001–000]

Take notice that on February 2, 1996, Florida Power & Light Company filed depreciation rates for use in its transmission tariffs, wholesale electric service tariff, and 49 transmission and power sales contracts.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Gulf Power Company

[Docket No. ER96–1002–000]

Take notice that on February 2, 1996, Gulf Power Company (Gulf), tendered for filing an agreement for energy conversion services between Gulf and the Energy Services, Inc. as agent for Arkansas Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service, Inc. (the Entergy Operating Companies).

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. New England Power Company

[Docket No. ER96–1004–000]

Take notice that on February 5, 1996, New England Power Company, submitted for filing a letter agreement for transmission service to CNG Power Services Corporation.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Houston Lighting & Power Company

[Docket No. ER96–1005–000]

Take notice that on February 5, 1996, Houston Lighting & Power Company (HL&P), tendered for filing four executed transmission service agreements (TSAs) with Louis Dreyfus Electric Power, Inc. (Dreyfus), Electric Clearinghouse, Inc. (ECT) and LG&E Power Marketing, Inc. (LG&E) for Economy Energy Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections.

HL&P requests waiver of the Commission's notice requirements. Copies of the filing were served on Dreyfus, ECI and LG&E and the Public Utility Commission of Texas.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3699 Filed 2–16–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EF96–5191–000, et al.]

Western Area Power Administration, et al.; Electric Rate and Corporate Regulation Filings

February 12, 1996

Take notice that the following filings have been made with the Commission:

1. Western Area Power Administration

[Docket No. EF96–5191–000]

Take notice that on January 31, 1996, the Deputy Secretary of the Department of Energy, by Rate Order No. WAPA–71, did confirm and approve on an interim basis, to be effective on February 1, 1996, the Western Area Power Administration's (Western) Rate Schedules INT–FT2 and INT–NFT2 for firm and nonfirm transmission service from the AC Intertie Project.

The rates will be in effect pending the Federal Energy Regulatory Commission's (FERC) approval of these or of substitute rates on a final basis, ending September 30, 2000.

The existing AC Intertie Project rate schedules were designed to yield approximately $124,513,395 for the AC Intertie Project. The provisional rate schedules are designed to yield approximately $43,451,743 for the existing system and $60,858,572 for the 500-kV system over the cost evaluation period.

The Administrator of Western certifies that the rates are consistent with applicable law and that they are the lowest possible rates consistent with sound business principles. The Deputy Secretary of the Department of Energy states that the rate schedule is submitted for confirmation and approval on a final basis for a period beginning February 1, 1996, and ending September 30, 2000, pursuant to authority vested in FERC by Delegation Order No. 0204–108, as amended.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Calpine Monterey Cogeneration, Inc.

[Docket No. EG96–39–000]

On February 5, 1996, Calpine Monterey Cogeneration, Inc., a California Corporation ("Applicant") with its Principal Executive Office at 50 West San Fernando Street, Fifth Floor, San Jose, California 95113, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant leases and operates an approximately 28.5 megawatt gas fired electrical generating facility located in Watsonville, California. The entire net energy output of such facility is sold by Applicant on a wholesale basis to Pacific Gas & Electric Company, pursuant to a power purchase agreement between Applicant and such utility.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. FTM Energy Inc.

[Docket No. EG96–42–000]

On February 6, 1996, FTM Energy Inc. ("Applicant") filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant is a corporation organized under the laws of the state of Delaware. Applicant is a wholly owned subsidiary of AYP Capital, Inc. ("AYP"), which itself is a wholly owned subsidiary of Allegheny Power System, Inc. ("APS"), a registered electric utility holding company. Applicant's business address is c/o Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601 (Attn: Theresa Colecchia).

The eligible facility consists primarily of a 50 percent undivided interest in Unit No. 1 of the Fort Martin Power Station, an operating steam-electric generating unit, and an associated portion of Ft. Martin Unit 1's main transformers. Ft. Martin Unit 1 is located in West Virginia on the Monongahela River between Morgantown, West Virginia and Point Marion, Pennsylvania. The portion of Ft. Martin Unit 1 that is the eligible facility is currently owned by Duquesne Light Company ("Duquesne"), a Pennsylvania public utility not affiliated with APS; however, Duquesne has entered into an Asset Purchase Agreement (dated November 28, 1995) with AYP, pursuant to which Duquesne will sell on or before December 31, 1996, its undivided ownership interest in Ft. Martin Unit 1 (including its interest in the transformers) to AYP, which will assign the Asset Purchase Agreement to FTM Energy Inc. The remainder of the facility of which the eligible facility is a portion is owned by Monongahela Power Company ("MPC") and The Potomac Edison Company ("PEC"), two of the three wholly owned electric operating subsidiaries of APS.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Illinois Municipal Electric Agency v. Central Illinois Public Service Company, Union Electric Company and Central Illinois Public Service Company

[Docket No. EL96–32–000]

[Docket No. ER96–677–000]

Take notice that on February 2, 1996, Illinois Municipal Electric Agency (IMEA) tendered for filing a complaint against Central Illinois Public Service Company to seek the establishment of a refund effective date in connection with rate reductions expected as a result of Union Electric Company and Central Illinois Public Service Company's transmission rate filing in Docket No. ER96–677–000. In its complaint IMEA requests that this proceeding be consolidated with Docket No. ER96–677–000.

Comment date: March 13, 1996, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before March 13, 1996.

5. Electric Clearinghouse, Inc., Direct Electric Inc., K N Marketing, Inc., Enerserve, L.C., Paragon Gas Marketing, Heath Petra Resources, Inc., Energy West Power Company, LLC

[Docket No. ER94–968–012, Docket No. ER94–1161–007, Docket No. ER95–869–003, Docket No. ER96–182–001, Docket No. ER96–380–001, Docket No. ER96–381–001, Docket No. ER96–392–001]

[not consolidated]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 31, 1996, Electric Clearinghouse, Inc. filed certain information as required by the Commission's April 7, 1994, order in Docket No. ER94–968–000.

On January 31, 1996, Direct Electric Inc. filed certain information as required by the Commission's July 18, 1994, order in Docket No. ER94–1161–000.

On January 31, 1996, K N Marketing, Inc. filed certain information as required by the Commission's May 26, 1995, order in Docket No. ER95–869–000.

On January 29, 1996, Enerserve, L.C. filed certain information as required by the Commission's December 28, 1995, order in Docket No. ER96–182–000.

On January 31, 1996, Paragon Gas Marketing filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–380–000.

On January 29, 1996, Heath Petra Resources, Inc. filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–381–000.

On January 29, 1996, Energy West Power Company, LLC filed certain information as required by the Commission's December 28, 1995, order in Docket No. ER96–392–000.

6. Mock Electric Power Marketing, TransCanada Pipelines, J. Anthony & Associates Ltd, Hinson Power Company, Amoco Energy Trading Corporation, Cogentrix Energy Power Marketing Inc., U.S. Power & Light, Inc.

[Docket No. ER95–300–005, Docket No. ER95–692–003, Docket No. ER95–784–001, Docket No. ER95–1314–003, Docket No. ER95–1359–001, Docket No. ER95–1739–001, Docket No. ER96–105–001]

[not consolidated]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 31, 1996, Mock Electric Power Marketing filed certain information as required by the Commission's March 16, 1995, order in Docket No. ER95–300–000.

On January 17, 1996, TransCanada Pipelines filed certain information as required by the Commission's June 9, 1995, order in Docket No. ER95–692–000.

On February 5, 1996, J. Anthony & Associates Ltd filed certain information as required by the Commission's May 31, 1995, order in Docket No. ER95–784–000.

On January 29, 1996, Hinson Power Company filed certain information as required by the Commission's August 29, 1995, order in Docket No. ER95–1314–000.

On February 2, 1996, Amoco Energy Trading Corporation filed certain information as required by the Commission's November 29, 1995, order in Docket No. ER95–1359–000.

On January 31, 1996, Cogentrix Energy Power Marketing, Inc. filed certain information as required by the Commission's October 12, 1995, order in Docket No. ER95–1739–000.

On January 29, 1996, U.S. Power & Light, Inc. filed certain information as required by the Commission's December 6, 1995, order in Docket No. ER96–105–000.

7. Energy Exchange of Chicago, Inc., Wholesale Power Services, Inc., Enron Power Marketing, Inc., Heartland Energy Services, Inc., Eastern Power Distribution, Inc., Rainbow Energy Marketing Corp., LG&E Power Marketing, Inc.

[Docket No. ER90–225–023, Docket No. ER93–730–002, Docket No. ER94–24–011, Docket No. ER94–108–007, Docket No. ER94–964–008, Docket No. ER94–1061–007, Docket No. ER94–1188–009]

[not consolidated]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On February 2, 1996, Energy Exchange of Chicago, Inc. filed certain information as required by the Commission's April 19, 1990, order in Docket No. ER90–225–000.

On February 1, 1996, Wholesale Power Services, Inc. filed certain information as required by the Commission's August 10, 1993, order in Docket No. ER93–730–000.

On February 1, 1996, Enron Power Marketing, Inc. filed certain information as required by the Commission's December 2, 1993, order in Docket No. ER94–24–000.

On January 31, 1996, Heartland Energy Services, Inc. filed certain information as required by the Commission's August 9, 1994, order in Docket No. ER94–108–000.

On February 1, 1996, Eastern Power Distribution, Inc. filed certain information as required by the Commission's April 5, 1994, order in Docket No. ER94–964–000.

On January 31, 1996, Rainbow Energy Marketing Corporation filed certain information as required by the Commission's June 10, 1994, order in Docket No. ER94–1061–000.

On January 31, 1996, LG&E Power Marketing, Inc. filed certain information as required by the Commission's August 19, 1994, order in Docket No. ER94–1188–000.

8. Coastal Electric Services Company, Illinova Power Marketing, Inc., American Power Exchange, Inc., Power Exchange Corporation, KCS Power Marketing, Inc., Aquila Power Corporation, Kimball Power Company

[Docket No. ER94–1450–008, Docket No. ER94–1475–003, Docket No. ER94–1578–005, Docket No. ER95–72–004, Docket No. ER95–208–004, Docket No. ER95–216–006, Docket No. ER95–232–005]

[not consolidated]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 31, 1996, Coastal Electric Services Company filed certain information as required by the Commission's September 29, 1994, order in Docket No. ER94–1450–000.

On January 29, 1996, Illinova Power Marketing, Inc. filed certain information as required by the Commission's May 18, 1995, order in Docket No. ER94–1475–000.

On February 2, 1996, American Power Exchange, Inc. filed certain information as required by the Commission's October 19, 1994, order in Docket No. ER94–1578–000.

On February 2, 1996, Power Exchange Corporation filed certain information as required by the Commission's February 1, 1995, order in Docket No. ER95–72–000.

On February 2, 1996, KCS Power Marketing, Inc. filed certain information as required by the Commission's March 2, 1995, order in Docket No. ER95–208–000.

On January 31, 1996, Aquila Power Corporation filed certain information as required by the Commission's January 13, 1995, order in Docket No. ER95–216–000.

On January 22, 1996, Kimball Power Company filed certain information as required by the Commission's February 1, 1995, order in Docket No. ER95–232–000.

9. Duquesne Light Company

[Docket No. ER96–745–000]

Take notice that on January 2, 1996, Duquesne Light Company tendered for filing a Service Agreement with Catex-Vitol, L.L.C.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Quantum Energy Resources, Inc.

[Docket No. ER96–947–000]

Take notice that on January 29, 1996, Quantum Energy Resources, Inc. tendered for filing an application for blanket authorization, certain waivers, and order approving rate schedule.

Comment date: February 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER96–959–000]

Take notice that on January 25, 1996, Entergy Services, Inc. acting as agent for Arkansas Power & Light Company (AP&L) tendered for filing the Fourth Amendment to the Power Coordination, Interchange and Transmission Agreement between the City of Conway, Arkansas and AP&L.

Comment date: February 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Central Illinois Public Service Company

[Docket No. ER96–970–000]

Take notice that on January 30, 1996, Central Illinois Public Service Company (CIPS) submitted a Service Agreement, dated January 29, 1996, establishing American Municipal Power-Ohio (AMP-Ohio) as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of January 1, 1996, for the service agreement with AMP-Ohio. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon AMP-Ohio and the Illinois Commerce Commission.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. The Detroit Edison Company

[Docket No. ER96–971–000]

Take notice that on January 30, 1996, The Detroit Edison Company (Detroit), tendered for filing the Third Amendment to the Power Supply Agreement between Wolverine Power Supply Cooperative, Inc. and Detroit.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. UtiliCorp United Inc.

[Docket No. ER96–973–000]

Take notice that on January 30, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume

No. 10, with *Eastex Power Marketing, Inc.* The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Eastex Power Marketing, Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Eastex Power Marketing, Inc.* to Missouri Public Service pursuant to *Eastex Power Marketing, Inc.'s* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Eastex Power Marketing, Inc.*

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. UtiliCorp United Inc.

[Docket No. ER96–974–000]

Take notice that on January 30, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with *Eastex Power Marketing, Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to *Eastex Power Marketing, Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Eastex Power Marketing, Inc.* to WestPlains Energy-Kansas pursuant to *Eastex Power Marketing, Inc.'s* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Eastex Power Marketing, Inc.*

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. UtiliCorp United Inc.

[Docket No. ER96–975–000]

Take notice that on January 30, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, WestPlains Energy-Colorado, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with *Eastex Power Marketing, Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Colorado to *Eastex Power Marketing, Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Eastex Power Marketing, Inc.* to WestPlains Energy-Colorado pursuant to *Eastex Power Marketing, Inc.'s* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Eastex Power Marketing, Inc.!*

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Company (Minnesota Company)

[Docket No. ER96–976–000]

Take notice that on January 30, 1996, Northern States Power Company (Minnesota) (NSP), tendered for filing a Notice of Termination of the Blue Lake Emergency Connection Agreement between NSP and the City of Shakopee (City).

NSP requests the Agreement be accepted for filing effective January 31, 1996, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. The Dayton Power and Light Company

[Docket No. ER96–978–000]

Take notice that on January 30, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Power Sales Agreement between Dayton and Public Service Electric and Gas Company (PSE&G).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to PSE&G power and/or energy for resale.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Illinova Power Marketing, Inc.

[Docket No. ER96–979–000]

Take notice that on January 30, 1996, Illinova Power Marketing, Inc. (IPMI), 1405 West 2200 South, Salt Lake City, Utah, 84119, tendered for filing proposed revisions to its tariff and Code of Conduct.

IPMI has requested an effective date of January 31, 1996, for the proposed changes to its Tariff and Code of Conduct. IPMI requests any waivers necessary for this filing date.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Power Corporation

[Docket No. ER96–980–000]

Take notice that on January 31, 1996, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and Valero Power Services Company (Valpo). The contract provides for service under Schedule J, Negotiated Interchange Service and OS, Opportunity Sales. Cost support for both schedules has been previously filed and approved by the Commission. No specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rates.

FPC requests Commission waiver of the 60–day notice requirement in order to allow the contract to become effective as a rate schedule on February 1, 1996. Waiver is appropriate because this filing does not change the rate under these two Commission accepted, existing rate schedules.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Florida Power Corporation

[Docket No. ER96–981–000]

Take notice that on January 31, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Valero Power Services Company pursuant to its open access transmission tariff (the T–2 Tariff). Florida Power requests that the Commission waive its notice requirements and allow the agreements to become effective on January 31, 1996.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Florida Power Corporation

[Docket No. ER96–982–000]

Take notice that on January 31, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Southern Company Services, Inc., pursuant to its open access transmission tariff (the T–2 Tariff). Florida Power requests that the Commission waive its notice requirements and allow the agreements to become effective on January 31, 1996.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Central Power and Light Company West Texas Utilities Company

[Docket No. ER96–983–000]

Take notice that on January 31, 1996, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) submitted for filing: an unexecuted Transmission Service Agreement between CPL and City of College Station, Texas (College Station) and an unexecuted Transmission Service Agreement between WTU and College Station (Service Agreements). Under the Service Agreements, CPL and WTU will transmit power and energy purchased by College Station from Texas Utilities Electric Company (Texas Utilities). CPL and WTU request that the Service Agreements be accepted to become effective as of January 1, 1996.

Copies of the filing were served on College Station and the Public Utility Commission of Texas.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER96–984–000]

Take notice that on January 30, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to J Power Inc.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 31, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: February 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3644 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–P

[Condit Project No. 2342 Washington]

PacifiCorp Electric Operations; Notice of Intent To Reschedule Date and Hold Public Meetings in White Salmon, Washington, To Discuss the Draft Environmental Impact Statement (DEIS) for Relicensing of the Condit Hydroelectric Project

February 13, 1996.

On December 8, 1995, the Draft Environmental Impact Statement for the Condit Hydroelectric Project was distributed to all parties on the Commission's mailing list and a notice of availability was published in the **Federal Register**. The DEIS evaluates the environmental consequences of the proposed relicensing of the project. The project is located in Skamania and Klickitat Counties, Washington.

Two public meetings had been scheduled to be held in White Salmon, Washington early February, for the purpose of allowing Commission Staff to present the major DEIS findings and recommendations. Due to major ice and snow storms in the project area, the public meetings had to be canceled. The meetings have been rescheduled for February 29, 1996. Interested parties will have an opportunity to give oral comment on the DEIS for the Commission's public record. Comments will be recorded by a court reporter. Individuals will be given up to five minutes each to present their views on the DEIS.

Meeting Dates & Times:

Thursday, February 29, 1996 from 9:00 AM—1:00 PM

Thursday, February 29, 1996 from 7:00 PM—11:00 PM

Location: Both meetings will be held at the Park Center Auditorium, 170 NW Lincoln Street, White Salmon, Washington (the main entrance to the auditorium is from Washington Street).

Comments may also be submitted in writing, addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426. Reference should be clearly made to the Condit Project, No. 2342. NOTE: THE COMMENT PERIOD HAS BEEN EXTENDED from February 21, 1996 to MARCH 6, 1996.

For further information, contact: John Blair, DEIS Task Monitor, (202) 219–2845.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3638 Filed 2–16–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5424–6]

Agency Information Collection Activities: Environmental Radiation Ambient Monitoring System (ERAMS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Environmental Radiation Ambient Monitoring System (ERAMS). Approved through 07/31/96. OMB NO. 2060–0015. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments will be accepted until April 22, 1996.

ADDRESSES: Office of Radiation and Indoor Air (ORIA), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Charles M. Petko, (334) 270–3411; FAX (334) 270–3454; EMAIL to PETKO.CHARLES@EPMAIL.EPA.GOV

SUPPLEMENTARY INFORMATION:

Affected entities: Voluntary sample collectors, usually state employees but also some employees of local governments.

Title: Environmental Radiation Ambient Monitoring System (ERAMS); OMB NO. 2060–0015; Expiration date, 07/31/96.

Abstract: The Environmental Radiation Ambient Monitoring System (ERAMS) is a national network of stations sampling media that include air, precipitation, drinking water, surface water, and milk. Samples are sent to EPA's National Air and Radiation Environmental Laboratory (NAREL) in Montgomery, AL, where they are analyzed. ERAMS provides emergency response and ambient monitoring information regarding levels of environmental radiation across the nation. All stations, usually manned by state and some local personnel,

participate in ERAMS voluntarily. Station operators complete information forms that accompany the samples. The forms request descriptive information related to sample collection, e.g., sample type, sample location, length of sampling, and volume represeated.

An agency may not conduct or sponsor, and person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The frequency of response from the respondents varies with the media being collected. There are 104 occurrences per air station per year (2 weekly × 52 weeks). There are an estimated 12 occurrences per precipitation station and per milk station per year. The drinking water and surface water collections take place quarterly resulting in 8 occurrences. If contamination is observed or is anticipated, however, these number can change depending on the nature and extent of the event. The time required per response varies with the media collected, but a reliable average for respondent burden time per occurrence is given by dividing the total respondent burden hours for the (9019 hours) by the total number of occurrences for all respondents for the year (24,033 occurrences) to obtain a value of 0.37 hours per occurrence. The respondent burden hours per occurrence has a range of from 0.1 to 1 hour. The respondents are not required to keep records.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: February 6, 1996.

Charles M. Petko,

Public Information Officer.

[FR Doc. 96–3715 Filed 2–16–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5423–5]

Public Meeting of the Sanitary Sewer Overflows Dialogue

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) is convening a public meeting of the Sanitary Sewer Overflows (SSOs) Dialogue. The meeting will be held on March 7 and 8, 1996. The purposes of the meeting are to discuss: (1) The draft SSO framework; (2) permit and compliance priorities; and (3) the overall SSO strategy flowchart. The meeting is open to the public without need for advance registration.

DATES: The SSO meeting will be held on March 7 and 8, 1996. On March 7, the meeting will run from 8:30 am to 5:00 pm EST. On March 8, the meeting will run from about 8:30 am until completion.

ADDRESSES: The SSO meeting will be held at the Holiday Inn, 11787 Lee Jackson Memorial Highway, Fairfax, VA. The telephone numbers for the hotel are: 1–800–465–4329 or (703) 352–2525.

FOR FURTHER INFORMATION CONTACT: Charles Vanderlyn of EPA's Office of Wastewater Management, at (202) 260–7277.

Dated: February 8, 1996.

Alfred Lindsey,

Deputy Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 96–3588 Filed 2–16–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5425–6]

Proposed Settlement Pursuant to Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and opportunity for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency ("EPA"), Region II, announces a proposed administrative *de minimis* settlement pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. 9622(g)(4), relating to the Bern Metals Superfund Site ("Site"). The Site is located in the City of Buffalo, Erie County, New York State. This notice is being published pursuant to Section 122(i) of CERCLA to inform the public of the proposed settlement and of the opportunity to comment. EPA will consider any comments received during the comment period and may withdraw or withhold consent to the proposed settlement if comments disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper, or inadequate.

The proposed administrative settlement has been memorialized in an Administrative Order on Consent ("Order") between EPA and New York State Electric & Gas Corporation ("Respondent"). This Order will become effective after the close of the public comment period, unless comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate, and EPA, in accordance with Section 122(i)(3) of CERCLA, modifies or withdraws its consent to this Agreement. Under the Order, the Respondent will be obligated to pay $10,000 to the Hazardous Substance Superfund in reimbursement of its share of EPA's response costs relating to the Site plus a premium.

Pursuant to CERCLA Section 122(h)(1), the Order may not be issued without the prior written approval of the Attorney General or her designee. In accordance with that requirement, the Attorney General or her designee has approved the proposed administrative order in writing.

DATES: Comments must be provided on or before March 21, 1996.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, 17th Floor, 290 Broadway, New York, New York 10007 and should refer to: "Bern Metals Superfund Site, U.S. EPA Index No. II CERCLA–95–0218". For a copy of the settlement document, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Jean H. Regna, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007. Telephone: (212) 637–3164.

Dated: December 12, 1995.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 96–3720 Filed 2–16–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5425–5]

Notice of Proposed Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for Public Comment.

SUMMARY: In accordance with Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9622, notice is hereby given that a proposed purchaser agreement associated with the Bollinger Steel Removal Site in Beaver County, Pennsylvania was executed by the Agency on July 17, 1955 and is subject to final approval by the United States Department of Justice. The Purchaser Agreement would resolve certain potential EPA claims under Section 107 of CERCLA, 42 U.S.C. 9607, against the Borough of Ambridge ("the purchaser"). The settlement would require the Borough of Ambridge to pay a principal payment of $15,000.00 in three (3) equal installments of $5,000.00 each as follows: the first payment within 90 days of the effective date of this agreement to the Hazardous Substances Superfund, the second payment within 180 days and the final payment no later than 270 days from the effective date of this agreement.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

DATES: Comments must be submitted on or before March 21, 1996.

AVAILABILITY: The proposed agreement and additional background information relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. A copy of the proposed agreement may be obtained from Suzanne Canning, U.S. Environmental Protection Agency, Regional Docket Clerk (3RC00), 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Comments should reference the "Bollinger Steel Removal Site" and "EPA Docket No. III–95–51–DC," and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Eric D. Ashton (3RC23), Assistant Regional Counsel, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone: (215) 597–9857.

Dated: January 19, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 96–3719 Filed 2–16–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5425–7]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed adminstrative settlement and opportunity for public comment.

SUMMARY: The United States Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. This settlement is intended to resolve the sole responsible party's liability for certain response costs incurred by EPA at the Witco Corporation Superfund Site in Oakland, New Jersey.

DATES: Comments must be provided by March 21, 1996.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007 and should refer to: In the Matter of the Witco Corporation Superfund Site: Witco Corporation, U.S. EPA Index No. II CERCLA–95–0113.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007, Attention: Marc Seidenberg, Esq., (212) 637–3150.

SUPPLEMENTARY INFORMATION: In accordance with Section 122(i)(1) of CERCLA, notice is hereby given of a proposed administrative settlement concerning the Witco Corporation Superfund Site located in Oakland, New Jersey. Section 122(h) of CERCLA provides EPA with authority to consider, compromise and settle certain claims for costs incurred by the United States.

Witco Corporation will pay a total of $120,000 under the settlement to reimburse EPA for certain response costs incurred at the Witco Corporation Superfund Site.

A copy of the proposed adminstrative settlement agreement, as well as background information relating to the settlement, may be obtained in person or by mail from EPA's Region II Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007.

Dated: December 7, 1995.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 96–3717 Filed 2–16–96; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 26]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1995, Ex-Im Bank has submitted a proposed collection of information to the Office of Management and Budget for review.

PURPOSE: Ex-Im Bank is the agency that facilitates U.S. goods and services

through a variety of programs including Ex-Im Bank Insurance. This program enables U.S. exporters to compete fairly in foreign markets on the basis of price and product.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

(1) *Type of request:* extension.
(2) *Number of forms submitted:* 9.
(3) *Form Numbers and Title of information collection:*
(a) EIB–92–45 Financing or Operating Lease Coverage, Explanation of Application Form for Export Credit Insurance;
(b) EIB–92–50 Application for Multibuyer Export Credit Insurance Policy;
(c) EIB–92–64 Application for Short-Term Single-Buyer Policy (For Exporters Only);
(d) EIB–92–68 Application for Export Credit Insurance Trade Association Policy;
(e) EIB–92–72 Application for Export Credit Insurance Umbrella Policy;
(f) EIB–92–80 Broker Registration Form;
(g) EIB–92–34 Application for Quotation-Export Credit Insurance Commercial Bank Insureds;
(h) EIB–92–41 Application for Short-Term Single-Buyer Coverage Financial Institution Buyer Credit Policies;
(i) EIB–92–48 Application for Medium-Term Export Credit Insurance.
(4) Frequency of use: Applications submitted one time, renewals annually.
(5) Respondents: Entities involved in the export of U.S. goods and services including exporters, banks, insurance brokers and non-profit or state and local governments acting as facilitators.
(6) Estimated total number of annual responses: 1,500 (per form).
(7) Estimated total number of hours needed to fill out the form: 1,500 (1 hour per form).

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed application may be obtained from Debbie Ambrose (202) 565–3313. Comments and questions should be directed to Mr. Jeff Hill, Office of Management and Budget, Information and Regulatory Affairs, New Executive Office Building, Washington, D.C. 20503, (202) 395–3176. All comments should be submitted within 60 days of this notice; if you intend to submit comments but are unable to meet this deadline, please advise by telephone that comments will be submitted late.

Dated: February 13, 1996.

Tamzen C. Reitan,

Agency Clearance Officer.

[FR Doc. 96–3707 Filed 2–16–96; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL RESERVE SYSTEM

Norwest Corporation; Acquisition of Company Engaged In Permissible Nonbanking Activities

The organization listed in this notice has given notice under § 225.23(a)(2) or (e) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (e)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than March 5, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire, through its subsidiary, Norwest Investment Services, Inc., Minneapolis, Minnesota, and the brokerage business of AmeriBank, Bloomington, Minnesota, pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 13, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3648 Filed 2–16–96; 8:45 am]

BILLING CODE 6210–01–F

Valley Ridge Financial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 15, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Valley Ridge Financial Corporation, Kent City, Michigan; to merge with Community Bank Corporation, Grant, Michigan, and thereby indirectly acquire Grant State Bank, Grant, Michigan.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Country Bancorp, Inc., Hillsboro, Illinois; to acquire at least 51 percent of the voting shares of Keyesport Bancshares, Inc., Keyesport, Illinois, and thereby indirectly acquire State Bank of Keyesport, Keyesport, Illinois.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. James Valley Bancorporation, Inc dba New Capital Corporation, Jamestown, North Dakota; to become a bank holding company by acquiring 76 percent of the voting shares of Northern Plains Investment, Inc., Jamestown, North Dakota, and North Star Holding Company, Jamestown, North Dakota, and thereby indirectly acquire Stutsman County State Bank, Jamestown, North Dakota, and Farmers State Bank of Ypsilanti, Ypsilanti, North Dakota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First State BancShares, Inc., Scottsbluff, Nebraska; to acquire 90.8 percent of the voting shares of Security First Bank, Cheyenne, Wyoming.

Board of Governors of the Federal Reserve System, February 13, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3649 Filed 2–16–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Collection; Comment Request

Proposed Project(s)

Title: AFDC Fraud Activity Report.
OMB No.: 0970–0031.

ANNUAL BURDEN ESTIMATES

Instrument	No. of respondents	No. of responses per respondent	Average burden hours per response	Total burden hours
ACF–4110	54	1	3	162

Estimated total annual burden hours: 162.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described below. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by title.

In addition, requests of copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending a message to rkatson@acf.dhhs.gov. Electronic comments must be submitted as an ASCII file without special characters or encryption.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 12, 1996.

Roberta Katson,

Director, Division of Information Resource Management Services.

[FR Doc. 96–3615 Filed 2–16–96; 8:45 am]

BILLING CODE 4184–01–M

Proposed Collection; Comment Request

Proposed Project #1

Title: PROGRAM NARRATIVE; Application for Federal Assistance; Objective Work Plan: Administration for Native Americans.

OMB No.: 0980–0204.

Description: The information collected by PROGRAM NARRATIVE; Application for Federal Assistance, the Objective Work Plan, is needed to properly administer and monitor the Administration for Native Americans' (ANA) Program's competitive areas—Social and Economic Development Strategies (SEDS), ANA Environmental Regulatory Enhancement, ANA Native American Languages Preservation and Enhancement, and ANA Mitigation of Environmental Impacts to Indian Lands Due to Department of Defense Activities by providing information in an application for a grant award. This data is used by legislatively-mandated Native American review panels, and ANA, as the basis for recommendations for the decisions to award competitive ANA grants.

Description: To collect data needed by the program offices for administrative purposes and in working with State public assistance agencies as part of a continuing review of recipient fraud. The information is used in response to inquiries from Congressional committees and program staff such as the Office of Inspector General, other Federal agencies, State public assistance agencies and; the general public.

Respondents: State governments.

ANNUAL BURDEN ESTIMATES

Instrument	No. of respondents	No. of responses per respondent	Average burden hours per response	Total burden hours
OMB 0980–0204	571	1	29.5	17,800

Estimated total annual burden hours: 17,800.

Proposed Project #2

Title: OBJECTIVE PROGRESS REPORT; project progress about Administration for Native Americans financial assistance grants.

OMB No.: 0980–0155.

Description: The information collected by the OBJECTIVE PROGRESS REPORT on an ANA grantee's project progress is needed to properly administer and monitor the progress of Administration for Native Americans' competitive areas grants—Social and Economic Development Strategies (SEDS), ANA Environmental Regulatory Enhancement, ANA Native American Languages Preservation and Enhancement, and ANA Mitigation of Environmental Impacts to Indian Lands due to Department of Defense Activities. This information is used to perform legislatively required Federal financial and program management oversight functions.

ANNUAL BURDEN ESTIMATES

Instrument	No. of respondents	No. of responses per respondent	Average burden hours per response	Total burden hours
OMB 0980–0155	250	2	2	1,000

Estimated total annual burden hours: 1,000.

Proposed Project #3

Title: OBJECTIVE EVALUATION REPORT; project self evaluation of Administration for Native Americans financial assistance grants.

OMB No.: 0980–0144.

Description: The project self evaluation information collected by the OBJECTIVE EVALUATION REPORT about a grantee's project is needed to meet ANA's legislatively required evaluation of grantee locally-determined financial assistance grant objectives. The report is used in the following Administration for Native Americans' Program's competitive areas grants—Social and Economic Development Strategies (SEDS), ANA Regulatory Environmental Enhancement, ANA Native American Languages Preservation and Enhancements, and ANA Mitigation of Environmental Impacts to Indian Lands Due to Department of Defense Activities. The information, when aggregated, is used by Congress, Federal agencies, and others.

ANNUAL BURDEN ESTIMATES

Instrument	No. of respondents	No. of responses per respondent	Average burden hours per response	Total burden hours
OMB 0980–0144	250	1	2	500

Estimated total annual burden hours: 500.

Respondents:

- Federally recognized Indian Tribes;
- Consortia of Indian Tribes;
- Incorporated non-Federally recognized Tribes;
- Incorporated nonprofit multipurpose community-based Indian organizations;
- Urban Indian Centers;
- National or regional incorporated nonprofit Native American organizations with community-specific objectives;
- Alaska Native Villages as defined in the Alaska Claims Settlement Act (ANSCA) and/or nonprofit village consortia;
- Incorporated nonprofit Alaska Native multi-purpose community-based organizations;
- Nonprofit Alaska Native Regional Corporations/Associations in Alaska with village-specific providers;
- Nonprofit Native organizations in Alaska with village-specific projects;
- Public and nonprofit private agencies serving Native Hawaiians;
- Public and nonprofit private agencies serving Native peoples from Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands. (The populations served may be located on these islands or in the United States); and
- Tribally Controlled Community Colleges, Tribally Controlled Post-Secondary Vocational Institutions, and colleges and universities located in Hawaii, Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands which serve Native American Pacific Islanders.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described below. Copies of the proposed collection of information form can be obtained and comments may be forwarded by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by title.

In addition, requests of copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending a message to rkatson@acf.dhhs.gov. Electronic comments must be submitted as an ASCII file without special characters or encryption.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 16, 1996.

Roberta Katson,

Director, Division of Information Resource Management Services.

[FR Doc. 96–3702 Filed 2–16–96; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR–3917–N–44]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: April 22, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Conveyance (Acquisition) and Disposition Information Collections contained in Handbook 4310.5 entitled "Property Disposition Handbook 1–4 Family Properties".

OMB Control Number: 2502–0306.

Description of the need for the information and the proposed use: This information is needed to determine the condition of the property upon conveyance, the results of repair contracts, and to monitor contractor performance in maintaining properties.

Agency form number: HUD–9516A, 9519, 9519A, 9733, 9544, 9548.

Members of affected public: Individuals, households and business.

An estimation of the total numbers of hours needed to prepare the information collection is 336,550 number of respondents is 673,100 frequency response is on occasion and the hours of response varies.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 9, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–3704 Filed 2–16–96; 8:45 am]

BILLING CODE 4210–27–M

Office of Administration

[Docket No. FR–3917–N–43]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: March 21, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 13, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Evaluation of the HOME Program—Round III Data Collection.

Office: Policy Development and Research.

OMB Approval: None.

Description of the Need for the Information and Its Proposed Use: This Evaluation will help the Department assess the outcomes created by the HOME Investment Partnerships Program. Interviews with program administrators, project owners, and the homeowners and renters who are the beneficiaries of the program will be used to determine program costs, benefits, and overall program implementation.

Form Number: None.

Respondents: Individuals or Households, Business or Other For-Profit, Not-For-Profit Institutions and State, Local, or Tribal Government.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Evaluation	1,190		1		.65		755

Total Estimated Burden Hours: 755.

Status: New.

Contact: Judson L. James, HUD, (202) 708–3700; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: February 13, 1996.

[FR Doc. 96–3703 Filed 2–16–96; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3786–N–03]

Announcement of Funding Awards; Indian HOME Program for Indian Tribes and Alaska Native Villages; Fiscal Year 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1995 for the Indian HOME Program for Indian Tribes and Alaska Native Villages. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to the Indian tribes and Alaska Native villages.

FOR FURTHER INFORMATION CONTACT: Dom Nessi, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, Room B–133, 451 Seventh Street SW, Washington, DC 20410. Telephone (202) 755–0068 (this is not a toll-free number). Hearing- or speech impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Indian HOME Program funding for Fiscal Year 1995 is authorized by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1995 (approved September 28, 1994, Pub. L. 103–327); and the 1994 Appropriations Act (approved October 28, 1993, Pub. L. 103–124).

This Notice announces FY 1995 funding of $14,042,000 to be used to assist in the funding to Indian tribes and Alaska Native villages to expand the supply of affordable housing for very low-income persons. The FY 1995 awards announced in this Notice were selected for funding consistent with the provisions in the Notices of Funding Availability (NOFAs) published in the **Federal Register** on Janaury 17, 1995 (60 FR 3520) and the amendment notice published on March 13, 1995 (60 FR 13446).

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is hereby publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: February 13, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

Appendix A—Fiscal Year 1995 Indian HOME Program for Indian Tribes and Alaska Native Villages

RECIPIENTS OF FUNDING DECISIONS

Funding recipient (name and address)	Amount Approved
Muscogee (Creek) Nation, Okmulgee, Oklahoma	$726,159
Mississippi Band of Choctaw Indians, Philadelphia, MS	1,488,000
Omaha Tribe of Nebraska, Macy, Nebraska	969,648
Pascua Yaqui Tribe of Arizona, Tucson, Arizona	1,488,000
Cook Inlet Tribal Council, Anchorage, Alaska	1,488,000

RECIPIENTS OF FUNDING DECISIONS—Continued

Funding recipient (name and address)	Amount Approved
Confederated Tribes of the Umatilla Indian Reservation, Portland, Oregon	963,303
Choctaw Nation, Durant, Oklahoma	1,488,000
Southern Ute Indian Tribe, Ignacio, Colorado	1,488,000
White Earth Reservation Tribal Council, White Earth, Minnesota	914,611
Absentee Shawnee Tribe, Shawnee, Oklahoma	1,486,412
Standing Rock Sioux Tribe, Fort Yates, North Dakota	1,421,867
Manzanita Band of Mission Indians, Boulevard, CA	120,000
Total	14,042,000

[FR Doc. 96–3705 Filed 2–16–96; 8:45 am]

BILLING CODE 4210–33–P

Office of General Counsel

[Docket No. FR–4040–D–01]

Order of Succession, Acting General Counsel

AGENCY: Office of General Counsel, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the General Counsel for the Department of Housing and Urban Development designates the Order of Succession for the position of General Counsel, and revokes the prior Order of Succession for this position.

EFFECTIVE DATE: February 7, 1996.

FOR FURTHER INFORMATION CONTACT: John P. Opitz, Assistant General Counsel for Training and Administrative Law, Department of Housing and urban Development, Room 10246, 451 7th Street, S.W., Washington, D.C. 20410, (202) 708–9991. A telecommunications device for hearing-impaired persons (TDD) is available at (202) 708–3259. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The General Counsel for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to serve as Acting General Counsel when, by reason of absence, disability, or vacancy in office, the General Counsel is not available to exercise the powers or perform the duties of the office. The authorization to act under this Order is subject to the 120-day rule of the Vacancies Act, 5 U.S.C. 3348, whereby a vacancy caused by death or resignation of an appointee, whose appointment is vested in the President by and with the advice and consent of the Senate, may be filled temporarily for not more than 120 days.

Accordingly, the General Counsel designates the following Order of Succession:

Section A. Order of Succession

During any period when, by reason of absence, disability, or vacancy in office, the General Counsel is not available to exercise the powers of perform the duties of the Office of General Counsel, the following are hereby designated to serve as the Acting General Counsel:

(1) Deputy General Counsel (Programs & Regulations);

(2) Deputy General Counsel (Civil Rights & Litigation);

(3) Deputy General Counsel (Operations);

(4) Associate General Counsel for Assisted Housing and Community Development;

(5) Associate General Counsel for Legislation and Regulations;

(6) Associate General Counsel for Finance and Regulatory Enforcement;

(7) Associate General Counsel for Insured Housing;

(8) Associate General Counsel for Litigation and Fair Housing Enforcement;

(9) Associate General Counsel for Program Enforcement;

(10) Associate General Counsel for Human Resources.

These officials shall serve as Acting General Counsel in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office. If all the officials designated in this Order of Succession are unable to serve as Acting General Counsel by reason of absence, disability, or vacancy in office, officials designated to serve as acting officials for these designated officials shall serve in the same order of succession as their principals.

Officials ranking below the Deputy General Counsel (Operations) in the above Order of Succession and their designees, while serving as Acting General Counsel, may only take actions with the approval of the Special Assistant to the General Counsel.

Authorization to serve as Acting General Counsel shall not exceed 120 days, pursuant to the Vacancies Act, 5 U.S.C. 3348.

Section B. Authority Revoked

The Order of Succession of the General Counsel, published in the **Federal Register** on April 24, 1995, at 60 FR 20111, is hereby revoked.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 7, 1996.

Nelson A. Diaz,

General Counsel.

[FR Doc. 96–3617 Filed 2–16–96; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for a Permit To Authorize Incidental Take of the Threatened Northern Spotted Owl by the Scofield Corporation, Near Leavenworth, Chelan County, Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability; request for comments.

SUMMARY: This notice advises the public that the Scofield Corporation of Chelan, Washington (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application has been assigned permit number PRT–811110. The requested permit would authorize the incidental take of northern spotted owls (*Strix occidentalis caurina*) (owls) that may occur in or near the planning area in Chelan County, Washington, as a result of the Applicant's timber-management activities. A Habitat Conservation Plan (HCP) was submitted as part of the application in accordance with section 10(a) of the Act.

The Service announces the availability of an Environmental Assessment (EA) for the proposed issuance of the incidental take permit and approval of the HCP. All comments received will become part of the public record and may be released. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the permit application and EA should be received on or before March 21, 1996.

ADDRESSES: Comments regarding the application or EA should be addressed to Curt Smitch, Assistant Regional Director, U.S. Fish and Wildlife Service, Pacific Northwest Habitat Conservation Plan Program, 3773 Martin Way East, Building C—Suite 101, Olympia, Washington 98501; (360) 534–9330. Please refer to permit number PRT–

811110 when submitting comments. Individuals wishing copies of the application or EA for review should immediately contact the office listed above.

FOR FURTHER INFORMATION CONTACT: Craig Hansen, U.S. Fish and Wildlife Service, at the office listed above.

SUPPLEMENTARY INFORMATION:

Background

Under section 9 of the Act and its implementing regulations, "taking" of threatened and endangered species is prohibited. However, the Service, under limited circumstances, may issue permits to take threatened or endangered wildlife species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are in 50 CFR 17.32 and 17.22, respectively.

The Applicant proposes to implement a HCP for the owl that will allow timber harvest on the 40-acre project area. The Applicant's proposed timber harvest may result in the take, as defined in the Act and its implementing regulations, of the owl. The permit would be in effect for one year. The terms of the HCP, which include conservation benefits for the owl, would be in effect into perpetuity.

The Applicant proposes to mitigate for potential impacts from incidental take of the owl by retaining a buffer of intact habitat, implementing a selective timber harvest, and placing a perpetual deed restriction on the property permanently prohibiting further timber harvest or tree removal. This would ensure the retention of some owl habitat and approximately 72 percent of the total number of trees after harvest. The retention of habitat and trees, and the deed restriction would ensure the availability of owl habitat in the future. The harvest method and timing would further minimize impacts to owls. If possible, all trees would be felled in winter or early spring which would minimally disturb owls and other wildlife. Harvesting while there is still snow on the ground would prevent potential ground disturbance by the felled trees. In addition, all felled trees would be removed by helicopter, thus precluding the need for road construction into the project area, and minimizing impacts to owl habitat and the ground.

The EA considers the environmental consequences of the proposed action and no-action alternatives. The proposed action alternative is the issuance of a permit under section 10(a) of the Act that would authorize incidental take of the owl. The proposed action would require the Applicant to implement their HCP. Under the no-action alternative, the permit would not be issued, and the Applicant would avoid the take of owls by delaying harvest until: (1) the owl site center is moved such that the project area is outside the territorial circle, or (2) the owl territorial circle has been changed to historic status after 3 consecutive years of protocol owl surveys have resulted in no owl detections, or (3) regulatory release is provided, such as a 4(d) special rule under the Act providing an exemption for small landowners, or (4) forests on surrounding U.S. Forest Service or other land regenerates or develops to provide greater than 40 percent owl habitat within the 1.8 mile radius owl circle.

Dated: February 13, 1996.

(**Notice:** Availability of an Environmental Assessment and Receipt of an Application for a Permit Under Section 10(a)(1)(B) of the Endangered Species Act by the Scofield Corporation.)

H. Dale Hall,

Acting Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 96–3654 Filed 2–16–96; 8:45 am]

BILLING CODE 4310–55–P

Geological Survey

Application Notice Describing the Areas of Interest and Establishing the Closing Date for Receipt of Applications Under the National Earthquake Hazards Reduction Program (NEHRP) for Fiscal Year (FY) 1997

AGENCY: Department of the Interior, U.S. Geological Survey.

ACTION: Notice.

SUMMARY: Applications are invited for research projects under the NEHRP.

The purpose of this program is to support research in earthquake hazards prediction; to provide earth-science data and information essential to determine seismic hazards present in the United States; and information essential to mitigate earthquake damage.

Applications may be submitted by educational institutions, private firms, private foundations, individuals, and agencies of state and local governments.

The NEHRP supports research related to the following general areas of interest:

I. Evaluating National and Regional Hazard and Risk. National and regional hazard and risk maps are critical to effective risk reduction strategies.

II. Evaluating Urban Hazard and Risk. The strong ground shaking and resulting catastrophic losses in the 1994 Northridge earthquake reinforced the need for the U.S. Geological Survey to concentrate its efforts where the risks are highest, that is, in the nation's urban areas.

III. Understanding Earthquake Processes. The effectiveness of risk-mitigation strategies and disaster response are limited by our meager understanding of the tectonic processes that cause earthquakes and generate the strong shaking and ground failure that devastates the built environment.

IV. Providing Real-time Hazard Assessment. Effective earthquake hazard evaluation and response to damaging events depend on timely, accurate information. Short, intermediate, and long-term earthquake forecasts in regions of high earthquake potential can all lead to mitigation activities that reduce the losses in subsequent earthquakes.

V. Providing Geologic Hazards Information Services. Computer technology has evolved rapidly in recent years to the point that new powerful tools are accessible both to the providers and the users of geologic hazards information.

ADDRESSES: The program announcement is expected to be available on or about March 8, 1996. You may obtain a copy of Announcement No. 00001 by writing Francine Harris, U.S. Geological Survey, Office of Acquisition and Federal Assistance—Mail Stop 205C. 12201 Sunrise Valley Drive, Reston, Virginia 22092, or by fax (703–648–7901). Organizations that applied for an FY 1996 award, and organizations that requested to be retained on the mailing list since the last announcement will be mailed a copy of Announcement No. 00001.

DATES: The closing date for receipt of applications will be on or about May 10, 1996. The actual closing date will be specified in Announcement No. 00001.

FOR FURTHER INFORMATION CONTACT: John Sims, Office of Earthquakes, Volcanoes, and Engineering—U.S. Geological Survey, Mail Stop 905, 12201 Sunrise Valley Drive, Reston, Virginia 22092. Telephone: (703) 648–6722.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Public Law 95–124 (42 U.S.C. 7701 *et seq.*).

Dated: February 13, 1996.

Timothy E. Calkins,

Acting Chief, Office of Program Support.

[FR Doc. 96–3716 Filed 2–16–96; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[AZ–024–1220–00]

Notice of Availability of Finding of No Significant Impacts (FONSI) and the Proposed White Canyon Plan Amendment/Final Environmental Assessment for the Phoenix and Safford District Resource Management Plans, Gila and Pinal Counties, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management in response to a land exchange proposal, has prepared a FONSI and Proposed Plan Amendment/Final Environmental Assessment (Proposed Plan) to amend the Phoenix and the Safford District Resource Management Plan (RMPs) in compliance with the Federal Land Policy and Management Act of 1976, as amended, and Section 102(2)(c) of the National Environmental Policy Act of 1969. An analysis of potential environmental impacts found that impacts would not be significant leading to a FONSI. Because of the FONSI, an environmental impact statement is not required to support the Proposed Plan Amendment.

DATES: Protests on the Proposed Plan must be postmarked on or before March 21, 1996.

ADDRESSES: Protests must be sent to the Director (480), BLM, Resource Planning Team, Box 10, 1620 L Street (N.W.), Washington, D.C. 20036

FOR FURTHER INFORMATION, CONTACT: Shela McFarlin, Project Manager, Bureau of Land Management, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, AZ 85027, or telephone (602) 780–8090.

SUPPLEMENTARY INFORMATION:

Description of the Proposed Action

The Proposed Plan Amendment and Final Environmental Assessment would make 4,561 acres of federal surface and 1,188 mineral estate acres available for considering a land exchange proposal by ASARCO Incorporated. The parcels would be reclassified from retention lands to disposal by exchange. The Proposed Plan does not approve the transfer of any land; a separate environmental impact statement would analyze the proposed exchange. The Proposed Plan also changes the designation of the White Canyon Area of Critical Environmental Concern (ACEC). The ACEC would retain 300 acres currently designated and delete 1,620 acres which have since been designated as part of the White Canyon Wilderness. The ACEC would expand by 480 acres through acquiring what is now state land through appropriate mechanisms such as exchange, donation or friendly condemnation with the state of Arizona or subsequent land owners.

Alternatives Analyzed

Four plan amendment alternatives, including the no action alternative, were analyzed. In addition to the Proposed Plan Amendment (Preferred Alternative), the Proposed Plan analyzed an alternative which would make 1,188 acres of federal estate and 4,721 acres of public land available for exchange. This alternative would also remove the White Canyon ACEC designation and permit these 160 acres to be considered in an exchange. An additional alternative analyzed would reduce the amount of public lands available for exchange by 1,280 surface acres and retain the White Canyon ACEC on 300 acres. Under the no action alternative, the White Canyon ACEC would be retained and no surface or mineral estate lands would be available for exchange. In any exchange, public access would be maintained through easements, new construction, realignments, rights of ways, deletions of parcels or other means to continue public access to public lands.

The Proposed Plan has a 30-day protest period as required by BLM planning regulations (43 CFR 1610.5–2). Any person who participated in this process and has an interest that may be adversely affected by the proposed decision may submit a protest. Following the protest resolution and the Governor's consistency review, the proposed plan will be approved and implemented. A decision record which documents BLM's decision will become available.

Public Reading Copies May Be Reviewed at the Following BLM Locations

Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027

Arizona State Office, Public Room, 3707 N. 7th Street, Suite 300, Phoenix, Arizona 85011.

Dated: February 12, 1996.

David J. Miller,

Associate District Manager.

[FR Doc. 96–3655 Filed 2–16–96; 8:45 am]

BILLING CODE 4310–32–P

[NM–018–06–1610–00/G010–D6–0101]

Amendment to Notice of Intent To Prepare a Coordinated Resource Management Plan and Amend the Taos Resource Management Plan; Taos Resource Area, New Mexico and San Luis Resource Area, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Amended Notice of Intent; request for comment.

SUMMARY: In the **Federal Register** on Monday, November 14, 1994 (Vol. 59, No. 218, pp. 56528–29), the following "Summary" appeared:

The Bureau of Land Management (BLM) Albuquerque District, Taos Resource Area and Canon City District, San Luis Resource Area are initiating preparation of a Coordinated Resource Management Plan (CRMP) in combination with a Taos Resource Management Plan Amendment (RMPA). This document will enable coordinated management activities throughout the 94-mile Rio Grande corridor from La Sauses, Colorado to Velarde, New Mexico; address inadequacies of the Taos Resource Management Plan (RMP) relating to the BLM's Supplemental Program Guidance for wildlife and fire; and include an Environmental Impact Statement to meet legislative requirements for the Rio Grande Wild and Scenic River extension and study areas. The plan's management strategy will center around conserving, restoring and maintaining the public lands' ecological integrity, productivity and biological diversity, while considering social, economic, cultural and ecological factors.

The public is invited to participate in each stage of the planning process, and public meetings will be held.

(**Note:** A schedule of meeting times and places was included in the notice. The meetings have been held as announced.)

The aforementioned Notice is amended to state that the Plan will analyze possible changes in the Areas of Critical Environmental Concern (ACECs) in the Taos Resource Area portion of the planning area. These ACEC modifications may include boundary changes that would increase or decrease acreage, consolidate ACECs, designate new ACECs or eliminate ACECs. The primary areas that may be modified from the decisions in the current Taos RMP are: (1) Guadalupe Mountain, where the ACEC designation may be dropped in favor of managing the area as part of the Wild Rivers Recreation Area; and (2) the portion of the planning area downstream from the community of Pilar, where several ACECs and Special Management Areas (SMAs) exist. Consolidation and/or boundary realignment may provide for more efficient and effective management of identified resources and values.

As described at 43 CFR 1610.7–2a, ACECs are areas containing resources, values, systems, processes or hazards that meet "relevance" and "importance" criteria. Some of the values for which ACEC designation is being considered include scenic, cultural, riparian, aquatic, and rare and endemic plants. The public is invited to nominate or recommend areas for ACEC consideration as well as to comment on possible changes.

DATES: The second modification intended by this amendment notice is that the public is invited to submit written comments on possible ACEC nominations or changes through March 21, 1996. Comments should be delivered or mailed to Terry Humphrey at the address below.

FOR FURTHER INFORMATION CONTACT: Terry Humphrey, Taos Resource Area, 226 Cruz Alta Road, Taos, NM 87571; phone (505) 758–8851.

SUPPLEMENTARY INFORMATION: This amended notice does not change any other provision of the original Notice of Intent.

Dated: February 7, 1996.

Sue E. Richardson,

Acting District Manager, Albuquerque District.

[FR Doc. 96–3682 Filed 2–16–96; 8:45 am]

BILLING CODE 4310–FB–P

National Park Service

60 Day Notice of Intention To Request Clearance of Information Collection; Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C., Chapter 3507) and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park Service invites public comments on a proposed information collection request (ICR). Comments are invited on: (1) the need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including use of automated collection techniques or other forms of information technology.

The Primary Purpose of the Proposed ICR: To identify characteristics, use patterns, perceptions and preferences of visitors within Glacier National Park and Isle Royale National Park. Results will be used by managers in ongoing planning and management to improve services, protect resources and better serve the visitors.

DATES: Public comments will be accepted for sixty days from the date listed at the top of this page in the **Federal Register.**

ADDRESSES: Send comments to David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall, 1530 N. Cleveland Ave., St. Paul, MN 55108.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Copies of the proposed ICR requirement can be obtained from David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall, 1530 N. Cleveland Ave., St. Paul, MN 55108.

FOR FURTHER INFORMATION CONTACT: Dave Lime, (612) 624–2250.

SUPPLEMENTARY INFORMATION:

Title: Glacier National Park Visitor Use Study

Form: None
OMB Number:
Expiration date:
Type of request: Visitor use survey
Description of need: Park planning and management
Description of respondents: Individuals who visit the park
Estimated annual reporting burden: 106 burden hours
Estimated average burden hours per response: 20 minutes
Estimated average number of respondents: 400
Estimated frequency of response: Once

Title: Isle Royale National Park Visitor Use Study

Form: None
OMB Number:
Expiration date:
Type of request: Visitor use survey
Description of need: Park planning and management
Description of respondents: Individuals who visit the park
Estimated annual reporting burden: 106 burden hours
Estimated average burden hours per response: 20 minutes
Estimated average number of respondents: 400

Dated: February 10, 1996.

Terry N. Tesar,

Information Collection Clearance Officer, Audit and Accountability Team Office, National Park Service.

[FR Doc. 96–3611 Filed 2–16–96; 8:45 am]

BILLING CODE 4310–70–M

General Management Plan, Manzanar National Historic Site; Notice of Availability of Draft Environmental Impact Statement

SUMMARY: Pursuant to Section 102 (2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Draft Environmental Impact Statement assessing the potential impacts of the proposed General Management Plan for Manzanar National Historic Site, Inyo County, California. Once approved, the plan will guide the management of the historic site over the next 15 years.

The Draft General Management Plan and Environmental Impact Statement (DGMP/EIS) presents a proposal and two alternatives for the management, use, and development of Manzanar National Historic Site. The proposed plan, Alternative C: Enhanced Visitor Experience, provides for acquisition of the camp from the current owner and protection of historic and prehistoric resources through a program of resource management and law enforcement. Features include conversion of the historic camp auditorium to an interpretive center and the creation of a network of wayside exhibits throughout the mile-square camp, accessible to visitors by a tour route around the periphery of the camp. A shuttle system would be operated during heavy use periods. Minor boundary additions, encompassing historic resources, would be proposed over and above the legislatively authorized boundary. Reconstruction of a limited number of representative structures would provide additional interpretive features. National Park Service support for the annual spring Manzanar Pilgrimage, organized by the Manzanar Committee, would continue.

Alternative A: No Action, would continue the current situation at Manzanar. Lands would not be acquired, resources would not be protected, and no additional steps would be taken to accommodate visitor interest and use. NPS support for the annual Manzanar Pilgrimage would continue.

Alternative B: Minimum Requirements, would be similar to Alternative C in terms of resource management and protection, but would provide fewer visitor services. There would be no reconstruction and the boundary would not be enlarged from that authorized. There would be no shuttle service.

The environmental consequences of the alternatives are fully documented. No significant adverse impacts are anticipated.

SUPPLEMENTARY INFORMATION: Written comments on the DGMP/EIS should be directed to the Superintendent, Manzanar National Historic Site, P.O. Box 426, Independence, California 93526–0426. Comments on the DGMP/EIS must be received by May 3, 1996. Public meetings on the draft plan will be held as follows:

March 12, 7:00 P.M., Bishop City Council Chambers, 301 W. Line St., Bishop, California
March 13, 7:00 P.M., American Legion Hall, 205 S. Edwards St. (U.S. 395), Independence, California
March 15, 7:00 P.M., Gardena Valley Japanese Cultural Institute, 16215 S. Gramercy Place, Gardena, California
March 16, 2:00 P.M., Japanese-American Cultural and Community Center, 244 S. San Pedro St., 2D Floor, Rooms A & B, Los Angeles, California

Inquiries on and requests for copies of the DGMP/EIS should be directed to Manzanar National Historic Site, address as above, or by telephone at (619) 878–2932.

Dated: February 7, 1996.

Stephen S. Crabtree,

Field Director, Pacific West Area.

[FR Doc. 96–3612 Filed 2–16–96; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Central Valley Project Improvement Act, Criteria for Evaluating Water Conservation Plans

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of draft decision of evaluation of water conservation plans.

SUMMARY: To meet the requirements of the Central Valley Project Improvement Act (CVPIA), the Bureau of Reclamation (Reclamation) developed and published the Criteria for Evaluating Water Conservation Plans (Criteria) dated April 30, 1993. These Criteria were developed based on information provided during public scoping and public review sessions held throughout Reclamation's Mid-Pacific (MP) Region. Reclamation uses these Criteria to evaluate the adequacy of all water conservation plans developed by project contractors in the MP Region, including those required by the Reclamation Reform Act of 1982. The Criteria were developed and the plans evaluated for the purpose of promoting the most effective water use reasonably achievable by all MP Region's contractors. Reclamation made a commitment (stated within the Criteria) to publish a notice of its draft determination on the adequacy of each contractor's water conservation plan in the **Federal Register** and to allow the public a minimum of 30 days to comment on its preliminary determinations. This program is ongoing; an updated list will be published to recognize districts as plans are revised to meet the Criteria.

DATES: All public comments must be received by Reclamation by March 21, 1996.

ADDRESSES: Please mail comments to the address provided below.

FOR FURTHER INFORMATION CONTACT: Debra Goodman, Bureau of Reclamation, 2800 Cottage Way, MP–402, Sacramento, CA 95825. To be placed on a mailing list for any subsequent information, please write Debra Goodman or telephone at (916) 979–2397.

SUPPLEMENTARY INFORMATION: Under provisions of Section 3405(e) of the CVPIA (Title 34 of Public Law 102–575), "The Secretary [of the Interior] shall establish and administer an office on Central Valley Project water conservation best management practices that shall * * * develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982." Also, according to Section 3405(e)(1), these criteria will be developed "* * * with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices."

The MP Criteria states that all parties (districts) that contract with Reclamation for water supplies (municipal and industrial contracts greater than 2,000 acre feet and agricultural contracts over 2,000 irrigable acres) will prepare water conservation plans which will be evaluated by Reclamation based on the following required information detailed in the steps listed below to develop, implement, monitor and update their water conservation plans. The steps are:

1. Coordinate with other agencies and the public
2. Describe the district
3. Inventory water resources
4. Review the past water conservation plan and activities
5. Identify best management practices to be implemented
6. Develop schedules, budgets and projected results
7. Review, evaluate, and adopt the water conservation plan
8. Implement, monitor and update the water conservation plan

The MP contractors listed below have developed water conservation plans which Reclamation has evaluated and preliminarily determined meet the requirements of the Criteria.

- Chowchilla Water District.
- Feather Water District.
- Panoche Water District.

Public comment on Reclamation's preliminary (i.e., draft) determinations at this time is invited. Copies of the plans listed above will be available for review at Reclamation's MP Regional Office and MP's area offices. If you wish to review a copy of the plans, please contact Ms. Goodman to find the office nearest you.

Dated: February 7, 1996.

Franklin E. Dimick,

Assistant Regional Director.

[FR Doc. 96–3616 Filed 2–16–96; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 116–96]

Privacy Act of 1974; Modified Systems of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget Circular No. A–130, notice is given that the Department of Justice (DOJ), Federal Bureau of Investigation (FBI), is modifying the following system of records which was last published in the **Federal Register** on November 26, 1990 (55 FR 49174) under the title, "Identification Division Records System": The new title is: Fingerprint Identification Records System (FIRS) (JUSTICE/FBI–009).

The FIRS is maintained for law enforcement purposes to collect criminal fingerprints and charge/disposition information for Federal and State offenses and to disclose this information to authorized criminal justice and noncriminal justice agencies. The FBI is modifying FIRS to more specifically identify and define these disclosures.

The FBI is also modifying FIRS to indicate its intention to promulgate some changes with respect to the

exemption of FIRS under the Privacy Act. Specifically, the FBI intends to remove the exemption from subsection (f) because the FBI is in compliance with this provision, and therefore the exemption is unnecessary. In addition, the FBI will add subsection (k) as an additional Privacy Act authority permitting the exemption of FIRS from specific Privacy Act provisions. The proposed changes will soon be promulgated in the "Proposed Rules" Section of the **Federal Register** as part of an overall review of the exemptions the FBI has claimed for its systems of records. At that time, as appropriate, an opportunity to comment on any new exemptions will be provided. Exemption pursuant to subsection (k) will not be effective until such time as the public has been provided an opportunity to comment via the proposed rule, and a final rule has been published. Nevertheless, the system description below is being updated at this time to reflect the FBI's intention to remove the exemption from subsection (f) and to add subsection (k).

The FBI has made other changes in an effort to improve and add clarity. Where possible, changes have been italicized for public convenience.

Title 5 U.S.C. 552a(e) (4) and (11) require that the public must be given 30 days in which to comment on any new or intended uses of information in this system of records. In addition, the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires that OMB and the Congress be given 40 days in which to review major changes to the system.

Therefore, in compliance with the spirit of these requirements, the public, OMB, and the Congress are invited to comment on the new routine use language being published to provide more specificity for the routine uses of information in this system of records. Comments should be submitted to Patricia E. Neely, Program Analyst, Systems Policy Staff, Information Resources Management, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building). Comments from the public must be received by March 21, 1996. No further notice will appear in the **Federal Register** unless comments are received and publication pursuant thereto is deemed appropriate.

In accordance with Privacy Act requirements, the DOJ has provided a report on the modified system of records to OMB and the Congress.

Dated: February 7, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/FBI–009

SYSTEM NAME:

Fingerprint Identification Records System *(FIRS).*

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, DC 20537–9700.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals fingerprinted as a result of arrest or incarceration.

B. Persons fingerprinted as a result of Federal employment applications *or military service. In addition, there are a limited number of persons fingerprinted for alien registration and naturalization purposes and a limited number of* individuals desiring to have their fingerprints placed on record with the FBI for personal identification purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Criminal fingerprint cards and/or related criminal justice information submitted by authorized agencies having criminal justice responsibilities.

B. Civil fingerprint cards submitted by Federal agencies and civil fingerprint cards submitted by persons desiring to have their fingerprints placed on record for personal identification purposes.

C. Identification records sometimes referred to as "rap sheets" which are compilations of criminal history information pertaining to individuals who have criminal fingerprint cards maintained in the system.

D. A name index pertaining to all individuals whose fingerprints are maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established *and* maintained under authority granted by 28 U.S.C. 534, Pub. L. 92–544 (86 Stat. 1115), *and* codified in 28 CFR 0.85 (b) and (j). *Additional authority is also listed below under Routine Uses.*

PURPOSE:

The purpose for maintaining the Fingerprint Identification Records System is to perform identification and criminal history record information functions and maintain resultant records for Federal, State, local, and foreign criminal justice agencies, as well as for noncriminal justice agencies and other entities where authorized by Federal statute, State statute pursuant to Pub. L. 92–544, Presidential executive order or regulation of the Attorney General of the United States. In addition, identification assistance is provided in disasters and for other humanitarian purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Identification and criminal history record information within this system of records may be disclosed as follows:

1. To a Federal, State, or local law enforcement agency, or agency/organization directly engaged in criminal justice activity (including the police, prosecution, penal, probation/parole, and the judiciary), and/or to a foreign or international agency/organization, consistent with international treaties, conventions, and/or executive agreements, where such disclosure may assist the recipient in the performance of a law enforcement function, and/or for the purpose of eliciting information that may assist the FBI in performing a law enforcement function; to a Federal, State, or local agency/organization for a compatible civil law enforcement function; or where such disclosure may promote, assist, or otherwise serve the mutual criminal law enforcement efforts of the law enforcement community.

2. To a Federal, State, or local criminal or noncriminal justice agency/organization; or to other entities where specifically authorized by Federal statute, State statute pursuant to Pub. L. 92–544, Presidential executive order, or regulation of the Attorney General of the United States for use in making decisions affecting employment, security, contracting, licensing, revocation, or other suitability determinations. Examples of these disclosures may include the release of information as follows:

a. To the Department of Defense, Department of State, Office of Personnel Management, or Central Intelligence Agency, when requested for the purpose of determining the eligibility of a person for access to classified information or assignment to or retention in sensitive national security duties. 5 U.S.C. 9101 (1990);

b. To Federal agencies for use in investigating the background of present and prospective Federal employees and contractors (Executive Order 10450), including those providing child-care services to children under age 18 at each Federal agency and at any facility operated by or under contract by the Federal Government. 42 U.S.C. 13041 (1991);

c. To State and local government officials for purposes of investigating the background of applicants for noncriminal justice employment or licensing purposes if such investigation is authorized by a State statute that has been approved by the Attorney General of the United States. (The Attorney General has delegated to the FBI the responsibility for approving such State statutes.) Examples of applicants about whom FIRS information may be disclosed include: Providers of services/care for children, the elderly, or disabled persons; teachers/school bus drivers; adoptive/foster parents; security guards/private detectives; State Bar applicants; doctors; and explosives dealers/purchasers. Pub. L. 92–544, 86 Stat. 1115;

d. To officials of State racing commissions for use in investigating the background of an applicant for a State license to participate in parimutuel wagering. Officials of State racing commissions in States with a State statute that has been approved under Pub. L. 92–544 may submit fingerprints of the applicant to the FBI through the Association of State Racing Commissioners International, Inc. Results of a criminal record check are returned to each State racing commission designated on the fingerprint card. Pub. L. 100–413, 102 Stat. 1101;

e. To officials of Indian tribal governments for use in investigating the background of an applicant for employment by such tribes in a position involving regular contact with, or control over, Indian children. Officials may submit fingerprints to the FBI through the Bureau of Indian Affairs and the results of the criminal record check are returned to the Bureau of Indian Affairs for transmittal to the appropriate tribal government. Pub. L. 101–630; 25 U.S.C. 3205; 25 U.S.C. 3207;

f. To designated chief law enforcement officers (CLEO) via full access to the FIRS name index for the purpose of determining if an applicant is prohibited from purchasing a firearm as provided in the Brady Handgun Violence Prevention Act. Pub. L. 103–159. Additionally, criminal justice officials may use the FIRS name index for making firearms related background checks when required to issue firearms related licenses or permits according to a State statute or local ordinance. Fingerprint card submissions for this noncriminal justice purpose, as well as for other firearms related permits, are processed pursuant to Pub. L. 92–544 as set out under 2.c. above. Pub. L. 103–159; 18 U.S.C. 922;

g. To officials of Federally chartered or insured banking institutions for use in investigating the background of applicants for employment or to otherwise promote or maintain the security of those institutions. Pub. L. 92–544; 86 Stat 1115;

h. To officials of the Securities and Exchange Commission (SEC) and to self-regulatory organizations (SRO) designated by the SEC for use in investigating all partners, directors, officers, and employees involved in the transfer/handling of securities at every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency. (The SROs are: American Stock Exchange, Boston Stock Exchange, Chicago Board Options Exchange, Midwest Stock Exchange, New York Stock Exchange, Pacific Stock Exchange, Philadelphia Stock Exchange, and the National Association of Securities Dealers.) 15 U.S.C. 78q(f)(2) (1990);

i. To officials of the Commodity Futures Trading Commission (CFTC) and the National Futures Association for use in investigating the background of applicants for registration with the CFTC as Commodity dealers/members of futures associations. Such applicants include futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators, floor brokers, and associated persons. 7 U.S.C. 12a (1992); 7 U.S.C. 21(b)(4)(E).

j. To officials of the Nuclear Regulatory Commission (NRC) for use in investigating the background of each individual who is permitted unescorted access to a nuclear utilization facility (nuclear power plant) and/or who is permitted access to information relating to the safeguarding of such facilities. 42 U.S.C. 2169 (1992)

3. To the news media and general public where there exists a relevant and legitimate public interest (unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy) and where disclosure will serve a relevant and legitimate law enforcement function, e.g., to assist in locating Federal fugitives, and to provide notification of arrests. This would include disclosure of information in accordance with 28 CFR 20.33 (a)(4) and (c), and 50.2. In addition, where relevant and necessary to protect the general public or any member of the public from imminent threat to life, bodily injury, or property, such information may be disclosed.

4. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the record subject.

5. To the National Archives and Records Administration and the General Services Administration for records management inspections and such other purposes conducted under the authority of 44 U.S.C. 2904 and 2906, to the extent that such legislation requires or authorizes the disclosure.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A. The criminal fingerprint cards and related criminal justice information are stored in both automated and manual formats. The manual records are in file cabinets in their original state or on microfilm.

B. The civil fingerprint cards are stored in an entirely manual format.

C. The identification records or "rap sheets" are mostly automated but a significant portion of older records are manual.

D. The criminal name index is either automated or on microfilm while the civil name index is entirely manual.

RETRIEVABLITY:

(*A*) Information in the system is retrievable by technical fingerprint classification and positive identification is effected only by comparison of unique identifying characteristics appearing in fingerprint impressions submitted for search against the fingerprints maintained within the system.

(*B*) An auxiliary means of retrieval is through name *indices* which contain names of the individuals, their birth date, other physical descriptors, and the individuals' technical fingerprint classification and FBI numbers, if such have been assigned.

SAFEGUARDS:

Information in the system is unclassified. Disclosure of information from the system is made only to authorized recipients upon authentication and verification of the right to access the system by such persons and agencies. The physical security and maintenance of information within the system is provided by FBI rules, regulations and procedures.

RETENTION AND DISPOSAL:

(*A.*) The Archivist of the United States has approved the destruction of records maintained in the criminal file when the records indicated individuals have

reached *99* years of age, and the destruction of records maintained in the civil file when the records indicate individuals have reached *99* years of age. (Job. No. *N1–65–95–03*)

(*B.*) Fingerprint cards and related arrest data in the system are destroyed seven years following notification of the death of an individual whose records is maintained in the system. (Job No. *N1–65–95–03*)

C. The Archivist has determined that automated FBI criminal identification records (rap sheets) are to be permanently retained. Thus, at the time when paper identification records would have been eligible for destruction, automated FBI criminal identification records are transferred via magnetic tape to NARA.

D. Fingerprint cards submitted by State and local criminal justice agencies are removed from the system and destroyed upon the request of the submitting agencies. The destruction of a fingerprint card under this procedure results in the deletion from the system of all arrest information related to that fingerprint card.

(*E.*) Fingerprint cards and related arrest data are removed from the *Fingerprint* Identification Records System upon receipt of Federal court orders for expunctions when accompanied by necessary identifying information. Recognizing lack of jurisdiction of local and State courts over an entity of the Federal Government, the *Fingerprint* Identification Records System, as a matter of comity, destroys fingerprint cards and related arrest data submitted by local and State criminal justice agencies upon receipt of orders of expunction directed to such agencies by local and State courts when accompanied by necessary identifying information.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 10th and Pennsylvania Avenue NW., Washington, DC 20535.

NOTIFICATION PROCEDURE:

This system of records has been exempted from subsections (d) and (e)(4)(G) pursuant to subsections (j)(2), (k)(2), and (k)(5) of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system of records has been exempted from subsections (d) and (e)(4)(H) pursuant to subsections (j)(2), (k)(2), and (k)(5) of the Privacy Act. However, pursuant to 28 CFR 15.30–34 and 20.34, an individual is permitted access to his identification record maintained in the *Fingerprint* Identification Records System and procedures are furnished for correcting or challenging alleged deficiencies appearing therein.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Federal, State, and local agencies. See Categories of Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2), (3), (4) (G) and (H), (5) and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)*(2). In addition, the Attorney General has exempted this system from (c)(3), (d), (e)(1), and (e)(4) (G) and (H), pursuant to (k)(2) and (k)(5).* Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 96–3678 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–02–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Corporation for Open Systems International

Notice is hereby given that, on October 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Corporation For Open Systems International ("COS") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission reflecting changes in the membership of COS and in the membership and activities of certain existing COS Executive Interest Groups ("EIGs"). The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The changes are as follows. First, Southern Company Services, Birmingham, AL, ceased its membership in COS effective July 26, 1995. Second, the following companies became Associates of the Digital Video Home Terminal EIG on the dates indicated: ANTEC Digital Video, Norcross, GA, on October 1, 1995; Bell South, Atlanta, GA, on August 23, 1995; and International Business Machines Corporation, Somers, N.Y., on September 5, 1995. Third, the SONET Interoperability Forum, a COS EIG, ceased activities under COS effective August 8, 1995.

No other changes have been made in either the membership or planned activity of COS. Membership in this group research project remains open, and COS intends to file additional written notification disclosing all changes in membership.

On May 14, 1986, COS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 11, 1986 (51 FR 21260).

The last notification was filed with the Department on August 7, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 5, 1995 (60 FR 62259).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3676 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Research and Development in Field Emission Display Technologies

Notice is hereby given that, on November 6, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), participants in the Field Emission Display Consortium ("FED Consortium") for the Technology Reinvestment Project, Agreement No. MDA972–95–0026, have filed notifications simultaneously with the Attorney General and Federal Trade Commission disclosing (1) identities of the parties and (2) the nature and objectives of the technology research and development agreement of the FED Consortium. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the FED Consortium are Texas Instruments Incorporated, Dallas, TX; Raytheon Company, Tewksbury, MA; Lockheed Sanders, Incorporated, Nashua, NH; EG&G Power Systems, Covina, CA; MRS Technology Incorporated, Chelmsford, MA; and Georgia Tech Research Corporation (for the Georgia Institute of Technology), Atlanta, GA. The objective of the FED Consortium is to conduct research in the area of Field Emission Displays ("FED") for a limited duration, pursuant to a cooperative agreement with the Advanced Research Projects Agency ("ARPA"), to gain further knowledge and understanding of FED technology, with the goal of supporting development of second generation FED technologies, manufacturing equipment and components, electronic assemblies for use in high-performance applications, and availability of military and commercial FED applications. Membership in the FED Consortium remains open, and the parties intend to file additional written notification disclosing any changes in membership or planned activity.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3671 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Financial Services Technology Consortium, Inc.; Electronic Check Project

Notice is hereby given that, on October 30, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Financial Services Technology Consortium, Inc. (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership in the Electronic Check Project sponsored by the Consortium. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have become members of the Electronic Check Project: Chemical Bank, New York, NY; Bolt Beranek and Newman Inc., Cambridge, MA; and Sun Microsystems Laboratories, Inc., Mountain View, CA.

No other changes have been made in either the membership or planned activity of the group research and development project. Membership in this group research and development project remains open, and the Consortium intends to file additional written notifications disclosing all changes in membership.

On October 21, 1993, the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was filed with the Department on August 18, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 6, 1995 (60 FR 62477).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3672 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; the Frame Relay Forum

Notice is hereby given that, on December 27, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Frame Relay Forum ("FRF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identity of the new members of FRF are: H3 Communications Consultancy, Felixstowe Suffolk, UNITED KINGDOM; InComA Ltd., Moscow, RUSSIA; LCI International, Dublin, OH; SAT/DCE, Paris Cedex, FRANCE; Trillium Digital Systems, Inc., Los Angeles, CA; Xyplex, Inc., Littleton, MA; Nortel DASA, Freidrichs Hafem, GERMANY; C–DOT, Centre for the Development of Telecommunications, New Delhi, INDIA; Compaq, Houston, TX; Make Systems, Cary, NC; Novadyne, Reston, VA; Telenetworks, Petaluma, CA; and, Telogy Networks, Gaithersburg, MD.

No other changes have been made in either the membership or planned activities of FRF. Membership remains open, and FRF intends to file additional written notifications disclosing all changes in membership.

On April 10, 1992, FRF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on September 15, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act of February 5, 1996 (61 FR 4288).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3673 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Minnesota Mining and Manufacturing Company

Notice is hereby given that, on August 1, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Minnesota Mining and Manufacturing Company ("3M") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to a joint research and development venture and (2) the nature and objective of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Minnesota Mining and Manufacturing Company, St. Paul, MN; Rockwell International Corporation, Thousand Oaks, CA; SRI International, Menlo Park, CA. The objective of the venture is to perform a research program with the goal of development of continuous, fiber-reinforced, mullite matrix composites.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3674 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; MIPS ABI Group, Inc.

Notice is hereby given that, on September 8, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), MIPS ABI Group, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Concurrent Computers, Oceanport, NJ; Control Data Systems, Inc., Arden

Hills, MN; Dansk Elektronik, Herlev, DENMARK; NEC Systems Laboratory, Inc., San Jose, CA; Silicon Graphics, Inc., Mountain View, CA; Siemens Nixdorf Informationssystems AG, Munich, GERMANY, Sony Microsystems, Fujisawa, JAPAN; and Tandem Computers, Cupertino, CA.

The nature and objectives of this joint venture are developing, adopting, establishing, maintaining, publishing, promoting and endorsing UNIX SVR 4 ABI standards (i.e. conformance specifications) for MIPS processor-based systems and to provide under appropriate transfer means (e.g. license, lease or sale), ABI specifications and other intellectual property to industry participants, including labs, universities and consultants.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3677 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Seriplex Technology Organization, Inc.

Notice is hereby given that, on October 20, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Seriplex Technology Organization, Inc., Joint Venture has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Crouse-Hinds Division of Cooper Industries, Houston, TX; Square D Company, Palatine, IL; and Groupe Schneider, Boulogne—Billancourt, FRANCE.

The purpose of this venture is to foster a cooperative environment dedicated to the advancement of the general use and application of the Seriplex technology; to facilitate access to Seriplex technology and development tools; to sponsor Seriplex technical marketing and enhancement activities; to market and promote conforming products; to sponsor programs for user education and support; and to cooperate with members and third parties to develop hardware and software implementations of the Seriplex standard. Seriplex Technology Organization, Inc., will cooperate with its members in implementing Seriplex solutions in specific products and will license the use of the trademark and/or certification mark of the corporation on products meeting the corporation's established specifications. Seriplex Technology Organization, Inc., will license Seriplex specifications, tools and marks to both members and nonmembers.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–3675 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated September 29, 1995, and published in the **Federal Register** on October 11, 1995, (60 FR 52923), Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Lonza Riverside to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is approved and registration is granted.

Dated: February 9, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–3624 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–015]

NASA Advisory Council (NAC), Task Force on the Shuttle-Mir Rendezvous and Docking Missions; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NAC Task Force on the Shuttle-Mir Rendezvous and Docking Missions.

DATES: March 12, 1996, 3:30 p.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 5H46, 300 E Street, S.W., Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert Kirkham, Code MOC, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–1692.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review of the draft Joint Report with the Russian Advisory Expert Council;
—Review the readiness of the STS–76 Shuttle-Mir Rendezvous and Docking Mission;
—Review of upcoming missions, including issues related to concerns of the Task Force and issues to track.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: February 13, 1996.

Timothy Sullivan,

Advisory Committee Management Officer.

[FR Doc. 96–3712 Filed 2–16–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice (96–014)]

NASA Advisory Council, Aeronautics Advisory Committee, Subcommittee on Aerodynamics; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aeronautics Advisory Committee, Subcommittee on Aerodynamics meeting.

DATES: March 19, 1996, 8:30 a.m. to 5:00 p.m.; March 20, 1996, 8:00 a.m. to 5:00 p.m.; and March 21, 1996, 8:00 a.m. to 11:30 a.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building 258, Room 221, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Mr. William P. Henderson, National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 23681, 804/864–3520.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics Program Overview
—High-Speed Research
—High Performance Aircraft
—Hypersonics
—Critical Disciplines
—Rotorcraft Aerodynamics
—Unsteady Aerodynamics

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: February 13, 1996.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 96–3713 Filed 2–16–96; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review or continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. The title of the information collection:

10 CFR Part 74—Material Control and Accounting of Special Nuclear Material
NUREG 1065—Acceptance Criteria for the Low Enriched Uranium Reform Amendments
NUREG/CR 5734—Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Enrichment Facilities and
NUREG 1280—Standard Format and Content Acceptance Criteria for the Material Control and Accounting (MC&A) Reform Amendment

2. *Current OMB approval number:* 3150–0123.

3. *How often the collection is required:* Submission of the fundamental nuclear material control plan is a one-time requirement which has been completed by all current licensees. Specified inventory and material status reports are required annually or semiannually. Other reports are submitted as events occur.

4. *Who is required or asked to report:* Persons licensed under 10 CFR Parts 70 or 72 who possess and use certain forms and quantities of special nuclear material.

5. *The number of annual respondents:* 9.

6. *The number of hours needed annually to complete the requirement or request:* 3923 (approximately 16 hours per response for reports and 411 hours per recordkeeper).

7. *Abstract:* 10 CFR Part 74 establishes requirements for material control and accounting of special nuclear material, and specific performance-based regulations for licensees authorized to possess and use strategic special nuclear material, or to possess and use, or produce, special nuclear material of low strategic significance. The information is used by the NRC to make licensing and regulatory determinations concerning material control and accounting of special nuclear material and to satisfy obligations of the United States to the International Atomic Energy Agency (IAEA). Submission or retention of the information is mandatory for persons subject to the requirements.

Submit, by April 22, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW. (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 9th day of February, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior, Official for Information Resources Management.

[FR Doc. 96–3693 Filed 2–16–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements; Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

2. *Current OMB approval number:* 3150–0017.

3. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications are submitted every 5 years. Information submitted in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.

4. *Who is required or asked to report:* All persons applying for or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.

5. *The number of annual respondents:* 6,089 NRC licensees and 12,178 Agreement State licensees.

6. *The number of hours needed annually to complete the requirement or request:* Approximately 8 hours annually per licensee or 48,837 hours for the NRC licensees and 98,256 hours for the Agreement State licensees.

7. *Abstract:* 10 CFR Part 30 establishes requirements that are applicable to all persons in the United States governing domestic licensing of radioactive byproduct material. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination whether the possession, use, and transfer of byproduct material is in conformance with the Commission's regulations for protection of the public health and safety.

Submit, by April 22, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 9th day of February, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–3694 Filed 2–16–96; 8:45 am]

BILLING CODE 7590–01–P

Reconsideration of Nuclear Power Plant Security Requirements Associated With an Internal Threat; Issued

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Generic Letter 96–02 to notify licensees of nuclear power plants that the NRC has reconsidered its positions on certain security measures associated with protecting nuclear power plants against an internal threat. Licensees may take actions, as appropriate, after reviewing the information contained in the generic letter for applicability to their facilities. However, staff suggestions regarding potential changes to security plans are not NRC requirements; therefore, no specific action or written response is required. This generic letter is available in the Public Document Rooms under accession number 9601230206.

DATES: The generic letter was issued on February 13, 1996.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Loren L. Bush at (301) 415–2944 or Robert F. Skelton at (301) 415–3208.

SUPPLEMENTARY INFORMATION: None.

Dated at Rockville, Maryland, this 13th day of February, 1996.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3690 Filed 2–16–96; 8:45 am]

BILLING CODE 7590–01–P

Proposed Generic Letter: Periodic Verification of Design-Basis Capability of Safety-Related Motor-Operated Valves (M93706); Opportunity for Public Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter to (1) more explicitly address the need for the periodic verification of the capability of safety-related motor-operated valves (MOVs) to perform their safety functions consistent with the current licensing bases of nuclear power plants, (2) request that each licensee establish a program, or ensure the effectiveness of a current program, at each facility within its purview, to verify on a periodic basis that safety-related MOVs continue to be capable of performing their safety functions within the current licensing bases of the facility, and (3) require that licensees provide written responses to the generic letter relating to implementation of the requested actions.

NRC regulations require that components important to the safe operation of a nuclear power plant, including MOVs, be treated in a manner that provides assurance of their performance. Appendix A, "General Design Criteria for Nuclear Power Plants," and Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50) include broad-based requirements in this regard. In 10 CFR 50.55a(f), the NRC requires licensees to comply with Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code).

Nuclear power plant operating experience, valve performance problems and MOV research have revealed that the focus of the ASME Code on stroke time and leak-rate testing for MOVs was not sufficient in light of the design of the valves and the conditions under which they must function. For this reason, on June 28, 1989, the NRC staff issued Generic Letter (GL) 89–10, "Safety-Related Motor-Operated Valve Testing and Surveillance." In GL 89–10, the staff requested that licensees and permit holders ensure the capability of MOVs in safety-related systems to perform their intended functions by reviewing MOV design bases, verifying MOV switch settings initially and periodically, testing MOVs under

design-basis conditions where practicable, improving evaluations of MOV failures and necessary corrective action, and trending MOV problems. The staff requested that licensees complete the GL 89–10 program within approximately three refueling outages or 5 years from the issuance of the generic letter. Permit holders were requested to complete the GL 89–10 program before plant startup or in accordance with the above schedule, whichever was later.

Recommendation "d" of GL 89–10 requested that licensees and permit holders prepare procedures to ensure that correct MOV switch settings are maintained throughout the life of the plant. GL 89–10 stated that it may become necessary to adjust MOV switch settings because of wear or aging and that additional measures beyond ASME Code stroke-time testing should be taken to adequately verify that the switch settings ensure MOV operability.

Recommendation "j" of GL 89–10 stated that licensees should periodically verify MOV capability every 5 years or every 3 refueling outages. Recommendation "h" of GL 89–10 requested that licensees evaluate trends in MOV performance every 2 years or at each refueling outage.

The staff has issued seven supplements to GL 89–10 that provided additional guidance and information on GL 89–10 program scope, design-basis reviews, switch settings, testing, periodic verification, trending, and schedule extensions. Supplement 6 to GL 89–10 stated that no licensee had adequately justified the use of static test data as the sole basis for periodically ensuring MOV design-basis capability.

GL 89–10 and its supplements provide only limited guidance regarding periodic verification and the measures appropriate to assure preservation of design-basis capability. This generic letter provides more complete guidance regarding periodic verification of safety-related MOVs. Although this guidance could have been provided in a supplement to GL 89–10, the staff considered preparation of this new generic letter appropriate to allow closure of the staff review of GL 89–10 programs as promptly as possible.

The proposed generic letter was discussed in meeting number 280 of the Committee to Review Generic Requirements (CRGR) on January 31, 1996. The relevant information that was sent to the CRGR will be placed in the Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The final evaluation by the NRC will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

DATES: Comment period expires April 22, 1996. Comments submitted after this date will be considered if it is practical to do so; assurance of consideration can only be given for those comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas G. Scarbrough, (301) 415–2794, e-mail: TGS@NRC.GOV

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 96–XX: Periodic Verification of Design-Basis Capability of Safety-Related Motor-Operated Valves (M93706)

Addressees

All holders of operating licenses (except those licenses that have been amended to possession-only status) or construction permits for nuclear power reactors.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to (1) discuss the periodic verification of the capability of safety-related motor-operated valves (MOVs) to perform their safety functions consistent with the current licensing bases of nuclear power plants, (2) request that addressees implement actions described herein, and (3) require that addressees provide to the NRC a written response to this generic letter relating to implementation of the requested actions.

Background

NRC regulations require that components that are important to the safe operation of a nuclear power plant, including MOVs, be treated in a manner that provides assurance of their performance. Appendix A, "General Design Criteria for Nuclear Power Plants," and Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50) include broad-based requirements in this regard. In 10 CFR 50.55a(f), the NRC requires licensees to comply with Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code).

Nuclear power plant operating experience, valve performance problems and MOV research have revealed that the focus of the ASME Code on stroke time and leak-rate testing for MOVs was not sufficient in light of the design of the valves and the conditions under which they must function. For this reason, on June 28, 1989, the NRC staff issued Generic Letter (GL) 89–10, "Safety-Related Motor-Operated Valve Testing and Surveillance." In GL 89–10, the staff requested that licensees and permit holders ensure the capability of MOVs in safety-related systems to perform their intended functions by reviewing MOV design bases, verifying MOV switch settings initially and periodically, testing MOVs under design-basis conditions where practicable, improving evaluations of MOV failures and necessary corrective action, and trending MOV problems. The staff requested that licensees complete the GL 89–10 program within approximately three refueling outages or 5 years from the issuance of the generic letter. Permit holders were requested to complete the GL 89–10 program before plant startup or in accordance with the above schedule, whichever was later.

Recommendation "d" of GL 89–10 requested that licensees and permit holders prepare procedures to ensure that correct MOV switch settings are maintained throughout the life of the plant. GL 89–10 stated that it may become necessary to adjust MOV switch settings because of wear or aging and that additional measures beyond ASME Code stroke-time testing should be taken to adequately verify that the switch settings ensure MOV operability. Recommendation "j" of GL 89–10 stated that licensees should periodically verify MOV capability every 5 years or every 3 refueling outages. Recommendation "h" of GL 89–10 requested that licensees evaluate trends in MOV performance every 2 years or at each refueling outage.

The staff has issued seven supplements to GL 89–10 that provided additional guidance and information on GL 89–10 program scope, design-basis reviews, switch settings, testing, periodic verification, trending, and schedule extensions. Supplement 6 to GL 89–10 stated that no licensee had adequately justified the use of static test data as the sole basis for periodically ensuring MOV design-basis capability.

GL 89–10 and its supplements provide only limited guidance regarding periodic verification and the measures appropriate to assure preservation of design-basis capability. This generic letter provides more complete guidance regarding periodic verification of safety-related MOVs. Although this guidance could have been provided in a supplement to GL 89–10, the staff considered preparation of this new generic letter appropriate to allow closure of the staff review of GL 89–10 programs as promptly as possible.

Discussion

Nuclear power plant utilities are nearing completion of the verification of the design-basis capability of their GL 89–10 MOVs. The NRC staff has been closing its review of individual GL 89–10 programs on the basis of the completion of the design-basis verification of safety-related MOVs at each nuclear power plant and the utility's establishment of a program for periodic verification of MOV design-basis capability and for the trending of MOV problems. The staff may conduct a more complete review of licensee programs for MOV periodic verification as part of the implementation of this generic letter.

The staff believes that various approaches can be taken by licensees to establish a periodic verification program that provides confidence in the long-term capability of MOVs to perform their design-basis safety functions. With each approach, the licensee should address potential degradation that can result in (1) the increase in thrust or torque requirements to operate the valves and (2) the decrease in the output capability of the motor actuator.

The staff has long recognized the limitations of using stroke-time testing as a means of monitoring the operational readiness of MOVs (see GL 89–04, Supplement 1, "Guidance on Developing Acceptable Inservice Testing Programs") and has supported industry efforts to improve MOV periodic monitoring under the inservice testing (IST) program and GL 89–10. As such, the staff would consider a periodic verification program that provides an acceptable level of quality and safety as an alternative to the current IST requirements for stroke-time testing and could authorize such an alternative, upon application by a licensee, pursuant to the provisions of 10 CFR 50.55a(a)(3)(i). Guidance in this generic letter and GL 89–04 (Supplement 1) could be used by a licensee in determining whether its periodic verification program provides an acceptable level of quality and safety.

In Attachment 1 to this generic letter, the staff discusses industry and regulatory activities and programs related to maintaining long term capability of safety-related MOVs and provides the staff position regarding American Society of Mechanical Engineers (ASME) Code Case OMN–1. The staff also identifies attributes of periodic verification programs that the staff considers to be effective and an example approach in implementing those attributes. Additionally, as discussed in Attachment 1, certain licensees developed MOV periodic verification programs that the staff found acceptable during the closure of its review of GL 89–10 programs.

Licensees may consolidate long-term MOV periodic verification and trending activities as part of their programs to meet the Maintenance Rule (10 CFR 50.65) and other applicable regulations.

Requested Actions

Each addressee of this generic letter is requested to establish a program, or to ensure the effectiveness of its current program, to verify on a periodic basis that safety-related MOVs continue to be capable of performing their safety functions within the current licensing bases of the facility. The program should ensure that changes in performance requirements resulting from degradation (such as those caused by age) can be properly identified and accounted for. Addressees that have developed periodic verification programs in response to GL 89–10 should review those programs to determine whether any changes are appropriate in light of the information in this generic letter.

Required Response

All addressees are required to submit the following written responses to this generic letter:

1. Within 60 days from the date of this generic letter, a written response indicating whether or not the addressee will implement the action(s) requested herein. If the addressee intends to implement the requested action(s), the addressee shall submit a schedule for completing implementation. If an addressee chooses not to implement the requested action(s), the addressee shall submit a description of any proposed alternative course of action, the schedule for completing the alternative course of action (if applicable), and the safety basis for determining the acceptability of the planned alternative course of action.

2. Within 180 days from the date of this generic letter, or upon notification to NRC of completion of GL 89–10 (whichever is later), the addressee shall submit a written summary description of its MOV periodic verification program established in accordance with the Requested Actions paragraph or the alternative course of action established by the addressee in response to item 1 above.

All addressees shall submit the required written reports to the U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, D.C. 20555–0001, under oath or affirmation under the provisions of Section 182a, Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f). In addition, a copy of the report shall be submitted to the appropriate Regional Administrator.

Backfit Discussion

10 CFR Part 50 (Appendix A, Criteria 1 and 4) and plant licensing safety analyses require and/or commit that the addressees design and test safety-related components and systems to provide adequate assurance that those systems can perform their safety functions. Other individual criteria in Appendix A to 10 CFR Part 50, or commitments made by licensees in their Final Safety Analysis Reports, apply to specific systems. In accordance with those regulations and licensing commitments, and under the additional provisions of Criterion XVI of Appendix B to 10 CFR Part 50, licensees are expected to take actions to ensure that safety-related MOVs are capable of performing their required safety functions.

Recommendation "d" of GL 89–10 requested that licensees and permit holders prepare procedures to ensure that correct MOV switch settings are maintained throughout the life of the plant. GL 89–10 stated that it may become necessary to adjust MOV switch settings because of wear or aging and that additional measures beyond ASME Code stroke-time testing should be taken to adequately verify that the switch settings ensure MOV operability. The NRC staff issued GL 89–10 as a compliance backfit as defined in 10 CFR 50.109. The actions requested in this generic letter are considered compliance backfits, under the provisions of 10 CFR 50.109 and existing NRC procedures, to ensure that safety-related MOVs are capable of performing their intended safety functions. In accordance with the provisions of 10 CFR 50.109 regarding compliance backfits, a full backfit analysis was not performed for this proposed action; but the staff performed a documented evaluation, which stated the objectives of and reasons for the requested actions and the basis for invoking the compliance exception. A copy of this evaluation will be made available in the NRC Public Document Room.

Federal Register Notification

This generic letter is being issued for a 60-day public comment period.

Paperwork Reduction Act Statement

The information collections contained in this request are covered by the Office of Management and Budget clearance number 3150–0011, which expires July 31, 1997. The public reporting burden for this collection of information is estimated to average 75 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, D.C. 20503.

Attachment 1—Activities and Programs Related to Maintaining Long-Term Capability of Safety-Related Motor-Operated Valves

Over the last several years, licensees and permit holders have conducted tests of a large number of MOVs under static and dynamic conditions as part of the implementation of their GL 89–10 programs. From these tests, licensees and permit holders have identified significant weaknesses in the design and qualification of MOVs used in nuclear power plants. These weaknesses caused many MOVs to fail to operate properly during testing. Further, some MOVs operated adequately under test conditions, but analyses of the test results subsequently revealed that the MOVs might not have performed their safety functions under design-basis conditions. Licensees and permit holders are applying significant resources to ensure that, despite the potential weaknesses in original design and qualification, MOVs are currently capable of performing their safety functions under design-basis conditions.

In completing their GL 89–10 programs, licensees and permit holders may have based their confidence in the current design-basis capability of some safety-related MOVs on the thrust/torque requirements obtained directly from the dynamic testing without additional margin for age-related degradation. For some valves, licensees may have employed other methods (such as grouping) to establish design-basis capability. In some cases, the thrust/torque requirements obtained from the dynamic tests were significantly less than the thrust/torque required to operate apparently identical MOVs. Below, the staff discusses a research program conducted by the Electric Power Research Institute (EPRI) that indicates the potential for the thrust/torque required to operate a valve to increase with service. Aging can also decrease the thrust/torque output of motor actuators. Therefore, an effective program for periodic verification of MOV design capability will require that licensees understand the performance of their safety-related MOVs and the manner in which that performance can change with aging.

Static diagnostic tests provide information on the thrust/torque output of the motor actuator and any changes to the motor-actuator output as a result of aging effects. The thrust and torque required to operate a valve are highly dependent on the differential pressure and flow across the valve disk, which are not present during static testing. Therefore, dynamic tests can provide information on the thrust/torque requirements and any changes to those requirements as a result of aging effects. Although not currently validated, efforts are underway within the nuclear industry to develop methods to obtain information from static tests that would allow prediction of valve dynamic performance. As discussed below, EPRI has developed an analytical methodology that, when combined with static test data, provides bounding information on the thrust/torque requirements to operate gate, globe and butterfly valves under dynamic conditions.

While there may be benefits to performing dynamic testing to ascertain the thrust/torque requirements and changes to these requirements as a result of aging, there are also potential detriments to dynamic testing (e.g., blowdown testing by EPRI resulted in damage to some valves). The staff has not concluded that dynamic testing is the preferred method for periodic verification testing and believes dynamic testing may not be appropriate for certain situations. The proposed method for periodic verification testing and demonstration of a particular valve's acceptability and ability to perform consistent with its design basis are the responsibility of the licensee.

Electric Power Research Institute (EPRI)

A motor-operated valve (MOV) testing program conducted by EPRI has provided significant information regarding the long-term design-basis capability of safety-related MOVs. In addition to finding that the thrust required to operate gate valves is typically greater than the thrust originally predicted by valve vendors, the EPRI program found that the thrust required to operate gate valves can increase with valve strokes until a plateau is reached. Due to limited resources and their view that only limited and acceptable globe and butterfly valve degradation would occur with repetitive valve stroking, EPRI did not perform similar preconditioning tests on the globe and butterfly valves in its MOV program. Therefore, licensees will need to demonstrate that the EPRI methodology predicts long-term bounding thrust/torque requirements for globe and butterfly valves when applied as part of an MOV periodic verification program. For example, information might be evaluated from periodic dynamic verification testing of globe and butterfly valves being planned by some licensees. EPRI also found that certain valves could be damaged during high flow and blowdown testing.[1]

The Nuclear Energy Institute (NEI) submitted EPRI Topical Report TR–103237, "EPRI MOV Performance Prediction Program," describing the methodology developed by EPRI to predict dynamic thrust and torque requirements for gate, globe, and butterfly valves without dynamic tests by licensees. The staff prepared a safety evaluation (SE) which approves the topical report for use and reference. Hence, the staff would find it acceptable

[1] In addition to information applicable to MOV periodic verification, the EPRI program has revealed performance characteristics of MOVs that might adversely effect a licensee's determination of the current capability of certain MOVs. In particular, EPRI found that a high percentage of gate valves were damaged during hot water and steam blowdown testing with thrust requirements uneble to be predicted. For MOVs that might be damaged under such conditions, EPRI established possible modifications to valve internals for proper clearances and for rounding sharp edges. With respect to globe valves, EPRI found that reliable prediction of globe valve thrust requirements requires an eppropriate seat or guide area in thrust calculations. Although EPRI tested only one globe valve under high temperature and blowdown conditions, the test revealed significantly higher thrust requirements than predicted. EPRI also found that load-sensitive behevior (or rate of loading) can reduce actuetor thrust output under dynamic conditions. EPRI has furnished the results of their MOV tests to licensees through industry meetings, and the NRC staff hes disseminated the results of the tests to licensees through information notices on the EPRI test program and public meetings. Some licensees have already incorporated this information into their MOV programs.)

if a licensee applied the EPRI methodology (in accordance with this generic letter and the conditions or limitations contained in the NRC staff's SE) in establishing a program for periodic verification of MOV design-basis capability.

Boiling Water Reactor (BWR) Owners' Group

The BWR Owners' Group submitted Topical Report NEDC 32264, "Application of Probabilistic Safety Assessment to Generic Letter 89–10 Implementation," which provides a methodology to rank the MOVs in GL 89–10 programs with respect to their relative importance to core damage frequency, including appropriate considerations regarding other consequences to be added by an expert panel. The staff is issuing an SE on the topical report. The staff considers the methodology acceptable (in accordance with any conditions or limitations contained in the NRC staff's SE) for ranking MOVs in BWRs because the plant-specific IPE-based insights are supplemented by generic insights and expert review involving additional considerations, such as external events and shutdown issues. In addition, the use of the MOV rankings is in combination with deterministic considerations that ensure a minimally acceptable frequency of testing is established even for the least risk-significant valves.

NRC Research Activities

In the 1980s, the NRC Office of Nuclear Regulatory Research (RES) sponsored a test program by the Idaho National Engineering Laboratory (INEL) to determine the thrust required to operate motor-operated gate valves under dynamic flow conditions. The results of the EPRI valve test program confirmed the findings of the NRC's smaller-scale test program. More recently, preliminary results from the testing of valve material samples sponsored by RES indicate that valve friction can increase with aging.

With respect to MOV ranking, RES sponsored a study of appropriate frequencies of periodic testing of MOVs based on their risk significance. This work is summarized in an article titled "Risk-Based Approach for Prioritizing Motor-Operated Valves" in NUREG/CP–0137, "Proceedings of the Third NRC/ASME Symposium on Valve and Pump Testing."

American Society of Mechanical Engineers (ASME)

Licensees are currently bound by the requirements in their Code-of-record regarding stroke-time inservice testing (IST), as supplemented by the additional measures they establish to ensure that MOV design-basis capability is maintained pursuant to their GL 89–10 commitments or relief requests approved by the staff.

The ASME Operations and Maintenance Code Committee has developed a method to verify MOV design-basis capability through periodic testing. Through a non-mandatory code case (OMN–1, entitled: "Alternative Rules for Preservice and Inservice Testing of Certain Electric Motor Operated Valve Assemblies in LWR Power Plants, OM Code 1995 Edition; Subsection ISTC"), ASME is allowing the replacement of frequent stroke-time testing with periodic exercising of all safety-related MOVs once per cycle and diagnostic testing under static or dynamic conditions, as appropriate.

With certain limitations, the staff considers the code case to meet the intent of this generic letter:

(1) When implementing the code case, the staff notes as an additional precaution that the benefits (such as identification of decreased thrust output and increased thrust requirements) and potential adverse effects (such as accelerated aging or valve damage) need to be considered when determining appropriate testing for each MOV.

(2) The code case states that the maximum inservice test frequency shall not exceed 10 years. The staff agrees with this condition of a maximum test interval of 10 years based on current knowledge and experience. In addition to this maximum test interval, where a selected test interval extends beyond five years, the licensee should evaluate information obtained from valve testing conducted during the first five-year time period to validate assumptions made in justifying the longer test interval. Based on performance and test experience obtained during the initial interval, a licensee may be able to justify lengthened MOV periodic verification intervals.

(3) Some licensees are developing programs for risk-informed inservice testing. As part of an industry pilot effort, two licensees have submitted exemption requests to utilize a risk-informed approach to determine inservice test frequencies for certain components, in lieu of testing these components per the frequencies specified by the ASME Code. Licensees involved in risk-informed IST programs that seek to implement the ASME code case need to specifically address the relationship of the code case to their pilot initiative.

Plant-Specific Programs

The staff has found effective programs for periodic verification of safety-related MOV design-basis capability at nuclear power plants to be characterized by several attributes, as follow:

- A risk-informed approach may be used to prioritize valve test activities, such as frequency of individual valve tests and selection of valves to be tested.
- The valve test program should provide adequate confidence that safety-related MOVs will remain operable until the next scheduled test.
- The importance of the valve should be considered in determining an appropriate mix of exercising and diagnostic testing. In establishing the mix of testing, the licensee should consider the benefits (such as identification of decreased thrust output and increased thrust requirements) and potential adverse effects (such as accelerated aging or valve damage) when determining the appropriate type of periodic verification testing for each safety-related MOV.
- All safety-related MOVs covered by the GL 89–10 program should be considered in the development of the periodic verification program. The program should include safety-related MOVs that are assumed to be capable of returning to their safety position when placed in a position that prevents their safety system (or train) from performing its safety function; and the system (or train) is not declared inoperable when the MOVs are in their nonsafety position.
- Licensees should evaluate and monitor valve performance and maintenance and periodically adjust the periodic verification program, as appropriate.

Licensees of several facilities (for example, Callaway, Monticello, and South Texas) had established MOV periodic verification programs that the staff found acceptable during closure of its review of GL 89–10 programs. One approach to MOV periodic verification that the staff found acceptable is to diagnostically test each safety-related MOV every 5 years (or every 3 refueling outages) to determine thrust and torque motor-actuator output and any changes in the output. A specific margin to account for potential degradation such as that caused by age (in addition to margin for diagnostic error, equipment repeatability, load-sensitive behavior, and lubricant degradation) is established above the minimum thrust and torque requirements determined under the GL 89–10 program. The selection of MOVs for testing and their test conditions should take into account safety significance, available margin, MOV environment, and the benefits and potential adverse effects of static and dynamic periodic verification testing on the selected MOV sample. Measures such as grouping and sharing of valve performance between facilities are appropriate to minimize the need to conduct more rigorous periodic verification tests.

As discussed in this generic letter, the staff has long recognized the limitations of using stroke-time testing as a means of monitoring the operational readiness of MOVs (see GL 89–04) and has supported industry efforts to improve MOV periodic monitoring under the IST program and GL 89–10. As such, the staff would consider a periodic verification program that provides an acceptable level of quality and safety as an alternative to the current IST requirements for stroke-time testing and could authorize such an alternative, upon application by a licensee, pursuant to the provisions of 10 CFR 50.55a(a)(3)(i).

Dated at Rockville, Maryland, this 13th day of February, 1996.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3691 Filed 2–16–96; 8:45 am]

BILLING CODE 7590–01–P

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations; Correction

This document corrects a notice appearing in the **Federal Register** on January 22, 1996 (61 FR 1626). The action is necessary to correct the law firm name of the attorney for licensee.

On page 1629, under the entry *Attorney for licensee* for the Florida Power and Light Company entry, Docket Nos. 50–335 and 50–389, in the second column, "Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036" should read "Harold F. Reis, Esquire, Morgan, Lewis, and Bockius LLP, 1800 M Street, NW., Washington, DC 20036".

Dated at Rockville, Maryland, this 13th day of February, 1996.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 96–3692 Filed 2–16–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Discount Rates for Cost-Effectiveness Analysis of Federal Programs

AGENCY: Office of Management and Budget.

ACTION: Revisions to Appendix C of OMB Circular A–94.

SUMMARY: The Office of Management and Budget revised Circular A–94 in 1992. The revised Circular specified certain discount rates to be updated annually when the interest rate and inflation assumptions used to prepare the budget of the United States Government are changed. These discount rates are found in Appendix C of the revised Circular. The updated discount rates are shown below. The discount rates in Appendix C are to be used for cost-effectiveness analysis, including lease-purchase analysis, as specified in the revised Circular. They do not apply to regulatory analysis.

DATES: The revised discount rates are effective immediately and will be in effect through February 1997.

FOR FURTHER INFORMATION CONTACT: Robert B. Anderson, Office of Economic Policy, Office of Management and Budget, (202) 395–3381.

Joseph J. Minarik,

Associate Director for Economic Policy, Office of Management and Budget.

Attachments

OMB Circular No. A–94; Revised October 29, 1992

Appendix C—(Revised February 1996); Discount Rates for Cost-Effectiveness, Lease Purchase, and Related Analyses

Effective Dates. This appendix is updated annually around the time of the President's budget submission to Congress. This version of the appendix is valid through the end of February, 1997. Copies of the updated appendix and the Circular can be obtained from the OMB Publications Office (202–395–7332) or in an electronic form at the OMB home page on the world-wide WEB, http://www.whitehouse.gov/WH/EOP/omb. Updates of this appendix are also available upon request from OMB's Office of Economic Policy (202–395–3381) as is a table of past years' rates.

Nominal Discount Rates. Nominal interest rates based on the economic assumptions from the budget are presented below. These nominal rates are to be used for discounting nominal flows, which are often encountered in lease-purchase analysis.

NOMINAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES (IN PERCENT)

3-Year	5-Year	7-Year	10-Year	30-Year
5.4	5.5	5.5	5.6	5.7

Real Discount Rates. Real interest rates based on the economic assumptions from the budget are presented below. These real rates are to be used for discounting real (constant-dollar) flows, as is often required in cost-effectiveness analysis.

REAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES (IN PERCENT)

3-Year	5-Year	7-Year	10-Year	30-Year
2.7	2.7	2.8	2.8	3.0

Analyses of programs with terms different from those presented above may use a linear interpolation. For example, a four-year project can be evaluated with a rate equal to the average of the three-year and five-year rates. Programs with durations longer than 30 years may use the 30-year interest rate.

[FR Doc. 96–3731 Filed 2–16–96; 8:45 am]

BILLING CODE 3110–01–P

POSTAL RATE COMMISSION

[Docket No. A96–10; Order No. 1101]

Bruington, Virginia 23023 (Linda P. Gray, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. § 404(b)(5)

Issued February 13, 1996.

Docket Number: A96–10.

Name of Affected Post Office: Bruington, Virginia 23023.

Name(s) of Petitioner(s): Linda P. Gray.

Type of Determination: Closing.

Date of Filing of Appeal Papers: February 9, 1996.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. § 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by February 23, 1996.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Margaret P. Crenshaw,

Secretary.

Appendix

February 9, 1996—Filing of Appeal letter
February 13, 1996—Commission Notice and Order of Filing of Appeal
March 5, 1996—Last day of filing of petitions to intervene [see 39 C.F.R. § 3001.111(b)]
March 15, 1996—Petitioners' Participant Statement or Initial Brief [see 39 C.F.R. § 3001.115 (a) and (b)]
April 4, 1996—Postal Service's Answering Brief [see 39 C.F.R. § 3001.115(c)]
April 19, 1996—Petitioners' Reply Brief should Petitioner choose to file one [see 39 C.F.R. § 3001.115(d)]
April 26, 1996—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 C.F.R. § 3001.116]
June 8, 1996—Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)]

[FR Doc. 96–3726 Filed 2–16–96; 8:45 am]
BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21741; 812–9774]

The Brinson Funds, et al.; Notice of Application

February 12, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Brinson Funds (the "Trust") and Brinson Partners, Inc. ("Partners").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 12(d)(1)(A)(ii), under sections 6(c) and 17(b) for an exemption from section 17(a), and under section 17(d) and rule 17d–1 thereunder permitting certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain money market funds to sell their shares to affiliated investment companies.

FILING DATES: The application was filed on September 20, 1995 and amended on January 2, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 8, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, D.C. 20549. Applicants, 209 South LaSalle Street, Chicago, Illinois 60604–1295.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942–0571, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is an open-end management investment company that currently offers ten series (each, a "Fund"). One of the Funds is a money market fund subject to the requirements of rule 2a–7 under the Act (together with any future money market funds, the "Money Market Funds"). The other nine Funds are non-money market funds (together with any future non-money market funds, the "Non-Money Market Funds"). Applicants request relief on behalf of themselves and any other registered investment companies that now or in the future are advised or subadvised by Partners or an entity controlling, controlled by, or under common control with Partners.[1]

2. Partners serves as investment adviser for each Fund. Fund/Plan Services, Inc. ("Fund/Plan") serves as administrator and transfer agent for each Fund. Fund/Plan Broker Services, Inc. ("FPBS") serves as distributor for each Fund. Bankers Trust Company serves as custodian for each Fund.

3. The Money Market Funds seek to maximize current income consistent with the preservation of capital by investing exclusively in short-term money market instruments. The Non-Money Market Funds invest in a variety of debt and/or equity securities in accordance with their respective investment objectives and policies.

4. Each of the Funds has, or may be expected to have, uninvested cash in an account with the custodian. This cash either may be invested directly in individual short-term money market instruments or may not be invested in any portfolio securities.

5. Applicants request an order that would permit (a) each of the Funds to utilize cash reserves that have not been invested in portfolio securities to purchase shares of one or more of the Money Market Funds (each such Fund, including the Money Market Funds, purchasing shares of the Money Market Funds is an "Investing Fund") and (b) each Money Market Fund to sell shares to, and redeem such shares from, an Investing Fund. By investing cash balances in the Money Market Funds as proposed, applicants believe that the Investing Funds will be able to combine their cash balances and thereby reduce their transaction costs, create more liquidity, enjoy greater returns, and further diversify their holdings. While the investment policies of each Fund currently do not permit the Funds to purchase money market instruments, including shares of a money market fund, the investment policies and registration statements of the Funds will be amended to permit these investments. The proposed transactions will, therefore, be consistent with the investment policies and restrictions of the Funds, as recited in their registration statements and other SEC filings.

[1] All existing investment companies that presently intend to rely on the requested order are named as applicants.

6. The shareholders of the Investing Fund would not be subject to the imposition of double management fees. Partners, Fund/Plan, and any affiliated persons of Partners and Fund/Plan will remit to the respective Investing Funds, or waive, an amount equal to the increased investment advisory fees, and administrative and accounting fees, that Partners and Fund/Plan would earn as a result of the Investing Funds' investment in the Money Market Funds to the extent such fees are based upon the Investing Funds' assets invested in shares of the Money Market Funds (the "Reduction Amount"). Further, no sales charge, contingent deferred sales charge, 12b–1 fee, or other underwriting or distribution fee will be charged by the Money Market Funds with respect to the purchase or redemption of their shares. If a Money Market Fund offers more than one class of shares, each Investing Fund will invest only in the class with the lowest expense ratio at the time of the investment.

7. Each of the Funds has a mandatory expense cap arrangement with Partners for the purpose of keeping each Fund's total expenses below a certain predetermined percentage amount (an "Expense Waiver"). To the extent actual expenses of any such Fund exceeds such cap, Partners waives or reimburses the Fund in the amount of the excess. Any applicable Expense Waiver will not limit the advisory and administrative fee waiver or remittance discussed above.

8. Applicants' request also would permit the Funds to invest uninvested cash in a Money Market Fund in excess of the percentage limitations set out in section 12(d)(1)(A)(ii) of the Act. Section 12(d)(1)(A)(ii) prohibits a registered investment company from acquiring the securities of another investment company if, immediately thereafter, the acquiring company would have more than 5% of its total assets invested in the securities of the selling company. Applicants propose that each Fund be permitted to invest in shares of a Money Market Fund so long as each Fund's aggregate investment in such Money Market Fund does not exceed the greater of 5% of such Fund's total net assets or $2.5 million. Applicants will comply with all other provisions of section 12(d)(1).

Applicants' Legal Analysis

1. Sections 17(a) (1) and (2) make it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from such investment company. Because each Fund may be deemed to be under common control with the other Funds, it may be an "affiliated person," as defined in section 2(a)(3), of the other Funds. Accordingly, the sale of shares of the Money Market Funds to the Investing Funds, and the redemption of such shares of the Money Market Funds from the Investing Funds, would be prohibited under section 17(a).

2. Section 17(b) authorizes the SEC to exempt a single transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Under section 6(c), the SEC may exempt a series of transactions from any provision of the Act or any rule or regulation thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request relief under sections 6(c) and 17(b) because they wish to engage in a series of transactions rather than a single transaction.

3. The Investing Funds will be permitted to invest their cash balances directly in money market instruments as authorized by their investment objectives and policies, as amended, if they believe they can obtain a higher return or for any other reason. Each of the Money Market Funds has the right to discontinue selling shares to any of the Investment Funds if its board of trustees determines that such sales would adversely affect the portfolio management and operations of such Money Market Fund. Therefore, applicants believe that the proposal satisfies the standards for relief.

4. Section 17(d) and rule 17d–1 prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Each Investing Fund, by purchasing shares of the Money Market Funds, Partners, by managing the assets of the Investing Funds invested in the Money Market Funds, and each Money Market Fund, by selling shares to the Investing Funds, could be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d0 and rule 17d–1.

5. Under rule 17d–1, the SEC can grant by order an application regarding such a joint enterprise after considering whether participation by the registered investment company is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of the other participants. Applicants believe that the proposal satisfies these standards.

6. Section 12(d)(1), as noted above, sets certain limits on an investment company's ability to invest in the shares of another investment company. The perceived abuses section 12(d)(1) sought to address include undue influence by an acquiring fund over the management of an acquired fund, the acquisition of voting control by the acquiring fund over the acquired fund, layering of fees, and complex structures. Applicants believe that none of these concerns are presented by the proposed transactions and that the proposed transactions meet the section 6(c) standards for relief.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed from the Investing Funds will not be subject to a sales load, redemption fee, or distribution fee under a plan adopted in accordance with rule 12b–1.

2. Applicants will cause Partners, Fund/Plan, and their affiliated persons to remit to the respective Investing Fund, or waive, an amount equal to the Reduction Amount. Any of these fees remitted or waived will not be subject to recoupment by Partners, Fund/Plan, or their affiliated persons at a later date.

3. For the purpose of determining any amount to be waived and/or expenses to be borne to comply with any Expense Waiver, the adjusted fees for an Investing Fund (gross fees minus Expense Waiver) will be calculated without reference to the amounts waived or remitted pursuant to condition 2. Adjusted fees then will be reduced by the amount waived pursuant to condition 2. If the amount waived pursuant to condition 2 exceeds adjusted fees, Partners also will reimburse the Investing Fund in an amount equal to such excess.

4. Each of the Investing Funds will be permitted to invest uninvested cash in, and hold shares of, a Money Market Fund only to the extent that the Investing Fund's aggregate investments in such Money Market Fund does not exceed the greater of 5% of the Investing Fund's total net assets or $2.5 million.

5. Each Investing Fund will vote its shares of each Money Market Fund in the same proportion as the votes of all other shareholders of such Money Market Funds entitled to vote on the matter.

6. As shareholders of a Money Market Fund, the Investing Funds will receive dividends and bear their proportionate share of expenses on the same basis as other shareholders of such Money Market Funds. A separate account will be established in the shareholder records of each of the Money Market Funds for each of the Investing Funds.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3666 Filed 2–16–96; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–11057]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Colonial Data Technologies Corp., Common Stock, $0.01 Par Value)

February 13, 1996.

Colonial Data Technologies Corp. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on January 26, 1996 to withdraw the Security from listing on the Amex and instead, to list the Security on the National Association of Securities Dealers Automated Quotations ("Nasdaq").

The decision of the Board followed a thorough study of the matter and was based upon the belief that listing the Security on the Nasdaq will be more beneficial to the Company's stockholders than the present listing on the Amex for the following reasons:

(a) The Board believes that a reluctance exists to trade in the securities of Amex listed companies among institutional and other investors;

(b) The resulting negative effect such a reluctance could have on the Company's ability to increase analyst coverage of its stock;

(c) The Board believes that Nasdaq will provide increased liquidity with multiple market makers; and

(d) The Board believes that the capital markets associate Nasdaq with technology companies to a greater extent than Amex.

Any interested person may, on or before March 6, 1996 submit by the letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–3629 Filed 2–16–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36830; File No. SR–CBOE–95–33]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to an Amendment to the Exchange's Crossing Rule

February 12, 1996.

On July 12, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 6.74, "'Crossing' Orders," by adding Interpretation and Policy .05, which will allow a floor broker who has been continuously representing a limit order to buy or sell equity option contracts in a trading crowd at a limit price which is equal to the highest bid or lowest offer ("resting order"), and who subsequently receives a market or marketable limit order to sell or buy the same option series, to cross the resting order with the subsequent market or marketable limit order without regard to the provision of CBOE Rule 6.74(a)(iii) that permits a cross only if the higher bid or lower offer is not taken. The proposal is designed to permit a floor broker representing a resting order and a subsequent market or marketable limit order to cross the number of contracts of those orders to the same extent as if the resting order and the subsequent market or marketable limit orders were represented by different floor brokers.

Notice of the proposed rule change appeared in the **Federal Register** on October 13, 1995.[3] On January 31, 1996, the CBOE amended its proposal.[4] No comments were received on the proposed rule change.

Currently, CBOE Rule 6.74(a) imposes specific order exposure and price improvement requirements on floor brokers seeking to cross buy orders with sell orders. Specifically, CBOE Rule 6.74(a) requires a floor broker seeking to cross orders to buy and sell the same option series to (i) request bids and offers for such option series and make all persons in the trading crowd, including the Board Broker or Order Book Official, aware of his request; and

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1995).

[3] *See* Securities Exchange Act Release no. 36343 (October 5, 1995), 60 FR 53444.

[4] The CBOE amended its proposal to clarify that, under the proposal, a floor broker may cross a resting order with a subsequent market or marketable limit order without regard to the provision of CBOE Rule 6.74(a)(iii) which permits a cross only if a floor broker's higher bid or lower offer is not taken. However, a floor broker must comply with the order exposure and price improvement provisions of CBOE Rule 6.74 before being eligible for the proposed exception. In addition, after invoking the exception, the floor broker remains subject to the requirement under CBOE Rule 6.74(a)(iii) that the floor broker announce by open outcry that he is crossing and give the quantity and price at which the cross took place. *See* Letter from Barbara J. Casey, Vice President, Market Regulation, CBOE, to Ivette Lopez, Assistant Director, Division of Market Regulation, Commission, dated January 30, 1996 ("Amendment No. 1"). Amendment No. 1 also provides examples of the operation of the crossing rule and of the effect of the proposed amendment on the crossing rule, as well as explanations of the terms "continuously represent" and "compete equally." Specifically, Amendment No. 1 states that it is implicit in the term "continuously represents" that after announcing the order in open outcry, the floor broker must give the trading crowd a reasonable amount of time to respond to the announcement before the floor broker can claim the proposed exception to the crossing rule. The term "compete equally" is used to limit the extent to which a floor broker is permitted to cross a resting order and a market or marketable limit order. Specifically, the proposal will give a floor broker representing a resting order and a subsequent market or marketable limit order the ability to compete equally with the trading crowd, but only to the extent that such orders would be executed if they were represented by two different floor brokers.

(ii) after providing an opportunity for such bids and offers to be made, he must (A) bid above the highest bid in the market and give a corresponding offer at the same price or at prices differing by the minimum fraction or (B) offer below the lowest offer in the market and give a corresponding bid at the same price or at prices differing by the minimum fraction. If the higher bid or lower offer is not taken, CBOE Rule 6.74(a)(iii) allows the floor broker to cross the orders at the higher bid or lower offer by announcing by public outcry that he is crossing and giving the quantity and price.

According to the CBOE, the provision of CBOE Rule 6.74(a)(iii) that allows a cross only if the higher bid or lower offer is not taken prevents a resting order from competing equally with other pre-existing bids (offers) and allows the trading crowd to trade ahead of the new market or marketable limit order to buy or sell. Thus, the CBOE notes that the resting order and the subsequent market or marketable limit order may be in a less competitive position because the orders were represented by a single floor broker rather than by separate floor brokers.

For example,[5] if a floor broker has been continuously representing[6] a limit order to purchase 20 option contracts at a limit price of $10 where the market is 10–10¼, and the floor broker subsequently receives a market order to sell 20 option contracts of the same series, CBOE Rule 6.74(a) requires a floor broker who wishes to cross the orders to offer at $10 (*i.e.*, less than the lowest offer of 10¼) and corresponding bid at $10.[7] The floor broker may cross the two orders only if the trading crowd does not take the floor broker's bid or offer. However, according to the CBOE, it is likely that the trading crowd will take the floor broker's offer of $10 because the trading crowd was bidding at $10. Accordingly, the resting order will not be filled, even though it may have been previously represented in the crowd for at least as long as the successful bids of other crowd members. Thus, under existing CBOE Rule 6.74(a), a resting limit order held by a floor broker who subsequently receives a market order is unable to compete for the market order with other limit orders at the same price held by other crowd members.

Proposed Interpretation and Policy .05 is designed to allow a floor broker representing a resting order and a subsequent market or marketable limit order to compete equally with other bids and offers in the trading crowd by allowing the floor broker to cross the orders to the same extent as if the resting order and the subsequent market or marketable limit order were represented by different floor brokers.[8] Thus, in the example described above, if the trading crowd includes four market makers each bidding at $10 who wish to take the entire offer, proposed Interpretation and Policy .05 would allow the floor broker to claim the proposed exception to CBOE Rule 6.74(a)(iii) and participate equally in the 20-contract offer by crossing four contracts of the resting order with four contracts of the sell order at $10, the then existing bid price in the market. The remaining 16 contracts of the market order would be sold to the trading crowd.[9]

Likewise, if the market makers wish to offer at $10 and take the entire resting limit order, the floor broker may claim the proposed exception and compete equally with other offers in the trading crowd by crossing four contracts of the subsequent market order to sell at $10 with four contracts of the resting limit order.[10]

Proposed Interpretation and Policy .05 provides an exemption solely from the provision of CBOE Rule 6.74(a)(iii) that permits a cross only if the higher bid or lower offer is not taken. The floor broker must comply with the order exposure and price improvement provisions of CBOE Rule 6.74(a) (i) and (ii) before being eligible for the proposed exception. After invoking the exception, the floor broker remains subject to the requirement in CBOE Rule 6.74(a)(iii) that the floor broker announce by open outcry that he is crossing and give the quantity and price at which the cross took place.[11] In addition, the Exchange's rules pertaining to solicited orders, facilitation crosses, and the priority provisions of CBOE Rule 6.45, "Priority of Bids and Offers," will continue to apply.

The Exchange believes that proposed Interpretation and Policy .05 will reduce the possible detrimental effect on the execution of a resting order and subsequent market or marketable limit orders that occurs solely because the orders are represented by the same floor broker. The CBOE states that proposed Interpretation and Policy .05 will permit the orders represented by a single floor broker to compete equally with other bids and offers in the trading crowd by allowing the floor broker to cross those number of contracts of the resting order with subsequent market or marketable limit orders to the same extent as if the resting order and subsequent market or marketable limit orders were represented by different floor brokers.

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it provides an exemption from provisions that currently disadvantage resting limit orders and subsequent market or marketable limit orders held by the same floor broker, and does this in a manner that promotes just and equitable principles of trade, fosters cooperation among persons engaged in facilitating securities transactions, removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[12] in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Commission believes that proposed Interpretation and Policy .05 provides a limited and narrowly tailored exception to the provision of CBOE Rule 6.74(a)(iii) that permits a cross only if the trading crowd does not take the floor broker's higher bid or lower offer. By

[5] *See* Amendment No. 1, *supra* note 4.

[6] In the context of the proposal, "continuously representing" means that after announcing an order in open outcry, the floor broker must give the trading crowd a reasonable amount of time to respond to his announcement before he may claim the proposed exception to CBOE Rule 6.74(a)(iii). *See* Amendment No. 1, *supra* note 4.

[7] Because the limit price to purchase is $10, the floor broker cannot bid above the highest bid in the market and thus is precluded from crossing at 10⅛ pursuant to CBOE Rule 6.74(a)(ii)(A).

[8] The proposal uses the term "compete equally" to limit the extent to which a floor broker is permitted to cross a resting order and a market or marketable limit order. Currently, the CBOE's crossing rule allows a floor broker to cross a resting order and a subsequent order only if the trading crowd does not take the floor broker's bid or offer. However, if the trading crowd decides to take the market order, the resting order will not be able to participate in the transaction with the market or marketable limit order; alternatively, the trading crowd may take the resting order and trade ahead of the subsequent market or marketable limit order. According to the CBOE, proposed Interpretation and Policy .05 will remove the floor broker's competitive disadvantage and allow the floor broker representing a resting order and a subsequent market or marketable limit order to compete with the trading crowd to the extent that such orders would be executed if they were represented by two different floor brokers. *See* Amendment No. 1, *supra* note 4.

[9] *See* Amendment No. 1, *supra* note 4.

[10] *Id.*

[11] *Id.*

[12] 15 U.S.C. 78f(b)(5) (1988 & Supp. V 1993).

creating a limited exception to CBOE Rule 6.74(a)(iii), proposed Interpretation and Policy .05 will permit orders represented by a single floor broker to participate equally with other bids and offers in the trading crowd by allowing the floor broker to cross those number of contracts of the resting order with the subsequent market or marketable limit order to the same extent as if those orders were represented by different floor brokers, thereby eliminating a competitive disadvantage that may arise currently under CBOE Rule 6.74(a).

CBOE Rule 6.74(a)(ii) requires a floor broker seeking to cross orders to (A) bid above the highest bid in the market and give a corresponding offer at the same price or at prices differing by the minimum fraction or (B) offer below the lowest offer in the market and give a corresponding bid at the same price or at prices differing by the minimum fraction. CBOE Rule 6.74(a)(iii) allows the floor broker to cross the orders if the trading crowd does not take the higher bid or lower offer. However, the CBOE states that it is likely that the trading crowd will take the floor broker's bid or offer, thereby leaving either the resting order or the subsequent market or marketable limit order unfilled. By creating an exception to the provision of CBOE Rule 6.74(a)(iii) that permits a cross only if the floor broker's higher bid or lower offer is not taken, proposed Interpretation and Policy .05 will allow a resting order and a subsequent market or marketable limit order represented by a single floor broker to participate equally with other bids and offers at the same price to the same extent as if those orders were represented by different floor brokers.[13]

Thus, as noted above, proposed Interpretation and Policy .05 will allow a floor broker representing a resting limit order to buy at $10 in a 10–10¼ market to compete equally with four market makers in the trading crowd who are also bidding at $10 for a market order to sell 20 contracts, so that the floor broker will be able to cross four contracts of his resting order with four contracts of the market order. The market makers will take the remaining 16 contracts of the market order. In contrast, under the CBOE's current rule, the market makers could take the entire offer to sell 20 contracts at $10, leaving the resting limit order unfilled even though the resting order also bid $10 (an amount equal to the highest bid in the market) and had been represented in the crowd for as long as the bids of the market makers.[14]

Accordingly, the Commission believes that the proposal is a reasonable effort to modify CBOE Rule 6.74(a)(iii) to ensure that certain equity option orders are not disadvantaged solely because they are represented by a single floor broker. At the same time, the proposal maintains the safeguards provided in CBOE Rule 6.74(a) by requiring floor brokers to comply with the order exposure and price improvement provisions of CBOE Rule 6.74(a) (i) and (ii) before being eligible for the proposed exception to CBOE Rule 6.74(a)(iii). In addition, proposed Interpretation and Policy .05 applies to a floor broker who has been "continuously representing" a resting order.[15] The Commission believes that the requirements of CBOE Rule 6.74(a) (i) and (ii), together with the requirement that a floor broker continuously represent a resting order before claiming the proposed exception to CBOE Rule 6.74(a)(iii), will help to ensure that orders represented by a floor broker who claims the proposed exception will have an opportunity to interact with orders in the trading crowd.

The Commission notes that after invoking the exception, the floor broker remains subject to the requirement in CBOE Rule 6.74(a)(iii) that the floor broker announce by open outcry that he is crossing and give the quantity and price at which the cross took place. Finally, the due diligence and other provisions of CBOE Rule 6.74 continue to apply, as well as the CBOE rules pertaining to solicited orders, facilitation crosses, and the priority provisions of CBOE Rule 6.45.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Amendment No. 1 strengthens and clarifies the CBOE's proposal by indicating that a floor broker must comply with the order exposure and price improvement provisions of CBOE Rule 6.74(a)(i) and (ii) and, after invoking the exception, must announce by open outcry that he is crossing and give the quantity and price at which the cross took place. In addition, Amendment No. 1 further clarifies the proposal by defining the terms "continuously representing" and "compete equally" as they are used in the proposal. Accordingly, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 12, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the rule change (File No. SR–CBOE–95–33), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3633 Filed 2–16–96; 8:45 am]

BILLING CODE 8010–01–M

[13] The CBOE believes that the exception provided by proposed Interpretation and Policy .05 will be claimed infrequently, both because the proposed exception applies only in very limited circumstances, and because even in the limited applicable circumstances most trading crowds do not use the crossing rule to prevent a resting order from competing equally with other bids or offers in the market or to trade ahead of market or marketable limit orders. The CBOE expects that the proposed exception will be claimed by floor brokers in equity option crowds that preclude floor brokers from crossing orders or in equity trading crowds that have only one full time floor broker and where the volume in the option series to be crossed is limited. *See* Amendment No. 1, *supra* note 4.

[14] Alternatively, if the market makers wish to sell at $10 and take the entire resting limit order, proposed Interpretation and Policy .05 will allow the floor broker to compete equally with the market makers' offers and cross four contracts of the resting order with four contracts of subsequent market order. The market makers will take the remaining contracts in the resting order.

[15] *See* note 6, *supra.*

[16] 15 U.S.C. 78s(b)(2) (1982).

[17] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36828; File No. SR–CHX–96–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Maximum Monthly Transaction Fees and Other Processing Fees

February 12, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 25, 1996 the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section (d) of, and add Section (r) to, its Membership Dues and Fees Schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to add an alternative monthly cap on transaction fees for certain orders. These orders (except orders of specialists, orders in NASDAQ/NMS Securities,[2] and orders of a floor broker acting in the capacity as a principal)[3] will be charged a maximum monthly transaction fee based on $.45 per 100 average monthly gross round lot shares.[4] This alternative monthly cap on transaction fees is in addition to the current monthly cap on transaction fees of $45,000 per month for firms with a floor broker or market maker presence on the Floor and $65,000 per month for firms without a floor broker or market maker presence on the Floor.[5] The filing also codifies the Exchange's current practice of rebilling members and member organizations the Exchange's cost in taking and processing fingerprints and conducting background checks.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[6] in general and furthers the objectives of Section 6(b)(4)[7] in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (e) of Rule 19b–4 thereunder.[9]

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–96–04 and should be submitted by March 12, 1996.

For the Commission, by Division of Market Regulation, pursuant to delegated authority.[10]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission notes that the National Association of Securities Dealers, Inc. refers to such securities as "Nasdaq National Market securities." In order to maintain consistency within its rules, however, the Exchange still utilizes the term "NASDAQ/NMS Securities." The Exchange intends to update this aspect of its rules at a later date. Telephone conversation between David T. Rusoff, Attorney, Foley & Lardner, and Anthony P. Pecora, Attorney, SEC (Jan. 16, 1996).

[3] These orders are subject to different rules concerning transaction fees. For example, Nasdaq National Market securities are not charged transaction fees, while transaction fees for specialists and floor brokers acting as principals are not subject to monthly caps. *See* CHX Fee Schedule §§ (d)(4)–(6).

[4] For example, transaction fees for a 2,500 share limit order would be zero for the first 500 shares of the order and $0.0075 per share for the next 2,000 shares for a total transaction charge of $15.00 per side (2,000 shares multiplied by $0.0075), with an average round lot share charge of $0.60 per round lot ($15.00 divided by 25 round lots. If, in a particular month, a firm's total business consisted solely of 1,000 limit orders for 2,500 shares, its transaction fees for that month normally would be $15,000.00, with an average round lot share charge of $0.60 per round lot. This proposal, however, would reduce the average round lot share charge to $0.45 per round lot and, in turn, reduce the firm's transaction fees for that month to $11,250.00.

Although the CHX does not impose a transaction fee on market orders sent via the CHX's MAX system, the Commission notes that such orders are nonetheless included in calculating a firm's monthly average round lot share charge. Telephone conversation between David T. Rusoff, Attorney, Foley & Lardner, and Anthony P. Pecora, Attorney, SEC (Jan. 29, 1996).

[5] *See* CHX Fee Schedule §§ (d)(3)(ii)–(iv).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4.

[10] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 96–3668 Filed 2–16–96; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–36837; File No. SR-DTC–96–02]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Principal and Income Payments to Participants

February 13, 1996

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 23, 1996, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to clarify and restate several procedures related to DTC's payment of principal and income ("P&I") to participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify and restate DTC procedures for the payment of P&I in light of the planned conversion of DTC's money settlement system to an entirely same-day funds settlement ("SDFS") system.

In the current next-day funds settlement ("NDFS") and SDFS systems, DTC often earns interest overnight on P&I payments received by DTC on the payment date in same-day funds and paid to participants in next-day funds. At the end of each month, DTC distributes or refunds that month's overnight interest earnings to participants on a pro rata basis.[3] After DTC converts entirely to an SDFS system, which conversion is scheduled for February 22, 1996, it will normally pay P&I in same-day funds. Because overnight interest on such payments will decrease dramatically, monthly refunds to participants correspondingly will be much smaller. When interest is earned due to exceptional conditions, DTC will distribute refunds to its participants in conformity with its present rule.

Currently, DTC sometimes credits participants in next-day funds on the payable date for P&I payments not yet received. In many cases, the money is received in same-day funds after DTC has settled with its participant but before the end of the business day on the payable date. Consequently, the money is available for next-day funds payments to participants on the payable date. After the conversion to an entirely SDFS system, P&I payments made after 2:30 p.m. (eastern standard time) on the payable date may be received by DTC too late to fund payments to participants in a net credit position but early enough to avoid the need for an overnight borrowing. DTC has extensive historical business records of its dealings with paying agents and has developed a model to predict which late P&I payments received after DTC's settlement should nevertheless come in early enough to avoid the need to borrow overnight. Based upon this historical mode, in some cases of late P&I payments DTC will make a final allocation at approximately 4:00 p.m. to participants for such P&I payments in anticipation of receipt of good funds (*i.e.*, same-day funds) from the paying agent later on that same business day. In order to do so, DTC has to be prepared to take out an intraday or overnight loan when necessary. Therefore, DTC will commit to a line of credit. The commitment cost will be charged to participants monthly on a pro rata basis based on the P&I payments each participant received during the previous calendar year or other reasonably determined period. This commitment charge will be assessed whether or not borrowing was necessary during that month. On occasions when there is borrowing, the interest cost of the loan will be assessed on a pro rata basis among participants receiving payments on the payable date(s) that were funded by such borrowing. Each participant will receive a statement that will identify issues and/or issuers and their agents that paid DTC late and the participant's share of the interest cost for each one.

DTC believes that the proposed rule change is consistent with Section 17A of the Act[4] and the rules and regulations thereunder because it will provide for the equitable allocation of dues, fees, and other charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have an impact on or impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In 1990, after reviewing the recommendations of the Group of Thirty,[5] the U.S. Working Committee, Group of Thirty, Clearance and Settlement Project concluded, among other things, that depositories should pay dividends, interest, redemption, and reorganization payments to their participants in same-day funds.[6] In August 1993, the report of the Same-Day Funds Payment Task Force to the U.S. Working Committee, Group of Thirty, Clearance and Settlement Project issued its report ("Task Force Report") on how to achieve this goal.[7]

In July 1994, DTC distributed its document entitled "Same-Day Funds Settlement System Conversion," which states, "Participants should be mindful that once DTC's conversion to same-day funds settlement takes place, both the dividend and interest and the reorganization refunds will substantially decline and change in nature."[8] In December 1994, DTC's discussed the Task Force Report in a memorandum to participants and others. Among other things, DTC stated that it was "exploring temporarily borrowing funds not received from agents by 2:30 p.m." eastern standard time and that "DTC reports will identify for participants certain relevant information concerning the resulting interest expense."[9]

This proposed rule change for refunds and borrowing was also discussed in many other publications that DTC sent to participants and others. In the fall of 1995, DTC sent a customized letter to each participant "to assist [the participant] in assessing the impact of the SDFS conversion on [the participant's] 1995 budget."

No comments have been received by DTC. Interested persons previously submitted comments to the U.S. Working Committee in response to the 1993 Task Force Report.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Sections 19(b)(3)(A)(i) and (ii)[10] of the Act and pursuant to Rules 19b–4(e)(1) and (2)[11] promulgated thereunder in that the proposal constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, and the proposal also establishes a due, fee, or other charge. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–96–02 and should be submitted by March 12, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 96–3667 Filed 2–16–96; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–36833; File No. SR–PSE–96–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to a Program To Display Price Improvement on the Execution Report Sent to the Entering Firm

February 12, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on January 31, 1996, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to implement a program that will calculate and then display on the execution reports sent to member firms, the dollar amounts realized as savings to their customers as a result of price improvement in the execution of their orders on the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to implement a program for calculating and displaying on execution reports sent to member firms entering orders, the dollar value saved by their customers as a result of price improvement of orders executed on the PSE. This program does not in any way affect the actual execution of orders. The Exchange is proposing to refer to this calculated dollar savings as the "NATIONAL BEST SM."

The NATIONAL BEST will be made available for intra-day market orders entered via the Exchange's P/Coast system[1] that are not tick sensitive and are entered from off the Floor.[1] The NATIONAL BEST (amount of price improvement) is calculated in

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] For a description of DTC's P&I payment refund procedures, refer to Securities Exchange Act Release Nos. 17203 (October 8, 1980), 45 FR 68817 [File No. SR–DTC–80–06] (notice of filing and immediate effectiveness of a proposed rule change implementing a refund policy); 23219 (May 8, 1986), 51 FR 17845 [File No. SR–DTC–86–03] (notice of filing and immediate effectiveness of a proposed rule change modifying procedures for crediting corporate cash P&I payments); 23686 (October 7, 1986), 51 FR 37104 (File No. SR–DTC–86–04] (order approving a proposed rule change modifying DTC's procedures regarding crediting P&I payments, charging back P&I payments, and refunding dividend investment income to paying agents); and 25869 (June 30, 1988), 53 FR 25557 [File No. SR–DTC–88–08] (notice of filing and immediate effectiveness of a proposed rule change modifying procedures to allocate to participants P&I payments on SDFS securities in next-day funds on payable date).

[4] 15 U.S.C. 78q–1 (1988).

[5] The Group of Thirty was established in 1978 as an independent, nonpartisan, nonprofit organization composed of international financial leaders whose focus is on international economic and financial issues. In March 1989, the group approved a report setting forth nine recommendations for improving and harmonizing securities clearance and settlement systems in the world's principal markets. Group of Thirty, Clearance and Settlement Systems in the World's Securities Markets (March 1989).

[6] "Implementing the Group of Thirty Recommendations in the U.S.," U.S. Working Committee, Group of Thirty, Clearance and Settlement Project (November 1990).

[7] "Report of the Same-Day Funds Payment Task Force to the U.S. Working Committee," U.S. Working Committee, Group of Thirty, Clearance and Settlement Project (August 1993).

[8] The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 29, 1994).

[9] The Depository Trust Company, Memorandum to Participants (December 5, 1994).

[10] 15 U.S.C. 78s(b)(3)(A)(i) and (ii) (1988).

[11] 17 CFR 240.19b–4(e)(1) and (2) (1995).

[12] 17 CFR 200.30–3(a)(12) (1995).

SM NATIONAL BEST is a service mark of the Chicago Stock Exchange, Inc.

[1] The NATIONAL BEST program will entail enhancements to the Exchange's CMS (common message switch) and P/COAST System.

[2] Also excluded from the NATIONAL BEST feature are orders received when the spread between the national best bid and offer is one minimum variation, and floor broker orders.

comparison to the best bid and offer displayed in the national market system at the time the order is received.[3] Only orders executed at a price better than the inside market will receive a NATIONAL BEST indicator.

The following examples illustrate how NATIONAL BEST is proposed to work.

Assume the national market quote is 50–50¼.

Example 1 A market order to sell 1000 shares, entering on the PSE, is stopped at 50, meaning it is guaranteed a price at 50 or a better price. The quote is narrowed to 50–50⅛ and the order is subsequently executed at 50⅛. This is an ⅛ point savings over the national bid price of 50, which translates into $125 savings over the guaranteed price. Thus, the execution report would display NATIONAL BEST $125.[4]

Assume the national market quote is 50–50¼.

Example 2 A market order to buy 800 shares, entered on the PSE, is executed at 50⅛. This is an ⅛ point savings over taking the prevailing offer of 50¼. The execution report would display NATIONAL BEST $100.

If there is no price improvement because either there was no execution between the national best bid or offer or the order was not eligible for the program, then no price improvement information would be displayed on the execution report to the entering firm.

The Exchange believes that the NATIONAL BEST can be expected to enhance the information made available to investors and improve their understanding of the auction market.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any significant burden on competition.

[3] For stocks that are not ITS-eligible, the PSE quote is used.

[4] The algorithm that calculates the savings per share can calculate price improvement from e minimum of 1/32 or $0.03125 per share to a maximum of 99/32 or $3.00 per share. If price improvement exceeds $3.00 per share, the NATIONAL BEST will be preceded by a ">" sign and will equal $3.00 times the number of shares traded.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) does not have the effect of limiting access to or availability of any Exchange order entry or trading system, the NATIONAL BEST program has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b–4(e)(5) thereunder.[5] At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–96–04 and should be submitted by March 12, 1996.

[5] 17 CFR 240.19b–4(e)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3630 Filed 2–16–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09–0345]

FBS SBIC, L.P.; Notice of Surrender of License

Notice is hereby given that FBS SBIC, L.P., First Bank Place, 601 Second Avenue South, 16th Floor, Minneapolis, Minnesota 55402, has surrendered its licenses to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). FBS was licensed by the Small Business Administration on September 27, 1984.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on this date, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 9, 1996.

Donald A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–3650 Filed 2–16–96; 8:45 am]

BILLING CODE 8025–01–P

[License No. 05/05–0182; License No. 05/08–0006]

Northwest Venture Partners (NVP); Norwest Growth Fund (NGF); Notice of Surrender of License

Notice is hereby given that Northwest Venture Partners and Norwest Growth Fund, 2800 Piper Jaffray Tower, 222 South Ninth Street, Minneapolis, Minnesota 55402–3388, have surrendered their licenses to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). NVP was licensed by the Small Business Administration on October 13, 1983. NGF was licensed by the Small Business Administration on February 25, 1960.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrenders were accepted on this date, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 9, 1996.

Donald A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–3651 Filed 2–16–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2330]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea and Associated Bodies Working Group on Stability and Load Lines and on Fishing Vessels Safety; Notice of Meeting

The Working Group on Stability and Load Lines and on Fishing Vessels Safety of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9 a.m. on Thursday, February 29, 1996, in Room 4315, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.This meeting will discuss the upcoming 40th Session of the Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF) and associated bodies of the International Maritime Organization (IMO) which will be held on September 2–6, 1996, at the IMO Headquarters in London, England.

Items of discussion will include the following:

a. The role of human factors in marine casualties;

b. Harmonization of probabilistic damage stability provisions for all ship types;

c. Technical revisions to the 1966 Load Line Convention;

d. Safety aspects of ballast water exchange;

e. Ro-ro passenger vessel safety.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Paul Cojeen or Mr. Jaideep Sirkar, U.S. Coast Guard Headquarters, Commandant (G–MMS–2), Room 1308, 2100 Second Street, SW., Washington, DC 20593–0001 or by calling: (202) 267–2988.

Dated: February 6, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–3622 Filed 2–16–96; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice No. 2331]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea and Associated Bodies Working Group on Flag State Implementation; Notice of Meeting

The Working Group on Flag State Implementation (FEI) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on March 8, 1996, at 1:00 p.m. in Room 2415 at Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC.

This will be the fourth meeting of this Working Group following establishment of the FSI Subcommittee. The purpose of the subcommittee is to identify ways to ensure effective and consistent global implementation of International Maritime Organization (IMO) instruments. At this meeting, the U.S. position on documents submitted for consideration at the fourth session of the FSI Subcommittee, scheduled for March 18–22, 1996, will be discussed.

Specific topics will include: casualty statistics and investigations, the role of the human element in maritime safety, port state control, flag state guidelines, measures to encourage compliance, and technical assistance.

Members of the public may request any of the documents relating to FSI 4. Members of the public may attend this meeting up to the seating capacity of the room.

For further information on this FSI Working Group meeting, contact Mr. Walter D. Rabe at (202) 267–1430, U.S. Coast Guard Headquarters (G–MAO–1), 2100 Second Street, SW, Washington, DC 20593–0001.

Dated: February 6, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–3623 Filed 2–16–96; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Termination of Review of Noise Compatibility Program; Kenosha Regional Airport, Kenosha, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces it has terminated its review of the noise compatibility program, at the request of the City of Kenosha, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150.

EFFECTIVE DATE: The effective date of the FAA's termination of its review of the Kenosha Regional Airport noise compatibility program is February 1, 1996.

FOR FURTHER INFORMATION CONTACT: John M. Doughterty, Federal Aviation Administration, Airports District Office, Room 102, 6020 28th Avenue South, Minneapolis, Minnesota 55450, (612) 725–4362.

SUPPLEMENTARY INFORMATION: On September 27, 1995, the FAA determined that the noise exposure maps submitted by the City of Kenosha were in compliance with applicable requirements and began its review of the noise compatibility program. On January 25, 1996, the City of Kenosha requested that FAA suspend its review and processing of the noise compatibility program pending reexamination of some elements of the program as recommended by Kenosha's Airport Study Committee. When the FAA has received revised documentation, FAA will reissue appropriate notice establishing new review and approval periods in accordance with section 150.33(e) of 14 CFR Part 150.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Minneapolis, Minnesota on February 1, 1996.

Franklin D. Benson,

Manager, Minneapolis Airports District Office, FAA Great Lakes Region.

[FR Doc. 96–3729 Filed 2–16–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Houghton County Memorial Airport, Hancock, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Houghton County Memorial Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 21, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Sandra D. LaMothe, Airport Manager, of the Houghton County Airport Committee at the following address: Route 1, Box 94, Calumet, Michigan 49913.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Houghton County Airport Committee under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon B. Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7281). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Houghton County Memorial Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On December 18, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by Houghton County Airport Committee was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 27, 1996.

The following is a brief overview of the application.

PFC Application No.: 96–04–C–00–CMX.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1996.

Proposed charge expiration date: December 31, 1997.

Total estimated PFC revenue: $73,895.00.

Brief description of proposed project(s): Rehabilitate airport rescue fire fighting track vehicle; Rehabilitate airport electrical vault; Airport boundary survey and monumentation, Update existing Exhibit "A" Property Map; PFC Administration.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Not applicable.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Houghton County Airport Committee.

Issued in Des Plaines, Illinois, on February 12, 1996.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–3728 Filed 2–16–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 CFR Part 236

Pursuant to Title 49 CFR Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Block Signal Application (BS–AP)—No. 3380

Applicant: Twin Cities and Western Railroad Company, Mr. William F. Drusch, President, 2925—12th Street East, Glencoe, Minnesota 55336

The Twin Cities and Western Railroad Company (TCW) seeks approval of the proposed discontinuance and removal of the traffic control signal system (TCS), on the single main track, between Glencoe, Minnesota, milepost 466.9 and Tower E–14, near Hopkins, Minnesota, milepost 435.0, a distance of approximately 32 miles, and operate trains by track warrant control.

The reason given for the proposed changes is that the character of the former Milwaukee Road trackage has changed substantially since the installation of the TCS, with the present traffic density and 30 mph maximum authorized speed, TCS is no longer required for safe operation.

BS–AP–No. 3381

Applicant: Central Oregon and Pacific Railroad, Mr. George LaValley, General Manager, P.O. Box 10831416 Dodge Street, Room 1000, Roseburg, Oregon 68179–0001

The Central Oregon and Pacific Railroad seeks approval of the proposed discontinuance and removal of the automatic block signal system, on the single main track, between Ashland, Oregon, milepost 429.1 and Glendale, Oregon, milepost 510, on the Siskiyou Line, a distance of approximately 81 miles.

The reason given for the proposed changes is that current traffic and the maximum authorized speed of 25 mph do not justify continuation of the automatic block signal system.

BS–AP—No. 3382

Applicant: Central Oregon and Pacific Railroad, Mr. George LaValley, General Manager, P.O. Box 10831416 Dodge Street, Room 1000, Roseburg, Oregon 68179–0001

The Central Oregon and Pacific Railroad seeks approval of the proposed discontinuance and removal of the automatic block 4 signal system, on the single main track, between Cornutt, Oregon, milepost 538.8 and Springfield Junction, Oregon, milepost 644.3, on the Siskiyou Line, a distance of approximately 105.5 miles.

The reason given for the proposed changes is that current traffic and the maximum authorized speed of 25 mph do not justify continuation of the automatic block signal system.

BS–AP–No. 3383

Applicant: Consolidated Rail Corporation, Mr. J. F. Noffsinger, Chief Engineer—C&S, 2001 Market Street, P.O. Box 41410, Philadelphia, Pennsylvania 19101–1410

Consolidated Rail Corporation (Conrail), seeks approval of the proposed discontinuance and removal of the traffic control signal system, on the single main track Carman Branch, between Conrail's Chicago Line, "CP–156", milepost 0.0, near Carman, New York and Conrail's Selkirk Branch, "CP–SH", milepost 3.7, near Schenectady, New York, Albany Division. The proposed changes consist of the removal of intermediate signals 18E and 18W, and redesignation of the track to the Carman Running Track.

The reason given for the proposed changes is to retire facilities no longer required for present operation.

BS–AP–No. 3384

Applicant: Montana Rail Link, Incorporated, Mr. Richard L. Keller, Chief Engineer, P. O. Box 8779, Missoula, Montana 59807

The Montana Rail Link, Incorporated seeks approval of the proposed modification of the traffic control signal system, on the single main track, between East Hope, milepost 102.7 and West Kootenai, milepost 118.04, Idaho, on the Fourth Subdivision; consisting of the discontinuance and removal of 10 automatic intermediate block signals and installation of 8 automatic intermediate block signals, associated with the installation of electronic coded track circuits and pole line elimination.

The reason given for the proposed changes is to upgrade the signal system and improve train operations.

BS–AP–No. 3385

Applicant: Chesapeake and Albemarle Railroad Company, Mr. Jeff Forster, General Manager, 214 N. Railroad Street, Ahoskie, North Carolina 27910

The Chesapeake and Albemarle Railroad Company seeks approval of the proposed discontinuance and removal of the interlocking signals at the A & C Canal Draw Bridge, milepost 9.5, near Chesapeake, Virginia and at the Pasquotank River Swing Bridge, milepost 41.5, near Camden, North Carolina, replacing the absolute signals with stop signs.

The reason given for the proposed changes is that the railroad has experienced much vandalism on a regular basis.

BS–AP–No. 3386

Applicants: CSX Transportation, Incorporated, Mr. D. G. Orr, Chief Engineer—Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

Soo Line Railroad Company, Mr. J. A. Inshaw, Chief Engineer, Soo Line Building, Box 530, Minneapolis, Minnesota 55440

CSX Transportation, Incorporated and Soo Line Railroad Company jointly seek approval of the proposed discontinuance and removal of the automatic block signal system, on the single main track, between Bedford, Indiana, milepost Q245.8 and Mitchell, Indiana, milepost Q255.3, Louisville Division, Hoosier Subdivision. In addition the proposed changes include conversion of "Bedford Interlocking" from automatic to stop board operation, conversion of the power-operated switch at milepost Q245.91 to hand operation, and govern train operation under DTC Rules.

The reason given for the proposed changes is that traffic density does not warrant retention of the signal system.

BS–AP–No. 3387

Applicants: Norfolk Southern Corporation, Mr. C. M. Golias, Chief Engineer—S&E Engineering, Communication and Signal Department, 99 Spring Street, S.W., Atlanta, Georgia 30303

CSX Transportation, Incorporated, Mr. D. G. Orr, Chief Engineer—Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

The Norfolk Southern Corporation (NS) and CSX Transportation, Incorporated (CSX) jointly seek approval of the proposed reduction to the traffic control system limits, on the Winding Gulf Branch secondary track, Princeton Deepwater District, Pocahontas Division, near Stotesbury, West Virginia; consisting of the relocation of controlled holdout signal 66R from milepost WG–16.1 to milepost WG–12.2 and installation of an approach distance signal at milepost WG–14.2.

The reason given for the proposed changes is to allow for control of traffic interchange between CSX and NS at Helen siding.

Rules Standards & Instructions Application (RS&I–AP)—No. 1099

Applicant: Union Pacific Railroad Company, Mr. L.A. Roach, Director—Operating Practices/FRA, 1416 Dodge Street, Room 625, Omaha, Nebraska 68179

The Union Pacific Railroad Company (UP) seeks relief from the requirements of Section 236.566 (49 CFR, 236.566) of the Rules, Standard and Instructions to the extent that UP be permitted to operate foreign or system, non-equipped automatic cab signal/automatic train stop (ACS/ATS) locomotives, involved in detour movements, in UP ACS/ATS territory as a result of derailments, natural disasters, etc., for a period of up to seven days subject to train operations under provisions of the General Code of Operating Rules, Rules 11.1 and 11.2, Absolute Block, and notification of the FRA within 24 hours of the beginning of each such movement.

Applicant's justification for relief: To permit continued operations under such circumstances as natural disasters, derailments, or extraordinary service interruptions, for a limited length of time, without the need to obtain individual waivers or emergency provision, outside normal business hours, while relieving workload on both the UP and FRA in processing these repetitive waiver requests.

RS&I No. 1100

Applicant: Consolidated Rail Corporation, Mr. J. F. Noffsinger, Chief Engineer—C&S, 2001 Market Street, P.O. Box 41410, Philadelphia, Pennsylvania 19101–1410

Consolidated Rail Corporation (Conrail) seeks relief from the requirements of the Rules, Standard and Instructions to the extent that they be allowed to operate non-equipped locomotives in automatic cab signal territory, on the two main tracks between "Rochester" Interlocking, milepost 25.9, near Rochester, Pennsylvania and "CP Alliance", milepost 83.2, near Alliance, Ohio, on the Fort Wayne Line, Pittsburgh Division, for the following operations:

1. Wire trains, work trains, wreck trains, and ballast cleaners to and from work;

2. Engines and Rail diesel cars moving to and from shops; and

3. Engines used in switching and transfer service, with or without cars, not exceeding 20 miles per hour.

Applicant's justification for relief: Exemptions are already authorized for operation of non-equipped locomotives in cab signal territory at other locations on Conrail, and this relief request would be an extension of the already existing exemptions.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on February 14, 1996.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 96–3730 Filed 2–16–96; 8:45 am]

BILLING CODE 4910–06–P

Surface Transportation Board [1]

[SBT Docket No. AB–167 (Sub-No. 1157X)]

Consolidated Rail Corporation; Abandonment Exemption; in Lucas County, OH

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon approximately 2.5-miles of its rail line known as the Olive Industrial Track, from approximately milepost 82.90 to approximately milepost 85.40 in Lucas County, OH.

Conrail has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 21, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 [4] must be filed by March 1, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 11, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: John J. Paylor, Associate General Counsel, Consolidated Rail Corporation, 2001 Market Street, P.O. Box 41416, Philadelphia, PA 19101–1416.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Conrail has filed an environmental report which addresses the abandonments effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by February 23, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 13, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–3714 Filed 2–16–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

Sunshine Act Meetings

Federal Register

Vol. 61, No. 34

Tuesday, February 20, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [insert FR citation].

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., February 20, 1996.

CHANGES IN MEETING: Meeting concerning Multiple Tube Mine & Shell Fireworks is canceled.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504–0800.

Dated: February 13, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–3898 Filed 2–15–96; 3:20 pm]

BILLING CODE 6355–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1482]

TIME AND DATE: 10 a.m. (EST), February 21, 1996.

PLACE: TVA West Tower Plaza Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on December 13, 1995.

New Business

C—Energy

C1. Approval of Energy Vision 2020 Integrated Resource Plan.

C2. Extension of Contract No. 94PA2–100328–001 with Valmont Industries, Inc., for galvanized tubular steel poles.

C3. Delegation of authority to the Vice President, Fuel Supply and Engineering, to enter into a 1-year rail contract extension with CSX Transportation, Inc., for transportation of coal to Kingston Fossil Plant.

E—Real Property Transactions

E1. Sale of permanent easement of approximately 0.004 acre of land on Chickamauga Lake in Hamilton County, Tennessee, to Big Ridge Rentals, Inc., d/b/a/ Big Ridge Yacht Club (Tract No. XCR–692E).

E2. Public auction sale of approximately 0.01 acre of land on Douglas Lake in Sevier County, Tennessee (Tract No. XDR–61).

E3. Sale of noncommercial, nonexclusive permanent recreation easements affecting a total of 2.01 acres of Tellico Lake shoreline in Loudon and Monroe Counties, Tennessee (Tract Nos. XTELR–161RE, –162RE, –163RE, –167RE, –172RE, –173RE, –175RE, –176RE, and –181RE).

E4. Sale of nonexclusive permanent easement for a driveway affecting approximately 0.05 acre of land on Watts Bar Lake in Roane County, Tennessee (Tract No. XWBR–711E).

E5. Grant of a nonexclusive permanent easement affecting 0.23 acre of land on Watts Bar Lake in Roane County, Tennessee, for a road and utilities right-of-way (Tract No. XWBR–712H).

F—Unclassified

F1. Filing of Condemnation Cases.

Information Items

1. Agreement with Petroleum Source and Systems Group, Inc., for comprehensive fuel management program under Section 8(a) of the Small Business Act.

2. Approval to file condemnation cases to acquire permanent easements and rights-of-way for electric power transmission lines.

3. Grant of a permanent easement and temporary construction easements for highway purposes affecting approximately 0.92 acre and 0.11 acre over a portion of the Oglethorpe, Georgia, Primary Substation property in Catoosa County, Georgia (Tract No. XOPSS–11H).

4. Approval to release Energy Vision 2020 Integrated Resource Plan and Environmental Impact Statement.

5. Sale at public auction of approximately 35.77 acres of land on Watts Bar Lake in Roane County, Tennessee (Tract No. XWBR–706).

6. Approval for TVA Nuclear to enter into personal services contracts with CANUS Corporation and with Cataract, Inc., to provide instrument mechanics for TVA's nuclear plants.

7. Award of contracts to TAD Staffing Services and Cobble Personnel to provide temporary clerical support personnel on an as-needed basis to augment TVA staff.

8. Sale of permanent easement to James H. Meekins for a road right-of-way affecting approximately 0.15 acre of land on Guntersville Lake in Marshall County, Alabama (Tract No. XGR–736E).

9. Approval to file a condemnation case in connection with the right to enter upon land to survey and appraise an electric power transmission line.

10. Delegation of authority to the Vice President, Fuel Supply and Engineering, to award an 11-month coal contract to Arclar Company for Johnsonville Fossil Plant.

11. Approval for Transmission/Power Supply Group to enter into a contract with L. E. Myers Company to provide construction/modification services to support substation and transmission line related projects.

12. Implementation of the "Prohibition of Cigarette Sales to Minors in Federal Buildings and Lands Act."

13. Grant of permanent easements affecting approximately 16 acres of land on Wheeler Lake to the City of Decatur, Alabama, for roads, utilities, and railroad spur (Tract Nos. XTWR–102H and XTWR–103RR).

FOR MORE INFORMATION: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, (202) 898–2999.

Dated: February 14, 1996.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 96–3832 Filed 2–15–96; 3:20 pm]

BILLING CODE 8120–08–M

Corrections

Federal Register
Vol. 61, No. 34
Tuesday, February 20, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Administration

[Docket Nos. RP94-96-016 and RP94-213-013 (Consolidated)]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 24, 1996.

Correction

In notice document 96–1698 appearing on page 3018 in the issue of Tuesday, January 30, 1996, in the first column, the date line after the subject line is corrected as set forth above.

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5411–8]

Technical Correction; Final National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities

Correction

In notice document 95–2722, beginning on page 5248 in the issue of Friday, February 9, 1996, make the following correction:

On page 5252, in the third column, lines 1 through 22 at the top of the page should be moved directly above the line that reads "5. Monitoring and Reporting Requirements".

BILLING CODE 1505–01–D

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards

Correction

In rule document 96–1348 beginning on page 3280 in the issue of Wednesday, January 31, 1996 make the following corrections:

§ 121.201 [Corrected]

(1) On page 3289, in § 121.201, in the table "Size Standards by SIC Industry":

(a) In Division A, under the heading "Size standards in number of employees or millions of Dollars", the entry corresponding to "0252 Chicken Eggs" should read "1.5".

(b) In Division B the heading should read "Division B--Mining".

(c) In Division B, under the heading "Size standards in number of employees or millions of Dollars" the first three entries should each read "500" not "$500".

(2) On page 3291, in the table, in Division D, under the heading "SIC code and description", the description entry corresponding to the SIC code number 3634 should read "Electric Housewares and Fans".

(3) On page 3293, in the table, in Division I, under the heading "SIC code and description":

(a)The description entry corresponding to the SIC code number 7218 should read "Industrial Launderers".

(b)The description entry corresponding to the SIC code number 7381 should read "Detective, Guard, and Armored Car Services".

(4) On page 3294, in the Footnotes, in entry 13, in the first line the word 'code" was misspelled.

BILLING CODE 1505–01–D

Federal Register

Tuesday
February 20, 1996

Part II

Department of Energy

10 CFR Part 1021
National Environmental Policy Act Implementing Procedures; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 1021

National Environmental Policy Act Implementing Procedures

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Energy (DOE or the Department) proposes to amend its existing regulations governing compliance with the National Environmental Policy Act (NEPA). The proposed amendments are based upon three years of experience with the existing regulations and are intended to maintain quality while improving DOE's efficiency in implementing NEPA requirements by reducing costs and preparation time. In addition, because DOE's missions, programs, and policies have evolved in response to changing national priorities since the current regulations were issued in 1992, corresponding changes in the Department's NEPA procedures are needed.

The Department is proposing changes in subparts A, C and D of the existing regulations. Among the proposed changes are various revisions to the lists of "typical classes of actions" (appendices A, B, C, and D to subpart D), including the addition of new categorical exclusions, modifications that expand or remove existing categorical exclusions, and clarifications. Other proposed changes pertain to the DOE requirement for an implementation plan for each environmental impact statement and DOE's required content for findings of no significant impact. DOE also proposes to clarify its public notification requirements for records of decision.

DATES: Comments must be received by April 5, 1996, to ensure consideration. Late comments will be considered to the extent practicable. DOE is not scheduling any public meetings on the proposed amendments, but will arrange a public meeting if the public expresses sufficient interest.

ADDRESSES: Comments on the proposed rule should be addressed to Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C., 20585–0119. Comments may be hand-delivered to the same address on workdays between the hours of 8:00 a.m. and 4:30 p.m. Comments may also be sent by electronic mail to the following internet address: neparule@spok.eh.doe.gov.

FOR FURTHER INFORMATION CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, at the above address; telephone (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) requires that Federal agencies prepare environmental impact statements for major Federal actions that may "significantly affect the quality of the human environment." NEPA also created the President's Council on Environmental Quality, which issued regulations in 1978 implementing the procedural provisions of NEPA. Among other requirements, the Council on Environmental Quality NEPA regulations (40 CFR Parts 1500—1508) require Federal agencies to adopt their own implementing procedures to supplement the Council's regulations. DOE's implementing procedures (regulations) are codified at 10 CFR Part 1021.

II. Purpose of the Proposed Amendments

The proposed amendments are intended to maintain quality while improving the efficiency of DOE's implementation of NEPA by clarifying and streamlining certain DOE requirements, thereby reducing implementation costs and time. This approach is consistent with the DOE Secretarial Policy Statement on NEPA (June 1994), which encourages actions to streamline the NEPA process and make the process more useful to decision makers and the public without sacrificing quality. Full compliance with the letter and spirit of NEPA is an essential priority for DOE. In addition, DOE's missions, programs, and policies have evolved in response to changing national priorities since the current DOE NEPA regulations were issued in 1992, and DOE needs to make conforming changes in its NEPA regulations.

III. Description of the Proposed Amendments

This section describes and explains the proposed amendments to the existing DOE NEPA regulations at 10 CFR Part 1021. The proposed changes reflect DOE's three years of experience with the existing regulations. DOE has consulted with the Council on Environmental Quality regarding these proposed amendments to the regulations, in accordance with 40 CFR 1507.3.

A. Proposed Amendments to Subpart A—General

Subpart A contains, among other provisions, the definitions of terms that are used in the regulations and assigns responsibility for overall review of DOE NEPA compliance. DOE proposes to remove the definition of "EIS Implementation Plan" in section 1021.104, to be consistent with a proposed change to subpart C, section 1021.312 that is explained below. DOE also proposes to update the name and address of its Office of NEPA Policy and Assistance in section 1021.105.

B. Proposed Amendments to Subpart C—Implementing Procedures

DOE proposes to remove two requirements and clarify a third requirement in subpart C. DOE proposes to remove the requirements to (1) prepare an implementation plan for an environmental impact statement, and (2) summarize an environmental assessment in a finding of no significant impact. DOE also proposes to modify its procedures regarding public notice of its records of decision. Each of the proposed changes is consistent with the Council on Environmental Quality NEPA regulations. The reasons for these proposed deletions and modifications are presented below.

Environmental Impact Statement Implementation Plan

The existing DOE NEPA regulations require DOE to prepare an implementation plan for each environmental impact statement (section 1021.312) to guide the preparation of the environmental impact statement and to record the results of the scoping process. The plan must be completed as soon as possible after the close of the public scoping process, but in any event before issuing the draft environmental impact statement. A DOE implementation plan must include: a statement of the planned scope and content of the environmental impact statement; the purpose and need for action; a description of the scoping process and the results, including a summary of comments received and their disposition; target schedules; anticipated consultations with other agencies; and a disclosure statement (as required at 40 CFR 1506.5(c)) executed by any contractors assisting in the preparation of the environmental impact statement. DOE must make implementation plans (and any revisions) available in public reading rooms and other appropriate locations for inspection, and provide copies upon written request. DOE appears to be the only Federal agency that requires the preparation of an environmental impact statement implementation plan.

To simplify the DOE NEPA process, DOE proposes to eliminate the requirement to prepare an implementation plan for an environmental impact statement, which would have the effect of making such plans optional. DOE believes that eliminating the implementation plan requirement would result in cost and time savings, without meaningfully reducing public involvement in the DOE environmental impact statement process.

The requirement to prepare an environmental impact statement implementation plan has been part of DOE's NEPA procedures since 1979. Implementation plans can serve useful functions in DOE's environmental impact statement planning and in documenting public concerns before issuing the draft environmental impact statement. In practice, however, implementation plans often have contained more detail than was originally envisioned, and have diverted resources from the more important task of preparing the environmental impact statement itself.

With the Department's emphasis on improving its NEPA process by cutting process time (among other measures put forth in the Secretarial Policy Statement on NEPA), the formal implementation plan requirements have in some cases hindered rather than facilitated progress toward the prompt issuance of an environmental impact statement. Under the proposed amendment, DOE would continue to encourage its managers to use brief implementation plans as internal management tools, particularly for complex or broad proposed actions, but would not require that such plans be prepared for all environmental impact statements as a matter of rule. The proposed amendment would not preclude the Department from implementing, as part of its internal procedures, other options for environmental impact statement planning.

Elimination of the requirement for an implementation plan would not diminish the requirement to consider public comments received during scoping. DOE would continue to conduct public scoping activities before preparing draft environmental impact statements, and provide transcripts or notes of the public scoping meetings in public reading rooms. DOE would fully consider public comments and factor them into preparation of the draft environmental impact statement as appropriate, and would execute contractor disclosure statements in accordance with 40 CFR 1506.5(c).

Record of Decision

DOE proposes to revise section 1021.315(c) in two respects concerning public notification procedures for records of decision. First, to reduce **Federal Register** publication costs, DOE proposes to amend the current requirement to publish all records of decision in the **Federal Register** in favor of an option to publish only a notice that provides a summary of the record of decision and an announcement of the availability of the full record of decision. Copies of the full record of decision containing all the information required under the Council on Environmental Quality's regulations (specifically, 40 CFR 1502.2) would remain available upon request. Second, DOE proposes to clarify that, if the decision has been publicized by other means (e.g., press releases or announcements in local media), DOE need not defer taking action until its record of decision or the notice has been published in the **Federal Register**. This clarification as to when DOE may take an action does not reflect any change in DOE's current practices, but simply reduces the chance that the meaning of the current section 1021.315(c) could be misinterpreted.

Finding of No Significant Impact

DOE proposes to remove the current § 1021.322(b)(1) relating to the requirement that a DOE finding of no significant impact must summarize the supporting environmental assessment, including a brief description of the proposed action and alternatives considered, environmental factors considered, and projected impacts. Instead, on a case-by-case basis and in accordance with 40 CFR 1508.13, DOE would either incorporate the environmental assessment by reference into the finding of no significant impact and attach the environmental assessment to the finding of no significant impact, or summarize the environmental assessment in the finding. The elimination of the requirement for a summary would give DOE flexibility, with potential for time and cost savings, in preparing findings of no significant impact.

C. Proposed Amendments to Subpart D—Typical Classes of Action

Four appendices to subpart D set forth the classes of DOE actions that normally would be categorically excluded (appendices A and B), that normally would require preparation of an environmental assessment but not necessarily an environmental impact statement (appendix C), and that normally would require preparation of an environmental impact statement (appendix D). A categorical exclusion is defined as a category of actions that do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor environmental impact statement is required.

Proposed changes in appendices A through D of subpart D are intended to adjust normal levels of DOE's NEPA review and to add, modify (expand or remove), and clarify classes of actions based on DOE experience under the existing regulations. In considering the proposed revisions, reviewers should bear in mind that listing a class of actions in these appendices does not constitute a conclusive determination regarding the appropriate level of NEPA review for a proposed action. Rather, the listing creates a presumption that the defined level of review is appropriate for the listed actions. As indicated in § 1021.400(c), that presumption does not apply when there are extraordinary circumstances related to the proposed action that may affect the significance of the environmental effects of the action.

The following conversion table shows the relation of listings in the existing Appendices to the proposed revisions. The conversion table shows whether listings have been modified, clarified, removed, or added. The numbering of some categorical exclusions would change due to the deletion or consolidation of existing categorical exclusions and, in one case, the division of one current categorical exclusion into two separate exclusions. The numbers of deleted categorical exclusions would be reused. Any existing categorical exclusions not listed are not affected by any proposed changes.

Conversion Table

Existing	Proposed	
A.7	A.7	Clarified.
B1.3	B1.3	Clarified.
B1.8	B1.8	Modified.
B1.13	B1.13	Modified.
B1.15	B1.15	Modified.
B1.18	B1.18	Modified.
B1.21	B1.21	Modified.
B1.22	B1.22 & B1.23	Clarified.
	B1.24–B1.33	Added.
	B2.6	Added.
B3.1	B3.1	Clarified.
B3.3	B3.3	Clarified.
B3.6	B3.6	Modified.
B3.10	B3.6	Modified.
	B3.10	Added.
	B3.12–B3.13	Added.
B4.1	B4.1	Modified.

Conversion Table—Continued

Existing	Proposed	
B4.2	B4.2	Modified.
B4.3	B4.3	Modified.
B4.6	B4.6	Clarified.
B4.10–B4.13	B4.10–B4.13	Modified.
B5.3	B5.3	Modified.
B5.5	B5.5	Modified.
B5.9–B5.11	B5.9–B5.11	Clarified.
B5.12–B5.16		Removed.
	B5.12	Added.
B6.1	B6.1	Modified.
B6.4		Removed.
	B6.4	Added.
B6.5	B6.5	Clarified.
	B6.9	Added.
C1	C1	Reserved.
C4	C4	Modified.
C7	C7	Modified.
C9	C9	Modified.
C10	C10	Reserved.
C11	C11	Modified.
C14	C14	Modified.
C16	C16	Modified.
D1	D1	Modified.
D7	D7	Modified.
D10	D10	Modified.

Most of the proposed changes in appendices A through D relate to categorical exclusions. Reviewers should evaluate these proposed changes in the full context of the DOE regulations for categorical exclusions. Under the regulations, before a proposed action may be categorically excluded, DOE must determine in accordance with § 1021.410(b) that: (1) The proposed action fits within a class of actions listed in appendix A or B to subpart D, (2) there are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the action, and (3) there are no connected or related actions with cumulatively significant impacts and, as appropriate, the proposed action is a permissible interim action. In addition, to fit within a class of actions that is normally categorically excluded, a proposed action must include certain conditions as integral elements (appendix B, paragraphs B(1) through (4)). Briefly, these conditions ensure that an excluded action will not: Threaten violation of applicable requirements, require siting and construction of waste management facilities, disturb hazardous substances such that there would be uncontrolled or unpermitted releases, or adversely affect environmentally sensitive resources.

DOE believes that the proposed amendments to appendices A and B constitute classes of action that do not individually or cumulatively have a significant effect on the human environment. After DOE considers public comments on the proposals, any such final categorical exclusions that are codified in the NEPA regulations would be covered by a finding to that effect in section 1021.410(a).

Classes of Actions Listed in Appendix A

The only proposed amendment to appendix A is a clarification of paragraph A7.

• Proposed Clarification A7—Transfer of property, use unchanged.

DOE is proposing to clarify the meaning of "property" in paragraph A7 by explicitly including both personal property (e.g., equipment and materials) and real property (e.g., permanent structures and land), and to clarify that the intent has always been that the impacts would remain essentially the same after the transfer.

Classes of Actions Listed in Appendix B

The proposed amendments to appendix B are of three types: (1) New categorical exclusions, (2) modifications (expansion or removal) of categorical exclusions, and (3) clarifications of categorical exclusions.

(1) New Categorical Exclusions

Seventeen new categorical exclusions are proposed for sections B1, B2, B3, B5, and B6, as described below. In three cases, the number designating a current categorical exclusion (B3.10, B5.12, and B6.4) is used for a proposed categorical exclusion. The current B3.10 would be incorporated into proposed B3.6. The current B5.12 and B6.4 would be replaced with new categorical exclusions.

• Proposed B1.24—Transfer of property/residential, commercial, industrial use.

This proposed categorical exclusion applies to the transfer, lease, disposition, or acquisition of interests in uncontaminated facilities (and accompanying land); that is, the facilities and accompanying land do not contain contaminants at a level or in a form that would pose a threat to public health or the environment. Unlike under categorical exclusion A7, the use of the facilities may change, but the new use must result in generally similar environmental impacts and must not result in greater environmental discharges. That is, there may not be decreases in quality, or increases in the volumes, concentrations, or discharge rates of wastes, air emissions, or water effluents compared to those before the transfer, lease, disposition, or acquisition of interests. Based on DOE's experience, these types of actions normally would not have the potential for significant impact.

• Proposed B1.25—Transfer of property/habitat preservation, wildlife management.

This proposed categorical exclusion applies to the transfer, lease, disposition, or acquisition of interests in uncontaminated land for habitat preservation or wildlife management. DOE has engaged in many habitat preservation and wildlife management actions. In DOE's judgment, these types of actions normally would not have the potential for significant impact. Any action that would change the habitat would be subject to NEPA analysis.

• Proposed B1.26—Siting/construction/operation/decommissioning of small water treatment facilities, generally less than 250,000 gallons per day capacity.

This proposed categorical exclusion applies to small wastewater, potable water, surface water, and sewage treatment facilities that generally do not exceed 250,000 gallons per day capacity. DOE's experience with siting and construction (including expansion, modification and replacement) of small-scale water treatment projects shows that they are often associated with environmental improvements at DOE sites and that they normally have no potential for significant impacts. The Department is also proposing to categorically exclude temporary groundwater contaminant containment measures that could include the small-scale construction of water treatment facilities (proposed paragraph B6.9).

• Proposed B1.27—Facility deactivation.

This proposed categorical exclusion applies to facility deactivation, specifically the disconnection of utilities such as water, steam, telecommunications, and electrical power. DOE has extensive experience in facility deactivation and believes that such activities normally do not have the potential for significant impact.

• Proposed B1.28—Minor activities to place a facility in an environmentally safe condition, no proposed uses.

This proposed categorical exclusion applies to minor activities that are required to place a facility in an environmentally safe condition where there is no proposed use for the facility. These activities would include, but are not limited to, reducing surface contamination and removing materials, equipment or waste, such as final defueling of a reactor, where there are adequate existing facilities for treatment, storage, or disposal of the materials. These activities would not include conditioning, treatment or processing of spent nuclear fuel, high-level waste, or special nuclear materials.

DOE's experience with such environmentally beneficial activities indicates that the activities normally do not pose a potential for significant environmental impact.

• Proposed B1.29—Siting/construction/operation/decommissioning of onsite disposal facility for construction and demolition waste.

This proposed categorical exclusion applies to establishing and operating a small (generally less than 10-acre) disposal site for uncontaminated construction and demolition waste as defined in the Environmental Protection Agency's regulations under the Resource Conservation and Recovery Act at 40 CFR 243.101. In DOE's experience and judgment, small-scale disposal of such materials normally would pose no potential for significant impacts.

• Proposed B1.30—Transfer actions.

This proposed categorical exclusion applies to transfer actions, in which materials, equipment, or wastes are moved to a new location. The categorical exclusion would apply to actions in which transportation is the predominant proposed activity and the amount and type of relocated materials, equipment, or waste is incidental to the amount of that material, equipment, or waste that is already a part of operations at the receiving site. The transfers that would be categorically excluded are not regularly scheduled as part of routine operations, and could include, for example, moving a few drums of waste to an authorized disposal facility, or moving replacement equipment or supplies. DOE's experience indicates that transportation activities under DOE's standard practices pose no potential for significant impacts.

• Proposed B1.31—Relocation/operation of machinery and equipment.

The proposed categorical exclusion applies to the relocation and subsequent operation of machinery and equipment including, but not limited to, analytical laboratory apparatus, electronic hardware, maintenance equipment, and health and safety equipment, where use of the relocated items is similar to their former use, and consistent with the missions of the receiving facility. In DOE's experience, there is no material change in the environmental status quo and no potential for significant impact from use of relocated machinery and equipment.

• Proposed B1.32—Restoration, creation, or enhancement of small wetlands.

The proposed categorical exclusion applies to the restoration, creation, or enhancement of small wetlands, but only when the action does not adversely affect any other environmental resources. In addition, the Department would coordinate the action with cognizant Federal and State regulators to assure compliance with other land use plans and to benefit from their advice. In DOE's judgment, the restoration, creation, or enhancement of a small wetland as described, which is normally considered to be an environmentally beneficial measure, is inherently unlikely to pose the potential for significant environmental impact. (Also see the proposed modification to C9 below.)

• Proposed B1.33—Traffic flow adjustments, existing roads.

This proposed categorical exclusion applies to traffic flow adjustments on existing roads at DOE sites, such as installation of stop signs or traffic lights and changes in traffic direction (e.g., changing a two-way street to a one-way street.) Such an action normally would not pose the potential for significant environmental impacts.

• Proposed B2.6—Packaging/transportation/storage of radioactive sources upon request by the Nuclear Regulatory Commission or other cognizant agency.

This proposed categorical exclusion applies to the exercise of DOE's responsibilities under the Atomic Energy Act relating to certain requests by the Nuclear Regulatory Commission or other cognizant agencies in the interest of protecting the public from exposure to radiation. For example, on occasion, the Nuclear Regulatory Commission has requested that DOE retrieve discrete radioactive sources from a Commission-licensed private person or company that would not or could not safely manage the material. The categorical exclusion applies to all types of radioactive materials that the Nuclear Regulatory Commission categorically excludes for possession and use by its licensees. DOE believes that for radioactive materials that the Nuclear Regulatory Commission has determined not to require an environmental assessment or environmental impact statement for its licensees' possession and use, DOE's packaging, transportation, and storage of such materials also may normally be categorically excluded. DOE's experience with discrete radioactive sources in responding to Nuclear Regulatory Commission requests clearly supports this conclusion.

• Proposed B3.10—Siting/construction/operation/decommissioning of particle accelerators, including electron beam accelerators, primary beam energy generally less than 100 MeV.

The proposed categorical exclusion applies to siting, construction, operation, and decommissioning of particle accelerators with primary beam energy generally less than 100 MeV that would be used for research and medical purposes. DOE's experience indicates that construction and operation (or modification) and subsequent decommissioning of such devices normally pose no potential for significant environmental impacts. The categorical exclusion also applies to internal modifications of any accelerators regardless of energy that do not increase primary beam energy or current. Experience has shown that internal modifications to accelerators of any size that do not increase primary beam energy or current pose no potential for significant impacts.

• Proposed B3.12—Siting/construction/operation/decommissioning of microbiological and biomedical facilities.

DOE has performed numerous analyses of the environmental impacts of the siting, construction, operation, and any necessary decommissioning of microbiological and biomedical diagnostic, treatment and research facilities within or contiguous to an already developed area and has found that such activities normally pose no potential for significant environmental impacts. These laboratories generally do not handle extremely dangerous materials. More generally, laboratories that are rated Biosafety Level-1 or Biosafety Level-2 (reference: Biosafety in Microbiological and Biomedical Laboratories, 3rd Edition, May 1993, U.S. Department of Health and Human Services Public Health Service, Centers of Disease Control and Prevention, and the National Institutes of Health; (HHS Publication No. (CDC) 93–8395)) would similarly not pose potential for significant environmental impacts.

• Proposed B3.13—Magnetic fusion experiments, no tritium fuel use.

The proposed categorical exclusion applies to magnetic fusion experiments performed at existing facilities that do not use tritium as fuel, including necessary modifications to the facilities. Analysis of environmental impacts of several such experimental regimens indicates that they normally pose no potential for significant environmental impacts.

• Proposed B5.12—Workover of existing oil/gas/geothermal well.

The proposed categorical exclusion applies to workover (operations to restore production, such as deepening, plugging back, pulling and resetting

lines, and squeeze cementing) of all types of oil, gas, and geothermal wells where the work would be conducted on the existing wellpad and would not disturb adjacent habitat. DOE's experience is that such actions do not pose the potential for significant environmental impacts.

• Proposed B6.4—Siting/construction/operation/decommissioning of small waste storage facilities (not high-level radioactive waste, spent nuclear fuel).

This proposed categorical exclusion applies to siting, construction (or modification), operation and decommissioning of small onsite storage facilities for waste, other than high-level radioactive waste, that is generated onsite or results from activities connected to site operation. The categorical exclusion would not apply to storage of spent nuclear fuel. This categorical exclusion would apply to small facilities, generally up to 50,000 square feet in area, within or contiguous to an already developed area. DOE's evaluations of many such facilities show that they normally pose no potential for significant environmental impacts.

• Proposed B6.9—Small-scale temporary measures to reduce migration of contaminated groundwater.

This proposed categorical exclusion reflects DOE's experience with many small-scale temporary construction actions to reduce the migration of contaminated groundwater, by such means as pumping, treating, storing, and reinjecting water and installing underground barriers. DOE has found that these actions normally have very local and environmentally beneficial effects and pose no potential for significant environmental impacts. The Department is also proposing to categorically exclude the siting, construction, and operation of small water treatment facilities (proposed B1.26).

(2) Modification (Expansion or Removal) of Categorical Exclusions

Proposed modifications to integral elements B(1), B(2) and B(4)(iii) and sections B1, B3, B4, B5, and B6 include 2 modifications to integral elements, expansion of 16 categorical exclusions, and removal of 6 categorical exclusions.

• Proposed Modification B(1).

DOE proposes to add Executive Orders to integral element B(1) for completeness.

• Proposed Modification B(2).

The integral element B(2), which sets the condition that a categorically excluded action may not require siting, construction, or major expansion of waste storage, disposal, recovery, or treatment facilities, would be modified to provide an exception for such actions that are themselves categorically excluded. Such actions proposed in this rulemaking include certain water treatment and waste storage facilities. (See discussions above for proposed B1.26, B1.29, B6.4, and B6.9).

• Proposed Modification B(4)(iii).

Floodplains and wetlands are listed as an example of environmentally sensitive resources in integral element B(4)(iii). DOE proposes to revise this example to apply to wetlands determined by using the methodology that the U.S. Army Corps of Engineers applies in implementing section 404 of the Clean Water Act, except that it will not apply to wetlands affected by proposed actions covered by a general permit under 33 CFR Part 330. However, one such general permit, #23, covers "Approved Categorical Exclusions". It is not appropriate to use general permit #23 to avoid applying the integral element for DOE categorical exclusions.

• Proposed Modification B1.8—Modifications to screened water intake/outflow structures.

The proposed modification would expand the original categorical exclusion to include outflow structures. In DOE's experience, modifying outflow structures, such that water effluent quality and volumes are consistent with existing permit limits, normally has no potential for significant impact.

• Proposed Modification B1.13—Construction/acquisition/relocation of onsite pathways, spur or access roads/railroads.

The proposed modification would expand the original categorical exclusion that applies to acquisition or minor relocation of access roads to include construction of onsite pathways and onsite spur or access roads and railroads. Such an action would not affect general traffic or rail patterns and, in view of the conditions that are integral elements of the categorical exclusion, such an action normally would not pose the potential for significant environmental impacts.

• Proposed Modification B1.15—Siting/construction/operation of support buildings/support structures.

The proposed modification would no longer restrict this categorical exclusion to "small-scale" support structures. DOE has found that significant environmental impacts would not normally occur when DOE support structures of any size are constructed "within or contiguous to an already developed area."

• Proposed Modification B1.18—Siting/construction/operation of additional/replacement water supply wells.

The proposed modification would expand the original categorical exclusion to include modifications of an existing water supply well to restore production. The impact of modifying an existing water supply well to restore production is equivalent to or less than that of developing additional or replacement water supply wells. DOE's experience is that such actions, meeting the conditions set forth in the categorical exclusion, normally have no potential for significant impact.

• Proposed Modification B1.21—Noise abatement.

The proposed modification would remove the restriction that the existing categorical exclusion applies to only "minor" noise abatement measures. Based on DOE's experience, noise abatement measures normally would not have a significant environmental impact.

• Proposed Modification B3.6—Siting/construction/operation/decommissioning of facilities for bench-scale research, conventional laboratory operations, small-scale research and development and pilot projects.

The proposed modification would combine the current paragraphs B3.6 (Indoor bench-scale research projects/conventional laboratory operation) and B3.10 (Small-scale research and development/small-scale pilot projects, at existing facility, preceding demonstration) and expand the scope to include siting, construction, operation, and decommissioning of the facilities in which the research activities would occur. The construction of facilities for the types of research activities addressed normally would not cause any significant environmental effects as long as the integral elements were met and construction occurred within or contiguous to an already developed area.

• Proposed Modification B4.1—Contracts/marketing plans/policies for excess electric power.

The proposed modification, which applies to power marketing administrations, would emphasize limits based on the characteristics of a project rather than the duration of a contract or other agreement. The existing categorical exclusion indirectly limits the potential impacts in part by restricting its application to contracts and other agreements that do not exceed 5 years duration. DOE's project evaluation experience has shown that the potential for environmental impacts is more directly related to market responses, such as changes in generation resources, transmission systems, and operating limits than to the duration of contracts, policies, marketing plans, or allocations of power. This proposed modification is related to proposed modifications for C7 and D7, discussed below.

• Proposed Modification B4.2—Export of electric energy.

The proposed expansion would allow DOE to issue permits for the export of electric energy over existing transmission systems or by changing a system in ways that are themselves categorically excluded. Such changes may typically be needed to connect two systems and would involve constructing short segments (generally less than a mile long) of powerline and a substation.

• Proposed Modification B4.3—Electric power marketing rate changes.

The proposed modification would change the method for determining categorically excluded rate changes. The limits in the modified categorical exclusion focus directly on the power system activities, rather than indirectly on economics. The existing categorical exclusion applies to rate changes that do not exceed inflation. The proposed modification would instead categorically exclude rate changes in which the operations of generation projects would remain within normal operating limits.

• Proposed Modification B4.10—Deactivation, dismantling and removal of electric powerlines and substations.

The proposed modification would categorically exclude dismantling of substations, switching stations, and other transmission facilities, the construction of which is already categorically excluded. The modification also would categorically exclude the dismantling of all electric powerlines (i.e., both tap lines and transmission lines), because the impacts of removing various types of powerlines are essentially the same. The proposed modification would clarify categorically excludable actions by including deactivation (i.e., shutting off power flowing through existing electric powerlines).

• Proposed Modification B4.11—Construction or modification of electric power substations.

The proposed changes would expand categorically excluded modification activities to substations of any voltage, provided that the modification does not increase the existing voltage. DOE has found that such modifications normally do not have potential for significant environmental impacts. The proposed changes also would categorically exclude new electric powerline construction of generally less than 10 miles or relocation of generally less than 20 miles of existing electric powerlines to conform with the proposed modification to B4.12 and B4.13, as discussed below.

• Proposed Modification B4.12—Construction of electric powerlines (generally less than 10 miles in length), not integrating major new sources.

The existing categorical exclusion applies to construction and operation only of tap lines. DOE has found that the physical impacts of constructing and operating short segments (generally less than 10 miles in length) of all powerlines are similar and normally are environmentally insignificant when the integral elements are met.

• Proposed Modification B4.13—Reconstruction and minor relocation of existing electric powerlines (generally less than 20 miles in length).

The proposed modification would increase the length of powerlines that can be categorically excluded from 10 miles, as indicated in the existing categorical exclusion, to 20 miles. The categorical exclusion would also include reconstruction within existing corridors. Based on DOE's experience, there is no potential for significant impact when the integral elements are met. Most relocations are proposed to mitigate existing impacts and improve existing environmental conditions. This amendment would require a conforming revision of C4 (discussed below).

• Proposed Modification B5.3—Modification (not expansion)/abandonment of oil storage access/brine injection/gas/geothermal wells, not part of site closure.

The proposed modification would add gas wells to those wells for which modifications may be categorically excluded. Gas resources normally occur in conjunction with oil resources, and the existing categorical exclusion effectively already applies to gas wells. In general, the environmental impacts of modifying gas wells should be no more than the impacts of modifying other types of wells.

• Proposed Modification B5.5—Construction/operation of short crude oil/gas/steam/geothermal pipeline segments.

The proposed modification adds natural gas and steam pipelines to those pipelines that may be constructed and operated between facilities within a single industrial complex within existing rights of way. These kinds of actions are minor when they are consistent with the conditions (integral elements) of the categorical exclusion. The proposed modification also removes the characterization of the connected facilities as "crude oil" facilities or "geothermal" facilities because potential impacts of constructing and operating connecting pipeline segments are independent of the end point facilities. In addition, the term "offsite" would be deleted to clarify that the action includes construction and operation of onsite pipelines as connectors to the offsite segments, as DOE originally intended.

• Proposed Modifications (Removals).

B5.12—Permanent exemption for new peakload powerplant.

B5.13—Permanent exemption for emergency operations.

B5.14—Permanent exemption for meeting scheduled equipment outages.

B5.15—Permanent exemption due to lack of alternative fuel supply.

B5.16—Permanent exemption for new cogeneration powerplant.

The Powerplant and Industrial Fuel Use Act of 1978 was enacted to preserve oil and gas for certain uses for which alternative fuels could not easily be substituted, to increase use of domestic oil reserves, and to reduce the nation's dependence on imported oil. In order to achieve these goals, the act prohibited the use of oil and gas as primary fuels in new electric power plants and major fuel burning installations, required that new powerplants be constructed so as to be capable of burning coal, and required the conversion of existing powerplants to coal or another alternative to oil and gas fuel by 1990. The statute was amended in 1987 because its impact on fuel choices by both existing and new facilities was less significant than originally expected and because significant reductions in utility and industrial consumption of oil and gas had been achieved. The purpose of the 1987 amendments was, among other things, to repeal the prohibition on the use of oil and natural gas as primary fuels for electric powerplants and major fuel burning installations.

Categorical exclusions B5.12, B5.13, and B5.16 are proposed for removal because the Powerplant and Industrial Fuel Use Act of 1978 now only applies to base load power plants. Therefore, the Act is not applicable to powerplants for peak-load and emergency purposes, or to cogeneration powerplants.

Categorical exclusions B5.14 and B5.15 are proposed for removal because they relate only to major fuel-burning facilities, which are no longer covered by the Powerplant and Industrial Fuel Use Act of 1978.

• Proposed Modification B6.1—Small-scale, short-term cleanup actions under RCRA, Atomic Energy Act, or other authorities.

The proposed revision to B6.1 would delete the current reference to "removal

actions under CERCLA" and would no longer define the scope of excludable actions in terms of the regulatory cost and time limits for CERCLA removal actions (currently $2 million and 12 months from the time action begins onsite, unless regulatory exemptions are satisfied). Under the Secretarial Policy Statement on NEPA, DOE is generally relying on the CERCLA process (rather than the NEPA process) for review of actions to be taken under CERCLA. The focus of the current paragraph B6.1 on CERCLA removal activities is somewhat confusing in the context of the Secretarial Policy Statement.

Notwithstanding the general approach of relying generally on the CERCLA process for environmental review of CERCLA actions, there may be specific instances in which DOE will choose, after consultation with stakeholders and as a matter of policy, to integrate the NEPA and CERCLA processes. The proposed revised paragraph B6.1 is broad enough to categorically exclude small-scale CERCLA actions as well as similar actions performed under RCRA, the Atomic Energy Act, or other authorities.

Although the regulatory cost and time limits for CERCLA removal actions apply only to fund-financed removals and therefore do not apply to DOE and other Federal agencies that undertake a removal action using the authority delegated to Heads of Federal Agencies by Executive Order 12580, DOE has used the limits as a benchmark for the time and cost of the cleanup actions it normally may categorically exclude. DOE has found, however, that cleanup actions that pose no potential for significant environmental impact often cost more and take more time to complete. Thus, DOE proposes to expand the limits of the categorical exclusion to actions generally costing up to $5 million over as many as 5 years.

The proposed revision to example B6.1(b) would clarify that the designation of hazardous waste may be based on Environmental Protection Agency regulations (as already indicated in the example) or applicable state requirements. The proposed revision to example B6.1(j) would clarify that segregation of wastes may be categorically excluded when DOE believes, but may not be certain, that the wastes, if not segregated, might react or form a mixture that could result in adverse environmental impacts.

• Proposed Modification (Removal) B6.4—Siting/construction/operation/decommissioning of facility for storing packaged hazardous waste for 90 days or less.

The current categorical exclusion B6.4 is proposed for removal because a more general categorical exclusion for waste storage is proposed (discussed above) that would encompass the activities to which the current B6.4 now applies. DOE believes the scope of the proposed more general categorical exclusion is too broad to be considered a modification of the current B6.4. The proposed waste storage categorical exclusion, however, would also be designated B6.4.

(3) Clarifications of Existing Categorical Exclusions

DOE is proposing certain clarifications to 9 categorical exclusions in sections B1, B3, B4, B5 and B6. To clarify the scope of one categorical exclusion (i.e., B1.22), DOE proposes to divide it into two separate categorical exclusions.

• Proposed Clarification B1.3—Routine maintenance/custodial services for buildings, structures, infrastructures, equipment.

The proposed revisions would clarify the existing B1.3 by providing additional description of the types of areas and improvements (e.g., rights-of-way, pathways, and railroads) and activities (e.g., localized vegetation and pest control) to which the categorical exclusion applies. A sentence would be added to clarify "in-kind replacement," acknowledging that some equipment in older facilities cannot literally be replaced in kind because the equipment is no longer made. A revision to the example B1.3(n) would clarify that this categorical exclusion applies to certain other facility components, such as monitoring wells, lysimeters, weather stations, and flumes. A revision to the example B1.3(o) would clarify that DOE considers all routine surface decontamination, not just "spot" decontamination, as routine maintenance.

• Proposed Clarification B1.22—Relocation of buildings.
B1.23—Demolition/disposal of buildings.

DOE proposes to divide the existing B1.22 (Relocation/demolition/disposal of buildings) into two categorical exclusions to clarify that the two actions included in the existing class of action (building relocations and building demolition and subsequent disposal) are not connected actions.

• Proposed Clarification B3.1—Site characterization/environmental monitoring.

The proposed revision would clarify that this categorical exclusion applies to site characterization and monitoring activities that occur both onsite and off-site, and includes associated small-scale laboratory buildings and modification of characterization and monitoring devices.

• Proposed Clarification B3.3—Research related to conservation of fish and wildlife.

The proposed revision would clarify that this categorical exclusion includes both field and laboratory research.

• Proposed Clarification B4.6—Additions/modifications to electric power transmission facilities within previously developed area.

The proposed revision would clarify the existing B4.6 by providing additional examples of transmission facility projects (e.g., switchyard grounding upgrades, secondary containment projects, paving projects, and seismic upgrades) to which this categorical exclusion applies.

• Proposed Clarifications
B5.9—Temporary exemption for any electric powerplant.
B5.10—Certain permanent exemptions for any existing electric powerplant.
B5.11—Permanent exemption for mixed natural gas and petroleum.

The proposed clarifications of B5.9, B5.10, and B5.11 would remove references to "major fuel-burning installation" in order to make these categorical exclusions consistent with the Powerplant and Industrial Fuel Act of 1978, which no longer applies to "major fuel-burning installations." (See discussion above under Proposed Modifications, B5.12 through B5.16.)

• Proposed Clarification B6.5—Siting/construction/operation/decommissioning of facility for characterizing/sorting packaged waste, overpacking waste (not high-level radioactive waste, spent nuclear fuel).

For internal consistency, a reference to B6.4 and B6.6 would be added to this categorical exclusion.

Appendix C

The Department is proposing to amend eight classes of action in appendix C, classes of actions that normally require environmental assessments but not necessarily environmental impact statements, primarily to ensure consistency with changes made to appendix B.

• Proposed Modification (Removal) C1—Major projects.

This class of actions is proposed for removal because DOE no longer uses the designation of "Major Project" in its project management system and has not replaced that designation with a comparable term.

• Proposed Modification C4—Upgrading and constructing electric powerlines.

This revision would be a conforming change necessitated by the proposed change to B4.13, discussed above.

• Proposed Modification C7—Allocation of electric power, no major new generation resource/major changes in operation of generation resources/major new loads.

The proposed modification reflects DOE's project evaluation experience, which has shown that the potential for environmental impacts is more directly related to market responses, such as changes in generation resources, transmission systems, and operating limits, than to the duration of contracts, policies, marketing plans, or allocations of power. This revision also would clarify that this class of action applies not only to DOE power marketing operations but also to other DOE activities as well, and that the impacts of taking the action are independent of the administrative method by which the arrangements are made (e.g., contract, policy, plan, or funding) and of site ownership (e.g., DOE or other). This class of action is related to proposed modification of B4.1 (discussed above) and D7 (discussed below).

• Proposed Modification C9—Restoration, creation, or enhancement of large wetlands.

This proposed revision would conform to proposed B1.32 as discussed above, under which small-scale wetlands projects that do not affect other environmental resources would be categorically excluded.

• Proposed Modification (Removal) C10—Siting/construction/operation/decommissioning of synchrotron radiation accelerator facility.

• Proposed Modification C11—Siting/construction/operation/decommissioning of low- or medium-energy particle acceleration facility with primary beam energy generally greater than 100 MeV.

This revision would be a conforming change to make C11 consistent with the proposed categorical exclusion B3.10, as discussed above, and would consolidate C10 and C11 for clarity.

• Proposed Modification C14—Siting/construction/operation of water treatment facilities generally greater than 250,000 gallons per day capacity.

This proposed revision would be a conforming change to make C14 consistent with the proposed categorical exclusion B1.26. Construction and operation of small facilities, those with capacity generally less than 250,000 gallons per day, normally would be categorically excluded; larger facilities normally would need at least an environmental assessment level of review.

• Proposed Modification C16—Siting/construction/operation/decommissioning of large waste storage facilities (not high-level radioactive waste, spent nuclear fuel).

This proposed revision would be a conforming change to make C16 consistent with the proposed categorical exclusion B6.4 and to clarify the meaning of the term onsite.

Appendix D

The Department is proposing to amend three classes of action in appendix D, classes of actions that normally require an environmental impact statement, as described below.

• Proposed Modification D1—Strategic systems.

This class of actions is revised to reflect changes in DOE's project management system. DOE has replaced the designation "Major Systems Acquisition" with "Strategic System" to describe a project that is a single, stand-alone effort within a program mission area and is regarded by the Department as a primary means to advance the Department's strategic goals. Strategic Systems are designated by the Secretary based on cost, risk factors, international implications, stakeholder interest, or national security.

• Proposed Modification D7—Allocation of electric power, major new generation resources/major changes in operation of power generation resources/major loads.

The proposed modification reflects DOE's project evaluation experience, which has shown that the potential for environmental impacts is more directly related to market responses, such as changes in generation resources, transmission systems, and operating limits than to the duration of contracts, policies, marketing plans, or allocations of power. The proposed revision also would clarify that this class of action applies not only to DOE power marketing operations but to other DOE activities as well, and that the impacts of taking that action are independent of the administrative method by which the arrangements are made (e.g., contract, policy, plan, or funding) and of site ownership (e.g., DOE or other). This class of action is related to proposed modifications of B4.1 and C7, discussed above.

• Proposed Modification D10—Siting/construction/operation/decommissioning of major treatment, storage, and disposal facilities for high-level waste and spent nuclear fuel.

The current paragraph D10 includes certain activities regarding spent nuclear fuel storage facilities within the scope of actions that normally require an environmental impact statement. Under the proposed modification, DOE would not presume that an EIS is the appropriate level of NEPA review for siting, constructing, operating and decommissioning replacement storage facilities or upgrading storage facilities for spent nuclear fuel. DOE proposals for siting, constructing, operating and decommissioning (or upgrading) spent nuclear fuel storage facilities have varied too widely to support a general conclusion that such proposals normally require an environmental impact statement or normally require an environmental assessment. For example, DOE proposals may range from major new facilities that would store most of the nation's commercial spent nuclear fuel (for which an environmental impact statement clearly would be appropriate), to minor new facilities or upgrades for storing very much smaller quantities of spent fuel that are already in storage at several DOE sites. In addition, this modification is appropriate in light of substantial DOE analyses and experience that show that, even when considered in conjunction with other nuclear-related activities at DOE sites, the environmental impacts of siting, constructing, operating and decommissioning spent nuclear fuel storage facilities at DOE sites generally would be small. The U.S. Nuclear Regulatory Commission and cognizant foreign authorities have reached similar conclusions with respect to spent nuclear fuel storage within their respective jurisdictions. Therefore, DOE believes it may often be appropriate to prepare an environmental assessment rather than an environmental impact statement for replacement spent nuclear fuel storage facilities.

IV. Procedural Review Requirements

A. Environmental Review Under the National Environmental Policy Act

These proposed amendments establish, modify, and clarify procedures for considering the environmental effects of DOE actions within the Department's decision making process, thereby enhancing compliance with the letter and spirit of NEPA. Subpart D, Appendix A6, of the DOE NEPA regulations categorically excludes "rulemakings that are strictly procedural," and applies to these proposed amendments. Therefore, DOE has determined that promulgation of these amendments is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an environmental impact statement or an environmental

assessment. DOE will continue to examine individual proposed actions to determine the appropriate level of review.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, Public Law 96–345 (5 U.S.C. 601–612), requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. The requirement (which appears in section 603 of the Act) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." This proposed rule would modify existing policies and procedural requirements for DOE compliance with NEPA. It makes no substantive changes to requirements imposed on applicants for DOE licenses, permits, financial assistance, and similar actions as related to NEPA compliance. Therefore, DOE certifies that this rule, if promulgated, would not have a "significant economic impact on a substantial number of small entities."

C. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by these amendments. Accordingly, no Office of Management and Budget clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

D. Review Under Executive Order 12612

Executive Order 12612, "Federalism," requires that regulations be reviewed for Federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, preparation of a Federalism assessment is required to assist senior policymakers. The final amendments will affect Federal NEPA compliance procedures, which are not subject to state regulation. The proposed amendments to DOE's NEPA regulations will not have any substantial direct effects on states and local governments within the meaning of the Executive Order.

E. Review Under Executive Order 12778

Section 2 of Executive Order 12778, "Civil Justice Reform" (October 23, 1991), instructs Federal agencies to adhere to certain requirements when promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and 2(b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulations specify clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describe any administrative proceedings to be available before judicial review and any revisions for the exhaustion of such administrative proceedings; and define key terms. DOE certifies that these proposed amendments to DOE's NEPA regulations meet the requirements of sections 2(a) and 2(b)(2) of Executive Order 12778.

F. Review Under Executive Order 12866

The proposed amendments were reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," which requires a Federal agency to prepare a regulatory assessment, including the potential costs and benefits, of any "significant regulatory action." The order defines "significant regulatory action" as any regulatory action that may have an annual effect on the economy of $100 million or more and may adversely affect the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments in a material way, create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or raise novel legal or policy issues arising out of legal mandates (section 3(f)).

This proposal would amend already existing policies and procedures for compliance with NEPA. The amendments contain no substantive changes in the requirements imposed on applicants for a DOE license, financial assistance, permit, or similar actions, which are the areas in which one might anticipate an economic effect. Therefore, DOE has determined that the incremental effect of these amendments to the DOE NEPA regulations will not have the magnitude of effects on the economy, or any other adverse effects, to bring this proposal within the definition of a "significant regulatory action." Pursuant to the Executive Order, the proposed amendments were submitted to the Office of Management and Budget for regulatory review.

G. Review under the Unfunded Mandates Reform Act

Under section 205 of the Unfunded Mandates Reform Act of 1995, Federal agencies are required to prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Because the DOE NEPA regulations affect only DOE and do not create obligations on the part of any other person or government agency, neither state, local or tribal governments nor the private sector will be affected by amendments to these regulations. Thus, further review by DOE under the Unfunded Mandates Reform Act is not required.

V. Public Comment Procedures

Interested persons are invited to participate in this rulemaking by submitting information, views, suggestions, or arguments with respect to the proposed regulatory amendments set forth in this Notice. Comments should be submitted to the address indicated in the **ADDRESSES** section of this Notice and identified (on the outside of the envelope and on the comment documents) with the designation "NEPA Rulemaking." DOE will consider all comments received by the date indicated in the **DATES** section before taking final action on the proposed amendments. Late comments will be considered to the extent practicable.

List of Subjects in 10 CFR Part 1021

Environmental impact statement.

Issued in Washington, D.C., February 9, 1996.

Peter Brush,

Acting Assistant Secretary, Environment, Safety and Health.

For reasons set out in the preamble, 10 CFR Part 1021 is proposed to be amended as follows:

PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

1. The authority citation for Part 1021 continues to read as follows:

Authority: 42 U.S.C. 7254; 42 U.S.C. 4321 *et seq.*

§ 1021.104 [Amended]

2. In section 1021.104(b), the definition for *EIS Implementation Plan* is removed.

3. Section 1021.105 is revised to read as follows:

§ 1021.105 Oversight of Agency NEPA Activities.

The Assistant Secretary for Environment, Safety and Health, or his/her designee, is responsible for overall review of DOE NEPA compliance. Further information on DOE's NEPA process and the status of individual NEPA reviews may be obtained upon request from the Office of NEPA Policy and Assistance, US. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119.

§ 1021.312 [Removed and reserved]

4. Section 1021.312 is removed and reserved.

5. Section 1021.315(c) is revised to read as follows:

§ 1021.315 Records of Decision.

* * * * *

(c) In addition to any other public announcements, DOE RODs, or notices of their availability that provide a brief summary of the RODs, shall be published in the **Federal Register** and the RODs shall be made available to the public as specified in 40 CFR 1506.6, except as provided in 40 CFR 1507.3(c) and section 1021.340 of this part. DOE may implement the decision before the ROD, or notice of its availability, is published in the **Federal Register** if the decision has been made public by other means (e.g., press releases, announcements in local media).

* * * * *

§ 1021.322 [Amended]

6. Section 1021.322 is amended to remove (b)(1), and (b)(2) through (b)(5) are redesignated (b)(1) through (b)(4), respectively.

7. Appendix A, paragraph A7, is revised to read as follows:

Appendix A to Subpart D—Categorical Exclusions Applicable to General Agency Actions

* * * * *

A7 Transfer, lease, disposition, or acquisition of interests in personal property (e.g., equipment and materials) or real property (e.g., permanent structures and land), if property use is to remain unchanged; i.e., the type and magnitude of impacts would remain essentially the same.

* * * * *

8. Appendix B, is amended to revise the Table of Contents entries for B1.8, B1.13, B1.22, B3.6, B3.10, B4.1, B4.2, B4.3, B4.6, B4.10, B4.11, B4.12, B4.13, B5.3, B5.5, B5.9, B5.10, B5.12, B6.1, B6.4, and B6.5; add B1.23 through B1.33, B2.6, B3.12, B3.13, and B6.9; and remove B5.13 through B5.16, to read as follows:

Appendix B to Subpart D—Categorical Exclusions Applicable to Specific Agency Actions

* * * * *

B1.8 Modifications to screened water intake/outflow structures.

* * * * *

B1.13 Construction/acquisition/relocation of onsite pathways, spur or access roads/railroads.

* * * * *

B1.22 Relocation of buildings.

B1.23 Demolition/disposal of buildings.

B1.24 Transfer of property/residential, commercial, industrial use.

B1.25 Transfer of property/habitat preservation, wildlife management.

B1.26 Siting/construction/operation/decommissioning of small water treatment facilities, generally less than 250,000 gallons per day capacity.

B1.27 Facility deactivation

B1.28 Minor activities to place a facility in an environmentally safe condition, no proposed uses.

B1.29 Siting/construction/operation/decommissioning of onsite disposal facility for construction and demolition waste.

B1.30 Transfer actions

B1.31 Relocation/operation of machinery and equipment.

B1.32 Restoration, creation, or enhancement of small wetlands.

B1.33 Traffic flow adjustments, existing roads.

* * * * *

B2.6 Packaging/transportation/storage of radioactive sources upon request by the Nuclear Regulatory Commission or other cognizant agency.

* * * * *

B3.6 Siting/construction/operation/decommissioning of facilities for bench-scale research, conventional laboratory operations, small-scale research and development and pilot projects.

* * * * *

B3.10 Siting/construction/operation/decommissioning of particle accelerators, including electron beam accelerators, primary beam energy generally less than 100 MeV.

* * * * *

B3.12 Siting/construction/operation/decommissioning of microbiological and biomedical facilities.

B3.13 Magnetic fusion experiments, no tritium fuel use.

* * * * *

B4.1 Contracts/marketing plans/policies for excess electric power.

B4.2 Export of electric energy.

B4.3 Electric power marketing rate changes.

* * * * *

B4.6 Additions/modifications to electric power transmission facilities within previously developed area.

* * * * *

B4.10 Deactivation, dismantling and removal of electric powerlines and substations.

B4.11 Construction or modification of electric power substations.

B4.12 Construction of electric powerlines (generally less than 10 miles in length), not integrating major new sources.

B4.13 Reconstruction and minor relocation of existing electric powerlines (generally less than 20 miles in length).

* * * * *

B5.3 Modification (not expansion)/abandonment of oil storage access/brine injection/gas/geothermal wells, not part of site closure.

* * * * *

B5.5 Construction/operation of short crude oil/gas/steam/geothermal pipeline segments.

* * * * *

B5.9 Temporary exemption for any electric powerplant.

B5.10 Certain permanent exemptions for any existing electric powerplant.

* * * * *

B5.12 Workover of existing oil/gas/geothermal well.

* * * * *

B6.1 Small-scale, short-term cleanup actions under RCRA, Atomic Energy Act, or other authorities.

* * * * *

B6.4 Siting/construction/operation/decommissioning of small waste storage facilities (not high-level radioactive waste, spent nuclear fuel).

B6.5 Siting/construction/operation/decommissioning of facility for characterizing/sorting packaged waste, overpacking waste (not high-level radioactive waste, spent nuclear fuel).

* * * * *

B6.9 Small-scale temporary measures to reduce migration of contaminated groundwater.

* * * * *

9. Appendix B, section B is amended by revising paragraphs B(1), B(2), B(4)(iii) to read as follows:

B. Conditions that are Integral Elements of the Classes of Actions in Appendix B

* * * * *

(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, including requirements of DOE and/or Executive Orders.

(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators) unless these actions are themselves categorically excluded.

* * * * *

(4) * * *

(iii) Wetlands, as determined by using the methodology that the U.S. Army Corps of Engineers applies in implementing section 404 of the Clean Water Act, except for wetlands affected by proposed actions covered by a general permit under 33 CFR Part 330 (other than Permit #23, "Approved Categorical Exclusions"), and floodplains;

* * * * *

10. Appendix B, section B1, is amended by revising the introductory text to paragraph B1.3, paragraphs B1.3(n) & (o), B1.8, B1.13, B1.15, B1.18, B1.21, and B1.22, and adding paragraphs B1.23 through B1.33, to read as follows:

B1. Categorical Exclusions Applicable to Facility Operation.

* * * * *

B1.3 Routine maintenance activities and custodial services for buildings, structures, rights-of-way, infrastructures (e.g., pathways, roads, and railroads), vehicles and equipment, and localized vegetation and pest control, during which operations may be suspended and resumed. Custodial services are activities to preserve facility appearance, working conditions, and sanitation, such as cleaning, window washing, lawn mowing, trash collection, painting, and snow removal. Routine maintenance activities, corrective (that is, repair), preventive, and predictive, are required to maintain and preserve buildings, structures, infrastructures, and equipment in a condition suitable for a facility to be used for its designated purpose. Routine maintenance may result in replacement to the extent that replacement is in kind and is not a substantial upgrade or improvement. In kind replacement includes installation of new components to replace outmoded components if the replacement does not result in a significant change in the expected useful life, design capacity, or function of the facility. Routine maintenance does not include replacement of a major component that significantly extends the originally intended useful life of a facility (for example, it does not include the replacement of a reactor vessel near the end of its useful life). Routine maintenance activities include, but are not limited to:

* * * * *

(n) Routine testing and calibration of facility components, subsystems, or portable equipment (including but not limited to, control valves, in-core monitoring devices, transformers, capacitors, monitoring wells, lysimeters, weather stations, and flumes); and

(o) Routine decontamination of the surfaces of equipment, rooms, hot cells, or other interior surfaces of buildings (by such activities as wiping with rags, using strippable latex, and minor vacuuming), including removal of contaminated intact equipment and other materials (other than spent nuclear fuel or special nuclear material in nuclear reactors).

* * * * *

B1.8 Modifications to screened water intake and outflow structures such that intake velocities and volumes and water effluent quality and volumes are consistent with existing permit limits

* * * * *

B1.13 Construction, acquisition, and relocation of onsite pathways and onsite spur or access roads and railways.

* * * * *

B1.15 Siting, construction (or modification), and operation of support buildings and support structures (including prefabricated buildings and trailers) within or contiguous to an already developed area (where site utilities and roads are available). Covered support buildings and structures include those for office purposes; parking; cafeteria services; education and training; visitor reception; computer and data processing services; employee health services or recreation activities; routine maintenance activities; storage of supplies and equipment for administrative services and routine maintenance activities; security (including security posts); fire protection; and similar support purposes, but excluding facilities for waste storage activities, except as provided in other parts of this appendix.

* * * * *

B1.18 Siting, construction, and operation of additional water supply wells (or replacement wells) within an existing well field, or modification of an existing water supply well to restore production, if there would be no drawdown other than in the immediate vicinity of the pumping well, no resulting long-term decline of the water table, and no degradation of the aquifer from the new or replacement well.

* * * * *

B1.21 Noise abatement measures, such as construction of noise barriers and installation of noise control materials.

B1.22 Relocation of buildings (including, but not limited to, trailers and prefabricated buildings) to an already developed area where site utilities and roads are available.

B1.23 Demolition and subsequent disposal of buildings, equipment, and support structures (including, but not limited to, smoke stacks and parking lot surfaces).

B1.24 Transfer, lease, disposition or acquisition of interests in uncontaminated real property (e.g., facilities, support structures and accompanying land) for residential, commercial, or industrial uses (including, but not limited to, office space, warehouses, equipment storage facilities) that do not involve any lessening in quality, or increases in volumes, concentrations, or discharge rates, of wastes, air emissions, or water effluents and that, under reasonably foreseeable uses, would have generally similar environmental impacts compared to those before the transfer, lease, disposition, or acquisition of interests.

B1.25 Transfer, lease, disposition or acquisition of interests in uncontaminated real property (e.g., land and associated buildings) for habitat preservation or wildlife management, but not including any habitat alteration.

B1.26 Siting, construction (including expansion, modification, and replacement), operation, and decommissioning of small water treatment facilities, including facilities for wastewater, potable water, surface water, and sewage, with a total capacity that generally does not exceed 250,000 gallons per day. (Also see B6.9).

B1.27 Activities that are required to deactivate a facility; i.e., disconnect utilities such as water, steam, telecommunications, and electrical power.

B1.28 Minor activities that are required to place a facility in an environmentally safe condition where there is no proposed use for the facility. These activities would include, but are not limited to, reducing surface contamination, and removing materials, equipment or waste, such as final defueling of a reactor, where there are adequate existing facilities for the treatment, storage, or disposal of the materials, equipment or waste. These activities would not include conditioning, treatment or processing of spent nuclear fuel, high-level waste, or special nuclear materials.

B1.29 Siting, construction, operation, and decommissioning of a small (generally less than 10 acres in area) onsite disposal facility for uncontaminated construction and demolition waste. These wastes, as defined in the Environmental Protection Agency's regulations under the Resource Conservation and Recovery Act, specifically 40 CFR 243.101, include building materials, packaging, and rubble.

B1.30 Transfer actions, in which the predominant activity is transportation, and in which the amount and type of materials, equipment or waste to be moved is incidental to the amount of such materials, equipment, or waste that is already a part of ongoing operations at the receiving site. Such transfers are not regularly scheduled as part of ongoing routine operations.

B1.31 Relocation of machinery and equipment, such as analytical laboratory apparatus, electronic hardware, maintenance equipment, and health and safety equipment, including minor construction necessary for removal and installation, where uses of the relocated items will be similar to their former uses and consistent with the general missions of the receiving structure.

B1.32 Restoration, creation, or enhancement of small wetlands in coordination with the cognizant Federal or State regulators, and where other environmental resources are not adversely affected.

B1.33 Traffic flow adjustments to existing roads at DOE sites (including, but not limited to, stop sign or traffic light installation, and adjusting direction of traffic flow).

11. Appendix B, section B2, is amended by adding B2.6, to read as follows:

B2. Categorical Exclusions Applicable to Safety and Health.

* * * * *

B2.6 Packaging, transportation, and storage of radioactive materials from the public domain, in accordance with the Atomic Energy Act upon a request by the Nuclear Regulatory Commission or other cognizant agency. Covered materials are those for which possession and use by Nuclear Regulatory Commission licensees has been categorically excluded under 10 CFR 51.22(14) or its successors. Examples of these radioactive materials (which may contain source, byproduct or special nuclear materials) are density gauges, therapeutic medical devices, generators, reagent kits, irradiators, analytical instruments, well monitoring equipment, uranium shielding material, depleted uranium military munitions, and packaged radioactive waste not exceeding 50 curies.

12. Appendix B, section B3, is amended to revise the introductory text to paragraph B3.1, B3.3, B3.6, and B3.10, and add new paragraphs B3.12 and B3.13, to read as follows:

B3. Categorical Exclusions Applicable to Site Characterization, Monitoring, and General Research.

B3.1 Onsite and offsite site characterization and environmental monitoring, including siting, construction (or modification), operation, and dismantlement or closing (abandonment) of characterization and monitoring devices and siting, construction, and associated operation of a small-scale laboratory building or renovation of a room in an existing building for sample analysis. Activities covered include, but are not limited to, site characterization and environmental monitoring under CERCLA and RCRA. Specific activities include, but are not limited to:

* * * * *

B3.3 Field and laboratory research, inventory, and information collection activities that are directly related to the conservation of fish or wildlife resources and that involve only negligible habitat destruction or population reduction.

* * * * *

B3.6 Siting, construction (or modification), operation, and decommissioning of facilities for indoor bench-scale research projects, conventional laboratory operations (for example, preparation of chemical standards and sample analysis); small-scale research and development projects; and small-scale pilot projects to verify a concept before demonstration actions. Construction (or modification) will be within or contiguous to an already developed area (where site utilities and roads are available).

* * * * *

B3.10 Siting, construction, operation, and decommissioning of a particle accelerator, including electron beam accelerator with primary beam energy generally less than 100 MeV, and associated beamlines, storage rings, colliders, and detectors for research and medical purposes, within or contiguous to an already developed area (where site utilities and roads are available), or internal modification of any accelerator facility regardless of energy that does not increase primary beam energy or current.

* * * * *

B3.12 Siting, construction (including modification), operation, and decommissioning of microbiological and biomedical diagnostic, treatment and research facilities (excluding Biosafety Level-3 and Biosafety Level-4; reference: Biosafety in Microbiological and Biomedical Laboratories, 3rd Edition, May 1993, U.S. Department of Health and Human Services Public Health Service, Centers of Disease Control and Prevention, and the National Institutes of Health (HHS Publication No. (CDC) 93–8395)) including, but not limited to, laboratories, treatment areas, offices, and storage areas, within or contiguous to an already developed area (where utilities and roads are available). Operation may include the purchase, installation, and operation of biomedical equipment, such as commercially available cyclotrons that are used to generate radioisotopes and radiopharmaceuticals, and commercially available biomedical imaging and spectroscopy instrumentation.

B3.13 Performing magnetic fusion experiments that do not use tritium as fuel, with existing facilities (including necessary modifications).

13. Appendix B, section B4, is amended to revise paragraphs B4.1, B4.2, B4.3, B4.6, B4.10, B4.11, B4.12 and B4.13, to read as follows:

B4. Categorical Exclusions Applicable to Power Marketing Administrations and to all of DOE with Regard to Power Resources.

B4.1 Establishment and implementation of contracts, marketing plans, policies, allocation plans, or acquisition of excess electric power that does not involve: (1) the integration of a new generation resource, (2) physical changes in the transmission system beyond the previously developed facility area, unless the changes are themselves categorically excluded, or (3) changes in the normal operating limits of generation resources.

B4.2 Export of electric energy as provided by section 202(e) of the Federal Power Act over existing transmission systems or using transmission system changes that are themselves categorically excluded.

B4.3 Changes in rates for electric power, power transmission, and other products or services provided by a Power Marketing Administration that are based on a change in revenue requirements if the operations of generation projects would remain within normal operating limits.

* * * * *

B4.6 Additions or modifications to electric power transmission facilities that would not affect the environment beyond the previously developed facility area including, but not limited to, switchyard rock grounding upgrades, secondary containment projects, paving projects, seismic upgrading, tower modifications, changing insulators, and replacement of poles, circuit breakers, conductors, transformers, and crossarms.

* * * * *

B4.10 Deactivation, dismantling, and removal of electric powerlines, substations, switching stations, and other transmission facilities, and right-of-way abandonment.

B4.11 Construction of electric power substations (including switching stations and support facilities) with power delivery at 230 kV or below, or modification (other than voltage increases) of existing substations and support facilities, that generally would not involve the construction of more than 10 miles of new or relocation of more than 20 miles of existing electric powerlines or the integration of a major new resource.

B4.12 Construction of electric powerlines (less than 10 miles in length) that are not for the integration of major new sources of generation into a main transmission system.

B4.13 Reconstruction (upgrading or rebuilding) and/or minor relocation of existing electric powerlines less than 20 miles in length to enhance environmental and land use values. Such actions include relocations to avoid right-of-way encroachments, resolve conflict with property development, accommodate road/highway construction, allow for the construction of facilities such as canals and pipelines, or reduce existing impacts to environmentally sensitive areas.

14. Appendix B, section B5, is amended to revise paragraphs B5.3, B5.5, and B5.9 through B5.12 and remove B5.13 through B5.16, to read as follows:

B5. Categorical Exclusions Applicable to Conservation, Fossil, and Renewable Energy Activities

* * * * *

B5.3 Modification (but not expansion) or abandonment (including plugging), which is not part of site closure, of crude oil storage access wells, brine injection wells, geothermal wells, and gas wells.

* * * * *

B5.5 Construction and subsequent operation of short crude oil, steam, geothermal, or natural gas pipeline segments between DOE facilities and existing transportation, storage, or refining facilities within a single industrial complex, if the pipeline segments are within existing rights-of-way.

* * * * *

B5.9 The grant or denial of any temporary exemption under the Powerplant and Industrial Fuel Use Act of 1978 for any electric powerplant.

B5.10 The grant or denial of any permanent exemption under the Powerplant and Industrial Fuel Use Act of 1978 of any existing electric powerplant other than an exemption under (1) section 312(c) relating to cogeneration, (2) section 312(l) relating to scheduled equipment outages, (3) section 312(b) relating to certain state or local requirements, and (4) section 312(g) relating to certain intermediate load powerplants.

B5.11 The grant or denial of a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 for any new electric powerplant to permit the use of certain fuel mixtures containing natural gas or petroleum.

B5.12 Workover (operations to restore production, such as deepening, plugging back, pulling and resetting lines, and squeeze cementing) of an existing oil, gas, or geothermal well to restore production when workover operations will be restricted to the existing wellpad and not involve any new site preparation or earth work that would disturb adjacent habitat.

15. Appendix B, section B6, is amended to revise the introductory text to paragraph B6.1, paragraph B6.1(b) & (j), B6.4, and B6.5 and add paragraph B6.9, to read as follows:

B6. Categorical Exclusions Applicable to Environmental Restoration and Waste Management Activities

B6.1 Small-scale, short-term cleanup actions, under RCRA, Atomic Energy Act, or other authorities, generally less than 5 million dollars in cost and 5 years duration,

to reduce risk to human health or the environment from the release or threat of release of a hazardous substance, including treatment (e.g., incineration), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the action. These actions include, but are not limited to:

* * * * *

(b) Removal of bulk containers (for example, drums, barrels) that contain or may contain hazardous substances, pollutants, contaminants, CERCLA-excluded petroleum or natural gas products, or hazardous wastes (designated in 40 CFR Part 261 or applicable state requirements), if such actions would reduce the likelihood of spillage, leakage, fire, explosion, or exposure to humans, animals, or the food chain;

* * * * *

(j) Segregation of wastes that may react with one another or form a mixture that could result in adverse environmental impacts;

* * * * *

B6.4 Siting, construction (including modification), operation, and decommissioning of a small facility (generally not to exceed an area of 50,000 square feet) within or contiguous to an already developed area (where site utilities and roads are developed) for storage of waste, other than high-level radioactive waste, generated onsite or resulting from activities connected to site operations. These actions do not include the storage of spent nuclear fuel.

B6.5 Siting, construction (or modification or expansion), operation, and decommissioning of an onsite facility for characterizing and sorting previously packaged waste or for overpacking waste, other than high-level radioactive waste, if operations do not involve unpacking waste. These actions do not include waste storage (covered under B6.4, B6.6 and C16) or the handling of spent nuclear fuel.

* * * * *

B6.9 Small-scale temporary measures to reduce migration of contaminated groundwater, including the siting, construction, operation, and decommissioning of necessary facilities. These measures include, but are not limited to, pumping, treating, storing, and reinjecting water and installing underground barriers. (Also see B1.26.)

16. Appendix C is amended by revising the Table of Contents entries C1, C4, C7, C9, C10, C11, C14 and C16 to read as follows:

Appendix C to Subpart D of Part 1021–Classes of Actions That Normally Require EAs But Not Necessarily EISs

C1 [Reserved]

* * * * *

C4 Upgrading and constructing electric powerlines

* * * * *

C7 Allocation of electric power, no major new generation resource/major changes in operation of generation resources/major new loads

* * * * *

C9 Restoration, creation, or enhancement of large wetlands.

C10 [Reserved]

C11 Siting/construction/operation/decommissioning of low- or medium-energy particle acceleration facility with primary beam energy generally greater than 100 MeV.

* * * * *

C14 Siting/construction/operation of water treatment facilities generally greater than 250,000 gallons per day capacity

* * * * *

C16 Siting/construction/operation/decommissioning of large waste storage facilities (not high-level radioactive waste, spent nuclear fuel)

17. Appendix C to Subpart D of Part 1021 is amended by removing and reserving paragraphs C1 & C10 and by revising C4, C7, C9, C11, C14 and C16, to read as follows:

C1 [Removed and Reserved]

* * * * *

C4 Upgrading (reconstructing) an existing electric powerline generally more than 20 miles in length or constructing a new electric powerline generally more than 10 miles in length.

* * * * *

C7 Establishment and implementation of contracts, policies, marketing plans, or allocation plans for the allocation of electric power that do not involve (1) the addition of new generation resources greater than 50 average megawatts, (2) major changes in the operating limits of generation resources greater than 50 average megawatts, or (3) service to discrete new loads of 10 average megawatts or more over a 12 month period. This applies to power marketing operations and to siting, construction, and operation of power generating facilities at DOE sites.

* * * * *

C9 Restoration, creation, or enhancement of large wetlands, or small wetlands where these actions may adversely affect other environmental resources.

C10 [Removed and Reserved]

C11 Siting, construction (or major modification), operation, and decommissioning of a low- or medium-energy (but greater than 100 MeV primary beam energy) particle acceleration facility, including electron beam acceleration facilities, and associated beamlines, storage rings, colliders, and detectors for research and medical purposes, within or contiguous to an already developed area (where site utilities and roads are available).

* * * * *

C14 Siting, construction (or expansion), and operation of water treatment facilities generally exceeding 250,000 gallons per day, including facilities for wastewater, potable water, and sewage.

* * * * *

C16 Siting, construction (including modification to increase capacity), operation, and decommissioning of packaging and unpacking facilities (that may include characterization operations) and large storage facilities (generally greater than 50,000 square feet in area) for waste, except high-level radioactive waste, generated onsite or resulting from activities connected to site operations. These actions do not include storage, packaging, or unpacking of spent nuclear fuel. [Also see B6.4, B6.5, and B6.6.]

18. Appendix D is amended to revise the Table of Contents entries for D1, D7, and D10 to read as follows:

Appendix D to Subpart D of Part 1021–Classes of Actions That Normally Require EISs

D1 Strategic Systems

* * * * *

D7 Allocation of electric power, major new generation resources/major changes in operation of generation resources/major loads

* * * * *

D10 Siting/construction/operation/decommissioning of major treatment, storage, and disposal facilities for high-level waste and spent nuclear fuel

* * * * *

19. Appendix D to Subpart D of Part 1021 is amended by revising paragraphs D1, D7 and D10, to read as follows:

D1 Strategic Systems, as defined in DOE Order 430.1, "Life-Cycle Asset Management," and designated by the Secretary.

* * * * *

D7 Establishment and implementation of contracts, policies, marketing plans or allocation plans for the allocation of electric power that involve (1) the addition of new generation resources greater than 50 average megawatts, (2) major changes in the operating limits of generation resources greater than 50 average megawatts, or (3) service to discrete new loads of 10 average megawatts or more over a 12 month period. This applies to power marketing operations and to siting construction, and operation of power generating facilities at DOE sites.

* * * * *

D10 Siting, construction, operation, and decommissioning of major treatment, storage, and disposal facilities for high-level waste and spent nuclear fuel, including geologic repositories, but not including onsite replacement or upgrades of storage facilities for spent nuclear fuel at DOE sites.

* * * * *

[FR Doc. 96–3631 Filed 2–16–96; 8:45 am]

BILLING CODE 6560–01–P

federal register

Tuesday
February 20, 1996

Part III

Office of Management and Budget

Management of Federal Information Resources; Notice

OFFICE OF MANAGEMENT AND BUDGET

Management of Federal Information Resources

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Revision of OMB Circular No. A–130, Transmittal No. 3, Appendix III, "Security of Federal Automated Information Resources."

SUMMARY: The Office of Management and Budget (OMB) is revising Appendix III, "Security of Federal Information Systems," of Circular No. A–130, "Management of Federal Automated Information Resources." This is the third stage of planned revisions to Circular A–130. Enactment of the Information Technology Management Reform Act of 1996 (Division E of the National Defense Authorization Act for Fiscal Year 1996) will require OMB to issue additional guidance on capital planning, investment control, and the management of information technology. A plan for those revisions will be announced in the Spring.

Transmittal 1 to Circular A–130, effective June 25, 1993, and published on July 2, 1993 (58 FR 36068) addressed the Information Management Policy section of the Circular (Section 8a), as well as Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals." That issuance dealt primarily with how the Federal government manages its information holdings, particularly information exchange with the public.

Transmittal 2 to Circular A–130, effective July 15, 1994, and published on July 25, 1994 (59 FR 37906) addressed agency management practices for information systems and information technology (Section 8b). That issuance was intended to (1) promote agency investments in information technology that improve service delivery to the public, reduce burden on the public, and lower the cost of Federal programs administration, and (2) encourage agencies to use information technology as a strategic resource to improve Federal work processes and organization.

This Transmittal 3 is intended to guide agencies in securing government information resources as they increasingly rely on an open and interconnected National Information Infrastructure. It stresses management controls, such as individual responsibility, awareness and training, and accountability, and explains how they can be supported by technical controls. Among other things, it requires agencies to assure that risk-based rules of behavior are established, that employees are trained in them, and that the rules are enforced. The revision also integrates security into program and mission goals, reduces the centralized reporting of security plans, emphasizes the management of risk rather than its measurement, and revises government-wide security responsibilities to be consistent with the Computer Security Act and the Paperwork Reduction Act of 1995.

This transmittal also makes minor technical revisions to Section 9 ("Assignment of Responsibilities") and Section 10 ("Oversight") to reflect the Paperwork Reduction Act of 1995 (Pub. L. 104–13). One substantive change has been made to Appendix I in Section 3.a. changing the annual requirement to review recordkeeping practices, training, violations, and notices to a biennial review, in accordance with other regular agency reviews not required by statute. Several minor changes have been made, none of which are intended to be substantive. In Section 2.c., a portion of the definition of "nonfederal agency" which has been inadvertently omitted has been added to reflect the current practice in state-federal matching programs. In Section 3.a., extraneous and confusing language referring to source or matching agencies was removed because the provision applies to any agency that participates in a matching program. The example's in 4.c.(1) were updated for clarity. Other editorial and organizational changes were made throughout the appendix.

Appendix IV has been changed to include material from OMB Memorandum M–95–22, "Implementing the Information Dissemination Provisions of the Paperwork Reduction Act of 1995" (September 29, 1995), and to delete some outdated or otherwise already implemented guidance from the discussion of Sections 9 and 10.

ELECTRONIC AVAILABILITY: This document is available on the OMB Home page of Welcome to the White House World Wide Web site (http://www.whitehouse.gov) as http://www1.whitehouse.gov/White-House/EOP/OMB/html/omb-a130.html. This document is also available on the Internet via anonymous File Transfer Protocol (FTP) from the National Institute of Standards and Technology (NIST) Computer Security Resource Clearinghouse at csrc.ncsl.nist.gov as /pub/secplcy/a130.txt (do not use any capital letters in the file name) or via the World Wide Web from http://csrc.ncsl.nist.gov/secplcy as a130.txt. Appendix III, "Security of Federal Automated Information Resources" can be separately obtained as a130app3.txt. The clearinghouse can also be reached using dial-in access at 301–948–5717. For those who do not have file transfer capability, the document can be retrieved via mail query by sending an electronic mail message to docserver@csrc.ncsl.nist.gov with no subject and with send a130.txt (or a130app3.txt for only the security appendix) as the first line of the body of the message. Paper copies may also be obtained by writing to the Publications Office, Office of Management and Budget, Room 2200 NEOB, Washington, D.C. 20503 or by telephone at (202) 395–7332.

FOR FURTHER INFORMATION CONTACT: Information Policy and Technology Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, D.C. 20503. Telephone: (202) 395–3785.

SUPPLEMENTARY INFORMATION:

Since December 30, 1985, Appendix III of Office of Management and Budget (OMB) Circular No. A–130, "Security of Federal Automated Information Systems," has defined a minimum set of controls for the security of Federal automated information systems (50 FR 52730). That Appendix, and its predecessor, Transmittal Memorandum No. 1 to OMB Circular No. A–71, (July 27, 1978), defined controls that were considered effective in a centralized processing environment which ran primarily custom-developed application software.

Today's computing environment is significantly different. It is characterized by open, widely distributed processing systems which frequently operate with commercial off-the-shelf software. While effective use of information technology often reduces risks to the Federal program being administered (e.g., risks from fraud or errors), the risk to and vulnerability of Federal information resources has increased. Greater risks result from increasing quantities of valuable information being committed to Federal systems, and from agencies being critically dependent on those systems to perform their missions. Greater vulnerabilities exist because virtually every Federal employee has access to Federal systems, and because these systems now interconnect with outside systems.

In part because of these trends, Congress enacted the Computer Security Act of 1987 (Pub. L. 100–235). That Act requires agencies to improve the security of Federal computer systems, plan for the security of sensitive systems, and provide mandatory awareness and training in security for all individuals with access to computer systems.

To assist agencies in implementing the Computer Security Act, OMB issued Bulletin No. 88–16, "Guidance for Preparation and Submission of Security Plans for Federal Computer Systems Containing Sensitive Information" (July 6, 1988), and OMB Bulletin No. 90–08, "Guidance for Preparation of Security Plans for Federal Computer Systems that Contain Sensitive Information" (July 9, 1990). This revision of Appendix III to OMB Circular A–130 incorporates and updates the policies set out in those Bulletins and supersedes them.

The report of the National Performance Review, "Creating a Government that Works Better & Costs Less: Reengineering through Information Technology" (September 1993), recommended that Circular A–130 be revised to: (1) Require an information security plan to be part of each agency's strategic information technology (IT) plan; (2) require that if computer security does not meet established thresholds, it be identified as a material weakness in the Federal Managers' Financial Integrity Act report; (3) require awareness and training of employees and contractors; (4) require that agencies improve planning for contingencies; and (5) establish and employ formal emergency response capabilities. Those recommendations are incorporated in this revision.

Since its establishment by the Computer Security Act, the Computer System Security and Privacy Advisory Board has recommended changes in Circular A–130 to: (1) Require that agencies establish computer emergency response teams; and (2) link oversight of Federal computer security activities more closely to the oversight established pursuant to the Federal Manager's Financial Integrity Act (FMFIA), Public Law 97–255. This revision incorporates both of those recommendations.

Subsequent to issuance of Bulletin 90–08, OMB, the National Institute of Standards and Technology (NIST), and the National Security Agency (NSA) met with 28 Federal departments and agencies to review their computer security programs. In February 1993, OMB, NIST and NSA issued a report ("Observations of Agency Computer Security Practices and Implementation of OMB Bulletin No. 90–08") which summarized those meetings and proposed several changes in OMB Circular A–130 as next steps to improving the Federal computer security program. Those proposed changes are incorporated in this revision.

The revised Appendix clarifies the relationship between requirements to protect information classified pursuant to an Executive Order and the requirements in this Appendix. Where an agency processes information which is controlled for national security reasons pursuant to an Executive Order or statute, security measures required by appropriate directives should be included in agency systems. Those policies, procedures, and practices will be coordinated with the U.S. Security Policy Board as directed by the President.

On May 22, 1995, the President signed into law the Paperwork Reduction Act of 1995, Public Law 104–13. That Act, in 44 U.S.C. 3505 and 3506, requires agencies to establish computer security programs, and it tasks OMB to develop and oversee the implementation of policies, principles, standards and guidelines on security. It also requires Federal agencies to identify and provide security protection consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note). This revision is intended to implement those OMB responsibilities.

Comments on the Proposed Appendix

On April 3, 1995, the revised Appendix was proposed for public comment (60 FR 16970). It was also sent directly to Federal agencies for comment and made available for comment via the Internet. Thirty-two comments were received. The comments supported the approach proposed in the revised Appendix. They also made a number of suggestions to improve it. The principal issues raised in comments and our response to them are set forth below.

1. Most of the comments stated that the preamble accompanying the proposed Appendix was useful in their understanding of the Appendix itself. They suggested that the information in the preamble be incorporated in the final Appendix for improved future understanding.

We agree with this suggestion, and have incorporated the preamble, as revised to accommodate changes made to the proposed Appendix, as part B of the final Appendix.

2. Many comments suggested that the terminology of the Appendix should be more directive.

We generally agree with this comment, and have changed part A of the Appendix to be directive, while leaving the descriptive material in part B as explanatory.

3. A number of comments noted that there is a difference between making individuals aware of security needs and training them. They suggested that the Appendix should clarify this distinction and the requirements associated with each.

We agree, and have made changes in the Appendix and the descriptive information in part B to clarify that the requirements for training are consistent with the Computer Security Act (i.e., for increasing computer security awareness and training in accepted security practice).

We have also added a clarification that training for members of the public who are given access to general support systems should normally be accomplished in the context of the application to which they are given access. As was pointed out in comments, members of the public should not be given direct access to general support systems, except through authorized use of an application. We have also added descriptive language in part B to address the need to train members of the public with access to major applications.

4. Several comments raised a concern about the proposed requirement to limit access to systems until a new employee has been trained in security responsibilities. They suggested that training be required to be completed within a certain amount of time after access is granted (e.g., 60 days).

We disagree. Understanding the security requirements that are integral to a system is a fundamental responsibility of each individual who accesses the system. It should not be delayed for administrative convenience. Furthermore, security training should be included as part of general training in use of the system for an employee. Initial awareness and training need not be accomplished through formal classroom training; in some cases it may be through interactive sessions of reading well-written and understandable rules. The critical factor is for the initial and subsequent awareness and training to be commensurate with the risk and magnitude of harm that could occur. Therefore, new employees can and should be trained in their security responsibilities before access is granted. The final Appendix includes this requirement.

5. Several comments expressed concern about the proposed removal of the requirement for agencies to prepare formal risk analyses. They point out that such analyses assist in identifying

threats, vulnerabilities, and risks to a system. They expressed a concern that without such analyses it would be difficult to convince senior management of the need for security. Other comments said that without risk analysis as the basis of decisions, security measures will not be effective. On the other hand, several comments supported the removal of this requirement, which they found not cost-effective.

We agree that security measures must be risk-based. The Computer Security Act requires that security controls be commensurate with the risk and magnitude of harm that could occur. Implicit in that approach is a need to assess the risk to each system. However, given the complexity and detail such formal analyses often entail, a formal risk analysis is not appropriate for every system. Therefore, the Appendix does not require that a formal risk analysis be performed.

At the same time, risk assessment is an essential element in ensuring adequate security. NIST recently issued a handbook, "An Introduction to Computer Security: The NIST Handbook" (March 16, 1995), which contains guidance on computer security risk management and provides a flexible framework for performing meaningful risk assessments. Part B references the NIST handbook.

6. Several comments asked about the relation between the rules of behavior required in the Appendix and operating policies prescribed in the NIST Handbook. Other comments made suggestions about the kind and scope of rules that should be included in the security plan.

We have added language to part B to describe the kinds of rules we believe are appropriate and to clarify that rules of behavior in the Appendix should be consistent with the system-specific policies described in the NIST handbook.

7. Several comments raised a concern about the effectiveness of reviews of security controls unless they are performed by independent reviewers.

An independent review can improve the objectivity of the review, as well as its value to top management in assessing the need for corrective action. Therefore, we have added language to the discussion in part B of the Appendix that clarifies that reviews of major applications, because of their higher risk, should be independent. We have not, however, required that reviews of all general support systems be independent. Nevertheless, given the value of an independent review, agencies may elect to use this approach, particularly where a system supports a high-risk agency function.

In addition, we understand that the U.S. General Accounting Office is developing guidance which provides a structured approach for performing reviews. We have also revised the Appendix to be consistent with OMB Circular No. A–123, "Management Accountability and Control" (June 21, 1995).

8. Several comments requested additional guidance on enforcement of the rules of behavior, either from the Department of Justice or the Office of Personnel Management (OPM).

The presumption in requiring rules of behavior is that they would be enforced as are other behavioral rules within an agency. Therefore, we are not proposing to have central guidance developed by either Justice or OPM. However, we expect that agencies will share their various approaches through inter-agency forums, such as the Computer Security Program Managers' Forum. We have added a brief discussion of this point to part B.

9. Several comments concerned the protection of shared information and requested that additional guidance be provided. We have clarified our intent in the discussion in part B.

10. One comment raised a concern about the Appendix's apparent subordination of technical controls to management controls. While we are stressing the importance of management controls, we have added preamble language to clarify that both types of controls must be in place to be effective.

11. A number of comments raised a concern about whether adequate funding would be forthcoming to implement the requirements of the Appendix.

Implicit in issuing the Appendix is our presumption that a system is created and maintained with adequate security or it should not be created or maintained. Security costs should therefore be factored into the normal capital planning and investment controls process for information technology, consistent with the information systems and information technology management requirements in Section 8b of this circular.

12. A number of comments concerned the government-wide role of the Security Policy Board. Several favored expanding that role, others proposed that it be more limited. Still others said the Appendix should be silent on national security directives.

We have revised the language in the Appendix to clarify the role of the Security Policy Board regrading security of information technology used to process classified information. We have also added language to the preamble which clarifies that Circular No. A–130 and the Appendix exclude certain mission critical systems, the so-called "Warner systems" from coverage, and to describe the Department of Defense's responsibilities pursuant to existing Presidential directives. The Appendix does not attempt to interpret the language of the directives. Rather, it clarifies that requirements issued pursuant to those directives should be used in place of the requirements of the Appendix with respect to the protection of classified information. The discussion of national security directives is included to assist in the coordination of security activities among various security communities.

Accordingly, Circular A–130 is revised as set forth below.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

Executive Office of the President

Office of Management and Budget

February 8, 1996.

Circular No. A–130, Revised (Transmittal Memorandum No. 3)

Memorandum for Heads of Executive Departments and Establishments

Subject: Management of Federal Information Resources.

Circular No. A–130 provides uniform government-wide information resources management policies as required by the Paperwork Reduction Act of 1980, as amended by the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35. This Transmittal Memorandum contains updated guidance on the "Security of Federal Automated Information Systems," Appendix III and makes minor technical revisions to the Circular to reflect the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The Circular is reprinted in its entirety for convenience.

Alice M. Rivlin,

Director.

Attachment

Circular No. A–130 Revised (Transmittal Memorandum No. 3)

Memorandum for Heads of Executive Departments and Establishments

Subject: Management of Federal Information Resources.

1. Purpose: This Circular establishes policy for the management of Federal information resources. Procedural and analytic guidelines for implementing specific aspects of these policies are included as appendices.

2. Rescissions: This Circular rescinds OMB Circulars No. A–3, A–71, A–90, A–108, A–114, and A–121, and all Transmittal Memoranda to those circulars.

3. Authorities: This Circular is issued pursuant to the Paperwork Reduction Act (PRA) of 1980, as amended by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35); the Privacy Act, as amended (5 U.S.C. 552a); the Chief Financial Officers Act (31 U.S.C. 3512 et seq.); the Federal Property and Administrative Services Act, as amended (40 U.S.C. 759 and 487); the Computer Security Act (40 U.S.C. 759 note); the Budget and Accounting Act, as amended (31 U.S.C. Chapter 11); Executive Order No. 12046 of March 27, 1978; and Executive Order No. 12472 of April 3, 1984.

4. Applicability and Scope:

a. The policies in this Circular apply to the information activities of all agencies of the executive branch of the Federal government.

b. Information classified for national security purposes should also be handled in accordance with the appropriate national security directives. National security emergency preparedness activities should be conducted in accordance with Executive Order No. 12472.

5. Background: The Paperwork Reduction Act establishes a broad mandate for agencies to perform their information resources management activities in an efficient, effective, and economical manner. To assist agencies in an integrated approach to information resources management, the Act requires that the Director of OMB develop and implement uniform and consistent information resources management policies; oversee the development and promote the use of information management principles, standards, and guidelines; evaluate agency information resources management practices in order to determine their adequacy and efficiency; and determine compliance of such practices with the policies, principles, standards, and guidelines promulgated by the Director.

6. Definitions:

a. The term "agency" means any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the Federal government, or any independent regulatory agency. Within the Executive Office of the President, the term includes only OMB and the Office of Administration.

b. The term "audiovisual production" means a unified presentation, developed according to a plan or script, containing visual imagery, sound or both, and used to convey information.

c. The term "dissemination" means the government initiated distribution of information to the public. Not considered dissemination within the meaning of this Circular is distribution limited to government employees or agency contractors or grantees, intra- or inter-agency use or sharing of government information, and responses to requests for agency records under the Freedom of Information Act (5 U.S.C. 552) or Privacy Act.

d. The term "full costs," when applied to the expenses incurred in the operation of an information processing service organization (IPSO), is comprised of all direct, indirect, general, and administrative costs incurred in the operation of an IPSO. These costs include, but are not limited to, personnel, equipment, software, supplies, contracted services from private sector providers, space occupancy, intra-agency services from within the agency, inter-agency services from other Federal agencies, other services that are provided by State and local governments, and Judicial and Legislative branch organizations.

e. The term "government information" means information created, collected, processed, disseminated, or disposed of by or for the Federal Government.

f. The term "government publication" means information which is published as an individual document at government expense, or as required by law. (44 U.S.C. 1901)

g. The term "information" means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.

h. The term "information dissemination product" means any book, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, disseminated by an agency to the public.

i. The term "information life cycle" means the stages through which information passes, typically characterized as creation or collection, processing, dissemination, use, storage, and disposition.

j. The term "information management" means the planning, budgeting, manipulating, and controlling of information throughout its life cycle.

k. The term "information resources" includes both government information and information technology.

l. The term "information processing services organization" (IPSO) means a discrete set of personnel, information technology, and support equipment with the primary function of providing services to more than one agency on a reimbursable basis.

m. The term "information resources management" means the process of managing information resources to accomplish agency missions. The term encompasses both information itself and the related resources, such as personnel, equipment, funds, and information technology.

n. The term "information system" means a discrete set of information resources organized for the collection, processing, maintenance, transmission, and dissemination of information, in accordance with defined procedures, whether automated or manual.

o. The term "information system life cycle" means the phases through which an information system passes, typically characterized as initiation, development, operation, and termination.

p. The term "information technology" means the hardware and software operated by a Federal agency or by a contractor of a Federal agency or other organization that processes information on behalf of the Federal government to accomplish a Federal function, regardless of the technology involved, whether computers, telecommunications, or others. It includes automatic data processing equipment as that term is defined in Section 111(a)(2) of the Federal Property and Administrative Services Act of 1949. For the purposes of this Circular, automatic data processing and telecommunications activities related to certain critical national security missions, as defined in 44 U.S.C. 3502(2) and 10 U.S.C. 2315, are excluded.

q. The term "major information system" means an information system that requires special management attention because of its importance to an agency mission; its high development, operating, or maintenance costs; or its significant role in the administration of agency programs, finances, property, or other resources.

r. The term "records" means all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the informational value of the data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included. (44 U.S.C. 3301)

s. The term "records management" means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations. (44 U.S.C. 2901(2))

t. The term "service recipient" means an agency organizational unit, programmatic entity, or chargeable account that receives information processing services from an information processing service organization (IPSO). A service recipient may be either internal or external to the organization responsible for providing information resources services, but normally does not report either to the manager or director of the IPSO or to the same immediate supervisor.

7. Basic Considerations and Assumptions:

a. The Federal Government is the largest single producer, collector, consumer, and disseminator of information in the United States. Because of the extent of the government's information activities, and the dependence of those activities upon public cooperation, the management of Federal information resources is an issue of continuing importance to all Federal agencies, State and local governments, and the public.

b. Government information is a valuable national resource. It provides the public with knowledge of the government, society, and economy—past, present, and future. It is a means to ensure the accountability of government, to manage the government's operations, to maintain the healthy performance of the economy, and is itself a commodity in the marketplace.

c. The free flow of information between the government and the public is essential to a democratic society. It is also essential that the government minimize the Federal paperwork burden on the public, minimize the cost of its information activities, and maximize the usefulness of government information.

d. In order to minimize the cost and maximize the usefulness of government information, the expected public and private benefits derived from government information should exceed the public and private costs of the information, recognizing that the benefits to be derived from government information may not always be quantifiable.

e. The nation can benefit from government information disseminated both by Federal agencies and by diverse nonfederal parties, including State and local government agencies, educational and other not-for-profit institutions, and for-profit organizations.

f. Because the public disclosure of government information is essential to the operation of a democracy, the management of Federal information resources should protect the public's right of access to government information.

g. The individual's right to privacy must be protected in Federal Government information activities involving personal information.

h. Systematic attention to the management of government records is an essential component of sound public resources management which ensures public accountability. Together with records preservation, it protects the government's historical record and guards the legal and financial rights of the government and the public.

i. Agency strategic planning can improve the operation of government programs. The application of information resources should support an agency's strategic plan to fulfill its mission. The integration of IRM planning with agency strategic planning promotes the appropriate application of Federal information resources.

j. Because State and local governments are important producers of government information for many areas such as health, social welfare, labor, transportation, and education, the Federal Government must cooperate with these governments in the management of information resources.

k. The open and efficient exchange of scientific and technical government information, subject to applicable national security controls and the proprietary rights of others, fosters excellence in scientific research and effective use of Federal research and development funds.

l. Information technology is not an end in itself. It is one set of resources that can improve the effectiveness and efficiency of Federal program delivery.

m. Federal Government information resources management policies and activities can affect, and be affected by, the information policies and activities of other nations.

n. Users of Federal information resources must have skills, knowledge, and training to manage information resources, enabling the Federal government to effectively serve the public through automated means.

o. The application of up-to-date information technology presents opportunities to promote fundamental changes in agency structures, work processes, and ways of interacting with the public that improve the effectiveness and efficiency of Federal agencies.

p. The availability of government information in diverse media, including electronic formats, permits agencies and the public greater flexibility in using the information.

q. Federal managers with program delivery responsibilities should recognize the importance of information resources management to mission performance.

8. Policy

a. Information Management Policy:

(1) Information Management Planning. Agencies shall plan in an integrated manner for managing information throughout its life cycle. Agencies shall:

(a) Consider, at each stage of the information life cycle, the effects of decisions and actions on other stages of the life cycle, particularly those concerning information dissemination;

(b) Consider the effects of their actions on members of the public and ensure consultation with the public as appropriate;

(c) Consider the effects of their actions on State and local governments and ensure consultation with those governments as appropriate;

(d) Seek to satisfy new information needs through interagency or intergovernmental sharing of information, or through commercial sources, where appropriate, before creating or collecting new information;

(e) Integrate planning for information systems with plans for resource allocation and use, including budgeting, acquisition, and use of information technology;

(f) Train personnel in skills appropriate to management of information;

(g) Protect government information commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information;

(h) Use voluntary standards and Federal Information Processing Standards where appropriate or required;

(i) Consider the effects of their actions on the privacy rights of individuals, and ensure that appropriate legal and technical safeguards are implemented;

(j) Record, preserve, and make accessible sufficient information to ensure the management and accountability of agency programs, and to protect the legal and financial rights of the Federal Government;

(k) Incorporate records management and archival functions into the design, development, and implementation of information systems;

(l) Provide for public access to records where required or appropriate.

(2) Information Collection. Agencies shall collect or create only that information necessary for the proper performance of agency functions and which has practical utility.

(3) Electronic Information Collection. Agencies shall use electronic collection techniques where such techniques reduce burden on the public, increase efficiency of government programs, reduce costs to the government and the public, and/or provide better service to the public. Conditions favorable to electronic collection include:

(a) The information collection seeks a large volume of data and/or reaches a large proportion of the public;

(b) The information collection recurs frequently;

(c) The structure, format, and/or definition of the information sought by the information collection does not change significantly over several years;

(d) The agency routinely converts the information collected to electronic format;

(e) A substantial number of the affected public are known to have ready access to the necessary information technology and to maintain the information in electronic form;

(f) Conversion to electronic reporting, if mandatory, will not impose substantial costs or other adverse effects on the public, especially State and local governments and small business entities.

(4) Records Management. Agencies shall:

(a) Ensure that records management programs provide adequate and proper documentation of agency activities;

(b) Ensure the ability to access records regardless of form or medium;

(c) In a timely fashion, establish, and obtain the approval of the Archivist of the United States for, retention schedules for Federal records; and

(d) Provide training and guidance as appropriate to all agency officials and employees and contractors regarding their Federal records management responsibilities.

(5) Providing Information to the Public. Agencies have a responsibility to provide information to the public consistent with their missions. Agencies shall discharge this responsibility by:

(a) Providing information, as required by law, describing agency organization, activities, programs, meetings, systems of records, and other information holdings, and how the public may gain access to agency information resources;

(b) Providing access to agency records under provisions of the Freedom of Information Act and the Privacy Act, subject to the protections and limitations provided for in these Acts;

(c) Providing such other information as is necessary or appropriate for the proper performance of agency functions; and

(d) In determining whether and how to disseminate information to the public, agencies shall:

(i) Disseminate information in a manner that achieves the best balance between the goals of maximizing the usefulness of the information and minimizing the cost to the government and the public;

(ii) Disseminate information dissemination products on equitable and timely terms;

(iii) Take advantage of all dissemination channels, Federal and nonfederal, including State and local governments, libraries and private sector entities, in discharging agency information dissemination responsibilities;

(iv) Help the public locate government information maintained by or for the agency.

(6) Information Dissemination Management System. Agencies shall maintain and implement a management system for all information dissemination products which shall, at a minimum:

(a) Assure that information dissemination products are necessary for proper performance of agency functions (44 U.S.C. 1108);

(b) Consider whether an information dissemination product available from other Federal or nonfederal sources is equivalent to an agency information dissemination product and reasonably fulfills the dissemination responsibilities of the agency;

(c) Establish and maintain inventories of all agency information dissemination products;

(d) Develop such other aids to locating agency information dissemination products including catalogs and directories, as may reasonably achieve agency information dissemination objectives;

(e) Identify in information dissemination products the source of the information, if from another agency;

(f) Ensure that members of the public with disabilities whom the agency has a responsibility to inform have a reasonable ability to access the information dissemination products;

(g) Ensure that government publications are made available to depository libraries through the facilities of the Government Printing Office, as required by law (44 U.S.C. Part 19);

(h) Provide electronic information dissemination products to the Government Printing Office for distribution to depository libraries;

(i) Establish and maintain communications with members of the public and with State and local governments so that the agency creates information dissemination products that meet their respective needs;

(j) Provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products; and

(k) Ensure that, to the extent existing information dissemination policies or practices are inconsistent with the requirements of this Circular, a prompt and orderly transition to compliance with the requirements of this Circular is made.

(7) Avoiding Improperly Restrictive Practices. Agencies shall:

(a) Avoid establishing, or permitting others to establish on their behalf, exclusive, restricted, or other distribution arrangements that interfere with the availability of information dissemination products on a timely and equitable basis;

(b) Avoid establishing restrictions or regulations, including the charging of fees or royalties, on the reuse, resale, or redissemination of Federal information dissemination products by the public; and,

(c) Set user charges for information dissemination products at a level sufficient to recover the cost of dissemination but no higher. They shall exclude from calculation of the charges costs associated with original collection and processing of the information. Exceptions to this policy are:

(i) Where statutory requirements are at variance with the policy;

(ii) Where the agency collects, processes, and disseminates the information for the benefit of a specific identifiable group beyond the benefit to the general public;

(iii) Where the agency plans to establish user charges at less than cost of dissemination because of a determination that higher charges would constitute a significant barrier to properly performing the agency's functions, including reaching members of the public whom the agency has a responsibility to inform; or

(iv) Where the Director of OMB determines an exception is warranted.

(8) Electronic Information Dissemination. Agencies shall use electronic media and formats, including public networks, as appropriate and within budgetary constraints, in order to make government information more easily accessible and useful to the public. The use of electronic media and formats for information dissemination is appropriate under the following conditions:

(a) The agency develops and maintains the information electronically;

(b) Electronic media or formats are practical and cost effective ways to provide public access to a large, highly detailed volume of information;

(c) The agency disseminates the product frequently;

(d) The agency knows a substantial portion of users have ready access to the necessary information technology and training to use electronic information dissemination products;

(e) A change to electronic dissemination, as the sole means of disseminating the product, will not impose substantial acquisition or training costs on users, especially State and local governments and small business entities.

(9) Safeguards. Agencies shall:

(a) Ensure that information is protected commensurate with the risk and magnitude of the harm that would result from the loss, misuse, or unauthorized access to or modification of such information;

(b) Limit the collection of information which identifies individuals to that which is legally authorized and necessary for the proper performance of agency functions;

(c) Limit the sharing of information that identifies individuals or contains proprietary information to that which is legally authorized, and impose appropriate conditions on use where a continuing obligation to ensure the confidentiality of the information exists;

(d) Provide individuals, upon request, access to records about them maintained in Privacy Act systems of records, and permit them to amend such records as are in error consistent with the provisions of the Privacy Act.

b. Information Systems and Information Technology Management

(1) Evaluation and Performance Measurement. Agencies shall promote the appropriate application of Federal information resources as follows:

(a) Seek opportunities to improve the effectiveness and efficiency of government programs through work process redesign and the judicious application of information technology;

(b) Prepare, and update as necessary throughout the information system life cycle, a benefit-cost analysis for each information system:

(i) At a level of detail appropriate to the size of the investment;

(ii) Consistent with the methodology described in OMB Circular No. A–94, "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs;" and

(iii) that relies on systematic measures of mission performance, including the:

(a) Effectiveness of program delivery;

(b) Efficiency of program administration; and

(c) Reduction in burden, including information collection burden, imposed on the public;

(c) Conduct benefit-cost analyses to support ongoing management oversight processes that maximize return on investment and minimize financial and operational risk for investments in major information systems on an agency-wide basis; and

(d) Conduct post-implementation reviews of information systems to validate estimated benefits and document effective management practices for broader use.

(2) Strategic Information Resources Management (IRM) Planning. Agencies shall establish and maintain strategic information resources management planning processes which include the following components:

(a) Strategic IRM planning that addresses how the management of information resources promotes the fulfillment of an agency's mission. This planning process should support the development and maintenance of a strategic IRM plan that reflects and anticipates changes in the agency's mission, policy direction, technological capabilities, or resource levels;

(b) Information planning that promotes the use of information throughout its life cycle to maximize the usefulness of information, minimize the burden on the public, and preserve the appropriate integrity, availability, and confidentiality of information. It shall specifically address the planning and budgeting for the information collection burden imposed on the public as defined by 5 CFR 1320;

(c) Operational information technology planning that links information technology to anticipated program and mission needs, reflects budget constraints, and forms the basis for budget requests. This planning should result in the preparation and maintenance of an up-to-date five-year plan, as required by 44 U.S.C. 3506, which includes:

(i) A listing of existing and planned major information systems;

(ii) A listing of planned information technology acquisitions;

(iii) An explanation of how the listed major information systems and planned information technology acquisitions relate to each other and support the achievement of the agency's mission; and

(iv) A summary of computer security planning, as required by Section 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note); and

(d) Coordination with other agency planning processes including strategic, human resources, and financial resources.

(3) Information Systems Management Oversight. Agencies shall establish information system management oversight mechanisms that:

(a) Ensure that each information system meets agency mission requirements;

(b) Provide for periodic review of information systems to determine:

(i) How mission requirements might have changed;

(ii) Whether the information system continues to fulfill ongoing and anticipated mission requirements; and

(iii) What level of maintenance is needed to ensure the information system meets mission requirements cost effectively;

(c) Ensure that the official who administers a program supported by an information system is responsible and accountable for the management of that information system throughout its life cycle;

(d) Provide for the appropriate training for users of Federal information resources;

(e) Prescribe Federal information system requirements that do not unduly restrict the prerogatives of State, local, and tribal governments;

(f) Ensure that major information systems proceed in a timely fashion towards agreed-upon milestones in an information system life cycle, meet user requirements, and deliver intended benefits to the agency and affected publics through coordinated decision making about the information, human, financial, and other supporting resources; and

(g) Ensure that financial management systems conform to the requirements of OMB Circular No. A–127, "Financial Management Systems."

(4) **USE OF INFORMATION RESOURCES.** Agencies shall create and maintain management and technical frameworks for using information resources that document linkages between mission needs, information content, and information technology capabilities. These frameworks should guide both strategic and operational IRM planning. They should also address steps necessary to create an open systems environment. Agencies shall implement the following principles:

(a) Develop information systems in a manner that facilitates necessary interoperability, application portability, and scalability of computerized applications across networks of heterogeneous hardware, software, and communications platforms;

(b) Ensure that improvements to existing information systems and the development of planned information systems do not unnecessarily duplicate information systems available within the same agency, from other agencies, or from the private sector;

(c) Share available information systems with other agencies to the extent practicable and legally permissible;

(d) Meet information technology needs through intra-agency and inter-agency sharing, when it is cost effective, before acquiring new information technology resources;

(e) For Information Processing Service Organizations (IPSOs) that have costs in excess of $5 million per year, agencies shall:

(i) Account for the full costs of operating all IPSOs; (ii) Recover the costs incurred for providing IPSO services to all service recipients on an equitable basis commensurate with the costs required to provide those services; and

(iii) Document sharing agreements between service recipients and IPSOs; and

(f) Establish a level of security for all information systems that is commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of the information contained in these information systems.

(5) **ACQUISITION OF INFORMATION TECHNOLOGY.** Agencies shall:

(a) Acquire information technology in a manner that makes use of full and open competition and that maximizes return on investment;

(b) Acquire off-the-shelf software from commercial sources, unless the cost effectiveness of developing custom software to meet mission needs is clear and has been documented;

(c) Acquire information technology in accordance with OMB Circular No. A–109, "Acquisition of Major Systems," where appropriate; and

(d) Acquire information technology in a manner that considers the need for accommodations of accessibility for individuals with disabilities to the extent that needs for such access exist.

9. **ASSIGNMENT OF RESPONSIBILITIES**

a. **ALL FEDERAL AGENCIES.** The head of each agency shall:

(1) Have primary responsibility for managing agency information resources;

(2) Ensure that the information policies, principles, standards, guidelines, rules, and regulations prescribed by OMB are implemented appropriately within the agency;

(3) Develop internal agency information policies and procedures and oversee, evaluate, and otherwise periodically review agency information resources management activities for conformity with the policies set forth in this Circular;

(4) Develop agency policies and procedures that provide for timely acquisition of required information technology;

(5) Maintain an inventory of the agencies' major information systems, holdings and information dissemination products, as required by 44 U.S.C. 3511.

(6) Implement and enforce applicable records management policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

(7) Identify to the Director, OMB, statutory, regulatory, and other impediments to efficient management of Federal information resources and recommend to the Director legislation, policies, procedures, and other guidance to improve such management;

(8) Assist OMB in the performance of its functions under the PRA including making services, personnel, and facilities available to OMB for this purpose to the extent practicable;

(9) Appoint a senior official, as required by 44 U.S.C. 3506(a), who shall report directly to the agency head to carry out the responsibilities of the agency under the PRA. The head of the agency shall keep the Director, OMB, advised as to the name, title, authority, responsibilities, and organizational resources of the senior official. For purposes of this paragraph, military departments and the Office of the Secretary of Defense may each appoint one official.

(10) Direct the senior official appointed pursuant to 44 U.S.C. 3506(a) to monitor agency compliance with the policies, procedures, and guidance in this Circular. Acting as an ombudsman, the senior official shall consider alleged instances of agency failure to comply with this Circular and recommend or take corrective action as appropriate. The senior official shall report annually, not later than February 1st of each year, to the Director those instances of alleged failure to comply with this Circular and their resolution.

b. **DEPARTMENT OF STATE.** The Secretary of State shall:

(1) Advise the Director, OMB, on the development of United States positions and policies on international information policy issues affecting Federal Government information activities and ensure that such positions and policies are consistent with Federal information resources management policy;

(2) Ensure, in consultation with the Secretary of Commerce, that the United States is represented in the development of international information technology standards, and advise the Director, OMB, of such activities.

c. **DEPARTMENT OF COMMERCE.** The Secretary of Commerce shall:

(1) Develop and issue Federal Information Processing Standards and guidelines necessary to ensure the efficient and effective acquisition, management, security, and use of information technology;

(2) Advise the Director, OMB, on the development of policies relating to the procurement and management of Federal telecommunications resources;

(3) Provide OMB and the agencies with scientific and technical advisory services relating to the development and use of information technology;

(4) Conduct studies and evaluations concerning telecommunications technology, and concerning the improvement, expansion, testing, operation, and use of Federal telecommunications systems and advise the Director, OMB, and appropriate agencies of the recommendations that result from such studies;

(5) Develop, in consultation with the Secretary of State and the Director of OMB, plans, policies, and programs relating to international telecommunications issues affecting government information activities;

(6) Identify needs for standardization of telecommunications and information processing technology, and develop standards, in consultation with the Secretary of Defense and the Administrator of General Services, to ensure efficient application of such technology;

(7) Ensure that the Federal Government is represented in the development of national and, in consultation with the Secretary of State, international information technology standards, and advise the Director, OMB, of such activities.

d. **DEPARTMENT OF DEFENSE.** The Secretary of Defense shall develop, in consultation with the Administrator of General Services, uniform Federal telecommunications standards and guidelines to ensure national security, emergency preparedness, and continuity of government.

e. **GENERAL SERVICES ADMINISTRATION.** The Administrator of General Services shall:

(1) Advise the Director, OMB, and agency heads on matters affecting the procurement of information technology;

(2) Coordinate and, when required, provide for the purchase, lease, and maintenance of information technology required by Federal agencies;

(3) Develop criteria for timely procurement of information technology and delegate procurement authority to agencies that comply with the criteria;

(4) Provide guidelines and regulations for Federal agencies, as authorized by law, on the acquisition, maintenance, and disposition of information technology, and for implementation of Federal Information Processing Standards;

(5) Develop policies and guidelines that facilitate the sharing of information technology among agencies as required by this Circular;

(6) Manage the Information Technology Fund in accordance with the Federal Property and Administrative Services Act as amended;

f. **OFFICE OF PERSONNEL MANAGEMENT.** The Director, Office of Personnel Management, shall:

(1) Develop and conduct training programs for Federal personnel on information resources management including end-user computing;

(2) Evaluate periodically future personnel management and staffing requirements for Federal information resources management;

(3) Establish personnel security policies and develop training programs for Federal personnel associated with the design, operation, or maintenance of information systems.

g. National Archives and Records Administration. The Archivist of the United States shall:

(1) Administer the Federal records management program in accordance with the National Archives and Records Act;

(2) Assist the Director, OMB, in developing standards and guidelines relating to the records management program.

h. Office of Management and Budget. The Director of the Office of Management and Budget shall:

(1) Provide overall leadership and coordination of Federal information resources management within the executive branch;

(2) Serve as the President's principal adviser on procurement and management of Federal telecommunications systems, and develop and establish policies for procurement and management of such systems;

(3) Issue policies, procedures, and guidelines to assist agencies in achieving integrated, effective, and efficient information resources management;

(4) Initiate and review proposals for changes in legislation, regulations, and agency procedures to improve Federal information resources management;

(5) Review and approve or disapprove agency proposals for collection of information from the public, as defined by 5 CFR 1320.3;

(6) Develop and maintain a Governmentwide strategic plan for information resources management.

(7) Evaluate agencies' information resources management and identify cross-cutting information policy issues through the review of agency information programs, information collection budgets, information technology acquisition plans, fiscal budgets, and by other means;

(8) Provide policy oversight for the Federal records management function conducted by the National Archives and Records Administration, coordinate records management policies and programs with other information activities, and review compliance by agencies with records management requirements;

(9) Review agencies' policies, practices, and programs pertaining to the security, protection, sharing, and disclosure of information, in order to ensure compliance, with respect to privacy and security, with the Privacy Act, the Freedom of Information Act, the Computer Security Act and related statutes;

(10) Resolve information technology procurement disputes between agencies and the General Services Administration pursuant to Section 111 of the Federal Property and Administrative Services Act;

(11) Review proposed U.S. Government Position and Policy statements on international issues affecting Federal Government information activities and advise the Secretary of State as to their consistency with Federal information resources management policy.

(12) Coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy.

10. Oversight:

a. The Director, OMB, will use information technology planning reviews, fiscal budget reviews, information collection budget reviews, management reviews, and such other measures as the Director deems necessary to evaluate the adequacy and efficiency of each agency's information resources management and compliance with this Circular.

b. The Director, OMB, may, consistent with statute and upon written request of an agency, grant a waiver from particular requirements of this Circular. Requests for waivers must detail the reasons why a particular waiver is sought, identify the duration of the waiver sought, and include a plan for the prompt and orderly transition to full compliance with the requirements of this Circular. Notice of each waiver request shall be published promptly by the agency in the **Federal Register**, with a copy of the waiver request made available to the public on request.

11. Effectiveness: This Circular is effective upon issuance. Nothing in this Circular shall be construed to confer a private right of action on any person.

12. Inquiries: All questions or inquiries should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Telephone: (202) 395–3785.

13. Sunset Review Date: OMB will review this Circular three years from the date of issuance to ascertain its effectiveness.

Appendix I to OMB Circular No. A–130—Federal Agency Responsibilities for Maintaining Records About Individuals

1. Purpose and Scope

This Appendix describes agency responsibilities for implementing the reporting and publication requirements of the Privacy Act of 1974, 5 U.S.C. 552a, as amended (hereinafter "the Act"). It applies to all agencies subject to the Act. Note that this Appendix does not rescind other guidance OMB has issued to help agencies interpret the Privacy Act's provisions, e.g., Privacy Act Guidelines (40 FR 28949–28978, July 9, 1975), or Final Guidance for Conducting Matching Programs (54 FR at 25819, June 19, 1989).

2. Definitions

a. The terms "agency," "individual," "maintain," "matching program," "record," "system of records," and "routine use," as used in this Appendix, are defined in the Act (5 U.S.C. 552a(a)).

b. Matching Agency. Generally, the Recipient Federal agency (or the Federal source agency in a match conducted by a nonfederal agency) is the matching agency and is responsible for meeting the reporting and publication requirements associated with the matching program. However, in large, multi-agency matching programs, where the recipient agency is merely performing the matches and the benefit accrues to the source agencies, the partners should assign responsibility for compliance with the administrative requirements in a fair and reasonable way. This may mean having the matching agency carry out these requirements for all parties, having one participant designated to do so, or having each source agency do so for its own matching program(s).

c. Nonfederal Agency. Nonfederal agencies are State or local governmental agencies receiving or providing records in a matching program with a Federal agency.

d. Recipient Agency. Recipient agencies are Federal agencies or their contractors receiving automated records from the Privacy Act systems of records of other Federal agencies, or from State or local governments, to be used in a matching program as defined in the Act.

e. Source Agency. A source agency is a Federal agency that discloses automated records from a system of records to another Federal agency or to a State or local agency to be used in a matching program. It is also a State or local agency that discloses records to a Federal agency for use in a matching program.

3. Assignment of Responsibilities

a. All Federal Agencies. In addition to meeting the agency requirements contained in the Act and the specific reporting and publication requirements detailed in this Appendix, the head of each agency shall ensure that the following reviews are conducted as often as specified below, and be prepared to report to the Director, OMB, the results of such reviews and the corrective action taken to resolve problems uncovered. The head of each agency shall:

(1) Section (m) Contracts. Review every two years a random sample of agency contracts that provide for the maintenance of a system of records on behalf of the agency to accomplish an agency function, in order to ensure that the wording of each contract makes the provisions of the Act binding on the contractor and his or her employees. (See 5 U.S.C. 552a(m)(1)).

(2) Recordkeeping Practices. Review biennially agency recordkeeping and disposal policies and practices in order to assure compliance with the Act, paying particular attention to the maintenance of automated records.

(3) Routine Use Disclosures. Review every four years the routine use disclosures associated with each system of records in order to ensure that the recipient's use of such records continues to be compatible with the purpose for which the disclosing agency collected the information.

(4) Exemption of Systems of Records. Review every four years each system of records for which the agency has promulgated exemption rules pursuant to Section (j) or (k) of the Act in order to determine whether such exemption is still needed.

(5) Matching Programs. Review annually each ongoing matching program in which the agency has participated during the year in order to ensure that the requirements of the Act, the OMB guidance, and any agency regulations, operating instructions, or guidelines have been met.

(6) Privacy Act Training. Review biennially agency training practices in order to ensure that all agency personnel are familiar with the requirements of the Act, with the agency's implementing regulation, and with any special requirements of their specific jobs.

(7) Violations. Review biennially the actions of agency personnel that have resulted either in the agency being found civilly liable under Section (g) of the Act, or an employee being found criminally liable under the provisions of Section (i) of the Act, in order to determine the extent of the problem, and to find the most effective way to prevent recurrence of the problem.

(8) Systems of Records Notices. Review biennially each system of records notice to ensure that it accurately describes the system of records. Where minor changes are needed, e.g., the name of the system manager, ensure that an amended notice is published in the **Federal Register**. Agencies may choose to make one annual comprehensive publication consolidating such minor changes. This requirement is distinguished from and in addition to the requirement to report to OMB and Congress significant changes to systems of records and to publish those changes in the **Federal Register** (See paragraph 4c of this Appendix).

b. Department of Commerce. The Secretary of Commerce shall, consistent with guidelines issued by the Director, OMB, develop and issue standards and guidelines for ensuring the security of information protected by the Act in automated information systems.

c. The Department of Defense, General Services Administration, and National Aeronautics and Space Administration. These agencies shall, consistent with guidelines issued by the Director, OMB, ensure that instructions are issued on what agencies must do in order to comply with the requirements of Section (m) of the Act when contracting for the operation of a system of records to accomplish an agency purpose.

d. Office of Personnel Management. The Director of the Office of Personnel Management shall, consistent with guidelines issued by the Director, OMB:

(1) Develop and maintain government-wide standards and procedures for civilian personnel information processing and recordkeeping directives to assure conformance with the Act.

(2) Develop and conduct Privacy Act training programs for agency personnel, including both the conduct of courses in various substantive areas (e.g., administrative, information technology) and the development of materials that agencies can use in their own courses. The assignment of this responsibility to OPM does not affect the responsibility of individual agency heads for developing and conducting training programs tailored to the specific needs of their own personnel.

e. National Archives and Records Administration. The Archivist of the United States through the Office of the Federal Register, shall, consistent with guidelines issued by the Director, OMB:

(1) Issue instructions on the format of the agency notices and rules required to be published under the Act.

(2) Compile and publish every two years, the rules promulgated under 5 U.S.C. 552a(f) and agency notices published under 5 U.S.C. 552a(e)(4) in a form available to the public at low cost.

(3) Issue procedures governing the transfer of records to Federal Records Centers for storage, processing, and servicing pursuant to 44 U.S.C. 3103. For purposes of the Act, such records are considered to be maintained by the agency that deposited them. The Archivist may disclose deposited records only according to the access rules established by the agency that deposited them.

f. Office of Management and Budget. The Director of the Office of Management and Budget will:

(1) Issue guidelines and directives to the agencies to implement the Act.

(2) Assist the agencies, at their request, in implementing their Privacy Act programs.

(3) Review new and altered system of records and matching program reports submitted pursuant to Section (o) of the Act.

(4) Compile the biennial report of the President to Congress in accordance with Section (s) of the Act.

(5) Compile and issue a biennial report on the agencies' implementation of the computer matching provisions of the Privacy Act, pursuant to Section (u)(6) of the Act.

4. Reporting Requirements. The Privacy Act requires agencies to make the following kinds of reports:

Report	When Due	Recipient**
Biennial Privacy Act Report	June 30, 1996, 1998, 2000, 2002	Administrator, OIRA.
Biennial Matching Activity Report	June 30, 1996, 1998, 2000, 2002	Administrator, OIRA.
New System of Records Report	When establishing a system of records—at least 40 days before operating the system*.	Administrator, OIRA, Congress.
Altered System of Records Report.	When adding a new routine use, exemption, or otherwise significantly altering an existing system of records—at least 40 days before change to system takes place.	*Administrator, OIRA, Congress.
New Matching Program Report	When establishing a new matching program—at least 40 days before operating the program*.	Administrator, OIRA, Congress.
Renewal of Existing Matching Program.	At least 40 days prior to expiration of any one year extension of the original program—treat as a new program.	Administrator, OIRA, Congress.
Altered Matching Program	When making a significant change to an existing matching program—at least 40 days before operating an altered program*.	Administrator, OIRA, Congress.
Matching Agreements	At least 40 days prior to the start of a matching program*	Congress.

*Review Period: Note that the statutory reporting requirement is 30 days prior; the additional ten days will ensure that OMB and Congress have sufficient time to review the proposal. Agencies should therefore ensure that reports are mailed expeditiously after being signed.

**Recipient Addresses: At bottom of envelope print "Privacy Act Report".

House of Representatives: The Chair of the House Committee on Government Reform and Oversight, 2157 RHOB, Washington, D.C. 20515–6143.

Senate: The Chair of the Senate Committee on Governmental Affairs, 340 SDOB, Washington, D.C. 20510–6250.

Office of Management and Budget: The Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Docket Library, NEOB Room 10012, Washington, D.C. 20503.

a. Biennial Privacy Act Report. To provide the necessary information for the biennial report of the President, agencies shall submit a biennial report to OMB, covering their Privacy Act activities for the calendar years covered by the reporting period. The exact format of the report will be established by OMB. At a minimum, however, agencies should collect and be prepared to report the following data on a calendar year basis:

(1) A listing of publication activity during the year showing the following:

*Total Number of Systems of Records (Exempt/NonExempt)
*Number of New Systems of Records Added (Exempt/NonExempt)
*Number Routine Uses Added
*Number Exemptions Added to Existing Systems
*Number Exemptions Deleted from Existing Systems
*Total Number of Automated Systems of Records (Exempt/NonExempt)

The agency should provide a brief narrative describing those activities in detail, e.g., "the Department added a (k)(1) exemption to an existing system of records entitled "Investigative Records of the Office of Investigations;" or "the agency added a new routine use to a system of records entitled 'Employee Health Records' that would permit disclosure of health data to researchers under contract to the agency to perform workplace risk analysis."

(2) A brief description of any public comments received on agency publication and implementation activities, and agency response.

(3) Number of access and amendment requests from record subjects citing the Privacy Act that were received during the calendar year of the report. Also the disposition of requests from any year that were completed during the calendar year of the report:

*Total Number of Access Requests
Number Granted in Whole
Number Granted in Part
Number Wholly Denied
Number For Which No Record Found
*Total Amendment Requests
Number Granted in Whole
Number Granted in Part
Number Wholly Denied
*Number of Appeals of Denials of Access
Number Granted in Whole
Number Granted in Part
Number Wholly Denied
Number For Which No Record Found
*Number of Appeals of Denials of Amendment
Number Granted in Whole
Number Granted in Part
Number Wholly Denied

(4) Number of instances in which individuals brought suit under section (g) of the Privacy Act against the agency and the results of any such litigation that resulted in a change to agency practices or affected guidance issued by OMB.

(5) Results of the reviews undertaken in response to paragraph 3a of this Appendix.

(6) Description of agency Privacy Act training activities conducted in accordance with paragraph 3a(6) of this Appendix.

b. Biennial Matching Activity Report (See 5 U.S.C. 552a(u)(3)(D)). At the end of each calendar year, the Data Integrity Board of each agency that has participated in a matching program will collect data summarizing that year's matching activity. The Act requires that such activity be reported every two years. OMB will establish the exact format of the report, but agencies' Data Integrity Boards should be prepared to report the data identified below both to the agency head and to OMB:

(1) A listing of the names and positions of the members of the Data Integrity Board and showing separately the name of the Board Secretary, his or her agency mailing address, and telephone number. Also show and explain any changes in membership or structure occurring during the reporting year.

(2) A listing of each matching program, by title and purpose, in which the agency participated during the reporting year. This listing should show names of participant agencies, give a brief description of the program, and give a page citation and the date of the **Federal Register** notice describing the program.

(3) For each matching program, an indication of whether the cost/benefit analysis performed resulted in a favorable ratio. The Data Integrity Board should explain why the agency proceeded with any matching program for which an unfavorable ratio was reached.

(4) For each program for which the Board waived a cost/benefit analysis, the reasons for the waiver and the results of the match, if tabulated.

(5) A description of any matching agreement the Board rejected and an explanation of the rejection.

(6) A listing of any violations of matching agreements that have been alleged or identified, and a discussion of any action taken.

(7) A discussion of any litigation involving the agency's participation in any matching program.

(8) For any litigation based on allegations of inaccurate records, an explanation of the steps the agency used to ensure the integrity of its data as well as the verification process it used in the matching program, including an assessment of the adequacy of each.

c. New and Altered System of Records Report. The Act requires agencies to publish notices in the **Federal Register** describing new or altered systems of records, and to submit reports to OMB, and to the Chair of the Committee on Government Reform and Oversight of the House of Representatives, and the Chair of the Committee on Governmental Affairs of the Senate. The reports must be transmitted at least 40 days prior to the operation of the new system of records or the date on which the alteration to an existing system takes place.

(1) Which Alterations Require a Report. Minor changes to systems of records need not be reported. For example, a change in the designation of the system manager due to a reorganization would not require a report, so long as an individual's ability to gain access to his or her records is not affected. Other examples include changing applicable safeguards as a result of a risk analysis or deleting a routine use when there is no longer a need for the disclosure. The following changes are those for which a report is required:

(a) A significant increase in the number, type, or category of individuals about whom records are maintained. For example, a system covering physicians that has been expanded to include other types of health care providers, e.g., nurses, technicians, etc., would require a report. Increases attributable to normal growth should not be reported.

(b) A change that expands the types or categories of information maintained. For example, a benefit system which originally included only earned income information that has been expanded to include unearned income information.

(c) A change that alters the purpose for which the information is used.

(d) A change to equipment configuration (either hardware or software) that creates substantially greater access to the records in the system of records. For example, locating interactive terminals at regional offices for accessing a system formerly accessible only at the headquarters would require a report.

(e) The addition of an exemption pursuant to Section (j) or (k) of the Act. Note that, in examining a rulemaking for a Privacy Act exemption as part of a report of a new or altered system of records, OMB will also review the rule under applicable regulatory review procedures and agencies need not make a separate submission for that purpose.

(f) The addition of a routine use pursuant to 5 U.S.C. 552a(b)(3).

(2) Reporting Changes to Multiple Systems of Records. When an agency makes a change to an information technology installation or a telecommunication network, or makes any other general changes in information collection, processing, dissemination, or storage that affect multiple systems of records, it may submit a single, consolidated report, with changes to existing notices and supporting documentation included in the submission.

(3) Contents of the New or Altered System Report. The report for a new or altered system has three elements: a transmittal letter, a narrative statement, and supporting documentation.

(a) Transmittal Letter. The transmittal letter should be signed by the senior agency official responsible for implementation of the Act within the agency and should contain the name and telephone number of the individual who can best answer questions about the system of records. The letter should contain the agency's assurance that the proposed system does not duplicate any existing agency or government-wide systems of records. The letter sent to OMB may also include a request for waiver of the time

period for the review. The agency should indicate why it cannot meet the established review period and the consequences of not obtaining the waiver. (See paragraph 4e below.) There is no prescribed format for the letter.

(b) Narrative Statement. There is also no prescribed format for the narrative statement, but it should be brief. It should make reference, as appropriate, to information in the supporting documentation rather than restating such information. The statement should:

1. Describe the purpose for which the agency is establishing the system of records.

2. Identify the authority under which the system of records is maintained. The agency should avoid citing housekeeping statutes, but rather cite the underlying programmatic authority for collecting, maintaining, and using the information. When the system is being operated to support an agency housekeeping program, e.g., a carpool locator, the agency may, however, cite a general housekeeping statute that authorizes the agency head to keep such records as necessary.

3. Provide the agency's evaluation of the probable or potential effect of the proposal on the privacy of individuals.

4. Provide a brief description of the steps taken by the agency to minimize the risk of unauthorized access to the system of records. A more detailed assessment of the risks and specific administrative, technical, procedural, and physical safeguards established shall be made available to OMB upon request.

5. Explain how each proposed routine use satisfies the compatibility requirement of subsection (a)(7) of the Act. For altered systems, this requirement pertains only to any newly proposed routine use.

6. Provide OMB Control Numbers, expiration dates, and titles of any information collection requests (e.g., forms, surveys, etc.) contained in the system of records and approved by OMB under the Paperwork Reduction Act. If the request for OMB clearance of an information collection is pending, the agency may simply state the title of the collection and the date it was submitted for OMB clearance.

(c) Supporting Documentation. Attach the following to all new or altered system of records reports:

1. A copy of the new or altered system of records notice consistent with the provisions of 5 U.S.C. 552a(e)(4). The notice must appear in the format prescribed by the Office of the Federal Register's *Document Drafting Handbook*. For proposed altered systems the agency should supply a copy of the original system of records notice to ensure that reviewers can understand the changes proposed. If the sole change to an existing system of records is to add a routine use, the agency should either republish the entire system of records notice, a condensed description of the system of records, or a citation to the last full text **Federal Register** publication.

2. A copy in **Federal Register** format of any new exemption rules or changes to published rules (consistent with the provisions of 5 U.S.C. 552a(f),(j), or (k)) that the agency proposes to issue for the new or altered system.

(4) OMB Review. OMB will review reports under 5 U.S.C. 552a(r) and provide comments if appropriate. Agencies may assume that OMB concurs in the Privacy Act aspects of their proposal if OMB has not commented within 40 days from the date the transmittal letter was signed. Agencies should ensure that letters are transmitted expeditiously after they are signed.

(5) Timing of Systems of Records Reports. Agencies may publish system of records and routine use notices as well as proposed exemption rules in the **Federal Register** at the same time that they send the new or altered system report to OMB and Congress. The period for OMB and congressional review and the notice and comment period for routine uses and exemptions will then run concurrently. Note that exemptions must be published as final rules before they are effective.

d. New or Altered Matching Program Report. The Act requires agencies to publish notices in the **Federal Register** describing new or altered matching programs, and to submit reports to OMB, and to Congress. The report must be received at least 40 days prior to the initiation of any matching activity carried out under a new or substantially altered matching program. For renewals of continuing programs, the report must be dated at least 40 days prior to the expiration of any existing matching agreement.

(1) When to Report Altered Matching Programs. Agencies need not report minor changes to matching programs. The term "minor change to a matching program" means a change that does not significantly alter the terms of the agreement under which the program is being carried out. Examples of significant changes include:

(a) Changing the purpose for which the program was established.

(b) Changing the matching population, either by including new categories of record subjects or by greatly increasing the numbers of records matched.

(c) Changing the legal authority covering the matching program.

(d) Changing the source or recipient agencies involved in the matching program.

(2) Contents of New or Altered Matching Program Report. The report for a new or altered matching program has three elements: a transmittal letter, a narrative statement, and supporting documentation that includes a copy of the proposed **Federal Register** notice.

(a) Transmittal Letter. The transmittal letter should be signed by the senior agency official responsible for implementation of the Privacy Act within the agency and should contain the name and telephone number of the individual who can best answer questions about the matching program. The letter should state that a copy of the matching agreement has been distributed to Congress as the Act requires. The letter to OMB may also include a request for waiver of the review time period. (See 4e below.)

(b) Narrative Statement. There is no prescribed format for the narrative statement, but it should be brief. It should make reference, as appropriate, to information in the supporting documentation rather than restating such information. The statement should provide:

1. A description of the purpose of the matching program and the authority under which it is being carried out.

2. A description of the security safeguards used to protect against any unauthorized access or disclosure of records used in the match.

3. If the cost/benefit analysis required by Section (u)(4)(A) indicated an unfavorable ratio or was waived pursuant to OMB guidance, an explanation of the basis on which the agency justifies conducting the match.

(c) Supporting Documentation. Attach the following:

1. A copy of the **Federal Register** notice describing the matching program. The notice must appear in the format prescribed by the Office of the Federal Register's *Document Drafting Handbook*. (See 5b (3).)

2. For the Congressional report only, a copy of the matching agreement.

(3) OMB Review. OMB will review reports under 5 U.S.C. 552a(r) and provide comments if appropriate. Agencies may assume that OMB concurs in the Privacy Act aspects of their proposal if OMB has not commented within 40 days from the date the transmittal letter was signed.

(4) Timing of Matching Program Reports. Agencies should ensure that letters are transmitted expeditiously after they are signed. Agencies may publish matching program notices in the **Federal Register** at the same time that they send the matching program report to OMB and Congress. The period for OMB and congressional review and the notice and comment period will then run concurrently.

e. Expedited Review. The Director, OMB, may grant a waiver of the 40-day review period for either systems of records or matching program reviews. The agency must ask for the waiver in the transmittal letter and demonstrate compelling reasons. When a waiver is granted, the agency is not thereby relieved of any other requirement of the Act. If no waiver is granted, agencies may presume concurrence at the expiration of the 40 day review period if OMB has not commented by that time. Note that OMB cannot waive time periods specifically established by the Act such as the 30 days notice and comment period required for the adoption of a routine use proposal pursuant to Section (b)(3) of the Act.

5. Publication Requirements. The Privacy Act requires agencies to publish notices or rules in the **Federal Register** in the following circumstances: when adopting a new or altered system of records, when adopting a routine use, when adopting an exemption for a system of records, or when proposing to carry out a new or altered matching program. (See paragreph 4c(1) and 4d(1) above on what constitutes an alteration requiring a report to OMB and the Congress.)

a. Publishing New or Altered Systems of Records Notices and Exemption Rules.

(1) Who Publishes. The agency responsible for operating the system of records makes the necessary publication. Publication should be carried out at the departmental or agency level. Even where a system of records is to be operated exclusively by a component, the department rather than the component should publish the notice. Thus, for example, the Department of the Treasury would publish a system of records notice covering a system operated exclusively by the Internal Revenue Service. Note that if the agency is proposing to exempt the system under Section (j) or (k) of the Act, it must publish a rule in addition to the system of records notice.

(a) Government-wide Systems of Records. Certain agencies publish systems of records containing records for which they have government-wide responsibilities. The records may be located in other agencies, but they are being used under the authority of and in conformance with the rules mandated by the publishing agency. The Office of Personnel Management, for example, has published a number of government-wide systems of records relating to the operation of the government's personnel program. Agencies should not publish systems of records that wholly or partly duplicate existing government-wide systems of records.

(b) Section (m) Contract Provisions. When an agency provides by contract for the operation of a system of records, it should ensure that a system of records notice describing the system has been published. It should also review the notice to ensure that it contains a routine use under Section (e)(4)(D) of the Act permitting disclosure to the contractor and his or her personnel.

(2) When to Publish.

(a) System Notice. The system of records notice must appear in the **Federal Register** before the agency begins to operate the system, e.g., collect and use the information.

(b) Routine Use. A routine use must be published in the **Federal Register** 30 days before the agency discloses records pursuant to its terms. (Note that the addition of a routine use to an existing system of records requires a report to OMB and Congress, and that the review period for this report is 40 days.)

(c) Exemption Rule. A rule exempting a system of records under (j) or (k) or the Act must be established through informal rulemaking pursuant to the Administrative Procedure Act. This process generally requires publication of a proposed rule, a period during which the public may comment, publication of a final rule, and the adoption of the final rule. Agencies may not withhold records under an exemption until these requirements have been met.

(3) Format. Agencies should follow the publication format contained in the Office of the Federal Register's *Document Drafting Handbook* which may be obtained from the Government Printing Office.

b. Publishing Matching Notices.

(1) Who Publishes. Generally, the recipient Federal agency (or the Federal source agency in a match conducted by a nonfederal agency) is responsible for publishing in the **Federal Register** a notice describing the new or altered matching program. However, in large, multi-agency matching programs, where the recipient agency is merely performing the matches, and the benefit accrues to the source agencies, the partners should assign responsibility for compliance with the administrative requirements in a fair and reasonable way. This may mean having the matching agency carry out these requirements for all parties, having one participant designated to do so, or having each source agency do so for its own matching program(s).

(2) Timing. Publication must occur at least 30 days prior to the initiation of any matching activity carried out under a new or substantially altered matching program. For renewals of programs agencies wish to continue past the 30 month period of initial eligibility (i.e., the initial 18 months plus a one year extension), publication must occur at least 30 days prior to the expiration of the existing matching agreement. (But note that a report to OMB and the Congress is also required with a 40 day review period).

(3) Format. The matching notice shall be in the format prescribed by the Office of the Federal Register's Document Drafting Handbook and contain the following information:

(a) The name of the Recipient Agency.

(b) The Name(s) of the Source Agencies.

(c) The beginning and ending dates of the match.

(d) A brief description of the matching program, including its purpose; the legal authorities authorizing its operation; categories of individuals involved; and identification of records used, including name(s) of Privacy Act Systems of records.

(e) The identification, address, and telephone number of a Recipient Agency official who will answer public inquiries about the program.

Appendix II to OMB Circular No. A–130—Cost Accounting, Cost Recovery, and Interagency Sharing of Information Technology Facilities

[The guidance formerly found in Appendix II has been revised and placed in Section 8b. See, Transmittal No. 2, 59 FR 37906. Appendix II has been deleted and is reserved for future topics.]

Appendix III to OMB Circular No. A–130—Security of Federal Automated Information Resources

A. Requirements

1. *Purpose*

This Appendix establishes a minimum set of controls to be included in Federal automated information security programs; assigns Federal agency responsibilities for the security of automated information; and links agency automated information security programs and agency management control systems established in accordance with OMB Circular No. A–123. The Appendix revises procedures formerly contained in Appendix III to OMB Circular No. A–130 (50 FR 52730; December 24, 1985), and incorporates requirements of the Computer Security Act of 1987 (P.L. 100–235) and responsibilities assigned in applicable national security directives.

2. *Definitions*

The term:

a. "Adequate security" means security commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information. This includes assuring that systems and applications used by the agency operate effectively and provide appropriate confidentiality, integrity, and availability, through the use of cost-effective management, personnel, operational, and technical controls.

b. "Application" means the use of information resources (information and information technology) to satisfy a specific set of user requirements.

c. "General support system" or "system" means an interconnected set of information resources under the same direct management control which shares common functionality. A system normally includes hardware, software, information, data, applications, communications, and people. A system can be, for example, a local area network (LAN) including smart terminals that supports a branch office, an agency-wide backbone, a communications network, a departmental data processing center including its operating system and utilities, a tactical radio network, or a shared information processing service organization (IPSO).

d. "Major application" means an application that requires special attention to security due to the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of the information in the application. Note: All Federal applications require some level of protection. Certain applications, because of the information in them, however, require special management oversight and should be treated as major. Adequate security for other applications should be provided by security of the systems in which they operate.

3. *Automated Information Security Programs.* Agencies shall implement and maintain a program to assure that adequate security is provided for all agency information collected, processed, transmitted, stored, or disseminated in general support systems and major applications.

Each agency's program shall implement policies, standards and procedures which are consistent with government-wide policies, standards, and procedures issued by the Office of Management and Budget, the Department of Commerce, the General Services Administration and the Office of Personnel Management (OPM). Different or more stringent requirements for securing national security information should be incorporated into agency programs as required by appropriate national security directives. At a minimum, agency programs shall include the following controls in their general support systems and major applications:

a. Controls for general support systems.

(1) *Assign Responsibility for Security.* Assign responsibility for security in each system to an individual knowledgeable in the information technology used in the system and in providing security for such technology.

(2) *System Security Plan.* Plan for adequate security of each general support system as part of the organization's information resources management (IRM) planning process. The security plan shall be consistent

with guidance issued by the National Institute of Standards and Technology (NIST). Independent advice and comment on the security plan shall be solicited prior to the plan's implementation. A summary of the security plans shall be incorporated into the strategic IRM plan required by the Paperwork Reduction Act (44 U.S.C. Chapter 35) and Section 8(b) of this circular. Security plans shall include:

(a) *Rules of the System.* Establish a set of rules of behavior concerning use of, security in, and the acceptable level of risk for, the system. The rules shall be based on the needs of the various users of the system. The security required by the rules shall be only as stringent as necessary to provide adequate security for information in the system. Such rules shall clearly delineate responsibilities and expected behavior of all individuals with access to the system. They shall also include appropriate limits on interconnections to other systems and shall define service provision and restoration priorities. Finally, they shall be clear about the consequences of behavior not consistent with the rules.

(b) *Training.* Ensure that all individuals are appropriately trained in how to fulfill their security responsibilities before allowing them access to the system. Such training shall assure that employees are versed in the rules of the system, be consistent with guidance issued by NIST and OPM, and apprise them about available assistance and technical security products and techniques. Behavior consistent with the rules of the system and periodic refresher training shall be required for continued access to the system.

(c) *Personnel Controls.* Screen individuals who are authorized to bypass significant technical and operational security controls of the system commensurate with the risk and magnitude of harm they could cause. Such screening shall occur prior to an individual being authorized to bypass controls and periodically thereafter.

(d) *Incident Response Capability.* Ensure that there is a capability to provide help to users when a security incident occurs in the system and to share information concerning common vulnerabilities and threats. This capability shall share information with other organizations, consistent with NIST coordination, and should assist the agency in pursuing appropriate legal action, consistent with Department of Justice guidance.

(e) *Continuity of Support.* Establish and periodically test the capability to continue providing service within a system based upon the needs and priorities of the participants of the system.

(f) *Technical Security.* Ensure that cost-effective security products and techniques are appropriately used within the system.

(g) *System Interconnection.* Obtain written management authorization, based upon the acceptance of risk to the system, prior to connecting with other systems. Where connection is authorized, controls shall be established which are consistent with the rules of the system and in accordance with guidance from NIST.

(3) *Review of Security Controls.* Review the security controls in each system when significant modifications are made to the system, but at least every three years. The scope and frequency of the review should be commensurate with the acceptable level of risk for the system. Depending on the potential risk and magnitude of harm that could occur, consider identifying a deficiency pursuant to OMB Circular No. A–123, "Management Accountability and Control" and the Federal Managers' Financial Integrity Act (FMFIA), if there is no assignment of security responsibility, no security plan, or no authorization to process for a system.

(4) *Authorize Processing.* Ensure that a management official authorizes in writing the use of each general support system based on implementation of its security plan before beginning or significantly changing processing in the system. Use of the system shall be re-authorized at least every three years.

b. Controls for Major Applications.

(1) *Assign Responsibility for Security.* Assign responsibility for security of each major application to a management official knowledgeable in the nature of the information and process supported by the application and in the management, personnel, operational, and technical controls used to protect it. This official shall assure that effective security products and techniques are appropriately used in the application and shall be contacted when a security incident occurs concerning the application.

(2) *Application Security Plan.* Plan for the adequate security of each major application, taking into account the security of all systems in which the application will operate. The plan shall be consistent with guidance issued by NIST. Advice and comment on the plan shall be solicited from the official responsible for security in the primary system in which the application will operate prior to the plan's implementation. A summary of the security plans shall be incorporated into the strategic IRM plan required by the Paperwork Reduction Act. Application security plans shall include:

(a) *Application Rules.* Establish a set of rules concerning use of and behavior within the application. The rules shall be as stringent as necessary to provide adequate security for the application and the information in it. Such rules shall clearly delineate responsibilities and expected behavior of all individuals with access to the application. In addition, the rules shall be clear about the consequences of behavior not consistent with the rules.

(b) *Specialized Training.* Before allowing individuals access to the application, ensure that all individuals receive specialized training focused on their responsibilities and the application rules. This may be in addition to the training required for access to a system. Such training may vary from a notification at the time of access (e.g., for members of the public using an information retrieval application) to formal training (e.g., for an employee that works with a high-risk application).

(c) *Personnel Security.* Incorporate controls such as separation of duties, least privilege and individual accountability into the application and application rules as appropriate. In cases where such controls cannot adequately protect the application or information in it, screen individuals commensurate with the risk and magnitude of the harm they could cause. Such screening shall be done prior to the individuals' being authorized to access the application and periodically thereafter.

(d) *Contingency Planning.* Establish and periodically test the capability to perform the agency function supported by the application in the event of failure of its automated support.

(e) *Technical Controls.* Ensure that appropriate security controls are specified, designed into, tested, and accepted in the application in accordance with appropriate guidance issued by NIST.

(f) *Information Sharing.* Ensure that information shared from the application is protected appropriately, comparable to the protection provided when information is within the application.

(g) *Public Access Controls.* Where an agency's application promotes or permits public access, additional security controls shall be added to protect the integrity of the application and the confidence the public has in the application. Such controls shall include segregating information made directly accessible to the public from official agency records.

(3) *Review of Application Controls.* Perform an independent review or audit of the security controls in each application at least every three years. Consider identifying a deficiency pursuant to OMB Circular No. A–123, "Management Accountability and Control" and the Federal Managers' Financial Integrity Act if there is no assignment of responsibility for security, no security plan, or no authorization to process for the application.

(4) *Authorize Processing.* Ensure that a management official authorizes in writing use of the application by confirming that its security plan as implemented adequately secures the application. Results of the most recent review or audit of controls shall be a factor in management authorizations. The application must be authorized prior to operating and re-authorized at least every three years thereafter. Management authorization implies accepting the risk of each system used by the application.

4. *Assignment of Responsibilities*

a. *Department of Commerce.* The Secretary of Commerce shall:

(1) Develop and issue appropriate standards and guidance for the security of sensitive information in Federal computer systems.

(2) Review and update guidelines for training in computer security awareness and accepted computer security practice, with assistance from OPM.

(3) Provide agencies guidance for security planning to assist in their development of application and system security plans.

(4) Provide guidance and assistance, as appropriate, to agencies concerning cost-effective controls when interconnecting with other systems.

(5) Coordinate agency incident response activities to promote sharing of incident response information and related vulnerabilities.

(6) Evaluate new information technologies to assess their security vulnerabilities, with technical assistance from the Department of Defense, and apprise Federal agencies of such vulnerabilities as soon as they are known.

b. *Department of Defense.* The Secretary of Defense shall:

(1) Provide appropriate technical advice and assistance (including work products) to the Department of Commerce.

(2) Assist the Department of Commerce in evaluating the vulnerabilities of emerging information technologies.

c. *Department of Justice.* The Attorney General shall:

(1) Provide appropriate guidance to agencies on legal remedies regarding security incidents and ways to report and work with law enforcement concerning such incidents.

(2) Pursue appropriate legal actions when security incidents occur.

d. *General Services Administration.* The Administrator of General Services shall:

(1) Provide guidance to agencies on addressing security considerations when acquiring automated data processing equipment (as defined in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949, as amended).

(2) Facilitate the development of contract vehicles for agencies to use in the acquisition of cost-effective security products and services (e.g., back-up services).

(3) Provide appropriate security services to meet the needs of Federal agencies to the extent that such services are cost-effective.

e. *Office of Personnel Management.* The Director of the Office of Personnel Management shall:

(1) Assure that its regulations concerning computer security training for Federal civilian employees are effective.

(2) Assist the Department of Commerce in updating and maintaining guidelines for training in computer security awareness and accepted computer security practice.

f. *Security Policy Board.* The Security Policy Board shall coordinate the activities of the Federal government regarding the security of information technology that processes classified information in accordance with applicable national security directives;

5. *Correction of Deficiencies and Reports*

a. *Correction of Deficiencies.* Agencies shall correct deficiencies which are identified through the reviews of security for systems and major applications described above.

b. *Reports on Deficiencies.* In accordance with OMB Circular No. A–123, "Management Accountability and Control", if a deficiency in controls is judged by the agency head to be material when weighed against other agency deficiencies, it shall be included in the annual FMFIA report. Less significant deficiencies shall be reported and progress on corrective actions tracked at the appropriate agency level.

c. *Summaries of Security Plans.* Agencies shall include a summary of their system security plans and major application plans in the strategic plan required by the Paperwork Reduction Act (44 U.S.C. 3506).

B. Descriptive Information

The following descriptive language is explanatory. It is included to assist in understanding the requirements of the Appendix.

The Appendix re-orients the Federal computer security program to better respond to a rapidly changing technological environment. It establishes government-wide responsibilities for Federal computer security and requires Federal agencies to adopt a minimum set of management controls. These management controls are directed at individual information technology users in order to reflect the distributed nature of today's technology.

For security to be most effective, the controls must be part of day-to-day operations. This is best accomplished by planning for security not as a separate activity, but as an integral part of overall planning.

"Adequate security" is defined as "security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information." This definition explicitly emphasizes the risk-based policy for cost-effective security established by the Computer Security Act.

The Appendix no longer requires the preparation of formal risk analyses. In the past, substantial resources have been expended doing complex analyses of specific risks to systems, with limited tangible benefit in terms of improved security for the systems. Rather than continue to try to precisely measure risk, security efforts are better served by generally assessing risks and taking actions to manage them. While formal risk analyses need not be performed, the need to determine adequate security will require that a risk-based approach be used. This risk assessment approach should include a consideration of the major factors in risk management: the value of the system or application, threats, vulnerabilities, and the effectiveness of current or proposed safeguards. Additional guidance on effective risk assessment is available in "An Introduction to Computer Security: The NIST Handbook" (March 16, 1995).

Discussion of the Appendix's Major Provisions. The following discussion is provided to aid reviewers in understanding the changes in emphasis in the Appendix.

Automated Information Security Programs. Agencies are required to establish controls to assure adequate security for all information processed, transmitted, or stored in Federal automated information systems. This Appendix emphasizes management controls affecting individual users of information technology. Technical and operational controls support management controls. To be effective, all must interrelate. For example, authentication of individual users is an important management control, for which password protection is a technical control. However, password protection will only be effective if both a strong technology is employed, and it is managed to assure that it is used correctly.

Four controls are set forth: assigning responsibility for security, security planning, periodic review of security controls, and management authorization. The Appendix requires that these management controls be applied in two areas of management responsibility: one for general support systems and one for major applications.

The terms "general support system" and "major application" were used in OMB Bulletins Nos. 88–16 and 90–08. A general support system is "an interconnected set of information resources under the same direct management control which shares common functionality." Such a system can be, for example, a local area network (LAN) including smart terminals that supports a branch office, an agency-wide backbone, a communications network, a departmental data processing center including its operating system and utilities, a tactical radio network, or a shared information processing service organization. Normally, the purpose of a general support system is to provide processing or communications support.

A major application is a use of information and information technology to satisfy a specific set of user requirements that requires special management attention to security due to the risk and magnitude of harm resulting from the loss, misuse or unauthorized access to or modification of the information in the application. All applications require some level of security, and adequate security for most of them should be provided by security of the general support systems in which they operate. However, certain applications, because of the nature of the information in them, require special management oversight and should be treated as major. Agencies are expected to exercise management judgement in determining which of their applications are major.

The focus of OMB Bulletins Nos. 88–16 and 90–08 was on identifying and securing both general support systems and applications which contained sensitive information. The Appendix requires the establishment of security controls in all general support systems, under the presumption that all contain some sensitive information, and focuses extra security controls on a limited number of particularly high-risk or major applications.

a. *General Support Systems.* The following controls are required in all general support systems:

(1) *Assign Responsibility for Security.* For each system, an individual should be a focal point for assuring there is adequate security within the system, including ways to prevent, detect, and recover from security problems. That responsibility should be assigned in writing to an individual trained in the technology used in the system and in providing security for such technology, including the management of security controls such as user identification and authentication.

(2) *Security Plan.* The Computer Security Act requires that security plans be developed for all Federal computer systems that contain sensitive information. Given the expansion of distributed processing since passage of the Act, the presumption in the Appendix is that all general support systems contain some sensitive information which requires protection to assure its integrity, availability, or confidentiality, and therefore all systems require security plans.

Previous guidance on security planning was contained in OMB Bulletin No. 90–08. This Appendix supersedes OMB Bulletin 90–08 and expands the coverage of security plans from Bulletin 90–08 to include rules of individual behavior as well as technical security. Consistent with OMB Bulletin 90–08, the Appendix directs NIST to update and expand security planning guidance and issue it as a Federal Information Processing Standard (FIPS). In the interim, agencies should continue to use the Appendix of OMB Bulletin No. 90–08 as guidance for the technical portion of their security plans.

The Appendix continues the requirement that independent advice and comment on the security plan for each system be sought. The intent of this requirement is to improve the plans, foster communication between managers of different systems, and promote the sharing of security expertise.

This Appendix also continues the requirement from the Computer Security Act that summaries of security plans be included in agency strategic information resources management plans. OMB will provide additional guidance about the contents of those strategic plans, pursuant to the Paperwork Reduction Act of 1995.

The following specific security controls should be included in the security plan for a general support system:

(a) *Rules.* An important new requirement for security plans is the establishment of a set of rules of behavior for individual users of each general support system. These rules should clearly delineate responsibilities of and expectations for all individuals with access to the system. They should be consistent with system-specific policy as described in "An Introduction to Computer Security: The NIST Handbook" (March 16, 1995). In addition, they should state the consequences of non-compliance. The rules should be in writing and will form the basis for security awareness and training.

The development of rules for a system must take into consideration the needs of all parties who use the system. Rules should be as stringent as necessary to provide adequate security. Therefore, the acceptable level of risk for the system must be established and should form the basis for determining the rules.

Rules should cover such matters as work at home, dial-in access, connection to the Internet, use of copyrighted works, unofficial use of government equipment, the assignment and limitation of system privileges, and individual accountability. Often rules should reflect technical security controls in the system. For example, rules regarding password use should be consistent with technical password features in the system. Rules may be enforced through administrative sanctions specifically related to the system (e.g. loss of system privileges) or through more general sanctions as are imposed for violating other rules of conduct. In addition, the rules should specifically address restoration of service as a concern of all users of the system.

(b) *Training.* The Computer Security Act requires Federal agencies to provide for the mandatory periodic training in computer security awareness and accepted computer security practice of all employees who are involved with the management, use or operation of a Federal computer system within or under the supervision of the Federal agency. This includes contractors as well as employees of the agency. Access provided to members of the public should be constrained by controls in the applications through which access is allowed, and training should be within the context of those controls. The Appendix enforces such mandatory training by requiring its completion prior to granting access to the system. Each new user of a general support system in some sense introduces a risk to all other users. Therefore, each user should be versed in acceptable behavior—the rules of the system—before being allowed to use the system. Training should also inform the individual how to get help in the event of difficulty with using or security of the system.

Training should be tailored to what a user needs to know to use the system securely, given the nature of that use. Training may be presented in stages, for example as more access is granted. In some cases, the training should be in the form of classroom instruction. In other cases, interactive computer sessions or well-written and understandable brochures may be sufficient, depending on the risk and magnitude of harm.

Over time, attention to security tends to dissipate. In addition, changes to a system may necessitate a change in the rules or user procedures. Therefore, individuals should periodically have refresher training to assure that they continue to understand and abide by the applicable rules.

To assist agencies, the Appendix requires NIST, with assistance from the Office of Personnel Management (OPM), to update its existing guidance. It also proposes that OPM assure that its rules for computer security training for Federal civilian employees are effective.

(c) *Personnel Controls.* It has long been recognized that the greatest harm has come from authorized individuals engaged in improper activities, whether intentional or accidental. In every general support system, a number of technical, operational, and management controls are used to prevent and detect harm. Such controls include individual accountability, "least privilege," and separation of duties.

Individual accountability consists of holding someone responsible for his or her actions. In a general support system, accountability is normally accomplished by identifying and authenticating users of the system and subsequently tracing actions on the system to the user who initiated them. This may be done, for example, by looking for patterns of behavior by users.

Least privilege is the practice of restricting a user's access (to date files, to processing capability, or to peripherals) or type of access (read, write, execute, delete) to the minimum necessary to perform his or her job.

Separation of duties is the practice of dividing the steps in a critical function among different individuals. For example, one system programmer can create a critical piece of operating system code, while another authorizes its implementation. Such a control keeps a single individual from subverting a critical process.

Nevertheless, in some instances, individuals may be given the ability to bypass some significant technical and operational controls in order to perform system administration and maintenance functions (e.g., LAN administrators or systems programmers). Screening such individuals in positions of trust will supplement technical, operational, and management controls, particularly where the risk and magnitude of harm is high.

(d) *Incident Response Capability.* Security incidents, whether caused by viruses, hackers, or software bugs, are becoming more common. When faced with a security incident, an agency should be able to respond in a manner that both protects its own information and helps to protect the information of others who might be affected by the incident. To address this concern, agencies should establish formal incident response mechanisms. Awareness and training for individuals with access to the system should include how to use the system's incident response capability.

To be fully effective, incident handling must also include sharing information concerning common vulnerabilities and threats with those in other systems and other agencies. The Appendix directs agencies to effectuate such sharing, and tasks NIST to coordinate those agency activities government-wide.

The Appendix also directs the Department of Justice to provide appropriate guidance on pursuing legal remedies in the case of serious incidents.

(e) *Continuity of Support.* Inevitably, there will be service interruptions. Agency plans should assure that there is an ability to recover and provide service sufficient to meet the minimal needs of users of the system. Manual procedures are generally NOT a viable back-up option. When automated support is not available, many functions of the organization will effectively cease. Therefore, it is important to take cost-effective steps to manage any disruption of service.

Decisions on the level of service needed at any particular time and on priorities in service restoration should be made in consultation with the users of the system and incorporated in the system rules. Experience has shown that recovery plans that are periodically tested are substantially more viable than those that are not. Moreover, untested plans may actually create a false sense of security.

(f) *Technical Security.* Agencies should assure that each system appropriately uses effective security products and techniques, consistent with standards and guidance from NIST. Often such techniques will correspond with system rules of behavior, such as in the proper use of password protection.

The Appendix directs NIST to continue to issue computer security guidance to assist agencies in planning for and using technical security products and techniques. Until such guidance is issued, however, the planning guidance included in OMB Bulletin 90–08 can assist in determining techniques for

effective security in a system and in addressing technical controls in the security plan.

(g) *System Interconnection.* In order for a community to effectively manage risk, it must control access to and from other systems. The degree of such control should be established in the rules of the system and all participants should be made aware of any limitations on outside access. Technical controls to accomplish this should be put in place in accordance with guidance issued by NIST.

There are varying degrees of how connected a system is. For example, some systems will choose to isolate themselves, others will restrict access such as allowing only e-mail connections or remote access only with sophisticated authentication, and others will be fully open. The management decision to interconnect should be based on the availability and use of technical and non-technical safeguards and consistent with the acceptable level of risk defined in the system rules.

(3) *Review of Security Controls.* The security of a system will degrade over time, as the technology evolves and as people and procedures change. Reviews should assure that management, operational, personnel, and technical controls are functioning effectively. Security controls may be reviewed by an independent audit or a self review. The type and rigor of review or audit should be commensurate with the acceptable level of risk that is established in the rules for the system and the likelihood of learning useful information to improve security. Technical tools such as virus scanners, vulnerability assessment products (which look for known security problems, configuration errors, and the installation of the latest patches), and penetration testing can assist in the on-going review of different facets of systems. However, these tools are no substitute for a formal management review at least every three years. Indeed, for some high-risk systems with rapidly changing technology, three years will be too long.

Depending upon the risk and magnitude of harm that could result, weaknesses identified during the review of security controls should be reported as deficiencies in accordance with OMB Circular No. A–123, "Management Accountability and Control" and the Federal Managers' Financial Integrity Act. In particular, if a basic management control such as assignment of responsibility, a workable security plan, or management authorization are missing, then consideration should be given to identifying a deficiency.

(4) *Authorize Processing.* The authorization of a system to process information, granted by a management official, provides an important quality control (some agencies refer to this authorization as accreditation). By authorizing processing in a system, a manager accepts the risk associated with it. Authorization is not a decision that should be made by the security staff.

Both the security official and the authorizing management official have security responsibilities. In general, the security official is closer to the day-to-day operation of the system and will direct or perform security tasks. The authorizing official will normally have general responsibility for the organization supported by the system.

Management authorization should be based on an assessment of management, operational, and technical controls. Since the security plan establishes the security controls, it should form the basis for the authorization, supplemented by more specific studies as needed. In addition, the periodic review of controls should also contribute to future authorizations. Some agencies perform "certification reviews" of their systems periodically. These formal technical evaluations lead to a management accreditation, or "authorization to process." Such certifications (such as those using the methodology in FIPS Pub 102 "Guideline for Computer Security Certification and Accreditation") can provide useful information to assist management in authorizing a system, particularly when combined with a review of the broad behavioral controls envisioned in the security plan required by the Appendix.

Re-authorization should occur prior to a significant change in processing, but at least every three years. It should be done more often where there is a high risk and potential magnitude of harm.

b. *Controls in Major Applications.* Certain applications require special management attention due to the risk and magnitude of harm that could occur. For such applications, the controls of the support system(s) in which they operate are likely to be insufficient. Therefore, additional controls specific to the application are required. Since the function of applications is the direct manipulation and use of information, controls for securing applications should emphasize protection of information and the way it is manipulated.

(1) *Assign Responsibility for Security.* By definition, major applications are high risk and require special management attention. Major applications usually support a single agency function and often are supported by more than one general support system. It is important, therefore, that an individual be assigned responsibility in writing to assure that the particular application has adequate security. To be effective, this individual should be knowledgeable in the information and process supported by the application and in the management, personnel, operational, and technical controls used to protect the application.

(2) *Application Security Plans.* Security for each major application should be addressed by a security plan specific to the application. The plan should include controls specific to protecting information and should be developed from the application manager's perspective. To assist in assuring its viability, the plan should be provided to the manager of the primary support system which the application uses for advice and comment. This recognizes the critical dependence of the security of major applications on the underlying support systems they use. Summaries of application security plans should be included in strategic information resource management plans in accordance with this Circular.

(a) *Application Rules.* Rules of behavior should be established which delineate the responsibilities and expected behavior of all individuals with access to the application. The rules should state the consequences of inconsistent behavior. Often the rules will be associated with technical controls implemented in the application. Such rules should include, for example, limitations on changing data, searching databases, or divulging information.

(b) *Specialized Training.* Training is required for all individuals given access to the application, including members of the public. It should vary depending on the type of access allowed and the risk that access represents to the security of the application and information in it. This training will be in addition to that required for access to a support system.

(c) *Personnel Security.* For most major applications, management controls such as individual accountability requirements, separation of duties enforced by access controls, or limitations on the processing privileges of individuals, are generally more cost-effective personnel security controls than background screening. Such controls should be implemented as both technical controls and as application rules. For example, technical controls to ensure individual accountability, such as looking for patterns of user behavior, are most effective if users are aware that there is such a technical control. If adequate audit or access controls (through both technical and non-technical methods) cannot be established, then it may be cost-effective to screen personnel, commensurate with the risk and magnitude of harm they could cause. The change in emphasis on screening in the Appendix should not affect background screening deemed necessary because of other duties that an individual may perform.

(d) *Contingency Planning.* Normally the Federal mission supported by a major application is critically dependent on the application. Manual processing is generally NOT a viable back-up option. Managers should plan for how they will perform their mission and/or recover from the loss of existing application support, whether the loss is due to the inability of the application to function or a general support system failure. Experience has demonstrated that testing a contingency plan significantly improves its viability. Indeed, untested plans or plans not tested for a long period of time may create a false sense of ability to recover in a timely manner.

(e) *Technical Controls.* Technical security controls, for example tests to filter invalid entries, should be built into each application. Often these controls will correspond with the rules of behavior for the application. Under the previous Appendix, application security was focused on the process by which sensitive, custom applications were developed. While that process is not addressed in detail in this Appendix, it remains an effective method for assuring that security controls are built into applications. Additionally, the technical security controls defined in OMB Bulletin No. 90–08 will continue, until that guidance is replaced by NIST's security planning guidance.

(f) *Information Sharing.* Assure that information which is shared with Federal

organizations, State and local governments, and the private sector is appropriately protected comparable to the protection provided when the information is within the application. Controls on the information may stay the same or vary when the information is shared with another entity. For example, the primary user of the information may require a high level of availability while the secondary user does not, and can therefore relax some of the controls designed to maintain the availability of the information. At the same time, however, the information shared may require a level of confidentiality that should be extended to the secondary user. This normally requires notification and agreement to protect the information prior to its being shared.

(g) *Public Access Controls.* Permitting public access to a Federal application is an important method of improving information exchange with the public. At the same time, it introduces risks to the Federal application. To mitigate these risks, additional controls should be in place as appropriate. These controls are in addition to controls such as "firewalls" that are put in place for security of the general support system.

In general, it is more difficult to apply conventional controls to public access systems, because many of the users of the system may not be subject to individual accountability policies. In addition, public access systems may be a target for mischief because of their higher visibility and published access methods.

Official records need to be protected against loss or alteration. Official records in electronic form are particularly susceptible since they can be relatively easy to change or destroy. Therefore, official records should be segregated from information made directly accessible to the public. There are different ways to segregate records. Some agencies and organizations are creating dedicated information dissemination systems (such as bulletin boards or World Wide Web servers) to support this function. These systems can be on the outside of secure gateways which protect internal agency records from outside access.

In order to secure applications that allow direct public access, conventional techniques such as least privilege (limiting the processing capability as well as access to data) and integrity assurances (such as checking for viruses, clearly labeling the age of data, or periodically spot checking data) should also be used. Additional guidance on securing public access systems is available from NIST Computer Systems Laboratory Bulletin "Security Issues in Public Access Systems" (May, 1993).

(3) *Review of Application Controls.* At least every three years, an independent review or audit of the security controls for each major application should be performed. Because of the higher risk involved in major applications, the review or audit should be independent of the manager responsible for the application. Such reviews should verify that responsibility for the security of the application has been assigned, that a viable security plan for the application is in place, and that a manager has authorized the processing of the application. A deficiency in any of these controls should be considered a deficiency pursuant to the Federal Manager's Financial Integrity Act and OMB Circular No. A–123, "Management Accountability and Control."

The review envisioned here is different from the system test and certification process required in the current Appendix. That process, however, remains useful for assuring that technical security features are built into custom-developed software applications. While the controls in that process are not specifically called for in this Appendix, they remain in Bulletin No. 90–08, and are recommended in appropriate circumstances as technical controls.

(4) *Authorize Processing.* A major application should be authorized by the management official responsible for the function supported by the application at least every three years, but more often where the risk and magnitude of harm is high. The intent of this requirement is to assure that the senior official whose mission will be adversely affected by security weaknesses in the application periodically assesses and accepts the risk of operating the application. The authorization should be based on the application security plan and any review(s) performed on the application. It should also take into account the risks from the general support systems used by the application.

4. *Assignment of Responsibilities.* The Appendix assigns government-wide responsibilities to agencies that are consistent with their missions and the Computer Security Act.

a. *Department of Commerce.* The Department of Commerce, through NIST, is assigned the following responsibilities consistent with the Computer Security Act.

(1) Develop and issue security standards and guidance.

(2) Review and update, with assistance from OPM, the guidelines for security training issued in 1988 pursuant to the Computer Security Act to assure they are effective.

(3) Replace and update the technical planning guidance in the appendix to OMB Bulletin 90–08 This should include guidance on effective risk-based security absent a formal risk analysis.

(4) Provide agencies with guidance and assistance concerning effective controls for systems when interconnecting with other systems, including the Internet. Such guidance on, for example, so-called "firewalls" is becoming widely available and is critical to agencies as they consider how to interconnect their communications capabilities.

(5) Coordinate agency incident response activities. Coordination of agency incident response activities should address both threats and vulnerabilities as well as improve the ability of the Federal government for rapid and effective cooperation in response to serious security breaches.

(6) Assess security vulnerabilities in new information technologies and apprise Federal agencies of such vulnerabilities. The intent of this new requirement is to help agencies understand the security implications of technology before they purchase and field it. In the past, there have been too many instances where agencies have acquired and implemented technology, then found out about vulnerabilities in the technology and had to retrofit security measures. This activity is intended to help avoid such difficulties in the future.

b. *Department of Defense.* The Department, through the National Security Agency, should provide technical advice and assistance to NIST, including work products such as technical security guidelines, which NIST can draw upon for developing standards and guidelines for protecting sensitive information in Federal computers.

Also, the Department, through the National Security Agency, should assist NIST in evaluating vulnerabilities in emerging technologies. Such vulnerabilities may present a risk to national security information as well as to unclassified information.

c. *Department of Justice.* The Department of Justice should provide appropriate guidance to Federal agencies on legal remedies available to them when serious security incidents occur. Such guidance should include ways to report incidents and cooperate with law enforcement.

In addition, the Department should pursue appropriate legal actions on behalf of the Federal government when serious security incidents occur.

d. *General Services Administration.* The General Services Administration should provide agencies guidance for addressing security considerations when acquiring information technology products or services. This continues the current requirement.

In addition, where cost-effective to do so, GSA should establish government-wide contract vehicles for agencies to use to acquire certain security services. Such vehicles already exist for providing system back-up support and conducting security analyses.

GSA should also provide appropriate security services to assist Federal agencies to the extent that provision of such services is cost-effective. This includes providing, in conjunction with the Department of Defense and the Department of Commerce, appropriate services which support Federal use of the National Information Infrastructure (e.g., use of digital signature technology).

e. *Office of Personnel Management.* In accordance with the Computer Security Act, OPM should review its regulations concerning computer security training and assure that they are effective.

In addition, OPM should assist the Department of Commerce in the review and update of its computer security awareness and training guidelines. OPM worked closely with NIST in developing the current guidelines and should work with NIST in revising those guidelines.

f. *Security Policy Board.* The Security Policy Board is assigned responsibility for national security policy coordination in accordance with the appropriate Presidential directive. This includes policy for the security of information technology used to process classified information.

Circular A–130 and this Appendix do not apply to information technology that supports certain critical national security missions, as defined in 44 U.S.C. 3502 (9) and 10 U.S.C. 2315. Policy and procedural requirements for the security of national security systems (telecommunications and information systems that contain classified information or that support those critical national security missions (44 U.S.C. 3502 (9) and 10 U.S.C. 2315)) is assigned to the Department of Defense pursuant to Presidential directive. The Circular clarifies that information classified for national security purposes should also be handled in accordance with appropriate national security directives. Where classified information is required to be protected by more stringent security requirements, those requirements should be followed rather than the requirements of this Appendix.

5. *Reports.* The Appendix requires agencies to provide two reports to OMB:

The first is a requirement that agencies report security deficiencies and material weaknesses within their FMFIA reporting mechanisms as defined by OMB Circular No. A–123, "Management Accountability and Control," and take corrective actions in accordance with that directive.

The second, defined by the Computer Security Act, requires that a summary of agency security plans be included in the information resources management plan required by the Paperwork Reduction Act.

Appendix IV to OMB Circular No. A–130—Analysis of Key Sections

1. Purpose

The purpose of this Appendix is to provide a general context and explanation for the contents of the key Sections of the Circular.

2. Background

The Paperwork Reduction Act (PRA) of 1980, Public Law 96–511, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13, codified at Chapter 35 of Title 44 of the United States Code, establishes a broad mandate for agencies to perform their information activities in an efficient, effective, and economical manner. Section 3504 of the Act provides authority to the Director, OMB, to develop and implement uniform and consistent information resources management policies; oversee the development and promote the use of information management principles, standards, and guidelines; evaluate agency information management practices in order to determine their adequacy and efficiency, and determine compliance of such practices with the policies, principles, standards, and guidelines promulgated by the Director.

The Circular implements OMB authority under the PRA with respect to Section 3504(b), general information resources management policy, Section 3504(d), information dissemination, Section 3504(f), records management, Section 3504(g), privacy and security, and Section 3504(h), information technology. The Circular also implements certain provisions of the Privacy Act of 1974 (5 U.S.C. 552a); the Chief Financial Officers Act (31 U.S.C. 3512 et seq.); Sections 111 and 206 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759 and 487, respectively); the Computer Security Act (40 U.S.C. 759 note); the Budget and Accounting Act of 1921 (31 U.S.C. 1 et seq.); and Executive Order No. 12046 of March 27, 1978, and Executive Order No. 12472 of April 3, 1984, Assignment of National Security and Emergency Telecommunications Functions. The Circular complements 5 CFR Part 1320, Controlling Paperwork Burden on the Public, which implements other Sections of the PRA dealing with controlling the reporting and recordkeeping burden placed on the public.

In addition, the Circular revises and consolidates policy and procedures in seven previous OMB directives and rescinds those directives, as follows:

A–3—Government Publications.

A–71—Responsibilities for the Administration and Management of Automatic Data Processing Activities Transmittal Memorandum No. 1 to Circular No. A–71—Security of Federal Automated Information Systems.

A–90—Cooperating with State and Local Governments to Coordinate and Improve Information Systems.

A–108—Responsibilities for the Maintenance of Records about Individuals by Federal Agencies

A–114—Management of Federal Audiovisual Activities

A–121—Cost Accounting, Cost Recovery, and Interagency Sharing of Data Processing Facilities

3. Analysis

Section 6, Definitions. Access and Dissemination. The original Circular No. A–130 distinguished between the terms "access to information" and "dissemination of information" in order to separate statutory requirements from policy considerations. The first term means giving members of the public, at their request, information to which they are entitled by a law such as the FOIA. The latter means actively distributing information to the public at the initiative of the agency. The distinction appeared useful at the time Circular No. A–130 was written, because it allowed OMB to focus discussion on Federal agencies' responsibilities for actively distributing information. However, popular usage and evolving technology have blurred differences between the terms "access" and "dissemination" and readers of the Circular were confused by the distinction. For example, if an agency "disseminates" information via an on-line computer system, one speaks of permitting users to "access" the information, and on-line "access" becomes a form of "dissemination."

Thus, the revision defines only the term "dissemination." Special considerations based on access statutes such as the Privacy Act and the FOIA are explained in context.

Government Information. The definition of "government information" includes information created, collected, processed, disseminated, or disposed of both by and for the Federal Government. This recognizes the increasingly distributed nature of information in electronic environments. Many agencies, in addition to collecting information for government use and for dissemination to the public, require members of the public to maintain information or to disclose it to the public. Sound information resources management dictates that agencies consider the costs and benefits of a full range of alternatives to meet government objectives. In some cases, there is no need for the government actually to collect the information itself, only to assure that it is made publicly available. For example, banks insured by the FDIC must provide statements of financial condition to bank customers on request. Particularly when information is available in electronic form, networks make the physical location of information increasingly irrelevant.

The inclusion of information created, collected, processed, disseminated, or disposed of for the Federal Government in the definition of "government information" does not imply that responsibility for implementing the provisions of the Circular itself extends beyond the executive agencies to other entities. Such an interpretation would be inconsistent with Section 4, Applicability, and with existing law. For example, the courts have held that requests to Federal agencies for release of information under the FOIA do not always extend to those performing information activities under grant or contract to a Federal agency. Similarly, grantees may copyright information where the government may not. Thus the information responsibilities of grantees and contractors are not identical to those of Federal agencies except to the extent that the agencies make them so in the underlying grants or contracts. Similarly, agency information resources management responsibilities do not extend to other entities.

Information Dissemination Product. This notice defines the term "information dissemination product" to include all information that is disseminated by Federal agencies. While the provision of access to on-line databases and search software included on compact disk, read-only memory (CD-ROM) are often called information services rather than products, there is no clear distinction and, moreover, no real difference for policy purposes between the two. Thus, the term "information dissemination product" applies to both products and services, and makes no distinction based on how the information is delivered.

Section 8a(1). Information Management Planning. Parallel to new Section 7, Basic Considerations and Assumptions, Section 8a begins with information resources management planning. Planning is the process of establishing a course of action to achieve desired results with available resources. Planners translate organizational missions into specific goals and, in turn, into measurable objectives.

The PRA introduced the concept of information resources management and the principle of information as an institutional resource which has both value and associated costs. Information resources management is a tool that managers use to achieve agency objectives. Information resources management is successful if it enables managers to achieve agency objectives efficiently and effectively.

Information resources management planning is an integral part of overall mission

planning. Agencies need to plan from the outset for the steps in the information life cycle. When creating or collecting information, agencies must plan how they will process and transmit the information, how they will use it, how they will protect its integrity, what provisions they will make for access to it, whether and how they will disseminate it, how they will store and retrieve it, and finally, how the information will ultimately be disposed of. They must also plan for the effects their actions and programs will have on the public and State and local governments.

The Role of State and Local Governments. OMB made additions at Sections 7a, 7e, and 7j, Basic Considerations and Assumptions, concerning State and local governments, and also in policy statements at Sections 8a(1)(c), (3)(f), (5)(d)(iii), and (8)(e).

State and local governments, and tribal governments, cooperate as major partners with the Federal Government in the collection, processing, and dissemination of information. For example, State governments are the principal collectors and/or producers of information in the areas of health, welfare, education, labor markets, transportation, the environment, and criminal justice.

The States supply the Federal Government with data on aid to families with dependent children; medicare; school enrollments, staffing, and financing; statistics on births, deaths, and infectious diseases; population related data that form the basis for national estimates; employment and labor market data; and data used for census geography. National information resources are greatly enhanced through these major cooperating efforts.

Federal agencies need to be sensitive to the role of State and local governments, and tribal governments, in managing information and in managing information technology. When planning, designing, and carrying out information collections, agencies should systematically consider what effect their activities will have on cities, counties, and States, and take steps to involve these governments as appropriate. Agencies should ensure that their information collections impose the minimum burden and do not duplicate or conflict with local efforts or other Federal agency requirements or mandates. The goal is that Federal agencies routinely integrate State and local government concerns into Federal information resources management practices. This goal is consistent with standards for State and local government review of Federal policies and programs.

Training. Training is particularly important in view of the changing nature of information resources management. Decentralization of information technology has placed the management of automated information and information technology directly in the hands of nearly all agency personnel rather than in the hands of a few employees at centralized facilities. Agencies must plan for incorporating policies and procedures regarding computer security, records management, protection of privacy, and other safeguards into the training of every employee and contractor.

Section 8a(2). Information Collection. The PRA requires that the creation or collection of information be carried out in an efficient, effective, and economical manner. When Federal agencies create or collect information—just as when they perform any other program functions—they consume scarce resources. Such activities must be continually evaluated for their relevance to agency missions.

Agencies must justify the creation or collection of information based on their statutory functions. Policy statement 8a(2) uses the justification standard—"necessary for the proper performance of the functions of the agency"—established by the PRA (44 U.S.C. 3508). Furthermore, the policy statement includes the requirement that the information have practical utility, as defined in the PRA (44 U.S.C. 3502(11)) and elaborated in 5 CFR Part 1320. Practical utility includes such qualities of information as accuracy, adequacy, and reliability. In the case of general purpose statistics or recordkeeping, practical utility means that actual uses can be demonstrated (5 CFR 1320.3(l)). It should be noted that OMB's intent in placing emphasis on reducing unjustified burden in collecting information, an emphasis consistent with the Act, is not to diminish the importance of collecting information whenever agencies have legitimate program reasons for doing so. Rather, the concern is that the burdens imposed should not exceed the benefits to be derived from the information. Moreover, if the same benefit can be obtained by alternative means that impose a lesser burden, that alternative should be adopted.

Section 8a(3). Electronic Information Collection. Section 7l articulates a basic assumption of the Circular that modern information technology can help the government provide better service to the public through improved management of government programs. One potentially useful application of information technology is in the government's collection of information. While some information collections may not be good candidates for electronic techniques, many are. Agencies with major electronic information collection programs have found that automated information collections allow them to meet program objectives more efficiently and effectively. Electronic data interchange (EDI) and related standards for the electronic exchange of information will ease transmission and processing of routine business transaction information such as invoices, purchase orders, price information, bills of lading, health insurance claims, and other common commercial documents. EDI holds similar promise for the routine filing of regulatory information such as tariffs, customs declarations, license applications, tax information, and environmental reports.

Benefits to the public and agencies from electronic information collection appear substantial. Electronic methods of collection reduce paperwork burden, reduce errors, facilitate validation, and provide increased convenience and more timely receipt of benefits.

The policy in Section 8a(3) encourages agencies to explore the use of automated techniques for collection of information, and sets forth conditions conducive to the use of those techniques.

Section 8a(4). Records Management. Section 8a(4) begins with the fundamental requirement for Federal records management, namely, that agencies create and keep adequate and proper documentation of their activities. Federal agencies cannot carry out their missions in a responsible and responsive manner without adequate recordkeeping. Section 7h articulates the basic considerations concerning records management. Policy statements concerning records management are also interwoven throughout Section 8a, particularly in subsections on planning (8a(1)(j)), information dissemination (8a(6)), and safeguards (8a(9)).

Records support the immediate needs of government—administrative, legal, fiscal—and ensure its continuity. Records are essential for protecting the rights and interests of the public, and for monitoring the work of public servants. The government needs records to ensure accountability to the public which includes making the information available to the public.

Each stage of the information life cycle carries with it records management responsibilities. Agencies need to record their plans, carefully document the content and procedures of information collection, ensure proper documentation as a feature of every information system, keep records of dissemination programs, and, finally, ensure that records of permanent value are preserved.

Preserving records for future generations is the archival mission. Advances in technology affect the amount of information that can be created and saved, and the ways this information can be made available. Technological advances can ease the task of records management; however, the rapid pace of change in modern technology makes decisions about the appropriate application of technology critical to records management. Increasingly the records manager must be concerned with preserving valuable electronic records in the context of a constantly changing technological environment.

Records schedules are essential for the appropriate maintenance and disposition of records. Records schedules must be prepared in a timely fashion, implement the General Records Schedules issued by the National Archives and Records Administration, be approved by the Archivist of the United States, and be kept accurate and current. (See 44 U.S.C. 3301 et seq.) The National Archives and Records Administration and the General Services Administration provide guidance and assistance to agencies in implementing records management responsibilities. They also evaluate agencies' records management programs to determine the extent to which they are appropriately implementing their records management responsibilities.

Sections 8a(5) and 8a(6). Information Dissemination Policy. Section 8a(5). Every agency has a responsibility to inform the public within the context of its mission. This responsibility requires that agencies distribute information at the agency's initiative, rather than merely responding when the public requests information.

The FOIA requires each agency to publish in the **Federal Register** current descriptions of agency organization, where and how the public may obtain information, the general methods and procedural requirements by which agency functions are determined, rules of procedure, descriptions of forms and how to obtain them, substantive regulations, statements of general policy, and revisions to all the foregoing (5 U.S.C. 552(a)(1)). The Privacy Act also requires publication of information concerning "systems of records" which are records retrieved by individual identifier such as name, Social Security Number, or fingerprint. The Government in the Sunshine Act requires agencies to publish meeting announcements (5 U.S.C. 552b (e)(1)). The PRA (44 U.S.C. 3507(a)(2)) and its implementing regulations (5 CFR Part 1320) require agencies to publish notices when they submit information collection requests for OMB approval. The public's right of access to government information under these statutes is balanced against other concerns, such as an individual's right to privacy and protection of the government's deliberative process.

As agencies satisfy these requirements, they provide the public basic information about government activities. Other statutes direct specific agencies to issue specific information dissemination products or to conduct information dissemination programs. Beyond generic and specific statutory requirements, agencies have responsibilities to disseminate information as a necessary part of performing their functions. For some agencies the responsibility is made explicit and sweeping; for example, the Agriculture Department is directed to ". . . diffuse among people of the United States, useful information on subjects connected with agriculture. . . ." (7 U.S.C. 2201) For other agencies, the responsibility may be much more narrowly drawn.

Information dissemination is also a consequence of other agency activities. Agency programs normally include an organized effort to inform the public about the program. Most agencies carry out programs that create or collect information with the explicit or implicit intent that the information will be made public. Disseminating information is in many cases the logical extension of information creation or collection.

In other cases, agencies may have information that is not meant for public dissemination but which may be the subject of requests from the public. When the agency establishes that there is public demand for the information and that it is in the public interest to disseminate the information, the agency may decide to disseminate it automatically.

The policy in Section 8a(5)(d) sets forth several factors for agencies to take into account in conducting their information dissemination programs. First, agencies must balance two goals: maximizing the usefulness of the information to the government and the public, and minimizing the cost to both. Deriving from the basic purposes of the PRA (44 U.S.C. 3501), the two goals are frequently in tension because increasing usefulness usually costs more. Second, Section 8a(5)(d)(ii) requires agencies to conduct information dissemination programs equitably and in a timely manner. The word "equal" was removed from this Section since there may be instances where, for example, an agency determines that its mission includes disseminating information to certain specific groups or members of the public, and the agency determines that user charges will constitute a significant barrier to carrying out this responsibility.

Section 8a(5)(d)(iii), requiring agencies to take advantage of all dissemination channels, recognizes that information reaches the public in many ways. Few persons may read a **Federal Register** notice describing an agency action, but those few may be major secondary disseminators of the information. They may be affiliated with publishers of newspapers, newsletters, periodicals, or books; affiliated with on-line database providers; or specialists in certain information fields. While millions of information users in the public may be affected by the agency's action, only a handful may have direct contact with the agency's own information dissemination products. As a deliberate strategy, therefore, agencies should cooperate with the information's original creators, as well as with secondary disseminators, in order to further information dissemination goals and foster a diversity of information sources. An adjunct responsibility to this strategy is reflected in Section 8a(5)(d)(iv), which directs agencies to assist the public in finding government information. Agencies may accomplish this, for example, by specifying and disseminating "locator" information, including information about content, format, uses and limitations, location, and means of access.

Section 8a(6). Information Dissemination Management System. This Section requires agencies to maintain an information dissemination management system which can ensure the routine performance of certain functions, including the essential functions previously required by Circular No. A–3. Smaller agencies need not establish elaborate formal systems, so long as the heads of the agencies can ensure that the functions are being performed.

Subsection (6)(a) carries over a requirement from OMB Circular No. A–3 that agencies' information dissemination products are to be, in the words of 44 U.S.C. 1108, "necessary in the transaction of the public business required by law of the agency." (Circular No. A–130 uses the expression "necessary for the proper performance of agency functions," which OMB considers to be equivalent to the expression in 44 U.S.C. 1108.) The point is that agencies should determine systematically the need for each information dissemination product.

Section 8a(6)(b) recognizes that to carry out effective information dissemination programs, agencies need knowledge of the marketplace in which their information dissemination products are placed. They need to know what other information dissemination products users have available in order to design the best agency product. As agencies are constrained by finite budgets, when there are several alternatives from which to choose, they should not expend public resources filling needs which have already been met by others in the public or private sector. Agencies have a responsibility not to undermine the existing diversity of information sources.

At the same time, an agency's responsibility to inform the public may be independent of the availability or potential availability of a similar information dissemination product. That is, even when another governmental or private entity has offered an information dissemination product identical or similar to what the agency would produce, the agency may conclude that it nonetheless has a responsibility to disseminate its own product. Agencies should minimize such instances of duplication but could reach such a conclusion because legal considerations require an official government information dissemination product.

Section 8a(6)(c) makes the Circular consistent with current practice (See OMB Bulletins 88–15, 89–15, 90–09, and 91–16), by requiring agencies to establish and maintain inventories of information dissemination products. (These bulletins eliminated annual reporting to OMB of title-by-title listings of publications and the requirement for agencies to obtain OMB approval for each new periodical. Publications are now reviewed as necessary during the normal budget review process.) Inventories help other agencies and the public identify information which is available. This serves both to increase the efficiency of the dissemination function and to avoid unnecessary burdens of duplicative information collections. A corollary, enunciated in Section 8a(6)(d), is that agencies can better serve public information needs by developing finding aids for locating information produced by the agencies. Finally, Section 8a(6)(f) recognizes that there will be situations where agencies may have to take appropriate steps to ensure that members of the public with disabilities whom the agency has a responsibility to inform have a reasonable ability to access the information dissemination products.

Depository Library Program. Sections 8a(6)(g) and (h) pertain to the Federal Depository Library Program. Agencies are to establish procedures to ensure compliance with 44 U.S.C. 1902, which requires that government publications (defined in 44 U.S.C. 1901 and repeated in Section 6 of the Circular) be made available to depository libraries through the Government Printing Office (GPO).

Depository libraries are major partners with the Federal Government in the dissemination of information and contribute significantly to the diversity of information sources available to the public. They provide a mechanism for wide distribution of government information that guarantees basic availability to the public. Executive branch agencies support the depository library program both as a matter of law and on its merits as a means of informing the public about the government. On the other hand, the law places the administration of depository libraries with GPO. Agency responsibility for the depository libraries is limited to supplying government publications through GPO.

Agencies can improve their performance in providing government publications as well as electronic information dissemination products to the depository library program. For example, the proliferation of "desktop publishing" technology in recent years has afforded the opportunity for many agencies to produce their own printed documents. Many such documents may properly belong in the depository libraries but are not sent because they are not printed at GPO. The policy requires agencies to establish management controls to ensure that the appropriate documents reach the GPO for inclusion in the depository library program.

At present, few agencies provide electronic information dissemination products to the depository libraries. At the same time, a small but growing number of information dissemination products are disseminated only in electronic format.

OMB believes that, as a matter of policy, electronic information dissemination products generally should be provided to the depository libraries. Given that production and supply of information dissemination products to the depository libraries is primarily the responsibility of GPO, agencies should provide appropriate electronic information dissemination products to GPO for inclusion in the depository library program.

While cost may be a consideration, agencies should not conclude without investigation that it would be prohibitively expensive to place their electronic information dissemination products in the depository libraries. For electronic information dissemination products other than on-line services, agencies may have the option of having GPO produce the information dissemination product for them, in which case GPO would pay for depository library costs. Agencies should consider this option if it would be a cost effective alternative to the agency making its own arrangements for production of the information dissemination product. Using GPO's services in this manner is voluntary and at the agency's discretion. Agencies could also consider negotiating other terms, such as inviting GPO to participate in agency procurement orders in order to distribute the necessary copies for the depository libraries. With adequate advance planning, agencies should be able to provide electronic information dissemination products to the depository libraries at nominal cost.

In a particular case, substantial cost may be a legitimate reason for not providing an electronic information dissemination product to the depository library program. For example, for an agency with a substantial number of existing titles of electronic information dissemination products, furnishing copies of each to the depository libraries could be prohibitively expensive. In that situation, the agency should endeavor to make available those titles with the greatest general interest, value, and utility to the public. Substantial cost could also be an impediment in the case of some on-line information services where the costs associated with operating centralized databases would make provision of unlimited direct access to numerous users prohibitively expensive. In both cases, agencies should consult with the GPO, in order to identify those information dissemination products with the greatest public interest and utility for dissemination. In all cases, however, where an agency discontinues publication of an information dissemination product in paper format in favor of electronic formats, the agency should work with the GPO to ensure availability of the information dissemination product to depository libraries.

Notice to the Public. Sections 8a(6)(i) and (j) present new practices for agencies to observe in communicating with the public about information dissemination. Among agencies' responsibilities for dissemination is an active knowledge of, and regular consultation with, the users of their information dissemination products. A primary reason for communication with users is to gain their contribution to improving the quality and relevance of government information—how it is created, collected, and disseminated. Consultations with users might include participation at conferences and workshops, careful attention to correspondence and telephone communications (e.g., logging and analyzing inquiries), or formalized user surveys.

A key part of communicating with the public is providing adequate notice of agency information dissemination plans. Because agencies' information dissemination actions affect other agencies as well as the public, agencies must forewarn other agencies of significant actions. The decision to initiate, terminate, or substantially modify the content, form, frequency, or availability of significant products should also trigger appropriate advance public notice. Where appropriate, the Government Printing Office should be notified directly. Information dissemination products deemed not to be significant require no advance notice.

Examples of significant products (or changes to them) might be those that:

(a) Are required by law; e.g., a statutorily mandated report to Congress;

(b) Involve expenditure of substantial funds;

(c) By reason of the nature of the information, are matters of continuing public interest; e.g., a key economic indicator;

(d) By reason of the time value of the information, command public interest; e.g., monthly crop reports on the day of their release;

(e) Will be disseminated in a new format or medium; e.g., disseminating a printed product in electronic medium, or disseminating a machine-readable data file via on-line access.

Where members of the public might consider a proposed new agency product unnecessary or duplicative, the agency should solicit and evaluate public comments. Where users of an agency information dissemination product may be seriously affected by the introduction of a change in medium or format, the agency should notify users and consider their views before instituting the change. Where members of the public consider an existing agency product important and necessary, the agency should consider these views before deciding to terminate the product. In all cases, however, determination of what is a significant information dissemination product and what constitutes adequate notice are matters of agency judgment.

Achieving Compliance with the Circular's Requirements. Section 8a(6)(k) requires that the agency information dissemination management system ensure that, to the extent existing information dissemination policies or practices are inconsistent with the requirements of this Circular, an orderly transition to compliance with the requirements of this Circular is made. For example, some agency information dissemination products may be priced at a level which exceeds the cost of dissemination, or the agency may be engaged in practices which are otherwise unduly restrictive. In these instances, agencies must plan for an orderly transition to the substantive policy requirements of the Circular. The information dissemination management system must be capable of identifying these situations and planning for a reasonably prompt transition. Instances of existing agency practices which cannot immediately be brought into conformance with the requirements of the Circular are to be addressed through the waiver procedures of Section 10(b).

Section 8a(7). Avoiding Improperly Restrictive Practices. Federal agencies are often the sole suppliers of the information they hold. The agencies have either created or collected the information using public funds, usually in furtherance of unique governmental functions, and no one else has it. Hence agencies need to take care that their behavior does not inappropriately constrain public access to government information.

When agencies use private contractors to accomplish dissemination, they must take care that they do not permit contractors to impose restrictions that undercut the agencies' discharge of their information dissemination responsibilities. The contractual terms should assure that, with respect to dissemination, the contractor behaves as though the contractor were the agency. For example, an agency practice of selling, through a contractor, on-line access to a database but refusing to sell copies of the database itself may be improperly restrictive because it precludes the possibility of another firm making the same service available to the public at a lower price. If an agency is willing to provide public access to a database, the agency should be willing to sell copies of the database itself.

By the same reasoning, agencies should behave in an even-handed manner in handling information dissemination products. If an agency is willing to sell a database or database services to some members of the public, the agency should sell the same products under similar terms to other members of the public, unless prohibited by statute. When an agency decides it has public policy reasons for offering different terms of sale to different groups in the public, the agency should provide a clear statement of the policy and its basis.

Agencies should not attempt to exert control over the secondary uses of their information dissemination products. In particular, agencies should not establish exclusive, restricted, or other distribution arrangements which interfere with timely and equitable availability of information dissemination products, and should not charge fees or royalties for the resale or redissemination of government information. These principles follow from the fact that the law prohibits the Federal Government from exercising copyright.

Agencies should inform the public as to the limitations inherent in the information dissemination product (e.g., possibility of errors, degree of reliability, and validity) so that users are fully aware of the quality and integrity of the information. If circumstances warrant, an agency may wish to establish a procedure by which disseminators of the agency's information may at their option have the data and/or value-added processing checked for accuracy and certified by the agency. Using this method, redisseminators of the data would be able to respond to the demand for integrity from purchasers and users. This approach could be enhanced by the agency using its authority to trademark its information dissemination product, and requiring that redisseminators who wish to use the trademark agree to appropriate integrity procedures. These methods have the possibility of promoting diversity, user responsiveness, and efficiency as well as integrity. However, an agency's responsibility to protect against misuse of a government information dissemination product does not extend to restricting or regulating how the public actually uses the information.

The Lanham Trademark Act of 1946, 15 U.S.C. 1055, 1125, 1127, provides an efficient method to address legitimate agency concerns regarding public safety. Specifically, the Act permits a trademark owner to license the mark, and to demand that the user maintain appropriate quality controls over products reaching consumers under the mark. See generally, McCarthy on Trademarks, Sec. 18.13. When a trademark owner licenses the trademark to another, it may retain the right to control the quality of goods sold under the trademark by the licensee. Furthermore, if a licensee sells goods under the licensed trademark in breach of the licensor's quality specifications, the licensee may be liable for breach of contract as well as for trademark infringement. This technique is increasingly being used to assure the integrity of digital information dissemination products. For example, the Census Bureau has trademarked its topologically integrated geographic encoding and referencing data product ("TIGER/Line"), which is used as official source data for legislative districting and other sensitive applications.

Whenever a need for special quality control procedures is identified, agencies should adopt the least burdensome methods and ensure that the methods chosen do not establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public. Agencies should not attempt to condition the resale or redissemination of its information dissemination products by members of the public.

User charges. Title 5 of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701) establishes Federal policy regarding fees assessed for government services, and for sale or use of government property or resources. OMB Circular No. A–25, User Charges, implements the statute. It provides for charges for government goods and services that convey special benefits to recipients beyond those accruing to the general public. It also establishes that user charges should be set at a level sufficient to recover the full cost of providing the service, resource, or property. Since Circular No. A–25 is silent as to the extent of its application to government information dissemination products, full cost recovery for information dissemination products might be interpreted to include the cost of collecting and processing information rather than just the cost of dissemination. The policy in Section 8a(7)(c) clarifies the policy of Circular No. A–25 as it applies to information dissemination products. This policy was codified by the Paperwork Reduction Act of 1995 at 35 U.S.C. Section 3506(d)(4)(D).

Statutes such as FOIA and the Government in the Sunshine Act establish a broad and general obligation on the part of Federal agencies to make government information available to the public and to avoid erecting barriers that impede public access. User charges higher than the cost of dissemination may be a barrier to public access. The economic benefit to society is maximized when government information is publicly disseminated at the cost of dissemination. Absent statutory requirements to the contrary, the general standard for user charges for government information dissemination products should be to recover no more than the cost of dissemination. It should be noted in this connection that the government has already incurred the costs of creating and processing the information for governmental purposes in order to carry out its mission.

Underpinning this standard is the FOIA fee structure which establishes limits on what agencies can charge for access to Federal records. That Act permits agencies to charge only the direct reasonable cost of search, reproduction and, in certain cases, review of requested records. In the case of FOIA requests for information dissemination products, charges would be limited to reasonable direct reproduction costs alone. No search would be needed to find the product, thus no search fees would be charged. Neither would the record need to be reviewed to determine if it could be withheld under one of the Act's exemptions since the agency has already decided to release it. Thus, FOIA provides an information "safety net" for the public.

While OMB does not intend to prescribe procedures for pricing government information dissemination products, the cost of dissemination may generally be thought of as the sum of all costs specifically associated with preparing a product for dissemination and actually disseminating it to the public. When an agency prepares an information product for its own internal use, costs associated with such production would not generally be recoverable as user charges on subsequent dissemination. When the agency prepares the product for public dissemination, and disseminates it, costs associated with preparation and actual dissemination would be recoverable as user charges.

In the case of government databases which are made available to the public on-line, the costs associated with initial database development, including the costs of the necessary hardware and software, would not be included in the cost of dissemination. Once a decision is made to disseminate the data, additional costs logically associated with dissemination can be included in the user fee. These may include costs associated with modification of the database to make it suitable for dissemination, any hardware or software enhancements necessary for dissemination, and costs associated with providing customer service or telecommunications capacity.

In the case of information disseminated via cd-rom, the costs associated with initial database development would likewise not be included in the cost of dissemination. However, a portion of the costs associated with formatting the data for cd-rom dissemination and the costs of mastering the cd-rom, could logically be included as part of the dissemination cost, as would the cost associated with licensing appropriate search software.

Determining the appropriate user fee is the responsibility of each agency, and involves the exercise of judgment and reliance on reasonable estimates. Agencies should be able to explain how they arrive at user fees which represent average prices and which, given the likely demand for the product, can be expected to recover the costs associated with dissemination.

When agencies provide custom tailored information services to specific individuals or groups, full cost recovery, including the cost of collection and processing, is appropriate. For example, if an agency prepares special tabulations or similar services from its databases in answer to a specific request from the public, all costs associated with fulfilling the request would be charged, and the requester should be so informed before work is begun.

In a few cases, agencies engaging in information collection activities augment the information collection at the request of, and with funds provided by, private sector groups. Since the 1920's, the Bureau of the Census has carried out, on request, surveys of certain industries at greater frequency or at a greater level of detail than Federal funding would permit, because gathering the additional information is consistent with Federal purposes and industry groups have paid the additional information collection and processing costs. While the results of these surveys are disseminated to the public at the cost of dissemination, the existence and availability of the additional government data are special benefits to certain recipients beyond those accruing to the public. It is appropriate that those recipients should bear the full costs of information collection and processing, in addition to the normal costs of dissemination.

Agencies must balance the requirement to establish user charges and the level of fees

charged against other policies, specifically, the proper performance of agency functions and the need to ensure that information dissemination products reach the public for whom they are intended. If an agency mission includes disseminating information to certain specific groups or members of the public and the agency determines that user charges will constitute a significant barrier to carrying out this responsibility, the agency may have grounds for reducing or eliminating its user charges for the information dissemination product, or for exempting some recipients from the charge. Such reductions or eliminations should be the subject of agency determinations on a case by case basis and justified in terms of agency policies.

Section 8a(8). Electronic Information Dissemination. Advances in information technology have changed government information dissemination. Agencies now have available new media and formats for dissemination, including CD-ROM, electronic bulletin boards, and public networks. The growing public acceptance of electronic data interchange (EDI) and similar standards enhances their attractiveness as methods for government information dissemination. For example, experiments with the use of electronic bulletin boards to advertise Federal contracting opportunities and to receive vendor quotes have achieved wider dissemination of information about business opportunities with the Federal Government than has been the case with traditional notices and advertisements. Improved information dissemination has increased the number of firms expressing interest in participating in the government market and decreased prices to the government due to expanded competition. In addition, the development of public electronic information networks, such as the Internet, provides an additional way for agencies to increase the diversity of information sources available to the public. Emerging applications such as Wide Area Information Servers and the World-wide Web (using the NISO Z39.50 standard) will be used increasingly to facilitate dissemination of government information such as environmental data, international trade information, and economic statistics in a networked environment.

A basic purpose of the PRA is to "provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology." (44 U.S.C. 3501(7)) Agencies can frequently enhance the value, practical utility, and timeliness of government information as a national resource by disseminating information in electronic media. Electronic collection and dissemination may substantially increase the usefulness of government information dissemination products for three reasons. First, information disseminated electronically is likely to be more timely and accurate because it does not require data re-entry. Second, electronic records often contain more complete and current information because, unlike paper, it is relatively easy to make frequent changes. Finally, because electronic information is more easily manipulated by the user and can be tailored to a wide variety of needs, electronic information dissemination products are more useful to the recipients.

As stated at Section 8a(1)(h), agencies should use voluntary standards and Federal Information Processing Standards to the extent appropriate in order to ensure the most cost effective and widespread dissemination of information in electronic formats.

Agencies can frequently make government information more accessible to the public and enhance the utility of government information as a national resource by disseminating information in electronic media. Agencies generally do not utilize data in raw form, but edit, refine, and organize the data in order to make it more accessible and useful for their own purposes. Information is made more accessible to users by aggregating data into logical groupings, tagging data with descriptive and other identifiers, and developing indexing and retrieval systems to facilitate access to particular data within a larger file. As a general matter, and subject to budgetary, security or legal constraints, agencies should make available such features developed for internal agency use as part of their information dissemination products.

There will also be situations where the agency determines that its mission will be furthered by providing enhancements beyond those needed for its own use, particularly those that will improve the public availability of government information over the long term. In these instances, the agency should evaluate the expected usefulness of the enhanced information in light of its mission, and where appropriate construct partnerships with the private sector to add these elements of value. This approach may be particularly appropriate as part of a strategy to utilize new technology enhancements, such as graphic images, as part of a particular dissemination program.

Section 8a(9). Information Safeguards. The basic premise of this Section is that agencies should provide an appropriate level of protection to government information, given an assessment of the risks associated with its maintenance and use. Among the factors to be considered include meeting the specific requirements of the Privacy Act of 1974 and the Computer Security Act of 1987.

In particular, agencies are to ensure that they meet the requirements of the Privacy Act regarding information retrievable by individual identifier. Such information is to be collected, maintained, and protected so as to preclude intrusion into the privacy of individuals and the unwarranted disclosure of personal information. Individuals must be accorded access and amendment rights to records, as provided in the Privacy Act. To the extent that agencies share information which they have a continuing obligation to protect, agencies should see that appropriate safeguards are instituted. Appendix I prescribes agency procedures for the maintenance of records about individuals, reporting requirements to OMB and Congress, and other special requirements of specific agencies, in accordance with the Privacy Act.

This Section also incorporates the requirement of the Computer Security Act of 1987 that agencies plan to secure their systems commensurate with the risk and magnitude of loss or harm that could result from the loss, misuse, or unauthorized access to information contained in those systems. It includes assuring the integrity, availability, and appropriate confidentiality of information. It also involves protection against the harm that could occur to individuals or entities outside of the Federal Government as well as the harm to the Federal Government. Appendix III prescribes a minimum set of controls to be included in Federal automated information resources security programs and assigns Federal agency responsibilities for the security of automated information resources. The Section also includes limits on collection and sharing of information and procedures to assure the integrity of information as well as requirements to adequately secure the information.

Incorporation of Circular No. A–114. OMB Circular No. A–114, Management of Federal Audiovisual Activities, last revised on March 20, 1985, prescribed policies and procedures to improve Federal audiovisual management. Although OMB has rescinded Circular No. A–114, its essential policies and procedures continue. This revision provides information resources management policies and principles independent of medium, including paper, electronic, or audiovisual. By including the term "audiovisual" in the definition of "information," audiovisual materials are incorporated into all policies of this Circular.

The requirement in Circular No. A–114 that the head of each agency designate an office with responsibility for the management oversight of an agency's audiovisual productions and that an appropriate program for the management of audiovisual productions in conformance with 36 CFR 1232.4 is incorporated into this Circular at Section 9a(10). The requirement that audiovisual activities be obtained consistent with OMB Circular No. A–76 is covered by Sections 8a(1)(d), 8a(5)(d)(i) and 8a(6)(b).

The National Archives and Records Administration will continue to prescribe the records management and archiving practices of agencies with respect to audiovisual productions at 36 CFR 1232.4, "Audiovisual Records Management."

Section 8b. Information Systems and Information Technology Management.

Section 8b(1). Evaluation and Performance Measurement. OMB encourages agencies to stress several types of evaluation in their oversight of information systems. As a first step, agencies must assess the continuing need for the mission function. If the agency determines there is a continuing need for a function, agencies should reevaluate existing work processes prior to creating new or updating existing information systems. Without this analysis, agencies tend to develop information systems that improve the efficiency of traditional paper-based processes which may be no longer needed. The application of information technology presents an opportunity to reevaluate existing organizational structures, work processes, and ways of interacting with the public to see whether they still efficiently and effectively support the agency's mission.

Benefit-cost analyses provide vital management information on the most efficient allocation of human, financial, and information resources to support agency missions. Agencies should conduct a benefit-cost analysis for each information system to support management decision making to ensure: (a) alignment of the planned information system with the agency's mission needs; (b) acceptability of information system implementation to users inside the Government; (c) accessibility to clientele outside the Government; and (d) realization of projected benefits. When preparing benefit-cost analyses to support investments in information technology, agencies should seek to quantify the improvements in agency performance results through the measurement of program outputs.

The requirement to conduct a benefit-cost analysis need not become a burdensome activity for agencies. The level of detail necessary for such analyses varies greatly and depends on the nature of the proposed investment. Proposed investments in "major information systems" as defined in this Circular require detailed and rigorous analysis. This analysis should not merely serve as budget justification material, but should be part of the ongoing management oversight process to ensure prudent allocation of scarce resources. Proposed investments for information systems that are not considered "major information systems" should be analyzed and documented more informally.

While it is not necessary to create a new benefit-cost analysis at each stage of the information system life cycle, it is useful to refresh these analyses with up-to-date information to ensure the continued viability of an information system prior to and during implementation. Reasons for updating a benefit-cost analysis may include such factors as significant changes in projected costs and benefits, significant changes in information technology capabilities, major changes in requirements (including legislative or regulatory changes), or empirical data based on performance measurement gained through prototype results or pilot experience.

Agencies should also weigh the relative benefits of proposed investments in information technology across the agency. Given the fiscal constraints facing the Federal government in the upcoming years, agencies should fund a portfolio of investments across the agency that maximizes return on investment for the agency as a whole. Agencies should also emphasize those proposed investments that show the greatest probability (i.e., display the lowest financial and operational risk) of achieving anticipated benefits for the organization. OMB and GAO are creating a publication that will provide agencies with reference materials for setting up such evaluation processes.

Agencies should complete a retrospective evaluation of information systems once operational to validate projected savings, changes in practices, and effectiveness in serving affected publics. These post-implementation reviews may also serve as the basis for agency-wide learning about effective management practices.

Section 8b(2). Strategic Information Resources Management (IRM) Planning. Agencies should link to, and to the extent possible, integrate IRM planning with the agency strategic planning required by the Government Performance and Results Act (P.L. 103–62). Such a linkage ensures that agencies apply information resources to programs that support the achievement of agreed-upon mission goals. Additionally, strategic IRM planning by agencies may help avoid automating out-of-date, ineffective, or inefficient procedures and work processes.

Agencies should also devote management attention to operational information resources management planning. This operational IRM planning should provide a one to five year focus to agency IRM activities and projects. Agency operational IRM plans should also provide a listing of the major information systems covered by the management oversight processes described in Section 8b(3). Agency operational planning for IRM should also communicate to the public how the agency's application of information resources might affect them. For the contractor community, this includes articulating the agency's intent to acquire information technology from the private sector. These data should not be considered acquisition sensitive, so that they can be distributed as widely as possible to the vendor community in order to promote competition. Agencies should make these acquisition plans available to the public through government-wide information dissemination mechanisms, including electronic means.

Operational planning should also include initiatives to reduce the burden, including information collection burden, an agency imposes on the public. Too often, for example, agencies require personal visits to government offices during office hours inconvenient to the public. Instead, agencies should plan to use information technology in ways that make the public's dealing with the Federal government as "user-friendly" as possible.

Each year, OMB issues a bulletin requesting copies of agencies' latest strategic IRM plans and annual updates to operational plans for information and information technology.

Section 8b(3). Information Systems Management Oversight. Agencies should consider what constitutes a "major information system" for purposes of this Circular when determining the appropriate level of management attention for an information system. The anticipated dollar size of an information system or a supporting acquisition is only one determinant of the level of management attention an information system requires. Additional criteria to assess include the maturity and stability of the technology under consideration, how well defined user requirements are, the level of stability of program and user requirements, and security concerns.

For instance, certain risky or "cutting-edge" information systems require closer scrutiny and more points of review and evaluation. This is particularly true when an agency uses an evolutionary life cycle strategy that requires a technical and financial evaluation of the project's viability at prototype and pilot testing phases. Projects relying on commercial off-the-shelf technology and applications will generally require less oversight than those using custom-designed software.

While each phase of an information system life cycle may have unique characteristics, the dividing line between the phases may not always be distinct. For instance, both planning and evaluation should continue throughout the information system life cycle. In fact, during any phase, it may be necessary to revisit the previous stages based on new information or changes in the environment in which the system is being developed.

The policy statements in this Circular describe an information system life cycle. It does not, however, make a definitive statement that there must be four versus five phases of a life cycle because the life cycle varies by the nature of the information system. Only two phases are common to all information systems—a beginning and an end. As a result, life cycle management techniques that agencies can use may vary depending on the complexity and risk inherent in the project.

One element of this management oversight policy is the recognition of imbedded and/or parallel life cycles. Within an information system's life cycle there may be other subsidiary life cycles. For instance, most Federal information systems projects include an acquisition of goods and services that have life cycle characteristics. Some projects include software development components, which also have life cycles. Effective management oversight of major information systems requires a recognition of all these various life cycles and an integrated information systems management oversight with the budget and human resource management cycles that exist in the agency.

Section 8b(2) of the Circular underscores the need for agencies to bring an agency-wide perspective to a number of information resources management issues. These issues include policy formulation, planning, management and technical frameworks for using information resources, and management oversight of major information systems. Agencies should also provide for coordinated decision making (Section 8b(3)(f)) in order to bring together the perspectives from across an agency, and outside if appropriate. Such coordination may take place in an agency-wide management or IRM committee. Interested groups typically include functional users, managers of financial and human resources, information resources management specialists, and, as appropriate, the affected public.

Section 8b(4). Use of Information Resources. Agency management of information resources should be guided by management and technical frameworks for agency-wide information and information technology needs. The technical framework should serve as a reference for updates to existing and new information systems. The

management framework should assure the integration of proposed information systems projects into the technical framework in a manner that will ensure progress toward achieving an open systems environment. Agency strategic IRM planning should describe the parameters (e.g., technical standards) of such a technical framework. The management framework should drive operational planning and should describe how the agency intends to use information and information technology consistent with the technical framework.

Agency management and technical frameworks for information resources should address agency strategies to move toward an open systems environment. These strategies should consist of one or multiple profiles (an internally consistent set of standards), based on the current version of the NIST's Application Portability Profile. These profiles should satisfy user requirements, accommodate officially recognized or de facto standards, and promote interoperability, application portability, and scalability by defining interfaces, services, protocols, and data formats favoring the use of nonproprietary specifications.

Agencies should focus on how to better utilize the data they currently collect from the public. Because agencies generally do not share information, the public often must respond to duplicative information collections from various agencies or their components. Sharing of information about individuals should be consistent with the Privacy Act of 1974, as amended, and Appendix I of this Circular.

Services provided by IPSOs to components of their own agency are often perceived to be "free" by the service recipients because their costs are budgeted as an "overhead" charge. Service recipients typically do not pay for IPSO services based on actual usage. Since the services are perceived to be free, there is very little incentive for either the service recipients or the IPSO managers to be watchful for opportunities to improve productivity or to reduce costs. Agencies are encouraged to institute chargeback mechanisms for IPSOs that provide common information processing services across a number of agency components when the resulting economies are expected to exceed the cost of administration.

Section 8b(5). Acquisition of Information Technology. Consistent with the requirements of the Brooks Act and the Paperwork Reduction Act, agencies should acquire information technology to improve service delivery, reduce the cost of Federal program administration, and minimize burden of dealing with the Federal government. Agencies may wish to ask potential offerors to propose different technical solutions and approaches to fulfilling agency mission requirements. Evaluating acquisitions of information technology must assess both the benefits and costs of applying technology to meet such requirements.

The distinction between information system life cycles and acquisition life cycles is important when considering the implications of OMB Circular A–109, Acquisition of Major Systems, to the acquisition of information resources. Circular A–109 presents one strategy for acquiring information technology when:

(i) The agency intends to fund operational tests and demonstrations of system design;

(ii) The risk is high due to the unproven integration of custom designed software and/or hardware components;

(iii) The estimated cost savings or operational improvements from such a demonstration will further improve the return on investment; or

(iv) The agency wants to acquire a solution based on state-of-the-art, unproven technology.

Agencies should comply with OMB Circular A–76, Performance of Commercial Activities, when considering conversion to or from in-house or contract performance.

Agencies should ensure that acquisitions for new information technology comply with GSA regulations concerning information technology accessibility for individuals with disabilities [41 C.F.R. 201–20.103–7].

Section 9a(11). Ombudsman. The senior agency official designated by the head of each agency under 44 U.S.C. 3506(a) is charged with carrying out the responsibilities of the agency under the PRA. Agency senior information resources management officials are responsible for ensuring that their agency practices are in compliance with OMB policies. It is envisioned that the agency senior information resources management official will work as an ombudsman to investigate alleged instances of agency failure to adhere to the policies set forth in the Circular and to recommend or take corrective action as appropriate. Agency heads should continue to use existing mechanisms to ensure compliance with laws and policies.

Section 9b. International Relationships. The information policies contained in the PRA and Circular A–130 are based on the premise that government information is a valuable national resource, and that the economic benefits to society are maximized when government information is available in a timely and equitable manner to all. Maximizing the benefits of government information to society depends, in turn, on fostering diversity among the entities involved in disseminating it. These include for-profit and not-for-profit entities, such as information vendors and libraries, as well as State, local and tribal governments. The policies on charging the cost of dissemination and against restrictive practices contained in the PRA and Circular A–130 are aimed at achieving this goal.

Other nations do not necessarily share these values. Although an increasing number are embracing the concept of equitable and unrestricted access to public information—particularly scientific, environmental, and geographic information of great public benefit—other nations are treating their information as a commodity to be "commercialized". Whereas the Copyright Act, 17 U.S.C. 105, has long provided that "[c]opyright protection under this title is not available for any work of the United States Government," some other nations take advantage of their domestic copyright laws that do permit government copyright and assert a monopoly on certain categories of information in order to maximize revenues. Such arrangements tend to preclude other entities from developing markets for the information or otherwise disseminating the information in the public interest.

Thus, Federal agencies involved in international data exchanges are sometimes faced with problems in disseminating data stemming from differing national treatment of government copyright. For example, one country may attempt to condition the sharing of data with a Federal agency on an agreement that the agency will withhold release of the information or otherwise restrict its availability to the public. Since the Freedom of Information Act does not provide a categorical exemption for copyrighted information, and Federal agencies have neither the authority nor capability to enforce restrictions on behalf of other nations, agencies faced with such restrictive conditions lack clear guidance as to how to respond.

The results of the July 1995 Congress of the World Meteorological Organization, which sought to strike a balance of interests in this area, are instructive. Faced with a resolution which would have essentially required member nations to enforce restrictions on certain categories of information for the commercial benefit of other nations, the United States proposed a compromise which was ultimately accepted. The compromise explicitly affirmed the general principle that government meteorological information—like all other scientific, technical and environmental information—should be shared globally without restriction; but recognized that individual nations may in particular cases apply their own domestic copyright and similar laws to prevent what they deem to be unfair or inappropriate competition within their own territories. This compromise leaves open the door for further consultation as to whether the future of government information policy in a global information infrastructure should follow the "open and unrestricted access" model embraced by the United States and a number of other nations, or if it should follow the "government commercialization" model of others.

Accordingly, since the PRA and Circular A–130 are silent as to how agencies should respond to similar situations, we are providing the following suggestions. They are intended to foster globally the open and unrestricted information policy embraced by the United States and like minded nations, while permitting agencies to have access to data provided by foreign governments with restrictive conditions.

Release by a Federal agency of copyrighted information, whether under a FOIA request or otherwise, does not affect any rights the copyright holder might otherwise possess. Accordingly, agencies should inform any concerned foreign governments that their copyright claims may be enforceable under United States law, but that the agency is not authorized to prosecute any such claim on behalf of the foreign government.

Whenever an agency seeks to negotiate an international agreement in which a foreign party seeks to impose restrictive practices on information to be exchanged, the agency should first coordinate with the State Department. The State Department will work with the agency to develop the least restrictive terms consistent with United States policy, and ensure that those terms receive full interagency clearance through the established process for granting agencies authority to negotiate and conclude international agreements.

Finally, whenever an agency is attending meetings of international or multilateral organizations where restrictive practices are being proposed as binding on member states, the agency should coordinate with the State Department, the Office of Management and Budget, the Office of Science and Technology Policy, or the U.S. Trade Representative, as appropriate, before expressing a position on behalf of the United States.

[FR Doc. 96–3645 Filed 2–16–96; 8:45 am]
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February 20, 1996

Part IV

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Proposed Comprehensive Plan for Fiscal Year 1996; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Proposed Comprehensive Plan for Fiscal Year 1996

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of Proposed Program Plan for fiscal year 1996.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is publishing this notice of its Proposed Comprehensive Plan for fiscal year 1996.

DATES: Comments must be submitted on or before April 5, 1996.

ADDRESSES: Comments may be mailed to Shay Bilchik, Administrator, Office of Juvenile Justice and Delinquency Prevention, Room 742, 633 Indiana Avenue NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Eileen M. Garry, Special Assistant to the Administrator, (202) 307–6226. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is a component of the Office of Justice Programs in the U.S. Department of Justice. Pursuant to the provisions of Section 204(b)(5)(A), of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5601 *et seq.* (JJDP Act), the Administrator of OJJDP is publishing for public comment a Proposed Comprehensive Plan describing the program activities that OJJDP proposes to carry out during fiscal year 1996. The Proposed Comprehensive Plan includes activities authorized in Parts C and D of Title II of the JJDP Act, codified at 42 U.S.C. § 5651–5665a, 5667, 5667a. Taking into consideration comments received on this Proposed Comprehensive Plan, the Administrator will develop and publish a Final Comprehensive Plan describing the particular program activities that OJJDP intends to fund during fiscal year 1996, using in whole or in part funds appropriated under Parts C and D of Title II of the JJDP Act.

At the time of publication, OJJDP's fiscal year 1996 appropriation level has not been determined. Consequently, OJJDP has not provided dollar amounts for programs included in the proposed plan. Both the final decision to fund new and continuation programs and the amount of funds provided will depend, in part, on the level of Part C and Part D funds available for fiscal year 1996.

By receiving public comment at this point in time, the Office will be able to make appropriate modifications in the final program plan, if necessitated by a lower appropriation, that reflect priorities in the field.

Notice of the official solicitation of grant or cooperative agreement applications under the Final Comprehensive Plan will be published at a later date in the **Federal Register**. No proposals, concept papers, or other forms of application should be submitted at this time.

Overview

OJJDP was established by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5601 *et seq.* to provide a comprehensive, coordinated approach to prevent and control juvenile crime and improve the juvenile justice system. OJJDP administers a State Formula Grants Program in 57 States and territories, funds more than 100 projects through its Special Emphasis Discretionary Grant Program and its National Institute for Juvenile Justice and Delinquency Prevention, and coordinates Federal activities related to juvenile justice and delinquency prevention.

OJJDP serves as the staff agency for the Coordinating Council on Juvenile Justice and Delinquency Prevention; coordinates the Concentration of Federal Efforts Program; and administers the Title IV Missing and Exploited Children's Program, the Title V Prevention Incentive Grants Program, and programs under the Victims of Child Abuse Act of 1990, as amended § 42 U.S.C. 13001 *et seq.*

Fiscal Year 1996 Program Planning Activities

The OJJDP program planning process for fiscal year 1996 is coordinated with the Assistant Attorney General, Office of Justice Programs (OJP), and the four other OJP Program Bureaus: the Bureau of Justice Assistance (BJA); the Bureau of Justice Statistics (BJS); the National Institute of Justice (NIJ); and the Office for Victims of Crime (OVC). The program planning process involves the following steps:

- Internal review of existing programs by OJJDP staff.
- Internal review of proposed programs by OJP bureaus and selected Department of Justice components.
- Review of information and data from OJJDP grantees and contractors.
- Review of information contained in State comprehensive plans.
- Review of comments made by youth service providers, juvenile justice practitioners, and researchers, including focus group sessions held during fiscal year 1995 to receive input in proposed new program areas.
- Consideration of suggestions made by juvenile justice policy makers concerning State and local needs.
- Consideration of all comments received during the period of public comment on the Proposed Comprehensive Plan.

Discretionary Program Activities

Discretionary Grant Continuation Policy

OJJDP has listed on the following pages continuation projects currently funded in whole or in part with Part C and Part D funds and eligible for continuation funding in fiscal year 1996, either within an existing project period or through an extension for an additional project period. A grantee's eligibility for continued funding for an additional budget period within an existing project period depends on the grantee's compliance with funding eligibility requirements and achievement of the prior year's objectives. The amount of award is based on prior projections, demonstrated need, and fund availability.

Consideration for continuation funding for an additional project period for previously funded discretionary grant programs will be based upon several factors, including:

- The extent to which the project responds to the applicable requirements of the JJDP Act.
- Responsiveness to OJJDP and Department of Justice fiscal year 1996 program priorities.
- Compliance with performance requirements of prior grant years.
- Compliance with fiscal and regulatory requirements.
- Compliance with any special conditions of the award.
- Availability of funds (based on program priority determinations).

In accordance with Section 262 (d)(1)(B) of the JJDP Act, as amended, U.S.C. § 5665a, the competitive process for the award of Part C funds shall not be required if the Administrator makes a written determination waiving the competitive process:

1. With respect to programs to be carried out in areas in which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act codified at 42 U.S.C. § 5121 *et seq.* that a major disaster or emergency exists, or

2. With respect to a particular program described in part C that is uniquely qualified.

OJJDP Funding Policy

OJJDP seeks to focus its assistance on the development and implementation of programs with the greatest potential for reducing juvenile delinquency and improving the juvenile justice system by establishing partnerships with State and local governments and public and private organizations. To that end, OJJDP has set three goals that constitute the major elements of a sound policy for juvenile justice and delinquency prevention:

- To promote delinquency prevention and early intervention efforts that reduce the flow of juvenile offenders into the juvenile justice system, the numbers of serious and violent offenders, and the development of chronic delinquent careers.
- To foster the use of community-based programs and services for juvenile offenders, consistent with preserving the public safety, and in a manner that serves the appropriate development and best use of secure detention and corrections options.
- To improve the juvenile justice system and the response of the system to juvenile delinquents, status offenders, and dependent, neglected, and abused children.

Underlying each of the three goals is the overarching premise that achievement of these goals is vital to protecting the long-term safety of the public from increased juvenile delinquency and violence. In pursuing these goals, we divide our programs into the key categories you will find in the program plan: public safety and law enforcement, strengthening the juvenile justice system, delinquency prevention and intervention, and child abuse and neglect and dependency courts. The following discussion, however, addresses the broader goals of OJJDP.

Delinquency Prevention and Early Intervention

A primary goal of OJJDP is to identify and promote programs that prevent or reduce the occurrence of juvenile offenses, both criminal and non-criminal, and to intervene immediately and effectively when delinquent or status offense conduct first occurs. A sound policy for juvenile delinquency prevention seeks to strengthen the most powerful contributing factor to socially acceptable behavior—a productive place for young people in a law-abiding society. Delinquency prevention programs can operate on a broad scale, providing for positive youth development, or can target juveniles identified as being at high risk for delinquency, with programs designed to reduce future juvenile offending. OJJDP prevention programs take a risk-focused delinquency prevention approach based on public health and social development models.

Early interventions are designed to provide services to juveniles whose non-criminal misbehavior indicates that they are on a delinquent pathway, or for first time non-violent delinquent offenders or non-serious repeat offenders who do not respond to initial system intervention. These interventions are generally non-punitive but serve to hold a juvenile accountable while providing services tailored to the individual needs of the juvenile and the juvenile's family. They are designed to both deter future misconduct and ameliorate risk or enhance protective factors.

Community-Based Alternatives

A second OJJDP goal is to identify and promote effective community-based programs and services for juveniles who have formal contact with the juvenile justice system, emphasizing options that maintain the safety of the public, are appropriately restrictive, and promote and preserve positive ties with the child's family, school, and community. Communities cannot afford to place responsibility for juvenile delinquency entirely on publicly operated juvenile justice system programs. A sound policy for combating juvenile delinquency and reducing the threat of youth violence makes maximum use of a full range of public and private programs and services, most of which operate in the juvenile's home community, including those provided by the health and mental health, child welfare, social service, and educational systems.

Coordination of the development of community-based programs and services with the development and use of a secure detention and correctional system capability for those juveniles who require a secure option is cost effective, will protect the public, reduce facility crowding, and result in better services for both institutionalized juveniles and those who can be served while remaining in their community environment.

Improvement of the Juvenile Justice System

A third goal of OJJDP is to promote improvements in the juvenile justice system and facilitate the most effective allocation of system resources. This goal is necessary for holding juveniles who commit crimes accountable for their conduct, particularly serious and violent offenders who sometimes slip through the cracks of the system or are inappropriately diverted. This includes assisting law enforcement officers in their efforts to prevent and control delinquency and the victimization of children through community policing programs and coordination and collaboration with other system components and with child caring systems. It involves helping juvenile and family courts and the prosecutors and public defenders who practice in those courts, to provide individualized justice that maintains due process protections. It requires trying innovative programs and carefully evaluating those programs to determine what works and what does not work. It includes a commitment to involving crime victims in the juvenile justice system and ensuring that their rights are considered. OJJDP will continue to work closely with the Office for Victims of Crime to further cooperative programming, including the provision of services to juveniles who are crime victims or when the provision of victims services improves the operation of the juvenile justice system. It also calls for building an appropriate juvenile detention and corrections capacity and for intensified efforts to use juvenile detention and correctional facilities when necessary and under conditions that maximize public safety, while providing effective rehabilitation services. It requires encouraging states to carefully consider the use of expanded transfer authority that sends the most serious, violent, and intractable juvenile offenders to the criminal justice system, while preserving individualized justice. It necessitates conducting research and gathering statistical information in order to understand how the juvenile justice system works in serving children and families. And finally, the system can only be improved if information and knowledge is communicated, understood, and applied for the purpose of juvenile justice system improvement.

Introduction to Fiscal Year 1996 Proposed Program Plan

Unprecedented rates of juvenile violence and delinquency, victimization, school drop out, teen pregnancy, illegal drug use, and child abuse and neglect are plaguing our country. In jurisdictions across the Nation, over-burdened juvenile justice and dependency court systems are too often responsible for redressing the results of unstable families lacking parenting skills and communities with inadequate health and mental health support networks, fragmented social service delivery systems, a shortage of constructive activities for young people, and easy access to guns and drugs. They

lack the resources necessary to respond to serious, violent, and chronic delinquency, to hold juveniles accountable, and to turn back the tide of increasing violent delinquency by providing early intervention services for at-risk juveniles and their families.

The OJJDP fiscal year 1996 Proposed Comprehensive Plan seeks to support programming that is built on sound research and strengthens collaborations needed to empower the juvenile justice and dependency court systems to work effectively with communities in preventing and controlling delinquency and reducing juvenile victimization.

In 1993, OJJDP published a Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders (Comprehensive Strategy). Designed to provide a response to the social crisis we are facing, the Comprehensive Strategy utilizes statistics, research, and program evaluations as the basis for a set of sound principles for establishing a continuum of care for our children. The Comprehensive Strategy emphasizes the importance of local planning teams assessing the factors which put youth at risk for delinquency, determining available resources, and putting in place prevention programs that either reduce those risk factors or provide protective factors that buffer juveniles from the impact of risk factors. The Comprehensive Strategy also stresses the importance of early intervention for juveniles whose behavior puts them on one or more pathways to delinquency and of having a system of graduated sanctions that can ensure immediate and appropriate accountability and treatment for juvenile offenders.

During Fiscal Year 1995 OJJDP published a Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders (Guide). The Guide provides information on the process of identifying risk and protective factors in the community and offers detailed information about programs known to prevent delinquency or reduce recidivism. By providing a foundation and framework for each community's individualized strategy, the Guide can serve as a powerful tool for states, cities, counties, and neighborhoods that are mobilizing to address the problem of juvenile violence and delinquency.

The Comprehensive Strategy also served as the foundation for the development of the National Juvenile Justice Action Plan (Action Plan), due to be published by the Coordinating Council on Juvenile Justice and Delinquency Prevention in March. The Action Plan provides an additional resource to communities that seek to balance vigorous enforcement of the law and prevention services in order to reduce juvenile delinquency and violence. The Action Plan prioritizes Federal activities and resources under eight critical objectives, each of which needs to be addressed in order to effectively combat delinquency and violence. The Action Plan describes grants, training, technical assistance, information dissemination, and research and evaluation activities that will assist jurisdictions to: (1) Strengthen their juvenile justice systems; (2) prosecute certain serious, violent and chronic juvenile offenders in the criminal justice system; (3) target youth gun, gang and drug violence through comprehensive policing and prevention techniques; (4) create positive opportunities for youth; (5) break the cycle of violence by addressing child victimization, abuse and neglect; (6) mobilize communities into effective partnerships for change; (7) conduct research and evaluate programs; and (8) develop a public education campaign in order to both get the message out about successes in addressing juvenile delinquency and violence and rebuild confidence in every community's ability to impact this serious problem. These are the activities that the research, as well as numerous expert commissions on at-risk children, youth, families, and communities, indicates are necessary to make a lasting difference. It is these activities, coupled with the Comprehensive Strategy implementation, that form the basis of OJJDP's 1996 Proposed Program Plan.

The Program Plan supports a balanced approach to aggressively addressing juvenile delinquency and violence through graduated sanctions, improving the juvenile justice system's ability to respond, and preventing the onset of delinquency. It takes into account the short term need to ensure public safety and the long term imperative of supporting children's development into healthy, productive citizens through a range of prevention, early intervention, and graduated sanctions programs.

Three major new program areas were identified through a process of engaging OJJDP staff, other Federal agencies, and juvenile justice practitioners in an examination of existing programs, research findings, and the needs of the field. They are: (1) Developing one-stop, community-based intake, assessment and case referral centers and programs for juveniles who may require services or juvenile justice system interventions; (2) supporting the linkage between community and law enforcement responses to youth gun violence; and (3) improving the dependency and criminal court system's and the community's response to child abuse and neglect. In addition, a range of proposed research and evaluation projects that will expand our knowledge about juvenile offenders, the effectiveness of prevention, intervention, and treatment programs, and the operation of the juvenile justice system have been identified for fiscal year 1996 funding consideration. Enhanced program support in the area of disproportionate minority confinement, gender-specific services, and technical assistance to Native American Tribes, would also be provided. Combined with OJJDP programs being continued in fiscal year 1996, these new demonstration and support programs form a continuum of programming that supports the objectives of the Action Plan and mirrors the foundation and framework of the Comprehensive Strategy.

These continuation activities and programs, as complemented by proposed new programs, are at the heart of OJJDP's categorical funding efforts. For example, while focusing on the possible development of assessment centers as a new area of programming, OJJDP will continue to offer training seminars in the Comprehensive Strategy and look to the SafeFutures program to implement the Comprehensive Strategy model under existing grants and contracts. Combined, these activities provide a holistic approach to prevention and early intervention programs while enhancing the juvenile justice system's capacity to provide immediate and appropriate accountability and treatment for juvenile offenders.

OJJDP's Part D Gang Program will continue to support a range of comprehensive prevention, intervention, and suppression activities at the local level, evaluate those activities, and inform communities about the nature and extent of gang activities and effective and innovative programs through OJJDP's National Youth Gang Center. Similarly, the proposed demonstration program focusing on juvenile gun violence would complement existing law enforcement and prosecutorial training programs by supporting grassroots community organization's efforts to address juvenile access, carriage, and use of guns. This programming would build upon OJJDP's youth-focused community policing, mentoring, and conflict resolution initiatives, as well as programming in the area of drug abuse prevention, such as funding to the Congress of National Black Churches and the National Center for Neighborhood Enterprise for local church and neighborhood-based drug abuse prevention programs.

In support of the need to break the cycle of violence, OJJDP's new demonstration program to improve linkages between the dependency and criminal court systems, child welfare and social service providers, and family strengthening programs will complement ongoing support of Court Appointed Special Advocates, Child Advocacy Centers, and prosecutor and judicial training in the dependency field that is funded under the Victims of Child Abuse Act of 1990, as amended.

The Plan's proposed research and evaluation programming would support many of the above activities by filling in critical gaps in our knowledge about the level and seriousness of juvenile crime and victimization, its causes and correlates, and effective programs in preventing delinquency and violence. At the same time, OJJDP's research efforts will also be geared toward efforts that monitor and evaluate the ways juveniles are treated by the juvenile and criminal justice systems and any trends in this response, particularly as they relate to juvenile violence and its impact.

OJJDP is also utilizing the national perspective afforded it, to disseminate information to those at the grassroots level—practitioners, policy makers, community leaders; and service providers who are directly responsible for planning and implementing policies and programs that impact on juvenile crime and violence.

OJJDP will continue to fund longitudinal research on the causes and correlates of delinquency, the findings of which are shared regularly with the field through OJJDP publications, utilize state-of-the-art technology to develop and disseminate an interactive CD–ROM on programs that work to prevent delinquency and reduce recidivism, air national satellite teleconferences on key topics of relevance to practitioners, and publish new reports and documents on timely topics such as school-based conflict resolution, curfews, the Federal Educational Records Privacy Act, confidentiality of juvenile court records, innovative sentencing options, and strategies to reduce youth gun violence.

The various contracts, grants, cooperative agreements, and interagency fund transfers described in the Program Plan form a continuum of activity designed to address the crisis of youth violence and delinquency in our Nation. In isolation, this programming can do little. However, the emphasis of OJJDP's programming is on collaboration. It is through collaboration that Federal, State, and local agencies, Native American Tribes, national organizations, private philanthropies, the corporate and business sector, health, mental health and social service agencies, schools, youth, families, and clergy can come together to form partnerships and leverage additional resources, identify needs and priorities, and implement innovative strategies. Together, we can make a difference.

Fiscal Year 1996 Proposed Programs

The following are brief summaries of each of the proposed new and continuation programs for fiscal year 1996. As indicated above, the program categories are public safety and law enforcement, strengthening the juvenile justice system, delinquency prevention and intervention, and child abuse and neglect and dependency courts. However, because many programs have significant elements of more than one of these program categories, or generally support all of OJJDP's programs, they are listed in an initial program category called "Overarching Programs". The specific program priorities proposed within each category are subject to change with regard to their priority status, sites for implementation, and other descriptive data and information based on the review and comment process, grantee performance, application quality, fund availability, and other factors.

A number of programs contained in this document have been identified for funding by Congress with regard to the grantee(s), the amount of funds, or both. Such programs are indicated by an asterisk (*). The 1996 Appropriations Act Conference Report for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Programs identified six programs for OJJDP to examine and fund if warranted. One of these programs is included in the Plan for continuation funding. The remaining five will receive careful consideration for funding in fiscal year 1996.

Fiscal Year 1996 Program Listing

Overarching

Program of Research on the Causes and Correlates of Delinquency
Field-Initiated Research
Evaluation of SafeFutures
OJJDP Management Evaluation Contract
Juvenile Justice Statistics and Systems Development
Research Program on Juveniles Taken into Custody—NCCD
Juveniles Taken into Custody—Interagency Agreement
Children in Custody—Census
Juvenile Justice Data Resources
National Juvenile Court Data Archive*
National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center
Technical Assistance for State Legislatures
OJJDP Technical Assistance Support Contract—JJRC
Juvenile Justice Clearinghouse
Telecommunications Assistance
Coalition for Juvenile Justice
Insular Area Support*

Public Safety and Law Enforcement

Kids and Guns: Reducing Youth Gun Violence
Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Targeted Outreach with a Gang Prevention and Intervention Component (Boys and Girls Clubs)
National Youth Gang Center
Child-Centered Community-Oriented Policing
Law Enforcement Training and Technical Assistance Program
Violence Studies*
Hate Crimes

Strengthening the Juvenile Justice System

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Serious, Violent, and Chronic Juvenile Offender Treatment Program
Community Assessment Centers
Juvenile Restitution: A Balanced Approach
Training and Technical Assistance Program to Promote Gender-Specific Programming for Female Juvenile Offenders
Technical Assistance to Native American Programs
National Indicators of Juvenile Violence and Delinquent Behavior and Related Risk Factors
Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression
Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Evaluation of Statewide DMC Projects
Juvenile Mentoring Program (JUMP) Evaluation
Juvenile Transfers to Criminal Court Studies
Technical Assistance to Juvenile Courts*
Juvenile Court Judges Training*
The Juvenile Justice Prosecution Unit
Due Process Advocacy Program Development
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Training and Technical Assistance for National Innovations to Reduce Disproportionate Minority Confinement (The Deborah Wysinger Memorial Program)
Juvenile Probation Survey Research
Improvements in Correctional Education for Juvenile Offenders
Performance-Based Standards for Juvenile Detention and Corrections Facilities
Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)
Training for Juvenile Corrections and Detention Staff
Training for Line Staff in Juvenile Detention and Corrections

Training and Technical Support for State and Local Jurisdictional Teams to Focus on Juvenile Corrections and Detention Overcrowding
National Program Directory

Delinquency Prevention and Intervention

Training In Risk-Focused Prevention Strategies
Youth-Centered Conflict Resolution
Pathways to Success
Teens, Crime, and the Community: Teens in Action in the 90s *
Law-Related Education
Cities in Schools—Federal Interagency Partnership
Race Against Drugs
The Congress of National Black Churches: National Anti-Drug Abuse/Violence Campaign (NADVC)
Community Anti-Drug Abuse Technical Assistance Voucher Project
Training and Technical Assistance for Family Strengthening Services
Henry Ford Health System *
Jackie Robinson Center *

Child Abuse and Neglect and Dependency Courts

A Community-Based Approach to Combating Child Victimization
Permanent Families for Abused and Neglected Children *
Parents Anonymous, Inc.*
Lowcountry Children's Center, Inc.*

Overarching

Program of Research on the Causes and Correlates of Delinquency

Three projects sites comprise the Program of Research on the Causes and Correlates of Delinquency: The University of Colorado at Boulder, the University of Pittsburgh, and the State University of New York at Albany. The main purpose of fiscal year 1996 funding would be to support additional data analyses in support of OJJDP program development. Results from this program have been used extensively in the development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and other program initiatives.

OJJDP began funding this program in 1986 and has invested approximately $10 million to date. The program has addressed many issues of juvenile violence and delinquency. These include developing and testing causal models for chronic violent offending and examining interrelationships among gang involvement, drug selling, and gun ownership/use. To date, the Program has produced a massive amount of information on the causes and correlates of delinquent behavior.

Although there is great commonality across the projects, each has unique design features. Additionally, each project has disseminated the results of its research through a variety of publications, reports, and presentations.

With proposed fiscal year 1996 funding, each site of the Causes and Correlates Program would be provided additional funds to further analyze the longitudinal data. New publications, including two joint publications, would be developed in fiscal year 1996 and both the role of mental health in delinquency and pathways to delinquency would be the subject of further analyses.

This program would be implemented by the current grantees, Institute of Behavioral Science, University of Colorado at Boulder; Western Psychiatric Institute and Clinic, University of Pittsburgh; and Hindelang Criminal Justice Research Center, State University of New York at Albany. No additional applications would be solicited in fiscal year 1996.

Field-Initiated Research

Through the fiscal year 1996 Field-Initiated Research program, OJJDP would solicit innovative programs that address critical research and evaluation needs of the juvenile justice field. Priority research topics include: youth gangs in residential facilities; mental health issues; waiver and transfer to the juvenile justice system; reporting of child victimization; improving data collaboration efforts between juvenile justice, child welfare, child protective services, and mental health; institutional crowding; and topics related to OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. In addition to research topics, this program would also entertain proposals from State and local agencies wishing to conduct evaluations of programs initiated with OJJDP Formula, Title V, and discretionary funds that appear to be having significant impact and offer a possibility for national replication.

OJJDP proposes to issue a competitive solicitation for this initiative in fiscal year 1996.

Evaluation of SafeFutures

In fiscal year 1995, OJJDP funded six communities under the SafeFutures: Partnerships to Reduce Youth Violence and Delinquency Program. The program sites are: Contra Costa County, California; Fort Belknap Indian Community, Montana; Boston, Massachusetts; St. Louis, Missouri; Seattle, Washington; and Imperial County, California. The SafeFutures Program provides support for a comprehensive prevention, intervention, and treatment program to meet the needs of at-risk juveniles and their families.

Approximately $8 million per year will be made available over a 5-year project period to support the efforts of these jurisdictions to enhance existing partnerships, integrate juvenile justice and social services, and provide a continuum of care that is designed to reduce the number of serious, violent, and chronic juvenile offenders.

The Urban Institute received a competitive 3-year Phase I cooperative agreement award in fiscal year 1995. The national evaluation of the SafeFutures program will consist of both process and impact components for each funded site. The evaluation process includes an examination of planning procedures and the extent to which each sites" implementation plan is consistent with the principles of a continuum of care/graduated sanctions model. The evaluation will identify the obstacles and key factors contributing to the successful implementation of the SafeFutures continuum of care model. The evaluator is responsible for developing a cross-site monograph documenting the process of program implementation for use by other communities that want to develop and implement a comprehensive community-based strategy to address serious, violent, and chronic delinquency.

A fiscal year 1996 supplemental award will be made to the current grantee, the Urban Institute, to complete first year funding. No additional applications will be solicited in fiscal year 1996.

OJJDP Management Evaluation Contract

The purpose of this contract, competitively awarded in fiscal year 1995 to Caliber Associates, is to provide to OJJDP an expert resource capable of performing independent, management-oriented evaluations of selected OJJDP programs. These evaluations are designed to determine the effectiveness and efficiency of either individual projects or groups of projects. The contractor also assists OJJDP in determining how to make the best use of limited evaluation resources and how best to design and implement evaluations. Work plans that have been requested or will be requested from the contractor in fiscal year 1996 include: continuing the evaluation of three OJJDP-funded bootcamps; continuing to support the evaluation of Title V delinquency prevention programs at the local level; preparation of OJJDP's Title V Program report to Congress; providing assistance to OJJDP program development working groups; assisting OJJDP in the creation of an "evaluation partnership for juvenile justice" designed to improve the number and quality of evaluations conducted by Formula Grants Program grantees, other Federal agencies, private foundations that fund evaluations, and State and local governments; and conducting other short- or long-term evaluations as required. The contract will be performed by the current contractor, Caliber Associates. No additional applications will be solicited in fiscal year 1996.

Juvenile Justice Statistics and Systems Development

The Juvenile Justice Statistics and Systems Development (SSD) Program was competitively awarded to the National Center for Juvenile Justice (NCJJ) in fiscal year 1990 to improve national, state, and local statistics on juveniles as victims and offenders. The project has focused on three major functions: (1) Assessment of how current information needs are being met with existing data collection efforts and recommending options for improving national level statistics; (2) analyzing data and disseminating information gathered from existing Federal statistical series and national studies. Based on this work, OJJDP released the first "Juvenile Offenders and Victims: A National Report" in September 1995; and (3) provision of training and technical assistance for local agencies in developing or enhancing management information systems. A training curriculum, "Improving Information for Rational Decision making in Juvenile Justice," was drafted for pilot testing.

In this final phase of the SSD project, NCJJ will complete a long-term plan for improving national statistics on juveniles as victims and offenders, including constructing core data elements for a national reporting program for juveniles waived or transferred to criminal court, an implementation plan for integrating data collection on juveniles by juvenile justice, mental health, and child welfare agencies, and a report on standardized measures and instruments for self-reported delinquency surveys. The project will also make recommendations to fill information gaps in the areas of juvenile probation, juvenile court and law enforcement responses to juvenile delinquency, violent delinquency, and child abuse and neglect. In addition, the SSD Project will provide an update of Juvenile Offenders and Victims: A National Report, and work with the Office of Justice Programs Crime Statistics Working Group and other Federal interagency working groups on statistics. The project will be implemented by the current grantee, NCJJ. No additional applications will be solicited in fiscal year 1996.

Research Program on Juveniles Taken Into Custody—NCCD

The Research Program on Juveniles Taken into Custody was designed and implemented in fiscal year 1989 in response to a growing need for comprehensive juvenile custody data. The project now has the participation of all State juvenile corrections agencies. Each year the project produces a report on juveniles taken into custody. In fiscal year 1996, the National Council on Crime and Delinquency (NCCD) will continue to refine the State Juvenile Correctional System Reporting Program. It is anticipated that individual-level data for 1996 will be representative of more than 85 percent of the at-risk juvenile population. In addition, NCCD will prepare reports providing a detailed summary and analysis of the most recent data regarding: (1) The number and characteristics of juveniles taken into custody; (2) the rate at which juveniles are taken into custody; and (3) the trends demonstrated by the data.

This program will be implemented by the current grantee, NCCD. No additional applications will be solicited in fiscal year 1996.

Juveniles Taken Into Custody (JTIC)—Interagency Agreement

OJJDP would continue its program to improve the collection of juvenile custody data through an interagency agreement with the Bureau of the Census. This agreement provides for the collection and processing of individual-level data on juveniles under State correctional custody. The Census Bureau and OJJDP have developed close working relationships with State juvenile corrections agencies. Through these relationships, OJJDP has developed a program to collect data on each juvenile in State custody and the Census Bureau has developed an understanding of the State data that allows for "translation" of State information to a national format. Each year since 1990, the Census Bureau has collected this information and processed it for analysis by the National Council on Crime and Delinquency (NCCD).

The resulting analyses are published by OJJDP in annual Juveniles Taken Into Custody reports that are disseminated to practitioners and planners and used to meet statutory information requirements in OJJDP's Annual Report to the President and Congress.

The program would be implemented in fiscal year 1996 by the Bureau of the Census under an interagency agreement.

Children in Custody—Census

Under this ongoing collaborative program between OJJDP and the U.S. Bureau of the Census, OJJDP proposes to transfer funds to the Census Bureau to complete the 1995 biennial census of public and private juvenile detention, correctional, and shelter facilities. The Census describes juvenile custody facilities in terms of their resident population, programs, and physical characteristics. It also provides information on trends in the use of juvenile custody facilities for delinquent juveniles and status offenders. The Census Bureau's Center for Survey Methods Research would also continue to develop and test a roster-based data collection system designed to enhance information collected on juveniles in custody beginning with the 1997 biennial census. Finally, the Bureau's Governments Division would continue its efforts to develop a complete directory of juvenile justice facilities and programs. This directory would serve as the frame for conducting the 1997 census and other future surveys. It would contain basic information on each facility that is necessary for creating representative samples. It would also contain basic administrative information to be used in conducting the census. The program would be implemented by the U.S. Bureau of the Census under an existing interagency agreement.

Juvenile Justice Data Resources

OJJDP has entered into an agreement with the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan to make OJJDP data sets routinely available to researchers. Under this agreement, ICPSR assures the technical integrity and develops a universal format for the data. The codebooks, along with the data, provide clear guidance for additional analyses. Once prepared, ICPSR provides access to these data sets to member institutions and the public. Among the data sets previously processed and available through ICPSR are the Children in Custody Census (1971–1991); the Conditions of Confinement Study; and the National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMART).

This program would be implemented under an interagency agreement with ICPSR. No additional applications would be solicited in fiscal year 1996.

*National Juvenile Court Data Archive**

The National Juvenile Court Data Archive collects, processes, analyzes, and disseminates automated data and published reports from the Nation's juvenile courts. The Archive's reports examine referrals, offenses, intake, and dispositions, in addition to providing specialized topics such as minorities in juvenile courts and information on specific offense categories. The Archive also provides assistance to jurisdictions in analyzing their juvenile court data. In 1995, this project produced a bulletin, Offenders in Juvenile Court 1992, and a report, Juvenile Court Statistics 1992, along with a number of OJJDP Fact Sheets and special analyses.

In fiscal year 1996, the Archive will enhance the collection, reporting, and analysis of more detailed data on detention, dispositions, risk factors, and treatment data using offender-based data sets from a sample of juvenile courts.

The project will be implemented by the current grantee, the National Center for Juvenile Justice. No additional applications will be solicited in fiscal year 1996.

National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center

The National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center (NTTAC) was competitively funded in fiscal year 1995 for a 3-year project period to develop a national training and technical assistance clearinghouse, inventory juvenile justice training/technical assistance resources, and establish a data base with respect to these resources.

In fiscal year 1995, work involved organization and staffing of the Center, providing an orientation for OJJDP training and technical assistance providers regarding their role in the Center's activities, and initial data base development.

In fiscal year 1996, NTTAC will conduct needs assessments, support training/technical assistance program development, promote collaboration between OJJDP training/technical assistance providers, develop training/technical assistance materials, and promote evaluation of OJJDP-supported training and technical assistance. In addition, NTTAC will prepare program materials and implement specialized training, including training-of-trainers programs, and develop standards and procedures for academic/professional accreditation/certification of OJJDP training and trainers. NTTAC provides a single, central source for information pertaining to the availability of OJJDP supported training/technical assistance programs and will publish and maintain an up-to-date catalog of such programs.

This project will be implemented by the current grantee, Community Research Associates. No additional applications will be solicited in fiscal year 1996.

Technical Assistance for State Legislatures

State legislatures are being pressed to respond to public fear of juvenile crime and a loss of confidence in the capability of the juvenile justice system to respond effectively. For the most part, State legislatures have had insufficient information to properly address juvenile justice issues. In fiscal year 1995, OJJDP awarded a two-year grant to the National Conference of State Legislators (NCSL) to provide relevant, timely information on comprehensive approaches in juvenile justice that are geared to the legislative environment. In fiscal year 1995, NCSL convened a Leadership Forum with invited legislators; convened several focus groups; and established an information clearinghouse function. In fiscal year 1996, OJJDP will award second-year funding to the NCSL to further identify, analyze, and disseminate information to help State legislatures make more informed decisions about legislation affecting the juvenile justice system. A complementary task will involve supporting increased communication between State legislators and State and local leaders who influence Decision making regarding juvenile justice issues. NCSL will provide technical assistance to four states, will continue outreach activities and maintain its clearinghouse function.

The project will be implemented by the current grantee, NCSL. No additional applications will be solicited in fiscal year 1996.

OJJDP Technical Assistance Support Contract: Juvenile Justice Resource Center

This 3-year contract, competitively awarded in fiscal year 1994, provides technical assistance and support to OJJDP, its grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. This program support contract will be supplemented in fiscal year 1996. The contract will be implemented by the current contractor, Aspen Systems Corporation. No additional applications will be solicited in fiscal year 1996.

Juvenile Justice Clearinghouse

A component of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse (JJC) is OJJDP's central source for the collection, synthesis, and dissemination of information on all aspects of juvenile justice, including research and evaluation findings, State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, and statistics. JJC serves the entire juvenile justice community, including researchers, law enforcement officials, judges, prosecutors, probation and corrections staff, youth-service personnel, legislators, the media, and the public.

Among its many support services, JJC offers toll-free telephone access to information, prepares specialized responses to information requests, produces, warehouses, and distributes OJJDP publications, exhibits at national conferences, maintains a comprehensive juvenile justice library and database, and administers several electronic information resources. Recognizing the critical need to inform juvenile justice practitioners and policy makers on promising program approaches, JJC continually develops and recommends new products and strategies to communicate more effectively the research findings and program activities of OJJDP and the field. The entire NCJRS, of which the OJJDP-funded JJC is a part, is administered by the National Institute of Justice under a competitively awarded contract . The project will be implemented by the current grantee, Aspen Systems Corporation. No additional applications will be solicited in fiscal year 1996.

Telecommunications Assistance

Developments in information technology and distance training can expand and enhance OJJDP's capacity to disseminate information and provide training and technical assistance. These technologies have the following advantages when used properly: increased access to information and training for persons in the juvenile justice system; reduced travel costs to conferences; and reduced time attending meetings requiring one or more nights away from one's home or office. Additionally, the successful use of "live" satellite teleconferences by OJJDP during the past year has generated an enthusiastic response from the field.

During the past twelve months the grantee has produced four live satellite teleconferences on the following topics: Community Collaboration for

Delinquency Prevention; Model Juvenile Correctional Programs for Serious, Violent, Chronic Offenders; Youth Focused Community Policing; and Juvenile Boot Camps.

OJJDP proposes to continue the competitive cooperative agreement award to Eastern Kentucky University in 1994 to provide program support and technical assistance for a variety of information technologies, including audio-graphics, satellite teleconferences, and fiber optics. The grantee would also continue to provide limited technical assistance to other grantees interested in using this technology and explore linkages with key constituent groups to advance mutual goals and objectives. This project would be implemented by the current grantee, Eastern Kentucky University. No additional applications would be solicited in fiscal year 1996.

Coalition for Juvenile Justice

The Coalition for Juvenile Justice supports and facilitates the purposes and functions of each State's Juvenile Justice State Advisory Group (SAG). The Coalition, acting as a statutorily authorized, duly chartered Federal advisory committee, reviews Federal policies and practices regarding juvenile justice and delinquency prevention, and prepares and submits an annual report and recommendations to the President, Congress, and the Administrator of OJJDP. The Coalition also serves as an information center for the SAGs and conducts an annual conference to provide training for SAG members. The program would be implemented by the current grantee, the Coalition for Juvenile Justice. No additional applications would be solicited in fiscal year 1996.

*Insular Area Support**

The purpose of this program is to provide supplemental financial support to the U.S. Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (Palau), and the Commonwealth of the Northern Mariana Islands. Funds are available to address the special needs and problems of juvenile delinquency in these insular areas, as specified by Section 261(e) of the JJDP Act, as amended, 42 U.S.C. § 5665(e).

Public Safety and Law Enforcement

Kids and Guns: Reducing Youth Gun Violence

This project is intended to enhance the effectiveness of comprehensive youth gun violence reduction efforts by supporting innovative local community-generated strategies. Under a competitive announcement, OJJDP proposes funding community-based organizations and local units of government to strengthen their linkages to broader youth gun violence reduction efforts.

Applicants would be encouraged to: be creative in designing initiatives for the prevention, intervention, and reduction of youth gun violence in targeted neighborhoods; coordinate their efforts with other community-based law enforcement initiatives, youth-serving organizations, crime victim organizations, and the juvenile justice system; and collaborate with these agencies to evaluate program effectiveness. Applicants would also be required to show that their proposed initiative reflects current youth gun-violence research and a local assessment of youth access to guns, why young people carry guns, and why they use them.

OJJDP also proposes to support an independent evaluation of this project that focuses on collecting and analyzing data on the program implementation process. The evaluator would also design an impact evaluation in collaboration with OJJDP and an approved advisory board.

The Reducing Youth Gun Violence project would be competitively funded in up to three sites with a 2-year project period. The evaluation would be competitively funded under a cooperative agreement to a single grantee for a 3-year project period.

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

This program supports the implementation of a comprehensive gang program model in five jurisdictions. The program was competitively awarded with fiscal year 1994 funds under a 3-year project period. The demonstration sites implementing the model, developed with OJJDP funding support by the University of Chicago, are: Mesa, Arizona; Tucson, Arizona; Riverside, California; Bloomington, Illinois; and San Antonio, Texas. Implementation of the comprehensive gang program model requires the mobilization of the community to address gang-related violence by making available social interventions, providing social/academic/vocational and other types of opportunities, supporting gang suppression through law enforcement, prosecution and other community control mechanisms, and supporting organizational change and development in community agencies to more effectively address gang violence prone youth.

During the past year, the demonstration sites began an ongoing problem assessment process to identify the full nature and extent of the gang problem in the community and its potential causes. The assessment process will also help communities to understand what may cause gang violence in their community and to identify benchmarks by which program success may be measured. The demonstration sites also participated in training and technical assistance activities, including two cluster conferences sponsored by OJJDP. In addition, the demonstration sites began strategy implementation and service provision and made progress in community mobilization, either through existing planning structures or by creating new structures.

In fiscal year 1996, demonstration sites will receive second year funding to continue implementation of the model program and build upon the sustained mobilization, planning and assessment processes. Additionally, the demonstration sites will continue to target youth prone to gang violence through continuing implementation of the program model and work with the independent evaluator of this demonstration program. No additional applications will be solicited in fiscal year 1996.

Targeted Outreach With a Gang Prevention and Intervention Component (Boys and Girls Clubs)

This program is designed to enable local Boys and Girls Clubs to prevent youth from entering gangs and to intervene with gang members in the early stages of gang involvement to divert them from gang activities into more constructive programs. In fiscal year 1996, Boys and Girls Clubs of America would provide training and technical assistance to existing gang prevention and intervention sites and expand the gang prevention and intervention program to 30 additional Boys and Girls Clubs, including those in SafeFutures sites. This program would be implemented by the current grantee, the Boys and Girls Clubs of America. No additional applications would be solicited in fiscal year 1996.

National Youth Gang Center

The proliferation of gang problems ranging from large inner cities to smaller cities, suburbs, and even rural areas over the past two decades led to the development by OJJDP of a comprehensive, coordinated response to America's gang problem. This response

involves five program components, one of which is the implementation and operation of the National Youth Gang Center (NYGC). The NYGC was competitively funded with fiscal year 1994 funds for a three-year project period. The purpose of the NYGC is to expand and maintain the body of critical knowledge about youth gangs and effective responses to them. NYGC assists State and local jurisdictions in the collection, analysis, and exchange of information on gang-related demographics, legislation, research, and promising program strategies. The Center also coordinates activities of the OJJDP Gang Consortium—a group of Federal agencies, gang program representatives, and service providers. Other major tasks include statistical data collection and analysis on gangs, analysis of gang legislation, gang literature review, identification of promising gang program strategies, and gang consortium coordination activities.

Fiscal year 1996 funds will support second year funding of the NYGC cooperative agreement to the current grantee, the Institute for Intergovernmental Research. No additional applications will be solicited in fiscal year 1996.

Child Centered Community-Oriented Policing

In fiscal year 1993, OJJDP provided support to the New Haven, Connecticut Police Department and the Yale University Child Development Center to document a child-centered, community-oriented policing model being implemented in New Haven, Connecticut. The basic elements of the model are a 10-week training course in child development for all new police officers and child development fellowships for all community-based district commanders who direct neighborhood police teams. The fellowships provide 4 to 6 hours of training each week over a 3-month period at Yale's Child Study Center. The program also includes: (1) a 24-hour consultation from a clinical professional and a police supervisor to patrol officers who assist children who have been exposed to violence; (2) weekly case conferences with police officers, educators, and child study center staff; and (3) open police stations, located in neighborhoods and accessible to residents for police and related services, community liaison, and neighborhood foot patrols.

In fiscal year 1994, BJA community policing funds helped support the first year of a 3-year training and technical assistance grant to replicate the program nationwide. These funds supported the development of criteria for a request for proposals, protocols for consultation, train-the-trainer sessions for New Haven police and clinical faculty, and the development of a multi-model strategy for data collection and program evaluation. Fiscal year 1995 OJJDP funds supported continuation of the project's expansion in up to four replication sites.

Fiscal year 1996 funds will support the implementation of the five-phase replication protocol in the four selected sites, replication site data collection and analysis activities, and development of a detailed casebook about the model and program.

This project will be implemented by the current grantee, the Yale University School of Medicine. No additional applications will be solicited in fiscal year 1996.

Law Enforcement Training and Technical Assistance Program

This continuation award will supplement the 3-year law enforcement and technical assistance support contract, competitively awarded in fiscal year 1994 to Fox Valley Technical College in Appleton, Wisconsin. Fiscal year 1996 funds will be used to continue to provide services under the nationwide training and technical assistance program designed to improve law enforcement's capability to respond to juvenile delinquency, to contribute to delinquency prevention, and to address issues of missing and exploited children and child abuse and neglect. Technical assistance under this contract is provided in response to a wide variety of requests from Federal, State, county, and local agencies with responsibility for the prevention and control of juvenile delinquency and juvenile victimization. The contract supports continuation of the Gang, Gun, and Drug Policy Training Program, the Police Operations Leading to Improved Children and Youth Services series of training programs, a Native American Law Enforcement Training Program, and a variety of other law enforcement training programs offered by OJJDP.

This contract will be implemented by the current contractor, Fox Valley Technical College. No additional applications will be solicited in fiscal year 1996.

*Violence Studies**

The 1992 Amendments to the JJDP Act required OJJDP to fund two-year studies on violence in three urban and one rural jurisdiction. Building on the results of OJJDP's Program of Research on the Causes and Correlates of Delinquency, these studies were to examine the incidence of violence committed by or against juveniles in urban and rural areas of the United States. In fiscal year 1994, OJJDP initiated this program by supporting studies of homicides by and of youth in Milwaukee, Wisconsin and a cross-site study in rural areas in South Carolina, Georgia, and Florida. The grantees are the University of Wisconsin and the University of South Carolina. In fiscal year 1995, OJJDP provided funding for the second year of these studies and initiated two new violence studies in Los Angeles, California, and Washington, D.C. The grantees are the University of Southern California and the Institute for Law and Justice.

These four studies will provide valuable information regarding community violence patterns, with a particular focus on homicide and firearm use involving juveniles. They will also improve the juvenile justice system by identifying strategic law enforcement responses to juvenile violence and by identifying diversion, prevention, and control programs that ameliorate juvenile violence.

During fiscal year 1996, the University of Wisconsin and the University of South Carolina will analyze their data and issue their findings with prior year funds. The University of Southern California will receive fiscal year 1996 funds to identify violence prevention programs and conduct a household survey and interview adolescents and their care givers in Los Angeles County. The Institute for Law and Justice will receive fiscal year 1996 funds to collect and analyze aggregate data from various juvenile justice providers and from a series of interviews with agency staff serving adjudicated juveniles. This will be followed by analysis and the preparation of a comprehensive report.

The program will be continued by the current project grantees. No additional applications will be solicited in fiscal year 1996.

Hate Crimes

In fiscal year 1993, OJJDP competitively awarded a grant to Education Development Center, Inc. (EDC), to assess existing curriculum materials and develop a multi-purpose curriculum for use in educational and institutional settings. In fiscal years 1994 and 1995, EDC developed a multipurpose curriculum for hate crime prevention in school and other classroom settings and the curriculum was pilot tested in the eighth grade of the Collins Middle School in Salem, Massachusetts. Information received in the pilot test was evaluated and the curriculum redesigned. EDC then tested the curriculum in additional sites in New York and Florida to ensure that it was geographically and demographically representative. In consultation with the Office for Victims of Crime, EDC also developed a dissemination strategy for the curriculum and other products, including a judges guide on sanctions for juveniles who commit hate crimes.

In fiscal year 1996, EDC would identify school districts and juvenile justice agencies across the country who are interested in receiving training in the curriculum. EDC would also provide training to education and juvenile justice personnel in order to foster adoption of the curriculum. The project would be implemented by the current grantee, EDC. No additional applications would be solicited in fiscal year 1996.

Strengthening the Juvenile Justice System

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

The National Council on Crime and Delinquency, in collaboration with Developmental Research and Programs, Inc., has completed Phase I and II of a collaborative effort to support development and implementation of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Phase I involved assessing existing and previously researched programs in order to identify effective and promising programs that can be used in implementing the Comprehensive Strategy. In Phase II, a series of reports were combined into a Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Phase II also included convening of a forum, "Guaranteeing Safe Passage: A National Forum on Youth Violence," and holding two regional training seminars for key leaders on implementing the Comprehensive Strategy.

In fiscal year 1996, Phase III of the project will be funded to provide: targeted dissemination of the Comprehensive Strategy at national conferences; intensive training for selected States to implement the Comprehensive Strategy in up to six local jurisdictions; individualized technical assistance for the five Serious, Violent, and Chronic Juvenile Offender Program sites and the six SafeFutures sites; technical assistance to a limited number of individual jurisdictions interested in implementing the Comprehensive Strategy; and continued development of Comprehensive Strategy implementation materials.

The program will be implemented by the current grantees, the National Council on Crime and Delinquency and Developmental Research and Programs, Inc., under third-year funding of this 3-year program. No additional applications will be solicited in fiscal year 1996.

Serious, Violent, and Chronic Juvenile Offender Treatment Program

The Serious, Violent, and Chronic Juvenile Offender Treatment Program is designed to assist local jurisdictions in the development and implementation of a comprehensive strategy for the intervention, treatment, and rehabilitation of juvenile offenders. The program is an extension of an initial effort, funded by OJJDP in 1993, entitled "Accountability-Based Community Intervention (ABC) Program." Under the ABC initiative, Pittsburgh, Pennsylvania and Washington, D.C. were competitively funded to plan and implement a comprehensive graduated sanctions strategy.

In fiscal year 1994, under a competitive announcement, OJJDP awarded funds under the Serious, Violent, and Chronic Offender Treatment Program to three additional jurisdictions (Boston, Massachusetts; Richmond, Virginia; and Jefferson Parish, Louisiana) to develop and implement a graduated sanctions plan. The plan's basic elements include: (1) assess the existing continuum of secure and nonsecure intervention, treatment, and rehabilitation services in each jurisdiction; (2) define the juvenile offender population; (3) develop and implement a program strategy; (4) develop and implement an evaluation; (5) integrate private nonprofit, community-based organizations into the provision of offender services; (6) incorporate an aftercare program as an integral component of all residential placements; (7) develop a resource plan to enlist the financial and technical support of other Federal, State, and local agencies, private foundations, or other funding sources; and (8) develop a victim assistance component using local organizations.

In fiscal year 1995, the ABC Program jurisdictions completed program funding and in fiscal year 1996, each of the three fiscal year 1994 grantees will receive awards to continue implementation activities. No additional applications will be solicited in fiscal year 1996.

Community Assessment Centers

In fiscal year 1996, OJJDP proposes to identify jurisdictions that have developed assessment programs for juveniles and established linkages to integrated service delivery systems through the use of assessment centers. The concept of community assessment centers, reflecting the use of community input in a center's development and operations, offers many advantages, including comprehensive needs assessments of at-risk, dependent, or delinquent youth; improved access to integrated services; the promotion of alternatives to incarceration; and an enhanced ability to monitor racial and gender disparities in juvenile justice processing through automated information systems. OJJDP will examine current efforts across the Nation in order to identify replicable components or models that meet, or could be adapted to meet, the following goals:

- Ensuring positive outcomes for youth through the provision of comprehensive, community-based assessments that result in the development of an integrated treatment plan while avoiding unnecessary detention.
- Promoting and increasing the use of alternatives to detention and a system of graduated sanctions for delinquent offenders.
- Providing for more accurate and timely monitoring of the processing of at-risk, dependent, or delinquent juveniles to ensure fair and equitable treatment and outcomes in all phases of the juvenile justice system.
- Enhancing access to data or records across disciplines and integrating assessment, case management, and community-based services through the use of automated information systems, consistent with the principles of confidentiality.

If it is determined through this initial survey that a replicable model exists or can be developed, OJJDP intends to issue a competitive solicitation, late in fiscal year 1996, for the replication or development of the model, including an evaluation component. OJJDP seeks comment on the proposed program and funding process at this time.

Juvenile Restitution: A Balanced Approach

OJJDP proposes to continue support of the juvenile restitution training and technical assistance program in fiscal year 1996. The project design is based on practitioner recommendations regarding program needs and on how best to integrate and institutionalize

restitution and community service as key components of juvenile justice dispositions. In 1992, a working group was convened to help map out a plan for optimum development of the components of restitution programs. Plan components include community service, victim reparation, victim-offender mediation, offender employment and supervision, employment development, and other program elements designed to establish restitution as an important element to improving the juvenile justice system. This project is guided by balanced and restorative justice principles, which include the need to provide a balance of community protection, offender competency development, and accountability in programs for sanctioning and controlling juvenile offenders.

In fiscal year 1995, the project assisted three local jurisdictions to implement the "balanced approach," participated in presenting regional "round tables" for States interested in adopting the balanced and restorative justice model, and provided ad hoc technical assistance. In fiscal year 1996 the project will continue this work and also develop guideline materials on the balanced and restorative justice program. This project will be implemented by the current grantee, Florida Atlantic University. No additional applications will be solicited in fiscal year 1996.

Training and Technical Assistance Program To Promote Gender-Specific Programming for Female Juvenile Offenders

The 1992 Amendments to the JJDP Act, Public Law 102–586, 106 Stat. 4982, addressed for the first time the issue of gender specific services. The Amendments required States participating in OJJDP's State Formula Grants Program to conduct an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of services available, the need for such services, and a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency.

In fiscal year 1995, the OJJDP Gender Specific Services Program effort focused on providing training and technical assistance directly to States and on providing and promoting the establishment of State level gender-specific programs. Training and technical assistance have been provided to a broad spectrum of policymakers and service providers regarding services for juvenile female offenders.

In addition, OJJDP, in conjunction with the American Correctional Association (ACA), sponsored a National Juvenile Female Offender Conference. The purpose of the Conference was to provide juvenile corrections agency staff with an increased awareness of the unique problems and rehabilitative needs of female offenders and improve skills in working effectively with these offenders. Innovative juvenile female corrections programs were presented, including new approaches and strategies for operating facility-based programs for female offenders.

OJJDP also awarded discretionary grants to implement programs for female juvenile offenders and at-risk girls. Under the competitive Program to Promote Alternative Programs for Juvenile Female Offenders, OJJDP funded programs in Washington, D.C. and Chicago, Illinois. In addition, OJJDP has funded expansion of the Practical and Cultural Education Center for Girls, Inc. (P.A.C.E.) Program in Miami, Florida. Also, in order to provide the field with information regarding existent projects and current research, OJJDP funded Girls, Incorporated to conduct a national gender-specific services forum, which will be held during fiscal year 1996. Finally, OJJDP's six SafeFutures Program sites will implement components designed to establish services for at-risk and delinquent girls.

In fiscal year 1996, OJJDP proposes to award a competitive grant to support a training and technical assistance program designed to build upon the work of these multiple efforts. It would transfer lessons learned, stimulate formulation of State and local policies based upon research findings and statistical trend data, and assist community-based youth serving agencies and juvenile detention and correctional programs to initiate, refine, and expand gender-specific programming that utilizes the strengths and capabilities unique to females.

In fiscal year 1996, one two-year project period award would be made based upon a competitive solicitation.

Technical Assistance to Native American Programs

Native American programs for juveniles are facing increasing pressures because of the increasing numbers of youth who are involved in drug abuse, gang activity and delinquency. Many reservations are experiencing the problems that plague communities nationwide: gang activity; violent crime; use of weapons; and increasing drug and alcohol abuse.

From fiscal years 1992 to 1995, OJJDP funded four Native American sites to support the development of programs to impact these problems. These sites are Gila River, Pueblo Jemez, the Navajo Nation and the Red Lake Band of Chippewas. Each of these sites has been implementing programs specifically designed to meet the needs of the tribe. In Gila River an alternative school has been developed and implemented. The Navajo Nation has expanded the Peace Maker program to accommodate additional delinquent offenders and this approach has been adapted to the Red Lake and Pueblo Jemez communities. Additional programing, such as job skills development, has also been developed in some of the sites to meet the needs of their youth.

Although these programs have been successful, there is a need at these sites to expand programing options such as gang prevention and intervention programs. Other Native American Tribes have similar problems and needs, as do programs for Native Americans in many major metropolitan areas.

OJJDP proposes to fund a national technical assistance program to support the development of additional programing for the four sites that OJJDP currently funds and to extend programing support to Tribes and urban tribal programs across the country. OJJDP would fund a technical assistance provider to provide direct technical assistance and to coordinate the delivery of technical assistance by other experts. It is anticipated that this would be a three-year technical assistance program.

National Indicators of Juvenile Violent and Delinquent Behavior and Related Risk Factors

The difficulty of using juvenile arrests as a reliable measure of the level and nature of juvenile crime is well known. While juvenile arrest statistics have been useful as a barometer of juvenile involvement in crime, there are many critical dimensions in measuring this phenomenon that cannot be captured by any method other than direct measures of self-reported delinquency. The Department of Labor's Bureau of Labor Statistics is launching a 12,000-subject survey of 12–17-year-old juveniles that provides an opportunity to supplement the data collection by asking relevant questions about delinquency, guns, and violence. This longitudinal survey also provides an unprecedented opportunity to determine the generalizability of the findings from OJJDP's Program of Research on the Causes and Correlates of Delinquency across a broad range of juvenile populations. A transfer of funds to the Department of Labor is anticipated.

Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program

The University of Chicago, School of Social Services Administration, received a competitive cooperative agreement award in fiscal year 1994. This four-year project period award supports an evaluation of OJJDP's Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program. The evaluation will assist the five program sites in establishing realistic and measurable objectives, to document program implementation, and to measure the impact of a variety of gang program strategies. It will also provide interim feedback to the program implementors. The five sites are Bloomington, Illinois; Mesa, Arizona; Tucson, Arizona; Riverside, California; and San Antonio, Texas.

In fiscal year 1996, the grantee will: design and implement organizational surveys and youth interviews; develop and implement program tracking and worker questionnaires and interviews; gather and track aggregate level offense/offender client data from police, prosecutor, probation, school, and social service program sources; develop and implement uniform individual level criminal justice data collection efforts; consult with local evaluators on development and implementation of local site parent/community resident surveys; and coordinate ongoing efforts with local researchers conducting special surveys of gang youth in the program.

This project will be continued by the current grantee, the University of Chicago, School of Social Services Administration. No additional applications will be solicited in fiscal year 1996.

Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

The National Council on Crime and Delinquency (NCCD) received a 3-year competitive fiscal year 1994 grant to conduct a process evaluation and design an impact evaluation of the Intensive Community-Based Aftercare Demonstration and Technical Assistance Program at sites in Colorado, New Jersey, Nevada, and Virginia. NCCD's initial award funded the design and implementation of the process evaluation, the design of an impact evaluation, and start-up data collection. A report on the process evaluation will be submitted in the spring of 1996. Fiscal year 1996 funding will enable NCCD to begin the impact evaluation. Because of the excellent progress made during the first two years on the process evaluation, OJJDP intends to extend this program for three additional years to allow sufficient time for completion of an impact evaluation.

The project will be implemented by the current grantee, NCCD. No additional applications will be solicited in fiscal year 1996.

Evaluation of Statewide DMC Projects

This program would include completion of a process evaluation begun by OJJDP's Management Evaluation Program contractor, Caliber Associates, and would be continued with an impact evaluation following approval of an impact evaluation design. A 3-year program is anticipated.

This program would supplement evaluation efforts of OJJDP directed at State and local programs designed to impact disproportionate minority confinement (DMC). Caliber Associates has conducted evaluations of the five DMC pilot sites funded from OJJDP discretionary funds to formulate and test programs designed to reduce DMC. The pilot site evaluations were, for the most part, process evaluations because it was difficult to identify specific impacts of small programs at the local level. This State-level evaluation will be expected to measure changes in disproportionate minority confinement and test assumptions about the reasons for these changes.

Michigan has been tentatively selected as the site for this study through a State application process. To prepare for this evaluation, Caliber Associates will complete an evaluability assessment and a preliminary process evaluation. The grantee would have full access to the Caliber data, complete the process evaluation, and design and implement an outcome evaluation. The grantee would complete a process evaluation report at the end of the first year, incorporating the earlier data collection and analysis conducted by Caliber Associates. A single competitive agreement would be awarded under this program in fiscal year 1996.

Juvenile Mentoring Program (JUMP) Evaluation

The Juvenile Mentoring Program (JUMP) was funded at 41 sites by OJJDP in fiscal year 1995. In compliance with Part G, Section 288 H of the JJDP Act, all JUMP sites are participating in a national evaluation designed to determine the success and effectiveness of JUMP in reducing delinquency and gang participation, improving academic performance, and reducing the dropout rate. Each program participant has been provided with a JUMP Evaluation Workbook containing data collection instruments and instructions on their use. It provides for the collection of data on delinquency, school performance, family functioning, and project operations. Grantees are responsible for collecting and analyzing site data and preparing periodic evaluation reports for OJJDP.

The evaluation grantee would be expected to: assist the sites in implementing the JUMP Evaluation Workbook; provide other evaluation technical assistance to the funded sites; and complete a cross-site evaluation of results from the 41 sites at the end of the JUMP program grants. A draft report to Congress would be prepared based on the cross-site evaluation.

It is anticipated that one two-year cooperative agreement would be competitively awarded to carry out this program.

Juvenile Transfers to Criminal Court Studies

States are increasingly enacting juvenile code revisions broadening judicial waiver authority, providing prosecutor direct file authority, and mandating transfer of older, more violent juveniles to criminal court. Many States are also developing innovative procedures, such as blending traditional features of juvenile and criminal justice sentencing practices, through statutes that categorize juvenile offenders into different classes according to the seriousness of the offense, designating juvenile or criminal court for each class, or providing judges with discretion to make these judgments at sentencing. Studies of the impact of criminal court prosecution of juveniles have yielded mixed conclusions. Solid research on the intended and unintended consequences of transfer of juveniles to criminal court will enable policy makers and legislatures to develop statutory provisions and policies and improve judicial and prosecutorial waiver and transfer decisions.

To address this shortage of research programs, OJJDP competitively funded two juvenile waiver and transfer research projects in fiscal year 1995. The first, awarded to the National Center for Juvenile Justice, compares juvenile and criminal court handling of juveniles in four States that authorize judicial waiver of serious and violent juvenile offenders and mandate criminal court handling for specified categories of juvenile offenders. The second study,

awarded to the Florida Juvenile Justice Advisory Board, evaluates Florida's system of blending the option of criminal and juvenile justice system sentencing to handle serious or violent juvenile offenders. Additional funding is proposed in fiscal year 1996 to enable the projects to collect case specific information on sentence completion and recidivism data to provide a more definitive assessment of the impact of criminal versus juvenile justice system handling of serious and violent offender cases.

The projects would be implemented by the current grantees, the National Center for Juvenile Justice and the Florida Juvenile Justice Advisory Board. No additional applications would be solicited in fiscal year 1996.

*Technical Assistance to Juvenile Courts**

The National Center for Juvenile Justice (NCJJ), the research division of the National Council of Juvenile and Family Court Judges, provides technical assistance under this grant for juvenile court practitioners. The focus of the technical assistance is on court administration and management, program development, and special legal issues. During fiscal year 1995, NCJJ responded to over 830 requests for technical assistance.

In fiscal year 1996, special emphasis will be placed on appropriate sanctions for handling serious, violent, and chronic juvenile offenders and other emerging issues confronting the juvenile court, such as the increased use of waivers and transfers. The program will be implemented by the current grantee, NCJJ. No additional applications will be solicited in fiscal year 1996.

*Juvenile Court Judges Training**

The primary focus of this project in fiscal year 1996 will be to continue and refine the training and technical assistance program offered by the National Council of Juvenile and Family Court Judges. The objectives of the training are to supplement law school curriculums by providing basic training to new juvenile court judges and to provide experienced judges with state-of-the-art training on developments in juvenile and family case law and effective dispositional options. Emphasis is also placed on alcohol and substance abuse, child abuse and neglect, gangs and violence, disproportionate incarceration of minority youth, and intermediate sanctions. Training is also provided to other court personnel, including juvenile probation officers, aftercare workers, and child protection and community treatment providers. In fiscal year 1995, over 13,000 judges and court personnel received training through some 80 different programs. In addition, over 800 training related technical assistance requests were completed.

The project will be implemented by the current grantee, the National Council of Juvenile and Family Court Judges. No additional applications will be solicited in fiscal year 1996.

The Juvenile Justice Prosecution Unit

OJJDP has historically supported prosecutor training activities through the National District Attorneys' Association (NDAA). To continue that work, OJJDP awarded a 3-year project period grant in fiscal year 1995 to enable NDAA to establish a Juvenile Justice Prosecution Unit to provide prosecutor training, implement workshops on juvenile justice related executive policy, leadership, and management for chief prosecutors and juvenile unit chiefs, and provide background information to prosecutors on juvenile justice issues and programs.

The project is implemented by the American Prosecutors Research Institute (APRI), based on planning and input by prosecutors familiar with juvenile justice needs. APRI is the research and technical assistance affiliate of NDAA. The project utilizes a working group of chief prosecutors and juvenile unit chiefs to support project staff in providing training, technical assistance, and juvenile justice-related research and program information to practitioners nationwide. Start-up activities focused on the collection of information regarding juvenile programs in prosecutor offices. In fiscal year 1996, the project will convene a symposium of prosecutor coordinators from all 50 States in order to refine prosecutor training and technical assistance needs. APRI will also conduct three workshops for elected and appointed prosecutors and juvenile unit chiefs to help improve prosecutor handling of juvenile cases.

The project will be implemented by the current grantee, APRI. No additional applications will be solicited in fiscal year 1996.

Due Process Advocacy Program Development

In fiscal year 1993, OJJDP funded the American Bar Association (ABA), in partnership with the Juvenile Law Center (JLC) of Philadelphia, Pennsylvania, and the Youth Law Center (YLC) of San Francisco, California, to develop strategies to improve due process and the quality of legal representation. The goals of the program are to increase juvenile offenders' access to legal services and to improve the quality of preadjudication, adjudication, and dispositional advocacy for juvenile offenders. The strategies developed will be made available to State and local bar associations and other relevant organizations so that they can develop approaches to increase the availability and quality of counsel for juveniles.

In fiscal years 1994 and 1995, the ABA, JLC, and YLC conducted an assessment of the current state of the art with regard to legal services, training, and education. This survey included a review of literature, case law, State statutes, and a survey of public defenders, court appointed lawyers, law school clinical programs, and judges. A report, entitled "A Call for Justice, An Assessment of the Access to Counsel and Quality of Representation in Delinquency Proceedings" was developed and published by the ABA. It has been widely distributed to State and local bar associations, Chairs of State Juvenile Justice Advisory Committees, participants in the ABA survey, the National Association of Child Advocates, and others.

In fiscal year 1996, training is scheduled to begin with the first training being provided to the States of Tennessee, Maryland, and Virginia. The structure and scope of the training will be tailored to fit the needs of each site. A training manual, under development, will cover training on key issues such as detention, transfer or waiver, and dispositions. It is designed to fill gaps in existing training programs. The ABA and its partners will also establish networks with public defenders offices, children's law centers, and others through the HANDSNET system and mailings that provide program updates.

This program will be implemented by the current grantee, ABA. No additional applications will be solicited in fiscal year 1996.

Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

This initiative is designed to support implementation, training and technical assistance, and evaluation of an intensive community-based aftercare model in four jurisdictions that were competitively selected to participate in this demonstration program. The overall goal of this intensive aftercare model is to identify and assist high-risk juvenile offenders to make a gradual transition from secure confinement back into the community. The Intensive Aftercare Program (IAP) model can be viewed as having three distinct, yet overlapping

segments: (1) Pre-release and preparatory planning activities during incarceration; (2) structured transitioning involving the participation of institutional and aftercare staffs both prior to and following community reentry; and (3) long-term reintegrative activities to insure adequate service delivery and the required level of social control.

In fiscal year 1994, The Johns Hopkins University received a grant to test an intensive community-based aftercare model in four demonstration sites: Denver (Metro), Colorado; Clark County (Las Vegas), Nevada; Camden and Newark, New Jersey; and Norfolk, Virginia. Each of the four sites received additional funds to support program implementation in fiscal year 1995. The Johns Hopkins University contracts with California State University at Sacramento to assist in the implementation process by providing training and technical assistance and by making funds available through contracts to each of the four demonstration sites. Each of the sites have developed risk assessment instruments for use in selecting specific youth who need this type of intensive aftercare intervention, hired and trained staff in the intensive aftercare model, identified existing and needed community support (intervention) services, and identified data necessary for an accurate evaluation of the intensive community-based aftercare program. In addition, each of the sites has begun random assignment of clients to the program. The Johns Hopkins University and its sub-contractor, California State University at Sacramento, have provided continuous training and technical assistance to both administrators/managers and line staff in the intensive community-based aftercare sites. Staff have been trained in the theoretical underpinnings of the IAP model as well as in the practical applications of the model, such as techniques for identifying juveniles appropriate for the program. Training and technical assistance in this model have also been available to other states and OJJDP grantees on a limited basis.

In fiscal year 1996, the sites will continue to implement and test the aftercare model. An independent evaluation contractor is performing a process evaluation and has designed an impact evaluation to be implemented under a separate grant. The Johns Hopkins University will provide continuing training and technical assistance to the four selected sites and will initiate aftercare technical assistance services to jurisdictions participating in the OJJDP/Department of the Interior Youth Environmental Services (YES) Program and to OJJDP's six SafeFutures Program sites. This funding supports the third budget period of a 3-year project period.

This project will be implemented by the current grantee, The Johns Hopkins University. No additional applications will be solicited in fiscal year 1996.

Training and Technical Assistance for National Innovations To Reduce Disproportionate Minority Confinement (The Deborah Wysinger Memorial Program)

National data and studies have shown that minority children are over represented in juvenile and criminal justice facilities across the country. Accordingly, Congress, in the 1988 reauthorization of the JJDP Act, amended the Formula Grants Program State plan requirements to include addressing disproportionate confinement of minority juveniles. This is accomplished by gathering data, analyzing it to determine the extent to which minority juveniles are disproportionately confined, and designing strategies to address this issue. A Special Emphasis discretionary grant program was developed to demonstrate model approaches to addressing disproportionate minority confinement (DMC) in five State pilot sites (Arizona, Florida, Iowa, North Carolina, and Oregon). Funds were also awarded to a national contractor to provide technical assistance to assist both the pilot sites and other States, to evaluate their efforts, and share relevant information.

In fiscal years 1994 and 1995, OJJDP made additional Special Emphasis discretionary funds available to non-pilot States that had completed data gathering and assessment in order to provide initial funding for innovative projects designed to address DMC.

These efforts to impact DMC have yielded an important lesson: that systemic, broad-based interventions are necessary to reduce DMC. OJJDP recognizes the need to foster the development and documentation of effective strategies using training, technical assistance, information dissemination, provision of practical and targeted resource tools, and public education. In order to further these strategies, OJJDP proposes to competitively solicit innovative proposals to implement a 3-year national training, technical assistance, and information dissemination initiative focused on the disproportionate confinement of minority youth. The selected grantee would: (1) review and synthesize current State and local practices and policies designed to reduce DMC; (2) develop and deliver training to juvenile justice specialists, SAG Chairs, and selected grantees to inform them of DMC requirements, best practices and issues; (3) assist key OJJDP grantees to incorporate DMC issues, practices and policies into their training and education programs (key grantees are those training and technical assistance providers working with police, the courts and juvenile detention staff, SafeFutures sites, Title V, and some State Challenge Program grant recipients); (4) assist the eight current DMC grantees to manage and institutionalize their programs; (5) support the Formula Grants Program technical assistance contractor and OJJDP staff in reviewing State DMC plans; and (6) develop and carry out a national dissemination and public education program on DMC and help States and localities develop similar local education programs.

The selected DMC grantee would coordinate with OJJDP's National Training and Technical Assistance Center and other OJJDP contractors to identify OJJDP program areas where DMC policies and practices can be integrated into ongoing program activities. The DMC grantee and the National Training and Technical Assistance Center would also collaborate in the development of toolkits and resource products—screening tools, assessment, and training components—to be used by jurisdictions at each stage of their DMC data gathering, assessment and program response cycle. Other resource products would include educational curricula, technical assistance protocols for working with courts, police, intake services, probation and prosecutor's offices, assessment and screening tools, and planning and analysis tools for juvenile justice specialists.

OJJDP proposes to competitively award a single grant to implement a 3-year national training, technical assistance, and information dissemination initiative focused on the disproportionate confinement of minority youth.

Juvenile Probation Survey Research

Juvenile probation is one of the most critical areas of the juvenile justice system. However, there is presently very little information available on juveniles on probation. We do not know how many juveniles are on probation, their demographic characteristics, their offenses, or the conditions of their probation, including length, residential confinement, electronic monitoring, restitution, etc. This project would

conduct survey research and develop a questionnaire to collect this important information. As States operate their juvenile probation systems in very different manners, this project would also examine how these differences will affect the information collected.

It is anticipated that one 2-year cooperative agreement would be competitively awarded to carry out this program.

Improvements in Correctional Education for Juvenile Offenders

The Improvements in Correctional Education for Juvenile Offenders Program, a program development and demonstration initiative, was awarded to the National Organization for Social Responsibility (NOSR) in fiscal year 1992. It is being implemented in three phases: identification, assessment, and testing and dissemination. The purpose of the Program is to assist juvenile corrections administrators in planning and implementing improved educational services for detained and incarcerated juvenile offenders.

During the 3-year project period, the grantee implemented the first two phases of the program. An extensive literature search of effective education practices was undertaken and a report on effective practices in juvenile corrections education was published and a training and technical assistance manual were published. In addition, three State juvenile corrections facilities were selected as model sites for testing effective educational practices. The sites are: Adobe Mountain School, Arizona; Lookout Mountain Youth Center, Colorado; and Sauk Centre, Minnesota.

In fiscal year 1995, NOSR received funding to implement Phase III, testing and dissemination. The three model test sites are receiving site specific technical assistance in the assessment of their educational programs and in the development and implementation of effective educational practices, including reintegration of appropriate juveniles back into the mainstream education system.

Fiscal year 1996 funds would be used to assist each site to enhance its curriculum and implementation strategy to better address the needs of the juveniles they serve.

The project would be implemented by the current grantee, NOSR. No additional applications would be solicited in fiscal year 1996.

Performance-Based Standards for Juvenile Detention and Correctional Facilities

There is a need to increase the accountability of detention and correctional agencies, facilities, and staff in performing their basic functions. The development of performance-based standards has emerged as a primary strategy for improving conditions of confinement. This program supports the development and implementation of performance-based standards for juvenile detention and corrections. The performance measures and standards being developed will address both services and the quality of life for confined juveniles. They will reflect the consensus of a broadly representative group of national organizations on the mission, goals, and objectives of juvenile detention and corrections. OJJDP plans to promote nationwide adoption and implementation of the measures and standards through a future training and technical assistance program.

In fiscal year 1995, OJJDP awarded a competitive 18-month cooperative agreement to the Council of Juvenile Corrections Administrators (CJCA) to develop national performance-based standards for juvenile detention and correctional facilities. A National Consortium of major professional and advocacy organizations is providing technical advice and support in all aspects of the development and implementation of the standards. The project will focus on standards in the areas of: safety; security; order; programming/treatment/education; health; and justice.

During fiscal year 1996, the working groups will complete the drafting of performance criteria and measures, as well as assessment tools for monitoring performance in all substantive areas. In addition, all materials will be field tested and revised as needed. A plan for implementation will also be submitted.

By 1997, initial performance standards and a measurement system will be developed along with specific plans for an 18-month period of intensive demonstration and testing of the performance-based standards and their impact on juvenile corrections and detention programming.

The program will be implemented by the current grantee, CJCA. No additional applications will be solicited in fiscal year 1996.

Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)

The primary purpose of the Technical Assistance to Juvenile Corrections and Detention project is to provide specialized technical assistance to juvenile corrections, detention, and community residential service providers. The grantee, the American Correctional Association (ACA), also plans and convenes an annual Juvenile Corrections and Detention Forum. The Forum provides an opportunity for juvenile corrections and detention leaders to meet and discuss issues, problems, and solutions to emerging corrections and detention problems. The ACA also provides workshops and conferences on current and emerging national issues in the field of juvenile corrections and detention and offers technical assistance through document dissemination. OJJDP awarded a fiscal year 1995 competitive grant to ACA to provide these services over a 3-year project period. The project will be implemented by the current grantee, ACA. No additional applications will be solicited in fiscal year 1996.

Training for Juvenile Corrections and Detention Staff

In fiscal year 1996, OJJDP will continue to support the development and implementation of a comprehensive training program for juvenile corrections and detention management staff through an interagency agreement with the National Institute of Corrections (NIC). The program is designed to offer a core curriculum for juvenile corrections and detention administrators and mid-level management personnel in such areas as leadership development, management, training of trainers, legal issues, cultural diversity, the role of the victim in juvenile corrections, juvenile programming for specialized needs of offenders, and managing the violent or disruptive offender. The training is conducted at the NIC Academy and regionally. This program is a continuation activity, initiated in fiscal year 1991 under an interagency agreement with NIC that was renewed in fiscal year 1994. No additional applications will be solicited in fiscal year 1996.

Training for Line Staff in Juvenile Detention and Corrections

In fiscal year 1994, the National Juvenile Detention Association (NJDA) was awarded a competitive 3-year project period grant to establish a training program to meet the needs of the more than 38,000 line staff of juvenile detention and corrections facilities. In the first year under the grant, NJDA revised and updated a 40-hour Detention Careworker curriculum, developed a 24-hour Train-the-Trainer for the Detention Careworker curriculum, conducted 16 separate trainings and developed new lesson plans in 7 substantive areas, conducted a national training needs assessment for juvenile corrections careworkers, and provided technical assistance to 37 agencies and training to 887 line staff.

In fiscal year 1996, NJDA will continue to offer training to practitioners, develop new curriculums around emerging issues, and complete the development and testing of a 40-hour basic careworker curriculum for juvenile corrections line staff. Additionally, NJDA will deliver selected training programs for juvenile detention and corrections line staff on a number of topical issues.

This project will be implemented by the current grantee, NJDA. No additional applications will be solicited in fiscal year 1996.

Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding

The Conditions of Confinement: Juvenile Detention and Correctional Facilities Research Report (1994), completed by Abt Associates under an OJJDP grant, identified overcrowding as the most urgent problem facing juvenile corrections and detention facilities. Overcrowding in juvenile facilities is a function of decisions and policies made at the State, county, and city levels. The trend in a number of jurisdictions toward an increased use of detention and commitment to State facilities has been reversed when key decision makers, such as the chief judge, chief of police, director of the local detention facility, head of the State juvenile correctional agency, and others who affect the flow of juveniles through the system, agree to make decisions collaboratively and to modify practices and policies. In some instances modification has occurred in response to court orders. Compliance with court orders is improved with the support of enhanced interagency communication and planning among those agencies affecting the flow of juveniles through the system.

In addressing the problems of overcrowded facilities, OJJDP considered the recommendations of the Conditions of Confinement study regarding overcrowding, the data on over-representation of minority youth in confinement, and other information that suggests crowding in juvenile facilities must be reduced. Policy makers can do this by increasing capacity, where necessary, or by taking other steps to control crowding. This project, competitively awarded to the National Juvenile Detention Association (NJDA) in fiscal year 1994 for a three-year project period, provides training and technical assistance materials for use by State and local jurisdictional teams. In fiscal year 1995, the project collected information on strategies that are used or could be used to control crowding, and prepared training and technical assistance materials. Based on the demonstrated need for assistance and related criteria, NJDA will select three jurisdictions in fiscal year 1996 for onsite development, implementation, and testing of crowding reduction procedures, and will provide regional training on these procedures to other jurisdictions.

A fiscal year 1996 continuation award will be made to the current grantee, the National Juvenile Detention Association. No additional applications will be solicited in fiscal year 1996.

National Program Directory

In fiscal year 1995, OJJDP initiated the development of a National Program Directory, a national list of all juvenile justice offices, facilities, and programs in the United States, through the Bureau of the Census. The Census Bureau developed a directory format for juvenile detention and correctional facilities, which would contain the addresses and phone numbers of localities, names and titles of directors, and important classification information, classify facilities by the agency or firm that operates them, and list the functions of the facility. This structure was developed specifically to provide OJJDP with the ability to conduct surveys and censuses of juvenile custody facilities. The effort placed into developing this structure would also translate to other areas, such as a list of juvenile probation offices.

Beyond developing the computer structure, this project would also develop, in fiscal year 1996, the actual sampling frame or address list. The development of complete frames for any segment of the juvenile justice system requires many different approaches. The Census Bureau would use contacts with professional organizations to compile a preliminary list of juvenile facilities, courts, probation offices, and programs. The Census Bureau would then seek contacts in each State for further clarification of the lists. All leads would be followed until a complete list of all programs of interest has been exhausted. This program would be funded through an interagency agreement with the Census Bureau. No additional applications would be solicited in fiscal year 1996.

Delinquency Prevention and Intervention

Training In Risk-Focused Prevention Strategies

OJJDP will provide additional training in fiscal year 1996 to communities interested in developing a risk-focused delinquency prevention strategy. This training supports OJJDP's Title V Delinquency Prevention Incentive Grants Program, codified at 42 U.S.C. § 5781–5785, by providing the knowledge and skills necessary for State, local, and private agency officials and citizens to identify and address risk factors that lead to violent and delinquent behavior in children. In fiscal years 1994 and 1995, this training was offered to all States, territories, and the District of Columbia that received discretionary grants from OJJDP to implement the Title V Program.

OJJDP awarded a new contract with fiscal year 1995 funds to perform ongoing tasks and provide prevention training in the following areas: (1) orientation on risk and resiliency-focused prevention theories and strategies for local community leaders; (2) the identification, assessment and addressing of risk factors; (3) "training of trainers" in selected States to provide a statewide capacity to train communities in risk-focused prevention; and (4) development of training curriculums and materials to increase the capacity of States and localities to conduct risk-focused prevention training. These services will be provided through second year funding of a competitive contract awarded to Developmental Research and Programs, Inc. No additional applications will be solicited in fiscal year 1996.

Youth-Centered Conflict Resolution

Increasing levels of juvenile violence have become a national concern. Violence in and around school campuses and conflict among juveniles both in schools and neighborhoods have become extremely problematic for school administrators, teachers, parents, community leaders, and the public. While experts may debate the merits and impact of the varied contributing factors, most would agree that school curriculums do not provide for the systematic teaching of problem- and conflict-resolving skills.

To address this issue, OJJDP awarded a competitive grant in fiscal year 1995 to the Illinois Institute for Dispute Resolution to develop, in concert with other established conflict resolution organizations, a national strategy for broad-based education and training in the use of conflict resolution skills. In

support of this task, the grantee is to conduct four regional conferences based on a joint publication being developed by the Departments of Justice and Education. The grantee will also provide technical assistance and disseminate information about conflict resolution programs. The project will be continued by the current grantee, the Illinois Institute for Dispute Resolution. No additional applications will be solicited in fiscal year 1996.

Pathways to Success

This project is a collaborative effort among OJJDP, the Bureau of Justice Assistance (BJA), and the National Endowment for the Arts. The Pathways to Success Program promotes vocational skills, entrepreneurial initiatives, recreation, and arts education during afterschool, weekend, and summer hours by making a variety of opportunities available to at-risk youth.

Through a competitive process, five sites were funded in fiscal year 1995, the first year of a 2-year project period. The selected programs are located in: Newport County, Rhode Island; New York, New York; Anchorage, Alaska; Washington, D.C.; and Miami, Florida.

The SOS Playbacks: Arts-Based Delinquency Based Juvenile Delinquency Prevention Program, located in Newport County, Rhode Island, provides an afterschool arts program for students aged 13–18 from local public housing developments. Students in the program participate in peer-to-peer support and education through the mediums of visual arts, dance, and drama.

Project CLEAR, located in New York City, provides extended day programs to students in two elementary schools that have a high percentage of students who live in low-income areas and have limited English proficiency. Services include academic tutoring, arts in education instruction, physical recreation, and group counseling services. Two hundred students in grades 1–6 are served annually. Saturday programs for targeted youth and their families and evening programs for parents are also provided.

The Anchorage School District and the out-North Theater in Anchorage, Alaska have collaborated to provide afterschool and summer theater programs for students aged 12–14 from low income areas in Anchorage. Students involved in this program will produce and perform in plays they have written that reflect their personal life experiences.

The District of Columbia Courts Elementary Baseball Program provides combined recreational activities, tutoring activities, one-to-one mentoring, and parent workshops for students aged 6–10 who are enrolled in Garrett Elementary School in Washington, D.C. This school is located in one of the highest crime areas in Washington, D.C. The central activity of this program is interleague baseball games. Team participation is contingent upon student participation in tutoring and other activities.

The Aspira "Youth Sanctuary" Program, located in Dade County, Florida, addresses delinquency and other behavioral problems of Latino youth aged 10–16 who reside in migrant camps. This program teaches art, including community mural projects, folklore dance incorporating Latino dancing, and provides recreation opportunities for targeted students afterschool, on weekends, and during the summer months. Parent training workshops and parent support are key activities in this program.

This Program will be implemented in fiscal year 1996 by the current project grantees. No additional applications will be solicited in fiscal year 1996.

*Teens, Crime, and the Community: Teens in Action in the 90s**

This continuation program is conducted by the National Crime Prevention Council (NCPC) in partnership with the National Institute for Citizen Education in the Law (NICEL). Teens in Action in the 90s is a special application of the Teens, Crime, and Community (TCC) program that operates on the premise that teens, who are disproportionately the victims of crimes, can contribute to improving their schools and communities through a broad array of activities.

During fiscal year 1995, the TCC Program expanded to more than 100 new sites, primarily through five regional expansion centers located in New England, the Mid-Atlantic States, the Mid-South, the Deep South, and the Pacific Northwest Coast. These TCC projects utilized Boys and Girls Clubs of America and their affiliates in six localities to become partners in TCC efforts in these cities.

More than 4,000 teachers, social service providers, juvenile justice professionals, law enforcement officers, and other community leaders participated in intensive training to help sites implement the TCC curriculum in their communities. Over 1,000 individuals benefited from technical assistance, materials, and consultation regarding TCC in areas of program implementation, fund development, and networking opportunities.

In fiscal year 1996, NCPC and NICEL will implement the National Teens, Crime, and the Community Program in additional locations across the country. In addition, TCC will seek to implement projects in the six SafeFutures Program sites.

This program will be implemented by the current grantee, NCPC. No additional applications will be solicited in fiscal year 1996.

Law-Related Education (LRE)

The national Law-Related Education (LRE) Program "Youth for Justice" includes five coordinated LRE projects and programs operating in 48 States and 4 non-State jurisdictions.

The program's purpose is to provide training and technical assistance to State and local school jurisdictions that will result in the institutionalization of quality LRE programs for at-risk juveniles. The focus of the program during fiscal year 1996 would be to continue linking LRE to violence reduction and to involve program participants in finding solutions to juvenile violence. The major components of the program are coordination and management, training and technical assistance, assistance to local program sites, public information and program development and assessment.

This program would be implemented by the current grantees, the American Bar Association, the Center for Civic Education, the Constitutional Rights Foundation, the National Institute for Citizen Education in the Law, and the Phi Alpha Delta Legal Fraternity. No additional applications would be solicited in fiscal year 1996.

Cities in Schools—Federal Interagency Partnership

This program is a continuation of a national school dropout prevention model developed and implemented by Cities in Schools, Inc. The Cities in Schools (CIS) Program provides training and technical assistance to States and local communities, enabling them to adapt and implement the CIS model. The model brings social, employment, mental health, drug prevention, entrepreneurship, and other resources to high-risk youth and their families in the school setting. Where CIS State organizations are established, they assume primary responsibility for local program replication during the Federal interagency partnership.

The Federal Interagency Partnership program is based on a program strategy that is designed to enhance CIS, Inc.'s capability to provide training and technical assistance, introduce selected initiatives to CIS youth at the local level, disseminate information, and network with Federal agencies on behalf of State and local CIS programs.

Fiscal year 1995 accomplishments include the following: establishment of 15 student-run entrepreneurship programs; establishment of a consulting program consisting of a pool of CIS State and local program directors and other experts to support the expanded technical assistance needs of the CIS network of State and local programs; production and distribution of two publications, a catalogue of program resources, and a history of the CIS program; a three-day training session featuring presentations from Federal agencies on the financial and programmatic resources available through their Departments; and a catalogue of State and local programs in the areas of family strengthening and parent participation, working with adjudicated or incarcerated youth, violence prevention, prevention of AIDS and sexually transmitted diseases, and conflict resolution.

The Cities in Schools Federal Interagency Partnership program is jointly funded by OJJDP and the Departments of Health and Human Services and Commerce under an OJJDP grant. The project would be implemented by the current grantee, Cities in Schools, Inc. No additional applications would be solicited in fiscal year 1996.

Race Against Drugs

The Race Against Drugs (RAD) Program is a unique drug awareness, education, and prevention campaign designed to help young people understand the dangers of drugs and live a non-impaired lifestyle. With help and assistance from 23 motor sports organizations, the cooperation of the Federal Bureau of Investigation, the Drug Enforcement Administration, the U.S. Navy, and other government agencies, the National Child Safety Council, and a variety of corporate sponsors, RAD has become an exciting and innovative addition to drug abuse prevention programs. RAD activities now include national drug awareness and prevention activities at schools, malls, and motor sport events; television and public service announcements, posters, and signage on T-shirts, hats, decals, etc.; and specialized programs like the "Adopt-A-School Essay and Scholarship" and "Winner's Circle" programs. Curriculum materials include the Be A Winner Action Book for 6–8th graders, a RAD Adult Guide, and a RAD coloring book for K–4th graders.

In fiscal year 1995 the program was funded to develop additional and updated curriculum materials, reach additional program sites, and demonstrate the Winner's Circle Program in Seattle, Washington. It was funded jointly by the Bureau of Justice Assistance and OJJDP with the Center for Substance Abuse Prevention (CSAP) providing extensive printing and clearinghouse support.

In fiscal year 1996, OJJDP proposes to continue funding over a two-year project period in order to expand program operations to reach 500,000 youth at 300 RAD events annually, conduct 20 adopt-a-school programs in conjunction with major racing events, develop mobile educational exhibits and a variety of new educational materials, and conduct a program evaluation. OJJDP anticipates that the program would operate with private direct funding and in-kind support at the end of the project period.

The program would be implemented by the current grantee, the National Child Safety Council. No additional applications would be solicited in fiscal year 1996.

The Congress of National Black Churches: National Anti-Drug Abuse/ Violence Campaign (NADVC)

OJJDP proposes to continue funding the Congress of National Black Churches' (CNBC) national public awareness and mobilization strategy to address the problem of juvenile drug abuse and violence in targeted communities. The goal of the CNBC national strategy is to summon, focus, and coordinate the leadership of the black religious community, in cooperation with the Department of Justice and other Federal agencies and organizations, to mobilize groups of community residents to combat juvenile drug abuse and drug-related violence.

The campaign now operates in 37 city alliances, having grown from 5 original target cities. The smallest of these alliances consists of 6 churches and the largest has 135 churches. The NADVC program involves approximately 2,220 clergy and affects 1.5 million youth and the adults who influence their lives. NADVC also provides technical support to four statewide religious coalitions.

As a result of NADVC's technical assistance and training workshops, project sites have been able to leverage approximately $1.5 million in private and government funding.

NADVC has contributed to the planning and presentation of numerous technical assistance and training conferences on violence and substance abuse prevention and produced a National Training and Site Development Guide and a video to assist sites implement the NADVC model.

The Program would be expanded in fiscal year 1996 to address family violence intervention issues and target up to 6 additional cities, for a total of 43 cities. Consideration would be given to SafeFutures sites when selecting the new sites. This program would be implemented by the current grantee, CNBC. No additional applications would be solicited in fiscal year 1996.

Community Anti-Drug-Abuse Technical Assistance Voucher Project

The National Center for Neighborhood Enterprise (NCNE) has extended its outreach to community-based grassroots organizations around the country that are working effectively to solve the problems of juvenile drug abuse. This project has three goals: (1) To allow various neighborhood groups to inexpensively purchase needed services through the use of technical assistance vouchers disbursed by NCNE; (2) to demonstrate the cost-effective use of vouchers to help neighborhood groups secure technical assistance for anti-drug-abuse projects to serve high-risk youth; and (3) to extend OJJDP funded technical assistance to groups that are often excluded because they lack the administrative sophistication, technical and grantsmanship skills, and resources to participate in traditional competitive grant programs.

The Technical Assistance Voucher Project builds upon the strengths and problem solving capacity existing in low-income communities nationwide and provides much needed technical and monetary resources to grassroots organizations that are operating youth anti-drug programs and activities for high risk youth.

The program awards 15–25 vouchers, ranging from $1,000 to $10,000 annually. Eligible organizations must have: proven effectiveness in serving a specific constituency; a small operating budget ($150,000 maximum); 501(c)(3) tax exempt status; and a program that targets high-risk youth and/or juvenile offenders; and leadership that is indigenous to the community. Vouchers can be used for planning, proposal writing, program promotion, legal assistance, financial management, and other activities. This project would be implemented by the current grantee, NCNE. No additional applications would be solicited in fiscal year 1996.

Training and Technical Assistance for Family Strengthening Services

Prevention, early intervention, and effective crisis intervention are critical

elements in a community's family support system. In many communities, one or more of these elements may be missing or programs may not be coordinated. In addition, technical assistance and training have not generally been available to community organizations and agencies providing family strengthening services. In response, OJJDP awarded a three-year competitive grant in fiscal year 1995 to the University of Utah's Department of Health and Education to provide training and technical assistance to communities interested in establishing or enhancing a continuum of family-strengthening efforts, including parent training. Grant activities include a literature review, national search, rating, and selection of family strengthening models, development and implementation of a marketing and dissemination strategy, and the selection of sites to receive intensive technical assistance. The grantee will also convene two regional conferences, produce user and training-of-trainers guides, and distribute videos of several family-strengthening workshops.

This program will be implemented by the current grantee, the University of Utah's Department of Health and Education. No additional applications will be solicited in fiscal year 1996.

*Henry Ford Health System**

In fiscal year 1995, the Henry Ford Health System (HFHS) initiated a two-year program in Detroit, Michigan called "Reducing Youth Violence Through School-Based Initiatives." The program serves seven elementary schools and two middle schools that feed into a Detroit high school. Primary Program activities are to identify juveniles at high risk, assess the needs of target youth, identify resources available in the community to serve those needs, coordinate community resources to create comprehensive programs, and evaluate the efficacy of the program. Participants include teachers, family members, community programs and agencies, as well as student and health center staff. This project will be implemented by the current grantee, HFHS. No additional applications will be solicited in fiscal year 1996.

*Jackie Robinson Center**

This three-year project, initially funded in fiscal year 1994, supports expansion of the Brooklyn USA Athletic Association, Inc.'s Jackie Robinson Centers for Physical Culture (JRC), which provide a comprehensive youth development and delinquency and crime prevention program. Presently, there are 18 school and 3 replication sites in operation serving in-school youth between the ages of 8 and 18. JRC's services are designed to prevent New York City youth from becoming involved in street gangs, violence, or drug and alcohol abuse, and to alert, educate, and inform youth and their parents about these issues. Activities conducted by JRC include development of positive peer groups, youth leadership, social and personal skills training, academic tutoring, sports, cultural activities, rap and discussion groups, individual counseling, parent education and involvement, community events, on-site crisis intervention, referral to treatment, physical/medical examinations, social service referral, and college and job placement assistance. JRC has increased its recruitment and registration from 750 to 6,600 students. Students in each of the 18 sites participated in a minimum of 3 special events during the year.

In fiscal year 1996, JRC will develop a data bank system to monitor the in-school progress of participating students through indicators such as attendance, academic, and behavioral records. This project will be implemented by the current grantee, the Brooklyn USA Athletic Association, Inc. No additional applications will be solicited in fiscal year 1996.

Child Abuse and Neglect and Dependency Courts

A Community-Based Approach to Combating Child Victimization

Statistics on child abuse and neglect are alarming. In 1994 alone, an estimated 3.1 million abused or neglected children were reported to public welfare agencies. More than 1 million of these cases were substantiated. Each year, an estimated 2,000 children—most under 4 years old—die at the hands of parents or caretakers.

Research demonstrating a link between child victimization and later involvement in violent delinquency suggests the efficacy of preventing child abuse and neglect and treating the victims of abuse as a means of reducing later violent and delinquent behavior.

To break the cycle of childhood victimization and violent delinquency, OJJDP proposes to enter into a joint solicitation with other bureaus of the Office of Justice Programs, in cooperation with other Federal agencies, to foster comprehensive, community-based, interagency and multi disciplinary approaches to the prevention, identification, intervention, and treatment of child abuse and neglect.

It is anticipated that two to five demonstration projects would be competitively awarded in fiscal year 1996 as part of a 5-year project period. Sites would be required to address each of the following program areas: (1) Data collection and evaluation; (2) system reform and accountability; (3) training and technical support to practitioners; (4) provision of a continuum of services to protect children and support families; and (5) prevention education and public information.

Training and technical assistance would be made available to selected sites in a number of areas, including system reform, practitioner training, victim advocacy, team-building and interagency collaboration, family-strengthening services assessment and implementation, and diversity/cultural awareness training.

Applicants would also be expected to demonstrate an ability to leverage other available sources of funds and document a readiness to engage in reform of child protection systems, progress in assessing and addressing child abuse and neglect, and broad community representation, commitment, and participation.

*Permanent Families for Abused and Neglected Children**

This is a national project to prevent unnecessary foster care placement of abused and neglected children, to reunify the families of children in care, and to ensure permanent adoptive homes when reunification is impossible. The purpose is to ensure that foster care is used only as a last resort and as a temporary solution. Accordingly, the project is designed to ensure that government's responsibility to children in foster care is acknowledged by the appropriate disciplines. Project activities include national training programs for judges, social service personnel, citizen volunteers, and others under the Reasonable Efforts Provision of the Social Security Act, as amended, 42 U.S.C. § 671(a)(15), training in selected States, and implementation of a model guide for risk assessment.

The project is implemented by the National Council of Juvenile and Family Court Judges (NCJFCJ). NCJFCJ provides support services to coordinate programs, trains judges in the Court Appointed Special Advocate (CASA) program, and implements the Model Court Program in additional jurisdictions.

In fiscal year 1996, a new program to divert families from the court system through arbitration under court supervision will be developed in three model courts using other funding sources. However, the program will be incorporated into NCJFCJ's permanency planning training.

The Permanent Families for Abused and Neglected Children Program will be implemented by the current grantee, NCJFCJ. No additional applications will be solicited in fiscal year 1996.

*Parents Anonymous, Inc.**

Parents Anonymous, Inc. (PA) establishes groups and adjunct programs that respond to the needs of families through a mutual support model of parents and professionals sharing their expertise and their belief in each individual's ability to grow and change in ways that create caring and safe environments for themselves and their children. In fiscal year 1994, OJJDP began supporting PA's Juvenile Justice Project to enhance PA's mission to prevent child abuse and neglect by developing a new capability within the PA network to address the needs of high-risk, inner-city populations, with an emphasis on minority parents.

As a result of OJJDP funding, PA has: developed 31 new groups in 11 states; produced and disseminated the booklet, I Am A Parents Anonymous Parent, in Spanish; convened a National Leadership Conference in Washington, D.C. in February 1995 which focused on outreach, recruitment and services for families of color and collaboration with juvenile justice agencies; convened an Executive Directors" Leadership Conference in Claremont, California, in November 1995; conducted written surveys, focus groups, and intensive telephone interviews to gather "best practices" data; produced and disseminated 12,000 copies of an expanded Innovations PA newsletter; and produced and disseminated 15,000 copies of The Parent Networker, a new semi-annual publication focused on issues of diversity.

In fiscal year 1996, PA will convene at least two regional trainings focused on working with families of color in high-risk settings, produce and disseminate two technical assistance bulletins, one on parent involvement as it relates to communities and families of color, and the other on strategies for providing PA programs for incarcerated parents, conduct two teleconference trainings, provide training and technical assistance to implement PA services in up to six SafeFutures Program sites, expand the number of PA affiliates working with the Juvenile Justice Project, and publish and disseminate a "PA Best Practices" manual.

The project will be implemented by the current grantee, PA. No additional applications will be solicited in fiscal year 1996.

*Lowcountry Children's Center, Inc.**

OJJDP will continue to fund Lowcountry Children's Center, Inc. (LCC) of Charleston, South Carolina in its expansion and coordination of the services required to create a model multi-disciplinary, crisis intervention program for child victims of sexual assault and their families. LCC's goals are to: (1) Continue their existing multi-disciplinary services, (2) enhance support and coordination between law enforcement and the Solicitor's (prosecutors) office in cases concerning allegations of child physical and sexual assault, (3) provide medical examination in a timely manner, and (4) collect and analyze data regarding the demographics of child victims and their families and the characteristics of the perpetrator, the sexual assault, and the community response. In 1995, as a result of this multi-disciplinary approach, LCC has exceeded its initial projections regarding the number of individual children who have been assessed and the number of clinical treatment units provided to these children and their families (as of December 31, 1995). LCC provided physical examinations for 194 children alleged to be victims of sexual abuse in a child-oriented environment and in a timely manner.

This project will be continued by the current grantee, LCC, Inc. No additional applications will be solicited in fiscal year 1996.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 96–3771 Filed 2–16–96; 8:45 am]

BILLING CODE 4410–18–P

VOL
61
ISS
34
FE
20
996
MI

Federal Register

Tuesday
February 20, 1996

Part V

Department of Transportation

Research and Special Programs Administration

49 CFR Part 171, et al.

Revision of Miscellaneous Hazardous Regulations; Regulatory Review; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 176, 177, and 178

[Docket HM–222B; Notice No. 96–3]

RIN 2137–AC76

Revision of Miscellaneous Hazardous Materials Regulations; Regulatory Review

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to revise the Hazardous Materials Regulations (HMR) based on its review of the HMR and on written and oral comments received from the public concerning regulatory reform. The intended effect of this rulemaking is to reduce unnecessary regulatory burdens on industry and make the regulations shorter and easier to use without compromising public safety. In particular, RSPA is proposing reductions in requirements pertaining to training frequency, incident reporting, and emergency response telephone numbers. This action is in response to President Clinton's March 4, 1995 memorandum to heads of departments and agencies calling for a review of all agency regulations and directing front line regulators to "get out of Washington" and create grassroots partnerships with the regulated community.

DATES: Comments must be received on or before April 19, 1996.

ADDRESSES: Please address written comments to the Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001. Comments may also be faxed to (202) 366–3753. Comments should identify the docket (Docket No. HM–222B). The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding public holidays.

FOR FURTHER INFORMATION CONTACT: John A. Gale or Jennifer Antonielli, (202) 366–8553; Office of Hazardous Materials Standards, RSPA, Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1995, President Clinton issued a memorandum to heads of departments and agencies calling for a review of all agency regulations and elimination or revision of those regulations that are outdated or in need of reform. In response to the President's directive, RSPA performed an extensive review of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180), and associated procedural rules (49 CFR Parts 106 and 107).

The President also directed that front line regulators "* * * get out of Washington and create grassroots partnerships" with people affected by agency regulations. On April 4, 1995, RSPA published in the **Federal Register** (60 FR 17049) a notice announcing seven public meetings and requesting comments on its hazardous materials safety program. RSPA requested comments on ways to improve the HMR and the kind and quality of services its customers want. RSPA received over 50 written comments in response to the notice. On July 28, 1995, RSPA published a second notice (60 FR 38888) announcing five more public meetings to be held from September to January 1996. On October 13, 1995, (60 FR 53321) RSPA issued an NPRM under Docket HM–222A that proposed to remove those sections of the regulations that have been identified in RSPA's regulatory review, in comments, and in the public meetings held to date as being unnecessary, duplicative, or outdated.

In this NPRM, RSPA proposes to amend various sections of the HMR based on agency initiative and on written and oral comments received from the public on regulatory reform. This rulemaking is one of several rulemakings that RSPA will initiate in response to its regulatory review, public meetings, and comments.

II. Proposed Changes

Part 171

Section 171.16. Several commenters requested modification of the incident reporting requirements in Part 171. One commenter requested that exceptions from the incident reporting requirements in § 171.16 be provided for limited quantities. RSPA concurs that continued reporting of certain incidents involving limited quantities would be of minimal value when weighed against the burden on the carriers required to prepare incident reports. Therefore, except for materials transported by aircraft, RSPA proposes certain exceptions from the incident reporting requirements in § 171.16 for limited quantities of Packing Group II and III materials.

Part 172

Section 172.101. Based on a commenter's request, RSPA proposes to amend the § 172.101 Table for the entries "Cartridges for weapons, blank, *or* Cartridges, small arms, blank, UN 0014"; "Cartridges for weapons, inert projectile, *or* Cartridges, small arms, UN0012"; "Cartridges, power device, UN0323"; and "Cartridges, small arms", in Column (7), by removing the reference "112". Also for these entries, in Column (8A) of the § 172.101 Table, the word "None" or "230", as appropriate, would be removed and replaced with "63". The provisions to reclass an explosive as an ORM–D material, currently contained in Special Provision 112 and in § 173.230(b), would be relocated to § 173.63(b) to minimize confusion. See also preamble discussion on proposed amendments to § 173.230.

One commenter requested that RSPA amend Column (7) of the § 172.101 Table for the entry "Ethanol *or* Ethyl alcohol *or* Ethanol solutions *or* Ethyl alcohol solutions" by adding Special Provision "24" to allow ethanol the same packing group criteria as alcoholic beverages. Special Provision 24 recently was adopted in the HMR for the shipping name "Alcoholic beverages" to provide alternative packing group criteria to that of § 173.121. The special provision specifies that alcoholic beverages with more than 70 percent alcohol by volume are assigned Packing Group II and alcoholic beverages containing more than 24 percent but not more than 70 percent alcohol are assigned Packing Group III. The commenter requested that the special provision also be assigned to ethanol because Packing Group II or III distilled spirits can be and are shipped under either "Alcoholic beverages" or "Ethanol *or* Ethyl alcohol *or* Ethanol solutions *or* Ethyl alcohol solutions." RSPA agrees with the commenter and proposes to add Special Provision "24" in Column (7) of the § 172.101 Table for the entry "Ethanol *or* Ethyl alcohol *or* Ethanol solutions *or* Ethyl alcohol solutions."

Section 172.102. In paragraph (c)(1), RSPA proposes to remove Special Provision 112 because its provisions would be relocated to § 173.63(b). See also preamble discussion on proposed changes to §§ 172.101 and 173.230.

Section 172.201. For clarity, RSPA proposes to amend § 172.201(d) by adding a cross-reference to § 172.604(c) for exceptions from the requirement to maintain an emergency response telephone number.

Section 172.203. RSPA proposes to revise the requirements for identifying hazardous substances on shipping papers and package markings. Currently under the HMR, all constituents in a mixture or solution that meet the definition of "hazardous substance" in § 171.8 must be identified on shipping papers and package markings. RSPA proposes, consistent with the technical name requirements in § 172.203(k), to require for hazardous materials that contain two or more hazardous substances that at least two hazardous substances be identified on shipping papers and package markings.

In addition, RSPA proposes to amend paragraph (e)(2) and remove paragraph (e)(3) to eliminate the requirement to enter on shipping papers "RESIDUE: Last Contained * * *" for packages containing only the residue of a hazardous substance. This proposal is intended to reduce regulatory burdens on industry.

Section 172.316. One commenter requested that RSPA allow consumer commodities that are prepared in accordance with the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) to be transported by motor vehicle. RSPA concurs and proposes to modify § 172.316 to allow the CLASS 9 label in lieu of the ORM–D marking on packages of consumer commodities.

Section 172.324. Consistent with proposed amendments to § 172.203(c), RSPA proposes to amend § 172.324(a) to ease the burden of identifying each hazardous substance on package markings. RSPA would require for packages that contain a mixture or solution comprising two or more hazardous substances, that at least two hazardous substances be marked on the package in association with the proper shipping name.

Section 172.402. One commenter requested an exception from the requirement for subsidiary hazard labeling for certain packages of Class 7 (radioactive) materials that also meet the definition of another hazard class, except Class 9. Generally, the commenter seeks parity with a labeling exception in § 173.4 for small quantities of hazardous materials. These Class 7 materials conform to all requirements in § 173.4, except for their specific activity level, which exceeds permissible limits for a limited quantity radioactive material. Because the non-radioactive hazards of these materials pose a minimal risk in transportation, the commenter suggests that § 172.402(d) be revised to except them from the requirement to label for the subsidiary hazard. Based upon successful experience under exemption DOT–E 10660, which currently authorizes transportation of certain packages, and consistent with the commenter's request, RSPA proposes to revise paragraph (d) by adding an exception from the subsidiary hazard labeling requirement for packages of Class 7 materials that otherwise conform to § 173.4.

Section 172.500. RSPA proposes to redesignate paragraphs (b)(4) and (b)(5) as paragraphs (b)(5) and (b)(6) and add a new paragraph (b)(4) to clarify that small quantities of Division 4.3 materials prepared in accordance with § 173.13 are excepted from the placarding requirements of Subpart F of Part 172.

Section 172.600. In accordance with § 172.600(d), a material that is classed as ORM–D, except when offered or intended for transportation by air, is excepted from the emergency response information and telephone number requirements of Subpart G of Part 172. The Conference on Safe Transportation of Hazardous Articles (COSTHA) petitioned (P–1094) RSPA to except all ORM–D materials, including those transported by air, from emergency response information requirements because of the small quantities involved and minimal hazards associated with ORM–D materials. COSTHA further stated that because an ORM–D material is not assigned an identification number, no specific emergency instructions are provided. Therefore, it contends that documented emergency response information and the 24-hour response telephone number are unnecessary. COSTHA also reported that many consumer commodities are allowed to be carried as checked and carry-on baggage without application of the emergency response communication standards. Thus, it argues that the aggregate quantity of consumer commodities that are carried by passengers may be considerably larger than that carried as cargo to which the emergency response information is required. RSPA agrees with the petitioner that the requirements to provide emergency response information and maintain a 24-hour telephone number are unduly burdensome for shippers of ORM–D air materials and, thus, proposes an exception in § 172.600(d) for these materials.

Section 172.604. Based on its own initiative and petitions for rulemaking, and because the costs to implement these requirements outweigh the benefits, RSPA proposes to except the following materials from emergency response telephone number requirements: (1) liquid petroleum distillate fuels (e.g., gasoline, propane, and diesel fuel); (2) limited quantities of hazardous materials; and (3) materials described under the shipping names "Engines, internal combustion"; "Battery powered equipment"; "Battery powered vehicle"; "Wheelchair, electric"; "Carbon dioxide, solid"; "Dry ice"; "Fish meal, stabilized"; "Fish scrap, stabilized"; "Castor bean"; "Castor meal"; "Castor flake"; "Castor pomace"; "Mercury contained in manufactured articles"; and "Refrigerating machine".

Since emergency responders routinely handle incidents involving liquid petroleum distillate fuels, it is questionable that the 24-hour emergency response telephone number could provide emergency responders with any additional information of value beyond that which is required to be carried in the vehicle. Therefore, RSPA proposes to except liquid petroleum distillate fuels from the emergency response telephone number requirements in § 172.604.

RSPA believes that the costs outweigh the benefits associated with maintaining the 24-hour emergency response telephone number requirements for shipments of limited quantities and the materials described under the shipping names listed above, e.g., Engines, internal combustion, etc. Therefore, RSPA proposes to except those materials from the emergency response telephone number requirements of § 172.604.

In addition, based on its own initiative, RSPA proposes to clarify that more than one emergency response telephone number with different hours of operation may be used to satisfy the requirements of § 172.604 if the following conditions are met: (1) the hours of operation of each number are clearly identified in association with the respective telephone number; (2) each respective telephone number is monitored during the time indicated while the hazardous material is in transportation; and (3) the requirements of § 172.604 (a)(2), (a)(3), and (b) are met. This proposed amendment is intended to codify RSPA's current position on this matter.

Section 172.704. RSPA stated in the notice of public meetings under Docket HM–222 (60 FR 17049) that it would consider extending the requirement for recurrent training from every two years to every three or four years. RSPA

received several written and oral comments in support of decreasing the frequency specified to train hazmat employees in accordance with Subpart H of Part 172. Many commenters claimed that the current requirement to train every two years is costly, difficult to administer, and inconsistent with other training programs required under other Federal, State and local regulations. Specifically, commenters from the marine cargo handling industry requested that RSPA increase the training interval to every four years for certain longshoremen who only handle sealed containers of hazardous materials and are not responsible for handling incidents involving the hazardous materials. Other commenters stated that the recurrent training requirement should be aligned to coincide with the Commercial Driver's License renewal requirement which is generally every four years. One commenter suggested that the interval for hazmat training coincide with the Federal Railroad Administration requirement in 49 CFR 240.217(c)(1) to certify engineers every three years. Some commenters requested that RSPA require hazmat training every five years. In this NPRM, RSPA proposes to decrease the frequency of all required hazmat training from two years to three years. This frequency is consistent with other training programs such as the training required under the Transportation of Dangerous Goods Regulations issued by the Government of Canada. Except as provided in § 172.704(c), hazmat employees must be trained whenever their hazmat functions change or the requirements are revised, regardless of the minimally required training frequency (see § 172.702). For example, if a requirement for information on a shipping paper changes as a result of a final rule, a hazmat employee is required to be trained in the revised requirement as soon as the new requirement becomes effective.

RSPA also received comments from the marine cargo handling industry concerning the applicability of the training requirements to "casuals" who are longshoreman who are hired for short periods, sometimes one day at a time. In accordance with § 172.704(c), hazmat employees must be trained within 90 days after employment. During this 90-day period, employees may perform hazmat functions only under the direct supervision of a properly trained and knowledgeable hazmat employee. This provision applies to a "casual" employed for less than 90 consecutive days by the same employer. In addition to removing obsolete effective dates, RSPA is proposing to revise § 172.704(c) to clarify its position concerning the "direct" supervision of a hazmat employee who has not received initial training. RSPA's position is that the person who is providing direct supervision must be able to instruct the employee on how to properly perform the hazmat function, must observe performance of the hazmat function, and must be able to take immediate corrective actions for any function not properly performed. Therefore, RSPA is proposing to add the word "direct" preceding the word "supervision" in § 172.704(c)(1) and, in § 172.702(b), RSPA is adding a reference to the exceptions for initial training found in § 172.704(c)(1).

Part 173

Section 173.4. Currently, the HMR do not permit Class 2, Divisions 4.2 and 4.3 materials and hazardous materials identified in paragraph (a)(11) to be shipped under the small quantity provisions, although some of these materials are eligible for similar exceptions under the ICAO Technical Instructions or an approval issued by the Associate Administrator for Hazardous Materials Safety. For example, UN2031 (Nitric acid) is specifically listed in paragraph (a)(11) and may not be shipped in accordance with the small quantity provisions. However, small quantities of nitric acid are authorized under a number of approvals to be shipped in this manner and no safety problems have been encountered. In this notice, RSPA proposes to revise the small quantity provisions by amending the introductory text in paragraph (a) to authorize Divisions 4.2 and 4.3, Packing Groups II and III, materials to be shipped in accordance with these provisions. This notice proposes to remove paragraph (a)(11) and add a new paragraph (c) to allow small quantities of certain categories of hazardous materials that are not authorized under this exception to be shipped in accordance with this section if specifically approved by the Associate Administrator for Hazardous Materials Safety. RSPA also proposes to revise the marking required to be displayed on packages of small quantities of hazardous materials in paragraph (a)(10) by shortening the length of the required statement. The proposed changes to § 173.4 are intended to ease burdens on industry and facilitate international transportation of hazardous materials in small quantities.

Section 173.13. RSPA proposes to add a new section § 173.13 that would incorporate, for highway and rail transport only, the provisions of DOT exemptions E–7891 and E–9168 into the HMR. These exemptions, and others commonly referred to as the "poison pack exemptions," allow small quantities of hazardous materials to be transported without their primary or subsidiary labels. In addition, Division 4.3 materials which meet the requirements of § 173.13 would be excepted from the placarding requirements of the HMR and Division 6.1 materials packaged in the specified manner would be allowed to be transported with foodstuffs.

Section 173.21. RSPA proposes to incorporate into § 173.21 the provisions of a competent authority approval for temperature-controlled shipments. This would eliminate the requirement that all shipments requiring temperature control must be approved by the Associate Administrator for Hazardous Materials Safety.

Section 173.32a. RSPA proposes to remove a requirement for an approval agency to submit an approval certificate to the Associate Administrator for Hazardous Materials Safety. This proposed amendment would provide relief from paperwork reporting burdens.

Section 173.155. RSPA proposes to amend § 173.155 by increasing the quantity of Class 9 liquid materials permitted in an inner packaging from 4.0 L (1 gallon) to 5.0 L (1.3 gallons). This proposal is consistent with the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) and is intended to provide relief and facilitate transportation of these materials in international commerce. RSPA may consider revising other limited quantities or providing additional limited quantity exceptions for other hazardous materials, (e.g., Division 4.3 materials), consistent with the UN Recommendations, in a future rulemaking action.

Section 173.171. Currently, §§ 173.171 and 177.838(g) prescribe requirements for smokeless powder for small arms. However, § 177.838(g) provides additional relief by permitting inside packages of smokeless powder to be overpacked in UN 4G boxes, provided the net weight of smokeless powder in any one box does not exceed 7.26 kg (16 pounds). This provision is not contained in § 173.171. Section 177.838(g) should be limited to provisions that apply specifically to motor carriers and should not contain packaging exceptions generally available to all shippers. Therefore, RSPA proposes to remove the

§ 177.838(g) provisions pertaining to classification and packaging and revise § 173.171 by adding the provision concerning smokeless powder in overpacks.

In addition, one commenter requested that RSPA allow smokeless powder that has been reclassed as a Division 4.1 material to be transported by vessel and cargo aircraft. The commenter also requested that smokeless powder be allowed to be reclassed as ORM–D. RSPA agrees that the exception to reclass smokeless powder to Division 4.1 should be extended to transportation by vessel and cargo aircraft. However, an ORM–D exception for smokeless powder may not provide an adequate level of safety because shipping papers would not be required for transportation by highway, rail or vessel and there would be no restriction on the amount of material that is permitted in air cargo compartments. RSPA believes that the hazards posed by smokeless powder, a Packing Group I hazardous material, necessitate hazard communication requirements (e.g., shipping papers, labels, and placards). Therefore, RSPA proposes to allow smokeless powder that has been reclassed as a Division 4.1 material to be transported by vessel and cargo aircraft, but is not adopting the commenter's proposal to allow smokeless powder to be reclassed as an ORM–D material.

Section 173.220. RSPA received a petition for rulemaking (P–1204) requesting an amendment to the HMR to except self-propelled vehicles transported by vessel from the emergency response telephone number requirements. The petitioner urged RSPA to provide this exception because self-propelled vehicles do not pose an unreasonable risk to the environment or the safety of personnel handling these items. RSPA recognizes that the emergency response information required under § 172.602 provides emergency responders with the necessary information to handle an incident involving a self-propelled vehicle. It is questionable whether a shipper could provide emergency responders with any additional information of value. Therefore, RSPA proposes to amend paragraph (g)(2) in § 173.220 to except shipments of self-propelled vehicles and mechanized equipment containing internal combustion engines, or wet batteries transported by vessel or aircraft, from the emergency response telephone number requirements of § 172.604.

Section 173.230. Based on a commenter's request, RSPA proposes to clarify provisions that permit the reclassification of certain Division 1.4S materials as ORM–D materials by removing Special Provision 112 in § 172.102(c)(1), relocating the provisions in § 173.230(b) to § 173.63, and removing § 173.230. See also preamble discussion on proposed amendments to §§ 172.101 and 172.102.

Part 176

Section 176.104. RSPA received a petition (P–1183), from the Department of Defense (DOD), requesting removal of a requirement to use a landing mat when depositing palletized packages of Division 1.1 and 1.2 (explosives) materials on deck. The petitioner states that landing mats are cumbersome because they impede the operation of mechanized equipment used to load and unload palletized materials. In addition, the petitioner added that the landing mat serves no real purpose because the pallet bottom serves as the shock absorber. RSPA agrees with the petitioner and proposes to revise § 176.104(i) to provide relief for palletized loads of Division 1.1 and 1.2 materials.

Part 177

Section 177.801. Based on its own initiative, RSPA proposes to revise this paragraph to include references to forbidden materials that were previously in § 177.821(c).

Section 177.818. RSPA proposes to remove this section because its provisions are covered under the emergency response and training provisions of the HMR.

Section 177.821. RSPA proposes to remove this section because it duplicates other HMR provisions.

Section 177.822. RSPA proposes to remove this section because paragraph (a) is duplicative of other provisions for explosives and paragraph (b), including a reference to Specification MC200, is unnecessary. Also, in § 178.315, RSPA proposes to remove Specification MC200 from the HMR. See preamble discussion of § 178.315 of this proposed rule.

Sections 177.824 and 177.834. RSPA proposes to remove §§ 177.824 and 177.834(b) and (j) because they duplicate other HMR provisions. In addition, in § 177.834, a new paragraph (j) would be added to consolidate provisions in §§ 177.837(d), 177.839(d), and 177.841(d) that require manholes and valves on cargo tanks to be closed prior to transportation.

Section 177.835. RSPA proposes to remove paragraphs (k), (l), and (m) because parts 172 and 173 limit the concentration of liquid nitroglycerin and diethylene glycol dinitrate that may be offered or accepted for transportation. Therefore, these paragraphs are unnecessary.

Section 177.838. The HMR prescribe specific packaging requirements and exceptions for smokeless powder for small arms in § 173.171. In this NPRM, RSPA proposes to amend paragraph (g) by removing procedures for reclassifying Division 1.4S materials because they are redundant with § 173.171.

Section 177.839. RSPA proposes to revise paragraph (a) by limiting the applicability of this paragraph to nitric acid in concentrations of 50 percent or greater. In addition, in paragraph (a), the restriction on stacking containers of nitric acid higher than two tiers and paragraph (b) would be removed because they are outdated and unnecessary.

Section 177.841. One commenter requested that RSPA amend § 177.841 to be consistent with provisions of § 175.630. The commenter stated that the HMR currently authorize the transport of foodstuffs and poisons in the same aircraft, provided the materials are loaded into separate unit load devices that are not adjacent to each other, or into closed unit load devices. The commenter asserted that if this practice is authorized in air transportation, it should be authorized in highway transportation. RSPA agrees with the commenter that foodstuffs which are loaded in a closed unit load device should be allowed to be transported in the same motor vehicle with poisons that are loaded in a separate closed unit load device. However, pending further review of the impact on safety, RSPA is not proposing to allow foodstuffs and poisons to be in the same motor vehicle when they are loaded into separate open unit load devices. In addition, RSPA proposes to remove the provision allowing use of the container identified as package "4000" in the National Motor Freight Classification 100–I, for the transport of foodstuffs and poisons on the same motor vehicle. RSPA believes that this container has not been used for some time and, therefore, reference to it is unnecessary.

Section 177.848. RSPA proposes to amend paragraph (e)(5) by revising the definition of footnote "A" to the segregation and separation table to clarify that ammonium nitrate, Division 5.1, UN1942, may be loaded in the same transport vehicle with Divisions 1.1 and 1.5 materials.

Part 178

Section 178.315. RSPA proposes to remove Specification MC200 requirements from the HMR because

RSPA believes that this container is no longer utilized in hazardous materials service. RSPA invites comments on whether the MC200 containers still exist.

III. Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). The economic impact of this rule is minimal to the extent that the preparation of a regulatory evaluation is not warranted.

Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). The Federal hazardous materials transportation law (49 U.S.C. 5101–5127) contains an express preemption provision that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) the designation, description, and classification of hazardous material;
(ii) the packing, repacking, handling, labeling, marking, and placarding of hazardous material;
(iii) the preparation, execution, and use of shipping documents pertaining to hazardous material and requirements respecting the number, content, and placement of such documents;
(iv) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or
(v) the design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

Title 49 U.S.C. 5125(b)(2) provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. This proposed rule would clarify and provide relief from certain regulations governing the transportation of hazardous materials. RSPA solicits comments on whether the proposed rule would have any effect on State, local or Indian tribe requirements and, if so, the most appropriate effective date of Federal preemption. Because RSPA lacks discretion in this area, preparation of a federalism assessment is not warranted.

Regulatory Flexibility Act

I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule does not impose any new requirements on persons subject to the HMR.

Paperwork Reduction Act

This proposed rule does not propose any new information collection requirements.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Marking, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR parts 171, 172, 173, 176, 177, and 178 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 171.16, paragraph (c) would be revised, paragraph (d)(2) would be amended by removing the word "nor" at the end of the paragraph, paragraph (d)(3) would be redesignated as paragraph (d)(4), and a new paragraph (d)(3) would be added to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(c) Except as provided in paragraph (d) of this section, the requirements of paragraph (a) of this section do not apply to incidents involving the unintentional release of a hazardous material—

(1) Transported under one of the following proper shipping names:

(i) Consumer commodity.

(ii) Battery, *electric storage*, wet, filled with acid or alkali.

(iii) Paint and paint related material when shipped in packagings of five gallons or less.

(2) Prepared and transported as a limited quantity shipment in accordance with this subchapter.

(d) * * *

(3) Except for consumer commodities, materials in Packing Group I; or

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATION, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

3. The authority citation for part 172 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 172.101 [Amended]

4. In the § 172.101 Hazardous Materials Table, the following changes would be made:

a. For the entries "Cartridges for weapons, blank, *or* Cartridges, small arms, blank, UN 0014"; "Cartridges for weapons, inert projectile, *or* Cartridges, small arms, UN0012"; "Cartridges, power device, UN0323"; and "Cartridges, small arms", in Column (7), special provision "112" would be removed.

b. For the entries "Cartridges for weapons, blank, *or*d Cartridges, small arms, blank, UN 0014"; "Cartridges for weapons, inert projectile, *or* Cartridges, small arms, UN0012"; and "Cartridges, power device, UN0323", in Column (8A), the wording "None" would be revised to read "63".

c. For the entry "Cartridges, small arms", in Column (8A), the wording "230" would be revised to read "63".

d. For the entry "Ethanol *or* Ethyl alcohol *or* Ethanol solutions *or* Ethyl alcohol solutions", in Column (7), the wording "24," would be added immediately preceding "T1", in Packing Group II, and the wording "24," would be added immediately preceding "B1" in Packing Group III.

e. For the entry "Smokeless powder for small arms (*100 pounds or less*), NA3178", in Column (9B), the wording "Forbidden" would be revised to read "7.3 kg".

§ 172.102 [Amended]

5. In § 172.102, in paragraph (c)(1), special provision "112" would be removed.

6. In § 172.201, paragraph (d) would be revised to read as follows:

§ 172.201 General entries.

* * * * *

(d) *Emergency response telephone number.* Except as provided in § 172.604(c), a shipping paper must contain an emergency response telephone number, as prescribed in subpart G of this part.

7. In § 172.203, paragraph (c)(1) would be revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(c) *Hazardous substances.* (1) Except for Class 7 (radioactive) materials described in accordance with paragraph (d) of this section, if the proper shipping name for a material that is a hazardous substance does not identify the hazardous substance by name, the name of the hazardous substance shall be entered in parentheses in association with the basic description. If the material contains two or more hazardous substances, at least two hazardous substances must be identified. For a hazardous waste, the waste code, if appropriate, may be used to identify the hazardous substance.

* * * * *

§ 172.203 [Amended]

8. In addition, in § 172.203, the following changes would be made:

a. In paragraph (e)(2), the phrase "and paragraph (e)(3) of this section" would be removed.

b. Paragraph (e)(3) would be removed.

9. In § 172.316, the first sentence of paragraph (a) would be revised to read as follows:

§ 172.316 Packagings containing materials classed as ORM–D.

(a) Each non-bulk packaging containing a material classed as ORM–D must be marked on at least one side or end with the ORM-D designation, immediately following or below the proper shipping name of the material or labeled with the CLASS 9 label (see § 172.446). * * *

* * * * *

§ 172.316 [Amended]

10. In addition, in § 172.316, in paragraph (c), the wording "marking ORM–D" would be removed and replaced with "marking ORM–D or labeling with the CLASS 9 label".

11. In § 172.324, paragraph (a) would be revised to read as follows:

§ 172.324 Hazardous substances in non-bulk packagings.

* * * * *

(a) Except for packages of radioactive material labeled in accordance with § 172.403, if the proper shipping name for a material that is a hazardous substance does not identify the hazardous substance by name, the name of the hazardous substance must be marked on the package, in parentheses, in association with the proper shipping name. If the material contains two or more hazardous substances, at least two hazardous substances must be identified. For a hazardous waste, the waste code, if appropriate, may be used to identify the hazardous substance.

* * * * *

12. In § 172.402, paragraph (d) would be revised to read as follows:

§ 172.402 Additional labeling requirements.

* * * * *

(d) *Class 7 (Radioactive) Materials.* Except as otherwise provided in this paragraph, each package containing a Class 7 material that also meets the definition of one or more additional hazard classes must be labeled as a Class 7 material as required by § 172.403 of this subpart and for each additional hazard. A subsidiary hazard label is not required on a package containing a Class 7 material that conforms to criteria specified in § 173.4 of this subchapter, except § 173.4(a)(1)(iv) of this subchapter.

* * * * *

13. In § 172.500, paragraphs (b)(4) and (b)(5) would be redesignated as paragraphs (b)(5) and (b)(6), respectively, and a new paragraph (b)(4) would be added to read as follows:

§ 172.500 Applicability of placarding requirements.

* * * * *

(b) * * *

(4) Small quantities of Division 4.3 materials prepared in accordance with § 173.13 of this subchapter;

* * * * *

14. In § 172.600, paragraph (d) would be revised to read as follows:

§ 172.600 Applicability and general requirements.

* * * * *

(d) *Exceptions.* The requirements of this subpart do not apply to hazardous material which is excepted from the shipping paper requirements of this subchapter or a material properly classified as an ORM–D.

15. In § 172.604, new paragraphs (c) and (d) would be added to read as follows:

§ 172.604 Emergency response telephone number.

* * * * *

(c) A person may list more than one emergency response telephone number with different hours of operation provided that—

(1) The hours of operation of each number are clearly identified in association with the respective telephone number;

(2) Each respective telephone number is monitored during the time indicated while the hazardous material is in transportation; and

(3) The requirements in paragraphs (a)(2), (a)(3), and (b) of this section are met.

(d) The requirements of this section do not apply to—

(1) Hazardous materials that are offered for transportation under the provisions applicable to limited quantities;

(2) Liquid petroleum distillate fuels; and

(3) Materials properly described under the shipping names "Engines, internal combustion", "Battery powered equipment", "Battery powered vehicle", "Wheelchair, electric", "Carbon dioxide, solid", "Dry ice", "Fish meal, stabilized", "Fish scrap, stabilized", "Castor bean", "Castor meal", "Castor flake", "Castor pomace", "Mercury contained in manufactured articles", "Refrigerating machine".

§ 172.702 [Amended]

16. In § 172.702(b), the phrase "A hazmat employee" is removed and replaced with the phrase, "Except as

provided in § 172.704(c)(1), a hazmat employee".

16a. In § 172.704, paragraphs (c)(1) and (c)(2) would be revised to read as follows:

§ 172.704 Training requirements.

* * * * *

(c) * * * (1) *Initial training.* A new hazmat employee, or a hazmat employee who changes job functions may perform those functions prior to the completion of training provided—

(i) The employee performs those functions under the direct supervision of a properly trained and knowledgeable hazmat employee; and

(ii) The training is completed within 90 days after employment or a change in job function.

(2) *Recurrent training.* A hazmat employee shall receive the training required by this subpart at least once every three years.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

17. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR part 1.53.

18. In § 173.4, the section heading would be revised, paragraph (a)(11) would be removed, paragraph (a) introductory text, paragraphs (a)(9) and (a)(10) would be revised, and a new paragraph (c) would be added to read as follows:

§ 173.4 Small quantity exceptions.

(a) Small quantities of Class 3, Division 4.1, Division 4.2 (PG II and III), Division 4.3 (PG II and III), Division 5.1, Division 5.2, Division 6.1, Class 7, Class 8, and Class 9 materials that also meet the definition of one or more of these hazard classes, are not subject to any other requirements of this subchapter when—

* * * * *

(9) The package is not opened or otherwise altered until it is no longer in commerce; and

(10) The shipper certifies conformance with this section by marking the outside of the package with the statement:

This package conforms to 49 CFR 173.4.

* * * * *

(c) Packages which contain Class 2, Division 4.2 (PG I), Division 4.3 (PG I) conforming to paragraphs (a)(1) through (a)(10) of this section may be shipped if specifically approved by the Associate Administrator for Hazardous Materials Safety.

19. Section 173.13 would be added to subpart A to read as follows:

§ 173.13 Exceptions for Class 3, Divisions 4.1, 4.2, 4.3, 5.1, 6.1, and Class 8 and 9 materials.

(a) A Class 3, 8 or 9, or Division 4.1, 4.2, 4.3, 5.1, or 6.1 material is excepted from the labeling requirements of this subchapter if prepared for transportation in accordance with the requirements of this section. In addition, materials in Division 4.3 are excepted from the placarding requirements of this subchapter when prepared in accordance with the requirements of this section. A material that meets the definition of a material poisonous by inhalation may not be offered for transportation or transported under provisions of this section.

(b) A hazardous material conforming to requirements of this section may be transported by motor vehicle or rail car only.

(c) A hazardous material permitted by paragraph (a) of this section must be packaged as follows:

(1) For liquids:

(i) The hazardous material must be placed in a tightly closed glass, plastic or metal inner packaging with a maximum capacity not exceeding 1.2 liters. Sufficient outage must be provided such that the inner packaging will not become liquid full at 55° C (130° F). The net quantity (measured at 20° C (68° F)) of liquid in any inner packaging may not exceed one liter.

(ii) The inner packaging must be placed in a hermetically-sealed barrier bag which is impervious to the lading, and then wrapped in a non-reactive absorbent material in sufficient quantity to completely absorb the contents of the inner packaging, and placed in a snugly fitting, rigid can.

(iii) The rigid can must be securely closed. For liquids that are in Division 4.2 or 4.3, the rigid can must be hermetically sealed.

(iv) The rigid can must then be placed inside a securely closed, outer packaging conforming to § 173.201.

(v) Not more than four cans are permitted in an outer packaging.

(2) For solids:

(i) The hazardous material must be placed in a tightly closed glass, plastic or metal inner packaging. The net quantity of material in any inner packaging may not exceed 2.85 kg (6.25 pounds).

(ii) The inner packaging must be placed in a hermetically-sealed barrier bag which is impervious to the lading.

(iii) The barrier bag and its contents must be placed inside an outer packaging conforming to § 173.201.

(iv) Not more than four bags are permitted in an outer packaging.

20. In § 173.21, paragraph (f)(3) would be revised to read as follows:

§ 173.21 Forbidden materials and packages.

* * * * *

(f) * * *

(3) Refrigeration may be used as a means of stabilization only when approved by the Associate Administrator for Hazardous Materials Safety. For status of approvals previously issued by the Bureau of Explosives, see § 171.19 of this subchapter. Methods of stabilization approved by the Associate Administrator for Hazardous Materials Safety are as follows:

(i) For highway transportation:

(A) A material meeting the criteria of paragraph (f) of this section may be transported only in a transport vehicle, freight container, or motor vehicle equipped with a mechanical refrigeration unit, or loaded with a consumable refrigerant, capable of maintaining the inside temperature of the transport vehicle, freight container, or motor vehicle at or below the control temperature required for the material during transportation.

(B) Each package containing a material meeting the criteria of paragraph (f) of this section must be loaded and maintained at or below the control temperature required for the material. The temperature of the material shall be measured and entered on a written record at the time the packaging is filled.

(C) The vehicle operator shall monitor the inside temperature of the transport vehicle, freight container, or motor vehicle and enter that temperature on a written record at the time the package is loaded and thereafter at intervals not exceeding two hours. Alternatively, a transport vehicle, freight container, or motor vehicle may be equipped with a visible or audible warning device that activates when the inside temperature of the transport vehicle, freight container, or motor vehicle exceeds the control temperature required for the material. The warning device must be readily visible or audible, as appropriate, from the vehicle operator's seat in the vehicle.

(D) The carrier must advise the vehicle operator of the emergency temperature for the material, and provide the vehicle operator with written procedures that must be followed to assure maintenance of the control temperature inside the transport vehicle, freight container, or motor vehicle. The written procedures must include instructions for the vehicle operator on actions to take if the inside temperature exceeds the control temperature and approaches or reaches the emergency temperature for the material. In addition, the written temperature-control procedures must identify enroute points where the consumable refrigerant may be procured, or where repairs to, or replacement of, the mechanical refrigeration unit may be accomplished.

(E) The vehicle operator shall maintain the written temperature-control procedures, and the written record of temperature measurements specified in paragraph (f)(3)(i)(C) of this section, if applicable, in the same manner as specified in § 177.817 of this subchapter for shipping papers.

(F) If the control temperature is maintained by use of a consumable refrigerant (e.g., dry ice or liquid nitrogen), the quantity of consumable refrigerant must be sufficient to maintain the control temperature for twice the average transit time under normal conditions of transportation.

(G) A material that has a control temperature of 40 °C (104 °F) or higher may be transported by common carrier. A material that has a control temperature below 40 °C (104 °F) must be transported by a private or contract carrier.

(ii) For transportation by vessel, shipments are authorized in accordance with the control-temperature requirements of Section 21 of the General Introduction of the International Maritime Dangerous Goods Code (IMDG Code).

* * * * *

21. In § 173.32a, paragraph (c) would be revised to read as follows:

§ 173.32a Approval of Specification IM portable tanks.

* * * * *

(c) *Disposition of approval certificates.* A copy of each approval certificate must be retained by the approval agency and by the owner of each IM portable tank.

* * * * *

§ 173.155 [Amended]

22. In § 173.155, in paragraph (b)(1), the wording "4.0 L (1 gallon)" would be revised to read "5.0 L (1.3 gallons)".

23. In § 173.171, the introductory text and paragraph (b) would be revised and a new paragraph (d) would be added to read as follows:

§ 173.171 Smokeless powder for small arms.

Smokeless powder for small arms which has been classed in Division 1.3 may be reclassed in Division 4.1, for transportation by motor vehicle, rail car, vessel, or cargo-only aircraft, subject to the following conditions:

* * * * *

(b) The total quantity of smokeless powder must not exceed 45.4 kg (100 pounds) net mass in:

(1) One rail car, motor vehicle, or cargo-only aircraft; or

(2) One freight container on a vessel, not to exceed four freight containers per vessel.

* * * * *

(d) Inside packages that have been examined and approved by the Associate Administrator for Hazardous Materials Safety may be packaged in UN 4G fiberboard boxes meeting the Packing Group I performance level, provided all inside containers are packed to prevent movement and the net weight of smokeless powder in any one box does not exceed 7.3 kg (16 pounds).

24. In § 173.220, paragraph (g)(2) would be revised to read as follows:

§ 173.220 Internal combustion engines, self-propelled vehicles, and mechanical equipment containing internal combustion engines or wet batteries.

* * * * *

(g) * * *

(2) Are not subject to the requirements of subparts D, E, and F (marking, labeling, and placarding, respectively) of part 172 or § 172.604 (emergency response telephone number) of this subchapter for transportation by vessel or aircraft.

§ 173.63 [Amended]

§ 173.230 [Removed]

25. Paragraph (b) of § 173.230 would be redesignated as paragraph (b) of § 173.63 and § 173.230 would be removed.

PART 176—CARRIAGE BY VESSEL

26. The authority citation for part 176 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

27. In § 176.104, the first sentence of paragraph (i) would be revised to read as follows:

§ 176.104 Loading and unloading Class 1 (explosive) materials.

* * * * *

(i) A landing mat must be used when a draft of nonpalletized Division 1.1 or 1.2 (Class A and B explosive materials) is deposited on deck. * * *

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

28. The authority citation for part 177 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§§ 177.818, 177.821, 177.822, and 177.824 [Removed]

29. Sections 177.818, 177.821, 177.822, and 177.824 would be removed.

30. Section 177.801 would be revised to read as follows:

§ 177.801 Unacceptable hazardous materials shipments.

No person may accept for transportation or transport by motor vehicle a forbidden material or hazardous material that is not prepared in accordance with the requirements of this subchapter.

31. In § 177.834, paragraph (b) would be removed and reserved, and paragraph (j) would be revised to read as follows:

§ 177.834 General requirements.

* * * * *

(j) *Manholes and valves closed.* A person may not drive a cargo tank and a motor carrier may not permit a person to drive a cargo tank motor vehicle containing a hazardous material regardless of quantity unless:

(1) All manhole closures are closed and secured; and

(2) All valves and other closures in liquid discharge systems are closed and free of leaks.

* * * * *

§ 177.835 [Amended]

32. In § 177.835, paragraphs (k), (l), and (m) would be removed.

§ 177.837 [Amended]

33. In § 177.837, paragraph (d) would be removed.

34. In § 177.838, paragraph (g) would be revised to read as follows:

§ 177.838 Class 4 (flammable solid) materials, Class 5 (oxidizing) materials, and Division 4.2 (pyroforic liquid) materials.

* * * * *

(g) A motor vehicle may only contain 45.4 kg (100 pounds) or less net mass of material described as "Smokeless powder for small arms, Division 4.1".

* * * * *

35. Section 177.839 would be revised to read as follows:

§ 177.839 Class 8 (corrosive) materials.

(See also § 177.834 (a) through (j).)

(a) *Nitric acid.* No packaging of nitric acid of 50 percent or greater concentration may not be loaded above

any packaging containing any other kind of material.

(b) *Storage batteries.* All storage batteries containing any electrolyte must be so loaded, if loaded with other lading, that all such batteries will be protected against other lading falling onto or against them; and adequate means must be provided in all cases for the protection and insulation of battery terminals against short circuits.

36. In § 177.841, paragraph (d) would be removed and reserved and paragraph (e)(1) would be revised to read as follows.

§ 177.841 Division 6.1 (poisonous) and Division 2.3 (poisonous gas) materials.

* * * * *

(e) * * *

(1) Bearing a POISON label in the same motor vehicle with material that is marked as or known to be foodstuffs, feed or any edible material intended for consumption by humans or animals unless:

(i) The poisonous material is packaged in accordance with this subchapter and is overpacked in a metal drum as specified in § 173.25(c) of this subchapter; or

(ii) The poisonous material is packaged in accordance with this subchapter and loaded into a closed unit load device and the foodstuffs, feed, or other edible material are loaded into another closed unit load device;

* * * * *

§ 177.848 [Amended]

37–38. In § 177.848, paragraph (e)(5), would be amended by removing the phrase "ammonium nitrate fertilizer" and replace it with the phrase "ammonium nitrate (UN 1942) and ammonium nitrate fertilizer".

PART 178—SPECIFICATIONS FOR PACKAGINGS

39. The authority citation for part 178 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§§ 178.315, 178.315–1, 178.315–2, 178.315–3, 178.315–4, 178.315–5 [Removed]

40. Sections 178.315, 178.315–1, 178.315–2, 178.315–3, 178.315–4, and 178.315–5 would be removed.

Issued in Washington, DC on February 12, 1996, under authority delegated in 49 CFR Part 106.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 96–3555 Filed 2–16–96; 8:45 am]

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Maule Aerospace Technology, Inc.; comments due by 2-28-96; published 1-9-96
McDonnell Douglas; comments due by 2-28-96; published 1-3-96
Pratt & Whitney; comments due by 2-26-96; published 12-27-95
Authority citations revision; comments due by 3-1-96; published 12-28-95
Class D and Class E airspace; comments due by 3-1-96; published 1-29-96
Class E airspace; comments due by 2-29-96; published 12-1-95

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alcoholic beverages:
Distilled spirits; domestically produced--
Formulas and statements of process; registration; comments due by 2-26-96; published 1-26-96

TREASURY DEPARTMENT
Comptroller of the Currency
Federal regulatory review:
Community development corporation and project investments; revisions; comments due by 2-26-96; published 12-28-95
Management official interlocks; comments due by 2-27-96; published 12-29-95

TREASURY DEPARTMENT
Fiscal Service
Financial management services:
Foreign exchange operations; comments due by 2-28-96; published 1-29-96

TREASURY DEPARTMENT
Thrift Supervision Office
Management official interlocks; comments due by 2-27-96; published 12-29-95

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List February 15, 1996

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
4	(869–026–00003–4)	5.50	Jan. 1, 1995
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–026–00005–1)	20.00	Jan. 1, 1995
1200–End, 6 (6 Reserved)	(869–026–00006–9)	23.00	Jan. 1, 1995
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–026–00009–3)	21.00	Jan. 1, 1995
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–026–00014–0)	21.00	Jan. 1, 1995
700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–026–00016–6)	32.00	Jan. 1, 1995
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1)	12.00	Jan. 1, 1995
1200–1499	(869–026–00020–4)	32.00	Jan. 1, 1995
1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–026–00024–7)	40.00	Jan. 1, 1995
2000–End	(869–026–00025–5)	14.00	Jan. 1, 1995
8	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–026–00027–1)	30.00	Jan. 1, 1995
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
200–399	(869–026–00031–0)	15.00	[6] Jan. 1, 1993
400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–026–00033–6)	39.00	Jan. 1, 1995
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
220–299	(869–026–00037–9)	28.00	Jan. 1, 1995
300–499	(869–026–00038–7)	23.00	Jan. 1, 1995
500–599	(869–026–00039–5)	19.00	Jan. 1, 1995
600–End	(869–026–00040–9)	35.00	Jan. 1, 1995
13	(869–026–00041–7)	32.00	Jan. 1, 1995
14 Parts:			
1–59	(869–026–00042–5)	33.00	Jan. 1, 1995
60–139	(869–026–00043–3)	27.00	Jan. 1, 1995
140–199	(869–026–00044–1)	13.00	Jan. 1, 1995
200–1199	(869–026–00045–0)	23.00	Jan. 1, 1995
1200–End	(869–026–00046–8)	16.00	Jan. 1, 1995
15 Parts:			
0–299	(869–026–00047–6)	15.00	Jan. 1, 1995
300–799	(869–026–00048–4)	26.00	Jan. 1, 1995
800–End	(869–026–00049–2)	21.00	Jan. 1, 1995
16 Parts:			
0–149	(869–026–00050–6)	7.00	Jan. 1, 1995
150–999	(869–026–00051–4)	19.00	Jan. 1, 1995
1000–End	(869–026–00052–2)	25.00	Jan. 1, 1995
17 Parts:			
1–199	(869–026–00054–9)	20.00	Apr. 1, 1995
200–239	(869–026–00055–7)	24.00	Apr. 1, 1995
240–End	(869–026–00056–5)	30.00	Apr. 1, 1995
18 Parts:			
1–149	(869–026–00057–3)	16.00	Apr. 1, 1995
150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
280–399	(869–026–00059–0)	13.00	Apr. 1, 1995
400–End	(869–026–00060–3)	11.00	Apr. 1, 1995
19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
200–End	(869–026–00063–8)	12.00	Apr. 1, 1995
20 Parts:			
1–399	(869–026–00064–6)	20.00	Apr. 1, 1995
400–499	(869–026–00065–4)	34.00	Apr. 1, 1995
500–End	(869–026–00066–2)	34.00	Apr. 1, 1995
21 Parts:			
1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
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22 Parts:			
1–299	(869–026–00076–0)	33.00	Apr. 1, 1995
300–End	(869–026–00077–8)	24.00	Apr. 1, 1995
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0–199	(869–026–00079–4)	40.00	Apr. 1, 1995
200–219	(869–026–00080–8)	19.00	Apr. 1, 1995
220–499	(869–026–00081–6)	23.00	Apr. 1, 1995
500–699	(869–026–00082–4)	20.00	Apr. 1, 1995
700–899	(869–026–00083–2)	24.00	Apr. 1, 1995
900–1699	(869–026–00084–1)	24.00	Apr. 1, 1995
1700–End	(869–026–00085–9)	17.00	Apr. 1, 1995
25	(869–026–00086–7)	32.00	Apr. 1, 1995
26 Parts:			
§§ 1.0-1–1.60	(869–026–00087–5)	21.00	Apr. 1, 1995
§§ 1.61–1.169	(869–026–00088–3)	34.00	Apr. 1, 1995
§§ 1.170–1.300	(869–026–00089–1)	24.00	Apr. 1, 1995
§§ 1.301–1.400	(869–026–00090–5)	17.00	Apr. 1, 1995
§§ 1.401–1.440	(869–026–00091–3)	30.00	Apr. 1, 1995
§§ 1.441–1.500	(869–026–00092–1)	22.00	Apr. 1, 1995
§§ 1.501–1.640	(869–026–00093–0)	21.00	Apr. 1, 1995
§§ 1.641–1.850	(869–026–00094–8)	25.00	Apr. 1, 1995
§§ 1.851–1.907	(869–026–00095–6)	26.00	Apr. 1, 1995
§§ 1.908–1.1000	(869–026–00096–4)	27.00	Apr. 1, 1995
§§ 1.1001–1.1400	(869–026–00097–2)	25.00	Apr. 1, 1995
§§ 1.1401–End	(869–026–00098–1)	33.00	Apr. 1, 1995
2–29	(869–026–00099–9)	25.00	Apr. 1, 1995
30–39	(869–026–00100–6)	18.00	Apr. 1, 1995
40–49	(869–026–00101–4)	14.00	Apr. 1, 1995

Title	Stock Number	Price	Revision Date
50–299	(869–026–00102–2)	14.00	Apr. 1, 1995
300–499	(869–026–00103–1)	24.00	Apr. 1, 1995
500–599	(869–026–00104–9)	6.00	[4] Apr. 1, 1990
600–End	(869–026–00105–7)	8.00	Apr. 1, 1995
27 Parts:			
1–199	(869–026–00106–5)	37.00	Apr. 1, 1995
200–End	(869–026–00107–3)	13.00	[7] Apr. 1, 1994
28 Parts:			
1–42	(869–026–00108–1)	27.00	July 1, 1995
43–end	(869–026–00109–0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–026–00110–3)	21.00	July 1, 1995
100–499	(869–026–00111–1)	9.50	July 1, 1995
500–899	(869–026–00112–0)	36.00	July 1, 1995
900–1899	(869–026–00113–8)	17.00	July 1, 1995
1900–1910 (§§ 1901.1 to 1910.999)	(869–026–00114–6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
1911–1925	(869–026–00116–2)	27.00	July 1, 1995
1926	(869–026–00117–1)	35.00	July 1, 1995
1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
1–199	(869–026–00119–7)	25.00	July 1, 1995
200–699	(869–026–00120–1)	20.00	July 1, 1995
700–End	(869–026–00121–9)	30.00	July 1, 1995
31 Parts:			
0–199	(869–026–00122–7)	15.00	July 1, 1995
200–End	(869–026–00123–5)	25.00	July 1, 1995
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
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1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–026–00124–3)	32.00	July 1, 1995
191–399	(869–026–00125–1)	38.00	July 1, 1995
400–629	(869–026–00126–0)	26.00	July 1, 1995
630–699	(869–026–00127–8)	14.00	[5] July 1, 1991
700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
33 Parts:			
1–124	(869–026–00130–8)	20.00	July 1, 1995
125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
300–399	(869–026–00134–1)	21.00	July 1, 1995
400–End	(869–026–00135–9)	37.00	July 5, 1995
35	(869–026–00136–7)	12.00	July 1, 1995
36 Parts			
1–199	(869–026–00137–5)	15.00	July 1, 1995
200–End	(869–026–00138–3)	37.00	July 1, 1995
37	(869–026–00139–1)	20.00	July 1, 1995
38 Parts:			
0–17	(869–026–00140–5)	30.00	July 1, 1995
18–End	(869–026–00141–3)	30.00	July 1, 1995
39	(869–026–00142–1)	17.00	July 1, 1995
40 Parts:			
1–51	(869–026–00143–0)	40.00	July 1, 1995
52	(869–026–00144–8)	39.00	July 1, 1995
53–59	(869–026–00145–6)	11.00	July 1, 1995
60	(869–026–00146–4)	36.00	July 1, 1995
61–71	(869–026–00147–2)	36.00	July 1, 1995
72–85	(869–026–00148–1)	41.00	July 1, 1995
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87–149	(869–026–00150–2)	41.00	July 1, 1995
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700–789	(869–026–00157–0)	25.00	July 1, 1995
790–End	(869–026–00158–8)	15.00	July 1, 1995
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
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18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–026–00159–6)	9.50	July 1, 1995
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1–399	(869–026–00163–4)	26.00	Oct. 1, 1995
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430–End	(869–022–00162–1)	36.00	Oct. 1, 1994
43 Parts:			
1–999	(869–026–00166–9)	23.00	Oct. 1, 1995
1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
1–199	(869–022–00170–7)	22.00	Oct. 1, 1995
200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
46 Parts:			
1–40	(869–022–00171–0)	20.00	Oct. 1, 1994
41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
70–89	(869–026–00176–6)	8.50	Oct. 1, 1995
90–139	(869–026–00177–4)	15.00	Oct. 1, 1995
140–155	(869–026–00178–2)	12.00	Oct. 1, 1995
156–165	(869–026–00179–1)	17.00	Oct. 1, 1995
166–199	(869–022–00177–9)	17.00	Oct. 1, 1994
200–499	(869–026–00181–2)	19.00	Oct. 1, 1995
500–End	(869–026–00182–1)	13.00	Oct. 1, 1995
47 Parts:			
0–19	(869–026–00183–9)	25.00	Oct. 1, 1995
20–39	(869–026–00184–7)	21.00	Oct. 1, 1995
*40–69	(869–026–00185–5)	14.00	Oct. 1, 1995
70–79	(869–026–00186–3)	24.00	Oct. 1, 1995
80–End	(869–022–00184–1)	26.00	Oct. 1, 1994
48 Chapters:			
1 (Parts 1–51)	(869–022–00185–0)	36.00	Oct. 1, 1994
1 (Parts 52–99)	(869–022–00186–8)	23.00	Oct. 1, 1994
2 (Parts 201–251)	(869–022–00187–6)	16.00	Oct. 1, 1994
2 (Parts 252–299)	(869–026–00191–0)	13.00	Oct. 1, 1995
3–6	(869–022–00189–2)	23.00	Oct. 1, 1994
7–14	(869–022–00190–6)	30.00	Oct. 1, 1994
*15–28	(869–026–00194–4)	31.00	Oct. 1, 1995
29–End	(869–022–00192–2)	17.00	Oct. 1, 1994
49 Parts:			
1–99	(869–026–00196–1)	25.00	Oct. 1, 1995
100–177	(869–022–00194–9)	30.00	Oct. 1, 1994
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1200–End	(869–026–00202–9)	15.00	Oct. 1, 1995
50 Parts:			
1–199	(869–022–00200–7)	25.00	Oct. 1, 1994
200–599	(869–026–00204–5)	22.00	Oct. 1, 1995
600–End	(869–026–00205–3)	27.00	Oct. 1, 1995

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–026–00053–1)	36.00	Jan. 1, 1995
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1995. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1994. The CFR volume issued January 1, 1993, should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.

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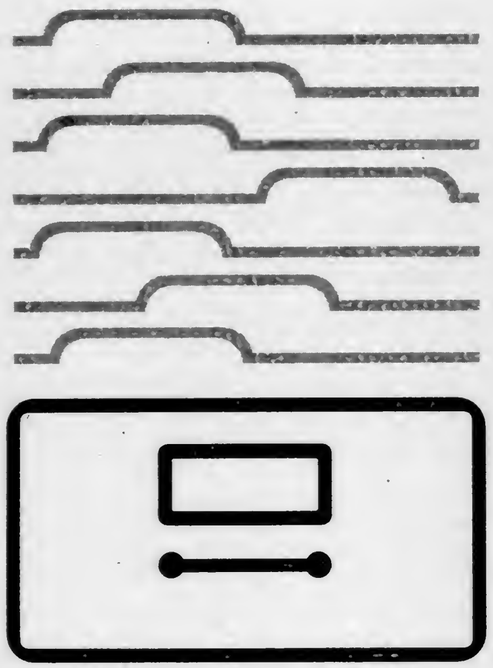
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2–21–96
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2–21–96
Vol. 61 No. 35
Pages 6487–6760

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Wednesday
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 363

RIN 3064–AA83

Annual Independent Audits and Reporting Requirements

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Final rule.

SUMMARY: The FDIC is amending its regulations concerning annual independent audits and reporting requirements. Section 314 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) amended sections 36(i) and 36(g)(2) of the Federal Deposit Insurance Act (FDI Act). Section 36 of the FDI Act is generally intended to facilitate early identification of problems in financial management at larger insured depository institutions through annual independent audits, assessments of the effectiveness of internal controls and of compliance with designated laws and regulations, and more stringent reporting requirements. Section 314(a) provides relief from certain duplicative reporting under section 36 of the FDI Act for sound, well managed insured depository institutions with over $9 billion in total assets which are subsidiaries of multibank holding companies. Section 314(b) requires the Corporation to notify a large insured depository institution in writing if it decides a review by an independent public accountant of such an institution's quarterly financial reports is required. This regulation governs annual independent audits and implements section 36 of the FDI Act. This amendment conforms the regulations to the amended statute.

In addition, the FDIC is making several technical amendments to the Guidelines and Interpretations (Guidelines) that were published as an appendix to the annual independent audit regulations. The FDIC also is amending Schedule A to the appendix, "Agreed Upon Procedures for Determining Compliance with Designated Laws", to implement recent amendments to the federal regulations concerning loans to insiders, improve the format of the procedures, streamline the specific procedures, and eliminate ambiguities. These amendments reflect the experience of the Corporation, financial institutions, and accountants using the existing procedures during the past two years.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Doris L. Marsh, Examination Specialist, Division of Supervision (202) 898–8905, FDIC, 550 17th Street NW., Washington, DC 20429, or Sandra Comenetz, Counsel, Legal Division, (202) 898–3582, FDIC, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The collection of information contained in this amendment has been reviewed and approved by the Office of Management and Budget under control number 3064–0113, pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This information collection is mandated by section 36 of the FDI Act (12 U.S.C. 1831m), which was added by section 112 of FDICIA (Pub. L., 102–242, 105 Stat. 2242).

The total estimated reporting burden for the collection under Part 363 is:

Number of Respondents: 450.

Number of Responses per Respondent: 3.19.

Total Annual Responses: 1,435.5.

Hours per Response: 40.38.

Total Annual Burden Hours: 57,970.

The changes to this collection of information have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act. Comments on the accuracy of the burden estimate, and suggestions for reducing the burden, should be directed to the Office of Management and Budget, Paperwork Reduction Project 3064–0113, Washington, D.C. 20503, with copies of such comments to Steven F. Hanft, Office of the Executive Secretary, Room F–400, 550 17th St. N.W., Washington, D.C. 20429.

II. Regulatory Flexibility Act

The rule expressly exempts insured depository institutions having assets of less than $500 million, and, for that reason, is inapplicable to small entities. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the rule would not have a significant impact on a substantial number of small entities.

III. Background

Section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) added section 36, "Independent Annual Audits of Insured Depository Institutions", to the FDI Act (12 U.S.C. 1831m). Section 36 requires the FDIC, in consultation with the appropriate federal banking agencies, to promulgate regulations requiring each insured depository institution over a certain asset size (covered institution) to have an annual independent audit of its financial statements performed in accordance with generally accepted auditing standards and section 37 of the FDI Act (12 U.S.C. 1831n), and to provide a management report and an independent public accountant's attestation concerning both the effectiveness of the institution's internal controls for financial reporting and its compliance with designated safety and soundness laws. Section 36 also requires each covered institution to have an independent audit committee. The audit committee of each large covered institution (total assets exceeding $3 billion) must meet certain additional requirements.

Section 36 also requires the FDIC, in consultation with the other federal banking agencies, to designate laws and regulations concerning safety and soundness. This section requires the institution's independent public accountant to perform procedures agreed upon by the Corporation to determine an institution's compliance with such designated laws and regulations. The laws and regulations selected by the Corporation (Designated Laws) are the federal laws and regulations concerning loans to insiders and the federal and state laws and regulations concerning dividend restrictions.

In June 1993, the FDIC published 12 CFR Part 363 (58 FR 31332, June 2, 1993) to implement the provisions of

section 36 of the FDI Act. Under Part 363, the requirements of section 36 apply to each insured depository institution with $500 million or more in total assets at the beginning of any fiscal year that begins after December 31, 1992. Part 363 also includes Guidelines and Interpretations (Appendix A to Part 363), which are intended to assist institutions and independent public accountants in understanding and complying with Section 36 and Part 363. Appendix A to Schedule A contains the agreed-upon procedures that must be performed by an institution's independent public accountant in order to permit the accountant to report on the extent of compliance with the Designated Laws as required by Section 36(e)(1) and (2).

Section 314 of RCDRIA amends sections 36(i) and 36(g)(2) of the FDI Act (12 U.S.C. 1831m(i) and (g)(2)). The purpose of section 314(a) is to provide relief from certain duplicative reporting under section 36 of the FDI Act for sound, well managed insured depository institutions with over $9 billion in total assets which are subsidiaries of multibank holding companies. Section 314(b) requires the FDIC to notify a large insured depository institution in writing if the FDIC decides to require a review by an independent public accountant of such institution's quarterly financial reports.

Section 36(g)(2) of the FDI Act authorizes the FDIC to require independent public accountants for "large institutions" to review such institutions' quarterly financial reports. When the FDIC adopted Part 363, it elected not to exercise its authority in this area for reasons of cost and limited expected benefits, preferring instead to request such reviews on a case-by-case basis. The FDIC continues to believe that this is appropriate. Should the FDIC decide to request an independent public accountant's review of the quarterly financial statements of a large insured depository institution, it will make the request in writing. The regulation is being amended to reflect section 314(a); no regulatory action is needed for section 314(b) which speaks for itself.

In addition, the regulation is being amended to reflect the current provisions of federal regulations concerning loans to insiders (Federal Reserve Board Regulation O, 12 CFR Part 215), which are included in one of the Designated Laws, but were amended themselves during 1994.

Lastly, Section 303 of RCDRIA requires the each federal banking agency to streamline and modify its regulations and policies in order to improve efficiency and reduce unnecessary burden. The FDIC believes that Part 363 and its final amendment are consistent with the requirements of section 303.

IV. Proposed Rule

The FDIC sought public comment on proposed amendments to Part 363 and the Guidelines in February 1995 (60 FR 8583, February 15, 1995). The FDIC proposed to amend certain paragraphs of 12 CFR Part 363 to conform to the amended statute. The FDIC also proposed to make technical and clarifying changes to the Guidelines in Appendix A.

In addition, initial experience with Part 363 indicated that certain clarifications of the specific procedures in Schedule A to Appendix A of the Guidelines would make them more efficient and less burdensome. The FDIC therefore proposed amending Schedule A to Appendix A—Agreed Upon Procedures for Determining Compliance with Designated Laws, to eliminate ambiguities, improve the format of the procedures, streamline the specific procedures, and reflect the recent amendments to the federal regulations concerning loans to insiders (12 CFR Part 215). The proposal reflected the experience of the Corporation, institutions, and accountants with the existing procedures during the period since their adoption in June 1993.

A. Proposed Amendments to the Rule

Section 363.1—Scope. To make § 363.1(b) consistent with section 314(a)(1) of RCDRIA, the phrase "but less than $9 billion" was proposed to be deleted from the provisions of the regulation describing the institutions' eligible to report using the holding company exception set forth in section 36(i). Section 36 originally required each institution with total assets exceeding $9 billion to have its own audit committee and to file a management report and attestations by the independent public accountant on internal controls and compliance with designated laws and regulations. This has been particularly burdensome for many large institutions which are subsidiaries of multibank holding companies because they have had to have their own separate audit committee, whose function was often duplicative of the holding company audit committee. In addition, the holding company typically has had to file two sets of management reports and attestations by the independent public accountant: one on the institution which exceeded $9 billion in total assets and another on the holding company group in order to cover the smaller institutions also subject to Part 363. In many cases, these reports were duplicative since the large institution was the dominant institution in the holding company group. Section 314(a) eliminates this duplication by permitting sound, well-managed insured depository institutions with over $9 billion in total assets which are subsidiaries of multibank holding companies to use the holding company audit committee and to submit reports as part of the holding company group.

The FDIC also proposed to add a paragraph, consistent with section 314(a)(3) of RCDRIA, to explain that the appropriate federal banking agency may require a large institution subsidiary of a holding company to have its own audit committee and report separately if it determines that the institution's use of the holding company exception in section 36(i) would create a significant risk to the affected deposit insurance fund.

Section 363.4—Filing and notice requirements. It was proposed to correct § 363.4(b) so that it would be clear that only the annual report in § 363.4(a)(1) is available for public inspection and that the attestation by the independent public accountant concerning compliance with Designated Laws is not a document available to the public.

Section 363.5—Audit committees. A new sentence was proposed to be added to make the Rule consistent with section 314(a) of RCDRIA, which prohibits any large customers of a large insured depository institution from being members of the audit committee of the institution's holding company if the institution relies on the audit committee of the holding company to comply with this rule.

B. Amendments to Appendix A to Part 363—Guidelines and Interpretations

4. Comparable Services and Functions—Guideline 4(c) under "Scope of Rule" was proposed to be amended to replace the phrase "all subsidiary institutions" with the phrase "those subsidiary institutions" to clarify that only information pertaining to covered institutions, not all subsidiaries of a holding company, must be included in reports filed under Part 363.

9. Safeguarding of Assets. The last two sentences of Guideline 9 and the footnote to the Guideline, which explained how the independent public accountant should treat the lack of criteria against which "safeguarding of assets" may be judged for financial reporting, were proposed to be revised. The FDIC's concern over the lack of criteria, which existed at the time of the adoption of Part 363, was eliminated in May 1994, as a result of the issuance by Committee of Sponsoring Organizations (COSO) of the Treadway Commission of an Addendum to the "*Reporting to External Parties*" volume of COSO's September 1992 *Internal Control—Integrated Framework* (COSO Report). The Addendum expanded the discussion of the scope of a management report on internal controls to address additional controls pertaining to safeguarding of assets. The FDIC proposed to replace the last two sentences of the Guideline with specific references to types of safeguarding that should be covered by management and the independent public accountant in their reports.

10. Standards for Internal Controls. In the footnote to Guideline 10, the Addendum to the COSO Report was proposed to be added to the list of sources of information on safeguarding of assets and standards for internal controls for financial reporting that may be considered for use by institutions. In addition, it was proposed that the American Institute of Certified Public Accountants' (AICPA) Statement on Auditing Standards No. 55 (SAS 55), "Consideration of the Internal Control Structure in a Financial Statement Audit," should replace AICPA Statement on Auditing Standards No. 30 (SAS 30), "Reporting on Internal Accounting Control," in the footnote to Guideline 10.

15. Peer Reviews—Guideline 15 requires each independent accountant to be enrolled in or have received a peer review that meets certain guidelines. These guidelines state that the peer review must be consistent with American Institute of Certified Public Accountants (AICPA) standards. Since the AICPA combined the two of its three standards for performing and reporting on peer reviews, those for Private Companies Practice Section and for its Quality Reviews into one standard on Peer Reviews, the footnote to Guideline 15 was proposed to be amended to identify the two remaining acceptable AICPA standards: Standards for Performing and Reporting on Peer Reviews, contained in Volume 2 of the AICPA's *Professional Standards*, and Standards for Performing and Reporting on Peer Reviews, codified in the *SEC Practice Section Reference Manual*.

24. Relief from Filing Deadlines—This Guideline explains the circumstances in which an institution may request an extension of a filing deadline, but makes reference to section 36 in doing so. The phrase referring to section 36 of the FDI Act in Guideline 24 was proposed to be deleted since section 36 does not grant authority to the FDIC to provide relief to, or exempt institutions from, provisions in the statute.

31. Holding Company Audit Committees—The proposal sought to revise Guideline 31 because it had been widely misunderstood. The existing Guideline provides that members of a holding company's independent audit committee may serve as the audit committee of *any* subsidiary institution if they are otherwise independent of the subsidiary's management. However, this was not intended to apply where an insured depository institution subsidiary has $5 billion or more in total assets, and a 3, 4, or 5 composite CAMEL rating and is not eligible to use the holding company exception in section 36(i). Such a subsidiary must have its own audit committee separate from the audit committee of the holding company. Guideline 31 was proposed to be amended to clarify this point.

In addition, existing Guideline 31 did not make it clear that when an institution eligible to use the holding company exception relies on a holding company audit committee in order to comply with this rule, the holding company audit committee must meet the requirements for the audit committee of the largest subsidiary institution. To be eligible to use the holding company exception, an insured depository institution subsidiary must have either less than $5 billion in total assets, or $5 billion or more in total assets and a 1 or 2 composite CAMEL rating, and its holding company must perform services and functions comparable to those required by the statute. Accordingly, it was proposed to amend Guideline 31 to clearly indicate that when an eligible institution chooses to rely on the holding company's audit committee, the members of the audit committee of the holding company are expected to meet the membership requirements of the largest subsidiary depository institution and may perform the duties of the audit committee for a subsidiary institution without becoming directors of the institution.

32. Duties—The second sentence of Guideline 32 was proposed to be amended to complete the citation to certain sections of Part 363. As proposed, the sentence would state that the duties of a covered institution's audit committee should be appropriate to the size of the institution and the complexity of its operations, and should include reviewing with management and the independent public accountant the basis for the reports issued under §§ 363.2(a) and (b) and 363.3(a) and (b) of the Rule. At present, the citation refers only to § 363.2(b) of the Rule.

C. Amendments to Schedule A to Appendix A—Agreed Upon Procedures for Determining Compliance With Designated Laws

The agreed upon procedures in Schedule A were proposed to be amended to clarify the numbering system, make the procedures consistent with amendments to insider loan regulations, and adopt suggestions of institutions and accountants to make the performance of the agreed upon procedures more efficient and less burdensome.

Proposed formatting changes included renumbering the paragraphs and adding more subject titles. The procedures applicable to insider extensions of credit granted, insider extensions of credit outstanding, aggregate insider extensions of credit outstanding, overdrafts, limitations on extensions of credit to executive officers, and reports on indebtedness to correspondent banks were proposed to be placed in separate subsections of the procedures for more efficient performance of the procedures and ease of reference. The amendments to the Federal Reserve Board's Regulation O (12 CFR Part 215), the federal rules governing insider loans, necessitated numerous citation changes.

As proposed, accountants would be permitted to use the most recently completed Reports of Condition and Income (Call Report) or Thrift Financial Report (TFR) when the procedures are being performed rather than requiring the use of only the year-end Call Report or TFR. The scope of the required reading of board and committee minutes and reports under the Securities Exchange Act of 1934 was proposed to also be more clearly defined. Inadvertent overdrafts in an aggregate amount of $1,000 or less, which are exempt from Regulation O proscriptions (see 12 CFR 215.4(e)), were proposed to no longer be separately tracked by institutions, listed when certain representations are made by management, or tested by the accountant. Where accountants had previously been expected to compare insider transactions to transactions with nonaffiliated persons, the comparison period within which nonaffiliated transactions can take place was proposed to be expanded from four to eight weeks. In addition, where no maximum number of transactions (to which comparisons must be made) had previously been included, comparisons were proposed to be limited to a maximum of three. An alternative procedure that permitted the terms of the insider transaction to be compared

to existing lending policies also was proposed.

To ensure that some tests were performed on each category of extension of credit, including overdrafts and loans from correspondent banks, the existing agreed-upon procedures directed accountants to obtain three separate samples. Based on suggestions received for improving the procedures covering extensions granted and outstanding during the year, the proposal had accountants focus the testing on a sample of insiders rather than a sample of transactions.

Under the present guidelines, an institution may choose to have some of the required testing in the agreed-upon procedures performed by its internal auditor with less testing performed by its independent public accountant. However, in some situations in multibank holding companies, the internal auditor may be required to perform more testing than was required of the external auditor. When the holding company exception set forth in section 36(i) is used at a holding company with more than one covered subsidiary institution, the FDIC proposed to extend to internal auditors the same testing requirements that have been applicable to independent public accountants. Specifically, this would eliminate the existing requirement that internal auditors perform the procedures on each covered subsidiary every year. Thus, the testing of samples from all covered subsidiaries every two or three years that has been required of independent public accountants was proposed to also apply to internal auditors. It was further proposed that the lead institution or a few very large covered subsidiary institutions be included every year in the testing by both accountants and internal auditors. However, in response to the proposed reduction in testing requirements applicable to internal auditors, the FDIC proposed to increase the size of the samples required to be tested by the independent public accountant from the present 20 percent to 30 percent of the size of the samples used by the internal auditor. This change was not expected to generally result in any increase in the number of transactions tested by the independent public accountant for reports on holding companies with two or more covered subsidiary institutions.

V. Discussion of Final Rule and Public Comments

The FDIC received 16 comment letters concerning the proposed amendments. Ten of the comment letters were from large banks, thrifts, and holding companies; three from banking trade organizations; two from accounting and auditing organizations; and one from an accounting firm.

The letters supported the addition to the rule of the changes mandated by the Riegle Community Development and Regulatory Improvement Act of 1994. They also were generally supportive of the proposal's goal to make the agreed-upon procedures in Schedule A to Appendix A less burdensome. However, many commenters stated their belief that Section 36 and its implementing rule were unnecessary and costly to comply with. Many commenters urged that the sections of the statute concerning compliance with safety and soundness laws and regulations, including both the management report and accountant's attestation, be eliminated. Nevertheless, barring any Congressional action in this regard, the commenters supported the Corporation's efforts to revise and reformat the agreed-upon procedures in Schedule A to Appendix A.

Regarding the specific changes to the procedures, commenters approved not having to list smaller overdrafts in the insiders' extensions list. Permitting internal auditors to do the same amount of testing on holding companies as external auditors was also supported. Commenters also agreed with the amendment to § 363.4(b) to clarify that the attestation by the independent public accountant concerning compliance with Designated Laws is not a document available to the public.

One respondent recommended that the FDIC limit the time in which it may require the review of a large institution's quarterly financial statements to no later than 30 days after the end of each quarter. This suggestion was not adopted because the FDIC anticipates that any request would be made prior to that time. Moreover, since this authority has never been used, the need for a time limit has not been established.

As discussed in the following paragraphs, the FDIC has considered respondents' comments concerning the specific aspects of the proposed amendments to Part 363, Appendix A to Part 363, and Schedule A to Appendix A.

A. Amendments to Port 363

One commenter suggested that the FDIC define "large institution" for purposes of section 363.5, Audit committees, as institutions with $5 billion or more in total assets. The FDIC previously defined that term to mean any insured depository institution with total assets exceeding $3 billion when it adopted Part 363 in 1993 and is not convinced the definition should be changed. Another commenter recommended that when dealing with reporting by a holding company, the term "large customer" in section 363.5 should be compared to the assets of an entire holding company, not any single institution. However, section 314(a)(2) of the RCDRIA precludes such a change because it provides that "the audit committee of the holding company of [a large) institution shall not include any large customers of the *institution*." [Emphasis added.]

B. Amendments to Appendix A to Part 363—Guidelines and Interpretations

The amendments to Appendix A that are discussed below are identified by the number and caption of the revised Guideline.

4. *Comparable Services and Functions.* Two commenters suggested that the rule be revised to require that when covering a holding company, the accountant's attestation on the adequacy of internal controls over financial reporting cover all subsidiaries of that holding company, including subsidiaries that are not insured depository institutions. These commenters stated that professional standards for attestation engagements (i.e., Statement of Standards for Attestation Engagements No. 2, "Reporting on an Entity's Internal Control Structure Over Financial Reporting" (AICPA, Professional Standards, vol. 1, AT sec. 400), which superseded Statement of Auditing Standards No. 30, "Reporting on Internal Accounting Control) require that all entities covered by the financial report must be included in the attestation on internal controls for financial reporting. However, the statute applies only to insured depository institutions. Thus, the FDIC may not have the authority to enforce the rule against other entities. Nevertheless, the FDIC would not take exception to the inclusion of all entities covered by the financial report in the internal control attestation.

9. *Safeguarding of Assets.* Numerous commenters appeared to misunderstand the proposed revision of this guideline. It was not intended to require the use of the phrase "safeguarding of assets" in either the management report or accountant's attestation, and the final amendment so states. The proposed replacement of the two sentences of the original Guideline with specific references to types of safeguarding has been revised. The sentence from the original Guideline, "The FDIC does not require the accountant to attest to the adequacy of safeguards, but does require the accountant to determine whether

safeguarding policies exist," which had been proposed for elimination, is being retained.

32. Duties. In this Guideline's discussion of the audit committee's duty to review the reports prepared by management and the independent public accountant under this rule, the words "the reports" have been changed to "their respective reports." This clarifies that the audit committee should review management reports with management, and the reports of the independent public accountant with the accountant.

C. Amendments to Schedule A to Appendix A

Several commenters expressed concern about the action an accountant must take when a change occurs in the information that had previously been provided to the accountant in a written representation. A new statement has been added to Schedule A to clarify that unless otherwise stated, the date of any required representation should be the same as the date of the attestation report, and the representation should provide information available as of that date.

A new sentence also has been added at the beginning of Schedule A explaining that where any representation is required, it should be obtained in writing.

One commenter observed that the agreed-upon procedures required that calculations be compared to the total risk-based capital reported on the bank Reports of Condition and Income (Call Report). However, this amount, which was formerly reported in item 3 of Schedule RC–R, was deleted from the Call Report as of March 31, 1995, but the Federal Financial Institutions Examination Council has approved its restoration to the Call Report in March 1996. Therefore, no change is made to Schedule A. Nevertheless, for the period this item is not reported in the bank Call Report, no exception need be reported for the inability to perform this comparison procedure.

1. Section I. Procedures for Individual Institutions

Many suggestions for clarifying the text were adopted in the final rule.

a. Loans to Insiders. In response to concern about the burden associated with the amount of information that the accountant must read, the procedures in section I.A.1. of Schedule A of Appendix A have been revised to more specifically identify the sections and paragraphs of the laws and regulations that must be read. More specifically, the accountant is required to read only those laws and regulations that pertain to the institution based on its charter and primary federal banking agency. To lessen the burden of reading all board of directors and appropriate committee minutes and all SEC filings, the final procedures have been revised to require the accountant to read only those documents which management represents contain pertinent insider lending information. In addition, Tables 1 and 2, which identify the designated laws and regulations, have been included at the end of Schedule A to Appendix A to clarify the applicable reading for each type of insured institution.

Several respondents expressed concerned about the burden of obtaining or maintaining all "other records" about insider loans in one location when they had numerous officers and worldwide operations. This reflected an apparent misunderstanding of the requirement in paragraph I.A.2.a.(4) of Schedule A to Appendix A. Federal Reserve Board Regulation O permits institutions to conduct an annual survey of all insiders *or* to maintain "other records" rather than the survey. The proposed wording, "and/or," was drafted to try to accommodate this Regulation O provision. However, for clarity, only the word "or" is used in the final amendment so that it is understood that all insider loan records need not be accumulated in one location in order for these procedures to be performed.

To make the procedures more consistent with the requirements of Regulation O and the operations of many institutions, footnote 2 has been revised to permit overdrafts of $1,000 or less without overdraft protection, and overdrafts of $5,000 or less with overdraft protection, to be omitted from the Insiders Extensions List.

Many commenters sought clarification of the phrase "most recently completed Call Report." They inquired whether the FDIC meant the most recently completed Call Report whether or not it had been filed, the most recently filed Call Report whether or not its editing had been completed by the appropriate federal banking agency for release to the public, or the most recently filed Call Report that was available for release to the public. Appendix A has been revised throughout to indicate that the most recently filed Call Report, whether or not it is available for release to the public, should be used. In this regard, a new footnote has been added to describe what should be done when the procedures call for information during the previous fiscal year and a Call Report for a date other than a calendar year-end Call Report is used. The footnote indicates that the accountant should use information pertaining to the period beginning from the date of the most recently filed Call Report back to the latest Call Report date for which these procedures were performed in the prior year.

The proposal required management to represent that any persons "excluded" from being executive officers were named as such in a board resolution or the by-laws. Many commenters stated that boards typically "include" persons as executive officers either specifically by name or by specific office occupied. Paragraph I.A.2.a.(7)(b) of Schedule A has been revised to require management to confirm the "inclusion" of executive officers by board resolution or in the by-laws.

Commenters also stated that requiring accountants to trace and agree every loan and extension of credit on the Insiders Extensions List in Paragraph I.A.2.b.(2) of Schedule A was burdensome in a large institution with many officers and directors. To lessen that burden, the final regulation has been changed so that only a "sample" of such loans needs to be traced and agreed.

The proposal considered the following to be issues for which boards of directors would have adopted specific policies: revising the institution's policies to reflect subsequent changes in laws and regulations; educating employees about legal requirements and management's related policies and procedures; and reporting insider loans to regulatory agencies on the institution's Call Report or TFR. However, these issues are not typically addressed in board policies. For that reason, although they had been included in the existing regulation, they have been removed from Paragraph I.A.3.b. of Schedule A.

Several commenters suggested that the FDIC set size limits for the samples to be tested under the various agreed-upon procedures in Schedule A. The FDIC remains opposed to this because it believes that setting sample sizes for testing should remain the responsibility of the auditing profession. The American Institute of Certified Public Accountants has previously suggested the following sample sizes for purposes of testing under Part 363. The FDIC has raised no objection.

Population No. (N)	Sample size
100 or greater	60
50 to 100	25
0 to 50	N or 20, whichever is smaller

There were many comments on Paragraphs I.A.5.b.(2) and (3) of Schedule A, which address the calculation of an institution's individual lending limit and the number of transactions involving each insider in the sample that must be tested. The Offices of the Comptroller of the Currency (OCC) and Thrift Supervision (OTS) now permit institutions to calculate the individual lending limit as of the Call Report or TFR date immediately preceding the loan origination date, rather than requiring them to calculate the limit on the exact date the loan was granted. Commenters urged the FDIC to incorporate this method in the procedures. They also suggested that the burden of these procedures could be reduced by testing one transaction per insider, not all types of transactions, and that eliminating or substantially lengthening the time frame for comparing the terms of transactions to see whether they are preferential. Many of these changes have been made. However, the time frame for the comparison of loans has not been eliminated. Instead, this time frame was extended from the existing two weeks and proposed four weeks before or after the granting of the loan to 90 days prior or subsequent to the grant date. This provides a window of approximately six months in which to find similar loans. The FDIC concluded that a longer period would not be appropriate because significant changes in market interest rates may occur during such a period. As an alternative, each insider loan in the sample may be compared with the institution's approved policies delineating the interest rate and other terms and conditions in effect for similar extensions of credit to unaffiliated borrowers.

Commenters also requested that, for purposes of paragraph I.A.5.b.(3), examples of "similar extensions of credit" and "terms of the transactions" be included. Paragraph I.A.5.b.(3) has been revised to include such examples.

The final wording of paragraph I.A.6.b.(4) has been narrowed so that it applies only if the credit extended is a real estate loan granted for the purchase, construction, maintenance, or improvement of the executive officer's residence. The proposed wording would have included home equity loans for general consumer purchases, but this type of loan is not covered by the provision of the Designated Laws being tested under paragraph I.A.6.b.(4).

Several commenters mentioned that performing the procedures based on their most recently filed Call Report or TFR permitted them to perform the procedures prior to year end, but requiring the use of the reports on indebtedness to correspondent banks, which is not due until January 31 of the following year, kept them from completing the procedures in a timely manner. To remedy this problem, paragraph I.A.9.a.(1) of the final rule permits institutions that use a calendar year fiscal year to use the reports on indebtedness to correspondent banks prepared for the prior year in order to perform the procedures. Any duplication during the first year that this procedure may cause need not be performed, and in future years the institution should continue to use the preceding year's report. However, should an institution that has previously made this choice decide to revert to using the reports of indebtedness to correspondent banks filed in the following year, it will be expected to perform the procedures for the two years' reports so that continuity in the coverage of the procedures is maintained.

b. Dividend Restrictions. A sentence has been added to explain that since laws and regulations pertaining to dividend restrictions cover institutions and not holding companies, the procedures in Part B should be followed for each institution and subsidiary institution of a holding company covered by this part. However, if the holding company has more than five subsidiary institutions covered by this part, the procedures may be performed on a sample of dividend declarations. The number "five" was chosen based on sample sizes suggested by the American Institute of Certified Public Accountants. The AICPA stated that when there are fewer than 50 transactions in the population to be sampled, the smaller of the total number of transactions, or 20 items, were to be tested. In this regard, if each of five covered institutions declared dividends quarterly, there would be 20 transactions to test.

Commenters suggested that the FDIC should permit the most recent quarter end (or month end, if available) to be used for determining whether the declaration of a dividend would cause the institution to be undercapitalized rather than requiring the institution to perform this calculation as of the exact date the dividend is declared. This suggested method would be consistent with recent rulings by the OCC and OTS that quarter-end Call Reports may be used for calculating legal lending limits. The final rule permits use of quarter-end date.

2. Section II. Procedures for the Independent Public Accountant

The proposal would have required that if an internal auditor performed part of the procedures in Section I, a summary of "significant" findings and management's response should be filed with the FDIC and appropriate federal banking agency as part of the institution's annual submission. However, it is now noted that if any findings are "significant," they should be disclosed in management's report and attestation. For that reason, the word "significant" has been deleted from Section II, but the requirement for a summary is retained so that the agencies receive information about the internal auditor's findings.

As proposed, the amount of testing the independent public accountant would be required to perform under paragraph II.B.3.a. was raised from 20 to 30 percent of the size of the sample tested by the internal auditors. This change was suggested because the proposal reduced the amount of testing that internal auditors would be required to perform on a holding company. Several commenters stated the increase was burdensome and unnecessary. The FDIC continues to believe that independent public accountants will be performing far fewer tests than under the current procedure and that some increase in the percentage is warranted. For that reason and to limit burden, the percentage has been reduced to 25 percent in the final rule.

The changes and reformatting in the procedures from the current rule to the final rule are outlined in the Table A below:

TABLE A.—REFORMATTING CHANGES TO SCHEDULE A TO APPENDIX A

Subject	Old section I	New section I
Insider loans:		
Designated Laws and Regulations	A.1	A.1.
General Information	A.2.a	A.2.a.
Calculations	A.2.b	A.4.
Policies and Procedures	A.2.c	A.3.
Insider Transactions	A.2.d	A.5.
Loans to Correspondent Banks	A.2.d.(1)	A.9.
Aggregate Indebtedness	A.2.d.(2)(a) A.2.d.(7)	A.2.b.(2) A.7.
Executive Officers	A.2.d.(2)(b) & (c) A.2.e.(ii);	Deleted A.6.
Insider Extensions of Credit	A.2.d.(2)(d) & (e) A.2.d.(5) & (6).	A.5.
Overdrafts	A.2.d.(3)	A.8.
Reports on Indebtedness to Correspondent Banks	A.2.e	A.9.
Dividend Restrictions:		
Designated Laws and Regulations	B.1	B.1.
General Information	B.2	B.2.
Policies and Procedures	B.2.b	B.3.
Board Minutes	B.2.c	B.4.
Calculation of Undercapitalization	B.2.d	B.5.
Dividends Declared by Banks	B.2.e	B.6.
Dividends Declared by Savings Associations	B.2.f	B.7

Subject	Old section II	New section II
Procedures for the independent public accountant:		
Designated Laws and Regulations	A. & B.1	A. & B.1.
Internal Auditor's Workpapers	B.2	B.2
Testing	C	B.3.
Reports Concerning Holding Companies	D	B.4.

D. Timing and Effective Date

Since the majority of covered institutions have fiscal years that coincide with the calendar year, many are in the process of preparing annual reports and having the agreed-upon procedures performed. In order to make this process less burdensome for institutions and their accountants, the FDIC will raise no objection if an institution chooses to have its independent public accountant perform the agreed-upon procedures in Schedule A to Appendix A of the existing rule, the February 1995 proposal, or this final amendment to Schedule A to Appendix A for fiscal years ending on or before March 31, 1996. However, when an institution and its independent public accountant choose a version of the agreed-upon procedures for the fiscal year, the accountant must use a single version of the procedures for both of the Designated Laws. For any institution with a fiscal year that ends after March 31, 1996, the accountant should use the procedures of this amendment.

List of Subjects in 12 CFR Part 363

Accounting, Attestation, Audit committee, Banks, banking, Internal controls, Management letter, Peer review, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board of Directors of the FDIC hereby amends Part 363 of title 12, chapter III, of the Code of Federal Regulations as follows:

PART 363—ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

1. The authority citation for Part 363 continues to read as follows:

Authority: 12 U.S.C. 1831m.

2. Section 363.1 is amended by revising paragraph (b) to read as follows:

§ 363.1 Scope.

* * * * *

(b) *Compliance by subsidiaries of holding companies.* (1) The audited financial statements requirement of § 363.2(a) may be satisfied for an insured depository institution that is a subsidiary of a holding company by audited financial statements of the consolidated holding company.

(2) The other requirements of this part for an insured depository institution that is a subsidiary of a holding company may be satisfied by the holding company if:

(i) The services and functions comparable to those required of the insured depository institution by this part are provided at the holding company level; and

(ii) The insured depository institution has as of the beginning of its fiscal year:

(A) Total assets of less than $5 billion; or

(B) Total assets of $5 billion or more and a composite CAMEL rating of 1 or 2.

(3) The appropriate federal banking agency may revoke the exception in paragraph (b)(2) of this section for any institution with total assets in excess of $9 billion for any period of time during which the appropriate federal banking agency determines that the institution's exemption would create a significant risk to the affected deposit insurance fund.

3. Section 363.4 is amended by revising paragraph (b) to read as follows:

§ 363.4 Filing and notice requirements.

* * * * *

(b) *Public availability.* The annual report in paragraph (a)(1) of this section shall be available for public inspection.

* * * * *

4. Section 363.5 is amended by revising paragraph (b) to read as follows:

§ 363.5 Audit committees.

* * * * *

(b) *Committees of large institutions.* The audit committee of any insured

depository institution that has total assets of more than $3 billion, measured as of the beginning of each fiscal year, shall include members with banking or related financial management expertise, have access to its own outside counsel, and not include any large customers of the institution. If a large institution is a subsidiary of a holding company and relies on the audit committee of the holding company to comply with this rule, the holding company audit committee shall not include any members who are large customers of the subsidiary institution.

5. Appendix A to Part 363 is amended by revising paragraphs 4(c), 9, 24, 31, the introductory text of paragraph 32, footnote 2 in paragraph 10, and footnote 3 in paragraph 15(b) to read as follows:

Appendix A to Part 363—Guidelines and Interpretations

* * * * *

4. *Comparable Services and Functions.*

* * *

* * * * *

(c) Prepares and submits the management assessments of the effectiveness of the internal control structure and procedures for financial reporting (internal controls), and compliance with the Designated Laws defined in guideline 12 based on information concerning the relevant activities and operations of those subsidiary institutions within the scope of the rule.

* * * * *

9. *Safeguarding of Assets.* "Safeguarding of assets", as the term relates to internal control policies and procedures regarding financial reporting, and which has precedent in accounting literature, should be encompassed in the management report and the independent public accountant's attestation discussed in guideline 18. Testing the existence of and compliance with internal controls on the management of assets, including loan underwriting and documentation, represents a reasonable implementation of section 36. The FDIC expects such internal controls to be encompassed by the assertion in the management report, but the term "safeguarding of assets" need not be specifically stated. The FDIC does not require the accountant to attest to the adequacy of safeguards, but does require the accountant to determine whether safeguarding policies exist:[1]

10. * * *[2]

* * * * *

15. * * *

(b) * * *[3]

* * * * *

24. *Relief from Filing Deadlines.* Although the reasonable deadlines for filings and other notices established by this part are specified, some institutions may occasionally be confronted with extraordinary circumstances beyond their reasonable control that may justify extensions of a deadline. In that event, upon written application from an insured depository institution, setting forth the reasons for a requested extension, the FDIC or appropriate federal banking agency may, for good cause, extend a deadline in this part for a period not to exceed 30 days.

* * * * *

31. *Holding Company Audit Committees.* When an insured depository institution subsidiary fails to meet the requirements for the holding company exception in § 363.1(b)(2) or maintains its own separate audit committee to satisfy the requirements of this part, members of the independent audit committee of the holding company may serve as the audit committee of the subsidiary institution if they are otherwise independent of management of the subsidiary, and, if applicable, meet any other requirements for a large subsidiary institution covered by this part. However, this does not permit officers or employees of a holding company to serve on the audit committee of its subsidiary institutions. When the subsidiary institution satisfies the requirements for the holding company exception in § 363.1(b)(2), members of the audit committee of the holding company should meet all the membership requirements applicable to the largest subsidiary depository institution and may perform all the duties of the audit committee of a subsidiary institution, even though such holding company directors are not directors of the institution.

32. *Duties.* The audit committee should perform all duties determined by the institution's board of directors. The duties should be appropriate to the size of the institution and the complexity of its operations, and include reviewing with management and the independent public accountant the basis for their respective reports issued under §§ 363.2(a) and (b) and 363.3(a) and (b). Appropriate additional duties could include:

* * * * *

6. Schedule A to Appendix A to Part 363 is revised to read as follows:

Schedule A to Appendix A—Agreed Upon Procedures for Determining Compliance With Designated Laws

1. The Agreed Upon Procedures set forth in this schedule are referred to in guideline 19. They should be followed by the institution's independent public accountant (or, with respect to the procedures set forth in section I of this schedule, by the institution's internal auditor if the accountant is to perform the procedures set forth in section II) in order to permit the accountant to report on the extent of compliance with the Designated Laws (defined in guideline 12) as required by sections 36(e)(1) and (2). Unless otherwise stated, the date of any required representation should be the same as the date of the attestation report and the representation should provide information to the extent available as of that date.

2. For purposes of this Schedule A, "insiders" means directors, executive officers, and principal shareholders, and includes their related interests. All terms not defined in this schedule have the meanings given them in this part, the Guidelines, and professional accounting and auditing literature.

3. Additional guidance concerning the role of the institution, its internal auditor, and its independent public accountant in assessing the institution's compliance with the Designated Laws is set forth in the Guidelines.

Section I—Procedures for Individual Institutions

The following procedures should be performed by the institution's independent public accountant in accordance with generally accepted standards for attestation engagements, or by the institution's internal auditor if the procedures set forth in section II of this schedule are to be performed by the independent public accountant. (See section II.B.3. for information concerning testing by the independent public accountant when the institution's internal auditor is performing the procedures in Section I.)

A. *Loans to Insiders.* To the extent permitted by § 363.1(b)(2), these procedures may be performed on a holding company basis rather than at each covered subsidiary insured depository institution.

1. *Designated Laws.* The following federal laws and regulations (Designated Insider Laws), to the extent that they are applicable to the institution,[1] should be read:

a. Laws: 12 U.S.C. 375a, 375b, 1468(b), 1828(j)(2), and 1828(j)(3)(B); and

b. Regulations: 12 CFR 23.5, 31, 215, 337.3, 349.3, and 563.43.

2. *General.*

a. *Information.* Obtain from management of the institution the following information for the institution's fiscal year:[2]

(1) Management's assessment of compliance with the Designated Insider Laws;

(2) All minutes (including minutes drafted, but not approved) of the meetings of the board and of those committees of the board which management represents have been delegated authority pertaining to insider lending;

(3) The relevant portions of reports of examination, supervisory agreements, and enforcement actions issued by the institution's primary federal and state regulators, if applicable, which management represents contain information pertaining to insider lending;

(4) The annual survey which identifies all insiders of the institution (pursuant to 12 CFR 215.8(b)) or other records maintained on insiders of the institution's affiliates (pursuant to 12 CFR 215.8(c));

(5) The relevant portions of the following Securities Exchange Act of 1934 filings, which management represents contain information pertaining to insider lending:

(a) Forms 10–K, 10–Q, and 8–K and proxy statements (or information statements) filed with the SEC, Federal Reserve Board, OCC, or OTS, or

(b) Forms F–2, F–3, and F–4 and proxy statements (or information statements), filed with the FDIC;

(6) A list of loans, including overdrafts of executive officers and directors,[3] and other extensions of credit to insiders (including their related interests) outstanding at any time during the fiscal year (and which identifies those extensions granted during the year). This list should also include the amount outstanding of each extension of credit as of the date of the most recently filed Call Report or TFR (Insider Extensions List); and

(7) Management's representation concerning:

(a) The completeness of the Insider Extensions List;[4] and

(b) The inclusion of all required insiders on the annual survey obtained in paragraph A.2.a.(4) of this section including persons who have been designated as executive officers by resolution of the board or a committee of the board or in the by-laws of the institution.

b. *Procedures:*

(1) Read the foregoing information.

(2) Trace and agree a sample of insider loans and other extensions of credit disclosed in the documents listed in paragraphs A.2.a.(2) through (5) of this section to see that they are included on the Insider Extensions List.

3. *Policies and Procedures.*

a. *Information.* Obtain the institution's written policies and procedures concerning its compliance with the Designated Insider Laws, including any written "Code of Ethics" or "Conflict of Interest" policy statements. If the institution has no written policies and procedures, obtain a narrative from management that describes the methods for complying with such laws and regulations, and includes provisions similar to those listed in paragraph A.3.b. of this section.

b. *Procedures.* Ascertain that the policies and procedures include, or incorporate by reference, provisions consistent with the Designated Insider Laws for:

(1) Defining terms;

(2) Restricting loans to insiders;

(3) Maintaining records of insider loans;

(4) Requiring reports and/or disclosures by the institution and by executive officers, directors, and principal shareholders (and their related interests);

(5) Disseminating policy information to employees and insiders; and

(6) Prior approval of the board of directors.

4. *Calculations of Lending Limits.*

a. *Information.* Obtain management's calculation of the following items as of the date of the institution's most recently filed Call Report or TFR and as of a Call Report or TFR date six or nine months earlier:

(1) The institution's unimpaired capital and surplus (the aggregate lending limit for all insiders); and

(2) The institution's individual lending limit (12 CFR 215.2(i)).

b. *Procedures.* Recalculate the amounts in paragraph A.4.a. of this section for mathematical accuracy, and trace the amounts used in management's calculations to the Call Reports or TFRs for the two dates used in paragraph A.4.a. of this section.

5. *Insider Extensions of Credit Granted.*

a. *Information.* Obtain management's representation regarding whether the terms and creditworthiness of insider extensions of credit granted during the fiscal year are comparable to those that would have been available to unaffiliated third parties.

b. *Procedures.* Select a sample of insiders who were granted or had outstanding extensions of credit during the fiscal year from the Insider Extensions List. For each extension of credit granted during the fiscal year to each insider in the sample selected:

(1) If the amount of a credit granted during the year (when aggregated with all other extensions of credit to that person and to all related interests of that person) exceeds $500,000, determine whether the minutes of the meetings of the board of directors indicate that:

(a) The credit was approved in advance by the board, and

(b) The insider, if a director, abstained from participating directly or indirectly in voting on the transaction;

(2) Obtain management's calculation of the institution's individual lending limit for insiders pursuant to 12 CFR 215.2(i) as of the date of the Call Report or TFR filed immediately prior to the date when the extension of credit was granted, and if not already done under

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[1] It is management's responsibility to establish policies concerning underwriting and asset management and to make credit decisions. The auditor's role is to test compliance with management's policies relating to financial reporting.

[2] In considering what information is needed on safeguarding of assets and standards for internal controls, management may review guidelines provided by its primary federal regulator; the Federal Financial Institutions Examination Council's "Supervisory Policy Statement on Securities Activities"; the FDIC's "Statement of Policy Providing Guidance on External Auditing Procedures for State Nonmember Banks" (Jan. 16, 1990), "Statement of Policy Regarding Independent External Auditing Programs of State Nonmember Banks" (Nov. 16, 1988), and Division of Supervision Manual of Examination Policies; the Federal Reserve Board's Commercial Bank Examination Manual and other relevant regulations; the Office of Thrift Supervision's Thrift Activities Handbook; the Comptroller of the Currency's Handbook for National Bank Examiners; standards published by professional accounting organizations, such as the American Institute of Certified Public Accountants' (AICPA) Statement on Auditing Standards No. 55, "Consideration of the Internal Control Structure in a Financial Statement Audit"; the Committee of Sponsoring Organizations (COSO) of the Treadway Commission's *Internal Control—Integrated Framework*, including its addendum on safeguarding of assets; and other internal control standards published by the AICPA, other accounting or auditing professional associations, and financial institution trade associations.

[3] These would include Standards for Performing and Reporting on Peer Reviews, codified in the *SEC Practice Section Reference Manual*, and Standards for Performing and Reporting on Peer Reviews, contained in Volume 2 of the AICPA's *Professional Standards*.

[1] The laws and regulations applicable to each type of institution are listed in Table 1 of this Schedule A to Appendix A.

[2] If the institution chooses to have these procedures performed using its most recently filed Call Report rather than its year end Call Report, all references to "fiscal year" in these procedures shall mean the period beginning with the latest Call Report date for which these procedures were performed in the prior year and ending with the date of the most recently filed Call Report. If these procedures were not previously performed, the 12 month period immediately preceding the date of the most recently filed Call Report (or such shorter period during which the institution was covered by this Part 363) should be used.

[3] Management may exclude from this list overdrafts of an executive officer or director in an aggregate amount of $1,000 or less without overdraft protection and those of $5,000 or less with overdraft protection as specified in 12 CFR 215.3(b)(6) if management provides the independent accountant with a representation that policies and procedures are in effect to report as extensions of credit all overdrafts that do not meet the criteria listed in paragraphs A.8.a.(2)(a) through (c) of this section.

[4] See footnote 3 of this schedule.

paragraph A.4.b. of this section, recalculate the lending limits for mathematical accuracy, and trace the amounts used in management's calculations to the Call Report or TFR for that date. Ascertain whether the amount of the extension of credit being granted to the insider, when combined with all other extensions of credit to that insider, exceeds such limit; and

(3) For one transaction involving each insider in the sample selected in paragraph A.5.b. of this section, perform the procedures in either paragraph (a) or (b) as follows:

(a) Select three (or such smaller number that exists) similar extensions of credit (e.g., commercial real estate loans, floor plan loans, residential mortgage loans, consumer loans) granted to unaffiliated borrowers (i.e., persons who are not insiders or employees of the institution or its affiliates) within 90 days before or after the granting of the insider extension of credit. Compare the terms of the transactions with unaffiliated borrowers (i.e., rate or range of interest rates, maturity, payment terms, collateral, and any unusual provisions or conditions) to those with the insiders, and note in the findings any differences in the terms favorable to the insiders compared to the terms of the transactions with unaffiliated borrowers.

(b) Alternatively, compare the terms of each insider transaction in the sample to approved policies delineating the interest rate and other terms and conditions then in effect for similar extensions of credit to unaffiliated borrowers. Note in the findings any differences in the terms favorable to the insiders compared to the terms of the approved policies for an extension of credit to persons not affiliated with the institution or its affiliates.

6. *Limitation on Extensions of Credit to Executive Officers.*

a. *Information.* From the sample selected in paragraph A.5.b. of this section, select the executive officers who were granted extensions of credit during the fiscal year.

b. *Procedures.*

(1) For each executive officer selected, obtain management's calculation as of the two dates used in paragraph A.4.a. of this section of:

(a) The aggregate amount of extensions of credit to the executive officer, and

(b) 2.5 percent of the institution's unimpaired capital and surplus.

(2) Recalculate management's computations from paragraph A.6.b.(1) of this section for mathematical accuracy. Trace amounts used in management's computations from paragraph A.6.b.(1) to the Call Reports or TFRs for the two dates used in paragraph A.4.a. of this section.

(3) Ascertain whether the aggregate amount of the extensions of credit to the executive officer does not exceed the greater of $25,000 or 2.5 percent of the institution's unimpaired capital and surplus, but in no event more than $100,000. The aggregate amount should exclude the types of extensions of credit set forth in 12 CFR 215.5(c)(1) through (3).

(4)(a) Obtain documentation for any credits for which management represents that:

(i) The purpose is for the purchase, construction, maintenance, or improvement of the executive officer's residence;

(ii) The credit is secured by a first lien on the residence; and

(iii) The executive officer owns or expects to own the residence after the extension of credit.

(b) Note whether the documentation contains similar representations.

(5) For each executive officer selected, ascertain that each extension of credit granted during the fiscal year was:

(a) Preceded by submission of financial statements;

(b) Approved by, or, when appropriate, promptly reported to, the board of directors no later than the next board meeting; and

(c) Made subject to the written condition that the extension of credit will become, at the option of the institution, due and payable at any time that the executive officer is indebted to other insured institutions in an aggregate amount greater than the executive officer would be able to borrow from the institution.

7. *Aggregate Insider Extensions of Credit Outstanding.*

a. *Information.* Obtain management's calculation of the aggregate extensions of credit to executive officers, directors, and principal shareholders of the institution and to their related interests, excluding the types of extensions of credit set forth in 12 CFR 215.4(d)(3), as of the two dates selected in paragraph A.4.a. of this section.

b. *Procedures.*

(1) Recalculate the amounts obtained in paragraph A.7.a. of this section for mathematical accuracy and ascertain that this total, excluding the types of extensions of credit set forth in 12 CFR 215.4(d)(3), is less than or equal to 100 percent of the institution's unimpaired capital and surplus calculated in paragraph A.4.a.(1) of this section.

(2) Using the sample of insiders selected in paragraph A.5.b. of this section, trace and agree amounts outstanding from insiders in the sample to the supporting documents, as applicable, for the line item aggregating indebtedness of all insiders on the institution's most recently filed Call Report or TFR.

8. *Overdrafts.*

a. *Information.* Select a sample of executive officers and directors who had overdrafts outstanding during the fiscal year as shown on the Insider Extensions List.

(1) For all overdrafts in the sample except those which are covered by an overdraft protection line of credit with the same terms as available to unaffiliated borrowers and meet the terms of that overdraft protection line, obtain management's representation of the history of the insider's overdrafts for the year and the completeness of that history.

(2) If the institution's management has *not* provided a representation as specified by footnote 3 to paragraph A.2.a.(6) of this section, for each overdraft in the sample in an aggregate amount of $1,000 or less for an executive officer or director who did not have the overdraft covered by an overdraft protection line of credit, obtain management's representation that:

(a) It believes the overdraft was inadvertent;

(b) The account was overdrawn in each case for no more than 5 business days; and

(c) The institution charged the executive officer or director the same fee that it would charge any other customer in similar circumstances.

b. *Procedures.* For each overdraft in the sample selected and used in paragraph A.8.a.(1) of this section for which management did not provide the representation in paragraph A.8.a.(2) of this section:

(1) Inquire whether cash items for the insider were being held by the institution during the time that the overdraft was outstanding to prevent additional overdrafts;

(2) Trace and agree subsequent payment by the insider of the insider's overdrafts to records of the account at the institution; and

(3) For overdrafts of executive officers and directors that were paid by the institution for the executive officer or director from an account at the institution:

(a) Trace and agree to a written, pre-authorized, interest-bearing extension of credit plan that specifies a method of repayment; or

(b) Trace and agree to a written, pre-authorized transfer of funds from another account of the insider at the institution.

9. *Reports on Indebtedness to Correspondent Banks.*

a. *Information.* Obtain from management:

(1) A list of executive officers and principal shareholders and related interests thereof that filed reports of indebtedness to a correspondent bank. This list should be prepared by management from reports of indebtedness submitted for the calendar year for which the management assessment and independent public accountant's attestation are being filed or, if the institution is on a calendar year fiscal year, at management's option, for the immediately preceding year. If the institution is not on a calendar year fiscal year, the list should be prepared for the calendar year that ended during its fiscal year; and

(2) Its representation concerning the completeness of the list prepared for paragraph A.9.a.(1) of this section.

b. *Procedures.* Select a sample of executive officers, principal shareholders, and related interests thereof from the list obtained in paragraph A.9.a.(1) of this section. For each executive officer and principal shareholder (or related interest thereof) included in the sample, ascertain that the report(s) of indebtedness was (were) filed with the board of directors (on or before the January 31 following the calendar year in paragraph A.9.a.(1) of this section) and that such report(s) state(s):

(1) The maximum amount of indebtedness during that calendar year;

(2) The amount of indebtedness outstanding 10 days prior to report filing; and

(3) A description of the loan terms and conditions, including the rate or range of interest rates, original amount and date, maturity date, payment terms, collateral, and any unusual terms or conditions.

B. *Dividend Restrictions.* If the institution has declared any dividends during the fiscal year, the following procedures should be performed for each dividend declared. (These procedures are not applicable to mutual institutions and insured branches of foreign banks.) For an institution that is a subsidiary of a holding company, the procedures that follow should be applied to each subsidiary institution subject to this part (covered subsidiary) because the laws and regulations restricting dividends apply to individual institutions and not holding companies. However, if the annual report under Part 363 is being prepared on a holding company basis and the holding company has more than five covered subsidiaries, the following procedures may be applied to a sample of dividend declarations to the extent permitted by § 363.1(b) and Section. II.B.3. of this schedule.

1. *Designated Laws.* The following federal laws and regulations (Designated Dividend Laws), to the extent that they are applicable to the institution (see paragraph B.2 of this section),[5] should be read:

a. Laws: 12 U.S.C. 56, 60, 1467a(f), 1831o; and

b. Regulations: 12 CFR 5.61, 5.62, 6.6, 7.6120, 208.19, 208.35, 325.105, 563.134, and 565.

2. *General.* The information requirements and procedures in paragraphs B.2. through B.5. of this section are applicable to all institutions. Paragraphs B.6. and B.7. of this section were designed to be applicable to member banks (i.e., national banks and state member banks) and federally-chartered savings associations, respectively. However, the requirements in paragraphs B.6. and B.7. of this section should be applied to a state nonmember bank or state savings association if management represents that the state has dividend restrictions substantially identical to those for a national bank or a federally-chartered savings association.

a. *Information.* Obtain from management of the institution the following information for the institution's most recent fiscal year:

(1) Its assessment of the institution's compliance with the Designated Dividend Laws and any applicable state laws and regulations cited in its assessment;

(2) A copy of any supervisory agreements with, orders by, or resolutions of any regulatory agency (including a description of the nature of any such agreements, orders, or resolutions) containing restrictions on dividend payments by the institution; and

(3) Its representation whether dividends declared comply with any restrictions on dividend payments under any supervisory agreements with, orders by, or resolutions of any regulatory agency (including a description of the nature of any such agreements, orders, or resolutions).

b. *Procedures.*

(1) Read the foregoing information.

(2) If any restrictions on dividend payments exist in any documents obtained in paragraph B.2.a.(2) of this section, test and agree dividends declared with any such quantitative restrictions.

3. *Policies and Procedures.*

a. *Information.* Obtain the institution's written policies and procedures concerning its compliance with the Designated Dividend Laws. If the institution has no written policies and procedures, obtain from the institution a narrative that describes the institution's methods for complying with the Designated Dividend Laws, and includes provisions similar to those in paragraph B.3.b of this section.

b. *Procedures.* Ascertain whether the policies and procedures include, or incorporate by reference, provisions which are consistent with the Designated Dividend Laws. These would include capital limitation tests, including section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), earnings limitation tests, transfers from surplus to undivided profits, and restrictions imposed under any supervisory agreements, resolutions, or orders of any federal or state depository institution regulatory agency. In addition, for savings associations, this would include prior notification to the OTS.

4. *Board Minutes.*

a. *Information.* Obtain the minutes of the meetings of the board of directors for the most recent fiscal year to ascertain whether dividends (either paid or unpaid) have been declared.

b. *Procedures.* Trace and agree total dividend amounts to the general ledger records and the institution's most recently filed Call Report or TFR.

5. *Calculation of Undercapitalization.*

a. *Information.* Obtain management's computation of the amount at which declaration of a dividend would cause the institution to be undercapitalized as of the quarter end (or more recent month end, if available from management) immediately prior to the date on which each dividend was declared during the fiscal year.

b. *Procedures.* Recalculate management's computation (for mathematical accuracy) and compare management's calculations to the amount of any dividend declared to determine whether it exceeded the amount.

6. *Dividends Declared by Banks.*

a. *Information.* If the institution is a national bank or state member bank, obtain management's computations concerning the bank's compliance with 12 U.S.C. 56, "Capital Limitation Test", 12 U.S.C. 60, "The Earnings Limitation Test", and transfers from surplus to undivided profits after declaration of the dividends referenced in paragraph

[5] The laws and regulations applicable to each type of institution are listed in Table 2 of this Schedule A to Appendix A.

B.4.a. of this section. If the institution is a state nonmember bank and management represents that the bank is subject to state laws that are similar to 12 U.S.C. 56 and 12 U.S.C. 60, obtain management's corresponding computations.

b. *Procedures.* Recalculate management's computations (for mathematical accuracy) and compare management's calculations to the standards defined in the tests set forth in paragraph B.6.a. of this section to ascertain whether the dividends declared fall within the permissible levels under these standards. If dividends are not permissible in the amounts declared under such standards, the independent public accountant should ascertain that the dividends were declared with the approval of the appropriate federal banking agency or under any other exception to the standards.

7. *Dividends Declared by Savings Associations.*

a. *Information.* Obtain management's documentation of the OTS determination whether the institution is a Tier 1, Tier 2, or Tier 3 savings association and management's computations of its capital ratio after declarations of dividends under the Tier determined by the OTS. For dividends declared, obtain copies of the savings association's notifications to the OTS to ascertain whether notifications were made at least 30 days before payment of any dividends.

b. *Procedures.* Recalculate management's computations (for mathematical accuracy) and trace amounts used by management in its calculations to the institution's TFRs.

Section II—Procedures for the Independent Public Accountant

If the internal auditor has performed the procedures set forth in section I for either or both Designated Laws, the following procedures may be performed by the independent public accountant if neither the FDIC nor the appropriate federal banking agency has objected in writing. The report of procedures performed and list of exceptions found by the internal auditor, identifying the institution with respect to which any exception was found, should be submitted to the audit committee of the board of directors. Management should file a summary of the internal auditor's findings and management's response to those findings with the FDIC and the appropriate federal banking agency at the same time as the independent public accountant's attestation report is filed.[6]

A. *Review of Section I Procedures.* Read the portion(s) of Section I of this schedule that set forth the procedures performed by the internal auditors.

B. *Information and Procedures.* Perform the following procedures:

1. *Designated Laws.* Read the Designated Laws referred to in Section I of this schedule for the agreed-upon procedures performed by the internal auditor. Obtain management's assessment contained in its management report on the institution's or holding company's compliance with the Designated Laws.

2. *Internal Auditor's Workpapers.*

a. *Information.* If an internal auditor performed the procedures in Section I, obtain the internal auditor's workpapers documenting the performance of those procedures on the institution and the chief internal auditor's representation that:

(1) The internal auditor or audit staff, if applicable, performed the procedures listed in section I on the institution;

(2) The internal auditor tested a sufficient number of transactions governed by the Designated Laws so that the testing was representative of the institution's volume of transactions;

(3) The workpapers accurately reflect the work performed by the internal auditor and, if applicable, the internal audit staff;

(4) The workpapers obtained are complete; and

(5) The internal auditor's report, which describes the procedures performed for the fiscal year as well as the internal auditor's findings and exceptions noted, has been presented to the institution's audit committee.

b. *Procedures.*

(1) Compare the workpapers to the procedures that are required to be performed under section I. Report as an exception any procedures not documented and any procedures for which the sample size is not sufficient.

(2) Compare the exceptions and errors listed by the internal auditor in its report to the audit committee to those found in the workpapers, and report as an exception any exception or error found in the internal auditor's workpapers and not listed in the internal auditor's list of exceptions.

3. *Testing.*

a. The independent public accountant should perform the procedures listed in Section I on representative samples of the insiders and/or transactions of the institution to which the Designated Law applies. If the institution's internal auditor performs the procedures in Section I, the samples tested by the independent public accountant should be at least 25 percent of the size of the samples tested by the internal auditor although samples selected by the accountant should be from the population at large. However, if there are so few transactions in any area that the internal auditor cannot use sampling, but must test all transactions, the independent public accountant should also test all transactions.

b. If testing under this Schedule A to Appendix A is being performed on a holding company with more than one subsidiary institution that is subject to this Part 363, the samples tested should include a combination of insiders and transactions from each covered subsidiary with total assets (after deductions of intercompany amounts that would be eliminated in consolidation) in excess of 25 percent of the holding company's total assets every fiscal year. Samples should be tested for each smaller covered subsidiary at least every other fiscal year unless the holding company has more than eight covered subsidiaries, in which case the samples to be tested for each Designated Law should be drawn from each smaller covered subsidiary at least every third fiscal year.

4. *Reports Concerning Holding Companies.* Only one report of any exceptions noted from application of the procedures in section II performed by the independent public accountant should be filed as required by guideline 3 in Appendix A to this Part 363, but the report should identify, for each exception or error noted, the identity of the covered subsidiary to which it relates.

[6] Since this summary provides information similar to that provided in the independent public accountant's report, the FDIC has determined that the summary is exempt from public disclosure consistent with the guidance in Guideline 18 in Appendix A to this Part 363.

Tables to Schedule A to Appendix A

TABLE 1

	Loans to insiders	For engagements involving management assertions about compliance by:			
		National banks	State member banks	State nonmember banks	Savings associations
Read the following parts and/or sections of Title 12 of the United States Code:					
375a	Loans to Executive Officers of Banks	√	√	√—Subsections (g) and (h) only.	
375b	Prohibitions Respecting Loans and Extensions of Credit to Executive Officers and Directors of Banks, Political Campaign, Committees, etc.	√	√		
1468(b)	Extensions of Credit to Executive Officers, Directors, and Principal Shareholders.				√
1828(j)(2)	Provisions Relating to Loans, Extensions of Credit, and Other Dealings Between Member Banks and Their Affiliates, Executive Officers, Directors, etc.			√	
1828(j)(3)(B)	Extensions of Credit Applicability of Provisions Relating to Loans, Extensions of Credit, and Other Dealings Between Insured Branches of Foreign Banks and Their Insiders.	√ Applies only to insured federal branches of foreign banks.		√ Applies only to insured state branches of foreign banks.	
Read the following parts and/or sections of Title 12 of the Code of Federal Regulations:					
23.5	Application of Legal Lending Limits; Restrictions on Transactions With Affiliates.	√			
31	Extensions of Credit to National Bank Insiders	√			
215	Subpart A—Loans by Member Banks to Their Executive Officers, Directors, and Principal Shareholders.	√	√	(See 12 CFR Parts 337.3 and 349.3).	(See 12 CFR Parts 563.43)
	Subpart B—Reports of Indebtedness of Executive Officers and Principal Shareholders of Insured Nonmember Banks.	√	√		
337.3	Limits on Extensions of Credit to Executive Officers, Directors, and Principal Shareholders of Insured Nonmember Banks.			√	
349.3	Reports by Executive Officers and Principal Shareholders			√	
563.43	Loans by Savings Associations to Their Executive Officers, Directors, and Principal Shareholders.				√

TABLE 2

	Dividend restrictions	For engagements involving management assertions about compliance by:			
		National banks	State member banks	State nonmember banks	Savings associations
Read the following parts and/or sections of Title 12 of the United States Code:					
56	Prohibition of Withdrawal of Capital and Unearned Dividends	√	√		
60	Dividends and Surplus Funds	√	√		
1467a(f)	Declaration of Dividends				√
1831o	Prompt Corrective Action—Dividend Restrictions	√	√	√	√
Read the following parts and/or sections of Title 12 of the Code of Federal Regulations:					
5.61	Payment of dividends; capital limitation	√			
5.62	Payment of dividends; earnings limitation	√			
6.6	Prompt Corrective Action—Dividend Restrictions	√			
7.6120	Dividends Payable in Property Other Than Cash	√			
208.19	Payments of Dividends		√		
208.35	Prompt Corrective Action		√		
325.105	Prompt Corrective Action			√	
563.134	Capital Distributions				√
565	Prompt Corrective Action				√

By order of the Board of Directors.

Dated at Washington, DC, this 6th day of February 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–3569 Filed 2–20–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–53–AD; Amendment 39–9511; AD 96–03–14]

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes, that currently requires replacement of electrical wiring to the fuel shutoff valve for each engine. This amendment requires replacement of the fuel shutoff valve wire and sleeve with a wire in two non-metallic sleeves in the conduit in the struts of each engine. This amendment is prompted by reports of additional occurrences of chafing and shorting of the wiring of the engine fuel shutoff valves. The actions specified by this AD are intended to prevent such chafing and shorting, which could result in the pilot's inability to shut off the supply of fuel in the event of an engine fire.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2793; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 89–14–04, amendment 39–6246 (54 FR 27157, June 28, 1989), which is applicable to certain Boeing Model 747–400 series airplanes, was published in the **Federal Register** on September 7, 1995 (60 FR 46542). The action proposed to supersede AD 89–14–04 to require replacement of the wire and sleeve with a single wire in two non-metallic sleeves in the conduit in the struts of each engine.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

Several commenters request that the compliance time for accomplishment of the replacement be extended from the proposed 12 months. Two of these commenters request an extension that will allow the replacement to be accomplished during a regularly scheduled "C" check (15 to 18 months), when the airplanes will be brought to a main base for an extended hold. These two commenters state that, in order to accomplish the replacement with the proposed compliance time, they would have to special schedule their fleet of airplanes, which would entail considerable additional expense. Another commenter states that it is currently accomplishing the modification required by AD 95–13–05, amendment 39–9285 (60 FR 33333, June 28, 1995), which includes a wiring modification that is equivalent to that proposed in the notice. This commenter further states that it will complete that modification in approximately four years; therefore, compliance with the proposed wiring replacement should be extended accordingly.

The FAA does not concur. In developing an appropriate time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspects of accomplishing the required replacement during affected operators' scheduled maintenance visits. In addition, the FAA has received reports that the wire chafing condition led to short circuits on airplanes that had accumulated 12,000 to 18,310 total flight hours after the incorporation of the modification required by AD 89–14–04. In light of this, the FAA has determined that the accumulated flight hours of some of the affected airplanes may be close to this range at the end of the 12 month compliance time. The FAA has also determined that a compliance time of 4 years for incorporation of the modification, as required by AD 95–13–05, is unacceptable. Such a compliance time would not address the subject unsafe condition in a timely manner. However, under the provisions of paragraph (b) of the final rule, the FAA may approve request for adjustments to the compliance time if data are presented to justify such an adjustment.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 311 Model 747–400 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 38 airplanes of U.S. registry will be affected by this AD, that it will take approximately 80 work hours per airplane to accomplish the required action, at that the average labor rate of $60 per work hour. Required parts will cost approximately $673 per airplane. Based on these figures, the cost impact on U.S. operators of the new requirements of this AD is estimated to be $207,974, or $5,473 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6246 (54 FR 27157, June 28, 1989), and by adding a new airworthiness directive (AD), amendment 39–9511, to read as follows:

96–03–14 Boeing: Amendment 39–9511. Docket 95–NM–53–AD. Supersedes AD 89–14–04, Amendment 39–6246.

Applicability: Model 747–400 series airplanes; line positions 696 through 1046 inclusive, except airplane variable numbers RT502 and RU032 (airplane serial numbers 24062 and 25780, respectively); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability to shut off the supply of fuel in the event of an engine fire, accomplish the following:

(a) Within 12 months after the effective date of this AD, replace the fuel shutoff valve wire and sleeve with a wire in two non-metallic sleeves in the conduit in the struts of each engine, in accordance with Boeing Alert Service Bulletin 747–28A2186, dated January 19, 1995.

Note 2: Replacements accomplished prior to the effective date of this amendment in accordance with Boeing Alert Service Bulletin 747–54A2157, dated January 12, 1995, or Revision 1, dated August 3, 1995; or Boeing Alert Service Bulletin 747–54A2156, dated December 15, 1994, or Revision 1, dated July 20, 1995; are considered acceptable for compliance with the replacements specified in this amendment.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with Boeing Alert Service Bulletin 747–28A2186, dated January 19, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 22, 1996.

Issued in Renton, Washington, on February 5, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2869 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–155–AD; Amendment 39–9514; AD 96–04–03]

Airworthiness Directives; Boeing Model 737–200 and –200C Airplanes Equipped With dB Partners Hush Kits Installed in Accordance With Supplemental Type Certificate (STC) SA5730NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737–200 and –200C airplanes, that currently requires installation of fail-safe straps onto the engine inlet attach ring of the nose cowl. This amendment requires repetitive inspections to detect cracking of the attach ring of the nose cowl, and replacement of cracked attach rings. Replacement with an improved attach ring, if accomplished, would terminate the requirement to inspect the attach ring repetitively. This amendment is prompted by the development of an improved attach ring that eliminates the need for repetitive inspections. The actions specified by this AD are intended to prevent cracking of the attach ring of the nose cowl, which could result in separation of the nose cowl from the engine following failure of a turbine blade.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

The incorporation by reference of Nordam Service Bulletin SB 71–03, dated March 17, 1995, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 2, 1995 (60 FR 19157, April 17, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from The Nordam Group, 624 East 4th Street, Tulsa, Oklahoma 74120. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Rodriguez, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2779; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–08–08, amendment 39–9197 (60 FR 19157, April 17, 1995), which is applicable to certain Boeing Model 737–200 and –200C airplanes, was published in the **Federal Register** on November 22, 1995 (60 FR 57840). The action proposed to supersede AD 95–08–08 to continue to require installation of fail-safe straps onto the engine inlet attach ring of the nose cowl. The action also proposed to require repetitive inspections to detect cracking of the attach ring of the nose cowl, and replacement of cracked attach rings. That action also proposed to provide an optional terminating action

(installation of an improved attach ring) for the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 46 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1 airplane of U.S. registry will be affected by this AD.

The replacement action that is currently required by AD 95–08–08 takes approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided at no cost to the operator. Based on these figures, the cost impact of the currently required actions on the sole U.S. operator is estimated to be $480 per airplane.

The inspection that is required by this new AD will take approximately 10 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the new requirements of this AD is estimated to be $600 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9197 (60 FR 19157, April 17, 1995), and by adding a new airworthiness directive (AD), amendment 39–9514, to read as follows:

96–03–04 Boeing: Amendment 39–9514. Docket 95–NM–155–AD. Supersedes AD 95–08–08, Amendment 39–9197.

Applicability: Model 737–200 and –200C airplanes equipped with dB Partners Hush Kit having attach ring, part number 65ND–54301–1, installed in accordance with Supplemental Type Certificate (STC) SA5730NM, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the nose cowl from the engine following turbine blade failure, accomplish the following:

(a) Within 30 days after May 2, 1995 (the effective date of AD 95–08–08, amendment 39–9197), install fail-safe straps onto the attach ring, part number (P/N) 65ND–54301–1, of the nose cowl in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, or Revision 1, dated June 16, 1995.

(b) As of the effective date of this AD: Prior to further flight following each incident of turbine blade failure, perform a detailed visual inspection to detect cracking of the attach ring of the nose cowl. Fail-safe straps must be removed to perform this inspection.

(1) If no cracking is detected, prior to further flight, reinstall the fail-safe straps in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, or Revision 1 dated June 16, 1995.

(2) If any cracking is detected, prior to further flight, accomplish the requirements of either paragraph (b)(2)(i) or (b)(2)(ii) of this AD.

(i) Replace the cracked attach ring with an attach ring having P/N 65ND–54301–1 in accordance with STC SA5730NM, and reinstall the fail-safe strap in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, or Revision 1, dated June 16, 1995. Repeat the visual inspection of the attach ring prior to further flight following each incident of turbine blade failure. Or

(ii) Replace the cracked attach ring with an attach ring having P/N 65ND–54301–5 in accordance with Nordam Service Bulletin SB 71–04, Revision 1, dated June 16, 1995. After this replacement is accomplished, the inspections required by this paragraph may be terminated.

(c) Installation of an attach ring having P/N 65ND–54301–5 constitutes terminating action for the repetitive inspections required by paragraph (b) of this AD.

(d) As of May 2, 1995 (the effective date of AD 95–08–08), fail-safe straps must be installed onto the attach ring, P/N 65ND–54301–1, of the nose cowl in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, or Revision 1, dated June 16, 1995, prior to installation of STC SA5730NM on any airplane.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with the following Nordam service bulletins, as applicable, which contain the specified effective pages:

Service bulletin reference and date	Page No.	Revision level shown on page	Date shown on page
SB 71–03, March 17, 1995	1–12	Original	March 17, 1995.
SB 71–03, Revision 1, June 16, 1995	1–11	1	June 16, 1995.
	12	Original	March 17, 1995.
SB 71–04, Revision 1, June 16, 1995	1, 2	Original	May 22, 1995.
	3–18	1	June 16, 1995.

The incorporation by reference of Nordam Service Bulletin SB 71–03, dated March 17, 1995, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of May 2, 1995 (60 FR 19157, April 17, 1995). The incorporation by reference of the remainder of the service documents listed above is approved approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Nordam Group, 624 East 4th Street, Tulsa, Oklahoma 74120. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on March 22, 1996.

Issued in Renton, Washington, on February 7, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3150 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 95–NM–34–AD; Amendment 39–9517; AD 96–04–05]

Airworthiness Directives; Airbus Model A300–B2 and –B4 Series Airplanes Equipped with General Electric CF6–50 Series Engines or Pratt & Whitney JT9D–59A Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Model A300–B2 and –B4 series airplanes. This amendment requires an inspection to detect discrepancies of a certain thrust reverser control lever spring; an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system; and either the correction of discrepancies or deactivation of the associated thrust reverser. It also provides for an optional terminating action. This amendment is prompted by a report that, due to broken and deformed thrust reverser control lever springs, an uncommanded movement of the thrust reverser lever to the unlock position and a "reverser unlock" amber warning occurred on one airplane. The actions specified by this AD are intended to detect such broken or deformed control lever springs before they can lead to uncommanded deployment of a thrust reverser and subsequent reduced controllability of the airplane.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300–B2 and –B4 series airplanes was published in the **Federal Register** on April 3, 1995 (60 FR 16813). That action proposed to require a mechanical integrity inspection to detect discrepancies of the thrust reverser control lever spring having part number (P/N) A2791294520000, and an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system. It also requires the correction of discrepancies or deactivation of the associated thrust reverser.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter notes that the Description section of the preamble to the notice states that "* * * uncommanded movement of the thrust reverser lever to the unlock position and a 'reverser unlock' amber warning occurred." The commenter suggests, to be consistent with the current industry definition, a more accurate description of what caused the unsafe condition is "inadvertently commanded deployment [of the thrust reverser]." The FAA does not concur. The FAA has reviewed the relevant data available, and finds no basis to support the commenter's suggestion that the thrust reverser was "commanded" to deploy. The FAA finds that the pilot did not command the thrust reverser to deploy, nor did the pilot inadvertently deploy the thrust reverser.

Additionally, this commenter requests clarification of certain statements made in the Discussion section of the preamble to the notice. The commenter asks whether the reported incident occurred when the airplane was on the ground or in flight. The FAA concurs that some clarification is necessary. The incident occurred on the ground during a training flight where a simulated engine-out condition was performed. Since the Discussion section is not restated in this final rule, no change to the final rule is necessary as a result of this clarification.

The same commenter requests that the proposed rule be revised to require repetitive inspections of the thrust reverser control lever spring, and a final corrective action. The commenter asserts that, since the notice indicates that the unsafe condition is "* * * likely to develop" on affected airplanes, it would seem reasonable to require replacement of the spring, regardless of the condition of the spring at the initial inspection. Additionally, until the spring is replaced, it should be repetitively inspected, since it is not clear if the root cause of the problem is a design or assembly defect, or if it is time-related. The FAA concurs partially.

Since issuance of the notice, Airbus has issued Service Bulletin A300–78–0015, dated May 17, 1995, which describes procedures for replacement of the left and right control levers of the thrust reverser with a new control lever equipped with a new spring. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, approved this service bulletin. The FAA finds that the replacement specified in that service bulletin may be provided as an optional terminating action for the requirements of this final rule. Therefore, the FAA has added a new paragraph (b) to the final rule to provide for this option.

Additionally, the FAA is considering additional rulemaking to require repetitive inspections of the thrust reverser lever spring, as well as to mandate the eventual replacement of the thrust reverser control lever with the new control lever. However, the planned compliance time for this repetitive inspection and replacement is sufficiently long so that notice and public comment will be practicable.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 21 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $55 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,715, or $415 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–04–05 Airbus Industrie: Amendment 39–9517. Docket 95–NM–34–AD.

Applicability: Model A300–B2 and B–4 series airplanes, equipped with General Electric CF6–50 series engines or Pratt & Whitney JT9D–59A engines; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure the detection of broken or deformed thrust reverser control lever springs that could lead to uncommanded deployment of a thrust reverser and subsequent reduced controllability of the airplane, accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, perform a mechanical integrity inspection to detect discrepancies of the thrust reverser control lever spring having part number (P/N) A2791294520000, and an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system, in accordance with Airbus All Operators Telex AOT 78–03, Revision 1, dated July 20, 1994.

(1) If no discrepancies are detected, no further action is required by this AD.

(2) If the control lever spring is found broken or out of tolerance, prior to further flight, replace it with a new control lever spring or deactivate the associated thrust reverser in accordance with the AOT.

(3) If the flight inhibition circuit of the thrust reverser system fails the operational test, prior to further flight, determine the origin of the malfunction, in accordance with the AOT.

(i) If the origin of the malfunction is identified, prior to further flight, repair the flight inhibition circuit in accordance with the AOT.

(ii) If the origin of the malfunction is not identified, prior to further flight, replace the relay having P/N 125GB or 124GB, and repeat the operational test, in accordance with the AOT. If the malfunction is still present, prior to further flight, inspect and repair the wiring in accordance with the AOT. If the malfunction is still present following the inspection and repair, prior to further flight, deactivate the associated thrust reverser in accordance with the AOT.

(b) Replacement of the left and right control levers of the thrust reverser with a new control lever equipped with a new spring, in accordance with Airbus Service Bulletin A300–78–0015, dated May 17, 1995, constitutes terminating action for the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Airbus All Operators Telex AOT 78–03, Revision 1, dated July 20, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 22, 1996.

Issued in Renton, Washington, on February 8, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3262 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice 2333]

Bureau of Consular Affairs; Passports for Minors

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends regulations regarding the basis for issuance and denial of passports to minors, both in custodial dispute and non-dispute situations. These amendments were proposed to promote the well being of minors and to discourage persons from circumventing valid court orders affecting minors.

EFFECTIVE DATE: December 4, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth Hunter, Deputy Assistant Secretary for Passport Services, Room 6811, U.S. Department of State, Washington, DC 20520; tele: (202) 647–5366.

SUPPLEMENTARY INFORMATION: Present regulations prescribe the method of execution of a passport application for minors and address the issuance of passports to minors where a parent or guardian objects, 22 CFR 51.27. Specifically, the current regulations provide for the denial of a U.S. passport to a minor who has been involved in a custodial dispute if the passport issuing office receives a court order from a court within the country in which passport services are sought. Such a court order must provide that the objecting parent, legal guardian or person in loco parentis has been granted custody, or forbid the child's departure from the country in which passport services are sought without the permission of the court.

The revised regulations will implement a policy of denying passport services to minors on the basis of a court order of competent jurisdiction that has been registered with the appropriate office at the Department of State. For the purpose of these regulations, the Department will consider a court of competent jurisdiction to be a U.S. state court or a foreign court having jurisdiction over child custody issues consistent with the principles of the Hague Convention on the Civil Aspects of International Child Abduction and the Uniform Child Custody Jurisdiction Act, which favor the exercise of custody jurisdiction by the court of the child's "habitual residence" or "home state." While the Department of State is not legally bound by U.S. state court and foreign court custody orders, the Department has determined that honoring such orders is generally appropriate to prevent unlawful child abductions. The revised regulations will, however, also authorize the issuance of a passport to a minor who is the subject of a custody dispute if compelling humanitarian or emergency reasons relating to the minor's welfare warrant the issuance of a passport.

Also included in the amendments is information regarding release of information about a minor's passport application to an objecting parent.

A Notice of Proposed Rule was published on October 3, 1995. Comments were requested, and none were received. This Final Rule is being re-published without change.

This rule is not exempt from E.O. 12866, but has been reviewed and found to be consistent with the objectives thereof. This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). In addition, this rule will not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended. Nor does this rule have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith.

List of Subjects in 22 CFR Part 51

Passports, Infants and children.

For the reasons set forth in the preamble, 22 CFR 51.27 is amended as follows:

PART 51—PASSPORTS

Subpart B—Application

1. The authority citation for section 51.27 continues to read as follows:

Authority: 22 U.S.C. 2658 and 3926.

2. Section 51.27 is amended by revising paragraphs (b), (c) and (d) to read as follows:

§ 51.27 Minors.

* * * * *

(b) Execution of application for minors.

(1) A minor of age 13 years or above shall execute an application on his or her own behalf unless in the judgment of the person before whom the application is executed it is not desirable for the minor to execute his or her own application. In such case it must be executed by a parent or guardian of the minor, or by a person in loco parentis.

(2) A parent, a guardian, or person in loco parentis shall execute the application for minors under the age of 13 years. Applications may be executed by either parent, regardless of the parent's citizenship. Permission of or notification to the other parent will not be required unless such permission or notification is required by a court order registered with the Department of State by an objecting parent as provided in paragraph (d)(1) of this section.

(3) The passport issuing office may require a minor under the age of 18 years to obtain and submit the written consent of a parent, a legal guardian or a person in loco parentis to the issuance of the passport.

(c) Objection by parent, guardian or person in loco parentis in cases not involving a custody dispute. At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport will be denied upon receipt of a written objection from a person having legal custody of the minor.

(d) Objection by parent, guardian or person in loco parentis in cases where minors are the subject of a custody dispute.

(1)(i) When there is a dispute concerning the custody of a minor, a passport may be denied if the Department has on file a court order granted by a court of competent jurisdiction in the United States or abroad which: (A) Grants sole custody to the objecting parent; or, (B) Establishes joint legal cutody; or, (C) Prohibits the child's travel without the permission of both parents or the court; or, (D) Requires the permission of both parents or the court for important decisions, unless permission is granted in writing as provided therein. (ii) For passport issuance purposes, a court order providing for joint legal custody will be interpreted as requiring the permission of both parents. The Department will consider a court of

competent jurisdiction to be a U.S. state court or a foreign court located in the child's home state or place of habitual residence. Notwithstanding the existence of any such court order, a passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the child exist.

(2) Either parent may obtain information regarding the application for and issuance of a passport to a minor unless the inquiring parent's parental rights have been terminated by a court order which has been registered with the appropriate office at the Department of State; provided, however, that the Department may deny such information to any parent if it determines that the minor is of sufficient maturity to assert a privacy interest in his/her own right, in which case the minor's written consent to disclosure shall be required.

(3) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport may be issued.

Dated: February 6, 1996.

Ruth A. Davis,

Acting Assistant Secretary, Bureau of Consular Affairs.

[FR Doc. 96–3742 Filed 2–20–96; 8:45 am]

BILLING CODE 4710–06–M

Office of the Legal Adviser

22 CFR Parts 111, 112, and 133

[Public Notice 2332]

Repeal of Department of State Regulations on Removal of Alien Enemies, on World War II Reparations, and on Disposal of Foreign Surplus Property

AGENCY: Office of the Legal Adviser, Department of State.

ACTION: Final rule with request for comments.

SUMMARY: The Department of State is removing Parts 111, 112, and 133 of Title 22 of the Code of Federal Regulations. Part 111 relates to removal of alien enemies brought to the United States from other American republics. Part 112 relates to World War II reparations. Part 133 relates to disposal of surplus property in foreign areas under the Surplus Property Act of 1944. Parts 111 and 112 are obsolete and unnecessary. Part 133 is obsolete because of the repeal of the statutory authority and changes in the agencies having regulatory authority for the few remaining provisions; it is also unnecessary because of replacement statutory and regulatory authority on this subject.

DATES: Effective April 22, 1996. Comments are due on or before March 22, 1996.

ADDRESSES: Interested persons should send comments in writing and in duplicate to the Assistant Legal Adviser for Legislation and General Management, Office of the Legal Adviser, Department of State, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Mary Beth West, Assistant Legal Adviser for Legislation and General Management, (202) 647–5154.

SUPPLEMENTARY INFORMATION: This rule repeals 22 CFR Parts 111 and 112, which relate, respectively, to removal from the United States of aliens brought into the United States from another American republic whose presence the Secretary of State determines to be prejudicial to the security or welfare of the Americas, and to acceptance of World War II reparations payments. The authority upon which Part III was based, Presidential Proclamation No. 2655, dated April 10, 1946 (3 CFR 1943–1948 Comp.), has been repealed. The reparations program under Part 112 has not been active for some time and is not expected to be resumed. This rule also repeals Part 133, which was issued to implement provisions of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1611–1646) intended to regulate the disposition of United States Government property abroad in the aftermath of World War II. Most provisions of that Act have been repealed and superseded by more general provisions on disposition of United States Government property under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 *et seq.*) or specific statutory authorities such as the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2141 *et seq.*). Superseding and remaining authorities are now the regulatory responsibility of agencies other than the Department of State.

The regulations which are the subject of the present rule are obsolete and unnecessary, dating from the World War II era. The regulations have not been used for many years. We believe, therefore, that the repeal of these regulations will be noncontroversial and that adverse comments will not be received. For that reason, it has been determined that the "good cause" exception from advance notice and comment rulemaking, found at 5 U.S.C. 553(d)(3), permits the direct implementation of this rule repealing those regulations with provision for post-promulgation comment instead.

Repeal of these regulations is in furtherance of the President's Regulatory Reinvention Initiative. Neither the rule, nor the regulations which it would repeal, are expected to have a significant impact on a substantial number of small entities when considered under the criteria of the Regulatory Flexibility Act.

The rule does not impose a Federal regulatory mandate on State, local, or tribal government entities under the Unfunded Mandates Act (P.L. 104–4) because it repeals regulations which themselves created no such mandate. In addition, this rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980. This rule has been reviewed by the Assistant Legal Adviser for Legislation and General Management and certified that it is in compliance with Executive Order 12778. This rule is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the objectives of that order.

List of Subjects

22 CFR Part 111

Aliens, Security measures.

22 CFR Part 112

War claims.

22 CFR Part 133

Surplus Government property.

PARTS 111, 112, AND 133—[REMOVED]

Accordingly, under the authority of 22 U.S.C. 2651a(4), 22 CFR Parts 111, 112, and 133 are removed.

Dated: February 7, 1996.

Mary Beth West,

Assistant Legal Adviser for Legislation and General Management.

[FR Doc. 96–3741 Filed 2–20–96; 8:45 am]

BILLING CODE 4710–08–M

AFRICAN DEVELOPMENT FOUNDATION

22 CFR Part 1504

Repeal of Superseded Regulations Covering Standards of Ethical Conduct for Employees of the African Development Foundation

AGENCY: African Development Foundation ("Foundation").

ACTION: Final rule.

SUMMARY: The African Development Foundation is repealing its old conduct regulations for employees of the Foundation, which were superseded by the executive branch-wide Standards of Ethical Conduct and financial disclosure regulations. The Foundation is also issuing a residual cross-reference to the new provisions.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Magid, Designated Agency Ethics Official, or Tom Wilson, Alternate Designated Agency Ethics Official, African Development Foundation, 1400 Eye Street, N.W., 10th Floor, Washington, D.C. 20005. Telephone: (202) 673–3916.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published a final rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (Standards). See 57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583, with additional grace period extensions for certain existing agency Standards of Conduct at 59 FR 4779–4780 and 60 FR 6390–6391. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct that apply to all executive branch personnel.

By this notice, the Foundation is repealing its old conduct regulations at 22 CFR part 1504 which have been superseded by the Standards found at 5 CFR part 2635 and by the OGE regulations at 5 CFR part 2634, Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture.

II. Repeal of Foundation Employee Responsibilities and Conduct Regulations

Because the Foundation's regulations on Employees Responsibilities and Conduct have been superseded by the newer executive branch standards of ethical conduct and financial disclosure regulations, 5 CFR parts 2634 and 2635, on the effective date of the final rule, the Foundation is repealing all of existing 22 CFR part 1504. To ensure that Foundation employees are on notice of the ethical standards and financial disclosure requirements to which they are subject, the Foundation is replacing old part 1504 with a new 5 CFR 1504.1 which cross-references 5 CFR parts 2634 and 2635.

III. Matters of Regulatory Procedure

Administrative Procedure Act

In accordance with the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)(3)), the Foundation has found that good cause exists for waiving as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to the rules and repeals. Public comment is unnecessary because these regulations merely revoke existing regulations which have been superseded in accordance with previously issued government-wide regulations. In addition, since these regulations relate to agency management and personnel they are exempt from notice and comment under 5 U.S.C. 553(a)(2).

Executive Order 12866

In promulgating this final rule the Foundation has adhered to the regulatory philosophy and the applicable principles of regulation set forth at section 1 of Executive Order 12866, Regulatory Planning and Review. This final rule deals with Foundation organization, management and personnel matters and is therefore, not deemed "significant" under Executive Order 12866.

Regulatory Flexibility Act

The Foundation has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that these regulations will not have a significant impact on small business entities because they affect only Foundation employees.

Paperwork Reduction Act

The Foundation has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 22 CFR Part 1504

Conflict of interests, Government employees.

Dated: February 13, 1995.

Paul Magid,

General Counsel, African Development Foundation.

For the reasons set forth in the preamble, the African Development Foundation is revising 22 CFR part 1504 to read as follows:

PART 1504—EMPLOYEE RESPONSIBILITIES AND CONDUCT

§ 1504.1 Cross-references to employee ethical conduct standards and financial disclosure regulations.

Directors and other employees of the African Development Foundation are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, and the executive branch financial disclosure regulations at 5 CFR part 2634.

Authority: 5 U.S.C. 7301.

[FR Doc. 96–3744 Filed 2–20–96; 8:45 am]

BILLING CODE 6116–06–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

Navajo Nation, Hopi Tribe, and Crow Tribe Abandoned Mine Land Reclamation (AMLR) Plans

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; technical amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is making technical amendments to promote consistency with the codification that OSM has used for primacy States. OSM is changing the codification of the sections approving the AMLR plans and subsequent amendments for the Hopi Tribe and Crow Tribe and is creating sections for required amendments to the Navajo Nation, Hopi Tribe, and Crow Tribe AMLR plans. OSM is also making minor editorial changes.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: John Trelease, Office of Technology, Development, and Transfer, OSM, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone: (202) 208–2517.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with 30 CFR Part 884, OSM processes AMLR plans and amendments to these plans, which are submitted by the States and Indian tribes for OSM review and approval.

To promote consistency in codification of OSM's approvals of State and Indian Tribe AMLR plans and plan amendments and OSM-required plan amendments, OSM is amending the

Indian lands program provisions at Chapter VII, Subchapter E. OSM is also making minor editorial changes.

Specifically, OSM is adding sections to the provisions of the Indian lands program concerning the approval of amendments to the Crow Tribe AMLR plan and submittal of OSM-required amendments to the Navajo Nation, Hopi Tribe, and Crow Tribe AMLR plans, and is recodifying the existing sections accordingly. By recodifying existing information for the Hopi Tribe and Crow Tribe AMLR plan and plan amendments from 30 CFR 756.15, .16, and .17 to 30 CFR 756.16, .17, and .19; adding a section to contain information on required amendments to the Navajo National AMLR plan at 30 CFR 756.15; and creating new sections at 30 CFR 756.18 for required amendments to the Hopi Tribe AMLR plan and 756.20 for approval of amendments and 756.21 for required amendments to the Crow Tribe AMLR plan, OSM is being consistent with the codification it has used for primacy State plans, plan amendments, and required amendments to the plans.

II. Procedural Matters

1. Administrative Procedure Act

The minor revisions contained in this rulemaking are technical in nature. Accordingly, pursuant to 5 U.S.C. 553(b)(B), it has been determined that the notice and public comment procedures of the Administrative Procedure Act are unnecessary. For the same reason, it has been determined that, in accordance with 5 U.S.C. 553(d), there is good cause to make this rule effective on the date of publication in the **Federal Register**.

2. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

3. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. This rule (1) does not preempt any State, Tribal, or local laws or regulations; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

4. National Environmental Policy Act

This rule has been reviewed by OSM, and it has been determined to be categorically excluded from the National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual (516 DM 2 appendix 1.10) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1507.3).

5. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

6. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 30 CFR Part 756

Abandoned mine reclamation programs, Indian lands, Surface mining, Underground mining.

Dated: February 8, 1996.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

For the reasons set forth in the preamble, title 30, chapter VII, subchapter E, part 756 of the Code of Federal Regulations is amended as set forth below:

PART 756—INDIAN TRIBE ABANDONED MINE LAND RECLAMATION PROGRAMS

1. The authority citation for part 756 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* and Pub. L. 100–71.

2. Section 756.13 is amended by revising paragraph (b) to read as follows:

§ 756.13 Approval of the Navajo Nation's abandoned mine land plan.

* * * * *

(b) Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Ave., NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248–5070.

3. Section 756.15 is revised to read as follows:

§ 756.15 Required amendments to the Navajo Nation's abandoned mine land plan.

Pursuant to 30 CFR 884.15, the Navajo Nation is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Navajo Nation's established administrative and legislative procedures, for submitting an amendment to the Navajo Nation plan.

4. Section 756.16 is revised to read as follows:

§ 756.16 Approval of the Hopi Tribe's abandoned mine land reclamation plan.

The Hopi Tribe's Abandoned Mine Land Reclamation Plan as submitted in July 1983, and amended in March and May 1988, is approved. Copies of the approved Plan are available at the following locations:

(a) The Hopi Tribe, Hopi Abandoned Mine Land Program, Department of Natural Resources, Honahni Building, P.O. Box 123, Kykotsmovi, AZ 86039, Telephone: (520) 734–2441.

(b) Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Ave., NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248–5070.

5. Section 756.17 is revised to read as follows:

§ 756.17 Approval of amendments to the Hopi Tribe's abandoned mine land reclamation plan.

The Hopi Tribe certification of completion of coal reclamation, as submitted on February 2, 1994, is approved effective June 9, 1994.

6. Section 756.18 is added to read as follows:

§ 756.18 Required amendments to the Hopi Tribe's abandoned mine land reclamation plan.

Pursuant to 30 CFR 884.15, the Hopi Tribe is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Hopi Tribe's established administrative and legislative procedures, for submitting an amendment to the Hopi Tribe plan.

7. Section 756.19 is added to read as follows:

§ 756.19 Approval of the Crow Tribe's Abandoned Mine Land Reclamation Plan.

The Crow Tribe's Abandoned Mine Land Reclamation Plan as submitted in 1982, and resubmitted in September, 1988 is approved. Copies of the approved Plan are available at the following locations:

(a) Crow Tribal Council, Crow Office of Reclamation, P.O. Box 159, Crow Agency, MT 59022.

(b) Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Room 2128, 100 East B Street, Casper, WY 82601–1918, Telephone: (307) 261–6555.

8. Section 756.20 is added to read as follows:

§ 756.20 Approval of amendments to the Crow Tribe's abandoned mine land reclamation plan.

Revisions to the following provisions of the Crow Tribe's Abandoned Mine Land Reclamation Plan, as submitted to OSM on the date specified, are approved.

9. Section 756.21 is added to read as follows:

§ 765.21 Required amendments to the Crow Tribe's abandoned mine land reclamation plan.

Pursuant to 30 CFR 884.15, the Crow Tribe is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Crow Tribe's established administrative and legislative procedures, for submitting an amendment to the Crow Tribe plan.

[FR Doc. 96–3669 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 906

[SPATS No. CO–001–FOR]

Colorado Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment and removal of condition of program approval.

SUMMARY: The Secretary of Interior is announcing the approval of an amendment to the Colorado regulatory program (hereinafter referred to as the "Colorado program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the removal of the remaining condition of program approval. The Colorado revisions pertain to the recovery of costs and expenses, including attorney's fees, incurred in connection with administrative and judicial review proceedings under the Colorado program. The amendment revised the Colorado program to be consistent with SMCRA and the corresponding Federal regulations.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: (303) 672–5524.

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, **Federal Register** (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.11, 906.15, 906.16, and 906.30.

II. Proposed Amendment

By letter dated November 20, 1995, Colorado submitted a proposed amendment to its program (administrative record No. CO–675) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the proposed amendment in response to the condition of program approval at 30 CFR 906.11(mm). Colorado proposed to revise 2 CCR 407–2, Rules 5.03.6 and 5.03.6(4)(e), concerning costs, expenses, and attorney's fees.

OSM announced receipt of the proposed amendment in the December 7, 1995, **Federal Register** (60 FR 62789), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. CO–675–2). Because no one requested a public hearing or meeting, none was held. The public comment period ended on January 8, 1996.

III. Secretary's Findings

As discussed below, the Secretary, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Colorado on November 20, 1995, is no less effective than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Secretary approves the proposed amendment.

1. Rule 5.03.6, Awarding of Costs, Expenses, and Attorney Fees Incurred in Seeking an Award

Existing Rule 5.03.6 authorizes the Colorado Mined Land Reclamation Board (Board), under certain circumstances, to assess and award costs, expenses, and attorney fees to parties of Board proceedings resulting in Board decisions and orders or to parties of administrative proceedings under the Colorado Surface Coal Mining Reclamation Act. In response to the condition of original program approval at 30 CFR 906.11(mm)(1)(ii) (finding No. 4(k), 45 FR 82173, 82194, December 15, 1980), Colorado proposed to revise Rule 5.03.6 to specify that the costs, expenses, and attorney fees to be awarded to a requesting party are those incurred by the party seeking the award.

Section 525(e) of SMCRA allows for an award of a sum equal to the aggregate amount of all costs, expenses, and attorney fees determined by the Secretary of the Interior to have been reasonably incurred by a person for or in connection with his participation in administrative proceedings. In addition, the Federal regulations at 43 CFR 4.1295(b) require that an award may include all costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award.

Proposed Rule 5.03.6 differs from 43 CFR 4.1295(b) only in that it does not specifically address expert witness fees. However, this is not a substantive difference because the "costs and expenses" requirement of the proposed rule includes such fees. For this reason, the Secretary finds that Colorado's proposed revision to Rule 5.03.6, which requires that awarded costs, expenses, and attorney fees be restricted to those incurred by the requesting party in seeking the award, is no less stringent than section 525(e) of SMCRA, and no less effective than the corresponding requirement of the corresponding Federal regulation at 43 CFR 4.1295(b). The Secretary approves the revised rule and removes the condition of original program approval codified at 30 CFR 906.11(mm)(1)(ii).

2. Rule 5.03.6(4), Awarding Costs, Expenses, and Attorney Fees From the Division to Administrative Proceeding Participants Other Than the Permittee

In response to the condition of original program approval at 30 CFR 906.11(mm)(2) (finding No. 4(k), 45 FR 82173; 82194, December 15, 1980), Colorado proposed to add newly-created paragraph (e) to Rule 5.03.6(4), which would allow appropriate costs and expenses, including attorneys' fees, to be awarded from the Colorado Department of Natural Resources, Division of Minerals and Geology (Division) to participants, other than the permittee or his representative, in "administrative proceedings" under the Colorado Surface Coal Mining Reclamation Act (Act).

The corresponding Federal regulation at 43 CFR 4.1294(b) allows appropriate costs and expenses, including attorneys' fees, to be awarded from OSM to participants, other than a permittee or his representative, in "any proceeding" under SMCRA. "Any proceeding" includes both administrative and judicial proceedings.

Proposed Rule 5.03.6(4)(e) differs from 43 CFR 4.1294(b) in that it restricts the awarding of costs, expenses, and attorneys' fees to those incurred in

administrative proceedings, rather than to those incurred in both administrative and judicial proceedings. However, Colorado's statutory language at section 34–33–128(4) of the Act, concerning judicial review, allows the court, at the request of any party to a proceeding under that section, to assess such costs and expenses against any party as the court deems just and proper. Therefore, proposed Rule 5.03.6(4)(e) and section 34–33–128(4) of the Act, taken together, allow for appropriate costs and expenses, including attorneys' fees, to be awarded from the Division to participants in both administrative and judicial proceedings under the Act.

For this reason, the Secretary finds that proposed Rule 5.03.6(4)(e), when considered along with section 34–33–128(4) of the Act, is consistent with and no less effective than the Federal regulation at 43 CFR 4.1294(b). The Secretary approves the revised rule and removes the condition of original program approval codified at 30 CFR 906.11(mm)(2).

3. No Colorado Counterpart Rules, Awarding Costs, Expenses, and Attorney Fees From the Division to Administrative Proceeding Participants Other Than the Permittee

On November 12, 1993 (administrative record No. CO–582), Colorado requested that OSM conduct an informal review regarding the sufficiency of Colorado's rules in addressing condition 30 CFR 906.11(mm). In a letter dated December 22, 1993 (administrative record No. CO–599), OSM notified Colorado that, upon further review and analysis, OSM determined that conditions 30 CFR 906.11(1) (i) and (iii) are invalid and not applicable to the Colorado program. For the reasons discussed below, the Secretary is now removing the conditions of original program approval codified at 30 CFR 906.11(mm)(1) (i) and (iii) that it placed on the Colorado program on December 15, 1980 (finding No. 4(k), 45 FR 82173, 82194).

a. *Awarding the costs and expenses regarding alleged discriminatory acts.* At 30 CFR 906.11(mm)(1)(i), OSM required Colorado to "submit * * * fully implemented regulations containing provisions for * * * [c]osts and expenses regarding discriminatory acts, pursuant to 30 CFR Part 830, as in 43 CFR 4.1294(a)(2)."

However, State programs are not required to include counterparts to the employee protection provisions of 30 CFR Part 865 (formerly Part 830) and, as such, there is no need for a State provision allowing the award of costs and expenses incurred in connection with proceedings pursuant to these rules. Accordingly, the lack of a State counterpart provision in the Colorado permanent program to the Federal regulation at 43 CFR 4.1294 regarding employee protection is not inconsistent with the Federal regulatory program. For this reason, the Secretary removes the condition of original program approval codified at 30 CFR 906.11(mm)(1)(i).

b. *Right to appeal costs and expenses awarded in an administrative proceeding.* At 30 CFR 906.11(mm)(1)(iii), OSM required Colorado to "submit * * * fully implemented regulations containing provisions for * * * the administrative appeal of a decision as in 43 CFR 4.1296."

OSM has determined that condition 30 CFR 906.11(mm)(1)(iii) is inappropriate and not applicable to the Colorado permanent program because of the differences that exists between the Colorado and Federal administrative review processes. The Federal administrative review process consists of two tiers of review, which are set forth at section 525(e) of SMCRA. They consist of review by the Secretary of the Interior, and review under 43 CFR 4.1290 through 4.1296 of the Federal regulations, which consists of review of the Secretary of the Interior's decisions by either the Interior Board of Land Appeals (IBLA) or an administrative law judge. Conversely, the only level of administrative review and only administrative review body under the Colorado program, which is set forth at Rule 5.03.6, is the Colorado Mined Land Reclamation Board (Board). Thus, a State program counterpart to 43 CFR 4.1296 is unnecessary. For this reason, the Secretary removes the condition of original program approval codified at 30 CFR 906.11(mm)(1)(iii).

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Colorado program.

The U.S. Forest Service responded on December 15, 1995, that it had no comments on the proposed amendment (administrative record No. CO–675–3).

The U.S. Natural Resources Conservation Service responded on December 20 and 21, 1995, that it had no comments on the proposed amendment (administrative record No. CO–675–4).

The U.S. Army Corps of Engineers responded on December 27, 1995, that it had found the proposed amendment to be satisfactory (administrative record No. CO–675–5).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Colorado proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. CO–675–1). It did not respond to OSM's request.

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. CO–675–1). Neither SHPO nor ACHP responded to OSM's request.

V. Secretary's Decision

Based on the above findings, the Secretary approves Colorado's proposed amendment as submitted on November 20, 1995. Because this amendment fully satisfies the requirements of the condition of program approval at 30 CFR 906.11(mm), the Secretary is also removing this condition.

The Secretary, as discussed in: finding No. 1, approves Rule 5.03.6, concerning awarding of costs, expenses, and attorney fees incurred in seeking an award and removes the condition of program approval at 30 CFR 906.11(mm)(1)(ii); and finding No. 2, approves Rule 5.03.6(4)(e), awarding costs, expenses, and attorney fees from the Division to administrative proceeding participants other than the permittee and removes the condition of program approval at 30 CFR 906.11(mm)(2); and finding No. 3, removes the conditions of program approval at 30 CFR 906.11(mm)(l) (i) and (iii) because there are no requirements for State counterparts to the Federal regulations concerning (1) costs and expenses regarding discriminatory acts and (2) the administrative review process.

The Secretary approves the rules as proposed by Colorado with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 906.11 and 906.15, codifying decisions concerning the Colorado program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 13, 1996.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, Title 30, chapter VII, subchapter T, part 906 of the Code of Federal Regulations is amended as set forth below:

PART 906—COLORADO

1. The authority citation for part 906 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 906.11 [Removed]

2. Section 906.11 is removed.

3. Section 906.15 is amended by adding paragraph (t) to read as follows:

§ 906.15 Approval of regulatory program amendments.

* * * * *

(t) The following rules, as submitted to OSM on November 20, 1995, are approved effective February 21, 1996:

Awarding of costs, expenses, and attorney fees incurred in seeking an award—Rule 5.03.6;

Awarding costs, expenses, and attorney fees from the Division of Minerals and Geology to administrative proceeding participants other than the permittee—Rule 5.03.6(4)(e).

[FR Doc. 96–3670 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 948

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; Approval of amendment.

SUMMARY: OSM is approving with certain exceptions an amendment to the West Virginia permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment contains revisions to the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA) and the West Virginia Surface Mining Reclamation Regulations. The amendment is intended to make the West Virginia program consistent with SMCRA and the corresponding Federal regulations. Additional amendments will be required to bring the West Virginia program into full compliance with SMCRA.

The statutory revisions pertain to reorganization of the State regulatory authority, extension of the State Abandoned Mine Lands and Reclamation Act, definitions, surface mine reclamation inspector qualifications, approval to remove more than 250 tons of coal during prospecting, permit transfers, permit fees, premium payments for the Workers' Compensation Fund, Small Operator Assistance Program (SOAP), hydrologic protection, blasting schedules, preblast surveys, termination of underground mining permits, excess spoil fills, variances from approximate original contour, citizen complaint investigations, issuance of notices of violation, abatement times for notices of violation, civil penalty assessments for cessation orders that are abated within twenty-four hours, permit suspension or revocation, temporary relief, burden of proof, disclosure of ownership and control information, reinstatement of right to mine, permit renewal requirements, extensions to permitted areas, surface mining activities not subject to the Act, National Pollutant Discharge Elimination system (NPDES) permitting requirements, removal of

coal from existing waste piles, and environmental boards.

The revisions to State regulations concern applicability, definitions, ownership and control information, maps, operation plan, excess spoil disposal, new and existing structures, subsidence control plan, removal of abandoned coal waste piles, approved person, fish and wildlife resources, geologic information, transfer, assignment or sale of a permit, permit renewals and revisions, incidental boundary revisions, variances exemption for government financed highway or other construction, permit issuance, permit conditions, improvidently issued permits, haulroads, transportation and support facilities, intermittent or perennial streams, design, construction, certification, inspection and abandonment of sediment control and other water retention structures, permanent impoundments, blasting, fish and wildlife, revegetation, insurance, notice of intent to prospect, hydrologic balance, steep slope mining, inactive status approval, variance from approximate original contour, excess spoil disposal, contemporaneous reclamation, control of fugitive dust, utility installations, disposal of noncoal waste, backfilling and regrading underground mines, subsidence control, small operator assistance program, citizen actions, inspection frequencies, notices of violation, show cause orders, civil penalty determinations, civil penalty assessment procedures, civil penalty assessment rates, coal refuse certification, compaction requirements for coal refuse areas, design, construction and maintenance requirements for coal refuse impoundments, inspection, examination and reporting requirements for coal refuse impoundments, training and certification of blasters, and abandoned mine lands reclamation.

EFFECTIVE DATE: February 21, 1996. Approval dates of regulatory program amendments are listed in § 948.15(p).

FOR FURTHER INFORMATION CONTACT:

Mr. James C. Blankenship Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street East, Charleston, WV 25301, Telephone (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background

SMCRA was passed in 1977 to address environmental and safety problems associated with coal mining. Under SMCRA, OSM works with States to ensure that coal mines are operated in a manner that protects citizens and the environment during mining, that the land is restored to beneficial use following mining, and that the effects of past mining at abandoned coal mines are mitigated.

Many coal-producing States, including West Virginia, have sought and obtained approval from the Secretary of the Interior to carry out SMCRA's requirements with their borders. In becoming the primary enforcers of SMCRA, these "primary" States accept a shared responsibility with OSM to achieve the goals of the Act. Such States join with OSM in a shared commitment to the protection of citizens from abusive mining practices, to be responsive to their concerns, and to allow them full access to information needed to evaluate the effects of mining on their health, safety, general welfare, and property. This commitment also recognizes the need for clear, fair, and consistently applied policies that are not unnecessarily burdensome to the coal industry—producers of an important source of our Nation's energy.

Under SMCRA, OSM sets minimum regulatory and reclamation standards. Each primacy State ensures that coal mines are operated and reclaimed in accordance with the standards in its approved State program. The States serve as the front-line authorities for implementation and enforcement of SMCRA, while OSM maintains a State performance evaluation role and provides funding and technical assistance to States to carry out their approved programs. OSM also is responsible for taking direct enforcement action in a primacy State, if needed, to protect the public in cases of imminent harm or, following appropriate notice to the State, when a State acts in an arbitrary and capricious manner in not taking needed enforcement actions required under its approved regulatory program.

Currently, there are 24 primacy states that administer and enforce regulatory programs under SMCRA. These states may amend their programs, with OSM approval, at any time so long as they remain no less effective than Federal regulatory requirements. In addition, whenever SMCRA or implementing Federal regulations are revised, OSM is required to notify the States of the changes to that they can revise their programs accordingly to remain no less effective than the Federal requirements.

Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 21, 1981, **Federal Register** (46 FR 5915). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

In a series of three letters dated June 28, 1993, and July 30, 1993 (Administrative Record Nos. WV–888, WV–889 and WV–893), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program that included numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act (referred to herein as "the Act", WVSCMRA § 22A–3–1 *et seq.*) and the West Virginia Surface Mining Reclamation Regulations (CSR § 38–2–1 *et seq.*). OSM approved the proposed revisions on durable rock fills on August 16, 1996, (60 FR 42437–42443) and the proposed revisions on bonding on October 4, 1995, (60 FR 51900–51918). The remaining proposed revisions are the subject of this notice.

The statutory revisions pertain to reorganization of the State regulatory authority, extension of the State Abandoned Mine Lands and Reclamation Act, definitions, surface mine reclamation inspector qualifications, approval to remove more than 250 tons of coal during prospecting, permit transfers, permit fees, premium payments for the Workers' Compensation Fund, SOAP, hydrologic protection, blasting schedules, preblast surveys, termination of underground mining permits, excess spoil fills, variances from approximate original contour, citizen complaint investigations, issuance of notices of violation, abatement times for notices of violation, civil penalty assessments for cessation orders that are abated within twenty-four hours, permit suspension or revocation, temporary relief, burden of proof, disclosure of ownership and control information; reinstatement of right to mine, permit renewal requirements, extensions to permitted areas, surface mining activities not subject to the Act, National Pollutant Discharge Elimination System (NPDES) permitting requirements, removal of coal from existing waste piles, and environmental boards.

The revisions to State regulations concern applicability, definitions, ownership and control information, maps, operation plan, excess spoil disposal, new and existing structures, subsidence control plan, removal of abandoned coal waste piles, approved person, fish and wildlife resources, geologic information, transfer, assignment or sale of a permit, permit revisions and renewals, incidental boundary revisions, permit conditions, improvidently issued permits, exemptions for government financed highway or other construction variances, permit issuance, haulroads, transportation and support facilities, intermittent or perennial streams, design, construction, certification, inspection and abandonment of sediment control and other water retention structures, permanent impoundments, blasting, fish and wildlife, revegetation, insurance, notice of intent to prospect, hydrologic balance, steep slope mining, inactive status approval, variance from approximate original contour, excess spoil disposal, contemporaneous reclamation, control of fugitive dust, utility installations disposal of coal mine waste, backfilling and regrading underground mines, subsidence control, small operator assistance program, citizen actions, inspection frequencies, notices of violation, show cause orders, civil penalty determinations, civil penalty assessment procedures, civil penalty assessment rates, coal refuse certification, compaction requirements for coal refuse areas, design, construction and maintenance requirements for coal refuse impoundments, and inspection, examination and reporting requirements for coal refuse impoundments, training and certification of blasters, and abandoned mine lands regulation.

OSM announced receipt of the proposed amendment in the August 12, 1993, **Federal Register** (58 FR 42903) and invited public comment on its adequacy. Following this initial comment period, WVDEP revised the amendment on August 18, 1994, and September 1, 1994, and May 16, 1995 (Administrative Record Nos. WV–933, WV–937, and WV–979B). OSM reopened the comment period on August 31, 1994 (59 FR 44953), September 29, 1994 (59 FR 49619), and July 5, 1995 (60 FR 34934), and held public meetings/hearings in Charleston, West Virginia on September 7, 1993, October 27, 1994, and May 30, 1995.

III. Director's Findings

Only those revisions of particular interest are discussed below. Any revisions not specifically discussed below are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions not discussed below contain language similar to the corresponding Federal regulations, concern nonsubstantive wording changes, revise cross-references and paragraph notations to reflect organizational changes resulting from this amendment, or concern program provisions for which there is no Federal counterpart and which do not adversely affect other aspects of the West Virginia program.

A. Proposed Revisions to the West Virginia Code (Including numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA)

1. § 22–1–4 Through 8 Division of Environmental Protection

The State has reorganized the Division of Environmental Protection under the Bureau of the Environment and abolished the Department of Commerce, Labor and Environmental Resources under West Virginia House Bill (H.B. 4030). Within the Bureau of Environment, Division of Environmental Protection, the State established the Office of Abandoned Mine Lands and Reclamation, and the Office of Mining and Reclamation. The Office of Abandoned Mine Lands and Reclamation is given the authority to administer and enforce the State's Abandoned Mine Lands and Reclamation Act. The Office of Mining and Reclamation is given the authority to administer and enforce the State's Surface Coal Mining and Reclamation Act (under § 22–1–7). The director is authorized to appoint a Chief of each office who is accountable and responsible for the performance of the duties, functions, and services of his or her office (§ 22–1–8(a)). The provisions also authorize the director of the division of environmental protection to employ legal counsel (H.B. 2523) (§ 22–1–6(d)(7)). The Director finds that the State regulatory authority continues to have authority under State laws to implement, administer, and enforce its State program. He is therefore approving the proposed revisions to WVSCMRA § 22–1–4 through 8. The Director is also taking this opportunity to remove the required amendment at 30 CFR 948.16(c)(1), since it refers to the creation of the Division of Mines and Minerals, which is now an obsolete designation.

2. § 22–2 Abandoned Mine Lands and Reclamation Act

West Virginia proposes to revise its statute at section 22–2–2 to reflect the extension of the abandoned land reclamation program and the collection of fees which support it to September 30, 2004. The Director finds that this revision is substantively identical to and therefore no less stringent than section 402(b) of SMCRA.

West Virginia is also amending § 22–2–4 to change the reference to Public Law 95–87 to read "Surface Mining Control and Reclamation Act", to change the reference to subdivision (3) to read subsection (c), to change the reference to section 404 of Public Law 95–87 to read section 402 of the Surface Mining Control and Reclamation Act, and to delete references to "administrative and personnel expenses" for the purposes of clarification. The Director finds that these revisions are consistent with the Abandoned Mine Land Reclamation Act of 1990 and satisfy 30 CFR 948.26(a), which is hereby removed.

The State is revising paragraph (c) by changing the ending date for abandoned mine land fund eligibility for surface mining sites where the surety became insolvent. The ending date for eligibility was changed from October 1, 1991, to November 5, 1990. Paragraph (c) is also revised by changing the reference to Public Law 95–87 to the Federal Surface Mining and Reclamation Act of 1977, as amended. The Director finds that the proposal is substantively identical to and therefore no less stringent than section 402(g) of SMCRA.

3. § 22–3–3 Definitions

a. *Operator:* The WVDEP proposes to define operator to mean any person who is granted or who should obtain a permit to engage in any activity covered by the WVSCMRA and any rule promulgated thereunder and any person who engages in surface mining or surface mining and reclamation operations, or both. The proposed definition states that the term operator shall also be construed in a manner consistent with the Federal program pursuant to SMCRA, as amended.

Section 701 of SMCRA defines operator to mean any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any one location. In support of the proposed definition the State submitted a policy statement stating that WVDEP would interpret "operator" to include all

persons who engage in surface mining or prospecting activities. This policy statement was accompanied by a legal opinion from the General Council for WVDEP which stated that the term "operator" as defined in the WVSCMRA applies to a person who intends to prospect or engage in coal exploration (Administrative Record No. WV–932). The Director therefore finds that the proposed definition of operator at § 22–3–3 of the WVSCMRA is no less stringent than the definition at section 701 of SMCRA and he is approving it.

b. *Surface mine, surface mining or surface mining operations:* The WVDEP proposes to revise § 22–3–3(u)(1) by inserting a semicolon between "reclamation" and "in-situ" and a comma between "cleaning" and "concentrating". Also, at subsection 3(u)(2), the exemption for permanent facilities not within the area being mined and not directly involved in the excavation, storage, or processing of coal has been removed from the definition. The Director finds that the revisions to the definition of "surface mining operation", which remove the exemption for certain permanent facilities and correct errors in punctuation, satisfy the requirements of 30 CFR 948.16(c)(2) and resolve the concerns which caused the Secretary not to approve the definition at 30 CFR 948.12(c) and 30 CFR 948.13(a). Accordingly, he is approving the proposed definition and removing the disapproval, set aside, and required amendment provisions at 30 CFR 948.12(c), 948.13(a), and 948.16(c)(2).

4. § 22–3–5 Surface Mining Inspectors and Supervisors

West Virginia proposes to change the probationary status for surface mining supervisors and inspectors from one year to six months. The Director has determined that this revision, for which there is no direct Federal counterpart, is within the administrative discretion of the regulatory authority, and is not inconsistent with the requirements of SMCRA or the Federal regulations.

5. § 22–3–7 Notice of Intent To Prospect

The State proposes to revise paragraph (f) to allow for the promulgation of regulations, the development of application forms and to require an application fee of $2,000 for prospecting operations intending to remove more than 250 tons of coal. While there is no direct Federal counterpart, the Director finds that proposed revisions are consistent with the Federal requirements for coal exploration permits at section 512 of SMCRA and are hereby approved.

6. § 22–3–8 Surface Mining Reclamation Permit

The State has deleted subsections 8(a) and 8(b), and renumbered the remaining subsections. The deleted subsections required coal mining operations in existence at the time of the Secretary's approval (1981) of the West Virginia program to obtain permits under the newly approved program. The Director finds that the deletion of these out-of-date provisions does not render the West Virginia program inconsistent with SMCRA or the Federal regulations.

The State proposes to revise paragraph (1) of this section to allow for the continued operation of a mine by the transferee pending approval of the transfer application, and subject to the ownership and control provisions at section 22–3–18(c). The Federal counterpart to this provision at § 506(b) of SMCRA does not refer specifically to permit transfers. However, it does allow a successor in interest to continue coal mining operations on the current permit while awaiting approval of the regulatory of its application for a new permit. The Director believes that allowing permit transfer applicants to mine while they await a decision on their application for transfer of permit is not inconsistent with the principles underlying § 506(b) of SMCRA, so long as the applicant is eligible for a permit § 22–3–18(c) (West Virginia's ownership and control provisions), and provides adequate bond. Furthermore, the opportunity for public comment will remain a meaningful one, since the regulatory authority may still ultimately deny the application for the transfer based on information obtained during the public comment period. Therefore, the Director is approving the provision. West Virginia proposes to increase the surface mining permit fee from $500 to $1,000 at paragraph (4). Also, as provided in paragraph (h), the State proposes to make compliance with the Workers' Compensation Program a requirement of permit approval. There are no direct Federal counterparts. The Director finds that these provisions are not inconsistent with the requirements of SMCRA or the Federal regulations.

7. § 22–3–9 Permit Application Requirements

West Virginia proposes to revise the eligibility requirements for its Small Operator Assistance Program (SOAP) at paragraph (b). The State is increasing the total annual production rate for SOAP eligibility from 100,000 to 300,000 tons of coal. In addition, the State has added language that identifies the services that are reimbursable under SOAP. These new services include engineering analyses and designs needed in the determination of probable hydrologic consequences, cross-section maps and plans, geologic drilling and statements of results of test borings and core samplings, preblast surveys, fish and wildlife protection and enhancement plans, and the collection of archaeological and historical information. The Director finds that WVSCMRA § 22A–3–9(b), as revised, is substantively identical to and, therefore, no less stringent than the corresponding SOAP provisions of section 507(c) of SMCRA.

At subsection 9(g), the State has added the word "administratively" in two locations to clarify that the provision pertains to administratively complete applications. The term "administratively complete application" is defined at CSR 38–2–2.9. The Director finds these changes to be consistent with section 510 of SMCRA, and no less effective than the use of the term "administratively complete application" at 30 CFR 773.13 concerning public participation in permit processing and the definition of the term "administratively complete" at 30 CFR 701.5.

8. § 22–3–9a Permit To Mine Two Acres or Less

The State has deleted (S.B. 579; June 7, 1991) this section which contains special provisions governing surface mining operations of two acres or smaller in size. Section 528(2) of SMCRA, which set forth the corresponding Federal provisions, was repealed pursuant to Section 201 of Public Law 100–34. Therefore, the Director finds that the proposed deletion will not render West Virginia's program less stringent than SMCRA. In addition, the Director finds that the deletion of WVSCMRA § 22A–3–9a eliminates the need for further action regarding the required amendments set forth at 948.16(c)(3), (4), (5) and (6), and the disapproval and set-aside set forth at 30 CFR 948.12(d) and 948.13(b), respectively, and he is, therefore, removing them.

9. § 22–3–13 Performance Standards

The State proposes to amend subparagraph (b)(10) to require that operators avoid acid or toxic-mine drainage by preventing or removing water from contact with toxic producing deposits, treating drainage, and casing, sealing or managing boreholes, shafts and wells to keep acid drainage from entering ground and surface waters. The Director finds that this proposal is substantively identical to and, therefore, no less stringent than, the corresponding Federal statute at section 515(b)(10)(A) of SMCRA.

West Virginia proposes to revise subparagraph (b)(15) to require the mailing of the proposed blasting schedule to every resident within one-half mile of the blasting site, and to provide any resident or owner of a dwelling within one-half mile of any portion of the permit area the right to a preblast survey. The Director finds that this proposal is substantively identical to and, therefore, no less stringent than, the corresponding Federal statute at section 515(b)(15) of SMCRA.

In addition, the State proposes to revise subparagraph (b)(16)(C) to provide that underground mining permits shall terminate if operations have not commenced within three years of the date of permit issuance. The Director finds that this proposal is substantively identical to and, therefore, no less stringent than section 506(c) of SMCRA.

The State also proposes to revise subparagraph (b)(22) to require that rock to be used in durable rock fills not slake in water and not degrade to soil material. The Director finds that this proposal is substantively identical to and, therefore, no less effective than the corresponding Federal provision set forth at 30 CFR 816.73(b).

Finally, West Virginia proposes to revise paragraph (e) to allow the Director to promulgate rules that permit variances from approximate original contour. The Director finds that this proposal is consistent with that portion of section 515(e) of SMCRA which permits states with approved programs to allow variances from the requirements to return a steep slope area to its approximate original contour (AOC). Therefore, this revision is approved, but only to the extent that it applies to steep slope areas as defined at WVSCMRA § 22–3–13(d). In addition, the Director is requiring that West Virginia amend its program to limit such variances to industrial, commercial, residential, or public alternative postmining land use, in accordance with section 515(e)(2).

10. § 22–3–15 Inspections

West Virginia proposes to revise paragraph (b)(1)(C) to require that monitoring equipment be installed, maintained and used consistent with WVSCMRA § 22–3–9 rather than WVSCMRA § 22–3–10 as currently stated. The Director has determined that this correction of a cross-reference will not render the West Virginia program inconsistent with the requirements of SMCRA or the Federal regulations.

The State also proposes to delete the provision in paragraph (g) which provides that permittees, employees and inspectors are not to be held civilly liable for any injury sustained by a person accompanying an inspector on an inspection. The Director finds that this deletion, which resolves the concerns raised by OSM as set forth at 30 CFR 948.12(a) and 948.13(e), will not render the West Virginia program inconsistent with the requirements of SMCRA or the Federal regulations. The Director is, therefore, removing the disapproval at 30 CFR 948.12(a), and the corresponding set aside at 30 CFR 948.13(e).

Finally, the State is deleting from paragraph (g) the provision that any person accompanying an inspector on an inspection shall be responsible for supplying any safety equipment required. There is no counterpart to this rule in the Federal program, and the Director finds that the deletion of this provision will not render the West Virginia program inconsistent with the requirements of SMCRA or the Federal regulations.

11. § 22–3–17 Notice of Violation

West Virginia proposes to revise paragraph (a) of this section to make it mandatory to issue a notice of violation whenever any provision of WVSCMRA, the regulations promulgated pursuant thereto or a permit condition has not been complied with. In addition, the time set for initial abatement of a notice of violation is proposed to be changed from 15 to 30 days, and the maximum time allowed as a reasonable extension is changed from 75 to 60 days. The Director finds that these revisions are no less stringent than and are procedurally similar to section 521(a)(3) of SMCRA.

In paragraph (a), the State also proposes to delete the provision that exempts cessation orders that are released or expire within 24 hours after issuance from mandatory civil penalty assessment of seven hundred fifty dollars per day per violation. While there is no direct Federal counterpart, the Director finds that the deletion of this provision will not render the State's program inconsistent with the requirements of SMCRA or the Federal regulations.

The State proposes to revise paragraph (b) to allow the director to suspend or revoke a permit upon the operator's failure to show cause why the permit should not be suspended or revoked. In addition, if the permit is revoked, the proposal states that the commissioner shall initiate procedures to forfeit the operator's bond in accordance with rules promulgated by the Director. The Director finds that the proposals are consistent with the requirements of SMCRA at section 521(a)(4) and the Federal regulations at 30 CFR 843.13.

In addition, West Virginia proposes to recodify paragraph (d)(3) as new subsection (e) in order to clarify that appeal rights and procedures apply to all notices, orders and decisions of the commissioner, not just those relating to civil-penalty assessments; and to recodify paragraph (d)(4) as new subsection (f) to clarify that temporary relief provisions apply to all enforcement actions and orders, but not to civil penalty assessments. The Director finds that the proposed recodification will not render the State's program inconsistent with the requirements of SMCRA or the Federal regulations, and satisfies the requirements of 30 CFR 948.16(c) (8) and (9), which are hereby removed.

West Virginia proposes to revise newly redesignated section (f) to provide that the filing of a request for an informal conference or formal hearing will not stay the execution of the order appealed from. The Director has determined that this proposal is substantively identical to and, therefore, no less stringent than the corresponding Federal provision at section 525(a) of SMCRA. Finally, the State proposes to revise section (f) to provide that where a request for temporary relief from an order for cessation of operations is filed, the commissioner shall issue his decision within 5 days of receipt of the request. The Director finds that this proposal is substantively identical to and, therefore, no less stringent than the corresponding Federal provision at section 525(c) of SMCRA.

12. § 22–3–18 Permit Approval

The State proposes to revise paragraph (a) of this section to require the submission of a complete permit application before a decision is rendered, and to provide that the applicant has the burden of establishing that the application is in compliance with the program requirements. The Director finds that the proposed revisions are substantively identical to and, therefore, no less stringent than the corresponding Federal statute at section 510(a) of SMCRA.

The State has amended paragraph (c) to require that permit applications contain violation information on any surface mining operation owned or controlled by the applicant, rather than just those operations located in the state of West Virginia. The Director has determined that this revision is substantively identical to and, therefore,

no less stringent than the Federal law at section 510(c) of SMCRA.

In addition, section (c) has been revised to add that no permit may be issued upon a finding of a demonstrated pattern of willful violations of (in addition to West Virginia statute) other State or Federal programs implementing SMCRA of such a degree as to indicate an intent not to comply with the State statute or SMCRA. The Director finds these changes to be substantively identical to and no less stringent than section 510(c) of SMCRA and satisfies the concerns raised in 30 CFR 948.12(g) and 948.13(f) which are hereby removed.

Finally, West Virginia is proposing to revise, in section (c), the conditions under which a permit may be issued after revocation or forfeiture, to include situations where the violations which resulted in the revocation or forfeiture have not caused irreparable damage to the environment. While there is no direct Federal counterpart, the Director finds that the proposal is not inconsistent with the permit approval provisions of section 510 of SMCRA.

13. § 22–3–19 Permit Renewal and Revision Requirements

The State proposes to revise paragraph (a)(2) of this section by deleting the references to incidental boundary revisions, and adding a requirement that where a renewal application proposes to extend the operation beyond the original boundaries, the portion of the renewal application involving the new area is subject to the full permit application requirements. The State clarified the intent of the amendment by stating that the term "full standards" as used in WVSCMRA § 22–3–19(a)(2) means that for the area being added to the permit, the applicant must satisfy all current permitting requirements and is subject to all inspection and enforcement provisions and all performance standards. In other words, it would be treated like a new permit application (Administrative Record No. WV–932). Given this clarification, the Director finds the revisions to be substantively identical to and, therefore, no less stringent than section 506(d)(2) of SMCRA.

In addition paragraph (a)(4) is amended to add a two thousand dollar filing fee for any permit renewal for an active permit. The Director finds that this proposal is not inconsistent with the permit fee provisions in section 507(a) of SMCRA.

Finally, West Virginia proposes to revise section (b)(3) to provide that where the permittee desires to add new area to a permit, the original permit may be amended to include the new area, provided the application for the new area is subject to all the procedures and requirements applicable to applications for original permits. The Director finds that the revision is substantively identical to and, therefore, no less stringent than section 506(d)(2) of SMCRA.

14. § 22–3–22 Designation of Areas Unsuitable for Mining

West Virginia proposes to revise paragraph (b) of this section by deleting the word commissioner. As revised, the provision gives any person having an interest which is or may be adversely affected the right to petition the Director to have the area designated as unsuitable for mining or to have such designation terminated. The Director finds the proposal to be substantively identical to and, therefore, no less stringent than section 522(c) of SMCRA.

15. § 22–3–26 Surface Mining Operations Not Subject to the Act

The State proposes to delete paragraph (b) of this section which provided an exemption for the extraction of coal by a landowner engaged in construction. There is no direct Federal counterpart to this exemption and the Director finds that the proposed deletion will not render the West Virginia program inconsistent with the requirements of SMCRA or the Federal regulations.

The exemption for government financed construction at paragraph (c) is being revised to provide that coal extraction incidental to federal, state, county, municipal, or other local government financed highway or other construction is exempt from the requirements of the Act. The Director finds that this provision is substantively identical to and, therefore, no less stringent than section 528(2) of SMCRA.

The State also proposes to delete paragraph (d) which provided an exemption for the extraction of coal affecting two acres or less. The Director finds this proposal to be consistent with the provisions of subsection 201(b) of Public Law 100–34 (effective June 6, 1987) which repealed the two-acre exemption originally set forth at section 528(2) of SMCRA and, therefore, the deletion of this provision will not render the State's rules inconsistent with the requirements of SMCRA or the Federal regulations. The Director is removing required amendment 30 CFR 948.16(c)(7) because with the deletion it is no longer relevant.

16. § 22–3–28 Special Permits for Abandoned Coal Waste Piles

West Virginia proposes to revise paragraph (d) of this section by deleting the word "reprocessing" and adding the word "removal" in order to clarify that the special permit is solely for removal of existing abandoned coal waste piles. The Director finds that this revision will not render the State program inconsistent with the requirements of SMCRA or the Federal regulations. The Director notes that the implementing rules are located at CSR 38–2–3.14(d) (see Finding B–9 below).

17. § 22–3–40 National Pollutant Discharge Elimination System (NPDES)

The State proposes to revise this section to require a filing fee for an NPDES permit application of $500 and a filing fee for a renewal application of $100. The Director finds that this proposal is not inconsistent with the general permit fee provisions of section 507(a) of SMCRA.

18. § 22B–1–4 through 12 Environmental Boards; General Policy and Purpose

The State is adding these provisions to the West Virginia program to establish the requirements under which environmental boards will operate. The Director finds that the provisions are not inconsistent with SMCRA section 503 concerning state programs. The Director notes that West Virginia's administrative hearings and appeals procedures are the same or similar to those in sections 514 and 525 of SMCRA. The Director is not approving language at section 22B–1–7(d) concerning allowing temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an "unjust hardship." because the exception is inconsistent with SMCRA sections 514(d) and 525(c). In addition, the Director is requiring that West Virginia further amend § 22B–1–7(d) to be consistent with SMCRA sections 514(d) and 525(c).

Section 7(h) would allow the Surface Mining Board to consider economic feasibility of treating or controlling discharges from surface coal mining operations in appeals from decisions of an order, permit, or official action. In this respect, the provisions are less stringent than SMCRA section 515(b)(10) and less effective than the Federal regulations at 30 CFR 816.42, because both require discharges to be controlled or treated without regard to economic feasibility. Therefore, the Director is not approving this language to the extent that it would allow the Board to decline to order an operator to treat or control discharges due to economic considerations. In addition, the Director is requiring that West Virginia further amend § 22B–1–7(h) to be no less stringent than SMCRA section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42, by requiring discharges to be controlled or treated without regard to economic feasibility.

19. § 22B–3–4 Environmental Quality Board

This new provision establishes the Environmental Quality Board's rule-making authority. Under WV S.B. 287, the provision authorizes the promulgation of procedural rules granting site specific variances for water quality standards for coal remining operations; providing minimum requirements for procedures for granting variances; prohibits granting variances without requirement of best available technology and best professional judgement; prohibits granting variance without demonstration of potential for improvement; and prohibits granting variance if degradation will result. The Director finds the provision is not inconsistent with SMCRA section 503 which provides that State programs must have the capacity to establish rules and regulations to carry out the purposes of SMCRA. The provision is also not inconsistent with section 301(p) of the Federal Water Pollution Control Act (33 U.S.C. 1311) which allows alternate effluent limitations to be established for coal remining operations. The Director notes that any such procedural rules that grant variances must be submitted to OSM for approval prior to their implementation.

20. § 22B–4 Surface Mine Board

The State has renamed the "Reclamation Board of Review" the "Surface Mine Board" and has established new requirements under which it operates. However, the amendment still requires that some board members represent outside interests. Therefore, the Director finds that these revisions do not materially affect the basis for OSM original determination of the Board's multiple interest status. Since the Board continues to represent multiple interests, its members are not "employees" within the meaning of section 517(g) of SMCRA and the Federal regulations at 30 CFR 705.5. Therefore, the Director finds the provisions of section 22B–4 to be not inconsistent with SMCRA section 503 concerning State programs, section 514 concerning decisions of regulatory authority and appeals, and 517(g) concerning financial interests of employees.

B. Proposed Revisions to the West Virginia Surface Mining Reclamation Regulations

1. CSR § 38–2–1.2 Applicability

West Virginia proposes to delete former paragraph (b) of this subsection. The Director finds that the deletion satisfies the disapproval codified at 30 CFR 948.12(h). 30 CFR 948.12(h) is hereby removed.

West Virginia proposes to revise paragraphs (c) and (d) by providing for the termination and reassertion of jurisdiction over a completed surface mining and reclamation operation. The Director finds that the amendments to paragraphs (c)(2) and (d) are substantively identical to and no less effective than the Federal regulations at 30 CFR 700.11(d)(1)(ii) and (2), respectively, concerning termination of jurisdiction. Subsection (c)(1) is less effective than the Federal counterpart at 700.11(d)(1)(i) to the extent that subsection (c)(1) does not require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program as a prerequisite to the termination of jurisdiction over an initial program site. In addition, the Director is requiring that the State further amend subsection (c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program regulations as a prerequisite to the termination of jurisdiction over an initial program site.

2. CSR § 38–2–2 Definitions

a. Chemical treatment. The WVDEP proposes to define "chemical treatment" at subsection 2.20. This definition, among other applications, applies to the bond release provisions at CSR 38–2–12.2(e). CSR 38–2–12.2(e) prohibits bond release where chemical treatment is necessary to bring water discharged from or affected by the operation into compliance with effluent limitations or water quality standards as set forth in CSR 38–2–14.5(b). In effect, for example, under the proposed definition, bond would not be released under § 38–2–12.2(e) if water discharged from or affected by an operation is being actively treated by chemical reagents (such as sodium hydroxide or calcium carbonate) to bring a discharge into compliance. The bond would be released, however, if that same water were being treated, instead, by passive treatment systems (such as wetlands or limestone drains) to bring the discharge into compliance. The Director finds that the blanket exclusion of passive treatment systems from the definition of chemical treatment would render the West Virginia program less effective than the Federal regulations at 30 CFR 800.40(c)(3) concerning release of bond. 30 CFR 800.40(c)(3) provides that no bond shall be fully released until reclamation requirements of SMCRA are fully met. If treatment is necessary to maintain compliance, whether it be active or passive treatment, then the hydrologic protection standards of SMCRA section 515(b)(10) have not been fully met and bond cannot be released. The withheld bond helps assure that the required treatment will be continued. The fact that a treatment system is "passive," and may not require human intervention as frequently as an "active" treatment system, does not diminish the need for assurance that treatment will be provided as long as is necessary to maintain compliance. Therefore, the Director is approving the definition of "chemical treatment" except to the extent that it would allow bond release where passive treatment systems are used to achieve compliance with applicable effluent limitations as discussed above. In addition, the Director is requiring that West Virginia further amend the West Virginia program to clarify that bond may not be released where passive treatment systems are used to achieve compliance with applicable effluent limitations. This finding does not mean that OSM is discouraging the use of mining and reclamation practices and the use of passive treatment systems that help minimize water pollution. On the contrary, when such practices and passive systems are designed into the approved operations and reclamation plans, they become an integral part of an effective program to minimize the formation of acidic or toxic drainage. However, when such passive systems are used to treat a discharge that would otherwise not be in compliance with effluent discharge limitations, such systems are, in effect, chemical treatment and bond release should not be granted. Passive treatment systems have not yet been proven effective for all parameters or on a long-term basis; their effectiveness appears to decrease over time. See OSM's directive TSR–10, Use of Wetland Treatment Systems for Coal Mine Drainage, for further information on this issue.

b. Impoundment or impounding structure; operator; prospecting; and sediment control or other water retention structure, sediment control or other water retention system, sediment pond. The Director finds the proposed definition of "impoundment or impounding structure" at CSR 38–2–2.66 is substantively identical to the Federal definition at 30 CFR 701.5 and is removing the required amendment codified at 30 CFR 948.16(f).

The State is adding the proposed definition of "operator" at CSR 38–2–2.81. This definition is substantively identical to the proposed statutory State definition of "operator" at § 22–3–3. See Finding A–3a above for a complete discussion. The Director finds the proposed definition of "operator" is consistent with the Federal definitions at section 701 of SMCRA and 30 CFR 701.5.

The Federal counterpart to the definition of "prospecting," is the Federal definition of "coal exploration" at 30 CFR 701.5. The State and Federal definitions are different in that the Federal definition includes all data gathering without consideration of whether or not disturbance occurs. However, the Director finds the proposed definition of "prospecting" at CSR 38–2–2.95, while different, doesn't render the State program less effective than the Federal regulations, in light of the fact that CSR 38–2–13.1 contains all the appropriate requirements for a notice of intent to prospect where no disturbance is anticipated (see Finding B30 below). The Director is approving the definition of prospecting, and removing the required amendment at 30 CFR 948.16(nn). In addition, the Director notes an apparent inconsistency between the definition of prospecting at CSR 38–2–2.95, which excludes the gathering of environmental data without disturbance from the definition of prospecting, and the requirements for a notice of intent to prospect at CSR 38–2–13, which recognize that prospecting can include data gathering without disturbance. The State may want to correct this.

The Director finds the definition of "sediment control or other water retention structure, sediment control or other water retention system, or sediment pond" at CSR 38–2–108 to be consistent with the federal definition of "siltation structure" at 30 CFR 701.5 and can be approved, and the required amendment at 30 CFR 948.16(n) is partially satisfied.

3. CSR § 38–2–3.1 Application Information

New subsection 3.1(o) is added to authorize the grouping of ownership and control information by permittees who are so related by the submittal and maintenance of a centralized ownership and control file. Each file must contain required information at CSR § 38–2–3.1 (a), (c), (d), and (l) and be updated at least quarterly. However, the file must be complete and accurate during the time that an application is pending. There is no counterpart to the proposed language. However, the Director finds that the proposed provision is not inconsistent with the Federal requirements at 30 CFR 773.15 concerning review of permit applications and can be approved to the extent that all permit applicants which maintain centralized ownership and control files are also required to comply with all of the informational provisions contained in CSR 38–2–3.1.

4. CSR § 38–2–3.4 Maps

The State proposes to revise paragraph (d), subparagraphs (18), (22), (23), and (24) to require that the permit application identify each topsoil and noncoal waste storage area, each explosive storage and handling facility and the area of land to be affected within the proposed permit area according to the sequence of mining and reclamation. This revision is intended to satisfy the requirements of 30 CFR 948.16(t). Paragraph (d)(23) concerning explosive storage facilities has also been amended to read as follows: "The location of any explosive storage and handling facility; which will remain in place for an extended period of time during the life of the operation." The Director finds that the amendments are substantively identical to and no less effective than the requirements of 30 CFR 780.14(b), and that 30 CFR 948.16(t) can be removed.

5. CSR § 38–2–3.6 Operation Plan

West Virginia proposes to revise paragraph (k) of this subsection to require the submission of a fugitive dust control plan. This revision is intended to satisfy the requirements of 30 CFR 948.16(s). The Director finds the amendment to be substantively identical to and no less effective than 30 CFR 780.15(a)(2) concerning a plan for fugitive dust control practices, and that 30 CFR 948.16(s) is satisfied and can be removed.

6. CSR § 38–2–3.7 Excess Spoil

The State proposes to delete the provision in paragraph (a) which gives the Director authority to approve alternative design requirements for excess spoil fills. This deletion satisfies the deficiency noted at 30 CFR 948.15(k)(3) and the requirement at 948.16(i) which can be removed.

7. CSR 38–2–3.8 New and Existing Structures and Support Facilities

Subsection 3.8(a) is amended to require that each permit application contain a description, plans, and drawings for each support facility to be constructed, used or maintained within the proposed permit area. The Director finds the proposed language to be substantively identical to and no less effective than 30 CFR 780.38 concerning support facilities.

Subsection (d) is amended by adding a provision that will provide for the permitting and bonding of a facility or structure that is to be shared by two or more separately permitted mining operations. The Director finds that the provision is substantively identical to and, therefore, no less effective than the Federal provision concerning shared facilities at 30 CFR 778.22 and can be approved.

8. CSR § 38–2–3.12 Subsidence Control Plan

The State proposes to revise paragraph (a), subparagraph (5) to require that measures be taken to mitigate or remedy material damage to structures due to subsidence in accordance with subsection 16.2(c) and (d) in addition to the existing requirement of meeting 16.2(a) concerning surface owner protection. While there is no direct Federal counterpart to this proposal, the Director finds the proposed revisions to be consistent with the Federal requirements at 30 CFR 784.20(b) concerning subsidence control plans. The State also proposes to delete the phrase in paragraph (d), subparagraph (2) which does not require an identification of measures to be taken to protect structures when the applicant demonstrates the right to subside without liability. This revision is consistent with the 1992 Energy Policy Act, which added section 720 to SMCRA and requires repair or compensation by the operator for material damage to structures caused by subsidence regardless of any "right to subside."

9. CSR § 38–2–3.14 Removal of Abandoned Coal Waste Piles

The State proposes to revise paragraph (a) of this subsection which allows the State to issue a special permit solely for the removal of existing abandoned coal processing waste piles.

The added language requires that if the average quality of the refuse material can be classified as coal using the BTU standard in ASTM D 388–88, a permit application which meets all applicable requirements of § 38–2–3 shall be required. This revision is intended to satisfy the deficiency of 30 CFR 948.15(k)(4). The Director finds the proposed language is consistent with the Federal requirements at 30 CFR 773.11 concerning requirements to obtain permits and can be approved, and that 30 CFR 948.15(k)(4) is satisfied.

10. CSR § 38–3.15 Approved Person

West Virginia proposes to revise its approved person requirements in this subsection. The State is proposing to allow approved persons to certify associated facilities. It also proposes to require the submission of a registration or license in addition to a resume. Finally, it proposes to delete the provisions which allow the director to require a person to requalify for "approved person" status, and to suspend or withdraw "approved person" status. Although there are no Federal counterparts, the Director finds the proposed changes are not inconsistent with SMCRA and the Federal regulations concerning requirements for permits and permit processing, since the State has retained the provision, at subsection 3.15(a), which states that "approved person" may only be designated by the regulatory authority where the WVSCMRA does not otherwise prohibit such designations.

11. CSR § 38–2–3.16 Fish and Wildlife Resources

The State proposes to revise paragraph (a) to this subsection deleting the word "approval". Under the revised provision, the regulatory authority will provide only for coordination of review of permits where such coordination is appropriate pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*). The Director finds the proposed deletion does not render the West Virginia program less effective than 30 CFR 780.16 concerning fish and wildlife information.

12. CSR § 38–2–3.25 Transfer, Assignment or Sale of Permit Rights

The State proposes to revise paragraph (a), subparagraph (4) of this subsection to provide that the approval of a transfer application may be granted in advance of the close of the public comment period, provided that the Director can immediately withdraw approval if information is made available as a result of public comment that would preclude approval. There is no direct Federal counterpart to the proposed language. The Federal regulations at 30 CFR 774.17(b) provide that an applicant for approval of the transfer, assignment, or sale of permit rights shall (at (b)(2)) advertise the filing of the application and identify where written comments may be sent. The State counterpart to the notice requirements of 30 CFR 774.17(b)(2) is CSR 38–2–3.25(a)(3). While the Federal requirements at 30 CFR 774.17(b)(2) require public notice, they do not prohibit application approval prior to the end of the public comment period. The State proposal provides the regulatory authority with reasonable flexibility to promptly conclude approvals of transfer, assignment or sale of permit rights while also assuring that public comment is considered and in those cases where public comment presented information that would preclude approval, the State can immediately withdraw approval. The Director finds that the proposed language is not inconsistent with the intent of 30 CFR 774.17 concerning transfer, assignment, or sale of permit rights and can be approved. See Finding A6, above for the Director's approval of the statutory provision at § 22–3–8 concerning permit transfers.

Paragraph (a)(4) is also amended to add reference to subsection "3.32(d)(7)" (formerly subsection 3.31) which requires a finding by the State that the applicant has paid all reclamation fees from previous and existing operations. The Federal regulations at 30 CFR 774.17(d)(1) provide that an application for a transfer, assignment or sale may be granted where the applicant is eligible to receive a permit in accordance with 30 CFR 773.15(b) and (c). The State counterpart to 30 CFR 774.17(d)(1) is contained at CSR 38–2–3.25(a)(4).

This paragraph requires that applicants be eligible for permits in accordance with CSR 38–2–3.32(c), which is the State counterpart to 30 CFR 773.15(b). However, subsection 3.25(a)(4), as proposed, adds a cross-reference to only one portion of the State's counterpart to 30 CFR 773.15(c), namely, subsection 3.32(d)(7), pertaining to payment of reclamation fees. The State has argued, and the Director agrees, that the other findings contained in subsection 3.32(d) (30 CFR 773.15(c)) need not be made during the review of an application for transfer, assignment or sale since these findings relate to the issuance of the original permit, and should, therefore, remain valid. However, the finding at subsection 3.32(d)(7), pertaining to payment of reclamation fees, must be made, since it relates specifically to the applicant for transfer, assignment or sale. Therefore, the Director finds that the additional reference to subsection 3.32(d)(7) renders the State's program no less effective than the Federal regulations at 30 CFR 774.17(d)(1) and can be approved.

The State also proposes to revise this subsection by revising paragraph (c) and by adding paragraphs (d) and (e). These requirements provide that permit assignments (operator reassignments) be advertised, contain the ownership and control information required by Subsection 3.1 and subcontractors be subject to the eligibility requirements of Subsection 3.32. This revision is intended to satisfy the requirements of 30 CFR 948.16(v). Although there is no direct Federal counterpart, the Director finds the added language is no less effective than 30 CFR 774.17, and that 30 CFR 948.16(v) is satisfied can be removed.

13. CSR 38–2–3.26 Ownership and Control Changes

The language of this subsection is new and governs the reporting of name changes, replacements, and additions to the ownership and control information for any surface mining operation or permittee. While there is no direct Federal counterpart to the proposed language, the Director finds that the proposed language is not inconsistent with 30 CFR 778.13 concerning identification of interests and 778.14 concerning violation information and can be approved.

14. CSR 38–2–3.27(a) Permit Renewals and Permit Extensions

The WVDEP proposes to add a provision which will allow the Director to waive the requirements for permit renewal if the permittee certifies in writing that all coal extraction is completed, that all backfilling and regrading will be completed within 60 days prior to the expiration date of the permit and that an application for Phase I bond release will be filed prior to the expiration date of the permit. The proposal also provides that failure to complete backfilling and grading within 60 days prior to the expiration date of the permit will nullify the waiver. Finally, operations granted inactive status are also subject to permit renewal requirements. The Director finds this provision to be consistent with and no less effective than 30 CFR 773.11 which provides that a permittee need not renew the permit if no surface coal mining operations will be conducted under the permit and solely reclamation activities remain to be done.

15. CSR § 38–2–3.28 Permit Revisions

The State proposes to revise paragraph (b) in this subsection to require that each application for a permit revision be reviewed by the director to determine if an updated probable hydrologic consequences determination (PHC) or cumulative hydrologic impact assessment (CHIA) is needed. The Director finds the proposed revisions are substantively identical to and, therefore, no less effective than the Federal regulations at 30 CFR 780.21(f)(4) concerning PHC determinations.

The State also proposes to revise paragraph (c) to give the Director the authority to require reasonable revision of a permit at any time and to delete the provision which only required a revision to assure adequate protection of the environment or public health and safety. The revisions also require notice to the permittee of the need for revisions and reasonable time for compliance. The Director finds that the proposed revisions are similar to and no less effective than the Federal regulations at 30 CFR 774.11(b) concerning review of permits. These revisions satisfy the deficiency at 30 CFR 948.15(k)(5) and the requirements of 948.16 (j) and (w). 30 CFR 948.16 (j) and (w) are hereby removed.

16. CSR § 38–2–3.29 Incidental Boundary Revisions (IBRs)

West Virginia proposes to revise its incidental boundary revision (IBR) requirements in this subsection. The revisions in paragraph (a) provide that IBRs will be limited to minor shifts or extensions into non-coal areas or areas where coal extraction is incidental to or of only secondary consideration of the intended purpose of the IBR. IBRs will not be granted to abate a violation for encroachment beyond the original permit boundaries, unless an equal amount of area is deleted from the permitted area. Paragraph (b) is revised to allow IBRs for underground mines to be larger than 50 acres when an applicant demonstrates the need for a larger IBR. Also, applications for an IBR must be accompanied by an adequate bond, a map showing the IBR area and a reclamation plan for the area of the IBR. The State proposes to delete subparagraph (6) which provides that all provisions of the IBR which differ from the original permit meet the requirements of the Act and regulations, except as provided in this subsection. Finally, the State proposes to add paragraph (e) which gives the Director the authority to require the publication of an advertisement that provides for a ten-day public comment period for an IBR application.

There is no definition for "incidental boundary revisions" contained in either SMCRA or the Federal regulations. However, the Director notes that under the proposed language IBR's will not be authorized for surface or underground operations in cases where additional coal removal is the primary purpose of the revision. Therefore, the Director finds the proposed amendments to be consistent with the principal intent of sections 511(a)(3) of SMCRA and 30 CFR 774.13(d) which pertain to incidental boundary revisions.

17. CSR § 38–2–3.30 Variances

The State proposes to revise its variance requirements at paragraphs (b), (c), (d) and (e) of this subsection. These paragraphs set forth requirements for granting variances from contemporaneous reclamation. These revisions are intended to satisfy the requirements at 30 CFR 948.16(x). The Director finds the proposed language is substantively identical to and no less effective than 30 CFR 785.18 concerning variances for delay in contemporaneous reclamation requirements in combined surface and underground mining activities. The Director also finds the revisions do satisfy the requirements at 30 CFR 948.16(x), which is hereby removed.

18. CSR 38–2–3.31(a) Exemption for Government Financed Highway or Other Construction

The WVDEP proposes to revise its rules to allow exemptions from the requirements of the WVSCMRA for county, municipal or other local government-financed highway or other construction. The Director finds this amendment to be consistent with and no less effective than the Federal definitions of "government financing agency" and "government-financed construction" at 30 CFR 707.5.

19. CSR § 38–2–3.32 Permit Findings

The State proposes to delete the provision in this subsection which requires the WVDEP to use and update ownership and control information from surrounding States in the issuance of permits. While there is no direct counterpart to the language that is being deleted, the Director finds the deletion does not render the West Virginia program less effective than the requirements of 30 CFR 773.15(b) concerning review of violations. The West Virginia program continues to provide for the review of outstanding violations at CSR § 38–2–3.32 (b) and (c).

20. CSR § 38–2–3.33 Permit Conditions

The State proposes to delete subsection (i) concerning an annual submittal of information required at § 38–2–3.1. There is no direct Federal counterpart to the deleted language. The Director finds the proposed deletion does not render the West Virginia program less effective than 30 CFR 773.17 concerning permit conditions. The West Virginia program continues to retain at CSR 38–2–3.33(h) a counterpart to 30 CFR 773.17(i) concerning notification requirements following cessation orders.

21. CSR 38–2–3.34 Improvidently Issued Permits

The WVDEP proposes to amend paragraph (b) by inserting the phrase "in paragraph (b) of subsection 3.32 of this section." This amendment identifies where in the West Virginia program the violations review criteria are located. The Director finds this change to be consistent with and no less effective than 30 CFR 773.20(b)(1)(i).

Subparagraph (b)(3) has been amended by deleting the existing language and adding in its place language that is substantively identical to and no less effective than 30 CFR 773.20(b)(1)(iii).

New subparagraph (b)(4) has been added to provide that a permit shall be determined to have been improvidently issued when the permittee had a permit revoked or bond forfeited and has not been reinstated, or the permittee was linked to a permit revocation or bond forfeiture through ownership or control, at the time the permit was issued and an ownership or control link between the permittee and the person whose permit was revoked or whose bond was forfeited still exists, or when the link was severed the permittee continues to be responsible for the permit revocation or bond forfeiture. Although there is no direct Federal counterpart, the Director finds the added language to be consistent with the definition of "violation notice" at 30 CFR 773.5, which definition includes notices of bond forfeiture, with 30 CFR 773.20 concerning improvidently issued permits.

Paragraph (c) is amended to add "permit revocation or a bond forfeiture" to the list of circumstances that can cause a finding that a permit was improvidently issued. While there is no direct Federal counterpart, the Director finds the added language to be consistent with the definition of "violation notice" at 30 CFR 773.5 and with 30 CFR 773.20(a)(1).

New subparagraph (d)(1)(E) is added to the list of circumstances that could prevent an automatic suspension or rescission of a permit. Under subparagraph (d)(1)(E), a permit would not be automatically suspended or revoked if the permittee or other person responsible for the permit revocation or bond forfeiture has been reinstated, pursuant to section 18(c) of the WVSCMRA. While there is no direct Federal counterpart, the Director finds the added language to be consistent with 30 CFR 773.21(a) concerning automatic suspension or rescission of permits.

West Virginia proposes to amend paragraph (f) of this subsection to change the cross reference in that paragraph to subsection "(e)," Section 17 of WVSCMRA. The Director finds the change does not render the West Virginia program less effective than 30 CFR 773.20(c)(2) concerning appeals of suspensions or rescissions of permits determined to have been improvidently issued.

Paragraph (g) is being revised to clarify that the term "permit issuance" also includes permit transfers, assignments, or sales of permit rights, as well as revisions for ownership and control purposes. While there is no direct Federal counterpart, the Director finds the added language is not inconsistent with 30 CFR 773.15 concerning review of permit applications.

22. CSR § 38–2–4 Haulageways, Roads, and Access Roads

West Virginia proposes to revise all of its haulroad regulations at Section 4. The new haulroad and access road requirements provide for a road classification system, plans and specifications, stream crossings, standards for infrequently used roads, construction standards, drainage design standards, performance standards, maintenance standards, reclamation standards, primary road standards and certification. In addition, Section 4 contains design, construction, maintenance and abandonment requirements for other transportation facilities.

a. § 38–2–4.1 (a) Road Classification System. The WVDEP proposes to include haulageways and access roads under its road classification system, and is defining "primary road." The Director finds these amendments to be substantively identical to and no less effective than 30 CFR 816.150(a) concerning road classification system, and 30 CFR 816.150(a)(2) concerning the definition of "primary road."

b. § 38–2–4.2 Plans and Specifications. These amendments set for the requirements for each road to be constructed, used, or maintained within the permit area. The provisions specify that road designs are to be certified as meeting the requirements of the WVSCMRA and implementing rules. The WVDEP is also reorganizing its rules by deleting the title "4.3 Stream Crossings" and designating paragraph (a) of the deleted subsection 4.3 as paragraph (b) of subsection 4.2. This reorganization is intended to clarify that CSR 38–2–4.2(b) applies to all stream crossings, and is not limited to only roads in stream channels. Under the proposed revisions, CSR 38–2–4.2(b) applies to all roads whether they are within or crossing a stream. The Director finds the proposed provisions to be consistent with 30 CFR 780.37(a) concerning road systems; plans and drawings to the extent that the provisions pertain to all roads, whether they are within or crossing a stream. The Director notes that 30 CFR 780.37(a) cross references the Federal regulations at 30 CFR 816.150(d)(1) (concerning the prohibition against locating a road in the channel of a stream), and this in turn cross-references other Federal hydrologic protection rules. The State language does not contain a similar cross references in CSR 38–2–4.2(b). The Director believes, however, that a lack of such cross references does not render the State program less effective. The State hydrologic protection standards apply regardless of whether or not they are cross-referenced.

c. § 38–2–4.3 Existing Haulageways or Access Roads. This subsection provides that where it can be demonstrated that reconstruction of existing haulageways or access roads to meet the required design, construction, and environmental protection standards of the West Virginia program would result in greater environmental harm, such reconstruction may be exempt from the standards at subsection 4.5(a)(1) and (2), and subsection 4.6(a)(2)(A) and (b), where the sediment control requirements of CSR 38–2–5 can otherwise be met. The provisions in the State program contain grade requirements for roads. Since the Federal regulations contain no specific road grade requirements, for roads. Since the Federal regulations contain no specific road grade requirement but merely require, at 30 CFR 816.150(c), that designs include appropriate grade limits, the Director finds these provisions to be consistent with and no less effective than 30 CFR 780.37(a) and 816.150(c) concerning plans and drawings.

d. § 38–2–4.4 Infrequently Used Access Roads. This provision requires that infrequently used access roads be designed to ensure environmental protection appropriate for their planned duration and use, and be constructed in accordance with current prudent engineering practices and any necessary design criteria established by the Director. A statement has been added to clarify that prospecting roads are to be designed, constructed, maintained, and reclaimed in accordance with subsection 13.6 which governs prospecting roads. Cross references have also been revised. The Director finds the proposed amendments to be consistent with and no less effective than 30 CFR 816.150(c) concerning design and construction limits and establishments of design criteria.

Subsection 4.4 is also revised to provide that roads constructed for and used only to provide for infrequent service to facilities used in support of mining and reclamation operations may be exempt from all haulroad requirements in CSR 38–2–4, except for subsections 4.2, 4.3, 4.5(a)(1), 4.5(b), 4.6(a), 4.7, and 4.8. These "infrequently used access roads" include all roads defined as "ancillary roads" under 30 CFR 816.150(a)(3). Under the Federal regulations, ancillary roads must comply with all requirements contained in 30 CFR 816.150. To be consistent with the Federal regulations, the State program must require that all "infrequently used access roads" comply with the State program counterparts to 30 CFR 816.150. However, subsection 4.4, as proposed, would exempt infrequently used access roads from the requirements of subsection 4.9, which is the State program counterpart 30 CFR 816.150(f) pertaining to reclamation of roads. Therefore, the Director is not approving subsection 4.4 to the extent that it exempts infrequently used access roads from the requirements of subsection 4.9. The Director is also requiring the State to amend its program to require that all infrequently used access roads comply with CSR 38–2–4.9.

e. § 38–2–4.5 Construction. This provision sets forth the grade limits for the construction of haulageways or access roads and the tolerance standards for grade measurements and linear measurements. While there are no direct Federal counterparts, the Director finds these amendments to be consistent with 30 CFR 816.150(c), which requires that designs for roads contain appropriate grade limits.

f. § 38–2–4.6 Drainage Design. These amendments set forth the standards for all drainage designs of haulageways or access roads. The amendments also specify that culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation and the weight of the vehicles using the road. While there are no Federal counterparts which apply to all roads, the Director finds these amendments to be consistent with 30 CFR 816.150(c), which requires that road designs contain plans for surface drainage control, and 30 CFR 816.151(d) concerning drainage control for primary roads.

g. § 38–2–4.7 Performance Standards. These amendments are intended to set forth the performance standards for the location, design, construction, reconstruction, use, maintenance, and reclamation of roads. The Director finds the proposed amendments to be no less effective than 30 CFR 816.150(b) concerning performance standards for roads. The proposed changes governing sediment storage volume and detention time as applied to drainage from roads are intended to clarify that the regulatory authority may approve lesser storage values than 0.125 acre/feet if compliance with the applicable effluent limits and the general performance standards for roads can be achieved. OSM conducted a study of West Virginia's 0.125 acre/feet standard and determined that its application in West Virginia does not render the State program less effective than the Federal regulations at 30 CFR 816.46(c)(1)(iii) (Administrative Record Number WV–890). The study did not address the adequacy of lesser storage values. However, so long as the end result is that applicable effluent limits are not exceeded, West Virginia may allow the use of lesser storage values. Therefore, the Director finds that the proposed language, which continues to require compliance with the applicable effluent limitations and performances standards for roads and providing the regulatory authority with reasonable flexibility in implementing the West Virginia program, does not render the West Virginia program less effective than the Federal regulations at 30 CFR 816.46(c)(1)(iii) concerning siltation structures.

h. § 38–2–4.8 Maintenance. These amendments provide that roads shall be maintained to meet the West Virginia performance standards for roads and any additional standards specified by the State. Roads that are damaged by catastrophic events shall be repaired as soon as is practicable. The Director finds these amendments to be substantively identical to and no less effective than 30 CFR 816.150(e) concerning maintenance.

i. § 38–2–4.9 Reclamation. These amendments set forth the performance standards for roads that are not to be retained under the approved postmining land use. With the exception of subsection 4.9(e), the Director finds the amendments to be substantively identical to and, therefore, no less effective than 30 CFR 816.150(f)(1–4), and (6), concerning reclamation of roads. Subsection 4.9(e) contains drainage and culvert requirements for road abandonment. While there are no direct Federal counterparts, the Director finds these requirements to be consistent with and, therefore, no less effective than the requirement to protect the natural drainage contained in 30 CFR 816.150(f)(5).

j. § 38–2–4.10 Primary Roads. These amendments set forth the performance standards for primary roads. The Director finds these amendments to be substantively identical to and, therefore, no less effective than 30 CFR 816.151 concerning primary roads.

k. § 38–2–4.11. Support Facilities and Transportation Facilities. These amendments set forth the requirements for support and transportation facilities such as railroad loops, spurs, sidings, surface conveyor systems, chutes, and aerial tramways "which are under the control of the permittee." The Director is concerned that the phrase "which are under the control of the permittee" could be interpreted to exclude from these requirements certain support facilities which are within the definition of "surface coal mining operations" at 30 CFR 700.5. Therefore, the Director is approving this amendment only to the extent that it does not exclude facilities that are included within the definition of "surface coal mining operations" at 30 CFR 700.5.

l. § 38–2–4.12. Certification. This provision requires that, upon completion of construction, all primary roads for which design criteria were approved as part of the permit shall be certified. Where the certification statement for a primary road indicates a change from design standards or construction requirements in the approved permit, such changes must be documented in as-built plans and submitted as a permit revision. The Director finds the proposed language to be consistent with and no less effective than 30 CFR 816.151(a) concerning certification, and 30 CFR 774.13 concerning permit revisions.

This subsection also requires that all roads used for transportation of coal or spoil, and which are constructed outside the permitted coal extraction area shall be certified before they are used for such transportation. Finally, any roads within the coal extraction area which are constructed concurrently with progress of mining activities shall be certified in increments of 1,000 linear feet as measured from the active pit. While there are no Federal counterparts to these two proposals, the Director finds that they are consistent with 30 CFR 780.37(b) and 816.151(a).

23. CSR § 38–2–5.2 Intermitteent or Perennial Streams

The State proposes to revise this subsection to provide that before the director can approve any mining within 100 feet of an intermittent or perennial stream, the director must find that such activities will not cause or contribute to the violation of applicable State or Federal water quality standards. The Director finds that the amendment satisfies 30 CFR 948.16(aa) and can be approved. 30 CFR 948.16(aa) is hereby removed.

24. CSR § 38–2–5.4 Sediment Control

West Virginia proposes to revise paragraph (a) of this subsection to make its sediment control requirements applicable to other water retention structures, and it is deleting all references to on-bench sediment control systems. The State has also deleted the reference to the design, construction and maintenance criteria in the Technical Handbook. The Director finds that this revision satisfies the requirements of 30 CFR 948.15(k)(6) and 30 CFR 948.16(n) and can be approved. The required amendment at 30 CFR 948.16(n) is hereby removed.

Paragraph (b) is revised to make its design and construction requirements applicable to sediment control or other water retention structures used in association with the mining operation. The State has deleted references to on-bench sediment control structures. The Director finds this deletion is consistent with the deletion at paragraph 5.4(a), and does not render the West Virginia program less effective than the Federal regulations at 30 CFR 780.25, 816.45, 816.46 and 816.49.

Subparagraph (b)(12) is revised to require that foundation investigations and any necessary laboratory testing be performed to determine foundation stability design for impoundments meeting the size or other criteria of 30 CFR 77.216(a). This revision satisfies the requirement at 30 CFR 948.16(pp) and can be approved, and 30 CFR 948.16(pp) can be removed.

Subparagraph (b)(13) has been revised to require that all sediment control and other water retention structures be certified in accordance with the design requirements of the Act and regulations and other design criteria established by the Director. The Director finds the proposed language to be consistent with and no less effective than 30 CFR 780.25 concerning reclamation plans for siltation structures, impoundments, banks, dams, and embankments.

West Virginia proposes to revise paragraph (c) to make the requirements of that paragraph applicable to all embankment type sediment control or other water retention structures, including slurry impoundments. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(qq) and can be approved. 30 CFR 948.16(qq) is hereby removed.

Subparagraph (c)(3) is revised to require the installation of cutoff trenches during embankment construction to ensure stability. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(rr) and can be approved. 30 CFR 948.16(rr) is hereby removed.

Subparagraph (c)(4) is revised to require prompt notification of the State if any examination or inspection of an impoundment discloses that a hazard exists. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(ss) and can be approved. 30 CFR 948.16(ss) is hereby removed.

Subparagraph (c)(6) is revised to require that the design plan for an impoundment which meets the size criteria of 30 CFR 77.216(a) include a stability analysis which includes but is not limited to strength parameters, pore pressures, and long-term seepage conditions. Subparagraph (c)(6) also provides that the design plan will include a description of each engineering design assumption and calculation. These revisions satisfy the requirements at 30 CFR 948.16(ccc) and can be approved, and 948.16(ccc) can be removed.

Paragraph (d) has been revised to require that where sediment control or other water retention structures are constructed in sequence with the advance of the mining to allow for on-bench construction, such systems shall be constructed and certified in sections of 1,000 linear feet or less as measured from the active pit. While there is no direct Federal counterpart to the proposed language, the Director finds that the language is not inconsistent with 30 CFR 816.49(a)(3) concerning design certification.

The State proposes to revise paragraph (e) to require the inspection of sediment control or other water retention structures. The State also proposes to require that the professional engineer, licensed land surveyor, or other specialist involved in the inspection of impoundments be experienced in the construction of impoundments. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(uu) and can be approved, and 948.16(uu) can be removed.

West Virginia proposes to revise paragraph (h) to make its abandonment requirements applicable to sediment control and other water retention structures. The Director finds that these changes do not render the State program less effective than the Federal regulations, and are consistent with the required amendment at 30 CFR 948.16(n) and can be approved.

25. CSR 38–2–5.5 Permanent Impoundments

The WVDEP proposes to clarify that sediment or water retention or impounding structures left in place after final bond release must be authorized by the Director as part of the permit application or a revision to a permit. The Director finds this revision partially satisfies 30 CFR 948.16(vv) (the first sentence) and can be approved. The Director is making this finding with the assumption that the apparent typographical error in the first sentence of subsection 5.5 ("review" should be "revision") will be corrected. The State has also proposed to amend subsection 5.5(c) to require the landowner to provide for sound future maintenance of a permanent impoundment. The Director finds that this provision satisfies the requirement codified in the second sentence of 30 CFR 948.16(vv). The proposed provisions are approved, and 30 CFR 948.16(vv) is hereby removed.

26. CSR 38–2–6 Blasting

a. § 38–2–6.3(b) Public Notice of Blasting Operation. This subsection is amended to require that all local governments and residents or owners of dwellings or structures located within one-half mile of the blast site be notified of surface blasting activities incident to an underground mine. The State also proposes to require that the blasting notification be announced weekly, but in no case less than 24 hours before the blasting will occur. The Director finds the amended language to be substantively identical to and no less effective than 30 CFR 817.64(a).

b. § 38–2–6.6 Blasting Control for Other Structures. The State proposes to revise Subsection 6.6 to require that all non-protected structures in the vicinity of the blasting area be protected from damage by the establishment of a maximum allowable limit on ground vibration specified by the operator in the blasting plan and approved by the Director. The Director finds that this revision satisfies the requirement at 30 CFR 948.16(cc) and can be approved. 30 CFR 948.16(cc) is hereby removed.

c. § 38–2–6.8 Preblast Survey. Subparagraph 6.8(a) is amended to delete language that excludes a certain portions of the permit area when determining the applicability of preblast survey notification requirements. The Director finds this revision satisfies the requirements of 30 CFR 948.15(k)(7) and 948.16(l) and can be approved. 30 CFR 948.16(l) is hereby removed.

27. § CSR 38–2–8.1 Protection of Fish and Wildlife and Related Value

West Virginia proposes to add an exception to paragraphs (e)(1) and (e)(3) of Subsection 8.1 to require the use of the best technology currently available to protect raptors and large mammals, except where the Director determines that such requirements are unnecessary. The Director finds the added language to be substantively identical to and no less effective than 30 CFR 816.97(e)(1) and (3).

28. CSR § 38–2–9 Revegetation

The State proposes to revise paragraphs (g) and (h) of Subsection 9.3 to require that, in determining success on areas to be developed for forestland and wildlife resources or commercial woodlands, the trees and shrubs counted be healthy and in place for not less than two growing seasons. This revision is intended to satisfy OSM's Regulatory Reform III letter of March 6, 1990. The Director finds these amendments to be substantively identical to and no less effective than 30 CFR 816.116(b)(3)(ii) concerning revegetation, standards for success.

29. CSR § 38–2–11.1 Insurance

The State proposes to revise paragraph (a) of this subsection to clarify that liability insurance must be maintained throughout the life of the permit or any renewal thereof. The State also proposes to revise this paragraph to provide that there are no exclusions for blasting from the property damage coverage. The Director finds the proposed amendments are substantively identical to and no less effective than 30 CFR 800.60 concerning terms and conditions for liability insurance.

30. CSR § 38–2–13 Notice of Intent to Prospect

Subsection 13.1 is added to this section. Under this subsection, where prospecting operations are proposed without surface disturbance and without appreciable impacts on land, air, water, or other environmental resources, the Director may waive the requirements of this section and the bonding requirements of § 22A–3–7 of the WVSCMRA. To qualify, at least 15 days prior to commencement of any prospecting activities, the operator must file with the Director a written notice of intent to prospect. The notice must include a description of the activities to be conducted and a USGS topographic map showing the area to be prospected. The Director may approve the notice of intent subject to the findings required by paragraph (b) of Subsection 13.4. CSR 38–2–13.4(b) provides that the regulatory authority, to approve an application, must find, in writing, that the applicant has demonstrated that the prospecting operation will be conducted in accordance with section CSR 38–2–13, and other applicable provisions of the State regulations and statute, and the application. This revision is intended to satisfy in part the requirements of 30 CFR 948.15(l)(2). The Director finds that the proposed language is no less effective than 30 CFR 772.11 concerning notice requirements for exploration removing 250 tons of coal or less. The Director notes that where no surface disturbance or other appreciable impacts caused by coal exploration are anticipated, and no lands unsuitable are involved, applicants will not have some of the information required by 30 CFR 772.11, such as information related to drilling and trenching located at 772.11(b)(3) and reclamation located at 772.11(b)(5).

Subsection 38–2–13.5(b) concerning performance standards for prospecting roads is deleted and new requirements for prospecting roads are established at CSR 38–2.13.6. The new provisions provide the environmental standards relevant to the location, design, construction or reconstruction, use, maintenance, and reclamation of prospecting roads. The Director finds the proposed standards are substantively identical to and no less effective than 30 CFR 816.150 concerning general performance standards for roads.

Subsection 13.10 is revised to provide that, notwithstanding any other provision of this section, any person who proposes to conduct prospecting operations on lands which have been designated as unsuitable for surface mining pursuant to § 22A–3–22 of the WVSCMRA shall file a notice of intent in accordance with Subsection 13.3. Approval of the notice of intent shall be in accordance with Subsection 13.4. The Director finds the amendment to be consistent with and no less effective than 30 CFR 772.11(a).

31. CSR § 38–2–14.5 Hydrologic Balance

West Virginia proposes to revise paragraph (b) of this subsection to require that monitoring frequency and effluent limitations be governed by the standards set forth in a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to § 20–5–1 *et seq.* of the West Virginia Code, the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251 *et seq.* and the rules and regulations promulgated thereunder. The Director finds these amendments to be consistent with and no less effective than 30 CFR 816.42 concerning water quality standards and effluent limitations.

Paragraph (c) has been revised to require that any water discharged from a permit area and treated complies with the requirements of paragraph (b) of this subsection, pertaining to NPDES permits. The Director finds this amendment is consistent with and no less effective than 30 CFR 816.42 concerning water quality standards and effluent limitations.

Paragraph (h) has been revised to provide that a waiver of water supply replacement rights granted by a landowner can apply only to underground mining, provided that it does not exempt any operator from the responsibility of maintaining water quality. Under section 720(a)(2) of SMCRA and 30 CFR 816.41(j), the permittee must promptly replace any drinking, domestic, or residential water supply that is contaminated, diminished, or interrupted by underground mining activities conducted after October 24, 1992, if the well or spring was in existence before the permit application was received. Such water supplies may be replaced by restoring a spring or an aquifer, or by providing water from an alternative source, such as from another aquifer or from a public water supply or a pipeline from another location.

While a landowner may not desire the replacement of a water supply on his or her property, a waiver is only permissible under the circumstances set forth in paragraph (b) of the definition of "Replacement of water supply" at 30 CFR 701.5.

The definition of "Replacement of water supply" at 30 CFR 701.5 provides that, at paragraph (b), if the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

Therefore, the waiver of water supply proposed to be authorized by the State must be consistent with the definition of "Replacement of water supply" at 30 CFR 701.5. The Director notes that while section 720(a)(2) of SMCRA does not expressly authorize waivers, the regulations implementing this provision recognize that waivers are appropriate under certain circumstances, provided the permittee demonstrates that an alternative source is available. However, under the definition, no waivers (source or delivery system) are permissible if the water supply is needed for either the existing land use or the approved postmining land use.

The Director finds that the proposed language is not inconsistent with SMCRA and the Federal regulations except to the extent that the proposed waiver would not be implemented in accordance with the definition of "Replacement of water supply" at 30 CFR 701.5. The Director also finds that this revision satisfies the requirements of 948.16(q), and that 30 CFR 948.16(q) can be removed. In addition, the Director is requiring that the West Virginia program be further amended to clarify that under Section 22–3–24(b) and CSR 38–2–14.5(h), the replacement of water supply can only be waived under the conditions set forth in the definition of "Replacement of water supply," paragraph (b), at 30 CFR 701.5.

32. CSR § 38–2–14.8 Steep Slope Mining

The State proposes to revise subparagraph (1) of paragraph (a) of this subsection to provide that casting of spoil from a higher seam to a lower seam in multiple seam operations may only occur where the highwall of the lower seam intersects the outcrop of the upper seam; the lowest seam is mined first or in advance of the upper seams; and minimum bench widths based on slopes are established on the lower bench sufficient to accommodate both spoil placement from the upper seam and bench drainage structures. This revision is intended to satisfy in part the requirements of 30 CFR 948.15(1)(2) by preventing the placement of spoil on natural intervening slopes.

The Federal rules do not specifically address the use of cast blasting as a means of spoil transport in multi-seam operations. However, this practice is not inherently inconsistent with any Federal requirement. The State rule does not exempt these operations from compliance with other applicable requirements of the approved program. Instead, it would provide additional assurance that cast lasting is conducted in a safe and environmentally sound manner. For example, any State authorized cast blasting would necessarily have to comply with the approved State blasting provisions at CSR 38–2–6, such as the State rules controlling flyrock at CSR 38–2–6.5(d). The approved State requirements for the compaction and stability (a 1.3 static safety factor is required) of the backfill at CSR 38–2–14.8(a)(4) also apply. In some cases, the stability analysis might require that certain materials need to be rehandled to place spoil in its final place or to achieve adequate compaction of the backfill.

The approved State requirements for contemporaneous reclamation at CSR 38–2–14.15 also apply. The approved State prohibition at CSR 38–2–14.8(a)(1) of placing spoil on the downslope also applies. Where excess spoil is involved, the approved State requirements at CSR 38–2–14.14 would also apply. The required amendment codified at 30 CFR 948.16(xx) is being revised to require that the State amend its program at CSR 38–2–14.8(a) to specify design requirements of outcrop barriers that will be the equivalent of natural barriers and will assure the protection of water quality and insure the long-term stability of the backfill. With these considerations in mind, the Director finds that the amendment to allow the use of cast blasting is not prohibited by or otherwise inconsistent with SMCRA and the Federal regulations at 30 CFR 816.107 concerning backfilling and grading of steep slopes. The Director is taking this opportunity to delete the required amendments codified at 30 CFR 948.16(yy) and (zz). The required amendments are being removed because the West Virginia rules that had the deficiencies were never approved by the West Virginia legislature and do not appear in the latest submittal of the rules.

The State also proposes to revise subparagraph (4) of paragraph (a) to prohibit placement of woody materials in the backfill unless the Director first determines that the method of placement of woody material will not deteriorate the future stability of the backfilled area. The Director finds the amended language substantively identical to 30 CFR 816.107(d), and that this revision satisfies the requirement at 30 CFR 948.16(hh). 30 CFR 948.16(hh) is hereby removed.

33. CSR § 38–2–14.11 Inactive Status

West Virginia proposes to revise paragraph (b) of this subsection to provide that the Director may grant inactive status for a period not to exceed one-half the permit term if it is determined that the application contains sufficient information to meet all requirements of paragraph (a): Provided that where the applicant documents in the application that the operations will become inactive for more than 30 days, but will be reactivated on an intermittent and/or irregular basis during the approval period, such operations are not required to reapply for inactive status except at the termination date of the initial term of approval: Provided, however, that the Director may review the approval of inactive status during its term and require updated information pursuant to paragraph (a) and, based upon this or other information, may modify or rescind the approval prior to its initial termination date. The Director finds the amended language to be no less effective than 30 CFR 816.131 concerning temporary cessation of operations, which requires notification to the regulatory authority by the operator of any intention to temporarily cease mining for more than 30 days.

34. CSR § 38–2–14.12 Variance From Approximate Original Contour Requirements

West Virginia proposes to revise paragraph (a)(6) to provide that the Director may grant a variance from the requirements for restoring the mined land in steep slope areas to approximate original contour if the watershed of the permit and adjacent area will be improved by reducing pollutants, environmental impacts, or flood hazards; provided that, the watershed will be deemed improved only if the amount of total suspended solids or other pollutants discharged to ground or surface water from the permit area will be reduced, or flood hazards will be reduced, and if changes in seasonal flow volumes from the proposed permit area will not adversely affect surface water ecology or any existing or planned use of the surface or ground water. The Director finds that this change satisfies the requirement at 30 CFR 948.16(ii) and is no less effective than 30 CFR 785.16(a)(3)(i) and (ii). 30 CFR 948.16(ii) is hereby removed.

35. CSR 38–2–14.14 Disposal of Excess Spoil

Subsection (e)(2) provides that the valley fills shall be designed to assure a long-term static safety factor of 1.5 or greater. The Director finds that this provision satisfies 30 CFR 948.16(jj) which can be removed, and is no less effective than 30 CFR 816.71(b)(2) concerning excess spoil. 30 CFR 948.16(jj) is hereby removed.

Subsection (e)(10) is amended to limit the maximum grade from the outslope of a valley fill toward the rock core to three percent. The Director finds this amendment to be substantively identical to and no less effective than 30 CFR 816.72(b)(3) concerning slopes of valley and head-of-hollow fills.

36. CSR 38–2–14.15 Contemporaneous Reclamation Standards

West Virginia has completely revised this subsection to require that the mining and reclamation plan for each operation describe how the mining and reclamation operations will be coordinated to minimize total land disturbance and to keep reclamation operations as contemporaneous as possible with the advance of mining operations. The revised provisions specify time, distance and acreage limits for single seam contour mining, single seam contour mining and auger operations, area mining, augering, multiple seam mining, and mountaintop removal operations. The proposed rules set deadlines for existing and new operations to comply with these requirements, and they allow the Director to grant variances to specific standards with proper justification. The Director finds these amended provisions to be consistent with and no less effective than 30 CFR 816.100 concerning contemporaneous reclamation, and the backfilling and grading requirements at 30 CFR 816.102. The Director notes that 30 CFR 816.101 concerning time and distance requirements for contemporaneous reclamation is suspended (57 FR 33875; July 31, 1992) and cannot be used as a standard against which to judge the effectiveness of State programs. As such, the Federal regulations do not contain specific time and distance requirements, but only require, at 30 CFR 816.100, that reclamation efforts occur as contemporaneously as practicable with mining operations.

Subsection (m) is amended to add provisions governing the placement of coal processing waste in the backfill. Under the proposed provision, compaction shall be in accordance with CSR 38–2–22.3(p) and shall achieve a

minimum static safety factor of 1.3. The coal processing waste shall not contain acid-producing or toxic-forming material and shall be placed in a controlled manner to: minimize effects on surface and groundwater quality and quantity; ensure mass stability; ensure suitable reclamation and revegetation compatible with the postmining land use; not create a public hazard; and prevent combustion. Such disposal facilities must be designed using current prudent engineering practices and must meet any design criteria established by the regulatory authority. Designs must be certified by a qualified registered professional engineer. Any potential hazards must be promptly reported. The Director finds these amendments do not render the State program less effective than 30 CFR 816.81 (a) and (c)(1). 30 CFR 816.81(b) does not apply because the State is not proposing to allow coal waste from activities located outside the permit area to be placed in the backfill. 30 CFR 816.81(d) does not apply because the coal waste will be placed in the backfill, and not in a refuse pile. The State has proposed a static safety factor of 1.3 which is identical to that required at 30 CFR 816.102(a)(3) concerning backfilling and grading; general standards. The 1.3 static safety factor is the appropriate factor to require, since the proposed provision concerns placing coal waste in a backfill and not in a waste pile. Finally, the Director notes that all the State provisions concerning the protection of the hydrologic balance will continue to apply. The prohibition in the proposed language to the placement of acid-producing and toxic-forming material in the backfill will help assure the protection of the hydrologic balance.

37. CSR § 38–2–14–17 Control of Fugitive Dust

West Virginia proposes to revise this subsection to require that all exposed surface areas be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

The Director finds this revision to be substantially identical to and, therefore, no less effective than the Federal regulations at 30 CFR 816.95(a).

38. CSR 38–2–14.18 Utility Installations

WVDEP proposes to add a provision requiring that all surface mining operations be conducted in a manner that minimizes damage, destruction, or disruption of services provided by utilities. The Director finds the added provision to be substantially identical to and, therefore, no less effective than 30 CFR 816.180 concerning utility installations.

39. CSR 38–2–14–19 Disposal of Noncoal Waste

WVDEP proposes to add provisions to regulate the disposal of noncoal waste such as grease, lubricants, garbage, abandoned machinery, lumber and other materials generated during mining activities. Under the proposal, final disposal of noncoal waste will be in accordance with a permit issued pursuant to Chapter 22, Article 15 of the Code of West Virginia (Solid Waste Management Act). The Director finds these provisions consistent with the Federal regulations at 30 CFR 816.89(b) which allows operators to dispose of noncoal mine waste in State-appointed solid waste disposal areas outside of the permit area.

The proposed provisions would also allow timber from clearing and grubbing operations to be wind-rowed below the projected toe of the outslope. The Director finds these provisions to be non inconsistent with the Federal regulations at 30 CFR 816.89 concerning disposal of noncoal mine wastes. However, the proposed windrowing is less effective than the Federal steep slope regulations at 30 CFR 816.107(b). 30 CFR 816.107(b) prohibits the placement of debris, including that from clearing and grubbing, on the downslope in steep slope areas. Therefore, the Director is approving the proposed amendments except to the extent that windrowing would be allowed on the downslope in steep slope areas. In addition, the Director is requiring that West Virginia further amend CSR 38–2–14.19(d) to clarify that windrowing will not be allowed on the downslope in steep slope areas.

40. CSR 38–2–15.2 Backfilling and Regrading; Underground Mines

The State proposes to revise paragraph (b) of this subsection to require that reclamation activities of an underground mine be initiated within 30 days of completion of underground operations. The Director finds the proposed amendment to be consistent with 30 CFR 817.100 concerning contemporaneous reclamation.

41. CSR 38–2–16.2 Subsidence Control; Surface Owner Protection

West Virginia proposes to revise paragraph (c) of this subsection by deleting the phrase, "To the extent required under applicable provisions of State law." This revision is intended to correct the deficiency noted at 30 CFR 948.15(k)(11). The Director finds the proposed deletion does not render the West Virginia program less effective than 30 CFR 817.121(c)(2), and satisfies the deficiency noted at 30 CFR 948.15(k)(11).

42. CSR § 38–3–17 Small Operator Assistance Program (SOAP)

The State is making numerous changes to its SOAP provisions.

a. Subsection 17.1 is amended to identify services fundable under the SOAP and to provide that the State will develop procedures for the interstate exchange of SOAP information. While there is no Federal counterpart to interstate exchanges of SOAP information, the Director finds these changes to be consistent with and no less effective than 30 CFR 795.9 concerning program services and data requirements, and no less stringent than section 507(c)(2) of SMCRA, concerning the assumption of training costs.

b. Subsection 172. is amended to clarify that requests for SOAP assistance must be in writing. The Director finds the amendment to be consistent with 30 CFR 795.7 concerning filing for assistance.

c. Subsection 17.3 is amended to increase the production limit of those operators eligible for assistance under the SOAP from 100,000 to 300,000 tons. The State is also raising, at 17.3(b)(1), the threshold ownership percentage for which coal production from an operation will be attributed to the applicant from five percent to ten percent interest. Finally, the State is requiring that all coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management be attributed to the applicant. The Director finds these changes to be substantively identical to counterpart provisions at 30 CFR 795.6(a). In addition, the requirement at 30 CFR 948.16(kk) is satisfied and is hereby removed.

d. Subsection 17.4 is amended to require SOAP applicants to use application forms and format provided by the State. While there is no direct Federal counterpart, the Director finds these changes to be consistent with 30 CFR 795.7 concerning filing for assistance.

e. Subsection 17.5 is amended to provide that applicants be notified in writing of approval or denial of a SOAP application. This subsection is also amended to add that contractors may be used for SOAP assistance to qualified laboratories. The Director finds these changes to be consistent with and no less effective than 30 CFR 795.8(a) concerning application approval and notice, and 795.10(b) concerning subcontractors.

f. Subsection 17.6 is amended to add the term SOAP contractor, and to provide that the laboratory or contractor must be qualified to perform the required determinations and statements. The Director finds the changes to be consistent with and no less effective than 30 CFR 795.10 concerning qualified laboratories and subcontractors.

g. Subsection 17.7(a)(4) and 17.7(a)(5) are amended to clarify that operator liability will be based on actual and attributed annual production for all locations of 300,000 tons during the 12-month period immediately following permit issuance. The Director finds this provision to be substantively identical to and no less effective than 30 CFR 795.12(a)(2), concerning applicant liability.

Subsection 17.7(b) is amended to require applicants to submit written statements with sufficiently demonstrate that the applicant has acted in good faith at all times prior to the State waiving the reimbursement obligation. The Director finds this provision to be substantively identical to 30 CFR 795.12(b).

43. CSR § 38–2–18.3 Review of Decision Not to Inspect or Enforce

Subsection 18.3(b) has been revised to provide that any person who is or may be adversely affected by the decision of the Director not to inspect or enforce may appeal such decision to the Surface Mine Board pursuant to § 22–4–2 of the Code of West Virginia. The Director finds the amended language to be substantively identical to and no less effective than 30 CFR 842.15(d) concerning review of decision not to inspect or enforce.

44. CSR § 38–2–20.1 Inspection Frequencies

The State proposes to revise paragraph (a) of this subsection to provide that prospecting operations be inspected "as necessary" to assure compliance with the Act and these regulations. The Director finds the proposed language to be substantively identical to and no less effective than 30 CFR 840.11(c) concerning inspections by State regulatory authorities.

45. CSR § 38.2–20.2 Notices of Violations

Paragraph (a) of this subsection has been amended to provide that when the Director determines that a surface mining and reclamation operation or prospecting operation is in violation of any of the requirements of the Act, these regulations or the terms and conditions of the permit or prospecting approval, a notice of violation shall be issued. Such notice of violation shall comply with all the requirements and provisions of this subsection. In the past, pursuant to its Code of Violations, the State issued enforcement actions rather than notices of violation, for certain violations. This proposal will only allow the issuance of a notice of violation. The Director finds the added language no less effective than 30 CFR 843.12(a)(1) concerning notices of violations.

Subparagraph (b)(3) has been amended to change the maximum initial abatement period from 15-days to 30-days. This change is proposed to render the regulations consistent with 22–3–17(o) of WVSCMRA which now provides for an initial abatement period of 30 days, followed by a maximum additional abatement period of 60 days following issuance of a cessation order. The Director finds the change is reasonable and does not render the West Virginia program less effective than 30 CFR 843.12(b)(3) concerning abatement of violations, or less stringent than section 521(a)(3) of SMCRA, which allows a maximum total abatement period of 90 days, following issuance of a notice of violation and cessation order.

46. CSR § 38–2–20.4 Show Cause Orders

West Virginia proposes to revise paragraph (b) of this subsection by adding the phrase, "where violations were cited." The proposal provides that the Director may determine a pattern of violations exists or has existed where violations were cited on two or more inspections of the permit area within any 12-month period. The Director finds the proposed change to be substantively identical to and no less effective than 30 CFR 843.13(a)(2) concerning pattern of violations.

47. CSR § 38–2–20.5 Civil Penalty Determinations

Paragraph (b) has been revised to provide that the Director shall, for "any" cessation order, assess a civil penalty in accordance with § 22–3–17(a) of the WVSCMRA for each day of continuing violation, except that such penalty shall not be assessed for more than 30 days. In accordance with this change, the sentence requiring that imminent harm cessation orders shall have an initial assessment in accordance with subsection 20.7 of the regulations is deleted. The State now assesses all cessation orders, including imminent harm cessation orders, as if they were failure-to-abate cessation orders. That is, they are assessed a civil penalty at the rate of $750 per day, for 30 days, beginning with the issuance date.

The Director finds that these proposed changes return the State program to its former practice of assessing imminent harm cessation orders as failure to abate cessation orders.

This practice was included in West Virginia's original permanent program submittal, which OSM approved on January 21, 1981 (46 FR 5916–5956). However, in 1991, West Virginia proposed to change this long-standing practice to require that imminent harm cessation orders be assessed according to the State's point system at CSR 38–2–20.7. The Director did not approve this proposed change, noting that the State failed to retain the requirement that civil penalties be assessed for cessation orders in all instances, and that violations in imminent harm cessation orders be assessed an additional penalty of $750 for each day the failure to abate continues. The Director also questioned whether the State has statutory authority to assess imminent harm cessation orders using the point system (56 FR 58306, 58307; November 19, 1991). Because of these deficiencies, the Director imposed a required amendment, which is codified at 30 CFR 948.16(ddd) (*Id.* at 58311). Within the current proposal to return to its former practice, West Virginia has revised CSR 38–2–20.5(b) to require the assessment of civil penalties for "any" cessation orders, in accordance with § 22–3–17(a), which requires that failure to abate cessation orders be assessed at $750 per day for each day the failure to abate continues. As such, imminent harm cessation orders will be assessed penalties of $750 per day for each day a violation continues, both before and after the target date for abatement. Therefore, the reference to § 22–3–17(a) satisfies the deficiency noted at 30 CFR 948.15(m) and the requirement at 30 CFR 948.16(ddd) concerning initial and mandatory civil penalty assessment procedures for imminent harm cessation orders. 30 CFR 948.16(ddd) is hereby removed.

The State also proposes to revise this paragraph to provide that if the cessation order has not been abated within the 30-day period, the Director shall initiate action pursuant to § 22–3–17(b), (g), (h) and (j) of the WVSCMRA as appropriate. The term "modified" was deleted from previous language of this provision that read, "* * * abated or modified within the thirty (30) day period * * *." The Director finds this revision satisfies the requirement at 30 CFR 948.16(eee). The deletion of the word "modified" is consistent with the Federal regulations at 30 CFR 845.15(b)

concerning assessment of violations. The Director also finds that the requirement coded at 30 CFR 948.16(fff) concerning the starting and ending dates for civil penalty assessments is satisfied by the reference to § 22–3–17(a) of the WVSCMRA at CSR 38–2–20.5(b). 30 CFR 948.16 (eee) and (fff) are hereby removed.

48. CSR § 38–2–20.6 Procedures for Assessing Civil Penalties

The State proposes to revise paragraph (d) of this subsection to remove the restrictions on public participation at assessment conferences. The proposed rule provides that any person may submit in writing at the time of the assessment conference a request to present evidence concerning the violation(s) being conferenced. Such request must be granted by the assessment officer. The Director finds these changes satisfy the deficiency codified at 30 CFR 948.15(m)(2) and the requirement at 948.16(ggg). 30 CFR 948.16(ggg) is hereby removed.

Subparagraph (h) has been amended to change the citation of § 22–3–17(d)(3) or (4), to § 22–3–17(d)(1) of WVSCMRA. This change was made to be consistent with the changes made to § 22–3–17; see Finding A 11, above. The Director finds the citation changes do not render the State program inconsistent with 30 CFR Part 845 and are approved.

49. CSR § 38–2–20.7 Assessment Rates

Paragraphs (a), (b) and (c) are revised to clarify that the monetary denomination used in the assessment of civil penalties is dollars. The Director finds the revisions satisfy the requirement at 30 CFR 948.16(hhh). 30 CFR 948.16(hhh) is hereby removed.

Paragraph (d) is revised to ensure that an operator is awarded good faith only where abatement is achieved before the time set for abatement. The Director finds these revisions satisfy the deficiency codified at 30 CFR 948.15(m)(2) and the requirements of 948.16(iii). 30 CFR 948.16(iii) is hereby removed.

50. CSR § 38–2–22 Coal Refuse

a. Subsection 22.2 to require that coal refuse disposal facilities be designed to attain a minimum long-term static safety factor of 1.5 and a seismic factor of safety of 1.2. The Director finds the change satisfies the requirements codified at 30 CFR 948.16(aaa). 30 CFR 948.16(aaa) is hereby removed.

b. Subsection 22.3(p) has been revised deleting the provision that allows coal refuse piles to be constructed with slopes exceeding two (2) horizontal to one (1) vertical. The Director finds this revision satisfies the deficiency codified at 30 CFR 948.15(l)(2) and the requirements of 948.16(bbb). 30 CFR 948.16(bbb) is hereby removed.

c. Subsection 22.4(f) has been amended to provide that Class A coal refuse impoundments be designed for a minimum P_{100}+0.12 (PMP–P_{100}) inches of rainfall in 6 hours and Class B coal refuse impoundments be designed for a minimum P_{100}+0.40 (PMP–P_{100}) inches of rainfall in 6 hours. The Director finds the proposed amendments to be consistent with and no less effective than 30 CFR 816.84(b)(2).

d. Subsection 22.4(g) has been amended to add the requirement that all impoundments meeting size or other criteria of 30 CFR 77.216(a) must be designed and constructed to safely pass the probable maximum precipitation (PMP) of a 24 hour storm event. The Director finds the proposed amendment to be no less effective than 30 CFR 816.84(b)(2) concerning the design event for coal refuse disposal impoundments meeting or exceeding the criteria of 30 CFR 77.216(a) with one exception. Rainfall data for design storms is usually obtained from the U.S. Weather Service. The U.S. Weather Service's document "Rainfall Frequency Atlas," however, does not have data charts concerning PMP for a 24-hour storm event. Without such data the standard cannot be implemented. Therefore, the Director is requiring that West Virginia demonstrate how the State would implement the PMP 24-hour standard, or revise subsection 22.4(g) to require compliance with a PMP 6-hour standard. Data for the PMP 6-hour storm event is available from the U.S. Weather Service.

e. Subsections 22.4 (g) and (h) have been revised to allow the use of single open channel or open channel spillways if they are of non-erodible materials and designed to carry sustained flows or earth- or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected. The Director finds these revisions satisfy the requirements at 30 CFR 948.16(mm). 30 CFR 948.16(mm) is hereby removed.

f. Subsection 22.5(a)(2) has been amended to provide that all coal refuse sites be constructed and maintained so as to attain a minimum long-term static safety factor of 1.5, and that structures that have the capacity to impound water also attain a seismic safety factor of 1.2. The Director finds the proposed standards are consistent with the requirements contained in 30 CFR 948.16(aaa) and can be approved.

g. Subsection 22.7(a) has been amended to require that inspections of impounding refuse piles be made regularly, but not less than quarterly during construction. In addition, inspections will be made during placement and compaction of coal refuse material and during critical construction periods. Subsection 22.7(c) is amended to provide that impoundments not meeting MSHA size or other criteria be examined at least quarterly. Subsection 22.7(d) is amended to provide that a copy of each inspection or examination report be retained at or near the mine site. The Director finds the proposed amendments to be consistent with and no less effective than 30 CFR 816.83(d) concerning inspections of refuse piles, 30 CFR 816.49(a)(12) concerning impoundment examinations, and 816.49(a)(11)(iii) concerning inspection reports.

51. CSR 38–2C–4 Training of Blasters

Section 4 has been amended to add a provision that would allow applicants for certification or recertification to complete a self-study course in lieu of the existing training program. Self-study materials would be provided the State. While there is no direct Federal counterpart, the Director finds the proposed language is consistent with 30 CFR 850.13 concerning the training of blasters.

52. CSR 38–2C–5 Examination for Certification of Examiner/Inspector and Certified Blaster

Subsections 5.1 and 5.2 are amended to add that the examination for certified blaster will also test on information contained in the self-study course established by § 38–2C–4 as an option to completing the refresher training course. While there is no Federal counterpart, the Director finds the proposed language is not inconsistent with 30 CFR 850.13 concerning training of blasters.

53. CSR 38–2C–8.2 Refresher Training Course/Self-study Course

This subsection is amended to allow the completion of the self-study course established by § 38–2C–4 as an option to completing the refresher training course. While there is no Federal counterpart, the Director finds the proposed language is not inconsistent with 30 CFR 850.13 concerning training of blasters.

54. CSR 38–2C–10.1 Violations by a Certified Blaster

WVDEP proposes to remove language authorizing the Director to issue a cessation order and/or take other action as provided by the WVSCMRA § 22–3–16 and 17 when a certified blaster is in violation of WVSCMRA § 22–3–1. The Director retains authority to issue a notice of violation. While the Federal regulations do not specifically provide for the issuance of either notice of violations or cessation orders against certified blasters, the Director finds the proposed changes are not inconsistent with 30 CFR 850.15(b) concerning suspension and revocation of blaster certification.

55. CSR 38–2C–11.1 Penalties

This subsection is amended to authorize the issuance of an order to suspend a blaster's certification based on clear and convincing evidence of a violation, and to provide for a hearing to show cause why a blasters certification should not be suspended. Deleted from this subsection and from subsection 11.2, and § 38–2C–12 are reference to cessation orders. The Director finds the proposed changes to be consistent with and no less effective than 30 CFR 850.15(b) concerning suspension and revocation of blaster certification.

56. CSR 38–2D–4.4 Reclamation Objectives and Priorities

This subsection is amended to clarify its objectives and priorities for abandoned mine lands reclamation projects by indicating the provision applies to "past" coal mining practices which may or may not constitute and extreme danger. The Director finds the proposed change to be no less stringent than section 403(a)(2) of SMCRA concerning eligible lands and water.

57. CSR 38–2D–6.3(a) Acceptance of Gifts of Land

This section is revised to remove the requirement that the Director accept gifts of land in accordance with Department of Justice procedures for the acquisition of real property. The Director finds the deletion does not render the West Virginia program less effective than 30 CFR 879.13 concerning acceptance of gifts of land.

58. CSR 38–2D–8.7 Grant Application Procedures

This section is amended to remove provisions which describe procedures for completing and submitting a grant application to OSM for the reclamation of abandoned mine lands. The Director finds the proposed deletions do not render the West Virginia program less effective than the grant application procedures at 30 CFR 886.15 which contain no counterparts to the deleted language.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for public hearings on the proposed amendment on three separate occasions. Public hearings were held on September 7, 1993, October 27, 1994, and May 30, 1995, (Administrative Record Nos. WV–906, WV–958, and WV–983). OSM has published final rule notices on the provisions concerning bonding and the provisions concerning durable rock fills. Therefore, comments relating to those provisions will not be discussed here.

Following is a summary of the substantive comments. Comments voicing general support or opposition to the proposed amendment but devoid of any specific issues are not discussed. The summarized comments and responses are organized by subject. All comments and responses have been adjusted to reflect the nomenclature of the May 16, 1995, version of the regulations.

Amendment Review Process

A commenter asserted that OSM has predetermined the proposed State amendments in the **Federal Register** notice dated August 12, 1993 (58 FR 42903). Specifically, the commenter stated that OSM referred to a "satisfaction in part of a federal referenced regulation" (see proposed regulation changes #19, 20, 33, 35, 37, 50, and 53 in the August 12, 1993 notice). Such statements by OSM, the commenter asserted, indicate that a decision has already been made and that the changes will not be objectively considered by OSM. In response, the Director believes that the commenter has misunderstood OSM's intention. Under 30 CFR 732.17(h)(2)(i), OSM is required to inform the public of proposed changes to State regulatory programs, and to publish the text or a summary of the proposed State program amendments. As part of that notification, OSM also identifies those proposed amendments that are related to program deficiencies that are codified in the Federal regulations at 30 CFR 948.16 concerning required program amendments. This is done to draw the public's attention to the fact that the State is addressing program deficiencies. Sometimes, proposed amendments appear to address only part of the requirements codified at 30 CFR 948.16. In those cases, OSM often states that the proposed amendment is intended to satisfy a portion of the requirements of a specific paragraph codified at 30 CFR 948.16. In no way does such a statement by OSM mean, or imply, that OSM has predetermined whether or not the proposed amendment is approvable by OSM.

No Federal Counterpart Provisions

Some commenters made the assertion that in situations where there are no Federal counterparts to the proposed State provisions that the proposed provisions should not be of concern to OSM. In response, the Director notes that, under 30 CFR 732.17, the State must submit and OSM must review changes to approved State programs. In those cases where there are no direct Federal counterparts to the proposed State provisions, OSM will make a determination, under 30 CFR 732.15 (a) and (c), of whether or not the State provisions are in accordance with SMCRA and consistent with the Federal regulations, and that the proposed State provisions would not interfere with or preclude implementation of SMCRA or the Federal regulations.

Statutes

§ 22–3–13(b)(10) Performance standards: The commenter stated that the charge to avoid acid or toxic mine drainage implies that you have to avoid it at all costs, and that you can't have any alternative. In response, the Director notes the provision is substantively identical to section 515(b)(10)(A) of SMCRA (see Finding A9).

§ 22–3–19 Permit renewal and revision: A commenter stated that the proposed renewal fee is required only when the operator is going to continue active mining. Also, that a fee is not required for any reclamation work, including regrading and certainly not needed for the grass to grow. In response, the Director notes that under the proposed rules at CSR 38–2–3.27(a), the WVDEP may waive, under specified conditions, the requirements for permit renewal if coal removal is completed. Therefore, the $2000 filing fee may not affect permittees with only reclamation to be done.

§ 22–3–19(a)(2) Permit renewal and revision: The commenter stated that the amended statute remains more than a bit fuzzy as to whether or not the additional land area will be subject to the procedural requirements of a new permit, i.e., public notice, review and comment. The Director disagrees. The proposed language and the State's June 16, 1994 (WV–923) clarification letter, both clearly state that new areas being added to a permit at renewal will be subject to the full permitting requirements of the West Virginia program, including public review, notice, and comment.

§ 22–3–28 Special reclamation permits: The commenter said that this section should be removed from the State program even though the State has expressed interest in leaving it in the State program in the event that OSM will, in the future, approve such special permits. In response, the Director is not acting on this provision, at this time, because the State has not made any substantive changes to this section. The State will be notified via the 30 CFR part 732 process that the provisions are inconsistent with SMCRA and should be removed.

Rules

Rulemaking Authority

A commenter stated that some of the proposed rules exceed the authority granted to the Division under WV Code § 22–3–11(a) to the extent that they attempt to amend 38 CSR §§ 14.8 (steep slope mining) and 14.15 (backfilling and regrading). The commenter stated that the legislation that authorized the Division to promulgate the site-specific bonding regulations provided for a special exception from the normal rulemaking procedure (allowing the Division to proceed to final adoption without submission to the Legislature) specifically for the purpose of implementing a new bonding system, and not for any other amendments. In response, the Director notes that the West Virginia statutes at § 22–3–2 and § 22–3–13(d) authorize the director of the division of environmental protection to promulgate, administer and enforce rules pursuant to the West Virginia Surface Coal Mining and Reclamation Act. The rules the commenter referred to (CSR 38–2–14.8 and 14.15) were promulgated as legislative rules, and were approved by the State legislature. See Findings B32 and B36 above for the Director's findings on those amended rules.

General

CSR 38–2–1.2 Applicability: The commenter stated that this provision should not have retroactive application. See Section V, Director's Decision, below, for a complete explanation of the Director's retroactive approval.

Definitions

CSR 38–2–2.20 Chemical treatment: Commenters are concerned that this definition, which separates passive treatment from the definition, will lead to problems related to bond release. The specific concern is that if bond release is authorized in cases where passive treatment system (e.g., limestone drains) are maintaining water quality standards, then the risk is high that water quality will degrade after bond release as the passive treatment systems lose effectiveness. Another commenter said that there is no Federal counterpart and it should be approved. This commenter said that the definition of "chemical treatment" applies to all facets of the regulations, not just to bond release. The Director has approved the definition of "chemical treatment" except to the extent that the definition would allow bond release where passive treatment systems are used to achieve compliance with applicable effluent standards (see Finding B–2a above). Although OSM encourages the use of passive treatment systems as an integral part of surface mining and reclamation operations, the effectiveness and reliability of such passive systems to control pollutional discharges on a long-term basis has not been proven to the extent that they can be considered an effective basis for bond release.

Permits

CSR 38–2–3.7 Excess spoil: The commenters object to the removal of the authority to approve alternative design requirements for excess spoil fills. The commenter stated that identical regulations have been approved in the Virginia program at 480–03–19–816.73. In response, the Director notes that the Virginia provision was approved because it specifies criteria that such alternative designs must meet. Such criteria are not present in the West Virginia rule, and the Director did not approve the rule.

CSR 38–2–3.12 Subsidence control plan: One commenter expressed concern as to whether or not State law is still a consideration on the obligation to support the surface (from subsidence) under CSR 38–2–16.2. Another commenter stated that nothing in State SMCRA has changed to provide authority for removing the State law limitation found in the State regulation. In response, the Director notes that the deletion of the reference to state law is intended to clarify that the requirements of CSR 38–2–16.2 are not to be diminished by other State law. The amended State language is a response to the amendments made to Federal SMCRA by the Energy Policy Act of 1992. The Energy Policy Act added new section 720 to SMCRA to provide for the repair or compensation for material damage caused by subsidence, and the replacement of drinking, domestic, or residential water supplies damaged by underground coal mining operations. The Federal regulations implementing section 720 of SMCRA were published in the **Federal Register** on March 31, 1995 (60 FR 16722–16751). Neither section 720 of SMCRA nor the implementing regulations defer to State law concerning the requirements to repair or compensate for subsidence-caused material damage to dwellings and related structures or the replacement of water supplies damaged by underground coal mining operations.

CSR 38–2–3.14 Removal of abandoned coal waste piles: The commenter apparently disagrees with the proposed provision concerning the need for a permit if the coal waste material can be classified as coal using the BTU standard in ASTM D 388–88. In response, the Director notes that if a mined deposit is coal, a permit is required. Section 506 of SMCRA requires a permit if coal mining operations are to be conducted. The Federal regulations at 701.5 define surface mining activities to include the recovery of coal from deposits not in their original geologic location, which would include the reprocessing of abandoned waste piles.

CSR 38–2–3.27 Permit renewals: The commenter disagrees with the proposed language that allows the State to waive the requirements for permit renewal only where all coal extraction is completed and all backfilling and regrading will be completed within 60 days prior to the expiration date of the permit. The commenter states that Federal law only requires a permit in order to "mine" and does not require that reclamation be permitted. In response, the Director notes that the proposed State provision is consistent with and is a reasonable interpretation of the Federal requirements at 30 CFR 773.11(a) concerning the requirements to obtain permits. See Finding B–14 above for the Director's approval of this provision.

CSR 38–2–3.28 Permit revisions: The commenter disagrees with the amendments that would allow the State to determine if an updated probable hydrologic consequences (PHC) determination is necessary, or if other permit revisions are necessary. In response, the Director notes that the State requirements concerning the PHC are consistent with the Federal requirements at 30 CFR 780.21(f)(4). The State provision concerning reasonable revisions is consistent with the Federal requirements at 30 CFR 774.11(b) concerning review of permits.

CSR 38–2–3.28 Permit revisions: The commenter stated that new provisions cannot be applied retroactively. See Section V, Director's Decision, below, for a complete explanation of the Director's retroactive approval.

CSR 38–2–3.29 Incidental boundary revisions (IBR's): The commenter stated that it should be mandatory for the State to require an advertisement and a ten day public comment period for any IBR greater than 50 acres in size that might be granted pursuant to the waiver provision at the end of CSR 38–2–3.29(b)(2). The Director does not agree. A requirement to advertise in all such cases would eliminate the possibility of the regulatory authority exercising reasonable discretion in the conduct of its responsibilities. Also, neither SMCRA nor the Federal regulations require notice or comment on proposed IBR's. The approved State program does, however, provide for appeals of decisions by the regulatory authority under CSR 38–2–18.

CSR 38–2–3.34(b) and (g) Improvidently issued permits: The commenter disagrees with these amendments and stated that the provisions appear to be for the purpose of covering agency mistakes, with no regard for the coal operator. The Director disagrees. As noted in Finding B21, above, the proposed changes are consistent with the language and intent of the Federal regulations at 30 CFR 773.20 concerning improvidently issued permits and 773.15 concerning review of permit applications.

Roads

CSR 38–2–4 Haulageways or Access Roads: The commenter said there is no Federal requirement in this area. The Director disagrees. The counterpart Federal provisions are at 30 CFR 816.150 concerning roads; general, and 816.151 concerning primary roads.

CSR 38–2–4.4 Infrequently used access roads: The commenter disagrees with the need for the proposed language. The commenter stated that the key to the requirements for infrequently used access roads is use and frequency of use. Unless the road is used frequently, the operator should not be required to spend large sums of money on extensive plans, pipes, drains and other costly items. In response, the Director notes that a road's impact on the environment is only partly derived from the use of the road. The degree of alteration of the natural land configuration of the road itself can be the greater source of environmental harm. The proposed rules are designed to minimize those impacts.

Drainage and Sediment Control

CSR 38–2–5.5 Permanent impoundments: The commenter stated that permanent impoundments should be encouraged, not restricted. In response, the Director notes that the provisions concerning the retention of permanent impoundments both authorize the retention of such impoundments and ensure sound future maintenance.

Blasting

CSR 38–2–6.3(a) Public notice of blasting operations: The commenter stated that all natural gas pipelines should be included within the definition of "public utilities" at subsection 6.3(a) and be notified of the blasting schedule. Without such notice, the commenter stated, the opportunity for significant input on the specifics of the blasting plan may be lost without written notice at the permit stage. As discussed in Finding B26b, above, the proposed State language is substantively identical to and, therefore, no less effective than the Federal regulations at 30 CFR 817.64(a). The Director agrees that such notice would be valuable, however, and encourages the commenter to discuss this matter with the regulatory authority.

Insurance and Bonding

CSR 38–2–11.1 Insurance: The commenter stated that the amendment is unclear and that it seems as though blasting liability continues after blasting is continued. The Director disagrees. The State language clearly states that insurance coverage for blasting damage may be terminated prior to final bond release, but not before blasting activities have ceased. The provision also requires that even though blasting coverage may be terminated, the full amount of the liability coverage (from subsection 11.1(a)) shall continue throughout the life of the permit (or renewal).

Notice of Intent To Prospect

CSR 38–2–13.6(a)(7), (f)(6) Prospecting roads: The commenter recommended that the proposed language not be approved. There is no Federal counterpart for prospecting roads, the commenter asserted, and the proposed requirements would be expensive and not cost effective for such roads which are often infrequently used. In response, the Director notes that requirements for prospecting roads are intended to be counterparts to the Federal requirements for roads at 30 CFR 816.150, and as noted in Finding B30, above, the amendments are approved. 30 CFR 815.15(b) concerning coal exploration standards requires the application of 816.150(b) through (f) for coal exploration which causes substantial disturbance.

Performance Standards

CSR 38–2–14.5(h) Waiver of water supply replacement: The commenter stated that no waivers of water supply should be allowed because they would be inconsistent with the Energy Policy Act of 1992. In response, and as discussed above in Finding B31, above, the Director has determined that the proposed language is not inconsistent with SMCRA and the Federal regulations except to the extent that the proposed waiver would not be implemented in accordance with the definition of "Replacement of water supply" at 30 CFR 701.5. In addition, the Director is requiring that the West Virginia program be further amended to clarify that under CSR 38–2–14.5(h), the replacement of water supply can only be waived under the conditions set forth in the definition of "Replacement of water supply," paragraph (b), at 30 CFR 701.5.

CSR 38–2–14.8 Steep slope mining: A commenter stated that the downslope prohibition (in 14.8(a)(1)) seems to be a new condition and does not take into consideration the unusual geologic conditions of the southern West Virginia coal fields. In response, the Director notes that, as discussed above in Finding B32, the amendment is intended to prevent the placement of spoil on natural intervening slopes in steep slope operations. The amendment renders the State provision substantively identical to 30 CFR 816.107(b)(1), which prohibits spoil placement on the downslope.

A commenter suggested that, to improve clarity of the new language at CSR 38–2–14.8(a)(1), the phrase "multiple seam operations" be amended to read "multiple seam contour operations." The Director notes that, while the change would improve clarity, contour mining is logically implied by the amendments and the State need not be required to revise the language.

A commenter also stated disagreement with the prohibition at CSR 38–2–14.8(a)(4) concerning placement of woody material in the backfill. The commenter asserted that when done right, such placement does not cause stabilization problems. In response, the Director notes that the proposed language is substantively identical to the Federal regulations at 30 CFR 816.107(d). The State language does allow the placement of woody materials in the fill if the regulatory authority first determines that the method of placement of woody material will not deteriorate the future stability of the backfilled area.

CSR 38–2–14.15 Contemporaneous reclamation standards: The commenter

made numerous comments and provided recommended language concerning these provisions. While the comments and recommendations may have merit, the commenter is not asserting that any of the proposals are inconsistent with SMCRA or the Federal regulations. Since the Director need only decide whether amendments are in accordance with SMCRA and the Federal regulations, he will not require the State to add language to its program if it is not needed to bring the program into compliance with Federal law and regulations. As noted in Finding B36, above, the Director has determined that the State's proposed language is consistent with the Federal regulations at 30 CFR 816.100 concerning contemporaneous reclamation standards and can be approved (see Finding B36, above).

CSR 38–2–14.19(d) Disposal of noncoal mine wastes: The commenter recommended that OSM disapprove the proposal to allow the wind-rowing of timber below the toe of the outslope. The commenter stated that OSM has disapproved this practice in the past and should do so once again. As explained above in Finding B39, the Director is approving the proposed amendments except to the extent that the amendments would allow wind-rowing on the downslope in steep slope areas. Such wind-rowing in steep slope areas would be less effective than 30 CFR 816.107(b)(3).

Subsidence Control

CSR 38–2–16.2(c)(2) Subsidence control; surface owner protection: The commenter stated that deletion of the phrase "To the extent required under applicable provisions of State law" should not have been proposed because court decisions negate the validity of the disapproval of that phrase and the disapproval at 30 CFR 948.15(k)(11). In response, the Director notes that the Energy Policy Act of 1992 amended SMCRA at new section 720 to require the repair or compensation for subsidence-caused material damage to certain structures. The new SMCRA provision does not provide for a deference to State law.

Inspection and Enforcement

CSR 38–2–20.6 Procedure for assessing civil penalty: Two commenters stated that this section should be modified to ensure that it is clear that citizens with information and interests which support a coal operation or operator should be equally free to participate in assessment conferences as are citizens who are opposed. The Director disagrees that the State language is unclear. The State provision clearly states that "[a]ny person, other than the operator and Division of Environmental Protection representives, may submit in writing at the time of the conference a request to present evidence concerning the violation(s) being conferenced." Clearly, the provision does not state that the evidence must be either in support of or against the violation(s) being conferenced. The commenters also questioned why "any" person could participate in the conference, and stated that the Division of Environmental Protection should have the discretion of allowing those they feel are genuinely affected by the proceeding to attend, not just anybody or everybody who might petition. In response, the Director notes that subsection CSR 38–2–20.6(e) provides that the conference assessment officer shall consider all relevant information on the violation(s). Therefore, the assessment officer has some discretion to determine what information is relevant to the violation(s) being conferenced.

CSR 38–2–22 Coal Refuse: The commenter stated that this section should be amended to clarify that the coal refuse regulations do not apply to coal refuse placed in the backfill, but only to isolated and distinct structures designed solely or primarily for coal refuse disposal. The Director partially agrees. 30 CFR 816.81 concerning coal mine waste general requirements, provides that all coal mine waste disposed of in an area other than the mine workings or excavations shall be placed in new or existing disposal areas within the permit area. The regulations at 30 CFR 816.83 provide the standards for coal mine waste refuse piles, with particular emphasis on stability and drainage control. Coal mine waste that is placed in the backfill, however, presents potential acidity and toxicity problems that must be addressed just as those problems must be addressed if the coal waste is placed in a separate structure. The State has addressed those potential problems in its rules concerning coal refuse in the backfill at CSR 38–2–14.15(m) (see Finding B36, above). In designing those regulations, the State used applicable standards from 30 CFR 816.81 concerning coal mine waste. In approving the proposed State provisions, OSM compared them to applicable parts of 30 CFR 816.81 as the primary standards for preventing the formation of acidity and toxicity.

CSR 38–2–22.4(f) Design storm specifications: The commenter supports the proposed changes and stated that those changes bring the State standards in line with Federal standards. In response, the Director notes that as explained in Finding B50c, above, the proposed amendments are approved except to the extent that the new standards apply to impoundments that meet the size or other criteria of 30 CFR 77.216(a). 30 CFR 816.84(b)(2) provides that impoundments that meet the size or other criteria of 77.216(a) must be designed for a probable maximum precipitation (PMP) of a six-hour or greater precipitation event.

Federal Agency Comments

Pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the West Virginia program on four different occasions (Administrative Record Nos. WV–891, WV–897, WV–936, and WV–942). Comments were received from the U.S. Bureau of Land Management, the U.S. Bureau of Mines, and the U.S. Army Corps of Engineers. These Federal agencies acknowledged receipt of the amendment, but generally had no comment or acknowledged that the revisions were satisfactory.

The Mine Safety and Health Administration (MSHA) commented that CSR 38–2–14.15(m) concerning coal processing waste disposal, and CSR 38–2–14.19(d) concerning disposal of non-coal waste may be less restrictive than MSHA's requirements. For example, MSHA stated that MSHA's minimum design criteria for refuse piles (30 CFR 77.214 and 77.215) have provisions requiring the placement of clay over any exposed coal beds before constructing a refuse pile, and also prohibit the placement of any extraneous combustible materials in a refuse pile. In response, the Director notes that the State rules at CSR 38–2–14.15(m) provide that where approval for placing coal processing waste in the backfill has been granted, such placement shall be done in accordance with the compaction requirements of CSR 38–2–22.3(p). CSR 38–2–22.3(p) requires MSHA approval of any alternate construction plans for refuse piles in compacted layers exceeding two feet in thickness. In addition, the proposed language provides that the coal processing waste will not contain acid-producing or toxic-forming material. Also, CSR 38–2–14.19(c) provide that noncoal mine waste shall not be deposited in a refuse pile or impounding structure, nor shall an excavation for a noncoal mine waste disposal site be located within eight feet of any coal outcrop or coal storage area. In addition, under both of these rules, the coal processing waste would be placed in the backfill, a location from which the coal has already been removed. Finally, nothing in CSR 38–2–14.15(m) or 14.19 excuses the operator from compliance with applicable MSHA requirements. The Director recognizes the applicability of 30 CFR 77.214 and 77.215 to refuse piles.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On July 2 and August 3, 1993 (Administrative Record Nos. WV–892 and WV–896), and June 29, 1995 (Administrative Record No. WV–999) OSM solicited EPA's concurrence on the proposed amendments. On October 17, 1994 (Administrative Record No. WV–949), EPA gave its written concurrence with a condition on subsection 5.4(b)(2) of West Virginia's regulations. Subsection CSR 38–2–5.4(b)(2) is not being amended, and is not, therefore, a subject of this rulemaking. EPA also submitted comments concerning various State provisions that are not being amended. Since the provisions are not being amended, EPA's comments will not be addressed here.

EPA also responded by letter dated January 31, 1996, with its concurrence with the proposed amendments (Administrative Record No. WV–1019). In that letter, EPA provided comments in support of CSR 38–2–14.15(m) concerning the prohibition of acidic coal processing waste being placed in backfills, and § 22B–3–4(c) concerning variances to water quality standards for coal remaining operations.

V. Director's Decision

Based on the above findings, and except as noted below, the Director is approving with certain exceptions and additional requirements the proposed amendments as submitted by West Virginia on June 28, 1993, as modified on July 30, 1993; August 18, 1994; September 1, 1994; and May 16, 1995. As discussed in the findings, there are some exceptions to this approval, and those are noted below. The Director is also requiring the State to make additional changes to certain provisions to ensure that the program is no less stringent than SMCRA and no less effective than the Federal regulations. Those requirements are also noted below.

At § 22–3–13(e)—The authorization to promulgate rules that permit variances from approximate original contour is approved to the extent that it only applies to steep slope areas as defined at WVSCMRA § 22–3–13(d). The Director is requiring that West Virginia amend its program to limit such variances to industrial, commercial, residential, or public alternative postmining land use, in accordance with section 515(e)(2) of SMCRA.

At § 22B–1–7(d)—The authorization to allow temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an "unjust hardship" is not approved. The Director is requiring that West Virginia further amend § 22B–1–7(d) to be consistent with SMCRA sections 514(d) and 525(c).

At § 22B–1–7(h)—The authorization that would allow the Surface Mining Board to consider economic feasibility of treating or controlling discharges from surface coal mining operations in appeals from decisions of an order, permit, or official action is not approved. The Director is requiring that West Virginia further amend § 22B–1–7(h) to be no less stringent than SMCRA section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42, by requiring discharges to be controlled or treated without regard to economic feasibility.

At CSR 38–2–1.2(c)(1)—The termination of jurisdiction over an initial program site except to the extent that subsection (c)(1) does not require compliance with the Federal initial program regulations at Subchapter B or to the West Virginia permanent program as a prerequisite to the termination of jurisdiction. The Director is requiring that the State further amend subsection (c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program rules as a prerequisite to the termination of jurisdiction over an initial program site.

At CSR 38–2–2.92—The definition of "chemical treatment" except to the extent that the definition of "chemical treatment" would allow bond release where passive treatment systems are used to achieve compliance with applicable effluent limitations. The Director is requiring that West Virginia further amend the West Virginia program to clarify that bond may not be released where passive treatment systems are used to achieve compliance with applicable effluent limitations.

At CSR 38–2–3.1(o)—The grouping of ownership and control information is approved to the extend that all permit applicants which maintain centralized ownership and control files are also required to comply with all of the informational provisions contained in CSR 38–2–3.1.

At CSR 38–2–4.2(b)—Is approved to the extent that the provisions pertain to all roads, whether they are within or crossing a stream.

At CSR 38–2–4.4—Is approved except to the extent that it exempts infrequently used access roads from the requirements of subsection 4.9. The Director is also requiring the State to amend its program to require that all infrequently used access roads comply with CSR 38–2–4.9.

At CSR 38–2–4.11—Is approved to the extent that the provision does not exclude facilities that are included within the definition of "surface coal mining operations" at 30 CFR 700.5.

At CSR 38–2–14.5(h)—Is approved except to the extent that the proposed waiver would not be implemented in accordance with the definition of "Replacement of water supply" at 30 CFR 710.5. The Director is requiring that West Virginia further amend CSR 38–2–14.5(h) and amend § 22–3-24(b) to clarify that the replacement of water supply can only be waived under the conditions set forth in the definition of "Replacement of water supply," paragraph (b), at 30 CFR 701.5.

At CSR 38–2–14.19—Is not approved to the extent that windrowing would be allowed on the downslope in steep slope areas. In addition, the Director is requiring that West Virginia further amend CSR 38–2–14.19(d) to clarify that windrowing will not be allowed on the downslope in steep slope areas.

At CSR 38–2–22.4(g)—The Director is requiring that West Virginia demonstrate how the State would implement the PMP 24-hour standard, or revise subsection 22.4(g) to require compliance with a PMP 6-hour standard.

The Director is amending 30 CFR Part 948 to codify this decision. With respect to those changes in State laws and regulations approved in this document, the Director is making the effective date of this approval retroactive to the date upon which they took effect in West Virginia for purposes of State law. He is taking this action in recognition of the extraordinarily complex nature of the review and approval process for this amendment and the need to affirm the validity of State actions taken during the interval between State implementation and the decision being announced today. Retroactive approval of these provisions is in keeping with the purposes of SMCRA relating to State primacy and environmental protection.

To assure consistency with 30 CFR 732.17(g), which state that "[no] * * * change to laws or regulations shall take effect for purposes of a State Program until approved as an amendment," The Director's approval of the revisions, as noted in the codification below, includes West Virginia's previous and ongoing implementation of these revisions.

Retroactive approval of the revisions is appropriate because no detrimental reliance on the previous West Virginia laws or regulations has occurred for the period involved. OSM is approving these changes back only to the dates from which West Virginia began enforcing them. As support for this decision, the Director cites the rationale employed by the United States Claims Court in *McLean Hosp. Corp.* v. *United States*, 26 Cl.Ct. 1144 (1992). In *McLean*, the court held that retroactive application of a rule was appropriate where the rule was identical in substance to guidelines which had been in effect anyway during the period in question. Therefore, the Court concluded, the plaintiff could not "claim that it relied to its detriment on a contrary rule." 26 Cl.Ct. at 1148. Likewise, since the Director is approving changes which the State has been enforcing there can be no claim of detrimental reliance on any contrary West Virginia Statutes or regulations in this instance.

Making portions of the approval retroactive does not require reopening of the public comment period under section 553(b)(3) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3). The public, in general, and the coal industry in particular have had sufficient notice of these revised statutory and regulatory revisions to support retroactive OSM approval. Retroactive approval constitutes an acknowledgement of statutory and regulatory revisions which West Virginia has been implementing since the respective approval dates of these revisions at the State level, and would have been expected as a natural outgrowth of the proposal. The retroactive approval does not apply to earlier versions of these provisions to the extent that such provisions were inconsistent with Federal requirements.

Furthermore, "good cause" both under section 553(b)(3)(B) of the APA, 5 U.S.C. 553(b)(3)(B), for retroactive approval (if notice were not sufficient) and under section 553(d)(3) of APA, 5 U.S.C. 553(d)(3), for not delaying the effective date of the approval for 30 days after the publication of this **Federal Register** decision document. As noted in the findings above, many of these program revisions are needed to render the West Virginia program consistent with SMCRA and no less effective than the Federal regulations.

Failure to make OSM approval of these statutory and regulatory provisions retroactive could cause significant disruption to the orderly enforcement and administration by the State of the West Virginia program. The Director believes that the desire to avoid a significant disruption of the West Virginia program, coupled with the lack of any prejudice to the public or to the regulated community, are sufficient bases to constitute "good cause."

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State submits and obtains the Secretary's approval of a regulatory program. Similarly, 30 CFR 732.17(a) requires that the State submit any alteration of an approved State program to OSM for review as a program amendment. Thus, any changes to the state program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In oversight of the West Virginia program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by West Virginia of only such provisions. The provisions that the Director is approving today will take effect on the specified dates for purposes of the West Virginia program.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 8, 1996.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 948—WEST VIRGINIA

1. The authority citation for Part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 948.12 [Amended]

2. Section 948.12 is amended by removing and reserving paragraphs (a), (c), (d), (g) and (h).

§ 948.13 [Amended]

3. Section 948.13 is amended by removing and reserving paragraphs (a), (b), (e) and (f).

4. Section 948.15 is amended by adding paragraph (p) to read:

§ 948.15 Approval of regulatory program amendments.

* * * * *

(p)(1) *General description and effective dates.* Except as noted in paragraph (p)(3) of this section, the amendment submitted by West Virginia to OSM by letter dated June 28, 1993, as revised by submittals dated July 30, 1993; August 18, 1994; September 1, 1994; and May 16, 1995, is approved to the extent set forth in paragraph (p)(2) of this section. The effective dates of the Director's approval of the provisions identified in paragraph (p)(2) of this section are:

(i) July 1, 1990, for those statutory amendments contained in HB–202;

(ii) June 7, 1991, for those amendments contained in SB–579;

(iii) October 16, 1991, for those amendments contained in HB–217;

(iv) July 1, 1994, for those amendments contained in HB–4030;

(v) June 11, 1994, for those amendments contained in HB–4065;

(vi) February 10, 1995, for those amendments contained in SB–250;

(vii) March 10, 1995, for those amendments contained in HB–2134;

(viii) June 9, 1995, for those amendments contained in SB–287 and HB–2523;

(ix) May 2, 1993, for those rule changes submitted on June 28, 1993 (WV–889);

(x) June 1, 1991, for those changes submitted on July 30, 1993 (WV–893) which were not identified as changes in the June 28, 1993, submittal (WV–889);

(xi) June 1, 1994, for those rule changes submitted on September 1, 1994 (WV–937);

(xii) May 1, 1995, for those blaster certification revisions submitted on May 8, 1995 (WV–979);

(xiii) June 1, 1995, for those abandoned mine land revisions submitted May 8, 1995 (WV–979);

(xiv) June 1, 1995, for all remaining changes submitted on May 16, 1995 (WV–979).

(2) *Approved revisions.* Except as noted in paragraph (p)(3) of this section, the following provisions of the amendment described in paragraph (p)(1) of this section are approved:

(i) Revisions to the West Virginia Surface Coal Mining and Reclamation Act

1. § 22–1–4 through 8—Division of Environmental Protection.
2. § 22–2—Abandoned Mine Lands and Reclamation Act.
3. § 22–3–3—Definitions.
4. § 22–3–5—Surface Mining Inspectors and Supervisors.
5. § 22–3–7—Notice of Intent to Prospect.
6. § 22–3–8—Surface Mining Reclamation Permit.
7. § 22–3–9—Permit Application Requirements.
8. § 22–3–9a—Permit to Mine Two Acres or Less. [Deleted]
9. § 22–3–13—Performance Standards to the extent that subsection 13(e) only applies to steep slope areas as defined in § 22–3–13(d).
10. § 22–3–15—Inspections.
11. § 22–3–17—Notice of Violation.
12. § 22–3–18—Permit Approval.
13. § 22–3–19—Permit Renewal and Revision Requirements.
14. § 22–3–22—Designation of Areas Unsuitable for Mining.
15. § 22–3–26—Surface Mining Operations Not Subject to the Act.
16. § 22–3–28—Special Permits for Abandoned Coal Waste Piles.
17. § 22–3–40—National Pollutant Discharge Elimination System (NPDES).
18. § 22B–1–4 through 12—Environmental Boards; General Policy and Purpose, except language at § 22B–1–7(d) which allows temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an "unjust hardship" and except language at § 22B–1–7(h) which allows the Surface Mining Board to consider economic feasibility of treating or controlling discharges from surface coal mining operations in appeals from decisions of an order, permit, or official action.
19. § 22B–3–4—Environmental Quality Board.
20. § 22B–4—Surface mine board.

(ii) Revisions to the West Virginia Surface Mining Reclamation Regulations

1. CSR § 38–2–1.2—Applicability; except subsection 1.2(c)(1) to the extent that it does not require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program as a prerequisite to the termination of jurisdiction over an initial program site.

2. CSR 38–2–2—Definitions; except to the extent that the definition of "chemical treatment" at CSR 38–2–2.20 would be applied in the context of section CSR 38–2–12.2(e) to authorize bond release for sites with discharges that require passive treatment to meet discharge standards.

3. CSR § 38–2–3.1(o)—Application information to the extent that all permit applicants which maintain centralized ownership and control files are also required to comply with all of the informational provisions contained in CSR 38–2–3.1.

4. CSR § 38–2–3.4—Maps.
5. CSR § 38–2–3.6—Operation Plan.
6. CSR § 38–2–3.7—Excess Spoil.
7. CSR § 38–2–3.8—New and Existing Structures and Support Facilities.
8. CSR § 38–2–3.12—Subsidence Control Plan.
9. CSR § 38–2–3.14—Removal of Abandoned Coal Waste Piles.
10. CSR § 38–2–3.15—Approved Person.
11. CSR § 38–2–3.16—Fish and Wildlife Resources.
12. CSR § 38–2–3.25—Transfer, Assignment or Sale of Permit Rights.
13. CSR § 38–2–3.26—Ownership and Control Changes.
14. CSR § 38–2–3.27(a)—Permit Renewals and Permit Extensions.
15. CSR § 38–2–3.28—Permit Revisions.
16. CSR § 38–2–3.29—Incidental Boundary Revisions (IBRs).
17. CSR § 38–2–30—Variances.
18. CSR § 38–2–3.31(a)—Exemption for Government Financed Highway or Other Construction.
19. CSR § 38–2–3.32—Permit Findings.
20. CSR § 38–2–3.33—Permit Conditions.
21. CSR § 38–2–3.34—Improvidently Issued Permits.
22. CSR § 38–2–4—Haulageways, Roads, and Access Roads:
22a. CSR § 38–2–4.1(a)—Road Classification system;
22b. CSR § 38–2–4.2—Plans and Specifications; except CSR 38–2–4.2(b) is approved to the extent that the provisions pertain to all roads, whether they are within or crossing a stream;
22c. CSR § 38–2–4.3—Existing Haulageways or Access Roads;
22d. CSR § 38–2–4.4—Infrequently Used Access Roads; except CSR 38–2–4.4 is approved except to the extent that it exempts infrequently used access roads from the requirements of subsection 4.9;
22e. CSR § 38–2–4.5—Construction;
22f. CSR § 38–2–4.6—Drainage Design;
22g. CSR § 38–2–4.7—Performance Standards;
22h. CSR § 38–2–4.8—Maintenance;
22i. CSR § 38–2–4.9—Reclamation;
22j. CSR § 38–2–4.10—Primary Roads;
22k. CSR § 38–2–4.11—Support Facilities and Transportation Facilities except to the extent that the provision does not exclude facilities that are included within the definition of "surface coal mining operations" at 30 CFR 700.5.
22l. CSR § 38–2–4.12—Certification.
23. CSR § 38–2–5.2—Intermittent or Perennial Streams.
24. CSR § 38–2–5.4—Sediment Control.
25. CSR § 38–2–5.5—Permanent Impoundments.
26. CSR § 38–2–6—Blasting;
26a. CSR § 38–2–6.3(b)—Public Notice of Blasting Operations;
26b. CSR § 38–2–6.6—Blasting Control for Other Structures;
26c. CSR § 38–2–6.8—Preblast Survey.
27. CSR § 38–2–8.1—Protection of Fish and Wildlife and Related Values.
28. CSR § 38–2–9—Revegetation.

29. CSR § 38–2–11.1—Insurance.
30. CSR § 38–2–13—Notice of Intent to Prospect.
31. CSR § 38–2–14.5—Hydrologic Balance except to the extent that the proposed waiver at subsection (h) would not be implemented in accordance with the definition of "Replacement of water supply" at 30 CFR 701.5.
32. CSR § 38–2–14.8—Steep Slope Mining.
33. CSR § 38–2–14.11—Inactive Status.
34. CSR § 38–2–14.12—Variance From Approximate Original Contour Requirements.
35. CSR § 38–2–14.14—Disposal of Excess Spoil.
36. CSR § 38–2–14.15—Contemporaneous Reclamation Standards.
37. CSR § 38–2–14.17—Control of Fugitive Dust.
38. CSR § 38–2–14.18—Utility Installations.
39. CSR § 38–2–14.19—Disposal of Noncoal Waste is not approved to the extent that windrowing would be allowed on the downslope in steep slope areas.
40. CSR § 38–2–15.2—Backfilling and Regrading; Underground Mines.
41. CSR § 38–2–16.2—Subsidence Control; Surface Owner Protection.
42. CSR § 38–2–17—Smell Operator Assistance Program (SOAP).
43. CSR § 38–2–18.3—Review of Decision Not to Inspect or Enforce.
44. CSR § 38–2–20.1—Inspection Frequencies.
45. CSR § 38–2–20.2—Notices of Violations.
46. CSR § 38–2–20.4—Show Cause Orders.
47. CSR § 38–2–20.5—Civil Penalty Determinations.
48. CSR § 38–2–20.6—Procedures for Assessing Civil Penalties.
49. CSR § 38–2–20.7—Assessment Rates.
50. CSR § 38–2–22—Coal Refuse.
51. CSR § 38–2C–4—Training of Blasters.
52. CSR § 38–2C–5—Examination for Certification of Examiner/Inspector and Certified Blaster.
53. CSR § 38–2C–8.2—Refresher Training Course/Self-study Course.
54. CSR § 38–2C–10.1—Violations by a Certified Blaster.
55. CSR § 38–2C–11.1—Penalties.
56. CSR § 38–2D–4.4(b) Reclamation Objectives and Priorities.
57. CSR § 38–2D–6.3(a) Acceptance of Gifts of Land.
58. CSR § 38–2D–8.7(a) Grant Application Procedures.

(3) *Exceptions.*

(i) § 22–3–13—Performance Standards is not approved to the extent that subsection 13(e) applies to areas other than steep slope areas as defined in § 22–3–13(d).

(ii) § 22B–1–4 through 12—Environmental Boards; General Policy and Purpose: Language at § 22B–1–7(d) which allows temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an "unjust hardship" is not approved; and language at § 22B–1–7(h) which allows the Surface Mining Board to consider economic feasibility of treating or controlling discharges from surface coal mining operations in appeals from decisions of an order, permit, or official action is not approved.

(iii) CSR § 38–2–1.2(c)(1) concerning termination of jurisdiction over an initial program site is approved except to the extent that subsection (c)(1) does not require compliance with the Federal initial program regulations at Subchapter B or to the West Virginia permanent program as a prerequisite to the termination of jurisdiction.

(iv) CSR § 38–2–2.20 concerning the definition of "chemical treatment" is not approved to the extent that the definition would be applied in the context of section CSR 38–2–12.2(e) to authorize bond release for sites with discharges that require passive treatment to meet discharge standards.

(v) CSR § 38–2–4.4 is not approved to the extent that it exempts infrequently used access roads from the requirements of subsection 4.9.

(vi) CSR § 38–2–4.11 is not approved to the extent that the provision excludes facilities that are included within the definition of "surface coal mining operations" at 30 CFR 700.5.

(vii) CSR § 38–2–14.5(h) is not approved to the extent that the proposed waiver at subsection (h) would not be implemented in accordance with the definition of "Replacement of water supply" at 30 CFR 710.5.

(viii) CSR § 38–2–14.19 is not approved to the extent that windrowing would be allowed on the downslope in steep slope areas.

5. Section 948.16 is amended by removing and reserving paragraphs (c), (f), (i), (j), (l), (n), (q), (s), (t), (v), (w), (x), (aa), (cc), (hh), (ii), (jj), (kk), (mm), (nn), (pp), (qq), (rr), (ss), (uu), (vv), and (yy) through (iii); revising paragraph (xx); and adding paragraphs (mmm) through (uuu), reading as follows:

§ 948.16 Required regulatory program amendments.

* * * * *

(xx) By August 1, 1996, West Virginia shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection CSR 38–2–14.8(a) to specify design requirements for constructed outcrop barriers that will be the equivalent of natural barriers and will assure the protection of water quality and insure the long-term stability of the backfill.

* * * * *

(mmm) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22–3–13(e) to limit the authorization for a variance from approximate original contour to industrial, commercial, residential, or public alternative postmining land use, in accordance with section 515(e)(2) of SMCRA.

(nnn) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22B–1–7(d) to be consistent with SMCRA sections 514(d) and 525(c).

(ooo) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22B–1–7(h) to be no less stringent than SMCRA section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42, by requiring discharges to be controlled or treated without regard to economic feasibility.

(ppp) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–1.2(c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent program regulations as a prerequisite to the termination of jurisdiction over an initial program site.

(qqq) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–2.20, or otherwise amend the West Virginia program to clarify that bond may not be released where passive treatment systems are used to achieve compliance with applicable effluent limitations.

(rrr) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–4.4 to require that all infrequently used access roads comply with CSR 38–2–4.9.

(sss) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–14.5(h) and § 22–3–24(b) to clarify that the replacement of water supply can only be waived under the conditions set forth in the definition of "Replacement of water supply," paragraph (b), at 30 CFR 701.5.

(ttt) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38–2–14.19(d) to clarify that windrowing will not be allowed on the downslope in steep slope areas.

(uuu) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection 22.4(g) to require compliance with a PMP 6-hour standard, or demonstrate how the State would implement the PMP 24-hour standard at CSR 38–2–22.4(g).

6. Section 948.26 is amended by removing the text and reserving the heading as follows:

§ 948.26 Required abandoned mine land reclamation program/plan amendments. [Reserved]

[FR Doc. 96–3413 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 950

[SPATS No. WY–024–FOR]

Wyoming Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving, with certain exceptions and additional requirements, a proposed amendment to the Wyoming Abandoned Mine Land Reclamation (AMLR) plan (hereinafter referred to as the "Wyoming plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Wyoming is revising and adding statutes pertaining to noncoal lien authority and contractor eligibility. The amendment revises the Wyoming plan to be consistent with SMCRA, to incorporate the additional flexibility afforded by the revised Federal regulations, and to improve operational efficiency.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Casper Field Office, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Plan

On February 14, 1983, the Secretary of the Interior approved the Wyoming plan. General background information on the Wyoming plan, including the Secretary's findings and the disposition of comments, can be found in the February 14, 1983, **Federal Register** (48 FR 6536). Subsequent actions concerning Wyoming's plan and plan amendments can be found at 30 CFR 950.30, 950.35, and 950.36.

II. Proposed Amendment

By letter dated April 21, 1995, Wyoming submitted a proposed amendment to its plan (administrative record No. WY–AML–18–8) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming submitted the proposed amendment at its own initiative and in response to a September 26, 1994, letter (administrative record No. WY–AML–18–1) that OSM sent to Wyoming in accordance with 30 CFR 884.15(b).

The provisions of Wyoming's statute that Wyoming proposed to revise and add were: Wyoming Statute (W.S.) 35–11–1206(a) and (b), liens for reclamation on private land, and W.S. 35–11–1209(a) and (b), contractor eligibility.

OSM announced receipt of the proposed amendment in the May 18, 1995, **Federal Register** (60 FR 26704), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. WY–AML–18–9). Because no one requested a public hearing or meeting, none was held. The public comment period ended on June 19, 1995.

During its review of the amendment, OSM identified concerns relating to the provisions of W.S. 35–11–1206 and the amount of the lien placed on reclaimed private lands. OSM notified Wyoming of the concerns by letter dated August 9, 1995 (administrative record No. WY–AML–18–16). Wyoming responded in a letter dated August 29, 1995, by submitting additional explanatory information for W.S. 35–11–1206 regarding the cost of reclamation in the lien computation (administrative record No. WY–AML–18–17).

Based upon the additional explanatory information for the proposed plan amendment submitted by Wyoming, OSM reopened the public comment period in the September 20, 1995, **Federal Register** (60 FR 48678, administrative record No. WY–AML–18–18). The public comment period closed on October 5, 1995.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 884.14 and 884.15, finds, with certain exceptions and additional requirements, that the proposed plan amendment submitted by Wyoming on April 21, 1995, and as supplemented with additional explanatory information on August 29, 1995, is in compliance with the Federal regulations at 30 CFR Subchapter R and is consistent with SMCRA. Thus, the Director approves, with certain exceptions and additional requirements, the proposed amendment.

1. W.S. 35–11–1206(a) and (b), Liens for Reclamation on Private Lands

Wyoming proposed to add the following italicized language to its provisions at W.S. 35–11–1206(a), concerning liens for reclamation on private lands, by providing, in part, that

[w]ithin six (6) months after the completion of projects to restore, reclaim, abate, control or prevent adverse effects of past coal *or mineral* mining practices on privately owned land, the director [of the Abandoned Mine Land Division] shall itemize the monies expended and may file a lien against the property with the appropriate county clerk. If the monies expended result in a significant increase in property value, a notarized appraisal by an independent appraiser shall be filed with the lien. The lien shall not exceed the *cost of reclamation work or the* amount determined by the appraisal to be the increase in the *fair* market value of the land as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal *or mineral* mining practices, *whichever is less.*

In addition, Wyoming proposed the addition of the italicized language at W.S. 35–11–1206(b) to provide that

[t]he landowner may petition the district court for the district in which the majority of the land is located within sixty (60) days of the filing of the lien to determine the increase in the *fair* market value of the land. The amount reported to be the increase in value of the premises, *but not exceeding the cost of the reclamation work,* shall constitute the amount of the lien and shall be recorded with the lien.

As discussed below, the counterparts to these proposed State provisions are at sections 408 and 411(g) of SMCRA and in the Federal regulations at 30 CFR Part 882.

Section 408(a) of SMCRA requires that the lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. Section 408(b) of SMCRA provides that the landowner may petition to determine the increase in the market value of the land reclaimed and that the amount reported to be the increase in value of the premises shall constitute the amount of the lien. Section 411(g) of SMCRA allows the provisions of section 408 to be applied to noncoal sites after a State's

certification of completion of coal projects. OSM announced in the May 25, 1984, **Federal Register** (49 FR 22139) that Wyoming had certified to the completion of, or was in the process of completing, the reclamation of all known coal-related impacts eligible for funding under the State's AMLR program, and accordingly, Wyoming could use AMLR funds for noncoal projects that do not directly relate to public health or safety.

The Federal regulations at 30 CFR Part 882, which concern reclamation on private coal or noncoal land, provide at 882.12(a) that the appraisal shall state the estimated market value of the property in its unreclaimed condition and of the same property as reclaimed, and at 882.13(a), that OSM, the State, or Indian tribe has the discretionary authority to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the "fair market value."

The Director finds that the language proposed by Wyoming at W.S. 35–11–1206(a) that allows the Abandoned Mine Land Division (Division) to place liens on lands affected by past mineral mining practices after the completion of projects to restore, reclaim, abate, control, or prevent adverse impacts on such lands is consistent with sections 408 and 411(g) of SMCRA. Therefore, the Director approves the revision of W.S. 35–11–1206(a) allowing liens to be placed on private lands adversely effected by past mineral mining practices.

In addition, the Director finds that the language proposed by Wyoming at W.S. 35–11–1206 (a) and (b) that limits the lien amount to the cost of reclamation work or the increase in the fair market value in inconsistent with SMCRA and the Federal regulations to the extent that sections 408 (a) and (b) of SMCRA and the Federal regulations at 30 CFR Part 882 do not allow for a lien that is less than the increase in the fair market value of the reclaimed land (i.e., they do not provide for a lien that is equal to the cost of reclamation work if the cost of reclamation work is less than the increase in the fair market value). Therefore, although the Director approves the work "fair" in proposed W.S. 35–11–1206(a) and (b), he does not approve the phrases "cost of the reclamation work or the" and "whichever is less" in W.S. 35–11–1206(a) and the phrase "but not exceeding the cost of the reclamation work," in W.S. 35–11–1206(b). The Director requires Wyoming to remove these phrases from W.S. 35–11–1206(a) and (b).

2. W.S. 35–11–1209, Contractor Eligibility

(a) *W.S. 35–11–1209(a).*—Wyoming proposed to create W.S. 35–11–1209(a) to require that the Division will not issue a contract to any construction contractor or professional services contractor if any surface coal mining and reclamation operation owned or controlled by the contractor, or by any person who owns or controls the contractor, has any (1) delinquent abandoned mine reclamation fees, (2) Federal or State failure-to-abate cessation orders, (3) unabated Federal or State imminent harm cessation orders, (4) delinquent civil penalties issued under SMCRA, (5) bond forfeitures where the violation upon which the forfeiture was based has not been corrected, and (6) unabated violations of Federal or State laws, rules, or regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation.

There is no direct counterpart to these provisions in SMCRA. However, the Federal regulations at 30 CFR 874.16 (for coal) and 875.20 (for noncoal) do correspond to the proposed State statutory provisions and they provide that every successful bidder for an AMLR contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations and that bidder eligibility will be confirmed by OSM's automated Applicant/Violator System (AVS) for each contract to be awarded.

Wyoming proposed at W.S. 35–11–1209(a) certain provisions concerning issuance of an AMLR contract to any construction contractor or professional services contractor that are substantively identical to counterpart provisions provided at 30 CFR 773.15(b)(1), which is referenced at 30 CFR 874.16 and 875.20. Specifically, Wyoming included at paragraphs (i), (v), and (vi) delinquent abandoned mine reclamation fees, bond forfeitures involving uncorrected violations, and unabated violations of Federal and State laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation. The Director finds that the proposed criteria provided at W.S. 35–11–1209(a)(i), (v), and (vi) are in compliance with 30 CFR 874.16 and 875.20 and he approves these provisions.

Wyoming proposed at W.,S. 35–11–1209(a)(ii) and (iii) other requirements that are not in compliance with 30 CFR 874.16 and 875.20. Wyoming's proposed list of criteria that prohibit the awarding of an AMLR contract do not include all of the criteria of the referenced Federal regulation at 30 CFR 773.15(b)(1). In drafting the language for W.S. 35–11–1209(a), Wyoming used provisions substantively identical to language that previously existed in 30 CFR 773.15(b)(1). However, Wyoming was not aware of or did not take into account revisions to this Federal regulation that OSM published in the October 28, 1994, **Federal Register** (59 FR 54306).

The Federal regulations at 30 CFR 773.15(b)(1) now include, in addition to the criteria included in Wyoming's proposed statute, violations "of the Act [(SMCRA)], any Federal rule or regulation promulgated pursuant thereto, [and of] a State program." Although Wyoming's proposed language includes Federal or State failure-to-abate and imminent harm cessation orders in its criteria list used to determine a contractor's eligibility to receive an AMLR contract, it does not include Federal and State notices of violations and any other "written notification from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any Federal rule or regulation promulgated pursuant thereto; [or a] State program," which is set forth in the definition of "violation notice" at 30 CFR 773.5. Therefore, in this respect, proposed W.S. 35–11–1209(a)(ii) and (iii) are not in compliance with 30 CFR 874.16 and 875.20, which reference 30 CFR 773.15(b)(1). The Director requires Wyoming to revise W.S. 35–11–1209(a), or otherwise amend its statute, rules, and/or plan, to include as a criterion for awarding AMLR contracts, Federal and State notices of violations and any other written notification from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any Federal rule or regulation promulgated pursuant thereto; or a State program.

Additionally, Wyoming proposed in its list of criteria that prohibit the awarding of an AMLR contract at W.S. 35–11–1209(a)(iv) the criterion "delinquent civil penalty issued under SMCRA." 30 CFR 874.16 and 875.20, which by reference to the provisions of 30 CFR 773.15(b)(1), implement the provisions of section 518 of SMCRA. This section of SMCRA includes requirements for OSM civil penalty assessments. The Director interprets Wyoming's use of the phrase "delinquent civil penalty issued under SMCRA" to mean delinquent civil

penalties issued under any SMCRA State or Federal program. Using this interpretation, the Director finds that W.S. 35–11–1209(a)(iv) is in compliance with 30 CFR 874.16 and 875.20 and is consistent with section 518 of SMCRA. The Director approves this statute.

Finally, Wyoming did not indicate at proposed W.S. 35–11–1209 how the Division will determine whether a construction contractor or professional services contractor is "eligible" to receive an AMLR contract. The Federal regulations at 30 CFR 874.16 and 875.20 indicate that bidder eligibility must be confirmed by OSM's AVS for each contract to be awarded.

Because proposed W.S. 35–11–1209 does not include provisions for Wyoming to verify through AVS a contractor's eligibility, the Director requires Wyoming to revise W.S. 35–11–1209, or otherwise revise its statute, rules and/or plan to indicate that any construction contractor or professional services contractor be confirmed through AVS as eligible to receive an AMLR contract prior to receiving the award.

b. *W.S. 35–11–1209(b).*—Wyoming also proposed newly created W.S. 35–11–1209(b) to provide that "ownership and controlling interest," as used in W.S. 35–11–1209, means the same as this term means as defined at 30 CFR Part 773.5. 30 CFR 874.16 and 875.20, by referencing 30 CFR 773.15(b)(1), provide for a review of all reasonably available information concerning ownership and control links. The Federal regulations at 30 CFR 773.5 address ownership and control relationships in the definition of the terms "owned or controlled" and "owns or controls;" however, 30 CFR 773.5 does not define "ownership and controlling interest." The Director interprets W.S. 35–11–1209(b) to mean that Wyoming's term "ownership and controlling interest" has the same meaning as the Federal terms "owned or controlled" and "owns or controls" at 30 CFR 773.5. The Director also interprets Wyoming's proposed use of the terms "owned and controlled" or "owns or controls" at W.S. 35–11–1209(a) to mean the same thing as the definitions for these terms at 30 CFR 773.5. The Director finds W.S. 35–11–1209(b) to be in compliance with the ownership and control relationship definitions included at 30 CFR 773.5. Therefore, the Director approves this statutory provision.

(c) *Policy Statement Concerning AVS Contractor Eligibility at W.S. 35–11–1209.*—Wyoming provided a policy statement dated April 21, 1995, that consists of a memorandum prepared by the State's AMLR attorney and addressed to the administrator of the Division. The policy statement specifically excludes subcontractors from the requirements at W.S. 35–11–1209. Wyoming's policy states that any subcontractor would not have to receive AVS clearance before being allowed to work on an AMLR contract. There are no Federal counterpart requirements to Wyoming's proposed policy. However, the preamble for the Federal regulations at 30 CFR 874.16 and 875.20 does not address whether subcontractors must also clear AVS (May 31, 1994; 59 FR 28136, 28158 and 28164). In the absence of any Federal requirements concerning subcontractors, Wyoming's policy is not inconsistent with the Federal regulations at 30 CFR 874.16 and 875.20. If, at any time in the future, OSM decides to promulgate regulations or an interpretive rule to address subcontractors, it would notify Wyoming in accordance with 30 CFR Part 884.15(b) of any needed revisions to the Wyoming plan. For this reason, the Director finds that Wyoming's proposed policy statement issued in support of W.S. 35–11–1209 concerning subcontractors is in compliance with the Federal regulations at 30 CFR 874.16 and 875.20. Therefore, the Director approves the proposed policy statement.

V. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 30 CFR 884.15(a) and 884.14(a)(2), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Wyoming plan (administrative record Nos. WY–AML–18–10 and –11).

The Bureau of Land Management (BLM), Wyoming State Office, responded on June 8, 1995, that the degree of involvement by the subcontractor in the overall project should be considered (administrative record No. WY–AML–18–12). BLM stated that if the involvement of the subcontractor is major, the subcontractor should be subject to the same rules as the contractor. BLM also questioned whether W.S. 35–11–1209 and Wyoming's policy regarding its implementation in Wyoming would set up a system whereby a contractor in violation can have another party bid the project and then subcontract to circumvent the system.

As discussed in finding No. 2(c) above, the Federal regulations at 30 CFR 874.16 and 875.20 are silent as to whether subcontractors are required to pass the same AVS checks required for the successful bidder on an AMLR contract. Because the Federal regulations do not specifically require subcontractors to meet the eligibility requirements applied to the successful bidder for an AMLR contract, OSM cannot require Wyoming to make subcontractors comply with the requirements of W.S. 35–11–1209. In response to BLM's expressed concern that Wyoming's policy may allow a contractor who would not normally pass the AVS check to circumvent the system by becoming a subcontractor on a specific project, OSM acknowledges that the Federal regulations do not prevent this type of occurrence, however, OSM expects that these incidents would be infrequent. If OSM determines that the frequency of such occurrences is greater than expected, it would, as provided in finding No. 2(c) above, promulgate regulations or an interpretive rule to address subcontractors.

The U.S. Army Corps of Engineers responded on June 13, 1995, that it found the amendment to be satisfactory (administrative record No. WY–AML–18–13).

By letter dated June 13, 1995, the Mine Safety and Health Administration (MSHA) stated that the amendment has no apparent impact upon miners' health and safety (administrative record No. WY–AML–18–14). MSHA also indicated that its enabling legislation limits its jurisdiction to specify mining and mining-related activities and does not extend to state contractor reclamation of abandoned mine properties nor to the recovering of costs of reclamation.

The U.S. Department of Agriculture, Natural Resources Conservation Service, responded on June 16, 1995, that it had no comment on the amendment (administrative record No. WY–AML–18–15).

VI. Director's Decision

Based on the above findings, the Director approves, with certain exceptions and additional requirements, Wyoming's proposed plan amendment as submitted on April 21, 1995, and as supplemented with additional explanatory information on August 29, 1995.

The Director approves, as discussed in finding No. 1, certain revisions to

W.S. 35–11–1206 (a) and (b), concerning the placement of liens on private lands adversely affected by past coal and mineral mining practices. With the requirement that Wyoming further revise its statute, rules, and/or plan, the Director does not approve, as discussed in Finding No. 1, other revisions to W.S. 35–11–1206 (a) and (b), concerning the use of the cost of reclamation in determining the amount of liens for reclamation on private land.

With the requirement that Wyoming further revise its statute, rules, and/or plan, the Director approves, as discussed in finding No. 2(a), W.S. 35–11–1209(a), concerning contractor eligibility.

The Director approves, as discussed in finding No. (2)(b), W.S. 35–11–1209(b), concerning ownership and control relationships, and finding No. (2)(c), an April 21, 1995, policy statement for W.S. 35–11–1209, concerning subcontractors.

In accordance with 30 CFR 884.15(e), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 950.36 that Wyoming must by the date indicated submit to OSM a reasonable timetable, which is consistent with Wyoming's established administrative or legislative procedures, for submitting an amendment to the State reclamation plan.

The Federal regulations at 30 CFR Part 950, codifying decisions concerning the Wyoming plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VII. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific State, not by OSM. Decisions on proposed State AMLR plans and revisions thereof submitted by a State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix, 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 950

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 12, 1996.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, part 950 of the Code of Federal Regulations is amended as set forth below:

PART 950—WYOMING

1. The authority citation for part 950 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 950.35 is amended by adding paragraph (c) to read as follows:

§ 950.35 Approval of abandoned mine land reclamation plan amendments.

* * * * *

(c) With the exceptions of Wyoming Statute (W.S.) 35–11–1206(a) to the extent that it includes the phrases "cost of reclamation work or the" and ", whichever is less" and W.S. 35–11–1206(b) to the extent that it includes the phrase ", but not exceeding the cost of the reclamation work," the revisions to W.S. 35–11–1206 (a) and (b), concerning lien authority on private lands, and the addition of newly created W.S. 35–11–1209 (a) and (b), including the policy statement dated April 21, 1995, concerning contractor eligibility, as submitted to OSM on April 21, 1995, and as supplemented with additional information on August 29, 1995, are approved effective February 21, 1996.

3. Section 950.36 is added to read as follows:

§ 950.36 Required abandoned mine land plan amendments.

Pursuant to 30 CFR 884.15, Wyoming is required to submit to OSM by the date specified a reasonable timetable, which is consistent with Wyoming's established administrative and legislative procedures, for submitting an amendment to the State reclamation plan.

(a) By March 22, 1996, Wyoming shall submit a schedule for revising W.S. 35–11–1206(a) to remove the phrases "cost of reclamation or the" and ", whichever is less" and revising W.S. 35–11–1206(b) to remove the phrase ", but not exceeding the cost of the reclamation work,".

(b) By March 22, 1996, Wyoming shall submit a schedule for revising W.S. 1209(a), or otherwise revise its statute, rules and/or plan, to include:

(1) Notices of violation in the criteria for determining the eligibility of construction contractors or professional services contractors awarded an abandoned mine land reclamation contract; and

(2) A requirement that a contractor's eligibility shall be confirmed using OSM's Applicant/Violator System.

[FR Doc. 96–3820 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

Collection From Third Party Payers of Reasonable Costs of Healthcare Services

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule establishes a new rule under the Third Party Collection program for determining the reasonable costs of health care services provided by facilities of the uniformed services in cases in which care is provided under TRICARE Resource Sharing Agreements. For purposes of the Third Party Collection program such services will be treated the same as other services provided by facilities of the uniformed services. The final rule also lowers the high cost ancillary threshold value from $60 to $25 per 24-hour day for patients that come to the uniformed services facility for ancillary services requested by a source other than a uniformed services facility. The reasonable costs of such services will be accumulated on a daily basis. The Department of Defense is now implementing TRICARE, a major structural reform of the military health care system, featuring adoption of managed care practices in military hospitals and by special civilian contract provider networks. Consistent with TRICARE, as part of the Third Party Collection Program, DoD is transitioning to a billing and collection system in which all costs borne by DoD Medical Treatment Facilities (MTFs) will be billed by the MTF providing the care. Thus, all care performed within the facility, plus an added amount for supplemental care purchased by the facility, will be billed by the MTF. Conversely, care provided outside the MTF under other arrangements will be billed by the provider of that care.

DATES: The amendment to § 220.8(h) is effective March 15, 1996, and the amendment to § 220.8(k) is effective June 1, 1996.

FOR FURTHER INFORMATION CONTACT: LCDR Patrick Kelly, (703) 681–8910.

SUPPLEMENTARY INFORMATION: DoD published the proposed rule on August 2, 1995 (60 FR 39285–39287). We received two responses from the public during the 60 day public comment period. Both responses concerned resource sharing fee-for-service arrangements these organizations had negotiated prior to these proposed changes to 32 CFR part 220. Both comments recommended that existing resource sharing fee-for-service agreements continue to be treated as fee-for-service partnership agreements on the grounds that the proposed changes would require significant changes to their existing agreements. It is our view that the advantages of the rule overcome the temporary difficulties for TRICARE contractors. However, in response to these comments, we have decided to defer until June 1, 1996, the effective date of this change. This will give the affected contractors time to make appropriate arrangements under the new procedure.

Currently, the Third Party Collection program regulation includes a special rule for Partnership Program providers. The Partnership Program allows civilian health care providers authorized to provide care under the CHAMPUS program to provide services to CHAMPUS beneficiaries in military hospitals and to receive payment from the CHAMPUS program. Pursuant to CHAMPUS payment rules, CHAMPUS is always the secondary payer to other health insurance plans; thus, CHAMPUS may not make payment to the Partnership Program provider in cases in which the beneficiary has other health insurance. To accommodate this CHAMPUS requirement, the Third Party Collection program currently excludes Partnership Program provider services from the military hospital claims. Thus, for example, for inpatient hospital care, the Third Party Payer now receives two claims, one from the military facility for the hospital and ancillary costs, and a separate claim from the provider for the professional services.

The current practice has produced some confusion in that it is a departure from the normal procedure for claims arising from care provided by military hospitals. In addition, because the Partnership Program providers function independently from the military hospital's management system, there are no DoD standards that govern the amounts claimed by various Partnership Program providers.

DoD is now proceeding with implementation of a major managed care program, called TRICARE, in its military medical treatment facilities and CHAMPUS. Under TRICARE, regional managed care support contractors will work with military treatment facilities on a wide range of managed care activities. Among the activities of the managed care contractors is the Resource Sharing Program. Under this program, the contractor makes agreements with military hospitals in the region under which the contractor will supply personnel and other resources in order to allow the facility to increase the services it can make available to DoD health care beneficiaries. The TRICARE program is the subject of a final rule published October 5, 1995 (60 Federal Register 52078–52103), with comprehensive regulations codified at 32 CFR 199.17. TRICARE Resource Sharing Agreements are similar to Partnership Program payment arrangements in that both result in civilian providers coming into the military facility and providing care in that facility. However, a significant difference exists in the method of payment. Under the Partnership Program, payment is on a fee-for-service basis under the normal operation of the CHAMPUS program. Under Resource Sharing, the method of payment may be on a salary basis or other arrangement made by the managed care support contractor. Under the Partnership Program, the CHAMPUS second payer requirement applies. Under Resource Sharing Agreements, the overall managed care contract separates the financing from the normal CHAMPUS payment rules and allows for special payment rules.

Based on this, we are establishing a special rule for Resource Sharing Agreements. Or, more accurately, we are establishing the normal rule for Resource Sharing Agreements. That is to say that care provided in whole or in part through TRICARE Resource Sharing Agreements will be handled for purposes of third party billings just like all other services provided in the military facility, and will be billed at the same rates. The special rule applicable to the Partnership Program providers, under which two claims are made to the third party payer, will not apply under TRICARE Resource Sharing Agreements. As a result, care provided in military facilities will be billed to third party payers in the same manner and same amount, regardless of whether the professional services were provided by a military physician or Resource Sharing Agreement provider.

The TRICARE program is being phased in region-by-region throughout the United States. As it takes hold, the Partnership Program is being phased out and replaced by TRICARE Resource Sharing Agreements. Thus, possibly before the end of 1997, the special Partnership Program rule will no longer be needed, and the simpler, single-claim rule for TRICARE Resource Sharing Agreements will apply. We view this as both a simplification and an improvement in the Third Party Collection program.

DoD published the proposed rule on August 2, 1995, (60 Federal Register

39285–39287). We received two responses from the public during the 60 day public comment period. Both responses concerned resource sharing fee-for-service arrangements these organizations had negotiated prior to these proposed changes to 32 CFR part 220. Both comments recommended that existing resource sharing fee-for-service agreements continue to be treated as fee-for-service partnership agreements on the grounds that the proposed changes would require significant changes to their existing agreements. It is our view that the advantages of the rule overcome the temporary difficulties for TRICARE contractors. However, in response to these comments, we have decided to defer until June 1, 1996, the effective date of this change. This will give the affected contractors time to make appropriate arrangements under the new procedure. With respect to regulatory procedures, this final rule is not a significant regulatory action under Executive Order 12866, nor does it significantly affect a substantial number of small entities under the Regulatory Flexibility Act, nor impose new information collection requirements under the Paperwork Reduction Act.

List of Subjects in 32 CFR Part 220

Claims, Health care, Health insurance.

For the reasons stated in the preamble, 32 CFR part 220 is amended as follows:

PART 220—COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

1. The authority citation for 32 CFR part 220 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1095.

2. Section 220.8 is amended by revising paragraphs (h) and (k) to read as follows:

§ 220.8 Reasonable costs.

* * * * *

(h) *Special rule for certain ancillary services ordered by outside providers and provided by a facility of the Uniformed Services.* If a Uniformed Services facility provides certain ancillary services, prescription drugs or other procedures requested by a source other than a Uniformed Services facility and are not incident to any outpatient visit or inpatient services, the reasonable cost will not be based on the usual Diagnostic Related Group (DRG) or per visit rate. Rather, a separate standard rate shall be established based on the accumulated cost of the particular service, drugs, or procedures provided during a twenty-four hour period ending at midnight. Effective March 15, 1996, this special rule applies only to services, drugs or procedures having a cost of at least $25. The reasonable cost for the services, drugs or procedures to which this special rule applies shall be calculated and made available to the public annually.

* * * * *

(k) *Special rules for TRICARE Resource Sharing Agreements and Partnership Program providers.*

(1) *In general.* Paragraph (k) establishes special Third Party Collection program rules for TRICARE Resource Sharing Agreements and Partnership Program providers.

(i) TRICARE Resource Sharing Agreements are agreements under the authority of 10 U.S.C. 1096 and 1097 between uniformed services treatment facilities and TRICARE managed care support contractors under which the TRICARE managed care support contractor provides personnel and other resources to the uniformed services treatment facility concerned in order to help the facility increase the availability of health care services for beneficiaries. TRICARE is the managed care program authorized by 10 U.S.C. 1097 (and several other statutory provisions) and established by regulation at 32 CFR 199.17.

(ii) Partnership Program providers provide services in facilities of the uniformed services under the authority of 10 U.S.C. 1096 and the CHAMPUS program. They are similar to providers providing services under TRICARE Resource Sharing Agreements, except that payment arrangements are different. Those functioning under TRICARE Resource Sharing Agreements are under special payment arrangements with the TRICARE managed care contractor; those under the Partnership Program file claims under the standard CHAMPUS program on a fee-for-service basis.

(2) *Special rule for TRICARE Resource Sharing Agreements.* Services provided in facilities of the uniformed services in whole or in part through personnel or other resources supplied under a TRICARE Resource Sharing Agreement are considered for purposes of this part as services provided by the facility of the uniformed services. Thus, third party payers will receive a claim for such services in the same manner and for the same costs as any similar services provided by a facility of the uniformed services. This paragraph (k)(2) becomes effective June 1, 1996.

(3) *Special rule for Partnership Program providers.* For inpatient services for which the professional provider services were provided by a Partnership Program participant, the professional charges component of the bill will be deleted from the claim from the facility of the uniformed services. In these cases, the uniformed service facility's claim shall not be considered solely a "facility charge." As an all-inclusive bill, room and board, nursing services and all ancillary services (radiology, pharmaceuticals, respiratory therapy, etc.) are factored into the bill. The third party payer will receive a separate claim for professional services directly from the individual health care provider. The same is true for the professional services provided on an outpatient basis under the Partnership Program. Claims from Partnership Program providers are not covered by 10 U.S.C. 1095 or this part, but are governed by statutory and regulatory requirements of the CHAMPUS program.

* * * * *

Dated: February 12, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–3518 Filed 2–20–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 95–055]

RIN 2115–AF18

Recreational Vessel Fees

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: As part of the President's Regulatory Reinvention Initiative review, the Coast Guard is removing obsolete regulations requiring payment of recreational vessel fees (RVF). The High Seas Driftnet Fisheries Enforcement Act of 1992 repealed the authority for RVF beginning with fiscal year 1995. The Coast Guard stopped collecting the fees on October 1, 1994. The RVF regulations are no longer valid and are being removed from the Code of Federal Regulations.

EFFECTIVE DATE: February 21, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Carlton Perry, Project Manager, Auxiliary, Boating, and Consumer Affairs Division, (202) 267–0979.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended 46 U.S.C. 2110 and required the Secretary of Transportation to establish a fee or charge for recreational vessels and to collect it annually in fiscal years (FY) 1991 through 1995 from the vessel owner or operator. The Act applied to recreational vessels greater than 16 feet in length, operated on the navigable waters of the United States where the Coast Guard has a presence. The Coast Guard issued regulations in 33 CFR subpart 1.30 to implement the Act, after notice and public comment (56 FR 30244; July 1, 1991).

Section 501 of the High Seas Driftnet Fisheries Enforcement Act (Pub. L. 102–582), enacted November 2, 1992, amended 46 U.S.C. 2110(b)(1) to reduce the number of recreational vessels subject to the annual fee by changing the vessel length categories subject to the fee for fiscal years 1993 and 1994, and by eliminating the fee on October 1, 1994. The Coast Guard revised 33 CFR subpart 1:30 by publishing an interim final rule (58 FR 8884; February 17, 1993) and final rule (59 FR 22129; April 29, 1994).

As part of the President's Regulatory Reinvention Initiative review, the Coast Guard is removing the regulations which established a recreational vessel fee (RVF). This rule is the final action to implement Pub. L. 102–582. It removes the RVF regulations in 33 CFR Subpart 1.30 which are no longer necessary.

Because the fees were eliminated by Pub. L. 102–582 on 1 October, 1994, and the fees have not been collected since then, the Coast Guard finds good cause, under 5 U.S.C. 553 (b)(3)(B) and (d)(3), why notice and public procedure before publication of the rule are unnecessary and that the rule should be made effective in less than 30 days after publication.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order, nor has it been reviewed by the Office of Management and Budget. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Assessment is unnecessary.

Collection of Information

The information collection approved for 33 CFR subpart 1.30 by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) expired on January 1, 1995. The subpart number was 33 CFR subpart 1.30 and the former corresponding OMB approving number was OMB Control Number 2115–0588. This rule contains no collection-of-information requirements under the Paperwork Reduction Act.

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria of Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.e(34)(a) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority de.egations (Government agencies), Freedom of information, Penalties, Fees.

Subpart 1.30—[Removed]

Under the authority of 14 U.S.C. 633, subpart 1.30 is removed.

Dated: February 5, 1996.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 96–3698 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–59–1–6928a; FRL–5400–7]

Approval and Promulgation of Implementation Plans Florida: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) submitted by the State of Florida through the Florida Department of Environmental Protection (FDEP) for the purpose of including the Small Business Stationary Source Technical and Environmental Compliance Assistance Program rules in the Florida Administrative Code, Chapters 17–202.100 through 17.202.400. This implementation plan was submitted by the State on August 12, 1994.

DATES: This action is effective April 22, 1996 unless notice is received March 22, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the material submitted by the State of Georgia may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia

30365. The telephone number is 404/347–3555 x4195.

SUPPLEMENTARY INFORMATION:

Implementation of the CAA will require small businesses to comply with specific regulations in order for areas to attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the EPA to oversee the small business assistance program and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of title V of the CAA and the EPA guidance document *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*. In order to gain full approval, the state submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a state Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. The plan must also determine the eligibility of small business stationary sources for assistance in the PROGRAM. The plan includes the duties, funding and schedule of implementation for the three PROGRAM components.

Section 507 (a) and (e) of the CAA set forth requirements the State must meet to have an approvable PROGRAM. The State of Florida has addressed these requirements and has established a PROGRAM which was approved by EPA on February 14, 1995 (See 60 FR 6306). As a result of the preceding requirements, the State of Florida through the FDEP on August 12, 1994, submitted a revision to include rules for the PROGRAM in the Florida Administrative Code, Chapters 17–202.100 through 17.202.400. The following is a brief description of what each chapter addresses:

1. Chapter 17–202.100 establishes procedures for notifying small businesses of their rights and assures an opportunity for public comment on any petition filed by any air pollution source seeking inclusion in the small business assistance program.

2. Chapter 17–202.200 identifies the definition of the words and phrases used in Chapter 17.202.

3. Chapter 17–202.300 outlines the procedures for notifying small businesses of the rights and obligations to federal and state requirements.

4. Chapter 17–202.400 establishes the procedures that will be used by the Department to provide public notice and comments on actions taken by the state.

Final Action

In this action, EPA is approving the SIP revision to include the Small Business Stationary Source Technical and Environmental Compliance Assistance program in the Florida Administrative Code, Chapter 17–202, that was submitted by the State of Florida through the Department of Environmental Protection. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 22, 1996 in the **Federal Register**, unless notice is received by March 22, 1996 that adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published with this action. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 22, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

By today's action, the EPA is approving a State program created for the purpose of assisting small business stationary sources in complying with existing statutory and regulatory requirements. The program being approved today does not impose any new regulatory burden on small business stationary sources; it is a program under which small business stationary sources may elect to take advantage of assistance provided by the State. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* versus *Environmental Protection Agency*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA"), P.L. 104–4, establishes requirements for the Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Through submission of the SIP or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The submission approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the submission being approved by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: December 11, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(92) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(92) The Florida Department of Environmental Protection has submitted revisions to the Florida State Implementation Plan on August 12, 1994. These revisions address including the Small Business Stationary Source Technical and Environmental Program in the Florida Administrative Code, Chapter 17–202.

(i) Incorporation by reference.

(A) Chapter 17–202, Small Business Stationary Source Technical and Environmental Compliance Assistance Program adopted on June 30, 1994.

(ii) Additional material. None.

[FR Doc. 96–3790 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MI37–01–6713a; FRL–5422–5]

Approval and Promulgation of State Implementation Plan; Michigan; Site-Specific SIP Revision for the Enamalum Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves a revision to the Michigan State Implementation Plan (SIP) for ozone that was submitted on August 26, 1994 by the State of Michigan. This revision is a site-specific SIP revision that determines the appropriate reasonably available control technology (RACT) level for volatile organic compound (VOC) emissions from the Enamalum Corporation Novi, Michigan facility. This approval of the site-specific SIP revision allows for a limit higher than that found in the control technology guidance (CTG) document for this source category. Approval of this site-specific SIP revision is based upon the argument that the Enamalum Corporation facility cannot afford the controls normally required by the State's RACT rule. In the proposed rules section of this **Federal Register**, the EPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's consent order that has been incorporated by reference.

DATES: This "direct final" is effective on April 22, 1996, unless EPA receives adverse or critical comments by March 22, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6960.

SUPPLEMENTARY INFORMATION:

I. Background

The Enamalum Corporation owns a facility located in Novi, Michigan that

performs metal coating operations. Because this facility is located in what was the Detroit-Ann Arbor moderate ozone nonattainment area and because its VOC emissions exceed the applicability cutpoint found in Michigan's RACT rule for this source category (*R 336.621 Emission of volatile organic compounds from existing metallic surface coating lines* or "Rule 621"), it is subject to the RACT requirements for this source category. The State of Michigan has adopted the requirements found in EPA's CTG for this source category ("Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface coating of Miscellaneous Metal Parts and Products") and the State's Rule 621 has been approved into the federally enforceable Michigan SIP.

The EPA issued CTG requires the prescriptive coating limit of 3.5 pounds of VOC per gallon of coating, minus water, as applied. Michigan's Rule 621 reflects this requirement.

The State of Michigan issued a consent order, Stipulation for Entry of Final Order By Consent SIP No. 6–1994, to the Enamalum Corporation that allows this facility to exceed the VOC emission limit established in Michigan's Rule 621. Specifically, the consent order allows the facility to use coatings with a 6.5 pounds of VOC per gallon of coating (minus water) as applied, limit.

The State of Michigan, on behalf of the Enamalum Corporation, has submitted to EPA a site-specific SIP revision requesting that the State's consent order now be approved into the Michigan SIP.

II. Evaluation of State Submittal

Michigan submitted this site-specific SIP revision to the EPA on August 26, 1994 under the signature of the Governor's designee, Roland Harmes, Director of the former Michigan Department of Natural Resources (now called the Michigan Department of Environmental Quality, but for purposes of this document the abbreviation "MDNR" will be used). The EPA found this rule to be complete in a letter to Roland Harmes dated November 8, 1994. The MDNR followed the required legal procedures for adopting this rule which are prerequisites for EPA to consider including this rule in Michigan's federally enforceable ozone SIP. A public comment period on this rule was open from March 25, 1994 through April 26, 1994, and a public hearing for this rule was held on April 26, 1994.

The MDNR has submitted for approval into the federally enforceable SIP the consent order that it has issued for the Enamalum Corporation's Novi facility. The basis for arguing that this site-specific SIP revision should be approved into the SIP, is that this facility cannot reasonably afford the controls required by Michigan's Rule 621.

A number of controls have been considered by the Enamalum Corporation and none have been found to be considered reasonable and have been eliminated as potential RACT options.

A. Process Description

The Enamalum Corporation applies a high performance architectural coating, Kynar 500, to aluminum extrusions used on commercial, storefront, and high-rise buildings. The Kynar 500 coating emits, on average, 6.1 pounds of VOC per gallon of coating when applied. This coating is being used because it meets the American Architectural Manufacturer's Association (AAMA) specification 605.2–1985 as a high performance architectural coating. Few other coatings are able to meet both this AAMA standard and the VOC RACT limit.

B. Control Scenario I—Powder Coatings

Powder coatings are currently available as substitutes for the liquid Kynar 500 coating. These powder coatings are able to meet both the AAMA standard and the Michigan VOC RACT limit but are not considered reasonable in terms of cost for the Enamalum Corporation.

The Enamalum Corporation is currently using powder coatings on some of its products but has not been able to use these coatings in a cost-effective manner on their outdoor products that will be exposed to extreme environmental conditions. The Enamalum Corporation has found that the amount of powder coating needed to produce a desirable product would increase the cost of the product to such a degree that their customers would no longer purchase their product. The cost of coating more than doubles when powder coatings are used in place of the liquid Kynar 500 coating. Also, the company has provided information indicating that the cost of powder coatings as means of a VOC control is beyond what would normally be considered RACT on a dollars per ton of VOC controlled basis. For these reasons, the use of powder coatings has been eliminated as a RACT option on basis of economic reasonability.

C. Add-On Incineration

The use of an add-on incinerator, like the use of powder coating, is considered to be a technically feasible way to control the emissions of VOCs from this source. However, because of economic considerations, it has also been eliminated as a RACT option.

Add-on incineration generally is considered to be economically reasonable on a dollars per ton of VOC reduced basis. However, MDNR was found that the expense of an incinerator is not affordable for this specific source.

The Enamalum Corporation has submitted information demonstrating that the net present value of the company after purchasing and operating an incinerator would be less than the net present value of the company if the facility were to shut down. When a company is able to make this demonstration for a control technique, this control technique is considered to be unaffordable by that company.

III. Final Rulemaking Action

The EPA approves Michigan's site-specific SIP revision, thereby making this consent order federally enforceable.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on April 22, 1996. However, if we receive adverse comments by March 22, 1996, EPA will publish a document that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256–66 (1976).

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: February 2, 1996.

Michelle D. Jordan,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(103) to read as follows:

§ 52.1170 Identification of Plan.

* * * * *

(c) * * *

(103) On August 26, 1994 Michigan submitted a site-specific SIP revision in the form of a consent order for incorporation into the federally enforceable ozone SIP. This consent order determines Reasonably Available Control Technology (RACT) specifically for the Enamalum Corporation Novi, Michigan facility for the emission of volatile organic compounds (VOCs).

(i) Incorporation by reference. The following Michigan Stipulation for Entry of Final Order By Consent.

(A) State of Michigan, Department of Natural Resources, Stipulation for Entry of Final Order By Consent No. 6–1994 which was adopted by the State on June 27, 1994.

[FR Doc. 96–3788 Filed 2–20–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[MN28–02–7253; FRL–5402–2]

Approval and Promulgation of Implementation Plans (Minnesota)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving a year-round oxygenated fuels program as a revision to Minnesota's State Implementation Plan (SIP) for carbon monoxide (CO). The use of oxygenated fuels can reduce emissions of CO from vehicles, thereby reducing the threat to human health posed by CO, which can contribute to heart and lung disease and reduce the concentration of oxygen in the blood stream. Minnesota already has an approved SIP which requires the use of oxygenated fuels during the winter; the extension of the oxygenated fuels program beyond the winter months will serve as the contingency measure required for nonattainment plans under section 172(c)(9) of the Clean Air Act (the Act). USEPA's action is based upon a SIP revision request which was submitted by the State to satisfy the requirements of the Act.

DATES: This final rule is effective on March 22, 1996.

ADDRESSES: Copies of the SIP revision request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone Alexis Cain at (312) 886–7018 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AT–18J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Alexis Cain, Air Toxics and Radiation Branch, Regulation Development Section (AT–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–7018.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On November 12, 1993, the Commissioner of the Minnesota Pollution Control Agency submitted elements of a contingency measure for the carbon monoxide nonattainment area in the Twin-Cities area of the State. This area includes the following counties which comprise the CO control area: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, and Wright.[1] The State's

[1] St. Louis County (in the Duluth-Superior, Wisconsin MSA) was redesignated to attainment for carbon monoxide on April 14, 1994. The maintenance plan contains a "park and ride" measure to reduce vehicle miles traveled in the event maintenance cannot be assured. If the first choice measure (park and ride) does not succeed in reducing the CO concentrations the State will

Continued

CO contingency plan consists of an expansion of the State's existing wintertime oxygenated gasoline program to a year-round program beginning on October 31, 1995. The program requires gasoline sold in the control area of the Twin Cities to contain no less than 2.0 percent oxygen and average 2.7 percent oxygen during the control period. On January 25, 1994, the USEPA issued a letter stating that the submittal was complete except for two items: the public hearing process and a report of the results of a study regarding the year-round use of ethanol as the oxygenate and its effect on summer-time ozone concentrations. The results of the public hearing process were received in a letter from the Commissioner of the MPCA on January 26, 1994, and contained the required information demonstrating that the public process was carried out. The letter included a report prepared by an environmental consultant regarding the year-round use of ethanol in the State. USEPA requested this report because of the potential for increased evaporative emissions of hydrocarbons resulting from splash blending ethanol in gasoline. The emission of hydrocarbons during summertime conditions results in the formation of tropospheric ambient ozone.

The State submittal was submitted to satisfy the provisions under section 172(c)(9) of the Clean Air Act (Act), which requires contingency measures in moderate CO nonattainment areas with design values of 12.7 parts per million or less. These contingency measures must be implemented in the event the area fails to attain the national standard by December 31, 1995. Contingency measures, once triggered, are to take effect automatically, without further rulemaking action by the State or the Administrator. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions.

A proposed rulemaking was published in the June 1, 1995 **Federal Register** (60 FR 28557), which proposed approval of the CO contingency SIP, but raised invited public comment on three issues: potential increases in ozone concentrations as a result of the use of oxygenated fuels in the summer months; potential problems in enforcing the program in the event that a possible future increase in the price of ethanol (which is the oxygenate in use in Minnesota) gives fuel retailers and/or blenders an incentive not to comply with the program, and the need to define an endpoint for reporting purposes in the oxygenate program.

consider the implementation of an oxygenated gasoline program.

II. Public Comment/USEPA Response

USEPA received comments on the proposed rulemaking from KOCH Refining and the Minnesota Department of Agriculture.

KOCH Refining Comments and USEPA Response

KOCH requested that the USEPA disapprove the proposed contingency measure because:

(1) There is no need for summertime CO reductions, based on current and historical summertime CO ambient monitoring;

(2) The lack of an end point for reporting purposes will lead to unnecessary regulatory complications;

(3) There is great potential for increases in ambient ozone concentrations due to use of year-round oxygenated fuel; and

(4) There is great potential for adverse impacts in price and availability of gasoline in the event of reduction or curtailment of federal or state subsidies for ethanol production and blending.

Comment 1: There is no need for summer time CO reductions, based on current and historical summertime CO ambient monitoring.

While there has not been a violation of the CO air quality standard since 1991, several of the exceedances which contributed to violations between 1987 and 1991 were registered outside of the current four-month program period. Moreover, the most recent exceedance of the standard occurred during the summer of 1995. Therefore, the USEPA believes that the extension of the program beyond the winter months, which seems to have been effective in reducing ambient CO concentrations, will be useful in providing a margin of protection against exceedances outside of the current program period.

Comment 2: The lack of an end point for reporting purposes will lead to unnecessary regulatory complications.

In the proposal action, USEPA noted that while the oxygenated gasoline program requires reports to be submitted by registered blenders of oxygenated fuels at the end of the control period, the end of the control period has not been defined for the year-round program. The State has been made aware of this minor technical problem, and is exploring means to correct it. The USEPA believes that this problem can be resolved without difficulty, and that it is not an adequate reason to delay final rulemaking.

Comment 3: There is great potential for increases in ambient ozone concentrations due to use of year-round oxygenated fuel.

The addition of ethanol to gasoline raises the vapor pressure of the mixture to a level higher than that of either of the two components. The USEPA allows a one pound per square inch (psi) waiver for gasolines containing up to 10 volume percent ethanol. So, for example, the vapor pressure of gasoline sold during summer months is limited to nine psi. However, a gasoline blend of 10 volume percent ethanol may have a vapor pressure of 10 psi. This increase in vapor pressure may lead to higher evaporative emissions of volatile organic compounds (VOCs), which are precursors of ozone, potentially increasing the formation of ozone.

While the use of oxygenated fuels during the summer (the ozone season) may lead to increases in ambient ozone concentrations, the USEPA has no basis for disapproving the CO contingency SIP request since there is no information available that indicates that it will lead to violations of the ozone NAAQS. Section 110(l) of the Act prohibits USEPA from approving a SIP if it would interfere with any applicable requirement concerning attainment or reasonable further progress, or any other applicable requirement of the Act. Since Minnesota has no nonattainment areas for ozone, reasonable further progress is not an issue; the only concern is whether use of oxygenated fuels jeopardizes the attainment status of the Twin Cities.

KOCH argues that a possible tightening of the ozone NAAQS could make it more difficult to avoid a violation. However, USEPA cannot base its current rulemaking on speculation about future changes in the standard. Koch also argues that the possibility of hotter summers in the future, which would be more conducive to ozone formation, makes it risky to implement the oxygenated fuels program during the summer. However, USEPA concludes that there is no available evidence that use of oxygenated fuels will lead to violation of the standard in the Twin Cities. Air quality data show no exceedances or violations of the ozone standard in the last four years, with the last exceedance recorded in 1990. Moreover, there is some dispute over the extent to which ethanol will increase ozone formation. A study contracted by MPCA (discussed below) found that ethanol might slightly reduce ozone formation; while USEPA disputes this study's methodology and still believes that some ozone increases are possible as a result of the oxygenated fuels program, the magnitude of these increase in the Twin Cities cannot be determined. Furthermore, ethanol blends are already in use year-round in Minnesota, with 50 percent or greater market penetration during the past 3 ozone seasons, without causing an exceedance of the ozone standard. An increase from more than 50 percent use of ethanol blends to nearly 100 percent is not likely to lead to a significant increase in ozone.

The Minnesota Pollution Control Agency submitted a contractor's report which suggested that the use of ethanol would not cause violations of the ozone standard.[2] The USEPA reviewed the report and found that it was flawed in a number of areas including: uncertainty on how to take into account VOC reactivity; incorrect speciation profiles; inability to replicate exhaust VOC benefit of the ethanol blends; lack of evidence to support the contention of an enrichment benefit for ethanol, and the use of excessively high highway speeds in the modelling. Despite USEPA's criticism of this study, no new information was submitted by the consultant or the State. The USEPA's comments on this report remain unchanged. However, KOCH did not provide any additional studies which demonstrate that there will be ozone violations as a result of summertime ethanol use.

Comment 4: There is great potential for adverse impacts in price and availability of gasoline in the event of reduction or curtailment of federal or state subsidies for ethanol production and blending.

Koch expressed concern that federal codification of this existing program will reduce the State's ability to respond flexibly to price increases and disruptions in availability. KOCH believes that a hypothetical reduction or elimination of federal and State ethanol subsidies, which amount to as high as 89 cents per gallon of pure ethanol, will not lead to "cheating" as suggested in the USEPA proposal. Instead, Koch is concerned that limited oxygenate availability would lead to a tight supply of blended specification gasoline and price increases. Koch expects the potential for shortages to increase in 1997 when the oxygenated gasoline program area is expected to be expanded to cover the entire State.

The State does not expect or anticipate a change in the subsidy program associated with the use of ethanol. If there is a change in State and/or Federal subsidies, the USEPA believes the state does have the flexibility to discontinue the measure, assuming that no violation of the CO NAAQS occur. The USEPA would retain the contingency measure as a Section 172(c) requirement, however, which the State would need to implement if the area fails to attain the CO standard by the attainment date. If the area fails to attain and the State shuts the program off, the USEPA has the authority to require the implementation or continued operation of the program. If the area is in attainment (through a redesignation process) and the State wishes to eliminate the program as even a contingency measure, the State would need to identify a substitute contingency program.

[2] Systems Applications International, Ozone Impact of Year-Round Oxy-Fuel Program in Minnesota, San Rafael, CA, January 10, 1994.

Minnesota Department of Agriculture Comments and USEPA Response

The Minnesota Department of Agriculture objected to statements in the proposed rulemaking that the year-round use of ethanol could lead to increased ozone pollution. The Department of Agriculture argues that air quality studies have shown that increased ozone will not result.

As stated above, USEPA does not believe that this issue has been resolved conclusively. While it is possible to make a case that increased ozone concentrations may result from summertime use of oxygenated gasoline, it cannot be shown that violations of the NAAQS will result. Thus, USEPA is approving the program.

III. Rulemaking Action

The USEPA is approving the Minnesota year-round oxygenated fuels program as the CO contingency measure required for nonattainment plans under section 172(c)(9) of the Clean Air Act.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

Note—Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: November 6, 1995.

David A. Ullrich,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401—7671q.

Subpart Y—[Amended]

2. Section 52.1220 is amended by adding paragraph (c)(43) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(43) On November 12, 1993, the State of Minnesota submitted a contingency plan to control the emissions of carbon monoxide from mobile sources by use of oxygenated gasoline on a year-round basis. The submittal of this program satisfies the provisions under section 172(c)(9) and 172(b) of the Clean Air Act as amended.

(i) Incorporation by reference.

(A) Laws of Minnesota for 1992, Chapter 575, section 29(b), enacted by the legislature and signed into law on April 29, 1992.

[FR Doc. 96–3789 Filed 2–20–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300411; FRL–4995–9]

RIN 2070–AC78

Acrylate Polymers/copolymers; Exemptions From The Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document establishes a generic exemption from the requirement of a tolerance for acrylate polymers and copolymers when used as inert ingredient in pesticide formulations applied on raw agricultural commodities. This tolerance exemption covers the acrylate polymers/copolymers which are intrinsically safe and already listed in the TSCA inventory or will meet the polymer tolerance exemption from requirements of premanufacturing notification. Polymers that are exempted can be used as dispensers, resins, fibers, and beads, as long as the fibers, beads and resins particle sizes are greater than 10 microns and insoluble in water. Polymers with high molecular weights (3,000 to 100,000 daltons) are generally not readily absorbed through the intact skin or intact gastrointestinal (GI) tract. Polymers with particle size greater than 10 microns are generally not readily absorbed by respiration. Chemicals not absorbed through the skin, GI tract, and respiratory system are generally incapable of eliciting a toxic response. This exemption pertains to the acrylate polymers/copolymers used as inert ingredient for sprayable and dispenser pesticide formulations that are used on food crops. Any acrylate polymers/copolymers used for encapsulating material must be cleared as an inert ingredient when used in pesticide formulations that are applied on food crops.

EFFECTIVE DATE: This regulation becomes effective February 21, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP OPP–300411], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington , DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to:opp-docket@epamail.epa.gov.

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300411]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Freshteh Toghrol, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor, Crystal Station 1, 2800 Crystal Drive, Arlington, VA 22202; (703) 308–7014, e-mail:toghrol.freshteh@epamail.epa.gov

SUPPLEMENTARY INFORMATION: In the November 15, 1995 **Federal Register** (PF–631; FRL–4971–5) EPA issued a notice of filing PP 5E4524 at the request of Russel Cook Associates, REDA Bldg., Suit 217, 401 S.E. Dewey, Bartlesville, OK 74005, on behalf of Biosys, by establishing an generic exemption from the requirement of a food tolerance for acrylate polymers and copolymers which fit the Toxic Substances Control Act (TSCA) definition of polymers which are intrinsically safe. This tolerance exemption covers the acrylate polymers/copolymers that are already listed in the TSCA inventory or will meet the polymer tolerance exemption under 40 CFR 723.250 as amended on March 29, 1995.

I. Background

Inert ingredients are substances, other than the active ingredient, which are intentionally included in a pesticide product as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients: solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers, copolymers, and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" does not imply lack of toxicity; the ingredient may or may not be chemically active.

For the purposes of this exemption, acrylate polymers/copolymers used as inert ingredients in an end-use formulations must meet the definition for a polymer as given in 40 CFR 723.250 (b), are not automatically excluded by 40 CFR 723.250 (d), and meet the tolerance exemption criteria 40 CFR 723.250 (e)(1), 40 CFR 723.250 (e)(2) or 40 CFR 723.250(e)(3). Therefore, acrylate polymers and copolymers that are already listed in the TSCA inventory or will meet the polymer tolerance exemption under 40 CFR 723.250 as amended on March 29, 1995 are covered by this exemption.

The Agency believes that the acrylate polymers/copolymers meeting the criteria noted above and outlined as follows will present minimal, if any risk to human health when used as inert ingredients in pesticide formulations applied to growing raw agricultural commodities.

1. The acrylate polymer/copolymers minimum molecular weight may range from 3,000 to greater than 100,000 daltons as are established under 40 CFR 180.1112 and 40 CFR 180.1001(c). Substances with high molecular weights (greater than 3,000 daltons to 100,000 daltons) are generally not readily absorbed through intact skin or intact gastrointestinal (GI) tract, respectively. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. These acrylate polymers/copolymers can be used as dispensers, fiber, resin, and beads, as long as the fiber, bead and resin sizes are well over 10 microns and are insoluble in water. Acrylate polymers/copolymers of high molecular weight with well over 10 micron particle size are generally not absorbed by inhalation.

3. The acrylate polymers and copolymers that are exempted are not cationic or are not anticipated to be converted (by degradation or decomposition) to a cationic state.

4. Acrylate and methacrylate are listed as high-concern reactive functional groups. Therefore, to meet the exemption criteria § 723.250 (e)(1)(ii)(C) the minimum permissible combined functional group equivalent weight is 5,000 daltons, when a number-average molecular weight (NAVG MW) of a polymer is greater than 1,000 and lower than 10,000 daltons. Additionally, in this range of molecular weight (greater than 1,000 and less than 10,000 daltons) the polymer must contain less than 10 percent oligomer content of molecular weight below 500 daltons and less than 25 percent oligomer content of molecular weight below 1,000 daltons.

5. The polymers with NAVG MW equal to or greater than 10,000 daltons (§ 723.250 (e)(2)), the polymer must contain less than 2 percent oligomer content of molecular weight below 500 daltons and must not exceed 5 percent oligomer content of molecular weight below 1,000 daltons. Water soluble polymers in this molecular weight range are excluded from exemption under § 723.250(d), with no restriction regarding the functional group.

6. For a polymer or polyester to meet the exemption criteria § 723.250 (e)(3), each feedstock, monomer or reactant in the chemical identity of the polymers at greater than 2 percent composition must be on the list. Excluded from this exemption would be biodegradable polyesters and highly water-absorbing polyester with NAVG MW greater than 10,000 daltons.

7. The acrylate polymers and copolymers must contain as an integral part of their composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, sulfur, or silicon (40 CFR § 723.250(d)(3)). A previous requirement in the 1984 rule stated that an eligible polymer contain at least 32 percent carbon. This requirement was deleted since cases reviewed to date contain less than 32 percent carbon, have either received low concern rating, or have been excluded for other reasons.

8. Certain other elements are permitted in the acrylate polymers and copolymers as an integral part of the polymers, except if present as impurities. The allowed elements (40 CFR § 723.250(d)(3)), in addition to the atomic elements carbon, hydrogen, nitrogen, oxygen, sulfur, silicon (C, H, N, O, S, Si) are: fluorine, chlorine, bromine, and iodine (F, Cl, Br, and I) when covalently bonded to carbon, and monoatomic counterions such as chlorine, bromide, and iodide (Cl-,Br-, I-), sodium, magnesium, aluminum, potassium, and calcium (Na+, Mg+2, Al+3, K+, and Ca+2). Less than 0.2 percent weight total (in any combination) of the atomic elements lithium, boron, phosphorus, titanium, manganese, iron, nickel, copper, zinc, tin, and zirconium (Li, B, P, Ti, Mn, Fe, Ni, Cu, Zn, Sn, and Zr) are permitted. No other elements are permitted except as impurities.

9. The acrylate polymers and copolymers are not biopolymers, they are synthetic equivalents of a biopolymer, or derivatives or modifications of a biopolymer that is substantially intact. These polymers do not contain reactive functional groups that are anticipated to be converted to a cationic state.

10. The acrylate polymers and copolymers are not designated or reasonably anticipated to be substantially degraded, decomposed, or depolymerized. Based upon the above information and review of its use, EPA has found that when used in accordance with good agricultural practice, these inert ingredients are useful and a tolerance is not necessary to protect public health. Therefore, EPA proposes that the exemptions from the requirement of tolerance be established for acrylate polymers/copolymers used as inert ingredient for pesticide formulations.

II. Filing of Objections

Any person adversely affected by this regulation may, within 30 days after publication of this document, file written objections and/or request a hearing with the Hearing Clerk and a copy submitted to the OPP docket for this rulemaking at the addresses given above.

III. Regulatory Assessment Requirement

A. Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12866.

B. Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Dated: February 7, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

2. By adding new § 180.1162 to subpart D to read as follows:

§ 180.1162 Acrylate Polymers and Copolymers; exemption from the requirement of a tolerance.

(a) Acrylate polymers and copolymers are exempt from the requirement of a tolerance when used as inert ingredients in pesticidal formulations applied to growing, raw agricultural commodities. This tolerance exemption covers the acrylate polymers/copolymers that are intrinsically safe and already listed in TSCA inventory or will meet the polymer tolerance exemption from requirements of premanufacturing notification under 40 CFR 723.250. Polymers exempted can be used as dispensers, resins, fibers, and beads, as long as the fibers, beads and resins particle sizes are greater than 10 microns and insoluble in water. This exemption pertains to the acrylate polymers/copolymers used as inert ingredients for sprayable and dispenser pesticide formulations that are applied on food crops. Any acrylate polymers/copolymers used for encapsulating material must be cleared as an inert ingredient when used in pesticide formulation applied on food crops.

(b) For the purposes of this exemption, acrylate polymers/copolymers used as inert ingredients in an end-use formulation must meet the definition for a polymer as given in 40 CFR 723.250(b), are not automatically excluded by 40 723.250(d), and meet the tolerance exemption criteria in 40 CFR 723.250(e)(1), 40 CFR 723.250 (e)(2) or 40 CFR 723.250(e)(3). Therefore, acrylate polymers and copolymers that are already listed in the TSCA inventory or will meet the polymer tolerance exemption under 40 CFR 723.250 as amended on March 29, 1995 are covered by this exemption.

[FR Doc. 96–3858 Filed 2–20–96; 8:45]
BILLING CODE 6560–50–F

40 CFR Part 180

[PP 5F4476/R2203; FRL–5350–6]

RIN 2070–AB78

Hexythiazox; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document establishes a tolerance for the combined residues of the acaricide hexythiazox, trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million of the parent compound), in or on the raw agricultural commodity apples. Gowan Company requested this regulation to establish a maximum permissible level for residues of the acaricide pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective February 21, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [PP 5F4476/R2203], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 5F4476/R2203]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of May 3 1995 (60 FR 21815), which announced that Gowan Company, P.O. Box 5569, Yuma, AZ 85366-5569, had submitted a pesticide petition (PP 5F4476) to EPA requesting the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to establish a tolerance for the combined residues of the acaricide hexythiazox, trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million of the parent compound), in or on the raw agricultural commodity apples at 0.05 parts per million (ppm). In a letter dated October 10, 1995, Gowan requested that the pesticide petition be amended by proposing a lower tolerance on apples at 0.02 ppm. No comments were received in response to the notice of filing.

The data submitted in support of this tolerance and other relevant material have been reviewed. The toxicological and metabolism data considered in support of this tolerance are discussed in detail in a related document published in the **Federal Register** of April 26, 1989 (54 FR 17947).

The Agency has classified hexythiazox as a class C (possible human) carcinogen based on a significantly increased incidence of hepatocellular carcinomas (p=0.028), and adenomas/carcinomas combined (p=0.024) in female mice at the highest dose tested (1,500 ppm) when compared to the controls as well as a significantly increased (p<0.001) incidence of preneo-plastic hepatic nodules in both males and females at the highest dose tested (1,500 ppm). The decision supporting a Category C classification (rather than a Category B) was based primarily on the fact that only one species was affected (mouse), mutagenicity assays did not support upgrading to a B classification, and structure-activity relationship of hexythiazox to other compounds supported a C classification. In classifying hexythiazox as a Category C carcinogen, the Agency concluded that a quantitative estimate of the carcinogenic potential for humans should be calculated because of the increased incidence of malignant liver tumors in the female mouse. Thus, a Q_1^* of 3.9×10^{-2} (mg/kg/day)$^{-1}$ in human equivalents has been calculated.

A full review of the data indicates that although hexythiazox is a carcinogen in mice, the risks would be extremely small from the proposed use on apples. Estimated dietary carcinogenic risk to the general population based on the highly conservative assumption that all apples are treated with hexythiazox and would bear residues at the proposed tolerance level is estimated to be 2×10^{-6}. This is slightly higher than 1×10^{-6} a level which is generally considered of negligible risk concern by the Agency. The Agency believes that actual exposure and risk would be lower. The basis for this is that the risk estimate reflects a worst-case dietary exposure because it assumes that 100 percent of all apples consumed in the United States are treated with hexythiazox and that all quantities of the food consumed would bear residues levels as high as the proposed tolerance. In reality, the Agency knows that all apples would not be treated with this pesticide and expect that even apples receiving maximum treatment will have residues far below tolerance level. For example, in field trials conducted using application rates 10 times the label amount, residues in apples still did not exceed the tolerance level. Further, the maximum residue level in apple juice would be expected to be less than 50 percent of the residue level in whole fruit.

Based on an assessment of the cancer risks of the proposed use of hexythiazox, the Agency believes that the proposed use of hexythiazox on apples will pose an extremely small risk to humans.

A chronic dietary exposure/risk assessment has been performed for hexythiazox using a Reference Dose (RfD) of 0.025 mg/kg-bwt/day. The RfD was based on a NOEL of 2.5 mg/kg/day from a 1-year dog feeding study and a safety factor of 100. The endpoint effect of concern was hypertrophy of the adrenal cortex in both sexes, decreased red blood cell counts, hemoglobin content and hematocrit in males. The

analysis was performed using tolerance level residues and 100% crop treated information. The exposure for established tolerances and the current action is estimated at 0.000051 mg/kg-bwt/day and utilizes 0.2% of the RfD for the U.S. population. For non-nursing infants less than 1 year old (the sub-group population with the highest exposure level), the exposure for established tolerances and the current action is estimated at 0.000600 mg/kg-bwt/day and utilizes 2.4% of the RfD. Generally speaking, the Agency has no concern if dietary exposure is less than the RfD for all published and proposed tolerances.

The nature and metabolism of the chemical in plants and animals for the use is adequately understood. Since the petitioner has included the label restriction "Do not graze or feed livestock on cover crops growing in treated areas" and hexythiazox animal feeding studies indicate that there is no reasonable expectation of finite residue transfer to meat, milk, poultry and eggs, no secondary residues in meat or milk are expected. Adequate analytical methodology (gas liquid chromatography with an electron capture detector) is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the *Pesticide Analytical Manual, Vol. II* (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from Calvin Furlow, Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5232.

The tolerances established by amending 40 CFR part 180 will be adequate to cover residues in or on apples. There are presently no actions pending against the continued registration of this chemical. Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 5F4476/R2203] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper version of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystall Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget [OMB]). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 8, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 continues to read as follows:

PART 180—[AMENDED]

1. The authority citation of part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. By amending § 180.448 in the table therein and alphabetically inserting an entry for apples, to read as follows:

§ 180.448 **Hexythiazox; tolerances for residues.**

* * * * *

Commodity	Parts per million
Apples	0.02
* * * * *	

[FR Doc. 96–3721 Filed 2–20–96; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 282

[FRL–5345–2]

Underground Storgae Tank Program; Approved State Program for Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 3007, 7003, 9005, and 9006 of RCRA. This rule codifies in part 282 the prior approval of Maine's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation shall be effective April 22, 1996, unless EPA publishes a prior **Federal Register** notice withdrawing this immediate final rule. All comments on the codification of Maine's underground storage tank program must be received by the close of business March 22, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of April 22, 1996.

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST 5–3), Underground Storage Tank Program, HPU–CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203–2211. Comments received by EPA may be inspected in the public docket, located in the Waste Management Division Record Center, 90 Canal St., Boston, MA 02203 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas Burns, Underground Storage Tank Program, HPU–CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203–2211. Phone: (617) 573–9663.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a **Federal Register** document announcing its decision to grant approval to Maine. (57 FR 36, February 24, 1992). Approval was effective on March 18, 1992.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 3007, 7003, 9005, and 9006 of Subtitle I of RCRA, 42 U.S.C. 6927, 6973, 6991d and 6991e. Today's rulemaking codifies EPA's approval of the Maine underground storage tank program. This codification reflects the state program in effect at the time EPA granted Maine approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Maine program, and EPA is not now reopening that decision nor requesting comment on it.

Codification provides clear notice to the public of the scope of the approved program in each state. Revisions to state underground storage tank programs are necessary when federal statutory or regulatory authority is modified. By codifying the approved Maine program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Maine, the status of federally approved requirements of the Maine program will be readily discernible. Only those provisions of the Maine underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Maine's underground storage tank program, EPA has added § 282.69 to title 40 of the CFR. Section 282.69 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.69 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under Subtitle I of RCRA.

The Agency retains the authority under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Maine enforcement authorities will not be incorporated by reference. Forty CFR § 282.69 lists those approved Maine authorities that would fall into this category

The public also needs to be aware that some provisions of the Maine's underground storage tank program are not part of the federally approved state program. These are:

- Registration requirements for farm or residential tanks less than or equal to 1,100 gallons containing motor fuels for non-commercial use;
- Registration requirements for tanks used for storing heating oil for consumptive use on the premises; and
- Permanent closure requirements for tanks containing heating oil consumed on the premises where stored.

These non-approved provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.69 of the codification simply lists for reference and clarity the Maine statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA; the State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (57 FR 36, February 24, 1992) to approve the Maine underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: September 21, 1995.

John P. DeVillars,

Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

2. Subpart B is amended by adding § 282.69 to read as follows:

Subpart B—Approved State Programs

§ 282.69—Maine State-Administered Program.

(a) The State of Maine is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Maine Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Maine program on February 18, 1992, and the approval was effective on March 18, 1992.

(b) Maine has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 3007, 7003, 9005 and 9006 of RCRA, 42 U.S.C. 6927, 6973, 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Maine must revise its approved program to adopt new changes to the federal Subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Maine obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) Maine has final approval for the following elements submitted to EPA in Maine's program application for final approval and approved by EPA on February 18, 1992. Copies may be obtained from the Underground Storage Tank Program, Maine Department of Environmental Protection, AMHI Complex-Ray Building, Hospital Street, Augusta, ME 04333. The elements are listed below:

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Maine Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Maine Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Title 38 Maine Revised Statutes Annotated, Sections 561 through 570.

(B) The regulatory provisions include: Maine Regulations for Registration, Installation, Operation and Closure of Underground Oil Storage Facilities Chapter 691 Section 1 through 13.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Title 38 Maine Statutes Annotated, Section 565, insofar as it refers to registration requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

(B) Maine Environmental Protection Regulations Chapter 691, Section 6 regulations of heating oil facilities for consumption on premises, Section 9 facilities for underground storage of heavy oils.

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of Maine on December 5, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Maine to EPA, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application in November 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application in December 20, 1991, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region I and the Maine Department of Environmental Protection, signed by the EPA Regional Administrator on November, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to part 282 is amended by adding in alphabetical order "Maine" and its listing.

Appendix A To Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Maine

The following is an informational listing of the state requirements incorporated by reference in part 282 of the Code of Federal Regulations:

(a) The statutory provisions include: Maine Revised Statutes Annotated, 1990, Tile 38.

Subchapter 11–B Underground Oil Storage Facilities and Groundwater Protection.
Section 561—Findings; Purpose
Section 562–A—Definitions
Section 563—Registration of underground oil storage tanks
Section 563–A—Prohibition of nonconforming underground oil storage facilities and tanks
Section 563–B—Regulatory powers of department
Section 564—Regulation of underground oil storage facilities
Section 566–A—Abandonment of underground oil storage facilities and tanks
Section 567—Certification of underground tank installers
Section 568—Cleanup and removal of prohibited discharges
Section 568–A—Fund coverage requirements
Section 568–B—Fund Insurance Review Board
Section 569–A—Ground water Oil Clean-up Fund
Section 570—Liability

(b) The regulatory provisions include State of Maine, Department of Environmental Protection, Regulation for Registration, Installation, Operation and Closure of Underground Storage Facilities Chapter 691, September 16, 1991:

Section 1. Legal Authority
Section 2. Preamble
Section 3. Definitions
Section 4. Registration of Underground Oil Storage Tanks
Section 5. Regulation of Motor Fuel, Marketing & Distribution Facilities
A. Applicability
B. Design and Installation Standards for New and Replacement Facilities
C. Retrofitting Requirements for Existing Facilities
D. Monitoring, Maintenance, & Operating Procedures for Existing, New & Replacement Facilities & Tanks
E. Facility Closure and Abandonment
Section 7. Regulation of Facilities for the Underground Storage of Waste Oil
A. Applicability
B. Design and Installation Standards
C. Operation, Maintenance, Testing, Requirements for Existing, New and Replacement Facilities
D. Closure & Abandonment of Waste Oil Facilities
Section 8. Regulation of Field Constructed Underground Oil Storage Tanks
Section 10. Regulation of Pressurized Airport Hydrant Piping Systems
Section 11. Regulations for Closure of Underground Oil Storage Facilities
A. Facility Closure Requirements
B. Temporarily Out of Service Facilities and Tanks
C. Abandonment by Removal
D. Abandonment by Filling in Place
E. Notification Requirements
Section 12. Discharge and Leak Investigation, Response and Corrective Action Requirements
Section 13. Severability
Appendix A: Cathodic Protection Monitoring
Appendix B: Hydrostatic Piping Line Tightness Tests
Appendix C: Requirements for Pneumatic Testing
Appendix D: Installation of Underground Tanks
Appendix E: Installation for Underground Piping
Appendix F: Specification for Ground Water Vertical Monitoring Wells
Appendix H: Monitoring and Obtaining Samples for Laboratory Analysis
Appendix J: Requirements for Abandonment by Removal
Appendix K: Requirements for Abandonment in Place

[FR Doc. 96–3587 Filed 2–20–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5421–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of the Lewisburg Dump Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Lewisburg Dump site in Lewisburg, Tennessee, from the National Priorities List (NPL), which is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State have determined that all appropriate Fund-financed responses under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment. This deletion does not preclude future actions under Superfund.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Femi Akindele, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Superfund Remedial Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347–7791, extension 2042.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Lewisburg Dump Superfund Site, Lewisburg, Tennessee.

A Notice of Intent to Delete for this site was published on December 20, 1995, (60 FR 65616). The closing date for comments on the Notice of Intent to Delete was January 11, 1996. EPA received no comments.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 2 of appendix B to part 300 is amended by removing the site for Lewisburg Dump, Lewisburg, Tennessee.

Dated: January 31, 1996.

Phyllis P. Harris,

Acting Regional Administrator, U.S. EPA Region 4.

[FR Doc. 96–3581 Filed 2–20–96; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 24

Senior Biomedical Research Service

AGENCY: Public Health Service (PHS), DHHS.

ACTION: Interim final rule with request for comments.

SUMMARY: The Secretary of Health and Human Services (DHHS) is issuing interim final regulations implementing section 228 of the Public Health Service Act, as amended by section 304 of Public Law 101–509 and section 2001 of Public Law 103–43, which establish in the Public Health Service a Senior Biomedical Research Service.

These regulations are being published as an interim final rule with request for comment. Although the Administrative Procedure Act does not apply to a matter relating to agency management or personnel [5 U.S.C. 553(a)(2)] and although the Act itself permits publication of a final rule without a notice and comment period for rules of agency organization or procedure [5 U.S.C. 553(b))], these regulations are considered a significant enough change in policy to benefit from public comment.

EFFECTIVE DATE: This interim rule is effective February 21, 1996. Comments should be received within thirty days from the date of publication.

ADDRESSES: Comments may be sent or delivered to Rosemary Taylor, Office of the Assistant Secretary for Management and Budget, Office of the Secretary, Department of Health and Human Services, Hubert H. Humphrey Building, Room 522–A, 200 Independence Ave., S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Rosemary Taylor at (202) 690–7358, Office of the Assistant Secretary for Management and Budget, Office of the Secretary, Department of Health and Human Services, Hubert H. Humphrey Building, Room 522–A, 200 Independence Ave., S.W., Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: Section 304 of Public Law 101–509 amended the Public Health Service Act by adding a new section 228, which establishes the Senior Biomedical Research Service (SBRS) in the PHS. Section 2001 of Public Law 103–43 amended the Public Health Service Act by increasing the number of authorized positions to 500. Members of the SBRS are to be appointed by the Secretary without regard to the provisions of title 5, U.S. Code, regarding appointment, and are to be individuals outstanding in the field of biomedical research or clinical research evaluation. Appointments to the SBRS will be only to individuals actively engaged in either peer-reviewed original biomedical research of clinical research evaluation. These regulations establish the basic eligibility criteria, pay rates, performance appraisal system, optional retirement system, and procedure for removal from the SBRS. These regulations may be supplemented by HHS personnel instructions.

Executive Order 12866

I have examined the impacts of the interim final rule under Executive Order 12866. I believe that this interim final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the interim final rule is a significant regulatory action as defined by the Executive Order and, therefore, is subject to OMB review.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only a small number of federal employees who are members of the Senior Biomedical Research Service.

List of Subjects in 42 CFR Part 24

Government employees, Health professions, Reporting and recordkeeping requirements, wages.

Accordingly, the Department of Health and Human Services is amending 42 CFR by adding a new Part 24, reading as follows:

PART 24—SENIOR BIOMEDICAL RESEARCH SERVICE

Sec.
24.1 Establishment.
24.2 Allocation.
24.3 Policy Board.
24.4 Eligibility.
24.5 Peer review.
24.6 Pay and compensation.
24.7 Performance appraisal system.
24.8 Applicability of provisions of Title 5, U.S. Code.
24.9 Removal from the Service.
24.10 Reporting.

Authority: Section 228(g) of the Public Health Service Act; 5 U.S.C. 301.

§ 24.1 Establishment.

There is established in the Public Health Service (PHS) a Senior Biomedical Research Service (SBRS) consisting of members the maximum number of which is prescribed by law.

§ 24.2 Allocation.

(a) The Secretary, within the number authorized in the PHS Act, shall determine the number of SBRS slots to be allocated to each participating Operating Division.

(b) The SBRS Policy Board may advise the Secretary to make adjustments to the allocation at any time.

(c) The majority of the SBRS allocation is to be reserved for recruitment. The remaining SBRS allocation may be used for the retention of current employees.

(d) SBRS slots will be used judiciously, resulting in SBRS appointments only where other senior-level appointing authorities are not sufficient to recruit or retain scientific talent.

(e) The Secretary will ensure that SBRS slots are used in support of high priority programs authorized by Congress and which directly support the research goals and priorities of the Department.

§ 24.3 Policy Board.

The Secretary or his/her designee shall establish an SBRS Policy Board to serve in an advisory capacity, recommending SBRS allocations among the participating Operating Divisions, reviewing the operations of the SBRS and ensuring consistent application of regulations, policies, and procedural guidelines, and recommending changes to the Secretary as necessary. Membership, to the extent possible, will include SBRS eligibles nominated by their respective Operating Divisions, will be weighted in proportion to Operating Divisions' SBRS allocations, and will include representation from the Office of the Secretary. The Secretary or his/her designee will select the board membership and the Chair.

§ 24.4 Eligibility.

To be eligible for appointment to the Service an individual must have a doctoral-level degree in biomedicine or a related field and must meet the qualification standards prescribed by the U.S. Office of Personnel Management for appointment to a position at GS–15 of the General Schedule. In addition, the individual must be outstanding in the field of biomedical research or clinical research evaluation. Appointment to the Service will be made only to individuals actively engaged in either biomedical research or clinical research evaluation.

(a) Outstanding in the field of biomedical research means an individual who is actively engaged in peer-reviewed original biomedical research and whose work in this area is considered by his or her peers to be outstanding. In order to meet the eligibility criteria, an individual must have conducted original peer-reviewed biomedical research resulting in major accomplishments reflected by a steady and current record of highly cited publications in peer-reviewed journals of high stature. In addition, the individual should be the recipient of major prizes and awards (such as visiting professorships and named lectureships) in recognition of original contributions to research.

(b) Outstanding in the field of clinical research evaluation means that an individual is actively engaged in clinical research evaluation and is considered by his or her peers to be outstanding. In order to meet the eligibility criteria, an individual, by force of his or her own technical expertise, must be in a position to shape the course of drug or device evaluation or exert a similar influence on the PHS handling of other agents that may affect the public health. The individual would normally have dealt with complex, precedent-setting evaluation issues that involved significant scientific controversy, had far reaching implications for clinical research or resulted in a widespread economic effect in the health-care delivery system. In addition, the individual should have been involved in the development of scientific or regulatory guidelines for clinical research and been the recipient of invitations to speak at or to chair major national or international meetings and symposia.

§ 24.5 Peer review.

An individual may not be considered for appointment into the SBRS unless his/her qualifications have been reviewed by a PHS peer review committee and the committee has recommended appointment to the Service.

§ 24.6 Pay and compensation.

The SBRS is an ungraded system, with a single, flexible pay range to include all members.

(a) Pay of the members of the Service shall be determined by the Secretary or his/her designee.

(b) The pay of a member of the Service shall be not less than the minimum rate payable for GS–15 of the General Schedule and shall not exceed:

(1) The rate payable for level I of the Executive Schedule unless a higher rate of pay is expressly approved on an individual basis by the President, pursuant to 5 U.S.C. 5377(d)(2), or

(2) The rate payable for level II of the Executive Schedule unless a higher rate of pay is expressly approved on an individual basis by the Secretary.

(c) While the full pay range will be used, individual pay at the higher end of the range will be used only as needed to recognize individual scientific value and as necessary to recruit or retain an exceptionally well-qualified scientist.

(d) The following factors will be used in establishing appropriate pay rates for individual members:

(1) Impact of the individual on the scientific field;

(2) Recognition of the individual by the scientific community;

(3) Originality of the individual's ideas/work products;

(4) Specific "clinical" or highly technical skills of the individual which are of benefit to the agency and which are in addition to requirements of the basic scientific assignment;

(5) The individual's earnings and monetary benefits;

(6) Salary surveys of similar skills in pertinent labor markets; and

(7) Other relevant factors.

(e) Annual adjustments to pay rates may be made effective on the first day of the first pay period on or after January 1 of each calendar year. The rate of such adjustments will be at the discretion of the Secretary or his/her designee, except that the minimum rate payable in the SBRS will be increased to the amount of the minimum rate of the GS–15 of the General Schedule.

(f) Other pay adjustments will be made on an individual basis by the Secretary or his/her designee.

(g) Except as provided in paragraph (h) of this section, new appointees to the Service, who are not covered by the Civil Service Retirement System, will be covered by the Federal Employees Retirement System.

(h) Upon the request of a member who performed service in the employ of an institution of higher education immediately prior to his appointment as a member of the Service, and retains the right to make contributions to the retirement system of such institution, the Department of Health and Human Services may contribute an amount not to exceed ten percent per annum of the member's basic pay to such institution's retirement system on behalf of such member. A member who participates in this program shall not be covered by any retirement system established for employees of the United States under title 5, United States Code.

§ 24.7 Performance appraisal system.

The members of the Service shall be subject to a performance appraisal system which shall be designed to encourage excellence in performance and shall provide for a periodic and systematic appraisal of the performance of the members.

§ 24.8 Applicability of provisions of Title 5, U.S. Code.

(a) Appointments to the Service shall be made without regard to the provisions of title 5, U.S. Code regarding appointments.

(b) Members of the Service shall not be covered by the following provisions of title 5, U.S. Code:

(1) Subchapter I of Chapter 35 (relating to retention preference in the event of reduction in force);

(2) Chapter 43, Performance Appraisal (and performance-based actions);

(3) Chapter 51 (relating to classification);

(4) Subchapter III of Chapter 53, The General Schedule; and

(5) Chapter 75, Adverse Actions.

(c) Other provisions of Title 5 will be applied as administratively determined by the Secretary or his/her designee.

§ 24.9 Removal from the Service.

(a) A member of the Service may be subject to disciplinary action, including removal from the Service, for substandard performance of duty as a member of the service, for misconduct, for reasons of national security or for other reasons as determined by the Secretary.

(b) A member for whom disciplinary action is proposed is entitled to:

(1) Written notice of the proposed action and the basis therefor;

(2) A reasonable opportunity to answer the notice of proposed action both orally and in writing;

(3) The right to be represented by an attorney or other representative in making such answer; and

(4) A written decision on the proposal.

(c) The decision may be made by an official with delegated authority to take such action, but in no case may the official be at a level below the head of the Operating Division where the member is assigned.

(d) A member who is separated from the Service involuntarily and without cause and who, immediately prior to his appointment to the Service, was a career appointee in the civil service or the Senior Executive Service, may be appointed to a position in the competitive civil service at grade GS–15 of the General Schedule. Such an appointment may be made by the Secretary or his/her designee without regard to the provisions of title 5, U.S. Code regarding appointments in the civil service.

(e) A member who is separated from the Service involuntarily and without cause and who, immediately prior to appointment to the Service, was not a career appointee in the civil service or the Senior Executive Service may be appointed to a position in the excepted civil service at grade GS–15 of the General Schedule for a period not to exceed two years.

(f) There shall be no right to further review of the final decision on a disciplinary action. At his/her discretion, the Secretary may review an action taken under this section and may reduce, suspend, or overrule the action taken.

(g) A member of the Service may be removed from the Service for such other reasons as may be prescribed by the Secretary.

§ 24.10 Reporting.

For each quarter of the first year of implementation and annually thereafter, participating Operating Divisions shall maintain reports on the operation of the SBRS. At a minimum, these reports should include the number of appointees, the source of those appointees, their earnings immediately prior to appointment, and their SBRS pay at appointment.

Dated: October 10, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 96–3739 Filed 2–20–96; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
North Carolina: Dare (FEMA Docket No. 7141).	Unincorporated areas .	June 6, 1995, June 13, 1995, *The Coastland Times.*	Mr. Robert V. Owens, Chairman of the Dare County Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	May 30, 1995	375348 D

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3847 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

Changes In Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Tolland (FEMA Docket No. 7150).	Town of Somers	June 23, 1995, June 30, 1995, *Journal Enquirer.*	Mr. Robert Percoski First Selectman of the Town of Somers, Town Hall, P.O. Box 308, Somers, Connecticut 06071.	June 16, 1995	090112
Florida: Orange (FEMA Docket No. 7141).	Unincorporated Areas .	June 30, 1995, July 6, 1995, *The Orlando Sentinel.*	Mr. Ajit Lalchandani, P.E., Acting Director, 4200 South John Young Parkway, Orlando, Florida 32839–9205.	May 22, 1995	120179
Minnesota: Hennepin (FEMA Docket No. 7148).	City of Hopkins	June 28, 1995, July 5, 1995, *Hopkins Sun Sailor.*	Mr. Steve Mielke, Manager of the City of Hopkins, 1010 1st Street South, Hopkins, Minnesota 55343.	Dec. 19, 1995	270166
New Hampshire: Grafton (FEMA Docket No. 7148).	Town of Littleton	June 14, 1995, June 21, 1995, *The Courier.*	Mr. Donald A. Craigie, Chairman of the Board of Selectmen, 1 Union Street, Littleton, New Hampshire 03561.	June 9, 1995	330064
Ohio: Athens (FEMA Docket No. 7150).	City of Athens	Aug. 9, 1995, Aug. 16, 1995, *The Athens Messenger.*	The Honorable Sara Hendricker, Mayor of the City of Athens, 8 East Washington Street, Athens, Ohio 45701.	Feb. 2, 1996	390016
Tennessee: Sevier (FEMA Docket No. 7141).	City of Sevierville	May 25, 1995, June 1, 1995, *The Mountain Press.*	The Honorable Bryan Atchley, Mayor of the City of Sevierville, P.O. Box 5500, Sevierville, Tennessee 37864–5500.	May 18, 1995	475444

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3849 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

[Docket No. FEMA–7167]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They

should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California: Santa Barbara.	City of Santa Barbara .	Nov. 2, 1995, Nov. 9, 1995, *Santa Barbara News Press.*	The Honorable Harriet Miller, Mayor, City of Santa Barbara, City Hall, P.O. Box 1990, Santa Barbara, California 93102–1990.	Oct. 11, 1995	060335
Colorado:					
Boulder	City of Boulder	Nov. 23, 1995, Nov. 30, 1995, *Daily Camera.*	The Honorable Leslie Durgin, Mayor, City of Boulder, P.O. Box 791, Boulder, Colorado 80306.	Nov. 1, 1995	080024
Boulder	Unincorporated Areas .	Nov. 23, 1995, Nov. 30, 1995, *Daily Camera.*	The Honorable Ronald K. Stewart, Chairperson, Boulder County Board of Supervisors, P.O. Box 471, Boulder, Colorado 80306.	Nov. 1, 1995	080023
El Paso	City of Colorado Springs.	Nov. 21, 1995, Nov. 28, 1995, *Gazette Telegraph.*	The Honorable Robert M. Isaac, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901.	Oct. 25, 1995	080060
El Paso	Unincorporated Areas .	Nov. 21, 1995, Nov. 28, 1995, *Gazette Telegraph.*	The Honorable Loren Whittemore, Chairperson, El Paso County Board of Commissioners, 27 East Vermijo, Third Floor, Colorado Springs, Colorado 80903–2225.	Oct. 25, 1995	080059
Idaho: Bannock	City of Pocatello	Nov. 23, 1995, Nov. 30, 1995, *Idaho State Journal.*	The Honorable Peter Angstadt, Mayor, City of Pocatello, P.O. Box 4169, Pocatello, Idaho 83205.	Oct. 12, 1995	160012

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Missouri: Greene	Unincorporated Areas .	Nov. 3, 1995, Nov. 10, 1995, *News-Leader.*	The Honorable David L. Coonrod, Presiding Commissioner, Greene County Commission, 940 Boonville Avenue, Springfield, Missouri 65802.	Oct. 18, 1995	290782
Oklahoma:					
Cleveland	City of Norman	Oct. 24, 1995, Oct. 31, 1995, *Norman Transcript.*	The Honorable William Nations, Mayor, City of Norman, 201 West Gray, Norman, Oklahoma 73070.	Oct. 18, 1995	400046
Oklahoma	City of Oklahoma City .	Nov. 22, 1995, Nov. 29, 1995, *Journal Record.*	The Honorable Ronald J. Norick, Mayor, City of Oklahoma City, 200 North Walker Avenue, Oklahoma City, Oklahoma 73102.	Nov. 2, 1995	405378
Oklahoma	City of Oklahoma City .	Nov. 23, 1995, Nov. 30, 1995, *Journal Record.*	The Honorable Ronald J. Norick, Mayor, City of Oklahoma City, 200 North Walker Avenue, Oklahoma City, Oklahoma 73102.	Oct. 19, 1995	405378
Texas:					
Tarrant	City of Bedford	Nov. 2, 1995, Nov. 9, 1995, *Fort Worth Star Telegram.*	The Honorable Rick D. Hurt, Mayor, City of Bedford, P.O. Box 157, Bedford, Texas 76095–0157.	Oct. 13, 1995	480585
Dallas	City of Dallas	Nov. 23, 1995, Nov. 30, 1995, *Dallas Morning News.*	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, Room 5E North, Dallas, Texas 75201.	Nov. 6, 1995	480171
Dallas	Unincorporated Areas .	Nov. 23, 1995, Nov. 30, 1995, *Daily Commercial Record.*	The Honorable Lee F. Jackson, Dallas County Judge, 411 Elm Street, Dallas, Texas 75202.	Nov. 6, 1995	480165
El Paso	City of El Paso	Nov. 7, 1995, Nov. 14, 1995, *El Paso Times.*	The Honorable William S. Tilney, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901.	Oct. 18, 1995	480214
Williamson	City of Georgetown	Nov. 22, 1995, Nov. 29, 1995, *Williamson County Sun.*	The Honorable Leo Wood, Mayor, City of Georgetown, P.O. Box 409, Georgetown, Texas 78627.	Nov. 8, 1995	480668
Dallas, Tarrant, and Ellis.	City of Grand Prairie ...	Nov. 23, 1995, Nov. 30, 1995, *The Mid-Cities News.*	The Honorable Charles England, Mayor, City of Grand Prairie, 317 College Street, Grand Prairie, Texas 75053.	Nov. 6, 1995	485472

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tarrant	Town of Pantego	Nov. 22, 1995, Nov. 29, 1995, *Fort Worth Commercial Reporter.*	The Honorable Susan Abercrombie, Mayor, Town of Pantego, 1614 South Bowen Road, Pantego, Texas 76013.	Oct. 31, 1995	481116
Williamson	Unincorporated Areas	Nov. 22, 1995, Nov. 29, 1995, *Williamson County Sun.*	The Honorable John Doerfler, Williamson County Judge, County Courthouse, 710 Main Street, Georgetown, Texas 78626.	Nov. 8, 1995	481079

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3851 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

[Docket No. FEMA–7169]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Georgia: Cobb	City of Marietta	Nov. 3, 1995, Nov. 10, 1995, *Marietta Daily Journal.*	The Honorable Ansley Meaders, Mayor of the Gity of Marietta, P.O. Box 609, Marietta, Georgia 30061.	Oct. 23, 1995	130226 F
Indiana: Hamilton	City of Carmel	Nov. 8, 1995, Nov. 15, 1995, *Carmel News Tribune.*	The Honorable Ted Johnson, Mayor of the City of Carmel, One Civic Square, Carmel, Indiana 46032.	Oct. 31, 1995	180081 C
North Carolina: Henderson.	City of Hendersonville	Nov. 3, 1995, Nov. 10, 1995, *The Times News.*	The Honorable Fred Neihoff, Mayor of the City of Hendersonville, P.O. Box 1670, Hendersonville, North Carolina 28793.	May 6, 1996	370128 B
Ohio: Fairfield and Franklin Counties.	City of Columbus	Aug. 30, 1995, Sept. 6, 1995, *The Columbus Dispatch.*	The Honorable Gregory Lashutka, Mayor of the City of Columbus, Columbus City Hall, 90 West Broad Street, Columbus, Ohio 43215.	Aug. 23, 1995	390170 G
Pennsylvania: Clinton	Borough of Flemington	Nov. 21, 1995, Nov. 28, 1995, *The Lock Haven Express.*	Mr. Gerry Yanneralla, President of the Flemington Borough Council, 126 High Street, Flemington, Pennsylvania 17745.	Nov. 13, 1995	420326 B
Virginia: Roanoke	Unincorporated areas	Nov. 16, 1995, Nov. 23, 1995, *Roanoke Times & World News.*	Mr. Elmer Hodge, Roanoke County Administrator, P.O. Box 29800, Roanoke, Virginia 24018.	Nov. 3, 1995	510190 D
Wisconsin: Juneau	Wonewoc (Village)	June 8, 1995, June 15, 1995, *The Wonewoc Reporter.*	Mr. John P. Cler, Village of Wonewoc President, P.O. Box 37, Wonewoc, Wisconsin 53968–0037.	May 25, 1995	550208 C

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3875 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

[Docket No. FEMA–7165]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed

conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Fairfield ..	City of Stamford	Oct. 13, 1995, Oct. 20, 1995, *The Advocate.*	The Honorable Stanley Esposito, Mayor of the City of Stamford, Stamford Government Center, 888 Washington Boulevard, Stanford, Connecticut 06904–2152.	Oct. 2, 1995	090015 C
Illinois: Will	Village of New Lenox ..	Oct. 11, 1995, Oct. 18, 1995, *Herald-News.*	Mr. John Nowakowski, President of the Village of New Lenox, 701 West Haven Avenue, New Lenox, Illinois 60451–2137.	Apr. 3, 1996	170706 E.
Indiana: Johnson	Unincorporated Areas .	Oct. 18, 1995, Oct. 25, 1995, *Daily Journal.*	Mr. Joseph Dettart, Chairman of the Johnson County Board of Commissioners, 86-West Court Street, Courthouse Annex, Franklin, Indiana 46131.	Jan. 23, 1996	180111 C
New Jersey: Bergen ...	Borough of Rockleigh .	Oct. 18, 1995, Oct. 25, 1995, *The Record.*	The Honorable Roberta Adams, Mayor of the Borough of Rockleigh, 26 Rockleigh Road, Rockleigh, New Jersey 07647.	Oct. 13, 1995	340071 F
Wisconsin: Juneau	Unincorporated Areas .	June 1, 1995, June 8, 1995, *Juneau County Star Times.*	Mr. James Barrett, President of the Juneau County Board, 220 State Street, Juneau, Wisconsin 53948.	May 25, 1995	550580 C

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3874 Filed 2–21–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATE: The effective dates for these modified base flood elevations are indicated in the table below and revise the Flood Insurance Rate Map(s) in effect for the listed communities prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director for Mitigation has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Louisiana: St. Mary Parish (FEMA Docket No. 7152).	City of Morgan City	July 19, 1995, July 26, 1995, *Daily Review.*	The Honorable Timothy I. Matte, Mayor, City of Morgan City, P.O. Box 1218, Morgan City, Louisiana 70381.	June 28, 1995	220196

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Coryell (FEMA Docket No. 7156).	City of Copperas Cove	Aug. 18, 1995, Aug. 23, 1995, *Killeen Daily Herald.*	The Honorable J. A. Darossett, Mayor, City of Copperas Cove, P.O. Drawer 1449, Copperas Cove, Texas 76522.	July 18, 1995	480155
Texas: El Paso (FEMA Docket No. 7156).	City of El Paso	Aug. 23, 1995, Aug. 30, 1995, *El Paso Times.*	The Honorable Larry Francis, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901–1196.	July 24, 1995	480214
Texas: Tarrant (FEMA Docket No. 7156).	City of Keller	Aug. 22, 1995, Aug. 29, 1995, *Keller Citizen.*	The Honorable Ron Lee, Mayor, City of Keller, P.O. Box 770, Keller, Texas 76244.	July 25, 1995	480602

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3845 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

List of Subjects in CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NEW MEXICO	
Carlsbad (city), Eddy County (FEMA Docket No. 7122)	
Dark Canyon Draw:	
Approximately 100 feet downstream of the Atchison, Topeka, and Santa Fe Railroad	*3,103
Just upstream of the Southern Canal Siphon	*3,132
Approximately 50 feet downstream of Dark Canyon Road	*3,191
At the western corporate limit, adjacent to the Carlsbad Army Air Field	*3,265
Hackberry Draw:	
Approximately 500 feet north of the intersection of Curry Street and the corporate limits	*3,138
At the intersection of Fifth Street and Ross	*3,140
Approximately 100 feet upstream of the intersection of Eighth Street and Washington Street	*3,144
Approximately 500 feet upstream of Lea Street and approximately 2,800 feet west and 2,200 feet south of the intersection of Texas and Eleventh Street	*3,161
At the intersection of Mesquite Street and Mermod Street	#2
Pecos River:	
Just upstream of Lower Tansill Dam	*3,103
At North Canal Street	*3,114
At the intersection of George and Riverside Drive	*3,120
Approximately 200 feet downstream of the Southern Canal Crossing	*3,123
At the intersection of Bonbright Street and Main Street	#1
At the intersection of Stevens Street and Main Street	#2
Maps are available for inspection at City Hall, City of Carlsbad, 101 South Halagueno, Carlsbad, New Mexico.	
Eddy County (unincorporated areas) (FEMA Docket No. 7122)	
Dark Canyon Draw:	
Approximately 100 feet downstream of the Southern Pacific Railroad	*3,103
At the Southern Canal Siphon	*3,132
Approximately 5.1 miles upstream of the Southern Canal Siphon	*3,269
Hackberry Draw:	
At confluence with Dark Canyon Draw	*3,132
At Southern Canal	*3,140
At Lea Street	*3,158
Approximately 100 feet downstream of Marquess Street	*3,184
Just downstream of the Hackberry Draw Dam	*3,227
Approximately 500 feet east and 500 feet south of the intersection of Curry Street and Quay Street	#2
Pecos River:	
Approximately 1,000 feet south of the Atchison, Topeka, and Santa Fe Railroad	*3,112
Maps are available for inspection at Eddy County's Courthouse, 101 North Canal Street, Carlsbad, New Mexico.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
SOUTH DAKOTA	
Pennington County (unincorporated areas) (FEMA Docket No. 7134)	
Rapid Creek:	
Approximately 4,500 feet upstream of Jolly Lane (County Road 274)	*3,101
Approximately 1,250 feet downstream of Valley Drive	*3,114
Approximately 2,350 feet upstream of Valley Drive	*3,125
Approximately 4,300 feet upstream of Valley Drive	*3,129
Approximately 5,500 feet downstream of East St. Patrick Street	*3,132
Maps are available for inspection at Pennington County Planning Division, 300 Sixth Street, Rapid City, South Dakota.	
WASHINGTON	
King County (unincorporated areas) (FEMA Docket No. 7146)	
Raging River:	
At confluence with the Snoqualmie River	*96
Just upstream of Carmichael Road	*204
Just upstream of 68th Street	*259
Just upstream of South 86th Street	*394
At Interstate Highway 90	*426
Approximately 1,800 feet upstream of Interstate Highway 90	*450
Approximately 3,050 feet upstream of Interstate Highway 90	*470
At confluence with Lake Creek	*542
At confluence with Deep Creek	*634
Approximately 0.3 mile upstream of the second Upper Preston Road Bridge	*673
Maps are available for inspection at the Building and Land Development Division, 3600 136th Place, Bellevue, Washington.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3846 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	# Depth in feet above ground. ^ Elevation in feet (NGVD)
FLORIDA	
Pinellas County (unincorporated areas) (FEMA Docket No. 7136)	
Alligator Creek Channel A:	
Approximately 800 feet downstream of McMullen Booth Road	^10
Approximately 625 feet downstream of Sunset Point Road	^54
Alligator Creek Channel B:	
Approximately 1,250 feet upstream of CSX Transportation	^24
At 4th Avenue south	^89
Alligator Creek Channel C:	
At confluence with Channel A	^38
Approximately 1,400 feet upstream of Sunset Point Road	^66
Alligator Creek Channel E:	
Approximately 250 feet downstream of CSX Transportation	^12
At downstream side of McMullen Booth Road	^22
Alligator Creek Channel H:	
At confluence with Channel A	^26
Approximately 600 feet upstream of Sharkey Road	^35
Maps available for inspection at the County Technical Services Building, First Floor, 440 Court Street, Clearwater, Florida.	
ILLINOIS	
Kane County (unincorporated areas) (FEMA Docket No. 7149)	
Blackberry Creek:	
At State Route 30	^661
At downstream side of State Route 38	^846
Blackberry Creek Tributary A:	
Approximately 2,450 feet downstream of Indian Trail Road	^674
At East-West Tollway	^679
Blackberry Creek Tributary B:	
At confluence with Blackberry Creek	^679
Approximately 0.6 mile upstream of Seavey Road	^698
Blackberry Creek Tributary C:	
At confluence with Blackberry Creek	^707
Approximately 1.7 miles upstream of Seavey Road	^723
Blackberry Creek Tributary D:	
At confluence with Blackberry Creek	^740
At Keslinger Road	^808
Blackberry Creek Tributary E:	
At Hankes Road	^680
Approximately 4,400 feet upstream of Winthrop Drive	^688
Blackberry Creek Tributary F:	
At confluence with Blackberry Creek Tributary B	^698
Approximately 210 feet upstream of Main Street	^735
Blackberry Creek Tributary G:	
Approximately 150 feet downstream of State Route 30	^657
Approximately 1,650 feet downstream of Jericho Road	^666
Blackberry Creek Tributary H:	
At confluence with Blackberry Creek	^666
Approximately 2,400 feet upstream of Burlington Northern Railway	^670
Bowes Creek:	
At the confluence with Stoney Creek	^793
Approximately 200 feet upstream of Dittman Road	^918
Bowes Creek Tributary:	
At the confluence with Bowes Creek	^909
Approximately 200 feet upstream of Dittman Road	^914
Ferson Creek:	
At Bolcum Road	^753
Approximately 75 feet upstream of State Route 64 (North Avenue)	^873
Fitchie Creek:	
At the confluence with Otter Creek	^782
Approximately 200 feet upstream of Russell Road	^878
Hampshire Creek:	
Approximately 1,225 feet downstream of confluence of Hampshire Creek Tributary	^869
Approximately 1,225 feet upstream of 500 Line Railroad	^966
Hampshire Creek Tributary:	
Approximately 345 feet downstream of Field Bridge	^873
Approximately 100 feet upstream of Field Bridge	^873
Hampshire Creek Tributary 1:	
At the confluence with Hampshire Creek	^898
Approximately 725 feet upstream of Keyes Drive	^904
Hampshire Creek Tributary 2:	
Approximately 100 feet upstream of the confluence with Hampshire Creek	^907
Approximately 70 feet upstream of Prairie Farm Road	^980
Hampshire Creek Tributary 3:	
At the confluence with Hampshire Creek Tributary No. 2	^963
Approximately 1,280 feet upstream of confluence with Hampshire Creek Tributary No. 2	^996
Hampshire Creek Tributary 4:	
At the confluence with Hampshire Creek	^965
Approximately 640 feet upstream of confluence with Hampshire Creek	^967
Mill Creek:	
Approximately 0.5 mile downstream of Kaneville Road	^704
Approximately 250 feet upstream of State Route 64 (Wasco Road)	^823
Mill Creek Tributary No. 2:	
At the confluence with Mill Creek Diversion Channel	^792
Approximately 0.4 mile upstream of confluence with Mill Creek Diversion Channel	^793
Mill Creek Diversion Channel:	
At the confluence with Mill Creek	^784
Approximately 0.9 mile upstream of confluence with Mill Creek	^796
Otter Creek:	
At the confluence with Ferson Creek	^756
Just downstream of Randall Road	^797
Otter Creek Tributary:	
At the confluence with Otter Creek	^760
Approximately 1.1 miles upstream of Falcons Trail	^840
Stoney Creek:	
At the confluence with Otter Creek	^773
Approximately 1.0 mile upstream of Crawford Road	^873
Maps available for inspection at the Government Center, 719 Batavia Avenue, Geneva, Illinois.	
INDIANA	
La Porte (city), La Porte County (FEMA Docket No. 7149)	
Pine Lake:	
Entire shoreline within community	
Stone Lake:	
Entire shoreline within community	
Lily Lake:	
Entire shoreline within community	
Clear Lake:	
Entire shoreline within community	
Maps available for inspection at the City Engineer's Office, La Porte City Hall, 801 Michigan Avenue, La Porte, Indiana.	
La Porte County (unincorporated areas) (FEMA Docket No. 7149)	
Pine Lake:	
Entire shoreline within county	
Maps available for inspection at the La Porte County Complex, 5th Floor, 822 East Lincoln Way, La Porte, Indiana.	

Source of flooding and location	# Depth in feet above ground. ^ Elevation in feet (NGVD)
MAINE	
Arundel (town), York County (FEMA Docket No. 7124)	
Kennebunk River:	
Approximately 200 feet downstream of confluence of Goff Mill Brook	^9
Approximately 0.5 mile upstream of U.S. Route 1	^58
Maps available for inspection at the Town Hall, 468 Limerick Road, Arundel, Maine.	
Howland (town), Penobscot County (FEMA Docket No. 7124)	
Piscataquis River:	
Upstream side of Howland Dam	^157
At the confluence of Maxy Brook	^172
Maps available for inspection at the Town Hall, Main Street, Howland, Maine.	
Milo (town), Piscataquis County (FEMA Docket No. 7124)	
Piscataquis River:	
Approximately 0.7 mile downstream of confluence of Stinking Brook (downstream corporate limits)	^283
At confluence of Meadow Brook (upstream corporate limits)	^294
Pleasant River:	
At downstream corporate limits	^802
At upstream corporate limits	^802
Sebec River:	
At confluence with Piscataquis River	^802
Approximately 700 feet upstream of upstream corporate limits	^802
Meadow Brook:	
At confluence with Piscataquis River	^802
Approximately 50 feet upstream of River Road	^802
Maps available for inspection at the Town Hall, Pleasant Street, Milo, Maine.	
Poland (town), Androscoggin County (FEMA Docket No. 7124)	
Little Androscoggin River:	
Approximately 0.3 mile downstream of the confluence of Davis Brook	^225
Approximately 2.7 miles upstream of State Route 12 and 11	^246
Tripp Pond:	
Entire shoreline within community	^309
Thompson Lake:	
Entire shoreline within community	^327
Winter Brook:	
Approximately 1.7 miles downstream of Winter Brook Road	^309
Approximately 0.78 mile upstream from Winter Brook Road	^309
Davis Brook:	
At confluence with Little Androscoggin River	^225
Approximately 50 feet upstream of Gravel Road	^226
Worthley Brook:	
At confluence with Little Androscoggin River	^232
Approximately 0.48 mile upstream of confluence with Little Androscoggin River	^235
Maps available for inspection at the Municipal Office Building, Route 26, Poland, Maine.	
Starks (town), Somerset County (FEMA Docket No. 7149)	
Kennebec River:	
At confluence of Sandy River	^193
Approximately 1.7 miles upstream of the confluence of Sandy River (upstream corporate limits)	^201
Sandy River:	
At confluence with Kennebec River	^193
Approximately 2.5 miles upstream of Sandy River Dam	^202
Maps available for inspection at the Starks Town Hall, 950 Locke Hill Road, Starks, Maine.	
NEW HAMPSHIRE	
Bridgewater (town), Grafton County (FEMA Docket No. 7124)	
Pemigewassett River:	
Approximately 1.7 miles downstream of Woodman and Fog Brooks	^467
Approximately 0.6 mile upstream of U.S. Route 3	^481
Maps available for inspection at the Selectmen's Office, 297 Mayhew Turnpike, Bridgewater, New Hampshire.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NORTH CAROLINA	
Black Mountain (town), Buncombe County (FEMA Docket No. 7149)	
Flat Creek:	
At confluence with Swannanoa River	*2358
At downstream side of Cotton Avenue	*2403
Swannanoa River:	
Approximately 200 feet upstream of confluence with North Fork Swannanoa River	*2233
Approximately 1,003 feet downstream of Old Toll Circle	*2398
Maps available for inspection at the Building Inspector's Office, 106 Montreat Road, Black Mountain, North Carolina.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3848 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act.

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
DELAWARE	
Arden (village), New Castle County (FEMA Docket No. 7138)	
South Branch Naaman Creek:	
Approximately 2,000 feet upstream of CSX Transportation	*188
Approximately 1,100 feet upstream of Marsh Road	*270
Maps available for inspection at the Village Secretary's Office, 2005 Harvey Road, Arden, Delaware.	
Ardentown (village), New Castle County (FEMA Docket No. 7138)	
South Branch Naaman Creek:	
Approximately 100 feet upstream of CONRAIL	*135
Approximately 2,000 feet upstream of CONRAIL	*189
Maps available for inspection at the Ardentown Chairman's Office, 2308 Brae Road, Ardentown, Delaware.	
Newark (city), New Castle County (FEMA Docket No. 7138)	
West Branch Christina River:	
At Swim Club Access Road	*88
At State boundary	*108
Christina River:	
Approximately 570 feet upstream of Nottingham Road (Route 273)	*134
At downstream side of Wedgewood Road	*159
Persimmon Run:	
At its confluence with West Branch Christina River	*97
Approximately 100 feet upstream of Sandy Brae Road	*109
Silver Brook:	
At the confluence with Christina River	*70
Approximately 420 feet upstream of Park Lane	*78
Yorkshire Ditch:	
Approximately 260 feet upstream of confluence with the Christina River	*65
Approximately 710 feet upstream of Bellview Road	*70
Tributary to West Branch Christina River:	
At the confluence with West Branch Christina River	*108
Approximately 750 feet upstream of the confluence with West Branch Christina River	*109
Maps available for inspection at the City Hall, 220 Elkton Road, Newark, Delaware.	
New Castle County (unincorporated areas) (FEMA Docket No. 7138)	
Shellpot Creek:	
Approximately 1,275 feet downstream of Governor Printz Boulevard	*17
At Kennedy Road	*376
Naaman Creek:	
Approximately 350 feet upstream of confluence with Delaware River	*11
Approximately 0.35 mile upstream of State Route 92	*44
South Branch Naaman Creek:	
At confluence with Naaman Creek	*35
At upstream corporate limit	*359
Dragon Creek:	
Upstream side of 5th Street	*10
Approximately 1.1 miles upstream of 5th Street	*10
Persimmon Run:	
At its confluence with West Branch of Christina River	*97
Approximately 0.6 mile upstream of Sandy Brae Road	*115
Yorkshire Ditch:	
At the confluence with the Christina River	*64
Approximately 260 feet upstream of its confluence with the Christina River	*65
Tributary to West Branch Christina River:	
Approximately 750 feet upstream of the confluence with West Branch Christina River	*109
Approximately 1,260 feet upstream of the confluence with West Branch Christina River	*110
West Branch Christina River:	
Approximately 1,000 feet upstream of Swim Club Access Road	*91
Approximately 740 feet upstream of Elkton Road	*108
East Branch Christina River:	
At the confluence with the Christina River	*157
Approximately 0.9 mile upstream of Wedgewood Road	*229
Christina River:	
Approximately 570 feet upstream of Nottingham Road (State Route 273)	*134
Approximately 350 feet upstream of Wedgewood Road	*162
Maps available for inspection at the Engineering Building, 2701 Capital Trail, Newark, Delaware.	
Wilmington (city), New Castle County (FEMA Docket No. 7138)	
Shellpot Creek:	
Approximately 1,275 feet downstream of Governor Printz Boulevard	*17
Approximately 500 feet downstream of Governor Printz Boulevard	*376
Maps available for inspection at the Louis L. Redding City-County Building, City Clerk's Office, 800 French Street, Wilmington, Delaware.	
MAINE	
Norridgewock (town), Somerset County (FEMA Docket No. 7124)	
Kennebec River:	
Approximately 260 feet downstream of confluence of Ledge Brook	*174
Approximately .4 mile upstream of confluence of Sandy River	*193
Sandy River:	
At confluence with Kennebec River	*193
At upstream corporate limits	*202
Mill Stream:	
At confluence with Kennebec River	*177
Downstream side of West Branch Station Dam	*177
Maps available for inspection at the Town Office Vault, Perkins Street, Norridgewock, Maine.	
MICHIGAN	
Allen Park (city), Wayne County (FEMA Docket No. 7155)	
North Branch Ecorse Creek:	
Approximately 0.36 mile downstream of Allen Road	*590
Approximately 250 feet upstream of Euclid Avenue	*598
Maps available for inspection at the Allen Park City Hall, 16850 Southfield Road, Allen Park, Michigan.	
Dearborn (city), Wayne County (FEMA Docket No. 7083)	
River Rouge:	
Approximately 450 feet downstream of Evergreen Road (North Bound)	*587
Approximately 100 feet upstream of Ford Road (West Bound)	*597
Lower River Rouge:	
At the confluence with River Rouge	*589
At the Gulley Road	*603
North Branch Ecorse Creek:	
Approximately 520 feet downstream of Jackson Street	*598
Approximately 1,400 feet upstream of Pardee Road	*612
Maps available for inspection at the Dearborn City Hall West, Office of City Engineer, 6045 Fenton Street, Dearborn, Michigan.	
Dearborn Heights (city), Wayne County (FEMA Docket No. 7155)	
North Branch Ecorse Creek:	
At Southfield Freeway	*598
Approximately 600 feet upstream of Madison Street	*612

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Dearborn Heights City Hall, 6045 Fenton Street, Dearborn Heights, Michigan.	
Taylor (city), Wayne County (FEMA Docket No. 7155)	
North Branch Ecorse Creek:	
At Pelham Road	*602
Approximately 200 feet downstream of Pardee Road	*609
Maps available for inspection at the Taylor City Hall, 23555 Goddard Road, Taylor, Michigan.	
MINNESOTA	
North Branch (city), Chisago County (FEMA Docket No. 7164)	
North Branch Sunrise River:	
Approximately 1,575 feet upstream of State Route 95	*870
Approximately 0.9 mile upstream of 8th Avenue	*877
Maps available for inspection at the North Branch Planning Office, 1356 Main Street, North Branch, Minnesota.	
NEW YORK	
Clarence (town), Erie County (FEMA Docket No. 7048)	
Ransom Creek:	
Downstream corporate limits at Transit Road	*585
Downstream of Conner Road	*603
Tonawanda Creek:	
Downstream corporate limits at State Route 78	*584
Upstream corporate limits	*594
Black Creek:	
Downstream corporate limits (State Route 78)	*585
Approximately 1.7 miles upstream of Salt Road	*591
Gott Creek:	
At downstream corporate limits at Transit Road	*592
Approximately 100 feet upstream of Roll Road	*608
Maps available for inspection at the Clarence Town Building Department, 6185 Goodrich Road, Clarence Center, New York.	
NORTH CAROLINA	
Asheville (city), Buncombe County (FEMA Docket No. 7149)	
Bull Creek:	
At confluence with Swannanoa River	*2108
At Bull Creek Road	*2289
Beaverdam Creek:	
Approximately 500 feet downstream of Elkwood Avenue	*2056
At Govemors Drive	*2259
Sweeten Creek:	
At confluence with Swannanoa River	*1998
Approximately 900 feet upstream of Rock Hill Road	*2192
Tributary No. 3 to Sweeten Creek:	
At confluence with Sweeten Creek	*2018
At Taft Street	*2136
Ross Creek:	
At confluence with Swannanoa River	*2002
At Howland Road	*2345
Haw Creek:	
Approximately 0.1 mile upstream of confluence with Swannanoa River	*2008
At Mann Drive	*2256
Smith Mill Creek:	
Approximately 685 feet upstream of Southern Railway	*1981
Approximately 0.2 mile downstream of Johnston School Road	*2162
Swannanoa River:	
Approximately 1,425 feet downstream of U.S. 25 Viaduct	*1992
At U.S. Highway 70	*2060
Tributary No. 1 to Sweeten Creek:	
At confluence with Sweeten Creek	*2082
Approximately 105 feet upstream of the confluence with Sweeten Creek	*2082
Hominy Creek:	
At 0.29 mile upstream of Sand Hill Road	*2056
Approximately 0.75 mile upstream of Sand Hill Road	*2058
Moore Creek:	
Approximately 53 feet upstream of State Route 1241	*2061
Approximately 550 feet upstream of Interstate 40	*2129
Maps available for inspection at the Planning Department, 70 Court Plaza, Asheville, North Carolina.	
Buncombe County (unincorporated areas) (FEMA Docket No. 7149)	
Tributary to Beaverdam Creek:	
At Hillcrest Road	*2098
Approximately 800 feet upstream of Hillcrest Road	*2107
Hominy Creek:	
At Interstate Route 40	*2021
At Luther Road	*2178
Smith Mill Creek:	
At Johnston School Road	*2165
Approximately 0.44 mile upstream of Johnston School Road	*2205
Newfound Creek:	
Approximately 1.0 mile downstream of State Road 63 (Leicester Highway)	*1968
At Morgan Branch Road (State Route 1220)	*2155
Moore Creek:	
Approximately 0.46 mile (2,428 feet) downstream of Interstate 40	*2084
At Monte Vista Road (State Route 1224)	*2202
Swannanoa River:	
At U.S. Highway 70	*2060
Approximately 0.8 mile upstream of County Road	*2519
Bull Creek:	
Approximately 150 feet upstream of confluence with Swannanoa River	*2108
At Bull Creek Road	*2289
McKinnish Branch:	
Upstream side of Cove Road	*2158
Approximately 370 feet upstream of Cove Road	*2165
Pole Creek:	
At confluence with Hominy Creek	*2086
Approximately 330 feet downstream of U.S. Routes 19 and 23	*2086
Maps available for inspection at the Buncombe County Engineer's Office, 30 Valley Street, Asheville, North Carolina.	
Woodfin (town), Buncombe County (FEMA Docket No. 7149)	
Beaverdam Creek:	
At confluence with French Broad River	*1941
Just downstream of U.S. Highway 19 and 23	*2040
Tributary to Beaverdam Creek:	
At confluence with Beaverdam Creek	*2049
At Hillcrest Road	*2098
Maps available for inspection at the Town Administrator's Office, 90 Elk Mountain Road, Woodfin, North Carolina.	
OHIO	
Fairfield County (unincorporated areas) (FEMA Docket No. 7149)	
Raccoon Run:	
At the upstream face of State Route 664	*761
Approximately 400 feet upstream of Zion Road	*806
Maps available for inspection at the Regional Planning Office, Fairfield County Courthouse, 210 East Main Street, Lancaster, Ohio.	
Kenton (city), Hardin County (FEMA Docket No. 7149)	
Scioto River:	
At County Road 175	*959
At a point approximately 0.56 mile upstream of Leighton Street	*966
Maps available for inspection at the Kenton City Hall, 111 West Franklin Street, Kenton, Ohio.	
PENNSYLVANIA	
German (township), Fayette County (FEMA Docket No. 7149)	
Monongahela River:	
At confluence of Antram Run	*789
At upstream corporate limits	*798
Maps available for inspection at the German Township Building, R.D. #1, Box 287, McClellandtown, Pennsylvania.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3850 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 91–72; FCC 96–11]

Emergency Medical Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission has reaffirmed its decision to establish the Emergency Medical Radio Service (EMRS), as well as reaffirmed the assignment of certain 453 MHz frequencies to the EMRS. Additionally, the Commission granted ProNet, Inc.'s request that its medical paging system operating on 453.125 MHz in the Chicago metropolitan area be permanently grandfathered. Finally, the Commission permitted certain licensees (medical services, rescue organizations, disaster relief organizations and beach patrols) to use Channels 161–170 as they are engaged in safety-of-life services. These actions were taken to improve the communications capabilities of entities engaged in providing life support activities. The rule changes and the grant of the waiver request will ensure the reliability of emergency medical communications.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Wireless Telecommunications Bureau, (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, PR Docket No. 91–72, FCC 96–11, adopted January 18, 1996, and released February 8, 1996. The full text of this *Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857–3800.

This *Memorandum Opinion and Order* imposes no paperwork burden on the public.

Summary of Memorandum Opinion and Order

1. In this *Memorandum Opinion and Order*, we affirm the action taken in the *Report and Order* (58 Fed. Reg 12177 (March 3, 1993)), establishing the Emergency Medical Radio Service (EMRS) as a new Public Safety Radio Service under Subpart B of Part 90 of the Commission's Rules. The record substantiates the need for this new radio service to ensure the reliability of emergency medical communications. We also affirm the reassignment of four 453 MHz frequencies (453.025/.075/.125/.175 MHz) from the Special Emergency Radio Service (SERS) to the EMRS. These frequencies, previously assigned for one-way paging operations, were chosen as particularly appropriate for EMRS use because they minimize disruption to the remaining non-EMRS SERS entities.

2. ProNet, Inc.(ProNet), a petitioner for reconsideration of the *Report and Order*, mistakenly believes that it should be accorded a hearing pursuant to Section 316 of the Communications Act of 1934, as amended, before its radio license is modified. Under this statutory provision, a license is not considered modified when the Commission—acting by rule making—affects the rights of all licensees of a particular class.

3. ProNet has substantiated its request for permanently waiving mandatory reassignment of 453.125 MHz in the greater metropolitan Chicago area to EMRS. It commissioned a study of spectrum usage in the Chicago area as well as submitted relevant affidavits. Although only required to meet one criterion, ProNet met all the established criteria to justify grant of the waiver request. First, it appears that ProNet's system is intensely utilized. Second, relocation of ProNet's medical paging system would not serve the public interest because no reasonable alternative for its paging system is available in the Chicago area. Third, petitioner illustrates the continued availability of MED channel capacity in metropolitan Chicago and, therefore, there appears to be adequate spectrum for emergency medical service transmissions in the Chicago area. ProNet has successfully demonstrated that unique circumstances are involved in its case, thus warranting waiver.

4. ProNet's request for authority to be licensed to operate transmitting facilities on 453.125 MHz anywhere is Wisconsin, Illinois and Indiana—within a one hundred mile radius of its existing site—is denied. This request involves future operations and was not contemplated by the waiver provisions contained in the *Report and Order*.

5. Finally, the Commission will permit licensees eligible to operate radio facilities as medical services (47 CFR § 90.35), rescue organizations (47 CFR § 90.37), disaster relief organizations (47 CFR § 90.41) and beach patrols (47 CFR § 90.45) to use narrowband Channels 161–170 to enable them—while conducting safety-of-life communications—to communicate with one another. These four service categories need frequencies for Mutual Aid purposes. Permitting those licensed in these categories to use Channels 161–170 in the 220–222 MHz band will serve the public interest by enhancing interoperability between many types of emergency providers in safety-of-life situations.

List of Subjects in 47 CFR Part 90

Emergency medical services, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—[AMENDED]

Part 90 Private land mobile radio services:

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.17 is amended by revising paragraph (c)(11) to read as follows:

§ 90.17 Local Government Radio Service.

* * * * *

(c) * * *

(11) This frequency is available for systems first licensed prior to March 31, 1980, for radio call box communications related to safety on highways in accordance with the provisions of § 90.241(c). No new systems will be authorized of this nature, but systems authorized prior to March 31, 1980 may be modified, expanded, and renewed. Also, effective April 2, 1993, this frequency is shared with EMRS systems in accordance with § 90.27.

* * * * *

3. Section 90.19 is amended by revising paragraph (e)(17) to read as follows:

§ 90.19 Police Radio Service.

* * * * *

(e) * * *

(17) This frequency is shared with the Fire and Emergency Medical Radio Services.

* * * * *

4. Section 90.21 is amended by revising paragraph (c)(8) to read as follows:

§ 90.21 Fire Radio Service.

* * * * *

(c) * * *

(8) This frequency is shared with the Police and Emergency Medical Radio Services.

* * * * *

5. Section 90.27 is amended by revising the second sentence of paragraph (a), and by adding the words "or mobile" to the Class of station(s) for Frequencies 453.025, 453.075, 453.125 and 453.175 MHz in paragraph (b), to read as follows:

§ 90.27 Emergency Medical Radio Service.

(a) * * * Applications submitted by persons or organizations (governmental or otherwise) other than the governmental body having jurisdiction over the state's emergency medical service plans must be accompanied by a statement prepared by the governmental body having jurisdiction over the state's emergency medical services plan indicating that the applicant is included in the state's emergency plan or otherwise supporting the application.

* * * * *

6. Section 90.238 is amended by revising paragraph (h) to read as follows:

§ 90.238 Telemetry operations.

* * * * *

(h) 458–468 MHz band (as available in the Emergency Medical Radio Service for bio-medical telemetry operations).

* * * * *

7. Section 90.243 is amended by revising paragraphs (a)(1), (a)(2), and (b)(1) to read as follows:

§ 90.243 Mobile relay stations.

(a) * * *

(1) On frequencies below 450 MHz, except for the 220–222 MHz band, mobile relay stations may be authorized within the contiguous 48 states to operate only in the Police, Fire, Local Government, Highway Maintenance, Forestry-Conservation, Emergency Medical, Power, Petroleum, Forest Products, Manufacturers, Telephone Maintenance, and Railroad Radio Services.

(2) On frequencies below 450 MHz, except for the 220–222 MHz band, mobile relay stations may be authorized outside the contiguous 48 states to operate only in the Police, Fire, Local Government, Highway Maintenance, Forestry-Conservation, Emergency Medical, Power, Petroleum, Forest Products, Manufacturers, Telephone Maintenance, Railroad, Business, and Special Industrial Radio Services.

* * * * *

(b) * * *

(1) In the Emergency Medical and Special Emergency Radio Services, medical services systems in the 150–160 MHz band are permitted to be cross banded for mobile and control station operations with mobile relay stations authorized to operate in the 450–470 MHz band.

* * * * *

8. Section 90.273 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 90.273 Availability and use of frequencies in the 421–430 MHz band.

* * * * *

(b) Channels in the public safety pool are available for assignment to eligibles in the Public Safety and Special Emergency Radio Services. * * *

* * * * *

9. Section 90.421 is amended by redesignating paragraph (k) as paragraph (l) and adding new paragraph (k) to read as follows:

§ 90.421 Operation of mobile units in vehicles not under the control of the licensee.

* * * * *

(k) Mobile units licensed in the Emergency Medical Radio Service may be installed in a vehicle or be hand-carried for use by any person with whom cooperation or coordination is required for medical services activities.

* * * * *

10. Section 90.477 is amended by revising the first sentence of paragraph (d)(3) to read as follows:

§ 90.477 Interconnected systems.

* * * * *

(d) * * *

(3) In the Special Emergency, Business, Special Industrial, Automobile, and Taxicab Radio Services, interconnection will be permitted only where the base station site or sites of proposed stations are located 120 km (75 mi) or more from the designated centers of the urbanized areas listed below. * * *

* * * * *

11. Section 90.483 is amended by revising the third sentence of paragraph (d) to read as follows:

§ 90.483 Permissible methods and requirements of interconnecting private and public systems of communications.

* * * * *

(d) * * * This provision does not apply to systems licensed in the Police, Fire, Local Government, Emergency Medical, Special Emergency, Power, Petroleum and Railroad Radio Services, or above 800 MHz. * * *

12. Section 90.617 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 90.617 Frequencies in the 809.750–824/854.750–869 MHz and 896–901/935–940 MHz bands available for trunked or conventional system use in non-border areas.

(a) The channels listed in Table 1 and paragraph (a)(1) of this section for the Public Safety Category are available to applicants eligible in the Public Safety and Special Emergency Radio Services. * * *

* * * * *

13. Section 90.619 is amended by revising the first sentence of paragraph (a)(1) and the first sentence of paragraph (b)(7)(iii) to read as follows:

§ 90.619 Frequencies available for use in the U.S./Mexico and U.S./Canada border areas.

(a) * * *

(1) Table 1A lists the channels in the 806–821/851–866 MHz band Public Safety Category that are available for assignment to applicants eligible in the Public Safety and Special Emergency Radio Services. * * *

* * * * *

(b) * * *

(7) * * *

(iii) The Public Safety Category consists of the Public Safety and the Special Emergency Radio Services.

* * *

14. Section 90.631 is amended by revising the second sentence of paragraph (g) to read as follows:

§ 90.631 Trunked system loading, construction, and authorization requirements.

* * * * *

(g) * * * Remote or satellite stations of wide area systems in the Public Safety, Special Emergency, Telephone Maintenance, and Power Radio Services may be authorized on a primary basis if such stations are the first to be authorized in their area of operation on the frequency or group of frequencies.

* * *

* * * * *

15. Section 90.720 is revised to read as follows:

§ 90.720 Channels available for public safety/mutual aid.

(a) Part 90 licensees whose licenses reflect a two-letter radio service code beginning with the letter "P" are authorized by this rule to use mobile and/or portable units on Channels 161–170 throughout the United States, its territories, and possessions to transmit:

(1) Communications relating to the immediate safety of life; or

(2) Communications to facilitate interoperability among public safety entities, and public safety entities and Special Emergency Radio Service eligibles in §§ 90.35, 90.37, 90.41 and 90.45.

(b) Any entity eligible to obtain a license under subpart B of this part or eligible to obtain a license under §§ 90.35, 90.37, 90.41 and 90.45 of subpart C of this part is also eligible to obtain a license for base/mobile operations on Channels 161–170. Base/mobile or base/portable communications on these channels that do not relate to the immediate safety of life or to communications interoperability among public safety entities, and public safety and the above specified special emergency entities may only be conducted on a secondary non-interference basis to such communications.

[FR Doc. 96–3821 Filed 2–20–96; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1825

Acquisition of Japanese Products and Services

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule changes requirements for acquisition by NASA when Japanese products or services are offered. In negotiations with Japan, the U.S. Trade Representative has removed NASA from the list of agencies required to acquire Japanese products and services on a non-discriminatory basis. This was in response to the inability to reach agreement with Japanese negotiators on including the Japanese space agency under a trade agreement.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Jefferson, (202) 358–0409.

SUPPLEMENTARY INFORMATION:

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1825

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR part 1825 is amended as follows:

PART 1825—[FOREIGN ACQUISITION]

1. The authority citation for 48 CFR part 1825 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. Section 1825.401 is added to read as follows:

1825.401 Definitions.

For acquisition by NASA, the definition of "designated country" in FAR 25.401 excludes "Japan." NASA is not obligated to provide non-discriminatory treatment to Japanese products or services under the World Trade Organizations Government Procurement Agreement (GPA) effective January 1, 1996.

[FR Doc. 96–3812 Filed 2–20–96; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 960212026–6026–01; I.D. 020296A]

RIN 0648–XX44

Western Pacific Crustacean Fisheries; 1996 Initial Quota

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Initial quota for crustaceans for 1996.

SUMMARY: NMFS announces a 1996 initial quota of 143,863 lobsters for the Northwestern Hawaiian Islands (NWHI) crustacean fishery. The quota was calculated according to the formula in Amendment 7 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). The final quota for the 1996 fishing year, which begins July 1, 1996, will be announced after the first month of fishing.

EFFECTIVE DATE: Effective July 1, 1996.

ADDRESSES: Copies of Amendment 7 and the associated background material for determining the quota may be obtained from Ms. Kitty Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop Street, Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Mr. Svein Fougner, 310–980–4034; Mr. Alvin Z. Katekaru, 808–973–2985; or Ms. Kitty Simonds, 808–522–8220.

SUPPLEMENTARY INFORMATION: The crustacean fisheries of NWHI are managed by the Secretary of Commerce (Secretary) according to the FMP, which was prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act. Regulations affecting the U.S. fishery are at 50 CFR part 681.

The annual quota for the crustacean fishery is announced in two steps. First, based on previous years' fishery data, sampling during research cruises, and other available data, the Director, Southwest Region, NMFS (Regional Director) determines an initial quota, which is announced in the **Federal Register** by NMFS. A population model by which the quota is determined is described in Amendment 7 to the FMP. The final quota for the year is then determined based on the initial quota, adjusted after consideration of actual commercial fisheries data collected during the first month of fishing. These actual catch and effort data, in conjunction with the previous information, provide an additional indicator of the status of the lobster stocks in NWHI. Amendment 7 provides that an annual quota be set at a level permitting an average catch per unit of effort (CPUE) of 1.0 for the fleet. The Regional Director has used the formula in Amendment 7 to set an initial quota for 1996 of 143,863 lobsters (spiny and slipper lobster combined). The final quota, to be announced in the **Federal Register** as soon as practicable after August 15, 1996, may increase or decrease substantially from the initial quota. The Southwest Region, NMFS, will monitor landings against the quota and issue timely reports of summary data. The Southwest Region also will promptly notify participants in the fishery of any changes in the fishery; however, participants are advised to contact the Southwest Region (see **ADDRESSES**) periodically to stay abreast of any change in the quota and progress of the fishery toward attaining the quota. Under the procedures in 50 CFR 681.31(c), NMFS will announce the date upon which the quota will be reached or exceeded and close the fishery.

A proposed Amendment 9 to the FMP has been prepared by the Council. The amendment proposes changes in the quota-setting procedure that, if approved by the Secretary and implemented, would affect the 1996 fishery. The amount, size, and condition of lobster that may be harvested also would change if Amendment 9 is approved and implemented. Amendment 9 would be implemented by notice-and-comment rulemaking, so fishermen would be notified of any changes made to the regulations governing the 1996 fishery and the associated harvest limit.

Classification

This action is authorized by 50 CFR part 681 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries (AA), NOAA, finds that since this notice merely announces a quota resulting from the nondiscretionary application of the objective quota formula in Amendment 7 to the FMP, no useful purpose would be served by providing prior notice and opportunity for public comment. Accordingly, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive as unnecessary the requirement to provide prior notice and opportunity for public comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 14, 1996.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–3779 Filed 2–15–96; 11:20 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 61, No. 35

Wednesday, February 21, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

General Accounting Office, Administrative Practice and Procedure, Bid Protest Regulations, Government Contracts

AGENCY: General Accounting Office.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The General Accounting Office (GAO) is soliciting comments on how its bid protest procedures can be revised in order to facilitate GAO's meeting a new statutory deadline for issuing decisions, while also improving the overall effectiveness of the bid protest process at GAO. GAO is reviewing, and will be revising, its Bid Protest Regulations in light of the requirement in the National Defense Authorization Act for Fiscal Year 1996 that GAO issue bid protest decisions within 100 calendar days from the time a protest is filed at GAO.

DATES: Comments must be submitted on or before March 22, 1996.

ADDRESSES: Comments should be addressed to: Michael R. Golden, Assistant General Counsel, General Accounting Office, 441 G Street, NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Michael R. Golden (Assistant General Counsel) or Linda S. Lebowitz (Senior Attorney), 202–512–9732.

SUPPLEMENTARY INFORMATION: The National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104–106, which was enacted on February 10, 1996, requires GAO, effective August 8, 1996, to issue bid protest decisions within 100 calendar days from the time a protest is filed at GAO, shortening the current 125-calendar-day requirement. GAO will revise its bid protest regulations to comply with this new deadline. GAO is inviting public participation in the revision process by soliciting comments on how it should revise its regulations both in order to facilitate meeting the new timeliness requirement and to improve the overall effectiveness of the GAO bid protest process.

On January 31, 1995, GAO published a proposed rule (60 FR 5871) implementing the Federal Acquisition Streamlining Act of 1994 (FASA), Pub. L. 103–355, 108 Stat. 3243, dated October 13, 1994, and reflecting the practice that had evolved at GAO with respect to protective orders and hearings. On August 10, 1995, GAO published a final rule (60 FR 40737).

In comments on the proposed rule, several commenters suggested that GAO revise its timeliness rules to permit the timely filing of a protest 5 calendar days after the new statutorily required debriefing, that is, concurrent with the new requirements for obtaining a stay and independent of the time from which the protester may otherwise have learned of a basis of protest. In adopting the final rule, GAO did not consider this change to its timeliness rules because it believed that the recommendation warranted an opportunity for public comment. GAO invites comments on this recommended change to its timeliness rules in light of the new, shorter statutory period for resolving bid protests and the debriefing requirements contained in FASA and the National Defense Authorization Act for Fiscal Year 1996.

In light of the new, shorter statutory period for resolving bid protests, GAO also invites suggestions addressing the feasibility of promoting the early production of documents in appropriate cases. GAO notes that since October 1995, parties have frequently agreed to early document production, resulting in the expeditious resolution of these protests including dismissals and withdrawals of the protests in whole or in part.

In addition, GAO welcomes the submission of ideas regarding the appropriate length of regulatorily imposed deadlines, including the time periods for filing supplemental protests, comments, and supplemental document requests, as well as suggestions concerning the use of accelerated or alternative procedures to more expeditiously resolve bid protests. GAO anticipates publishing a proposed rule for public comment on or before May 1, 1996.

Comments with respect to this advance notice of proposed rulemaking should reference file number B–259187.2. Comments may be filed by hand delivery or mail at the address in the address line, or comments may be filed by facsimile transmission at 202–512–9749.

Robert P. Murphy,

General Counsel.

[FR Doc. 96–3897 Filed 2–20–96; 8:45 am]

BILLING CODE 1610–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–35–AD]

Airworthiness Directives; Lockheed Model 382 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Lockheed Model 382 series airplanes, that currently requires a revision to the Airplane Flight Manual to require takeoff operation in accordance with revised performance data. That AD also requires installation of certain valve housings for the propeller governor on the outboard engines. This proposal would revise the applicability of the existing AD to remove certain airplanes. This proposal also would revise references to a certain replacement part number of a valve housing. The actions specified by the proposed AD are intended to ensure that the airplane maintains adequate thrust decay characteristics in the event of critical engine failure during takeoff.

DATES: Comments must be received by March 11, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–35–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00

p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, Campus Building, Suite 2–160, 1701 Columbia Avenue, College Park, Georgia 30337–2748.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, Campus Building, Suite 2–160, 1701 Columbia Avenue, College Park, Georgia 30337–2748; telephone (404) 305–7367; fax (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–35–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–35–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On May 26, 1995, the FAA issued AD 95–12–05, amendment 39–9255 (60 FR 28715, June 2, 1995), applicable to certain Lockheed Model 382 series airplanes, to require a revision to the Airplane Flight Manual to require takeoff operation in accordance with revised performance data. That AD also requires installation of certain valve housings for the propeller governor on the outboard engines. That action was prompted by a report of a change that had been incorporated into the propeller governor of these airplanes during production, which altered the thrust decay characteristic of the propeller when operating in an engine failure scenario. The requirements of that AD are intended to ensure that the airplane maintains adequate thrust decay characteristics in the event of critical engine failure during takeoff.

Since the issuance of that AD, the manufacturer has advised the FAA that servo-type valve housing assemblies having certain part numbers cited in the existing AD were incorrect. Specifically, servo-type valve housing assemblies cited in the applicability as part numbers 714325–2, –5, and –6, are incorrect since they are parts configured specifically for the military; only part numbers 714325–3 and –7 should be cited.

The manufacturer also advised that the replacement servo-type valve housing assembly having part number 714325–1, as cited in paragraph (b) and NOTE 2 of the existing AD, is also a valve housing configured for the military. In addition, part number 714325–1 does not have a particular switch that is necessary to drive the annunciation required by the FAA. The correct replacement part is a valve housing specified by governor assembly control number 577888 on the propeller governors installed on the outboard engines.

Based on this information, the FAA has determined the following:

1. The applicability of the existing AD must be revised to cite only airplanes equipped with servo-type valve housing assemblies having part numbers 714325–3 and –7;

2. The replacement servo-type valve housing assembly (part number 71425–1) cited in the existing AD must be specified as governor assembly control number 577888; and

3. The servo-type valve housing assembly part numbers referenced in NOTE 2 of the existing AD must be revised to cite only part numbers 714325–3 and –7.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 95–12–05 to continue to require the previous revision to the Airplane Flight Manual to require takeoff operation in accordance with revised performance data. The proposed AD would also continue to require the installation of certain valve housings for the propeller governor on the outboard engines. The revisions to this proposed AD are specified as Items 1, 2, and 3, above.

Additionally, the compliance time for the installation of the valve housings has been revised to 12 months after the effective date of the final rule for this new AD. (In AD 95–12–05, the compliance time for this installation was 24 months.) This revision will ensure that the date of compliance with this installation requirement will fall at approximately the same time that compliance was required by the existing AD. As indicated in the existing AD, this time represents what the FAA considers the maximum interval of time allowable for the affected airplanes to continue to operate prior to accomplishing the required installation without compromising safety. This compliance time interval also will allow the installation to be accomplished during the time of a regularly scheduled maintenance for most affected operators.

There are approximately 112 Model 382, 382E, and 382G series airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 95–12–05 take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $90,000 per airplane. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $1,628,640, or $90,480 per airplane. Since this proposed AD only revises certain information and part numbers, it would add no new costs to the affected operators.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that the only U.S. operator of the affected Lockheed Model 382 series airplanes has already equipped half of its fleet (9 airplanes) with the valve housing assembly that will be required by this proposed rule. Therefore, the future economic cost of this proposed rule on U.S. operators is now only $814,320.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9255 (60 FR 28715, June 2, 1995), and by adding a new airworthiness directive (AD), to read as follows:

Lockheed: Docket 96–NM–35–AD Supersedes AD 95–12–05, Amendment 39–9255.

Applicability: Model 382, 382E, and 382G series airplanes; equipped with a servo-type valve housing assembly having part number 714325–3 or –7 installed on any outboard engine; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the airplane maintains adequate thrust decay characteristics in the event of critical engine failure during takeoff, accomplish the following:

(a) Within 60 days after August 10, 1994 (the effective date of AD 94–14–09, amendment 39–8961), revise the Limitations and Performance Data Sections of the FAA-approved Airplane Flight Manual (AFM) to include information specified in Lockheed Airplane Flight Manual Supplement 382–16, dated August 11, 1993, and operate the airplane accordingly thereafter. The requirements of this paragraph may be accomplished by inserting AFM Supplement 382–16 into the AFM.

(b) Within 12 months after the effective date of this AD, replace the servo-type valve housing assemblies having part number 714325–3 or –7 with a governor assembly control number 577888 on the propeller governors installed on the outboard engines, in accordance with Lockheed Document SMP–515C, Card No. CO–135. Replacement of these assemblies with governor assembly control numbers 577888, constitutes terminating action for the requirements of paragraph (a) of this AD; once the replacement is accomplished, the AFM revision may be removed.

Note 2: Propeller governors with servo-type valve housing assemblies having part number 714325–3 or –7 may be retained or replaced with a governor assembly control number 577888 for use on the inboard engine positions.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 14, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3833 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–191–AD]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This proposal would require inspections to detect damage of the sidewall vent box diaphragms, and repair, if necessary. This proposal also would require eventual installation of stops on the vent box diaphragm, which would terminate the inspection requirements of the proposed AD. This proposal is prompted by reports of damage to sidewall vent box diaphragms, which can result in non-functional diaphragms during a rapid decompression. The actions specified by the proposed AD are intended to prevent buckling of the floor beams due to insufficient air flow of the cabin sidewall vent box diaphragms during rapid decompression, and subsequent reduction in the controllability of the airplane.

DATES: Comments must be received by April 1, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–191–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the

FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5338; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–191–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–191–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports indicating that the cabin sidewall vent box diaphragms on McDonnell Douglas Model MD–11 series airplanes have been found to be damaged. In one case, during an interior cabin modification, an operator found many of these diaphragms on one airplane bent into an undesirable shape; these units failed to pass a decompression test. Other operators have reported similar damage. Investigation revealed that such damage may be caused by passengers or maintenance personnel inadvertently hitting or applying pressure to the vent box face plate. This causes excessive loads to the sidewall vent box diaphragm and stop pads. Such damage to the diaphragm can prevent sufficient air flow during rapid decompression on an airplane. This condition, if not corrected, could result in buckled floor beams, and subsequent reduction in the controllability of the airplane.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995, which describes procedures for repetitive inspections to detect damage of the sidewall vent box diaphragm, and repair, if necessary. The service bulletin also describes procedures for installation of stops in all vent box diaphragms, which, when accomplished, terminates the need for the repetitive inspections. Installation of the stops enables the diaphragm to withstand excessive loads and minimizes damage to the vent box diaphragm.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive inspections to detect damage of the sidewall vent box assemblies. Initially, the proposed AD would permit continued flight if only a certain number of assemblies are found to be damaged. However, once that number is exceeded, the damaged assemblies would be required to be modified, prior to further flight, until the remaining number of damaged assemblies does not exceed a certain number. The proposed AD also would require the eventual installation of stop pads for all vent box diaphragms and reidentification of the assemblies, which, when accomplished, terminates the requirement for the repetitive inspections. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

There are approximately 123 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 39 airplanes of U.S. registry would be affected by this proposed AD.

To accomplish the proposed inspections would take approximately 2 work hours per airplane per inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be $4,680, or $120 per airplane, per inspection cycle.

To accomplish the proposed installation and reidentification would take a total of approximately 270 work hours per airplane. This figure represents 3 work hours per vent box, and up to a maximum of 90 vent boxes on an airplane. The average labor rate is $60 per work hour. The cost of required parts would be negligible; the parts may be fabricated locally. Based on these figures, the cost impact of the proposed installation on U.S. operators is estimated to be $631,800, or $16,200 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 95–NM–191–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent buckling of the floor beams due to insufficient air flow of the cabin sidewall vent box diaphragms during rapid decompression, and subsequent loss of airplane control capabilities; accomplish the following:

(a) Within 90 days after the effective date of this AD, perform an inspection to detect damage of the sidewall vent box diaphragms, in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995. Based on the findings of the initial inspection, or any repetitive inspection, accomplish the requirements of paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable:

(1) Condition 1. If no damage is detected: Repeat the inspection at intervals not to exceed 90 days.

(2) Condition 2. If damage is detected, but the number of damaged sidewall vent box assemblies does not exceed the applicable allowable number specified in Table 1 of the alert service bulletin: Repeat the inspection at intervals not to exceed 90 days.

(3) Condition 3. If damage is detected, and the number of damaged vent box assemblies exceeds the applicable number specified in Table 1 of the alert service bulletin: Prior to further flight, install stops on and re-identify as many damaged sidewall vent box assemblies as necessary so that the total number of damaged vent box assemblies does not exceed the applicable allowable number specified in Table 1 of the alert service bulletin. Accomplish the installation of the stops and reidentification of the assemblies in accordance with the alert service bulletin. The installation of stops on and reidentification of an assembly constitutes terminating action for the repetitive inspections of that assembly only. All other assemblies must continue to be inspected thereafter at intervals not to exceed 90 days.

(b) Within 30 months after the effective date of this AD, install stops on and reidentify all sidewall vent box assemblies that do not already have stops installed and have not been reidentified in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995. Accomplishment of this action constitutes terminating action for the inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 14, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3834 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–CE–18–AD]

Airworthiness Directives; Jetstream Aircraft Limited Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Jetstream Aircraft Limited (JAL) Jetstream Models 3101 and 3201 airplanes. The proposed action would require modifying the automatic airframe de-ice system to allow the wing and tail de-ice boots to automatically operate through one cycle. The present system repeats the wing de-ice boot inflation cycle before starting to inflate the tail de-ice boots. Reports of ice accumulating on the tail faster than the automatic tail de-ice boots inflate on the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to prevent excessive ice accretion on the tail or wings of the affected airplanes, which could result in loss of control of the airplane.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–18–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC, 20041–6029, telephone (703) 406–1161; facsimile (703) 406–1469. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 513.3830, facsimile (322) 230.6899; or Mr. Jeffrey Morfitt, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932, facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposed contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–18–AD." The postcard will be date stamped and return to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–18–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Under the current design of the airframe automatic de-ice system on certain JAL Jetstream Models 3101 and 3201 airplanes, the inflation cycle of the wing de-ice boots repeats before the tail de-ice boots inflate. The FAA has received reports of ice accumulating on the tail faster than the automatic de-ice system inflates the tail de-ice boots. These airplanes are equipped with a manual switch for both the wing and tail de-ice boots. Because the timing of the automatic de-ice system does not keep up with ice accretion, the FAA believes that most airplane operators pilots use the manual system for de-icing.

The problem with the manual switch is that the pilot must press the switch until the de-ice boot is inflated. This diverts the pilot's attention away from other critical duties during flight.

JAL has issued Jetstream Service Bulletin (SB) 30–JK 12033, Revision No. 1, dated October 20, 1995, which specifies procedures for modifying the airframe automatic de-ice system. This modification would allow both the wing and tail de-ice boots to inflate once through before inflation of either one is repeated. The automatic system may then be reset or the manual switch may be utilized.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent excessive ice accretion on the tail or wings of the affected airplanes, which could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other JAL Jetstream Models 3101 and 3201 airplanes of the same type design, the proposed AD would require modifying the automatic airframe de-ice system to allow the wing and tail de-ice boot systems to automatically operate through one cycle. Accomplishment of the proposed modification would be in accordance with Jetstream SB 30–JK 12033, Revision No. 1, dated October 20, 1995.

The FAA estimates that 260 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 5 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $50 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $91,000. This figure is based on the assumption that no owner/operator of the affected airplanes has accomplished the proposed modification.

Jetstream has informed the FAA that parts have distributed to owners/operators to equip approximately 22 of the affected airplanes. Assuming that each set of parts is installed on an affected airplane, the proposed cost impact would be reduced $7,700 from $91,000 to $83,300.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federal Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Jetstream Aircraft Limited: Docket No. 95–CE–18–AD.

Applicability: Jetstream Models 3101 and 3201 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provisions, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe conditions has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 1,000 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent excessive ice accretion on the tail or wings of the affected airplanes, which could result in loss of control of the airplane, accomplish the following:

(a) Modify the automatic airframe de-ice system in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream Service Bulletin No. 30–JK 12033, Revision No. 1, dated October 20, 1995.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office (ACO), Europe, Africa, Middle East office, FAA, c/o American Embassy, B–1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels ACO.

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029; or may examine these documents at the FAA, Central Regional, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 12, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–3885 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Parts 4, 4a, and 4b

[Docket No. 950929241–5241–01]

RIN 0605–XX02

Public Information, Freedom of Information and Privacy

AGENCY: Department of Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Commerce proposes to amend its Freedom of Information Act and Privacy Act regulations to update and clarify them, and to make certain technical changes. The intent is to make them more helpful to the public.

DATES: Written comments must be received on or before March 22, 1996.

ADDRESSES: Address written comments to Andrew W. McCready, Attorney-Advisor, Office of the Assistant General Counsel for Administration, Rm. H5876, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Andrew W. McCready, Telephone: 202–482–8044.

SUPPLEMENTARY INFORMATION: On March 4, 1995, as part of the President's Regulatory Reform Initiative, the President directed agencies to conduct a page-by-page review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform. After conducting a review of the Department's Public Information, Freedom of Information and Privacy Act regulations, it was determined that the following amendments were necessary.

The proposed amendment to 15 CFR part 4 changes the duplication fee for processing Freedom of Information Act (FOIA) requests to reflect increased costs to the Department, makes technical corrections, makes clear that records responsive to FOIA requests include electronic records, updates telephone numbers and addresses, replaces a list of officials authorized to make initial denials of FOIA requests with a statement that heads of offices are authorized to grant or deny initial FOIA requests, and makes clarifying changes.

The proposed amendment to 15 CFR part 4a eliminates the requirement that the Department's Office of Security coordinate with the Office of the Assistant General Counsel for Administration with respect to declassification and FOIA matters, and changes the official responsible for adjudicating administrative appeals of denials of requests for classified information.

The proposed amendment to 15 CFR part 4b expands the list of Privacy Act Officers, and changes the official responsible for adjudicating Privacy Act appeals of requests for access, correction, and amendment.

It has been determined that this rule is not a significant rule under Executive Order 12866.

This rule does not contain a "collection of information" as defined by the Paperwork Reduction Act.

The Assistant General Counsel for Legislation and Regulation certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the regulations are being updated and clarified, and certain technical changes are being made. The duplication fee is being changed to reflect increased costs to the Department. The overall intent is to make the regulations more helpful to the public.

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects

15 CFR Part 4

Freedom of Information, Public information, Privacy.

15 CFR Part 4a

Classified information, Freedom of information, Privacy.

15 CFR Part 4b

Privacy.

For the reasons set forth in the preamble, it is proposed that 15 CFR parts 4, 4a, and 4b be amended as follows:

PART 4—PUBLIC INFORMATION

1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 553, Reorganization Plan No. 5 of 1950; 31 U.S.C. 3717.

§ 4.4 [Amended]

2. In the first sentence of § 4.4(c), remove "H6628" and add, in its place, "H6020"; and in the last sentence of § 4.4(c), remove "(202) 377–3271" and add, in its place, "(202) 482–4115".

3. In the last line of § 4.4(e), remove the word "the" and add, in its place, the word "this".

§ 4.6 [Amended]

4. In the third sentence of § 4.6(a)(4), remove the word "orginating", and add, in its place, the word "originating".

5. In the second sentence of § 4.6(b)(3), remove the word "dilligence" and add, in its place, the word "diligence".

6. Section 4.6 is further amended by revising paragraphs (a)(3), (a)(6), (b)(5), introductory text, and (b)(5)(iv) and removing (b)(6) to read as follows:

§ 4.6 Initial determinations of availability of records.

(a) * * *

(3) Whether the records no longer exist, or are not in the unit's possession. The unit should, if it knows which unit of the Department may have the records, forward the request to it.

* * * * * *

(6) In determining records responsive to a request, a unit ordinarily shall include only those records, including electronic records, within a unit's possession and control as of the date of its receipt of the request.

* * * * * *

(b) * * *

(5) The head of any bureau, office, or division, or his or her superiors, are authorized to grant or deny any request for a record of that bureau, office, or division.

* * * * * *

(iv) A brief statement of the right of the requester to appeal the determination to the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the determination, and the address to which the appeal should

be sent, in accordance with § 4.8 (a) and (b).

7. Section 4.7(d)(1) is removed and paragraphs (d) (2) and (3) are redesignated as (d) (1) and (2) respectively, and the introductory text of newly redesignated (d)(1) is revised to read as follows:

§ 4.7 Predisclosure notification procedures for confidential commercial information.

* * * * *

(d) * * *

(1) The unit shall provide a submitter with notice of a request whenever:

* * * * *

8. In § 4.8, in paragraph (a) add a sentence after the first sentence, and in paragraph (b) remove "5882" and add in its place, "H5876", to read as follows:

§ 4.8 Appeals from initial determinations or untimely delays.

(a) * * * For purposes of this section, an appeal will be considered submitted as of the date of the postmark or proof of receipt by a private carrier or, if not mailed or entrusted to a private carrier, the date of actual receipt by the Office of General Counsel. * * *

§ 4.9 [Amended]

9. In § 4.9(b)(2)(iii)(A) remove "$.07" and add, in its place, "$.15".

10. Section 4.9 is further amended by removing the introductory paragraph of (d)(2), redesignating (d)(2)(i), (d)(2)(ii), and (d)(3) through (d)(7) as (d)(2) through (d)(8) respectively, and revising the newly designated (d)(2) and (d)(4), to read as follows:

§ 4.9 Fees.

* * * * *

(d) * * *

(2) When the estimated charges for processing a request under this part exceed $250, the Department may require the requester to make an advance payment of an amount up to the entire estimated charges before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester with a history of timely payment of FOIA fees (i.e., payment within 30 days of the date of the billing).

* * * * *

(4) Whenever the Department acts pursuant to paragraphs (d)(2) or (d)(3) of this section, the administrative time limits prescribed in 5 U.S.C. 552(a)(6) will begin only after the agency has received payment of the required fee.

Appendix A of Part 4—[Amended]

11. Appendix A of Part 4 is amended by removing the final sentence of Sec. 5.04b of DAO 205–12, ("In addition, the Director of the Office of Public Affairs or his or her designee shall be informed before any decision on an appeal from an initial denial is issued.")

12. Appendix B of part 4 is revised to read:

Appendix B—Freedom of Information; Public Facilities and Addresses for Requests for Records

The public reference facilities listed below have been established within the Department of Commerce for (a) Public inspection and copying of materials from various units within the Department under 5 U.S.C. 552(a)(2), or determined to be available for response to requests made under 5 U.S.C. 552(a)(3); (b) furnishing information and otherwise assisting the public concerning Department operations under the Freedom of Information Act; and (c) receipt and processing of requests for records under 5 U.S.C. 552(a)(3).

Unless otherwise noted, each address listed below is the respective unit's public inspection facility and mailing address for receipt and processing of requests for records under 5 U.S.C. 552(a)(3), as described in the preceding paragraph. Requests should be addressed to the unit which the requester knows or has reason to believe has possession, control, or primary concern with the records sought. Otherwise, requests should be addressed to the Central Reference and Records Inspection Facility.

(1) Department of Commerce Freedom of Information Central Reference and Records Inspection Facility, U.S. Department of Commerce, room H6020, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–4115. This facility serves the Office of the Secretary, all other units of the Department not identified below, and those units identified below which do not have separate public inspection facilities, in accordance with 15 CFR 4.4(c).

(2) Bureau of the Census, Program and Policy Development Office, U.S. Department of Commerce, room 2430, Federal Building 3, Washington, DC 20233. Phone (301) 457–2520. This agency maintains a separate public inspection facility in room 2455, Federal Building 3, Suitland, Maryland.

(3) Bureau of Economic Analysis/ Economics and Statistics Administration, Public Reference Facility, U.S. Department of Commerce, room H4836, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–3308. This unit does not maintain a separate public inspection facility.

(4) Economic Development Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H7001, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–3687. Mailing addresses of Regional EDA offices:

(i) Philadelphia Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Curtis Center, Suite 140 South, Independence Square West, Philadelphia, Pennsylvania 19106.

(ii) Atlanta Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 401 West Peachtree Street, NW, Suite 1820, Atlanta, GA 30308.

(iii) Denver Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, room 670, 1244 Speer Boulevard, Denver, Colorado 80204.

(iv) Chicago Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 111 North Canal Street, Suite 855, Chicago, IL 60606.

(v) Seattle Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Jackson Federal Building, room 1856, 915 Second Avenue, Seattle WA 98174.

(vi) Austin Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Grant, Building, Suite 201, 611 East 6th Street, Austin, Texas 78701.

(5) Bureau of Export Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H4525, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–5653.

(6) International Trade Administration, Freedom of Information Records Inspection Facility, U.S. Department of Commerce, room H4001, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Phone (202) 482–3756.

(7) Minority Business Development Agency, Freedom of Information Office, U.S. Department of Commerce, room H5706, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–2025. This unit does not maintain a separate public inspection facility.

(8) National Institute of Standards and Technology, Freedom of Information Request Control Desk, Administration Building, room A–1105, Gaithersburg, Maryland 20899. Phone (301) 975–2389. This agency maintains a separate public inspection facility in room E–106, Administration Building, Gaithersburg, Maryland.

(9) National Oceanic and Atmospheric Administration, Public Reference Facility, room 714 WSC–5, 6010 Executive Boulevard, Rockville, Maryland 20852. Phone (301) 413–0610.

(10) National Technical Information Service, Freedom of Information room 203, Forbes Building, 5285 Port Royal Road, Springfield, Virginia 22161. Phone (703) 487–4736. This unit does not maintain a separate public inspection facility.

(11) National Telecommunications and Information Administration, Freedom of Information Request Control Desk, U.S. Department of Commerce, room H4713, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–1816. This unit maintains a separate public inspection facility in room H1609.

(12) Patent and Trademark Office, Freedom of Information Request Control Desk, Box 8, Washington, DC 20231. Phone (703) 305–9035. This agency maintains a separate public inspection facility in the Public Search Room, room 1A01, Crystal Plaza 3, 2021 Jefferson Davis Highway, Arlington, Virginia.

(13) United States Travel and Tourism Administration, Freedom of Information Request Control Desk, U.S. Department of Commerce, room H1520, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Phone (202) 482–3811."

Appendix C to Part 4—[Removed]

13. Appendix C is removed.

PART 4a—CLASSIFICATION, DECLASSIFICATION, AND PUBLIC AVAILABILITY OF NATIONAL SECURITY INFORMATION

14. The authority citation for part 4a continues to read as follows:

Authority: Sec. 5.3(b), E.O. 12356; 47 FR 14874, April 6, 1982; 47 FR 15557, April 12, 1982.

§ 4a.8 [Amended]

15. In § 4a.8(b)(4), remove the words, "All denials of information under the Freedom of Information Act must be approved by the Office of the Assistant General Counsel for Administration."

16. In § 4a.9 remove paragraphs (e)(2) and (e)(3), redesignate paragraph (e)(4) as (e)(2), and revise paragraph (f) to read as follows:

§ 4a.9 Request under the Privacy Act and the Freedom of Information Act involving classified records.

* * * * *

(f) Receipt of an appeal for reconsideration of denial of a classified record under PA/FOIA: Appeals under this section shall be addressed to the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial. The Assistant General Counsel for Administration or the General Counsel shall refer the record(s) to the Director, Office of Security, for a declassification review. The Director may overrule previous determinations in whole or in part when, in his or her judgment, continued protection in the interest of national security is no longer required. If the information under review no longer requires classification, it shall be declassified. The Director shall inform the official by whom the referral was made of his or her decision.

PART 4b—PRIVACY ACT

17. The authority citation for part 4b continues to read as follows:

Authority: 5 U.S.C. 552a; 5 U.S.C. 553; 5 U.S.C. 552; 5 U.S.C. 301; 44 U.S.C. 3101; Reorganization Plan No. 5 of 1950.

18. Section 4b.1 is amended by revising paragraphs (d)(1) and (e) to read as follows:

§ 4b.1 Purpose and scope.

* * * * *

(d) * * *

(1) Requests for records which do not pertain to the individual making the request, or the individual about whom the request is made if the requester is the parent or guardian of the individual;

* * * * *

(e) Any request for records which pertains to the individual making the request, or to the individual about whom the request is made if the requester is the parent or guardian of the individual, shall be processed under the Act and this part and under the Freedom of Information Act and the Department's implementing regulations (part 4 of this chapter), regardless of whether the Act or the Freedom of Information Act are mentioned in the request.

19. Section 4b.2(b)(6) is revised to read as follows:

§ 4b.2 Definitions.

* * * * *

(b) * * *

(6) The term *Privacy Officer* means the head of any bureau, office, or division, or his or her superiors. Each Privacy Officer is authorized to receive and act upon any inquiry, request for access, or request for correction or amendment pertaining to a record of his or her bureau, office, or division.

* * * * *

§ 4b.3 [Amended]

20. In § 4b.3(f)(2), remove the words, "General Counsel," and add, in their place, "Assistant General Counsel for Administration".

§ 4b.5 [Amended]

21. In § 4b.5(a)(2), remove the words, "responsible General Counsel," and add, in their place, "Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for sending an acknowledgment".

22. In § 4b.5(g)(3)(ii), remove the words, "General Counsel" and add, in their place, "Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial".

23. In § 4b.9, paragraph (b) is revised, in paragraphs (c), (e), (h), and (i) remove the words "General Counsel" and add, in their place, "Assistant General Counsel for Administration or the General Counsel" and paragraph (g)(1) is amended by revising the third, fourth and fifth sentences to read as follows:

§ 4b.9 Appeal of initial adverse agency determination on correction or amendment.

* * * * *

(b) An appeal shall be addressed to the Assistant General Counsel for Administration (or the General Counsel if the Assistant General Counsel for Administration is responsible for the denial), Department of Commerce, Room 5876, Washington, DC 20230. The processing of appeals will be facilitated if the words "PRIVACY APPEAL" appear in capital letters on both the envelope and the top of the appeal papers. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified, and will be forwarded immediately to the Assistant General Counsel for Administration or General Counsel, as appropriate. An appeal which is not properly addressed by the individual will not be deemed to have been "received" for purposes of measuring the time periods in this section until actual receipt by the Assistant General Counsel for Administration or the General Counsel. In each instance when an appeal so forwarded is received, the Assistant General Counsel for Administration or the General Counsel, as appropriate, shall notify the individual that his or her appeal was improperly addressed and the date when the appeal was received at the proper address.

* * * * *

(g) * * *

(1) * * * Such a statement shall be filed with the Assistant General Counsel for Administration, or the General Counsel if the Assistant General Counsel for Administration is responsible for the final determination. It should provide the Department control number assigned to the request, indicate the date of the final determination and be signed by the individual. The Assistant General Counsel for Administration or the General Counsel shall acknowledge receipt of such statement and inform the individual of the date on which it was received;

* * * * *

§ 4b.11 [Amended]

24. In § 4b.11(c), remove the words, "U.S. Department of Commerce" and add, in their place "Treasury of the United States".

Sonya Stewart,

Director for Executive Budgeting and Assistance Management.

[FR Doc. 96–3801 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–FA–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 339

Announcement of Intent To Issue a Proposed Rulemaking for the DOD Range Rule

AGENCY: U.S. Army Environmental Center, Department of Defense.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Defense (DOD) announces its intent to formulate a regulation concerning closed, transferred, and transferring military ranges. The regulation will address safety, human health, and the environment on these ranges, and the Proposed Rulemaking is anticipated to be published in the **Federal Register** in April 1996. The Proposed Rulemaking publication will be followed by a 60 day public comment period.

FOR FURTHER INFORMATION CONTACT: Interested persons who would like to be placed on a mailing list to receive updates and information on DOD's progress on this proposed rule can submit their name and address to: DOD Range Rule, P.O. Box 3430, Gaithersburg, MD 20885–3430.

SUPPLEMENTARY INFORMATION: DOD will be promulgating these regulations under the authorities of 10 U.S.C. 2701, the Defense Environmental Restoration Program, and 10 U.S.C. 172, the Department of Defense Explosive Safety Board.

Juanita H. Maberry,

Alternate, Army Federal Register Liaison Officer.

[FR Doc. 96–3803 Filed 2–20–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–96–001]

Drawbridge Operation Regulations; Snohomish River, Everett, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily amend the regulations governing the operation of the twin State Route 529 drawbridge across the Snohomish River, mile 3.6, at Everett, Washington. The proposed temporary regulations would permit the drawspans to remain closed for several months so that the mechanical and electrical systems of the twin bridges can be overhauled. The proposed closed period is October 1, 1996, to January 31, 1997.

DATES: Comments must be received on or before April 29, 1996.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. The comments and other materials referenced in this notice will be available for inspection and copying at 915 Second Avenue, Room 3410, Seattle, Washington. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 220–7270).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD13–96–001) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, Thirteenth Coast Guard District at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are Austin Pratt, Project Officer, Thirteenth Coast Guard District Aids to Navigation and Waterfront Management Branch, and Lieutenant Commander John C. Odell, Project Attorney, Thirteenth Coast Guard District Legal Office.

Background and Purpose

At the request of the Washington State Department of Transportation, the Coast Guard is considering a temporary amendment to the regulations governing the operation of the twin State Route 529 drawbridges across the Snohomish River at Everett, Washington. Currently, these bridges are required to open for the passage of vessels if one hour notice is provided. The proposed temporary regulations would permit the drawspans to remain closed for several months so that the mechanical and electrical systems of the twin bridges can be overhauled. The existing drawbridge operation regulations currently in effect would automatically be restored as soon as the proposed temporary regulations expire.

Discussion of Proposed Rule

The proposed rule would amend 33 CFR 117.1059 by temporarily suspending paragraph (c) and temporarily adding a new paragraph (i) to read that the twin State Route 529 drawbridges across the Snohomish River at Everett, Washington, need not open for the passage of vessels from October 1, 1996, until January 31, 1997. On February 1, 1997, the temporary regulation would terminate and paragraph (c) would again be in effect.

Regulatory Evaluation

This proposed temporary rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the commercial users of the waterway can pass under the bridge without an opening during low tide conditions.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant effect on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a significant number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.B, this proposal is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective October 1, 1996 through January 31, 1997, Paragraph (c) of 117.1059 is suspended and a new paragraph (i) is added to read as follows:

§ 117.1059 Snohomish River, Steamboat Slough, and Ebey Slough.

* * * * *

(i) The draws of the twin, SR 529, highway bridges across the Snohomish River, mile 3.6, at Everett need not open for the passage of vessels from October 1, 1996 through January 31, 1997.

Dated: February 5, 1996.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 96–3696 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD13–96–002]

Drawbridge Operation Regulations; Ebey Slough, Marysville, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily amend the regulations governing the operation of the State Route 529 drawbridge across Ebey Slough, mile 1.6, at Marysville, Washington. The proposed temporary regulations would permit the drawspan to remain closed for several months so that the mechanical and electrical systems of the bridge can be overhauled. The proposed closed period is February 1, 1997, to June 1, 1997.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. The comments and other materials referenced in this notice will be available for inspection and copying at 915 Second Avenue, Room 3410, Seattle, Washington. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 220–7270.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD13–96–002) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, Thirteenth Coast Guard District at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are Austin Pratt, Project Officer, Thirteenth Coast Guard District Aids to Navigation and Waterfront Management Branch, and Lieutenant Commander John C. Odell, Project Attorney, Thirteenth Coast Guard District Legal Office.

Background and Purpose

At the request of the Washington State Department of Transportation, the Coast Guard is considering a temporary amendment to the regulations governing the operation of the State Route 529 drawbridge across Ebey Slough at Marysville, Washington. Currently, the bridge is required to open for the passage of vessels if one hour notice is provided. The proposed temporary regulations would permit the drawspan to remain closed for several months so that the mechanical and electrical systems of the bridge can be overhauled. The existing drawbridge operation regulations currently in effect would automatically be restored as soon as the proposed temporary regulations expire.

Discussion of Proposed Rule

The proposed rule would amend 33 CFR 117.1059 by temporarily suspending paragraph (h) and temporarily adding a new paragraph (i) to read that the State Route 529 drawbridge across Ebey Slough at Marysville, Washington, need not open for the passage of vessels from February 1, 1997, until June 1, 1997. On June 2, 1997, the temporary regulation would terminate and paragraph (h) would again be in effect.

Regulatory Evaluation

This proposed temporary rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review

by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that there is very little commercial use of the waterway and the fact that the upper reaches of Ebey Slough beyond the State Route 529 drawbridge can be reached by an alternate route using Steamboat Slough.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant effect on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a significant number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.B, this proposal is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective February 1, 1997 through June 1, 1997 paragraphs (h) of 117.1059 is suspended and a new paragraph (j) is added to read as follows:

§ 117.1059 Snohomish River, Steamboat Slough, and Ebey Slough.

* * * * *

(j) The draws of the SR 529 highway bridge across Ebey Slough, mile 1.6, at Marysville, need not open for the passage of vessels from February 1, 1997 through June 1, 1997.

Dated: February 5, 1996.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 96–3697 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 157

[CGD 91–045]

RIN 2115–AF27

Structural Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to supplemental notice of proposed rulemaking.

SUMMARY: This document contains a correction to the supplemental notice of proposed rulemaking (CGD 91–045) which was published in the **Federal Register** on December 28, 1995 (60 FR 67226). The proposed regulations relate to the development of structural measures to reduce the threat of oil spills for existing tank vessels of 5,000 gross tons or more without double hulls.

FOR FURTHER INFORMATION CONTACT:

LCDR Suzanne Englebert, Project Manager, Standards Evaluation and Development Division, at (202) 267–6490. This number is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:

Background

The supplemental notice of proposed rulemaking (SNPRM) represents part of the Coast Guard's three-step effort to establish structural and operational measures that are economically and technologically feasible for reducing the threat of oil spills from tank vessels without double hulls, as required by the Oil Pollution Act of 1990 (OPA 90). It analyzes a number of measures and describes the results of extensive cost and benefit research on those measures deemed technologically feasible. No regulatory text is introduced in this SNPRM; however, the comments received on the SNPRM will allow the Coast Guard to assess the economic feasibility of structural measures. Upon the request of the Department of Transportation, a new Regulatory Identification Number (RIN) has been assigned to the structural portion of this rulemaking. The former RIN was 2115–AE01.

Need for Correction

As published in the SNPRM, table 2 contains transcription errors that are in need of correction.

Dated: February 13, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

Correction of Publication

Accordingly, the publication on December 28, 1995 of the supplemental notice of proposed rulemaking (CGD 91–045), which is the subject of FR Doc. 95–31371 is corrected as follows:

1. On page 67236, table 2 is revised to read as follows:

TABLE 2—SCREENING ANALYSIS—SUMMARY OF COSTS

Baseline tanker model	Measure	New total cargo oil (Bbls) (cu.m.)	Cargo oil shut-out (Bbls) (cu.m)	Cargo oil shut-out % Initial	One-time refit (ROM) costs (M$)	Opportunity costs per year International	Opportunity costs per year U.S. coastal
70,000 dwt, Pre-MARPOL ...	1.a. PL/Spaces, 30% coverage.	523,444 83,221	7,072 1,124	1.3	1.9	$6,402,000	$9,918,000
70,000 dwt, Pre-MARPOL ...	1.b. PL/SBT, 30% coverage, with ballast to max. feasible draft.	470,283 74,769	60,233 9,576	11.4	0.5	6,402,000	9,918,000
70,000 dwt, Pre-MARPOL ...	1.c. PL/CBT, 30% coverage, empty to extent feasible.	470,283 74,769	60,233 9,576	11.4	0.2	6,402,000	9,918,000
70,000 dwt, MARPOL '73	2.a. HBL all tanks	389,854 61,982	153,655 24,429	28.3	0	6,402,000	9,918,000
70,000 dwt, MARPOL '73	2.b. HBL, equivalent to Regulation 13G.	477,892 75,979	65,617 10,432	12.1	0	6,402,000	9,918,000
70,000 dwt, Pre-MARPOL ...	3. PL/Spaces as in 1.c. and HBL as in 2.b.	443,948 70,582	86,567 13,763	16.3	0.2	6,402,000	9,918,000
70,000 dwt, MARPOL '73	4. Retrofit double bottom ...	484,209 76,983	59,300 9,428	10.9	9.7	6,402,000	9,918,000
70,000 dwt, MARPOL '73	5. Retrofit double sides	502,573 79,903	40,936 6,508	7.5	13.6	6,402,000	9,918,000
12,700 dwt, Tank Barge	6. PL/Spaces (install bulkheads).	237,072 37,691	12,844 2,042	5.1	2.8	(*)	(*)
12,700 dwt, Tank Barge	7. PL/Spaces using existing cargo tanks.	207,712 33,204	42,203 6,710	16.9	0.3	(*)	(*)
264,000 dwt, Pre-MARPOL .	1.a. PL/Spaces, 30% coverage.	2,031,370 322,962	46,597 7,408	2.2	12.4	$11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	1.b. PL/SBT, 30% coverage, with ballast to max. feasible draft.	1,657,648 263,545	420,319 66,825	20.2	1.8	11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	1.c. PL/CBT, 30% coverage, empty to extent feasible.	1,657,648 263,545	420,319 66,825	20.2	0.4	11,279,000	12,143,000
264,000 dwt, MARPOL '73 ..	2.a. HBL all tanks	1,134,047 180,299	932,159 148,201	45.1	0	11,279,000	12,143,000
264,000 dwt, MARPOL '73 ..	2.b. HBL, equivalent to Regulation 13G.	1,495,725 237,801	570,481 90,699	27.6	0	11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	3. PL/Spaces as in 1.c	1,425,814 226,686	652,153 103,684	31.4	0.4	11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	4. Retrofit double bottom ...	1,929,181 306,715	148,786 23,655	7.2	26.6	11,279,000	12,143,000
264,000 dwt, Pre-MARPOL .	5. Retrofit double sides	1,921,087 305,428	156,880 24,942	7.5	39.9	11,279,000	12,143,000
31,000 dwt, Tank Barge	6. PL/Spaces (install bulkheads).	97,015 15,424	6,483 1,031	6.3	1.4	(*)	(*)
31,000 dwt, Tank Barge	7. PL/Spaces using existing cargo tanks.	68,281 10,856	35,217 5,599	34	0.2	(*)	(*)

*Opportunity costs were not calculated for tank barges. However, if the opportunity costs for tank vessels were extrapolated to apply to tank barges and required shipyard time is accounted for, tank barge opportunity costs would range from $2,506,000 to $5,859,000.

[FR Doc. 96–3685 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–59–1–6928b; FRL–5400–8]

Approval and Promulgation of Implementation Plans Florida: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted on August 12, 1994, by the State of Florida for the purpose of including the Small Business Stationary Source Technical and Environmental Compliance Assistance Program into the Florida Administrative Code, Chapters 17–202.100 through 17.202.400. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A

detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 22, 1996.

ADDRESS: Written comments should be addressed to: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Georgia may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 ext. 4195.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: December 11, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–3791 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MI37–01–6713b; FRL–5422–6]

Approval and Promulgation of State Implementation Plan; Michigan; Site-Specific SIP Revision for the Enamalum Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposed to approve a revision to the Michigan State Implementation Plan (SIP) for ozone that was submitted on August 26, 1994. This revision is a site-specific SIP revision that determines the appropriate reasonably available control technology (RACT) level for volatile organic compound (VOC) emissions from the Enamalum Corporation Novi, Michigan facility. This proposed approval of the site-specific SIP revision, submitted by the State of Michigan, would allow for a limit higher than that found in the control technology guidance (CTG) document for this source category. This proposed approval is based upon the argument that the Enamalum Corporation facility cannot afford the controls normally required by the State's RACT rule. In the final rules of this **Federal Register**, the EPA is approving this action as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received by March 22, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Douglas Aburano at (312) 353–6960.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the following address: (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 2, 1996.

Michelle D. Jordan,

Acting Regional Administrator.

[FR Doc. 96–3792 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 186

[OPP–300397A; FRL–5348–8]

RIN 2070–AC18

Proposed Revocation of Feed Additive Regulations; Reopening and Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Reopening and extension of comment period.

SUMMARY: EPA is reopening and extending until (insert date 45 days after publication in the **Federal Register**), the comment period for a proposed rule that was published in the **Federal Register** of September 21, 1995 (60 FR 49141) that proposed the revocation of certain section 409 feed additive regulations established under the Federal Food, Drug and Cosmetic Act (FFDCA) for 16 chemicals. The original comment period on the proposal closed on December 19, 1995, but because of the unavailability of certain documents in the docket, the comment period is being extended.

DATES: Written comments, identified by the document control number [OPP–300397A], must be received on or before April 8, 1996.

ADDRESSES: By mail, submit written comments to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked

confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [OPP–300397A]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. WF32C5, Crystal Station #1, 2800 Crystal Drive, Arlington, VA 22202, (703)–308–8028; e-mail:nazmi.niloufar@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is reopening and extending the comment period for a proposed rule that was published in the **Federal Register** of September 21, 1995 (60 FR 49141) that proposed the revocation of certain section 409 feed additive regulations established under the Federal Food, Drug and Cosmetic Act (FFDCA) for 16 chemicals. The original comment period on the proposal closed on December 19, 1995, but because of the unavailability of certain documents in the docket, the comment period is being extended.

A record has been established for this rulemaking under docket number [300360A] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects in 40 CFR Part 185

Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Processed foods, Reporting and recordkeeping requirements.

Dated: February 8, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 96–3722 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7166]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood elevations and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Camp Verde (Town) Yavapai County.	Verde River	Just downstream of State Route 260	*3,074	*3,074
			Just downstream of State Route 260	*3,076	*3,075
			Just downstream of Montezuma Castle Highway.	*3,096	*3,094
			Approximately 1,000 feet upstream of Interstate Highway 17.	*3,105	*3,107
			Approximately 2.62 miles upstream of Interstate Highway 17.	*3,131	*3,132
			Cherry Creek At confluence with Verde River.	None	*3,164
			At State Route 279	None	*3,252
			At corporate limits (approximately 3,400 feet upstream of State Route 279).	None	*3,314
		Lucky Canyon Wash	At confluence with Verde River	None	*3,060
			At Salt Mine Road	None	*3,100
			Approximately 930 feet upstream of Salt Mine Road.	None	*3,126
		Cooper Canyon Wash	At confluence with Verde River	*None	*3,063
			At Salt Mine Road	None	*3,142
			Approximately 980 feet upstream of Salt Mine Road.	None	*3,164

Maps are available for inspection at Town Hall, 473 South Main Street, Verde, Arizona.

Send comments to The Honorable Carter Rogers, Mayor, Town of Camp Verde, P.O. Box 710, Camp Verde, Arizona 86322.

Arizona	Yavapai County (Unincorporated Areas).	Verde River	Just upstream of State Route 260	*3,076	*3,074
			Just upstream of Montezuma Castle Highway	*3,096	*3,094
			Just upstream of Interstate Highway 17	*3,105	*3,107
			Just downstream of Middle Verde Indian Reservation	*3,132	*3,132
		Chino Valley Stream—East.	At confluence with Chino Valley Stream	None	*4,732
			At Center Street	None	*4,760
			Approximately 1.55 miles upstream of confluence with Chino Valley Stream.	None	*4,796
			Approximately 1.79 miles upstream of confluence with Chino Valley Stream.	None	*4,809
			Approximately 3.69 miles upstream of confluence with Chino Valley Stream.	None	*4,906
		Miller Creek	Approximately 3,400 feet downstream of U.S. Route 89.	*4,458	*4,458
			Approximately 2,350 feet downstream of U.S. Route 89.	*4,467	*4,463
			Approximately 1300 feet downstream of U.S. Route 89.	*4,470	*4,468
			Approximately 300 feet downstream of U.S. Route 89.	*4,474	*4,473
			Approximately 600 feet upstream of U.S. Route 89.	*4,478	*4,478

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 1,250 feet upstream of U.S. Route 89.	*4,482	*4,483
			Approximately 2,250 feet upstream of U.S. Route 89.	*4,488	*4,488
			Approximately 3,100 feet upstream of U.S. Route 89.	*4,493	*4,493
			Approximately 3,800 feet upstream of U.S. Route 89.	*4,498	*4,498
			Approximately 4,350 feet upstream of U.S. Route 89.	*4,503	*4,503
			Approximately 4,900 feet upstream of U.S. Route 89.	*4,508	*4,508
			Approximately 5,600 feet upstream of U.S. Route 89.	*4,513	*4,513
			Approximately 6,400 feet upstream of U.S. Route 89.	*4,519	*4,519
			At corporate limits (upstream of City of Prescott).	None	*5,478
			At Idlywild Drive	None	*5,517
			At Pine Drive	None	*5,612
			Approximately 2,500 feet upstream of Pine Drive (at limit of detailed study).	None	*5,672
		Cherry Creek	At corporate limits	None	*3,314
			Approximately 200 feet upstream of corporate limits (at limit of detailed study).	None	*3,318
		Texas Gulch Main Stem	At confluence with Aqua Fria River	None	*4,490
			At Quarter Horse Lane	None	*4,536
			At confluence of Texas Gulch West Branch.	None	*4,568
		Texas Gulch West Branch	At confluence with Texas Gluch Main Stem.	None	*4,568
			Approximately 0.5 mile upstream of confluence with Texas Gulch Main Stem.	None	*4,600
			Approximately 1.20 mile upstream of confluence with Texas Gulch Main Stem.	None	*4,660
			Approximately 1.58 mile upstream of confluence with Texas Gulch Main Stem.	None	*4,700
		Zalesky Wash Main Stem	Approximately 0.04 mile upstream of confluence with Verde River.	None	*3,259
			Approximately 0.86 mile upstream of confluence with Verde River.	None	*3,293
		Robert Wash	At U.S. Route 89	None	*4,394
			Approximately 0.25 mile upstream of U.S. Route 89.	None	*4,398
		Telephone Tank Wash	At confluence with Green Wash	None	*4,394
			At U.S. Highway 89	None	*4,404
			Approximately 0.88 mile upstream of confluence with Green Wash.	None	*4,434
		Telephone Tank Wash Breakout.	At confluence with Green Wash	None	*4,388
			At confluence of Robert Wash	None	*4,394
			At divergence from Telephone Tank Wash.	None	*4,430
		J. W. Draw	At confluence with Green Wash	None	*4,394
			At Bayberry Drive	None	*4,412
			At Naples Street	None	*4,462
			Approximately 0.41 mile upstream of Naples Street.	None	*4,488
		Green Wash	At confluence with Big Chino Wash	None	*4,364
			At Big Chino Road	None	*4,388
			Just upstream of Grand Canyon Road	None	*4,398
			At Aspen Drive	None	*4,460
			Approximately 0.36 mile upstream of Enid Drive.	None	*4,504
		Dry Well Wash	At confluence with Clayton Canyon Wash	None	*4,420
			At Patricia Road	None	*4,502
			At Barbara Road	None	*4,598
			Approximately 500 feet upstream of Barbara Road.	None	*4,608

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Clayton Canyon Wash	Approximately 0.08 mile upstream of confluence with Big Chino Wash.	None	*4,376
		.....	.....	None	•
			Just downstream of Clayton Canyon Dam	None	*4,480
			Just upstream of Clayton Canyon Dam ...	None	*4,500
			At Barbara Road	None	*4,520
			Approximately 320 feet upstream of Barbara Road.	None	*4,525
		Timon Wash	Approximately 0.50 mile upstream of confluence with Big Chino Wash.	None	*4,395
			At Ahonen Road	None	*4,438
			At Barbara Road	None	*4,524
			Approximately 320 feet upstream of Barbara Road.	None	*4,528
		Model Creek	Just upstream of U.S. Route 89	*4,453	*4,460
			Approximately 1,000 feet upstream of U.S. Route 89.	*4,459	*4,461
			Approximately 2,000 feet upstream of U.S. Route 89.	*4,463	*4,464
			Approximately 3,000 feet upstream of U.S. Route 89.	*4,468	**4,467
			Approximately 4,000 feet upstream of U.S. Route 89.	*4,474	*4,473
			Approximately 4,400 feet upstream of U.S. Route 89.	*4,476	*4,476
		West Fork Miller Creek	Approximately 500 feet upstream of confluence with Model Creek.	None	*4,460
			Approximately 1,500 feet upstream of confluence with Model Creek.	None	*4,463
			Approximately 2,500 feet upstream of confluence with Model Creek.	None	*4,465
			Approximately 3,500 feet upstream of confluence with Model Creek.	None	*4,470
			Approximately 4,500 feet upstream of confluence with Model Creek.	None	*4,474
			Approximately 4,800 feet upstream of confluence with Model Creek.	None	*4,475

Maps are available for inspection at the Yavapai County Flood Control District, 500 South Marina Street, Prescott, Arizona.

Send comments to The Honorable Carlton Camp, Chairman, Yavapai County Board of Supervisors, 255 East Gurley Street, Prescott, Arizona 86301.

Louisiana	Alexandria (City) Rapides Parish.	Bayou Rapides	At Bolton Avenue (Route 1)	*79	*80
			Approximately 3,100 feet downstream of Plantation Road.	*79	*81
		Irish Ditch No. 2	At Airbase Road	*81	*82
			At confluence of Big Bayou	*82	*83
		Big Bayou	Approximately 5,200 feet upstream of confluence with Irish Ditch No. 2.	*82	*83
		Bayou Rapides Diversion Channel.	At Dixie Lane Extended	*71	*71
			Just downstream of Bayou Rapides Road	*73	*74

Maps are available for inspection at the Utility Building, 1546 Jackson Street, Second Floor, Alexandria, Louisiana.

Send comments to The Honorable Edward Randolph, Jr., Mayor, City of Alexandria, P.O. Box 71, Alexandria, Louisiana 71301.

Louisiana	Rapides Parish (Unincorporated Areas).	Chatlin Lake Canal	At Chaneyville-Echo Road	None	*58
			Just upstream of State Highway 457	*None	*63
			Approximately 2,200 feet downstream of State Highway 3170.	None	*67
			Approximately 250 feet downstream of Sugar House Road.	*72	*72
		Bayou Boeuf	At Interstate Highway 49	None	*71
			Approximately 1,000 feet downstream of State Highway 488.	None	*74
			Approximately 1,600 feet downstream of Massina Road.	None	*80

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Bayou Rapides Diversion Channel.	At confluence with Bayou Boeuf	None	*71
			At State Highway 488	*71	*72
			Approximately 7,000 feet downstream of State Highway 28.	*72	*73
		Bayou Rapides	At U.S. Highway 1 (Bolton Avenue)	*79	*80
			At confluence of Irish Ditch No. 2	*79	*81
			Approximately 2,500 feet downstream of Robinson Road.	*81	*82
			Approximately 5,000 feet downstream of Cooper Road.	None	*83
		Irish Ditch No. 2	At State Highway 498	*79	*81
			Approximately 500 feet downstream of Chapel Road.	*81	*82
			Approximately 250 feet downstream of Harold Miles Park Road.	*82	*83
		Big Bayou	Approximately 2,500 feet downstream of Jimmy Brown Road.	None	*83
			At confluence of Saline Bayou and Bayou Bertrand.	None	*83
		Flagon Bayou	Just downstream of Kansas City Southern Railroad.	*141	*141
			Approximately 740 feet upstream of Hooper Road.	*150	*146
			Approximately 4,200 feet upstream of Hooper Road at the Grant-Rapides Parish Lane.	*154	*151
		Big Creek	At State Highway 115	None	*62
		Cainey Creek	At State Highway 1206	None	*62

Maps are available for inspection at the Planning Commission, 5610 East Coliseum Boulevar, Alexandria, Louisiana.

Send comments to The Honorable Myron Lawson, President, Rapides Parish Police Jury, Rapides Parish Courthouse, 701 Murray Street, Alexandria, Louisiana 71301.

New Mexico	Bernalillo County and Incorporated Areas.	Rio Grande	Approximately 1,000 feet downstream of Interstate 25.	*4,902	*4,902
			Approximately 3,000 feet upstream of Interstate 25.	*4,905	*4,906
			At confluence with the South Diversion Channel.	*4,924	*4,924
		Rio Grande East Overbank.	Approximately 1,300 feet downstream of Interstate 25.	*4,900	*4,900
			Just downstream of Interstate 25	*4,900	*4,903
			Approximately 3,500 feet upstream of Interstate 25.	*4,904	*4,905
			Approximately 20,400 feet upstream of Interstate 25.	*4,922	*4,922
		Arroyo A–B	Approximately 150 feet nort of Amalia Road.	None	*4,970
			Approximately 550 feet north of Amalia Road.	None	*4,980
			Just upstream of Sage Road	None	*4,995
			At ponding area west of the Arenal Canal	None	*4,951
			At ponding area northwest of the intersection of Sage Road and Coors Boulevard.	None	*5,001
			At ponding area north of Tower Road and west of Coors Boulevard.	None	*5,029
		Arroyo A–C	Approximately 1,140 feet downstream of Gonzales Road.	None	*5,006
			Just upstream of Gonzales Road	None	*5,008
			Approximately 630 feet upstream of the intersection of Forsythe Road and Corregidor Place.	None	*5,012
			At ponding area just upstream of Old Coors Road.	*5,013	*5,012
		Arroyo B–A	Approximately 100 feet upstream of Unser Boulevard.	#2	*5,087
			Just upstream of 86th Street	None	*5,115

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 1,000 feet upstream of 86th Street (at limit of detailed study).	None	*5,133
			At ponding area west of 94th Street and south of Central Avenue.	None	*5,169
		Arroyo B–B	Approximately 650 feet downstream of Unser Boulevard.	#1	*5,081
			Just upstream of 86th Street	#1	*5,105
			Approximately 400 feet upstream of 90th Street.	#1	*5,135
			Approximately 1,900 feet upstream of 90th Street (at limit of detailed study).	#1	*5,171
			Shallow flooding between Stinson Street and 300 feet upstream of 75th Street.	None	*5,080
		Arroyo B–C	Just upstream of Unser Boulevard	#1	*5,079
			Approximately 80 feet downstream of 86th Street.	#1	*5,093
			Approximately 240 feet downstream of 94th Street.	#1	*5,120
			Approximately 1,050 feet upstream of 94th Street (at limit of detailed study).	#1	*5,140
			Shallow flooding between Unser Boulevard and Abeyta Road.	*5,076	#1
		Ponding Area 18		*5,010	*5,009
		Ponding Area	Along Trujillo Road approximately 500 feet east of Bataan Drive.	*5,011	*5,009
		Ponding Area	Along Dennison Road approximately 500 feet east of Bataan Drive.	*5,011	*5,009
		Ponding Area	North of Eucariz Avenue approximately 500 feet east of Bataan Drive.	None	*5,008
		Ponding Area	Along Yerba Road south of Eucariz Avenue.	None	*5,002
		Ponding Area	Between Coors Boulevard and Corona Drive and between Redlands Road and Pheasant Avenue.	*4,999	*5,100

Maps are available for inspection at One Civic Plaza NW, Albuquerque, New Mexico.

Send comments regarding Bernalillo County to The Honorable Albert Valdez, Chairman, Bernalillo County Board of Commissioners, One Civic Plaza NW, Albuquerque, New Mexico 87103.

Send comments regarding the City of Albuquerque to The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3852 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

[Docket No. FEMA–7168]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other

Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Alabama	Oneonta (City) Blount County.	Dry Creek	Approximately 0.4 mile downstream of Pocoda Drive.	None	*785
			At U.S. Route 231	None	*850

Maps available for inspection at the Oneonta City Hall, 202 Third Avenue East, Oneonta, Alabama.

Send comments to The Honorable Danny G. Hicks, Mayor of the City of Oneonta, City Hall, 202 Third Avenue East, Oneonta, Alabama 35121.

Florida	Monroe County (Unincorporated Areas).	Gulf of Mexico	Approximately 600 feet northwest of intersection of Evergreen Avenue and Evergreen Terrace.	*9	*13
			Approximately 370 feet northwest of intersection of Evergreen Avenue and Evergreen Terrace.	*9	*11
		Torch Ramrod Channel	Approximately 700 feet north of the intersection of Mariposa Road and Lesronde Drive along Lesronde Drive.	*11	*8
			Approximately 1,000 feet north of the intersection of Mariposa Road and Lesronde Drive along Lesronde Drive.	*11	*10

Maps available for inspection at the Monroe County Growth Management Building, 2798 Overseas Highway, Marathon, Florida.

Send comments to Mr. James Roberts, Monroe County Administrator, 5100 College Road, Wing 2, Room 212, Key West, Florida 33040.

Massachusetts	Nantucket (Town) Nantucket County.	Atlantic Ocean	At Great Point	*15	*10
			Approximately 0.2 mile from Great Point.	None	*7
			At the shoreline approximately 160 feet south of the intersection of Clifford Street and Nonalum Avenue.	*23	*9
			Approximately 150 feet east of the intersection of Adams Street and Nobadeer Avenue.	*10	*7
			At the southern portion of Miacomet Pond.	*7	*8
			At Hummock Pond	*8	*7
		Nantucket Sound	Head of the Harbor northern portion	*8	*7

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Nantucket Building Commissioners Office, 37 Washington Street, Nantucket, Massachusetts.					
Send comments to Mr. Arthur Desrocher, Chairman of the Town of Nantucket Board of Selectmen, 16 Broad Street, Nantucket, Massachusetts 02554.					
Michigan	Hartland (Township) Livingston County.	North Ore Creek	At Parshallville Road	None	*909
			At Fenton Road	None	*966
Maps available for inspection at the Hartland Township Office, 3191 Hartland Road, Hartland, Michigan.					
Send comments to Mr. Don Rhodes, Hartland Township Supervisor, 3191 Hartland Road, Hartland, Michigan 48353.					
New York	Geneseo (Town) Livingston County.	Jaycox Creek	At Lima Road	None	*815
			Approximately 2.79 miles upstream of Lima Road.	None	*1001
Maps available for inspection at the Geneseo Town Office, 119 Main Street, Geneseo, New York.					
Send comments to Mr. W. Harold Stewart, Supervisor of the Town of Geneseo, 119 Main Street, Geneseo, New York 14454.					
New York	Geneseo (Village) Livingston County.	Jaycox Creek	Approximately 75 feet downstream of downstream corporate limits.	None	*822
			Approximately 330 feet upstream of Seminole Avenue.	None	*867
		Genesee River	At downstream corporate limit	None	*557
			At upstream corporate limit	None	*558
Maps available for inspection at the Geneseo Village Office, 119 Main Street, Geneseo, New York.					
Send comments to The Honorable Richard B. Hatheway, Mayor of the Village of Geneseo, Village Office, 119 Main Street, Geneseo, New York 14454.					
New York	Hague (Town) Warren County.	Lake George	Entire shoreline within community	None	*321
Maps available for inspection at the Town of Hague Community Center, Route 8, Hague, New York.					
Send comments to Mr. Daniel Belden, Supervisor of the Town of Hague, P.O. Box 509, Hague, New York 12836.					
New York	Lake George (Village) Warren County.	Lake George	Entire shoreline within community	None	*321
Maps available for inspection at the Village of Lake George Administrative Building, Amherst Street, Lake George, New York.					
Send comments to The Honorable Robert M. Blais, Mayor of the Village of Lake George, P.O. Box 791, Amherst Street, Lake George, New York 12845.					
New York	Lewis (Town) Lewis County.	East Branch Mohawk River.	Approximately 0.47 mile downstream of State Route 26.	None	*1457
			Approximately 0.74 mile upstream of State Route 26.	None	*1499
Maps available for inspection at the Lewis Town Clerk's Office, 791 Main Street, West Leyden, New York.					
Send comments to Mr. Dale Rybicky, Lewis Town Supervisor, P.O. Box 228, West Leyden, New York 13489.					
Ohio	Montgomery County (Unincorporated Areas).	Lilly Creek	Approximately 100 feet downstream of downstream corporate limits.	*778	*780
			At upstream corporate limits	*785	*786
Maps available for inspection at the County Planning Commission, 451 North Third Street, Dayton, Ohio.					
Send comments to Ms. Vicki Pegg, President of the Board of County Commissioners, 451 North Third Street, Dayton, Ohio 45422–1260.					
Ohio	Riverside (City) Montgomery County.	Lilly Creek	Approximately 200 feet upstream of Byesville Boulevard.	*770	*768
			Approximately 132 feet downstream of Harshman Road.	*786	*787
		Shallow Ponding Area (Zone AH).	Approximately 700 feet northwest of the intersection of Byesville Boulevard and Fairfax Avenue.	*767	*766
			Approximately 500 feet north of intersection of Glendean Avenue and Springfield Avenue.	None	*766

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Shallow Flooding Area (Zone AO).	Just south of intersection of Springfield Pike and Fairfax Avenue.	*768	*767
			North side of intersection of Fairfax Avenue and Derwent Drive.	*772	*767
			South side of intersection of Fairfax Avenue and Derwent Drive.	*772	#2
			North side of intersection of Fairpark Avenue and Fairfax Avenue.	*773	#2
Maps available for inspection at the City Hall, 1791 Harshman Road, Riverside, Ohio.					
Send comments to The Honorable Kenneth Curp, Mayor of the City of Riverside, 1791 Harshman Road, Riverside, Ohio 45424.					
Pennsylvania	Conewago (Township) Adams County.	Slagle Run	At downstream corporate limits	None	*522
			At county boundary	None	*539
Maps available for inspection at the Conewago Township Building, 350 Third Street, Hanover, Pennsylvania.					
Send comments to Conewago Township Building, 350 Third Street, Hanover, Pennsylvania 17331.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: February 9, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3853 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

[Docket No. FEMA–7164]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Illinois	Lake-In-The-Hills (Village) McHenry County.	Woods Creek	At downstream corporate limits approximately 130 feet downstream of downstream crossing of Algonquin Road.	*782	*783
			At upstream corporate limits approximately 130 feet upstream of upstream crossing of Huntley Algonquin Road.	None	*851
		Kishwaukee Creek	At State Route 47	None	*859
			Approximately 0.63 mile upstream of Crystal Lake Road.	None	*872

Maps available for inspection at the Village Hall, 1115 Crystal Lake Road, Lake-In-The-Hills, Illinois.

Send comments to Ms. Christine Thomrose, President of the Village of Lake-In-The-Hills, Village Hall, 1115 Crystal Lake Road, Lake-In-The-Hills, Illinois 60102–3398.

Indiana	Brownstown (Town) Jackson County.	East Fork White River	Approximately 0.4 mile downstream of Ewing Road.	None	*542
			Approximately 0.5 mile upstream of Ewing Road.	None	*544

Maps available for inspection at the Town Hall, c/o Pat Forgey, 200 West Walnut Street, Brownstown, Indiana.

Send comments to Mr. Robert Millman, President of the Town of Brownstown Council, Town Hall, 200 West Walnut Street Brownstown, Indiana 47220.

Indiana	Scottsburg (City) Scott County	Iola Lake	Entire shoreline	None	*552
		Pigeon Roost Creek	At confluence with Stucker Ditch	None	*544
			Approximately 0.1 mile upstream of State Route 56.	None	*547
		Scottsburg Drain	At confluence with Pigeon Roose Creek	None	*547
			At U.S. 31 downstream side	None	*570
		Iola Run	Approximately 0.5 mile upstream of confluence with Stucker Ditch.	None	*543
			At Conrail Railroad	None	*543
		Stucker Ditch	Approximately 0.6 mile upstream of confluence with Muscatatuck River.	None	*544
			Approximately 0.65 mile upstream of confluence with Muscatatuck River.	None	*544

Maps available for inspection at the Scottsburg City Hall, 2 East McClain Avenue, Scottsburg, Indiana.

Send comments to The Honorable William Graham, Mayor of the City of Scottsburg, 2 East McClain Avenue, Scottsburg, Indiana 47170.

Maine	Bethel (Town) Oxford County.	Androscoggin River	Approximately 1.6 miles downstream of confluence with Otter Brook.	*628	*627
			At corporate limits approximately 700 feet upstream of confluence with Pleasant River.	*665	*660
		Sunday River	At confluence with Androscoggin River	*650	*644
			Approximately 1.7 miles upstream of U.S. Route 2.	*650	*649
		Alder River	At confluence with Androscoggin River	*652	*648
			Approximately 1.4 miles downstream of upstream crossing of Grand Trunk Railroad.	*652	*651
		Mill Brook	At confluence with Androscoggin River	*653	*650
			Approximately 1,900 feet upstream of State Route 5.	*653	*652
		Kendall Brook	At confluence with Alder River	*652	*648
			Approximately 2.5 miles upstream of confluence with Alder River.	*652	*651
		Twitchell Brook	At confluence with Androscoggin River	*652	*647
			Approximately 0.4 mile upstream of U.S. Route 2.	*652	*651
		Standing Brook	At confluence with Alder River	*652	*648
			Approximately 160 feet downstream of Grand Trunk Railroad.	*652	*650

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Bethel Town Hall, 19 Main Street, Bethel, Maines.					
Send comments to Mr. Robert Chadbourne, Chairman of the Board of Selectmen for the Town of Bethel, P.O. Box 108, Bethel, Maine 04217.					
Massachusetts	Edgartown (Town) Dukes County.	Atlantic Ocean	Approximately 620 feet south of the intersection of Herring Creek Road and Atlantic Drive.	*15	*10
			Approximately 2,000 feet south of the end of Pohoganot Road where it intersects with an Access Road.	*11	*9
		Nantucket Sound	Approximately 1,600 feet east of the end of Wasque Road in the vicinity of Wasque Point.	*14	*13
			At the intersection of Dyke Road and the western-most Jeep Trail.	*9	*10

Maps available for inspection at the Edgartown Town Hall, 70 Main Street, 3rd Floor, Edgartown, Massachusetts.

Send comments to Mr. Fred B. Morgan, Jr., Chairman of the Edgartown Board of Selectment, P.O. Box 5158, Edgartown, Massachusetts 02539.

Massachusetts	Gay Head (Town) Dukes County.	Atlantic Ocean	Approximately 0.7 mile west of the intersection of Black Brook and Moshup Trail.	None	*9
			Approximately 1,400 feet southwest of the intersection of Moshup Trail and South Road.	*15	*11
		Menemsha Bight	Approximately 600 feet north of the intersection of Lobsterville Road and West Payson Road.	*9	*12
			Approximately 500 feet north of the intersecton of Lobsterville Road and West Payson Road.	None	*10
		Vineyard Sound	Approximately 0.4 mile north of the intersection of Lighthouse Road and Moshup Trail.	*12	*11

Maps available for inspection at the Office of the Building Inspector, 65 State Road, Gay Head, Massachusetts.

Send comments to Mr. Russell Smith, Chairman of the Gay Head Board of Selectmen, 65 State Road, Gay Head, Massachusetts 02535.

Massachusetts	West Tisbury (Town) Dukes County.	Atlantic Ocean	Approximately 700 feet south of the end of Butlers Pond Road.	*14	*10
			Approximately 650 feet south of the intersection of Jennie Athearn Road and Little Homer Pond Road.	*10	*9

Maps available for inspection at the West Tisbury Town Hall, 1059 State Street, West Tisbury, Massachusetts.

Send comments to Ms. Cynthia E. Mitchell, Chairman of the West Tisbury Board of Selectmen, P.O. Box 278, West Tisbury, Massachusetts 02575.

Michigan	Torch Lake (Township) Antrim County.	Torch Lake	Entire shoreline within community	None	*591
		Grand Traverse Bay	Entire shoreline within community	None	*585

Maps available for inspection at the Torch Lake Township Hall, 5085 U.S. 31 North Eastport, Michigan.

Send comments to Mr. Kim Schmidt, Supervisor of the Township of Torch Lake, P.O. Box 477, Eastport Michigan 49627.

Minnesota	Cannon Falls (City) Goodhue County.	Cannon River	Approximately 0.7 mile upstream from the downstream corporate limits.	*782	*781
			Approximately 0.3 mile upstream of 8th Street (State Route 17).	*800	*801
		Little Cannon River	Approximately 100 feet upstream of Sewer Crossing.	*794	*795
			At upstream corporate limits	*821	*820

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City Hall, 306 West Mill Street, Cannon Falls, Minnesota.					
Send comments to The Honorable Leon Hanson, Mayor of the City of Cannon Falls, City Hall, 306 West Mill Street, Cannon Falls, Minnesota 55009.					
Mississippi	Canton (City) Madison County.	Bear Creek	Approximately 200 feet upstream of Fulton Street (State Highway 22).	*221	*219
			Approximately 340 feet upstream of Illinois Central Railroad.	*222	*221
Maps available for inspection at the City Hall, 226 East Peace Street, Canton, Mississippi.					
Send comments to The Honorable Alice Scott, Mayor of the City of Canton, 226 East Peace Street, Canton, Mississippi 39046.					
Mississippi	Madison County (Unincorporated Areas).	Bear Creek	At State Highway 22	*220	*219
			At Illinois Central Railroad	*222	*221
Maps available for inspection at the Chancery Administration Building, 146 West Center Street, Canton, Mississippi.					
Send comments to Mr. David Richardson, President of the Madison County Board of Commissioners, P.O. Box 404, Canton, Mississippi 39046.					
New York	Dresden (Town) Washington County.	Lake George	Entire shoreline within community	None	*321
Maps available for inspection at the Town Hall, Dresden Center Road, RD 1, Whitehall, New York.					
Send comments to Mr. Robert Banks, Dresden Town Supervisor, c/o Paul Novelty Company, 66 Main Street, Whitehall, New York 12887.					
New York	Elmira (Town) Chemung County.	Newtown Creek	Approximately 0.5 mile downstream of confluence of Diven Creek.	*863	*861
			Approximately 0.51 mile upstream of confluence of Diven Creek.	*863	*862
		McCann's Tributary	At confluence with Diven Creek	*863	*861
			Approximately 825 feet upstream of McCann's Boulevard.	*863	*862
Maps available for inspection at the Elmira Town Hall, 1255 West Water Street, Elmira, New York.					
Send comments to Mr. William G. Yungstrom, Elmira Town Supervisor, 1255 West Water Street, Elmira, New York 14905.					
New York	Elmira Heights (Village) Chemung County.	McCann's Tributary	At McCann's Boulevard	*863	*861
			Approximately 1,000 feet upstream of McCann's Boulevard.	*863	*862
Maps available for inspection at the Elmira Heights Village Hall, 215 Elmwood Avenue, Elmira Heights, New York.					
Send comments to The Honorable Allen L. Rice, Mayor of the Village of Elmira Heights, 215 Elmwood Avenue, Elmira Heights, New York 14903.					
New York	Gorham (Town) Ontario County.	Canandaigua Lake	At shoreline west of Orchard Rest Road	*693	*692
			At shoreline west of intersection of East Lake and Townline Road.	*697	*692
Maps available for inspection at the Gorham Town Hall, 4736 South Elm Street, Gorham, New York.					
Send comments to Ms. Margaret Atkins, Supervisor of the Town of Gorham, Gorham Town Hall, P.O. Box 224, Gorham, New York 14461.					
New York	Hillburn (Village) Rockland County.	Ramapo River	Approximately 550 feet downstream of the downstream crossing of the Conrail.	*276	*277
			At upstream corporate limits	*300	*299
Maps available for inspection at the Village Hall, 31 Mountain Avenue, Hillburn, New York.					
Send comments to The Honorable Brian Miele, Mayor of the Village of Hillburn, 31 Mountain Avenue, Hillburn, New York 10931.					
New York	Horseheads (Town) Chemung County.	Beaver Brook	At confluence with Newtown Creek	*875	*877
			Approximately 1,035 feet upstream of East Mills Street.	*886	*885
		North Branch Newtown Creek.	At confluence with Newtown Creek	*932	*929

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 325 feet upstream of confluence with Newtown Creek.	*933	*932
Maps available for inspection at the Horseheads Town Hall, 150 Wygant Road, Horseheads, New York.					
Send comments to Mr. Robert G. Chapman, Horseheads Town Supervisor, 150 Wygant Road, Horseheads, New York 14845.					
New York	Horseheads (Village) Chemung County.	Newtown Creek	Approximately 750 feet downstream of Route 14/17.	*876	*877
			Approximately 535 feet upstream of East Franklin Street.	*893	*891
Maps available for inspection at the Horseheads Village Hall, 202 South Main Street, Horseheads, New York.					
Send comments to The Honorable Patricia Gross, Mayor of the Village of Horseheads, 202 South Main Street, Horseheads, New York 14845.					
New York	Owego (Town) Tioga County.	Susquehanna River	Approximately 1,100 feet downstream of confluence of Apalachin Creek.	*824	*825
			Approximately 2.2 miles upstream of confluence of Apalachin Creek.	*827	*828
		Apalachin Creek	At the confluence with the Susquehanna River.	*824	*825
			Approximately 0.66 mile upstream of the confluence with the Susquehanna River.	*824	*825
Maps available for inspection at the Town Hall, 2354 State Route 434, Apalachan, New York.					
Send comments to Mr. Thomas Doty, Owego Town Supervisor, Owego Town Hall, P.O. Box 248, Owego, New York 13827.					
North Carolina	Williamston (Town) Martin County.	Roanoke River	Approximately 0.3 mile downstream of U.S. Route 13.	None	*12
			Approximately 0.4 mile upstream of U.S. Route 13.	None	*12
Maps available for inspection at the Town Hall, 100 East Main Street, Williamston, North Carolina.					
Send comments to Mr. Donald W. Christopher, Town Administrator of Williamston, P.O. Box 506, Williamston, North Carolina 27892.					
Ohio	Dayton (City) Montgomery County.	Lilly Creek	Approximately 0.15 mile upstream of confluence with Mad River.	None	*761
			Approximately 0.60 mile upstream of Byesville Boulevard.	None	*781
		Shallow Ponding Area (Zone AH).	Just Southeast of Springfield Pike; approximately 900 feet northeast of unnamed road.	*770	*767
			Approximately 200 feet northwest of Springfield Pike.	*767	*766
Maps available for inspection at the Dayton City Hall, 101 West Third Street, Dayton, Ohio.					
Send comments to The Honorable Michael R. Turner, Mayor of the City of Dayton, 101 West Third Street, Dayton, Ohio 45401–0022.					
Pennsylvania	Avondale (Borough) Chester County.	East Branch White Clay Creek.	Approximately 750 feet downstream of confluence of Indian Run.	*268	*270
			Approximately 550 feet upstream of confluence of Indian Run.	*270	*271
		Trout Run	At confluence with East Branch White Clay Creek.	*269	*270
			Approximately 670 feet above confluence with East Branch White Clay Creek.	*269	*270
		Indian Run	At confluence with East Branch White Clay Creek.	*270	*271
			Approximately 475 feet upstream of Pomeroy Street.	None	*283
Maps available for inspection at the Avondale Borough Hall, Pomeroy Avenue, Avondale, Pennsylvania.					
Send comments to Ms. Janice Almquist, Avondale Borough Consultant, P.O. Box 247, Avondale, Pennsylvania 19311.					
Pennsylvania	East Whiteland (Township) Chester County.	Valley Creek No. 2	At its downstream corporate limit	None	*367

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 200 feet upstream of its downstream corporate limit.	None	*368

Maps available for inspection at the East Whiteland Township Building, 209 Conestoga Road, Frazer, Pennsylvania.

Send comments to Mr. J. Donald Reimenschneider, East Whiteland Township Manager, 209 Conestoga Road, Frazer, Pennsylvania 19355–1699.

Pennsylvania	Franklin (Township) Chester County.	East Branch White Clay Creek.	Approximately 0.7 mile downstream of Newgarden Station Road.	None	*255
			Approximately 0.2 mile downstream of Newgarden Station Road.	None	*259

Maps available for inspection at the Franklin Township Building, Appleton Road, Kemblesville, Pennsylvania.

Send comments to Mr. Karl Mehn, Township of Franklin Zoning Officer, P.O. Box 118, Kemblesville, Pennsylvania 19347.

Pennsylvania	London Grove (Township) Chester County.	East Branch White Clay Creek.	Approximately 0.2 mile downstream of Newgarden Station Road.	None	*259
			At State Road 926	None	*504

Maps available for inspection at the London Grove Township Building, 3 London Way, Avondale, Pennsylvania.

Send comments to Mr. Lewis C. Ross, Chairman of the Township of London Grove Board of Supervisors, 3 London Way, Avondale, Pennsylvania 19311.

Pennsylvania	New Garden (Township) Chester County.	East Branch White Clay Creek.	Approximately 0.4 mile upstream of confluence with Egypt Run.	None	*253
			Approximately 0.9 mile upstream of confluence with Egypt Run.	None	*255

Maps available for inspection at the New Garden Township Building, 8934 Gap-Newport Pike, Avondale, Pennsylvania.

Send comments to Mr. Robert N. Taylor, Chairman of the Township of New Garden Board of Supervisors, 8934 Gap-Newport Pike, Avondale, Pennsylvania 19311.

Pennsylvania	Schuylkill Haven (Borough) Schuylkill County.	Schuylkill River	Approximately 1.7 mile downstream of confluence of Long Run.	None	*501
			Approximately 550 feet upstream of confluence of West Branch Schuylkill River.	*525	*526
		Long Run	At confluence with Schuylkill River	*509	*511
			Approximately 1,325 feet upstream of Stoyers Dam.	*510	*511

Maps available for inspection at the Schuylkill Haven Borough Hall, 12 West Main Street, Schuylkill Haven, Pennsylvania.

Send comments to Mr. Douglas Satterfield, Schuylkill Haven Borough Manager, 12 West Main Street, Schuylkill Haven, Pennsylvania 17972.

Pennsylvania	Shirley (Township) Huntingdon County.	Aughwick Creek	Approximately 1,090 feet upstream of U.S. Route 522.	*570	*571
			Approximately 1,160 feet upstream of U.S. Route 522.	*570	*571

Maps available for inspection at the Shirley Township Building, Shirleysburg, Pennsylvania.

Send comments to Mr. Douglas Myers, Chairman of the Shirley Township Board of Supervisors, RR1, Box 110, Shirleysburg, Pennsylvania 17260–9734.

Pennsylvania	West Marlborough (Township) Chester County.	Indian Run	At State Road 926	None	*504
			Approximately 350 feet upstream of Mosquito Road.	None	*509

Maps available for inspection at the Township Building, Doe Run Road, Route 82, Village of Doe Run, Pennsylvania.

Send comments to Mr. Charles Brosius, Chairman of the Township of West Marlborough Board of Supervisors, 233 Wilson Road, West Grove, Pennsylvania 19390.

Tennessee	Carter County (Unincorporated Areas).	Sinking Creek	Approximately 1,575 feet downstream of Sinking Creek Road.	None	*1501

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 60 feet upstream of county boundary.	None	*1553

Maps available for inspection at the Carter County Courthouse, 801 Elk Avenue, Elizabethton, Tennessee.

Send comments to Mr. Truman Clark, Carter County Executive, Carter County Courthouse, 801 Elk Avenue, Elizabethton, Tennessee 37653.

Tennessee	Watauga (City) Carter County.	Watauga River	Just downstream of U.S. Route 321	None	*1414
			Approximately 1.3 miles downstream of Smalling Road.	None	*1429

Maps available for inspection at the Watauga City Hall, 104 West Avenue, Watauga, Tennessee.

Send comments to Ms. Hattie Skeans, Watauga City Acting Manager, P.O. Box 68, Watauga, Tennessee 37694.

West Virginia	Boone County (Unincorporated Areas).	Little Coal River	Approximately 1.26 miles downstream of confluence of Big Spinnacle Creek.	*161	*160
			Approximately 0.2 mile upstream of State Route 17.	*702	*701
		Spruce Fork	At the confluence with Little Coal River	*702	701
		Pond Fork	At the confluence with Little Coal River	*702	*701

Maps available for inspection at the Office of the Emergency Services Director, Avenue C, Madison, West Virginia.

Send comments to Mr. Gordon Eversole, President of the Boone County Commission, 200 State Street, Madison, West Virginia 25130.

West Virginia	Danville (Town) Boone County.	Little Coal River	Approximately 100 feet upstream of U.S. Route 119.	*694	*692
			Approximately 0.36 mile downstream of the confluence of Hopkins Branch.	*697	*695

Maps available for inspection at the Danville City Hall, Park Avenue, Danville, West Virginia.

Send comments to The Honorable Mark McClure, Mayor of the Town of Danville, P.O. Box 217, Danville, West Virginia 25053.

West Virginia	Madison (City) Boone County.	Little Coal River	Approximately 0.36 mile downstream of the confluence of Hopkins Branch.	*697	*695
			Approximately 0.2 mile upstream of State Route 17.	*702	*701
		Spruce Fork	At the confluence with Little Coal River	*702	*701
			Approximately 32.5 feet upstream of confluence with Little Coal River.	*702	*701
		Pond Fork	At the confluence with Little Coal River	*702	*701
			At upstream side of CSX Transportation	*702	*701

Maps available for inspection at the Madison City Hall, 261 Washington Avenue, Madison, West Virginia.

Send comments to The Honorable Andrew Dolan, Mayor of the City of Madison, 261 Washington Avenue, Madison, West Virginia 25130.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–3854 Filed 2–20–96; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–21, FCC 96–59]

Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this Notice of Proposed Rulemaking, the Commission proposes a regulatory regime to govern the Bell operating companies (BOCs) provision of all "out-of-region" interstate, interexchange services (including interLATA and intraLATA services). Specifically, we consider whether the BOCs should be regulated as dominant or non-dominant carriers with respect to the provision of such out-of-region services. We tentatively conclude that, if a BOC provides out-of-region interstate, interexchange services through an affiliate that satisfies the separation requirements established in the *Competitive Carrier* proceeding, the BOC affiliate should be regulated as a non-dominant carrier. This Notice does not address BOC provision of in-region, interexchange services. These proposed rules will permit the rapid entry by the BOCs into the provision of out-of-region interstate, interexchange services while providing protection against anticompetitive conduct.

DATES: Comments must be submitted on or before March 13, 1996. Reply comments must be filed on or before March 25, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C.

20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Melissa Waksman (202) 418–0913 or Michael Pryor (202) 418–0495, Common Carrier Bureau, Policy and Program Planning Division.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking released and adopted on February 14, 1996. (FCC 96–59). The full text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., NW., Suite 140, Washington, DC 20037.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. The Telecommunications Act of 1996 ("1996 Act") has just authorized the Bell Operating Companies ("BOCs") to provide interLATA services originating outside their in-region states. Prior to enactment of the 1996 Act, the BOCs were prohibited from providing interLATA services by the terms of the Modification of Final Judgment ("MFJ"). In this Notice of Proposed Rulemaking, we propose a regulatory regime to govern the BOCs' provision of all "out-of-region" interstate, interexchange services (including interLATA and intraLATA services). Specifically, we consider whether the BOCs should be regulated as dominant or non-dominant carriers with respect to the provision of such out-of-region services. We tentatively conclude that, if a BOC provides out-of-region interstate, interexchange services through an affiliate that satisfies the separation requirements established in the *Competitive Carrier* proceeding, the BOC affiliate should be regulated as a non-dominant carrier. Under the terms of the 1996 Act, a BOC's provision of 800 service, private line service, or their equivalents that terminate in an in-region state of that BOC are considered in-region services even if such service originates out-of-region. This Notice does not address BOC provision of in-region, interexchange services. We further note that BOC provision to commercial mobil radio services customers, of interstate, interLATA services originating outside any of the BOC's in-region states, is included in the out-of-region services addressed in this proceeding.

II. Background

2. Between 1979 and 1985, the Commission conducted the *Competitive Carrier* proceeding, in which it examined how its regulations should be adapted to reflect and facilitate the increasing competition in telecommunications markets. In a series of orders, the Commission distinguished between carriers with market power (dominant carriers) and those without market power (non-dominant carriers). The Commission gradually relaxed its regulation of non-dominant carriers because it concluded that non-dominant carriers could not engage in conduct that may be anticompetitive or otherwise inconsistent with the public interest.

3. In its *First Report and Order*, 45 FR 76148, November 18, 1980, the Commission classified local exchange carriers ("LECs") and AT&T as dominant carriers and concluded that these dominant carriers should be subject to the "full panoply" of then-existing Title II regulation. Recently, in light of increasing competition in the interstate, domestic, interexchange telecommunications market, and evidence that AT&T no longer possesses the ability to control price unilaterally, the Commission reclassified AT&T as a non-dominant carrier in that market.

4. In its *Fourth Report and Order*, 48 FR 52452, November 18, 1983, the Commission considered how it should regulate the provision of interstate, interexchange services by independent LECs. By "independent LECs" we refer to exchange telephone companies other than the BOCs. The Commission determined that interexchange carriers affiliated with independent LECs would be regulated as non-dominant carriers. In the *Fifth Report and Order*, 49 FR 34824, September 4, 1984, the Commission clarified that an "affiliate" of an independent LEC for purposes of qualifying for regulation as a non-dominant carrier is "a carrier that is owned (in whole or part) or controlled by, or under common ownership (in whole or part) or control with, an exchange telephone company." The Commission went on to explain that in order to qualify for non-dominant status, the affiliate must: (1) maintain separate books of account; (2) not jointly own transmission or switching facilities with the exchange telephone company; and (3) obtain any exchange telephone company services at tariffed rates and conditions. The Commission noted that these requirements would avoid imposing excessive burdens on independent LECs. The Commission further concluded that, if an independent LEC provided interstate, interexchange services directly, rather than through an affiliate, those services would be subject to dominant carrier regulation.

5. In the *Fifth Report and Order*, the Commission also addressed the possible entry of the BOCs into interstate, interexchange services in the future:

> The BOCs currently are barred by the [Modification of Final Judgment] from providing interLATA services. * * * If this bar is lifted in the future, we would regulate the BOCs' interstate, interLATA services as dominant until we determined what degree of separation, if any, would be necessary for the BOCs or their affiliates to qualify for nondominant regulation.

6. The 1996 Act authorizes the BOCs to provide out-of-region interstate and intrastate interLATA services upon enactment. More specifically, Section 271(b)(2) of the Communications Act provides that a BOC of BOC affiliate may provide interLATA services originating outside its in-region States after the date of enactment of the 1996 Act, subject to the provisions of section 271(j). The 1996 Act does not require a BOC to obtain Commission authorization in order to begin offering out-of-region, interstate, interLATA services.

II. Analysis

7. In order to permit efficient and rapid entry by the BOCs into out-of-region interstate, interexchange services, as contemplated by the 1996 Act, we seek in this proceeding to establish promptly the regulatory framework that will govern the BOCs' provision of such services. At the same time, we also seek to ensure that sufficient regulatory safeguards are in place to prevent a BOC from gaining any unfair competitive advantage, either through unreasonably discriminatory practices or cross-subsidization, that could arise because of its ownership and control of local exchange facilities.

8. Since divestiture, the MFJ has prohibited the BOCs from entering the domestic, interstate, interLATA market. Therefore, they will enter this market in out-of-region states with little or no market share. Additionally, we have found that significant segments of the domestic, interstate, interexchange market are characterized by substantial competition. In our recent AT&T Order we found that there is significant excess capacity in this market and that there are a large number of long-distance carriers, including four nationwide, facilities-based competitors, AT&T, MCI, Sprint, and WorldCom; dozens of regional facilities-based carriers; and several hundred smaller resale carriers. We further concluded that AT&T lacked individual market power in the overall interstate, domestic, interexchange market. These facts suggest that, upon entry into the provision of out-of-region interstate, interexchange services, BOC affiliates would not be likely to possess market power.

9. The BOCs, however, continue to control bottleneck local exchange facilities in their in-region states. The Commission has expressed concern about possible problems arising from an interexchange carrier's control over local exchange facilities. In its *First Report and Order* in the *Competitive Carrier* proceeding, the Commission stated that predivestiture AT&T's control of bottleneck facilities was "prima facie evidence of market power requiring detailed regulatory scrutiny." The Commission reiterated its concern over potential cost-shifting and anticompetitive conduct by exchange telephone companies in its *Fifth Report and Order*. Because of such concerns, the Commission determined that interstate, interexchange services provided directly by independent LECs, rather than through an affiliate, should be regulated as dominant.

10. The Commission further concluded, however, that an affiliate of an independent LEC providing interstate, interexchange services would qualify as a non-dominant carrier if the affiliate were sufficiently separated from the local exchange company. The Commission specified the separation requirements that would provide some "protection against cost-shifting and anticompetitive conduct" by an independent LEC that could result from using its control of bottleneck facilities. The Commission concluded that the specific separation requirements would not impose excessive burdens on independent LECs and noted that those requirements were less stringent than those established in the *Second Computer Inquiry*.

11. In seeking to facilitate timely entry by the BOCs into the provision of out-of-region interstate, interexchange services, consistent with the 1996 Act, we tentatively conclude that the separation requirements applied to independent LECs provide a useful model upon which to base, on an interim basis, oversight of BOC provision of out-of-region interstate, interexchange services. We intend to consider in our upcoming interexchange proceeding, however, whether it may be appropriate to modify or eliminate the separation requirements in order for some or all LECs to qualify for non-dominant treatment in the provision of out-of-region interstate, interexchange services.

12. While we address here the BOCs' provision of interexchange services originating outside the regions where the BOCs control local bottleneck facilities, some of this traffic will terminate in the regions where the BOCs retain control of local bottleneck facilities. We tentatively conclude that the separation requirements found adequate to permit non-dominant regulation of independent LEC provision of interstate, interexchange services originating and often terminating in their regions should be sufficient to allow similar treatment of BOC provision of interexchange services that originate out of their in-region states.

13. Thus, we tentatively conclude that, for now, if a BOC creates a separate affiliate to provide out-of-region interstate, interexchange services (including interLATA and intraLATA services), and if the affiliate satisfies the conditions set forth in the *Fifth Report and Order*, then the affiliate will be classified as a non-dominant carrier. As previously noted, these conditions are that the affiliate must: (1) maintain separate books of account; (2) not jointly own transmission or switching facilities with the BOC local exchange company; and (3) obtain any BOC exchange telephone company services at tariffed rates and conditions. We note that independent local exchange carriers providing interexchange services through affiliates pursuant to the *Fifth Report and Order* treat those affiliates as nonregulated affiliates under the Commission's joint cost rules and affiliate transaction rules for exchange carrier accounting purposes. We seek comment on whether a BOC affiliate providing out-of-region, interstate, interexchange services should be treated as a nonregulated affiliate for BOC accounting purposes. Finally, we tentatively conclude, at least for the present time, that if a BOC directly, or through an affiliate that fails to comply with these separation requirements, provides out-of-region interstate, interexchange services, those services will be regulated as dominant carrier offerings.

14. We invite comment on our tentative conclusions regarding BOC provision of out-of-region interLATA and intraLATA services. Any party disagreeing with these tentative conclusions should explain with specificity its position and suggestions for alternative regulatory policies. As noted, we believe that applying the well-established Fifth Report and Order requirements will facilitate rapid entry by the BOCs into the provision of out-of-region services, consistent with the intent of the 1996 Act, without imposing onerous burdens on them.

IV. Procedural Issues

A. Ex Parte Presentations

This is a non-restricted notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR §§ 1.1202, 1.1203, 1.1206.

B. Regulatory Flexibility Analysis

16. We certify that the Regulatory Flexibility Act is not applicable to the rule changes we are proposing in this proceeding. If the proposed rule changes are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Entities directly subject to the rule changes, and proposed rule changes, are large corporations engaged in the provision of local exchange and exchange access telecommunications services. We are nevertheless committed to reducing the regulatory burdens on small communications services companies whenever possible, consistent with our other public interest responsibilities. The Secretary shall send a copy of this Notice of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601, *et seq.* (1981).

C. Comment Filing Procedures

17. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before 21 days after publication in the **Federal Register**, and reply comments on or before 10 days after the comment due date. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles

of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

18. In order to facilitate review of comments and reply comments, both by parties and by Commission staff, we require that comments be no longer than twenty-five (25) pages and reply comments be no longer than fifteen (15) pages. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading.

19. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

D. Ordering Clauses

20. Accordingly, it is ordered that pursuant to Sections 1, 4, 201–205, 215, 218, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201–205, 215, 218 and 220, a notice of Proposed Rulemaking is hereby adopted.

21. It is Further Ordered that, the Secretary shall send a copy of this notice of Proposed Rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1981).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3917 Filed 2–20–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 232

[FRA Docket No. PB–9, Notice No. 5]

RIN 2130–AA73

Power Brake Regulations: Two-way End-of-Train Telemetry Devices

AGENCY: Federal Railroad Administration (FRA).

ACTION: Notice of public regulatory conference.

SUMMARY: FRA is scheduling a public regulatory conference to further discuss issues related to two-way end-of-train telemetry devices (2-way EOTs) previously developed in its notice of proposed rulemaking (NPRM) on power brakes published on September 16, 1994. By earlier notice, FRA indicated that it would defer action on the NPRM for a short period; however, FRA also stressed that it did not intend to defer implementation of the requirement for 2-way EOTs beyond the effective date contemplated by Congress. Consequently, FRA has decided to separate proposals regarding 2-way EOTs from the rest of the proposed power brake revisions and proceed with this public regulatory conference in order to clarify and resolve those issues related to 2-way EOTs and issue a final rule on this subject as soon as practicable. FRA urges railroads to immediately begin acquiring and equipping trains with 2-way EOTs to enhance the safety of their operations rather than waiting until issuance of the final rule.

DATES: (1) *Written Comments:* Written comments must be received no later than April 15, 1996. Comments received after that date will be considered to the extent practicable without incurring additional expense or delay.

(2) *Public Regulatory Conference:* A public regulatory conference to discuss issues related to 2-way EOTs will be held March 5, 1996 beginning at 8:30 a.m. in Washington, D.C. Any person wishing to participate in the public regulatory conference should notify the Docket Clerk at the address provided below at least five working days prior to the date of the conference. This notification should identify the party the person represents and the particular issues the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the conference of persons who fail to provide such notification.

ADDRESSES: (1) *Written Comments:* Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Room 8201, Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in room 8201 of the Nassif Building at the above address.

(2) *Public Regulatory Conference:* The public regulatory conference will be held at the following location and date:

Location: Nassif Building, Conference Room 2230, 400 Seventh Street SW, Washington, D.C. Date: March 5, 1996. Time: 8:30 a.m.

FOR FURTHER INFORMATION CONTACT: Thomas Peacock, Motive Power and Equipment Division, Office of Safety, RRS–14, Room 8326, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–366–9186), or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–366–0628).

SUPPLEMENTARY INFORMATION:

Background

In 1992, Congress amended the Federal rail safety laws by adding certain statutory mandates related to power brake safety. *See* 49 U.S.C. 20141 (formerly contained in Section 7 of the Rail Safety Enforcement and Review Act, Pub. L. No. 102- 365 (September 3, 1992), amending Section 202 of the Federal Railroad Safety Act (FRSA) of 1970, formerly codified at 45 U.S.C. 421, 431 *et seq.*). In these amendments, Congress instructed the Secretary of Transportation (Secretary) to promulgate regulations requiring the use of 2-way EOTs. Congress' mandate sets out various minimum requirements that any promulgated rule must contain and specifically lists various types of operations that are to be excluded from the requirements, leaving the Secretary with discretion to exclude other types of operations if it is in the public interest and consistent with railroad safety. See 49 U.S.C. 20141. Congress mandated that the rules be promulgated by the end

of 1993, and envisioned a date for implementation of the requirements of no later than December 31, 1997. In addition to the statutory mandate, FRA received recommendations from the National Transportation Safety Board (NTSB) and petitions from the United Transportation Union, the Brotherhood of Locomotive Engineers, the Oregon Public Utilities Commission, the Washington Utilities and Transportation Commission, and the Montana Public Service Commission to require 2-way EOTs on all cabooseless trains operating in certain territories.

In response to the statutory mandate, the various recommendations, and due to its own determination that the power brake regulations were in need of revision, FRA published an Advance Notice of Proposed Rulemaking (ANPRM) on December 31, 1992 (57 FR 62546). A section of the ANPRM was specifically designed to elicit comments, information, and views on 2-way EOTs and a portion of the public hearings covered this topic. *See* 57 FR 62550–62551. Based on the comments and information received, FRA published an NPRM regarding revision the power brake regulation which contained specific requirements related to 2-way EOTs. *See* 57 FR 47700, 47713–14, 47731, 47734, and 47743.

Following publication of the NPRM in the **Federal Register** (59 FR 47676), FRA held a series of public hearings in 1994 to allow interested parties the opportunity to comment on specific issues addressed in the NPRM. Public hearings were held in Chicago, Illinois on November 1–2; in Newark, New Jersey on November 4; in Sacramento, California on November 9; and in Washington, D.C. on December 13–14, 1994. These hearings were attended by numerous railroads, organizations representing railroads, labor organizations, and state governmental agencies. Due to the strong objections raised by a large number of commenters, FRA announced by notice published on January 17, 1995 that it would defer action on the NPRM and permit the submission of additional comments prior to making a determination as to how it would proceed in this matter. 60 FR 3375. In the January notice, FRA also stressed that it did not intend to defer implementation of the requirement for 2-way EOTs beyond an effective date of December 31, 1997.

In the ANPRM and the NPRM, FRA identified eleven recent incidents that might have been avoided had the involved trains been equipped with 2-way EOTs. *See* 57 FR 62550; 59 FR 47713–14. In addition, on December 14, 1994, in Cajon Pass, an intermodal train operated by The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) collided with the rear end of a unit coal train operated by the Union Pacific Railroad Company resulting in the serious injury of two crew members and total estimated damages in excess of $4 million. After investigation of this incident, the NTSB concluded that had the train been equipped with a 2-way EOT the collision could have been avoided because the engineer could have initiated an emergency brake application from the end of the train. On December 15, 1995, based on the conclusion reached above, the NTSB made the following recommendation to FRA:

> Separate the two-way end-of-train requirements from the Power Brake Law NPRM, and immediately conclude the end-of-train device rulemaking so as to require the use of two-way end-of-train telemetry devices on all cabooseless trains. (Class II, Priority Action)(R–95–44).

Furthermore, on February 1, 1996, again in Cajon Pass, a westward Santa Fe freight train derailed on a descending 3-percent grade. The incident resulted in fatal injuries to two of the crew members, serious injuries to a third, and the derailment of 45 of 49 cars and four locomotives. Although investigation of this incident is currently in progress, it appears as though it could have been avoided had the train been equipped with a means for the train crew to have effected an emergency brake application from the rear of the train. The two aforementioned incidents resulted in FRA's issuance on February 6, 1996, of Emergency Order No. 18, 61 FR 5058, which requires the affected railroad to ensure that its train crews have the ability to effect an emergency brake application from the rear of the train on all westward freight trains operating through Cajon Pass.

Consequently, based on these considerations and after review of all the comments submitted, FRA has determined that in order to limit the number of issues to be examined and developed in any one proceeding it will proceed with the revision of the power brake regulations via three separate processes. In light of the testimony and comments received on the NPRM, emphasizing the differences between passenger and freight operations and the brake equipment utilized by the two, FRA will propose to separate passenger equipment power brake standards from freight equipment power brake standards. As passenger equipment power brake standards are a logical subset of passenger equipment safety standards, the passenger equipment safety standards working group will assist FRA in developing a second NPRM covering passenger equipment power brake standards. *See* 49 U.S.C. 20133(c). In addition, it is FRA's intention to have a second NPRM covering freight equipment power brake standards developed with the assistance of the Railroad Safety Advisory Committee, which FRA is in the process establishing, subject to Administration approval. Furthermore, in the interest of public safety and due to statutory as well as internal commitments, FRA intends to separate the issues related to 2-way EOTs from both the passenger and freight issues, address them in the public regulatory conference being announced by this notice, and issue a final rule on the subject as soon as practicable. FRA feels that an informal public regulatory conference would prove advantageous in the development of regulations related to 2-way EOTs. FRA also believes that the quality of the agency's final rule will be improved by facilitating an exchange of ideas that may lead to solutions acceptable to all interested parties.

Methodology

In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the public regulatory conference is a continuation of the power brake rulemaking proceeding. A court reporter will take a verbatim transcript of the conference which will be placed in the public docket for this rulemaking. The format of the discussions will be informal and will employ a topical, interactive approach. The public regulatory conference is currently scheduled for one day. FRA believes the time allotted for this conference will prove more than adequate. Of course, the conference will conclude earlier than planned if, based upon advice from the participants in attendance the agency concludes that the major issues have been adequately addressed.

Participants

FRA invites all affected parties, including small entities, to participate in the public regulatory conference. FRA believes that extensive comment from all interested parties is necessary to develop the most effective and reasonable final regulation. For this conference to be successful, participants should be prepared to discuss, at a minimum, the issues identified below and provide reasonable alternatives, if necessary. FRA also encourages participants to bring supporting documentation where appropriate.

Issues for Discussion

In 1992, Congress amended the Federal rail safety laws by adding specific statutory mandates related to 2-way EOTs which state:

(r) POWER BRAKE SAFETY.

* * * * *

(3)(A) The Secretary shall require 2-way end of train devices (or devices able to perform the same function) on road trains other than locals, road switchers, or work trains to enable the initiation of emergency braking from the rear of the train. The Secretary shall promulgate rules as soon as possible, but not later than December 31, 1993, requiring such 2-way end of train devices. Such rules shall at a minimum—

(i) Set standards for such devices based on performance;

(ii) Prohibit any railroad, on or after the date that is one year after promulgation of such rules, from acquiring any end of train device for use on trains which is not a 2-way device meeting the standards set under clause (i);

(iii) Require that such trains be equipped with 2-way end of train devices meeting such standards not later than 4 years after promulgation of such rules; and

(iv) Provide that any 2-way end of train device acquired for use on trains before such promulgation shall be deemed to meet such standards.

(B) The Secretary may consider petitions to amend the rules promulgated under subparagraph (A) to allow the use of alternative technologies which meet the same basic performance requirements established by such rules.

(C) In developing the rules required by subparagraph (A), the Secretary shall consider data presented under paragraph (1).

(4) The Secretary may exclude from the rules required by paragraphs (1), (2), and (3) any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for granting any such exclusion. The Secretary shall at a minimum exclude from the requirements of paragraph (3)—

(A) Trains that have manned cabooses;

(B) Passenger trains with emergency brakes;

(C) Trains that operate exclusively on track that is not part of the general railroad system;

(D) Trains that do not exceed 30 miles per hour and do not operate on heavy grades, except for any categories of such trains specifically designated by the Secretary; and

(E) Trains that operate in a push mode.

Pub. L. No. 102–365, § 7; codified with some differences in language at 49 U.S.C. 20141 (formerly codified at 45 U.S.C. 431(r)).

FRA has already received a substantial number of comments on 2-way EOTs, either through testimony provided or written comments submitted in connection with the ANPRM and the NPRM that were previously issued. This public regulatory conference is designed to afford interested parties an opportunity to expand on those comments and further discuss the issues related to 2-way EOTs. After review of the comments received, FRA has identified seven major issues for discussion which include: the definition of "mountain grade territory"; the handling of en route failures of the devices; the operations to which the requirements will be applicable; initial terminal requirements; design requirements; calibration requirements; and cost/benefit information. The following discussion is intended to highlight FRA's proposals regarding 2-way EOTs contained in the NPRM and to provide a brief overview of some of the comments received on those proposals. For the exact wording of any of the proposed requirements or for more detailed discussion of the proposals, individuals should refer directly to the NPRM. Furthermore, the listing of issues contained below is not intended to be exhaustive; we solicit comments on all issues relevant to 2-way EOTs.

A. Definition of "Mountain Grade Territory"

In Appendix C of the NPRM, FRA proposed a definition of mountain grade territory as a section of track of distance, D, with an average grade of 1.5 percent or more over that distance which satisfies the relationship:

$(30/V)^2G^2D \leqq 12$

Where:

G=average grade x 100

D=distance in miles over which average grade is taken

V=speed of train

See 59 FR 47719,47753. FRA also provided a chart containing mountain grade territory curves based on an application of the definition. *See* 59 FR 47753. FRA developed this empirical relationship based on most commenters' suggestions that some type of formula be developed based on a variety of factors, including train tonnage, speed, length of grade, percent of grade, and distance of grade. FRA determined that the three most important variables in defining mountain grade were: (i) The speed of the train (V); (ii) the steepness of the grade (G); and (iii) the length of the grade (D).

According to the empirical relationship proposed by FRA, no one of these variables determines mountain grade operating conditions; it takes a combination of the three. The $(30/V)^2$ term is the ratio of the train's speed to the reference speed of 30 mph, and it is squared because the speed of the train is a dominant variable in the relationship. The V term is in the denominator because as the speed of the train increases the ratio decreases, which makes satisfying the overall inequality defining mountain grade operating conditions more likely. The G term is squared because the steepness of the grade is a dominant variable. The G term is in the numerator because a steeper grade makes satisfying the overall inequality more likely. The D term is not squared because the length of the grade is less dominant than either the speed of the train or the steepness of the grade. The D term is in the numerator because a longer distance of grade makes satisfying the overall inequality more likely. The number 12 was selected because it yields a range of reasonable results for the definition.

Many commenters stated that FRA's definition was confusing, inaccurate, and impractical. These commenters suggested that the definition would result in known mountain grades not being covered by the 2-way EOT requirement, while other areas never before believed to be mountain grades would fall within the requirement. Several commenters also recommended that the definition be eliminated and that the 2-way EOT requirements apply solely to trains operating in excess of 30 mph. The California Public Utilities Commission suggested that short of requiring the devices on every train, the fundamental criterion should be the ability of the train to stop within a safe distance. Other commenters suggested that other criteria be used to define mountain grade territory and that the formula be simplified. One commenter recommended that the proposed definition be eliminated, and that the 2-way EOT requirements be applied to trains operating over 30 mph and to heavy tonnage and long trains as defined in the proposal.

(1) FRA recognizes that the definition contained in the NPRM may be somewhat confusing and may lead to anomalous results. FRA also recognizes that a definition of mountain grade that uses speed as a variable may be inappropriate because if a significant portion of the braking system becomes inoperative on a long, steep grade a runaway can occur regardless of the speed that the train started down the grade. Consequently, FRA is open to alternate suggestions to simplify or clarify the definition of mountain grade territory. However, FRA does not believe discarding the concept of mountain grade territory would be consistent with the safety objectives of the statute.

(2) FRA is interested in any alternative methods or formulas for defining mountain or heavy grade territory. For example:

Mountain grade territory could be defined as: any portion of a railroad with an average grade of 1% or greater where the product of the average percent grade (as a decimal) and the distance over which the grade persists (in miles) is greater than or equal to .03. Thus a 1% (.01) average grade for 3 miles or a 2% (.02) average grade for 1.5 miles would meet the definition for mountain grade territory.

FRA encourages all interested parties to develop and be prepared to discuss their alternatives for defining mountain grade territory.

(3) Several railroads include definitions of mountain grade territory in their operating rules, for example, Burlington Northern Railroad Company's Air Brake and Train Handling Rules define mountain grade as 1.8 percent grades and greater. For what purpose do railroads use these definitions of mountain grade, and could these definitions be used as a basis for defining mountain grade territory in this rule?

B. En Route Failures

In the NPRM, FRA proposed that if a 2-way EOT or equivalent device becomes incapable of initiating an emergency brake application from the rear of the train while the train is en route, then the speed of that train would be limited to 30 mph. *See* 59 FR 47714, 47743. FRA's rationale for this limitation was that two-way EOT devices are not required on trains that travel less than 30 mph. Thus, operating with a non-functional two-way EOT device is the same as not having a device; consequently, trains operating with failed two-way EOT devices should be subjected to this same limitation. Furthermore, FRA suggested that the concerns raised by several railroads regarding train delays, missed deliveries, and safety were not justified. The Association of American Railroads (AAR) as well as several railroads commented that these devices are very reliable and have an extremely low failure rate, if properly maintained. Consequently, FRA believed that the concerns of the railroads were outweighed by the potential harm to both the public and railroad employees caused by trains being allowed to operate without the devices at speeds which Congress and FRA feel require the added safety benefits provided by these devices.

Several railroads commented on FRA's proposal reinforcing the view that such a limitation could cause serious train delays and missed deliveries and would actually produce additional safety hazards due to the bunching of trains. Commenters also suggested that FRA failed to include the cost of this limitation in its analysis. Other commenters noted that subsequent to the drafting of the NPRM, Canada eliminated its speed restriction for failure of a 2-way EOT en route.

(1) Are there alternative operating limits that could be imposed when a failure of a 2-way EOT occurs en route providing a degree of safety similar to the proposed speed limitation?

(2) Can the costs of train delays and missed deliveries attributable to the proposed speed limitation be quantified? What are they?

(3) Has Canada's elimination of a similar speed restriction resulted in a reduction in safety? What has been the result of the elimination?

(4) To what extent should failures en route in mountain grade territory trigger special restrictions?

C. Applicability

Based on the statutory mandate and after review of the comments received and the accidents relied on for support of the use of 2-way EOTs, FRA in the NPRM proposed that the devices be required equipment on trains that operate at speeds in excess of 30 mph and on trains that operate in mountain grade territories. *See* 59 FR 47743. (A discussion of FRA's definition of "mountain grade territory" is contained in Section A). In addition to those operations specifically excluded from 2-way EOT requirements by the statute (49 U.S.C. 20141), FRA found sufficient safety justification for excluding two other types of operations: (i) freight trains equipped with a locomotive capable of initiating a brake application located in the rear third of the train length; and (ii) trains equipped with fully independent secondary braking systems capable of safely stopping the train in the event of failure of the primary system. In order to provide the industry with time to acquire a sufficient number of 2-way EOTs and to ease the economic impact of acquiring the devices, FRA proposed that the requirement that all road trains not specifically excepted be equipped with either a 2-way EOT or an alternate technology device performing the same function not become effective until December 31, 1996. *See* 59 FR 47713, 47743. FRA also proposed that all 2-way EOTs purchased prior to the effective date of the final rule would be deemed to meet the design requirements contained in the proposal. *See* 59 FR 47713, 47743.

Other than FRA's definition of "mountain grade territory," there were very few comments specifically addressing the applicability requirements contained in the NPRM other than stylistic suggestions. One commenter did recommend that the exception for trains operating in a push mode be amplified to require that the control cab on the rear of train be occupied, display a reading of the brake pressure, and be capable of making an emergency application.

(1) Is there a safety justification for excluding other types of operations not currently contemplated? What are they?

(2) As it has been over three years since Congress issued the statutory mandate regarding 2-way EOTs and because the data relied on by FRA in developing the NPRM is close to two years old, FRA would like updated information regarding the number of 2-way EOTs currently in use, the number currently on order with manufacturers, the current cost of 2-way EOTs meeting the proposed design requirements, and the reliability of the devices currently in use.

(3) Subsequent to the drafting of the NPRM, FRA has learned that some traditional passenger operations are considering the operation of mixed passenger and freight trains. How should these types of operations be handled with regard to the use of 2-way EOTs? Is there a safety justification for excepting these operations from the requirements?

D. Initial Terminal Requirements

At the ANPRM stage, FRA received several comments regarding the batteries used in 2-way EOTs. Several commenters suggested that the most frequent cause of failure of 2-way EOTs is battery failure. These commenters also indicated that this problem could be cured by replacing batteries at initial terminals. Other commenters suggested that some minimum charge be required at initial terminals and that inspections be performed at all brake tests and crew change points. Several commenters also suggested that interchangeable battery packs were necessary because some railroads were unable to charge the devices that come onto their lines from other railroads.

Based on these comments, FRA proposed that any train equipped with a 2-way EOT or its equivalent shall not depart from the point where the train is originally assembled unless (i) the device is capable of initiating a brake application from the rear of the train and (ii) the batteries of the device are charged to at least 75 percent of watt-hour capacity. *See* 59 FR 47734. Although FRA did not receive any comments on this provision subsequent to the issuance of the NPRM, FRA feels this was due to most commenters focusing on some of the broader issues contained in the NPRM.

Due to the period of time since hearings on the ANPRM were conducted, FRA requests the following:

(1) Information regarding the operating life of batteries currently used in 2-way EOTs;

(2) Information regarding the reliability and interchangeability of these batteries; and

(3) Opinions on whether the proposed requirements are necessary based on the experiences of those parties currently using 2-way EOTs on a regular basis.

E. Design Requirements

In order to maintain uniformity in the performance of 2-way EOT devices, FRA proposed basic performance and design requirements for these devices in the NPRM. As 2-way EOTs that are currently in production meet the design requirements already established for one-way devices contained at 49 CFR 232.19, FRA intended to retain those requirements, apply them to 2-way EOTs and establish other specific requirements to ensure two-way communication and the ability to make an emergency brake application from the rear of the train. The additional proposed requirements include the following:

(a) An emergency brake application command from the front unit shall activate the emergency air valve at the rear of the train within one second.

(b) The rear unit shall send an acknowledgment message to the front unit immediately upon receipt of a brake application command. The front unit shall listen for this acknowledgment and repeat the brake application command if the acknowledgment is not correctly received.

(c) The rear unit, on receipt of a properly coded command, shall open a valve in the brake line and hold it open for a minimum of 15 seconds. This opening of the valve shall cause the brake line to vent to the exterior.

(d) The valve opening and hose diameter shall have a minimum diameter of 3/4 inch to effect an emergency brake application.

(e) Restoring of the braking function (recharging the air brake system) shall be enabled automatically by the rear equipment, no more than 60 seconds after it has initiated an emergency.

(f) The front unit shall have a manually operated switch which, when activated, shall initiate an emergency brake transmission command to the rear unit. The switch shall be labeled "Emergency" and shall be protected so that there will exist no possibility of accidental activation.

(g) The availability of the front-to-rear communications link shall be checked automatically at least every 10 [seconds]*.

(h) Means shall be provided to confirm availability and proper functioning of the emergency valve.

(i) Means shall be provided to arm the front and rear units to ensure the rear unit responds only to an emergency command from its associated front unit.

See 59 FR 47731. *(Section 232.117(g) of the NPRM inadvertently contained "10 minutes" for this requirement; it should have read "10 seconds." *See* 59 FR 47731). FRA recognizes that currently available 2-way EOTs have several optional features that could prove beneficial to railroads and although FRA recommends that railroads obtain as many of the optional features as they can when purchasing the devices, FRA does not intend to mandate their use and feels each railroad is in the best position to determine which features benefit its operation.

Several commenters suggested that the provision requiring the automatic restoration of the brake function after 60 seconds should be eliminated. These commenters stated that the brake function should not be restored until the train has come to a complete stop and/or that the locomotive engineer should retain control of the restoration. One commenter recommended that a separate labeled and protected emergency switch should not be mandated if the EOT's emergency application could be integrated into the existing emergency brake controls.

(1) Are the proposed design requirements sufficient to ensure uniformity in the devices' design? Do they unduly restrict technological advances?

(2) FRA is interested in any information regarding any technological advancements or design changes, that may have been made in the area of 2-way EOTs in the last two years, that would necessitate a change in or addition to the proposed design requirements.

(3) FRA is also interested in any information from railroads currently using 2-way EOTs regarding the procedures or practices they have adopted for testing and inspecting the devices to ensure that the devices are armed and operational prior to a train's departure. Could or should these practices and procedures form the basis of such requirements in this rule?

(4) Based on information obtained in investigating the recent accident near Cajon Pass, FRA is interested information regarding problems with maintaining communication between the front and rear units. What procedures or operations have been developed to overcome these communication problems? Could or should these be incorporated in this rule? Are there additional design requirements that could cure these communication problems? Minimum wattage requirements? Requiring repeater stations where necessary?

F. Calibration Requirements

In the NPRM, FRA proposed to extend the calibration period for all EOTs from 92 days to 365 days. *See* 59 FR 47700, 47731. FRA based this proposed extension not only on its own experience but also on the comments received from several parties that the devices are fairly reliable and can operate for years without calibration. Furthermore, FRA believes that the 92-day calibration period was established at a time when there was little experience with the devices. Since that time, not only has calibration of the devices not proven to be a problem, but technology has further improved the reliability of the devices. Although several commenters, both at the ANPRM and NPRM stage, commented on the unreliability of the devices, these comments generally addressed either the failure of the railroads to properly perform the calibrations or the misuse of the devices.

(1) FRA is interested in information and operating experiences regarding the reliability and accuracy of recently manufactured EOTs.

G. Cost/Benefit Information

Based on information collected and additional research conducted subsequent to the issuance of the NPRM, FRA has updated its Regulatory Impact Analysis regarding 2- way EOTs. *See* FRA's Regulatory Impact Analysis: Two-way End-of-Train Devices. (This document will be distributed to all interested parties at the public regulatory conference, or copies may be obtained by contacting the individuals previously identified.) FRA currently estimates that the proposed requirements regarding 2-way EOTs would cost the industry approximately $214 million over 20 years at a 7 percent discount rate. This estimate is based on the following assumptions: (i) unit purchase and installation cost of $7,000 per unit (front and rear); (ii) annual maintenance and calibration cost of § 415 per unit; (iii) Class I railroads would be required to purchase 16,375 units; and (iv) Class II and Class III railroads would be required to purchase 1,096 units.

Although FRA did not quantify the safety benefits that would be achieved by requiring 2-way EOTs in its original Regulatory Impact Analysis of the NPRM, FRA is in the process of developing an analysis to include safety benefits of the proposed requirements. *See* FRA's Regulatory Impact Analysis: Two-way End-of-Train Devices. FRA currently estimates that the quantifiable safety benefits from the proposal would be approximately $46 million over 20 years at a 7 percent discount rate. However, it should be noted that the benefits currently estimated by FRA are extremely conservative and are based on a limited number of cost factors arising as a result of an accident. FRA's conservative benefit estimate does not capture many of the costs associated with an accident such as: wreck clearance; damage to lading; train delay, emergency response, or enviromental clean-up. FRA looks forward to receiving information and suggestions from commenters on methods for capturing or estimating these additional costs. FRA's Office of Safety, Accidents Reports Division, has identified 26 accidents since 1990 which potentially could have been prevented had the trains been equipped with 2-way EOTs. The accidents and railroad property damages associated with the potentially preventable accidents are contained in Table 1 below.

TABLE 1—POTENTIALLY PREVENTABLE ACCIDENTS*

Date	Place	Listed Cause**	Injuries	Fatalities	RR Property updated to 12/95 $	Rate of effectiveness	Accidents preventable Benefit
900429	Yardley, WA	Automatic Brake, other improper use.	1	0	$46,560	0.9	$41,904
901004	Devore, CA	Use of brakes, other	0	0	7,857	0.9	7,071
901022	Esbon, KS	use of brakes, other	1	0	90,016	0.9	81,014
900517	Nampa, WY	Obstructed brake pipe	0	0	151,319	0.9	136,187
910918	Spague, WA	Obstructed brake pipe	0	1	4,275,873	0.9	3,848,286
910304	Waterfall, WY	Use of brakes, other	2	0	980,075	0.5	882,068
910304	Waterfall, WY	Use of brakes, other	0	0	646,407	0.5	581,767
911021	Vernon, IA	Other brake defects, cars	0	0	24,755	0.5	22,280
920307	Kansas City, MO.	Obstructed brake pipe	2	0	430,432	0.9	387,389
920307	Kansas City, MO.	Obstructed brake pipe	0	0	61,875	0.9	55,688
920611	Money, MS	Improper operation of line air	0	0	224,778	0.5	202,300
920611	Money, MS	Improper operation of line air	2	0	452,334	0.5	407,101
920913	Benton, WY	Other brake defects, loco	0	0	15,579	0.5	14,021
921016	Sterling, IL	Other brake defects, loco	0	0	148,998	0.5	134,098
921203	Hillcrest, ID	Automatic brake, insufficient	2	0	7,071	0.5	6,364
921203	Hillcrest, ID	Automatic brake, insufficient	0	0	71,819	0.5	64,638
931001	Keystone, NB	Obstructed brake pipe	0	0	10,572	0.9	9,515
931001	Keystone, NB	Obstructed brake pipe	2	0	2,642,466	0.9	2,378,219
931004	Faust, UT	Use of brakes, other	0	0	14,801	0.9	13,321
931011	Fulton, KY	Improper operation of line air	0	0	3,172	0.5	2,854
931011	Fulton, KY	Improper operation of line air	0	0	11,418	0.5	10,276
931221	Wood, IA	Improper operation of line air	0	0	321,600	0.5	289,440
931221	Wood, IA	Improper operation of line air	0	0	106,936	0.5	96,242
931223	Grenada, MS	Improper operation of line air	0	0	5,815	0.5	5,233
931223	Grenada, MS	Improper operation of line air	0	0	5,286	0.5	4,757
940909	Cajon, CA	Automatic brake other improper use.	0	0	73,331	0.9	65,998
940909	Cajon, CA (San B).	Automatic brake, insufficient	0	0	2,353	0.9	2,117
941214	Cajon, CA	Obstructed brake pipe	1	0	1,293,484	0.9	1,164,135
941214	Cajon, CA	Obstructed brake pipe	2	0	2,765,060	0.9	2,488,554
950209	Nelsons, WI	Use of brakes, other	0	0	25,025	0.9	22,522
950209	Nelsons, WI	Use of brakes, other	1	0	5,702	0.9	5,132
950406	Argonne, MI	Improper operation of line air	0	1	268,798	0.9	241,918
960201	Cajon, CA	Unknown	1	2	Unknown		Unknown
TOTAL			17	4	16,540,459		14,886,413

* A double entry showing more than one accident on the same date and at the same location indicates that the equipment or other property of two railroads were involved.

** Cause listed in the Rail Equipment Accident/Incident Report filed with FRA, pursuant to 49 CFR Part 225, by the railroad involved.

The accidents range in severity from those having very little monetary damages to those involving death, serious injury, the release of hazardous materials and the subsequent closure of a major federal highway and evacuation of a nearby town. The values for railroad property and track damages are shown updated to December 1995 dollars using the Engineering News Record index for heavy machinery and equipment.

Furthermore, there is a wide variety of qualitative safety benefits which could be gained from prevention of accidents by using 2-way EOTs. These types of qualitative benefits would include risk reduction of accidents involving hazardous materials and the associated costs, as well as reduced anxiety for residents of communities along railroad tracks, a safer environment for their families, and improved quality of life. Unfortunately, we do not have the type of information necessary to quantify the safety impact of many of these elements.

(1) Are the assumptions used by FRA in its updated Regulatory Impact Analysis valid?

(2) What is the current purchase and installation cost of a 2-way EOT required by FRA's proposal?

(3) Are the estimated annual maintenance costs accurate?

(4) Is FRA's estimate of the number of units required to be purchased accurate? How many 2-way units are currently in operation? How many are currently on order with a manufacturer?

(5) What is the en route failure rate of 2-way devices currently in use?

(6) What is the average useful life of currently available 2-way EOTs? Front units? Rear units?

(7) What is the estimated cost per hour of delay for a given train?

(8) On average, how long does it take to calibrate newer (post-1992) 2-way EOTs?

(9) Should any of the accidents/incidents identified in Table 1 not be considered potentially preventable? Why? Are there other accidents/incidents, not identified in Table 1, occurring since 1990 that should be added to the list of potentially preventable accidents/incidents? Provide specifics.

(10) FRA's ability to analyze accident/incident costs contained in Table 1 has been limited to data supplied by the industry. This information does not include costs such as wreck clearance, damage to lading, train delay, emergency response, and environmental cleanup. Consequently, FRA encourages commenters to provide any suggestions or information they have for capturing, or estimating, these additional costs.

H. Compliance Plans

Unlike most FRA safety rulemaking proceedings, this proceeding is principally concerned with defining exceptions to an otherwise absolute statutory command. Thus, whatever the final rule may provide, railroads must plan well in advance of December 31, 1997 (the date by which the statute requires all covered trains to be equipped with 2-way EOTs) to procure large numbers of 2-way EOTs, equip their trains with them, and train their employees to install, maintain, and use them. FRA, therefore urges railroads to immediately begin acquiring and equipping trains with 2-way EOTs to enhance the safety of their operations rather than waiting until the issuance of the final rule. FRA is interested in knowing in the greatest detail available what plans railroads currently have in place for complying with the statute.

Issued in Washington, D.C., on February 15, 1996.

Jolene M. Molitoris,

Administrator.

[FR Doc. 96–4017 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–87; Notice 1]

RIN 2127–AF78

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendments to Standard No. 108, the Federal motor vehicle standard on lighting, which would adopt new photometric requirements for motorcycle headlamps and which would improve the objectivity of the aiming of their upper beam. The new photometric requirements would be those of Society of Automotive Engineers (SAE) Standard J584 OCT93, added as a new Figure 31 to Standard No. 108. They would exist simultaneously with the current photometric requirements of SAE J584 April 1964, for a short time, and would become mandatory between two and four years after issuance of the final rule. When being tested for photometric compliance with Figure 31, the upper beam of motorcycle headlamps would be aimed photoelectrically rather than visually, as at present.

The amendments should enhance motor vehicle safety by improving visibility for the motorcycle operator, and detectability of his or her machine.

DATES: Comments are due April 22, 1996.

ADDRESSES: Comments should refer to Docket No. 95–87; Notice 1 and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Safety Performance Standards, NHTSA (Tp: 202–366–5276; FAX: 202–366–4329).

SUPPLEMENTARY INFORMATION: Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, specifies requirements for motorcycle headlamps. Principally, these are the specifications of SAE Standard J584 April 1964, which have been incorporated by reference into Standard No. 108.

Motorcycle safety remains a principal concern of NHTSA. There are over 6 times as many motorcycles on the road today as there were 35 years ago. Figures from the National Center for Health Statistics (NCHS), Department of Health and Human Services, and State Accident Summaries show 574,000 registered motorcycles in 1960, as compared with 3,718,127 in 1994, according to the Fatal Accident Reporting System (FARS). During roughly the same period, the annual number of motorcycle fatalities increased slightly, from 2,170 in 1967, according to the NCHS, to 2,304 in 1994, as indicated in the FARS.

The Motorcycle Industry Council (MIC) has petitioned for rulemaking to amend Standard No. 108 to allow SAE Standard J584 OCT93 as an alternative to SAE J584 April 1964. According to MIC, motorcycle headlamps designed to conform to SAE J584 April 1964 have difficulty in providing sufficient lower beam illumination directly in front of the motorcycle, a need met by SAE J584 OCT93. Further, adoption of the 1993 requirements would allow manufacturers to install the same headlamp design on motorcycles sold in the United States as are currently being installed on motorcycles sold in 50 other countries.

Although NHTSA has granted MIC's petition, SAE J584 OCT93 is inappropriate for incorporation in full because it divides motorcyles into classes and sets forth different specifications applicable to particular classes. In Standard No. 108, NHTSA regulates motorcycles as a single class, with some requirements applicable to a sub-category of smaller, less powerful machines called "motor driven cycle". Further, the permanent co-existence of two SAE standards, which prescribe different minima for the same test points, would undermine efforts to enforce the new, higher set of requirements.

Upon review, NHTSA has tentatively concluded that adoption of the photometric requirements in J584 OCT93 could enhance safety and lead to harmonization of motorcycle headlamp standards. Both the maxima and minima candela are increased in J584 OCT93. Further, specifications are added for 7 new test points on the lower beam (5 for motor driven cycles), and 7 on the upper beam (1 for motor driven cycles). This increase in performance over that provided by the 1964 specifications promises better visibility for the operator and detectability by other motorists. This could reduce crashes for motorcyclists. Because of this potential, NHTSA has tentatively concluded that the new photometric requirements should become mandatory. However, because SAE J584 OCT93 prescribes higher test point minima than Standard No. 108's J584 April 1964, current motorcycle headlamps cannot be certified to meet the new SAE specifications. Consequently, NHTSA is willing to allow a period of time in which the two specifications would co-exist as options until industry could retool for compliance with the newer ones. The agency is uncertain as to the time needed for headlamp redesign. For this reason, it is proposing that the new requirements (contained in proposed Figure 31) become mandatory not earlier than two years and not later than four years after publication of the final rule, with optional compliance permitted beginning 30 days after publication. NHTSA requests comments on the appropriate lead time to make the proposed changes to motorcycle headlamp photometry. The final rule, of course, would establish a single date for mandatory compliance.

On its own accord, the agency reviewed the new and old SAE requirements to determine if there were other areas where motorcycle headlamp performance can be enhanced. It found one such area. The April 1964 version of SAE J584 allows the upper headlamp beam to be aimed visually during the photometric test, while all subsequent versions have specified that it be aimed photoelectrically. Because a Federal motor vehicle safety standard by definition must be "objective", NHTSA has tentatively concluded that a requirement for photoelectric aim of the upper beam will improve the objectivity of Standard No. 108, and assist manufacturers in their determinations of compliance for certification purposes. Therefore, it is proposing that this method of aiming be used in testing headlamps to the photometrics of Figure 31.

In summary, the two amendments would be effectuated as follows. The amendments would be added to Standard No. 108 thirty days after publication of the final rule in Standard No. 108. At that time, a manufacturer would have the choice of continuing to conform to the 1964 photometrics and visual determination of upper beam compliance, or to conform to the photometrics of Figure 31 and photoelectric determination of upper beam compliance. As of a date two to four years after publication of the final rule, the manufacturer would be required to conform to Figure 31 and photoelectric determination.

Finally, the agency proposes to place all requirements pertaining to the performance of motorcycle headlamps in S7, Headlighting requirements, which currently incorporates all such requirements for motor vehicles other than motorcycles. New paragraph S7.9 will accomplish this purpose. Paragraphs S5.1.1.23, S5.1.1.24, and S5.6 (headlamp modulations systems) would become paragraphs S7.9.3, S7.9.5, and S7.9.4, respectively.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under Executive Order 12866. Further, it has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. NHTSA currently anticipates that the costs of the final rule would be so minimal as not to warrant preparation of a full regulatory evaluation. Headlamps are changed as part of styling; as long as adequate leadtime is allowed no costs should be incurred. However, for comments on this assumption, NHTSA is asking for comments on the costs and other impacts associated with a two to four-year leadtime for mandatory compliance with a final rule. If the comments received indicate that the impacts are more than minimal, NHTSA will prepare a full regulatory evaluation before issuing a final rule.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that a final rule based on this proposal would have a significant effect upon the environment. The composition of motorcycle headlamps would not change from those presently in production.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act. For the reasons stated above and below, I certify that this rulemaking action would not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motorcycles and their headlamps, those affected by the rulemaking action, are generally not small businesses within the meaning of the Regulatory Flexibility Act. The agency does not anticipate that the cost of headlamps would increase as a result of this rulemaking action.

Executive Order 12612 (Federolism)

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice

A final rule based on this proposal would not have any retroactive effect. Under 49 U.S.C. § 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. 49 U.S.C. § 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A

request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, 49 CFR Part 571 would be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.108 would be amended by

a. removing and reserving paragraphs S5.1.1.23, S5.1.1.24, S5.6, S5.6.1 and S5.6.2;

b. adding new paragraphs S7.9, S7.9.1 through S7.9.4, S7.9.4.1, S7.9.4.2, and S7.9.5;

c. adding in numerical order Figure 31; and

d. amending Table III by revising the text immediately following the Table heading and by revising the entry for Headlamps, to read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5.1.1.23 [Reserved]
S5.1.1.24 [Reserved]

* * * * *

S5.6 [Reserved]
S5.6.1–S5.6.2 [Reserved]

* * * * *

S7 *Headlighting requirements.*

* * * * *

S7.9 *Motorcycles.* Each motorcycle shall be equipped with a headlighting system designed to conform to the following requirements.

S7.9.1 A motorcycle manufactured before [the date specified in S7.9.2] may be equipped with—

(a) A headlighting system designed to conform to SAE Standard J584 *Motorcycle Headlamps* April 1964, or to SAE Standard J584 April 1964 with the photometric specifications of Figure 31 of this section and the upper beam aimability specifications of paragraph S7.9.3 of this section; or

(b) One half of any headlighting system specified in S7.1 through S7.6 of this section which provides both a full upper beam and full lower beam, and where more than one lamp must be used, the lamps shall be mounted vertically, with the lower beam as high as practicable.

S7.9.2 A motorcycle manufactured on or after [the effective date that will be two to four years after the publication of the final rule], shall be equipped with—

(a) A headlighting system designed to conform to SAE Standard J584 *Motorcycle Headlamps* April 1964 with the photometric specifications of Figure 31 of this section and the upper beam aimability specifications of paragraph S7.9.3 of this section; or

(b) A headlighting system that conforms to S7.9.1(b) of this section.

S7.9.3 The upper beam of a multiple beam headlamp designed to conform to the photometric requirements of Figure 31 of this section shall be aimed photoelectrically during the photometric test in the manner prescribed in SAE Standard J584 OCT93 *Motorcycle Headlamps.*

S7.9.4 *Motorcycle headlamp modulation system.*

S7.9.4.1 A headlamp on a motorcycle may be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity, provided that:

(a) The rate of modulation shall be 240 ±40 cycles per minute.

(b) The headlamp shall be operated at maximum power for 50 to 70 percent of each cycle.

(c) The lowest intensity at any test point shall be not less than 17 percent of the maximum intensity measured at the same point.

(d) The modulator switch shall be wired in the power lead of the beam filament being modulated and not in the ground side of the circuit.

(e) Means shall be provided so that both the lower beam and upper beam remain operable in the event of a modulator failure.

(f) The system shall include a sensor mounted with the axis of its sensing element perpendicular to a horizontal plane. Headlamp modulation shall cease whenever the level of light emitted by a tungsten filament light operating at 3000° Kelvin is either less than 270 lux (25 foot-candles) of direct light for upward pointing sensors or less than 60 lux (5.6 foot-candles) of reflected light for downward pointing sensors. The light is measured by a silicon cell type light meter that is located at the sensor and pointing in the same direction as the sensor. A Kodak Gray Card (Kodak R–27) is placed at ground level to simulate the road surface in testing downward pointing sensors.

(g) When tested in accordance with the test profile shown in Figure 9, the voltage drop across the modulator when the lamp is on at all test conditions for 12 volt systems and 6 volt systems shall not be greater than .45 volt. The modulator shall meet all the provisions of the standard after completion of the test profile shown in Figure 9 of this section.

(h) Means shall be provided so that both the lower and upper beam function at design voltage when the headlamp control switch is in either the lower or upper beam position when the modulator is off.

S7.9.4.2(a) Each motorcycle headlamp modulator not intended as original equipment, or its container, shall be labeled with the maximum wattage, and the minimum wattage appropriate for its use. Additionally, each such modulator shall comply with S7.9.4.1(a) through (g) of this section when connected to a headlamp of the maximum rated power and a headlamp of the minimum rated power, and shall provide means so that the modulated beam functions at design voltage when the modulator is off.

(b) Instructions, with a diagram, shall be provided for mounting the light sensor including location on the motorcycle, distance above the road surface, and orientation with respect to the light.

S7.9.5 Each replaceable bulb headlamp that is designed to meet the photometric requirements of paragraph S7.9.1(a) or paragraph S7.9.2(a) of this section and that is equipped with a light source other than a replaceable light source meeting the requirements of paragraph S7.7 of this section, shall have the word "motorcycle" permanently marked on the lens in characters not less than 0.114 in. (3 mm) in height.

* * * * *

FIGURE 31–MOTORCYCLE AND MOTOR-DRIVEN CYCLE HEADLAMP PHOTOMETRIC REQUIREMENTS

Test points (deg.)		Motorcycle (candela)	Motor-driven cycle (candela)	Motor driven cycle with single lamp system (candela)
Up or down	Left or right			
Lower Beam				
1.5U	1R to R	1400–Max	1400–Max	
1.5U	1R to 3R			1400–Max.
1U	1.5L to L	700–Max	700–Max	700–Max.
0.5U	1.5L to L	1000–Max	1000–Max	1000–Max.
0.5U	1R to 3R	2700–Max	2700–Max	2700–Max.
1.5D	9L and 9R	700–Min		
2D	0.0R	7000–Min	5000–Min	4000–Min.
2D	3L and 3R	4000–Min	3000–Min	3000–Min.
2D	6L and 6R	1500–Min	1500–Min	1500–Min.
2D	12L and 12R	700–Min		
3D	6L and 6R	800–Min	800–Min	
4D	0.0R	2000–Min	2000–Min	1000–Min.
4D	4R	12500–Max	12500–Max	12500–Max.

Test points (deg.)		Motorcycle (candela)	Motor-driven cycle (candela)
Up or down	Left or right		
Upper Beam			
2U	0.0R	1000–Min	
1U	3L and 3R	2000–Min	2000–Min.
0.0U	0.0R	12500–Min	10000–Min.
0.5D	0.0R	20000–Min	20000–Min.
0.5D	3L and 3R	10000–Min	5000–Min.
0.5D	6L and 6R	3300–Min	2000–Min.
0.5D	9L and 9R	1500–Min	
0.5D	12L and 12R	800–Min	
1D	0.0R	17500–Min	15000–Min.
2D	0.0R	5000–Min	5000–Min.
3D	0.0R9	2500–Min	2500–Min.
3D	6L and 6R		800–Min.
3D	9L and 9R	1500–Min	
3D	12L and 12R	300–Min	
4D	0.0R	1500–Min	
4D	0.0R	7500–Max	7500–Max.
Anywhere	Anywhere	75000–Max	75000–Max.

* * * * *

TABLE III—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

[All Passenger Cars and Motorcycles, and Multipurpose Passenger Vehicles, Trucks, Buses and Trailers of Less Than 80 (2032) Inches (mm) Overall Width]

Item	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	Applicable SAE standard or recommended practice (See S5 for subreferenced SAE materials)
Headlamps	See S7	None	See S7.9	J566 January 1960.

* * * * * * *

Issued on: February 5, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–2742 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 61, No. 35

Wednesday, February 21, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 95–075–2]

Dupont Agricultural Products; Availability of Determination of Nonregulated Status for Cotton Line Genetically Engineered for Tolerance to Sulfonylurea Herbicides

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that a cotton line developed by Dupont Agricultural Products designated as 19–51a that has been genetically engineered for tolerance to sulfonylurea herbicides is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Dupont Agricultural Products in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the Dupont Agricultural Products petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: January 25, 1996.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. Sivramiah Shantharam, Biotechnology Permits, BBEP, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–7612.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1995, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 95–256–01p) from Dupont Agricultural Products (Dupont) of Wilmington, DE, seeking a determination that a cotton line designated as 19–51a that has been genetically engineered for tolerance to sulfonylurea herbicides does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On October 26, 1995, APHIS published a notice in the **Federal Register** (60 FR 54839–54840, Docket No. 95–075–1) announcing that the Dupont petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject cotton line and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether cotton line 19–51a posed a plant pest risk. The comments were to have been received by APHIS on or before December 26, 1995. APHIS received two comments on the subject petition during the designated 60-day comment period. Both comments were from State departments of agriculture and both were favorable to the petition.

Analysis

Cotton line 19–51a has been genetically engineered with a gene from tobacco which encodes an altered acetolactate synthase enzyme that enhances tolerance to sulfonylurea herbicides. The subject cotton line was developed through the use of the *Agrobacterium tumefaciens* transformation system.

Cotton line 19–51a has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains regulatory gene sequences derived from the plant pathogen *A. tumefaciens*. However, evaluation of field data reports from field tests of the subject cotton line conducted under APHIS permits or notifications since 1991 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the subject cotton plants' release into the environment.

Determination

Based on its analysis of the data submitted by Dupont and a review of other scientific data, comments received, and field tests of the subject cotton line, APHIS has determined that cotton line 19–51a: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than cotton developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not harm other organisms, including agriculturally beneficial organisms and threatened and endangered species; and (5) should not cause damage to raw or processed agricultural commodities. Therefore, APHIS has concluded that cotton line 19–51a and any progeny derived from hybrid crosses with other nontransformed cotton varieties will be just as safe to grow as traditionally bred cotton lines that are not regulated under 7 CFR part 340.

The effect of this determination is that Dupont's cotton line designated as 19–51a is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the notification requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of cotton line 19–51a or its progeny. However, the importation of the subject cotton line or seeds capable of propagation is still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The

EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372; 60 FR 6000–6005, February 1, 1995). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that cotton line 19–51a and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 14th day of February 1996.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–3824 Filed 2–20–96; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on Tuesday, March 12, 1996, at the U.S. Commission on Civil Rights, Conference Room, Room 540, 624 Ninth Street NW, Washington, DC 20001. The purpose of the meeting is to discuss revisions to a draft report on residential mortgage lending.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Maria Charito Kruvant, 202–966–5804, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3890 Filed 2–20–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on Thursday, March 14, 1996, at the Midland Hotel, 172 West Adams, Chicago, Illinois 60603. The purpose of the meeting is to hold an Illinois Consultation: Focus on Affirmative Action.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Mathewson, 312–360–1110, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3891 Filed 2–20–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on Friday, March 15, 1996, at the Holiday Inn-Hillside, 4400 Frontage Road, Hillside, Illinois 60162. The purpose of the meeting is to hold a press conference to release the Advisory Committee's report, *Race Relations and Equal Education Opportunity at Proviso West High School*, and to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Mathewson, 312–360–1110, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3892 Filed 2–20–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Michigan Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m. on Wednesday, March 6, 1996, at the Holiday Inn South/Convention Center, 6820 South Cedar Street, Lansing, Michigan. The purpose of the meeting is to hold a press conference to release the Advisory Committee's report, *Discipline in Michigan Public School and Government Enforcement of Equal Education Opportunity* and to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Janice G. Frazier, 312–353–8311, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 12, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–3889 Filed 2–20–96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 9–96]

Foreign-Trade Zone 154—Baton Rouge, Louisiana Application for Subzone Status, Exxon Corporation (Oil Refinery/Petrochemical Complex), Baton Rouge, Louisiana Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Baton Rouge Port Commission, grantee of FTZ 154, requesting special-purpose subzone status for the oil refinery complex of Exxon Corporation, located in the Baton Rouge, Louisiana area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 7, 1996.

The refinery and petrochemical complex (2,280 acres) covers six sites in the Baton Rouge, Louisiana area: *Site 1* (980 acres, 424,000 BPD capacity)—main refinery complex, located at 4045 Scenic Hwy. on the Mississippi River, East Baton Rouge Parish; *Site 2* (140 acres, 11,000 tons/day capacity)—petrochemical plant, located adjacent to the refinery at 4999 Scenic Hwy., East Baton Rouge Parish; *Site 3* (580 acres, 1.5 million barrel capacity)—Maryland Tank Farm storage facility/plastics plant, located at 11675 Scotland-Zachary Hwy., East Baton Rouge Parish; *Site 4* (60 acres, 5,000 BPD capacity)—lubricants plant, located at 2230 Highway 1 North, across the Mississippi River from the main refinery, West Baton Rouge Parish; *Site 5* (460 acres, 2.9 million barrel capacity)—Anchorage Tank Farm, located adjacent to the lubricants plant, West Baton Rouge Parish; and, *Site 6* (100 acres, 6.5 million barrel capacity)—Sorrento Salt Dome, located on Louisiana Hwy. 3140, some 2 miles east of U.S. Hwy. 61, Ascension Parish. Exxon operates the six sites as an integrated refinery/petrochemical complex.

The refinery and petrochemical complex (4,000 employees) is used to produce fuels, petrochemical feedstocks and petrochemical products. Fuels produced include gasoline, jet fuel, distillates, gas oils, residual fuels, and naphthas. Petrochemical feedstocks include ethylene, propylene, isobutylene, butadiene, and benzene. Refinery by-products include sulfur, carbon black oil, petroleum waxes, and petroleum coke. The complex also produces petrochemcial products such as lubricating oils, process oils, petroleum resins, benzene phthalic anhydride, methyl ethyl ketone, alkyl esters, alcohols, neo acids, isoprene, naphthenic acid, Vistalon® Rubber, Exxon® Bromobutyl, Escorez® Cyclics, Jayflex® Plasticizer, Exxate® Solvents. Some 40 percent of the crude oil (85 percent of inputs), and some feedstocks and motor fuel blendstocks used in producing fuel products are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free). The duty on crude oil ranges from 5.25¢ to 10.5¢/barrel. (The remaining finished products—fuel and petrochemical products—generally have the same or higher duty rates than crude oil, and for those products zone procedures would be primarily used to defer Customs duty payments.) The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is [60 days from date of publication]. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to [75 days from date of publication]).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, One Canal Place, 365 Canal Street, Suite 2150, New Orleans, Louisiana 70130

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: February 7, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3753 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 8–96]

Foreign-Trade Zone 70—Detroit, Michigan; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 70, requesting authority to expand its zone in Detroit, Michigan, within the Detroit Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 5, 1996.

FTZ 70 was approved on July 21, 1981 (Board Order 176, 46 FR 38941) and expanded on November 27, 1989 (Board Order 453, 54 FR 50258) and April 20, 1990 (Board Order 471, 55 FR 17775). An application is currently pending with the Board for an additional site at the Detroit Metropolitan Wayne County Airport (Docket 20–95).

The applicant is now requesting authority to further expand the general-purpose zone to include a site (37 acres) located in Detroit adjacent to I–75/I–96 and the Ambassador Bridge which spans the Detroit River, linking Detroit and Windsor, Ontario (Canada). The Detroit International Bridge Company, which owns the Ambassador Bridge, leases the proposed zone site and will serve as zone operator for the site.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 22, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 6, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 477 Michigan Avenue, 1140 McNamara Building, Detroit, Michigan 48226

Office of the Executive Secretary, Foreign-Trade Zones Board, Room

3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: February 7, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–3754 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

A–583–009

Color Television Receivers, Except for Video Monitors, From Taiwan; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping Duty Administrative Review.

SUMMARY: On April 19, 1995, and April 25, 1995, the United States Court of International Trade (CIT) affirmed our results for the following redeterminations on remand of the final results of administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan: *Zenith Electronics* v. *United States*, Consol. Court No. 92–01–00007 (fourth and sixth reviews); and, *AOC International Ltd. et. al.* v. *United States*, Consol. Court No. 92–06–00367 (seventh review).

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 12 and December 13, 1994, the CIT issued orders directing the Department to recalculate the valued-added tax (VAT) according to the methodology employed in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (CIT 1993) (*Federal Mogul*) for various companies for the periods April 1, 1987 through March 31, 1988 (fourth review), April 1, 1989 through March 31, 1990 (sixth review), and April 1, 1990 through March 31, 1991 (seventh review). Also, on December 12, 1994, the CIT directed the Department to re-examine its use of the most adverse (first-tier) best information available (BIA) for AOC International, Inc. in the seventh review in light of *Allied Signal Aerospace Co.*, v. *United States*, 996 F. 2d. 1185, (Fed. Cir. 1993).

Pursuant to the instructions of the CIT, the Department recalculated the VAT consistent with the methodology employed in Federal Mogul, for various companies for the fourth, sixth and seventh reviews. The Department also reconsidered its use of first-tier BIA for AOC for the seventh review, and determined that the application of first-tier BIA was reasonable. On April 19, 1995, the CIT affirmed our use of first-tier BIA in the seventh review. On April 25, 1995, the CIT affirmed our application of the VAT methodology in the fourth, sixth and seventh reviews. As a result of this application, we have determined that the weighted-average margins for each company are as follows:

Company	Period	Margin (percent)
Action Electronics Co., Ltd.	04/01/87–03/31/88	0.00
	04/01/89–03/31/90	0.54
	04/01/90–03/31/91	1.22
AOC International, Inc.	04/01/89–03/31/90	0.15
	04/01/90–03/31/91	23.89
Proton Electronic Industrial Co., Ltd.	04/01/87–03/31/88	0.09
	04/01/90–03/31/91	3.70
Tatung Company	04/01/87–03/31/88	0.87
	04/01/89–03/31/90	0.22
	04/01/90–03/31/91	0.19

Amended Final Results of Review

Based on our revised calculations, we have amended our final results of reviews for the period April 1, 1987 through March 31, 1988, April 1, 1989 through March 31, 1990, and April 1, 1990 through March 31, 1991. Because AOC filed an appeal with the United States Court of Appeals for the Federal Circuit concerning the final results for the fourth review, the Department will publish the rate for AOC in that review after the appeal has been resolved and the decision is final and conclusive. The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service for each exporter.

This notice serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This amendment of final results of review and notice are in accordance with section 751(f) of the Tariff Act of 1930 (19 U.S.C. 1673 (d) and 19 CFR 353.28(c).

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3756 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–412–803]

Industrial Nitrocellulose From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on industrial nitrocellulose (INC) from the United Kingdom. The review covers one manufacturer/exporter of the subject merchandise to the United States during the period July 1, 1993 through June 30, 1994. The review indicates the existence of dumping margins during the period.

As a result of this review, we have preliminarily determined to assess antidumping duties equal to the differences between United States price and foreign market value (FMV). Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1994, the Department published in the **Federal Register** (59 FR 33951) a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on INC from the United Kingdom (55 FR 28270). On July 29, 1994, the respondent, Imperial Chemical Industries PLC (ICI), requested an administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and section 353.22(a) of the Department's regulations (19 CFR 353.22(a)). We published the notice of initiation of the antidumping duty administrative review on August 24, 1994 (59 FR 43537), covering the period July 1, 1993 through June 30, 1994.

Applicable Statutes and Regulations

The Department is conducting this review in accordance with section 751 of the Act. Unless otherwise stated, all citations to the statutes and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of the Review

This review covers shipments of INC from the United Kingdom. INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, which is produced from the reaction of cellulose with nitric acid. It is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. INC is currently classifiable under Harmonized Tariff Schedule (HTS) item number 3912.20.00. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The Department's written description remains dispositive. The scope of the antidumping order does not include explosive grade nitrocellulose, which as a nitrogen content of greater than 12.2 percent.

This review covers sales by ICI of INC from the United Kingdom entered into the United States during the period July 1, 1993 through June 30, 1994.

United States Price

In calculating United States price (USP), we used purchase price or exporter's sales price (ESP), both as defined in section 772 of the Act. The Department used purchase price when, prior to the date of importation, U.S. customers who were unrelated to the manufacturer purchased the merchandise through a U.S. sales agent that was related to the manufacturer. We determined that purchase price was the most appropriate determinant of USP for these sales based on the following factors:

(1) The merchandise was shipped directly from the manufacturer to the unrelated buyer without being introduced into the inventory of the respondent's related U.S. selling agent;

(2) This was the customary commercial channel for sales of this merchandise between the parties involved; and

(3) The respondent's related sales agent acted mainly as a processor of sales-related documentation and communication links with the unrelated U.S. customer.

Where all the above elements are met, we regard the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions take place in the United States or abroad does not change the substance of the functions themselves. *See Outokumpu Copper Rolled Products* versus *U.S.*, 829 F.Supp. 1371, 1378 (CIT 1993).

We calculated purchase price based on packed delivered prices. We made deductions for ocean freight, marine insurance, brokerage and handling, U.S. Customs duties and fees, and inland freight in accordance with section 772(d)(2) of the Act.

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith* v. *United States*, 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the **Federal Mogul** case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude the Department from using the "*Zenith* footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct the Department to determine which tax methodology it will employ.

The Department has determined that the "*Zenith* footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the

price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "*Zenith* footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to U.S. price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

For certain ESP sales, ICI failed to provide prices to the first unrelated purchaser, and to provide the data requested in the Department's further manufacturing questionnaire. As the best information available, we applied to these sales the rate of 11.13 percent, which is the highest rate from any review or the less-than-fair-value (LTFV) investigation.

Foreign Market Value

Based on a comparison of the volume of home market and third country sales, we determined that the home market was viable. Therefore, we calculated FMV based on home market sales in accordance with section 773(a)(1)(A) of the Act.

On December 16, 1994, the petitioner alleged that many of ICI's home market sales were made below the cost of production (COP). We conducted a sales-below-cost investigation because we determined that the petitioner's allegation presented reasonable grounds to believe or suspect that ICI made sales of subject merchandise in the home market at prices less than the COP during the review period. In accordance with 19 CFR 353.51(c), we calculated COP as the sum of reported materials, labor, factory overhead, and general expenses, and compared COP to home market prices, net of price adjustments.

As a result of our COP investigation, we found no below-cost-sales. We therefore did not disregard any home market sales as being below cost.

We disregarded samples, given to home market customers free of charge, as being outside the ordinary course of trade. *See Notice of Final Results of Antidumping Duty Administrative Reviews of Granular Polytrafluorethylene Resin from Japan 58 FR 50343 (Sept. 27. 1993).* We also excluded sales to related parties in calculating FMV. Under 19 CFR 353.45, the Department may disregard transactions between related parties if the price does not fairly reflect the usual price at which sales are made to unrelated parties (i.e., if the sales were not made at "arm's length"). We performed an analysis of related party prices and found that they were not at arm's length. (*See* Memorandum to the File, Nov. 13, 1995.)

As in the LTFV investigation and the first administrative review, product comparisons were made on the basis of the following criteria: nitrogen percentage, viscosity rating, wetting agent type, cellulose source, physical form, and wetting agent percentage. Where there were no sales of identical merchandise in the home market with which to compare merchandise sold in the United States, sales of the most similar merchandise were compared on the basis of the characteristics described above. In those instances, we made adjustments for differences in the physical characteristics of the merchandise in accordance with section 773(a)(4)(C) of the Act.

We calculated FMV based on packed and either delivered or ex-works prices to unrelated customers in the United Kingdom. We made deductions for home market packing and inland freight, and added U.S. packing costs in accordance with section 773(a)(1) of the Act. We also adjusted FMV for certain billing adjustments.

When a commission was paid on a purchase price sale but not on the home market sale, we added to FMV the amount of the U.S. commission and deducted the lesser of either total home market selling expenses or the amount of the U.S. commission, in accordance with 19 CFR 353.56(b)(1).

In comparing home market sales to purchase price sales, we made a circumstance-of-sale adjustment to FMV for differences in credit terms by deducting home market credit expenses and adding U.S. credit expenses, in accordance with 19 CFR 353.56(a)(2).

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determined that the following margin exists for the period July 1, 1993 through June 30, 1994:

Manufacturer/Exporter	Margin (percent)
Imperial Chemical Industries PLC	1.48

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. *See* 19 CFR 353.38. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The following deposit requirements shall be effective for all shipments of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed company shall be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate shall continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacture of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate shall be 11.13 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3758 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–006]

Steel Jacks From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On October 16, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding on steel jacks from Canada. The review covers two manufacturers/exporters of this merchandise to the United States, New-Form Manufacturing Co., Ltd. (NFM) and Seeburn Metal Products (Seeburn). The period covered is September 1, 1993 through August 31, 1994. The review indicates the existence of dumping margins for this period.

We gave interested parties an opportunity to comment on our preliminary results. We have adjusted NFM's margin for these final results, based on our analysis of the comments received and as a result of a changed treatment of home market consumption taxes, as explained below.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1995, the Department published in the **Federal Register** (60 FR 53584) the preliminary results of its 1993–94 administrative review of the antidumping finding on steel jacks from Canada (31 FR 7485, May 17, 1966).

Applicable Statute and Regulations

The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are multi-purpose hand-operated heavy-duty steel jacks, used for lifting, pulling, and pushing, measuring from 36 inches to 64 inches high, assembled, semi-assembled and unassembled, including jack parts, from Canada. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item number 8425.49.00. The HTS number is provided for convenience and Customs purposes. The written description remains dispositive.

This review covers two manufacturers/exporters, NFM and Seeburn. The period of review (POR) is September 1, 1993 through August 31, 1994.

Home Market Consumption Taxes

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, CAFC No. 94–1097, the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price (USP) the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith Electronics Corp.* v. *United States*, 988 F. 2d 1573, 1577 (Fed. Cir. 1993), (*Zenith*), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States*, 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to USP by multiplying the adjusted USP by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a "zero" pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the "*Zenith* footnote 4" methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the "*Zenith* footnote 4" methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the Federal Circuit has now recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the GATT. Second, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to USP, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the "*Zenith* footnote 4" methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to USP rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Seeburn

On February 3, 1995, the Department determined that the products exported by Seeburn were automobile tire jacks outside the scope of the antidumping finding on steel jacks from Canada (see February 3, 1995 Memorandum of Final Scope Ruling). Therefore, because Seeburn had no shipments of subject merchandise during the POR and Seeburn has never before been reviewed, we are assigning Seeburn the "all others" rate.

Analysis of Comments Received

We received comments from the petitioner, Bloomfield Manufacturing Co., Inc. (Bloomfield).

Comment 1: Bloomfield argues that the Department was correct in adding U.S. direct selling expenses (two commissions and credit expenses) to

foreign market value (FMV) since the U.S. sales were purchase price (PP) transactions. However, according to the petitioner, the Department used incorrect amounts for these expenses for certain U.S. sales.

Department's Position: In the preliminary review results, for certain U.S. sales we incorrectly divided per-unit, rather than total, expense amounts by the total quantity sold. Therefore, we agree with Bloomfield, and for these final results we have used the correct expense amounts for these sales.

Comment 2: The petitioner claims that the Department should have included in its analysis home market and U.S. sales of product 1020, and a missing U.S. sale of product 1120.

Department's Position: We agree with the petitioner. These sales were inadvertently omitted from the preliminary analysis. We have included them in these final results.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following margins exist:

Review period	Manufacturer/Exporter	Margin (percent)
9/1/93–8/31/94	NFM	22.63
	Seeburn .	*28.35

*No shipments or sales subject to this review; because this firm has never been reviewed, the rate is the all others rate explained in (4) below.

Individual differences between the USP and FMV may vary from the above percentages. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act, and will remain in effect until the final results of the next administrative review:

(1) The cash deposit rates for the reviewed companies will be the rates listed above;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 28.35 percent, the "all others" rate established in the first final results of review published by the Department (52 FR 32957, September 1, 1987).

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR § 353.22.

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3755 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

Continuous Electron Beam Accelerator Facility, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–087. *Applicant:* Continuous Electron Beam Accelerator Facility, Newport News, VA 23606. *Instrument:* Field Mapping Equipment for Hall A Quadrupole Magnets. *Manufacturer:* CEA/DSM, France. *Intended Use:* See notice at 60 FR 54337, October 23, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the applicant. The National Institutes of Health advises in its memorandum dated November 30, 1995, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel

Director, Stotutory Import Programs Staff

[FR Doc. 96–3752 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

Florida International University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–092. *Applicant:* Florida International University, Miami, FL 33199. *Instrument:* Elemental Analyzer and Automated Interface Upgrade for IR Mass Spectrometer. *Manufacturer:* Europa Scientific, United Kingdom. *Intended Use:* See notice at 60 FR 54338, October 23, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant. The National Institutes of Health advises in its memorandum dated December 4, 1995, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–3761 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

North Carolina State University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 95–094. *Applicant:* North Carolina State University, Raleigh, NC 27695-7212. *Instrument:* Stopped-Flow Spectrophotometer, Model SX.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* See notice at 60 FR 57221, November 14, 1995. *Reasons:* The foreign instrument provides: simultaneous measurements across the entire white-light spectrum with high beam stability using a diode array detector. *Advice Received From:* National Institutes of Health, December 1, 1995.

The National Institutes of Health advises in its memorandum that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–3759 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–041R. *Applicant:* University of South Florida, Department of Marine Sciences, 140 Seventh Avenue, South, St. Petersburg, FL 33701. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* Original notice of this resubmitted application was published in the FEDERAL REGISTER of June 13, 1995.

Docket Number: 95–121. *Applicant:* University of California, Santa Barbara, Engineering Materials Department, Bldg. 446, Room 112, Santa Barbara, CA 93106. *Instrument:* RF Reactive Atom Source. *Manufacturer:* Oxford Applied Research, United Kingdom. *Intended Use:* The instrument will be used to investigate the epitaxial growth of nitride films by molecular beam epitaxy. The objective of the investigation is to increase understanding of the growth and properties of nitride thin films in order to optimize film properties and fabricate novel electronic and optoelectronic devices based on nitrides. In addition, the instrument will be used for educational purposes in the course Materials 598: Graduate Research Study. *Application Accepted by Commissioner of Customs:* December 13, 1995.

Docket Number: 95–122. *Applicant:* The Pennsylvania State University, Department of Geosciences. 503 Deike Building, University Park, PA 16802. *Instrument:* Trace Gas Preconcentrator. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used in experiments to extract fossil air samples from polar ice cores and analyze the composition of these fossil air samples. The data from these experiments will provide the means of reconstructing the composition of the past atmosphere over the last 250,000 years. In addition, the instrument will be used to demonstrate the various techniques used during the acquisition of stable isotope ratios of various air samples in several geoscience courses. *Application Accepted by Commissioner of Customs:* December 14, 1995.

Docket Number: 95–123. *Applicant:* Carnegie Institution of Washington, Geophysical Laboratory, 5251 Broad Branch Road, NW, Washington, DC 20015-1305. *Instrument:* Upgrade of 252 Mass Spectrometer. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The items will be used to upgrade an existing mass spectrometer with the capability to analyze nanomole quantities of 0^2 gas. In addition, the instrument will be used for educational purposes in a very active post and predoctoral fellowship program. *Application Accepted by Commissioner of Customs:* December 14, 1995.

Docket Number: 95–124. *Applicant:* University of California, Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley, CA 94720. *Instrument:* Electron Microscope, Model EM 300. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of metals, semiconductors, and ceramics to determine the arrangement of atoms in these materials, defects, and interfaces. The instrument will also be used in courses to teach advanced techniques in high-resolution electron microscopy, high-resolution electron holography, and energy-filtered electron microscopy to graduate students. *Application Accepted by Commissioner of Customs:* December 19, 1995.

Docket Number: 95–125. *Applicant:* Pennsylvania State University, Department of Physics, 104 Davey Laboratory, University Park, PA 16802. *Instrument:* Dilution Refrigerator/Gradient Magnet System, Model KelvinOx^{100}. *Manufacturer:* Oxford Instruments, Inc., United Kingdom. *Intended Use:* The instrument will be used to study superconductivity and related quantum phenomena in ultrathin films of metals and high T_c oxide superconductors. The ultrathin films of metals will be prepared by quench deposition and measured *in situ* without taking the film outside the ultrahigh vacuum and low temperature environment so that contamination and annealing of the sample can be avoided. In addition, the instrument will be used to train future physicists and materials scientists through Ph.D. and M.S. degree programs. *Application Accepted by Commissioner of Customs:* December 21, 1995.

Docket Number: 95–126. *Applicant:* University of Florida, Department of Chemistry, PO Box 117200, Gainesville, FL 32611-7200. *Instrument:* Electron Paramagnetic Resonance Spectrometer, Model ESP 300E-10/2.7. *Manufacturer:* Bruker Analytische Messtechnik GmbH, Germany. *Intended Use:* The instrument will be used for studies of the local structure of the transient paramagnetic centers in diverse materials and the kinetics of electron and energy transfer. This will be done by studying relaxation time T_1 and T_2 and coherent quantum beats with 10 ns time-resolution. The range of materials includes but is not limited to: organic electron and energy transfer couples, organic and inorganic thin films, polymers, biological macromolecules, organic and inorganic conductors and semiconductors. In addition, the instrument will be used in the course CHM 6580 special topics in physical chemistry to train students in state-of-the-art techniques in modern magnetic resonance. *Application Accepted by Commissioner of Customs:* December 21, 1995.

Docket Number: 95–127. *Applicant:* Armstrong Laboratory, 2509 Kennedy Circle, Brooks AFB, TX 78235-5118. *Instrument:* Electron Microscope, Model CM 120. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for analysis of water, air, and bulk samples for the presence of asbestos and evaluation of biological materials in support of in-house research. Experiments will be conducted using animal models of human disease or conditions to determine the harmful effects of lasers, microwaves, radiation, and to evaluate the efficacy of protective devices. *Application Accepted by Commissioner of Customs:* December 27, 1995.

Docket Number: 95–128. *Applicant:* University of Maryland at College Park, Microbiology Department, Building #231, College Park, MD 20742. *Instrument:* Extended SpectraKinetics Photomultiplier, Model SK.1E. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* The instrument will be used to modify an existing spectro-fluorimeter in order to monitor the kinetics of a variety of different biochemical reactions, all of which involve interactions of proteins with other proteins or with a variety of smaller substrates. The instrumentation will make it possible to monitor the time course of such reactions by monitoring the fluorescence intensities of either the proteins involved or the small substrates. The goal of this research is to understand the interactions among a set of proteins that together enable bacteria to control their swimming movements. *Application Accepted by Commissioner of Customs:* December 27, 1995.

Docket Number: 95–129. *Applicant:* Massachusetts Institute of Technology, Department of Chemistry, 77 Massachusetts Avenue, Cambridge, MA 02129. *Instrument:* Rapid Scanning Diode Array, Model MG 6040. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be used for the study of reactions of reduced iron systems with oxygen using stopped flow visible spectroscopy. In the experiments, an anaerobic solution of a diferrous compound (enzyme or model complex) is mixed rapidly in a closed system with a solution containing dioxygen. The changes which take place are followed by observing changes in the absorbance of light at different wavelengths. The objective of these experiments is to understand better the reaction cycle of this very interesting and important enzyme system and to tune the reactivity of relevant small molecule models to do useful chemistry. *Application Accepted by Commissioner of Customs:* December 27, 1995.

Docket Number: 95–130. *Applicant:* University of Wisconsin-Madison, Integrated Microscopy Resource, 1525 Linden Drive, Madison, WI 53706. *Instrument:* Upgraded Pulse Compressor, Model DMP-100. *Manufacturer:* Microlase Optical Systems Ltd., United Kingdom. *Intended Use:* The instrument will be used with an existing laser that serves as a fluorescence excitation source for the study of the dynamics of the internal cellular architecture of living biological specimens. Cells and developing embryos will be examined with the enhanced microscope system over extended periods of time in order to study the changes in internal structure that occur during development. In addition, the instrument will be used for educational purposes in courses in advanced microscopy techniques for undergraduates, graduate students and visiting academic research workers. *Application Accepted by Commissioner of Customs:* December 29, 1995.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 96–3760 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–F

[C–201–003]

Ceramic Tile from Mexico; Amended Revocation of the Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amended Revocation of the Countervailing Duty Order.

SUMMARY: On September 6, 1995, the Court of Appeals for the Federal Circuit (the CAFC) held that the Department of Commerce (the Department) lacks statutory authority to impose countervailing duties on dutiable goods imported by Mexico after April 23, 1985. Pursuant to this decision, on January 31, 1996, the Court of International Trade (CIT) ordered the Department to revoke the countervailing duty order on ceramic tile from Mexico effective April 23, 1985, and to instruct the U.S. Customs Service to refund any estimated countervailing duties at issue in this case that were deposited by plaintiffs during the period January 1, 1986 through December 31, 1986. In accordance with the CIT's order, we are hereby amending the revocation of the countervailing duty order on ceramic tile from Mexico to be effective April 23, 1985, instead of January 1, 1995 (60 FR 40568; August 9, 1995).

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill at the Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 1989 (54 FR 19930), the Department published the final results of administrative review of the countervailing duty order on ceramic tile from Mexico, covering the period January 1, 1986, through December 31, 1986. (54 FR 19930) On May 5, 1994, the CIT upheld the Department's final results of administrative review with respect to the issue whether the Department had authority to impose countervailing duties on ceramic tile from Mexico after April 23, 1985 when Mexico was designated as a "country under the agreement," pursuant to its commitments under a bilateral agreement, Understanding between the United States and Mexico Regarding Subsidies and Countervailing Duties. However, the CIT remanded the case to the Department to recalculate the country-wide countervailing duty rate. *Ceramica Regiomontana S.A., et al.* v. *United States*, Court No. 89–06–00323, Slip Op. 94–74 (May 5, 1994). On September 14, 1994, the CIT affirmed the Department's redetermination upon remand. Slip Op. 94–142. On September 6, 1995, the CAFC reversed the CIT's decision regarding the issue of whether the Department had authority to impose duties on entries of subject merchandise made after Mexico became a "country under the Agreement." *Ceramica Regiomontana S.A., et al.* v. *United States*, 64 F.3d 1579 (Fed. Cir. 1995). The CAFC held that, absent an injury determination by the International Trade Commission, the Department lacks statutory authority to impose countervailing duties on dutiable goods imported by Mexico after April 23, 1985.

Accordingly, the CIT ordered the Department to revoke the 1982 Order effective April 23, 1985. According to that order, the Department is to "instruct the U.S. Customs Service to refund any estimated countervailing duties that were deposited with the U.S. Customs Service during the period January 1, 1986 through December 31, 1986 with respect to ceramic tile from Mexico manufactured by (1) Ceramica Regiomontana, S.A.; (2) Ceramicas Y Pisos Industriales De Culiacan, S.A. de C.V.; and (3) Industrias Intercontinental, S.A., covered by entries that remained unliquidated at the close of business on February 2, 1995, together with interest calculated as provided in 19 U.S.C. § 1677g." Slip Op. 96–28.

Amended Revocation

Pursuant to the CIT's order of January 31, 1996, the Department is hereby amending the revocation of the countervailing duty order on ceramic tile from Mexico to be effective for all entries made on or after April 23, 1985. We will instruct the U.S. Customs Service to refund cash deposits for entries of this merchandise manufactured by (1) Ceramica Regiomontana, S.A.; (2) Ceramicas Y Pisos Industriales De Culiacan, S.A. De C.V.; and (3) Industrias Intercontinental, S.A., during the period January 1, 1986 through December 31, 1986. Certain other entries of the subject merchandise are the subject of related ligitation. Upon issuance of appropriate court orders in those cases, we will issue liquidation instructions covering those entries.

This notice is in accordance with section 516(a)(e) of the Act.

Dated: February 12, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3757 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 020696E]

Marine Mammals

Pursuant to provisions of the Marine Mammal Protection Act, as amended, (16 U.S.C. 1361 *et seq.*, specifically, 1374(c)(3)(C)) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216.45), letters of confirmation that authorize level B harassment of marine mammals in the wild under authority of the General Authorization for Scientific Research, have been issued by the National Marine Fisheries Service. Level B harassment, as defined in 50 CFR 216.3, means any act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to migration, breathing, nursing, breeding, feeding, or sheltering but that does not have the potential to injure a marine mammal or marine mammal stock in the wild. The following letters of confirmation were issued to the individuals or organizations from November 1994 through calendar year 1995.

Dr. John G. Morris, Department of Biological Sciences, Florida Institute of Technology, 150 West University Boulevard, Melbourne, FL 32905 (GA No. 1);

Dr. David J. St. Aubin, Director, Research and Veterinary Services, Mystic Marinelife Aquarium, 55 Coogan Blvd., Mystic, CT 06355–1997 (GA No. 2);

Ms. Susan L. McAlear Baker, 11061 Bootjack Court, North Potomac, Maryland 20878 (GA No. 3);

Mr. Stephen T. Viada, Staff Scientist, Continental Shelf Associates, Inc., 759 Parkway Street, Jupiter, FL 33477–9596 (GA No. 4);

Dr. Denise Herzing, Florida Atlantic University, and Wild Dolphin Project, P.O. Box 8436, Jupiter, FL 33468 (GA No. 10);

Dr. John E. Reynolds, III, Professor of Marine Science, Eckerd College, 4200 54th Avenue, South, St. Petersburg, FL 33711 (GA No. 5);

Dr. John H. Schacke, Science Director, The Dolphin Project, 110 Keystone Court, Athens, GA 30605–4942 (GA No. 6);

Dr. Whitlow W.L. Au, Chief Scientist, Marine Mammal Research Program, Hawaii Institute of Marine Biology, University of Hawaii, P.O. Box 1106, Kailua, HI 96734 (GA No. 11);

Dr. James T. Harvey, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, CA 95039–0450 (GA No. 7);

Nancy Black, Pacific Cetacean Group, P.O. Box 52001, Pacific Grove, CA 93950 (GA No. 8);

Mr. W. Mark Swingle, Virginia Marine Science Museum, 717 General Booth Blvd., Virginia Beach, VA 23451 (GA No. 9);

Mr. Patrick J. Miller, Schiverick House, Woods Hole Oceanographic Institution, Woods Hole, MA 02543 (GA No. 12);

Dr. Ken Marten, Director of Research, Project Delphis, Earthtrust, 25 Kaneohe Bay Drive, Kailua, HI 96764 (GA No.13);

Dr. Hidehiro Kato, Head of Large Cetacean Section, National Research Institute of Far Seas Fisheries, c/o Mr. Joji Morishita, Embassy of Japan, 2520 Massachusetts Ave., NW., Washington, D.C. 20008 (GA No. 14);

Mr. James M. Brady, Superintendent, Glacier Bay National, Park and Preserve, National Park Service, P.O. Box 140, Gustavus, AK 99826–0140 (GA No. 15);

Dr. David E. Bain, Friday Harbor Laboratories, University of Washington, 620 University Road, Friday Harbor, WA 98250 (GA No. 16);

Dr. Laela S. Sayigh, Assistant Professor, Biological Sciences and Center for Marine Science Research, University of North Carolina, Wilmington, NC 28403 (GA No. 17);

Ms. Daniela M. Feinholz, Pacific Cetacean Group, P.O. Box 378, Moss Landing, CA 95039 (GA No. 18);

Dr. James R. Gilbert, Professor and Chairperson, Department of Wildlife Ecology, University of Maine, Orono, ME 04469–5755 (GA No. 19); and

Dr. Michael Tillman, Science and Research Director, National Marine Fisheries Service, Southwest Fisheries Science Center, P.O. Box 271, La Jolla, CA 92038 (GA No. 20).

These authorizations and related documents are available for review upon written request or by appointment, in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289).

For further information contact: Ruth Johnson (F/PR1), Permits Division,

Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 (301/713–2289).

Dated: February 7, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–3828 Filed 2–20–96; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

Trademark Processing

ACTION: Notice of proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), by the Patent and Trademark Office (Office) in the performance of its statutory functions of examining, registering and maintaining trademarks, as required by the Trademark Act of 1946, as amended, 15 U.S.C. 1051, et seq.

DATES: Written comments must be submitted on or before April 22, 1996.

ADDRESSES: Direct all written comments to Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Lynne G. Beresford, Trademark Legal Administrator, at the Office of the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Va. 22202–3513 or by facsimile transmission to (703) 308–7220.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Patent and Trademark Office (Office) administers the Trademark Act of 1946, as amended, 15 U.S.C. 1051 et seq., which provides for the Federal registration of trademarks and service marks. Any individual or business owning a valid trademark or service mark that is both used in a type of commerce which can be controlled by Congress, and used in connection with goods or services, may apply to register its mark. A registration is valid for ten years and renewable for like periods. Federal registration is not necessary in order to use a mark, nor is registration required to obtain rights in a mark. Registration does provide certain procedural benefits, such as access to Federal court. Information collected by the Office is required by the statute or the rules and is used by the Office to determine the eligibility of trademarks or service marks for registration, to issue registrations, and to maintain the Register.

II. Method of Collection

Mail or facsimile transmission.

III. Data

OMB Number: 0651–0009.

Title of form	Form No(s).	Estimated time for response	Est. annual burden hours	Est. annual responses
Application for Trademark	1478, 4.8 & 4.9	1 hour	165,559	165,559
Amendment to Allege Use	1579	15 minutes	1,222	4,882
Statement of Use (SOU)	1580	15 minutes	4,626	18,505
Extension of Time to File SOU	1581	15 minutes	8,438	33,750
Opposition	4.17 & 4.17(a)	1 hour	5,248	5,248
Totals			185,090	227,944

Type of Review: Regular.

Affected Public: The forms are used by trademark owners and trademark practitioners. However, use of the forms is not mandatory and many law firms and corporations develop their own forms. Information collected is a matter of public record, and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. This information is important to the public, since both common law trademark owners and Federal trademark registrants must actively protect their own rights.

Estimated Total Annual Cost: Estimated costs to the private sector are $11,105,400.

Private sector costs were calculated using a composite rate of paralegal and attorney time. The paralegal hourly rate was calculated to be $11 per hour. The professional rate was calculated to be $108 per hour. In house costs were estimated to be $142,853.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 14, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–3823 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 21–22 February 1996.

Time of Meeting: 0800–1700, 21 February 1996; 0800–1200, 22 February 1996.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's (ASB) 1996 Summer Study on "Army Simulation Implementation and Use" will meet for briefings and discussions on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically paragraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–3873 Filed 2–20–96; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10a(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB), Special Study Panel on Reengineering the Acquisition and Modernization Processes of the Institutional Army.

Date of Meeting: 27 February 1996.

Time: 1000–1600 hours.

Place: Room 2D731 Pentagon, Washington, DC.

Agenda: The Army Science Board Special Study Panel on Reengineering the Acquisition And Modernization Processes of the Institutional Army will meet to discuss the current status of Army Modernization and to discuss plans to reengineer the Acquisition and Modernization processes. Discussion will include the current shortfalls in modernization and the attendant vulnerabilities to the U.S. Army. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified information to be discussed is so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Ms. Michelle Diaz, may be contacted for further information at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–3872 Filed 2–20–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Savannah River Operations Office; Interim Management of Nuclear Materials at the Savannah River Site

AGENCY: Department of Energy.

ACTION: Supplemental Record of Decision.

SUMMARY: The U.S. Department of Energy (DOE) prepared a final environmental impact statement (EIS), "Interim Management of Nuclear Materials" (DOE/EIS–0220, October 20, 1995), to assess the potential environmental impacts of actions necessary to manage nuclear materials at the Savannah River Site (SRS), Aiken, South Carolina, until decisions on their ultimate disposition are made and implemented.

On December 12, 1995 (60 FR 65300), DOE issued a Record of Decision (ROD) and Notice of Preferred Alternatives on the interim management of several categories of nuclear materials at the SRS. DOE is now issuing its decisions on actions that will stabilize two additional categories of materials at the SRS, which present environment, safety and health vulnerabilities in their current storage condition or may present vulnerabilities within the next 10 years. The decisions on the stabilization of two additional categories of nuclear materials, neptunium-237 solution and targets, and H-Canyon plutonium-239 solutions, are not being made at this time.

Mark-16 and Mark-22 Fuels

DOE has decided to stabilize the Mark-16 and Mark-22 fuels by processing them in the SRS canyon facilities and blending down the resulting highly enriched uranium (HEU) to low enriched uranium (LEU). The LEU solution will be stored or converted to an oxide in the FA-Line. Neptunium-237 separated during the stabilization processing of the Mark-16 and Mark-22 fuels will be stabilized with the other SRS neptunium. The Department is still considering which of the management options for neptunium to implement.

Other Aluminum-Clad Targets

DOE has decided to stabilize the "other aluminum-clad targets" by dissolving them in the SRS canyon facilities and transferring the resulting nuclear material solution to the high level waste tanks for future vitrification in the Defense Waste Processing Facility (DWPF).

FOR FURTHER INFORMATION CONTACT: For further information on the interim management of nuclear materials at the SRS or to receive a copy of the Final EIS, the Facility Utilization Strategy study, the initial ROD and Notice, or this supplemental ROD contact: Andrew R. Grainger, NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, P.O. Box 5031, Aiken, South Carolina 29804–5031, (800) 242–8259, Internet: drew.grainger@srs.gov.

For further information on the DOE National Environmental Policy Act (NEPA) process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Department of Energy (DOE) prepared the final environmental impact statement (EIS), "Interim Management of Nuclear Materials", (DOE/EIS–0220, October 20, 1995), to assess the potential environmental impacts of actions necessary to manage nuclear materials at the Savannah River Site (SRS), Aiken, South Carolina, until decisions on their ultimate disposition are made and implemented.

The Final EIS identified continued storage (i.e., No Action) as the preferred alternative for the Mark-16 and Mark-22 fuels and the "other aluminum-clad targets" until DOE could complete additional reviews of costs, schedules, and technical uncertainties associated with dry storage techniques for failed fuel.

On December 12, 1995 (60 FR 65300), DOE issued a Record of Decision (ROD) and Notice of Preferred Alternatives on the interim management of several categories of nuclear materials at the SRS. At that time, DOE announced new preferred alternatives for the management of the Mark-16 and Mark-22 fuels (processing and blending down to LEU) and the "other aluminum-clad targets" (processing and storage for vitrification in the DWPF). In addition, DOE indicated that neptunium-237 solution and targets would be stabilized through either processing to oxide or vitrification, and that plutonium-239 solutions in H-Canyon would be stabilized through processing to metal, processing to oxide, or vitrification. For each of these material categories, only one stabilization method will be implemented. The stabilization alternative chosen is dependent upon whether the materials would be stabilized in the SRS's F- or H-Canyon, as discussed in a DOE staff study, Facility Utilization Strategy for the Savannah River Site Chemical Separation Facilities (December 1995). DOE is still considering the facility utilization strategy study and other related information.

II. Alternatives Evaluated in the Final EIS

DOE evaluated the following alternatives for managing the Mark-16 and Mark-22 fuels and the other aluminum-clad targets at the SRS: (A) Continuing Storage (i.e., "No Action" within the context of NEPA), (B) Processing to Oxide, (C) Blending Down to Low Enriched Uranium, (D) Processing and Storage for Vitrification in the DWPF, and (E) Improving Storage. The following is a brief description of the alternatives evaluated.

A. Continuing Storage (No Action)

This alternative was evaluated for the fuels and targets considered in this supplemental ROD. Under this alternative, DOE would continue to store the materials in their current physical and chemical form. DOE would relocate, repackage, or re-can materials stored in basins to consolidate the material or to respond to an immediate safety problem. Periodic sampling, destructive and non-destructive examination, weighing, visual inspection and similar activities would continue in order to monitor the physical and chemical condition of the nuclear material. Repackaging would include removing materials from a damaged storage container and placing them in a new container or placing the damaged container in a larger container. Re-canning would primarily entail placing damaged or degraded fuel or targets in metal containers, sealing the containers, and keeping them in wet storage.

Many activities would be required by DOE irrespective of the management alternative used. For example, DOE would maintain facilities in good working condition and would continue to provide utilities (water, electricity, steam, compressed gas, etc.) and services (security, maintenance, fire protection, etc.) for each facility. Training activities would ensure that personnel maintain the skills necessary to operate the facilities and equipment. DOE would continue with ongoing projects to alleviate facility-related vulnerabilities associated with storage of the materials and projects to upgrade or replace aging equipment (ventilation fans, etc.).

B. Processing to Oxide

For purposes of this supplemental ROD, this alternative is only relevant to the Mark-16 and Mark-22 fuels. DOE would dissolve and process the Mark-16 and Mark-22 fuels containing HEU in the H-Canyon and would convert the resulting HEU solution to HEU oxide. To provide conversion capability, DOE would complete the partially constructed Uranium Solidification Facility (USF) in H-Canyon. The HEU oxide would be packaged and stored in a vault in USF.

C. Blending Down to Low Enriched Uranium

This alternative is only relevant to the Mark-16 and Mark-22 fuels. Mark-16 and Mark-22 fuels containing HEU would be transported to H-Canyon and/or F-Canyon by rail casks, and dissolved in nitric acid. If processed through F-Canyon, due to criticality constraints, the dissolved fuel material would be blended down to LEU prior to separation from fission products and other materials. If processed through H-Canyon, the dissolved fuel material would be separated from fission products and other materials and subsequently blended down to LEU. In either case, the HEU would be blended at the SRS with existing depleted or natural uranium to produce LEU solutions. The LEU solutions would be stored or converted to an oxide using FA-Line. The oxide would be stored in drums in existing facilities or in a new warehouse to be constructed at the SRS. Decisions on a potential new warehouse at the SRS will be made after or coincident with the ROD for the disposition of surplus HEU. The Disposition of Surplus Highly Enriched Uranium Final EIS is expected to be issued in mid 1996.

D. Processing and Storage for Vitrification in the DWPF

This alternative could apply to both the Mark-16 and Mark-22 fuels and the other aluminum-clad targets considered in this supplemental ROD. DOE would perform research and development work to develop a method for chemically adjusting solutions that would result from the dissolution of the Mark-16 and Mark-22 fuels, and the other aluminum-clad targets in order to transfer them to the high level waste tanks in F- or H-Area. The research and development work would be to ensure nuclear criticality safety due to the large amounts of uranium-235 contained in the fuels, and to evaluate the effects of the nuclear materials on the systems and facilities used to store and treat the liquid high level waste.

Upon completion of the studies, DOE would transport the fuel and targets stored in the water-filled basins by rail casks to F- or H-Canyon and would dissolve them in nitric acid. The resulting solutions from dissolution would be chemically adjusted and transferred to the high level waste tanks via underground pipelines. The solutions would be mixed with the existing volume of high level waste stored in the F- and H-Area tanks. The bulk of the radioactivity in the solutions would eventually be immobilized in borosilicate glass by the DWPF. The glass would be contained within stainless steel canisters that would be stored in a facility adjacent to the DWPF pending geologic disposal by DOE. The bulk of the liquid would be immobilized by the Saltstone facility into a grout containing very low levels of radioactivity. The grout would be poured into concrete vaults located at the Saltstone facility.

E. Improving Storage

This alternative could be applicable to both the Mark-16 and Mark-22 fuels and the other aluminum-clad targets. For this alternative, DOE would remove the Mark-16 and Mark-22 fuels and the other aluminum-clad targets from the basins and place them in dry storage. Because of technical uncertainties (e.g., potentially pyrophoric hydrides of uranium, elimination of potential reactive material) associated with the dry storage of failed fuel and targets, DOE would perform additional research to demonstrate the feasibility of drying and placing the materials into canisters for storage. Work related to the dry storage of LEU and commercial spent nuclear fuel has already been done in the United States and other countries. This work has not been focused on the storage of aluminum-clad HEU fuels. In conjunction with this work, DOE would design and construct a Dry Storage Facility at SRS.

A typical dry storage facility would be a Modular Dry Storage Vault. This facility would consist of four major components: a receiving/unloading area, fuel storage canisters, a shielded container handling machine, and a modular vault for storing the fuel in storage canisters. As a variation, canisters could be stored in dry storage casks rather than a vault. The degraded fuel and target materials would be removed from the basins and dried, canned or placed directly in canisters; the cans or canisters would be filled with an inert gas to inhibit further corrosion; if cans were used they would be loaded into storage canisters. This process could be varied as dictated by the condition of the material. After the fuel or targets were loaded in a canister, a machine would transport the canister to the modular storage vault. The vault would consist of a large concrete structure with an array of vertical tubes to hold the canisters. The canister transport machine would move into the vault and load the canister into a storage tube. A shielded plug would be placed on top of the tube. The transport machine and the vault storage tubes would be heavily shielded to reduce the effects of radiation from the canister. To use dry storage casks, the machine would transport the canister to a cask (horizontal or vertical) and discharge the canister into the cask, and then the cask would be sealed.

DOE evaluated the potential environmental impacts associated with two variations for implementing this alternative. The first involved the use of a traditional project schedule for the design and construction of the Dry Storage Facility, estimated to take about ten years. The second was an accelerated schedule for design and construction, estimated to take about five years. Until the Dry Storage Facility was completed, DOE would store the materials in existing basins, as described under Continued Storage (No Action).

III. Environmental Impacts of Alternatives

The Final EIS for the Interim Management of Nuclear Materials analyzed the potential environmental impacts that could result from implementation of the candidate management alternatives. DOE has concluded that there would be minimal environmental impact from implementation of any of the alternatives for any of the material groups in the areas of geologic resources, ecological resources (including threatened or endangered species), cultural resources, aesthetic and scenic resources, noise, and land use. Impacts in these areas would be limited because facility modifications or construction of new facilities would occur within existing buildings or industrialized portions of the SRS. DOE anticipates that the existing SRS workforce would support any construction projects and other activities required to implement any of the alternatives. As a result, DOE expects negligible socioeconomic impacts from implementation of any of the alternatives.

Management alternatives requiring the use of the large chemical separations facilities (the canyons) would have greater environmental impacts (e.g., radiological, waste generation) during the time dissolving, processing or conversion activities are underway than when these facilities are storing nuclear materials. After materials have been stabilized, impacts of normal facility operations related to management of those materials would decline, and potential impacts of accidents associated with those materials would be reduced with certain kinds of accidents eliminated (e.g., solution spills or releases). Potential health effects from normal operations from any of the alternatives, including those involving the operation of the canyon facilities, would be low and well within regulatory limits. Alternatives requiring the use of the canyons are: Processing to Oxide, Blending Down to Low Enriched Uranium, and Processing and Storage for Vitrification in the DWPF.

The Improving Storage alternatives generally have lower impacts in the near term because they involve only heating, drying and repackaging the nuclear materials. These alternatives involve the use of new facilities, such as a Dry Storage Facility. New facilities would incorporate improved designs for remote handling, shielding, containment, air filtration, etc.; these improvements could reduce worker exposures and releases to the environment below levels associated with existing storage basins and vaults.

Annual impacts from normal operations and potential accidents associated with nuclear material storage would be reduced after material stabilization alternatives are implemented. Due to the substantial influence actively operating facilities have upon potential environmental impacts, stabilization alternatives requiring longer periods of time to complete are estimated to have relatively higher impacts from normal operation and potential accidents than alternatives requiring less time to complete.

Continuing Storage (or "No Action") alternatives would result in low annual environmental impacts, but the impacts would continue for an indefinite period of time. Stabilization alternatives typically would result in slightly higher annual environmental impacts than "No Action" in the near-term, but upon completion of the stabilization action would result in lower annual impacts. Under Continuing Storage alternatives, no actions would be taken to chemically or physically stabilize the storage conditions and reduce the potential for accidents. All of the stabilization alternatives, upon completion of the actions required, would reduce the potential for accidents and associated consequences. Several of the stabilization alternatives would involve a short-term increase in the risks from accidents until the required actions are completed.

Emissions of hazardous air pollutants and releases of hazardous liquid effluents for any of the alternatives would be within applicable federal standards and existing regulatory permits for the SRS facilities. Similarly, high level liquid waste, transuranic waste, mixed hazardous waste and low level solid waste generated by implementation of any of the alternatives would be handled by existing waste management facilities. All of the waste types and volumes are within the capability of the existing SRS waste management facilities for storage, treatment or disposal.

SRS facilities that will be used to stabilize and store the nuclear materials incorporate engineered features to limit the potential impacts of facility operations to workers, the public and the environment. All of the engineered systems and administrative controls are subject to DOE Order requirements to ensure safe operation of the facilities. No other mitigation measures have been identified; therefore DOE need not prepare a Mitigation Action Plan.

IV. Other Factors

In addition to comparing the environmental impacts of implementing the various alternatives, DOE considered other factors in making the decisions announced in this supplemental ROD. These other factors included: (1) the need to construct and operate modified or new facilities (e.g., a Dry Storage Facility) and the reliability of old facilities, (2) nonproliferation concerns, involving potential impacts to U.S. nonproliferation policy as affected by both the operation of certain facilities and the attractiveness of the managed nuclear materials for potential weapons use, (3) implementation schedules, (4) technology availability, (5) labor availability and core competency, (6) level of custodial care for the continued safe management of the nuclear materials, (7) cost and budget considerations, (8) technical uncertainty (i.e., dry storage of failed HEU fuels), and (9) comments received during the scoping period for the EIS on the Interim Management of Nuclear Materials, and comments received on the Draft and Final EISs.

V. Environmentally Preferable Alternatives

As described in the Final EIS for Interim Management of Nuclear Materials, certain management alternatives are expected to result in lower environmental impacts than others. However, a single alternative was rarely estimated to have lower impacts for all environmental factors evaluated by DOE. For example, an

alternative might be expected to result in lower releases of hazardous pollutants to air or water than the other alternatives, but might generate slightly higher amounts of radioactive waste. DOE reviewed the environmental impacts estimated for the alternatives evaluated for the Mark-16 and Mark-22 fuels and the other aluminum-clad targets, and identified the following as the environmentally preferable alternative for each material category. The health and environmental effects from any of the alternatives are all low and well within regulatory limits.

Mark-16 and Mark-22 Fuels and Other Aluminum-Clad Targets—Improving Storage (Accelerated Schedule)

Improving Storage, on an accelerated schedule, is the environmentally preferable alternative for the fuels and targets. This alternative is estimated to result in the lowest radiological doses to the offsite public with doses to the SRS workers comparable to the other alternatives; has the lowest estimates of air and water emissions; and, results in the generation of the least amount of high level, transuranic, mixed, and low level waste.

VI. Decision

As indicated in the ROD and Notice issued December 12, 1995, DOE received several comments from stakeholders on issues related to the interim management of nuclear materials at the SRS. These comments dealt principally with: (1) The method to be used for the management of spent nuclear fuel, and (2) the operational status and potential plans for the F- and H-Canyon processing facilities. Subsequent to issuing the initial ROD and Notice, DOE received a letter from the Environmental Protection Agency (EPA), Region IV, on the Final EIS offering additional comments for consideration in making the decisions on the stabilization of the SRS nuclear materials. EPA identified, as did the Final EIS, processing to oxide as the preferred alternative for stabilizing the neptunium-237 and plutonium-239 materials. EPA stated that the principal advantage over the environmentally preferable vitrification alternative is that shipping nuclear material solutions across the SRS would not be required. For the Mark-16 and Mark-22 fuels, EPA recommended that the fuels be blended to LEU and processed to an oxide. EPA recommended that DOE proceed with the construction of a dry storage facility on an accelerated basis for storing the other aluminum-clad targets because this alternative would take a shorter time to implement.

After careful consideration of the issues and public comments, along with the analyses of environmental impacts and other factors, DOE has made the following decisions for the interim management of Mark-16 and Mark-22 fuels, and other aluminum-clad targets:

Mark-16 and Mark-22 Fuels—Blending Down to Low Enriched Uranium

DOE has decided to stabilize the Mark-16 and Mark-22 fuels through processing in the canyon facilities, blending down the HEU to LEU. DOE will dissolve depleted uranium oxide in the FA-Line as necessary to blend down the HEU to LEU.

DOE will remove the Mark-16 and Mark-22 fuels from the water-filled basins in which they are stored and transport them to the canyon facilities using the existing SRS rail casks. All of the cask shipments will be confined within the boundaries of the SRS, occurring near the center of the site. The fuel assemblies will be dissolved in nitric acid. If processed through the F-Canyon, the resulting HEU solution will be blended down to LEU and then separated from fission products and other materials. If processed through the H-Canyon, the resulting HEU solution from dissolution will be separated from fission products and other materials and then blended down to LEU. DOE will transfer depleted or natural uranium solutions to the canyon facilities for blending with the HEU from the fuels. The LEU solution will be stored or converted to an oxide in FA-Line. The LEU solution or oxide will be stored at the SRS until disposition decisions are made. Dependent upon the timing of future DOE decisions, the uranium from the Mark-16 and Mark-22 fuels could be dealt with in conjunction with the disposition of other HEU (by commercial sale, etc.).

Neptunium-237 will be separated from the fuel during the stabilization process. This material will be managed in conjunction with the other neptunium at the SRS. The Department is still considering which of the management options for neptunium-237 and plutonium-239 to implement.

DOE selected this stabilization alternative for several reasons. Stabilization of the fuels with their removal from basin wet storage and elimination of the wet storage vulnerabilities through processing can be accomplished two to seven years earlier than the improved storage alternative. Improving storage on an accelerated schedule is the environmentally preferable alternative. Blending down to LEU reduces the HEU inventory and eliminates nonproliferation and security issues associated with the indefinite storage of HEU fuel which is not self-protecting. (Self-protecting fuel is highly radioactive, so that substantial shielding (or distance) is required to prevent unhealthy radiological effects from handling or storage conditions; non self-protecting fuel could be contact-handled and therefore is of greater theft or sabotage concern.) Cost and cost uncertainties also have played a significant role in the selection of this stabilization action. Near-term annual costs to process and blend down the HEU to LEU are estimated at $20 million to $95 million less than for the improved storage alternatives. Substantial uncertainty exists concerning the disposition of dry-stored (improved storage) HEU spent fuel, while less uncertainty exists with the stabilization of the fuels through blending down to LEU and the storage and disposition of the resulting waste through the DWPF. Life-cycle cost evaluations favor blending down to LEU ($38 million to greater than $1 billion advantage)[Facility Utilization Strategy, Attachment 2]. Although potential safety, health and environmental impacts evaluated in the Final EIS are lower in the interim period for the improved storage alternatives than the selected blending down to LEU alternative, the potential impacts from any of the stabilization alternatives are shown to be very low and well below any regulatory or management control limits. It is anticipated, however, that the secondary impacts associated with the eventual or periodic need to handle stored spent fuel for management or disposal purposes may increase over time the potential impacts of the improved storage alternatives.

Other Aluminum-Clad Targets—Processing and Storage for Vitrification in the DWPF

DOE has decided to implement the processing and storage for vitrification in the DWPF alternative for the —other aluminum-clad targets— stored in the reactor disassembly basins at the SRS. DOE will remove the targets stored in the reactor disassembly basins and transport them to the canyon facilities by SRS rail casks. The targets will be dissolved in a canyon, the resulting solutions chemically adjusted and transferred to the adjacent underground high level waste tanks. The solutions will be stored in the high level waste tanks until they are processed in conjunction with the other high level waste in the tanks. The high level waste will eventually be vitrified in the DWPF. The resulting stainless steel canisters of glass produced from the DWPF process will be stored in a facility adjacent to the DWPF pending geological disposal by DOE.

DOE selected this stabilization alternative for several reasons. These targets are in a variety of physical forms and shapes and contain no or small amounts of fissile materials; primarily they contain such materials as thorium, cobalt, and thulium. Their dissolution and transfer for vitrification in the DWPF will place these physically and chemically diverse materials into a uniform medium suitable for future emplacement in a geologic repository. Improved storage (the environmentally preferable alternative) would require the development of one or more packaging configurations for repository emplacement. Although vitrification in the DWPF will not occur for several years, processing and storage for vitrification in the DWPF can be implemented one to six years earlier than the improved storage alternatives. This will remove the targets in their deteriorating condition from the reactor disassembly basins, precluding further release of radioactivity to the basin water. Near-term costs are considerably less for the processing alternative as compared with the improved storage alternative. As with the Mark-16 and Mark-22 fuels, potential safety, health and environmental impacts for the improved storage alternatives are lower than the selected stabilization alternative of processing and storage for vitrification in the DWPF. However, the potential impacts from any of the stabilization alternatives are acceptable and well below any regulatory or management control limits.

VII. Conclusion

While the Final EIS focuses on the interim management of nuclear materials at the SRS, the decisions associated with the safe management of these materials directly affect the operational status of the nuclear material processing facilities at the Site. The decisions in this supplemental ROD and the initial ROD and Notice are structured to effect the earliest completion of actions necessary to stabilize or convert nuclear materials into forms suitable for safe storage and prepare the facilities for subsequent shutdown and deactivation. The actions being implemented will support efficient, cost-effective consolidation of the storage of nuclear materials and, to a great extent, will result in stabilization of the nuclear materials and alleviation of associated vulnerabilities within the timeframe recommended by the DNFSB.

The stabilization decisions utilize existing facilities and processes to the extent practical; can be implemented within expected budget constraints and with minimal additional training to required personnel; rely upon proven technology; use an integrated approach; and represent the optimum use of facilities to stabilize the materials in the shortest amount of time. Only minor modifications of the canyon facilities will be required, and these were also supported by the decisions made in the initial ROD and Notice.

Several years will be required to achieve stabilization of the nuclear materials within the scope of this and the initial ROD. Stabilization of the candidate nuclear materials at SRS will entail the operation of many portions of the chemical processing facilities. Consistent with DNFSB Recommendation 94–1, this will preserve DOE's capabilities related to the management and stabilization of other nuclear materials until programmatic decisions are made.

In summary, the Department has structured its decisions on interim actions related to management of the nuclear materials at SRS to achieve stabilization as soon as possible.

Issued at Washington, DC, February 8, 1996.

Thomas P. Grumbly,

Assistant Secretary for Environmental Management.

[FR Doc. 96–3884 Filed 2–20–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP96–46–000]

Algonquin Gas Transmission Corporation, Panhandle Eastern Pipe Line Company, Texas Eastern Transmission Corporation, Trunkline Gas Company; Notice Cancelling Technical Conference

February 14, 1996.

Take notice that the technical conference in this docket that was scheduled for Tuesday, February 20, 1996 (61 FR 3691, February 1, 1996), is being cancelled. On February 14, 1996, the subject pipelines filed a request that the Commission hold the processing of the proposed tariff sheets in abeyance so that the pipelines can consider revisions based on the standardization recommendations being formulated by the Gas Industry Standards Board pursuant to the Commission's order in Docket No. RM96–1–000.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3775 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

Central Maine Power, Swans Falls Power Corporation; Notice of 10(j) Meeting

[Project Nos. 2528–ME; 2527–ME; 2194–ME; 2531–ME; 2529–ME; 2530–ME; and 11365–ME]

February 14, 1996.

a. Date and Time of meeting: February 28, 1996, from 10:00 AM to 11:00 AM.

b. Place: FERC, Room 52–40, 888 First Street, NE, Washington, DC 20426.

c. FERC Contact: Rich McGuire (202) 219–3084; Robert Bell (202) 219–2806.

d. Purpose of the Meeting: The Federal Energy Regulatory Commission and the United States Department of the Interior intend to have a Section 10(j) discussion and negotiation meeting for the Saco River Projects listed above.

e. Proposed Agenda:

A. Introduction
   Recognition of meeting participants
   Conference or meeting procedures
B. Section 10(j) issues discussion
   Run-of-river operation and minimum flows—Bonny Eagle and Skelton
   Monitoring DO levels—Skelton
   Aquatic invertebrate monitoring studies—Bonny Eagle and Skelton
   Impoundment Drawdown—Bonny Eagle
   Fish population monitoring—Bonny Eagle
C. Section 10(j) conflict resolution
D. Issues outside 10(j) discussion
E. Follow-up actions.

f. All local, State and Federal agencies, Indian Tribes, and interested parties, are hereby invited to attend this meeting as attendant. If you want to be an attendant by teleconference, please contact Rich McGuire or Robert Bell at the numbers listed above no later than February 23, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3776 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP94–2–006]

Columbia Gas Transmission Corporation; Notice of RIA Account Refund Report

February 14, 1996.

Take notice that on January 26, 1996, Columbia Gas Transmission Corporation

(Columbia) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report in accordance with Article XV, Section D of the April 17, 1995 Customer Settlement (the Settlement) approved by the Commission in Docket No. GP94–2–003, *et al.* on June 15, 1995. Under the terms of the Settlement, Columbia was required to file this report with the Commission within sixty days after the effective date (November 28, 1995) of the Settlement. Columbia states that it distributed copies of the report to the Supporting Parties to the Settlement.

The report shows, by refund issue, the pre-petition period refunds received by Columbia and deposited in the Restricted Investment Arrangement (RIA) account.[1] The report also shows the various dates when these refunds were distributed by Columbia, and to whom they were paid. The subject refunds, including interest, were distributed from the RIA account on November 28, 1995 as a result of the approval of the Settlement and Columbia's bankruptcy proceedings. The report details the following Category I Refunds and the remaining Category II Refunds:[2]

Account No. 191
  Category I—$10,158,582.79
  Category II—$898,243.16
Account No. 858 Tracker
  Category I—$4,240,344.96
  Category II—$0.00
Order 500/528
  Category I—$10,501,132.87
  Category II—$0.00
Account No. 858, Non-Tracker
  Category I—$9,903,376.63
  Category II—$0.00
GRI
  Category I—$885,965.56
  Category II—$0.00
Transco Refunds Applicable to Commonwealth Customers
  Category I—$204,974.44
  Category II—$0.00
Refunds Applicable to Capacity Released to Chevron
  Category I—$478,316.38
  Category II—$0.00

[1] The pre-petition period refers to the period prior to July 31, 1991 when Columbia filed a petition for bankruptcy protection under Chapter 11 of the Bankruptcy Code.

[2] As defined in Article II, Section F of the Settlement, Category I Refunds are pre-petition period refunds which had not been flowed through and were held due to the petition for Chapter 11; and Category II Refunds are applicable to the pre-petition period but not received until after July 31, 1991.

Any person desiring to protest Columbia's refund report should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before February 21, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3777 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

Equitrans, L.P.; Notice of Corrected Tariff Sheets Filing

February 14, 1996.

Take notice that on February 9, 1996, Equitrans, L.P. (Equitrans), submitted for filing in its FERC Gas Tariff First Revised Volume NO. 1 the following proposed tariff sheets: Third Revised Sheet No. 58; Third Revised Sheet No. 203A; and Second Revised Sheet No. 238.

Equitrans states that these proposed tariff sheets are being submitted in order to correct the pagination or the superseding pagination contained on the corresponding proposed tariff sheets which were submitted for filing by Equitrans on January 23, 1996.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3774 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES96–1–001]

Old Dominion Electric Cooperative Notice of Amended Application

February 14, 1996.

Take notice that on February 8, 1996, Old Dominion Electric Cooperative (ODEC) made a filing requesting that the Commission amend the authorization granted in Docket No. ES96–1–000.

By letter order dated November 20, 1995 (73 FERC ¶ 62,120), ODEC was authorized, under § 204 of the FPA, to enter into a tax advantaged lease and leaseback of its 50 percent undivided ownership interest (Undivided Interest) in the Clover Power Station Unit 1 and certain common facilities.

As described in the application, the transaction would involve a lease and leaseback under which a tax-sensitive investor (Equity Investor) will obtain "ownership" of the Undivided Interest for income tax purposes.

There are three modifications to the original application indicated in ODEC's February 8, 1996 amendment. They are:

A. Changes to Debt Structure

Under the initial application, ODEC would have used part of the prepared rent under the Head Lease to fund a loan characterized as the Series A Loan. Under the proposed structure, the Series A Loan will be made by an independent lender; and, ODEC, would enter into an agreement with an affiliate of the Series A Lender, whereunder the affiliate will undertake to pay that portion of each installment of rent which equals then due principal and interest payments on the Series A Loan in exchange for an up-front payment made by ODEC from the pre-paid Head Lease rent.

B. Change to Equity Security Deposit

According to the original application, ODEC was to set aside the Equity Security Deposit to be invested in certificates of deposit. ODEC is now preparing to use the Equity Security Deposit funds to purchase, on the market, ODEC Bonds rather than investing in lower yielding certificates of deposit.

ODEC proposes to replace the repurchased Bonds with new 1996 Series A Bonds which would have a maturity of less than one year. ODEC indicates that the new Bonds would be issued under the authority granted by the Commission in Docket No. ES94–40–000 (69 FERC ¶ 62,054).

C. Release of Lien of ODEC's Indenture

As indicated in the initial application, the Undivided Interest would be leased to the Equity Investor subject to the lien of ODEC's Indenture. As originally proposed, this lien was to survive even if ODEC elected to not exercise its Purchase Option under the Operating Lease. Now, however, ODEC is now proposing that at the end of the Operating Lease, if it chooses not to exercise its Purchase Option, it would obtain the release of the Undivided Interest from the lien of its Indenture.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 385.211 and 385.214). All such motions or protests should be filed on or before February 22, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3778 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–142–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes In FERC Gas Tariff

February 14, 1996.

Take notice that on February 12, 1996, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, revised tariff sheets as follows:

First Revised Sheet No. 526
Original Sheet No. 526A
First Revised Sheet No. 528
Original Sheet No. 528A
First Revised Sheet No. 529

The proposed effective date of these revised tariff sheets is February 12, 1996.

Texas Eastern states that this filing is submitted as a limited application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. Section 717c (1988) and Part 154 of the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder, in order to address inappropriate balancing incentives identified with the operation of its current cash-out mechanism contained in Section 8 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that the revised tariff sheets filed to modify Section 8 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1 are necessary to protect the system and to protect Texas Eastern's customer from the impact of gaming the cash-out mechanism.

Texas Eastern states that the revised tariff sheets filed herein change the cash-out mechanism contained in Section 8 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1, by replacing the current weighted average pricing methodology to a highest/lowest price application if imbalances exceed 5%. Texas Eastern states, inter alia, that the change is necessary in order to reduce the incentives existing in its current mechanism for an individual party to take actions which cause detriment to the operation of the system as a whole and which result in other parties subsidizing an individual party's efforts to profiteer. Texas Eastern has requested waiver of notice period to allow immediate implementation.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern, interested state commissions, and all interruptible shippers as of the date of the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3773 Filed 2–20–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5426–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 22, 1996.

FOR FURTHER INFORMATION OR A COPY CALL:

Sandy Farmer at EPA, 202–260–2740, and refer to EPA ICR No. 0575.07.

SUPPLEMENTARY INFORMATION:

Title: TSCA Section 8(d) Health and Safety Data Reporting Rule (OMB Control No. 2070–0004, EPA ICR No. 0575.07). This is a request for extension of a currently approved information collection which expires on February 28, 1996.

Abstract: Section 8(d) of the Toxic Substances Control Act (TSCA) and regulations at 40 CFR part 716 requires manufacturers and processors of chemicals to submit lists and copies of health and safety studies relating to the health and/or environmental effects of certain chemical substances and mixtures. In order to comply with the reporting requirements of section 8(d), respondents must search their records to identify any health and safety studies in their possession, copy and process relevant studies, list studies that are currently in progress, and submit this information to EPA.

EPA uses this information to construct a complete picture of the known effects of the chemicals in question, leading to determinations by EPA of whether additional testing of the chemicals is required. The information

enables EPA to base its testing decisions on the most complete information available and to avoid demands for testing that may be duplicative. EPA will use information obtained via this collection to support its investigation of the risks posed by chemicals and, in particular, to support its decisions on whether to require industry to test chemicals under section 4 of TSCA.

Responses to the collection of information are mandatory (see 40 CFR part 716). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentially only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 2.0 hours and 23.5 hours per response, depending upon the requirements that the collection places on each respondent. This estimate includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Respondents/Affected Entities: Those that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

Estimated No. Of Respondents: 852.

Estimated Total Annual Burden on Respondents: 9,668 hours.

Frequency of Collection: On Occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 0575.07 and OMB Control No. 2070–0004 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street SW., Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

Dated: February 14, 1996

Joseph Retzer,

Director, Regulotory Information Division.

[FR Doc. 96–3860 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180990; FRL–5348–3]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to 11 States listed below. Six crisis exemptions were initiated by various States and one quarantine exemption was granted to the Florida Department of Agriculture and Consumer Services. These exemptions, issued during the months of July through December 1995, and the one in January 1996, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied specific exemption requests from the Minnesota and North Dakota Departments of Agriculture. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, crisis, and quarantine exemptions for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS 1B1, 2800 Jefferson Davis Highway, Arlington, VA (703–308–8417); e-mail: group.ermus@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of Pirate on cotton to control tobacco budworms; August 4, 1995, to September 30, 1995. (Margarita Collantes)

2. Alabama Agriculture and Industries for the use of Pirate on cotton to control beet armyworms; August 25, 1995, to September 30, 1996. (Margarita Collantes)

3. Arizona Department of Agriculture for the use of propamocarb hydrochloride on potatoes to control late blight; December 18, 1995, to April 30, 1996. (Libby Pemberton)

4. Arkansas State Plant Board for the use of Pirate on cotton to control tobacco budworms; August 4, 1995, to September 30, 1995. (Margarita Collantes)

5. California Department of Pesticide Regulation for the use of propamocarb hydrochloride on tomatoes to control late blight; October 12, 1995, to December 31, 1995. (Libby Pemberton)

6. California Department of Pesticide Regulation for the use of methyl bromide on watermelons to control nematodes, weeds, and fungi; December 15, 1995, to April 30, 1996. (Libby Pemberton)

7. California Department of Pesticide Regulation for the use of methyl bromide on carrots to control nematodes; December 14, 1995, to December 13, 1996. (Libby Pemberton)

8. Florida Department of Agriculture and Consumer Services for the use of lactofen on snap beans to control nightshade and common ragweed; September 1, 1995, to May 31, 1996. (Margarita Collantes)

9. Florida Department of Agriculture and Consumer Services for the use of Pirate on cotton to control beet armyworms and tobacco budworms; September 1, 1995, to September 1, 1996. (Margarita Collantes)

10. Florida Department of Agriculture and Consumer Services for the use of avermectin on potatoes to control leafminers; October 27, 1995, to June 1, 1996. (David Deegan)

11. Georgia Department of Agriculture for the use of metalaxyl on mustard greens, turnips and collards to control downy mildew; October 13, 1995, to June 30, 1996. (David Deegan)

12. Georgia Department of Agriculture for the use of Pirate on cotton to control tobacco budworms; August 8, 1995, to September 30, 1995. (Margarita Collantes)

13. Idaho Department of Agriculture for the use of imazalil on sweet corn seed to control damping-off and die-back diseases; November 22, 1995, to November 22, 1996. (Andrea Beard)

14. Louisiana Department of Agriculture and Forestry for the use of Pirate on cotton to control tobacco budworms; August 4, 1995, to September 30, 1995. (Margarita Collantes)

15. Mississippi Department of Agriculture and Commerce for the use of Pirate on cotton to control beet armyworms; August 4, 1995, to September 1, 1996. (Margarita Collantes)

16. Mississippi Department of Agriculture and Commerce for the use of Pirate on cotton to control tobacco budworms; August 4, 1995, to September 30, 1995. (Margarita Collantes)

17. New Jersey Department of Environmental Protection for the use of carboxin on onion seed to control onion smut; November 22, 1995, to June 1, 1996. (Kerry Leifer)

18. Texas Department of Agriculture for the use of propamocarb hydrochloride on potatoes to control late blight; January 1, 1996, to October 31, 1996. (Libby Pemberton)

19. Texas Department of Agriculture for the use of Pirate on cotton to control beet armyworms; August 18, 1995, to September 30, 1995. (Margarita Collantes)

Crisis exemptions were initiated by the:

1. Florida Department of Agriculture and Consumber Services on August 14, 1995, for the use of tebufenozide on cotton to control beet armyworms. This program has ended. (Margarita Collantes)

2. Idaho Department of Agriculture on July 14, 1995, for the use of paraquat dichloride on dry peas to control regrowth vegetation. This program has ended. (David Deegan)

3. New Mexico Department of Agriculture on September 2, 1995, for the use of triadimefon on peppers to control powdery mildew. This program has ended. (Andrea Beard)

4. Washington Department of Agriculture on July 20, 1995, for the use of paraquat dichloride on dry peas to control regrowth vegetation. This program has ended. (David Deegan)

5. United States Department of Agriculture on December 1, 1995, for the use of methyl bromide on leafy vegetables, root and tuber vegetables, and kiwi fruit to control foreign pests. This program is expected to last until December 1, 1998. (Libby Pemberton)

6. United States Department of Agriculture on October 14, 1995, for the use of methyl bromide on bananas, plantains, avocados, blackberries, raspberries, and opuntia to control various imported pests. This program is expected to last until October 14, 1998. (Libby Pemberton)

EPA has denied specific exemption requests from the Minnesota and North Dakota Departments of Agriculture for the use of triallate on sugarbeets to control wild oats. The Agency denied the exemptions because there are registered alternative products available for the uses; therefore, an emergency situation does not exist. (David Deegan)

EPA has granted a quarantine exemption to the Florida Department of Agriculture and Consumer Services for the use of naled on non-food sites (utility poles, trees, other inanimate objects), as bait spots in a program to eradicate the Oriental fruit fly; October 18, 1995, to October 18, 1998. (Andrea Beard)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: February 7, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–3462 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–133; DA 96–139]

Common Carrier Bureau Sets Pleading Schedule in Preliminary Rate of Return Inquiry.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission ("FCC" or "Commission") is issuing a public notice ("Notice") asking for comments on whether a rate of return represcription proceeding should be initiated for those local exchange carriers ("LECs") who are subject to rate of return regulation for their earnings on interstate access services. The commenters may submit any evidence and opinion they deem relevant to the cost of debt, cost of equity and the capital structure for LEC interstate access services. The Notice contains a revised cost of debt formula not presently included in the Commission's rules. The information contained in the comments and reply comments will be used to help the Commission decide whether to initiate a represcription proceeding.

DATES: All comments shall be filed no later than March 11, 1996. Reply comments shall be filed no later than April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, telephone number (202) 418–0872, or John Hays, telephone number 202–418–0875.

SUPPLEMENTARY INFORMATION: 1. This is a summary of the Commission's public notice, released February 6, 1996, asking for comments on whether a rate of return represcription proceeding should be initiated for those local exchange carriers ("LECs") who are subject to rate of return regulation for their earnings on interstate access services. See 47 CFR § 65.101. In a *Report and Order* in CC Docket No. 92–133, 60 FR 28542, June 1, 1995 ("Order"), the Commission adopted new represcription procedures under which the Commission monitors the monthly average yields on ten-year United States Treasury securities. Whenever such monthly average yields remain, for a consecutive six-month period, at least 150 basis points (i.e., 1.5 percent) above or below a certain reference point, the Commission must issue a Notice inquiring whether to commence a rate of return represcription proceeding. The reference point is the average of the average monthly yields in effect for the consecutive six-month period immediately prior to the effective date of the current rate of return prescription. The Notice must: (1) set filing deadlines for comments and replies; (2) set forth the cost of debt, cost of preferred stock, and capital structure computed in accordance with Part 65 of the Commission's rules; and (3) solicit "such further information as the Commission might deem proper." 47 CFR §§ 65.302, 65.303, and 65.304. The Commission delegated authority to issue the Notice to the Chief, Common Carrier Bureau ("Bureau"). As stated in the *Report and Order*, the reference point currently is set at 8.64 percent.

2. For the consecutive six-month period May through October 1995, the yields on ten-year United States Treasury securities were more than 150 basis points below the 8.64 percent reference point. This downward trend in rates continued for the month of November 1995 when the yield on the ten-year Treasury securities was 5.93 percent, i.e., 2.71 percent below the reference point. The Commission, therefore, is issuing this Notice to ask interested parities to file comments and replies in order to help the Commission decide whether to initiate a represcription proceeding.

3. The Commission invites commenters to submit any evidence and opinion they deem relevant, including evidence regarding the cost of equity for LEC interstate access services. The Commission may decide to initiate a represcription proceeding based on information submitted in this proceeding and "on any other information specifically identified" by the Commission. *See* 47 CFR § 65.101(b). In an appendix ("Appendix") attached to the Notice,

the Commission has set out calculations of the cost of debt and capital structure. For purposes of this Notice, the Commission requests comment on cost of debt determined by the formula set out in Section 65.302, but it notes that this formula would appear to yield an excessively high cost of carrier debt (i.e., 14.96%). This cost of debt results from an apparent error in the numerator in the cost of debt formula. That numerator, Total Annual Interest Expense, is defined as for "the most recent two years" for all LECs with annual revenues of $100 million, rather than "the most recent year" which would appear to be consistent with the intent of the Commission's Order. The Bureau intends to propose to the Commission that it change the rule to reflect this modification. In the meantime, and pursuant to Section 65.101(b), commenters are invited to address revised cost of debt calculations based on a modified formula as set out in the Appendix attached to the Notice.

4. For LECs with annual revenues of $100 million or more, the Commission computes a composite cost of debt of 7.21 percent and a capital structure composed of 42.48 percent debt and 57.52 percent equity. Based on information currently available to the Commission, no LEC subject to rate of return regulation for interstate access services has issued preferred stock as of the date of this Notice. The Commission invites comment on whether this is in fact the case and, if it is not, commenters may submit their analyses and cost calculations for preferred stock in their replies. All data submitted shall be filed in paper format and electronically on 3.5 inch high-density diskettes in either Lotus 123 (version 4.x or below) or Microsoft Excel (version 4.x or below).

5. For purposes of this proceeding, our non-restricted "permit but disclose" *ex parte* rules will apply. 47 CFR §§ 1.1200(a) and 1.1006. These rules generally allow *ex parte* presentations in non-restricted proceedings subject to a public disclosure requirement. Responses to Commission and staff inquiries that are designed to clarify or adduce evidence, or to resolve issues, are considered exempt *ex parte* presentations pursuant to 47 CFR § 1.1204(b)(7), provided that any new information is disclosed pursuant to the Note to that section and 47 CFR § 1.1206(a).

6. All comments shall be filed no later than March 11, 1996. Reply comments shall be filed no later than April 15, 1996. Comments should reference file number AAD 95–172. Four copies of each pleading should be sent to Ernestine Creech, FCC, Common Carrier Bureau, 2000 L Street NW., Suite 257, Washington, D.C. 20554, and one copy of each pleading to the International Transcription Service (ITS), 2100 M Street NW., Suite 140, Washington, D.C. 20037. Copies are available for public inspection in the Accounting and Audits Division public reference room 2000 L Street NW., Room 812, Washington, D.C. Copies of comments and notice are available from ITS.

Federal Communications Commission.

Regina M. Keeney,

Chief, Common Carrier Bureau.

[FR Doc. 96–3665 Filed 2–20–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Security for the Projection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Ulysses Cruises Inc. and Compania de Vapores Oceanbreeze, S.A., c/o Dolphin Cruise Line, Inc., 901 South America Way, Miami, Florida 33132
Vessel: OCEANBREEZE

Dated: February 14, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–3765 Filed 2–20–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

O'Keefe and Associates, Inc., 525 Sandy Creek Drive, Brandon, FL 33511, Officers: Jenna O'Keefe, President; Rock O'Keefe, Vice President

Rula International, Inc., 201 Plaza Verde Drive, Suite 1209, Houston, TX 77038–1422, Officer: Martin E. Lambert, President

American River International, Ltd., 130 Rivera Drive, Suite 1, Massapequa, NY 11758, Officer: Thomas A. Cook, President

Caribbean Shipping & Consolidating Corp., 3730 NW 72 Street, Miami, FL 33147, Officers: Winston R. Simmonds, President; Harry P. Maragh, Vice President.

Dated: February 14, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–3766 Filed 2–20–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Craig L. Campbell, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 5, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Craig L. Campbell, Elburn, Illinois; to acquire an additional 19.34 percent, for a total of 25.02 percent, and Douglas L. Campbell, Elburn, Illinois, to acquire an additional 18.76 percent, for a total of 25.21 percent, of the voting shares of Iroquois Bancorp, Inc., Gilman, Illinois, and thereby indirectly acquire First N B of Gilman, Gilman, Illinois.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Citizens Bank 401-K ESOP, Farmington, New Mexico; to retain a total of 22 percent of the voting shares of Citizens Bankshares, Inc., Farmington, New Mexico, and thereby indirectly retain Citizens Bank, Farmington, New Mexico.

Board of Governors of the Federal Reserve System, February 14, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3781 Filed 2–20–96; 8:45 am]

BILLING CODE 6210–01–F

Financial Services Corp of The Midwest; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 5, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Financial Services Corp of The Midwest, Rock Island, Illinois; to engage *de novo* in the making and servicing of loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 14, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3782 Filed 2–20–96; 8:45 am]

BILLING CODE 6210–01–F

Fleet Financial Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 15, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Fleet Financial Group, Inc., Boston, Massachusetts; to acquire 100 percent of the voting shares of NatWest Bank National Association, Jersey City, New Jersey.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. BT Financial Corporation, Johnstown, Pennsylvania; to merge with Moxham Bank Corporation, Johnstown, Pennsylvania, and thereby indirectly acquire The Moxham National Bank of Johnstown, Johnstown, Pennsylvania.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Regional Bank of Colorado, N.A., Rifle, Colorado.

Board of Governors of the Federal Reserve System, February 14, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3783 Filed 2–20–96; 8:45 am]

BILLING CODE 6210–01–F

SouthTrust Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has given notice under § 225.23(a)(2) or (e) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (e)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received not later than March 5, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. SouthTrust Corporation, Birmingham, Alabama, and SouthTrust of Florida, Inc., Jacksonville, Florida; to

acquire FFE Financial Corp., Englewood, Florida, and thereby indirectly acquire First of Englewood, F.S.B., Englewood, Florida, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 14, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–3784 Filed 2–20–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92D–0287]

Generic Animal Drug Products Containing Fermentation-Derived Drug Substances; Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled "Guidance on Generic Animal Drug Products Containing Fermentation-Derived Drug Substances." The guidance is intended to provide sponsors with information that will enable them to submit complete and well-organized chemistry and manufacturing and control information for applications for generic animal drug products containing fermentation-derived drug substances. FDA invites interested persons to submit written comments on this guidance.

DATES: Written comments on this guidance document may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled "Guidance on Generic Animal Drug Products Containing Fermentation-Derived Drug Substances" to the Communications and Education Branch (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1755. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David R. Newkirk, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2701.

SUPPLEMENTARY INFORMATION: The sponsor of a new animal drug application (NADA) is required to submit to FDA the chemistry and manufacturing and control information necessary to support their submission. This information is generally described in 21 CFR 514.1 for original NADA's and in 21 CFR 514.8 for supplements to approved NADA's. The chemistry and manufacturing and control information requirements are identical for original abbreviated new animal drug applications (ANADA's) and supplements to approved ANADA's.

Additionally, the manufacturing process must meet current good manufacturing practice (CGMP) regulations. The CGMP requirements are described in 21 CFR parts 210 and 211 for pharmaceutical dosage forms and in 21 CFR part 226 for Type A medicated articles.

The Center for Veterinary Medicine believes that the guidance document will provide sponsors with information that will enable them to submit complete and well-organized chemistry and manufacturing and control data and information for ANADA's for animal drug products containing fermentation-derived drug substances.

In contrast to the general description of requirements in the Code of Federal Regulations, the guidance document provides specific manufacturing information recommendations for antibiotic new drug substances, biomass drug substances, and the finished drug product. In addition, it provides guidance for conducting comparison studies between the generic drug product and the pioneer drug product. The guidance document also describes acceptable fermentation organisms, antibiotic new drug substances, and biomass drug substances.

A person may follow the guidance or may choose to follow alternate procedures or practices. If a person chooses to use alternate procedures or practices, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable to FDA. Although this guidance document does not bind the agency or the public, and it does not create or confer any rights, privileges, or benefits for or on any person, it represents FDA's current thinking on generic animal drug products containing fermentation-derived substances. When a guidance document states a requirement imposed by statute or regulation, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion in the guidance.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 13, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–3733 Filed 2–20–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Renewals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of certain FDA advisory committees by the Commissioner of Food and Drugs. The Commissioner has determined that it is in the public interest to renew the charters of the committees listed below for an additional 2 years beyond charter expiration date. The new charters will be in effect until the dates of expiration listed below. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463 (5 U.S.C. app. 2)).

DATE: Authority for these committees will expire on the dates indicated below unless the Commissioner formally determines that renewal is in the public interest.

Name of committee	Date of expiration
National Mammography Quality Assurance Advisory Committee	July 6, 1997
Nonprescription Drugs Advisory Committee	August 27, 1997
Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants	December 2, 1997
Food Advisory Committee	December 18, 1997
Vaccines and Related Biological Products Advisory Committee	December 31, 1997
Advisory Committee for Pharmaceutical Science (Formerly Generic Drugs Advisory Committee)	January 22, 1998

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: February 9, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–3734 Filed 2–20–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection; *Title of Information Collection:* Federally Qualified Health Center (FQHC) Survey; *Form No.:* HCFA–R–188; *Use:* This survey is needed and will be used by HCFA to evaluate the FQHC Medicare benefit. Respondents will be all Medicare certified FQHC's. *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, and business or other for-profit; *Number of Respondents:* 1,489; *Totol Annual Responses:* 1,489; *Total Annual Hours Requested:* 496.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 12, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–3745 Filed 2–20–96; 8:45 am]

BILLING CODE 4120–03–P

Information Collection Requirements Submitted for Public Comment: Submission for Office of Management and Budget (OMB) Review

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Requirement abstracted below has been submitted to the Office of Management and Budget (OMB) for review and comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection budget.

1. *Type of Information Collection Request:* New; *Title of Information Collection:* Medicare Carrier Provider/Supplier Enrollment Application; *Form No.:* HCFA-R–186; *Use:* This information is needed to enroll providers/suppliers by identifying them, verifying their qualifications and eligibility to participate in Medicare, and to price and pay their claims correctly. *Frequency:* Initial Application; *Affected Public:* Business or other for profit, Federal Government; *Number of Respondents:* 160,000; *Total Annual Hours Requested: 240,000.*

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collection should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 14, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff.

[FR Doc. 96–3862 Filed 2–20–96; 8:45 am]

BILLING CODE 4120–03–P

Privacy Act of 1974; Systems of Records

AGENCY: Department of Health and Human Services (HHS), the Health Care Financing Administration (HCFA).

ACTION: Notice of proposed new routine use for existing and future systems of records.

SUMMARY: HCFA proposes revising the systems notices for all of its existing and future systems of records to include a routine use to allow for the disclosure of information, without the individual's consent, to the Social Security Administration (SSA) in order to enable SSA to assist HCFA in the implementation and maintenance of the Medicare and Medicaid programs.

This new routine use is necessary due to the establishment of SSA as a separate agency which is not a part of HHS. Prior to March 31, 1995, SSA and HCFA were components within HHS and, as such, enjoyed the benefits of the special relationship afforded members of the same Department. One of these benefits was the ability to disclose and

exchange data under Section (b)(1) of the Privacy Act as amended.

With the enactment of Pub. L. 103–296 on March 31, 1995, SSA became an independent agency. This has caused SSA and HCFA to examine their relationship under the law. This law allowed the two agencies to continue to disclose information under Section (b)(1) of the Privacy Act as amended for 1 year after enactment.

As a result of the change in SSA's status, HCFA is proposing the addition of a global routine use to all of its current and future Privacy Act systems of records listed in Attachment 1. This routine use will permit the disclosure of information to SSA under Section (b)(3) of the Privacy Act as amended.

EFFECTIVE DATES: HCFA filed an altered system report with the Chairman of the Committee on Government Reform and Oversight of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on February 14, 1996. To ensure that all parties have adequate time in which to comment, the new system of records, including routine uses, will become effective 40 days from the publication of this notice or from the date the report was submitted to OMB and the Congress, whichever is later, unless HCFA receives comments which require alterations to this notice.

ADDRESSES: The public should address comments to Mr. Richard DeMeo, HCFA Privacy Act Officer, Associate Administrator for External Affairs, C2–01–20, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available at this location.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Berry, Director, Information Liaison Branch, Office of Health Care Information Systems, Bureau of Data Management and Strategy, HCFA, N3–13–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, Telephone (410) 786–0182.

SUPPLEMENTARY INFORMATION: We are publishing this notice to inform the public of our intent to continue sharing data with SSA but to do so under Section (b)(3) of the Privacy Act which allows for disclosure of information for a routine use. This new routine use is required by SSA's change in status to an independent agency. This routine use will read as follows:

To the Social Security Administration for their assistance in the implementation of HCFA's administration of the Medicare and Medicaid programs.

This proposed new routine use is consistent with the relevant provisions of the Privacy Act, namely, 5 U.S.C. 552a(a)(7), 552a(b)(3), and 522a(e)(4)(D). Legal authority to release these data under this routine use and others previously published is the Privacy Act (5 U.S.C. Section 552a), section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)), and 42 CFR part 401, subpart B. Because this proposed change will significantly alter the system, we are preparing a report of altered system of records under 5 U.S.C. 552a(r).

Dated: February 9, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

ATTACHMENT 1

Number	Title
09–70–0005	National Claims History (NCH), HHS/HCFA/BDMS.
09–70–0019	Actuarial Sample Hospital Stay Record Study, HHS/HCFA/BDMS.
09–70–0020	Acturial Sample of Supplementary Medical Insurance Payments, HHS/HCFA/OACT.
09–70–0022	Municipal Health Services Program, HHS/HCFA/ORD.
09–70–0029	Evaluation of Medicare Competition Demonstrations, HHS/HCFA/ORD.
09–70–0030	National Long-Term Care Survey Followup, HHS/HCFA/ORD.
09–70–0033	Person Level Medicaid Data System (aka tape-to-tape), HHS/HCFA/ORD.
09–70–0034	Evaluation of Social/Health Maintenance Organization (HMO) Demonstrations, HHS/HCFA/ORD.
09–70–0035	Aftercare Evaluation System (AES), HHS/HCFA/ORD.
09–70–0036	Evaluation of Competitive Bidding for Durable Medical Equipment Demonstration, HHS/HCFA/ORD.
09–70–0038	Evaluation of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) Health Maintenance Organization (HMO) and Competitive Medical Plan (CMP) Program, HHS/HCFA/ORD.
09–70–0039	Evaluation of Medicare Alzheimer's Disease Demonstration, HHS/HCFA/ORD.
09–70–0040	Health Care Financing Administration Organ Transplant Data File, HHS/HCFA/BDMS.
09–70–0041	Evaluation of the OBRA 87 Medicare Payment of Influenza Vaccination Demonstration, HHS/HCFA/ORD.
09–70–0042	Medicare Cancer Registry Record System (SEER), HHS/HCFA/ORD.
09–70–0044	Demonstration and Evaluation of the Medicare Insured Group (MIG) Model, HHS/HCFA/ORD.
09–70–0045	Evaluation of the Arizona Health Care Cost Containment And Long Term Care Systems Demonstration, HHS/HCFA/ORD.
09–70–0046	Home Health Quality Indicator System (HHQUIS), HHS/HCFA/ORD.
09–70–0047	HCFA Medicare Mortality Predictor Data File, HHS/HCFA/ORD.

ATTACHMENT 1—Continued

Number	Title
09–70–0048	Monitoring of Home Health Agency Prospective Payment Demonstration, HHS/HCFA/ORD.
09–70–0049	Evaluation of the Home Health Agency (HHA), Prospective Payment Demonstration, HHS/HCFA/ORD.
09–70–0050	The Medicare/Medicaid Multi-State Case-Mix And Quality Data Base for Nursing Home Residents, HHS/HCFA/ORD.
09–70–0051	Monitoring of the Home Health Agency Prospective Payment Demonstration, HHS/HCFA/ORD.
09–70–0052	Post-Hospitalization Outcomes Studies, HHS/HCFA/ORD.
09–70–0053	The Medicare Beneficiary Health Status Registry Pilot, HHS/HCFA/ORD.
09–70–0054	Evaluation of the United Mine Workers of America Health and Retirement Funds Medicare Part B Capitation Demonstration, HHS/HCFA/ORD.
09–70–0055	Implementation and Evaluation of the Staff-Assisted Home Dialysis Demonstration, HHS/HCFA/ORD.
09–70–0056	Evaluation of the Medicaid Expansion Demonstrations, HHS/HCFA/ORD.
09–70–0057	Evaluation of the Medicaid Extension of Eligibility To Certain Low Income Families Not Otherwise Qualified to Receive Medicaid Benefits Demonstration, HHS/HCFA/ORD.
09–70–0058	Evaluation of the Medicare SELECT Program, HHS/HCFA/ORD.
09–70–0059	The Medicaid Necessity, Appropriateness, and Outcomes of Care Study, HHS/HCFA/ORD.
09–70–0061	Evaluation of the Medicare Case management Demonstration, HHS/HCFA/ORD.
09–70–0062	Medicare Cataract Surgery Alternate Payment Demonstration Data Base, HHS/HCFA/ORD.
09–70–0063	Evaluation of the Medicaid Demonstration for Improving Access to Care for Substance Abusing Pregnant Women, HHS/HCFA/ORD.
09–70–0064	Individuals Authorized Access to the Health Care Financing Administration (HCFA) Data Center, HHS/HCFA/BDMS.
09–70–0066	Evaluation of, and External Quality Assurance for, The Community Nursing Organization (CNO) Demonstration, HHS/HCFA/ORD.
09–70–0501	Carrier Medicare Claims Records, HHS/HCFA/BPO.
09–70–0502	Health Insurance Master Record (Revision Pending), HHS/HCFA/BPO.
09–70–0503	Intermediary Medicare Claims Records, HHS/HCFA/BPO.
09–70–0504	Beneficiary Part A and B Uncollectible Overpayment File, HHS/HCFA/BPO.
09–70–0505	Supplemental Medical Insurance (SMI) Accounting Collection and Enrollment System (SPACE), HHS/HCFA/BPO.
09–70–0507	Health Insurance Utilization Microfilm, HHS/HCFA/BPO.
09–70–0508	Reconsideration and Hearing Case Files (Part A) Hospital Insurance Program HHS/HCFA/BPO.
09–70–0509	Medicare Beneficiary Correspondence Files, HHS/HCFA/BPO.
09–70–0512	Review and Fair Hearing Case Files—Supplementary Medical Insurance Program, HHS/HCFA/BPO.
09–70–0513	Explanation of Medicare Benefit Records, HHS/HCFA/BPO.
09–70–0515 (Incorrectly published 09–*07*–0515)	Resident Assessment System and Data Base for Nursing Home Residents, HHS/HCFA/HSQB.
09–70–0516	Medicare Physician Supplier Master File, HHS/HCFA/BPO.
09–70–0517	Physician/Supplier 1099 File (Statement for Recipients of Medical and Health Care Payments), HHS/HCFA/BPO.
09–70–0518	Medicare Clinic Physician Supplier Master File, HHS/HCFA/BPO.

ATTACHMENT 1—Continued

Number	Title
09–70–0520	End State Renal Disease (ESRD) Program Management and Medical Information System (PMMIS), HHS/HCFA/BDMS.
09–70–0522	Billing and Collection Master Record System, HHS/HCFA/BPO.
09–70–0524	Intern and Resident Information System, HHS/HCFA/BPO.
09–70–0525	Medicare Physician Identification and Eligibility System (MPIES), HHS/HCFA/BPO.
09–70–0526	Commong Working File (CWF), HHS/HCFA/BPO.
09–70–0527	HCFA Utilization Review Investigatory Files, HHS/HCFA/BPO.
09–70–0529	Medicare Supplier Identification File, HHS/HCFA/BPO.
09–70–1511	Physical Therapists in Independent Practice (Individuals), HHS/HCFA/HSQB.
09–70–1512	Peer Review Organization (PRO) Data Management Information System (PDMIS), HHS/HCFA/HSQB.
09–70–1514	HCFA Medicare Severity of Illness Data File, HHS/HCFA/HSQB.
09–70–1515	Resident Assessment System and Data Base for Nursing Home Residents, HHS/HCFA/HSQB.
09–70–2003	Completion of State Medicaid Quality Control (MQC) Reviews, HHS/HCFA/MB.
09–70–2006	Income and Eligibility Verification for Medicaid Eligibility Quality Control (MEQC) Reviews, HHS/HCFA/MB.
09–70–3001	Record of Individuals Authorized Entry to HCFA Buildings via A Card Key Access System, HHS/HCFA/OFHR.
09–70–3002	Health Care financing Administration (HCFA) Employee Building Pass Files, HHS/HCFA/OFHR.
09–70–3003	Health Care Financing Administration (HCFA) Correspondence Handling and Processing System, HHS/HCFA/OFHR.
09–70–4001	Group Health Plan (GHP) System, HHS/HCFA/OPHC.
09–70–4002	Beneficiary Inquiry Tracking System, HHS/HCFA/OPHC.
09–70–4003	Medicare HMO/CMP Beneficiary Reconsideration System (MBRS), HHS/HCFA/OPHC.
09–70–5001	Medicare Hearings and Appeals System (MHAS), HHS/HCFA/AAO.
09–70–6001	Medicaid Statistical Information System (MSIS), HHS/HCFA/BDMS.
09–70–6002	Current Beneficiary Survey (CBS), HHS/HCFA/OACT.
09–70–9001	Health Care Financing Administration (HCFA) Correspondence and Assignment Tracking and Control System (CATCS), HHS/HCFA/OEO.

[FR Doc. 96–3827 Filed 2–20–96; 8:45 am]
BILLING CODE 4120–03–M

National Institutes of Health

Notice of a Closed Meeting of the Office of AIDS Research Advisory Council

Pursuant to sec. 10(d) of the Federal Advisory Committee Act (FACA), as amended (Title 5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Office of AIDS Research Advisory Council (OARAC) of March 13, 1996, at the Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland. In accordance with the provisions set forth in sec. 552b(c)(9), Title U.S.C. and sec. 10(d) of FACA, this meeting of the OARAC will be closed to the public.

The NIH Revitalization Act of 1993 authorized the OARAC to provide expert advice to the Director of the Office of AIDS Research. The meeting will be closed because information of an administrative confidential nature involving budget and program priorities from the NIH AIDS Research Evaluation Working Group will be discussed with the OARAC. Issues related to peer review and the process used to select projects for funding will also be discussed. Premature disclosure of this information is likely to significantly frustrate implementation of the NIH AIDS Research Program.

Further information concerning the OARAC meeting may be obtained from Jeannette R. De Lawter, Program Analyst, Office of AIDS Research, National Institutes of Health, Building 31, Room 4B54, 9000 Rockville Pike, Bethesda, MD 20892, Phone (301) 402–3357, Fax (301) 402–3360.

Date: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3881 Filed 2–20–96; 8:45 am]
BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting

Notice is hereby given of the meeting of the National Cancer Institute Board of Scientific Advisors Cancer Centers Program Working Group, February 21, 1996 at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland.

This meeting will be open to the public on February 21, from 8:30 am to 1 pm for overview and discussion of the Institute's Cancer Centers Extramural Program.

The meeting will be closed to the public on February 21, from 1 pm to adjournment for discussion of confidential issues relating to the review, discussion and evaluation of individual programs and projects conducted by the Cancer Centers Extramural Program. These discussions will reveal confidential trade secrets or commercial property such as patentable material, and personal information including consideration of personnel qualifications and performance, the competence of individual investigators and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Information pertaining to the meeting may be obtained from Dr. Paulette Gray, Executive Secretary, National Cancer Institute Board of Scientific Advisors, National Cancer Institute, 6130 Executive Blvd., Rm. 600, Bethesda, MD 20892, (301–496–4218). Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Dr. Paulette Gray in advance of the meeting.

Dated: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3882 Filed 2–20–96; 8:45am]
BILLING CODE 4140–01–M

National Center for Research Resources; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the National Center for Research Resources (NCRR) for February-March 1996.These meetings will be open to the public as indicated below, to discuss program planning; program accomplishments; administrative matters such as previous meeting minutes; the report of the Director, NCRR; review of budget and legislative updates; and special reports or other issues relating to committee business. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Maureen Mylander, Public Affairs Officer, NCRR, National Institutes of Health, 1 Rockledge Center, Room 5146, 6705 Rockledge Drive, MSC 7965, Bethesda, Maryland 20892–7965, (301) 435–0888, will provide summaries of meetings and rosters of committee members. Other information pertaining to the meetings can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary or the Scientific Review Administrator listed below, in advance of the meeting.

Nome of Committee: The Subcommittee on Planning of the National Advisory Research Resources Council.

Executive Secretary: Louise Ramm, Ph.D., Deputy Director, National Center for Research Resources, Room 4011, Building 12A, Bethesda, MD 20892, Telephone: (301) 496–6023.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Conference Room 3B41, Building 31B, Bethesda, Maryland 20892.

Open: February 22, 7:30 a.m.–8:45 a.m.

Name of Committee: National Advisory Research Resources Council.

Dates of Meeting: February 22–23, 1996.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, Maryland 20892.

Open: February 22, 9 a.m. until recess.

Closed: February 23, 8:00 a.m. until 10:00 a.m.

Open: February 23, 10:00 a.m. until adjournment.

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Scientific Review Administrator: Dr. Jill Carrington, National Institutes of Health, 1 Rockledge Center, Room 6104, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, Telephone: (301) 435–0812.

Dates of Meeting: February 20–21, 1996.

Place of Meeting: The Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Open: February 20, 8:30 a.m.–9:30 a.m.

Closed: February 20, 9:30 a.m.-until adjournment.

Name of Committee: NCRR Initial Review Group-Comparative Medicine Review Committee.

Scientific Review Administrator: Dr. Raymond O'Neill, National Institutes of Health, 1 Rockledge Center, Room 6110, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, Telephone: (301) 435–0814.

Date of Meeting: February 25–27, 1996.

Place of Meeting: The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: February 25, 6:30 p.m. until recess.

Open: February 26, 8:30 a.m.–10:00 a.m.

Closed: February 26, 10:00 a.m.–until adjournment.

Name of Committee: NCRR Initial Revenue Group—Research Centers in Minority Institutions Review Committee.

Scientific Review Administrator: Dr. John Lymangrover, National Institutes of Health, 1 Rockledge Center, Room 6106, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965. Telephone: (301) 435–0810.

Dates of Meeting: March 4–5, 1996.

Place of Meeting: Ramada Inn, Congressional Park, 1775 Rockville Pike, Rockville, MD 20852.

Open: March 4, 8:30 a.m.–11:30 a.m.

Closed: March 4, 11:30 a.m. until adjournment.

This notice is being published less than 15 days prior to the above meeting(s) due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Laboratory Animal Sciences and Primate Research; 93.333, Clinical Research; 93.371, Biomedical Research Technology; 93.389, Research Centers in Minority Institutions; 93.198, Biological Models and Materials Research; 93.167, Research Facilities Improvement Program; 93.214, Extramural Research Facilities Construction Projects, National Institutes of Health.)

Dated: February 14, 1996.

Susan F. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3876 Filed 2–20–96; 8:45 am]
BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the review subcommittees of the National Institute of Child Health and Human Development Initial Review Group of March 1996.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a

clearly unwarranted invasion of personal privacy.

Name of Subcommittee: Maternal and Child Health Research Subcommittee.

Scientific Review Administrator: Dr. Gopal Bhatnagar, 6100 Executive Boulevard—Rm. 5E03, Telephone: 301–496–1485.

Date of Meeting: March 5, 1996.

Place of Meeting: Ramada Inn Bethesda, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

Time: 9:00 am adjournment.

Name of Subcommittee: Mental Retardation Research Subcommittee.

Scientific Review Administrator: Dr. Norman Chang, 6100 Executive Boulevard—Rm 5E03, Telephone: 301–496–1485.

Date of Meeting: March 7–8, 1996.

Place of Meeting: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Time: March 7, 8:00 am–5:00 pm;

Time: March 8, 8:00 am–adjournment.

Name of Subcommittee: Population Research Subcommittee.

Scientific Review Administrator: Dr. A. T. Gregoire, 6100 Executive Boulevard—Rm. 5E03, Telephone: 301–496–1696.

Date of Meeting: March 28–29, 1996.

Place of Meeting: Natcher Conference Center, Building 45—Conferences Rms. E1–E2, 9000 Rockville Pike, Bethesda, Maryland 20892.

Time: March 28, 8:00 am–5:00 pm; March 29, 8:00 am–adjournment.

(Catalog of Federal Domestic Assistance Program No. 93.864, Population Research and No. 93.865, Research for Mothers and Children, National Institutes of Health.)

Dated: February 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3880 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Purpose: To review grant applications.

Committee Name: National Institute of General Medical Sciences Initial Review Group, Biomedical Research and Research Training Review Committee A.

Date: March 12, 1996.

Time: 8 a.m.—adjournment.

Place of Meeting: National Institutes of Health, 45 Center Drive, Natcher Building, Conference Room D, Bethesda, MD 20892.

Contact Person: Dr. Carole Latker, 45 Center Drive, Room 1AS–13K, Bethesda, MD 20892, 301/594–2848.

Committee Name: Minority Programs Review Committee, MBRS.

Date: April 11–12, 1996.

Time: 8:30 a.m.—adjournment.

Place of Meeting: National Institutes of Health, 45 Center Drive, Natcher Building, Conference Rooms G1 & G2, Bethesda, MD 20892.

Contact Person: Dr. Michael Sesma, 45 Center Drive, Room 1AS–19H, Bethesda, MD 20892, 301/594–2048.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS].)

Dated: February 14, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3878 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Biomedical Library Review Committee.

Date: March 19, 1995.

Time: 9:00 a.m. to approximately 2:00 p.m.

Place: Fifth-floor Conference Room of the Lister Hill Center Building, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Dr. Roger W. Dahlen, Scientific Review Administrator and Chief, Biomedical Information Support Branch, EP, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301/496–4221.

Purpose/Agenda: To review and evaluate IAIMS grant applications

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: February 14, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3879 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Multidisciplinary Sciences.

Date: March 3–5, 1996.

Time: 8:00 p.m.

Place: Galatin Gateway Inn, Bozeman, Montana.

Contact Person: Dr. Nancy Shinowara, Scientific Review Administrator, 6701 Rockledge Drive, Room 5216, Bethesda, Maryland 20892, (301) 435–1173.

Name of SEP: Clinical Sciences.

Date: March 8, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.

Date: March 11, 1996.

Time: 8:30 a.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Marcel Pons, Scientific Review Administrator, 6701 Rockledge Drive, Room 4196, Bethesda, Maryland 20892, (301) 435–1217.

Name of SEP: Chemistry and Related Sciences.

Date: March 11, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 5156, Telephone Conference.

Contact Person: Dr. Chhandra Ganguly, Scientific Review Administrator, 6701 Rocklege Drive, Room 5156, Bethesda, Maryland 20892, (301) 435–1739.

Name of SEP: Biological and Physiological Sciences.

Date: March 14–15, 1996.

Time: 8:30 a.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Syed Amir, Scientific Review Administrator, 6701 Rockledge Drive, Room 6168, Bethesda, Maryland 20892, (301) 435–1043.

Name of SEP: Clinical Sciences.

Date: March 15, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Multidisciplinary Science.

Date: March 18, 1996.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 5210, Telephone Conference.

Contact Person: Dr. Nadarajen Vydelingum, Scientific Review Administrator, 6701 Rockledge Drive, Room 5210, Bethesda, Maryland 20892, (301) 435–1176.

Name of SEP: Multidisciplinary Sciences.

Date: March 21–23, 1996.

Time: 7:00 p.m.

Place: Falmouth Inn, Woods Hole, MA.

Contact Person: Dr. Nadarajen Vydelingum, Scientific Review Administrator, 6701 Rockledge Drive, Room 5210, Bethesda, Maryland 20892, (301) 435–1176.

Name of SEP: Clinical Sciences.

Date: March 22, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Biological and Physiological Sciences.

Date: March 27, 1996.

Time: 8:30 a.m.

Place: The St. James Hotel, Washington, DC.

Contact Person: Dr. Nancy Pearson, Scientific Review Administrator, 6701 Rockledge Drive, Room 6178, Bethesda, Maryland 20892, (301) 435–1047.

Name of SEP: Multidisciplinary Sciences.

Date: March 28, 1996.

Time: 10:00 a.m.

Place: Georgetown Holiday Inn, Washington, DC.

Contact Person: Dr. Gerald Becker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5114, Bethesda, Maryland 20892, (301) 435–1170.

Name of SEP: Clinical Sciences.

Date: March 29, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

Name of SEP: Clinical Sciences.

Date: March 29, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Multidisciplinary Sciences.

Date: April 1, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Clinical Sciences.

Date: April 2, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4114, Telephone Conference.

Contact Person: Dr. Scott Osborne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4114, Bethesda, Maryland 20892, (301) 435–1782.

Name of SEP: Chemistry and Related Sciences.

Date: April 15–16, 1996.

Time: 8:00 a.m.

Place: Double Tree Hotel, Rockville, MD.

Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165.

Name of SEP: Multidisciplinary Sciences.

Date: April 8–9, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Multidisciplinary Sciences.

Date: April 1, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Multidisciplinary Sciences.

Date: April 8–9, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Chemistry and Related Sciences.

Date: April 14–16, 1996.

Time: 6:00 p.m.

Place: Radisson Plaza Hotel, Baltimore, MD.

Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda, Maryland 20892, (301) 435–1166.

Name of SEP: Chemistry and Related Sciences.

Date: April 15–16, 1996.

Time: 8:00 a.m.

Place: Double Tree Hotel, Rockville, MD.

Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165.

Name of SEP: Chemistry and Related Sciences.

Date: April 19–20, 1996.

Time: 6:00 p.m.

Place: Ritz Carlton, Tysons Corner, VA.

Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda, Maryland 20892, (301) 435–1166.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Date: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3883 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Amended Notice of Meeting

Due to the partial shutdown of the Federal Government, notice is hereby given of a postponement of the following meeting, as previously advertised in the **Federal Register**.

Division of Research Grants

A closed meeting of the Division of Research Grants Special Emphasis Panel-Biological and Physiological Sciences, was to have met March 1, 1996, 8:30 a.m., Hyatt Regency, Bethesda, Maryland, as published in the **Federal Register** on December 14, 1995 (60 FR 240 64175). The meeting has been changed to April 26, 8 a.m., Embassy Square Suites, Washington, D.C. As previously advertised, the meeting will be closed to the public.

Dated: February 14, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–3877 Filed 2–20–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR–4027–N–01]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of Change in Debenture Interest Rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act

(the "Act"). The interest rate for debentures issued under Section 221(g)(4) of the Act during the six-month period beginning January 1, 1996, is 6 percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning January 1, 1996, is 6½ percent.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Financial Services Division, Department of Housing and Urban Development, 470 L'Enfant Plaza East, Room 3119, Washington, D.C. 20024. Telephone (202) 755–7450 ext. 125, or TDD (202) 708–4594 for hearing- or speech-impaired callers. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the **Federal Register.**

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning January 1, 1996, is 6½ percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 6½ percent for the six-month period beginning January 1, 1996. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the first six months of 1996.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980 ..	July 1, 1980
9⅞	July 1, 1980 ..	Jan. 1, 1981
11¾	Jan. 1, 1981 ..	July 1, 1981
12⅞	July 1, 1981 ..	Jan. 1, 1982
12¾	Jan. 1, 1982 ..	Jan. 1, 1983
10¼	Jan. 1, 1983 ..	July 1, 1983
10⅜	July 1, 1983 ..	Jan. 1, 1984
11½	Jan. 1, 1984 ..	July 1, 1984
13⅜	July 1, 1984 ..	Jan. 1, 1985
11⅝	Jan. 1, 1985 ..	July 1, 1985
11⅛	July 1, 1985 ..	Jan. 1, 1986
10¼	Jan. 1, 1986 ..	July 1, 1986
8¼	July 1, 1986 ..	Jan. 1, 1987
8	Jan. 1, 1987 ..	July 1, 1987
9	July 1, 1987 ..	Jan. 1, 1988
9⅛	Jan. 1, 1988 ..	July 1, 1988
9⅜	July 1, 1988 ..	Jan. 1, 1989
9¼	Jan. 1, 1989 ..	July 1, 1989
9	July 1, 1989 ..	Jan. 1, 1990
8⅛	Jan. 1, 1990 ..	July 1, 1990
9	July 1, 1990 ..	Jan. 1, 1991
8¾	Jan. 1, 1991 ..	July 1, 1991
8½	July 1, 1991 ..	Jan. 1, 1992
8	Jan. 1, 1992 ..	July 1, 1992
8	July 1, 1992 ..	Jan. 1, 1993
7¾	Jan. 1, 1993 ..	July 1, 1993
7	July 1, 1993 ..	Jan. 1, 1994
6⅝	Jan. 1, 1994 ..	July 1, 1994
7¾	July 1, 1994 ..	Jan. 1, 1994
8⅜	Jan. 1, 1995 ..	July 1, 1995
7¼	July 1, 1995 ..	Jan. 1, 1996

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the "going Federal rate" of interest in effect at the time the debentures are issued. The term "going Federal rate", as used in that paragraph, is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8- to 12-year maturities, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to Section 221(g)(4) during the six-month period beginning January 1, 1996, is 6 percent.

HUD expects to publish its next notice of change in debenture interest rates in July 1996.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.20(1). For that reason, no environmental finding has been prepared for this notice.

(Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715l, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Stephanie A. Smith,

Acting General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–3762 Filed 2–20–96; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–058–1020–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the next meeting of the Ukiah Resource Advisory Council will be held on Thursday, March 14, and Friday, March 15, 1996 in Arcata, California.

DATES: The meeting is scheduled for Thursday, March 14 and Friday, March 15, 1996.

SUPPLEMENTARY INFORMATION: The meeting on Thursday will begin at 10:00 a.m. at the Arcata Resource Area Office conference room, 1695 Heindon Road, Arcata, CA 95521. It will begin with a four hour training session on the basics of rangeland health. The remainder of the Thursday and all day Friday, March 15 will be spent on developing standards and guidelines for rangeland health for public lands administered by the Bureau of Land Management in northwestern California.

The meeting is open to the public with a public comment period scheduled for 1:00–2:00 p.m., Friday, March 15. Depending on the number of persons wishing to speak, a time limit may be imposed. Summary minutes of the meeting will be maintained at the Arcata, Clear Lake and Redding Resource Area Offices.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Bureau of Land Management, Clear Lake Resource Area, 2550 N. State St., Ukiah, CA 95482, 707–468–4000.

Renee Snyder,

Clear Lake Resource Area Manager.

[FR Doc. 96–3829 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–40–P

[MT–920–05–1310—P; NDM 77460]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease NDM 77460, Bowman County, North Dakota, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as contained in Sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: February 9, 1996.

Karen L. Carroll,

Chief, Fluids Adjudication Section

[FR Doc. 96–3751 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–DN–P

[UTU–66056]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease UTU–66056 for lands in San Juan County, Utah, was timely filed and required rentals accruing from October 1, 1995, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease UTU–66056, effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,

Chief, Branch of Mineral Leasing Adjudication.

[FR Doc. 96–3861 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–DQ–M

[NV–930–1430–01; N–60480]

Notice of Realty Action: Lease/Conveyance for Recreation or Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation or Public Purpose Lease/Conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for classification for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purpose Act, as amended (43 U.S.C. 869 *et seq.*) The Diocese of Las Vegas proposes to use the land for a church facility.

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
Sec. 29, SE¼SE¼NE¼,
E½NE¼SE¼NE¼.

Containing 15.00 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).
2. All minerals.

and will be subject to:

1. An easement for roads, public utilities, and flood control purposes in accordance with the transportation plan for Clark County.
2. Those rights for a telephone line which have been granted to Sprint Central Telephone-NV by grant no. N–53652 under the Act of October 21, 1976 [90 Stat. 2776; 43 U.S.C. 1761].
3. Those rights for a water pipeline which have been granted to Las Vegas Valley Water District grant no. N–55369 under the Act of October 21, 1976 [90 Stat. 2776; 43 U.S.C. 1761].
4. Those rights for a gas pipeline which have granted to Southwest Gas Corporation grant no. N–57864 under the Act of February 25, 1920 [41 Stat. 437; 30 USC 185 sec. 28].

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for sales and disposals under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada 89108.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a church facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a church facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: February 9, 1996.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 96–3743 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–HC–P

[NM–040–1320–01]

Notice of Intent for a 30-Day Comment Period on the Draft Amendment to the Oklahoma RMP, Invitation for Public Involvement, Notice of Public Hearing and Call for Information on Coal, and Other Minerals and Resources

February 14, 1996.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, has prepared a Draft of the Resource

Management Plan Amendment (RMP) and Environmental Assessment (EA) for BLM-managed Federal minerals in Le Flore County, Oklahoma. The Code of Federal Regulations, Title 43, Subpart 1600 (43 CFR 1600) will be followed in the preparation of this plan amendment.

The public is invited to participate in this land use plan amendment effort. Written comments or suggested additional issues will be accepted through March 22, 1996. The BLM will hold a public hearing at which time oral comments and suggestions will be accepted. This notice is to solicit comment on coal resource information and indications of other interest and needs pursuant to 43 CFR 3420.1–2, for inclusion in the Oklahoma RMP Amendment. Coal companies, other mineral extraction companies, state and local governments, and the general public are encouraged to submit information to the BLM to assist in the review of the draft determinations of coal development potential and possible conflicts with other resources. If this information is determined to indicate development potential, further consideration for leasing will be given.

DATES: Comments relating to the Draft Resource Management Plan Amendment and the identification of additional issues, and responses to this call for coal resource information will be accepted through March 22, 1996.

ADDRESSES: Comments to be included with the draft document should be sent to: Bureau Land Management, 221 North Service Road, Moore, Oklahoma 73160. Proprietary data should be identified as such to ensure confidentiality.

FOR FURTHER INFORMATION CONTACT: Catherine Wolff-White, Tulsa District, BLM, (405) 790–1010.

SUPPLEMENTARY INFORMATION: The draft Oklahoma RMP amendment will include the Federal coal lease application located in Section 3, T9N, R24E in Le Flore County, about 8 miles northwest of Spiro, Oklahoma. The property proposed to be leased, containing approximately 100 acres, is described as follows:

LOT 1 ALIQ NESW, SWSW, NWSESW

The issue addressed by this draft RMP amendment effort is coal leasing and development within the coal lease application area and an adjacent 100 acre tract. The development of this coal resource is the issue addressed in the draft RMP amendment. Industry and other interested parties are asked to provide any information that will be useful in meeting the requirements of the Federal Coal Management Program defined in 43 CFR 3420, including review of application of the coal planning screens and possibly future activity planning such as tract delineation. Information resulting from this hearing and any comments submitted to the BLM will be utilized in the draft finalization and implementation to determine potential for coal development and conflict with other resources within this 100-acre tract and any other tracts that may be determined to have additional interest.

LANDS ALREADY CONSIDERED IN THE OKLAHOMA RESOURCE MANAGEMENT PLAN, ADOPTED IN JANUARY 1994, NEED NOT BE ADDRESSED.

The issue of Federal coal leasing and developing includes:

1. Determining areas acceptable for further coal leasing consideration with standard stipulations;
2. Determining areas acceptable for consideration with special stipulations;
3. Determining areas unacceptable for further coal leasing consideration.

The BLM will apply the coal development potential, unsuitability criteria, multiple use conflict and consultation screens in order to make these determinations.

The type of information needed includes, but is not limited to, the following:

1. Location:
   a. Federal coal tracts desired by mining companies should include a narrative description with areas delineated on a map with a scale of not less than ½ inch to the mile.
   b. Descriptions of both public and private industry coal users in the general region.
2. Quantity needs (tonnage, dates) for both public and private industry coal users and coal developers.
3. Quality needs (by type and grade) for end users of the coal.
4. Coal reserve drilling data which may pertain to the planning area.
5. Information relating to surface and mineral ownership:
   a. Surface owner consents previously granted, whether consent is transferrable, surface owner leases with coal companies.
   b. Non-federal, or fee coal ownership adjacent to Federal tracts currently leased or mined.
6. Other resource values occurring within the planning area which may conflict with coal development:
   a. Describe the resource value, and locate it on a map at least ½ inch delineation.
   b. State the reasons the particular resource would conflict with coal development.

Any individual, business entity, or public body may participate in this process by providing coal or other resource information under this call. This planning issue is presented for public hearing and is subject to change based upon such public hearing. Comments should be received by CLOSE OF BUSINESS March 22, 1996. The planning team will seek public involvement throughout the planning amendment process. A formal public hearing/open house will be held to provide the public an opportunity to participate in this Draft Amendment effort.

Notice is hereby given that the public hearing will start at 7:00 p.m. and is scheduled for: March 19, 1996 at the • High School, Poteau, OK.

Complete records of all phases of the planning process will be available for public review and comment at the Bureau of Land Management, Moore office, 221 North Service Road, Moore, Oklahoma.

The final RMP amendment documents will be available upon request.

Dated: February 14, 1996.

Jim Sims,

District Manager.

[FR Doc. 96–3830 Filed 2–20–96; 8:45 am]

BILLING CODE 4510–FB–M

National Park Service

Cape Cod National Seashore South Wellfleet, Massachusetts Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, March 15, 1996.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The commission members will meet at 1 p.m. at Park Headquarters, Marconi Station for their regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting
3. Reports of Officers
4. Old Business
5. Report of Superintendent
   GMP Update
   Lighthouses
   Race Point Road
   Land Swap
   No. Truro AFS
   Government Performance & Results Act
6. Dune Shack Policy—R. Philbrick
7. Use & Occupancy Subcommittee—W. Hammatt
8. Oil Spill Preparedness
9. New Business
10. Agenda for next meeting
11. Date for next meeting
12. Public comment
13. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, So. Wellfleet, MA 02663.

Dated: February 12, 1996.

Chrysandra L. Walter,

Deputy Field Director, Northeast Field Area.

[FR Doc. 96–3814 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–P

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: Wednesday, February 21, 1996; 1:30 p.m. until 4:30 p.m.

ADDRESSES: Commission Offices, 10 E. Church Street, Bethlehem, PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Acting Executive Director, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018 (610) 861–9345.

Dated: February 5, 1996.

David B. Witwer,

Acting Executive Director, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 96–3813 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 10, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by March 7, 1996.

Carol D. Shull,

Keeper of the National Register.

COLORADO

Fremont County

Atwater, Samuel H., House, 821 Macon Ave., Canon City, 96000241

FLORIDA

Escambia County

Emanuel Point Shipwreck Site, Address Restricted, Pensacola vicinity, 96000227

Gulf County

Centennial Building, 300 Allen Memorial Way, Port St. Joe, 96000230

Polk County

Jenks, Holland, House, 116 Raintree Ct., Auburndale, 96000254

GEORGIA

Sumter County

Dismuke Storehouse, 505 N. Lee St., Americus, 96000247

IOWA

Buchanan County

Purdy, Eliphalet W. and Catherine E. Jaquish, House, 215 3rd Ave. SW., Independence, 96000237

Floyd County

Dr. Salsbury's Laboratories, Main Office and Production Laboratory Building, 500 Gilbert St., Charles City, 96000235

Sac County

Seven Oaks, 707 Audubon St., Sac City, 96000236

LOUISIANA

Pointe Coupee Parish

Poydras High School, 460 W. Main St., New Roads, 96000229

MAINE

Androscoggin County

Bagley—Blis House, 1290 Royalsborough Rd., South Durham vicinity, 96000242

Aroostook County

Olsson, Anders and Johanna, Farm, 114 West—Lebanon Rd., New Sweden vicinity, 96000245

Somerset County

Birch Island House, Birch Island, Holeb vicinity, 96000246

Norridgewock Female Academy, US 2 N side, .05 mi. W of jct. with ME 8, Norridgewock, 96000244

Washington County

Wallace, Everett, House, US 1 W side, .05 mi. N of jct. with Wyman Rd., Milbridge, 96000243

York County

Berwick Academy Historic District (Boundary Increase), Academy St. E side, .15 mi. S of jct. with ME 236, South Berwick, 96000233

MISSISSIPPI

Marshall County

Byhalia Historic District, Roughly, along Church, Chulahoma (MS 309) and Senter Sts., Byhalia, 96000256

TENNESSEE

Bedford County

Fly Manufacturing Company Building, 204 S. Main St., Shelbyville, 96000226

Rutherford County

Black, Thomas C., House, 4431 Lebanon Rd., Murfreesboro vicinity, 96000231

Washington County

Tree Streets Historic District, Roughly bounded by S. Roan, W. Chestnut, Franklin and Virginia Sts. and University Pkwy., Johnson City, 96000232

VERMONT

Lamoille County

Peoples Academy—Copley Building, Grout Observatory and Community Bandshell (Educational Resources of Vermont MPS), 5 Copley Ave., Morristown, 96000255

Washington County

Goddard College Greatwood Campus, Jct. of US 2 and VT 214, Plainfield, 96000253

Windsor County

Reading Town Hall (Historic Government Buildings MPS) Jct. of VT 106 and Pleasant St., Reading, 96000252

WISCONSIN

Dane County

Longfellow School, 1010 Chandler St., Madison, 96000239

Marathon County

Marchetti, Louis, House, 111 Grant St., Wausau, 96000240

Marquette County

Montello Commercial Historic District, Roughly, parts of W. Montello and Main Sts. at the Montello R. and the quarry on E. Montello St., Montello, 96000238

Rock County

Benton Avenue Historic District, Roughly bounded by Benton Ave., Wilton Ave., Sherman Ave., Richardson St., Blaine Ave. and Prairie Ave., Janesville, 96000251

Walworth County

Delavan's Vitrified Brick Street, 100—300 blocks of E. Walworth Ave., Delavan, 96000234

Waukesha County

East Broadway Historic District, Roughly, Broadway from Fisk Ave. to Morningside Dr., Waukesha, 96000249

Winnebago County

North Main Street Historic District, Roughly, N. Main St. from Parkway Ave. to Algoma Blvd., and Market St. NW. to High Ave., Oshkosh, 96000250

Omro Downtown Historic District, Jct. of Main St. and S. Webster Ave., Omro, 96000248

WYOMING

Laramie County

Pine Bluffs High School, Jct. of 7th and Elm Sts., Pine Bluffs, 96000228

[FR Doc. 96–3740 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–P

Availability of Plan of Operations and Environmental Assessment for Continuing Operations for 2 Gas Wells; Kodiak Drilling Company, Lake Meredith National Recreation Area, Hutchinson County, Texas

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Kodiak Drilling Company a Plan of Operations for continuing operations for 2 gas wells within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for a period of 30 days from publication date of this notice in the **Federal Register** at the Office of the Superintendent, Lake Meredith National Recreation Area/ Alibates Flint Quarries National Monument, 419 East Broadway, Fritch, Texas; and the Southwest Support Office, National Park Service, 1220 South Saint Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from the Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument, Post Office Box 1460, Fritch, Texas 790–36 and will be sent upon request, subject to a charge for copying.

Dated: February 13, 1996.

Patrick C. McCrary,

Superintendent, Lake Meredith National Recreation Area.

[FR Doc. 96–3817 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–M

Availability of Plan of Operations and Environmental Assessment for Plugging and Abandonment of The Djay 4 Gas Well; Phillips Petroleum Company Lake Meredith National Recreation Area Hutchinson County, Texas

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Phillips Petroleum Company a Plan of Operations for plugging and abandonment of the Djay 4 gas well within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for a period of 30 days from publication date of this notice in the **Federal Register** at the Office of the Superintendent, Lake Meredith National Recreation Area/ Alibates Flint Quarries National Monument, 419 East Broadway, Fritch, Texas; and the Southwest Support Office, National Park Service, 1220 South Saint Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from the Superintendent, Lake Meredith National Recreation Area/ Alibates Flint Quarries National Monument, Post Office Box 1460, Fritch, Texas 79036 and will be sent upon request, subject to a charge for copying.

Dated: February 13, 1996.

Patrick C. McCrary,

Lake Meredith National Recreation Area.

[FR Doc. 96–3816 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–M

Availability of Plan of Operations and Environmental Assessment for Continuing Operations for 2 Gas Wells; Sanabi Oil Company Lake Meredith National Recreation Area Hutchinson County, Texas

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Sanabi Oil Company a Plan of Operations for continuing operations for 2 gas wells within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for a period of 30 days from publication date of this notice in the **Federal Register** at the Office of the Superintendent, Lake Meredith National Recreation Area/ Alibates Flint Quarries National Monument, 419 East Broadway, Fritch, Texas; and the Southwest Support Office, National Park Service, 1220 South Saint Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from the Superintendent, Lake Meredith National Recreation Area/ Alibates Flint Quarries National Monument, Post Office Box 1460, Fritch, Texas 79036 and will be sent upon request, subject to a charge for copying.

Dated: February 13, 1996.

Patrick C. McCrary,

Superintendent, Lake Meredith National Recreation Area.

[FR Doc. 96–3815 Filed 2–20–96; 8:45 am]

BILLING CODE 4310–70–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules on Evidence.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

DATES: April 22–23, 1996.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, N.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: February 14, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–3737 Filed 2–20–96; 8:45 am]

BILLING CODE 2210–01–M

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

DATES: April 18–19, 1996.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, N.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: February 14, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–3735 Filed 2–20–96; 8:45 am]

BILLING CODE 2210–01–M

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

DATES: April 29–30, 1996.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 273–1820.

Dated: February 14, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–3738 Filed 2–20–96; 8:45 am]

BILLING CODE 2210–01–M

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation and will be held each day from 8:30 a.m. to 5:00 p.m.

DATES: March 21–22, 1996.

ADDRESSES: U.S. Bankruptcy Court Office Building, One Memphis Place, Suite 945, 200 Jefferson Avenue, Memphis, Tennessee.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 273–1820.

Dated: February 14, 1996.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 96–3734 Filed 2–20–96; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No 95–30]

Philip G. Marais, D.D.S., Denial of Application

On January 25, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Philip G. Marais, D.D.S., (Respondent) of Long Beach, California, notifying him of an opportunity to show cause as to why the DEA should not deny his pending application for a DEA Certificate of Registration as a practitioner, under 21 U.S.C. 823(f), as being inconsistent with the public interest.

On May 19, 1995, the Respondent filed a request for a hearing, and on June 8, 1995, the Government filed a Motion for Summary Disposition, alleging that the Respondent was no longer authorized to handle controlled substances in the State of California. The motion was supported by copies of the July 15, 1994, Decision After Nonadoption by the State of California Board of Dental Examiners (Dental BoardJ, and a March 10, 1995, Default Decision in which the Dental Board reimposed a seven-year revocation of the Respondent's license, effective April 10, 1995.

On June 9, 1995, Administrative Law Judge Mary Ellen Bittner sent the Respondent, via certified, return receipt mail, an Order affording him until June 30, 1995, to file a response to the Government's motion. That Order was returned to the Office of the Administrative Law Judge by the U.S. Postal Service on June 19, 1995, and resent to the Respondent via certified, return receipt mail on June 22, 1995, extending the response date to July 10, 1995. The Respondent did not file a response or make any other attempt to deny that his state license had been revoked.

On July 20, 1995, Judge Bittner issued her Opinion and Recommended Decision, granting the Government's motion for summary disposition, and recommending that the Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her decision, and on August 28, 1995, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts the Opinion and Recommended Decision of the Administrator Law Judge, with one noted exception, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that on July 29, 1992, the Respondent voluntarily surrendered DEA Certificate of Registration AM8093875, based on his alleged failure to comply with Federal requirements pertaining to controlled substances. On August 27, 1992, the Respondent applied for a new DEA Certificate of Registration as a practitioner. On July 15, 1994, the Dental board issued a Decision After Nonadoption, ordering the suspension of the Respondent's license to practice dentistry (license) for sixty (60 days, effective August 15, 1994. In addition, the Dental board revoked the Respondent's license, but stayed the revocation and placed the Respondent on probation for seven (7) years. However, on March 10, 1995, the Dental

Board issued a Default Decision, in which it revoked the Respondent's license, effective April 10, 1995.

The DEA does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized by the state in which he conducts business to dispense controlled substances. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). The DEA has consistently so held. See Lawrence R. Alexander, M.D., 57 FR 22256 (1992); Bobby Watts, M.D., 53 FR 11919 (1988); Robert F. Witek, D.D.S., 52 FR 47770 (1987).

Here it is clear that the Respondent is not currently authorized to practice dentistry in the State of California. From this fact, Judge Bittner inferred that since the Respondent was not authorized to practice dentistry, he also was not authorized to handle controlled substances. The Deputy Administrator agrees with Judge Bittner's inference, and he notes that the Respondent has not filed an exception to this portion of her decision. Therefore, because the Respondent lacks state authority to handle controlled substances, he currently is not entitled to a DEA registration.

The Deputy Administrator also finds that Judge Bittner properly granted the Government's motion for summary disposition. It is well-settled that when no question of fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., 58 FR 51104 (1993) (finding that "Congress did not intend administrative agencies to perform meaningless tasks."); see also Phillip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom Kirk V. Mullen, 749 F.2d 297 (6th Cir. 1984); Alfred Tennyson Smurthwaite, M.D., 43 FR 11873 (1978); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977).

Judge Bittner recommended that the Respondent's registration be revoked. However, the Deputy administrator finds that, per the record, the Respondent does not currently hold a DEA registration, since he voluntarily surrendered it in July 1992. Therefore, the only matter pending is the Respondent's application for a new Certificate of Registration filed in August 1992. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that the Respondent's application for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective March 22, 1996.

Dated February 14, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–3831 Filed 2–20–96; 8:45 am]

BILLING CODE 4410–09–M

Immigration and Naturalization Service

[INS No. 1726–96]

Notice of Final Environmental Impact Statement

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: *Decision.* The United States Department of Justice, Immigration and Naturalization Service (INS), has decided to proceed with the construction of the Federal Detention Center in Buffalo, New York.

The INS, in conjunction with the United States Marshals Service (SMS), proposes to construct and oversee operation of a 454-bed Federal Detention Center (FDC) on a site of approximately 22.5 acres located in Genesse County, the Town of Batavia, Buffalo, New York. The FDC will be designed to provide detention facilities for individuals within the jurisdiction of INS and/or USMS while awaiting trial, awaiting sentencing, facing deportation proceedings, or who may have been charged with immigration violations and may have been found guilty of additional crimes, or having other business before the Federal courts for which sentences have been served at correctional facilities. The initial construction stage of the FDC will provide 254 beds. The facility may be expanded to provide a total of 454 beds. More detailed information describing programs, operations, and architectural and site development features of the FDC is included in a Final Environmental Impact Statement (FEIS) dated December 22, 1995.

ADDRESSES: Questions concerning the Decision or requests for copies of the Environmental Impact Statement for the Federal Detention for the Federal Detention Center at Buffalo, New York, may be directed to:

John W. Clarke, Director—Facilities and Space Management, U.S. Immigration and Naturalization Service, Administrative Center Burlington, 70 Kimball Avenue, South Burlington, Vermont 05403–6813, Telephone: (802) 660–1154

or

Ramon Garcia, Project Manager—Planning Branch, U.S. Immigration and Naturalization Service, Facilities and Engineering Division, 425 I Street, NW., Room 2060, Washington, DC 20536, Telephone: (202) 616–2588.

Dated: February 13, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–3802 Filed 2–20–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–31,385]

Johnon Controls Battery Group, Inc. Louisville, KY; Notice of Negative Determination on Reconsideration

On November 30, 1995, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the subject firm. The notice was published in the **Federal Register** on December 12, 1995 (60 FR 63733).

The Department's initial denial was based on the fact that criterion (3) of the group eligibility requirements of the Trade Act was not met. The investigation revealed the production at the subject plant was being transferred domestically. Other findings showed there were no sales, production or employment declines at the firm prior to the implementation of the transfer.

The petitioner alleges layoffs were attributable to a shift in production of automobile batteries from the subject firm to a foreign owned facility where they produce both new and aftermarket batteries. The petitioner claims that the batteries are being returned to the United States in new cars. However, the Department must examine the impact of imports of products like and directly competitive with the product produced at the subject firm, which in this case is automobile batteries.

Findings on reconsideration show that the "contributed importantly" test of the increased import criterion of the Group Eligibility Requirements of the Trade Act was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department surveyed the customers of the subject firm's Louisville, Kentucky location. Customers report that they did not increase their imports of automobile batteries while reducing their purchases from the subject firm during the time period relevant to the investigation. Other findings show that the subject firm's Louisville, Kentucky location did not import automobile batteries.

Other findings on reconsideration show that the value of U.S. imports of automobile batteries declined in 1994 compared to 1993, and in twelve-month period of October through September 1994–1995 compared to the same twelve-month time period of 1993–1994.

Additionally, the petitioner claims that the Department issued trade adjustment assistance (TAA) certifications for other Johnson Control locations. The Department's review of these TAA certifications shows that they were issued because all the worker group criteria necessary for certification were met. Each worker group petition is determined for certification on its own merits. The Trade Act was not intended to provide TAA benefits to everyone who is in some way affected by foreign competition but only to those who experienced a decline in sales or production and employment and an increase in imports of like or directly competitive products which "contributed importantly" to declines in sales or production and employment.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Johnson Controls Battery Group, Inc., Louisville, Kentucky.

Signed at Washington, DC, this 6th day of February 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–3855 Filed 2–20–96; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of January and February 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,638; Greenfield Research, Inc., Howe, IN
TA–W–31,601; Continental EMSCO Co., Garland, TX
TA–W–31,674; Columbia Natural Resources, Inc., Charleston, WV
TA–W–31,632; Mustang Fuel Corp., Oklahoma City, OK
TA–W–31,655; AT&T Microelectronics, Clark, NJ
TA–W–31,565; Eastland Woolen Mills, Inc., Corinna, ME
TA–W–31,566; Striar Textile, Orono, ME

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,687; Mead School & Office Products Div., Salem, OR
TA–W–31,650; Carpenter Manufacturing; Mitchell, IN
TA–W–31,503; Charisma Chairs, A Div. of Flexsteel Industries, Inc., Sweetwater, TN
TA–W–31,815, TA–W–31,816; American National Can Co., St. Louis, MO & Pevely, MO
TA–W–31,800, TA–W–31,801; Rexam DSI, dba Shore Reboul, Freeport, NY
TA–W–31,675; Excell Products Corp., Clifton, NJ
TA–W–31,705; Sierra Technologies, Inc., Siera Research Div, Buffalo, NY
TA–W–31,763; US Enertek Production Equipment Div., Farmington, NM

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,567; Bass Shoe Outlet, #302, Lebanon, MO
TA–W–31,821; Fantasia Assessories, New York, NY

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–31,714; OSRAM/Sylvania, Warren, PA
TA–W–31,673; Central Operating Co (Appalachian Power Co), New Haven, WV

The investigation revealed that criterion (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–31,820; Everest & Jennings, Earth City Manufacturing Facility, Earth City, MO: January 3, 1995.
TA–W–31,662; Grossman & Sons, Inc., Passaic, NJ: November 14, 1994.
TA–W–31,872; Lewistown Specialty Yarn, Inc., Lewistown, PA: January 22, 1995.
TA–W–31,692; Reatta Tenn-Partners, Inc., Maynardville, TN: November 13, 1994.
TA–W–31,739; International Paper, Peoria, IL: December 4, 1994.
TA–W–31,864; Adrian Manufacturing, Inc., El Paso, TX: January 5, 1995.
TA–W–31,795; Cutting Services, Inc., El Paso, TX: December 12, 1994.
TA–W–31,849; Tultex Corp., Marion NC: January 4, 1995.
TA–W–31,827; Major League, Inc., Jasper, GA: December 27, 1994.
TA–W–31,618; Count Romi, Ltd, New York, NY: October 30,1 994.
TA–W–31,607; Signal Apparel Co., Inc., Rutledge Div., Bean Station, TN: October 18, 1994.
TA–W–31,649; Columbia Sportswear Co., Portland, OR: November 8, 1994.
TA–W–31,794; SmithKline Beecham Consumer Healthcare, Clifton, NJ: December 20, 1994.
TA–W–31,813; Siemens Energy & Automation, Inc., Residential Products Div., El Paso, TX: December 15, 1994.
TA–W–31,615; Dalen Resource Oil & Gas Co., Dallas, TX & Operating in

The Following States: A; TX; B; CA, C; LA, D; OK, E; UT, F; WY: October 24, 1994.

TA-W-31,703; Carter & Mayes, Summerville, GA: November 10, 1994.

TA-W-31,787; The Lee Apparel Co., Inc., Fayetteville, TN: December 1, 1994.

TA-W-31,634; Carter Footwear, Inc., Wilkes Barre, PA: November 9, 1994.

TA-W-31,755; Marshall Electric Corp., Rochester, IN: December 8, 1994.

TA-W-31,661; Westchester Lace, Inc., West New York, NJ: November 14, 1994.

TA-W-31,598; CMC Manufacturing, Inc., Corinth, MS: October 17, 1994.

TA-W-31,689 & A; Fruit of The Loom, Panola Mills, Batesville, MS: November 8, 1994. & Princeton, KY: November 9, 1994.

TA-W-31,676 & A; Fluor Daniel (NSPOR), Inc., Casper WY & Rifle, CO: November 17, 1994.

TA-W-31,612; Rita's Sportswear, Moscow, PA: October 26, 1994.

TA-W-31,653; Akzo Nobel Salt, Inc., Manistee, MI: November 7, 1994.

TA-W-31,696; Josph T. Ryerson & Son, Inc., Jersey City, NJ: October 23, 1994.

TA-W-31,697; Superior Pants Co., Athens, GA: November 17, 1994.

TA-W-31,620; Elaine Sportswear, Inc., New York, NY: September 2, 1994.

TA-W-31,672; CMC Apparel, Evergreen, AL: November 17, 1994.

TA-W-31,686; Maxcess Technologies, Inc., aka Mult-A-Frame Corp., Pontiac, MI: November 13, 1994.

TA-W-31,690; Philips Consumer Electronics Co., Greenville, TN: November 11, 1994.

TA-W-31,735; American Hardwood, Inc., Taulatin, OR: December 3, 1994.

TA-W-31,608; Paxar Woven Label Group, Paxar Corp., Patterson, NJ: October 20, 1994.

TA-W-31,764; Elf Atochem North America (Ozark-Mahoning Co), Risiclare, IL: December 12, 1994.

TA-W-31,704; Parker & Parlsey Petroleum USA, Inc., Midland, TX: June 30, 1994.

TA-W-31,592, TA—31,593; Kentile, Inc., Chicago, IL & South Plainfield, NJ: October 9, 1994.

TA-W-31,660; The Elkins Co., Elkins, WV: November 14, 1994.

TA-W-31,636; Frank 1X and Sons, Inc., Charlottesville, VA: November 7, 1994.

TA-W-31,667, TA-W-31,668; Amity Leather Products, Albuquerque, NM and Goldsboro, NC: November 22, 1994.

TA-W-31,694, TA-W-31,695; Snyder Oil Corp., Headquartered in Fort Worth, TX, Operating Throughout the State of Texas & Operating Throughout the State of Colorado: November 17, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of January and February 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determination NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00704; AT&T Microelectronics, Clark, NJ

NAFTA–TAA–00756; U.S. Enertek, Production Equipment Div., Farmington, NM

NAFTA–TAA–00758 & A; American National, NO & St. Louis, MO

NAFTA–TAA–00677; Triangle Wire & Cable, Inc., Glen Dale, WV

NAFTA–TAA–00687; Americana Knitting Mills of Miami, Inc., Sweater Div., Opa Locka, FL

NAFTA–TAA–00729; Rexam DSI, Inc., dba Shore Reboul, Freeport, NY

NAFTA–TAA–00676; Greenfield Research, Inc., Howe, IN

NAFTA–TAA–00726; EIS Brake Parts, Div. of Standard Motor Products, Inc, Rural Retreat, VA

NAFTA–TAA–00699; McAllen Separation Co., Charlotte, NC

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00735; Synergy Services, Inc., aba Synergy Maintenance Service, El Paso, TX

NAFTA–TAA–00765; L.E. Matchett Trucking Co Ltd, Spokane, Div., Veradale, WA

The investigation revealed that the workers of the subject firm do not produce an article with in the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–00724; Gould Shawmut, Circuit Protection Div (CPD), Newburyport, MA

Sales and production at Gould Shawmut, Circuit Protection Div (CPD), Newburyport, MA did not decline during the relevant periods.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00694 & A; Flour Daniel (NPOSR), Inc, Casper, WY and Rifle, CO: November 21, 1994.

NAFTA–TAA–00754; Tultex Corp., Marion, NC: January 4, 1995.

NAFTA–TAA–00716; Crown Cork & Seal Co., Inc., Aerosol and Sanitary Can Manufacturing Plant, Philadelphia, PA: December 8, 1994.

NAFTA–TAA–00774; UCAR Carbon Co., Inc., Columbia, TN: January 15, 1995.

NAFTA–TAA–00755; Omak Wood Products, Inc., Omak, WA: December 26, 1994.

NAFTA–TAA–00756; SmithKline Beecham Consumer Healthcore, Clifton, NJ: December 20, 1994.

NAFTA–TAA–00772; F.G. Montabert Co., Midland Park, NJ: December 16, 1994.

NAFTA–TAA–00742; Lewistown Specialty Yarn, Inc., Lewistown, PA: September 29, 1994.

NAFTA–TAA–00763; Everest & Jennings, Earth City Manufacturing Facility, Earth City, MO: January 3, 1995.

NAFTA–TAA–00705; American Standard, Inc., Plumbing Products Div., Paintsville, KY: November 16, 1994.

NAFTA–TAA–00732; Cutting Services, Inc., El Paso, TX: December 13, 1994.

I hereby certify that the aforementioned determinations were issued during the month of January and February 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 7, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–3856 Filed 2–20–96; 8:45 am]

BILLING CODE 4510–30–M

Iowa Assemblies, Inc., Lucas, Iowa; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

[NAFTA–00303]

NAFTA—00303A Mt. Ayr, NAFTA—00303B Osceola
NAFTA—00303C Murray, NAFTA—00303D Lamoni

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Notice of Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on January 12, 1995, applicable to all workers at Iowa Assemblies, Inc. in Lucas, Mt. Ayr and Osceola, Iowa. The certification was amended on December 5, 1995, to include workers of Iowa Assemblies in Murray, Iowa.

At the request of the State Agency, the Department reviewed the subject certification. The company reports that worker separations will occur at the Iowa Assemblies automotive wiring harnesses and wiring assembly plant in Lamoni, Iowa. Accordingly, the Department is amending the certification to include these workers.

The intent of the Department's certification is to include all workers of Iowa Assemblies, Inc. adversely affected by increased imports of wiring harnesses and assembly from Mexico or Canada.

The amended notice applicable to NAFTA–00303 is hereby issued as follows:

"All workers of Iowa Assemblies, Inc., Lucas (NAFTA–00303), Mt. Ayr (NAFTA–00303A), Osceola (NAFTA–00303B), Murray (NAFTA–00303C), and Lamoni, Iowa (NAFTA–00303D) engaged in employment related to the production of wiring harnesses and assembly who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington DC this 31st day of January 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–3857 Filed 2–20–96; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for collection of information under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35):

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Parts 20, 30, 40, 61, 70, and 72, Termination or Transfer of Licensed Activities: Recordkeeping Requirements.

3. *The form number if applicable:* Not applicable.

4. *How often is the collection required:* A one-time transfer of records pertaining to decommissioning, offsite releases, and waste disposal to the responsible licensee when licensed activities are transferred or assigned to another licensee, in accordance with the terms of the license. A one-time forwarding of records pertaining to decommissioning, offsite releases, and waste disposal to the cognizant regulatory body once a license is terminated. There will also be a one-time forwarding of records concerning low-level waste facilities to the disposal site owner once the facility is closed and the license transferred to the disposal site owner, and a one-time forwarding of records to the cognizant regulatory body and the party responsible for institutional control of the site once that body terminates the license.

5. *Who will be required or asked to report:* Part 30, 40, 61, 70 and 72 NRC and Agreement State licensees who are transferring, assigning, or terminating their licenses.

6. *An estimate of the number of responses:* 962.

7. *The estimated number of annual respondents:* 962 per year.

8. *An estimate of the number of hours needed annually to complete the requirement or request:* 4,999 hours for all 962 licensees affected by the rule or an average of 5.2 hours per licensee.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Applicable.

10. *Abstract:* The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the disposition of certain records when a licensee terminates licensed activities or licensed activities are transferred to another licensee. The final rule requires a licensee to transfer records pertaining to decommissioning, and certain records pertaining to offsite releases and waste disposal, to the new licensee if licensed activities will continue at the same site, and it requires all affected licensees to forward these records to the NRC when a license is terminated.

Submit by March 22, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC 20555–0001. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The

document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions should be directed to the OMB reviewer by March 22, 1996: Troy Hillier, Office of Information and Regulatory Affairs, (3150–0014, 3150–0017, 3150–0020, 3150–0009, and 3150–0132, 3150–0135), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 14th day of February, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–3818 Filed 2–20–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation and Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval of a procedure for on site disposal of silt containing low levels of radioactivity at the Vermont Yankee Nuclear Power Station (VYNPS), pursuant to 10 CFR 20.2002, as requested by the Vermont Yankee Nuclear Power Corporation, (the licensee). VYNPS is located in Windham County, Vermont.

Environmental Assessment

Identification of the Proposed Action

The proposed action would authorize the on site relocation of silt containing low levels of radioactivity which was or will be removed from the cooling tower basins at VYNPS.

The proposed action is in accordance with the licensee's application dated August 30, 1995.

The Need for the Proposed Action

The proposed action will eliminate the need to hold the material for future disposal in a 10 CFR Part 61 licensed facility and will save space at licensed facilities for waste materials containing higher levels of activity. It will also save substantial cost.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action will minimize the risk of unexpected exposure. The licensee's proposal was evaluated against the staff's guidelines for on site disposal and found to be acceptable. The potential exposure to members of the general public from the radionuclides in the silt was determined to be less than 1 mrem/year. The potential exposure to an inadvertent intruder following licensee release of the disposal site was determined to be less than 5 mrem/year. The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Vermont Yankee Nuclear Power Station, dated July 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on December 21, 1995, the staff consulted with the Vermont State official, Mr. William Sherman of the Vermont Department of Public Service, regarding the environmental impact of the proposed action. The State official questioned the impact of the proposed action on decommissioning of VYNPS. At the time of decommissioning, the licensee will be required to demonstrate that the activity levels on the site are sufficiently low to permit releasing the site for general use.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 30, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT.

Dated at Rockville, Maryland, this 13th day of February 1996.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nucleor Reactor Regulation:

[FR Doc. 96–3819 Filed 2–20–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Intention To Request Review of a Revised Information Collection; Forms RI 34–1 and RI 34–3

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for clearance of a revised information collection: Forms RI 34–1 and RI 34–3. RI 34–1, Financial Resources Questionnaire, collects detailed financial information for use by OPM in determining whether to agree to a waiver, compromise, or adjustment of the collection of erroneous payments from the Civil Service Retirement and Disability Fund. RI 34–3, Notice of Debt due Because of Annuity Overpayment, informs the annuitant that a debt is due, describes the cause for the overpayment,

and collects information from the annuitant regarding payment of the debt.

Approximately 1,561 RI 34–1 and 520 RI 34–3 forms will be completed per year. Each form requires approximately 1 hour to complete. The annual burden is 1,561 hours and 520 hours respectively.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or e-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received on or before April 22, 1996.

ADDRESSES: Send or deliver comments to: Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3770 Filed 2–20–96; 8:45 am]

BILLING CODE 6325–01–M

Notice of Intention To Request Review of a Revised Information Collection; RI 25–15

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for clearance of a revised information collection. RI 25–15, Notice of Change in Student's Status, is used to collect sufficient information from adult children of deceased Federal employees or annuitants to assure that the child continues to be eligible for payments from OPM.

We estimate 2,500 certifications will be processed annually. Each form takes approximately 10 minutes to complete. The annual estimated burden is 417 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or e-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received on or before April 22, 1996.

ADDRESSES: Send or deliver comments to: Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3769 Filed 2–20–96; 8:45 am]

BILLING CODE 6325–01–M

Notice of Request to OMB for Approval for Continuation of Form OPM–1386B

AGENCY: Office of Personnel Management (OPM).

ACTION: Proposed information collection submitted for public comment and recommendations.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506–3507), the Office of Personnel Management (OPM) is submitting to the Office of Management and Budget a request to extend its approval of form OPM—1386B, Applicant Race and National Origin Questionnaire, which gathers information concerning the race and national origin of applicants for employment under the Outstanding Scholar provision of the Luevano Consent Decree, 93 F.R.D. 68 (1981).

This proposed extension was also reported on October 27, 1995 at 60 FR 55070. At that time, the public was invited to comment on the need for this information, its practical utility, the accuracy of OPM's burden estimate, and on ways to minimize that reporting burden. During the sixty-day comment period OPM received only one substantive comment, which was that OPM should specify that the current version of form 2386, for which an approval extension is sought, is Form OPM–1386B. That fact is made explicit in the current announcement and all persons who requested copies of the form were sent Form OPM–1386B.

For copies of the proposal, contact James M. Farron at (202) 418–3208 or by e-mail to jmfarron@mail.opm.gov.

DATES: Comments on this proposal should be received on or before March 22, 1996.

ADDRESSES: Send or deliver any comments to BOTH of the following addresses: Patricia Paige, Director, Staffing Reinvention Office, Employment Service, U.S. Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415; and Joseph Lackey, OPM Desk Officer of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information, contact Mike Carmichael or Christina Gonzales, (202) 606–0830, FAX (202) 606–2329.

SUPPLEMENTARY INFORMATION:

Purpose of Form OPM–1386B

A Federal court decree, issued in 1981 and still binding, requires recordkeeping on Federal employment selection procedures, including race and national origin (RNO) data, to determine the "relative impact of the procedure upon blacks and upon Hispanics as compared with non-Hispanic whites." OPM and other agencies use form OPM–1386B to collect the RNO data from applicants being considered for selection under the Outstanding Scholar provision of the decree. Using the standardized form makes it easier to collect and consolidate the required data for use by the Federal Government and by the plaintiffs. OPM and agencies do not need to use form OPM–1386B to collect data on applicants being considered through traditional examining processes; court-required data on those applicants is collected as part of an application process that is not required for Outstanding Scholars.

The form OPM–1386B is not considered in the selection process, but is used to collect statistical data.

Annual Reporting Burden

Approximately 100,000 forms will be processed annually. The average estimated response time is 5 minutes for a total public burden of 8,333 hours.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–3767 Filed 2–20–96; 8:45 am]

BILLING CODE 6325–01–M

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia Paige, (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on January 8, 1996 (61 FR 565). Individual authorities established or revoked under Schedules A and B and established under Schedule C between December 1, 1995, and December 31, 1995, appear in the listing below.

Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established or revoked in December 1995.

Schedule B

No Schedule B authorities were established or revoked in December 1995.

Schedule C

The following Schedule C authorities were established in December 1995:

Department of Agriculture

Area Director, Midwest Region to the Administrator, Agricultural Stabilization and Conservation Service. Effective December 13, 1995.

Department of Commerce

Director, Office of Legislative Affairs to the Assistant Secretary for Oceans and Atmosphere. Effective December 6, 1995.

Special Assistant to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective December 8, 1995.

Director, Office of Public Affairs to the Under Secretary for International Trade, International Trade Administration. Effective December 13, 1995.

Department of Defense

Personal and Confidential Assistant to the General Counsel. Effective December 13, 1995.

Department of Energy

Program Specialist to the Director, International Policy and Analysis Division. Effective December 5, 1995.

Assistate Director to the Director, Office of Nuclear Energy, Science and Technology. Effective December 22, 1995.

Department of Health and Human Services

Special Assistant (Speechwriter) to the Director of Speechwriting. Effective December 3, 1995.

Speechwriter to the Director of Speechwriting, Office of the Deputy Assistant Secretary for Public Affairs (Media). Effective December 6, 1995.

Confidential Assistant to the Administrator, Health Care Financing Administration. Effective December 10, 1995.

Special Assistant to the Deputy Assistant Secretary for Legislation (Human Services). Effective December 10, 1995.

Department of Labor

Special Assistant to the Assistant Secretary for Policy. Effective December 8, 1995.

Special Assistant to the Deputy Assistant Secretary, Office of Federal Contract Compliance Programs. Effective December 19, 1995.

Department of State

Legislative Management Officer to the Assistant Secretary. Effective December 18, 1995.

Department of the Treasury

Senior Advisor to the Comptroller of the Currency. Effective December 5, 1995.

Policy Advisor to the Senior Advisor to the Assistant Secretary (Enforcement). Effective December 8, 1995.

Public Affairs Specialist to the Director, Office of Public Affairs. Effective December 22, 1995.

Federal Maritime Commission

Special Assistant to the Commissioner. Effective December 22, 1995.

Office of Science and Technology Policy

Research Assistant to the Director, Office of Science Technology and Policy. Effective December 1, 1995.

Deputy Director for Management and General Counsel to the Director, Office of Science and Technology Policy. Effective December 11, 1995.

President's Commission on White House Fellowships

Special Assistant to the Director, Presidential Commission on White House Fellowships. Effective December 4, 1995.

Small Business Administration

Special Assistant to the Assistant Administrator for Women's Business Ownership. Effective December 27, 1995.

U.S. International Trade Commission

Staff Assistant to the Chairman. Effective December 14, 1995.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954—1958 Comp., p.218

Office of Personnel Management.

Lorranie A. Green,

Deputy Director.

[FR Doc. 96–3768 Filed 2–20–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Incyte Pharmaceuticals, Inc., Common Stock, $.001 Par Value) File No. 1–2400

February 14, 1996.

Incyte Pharmaceuticals, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on November 30, 1995 to withdraw the Security from listing on the Amex and instead, to list the Security on the Nasdaq National Market ("Nasdaq/NM").

The decision of the Board followed a thorough study of the management of the matter and was based upon the belief that the Company's stockholders would benefit from greater liquidity and broader research coverage by having the Security listed on the Nasdaq National Market rather than the Amex.

Any interested person may, on or before March 7, 1996 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–3764 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36834; File No. SR–Amex–96–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Changes to Its Membership Admission Procedures

February 13, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 30, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") file with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its membership admission procedures to make several clarifying and "housekeeping" changes, including changes with respect to: (i) the designation of nominees, and (ii) the requirements applicable to pension plans seeking to own memberships.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to make several clarifying and "housekeeping" changes to its membership procedures. Specifically, the requirements applicable to the designation of nominees are being updated.[1] Furthermore, the provisions relative to membership ownership by pension plans are being revised to more accurately and completely represent the procedures to be followed in this regard, and to clarify that: (i) the sponsors and trustees of such pension plans are responsible for evaluating the inherent risks of owning a membership and must determine the advisability of such without relying on advice from the Amex or any of its officers or employees, and (ii) the Amex will have on liability to either the participants in such pension plans or their beneficiaries in the event the purchase, operation or disposition of the membership results in loss to the pension plan and related trust. Moreover, the proposed rule change requires the plan sponsor and trustee to indemnify and hold the Exchange harmless from all claims, losses, expenses (including all attorney's fees) and taxes arising out of the purchase, operation and disposition of the membership.

In addition, outdated references in the Admissions of Members section to the Membership Admissions Department are being changed to refer to Membership Services, and corrections are being made with respect to certain typographical errors.[2]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[3] in that it is designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest.

[1] The Amex is changing references to "individual member or member organization" in this section to "owner of a regular or options principal membership." In addition, the Amex is amending this section to clarify an owner's responsibility for his or her nominee's obligations to the Exchange and other members or member organizations.

[2] The proposed rule change also requires that all applicants for Amex membership must pass a physical examination prescribed by the Exchange's physician. The current rule limits this requirement to those applicants who elect to become Participants in the Exchange's Gratuity Fund.

[3] 15 U.S.C. 78s(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those what may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–96–04 and should be submitted by March 13, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3841 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36841; File Nos. SR–CBOE–95–43 and SR–PSE–95–24]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendments by the Chicago Board Options Exchange, Inc. and the Pacific Stock Exchange, Inc., Relating to the Listing of Flexible Exchange Options on Specified Equity Securities

February 14, 1996.

I. Introduction

On August 15, 1995, and October 5, 1995 the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") and the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") (collectively the "Exchanges") each, respectively, filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] to provide for the listing and trading of Flexible Exchange Options ("FLEX Options") on specified equity securities ("FLEX Equity Options"). The CBOE submitted to the Commission Amendment No. 1 to its proposal on December 21, 1995.[3] The PSE submitted to the Commission Amendment Nos. 1 and 2 to is proposal on October 26, 1995, and January 24, 1996, respectively.[4]

Notice of CBOE and PSE proposals were published for comment and appeared in the **Federal Register** on September 12, 1995[5] and November 13, 1995,[6] respectively. One comment letter was received on CBOE's proposed rule change.[7] This order approves the Exchanges' proposals, as amended.

II. Background

The purpose of the Exchanges' proposals is to provide a framework for the Exchanges to list and trade equity options that give investors the ability, within specified limits, to designate certain of the terms of the options. In recent years, an over-the-counter ("OTC") market in customized equity options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price, and exercise settlement value, in order to meet their individual investment needs. Participants in this OTC market are typically institutional investors, who buy and sell options in large-size transactions through a relatively small number of securities dealers. To compete with this growing OTC market in customized equity options, the Exchanges propose to expand their FLEX Options rules[8] to permit the introduction of trading in FLEX Options on specified equity securities that satisfy the Exchanges' listing standards for equity options and that are currently the subject of regular (non-FLEX) standardized options trading on the Exchange that is seeking to list the FLEX Option.[9] the Exchanges' proposals will also FLEX Equity Option market participants to designate the following contract terms: (1) exercise price; (2) exercise style (i.e., American,[10] European,[11] or capped[12]); (3) expiration date;[13] and (4) option type (put, call, or spread).

Currently, both the CBOE[14] and PSE[15] have received Commission approval to list and trade FLEX Options on several broad-based market indexes of equity securities ("FLEX Index Options"). The Exchanges believe that because of the success of these products in meeting the needs of investors for greater flexibility is designating the terms of index options within the parameters of the Exchanges' FLEX Options rules, the Exchanges are now proposing to provide comparable flexibility to investors in equity options. The Exchanges believe that FLEX Equity Options will further broaden the base of institutional investors that use FLEX Options to manage their trading and investment risk.

For the most part, the Exchanges represent that their current rules governing FLEX Index Options will apply unchanged to FLEX Equity Options. Certain changes to the Exchanges' existing FLEX Options rules, however, are proposed to deal with the special characteristics of FLEX Equity Options. Specifically, the Exchanges propose to add several new definitions to accommodate the introduction of trading in FLEX Equity Options,[16] and to revise certain other rules governing FLEX Options and their trading, as described below.

As with FLEX Index Options, the Options Clearing Corporation ("OCC")

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1 to its proposed rule change, CBOE proposes to: (1) set specific position limits, as described more fully, herein; (2) require FLEX Post Officials to call upon FLEX Qualified Market-Makers to quote in response to a Request for Quotes, whenever no FLEX Quotes are made in response to a specific Request for Quotes; and (3) limit FLEX Equity Option transactions to equities that are the subject of Non-FLEX Equity Options traded on the Exchange. *See* Letter from Michael Meyer, Attorney, CBOE, to Howard Kramer, Associate Director, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated December 21, 1995 ("CBOE Amendment No. 1").

[4] In Amendment No. 1, the Exchange makes certain technical amendments to conform its filing to CBOE's proposed rule change. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated October 26, 1995 ("PSE Amendment No. 1").

In Amendment No. 2, the Exchange makes further changes to conform its filing to subsequent amendments submitted to the Commission by the CBOE. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated January 24, 1996 ("PSE Amendment No. 2"). *See also* CBOE Amendment No. 1, *supra* note 3.

[5] *See* Securities Exchange Act Release No. 36185 (September 5, 1995), 60 FR 47415 (SR–CBOE–95–43).

[6] *See* Securities Exchange Act Release No. 36452 (November 2, 1995), 60 FR 57027 (SR–PSE–95–24). Amendment No. 1 to PSE's proposal was also published for comment in this release.

[7] *See* Letter from Salvatore R. DiDonna, Executive Vice President & Chief Operating Officer, Swiss American Securities Inc., to Jonathan G. Katz, Secretary, SEC, dated September 27, 1995 ("Swiss American Securities Letter").

[8] *See* CBOE Rules 24A.1 through 24A.17 and PSE Rules 8.100 through 8.115.

[9] See CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supra* note 4.

[10] An American-style equity option is one that may be exercised at any time on or before the expiration date.

[11] A European-style equity option is one that may be exercised only during a limited period of time prior to expiration of the option.

[12] A capped-style equity option is one that is exercised automatically prior to expiration when the cap price is less than or equal to the closing price of the underlying security for calls or when the cap price is greater than or equal to the closing price of the underlying security for puts.

[13] The proposals, however, require that the expiration date of a FLEX Equity Option may not fall on a day that is within two business days of the expiration date of a Non-FLEX Equity Option.

[14] Specifically, the Commission has approved the listing by the CBOE of FLEX Options on the S&P 100 ("OEX"), S&P 500 ("SPX"), Nasdaq 100, and Russell 2000 Indexes. *See* Securities Exchange Act Release Nos. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (approval of FLEX Options on the SPX and OEX indexes), 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval of FLEX Options on the Nasdaq 100 index), and 32694 (July 29, 1993), 58 FR 41814 (July 5, 1993) (approval of FLEX Options on the Russell 2000 index).

[15] The Commission has approved the listing by the PSE of FLEX Options on the Wilshire Small Cap Index and the PSE Technology Index. *See* Securities Exchange Act Release No. 34364 (July 13, 1994), 59 FR 36813 (July 19, 1994).

[16] In addition to the term FLEX Equity Options, the proposal also defines the terms "FLEX Index Options," "Non-FLEX Options," "Nun-FLEX Equity Option," and, "Applicable Floor Procedure Committee." *See* CBOE Rule 24A.1 and PSE Rule 8.1000(b).

will be the issuer of all FLEX Equity Options. The Commission has designated FLEX Index Options as standardized options for purposes of the options disclosure framework established under Rule 9b–1 of the Act.[17]

III. Description of the Proposal

The Exchanges propose to revise their rules concerning the terms of FLEX Options to make specific reference to the terms of FLEX Equity Options.[18] Specifically, FLEX Equity Options will have (1) a maximum term of three years, (2) a minimum size of 250 contracts for an opening transaction in a new series, and (3) a minimum size of 100 contracts for an opening or closing transaction in a series in which there is already open interest (or any lesser amount in a closing transaction that represents the remaining underlying size). The minimum value size for FLEX Quotes[19] by a single Market-Maker in response to a Request for Quotes[20] in FLEX Equity Options is the lesser of 100 contracts or the remaining underlying size in a closing transactions.

The Exchanges also propose to allow exercise prices and premiums for FLEX Equity Options to be stated in dollar amounts or percentages, with premiums rounded to the nearest minimum tick and exercise prices rounded to the nearest one-eighth. The exercise of FLEX Equity Options will be by physical delivery, and the exercise-by-exception procedures of OCC will apply.[21]

The Exchanges represent that the trading procedures applicable to FLEX Equity Options will be subject to many of the same rules that apply to equity options traded on the Exchanges, and are similar to those that apply to FLEX Index Options, except that unless the Exchange's Market Performance Committee decides otherwise, there will not be FLEX Appointed Market-Makers[22] who are obligated to respond to Requests for Quotes in respect of FLEX Equity Options as there are with FLEX Index Options. Instead, the Exchanges propose to have five or more "FLEX Qualified Market-Makers",[23] who are permitted, but not obligated, to enter quotes in response to a Request for Quotes in a class of FLEX Equity Options in which the Market-Maker is qualified. In addition, a FLEX Post Official[24] may call upon a FLEX Qualified Market-Maker to make responsive quotes in the interests of a fair and orderly market. Moreover, a FLEX Post Official must call upon a FLEX Qualified Market-Maker to make a quote in response to a Request for Quotes ("RFQ") if no quotes are made in response to the RFQ.[25] Accordingly, a FLEX Qualified Market-Maker is obligated to make responsive quotes whenever called upon to do so by a FLEX Post Official. Quotes of FLEX Qualified Market-Makers must satisfy the minimum size parameters discussed above for FLEX Equity Options and must be entered within the time periods provided in the Exchanges' FLEX Options Rules.[26]

The Exchange represent that the rules governing priority of bids and offers for FLEX Equity Options are also similar to those that apply to FLEX Index Options, except that in the case of FLEX Equity Options, no guaranteed minimum right of participation is provided to an Exchange member that initiates a Request for Quotes and indicates an intention to cross or act as principal on the trade.[27] The Exchanges' regular rules of price and time priority will apply in those situations.[28]

The Exchanges are proposing position limits and exercise limits for FLEX Equity Options that are longer than the limits applicable to Non-FLEX Equity Options for the same reasons that the position and exercise limits for FLEX Index Options are larger than those applicable to Non-FLEX Index Options. Position and exercise limits for FLEX Equity Options are set forth and compared to existing limits for Non-FLEX Equity Options on the same underlying security.[29]

Non-FLEX equity position limit	FLEX equity position limit
4,500 contracts	13,500 contracts.
7,500 contracts	22,500 contracts.
10,500 contracts	31,500 contracts.
20,000 contracts	60,000 contracts.
25,000 contracts	75,000 contracts.

The applicable position and exercise limit tiers for Non-FLEX Equity Options are based on the number of outstanding shares and trading volume of the underlying security.[30] This proposal does not alter the applicable tier criteria set forth in the Equity Option Position Limit Approval Orders.

As is currently the case for FLEX Index Options, it is proposed that there will be no aggregation of positions or exercises in FLEX Equity Options with positions or exercises in Non-FLEX Equity Options for purposes of the limits. The Exchanges believe that the larger position and exercise limits for FLEX Options and the nonaggregation of positions and exercises in FLEX Options and Non-FLEX Options reflect the institutional nature of the market for FLEX Options and the fact that the Exchanges must compete with over-the-counter markets throughout the world, many of which do not impose position or exercise limits.

The Exchanges also propose to provide that the expiration date of a FLEX Equity Option may not occur on a day that falls on, or within, two business days of the expiration date of a Non-FLEX Equity Option. This is intended to eliminate the possibility that the exercise of FLEX Equity Options at FLEX Equity Option. This is intended to eliminate the possibility that the exercise of FLEX Equity at expiration will cause any untoward

[17] *See* Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993) ("9b–1 Order"). As described in note 42 *infra*, and for the same reasons stated in the 9b–1 Order, FLEX Equity Options are deemed "standardized options" for purposes of the Rule 9b–1 options disclosure framework.

[18] CBOE Rule 24A.4 and PSE Rule 8.102.

[19] *See* CBOE Rule 24A.1(f) and PSE Rule 8.100(b)(7).

[20] *See* CBOE Rule 24A.1(k) and PSE Rule 8.100(b)(12).

[21] OCC Rule 805 provides for automatic exercise of in-the-money options at expiration without the submission of an exercise notice to the OCC if the price of the security underlying the option is at or above a certain price (for calls) or at or below a certain price (for puts); and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. *See* OCC Rule 805.

[22] *See* CBOE Rule 24A.9 and PSE Rule 8.109.

[23] FLEX Qualified Market-Makers for FLEX Equity Options will be required to obtain a specific clearing member letter of guarantee, similar to FLEX Appointed Market-Makers assigned to FLEX Index Options. FLEX Qualified Market-makers, however, will not be required to maintain specific minimum financial requirements as are required for FLEX Appointed Market-Makers assigned to FLEX Index Options in CBOE Rules 24A.13 and 24A.14, and PSE Rules 8.113 and 8.114. *See, e.g.*, CBOE Rules 24A.9, 24A.13, 24A.14, and 24A.15; and PSE Rules 8.109, 8.113, 8.114, and 8.115.

[24] *See* CBOE Rule 24A.1(e) and PSE Rule 8.100(b)(7).

[25] *See* CBOE Rule 24A.9(c) and PSE Rule 8.109(c). *See also* CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supra* note 4.

[26] *See* CBOE Rule 24A.5 and PSE 8.103. Initially, the Request Response Time will be a minimum of 2 minutes and a maximum of 20 minutes. Under the proposed rules, the Equity Floor Procedures Committee has the authority to set the range for the Request Response Time. The Exchanges will provide at least 2 days notice to their respective members and member organizations of any changes to the Request Response Time range.

[27] *See CBOE Rule 24A.5(c) and PSE Rule 8.103(c).*

[28] *See CBOE Rule 6.45 and PSE Rule 6.75.*

[29] See CBOE Rule 24A.7(b) and PSE Rule 8.107(c). *See also* CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supar* note 4.

[30] *See* Securities Exchange Act Release Nos. 36409 (October 23, 1995), 60 FR 55399 (October 31, 1995) (File Nos. SR–NYSE–95–31; SR–PSE–95–25; SR–Amex–95–42; and SR–Phlx–95–71); and 36371 (October 13, 1995, 60 FR 54269 (October 20, 1995) (File No. SR–CBOE–95–42) (collectively the "Equity Option Position Limit Approval Orders").

pressure on the market for underlying securities at the same time as Non-FLEX Equity Options underlying securities at the same time as Non-FLEX Equity Options expire. The Exchanges propose that this change will also apply to FLEX Index Options.[31]

The Exchanges believe that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[32] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest in that extending the existing FLEX Option program to encompass FLEX Options on specified equity securities will for the first time provide investors with a regulated, transparent exchange market in flexible options on individual equity securities.

IV. Comments

As noted above, the Commission received one comment letter, which was supportive of CBOE's FLEX Equity Option proposal. The commentator expressed the view that the FLEX product will provide its customers with the ability to negotiate equity option contract terms without compromising the safety and liquidity provided by the five options exchanges in the U.S.[33].

V. Discussion

The Commission finds that the proposals are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Sections 6(b)(5)[34] and 11A[35] of the Act. Specifically, the Commission finds that the Exchanges' proposals are designed to provide investors with a tailored or customized product for equity options currently traded on each of the respective Exchanges that may be more suitable to their investment needs. Moreover, consistent with Section 11A, the proposals should encourage fair competition among brokers and dealers and exchange markets, by allowing the Exchanges to compete with the growing OTC market in customized equity options.

The Commission believes the Exchanges' proposals reasonably address their desire to meet the demands of sophisticated portfolio managers and other institutional investors who are increasingly using the OTC market in order to satisfy their hedging needs. Additionally, the Commission believes that the Exchanges' proposals will help promote the maintenance of a fair and orderly market, consistent with Sections 6(b)(5) and 11A of the Act, because the purpose of each proposal is to extend the benefits of a listed, exchange market to equity options that are more flexible than current listed equity options. The benefits of the Exchanges' options markets include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of OCC for all contracts traded on the Exchange.

As indicated above, the trading procedures applicable to FLEX Equity Options will be subject to many of the same rules that apply to equity options traded on the Exchanges, and are similar to those that apply to FLEX Index Options, except that unless the Exchange's Market Performance Committee decides otherwise, there will not be FLEX Appointed Market-Makers[36] who are obligated to respond to Requests for Quotes in respect of FLEX Equity Options as there are in respect of FLEX Index Options. Instead, the Exchanges propose to have five or more "FLEX Qualified Market-Makers" appointed to each class of FLEX Equity Option who are permitted, but not obligated, to enter quotes in response to a Request for Quotes in a class of FLEX Equity Options in which the Market-Makers is qualified.[37] To provide for adequate liquidity, the Exchanges provide that a FLEX Post Official may call upon a FLEX Qualified Market-Maker to make responsive quotes in the interests of a fair and orderly market.[38] Moreover, a FLEX Post Official must call upon a FLEX Qualified Market-Maker to make a quote in response to a Request the Quotes ("RFQ") if no quotes are made in response to the RFQ.[39] Accordingly, a FLEX Qualified Market-Maker is obligated to make responsive quotes whenever called upon to do so by a FLEX Post Official. Additionally, quotes of FLEX Qualified Market-Makers must satisfy the minimum size parameters discussed above for FLEX Equity Options and must be entered within the time periods provided in the Exchanges' FLEX Options Rules.[40] The Commission believes the Exchanges' trading procedures for FLEX Equity Options are reasonably designed to provide some of the benefits of an Exchange auction along with features of a negotiated transaction between investors. The Commission recognizes that the Exchanges' proposed FLEX Equity Option trading programs will allow the trading of option contracts of substantial value, for which continuous quotation may be difficult to sustain. The Commission believes that the Exchanges have adequately addressed these concerns by establishing procedures for quotes upon request, which must be firm for a designated period of time and which will be disseminated through the Options Price Reporting Authority ("OPRA").

The Commission believes that market impact concerns are reduced for FLEX Equity Options because expiration of these equity options will not correspond to the normal expiration of Non-FLEX Equity Options. In particular, FLEX Equity Options, similar to FLEX Index Options, will never expire on any "Expiration Friday." More specifically, the expiration date of a FLEX Option may not occur on a day that is on, or within, two business days of the expiration date of a Non-FLEX Option. The Commission believes that this should reduce the possibility that the exercise of FLEX Options at expiration will cause any additional pressure on the market for underlying securities at the same time that Non-FLEX Options expire.

Nevertheless, because the position limits for FLEX Equity Options are much higher than those currently existing for outstanding exchange-traded equity options and open interest in one or more FLEX Equity Option series could grow to significant levels, it is possible that FLEX Equity Options might have an impact on the securities markets for the securities underlying FLEX Equity Options. The Commission expects the Exchanges to monitor the actual effect of FLEX Equity Options once trading commences and take prompt action (including timely communication with the self-regulatory organizations responsible for oversight of trading in the underlying securities) should any unusual market effects develop.

The Exchanges represent that FLEX Equity Options will allow them to compete with OTC markets and help meet the demand for customized equity options products by institutional investors. The minimum value sizes for opening transactions in FLEX Equity Options are designed to appeal to institutional investors, and it is unlikely that most retail investors would be able to engage in options transactions at that size. Nevertheless, the FLEX Equity Option minimum size is much smaller than that for FLEX Index Options. Accordingly, the Commission requests that the Exchanges monitor their respective comparative levels of institutional and retail investor open interest in FLEX Equity Options for one year from the commencement of their respective FLEX Equity Option trading programs, and each provide a report to the Commission's Division of Market Regulation with their findings.

The Commission notes that effective surveillance guidelines are essential to ensure that the Exchanges have the capacity to adequately monitor trading in FLEX Equity Options for potential trading abuses. The Commission's staff has reviewed CBOE's surveillance program and believes it provides a reasonable framework in which to monitor the trading of FLEX Equity Options on its trading floor and detect as well as deter manipulation activity and other trading abuses. The PSE is in the process of preparing its surveillance plan to submit to the Commission.

This approval order, in regard to the PSE, is contingent upon it submitting adequate surveillance plans that have been reviewed and approved by Commission staff.

The Commission notes that trading of FLEX Equity Options is contingent upon receipt by the Commission of a letter from OPRA indicating that it has adequate systems processing capacity to accommodate the additional options listed in accordance with the FLEX Equity Options program. OPRA has reviewed CBOE's request, and has concluded that the additional traffic generated by FLEX Equity Options traded on the CBOE is within OPRA's capacity.[41] The PSE is preparing to submit its request to OPRA to determine whether the additional traffic generated by FLEX Equity Options traded on the PSE is within OPRA's capacity. This approval order, in regard to the PSE, is contingent upon it submitting its OPRA Capacity Letter to the Commission's Division of Market Regulation.

The Commission finds good cause for approving CBOE Amendment No. 1 and PSE Amendment No. 2 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, these amendments (1) set specific position limits for each tier of Non-FLEX Equity Option position limits; (2) require FLEX Post Officials to call upon FLEX Qualified Market-Makers to quote in response to a Request for Quotes, whenever no FLEX Quotes are made in response to a specific Request for Quotes; and (3) limit FLEX Equity Option transactions to equities that are the subject to Non-FLEX Equity Options traded on the Exchange. The Commission does not believe that the amendments raise any new or unique regulatory issues. The amendments also strengthen and clarify the proposal by addressing market impact and liquidity concerns as well as the scope of the proposal. Accordingly, the Commission believes, consistent with Section 6(b)(5) of the Act, that good cause exists, to approve CBOE Amendment No. 1 and PSE Amendment No. 2 to their respective proposals on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning CBOE Amendment No. 1, and PSE Amendment No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal offices of the Exchanges. All submissions should refer to SR–CBOE–95–43; and SR–PSE–95–24 and should be submitted by March 13, 1996.

VI. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and Sections 6 and 11A of the Act in particular. In addition, the Commission finds pursuant to Rule 9b–1 under the Act, that FLEX Options, including FLEX Equity Options, are standardized options for purposes of the options disclosure framework established under Rule 9b–1 of the Act.[42]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[43] that the proposals (File Nos. SR–CBOE–95–43 and SR–PSE–95–24), as amended, are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[44]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3838 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36842; File No. SR–DTC–95–25]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change to Allow Participants to Make Intraday Withdrawals of Principal and Income Payments

February 14, 1996.

On November 15, 1995, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–95–25) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] to allow participants to make intraday withdrawals of principal and income payments ("P&I payments"). Notice of the proposal was published in the **Federal Register** on January 17, 1996.[2] The Commission

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[31] Both Exchanges currently provide that the expiration date of a FLEX Index Option may not occur during this time period. The proposed rule change merely clarifies this requirement.

[32] 15 U.S.C. 78f(b)(5).

[33] *See* Swiss American Securities Letter, *supra* note 7.

[34] 15 U.S.C. 78f(b)(5).

[35] 15 U.S.C. 78k–1.

[36] *See* CBOE Rule 24A.9 and PSE Rule 8.109.

[37] The Commission notes that FLEX Qualified Market-Makers for FLEX Equity Options will be required to obtain a specific clearing member letter of guarantee, similar to FLEX Appointed Market-Makers assigned to FLEX Index Options. FLEX Qualified Market-Makers, however, will not be required to maintain specific minimum financial requirements as are required for FLEX Appointed Market-Makers assigned to FLEX Index Options in CBOE Rules 24A.13 and 24A.14, and PSE Rules 8.113 and 8.114. *See, e.g.*, CBOE Rules 24A.9, 24A.13, 24A.14, and 24A.15; and PSE Rules 8.109, 8.113, 8.114, and 8.115.

[38] *See* CBOE Rule 24A.9(b) and PSE Rule 8.109(b).

[39] *See* CBOE Rule 24A.9(c) and PSE Rule 8.109(c). *See also* CBOE Amendment No. 1, *supra* note 3, and PSE Amendment No. 2, *supra* note 4.

[40] *See* CBOE Rule 24A.5 and PSE 8.103.

[41] *See* Letter from Joe Corrigan, Executive Director, OPRA, to Andy Lowenthal, CBOE, dated January 26, 1996 ("OPRA Capacity Letter").

[42] 17 CFR 240.9b–1(a)(4). As part of the original approval process of the FLEX Options framework, the Commission delegated to the Director of the Division of Market Regulation the authority to authorize the issuance of orders designating securities as "standardized options" pursuant to Rule 9b–1(a)(4) under the Act. *See* Securities Exchange Act Release No. 31911 (February 23, 1993), 58 FR 11792 (March 1, 1993).

[43] 15 U.S.C. 78s(b)(2).

[44] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 36686 (January 5, 1995), 61 FR 1199.

received no comment letters. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

In a memorandum dated July 29, 1994, which was issued jointly with the National Securities Clearing Corporation ("NSCC") and which described the planned conversion of DTC's money settlement system to an entirely same-day funds settlement ("SDFS") system, DTC announced plans to offer a service for intraday withdrawal of P&I payments. The service was developed in response to participants' requests to have the funds resulting from P&I payments available for participants' use prior to the time of DTC's money settlement at the end of the day. DTC plans to begin the new service in the first quarter of 1996.

In the current next-day funds settlement ("NDFS") environment, P&I payment allocations are credited to participants' accounts on a regular basis at a specific time during the day. Under the proposed rule change, P&I payment allocations for SDFS issues will be credited to participants' money settlement accounts throughout each processing day as funds are received by DTC from issuers and their paying agents. Only P&I payments that have been received by DTC and credited to a participant's account will be available for withdrawal. Withdrawal requests for P&I payments will be subject to the risk management controls of the SDFS system (*i.e.*, collateral monitor and net debit caps). Any withdrawal request that is blocked due to insufficient collateral or a net debit cap will recycle until enough collateral or settlement credits have been generated to satisfy the collateral or net debit cap deficiency or until the end of the recycle period on that day. Any early withdrawal requests still recycling at the end of the recycle period will be dropped from the system, and the P&I payment allocation will be included in the end-of-day settlement.

II. Discussion

Section 17A(b)(3)(F) of the Act[3] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that DTC's proposal is consistent with DTC's obligations under Section 17A(b)(3)(F) because the procedures should facilitate the prompt and accurate settlement of P&I payments by allowing participants to withdraw P&I credits prior to end-of-day settlement. Intraday withdrawal of P&I credits also should help provide liquidity in the clearance and settlement system by providing participants with a source of intraday liquidity. The Commission also believes the procedures are consistent with DTC's obligations to assure the safeguarding of securities and funds in its custody or control because DTC only will permit participants to withdraw early those P&I credits that DTC has actually received from an issuer's paying agent or that DTC has an expectation based on a paying agent's historical compliance with DTC's P&I payment policy that such payments will be received.[4] Furthermore, DTC will subject intraday P&I payment withdrawal requests to its risk management controls (*i.e.*, collateral monitor and net debit caps). This should ensure that withdrawal requests that will cause a participant to have insufficient collateral or exceed their net debit cap will recycle until enough collateral or settlement credits are generated in the participant's account.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, and in particular with Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–95–25) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3840 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[4] As part of its preparation for the SDFS conversion, DTC has secured intraday and overnight lines of credit that will be available to fund early P&I credit withdrawals for which DTC has not actually received payments from the issuer's paying agent but for which DTC expects such payments based on the paying agent's historical compliance with DTC's P&I payment policy. For a further description of DTC's policy regarding P&I payments to participants, refer to Securities Exchange Act Release No. 36837 (February 13, 1996), [File No. SR–DTC–96–02] (notice of filing and immediate effectiveness of a proposed rule change regarding P&I payments to participants).

[5] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36844; File No. SR–DTC–96–04]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Revision of Certain Fees

February 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 25, 1996, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to revise the fees charged for deliveries, money market instruments ("MMI") transactions, and long positions because of the conversion to same-day funds settlement.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

DTC plans to convert its existing next-day funds settlement and same-day funds settlement ("SDFS") systems into an entirely SDFS system on February 22, 1996. Most of the fees currently charged for services in each of the two settlement systems are identical and will not at this time be affected by the conversion. The purpose of the proposed rule change is to revise the fees charged for deliveries, MMI transactions, and long positions which will be affected by the conversion. These fees need to be changed in order to establish a single fee for each of these services and to take into account the substantially greater volumes of book-entry transactions, numbers of issues to be included in the SDFS system, and DTC's increased costs to process a book-entry delivery in the SDFS systems.

The subject fee schedule revisions are revenue neutral to DTC (*i.e.*, the new fee should yield the same amount of revenue to DTC as the old fees would have yielded when applied to anticipated 1996 volumes). The new fees represent a "blending" of the existing fees in each settlement system reflecting last year's total costs for these services. These historical costs may or may not represent the actual processing costs in the new settlement system. DTC will need at least several months after the conversion to evaluate the related unit service costs for these three services.

DTC believes the proposed rule change is consistent with Section 17A of the Act[4] and the rules and regulations thereunder because it will provide for the equitable allocation of dues, fees, and other charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The conversion was described in three memoranda issued jointly by the National Securities Clearing Corporation and DTC[5] and was discussed in a DTC proposed rule change approved by the Commission on May 16, 1995.[6] DTC informed participants and other users of its services of the proposed fee revisions by an Important Notice.[7] No written comments have been received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Sections 19(b)(3)(A)(ii)[8] of the Act and pursuant to Rules 19b–4(e)(2)[9] promulgated thereunder because the proposal establishes a due, fee, or other charge. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–96–04 and should be submitted by March 13, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] A copy of the revised fee schedule is attached to this notice of DTC's proposed rule change as Appendix A.

[3] The Commission has modified the text of the summaries prepared by DTC.

APPENDIX A—FEE CHANGES ARISING FROM THE CONVERSION TO AN ALL-SDFS SYSTEM

Service	Present fee	Revised fee
A. Registered Securities		
I. NDFS Deliveries:		
Deliver orders via CNS	$.07 for each item delivered or received	$.08 for each item delivered or received.
Deliver orders via ID System	.17 for each item delivered or received	.20 for each item delivered or received.
Deliver orders via PTS, MDH or CCF		
For each deliver item presented	.15 to the deliverer	.18 to the deliver.
Prior PM	.40 to the deliverer	.47 to the deliverer.
AM opening to cut-off	.25 for each item received (regardless of time)	.29 for each item received (regardless of time).
II. SDFS Deliveries/Money Market Instruments Activity:		
SDFS Deliveries:		
Deliver orders via PTS, MDH or CCF		
For each deliver item presented	.93 to the deliverer	.18 to the deliverer.
Prior PM	1.18 to the deliverer	.47 to the deliverer.
AM opening to cut-off	1.03 for each item received (regardless of time).	.29 for each item received (regardless of time).
Deliver orders via ID system	.93 for each item delivered or received	.20 for each item delivered or received.
Money Market Instruments Activity		
Deliver orders	1.07 to the deliverer	.59 to the deliverer.
	.92 to the deliverer	.41 to the receiver.
Maturity or reorganization presentments	.87 for each item delivered or received	.59 for each item delivered or received.

[4] 15 U.S.C. 78q–1 (1988).

[5] The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 1, 1992; July 26, 1993; and July 29, 1994).

[6] For additional information regarding DTC's SDFS system, refer to Securities Exchange Act Release No. 35720 (May 16, 1995), 60 FR 27360 [File No. SR–DTC–95–06] (order granting accelerated approval of a proposed rule change modifying the SDFS system).

[7] DTC Important Notice (January 17, 1996).

[8] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[9] 17 CFR 240.19b–4(e)(2) (1995).

[10] 17 CFR 200.30–3(a)(12) (1995).

APPENDIX A—FEE CHANGES ARISING FROM THE CONVERSION TO AN ALL-SDFS SYSTEM—Continued

Service	Present fee	Revised fee
Issuance instruction (both dealer-placed and directly-placed).	1.66 to the issuer's agent	.59 to the issuer's agent.
B. Bearer Securities		
I. Deliver Orders:		
ID	.17 for each item delivered or received	.20 for each item delivered or received.
PTS, MDH or CCF	.33 for each item delivered .25 for each item received	.39 for each item delivered. .29 for each item received.
II. Long Position:		
For each active issue per month (held by more than 2 Participants).	.58 per issue	.59 per issue.
For each less-active issue per month (held by 1 or 2 Participants).	1.33 per issue	1.34 per issue.
Monthly charge on face value		
$0–$.5 billion	.000006790	No Change.
Excess over .5 billion up to $1 billion	.0000016988	No Change.
Excess over $1 billion up to $8 billion	.00000084025	No Change.
Excess over $8 billion	.00000042012	No Change.
A monthly surcharge on all positions in Book Bond issues.	1.05 per issue	No Change.
A monthly surcharge on all positions requiring coupon collection from paying agents located outside Metropolitan New York area.	.25 per issue	No Change.
A monthly surcharge on all positions in multiple purpose issues.	.50 per issue	No Change.
A monthly surcharge on all positions in issues denominated in units of $1,000.	.50 per issue	No Change.
III. Long Position:		
For each active issue monthly (for registered corporate issues when a daily average of more than 15 Participants have positions; and for registered municipal issues when a daily average of more than 2 Participants have positions).	.47 per issue	.50 per issue.
For each less-active registered corporate issue monthly (when a daily average of 15 or fewer Participants have position).	.72 per issue	.75 per issue.
For each less-active registered municipal issue monthly (when a daily average of 1 or 2 Participants have position).	1.22 per issue	1.25 per issue.
For each 100 shares or $4,000 bonds (monthly) based on the average daily number of shares or bonds:		
0–25 million shares	.0052	No Change.
Excess over 25 million up to 200 million shares.	.0013	No Change.
Excess over 200 million up to 300 million shares.	.000652	No Change.
Excess over 300 million shares	.00005	No Change.
For each book-entry-only issue (monthly)	.31 per issue, no per bond/per share charge	No Change.
For each Medium-Term Note (MTN) and Money Market Instrument (MMI) issue (monthly).	.56 per issue, no per bond/per share charge	No Change.

[FR Doc. 96–3839 Filed 2–20–96; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–36843; File No. SR–DTC–96–03]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modifications to the Same-Day Funds Settlement System

February 14, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 23, 1996, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to modify DTC's procedures relating to receiver authorized delivery ("RAD") processing[2] and to provide participants with the ability to block deliveries of government securities to their DTC accounts. The proposed rule change also amends DTC's processing schedules. The modifications are part of the planned conversion of DTC's money settlement system to an entirely same-day funds settlement ("SDFS") system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC plans to combine its next-day funds settlement ("NDFS") system and its SDFS system into a single SDFS system which will be based on the design of the current SDFS system with some modifications. The conversion was described in three memoranda issued jointly by the National Securities Clearing Corporation and DTC[4] and was discussed in a DTC proposed rule change approved by the Commission on May 16, 1995.[5] In order to assure an efficient conversion, some of the modifications to the current SDFS system are being implemented at various times prior to the conversion date, which is scheduled for February 22, 1996. Most of the modifications to the processing schedule for the SDFS system that are needed for the conversion were implemented on January 25, 1996. A few of the modifications, such as the processing periods applicable to continuous net settlement system activity, will not be implemented until the conversion date because the related activities are part of the current NDFS system, which will remain unchanged until the conversion.

Modifications to DTC's RAD procedures also became effective on January 25, 1996, so that deliveries of new issues submitted during DTC's day cycle will not be subject to the receiving participants' RAD approvals. Because RAD processing delays submission of a delivery instruction to DTC's main processing system, this modification will give delivering participants greater control over the order in which their deliveries are processed at DTC. The modification will help to ensure, for example, that a participant's syndicate deliveries are processed before its customer deliveries if the participant entered the deliveries in that order.

On the conversion date, securities which are eligible for the Federal Reserve's Book-Entry ("FBE") system (*i.e.*, government securities) and which also are currently eligible for DTC's NDFS system will become eligible for DTC's new SDFS system. DTC will offer participants the option to block their DTC accounts for valued or free deliveries and receipts of FBE eligible securities at DTC. This option will enable a participant to prevent a delivery at DTC that the participant is expecting to receive through the FBE system.[6] Electing to block deliveries and receives of FBE securities will not impact participants' current ability to deposit and withdraw such securities through DTC's link with the Federal Reserve Bank of New York. Pledges and other activities will also not be affected by this election.

DTC believes that the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the proposed rule change will facilitate the conversion to an entirely SDFS system and therefore will promote the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Notice of the proposed rule change has been provided to DTC participants in four DTC Important Notices[7] as well as by the joint memoranda referred to above.[8] No written comments have been received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)[9] of the Act and pursuant to Rule 19b–4(e)(6)[10] promulgated thereunder because the proposed rule is effecting a change that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for thirty days from the date of its filing on January 23, 1996, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; and (4) was provided to the Commission for its review at least five days prior to the filing date. The Commission finds good cause for accelerating the operative date of the proposed rule change because the modifications implemented by the rule change will facilitate the planned conversion of DTC's entire money settlement system to an SDFS system. The Commission believes that participants should have the opportunity to become familiar with these modifications to DTC's SDFS system prior to the complete conversion on February 22, 1996. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise

[2] RAD allows a participant to review and either approve or cancel incoming deliveries before they are processed in DTC's system. For a further discussion of DTC's RAD procedures, refer to Securities Exchange Act Release No. 25886 (July 6, 1988), [File No. SR–DTC–88–07] (notice of filing and immediate effectiveness of a proposed rule change implementing DTC's RAD procedures).

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 1, 1992; July 26, 1993; and July 29, 1994).

[5] For additional information regarding DTC's SDFS system, refer to Securities Exchange Act Release No. 35720 (May 16, 1995), 60 FR 27360 [File No. SR–DTC–95–06] (order granting accelerated approval of a proposed rule change modifying the SDFS system).

[6] Some DTC participants have expressed to DTC a desire not to have deliveries of FBE securities made to their DTC accounts so participants can more efficiently manage their receipts of FBE securities.

[7] DTC Important Notices (December 22, 1995; December 26, 1995; January 2, 1996; and January 10, 1996).

[8] *Supra* note 3.

[9] 15 U.S.C. § 78s(b)(3)(A)(iii) (1988).

[10] 17 CFR 240.19b–4(e)(6) (1994).

in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–96–03 and should be submitted by March 13, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3837 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36840; File No. SR–NASD–96–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Mutual Fund Quotation Service

February 13, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 5, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[11] 17 CFR 200.30–3(a)(12) (1995).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises the fee structure for the Mutual Fund Quotation Service ("MFQS" or "Service") and updates the name of the Service in the NASD Rules. Specifically, the proposed rule change amends Part VIII and Part XIV of Schedule D to the NASD By-Laws.[1] Below is the text of the proposed rule change. (Additions are italicized; deletions are bracketed.)

Part VIII

Schedule of NASD Charges for Services and Equipment

* * * * *

I. Mutual Fund Quotation *Service* [Program]

Funds included in the Mutual Fund Quotation *Service* [Program] shall be assessed an annual fee of *$275* [$150] per fund authorized for the News Media Lists and *$200* [$100] per fund authorized for the Supplemental List. Funds authorized during the course of an annual billing period shall receive a proration of these fees, but no credit or refund shall accrue to funds terminated during an annual billing period. *In addition, there shall be a one-time application processing fee of $250 for each new fund authorized.*

* * * * *

Part XIV

Mutual Fund Quotation *Service* [Program]

A. Description

The Mutual Fund Quotation *Service* [Program] collect and disseminates through The Nasdaq Stock Market prices for both mutual funds and money market funds.

B. Eligibility Requirements

To be eligible for participation in the Mutual Fund Quotation *Service* [Program], a fund shall:

1. through 4.—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments if received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise the free structure for the Mutual Fund Quotation Service to account for significant enhancements and to reflect more accurately the value of the Service in today's market. The Service facilities the public dissemination of daily price information for mutual funds and money market funds through broadcast media and newspapers. After the market close each day, mutual fund companies or their agents calculate the net asset value ("NAV"), and in some cases the dividend, capital gain, and other pertinent information for each fund. This information is submitted to the NASD by computer, which in turn disseminates it out to the media in a static batch transmission at approximately 5:40 p.m. Depending on the size and number of shareholders, funds may qualify for inclusion in either the News Media List or the Supplemental List.

Under the proposed rule change, the fee for including a fund in the News Media List will increase from $150 to $275 per year, and the fee for the Supplemental List will increase from $100 to $200 per year. In addition, new funds will now be assessed a one-time application processing fee of $250 per fund.

The NASD notes that the current fees have remained unchanged since inception of the Service more than ten years ago, while the number of funds and shareholder accounts have increased more than three-fold during the same period. The increased reliance on daily price information and the importance of distributing this information in a timely fashion has necessitated several enhancements to the Service, including the launch of a rolling dissemination system. Rolling dissemination of prices will allow mutual funds and their agents to enter real-time updates throughout the day, and enable the media to receive fund NAVs as soon as they are available. This gives the media more time to prepare their daily fund tables for inclusion in newspapers, and reduces the problems associated with rushed end-of-day transmissions of price information. In addition, rolling dissemination reduces the risk of the media not receiving any price information in the event there is a transmission problem between 4 p.m. and 5:40 p.m. In such a case, the media already will have received some fund information for publication, instead of relying on a single batch transmission at 5:40 p.m., as is the case today. The one-time application fee for new funds is intended to defray the costs incurred in processing applications.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires that the rules of a national securities association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls. The fee changes are necessary to provide significant benefits to mutual fund complexes, their agents, and the media.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. NASD–96–05 and should be submitted by March 13, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Director.

[FR Doc. 96–3842 Filed 2–20–96; 8:45 am]

BILLING CODE 8010–01–M

[1] Pursuant to a new rule numbering system for the NASD Manual anticipated to be effective no later than May 1, 1996, the rules that are the subject of this proposed rule change will become Rule 7090 (regarding fee structure), and Rule 6800 (regarding description). *See* Exchange Act Release No. 36698 (January 11, 1996), 61 FR 1419 (January 19, 1996) (order approving new rule numbering system).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2835]

CALIFORNIA

Declaration of Disaster Loan Area

Humboldt County and the contiguous counties of Del Norte, Mendocino, Siskiyou, and Trinity in the State of California constitute a disaster area as a result of damages caused by high winds, heavy rains, and flooding which occurred from December 11, 1995 to January 1, 1996. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on April 8, 1996 and for economic injury until the close of business on November 7, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853–4795.

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit. Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 283506 and for economic injury the number is 876900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 7, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–3793 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2825]

Maryland; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 23, 1996, and amendments thereto on February 2 and 5, I find that the Counties of Allegany, Cecil, Carroll, Frederick, Garrett, and Washington in the State of Maryland constitute a disaster area due to damages caused by flooding which occurred January 19 through January 31, 1996. Applications for loans for physical damages may be filed until the close of business on March 22, 1996, and for loans for economic injury until the close of business on October 23, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Baltimore, Harford, Howard, Kent, and Montgomery Counties in Maryland; and New Castle County in Delaware.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000

	Percent
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 282506 and for economic injury the numbers are 872900 for Maryland and 873200 for Delaware.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 9, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3800 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Economic Injury Disaster Loan Area #8765]

Commonwealth of Massachusetts, (And Contiguous Counties in New Hampshire); Declaration of Disaster Loan Area

Essex County and the contiguous counties of Middlesex and Suffolk in the Commonwealth of Massachusetts and Hillsborough and Rockingham in the State of New Hampshire constitute an economic injury disaster area as a result of damages caused by a fire which occurred during the week of December 11, 1995 in the City of Methuen, Massachusetts. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on November 6, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303.

or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number assigned to this disaster for the State of New Hampshire is 8766.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: February 6, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–3794 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2832]

New Jersey; Declaration of Disaster Loan Area

Warren County and the contiguous counties of Hunterdon, Morris, and Sussex in the State of New Jersey constitute a disaster area due to damages caused by flooding which resulted from a severe storm that occurred on January 19, 1996. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on April 5, 1996 and for economic injury until the close of business on November 5, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, New York 14303.

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 283206 and for economic injury the number is 876400.

Any counties contiguous to the above-named primary county and not listed herein have been previously declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 5, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–3796 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2826]

New York; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 24, 1996, and amendments thereto on January 26 and 29, and February 1 and 2, I find that the Counties of Albany, Allegany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Greene, Montgomery, Orange, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Steuben, Sullivan, Thompkins, Tioga, and Ulster in the State of New York constitute a disaster area due to damages caused by severe storms and flooding which occurred January 19 through January 30, 1996. Applications for loans for physical damages may be filed until the close of business on March 24 1996, and for loans for economic injury until the close of business on October 24, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Fl., Niagara Falls, NY 14303

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Chautauqua, Erie, Franklin, Fulton, Hamilton, Herkimer, Livingston, Madison, Oneida, Onondaga, Ontario, Oswego, Putnam, Rockland, Schuyler, Seneca, Warren, Washington, Wayne, Westchester, Wyoming, and Yates in New York; Addison, Bennington, Chittenden, and Grand Isle Counties in Vermont; Berkshire County in Massachusetts; and Fairfield and Litchfield Counties in Connecticut.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000%

The number assigned to this disaster for physical damage is 282606 and for economic injury the numbers are 873700 for New York; 877300 for Vermont; 877400 for Massachusetts; and 877500 for Connecticut.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 9, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3797 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2831]

Ohio; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 27, 1996, and amendments thereto on January 30 and February 2 and 8, I find that the Counties of Adams, Belmont, Brown, Clermont, Columbiana, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, and Washington in the State of Ohio constitute a disaster area due to damages caused by severe storms and flooding which occurred January 20 through January 31, 1996. Applications for loans for physical damages may be filed until the close of business on March 27, 1996, and for loans for economic injury until the close of business on October 28, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Athens, Butler, Carroll, Clinton, Gallia, Guernsey, Harrison, Highland, Jackson, Mahoning, Morgan, Noble, Pike, Stark, Vinton, and Warren Counties in Ohio; Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason, and Pendleton Counties in Kentucky; Dearborn and Franklin Counties in Indiana; and Wayne County, West Virginia.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000%
Homeowners Without Credit Available Elsewhere	4.000%
Businesses With Credit Available Elsewhere	8.000%
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000%
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125%
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000%

The number assigned to this disaster for physical damage is 283106 and for economic injury the numbers are 874400 for Ohio; 877000 for Kentucky; 877100 for Indiana; and 877200 for West Virginia.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 14, 1996

Bernard Kulik

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3867 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2833]

Pennsylvania, (And Contiguous Counties in New Jersey); Declaration of Disaster Loan Area

Bucks County and the contiguous counties of Lehigh, Montgomery, Northampton, and Philadelphia in the State of Pennsylvania, and the contiguous counties of Burlington, Hunterdon, Mercer, and Warren in the State of New Jersey constitute a disaster area as a result of damages caused by a fire in the Township of Bristol which occurred on January 29 and 30, 1996. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on April 5, 1996 and for economic injury until the close of business on November 5, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, New York 14303

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damage are 283305 for Pennsylvania and 283405 for New Jersey and for economic injury the numbers are 876700 for Pennsylvania and 876800 for New Jersey.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 5, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–3795 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2824]

Pennsylvania; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 21, 1996, and amendments thereto on January 22, 23, and 24, and February 2, I find that the entire State of Pennsylvania constitutes a disaster area due to damages caused by flooding which occurred January 19 through February 1, 1996. Applications for loans for physical damages may be filed until the close of business on March 21, 1996, and for loans for economic injury until the close of business on October 21, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Astubula and Trumbull Counties in Ohio; and Burlington, Camden, Gloucester, Hunterdon, Mercer, Sussex, and Warren Counties in New Jersey.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000

	Percent
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 282406 and for economic injury the numbers are 872500 for Pennsylvania; 873400 for Ohio; and 876300 for New Jersey.

Any counties contiguous to a Pennsylvania county and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 9, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3798 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2827]

West Virginia; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 25, 1996, and amendments thereto on January 30 and February 2, I find that the Counties of Berkeley, Brooke, Grant, Greenbriar, Hampshire, Hancock, Hardy, Jefferson, Marshall, Manson, Mercer, Mineral, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Summers, Tucker, Tyler, Webster, Wetzel, and Wood in the State of West Virginia constitute a disaster area due to damages caused by flooding which occurred January 19 through February 2, 1996. Applications for loans for physical damages may be filed until the close of business on March 25, 1996, and for loans for economic injury until the close of business on October 25, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Fl., Niagara Falls, NY 14303 or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Barbour, Braxton, Cabell, Clay, Doddridge, Fayette, Harrison, Jackson, Marion, McDowell, Monongalia, Putnam, Raleigh, Ritchie, Taylor, Upshur, Wirt, and Wyoming in West Virginia; and Bland, Giles, and Tazewell Counties in Virginia.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.00
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 282706 and for economic injury the numbers are 873800 for West Virginia and 873900 for Virginia.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 9, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3799 Filed 2–20–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2334]

Shipping Coordinating Committee International Maritime Organization (IMO) Legal Committee; Notice of Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10: a.m., on Thursday, March 28, 1996, in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. The purpose of this meeting is to seek public comment to assist the U.S. delegation in developing its final negotiating positions for an upcoming diplomatic conference that will consider the draft texts of both an International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention) and a Protocol to amend the International Convention on Limitation of Liability for Maritime Claims (76 LLMC). The diplomatic conference will be held in London, at the Headquarters of the International Maritime Organization (IMO), from April 15 until May 3, 1996.

To facilitate the attendance of those participants who may be interested in only certain aspects of the public meeting, the first item addressed will be the draft HNS Convention. Comments will be sought at this time regarding the substance of the draft HNS Convention.

At approximately 11:00 a.m., there will be a discussion on the major revisions to the 76 LLMC that would be brought about by the draft Protocol. Comments will also be sought at this time regarding the substance of the draft Protocol.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information, for copies of the conference drafts of these instruments, or to submit views concerning the subjects of discussion, contact either Captain David J. Kantor or Lieutenant Commander Steven D. Poulin, U.S. Coast Guard (G–LMI), 2100 Second Street SW., Washington, D.C. 20593, telephone (202) 267–1527, telefax (202) 267–4496.

Dated: February 9, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–3871 Filed 2–20–96; 8:45 am]

BILLING CODE 4710–70–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 USC Chapter 35).

DATED: February 12, 1996.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Patricia R. Lane, (202) 267–3491; Federal Aviation Administration; Office of Chief Counsel, AGC–230; 800 Independence Avenue SW.; Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection requests were submitted to OMB on February 12, 1996:

OMB No: 2120–New.

Administration: Federal Aviation Administration (FAA).

Title: Special Federal Aviation Regulation (SFAR) 74–Airspace and Flight Operations Requirements For the 1996 Summer Olympic Games, Atlanta, GA.

Need for Information: Under 49 U.S.C. 40103, the FAA is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace to ensure the safety of aircraft and the efficient utilization of such airspace.

Proposed Use of Information: The FAA needs this information to ensure continued safe and efficient use of airspace and air traffic control capacity. This information will also prevent any unsafe congestion of sightseeing and other aircraft over the various Olympic venues.

Frequency: 21 days (1-time).

Burden Estimate: 192.

Respondents: Individuals or households and business or other-for-profit.

Number of Respondents: 3832.

Form(s): None.

Averoge Burden Hours Per Response: 2.0 hours.

Issued in Washington, D.C. on February 12, 1996

Phillip Leach,

Computer Specialist, Information Resource Management (IRM) Strategies Division.

[FR Doc. 96–3806 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–62–P

Aviation Proceedings; Agreements filed during the Week Ending 2/9/96

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1052.
Date filed: February 5, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC31 Telex Mail Vote 775, General Increase Resolution 003a,
Intended effective date: March 1, 1996.

Docket Number: OST–96–1053.
Date filed: February 5, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC12 Telex Mail Vote 779, US-Yugoslavia fares Reso 002c,
Intended effective date: April 1, 1996.

Docket Number: OST–96–1054.
Date filed: February 5, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC12 Telex Mail Vote 778, Germany-Canada/Mexico fares, r–1–076jj r–2– 074w, Intended effective date: March 1, 1996.

Docket Number: OST–96–1060.
Date filed: February 7, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC31 Reso/P 1099 dated January 26, 1996, TC31 South Pacific resos r1 – 11, Intended effective date: April 1, 1996.

Docket Number: OST–96–1064.
Date filed: February 8, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC3 Telex Mail Vote 773, Seoul-Macau fares r1–5, Intended effective date: February 14, 1996.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–3807 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending February 9, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1070.

Date filed: February 9, 1996.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 8, 1996.

Description: Application of Korean Air Lines Co., Ltd., pursuant to 49 U.S.C. Section 41301, and Subpart Q of the Regulations, applies for an amendment to its foreign air carrier permit to engage in the scheduled foreign air transportation of persons, property and mail between a point or points in the Republic of Korea and Saipan.

Docket Number: OST–96–1071

Date filed: February 9, 1996

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 8, 1996

Description: Application of Gulf and Caribbean Cargo, Inc., pursuant to Section 49 U.S.C. 41102, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing Gulf & Caribbean to provide scheduled foreign air transportation of passengers, property and mail. Initially, Gulf & Caribbean intends to provide service between Indianapolis, Indiana and Fort Lauderdale, Florida on the one hand, and Port au Prince, Haiti on the other hand.

Paulette V. Twine,

Chief Documentary Services Division.

[FR Doc. 96–3808 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–62–P

Office of the Secretary

[Docket OST–95–703]

Application of Alphajet International, Inc., For Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 96–2–18).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding AlphaJet International, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate charter air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than February 28, 1996.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–95–703 and addressed to the Documentary Services Division (C–55, Room PL–401), U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 366–2340.

Dated: February 13, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–3809 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Training and Qualification Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of New Task Assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Toula, Assistant Executive Director for Training and Qualification Issues, Flight Standards Service (AFS–210), 800 Independence Avenue, SW, Washington, DC 20591, telephone: (202) 267–3729; fax: (202) 267–5229.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is training and qualification issues. These issues involve training and qualification of air carrier crewmembers and other air transport employees.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following task:

> Recommend disposition of comments made to the Advance Notice of Proposed Rulemaking No. 94–74, which proposes to amend the applicable portions of parts 123, 125, and 135 of the Federal Aviation Regulations to establish requirements to ensure that flight attendants understand sufficient English language to communicate, coordinate, and perform all required safety related duties.

The FAA also has asked ARAC to evaluate these comments and recommend an appropriate rulemaking action (e.g., notice of proposed rule making, withdrawal) or if advisory material should be issued. If so, ARAC has been asked to prepare the necessary documents, including economic analysis, to justify and carry out its recommendation(s). If ARAC determines that the NPRM or Advisory Circular would be approporiate, those documents are to be submitted in the format prescribed by the FAA.

ARAC Acceptance of Task

ARAC has accepted the task and his chosen to establish an Operator Flight Attendant English Language Program Working Group to which to assign the task. The working group serves as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The Operator Flight Attendant English Language Program Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a workplan for completion of the task, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider training and qualification issues held following publication of this notice.
2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.
3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.
4. Provide a status report at each meeting of ARAC held to consider training and qualification issues.

Participation in the Working Group

The Operator Flight Attendant English Language Program Working Group will be composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Operator Flight Attendant English Language Program Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on February 13, 1996.

Thomas Toula,

Assistant Executive Director, for Training and Qualifications, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–3865 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In January 1996, there were seven applications approved. Additionally, two approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Port of Oakland, Oakland, California.
Application Number: 95–05–C–00–OAK.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total Net PFC Revenue Approved in This Application: $5,400,000.
Estimated Charge Effective Date: September 1, 1996.
Estimated Charge Expiration Date: February 1, 1997.
Class of Air Carriers Not Required to Collect PFC's:
Air taxi/commercial operators exclusively filing FAA Form 1800–31.
Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Metropolitan Oakland International Airport.
Brief Description of Project Approved for Collection and Use:
Construct passenger corridor between Terminals One and Two.
Decision Date: January 2, 1996.
FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2805.
Public Agency: Town of Massena, New York.
Application Number: 95–01–C–00–MSS.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total Net PFC Revenue Approved in This Application: $200,079.
Estimated Charge Effective Date: April 1, 1996.
Estimated Charge Expiration Date: Novemher 1, 2005.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Project Approved for Collection and Use:
Runway 5 obstruction removal, General aviation apron, Taxiway A rehabilitation and lighting, Runway 23 extension environmental assessment, Parallel taxiway A, Runway 5 visual aids and beacon, Runway 5 terrain removal, PFC application, Storm Water pollution prevention plan, Airport pavement management system.
Decision Date: January 11, 1996.
For Further Information Contact: Philip Brito, New York Airports District Office, (516) 227–3803.
Public Agency: City of Phoenix, Arizona.
Application Number: 95–03–C–00–PHX.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total Net PFC Revenue Approved in This Application: $80,978,000.
Estimated Charge Effective Date: April 1, 1996.
Estimated Charge Expiration Date: February 1, 1998.
Classes of Air Carriers Not Required to Collect PFC's:
(1) Air taxi/commercial operators exclusively filing FAA Form 1800–31; (2) commuters-small certificated air carriers filing Department of Transportation Form 298–C schedule T–1 or E–1 with less than 7,500 enplanements per year at Phoenix Sky Harbor International Airport (PHX); and (3) large certificated route air carriers filing Research and Special Programs Administration Form T–100 providing nonscheduled service with less than 7,500 enplanements per year at PHX.
Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at PHX.
Brief Description of Projects Approved for Collection Use:
Build out Terminal 4 Concourse N–4, Noise mitigation efforts, Realign taxiway F to eliminate jog, Combined third runway project.
Brief Description of Project Approved for Collection:
Extend north runway west.
Decision Date: January 26, 1996.
For Further Information Contact: John P. Milligan, Western Pacific Region Airports Division, (301) 725–3621.
Public Agency: County of Albany, Albany, New York.
Application Number: 95–02–U–00–ALB.
Application Type: Use PFC revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $40,737,924.
Charge Effective Date: March 1, 1994.
Estimated Charge Expiration Date: April 1, 2005.
Class of Air Carriers Not Required to Collect PFC's:
No change to class approved on December 3, 1993.
Brief Description of Projects Approved for Use:
Runway and taxiway improvements, Flood management improvements, Environmental remediation, Airport studies.
Decision Date: January 26, 1996.
For Further Information Contact: Philip Brito, New York Airports District Office, (516)227–3803.
Public Agency: Ogdensburg Bridge and Port Authority, Ogdensburg, New York.
Application Number: 95–01–C–00–OGS.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total Net PFC Revenue Approved in This Application: $125,050.
Charge Effective Date: April 1, 1996.
Estimated Charge Expiration Date: March 1, 2006.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved for Collection and Use:
PFC application, Runway 9/27 rehabilitation.
Decision Date: January 26, 1996.
For Further Information Contact: Philip Brito, New York Airports District Office, (516) 227–3803.
Public Agency: Department of Port Control, Cleveland, Ohio.
Application Number: 96–04–U–00–CLE.
Application Type: Use PFC revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $54,018,042.
Charge Effective Date: November 1, 1992.
Estimated Charge Expiration Date: February 1, 1997.
Class of Air Carriers Not Required to Collect PFC's:
No change from previous decision.
Brief Description of Project Approved for Use:

Sewers for confined disposal facility.
Decision Date: January 26, 1996.
For Further Information Contact: Robert L. Conrad, Detroit Airports District Office, (313) 487–7295.
Public Agency: City of St. Louis Airport Authority, St. Louis, Missouri.
Application Number: 95–02–C–00–STL.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total Net PFC Revenue Approved in This Application: $80,186,867.
Estimated Charge Effective Date: April 1, 1996.
Estimated Charge Expiration Date: June 1, 1998.
Class of Air Carriers Not Required to Collect PFC's:
Air taxi/commercial operators filing FAA Form 1800–31.
Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Lambert—St. Louis International Airport.
Brief Description of Project Approved for Collection:
Airport noise land acquisition/relocation program (phase II).
Brief Description of Projects Approved for Collection and Use:
Obstruction removal—Washington Park (phase II), East terminal expansion (phase II), High Speed exits off runway 12L/30R, Main terminal rest room rehabilitation, Family assistance center, Upgrade fire alarm system, Install phase protection, Airfield lighting controls FAA Tower, Seismic risk reduction study, Canopies for exits 6 and 14, Modify traffic distribution main terminal, 800 MHz radio communications system (phases II, III, and IV), Taxiway connector from runway 12R/30L to taxiway P, C taxiway connector, Security card access system, East apron III-B and glycol recovery system, West apron at taxiway Delta, Concourse B and C connector, Federal Inspection Service vertical transportation, Airport flight information display system.
Brief Description of Disapproved Projects:
Differential Global Positioning System (GPS) for non-precision approaches.
Determination: Disapproved for the collection of PFC revenue. This project has been determined not to be justified under PFC criteria. The requested GPS differential ground station equipment is not required for a non-precision approach, is not yet approved by the FAA for installation, and may be provided in the future by the FAA. In addition, use of GPS receivers by safety equipment on the airport is not required by Part 139. Accordingly, the project is disapproved for the collection of PFC revenue.
As built drawings for fire protection system.
Determination: Disapproved for the collection and use of PFC revenue. This project has been determined to be ineligible under AIP criteria. This project fails to meet the requirements of paragraph 406 of FAA Order 5100.38A, Airport Improvement Program Handbook (October 24, 1989) for a planning project. Accordingly, the project is disapproved for the collection and use of PFC revenue.
Decision Date: January 31, 1996.
For Further Information Contact: Lorna K. Sandridge, Central Region Airports Division, (816) 426–4730.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Amended approved net PFC revenue	Original approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
93–01–C–01–PUB Pueblo, CO	1/2/96	$164,376	$1,200,745	08/01/10	09/01/99
92–01–C–02–MSO Missoula, MT	1/2/96	2,049,300	1,782,000	08/01/97	09/01/97

Issued in Washington, DC on 2/14/96.
Donna P. Taylor,
Manager, Passenger Facility Charge Branch.
[FR Doc. 95–3864 Filed 2–20–96; 8:45 am]
BILLING CODE 4910–13–M

Notice of Intent To Rule on Application (#96–01–I–00–ENV) to Impose a Passenger Facility Charge (PFC) at Wendover Airport, Submitted by Wendover Airport Board/City of Wendover, Wendover, Utah

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Wendover Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before March 22, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, CO 80216–6026.
In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Chris Melville, Airport Manager at the following address: Wendover Airport Board/City of Wendover, 345 Airport Avenue, P.O. Box 326, Wendover, UT 84083.
Air Carriers and foreign air carriers may submit copies of written comments previously provided to Wendover Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 286–5525; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, CO 80216–6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#96–01–I–00–ENV) to impose a PFC at Wendover Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).
On February 13, 1996, the FAA determined that the application to impose a PFC submitted by the Wendover Airport Board, Wendover, Utah, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 17, 1996.
The following is a brief overview of the application.
Level of the proposed PFC: $3.00.
Proposed charge effective date: August 1, 1996.
Proposed charge expiration date: December 31, 2025.
Total estimated PFC revenues: $10,101,700.00.
Brief description of proposed project: Construct new runway 8–26, including EA, Bond preparation, Land acquisition, Runway lighting, MALSR, Connecting taxiway, Associated road relocation and refurbish ARFF building.
Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.
Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 540, Renton, WA 98055–4056.
In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Wendover Airport.

Issued in Renton, Washington on February 13, 1996.
David A. Field,
Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.
[FR Doc. 96–3866 Filed 2–20–96; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

Federal Railroad Administration

Federal Transit Administration

Participation in the State Infrastructure Bank Pilot Program

AGENCY: Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA), Department of Transportation.

ACTION: Notice.

SUMMARY: This notice extends USDOT's open invitation to States to make applications for participation in the State Infrastructure Bank (SIB) Pilot Program established by the National Highway System Designation Act of 1995 (the Act). This notice also sets a deadline for applications of March 8, 1996. If a State has already filed an application, it may be amended, updated, or replaced at any time prior to the deadline. The USDOT published the initial solicitation for the Pilot Program in the **Federal Register** on December 28, 1995 (60 FR 67159). Application instructions were issued on January 8, 1996.

DATES: Applications for participation must be postmarked by March 8, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Burbank, FHWA Office of Policy Development, (202) 366–9208; Mr. John Paolella, FRA Office of Policy and Program Development; (202) 366–0380; or Mr. Richard Steinmann, FTA Office of Budget and Policy, (202) 366–4060. Application requests and specific questions regarding the SIB Pilot Program may also be directed to the Divisional or Regional Offices of FHWA, FRA, or FTA.

SUPPLEMENTARY INFORMATION: The NHS Act requires that the Secretary review the Pilot Program, review the financial condition of each SIB, and provide recommendations to Congress as to whether the program should be expanded or modified. The report to Congress is due no later than March 1, 1997. The December 28, 1995, **Federal Register** notice (60 FR 67159) describes SIBs and provides Pilot Program application guidance. As of February 2, 1996, the USDOT received applications and letters of intent from more than ten States. Therefore, to provide access to SIB opportunities, to maximize the effectiveness of the Pilot Program, and to ensure that Congress has for review the best examples of the States' ability to employ innovative financing techniques, the USDOT will forego the rolling approval process originally contemplated. Pursuant to Section 350 of the Act, USDOT is authorized to enter into agreements with up to ten States to establish SIBs or multistate infrastructure banks. Based upon the applications received, the USDOT will expedite a criteria-based selection of the Pilot States following the filing deadline.
The USDOT emphasizes the following selection criteria:

1. The types of assistance to be provided by the SIB (e.g., loans, credit enhancements, capital reserves for debt financing, interest rate subsidies, letters of credit);
2. Identification of projects to be advanced as a result of a Pilot designation;
3. Status of any enabling legislation, if required by a State prior to establishing a SIB;
4. How the SIB relates to other innovative financing efforts underway or planned by States;
5. The relationship of the projects proposed for the SIB to the Statewide Transportation Plan, the approved State Transportation Improvement Program (STIP) and any other Federally required plans;
6. How the SIB will more effectively use Federal monies;
7. The sources of funds that will be used to capitalize the SIB (CMAQ and ISTEA demonstration funds cannot be used), including the availability of non-Federal matching funds required by Section 350(e);
8. The proposed institutional framework for the SIB;
9. Proposed mechanisms and internal procedures to monitor and/or track the flow of Federal funds to accounts in the SIB and the State's preferred reporting procedures to USDOT, given that Section 350 requires maintenance of separate accounts for highways and transit; and
10. The use of a SIB to facilitate development of intermodal or multistate projects.

To assist States in completing their applications, additional guidance on these criteria is provided in the SIB application instructions. Interested States should request a copy of these instructions. Copies of the enabling legislation (Section 350) will be provided with the instructions, which are available from the USDOT contact persons referenced in this notice, or any Divisional or Regional Office of FHWA, FRA, or FTA. USDOT and its modal administrations may seek further clarification of SIB applications in writing or through an informal interview process with States.

Authority: Pub. L. 104–59, § 350, 109 Stat. 568, 618–622 (1995).

Issued on: February 14, 1996.
Rodney E. Slater,
Federal Highway Administrator.
Issued on: February 14, 1996.
Jolene M. Molitoris,
Federal Railroad Administrator.
Issued on: February 14, 1996.
Gordon J. Linton,
Federal Transit Administrator.
[FR Doc. 96–3810 Filed 2–20–96; 8:45 am]
BILLING CODE 4910–22–P

Federal Transit Administration

Environmental Impact Statement for Transportation Improvements in the Greenbush Line Corridor in Massachusetts

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of EIS cancellation.

SUMMARY: Notice is hereby given that the Federal Transit Administration (FTA) is cancelling its preparation of an

Environmental Impact Statement (EIS) for transportation improvements in the Greenbush Corridor linking the coastal communities of Braintree, Weymouth, Hingham, Cohasset, and Scituate, Massachusetts. The project sponsor, the Massachusetts Bay Transportation Authority (MBTA), has announced its intention not to seek Federal financial assistance from FTA in constructing improvements in the Greenbush Corridor.

FOR FURTHER INFORMATION CONTACT: Richard H. Doyle, Regional Administrator, Federal Transit Administration, Region 1, Telephone (617) 494–2055.

SUPPLEMENTARY INFORMATION: On October 5, 1992, FTA published a Notice of Intent (NOI) to prepare an EIS for transportation improvements in the Greenbush Corridor linking the coastal communities of Braintree, Weymouth, Hingham, Cohasset, and Scituate, Massachusetts (57 FR 45864). In March 1995, FTA and the MBTA released a Supplemental Draft EIS (SDEIS), and published a Notice of Availability of that SDEIS on March 24, 1995 (60 FR 15565). In January 1996, however, the MBTA notified FTA that it will not seek Federal funding for transportation improvements in the Greenbush Corridor; rather, the MBTA has chosen to finance the entirety of its project with state funds. Thus, there is no longer a proposal for Federal action in the Greenbush Corridor subject to the requirements of the National Environmental Policy Act, nor an FTA-assisted project subject to the requirements of 49 U.S.C. Section 303 ("Section 4(f)" of the Department of Transportation Act). Accordingly, FTA is terminating its preparation of an EIS for the Greenbush Corridor.

Issued on: February 15, 1996.

Richard H. Doyle,

Regional Administrator.

[FR Doc. 96–3896 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–57–P

National Highway Traffic Safety Administration

[Docket No. 96–14; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992 Through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Request for comments on petition for decision that nonconforming 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a decision that 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is March 22, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141 (a)(1)(A) (formerly section 109(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Europa International, Inc. of Santa Fe, New Mexico (Registered Importer No. R–91–002) has petitioned NHTSA to decide whether 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaëndewagen MPVs are eligible for importation into the United States. Europa contends that these vehicles are eligible for importation under 49 U.S.C. § 30141(a)(1)(B) because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Specifically, the petitioner claims that 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaendewagen MPVs have safety features that comply with Standard Nos. 102 *Transmission Shift Lever Sequence* * * * (based on visual inspection and operation), 103 *Defrosting and Defogging Systems* (based on inspection), 104 *Windshield Wiping and Washing Systems* (based on operation), 106 *Brake Hoses* (based on visual inspection of certification markings), 107 *Reflecting Surfaces* (based on visual inspection), 113 *Hood Latch Systems* (based on information in owner's manual describing operation of secondary latch mechanism), 116 *Brake Fluids* (based on visual inspection of certification markings and information in owner's manual describing fluids installed at factory), 119 *New Pneumatic Tires for Vehicles other than Passenger Cars* (based on visual inspection of certification markings), 124 *Accelerator Control Systems* (based on operation and comparison to U.S.-certified vehicles), 201 *Occupant Protection in Interior Impact* (based on test data and certification of vehicle to European standard), 202 *Head Restraints* (based on Standard No. 208 test data for 1993 model year vehicle with same head restraint and certification of vehicle to European standard), 204 *Steering Control Rearward Displacement* (based on test film), 205 *Glazing Materials* (based on visual inspection of certification markings, 207 *Seating Systems*, (based on test results and certification of vehicle to European standard), 209 *Seat Belt Assemblies* (based on wiring diagram of seat belt warning system and visual inspection of certification markings), 211 *Wheel Nuts, Wheel Discs and Hubcaps* (based on visual inspection), 214 *Side Impact Protection* (based on test results for identically equipped 1995 model year vehicle), 219 *Windshield Zone Intrusion* (based on test results and certification information for identically equipped 1993 model year vehicle), and 302 *Flammability of Interior Materials* (based on composition of upholstery).

The petitioner also contends that 1992 through 1996 Mercedes-Benz Type 463 Long Wheel Base V–8 Gelaen MPVs are capable of being altered to comply with the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a speedometer/odometer calibrated in miles per hour.

Standard No. 105 *Hydraulic Brake Systems:* Placement of warning label on brake fluid reservoir cap.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model sealed beam headlamps; (b) installation of U.S.-model side marker lamps and reflectors; (c) installation of a high mounted stop lamp on vehicles manufactured after September 1, 1993. The petitioner asserts that testing performed on the taillamp reveals that it complies with the standard, even though it lacks a DOT certification marking, and that all other lights are DOT certified.

Standard No. 111 *Rearview Mirrors:* Inscription of the required warning statement on the convex surface of the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar.

Standard No. 118 *Power-Operated Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the front doors are open.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* Installation of a tire information placard. The petitioner asserts that even though the tire rims lack a DOT certification marking, they comply with the standard, based on their manufacturer's certification that they comply with the German TUV regulations, as well as their certification by the British Standard Association and the Rim Association of Australia.

Standard No. 206 *Door Locks and Door Retention Components:* Installation of interior locking buttons on all door locks and modification of rear door locks to disable latch release controls when locking mechanism is engaged.

Standard No. 208 *Occupant Crash Protection:* Installation of a complying driver's side air bag and a seat belt warning system. The petitioner asserts that the vehicle conforms to the standard's injury criteria at the front passenger position based on a test report from the vehicle's manufacturer. The petitioner additionally submitted a letter from an engineering concern stating that in frontal impact tests, a vehicle equipped with a V–8 engine will yield driver and passenger HIC measurements that are equivalent to, or better than those of a vehicle equipped with a 6 cylinder engine. The letter attributes this primarily to the fact that a V–8 engine block is six inches shorter than a 6 cylinder engine block, providing a greater crush-zone and therefore a less severe crash pulse. The petitioner states that it intends to meet automatic restraint phase-in requirements for vehicles manufactured after September 1, 1995 by importing other vehicles equipped with passenger-side automatic restraints.

Standard No. 210 *Seat Belt Assembly Anchorages:* Insertion of instructions on the installation and use of child restraints in the owner's manual for the vehicle. The petitioner asserts that the vehicle is certified as complying with a European standard that contains more severe force application requirements than those of this standard.

Standard No. 212 *Windshield Retention:* Application of cement to the windshield's edges.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. § 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 14, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–3811 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 96–13; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1972 Ford Mustang Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1972 Ford Mustang passenger cars manufactured for the Mexican market are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1972 Ford Mustang manufactured for the Mexican market that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is March 22, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle

that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer 90–005) has petitioned NHTSA to decide whether 1972 Ford Mustang passenger cars manufactured for the Mexican market are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1972 Ford Mustang that was manufactured for sale in the United States and certified by its manufacturer, Ford Motor Company, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1972 Ford Mustang to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1972 Ford Mustang, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1972 Fort Mustang is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 101 *Controls and Displays*, 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 111 *Rearview Mirror*, 113 *Hood Latch Systems*, 115 *Vehicle Identification Number*, 116 *Brake Fluid*, 210 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Gazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belts Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Installation of a white license plate lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer microswitch in the ignition switch a warning buzzer.

Standard No. 208 *Occupant Crash Protection:* (a) Installation in both from outboard seating positions of lap and upper torso restraints adjustable by means of an automatic-locking retractor, and with a latch mechanism capable of releasing both belts simultaneously; (b) installation Type 1 lap belts in both rear outboard seating positions.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 14, 1996.

Marilynne Jacobs,

Director Office of Vehicle Safety Compliance.

[FR Doc. 96–3825 Filed 2–20–96; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–18; OTS No. 04247]

American Savings, FSB, Munster, Indiana; Approval of Conversion Application

Notice is hereby given that on February 12, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of American Savings, FSB, Munster, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: February 14, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3787 Filed 2–20–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–16; OTS Nos. H–2650 and 00832]

Jacksonville Federal M.H.C., Ft. Jacksonville, Texas; Approval of Conversion Application

Notice is hereby given that on February 5, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Jacksonville Federal M.H.C., Jacksonville, Texas, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Dallas, Texas 75039–2010.

Dated: February 14, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3785 Filed 2–20–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–17; OTS No. 3169]

The Yonkers Savings and Loan Association, FA, Yonkers, New York; Approval of Conversion Application

Notice is hereby given that on February 8, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of The Yonkers Savings and Loan Association, FA, Yonkers, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: February 14, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–3786 Filed 2–20–96; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

Notice of Meeting of the Cultural Property Advisory Committee

SUMMARY: The Cultural Property Advisory Committee will meet on Wednesday, February 28, 1996, from approximately 9 a.m. to 5 p.m., and on Thursday, February 29, 1996, from approximately 8 a.m. to 12 noon, at USIA headquarters, 301 4th Street SW., Washington, DC. The agenda will include deliberation of a cultural property request from the Government of Nicaragua to the United States Government seeking protection of certain pre-Hispanic archaeological resources. This request, submitted under Article 9 of the 1970 UNESCO Convention, will be considered in accordance with the provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 et seq., P.L. 97–446).

The Committee will also review and discuss internal operating procedures. Since discussion of these matters will involve information the premature disclosure of which would be likely to significantly frustrate implementation of proposed actions, this portion of the meeting will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h).

Dated: February 15, 1996.

Penn Kemble,

Acting Director, United States Information Agency.

[FR Doc. 96–4008 Filed 2–20–96; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 61, No. 35
Wednesday, February 21, 1996.

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, February 26, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

DATED: February 16, 1996.

Jennifer J. Johnson,
Deputy Secretary of the Board.

[FR Doc. 96–4042 Filed 2–16–96; 3:03 pm]
BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 21, 1996, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

OPEN SESSION.
A. Approval of Minutes.
B. New Business.
Regulations *Loan Policies and Operations.*—Lending Authorities [12 CFR Part 614](Proposed).

Dated: February 15, 1996.

Floyd Fithian,
Secretary, Farm Credit Administration Board.

[FR Doc. 96–3944 Filed 2–16–96; 3:03 pm]
BILLING CODE 6705–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

TIME AND DATE: 2:30 p.m., Monday, March 4, 1996.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, 202/376–2441.

AGENDA:

I. Call to Order.
II. Approval of Minutes: December 18, 1995, Regular Meeting
III. Audit Committee Report: January 30, 1996 Meeting—
a. Annual Audit for FY 1995,
b. Internal Audit Director's Report.
IV. Treasurer's Report.
V. Executive Director's Quarterly Management Report.
VI. Adjourn.

Jeffrey T. Bryson,
General Counsel/Secretary.

[FR Doc. 96–3948 Filed 2–16–96; 3:03 pm]
BILLING CODE 7570–01–M

Federal Register

Wednesday
February 21, 1996

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1996; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. FR–3933–N–03]

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1996

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of final fiscal year (FY) 1996 fair market rents.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate Program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs whose regulations specify their use.

Today's notice provides final FY 1996 FMRs for all areas. It includes revised FMRs for 6 areas for which the FMRs have been increased as a result of HUD-contracted RDD surveys received in late October. The 6 areas are: Gallatin County, MT; the Johnson City-Kingsport-Bristol, TN–VA; Lexington, KY; Lincoln, NE; Macon, GA; and Raleigh-Durham-Chapel Hill, NC FMR areas.

Today's notice also makes effective the FMR reductions for 26 areas that were proposed in the August 15 notice based on the results of the most recent Random Digit Dialing and American Housing Surveys.

EFFECTIVE DATE: The FMRs published in this notice are effective on February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Operations Division, Office of Rental Assistance, telephone (202) 708–0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0577. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339. (Other than the "800" TDD number, telephone numbers are not toll free.).

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by FMRs established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Method Used to Develop FMRs

FMR Standard: The FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of the standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market rents of public housing units included in the data base.

Data Sources: HUD used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) the 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) the Bureau of the Census' American Housing Surveys (AHSs), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) the Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or HUD regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 102 metropolitan FMR areas. RDD Regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

RDD surveys have a high degree of statistical accuracy; there is a 95 percent likelihood that the recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual rent value. Virtually all of the RDD survey FMR estimates will be within 5 percent of the actual value.

State Minimum FMRs: Starting with the FY 1996 FMRs, HUD implemented a new minimum FMR policy in response to numerous public concerns that FMRs in rural areas were too low to operate the program successfully. As a result, FMRs are not established at the higher of the local FMR or the State-wide average of nonmetropolitan counties, subject to a ceiling rent cap. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

Public Comments

In response to the August 15, 1995, proposed FMRs, HUD received 78 public comments covering 59 FMR areas. Rental housing survey information was included for 18 of the FMR areas covered by comments. HUD carefully evaluated all of the survey data submitted and, based on that review, is revising the FMRs for 10 of the 18 areas. The information submitted for the 41 areas that did not provide rental housing survey data was not considered sufficient to provide a basis for revising the FMRs.

Of the 10 FMR areas with approved FMR revisions, 6 submitted RDD surveys conducted by the Public Housing Agency (PHA) or by a professional survey firm, and 4 submitted traditional landlord/owner type surveys. The 6 areas that used the RDD survey method were: the Austin-San Marcos, TX; Boston, MA; Lake Charles, LA; Oakland, CA; Santa Rosa, CA; and the Washington, DC FMR areas. The 4 areas with successful traditional surveys were: the Kenai Peninsular Borough and the Matanuska-Susitna Borough in Alaska and Archuleta County and Laplata County in Colorado.

HUD also received submissions from 7 firms in Iowa, Nebraska, and South Dakota which consisted essentially of an appraisal of an individual project in 15 different FMR areas. This information was referred to the appropriate staff in the HUD field offices with jurisdiction. These submissions have not been counted in this year's summary of FMR comments because they did not address the adequacy of the area-wide FMRs, but rather the need for higher rents in specific projects. The requirements for successful FMR comments are specific in the subsequent section of this preamble, *HUD Rental Housing Survey Guides*, and are included in the preambles of the annual notices of proposed FMRs.

AHS and RDD Surveys

In the August 15, 1995 (60 FR 42290), notice of proposed FMRs, 31 FMR areas had FMRs proposed with reductions based on recent RDD or AHS surveys. Four of these areas subsequently submitted RDD surveys which indicated higher FMRs than the proposed levels. Revised FMRs, therefore, have been approved for the Boston, MA–NH; Oakland, CA; Santa Rosa, CA; and Washington, DC–MD–VA FMR areas. The survey submitted for the Dayton-Springfield, OH FMR area did not contain sufficient rental housing survey information to provide a basis for revising the FMRs. HUD did not receive any comments from the other 26 areas with proposed FMR reductions.

Manufactured Home Space FMRs

HUD also received public comments and survey data from 7 FMR areas concerning the manufactured home space FMRs. As a result of a review of the data, increased FMRs have been approved for 4 of these areas and added to Schedule D. These 4 areas are: Vallejo-Fairfield-Napa, CA; Provo-Orem, UT; Benton County, OR; and Linn County, OR. The information submitted from the other 3 areas was not considered sufficient to provide a basis for revising the manufactured home space FMRs.

Manufactured home space FMRs are 30 percent of the applicable Section 8 Rental Certificate Program two-bedroom FMR. HUD accepts public comments requesting modifications of manufactured home space FMRs. In order to be accepted as a basis for revising the FMRs, such comments must contain statistically valid survey data that show the 40th percentile space rent (excluding the cost of utilities) for the entire FMR area. This program uses the same FMR area definitions as the Section 8 Rental Certificate Program. Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the Rental Certificate program FMRs.

Virgin Islands

After consultation with the Virgin Islands Housing Authority, HUD agreed to group the Virgin Islands into two areas for FMR calculation purposes. One area consists of the island of St. Croix and the other the islands of St. Johns and St. Thomas. The revised FMRs, based on the results of a PHA-supported RDD survey, are higher than the previous FMRs for St. Johns and St. Thomas and lower for St. Croix.

Puerto Rico

RDD surveys were conducted for all seven Puerto Rico FMR areas during 1995. HUD's September 18, 1995 (60 FR 48278), **Federal Register** notice of final FMRs implemented increased FMRs for the Mayaguez and Aguadilla areas. FMRs for the other five Puerto Rico FMR areas, four of which had proposed FMR decreases, were held at their previous levels pending completion of the RDD surveys.

The final FMRs based on the survey results for these five areas are as follows: the FMRs for San Juan and nonmetropolitan Puerto Rico are the same as last year's; the FMRs for Caguas are slightly lower than last year's; and the FMRs for Arecibo and Ponce are being implemented at the reduced proposed levels, although further reductions will be proposed next year for these two areas based on the still lower estimates determined from the RDD survey results.

HUD Rental Housing Survey Guides

HUD recommends use of professionally-conducted RDD telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of $10,000–$12,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if the actual two-bedroom FMR rent standard is significantly different than that proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of $5,000 or less.

PHAs in nonmetropolitan areas, in certain circumstances, may do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. PHAs are cautioned that the resultant FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on its relationship to the combined rent of the group of FMR areas.

PHAs that plan to use the RDD survey technique may obtain a copy of the appropriate survey guide by calling HUD USER on 1–800–245–2691. Larger PHAs should request "Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments." Smaller PHAs should obtain "Rental Housing Surveys; A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments."

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the small PHA survey guide. Other survey methodologies are acceptable as long as they provide statistically reliable, unbiased estimates of the 40th percentile gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means of verification for determining whether the sample is representative of the FMR area's rental housing stock. All survey results must be fully documented.

FMRs for Federal Disaster Areas

Under the authority granted in 24 CFR part 899, the Secretary finds good cause to waive the regulatory requirements that govern requests for geographic area FMR exceptions for areas that are declared disaster areas by the Federal Emergency Management Agency (FEMA) during FY 1996. HUD is prepared to grant disaster-related exceptions up to 10 percent above the applicable FMRs. HUD field offices are authorized to approve such exceptions for: (1) Single-county FMR areas and for individual county parts of multi-county FMR areas that qualify as disaster areas under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; if (2) the PHA certifies that damage to the rental housing stock as a result of the disaster is so substantial that it has increased the prevailing rent levels in

the affected area. Such exceptions must be requested in writing by the responsible PHAs. Once approved by HUD, they will remain in effect until superseded by the publication of the final FY 1998 FMRs.

Other Matters

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Rental Certificate Program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 Program.

The General Counsel, as the Designated Official under Executive Order No. 12606, *The Family*, has determined that this notice will not have a significant impact on family formation, maintenance, or well-being. The notice amends Fair Market Rent schedules for various Section 8 assisted housing programs, and does not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, *Federalism*, has determined that this notice will not involve the preemption of State law by Federal statute or regulation and does not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR Part 888, are amended as follows:

Dated: February 7, 1996.

Henry G. Cisneros,

Secretary.

Fair Market Rents for the Section 8 Housing Assistance Payments Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. The FMRs shown in Schedule B incorporate the Office of Management and Budget's (OMB) most current definitions of metropolitan areas (with the exceptions discussed in paragraph b). HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions. FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition.

b. The exceptions are counties deleted from seven large metropolitan areas whose revised OMB definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the "Metropolitan FMR Areas" listing:

Metropolitan Area and Counties Deleted

Atlanta, GA—Carroll, Pickens, and Walton Counties.
Chicago, IL—DeKalb, Grundy and Kendall Counties.
Cincinnati-Hamilton, OH–KY–IN—Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.
Dallas, TX—Henderson County.
Flagstaff, AZ–UT—Kane County, UT
Lafayette, LA—St. Landry and Acadia Parishes.
New Orleans, LA—St. James Parish.
Washington, DC–MD–VA–WV—Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren counties in Virginia.

c. FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands and the Pacific Islands.

d. FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas including the independent cities are as follows:

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND VIRGINIA INDEPENDENT CITIES INCLUDED WITH COUNTY

County	Cities
Allegheny	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.
Southhampton	Franklin.
Wise	Norton.

e. FMRs for Section 8 manufactured home spaces are established at 30 percent of the two-bedroom Section 8 Rental Certificate program FMRs, with the exception of the areas listed in Schedule D whose FMRs have been revised on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that will be updated annually using the same data used to estimate the Rental Certificate program FMRs. The FMR area definitions used for manufactured home spaces are the same as for the Section 8 Certificate program.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

BILLING CODE 4210–32–M

PAGE 1

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

Counties of FMR AREA within STATE

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR
A L A B A M A					
Anniston, AL MSA	239	283	353	494	559
Calhoun	340	384	447	605	672
Birmingham, AL MSA	322	359	430	563	610
Blount, Jefferson, St. Clair, Shelby	317	320	405	523	625
Columbus, GA-AL MSA	287	294	365	503	510
Russell					
Decatur, AL MSA	269	310	398	496	556
Lawrence, Morgan	239	292	338	438	539
Dothan, AL MSA	333	390	481	641	762
Dale, Houston	321	358	411	553	649
Florence, AL MSA	364	389	459	626	753
Colbert, Lauderdale					
Gadsden, AL MSA	314	337	448	615	651
Etowah					
Huntsville, AL MSA					
Limestone, Madison					
Mobile, AL MSA					
Baldwin, Mobile					
Montgomery, AL MSA					
Autauga, Elmore, Montgomery					
Tuscaloosa, AL MSA					
Tuscaloosa					

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	234	278	332	430	492
Bullock	234	278	332	430	492
Chambers	234	278	332	430	493
Chilton	242	278	332	430	492
Clarke	234	278	332	430	492
Cleburne	234	278	332	430	492
Conecuh	234	278	332	430	492
Covington	234	278	332	430	492
Cullman	234	278	332	440	535
DeKalb	234	278	332	430	492
Fayette	234	278	332	430	492
Geneva	234	278	332	430	492
Hale	234	278	332	430	492
Jackson	253	278	332	430	528
Lee	247	345	442	575	727
Macon	255	287	383	479	536
Marion	234	278	332	430	492
Monroe	234	278	332	430	492
Pickens	234	278	332	430	492
Randolph	234	278	332	430	492
Talladega	234	278	332	430	492
Walker	234	289	340	439	560
Wilcox	234	278	332	430	492

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Blbb	234	278	332	447	536
Butler	234	278	332	430	492
Cherokee	234	278	332	430	492
Choctaw	234	278	332	430	492
Clay	234	278	332	430	492
Coffee	234	329	427	594	667
Coosa	234	278	332	430	492
Crenshaw	234	278	332	430	492
Dallas	234	278	332	430	492
Escambia	234	278	332	430	492
Franklin	234	278	332	430	492
Greene	234	278	332	430	492
Henry	234	278	332	430	492
Lamar	234	278	332	430	492
Lowndes	234	278	332	430	492
Marengo	234	278	332	430	492
Marshall	268	278	338	469	555
Perry	234	278	332	430	492
Pike	239	278	332	430	500
Sumter	234	278	332	430	492
Tallapoosa	235	278	332	430	492
Washington	234	278	332	430	492
Winston	234	278	332	430	492

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	473	557	740	1029	1215	Anchorage

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	491	553	623	778	1020
Bethel	633	792	1003	1256	1406
Dillingham	612	622	827	1036	1159
Haines	456	565	644	876	902
Kenai Peninsula	415	529	637	885	1045
Kodiak Island	653	717	931	1164	1510
Matanuska-Susitna	438	593	667	906	1070
North Slope	732	750	927	1290	1503
Pr.Wales-Outer Ketchikan	342	544	625	868	918
Skagway-Yakutat-Angoon	419	426	552	691	775
Valdez-Cordova	512	627	697	890	1060
Wrangell-Petersburg	373	550	668	851	934

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutian West	421	475	533	668	748
Bristol Bay	508	586	660	917	997
Fairbanks North Star	386	525	689	947	1117
Juneau	681	787	1002	1334	1386
Ketchikan Gateway	502	613	821	1143	1201
Lake & Peninsula	392	634	713	890	998
Nome	645	798	896	1247	1407
Northwest Arctic	775	873	980	1363	1608
Sitka	540	641	719	1000	1181
Southeast Fairbanks	430	451	544	680	764
Wade Hampton	366	552	622	777	871
Yukon-Koyukuk	489	551	621	776	899

A R I Z O N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ	401	435	564	757	909	Coconino
Las Vegas, NV-AZ MSA	437	519	618	860	1015	Mohave
Phoenix-Mesa, AZ MSA	370	447	561	780	920	Maricopa, Pinal
Tucson, AZ MSA	347	416	553	770	908	Pima
Yuma, AZ MSA	347	401	534	743	748	Yuma

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Apache	347	364	463	604	718
Gila	347	364	463	604	718
Greenlee	347	364	463	604	718
Navajo	347	364	463	604	718
Yavapai	368	384	512	714	786
Cochise	347	364	463	604	718
Graham	347	364	463	604	718
La Paz	347	364	463	604	718
Santa Cruz	347	384	475	604	718

A R K A N S A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	261	327	430	582	602	Benton, Washington
Fort Smith, AR-OK MSA	282	286	376	504	528	Crawford, Sebastian
Little Rock-North Little Rock, AR MSA	352	390	464	641	748	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	321	374	440	611	642	Crittenden
Pine Bluff, AR MSA	268	318	419	529	688	Jefferson

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SCHEDULE B 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Texarkana, TX-Texarkana, AR MSA	286	350	427	563	597	Miller

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas	250	270	345	473	513
Baxter	227	290	385	494	602
Bradley	227	270	345	458	513
Carroll	267	292	345	458	547
Clark	250	270	350	458	553
Cleburne	257	270	345	458	520
Columbia	227	270	345	458	513
Craighead	294	320	377	520	549
Dallas	227	270	345	458	513
Drew	227	294	393	543	552
Fulton	235	270	345	458	513
Grant	236	281	345	458	518
Hempstead	227	270	345	458	513
Howard	227	270	345	458	513
Izard	227	270	345	458	513
Johnson	227	270	345	458	513
Lawrence	227	270	345	458	513
Lincoln	246	270	351	470	513
Logan	238	270	345	458	513
Marion	227	270	345	458	513
Monroe	231	270	345	458	513
Nevada	227	270	345	474	513
Ouachita	265	270	345	477	563
Phillips	227	270	345	458	513
Poinsett	227	270	345	458	513
Pope	227	297	376	522	601
Randolph	227	270	345	458	513
Scott	227	270	345	458	513
Sevier	249	270	345	458	513
Stone	227	270	345	458	513
Van Buren	227	270	345	458	566
Woodruff	227	270	345	458	513

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashley	227	270	345	458	542
Boone	269	274	363	506	597
Calhoun	227	270	345	458	513
Chicot	227	270	345	458	513
Clay	227	270	345	458	513
Cleveland	227	270	345	458	513
Conway	227	281	376	469	526
Cross	236	298	345	465	548
Desha	227	270	345	458	513
Franklin	238	270	345	458	513
Garland	227	290	388	540	638
Greene	244	270	345	458	513
Hot Spring	227	270	345	458	513
Independence	239	277	345	458	513
Jackson	235	270	345	458	513
Lafayette	238	270	345	458	513
Lee	251	270	345	458	513
Little River	227	270	351	487	574
Madison	259	270	351	458	513
Mississippi	258	281	376	495	555
Montgomery	227	270	345	458	513
Newton	227	270	345	458	513
Perry	227	270	345	458	513
Pike	227	270	345	458	513
Polk	227	270	345	458	513
Prairie	227	270	345	458	513
St. Francis	227	276	345	468	550
Searcy	227	270	345	458	513
Sharp	227	270	345	458	513
Union	285	300	361	484	593
White	227	270	345	474	513
Yell	236	270	345	458	513

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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C A L I F O R N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	377	425	532	739	819	Kern
Chico-Paradise, CA MSA	314	402	535	734	878	Butte
Fresno, CA MSA	386	432	516	717	826	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	564	676	855	1154	1377	Los Angeles
Merced, CA MSA	374	421	511	706	833	Merced
Modesto, CA MSA	413	445	543	757	891	Stanislaus
Oakland, CA PMSA	515	623	781	1071	1280	Alameda, Contra Costa
Orange County, CA PMSA	637	696	860	1197	1333	Orange
Redding, CA MSA	355	394	493	685	808	Shasta
Riverside-San Bernardino, CA PMSA	455	507	618	859	1014	Riverside, San Bernardino
Sacramento, CA PMSA	444	501	626	870	1025	El Dorado, Placer, Sacramento
Salinas, CA MSA	503	588	709	986	1034	Monterey
San Diego, CA MSA	473	541	677	940	1109	San Diego
San Francisco, CA PMSA	580	751	950	1302	1377	Marin, San Francisco, San Mateo
San Jose, CA PMSA	641	731	903	1238	1391	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA PMSA	481	544	690	959	1132	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	585	650	824	1147	1294	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	596	709	948	1317	1544	Santa Cruz
Santa Rosa, CA PMSA	497	581	753	1015	1199	Sonoma
Stockton-Lodi, CA MSA	415	470	602	837	988	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	493	561	684	950	1122	Napa, Solano
Ventura, CA PMSA	533	612	775	1031	1200	Ventura
Visalia-Tulare-Porterville, CA MSA	347	369	480	671	766	Tulare
Yolo, CA PMSA	447	510	630	875	1033	Yolo
Yuba City, CA MSA	309	360	463	646	746	Sutter, Yuba

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alpine	294	441	498	692	746
Calaveras	356	411	548	762	898
Del Norte	301	412	548	763	900
Humboldt	303	420	551	768	908
Inyo	304	411	527	691	746
Lake	331	421	562	708	921
Mariposa	317	403	519	679	802
Modoc	321	360	463	646	746
Nevada	368	503	670	932	1080
San Benito	441	519	650	905	1060
Siskiyou	308	360	463	646	746
Trinity	330	360	463	646	746

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Amador	405	447	596	830	925
Colusa	321	360	463	646	746
Glenn	294	360	463	646	746
Imperial	332	415	511	712	746
Kings	341	395	494	687	810
Lassen	360	364	473	646	746
Mendocino	406	489	601	837	843
Mono	449	538	715	994	1175
Plumas	324	360	463	646	746
Sierra	294	393	485	674	796
Tehama	307	360	463	646	746
Tuolumne	325	444	592	823	971

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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C O L O R A D O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	434	520	667	929	1095	Boulder
Colorado Springs, CO MSA	372	398	531	739	874	El Paso
Denver, CO PMSA	365	435	579	804	949	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	384	474	585	812	960	Larimer
Grand Junction, CO MSA	354	367	459	618	736	Mesa
Greeley, CO PMSA	365	403	507	704	833	Weld
Pueblo, CO MSA	372	386	482	649	773	Pueblo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alamosa	354	367	459	618	736
Baca	354	367	459	618	736
Chaffee	354	367	459	618	736
Clear Creek	354	412	467	650	766
Costilla	354	367	459	618	736
Custer	354	367	459	618	736
Dolores	354	367	459	618	736
Elbert	390	434	494	618	811
Garfield	411	440	556	694	910
Grand	420	424	537	672	813
Hinsdale	354	374	459	618	736
Jackson	354	367	459	618	736
Kit Carson	354	367	459	618	736
La Plata	462	511	674	938	1107
Lincoln	354	367	459	618	736
Mineral	354	367	459	618	736
Montezuma	354	367	459	618	736
Morgan	354	367	459	618	736
Ouray	354	367	464	618	751
Phillips	354	367	459	618	736
Prowers	354	367	459	618	736
Rio Grande	354	367	459	618	736
Saguache	354	367	459	618	736
San Miguel	651	940	1033	1291	1665
Summit	456	546	699	973	1198
Washington	354	367	459	618	736

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Archuleta	423	463	548	738	879
Bent	354	367	459	618	736
Cheyenne	354	367	459	618	736
Conejos	354	367	459	618	736
Crowley	354	367	459	618	736
Delta	354	367	459	618	736
Eagle	476	518	691	962	1134
Fremont	354	367	459	618	736
Gilpin	354	470	597	788	872
Gunnison	354	367	459	618	736
Huerfano	354	367	459	618	736
Kiowa	354	367	459	618	736
Lake	354	367	459	618	736
Las Animas	354	377	459	618	736
Logan	354	367	459	618	736
Moffat	354	367	459	618	736
Montrose	354	367	464	643	759
Otero	354	367	459	618	736
Park	354	391	510	708	805
Pitkin	531	726	967	1276	1450
Rio Blanco	354	367	459	618	736
Routt	354	428	565	785	925
San Juan	354	367	459	618	736
Sedgwick	354	367	459	618	736
Teller	354	419	559	777	783
Yuma	354	367	459	618	736

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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CONNECTICUT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	444	577	695	869	1085	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	636	761	950	1255	1446	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT PMSA	422	524	670	840	1021	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	528	648	802	1026	1189	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	476	575	700	877	1002	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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CONNECTICUT continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	710	832	1014	1359	1501	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT MSA	403	545	674	842	942	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT	455	551	689	859	963	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	342	552	623	866	1021	Hartland town
Litchfield	397	540	721	901	1025	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	588	666	890	1237	1459	Chester town, Deep River town, Essex town Westbrook town
New London	498	610	693	895	1136	Lyme town, Voluntown town
Tolland	342	552	623	866	872	Union town
Windham	393	481	623	780	979	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

DELAWARE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	415	460	525	681	773	Kent
Wilmington-Newark, DE-MD PMSA	409	541	630	856	1033	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex	364	386	493	647	691

DIST. OF COLUMBIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA	584	663	779	1060	1278	District of Columbia

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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F L O R I D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	375	438	561	745	790	Flagler, Volusia
Fort Lauderdale, FL PMSA	470	552	683	951	1121	Broward
Fort Myers-Cape Coral, FL MSA	417	481	580	809	845	Lee
Fort Pierce-Port Lucie, FL MSA	428	470	609	792	854	Martin, St. Lucie
Fort Walton Beach, FL MSA	375	409	463	629	742	Okaloosa
Gainesville, FL MSA	375	409	497	681	804	Alachua
Jacksonville, FL MSA	391	438	528	698	776	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	375	409	463	588	674	Polk
Melbourne-Titusville-Palm Bay, FL MSA	375	445	557	746	870	Brevard
Miami, FL PMSA	459	575	718	986	1143	Dade
Naples, FL MSA	401	565	679	944	1053	Collier
Ocala, FL MSA	375	409	463	609	715	Marion
Orlando, FL MSA	464	528	629	826	1008	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	375	409	463	592	635	Bay
Pensacola, FL MSA	375	409	463	620	732	Escambia, Santa Rosa
Punta Gorda, FL MSA	375	429	571	793	936	Charlotte
Sarasota-Bradenton, FL MSA	376	477	606	781	849	Manatee, Sarasota
Tallahassee, FL MSA	384	423	559	731	881	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	370	440	545	725	878	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	458	536	663	882	1089	Palm Beach

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	368	402	455	564	614
Calhoun	368	402	455	564	614
Columbia	368	402	455	564	614
Dixie	368	402	455	564	614
Gilchrist	368	402	455	564	614
Gulf	368	402	455	564	614
Hardee	368	402	455	564	614
Highlands	368	402	455	566	633
Indian River	368	460	591	739	827
Jefferson	368	402	455	564	614
Levy	368	402	455	564	614
Madison	368	402	455	564	614
Okeechobee	368	402	455	564	620
Sumter	368	402	455	564	614
Taylor	368	402	455	564	615
Wakulla	368	402	455	564	614
Washington	368	402	455	564	614

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bradford	368	402	455	564	614
Citrus	368	402	455	564	614
Desoto	368	402	455	564	614
Franklin	368	402	455	564	614
Glades	368	402	455	564	614
Hamilton	368	402	455	564	614
Hendry	368	402	469	587	658
Holmes	368	402	455	564	614
Jackson	368	402	455	564	614
Lafayette	368	402	455	564	614
Liberty	368	402	455	564	614
Monroe	527	594	763	1052	1251
Putnam	368	402	455	564	614
Suwannee	368	402	455	564	614
Union	368	402	455	564	614
Walton	368	402	455	585	732

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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G E O R G I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	279	327	400	546	590	Dougherty, Lee
Athens, GA MSA	345	371	480	654	788	Clarke, Madison, Oconee
Atlanta, GA	465	518	604	803	973	Barrow, Bartow, Cherokee, Clayton, Cobb, Coweta, Dekalb Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Newton, Paulding, Rockdale, Spalding
Augusta-Aiken, GA-SC MSA	331	396	466	634	750	Columbia, Mcduffie, Richmond
Carroll County, GA	310	325	419	583	689	Carroll
Chattanooga, TN-GA MSA	318	373	447	577	658	Catoosa, Dade, Walker
Columbus, GA-AL MSA	322	359	430	563	610	Chattahoochee, Harris, Muscogee
Macon, GA MSA	361	403	467	645	663	Bibb, Houston, Jones, Peach, Twiggs
Pickens County, GA	270	325	401	557	585	Pickens
Savannah, GA MSA	337	418	486	655	682	Bryan, Chatham, Effingham
Walton County, GA	344	371	478	664	784	Walton

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Appling	267	322	393	510	579
Bacon	267	322	393	510	579
Baldwin	267	342	417	534	583
Ben Hill	267	322	393	510	587
Bleckley	267	322	393	510	579
Brooks	267	322	393	510	579
Burke	267	322	393	510	579
Calhoun	267	322	393	510	579
Candler	267	322	393	510	579
Chattooga	267	322	393	510	579
Clinch	267	322	393	510	579
Colquitt	267	322	393	510	579
Crawford	267	322	393	510	579
Dawson	267	347	463	578	714
Dodge	267	322	393	510	579
Early	267	322	393	510	579
Elbert	267	322	393	510	579
Evans	267	322	393	510	579
Floyd	267	322	394	521	579
Gilmer	267	322	393	510	579
Glynn	373	417	473	634	777
Grady	272	322	393	510	579
Habersham	287	322	393	510	584
Hancock	267	322	393	510	579
Hart	267	322	393	510	579
Irwin	267	322	393	510	579

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atkinson	267	322	393	510	579
Baker	267	322	393	510	579
Banks	267	322	393	510	579
Berrien	267	322	393	510	579
Brantley	267	322	393	510	579
Bulloch	322	327	420	541	687
Butts	267	353	470	628	658
Camden	374	423	474	658	778
Charlton	267	322	393	510	579
Clay	267	322	393	510	579
Coffee	267	322	393	510	587
Cook	267	322	393	510	579
Crisp	270	322	393	510	579
Decatur	267	322	393	510	579
Dooly	267	322	393	510	579
Echols	267	322	393	510	579
Emanuel	267	322	393	510	579
Fannin	267	322	393	510	579
Franklin	267	322	393	510	579
Glascock	267	322	393	510	579
Gordon	317	322	401	518	661
Greene	267	322	393	510	579
Hall	283	430	505	633	707
Haralson	267	322	393	510	579
Heard	267	322	393	510	579
Jackson	298	322	404	510	665

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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GEORGIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Jasper	267	322	398	541	579
Jefferson	267	322	393	510	587
Johnson	267	322	393	510	579
Lanier	267	322	393	510	579
Liberty	333	371	422	586	591
Long	267	347	393	510	579
Lumpkin	267	360	405	542	665
Macon	267	322	393	510	579
Meriwether	267	322	393	510	579
Mitchell	267	322	393	510	579
Montgomery	267	322	393	510	579
Murray	267	322	393	510	579
Pierce	267	322	393	510	579
Polk	267	322	393	532	579
Putnam	267	322	393	510	587
Rabun	267	322	393	510	579
Schley	267	322	393	510	579
Seminole	267	322	393	510	579
Stewart	267	322	393	510	579
Talbot	267	322	393	510	579
Tattnall	267	322	393	510	579
Telfair	267	322	393	510	579
Thomas	267	332	393	510	579
Toombs	267	322	393	510	579
Treutlen	267	322	393	510	579
Turner	267	322	393	510	579
Upson	276	322	393	510	579
Warren	267	322	393	510	579
Wayne	276	322	393	510	579
Wheeler	267	322	393	510	579
Whitfield	267	350	422	539	636
Wilkes	267	322	393	510	579
Worth	267	322	393	510	579

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Jeff Davis	267	322	393	510	579
Jenkins	267	322	393	510	579
Lamar	267	331	393	510	624
Laurens	273	322	393	510	579
Lincoln	267	322	393	510	579
Lowndes	300	362	438	615	679
Mcintosh	267	322	393	510	579
Marion	267	322	393	510	579
Miller	267	322	393	510	579
Monroe	267	322	393	519	579
Morgan	267	322	408	510	579
Oglethorpe	267	322	393	510	579
Pike	310	337	426	593	597
Pulaski	267	322	393	510	579
Quitman	267	322	393	510	579
Randolph	267	322	393	510	579
Screven	267	322	393	510	579
Stephens	267	322	393	510	579
Sumter	267	327	393	510	579
Taliaferro	267	322	393	510	579
Taylor	267	322	393	510	579
Terrell	267	322	393	510	579
Tift	267	322	393	510	579
Towns	267	322	393	510	579
Troup	267	364	410	512	579
Union	267	322	411	515	579
Ware	296	332	393	510	613
Washington	267	322	393	510	579
Webster	267	322	393	510	579
White	267	322	393	510	593
Wilcox	267	322	393	510	579
Wilkinson	267	322	393	510	579

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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HAWAII

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	691	826	973	1315	1423	Honolulu

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hawaii	459	598	687	914	1126
Maui	741	919	1121	1448	1640
Kauai	586	876	1067	1410	1525

IDAHO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	371	424	515	715	845	Ada, Canyon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	263	305	394	521	617
Bear Lake	263	305	394	521	617
Bingham	280	305	394	521	617
Boise	263	340	394	521	617
Bonneville	268	338	463	623	761
Butte	263	305	394	521	617
Caribou	263	305	394	521	617
Clark	263	305	394	521	617
Custer	263	305	394	521	617
Franklin	263	305	394	521	617
Gem	263	305	394	521	617
Idaho	263	305	394	521	617
Jerome	263	305	394	521	617
Latah	263	305	394	521	625
Lewis	263	305	394	521	617
Madison	263	305	394	521	617
Nez Perce	268	305	394	521	617
Owyhee	263	305	394	521	617
Power	263	305	394	521	617
Teton	287	305	394	533	630
Valley	274	305	394	521	617

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bannock	263	305	394	539	635
Benewah	263	305	394	521	617
Blaine	407	448	597	832	981
Bonner	302	375	463	643	740
Boundary	263	305	394	521	617
Camas	263	305	394	521	617
Cassia	263	305	394	521	617
Clearwater	263	305	394	521	617
Elmore	263	305	394	521	617
Fremont	263	305	394	521	617
Gooding	263	305	394	521	617
Jefferson	271	305	394	521	617
Kootenai	335	394	515	717	847
Lemhi	263	305	394	521	617
Lincoln	263	305	394	521	617
Minidoka	263	305	394	521	617
Oneida	264	305	394	521	617
Payette	263	305	394	521	617
Shoshone	263	305	394	521	617
Twin Falls	263	305	399	525	617
Washington	263	305	394	521	617

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020998

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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ILLINOIS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	301	368	493	684	723	Mclean
Champaign-Urbana, IL MSA	324	397	514	705	844	Champaign
Chicago, IL	492	591	704	881	985	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	263	364	450	582	630	Henry, Rock Island
Decatur, IL MSA	252	326	419	566	587	Macon
De Kalb County, IL	381	444	563	781	906	Dekalb
Grundy County, IL	333	384	511	675	717	Grundy
Kankakee, IL PMSA	302	366	488	623	683	Kankakee
Kendall County, IL	460	524	632	880	885	Kendall
Peoria-Pekin, IL MSA	310	343	459	611	750	Peoria, Tazewell, Woodford
Rockford, IL MSA	301	386	470	591	689	Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	297	362	471	612	677	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	291	359	479	637	724	Menard, Sangamon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	244	275	353	463	562
Bond	244	275	353	463	520
Bureau	244	308	362	463	520
Carroll	244	275	353	463	520
Christian	263	275	355	465	520
Clay	244	275	353	463	520
Crawford	244	275	353	463	520
De Witt	248	275	353	467	520
Edgar	244	275	353	463	520
Effingham	244	283	353	463	520
Ford	233	326	424	544	595
Fulton	244	275	353	463	520
Greene	244	275	353	463	520
Hancock	244	275	353	463	520
Henderson	244	275	353	463	520
Jackson	296	297	375	533	596
Jefferson	245	288	360	491	520
Johnson	244	275	353	463	520
La Salle	244	286	382	516	579
Lee	273	281	374	468	526
Logan	274	291	387	485	608
Macoupin	244	275	353	463	520
Marshall	244	275	353	463	520
Massac	245	275	353	463	520
Montgomery	244	275	353	463	520

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alexander	244	275	353	463	520
Brown	244	275	353	463	520
Calhoun	244	275	353	463	520
Cass	245	275	353	463	520
Clark	244	275	353	463	520
Coles	258	307	409	543	642
Cumberland	244	275	353	463	520
Douglas	261	275	353	463	520
Edwards	244	275	353	463	520
Fayette	244	275	353	463	520
Franklin	244	275	353	463	520
Gallatin	244	275	353	463	520
Hamilton	244	276	353	463	520
Hardin	244	275	353	463	520
Iroquois	244	275	353	463	520
Jasper	244	277	353	463	520
Jo Daviess	271	293	353	463	520
Knox	244	275	353	463	537
Lawrence	244	275	353	463	520
Livingston	244	301	402	518	565
Mcdonough	244	280	353	463	557
Marion	249	275	353	463	520
Mason	244	275	353	463	527
Mercer	244	275	353	463	520
Morgan	244	309	412	548	578

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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ILLINOIS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Moultrie	244	275	353	476	520
Piatt	244	297	386	527	541
Pope	244	275	353	463	520
Putnam	244	275	353	463	520
Richland	244	275	353	463	520
Schuyler	244	275	353	463	520
Shelby	244	275	353	463	520
Stephenson	258	295	373	467	524
Vermilion	244	311	389	487	544
Warren	258	275	353	463	520
Wayne	244	275	353	463	520
Whiteside	258	294	391	490	551

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Perry	245	275	353	463	520
Pike	244	275	353	463	520
Pulaski	244	275	353	463	520
Randolph	244	275	353	463	520
Saline	244	275	353	463	520
Scott	244	275	353	463	520
Stark	244	275	353	463	520
Union	244	275	353	463	520
Wabash	244	275	353	463	549
Washington	244	293	390	489	634
White	244	275	353	463	520
Williamson	244	275	355	494	520

INDIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	302	391	521	723	854	Monroe
Cincinnati, OH-KY-IN	289	372	498	667	720	Dearborn
Elkhart-Goshen, IN MSA	346	395	500	640	734	Elkhart
Evansville-Henderson, IN-KY MSA	255	312	405	507	567	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	297	379	470	606	659	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	313	412	513	644	720	Lake, Porter
Indianapolis, IN MSA	339	425	511	640	717	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	278	329	429	552	600	Howard, Tipton
Lafayette, IN MSA	297	376	502	698	824	Clinton, Tippecanoe
Louisville, KY-IN MSA	293	377	461	638	673	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	276	344	407	552	652	Delaware
Ohio County, IN	269	303	387	499	549	Ohio
South Bend, IN MSA	298	396	522	651	730	St. Joseph
Terre Haute, IN MSA	268	314	400	500	558	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	374	403	487	608	800
Blackford	264	297	392	491	549
Carroll	264	297	380	490	538
Crawford	264	297	380	490	538
Decatur	264	322	412	533	580
Fayette	264	297	381	490	577
Franklin	264	297	380	490	602

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Benton	264	297	380	490	538
Brown	264	350	461	641	664
Cass	264	297	380	490	538
Daviess	264	297	380	490	538
Dubois	264	297	380	490	555
Fountain	264	297	380	490	538
Fulton	291	304	380	511	538

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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I N D I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Gibson	264	297	380	490	538
Greene	264	297	380	490	538
Jackson	324	339	419	554	595
Jay	264	297	380	490	538
Jennings	276	297	380	490	538
Kosciusko	264	349	421	546	590
La Porte	269	325	435	557	609
Marshall	312	317	421	531	590
Miami	264	297	380	490	538
Newton	276	297	380	490	538
Orange	264	297	380	490	538
Parke	264	297	380	490	562
Pike	264	297	380	490	538
Putnam	287	334	411	551	556
Ripley	264	297	380	498	563
Spencer	264	297	380	490	538
Steuben	323	365	436	544	609
Switzerland	264	297	380	490	538
Wabash	264	297	380	490	538
Washington	264	297	380	490	538
White	264	297	380	490	594

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Grant	279	297	380	492	538
Henry	264	297	380	490	538
Jasper	264	320	380	490	538
Jefferson	264	297	380	490	538
Knox	269	297	385	490	539
Lagrange	269	309	395	513	597
Lawrence	264	297	380	494	538
Martin	264	297	380	490	538
Montgomery	308	324	404	512	567
Noble	304	310	386	499	551
Owen	264	297	380	490	563
Perry	264	297	380	490	538
Pulaski	264	297	380	490	538
Randolph	264	297	380	490	538
Rush	272	297	380	490	563
Starke	264	297	380	490	538
Sullivan	264	297	380	490	538
Union	264	297	380	490	538
Warren	264	297	380	490	538
Wayne	264	297	380	490	538

I O W A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	258	363	466	650	697	Linn
Davenport-Moline-Rock Island, IA-IL MSA	263	364	450	582	630	Scott
Des Moines, IA MSA	350	444	545	707	743	Dallas, Polk, Warren
Dubuque, IA MSA	273	334	430	549	669	Dubuque
Iowa City, IA MSA	311	401	515	715	845	Johnson
Omaha, NE-IA MSA	279	382	483	633	710	Pottawattamie
Sioux City, IA-NE MSA	290	348	434	542	618	Woodbury
Waterloo-Cedar Falls, IA MSA	255	325	406	541	635	Black Hawk

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	250	309	388	492	543
Allamakee	250	309	388	497	569
Audubon	250	309	388	492	543
Boone	250	328	388	497	589
Buchanan	264	309	388	492	543
Butler	266	309	388	492	543
Carroll	250	309	388	492	543
Cedar	250	313	388	492	543
Cherokee	250	309	388	492	543
Clarke	257	309	388	492	543
Clayton	250	309	388	492	543
Crawford	250	309	388	492	543
Decatur	250	309	388	492	543
Des Moines	250	318	410	513	573
Emmet	250	309	388	492	573
Floyd	272	309	388	492	543
Fremont	275	309	388	492	571
Grundy	250	309	388	492	557
Hamilton	285	323	392	492	549
Hardin	250	309	388	492	543
Henry	250	316	402	503	569
Humboldt	250	309	388	492	543
Iowa	250	309	388	492	543
Jasper	250	316	401	501	561
Jones	259	309	388	492	543
Kossuth	250	309	388	492	543
Louisa	250	309	388	492	543
Lyon	250	309	388	492	543
Mahaska	250	309	388	492	543
Marshall	250	309	388	492	543
Mitchell	250	309	388	492	543
Monroe	250	325	388	492	571
Muscatine	250	309	410	545	573
Osceola	250	309	388	492	543
Palo Alto	250	309	388	492	543
Pocahontas	250	309	388	492	543
Ringgold	250	309	388	492	543
Shelby	250	309	388	492	543
Story	325	395	465	646	739
Taylor	250	309	388	492	544

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	250	309	388	492	543
Appanoose	250	309	388	492	546
Benton	257	309	388	492	543
Bremer	250	309	388	492	577
Buena Vista	265	309	388	492	543
Calhoun	250	309	388	492	543
Cass	250	309	388	492	543
Cerro Gordo	250	327	405	540	566
Chickasaw	250	309	388	492	543
Clay	250	309	388	492	543
Clinton	250	309	393	492	550
Davis	250	309	388	492	543
Delaware	250	309	388	492	543
Dickinson	250	309	388	492	543
Fayette	250	309	388	492	543
Franklin	257	309	388	492	543
Greene	250	309	388	492	543
Guthrie	250	309	388	492	570
Hancock	250	309	388	492	543
Harrison	250	309	388	492	543
Howard	250	309	388	492	566
Ida	257	309	388	492	543
Jackson	250	309	390	492	546
Jefferson	250	315	420	547	691
Keokuk	250	309	388	492	543
Lee	250	309	400	500	560
Lucas	250	309	388	492	543
Madison	250	309	403	516	565
Marion	250	342	420	525	589
Mills	250	334	394	494	552
Monona	250	309	388	492	543
Montgomery	275	310	388	492	543
O'Brien	250	309	388	492	543
Page	250	309	388	492	543
Plymouth	250	309	405	506	566
Poweshiek	265	328	420	525	589
Sac	250	309	388	492	543
Sioux	250	309	388	492	543
Tama	250	309	388	492	543
Union	250	309	388	492	571

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Van Buren	250	309	388	492	543
Washington	250	309	388	492	571
Webster	250	309	393	494	551
Winneshiek	250	309	388	492	543
Wright	250	309	388	492	543
Wapello	250	309	391	492	547
Wayne	250	309	388	492	543
Winnebago	250	314	388	492	543
Worth	250	309	388	492	551

K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	319	402	483	668	740	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	332	397	510	710	817	Douglas
Topeka, KS MSA	312	359	466	630	711	Shawnee
Wichita, KS MSA	306	368	493	665	719	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	255	288	370	477	531
Atchison	255	288	370	477	569
Barton	255	288	370	477	531
Brown	255	288	370	477	531
Chautauqua	255	288	370	477	531
Cheyenne	255	288	370	477	531
Clay	255	288	370	477	531
Coffey	264	288	370	477	555
Cowley	272	288	370	489	531
Decatur	255	288	370	477	531
Doniphan	255	288	370	477	531
Elk	255	288	370	477	531
Ellsworth	255	288	370	477	531
Ford	273	322	402	506	570
Geary	313	329	411	531	576
Graham	255	288	370	477	531
Gray	255	288	370	477	531
Greenwood	255	288	370	477	531
Harper	255	288	370	477	531
Hodgeman	255	288	370	477	531
Jefferson	255	288	377	500	531
Kearny	283	288	381	512	562
Kiowa	255	288	370	477	531
Lane	255	288	370	477	531
Linn	255	288	370	477	531
Lyon	255	288	370	477	566
Anderson	255	288	370	477	531
Barber	255	288	370	477	531
Bourbon	255	288	370	477	531
Chase	255	288	370	477	531
Cherokee	255	288	370	477	531
Clark	255	288	370	477	531
Cloud	255	288	370	477	531
Comanche	255	288	370	477	531
Crawford	255	288	377	477	531
Dickinson	255	288	370	477	531
Edwards	255	288	370	477	531
Ellis	255	288	370	477	531
Finney	314	336	430	559	707
Franklin	276	288	373	477	583
Gove	255	288	370	477	531
Grant	255	323	370	507	552
Greeley	255	288	370	477	531
Hamilton	255	288	370	477	531
Haskell	255	295	370	477	531
Jackson	255	288	370	477	531
Jewell	255	288	370	477	531
Kingman	255	288	370	477	531
Labette	255	288	370	477	531
Lincoln	255	288	370	477	531
Logan	255	288	370	477	531
Mcpherson	257	288	370	477	531

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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K A N S A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Marion	255	288	370	477	531
Meade	255	288	370	477	531
Montgomery	255	288	370	477	531
Morton	255	310	370	477	531
Neosho	255	288	370	477	531
Norton	255	288	370	477	531
Osborne	255	288	370	477	532
Pawnee	255	288	370	477	531
Pottawatomie	255	288	370	477	544
Rawlins	255	288	370	477	531
Republic	255	288	370	477	531
Riley	315	347	462	578	701
Rush	255	288	370	477	531
Saline	279	288	381	526	533
Seward	286	312	415	520	581
Sherman	255	288	370	477	531
Stafford	255	288	370	477	531
Stevens	255	289	370	477	546
Thomas	255	288	370	477	531
Wabaunsee	255	288	370	477	531
Washington	255	288	370	477	531
Wilson	255	288	370	477	531
Marshall	255	288	370	477	531
Mitchell	255	288	370	477	531
Morris	255	288	370	477	531
Nemaha	255	288	370	477	531
Ness	255	288	370	477	531
Osage	255	288	370	477	531
Ottawa	255	288	370	477	531
Phillips	255	288	370	477	531
Pratt	255	288	370	487	531
Reno	255	288	370	477	577
Rice	255	288	370	477	531
Rooks	255	288	370	477	531
Russell	255	288	370	477	531
Scott	255	288	370	487	559
Sheridan	255	288	370	477	531
Smith	255	288	370	477	531
Stanton	255	288	370	477	531
Sumner	255	288	370	500	531
Trego	255	288	370	477	531
Wallace	255	288	370	477	531
Wichita	255	288	381	477	593
Woodson	255	288	370	477	531

K E N T U C K Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	289	372	498	667	720	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	313	351	411	561	576	Christian
Evansville-Henderson, IN-KY MSA	255	312	405	507	567	Henderson
Gallatin County, KY	242	330	404	506	662	Gallatin
Grant County, KY	241	287	380	531	627	Grant
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Boyd, Carter, Greenup
Lexington, KY MSA	317	395	484	659	745	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	293	377	461	638	673	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	276	286	377	506	529	Daviess
Pendleton County, KY	243	281	375	471	527	Pendleton

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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KENTUCKY continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	238	291	343	454	498
Anderson	262	277	359	448	503
Barren	238	288	343	443	498
Bell	238	277	346	443	498
Bracken	238	277	343	443	498
Breckinridge	238	277	343	443	498
Caldwell	238	277	343	443	498
Carlisle	238	277	343	443	498
Casey	238	277	343	443	498
Clinton	238	277	343	443	498
Cumberland	238	277	343	443	498
Elliott	238	277	343	443	498
Fleming	238	277	343	443	498
Franklin	238	349	429	554	700
Garrard	238	277	343	443	498
Grayson	238	277	343	443	498
Hancock	238	277	343	447	531
Harlan	238	361	412	537	634
Hart	238	277	343	443	498
Hickman	238	277	343	443	498
Jackson	238	277	343	443	498
Knott	238	277	343	443	498
Larue	238	277	343	443	498
Lawrence	238	277	343	443	498
Leslie	238	277	343	443	498
Lewis	238	277	343	443	498
Livingston	274	277	370	514	518
Lyon	238	277	343	443	498
Mccreary	238	277	343	443	498
Magoffin	238	277	343	443	498
Marshall	238	283	343	443	533
Mason	238	277	343	443	498
Menifee	238	277	343	443	498
Metcalfe	238	277	343	443	498
Montgomery	238	277	343	443	498
Muhlenberg	238	277	343	443	498
Nicholas	238	277	343	443	498
Owen	238	277	343	443	511
Perry	266	277	357	446	500
Powell	238	277	343	443	498

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	238	277	343	443	498
Ballard	238	277	343	443	498
Bath	238	277	343	443	498
Boyle	283	287	383	479	536
Breathitt	238	277	343	443	498
Butler	238	277	343	443	498
Calloway	238	277	343	443	498
Carroll	238	277	343	443	498
Clay	238	277	343	443	498
Crittenden	238	277	343	443	498
Edmonson	238	277	343	443	498
Estill	238	277	343	443	498
Floyd	251	304	343	476	547
Fulton	238	277	343	443	498
Graves	238	277	343	443	498
Green	238	277	343	443	498
Hardin	296	303	380	511	606
Harrison	238	278	351	443	543
Henry	238	277	343	443	498
Hopkins	238	277	343	443	503
Johnson	238	277	343	443	498
Knox	238	329	421	528	647
Laurel	310	350	416	561	581
Lee	238	277	343	443	498
Letcher	238	277	343	443	498
Lincoln	238	277	343	443	498
Logan	238	277	343	452	498
Mccracken	269	290	362	464	595
Mclean	238	277	343	443	498
Marion	238	277	343	443	498
Martin	238	277	343	443	498
Meade	246	305	351	465	578
Mercer	238	277	343	452	498
Monroe	238	277	343	443	498
Morgan	238	277	343	443	498
Nelson	261	277	353	443	498
Ohio	238	277	343	443	498
Owsley	238	277	343	443	498
Pike	255	292	353	443	524
Pulaski	261	277	351	444	498

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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KENTUCKY continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Robertson	238	277	343	443	498
Rowan	238	277	343	443	518
Shelby	239	314	351	490	498
Spencer	238	283	343	443	498
Todd	238	277	343	443	498
Trimble	238	277	343	443	498
Warren	238	307	411	513	593
Wayne	238	277	343	443	498
Whitley	238	277	343	443	498

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Rockcastle	238	277	343	443	498
Russell	238	277	343	443	498
Simpson	238	298	347	444	498
Taylor	287	339	380	508	574
Trigg	238	277	343	443	498
Union	238	277	343	443	498
Washington	238	281	343	443	498
Webster	238	277	343	443	498
Wolfe	238	277	343	443	498

LOUISIANA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	260	325	409	566	576	Rapides
Acadia Parishes, LA	256	284	343	449	501	Acadia
Baton Rouge, LA MSA	282	351	435	604	713	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	256	301	385	535	633	Lafourche, Terrebonne
Lafayette, LA MSA	291	336	401	551	652	Lafayette, St. Martin
Lake Charles, LA MSA	350	407	516	676	846	Calcasieu
Monroe, LA MSA	281	315	420	567	589	Ouachita
New Orleans, LA	337	386	482	656	793	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	256	289	385	481	539	St. James
St. Landry Parish, LA	256	279	343	449	501	St. Landry
Shreveport-Bossier City, LA MSA	317	360	453	606	743	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	256	279	343	449	501
Avoyelles	256	279	343	449	503
Bienville	256	279	343	455	538
Cameron	256	279	343	449	501
Claiborne	256	279	343	449	501
De Soto	256	279	343	449	505
East Feliciana	256	279	343	449	501
Franklin	256	279	343	449	505
Iberia	271	283	350	449	501
Jackson	256	279	343	449	501
La Salle	256	279	343	449	505
Madison	256	279	343	449	501
Natchitoches	274	281	362	502	505
Red River	256	279	343	449	505

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Assumption	281	301	357	449	501
Beauregard	312	340	403	527	579
Caldwell	256	279	343	449	501
Catahoula	256	279	343	449	501
Concordia	256	279	343	449	501
East Carroll	256	279	343	449	501
Evangeline	256	279	343	449	501
Grant	256	279	343	449	501
Iberville	256	279	343	449	517
Jefferson Davis	256	279	343	449	509
Lincoln	301	303	379	520	622
Morehouse	256	279	343	449	501
Pointe Coupee	256	279	343	449	544
Richland	256	279	343	449	505

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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LOUISIANA continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sabine	256	286	343	449	528
St. Marv	281	300	378	515	536
Tensas	256	279	343	449	501
Vermilion	256	279	343	449	501
Washington	256	279	343	449	501
West Feliciana	256	333	446	558	626
St. Helena	256	279	343	449	501
Tangipahoa	275	286	367	481	513
Union	256	279	343	449	505
Vernon	294	328	374	483	571
West Carroll	256	279	343	449	501
Winn	256	279	343	449	501

MAINE

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	336	411	526	686	737	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town
Lewiston-Auburn, ME MSA	303	373	480	600	672	Waldo county towns of Winterport town Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	399	514	676	846	948	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town
Portsmouth-Rochester, NH-ME PMSA	433	520	668	855	1049	York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	303	373	496	621	695	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	303	355	455	580	667	
Cumberland	443	451	601	818	938	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	309	355	455	580	667	
Hancock	326	400	494	623	692	
Kennebec	315	393	473	592	667	
Knox	303	390	506	674	710	
Lincoln	394	438	498	693	818	
Oxford	303	355	455	580	667	

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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MAINE continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Penobscot	303	355	455	580	667	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town
Piscataquis	303	355	455	580	667	
Sagadahoc	426	488	601	800	987	
Somerset	317	362	455	580	684	
Waldo	303	355	455	580	667	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	303	355	455	580	667	
York	373	428	574	717	802	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

MARYLAND

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	401	491	599	792	906	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	532	715	832	1100	1375	Columbia
Cumberland, MD-WV MSA	314	378	464	617	705	Allegany
Hagerstown, MD PMSA	313	377	463	615	703	Washington
Washington, DC-MD-VA	584	663	779	1060	1278	Calvert, Charles, Frederick, Montgomery, Prince George's

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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M A R Y L A N D continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Wilmington-Newark, DE-MD PMSA	409	541	630	856	1033	Cecil

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Caroline	350	377	472	619	703
Garrett	313	420	472	615	775
St. Mary's	478	567	654	911	1042
Talbot	414	438	585	732	959
Worcester	313	377	473	657	703
Dorchester	313	405	472	615	703
Kent	317	390	520	650	784
Somerset	372	419	472	655	774
Wicomico	352	408	525	668	735

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	450	603	805	1008	1128	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town
Boston, MA-NH PMSA	573	645	808	1010	1186	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA	420	554	679	846	963	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA	303	426	552	711	773	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA	433	522	656	820	1010	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA	425	549	664	831	930	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA MSA	407	498	566	707	793	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA	327	464	573	718	890	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA PMSA	393	534	642	805	992	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehobcth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA	386	476	602	752	923	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town
						Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT	455	551	689	859	963	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city
NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	426	585	779	974	1090	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	359	436	514	706	845	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	577	586	780	975	1093	
Franklin	387	480	614	768	927	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	391	532	710	945	1166	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	547	554	741	926	1038	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	692	926	1236	1545	1731	
Worcester	435	454	605	757	847	Athol town, Hardwick town, Hubbardston town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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M A S S A C H U S E T T S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
						New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	434	526	649	851	954	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	351	355	466	583	655	Berrien
Detroit, MI PMSA	340	463	559	699	784	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	328	374	467	598	654	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	368	430	525	658	735	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	277	372	471	589	661	Jackson
Kalamazoo-Battle Creek, MI MSA	327	394	497	622	695	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	349	410	529	691	799	Clinton, Eaton, Ingham
Saginaw-Bay City-Midland, MI MSA	321	354	471	589	661	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcona	273	310	394	511	584
Alpena	273	310	394	511	587
Arenac	273	310	394	511	584
Barry	273	336	448	561	628
Branch	315	323	397	542	584
Charlevoix	331	335	424	577	597
Chippewa	273	310	394	511	584
Crawford	298	310	402	549	584
Dickinson	273	335	413	516	584
Gladwin	273	310	394	511	584
Grand Traverse	361	386	515	645	722
Hillsdale	273	310	394	511	584
Huron	273	310	394	511	584
Iosco	273	310	394	511	617
Isabella	304	325	435	587	713
Keweenaw	273	310	394	511	584
Leelanau	369	400	467	611	766
Mackinac	273	310	394	511	584
Marquette	273	310	394	511	584
Mecosta	273	310	394	533	632
Missaukee	287	310	394	511	584
Montmorency	273	310	394	511	584
Oceana	291	310	394	511	584

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alger	273	310	394	511	584
Antrim	273	326	394	511	584
Baraga	273	310	394	511	584
Benzie	285	310	394	529	584
Cass	273	310	396	540	584
Cheboygan	287	310	394	511	598
Clare	283	310	394	511	584
Delta	273	310	394	511	584
Emmet	304	365	431	565	602
Gogebic	273	310	394	511	584
Gratiot	285	310	394	511	584
Houghton	273	310	394	511	584
Ionia	334	338	423	528	593
Iron	273	310	394	511	584
Kalkaska	273	310	395	513	649
Lake	276	310	394	511	584
Luce	273	310	394	511	584
Manistee	273	310	394	511	584
Mason	273	310	394	511	584
Menominee	273	310	394	511	584
Montcalm	277	310	394	511	584
Newaygo	313	336	395	511	584
Ogemaw	284	311	394	511	584

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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MICHIGAN continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ontonagon	273	310	394	511	584
Oscoda	273	310	394	511	584
Presque Isle	273	310	394	511	584
St. Joseph	273	317	394	513	584
Schoolcraft	273	310	394	511	584
Tuscola	296	323	431	538	602
Osceola	273	310	394	511	584
Otsego	280	338	426	592	687
Roscommon	301	310	394	511	584
Sanilac	273	320	394	513	584
Shiawassee	273	342	412	573	614
Wexford	273	314	408	534	632

MINNESOTA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	254	335	431	574	669	St. Louis
Fargo-Moorhead, ND-MN MSA	295	407	491	681	729	Clay
Grand Forks, ND-MN MSA	305	364	478	660	736	Polk
La Crosse, WI-MN MSA	263	340	433	578	701	Houston
Minneapolis-St. Paul, MN-WI MSA	369	474	605	820	928	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, Wright
Rochester, MN MSA	292	408	533	739	829	Olmsted
St. Cloud, MN MSA	317	409	483	612	779	Benton, Stearns

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aitkin	253	328	438	548	613
Beltrami	250	320	428	561	599
Blue Earth	307	371	462	592	752
Carlton	250	304	386	484	553
Chippewa	250	304	386	484	553
Cook	296	304	398	543	565
Crow Wing	250	304	406	508	638
Douglas	250	304	386	484	553
Fillmore	250	304	386	484	553
Goodhue	250	322	430	548	602
Hubbard	255	304	386	484	553
Jackson	250	304	386	484	553
Kandiyohi	250	317	386	484	582
Koochiching	302	308	410	511	671
Lake	250	304	386	484	553
Le Sueur	250	304	386	484	596
Lyon	250	304	386	484	573
Mahnomen	250	304	386	484	553
Martin	250	304	386	484	553
Mille Lacs	266	304	387	539	635
Mower	250	304	386	484	553
Becker	250	359	403	504	565
Big Stone	250	304	386	484	553
Brown	250	323	386	484	553
Cass	250	304	386	484	553
Clearwater	250	304	386	484	553
Cottonwood	250	304	386	484	553
Dodge	250	304	386	484	553
Faribault	250	304	386	484	553
Freeborn	250	304	394	518	555
Grant	250	304	386	484	553
Itasca	320	324	422	528	591
Kanabec	250	314	408	509	571
Kittson	250	304	386	484	553
Lac qui Parle	250	304	386	484	553
Lake of the Woods	250	304	386	484	553
Lincoln	250	304	386	484	553
Mcleod	250	323	430	535	600
Marshall	250	304	386	484	553
Meeker	259	304	386	484	553
Morrison	278	304	386	484	553
Murray	250	304	386	484	553

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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MINNESOTA continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Nicollet	313	335	447	591	626
Norman	250	304	386	484	553
Pennington	250	304	386	516	553
Pipestone	250	304	386	484	553
Red Lake	250	315	386	484	553
Renville	250	304	386	484	553
Rock	250	304	386	484	553
Sibley	250	304	386	484	553
Stevens	285	360	406	508	569
Todd	250	304	386	484	553
Wabasha	250	304	386	484	553
Waseca	277	304	386	484	553
Wilkin	250	304	386	484	553
Yellow Medicine	250	304	386	484	553
Nobles	250	304	386	484	553
Otter Tail	250	304	386	484	553
Pine	277	304	386	487	553
Pope	250	304	386	484	553
Redwood	250	304	386	484	553
Rice	262	358	477	596	668
Roseau	302	308	404	521	567
Steele	270	312	416	520	583
Swift	250	304	386	484	553
Traverse	250	304	386	484	553
Wadena	250	304	386	484	553
Watonwan	250	304	386	484	553
Winona	255	332	421	526	590

MISSISSIPPI

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagoula, MS MSA	329	386	445	619	731	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	243	299	365	492	586	Forrest, Lamar
Jackson, MS MSA	335	383	467	621	655	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	321	374	440	611	642	Desoto

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	237	281	349	447	570
Amite	237	281	347	447	503
Benton	237	281	347	447	503
Calhoun	237	281	347	447	503
Chickasaw	237	281	347	447	503
Claiborne	237	281	347	447	503
Clay	237	281	347	447	508
Copiah	237	281	347	447	503
Franklin	240	281	347	447	503
Greene	237	281	347	447	503
Holmes	237	281	347	447	503
Issaquena	249	342	454	568	637
Jasper	237	281	347	447	503
Jefferson Davis	237	281	347	447	503
Kemper	239	281	347	447	503
Lauderdale	237	305	385	498	539
Alcorn	237	281	347	447	503
Attala	237	281	347	447	503
Bolivar	269	281	362	452	517
Carroll	237	281	347	447	503
Choctaw	237	281	347	447	503
Clarke	237	281	347	447	503
Coahoma	275	281	371	466	521
Covington	237	281	347	447	503
George	237	281	347	447	503
Grenada	237	282	347	475	503
Humphreys	237	281	347	447	503
Itawamba	237	281	347	447	503
Jefferson	237	281	347	447	503
Jones	237	281	347	447	503
Lafayette	240	329	438	549	614
Lawrence	237	281	347	447	503

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Leake	237	281	347	447	503
Leflore	237	281	347	448	538
Lowndes	293	315	374	469	529
Marshall	237	281	347	447	511
Montgomery	237	281	347	447	503
Newton	237	281	347	447	503
Oktibbeha	291	302	370	514	607
Pearl River	249	281	347	449	503
Pike	241	281	347	447	503
Prentiss	240	281	347	447	503
Scott	237	281	347	447	503
Simpson	240	281	347	447	503
Stone	237	281	347	447	503
Tallahatchie	237	281	347	447	503
Tippah	237	281	347	447	503
Tunica	237	281	347	447	503
Walthall	237	281	347	447	503
Washington	256	304	407	526	578
Webster	239	281	347	447	503
Winston	237	281	347	447	503
Yazoo	241	281	347	447	503

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Lee	297	319	385	481	539
Lincoln	237	281	347	447	503
Marion	237	281	347	447	503
Monroe	237	281	347	447	503
Neshoba	237	281	347	447	503
Noxubee	241	281	347	447	503
Panola	245	281	347	447	503
Perry	237	281	347	447	503
Pontotoc	237	281	347	447	503
Quitman	237	281	347	447	503
Sharkey	241	281	347	447	503
Smith	237	281	347	447	503
Sunflower	262	285	347	447	534
Tate	237	320	370	464	609
Tishomingo	237	281	347	447	503
Union	237	281	347	447	503
Warren	237	309	387	533	639
Wayne	237	281	347	447	503
Wilkinson	237	281	347	447	503
Yalobusha	239	281	347	447	503

M I S S O U R I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	245	344	448	623	735	Boone
Joplin, MO MSA	239	276	367	483	519	Jasper, Newton
Kansas City, MO-KS MSA	319	402	483	668	740	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	229	278	372	468	520	Andrew, Buchanan
St. Louis, MO-IL MSA	297	362	471	612	677	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	251	318	411	567	591	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	225	281	373	469	563
Audrain	240	260	334	451	521
Barton	225	260	334	434	497
Benton	254	260	344	434	497
Butler	225	260	334	434	497
Callaway	266	270	359	456	590

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atchison	225	260	334	434	497
Barry	225	268	334	434	497
Bates	225	260	334	434	507
Bollinger	225	260	334	434	497
Caldwell	225	262	351	440	497
Camden	296	299	400	555	652

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cape Girardeau	232	285	379	505	619
Carter	225	260	334	434	497
Chariton	225	260	334	434	497
Cole	225	297	396	528	554
Crawford	247	297	335	441	497
Dallas	225	260	334	434	497
Dekalb	233	260	334	439	497
Douglas	225	260	334	434	497
Gasconade	225	260	334	434	497
Grundy	225	260	334	434	497
Henry	257	262	348	437	573
Holt	225	260	334	434	497
Howell	225	260	334	434	497
Johnson	271	302	394	522	617
Laclede	225	260	334	437	497
Lewis	225	260	334	434	497
Livingston	225	260	335	434	497
Macon	225	260	334	434	497
Maries	225	260	334	434	497
Mercer	225	260	334	434	497
Mississippi	225	260	334	434	497
Monroe	225	260	334	434	497
Morgan	225	260	334	434	497
Nodaway	237	287	354	450	543
Osage	225	260	334	434	497
Pemiscot	225	260	334	434	497
Pettis	241	283	379	476	570
Pike	225	260	334	434	523
Pulaski	225	315	354	468	523
Ralls	225	260	334	434	497
Reynolds	225	260	334	434	497
St. Clair	225	260	334	434	497
St. Francois	237	299	379	475	623
Schuyler	225	260	334	434	497
Scott	271	273	364	492	566
Shelby	225	260	334	434	497
Stone	262	278	345	441	497
Taney	255	281	368	497	585
Vernon	225	260	334	444	497
Wayne	225	260	334	434	497

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Carroll	225	260	334	434	497
Cedar	225	260	334	434	497
Clark	225	260	334	434	497
Cooper	225	260	334	434	497
Dade	225	260	334	434	497
Daviess	225	260	334	434	497
Dent	225	260	334	434	497
Dunklin	225	260	334	434	497
Gentry	225	260	334	434	497
Harrison	225	260	334	434	497
Hickory	225	260	334	434	497
Howard	225	260	334	434	499
Iron	225	260	334	434	497
Knox	225	260	334	434	497
Lawrence	238	266	334	434	497
Linn	225	260	334	434	497
Mcdonald	225	260	334	434	497
Madison	225	260	334	434	497
Marion	225	260	334	434	497
Miller	247	297	334	437	516
Moniteau	225	260	334	434	497
Montgomery	225	260	334	434	497
New Madrid	225	260	334	434	497
Oregon	225	260	334	434	497
Ozark	225	260	334	434	497
Perry	262	266	355	472	497
Phelps	233	279	358	486	527
Polk	225	261	334	434	521
Putnam	225	260	334	434	497
Randolph	225	260	334	434	497
Ripley	225	260	334	434	497
Ste. Genevieve	225	268	344	441	558
Saline	225	260	342	434	497
Scotland	225	260	334	434	497
Shannon	225	260	334	434	497
Stoddard	225	260	334	434	497
Sullivan	225	260	334	434	497
Texas	225	260	334	434	497
Washington	264	318	357	446	500
Worth	225	260	334	434	497

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 30

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wright	225	260	334	434	497

M O N T A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	287	334	447	600	728	Yellowstone
Great Falls, MT MSA	287	332	438	570	679	Cascade

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	273	316	417	542	634
Blaine	273	316	417	542	634
Carbon	273	320	417	542	634
Chouteau	273	316	417	542	634
Daniels	273	336	417	542	634
Deer Lodge	273	316	417	542	634
Fergus	273	316	417	542	634
Gallatin	337	393	528	678	867
Glacier	273	316	417	542	634
Granite	273	316	417	542	634
Jefferson	288	316	417	542	634
Lake	298	316	417	542	634
Liberty	273	316	417	542	634
Mccone	273	334	417	542	634
Meagher	273	336	417	542	634
Missoula	299	351	467	602	765
Park	273	316	417	542	640
Phillips	273	316	417	542	634
Powder River	273	320	417	542	634
Prairie	273	316	417	542	634
Richland	273	342	417	542	634
Rosebud	273	316	417	542	634
Sheridan	281	316	417	542	634
Stillwater	279	316	417	542	634
Teton	273	316	417	542	634
Treasure	273	316	417	542	634
Wheatland	273	316	417	542	634

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	273	316	417	542	634
Broadwater	273	316	417	542	676
Carter	273	336	417	542	634
Custer	273	316	417	542	634
Dawson	273	316	417	542	634
Fallon	273	316	417	542	634
Flathead	273	317	424	590	695
Garfield	273	316	417	542	634
Golden Valley	273	335	417	542	634
Hill	282	316	417	542	634
Judith Basin	273	336	417	542	634
Lewis and Clark	305	357	474	660	781
Lincoln	298	316	417	542	634
Madison	279	316	417	542	634
Mineral	273	316	417	542	647
Musselshell	278	316	417	542	634
Petroleum	273	316	417	542	634
Pondera	273	335	417	542	634
Powell	278	316	417	542	634
Ravalli	273	316	417	542	634
Roosevelt	286	316	417	542	634
Sanders	273	316	417	542	634
Silver Bow	273	316	417	542	634
Sweet Grass	295	316	417	542	634
Toole	279	316	417	542	634
Valley	273	316	417	542	634
Wibaux	273	336	417	542	634

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 31

N E B R A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	293	377	496	658	768	Lancaster
Omaha, NE-IA MSA	279	382	483	633	710	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	290	348	434	542	618	Dakota

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	224	301	398	499	598
Arthur	224	288	368	470	536
Blaine	224	288	368	470	536
Box Butte	243	288	368	471	556
Brown	224	288	368	470	547
Burt	224	288	368	470	536
Cedar	224	288	368	470	536
Cherry	224	303	368	473	557
Clay	224	288	368	470	536
Cuming	224	304	368	470	536
Dawes	239	288	368	474	559
Deuel	224	288	368	470	536
Dodge	224	288	380	500	536
Fillmore	224	288	368	470	536
Frontier	252	288	368	470	536
Gage	224	289	375	477	536
Garfield	224	288	368	470	536
Grant	224	288	368	470	536
Hall	224	295	393	517	580
Harlan	224	288	368	471	536
Hitchcock	224	288	368	470	536
Hooker	224	302	368	471	536
Jefferson	224	288	368	470	536
Kearney	224	288	368	470	559
Keya Paha	224	288	368	470	536
Knox	224	299	368	470	536
Logan	224	288	368	470	560
Mcpherson	224	288	368	471	536
Merrick	224	288	368	470	536
Nance	224	288	368	470	536
Nuckolls	224	288	368	470	536
Pawnee	224	288	368	474	536
Phelps	251	288	368	471	559
Platte	224	288	368	514	536
Red Willow	224	288	368	470	545

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 SR	3 BR	4 BR
Antelope	224	303	368	473	536
Banner	224	288	368	471	536
Boone	224	288	368	470	557
Boyd	224	301	368	470	536
Buffalo	228	330	414	517	624
Butler	224	288	368	470	536
Chase	224	304	368	470	561
Cheyenne	251	288	368	470	536
Colfax	244	300	368	470	536
Custer	251	290	368	470	556
Dawson	246	300	368	474	536
Dixon	250	288	368	470	536
Dundy	224	288	368	470	536
Franklin	224	288	368	475	536
Furnas	224	288	368	470	557
Garden	224	300	368	473	559
Gosper	224	288	368	470	543
Greeley	224	288	368	470	545
Hamilton	224	288	368	474	536
Hayes	224	302	368	470	557
Holt	224	288	368	470	536
Howard	224	288	368	470	536
Johnson	224	292	368	470	536
Keith	224	288	368	470	536
Kimball	224	288	368	471	559
Lincoln	230	300	368	470	536
Loup	224	288	368	470	558
Madison	230	302	400	517	631
Morrill	224	290	368	470	557
Nemaha	224	288	368	470	536
Otoe	224	288	368	470	560
Perkins	224	288	368	470	536
Pierce	224	288	368	470	536
Polk	224	288	368	470	536
Richardson	224	288	368	470	536

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Rock	224	295	368	470	536
Saunders	224	288	368	470	536
Seward	278	288	376	470	536
Sherman	224	290	368	470	560
Stanton	224	288	368	470	536
Thomas	224	288	368	470	536
Valley	224	288	368	470	536
Webster	224	288	368	470	536
York	224	288	373	470	536
Saline	224	301	368	470	536
Scotts Bluff	228	299	380	470	557
Sheridan	224	288	368	470	537
Sioux	224	288	368	470	559
Thayer	224	303	368	470	536
Thurston	224	288	368	470	536
Wayne	257	288	368	470	557
Wheeler	224	288	368	471	536

N E V A D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	437	519	618	860	1015	Clark, Nye
Reno, NV MSA	448	520	667	928	1097	Washoe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Churchill	422	428	572	789	937
Elko	384	438	584	771	959
Eureka	311	507	571	711	796
Lander	314	486	571	714	936
Lyon	372	445	571	795	937
Pershing	432	438	584	731	835
White Pine	312	429	571	771	810
Douglas	379	553	692	961	1071
Esmeralda	406	507	571	712	799
Humboldt	457	479	578	758	811
Lincoln	312	468	571	715	800
Mineral	315	431	574	752	942
Storey	438	444	584	813	959
Carson City	328	449	599	833	984

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	573	645	808	1010	1186	Rockingham county towns of Seabrook town, South Hampton town
Lawrence, MA-NH PMSA	433	522	656	820	1010	Rockingham county towns of Atkinson town, Chester town, Danville town, Derry town, Fremont town, Hampstead town, Kingston town, Newton town, Plaistow town, Raymond town, Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	425	549	664	831	930	Hillsborough county towns of Pelham town
Manchester, NH PMSA	342	488	609	761	853	Hillsborough county towns of Bedford town, Goffstown town, Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town, Londonderry town
Nashua, NH PMSA	403	562	697	948	1128	Hillsborough county towns of Amherst town, Brookline town, Greenville town, Hollis town, Hudson town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Portsmouth-Rochester, NH-ME PMSA	433	520	668	855	1049	Rockingham county towns of Brentwood town, East Kingston town, Epping town, Exeter town, Greenland town, Hampton town, Hampton Falls town, Kensington town, New Castle town, Newfields town, Newington town, Newmarket town, North Hampton town, Portsmouth city, Rye town, Stratham town Strafford county towns of Barrington town, Dover city, Durham town, Farmington town, Lee town, Madbury town, Milton town, Rochester city, Rollinsford town, Somersworth city

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	407	470	618	834	1014	
Carroll	340	466	621	777	970	
Cheshire	421	500	640	833	987	
Coos	290	355	455	593	703	
Grafton	373	451	601	777	982	
Hillsborough	399	498	665	879	1057	Antrim town, Bennington town, Deering town, Francestown town, Greenfield town, Hancock town, Hillsborough town, Lyndeborough town, New Boston town, Peterborough town, Sharon town, Temple town, Windsor town
Merrimack	419	501	625	801	895	Andover town, Boscawen town, Bow town, Bradford town, Canterbury town, Chichester town, Concord city, Danbury town, Dunbarton town, Epsom town, Franklin city, Henniker town, Hill town, Hopkinton town, Loudon town, Newbury town, New London town, Northfield town, Pembroke town, Pittsfield town, Salisbury town, Sutton town, Warner town, Webster town, Wilmot town
Rockingham	435	510	682	946	1092	Deerfield town, Northwood town, Nottingham town
Strafford	385	523	698	875	980	Middleton town, New Durham town, Strafford town
Sullivan	406	412	534	702	749	

N E W J E R S E Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	459	521	695	870	994	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	604	735	863	1150	1418	Bergen, Passaic
Jersey City, NJ PMSA	552	651	758	963	1061	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	643	705	880	1196	1381	Hunterdon, Middlesex, Somerset

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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NEW JERSEY continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Monmouth-Ocean, NJ PMSA	531	636	807	1072	1257	Monmouth, Ocean
Newark, NJ PMSA	511	652	786	990	1251	Essex, Morris, Sussex, Union, Warren
Philadelphia, PA-NJ PMSA	446	549	678	848	1063	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	438	610	743	1006	1215	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	442	538	649	810	909	Cumberland

NEW MEXICO

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	365	435	544	750	885	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	272	342	407	557	657	Dona Ana
Santa Fe, NM MSA	393	558	690	925	1048	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Catron	259	303	377	506	571
Cibola	270	295	377	506	571
Curry	259	301	395	506	571
Eddy	266	294	377	506	588
Guadalupe	259	294	377	506	574
Hidalgo	259	294	377	506	571
Lincoln	294	301	398	524	655
Mckinley	259	326	414	517	578
Otero	259	294	377	525	571
Rio Arriba	303	310	382	506	571
San Juan	293	314	392	544	644
Sierra	259	294	377	506	571
Taos	355	360	480	600	789
Union	259	316	377	506	571

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Chaves	259	295	390	535	571
Colfax	259	301	377	506	571
Debaca	259	295	377	506	571
Grant	259	294	377	506	571
Harding	259	294	377	506	571
Lea	259	294	377	506	571
Luna	268	294	377	506	571
Mora	259	294	377	506	571
Quay	259	376	423	529	592
Roosevelt	259	294	377	506	571
San Miguel	288	294	389	506	571
Socorro	259	294	377	506	586
Torrance	285	307	377	506	571

NEW YORK

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	386	473	584	731	818	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	343	387	483	615	687	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	340	415	499	624	698	Erie, Niagara
Dutchess County, NY PMSA	513	651	804	1045	1222	Dutchess
Elmira, NY MSA	343	387	475	600	718	Chemung
Glens Falls, NY MSA	343	450	548	686	768	Warren, Washington
Jamestown, NY MSA	343	387	463	600	687	Chautauqua

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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NEW YORK continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Nassau-Suffolk, NY PMSA	690	831	1014	1410	1511	Nassau, Suffolk
New York, NY PMSA	645	719	817	1022	1144	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	620	807	983	1280	1526	Westchester
Newburgh, NY-PA PMSA	505	657	803	1019	1163	Orange
Rochester, NY MSA	372	483	589	754	824	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	370	446	552	705	783	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	343	387	474	600	687	Herkimer, Oneida

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allegany	338	381	455	591	676
Chenango	360	381	456	591	676
Columbia	423	444	570	747	799
Delaware	338	381	456	591	726
Franklin	338	381	456	591	676
Greene	338	438	526	680	828
Jefferson	364	430	506	634	708
Otsego	338	400	460	595	756
Schuyler	366	391	463	645	760
Steuben	350	398	456	598	676
Tompkins	441	476	611	852	1005
Wyoming	338	381	456	591	676

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	338	381	456	591	676
Clinton	338	381	492	615	689
Cortland	338	404	507	634	749
Essex	338	386	483	605	676
Fulton	338	381	456	591	676
Hamilton	338	407	468	591	676
Lewis	338	381	456	591	676
St. Lawrence	338	381	456	591	676
Seneca	361	389	469	606	676
Sullivan	438	492	600	828	840
Ulster	416	577	695	904	1140
Yates	338	381	456	591	676

NORTH CAROLINA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	284	344	448	583	629	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	403	454	511	674	807	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	348	394	442	611	727	Cumberland
Goldsboro, NC MSA	284	327	398	512	598	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	357	407	485	669	680	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	343	347	451	606	742	Pitt
Hickory-Morganton, NC MSA	358	390	453	570	678	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	323	378	426	592	700	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	407	457	542	756	887	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	420	510	599	803	947	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	303	327	398	527	581	Edgecombe, Nash
Wilmington, NC MSA	369	406	497	680	811	Brunswick, New Hanover

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alleghany	279	327	391	503	596
Ashe	279	322	391	503	571
Beaufort	279	322	391	503	571
Bladen	279	322	391	503	571
Carteret	316	346	422	586	652
Cherokee	279	322	391	503	571
Clay	279	322	391	503	571
Columbus	279	322	391	503	571
Dare	290	459	529	724	740
Gates	279	322	391	503	571
Granville	295	322	391	518	585
Halifax	279	322	391	503	571
Haywood	283	322	391	525	571
Hertford	279	322	391	503	571
Hyde	279	322	391	503	571
Jackson	279	322	391	547	715
Lee	279	356	422	547	592
Mcdowell	279	340	408	558	660
Martin	279	322	391	503	571
Montgomery	279	322	391	503	571
Northampton	279	322	391	503	571
Pasquotank	322	344	429	596	602
Perquimans	279	322	391	503	571
Polk	279	353	396	503	571
Robeson	279	329	391	503	571
Rutherford	282	322	391	503	571
Scotland	279	322	391	503	571
Surry	279	322	391	503	571
Transylvania	309	330	418	555	593
Vance	296	335	391	503	571
Washington	279	322	391	503	571
Wilkes	317	357	402	557	625
Yancey	279	328	391	503	589

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anson	279	322	391	503	571
Avery	311	350	427	535	598
Bertie	279	322	391	503	571
Camden	279	356	475	594	667
Caswell	279	322	391	503	571
Chowan	279	322	391	503	571
Cleveland	279	328	391	518	571
Craven	279	348	420	550	588
Duplin	279	322	391	503	571
Graham	279	322	391	503	571
Greene	279	322	391	503	571
Harnett	279	322	391	505	571
Henderson	324	334	413	550	634
Hoke	279	322	391	503	571
Iredell	336	345	455	568	637
Jones	279	322	391	503	571
Lenoir	279	322	391	503	571
Macon	279	334	391	503	571
Mitchell	279	365	419	572	598
Moore	279	337	401	549	658
Pamlico	279	322	391	503	571
Pender	279	338	391	503	616
Person	279	322	419	547	640
Richmond	279	322	391	503	571
Rockingham	279	322	391	503	571
Sampson	279	322	391	503	571
Stanly	279	322	396	535	571
Swain	279	322	391	503	571
Tyrrell	279	322	391	503	571
Warren	279	322	391	503	571
Watauga	364	437	553	752	906
Wilson	292	322	395	503	571

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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NORTH DAKOTA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	301	337	449	625	738	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	295	407	491	681	729	Cass
Grand Forks, ND-MN MSA	305	364	478	660	736	Grand Forks

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	211	263	341	443	517
Benson	239	263	341	443	517
Bottineau	211	263	341	443	517
Burke	229	263	341	443	517
Dickey	229	263	341	443	517
Dunn	211	263	341	443	517
Emmons	211	263	341	443	517
Golden Valley	211	270	361	450	517
Griggs	211	263	341	443	517
Kidder	211	263	341	443	517
Logan	211	263	341	443	517
Mcintosh	211	263	341	443	517
Mclean	223	263	341	443	517
Mountrail	233	263	341	443	517
Oliver	211	263	341	443	517
Pierce	211	263	341	457	517
Ransom	214	263	341	443	517
Richland	221	263	348	443	517
Sargent	211	263	341	443	517
Sioux	211	263	341	443	517
Stark	211	263	341	443	517
Stutsman	253	263	345	481	566
Traill	221	281	341	443	517
Ward	211	289	386	522	622
Williams	211	263	341	443	517

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barnes	211	265	353	461	517
Billings	229	263	341	443	517
Bowman	211	263	341	443	517
Cavalier	211	271	362	451	557
Divide	211	263	341	443	517
Eddy	211	263	341	443	517
Foster	211	263	343	443	517
Grant	211	263	341	443	517
Hettinger	211	263	341	443	517
Lamoure	229	263	341	443	517
Mchenry	211	263	341	443	517
Mckenzie	211	263	341	443	517
Mercer	211	263	341	443	517
Nelson	211	263	341	443	517
Pembina	211	263	341	449	535
Ramsey	216	289	386	484	632
Renville	244	263	341	446	527
Rolette	228	290	351	443	517
Sheridan	211	263	341	443	517
Slope	211	263	341	443	517
Steele	211	263	341	443	517
Towner	241	270	361	450	592
Walsh	280	300	372	466	521
Wells	224	263	341	443	517

OHIO

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	326	397	509	636	713	Portage, Summit
Brown County, OH	268	315	395	510	563	Brown
Canton-Massillon, OH MSA	266	346	443	554	621	Carroll, Stark
Cincinnati, OH-KY-IN	289	372	498	667	720	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	327	412	510	648	731	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	318	377	483	614	706	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 38

O H I O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dayton-Springfield, OH MSA	329	368	470	606	681	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	291	414	531	664	744	Butler
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Lawrence
Lima, OH MSA	266	319	420	535	588	Allen, Auglaize
Mansfield, OH MSA	266	319	406	507	568	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	287	342	392	508	523	Washington
Steubenville-Weirton, OH-WV MSA	266	314	393	502	560	Jefferson
Toledo, OH MSA	333	405	495	638	692	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	292	318	393	502	560	Belmont
Youngstown-Warren, OH MSA	279	329	411	518	589	Columbiana, Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	262	310	387	495	553
Athens	309	350	412	539	663
Clinton	262	336	404	562	567
Darke	288	310	390	495	553
Erie	262	349	436	588	713
Gallia	262	310	387	495	553
Hancock	332	336	425	543	594
Harrison	262	310	387	495	553
Highland	262	310	387	495	553
Holmes	262	310	387	495	553
Jackson	262	310	387	495	553
Logan	307	311	402	541	563
Meigs	262	310	387	495	553
Monroe	262	310	387	495	553
Morrow	262	310	387	495	553
Noble	262	310	387	495	561
Paulding	262	310	387	495	553
Pike	262	310	387	495	553
Putnam	272	310	387	495	553
Sandusky	262	340	436	549	608
Seneca	263	310	387	499	553
Tuscarawas	262	310	406	508	569
Van Wert	262	314	387	495	553
Wayne	262	347	426	541	596
Wyandot	262	310	387	495	553

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	262	310	409	510	572
Champaign	262	319	415	518	581
Coshocton	262	310	387	495	553
Defiance	274	310	410	516	574
Fayette	285	310	387	495	553
Guernsey	262	310	387	495	553
Hardin	262	310	387	495	553
Henry	283	313	391	504	574
Hocking	262	310	387	495	553
Huron	303	330	412	543	578
Knox	287	315	404	522	578
Marion	262	310	387	495	553
Mercer	262	310	387	495	569
Morgan	262	315	387	495	553
Muskingum	262	310	387	495	553
Ottawa	262	387	446	606	647
Perry	262	310	387	495	553
Preble	262	310	387	495	553
Ross	303	316	387	495	553
Scioto	262	310	387	495	553
Shelby	262	319	426	532	596
Union	262	363	478	598	693
Vinton	262	310	387	495	553
Williams	279	310	387	495	553

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 39

O K L A H O M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	276	280	371	517	590	Garfield
Fort Smith, AR-OK MSA	282	286	376	504	528	Sequoyah
Lawton, OK MSA	341	343	437	607	664	Comanche
Oklahoma City, OK MSA	293	319	414	577	645	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	309	370	484	675	796	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	237	272	339	451	518
Atoka	237	272	339	451	518
Beckham	241	272	339	451	518
Bryan	237	272	339	451	518
Carter	237	274	342	476	518
Choctaw	237	272	339	451	518
Coal	237	272	339	451	518
Craig	237	272	339	463	547
Delaware	237	272	339	451	527
Ellis	237	272	339	451	518
Grady	259	272	351	478	576
Greer	237	272	339	451	518
Harper	237	272	339	451	518
Hughes	237	272	339	451	518
Jefferson	237	272	339	451	518
Kay	262	278	365	509	596
Kiowa	237	272	339	451	518
Le Flore	237	272	339	451	518
Love	237	272	343	451	518
Mcintosh	237	272	339	451	518
Marshall	237	272	339	451	518
Murray	237	272	339	451	518
Noble	237	272	339	451	518
Okfuskee	237	272	339	451	518
Ottawa	255	272	339	451	518
Payne	274	323	413	571	640
Pontotoc	237	272	339	451	518
Roger Mills	237	272	339	451	518
Stephens	241	272	339	451	538
Tillman	237	272	339	451	518
Washita	237	272	339	451	518
Woodward	237	272	339	451	518

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	237	272	339	451	518
Beaver	237	276	339	451	518
Blaine	237	272	339	451	518
Caddo	237	272	339	451	518
Cherokee	249	281	339	451	525
Cimarron	237	272	339	451	518
Cotton	237	272	339	451	518
Custer	237	272	347	483	558
Dewey	237	272	339	451	518
Garvin	237	272	339	451	522
Grant	237	272	339	451	518
Harmon	237	272	339	451	518
Haskell	237	272	339	451	518
Jackson	237	307	375	492	555
Johnston	237	272	339	451	518
Kingfisher	237	280	346	454	518
Latimer	237	272	339	451	518
Lincoln	254	272	339	451	518
Mccurtain	237	272	339	451	518
Major	237	285	339	471	518
Mayes	237	276	367	463	518
Muskogee	256	289	339	469	518
Nowata	237	272	339	451	518
Okmulgee	241	272	339	451	518
Pawnee	267	272	351	452	518
Pittsburg	237	272	339	451	518
Pushmataha	237	272	339	451	518
Seminole	237	272	339	451	518
Texas	237	282	339	452	518
Washington	237	325	396	525	614
Woods	237	272	339	451	518

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 40

OREGON

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Eugene-Springfield, OR MSA	318	436	569	794	918	Lane
Medford-Ashland, OR MSA	327	429	572	796	888	Jackson
Portland-Vancouver, OR-WA PMSA	387	476	587	817	887	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR PMSA	357	420	538	741	777	Marion, Polk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	294	348	452	622	693
Clatsop	294	348	456	622	698
Crook	294	348	452	622	693
Deschutes	363	418	559	778	901
Gilliam	294	371	452	622	693
Harney	294	348	452	622	693
Jefferson	294	348	452	622	693
Klamath	294	348	452	622	736
Lincoln	357	362	483	672	730
Malheur	294	348	452	622	693
Sherman	294	348	452	622	693
Umatilla	294	348	452	622	693
Wallowa	294	348	452	622	693
Wheeler	294	348	452	622	693

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	310	402	510	768	815
Coos	294	359	476	664	693
Curry	294	400	531	679	836
Douglas	294	348	452	622	741
Grant	294	348	452	622	693
Hood River	324	364	496	644	761
Josephine	294	357	459	622	725
Lake	294	348	452	622	693
Linn	294	348	452	622	693
Morrow	294	348	452	622	693
Tillamook	294	348	452	622	693
Union	294	348	452	622	693
Wasco	358	443	497	676	759

PENNSYLVANIA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	390	528	629	819	920	Carbon, Lehigh, Northampton
Altoona, PA MSA	271	342	412	535	599	Blair
Erie, PA MSA	270	351	414	535	599	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	330	422	541	683	759	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	270	342	412	535	599	Cambria, Somerset
Lancaster, PA MSA	354	435	542	707	761	Lancaster
Newburgh, NY-PA PMSA	505	657	803	1019	1163	Pike
Philadelphia, PA-NJ PMSA	446	549	678	848	1063	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	315	387	467	585	653	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	281	414	511	639	721	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	270	377	451	563	681	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	295	342	412	535	599	Mercer
State College, PA MSA	388	474	587	769	823	Centre
Williamsport, PA MSA	270	344	414	535	599	Lycoming
York, PA MSA	300	412	511	638	714	York

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 41

PENNSYLVANIA continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	269	361	480	621	787
Bedford	269	341	410	534	597
Cameron	269	341	410	534	597
Clearfield	269	341	410	534	597
Crawford	269	341	410	534	597
Forest	269	341	410	534	597
Fulton	269	341	410	534	597
Huntingdon	269	341	410	534	597
Jefferson	269	341	410	534	597
Lawrence	269	341	410	534	597
Mifflin	298	341	410	534	597
Montour	318	341	429	597	705
Potter	269	341	410	534	597
Snyder	324	341	411	534	597
Susquehanna	322	341	410	534	633
Union	325	430	538	673	752
Warren	269	341	410	534	597

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Armstrong	273	360	410	534	672
Bradford	269	341	417	544	597
Clarion	269	341	410	534	597
Clinton	269	341	410	534	597
Elk	269	341	410	534	597
Franklin	269	341	415	571	597
Greene	269	341	410	534	597
Indiana	308	343	410	534	597
Juniata	269	341	410	534	597
Mc Kean	269	343	410	534	597
Monroe	429	512	632	865	966
Northumberland	284	359	438	583	648
Schuylkill	269	341	425	534	597
Sullivan	269	341	410	534	597
Tioga	269	341	410	534	597
Venango	269	341	410	534	597
Wayne	270	417	491	625	803

RHODE ISLAND

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	476	575	700	877	1002	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA PMSA	393	534	642	805	992	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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RHODE ISLAND continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	526	613	787	984	1101	Middletown town, Newport city, Portsmouth town
Washington	622	699	786	1014	1117	New Shoreham town

SOUTH CAROLINA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	331	396	466	634	750	Aiken, Edgefield
Charleston-North Charleston, SC MSA	372	431	495	658	767	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	403	454	511	674	807	York
Columbia, SC MSA	399	439	505	667	767	Lexington, Richland
Florence, SC MSA	302	336	436	545	610	Florence
Greenville-Spartanburg-Anderson, SC MSA	328	397	449	565	664	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	391	398	509	637	714	Horry
Sumter, SC MSA	318	353	402	550	652	Sumter

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Abbeville	274	320	389	499	571
Bamberg	274	320	389	499	571
Beaufort	392	481	554	691	774
Chester	274	320	389	499	571
Clarendon	274	320	389	499	571
Darlington	274	320	389	499	571
Fairfield	274	368	419	523	585
Greenwood	275	320	389	499	571
Jasper	274	320	389	499	571
Lancaster	288	321	389	499	571
Lee	274	320	389	499	571
Marion	274	320	389	499	571
Newberry	274	320	389	499	571
Orangeburg	274	320	389	499	571
Union	274	320	389	499	571

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allendale	274	320	389	499	571
Barnwell	289	320	391	499	571
Calhoun	274	320	389	499	571
Chesterfield	274	320	389	499	571
Colleton	274	320	389	499	571
Dillon	274	320	389	499	571
Georgetown	274	348	392	499	595
Hampton	274	320	389	499	571
Kershaw	274	320	389	499	571
Laurens	274	320	389	499	571
Mccormick	274	320	389	499	609
Marlboro	274	320	389	499	571
Oconee	274	320	389	499	571
Saluda	274	320	389	499	571
Williamsburg	274	320	389	499	571

SOUTH DAKOTA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	311	370	493	670	810	Pennington
Sioux Falls, SD MSA	301	416	527	667	766	Lincoln, Minnehaha

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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SOUTH DAKOTA continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aurora	234	312	388	514	595
Bennett	234	310	388	514	595
Brookings	251	396	439	593	700
Brule	234	310	388	514	595
Butte	268	367	488	637	752
Charles Mix	234	310	388	514	595
Clay	234	310	388	514	638
Corson	234	310	388	514	595
Davison	245	310	388	521	595
Deuel	234	310	388	514	595
Douglas	260	310	388	514	595
Fall River	265	310	388	514	595
Grant	234	310	388	514	595
Haakon	234	317	388	514	595
Hand	234	310	388	514	595
Harding	234	317	388	514	595
Hutchinson	234	310	388	514	595
Jackson	234	314	388	514	595
Jones	234	310	388	514	595
Lake	234	314	388	514	595
Lyman	234	310	388	514	595
Mcpherson	234	310	388	514	595
Meade	328	370	493	646	763
Miner	234	314	388	514	595
Perkins	234	310	388	514	595
Roberts	234	310	388	514	595
Shannon	234	314	388	514	595
Stanley	234	317	388	514	595
Todd	259	310	388	514	595
Turner	234	310	388	514	595
Walworth	234	317	388	514	595
Ziebach	234	310	388	514	595

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beadle	234	310	388	514	595
Bon Homme	260	310	388	514	595
Brown	234	310	388	514	595
Buffalo	234	310	388	514	601
Campbell	234	310	388	514	595
Clark	234	310	388	514	595
Codington	234	310	388	514	595
Custer	234	310	388	514	595
Day	261	310	388	514	595
Dewey	234	310	388	514	595
Edmunds	234	310	388	514	595
Faulk	234	310	410	514	595
Gregory	235	310	388	514	595
Hamlin	234	310	388	514	595
Hanson	237	324	433	543	608
Hughes	258	310	410	540	638
Hyde	234	315	388	514	595
Jerauld	234	312	388	514	595
Kingsbury	256	310	388	514	595
Lawrence	266	385	485	664	751
Mccook	234	310	388	514	595
Marshall	275	310	388	514	595
Mellette	278	314	388	514	595
Moody	234	310	388	514	595
Potter	234	310	388	514	595
Sanborn	234	310	388	514	595
Spink	255	310	395	514	595
Sully	234	310	388	514	595
Tripp	234	310	388	514	595
Union	246	310	388	514	595
Yankton	234	310	388	514	595

TENNESSEE

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	318	373	447	577	658	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	313	351	411	561	576	Montgomery
Jackson, TN MSA	243	319	428	593	597	Madison

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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TENNESSEE continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA	281	325	415	539	612	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	281	347	434	579	696	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	321	374	440	611	642	Fayette, Shelby, Tipton
Nashville, TN MSA	357	426	526	717	806	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bedford	227	293	357	450	500
Bledsoe	227	266	337	442	495
Campbell	229	266	337	442	495
Carroll	227	276	337	442	495
Claiborne	227	266	337	442	495
Cocke	227	266	337	442	495
Crockett	227	266	337	442	495
Decatur	227	266	337	442	495
Dyer	284	288	384	480	598
Franklin	238	266	337	463	544
Giles	227	290	358	448	501
Greene	227	266	337	442	495
Hamblen	227	267	350	467	495
Hardeman	227	266	337	442	495
Haywood	239	277	370	463	518
Henry	227	266	337	442	495
Houston	227	266	337	442	495
Jackson	227	266	337	442	495
Johnson	227	266	337	442	495
Lauderdale	227	266	339	442	495
Lewis	227	266	337	442	495
Mcminn	227	266	337	444	495
Macon	227	266	337	442	495
Maury	326	333	442	555	619
Monroe	227	266	337	442	495
Morgan	227	266	337	442	495
Overton	227	266	337	442	495
Pickett	227	266	337	442	495
Putnam	276	279	358	492	531
Roane	245	266	337	452	544
Sequatchie	227	266	337	442	495
Stewart	227	266	337	442	495
Van Buren	227	266	337	442	495

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	245	279	337	442	495
Bradley	227	287	383	518	629
Cannon	227	266	337	442	495
Chester	227	266	337	442	495
Clay	231	266	337	442	495
Coffee	227	317	356	495	564
Cumberland	240	266	348	486	495
Dekalb	227	266	337	442	495
Fentress	227	266	337	442	495
Gibson	227	266	337	442	495
Grainger	231	266	337	442	495
Grundy	227	266	337	442	495
Hancock	227	266	337	442	495
Hardin	227	266	337	442	495
Henderson	227	266	337	442	495
Hickman	268	272	361	476	505
Humphreys	227	277	337	442	495
Jefferson	248	266	345	442	549
Lake	227	266	337	442	495
Lawrence	227	266	337	442	495
Lincoln	227	266	340	442	495
Mcnairy	227	266	337	442	495
Marshall	267	292	380	480	533
Meigs	227	266	337	442	495
Moore	227	266	337	442	495
Obion	263	267	342	453	495
Perry	227	268	337	442	495
Polk	227	266	337	442	495
Rhea	227	284	337	447	495
Scott	227	266	337	442	495
Smith	227	266	337	442	495
Trousdale	227	279	371	466	610
Warren	253	266	344	442	495

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom, For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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TENNESSEE continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wayne	227	266	337	442	495
White	231	266	337	442	495
Weakley	246	266	337	442	495

TEXAS

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	273	304	393	530	644	Taylor
Amarillo, TX MSA	263	332	413	577	680	Potter, Randall
Austin-San Marcos, TX MSA	405	489	652	905	1069	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	300	362	442	585	620	Hardin, Jefferson, Orange
Brazoria, TX PMSA	419	467	584	814	958	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	315	397	496	621	774	Cameron
Bryan-College Station, TX MSA	351	408	516	719	847	Brazos
Corpus Christi, TX MSA	328	403	515	700	828	Nueces, San Patricio
Dallas, TX	397	456	586	811	959	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	370	414	491	681	805	El Paso
Fort Worth-Arlington, TX PMSA	380	413	537	747	882	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	412	423	531	738	870	Galveston
Henderson County, TX	272	323	395	540	648	Henderson
Houston, TX PMSA	390	437	567	788	929	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	369	384	486	677	743	Bell, Coryell
Laredo, TX MSA	299	344	452	565	635	Webb
Longview-Marshall, TX MSA	296	334	410	558	610	Gregg, Harrison, Upshur
Lubbock, TX MSA	283	358	466	648	718	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	263	359	411	514	577	Hidalgo
Odessa-Midland, TX MSA	283	327	437	608	704	Ector, Midland
San Angelo, TX MSA	263	336	408	559	660	Tom Green
San Antonio, TX MSA	346	399	517	719	849	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	263	359	434	554	663	Grayson
Texarkana, TX-Texarkana, AR MSA	286	350	427	563	597	Bowie
Tyler, TX MSA	329	363	444	616	651	Smith
Victoria, TX MSA	325	329	415	578	651	Victoria
Waco, TX MSA	286	351	462	615	647	Mclennan
Wichita Falls, TX MSA	315	353	425	566	667	Archer, Wichita

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	316	356	400	556	562
Angelina	288	333	376	522	615
Armstrong	263	304	398	499	562
Austin	263	304	367	503	562
Bandera	283	304	367	499	562
Bee	263	304	367	492	562
Borden	263	304	367	492	562
Brewster	263	304	367	496	594
Brooks	263	304	367	492	562
Burleson	263	304	386	522	635
Calhoun	282	304	367	508	601
Camp	356	361	451	565	631
Cass	263	304	367	492	562
Cherokee	294	305	374	492	562
Clay	263	310	367	492	573
Coke	263	304	367	492	562
Collingsworth	263	304	367	492	562
Comanche	263	304	367	492	562
Cooke	286	304	387	525	582
Crane	263	304	367	492	562
Crosby	263	304	367	492	562
Dallam	263	304	367	492	562
Deaf Smith	263	304	367	492	571
Dewitt	263	304	367	492	562
Dimmit	263	304	367	492	562
Duval	263	304	367	492	562
Edwards	263	304	367	492	562
Falls	263	304	367	492	562
Fayette	263	304	367	492	562
Floyd	263	304	367	492	562
Franklin	263	304	367	508	562
Frio	263	304	367	492	562
Garza	263	304	367	492	562
Glasscock	263	304	367	492	562
Gonzales	263	304	367	492	562
Grimes	263	304	367	496	585
Hall	263	304	367	492	562
Hansford	263	304	367	492	576
Hartley	263	304	367	492	562
Hemphill	263	339	380	529	562

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Andrews	263	304	367	492	562
Aransas	263	324	432	601	605
Atascosa	263	304	367	492	562
Bailey	263	304	367	492	562
Baylor	263	304	367	492	562
Blanco	263	304	389	541	570
Bosque	263	304	367	492	562
Briscoe	263	304	367	492	562
Brown	263	304	368	494	604
Burnet	263	304	375	521	609
Callahan	263	304	367	492	562
Carson	263	304	367	492	562
Castro	265	304	367	492	562
Childress	263	304	367	492	562
Cochran	263	304	367	492	562
Coleman	263	304	367	492	562
Colorado	263	304	367	492	562
Concho	263	304	367	492	562
Cottle	263	304	367	492	562
Crockett	263	304	367	492	562
Culberson	263	304	367	492	562
Dawson	263	304	367	492	562
Delta	263	315	367	492	562
Dickens	263	304	367	492	562
Donley	263	304	367	492	562
Eastland	263	304	367	492	562
Erath	273	309	400	518	562
Fannin	267	304	367	494	562
Fisher	263	304	367	492	562
Foard	263	304	367	492	562
Freestone	263	304	367	492	562
Gaines	269	304	367	492	562
Gillespie	263	331	430	591	603
Goliad	263	304	367	492	562
Gray	289	304	391	492	580
Hale	263	304	367	492	562
Hamilton	263	304	367	492	562
Hardeman	263	304	367	492	562
Haskell	263	304	367	492	562
Hill	263	304	367	492	562

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hockley	269	314	367	497	562
Houston	263	304	367	492	562
Hudspeth	317	358	400	502	659
Irion	263	304	367	492	562
Jackson	263	305	367	492	562
Jeff Davis	263	304	367	492	562
Jim Wells	263	304	367	492	569
Karnes	263	304	367	492	562
Kenedy	263	304	367	492	562
Kerr	263	341	426	593	699
King	263	304	367	492	562
Kleberg	320	331	404	565	665
Lamar	263	327	385	537	635
Lampasas	263	304	367	499	589
Lavaca	263	304	367	492	562
Leon	263	338	379	492	623
Lipscomb	263	304	367	492	562
Llano	263	339	451	566	742
Lynn	263	304	367	492	562
Mcmullen	263	304	367	492	562
Marion	263	304	367	492	582
Mason	263	304	367	492	562
Maverick	263	304	367	492	562
Menard	263	304	367	492	562
Mills	263	304	367	492	562
Montague	263	304	367	492	562
Morris	263	304	367	492	562
Nacogdoches	278	335	435	543	641
Newton	263	304	367	492	562
Ochiltree	263	304	367	492	562
Palo Pinto	263	304	367	492	584
Parmer	263	304	367	492	562
Polk	294	321	374	503	611
Rains	263	341	412	572	576
Real	263	304	367	492	562
Reeves	263	304	367	492	562
Roberts	263	307	367	492	562
Runnels	263	304	367	492	562
Sabine	263	304	367	492	562
San Jacinto	276	311	367	492	574

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hopkins	307	330	389	541	582
Howard	281	304	367	496	562
Hutchinson	263	304	380	529	625
Jack	263	304	367	492	562
Jasper	263	304	375	499	613
Jim Hogg	263	304	367	492	562
Jones	263	304	367	492	562
Kendall	263	385	432	601	710
Kent	263	304	367	492	562
Kimble	263	304	400	501	562
Kinney	263	304	367	492	562
Knox	263	304	367	492	562
Lamb	263	304	367	492	562
La Salle	263	304	367	492	562
Lee	298	335	377	526	590
Limestone	263	304	367	492	562
Live Oak	263	304	367	492	562
Loving	263	304	367	492	562
Mcculloch	271	304	367	492	562
Madison	263	313	367	492	578
Martin	263	304	367	492	562
Matagorda	304	332	412	572	576
Medina	263	304	367	492	562
Milam	263	304	367	492	562
Mitchell	263	304	367	492	562
Moore	263	309	367	492	571
Motley	263	304	367	492	562
Navarro	315	331	399	506	562
Nolan	271	304	367	492	562
Oldham	263	304	398	499	583
Panola	263	310	367	492	562
Pecos	263	304	367	496	585
Presidio	263	304	367	492	562
Reagan	335	341	453	569	745
Red River	263	339	380	492	562
Refugio	263	304	367	492	562
Robertson	263	348	390	492	562
Rusk	275	304	367	492	562
San Augustine	263	304	367	492	562
San Saba	263	304	367	492	562

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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TEXAS continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Schleicher	263	304	367	492	562
Shackelford	263	304	367	492	562
Sherman	263	304	367	492	562
Starr	263	304	367	492	562
Sterling	263	304	367	492	562
Sutton	263	304	367	492	562
Terrell	263	304	367	492	562
Throckmorton	263	304	367	492	562
Trinity	274	309	367	492	562
Upton	263	304	367	492	562
Val Verde	263	349	411	514	606
Walker	355	378	462	614	647
Washington	327	333	445	556	731
Wheeler	263	304	367	492	562
Willacy	263	304	367	492	562
Wise	263	307	369	515	562
Yoakum	263	346	426	532	699
Zapata	263	304	367	492	562
Scurry	263	304	381	531	627
Shelby	263	304	367	492	562
Somervell	301	339	380	522	562
Stephens	263	304	367	492	562
Stonewall	263	304	367	492	562
Swisher	263	304	367	492	562
Terry	263	304	367	492	562
Titus	280	347	394	544	562
Tyler	263	304	392	492	645
Uvalde	263	304	367	492	562
Van Zandt	282	304	381	520	627
Ward	263	304	367	492	562
Wharton	263	304	367	492	562
Wilbarger	263	304	367	492	579
Winkler	263	304	367	492	562
Wood	263	304	380	529	625
Young	263	304	367	492	569
Zavala	263	304	367	492	562

UTAH

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	273	336	420	562	677	Kane
Provo-Orem, UT MSA	377	398	493	684	808	Utah
Salt Lake City-Ogden, UT MSA	328	380	482	670	786	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaver	273	336	420	562	677
Cache	273	336	420	562	677
Daggett	298	407	541	678	760
Emery	273	336	420	562	677
Grand	273	336	420	562	677
Juab	273	336	420	562	677
Morgan	273	336	420	562	677
Rich	273	336	420	562	677
Sanpete	273	336	420	562	677
Summit	405	499	624	841	1023
Uintah	273	336	420	562	677
Washington	337	415	551	736	902
Box Elder	303	336	420	562	677
Carbon	294	336	420	562	677
Duchesne	273	336	420	562	677
Garfield	273	336	420	562	677
Iron	273	372	464	580	682
Millard	273	336	420	562	677
Piute	273	336	420	562	677
San Juan	273	336	420	562	677
Sevier	277	336	420	562	677
Tooele	273	349	420	562	677
Wasatch	273	349	420	562	677
Wayne	273	336	420	562	677

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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VERMONT

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	390	478	637	869	1047	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	369	447	520	724	812	
Bennington	344	432	557	708	824	
Caledonia	312	372	455	575	659	
Chittenden	319	517	582	808	952	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	306	366	455	575	659	
Franklin	328	370	455	579	665	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	306	366	455	575	659	Alburg town, Isle La Motte town, North Hero town
Lamoille	306	423	505	694	795	
Orange	306	401	493	651	730	
Orleans	306	366	455	575	659	
Rutland	343	447	545	684	765	
Washington	328	410	549	687	770	
Windham	368	427	567	719	792	
Windsor	395	446	558	715	849	

VIRGINIA

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	387	457	585	778	873	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	290	407	528	724	740	Clarke
Culpeper County, VA	356	520	605	799	956	Culpeper
Danville, VA MSA	274	344	405	544	655	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	281	325	415	539	612	Scott, Washington, Bristol city
King George County, VA	351	465	523	727	732	King George
Lynchburg, VA MSA	326	358	413	544	655	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	407	457	542	756	887	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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V I R G I N I A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	409	463	538	749	884	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	276	344	447	573	715	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	283	387	516	676	845	Warren
Washington, DC-MD-VA	584	663	779	1060	1278	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack	324	349	409	542	653
Amelia	273	343	404	542	653
Augusta	273	353	428	564	687
Bland	273	343	404	542	653
Buchanan	273	343	404	542	653
Caroline	386	391	522	694	731
Charlotte	273	343	404	542	653
Cumberland	273	373	433	542	653
Essex	273	383	453	629	743
Franklin	273	343	404	542	653
Giles	273	343	404	542	653
Greensville	273	353	404	542	653
Henry	273	343	404	542	653
King and Queen	273	391	440	550	653
Lancaster	340	382	431	575	700
Louisa	273	355	437	608	653
Madison	274	407	457	573	750
Middlesex	273	345	404	542	653
Nelson	273	343	404	542	653
Northumberland	273	343	404	542	653
Orange	302	412	550	765	897
Patrick	273	343	404	542	653
Pulaski	273	343	404	542	653
Richmond	273	363	408	542	670
Rockingham	273	377	478	655	767
Shenandoah	359	368	454	628	713
Southampton	273	343	404	542	653
Sussex	273	343	404	542	653

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	284	343	404	542	653
Appomattox	273	343	404	542	653
Bath	273	343	404	542	653
Brunswick	273	343	404	542	653
Buckingham	273	343	404	542	653
Carroll	273	343	404	542	653
Craig	273	343	404	542	653
Dickenson	273	343	404	542	653
Floyd	273	343	404	542	653
Frederick	369	426	513	703	842
Grayson	273	343	404	542	653
Halifax	273	343	404	542	653
Highland	273	343	404	542	653
King William	273	373	419	542	653
Lee	273	343	404	542	653
Lunenburg	273	343	404	542	653
Mecklenburg	273	343	404	542	653
Montgomery	281	368	432	601	710
Northampton	273	343	404	542	653
Nottoway	273	343	404	542	653
Page	317	357	404	542	653
Prince Edward	305	345	404	542	653
Rappahannock	277	448	503	699	824
Rockbridge	273	343	404	542	653
Russell	273	343	404	542	653
Smyth	273	343	404	542	653
Surry	283	343	404	542	653
Tazewell	273	343	404	542	653

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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V I R G I N I A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	273	368	490	615	797
Wythe	285	343	404	542	653

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wise	273	343	404	542	653

W A S H I N G T O N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	376	488	650	897	1065	Whatcom
Bremerton, WA PMSA	383	441	572	772	939	Kitsap
Olympia, WA PMSA	393	483	603	831	979	Thurston
Portland-Vancouver, OR-WA PMSA	387	476	587	817	887	Clark
Richland-Kennewick-Pasco, WA MSA	469	538	643	896	1052	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	440	535	678	942	1113	Island, King, Snohomish
Spokane, WA MSA	316	436	526	715	800	Spokane
Tacoma, WA PMSA	356	424	565	786	887	Pierce
Yakima, WA MSA	340	418	517	694	725	Yakima

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	298	357	463	613	679
Chelan	298	357	463	613	679
Columbia	298	357	463	613	679
Douglas	348	368	463	613	679
Garfield	298	357	463	613	679
Grays Harbor	304	357	468	632	729
Kittitas	298	357	463	613	679
Lewis	298	357	463	613	679
Mason	339	420	516	678	729
Pacific	298	357	463	613	679
San Juan	368	503	670	883	1051
Skamania	298	357	463	613	679
Wahkiakum	298	357	463	613	679
Whitman	321	365	487	676	800

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Asotin	298	357	463	613	679
Clallam	347	430	547	703	769
Cowlitz	335	374	482	669	679
Ferry	298	357	463	613	679
Grant	320	357	463	613	679
Jefferson	298	385	473	642	679
Klickitat	298	357	463	613	679
Lincoln	298	357	463	613	679
Okanogan	298	357	463	613	679
Pend Oreille	298	357	463	613	816
Skagit	406	497	585	731	818
Stevens	298	357	463	613	679
Walla Walla	298	357	463	621	734

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	348	370	441	551	617	Berkeley
Charleston, WV MSA	241	328	415	570	624	Kanawha, Putnam
Cumberland, MD-WV MSA	314	378	464	617	705	Mineral
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Cabell, Wayne
Jefferson County, WV	352	389	481	625	708	Jefferson

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	287	342	392	508	523	Wood
Steubenville-Weirton, OH-WV MSA	266	314	393	502	560	Brooke, Hancock
Wheeling, WV-OH MSA	292	318	393	502	560	Marshall, Ohio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	241	307	343	442	514
Braxton	241	295	343	442	514
Clay	241	295	343	442	514
Fayette	241	295	343	442	514
Grant	241	295	343	442	514
Hampshire	241	295	345	455	514
Harrison	266	327	377	471	565
Lewis	241	324	343	442	514
Logan	247	295	343	445	526
Marion	241	305	376	483	556
Mercer	241	295	343	442	514
Monongalia	304	336	411	565	669
Morgan	298	335	377	473	528
Pendleton	241	295	343	442	514
Pocahontas	241	295	343	442	514
Raleigh	250	295	343	442	518
Ritchie	241	295	343	442	514
Summers	241	295	343	442	514
Tucker	241	295	343	442	514
Upshur	241	295	345	442	514
Wetzel	274	295	370	463	585
Wyoming	241	295	343	442	514

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Boone	241	295	343	442	514
Calhoun	241	295	343	442	514
Doddridge	250	295	343	442	514
Gilmer	266	295	343	442	514
Greenbrier	241	333	356	444	514
Hardy	241	295	343	442	514
Jackson	241	302	343	470	514
Lincoln	241	295	343	442	514
Mcdowell	241	295	343	442	514
Mason	241	295	343	442	528
Mingo	241	295	343	442	520
Monroe	241	295	343	442	514
Nicholas	241	295	343	442	514
Pleasants	249	295	343	442	527
Preston	241	310	343	442	514
Randolph	241	295	343	442	514
Roane	241	295	343	442	514
Taylor	296	320	349	442	514
Tyler	241	295	361	453	514
Webster	241	295	343	442	514
Wirt	241	295	343	442	514

W I S C O N S I N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	297	366	464	586	675	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	259	335	431	574	669	Douglas
Eau Claire, WI MSA	320	348	457	587	662	Chippewa, Eau Claire
Green Bay, WI MSA	325	358	459	638	642	Brown
Janesville-Beloit, WI MSA	327	412	511	640	717	Rock
Kenosha, WI PMSA	339	420	517	710	798	Kenosha
La Crosse, WI-MN MSA	263	340	433	578	701	La Crosse
Madison, WI MSA	406	511	617	857	1011	Dane

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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W I S C O N S I N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	343	449	564	706	789	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	369	474	605	820	928	Pierce, St. Croix
Racine, WI PMSA	305	378	499	644	705	Racine
Sheboygan, WI MSA	284	365	446	557	690	Sheboygan
Wausau, WI MSA	347	360	450	613	680	Marathon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	259	302	385	492	554
Barron	259	302	385	492	554
Buffalo	259	302	385	492	554
Clark	259	302	385	492	554
Crawford	259	302	385	492	554
Door	259	321	399	512	622
Florence	259	302	385	492	554
Forest	259	302	385	492	554
Green	264	302	385	518	554
Iowa	269	302	385	506	554
Jackson	259	302	385	492	554
Juneau	265	302	385	492	554
Lafayette	264	302	385	492	554
Lincoln	259	302	385	492	554
Marinette	259	302	385	492	554
Menominee	259	302	385	492	554
Oconto	259	302	385	492	554
Pepin	259	302	385	492	554
Portage	315	333	432	539	668
Richland	259	302	385	492	554
Sauk	303	313	418	521	585
Shawano	264	302	385	492	554
Trempealeau	259	302	385	492	554
Vilas	259	302	385	492	554
Washburn	259	302	385	492	554
Waushara	259	302	385	492	554

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	283	313	385	492	554
Bayfield	259	302	385	492	554
Burnett	259	302	385	492	554
Columbia	259	308	405	531	595
Dodge	328	333	438	548	613
Dunn	259	302	396	529	653
Fond du Lac	262	355	421	571	590
Grant	263	302	385	492	554
Green Lake	259	302	385	492	554
Iron	259	302	385	492	554
Jefferson	259	344	447	577	630
Kewaunee	259	302	385	492	554
Langlade	259	302	385	492	554
Manitowoc	262	302	385	492	554
Marquette	259	302	385	492	554
Monroe	259	302	385	513	554
Oneida	259	303	385	496	593
Polk	259	302	392	492	554
Price	259	302	385	492	554
Rusk	259	302	385	492	554
Sawyer	259	302	385	492	554
Taylor	259	302	385	492	554
Vernon	259	302	385	492	554
Walworth	271	380	495	644	722
Waupaca	259	302	385	492	583
Wood	282	322	400	501	562

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEOULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 54

W Y O M I N G

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	282	327	418	573	677	Natrona
Cheyenne, WY MSA	319	399	533	682	828	Laramie

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Albany	283	355	473	658	777
Campbell	291	310	397	529	624
Converse	268	310	397	527	606
Fremont	268	310	397	527	606
Hot Springs	268	310	397	527	606
Lincoln	268	310	397	527	606
Park	268	310	397	527	611
Sheridan	268	310	397	527	611
Sweetwater	280	310	397	529	624
Uinta	282	310	397	528	637
Weston	268	310	397	527	606

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	268	310	397	527	606
Carbon	268	310	397	527	606
Crook	268	310	397	527	606
Goshen	268	310	397	527	606
Johnson	268	310	397	527	606
Niobrara	268	310	397	527	606
Platte	268	310	397	527	606
Sublette	300	337	397	527	606
Teton	360	458	608	817	891
Washakie	268	310	397	527	606

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	655	787	932	1168	1314

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

P U E R T O R I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	225	274	325	404	455	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	308	373	438	551	616	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	246	296	350	440	489	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	232	282	335	416	468	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	298	364	429	536	601	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	310	378	446	557	625	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio, Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEOULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 55

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
						Naguabo Municipio, Naranjito Municipio Rio Grande Municipio, San Juan Municipio Toa Alta Municipio, Toa Baja Municipio Trujillo Alto Municipio, Vega Alta Municipio Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio	208	257	300	378	421
Arroyo Municipio	208	257	300	378	421
Ciales Municipio	208	257	300	378	421
Culebra Municipio	208	257	300	378	421
Guayama Municipio	208	257	300	378	421
Jayuya Municipio	208	257	300	378	421
Lares Municipio	208	257	300	378	421
Maricao Municipio	208	257	300	378	421
Orocovis Municipio	208	257	300	378	421
Quebradillas Municipio	208	257	300	378	421
Salinas Municipio	208	257	300	378	421
Santa Isabel Municipio	208	257	300	378	421
Vieques Municipio	208	257	300	378	421

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio	208	257	300	378	421
Barranquitas Municipio	208	257	300	378	421
Coamo Municipio	208	257	300	378	421
Guanica Municipio	208	257	300	378	421
Isabela Municipio	208	257	300	378	421
Lajas Municipio	208	257	300	378	421
Las Marias Municipio	208	257	300	378	421
Maunabo Municipio	208	257	300	378	421
Patillas Municipio	208	257	300	378	421
Rincon Municipio	208	257	300	378	421
San Sebastian Municipio	208	257	300	378	421
Utuado Municipio	208	257	300	378	421

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Croix	456	554	652	815	913
St. Johns/St. Thomas	585	711	836	1045	1170

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 020996

SCHEDULE D - FY 1996 40th PERCENTILE FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES

STATE/FMR AREA	SPACE RENT
CALIFORNIA	
Orange County, CA PMSA	$449
San Diego, CA MSA	388
Vallejo-Fairfield-Napa, CA PMSA	288
COLORADO	
Boulder-Longmont, CO PMSA	282
Denver, CO PMSA	268
DELAWARE	
Dover, DE MSA	163
Sussex County	115
MARYLAND	
Hagerstown, MD MSA	204
St. Marys County	251
MINNESOTA	
Minneapolis-St. Paul, MN-WI MSA	243
NEW YORK	
Dutchess, NY PMSA	329
Jamestown, NY MSA	172
Newburgh, NY MSA	309
Tompkins County, NY	196
OREGON	
Salem, OR PMSA	205
Benton County, OR	198
Linn County, OR	179
UTAH	
Provo-Orem, UT MSA	196
VERMONT	
Washington County	196
WEST VIRGINIA	
Berkeley County	132
Jefferson County	135
Morgan County	133

[FR Doc. 96–3763 Filed 2–20–96; 8:45 am]
BILLING CODE 4210–32–C

federal register

Wednesday
February 21, 1996

Part III

Department of Education

Intent To Award Grantback Funds to the South Dakota Department of Education and Cultural Affairs; Notice

DEPARTMENT OF EDUCATION

Intent to Repay to the South Dakota Department of Education and Cultural Affairs Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Under section 459 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234h (1988), the U.S. Secretary of Education (Secretary) intends to repay to the South Dakota Department of Education and Cultural Affairs (South Dakota), under a grantback arrangement, an amount equal to 75 percent of the principal amount of Vocational Education Basic Grant funds recovered by the U.S. Department of Education (Department) as a result of the final audit determination (ACN: 08–92255) in this matter. The Department's recovery of funds followed a settlement reached between the parties under which South Dakota refunded $50,000, in principal, to the Department in full resolution of the Department's final audit determination for fiscal year (FY) 1988. This notice describes South Dakota's plan for the use of the repaid vocational education funds and the terms and conditions under which the Secretary intends to make those funds available. This notice invites comments on the proposed grantback.

DATES: All comments must be received on or before March 22, 1996.

ADDRESSES: All written comments should be addressed to Dr. Marcel R. DuVall, Chief, Finance Branch, Division of Vocational-Technical Education, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue SW., (Mary E. Switzer Building, Room 4320, MS–7324), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Marcel R. DuVall. Telephone: (202) 205–9502. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

A. Background

Under a settlement agreement between the Department and South Dakota, the Department recovered $50,000 from South Dakota in full resolution of all claims arising from an audit of the South Dakota Department of Education and Cultural Affairs, covering FY 1988.

The Department's original claim of $150,000 was contained in a program determination letter (PDL) issued by the Assistant Secretary for Vocational and Adult Education on March 29, 1991. This claim arose from findings related to South Dakota's payment of interest charges on a State construction bond. The disputed funds were provided to South Dakota under the provisions of the Carl D. Perkins Vocational Education Act. 20 U.S.C. 2301 *et seq.* (1988) (Perkins I).

In particular, the Assistant Secretary determined in the March 29, 1991, PDL that South Dakota had not obtained prior approval for the use of these Federal funds for construction and that the $150,000 had been used by the State in such a way as to supplant non-Federal funds. In addition, the Assistant Secretary determined that the $150,000 in Federal funds had been used by the State to make interest payments on the construction bond debt, in violation of the prohibition against the use of Federal funds for making interest payments. *See* 34 CFR Part 74, Appendix C, Part II.D.7. (1988).

The parties entered into a settlement agreement on August 9, 1993, resolving fully all claims in this matter. In accordance with the terms of the settlement agreement, South Dakota repaid a principal amount of $50,000 to the Department on August 26, 1993.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA, 20 U.S.C. 1234h(a), the authority applicable to this grantback request, provides that whenever the Secretary has recovered funds paid under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this grantback arrangement if the Secretary determines that—

(1) The practices or procedures of the recipient that resulted in the violation of law have been corrected, and the recipient is in all other respects in compliance with the requirements of that program;

(2) The recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

(3) The use of the funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 459 of GEPA, South Dakota has applied for a grantback of $37,500, or 75 percent of the recovered funds. South Dakota has submitted a plan for use of the proposed grantback funds, consistent with the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Perkins II), 20 U.S.C. 2301 *et seq.*, which is currently in effect. South Dakota plans to implement a State mentoring program for new postsecondary vocational-technical education instructors, who are drawn, in most cases, directly from the fields of business and industry. These individuals possess vast technical knowledge but have a limited teacher education background.

Specifically, South Dakota plans to use the requested grantback funds totaling $37,500 to—

(1) Pay salary costs needed to provide one Statewide Coordinator, four Educational Mentor Specialists, four Division Mentor Specialists, four Support Mentor Specialists, and substitutes to assist with workshops and meetings ($12,900);

(2) Facilitate travel to a three-day training institute for Coordinators and Division and Educational mentors, and for meetings between Education and State Coordinators and three University Coordinators to establish curriculum and articulation agreements ($13,343);

(3) Contract services to provide eight, two-hour presentations by means of the Rural Development Telecommunication Network (RDTN). This system uses two-way audio and video communication to link a single instructional facility to off-site locations ($1,920); and

(4) Provide printing, postage, and materials needed to carry out the mentoring program objectives ($9,337).

Southeast Technical Institute in Sioux Falls, South Dakota, will serve as the lead institute for organizing and delivering the mentoring program to all statewide program areas. The basic curriculum entitled, "Foundations in Postsecondary Instruction," will be delivered by the mentor specialists using two lecture hours and two lab hours per week for one semester and also via the RDTN to the four State-supported, postsecondary technical institute site locations that will be utilized for instruction. "Foundations in Postsecondary Instruction" will include the following topics: Classroom Discipline, Philosophy of Vocational Education, Curriculum Development, Teaching Styles, Teaching Applications, Outside Resources, Testing/Portfolio, Evaluation Feedback, and Special Populations.

D. The Secretary's Determination

The Secretary has carefully reviewed the plan submitted by South Dakota and other relevant documentation. Based upon that review, the Secretary has determined that the conditions under section 459 of GEPA have been met.

This determination is based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action at a later date. In finding that the conditions of section 459 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 459(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the South Dakota Department of Education and Cultural Affairs under a grantback arrangement. The grantback award will be in the amount of $37,500, which is 75 percent—the maximum percentage authorized by the statute—of the principal amount of Vocational Education Basic Grant funds recovered by the Department as a result of the final audit determination and the settlement in this matter.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

South Dakota agrees to comply with the following terms and conditions under which payment under a grantback arrangement will be made:

(1) South Dakota will expend the funds awarded under the grantback in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that was submitted and any amendments in that plan that are approved in advance of the grantback by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance of the grantback by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1996, in accordance with section 459(c) of GEPA and South Dakota's plan.

(3) South Dakota will, no later than January 1, 1997, submit a report to the Secretary that—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget; and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained to document the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.048, Basic State Grants for Vocational Education)

Dated: February 13, 1996.

Patricia W. McNeil,

Acting Assistant Secretary, Office of Vocationol and Adult Education.

[FR Doc. 96–3772 Filed 2–20–96; 8:45 am]

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Federal Register

Wednesday
February 21, 1996

Part IV

Department of Education

Office of Special Education and Rehabilitative Services, Proposed Priorities; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Notice of Proposed Priorities

SUMMARY: The Secretary proposes priorities for three programs administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act. The Secretary may use these priorities in Fiscal Year 1996 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve outcomes for children with disabilities. The proposed priorities are intended to ensure wide and effective use of program funds.

DATES: Comments must be received on or before March 22, 1996 for the Training Personnel for the Education of Individuals with Disabilities Program (CFDA 84.029) and the Program for Children and Youth with Serious Emotional Disturbance (CFDA 84.237); and April 22, 1996 for the Research in the Education of Individuals with Disabilities Program (CFDA 84.023).

ADDRESSES: All comments concerning proposed priorities should be addressed to: Linda Glidewell, U.S. Department of Education, 600 Independence Avenue SW., Room 3524, Switzer Building, Washington, D.C. 20202–2641.

FOR FURTHER INFORMATION CONTACT: The name, address, and telephone number of the person at the Department to contact for information on each specific proposed priority is listed under that priority.

SUPPLEMENTARY INFORMATION: This notice contains four proposed priorities under three programs authorized by the Individuals with Disabilities Education Act, as follows: Research in Education of Individuals with Disabilities Program (one proposed priority); Training Personnel for the Education of Individuals with Disabilities Program (two proposed priorities); and Program for Children and Youth with Serious Emotional Disturbance (one proposed priority). The purpose of each program is stated separately under the title of that program.

These proposed priorities would support the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the content of the final priorities, and the quality of the applications received. Further, priorities could be affected by enactment of legislation reauthorizing these programs. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. Notices inviting applications under these competitions will be published in the **Federal Register** concurrent with or following publication of the notices of final priorities.

Research in Education of Individuals With Disabilities Program

Purpose of Program: To advance and improve the knowledge base and improve the practice of professionals, parents, and others providing early intervention, special education, and related services—including professionals in regular education environments—to provide children with disabilities effective instruction and enable these children to learn successfully.

Priority: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

Proposed Absolute Priority—Research Institute to Accelerate Learning for Children With Disabilities With Curricular and Instructional Interventions

Background

The consequences of failing to learn are serious. Lack of learning in one domain reduces an individual's capacity to benefit from educational experience. Failure establishes a self-perpetuating cycle and negatively affects the individual's disposition toward lifelong learning, employment, and contribution to society. Most children with disabilities face challenges to learning. These challenges are amplified as calls are made for higher standards to be achieved by all students, including children with disabilities, and as more children with disabilities are educated in general education classrooms.

Evidence from the National Longitudinal Transition Study indicates children with disabilities are not learning subject matter content. An urgency exists to develop powerful curricular and instructional interventions that maximize rates of development, promote generalized learning, and reduce discrepancies between their performance and that of their peers.

Intervention research has demonstrated that children with disabilities possess the potential to learn, participate, and contribute in school, home, community, and work place. Research on instructional interventions for children with disabilities has been the hallmark of special education research. For example, research on direct instruction, behavioral management interventions, learning strategies, peer mediated learning, and reciprocal teaching has led to improvements in professional practice.

Yet, single solution interventions are insufficient for teaching children with disabilities complex subject matter content. In many instances, these interventions are content free. Moreover, little empirical evidence is available on the context of the classroom for supporting the implementation of these solutions.

Priority

The Secretary proposes to establish an absolute priority for the purpose of establishing a research institute to study kindergarten through grade six curricular and instructional classroom based interventions that accelerate subject matter learning for children with disabilities and promote its sustained use by practitioners. These studies must examine—

(1) The effectiveness of the intervention for children with disabilities; and

(2) The classroom context that supports the implementation of the interventions that produce and sustain positive learning outcomes for children with disabilities, including such factors as classroom groups; classroom and cross-classroom management strategies; curriculum design principles; classroom settings; instructional materials; amount of time on task; integration into the curriculum; and teacher actions, skills, and attitudes.

The research may include, but need not be limited to, studying classroom based exemplars and models, designing and implementing interventions, and collecting student and teacher data from exemplars, using a rich array of research methods to reach the intended goals of this priority and as articulated by the proposed research hypotheses.

The research Institute must—

(a) Design and conduct a strategic program of research that focuses on helping students with disabilities in kindergarten through grade six learn subject matter content in critical areas such as reading and math, and builds upon the existing research knowledge for teaching children with disabilities;

(b) Design and conduct a strategic program of research across multiple sites to represent organizational and demographic diversity;

(c) Collect, analyze, and communicate student outcome data and supporting context data; and multiple outcome data for teachers, parents, administrators, as appropriate;

(d) Collaborate with experts and researchers in related subject matter and methodological fields, as appropriate for the program of research, to design and conduct the strategic program of research;

(e) Collaborate with communication specialists and professional and advocacy organizations to ensure that findings are prepared in formats that are useable for specific audiences such as teachers, administrators, and other service providers;

(f) Develop linkages with Education Department technical assistance providers to communicate research findings and distribute products;

(g) Provide training and research opportunities for a limited number of graduate students including students who are from traditionally underrepresented groups; and

(h) Meet with the Office of Special Education Programs (OSEP) project officer in the first four months of the project to review the program of research and communication approaches.

The project must budget for two trips annually to Washington, D.C. for: (1) A two-day Research Project Directors' meeting; and (2) another meeting to meet and collaborate with the OSEP project officer.

Under this priority, the Secretary anticipates making one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the Institute for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider—

(1) The recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day site visit to the project are to be performed during the last half of the Institute's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the institute's budget for year two. These costs are estimated to be approximately $4,000;

(2) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Research Institute; and

(3) The degree to which the Institute's research designs and methodologies demonstrate the potential for advancing significant new knowledge.

For Further Information Contact: Ellen Schiller, U.S. Department of Education, 600 Independence Avenue SW., Room 3523, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8123. FAX: (202) 205–8105. Internet: Ellen__Schiller@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Program Authority: 20 U.S.C. 1441 and 1442.

Training Personnel for the Education of Individuals With Disabilities Program

Purpose of Program: The purpose of Grants for Personnel Training is to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children, and youth with disabilities.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under these competitions only applications that meet these absolute priorities:

Proposed Absolute Priority 1—Preparation of Special Education, Related Services, and Early Intervention Personnel to Serve Infants, Toddlers, Children, and Youth With Low-Incidence Disabilities

Background

The national demand for educational, related services, and early intervention personnel to serve infants, toddlers, children and youth with low-incidence disabilities exceeds available supply. However, because of the small number of these personnel needed in each State, institutions of higher education and individual States are reluctant to support the needed professional development programs. Of the programs that are available, not all are producing graduates with the prerequisite skills needed to meet the needs of the low-incidence disability population. Federal support is required to ensure an adequate supply of personnel to serve children with low-incidence disabilities and to improve the quality of appropriate training programs so that graduates possess necessary prerequisite skills.

Priority: The Secretary proposes to establish an absolute priority to support projects that increase the number and quality of personnel to serve children with low-incidence disabilities. This priority supports projects that provide preservice preparation of special educators, early intervention personnel, and related services personnel at the associate, baccalaureate, master's, or specialist level.

The term "low-incidence disability" means a visual or hearing impairment, or simultaneous visual and hearing impairments, significant mental retardation, or an impairment such as severe and multiple disabilities, severe orthopedic disabilities, autism, and traumatic brain injury, for which a small number of highly skilled and knowledgeable personnel are needed.

Applicants may propose to prepare one or more of the following types of personnel:

(1) Special educators including early childhood, speech and language, adapted physical education, and assistive technology personnel;

(2) Related services personnel who provide developmental, corrective, and other supportive services that assist children with low-incidence disabilities to benefit from special education. Both comprehensive programs and specialty components of programs that emphasize children with low-incidence disabilities within a broader discipline may be supported; or

(3) Early intervention personnel who serve children birth through age 2 with disabilities and their families. Early intervention personnel include persons prepared to provide training for, or be consultants to, service providers and case managers.

The Secretary particularly encourages projects that address the needs of more than one State, provide multi-disciplinary training, and include collaboration among several institutions and between training institutions and public schools. In addition, projects that foster successful coordination between special education and regular education professional development programs to meet the needs of children with low-incidence disabilities in inclusive settings are encouraged.

Projects must:

(a) Show how their proposed activities address the need for trained personnel to serve children with low-incidence disabilities, as identified in

State Comprehensive Systems of Personnel Development, in the State or States where personnel trained by the project are expected to be employed;

(b) Prepare personnel to address the specialized needs of children with low-incidence disabilities from different cultural and language backgrounds;

(c) Incorporate best practices in the design of the program and the curricula;

(d) Incorporate curricula that focus on improving results for children with low-incidence disabilities;

(e) Promote high expectations for students with low-incidence disabilities and foster access to the general curriculum in the regular classroom, wherever appropriate; and

(f) Develop linkages with Education Department technical assistance providers to communicate information on program models used and program effectiveness.

Under this absolute priority, the Secretary plans to award approximately:

- 55 percent of the available funds for projects that support careers in special education, including early childhood educators;
- 30 percent of the available funds for projects that support careers in related services; and
- 15 percent of the available funds for projects that support careers in early intervention.

For Further Information Contact: Verna Hart, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3519, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5392. FAX: (202) 205–9070. Internet: Verna__Hart@ed.gov Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–7381.

Proposed Absolute Priority 2—Preparation of Personnel to Serve Children and Youth With High-Incidence Disabilities

Background: In many States, there are insufficient numbers of personnel available to meet the needs of children with high-incidence disabilities. In addition, the quality of personnel preparation programs needs to be improved so that professionals will be better prepared to help children with high-incidence disabilities reach their individual developmental goals and meet challenging standards.

Priority: The Secretary proposes to establish an absolute priority to support projects that increase the number and quality of personnel to serve children ages 3 through 21 with high-incidence disabilities such as mild or moderate mental retardation, speech or language impairments, emotional disturbance, or specific learning disabilities. This priority supports projects that provide preservice preparation of special educators, including early childhood educators and related services personnel.

A preservice program is defined as one that leads toward a degree, certification, or professional standard, and may be supported at the associate, baccalaureate, master's or specialist level. A preservice program may include the preparation of currently employed personnel who are seeking additional degrees, certifications, or endorsements.

Applicants may propose to prepare one or more of the following types of personnel:

(1) Special educators including speech and language, adapted physical education, and adaptive technology personnel;

(2) Related services personnel who provide developmental, corrective, and other supportive services that assist children with high-incidence disabilities to benefit from special education; and

(3) Early childhood special education or related services personnel who address the needs of children age three through five with high-incidence disabilities and their families.

The Secretary particularly encourages projects that foster successful coordination between special education and regular education professional development programs to meet the needs of children with high-incidence disabilities in inclusive settings.

Projects must:

(a) Show through letters of acknowledgement from States or other documentation that the proposed professional development activities support the Comprehensive Systems of Personnel Development of the State or States where personnel prepared by the project are expected to be employed;

(b) Show through letters of acknowledgement from States or other documentation that the proposed personnel preparation meets the standards for employment in the State or States where personnel prepared by the project are expected to be employed;

(c) Prepare personnel to address the needs of children with high-incidence disabilities from different cultural and language backgrounds;

(d) Incorporate best practices in the design of the program and curricula;

(e) Incorporate curricula that focus on improving results for children with high-incidence disabilities;

(f) Promote high expectations for children with high-incidence disabilities and foster access to the general curriculum in the regular classroom, wherever appropriate; and

(g) Develop linkages with Education Department technical assistance providers to communicate information on program models used and program effectiveness.

Under this absolute priority, the Secretary plans to award approximately:

- 55 percent of the available funds for projects that support careers in special education;
- 30 percent of the available funds for projects that support careers in related services; and,
- 15 percent of the available funds for projects that support careers in early childhood education.

For Further Information Contact: Martha Bokee, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3078, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5509. FAX: (202) 205–9070. Internet: Martha___Bokee@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–7381.

Program Authority: 20 U.S.C. 1431.

Program for Children and Youth With Serious Emotional Disturbance

Purpose of Program: To support projects designed to improve special education and related services to children and youth with serious emotional disturbance. Types of projects that may be supported under the program include, but are not limited to, research, development, and demonstration projects. Funds may also be used to develop and demonstrate approaches to assist and prevent children with emotional and behavioral problems from developing serious emotional disturbance.

Priority: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

Proposed Absolute Priority—Center to Promote Collaboration and Communication of Effective Practices for Children With, or At Risk of Developing, Serious Emotional Disturbance (SED)

Background: "Collaboration" is one of the seven strategic targets identified in the National Agenda for Achieving Better Results for Children and Youth with SED, developed by the Office of Special Education Programs (OSEP) with extensive participation by a variety of individuals and organizations.

Collaboration is critically important, at Federal, State, and local levels: "To promote systems change resulting in the development of coherent services built around the individual needs of children and youth with and at risk of developing SED." In the past, there has been too little interaction between agencies and service providers, e.g., education, mental health, child welfare, and juvenile justice. Lack of coordination between and across agencies has had a negative impact on children and families. The new direction, demonstrated in many of the projects currently funded by OSEP and other agencies, is toward more "seamless" and "wrap-around" service delivery models built around the needs of students, families, and communities—systems that coordinate services, articulate responsibilities, and provide system-wide and agency-level accountability.

Many of these new model programs are only in their infancy, but are already documenting their effectiveness. It is essential that mechanisms be put in place to foster the identification, development, and exchange of information about these innovative projects—to communicate their findings and approaches nationally to other communities and agencies that are seeking solutions to the needs of children with mental health problems and their families.

Priority: The Secretary proposes to establish an absolute priority to support one cooperative agreement for a center to promote Federal, State, and local interagency collaboration and facilitate the identification, development, and exchange of information on effective practices to improve services for children with SED and for children with emotional and behavioral problems who are at risk of developing SED. The center must coordinate and collaborate with related centers and activities across agencies, including but not limited to: OSEP's ongoing activities to validate and communicate the SED National Agenda; other OSEP and Department-supported technical assistance and information exchange activities; and the two rehabilitation research and training centers (RRTCs) on children's mental health jointly funded by the National Institute on Disability and Rehabilitation Research (NIDRR) and the Center for Mental Health Services (CMHS). The center must provide and support information identification, development, and exchange for Federal, State, and community-based projects and programs providing services for children with or at risk of SED in accordance with a plan that describes the centers schedule.

The center must:

(1) Establish working relationships with Federal, State, and local programs and projects to identify and develop useful and usable information for, and to foster the exchange of usable and useful information with—

(a) Federal, State, and community-based programs and projects to assist them in their efforts; and,

(b) Broader audiences of individuals and organizations including parents and family members of children with or at risk of serious emotional disturbance.

(2) Ensure and facilitate access, including electronic and telecommunication access, to information on SED, including information on projects funded by the Office of Special Education and Rehabilitation Services; other offices in the Department of Education; the Departments of Health and Human Services, Labor, and Justice; and other sources such as foundations and associations, as appropriate.

(3) Evaluate the impact of information identification, development, and exchange activities.

It is anticipated that initial information exchanges will rely heavily upon information already produced by programs and projects, but that additional information will be synthesized and developed by the center based on findings from the available research and information/findings provided to the center by programs and projects.

The center must also ensure that the targets and cross-cutting themes of OSEP's National Agenda for Achieving Better Results for Children and Youth with SED are addressed in the center's information activities. Four areas of particular interest that must be addressed in information activities are: (1) early identification, intervention, and prevention; (2) behavior management, conflict resolution, and other approaches to creating more productive and safe educational environments for all students; (3) personnel preparation; and (4) evaluation of community-based (local) program and service effectiveness.

Under this priority, the Secretary proposes to award one cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the center for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the center, are to be performed during the last half of the center's second year and must be included in that year's evaluation required under 34 CFR 75.590. In its budget for the second year, the center must set aside funds to cover the costs of the review team. These funds are estimated to be approximately $4,000.

In determining whether to continue the center for the fourth and fifth years of the project period, in addition to considering the factors in 34 75.253(a), the Secretary will consider the following:

(a) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the center; and

(b) The degree to which the center's evaluation methods and information activities demonstrate the potential for advancing significant new knowledge.

The Secretary particularly encourages applicants for this cooperative agreement to incorporate technologically innovative approaches in all aspects of center activities, to improve their efficiency and impact.

The project must budget for two trips annually to Washington, D.C., for: (1) a two-day Research Project Directors' meeting; and (2) another meeting, in the first quarter of each project year, to meet and review project plans and accomplishments with the OSEP project officer and other OSEP and other agency staff to share information on the project.

For Further Information Contact: Tom V. Hanley, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3526, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8110. FAX: (202) 205–8105. Internet: Tom___Hanley@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Program Authority: 20 U.S.C. 1423

Executive Order 12866

This notice of proposed priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priorities are those determined by the Secretary as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and

qualitative—of this notice of proposed priorities, the Secretary has determined that the benefits of the proposed priorities justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed priorities without impeding the effective and efficient administration of the program.

Summary of Potential Costs and Benefits: There are no identified costs associated with this notice of proposed priorities. Announcement of the priorities will not result in costs to State and local governments, recipients of grant funds, or to children and youth with disabilities and their families. The benefit from these priorities will be to focus activities and Federal assistance on improving outcomes for children and youth with disabilities.

Intergovernmental Review

Except for the Research in Education of Individuals with Disabilities Program (84.023), all other programs included in this notice are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3524, 300 C Street SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance Numbers: Research in Education of Individuals with Disabilities Program, 84.023; Training Personnel for the Education of Individuals with Disabilities Program, 84.029; and Program for Children and Youth with Serious Emotional Disturbance, 84.237)

Dated: November 8, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–3843 Filed 2–20–96; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Wednesday
February 21, 1996

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapters 1 and 2
Federal Acquisition Regulation: Implementation of the Acquisition Provisions of the Fiscal Year 1996 Defense Authorization Act; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapters 1 and 2

Federal Acquisition Regulation; Implementation of the Acquisition Provisions of the Fiscal Year 1996 Defense Authorization Act

AGENCIES: Department of Defense, General Services Administration, and National Aeronautics and Space Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Acquisition Regulations Council is soliciting comments regarding the implementation of the acquisition provisions in Divisions D and E of the Fiscal Year 1996 Defense Authorization Act (Pub. L. 104–106)(Act). The Defense Acquisition Regulations (DAR) Council, in concert with the Civilian Agency Acquisition Council (CAAC), has initiated 20 Federal Acquisition Regulation (FAR) cases to address those provisions of Act that may require implementation in the FAR. The FAR Council is requesting any interested parties to provide advance comment on how these provisions should be implemented. Comments received will be considered in the development of proposed or interim rules. In addition, a 60-day public comment period will be provided once proposed and/or interim FAR rules are drafted.

DATES: Comments should be submitted to the address shown below on or before March 22, 1996.

ADDRESSES: Interested parties should submit comments to the FAR Secretariat, General Services Administration, 18th & F Streets NW, Washington DC 20405. Please cite the specific section or case number, to which the comments pertain, in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: FAR Secretariat, (202)501-4755.

SUPPLEMENTARY INFORMATION: Following is a listing of cases initiated to implement sections of the Fiscal Year 1996 Defense Authorization Act which may require FAR revisions (Section number/Case number): 801/96–300; 4101/96–301; 4102/96–302; 4103/96–303; 4104/96–304; 4105/96–305; 4201/96–306; 4202/96–307; 4203/96–308; 4204/96–309; 4205/96–310; 4301(a)(3)/96–311; 4301(b)/96–312; 4302/96–313; 4304/96–314; 4306/96–315; 4310/96–316; 4311/96–317; 724/96–318; Division E, including: 5001, 5002, 5101, 5111, 5112, 5113, 5121, 5122, 5123, 5124, 5125, 5126, 5127, 5128, 5131, 5132, 5141, 5142, 5201, 5202, 5301, 5302, 5303, 5304, 5305, 5311, 5312, 5401, 5402, 5403, 5501, 5502, 5601, 5602, 5603, 5604, 5605, 5607, 5608, 5701, 5702, 5703/96–319.

Dated: February 14, 1996.

Ralph De Stefano,

Acting Director, Division of Federal Acquisition Policy.

[FR Doc. 96–3805 Filed 2–20–96; 8:45 am]

BILLING CODE 6820–EP–P

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2–22–96
Vol. 61 No. 36

federal register

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2–22–96
Vol. 61 No. 36
Pages 6761–6916

federal register

Thursday
February 22, 1996

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Thursday, February 22, 1996

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1948

RIN 0570–AA15

Intermediary Relending Program Loan Limits

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Rural Business-Cooperative Service (RBS) is the successor to the Rural Business and Cooperative Development Service (RBCDS), which was the successor to the Rural Development Administration (RDA), which was the successor to the Farmers Home Administration (FmHA).

RBS is amending the regulations for the Intermediary Relending Program (IRP) to raise the loan limit. This action is needed to allow intermediaries that have received and successfully used the maximum amount of IRP loans allowed by the current regulations, and have need for additional funds, to be eligible to apply for such additional funds. The intended effect is to raise the maximum outstanding IRP indebtedness of an intermediary to $4 million, from the current limit of $2 million, for a period to end at the close of business on August 28, 1996. IRP loan funds per intermediary will not exceed $2 million for loans approved after August 28, 1996.

DATES: Effective February 22, 1996. Comments must be received on or before April 22, 1996.

ADDRESSES: Submit written comments in duplicate to the Director, Regulations and Paperwork Management Division, Rural Economic and Community Development, USDA, Ag. Box 0743, Washington, DC 20250–0743. All written comments will be available for public inspection during regular working hours at the above office, located in Room 6348, South Agricultural Building, 14th and Independence Avenue SW, Washington DC.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Loan Specialist, RBS, USDA, Ag. box 1521, Washington, DC 20250–1521, Telephone (202) 720–6819.

SUPPLEMENTARY INFORMATION:

Classification

This interim final rule has been determined to be "not-significant" and has not been reviewed by OMB.

Program Affected

The catalog of Federal Domestic Assistance program impacted by this action is: 10.767, Intermediary Relending Program.

Intergovernmental Review

As set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983, this program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The Agency conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0575–0130 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This interim rule does not revise or impose any new information collection or record keeping requirements from those approved by OMB. Please send written comments to the Office of Information Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, DC 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, Ag. box 0743, Washington, DC 20250.

Civil Justice Reform

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with the regulations of the agency at 7 CFR 1900 subpart B or those regulations published by the Department of Agriculture to implement the provisions of the National Appeals Division as mandated by the Department of Agriculture Reorganization Act of 1994 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time. This document has been reviewed in accordance with Executive Order 12778. It is the determination of this Agency that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the Executive Order.

Environmental Impact Statement

This action has been reviewed in accordance with FmHA Instruction 1940–G, "Environmental Program." Rural Business-Cooperative Service has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Unfunded Mandate

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal Mandates" that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more

in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no federal Mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

Background

This regulatory package is an agency initiative to make the IRP more effective at stimulating rural community economic development. The current regulation prohibits approval of any IRP loan that would result in any one intermediary having an outstanding IRP indebtedness exceeding $2 million. RBS is still not encouraging initial loans of more than $2 million. However, some intermediaries have received and reloaned $2 miilion and have demand for additional funding to meet the needs of the communities they serve.

The primary reason for this action is to allow subsequent loans to those successful intermediaries that have reached the current limit. Intermediaries in several States including; Vermont, Maine, Minnesota, Michigan, Colorado, North Carolina, Oklahoma, and Louisiana are currently at the limit of $2 million, and faced by additional demand for funds. Because of this program's role in the President's Rural Development Initiative, the fact that the efforts of some successful lenders are impeded by the $2 million limit, and the potential of attracting other lenders as a result of efforts to target the program more effectively to underserved areas, a decision has been made to increase the maximum loan limit to $4 million for a maximum period ending August 28. The anticipated benefits are increased lending activity, particularly by successful lenders and the creation of new business opportunities and employment, particularly in areas experiencing economic distress.

There are no anticipated costs associated with this decision. The cost of expanding the potential of the program is already built into the budget estimates and there should be no increase in delinquencies because of this action.

Discussion of Interim Final Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, the Agency is making this action effective upon publication in the **Federal Register** without securing prior public comment. It would be contrary to the public interest to wait for public comment before implementing an increase in the loan ceiling. There is an immediate need to provide funds to the public to help alleviate severe economic hardship which exists in many rural areas as a result of high unemployment and poverty level wages. Numerous intermediaries have received the maximum of $2 million, have successfully used the funds to assist rural businesses, and have urgent need for additional loan funds. These intermediaries have proven their ability to play a major and successful role in stimulating the economy and developing jobs in rural areas experiencing high unemployment and depressed economies. Increasing the loan ceiling quickly will allow them to receive additional funds to continue to provide needed assistance. Delaying action will only deprive them of opportunities to provide assistance. Comments will be accepted for 60 days after publication and, if appropriate, adjustments will be made in the regulation based on the comments.

List of Subjects in 7 CFR Part 1948

Business and industry, Credit, Economic development, Rural areas.

Accordingly, Part 1948, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

PART 1948—RURAL DEVELOPMENT

1. The authority citation for part 1948 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 note; 7 CFR 2.23, and 2.70.

Subpart C—Intermediary Relending Program (IRP)

2. Section 1948.103 is amended by revising paragraph (c) (4) to read as follows:

§ 1948.103 Eligibility requirements.

* * * * *

(c) * * *

(4) The total amount of Agency loan funds requested by the intermediary plus the outstanding balance of existing IRP loan(s) will meet one of the following conditions:

(i) IRP loan funds will not exceed $4 million per intermediary for loans approved on or before August 28, 1996.

(ii) IRP loan funds will not exceed $2 million per intermediary for loans approved after August 28, 1996.

* * * * *

Dated: February 7, 1996.

Wally B. Beyer,

Acting Under Secretary for Rural Economic and Community Development.

[FR Doc. 96–4018 Filed 2–21–96; 8:45 am]

BILLING CODE 3410–32–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19, 30, 40, 50, 60, 61, 70, and 72

RIN 3150–AF45

Employee Protection Policies; Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations related to notices to workers and to employee protection policies. This action is necessary to require the use of an updated NRC Form 3, update a telephone number, and to clarify the applicability of employment discrimination policies.

EFFECTIVE DATE: The final rule is effective April 22, 1996, unless significant adverse comments are received by March 25, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Branch. Hand deliver comments to 11555 Rockville Pike, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For information on submitting comments electronically, see the discussion under Electronic Access in the Supplementary Information Section.

Copies of any comments received may be examined at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6196, e-mail MFH@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

The purpose of these amendments to 10 CFR Part 19, and related sections, is to promulgate a change to incorporate a reference to the most recent revision of NRC Form 3, update a telephone number, and clarify the applicability of employment discrimination policies to 10 CFR Parts 61 and 76.

NRC regulations in § 19.11, "Posting of notices to workers," specify the June 1993 revision of NRC Form 3, "Notice to Employees," and an old NRC telephone number for obtaining NRC Form 3. A new version of the form was issued in January 1996, and because licensees and applicants are required to prominently post the most current version of NRC Form 3, § 19.11 is being updated. Related sections in Parts 30, 40, 50, 60, 61, 70, and 72 also have the old NRC telephone number and are being updated.

The primary differences between the old and new NRC Form 3 are related to reporting violations and safety concerns, the addition of an NRC Safety Hotline and other NRC toll-free numbers, what constitutes discrimination, the realignment of NRC Regions, and the actions NRC will take for allegations of harassment, intimidation, or discrimination.

NRC regulations in § 19.20, "Employee protection," were adopted in July 1982. Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste," was adopted in 1982 (47 FR 57446; December 27, 1982); and Part 76, "Certification of Gaseous Diffusion Plants," was adopted in 1994 (59 FR 48944; September 23, 1994). Both Parts 61 and 76 adopted the July 1982 employee protection provisions incorporated into Parts 30, 40, 50, 60, 70, and 72. Section 19.20 is being updated to refer to Parts 61 and 76 for consistency and clarification of employee protection policies.

Electronic Access

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." For further information about options available for NRC at FedWorld, consult the "Help/Information Center" from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and databases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, 703–321–3339, or by using Telnet via Internet, fedworld.gov. If using 703–321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is included. There is a 15-minute time limit for FTP access.

Although FedWorld can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Procedural Background

Because NRC considers this action noncontroversial and routine, we are approving it without seeking public comments on proposed amendments. This action will become effective on April 22, 1996. However, if the NRC receives significant adverse comments by March 25, 1996, then the NRC will publish a document that withdraws this action, and will address the comments received in response to the requested revisions which have been proposed for approval and are being concurrently published in the proposed rules section of this **Federal Register**. Comments will be addressed in the final rule on this proposal. The NRC will not initiate a second comment period on this action.

Environmental Impact: Categorical Exclusion

The Commission has determined that this final rule is the type of action described in categorical exclusions 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paper Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval 3150–0044, 10 CFR Part 19; 3150–0017, 10 CFR Part 30; 3150–0020, 10 CFR Part 40; 3150–0011, 10 CFR Part 50; 3150–0127, 10 CFR Part 60; 3150–0135, 10 CFR Part 61; 3150–0009, 10 CFR Part 70; and 3150–0132, 10 CFR Part 72.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this Direct Final Rule because this rule is considered minor and not a substantial amendment; it has no economic impact on NRC licensees or the public.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact upon a substantial number of small entities.

Any small entity subject to this regulation which determines that,

because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this in a comment that indicates the following:

(a) The licensee's size and how the regulation would result in a significant economic burden upon the licensee as compared to the economic burden on a larger licensee.

(b) How the regulations could be modified to take into account the licensee's differing needs or capabilities.

(c) The benefits that would accrue, or the detriments that would be avoided, if the regulations were modified as suggested by the licensee.

(d) How the regulation, as modified, would more closely equalize the impact of regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group.

(e) How the regulation, as modified, would still adequately protect public health and safety.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, and therefore, a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Special nuclear material.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear power plants and reactors, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 19, 30, 40, 50, 60, 61, 70, and 72.

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

1. The authority citation for Part 19 continues to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282, 2297f); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

2. In § 19.11, the note following paragraph (c) is removed and paragraph (c) is revised to read as follows:

§ 19.11 Posting of notices to workers.

* * * * *

(c)(1) Each licensee and each applicant for a specific license shall prominently post NRC Form 3 (Revision dated January 1996), "Notice to Employees."

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415–7230.

* * * * *

3. Section 19.20 is revised to read as follows:

§ 19.20 Employee protection.

Employment discrimination by a licensee (or a holder of a certificate of compliance issued pursuant to Part 76) or a contractor or subcontractor of a licensee (or a holder of a certificate of compliance issued pursuant to Part 76) against an employee for engaging in protected activities under this part or Parts 30, 40, 50, 60, 61, 70, 72, 76, or 150 of this chapter is prohibited.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

4. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

5. In § 30.7, the note to paragraph (e)(2) is redesignated as paragraph (e)(3) and revised to read as follows:

§ 30.7 Employee protection.

* * * * *

(e) * * *

(3) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415–7230.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

6. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

7. In § 40.7, the note to paragraph (e)(2) is redesignated as paragraph (e)(3) and revised to read as follows:

§ 40.7 Employee protection.

* * * * *

(e) * * *

(3) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415–7230.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

8. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat 3123, (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

9. In § 50.7, paragraph (e) is redesignated as (e)(1) and the note to paragraph (e) is redesignated as paragraph (e)(2) and revised to read as follows:

§ 50.7 Employee protection.

* * * * *

(e) * * *

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415–7230.

* * * * *

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN GEOLOGIC REPOSITORIES

10. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141) and Pub. L. 102–486, sec 2902, 106 Stat. 3123 (42 U.S.C. 5851).

11. In § 60.9, paragraph (e) is redesignated as (e)(1) and the note to paragraph (e) is redesignated as paragraph (e)(2) and revised to read as follows:

§ 60.9 Employee protection.

* * * * *

(e) * * *

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415–7230.

* * * * *

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

12. The authority citation for Part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec 2902, 106 Stat. 3123, (42 U.S.C. 5851).

13. In § 61.9, paragraph (e) is redesignated as (e)(1) and the note to paragraph (e) is redesignated as paragraph (e)(2) and revised to read as follows:

§ 61.9 Employee protection.

* * * * *

(e) * * *

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415–7230.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

14. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

15. In § 70.7, the note to paragraph (e)(2) is redesignated as paragraph (e)(3) and revised to read as follows:

§ 70.7 Employee protection.

* * * * *

(e) * * *

(3) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415–7230.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

16. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat.

929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

17. In § 72.10, paragraph (e)(2) is revised to read as follows:

§ 72.10 Employee protection.

* * * * *

(e) * * *

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter or by calling the NRC Information and Records Management Branch at (301) 415–7230.

* * * * *

Dated at Rockville, Maryland this 7th day of February, 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 96–3936 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–08; Amendment 39–9459; AD 95–26–01]

Airworthiness Directives; AlliedSignal, Inc. (formerly Textron Lycoming) Models LTS101–650B1, –750B1, –650C, and –750C Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AlliedSignal, Inc. (formerly Textron Lycoming) Models LTS101–650B1, –750B1, –650C, and –750C turboshaft engines, that requires installation of an improved power turbine (PT) rotor and electronic PT rotor overspeed controller as a terminating action to the currently required inspections of AD 88–14–01. This amendment is prompted by reports of additional bearing failures since publication of AD 88–14–01, including one additional uncontained PT disk failure. The actions specified by this AD are intended to prevent PT overspeed and uncontained engine failure.

DATES: Effective April 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 22, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Inc., 550 Main Street, Stratford, CT 06497. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: On May 26, 1988, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 88–14–01, Amendment 39–5952 (53 FR 25317, July 6, 1988), to require initial and repetitive inspections of the engine lubrication and bearing systems on AlliedSignal, Inc. (formerly Textron Lycoming) LTS101 series turboshaft engines. That action was prompted by reports of four uncontained power turbine (PT) disk failures. Subsequent investigation revealed that the PT disk failures were caused by bearing failures resulting in PT shaft disengagement from the gear train drive, unloading the PT and causing rotor overspeed. Two other PT disk failures involved No. 4 bearing failure, followed by power pinion gear teeth failure, thereby unloading the PT and causing PT rotor overspeed. This condition, if not corrected, could result in PT overspeed and uncontained engine failure.

Since the issuance of that AD, the FAA has received reports of additional bearing failures with resultant loss of PT rotor location, including one additional uncontained PT disk failure. In order to minimize the possibility of an uncontained engine failure, the manufacturer has developed an improved PT rotor with retention capability and an improved electronic PT rotor overspeed controller. These improvements are only available for AlliedSignal, Inc. Models LTS101–650B1, –750B1, –650C, and –750C turboshaft engines, installed on Bell Helicopter Textron 222 series and Messerschmitt-Bolkow-Blohm (MBB) BK117 series helicopters.

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to AlliedSignal, Inc. (formerly Textron Lycoming) Models LTS101–650B1, –750B1, –650C, and –750C turboshaft engines was published in the **Federal Register** on May 19, 1995 (60 FR 26846). That action proposed to require installation of an improved PT rotor with retention capability and an electronic PT rotor overspeed controller at the next shop visit when the PT rotor is removed after the effective date of this AD, but prior to December 31, 1997, as a terminating action to the currently required inspections of AD 88–14–01.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that the requirement to incorporate an electronic PT overspeed controller should be deleted from the AD, as the additional economic impact is not justified from the basis of increased safety, or the basis of reliability in adverse operating conditions. The FAA does not concur. The FAA has determined that the electronic PT overspeed controller will increase flight safety by providing overspeed protection in the event of a No. 4 bearing failure. As stated in the NPRM, the current PT rotor overspeed controller, in two cases of No. 4 bearing failure, has allowed PT rotor overspeed and uncontained PT disk failures. The FAA has also determined that the electronic PT overspeed protection system provides an acceptable level of reliability in adverse environmental operating conditions consistent with that required for engine digital electronic controls.

One commenter states that the pneumatic portion of the PT retention system should be enabled in lieu of installation of the electronic PT overspeed controller, as this would be a more cost effective improvement. The FAA does not concur. The pneumatic portion of the PT retention system would not provide overspeed protection in the event of a No. 4 bearing failure. Available data shows that the pneumatic portion of the PT retention system provides automatic shutdown only in the event of loss of PT rotor axial location.

One commenter states that the requirements of AD 88–14–01 should be continued with no terminating actions, thereby continuing preventive maintenance benefits. The FAA does not concur. The FAA has approved incorporation of applicable ongoing maintenance requirements currently in AD 88–14–01 into the applicable AlliedSignal, Inc. LTS101 engine maintenance manual requirements. The FAA considers that incorporation of these requirements into the maintenance manuals will provide desirable preventive maintenance actions for the AlliedSignal, Inc. LTS101 engine, while the design modifications proposed would alleviate the additional record-keeping burden imposed by AD 88–14–01.

One commenter states that the compliance timetable for incorporation of electronic PT rotor overspeed controller should be revised to allow installation at a scheduled aircraft inspection rather than at the next PT rotor removal. This change is requested because incorporation of electronic PT rotor overspeed controller at the next PT rotor removal may not be logistically supportable due to the increased rate of PT rotor removals resulting from another field management plan. The FAA concurs. Adoption of the revised timetable will minimize the possible logistic impact of the original compliance timetable while still providing the equivalent level of safety proposed by the NPRM.

One commenter states that the proposed AD should apply only for engines that do not incorporate the insertable blade PT rotor. The FAA concurs in part. The PT rotor with retention capability, to be required by the proposed rule, is the same as the insertable blade PT rotor. Therefore, the PT rotor installation required by the proposed rule would be previously accomplished for engines with the insertable blade PT rotor. However, as addressed in a previous comment, the FAA has determined that installation of the electronic PT overspeed controller is required for all engines regardless of the P/N PT rotor installed, in order to provide overspeed protection in the event of a No. 4 bearing failure.

One commenter states that the economic impact of the proposed rule should be revised to reflect installation of aircraft electronics necessary for operation of the electronic overspeed system. The FAA concurs, and has adjusted the economic impact to reflect the associated increase in the cost impact.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will not increase the scope of the AD.

There are approximately 950 engines of the affected design in the worldwide fleet. The FAA estimates that 95 engines installed on aircraft of U.S. registry will be affected by the requirement to install the PT rotor with improved retention, that it will take approximately 10 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $44,400 per engine. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $4,275,000 for installation of the PT rotor with improved retention.

In addition, the FAA estimates that 576 engines installed on aircraft of U.S. registry will be affected by the requirement to install the electronic PT rotor overspeed controller, that it will take approximately 3 work hours per engine to accomplish the required action, and that the average labor rate is $60 per work hour. Required parts cost for the electronic PT rotor overspeed controller installation is $5,825. Based on these figures, the cost impact of installing the electronic PT rotor overspeed controller would be $3,458,880.

There are approximately 288 aircraft of U.S. registry that would be affected by the requirement to install aircraft electronics necessary for the functioning of the electronic PT rotor overspeed controller. It would take approximately 80 work hours per aircraft to accomplish the proposed actions, and the average labor rate is $60 per work hour. Required parts for the aircraft installation would be approximately $4,531. Based on these figures, the cost impact of installing the aircraft electronics for the electronic PT rotor overspeed controller would be $2,287,328. Therefore, the revised total cost impact of all the actions of the proposed AD on U.S. operators is estimated to be $10,421,208.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–26–01 AlliedSignal, Inc.: Amendment 39–9459 Docket 95–ANE–08.

Applicability: AlliedSignal, Inc. (formerly Textron Lycoming) Model LTS101–650B1, –750B1, –650C, and –750C turboshaft engines installed on Bell Helicopter Textron 222 series and Messerschmitt-Bolkow-Blohm (MBB) BK117 series helicopters.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the

owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent power turbine (PT) overspeed and uncontained engine failure, accomplish the following:

(a) Install the improved PT rotor with retention capability at the next shop visit when the PT rotor is removed after the effective date of this AD, but prior to December 31, 1997, in accordance with the following Textron Lycoming Service Bulletins (SB):

Engine model	SB No.	Rev.	Date
LTS101–650B1	LTS101B–72–50–0122	4	June 17, 1991.
LTS101–750B1 or –650B1	LTS101B–72–50–0116	6	August 14, 1992.
LTS101–650C and –750C Series	LTS101C–72–50–0119	2	June 17, 1991.

(b) Install the improved electronic PT rotor overspeed controller concurrently with the PT rotor installation required by paragraph (a) of this AD, or at the next airframe 600 hour inspection point after the effective date of this AD, whichever occurs later, in accordance with the following Textron Lycoming SB:

Engine model	SB No.	Rev.	Date
LTS101–650B1	LTS101B–73–10–0127	2	August 14, 1992.
LTS101–750B1	LTS101B–73–10–0127	2	August 14, 1992.
LTS101–650C and –750C Series	LTS101C–73–10–0129	3	August 14, 1992.

(c) Installation of the improved PT rotor with retention capability and the improved electronic PT rotor overspeed controller in accordance with paragraphs (a) and (b) of this AD constitutes terminating action to the inspection requirements of AD 88–14–01.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(f) The actions required by this AD shall be done in accordance with the following service bulletins:

Document No.	Pages	Revision	Date
LTS101B–72–50–0122	1–11	4	June 17, 1991.
Total pages:	11		
LTS101B–72–50–0116	1–10	6	August 14, 1992.
Total pages:	10		
LTS101C–72–50–0119	1–11	2	June 17, 1991.
Total pages:	11		
LTS101B–73–10–0127	1–13	2	August 14, 1992.
Total pages:	13		
LTS101C–73–10–0129	1–14	3	August 14, 1992.
Total pages:	14		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Inc., 550 Main Street, Stratford, CT 06497. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 22, 1996.

Issued in Burlington, Massachusetts, on January 24, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–2589 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–CE–32–AD; Amendment 39–9510; AD 96–03–13]

Airworthiness Directives; Beech Aircraft Corporation 90, 99, 100, and 200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Beech Aircraft Corporation (Beech) 90, 99, 100, and 200 series airplanes. This action requires inspecting the main landing gear drag leg lock link to ensure that the hole for the roll pin is drilled completely through both walls of the main landing gear drag leg lock link and, if not drilled completely through both link walls, replacing any main landing gear drag leg lock link. An incident in which the left main landing gear collapsed on one of the affected airplanes prompted this action. Investigation revealed that the roll pin hole was not completely drilled through both walls of the drag leg lock link. The actions specified by this AD are intended to prevent main landing gear collapse caused by drag leg lock link failure, which could result in loss of control of the airplane.

DATES: Effective April 1, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 1, 1996.

ADDRESSES: Service information that applies to this AD may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–CE–32–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4124; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Beech Aircraft Corporation 90, 99, 100, and 200 series airplanes was published in the **Federal Register** on August 16, 1995 (60 FR 42479). The action proposed to require inspecting the main landing gear drag leg lock link to ensure that the hole for the roll pin is drilled through both walls of the link and, if not drilled completely through both link walls, replacing any main landing gear drag leg lock link. Accomplishment of the proposed action would be in accordance with Beech Service Bulletin No. 2607, Revision 1, dated April 1995.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 2,229 airplanes in the U.S. registry will be affected by this AD action, that it will take approximately 5 work hours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $100 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $891,600. This figure is based on the assumption that all of the affected airplanes have incorrectly drilled drag leg lock links and that none of the owners/operators of the affected airplanes have replaced the incorrectly drilled links.

Beech has informed the FAA that parts have been distributed to equip approximately 648 airplanes. Assuming that these distributed parts are incorporated on the affected airplanes, the cost of the proposed AD would be reduced by $259,200 from $891,600 to $632,400. In addition, the FAA believes that a majority of the affected airplanes will not have incorrectly drilled links, thereby further reducing the cost impact of the proposed AD upon the public.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

AD No.96–03–13 Beech Aircraft Corporation: Amendment 39–9510; Docket No. 95–CE–32–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Models	Serial Numbers
F90	LA–2 through LA–236.
99, 99A, A99A, B99, and C99.	U–1 through U–239.
100 and A100	B–1 through B–94 and B–100 through B–247.
B100	BE–1 through BE–137.
200 and B200	BB–2, BB–6 through BB–1157, BB–1159 through BB–1166, and BB–1168 through BB–1192.
200T and B200T	BT–1 through BT–30.
200C and B200C	BL–1 through BL–72.
200CT and B200CT	BN–1 through BN–4.
65–A90–2(RU–21B)	LS–1 through LS–3.
65–A90–3(RU–21C)	LT–1 through LT–2.
200 (A100–1)	BB–3 through BB–5.
A100 (U–21F)	B–95 through B–99.
A200 (C–12A and C–12C).	BC–1 through BC–75, and BD–1 through BD–30.
A200C (UC–12B)	BJ–1 through BJ–66.
A200CT (C–12D)	BP–1, BP–22, and BP–24 through BP–45.
A200CT (FWC–12D)	BP–7 through BP–11.
A200CT (RC–12D)	GR–1 through GR–13.
A200CT (RC–12H)	GR–14 through GR–19.
A200CT (RC–12G)	FC–1 through FC–3.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not

been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent main landing gear collapse caused by drag leg lock link failure, which could result in loss of control of the airplane, accomplish the following:

(a) Inspect the main landing gear drag leg lock link to ensure that the hole for the roll pin is drilled completely through both walls of the link in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin No. 2607, Revision 1, dated April 1995.

(b) Prior to further flight, replace any drag leg lock link that does not have the roll pin hole drilled through both walls of the link. Accomplish this replacement in accordance with the applicable maintenance manual.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) The inspections and replacements required by this AD shall be done in accordance with Beech Service Bulletin No. 2607, Revision 1, dated April 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(f) This amendment (39-9510) becomes effective on April 1, 1996.

Issued in Kansas City, Missouri, on January 31, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2588 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–CE–02–AD; Amendment 39–9509; AD 96–03–12]

Airworthiness Directives; Glasflugel Model Mosquito Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Glasflugel Model Mosquito sailplanes. This action requires modifying the mounting studs on the lifting/tilting frame of the canopy system, repetitively inspecting the mounting stud, and incorporating flight manual revisions that specify a warning on emergency canopy deployment failure. Canopy system problems discovered during routine checks and periodic inspections of these sailplanes prompted the proposed action. The actions specified in this proposed AD are intended to prevent canopy system failure, which could result in loss of control of the sailplane.

DATES: Effective April 1, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 1, 1996.

ADDRESSES: Service information that applies to this AD may be obtained from Glasflugel c/o Hansjorg Streifeneder, Glasfaser-Flugzeug Service, Hofener Weg, D 72582 Grabenstetten, Germany, telephone number 49.73.82.10.32. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93–CE–02–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Herman C. Belderok, Project Officer, Sailplanes, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that applies to Glasflugel Model Mosquito sailplanes was published in the **Federal Register** on September 15, 1995 (60 FR 47899). This action proposed to require the following:

- Inspecting the mounting studs on the canopy lifting/tilting frame for wear, repetitively inspecting the mounting stud every 100 hours time-in-service (TIS) thereafter,
- Measuring the diameter of the mounting stud, and if it is less than 5 mm (0.2 inch) increasing the diameter to 6 mm (0.24 inch) and,
- Incorporating a change to the Mosquito flight manual on page 19, paragraph 3.3 by inserting the following language:

"Whenever the canopy emergency jettison knob is pulled and prior to each flight, if no locking thread is used, it should be ensured that the Pip pins are fully pushed home, so that the locking balls are clear of and behind their fittings."

Initially, the compliance time of this AD is in calendar time instead of hours time-in-service (TIS). The average monthly usage of the affected sailplanes ranges throughout the fleet. For example, one owner may operate the sailplane 25 hours in one week, while another operator may operate the sailplane 25 hours in one year. For this reason, the FAA has determined that, in order to ensure that all of the owners/operators of the affected sailplanes initially inspect the canopy system and incorporate the flight manual revisions within a reasonable amount of time, a calendar compliance time is imposed.

Accomplishment of these actions will be in accordance with Glasflugel Technical Note (TN) 303–18, dated March 1, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 40 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per sailplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $10 per sailplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $5,200. This figure is based on the assumption that no affected owner/operator of the affected sailplanes has incorporated the

modification or accomplished the inspection.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

96–03–12 Glasflugel: Amendment 39–9509; Docket No. 93–CE–02–AD.

Applicability: Model Mosquito Sailplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each sailplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any sailplane from the applicability of this AD.

Compliance: Required as indicated in the body of this AD.

To prevent canopy system failure, which could result in loss of control of the sailplane, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD, unless already accomplished, and thereafter at the intervals not to exceed 100 hours time-in-service (TIS), inspect the mounting studs on the canopy lifting/tilting frame for evidence of wear and diameter specifications in accordance with the *Actions* section in Glasflugel Technical Note (TN) 303–18, dated March 1, 1991.

(b) If during any of the inspections required by paragraph (a) of this AD, the mounting stud is found worn or the diameter measures less than 5 mm (0.2 inch), prior to further flight, increase the diameter to 6 mm (0. 24 inch) in accordance with paragraph 1 of the *Actions* section in Glasflugel TN 303–18, dated March 1, 1991.

(c) Within the next 30 calendar days after the effective date of this AD, unless already accomplished, incorporate the following language on page 19, paragraph 3.3 of the Mosquito flight manual:

"Whenever the canopy emergency jettison knob is pulled and prior to each flight, if no locking thread is used, it should be ensured that the Pip pins are fully pushed home, so that the locking balls are clear of and behind their fittings."

(d) Incorporating the flight manual revision as required by paragraph (c) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the sailplane's records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety, may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) The inspections, modifications, and installations required by this AD shall be done in accordance with Glasflugel Technical Note 303–18, dated March 1, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Glasflugel c/o Hansjorg Streifeneder, Glasfaser-Flugzeug Service, Hofener Weg, D 72582 Grabenstetten, Germany, telephone number 49.73.82.10.32. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(h) This amendment (39–9509) becomes effective on April 1, 1996.

Issued in Kansas City, Missouri on February 1, 1996.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–2682 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 95–ANE–61]

Amendment to Class E Airspace; Worcester, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes Class E airspace at Worcester, MA (ORH). With the commissioning of the Automated Surface Observation System (ASOS) at the Worcester Municipal Airport, weather reporting is now continuously available at that airport. This action is necessary to establish controlled airspace extending upward from the surface for aircraft operating under instrument flight rules (IFR) to and from the Worcester Municipal Airport during the times when the air traffic control tower is closed.

EFFECTIVE DATE: 0901 UTC, April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, System Management Branch, ANE–533, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION:

History

On December 20, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Class E surface

area at the Worcester Municipal Airport, Worcester, MA (ORH). Since the air traffic control tower (ATCT) at Worcester does not operate continuously, aircraft operating under instrument flight rules (IFR) to and from Worcester did not have the benefit of weather reports from the airport during the times when the tower is closed. That lack of continuous weather reporting required that the controlled airspace for Worcester could not extend to the surface. Recently, however, an Automated Surface Observation System (ASOS) was commissioned at Worcester, making weather reporting now available continuously. As result, this action is necessary to establish controlled airspace extending from the surface for those aircraft operating to and from Worcester under IFR during the times when the ATCT is closed.

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. One comment was received from the National Oceanic and Atmospheric Administration's Charting Division which noted a typographic error in the description of the airspace as published. The FAA has corrected that error. Class E airspace designations for airspace areas extending upward from the surface of the earth in the vicinity of airports are published in paragraph 6002 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at ORH. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this regulation (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact will be so minimal. Since this routine matter will only affect air traffic procedures and air navigation, it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Subpart E—Class E Airspace

* * * * *

Paragraph 6002 Class E surface areas extending upward from the surface of the earth.

* * * * *

ANE MA E2 Worcester, MA [New]

Worcester Municipal Airport, MA
(Lat. 42°16'02"N, long. 71°52'32"W)

That airspace extending upward from the surface within a 4.2-mile radius of Worcester Municipal Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Burlington, MA, on February 13, 1996.

Eileen Seaman,

Acting Manager, Air Traffic Division, New England Region.

[FR Doc. 96–3863 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18 and 113

[T.D. 96–18]

RIN 1515–AB67

Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation in Bond of Merchandise

AGENCY: Customs Service, Treasury.

ACTION: Notice of interim regulations, solicitation of comments.

SUMMARY: The amendments contained in this document are being published as interim regulations to implement certain statutory amendments to the Customs laws regarding recordkeeping for merchandise transported by pipeline and duty-free withdrawals from Customs bonded warehouses of aircraft turbine fuel. These statutory amendments are contained in the Customs modernization provisions of the North American Free Trade Agreement Implementation Act. Also, the interim regulations clarify the procedures applicable to aircraft turbine fuel which is withdrawn from a Customs bonded warehouse for certain duty-free use and is commingled with other lots of fuel before being so used.

DATES: Interim rule effective April 8, 1996; comments must be received on or before March 25, 1996.

ADDRESSES: Written comments (preferably in triplicate) must be submitted to U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Office of Regulations and Rulings, (202–482–7040).

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the President of the U.S. signed into law the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057). Title VI of this Act, popularly known as the Customs Modernization Act (the Act) amended certain Customs laws. Section 664 of the Act amended the Customs laws by the insertion of a new section 553a, Tariff Act of 1930 (19 U.S.C. 1553a), and section 665 of the Act amended section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)).

Under the new 19 U.S.C. 1553a, merchandise in Customs custody that is transported by pipeline may be accounted for on a quantitative basis. The term "merchandise in Customs custody," is meant to comprise bonded merchandise (*e.g.*, merchandise which has not been entered for consumption, including merchandise transported in bond, merchandise from a Customs bonded warehouse, or merchandise from a foreign trade zone) (see legislative history for this provision in H.R.Rep.No. 103–361, 103d Cong., 1st Sess., Pt. 1, 150–151 (1993), and S.Rep.No. 103–189, 103d Cong., 1st Sess., 97 (1993)). Section 1553a provides for the use of the bill of lading or equivalent document of receipt, issued by the pipeline carrier to the shipper and accepted by the consignee, to account for the quantity of merchandise transported and to maintain the identity of that merchandise. Unless Customs has reasonable cause to suspect fraud, the provision authorizes Customs to accept the bill of lading, or equivalent document of receipt, for this purpose. Under 19 U.S.C. 1553a, the shipper, pipeline operator, and consignee are subject to the recordkeeping requirements of sections 508 and 509, Tariff Act of 1930, as amended (19 U.S.C. 1508, 1509).

The background to, and reasons for, the addition of 19 U.S.C. 1553a to the Customs laws are explained in the legislative history for the Act (H.Rep.No. 361, *ibid.*, and S.Rep.No. 189, *ibid.*). Currently, there is no provision in the Customs laws or regulations governing the transportation of bonded merchandise by pipeline. The general provisions currently governing transportation in bond (entry for immediate transportation and entry for transportation and exportation; sections 552 and 553, Tariff Act of 1930, as amended (19 U.S.C. 1552, 1553)), do not authorize the commingling of bonded merchandise with non-bonded merchandise in the transportation. Most merchandise transported by pipeline is commingled and is susceptible to quantitative accounting (see H.Rep.No. 189, *ibid.*). Analogous to the amendment to 19 U.S.C. 1557(a) (discussed below), the new provision permits the effective use of modern fuel transportation systems and will reduce administrative costs and paperwork for the industry and the Government.

Under the amendment to 19 U.S.C. 1557(a), turbine fuel may be withdrawn from a Customs bonded warehouse for use under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), without the payment of duty if an amount equal to the quantity of fuel withdrawn is shown to be used as provided for in section 1309 within 30 days of withdrawal. Under section 1309, in part, articles may be withdrawn from any Customs bonded warehouse free of duty for supplies of foreign or U.S. vessels or aircraft actually engaged in foreign trade or trade between the U.S. and any of its possessions, or between Hawaii and any other part of the U.S. or between Alaska and any other part of the U.S. Section 1309 contains an exception under which the provisions for free withdrawals in that section are not applicable to petroleum products for vessels or aircraft in voyages or flights exclusively between Hawaii or Alaska and any airport or Pacific coast seaport of the U.S.

Under the amended 19 U.S.C. 1557(a), duties are required to be deposited on turbine fuel which was withdrawn in excess of the quantity shown to have been used under 19 U.S.C. 1309 during the 30-day period following withdrawal of the fuel. Such duties must be deposited by the 40th day after the date of withdrawal of the fuel. Interest on the duties is payable from the date of withdrawal.

The background to, and reasons for, the amendment to 19 U.S.C. 1557(a) are explained in the legislative history for the Act (H.Rep.No. 361, *ibid.*, and S.Rep.No. 189, *ibid.*). According to these reports, the nature of major airport fueling systems is that different lots (bonded, imported, domestic, etc.) of turbine fuel are commingled in a common hydrant system. Under the law and regulations before the amendment of 19 U.S.C. 1557(a), Customs considered withdrawal of fuel from storage tanks at airports into the common hydrant system as withdrawal from bonding. Therefore, in order for such bonded fuel to qualify for the duty-free treatment authorized under 19 U.S.C. 1309, Customs required daily accounting for the commingled bonded fuel.

According to the industry, identifying the turbine fuel which is used for flights qualifying under 19 U.S.C. 1309 and that used for non-qualifying flights at the time that turbine fuel is entered into the common hydrant system is impracticable and, if possible, would result in great administrative expense and excessive paperwork. Alternatively, requiring multiple hydrant systems (for different lots of turbine fuel) is physically impracticable at most airports and would also result in great expense.

According to this legislative history, the amendment to 19 U.S.C. 1557(a) will permit the effective use of modern fueling systems at U.S. airports. It will also permit the intended use of existing law (*i.e.*, 19 U.S.C. 1309) permitting the duty-free withdrawal of supplies for qualifying aircraft. Further, it will substantially reduce administrative costs and paperwork for the industry and administrative costs for the Government.

Because Customs is aware of some confusion regarding the possibility of similar treatment of turbine fuel removed from a foreign trade zone for flights qualifying under 19 U.S.C. 1309, we are noting in this document that there is no provision for foreign trade zones in the Act similar to the amendment to 19 U.S.C. 1557(a) effected by section 665 of the Act. It is true that the legislative history to section 637 of the Act amending the statute governing formal entry (19 U.S.C. 1484) indicates that Congress intended that Customs, in developing regulations for periodic entry, should allow for weekly and monthly entries for merchandise shipments from general purpose foreign trade zones and subzones (see H.Rep.No. 361, *ibid.*, at 136). The amendments effected by section 637 of the Act, however, are general amendments regarding formal entry requirements and procedures, under which amendments to the regulations governing formal entry (see parts 141, 142, and 143) are under consideration. By contrast, the sections of the Act implemented by this document are specific provisions relating to the subject matter of this document, and not to removals of turbine fuel from foreign trade zones. As stated above, no such provision (*i.e.*, specifically governing removal from a foreign trade zone of turbine fuel for use on qualifying flights under 19 U.S.C. 1309) was enacted in the Act. Therefore, because this document is intended to implement the specific provisions effected by sections 664 and 665 of the Act, no specific provision is promulgated in this document providing for periodic entries of turbine fuel removed from a foreign trade zone for use on qualifying flights under 19 U.S.C. 1309. (We do note, however, that the regulations implementing section 664 of the Act may affect turbine fuel removed from a foreign trade zone and transported by pipeline to the location where it may be loaded on qualifying flights under 19 U.S.C. 1309.)

Pipeline Transportation in Bond

The Customs Regulations generally pertaining to the transportation of merchandise in bond are currently found in part 18. These interim regulations implement the new 19 U.S.C. 1553a by the addition to part 18 of a new § 18.31. Generally, this new § 18.31 provides that merchandise may be transported by pipeline under the procedures provided for in part 18, unless otherwise specifically provided. The new § 18.31 provides for the acceptance by Customs of a bill of lading or equivalent document of receipt to account for the quantity of merchandise transported and to maintain the identity of the merchandise, under the circumstances provided in the statute (*i.e.*, the bill of lading or equivalent document of receipt must be issued by the pipeline operator to the shipper and accepted by

the consignee and there must be no reasonable cause for Customs to suspect fraud).

Basically, the new § 18.31 adopts the current procedures for transportation in bond, as applicable to pipeline transportation. That is, generally, merchandise to be transported in bond between ports in the U.S. is delivered to a common carrier, contract carrier, freight forwarder, or private carrier bonded for that purpose. The carrier prepares an in-bond document and takes receipt of the merchandise. The in-bond document (which also serves as the transportation entry or withdrawal), with receipt of the merchandise by the carrier noted thereon, together with a Customs control card or carnet, is used as the in-bond manifest for the merchandise to its port of destination.

Delivery of the merchandise at the port of destination is required within 30 days after the date of receipt by the carrier at the port of origin, or 60 days after such date if the merchandise is transported on board a vessel engaged in the coastwise trade (except for transit air cargo in which case 10 days is given, under § 122.118). Within 2 days of arrival of the merchandise at the port of destination, the delivering carrier is required to report the arrival to Customs by surrendering the in-bond manifest to Customs at that port.

Under its bond, the initial carrier is responsible for any shortage, irregular delivery, or nondelivery at the port of destination or exportation. Specific provision is made for transshipment to one or more other conveyances, diversion to a different port, the different kinds of transportation entry or withdrawal which may be made (*i.e.*, for immediate transportation, exportation, and transportation and exportation), change of the foreign destination of merchandise entered or withdrawn for transportation and exportation, retention of merchandise on the dock, and the splitting of a shipment of merchandise for exportation.

In addition to incorporating these general requirements, the new § 18.31 provides for the inclusion of the bill of lading or equivalent document of receipt with the Customs in-bond document for merchandise to be transported in bond by pipeline. Provided that there are no discrepancies between the bill of lading or equivalent document of receipt and the other documents making up the in-bond manifest for the merchandise, and provided that Customs has no reasonable cause to suspect fraud, the bill of lading or equivalent document of receipt is to be accepted by Customs at the port of destination or exportation as establishing the quantity and identity of the merchandise transported.

In cases in which the initial carrier transfers or transships merchandise to another conveyance or carrier, the new § 18.31 generally adopts the procedures in the current provision for transshipment (§ 18.3). Basically, those procedures require the in-bond document accompanying the merchandise to be presented to Customs at the place of transshipment for execution of a certificate of transfer on the document. The notated document then accompanies the merchandise to its port of destination or exportation. If the merchandise is to be transshipped to more than one conveyance, additional copies of the in-bond document are required.

In addition to these procedures, the new § 18.31 provides that, if a pipeline is the initial carrier, a copy of the bill of lading or equivalent document of receipt shall be delivered to the person in charge of the conveyance to which the merchandise is transferred, and if the merchandise is transferred to more than one conveyance, to the person in charge of each of the conveyances. If the initial carrier is not a pipeline, the new § 18.31 provides for the delivery, along with the in-bond document, of the bill of lading or equivalent document of receipt issued by the pipeline operator to the shipper to the appropriate Customs official at the port of destination or exportation. As is currently provided in § 18.3, the in-bond document will be executed by Customs with the certificate of transfer in either case (*i.e.*, if a pipeline is the initial carrier or if the initial carrier is not a pipeline).

The new § 18.31 also makes it clear, as is currently provided in part 18 (see § 18.8), that the initial carrier is responsible for any discrepancies, including shortages, irregular deliveries, or nondeliveries at the port of destination or exportation. As provided in 19 U.S.C. 1553a, the new § 18.31 provides that the shipper, pipeline operator, and consignee are subject to the recordkeeping requirements in 19 U.S.C. 1508 and 19 U.S.C. 1509, as provided in 19 CFR part 162.

To make it clear to the public that the Customs Regulations pertaining to transportation in bond apply to transportation by pipeline, the definition of "common carrier" in § 18.1(a)(1) is amended to specifically include a common carrier of merchandise owning or operating a pipeline.

Withdrawal of Fuel From Warehouse

The Customs Regulations pertaining to the withdrawal of merchandise from a Customs bonded warehouse are found in part 144. Under § 144.35, the withdrawal from warehouse of supplies and equipment for vessels and aircraft are provided for in subpart D of part 144 and §§ 10.59 through 10.65. The latter contain specific provisions on the duty-free treatment of supplies for foreign or U.S. vessels and aircraft actually engaged in foreign trade under 19 U.S.C. 1309. Pursuant to § 10.59(d), although the provisions in §§ 10.59 through 10.64 are written in terms of vessels, they are made applicable to aircraft insofar as they may be so applicable. Specific provisions for the withdrawal of fuel as supplies under 19 U.S.C. 1309 for vessels or aircraft are provided in § 10.62.

These interim regulations implement the amendment to 19 U.S.C. 1557(a) by the addition of a new § 10.62b to part 10. Under the new § 10.62b, turbine fuel intended for use as supplies on aircraft under 19 U.S.C. 1309 which is withdrawn from a Customs bonded warehouse is entitled to duty-free treatment under 19 U.S.C. 1309 if an amount equal to or exceeding the quantity of such fuel is established to have been used on aircraft qualifying for duty-free treatment under 19 U.S.C. 1309 within 30 days after the withdrawal of the fuel from the Customs bonded warehouse. For the procedures for such withdrawals, § 10.62b adopts the procedures now provided for in §§ 10.59 through 10.65. Section 10.62b provides that withdrawals under that provision shall be annotated to show the kind of withdrawal.

If less fuel than was withdrawn is used within 30 days of withdrawal on qualifying aircraft, a withdrawal for consumption must be filed and duties must be paid for the excess of fuel withdrawn over that used on qualifying aircraft. The withdrawal for consumption must be filed and the duties must be paid, with interest, by the 40th day after the date of withdrawal of the fuel. Interest is calculated from the date of withdrawal at the rate of interest established under 26 U.S.C. 6621.

The new § 10.62b provides for two alternative ways of establishing use by qualifying aircraft of fuel in an amount equal to or exceeding the quantity of the fuel withdrawn under the provision.

In the first alternative, the person withdrawing the aircraft turbine fuel submits records (*e.g.*, "uplift" or refueling tickets) prepared in the normal course of business effecting the transfer

to aircraft of fuel in an amount equal to or exceeding the quantity of the fuel withdrawn which is not entered and on which duties are not paid and objective evidence that the aircraft to which the fuel was transferred were actually used in trade qualifying for the privileges provided in 19 U.S.C. 1309. These records must identify the aircraft to which the fuel is transferred by aircraft company name, flight number, flight origin and destination, and date of flight, or other means of identification satisfactory to Customs.

In the second alternative, the person withdrawing the aircraft turbine fuel files a certification (documentary or electronic) certifying: (1) The intended use under 19 U.S.C. 1309 of all of the fuel withdrawn; (2) the transfer to qualifying aircraft within 30 days of the date of withdrawal from warehouse of an amount of fuel equal to or exceeding the quantity of the fuel withdrawn which is not entered and on which duties are not paid; (3) the use of all aircraft onto which the fuel, which is not entered and on which duties are not paid, was uplifted in trade qualifying for treatment under 19 U.S.C. 1309; and (4) that the person making the certification has evidence (documentary or electronic) available for Customs inspection at a named place which supports each of these statements. Under the second alternative, the person making the certification must promptly provide evidence supporting the claim, including the records described in the other alternative means of establishing use of the fuel on a qualifying aircraft (above), upon request by Customs. The records or certification are required to be submitted to Customs by the 40th day after the date of withdrawal of the fuel unless the fuel was withdrawn under a blanket permit to withdraw, in which case the records or certification are required to be submitted by the 40th day after all of the fuel covered by the blanket permit has been withdrawn.

The new § 10.62b provides for liquidated damages against the person withdrawing turbine fuel under the section, under the provisions of § 113.62, for failure to account for such turbine fuel. Failure to account for such turbine fuel includes: (1) The failure to file, within 40 days from the date of withdrawal, a withdrawal for consumption and pay applicable duty, with interest, on the quantity of fuel withdrawn in excess of the quantity of fuel established to have been used on qualifying aircraft within 30 days of withdrawal; (2) the failure to timely file the evidence or certification, provided for in the new § 10.62b, establishing such use of the fuel which is not entered and on which duties are not paid; or (3) the failure to promptly provide, upon request by Customs, the evidence required to support the claim for treatment under the new § 10.62b. A conforming amendment is made to § 113.62, containing the basic importation and entry bond conditions.

The new § 10.62b provides that "blanket" withdrawals, under existing regulations except as specifically provided in the provision, may be used for withdrawals under this provision. Under a blanket withdrawal, all or part of the merchandise entered into a warehouse may be withdrawn, at different times if desired, without further Customs approval (*i.e.*, after approval of the blanket permit) (see 19 CFR 19.6(d)).

Because it is anticipated that blanket withdrawals will be the predominant form of withdrawal under the amended 19 U.S.C. 1557(a) and because of the need for certainty as to the time of withdrawal under the amended 19 U.S.C. 1557(a), we are describing in detail the requirements and procedures for blanket withdrawals under § 10.62b. As noted above, unless otherwise provided in § 10.62b, these procedures are provided for in existing regulations, specific provisions of which are cited in the following description, along with citations to the appropriate paragraphs in the new § 10.62b.

As is true currently under § 10.62, blanket withdrawals under § 10.62b may only be used when all of the turbine fuel in a Customs bonded tank is intended only for loading duty-free as supplies on aircraft qualifying for the privileges provided for in 19 U.S.C. 1309 (§ 10.62(a)). Unlike other blanket withdrawals (see §§ 10.62(a) and 19.6(d)(1)), turbine fuel withdrawn under these blanket withdrawal procedures may be delivered at ports other than the port of withdrawal (§ 10.62b(g)(2)).

Applications for permission for blanket withdrawals under § 10.62b are filed with Customs by the withdrawer on the warehouse entry, or on the warehouse entry/entry summary when used as an entry (§ 10.62b(g)(1)). The warehouse entry or entry/entry summary must be annotated to indicate that permission for blanket withdrawal is sought (§§ 19.6(d)(1) and 10.62b(g)(1)). Customs acceptance of a properly completed application for a blanket permit to withdraw constitutes approval of the blanket permit to withdraw (§ 10.62b(g)(3)).

A copy of the approved blanket permit to withdraw is delivered to the warehouse proprietor after which fuel may be withdrawn under the terms of the permit (§ 10.62b(g)(4)). The blanket permit may be revoked by Customs in favor of individual applications and permits if the permit is found to be used for other purposes or if necessary to protect the revenue or properly enforce any law or regulation administered by Customs (§ 19.6(d)(1)). Withdrawals under an approved blanket permit may be made without any further Customs approval and are documented by the placement in the warehouse proprietor's permit file folder of a copy of a commercially acceptable document of receipt (such as a "withdrawal ticket") issued by the warehouse proprietor, identified with a unique alpha-numeric code (§§ 19.6(d)(2) and 10.62b (g)(4) and (g)(5)). These documents of receipt are required to contain the identity of the withdrawer, identity of the warehouse and tank from which the fuel is withdrawn, date of withdrawal, type of merchandise withdrawn, and quantity of merchandise withdrawn (§ 10.62b(g)(5) (i) through (v)).

For blanket withdrawals, the date of withdrawal, for purposes of calculating the 30-day period in which fuel must be used on qualifying aircraft under 19 U.S.C. 1557(a), begins with the date on which physical removal of the fuel from the warehouse commences (§ 10.62b(g)(6)). That is, if removal of fuel begins at 10:00 PM on "day one" and is not completed until some time on "day two" or later, all of the fuel must be used on qualifying aircraft within 30 days from "day one" to qualify for treatment under that provision.

If, within the 30-day period following withdrawal under a blanket permit, less fuel is used on qualifying aircraft than was withdrawn, a withdrawal for consumption must be filed and duties must be paid for the excess of fuel withdrawn over that used on qualifying aircraft. As provided by the amended 19 U.S.C. 1557(a) and these interim regulations (§ 10.62b(e)), the withdrawal for consumption must be filed and the duties must be paid, with interest, by the 40th day after the date of withdrawal of the fuel.

When all of the fuel covered by an entry for which a blanket permit to withdraw was issued has been withdrawn, the warehouse proprietor prepares a blanket permit summary on a copy of Customs Form 7506 or a form on the letterhead of the proprietor, bearing the words "BLANKET PERMIT SUMMARY" in capital letters conspicuously printed or stamped in the top margin (§§ 19.6(d)(4) and 10.62b(g)(7)). The blanket permit summary is required to provide an accounting of the disposition of the merchandise covered by the blanket

permit by stating, in summary form, the unique alpha-numeric codes for, and information required on the withdrawal documents, as well as the identity of the warehouse entry to which the withdrawals are attributed (§§ 19.6(d)(4) and 10.62b(g)(7)). The warehouse proprietor is required to certify on the blanket permit summary that the merchandise listed therein was withdrawn in compliance with §§ 10.62, 10.62b, and 19.6(d) (§§ 19.6(d)(4) and 10.62b(g)(8)). The blanket permit summary is placed in the warehouse proprietor's permit file folder and treated as provided in § 19.12, regarding warehouse recordkeeping, storage, and security requirements (§ 19.6(d)(4)).

By the 40th day after all of the fuel covered by the blanket permit has been withdrawn, the person withdrawing aircraft turbine fuel is required to submit to Customs either the records or the evidence provided for in § 10.62b(c) (§ 10.62b(d) and (g)(9)). Discretionary authority is given to the port director to require submission of a summary of these records or evidence, along with the evidence required to establish use of fuel on qualifying aircraft, in electronic form. Such submissions must be in a format compatible with Customs systems (§ 10.62b(g)(9)).

The new § 10.62b provides that the person withdrawing aircraft turbine fuel from warehouse under the provision is subject to the recordkeeping requirements in 19 U.S.C. 1508 and 19 U.S.C. 1509, as provided for in part 162.

Conforming amendments are made to the general provisions for withdrawal under 19 U.S.C. 1309 in §§ 10.60 and 10.62. In the case of the amendment to § 10.60, the amendment concerns the general requirement that supplies to be used at a port other than the port of withdrawal from warehouse must be withdrawn on a withdrawal for transportation in bond. The amendment makes it clear that this general requirement is inapplicable in the case of withdrawals under the new § 10.62b. In the case of the amendment to § 10.62, the amendment alerts the public to the fact that there is an alternative provision for aircraft turbine fuel withdrawn from warehouse, provided for in § 10.62b, to the general procedures and requirements for withdrawal of bunker fuel under 19 U.S.C. 1309.

The interim regulation also promulgates by regulation, in the new § 10.62b, a position taken by Customs in interpretative rulings regarding the commingling in a single hydrant fueling system of aircraft turbine fuel from a Customs bonded warehouse with domestic or other fuel when the fuel from the warehouse is intended for use under 19 U.S.C. 1309. Generally, under these rulings, dated October 20, 1989 (File: 221483), May 8, 1990 (File: 222258), and April 29, 1991 (File: 222914), Customs permitted such commingling if two basic conditions were met. The first of these conditions was that the hydrant system must be physically configured so that once the fuel from the warehouse was introduced or commingled into the single hydrant system, it could not be removed otherwise than by being pumped into aircraft. The second of these conditions was that the commingled fuel must be accounted for on the basis of a 24-hour accounting period (*i.e.*, entry must be made and duty paid for any quantity of the fuel from the warehouse which was introduced into the hydrant system when a like quantity was not loaded on aircraft qualifying for duty-free treatment under 19 U.S.C. 1309 within 24 hours of the introduction of the fuel from the warehouse into the hydrant system). The rulings held that the requirement for accounting on the basis of a 24-hour period meant that the fuel from the warehouse introduced or commingled into the single hydrant system must be loaded onto a qualifying aircraft in the same 24-hour period (defined as a 24 hour period beginning at 12:01 a.m. and ending at 12:00 midnight). The legislative history for the amendment to 19 U.S.C. 1557(a), described above, recognized and confirmed the foregoing Customs interpretations of the then applicable law and regulations.

As stated above, the position taken in these rulings is implemented in the new § 10.62b. Paragraph (a) of that section contains a provision making the position taken in these rulings the general rule. That is, paragraph (a) provides that, unless otherwise provided (the provision for withdrawal from warehouse under the amended 19 U.S.C. 1557(a), provided for in the other paragraphs of § 10.62b, does, of course, otherwise provide), aircraft turbine fuel withdrawn from a Customs bonded warehouse for use under 19 U.S.C. 1309 may be commingled with domestic or other aircraft turbine fuel only upon approval by the authorized Customs official. Customs approval for such commingling would have to be obtained under the appropriate provisions in the Customs Regulations (subpart D of part 144).

Under paragraph (a) of § 10.62b, the authorized Customs official may approve such commingling if the fueling system in which the commingling occurs contains physical safeguards preventing the possible unauthorized entry into the Customs territory of the fuel. The commingled fuel must be accounted for in the same 24-hour period in which it was commingled and must be exported or used under 19 U.S.C. 1309 within that 24-hour period or entered or withdrawn for consumption, with duty deposited, as required under the appropriate regulations (see part 144). As noted above, the specific provision for the duty-free withdrawal of aircraft turbine fuel from a Customs bonded warehouse if the fuel is used on an aircraft qualifying for duty-free treatment under 19 U.S.C. 1309, provided for in the amendment to 19 U.S.C. 1557(a) and paragraphs (b) through (h) of § 10.62b, is an exception from the above-described general rule.

Delayed Effective Date and Public Comment Requirements

The agency intends that these interim regulations will become effective on the 45th day following the date of publication, *i.e.*, 15 days after the close of the comment period. The agency believes it has good cause under 5 U.S.C. 553(b)(B) and 553(d) (1) and (3) of the Administrative Procedure Act (APA) (5 U.S.C. 553) to promulgate interim regulations because the regulations provide an immediate benefit to both the Government and the public by reducing administrative costs and paperwork pursuant to specific statutory authority. These interim regulations are intended to implement Congressional intent embodied in sections 553a and 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1553a and 1557(a)), and specifically stated in the legislative history to those provisions, as described above.

Furthermore, existing rights and obligations are not changed otherwise than as authorized by the new statutory provisions. The agency believes that the affected public wants these new statutory provisions to become effective as soon as possible so that the public can benefit from the efficiencies and savings resulting therefrom. In addition, the agency does not believe the public needs time to conform its conduct so as to avoid violation of these regulations (*i.e.*, because the new provisions are permissive, not restrictive). The due and timely execution of the agency's responsibilities would be unnecessarily impeded by a time consuming notice and comment period. The agency believes such delay is unnecessary because it does not expect the public to object to the regulations being promulgated as they merely provide the relief that Congress intended.

Even though, based on the discussion set forth above, Customs believes the amendments in this document may be promulgated on an interim basis and could be effective immediately, Customs is providing a 45-day delayed effective date, with a 30-day comment period preceding that effective date. This represents a practical compromise between the need for temporal urgency and the desirability for public participation in the rulemaking process.

In the spirit of the APA, the agency is soliciting public comment regarding both the substance of these interim regulations and Customs decision to promulgate these regulations on an interim basis with the effective date delayed for that period of time necessary to review any relevant comments. Unless the comments show that there exists good cause for not making the regulations effective on an interim basis, the regulations will become effective on an interim basis on the 45th day following the date of publication.

Comments

Consequently, the agency hereby solicits comments on both the substance of these regulations and their intended effective date. The comments should clearly state whether they address the substance of the interim rule or the agency's determination to make the rule effective on an interim basis. If, based on the comments, good cause is shown that the regulations should not become effective on an interim basis, a document will be issued withdrawing the interim regulations before their effective date. If no such good cause is shown, the interim regulations will go into effect. The agency will then be able to gain experience with the interim regulation, fully consider substantive comments, and decide whether the interim regulation needs amendment before its promulgation as a final rule. All substantive comments received timely will be considered and will be addressed in the final rule document.

Consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. All such comments received from the public pursuant to this notice of rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, D.C.

Regulatory Flexibility Act and Executive Order 12866

Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document is not a "significant regulatory action" under E.O. 12866.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of the public comments, approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 2507) under control number 1515–0209.

The collection of information in this regulation is in § 10.62b. This information is required by Customs to ensure compliance with the statute authorizing the described procedure. This information will be used to verify that turbine fuel withdrawn from a Customs bonded warehouse under 19 U.S.C. 1557(a) is used on aircraft qualifying for duty-free withdrawal of fuel supplies, as required under the law. The likely recordkeepers are businesses.

Estimated total annual reporting and/or recordkeeping burden: 240 hours.

Estimated average annual burden hours per recordkeeper: 12 hours.

Estimated number of respondents and/or recordkeepers: 20.

Estimated annual frequency of responses: 12.

Comments concerning the collection of information and the accuracy of the estimated average annual burden, and suggestions for reducing this burden should be directed to the Office of Management and Budget (OMB), Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Drafting Information

The principal author of this document was Paul G. Hegland, Entry Rulings Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Shipments.

19 CFR Part 18

Bonded transportation, Common carriers, Customs duties and inspection, Exports, Imports.

19 CFR Part 113

Common carriers, Customs duties and inspection, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

Amendments

Title 19, Chapter I, parts 10, 18 and 113 of the Customs Regulations (19 CFR parts 10, 18 and 113) are amended as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority for part 10 continues to read as follows, and specific authority, for new § 10.62b, is added as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

§ 10.62b also issued under 19 U.S.C. 1557;

* * * * *

2. Section 10.60 is amended by revising the first sentence of paragraph (d) to read as follows:

§ 10.60 Forms of withdrawals; bond.

* * * * *

(d) Except as otherwise provided in § 10.62b, relating to withdrawals from warehouse of aircraft turbine fuel to be used within 30 days of such withdrawal as supplies on aircraft under § 309, Tariff Act of 1930, as amended, when the supplies are to be laden at a port other than the port of withdrawal from warehouse, they shall be withdrawn for transportation in bond to the port of lading. * * *

* * * * *

3. Section 10.62 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 10.62 Bunker fuel oil.

(a) *Withdrawal under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309).* Except as otherwise provided in § 10.62b, relating to withdrawals from warehouse of aircraft

turbine fuel to be used within 30 days of such withdrawal as supplies on aircraft under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), when all the bunker fuel oil in a Customs bonded tank is intended only for lading duty free as supplies on vessels under section 309 at the port where the tank is located, delivery of the oil, by Customs bonded carrier, cartman, or lighterman (including bonded pipelines), under withdrawals on Customs Form 7506, either single or blanket, may be made without the presence of a Customs officer. * * *

* * * * *

4. Section 10.62b is added to read as follows:

§ 10.62b Aircraft turbine fuel.

(a) *General.* Unless otherwise provided, aircraft turbine fuel withdrawn from a Customs bonded warehouse for use under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), may be commingled with domestic or other aircraft turbine fuel after such withdrawal only if such commingling is approved by the appropriate Customs official for the port where the commingling occurs. The appropriate Customs official may approve such commingling if the fueling system in which the commingling will occur contains adequate physical safeguards to prevent the possible unauthorized entry into the Customs territory of the bonded fuel. Such commingled fuel must be accounted for in the same 24-hour period in which it was commingled and must be—

(1) Exported within that 24-hour period;

(2) Used under section 309 within that 24-hour period; or

(3) Entered or withdrawn for consumption, with duty deposited, as required under the applicable regulations (see part 144 of this chapter).

(b) *Duty-free withdrawal from warehouse of aircraft turbine fuel under section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)).* Turbine fuel intended for use as supplies on aircraft under section 309, Tariff Act of 1930, as amended, and withdrawn from a Customs bonded warehouse shall be entitled to the privileges provided for in section 309 if an amount equal to or exceeding the quantity of such fuel is established, as provided for in paragraph (c) of this section, to have been used on aircraft qualifying for the privileges provided for in section 309 within 30 days after the withdrawal of the fuel from the Customs bonded warehouse. Withdrawal of aircraft turbine fuel under this paragraph shall be in accordance with the procedures in §§ 10.59 through 10.64, unless otherwise provided in this section. Withdrawals under this paragraph shall be annotated with the term "Withdrawal under 19 CFR 10.62b(b)".

(c) *Establishment of use of fuel by qualifying aircraft.*

(1) The person withdrawing aircraft turbine fuel under paragraph (b) of this section shall establish that an aircraft qualifying for the privileges provided for in section 309, Tariff Act of 1930, as amended, used fuel in an amount equal to or exceeding the quantity of the fuel withdrawn which is not entered and upon which duties are not paid by submitting to Customs, within the time provided in paragraph (d) of this section, either—

(i) Records prepared in the normal course of business effecting the transfer to identified (e.g., by aircraft company name, flight number, flight origin and destination, and date of flight) aircraft of fuel in an amount equal to or exceeding the quantity of the fuel withdrawn which is not entered and on which duties are not paid and objective evidence that the aircraft to which the fuel was transferred were actually used in trade qualifying for the privileges provided in section 309, Tariff Act of 1930, as amended; or

(ii) A certification (documentary or electronic) that:

(A) All of the fuel withdrawn was intended for use on aircraft entitled to the privileges provided for in section 309;

(B) Within 30 days of the date of withdrawal from warehouse, an amount of fuel equal to or exceeding the quantity of the fuel withdrawn which is not entered and on which duties are not paid was transferred as supplies to aircraft entitled to the privileges provided for in section 309;

(C) All of the aircraft, to which the fuel which is not entered and on which duties are not paid was transferred as supplies, were used in a trade provided for in section 309; and

(D) The person making the certification possesses evidence (documentary or electronic) available for Customs inspection at a named place which supports each of the above statements.

(2) Upon request by Customs, the person who submits the certification provided for in paragraph (c)(1) of this section shall promptly provide the evidence required to support the claim for treatment under this section (including the records described in § 10.62b(c)(1)(i)) and §§ 10.62 and 19.6(d) and each of the statements in the certification.

(d) *Time for establishment of use of fuel by qualifying aircraft.* The person withdrawing aircraft turbine fuel under paragraph (b) of this section shall submit the records or certification provided for in paragraph (c) of this section by the 40th day after the date of withdrawal of the fuel unless the fuel was withdrawn under a blanket withdrawal under paragraph (g) of this section. If the fuel was withdrawn under a blanket withdrawal, the person withdrawing aircraft turbine fuel under this section shall submit the records or certification provided for in paragraph (c) of this section by the 40th day after all of the fuel covered by the blanket permit to withdraw has been withdrawn.

(e) *Treatment of turbine fuel withdrawn but not used on qualifying aircraft within 30 days.* If turbine fuel is withdrawn from a Customs bonded warehouse under paragraph (b) of this section but fuel in an amount less than the quantity withdrawn is established to have been used within 30 days of the date of withdrawal from warehouse on aircraft qualifying for the privileges provided for in section 309, Tariff Act of 1930, as amended, a withdrawal for consumption shall be filed and duties shall be deposited for the excess of fuel so withdrawn over that used on aircraft so qualifying. Such withdrawal shall be filed and such duties shall be deposited by the 40th day after the date of withdrawal of the fuel in accordance with the procedures in § 144.38 of this chapter. Interest shall be payable and deposited with such duties, calculated from the date of withdrawal at the rate of interest established under 26 U.S.C. 6621.

(f) *Liquidoted damages.* Failure to account for turbine fuel withdrawn under paragraphs (b) through (h) of this section shall result in liquidated damages against the person withdrawing the turbine fuel, as provided for under § 113.62 of this chapter. Such failure to account for turbine fuel includes:

(1) The failure to timely file the withdrawal for consumption and payment of duty, with interest, on the quantity of fuel so withdrawn in excess of the quantity of fuel established to have been used on qualifying aircraft within 30 days of withdrawal, as provided for in paragraph (e) of this section;

(2) The failure to timely file the evidence or certification establishing such use of the fuel which is not entered and on which duties are not paid, as provided for in paragraph (c) of this section; or

(3) The failure to promptly provide the evidence required to support the claim for treatment under paragraph (b) of this section, upon request by Customs, as provided for in paragraph (c)(2) of this section.

(g) *Blanket withdrawals.* Blanket withdrawals, as provided for in §§ 10.62 and 19.6(d), may be used for withdrawals from warehouse under section 557(a), Tariff Act of 1930, as amended, and paragraphs (b) through (h) of this section, under the procedures provided in §§ 10.62 and 19.6(d) except that—

(1) Application by the withdrawer for a blanket permit to withdraw shall be on the warehouse entry, or on the warehouse entry/entry summary when used as an entry, annotated with the words "Some or all of the merchandise will be withdrawn under blanket permit per §§ 10.62, 10.62b, and 19.6(d).";

(2) Turbine fuel withdrawn under a blanket permit as authorized in this paragraph may be delivered at a port other than the port of withdrawal;

(3) Customs acceptance of a properly completed application for a blanket permit to withdraw, on the warehouse entry or warehouse entry/entry summary, will constitute approval of the blanket permit to withdraw;

(4) A copy of the approved blanket permit to withdraw will be delivered to the warehouse proprietor, whereupon fuel may be withdrawn under the terms of the blanket permit;

(5) The withdrawal document to be placed in the proprietor's permit file folder (see § 19.6(d)(2)) will be a commercially acceptable document of receipt (such as a "withdrawal ticket") issued by the warehouse proprietor, identified with a unique alpha-numeric code and containing the following information:

(i) Identity of withdrawer;

(ii) Identity of warehouse and tank from which fuel is withdrawn;

(iii) Date of withdrawal;

(iv) Type of merchandise withdrawn; and

(v) Quantity of merchandise withdrawn.

(6) The date of withdrawal, for purposes of calculating the 30-day period in which fuel must be used on qualifying aircraft under this section, shall be the date on which physical removal of the fuel from the warehouse commences;

(7) The blanket permit summary prepared by the proprietor as provided for in § 19.6(d)(4) shall be prepared when all of the fuel covered by the blanket permit has been withdrawn and shall account for all merchandise withdrawn under the blanket permit, as required by § 19.6(d)(4), by stating, in summary form, the unique alpha-numeric codes and information required in paragraph (g)(5) of this section, as well as the identity of the warehouse entry to which the withdrawal is attributed;

(8) The certification on the blanket permit summary (see § 19.6(d)(4)) shall be that the merchandise listed thereunder was withdrawn in compliance with §§ 10.62, 10.62b, and 19.6(d); and

(9) The person withdrawing aircraft turbine fuel under these blanket procedures shall submit the records or certification provided for in § 10.62b(c) by the 40th day after all of the fuel covered by the blanket permit has been withdrawn (see § 10.62b(d)). At the discretion of the port director for the port where blanket withdrawal was approved, submission of the records and evidence required to establish use of the fuel on qualifying aircraft may be required to be submitted electronically, in a format compatible with Customs electronic record-keeping systems.

(h) *Recordkeeping.* The person withdrawing aircraft turbine fuel from warehouse under this section is subject to the recordkeeping requirements in 19 U.S.C. 1508 and 1509, as provided for in part 162 of this chapter.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The general authority for part 18 is revised to read, and specific authority for new § 18.31 is added, as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, HTSUS), 1551, 1552, 1553, 1624;

* * * * *

§ 18.31 also issued under 19 U.S.C. 1553a.

2. Section 18.1 is amended by revising the second sentence of paragraph (a)(1) to read as follows:

§ 18.1 Carriers, application to bond.

(a)(1) * * * For the purposes of this section, the term "common carrier" means a common carrier of merchandise owning or operating a railroad, steamship, pipeline, or other transportation line or route. * * *

* * * * *

3. Part 18 is amended by adding a center heading and new § 18.31, following § 18.27, to read as follows:

Merchandise Transported by Pipeline

§ 18.31 Pipeline transportation of bonded merchandise.

(a) *General.* Merchandise may be transported by pipeline under the procedures in this part, as appropriate and unless otherwise specifically provided for in this section.

(b) *Bill of lading to account for merchandise.* Unless Customs has reasonable cause to suspect fraud, Customs shall accept a bill of lading or equivalent document of receipt issued by the pipeline operator to the shipper and accepted by the consignee to account for the quantity of merchandise transported by pipeline and to maintain the identity of the merchandise.

(c) *Procedures when pipeline is only carrier.* When a pipeline is the only carrier of bonded merchandise and there is no transfer to another carrier, the bill of lading or equivalent document of receipt issued by the pipeline operator to the shipper shall be included with, and made a part of, the Customs in-bond document (see § 18.2(b)). If there are no discrepancies between the bill of lading or equivalent document of receipt and the other documents making up the in-bond manifest for the merchandise, and provided that Customs has no reasonable cause to suspect fraud, the bill of lading or equivalent document of receipt shall be accepted by Customs at the port of destination or exportation (see §§ 18.2(d) and 18.7) as establishing the quantity and identity of the merchandise transported. The pipeline operator shall be responsible for any discrepancies, including shortages, irregular deliveries, or nondeliveries at the port of destination or exportation (see § 18.8).

(d) *Procedures when there is more than one carrier (i.e., transfer of the merchandise).*

(1) *Pipeline as initial carrier.* When a pipeline is the initial carrier of bonded merchandise and the merchandise is transferred to another conveyance (either a different mode of transportation or a pipeline operated by another operator), the procedures in § 18.3 and paragraph (c) of this section shall be followed, except that—

(i) When the merchandise is to be transferred to one conveyance, a copy of the bill of lading or equivalent document issued by the pipeline operator to the shipper shall be delivered to the person in charge of the conveyance for delivery, along with the in-bond document, to the appropriate Customs official at the port of destination or exportation; or

(ii) When the merchandise is to be transferred to more than one conveyance, a copy of the bill of lading or equivalent document issued by the pipeline operator to the shipper shall be delivered to the person in charge of each additional conveyance, along with the two additional copies of the in-bond

document, for delivery to the appropriate Customs official at the port of destination or exportation.

(2) *Transfer to pipeline from initial carrier other than a pipeline.* When bonded merchandise initially transported by a carrier other than a pipeline is transferred to a pipeline, the procedures in § 18.3 and paragraph (c) of this section shall be followed, except that the bill of lading or other equivalent document of receipt issued by the pipeline operator to the shipper shall be delivered, along with the in-bond document, to the appropriate Customs officer at the port of destination or exportation.

(3) *Initial carrier liable for discrepancies.* In the case of either paragraph (d)(1) or (d)(2) of this section, the initial carrier shall be responsible for any discrepancies, including shortages, irregular deliveries, or nondeliveries, at the port of destination or exportation (see § 18.8).

(e) *Recordkeeping.* The shipper, pipeline operator, and consignee are subject to the recordkeeping requirements in 19 U.S.C. 1508 and 1509, as provided for in part 162 of this chapter.

PART 113—CUSTOMS BONDS

1. The general authority for part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

2. Section 113.62 is amended by revising the paragraph (b) introductory text to read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(b) *Agreement to Make or Complete Entry.* If all or part of imported merchandise is released before entry under the provisions of the special delivery permit procedures under 19 U.S.C. 1448(b), released before completion of the entry under 19 U.S.C. 1484(a), or withdrawn from warehouse under 19 U.S.C. 1557(a) (see § 10.62b of this chapter), the principal agrees to file within the time and in the manner prescribed by law and regulation, documentation to enable Customs to:

* * *

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: October 4, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–3905 Filed 2–21–96; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AG22

Veterans Education: Implementation of the Veterans' Benefits Act of 1992, the National Defense Authorization Act for Fiscal Year 1993, and the National Defense Authorization Act for Fiscal Year 1994

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the educational assistance and educational benefits regulations of the Department of Veterans Affairs (VA). It makes changes concerning eligibility requirements for educational assistance and benefits, rates of payment for educational assistance, measurement of training time, approval of various types of courses, and educational death benefits. These changes restate statutory requirements and set forth VA's statutory interpretations.

DATES: This final rule is effective February 22, 1996. However, the restatements of statute and VA's statutory interpretations contained in this final rule will be applied retroactively from the effective dates of the statutory provisions. For more information concerning the application of statutes and statutory interpretations, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: Regulations concerning VA-administered educational assistance and educational benefits are contained in 38 CFR Part 21. The Veterans' Benefits Act of 1992 (Pub. L. 102–568) amends educational assistance provisions under the Montgomery GI Bill—Active Duty and amends other provisions that affect work-study under the Survivors' and Dependents' Educational Assistance program. The National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484) and the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160) also amend provisions concerning educational assistance under the Montgomery GI Bill—Active Duty. This document contains a number of changes to the regulations which merely reflect certain changes made by these public laws. These changes to the regulations are as follows.

Under Pub. L. 102–568, the limit on the amount of money that VA can pay in advance on a work-study contract has been changed. Formerly, that limit was 40 percent of the total amount payable under the contract. Now the limit is the lesser of 40 percent of the total amount payable under the contract or 50 times the applicable minimum hourly wage in effect on the date the contract is signed. Changes are made to 38 CFR 21.3145 and 21.7145 to reflect these statutory provisions.

Pub. L. 102–484 includes the Service Members Occupational Conversion and Training Act (SMOCTA) (sec. 4481 through 4497, Pub. L. 102–484), which forbids receipt of educational assistance under any of the education programs administered by VA when the veteran, servicemember, or other eligible person is participating in a job training program under SMOCTA. Revisions are made to 38 CFR 21.4131, 21.4135, 21.7131, and 21.7135 to reflect these statutory provisions.

Pub. L. 102–568 provides for later ending dates when the veteran dies during the period covered by an advance payment of educational assistance. Prior to the effective date of Pub. L. 102–568, educational assistance was terminated effective the date the veteran died. However, Pub. L. 102–568 provides that in the event of a death, the effective date of the termination will be the last date covered by the advance payment. Revisions are made to 38 CFR 21.4135 and 21.7135 to reflect these statutory provisions.

Pub. L. 102–568 prohibits State approving agencies from approving for VA educational assistance a course of education that includes nonaccredited independent study. It also prohibits VA from approving an enrollment in an independent study course unless the course is accredited and leads to a standard college degree. Revisions are made to 38 CFR 21.4252, 21.7120, 21.7122, 21.7220 and 21.7222 to reflect these statutory changes. However, under Pub. L. 102–568 these prohibitions do not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of Pub. L. 102–568 (October 29, 1992) who remains "continuously * * * enrolled" and otherwise meets the requirements for eligibility for such assistance in effect on October 29, 1992. Revisions are made to §§ 21.4252 and 21.7120 to restate these statutory provisions. Also, the following definition of "continuously enrolled" is added to 38 CFR 21.7020 to interpret what constitutes "continuously enrolled":

The term *continuously enrolled* means being in an enrolled status at an educational institution for each day during the school year, and for consecutive school years. Continuity of enrollment is not broken by holiday vacations; vacation periods; periods during the school year between terms, quarters, or semesters; or by nonenrollment during periods of enrollment outside the school year (e.g., summer sessions).

The Congress did not indicate that a special meaning other than the common meaning was intended for "continuously enrolled." Therefore, we have concluded that the Congress intended that we interpret "continuously enrolled" consistent with its common meaning and we have formulated the definition of "continuously enrolled" in accordance with our understanding of the Congressional intent.

Pub. L. 102–568 repealed the special provisions for determining students' training time while enrolled in independent study, thereby making the determination of this training time the same as that for resident training. Consequently, the monthly rates for educational assistance for independent study and for resident study are based on the same formula. This eliminates the basis for the provisions in 38 CFR 21.4280 governing independent study course measurement. To reflect these statutory changes, rules dealing with the approval of independent study courses are set forth at 38 CFR 21.4267, and 38 CFR 21.4280 is removed.

Pub. L. 102–568 provides that nonaccredited courses not leading to a standard college degree will be measured for purposes of determining training time the same as for accredited courses that are neither leading to a standard college degree nor offered by an institution of higher learning. Pub. L. 102–568 also provides that when an institution of higher learning offers a course that does not lead to a standard college degree, the students' training time will be determined in the same manner as for students enrolled in undergraduate courses leading to a college degree. 38 CFR 21.4271 is removed and revisions are made to 38 CFR 21.4233, 21.4270, and 21.4272 to reflect these statutory provisions.

Prior to the effective date of Pub. L. 102–568, nurse's aide courses could not be approved for VA training, and consequently VA educational assistance could not be awarded for such training. Pub. L. 102–568 provides criteria for approving some nurse's aide courses. Changes are made to 38 CFR 21.4265 to reflect this statutory change.

Pub. L. 102–568 changes the criteria for establishing eligibility for educational assistance under the Montgomery GI Bill—Active Duty, including detailed changes concerning continuous active duty, service in the selected reserve, character of service for retirees, and voluntarily discharged veterans. Accordingly, changes are made to 38 CFR 21.7020, 21.7032, 21.7042, 21.7044, 21.7045, and 21.7050 to reflect these statutory changes.

Prior to the effective date of Pub. L. 102–568, a death benefit was payable to survivors of participants in the Montgomery GI Bill—Active Duty only if the participant died while on active duty. Pub. L. 102–568 now also permits payment of the death benefit if the participant dies within a year of discharge from active duty. Accordingly, revisions are made to 38 CFR 21.7280 to reflect this statutory change.

Pub. L. 102–568 also made changes to 38 U.S.C. 3015 concerning the monthly rates of educational assistance which VA is to pay to veterans and servicemembers pursuing a full-time program of education under the Montgomery GI Bill—Active Duty. The final rule changes these rates in 38 CFR 21.7136 and 21.7137 to reflect these statutory changes. These changes to §§ 21.7136 and 21.7137 also have the effect of changing the rates for part-time training, cooperative training, and apprenticeship and other on-job training. 38 U.S.C. 3032 provides formulas to determine the monthly rates for those students pursuing cooperative training and those in apprenticeships and other on-job training. 38 U.S.C. 3015(a) and (b) further state that the monthly rates of educational assistance to be paid to part-time students receiving benefits under the Montgomery GI Bill—Active Duty is to be determined by regulations prescribed by the Secretary of Veterans Affairs. The formula for part-time rates was established based on proposed and final rule making (see 52 FR 25736, July 8, 1987; 53 FR 1756, Jan. 22, 1988). Under this formula, monthly rates for three-quarter-time and one-half-time students have been set at three-quarters and one-half of the statutory full-time rate respectively. The monthly rates payable for less than one-half-time students are the pro-rated amount of their tuition and fees (not to exceed one-half the statutory full-time rate for those training less than one-half time and more than one-quarter time, and not to exceed one-quarter of the full-time rate for those training one-quarter time).

In addition, this final rule contains an interpretative rule with respect to how the statutory requirements for accreditation of an independent study course applies when there is a loss of accreditation. If an independent study course loses its accreditation (or the educational institution offering the course loses its accreditation), it is our view that VA is required under the statutes controlling the Montgomery GI Bill—Active Duty and Survivors' and Dependents' Educational Assistance programs, as amended by Pub. L. 102–568, to discontinue payments for such a course effective the date of the loss of accreditation. The regulations are amended by adding 38 CFR 21.4135(x) and 21.7135(z) to accomplish this purpose.

This final rule also makes nonsubstantive changes for clarity or to reflect statutory recodification changes.

The restatements of statute and statutory interpretations contained in this final rule will be applied retroactively from the effective dates of the statutory provisions. The dates of application for such changes made by this document (and for certain of the nonsubstantive changes made for clarity or to reflect statutory recodification changes) are as follows:

October 19, 1984: 38 CFR 21.7020(b)(5), 21.7020(b)(6)(i), and 21.7020(b)(6)(ii).

June 30, 1985 (to apply to training received after August 31, 1993): § 21.7136(a)(2)(ii)(C).

June 30, 1985 (to apply to training received after September 30, 1993): §§ 21.7020(b)(6)(iii), 21.7020(b)(6)(iv), and 21.7072(b).

October 28, 1986: §§ 21.7044(a), 21.7044(b)(12), and 21.7050(b).

December 1, 1988: § 21.7042(c).

October 23, 1992: §§ 21.4131(i), 21.4135(aa), 21.7032(a), 21.7032(f), 21.7042(b), 21.7042(f), 21.7045 (except (a)(1)(i)), 21.7131(j), 21.7135(aa), 21.7136 introductory text, 21.7136(a)(1) (as redesignated), 21.7136(a)(2)(ii)(B) (as redesignated), and 21.7136(f) (as redesignated); and the redesignations of paragraphs (a), (b), (b)(1), (b)(2), (b)(3), (c), (d), and (e) of § 21.7136.

October 29, 1992: §§ 21.3145, 21.4135(a), 21.4135(x), 21.4234(a), 21.4252(g), 21.4253(a), 21.4254(d), 21.4265(b), 21.4267, 21.7020(b)(42), 21.7042(a), 21.7120(d), 21.7122(e), 21.7135(a), 21.7135(z) (as added), 21.7145, 21.7152, 21.7220, 21.7222, and 21.7280; the redesignation of § 21.7135(z); and the removal of § 21.4280.

April 1, 1993: §§ 21.7136(b) (as redesignated), 21.7136(c) (as redesignated), and 21.7137.

July 1, 1993 (to apply to enrollments for terms, semesters, or quarters that begin after June 30, 1993): §§ 21.4233(b), 21.4270(a), 21.4270(b), 21.4270(c)

footnote 1, 21.4272 introductory text, 21.4272(g), 21.7170, 21.7172(a) and 21.7172(d); and the removal of §§ 21.4271, 21.4272(e), 21.4272(f), 21.4272(h), and 21.4272(i).

November 30, 1993: §§ 21.7044(b)(8) and 21.7045(a)(1)(i).

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule merely restates statutory changes, sets forth statutory interpretations, and makes nonsubstantive changes. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

This final rule has been reviewed by the Office of Management and Budget pursuant to the provisions of Executive Order 12866.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this final rule are 64.117 and 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: July 17, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21, subparts C, D, and K are amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

1. The authority citation for part 21, subpart C is revised to read as follows:

Authority: 38 U.S.C. 501(a); 38 U.S.C. 3500–3566, unless otherwise noted.

2. In § 21.3145, paragraph (e) is revised to read as follows:

§ 21.3145 Work-study allowance.

* * * * *

(e) *Payment in advance.* VA will pay in advance an amount equal to the lesser of the following:

(1) 40 percent of the total amount payable under the contract, or

(2) An amount equal to 50 times the applicable minimum hourly wage in effect on the date the contract is signed.

(Authority: 38 U.S.C. 3485, 3537)

* * * * *

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

3. The authority citation for part 21, subpart D is revised to read as follows:

Authority: 38 U.S.C. 501(a); 38 U.S.C. ch. 34, 35, 36, unless otherwise noted.

4. In § 21.4131, paragraph (i) is added, to read as follows:

§ 21.4131 Commencing dates.

* * * * *

(i) *Service Members Occupational Conversion and Training Act of 1992.* If the veteran's or eligible person's educational assistance has been discontinued because the veteran or eligible person is training under a job training program for which benefits are payable to his or her employer under the Service Members Occupational Conversion and Training Act, VA will determine the date upon which educational assistance may be resumed as follows.

(1) When the veteran or eligible person is pursuing a program of education on the last date for which benefits are payable under that Act, payments will be resumed on the day following that date.

(2) When the veteran or eligible person is not pursuing a program of education on the last date for which benefits are payable under that Act, payments will be resumed on the earliest date otherwise provided by this section, but not before the day following the last date for which benefits are payable under that Act.

(Authority: Sec. 4492(a), Pub. L. 102–484, 106 Stat. 2765–2766)

* * * * *

5. In § 21.4135, paragraph (a) is revised; an authority citation to paragraph (a) is added; and paragraphs (x) and (aa) and their authority citations are added, to read as follows:

§ 21.4135 Discontinuance dates. * * *

(a) *Death of veteran or eligible person.* (1) If the veteran or eligible person receives an advance payment pursuant to 38 U.S.C. 3680(d) and dies before the period covered by the advance payment ends, the discontinuance date of educational assistance shall be the last date of the period covered by the advance payment.

(2) In all other cases if the veteran or eligible person dies while pursuing a program of education, the discontinuance date of educational assistance shall be the last date of attendance.

(Authority: 38 U.S.C. 3680)

* * * * *

(x) *Independent study course loses accreditation.* Except as otherwise provided in § 21.4252(g), if the veteran or eligible person is enrolled in a course offered in whole or in part by independent study, and the course loses its accreditation (or the educational institution offering the course loses its accreditation), the date of reduction or discontinuance will be the effective date of the withdrawal of accreditation by the accrediting agency.

(Authority: 38 U.S.C. 3672, 3676, 3680A(a))

* * * * *

(aa) *Service Members Occupational Conversion and Training Act of 1992.* If an individual enters a training program for the purpose of obtaining assistance under the Service Members Occupational Conversion and Training Act of 1992, the effective date of discontinuance of educational assistance shall be the date on which the individual entered the job training program.

(Authority: Sec. 4492(a), Pub. L. 102–484, 106 Stat. 2765–2766)

6. In § 21.4233, paragraphs (b)(4), (b)(1), (b)(2) and (b)(3) are redesignated as paragraphs (b)(1), (b)(2), (b)(3) and (b)(4), respectively; paragraph (b)(5) is amended by removing "§ 21.4270(a), footnote 6" and adding, in its place, "§ 21.4270(b)"; and newly redesignated paragraphs (b)(1) and (b)(2) are revised, to read as follows:

§ 21.4233 Combination. * * *

(b) *Concurrent enrollment.* * * *

(1) If VA measures the courses pursued at both institutions on either a clock-hour basis or a credit-hour basis, VA will measure the veteran's or eligible person's enrollment by adding together the units of measurement in the second school to the units of measurement for the courses in the primary institution. The standard for full time will be the full-time standard for the courses at the primary institution.

(2) Where the standards for measurement of the courses pursued concurrently in the two schools are different, VA will measure the veteran's or eligible person's enrollment by converting the units of measurement for courses in the second school to the equivalent in value expressed in units of measurement required for the courses in the program of education which the veteran or eligible person is pursuing at the primary institution.

(Authority: 38 U.S.C. 3688)

* * * * *

7. In § 21.4234, paragraphs (a)(2)(ii) and (a)(2)(iii) are revised, and paragraph (a)(2)(iv) is added, to read as follows:

§ 21.4234 Change of program.

(a) *Definition.* * * *

(2) * * *

(ii) A change in the individual's educational, professional or vocational objective following the successful completion of the immediately preceding program of education,

(iii) A return to the individual's prior program of education following a change of program if the individual resumes training in the program without any loss of credit or standing in that program, or

(iv) An enrollment in a new program of education when that program leads to a vocational, educational or professional objective in the same general field as the immediately preceding program of education.

(Authority: 38 U.S.C. 3691)

* * * * *

8. In § 21.4252, paragraph (g) and its authority citation are added, to read as follows:

§ 21.4252 Courses precluded.

* * * * *

(g) *Independent study.* (1) Effective October 29, 1992, VA may pay educational assistance to a veteran who is enrolled in a nonaccredited course or unit subject offered entirely or partly by independent study only if—

(i) Successful completion of the nonaccredited course or unit subject is required in order for the veteran to complete his or her program of education; and the veteran—

(A) Was receiving educational assistance on October 29, 1992, for pursuit of the program of education of which the nonaccredited independent study course or unit subject forms a part, and

(B) Has remained continuously enrolled in that program of education from October 29, 1992, to the date the veteran enrolls in the nonaccredited independent study course or unit subject; or

(ii) Was enrolled in and receiving educational assistance for the nonaccredited independent study course or unit subject on October 29, 1992, and remains continuously enrolled in that course or unit subject.

(2) Whether or not the veteran is enrolled will be determined by the regularly prescribed standards and practices of the educational institution.

(Authority: 38 U.S.C. 3680A; sec. 313(b), Pub. L. 102–568, 106 Stat. 4331–4332)

* * * * *

9. In § 21.4253, paragraph (a)(3) is revised and paragraph (a)(5) and an authority citation for paragraph (a) are added, to read as follows:

§ 21.4253 Accredited courses.

(a) *General.* * * *

(3) The course is conducted under the Act of February 23, 1917 (20 U.S.C. 11 *et seq.*).

* * * * *

(5) The course is approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C.1395i–3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).

(Authority: 38 U.S.C. 3675(a))

* * * * *

10. In § 21.4254, paragraph (d) and its authority citation are added, to read as follows:

§ 21.4254 Nonaccredited courses.

* * * * *

(d) *Limitations on course approval.* Notwithstanding any other provision of this section, a State approving agency shall not approve a nonaccredited course if it is to be pursued in whole or in part by independent study.

(Authority: 38 U.S.C. 3676(e))

11. In § 21.4265, paragraph (b)(3) is revised and an authority citation is added, to read as follows:

§ 21.4265 Practical training approved as institutional training or on-job training.

* * * * *

(b) *Nursing courses.*

* * * * *

(3) Except for enrollment in a nurse's aide course approved pursuant to § 21.4253(a)(5), VA shall not approve an enrollment in a nonaccredited nursing course which does not meet the licensing requirements of the State where the course is offered.

(Authority: 38 U.S.C. 3452, 3688)

* * * * *

12. In subpart D, a new § 21.4267 and its authority citations are added, to read as follows:

§ 21.4267 Approval of independent study.

(a) *Overview.* Except as provided in §§ 21.4252(g), 21.7120(c), and 21.7622(f), VA may not pay educational assistance for a nonaccredited course which is offered in whole or in part by independent study. Hence, it is necessary to differentiate independent study from similar courses.

(Authority: 38 U.S.C. 3014, 3672, 3676(e), 3680A(a))

(b) *Definition of independent study.* (1) VA considers a course to be offered entirely by independent study when—

(i) It consists of a prescribed program of study with provision for interaction either by mail, telephone, or personally between the student and the regularly employed faculty of the university or college;

(ii) It is offered without any regularly scheduled, conventional classroom or laboratory sessions; and

(iii) It is not a course listed in paragraph (c), (d), or (e) of this section.

(2) VA considers a course to be offered in part by independent study when—

(i) It is an undergraduate course;

(ii) It is not classified as one of the three types of courses listed in paragraph (c) of this section;

(iii) It has some weeks when standard class sessions are scheduled; and

(iv) It consists of independent study as defined in paragraph (b)(1) of this section during those weeks when there are no regularly scheduled class sessions.

(Authority: 38 U.S.C. 3676(e), 3680A(a))

(c) *Scope of independent study.* VA does not consider any of the following courses to be courses offered by independent study.

(1) A cooperative course as defined in § 21.4233(a);

(2) A farm cooperative course; or

(3) A course approved as a correspondence course.

(Authority: 38 U.S.C. 3676(e), 3680A(a))

(d) *Undergraduate resident training.* VA considers the following undergraduate courses to be resident training.

(1) A course which meets the requirements for resident institutional training found in § 21.4265(f);

(2) A course which requires regularly scheduled, standard class sessions at least once every two weeks and which has a total number of class sessions equal to the number of credit hours awarded for the course, times the number of weeks in a standard quarter or semester, as applicable;

(3) A course of student teaching; and

(4) Flight training which is an integral part of a standard undergraduate college degree.

(e) *Graduate resident training.* VA considers a graduate course to be resident training if the course—

(1) Is offered through regularly scheduled, conventional classroom or laboratory sessions; or

(2) Consists of research (either on campus or in absentia) necessary for the preparation of the student's—

(i) Master's thesis,
(ii) Doctoral dissertation, or
(iii) Similar treatise which is prerequisite to the degree being pursued; or
(3) Consists of a combination of training as described in paragraphs (e)(1) and (e)(2) of this section.

(Authority: 38 U.S.C. 3676(e), 3680A(a))

13. In § 21.4270, paragraphs (a) and (b) and footnote 1 to the table in paragraph (c) are revised, to read as follows:

§ 21.4270 Measurement of courses.

(a) *Measurement of trade, technical, and high school courses.* Trade, technical, high school, and high school preparatory courses shall be measured as stated in this paragraph.

(1) *Trade and technical courses.* (i) Except as provided in paragraph (b) of this section, if shop practice is an integral part of a trade or technical course not leading to a standard college degree—

(A) A full-time enrollment is 22 clock hours per week (exclusive of supervised study) with not more than 2½ hours rest period allowance;

(B) A three-quarter-time enrollment is 16 through 21 clock hours per week (exclusive of supervised study) with not more than 2 hours rest period allowance;

(C) A one-half-time enrollment is 11 through 15 clock hours per week (exclusive of supervised study) with not more than 1¼ hours rest period allowance;

(D) A less than one-half-time but more than one-quarter-time enrollment is 6 through 10 clock hours per week (exclusive of supervised study) with not more than ¾ hour rest period allowance; and

(E) A quarter-time enrollment is 1 through 5 clock hours per week (exclusive of supervised study).

(ii) Except as provided in paragraph (b) of this section, if theory and class instruction constitute more than 50 percent of the required hours in a trade or technical course not leading to a standard college degree, enrollments will be measured as follows. In measuring net instruction there will be included customary intervals not to exceed 10 minutes between classes. Shop practice and rest periods are excluded. Supervised instruction periods in a school's shops and the time involved in field trips and group instruction may be included in computing the clock hour requirements.

(A) A full-time enrollment is 18 clock hours net instruction per week (exclusive of supervised study);

(B) A three-quarter-time enrollment is 13 through 17 clock hours net instruction per week (exclusive of supervised study);

(C) A one-half-time enrollment is 9 through 12 clock hours net instruction per week (exclusive of supervised study);

(D) A less than one-half-time but more than one-quarter-time enrollment is 5 through 8 clock hours net instruction per week (exclusive of supervised study); and

(E) A quarter-time enrollment is 1 through 4 clock hours net instruction per week (exclusive of supervised study).

(2) *High school courses.* If a student is pursuing high school courses at a rate which would result in an accredited high school diploma in four ordinary school years, VA considers him or her to be enrolled full time. Otherwise, for high school enrollments, training time will be determined as follows. (For the purpose of this paragraph, a unit is not less than one hundred and twenty 60-minute hours or the equivalent of study in any subject in one academic year.)

(i) A full-time enrollment is 18 clock hours net instruction per week or four units per year or the equivalent;

(ii) A three-quarter-time enrollment is 13 through 17 clock hours net instruction per week or three units per year or the equivalent;

(iii) A one-half-time enrollment is 9 through 12 clock hours net instruction per week or two units per year or the equivalent;

(iv) A less than one-half-time but more than one-quarter-time enrollment is 5 through 8 clock hours net instruction per week or one unit per year or the equivalent; and

(v) A one-quarter-time enrollment is 1 through 4 clock hours net instruction per week.

(3) *Elementary school.* For a high school preparatory course pursued at the elementary school level—

(i) A full-time enrollment is 18 clock hours net instruction per week;

(ii) A three-quarter-time enrollment is 13 through 17 clock hours net instruction per week;

(iii) A one-half-time enrollment is 9 through 12 clock hours net instruction per week;

(iv) A less than one-half-time but more than one-quarter-time enrollment is 5 through 8 clock hours net instruction per week; and

(v) A one-quarter-time enrollment is 1 through 4 clock hours per week.

(Authority: 38 U.S.C. 3688(a))

(b) *Measurement of non-college degree courses offered by institutions of higher learning.* (1) Notwithstanding the provisions of paragraph (a)(1) of this section, if a student is enrolled in a course which is not leading to a standard college degree and which is offered by an institution of higher learning, VA will measure his or her enrollment in the same manner as collegiate undergraduate courses are measured according to the provisions of paragraph (c) of this section.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, if a student is enrolled in a course not leading to a standard college degree which is offered on a standard quarter- or semester-hour basis by an educational institution which is not an institution of higher learning, VA shall measure his or her enrollment in the same manner as collegiate undergraduate courses are measured according to the provisions of paragraph (c) of this section, provided that the educational institution requires at least the same minimum number of hours of weekly attendance as are required by paragraph (a)(1) of this section for courses offered on a clock-hour basis. If the educational institution does not require at least the same minimum number of hours of weekly attendance as are required in paragraph (a)(1) of this section, VA will not apply the provisions of paragraph (c) of this section, but will measure the course according to the criteria in paragraph (a)(1) of this section.

(Authority: 38 U.S.C. 3688(a)(7))

(c) *Collegiate graduate, professional and on-the-job training courses.* * * *

[1] Cooperative courses may be measured on a full-time basis only.

* * * * *

14. Section 21.4271 is removed and reserved.

15. In § 21.4272, paragraphs (e), (f), (h), and (i) are removed and reserved; and the introductory text and paragraph (g)(3) are revised, to read as follows:

§ 21.4272 Collegiate course measurement.

VA will measure a college level course in an institution of higher learning on a credit-hour basis provided all the conditions under paragraph (a) or (b) of this section are met. See also § 21.4273.

(Authority: 38 U.S.C. 3688)

* * * * *

(g) *Course measurement; nonstandard terms.* * * *

(3) The quotient resulting from the use of the formula is called equivalent credit hours. VA treats equivalent credit hours as credit hours for measurement purposes.

(Authority: 38 U.S.C. 3688(b))

* * * * *

16. Section 21.4280 is removed and reserved.

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

17. The authority citation for part 21, subpart K is revised to read as follows:

Authority: 38 U.S.C. 501(a); 38 U.S.C. ch. 30, unless otherwise noted.

18. In § 21.7020, paragraphs (b)(5) and (b)(6) are revised, and paragraph (b)(42) is added, to read as follows:

§ 21.7020 Definitions.

* * * * *

(b) *Other definitions.* * * *

(5) *Break in service.* (i) Except as provided in paragraph (b)(5)(ii) of this section, the term *break in service* means a period of more than 90 days between the date when an individual is released from active duty or otherwise receives a complete separation from active duty service and the date he or she reenters on active duty.

(ii) A period during which an individual is assigned full time by the Armed Forces to a civilian institution for a course of education substantially the same as established courses offered to civilians is not a break in service.

(Authority: 38 U.S.C. 3011, 3021)

(6) *Continuous active duty.* (i) The term *continuous active duty* means active duty served without interruption. An interruption in service will only be found when the individual receives a complete separation from active duty.

(ii) A period during which an individual on active duty is assigned full time by the Armed Forces to a civilian institution for a course of education substantially the same as established courses offered to civilians will not interrupt the continuity of the individual's active duty.

(iii) If an individual, during his or her initial obligated period of active-duty service, is separated from active duty to pursue a course of education at a service academy or a post-secondary school preparatory to enrollment at a service academy, no interruption in service will be found and the individual's service will be considered continuous active-duty service, provided he or she—

(A) Commences pursuit of a course of education at a service academy or post-secondary school,

(B) Fails to complete the course of education, and

(C) Immediately reenters on a period of active duty.

(iv) An individual who is discharged or released from active duty for a reason stated in paragraph (b)(6)(iv) of this section after serving not more than 12 months of his or her initial obligated period of active duty, and who subsequently reenlists or reenters on a period of active duty, will not be considered to have an interruption in service. Except as provided in paragraph (b)(6)(v) of this section, the individual's service during the two periods will be considered continuous active-duty service for the aggregate length of the two service periods. However, the individual's discharge or release from the initial obligated period of service must have been:

(A) For a service-connected disability,

(B) For a medical condition which preexisted such active-duty service and is not service connected,

(C) For a physical or mental condition not characterized as a disability and not resulting from the individual's own willful misconduct which interfered with the individual's performance of duty as determined by the Secretary concerned, or

(D) Involuntary, for the convenience of the Government as a result of a reduction in force as determined by the Secretary concerned.

(v) If the second period of active-duty service referred to in paragraph (b)(6)(iv) of this section is of such nature or character that, when aggregated with the initial period of service referred to in that paragraph, it would cause the individual to be divested of entitlement to educational assistance otherwise established by the initial period of active duty, the two periods of service will not be aggregated and will not be considered a single period of continuous active duty.

(vi) Time lost will not be considered to interrupt the continuity of service. For the purpose of this section, "time lost" includes excess leave, noncreditable time and not-on-duty time.

(Authority: 38 U.S.C. 3011, 3012)

* * * * *

(42) *Continuously enrolled.* The term *continuously enrolled* means being in an enrolled status at an educational institution for each day during the school year, and for consecutive school years. Continuity of enrollment is not broken by holiday vacations; vacation periods; periods during the school year between terms, quarters, or semesters; or by nonenrollment during periods of enrollment outside the school year (e.g., summer sessions).

(Authority: Sec. 313(b), Pub. L. 102–568, 106 Stat. 4333)

19. In § 21.7032, paragraph (a) and its authority citation are revised and paragraph (f) and its authority citation are added, to read as follows:

§ 21.7032 Time limits.

(a) *Scope of this section.* The provisions of this section are applicable to original applications, formal or informal; to reopened claims; and, to the extent indicated in paragraph (f) of this section, to elections to receive educational assistance under 38 U.S.C. chapter 30.

(Authority: 38 U.S.C. 3018B, 3034(a), 3471)

* * * * *

(f) *Time limit for completing certain elections.* An individual who seeks to establish eligibility to receive educational assistance under § 21.7045 must—

(1) Within one year of the date of the VA letter or other written notice to the individual indicating that additional evidence is needed in order to complete the claim, submit that evidence to VA. This time limit may be extended if the individual is able to show good cause for an extension of the period to the date on which he or she actually submits the additional evidence; and

(2) Submit the $1,200 VA is required pursuant to § 21.7045(c)(2) to collect before educational assistance can be awarded. A delay in submitting the $1,200 may result in a later effective date for the award to the individual, and in no event will VA accept payment of the $1,200 from the individual after the last date of eligibility as determined by § 21.7050 or § 21.7051. See § 21.7131(k).

(Authority: 38 U.S.C. 3018B)

20. In § 21.7042, the introductory text of paragraph (b)(7)(i) is amended by removing "as" and adding, in its place, "a" and by removing "relesed" and adding, in its place, "released"; the introductory text of paragraph (c)(3)(ii) is amended by removing "the individual is" and adding, in its place, "have been"; paragraph (f)(1) is amended by removing "in § 21.7045(b)" and adding, in its place, "in § 21.7045(b) or (c)"; and the introductory text of paragraph (a)(3) is revised, paragraph (a)(6) and its authority citation and paragraph (b)(7)(iii) are added, the introductory text of paragraph (c)(3) is revised, paragraphs (c)(3)(i), (c)(3)(iii)(A), and (c)(3)(iii)(B) are revised, and paragraph (c)(3)(iii)(C) is added, to read as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(a) *Eligibility based solely on active duty.* * * *

(3) Except as provided in paragraph (a)(6) of this section, the individual before completing the service

requirements of this paragraph must either—

* * * * *

(6) An individual who does not meet the requirements of paragraph (a)(3) of this section nevertheless is eligible for basic educational assistance if he or she—

(i) Was on active duty on August 2, 1990, and

(ii) Completes the requirements of a secondary school diploma (or an equivalency certificate) before October 29, 1994.

(Authority: 38 U.S.C. 3011)

(b) *Eligibility based on active duty service and service in the Selected Reserve.* * * *

(7) * * *

(iii) Before completing four years service in the Selected Reserve, the individual ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on September 30, 1999, by reason of the inactivation of the individual's unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to 10 U.S.C. 268(b). However, this exemption from the four-year service requirement does not apply to a reservist who ceases to be a member of the Selected Reserve under adverse conditions as characterized by the Secretary of the military department concerned, or to a reservist who after having involuntarily ceased to be a member of the Selected Reserve is involuntarily separated from the Armed Forces under adverse conditions as characterized by the Secretary of the military department concerned.

(Authority: 10 U.S.C. 16133(b)(1); 38 U.S.C. 3012(b)(1)(B); sec. 4421(b) and (c), Pub. L. 102–484, 106 Stat. 2718)

* * * * *

(c) *Eligibility based on withdrawal of election not to enroll.* * * *

(3) The individual must:

(i) Complete the period of service that he or she was obligated to serve on December 1, 1988, which will include completion of a period of extension or reenlistment if an individual's initial obligated period of service was scheduled to end after November 30, 1988, but he or she extended an enlistment or reenlisted before December 1, 1988; or

* * * * *

(iii) * * *

(A) Discharged or released from active duty for the convenience of the Government after completing not less than 20 months of that period of service if such period was less than three years, or 30 months, if that period was at least three years;

(B) Involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense; or

(C) Discharged or released from active duty for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service of the Navy).

* * * * *

21. In § 21.7044, paragraph (a)(3)(ii) is amended by removing "degree. This may be done at any time." and adding, in its place, "degree, which may be done at any time;" paragraph (a)(4)(i)(E) is amended by removing "or;" and adding, in its place, "or"; paragraph (a)(4)(i)(F) is amended by removing "Navy." and adding, in its place, "Navy;" and paragraph (a)(4)(i)(F) is further amended by removing its authority citation; paragraph (a)(5)(iv) is amended by removing "service;" and adding, in its place, "service; and"; and the heading, paragraph (a)(6), the authority citation for paragraph (a), and paragraph (b)(8)(ii)(B) are revised, and paragraphs (b)(8)(iii) and (b)(12) and their authority citations are added, to read as follows:

§ 21.7044 Persons with 38 U.S.C. ch. 34 eligibility.

* * * * *

(a) *Eligibility based solely on active duty.* * * *

(6) The individual must have been on active duty at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, and continued on active duty without a break in service.

(Authority: 38 U.S.C. 3011)

(b) *Eligibility based on combined active duty service and service in the Selected Reserve.* * * *

(8) * * *

(ii) * * *

(B) For a medical condition which preexisted that period of active duty and which VA determines is not service connected, or

(iii) Before completing four years service in the Selected Reserve the individual ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on September 30, 1999, by reason of the inactivation of the individual's unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to 10 U.S.C. 268(b). However, this exemption from the four years service requirement does not apply to a reservist who ceases to be a member of the Selected Reserve under adverse conditions as characterized by the Secretary of the military department concerned, or to a reservist who after having involuntarily ceased to be a member of the Selected Reserve is involuntarily separated from the Armed Forces under adverse conditions as characterized by the Secretary of the military department concerned.

(Authority: 10 U.S.C. 16133(b)(1); sec. 4421(b) and (c), Pub. L. 102–484, 106 Stat. 2718)

* * * * *

(12) The individual must have been on active duty at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, and continued on active duty without a break in service.

(Authority: 38 U.S.C. 3012(a)(1)(B))

* * * * *

22. Section 21.7045 is revised to read as follows:

§ 21.7045 Eligibility based on involuntary separation or voluntary separation.

An individual who fails to meet the eligibility requirements found in § 21.7042 or § 21.7044 nevertheless will be eligible for educational assistance as provided in subpart K of this part if he or she meets the requirements of paragraph (a) and either paragraph (b) or (c) of this section.

(a) *Service requirements.* The individual must meet one of the following sets of service requirements.

(1) The individual must—

(i) Be on active duty or full-time National Guard duty either on September 30, 1990, or on or after November 30, 1993, and

(ii) After February 2, 1991, be involuntarily separated, as that term is defined in 10 U.S.C. 1141, with an honorable discharge; or

(2) The individual must—

(i) Be separated from active military, naval, or air service with an honorable discharge, and

(ii) Receive voluntary separation incentives under 10 U.S.C. 1174a or 1175.

(Authority: 38 U.S.C. 3018A)

(b) *Additional requirements for those individuals voluntarily separated after October 22, 1992, or involuntarily separated.* An individual who meets the requirements of paragraph (a)(1) of this section, or an individual who meets the requirements of paragraph (a)(2) of this section and was separated after October 22, 1992, must meet the following additional requirements in order to establish eligibility for educational assistance.

(1) *Required election.* (i) If, under § 21.7042(f), the individual elected not to receive educational assistance under 38 U.S.C. ch. 30, he or she must irrevocably withdraw that election and make an election to receive educational assistance under 38 U.S.C. ch. 30. The withdrawal and the election must be made:

(A) Before the involuntary or voluntary separation as the case may be, and

(B) Pursuant to procedures which the Secretary of the military department concerned provides in accordance with regulations prescribed by the Secretary of Defense or which the Secretary of Transportation provides with respect to the Coast Guard when it is not operating as a service in the Navy; and

(ii) If the individual is a participant (as defined in § 21.5021(e)) in the educational program provided in 38 U.S.C. ch. 32, the individual must make an irrevocable election to receive educational assistance under 38 U.S.C. ch. 30 rather than under 38 U.S.C. ch. 32. Such an election must be made:

(A) Before the individual is involuntarily or voluntarily separated as the case may be, and

(B) Pursuant to procedures which the Secretary of the military department concerned provides in accordance with regulations prescribed by the Secretary of Defense or which the Secretary of Transportation provides with respect to the Coast Guard when it is not operating as a service in the Navy; or

(iii) If the individual is not described in either paragraph (b)(1)(i) or (b)(1)(ii) of this section, he or she must make an irrevocable election to receive educational assistance under 38 U.S.C. ch. 30. This election must be made:

(A) Before the individual is involuntarily or voluntarily separated as the case may be, and

(B) Pursuant to procedures which the Secretary of the military department concerned provides in accordance with regulations prescribed by the Secretary of Defense or which the Secretary of Transportation provides with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) *Reduction in basic pay.* The basic pay of anyone who makes one of the irrevocable elections described in paragraph (b)(1) of this section is required by 38 U.S.C. 3018B to be reduced by $1,200.

(i) If for any reason the basic pay of an individual who received an involuntary separation is not so reduced by $1,200, the failure to make the reduction will not affect the individual's eligibility for educational assistance under 38 U.S.C. ch. 30.

(ii) If the individual is voluntarily separated, such reduction of the individual's basic pay by $1,200 is a precondition to establishing eligibility. Hence, educational assistance under 38 U.S.C. ch. 30 may not be paid to such an individual when the reduction does not occur.

(3) *Educational requirement.* (i) Before the date on which VA receives the individual's application for educational assistance under subpart K of this part, the individual must have successfully completed either:

(A) The requirements of a secondary school diploma (or equivalency certificate), or

(B) 12 semester hours (or the equivalent) in a program of education leading to a standard college degree.

(ii) If a veteran's application for educational assistance is denied due to failure to meet the requirements of paragraph (b)(3)(i) of this section at the time of his or her application for educational assistance, the veteran may reapply if the requirements are subsequently met.

(Authority: 38 U.S.C. 3018B)

(c) *Additional requirements for individuals who are voluntarily discharged before October 23, 1992.* If an individual meets the requirements of paragraph (a)(2) of this section and is voluntarily discharged before October 23, 1992, he or she must also meet the following requirements in order to establish eligibility for educational assistance.

(1) *Required election.* (i) If, under § 21.7042(f), the individual elected not to receive educational assistance under 38 U.S.C. ch. 30, he or she must irrevocably withdraw that election and make an election to receive educational assistance under 38 U.S.C. ch. 30. The withdrawal and the new election must be made:

(A) Before October 23, 1993, and

(B) In the form and manner prescribed by the Secretary of Veterans Affairs; and

(ii) If the individual is a participant (as defined in § 21.5021(e)) in the educational program provided in 38 U.S.C. ch. 32, the individual must make an irrevocable election to receive educational assistance under 38 U.S.C. ch. 30 rather than under 38 U.S.C. ch. 32. Such an election must be made:

(A) Before October 23, 1993, and

(B) In the form and manner prescribed by the Secretary of Veterans Affairs.

(iii) If the individual is not described in either paragraph (c)(1)(i) or (ii) of this section, he or she must make an irrevocable election to receive educational assistance under 38 U.S.C. ch. 30. This election must be made:

(A) Before October 23, 1993, and

(B) In the form and manner prescribed by the Secretary of Veterans Affairs.

(2) *$1,200 collection.* VA must collect $1,200 from the individual before awarding educational assistance under 38 U.S.C. ch. 30. Collection of $1,200 is a precondition to establishing eligibility.

(3) *Educational requirement.* (i) Before the date on which VA receives the individual's application for educational assistance under subpart K of this part, the individual must have successfully completed either:

(A) The requirements of a secondary school diploma (or equivalency certificate), or

(B) 12 semester hours (or the equivalent) in a program of education leading to a standard college degree.

(ii) If a veteran's application for educational assistance under subpart K of this part is denied due to failure to meet the requirements of paragraph (c)(3)(i) of this section at the time of his or her application for educational assistance, the veteran will be permitted to apply at a later date.

(Authority: 38 U.S.C. 3018B)

§ 21.705 [Amended]

23. Section 21.7050(b)(1) is amended by removing "October 18, 1984" and adding, in its place, "June 30, 1985".

24. In § 21.7072, paragraph (b) heading, paragraph (b)(1) introductory text, and the authority citation for paragraph (b)(1) are revised, to read as follows:

§ 21.7072 Entitlement to basic educational assistance.

* * * * *

(b) *Entitlement: individual discharged for service-connected disability, a medical condition which preexisted service, hardship, or involuntarily for the convenience of the Government as a result of a reduction in force.* (1) Except as provided in § 21.7073, when the provisions of paragraph (b) of this section are met, an eligible individual is entitled to one month of basic educational assistance (or equivalent thereof in part-time basic educational assistance) for each month of the

individual's continuous active duty service that is after June 30, 1985, and that, in the case of an individual who had no previous eligibility under 38 U.S.C. ch. 34, is part of the individual's initial obligated period of active duty. In the case of a veteran to whom the definition of continuous active duty found in either § 21.7020(b)(6)(iii) or § 21.7020(b)(6)(iv) applies, the length of the continuous active duty will be the aggregate length of the periods of active duty referred to in those paragraphs. Except as provided in § 21.7073, VA will apply paragraph (b) of this section when the individual:

* * * * *

(Authority: 38 U.S.C. 3011(f), 3013(a))

* * * * *

25. In § 21.7120, paragraph (d) and its authority citation are added, to read as follows:

§ 21.7120 Courses included in programs of education.

* * * * *

(d) *Independent study.* (1) Except as provided in paragraph (d)(2) of this section, effective October 29, 1992, VA may pay educational assistance to a veteran or servicemember who is enrolled in a nonaccredited course or unit subject offered entirely or partly by independent study only if—

(i) Successful completion of the nonaccredited course or unit subject is required in order for the veteran or servicemember to complete his or her program of education,

(ii) On October 29, 1992, the veteran or servicemember was receiving educational assistance for pursuit of the program of education of which the nonaccredited independent study course or unit subject forms a part, and

(iii) The veteran or servicemember has remained continuously enrolled in the program of education of which the nonaccredited independent study course or unit subject forms a part from October 29, 1992, to the date of enrollment by the veteran or servicemember in the nonaccredited independent study course or unit subject.

(2) Notwithstanding the provisions of paragraph (d)(1) of this section, VA may pay educational assistance to a veteran or servicemember for enrollment in a course or unit subject offered by independent study which, though part of an approved program of education, is not required in order for the veteran or servicemember to complete the program of education (i.e., an elective) when—

(i) The veteran or servicemember was enrolled in and receiving educational assistance for the course or unit subject on October 29, 1992, and

(ii) The veteran or servicemember remains continuously enrolled in the course or unit subject.

(3) Whether or not the veteran or servicemember is enrolled will be determined by the regularly prescribed standards and practices of the educational institution offering the course or unit subject.

(Authority: 38 U.S.C. 3014, 3034, 3076, 3680A(a); sec. 313(b), Pub. L. 102–568, 106 Stat. 4333)

26. In § 21.7122, paragraphs (e)(5) and (e)(6) and the authority citation for paragraph (e) are revised, and paragraph (e)(7) is added, to read as follows:

§ 21.7122 Courses precluded.

* * * * *

(e) *Other courses.* * * *

(5) Except as provided in § 21.4252(j), a course from which the veteran or servicemember withdrew without mitigating circumstances,

(6) An enrollment in a course offered by a proprietary school when the veteran or servicemember is an official of the school authorized to sign certificates of enrollment or monthly certificates of attendance or monthly certifications of pursuit, an owner of the school, or an operator of the school, or

(7) Except as provided in § 21.7120(d), an enrollment in a nonaccredited independent study course.

(Authority: 38 U.S.C. 3002(3), 3034, 3672(a), 3676, 3680(a), 3680A(a))

27. In § 21.7131, paragraph (j) is added, to read as follows:

§ 21.7131 Commencing dates.

* * * * *

(j) *Service Members Occupational Conversion and Training Act of 1992.* If the veteran's educational assistance has been discontinued because the veteran is training under a job training program for which benefits are payable to his or her employer under the Service Members Occupational Conversion and Training Act of 1992, VA will determine the date upon which educational assistance may be resumed as follows.

(1) When the veteran is pursuing a program of education on the last date for which benefits are payable under that Act, payments will be resumed on the day following that date.

(2) When the veteran is not pursuing a program of education on the last date for which benefits are payable under that Act, payments will be resumed on the commencing date as determined by paragraphs (a) through (i) of this section, but not before the day following the last date for which benefits are payable under that Act.

(Authority: Sec. 4492(a), Pub. L. 102–484, 106 Stat. 2765–2766)

28. In § 21.7135, paragraph (z) is redesignated as paragraph (bb); and paragraph (a) and its authority citation are revised, and paragraphs (z) and (aa) and their authority citations are added, to read as follows:

§ 21.7135 Discontinuance dates.

* * * * *

(a) *Death of veteran or servicemember.* (1) If the veteran or servicemember receives an advance payment pursuant to 38 U.S.C. 3680(d) and dies before the period covered by the advance payment ends, the discontinuance date of educational assistance shall be the last date of the period covered by the advance payment.

(2) In all other cases if the veteran or servicemember dies while pursuing a program of education, the discontinuance date of educational assistance shall be the last date of attendance.

(Authority: 38 U.S.C. 3014, 3023, 3680)

* * * * *

(z) *Independent study course loses accreditation.* Except as otherwise provided in § 21.7120(d), if the veteran or servicemember is enrolled in a course offered in whole or in part by independent study, and the course loses its accreditation (or the educational institution offering the course loses its accreditation), the date of reduction or discontinuance will be the effective date of the withdrawal of accreditation by the accrediting agency.

(Authority: 38 U.S.C. 3014, 3034, 3676, 3680A(a))

(aa) *Service Members Occupational Conversion and Training Act of 1992.* If a veteran enters a training program for the purpose of obtaining assistance under the Service Members Occupational Conversion and Training Act of 1992, the effective date of discontinuance of educational assistance shall be the date on which the veteran entered the job training program.

(Authority: Sec. 4492(a), Pub. L. 102–484, 106 Stat. 2765–2766)

* * * * *

29. In § 21.7136, paragraphs (a), (b), (c), (d) and (e) are redesignated as paragraphs (b), (c), (d), (e) and (f), respectively; the introductory text of newly redesignated paragraph (f) is amended by removing "§ 21.7045(b)(2)" and adding, in its place, "§ 21.7045(b)(1)(ii) or (c)(1)(ii)"; and introductory text is added to the section, paragraph (a) is added, newly redesignated paragraphs (b) and (c) are revised to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

The monthly rate of educational assistance payable to a veteran or servicemember depends in part upon the service requirements he or she met to establish eligibility for that educational assistance.

(a) *Service requirements for higher rates.* The monthly rate of basic educational assistance payable to a veteran or servicemember shall be the rate stated in paragraph (b) of this section when—

(1) The veteran has established eligibility for educational assistance under § 21.7045; or

(2) The veteran has established eligibility under § 21.7042, and one of the following sets of circumstances exist.

(i) The veteran's initial obligated period of active duty is at least three years; or

(ii) The veteran's initial obligated period of active duty is at least two years and less than three years and either the veteran has served or is committed to serve in the Selected Reserve for a period of at least four years, or the veteran was committed to serve in the Selected Reserve for a period of at least four years but failed to complete four years service for one of the reasons stated in § 21.7042(b)(7)(i) or (iii); or

(iii) The veteran's initial obligated period of active duty is at least two years and less than three years and—

(A) The basic educational assistance is payable for training received after August 31, 1993;

(B) The veteran's continuous active duty service beginning on the date of the commencement of his or her initial obligated period of active duty is at least three years and upon completion of that continuous period of active duty the veteran either—

(*1*) Continues on active duty; or

(*2*) Is discharged from active duty with an honorable discharge; or

(*3*) Is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, transferred to the Fleet Reserve or the Fleet Marine Corps Reserve, placed on the temporary disability retired list; or

(*4*) Is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(Authority: 38 U.S.C. 3015(a))

(b) *Rates.* (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, the monthly rate of basic educational assistance payable to a veteran whose service meets the requirements of paragraph (a) of this section is the rate stated in the following table.

Training	Monthly rate
Full time	$400.00.
¾ time	300.00.
½ time	200.00.
Less than ½ but more than ¼ time.	200.00 See § 21.7136(d).
¼ time or less	100.00 See § 21.7136(d).

(Authority: 38 U.S.C. 3015(c), 3015(f))

(2) If a veteran's service is described in paragraph (a) of this section, the monthly rate of basic educational assistance payable when he or she is pursuing an apprenticeship or other on-job training is the rate stated in the following table.

Training period	Monthly rate
First six months of pursuit of program	$300.00
Second six months of pursuit of program	220.00
Remaining pursuit of program	140.00

(Authority: 38 U.S.C. 3015, 3032(c))

(3) If a veteran's service is described in paragraph (a) of this section, the monthly rate of basic educational assistance payable when he or she is pursuing a cooperative course is $320.

(Authority: 38 U.S.C. 3015(f), 3032(d))

(c) *Rates for some veterans whose initial obligated period of active duty is less than three years.* If a veteran has established eligibility under § 21.7042, but the veteran's service is not described in paragraph (a)(2) of this section, the monthly rate of educational assistance payable to the veteran shall be determined by this paragraph.

(1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, the monthly rate of basic educational assistance payable to a veteran is the amount stated in the following table.

Training	Monthly rate
Full time	$325.00.
3/4 time	243.75.
1/2 time	162.50.
Less than 1/2 but more than 1/4 time.	162.50 See § 21.7136(d).
1/4 time or less	81.25 See § 21.7136(d).

(Authority: 38 U.S.C. 3015(c))

(2) The monthly rate of educational assistance payable to a veteran who is pursuing an apprenticeship or other on-job training is the rate stated in the following table.

Training period	Monthly rate
First six months of pursuit of program	$243.75
Second six months of pursuit of program	178.75
Remaining pursuit of program	113.75

(Authority: 38 U.S.C. 3032(c))

(3) The monthly rate of basic educational assistance payable to a veteran is $260 when the veteran is pursuing a cooperative course.

(Authority: 38 U.S.C. 3015)

* * * * *

30. In § 21.7137, the heading and paragraphs (a)(1), (a)(2), and (c) are revised, to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. ch. 34.

(a) *Minimum rates.* (1) Except as provided in paragraph (a)(2) of this section, the monthly rate of basic educational assistance will be the rate stated in the following table.

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Full time	$588.00	$624.00	$655.00	$16.00
¾ time	441.00	468.00	491.50	12.00
½ time	294.00	312.00	327.00	8.50
Less than ½ but more than ¼ time	294.00 See § 21.7137(b)			

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
¼ time or less	147.00 See § 21.7137(b)			
Cooperative	441.60	462.00	481.60	9.20

(Authority: 38 U.S.C. 3015(c), 3015(f))

(2) For veterans pursuing an apprenticeship or other on-job training, the monthly rate of basic educational assistance will be the rate stated in the following table.

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st 6 mos. of pursuit of program	$402.75	$415.13	$426.00	$5.25
2nd 6 mos. of pursuit of program	276.38	285.73	293.43	3.85
3rd 6 mos. of pursuit of program	163.80	169.93	174.65	2.45
Remaining pursuit of program	151.90	157.68	162.93	2.45

(Authority: 38 U.S.C. 3015(d), 3015(f))

* * * * *

(c) *Rates for servicemembers.* The monthly rate of educational assistance for a servicemember may not exceed the lesser of the following rates (except as provided in paragraph (d) of this section):

(1) The monthly pro-rated cost of the course.

(2) The following monthly rates—

(i) $588.00 for full-time training,

(ii) $441.00 for three-quarter-time training,

(iii) $294.00 for one-half time training and training that is less than one-half, but more than one-quarter-time training, and

(iv) $147.00 for one-quarter-time training.

(Authority: 38 U.S.C. 3015(d), 3015(f))

31. In § 21.7145, paragraph (e) is revised, to read as follows:

§ 21.7145 Work-study allowance.

* * * * *

(e) *Payment in advance.* VA will pay in advance an amount equal to the lesser of the following:

(1) 40 percent of the total amount payable under the contract, or

(2) An amount equal to 50 times the applicable minimum hourly wage in effect on the date the contract is signed.

(Authority: 38 U.S.C. 3485)

32. In § 21.7152, paragraph (b)(3)(ii) is removed; paragraph (b)(3)(iii) is redesignated as paragraph (b)(3)(ii); and paragraph (b)(3)(i) is revised, to read as follows:

§ 21.7152 Certification of enrollment.

* * * * *

(b) *Length of the enrollment period covered by the enrollment certification.*

* * * * *

(3) * * *

(i) The enrollment date, and

* * * * *

33. In § 21.7170, paragraphs (b) and (g) are removed; paragraphs (c), (d), (e) and (f) are redesignated as paragraphs (b), (c), (d) and (e), respectively; and the introductory text and paragraph (a) are revised, to read as follows:

§ 21.7170 Course measurement.

In administering benefits payable under 38 U.S.C. chapter 30, VA shall apply the following sections.

(a) § 21.4270 (except paragraphs (a)(2) and (a)(3) and those portions of paragraph (c) and footnotes dealing with farm cooperative training)—Measurement of courses,

(Authority: 38 U.S.C. 3034, 3688)

* * * * *

34. In § 21.7172, paragraphs (a)(1), (a)(2), and (d) are revised, to read as follows:

§ 21.7172 Measurement of concurrent enrollments.

(a) *Conversion of units of measurement required.* * * *

(1) If VA measures the courses at the primary institution on a credit-hour basis (including a course which does not lead to a standard college degree, which is being measured on a credit-hour basis), and VA measures the courses at the second school on a clock-hour basis, the clock hours will be converted to credit hours.

(2) If VA measures the courses pursued at the primary institution on a clock-hour basis, and VA measures the courses pursued at the second school on a credit-hour basis, VA will convert the credit hours to clock hours to determine the veteran's training time.

(Authority: 38 U.S.C. 3034, 3688)

* * * * *

(d) *Both courses measured on a credit hour basis or both courses measured on a clock hour basis.* If VA measures the courses pursued at both institutions on a credit hour basis or on a clock hour basis, VA will measure the veteran's enrollment by adding together the units of measurement for the courses at the second school and the units of measurement for the courses at the primary institution. The standard for full time will be the full-time standard for the courses at the primary institution.

(Authority: 38 U.S.C. 3034, 3688)

35. In § 21.7220, paragraph (b) introductory text is revised, paragraphs (b)(9) and (b)(10) are revised, paragraph (b)(11) is added, and the authority citation for paragraph (b) is revised, to read as follows:

§ 21.7220 Course approval.

* * * * *

(b) *Course approval criteria.* In administering benefits payable under 38 U.S.C. chapter 30, VA and, where appropriate, the State approving agencies, shall apply the following sections.

* * * * *

(9) Section 21.4265—Practical training approved as institutional training or on-job training,

(10) Section 21.4266—Courses offered at subsidiary branches or extensions,

(11) Section 21.4267—Approval of independent study.

(Authority: 38 U.S.C. 3034, 3476, 3672, 3675, 3676, 3678, 3679, 3680A, 3689)

* * * * *

36. In § 21.7222, paragraph (e) and its authority citation are revised, to read as follows:

§ 21.7222 Courses and enrollments which may not be approved.

* * * * *

(e) Except as provided in § 21.7120(d), an independent study course which—

(1) Does not lead to a standard college degree, or

(2) Is a nonaccredited course.

(Authority: 38 U.S.C. 3676, 3680A)

37. In § 21.7280, paragraph (b)(1) is revised, to read as follows:

§ 21.7280 Death benefit.

* * * * *

(b) *Necessary criteria for death benefit.* * * *

(1) The individual either—

(i) Dies while on active duty, or

(ii) Dies after October 28, 1992, and his or her date of death is within one year after the date of his or her last discharge or release from active duty; and

* * * * *

(FR Doc. 96–3780 Filed 2–21–96; 8:45 am)

BILLING CODE 8320–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1370

RIN 0970–AB21

Family Violence Prevention and Services Programs

AGENCY: Administration for Children and Families (ACF), HHS.

ACTION: Final rule.

SUMMARY: This final rule establishes requirements for sections 303, 308, 311, and 314 of the Family Violence Prevention and Services Act, as amended, and provides States, Indian tribes and other grantees with information on grants available under these sections of the statute.

EFFECTIVE DATE: March 25, 1996.

ADDRESSES: Administration for Children and Families, Office of Community Services, Fifth Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: William D. Riley, (202) 401–5529.

SUPPLEMENTARY INFORMATION: Sections 311(h) and 312(a) of the Family Violence Prevention and Services Act, as amended, require the Secretary to publish regulations implementing sections 303, 308, 311, and 314, of the Act. These final regulations address this requirement.

Program Description

The Family Violence Prevention and Services Act (the Act) authorizes formula and discretionary grant programs which fund a range of activities designed to both prevent family violence and provide services to victims of family violence. Enacted as title III of the Child Abuse Amendments of 1984, the Act was amended and reauthorized by Public Law 102–295, the Child Abuse, Domestic Violence, Adoption, and Family Services Act of 1992. The Act was further amended by Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994, also known as the "Crime Bill".

Under section 303 of the Act, funds are awarded as formula grants to States and Indian tribes and tribal organizations to assist in supporting activities to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents. These grants have supplemented many already established community-based family violence prevention and service activities. They also have allowed States and tribes to expand current service programs and establish additional new shelters in rural and underserved areas, on reservations, and in Alaskan Native Villages and Regional Corporation Areas. In most areas, there is private sector as well as State and local funding for these emergency shelters.

Under section 311 of the Act, added by the 1992 amendments, formula grants are available to private non-profit State domestic violence coalitions to conduct domestic violence intervention and prevention activities and to increase public awareness of domestic violence issues. Grant funds support training and technical assistance activities as well as public education services.

The 1992 amendments also added a new section 308 to the Act which requires the Secretary to establish and maintain a national resource center for family violence prevention and services and up to six special issue resource centers. The Crime Bill increased the allowed number of special issue resource centers to seven. The purpose of the national resource center and the special issue resource centers is to offer resource, policy, and technical assistance and training assistance to Federal, State, and local government agencies, to domestic violence service providers, and to other professionals and interested parties on issues pertaining to domestic violence.

Currently, the national resource center maintains a central resource library to collect and disseminate information relating to the incidence and prevention of family violence and the provision of immediate shelter and related assistance. The special interest resource centers provide a specialization, on a nationwide basis, in at least one area of domestic violence service, prevention, or law.

Discretionary grants also are awarded under section 314 of the Act to public and private non-profit agencies, including Indian tribes and tribal organizations to assist in the development of public information and community awareness campaign activities that will serve as information models for the prevention of family violence.

Approach to Writing the Final Rule

A notice of proposed rulemaking (NPRM) was published in the **Federal Register** on December 10, 1993 (58 FR 64920). Two letters containing comments were received in response to the NPRM. Later in the preamble, we summarize the comments and respond to them. No changes have been made to the regulation in response to comments received.

In February of 1995, the President announced a Regulatory Reinvention Initiative as part of the National Performance Review, calling for more immediate, comprehensive regulatory reform. As part of this initiative, he directed all agencies to undertake an exhaustive review of all regulations—with an eye toward eliminating or modifying those that are obsolete or which are otherwise in need of reform. With this in mind, we reexamined the language in the NPRM to see whether the final regulation could achieve the same objectives in a simpler, more consistent, and more flexible manner.

The NPRM generally did not reiterate the statute or list all applicable regulations. Rather, it stated broadly that grantees must meet the statutory requirements of the Act as well as all applicable regulations, and it referenced the pertinent program funding announcements in each of the four sections of the proposed rule. The program funding announcements, which are published in the **Federal Register**, describe the relevant statutory and regulatory requirements, as well as

information about funding availability and the grant application process.

The final rule retains the approach outlined in the NPRM while removing several unnecessary paragraphs to improve regulatory flexibility and consistency. The NPRM listed financial and program reporting requirements for grantees under paragraphs (b) and (c) of section 1370.2, paragraphs (b) and (c) of section 1370.3, paragraphs (b) and (c) of section 1370.4, and paragraphs (b) and (c) of section 1370.5. After careful reexamination, we have removed these paragraphs from the NPRM. Also, we have added clarifying language in sections 1370.2, 1370.3, 1370.4, and 1370.5 of the final rule which makes clear that all applicable reporting requirements are to be found in the program funding announcements.

For similar reasons, we have removed paragraphs (d) and (e) of § 1370.2 of the NPRM to be consistent with the way in which the final rule treats other statutory requirements. Paragraphs (d) and (e), which concern State and Indian Tribal formula grants, spelled out certain statutorily-related provisions concerning confidentiality of records and tribal authorization requirements. Because they are described in the funding announcement for the State and Indian Tribal formula grant program, they do not need to be repeated in the regulatory text. We have added clarifying language that applicable statutory requirements are described in the program funding announcements.

No other changes have been made to the notice of proposed rulemaking.

Discussion of Part 1370—Family Violence Prevention and Services Programs

Purpose (Sec. 1370.1)

This section states that sections 303, 308, 311, and 314 of the Family Violence Prevention and Services Act are addressed in 45 CFR Part 1370 and states that all programs authorized under the Act are funded subject to the availability of funds.

State and Indian Tribal Grants (Sec. 1370.2)

This section establishes requirements for formula grants to States and Indian tribes and tribal organizations under section 303 of the Act.

Information and Technical Assistance Center Grants (Sec. 1370.3)

This section establishes requirements to support a national resource center and up to seven special issue resource centers under section 308 of the Act.

State Domestic Violence Coalition Grants (Sec. 1370.4)

This section establishes requirements for formula grants to State domestic violence coalitions under section 311 of the Act.

Public Information Campaign Grants (Sec. 1370.5)

This section establishes requirements to fund discretionary grants for public information campaigns under section 314 of the Act.

Discussion of Comments Received

Two letters containing comments were received in response to the notice of proposed rulemaking published in the **Federal Register** on December 10, 1993. One commenter represented a State program and the other represented a national association.

The comments are summarized below and are followed by the Department's response.

Comment: One commenter, representing a State program, concurred with the rules and procedures proposed in the NPRM. The commenter also stressed the need for State and Indian tribal grantees to have an active, collaborative relationship with recipients of grants under those sections of the Act covered by the regulation and recommended that the Federal government establish guidelines for such collaboration.

Response: We agree with the commenter about the importance of collaboration among grantees, other governmental agencies, organizations, and individuals involved in family violence prevention and service activities. Currently, recipients of the State Domestic Violence Coalition grants participate with the State family violence grantees in monitoring and compliance activities. In addition, the national resource center and the three special issue resource centers we have funded have formed collaborative and participatory relationships not only with State and tribal grantees but with other organizations, scholars, practitioners, and individuals in the areas of domestic violence prevention and services. We believe that, rather than enacting a single set of Federal guidelines for collaboration, it is preferable to retain the option of promoting collaboration through a variety of methods which can be periodically reviewed and easily refined or augmented where necessary.

Comment: A commenter from a national association noted that family violence programs have the potential to offer needed services, information and support to older persons who are the victims of violence occurring in the context of family relationships. The commenter encouraged the Department of Health and Human Services to obtain information from grantees concerning the extent to which older people are served through the programs and to seek information about good practices regarding services to older victims and prevention activities targeted to older persons.

Response: Recipients of State and Indian tribal formula grants are asked to submit annual program activity reports which contain, among other things, a description of the characteristics and demographics of the persons served by service or activity. The reports also describe the major activities supported by the Family Violence Prevention and Services Act funds and the specific priorities addressed by the State, tribe or tribal organization as well as describing the prevention activities supported during the program year. We expect the annual reports to provide information on the numbers of elderly served and on the types of activities and services which affect this population. In addition, the Administration on Aging, in cooperation with the Administration for Children and Families, in the Department of Health and Human Services is currently funding a study of elder abuse in domestic settings. The study is being carried out by the National Center on Elder Abuse.

Regulatory Procedures

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. No costs are associated with this rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The primary impact of these rules is on State governments, non-profit organizations and individuals. We certify that these rules will not have a significant impact on a substantial number of small entities because they simply establish procedures for grant applications and include no standards or requirements which would burden small entities. Thus, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The regulation contains no information collection requirements which are subject to review and approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 45 CFR Part 1370

Aged, Child welfare, Grant programs—Social programs, Domestic violence, Family violence, Spouse abuse, Elder abuse and neglect.

(Catalog of Federal Domestic Assistance Programs: 93.671, Family Violence Prevention and Services Program)

Dated: January 31, 1996.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the preamble, Title 45, Chapter XIII, of the Code of Federal Regulations is amended by adding a new subchapter H consisting of part 1370 to read as follows:

SUBCHAPTER H—FAMILY VIOLENCE PREVENTION AND SERVICES

PART 1370—FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAMS

Sec.

1370.1 Purpose.
1370.2 State and Indian tribal grants.
1370.3 Information and technical assistance center grants.
1370.4 State domestic violence coalition grants.
1370.5 Public information campaign grants.

Authority: 42 U.S.C. 10401 *et seq.*

§ 1370.1 Purpose.

This part addresses sections 303, 308, 311, and 314 of the Family Violence Prevention and Services Act (the Act), as amended (42 U.S.C. 10401 et seq.). The Act authorizes the Secretary to implement programs for the purposes of increasing public awareness about and preventing family violence; providing immediate shelter and related assistance for victims of family violence and their dependents; and providing for technical assistance and training relating to family violence programs to States, tribes, local public agencies (including law enforcement agencies, courts, legal, social service, and health care professionals), non-profit private organizations and other persons seeking such assistance. All programs authorized under the Act are funded subject to the availability of funds.

§ 1370.2 State and Indian tribal grants.

Each grantee awarded funds under section 303 of the Act must meet the statutory requirements of the Act and all applicable regulations. An announcement which describes the application process, including information on statutory requirements, other applicable regulations, and any required financial and program reports, is published in the **Federal Register.**

§ 1370.3 Information and technical assistance center grants.

Each grantee awarded funds under section 308 of the Act must meet the statutory requirements of the Act and all applicable regulations. An announcement which describes the application process, including information on statutory requirements, other applicable regulations, and any required financial and program reports, is published in the **Federal Register.**

§ 1370.4 State domestic violence coalition grants.

Each grantee awarded funds under section 311 of the Act must meet the statutory requirements of the Act and all applicable regulations. An announcement which describes the application process, including information on statutory requirements, other applicable regulations, and any required financial and program reports, is published in the **Federal Register.**

§ 1370.5 Public information campaign grants.

Each grantee awarded funds under section 314 of the Act must meet the statutory requirements of the Act and all applicable regulations. An announcement which describes the application process, including information on statutory requirements, other applicable regulations, and any required financial and program reports, is published in the **Federal Register.**

[FR Doc. 96–3931 Filed 2–21–96; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018–AD61

Addition of Bigleaf Mahogany to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule announces the addition to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) of bigleaf mahogany (Swietenia macrophylla) from the Americas and its saw-logs, sawn wood and veneers only, as submitted by the Government of Costa Rica. A list of the species contained in the CITES appendices is presented for informational purposes in the U.S. Code of Federal Regulations at 50 CFR 23.23. The Service will consider any comments received on whether to enter a reservation on the addition of this species to Appendix III. Second, a phrase is revised in 50 CFR 23.23(d) to clarify that the regulated parts and derivatives of plants are in some cases presented categorically, and in others set out with the particular entry on the species in the list.

DATES: This rule is effective on February 22, 1996. The recent change to Appendix III set forth in this rule entered into force on November 16, 1995, under the terms of the Convention.

ADDRESSES: Please send correspondence concerning the amendment announced in this rule to Chief, Office of Scientific Authority, ARLSQ 725, U.S. Fish and Wildlife Service, Washington, DC 20240; fax number 703–358–2276. Express and messenger deliveries should be addressed to Chief, Office of Scientific Authority, Room 750, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, Virginia 22203.

The text of the Appendix III notification from the Convention's Secretariat is available on request, and related materials are available for public inspection by appointment, from 8 a.m. to 4 p.m. Monday through Friday, at the above address in Arlington, Virginia.

Please send certificate/permit questions or any applications concerning this regulation to Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420c, Arlington, Virginia 22203, fax number 703–358–2281. Express and messenger deliveries should be addressed to Chief, Office of Management Authority, at that Arlington address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority (telephone 703–358–1708), or the Branch of Permits, Office of Management Authority (telephone 800–358–2104).

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249) regulates international trade in certain animal and

plant species. The species for which trade in particular specimens is controlled are listed in Appendices I, II, and III to the Convention. Appendix III comprises the list of species subject to regulation within any CITES Party country that has requested the cooperation of the other Parties in regulating international trade in the specified specimens of the species.

This rule updates the list of CITES species that is reproduced in the U.S. Code of Federal Regulations (CFR) at 50 CFR 23.23(f) (see the latest revision in the **Federal Register** of October 6, 1995 [60 FR 52450]) by adding Swietenia macrophylla (bigleaf mahogany) in the Americas (i.e., South America, Central America, the Caribbean, and North America) to Appendix III as advanced by the Government of Costa Rica pursuant to Article XVI paragraph 1 of the Convention, including only its saw-logs, sawn wood, and veneers as the parts or derivatives covered by the provisions of the Convention. Thus, products such as finished furniture are excluded. Moreover, export of specimens from plantations located outside the Americas is not regulated. The CITES Secretariat notified all Party countries on August 18, 1995, of the addition to Appendix III of the populations of this species in the Americas. (the species is native from Bolivia and Brazil to Mexico.) In accordance with Article XVI paragraph 2, such an amendment becomes effective 90 days after notification, in this case on November 16, 1995. All shipments exported on or after that date must be accompanied by appropriate documentation in compliance with CITES, which is to be presented upon import to the Party countries.

International trade in Appendix III species and their parts and derivatives that are specified as being included requires the issuance of either an export permit, a certificate of origin, a re-export certificate, or a pre-Convention certificate, by the exporting or the re-exporting Party. An export permit, which signifies that the specimens were not obtained in contravention of the laws of that country for conservation, is required if the shipment originates from the Party that added the species to Appendix III, in this case Costa Rica. Export from the other Party countries in the Americas requires the issuance of either a certificate from the country of origin, a certificate from the country of re-export, or a pre-Convention certificate (from the country of export); these documents legally verify either (1) that the specimens that were acquired since the date of the species' listing originated in a non-listing country; (2) that they are being re-exported after an importation in accordance with CITES; or (3) that they were acquired before the provisions of the Convention applied to them. All the countries of South America, Central America, and North America and some countries in the Caribbean are Parties to the Convention. Beginning in 1976 with Resolution Conf. 1.5, the Parties have recommended that Article X of CITES be applied so that equivalent documentation is required from non-Parties to the Convention.

The Convention's Secretariat as well as the United States Office of Management Authority have made inquiries regarding the certificates of origin that exporting range countries plan to issue for shipments of the specimens of this species (e.g., saw-logs, sawn wood, or veneer sheets). By February 9, 1996, responses had been received from Mexico, Guatemala, Belize, Honduras, Nicaragua, Venezuela, Bolivia, and Brazil. For information on the types of documents required for such importation into the United States, as well as requests for any documents needed for such re-export or export from the United States, contact the Service's Office of Management Authority (address and phone number above).

Any Party at any time may enter a reservation on a species added to Appendix III. A Party that has entered a reservation is treated as a country that is not party to the Convention with respect to the trade in the species concerned (until such time as that Party withdraws its reservation). The limited effects of a reservation in alleviating importers and exporters from documentation requirements with the other CITES Parties were thoroughly discussed in a **Federal Register** notice on November 17, 1987 (52 FR 43924). In a subsequent **Federal Register** notice of March 28, 1988 (53 FR 9945; see also 53 FR 12497, April 14, 1988), the Service made a procedural change in requesting comments about such reservations for species added to Appendix III. Because the effects of such a reservation are limited, and there is also no time limit for reserving on a species added to Appendix III, a proposed rule is not published at the time the list in § 23.23 is amended. Regardless of any U.S. decision to enter a reservation, this particular amendment to Appendix III entered into force on November 16, 1995, under terms of the Convention. Publishing this rule informs the public of this international action while still affording those interested the opportunity and time to assess the merits of entering a reservation. Therefore, good cause exists to omit a proposed-rule and public-comment process, since it is unnecessary and contrary to the public interest [5 U.S.C. 553(b)). Because bigleaf mahogany in the Americas was added to Appendix III of the Convention effective on November 16, 1995, and because of the other reasons stated herein, the Service finds that good cause exists for making this rule effective upon its date of publication [5 U.S.C. 553(d)]. Accordingly, paragraph (f) of § 23.23 of 50 CFR is amended at the conclusion of this document.

At the ninth meeting of the Conference of the Parties to the Convention, the United States was among 50 of 83 Parties that voted in favor of including this species in Appendix II, which fell short of the two-thirds majority needed for adoption (see the **Federal Register** notices of November 8, 1994 [59 FR 55617] and January 3, 1995 [60 FR 73]). The Service has not recommended entering a reservation on this Appendix III listing. Consideration for doing so would be given if valid and compelling reasons are shown that implementation of this listing would be contrary to the interests or laws of the United States. The Service now solicits comments on whether to enter a reservation, and particularly seeks any new information that becomes available. The Service will consider all comments received, and if appropriate, will recommend that the United States submit a reservation to the depositary government (which is Switzerland).

Revision in CFR Based on Previous Changes to Appendices

The first sentence of 50 CFR 23.23(d) stipulates that the readily recognizable parts and derivatives of the animals and plants included in the CITES appendices are subject to the regulations of this part, unless specified otherwise for particular species in certain appendices (see 60 FR 50477, September 29, 1995 and 60 FR 52450, October 6, 1995). The present rule provides the opportunity for a minor corrective change to that sentence to clarify that exclusions of parts or derivatives for certain plant species are presented with the particular entry on that species, whereas for other plant taxa the exclusions or exemptions are presented categorically in the text of 50 CFR 23.23(d).

The opening language of § 23.23(d) in those recent **Federal Register** notices mistakenly omitted reference to Appendices II and III listings of plant species that may contain exclusions of certain readily recognizable parts and derivatives that are not addressed by the categorical exclusions specified in paragraph (d). This ambiguity is corrected in this rule in order to explicitly eliminate possible perception of additional regulation of certain Appendix II or Appendix III plant products. Absent compelling biological reasons, the United States should not be regulating parts or derivatives of Appendix II or III species that have not been specified by the Parties as in need of trade control. This amendment thus relieves unnecessary potential import restriction and avoids potential inconsistent application of CITES requirements for Appendix II or III plant shipments. For the reasons set out above, the Service finds that good cause exists to omit the public notice-and-comment procedure of 5 U.S.C. 553(b), since such public process would be unnecessary and contrary to the public interest by continuing a potential needless regulatory burden and by potentially leading to inconsistent administration of CITES for some Appendix II or III plant shipments. For these same reasons, the Service finds that good cause exists for making this change effective upon publication of this notice [5 U.S.C. 553(d) (1) & (3)].

Other Procedural Requirements

The Department has determined that changes to the Convention appendices, which result from actions of the Parties to the treaty, do not require preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321–4347). Since this Appendix III action has been taken by Costa Rica and communicated by the CITES Secretariat, the Department also has determined that the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to this listing process. This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

This document was prepared by Drs. Bruce MacBryde and Charles W. Dane, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*, 87 Stat. 884, as amended).

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, and Treaties.

Regulation Promulgation

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, for the reasons set out above in this document, Part 23, Subpart C of Title 50 (Chapter I, Subchapter B) of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 1087; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

2. Section 23.23 is amended by revising paragraph (d) introductory text to read as follows:

§ 23.23 Species listed in Appendices I, II, and III.

* * * * *

(d) Unless specified otherwise, all living or dead animals and plants in Appendix I, II or III, and all their readily recognizable parts and derivatives, are subject to the regulations of this Part. Excluded are specified parts or derivatives of particular Appendix III animal species and Appendix II and Appendix III plant species as indicated in the listings of those taxa in subsection (f) below; furthermore, the following specified parts or derivatives of certain plants are categorically excluded or exempted:

* * * * *

3. Section 23.23(f) is amended by adding the following entry between the entries for Swietenia humilis and Swietenia mahagoni under the plant family Meliaceae:

* * * * *

(f) * * *

Species	Common name	Appendix	First listing date (month/day/year)
Plant kingdom—Family meliaceae:	Plants—Mahogany family.		
. . .	. . .	. . .	. . .
Swietenia macrophylla populations in the Americas (including saw-logs, sawn wood, and veneers, but no other parts or derivatives, *e.g.*, products).	Bigleaf mahogany	III (Costa Rica).	11/16/95
. . .	. . .	. . .	. . .

Dated: January 22, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–3366 Filed 2–21–96; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 61, No. 36
Thursday, February 22, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

Issuance of Report on the NRC Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of NRC Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the *NRC Regulatory Agenda* for the period covering June through December of 1995. This agenda provides the public with information about NRC's rulemaking activities. The NRC Regulatory Agenda is a compilation of all rules on which the NRC has recently completed action, or has proposed action, or is considering action, and of all petitions for rulemaking that the NRC has received that are pending disposition. Issuance of this publication is consistent with Section 610 of the Regulatory Flexibility Act.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda (NUREG–936), Vol. 14, No. 2, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 512–2249 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: (301) 415–7163, toll-free number (800) 368–5642.

Dated at Rockville, Maryland, this 12th day of February 1996.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 96–3941 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

10 CFR Parts 19, 30, 40, 50, 60, 61, 70, and 72

RIN 3150–AF45

Employee Protection Policies; Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations related to notices to workers and to employee protection policies. This action is necessary to require the use of an updated NRC Form 3, update a telephone number, and to clarify the applicability of employment discrimination policies.

DATES: Comments on the proposed rule must be received on or before March 25, 1996.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Branch. Hand deliver comments to 11555 Rockville Pike, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

Copies of any comments received may be examined at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

For information on submitting comments electronically, see the discussion under Electronic Access in the Supplementary Information Section.

FOR FURTHER INFORMATION CONTACT: Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6196.

SUPPLEMENTARY INFORMATION:

For additional information see the Direct Final Rule published in the rules section of this **Federal Register**.

Procedural Background

Because NRC considers this action noncontroversial and routine, we are publishing this proposed rule concurrently as a Direct Final Rule. The Direct Final Rule will become effective on April 22, 1996. However, if the NRC receives significant adverse comments on the Direct Final Rule by March 25, 1996, then the NRC will publish a document that withdraws the Direct Final Rule. If the Direct Final Rule is withdrawn, the NRC will address in a Final Rule the comments received in response to the proposed revisions. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action in the event the Direct Final Rule is withdrawn.

Electronic Access

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." For further information about options available for NRC at FedWorld, consult the "Help/Information Center" from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and databases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, 703–321–3339, or by using Telnet via Internet, fedworld.gov. If using 703–321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is included. There is a 15-minute time limit for FTP access.

Although FedWorld can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

List of Subjects

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Special nuclear material.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear power plants and reactors, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

1. The authority citation for Part 19 continues to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282 2297f); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

2. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

3. The authority citation for Part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

4. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat 3123, (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C.

2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN GEOLOGIC REPOSITORIES

5. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141) and Pub. L. 102–486, sec 2902, 106 Stat. 3123 (42 U.S.C. 5851).

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

6. The authority citation for Part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec 2902, 106 Stat. 3123, (42 U.S.C. 5851).

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

7. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

8. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

Dated at Rockville, Maryland this 7th day of February, 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 96–3937 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products: Public Workshop on the Improvements of the Appliance Standards Rulemaking Process

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public workshop.

SUMMARY: The Department of Energy (the Department or DOE) will hold a public workshop to discuss possible initiatives that it will undertake to improve the appliance standards program. The issues for discussion and comment include those relating to the planning and prioritization process, data collection and analysis and decision making criteria. In addition, there may be other issues the participants will want to address. All persons are hereby given notice of the opportunity to attend the public workshop.

DATES: The public workshop will be held on Tuesday, March 19, 1996, from 9:00 a.m. to 4:30 p.m. and Wednesday, March 20, 1996, from 9 a.m. to 1 p. m.

ADDRESSES: The workshop will be held at the Embassy Suites Hotel (Crystal City), 1300 Jefferson Davis Highway, Arlington, VA 22202.

Copies of the interview findings, stakeholders' comments, and this notice may be viewed at the DOE Freedom of Information Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–6020 between the hours of 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–431, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–0371

Douglas W. Smith, U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–70, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–3410

Deborah Miller, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–1, 1000 Independence Avenue, SW., Washington, D.C. 20585—0121, (202) 586–8888

SUPPLEMENTARY INFORMATION: The Department has initiated a comprehensive process improvement effort to examine, through a series of stakeholder meetings and interviews, issues surrounding the appliance standards program. The initial findings from these meetings and interviews will be the basis for discussion of possible initiatives the Department will undertake to improve the appliance rulemaking process.

A public workshop will be held on March 19 and March 20, 1996 at the Embassy Suites Hotel in Arlington, Virginia. The workshop topics will cover issues relating to the planning and prioritization process, data collection and analysis and decision making criteria.

The workshop agenda is as follows:

Tuesday, March 19

I. Summary of findings from stakeholder meetings and interviews followed by questions and answers.
II. Overview of proposed improvements presented by the Department followed by questions and answers.
III. Small group discussion of unresolved questions/topics.

Wednesday, March 20

I. The Department will present a proposed methodology for prioritizing the rulemaking agenda for discussion.

After completion of the workshop, the Department will review all of the findings and other recommendations. The Department plans to announce the initiatives it will undertake as a result of the appliance standards process improvement in April 1996.

The workshop will be professionally facilitated to encourage discussion and comments on the topics.

Copies of the interview findings, stakeholders' comments, and this notice are available in the DOE Freedom of Information Reading Room. A copy of the workshop transcript will be available in the DOE public reading room approximately 10 days after the workshop.

A briefing document will be sent to all participants that notify the Department in advance that they will attend. There will also be an opportunity to submit written comments after the workshop. Please notify Bryan Berringer at the above listed address of your intention to attend the workshop or if you have written comments.

Issued in Washington, DC February 14, 1996.

Brian T. Castelli,

Chief of Staff, Energy Efficiency and Renewable Energy.

[FR Doc. 96–4021 Filed 2–21–96; 8:45 am]

BILLING CODE 6450–01–P

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10 CFR Part 834

[Docket No. EH–RM–93–834]

RIN 1901–AA38

Radiation Protection of the Public and the Environment

AGENCY: Department of Energy.

ACTION: Notice of limited reopening of the comment period.

SUMMARY: On March 25, 1993, DOE published a Notice of Proposed Rulemaking to add a new part establishing standards for the protection of the public and the environment against exposure to radiation from conduct of DOE activities. The purpose of this notice is to reopen the comment period for 30 days in order to solicit comments on an option being considered to protect terrestrial plants and animals from exposure to radiation. This option is being considered in light of comments received which recommended that radiation protection be required for terrestrial organisms in a manner similar to that proposed for aquatic organisms.

DATES: The comment period expires March 25, 1996. Comments received after this date will be considered if it is practical to do so, but the Department is able to ensure consideration of only those comments received on or before this date.

ADDRESSES: Written comments on 10 CFR Part 834 (11 copies) should be addressed to: PART 834, Mr. Andrew Wallo, U.S. Department of Energy, Office of Environment, Safety and Health, EH–412, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

PUBLIC READING ROOM: Copies of the March 25, 1993 Notice of Proposed Rulemaking; written comments received on the March 25, 1993 Notice; the August 31, 1995 Notice of Limited Reopening of Comment Periods; the draft regulatory language made available by the August 31, 1995 Notice; the September 13, 1995 corrected Notice; written comments received on the August 31, 1995 Notice; and the December 1995 Workshop Report are contained in Docket No. EH–RM–93–834. This docket is available for examination in DOE's Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–6020, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Wallo, or Mr. Harold T. Peterson, Jr., U.S. Department of Energy, Office of Environment, Safety and Health, EH–412, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–2409, fax (202) 586–3915.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1993, the Department published a Notice of Proposed Rulemaking (58 FR 16268) to codify, in a new part, the Department's policies and procedures for protecting the public and the environment against exposure to radiation resulting from activities conducted by or for the Department (hereafter referred to as the Proposed Rule). The Proposed Rule would adopt dose limits for exposure of members of the public to radiation and require the reporting of doses above specified levels. It would also require the assessment of all releases of radioactive material and all doses and potential doses to the public from DOE activities to ensure that they are managed in accordance with the Department's "as low as is reasonably achievable" (ALARA) policy.

Among the dose limits proposed were limits intended to protect native aquatic animal organisms. Subpart F proposed an absorbed dose limit of 1 rad/day (0.01 Gray/day) for aquatic animal organisms from exposure to radiation or radioactive material discharged in liquid waste to natural waterways. The limit was derived from the Department's order DOE 5400.5 and a report of the National Council on Radiation Protection and Measurements (NCRP).[1]

A public hearing on proposed 10 CFR Part 834 was held on May 13, 1993 in Germantown, Maryland and the 60-day comment period closed on June 22, 1993.

Comments received on Subpart F of the Proposed Rule regarding aquatic organisms recommended expanding the rule to include terrestrial biota (both plant and animal organisms) in order to provide consistent regulation of radiation exposure to biota.

In June of 1994, DOE sponsored a Workshop on the Effects of Ionizing Radiation on Terrestrial Plants and Animals. This workshop was attended by experts in radioecology and ecological risk assessment. The purpose of the workshop was twofold: (1) to review a 1992 International Atomic Energy Agency (IAEA) report [2] on protecting terrestrial plants and animals from radiation and (2) to determine if there was sufficient information to support setting standards for protection of terrestrial biota from ionizing radiation. The workshop resulted in a published report summarizing its consensus findings and conclusions.[3]

[1] National Council on Radiation Protection and Measurements (NCRP). "Effects of Ionizing Radiation on Aquatic Organisms." NCRP Report No. 109 (August 30, 1991). Available for sale from the National Council on Radiation. Protection and Measurements, 7910 Woodmont Avenue, Bethesda, MD 20814.

[2] International Atomic Energy Agency (IAEA). "Effects of ionizing radiation on plants and animals at levels implied by current radiation protection standards." IAEA Technical Report No. 332, Vienna:IAEA (1992). Available for sale from UNIPUB, Inc., 4611–F Assembly Drive, Lantham, MD 20706–4391 (301–459–7666).

[3] Barnthouse, L. W., "Effects of Ionizing Radiation on Terrestrial Plants and Animals: A Workshop Report." Martin Marietta Energy Systems, Oak

Continued

The workshop participants concluded that the 0.1 rad/day (0.001 Gray/day) limit for terrestrial animals and the 1 rad/day (0.01 Gray/day) limit for terrestrial plants recommended by the IAEA were adequately supported by the available scientific literature. The participants determined that existing data support the application of the dose limits for populations of terrestrial organisms to *representative* rather than *maximally exposed* individuals. Doses within the limits to representative members of a population would not be expected to cause adverse effects on such populations. Workshop participants further agreed with the IAEA report that protecting humans generally protects plants and animals except when: (1) Human access is restricted but access by biota is not restricted, (2) unique exposure pathways exist for plants and animals that do not affect exposure of humans, (3) rare or endangered species are present, or (4) other stresses on the population are significant. In such cases, site-specific evaluations were recommended to ensure that plants and animals were being protected.

On August 31, 1995, DOE published a Notice of Limited Reopening of Comment Periods (60 FR 45381), corrected September 13, 1995 (60 FR 47498), of the draft final rule, 10 CFR Part 834 (the Notice), for public review and comment. The Notice specifically requested comment on Subpart F, "Requirements for the Protection of Biota," concerning dose limits for aquatic animals. The regulatory language made available by the Notice reserved a section for requirements for the protection of terrestrial plants and a section for the protection of terrestrial animals. The comment period ended October 13, 1995.

Commenters on the dose limit in Subpart F agreed that populations of aquatic animal organisms would be protected under the draft final rule. Commenters also indicated, however, that similar protection for terrestrial organisms should be developed under this rule and that the currently reserved paragraphs, § 843.232 for terrestrial plants and § 834.233 for terrestrial animals, be included in the current rulemaking. The comments support the concepts in the current scientific literature which are summarized in the 1992 IAEA Report No. 332 [2] and the DOE-sponsored workshop report.[3]

[3] Ridge National Laboratory Report, ORNL/TM–13141 (December 1995). Copies are available for sale from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. This report is also available in the docket for this rulemaking.

. Based on comments received supporting the inclusion of terrestrial plants and animals and the findings and conclusions of the Workshop on the Effects of Ionizing Radiation on Terrestrial Plants and Animals, the Department is considering the option of including in 10 CFR Part 834 a section, 834.232, which would contain dose limits for the protection of terrestrial plants; a section, 834.233, which would contain dose limits for the protection of terrestrial animals; and a section, 834.234, which would require a demonstration of compliance. The demonstration of compliance section would allow for a graded approach for compliance with §§ 834.231, 834.232, and 834.233 to take into consideration various degrees of potential exposure of plants and animals to radionuclides in the aquatic and terrestrial environments. This approach recognizes the concept that if humans are protected, aquatic and terrestrial biota are protected as well and that special measures for protecting plants and animals are, therefore, not needed under such conditions. However, in situations where (1) the protection of humans is achieved by controlling access to contaminated areas without commensurate restrictions of access by biota, (2) unique exposure pathways exist for plants and animals that do not affect exposure of humans, (3) rare or endangered species are present, or (4) other stresses on the population are significant, additional evaluations or measures may be required to protect biota.

Based on the similarity of approach between the methods of regulating exposure to aquatic and terrestrial organisms, the Department is considering the option of including the requirements for protection of terrestrial organisms in the final rule in 10 CFR Part 834 at the same time as the final rule is issued.

Summary of Provisions for Protection of Biota

The Department is considering the option of including the following provisions in Subpart F of proposed 10 CFR Part 834 for the Protection of Biota. Under § 834.231, aquatic animals would be protected by requiring that a DOE activity shall be conducted in a manner such that the absorbed dose to aquatic animals (e.g., fish, mollusk, crustacean or any other aquatic invertebrate) would not exceed 1 rad (0.01 Gray) per day from exposure to radiation or radioactive material released into the aquatic environment.

Terrestrial plants, pursuant to § 834.232, would be protected by requiring that a DOE activity shall be conducted in a manner such that the absorbed dose to terrestrial plants (e.g., fern, conifer, or flowering plant) would not exceed 1 rad (0.01 Gray) per day from exposure to radiation or radioactive material released into the terrestrial environment.

Terrestrial animals, pursuant to § 834.233, would be protected by requiring that a DOE activity shall be conducted in a manner such that the absorbed dose to terrestrial animals (e.g., amphibian, reptile, bird, or mammal) would not exceed 0.1 rad (0.001 Gray) per day from exposure to radiation or radioactive material released into the terrestrial environment.

Compliance under § 834.234(a) would be demonstrated by: (1) estimating the absorbed dose to a representative aquatic or terrestrial organism, or to models of hypothetical organisms chosen to represent populations or whole communities of such organisms; (2) using secondary effluent or environmental concentration-based screening criteria derived by calculating doses to a representative organism; or (3) meeting the conditions of § 834.234(c). Site-specific analyses would be required in some cases pursuant to § 834.234(a)(1) and (2).

Endangered species under § 834.234(b) would be protected (1) by providing that, unless the conditions of § 834.234(c) are met, potential doses to a hypothetical maximally exposed plant or animal shall be evaluated to confirm whether measures taken to protect populations of non-endangered species would be adequate for the protection of endangered species, or (2) if the requirements of § 834.234(b)(1) cannot be ensured, by implementing remedial measures.

Pursuant to § 834.234(c), no analysis of exposure to terrestrial or aquatic biota would need to be performed if the potential exposure to radionuclides in the aquatic or terrestrial environments were such that a human could continuously inhabit the location of the contaminated media, ingest the water and food grown on the media, and the potential dose would not exceed the limit for members of the general public (100 mrem or 1 mSv per year) in Subpart B of the Proposed Rule, § 834.101. If this dose limit is not exceeded, the biota may be considered protected and no analysis of exposure to the biota would need to be performed.

Request for Comments

Comments are invited on whether the proposed dose limits are adequate to protect terrestrial and aquatic organisms. In evaluating these limits, it should be noted that the proposed dose limit for protection of members of the general public (100 mrem or 1 mSv per year) is equivalent to 0.00027 rad per day and, where exposure of humans can occur, would be far more restrictive than the proposed dose limits for terrestrial or aquatic organisms. The Department urges interested members of the public to comment on the important issues discussed above. Comments submitted previously in response to the Department's August 31, 1995 and September 13, 1995 Notices need not be resubmitted.

Issued in Washington, D.C. on February 15, 1996.

Tara O'Toole,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 96–4022 Filed 2–21–96; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Proposed rule and request for comments.

SUMMARY: The Federal Trade Commission ("Commission") proposes to amend its Appliance Labeling Rule ("the Rule"), 16 CFR Part 305 (1995), to permit the placement of energy use labels required by the Canadian and Mexican governments in a local "directly adjoining" the Rule's required "EnergyGuide" label. Currently, the Rule prohibits the affixation of non-required information "on or directly adjoining" the EnergyGuide. The relaxation of this prohibition would further the goal of the North American Free Trade Agreement ("NAFTA") to make compatible the standards-related measures of the signatories to facilitate trade in a good or service among the parties. Moreover, the amendment would result in considerable savings for the appliance manufacturing industry. The Commission seeks written data, views, and arguments concerning this proposal.

DATES: Written comments must be submitted on or before April 8, 1996.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Federal Trade Commission, Room 159, Washington, D.C. 20580, 202–326–2506, and should be submitted, when feasible and not burdensome, in five copies. Envelops and comments should be marked: "Appliance Labeling Rule comment."

FOR FURTHER INFORMATION CONTACT: James G. Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580 (202–326–3035).

SUPPLEMENTARY INFORMATION: In a letter to the Commission's staff, the Whirlpool Corporation ("Whirlpool") requested permission to use hang tag EnergyGuide labels that have the corresponding "EnerGuide" appliance energy use label required by Canada printed on the reverse side. Whirlpool also asked to use a "same side" approach, which a Whirlpool representative clarified as meaning a single stick-on or hang tag label consisting of the Commission's EnergyGuide immediately next to (or above) the appropriately corresponding Canadian EnerGuide, or the appliance energy use label required by Mexico, or both labels.

In support of its request, Whirlpool stated that the continued existence of separate appliance labeling requirements among U.S., Canada, and Mexico represents an obstacle to free trade among the signatories to NAFTA. Whirlpool contended that the consolidation of the labels required by the different countries onto a single piece of label stock would eliminate that obstacle. Whirlpool also stated that using such labels would save Whirlpool significant resources by reducing the number of separate U.S. and Canadian models of appliances that Whirlpool produces and by reducing labeling expenses.

Section 305.11(a)(5)(i)(K) of the Rule, 16 CFR 305.11(a)(5)(i)(K), states that: No marks or information other than that specified in this Part shall appear on *or directly adjoining* [the EnergyGuide] label except for a part or publication number identification, as desired by the manufacturer. * * * [emphasis added]

The language in this section pertains to labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditions. Identical language appears in two other sections relating to labels for furnaces and pool heaters (16 CFR 305.11(a)(5)(ii)(I) and central air conditioners (16 CFR 305.11(a)(5)(iii)(H)(1)). The purpose of this prohibition was to avoid having other information detract from the EnergyGuide label. The prohibition was not specifically directed at labels required by other countries.[1]

The Commission is considering whether permitting side-by-side or back-to-back labeling would be confusing to consumers, and thereby reduce the effectiveness of the EnergyGuide. For example, three labels side by side might create information overload, resulting in consumers ignoring the information. But, the Commission believes that consumers may realize that only one label is pertinent to U.S. consumers (because the Canadian label is in English and French, and the Mexican label is in Spanish [2]). The Commission's label also says in two places that the information on the label is derived from U.S. government standard tests and utility costs. Further, unlike in the past, the U.S. and Canada, and, to a slightly lesser extent, Mexico, now use compatible test procedures for identifying energy use, and require information to be reported in terms of kilowatt-hour use per year. Thus, the information being disclosed on each country's label is similar and this may make the possibility of confusion less likely.[3] Moreover, U.S. consumers are already seeing Canadian labels on some appliances (especially in the northern states), and possibly Mexican labels, although not directly adjoining the EnergyGuide. And, on many packages, instruction manuals, and labels, it is common to see information presented in more than one language because the products are shipped to multiple countries. The Commission believes that, in this increasingly global marketplace, consumers may not be confused or misled by the presence of multiple appliance energy use labels, as long as they can clearly distinguish

[1] Although this language prohibits the types of labeling practices that Whirlpool has asked permission to use, manufacturers, of course, can place the appliance energy labels of other countries, or any other labels, in locations on their products that are not "on or directly adjoining" the EnergyGuide.

[2] To extent that U.S. residents speak and read only Spanish, the Mexican labels may convey useful information about energy consumption comparable to what is provided on the U.S. label.

[3] As amended, the Commission's Rule now requires labels that show a primary energy use disclosure of kilowatt-hour use per year for all the products for which it formerly required the disclosure of estimated annual operating cost (refrigerators, freezers, clothes washers, dishwashers, and water heaters). And, the regulations of the three countries require disclosure of an energy efficiency number for room air conditioners. Thus, the appliance labeling regulations of all three NAFTA signatories now require the same primary descriptors of energy use. This reduces the possibility for consumers confusion resulting from labels on the same product that show energy use in different terms.

which one is intended for the U.S. audience.

Accordingly, the Commission believes that it may be beneficial to permit appliance manufacturers to combine the appliance energy labels required by the U.S., Canada, and Mexico. First, allowing the use of a single label consisting of two (or three) labels printed on the same label stock, would be consistent with the NAFTA goal of removing unnecessary impediments to trade.[4] Second, multi-national labels could enable the appliance manufacturing industry to comply with the Commission's Rule and the appliance labeling rules of Canada and Mexico at considerably less expense. Therefore, the Commission proposes amending the Rule to permit energy use labels required by the other NAFTA signatories to adjoin the EnergyGuide directly. Manufacturers would still be prohibited from placing other information on or directly adjoining the EnergyGuide.

Section A—Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this document because the Commission presently believes that the amendments, if promulgated, "will not have a significant economic impact on a substantial number of small entities" (5 U.S.C. 605).

Because the amendments are not likely to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act and the rules implementing it, the Commission concludes, based on the information presently available, that a regulatory analysis is not now necessary. The Commission requests, however, information on whether the proposed amendments would have a significant impact on a substantial number of small entities. After reviewing any comments received on this subject, the Commission will decide whether the preparation of a final regulatory flexibility analysis is appropriate.

In light of the above, the Commission certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments proposed today would not, if promulgated, have a significant impact on a substantial number of small entities.

Section B—Paperwork Reduction Act

The proposed amendments would not expand the Appliance Labeling Rule's existing recordkeeping and reporting requirements. Because there would be no increase in burden hours, the Commission is not requesting that the Office of Management and Budget adjust the existing clearance for the Appliance Labeling Rule (OMB No. 3084–0069) under the Paper Reduction Act (44 U.S.C. 3501 *et seq.*). To substantiate the accuracy of its reporting burden estimate, however, the Commission requests comment on the extent of the reporting burden associated with these amendments.

Section C—Invitation To Comment

Interested persons are hereby notified that they may comment on any issue of fact, law or policy that may bear upon the proposed amendments. Although the Commission welcomes comments on any aspect of the proposed amendments, the Commission is particularly interested in comments on the questions in Section D, below. All comments should be referenced specifically to either the Commission's questions or the section of the proposed rules being discussed.

The Commission requests the commenters provide representative factual data. Individual firms' experiences are relevant to the extent they typify industry experience, in general, or that of similar-sized forms. Comments opposing the proposed amendments should, if possible, suggest a specific alternative. Proposals for alternative regulations should include reasons and data that indicate why the alternatives would better serve the purposes of the proposed amendments. Comments should be supported by a full discussion of all the relevant facts and/or be based directly on firsthand knowledge, personal experience or general understanding of the particular issues addressed by the proposed rules.

Before adopting these proposed amendments as final, the Commission will give consideration to any written comments timely submitted to the Secretary. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission regulations, on normal business days between the hours of 8:30 a.m. and 5 p.m. at the Public Reference Room (Room 130), Federal Trade Commission, 5th Street and Pennsylvania Ave., NW., Washington, DC 20580.

Section D—Questions and Issues

Interested persons are invited to address any questions of fact, law or policy that they believe may bear upon the proposed amendments. The questions concerning issues upon which the Commission particularly desires comment, however, are listed below.

1. Would allowing energy use labels required by the Canadian or Mexican governments to be placed next to the U.S. EnergyGuide be likely to detract from the effectiveness of the EnergyGuide or cause consumer confusion?

2. Should the Commission limit the information that the amendments would permit to be placed "directly adjoining" the EnergyGuide only to *energy use disclosures* required by the governments of Canada and Mexico? For example, should the amendments permit additional information required by the governments of Canada and Mexico, such as environmental or safety-related information, also to be placed "directly adjoining" the EnergyGuide?

3. Should the Commission limit the amendments to apply to energy use (or other) information required only by the governments of Canada and Mexico, or should the amendments permit energy use (or other) information required by the governments of all other nations?

Section E—Proposed Amendments

For the reasons discussed above, the Commission proposes the amendments below to sections 305.11(a)(5)(i)(K) (16 CFR 305.11(a)(5)(i)(K)), 305.11(a)(5)(ii)(I) (16 CFR 305.11(a)(5)(ii)(I)), and 305.11(a)(5)(iii)(H)(1) (16 CFR 305.11(a)(5)(iii)(H)(1)) of the Rule to permit (but not require) appliance manufacturers to place the energy use disclosure labels required by the governments of Canada and Mexico in a location directly adjoining the Commission's Energy Guide.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:

[4] The Commission has worked closely with representatives of the Canadian EnerGuide program over the past two years to explore regulatory harmonization under NAFTA. Canada, like the Commission, has been reviewing its appliance labeling rule, and each country has considered the research and changes being considered by the other. More recently, representatives of the Mexican government have joined in this dialogue. Although the Commission intends to continue this cooperative pursuit of tri-lateral harmonization to determine whether a single label can be designed that effectively fulfills the requirements of all three countries, amending the Rule now to provide manufacturers greater flexibility in labeling practices is an interim step for facilitating trade.

Authority: 42 U.S.C. 6294.

2. It is proposed that section 305.11(a)(5)(i)(K) be revised to read as follows:

§ 305.11 Labeling for covered products.

(a) * * *
(5) * * *
(i) * * *

(K) No marks or information other than that specified in this part shall appear on or directly adjoining this label, except a part or publication number identification may be included on this label, as desired by the manufacturer, and the energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

* * * * *

3. It is proposed that section 305.11(a)(5)(ii)(I) be revised to read as follows:

§ 305.11 Labeling for covered products.

(a) * * *
(5) * * *
(ii) * * *

(I) No marks or information other than that specified in this part shall appear on or directly adjoining this label, except a part or publication number identification may be included on this label, as desired by the manufacturer, and the energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

* * * * *

4. It is proposed that section 305.11(a)(5)(iii)(H)(1) be revised to read as follows:

§ 305.11 Labeling for covered products.

(a) * * *
(5) * * *
(iii) * * *
(H) * * *

(1) No marks or information other than that specified in this part shall appear on or directly adjoining this label, except a part or publication number identification may be included on this label, as desired by the manufacturer, and the energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–4004 Filed 2–21–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–95–57]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the operation of the NASA railroad bridge, mile 876.6, at Kennedy Space Center, by removing the authorization for automatic operation and returning the draw to manual operation. A change in ownership of the rail line prompted the bridgeowner to implement on site manual operation of this drawbridge approximately 8 years ago.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments may be mailed to Commander (oan), Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131–3050, or may be delivered to room 406 at the above address between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (305) 536–4103.

The Commander, Seventh Coast Guard District maintains the public docket for this rulemaking. Comments will become part of this docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Walter Paskowsky, Project Manager, Bridge Section, at (305) 536–4103.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD07–95–57] and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments received.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Mr. Walt Paskowsky at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Walter Paskowsky, Project Manager, and LCDR Robert Wilkins, Project Counsel.

Background and Purpose

The draw of the NASA railroad bridge, mile 876.6, at Kennedy Space Center was placed on automatic remote controlled operation by the Florida East Coast Railroad when it was put into service in February 1964. Under remote operation the span is normally in the open position displaying flashing green signals to allow the movement of water traffic. When a train approaches the bridge the lights go to flashing red, a horn sounds 4 blasts, paused, then repeats 4 blasts. After an 8 minute delay the draw lowers and locks, providing scanning equipment reveals nothing under the draw. The draw remains down for a period of 8 minutes or while the approach track circuit is occupied. After the train clears, the draw opens and the lights return to flashing green.

The automatic remote control method was discontinued in 1984 when the ownership of the bridge was transferred from the Florida East Coast Railroad to the Kennedy Space Center (NASA). The purpose of the change is to describe in the regulations how the bridge is actually being operated.

Discussion of Proposed Amendment

Under the proposal, the draw would normally be in the fully open position displaying flashing green lights to

indicate that vessels may pass. When a train approaches the bridge it must stop and the train operator must initiate a command to lower the bridge. The lights would go to flashing red and the draw would lower and lock providing scanning equipment reveals nothing under the draw. The draw would remain down until a manual raise command is initiated, or it would raise automatically 5 minutes after the intermediate track circuit is no longer occupied by a rail car. After the train has cleared, the lights would return to flashing green.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT (44 FR 11040; February 26, 1979 is unnecessary. We conclude this because of the infrequent operation of the draw.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their field and (2) governmental jurisdictions with populations of less than 50,000.

Because it expects the impact of the proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection and copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.261 is amended by revising paragraph (j) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St Marys River to Key Largo.

* * * * *

(j) *NASA Railroad bridge, mile 876.6 at Kennedy Space Center.* (1) The draw is not constantly tended.

(2) The draw is normally in the fully open position displaying flashing green lights to indicate that vessels may pass.

(3) When a train approaches the bridge, it must stop and the operator initiates a command to lower the bridge. The lights go to flashing red and the draw lowers and locks providing scanning equipment reveals nothing under the draw. The draw remains down until a manual raise command is initiated, or will raise automatically 5 minutes after the intermediate track circuit is no longer occupied by a rail car.

(4) After the train has cleared the draw opens and the lights return to flashing green.

* * * * *

Dated: February 5, 1996.

Roger T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 96–3894 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4E3060/P641A; FRL–5352–1]

RIN 2070–AC18

Pesticide Tolerance for 2,4-D; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: EPA is reopening the period for receiving comments on the proposed pesticide tolerance for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) in or on the raw agricultural commodity soybeans. The original comment period expired on February 16, 1996. EPA is reopening the comment period to allow the usual thrity days for receipt of comments.

DATES: Comments, identified by the docket number, [PP 4E3060/P641], must be received on or before March 8, 1996. The proposed tolerance would expire on December 31, 1998.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 4E3060/P641]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM 23), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–305–6224.

A record has been established for this rulemaking under docket number [PP 4E3060/P641] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or establishing exemptions from tolerance requirements do not have a significant impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:February 15, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–4146 Filed 2–20–96; 2:39 pm]

BILLING CODE 6560–50–F

40 CFR Part 261

[FRL–5427–6]

Extension of Comment Period for the Proposed Hazardous Waste Identification Rule (HWIR)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is extending the comment period for the proposed Hazardous Waste Identification Rule (HWIR), which appeared in the **Federal Register** on December 21, 1995 (60 FR 66344). The extension is necessary for two reasons: the first is the government shutdown during the original comment period which did not allow commentors to review the background documentation supporting the rulemaking and the second is the Agency has received an overwhelming number of requests for comment period extensions due to the complexity of the proposed rulemaking. The public comment period for this proposed rule was to end February 20, 1996. The comment period is extended to April 22, 1996.

DATES: EPA will continue to accept public comments on the proposed Hazardous Waste Identification Rule until April 22, 1996.

ADDRESSES: The public must send an original, two copies, and whenever possible, a 3.5 inch computer disk containing the comments in a common word processing format such as WordPerfect version 5.1 to: EPA RCRA Docket (5305W), 401 M Street, S.W., Washington, D.C. 20460.

Place "Docket number F–95–WHWP-FFFFF" on your comments. The RCRA docket is located at: EPA's Crystal Gateway Office, 1235 Jefferson Davis Highway, Arlington, Virginia.
and is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy material from any regulatory docket at a cost of $0.15 per page. Copies of the background documents, Integrated Risk Information System (IRIS) chemical files, and other references (which are not readily available) are available for *viewing and copying only* in the RCRA docket.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 or at (703) 412–9810. For technical information contact Mr. William A. Collins, Jr., Mr. Greg Helms, Ms. Pamela McMains, or Ms. Tracy Atagi, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–8100.

SUPPLEMENTARY INFORMATION: The proposed rule was issued under the authority of sections 2002(a), 3001, 3002, 3004 and 3006 of the Resource Conservation and Recovery Act (RCRA). EPA proposed to amend its regulations under the Resource Conservation and Recovery Act (RCRA) by establishing constituent-specific exit levels for low-risk solid wastes that are designated as hazardous because they are listed, or have been mixed, derived from, or contain listed hazardous wastes. See 60 *FR* 66344 (December 21, 1995) for a more detailed explanation of the proposed rule.

Extension of Comment Period

The comment period for this proposed rule was scheduled to end on February 20, 1996. However, the RCRA Docket was closed due to the partial government shutdown from December 15, 1995 until January 6, 1996, and from January 8 until January 12, 1996 due to inclement weather. As a result of the partial government shutdown and snow closures, background documents located in the RCRA Docket were available to the public for only one day during the first three and one-half weeks of the public comment period. Similarly, during the same period EPA personnel were unavailable to answer questions about the notice of proposed rulemaking or to make other arrangements to obtain documents relevant to the rulemaking.

This severely reduced the effectiveness of the first half of the 60-day comment period.

EPA has also received requests for comment period extensions on other grounds. The notice proposed "exit values", or specific concentrations at which chemicals pose only low risk to human health or the environment, for over 400 chemicals found in hazardous wastes currently regulated under RCRA. See 60 *FR* 66349–66380. The risk assessment used to generate the exit values is unusually complex. EPA has received at least seven written requests to extend the comment period by up to 120 days. The requestors believe such extensions are essential to allow them to analyze the risk assessment and prepare meaningful comments.

EPA determined that it needed to extend the comment period by a total of 60 days to provide an adequate opportunity for public participation in this rulemaking. EPA is therefore extending the comment period for this rulemaking to April 22, 1996.

Dated: February 15, 1996.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 96–3844 Filed 2–20–96; 11:50 a.m.]

BILLING CODE 6560–50–P–M

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40 CFR Part 300

[FRL–5428–3]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Amnicola Dump Superfund Site, Chattanooga, Tenn., from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Amnicola Dump Site from the National Priorities List (NPL) and request public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Tennessee Department of the Environment & Conservation have determined that the Site poses no significant threat to public health or the environment, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments must be submitted by March 25, 1996.

ADDRESSES: Comments may be mailed to: Robert West, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia, 30365.

Comprehensive information on this Site is available for viewing through the site information repositories at the following locations:

Chattanooga Hamilton County Bicentennial Library, Local History Department, 1001 Broad Street, Chattanooga, TN 37402.

U.S. EPA Record Center, 345 Courtland Street NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Robert West, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia, 30365, 404–347–3555 Ext. 2033 or 1–800–435–9233 Ext. 2033.

SUPPLEMENTARY INFORMATION:

Introduction

The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Amnicola Dump Site from the National Priorities List (NPL), Appendix B of National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or environment and maintains the NPL as the list of these sites.

As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site for thirty days after publication of this notice in the **Federal Register**.

NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. EPA, in consultation with the State of Tennessee, has concluded that the Amnicola Dump Site meets the following criteria for site deletion:

(i) Responsible parties have implemented all appropriate response actions required; and

(ii) All appropriate response under CERCLA has been implemented.

Even if a site is deleted from the NPL, where hazardous substances remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is significant release from a site deleted from the NPL, the site may restored to the NPL without the application of the Hazardous Ranking System.

Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 4 issued a Final Close Out Report which addressed the Site conditions, quality assurance and control during construction, and technical criteria for satisfying the completion requirements; (2) a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and (3) all relevant documents have been made available for public review in the local Site information repositories.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligation. The NPL is designed primarily for information purposes and to assist Agency management. As mentioned in Section VI of this document, § 300.425(e)(30) of the NCP states that deletion of a Site does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments of EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

Basis For Intended Site Deletion

The following site summary is the Agency's rationale for the proposal to delete Amnicola Dump from the NPL.

A. Site Background and History

The Site is an 18-acre inactive construction debris disposal area located in Chattanooga, TN. From mid-1970 to 1973, the Site was operated as a construction debris disposal area by the city of Chattanooga. The debris disposed included 25 percent or less household-type waste. A substantial portion of the wood waste taken to the Site during this period was incinerated by an air-curtain destructor with the ashes placed on-site. Approximately 12 acres of the 18-acre site were eventually filled.

Consolidated Latex, Inc., formerly located on the south border of the Site, allegedly disposed of latex waste in the southwest corner. In 1971, the Tennessee-American Water Company noted the dumping of latex waste as well as the presence of a strong styrene-like odor during one leachate sampling event. Concern arose because of the proximity of the water company's intake from this leachate stream and alleged latex disposal location. Latex waste is the only industrial waste reportedly disposed at the Site. In May 1971, EPA recommended closure of the Site.

B. Remedial Planning Activities

The State of Tennessee conducted a site visit in July 1979, and noted that the Site was in good overall condition; however, some discoloration of water was observed in one of the drainage ditches. EPA recommended an evaluation of historical water data and further water sampling.

Sampling of a leachate stream indicated the presence of trichloroethylene, vinyl chloride, and 1,2 transdichloroethyleno. The Site was finalized on the NPL in September 1983.

A Remedial Investigation (RI) of the Site commenced in July 1987; EPA conducted this RI to determine the nature and general extent of Site contaminants. A Feasibility Study (FS) was also conducted by EPA to evaluate alternatives for Site cleanup. Sampling data from the RI indicated that some surface soils on the Site contained concentrations of Polynuclear Aromatic Hydrocarbons (PAHs) above acceptable health based levels.

On March 30, 1989, EPA issued a Record of Decision (ROD) for the Site which selected a remedy for the contamination detected. The major remedy components selected for the Site consisted of excavation of surface soil and debris, solidification of the surface soil, and groundwater monitoring.

C. Remedial Construction Activities

On-Site excavation of contaminated soil and debris started on August 5, 1993, and the material was shipped off-site for disposal. The excavated material included pieces of creosote ties, asphalt chips, bricks, concrete, contaminated soil and other debris. Excavation was completed on August 5, 1993, and confirmatory cleanup samples were taken. Once the confirmatory samples indicated that the excavated area no longer contained soil levels over the cleanup goal, the area was then filled with crushed stone for easy identification.

The final inspection was performed on September 2, 1993. The inspection was performed by EPA and Tennessee Department of Environment and Conservation (TDEC) representatives. It was determined that the Remedial Action had been successfully executed.

Confirmatory soil sampling taken before and after the soil removal has demonstrated that contaminant levels in the surface soil are now below the cleanup goal. Results of the sampling can be seen in the August 1993, Remedial Design Report and the September 1993, Remedial Action Report. No Site contaminants have been detected in the groundwater above the levels established in the ROD.

D. Community Relations Activities

The Region 4 Community Relations staff along with the Site project manager conducted an active campaign to ensure that the local residents were well informed about the different activities occurring at the Site. Community relations activities included the development of Community Relations Plans, holding public meetings, and routine publications of progress report fact sheets. Site information was placed at a local repository located in the Chattanooga/Hamilton County Bicentennial Library.

E. Summary of Operation and Maintenance

Since all surface soil above the cleanup goal has been removed, and as no operating systems or containment measures were necessary, Operation and Maintenance (O&M) of the Site is not required. Site Institutional Controls were defined in the Consent Decree to place deed restrictions on the property.

F. How Amnicola meets NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. EPA, in consultation with the State of Tennessee, has concluded that the Amnicola Dump Site meets the following criteria for site deletion:

(i) Responsible parties have implemented all appropriate response actions required; and

(ii) All appropriate response under CERCLA has been implemented.

G. State Concurrence To Delete Amnicola Dump Site

EPA, in consultation with the State of Tennessee, has concluded that the Amnicola Dump Site meets the following criteria for site deletion: (1) Responsible parties have implemented all appropriate response actions required; and (2) All appropriate response under CERCLA has been implemented. EPA and the State of Tennessee believe that the above listed criterion for deletion has been met. Subsequently, EPA is proposing deletion of Amnicola Dump Site from the NPL. Documents supporting this action are available from the docket.

Dated: February 7, 1996.

Phyllis P. Harris,

Acting Regional Administrator, U.S. EPA Region 4.

[FR Doc. 96–4032 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5428–2]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Gallaway Pits Superfund Site, Fayette County, Tennessee from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Gallaway Pits Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Tennessee Department of the Environment and Conservation (TDEC) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments must be submitted by March 25, 1996.

ADDRESSES: Comments may be mailed to: Robert West, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

Comprehensive information on this Site is available for viewing through the site information repositories at the following locations:

Gallaway City Hall, 607 Watson Drive, Gallaway, TN 38036.

U.S. EPA Record Center, 345 Courtland Street NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Robert West, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia, 30365, 404–347–3555 EXT. 2033, or 1–800–435–9233, EXT 2033.

SUPPLEMENTARY INFORMATION:

Introduction

The Environmental Protection Agency (EPA) Region 4 announces its intent to delete the Gallaway Pits Site from the National Priorities List (NPL), Appendix B of National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in Section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site for thirty days after publication of this notice in the **Federal Register**.

NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. EPA, in consultation with the State of Tennessee, has concluded that the Gallaway Pits Site meets the following criteria for site deletion:

(i) All appropriate fund-financed response actions have been implemented; and

(ii) All appropriate response under CERCLA has been implemented.

Even if a site is deleted from the NPL, where hazardous substances remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazardous Ranking System.

Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 4 issued a Final Close Out Report which addressed the Site conditions, quality assurance and control during construction, and technical criteria for satisfying the completion requirements; (2) a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; (3) All relevant documents have been made available for public review in the local Site information repositories; and TDEC has concurred with the proposed deletion decision.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist Agency management. As mentioned in Section VI of this Notice, Section 300.425(e)(3) of the NCP states that deletion of a Site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments of EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

Basis for Intended Site Deletion

The following site summary is the Agency's rationale for the proposal to delete Gallaway Pits Site from the NPL.

A. Site Background and History

The Gallaway Pits Site (five-acres) was extensively mined for sand and gravel, producing a landscape dotted with water-filled pits up to 50 feet deep. Sampling of the pond water and sediments showed elevated levels of pesticides. The groundwater samples did not reveal any contamination; however, potential existed for groundwater contamination because of the types and quantities of waste at the site.

In October 1983, the EPA conducted an emergency cleanup. The cleanup consisted of the excavation and off-site disposal of contaminated sludge and the on-site treatment of the pond water. The treatment process involved the carbon filtration of the pond water to limits established by the Tennessee Department of Health and Environment (TDHE), Division of Water Quality Control.

The Remedial Investigation Report included a sampling program for each of the potentially affected environmental media: surface water, sediment, surface soils, and groundwater. A quantitative risk assessment was performed for various contaminant exposure pathways. Based on the available data and risk assessment assumptions, the exposure pathways presented no unacceptable risks to human receptors. The only unacceptable risk presented by the Site was the potential risk to off-site ecology.

The Record of Decision (ROD) outlined the following selected remedial actions: (1) Dilution of water in ponds 1, 2, and 5 with city water to meet ambient water quality criteria and subsequent discharge to an unnamed tributary of Cane Creek; (2) excavation of contaminated sediments from ponds 2 and 5, and consolidation of these sediments in pond 1; (3) institutional controls, such as fencing around pond 1, restrictions on mining, and methods to ensure that future land uses are compatible with the selected remedy; (4) proper site closure under Subtitle C of RCRA, including capping of pond 1; and (5) operation and maintenance (O&M) activities that include groundwater monitoring and inspection and maintenance of the cap.

B. Remedial Planning Activities

A Remedial Design was performed in the field for the selected actions recommended by the ROD at the Site. Listed below are the design criteria: (1) Determine a kiln dust/sediment ratio for the solidification process; (2) determine the below grade excavation configuration to store the solidified waste; (3) design a RCRA cap over the below grade configuration; (4) determine the safety factor against bearing capacity failure of foundation soils underlying the solidified waste and RCRA cap; (5) perform an effective analysis of foundation soils to check for possible detrimental settlement of RCRA cap; and (6) design a drainage ditch system to collect and route runoff away from the RCRA cap.

C. Remedial Construction Activities

Construction activities were initiated in June 1987 at the site. The construction activities included: (1) Pond water sampling; (2) water evacuation of ponds; (3) solidification and excavation of pond sediments; (4) construction of the RCRA cap; (5) site closure and (6) monitoring well installation.

All of the completion requirements for this site have been met as required by OSWER Directive 9320.2–3C. Confirmatory ground water sampling at the site provides further assurance that the site continues to pose no threat to human health or the environment. The only remaining activity to be performed at the site is minor O&M that is guaranteed by the State of Tennessee.

D. Community Relations Activities

Residents near the Site are aware of activities that have taken place at Gallaway Pits. A public meeting was held on July 21, 1986, to present a summary of the RI/FS process and to explain the proposed remedies for the cleanup of the site. Fact sheets were prepared and distributed to the mailing list. Comments received during the public comment period were addressed in the responsiveness summary of the ROD. Because Gallaway Pits is a companion to the Arlington Blending Site, the residents of the community are kept informed through community relations efforts held concerning the Arlington Blending Site.

E. Summary of Operation and Maintenance

The State of Tennessee will implement the O&M plan that will ensure that the cap remains protective of public health, welfare and the environment. O&M activities will consist of scheduled inspections and periodic maintenance of the exclusion zone and periodic sampling of monitoring wells.

F. How Gallaway Pits Meets NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. EPA, in consultation with the State of Tennessee, has concluded that the Gallaway Pits Site meets the following criteria for site deletion:

(i) All appropriate fund-financed response actions have been implemented; and

(ii) All appropriate response under CERCLA has been implemented.

G. State Concurrence to Delete Galloway Pits Site

Refer to Attachment I.

EPA, in consultation with the State of Tennessee, has concluded that the Gallaway Pits Site meets the following criteria for site deletion: (1) EPA and the State of Tennessee have implemented all appropriate response actions required; (2) All appropriate response under CERCLA has been implemented; and (3) the confirmation sampling done after the cap was completed shows that the Gallaway Site poses no significant threat to public health or the environment and, therefore, taking of further remedial measures is not appropriate. EPA and the State of Tennessee believe that the above listed criterions for deletion have been met. Subsequently, EPA is proposing deletion of the Gallaway Pits Site from the NPL. Documents supporting this action are available from the docket.

Dated: February 9, 1996.

Phyllis P. Harris,

Acting Regional Administrator, U.S. EPA Region 4.

[FR Doc. 96–4031 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 21 and 94

[ET Docket No. 95–183; PP Docket No. 93–253; DA 96–144]

Fixed Point-to-Point Microwave Service; 37.0–38.6 GHz and 38.6–40.0 GHz Bands and Implementation of Section 309(j) of the Communications Act—Competitive Bidding

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; extension of time.

SUMMARY: The Commission grants an extension for filing comments and reply comments in this proceeding on licensing and technical rules for fixed point-to-point microwave operations in the 37.0–38.6 GHz and 38.6–40.0 GHz bands. This action is taken due to the complexity of the issues raised in the NPRM and Order in ET Docket No. 95–183 and PP Docket No. 93–253, FCC 95–500, (January 26, 1996). The intended effect is to allow applicants an extended period of time in which to address the issues pressented in the NPRM and Order.

DATES: Comments are to be filed on or before March 4, 1996 and reply comments on or before April 1, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION, CONTACT: Jennifer Burton, Private Wireless Division, (202) 418–0680.

SUPPLEMENTARY INFORMATION:

1. This is a synopsis of the Commission's Order, DA 96–144, adopted February 9, 1996 and released February 9, 1996. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Washington, D.C. 20037.

2. By this action, we grant a second extension of time in which to file comments and reply comments in this proceeding. Three parties—GHz Equipment Company, Inc. ("GEC"), Winstar Wireless Fiber Corporation ("WinStar"), and Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association ("TIA")—had requested additional time in response to an Order Extending Time released on January 16, 1996. See 61 FR 2465 (January 26, 1996).

3. By way of background, on January 16, 1996, the Office of Engineering Technology, on its own motion, extended the period of time to file comments and reply comments to February 12, 1996 and February 27, 1996, respectively, because of the closure of the government from mid-December to mid-January due to lack of funding and severe weather conditions. Thus, the following motions for extension of time received by the Commission on or before January 16, 1996, were mooted by the January 16 Order Extending Time: Advanced Radio Technology, Ltd. Motion for Extension of Time (filed January 11, 1996); AT&T Corporation Comments in Support of the Motion for an Extension of Time to File Comments and Reply Comments (filed January 16, 1996); BizTel, Inc. Motion for Extension of Time (filed January 11, 1996); Commco, L.L.C., PLAINCOM, INC., Sintra Capital Corporation, James W. O'Keefe, and Eric Sterman Motion for Extension of Time to File Comments (filed January 16, 1996); Digital Microwave Corporation ("DMC") Motion for Extension of Time (filed January 11, 1996); DMC Motion for Extension of Time (filed January 16, 1996); Thomas Domencich, Milliwave Limited Partnership, Columbia Capital

Corporation, Columbia Millimeter Communications, L.P, and Microwave Partners Emergency Joint Motion for Extension of Time to File Comments and Reply Comments (filed January 11, 1996); TIA Motion for Extension of Time (filed January 11, 1996); WinStar Motion for Extension of Time (filed January 16, 1996).

4. GEC's Motion, filed January 17, 1996, requests that the Commission extend the deadline for filing comments (currently February 12, 1996) by 60 days, and reply comments (currently February 27, 1996) by 45 days. WinStar's Petition for Reconsideration, filed January 19, 1996, requests that the deadline for filing comments be extended by 90 days and for filing reply comments by 45 days. TIA's Motion, filed January 22, 1996, requests that the Commission extend the deadline for filing reply comments by 20 days. No opposition to these requests has been filed to date.

5. GEC seeks its requested extension because of the complexity and volume of explicit comment sought in the NPRM and Order, 61 FR 2452 and 61 FR 2465 (January 26, 1996). GEC contends that the NPRM and Order contains almost 100 distinct issues ranging from competitive bidding procedures to modifications of technical rules, and proposals that are new to the record and unfamiliar to many affected parties. WinStar seeks an extension of time so that they may conduct engineering and economic research and analysis. Finally, TIA seeks an extension in order to respond meaningfully to complex studies and reply comments.

6. In light of the complexity of the issues raised in the NPRM and Order, we agree with GEC, Winstar and TIA that the public interest would be served by granting an extension. We nevertheless remain concerned about avoiding a substantial delay in the resolution of issues presented in this proceeding. Thus, we believe that a 20-day extension of the comment period combined with an extended reply comment period is appropriate.

Ordering Clauses

7. Accordingly, it is hereby ordered that the Motions for Extension of Time filed by GEC and TIA and the Petition for Reconsideration filed by Winstar are hereby granted to the extent stated herein.

8. It is further ordered that the Motions for Extension of Time set forth supra at paragraph 2 are hereby dismissed as moot.

9. It is further ordered, pursuant to Section 1.46 of the Commission's Rules, 47 CFR § 1.46, that the deadline for filing comments in this proceeding is extended from February 12, 1996 to March 4, 1996, and that the deadline for filing reply comments is extended from February 27, 1996 to April 1, 1996.

10. This action is taken pursuant to authority found in Sections 4 (i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154 (i) and 303, and Sections 0.131 and 0.332 of the Commission's Rules, 47 CFR §§ 0.131 and 0.332. For further information, contact Jennifer Burton, Private Wireless Division, (202) 418–0680.

Federal Communications Commission

Robert H. McNamara,

Chief, Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 96–3822 Filed 2–21–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Chapter VI

[I.D. 021296A]

Mid-Atlantic Fishery Management Council; Hearings on the Black Sea Bass Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearings; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public hearings to allow for input on the proposed Fishery Management Plan for the Black Sea Bass Fishery (FMP).

DATES: Written comments will be accepted on or before April 2, 1996. The hearings will be held during the months of February and March. See **SUPPLEMENTARY INFORMATION** for times and dates of hearings.

ADDRESSES: Send comments to David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, DE 19904. The public hearings will be held in Virginia, New Jersey, North Carolina, Maryland, Rhode Island, Massachusetts, and New York. See **SUPPLEMENTARY INFORMATION** for the locations of the hearings.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, (302) 674–2331.

SUPPLEMENTARY INFORMATION: The FMP, prepared by the Council, is intended to manage the black sea bass (*Centropristis striata*) fishery pursuant to the Magnuson Fishery Conservation and Management Act of 1976, as amended. The management unit consists of black sea bass in U.S. waters in the western Atlantic Ocean from Cape Hatteras, NC, northward to the U.S.-Canadian border. The objectives of the FMP are to: (1) Reduce fishing mortality in the black sea bass fishery to ensure that overfishing does not occur; (2) reduce fishing mortality on immature black sea bass to increase spawning stock biomass; (3) improve the yield from the fishery; (4) promote compatible management regulations between state and Federal jurisdictions; (5) promote uniform and effective enforcement of regulations; and (6) minimize regulations to achieve the management objectives stated above.

Overfishing for black sea bass is defined as fishing in excess of the F_{max} level. Based on current conditions in the fishery, F_{max} is 0.29 (an annual exploitation rate of 23 percent).

The recovery strategy calls for minimum fish sizes and commercial gear regulations in years 1 and 2. In years 3 to 5, target exploitation rates would be 48 percent for black sea bass. In years 6 and 7, the target exploitation rates would be 37 percent and in year 8 and subsequent years, the target exploitation rate would be based on F_{max}.

Management Measures

The Council has adopted the following management measures for purposes of public hearings:

Years 1 and 2

1. A 9–inch (229 mm) total length (TL) minimum fish size in all fisheries. A maximum of a 5–percent tolerance by weight of undersized black sea bass would be allowed on vessels issued moratorium permits. Black sea bass less than 9 inches (229 mm) TL could not be sold.

2. The minimum otter trawl mesh size for vessels retaining more than 100 lb of black sea bass would be 4.0 inches (102 mm) (stretch mesh inside measure).

3. Black sea bass pots would be required to have a minimum escape vent of 1–1/8 inches (28 mm) x 6 inches (152 mm), or 2.5 inches (66 mm) in diameter. The escape vent provision would be implemented at the start of the first calendar year following FMP approval, so the fishers would not be required to pull their pots and rebuild them in the middle of the season.

Years 3 and Subsequent

1. A 10–inch (254–mm) TL minimum fish size in all fisheries that may be adjusted annually on a framework basis. A maximum of a 5–percent tolerance by weight of undersized black sea bass would be allowed on vessels issued moratorium permits. Black sea bass less than 10 inches (254 mm) TL could not be sold.

2. Black sea bass pots would be required to have a minimum escape vent of 1–1/4 inches (32 mm) x 6 inches (152 mm), or 2.75 inches (70 mm) in diameter.

3. The minimum mesh size for vessels retaining more than 100 lb (45.36 kg) of black sea bass would be 4.5 inches (114 mm) (stretch mesh inside measure). The minimum mesh size may be adjusted annually on a framework basis.

4. Prior to year 3 and annually thereafter, the Council, working through a Monitoring Committee, would evaluate the success of the FMP relative to the overfishing reduction goal and propose adjustments to the management system. Beginning with year 3, additional measures would be implemented by the Director, Northeast Region, NMFS (Regional Director), based on the recommendations of the Council. Additional management measures could be any or all of the following:

a. *Commercial:* A coastwide commercial quota with Federal permit holders being prohibited from landing (selling) after the quota had been landed. Quota overruns would be deducted from the subsequent year. All states would need to prohibit black sea bass sales following a Federal sales prohibition.

b. *Recreational*: A coastwide possession limit, season, and recreational harvest limit. Landings in excess of the limit would be deducted from the harvest limit for the subsequent year.

For All Years

1. Operator permits for commercial and party and charter boats.

2. Vessel permits for party and charter boats.

3. Vessel permits for commercial vessels (permits to sell) under a moratorium on entry of additional vessels into the fishery. Vessels with documented landings of black sea bass for sale between January 26, 1988, and January 26, 1993, qualify for a moratorium permit to land and sell black sea bass under this moratorium program.

4. Dealer permits (permits to purchase).

5. Permitted vessels may only sell to permitted dealers and permitted dealers may only buy from permitted vessels.

6. Party and charter boat, commercial vessel, and dealer reports.

7. The hinges and fasteners of one panel or door in black sea bass pots or traps must be made of one of the following degradable materials:

a. Untreated hemp, jute, or cotton string of 3/16–inch (4.8 mm) diameter or smaller;

b. Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or (c) ungalvanized or uncoated iron wire of 0.062–inch (1.6 mm) diameter or smaller.

8. A maximum size of 18 inches (457 mm) diameter for rollers used in roller rig trawl gear.

9. Special management zones around artificial reef areas.

Alternatives Considered But Not Adopted

1. Take no action at this time.

2. Seasonal closures for the commercial fishery.

3. Bimonthly commercial quotas with possible trip limits established by the Regional Director to reduce the length of closures.

4. State by state commercial quotas with possible trip limits established by the states to reduce the length of closure. 5. Individual transferable quotas.

6. Seasonal dependent minimum sizes in the commercial fishery: A 10–inch (254 mm) TL minimum size from October 1 - April 30 and a 9–inch (229 mm) TL minimum size for the rest of the year.

7. A threshold requirement to qualify for a moratorium permit.

8. Separate management measures for party/charter boat fishermen.

9. A 9–inch (229 mm) TL minimum fish size and a 3.5–inch (89 mm) minimum square mesh size in the otter trawl fishery when the vessel has 100 lb (45.36 kg) or more of black sea bass on board.

Hearings

All hearings will begin at 7 p.m., except the New York hearing, which begins at 7:30 p.m. The hearings will be tape recorded with the tapes filed as the official transcript of the hearing. The hearings are scheduled as follows:

1. February 26, 1996—Days Inn, 5807 Northampton Boulevard, Virginia Beach, VA.

2. February 26, 1996—Ocean Place Hilton, One Ocean Boulevard, Long Branch, NJ.

3. February 27, 1996—Cape May Extension Office, Dennisville Road, Cape May, NJ.

4. February 27, 1996—North Carolina State Aquarium, Airport Road, Manteo, NC.

5. February 28, 1996—Dunes Manor, 28th Street and the Ocean, Ocean City, MD.

6. March 5, 1996—Holiday Inn, Routes 1 and 138, S. Kingston, RI.

7. March 6, 1996—Massachusetts Maritime Academy, Academy Drive, Buzzards Bay, MA.

8. March 7, 1996—Holiday Inn, 3845 Veterans Memorial Highway, Ronkonkoma, NY.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at (302) 674–2331.

Dated: February 15, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3969 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 61, No. 36

Thursday, February 22, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On December 15, 1994, the Department of Commerce (the Department) published in the **Federal Register** (59 FR 64650) the notice of initiation of administrative review of the antidumping duty order on circular welded non-alloy steel pipe from the Republic of Korea, for the period of November 1, 1993 through October 31, 1994. This review has now been terminated as a result of withdrawals by the interested parties that requested the review.

EFFECTIVE DATE: February 22, 1996.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Richard Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

We received requests for review pursuant to 19 CFR 353.22(a) (1994) for the following specifically-named exporters/manufacturers:

Dongbu Steel Co., Ltd.
Hyundai Pipe Co., Ltd.
Korea Iron and Steel Co., Ltd.
Korea Steel Pipe Co., Ltd.
Pusan Steel Pipe Co., Ltd.
Union Steel Manufacturing Co., Ltd.

On December 15, 1994, the Department published in the **Federal Register** (59 FR 64650) the notice of initiation of the administrative review.

Termination of Review

Ordinarily, parties have 90 days from the publication of the notice of initiation of review in which to withdraw a request for review. *See* 19 CFR 353.22(a)(5). We received timely requests for withdrawal from Dongbu Steel Co., Ltd., Hyundai Pipe Co., Ltd., Korea Iron and Steel Co., Ltd., Pusan Steel Pipe Co., Ltd., and Union Steel Manufacturing Co., Ltd. However, on January 30, 1996 (after the conclusion of the 90-day time period), we received a request for withdrawal from Korea Steel Pipe Co., Ltd. and the petitioner.

Given that the review has not progressed substantially and there would be no undue burden on the parties or the Department, the Department has determined that it would be reasonable to grant the withdrawal at this time. Therefore, in accordance with section 353.22(a)(5) of the Department's regulations, the Department has terminated this administrative review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675), and 19 CFR 353.22(a)(5).

Dated: February 13, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–3901 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–820]

Certain Compact Ductile Iron Waterworks Fittings and Glands (CDIW) From the People's Republic of China: Termination of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of new shipper antidumping duty administrative review.

SUMMARY: On November 14, 1995, the Department of Commerce (the Department) published in the **Federal Register** (60 FR 57218) the notice of initiation of the new shipper administrative review of the antidumping duty order on certain compact ductile iron waterworks fittings and glands (CDIW) from the People's Republic of China (PRC). This review has now been terminated as a result of withdrawal of the request for review by Beijing M Star Pipe Corp. (BMSP), the only interested party that requested a new shipper review.

EFFECTIVE DATE: February 22, 1996.

FOR FURTHER INFORMATION CONTACT: Paul M. Stolz, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4474.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1995, BMSP requested a new shipper administrative review of the antidumping duty order on CDIW from the PRC for the period February 1, 1995, through August 31, 1995, pursuant to 19 U.S.C. 1675 (a)(2)(B). On November 14, 1995, the Department published in the **Federal Register** (60 FR 57218) the notice of initiation of that new shipper administrative review. BMSP withdrew its request for review on January 18, 1996 pursuant to 19 CFR 353.22(a)(5). There were no other requests for this new shipper review. As a result, the Department has terminated this review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22.

Dated: February 1, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–3902 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–601]

Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 26, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on certain fresh cut flowers from Mexico. The period of review is April 1, 1992 through March 31, 1993.

We gave interested parties an opportunity to comment on our preliminary results. We have not changed our preliminary results of review.

EFFECTIVE DATE: February 22, 1996.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On September 26, 1995, the Department published in the **Federal Register** (60 FR 49577) the preliminary results of its administrative review of the antidumping duty order on certain fresh cut flowers from Mexico (52 FR 13491 (April 23, 1987)). The preliminary results indicated that no dumping margins existed for four of the respondents in this review: Rancho El Aguaje (Aguaje), Rancho Guacatay (Guacatay), Rancho El Toro (Toro), and Rancho Del Pacifico (Pacifico). We applied dumping margins based on the best information available (BIA) to Tzitzic Tareta, Rancho Mision el Descanso, Rancho Alisitos, and Las Flores de Mexico, because they failed to answer the antidumping questionnaire. Two producers, Visaflor S. de P.R. (Visaflor) and Rancho Daisy (Daisy), made no shipments to the United States during the period of review.

Applicable Statutes and Regulations

The Department has conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise stated, all citations to the statutes and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of the Review

The products covered by this review are certain fresh cut flowers, defined as standard carnations, standard chrysanthemums, and pompon chrysanthemums. During the period of review (POR), such merchandise was classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) items 0603.10.7010 (pompon chrysanthemums), 0603.10.7020 (standard chrysanthemums), and 0603.10.7030 (standard carnations). The HTSUS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive as to the scope of the order.

This review covers sales of the subject merchandise entered into the United States during the period April 1, 1992 through March 31, 1993.

Analysis of the Comments Received

The petitioner, the Floral Trade Council, submitted a case brief on October 26, 1995. We received no other comments on the preliminary results. The petitioner combined in one case brief its comments for this review and the 1993–1994 review. Below, we have addressed only those comments that appear to be relevant to the 1992–1993 review.

Comment 1: The petitioner claims that the Department overstated exporter's sales prices (ESP) by failing to deduct commissions paid to related parties. The petitioner states that the statute and the Department's regulations require the Department to deduct U.S. commissions and indirect selling expenses, regardless of whether the consignment agent is a related party. For this reason, the petitioner argues, the Department should reconsider its treatment of related party commissions in this case and as articulated in *Fresh Cut Roses from Colombia* and *Fresh Cut Roses from Ecuador*, 60 FR 6980, 7019 (Feb. 6, 1995) (*Roses*).

The petitioner argues that, in *Roses*, the Department erroneously distinguished between commissions paid to related and unrelated parties, while the statute, which makes no such distinction, simply requires that commissions be deducted from ESP. The petitioner states that the Department's treatment of related party commissions in *Roses* is irrational, and it is inconsistent with *Timken Co.* v. *United States*, 630 F. Supp. 1327, 1341 (CIT 1986) (Timken). The petitioner asserts that, in *Timken*, the Court supported the Department's rationale for not deducting related party profits because they were not commissions, while, in *Roses*, the Department refused to deduct commissions because they are profits. The petitioner points out that, in the 1989–1990 review of *Certain Fresh Cut Flowers from Mexico*, the Department deducted related party commissions found to be at arm's length (57 FR 7732 (March 4, 1992)).

Finally, the petitioner states that, even assuming that commissions need not always be deducted under section 772(e)(1) of the Act, the Department must deduct from ESP all direct selling expenses incurred at arm's length as circumstance-of-sale adjustments.

The Department's Position:

We disagree with the petitioner. Since the Department published its final results in the 1989–1990 review of this order, we have established the practice of collapsing exporters and their related consignment agents in ESP situations. The petitioner's arguments do not persuade us to deviate from this practice. As fully explained in *Roses*, the Department considers commissions paid to related parties to be intracompany transfers of funds, which are not deductible from ESP. *See also Furfuryl Alcohol From South Africa; Final Determination of Sales at Less Than Fair Value* 60 FR 22551 (May 8, 1995). Further, we do not consider such a transfer of funds to be a direct selling expense. Instead of making a deduction for commissions, the Department deducts the amount of the related importer's U.S. direct and indirect selling expenses pursuant to section 772(e)(2) of the Act. This methodology avoids double-counting the direct and indirect selling expense component of the related party commission, and avoids deducting any of the related importer's profit, as the Court affirmed in *Timken*.

Comment 2: The petitioner claims that the Department should confirm that the respondents' reported credit costs account for the time between receipt of payment and deposit into the respondents' bank accounts, as the Department did in the 1989–1990 administrative review.

The Department's Position:

We disagree with the petitioner. For the purposes of calculating imputed credit costs, it is our practice to calculate the number of credit days based on the number of days between the date of shipment and the date of payment. If actual payment dates are not readily accessible, we normally allow respondents to base the number of credit days on the average age of accounts receivable. *See, e.g., Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 56 FR 12701 (Comment 28)(March 27, 1991).

We found during verification that the respondents' methodologies for calculating the average age of accounts receivable were reasonable. For further discussion, see the public verification reports for Aguaje and Pacifico, on file in Room B099 of the Commerce Department.

Comment 3: The petitioner states that the Department should describe the

manner in which it confirmed that Visaflor and Daisy made no shipments of the subject merchandise during the review period.

The Department's Position:

To determine whether Visaflor and Daisy made shipments of the subject merchandise to the United States during the review period, the Department followed its standard practice of issuing an electronic mail message to the Customs Service. The Customs Service then transmitted this message to field personnel, requesting notification if the subject merchandise exported by Visaflor or Daisy entered the United States during the review period. A copy of this message is on file in Room B099 of the Commerce Department. We received no information from Customs that Visaflor and Daisy had shipments of the subject merchandise during the POR.

Comment 4: The petitioner agrees with the Department's decision to assign non-responding companies a margin based on BIA, however, the petitioner states that the Department should not have assigned these companies the second-highest rate found for any respondent. By doing so, the petitioner argues, the Department unnecessarily and unfairly departed from its practice of assigning non-responding companies the highest available margin.

The petitioner states that, although the Department did not use the highest rate as BIA in prior reviews, the respondents in those reviews had, at least, submitted partial or complete questionnaire responses. The petitioner argues that the Department has no evidence that the highest margin is unrepresentative, since the parties failed to respond to the questionnaire. Furthermore, the petitioner states, the respondents are presumed to be aware of the highest possible margin when they decided not to respond to the antidumping questionnaire, citing *Rhone Poulenc, Inc.* v. *United States*, 899 F.2d 1185, 1191 (Fed. Cir. 1990).

The Department's Position:

We disagree with the petitioner. Prior to 1993 and the CIT's decisions in *The Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993), and *Federal Mogul Corporation and the Torrington Company* v. *United States*, 839 F.Supp. 864 (CIT 1993), the Department determined an "all others" or "new shippers" rate during the course of each administrative review. In the 1989–1990 review of this order, the Department did not include Florex's rate of 264.43 percent in its determination of the updated "all others" rate. The CIT supported the Department's position, stating that, "Florex's accumulated interest expenses from a separate line of business that never began operations skewed its cost of production figures and should not have been included in the review analysis." *The Floral Trade Council* v. *the United States*, 799 F. Supp. 116 (CIT 1992).

The Court recognized that Florex's rate was unrepresentative of the other companies in that review, and by extension, of the entire flower industry because: (1) it was an out of proportion rate explained by factors unassociated with the overall industry, and (2) Florex represented only a small fraction of the industry. The Court concluded that "ITA did not err in finding it would be punitive to maintain Florex's rate as the "all other" rate. *Id.* at 119. Therefore, although we received no information from the non-responding companies, we maintain that the Florex rate is unrepresentative of the Mexican fresh cut flower industry, and unsuitable to be applied to the non-responding companies as BIA.

Final Results of Review

We determine that the following dumping margins exist for the period April 1, 1992, through March 31, 1993:

Manufacturer/exporter	Margin (percent)
Rancho el Aguaje	0.00
Rancho Guacatay	0.00
Rancho el Toro	0.00
Rancho del Pacifico	0.00
Rancho Daisy	*0.00
Visaflor	*0.00
Tzitzic Tareta	39.95
Rancho Mision el Descanso	39.95
Rancho Alisitos	39.95
Las Flores de Mexico	39.95
All Others	18.28

*No shipments subject to this review. Rate is from the last relevant segment of the proceeding in which the firm had shipments.

Because Guacatay received a margin of 39.95 percent for the 1991–1992 review period, we have determined not to revoke the antidumping duty order with respect to Guacatay. (*See Notice of Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico*, 60 FR 49569 (September 26, 1995).)

The following deposit requirements shall be effective for all shipments of the subject merchandise that are entered or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies shall be the above rates; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 18.28 percent, the all others rate established in the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 353.34(d) or 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: February 13, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3899 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–DS–P

A–405–071

Viscose Rayon Staple Fiber From Finland; Notice of Final Court Decision and Rescission of Revocation of Antidumping Duty Finding

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final court decision and reinstatement of antidumping duty finding.

SUMMARY: On November 7, 1994, the Department of Commerce revoked the finding on viscose rayon staple fiber from Finland pursuant to an order of the United States Court of International Trade ("CIT") in *Kemira Fibres Oy* v. *United States*, 861 F. Supp. 144 (CIT 1994). In *Kemira*, the CIT ruled that the Department was required to revoke the finding because no interested party filed a request for administrative review for this finding or objected to the finding's revocation by March 31, 1993, notwithstanding the Department's failure to issue timely notice of intent to revoke. The Department appealed the Court's order and, on August 2, 1995, the United States Court of Appeals for the Federal Circuit ("Federal Circuit") overturned the CIT order. Therefore, we are now rescinding the revocation of the fiber finding and instructing the U.S. Customs Service to suspend liquidation of entries of fiber from Finland.

EFFECTIVE DATE: February 22, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., 20230; telephone (202) 482–5831/4114.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1994, the CIT ruled that the Department was required to revoke the antidumping finding on viscose rayon staple fiber from Finland, terminate the ongoing administrative review and end the suspension of liquidation of the subject merchandise pursuant to 19 C.F.R. § 353.25(d)(4). *See Kemira Fibres Oy* v. *United States*, 861 F. Supp. 144 (CIT 1994). The Court stated that the Department was required to revoke the finding because no interested party filed a request for an administrative review or objected to revocation by the last day of the fifth anniversary month, notwithstanding the Department's failure to issue timely notice of intent to revoke.

In compliance with the CIT's ruling, the Department revoked the antidumping duty finding on November 7, 1994, terminated the 1993–94 administrative review and ended the suspension of liquidation on all entries of the subject merchandise. *See Viscose Rayon Staple Fiber From Finland; Termination of Administrative Review and Revocation of Antidumping Finding*, 59 FR 55441 (Nov. 7, 1994). The Department took these actions, rather than suspend liquidation of the subject merchandise during the pendency of appeal, because the CIT decision was issued pursuant to 28 U.S.C. § 1581(i), the Court's residual jurisdiction authority, rather than pursuant to 19 U.S.C. § 1516a, the Court's general jurisdictional authority.

In the subsequent appeal, the Federal Circuit found the Department's interpretation of 19 C.F.R. § 353.25(d)(4) (i.e., that notice of intent to revoke is a prerequisite to revocation of an antidumping order or finding) to be reasonable. Therefore, the Federal Circuit reversed the CIT's order and opinion and remanded for further proceedings consistent with its decision. *See Kemira Fibres Oy* v. *United States*, 61 F.3d 866 (Fed. Cir. 1995).

On November 13, 1995, the CIT vacated its earlier decision and declaratory judgment of September 8, 1994 and instructed the Department to proceed with further proceedings consistent with the Federal Circuit's opinion.

Thus, consistent with the Federal Circuit's decision, the Department hereby rescinds the revocation of the antidumping duty finding on viscose rayon staple fiber from Finland, published at 44 FR 17156 (Mar. 21, 1979). Further, the Department is directing the U.S. Customs Service to suspend liquidation and require a cash deposit in the amount of 0.00 percent ad valorem, the last published deposit rate, for each entry of the subject merchandise from Finland which is entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice.

Dated: February 13, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3900 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 021396C]

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Reef Fish Committee of the Caribbean Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on March 7, 1996, from 2:00 p.m. until 5:00 p.m. and on March 8, 1996 from 9:00 a.m. until 12 noon.

ADDRESSES: The meeting will be held at the Conference Room of Joyuda Plaza Hotel, Cabo Rojo, PR.

Council Address: Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council; telephone: (809) 766–5926.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss issues regarding the red hind closed area off Mayagüez, PR. The meeting is open to the public, and will be conducted in English with Spanish translation. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda items.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or requests for sign language interpretation and/or other auxiliary aids please contact Mr. Miguel A. Rolón, Executive Director (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: February 15, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3967 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 021296D]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings.

DATES: The meetings will be held on March 11–14, 1996. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: These meetings will be held at the Hawk's Cay Resort, Mile Marker 61, U.S. Highway 1, Duck Key, FL; telephone: 800–826–4061.

Council address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION:

Council

March 12

1:30 p.m.—Convene to receive public testimony.

1:45 p.m. - 5:30 p.m.—Receive final public testimony on Draft Reef Fish Amendment 13 extending the red snapper endorsement system, Red Snapper Regulatory Amendment and Draft Coastal Migratory Pelagics (Mackerel) Amendment 8. (NOTE: Testimony cards must be turned in to staff before the start of public testimony).

March 13

8:30 a.m. - 10:00 a.m.—Reconvene to continue public testimony.

10:00 a.m. - 12:00 noon—Final Council Action on Draft Mackerel Amendment 8.

1:30 p.m. - 3:30 p.m.—Reconvene to continue Final Council Action on Draft Mackerel Amendment 8.

3:30 p.m. - 5:30 p.m.—Receive a report of the Personnel Committee (CLOSED SESSION).

March 14

8:30 a.m. - 9:30 a.m.—Reconvene to receive a report of the Reef Fish Management Committee.

9:30 a.m. - 10:00 a.m.—Receive a report of the Habitat Protection Management Committee.

10:00 a.m. - 10:15 a.m.—Receive a report of the Ad Hoc Communications Committee.

10:15 a.m. - 10:45 a.m.—Receive a report of the Red Drum Management Committee.

10:45 a.m. - 11:00 a.m.—Discuss issues related to the Bycatch Amendment.

11:00 a.m. - 11:15 a.m.—Receive report of the International Commission for the Conservation of Atlantic Tunas Working Groups.

11:15 a.m. - 11:30 a.m.—Receive South Atlantic Fishery Management Council Liaison Report.

11:30 a.m. - 12:15 p.m.—Receive Enforcement and Director's reports.

12:15 pm. - 12:30 p.m.—Other business to be discussed.

Committees

March 11

9:00 a.m. - 12:00 noon—Convene the Habitat Protection Management Committee.

1:00 p.m. - 2:30 p.m.—Convene the Ad Hoc Communications Committee.

2:30 p.m. - 5:30 p.m.—Hold a public workshop on fish traps.

March 12

8:00 a.m. - 12:00 noon—Convene the Reef Fish Management Committee.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see ADDRESSES) by March 4, 1996.

Dated: February 14, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3904 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 021396B]

New England Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will begin on Tuesday, February 27, 1996, at 10 a.m. and on Wednesday, February 28, 1996, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Tara Ferncroft Conference Resort, 50 Ferncroft Road, Danvers, MA 01923. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097; telephone: (617) 231–0422.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, (617) 231–0422.

SUPPLEMENTARY INFORMATION:

February 27, 1996

The February 27, 1996, session will begin with a report on the 21st Stock Assessment Workshop presented by the staff of the Northeast Fisheries Science Center. Analyses will be reviewed for the following species/stocks: Long-finned squid (*Loligo*); short-finned squid (*Illex*), Atlantic herring, winter flounder, and the northeast multispecies complex. Reports will be presented by the Council Chairman; Executive Director; Director, Northeast Regional Office; Northeast Fisheries Science Center; Atlantic States Marine Fisheries Commission; U.S. Coast Guard; and the Mid-Atlantic Council Liaison. The Council's Scallop Oversight Committee (Committee) will review and possibly recommend approval of a plan amendment to establish a temporary experimental use area 10 miles (18.52 km) south of Martha's Vineyard for sea scallop research, enhancement, and aquaculture. The Committee will also review a draft public hearing document on a proposed plan amendment to allow the consolidation of days-at-sea now allocated to individual scallop vessels. The day will conclude with a discussion of proposed legislation for highly migratory species management.

February 28, 1996

On February 28, 1996, the Monkfish Committee will present an update on management measures, including the overfishing definitions. The Groundfish Committee will discuss the proposed rule for Amendment 7 to the Northeast Multispecies Fishery Management Plan (FMP) followed by a discussion of groundfish management priorities. Issues include:

1. Additional framework adjustments to the FMP: (a) Alternatives to the Amendment 7 default measures for effort reductions in the sink gillnet fishery and for the Gulf of Maine area closures, (b) a requirement that fishermen exempted from effort controls under Amendment 5 take a 20-day block of time off from harvesting groundfish during the March through May spawning period for 1996 only, (c) implementation of a square-mesh requirement for trawl gear, and (d) reconsideration of the measure to apply groundfish fleet days-at-sea to vessels using nets to harvest sea scallops.

2. A plan amendment to address management of the whiting fishery.

3. The consolidation of fishing effort in the groundfish fleet and the development of gear based management options. The Council will address any other outstanding business at the conclusion of the agenda items described above.

Special Accommodations

The meeting is physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February, 15, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–3968 Filed 2–21–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report for the Proposed Disposal and Reuse of Naval Air Station Alameda and the Alameda Annex of the Fleet Industrial Supply Center, Alameda, California

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508) and the California Environmental Quality Act (CEQA), the Department of the Navy, in association with the City of Alameda, California, announces its intent to prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the proposed disposal and reuse of Naval Air Station (NAS) Alameda and the Fleet and Industrial Supply Center, Oakland, Alameda Annex and Facility (Alameda Annex/Facillty). The Defense Base Closure and Realignment Act (Public Law 101–510) of 1990 , as implemented by the base closure process of 1993, directed the Navy to close NAS Alameda and the Alameda Annex/Facility.

The Navy will be the lead agency for NEPA documentation and the City of Alameda will be the lead agency for CEQA documentation.

The U.S. Fish and Wildlife Service will be a cooperating agency for the NEPA documentation.

NAS Alameda and the Alameda Annex/Facility are located on Alameda Island, at the western end of the City of Alameda, Alameda County, California. Alameda Island lies along the eastern side of the San Francisco Bay adjacent to the City of Oakland.

NAS Alameda is approximately two miles long by one mile wide, and occupies approximately 2,842 acres, including 1,734 acres of uplands and 1,108 acres of tidelands. The Base, which is scheduled for operational closure in April, 1997, is currently developed with airfield, industrial, office, residential, educational, institutional, and open space uses.

The Alameda Annex/Facility consists of two parcels which comprise approximately 188 acres of land area, adjacent to NAS Alameda to the east and bordered on the north by the Oakland/Alameda Estuary, which separates Alameda Island from the City of Oakland. It is developed with warehouses, open spaces, storage and administrative buildings. The Alameda Annex/Facility is scheduled for operational closure in September, 1998.

The EIS/EIR will address the disposal of both NAS Alameda and the Alameda Annex/Facility to public or private entities and the potential impacts of reuse alternatives. All available property will be disposed of in accordance with the provisions of applicable laws, including Public Law 101–510 and applicable federal property disposal regulations.

The NAS Alameda Community Reuse Plan, developed by the Alameda Reuse and Redevelopment Authority (ARRA), includes both NAS Alameda and the Alameda Annex/Facility, and constitutes the preferred Reuse Plan for the EIS/EIR. The Plan is a mixed use proposal and identifies seven distinctive reuse sub-areas and recommendations for reuse. The EIS/EIR will examine the potential impacts to the environment that may result from the implementation of the preferred Reuse Plan and potential alternative reuse scenarios. The alternatives may include mixed use, still based in large part on the Reuse Plan, but emphasizing open space, a seaport industrial focus, and an option with a limited use airfield and increased residential uses. A "no action" alternative, which would result in the federal government retaining the property in an "inactive" caretaker status, will also be included.

ADDRESSES: Federal, state and local agencies, and interested individuals are invited to participate in the scoping process to determine the range of issues and reuse alternatives to be addressed. A public scoping meeting to receive oral and written comments will be held on Wednesday, March 13, 1996, at 7:00 p.m., at the Alameda High School Cafeteria, located at 2200 Central Avenue, Alameda, California. In the interest of available time, each speaker will be asked to limit oral comments to five minutes. In addition, written comments may be submitted by March 29, 1996, to Mr. Jerry Hemstock, Code 185JH, Engineering Field Activity West, Naval Facilities Engineering Command, 900 Commodore Drive, San Bruno, California 94066–5006, telephone (415) 244–3023, fax (415) 244–3737. For further information regarding the NAS Alameda Community Reuse Plan, contact Mr. Paul Tuttle, Alameda Reuse and Redevelopment Authority, Naval Air Station Postal Directory, Building 90, Alameda, California 94501–5012, telephone (510) 263–2870, fax (510) 521–3764.

Dated: February 15, 1996.

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–3920 Filed 2–21–96; 8:45 am]

BILLING CODE 3810–FF–P

Chief of Naval Operations (CNO) Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel, will meet on 03 Apr 1996, from 10:00 a.m. to 11:30 a.m. in Room 4E630, Pentagon, Washington, DC. This session will be closed to the public.

The purpose of this meeting is to conduct discussions on the Planning, Programming and Budgeting Process, Navy modernization straegies, resource allocation, and manpower issues. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with mattes listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Janice Graham, Assistant for CNO Executive Panel Management, 4401 Ford Avenue, Suite 601, Alexandria, Virginia 22302-0268, Telephone Number: (703) 681-6205.

Dated: February 15, 1996

M. D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 96–3922 Filed 2–21–96; 8:45 am]

BILLING CODE 3810–FF–F

Board of Visitors To The United States Naval Academy; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on 18 March 1996, at Alumni Hall, United States Naval Academy, Annapolis, MD, at 8:30 a.m. The executive session of this meeting from approximately 8:30 a.m. to 10:00 a.m. will be closed to the public. Following executive session the remainder of the meeting will be opened to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During executive session these inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, the Secretary of the Navy has determined in writing that the executive session portion of the meeting shall be closed to the public because they will be concerned with matters as outlined in section 552b(c) (2), (5), (6), (7), and (9) of Title 5, United States Code.

For further information concerning this meeting contact:Lieutenant Commander Adam S. Levitt, U.S. Navy, Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 21402-5000, Telephone (410) 293-1503.

Dated: February 15, 1996

M. D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc.96–3921 Filed 2–21–96;8:45 am]

BILLING CODE 3810–FF–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 22, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 15, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of the Secretary

Type of Review: New.
Title: National Recognition Program for Model Professional Development.
Frequency: One-time.
Affected Public: State, Local or Tribal Gov't., SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 100.
Burden Hours: 2,300.
Abstract: With the importance of professional development to school reform and excellence in teaching and learning, there is an immediate need to identify and recognize model professional development programs throughout the country that have schoolwide impact on student success, and that are aligned with the recently developed Principles for Professional Development. The Department will solicit applications from those operating effective professional development activities at the pre-K through 12 level in schools and school districts, evaluate them with the help of professional educators (who will confirm information for high-ranking applicants through site visits), and recognize those programs that are found to meet those criteria.

Office of Elementary and Secondary Education

Type of Review: New.
Title: Complaint Procedures for State Administered Programs/IASA.
Frequency: On occasion.
Affected Public: Individuals or Households, State, Local or Tribal Gov't, SEAs or LEAs.
Annual Reporting and Recordkeeping Burden:
Responses: 57.
Burden Hours: 4,560.
Abstract: A requirement that States establish complaint procedures in State-administered programs, so that the public may bring complaints to the attention of State program administrators.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.
Title: Resolution of Applicant/Client Appeals.
Frequency: Annually.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Reporting Burden and Recordkeeping:
Responses: 82.
Burden Hours: 164.
Abstract: Form RSA–722 is needed to meet specific data collection requirements in Subsections 102(6)(A) and (B) of the Rehab Act of 1973, as amended on the number of Applicant/Client appeals handled by impartial hearing officers. The information collected is used to evaluate the types of complaints made by applicants/clients of the vocational rehabilitation program and the final resolution of appeals filed. Respondents are State agencies that administer the Federal/State Program for Vocational Rehabilitation.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Application for New Grants Under the School, College, and University Partnerships (SCUP) Program.
Frequency: Competitive Year.
Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 175.
Burden Hours: 3,500.
Abstract: The application form will be used to collect program and budget information needed to evaluate the quality of applications submitted and make funding decisions based on the authorizing statute and the published funding criteria.

[FR Doc. 96–3946 Filed 2–21–96; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 25, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 15, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: Extension.
Title: Application for Grants Under the Library Literacy Program.
Frequency: Annually.
Affected Public: State, Local or Tribal Government.
Reporting and Recordkeeping Hour Burden
Responses: 500.
Burden Hours: 8,500.
Abstract: This form will be used by state and local public libraries to apply for funds under Title VI of the "Library Services and Construction Act" (P.L. 98–480) for planning and coordinating library literacy programs, training librarians and volunteers to carry out such programs, and acquiring necessary materials.

Office of Postsecondary Education

Type of Review: Resubmission.
Title: Student Right-to-Know—Final Rule.
Frequency: Annually.
Affected Public: Business and other for-profit; Not-for-profit institutions.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 8,000.
Burden Hours: 240,100.
Abstract: Pub. L. 101–542 requires the Department to modify the Program Participation Agreements of institutions of higher education participating in programs under Title IV of the Higher Education Act of 1965, as amended (HEA). These regulations implement those modifications by requiring those institutions to make available to students and prospective students the graduation rates of full-time, degree- or certificate-seeking undergraduate students, and make available to prospective student-athletes, and their parents, coaches, and counselors, information on the graduation rates of the student population, and of student athletes by race and gender within sport.

Office of Educational Research and Improvement

Type of Review: New.
Title: Baccalaureate and Beyond Longitudinal Study: Second Follow-up (B&B: 93/97).
Frequency: One-Time.
Affected Public: Individuals or households.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 13,500.
Burden Hours: 9,417.
Abstract: This study will collect and report data about students who completed a bachelor's degree in 1992–93. Specifically, this follow-up will collect data concerning postbaccalaureate degree attendance, persistence, and completion; transition into and experiences after entry into the work force; and career paths of those who entered teaching at the elementary/secondary level.
Type of Review: New.
Title: A Study of Charter Schools.
Frequency: Annually.
Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 800.
Burden Hours: 535.
Abstract: This is a four-year study of charter schools to determine the impact of charter schools on student achievement, on education reform, and on a multi-faceted array of other issues. It includes an annual survey of the universe and site visits at increasingly deep levels.

Office of Management

Type of Review: Revision.
Title: Waiver Guidance Under Goals 2000.
Frequency: On occasion.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 300.
Burden Hours: 6,000.
Abstract: This is a four-year study of charter schools to determine the impact of charter schools on student achievement, on education reform, and on a multi-faceted array of other issues. It includes an annual survey of the

universe and site visits at increasingly deep levels.

[FR Doc. 96–3947 Filed 2–21–96; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94–120–009]

Koch Gateway Pipeline Company; Notice of Proposed changes in FERC Gas Tariff

February 15, 1996.

Take notice that on February 12, 1996, Koch Gateway Pipeline Company (Koch Gateway), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets:

Eleventh Revised Sheet No. 20
Tenth Revised Sheet No. 21
Eleventh Revised Sheet No. 22
Seventh Revised Sheet No. 23
Eleventh Revised Sheet No. 24
Second Revised Sheet No. 4000

Koch Gateway states that the purpose of this filing is to comply with the Commission's January 31, 1996, Order Approving Contested Settlement as Modified. Koch Gateway also states that these tariff sheets have adjusted FTS and ITS rates to reflect revisions to the discount adjustment made in compliance with the Order. Koch Gateway also states that, pursuant to the settlement, it will move to place these rates into effect on the first date of the first month following receipt of a final Commission Order approving the settlement if that order is acceptable to Koch Gateway.

Koch Gateway states that copies of the filing will be served upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 96–3924 Filed 2–21–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP94–343–015]

NorAm Gas Transmission Company; Notice of Settlement Compliance Filing

February 15, 1996.

Take notice that on February 12, 1996, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to become effective January 1, 1996:

Substitute First Rev Sheet No. 5
Substitute First Rev Sheet No. 6
Second Sub Fourth Rev Sheet No. 13
First Revised Sheet Nos. 16–26
First Revised Sheet No. 28
Substitute First Rev Sheet No. 113
Substitute Original Sheet No. 167A
Substitute Original Sheet No. 171A
Substitute Original Sheet No. 180
Substitute First Rev Sheet No. 211
Substitute Original Sheet No. 305
Substitute Original Sheet No. 306
Substitute Original Sheet No. 307
Substitute First Rev Sheet No. 318
Substitute First Rev Sheet No. 319
Substitute Original Sheet No. 321A
Substitute Original Sheet No. 328

NGT states that these revised tariff sheets are filed in compliance with the Commission's January 22, 1996, order approving the parties' settlement in this proceeding. First, the filing will implement the settlement fuel tracker tariff sheet effective January 1, 1996. The next semi-annual fuel tracker filing will be made on April 1, 1996. Second, it will remove tariff sheets regarding excess deferred income taxes as provided for in the Settlement. Third, it will clarify the tariff sheets in effect regarding the crediting of excess cash-out revenues. Fourth, it will replace tariff sheets to make needed clerical, typographical, and administrative corrections.

Any person desiring to protest the proposed tariff sheets should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 96–3925 Filed 2–21–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP96–105–001]

Overthrust Pipeline Company; Notice of Tariff Filing

February 15, 1996.

Take notice that on February 12, 1996, Overthrust Pipeline Company, tendered for filing and acceptance to be effective January 29, 1996, Substitute First Revised Sheet Nos. 44 and 45 to First Revised Volume No. 1–A of its FERC Gas Tariff.

Overthrust states that these tariff sheets, which are filed in compliance with the Commission's January 26, 1996, letter order in Docket No. RP96–105–000, revise Sections 7.9 and 7.11 of the General Terms and Conditions as directed by the Commission.

Overthrust states further that a copy of this filing has been served upon its jurisdictional customers and the appropriate public service commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 96–3928 Filed 2–21–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP95–411–000]

Panhandle Eastern Pipe Line Company; Notice of Technical Conference

February 15, 1996.

An informal technical conference will be convened to resolve certain issues raised by the filing in the above-captioned proceeding and certain parties requesting the technical conference. Panhandle should be prepared at the technical conference to address such issues and provide further support. With respect to certain material for which Panhandle has requested confidential treatment, the examination of relevant data is governed by executed protective agreements with the parties, as directed by the Commission in the September 1, 1995, order in this proceeding.[1]

The conference to address the issues has been scheduled for Tuesday, March 5, 1996 at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,
Secretary.

[FR Doc. 96–3927 Filed 2–21–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP95–296–002]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 15, 1996.

Take notice that on February 12, 1996, Williams Natural Gas Company (WNG), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with the proposed effective date of March 14, 1996:

Second Revised Sheet No. 251
Third Revised Sheet No. 252
Substitute First Revised Sheet No. 253
First Revised Sheet No. 254

WNG states that this filing is being made in compliance with Commission order issued December 22, 1995 in Docket No. RP95–296–001. WNG was directed to revise its tariff to provide for the posting of the availability of PDM (pricing differential mechanism) gas on its EBB.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 96–3926 Filed 2–21–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER96–864–000, et al.]

Kentucky Utilities Company, et al.; Electric Rate and Corporate Regulation Filings

February 14, 1996.

Take notice that the following filings have been made with the Commission:

1. Kentucky Utilities Company

[Docket No. ER96–864–000]

Take notice that on January 16, 1996, Kentucky Utilities Company (KU) tendered for filing information on transactions that occurred during December 16, 1995 through December 31, 1995, pursuant to the Power Services Tariff accepted by the Commission in Docket No. ER96–854–000.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Black Hills Corporation

[Docket No. ER96–922–000]

Take notice that on January 22, 1996, Black Hills Corporation which operates its electric utility business under the name of Black Hills Power and Light Company tendered for filing an executed form service agreement with KN Marketing, Inc.

Copies of the filing were provided to the regulatory commission of each of the states of Montana, South Dakota, and Wyoming.

Black Hills has requested that further notice requirement be waived and the tariff and executed service agreement be allowed to become effective February 1, 1996.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. PECO Energy Company

[Docket No. ER96–1006–000]

Take notice that on February 5, 1996, PECO Energy Company (PECO), filed a Service Agreement dated January 24, 1996, with Illinois Power Company (IPC) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds IPC as a customer under the Tariff.

PECO requests an effective date of January 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to IPC and to the Pennsylvania Public Utility Commission.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER96–1007–000]

Take notice that on February 5, 1996, PECO Energy Company (PECO), filed a Service Agreement dated January 24, 1996, with Wisconsin Public Service Corporation (WPSC) under PECO's FERC Electric Tariff Original (Volume No. 1 (Tariff). The Service Agreement adds WPSC as a customer under the Tariff.

PECO requests an effective date of January 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to WPSC and to the Pennsylvania Public Utility Commission.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. PECO Energy Company

[Docket No. ER96–1008–000]

Take notice that on February 5, 1996, PECO Energy Company (PECO) filed a Service Agreement dated January 24, 1996 with Bangor Hydro-Electric Company (BANGOR HYDRO-ELECTRIC) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds BANGOR HYDRO-ELECTRIC as a customer under the Tariff.

PECO requests an effective date of January 24, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to BANGOR HYDRO-ELECTRIC and to the Pennsylvania Public Utility Commission.

Comment date: February 28, 1996. in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Electric and Gas Company

[Docket No. ER96–1009–000]

Take notice that on February 5, 1996, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Carolina Power and Light Company (CP&L). Pursuant to the agreement, PSE&G will sell peaking capacity and associated energy for a period commencing on February 6 through February 29, 1996, the energy being scheduled daily by CP&L.

[1] 72 FERC ¶61,206 (1995).

Copies of the filing have been served upon CP&L, the New Jersey Board of Public Utilities, the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company and GPU Generation Corporation

[Docket No. ER96–1010–000]

Take notice that on February 5, 1996, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company and GPU Generation Corporation (the GPU Companies), tendered for filing pursuant to Rule 205 of the Commission's Rules of Practice and Procedure (18 CFR 385.205) a proposed rate schedule change to substitute GPU Generation Corporation for Pennsylvania Electric Company as the GPU Company to operate the Keystone, Conemaugh, Homer City and Seneca electric generating stations and to substitute GPU Generation Corporation for Jersey Central Power & Light Company as the GPU Company to operate the Yards Creek electric generating station.

Copies of the filing have been furnished to the Pennsylvania Public Utility Commission, the New Jersey Board of Public Utilities and the Securities and Exchange Commission.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER96–1011–000]

Take notice that on February 5, 1996, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and AES Power, Inc. (AES), dated January 17, 1996. This Service Agreement specifies that AES has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and AES to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 17, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. PECO Energy Company

[Docket No. ER96–1012–000]

Take notice that on February 5, 1996, PECO Energy Company (PECO) filed a Service Agreement dated January 30, 1996, with Orange and Rockland Utilities, Inc. (O&R) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds O&R as a customer under the Tariff.

PECO requests an effective date of January 30, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to O&R and to the Pennsylvania Public Utility Commission.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Duquesne Light Company

[Docket No. ER96–1013–000]

Take notice that on February 5, 1996, Duquesne Light Company (DLC) filed a Service Agreement dated October 16, 1995 with Cenergy, Inc. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Cenergy, Inc. as a customer under the Tariff. DLC requests an effective date of October 16, 1995 for the Service Agreement.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Duquesne Light Company

[Docket No. ER96–1014–000]

Take notice that on February 5, 1996, Duquesne Light Company (DLC) filed a Service Agreement dated January 31, 1996 with AES Power, Inc. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds AES Power, Inc. as a customer under the Tariff. DLC requests an effective date of January 31, 1996 for the Service Agreement.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Duquesne Light Company

[Docket No. ER96–1015–000]

Take notice that on February 5, 1996, Duquesne Light Company (DLC) filed a Service Agreement dated January 16, 1996 with KCS Power Marketing, Inc. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds KCS Power Marketing, Inc. as a customer under the Tariff. DLC requests an effective date of January 16, 1996 for the Service Agreement.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Duquesne Light Company

[Docket No. ER96–1016–000]

Take notice that on February 5, 1996, Duquesne Light Company (DLC) filed a Service Agreement dated January 16, 1996 with Citizens Lehman Power Sales under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Citizens Lehman Power Sales as a customer under the Tariff. DLC requests an effective date of January 16, 1996 for the Service Agreement.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Duquesne Light Company

[Docket No. ER96–1017–000]

Take notice that on February 5, 1996, Duquesne Light Company (DLC) filed a Service Agreement dated January 9, 1996 with Koch Power Service, Inc. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Koch Power Service, Inc., as a customer under the Tariff: DLC requests an effective date of January 9, 1996 for the Service Agreement.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Pacific Gas and Electric Company

[Docket No. ER96–1019–000]

Take notice that on February 6, 1996, Pacific Gas and Electric Company (PG&E), tendered for filing, as a rate schedule change, revisions to Appendices A through J to the Agreement between Pacific Gas and Electric Company and the City and County of San Francisco (Agreement). The Agreement was initially filed in FERC Docket No. ER88–217–000 and designated as PG&E Rate Schedule FERC No. 114.

Copies of this filing were served upon the City and the California Public Utilities Commission.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Cinergy Services, Inc.

[Docket No. ER96–1020–000]

Take notice that on February 6, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated December 1, 1995 between Cinergy, CG&E, PSI and Jacksonville Electric Authority (JEA).

The Interchange Agreement provides for the following service between Cinergy and JEA.

1. Exhibit A—Power Sales by JEA
2. Exhibit B—Power Sales by Cinergy

Cinergy and JEA have requested an effective date of February 1, 1996.

Copies of the filing were served on Jacksonville Electric Authority, the Florida Public Service Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Cinergy Services, Inc.

[Docket No. ER96–1021–000]

Take notice that on February 6, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated January 1, 1996 between Cinergy, CG&E, PSI and Valero Power Services Company (VALERO).

The Interchange Agreement provides for the following service between Cinergy and VALERO.

1. Exhibit A—Power Sales by VALERO
2. Exhibit B—Power Sales by Cinergy

Cinergy and VALERO have requested an effective date of February 1, 1996.

Copies of the filing were served on Valero Power Services Company, the Texas Public Utility Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. PacifiCorp

[Docket No. ER96–1022–000]

Take notice that on February 6, 1996, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, unexecuted Transmission Service Agreements with 137 eligible customers under PacifiCorp's FERC Electric Tariff, Original Volume No. 10.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas and Electric Company

[Docket No. ER96–1023–000]

Take notice that on February 6, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Rainbow Energy Marketing Corp. under Rate GSS.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric Company

[Docket No. ER96–1024–000]

Take notice that on February 5, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Koch Power Services, Inc. under Rate GSS.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Louisville Gas and Electric Company

[Docket No. ER96–1025–000]

Take notice that on February 6, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company

[Docket No. ER96–1026–000]

Take notice that on February 6, 1996, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Companies), filed a Service Agreement between GPU and Coastal Electric Services Company (Coastal) dated January 5, 1996. This Service Agreement specifies that Coastal has agreed to the rates, terms and conditions of the GPU Companies' Energy Transmission Service Tariff accepted by the Commission on September 28, 1995 in Docket No. ER95–7091–000 and designated as FERC Electric Tariff, Original Volume No. 3.

GPU requests a waiver of the Commission's notice requirements for good causes shown and an effective date February 6, 1996 for the Service Agreement. GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and on Coastal.

Comment date: February 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3959 Filed 2–21–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11243–007]

Whitewater Engineering Corporation; Notice to File Additional Scientific Studies

February 5, 1996.

Pursuant to the Energy Policy Act of 1992, Whitewater Engineering Corporation (Whitewater) intends to prepare a preliminary draft environmental assessment (PDEA) to file with its license application for the proposed Power Creek Hydroelectric Project (FERC No. 11243–001), to be located on Power Creek, near the town of Cordova, Alaska.

Under Section 4.32(b)(7) of the Commission's Regulations, if any agency, Indian Tribe, special interest group, or individual thinks that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the project's merits, they must request that study within 60 days of the filing of the license application.

For the Power Creek Project, however, Whitewater requested waiver of section 4.32(b)(7) of the regulations to accommodate their preparation of the PDEA, so the additional studies request opportunity will be afforded now. The waiver has been granted. Therefore, all requests for studies must be filed within 60 days of the issuance date of this notice.

The study requests, which must conform to section 4.32(b)(7) of the regulations, should clearly identify the following on the first page:

Power Creek Hydroelectric Project (FERC No. 11243–001).

The requests should then be served on the following two parties:

Thom Fischer, President, Whitewater Engineering Corporation, 1050 Larrabee Ave., Suite 104–107, Bellingham, WA 98225

Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426

Lois D. Cashell,

Secretary.

[FR Doc. 96–3958 Filed 2–21–96; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 11374–001, et al.]

Hydroelectric Applications [Butler County, Iowa, et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* 5–MW Exemption.

b. *Project No.:* 11374–001.

c. *Date filed:* February 25, 1994.

d. *Applicant:* Butler County, Iowa.

e. *Name of Project:* Greene Milldam.

f. *Location:* on the Shell Rock River, in the Town of Greene, Butler County, Iowa.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Steve Brunsma, 19429 Timber Road, Clarksville, Iowa 50619, (319) 278–4237.

i. *FERC Contact:* Mary C. Golato, (202) 219–2804.

j. *Deadline Date:* April 1, 1996.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D10.

l. *Description of Project:* The existing inoperative project would consist of: (1) a 290-foot-long, 11-foot-high concrete dam; (2) an existing reservoir having an 85-acre surface area and a 385-acre-foot storage capacity at normal water surface elevation 946 feet mean sea level; (3) an existing powerhouse containing one 150-kilowatt (Kw) generating unit and one 250-Kw generating unit for a total installed capacity of 400 Kw operated at a 10.6-foot head; (4) a short 13.8-kilovolt transmission line; and (5) appurtenant facilities. The dam is owned by Butler County, Iowa. The applicant estimates that the average annual generation would be 1,280 megawatthours.

m. *Purpose of the Project:* All project energy generated would be utilized by the applicant for sale.

n. This notice also consists of the following standard paragraphs: A4, D10 and H.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. Steve Brunsma, 19429 Timber Road, Clarksville, IA 50619, (319) 278–4237.

2a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11567–000.

c. *Date filed:* December 15, 1995.

d. *Applicant:* Shelby Electric Cooperative, Inc.

e. *Name of Project:* Lake Shelbyville Project.

f. *Location:* On the Kaskaskia River, in Shelbyville, in Shelby County, Illinois.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Lincoln Duncan, Engineer, Barnes, Henry, Meisenheimer and Gende, Inc., 4658 Gravois Avenue, St. Louis, MO 63116, (314) 352–8630.

i. *FERC Contact:* Mary Golato, (202) 219–2804.

j. *Comment Date:* April 15, 1996.

k. *Description of Project:* The proposed project would utilize the existing U.S. Corps of Engineers dam and would consist of the following: (1) a proposed powerhouse containing one turbine-generator unit having a total capacity of 6,100 kilowatts; (2) a proposed 12,470-volt transmission line 800 feet long; and (3) appurtenant facilities. The average annual generation is estimated to be 21,200 megawatthours. The cost of the studies under the term of the permit will not exceed $150,000.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2 and H.

3a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11568–000.

c. *Date Filed:* January 2, 1996.

d. *Applicant:* MARIA Hydro Corporation.

e. *Name of Project:* Marble Rock Mill Dam.

f. *Location:* On the Shell Rock River in Floyd County, Iowa.

g. *Filed Pursuant to:* Federal Power Act 17 U.S.C. §§ 791(a)–825(r).

h. *Contact Person:* Thomas J. Wilkinson, Jr., 300 American Building, 101 Second Street SE, Cedar Rapids, IA 52401, (319) 366–4990.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment Date:* April 15, 1996.

k. *Description of Project:* The proposed project would consist of: (1) a proposed powerhouse containing one turbine-generator unit having a total capacity of 6,100 kilowatts; (2) a proposed 12,470-volt transmission line 800 feet long; and (3) appurtenant facilities. The average annual generation is estimated to be 21,200 megawatthours. The cost of the studies under the term of the permit will not exceed $150,000.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2 and H.

3a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11568–000.

c. *Date Filed:* January 2, 1996.

d. *Applicant:* MARIA Hydro Corporation.

e. *Name of Project:* Marble Rock Mill Dam.

f. *Location:* On the Shell Rock River in Floyd County, Iowa.

g. *Filed Pursuant to:* Federal Power Act 17 U.S.C. §§ 791(a)–825(r).

h. *Contact Person:* Thomas J. Wilkinson, Jr., 300 American Building, 101 Second Street SE, Cedar Rapids, IA 52401, (319) 366–4990.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment Date:* April 15, 1996.

k. *Description of Project:* The proposed project would consist of: (1) an existing 15-foot-high concrete dam owned by the City of Marble Rock, Iowa; (2) an impoundment with a surface area of 55 acres at 545 feet m.s.l., with 250 acre-feet of storage; (3) a proposed powerhouse containing one generating unit with a rated capacity of 660 Kw; and, (4) a proposed 50-foot-long transmission line. The applicant estimates the average annual energy production to be 2,890 Mwh and the cost of the work to be performed under the preliminary permit to be $27,000.

l. *Purpose of Project:* The power produced would be sold to a local utility company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2 and H.

4a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11569–000.

c. *Date Filed:* January 2, 1996.

d. *Applicant:* HUMIA Hydro Corporation.

e. *Name of Project:* Humboldt Mill Dam.

f. *Location:* On the West Fork, Des Moines River in Humboldt County, Iowa.

g. *Filed Pursuant to:* Federal Power Act 17 U.S.C. §§ 791(a)–825(r).

h. *Contact Person:* Thomas J. Wilkinson, Jr., 300 American Building, 101 Second Street SE, Cedar Rapids, IA 52401, (319) 366–4990.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment Date:* April 15, 1996.

k. *Description of Project:* The proposed project would consist of: (1) an existing 12-foot-high concrete dam owned by the Humboldt County Conservation Board; (2) an impoundment with a surface area of 80 acres at 1070 feet m.s.l. with 400 acre-feet of storage; (3) a proposed powerhouse containing one generating unit with a rated capacity of 820 Kw; and, (4) a proposed 50-foot-long transmission line. The applicant estimates the average annual energy production to be 3,590 Mwh and the cost of the work to be performed under the preliminary permit to be $27,000.

l. *Purpose of Project:* The power produced would be sold to a local utility company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2 and H.

5a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11570–000.

c. *Date Filed:* January 2, 1996.

d. *Applicant:* RUTIA Hydro Corporation.

e. *Name of Project:* Rutland Mill Dam.

f. *Location:* On the West Fork, Des Moines River in Humboldt County, Iowa.

g. *Filed Pursuant to:* Federal Power Act 17 U.S.C. §§ 791(a)–825(r).

h. *Contact Person:* Thomas J. Wilkinson, Jr., 300 American Building, 101 Second Street SE, Cedar Rapids, IA 52401, (319) 366–4990.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment Date:* April 15, 1996.

k. *Description of Project:* The proposed project would consist of: (1) an existing 13-foot-high concrete dam owned by the Humboldt County Conservation Board; (2) an impoundment with a surface area of 80 acres at 1090 feet m.s.l. with 350-acre feet of storage; (3) a proposed powerhouse containing one generating unit with a rated capacity of 700 Kw; and, (4) a proposed 200-foot-long transmission line. The applicant estimates the average annual energy production to be 3,549 Mwh and the cost of the work to be performed under the preliminary permit to be $27,000.

l. *Purpose of Project:* The power produced would be sold to a local utility company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2 and H.

6a. *Type of Application:* Amendment of License.

b. *Project No.:* 2210–010.

c. *Dated filed:* December 27, 1995.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Smith Mountain.

f. *Location:* The project is located on the Roanoke River in Bedford, Campbell, Franklin, Pittsylvania and Roanoke Counties in Virginia.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Frank M. Simms, Power Generation, American Electric Power, 1 Riverside Plaza, Columbus, OH 43215, Phone: (614) 223–1000.

i. *FERC Contact:* Buu T. Nguyen, (202) 219–2913.

j. *Comment Date:* March 23, 1996.

k. *Description of Amendment:* On behalf of Appalachian Power Company, licensee, American Electric Power filed an application requesting its license be amended to reflect a change in installed capacity from the authorized capacity of 583.75 MW to 636 MW and the replacement of the turbine runners for unit Nos. 2 and 4 at the Smith Mountain Development. The hydraulic capacity for the Smith Mountain Development increases from 43,400 cfs to 46,000 cfs.

l. This notice also consists of the following standard paragraphs; B, C1, and D2.

7a. *Type of filing:* Notice of Intent to File Application for New License.

b. *Project No.:* 2056.

c. *Date filed:* December 26, 1995.

d. *Submitted By:* Northern States Power Company, current licensee.

e. *Name of Project:* St. Anthony Falls.

f. *Location:* On the Mississippi River, in the City of Minneapolis, Hennepin County, Minnesota.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* January 1, 1951.

i. *Expiration date of original license:* December 31, 2000.

j. *The project consists of:* (1) a dam consisting of the Horseshoe Dam gravity section and spillway, the Main Spillway, the Roll Dams, the Hennepin Island Earthen Dam, two abandoned wasteways, a concrete non-overflow section, and the integrally constructed powerhouse of the abandoned Main Street Station; (2) the Hennepin Island Intake Canal; (3) the Hennepin Island powerhouse containing four 2,475–Kw generating units and a 2,500–Kw generating unit; and (4) appurtenant facilities. The project has a total installed capacity of 12,400–Kw.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Northern States Power Company, Renaissance Square Building, Environmental and Regulatory Affairs Department, 8th Floor, 512 Nicollet Mall, Minneapolis, MN 55401, Contact: Jack J. Schutz (612) 330–5621.

l. *FERC contact:* Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1998.

8a. *Type of filing:* Notice of Intent to File Application for New License.

b. *Project No.:* 2901.

c. *Date filed:* December 5, 1995.

d. *Submitted By:* Nekoosa Packaging Corporation, current licensee.

e. *Name of Project:* Holcomb Rock.

f. *Location:* On the James River, in Amherst and Bedford Counties, Virginia.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* April 1, 1962.

i. *Expiration date of original license:* January 31, 2001.

j. The project consists of: (1) a stone masonry and wood crib diversion dam about 21 feet high and 644 feet long; (2) a reservoir with a surface area of 127 acres at normal pool elevation 571.7 feet m.s.l.; (3) a canal 2,700 feet in length; (4) a powerhouse containing three generating units, each rated at 625–Kw; (5) a 2.4/13.8–Kv, 3,750–KVA transformer; (6) a 6.5-mile-long, 13.8–Kv transmission line; and (7) appurtenant facilities. The project has a total installed capacity of 1,875–Kw.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Georgia-Pacific Corporation, Big Island Mill, P.O. Box 40, Route 501, Big Island, VA 24526.

l. *FERC contact:* Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by January 31, 1999.

9a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11319–001.

c. *Date filed:* January 2, 1996.

d. *Applicant:* Haines Light & Power Company, Inc.

e. *Name of Project:* Upper Chilkoot Hydroelectric Project.

f. *Location:* Partially on lands administered by the Bureau of Land Management, on an unnamed reservoir in the Chilkoot Lake drainage system, near the town of Haines in Alaska. Sections 23, 24, 25, 26, 27, 34, and 35 in T28S, R57E; sections 4, 9, 10, 14, 15, 22, 23, 25, 26, and 36 in T29S, R58E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Corry V. Hildenbrand, President, Haines Light & Power Company, Inc., 889 South Franklin, Juneau, Alaska 99801, (907) 463–6315.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* April 18, 1996.

k. *Description of Project:* The proposed project would consist of: (1) a 48-foot-high dam at the mouth of Upper Chilkoot Lake (proposed to be renamed Connolly Lake) which would increase its surface area from 90 acres to 160 acres; (2) a 6,188-foot-long, 30-inch diameter steel penstock; (3) a powerhouse containing one generating unit with an installed capacity of 6,200 Kw; (4) a 14-mile-long underground transmission line interconnecting with an existing Haines Light & Power Company, Inc. transmission line; and (5) appurtenant facilities.

No new access roads will be needed to conduct the studies.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10a. *Type of filing:* Notice of Intent to File Application for New License.

b. *Project No.:* 2902.

c. *Date filed:* December 5, 1995.

d. *Submitted By:* Nekoosa Packaging Corporation, current licensee.

e. *Name of Project:* Big Island.

f. *Location:* On the James River, in Amherst and Bedford Counties, Virginia.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* April 1, 1962.

i. *Expiration date of original license:* December 31, 2000.

j. The project consists of: (1) a stone masonry and wood crib dam about 15 feet high and 600 feet long; (2) a reservoir with a surface area of 100 acres at normal pool elevation 604.7 feet m.s.l.; (3) a powerhouse containing two generating units each rated at 256-kW; and (4) appurtenant facilities. The project has a total installed capacity of 512-kW.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Georgia-Pacific Corporation, Big Island Mill, P.O. Box 40, Route 501, Big Island, VA 24526.

l. *FERC contact:* Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1998.

11a. *Type of filing:* Notice of Intent to File Application for New License.

b. *Project No.:* 3090.

c. *Date filed:* January 18, 1996.

d. *Submitted By:* Village of Lyndonville Electric Department, current licensee.

e. *Name of Project:* Vail.

f. *Location:* On the Passumpsic River, in Caledonia County, VT.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of original license:* April 1, 1962.

i. *Expiration date of original license:* January 31, 2001.

j. The project consists of: (1) a 15-foot-high, 96-foot-long concrete gravity-type dam having spillway crest elevation 686.91 feet m.s.l. surmounted by 18-inch-high flashboards; (2) a reservoir having a 25 acre-foot storage capacity at normal water surface elevation 688.33 feet m.s.l.; (3) a trashrack and headgate; (4) an integral concrete powerhouse containing a 350-kW generating unit; (5) a 2.4-kV, 0.8-mile-long transmission line; and (6) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Village of Lyndonville, Electric Department, 20 Park Avenue, Lyndonville, VT 05851.

l. *FERC contact:* Charles T. Raabe (202) 219–2811.

m. Pursuant to 18 CFR 16.19 and 16.20, each application for a new or subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by January 31, 1999.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (April 2, 1996 for Project No. 11374–001). All reply comments must be filed with the Commission within 105 days from the date of this notice (May 17, 1996 for Project No. 11374–001).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS", "TERMS AND CONDITIONS", or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

H. In responding, commenters may submit a copy of their comments on a 3 1/2-inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS–DOS based materials, the text need only be submitted in the format and version that it was generated (i.e., MS Word, WordPerfect 5.1/5.2, ASCII, etc.). It is not necessary to reformat word processor generated text to ASCII. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format and then write them to files on a diskette formatted for MS–DOS machines.

Dated: February 15, 1996, Washington, D.C.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3957 Filed 2–21–96; 8:45 am]

BILLING CODE 6717–01–P

[CP96–171–000, et al.]

ANR Pipeline Corporation, et al.; Natural Gas Certificate Filings

February 14, 1996.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Corporation

[Docket No. CP96–171–000]

Take notice that on February 6, 1996, ANR Pipeline Corporation (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP96–171–000 an application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Sections 157.7 and 157.18 of the Commission's Regulations thereunder, for permission and approval to abandon certain natural gas transportation services for Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that by orders issued in Docket Nos. CP69–249, CP73–65 and CP86–157, it was authorized, pursuant to transportation agreements designated as Rate Schedules X–11, X–33 and X–156 respectively, to transport natural gas for Texas Gas from various offshore Louisiana receipt points and redeliver the gas at a delivery point near Calumet, St. Mary's Parish, Louisiana.

ANR states that by letter dated August 8, 1995, Texas Gas requested that the termination of the three firm gas transportation services be made effective February 29, 1996.

ANR further states that no facilities are proposed to be abandoned.

Comment date: March 6, 1996, in accordance with Standard Paragraph F at the end of this notice.

2. ANR Pipeline Company

[Docket No. CP96–172–000]

Take notice that on February 8, 1996, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 filed an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations requesting permission and approval to abandon three certificated transportation services on behalf of Texas Gas Transmission Corporation (Texas Gas), ANR's Rate Schedules X–11, X–33 and X–156, Original Volume No. 2 of ANR's FERC Gas Tariff. The application is on file with the Commission and open to public inspection.

ANR proposes to abandon the above services authorized in Docket Nos. CP69–249, CP73–65 and CP86–157–000.[1] ANR states that it was authorized to transport natural gas for Texas Gas from various offshore Louisiana receipt points and to redeliver the gas near Calumet, St. Mary's Parish, Louisiana.

ANR states that the firm transportation service for Rate Schedules X–33 and X–156 is to continue through the date of termination of service under ANR's Rate Schedule No. X–11. Article I of Rate Schedule X–11 provides for an initial service term of twenty years from first delivery and from year to year thereafter unless canceled by either party with at least six (6) months written notice, which may be made effective at the end of the initial twenty years or any year thereafter. By a letter dated August 8, 1995, Texas Gas has exercised its right to terminate the agreements and has requested a termination date of February 29, 1996.

ANR states that no facilities are proposed to be abandoned. ANR also states that its facilities will continue to be available for service on an open-access basis pursuant to Part 284 of the Commission's regulations.

Comment date: March 6, 1996, in accordance with Standard Paragraph F at the end of this notice.

3. Texas Eastern Transmission Corporation

[Docket No. CP96–174–000]

Take notice that on February 7, 1996, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP96–174–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and install a delivery point on its existing 30-inch Line Nos. 10 and 15 in Rutherford County, Tennessee, in order to make interruptible deliveries to the Town of Smyrna (Smyrna), a public utility in the state of Tennessee, for its system supply. Texas Eastern will install the proposed facilities for an estimated cost of $63,000 under its blanket certificate issued in Docket No. CP82–535–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

To provide the proposed service to Smyrna, Texas Eastern will construct, install, own, operate, and maintain a 2-inch tap valve and a 2-inch check valve, on each of its Line No. 10, at Mile Post 271.26 and on its Line No. 15 at Mile Post 271.369. Smyrna will reimburse Texas Eastern for 100% of the costs and expenses associated with the installation of the proposed delivery taps. Additionally, Texas Eastern states that Smyrna will install, or cause to be installed, dual 2-inch turbine meters, approximately 45 feet of 2-inch pipeline, and the electronic gas measurement equipment (EGM). Texas Eastern claims that while Smyrna will own, operate, and maintain the dual turbine meters and connecting pipe, Texas Eastern states that it will own and operate the EGM. Texas Eastern proposes to deliver up to 5 MMcf/d under its Interruptible Transportation Service Rate Schedule. Texas Eastern asserts that the proposed service will be provided by utilizing existing capacity on the system, therefore, it will have no effect on its peak day or annual deliveries. Additionally, Texas Eastern claims that the proposed service will be accomplished without detriment or disadvantage to its other customers.

Comment date: April 1, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. Maritimes & Northeast Pipeline, L.L.C.

[Docket No. CP96–178–0000]

Take notice that on February 8, 1996, Maritimes & Northeast Pipeline, L.L.C. (Maritimes & Northeast), filed in Docket No. CP96–178–000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA). Maritimes & Northeast seeks authority necessary to construct, install, own, operate and maintain about 64.1 miles of new natural gas pipeline and ancillary facilities extending from Massachusetts to Maine. Maritimes & Northeast also seeks a Part 284, Subpart G blanket certificate for the transportation of natural gas for others; a Part 157, Subpart F blanket certificate for certain construction and operation of facilities and other minor activities under Section 7 of the NGA; and, approval of its initial rates and *pro forma* tariff provisions. Maritimes & Northeast's proposal is more fully set forth in the application which is on file with the Commission and open to public inspection.

Maritimes & Northeast is a limited liability company organized and existing under the laws of the State of Delaware. Maritimes & Northeast's members are M & N Management Company, a wholly-owned subsidiary of Panhandle Eastern Corporation; Westcoast Energy (U.S.) Inc., a wholly-owned subsidiary of Westcoast Energy Inc.; Mobil Midstream Natural Gas Investments Inc., a wholly-owned subsidiary of Mobil Oil Corporation and SableEast Corporation, a wholly-owned subsidiary of Eastern Enterprises, which is the parent of Boston Gas Company.

The proposed facilities are the "prebuild-Phase I" of the southern portion of the Maritimes & Northeast Pipeline Project—a natural gas transportation facility for the Sable Offshore Energy Project (Sable Project). The Sable Project is sponsored by a consortium of United States and Canadian energy companies and is currently in the pre-development stages. The Sable Project is scheduled to make offshore natural gas supplies available to Eastern Canada and the Northeastern United States in 1999. Under Maritime & Northeast's Phase I proposal, it is claimed that timely and cost competitive open access transportation service will be made available to the New Hampshire and southern Maine markets in 1997.

Maritimes & Northeast says that its proposal will provide an additional benefit of positioning these markets to access the Sable Project's supply in 1999. Maritimes & Northeast further states that the proposed Phase I facilities and services are not dependent upon the construction of facilities to connect the Sable Project's supplies. Maritimes & Northeast requests that the Commission issue a Preliminary Determination for the non-environmental issues and that a final certificate be issued by April 1, 1997.

The new pipeline would extend from a proposed point of interconnection with the existing facilities of Tennessee Gas Pipeline Company near Dracut, Middlesex County, Massachusetts to a proposed point of interconnection with the existing facilities of Granite State Gas Transmission, Inc. near Wells, York County, Maine. The new pipeline will be 24-inches in diameter and have a capacity of 60,000 MMBtu per day. The estimated cost of the new pipeline is $82 million, and the facilities are proposed to be in-service by November 1, 1997.

Maritimes & Northeast says that it will have the ability to redeliver 60,000 MMBtu per day of domestic natural gas from the North American pipeline grid and will provide several significant and operational benefits to the Maritimes & Northeast shippers and Northeast markets. Maritimes & Northeast has signed two firm transportation precedent agreements with two affiliates, both dated January 31, 1996. One is with PanEnergy Gas Services, Inc. for 40,000 MMBtu per day for a term of 20 years, and the other is with Mobil Natural Gas, Inc. for 20,000 MMBtu per day, also for 20 years.

Maritimes & Northeast says that the rates proposed to recover the cost of the project are cost-based straight fixed variable rates, levelized over the first seven years in order to reflect market requirements. The rates are designed to recover the costs of the facilities proposed herein over the life of those facilities. Maritimes & Northeast says that market conditions in the area to be served by Phase I require a levelized rate in the first seven years of operation so that shippers may effectively compete on a delivered cost basis in peak period consumer markets in Maine. Maritimes & Northeast proposes to record four percent annual depreciation for accounting purposes. The difference between the levelized and straight line methods would be recorded in a regulatory asset account.

Maritimes & Northeast also requests approval of its *pro forma* tariff governing the terms and conditions of the transportation services it proposes. Maritimes & Northeast proposes to offer four different types of firm transportation service and interruptible transportation service. Maritimes & Northeast says that it has conformed this *pro forma* tariff to the applicable requirements of the Commission's Order No. 636.

Comment date: March 6, 1996, in accordance with Standard Paragraph F at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. CP96–182–000]

Take notice that on February 9, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP96–182–000 a request pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216(b)) for authorization to abandon by removal its Chemical Lime Meter Station (Chemical Lime M.S.), located in Baker County, Oregon, under the blanket certificate issued in Docket No. CP82–433–000, pursuant to Section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states that Chemical Lime M.S. was constructed to deliver gas to Cascade Natural Gas Corporation (Cascade) for service to a single end-user, the Chemical Lime Company. Northwest claims that Chemical Lime M.S. consisted of a tap, meter and regulating equipment located on Northwest's 22-inch mainline. Additionally, Northwest asserts that no deliveries have been made to the Chemical Lime delivery point since the Chemical Lime plant ceased operations in 1983. Northwest notes that it disconnected the Chemical Lime M.S. effective July 11, 1990, because the facilities were obsolete and there did not appear to be a future use for them.

Northwest states that it currently has no contractual obligation to provide service to the Chemical Lime delivery point, and by a letter dated May 1, 1995, Cascade stated that it had no objections to the abandonment by removal of the Chemical Lime M.S. Northwest claims that the Chemical Lime M.S. has been dismantled from the site and that the removal was completed January 12, 1995. Northwest asserts that due to an administrative oversight, it did not request or receive approval prior to abandoning this meter station. Northwest notes that the actual cost of removing this meter station was $9,742.

Comment date: April 1, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–3960 Filed 2–21–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5428–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Estuary Program

AGENCY: Environmental Protection Agency (EPA).

[1] *See*, 41 FPC 828 (1969), 49 FPC 2 (1973) and 35 FERC ¶ 62,339 (1986), respectively.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) renewal has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Estuary Program, OMB Control Number 2040–0138, expiring 03/31/96. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 25, 1996.

FOR FURTHER INFORMATION OR A COPY CALL:
Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1500.03.

SUPPLEMENTARY INFORMATION: Title: National Estuary Program (OMB Control No. 2040–0138; EPA ICR No. 1500.03) expiring 03/31/96. This is a request for extension of a currently approved collection.

Abstract: Under the National Estuary Program, EPA collects information from the participating State or local agency which will receive funds under section 320 of the Clean Water Act. The regulations requiring this information are found at 40 CFR Part 35. Prospective recipients apply to receive grant funds to carry out a three to five-year program resulting in the completion of a Comprehensive Conservation and Management Plan for an estuary.

To continue to receive grant funds, grantees must submit an annual workplan to EPA. EPA provides guidance on how to prepare the workplan and issues planning targets to each grantee. The workplan is the only information required from the grantee beyond that which is required in the standard government grant application. It provides the basis for the scope of work written into the grant agreement and consists of two parts: progress on projects funded previously, and new projects proposed with dollar amounts and completion dates. Once incorporated into the grant agreement, the workplan is used to track performance.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 10/23/95 (60 FR 54349); no comments were received.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 132 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondens/Affected Entities: States.

Estimated Number of Respondents: 28.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 3,700 hours.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1500.03 and OMB Control No. 2040–0138 in any correspondence.

Ms. Sandy, Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, SW, Washington, DC 20460

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503

Dated: February 14, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4034 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5429–4]

Agency Information Collection Activities Under OMB Review; Standards of Performance for Iron and Steel Plants: Basic Oxygen Furnaces OMB Control No. 2060–0029 EPA ICR No. 1069.05

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this notice announces that the Information Collection Request (ICR) for New Source Performance Standards (NSPS) for Basic Oxygen Process Furnaces (Subpart N and Na) described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 25, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1069.05.

SUPPLEMENTARY INFORMATION: .

Title: New Source Performance Standards (NSPS) for Basic Oxygen Process Furnaces (Subpart N and Na) (OMB Control No. 2060–0029; EPA ICR No. 1069.05). This is a request for extension of a currently approved collection.

Abstract: The standards require initial notification reports with respect to construction, modification, reconstruction, startups, shutdowns, and malfunctions (specified in 40 CFR 60.7(a)). Notification of construction and startup indicated to enforcement personnel when a new affected facility has been constructed and, therefore, is subject to the standard.

The Standards requires daily recordkeeping of process information (specified in 40 CFR 60.143a) which is generally readily available in plant records resulting in no increase burden to industry. It also requires continuous monitoring of pressure loss through the venturi constriction of the control equipment and water supply pressure to the control equipment (specified in 40 CFR 60.143b). This information collected will be used to compare results with those measured during the most recent performance test and, therefore, will ensure continuous compliance with the standard.

The semiannual reporting requirement (specified in 40 CFR 60.143(c) and 60.143a (d) and (e)) for monitoring results (i.e., pressure loss through the venturi constriction of the scrubber and water supply pressure to the scrubber) which average more than ten percent below performance test results provides a good indication of a source's compliance status. Industry are required to maintain records at the facility for a minimum of two (2) years.

An owner or operator could elect to reduce operating expenses by not installing, maintaining, or otherwise operating the control technology required by the standards. In the absence of the information collection requirements, compliance with the standards could be ensured only through continuous on-site inspections by regulatory agency personnel. Consequently, not collecting the information would result in either greatly increased expenditures of resources, or the inability to ensure compliance with the standards.

The information collected from recordkeeping and reporting requirements is also used for targetting inspections, and is of sufficient quality to be used as evidence in court. The enforcement personnel may elect to conduct an inspection to ensure that the equipment is properly installed and operated, as was indicated in the performance test report. They may also conduct periodic inspections to obtain additional data, as a check for source operation and maintenance and for compliance determinations.

All reports are sent to the delegated State or local level authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 29, 1995.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 95.35 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 24.

Estimated Number of Respondents: 24.

Estimated Number of Responses: 31.2.

Frequency of Response: semiannual.

Estimated Total Annual Hour Burden: 2,974.8 hours.

Estimated Total Annualized Cost Burden: $90,582.66.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1069.05 and OMB Control No. 2060–0029 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: February 15, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4009 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5429–2]

Agency Information Collection Activities: Submission for OMB Review: Comment Request; Office of Water 301(h) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) renewal has been forwarded to the Office of Management and Budget (OMB) for review and approval: Modification of Secondary Treatment Requirements for Discharges into Marine Waters, OMB Control Number 2040–0088, expiring 02/29/96. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 25, 1996.

FOR FURTHER INFORMATION OR A COPY CALL:
Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 0138.05.

SUPPLEMENTARY INFORMATION:

Title: Modification of Secondary Treatment Requirements for Discharges into Marine Waters (OMB Control No. 2040–0088, EPA ICR No. 0138.05, expiring 02/29/96). This is a request for extension of a currently approved collection.

Abstract: Under section 301(h) of the Clean Water Act (CWA), publicly owned treatment works (POTWs) discharging pollutants into certain marine waters could apply for and be granted a waiver from secondary treatment requirements for conventional pollutants. The regulations implementing this program are found at 40 CFR Part 125, Subpart G. EPA issues this waiver with the concurrence of the State in which the POTW is located. The POTW must submit application, monitoring and toxic control program information. States provide State determination and certification information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 10/24/95 (60 FR 54496); 2 comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 460 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources;

complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Publicly owned treatment works (POTWs), States.

Estimated Number of Respondents: 63.
Frequency of Response: Variable.
Estimated Total Annual Hour Burden: 75,093 hours.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0138.05 and OMB Control Number 2040–0088 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, NW, Washington, DC 20460.
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: February 15, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4010 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–M

[TRL 5429–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507 (a)(1)(D)), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 25, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1614.02.

SUPPLEMENTARY INFORMATION:

Title: Reporting and Record Keeping Requirements under EPA's Green Lights Program, OMB# 2060–0255, ICR# 1614.02, expires March 31, 1996. This is a request for a revision of a currently approved collection.

Abstract: Green Lights is a voluntary EPA program that encourages corporations, state and local governments, colleges and universities, and other organizations to adopt energy efficient lighting as a profitable means of preventing pollution and improving lighting quality. The program organization consists of three types of Green Lights participants: partners, allies, and endorsers. Green Light Partners agree to survey and upgrade lighting fixtures and procedures, if profitable. Allies work with EPA to increase awareness of energy-efficient lighting and provide information on products and services. Allies (except Surveyor Allies) also agree to survey and upgrade their lighting. Endorsers agree to encourage their members to promote the Green Lights goal of using lighting in the most energy-efficient, environmentally-protective way possible.

Partners and allies in the Green Lights program must complete, sign and submit to EPA a Memorandum of Understanding (MOU) that outlines the responsibilities of both the Green Lights participant and EPA. The MOU commits a Green Lights participant to survey all of its U.S. facilities and consider a full set of lighting options that maximize energy savings while being profitable and not compromising lighting quality. The participant agrees to complete lighting upgrades within five years of signing the MOU in 90 per cent of the square footage of its facilities that meet these criteria. In an effort to ensure that each new Green Lights participant gets off to a quick start, each new participant (particularly those over one million square feet) is asked to install a demonstration lighting upgrade, create a list of facilities to be surveyed/upgraded, create a survey, and develop an estimated upgrade budget. Upon completion of a lighting upgrade, or annually if the project is not completed after a year, partners and allies must complete and submit to EPA an implementation report that documents energy-efficient improvements and cost savings.

EPA has developed this ICR to obtain authorization to collect information from Green Lights participants. EPA needs to collect initial information in the MOU to formally establish participation in the Green Lights Program and to obtain general information on new Green Lights participants. EPA uses information obtained in the MOU to identify a Green Lights Implementation Manager and Media Liaison and to obtain data on the size and type of buildings subject to the Green Lights agreement. By agreeing to participate in the Green Lights Program, the participant agrees to the terms of various information collections specified by EPA in the MOU.

EPA needs to collect information in the Implementation Report to evaluate a participant's progress and performance, and overall program results. The information provided in the Implementation Report also allows EPA to identify the fixture types, lighting controls, maintenance methods, and implementation methods most commonly utilized, and to provide technical and other assistance to participants in completing their planned upgrades. By agreeing to participate in the Green Lights Program, the participant agrees to complete and submit this form upon completion of a project, or annually if the project is not completed after a year.

EPA needs to collect information from allies on energy-efficient lighting products and services to develop a directory and provide program partners with this information. EPA needs to collect case studies on successful energy-efficient lighting investments to provide examples of profitable, energy-saving investments. EPA needs to review, prior to public distribution, any materials that carry the Green Lights logo or mention the program to ensure that the program is being represented in an appropriate manner.

EPA needs to collect information from organizations that provide financing products and services. This information will be used by EPA to develop a directory describing these financing services that are available to assist program participants in accomplishing their lighting upgrades. This information will be collected (via a questionnaire) and is strictly voluntary. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9. The Federal Register Notice with a 60-day comment period soliciting comments on this collection of information was published on 10/05/95 (FR Oct. 5, 1995, Vol. 60, No. 193).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information will vary. The estimated average hours per response varies depending upon whether the respondent is a Partner, Ally, Endorser, or financing company, and the length of time the respondent has participated in the Green Lights program. Although, new partners and allies will incur a one-time burden averaging 8.95 hours for reviewing and completing the MOU. New endorsers will incur a one-time burden averaging 0.2 hours for reviewing and completing the endorser agreement. These estimates includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. Respondents/Affected Entities: Green Lights Partners and Endorsers include corporations, state and local government, colleges and universities, and other organizations. Green Lights Allies include lighting manufacturers, lighting management companies, and utilities. Companies appearing in the EPA financial directory include utility companies and other financing companies.

Estimated No. of Respondents: EPA estimates that there will be an average of 1,717 partners, 575 allies during the period covered by this ICR, for a total of 2,292 participants and 395 endorsers. EPA also estimates that 615 lighting financing providers will submit information to the EPA.

Estimated Total Annual Burden on Respondents: 107,997 hours.

Frequency of Collection: The Memorandum of Understanding (MOU) is completed and submitted once, upon joining the Green Lights program. The implementation progress report is submitted upon project completion or annually if the project is not completed within one year. Case studies and other information on products and services from lighting manufacturers, lighting service providers, and utilities are obtained upon joining the Green Lights program. The lighting financing providers will submit a financing directory form to EPA two times per year.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1614.02 and OMB Control No. 2060–0255 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street SW., Washington, DC 20460.
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

Dated: February 15, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4011 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5429–3]

Agency Information Collection Activities Under OMB Review; Standards of Performance for Petroleum Refineries; OMB No. 2060–0022, EPA No. 1054.06

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this notice announces that the Information Collection Request (ICR) for Petroleum Refineries described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 25, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1054.06.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Petroleum Refineries (OMB No. 2060–0022; EPA ICR No. 1054). This is a request for revision of a currently approved collection.

Abstract: In the Administrator's judgement, particulate matter, carbon monoxide, and sulfur oxides emissions from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. In order to assure compliance with the emissions standards, adequate monitoring and recordkeeping is necessary. If the information required by the standards were not collected, the Agency would have no means for ensuring that compliance with the NSPS is achieved and maintained by sources subject to the regulation. The information collected is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. The information collected is required under 40 C.F.R. Part 60 Subpart J and records of the information are required to be maintained for at least two years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 9/29/95 (FR 60, No. 189 p 50572–73).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.25 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Normal Data Collection:

Estimated Hours/Response: 0.25.
Estimated Number of Responses: 190.
Frequency of Response: 350.
Estimated Annual Hour Burden: 16625.

Performance Test Burden:

Estimated Hours/Response: 345.7.
Estimated Number of Responses: 7.
Frequency of Response: 1.
Estimated Annual Hour Burden: 2420.
Estimated Total Annual Hour Burden: 19,045 hours.
Estimated Total Annualized Cost Burden: $579,920.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses: (Please refer to EPA ICR No. 1054 and OMB Control No. 2060–0022 in any correspondence.)

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory

Information Division (2136), 401 M Street, SW, Washington, DC 20460.
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: February 15, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4012 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5428–7]

Common Sense Initiative Council (CSIC); Notification of Public Advisory CSIC Computers & Electronics, Automobile Manufacturing, and Iron and Steel Sector Subcommittee Meetings; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that, pending resolution of EPA's FY 1996 appropriation, the Computers & Electronics, Automobile Manufacturing, and Iron and Steel Sector Subcommittees of the Common Sense Initiative Council will meet on the dates and times described below. All meetings are open to the public. Seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed with the three Sector Subcommittee announcements below.

(1) Computers and Electronics Sector Subcommittee—March 12 and 13, 1996

Notice is hereby given that the Computers and Electronics Sector Subcommittee, pending resolution of EPA's 1996 appropriation, will hold an open meeting on Tuesday, March 12, 1996, from 8:30 a.m. EST to 5:00 p.m. EST and Wednesday, March 13, 1996, from 8:30 a.m. EST to 3:00 p.m. EST, at the Radisson Plaza Hotel, 5000 Seminary Road, Alexandria, Virginia. Seating will be available on a first-come, first-served basis.

The first day of the meeting, March 12, will be devoted partly to breakout sessions for the three subcommittee workgroups (Reporting and Information Access; Overcoming Barriers to Pollution Prevention, Product Stewardship, and Recycling; and Integrated and Sustainable Alternative Strategies for Electronics); and partly to plenary session. The second day, March 13, will also consist of both workgroup and plenary sessions. The subcommittee will discuss the status of the workgroups' projects. Opportunity for public comment on major issues under discussion will be provided at intervals throughout the meeting.

For further information concerning this meeting of the Computers and Electronics Sector Subcommittee, please contact Gina Bushong, U.S. EPA (202) 260–3797, FAX (202) 260–1096 or by mail at U.S. EPA (MC 7405), 401 M Street, SW, Washington, DC 20460; Mark Mahoney, Region 1, U.S. EPA (617) 565–1155; or David Jones, Region 9, U.S. EPA (415) 744–2266.

(1) Automobile Manufacturing Sector Subcommittee—March 19, 1996

The Common Sense Initiative Council, Automobile Manufacturing Sector Subcommittee (CSIC–AMS), pending resolution of EPA's FY 1996 appropriation, will hold an open meeting on March 19, 1996, from 9:30 a.m. EST to 4:00 p.m. EST. The meeting will be held at The Hall of the States, 444 North Capitol Street, N.W., Room 333, Washington, DC.

The CSIC–AMS has formed three project teams—Regulatory Initiatives; Alternative Sector Regulatory System/ Community Technical Assistance; and Life Cycle Management/Supplier Partnership. The Regulatory Initiatives project team will continue to focus on issues within the Clean Air Act's New Source Review Program. The Alternative Sector Regulatory System/ Community Technical Assistance project team will continue to identify and discuss principles and attributes desirable in a new alternative regulatory system. The Life Cycle Management/ Supplier Partnership project team has identified a portion of the supply chain to participate in the development of a framework for a supplier partnership that encourages the consideration of environmental impacts in product development, and will continue with its work in that regard. All three teams will report progress on these ongoing projects and present deliverables, if applicable.

Seating may be limited, therefore, advance registration is recommended. An Agenda will be available March 12, 1996. Any person or organization interested in attending the meeting should contact Ms. Carol Kemker, Designated Federal Official (DFO), no later than March 15, 1996, at (404) 347–3555 extension 4222. Each individual or group wishing to make oral presentations will be allowed a total of three minutes. For further meeting information contact Carol Kemker, DFO on (404) 347–3555 extension 4222, or Keith Mason, Alternate DFO, on (202) 260–1360.

(2) Iron and Steel Sector Subcommittee—March 28, 1996

Notice is hereby given that the Environmental Protection Agency, pending resolution of its FY 1996 appropriation, will hold an open meeting of the Iron and Steel Sector Subcommittee on Thursday, March 28, 1996, from 8:00 a.m. EST until 4:00 p.m. EST. It will be held at the Comfort Inn, 6921 Baltimore-Annapolis Blvd., Baltimore, Maryland (telephone number 410–789–9100). This is approximately 3 miles north of Baltimore-Washington International Airport. Seating will be available on a first come, first served basis. Limited time will be provided for public comment.

The Iron and Steel Subcommittee has created four work groups (Compliance, Innovative Technology, Permits, and Brownfields) which are responsible for proposing to the full Subcommittee, for its review and approval, potential activities or projects that the Iron and Steel Sector Subcommittee will undertake, and for carrying out projects once approved. The Subcommittee's four work groups will be meeting the preceding day, Wednesday, March 27, 1996, from 10:00 a.m. EST to approximately 5:00 p.m., EST at the Comfort Inn. The Subcommittee has approved seven projects and their work plans. On March 28, the Subcommittee will discuss in detail the status of projects sponsored by the work groups, and review recommendations that the work groups propose.

For further information regarding this Iron and Steel Sector Subcommittee Meeting, please call either Ms. Mary Byrne at 312–353–2315 in Chicago, Illinois, or Ms. Judith Hecht at 202–260–5682 in Washington, DC.

Inspection of Subcommittee Documents

Documents relating to the above Sector Subcommittee announcements, will be publicly available at the meeting. Thereafter, these documents, together with the official minutes for the meetings, will be available for public inspection in room 2821M of EPA Headquarters, Common Sense Initiative Staff, 401 M Street, SW, Washington, DC 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically through contacting Katherine Brown at brown.katherine@epamail.gov.

Dated: February 15, 1996.

Randolph Snell,

Acting Designated Federal Officer.

[FR Doc. 96–4036 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–P

[OPPT–59351; FRL–5349–6]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–96–1. The test marketing conditions are described below.

DATES: This notice becomes effective February 13, 1996. Written comments will be received until March 8, 1996.

ADDRESSES: Written comments, identified by the docket number [OPPT–59351] and the specific TME number should be sent to: TSCA nonconfidential center (NCIC), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. NEB–607 (7407), 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by [OPPT–59351]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under "SUPPLEMENTARY INFORMATION".

FOR FURTHER INFORMATION CONTACT: Vera Stubbs, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–447A, 401 M St. SW., Washington, DC 20460, (202) 260–5671.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–96–1. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

A notice of receipt of this application was not published in advance of approval. Therefore, an opportunity to submit comments is being offered at this time. EPA will modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME–96–1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–96–1

Date of Receipt: December 12, 1995. The extended comment period will close (insert date 15 days after date of publication in the **Federal Register**).

Applicant: Mitsubishi Chemical America, Inc.

Chemical: (G) 4-phosphoric methyl styrene and divinylbenzene polymer.

Use: (G) Chelating Agent.

Production Volume: 600.

Number of Customers: 30.

Test Marketing Period: 12 months. Commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

A record has been established for this notice under docket number [OPPT–59351] (including comments and data submitted electronically a described above). A public version of this record, including printed versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA nonconfidential information center (NCIC), Rm. NEB–607, 401 M St., SW., Washington, DC 20460.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection, Test marketing exemption.

Dated: February 13, 1996.

Paul J. Campanella,

Chief, New Chemicals Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 96–4029 Filed 2–21–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

February 14, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 22, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0552.

Title: Section 76.1003 Adjudicatory proceedings.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 30 complainant's file preliminary notices with potential defendants. Though these actions only result in approximately 15 actual complaint proceedings each year, to account for total respondents for this information collection requirement that are 30 complainants and 30 defendants; totalling 60 annual respondents.

Estimated Time Per Response: Preliminary notice has an average burden of 8 hours (30 X 8). Each defendants response has an average burden of 8 hours (30 X 8). Each complainants program access complaint and defendants response to this complaint has an average burden of 15 hours (30 X 15). Each complainant's reply to the defendant's answer to a program access complaint has an average burden of 5 hours (15 X 5).

Total Annual Burden: (30 X 8) + (30 X 8) + (30 X 15) + (15 X 5) = 1,005 annual burden hours.

Needs and Uses: Section 19 of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act) added new Section 628 to the Communications Act of 1934 (the Act). Section 628 of the Act prescribes a cable operator, a satellite cable programming vendor in which a cable operator has an attributable interest, or a satellite broadcast programming vendor from engaging in unfair practices and directs the Commission to, among other things, prescribe regulations to provide for a review of complaints made under this section. Accordingly, the Commission adopted a Report and Order on April 1, 1993, in MM Docket No. 92–265, which added Section 76.1003 to its rules.

Section 76.1003 provides that any aggrieved multichannel video programming distributor intending to file a program access complaint must first notify the potential defendant cable operator, and/or the potential defendant satellite cable programming vendor or satellite broadcast programming vendor, that it intends to file such a complaint with the Commission. If the parties cannot resolve the dispute, the complainant may then initiate a program access complaint proceeding with the Commission. Section 76.1003(b) stipulates that program access complaint proceedings are generally to be resolved on a written record consisting of a complaint, a defendant's answer to the complaint, and the complainant's reply to the defendant's answer.

The information will be used by Commission staff to resolve disputes alleging unfair methods of competition and deceptive practices by a cable operator, a satellite cable programming vendor in which a cable operator has an attributable interest, or a satellite broadcast programming vendor where the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming or satellite broadcast programming to subscribers or consumers.

OMB Approval Number: 3060–0571.

Title: Determination of Maximum Permitted Rates for Regulated Cable Programming Services and Equipment.

Form No.: FCC Form 393.

Type of Review: Extension of expiration date of a currently approved information collection.

Respondents: Business or other for profit; state, local or tribal governments.

Number of Respondents: The Commission estimates that 300 FCC Form 393s are filed annually with the Commission and local franchising authorities.

Estimated Time Per Response: 40 hours per response.

Total Annual Burden: 12,000 hours annually.

Needs and Uses: On 4/1/93, the Commission adopted a Report and Order, FCC 93–177, MM Docket No. 92–266, implementing Section 623 of the Cable Act, thus ensuring that cable subscribers nationwide enjoy the rates that would be charged by cable systems operating in a competitive environment. The FCC Form 393 was then developed for cable operators to use to justify the reasonableness of rates for service and equipment in effect prior to May 15, 1994. The cable operators use the FCC Form 393 to submit their basic rate schedule to local franchising authorities or the Commission (in situations where the Commission has assumed jurisdiction. Cable operators also file the FCC Form 393 when responding to a complaint filed with the Commission about cable programming service rates and associated equipment.

OMB Approval Number: 3060–0551.

Title: 47 CFR 76.1002 Specific unfair practices prohibited.

Type of Review: Extension of expiration date of a currently approved information collection.

Respondents: Business or other for-profit.

Number of Respondents: The Commission receives approximately 20 petitions for exclusivity, annually. Approximately 15 competing multichannel video programming distributors affected by proposed petitions for exclusivity will in turn file opposition to the petitions. Therefore, there are 35 total annual respondents.

Estimated Time Per Response: Each of the estimated 20 petitions for exclusivity has an average burden of 25 hours. Each of the estimated 15 opposition to petitions for exclusivity has an average burden of 25 hours. Each of the estimated 15 responses to the opposition has an average burden 15 hours.

Total Annual Burden: (20 x 25) + (15 x 25) + (15 x 15) = 825 burden hours.

Needs and Uses: Section 19 of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act) added new Section 628 to the Communications Act of 1934 (the Act). Section 628 of the Act directs the Commission to prescribe rules to prohibit exclusive contracts between cable operators and vertically integrated satellite cable and broadcast programming vendors, that prevent a multichannel video programming distributor from obtaining satellite cable or satellite broadcast programming for distribution to persons in areas served by a cable operator unless the Commission determines that the exclusive contract is in the public interest pursuant to Section 628(c)(4) of the Act. Pursuant to the legislative mandate of Section 19 of the Cable Act (Section 628(c)(2)(D) of the Act), the Commission adopted a Report and Order on April 1, 1993, in MM Docket No. 92–265, which, among other things, added new Section 76.1002(c)(5) to the Commission's rules requiring any vertically integrated programmer or any cable operator seeking to execute an exclusive contract, to seek and obtain the Commission's public interest judgement before doing so by filing a "petition for exclusivity." The information will be used by Commission staff to determine on a case-by-case basis whether particular exclusive contracts for cable television programming comply with the statutory public interest standard of Section 19 of the 1992 Cable Act and Section 628(c)(2)(D) of the Act.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–3914 Filed 2–21–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL ELECTION COMMISSION

[Notice 1996–8]

Filing Dates for the Oregon Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Special Elections.

SUMMARY: Oregon has scheduled special elections on April 2 and May 21, 1996, in the Third Congressional District to fill the U.S. House seat vacated by Congressman Ron Wyden.

Committees required to file reports in connection with the Special Primary Election on April 2 should file a 12-day Pre-Primary Report on March 21, 1996. Committees required to file reports in connection with both the Special Primary and Special General Election to be held on May 21, must file a 12-day Pre-Primary Report; an April Quarterly Report on April 15; a 12-day Pre-General Report on May 9; and a Post-General Report on June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Information Division, 999 E Street, N.W., Washington, DC 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates in the Special Primary and Special General Elections and all other political committees not filing monthly which support candidates in these elections shall file a 12-day Pre-Primary Report on March 21, with coverage dates from the close of the last report filed, or the day of the committee's first activity, whichever is later, through March 13; an April Quarterly Report on April 15, with coverage dates from March 14 through March 31; a 12-day Pre-General Report on May 9, with coverage dates from April 1 through May 1; and a Post-General Report on June 20, with coverage dates from May 2 through June 10, 1996.

All principal campaign committees of candidates in the Special Primary Election *only* and all other political committees not filing monthly which support candidates in the Special Primary Election shall file a 12-day Pre-Primary Report on March 21, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through March 13, and an April Quarterly Report on April 15, with coverage dates from March 14 through March 31, 1996.

All political committees not filing monthly which support candidates in the Special General Election *only* shall file a 12-day Pre-General Report on May 9, with coverage dates from the last report filed, or the date of the committee's first activity, whichever is later, through May 1, and a Post-General Report on June 20, with coverage dates from May 2 through June 10, 1996.

CALENDAR OF REPORTING DATES FOR OREGON SPECIAL ELECTIONS

Report	Close of books*	Reg./cert. mailing date**	Filing date
I. For Committees Involved Only in the Special Primary (04/02/96)			
Pre-Primary	03/13/96	03/18/96	03/21/96
April Quarterly	03/31/96	04/15/96	04/15/96
II. For Committees Involved in the Special Primary (04/02/96) and Special General (05/21/96)			
Pre-Primary	03/13/96	03/18/96	03/21/96
April Quarterly	03/31/96	04/15/96	04/15/96
Pre-General	05/01/96	05/06/96	05/09/96
Post-General	06/10/96	06/20/96	06/20/96
III. For Committees Involved Only in the Special General (05/21/96)			
Pre-General	05/01/96	05/06/96	05/09/96
Post-General	06/10/96	06/20/96	06/20/96

*The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

**Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

Dated: February 16, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–3986 Filed 2–21–96; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–011456–013
Title: South Europe American Conference
Parties:
Compagnie Maritime d'Affretement
DSR-Senator Lines GmbH
Evergreen Marine Corporation (Taiwan) Ltd.
"Italia" di Navigazione, S.p.A.
A.P. Moller-Maersk Line
Nedlloyd Lijnen B.V.
P&O Containers Limited
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.
Synopsis: The proposed amendment revises (1) Article 8.6 to provide that the deadline for responding to a telephone or telex poll in the Westbound Section is the close of the next business day following the initiation of the poll; (2) Article 8.7 to provide that Proxies shall count for purposes of determining a quorum and for voting purposes at Westbound Executive Committee and Pricing Meetings; (3) Article 13 reduces the notice period of Westbound independent actions from 10 calendar days to 3 business days; and (4) Article 14 permits Westbound service contracts to include single factor rates and Article 14.1(e) provides that a member of the Westbound Section may apply independent actions taken on European inlands to Westbound service contracts.

Agreement No.: 232–011475–002
Title: Hanjin/Tricon Agreement
Parties:
Hanjin Shipping Co., Ltd.
Cho Yang Shipping Co. Ltd.
DSR-Senator Lines
Synopsis: The proposed amendment adds U.S. West Coast ports to the geographic scope of the Agreement and deletes reference to the (Bangor, ME/Key West, FL range).

Agreement No.: 203–011527
Title: Montemar/Zim Service Coordination Agreement
Parties:
Zim Israel Navigation Company, Ltd.
Montemar S.A. d/b/a Pan American Independent Line
Synopsis: The proposed Agreement authorizes the parties to charter space and vessels to and from one another, to rationalize sailings. The parties may also, on a voluntary and non-binding basis, discuss and agree upon rates, charges, rules, regulations, practices, tariff or service items or rate policy and terms and conditions of their respective service contracts in the trade between, on the one hand, U.S. ports and points (including ports and points on the islands of Puerto Rico and the U.S. Virgin Islands) and, on the other hand, ports on the Caribbean coast of Columbia, ports in Venezuela, Guyana, Suriname, French Guiana, Brazil, Uruguay, ports on the Atlantic Coast of Argentina, ports in all islands of the Caribbean Sea, and inland and coastal points served via such ports (including without limitation, inland and coastal points in Paraguay). The parties have requested a shortened review period.

Dated: February 15, 1996.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–3909 Filed 2–21–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 3806
Name: B.L.G. Air-Ocean Transport Corp.
Address: 1281 West 40th Street, Hialeah, FL 33012
Date Revoked: December 27, 1995
Reason: Surrendered license voluntarily.

License Number: 2140
Name: John J. Solano dba Solano Forwarding Co.
Address: 347 Third Ave., Bellmawr, NJ 08031
Date Revoked: December 30, 1995
Reason: Failed to maintain a valid surety bond.

License Number: 3697
Name: Aero-Mar Cargo, Inc.
Address: 10540 N.W., 26th Street, Ste. G101, Miami, FL 33172
Date Revoked: January 8, 1995
Reason: Failed to maintain a valid surety bond.

License Number: 2169
Name: Vincent F. Messina dba Messina & Co.
Address: One Harborside Drive, E. Boston, MA 02128
Date Revoked: January 12, 1995
Reason: Failed to maintain a valid surety bond.

License Number: 3167
Name: Robert Sordo dba Aldemar Shipping Company
Address: 10910 S. La Cienega Blvd., Inglewood, CA 90304
Date Revoked: January 16, 1996
Reason: Surrendered license voluntarily.

License Number: 3091
Name: Callport International, Inc.
Address: Airport Industrial Office Park Bldg., C–2 North, Hook Creek Blvd. & 145th Ave., Valley Stream, NY 11581
Date Revoked: January 16, 1996
Reason: Surrendered license voluntarily.

License Number: 1296
Name: Porter International, Inc.
Address: 9295 Siempre Viva Road, San Diego, CA 92173
Date Revoked: January 16, 1996
Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 96–3908 Filed 2–21–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Community Financial Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 15, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Community Financial Group, Inc., Nashville, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of The Bank of Nashville, Nashville, Tennessee.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Benson Financial Corporation, San Antonio, Texas, and thereby indirectly acquire Kelly Field National Bank, Leon Valley, Texas, and Groos Bank, N.A., San Antonio, Texas.

Board of Governors of the Federal Reserve System, February 15, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3912 Filed 2–21–96; 8:45 am]

BILLING CODE 6210–01–F

First Financial Bancorp, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 6, 1996.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Financial Bancorp, Hamilton, Ohio, to engage *de novo* through its subsidiary, First Finance Mortgage Company of Southwestern Ohio, Inc., Fairfield, Ohio, in making, acquiring, and servicing loans or other extensions of credit directly or for the account of others, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Heartland Bancshares, Inc., Lenox, Iowa; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 15, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–3913 Filed 2–21–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request For Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 012996 AND 020996

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Emmpak Foods, Inc., Wisconsin Packing Co., Inc., Wisconsin Packing Co., Inc	96–0749	01/29/96
Acadia Partners, L.P., Lehman Brothers Holdings Inc., LW–SSP2, L.P	96–0763	01/29/96
The Trident Partnership, L.P., Odyssey Partners, L.P., Sen-Tech International Holdings, Inc	96–0782	01/29/96
Weyerhaeuser Company, The Mead Corporation, Mead Coated Board, Inc	96–0784	01/29/96
Weyerhaeuser Company, Fosterlane Holdings Corporation, Evergreen Timberlands Corporation	96–0785	01/29/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 012996 AND 020996—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Mr. Richard A. Benedek, Mr. William S. Morris III, Stauffer Communications, Inc	96–0787	01/29/96
Team Rental Group, Inc., Chrysler Corporation, Van Pool Services, Inc	96–0818	01/29/96
Bessemer Securities Corporation, Dan S. Sandel, Devon Industries, Inc	96–0821	01/29/96
Mr. A. Richard Benedek, Mr. Paul Brissette, Jr., Brissette Broadcasting Corporation	96–0835	01/29/96
Merrill Lynch & Co., Inc., Rykoff-Sexton, Inc., Rykoff-Sexton, Inc	96–0850	01/29/96
Merrill Lynch Capital Appr. Partnership No. B–XVIII, LP, Rykoff-Sexton, Inc., Rykoff-Sexton, Inc	96–0851	01/29/96
Merrill Lynch Capital Appr. Partnership No. XIII, L.P., Rykoff-Sexton, Inc., Rykoff-Sexton, Inc	96–0852	01/29/96
Lincoln National Corporation, Bell Atlantic Corporation, Christopher Budden, Carla Giannini and David Hodes as T	96–0853	01/29/96
American Family Restaurants, Inc., Jack M. Lloyd, Denwest Restaurant Corporation	96–0855	01/29/96
Jack M. Lloyd, American Family Restaurants, Inc., American Family Restaurants, Inc	96–0856	01/29/96
Regency Health Services, Inc., Liberty-LHC Corp., Liberty Healthcare Limited Partnership	96–0878	01/29/96
Healthsource, Inc., Central Massachusetts Health Care, Inc., Central Massachusetts Health Care, Inc	96–0768	01/30/96
Han-Ching Lin and Hui-Ying Chou, Travelers Group Inc., Hotel Pleasanton Limited, L.P	96–0822	01/30/96
E.I. du Pont de Nemours and Company, Zapata Corporation, Cimarron Gas Holding Company	96–0833	01/30/96
Wallace Computer Services, Inc., Forms Engineering Company, Forms Engineering Company	96–0885	01/30/96
The Sherwin-Williams Company, Imperial Chemicals Industries PLC, Grow Group, Inc. and Cello Corp	96–0844	01/31/96
MBNA Corporation, Keystone Financial, Inc., Mid-State Bank and Trust Company	96–0899	02/01/96
The Multicare Companies, Inc., Concord Health Group, Inc., Concord Health Group, Inc.	96–0907	02/01/96
Renal Treatment Center, Inc., Dudley S.J. Seto, Intercontinental Medical Services, Inc	96–0766	02/02/96
Linde AG, Praxair, Inc., Praxair Technology, Inc	96–0771	02/02/96
Toshiba Corporation, International Business Machines Corporation, Virginia LLC Holding, Inc	96–0802	02/02/96
National Life Insurance Company, Vereinigte Haftpflicht Vericherung, V.a.G. (Swiss corp), Hannover Holdings, Inc. and LSW Holding Corporation	96–0816	02/02/96
National Life Insurance Company, Swiss Reinsurance Company, Hannover Holdings, Inc. and LSW Holding Corporation	96–0817	02/02/96
General Parts, Inc., Daniel C. Sussen, Sussen, Incorporated	96–0846	02/02/96
Ford Motor Company, Dover Corporation, Dover Industries Acceptance, Inc	96–0854	02/02/96
Welsh, Carson, Anderson & Stowe VII, L.P., Newco (JV), Newco (JV)	96–0863	02/02/96
Welsh, Carson, Anderson & Stowe VII, L.P., LeBonheur Health Systems, Inc., Southern Health Systems, Inc	96–0864	02/02/96
Alco Standard Corporation, Wilheit Family-Properties, L.P., Tom Wilheit Packaging Materials Company	96–0865	02/02/96
Mayo Foundation, Immanuel-St. Joseph's Hospital of Mankato, Inc., Immanuel-St. Joseph's Hospital	96–0876	02/02/96
Blue Cross of California, Massachusetts Mutual Life Insurance Co., MassMutual Holding Company Two, Inc	96–0879	02/02/96
Mr. Joe Lewis Allbritton, Federal Enterprises, Inc., Federal Broadcasting Company	96–0880	02/02/96
Corporate Express, Inc., U.S. Delivery Systems, Inc., U.S. Delivery Systems, Inc	96–0905	02/02/96
Robert B. Rowling, The Wharf (Holdings) Limited, Omni Hotels Corporation	96–0913	02/02/96
The Morgan Stanley Real Estate Fund II, L.P., Chevron Corporation, Chevron Corporation	96–0926	02/02/96
Gibraltar Steel Corporation, Carolina Commercial Heat Treating, Inc., Carolina Commercial Heat Treating, Inc	96–0935	02/02/96
General Electric Company, Access America Telemanagement, Inc., Access America Telemanagement, Inc	96–0751	02/05/96
Sisters of St. Joseph of Nazareth, Franciscan Services Corporation, Holy Cross Health Services of Michigan, Inc	96–0805	02/05/96
H.J. Heinz Company, Earth's Best, Inc., Earth's Best, Inc	96–0894	02/05/96
CAI Wireless Systems, Inc., Heartland Wireless Communications, Inc., Heartland Wireless Communications, Inc	96–0900	02/05/96
Heartland Wireless Communications, Inc., CAI Wireless Systems, Inc., CS Wireless Systems, Inc	96–0901	02/05/96
J. Dix Druce, Jr., GAN Societe Central de Group des Assurance Nationales, Hawkeye National Life Insurance Company	96–0925	02/05/96
U.S. Trust Company of California N.A.—trustee of AECOM, TCB Inc., TCB Inc	96–0929	02/05/96
ChiRex Inc., Sepracor Inc., SepraChem Inc	96–0938	02/05/96
Sepracor Inc., ChiRex Inc., ChiRex Inc	96–0939	02/05/96
Thomas O. Hicks, Norman N. Green, Dallas Hockey Club, Inc	96–0959	02/05/96
Bessemer Securities Corporation, Kelley Oil & Gas Corporation, Kelley Oil & Gas Corporation	96–0912	02/06/96
First Union Corporation, Mary L.G. Theroux, Interail, Inc	96–0937	02/06/96
Amgen Inc., NPS Pharmaceuticals, NPS Pharmaceuticals	96–0794	02/07/96
Shaw Industries, Inc., Ulrich E. Meyer, Carpetland USA, Inc	96–0869	02/07/96
Deere & Company, InterAg Technologies, Inc., InterAg Technologies, Inc	96–0883	02/07/96
Western Wireless Corporation, GTE Corporation, GTE Mobilnet Incorporated	96–0886	02/07/96
Estate of Albert Reimann, Maybelline, Inc., Maybelline, Inc	96–0909	02/07/96
Merrill Lynch Capital Appreciation Company Limited II, Rykoff-Sexton, Rykoff-Sexton	96–0911	02/07/96
International Business Machines Corporation, Digital Domain, Inc., Digital Domain, Inc	96–0914	02/07/96
Cox Enterprises, Inc., Digital Domain, Inc., Digital Domain, Inc	96–0919	02/07/96
CSM nv, Philip and Mariette Orth, Ph. Orth Co	96–0928	02/07/96
Illinois Tool Works Inc., Medalist Industries, Inc., Medalist Industries, Inc	96–0930	02/07/96
Loyal Trust No. 1, Meridian Industrial Trust, Inc., Meridian Industrial Trust, Inc	96–0945	02/07/96
The Warnaco Group, Inc., Cygne Designs, Inc., Cygne Designs, Inc	96–0957	02/07/96
General Electric Company, EMLICO Joint Provisional Liquidators (Bermuda), Electric Insurance Company	96–0918	02/08/96
SmithKline Beecham plc, Human Genome Sciences, Inc., Human Genome Sciences, Inc	96–0922	02/08/96
Rifkin Acquisition Partners, L.L.L.P., Mid-Tennessee CATV, L.P., Mid-Tennessee Cable Limited Partnership	96–0924	02/08/96
Arch Communications Group, Inc., Merrill Lynch Capital Appreciation Part. No. B–XXIV, LP, Westlink Holdings, Inc	96–0951	02/08/96
General Motors Corporation, Litton Industries, Inc., Litton Systems, Inc	96–0226	02/09/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 012996 AND 020996—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Praxair, Inc., The Shumway Estate, General Welding Supply Co., Inc	96–0841	02/09/96
David C. Arch, Bayer AG, Bayer Corporation	96–0884	02/09/96
Horizon/CMS Healthcare Corporation, Pacific Rehabilitation & Sports Medicine, Inc., Pacific Rehabilitation & Sports Medicine, Inc	96–0890	02/09/96
Dover Corporation, The 162 Trust, Hill Samuel Trust Company, Ltd., Trustee, Robohand, Inc	96–0891	02/09/96
Dover Corporation, Mr. Alexandru Ionescu, Robohand, Inc	96–0892	02/09/96
CENEX, Inc., MAPCO Inc., Thermogas Company	96–0904	02/09/96
Bruce G. Robert, Volker Dolch, Dolch American Instruments, Inc	96–0921	02/09/96
The Bank of New York Company, Inc., PNC Bank Corp., Midlantic Commercial Co	96–0941	02/09/96
ECCO S.A. (a French company) BCE Inc. (a Canadian company), BCE Commcor Management, Inc	96–0942	02/09/96
Ameritech Pension Trust, Meridian Industrial Trust, Inc., Meridian Industrial Trust, Inc	96–0943	02/09/96
Wendy's International, Inc., Imasco Limited, MRO Mid-Atlantic Corporation and MRO Northeast, Incorpo	96–0946	02/09/96
Danaher Corporation, KTM Holdings, Inc., Ketema, Inc	96–0954	02/09/96
Tiger Real Estate Fund, L.P., Martin V. Smith, Smith Family Trust	96–0955	02/09/96
Sybron International Corporation, The Naugatuck Glass Company, The Naugatuck Glass Company	96–0956	02/09/96
Century Communications Corp., ML Media Partners, L.P., ML Media Partners, L.P	96–0963	02/09/96
Pasadena Hospital Assoc., Ltd., dba Huntington Mem. Hos, Montebello Community Health Services, Inc., Montebello Community Health Services, Inc	96–0964	02/09/96
Snyder Oil Corporation, Gerrity Oil and Gas Corporation, Gerrity Oil & Gas Corporation	96–0965	02/09/96
Southern California Physicians Insurance Exchange, Citicorp, FG Insurance Corporation and FG Casualty Company	96–0969	02/09/96
Wolseley plc, John M. Denlinger, Denlinger, Inc	96–0970	02/09/96
Madison Dearborn Capital Partners, L.P., New River Holding, Inc., New River Holding, Inc	96–0976	02/09/96
Detection Systems, Inc., Expamet International PLC (a British company), Radionics, Inc	96–0979	02/09/96
EXOR Group S.A., New River Holdings, Inc., New River Holdings, Inc	96–0984	02/09/96
The 1818 Fund II, L.P., New River Holding, Inc., New River Holding, Inc	96–0985	02/09/96
Philip S. Niarchos, RCPI Holdings Inc. (a Newco), RCPI Holdings Inc	96–0990	02/09/96
Spyros S. Niarchos, RCPI Holdings Inc. (a Newco), RCPI Holdings Inc	96–0991	02/09/96
First Union Corporation, Gerald L. Kilcoyne, Northbrook Rail Corporation	96–0997	02/09/96
Ronald M. Cameron, Piedmont Poultry Company, Inc., Piedmont Poultry Company	96–0999	02/09/96
AMP Incorporated, Robert M. Bretholtz, Madison Cable Corp. and assets of Jared Associates	96–1002	02/09/96
AMP Incorporated, Harold N. Cotton, Madison Cable Corp. and assets of Jared Associates	96–1003	02/09/96

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–3930 Filed 2–21–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 952–3188]

Azrak-Hamway International, Inc., Marvin Azrak, Ezra Hamway; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would bar the New York City-based corporation from using deceptive demonstrations and certain other misrepresentations in future advertising campaigns. Azrak-Hamway, which distributes toys through its Remco Toys Division, is also required to notify television stations that ran its allegedly deceptive ads of the FTC action, to advise television stations of the availability of guidelines for screening children's advertising, and to offer a refund to customers who bought its Steel Tec toy vehicles. The consent agreement settles allegations stemming from the advertising and marketing of Azrak-Hamway International's line of Steel Tec toy vehicles.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:
Toby Milgrom Levin, Federal Trade Commission, S–4002, 6th and Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–3156.

Joel Winston, Federal Trade Commission, S–4002, 6th and Pennsylvania Avenue NW., Washington, DC 20580. (202) 326–3153.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

United States of America Before Federal Trade Commission

In the matter of: Azrak-Hamway International, Inc., a corporation, and Marvin Azrak and Ezra Hamway, individually and as officers of said corporation. File No. 952 3188.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Azrak-

Hamway International, Inc., a corporation, and Marvin Azrak and Ezra Hamway, individually and as officers of said corporation ("proposed respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Azrak-Hamway International, Inc., by its duly authorized officer, and Marvin Azrak and Ezra Hamway, individually and as officers of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Azrak-Hamway International, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1107 Broadway, New York, New York 10010.

Proposed respondents Marvin Azrak and Ezra Hamway are owners and officers of Azrak-Hamway International, Inc. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondents, Azrak-Hamway International, Inc., a corporation, its successors and assigns, and its officers, and Marvin Azrak and Ezra Hamway, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any toy in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. In connection with any advertisement or package depicting a demonstration, experiment or test, making any representation, directly or by implication, that the demonstration, picture, experiment or test depicted in the advertisement or package proves, demonstrates or confirms any material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not prove, demonstrate or confirm the representation for any reason, including but not limited to:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique; that, in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Provided, however, that notwithstanding the foregoing, nothing in this order shall be deemed to otherwise preclude the use of fantasy segments or prototypes which use otherwise is not deceptive.

B. Misrepresenting, directly or by implication, any performance characteristic of any toy.

C. Misrepresenting the number of toys contained in, or that can be constructed with the parts contained in, the package.

II

It is further ordered that for three (3) years after the last date of dissemination of any representation covered by this order, respondent Azrak-Hamway International, Inc., or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon in disseminating such representation;

B. Any and all videotapes, in complete as well as unedited form, and any and all still photographs taken during the production of any advertisement depicting a demonstration, experiment, or test;

C. Any and all affidavits or certifications submitted by an employee, agent or representative of respondent to a television network or to any other individual or entity, which affidavit or certification affirms the accuracy or integrity of a demonstration or demonstration techniques contained in an advertisement; and

D. Any toy, as well as the packaging for any toy, involved in such representation.

III

It is further ordered that respondent Azrak-Hamway International, Inc., or its successors and assigns, shall offer refunds to purchasers of any Steel Tec toy(s) in accordance with the provisions of this Part.

A. Within fifteen (15) days from the date of service of this order, respondents shall compile a mailing list containing the name and last known address of each purchaser in respondents' possession or control. This list shall include all purchasers who have contacted respondents, either in writing or by telephone, regarding a Steel Tec toy. Within sixty (60) days from the date of service of this order, respondents shall provide Commission staff with a computer print-out copy of the mailing list, as well as provide the list in computer readable form, in standard MS-DOS diskettes or IBM-mainframe compatible tape.

B. Within sixty (60) days from the date of service of this order, respondents shall send via first-class mail, postage prepaid, a Notice of Refund Offer in the form set forth in Appendix B to this order, to all purchasers listed on the mailing list required by subpart A of this Part.

C. Respondents shall also send via first-class mail, a postage prepaid, a Notice of Refund Offer, in the form set forth in Appendix B to this order, to all purchasers who contact respondents or the Commission in any manner within one hundred twenty (120) days from the date of service of this order. Each mailing shall be made within fifteen (15) business days after respondents receive the purchaser's name and address.

D. No information other than that contained in Appendix B shall be included in or added to the Notice of Refund Offer, nor shall any other material be transmitted therewith. The envelope containing the Notice of Refund Offer shall be in the form set forth in Appendix C to this order. For each mailing returned by the U.S. Postal Service as undeliverable for which respondents thereafter obtain a corrected address, respondents shall, within fifteen (15) business days after receiving the corrected address, send a Notice of Refund Offer to the corrected address.

E. Respondents shall send a refund check to each purchaser who returns the completed application form appended to the Notice of Refund Offer to respondents or who otherwise requests a refund in writing, and who returns the toy(s), or a substantial portion of the toy(s), to respondents within one hundred eighty days (180) from the date of service of this order. The amount of the refund shall equal the sum of the price for the toy(s) as set forth in Appendix A to this order and the actual cost of postage for returning the toy(s). Respondents shall send refund checks by first-class mail, postage prepaid within fifteen (15) business days after respondents receive the returned toy(s) from the purchaser. The envelope containing the refund check shall be in the form set forth in Appendix D to this order.

F. Respondents shall notify any purchaser who applies for a refund but fails to return the Steel Tec toy or to otherwise apply properly of any error in the purchaser's refund application, and shall provide a reasonable opportunity for the purchaser to rectify any such error.

G. Within two hundred forty (240) days from the date of service of this order, respondents shall furnish to Commission staff the following:

1. In computer readable form (standard MS-Dos diskettes or IBM-mainframe compatible tape) and in computer print-out form, a list of the names and addresses of all consumers who were sent refund checks pursuant to Part III of this order, and for each name included on the list, the amount, check number and mailing date of every refund check sent;

2. In computer readable form (standard MS-Dos diskettes or IBM-mainframe compatible tape) and in computer print-out form, a list of the names and addresses of all consumers who contacted respondents or were referred to respondents by the Commission in accordance with subpart C of this Part;

3. Copies of all correspondence and other communications to, from, or concerning all consumers who requested a refund but were refused, and the reason(s) for denying the refund;

4. All Notices of Refund Offer returned to respondents as undeliverable; and

5. All other documents and records evidencing efforts made and actions taken by respondents to identify, locate, contact and provide refunds to consumers requesting a refund.

For purposes of this Part, "purchaser" shall mean any person who has purchased a Steel Tec toy and who has not previously received a full refund of the purchase price. "Steel Tec toy(s)" shall mean any of the toys identified in Appendix A to this order. "Substantial portion" of the toy shall mean a majority of the parts, including the battery pack, if such is part of the toy.

IV

It is further ordered that respondent Azrak-Hamway International, Inc., or its successors and assigns, shall within sixty (60) days after the date of service of this order send by certified mail, return receipt requested, to the station president or manager of each television station that aired any advertisement that was the subject of the complaint issued in this matter, as identified in Appendix F to this order, a copy of the letter set forth in Appendix E to this order.

V

It is further ordered that respondent Azrak-Hamway International, Inc., or its successors and assigns, shall within thirty (30) days after service of this order, provide a copy of this order to its current principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order.

VI

It is further ordered that respondents Marvin Azrak and Ezra Hamway shall, for a period of ten (10) years from the date of entry of this order, notify the Commission within thirty (30) days of the discontinuance of their present business or employment and of their affiliation with any new business or employment. Each such notice of affiliation with any new business or employment shall include the respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

VII

It is further ordered that respondent Azrak-Hamway International, Inc. shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries of affiliates, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this order.

VIII

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IX

It is further ordered that respondents shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

APPENDIX A.—STEEL TEC TOYS SUBJECT TO THE REFUND OFFER

Toy or toy set	Refund amount
Helicopter (not battery operated):	
Helicopter (packaged individually)(System 203/item #7009)	$8.99
Starter Set Copters (System 151/item #7085)	14.99
Street and Flying Vehicles (System 203/item #7000)	8.99
Helicopter (battery operated):	
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Construction & Road Vehicles Set (System 202/item #7010)	19.99
Road & Air Vehicles Set (System 307/item #7020)	29.99
Road, Rail and Air Vehicles Set (System 302/item #7024)	34.99
Formula 1 race car:	
Road & Air Vehicles Set (System 307/item #7020)	29.99
Road & Air Vehicles Plus Waling Robot Set (System 395/item #7022)	39.99
Off road super sport:	
Road & Air Vehicles Set (System 307/item #7020)	29.99
Construction Vehicles Set (System 306/item #7021)	29.99
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Sand buggy:	
Road & Air Vehicles Set (System 307/item #7020)	29.99
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Road, Rail and Air Vehicles Set (System 302/item #7024)	34.99
Excavating and Land Vehicles Set (System 303/item #7025)	24.99
Dump truck (not battery operated):	
Street and Flying Vehicles (System 202/item #7000)	8.99
Construction and Road Vehicles (System 202/item #7010)	19.99
Dump truck (battery operated):	
Heavy Machinery/Construction Vehicles Plus Walking Dinosaur Set (System 304/item #7023)	39.99
Dozer (bulldozer):	
Construction Vehicles Set (System 306/item #7021	29.99
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Heavy Machinery/Construction Vehicles Plus Walking Dinosaur Set (System 304/item #7023)	39.99
Excavating and Land Vehicles Set (System 303/item #7025)	24.99
Harley-Davidson® Motorcycles Set (not battery operated):	
(System 201/item #7090)	34.99
Harley-Davidson® Motorcycles Set (battery operated):	
(System 301item #7091)	44.99
Hypersonic jet fighter:	
Power Command Center/Value Pack: including Fighter Jet, Power Wrench and Storage Case (item #7031)	19.99
Power Command Center/Value Pack: including Fighter Jet and Power Wrench but without Storage Case (item #7031A)	12.49
Power Command Center/Value Pack: including Fighter Jet and Storage Case but without Power Wrench item #7031B)	12.49
Power Command Center/Value Pack: without Power Wrench and Storage Case [returning Fighter Jet only] (item #7031C)	4.99
Starter Set Airplanes Assortment (System 151/item #7085)	14.99

Appendix B.—Notice of Refund Offer

Dear Remco Toys Customer:

YOU MAY BE ENTITLED TO A CASH REFUND. We understand that you may have bought one or more Steel Tec Toys. We recently settled a dispute with the Federal Trade Commission about allegedly deceptive advertising for Steel Tec Toys. The FTC alleges that certain Steel Tec ads showed the toy vehicles flying, driving or moving in ways that they cannot actually do. Although we don't believe that our ads were deceptive, we have agreed to give a full refund to all eligible purchasers who return the toy and ask for their money back.

To get a refund, here's what you need to do:

(1) Check the attached list to make sure that the toy you bought is included in this refund offer.

(2) Return the toy(s), assembled or unassembled, including the battery pack, if it is part of the toy. The original packaging is not required.

(3) Fill out the attached form. Then send the form *and* the toy back to us by first-class mail. To be eligible for a refund, you must send us the toy by [DATE CERTAIN 180 DAYS AFTER THE DATE OF SERVICE OF THE ORDER].

(4) For every eligible toy you return, we'll send you a check for the price of the toy as stated on the attached list and the return postage. We'll send you a refund check within 15 business days of receiving the toy.

If you believe that you were not deceived by the alleged deceptive advertising and you are satisfied with your Steel Tec toy, you are not required to return the toy for a refund.

To get your refund, please make sure to write your correct address on the attached form. If you have any questions, please call 1–800–243–2961.

President,
Remco Toys.

Detach and Return This Form With the Toy

Name _____
Street Address _____
City/State/Zip _____
Name of Steel Tec Toy or Toy Set _____

Return this form and the toy by first-class mail to: Steel Tec Toy Refund, Remco Toys, 36 W. 25th Street, New York, New York 10016.

Deadline: (*Date Certain 180 Days After Date of Service of the Order*)

For Office Use Only:
Date Received _____
Toy Received _____
Postage Paid _____
Receiver _____
Refund $ _____
Approved by _____
Check Date _____
Check # _____
Check $ _____
Mailing Date _____

STEEL TEC TOYS SUBJECT TO THE REFUND OFFER

Toy or toy set	Refund amount
Helicopter (not battery operated):	
Helicopter (packaged individually) (System 203/item #7009)	$8.99
Starter Set Copters (System 151/item #7085)	14.99
Street and Flying Vehicles (System 203/item #7000)	8.99
Helicopter (battery operated):	
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Construction & Road Vehicles Set (System 202/item #7010)	19.99
Road & Air Vehicles Set (System 307/item #7020)	29.99
Road, Rail and Air Vehicles Set (System 302/item #7024)	34.99
Formula 1 race car:	
Road & Air Vehicles Set (System 307/item #7020)	29.99
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Off road super sport:	
Road & Air Vehicles Set (System 307/item #7020)	29.99
Construction Vehicles Set (System 306/item #7021)	29.99
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Sand buggy:	
Road & Air Vehicles Set (System 307/item #7020)	29.99
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Road, Rail and Air Vehicles Set (System 302/item #7024)	34.99
Excavating and Land Vehicles Set (System 303/item #7025)	24.99
Dump truck (not battery operated):	
Street and Flying Vehicles (System 203/item #7000)	8.99
Construction and Road Vehicles (System 202/item #7010)	19.99
Dump truck (battery operated):	
Heavy Machinery/Construction Vehicles Plus Walking Dinosaur Set (System 304/item #7023)	39.99
Dozer (bulldozer):	
Construction Vehicles Set (System 306/item #7021)	29.99
Road & Air Vehicles Plus Walking Robot Set (System 305/item #7022)	39.99
Heavy Machinery/Construction Vehicles Plus Walking Dinosaur Set (System 304/item #7023)	39.99
Excavating and Land Vehicles Set (System 303/item #7025)	24.99
Harley-Davidson® motorcycles set (not battery operated):	
(System 201/item #7090)	34.99
Harley-Davidson® motorcycles set (battery operated):	
(System 301/item #7091)	44.99
Hypersonic jet fighter:	
Power Command Center/Value Pack: including Fighter Jet, Power Wrench and Storage Case (item #7031)	19.99
Power Command Center/Value Pack: including Fighter Jet and Power Wrench but without Storage Case (item #7031A)	12.49
Power Command Center/Value Pack: including Fighter Jet and Storage Case but without Power Wrench (item #7031B)	12.49
Power Command Center/Value Pack: without Power Wrench and Storage Case [returning Fighter Jet only] (item #7031C)	4.99
Starter Set Airplanes Assortment (System 151/item #7085)	14.99

Appendix C.—Refund Notice Letter Envelope

Forwarding and Return Postage Guaranteed: Remco Toys, 36 W. 25th Street, New York, New York 10016

Window Envelope

[The following statement is to appear in a box, on the left hand side of the envelope in red, in extra large, bold type face]

ATTENTION: IMPORTANT REFUND INFORMATION INSIDE

Appendix D.—Refund Check Envelope

Forwarding and Return Postage Guaranteed: Remco Toys, 36 W. 25th Street, New York, New York 10016

Window Envelope

(indicates a check is enclosed)

Appendix E

(Azrak-Hamway stationery)

Dear Station President/Manager: This letter notifies you that Azrak-Hamway International, Inc. ("Azrak-Hamway") has entered into a consent agreement with the Federal Trade Commission ("FTC") regarding certain advertising for its Remco Toys Steel

Tec toy line. We have agreed as part of the settlement to send you this letter. It will advise you of how you may obtain information recognized by many organizations as useful in reviewing children's advertising to avoid misleading the public.

The FTC complaint in this matter alleges that advertisements for the Steel Tec toys included false demonstrations and representations of the performance of the depicted toys. More specifically, the FTC alleges that the ads depicted Steel Tec vehicles driving, flying, or otherwise moving in ways they cannot do in actual use. Azrak-Hamway does not admit to the alleged violations. The FTC action does not allege any liability on the part of the television stations that broadcast our ads.

Under Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45), advertisers are prohibited from disseminating false or deceptive advertising. As you may be aware, the advertising industry has undertaken various self-regulatory efforts to assist companies to comply with the law and to promote other industry goals. The Children's Advertising Review Unit ("CARU") was established in 1974 by the advertising industry to promote responsible children's advertising and to respond to public concerns. CARU reviews and evaluates child-directed advertising in all media. It is not affiliated with the Federal Trade Commission, but is part of the Council of Better Business Bureaus.

CARU has issued Guidelines on Children's Advertising that many industry members use to screen child-directed advertising. The Guidelines address many issues relating to advertising to children, some of which include deceptive advertising. For additional information regarding the CARU Guidelines, or a copy of the Guidelines, you may write to Elizabeth Lascoutx, Esq., Director of CARU, at 845 Third Avenue, New York, N.Y. 10022, or call her at (212) 705–0111.

If you need further information regarding deceptive advertising under the Federal Trade Commission Act, you may write to Dean C. Forbes, Esq., Division of Advertising Practices, Federal Trade Commission, 6th and Pennsylvania Ave., N.W., Washington, D.C. 20580, or call him at (202) 326–2831.

Sincerely,

[Azrak-Hamway representative to be identified]

APPENDIX F.—LIST OF TELEVISION STATIONS TO RECEIVE LETTER

Station	Channel	Location
KABB–TV	29	San Antonio, TX.
KCAL–TV	09	Los Angeles, CA.
KCPQ–TV	13	Seattle-Tacoma, WA.
KDAF–TV	33	Dallas-Ft. Worth, TX.
KDEB–TV	27	Springfield, MO.
KDNL–TV	30	St. Louis, MO.

APPENDIX F.—LIST OF TELEVISION STATIONS TO RECEIVE LETTER—Continued

Station	Channel	Location
KHTV–TV	39	Houston, TX.
KITN–TV	29	Minneapolis-St. Paul, MN.
KLGT–TV	23	Minneapolis-St. Paul, MN.
KMSP–TV	09	Minneapolis-St. Paul, MN.
KNXV–TV	15	Phoenix-Flagstaff, AZ.
KOKH–TV	25	Oklahoma City, OK.
KPDX–TV	49	Portland, OR.
KPLR–TV	11	St. Louis, MO.
KPHO–TV	05	Phoenix-Flagstaff, AZ.
KPRC–TV	02	Houston, TX.
KPRL–TV	11	St. Louis, MO.
KSHB–TV	41	Kansas City, MO.
KSMO–TV	62	Kansas City, MO.
KSTU–TV	20	Salt Lake City, UT.
KSTW–TV	11	Seattle-Tacoma, WA.
KTLA–TV	05	Los Angeles, CA.
KTTV–TV	11	Los Angeles, CA.
KTVD–TV	20	Denver, CO.
KTVT–TV	11	Dallas-Ft. Worth, TX.
KTXH–TV	20	Houston, TX.
KWGN–TV	02	Denver, CO.
WBFS–TV	33	Miami-Ft. Lauderdale, FL.
WCCB–TV	18	Charlotte, NC.
WCNC–TV	36	Charlotte, NC.
WFLD–TV	32	Chicago, IL.
WFXI–TV	08	Greenville, New Bern-Washington, NC.
WFXT–TV	25	Boston, MA.
WGBS–TV	57	Philadelphia, PA.
WGN–TV	09	Chicago, IL.
WGNX–TV	46	Atlanta, GA.
WGRZ–TV	02	Buffalo, NY.
WHNS–TV	21	Greenville-Asheville-Spartanburg, NC.
WIVB–TV	04	Buffalo, NY.
WJZY–TV	03	Charlotte, NC.
WKBD–TV	50	Detroit, MI.
WKCF–TV	18	Orlando-Daytona, FL.
WKFT–TV	40	Raleigh-Durham, NC.
WKRN–TV	02	Nashville, TN.
WLBZ–TV	02	Bangor, ME.
WLFL–TV	22	Raleigh-Durham, NC.
WLVI–TV	56	Boston, MA.
WNUV–TV	54	Baltimore, MD.
WOFL–TV	35	Orlando-Daytona, FL.
WOIO–TV	19	Cleveland-Akron, OH.
WPGH–TV	53	Pittsburgh, PA.

APPENDIX F.—LIST OF TELEVISION STATIONS TO RECEIVE LETTER—Continued

Station	Channel	Location
WPHL–TV	17	Philadelphia, PA.
WPIX–TV	11	New York, NY.
WPTT–TV	22	Pittsburgh, PA.
WPWR–TV	60	Chicago, IL.
WSBK–TV	38	Boston, MA.
WSTR–TV	64	Cincinnati, OH.
WSYT–TV	68	Syracuse, NY.
WTBS–TV	17	Atlanta, GA
WTEN–TV	10	Albany-Schenectedy, NY.
WTIC–TV	61	Hartford-New Haven, CT.
WTOG–TV	44	Tampa-St. Petersburg, FL.
WTTG–TV	05	Washington, DC.
WTTV–TV	04	Indianapolis, IN.
WTVZ–TV	33	Norfolk-Portsmith, VA.
WTXF–TV	29	Philadelphia, PA.
WUAB–TV	43	Cleveland-Akron, OH.
WXIX–TV	19	Cincinnati, OH.
WXMI–TV	17	Grand Rapids-Kalamazoo, MI.
WXON–TV	62	Detroit, MI.
WYFF–TV	04	Greenville-Asheville-Spartanburg, NC.
WZTV–TV	17	Nashville, TN.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Azrak-Hamway, International, Inc. ("Azrak-Hamway"), and Marvin Azrak and Ezra Hamway, officers of Azrak-Hamway.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charges Azrak-Hamway with engaging in deceptive advertising of the "Steel Tec Construction System" line of toys, which are marketed by Azrak-Hamway's Remco Toy Division. The complaint challenges television advertisements and packaging for eight Steel Tec toys, which represent that these toys can move and operate in various ways unaided. According to the complaint, the television advertisements and packaging for the motorized helicopter, the "Formula 1" race car, the "Off Road Super Sport" vehicle, the "Sand Buggy" vehicle, the "Harley-Davidson® Electra Glide" motorcycle, the "Hypersonic Fighter" plane, the "Dozer" vehicle, and the "Dump Truck" vehicle represented that the demonstrations of these toys flying, driving, or moving in the manners depicted in the ads were unaltered and that the results shown accurately represent the performance of the actual, unaltered toys under the depicted conditions. This representation is alleged to be false and misleading. According to the complaint, these toys were suspended, pulled, and/or guided by monofilament wires, or a black tube recessed out of view from the camera, held by humans off camera to create the advertised effects. In the case of the motorized helicopter, the rotors were also spun manually by humans off camera to create the effect of motorized spinning.

The complaint also alleges that the respondents falsely represented that the above-listed toys can perform by flying, driving, or moving in the manners depicted.

The complaint also alleges that the respondents falsely represented that the Steel Tec Off Road Super Sport vehicle, Sand Buggy vehicle, Harley-Davidson® Electra Glide motorcycle, Dozer vehicle, and Dump Truck vehicle can be used on dirt, sand, and similar surfaces. According to the complaint, the "Helpful Hints Manual" accompanying these products warns against using the toys on these surfaces to avoid damage to the toys.

The complaint also alleges that the packaging for the challenged Steel Tec toy sets misrepresented that each package contains the number of parts required to build the number of toys depicted on the package at the same time.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part IA of the order prohibits the respondents from misrepresenting that an advertised demonstration, picture, experiment or test proves, demonstrates or confirms any material quality, feature or merit of any toy. Part IA enumerates examples of such misrepresentations, including: (1) the undisclosed use or substitution of a material mock-up or prop; (2) the undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or (3) the undisclosed use of a visual perspective or camera, film, audio or video technique. Part IA also states that the order does not preclude the use of fantasy segments or prototypes which are otherwise not deceptive. Part IB prohibits the respondents from misrepresenting any performance characteristic of any toy. Part IC prohibits the respondents from misrepresenting the number of toys contained in, or that can be constructed with the parts contained in, the package.

Part II requires the respondents to maintain certain records and materials relating to future representations covered by the order.

Part III sets forth a consumer redress program through which purchasers of the Steel Tec toys at issue in this matter may obtain a refund of the price of the toy(s) plus postage upon return of the toy(s) to the company. The respondents are required to mail an explanatory letter and refund application to all purchaser names known to them and to any others that contact them within one hundred twenty (120) days after the order is issued.

Part IV requires the respondents to send a letter to each television station that aired any of the challenged advertisements notifying those stations that Azrak-Hamway has entered into a consent agreement with the Commission, and referring those stations to the availability of the Guidelines for Children's Advertising published by the Children's Advertising Review Unit of the Council of Better Business Bureaus, Inc.

Parts V through VII and IX relate to the respondents' obligations to provide copies of the order to certain Azrak-Hamway officers and personnel; to notify the Commission of changes in corporate structure, or, in the case of the individuals, changes in employment; and to file compliance reports with the Commission. Part VIII provides that the order will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–4007 Filed 2–21–96; 8:45 am]

BILLING CODE 6750–01–M

[File No. 961 0018]

Hughes Danbury Optical Systems, Inc., Hughes Electronics Corporation, General Motors Corporation; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: This Consent Agreement, accepted subject to final Commission approval, settles alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition arising from the purchase of the business and selected assets of the Itek Optical Systems Division of Litton Industries by Hughes Danbury Optical Systems, Inc. ("HDOS"). The proposed complaint alleges that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, as amended, in the market for the research, development, manufacture and sale of an Airborne Laser ("ABL") system for use in the U.S. Air Force's ABL program. The ABL program currently envisions developing an ABL system that would utilize a customized 747 aircraft to fly at high altitudes near the forward edge of a battle area to locate and destroy incoming short-range ballistic missiles. Two teams—with The Boeing Company and Rockwell International Corporation as the primary contractors—have been awarded contracts to develop a concept design for an ABL demonstrator. The proposed consent order would, among other things, prohibit the respondents from enforcing the exclusivity provisions contained in a teaming agreement—between HDOS and Xinetics, Inc.—so that Xinetics will be free to supply the Boeing team with deformable mirrors for the ABL program. The respondents have also entered into an Interim Agreement with the Commission in which they agreed to be bound by the proposed consent order as of February 9, 1996.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room H–159, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: William J. Baer, FTC/H–374, Washington, DC 20580 (202) 326–2932; or Ann B. Malester, FTC/S–2308, Washington, DC 20580 (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade

Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission ("the Commission"), having initiated an investigation of the acquisition of the Itek Optical Systems Division of Litton Systems, Incorporated ("Itek"), by Hughes Danbury Optical Systems, Incorporated ("HDOS"), which is a wholly-owned subsidiary of Hughes Aircraft Company, which is a wholly-owned subsidiary of Hughes Electronics Corporation ("Hughes"), which is a wholly-owned subsidiary of General Motors Corporation ("GM"), and it now appears that HDOS, Hughes and GM, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to refrain from certain acts and providing for other relief:

It is hereby agreed by and between proposed respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed respondent HDOS is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 100 Wooster Road, Danbury, Connecticut 06810.

2. Proposed respondent Hughes is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 7200 Hughes Terrace, Los Angeles, California 90045.

3. Proposed respondent GM is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 3044 W. Grand Blvd., Detroit, Michigan 48202.

4. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

5. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

6. Proposed respondents shall submit within thirty (30) days of the date this agreement is signed by proposed respondents an initial report, pursuant to Section 2.33 of the Commission's Rules, signed by the proposed respondents setting forth in detail the manner in which the proposed respondents will comply with Paragraph II and Paragraph III of the order when and if entered. Such report will not become part of the public record unless and until the accompanying agreement and order are accepted by the Commission.

7. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

8. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to refrain from certain acts in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

10. Proposed respondents have read the draft of complaint and order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. "HDOS" means Hughes Danbury Optical Systems, Inc., its officers, employees, agents and representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by HDOS, and the respective officers, employees, agents, and representatives, successors and assigns of each.

B. "Hughes" means Hughes Electronics Corporation, its officers, employees, agents and representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by Hughes, and the respective officers, employees, agents, and representatives, successors and assigns of each.

C. "GM" means General Motors Corporation, its officers, employees, agents and representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by GM, and the respective officers, employees, agents, and representatives, successors and assigns of each.

D. "Itek" means Itek Optical Systems Division of Litton Systems, Incorporated, its officers, employees, agents and representatives,

predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by Itek, and the respective officers, employees, agents, and representatives, successors and assigns of each.

E. "Respondents" means HDOS, Hughes and GM.

F. "Commission" means the Federal Trade Commission.

G. "Xinetics" means Xinetics Incorporated, a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 410 Great Road #A6, Littleton, Massachusetts 01460.

H. "Person" means any natural person, corporate entity, partnership, association, joint venture, government entity, trust or other business or legal entity.

I. "HDOS/Xinetics Letter of Intent" means the Letter of Intent entered into on September 21, 1995, between HDOS and Xinetics in which HDOS expresses its intention to use Xinetics as a supplier of any Deformable Mirror which may be required for the Phillips Laboratory Airborne Laser Program.

J. "Phillips Laboratory Airborne Laser Program" is a United States Air Force Advanced Technology Demonstration program to develop and then demonstrate the necessary technologies to acquire, track, and destroy theater ballistic missiles during the boost phase of flight.

K. "Non-Public ABL Information" means any information not in the public domain received or developed by Itek in its capacity as a subcontractor to Lockheed Martin Corporation for the Phillips Laboratory Airborne Laser Program. Non-Public ABL Information shall not include: (i) information which subsequently falls within the public domain through no violation of this order by Respondents, or (ii) information which subsequently becomes known to Respondents not in breach of a confidential disclosure agreement.

II

It is further ordered that Respondents shall not enforce or attempt to enforce any provision contained in the HDOS/Xinetics Letter of Intent, or take any other action, that would inhibit Xinetics from teaming or otherwise contracting with any other person for the purpose of bidding on, designing, developing, manufacturing, or supplying any part of the Phillips Laboratory Airborne Laser Program.

III

It is further ordered that:

A. Respondents shall not receive, gain access to or in any manner obtain any Non-Public ABL Information without the express written permission of Lockheed Martin Corporation.

B. Upon request from Lockheed Martin Corporation, Respondents shall provide to Lockheed Martin Corporation any Non-Public ABL Information in a timely fashion not to exceed seven (7) days from the receipt of such request. Respondents may require payment for their own direct costs in providing such information.

IV

It is further ordered that Respondents shall comply with all terms of the Interim Agreement, attached to this order and made a part hereof as Appendix I.

V

It is further ordered that within sixty (60) days of the date this order becomes final and every sixty days thereafter for the first year after this order becomes final, and at such other times as the Commission may require, Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they have complied and are complying with this order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraph II and Paragraph III of the order. Respondents shall include in their compliance reports copies of all written communications, all internal memoranda, and all reports and recommendations concerning compliance with the provisions in Paragraph II and Paragraph III of the order.

VI

It is further ordered that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondents, such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporate Respondents that may affect compliance obligations arising out of the order.

VII.

It is further ordered that, for the purpose of determining or securing compliance with this order, Respondents shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of any Respondent relating to any matters contained in this order; and

B. Upon five (5) days' notice to any Respondent without restraint or interference from it, to interview officers, directors, or employees of that Respondent, who may have counsel present, regarding such matters.

Interim Agreement

This Interim Agreement is by and between Hughes Danbury Optical Systems, Incorporated ("HDOS"), Hughes Electronics Corporation ("Hughes"), and General Motors Corporation ("GM"), three corporations organized and existing under the laws of the State of Delaware (collectively referred to as "Proposed Respondents"), and the Federal Trade Commission (the "Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. § 41, *et seq.* (collectively, the "Parties").

Premises

Whereas, HDOS has proposed to acquire the Itek Optical Systems Division of Litton Systems, Incorporated ("Itek"); and

Whereas, the Commission is now investigating the proposed acquisition to determine if it would violate any of the statutes the Commission enforces; and

Whereas, if the Commission accepts the Agreement Containing Consent Order ("Consent Agreement"), the Commission will place it on the public record for a period of at least sixty (60) days and subsequently may either withdraw such acceptance or issue and serve its Complaint and decision in disposition of the proceeding pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving competition during the period prior to the final acceptance of the Consent Agreement by the Commission (after the 60-day public notice period), there may be interim competitive harm and divestiture or other relief resulting from a proceeding challenging the legality of the proposed acquisition might not be possible, or might be less than an effective remedy; and

Whereas, Proposed Respondents entering into this Interim Agreement shall in no way be construed as an admission by Proposed Respondents that the proposed acquisition constitutes a violation of any statute; and

Whereas, Proposed Respondents understand that no act or transaction contemplated by this Interim Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Interim Agreement.

Now, therefore, the Parties agree, upon the understanding that the Commission has not yet determined whether the proposed acquisition will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Agreement for public comment, it will grant early termination of the Hart-Scott-Rodino waiting period, as follows:

1. Proposed Respondents agree to execute and be bound by the terms of the Order contained in the Consent Agreement, as if it were final, from the date the Consent Agreement is accepted for public comment by the Commission.

2. Proposed Respondents agree to deliver within three (3) days of the date the Consent Agreement is accepted for public comment by the Commission, a copy of the Consent Agreement and a copy of this Interim Agreement to the United States Department of Defense, The Boeing Company, Lockheed Martin Corporation and Xinetics Incorporated.

3. Proposed Respondents agree to submit within thirty (30) days of the date the Consent Agreement is signed by the Proposed Respondents, an initial report, pursuant to Section 2.33 of the Commission's Rules, signed by the Proposed Respondents setting forth in detail the manner in which the Proposed Respondents will comply with Paragraph II and Paragraph III of the Consent Agreement.

4. Proposed Respondents agree that, from the date the Consent Agreement is accepted for public comment by the Commission until the first of the dates listed in subparagraphs 4.a and 4.b, they will comply with the provisions of this Interim Agreement:

a. Ten (10) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Section 2.34 of the Commission's Rules;

b. The date the Commission issues its Complaint and Decision and Order.

5. Proposed Respondents waive all rights to contest the validity of this Interim Agreement.

6. For the purpose of determining or securing compliance with this Interim Agreement, Proposed Respondents shall permit any duly authorized representative of the Commission:

a. Access during office hours and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of any Proposed Respondent relating to any matters contained in this Interim Agreement; and

b. Upon five (5) days' notice to any Proposed Respondent and without restraint or interference from it, to interview officers, directors, or employees of that Proposed Respondent, who may have counsel present, regarding any such matters.

7. This Interim Agreement shall not be binding until accepted by the Commission.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a proposed Consent Order from General Motors Corporation, Hughes Electronics Corporation ("Hughes"), and Hughes Danbury Optical Systems, Inc. ("HDOS"), collectively referred to as "respondents." The proposed Consent Order prohibits respondents from enforcing exclusivity provisions in a teaming agreement between HDOS and Xinetics Incorporated for the U.S. Air Force's Airborne Laser ("ABL") program. In addition, the proposed Consent Order prohibits respondents from obtaining information not in the public domain developed or obtained by the Itek Optical Systems Division of Litton Systems, Inc., in its capacity as a member of the Boeing-Lockheed Martin team for the ABL program without the express written permission of Lockheed Martin Corporation.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

On September 26, 1995, HDOS entered into a letter of intent to purchase the business and selected assets of the Itek Optical Systems Division of Litton Industries, Inc. ("Itek"). The proposed complaint alleges that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the market for the research, development, manufacture and sale of an Airborne Laser system for use in the U.S. Air Force's Airborne Laser program.

The Airborne Laser program is the premier anti-missile program in the Department of Defense's Theater Missile Defense System. As currently envisioned, the ABL system will utilize a customized 747 aircraft to fly at high altitudes near the forward edge of a battle area to locate and destroy incoming short-range ballistic missiles. The ABL system would intercept an enemy missile during its launch or boost phase by focusing a high energy laser beam on the missile's fuel tank to rupture the tank and destroy the missile. Destruction of the missile during launch would cause the warhead to fall on enemy territory. If the ABL system works as planned, an enemy could find it impossible to launch its missiles for fear of contaminating its own territory with nuclear, chemical or biological warheads.

The ABL program is currently in the Demonstrator Concept Design phase (Phase I). Two teams have each been awarded $21.4 million contracts to develop a concept design for an ABL demonstrator. The prime contractors for the two teams are The Boeing Company ("Boeing") and Rockwell International Corporation ("Rockwell"). The Air Force plans to release the Request For Proposal ("RFP") for the building of an ABL demonstrator (Phase II) in May 1996. In January 1997, one of the two teams will be awarded $700 million to build the Phase II ABL demonstrator based on its Phase I design.

Both Hughes and Itek are participating in the ABL program. Hughes is exclusively teamed with Rockwell. Itek is a member of the Boeing team through an exclusive teaming agreement with Lockheed Martin. Both Hughes and Itek are responsible for designing and supplying an adaptive optics system for their respective teams.

Both teams will utilize an adaptive optics system as a part of their ABL demonstrator design to improve the accuracy and intensity of the ABL's laser beam. Adaptive optics systems compensate for distortions in light waves caused by atmospheric turbulence by recording and comparing wavefront characteristics and feeding this information to an array of deformable mirrors. A deformable mirror is a thin, flexible mirror equipped with electromechanical actuators. The mirror's actuators respond to an electrical signal from a computer and alter the mirror's shape to counteract the distortions of the atmosphere. Deformable mirrors are critical to the effective functioning of the adaptive optics system.

There are only two viable manufacturers of deformable mirrors for the ABL, Itek and Xinetics. Itek has exclusively contracted with Lockheed Martin to supply deformable mirrors to the Boeing team. Xinetics has exclusively contracted with Hughes to supply deformable mirrors to the Rockwell team.

The standard *Merger Guidelines* entry analysis utilizing a two year time period is not applicable to the ABL competition. The ABL Phase I concept design review is scheduled to occur in March 1996 and the bids for Phase II are expected to be due in July of 1996. Therefore, the only viable entrants are firms with the current capability to supply deformable mirrors. Itek and Xinetics are the only firms that currently possess the expertise, personnel and facilities required to design and fabricate deformable mirrors.

Respondents' acquisition of Itek poses serious antitrust concerns. Following the acquisition, the Boeing-Lockheed Martin team would not be able to replace Hughes/Itek as the supplier of its deformable mirrors for the ABL competition. This would allow Hughes to: (1) increase the bid prices for the ABL competition by raising the price of the deformable mirrors on both teams; (2) decrease its investment in technology or quality on one or both teams' designs; and/or (3) gain access to competitively sensitive information relating to the Boeing team's technical design and cost for its entire adaptive optics system.

Under the proposed Consent Order, respondents are prohibited from enforcing the exclusivity provisions contained in Hughes's teaming agreement with Xinetics for the ABL program. Xinetics will be free to supply the Boeing team with deformable mirrors for the ABL program. This will ensure that the Boeing team will have an alternate source of deformable mirrors for the ABL competition. The purpose of this provision of the Consent Order is to constrain Hughes's ability to raise the price of both teams' bids or decrease its investment in technology or quality on one or both teams' designs for the ABL competition.

Under the proposed Consent Order, respondents are also prohibited from receiving, gaining access to, or obtaining in any manner, without Lockheed Martin's approval, information not in the public domain that was developed or obtained by Itek in its capacity as a member of the Boeing team for the ABL program. The purpose of this provision of the Consent Order is to ensure that the Rockwell team will not have access to competitively sensitive information relating to the technical design and cost of the Boeing team's adaptive optics system for the ABL competition.

In order to preserve competition in the market for the research, development, manufacture and sale of an Airborne Laser system for use in the U.S. Air Force's Airborne Laser program during the period prior to the Commission's issuance of the Consent Order (after the 60-day public notice period), respondents have entered into an Interim Agreement with the Commission in which they agreed to be bound by the proposed Consent Order as of the date the Commission accepted the proposed Consent Order for public comment.

The purpose of this analysis is to facilitate the public comment on the proposed Order, and it is not intended to constitute on official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–4005 Filed 2–21–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 952–3481]

Starwood Advertising, Inc., Les Towne; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would bar the Aspen, Colorado-based advertising agency from using deceptive demonstrations and certain other misrepresentations in future advertising campaigns. The consent agreement settles allegations stemming from Starwood's advertising campaign for Azrak-Hamway International's line of Steel Tec toy vehicles.

DATES: Comments must be received on or before April 22, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Toby Milgrom Levin, Federal Trade Commission, S–4002, 6th and Pennsylvania Avenue, NW, Washington, DC 20580. (202) 326–3156.

Joel Winston, Federal Trade Commission, S–4002, 6th and Pennsylvania Avenue, NW, Washington, DC 20580. (202) 326–3153.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

United States of America Before Federal Trade Commission

In the Matter of: Starwood Advertising, Inc., a corporation, and Les Towne, individually and as an officer of said corporation. File No. 952 3481.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Starwood Advertising Inc., a corporation, and Les Towne, individually and as an officer of said corporation ("proposed respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Starwood Advertising, Inc., by its duly authorized officer, and Les Towne, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Starwood Advertising, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 600 North Starwood Drive, Aspen, Colorado 81612.

Proposed respondent Les Towne is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said

corporation and his address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondents, Starwood Advertising, Inc., a corporation, its successors and assigns, and its officers, and Les Towne, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any toy in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. In connection with any advertisement or package depicting a demonstration, experiment or test, making any representation, directly or by implication, that the demonstration, picture, experiment or test depicted in the advertisement or package proves, demonstrates or confirms any material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not prove, demonstrate or confirm the representation for any reason, including but not limited to:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

that, in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Provided, however, that notwithstanding the foregoing, nothing in this order shall be deemed to otherwise preclude the use of fantasy segments or prototypes which use otherwise is not deceptive.

Provided further, however, that it shall be a defense hereunder that respondents neither knew nor had reason to know that the demonstration, experiment or test did not prove, demonstrate or confirm the representation.

B. Misrepresenting, directly or by implication, any performance characteristic of any toy.

II

It is further ordered that for three (3) years after the last date of dissemination of any representation covered by this order, respondent Starwood Advertising, Inc., or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon in disseminating such representation;

B. Any and all videotapes, in complete as well as unedited form, and any and all still photographs taken during the production of any advertisement depicting a demonstration, experiment, or test;

C. Any and all affidavits or certifications submitted by an employee, agent or representative of respondent to a television network or to any other individual or entity, other than counsel for respondent, which affidavit or certification affirms the accuracy or integrity of a demonstration or demonstration techniques contained in an advertisement; and

D. Any toy involved in such representation.

III

It is further ordered that respondent Starwood Advertising, Inc. shall, within thirty (30) days after its service, distribute a copy of this order to each of its operating divisions and to each officer, agent and personnel responsible for the preparation, review or placement of advertising, or other materials covered by this order and shall secure from each such person a signed statement acknowledging receipt of this order.

IV

It is further ordered that respondent Les Towne shall, for a period of ten (10) years from the date of entry of this order, notify the Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment. Each such notice of affiliation with any new business or employment shall include the respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

V

It is further ordered that respondent Starwood Advertising, Inc. shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this order.

VI

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

VII

It is further ordered that respondents shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Starwood Advertising, Inc. ("Starwood") and Les Towne, officer of Starwood. Starwood is the advertising agency for Azrak-Hamway International, Inc. ("Azrak-Hamway").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter alleges that Starwood prepared and disseminated advertising for the "Steel Tec Construction System" line of toys, which are manufactured by Azrak-Hamway and marketed by Azrak-Hamway's Remco Toy Division. The complaint challenges as deceptive television advertisements for eight Steel Tec toys, which represent that these toys can move and operate in various ways unaided. According to the complaint, the television advertisements for the motorized helicopter, the "Formula 1" race car, the "Off Road Super Sport" vehicle, the "Sand Buggy" vehicle, the "Harley-Davidson® Electra Glide" motorcycle, the "Hypersonic Fighter" plane, the "Dozer" vehicle, and the "Dump Truck" vehicle represented that the demonstrations of these toys flying, driving, or moving in the manners depicted in the ads were unaltered and that the results shown accurately represent the performance of the actual, unaltered toys under the depicted conditions. This representation is alleged to be false and misleading. According to the complaint, these toys were suspended, pulled, and/or guided by monofilament wires, or a black tube recessed out of view from the camera, held by humans off camera to create the advertised effects. In the case of the motorized helicopter, the rotors were also spun manually by humans off camera to create the effect of motorized spinning.

The complaint also alleges that the challenged advertisements falsely represented that the eight toys can perform by flying, driving, or moving in the manners depicted.

The complaint also alleges that the challenged advertisements falsely represented that the Steel Tec Off Road Super Sport vehicle, Sand Buggy vehicle, Harley-Davidson® Electra Glide motorcycle, Dozer vehicle, and Dump Truck vehicle can be used on dirt, sand, and similar surfaces. According to the complaint, the "Helpful Hints Manual" accompanying these products warns against using the toys on these surfaces to avoid damage to the toys.

The complaint also alleges that the respondents knew or should have known that the representations set forth above were false and misleading.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part IA of the order prohibits the respondents from misrepresenting that an advertised demonstration, picture, experiment or test proves, demonstrates or confirms any material quality, feature or merit of any toy. Part IA enumerates examples of such misrepresentations, including: (1) the undisclosed use or substitution of a material mock-up or prop; (2) the undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or (3) the undisclosed use of a visual perspective or camera, film, audio or video technique. Part IA also states that the order does not preclude the use of fantasy segments or prototypes which are otherwise not deceptive, and provides the respondents with a defense to liability if they neither knew nor had reason to know that the demonstration, experiment or test did not prove, demonstrate or confirm the representation. Part IB prohibits the respondents from misrepresenting any performance characteristic of any toy.

Part II requires the respondents to maintain certain records and materials relating to future representations covered by the order.

Parts III through V and VII relate to the respondents' obligations to provide copies of the order to certain Starwood officers and personnel; to notify the Commission of changes in corporate structure, or, in the case of the individual, changes in employment; and to file compliance reports with the Commission. Part VI provides that the order will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–4006 Filed 2–21–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94F–0250]

Registration and Consulting Co. AG; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to future filing, of a food additive petition (FAP 4B4424) proposing that the food additive regulations be amended to provide for the safe use of 8,9,10,11-tetrachloro-12H-phthaloperin-12-one (C.I. Solvent Red 135) as a colorant in polyethylene phthalate polymers intended for use as food-contact articles.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 5, 1994 (59 FR 40036), FDA announced that a food additive petition (4B4424) had been filed on behalf of the Registration and Consulting Co. AG, c/o Bruce A. Schwemmer, Bruce EnviroExcel Group, Inc., 94 Buttermilk Bridge Rd., Washington, NJ 07882 (formerly, c/o Reynaldo A. Gustilo, 125A 18th St., suite 142, Newport Plaza, Jersey City, NJ 07310). The petition proposed to amend the food additive regulations in § 178.3297 Colorants for polymers (21 CFR 178.3297) to provide for the safe use of 8,9,10,11-tetrachloro-12H-phthaloperin-12-one (C.I. Solvent Red 135) as a colorant in polyethylene phthalate polymers intended for use in food-contact articles complying with 21 CFR 177.1630. Registration and Consulting Co. AG has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: February 1, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–3906 Filed 2–21–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92F–0432]

Victorian Chemical Co., Pty. Ltd.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to future filing, of a food additive petition (FAP 2A4340) proposing that the food additive regulations be amended to provide for the safe use of the following: ethyl esters of fatty acids in aqueous emulsions for dehydrating corn, cereal grains, beans, sulfated butyl oleate, and sulfated ethyl oleate alone or in combination for dehydrating grapes to raisins, cereal grains, and beans.

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW.,Washington, DC 20204, 202–418–3072.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 7, 1993 (58 FR 3027), FDA announced that a food additive petition (FAP 2A4340) had been filed by Victorian Chemical Co., Pty. Ltd., P.O. Box 71, Richmond, Victoria 3121, Australia. The petition proposed to amend the food additive regulations in § 172.225 Methyl and ethyl esters of fatty acids produced from edible fats and oils (21 CFR 172.225) (57 FR 12709, April 13, 1992) and § 172.270 Sulfated butyl oleate (21 CFR 172.270) (57 FR 12709, April 13, 1992) to provide for the safe use of: (1) ethyl esters of fatty acids in aqueous emulsions for dehydrating corn, cereal grains, and beans and (2) sulfated butyl oleate and sulfated ethyl oleate alone or in combination in aqueous emulsions for dehydrating grapes to raisins, cereal grains, and beans.

Victorian Chemical Co., Pty. Ltd., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: January 22, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–3907 Filed 2–21–96; 8:45 am]

BILLING COOE 4160–01–F

Public Health Service

Health Resources and Services Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Department of Health and Human Services (DHHS); Public Health Service (PHS); Health Resources and Services Administration (HRSA).

ACTION: Publication of minor changes to system-of-records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," HRSA is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: HRSA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as system deletions, title changes, and changes in the system location of records, or the addresses of systems managers.

1. HRSA has deleted the following systems of records since the last annual review due to the reassignment of the Division of Fiscal Services, Office of Operations and Management, Office of the Administrator, from HRSA to the Program Support Center, DHHS (60 FR 51480, 10/2/95):

09–15–0022 Accounts Receivable, HHS/HRSA/OA.
09–15–0026 Medical Fellowships and Educational Loans, HHS/HRSA/OA.
09–15–0043 Cuban Loan Program, HHS/HRSA/OA.
09–15–0045 Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA.

2. The following are no longer active systems and have also been deleted:

09–15–0040 Health Professions Student Loan Repayment Program, HHS/HRSA/BHPr.
09–15–0041 Health Professions Student Loan Cancellation, HHS/HRSA/BHPr.
09–15–0052 Nurse Practitioner and Nurse Midwifery Traineeship, HHS/HRSA/BHPr.

3. Other minor system-notice changes affecting individual categories are published below.

Dated: February 9, 1996.

Thomas G. Morford,

Associate Administrator for Operations and Management.

Table of Contents

The following table of contents lists all currently active Privacy Act systems of records maintained by the Health Resources and Services Administration:

09–15–0001 Division of Federal Occupational Health Medical and Counseling Records, HHS/HRSA/BPHC.
09–15–0002 Record of Patients' Personal Valuables and Monies, HHS/HRSA/BPHC.
09–15–0003 Contract Physicians and Consultants, HHS/HRSA/BPHC.
09–15–0004 Federal Employee Occupational Health Data System, HHS/HRSA/BPHC.
09–15–0007 Patients Medical Records System PHS Hospitals/Clinics, HHS/HRSA/BPHC.
09–15–0028 PHS Clinical Affiliation Trainee Records, HHS/HRSA/BPHC.
09–15–0037 Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participant Records System, HHS/HRSA/BPHC.
09–15–0038 Disability Claims of the Nursing Student Loan Program, HHS/HRSA/BHPr.
09–15–0039 Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr.
09–15–0042 Physician Shortage Area Scholarship Program, HRSA/HRSA/BPHC.
09–15–0044 Health Educational Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr.
09–15–0046 Health Professions Planning and Evaluation, HHS/HRSA/OA.
09–15–0054 National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr.
09–15–0055 Organ Procurement and Transplantation Network (OPTN) Data System, HHS/HRSA/BHRD.
09–15–0056 National Vaccine Injury Compensation Program, HHS/HRSA/BHPr.
09–15–0057 Scholarships for the Undergraduate Education of Professional Nurses Grant Programs, HHS/HRSA/BHPr.
09–15–0058 Disadvantaged Health Profession Faculty Loan Repayment Program, HHS/HRSA/BHPr.
09–15–0059 Health Resources and Services Administration Correspondence Control System, HHS/HRSA/OA.

Changes

09–15–0037

SYSTEM NAME:

Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participant Records System, HHS/HRSA/BPHC.

A minor change has been made to this system-of-records notice. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Policy Coordinating Official: Director, Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA), 4350 East West Highway, 11th Floor, Bethesda, MD 20814.

System Manager (Scholarship Applicants/Recipients): Director, Division of Scholarships and Loan Repayment, BPHC, HRSA, 4350 East West Highway, 10th Floor, Bethesda, MD 20814.

System Manager (Placement/Assignment): Director, Division of National Health Service Corps, BPHC, HRSA, 4350 East West Highway, 8th Floor, Bethesda, MD 20814.

* * * * *

09–15–0038

SYSTEM NAME:

Disability Claims of the Nursing Student Loan Program, HHS/HRSA/BHPr.

A minor change has been made to this system-of-records notice. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Office for Campus Based Programs, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–34, Rockville, MD 20857.

* * * * *

09–15–0039

SYSTEM NAME:

Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr.

A minor change has been made to this system-of-records notice. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Office for Campus Based Programs, Division of Student Assistance, Bureau of Health Professions, Health Resources and Service Administration, 5600 Fishers Lane, Room 8–34, Rockville, MD 20857.

* * * * *

09–15–0044

SYSTEM NAME:

Health Education Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr.

Minor changes have been made to this system-of-records notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Service Administration, 5600 Fishers Lane, Room 8–37, Rockville, MD 20857.

Records are also located at contractor sites. A list of contractor sites where individually-identifiable data are currently located is available upon request to the System Manager.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 701 and 702 of the Public Health Service Act, as amended, (42 U.S.C. 292) which authorize the establishment of a Federal program of student loan insurance.

Section 715 of the Public Health Service Act, as amended, (42 U.S.C. 292n) which directs the Secretary to require institutions to provide information for each student who has a loan.

Debt Collection Act of 1982 (5 U.S.C. 5514 note)

Section 222 of the Health Professions Training Assistant Act of 1985 (50 U.S.C. App. 462 note) which provides for a study on compliance with the Selective Service Act.

Section 709 of the Public Health Service Act, as amended, (42 U.S.C. 292h) which authorizes disclosure and publication of HEAL defaulters.

* * * * *

09–15–0046

SYSTEM NAME:

Health Professions Planning and Evaluation, HHS/HRSA/OA. Minor changes have been made to this system-of-records notice.

The following categories should be revised:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority is found in the following sections of the Public Health Service Act: Title III, Part D, Primary Health Care (42 U.S.C. 254b); Title VII, Health Research and Training Facilities and Training of Professional Health Personnel (42 U.S.C. 292a); Title VIII, Nurse Education (42 U.S.C. 296K); and Title XXVI, Section 241, Evaluation of Programs (42 U.S.C. 238j). Authority is also found in section 401 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 note).

* * * * *

RECORD ACCESS PROCEDURES:

Requests must be made to the System Manager and should contain, if possible, information about the specific project. You may also request a list of accountable disclosures that have been made of your record.

Requests in person: An individual who appears in person seeking access or disclosure of records relating to him/her shall provide his/her current address and at least one piece of tangible identification, such as drivers license, passport, or similar forms of identification, sufficient to verify the identify of the requester.

Requests by mail: Requests for access to records received by mail must contain the name and address of the requester and sufficient additional information to verify that the requester is the person he/she claims to be.

Requests by phone: Since positive identification of the caller cannot be established, telephone requests are not honored.

* * * * *

09–15–0054

SYSTEM NAME:

National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, HHS/HRSA/BHPr.

A minor change has been made to this system-of-records notice. The following category should be revised:

* * * * *

SYSTEM LOCATION:

The SRA Corporation (the contractor) operates the National Practitioner Data Bank (the Bank) under contract with the Bureau of Health Professions (BHPr), Health Resources and Services Administration (HRSA). Records are located at SRA Corporation, 4350 Fairlakes Court, Suite 400, Fairfax, VA 22033.

* * * * *

09–15–0055

SYSTEM NAME:

Organ Procurement and Transplantation Network (OPTN) Data System, HHS/HRSA/BHRD.

A minor change has been made to this system-of-records notice. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operations and Analysis Branch, Division of Transplantation, Bureau of Health Resources Development, Health Resources and Services Administration, Room 7–18, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

09–15–0057

SYSTEM NAME:

Scholarships for the Undergraduate Education of Professional Nurses Grant Programs, HHS/HRSA/BHPr.

A minor change has been made to this system-of-records notice. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Office for Campus Based Programs, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8–34, Rockville, MD 20857.

* * * * *

09–15–0058

SYSTEM NAME:

Disadvantaged Health Profession Faculty Loan Repayment Program, HHS/HRSA/BHPr.

Minor changes have been made to this system-of-record notice. The system name and the following category should be revised:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992 (42 U.S.C. 293G) which authorizes the establishment of a program for entering into contract with individuals from disadvantaged backgrounds for payment of educational loans in exchange for teaching services.

* * * * *

09–15–0059

SYSTEM NAME:

Health Resources and Services Administration Correspondence Control System, HHS/HRSA/OA.

Minor changes have been made to this system-of-records notice. The following categories should be revised.

* * * * *

SYSTEM LOCATION

1. Executive Secretariat, Office of Policy Coordination, Office of the Administrator, Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 14A–08, Rockville, MD 20857.

2. Office of Program Support, Bureau of Health Professions, HRSA, 5600 Fishers Lane, Room 8–15, Rockville, MD 20857.

3. Office of the Director, Bureau of Health Resources Development, HRSA, 5600 Fishers Lane, Room 7–68, Rockville, MD 20857.

4. Office of Program and Policy Development, Bureau of Primary Health Care, HRSA, 4350 East West Highway, Room 7–2B3, Rockville, MD 20857.

5. Office of the Director, Maternal and Child Health Bureau, 5600 Fishers Lane, Room 18–05, Rockville, MD 20857.

6. Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

* * * * *

RETRIEVABILITY

Hard-copy records are indexed by date signed; or name of addressee and date of outgoing correspondence; or by name of sender and date of incoming correspondence; or by subject. Records may also be cross-referenced.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Policy Coordinator: Associate Administrator for Policy Coordination, Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 14A–08, Rockville, MD 20857.

System Manager: Chief, Executive Secretariat, Office of the Administrator, HRSA, 5600 Fishers Lane, Room 14A–08, Rockville, MD 20857.

Systems Manager: Information Management Specialist, Office of the Director, Bureau of Health Resources Development, HRSA, 5600 Fishers Lane, Room 6–78, Rockville, MD 20857.

Systems Manager: Information Systems Specialist, Office of Program and Policy Development, Bureau of Primary Health Care, HRSA, 4350 East West Highway, Room 7–2B3, Rockville, MD 20857.

Systems Manager: Correspondence Coordinator, Office of the Director, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18–05, Rockville, MD 20857.

* * * * *

[FR Doc. 96–3973 Filed 2–21–96; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Eye Institute, Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Eye Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Research.

Date: March 21, 1996.

Time: 8:30 a.m.

Place: Holiday Inn Gaithersburg.

Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164, (301) 496–5561.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.867, Vision Research: National Institutes of Health)

Dated: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–4001 Filed 2–21–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meeting:

Name of SEP: Review of Environmental Justice: Partnerships for Communication (ES–96–002).

Date: March 3–5, 1996.

Time: 7:00 p.m.

Place: (3/3/96) Best Western Crown Park Hotel, Research Triangle Park, NC.

(3/4–5/96) NIEHS, South Campus Building 101–C Research Triangle Park, NC.

Contact Person: Mr. David Brown, National Institute of Environmental Health Sciences, P. O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–4002 Filed 2–21–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Multidisciplinary Sciences.

Date: March 5, 1996.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 5116, Telephone Conference.

Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.

Date: March 18, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4178, Telephone Conference.

Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, Maryland 20892, (301) 435–1146.

Name of SEP: Microbiological and Immunological Sciences.

Date: March 19, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4178, Telephone Conference.

Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, Maryland 20892, (301) 435–1146.

Name of SEP: Biological and Physiological Sciences.

Date: March 25, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 5198, Telephone Conference.

Contact Person: Dr. Peggy McCardle, Scientific Review Administrator, 6701 Rockledge Drive, Room 5198, Bethesda, Maryland 20892, (301) 435–1258.

Name of SEP: Behavioral and Neurosciences.

Date: March 25–26, 1996.

Time: 8:30 a.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Joseph Marwah, Scientific Review Administrator, 6701 Rockledge Drive, Room 5188, Bethesda, Maryland 20892, (301) 435–1253.

Name of SEP: Multidisciplinary Sciences.

Date: March 25–27, 1996.

Time: 7:00 a.m.

Place: University Inn, Ithaca, NY.

Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 5110, Bethesda, Maryland 20892, (301) 435–1168.

Name of SEP: Biological and Physiological Sciences.

Date: March 28, 1996.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 5198, Telephone Conference.

Contact Person: Dr. Peggy McCardle, Scientific Review Administrator, 6701 Rockledge Drive, Room 5198, Bethesda, Maryland 20892, (301) 435–1258.

Name of SEP: Biological and Physiological Sciences.

Date: March 28, 1996.

Time: 8:30 a.m.

Place: Hyatt, Fair Oaks, VA.

Contact Person: Dr. Gerald Greenhouse, Scientific Review Administrator, 6701 Rockledge Drive, Room 5140 Bethesda, Maryland 20892, (301) 435–1023.

Name of SEP: Clinical Sciences.

Date: March 29, 1996.

Time: 8:00 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Behavioral and Neurosciences.

Date: April 1, 1996.

Time: 9:00 a.m.

Place: Embassy Suites, Washington, DC.

Contact Person: Dr. Joseph Kimm, Scientific Review Administrator, 6701 Rockledge Drive, Room 5178, Bethesda, Maryland 20892, (301) 435–1249.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Multidisciplinary Sciences.

Date: March 11, 1996.

Time: 8:00 a.m.

Place: Double Tree Hotel, Rockville, MD.

Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Name of SEP: Biological and Physiological Sciences.

Date: March 18–19, 1996.

Time: 8:00 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701

Rockledge Drive, Room 5112, Bethesda, Maryland 20892, (301) 435–1169.

Name of SEP: Clinical Sciences.
Date: April 15–16, 1996.
Time: 8:30 a.m.
Place: Bethesda Marriott, Bethesda, MD.
Contact Person: Dr. Nancy Shinowara, Scientific Review Administrator, 6701 Rockledge Drive, Room 5216, Bethesda, Maryland 20892, (301) 435–1173.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Date: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–4003 Filed 2–21–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Biological and Physiological Sciences.
Date: March 4, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5146, Telephone Conference.
Contact Person: Dr. Ramesh Nayak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5146, Bethesda, Maryland 20892 (301) 435–1026.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Clinical Sciences.
Date: March 11, 1996.
Time: 1:30 p.m.
Place: NIH, Rockledge 2, Room 4128, Telephone Conference.
Contact Person: Dr. Anshumali Chaudhari, Scientific Review Administrator, 6701 Rockledge Drive, Room 4128, Bethesda, Maryland 20892 (301) 435–1210.

Name of SEP: Biological and Physiological Sciences.
Date: March 12, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 6170, Telephone Conference.
Contact Person: Dr. Dennis Leszczynski, Scientific Review Administrator, 6701 Rockledge Drive, Room 6170, Bethesda, Maryland 20892 (301) 435–1044.

Name of SEP: Chemistry and Related Sciences.
Date: March 14, 1996.
Time: 8:30 a.m.
Place: Embassy Suites, Washington, DC.
Contact Person: Dr. Edward Zapolski, Scientific Review Administrator, 6701 Rockledge Drive, Room 4168, Bethesda, Maryland 20892, (301) 435–1725.

Name of SEP: Multidisciplinary Sciences.
Date: March 18, 1996.
Time: 10:00 a.m.
Place: Marriott Hotel, Bethesda, Maryland.
Contact Person: Dr. Paul Parakkal, Scientific Review Administrator, 6701 Rockledge Drive, Room 5118, Bethesda, Maryland 20892, (301) 435–1172.

Name of SEP: Chemistry and Related Sciences.
Date: March 21–23, 1996.
Time: 8:00 p.m.
Place: Embassy Suites, San Diego, CA.
Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda, Maryland 20892, (301) 435–1166.

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Multidisciplinary Sciences.
Date: March 25–27, 1996.
Time: 8:00 a.m.
Place: Ramada Inn-Congressional, Rockville, MD.
Contact Person: Dr. Dharam Dhindsa, Scientific Review Administrator, 6701 Rockledge Drive, Room 5206, Bethesda, Maryland 20892, (301) 435–1174.

Name of SEP: Multidisciplinary Sciences.
Date: March 28–29, 1996.
Time: 8:00 a.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. Bill Bunnag, Scientific Review Administrator, 6701 Rockledge Drive, Room 5212, Bethesda, Maryland 20892, (301) 435–1177.

Name of SEP: Multidisciplinary Sciences.
Date: April 11–12, 1996.
Time: 8:00 a.m.
Place: Ramada Inn, Bethesda, MD.
Contact Person: Dr. Bill Bunnag, Scientific Review Administrator, 6701 Rockledge Drive, Room 5212, Bethesda, Maryland 20892, (301) 435–1177.

Name of SEP: Multidisciplinary Sciences.
Date: April 17–19, 1996.
Time: 8:00 a.m.
Place: Ramada Inn, Bethesda, MD.
Contact Person: Dr. Nadarajen Vydelingum, Scientific Review Administrator, 6701 Rockledge Drive, Room 5210, Bethesda, Maryland 20892, (301) 435–1176.

Name of SEP: Chemistry and Related Sciences.
Date: April 18–19, 1996.
Time: 8:00 a.m.
Place: Holiday Inn-Chevy Chase, Chevy Chase, MD.
Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435–1180.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393, 93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 15, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–4000 Filed 2–21–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–3917–N–45]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: April 22, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451–7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: HUD Conditional Commitment/Direct Endorsement, Statement of Appraised Value.

OMB Control Number: 2502–0494.

Description of the need for the information and the proposed use: A uniform form for HUD and HUD approved lenders to use which puts forth the value, terms and conditions of a property for mortgage insurance purposes.

Agency form numbers: HUD–92800.5B.

Members of affected public: Individuals, Small businesses, Households and Businesses.

An estimation of the total numbers of hours needed to prepare the information collection is 128,333 number of respondents is 1,100,000 frequency response is dependent upon the occasion of the application process and the hour of response is 0.05 of an hour.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 13, 1996.

Stephanie A. Smith,

Acting General Deputy, A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–3963 Filed 2–21–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3879–N–03]

Office of the Assistant Secretary for Public and Indian Housing; Announcement of Funding Awards for Emergency Shelter Grants Set-Aside for Indian Tribes and Alaska Native Villages Fiscal Year 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1995 for the Emergency Shelter Grants Set-Aside for Indian Tribes and Alaska Native Villages. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to the Indian Tribes and Alaska Native Villages.

FOR FURTHER INFORMATION CONTACT: Bruce Knott, Director, Housing and Community Development Division, Office of Native American Programs, Department of Housing and Urban Development, Room B–133, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone (202) 755–0068 (this is not a toll-free number). Hearing- or speech-impaired persons, may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Emergency Shelter Grants program funding for this Notice is authorized by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1995 (Pub. L. 103–327, approved September 28, 1994). The proposed rule on Emergency Shelter Grants Program; Set-Aside Allocation for Indian Tribes and Alaskan Native Villages, published in the **Federal Register** on April 5, 1993 (58 FR 17764), describes the method for allocating these funds.

This Notice announces FY 1995 funding of $1,568,000 to be used to assist in improving the quality of existing emergency shelters for the homeless, to make available additional emergency shelters, to meet the costs of operating emergency shelters and of providing essential social services to homeless individuals, and to help prevent homelessness. The FY 1995 awards announced in this Notice were selected for funding consistent with the provisions in the Notices of Funding Availability published in the **Federal Register** on April 11, 1995 (60 FR 18524).

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is hereby publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: February 13, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

APPENDIX A

FISCAL YEAR 1995.—EMERGENCY SHELTER GRANTS PROGRAM FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

[Recipients of Funding Decisions]

Funding Recipient (Name and Address)	Amount Approved
Pascua Yaqui Tribe, 7474 South Camino, Little DE Oeste, Tucsan, AZ 85746	$211,052
Mescalero Apache Tribe, P.O. Box 228, Mescalero, NM 88340	225,521
Lac Courte Oreilles Tribe, Tribal Office Route 2, P.O. Box 2700, Hayward, WI 54843	197,266
Pleasant Point Passamaquoddy Tribe, P.O. Box 343, Perry, Maine 04667	132,784
Cook Inlet Tribal Council, Inc., 670 W. Fireweed Lane, Suite 200, Anchorage, AK 99503	110,831
Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576	47,250
Native Village of Eyak Tribal Council, P.O. Box 1388, Cordova, AK 99574–1388	26,650
Rosebud Sioux, P.O. Box 430, Rosebud, SD 57570	142,391
Oglala Sioux, P.O. Box H, Pine Ridge, SD 57770	232,321
Cherokee, P.O. Box 948, Tahlequah, OK 74465	56,029
Choctaw, P.O. Drawer 1210, Durant, OK 74701	30,186
Ft. Sill Apache, Fort Sill Apache Business Committee, Route 2, Box 121, Apache, OK 730006	68,755

FISCAL YEAR 1995.—EMERGENCY SHELTER GRANTS PROGRAM FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES—Continued

[Recipients of Funding Decisions]

Funding Recipient (Name and Address)	Amount Approved
Miami, P.O. Box 1326, Miami, OK 74355	86,334
Total	$1,567,370

[FR Doc. 96–3961 Filed 2–21–96; 8:45 am]
BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–811008

Applicant: Dr. Daniel J. Hornbach, Macalester College, St. Paul, Minnesota.

The applicant requests a permit to take (capture, handle and release; collect dead specimens) Higgins' eye pearly mussel (*Lampsilis higginsi*) and winged mapleleaf mussel (*Quadrula fragosa*) in the St. Croix River between Riverside, Wisconsin, and its confluence with the Mississippi River. Proposed activities are expected to result in population status information that will be useful in recovery of the species.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: February 14, 1996.

Matthias A. Kerschbaum,

Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 96–3869 Filed 2–21–96; 8:45 am]
BILLING CODE 4310–55–M

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–811103

Applicant: Wildlife Conservation Society, Bronx, NY.

The applicant requests a permit to export one pair of captive-born babirusa (*Babyrousa babyrussa*) to Singapore Zoological Gardens for the purpose of enhancement of the species through captive-breeding.

PRT–811128

Applicant: Wildlife Conservation Society, Bronx, NY.

The applicant requests a permit to import one pair of captive-born babirusa (*Babyrousa babyrussa*) from Singapore Zoological Gardens for the purpose of enhancement of the species through captive-breeding.

PRT–810936

Applicant: Mary Killett, Sykesville, MD.

The applicant requests a permit to import the sport-hunted trophy of a leopard (*Panthera pardus*) to be taken in the Central African Republic for the purpose of enhancement of the survival of the species.

PRT–811287

Applicant: Washington State Department of Fish and Wildlife, Olympia, WA.

The applicant requests a permit to import 20 to 30 woodland caribou (*Rangifer tarandus caribou*) per year for three years from the Blue River/Wells Grey Park and Prince George populations in British Columbia, Canada, to establish a population in northeastern Washington for enhancement of the species in accordance with the recovery plan for the species. This notification covers activities conducted by the applicant over a period of five years.

PRT–808448

Applicant: Peter Papac, Montesano, WA.

The applicant requests a permit to import the sport-hunted trophy of one male Kara Tau argali (*Ovis ammon nigrimontana*) from Kazakhstan for the purpose of enhancement of the survival of the species.

PRT–811272

Applicant: Jeanne Mortimer, University of Florida, Gainesville, FL.

The applicant request a permit to import blood samples and gut contents from green sea turtle (*Chelonia mydas*) and hawksbill sea turtle (*Eretmochelys imbricata*) located on beaches or in waters on/around the Republic of Seychelles and Chagos Islands, British Indian Ocean Territory for the purpose of scientific research to benefit the species. This notification covers activities conducted by the applicant over a period of five years.

PRT–810606

Applicant: Southwest Foundation for Biomedical Research, San Antonio, TX.

The applicant requests a permit to import tissue and blood samples of captive-born golden lion tamarins (*Leontophithecus rosalia rosalia*) from the Skansen Zoo, Sweden, for the purpose of enhancement of the species through scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 16, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–3952 Filed 2–21–96; 8:45 am]
BILLING CODE 4310–55–P

Issuance of Permit for Marine Mammals

On November 30, 1996, a notice was published in the **Federal Register**, Vol. 60, No. 230, Page 61571, that an application had been filed with the Fish and Wildlife Service by the Point Defiance Zoo for a permit (PRT–808562) to take for the purposes of public display a female polar bear recovered as an orphan near Barrow, Alaska.

Notice is hereby given that on February 6, 1996, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 420(c), Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Date: February 16, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–3951 Filed 2–21–96; 8:45 am]
BILLING CODE 4310–55–P

Bureau of Land Management

[AK–962–1410–00–P; AA–8099–01]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to Calista Corporation for approximately 5,322 acres. The lands involved are in the vicinity of Nyac, Alaska, and are described as within T. 10 N., Rgs. 61 and 62 W., Seward Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 25, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett

Chief, Branch of Gulf Rim Adjud'cotion

[FR Doc. 96–3943 Filed 2–21–96; 8:45 am]
BILLING CODE 4310–JA–P

[NM-030-7122-03-8532]

Draft Environmental Impact Statement (EIS) for the Copper Flat Mine Project, Sierra County, New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability and public hearings.

SUMMARY: Pursuant to 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, the BLM Las Cruces District has prepared a Draft EIS on the impacts of a proposed copper mine on private and Federal lands, 4 miles northeast of Hillsboro in Sierra County, New Mexico.

DATES: Written comments on the Draft EIS must be postmarked on or before April 15, 1996. Public hearings will be held at the times and places listed under **SUPPLEMENTARY INFROMATION.**

ADDRESSES: Written comments should be sent to: Russell Jentgen, Copper Flat Team Leader, BLM, Las Cruces District, 1800 Marquess, Las Cruces, NM 88005.

FOR FURTHER INFORMATION CONTACT: Russel Jentgen, Copper Flat Team Leader, (505) 525-4351.

SUPPLEMENTARY INFORMATION: Public hearings will be held at the following times and locations.

Date	Time	City	Location
March 26, 1996.	7 p.m.	Hillsboro, New Mexico.	Fire Station.
March 27, 1996.	7 p.m.	Truth or Consequences, New Mexico.	Civic Center, 400 West 4th Ave.

Both oral and written comments may be given at the hearings. Written comments may also be submitted to the BLM, Las Cruces District, 1800 Marquess, Las Cruces, NM 88005 on or before April 15, 1996.

Oral testimony at the hearings will be limited to 10 minutes for each witness. Additional time may be granted at the discretion of the presiding officer based on the number of speakers registered. Written text of prepared speakers may be filed at the hearing whether or not the speaker has been able to complete the oral delivery in the allotted time.

All oral and written comments on the adequacy of the Draft EIS will receive consideraiton in the Final EIS.

Copies of the Draft EIS have been distributed to a mailing list of identified interested parties. Single copies of the Draft EIS may be obtained from the BLM Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico; the BLM New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico; and the Socorro Resource Area Office, 198 Neel Veneue, NW, Socorro, New Mexico. Public reading copies are available for review at public and university libraries in Las Cruces, Alamogordo, Truth or Consequences, Socorro, Albuquerque, and Santa Fe, New Mexico and El Paso, Texas.

The Alta Gold Corporation of Henderson, Nevada submitted a proposed plan of operations to conduct mining activities on approximately 1,103 acres at Copper Flat. The plan was prepared pursuant to Title 43 Code of Federal Regulations (CFR), subpart 3809 (suface management-operations authorized by the mining laws). Four primary alternatives were assessed for the Copper Flat Project Draft EIS. These alternatives were the proposed action, a reduced stripping ratio alternative, a consolidated waste rock disposal alternative, and a no action alternative. Under the proposed action, approximately 537 acres of public land managed by the BLM and 566 acres of private land would be disturbed, a total of 1,103 acres. Under the reduced stripping ratio alternative, a total of 1.023 acres would be disturbed, and under the consolidated waste rock disposal alternative the total disturbance would be 1,080 acres. In the no action alternative, approximately 656 acres of previously disturbed mine lands would remain in the existing partially reclaimed condition.

During scoping, several issues were determined to require in-depth assessment. These issues were acid rock drainage from waste disposal areas, impacts to the water table from dewatering the mine pit, impacts to ground water from the tailings disposal area, and impacts to the water table from pumping up to 6,000 gallon of water per minute from the water supply well field. Other impacts were also assessed in the Draft EIS.

Dated: February 14, 1996.

Linda S. C. Rundell,

District Manager.

[FR Doc. 96–3942 Filed 2–21–96; 8:45 am]
BILLING CODE 4310–VC–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–380]

Certain Agricultural Tractors Under 50 Power Take-Off Horsepower; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 16, 1996, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Kubota Tractor Corporation, 3401 Del Amo Boulevard, Torrance, California 90503, Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501, and Kubota Corporation, 2–47 Shikitsuhigashi 1-chome, Naniwa-ku, Osaka 556, Japan. A letter supplementing the complaint was filed on February 2, 1996. The complaint as supplemented alleges violations of section 337 in the importation into the United States, sale for importation, and sale within the United States after importation of certain agricultural tractors under 50 power take-off horsepower by reason of alleged infringement of U.S. Registered Trademark Nos. 922,330, 1,028,211, 1,775,620, and 1,874,414. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Kent Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2579.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on February 13, 1996, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain agricultural tractors under 50 power take-off horsepower by reason of infringement of U.S. Registered Trademark Nos. 922,330, 1,028,211, 1,775,620, or 1,874,414, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Kubota Tractor Corporation, 3401 Del Amo Boulevard, Torrance, California 90503
Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501
Kubota Corporation, 2–47 Shikitsuhigashi 1-chome, Naniwa-ku, Osaka 556, Japan

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Eisho World Ltd., 1–9 Asahi-cho, Handa-shi, Aichi-ken, 475 Japan
Nitto Trading Corporation, 232–10 Shimizu, Uozumi-cho, Akashi-shi, Hyogo-ken, 674 Japan
Nitto Trading Co. Ltd, 1–9–5 Shinmoji Moji-ku, Kita-Kyushu-shi, 800–01 Japan
Sanko Industries Co., Ltd., 1–10–7 Shinmachi, Nishi-Ku, Osaka, 550 Japan
Sonica Trading, Inc., Koa Building 3F, 3–20–4 Ueno, Taito-ku, Tokyo, 110 Japan
Suma Sangyo, Mitsuta-umadome, Shijimi-cho, Miki-shi, Hyogo-ken, 673–05 Japan
Toyo Service Co., Ltd., 10–21 Imazukita 4-chome, Tsurumi-ku, Osaka, 538 Japan
Bay Implement Company, P.O. Box 20001, Red Bay, Alabama 35582
Casteel Farm Implement Co., 107 Highway 425 South, Monticello, Arkansas 71655
Casteel Farm Implement Co., 4110 Highway 65 South, Pine Bluff, Arkansas 71601
Casteel World Group, Inc., 639 West Gaines, Monticello, Arkansas 71655
Gamut Trading Co., 1340 Nomwaket Road, Apple Valley, California 92308
Gamut Imports, 14354 Cronese Road, Apple Valley, California 92307
Lost Creek Tractor Sales, 1050 S. Nutmeg, Bennett, Colorado 80102
MGA Inc. Auctioneers, 28999 Front Street, Suite 203, Temecula, California 92590
Tom Yarbrough Equipment Rental and Sales, Inc., 2410 U.S. Hwy 92 East, P.O. Drawer 2508, Plant City, Florida 33564
The Tractor Shop, 1804 S. Azalea Drive, Wiggins, Mississippi 39577
Tractor Company, 8392 Meadowbrook Way S.E., Snoqualmie, Washington 98045
Wallace International Trading Co., 1197 Bacon Way, Lafayette, California 94549
Wallace Import Marketing Co. Inc., 1197 Bacon Way, Lafayette, California 94549

(c) Kent Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–L, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure. 19 C.F.R. § 210.13. Pursuant to sections 201.16(d) and 210.13(a) of the Commission's Rules, 19 C.F.R. §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and fo authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: February 14, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–3956 Filed 2–21–96; 8:45 am]

BILLING CODE 7020–02–P

[Inv. No. 337–TA–381]

Certain Electronic Products, Including Semiconductor Products, Manufactured by Certain Processes; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 16, 1996, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Texas Instruments Incorporated, 13500 North Central Expressway, Dallas, Texas 75265. Supplements to the complaint were filed on January 31, 1996 and February 5, 1996. The complaint, as supplemented, alleges violations of section 337 based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic products, including semiconductor products, that are manufactured, produced, and assembled using processes that are covered by one or more claims of U.S. Letters Patent 4,884,674; U.S. Letters Patent 5,216,613; and U.S. Letters Patent 4,490,209.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2572.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on February 14, 1996, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electronic products, including semiconductor products, manufactured by processes covered by claims 1–8 or 9 of U.S. Letters Patent 4,884,674; claims 1–6 or 7 of U.S. Letters Patent 5,216,613; or claims 1–14 or 15 of U.S. Letters Patent 4,490,209; and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Texas Instruments Incorporated, 13500 North Central Expressway, Dallas, Texas 75265

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Company, Ltd., Samsung Main Building, 10th Floor, 250, 2-ka Taepyung-Ro Chung-Ku, Seoul, Korea
Samsung America, Inc., 105 Challenger Road, Ridgefield Park, New Jersey 07660
Samsung Semiconductor, Inc., 3655 North First Street, San Jose, California 95134

(c) Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–Q, Washington, D.C. 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to sections 201.16(d) and 210.13(a) of the Commission's Rules, 19 C.F.R. §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: February 15, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–3955 Filed 2–21–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–372]

Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same; Notice of Commission Decisions to Extend Target Date for Completion of Investigation, Not To Review an Initial Determination Finding a Violation of Section 337, and of the Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has determined not to review the initial determination (ID) issued on December 11, 1995, by the presiding administrative law judge (ALJ) in the above-captioned investigation. That ID found a violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain neodymium-iron-boron magnets. Notice is also hereby given that the Commission has decided to extend the target date for completion of this investigation from March 11, 1996, to March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Lyle B. Vander Schaaf, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3107. Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that

information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: On March 3, 1995, the Commission instituted an investigation of a complaint filed by Crucible Materials Corporation under section 337 of the Tariff Act of 1930. The complaint, as supplemented, alleged that respondents imported, sold for importation, or sold in the United States after importation certain neodymium-iron-boron magnets, magnet alloys, and articles containing same that infringed claims 1–3 of U.S. Letters Patent 4,588,439 (the '439 patent), owned by Crucible. The Commission's notice of investigation named eight respondents: San Huan New Materials Corporation of Bejing, China (now known as San Huan New Materials High Tech, Inc.); Ningbo Konit Industries, Inc. of Zhejiang Province, China; San Huan/Tridus International, Inc. of Paramount, CA; Novel Hightech, Ltd. of Hong Kong; Hennaco Industrial Enterprises, Inc. of Parsippany, NJ; Hennaco Excell, Inc. of Flushing, NY; Sino American Products, Ltd. of New York, NY; and InJohnson Precision Industrial Co., Ltd of Taipei, Taiwan.

The ALJ issued his final ID on December 11, 1995. He found that (1) claims 1–3 of the '439 patent are valid and enforceable; (2) there is a domestic industry manufacturing and selling products covered by the patent claims in issue; (3) respondents Novel, Hennaco Industrial, Hennaco Excell, Sino American, and InJohnson infringe claims 1–3 of the '439 patent. Based upon these findings, the ALJ concluded that there was a violation of section 337.

The Commission investigative attorney (IA) filed a petition for review of the ID on January 19, 1996, and complainant Crucible filed a response thereto on January 26, 1996. No government comments on the ID were received by the Commission.

In connection with final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see the Commission Opinion, *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337–TA–360.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed, if remedial orders are issued.

Written Submissions: The parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on March 1, 1996. Reply submissions must be filed no later than the close of business on March 8, 1996. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and Rules 210.42 and 210.51 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42 and 210.51).

Issued: February 14, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary

[FR Doc. 96–3954 Filed 2–21–96; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL SCIENCE FOUNDATION

Presidential Faculty Fellows Awards Panel in Chemical and Transportation Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical & Transport Systems (#1190).

Date: March 5, 1996; 8:30 am to 5:30 pm.

Place: Room 530, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Maria K. Burka, Program Director, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: 703/306–1370.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Presidential Faculty Fellows Award proposals submitted to the Chemical and Transport Systems Division as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. The matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3997 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date & Time: March 12 and March 13, 1996; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 530, Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. Devendra P. Garg, Program Director, Dynamic Systems & Control Program, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1361, x 5068.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3998 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date & Time: March 5, 1996; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 580, Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. Devendra P. Garg, Program Director, Dynamic Systems & Control Program, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1361, x 5068.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3988 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—#1194.

Date and Time: March 12, 1996, 8:00 a.m.—5:00 p.m.

Place: Rooms 365, 370, 565 and 580, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Warren DeVries and Dr. Kesh Narayanan, Manufacturing Processes and Equipment Program, Dr. George Hazelrigg, Design and Integration Engineering Program, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Grant Opportunities for Academic Liaison with Industry (GOALI) and Presidential Faculty Fellows (PFF) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3992 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Earth Sciences Proposal Review Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Earth Sciences Proposal Review Panel (1569).

Date: March 13, 14 & 15, 1996.

Time: 8:00 a.m. to 6:00 p.m. each day.

Place: Rooms 375, 340, 360, 370, 380 & 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Alan M. Gaines, Section Head, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA, (703) 306–1553.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate earth sciences proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3993 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Earth Sciences Proposal Review Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Earth Sciences Proposal Review Panel (#1569).

Date and Time: March 11–12, 1996; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 320.

Type of Meeting: Closed.

Contact Person: Dr. Leonard E. Johnson, Program Director, Continental Dynamics Program, Division of Earth Sciences, Room 785, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1559.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Continental Dynamics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3989 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Human Resource Development (#1199).

Date & Time: March 13, 1996: 7:00 to 9:00 p.m.; March 14, 1996: 8:00 a.m. to 5:00 p.m.; March 15, 1996: 8:00 to 4:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 830, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Lola E. Rogers, Program Director, 4201 Wilson Blvd., Suite 815, Arlington, VA 22230. Telephone: 703/306–1637.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Model Projects for Women and Girls Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3996 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Information, Robotics and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information, Robotics and Intelligent Systems (#1200).

Date and Time: March 14–15, 1996, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Conference room 1150.

Type of Meeting: Closed.

Contact Person: Dr. Maria Zemankova, Deputy Division Director, Robotics and Intelligent Systems, room 1115N, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1929.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3995 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR).

Date and Time: March 13, 1996; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd. Rooms 1005 and 970, Arlington, VA 22230.

Type of Meetings: Closed.

Contact Person: Dr. Lorretta J. Inglehart, Program Director, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd, Arlington, VA, 22230, Telephone (703) 306–1817.

Purpose of Meeting: To provide advice and recommendations concerning support for Instrumentation for Materials Research proposals.

Agenda: Evaluation of proposals.

Reason for Closing: The proposal being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3994 Filed 2–21–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR).

Date and Time: March 15, 1996; 8:00 pm–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1020, Arlington, VA 22230.

Type of Meetings: Closed.

Contact Person: Dr. LaVerne D. Hess, Program Director, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230, Telephone (703) 306–1835.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Faculty Early Career Development (CAREER) Program.

Reason for Closing: The proposals being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3990 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Mathematical and Physical Sciences (#66).

Date and Time: March 10, 11, and 12, 1996 7:30 am–7:00 pm.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Morris L. Aizenman, Executive Officer, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/306–1821.

Purpose of Meeting: To provide oversight review of the programs in the Division of Astronomical Sciences.

Agenda: To carry out Committee of Visitors review of the programs in the Division of Astronomical Sciences, including examination of decisions of proposals, reviewer comments, and other privileged materials.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. These matters that are exempt under 5 U.S.C. 552(c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 16, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–3991 Filed 2–21–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review or continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 9: Public Records.

2. Current OMB approval number: 3150–00043.

3. How often the collection is required: On occasion.

4. Who is required or asked to report: Individuals requesting access to records under the Freedom of Information or Privacy Acts, or to records that are already publicly available in the NRC Public Document Room.

5. The number of annual respondents: 13,764.

6. The number of hours needed to complete the requirement or request: 3519.

7. Abstract: 10 CFR Part 9 establishes information collection requirements for individuals making requests for records under the Freedom of Information or Privacy Acts. It also contains requests to waive or reduce fees for searching for and reproducing records in response to FOIA requests. The information required from the public is necessary to identify the records they are requesting or to justify requests for waivers or reductions in searching or copying fees.

Submit, by April 22, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW. (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 14th day of February 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–3940 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 82nd meeting on March 27, 28 and 29, 1996, Room T–2B3, at 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Wednesday, December 6, 1995 (60 FR 62485).

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

The agenda for this meeting shall be as follows:

Wednesday, March 27, 1996—8:30 a.m. until 6:00 p.m.

Thursday, March 28, 1996—8:30 a.m. until 6:00 p.m.

Friday, March 29, 1996—8:30 a.m. until 4:00 p.m.

During this meeting the Committee plans to consider the following:

A. *Time Frames for Regulatory Concern*—The Committee will review time frames for regulatory compliance in the disposal of high- and low-level radioactive waste.

B. *NRC Staff Issue Resolution Process*—The Committee will review various NRC staff initiatives that will be used to bring about closure on issues raised in its review of DOE's high-level waste program.

C. *Meeting with the Director, NRC's Division of Waste Management, Office of Nuclear Materials Safety and Safeguards*—The Director will discuss items of current interest related to the Division of Waste Management programs which may include: progress at the Yucca Mountain site, comments on DOE's Total System Performance Assessment, and a draft technical position on expert elicitation.

D. *Preparation of ACNW Reports*—The Committee will discuss proposed reports, including: time frames for regulatory concern, the use of expert elicitation, elements of a low-level waste disposal program, spent fuel storage containers, and a list of ACNW priority issues.

E. *Total System Performance Assessment (TSPA)*—The Committee will be briefed by an ACNW consultant on insights into waste disposal to be gained through the use of TSPA.

F. *Alternatives for NRC's LLW Program*—The Committee will review the NRC staff's final position on alternatives for NRC's low-level waste program.

G. *Joint ACRS/ACNW Working Group Meeting on Spent Fuel Storage*—The Committee will hear a report from two of its members who participated in the joint working group meeting.

H. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members. The Committee will also consider potential new ACNW members. A portion of this session may be closed to public attendance to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

I. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were

published in the **Federal Register** on September 27, 1995 (60 FR 49924). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. Major if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8:00 a.m. and 5:00 p.m. edt.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the "NRC MAIN MENU." Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

Dated: February 15, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–3933 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on March 6, 1996, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: *Wednesday, March 6, 1996—1:30 p.m. until 4:00 p.m.*

The Subcommittee will discuss proposed ACRS activities and related matters. It will also discuss the qualifications of candidates nominated for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 15, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–3934 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Instrumentation and Control Systems and Computers; Notice of Meeting

The ACRS Subcommittee on Instrumentation and Control Systems and Computers will hold a meeting on March 6, 1996, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, March 6, 1996—8:30 a.m. Until the Conclusion of Business

The Subcommittee will review proposed Regulatory Guides, Standard Review Plan Sections, and Branch Technical Positions related to the digital instrumentation and control systems. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: February 15, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–3935 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

[Project No. 672]

Issuance of the Draft of the Final Preapplication Safety Evaluation Report for the Modular High-Temperature Gas-Cooled Reactor

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Issuance of a Safety Evaluation Report for an Advanced Reactor Design.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing the draft of the final preapplication safety evaluation report (PSER) for the modular high-temperature gas-cooled reactor (MHTGR) proposed by the U.S. Department of Energy (DOE). The NRC has been conducting a preapplication review of the MHTGR design since 1986 at the request of DOE and in a manner consistent with the Commission's Advanced Reactor Policy Statement (51 FR 24643, July 8, 1986). The preapplication review process is described in NUREG–1226, "Development and Utilization of the NRC Policy Statement on the Regulation of Advanced Nuclear Power Plants," June 1988, and is conducted before an application is submitted for design approval: preliminary design approval, final design approval, or design certification under 10 CFR Part 52. The PSER is comprised of two volumes: Volume 1, which contains the staff's preapplication review of the MHTGR design and the staff's conclusions on the design from this review, and Volume 2, which contains the appendices to the draft PSER. Volume 2 of the draft PSER is being issued without copies of the documents listed in Appendices C through J to reduce its size. These documents are in the PDR or in NRC Central Files, and are not essential for the staff's discussion of MHTGR licensability and policy issues in the draft PSER. They will be issued with the publication of the final PSER for completeness and will be made available to the public for the draft PSER upon request.

A copy of the draft PSER has been placed in NRC's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, for review by interested persons.

FOR FURTHER INFORMATION CONTACT: Jack N. Donohew, NRC, Office of Nuclear Reactor Regulation, Washington, DC 20555–0001, telephone (301) 415–1307.

Dated at Rockville, Maryland, this 14 day of February, 1996.

For the Nuclear Regulatory Commission.

Theodore R Quay,

Director, Standardization Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3939 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

Operator Licensing Examination Standards Draft Revision; Notice of Availability and Request for Comment

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of Availability and Request for Comment.

SUMMARY: NUREG–1021, "Operator Licensing Examination Standards for Power Reactors," (formerly "Operator Licensing Examiner Standards") provides guidance for the development, administration, and grading of written examinations and operating tests used to determine the qualifications of individuals who apply for operator and senior operator licenses at nuclear power plants pursuant to Part 55 of Title 10 of the *Code of Federal Regulations* (10 CFR 55). The NUREG provides similar guidance for verifying the continued qualifications of licensed operators when the staff determines that NRC requalification examinations are necessary.

The Examination Standards have been revised to incorporate the examination development process described in Generic Letter 95–06, "Changes in the Operator Licensing Program," including lessons learned during the pilot examination program that began in October 1995. The guidance that was previously contained in NUREG/BR–0122, "Examiners' Handbook for Developing Operator Licensing Written Examinations," has been appended to the Examination Standards, and a number of minor improvements and clarifications that were recommended by industry groups, licensed operators, and NRC examiners and managers have also been adopted. The entire NUREG has been reformatted to more clearly identify the various organizational responsibilities and will be reissued in its entirety.

The staff believes that it would be beneficial to solicit public comments on this revision from all interested parties. The staff is also interested in obtaining an estimate of the burden that assuming responsibility for drafting the initial license examinations will place on facility licensees. Commenters should recognize that presently most NRC examinations are drafted by NRC contractors and that the contractor costs are passed on to the facility at which the examination is administered. The revised Examination Standards will eliminate contractor support, while the NRC direct resources involved in operator licensing are projected to remain constant. After considering the public comments, the NRC staff plans to brief the Commission and seek its approval to implement the revised process. Pending Commission approval and any additional changes that might be necessary, the staff expects to issue the revised Examination Standards and implement the revised examination process at or near the beginning of fiscal year 1997.

DATE: The comment period ends March 25, 1996. Comments received after this date will be considered if it is practical to do so, but the staff is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm Federal workdays. Copies of comments received and draft revisions of NUREG–1021 are available for review and/or copying for a fee in the NRC's Public Document Room, 2120 L Street (Lower Level), Washington, DC. NUREG–1021 is also electronically available for downloading from the Internet at "http://www.nrc.gov/news.htm#exam".

FOR FURTHER INFORMATION CONTACT: Fred Guenther, Mail Stop O10–D22, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 504–1056; and email at "SXG@NRC.GOV".

Dated at Rockville, Maryland, this 15th day of February 1996.

For the Nuclear Regulatory Commission.

Stuart A. Richards,

Chief, Operator Licensing Branch; Division of Reactor Controls, and Human Factors, Office of Nuclear Reactor Regulation.

[FR Doc. 96–3938 Filed 2–21–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 21753; 811–5359]

Dean Witter Managed Assets Trust; Notice of Application

February 15, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Dean Witter Managed Assets Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 26, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 11, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESS: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, c/o Sheldon Curtis, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Robert Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized under the laws of the Commonwealth of Massachusetts pursuant to a Declaration of Trust. On October 12, 1987, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act and the Securities Act of 1933. The registration statement became effective on April 25, 1988, and the initial public offering commenced on May 24, 1988.

2. On August 24, 1995, applicant's board of trustees approved an Agreement and Plan of Reorganization (the "Plan"). The Plan provided that applicant would transfer all of its assets to Dean Witter Strategist Fund ("Strategist").

3. Applicant and Strategist may be deemed to be affiliated persons of each other under the Act. In compliance with rule 17a–8, which governs mergers of certain affiliated investment companies, applicant's trustees determined that the reorganization was in the best interests of applicant and the interests of applicant's existing shareholders would not be diluted.[1]

4. Applicant filed its preliminary proxy materials on Form N–14 with the SEC on August 28, 1995 and filed definitive copies of its proxy materials on October 25, 1995. Applicant's shareholders approved the Plan at a meeting held on December 19, 1995.

5. On December 22, 1995, the reorganization was consummated. Applicant transferred all of its assets and liabilities to Strategist in exchange for shares of Strategist with an aggregate net asset value equal to the net asset value of applicant's assets transferred. Specifically, in exchange for $322,451,283 assets transferred, Strategist issued 1,665,682 shares of beneficial interest.

6. All expenses incurred in the solicitation of proxies were borne by the applicant. Such expenses were approximately $129,053. Applicant and Convertible Trust bore all of their respective other expenses associated with the reorganization.

7. At the time of filing the application, applicant had no assets, outstanding debts or liabilities. Applicant has no shareholders and is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

[1] Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3984 Filed 2–21–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21755; 812–9780]

Harris & Harris Group, Inc.; Notice of Application

February 15, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application under the Investment Company Act of 1940 (the "Act").

APPLICANT: Harris & Harris Group, Inc.

RELEVANT ACT SECTION: Section 61(a)(3)(B).

SUMMARY OF APPLICATION: Applicant requests an order authorizing applicant to issue stock options to applicant's non-employee directors pursuant to applicant's Amended and Restated 1988 Stock Option Plan (the "Stock Option Plan").

FILING DATES: The application was filed on September 22, 1995 and amended on December 29, 1995 and on February 8, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 11, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, One Rockfeller Plaza, New York, New York 10020.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a business development company ("BDC") under the Act. Applicant's investment objective is long-term growth through capital appreciation primarily through investing in start-up companies and other investments. Applicant's investment portfolio includes companies ranging from software development to biotechnology. Applicant may provide assistance to its portfolio companies in the form of product planning and development, raising capital, and establishing relationships with investment bankers and other professionals. In addition, several of applicant's officers serve on the boards of the portfolio companies.

2. Applicant requests an order authorizing it to grant options to purchase shares of applicant's common stock to each of its present non-employee directors ("Outside Directors") and to each Outside Director who may be elected or appointed to its board of directors in the future. In this regard, applicant's shareholders approved certain amendments to the Stock Option Plan on October 20, 1995. Applicant will implement the amendments subsequent to receiving an order from the SEC.

3. Under the Stock Option Plan, all Outside Directors who have not previously received options would receive options to purchase 20,000 shares of applicant's common stock, cumulatively vesting 20% each year for a five-year period commencing on the date of grant. Each option will have a term of not more than ten years. The exercise price of the options may not be less than the current market value of applicant's common stock on the date of grant. The options would not be transferable except by will or by the laws of descent and distribution.

4. Each Outside Director receives $1,000 for each board meeting attended, $500 for each committee meeting attended, and reimbursement for out of pocket expenses.

5. At the end of an Outside Director's service, an Outside Director may exercise options only with respect to the number of shares of stock that the Outside Director could have acquired by an exercise of the options immediately prior to cessation of service as an Outside Director.

6. In the event of an Outside Director's retirement, all of the Outside Director's unexercised options would immediately become exercisable for a period of three years following the date of retirement, but in no event after the expiration date of the options. In the event of an Outside Director's death or disability, all the Outside Director's unexercised options would immediately become exercisable for a period of six months following the date of death or one year following the date of disability, but in no event after the expiration date of the options. If an Outside Director ceases to serve as Outside Director for any reason other than those mentioned above, any options held by the Outside Director shall be exercisable for 90 days after cessation of service, but in no event after the expiration date of the options.

7. The aggregate number of options to be granted to Outside Directors is limited to 200,000 shares, exclusive of any options outstanding on August 31, 1995. As of August 31, 1995, the total number of applicant's voting securities that would be issued as a result of the exercise of all options issued or currently issuable to applicant's directors, officers, and employees under the Amended 1988 Plan would be 1,391,763, of which 648,563 are fully vested. The options to purchase 1,391,763 shares, together with the 475,017 shares available for future awards and the 200,000 shares to be granted pursuant to the order sought hereby, comprise 2,066,780 shares reserved for the issuance of awards. Options granted to purchase 200,000 shares of applicant's common stock would currently represent 1.9% of applicant's 10,333,902 outstanding shares of common stock. None of the Outside Directors who previously received options will be eligible to receive additional options under the Stock Option Plan.[1] Applicant has no other warrants, options or rights to purchase its voting securities outstanding other than those granted to its directors, officers, and employees.

Applicant's Legal Analysis

1. Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that certain conditions are met, including the options being approved by the company's shareholders and the SEC issuing an order approving the options on the basis that the proposal is fair and reasonable and does not involve overreaching of the company or its shareholders.

[1] *See* Harris & Harris Group, Inc., Investment Company Act Release Nos. 21174 (June 29, 1995) (notice) and 21250 (July 25, 1995) (order).

2. Applicant represents that the Stock Option Plan and the options to be granted to applicant's Outside Directors pursuant to the Stock Option Plan meet the requirements of section 61(a)(3)(B), other than SEC approval. Applicant believes that the terms of the Stock Option Plan and the options to be granted automatically to applicant's Outside Directors are fair and reasonable and do not involve any overreaching of applicant or its shareholders. Applicant also believes that the exercise of the options would not have a significant dilutive effect on applicant's existing shareholders.

3. Applicant states that its long-term success is tied to its ability to attract retain, and provide appropriate incentives to the Outside Directors. Applicant asserts that because the stock options granted to Outside Directors would vest in cumulative installments of 20% per year, the Stock Option Plan would provide Outside Directors with incentives to remain with applicant. In addition, applicant contends that because the options granted pursuant to the Stock Option Plan have no value unless the price of applicant's common stock exceeds the exercise price of the option, the interests of Outside Directors would be aligned with the interests of the Company's shareholders.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3983 Filed 2–21–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21754; 811–8610]

TCW/DW Global Convertible Trust; Notice of Application

February 15, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: TCW/DW Global Convertible Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 26, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing.

Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 11, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESS: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, c/o Sheldon Curtis, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Robert Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized under the laws of the Commonwealth of Massachusetts pursuant to a Declaration of Trust. On July 6, 1994, applicant registered under the Act, and filed a registration statement pursuant to section 8(b) of the Act and the Securities Act of 1933. The registration statement became effective on August 24, 1994, and the initial public offering commenced on September 23, 1994.

2. On August 24, 1995, applicant's board of trustees approved an Agreement and Plan of Reorganization (the "Plan"). The Plan provided that applicant would transfer all of its assets to Dean Witter Convertible Securities Trust ("Convertible Trust").

3. Applicant and Convertible Trust may be deemed to be affiliated persons of each other under the Act. In compliance with rule 17a–8, which governs mergers of certain affiliated investment companies, applicant's trustees determined that the reorganization was in the best interests of applicant and the interests of applicant's existing shareholders would not be diluted.[1]

4. Applicant filed its preliminary proxy materials on Form N–14 with the SEC on August 28, 1995 and filed definitive copies of its proxy materials on October 25, 1995. Applicant's shareholders approved the Plan at a meeting held on December 19, 1995.

5. On December 22, 1995, the reorganization was consummated. Applicant transferred all of its assets and liabilities to Convertible Trust in exchange for shares of Convertible Trust with an aggregate net asset value equal to the net asset value of applicant's assets transferred. Specifically, in exchange for $19,188,653 of assets transferred, the Convertible Trust issued 1,665,682 shares of beneficial interest.

6. All expenses incurred in the solicitation of proxies were borne by applicant. Such expenses were approximately $129,053. Applicant and Convertible Trust bore all of their respective other expenses associated with the reorganization.

7. At the time of filing the application, applicant had no assets, outstanding debts or liabilities. Applicant has no shareholders and is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3985 Filed 2–21–96; 8:45 am]

BILLING CODE 8010–01–M

[1] Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

(Release No. 34–36848; File No. SR–Amex–95–58)

Self-Regulatory Organizations; Order Granting Accelerated Approval To Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1 and 2 to Proposed Rule Change by the American Stock Exchange, Inc., Relating to Listing and Trading of Warrants Based on the Vantage Point Index.

February 14, 1996.

I. Introduction

On January 2, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade warrants based on the "undervalued market basket" index.[3]

The proposed rule change appeared in the **Federal Register** on January 23, 1996.[4] No comments were received on the proposed rule change. The Exchange subsequently filed Amendment No. 1 to the proposed rule change on February 5, 1996[5] and Amendment No. 2 to the proposed rule change on February 13, 1996.[6] This order approves the Amex's proposal, as amended.

II. Description

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled index warrants based on the Vantage Point Index ("Index Warrants"). On August 29, 1995, the Commission approved an Exchange proposal that established uniform listing and trading guidelines for stock index, currency, and currency index warrants ("Generic Warrant Listing Standards Approval Order").[7] The Exchange states that the listing and trading of warrants based on the Index will comply in all respects with the rules that were amended and enacted through the Generic Warrant Listing Standards Approval Order, including Section 106 of the Amex Company Guide, Amex Rules 1100 through 1110, and Amex Rule 462 (collectively, the "Amex warrant listing standards").

A. Design of the Index

The Exchange represents that the Index is a broad-based index comprised of the common stocks of 43 diverse corporations operating in several industry groups, including, computers, aerospace, retail, banking, cellular telecommunications, pharmaceuticals, medical supplies, petroleum products, hotel/motel, toys, and retail stationary.[8] The Index is equal-dollar weighted and is therefore designed to ensure that each of the component securities is represented in an approximately "equal" dollar amount. Accordingly, each of the 43 companies included in the Index will represent approximately 2.32 percent of the weight of the Index at the time of issuance of the warrant. The Index multipliers will be determined to yield the benchmark value of 100.00 on the date the warrant is priced for initial offering to the public.

On December 22, 1995, the 43 stocks in the Index ranged in market capitalization from a high of approximately $48.5 billion to a low of approximately $126 million.[9] The total capitalization of the Index on December 22, 1995 was approximately $345 billion. In addition, during the six-month period from June 1995 through November 1995, the average monthly trading volume of the stocks in the Index ranged from 500,000 shares to 188.5 million shares.[10] The Exchange also represents that at least 90% of the total capitalization of the Index is currently represented by component securities that meet the Exchange's criteria for standardized options trading.[11]

B. Maintenance of the Index

The Exchange represents that it will monitor the component securities in the Index on a monthly basis. In this regard, the Exchange will notify the Commission if less than 75% of the component securities in the Index are eligible for standardized options trading. In addition, if the number of component securities in the Index drops below 25, the Exchange will apply the minimum margin requirements for stock index industry group warrants.[12]

Shares of a component stock will only be replaced (or supplemented) under certain limited circumstances, such as the conversion of a component stock into another class of security, the termination of a depositary receipt program, or the spin-off of a subsidiary. Accordingly, all replacement or supplemental Index component securities will be related to the original component stock. The Exchange represents that decisions regarding such changes will be made by the Determination Agent, Bear Stearns & Co. Inc. ("Bear Stearns"), with the consent of the Amex. Moreover, if a change in the composition of the Index is contemplated for reasons other than those set forth above, the Exchange will notify the Commission to determine whether a rule filing pursuant to Section 19(b) of the Act will be required.

If the stock remains in the Index, the multiplier of that security may be adjusted to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event that a security in the Index is removed due to a corporate consolidation and the holders of such security receive cash, the cash value of such security will be included in the Index and will accrue interest at LIBOR to term, compounded daily.

C. Trading of the Index Warrants

Index Warrants will be direct obligations of their issuer, subject to cash-settlement in U.S. dollars and either exercisable throughout their life (*i.e.*, American-style) or exercisable only immediately prior to their expiration date (*i.e.*, European-style). Upon exercise (or at the warrant expiration date in the case of warrants with European-style exercise), the holder of an Index Warrant structured as a "put" will receive payment in U.S. dollars to the extent that the value of the Index has declined below a pre-stated cash settlement value. Conversely, upon exercise (or at the warrant expiration date in the case of warrants with European-style exercise), the holder of an Index Warrant structured as a "call" will receive payment in U.S. dollars to the extent that the value of the Index has increased above the pre-stated cash settlement value. Index Warrants that are "out-of-the-money" at the time of expiration will expire worthless.

D. Calculation and Dissemination of the Value of the Index

The Index value will be continuously calculated by the Amex using the most recently reported prices, and will be publicly disseminated every fifteen seconds over the Consolidated Tape Association's Network B.

In addition, the multiplier of each component stock in the Index remains fixed except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event. The multiplier of each component stock may also be adjusted, if necessary, in the event of a merger, consolidation, dissolution, or liquidation of an issuer or in certain other events such as the distribution of property by an issuer to shareholders, the expropriation or nationalization of a foreign issuer, or the imposition of certain foreign taxes on shareholders of a foreign issuer.

E. Classification of the Index as Broad-Based

The Amex has designed the Index to meet certain objective criteria which it believes are appropriate to classify the Index as broad-based for warrant trading. To ensure that the Index remains representative of a broad spectrum of industries and is comprised

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] The Amex has clarified that the name of the index will be the Vantage Point Index ("Index"). Telephone Conversation between Michael T. Bickford, Vice President, Capital Markets Development, Amex, and Michael Walinskas, Branch Chief, Derivatives Regulation, Office of Self-Regulatory Oversight, Division of Market Regulation ("Division"), Commission, on February 8, 1996.

[4] *See* Securities Exchange Act Release No. 36721 (January 16, 1996), 61 FR 1799 (January 23, 1996).

[5] In Amendment No. 1, the Amex amended its rule filing to provide that: (1) the Exchange will advise the Commission whenever less than 75% of the component securities in the Index are eligible for standard options trading; (2) if the number of component securities in the basket drops below 25, the Exchange will apply the minimum margin requirements for stock index industry group warrants; and (3) the Amex is presently only seeking the authority to list and trade a single issuance of warrants on the Index and that if the Exchange proposes to list and trade other products based on the Index, including other index warrants, the Exchange will notify the Commission to determine whether a rule filing pursuant to Section 19(b) of the Act will be required. *See* letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Derivatives Regulation, Office of Self-Regulatory Oversight, Division, Commission, dated February 5, 1996 ("Amendment No. 1").

[6] In Amendment No. 2, the Amex clarified its role in the calculation and maintenance of the Index. *See* letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Derivatives Regulation, Office of Self-Regulatory Oversight, Division, Commission, dated February 13, 1996 ("Amendment No. 2").

[7] *See* Securities Exchange Act Release No. 36168 (August 29, 1995), 60 FR 46637 (September 7, 1995) (order approving File No. SR–Amex–94–38).

[8] The component securities of the Index are as follows; Aluminum Company of America; Biomet, Inc.; The Boeing Company; Cardinal Health, Inc.; Citicorp; Compaq Computer Corporation; CUC International, Inc.; Donnkenny, Inc.; Electronic Arts Inc.; Enserch Exploration, Inc.; Federal Home Loan Mortgage Corporation; First USA, Inc.; Green Tree Financial Corporation; Hershey Foods Corporation; H.F. Ahmanson & Company; Intel Corporation; Kerr-McGee Corporation; Kimberly-Clark Corporation; Ligand Pharmaceuticals Incorporated; Luxottica Group S.p.A.; Manville Corporation; Mattel, Inc.; Maxxim Medical, Inc.; MCI Communications Corporation; MFS Communications Corporation; Mirage Resorts, Inc.; Mobile Telecommunications Technology Corp.; Monsanto Company; News Corporation Ltd.; Nine West Group, Inc.; Nordstrom, Inc.; OfficeMax, Inc.; Oracle Corporation; Parker Hannifin Corporation; Patriot American Hospitality, Inc.; Pharmacia & Upjohn, Inc.; Seagate Technology, Inc.; Seitel, Inc.; USF&G Corporation; Viacom Inc.; Wells Fargo & Company; Wendy's International, Inc.; and WMX Technologies, Inc.

[9] In addition, the median market capitalization of the companies in the Index on December 22, 1995 was approximately $3.2 billion, and the average market capitalization of these companies on that date was approximately $8 billion.

[10] Two of the component securities, Patriot American Hospitality, Inc. and Pharmacia & Upjohn, Inc., have been trading for less than six months. Patriot American Hospitality began trading on September 27, 1995 as an initial public offering and has had an average monthly trading volume for the months of October and November of 2.7 million shares. Pharmacia & Upjohn was the result of a merger between Pharmacia Aktiebolag and The Upjohn Company and began trading on November 3, 1995. Pharmacia & Upjohn traded 47.5 million shares during the month of November.

[11] *See* Amex Rule 915.

[12] *See* Amex Rule 462, which the Exchange proposes to amend in File No. SR–Amex–95–39. *See* Securities Exchange Act Release No. 36448 (November 1, 1995), 60 FR 56180 (November 7, 1995).

of relatively actively-traded stocks, the Exchange represents that the Index currently meets and exceeds the following criteria: (1) each underlying security has had an average daily trading volume of at least 40,000 shares during the preceding six months (to remain in the Index, each underlying security will have to maintain an average daily trading volume of at least 20,000 shares); (2) no more than 20% of the total weight to the Index is represented by underlying securities that have had an average daily trading volume of less than 75,000 shares in the preceding six months; (3) no underlying security represents more than 10% of the total weight of the Index; (4) the five most heavily weighted securities do not represent more than 30% of the total weight of the Index; (5) the Index is comprised of at least ten industry sectors represented by no less than 43 underlying securities; and (6) at least 75% of the total capitalization of the Index is represented by underlying securities that meet the Exchange's criteria for standardized options trading.[13] The Exchange also notes that the Index meets and exceeds the Designation Criteria for Futures Contracts Involving Non-Diversified Stock Indexes.[14]

F. Listing Standards and Customer Safeguards

As stated above, the listing and trading of warrants based on the Vantage Point Index will comply in all respects with the Amex warrant listing standards. These standards will govern all aspects of the listing and trading of the Index Warrants, including, issuer eligibility,[15] position and exercise limits,[16] reportable positions,[17] automatic exercise,[18] settlement,[19] margin,[20] and trading halts and suspensions.[21]

Additionally, these warrants will be sold only to accounts approved for the trading of standardized options[22] and, the Exchange's options suitability standards will apply to recommendations regarding Index Warrants.[23] The Exchange's rules regarding discretionary orders will also apply to transactions in Index Warrants.[24] Finally, prior to the commencement of trading, the Amex will distribute a circular to its membership calling attention to specific risks associated with warrants on the Index.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[25] Specifically, the Commission finds that the trading of warrants based on the Vantage Point Index will serve to protect the public interest, and will help to remove impediments to a free and open market by providing investors holding positions in some or all of the securities underlying the Index with a means to hedge exposure to the market risk associated with their portfolios.[26]

Nevertheless, the trading of warrants on the Index raises several concerns related to the design and maintenance of the Index, customer protection, surveillance, and market impact. The Commission believes, however, for the reasons discussed below, that the Amex has adequately addressed these concerns.[27]

A. Design and Maintenance of the Index

The Commission finds that it is appropriate and consistent with the Act for the Amex to designate the Index as broad-based for warrant trading. First, the Index is comprised of a diverse basket of common stocks, representing such industry sectors as banking, computers, and retail. Second, the Index consists of 43 actively-traded stocks,[28] of which 32 trade on the New York Stock Exchange, Inc. ("NYSE"), 1 trades on the Amex, and 10 trade on Nasdaq. Third, the market capitalization of the stocks comprising the Index are very large. Specifically, the total capitalization of the Index, as of December 22, 1995, was approximately $345 billion, with the market capitalization of the individual stocks in the Index ranging from a high of approximately $48.5 billion to a low of approximately $126 million. Fourth, no one particular stock or group of stocks dominates the Index. Specifically, no single stock accounts for more than approximately 2.32% of the Index's value, and the percentage weighting of the five largest issues in the Index account for approximately 11.6% of the Index's value. Accordingly, the Commission believes that it is appropriate to classify the Index as broad-based so that the Exchange may list warrants for trading pursuant to the Amex warrant listing standards.

The Commission notes that with respect to the maintenance of the Index, shares of a component stock will only be replaced (or supplemented) under certain limited circumstances, such as the conversion of a component stock into another class of security, the termination of a depositary receipt program, or the spin-off of a subsidiary. Accordingly, all replacement or supplemental Index component securities will be related to the original component stock. In addition, although the Index will be maintained by Bear Stearns, changes to the composition of the Index can only be made with the consent of the Amex. Moreover, if a change in the composition of the Index is contemplated for reasons other than those set forth above, the Exchange will notify the Commission to determine whether a rule filing pursuant to Section 19(b) of the Act will be required.[29]

The Amex has also implemented several safeguards in connection with the listing and trading of the Index Warrants that will serve to ensure that the Index maintains its intended character as a highly capitalized, diversified, and actively-traded index. In this regard, the Exchange will notify the Commission if less than 75% of the component securities in the Index are eligible for standardized options trading, or if any underlying security fails to maintain an average daily trading volume of at least 20,000 shares.

B. Customer Protection

The Commission notes that the rules and procedures of the Exchange adequately address the special concerns attendant to the trading of index warrants. Specifically, the applicable suitability, account approval, disclosure, and compliance requirements of the Amex warrant listing standards, satisfactorily address potential public customer concerns. Moreover, the Amex plans to distribute a circular to its membership calling attention to specific risks associated with warrants on the Index. Finally, pursuant to the Exchange's listing guidelines, only companies capable of meeting the Amex's index warrant issuer standards will be eligible to issue Index Warrants.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a security index derivative product and the exchange(s) trading the securities underlying the derivative product is an important measure for the surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of the information necessary to detect and deter potential manipulations and other trading abuses, thereby making the security index product less readily susceptible to manipulation. In this regard, the Amex, the NYSE, and the National Association of Securities Dealers, Inc. ("NASD") are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[30]

In addition, the Exchange has developed enhanced surveillance procedures to apply to domestic stock index warrants which the Commission believes are adequate to surveil for manipulation and other abuses involving the warrant market and component securities.[31] Among these enhanced surveillance procedures, the Commission notes that the issuers are required to report to the Exchange on settlement date the number and value of domestic index warrants subject to early exercise the previous day. The Commission believes that this information will aid the Amex in its surveillance capacity and help it to detect and deter market manipulation and other trading abuses.

D. Market Impact

The Commission believes that the listing and trading of warrants on the Index will not adversely impact the underlying securities. First, the Amex's existing index warrants surveillance procedures will apply to warrants on the Index. Second, the Index is broad-based, diversified, and includes highly capitalized securities that are actively-traded. Lastly, the Amex has established reasonable position and exercise limits for stock index warrants, which will serve to minimize potential manipulation and other stock market concerns.

The Commission finds good cause to approve the proposed rule filing, including Amendment Nos. 1 and 2, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that no comments were received on the proposal, which was subject to the full 21-day notice and comment period.[32] Moreover, Amendment Nos. 1 and 2 to the Amex's proposal describe details of certain Index maintenance procedures. In this regard, the Commission believes that the Exchange's monthly review of the Index's component securities for options eligibility and applicable margin treatment, as described above, will help to ensure that the Index maintains its intended market character as well as remains an appropriate trading vehicle for public customers. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve the proposed rule change, including Amendment Nos. 1 and 2, on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning the rule proposal,

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[13] *See* Amex Rule 915.

[14] *See* Securities and Exchange Commission and Commodity Futures Trading Commission Joint Statement of Policy, Release No. 20578 (January 18, 1984), 49 FR 2884.

[15] *See* Section 106 of the Amex Company Guide. Issuers are required to have a minimum tangible net worth in excess of $250 million or, in the alternative, to have a minimum tangible net worth in excess of $150 million, provided that the issuer does not have (including as a result of the proposed issuance) issued and outstanding warrants where the aggregate original issue price of all such warrant offerings (combined with offerings by its affiliates) listed on a national securities exchange or that are National Market securities traded through Nasdaq exceeds 25% of the issuer's net worth.

In addition, Sections 106(b)–(d) of the Amex Company Guide require that warrant issues: (i) have a term of one to five years; (ii) have a minimum public distribution of one million warrants together with a minimum of 400 public holders, and an aggregate market value of $4 million; and (iii) be cash-settled in U.S. dollars.

[16] *See* Amex Rules 1107 and 1108. Under Amex Rule 1107, no member can hold or control an aggregate position in a stock index warrant issue, or in all warrants issued on the same stock index, (whether long or short) on the same side of the market, in excess of 15 million warrants (7.5 million warrants with respect to warrants on the Standard & Poor's MidCap 400 Index) with an original issue price of ten dollars or less. Stock index warrants with an original issue price greater than ten dollars will be weighted more heavily in calculating position limits.

Amex Rule 1108 establishes exercise limits on stock index warrants analogous to those found on stock index options. Accordingly, no member, acting alone or in concert with others, directly or indirectly, may exercise a long position in warrants within five consecutive business days in excess of the permissible position limit. In addition, such limits are separate and distinct from any exercise limits that may be imposed by the issuers of stock index warrants.

[17] *See* Amex Rule 1110. Under Amex Rule 1110, members are required to file a report with the Exchange whenever any account in which the member has an interest has established an aggregate position (whether long or short) of 100,000 warrants overlying the same index, currency, or currency index.

[18] *See* Section 106(f) of the Amex Company Guide. Under Section 106(f) of the Amex Company Guide, all unexercised warrants that are in-the-money will be automatically exercised on their expiration date or on or promptly following the date on which the warrants are delisted by the Exchange (provided that such warrant issue has not been listed on another organized securities market in the U.S.).

[19] *See* Section 106(e) of the Amex Company Guide. Under Section 106(e) of the Amex Company Guide, domestic index warrants (*i.e.*, warrants based on indexes for which 25% or more of the index value is represented by securities traded primarily in the U.S.) are required to utilize a.m. settlement for valuing expiring warrants as well as during the last two business days prior to the valuation date.

[20] *See* Amex Rule 462. In general, the margin requirements for long and short positions in stock index warrants are the same as the margin requirements for long and short positions in stock index options. Accordingly, the purchase of a stock index warrant will require payment in full, and the short sale of a stock index warrant will require margin of 100% of the current value of the warrant plus 15% of the current value of the underlying index less the amount by which the warrant is out-of-the-money (but not less than ten percent of the index value).

[21] *See* Amex Rule 1109 and 918C(b).

[22] *See* Amex Rules 1101 and 921.

[23] *See* Amex Rules 1102 and 923.

[24] *See* Amex Rules 1103 and 924.

[25] 15 U.S.C. § 78f(b) (1988).

[26] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[27] The Commission also notes that the Amex is presently only seeking the authority to list and trade a single issuance of warrants on the Index and that if the Exchange proposes to list and trade other products based on the Index, including other index warrants, the Exchange will advise the Commission in order to determine whether a rule filing pursuant to Section 19(b) of the Act will be necessary or appropriate. This limitation is important since the Index's limited maintenance criteria might present additional issues if the Index was proposed to be used for index options trading.

[28] The Commission notes that if the Amex determines to maintain the Index with some number of component securities other than 43, the Exchange should immediately notify the Commission to determine whether a rule filing pursuant to Section 19(b) of the Act will be required.

[29] In this regard, the Commission notes that appropriate procedures must be maintained by those responsible for maintaining the Index in order to help to prevent and to deter the misuse of any informational advantages with respect to changes in the composition of the Index. Such procedures should include, for example, appropriate informational barriers.

[30] The ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. The members of the ISG are: the Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the NASD; the NYSE; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Due to the potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock, as well as for the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) have also joined the ISG as affiliate members.

[31] In addition, the Commission notes that issuers are required to report to the Exchange all trades to unwind a warrant hedge that are effected as a result of the early exercise of domestic index warrants. This will enable the Exchange to monitor the unwinding activity to determine if it was effected in a manner that violates Exchange or Commission rules.

[32] *See supra* note 4.

as amended. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–95–58 and should be submitted by March 14, 1996.

IV. Conclusion

For the foregoing reasons, the Commission finds that the Amex's proposal to list and trade warrants based on the Vantage Point Index is consistent with the requirements of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[33] that the proposed rule change (SR–Amex–95–58), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–3919 Filed 2–21–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2830]

Virginia; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 27, 1996, and amendments thereto on January 31 and February 1, 2, and 9, I find that the Counties of Alleghany, Augusta, Bath, Botetourt, Clarke, Frederick, Highland, Loudoun, Page, Rockbridge, Rockingham, Shenandoah, and Warren, and the Independent Cities of Buena Vista, Clifton Forge, Covington, Harrisonburg, Lexington, Staunton, Waynesboro, and Winchester in the Commonwealth of Virginia constitute a disaster area due to damages caused by flooding which occurred January 19 through February 1, 1996. Applications for loans for physical damages may be filed until the close of business on March 27, 1996, and for loans for economic injury until the close of business on October 28, 1996 at the address listed below:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Albemarle, Amherst, Bedford, Craig, Fairfax, Fauquier, Greene, Madison, Nelson, Prince William, Rappahannock and Roanoke Counties in Virginia.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural co-operatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 283006 and for economic injury the number is 874300.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 14, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–3929 Filed 2–21–96; 8:45 am]

BILLING CODE 8025–01–P

[33] 15 U.S.C. § 78s(b)(2) (1988)

[34] 17 CFR 200.30–3(a)(12) (1994).

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 20, Notice No. 1]

Commuter and Intercity Passenger Railroads, Including Public Authorities Providing Passenger Service, and Affected Freight Railroads; Emergency Order Requiring Enhanced Operating Rules and Plans for Ensuring the Safety of Passengers Occupying the Leading Car of a Train

Introduction

The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) has determined that the safety of passengers and railroad employees compels issuance of this Emergency Order. Based on the historical record, rail passenger transportation in the United States is an extremely safe mode of transportation. However, recent train accidents in New Jersey and Maryland, which have claimed a total of fourteen lives, have caused DOT, FRA, and the Federal Transit Administration (FTA) (also part of DOT) to have very serious concerns about the safety of certain aspects of rail passenger transportation. The National Transportation Safety Board (NTSB) has the lead in investigating both accidents. FRA is assisting in both investigations. Although NTSB will not reach final conclusions as to probable cause of either accident for some time, NTSB's preliminary conclusions and what FRA has learned from the investigations (set forth in detail, below) compel that certain steps be taken now to reduce the risks to passengers and crew that apparently exist under certain operating conditions.

Of particular concern are those operations that involve carrying passengers in the lead car of a train over segments of track that do not have either cab signal systems (which provide the engineer with an on-board display of signal indications alongside the tracks) or automatic train stop or automatic train control systems (which automatically cause the train to stop or reduce speed where an engineer fails to respond appropriately to a trackside signal). Both of the recent accidents involved such operations. While thousands of such operations occur daily without incident, the occurrence of two fatal accidents in one week has caused DOT, FRA, and FTA to examine closely the need for immediate enhancements in the safety of such operations. Also of great concern, based on the Maryland accident, is passenger and crew egress after an accident.

In summary, this order requires that commuter and intercity passenger railroads, including public authorities providing passenger service through contracts with other railroads, and any other entities (*e.g.*, freight railroads with affected passenger service on their lines) whose actions are necessary to effectuate this order, take certain immediate steps with regard to any of their operations above 30 miles per hour that do not entail cab signal, automatic train stop, or automatic train control protections and that permit passengers to occupy the leading car (i.e., using either cab cars as the forward car in the push-pull mode or self-propelled locomotives with passenger seating (MU locomotives)). As set forth in detail below, those railroads are required to: (1) adopt and comply with an operating rule requiring that, when a passenger train stops for any reason, including a station stop, or its speed is reduced below 10 m.p.h., the train shall proceed under any speed limitations set forth in applicable railroad operating rules, and in addition, must be prepared to stop before passing the next signal; the train must maintain the prescribed speed until the next wayside signal is clearly visible and that signal displays a proceed indication, and the track to that signal is clear; (2) adopt and comply with an operating rule requiring that a crew member located in the operating cab of a controlling locomotive, cab car, or MU car, shall have a means to orally communicate and will communicate to another crew member the indication and location of each wayside signal affecting the movement of the train as soon as the signal becomes visible, for all signals which require either that the train be prepared to stop at the next wayside signal or that the train be prepared to pass the next wayside signal at restricted speed; (3) take certain measures to instruct and test employees on the aforementioned operating rules; and (4) submit to FRA an interim system safety plan for enhancing the safety of such operations that includes (i) a description of circumstances in which the leading car is permitted to be occupied by passengers; (ii) a review of operating rules relevant to such operations; (iii) plans for any short-term technology enhancements that would enhance train control; (iv) a review of crew management practices to see what steps can be taken to improve crew alertness; (v) a review of the hazards posed to passengers in the forward car by vehicles using highway-rail grade crossings; and (vi) a review of practices, in addition to marking exits, used by the railroad to inform passengers of the location and operation of emergency exits, specifying any plans for enhancing such information. In addition, each of these commuter and intercity passenger railroads, regardless of the speeds or equipment they use, is required to ensure that each emergency window on every passenger car is clearly marked on the outside and inside and that a representative sample has been inspected to make sure they are operable.

FRA may amend this order at any time to require other actions to ensure safety. For example, depending on what FRA learns from the railroads' interim safety plans and other sources after issuance of this order, it may decide that safety requires it to prohibit one or more railroads from carrying passengers in the lead car in the absence of a cab signal, automatic train stop, or automatic train control system.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR § 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. §§ 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an emergency situation involving a hazard of death or personal injury." 49 U.S.C. § 20104. These orders may immediately impose "restrictions and prohibitions . . . that may be necessary to abate the situation." (*Ibid.*)

Background

New Jersey Transit Accident, Secaucus, NJ. On February 9, 1996, at about 8:40 a.m., a near-head-on collision occurred between New Jersey Transit trains 1254 and 1107 at mile post 2.8, on the borderline of Secaucus and Jersey City, New Jersey. Speed at the point of collision was approximately 7 m.p.h. for train 1254 and 53 m.p.h. for train 1107. Of the 325 passengers on both trains, one received fatal injuries and 162 reported minor injuries. The passenger fatality and most of the nonfatal injuries to passengers occurred on train 1254, which was operating with the cab control car forward and the locomotive pushing. In addition, the engineer was fatally injured. The cab control car incurred substantial damage as a result of near-frontal impact with the heavier locomotive of train 1107, operating in the "pull" mode. The locomotive engineer on train 1107 was fatally injured as a result of "cornering" of the locomotive cab that bypassed the collision posts in the short hood. Railroad property damage was estimated at more than $3.5 million. Although the trains involved were equipped with cab signal and automatic train control (ATC) apparatus, the wayside portion of the signal system on the lines in question did not provide cab signals. The method of operation was by wayside signal indication.

Based on preliminary information derived from the joint investigation of the NTSB, FRA, and other parties, the accident appears to have resulted from failure of train 1254 to observe signal indications requiring that the train be stopped short of the junction where the accident occurred. Agencies are investigating whether lack of alertness on the part of the locomotive engineer, who was working the second portion a night "split shift," may have contributed to the failure to observe signal indications. Since the accident, New Jersey Transit has eliminated use of the night split shift, which had previously been a longstanding practice on the railroad.

MARC accident, Silver Spring, MD. On February 16, 1996, at approximately 5:40 p.m., a near-head-on collision occurred between Maryland Rail Commuter Authority (MARC) train P28616 and National Railroad Passenger Corporation (Amtrak) train PO2916 on the CSX Transportation line at Silver Spring, Maryland (milepost 8.3). The Amtrak train consisted of two locomotives in the lead and 15 cars. The MARC train consisted of a cab control car in the lead followed by two passenger coaches and a locomotive pushing the consist.

The accident resulted in 11 fatalities, consisting of 3 crew members and 8 passengers who were located in the MARC cab car. Non-fatal injuries were sustained by at least 13 additional passengers of the MARC train. As this order was prepared, one passenger remained in critical condition.

Early investigative findings by staff of the NTSB and FRA indicate that the MARC train, proceeding eastbound toward Washington Union Station on Track No. 2, passed an intermediate signal conveying an approach indication (proceed prepared to stop at next signal), made a scheduled station stop immediately past the signal, accelerated to approximately 63 miles per hour (maximum timetable speed 70 miles per hour), and then applied the train's emergency brakes upon rounding a curve and establishing sight distance for the home signal governing a crossover between the two main tracks, which is believed to have displayed a stop signal.

The MARC train proceeded past the signal and struck the midpoint of the lead locomotive of the Amtrak train, which was diverging from Track No. 2 to Track No. 1 through the crossover. The initial impact sheared off the left collision post of the MARC cab car, together with a substantial portion of the front, side, and roof structure on the left side approximately one-third of the way back along the length of the car. The impact also ruptured the left diesel fuel tank of the Amtrak lead locomotive, discharging an undetermined amount of diesel fuel into the MARC cab car. The MARC train continued substantially in line, apparently raking the second locomotive and coming to rest substantially parallel with the Amtrak train. Diesel fuel present in the cab car ignited.

Both of these accidents involved casualties in so-called "push/pull" operations with the consist being pushed by a locomotive at the rear. Control of such operations is conducted from the front of a cab control car, or "cab car," where an engineer compartment is located. Control cables run the length of the train, as do electrical lines providing power for heat, lights, and other purposes throughout the train.

Cab cars provide passenger seating, as well as providing a location from which the train is operated. Cab cars are built with the same minimum longitudinal strength as locomotives and with substantial collision posts at each end to prevent incursion of other vehicles into the occupied volume. However, cab cars are lighter than powered vehicles, and no combination of structural measures can wholly prevent harm to persons in collisions involving substantial forces. Occupants of cab cars may incur a significantly higher risk of serious injury when compared with occupants of a locomotive-hauled consist, if the cab car collides with a heavier rail vehicle or any highway or rail vehicle transporting hazardous materials. Similar risks may obtain in the case of electric multiple-unit (EMU) service and diesel multiple-unit (DMU) service, because those vehicles have a structure similar to that of a cab car.

FRA recognizes that cab cars have provided hundreds of millions of miles of safe transportation since they were introduced in the late 1950s. EMU and DMU service has been provided with a high degree of safety since the early decades of this century. However, the recent accidents noted above compel FRA to review the safety of these operations to determine whether means can be found to further reduce the risk of serious injury in the subject service.

Prior accidents further illustrate the potential risk. For instance, on August 1, 1981, at Beverly, Massachusetts, a commuter train engineer was killed and 28 passengers were injured when a commuter train in the push mode collided head-on with a freight train due to dispatcher error. On January 2, 1982, at Southhampton, Pennsylvania, a single rail diesel car commuter train collided with a gas truck at a highway-rail crossing due to malfunction of the automated warning device at the crossing (loss of shunt). On November 12, 1987, at Boston, Massachusetts, a train in the push mode struck the locomotive at the back of a train proceeding in the same direction on the same track, resulting in injuries to 3 crew members and 220 passengers, due in part to a wayside signal malfunction. At Gary, Indiana, on January 18, 1993, two EMU consists struck in a cornering collision at the approach to a gauntlet bridge, resulting in 7 fatalities and 95 persons injured, due to failure of one of the engineers to observe signal indications.

Related FRA Rulemaking Actions

FRA is engaged in a broad range of actions designed to further enhance the safety of passenger operations. In September of 1994, the Secretary of Transportation announced that FRA would develop passenger equipment safety standards in two phases: initial regulations dealing with the most critical issues in three years, and final regulations dealing with all related subjects in five years. In November 1994, Congress passed the Federal Railroad Safety Authorization Act of 1994, section 215 of which requires the Secretary to issue regulations under the timetable the Secretary had previously announced, as measured from the enactment of the statute. FRA has begun a rulemaking concerning comprehensive passenger equipment safety standards. A Passenger Equipment Working Group, including representatives of passenger operators, employee representatives, rail passenger organizations, and States, assisted by railway suppliers, began work last summer on proposed rules. An Advance Notice of Proposed Rulemaking describing the issues under consideration by the working group will be published this spring, followed by one or more notices of proposed rulemaking on issues such as the following:

- Inspection, testing and maintenance of passenger equipment;
- Crashworthiness of passenger equipment, including cab car and passenger coach structural strength;
- Emergency features integral to the train (*e.g.*, emergency lighting, operation of doors, access points in the event equipment is on its side);
- Standards for high-speed equipment; and
- Passenger car interiors.

The working group will also prepare a second Notice of Proposed Rulemaking (NPRM) for passenger power brakes (which may be combined with other subject matter). FRA anticipates publication of an NPRM on passenger equipment safety measures in 1996, followed by a final rule in 1997, as required by law. Issues requiring further research and technology development may be included in a subsequent NPRM.

Under the same statutory authority, FRA has also established an Emergency Preparedness Working Group for rail passenger service that is broadly representative of interested parties. This effort builds on a process of research and consultation initiated in 1993. The working group is presently preparing an NPRM addressing issues such as on-board emergency equipment, availability of first aid, liaison with emergency responders, communication capability, and advance planning. Publication of the NPRM is anticipated in early summer.

The measures taken in this emergency order address matters of immediate concern as identified in the investigation of recent accidents. These measures will be integrated into the process of dialogue and discussion already underway with respect to passenger equipment safety and emergency preparedness. However, FRA believes that public safety requires the actions called for by this order now rather than waiting for the rulemaking process to run its course.

The Need for Action

Although definitive conclusions have not been reached, preliminary indications are that both the Secaucus and Silver Spring accidents could have been prevented had wayside signal indications been followed, and the death tolls might have been reduced significantly had occupied cab cars not been the lead cars. Additionally, the Silver Spring accident indicates a need to ensure that emergency windows are clearly marked and operable. FRA believes that certain immediate measures are necessary to prevent a recurrence of these problems.

There is no evidence that push/pull or EMU operations are in any way over represented in passenger train accidents. All rail passenger operations, like other forms of transportation, involve some risk of injury due to collision with other vehicles or fixed structures. In certain accident scenarios (*e.g.*, where the passenger consist in question is impacted from the rear), push-pull operations with the cab car forward actually offer greater protection. However, in collisions involving the front of the passenger train, cab car forward and MU operations do present an increased risk of severe personal injury or death when compared with locomotive-hauled service. This risk is of particular concern where operations are conducted at relatively higher speeds, where there is a mix of various types of trains, and where there are numerous highway-rail crossings over which large motor vehicles are operated.

As the accidents of past two weeks illustrate, this potential for accidents of greater severity warrants a review of measures taken to prevent such accidents. Since most train collisions on the railroad result from human factors, the most effective preventive measure is a highly effective train control system. Cab signal systems serve an important safety purpose because they provide a constant display of the governing signal indication. This provides a corrective measure should an engineer fail to note, forget, or misread a restrictive wayside signal indication. Even greater security is provided by a train control system capable of intervening should the engineer fail to observe signals and operating rules for whatever reason (*e.g.*, lack of alertness due to fatigue; sudden incapacitation, loss of situational awareness due to unusual events). Such systems are referred to as automatic train control or automatic train stop systems. New technologies currently under development and demonstration that can prevent collisions and overspeed derailments are known as "positive train separation" (PTS), "positive train control" (PTC), or advanced train control (ATCS) systems.

1. Necessary Rule Changes

With regard to cab car forward and MU operations over territory lacking at least cab signals, the immediate need is to ensure that signal indications are followed. FRA believes that certain operating rules, already in place on many railroads, will assist engineers in remembering and adhering to signal indications. One rule will require that signal indications for an approach or less favorable than an approach be called out by the engineer as they are seen. A designated crewmember elsewhere in the train will acknowledge the communication and, in the absence of an appropriate response to a restrictive indication that has been communicated, take action to ensure the appropriate response. This will serve as a simple device to help the engineer remember to abide by signal indications and will add safety redundancy by involving other crew members in responsibility for safety with regard to compliance with signals.

The second rule will require that, if a passenger train enters a block on a signal indication and the train stops for any reason, including a station stop, or its speed is reduced below 10 m.p.h., the train shall proceed under speed limitations set forth in existing applicable operating rules, and in addition, must be prepared to stop before passing the next signal; the train must maintain the prescribed speed until the next wayside signal is clearly visible and that signal displays a proceed indication, and the track to that signal is clear. (For purposes of this order, a "block" is a length of track of defined limits the use of which is governed by wayside signal indications.) This will prevent situations where a signal displays an aspect less favorable than "clear" prior to a station stop but the engineer, after stopping and resuming movement, forgets that he or she should be operating at a reduced speed. This very well may be what happened in the Silver Spring accident. Under this rule, if the next signal is clear, timetable speed may be resumed. However, if the next signal requires a stop, the engineer will have the train under control and be prepared to stop short of the signal. This rule will presumably result in a certain amount of slowing of operations between station stops and the next forward signal, but FRA believes such relatively minimal delay is warranted to ensure safety.

2. Interim Safety Plans

FRA believes there is a broader need to have railroads carefully evaluate their passenger operations with a view toward enhancing the safety of those operations, with particular attention given to the safety of operations where passengers are in the lead car and to ways that train control systems might be upgraded. FRA has concluded that the safety of such operations can be enhanced by having each railroad develop an interim system safety plan addressing these subjects. This will both focus the attention of those railroads on avoiding occurrences similar to the recent accidents and provide FRA with detailed information allowing it to determine what further action may be necessary.

Therefore, this order will require railroads operating scheduled intercity or commuter rail service to conduct an analysis of their operations and file with FRA an interim safety plan indicating the manner in which risk of a collision involving a cab car is addressed. Railroads are encouraged to implement identified opportunities for risk reduction immediately. Upon review of these plans and the subject operations, FRA will determine whether further action is warranted.

Plans will be reviewed with the following factors in mind:

- Railroads operating trains with the benefit of cab signals incur reduced risk. Augmentation of cab signals with ATC or PTC further reduces risk.
- Lower speed operations (*e.g.*, not to exceed 30 miles per hour) involve less risk because of lower potential collision forces.
- The presence of automated warning devices, particularly flashing lights with gates, reduces risk of highway-rail crossing accidents involving heavy vehicles, particularly if crossing surfaces and approaches do not create a "hump" capable of hanging up a long, low truck or trailer.

Moreover, each interim safety plan will address these specific issues:

Passenger occupancy of cab/MU cars in lead. Each interim safety plan must include a review of the use of leading cab cars and MU cars for transportation of passengers. In the Silver Spring accident, most train occupants were located in the cab car, even though two very lightly loaded passenger coaches were available for occupancy. Some operating authorities limit access to cab cars when seating capacity is not required. This order asks other authorities to review this potential for risk reduction. For instance, an operator whose service gathers small numbers of passengers on branch lines, with heavier loadings at stops on a cab-signal-equipped main line, might direct passengers to trailing coaches until the train arrives on the main line.

Operating rules. As noted above, this order requires early amendment of operating rules to make passenger operations subject to the "delayed in block" provisions of most existing rule books and to require engineer-to-train crew communication of certain signals. These steps will enhance safety by adding a layer of redundancy in safety procedures where presently none exists. In addition to these steps, the order requires passenger railroads to review other operating rules applicable to their particular methods of operation to determine if enhancements in safety can be achieved consistent with provision of efficient rail passenger service.

Adverse operating conditions. Crew performance and other aspects of operational safety can be affected by unusual conditions such as heavy snow, fog, high water, and other unusual conditions. This order requires a review of existing procedures to determine if reasonable enhancements in safety can be made by compensating for the challenges these conditions pose to system performance.

Short-term technology enhancements. Where the railroad and all trains are not already cab signal/ATC-equipped, positive train control systems will offer the most secure means of preventing train collisions. However, PTC systems remain under development and will be deployed over a period of several years. The order requires review of possible technology enhancements that can be achieved over a short time period. For instance, FRA believes that virtually all passenger operations include the use of an alerting device that will stop the train should the engineer become incapacitated. However, certain freight operations on the same railroad may be conducted without such a device. Depending upon the number of units involved, equipping remaining trains with alerting devices (a readily available item) could close a gap in accident prevention at relatively low cost.

Crew management. Following the accident of February 9, New Jersey Transit found that it was able to eliminate night split shifts without adversely affecting operations. Night split shifts present special problems because of the effect of biological rhythms and fatigue on human performance. This order requires other passenger operators using cab car/MU forward trains to review their management of operating crews to determine if opportunities exist for risk reduction similar to the action taken by New Jersey Transit. FRA emphasizes that the issue of on- and off-duty periods is governed by the hours of service law, as codified at 49 U.S.C. 21102–21108, 21303–21304. The order requires passenger operators to consider safety improvements that may be undertaken voluntarily in a manner that is consistent with statutory law. FRA is also authorized to approve pilot projects involving variances from the periods specified by the statute upon petition by the railroad and designated representatives of the employees involved.

Highway-rail crossings. Cab-forward and MU operations pose a somewhat heightened risk of severe injury for passengers should an accident occur, in comparison to locomotive-hauled passenger coaches. Operators should give consideration to closer interface with private crossing holders that use the crossings for truck access, give greater attention to liaison with law enforcement authorities, and explore other means that may reduce risk at both public and private crossings. Accelerated application of locomotive alerting lights (already authorized by regulation and required by statute) may offer another opportunity for risk reduction. This order requires that each railroad's interim safety plan address these grade crossing issues in the context of cab-forward and MU operations. FRA is very concerned about the safety of such operations in absence of a plan to address grade crossing hazards.

Information on emergency exits. The Silver Spring accident has raised serious concerns about whether the MARC passengers had sufficient information about the location and operation of emergency exits to enable them to find and use those exits in a crisis. FRA believes it would be very useful for all commuter and intercity passenger railroads to review their practices, in addition to marking the exits, for providing this information.

3. Emergency Exits

Finally, there is a need to ensure that emergency exits are clearly marked and in operable condition on all passenger lines, regardless of the equipment used or train control system. FRA's regulations generally require that all passenger cars be equipped with at least four emergency opening windows, which must be designed to permit rapid and easy removal during a crisis situation. The investigation of the Silver Spring accident has raised some concerns that at least some of the occupants of the MARC train attempted unsuccessfully to exit through the windows. Whether those same people eventually were among those who exited safely, or whether those persons were attempting to open windows that were not emergency windows is not known at this time. However, there is sufficient reason for concern to require that measures be taken to ensure that such windows are readily identifiable and operable when they are needed. Accordingly, the order requires that any emergency windows that are not already legibly marked as such on the inside and outside be so marked, and that a representative sample of all such windows be examined to ensure operability. (FRA Safety Glazing Standards, 49 CFR Part 223, require that each passenger car have a minimum of four emergency window exits "designed to permit rapid and easy removal during a crisis situation.")

Finding and Order

FRA concludes that certain current conditions and practices on commuter and intercity passenger railroads pose an imminent and unacceptable threat to public and employee safety. Of greatest concern are push-pull and MU operations lacking the protection provided by cab signal, automatic train stop, or automatic train control systems. I find that the unsafe conditions discussed above create an emergency situation involving a hazard of death or injury to persons. Accordingly, pursuant to the authority of 49 U.S.C. § 20104, delegated to me by the Secretary of Transportation (49 CFR § 1.49), it is hereby ordered that each commuter and intercity passenger railroad, and any other entity (e.g., freight railroads over whose lines affected passenger operations are conducted) whose actions are necessary to effectuate the directives in this order, take the following actions:

(1) Delayed in Block Rule.

Note: This rule applies to all push-pull and MU operations unless cab signal, automatic train stop, or automatic train control is in operation, speeds do not exceed 30 m.p.h., or within yard or terminal limits as specified for this purpose by the railroad.

• (A) Within 10 days of this order, have in effect, publish in its code of operating rules, and comply with a rule that requires: If a passenger train enters a block on a signal indication and the train stops for any reason, including a station stop, or its speed is reduced below 10 m.p.h., the train shall proceed under speed limitations set forth in existing applicable railroad operating rules, and in addition, must be *prepared to stop before passing the next signal.* The train must maintain the prescribed speed until the next wayside signal is clearly visible and that signal displays a proceed indication, and the track to that signal is clear. A copy of the rule will be provided to the FRA Office of Safety Assurance and Compliance in care of James T. Schultz, Staff Director, Operating Practices.

• (B) Within 30 days of the issuance of the railroad's rule, a railroad operating supervisor shall personally contact each engineer and conductor in passenger service and inform them in a face-to-face meeting of the requirements of that rule. Such briefing shall be documented and such documentation shall be available for FRA review upon request, including date, time, location, crew members contacted, and supervisor making the contact.

• (C) Within 60 days of the issuance of the railroad's rule, each engineer/conductor in such passenger service shall receive an unannounced operational ("efficiency") test on the rule which requires a full stop at the signal ahead; and, within 90 days of rule publication, an on-board operational monitoring ride shall be conducted by an operating supervisor of the railroad to ensure a complete understanding of rule provisions. Such tests and operational monitoring checks shall be documented and such documentation shall be available for FRA review upon request, including date, time, location, crew members involved, and supervisor making the test/monitoring ride.

• (D) The railroad's program of operational tests and inspections under 49 CFR Part 217 shall be revised as necessary to include this rule, and shall specifically include a minimum of two such tests per year for each passenger engineer.

(2) Crew Communications Rule

Note: This rule applies to all push-pull and MU operations unless cab signal, automatic train stop, or automatic train control is in operation, speeds do not exceed 30 m.p.h., or within yard or terminal limits as specified for this purpose by the railroad.

• (A) Within 10 days of this order, have in effect, publish in its operating rules, and comply with a rule that requires: A crew member located in the operating cab of a controlling locomotive, cab car, or MU car, shall have means to communicate orally and shall communicate the indication and location of each wayside signal affecting the movement of the train as soon as the signal becomes visible, for all signals which require either (1) that the train be prepared to stop at the next wayside signal, or (2) that the train be prepared to pass the next wayside signal at restricted speed. In multiple track territory, the crew member shall include the affected track number. A copy of the rule shall be provided to the FRA Office of Safety Assurance and Compliance in care of James T. Schultz, Staff Director, Operating Practices.

• (B) A designated crew member located on a trailing unit or car shall immediately acknowledge the transmission, and confirm the information to the crew member(s) on the controlling locomotive by repeating the message. If the designated crew member fails to acknowledge the communication, the engineer must ascertain at the next scheduled stop why the message is not being confirmed. If necessary due to radio equipment failure, alternative means shall be established by the operating crew (e.g., via intercom, cellular telephone, etc.) to accomplish the procedure.

• (C) If the engineer fails to control the train movement in accordance with either a wayside signal indication or other restrictions imposed upon the train, the designated crew member in a trailing unit or car shall at once communicate with and caution the engineer regarding the restriction, and, if necessary, take appropriate action to ensure the safety of the train, including stopping the movement if appropriate.

• (D) Within 30 days of the issuance of the railroad's rule, a railroad operating supervisor shall personally contact each engineer and conductor in passenger service and inform them in a face-to-face meeting of the requirements of this rule. Such briefing shall be documented and such documentation shall be available for FRA review upon request, including date, time, location, crew members contacted, and supervisor making the contact.

• (E) Within 60 days of the issuance of the railroad's rule, each engineer/conductor in such passenger service shall receive an unannounced operational "efficiency" test on the rule; and, within 90 days of rule publication, an on-board operational monitoring ride shall be conducted by an operating supervisor of the railroad to ensure a complete understanding of rule provisions. Such tests and operational monitoring checks shall be documented and such documentation shall be available for FRA review upon request, including date, time, location, crew members involved, and supervisor making the test/monitoring ride.

• (F) The railroad's program of operational tests and inspections under 49 CFR Part 217 shall be revised as necessary to include this rule, and shall specifically include a minimum of two such tests per year for each passenger engineer.

(3) Emergency Egress: Marking and Inspecting Exits

• (A) Within 60 days of this order, ensure that each emergency exit location is marked both inside the car for passenger and crew information and, with regard to emergency window exits, on the exterior of the car as well for emergency responders. Markings for egress from inside the car shall be accompanied by clear and legible instructions for operation of the exit. Such markings must be clearly visible and legible at egress locations. This paragraph does not require action where reasonably conspicuous and fully legible markings and instructions already exist.

• (B) Immediately begin, and within 60 days of this order complete, a program to test a representative sample of emergency window exits on cars in its fleets to verify proper operation. Defective units will be repaired before the car is returned to service. Additionally, when a defective exit is discovered, all exits on that specific series/type of car will be tested and every defective exit replaced. Railroads must report to FRA when such action is necessary, and shall include a timetable for window inspection and replacement on the car series to remedy the problem in the most expedient manner.

• (C) Records of the date, car number, and verification of proper exit operation shall be maintained and available for FRA review upon request. Each railroad shall also verify emergency exit operation as part of routine vehicle maintenance cycles.

(4) Interim System Safety Plans

Each authority operating or contracting for the operation of push-pull, EMU or DMU service (including Amtrak) shall, not later than 45 days from this order, submit to FRA an interim system safety plan for the purpose of enhancing the safety of such operations. In developing such plans, the authority shall provide opportunity for the riding public and designated representatives of railroad employees to comment on proposed actions that may affect the quality of service, including passenger safety.

The plan shall address the following hazards associated with passenger occupancy of lead units:

• Train-to-train collisions.

• Derailments giving rise to the hazard of impact with fixed structures.

• Collisions with heavy vehicles at highway-rail crossings.

The plan shall take into consideration the overall safety of all passengers and crew members and shall, at a minimum, address the following opportunities for risk reduction:

(A) *Use of cab car/MU car.* The authority shall specify the circumstances under which occupancy of a cab or MU car in the lead position is permitted, by route and train assignment. The authority shall propose or report appropriate modifications in such practices, taking into consideration service needs (*e.g.*, equipment capacity, passenger loadings) and safety issues (*e.g.*, train densities, method of operation, availability of cab signals and automatic control, issues related to standing passengers, grade crossing exposure, and other relevant factors).

(B) *Operating rules.* The authority shall review railroad operating rules and

practices pertinent to the hazards listed above to determine if further enhancements in safety are warranted and advise FRA as to what action is necessary to enhance the level of safety. Changes in existing rules shall be specified. In conducting this review, the operating authority shall analyze the measures imposed in sections 1 and 2 of this order and may propose alternative approaches that ensure the same enhancements in safety associated with those measures.

(C) *Adverse conditions.* In conducting the review of railroad operating rules and practices, consideration shall be given to adverse or unusual operating conditions such as weather (*e.g.*, fog, heavy rain or snow, flooding, etc.).

(D) *Short-term technology enhancements.* The authority shall consider short-term enhancements in technology that may improve the safety of train operations, such as use of alerting devices, equipping of additional locomotives with cab signal/ATC apparatus (where in effect on the territory), or other available enhancements to enhance engineer performance or provide warning of operation in excess of authority provided by the wayside signal system. In addition, the authority shall consider whether the installation of additional signals on any particular line would appreciably reduce the risk of train collisions.

(E) *Crew management.* The authority shall review crew management practices in light of contemporary literature regarding shift work and cumulative fatigue to determine if the alertness and performance of employees can be promoted by changes in those practices. Special attention shall be given to the issue of night split shifts.

(F) *Highway-rail grade crossings.* The authority shall review risks to passengers associated with occupancy of cab or MU cars in the lead while passing over highway-rail crossings, particularly crossings utilized by heavy vehicles and vehicles transporting hazardous materials, and shall address measures that can reduce these risks.

(G) *Emergency exit notification.* The authority shall review methods it uses, in addition to marking emergency exits, to inform passengers of the location and operation of those exits, such as flyers dropped on seats, announcements to passengers, explanations on the face of passenger tickets, etc. The authority shall specify any plans it has to increase passenger awareness of the location and operation of emergency exits.

Upon receipt of plans responsive to the above-referenced requirements, the Administrator, in consultation with the FTA Administrator, will determine whether other mandatory action appears necessary to address hazards associated with the subject rail passenger service.

Relief

Petitions for special approval to take actions not in accordance with this order may be submitted to the Associate Administrator for Safety, who shall be authorized to dispose of those requests without the necessity of amending this order.

Penalties

Any violation of this order shall subject the person committing the violation to a civil penalty of up to $20,000. 49 U.S.C. § 1301. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. § 20112.

Effective Date and Notice to Affected Persons

This order shall take effect at 12:01 a.m on February 21, 1996. This notice will be published in the **Federal Register** as soon as possible. Prior to publication, copies of this notice will be delivered by overnight mail or facsimile to the affected passenger railroads, public authorities, and railroad labor organizations.

Review

Opportunity for formal review of this Emergency Order will be provided in accordance with 49 U.S.C. § 20104(b) and section 554 of Title 5 of the United States Code.

Administrative procedures governing such review are found at 49 CFR Part 211. *See* 49 CFR §§ 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, DC, on February 20, 1996.

Jolene M. Molitoris,

Administrator.

[FR Doc. 96–4204 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–06–P

Office of the Secretary

Criteria and Application Process for the Secretary of Transportation's Community Partnership Awards

AGENCY: DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation (DOT) announces procedures and guidelines for nominating community programs to receive the Secretary of Transportation's Community Partnership Awards. These annual awards will recognize exceptional community partnerships that have implemented innovative transportation-related safety programs in their communities.

DEADLINE DATE: Applications for the Secretary of Transportation's Community Partnership Awards must be postmarked on or before April 19, 1996.

MAILING ADDRESSES: Applications and all documents are to be submitted to: Military Assistant to the Secretary, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street SW., Room 10200, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Wigle, Special Assistant to the Secretary, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street S.W., Room 10200, Washington, DC 20590, (202) 366–9361.

SUPPLEMENTARY INFORMATION:

Background

This Notice solicits nominations for the Secretary of Transportation's Community Partnership Awards and provides relevant information on the application and selection process. This award program recognizes exceptional community programs which have successfully implemented innovative programs to improve transportation safety.

Purpose

Transportation safety begins at home. Be it a parent securing a child in a safety seat or a bike helmet or a child reminding a car operator to buckle-up, those safe behaviors are carried out by individuals across the nation millions of times each day. It has been shown time and again that the way to instill safe behavior in people is to reach them through community programs and activities. One of the most significant developments in the fight to reduce transportation-related deaths, injuries and their costs is the emergence of local coalitions and programs addressing a community's transportation safety problems. The Secretary of Transportation has established the Secretary of Transportation's Community Partnership Awards to recognize and honor outstanding community transportation safety programs because of the important and vital role they play in keeping Americans safe each time they travel.

Award Categories

Four (4) awards will be presented in the following three (3) categories:

• Child Transportation Safety—One award will be presented to recognize an exemplary community program partnership which addresses transportation safety issues involving children under the age of 16.

• Transportation Safety—Two awards will be made in this category to recognize community program partnerships addressing identified or potential transportation safety problems. One award, of the two, will recognize a program addressing multimodal transportation safety issues. Multimodal issues include traffic (bicycle, pedestrian, and roadway) boating, transit, railroad, aviation, pipeline, transportation of hazardous materials, and motor carrier safety issues; and

• Safe Communities—One award will be presented to a "Safe Community" program. In addition to transportation-related injuries, a Safe Community program addresses other types of injury such as: falls and those related to sports, occupation, and violence. This award will be made to a community transportation safety program that has shown innovation in moving toward this comprehensive injury prevention approach, has included a broad array of partners (including both traditional transportation partners and new partners from the health, medical, and business communities) and is focused on reducing injuries and associated costs.

Presentation of Awards

Recipients will receive an award and letter of commendation from the U.S. Secretary of Transportation. In addition, each recipient will be featured in an awards publication designed to share each program's success story as an illustration of creative solutions used to build safer and healthier communities. Awards will be presented at a special luncheon program during the Department of Transportation's "*Moving Kids Safely '96: Building Safe Communities*," child safety conference to be held June 9–12, 1996 in Vienna, Virginia.

Further information about the award ceremony will be provided once the award recipients have been selected and notified. For further information about the conference, please call 1–800–784–1215.

Application Process

Attach a cover sheet stating the program's name, address, telephone and fax number, and contact person. A program may only be nominated in one award category; please specify on the cover sheet the award category for which the program is being nominated. To be eligible the application must contain a brief summary statement (no longer than one page) describing the program, how it has met the identified needs of the community, and its impact on the community. Beginning on a separate piece of page, please provide detailed information describing:

• the community being served by the program;

• the problem(s) or potential problem(s) and how they were identified;

• the program's goals, objectives, and outcomes;

• program partnerships; and

• how this program meets the identified transportation safety needs of the community and how its effectiveness is measured.

Review Criteria

Nominations will be evaluated based on the following criteria:

• Problem Identification and Community Assessment. The program demonstrates an understanding of the nature of the transportation-related fatalities, injuries and non-injury incidents within the community. This includes an understanding of the causes, the seriousness of the injuries, the risk factors, and the costs to the community. In addition, the program demonstrates an understanding of the community it serves, including local resources.

• Community Partnerships. The program demonstrates the importance of partnerships in determining and solving transportation-related safety problems by forging relationships with a variety of stakeholders such as local government, law enforcement, emergency medical services, hospitals, rehabilitation specialists, schools, and businesses. If the program is multimodal, representatives of the different transportation modes are involved.

• Innovative and Comprehensive Approaches. The program demonstrates visible community support by involving community members in prioritizing identified problems, identifying solutions unique to the community and implementing those solutions. It also demonstrates unique partnerships, creative approaches for involving partners, and solving community safety problems or potential risk situations using multiple strategies for addressing identified problems.

• Evidence of Concrete, Quantifiable Results. The program has achieved measurable results showing the effectiveness of its strategies in determining improvements in identified transportation safety problems and reduction of related costs.

Program Eligibility

To be eligible, a program must be a coordinated, comprehensive activity that addresses an identified or potential transportation-related safety problem(s) within a community. The community being served by the program should be defined by the applicant. Definitions of "community" include the citizenry in neighborhoods, towns, cities, villages, counties, etc. In addition, a nominated community program must have been operational for at least one year.

Review Process

An initial review of all applications will be conducted by DOT staff to determine completeness and compliance with the award criteria. Applications will then be submitted to a panel of reviewers that includes representatives from Departmental agencies, partner organizations, and community advocacy groups. Each award category will have a separate panel of reviewers. A numerical score will be given to each of the criteria segments. The criteria will be weighted equally.

Entry Rules

An original and three (3) copies of the nomination must be submitted to Commander Edward Gleason, Military Assistant to the Secretary, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street SW., Room 10200, Washington, DC 20590, and postmarked on or before April 19, 1996. Delivery by certified mail is recommended. Facsimile applications will not be accepted.

Issued this 15th day of February 1996, in Washington, DC, by: Commander Edward Gleason, Military Assistant to the Secretary.

Edward Gleason, Commander,

Military Assistant to the Secretary.

[FR Doc. 96–3932 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Summary Notice No. PE–96–5]

Petitions for Exemption; Summary of Petitioners Received; Disposition of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this

notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 8, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 16, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 28344.
Petitioner: Trans Continental Airlines, Inc., et al.
Sections of the FAR Affected: 14 CFR 91.805.
Description of Relief Sought/ Disposition: To allow Trans Continental Airlines, Inc., and other petitioners to operate their DC–8 airplane(s) with "flaps-50," if necessary, for landings at St. Thomas, U.S.V.I. In their petition, they seek an emergency exemption under § 11.27(j) for this emergency relief flight(s) to St. Thomas in order to transport medical supplies, water, food, or other items designated as necessary by the Federal Emergency Management Agency (FEMA) to the Hurricane Marilyn victims in St. Thomas. *Grant, September 21, 1995, Exemption Nos. 6167–6173, 6198–6225, and 6231–6244.*

[FR Doc. 96–3980 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–8]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 8, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 16, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28452.
Petitioner: Boeing Commercial Airplane Group.
Sections of the FAR Affected: 14 CFR 25.562(b)(2).
Description of Relief Sought: To permit the Boeing Commercial Airplane Group relief from the floor warpage testing requirements for flight deck seats on Boeing Model 737–600/–700/–800 airplanes.

Docket No.: 28268.
Petitioner: County of Charleston.
Sections of the FAR Affected: 49 U.S.C. subtitle VII, part A, chapter 417, sections 41708, 41709, and 41738; and chapter 447, sections 44701, 44702, and 44705.
Description of Relief Sought: To permit Charleston County to continue to perform mosquito abatement functions without meeting certain reporting and aircraft fitness requirements and without obtaining a part 135 or a part 137 operating certificate.

Dispositions of Petitions

Docket No.: 22286.
Petitioner: Finnair OY.
Sections of the FAR Affected: 14 CFR 21.197.
Description of Relief Sought/ Disposition: To extension Exemption No. 4598, as amended, which permits Finnair to allow the use of a special flight permit with continuing authorization for its DC–10–30 aircraft, Registration No. N345HC. *Grant, December 18, 1995, Exemption No. 4598E.*

Docket No.: 22441.
Petitioner: United Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.433(c)(1)(iii); 121.440(a); 121.441(a)(1) and (b)(1); appendix F to part 121; and SFAR 58.
Description of Relief Sought/ Disposition: To extend Exemption No. 3451, as amended, which permits United Airlines, Inc., (UAL) to combine recurrent flight and ground training and proficiency checks for UAL's pilots in command (PIC), seconds in command (SIC), and flight engineers (FE) in a single annual training and proficiency evaluation program, i.e., a single-visit training program. *Grant, January 29, 1996, Exemption No. 3451J.*

Docket No.: 25351.
Petitioner: USAir, Inc.
Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5005, as amended, which permits USAir to utilize certain foreign original equipment manufacturers (OEM) and related repair facilities to perform maintenance, preventive maintenance, and alterations on the components, parts, and appliances produced by these foreign manufacturers and used on British Aerospace BAC–111 and BAe–146; Boeing B–737–300, B–737–400, B–757, and B–767–200ER; and Fokker F–28 and F–100 aircraft operated by USAir. The amendment lists only two foreign OEMs that USAir is authorized to use under the authority of the exemption. *Grant, December 29, 1995, Exemption No. 5005E.*

Docket No.: 25390.
Petitioner: Airbus Industrie.
Sections of the FAR Affected: 14 CFR 145.35.
Description of Relief Sought/ Disposition: To amend Exemption No. 6029, which permits the production units of the members and associated partners of the Airbus Industrie consortium to be certificated collectively under Airbus Industrie as a U.S. foreign repair station to support maintenance of U.S.-registered A300, A310, A320, A321, A330, and A340 series aircraft. The amendment corrects an FAA omission in the original exemption and updates the authority cites. *Grant, December 28, 1995, Exemption No. 6029A.*

Docket No.: 25993.
Petitioner: A. J. Dunn et al.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought/ Disposition: To permit exemption from the Age 60 rule. *Denial, January 25, 1996, Exemption No. 6394.*

Docket No.: 26183.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 121.434 and 121.438.
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5400, as amended, which provides relief from 14 CFR appendix H to part 121, permitting the use of a Level C (Phase II) simulator for pilot-in-command training and checking. The amendment deletes from the exemption all reference to Air Carrier Operations Bulletin (ACOB) 8–88–1. The petitioner notes that Amendment No. 121–248 to §§ 121.434 and 121.438 supersedes the provisions of ACOB 8–88–1 and makes compliance with ACOB a moot point. The FAA concurs with this point and no longer requires compliance with this ACOB. *Grant, January 29, 1996, Exemption No. 5400B.*

Docket No.: 26532.
Petitioner: McCall & Wilderness Air, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5381, as amended, which permits appropriately trained pilots employed by McCall & Wilderness Air, Inc. (McCall), to remove and reinstall passenger seats in aircraft that are type certificated for nine or fewer passenger seats and used in operations conducted by McCall under part 135. The amendment changes the name McCall Air Taxi, Inc., to McCall & Wilderness Air, Inc. *Grant, December 29, 1995, Exemption No. 5381B.*

Docket No.: 27346.
Petitioner: Fairchild Aircraft Incorporated.
Sections of the FAR Affected: 14 CFR 91.531(a)(3).
Description of Relief Sought/ Disposition: To extend Exemption No. 5367, as amended, which permits Fairchild to allow its type-rated company pilots to conduct production and experimental test flights in the SA227–CC and SA227–DC airplanes without a second in command (SIC). It also permits all operators of Fairchild commuter category airplanes (SA227–CC, SA227–DC, and other airplanes on the same type certificate) to conduct flight operations without a designated SIC pilot, provided the airplane is type certificated for single-pilot operations and is carrying nine or fewer passengers. *Grant, January 29, 1996, Exemption No. 5367C.*

Docket No.: 27469.
Petitioner: L.A.B. Flying Service.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5804, as amended, which permits appropriately trained pilots employed by L.A.B. Flying Service (L.A.B.) to remove and reinstall passenger seats in aircraft that are type certificated for nine or fewer passenger seats and used in operations conducted by L.A.B. under part 135. The amendment includes the addition of a Piper PA–18, as well as revisions to the conditions and limitations of the prior exemption. *Grant, December 29, 1995, Exemption No. 5804A.*

Docket No. 28361.
Petitioner: ValuJet Airlines, Inc.
Sections of the FAR Affected: 14 CFR 91.203 (a) and (b).
Description of Relief Sought/ Disposition: To allow ValuJet to operate temporarily its U.S.-registered aircraft following the incidental loss or mutilation of the airworthiness certificate or the registration certificate, or both. *Grant, January 26, 1996, Exemption No. 6395.*

[FR Doc. 96–3979 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–7]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 8, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT:
Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 16, 1996.

Donald P. Byrne,
Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 011SW.

Petitioner: Agusta S.P.A.

Sections of the FAR Affected: 14 CFR 27.1(a).

Description of Relief Sought: To allow Agusta to increase the maximum gross weight of the Agusta A109 series helicopters from 6,000 to 7,000 pounds.

Docket No.: 28383.

Petitioner: Matsushita Avionics Systems Corporation.

Sections of the FAR Affected: 14 CFR 21.303(g) and 21.325(b)(3).

Description of Relief Sought: To permit Matsushita Avionics Systems Corporation (MAS) to produce parts under a Parts Manufacturer Approval at its divisional facility located in Osaka, Japan. The exemption, if granted, would also permit Designated Manufacturing Inspection Representatives employed by MAS to issue Export Airworthiness Approvals or Identification Tags (Form 8130–0) for products shipped from the Osaka facility.

Docket No.: 28440.

Petitioner: Companhia Eletromecanica Celma.

Sections of the FAR Affected: 14 CFR 145.47(b)

Description of Relief Sought: To permit Companhia Eletromecanica Celma, an FAA-certificated foreign repair station located at Petropólis (FAA Certificate No. EM4Y159M) to substitute the calibration standards of the Brazilian national standards laboratory, Instituto Nacional de Metrologia, Normalização e Qualidade Industrial, for the calibration standards of the U.S. National Institute of Standards and Technology for its inspection and test equipment.

[FR Doc. 96–3978 Filed 2–21–96; 8:45 am]
BILLING CODE 4910–13–M

International Civil Aviation Organization (ICAO), Committee On Aviation Environmental Protection (CAEP)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise interested parties of a briefing to be given by The Office of Environment and Energy on the results of the third meeting of the ICAO/CAEP Montreal, Canada, December 5–15, 1995. The ICAO/CAEP is a group of aviation experts from government and industry responsible for recommending international noise and emissions standards for civil aircraft and engines.

DATES: The meeting will be held on March 1, 1996.

TIME: 1:00 pm to 3:00 pm.

ADDRESS: The meeting will be held at Federal Aviation Administration, Washington, DC, in room 5 AB.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Muldoon, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, fax (202) 267–5594.

In 1992, four working groups were established under the CAEP to pursue the work of the committee. Terms of reference were developed to undertake specific studies related to the control of aircraft noise and gaseous emissions from aircraft engines. The working groups completed their studies and the findings were presented in Bonn, Germany, June, 1995. A briefing was provided by The Office of Environment and Energy on the results of that meeting on Sept. 15, 1995. The primary purpose of the December ICAO/CAEP meeting was to evaluate the analyses and recommendations of the working groups and to establish a future work program for the Committee.

The agenda for the March meeting will include:

- An overview of the meeting
- The disposition of recommendations on Noise and Emission Stringency by CAEP
- Next steps in the ICAO process
- Future CAEP work
- Question, comment and answer period

Attendance is open to the public, and will only be limited by space available. Arrangements can be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 7 calendar days before the meeting.

Jim Muldoon,
Office of Environment and Energy.

[FR Doc. 96–3966 Filed 2–16–96; 1:36 pm]
BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Use the Revenue from a Passenger Facility Charge (PFC) at Pellston Regional Airport of Emmet County, Pellston, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Pellston Regional Airport of Emmet County under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 25, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond L. Thompson, Airport Manager, of the County of Emmet at the following address: Pellston Regional Airport of Emmet County U.S. 31 North Pellston, Michigan 49769.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Emmet under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon B. Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7281). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Pellston Regional Airport of Emmet County under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 7, 1996, the FAA determined that the application to use the revenue from a PFC submitted by the County of Emmet was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 22, 1996.

The following is a brief overview of the application.

PFC Application No.: 96–03–U–00–PLN;

Level of the PFC: $3.00;

Actual charge effective date: March 1, 1993;

Estimated charge expiration date: January 31, 1998;

Total approved net PFC revenue: $177,717.00; and

Brief description of proposed project(s): Rehabilitate Taxiway A; Rehabilitate medium intensity runway lighting (MIRL) for Runway 5/23; Purchase snow removal equipment (SRE).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs; air taxies and charters.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Emmet.

Issued in Des Plaines, Illinois, on February 14, 1995.

Benito DeLeon,
Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–3975 Filed 2–21–96; 8:45 am]
BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 95–27; Notice 2]

Decision That Nonconforming 1994 Volvo 945 GL Wagons Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1994 Volvo 945 GL Wagons are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1994 Volvo 945 GL Wagons not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1994 Volvo 940 GL Wagon), and they are capable of being readily altered to conform to the standards.

DATE: This decision is effective as of the date of its publication in the **Federal Register** (February 22, 1996).

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer No. R–90–009) petitioned NHTSA to decide whether 1994 Volvo 945 GL Wagon passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on May 1, 1995 (60 FR 21235) to afford an opportunity for public comment. As stated in the notice, the vehicle which Champagne believes is substantially similar is the 1994 Volvo 940 GL Wagon. Champagne submitted information indicating that the 1994 Volvo 940 GL Wagon was certified as conforming to all applicable Federal motor vehicle safety standards and offered for sale in the United States.

Champagne submitted information with its petition intended to demonstrate that the 1994 Volvo 945 GL Wagon, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1994 Volvo 940 GL Wagon, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claimed that the 1994 Volvo 945 GL Wagon is identical to the 1994 Volvo 940 GL Wagon with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner stated that the 1994 Volvo 940 GL Wagon complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contended that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.—model headlamp assemblies which incorporate sealed beam headlamps; (b) installation of U.S.—model front and rear sidemarker/reflector assemblies; (c) installation of U.S.—model taillamp assemblies; (d) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors*: Replacement of the passenger side rear view mirror, which is convex, but lacks the required warning statement.

Standard No. 114 *Theft Protection*: Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number*: Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems*: Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection*: (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) installation of a U.S.-model driver's side air bag and knee bolster. The petitioner stated that the vehicle is also equipped in both front seating positions with combination lap and shoulder belts that adjust by means of an automatic retractor and release by means of a single push button. The petitioner further stated that the vehicle is equipped at each rear outboard seating position with a lap and shoulder belt and with a lap belt at the rear center seating position.

Standard No. 214 *Side Impact Protection*: Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity*: Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

One comment was received in response to the notice of the petition, from Volvo Cars of North America, Inc., ("Volvo"), the United States representative of the vehicle's manufacturer, Volvo Car Corporation of Gothenburg, Sweden. In its comment, Volvo stated that in addition to the noncompliances noted by the petitioner, the 1994 Volvo 945 GL Wagon is equipped with a parking brake indicator light and an anti-lock brake system malfunction light that do not comply with Standard No. 101. Volvo also stated that it does not manufacture sealed beam headlamps for 1994 Volvo 945 GL Wagon that would comply with Standard No. 108, or know of such equipment being manufactured by any other company, and that none of the vehicle's external lamps comply with the standard. Volvo further stated that the vehicle's driver side rearview mirror does not comply with Standard No. 111, that it lacks a key-interlock system that would comply with Standard No. 114, and that it is neither equipped with U.S.-model bumpers nor been tested for compliance with the Bumper Standard, 49 CFR part 581.

Volvo's last comment was that the 1994 Volvo 945 GL Wagon is not equipped with a passenger side air bag and knee bolster, as found on the U.S. certified 1994 Volvo 945 GL Wagon. Volvo contends that these components are part of a "complex and sensitive system which is integrated into the vehicle," and that it is not possible to retrofit such a system "while still assuring system reliability." As a consequence, Volvo contends that the 1944 Volvo 945 GL Wagon is not capable of being readily altered to conform to the Federal motor vehicle safety standards.

NHTSA accorded Champagne an opportunity to respond to Volvo's comments. In its response, Champagne stated that it will install U.S.-model brake indicator and an anti-lock brake system malfunction lights to address the concerns that Volvo raised regarding compliance with Standard No. 101. Champagne further stated that it will replace the headlights on the 1994 Volvo 945 GL Wagon with U.S.-model components to assure compliance with Standard No. 108, and that its petition already addressed all other issues regarding this standard that were raised by Volvo. Champagne stated that it will replace the driver side rearview mirror with a U.S. model component to assure compliance with Standard No. 111. Champagne contended that its petition already addressed the Standard No. 114 compliance issue raised by Volvo. Champagne further contended that the bumper system on the 1994 Volvo 945 GL Wagon, consisting of an outer cover, a reinforcement bar, and impact absorbers.

In response to the Standard No. 208 compliance issue raised by Volvo, Champagne stated that it will install a passenger side air bag and related components in the 1994 Volvo 945 GL Wagon. These components will have the same part numbers as those found on U.S. certified 1994 Volvo 945 GL Wagon. Champagne stated that the installation of a passenger side air bag "is a straightforward procedure," and that it has the technical ability to complete the installation, and have it comply with Standard No. 208, based on Champagne's past experience in installing this type of system on other foreign automobiles.

NHTSA has reviewed each of the issues that Volvo has raised regarding Champagne's petition. NHTSA believes that Champagne's responses adequately address each of those issues. NHTSA further notes that the modifications described by Champagne to achieve compliance with Standard Nos. 101, 108, 111, and 114 have been performed with relative ease on thousands of nonconforming vehicles imported over the years, and would not preclude the 1994 Volvo 945 GL Wagon from being found "capable of being readily modified to comply with all Federal motor vehicle safety standards." NHTSA also believes that the need to install a passenger side air bag to achieve compliance with Standard No. 208 would not preclude such a finding, given the nature of the modifications described by Champagne. However, in view of the concerns that Volvo has raised regarding this issue, NHTSA will closely monitor conformity statements to ensure that passenger side air bags are installed on imported vehicles in a manner that conforms to the requirements of Standard No. 208. NHTSA finally notes that because the Bumper Standard is not a Federal motor vehicle safety standard, issues regarding a vehicle's capability of compliance with the Bumper Standard are immaterial to a decision as to whether it is eligible for importation. Imported vehicles, of course, must nevertheless be brought into compliance with the bumper standard. NHTSA has accordingly decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–132 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1994 Volvo 945 GL Wagon not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1994 Volvo 940 GL Wagon originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 16, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–4013 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 96–12; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1995 Chevrolet 400 SS Pickup Trucks Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995 Chevrolet 400 SS pickup trucks manufactured for the Mexican market are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1995 Chevrolet 400 SS pickup truck manufactured for the Mexican market that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is March 25, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer No. R–90–005) has petitioned NHTSA to decide whether 1995 Chevrolet 400 SS pickup trucks manufactured for the Mexican market are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1995 Chevrolet C1500. Wallace has submitted information indicating that General Motors Corporation, the company that manufactured the 1995 Chevrolet C1500, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that it carefully compared the 1995 Chevrolet 400 SS to the 1995 Chevrolet C1500, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the 1995 Chevrolet 400 SS, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1995 Chevrolet C1500 that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1995 Chevrolet 400 SS is identical to the certified 1995 Chevrolet C1500 with respect to compliance with Standards Nos. 101 *Controls and Displays*, 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 108 *Lamps, Reflective Devices and Associated Equipment*, 109 *New Pneumatic Tires*, 111 *Rearview Mirrors*, 113 *Hood Latch Systems*, 114 *Theft Protection*, 115 *Vehicle Identification Number*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the 1995 Chevrolet 400 SS complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 120 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* installation of an automatic restraint system consisting of a driver's side air bag and knee bolster. The petitioner states that the vehicle is equipped with Type 2 seat belts in both outboard seating positions.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 16, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–4014 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 96–10; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992 Ferrari 348TS Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992 Ferrari 348TS passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1992 Ferrari 348TS that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is March 25, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9:30 a.m to 4 pm).

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

LPC of New York, Inc. of Ronkonkoma, New York ("LPC") (Registered Importer 96–100) has petitioned NHTSA to decide whether 1992 Ferrari 348TS passenger cars are eligible for importation into the United States. The vehicle which LPC believes is substantially similar is the 1992 Ferrari 348TS that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1992 Ferrari 348TS to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

LPC submitted information with its petition intended to demonstrate that the non-U.S. certified 1992 Ferrari 348TS, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1992 Ferrari 348TS is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 111 *Rearview Mirrors*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S. certified 1992 Ferrari 348TS complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Placement of the appropriate symbols on the brake failure, parking brake, and seat belt warming lamps; (b) replacement of the speedometer/odometer, which is calibrated in kilometers per hour, with a U.S.-model component calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamps; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection:* Installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with automatic seat belt assemblies that have part numbers identical to those on its U.S. certified counterpart.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 16, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–4016 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–11; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1990 Porsche 944 S2 2-Door Hatchback Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1990 Porsche 944 S2 2-door hatchback passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1990 Porsche 944 S2 2-door hatchback that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is March 25, 1996.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are from 9:30 am to 4 pm).

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

LPC of New York, Inc. of Ronkonkoma, New York ("LPC") (Registered Importer 96–100) has petitioned NHTSA to decide whether 1990 Porsche 944 S2 2-door hatchback passenger cars are eligible for importation into the United States. The vehicle which LPC believes is substantially similar is the 1990 Porsche 944 S2 2-door hatchback that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1990 Porsche 944 S2 2-door hatchback to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

LPC submitted information with its petition intended to demonstrate that the non-U.S. certified 1990 Porsche 944 S2 2-door hatchback, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1990 Porsche 944 S2 2-door hatchback is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity, and* 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S. certified 1990 Porsche 944 S2 2-door hatchback complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Placement of the appropriate symbols on the brake failure, parking brake, and seat belt warning lamps; (b) replacement of the speedometer/odometer with a U.S.-model component calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model taillamps; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection:* Installation of a seat belt warning buzzer. The petitioner states

that the vehicle is equipped with an automatic restraint system consisting of an air bag and knee bolster that have part numbers identical to those on its U.S. certified counterpart.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 16, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–4015 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 96–19]

Request for Public Comments Concerning Dissemination of Existing Information Product and Elimination of Microfiche

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice, request for public comments.

SUMMARY: The U.S. Customs Service provides rulings and publications on a variety of subjects for the guidance of the importing public. The rulings have been available in the past in a variety of formats, including printed media, diskette and microfiche. The Customs Service would like to provide these rulings, future publications and additional information in two new formats (CD–ROM and the Internet) with built-in search capabilities and "hypertext" links. In addition, the Customs Service would like to receive public comments on the elimination of one format used to supply rulings to the public by subscription (microfiche). This document invites public comment on the various proposals.

DATES: Comments must be submitted by March 25, 1996.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs, Franklin Court, 1301 Constitution Avenue, NW, Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations & Rulings, Franklin Court, 1099 14th Street NW., Suite 4000W, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

For contents and technical aspects of the CD–ROM: Howard Plofker, 202–482–7077

For the Internet: Kathy Davis, 202–927–0255

For the microfiche: Thomas Budnik, 202–482–6909

SUPPLEMENTARY INFORMATION: In accordance with OMB Circular A–130 and Section 2 of the Paperwork Reduction Act of 1995 (Pub.L. 104–13, 44 U.S.C. 3506(d)), Customs is soliciting comments from the public on the dissemination of Customs information by CD–ROM (Compact Disc-read only memory) and the Internet and the elimination of microfiche rulings. In the past, the U.S. Customs Service has, pursuant to section 103.4, Customs Regulations (19 CFR 103.4), made its rulings available to the importing community. These rulings have been available in microfiche format, and in ASCII text format on 3.5•• and 5.25•• diskettes, on an annual subscription basis. They have also been available through a variety of private subscription services, which obtain the rulings from Customs.

CD–ROM

The New York and Headquarters rulings available in an electronic format now number approximately 23,000 rulings and take up a considerable amount of hard disk drive space when loaded on a PC or network. Over the past two years, Customs Office of Regulations & Rulings converted its internal electronic rulings (which had been distributed to the public on diskette, by subscription) into the Folio VIEWS® Infobase format. This format compresses the file size and indexes the records in a file. It has extensive search and query capabilities and is frequently used to disseminate legal and government publications. Customs has also converted the Harmonized Tariff Schedules, Title 19 of the Code of Federal Regulations, Title 19 of the U.S. Code, the Valuation Encyclopedia and other documents into this format for internal use.

Last July, the Office of Finance, in partnership with the Offices of Regulations & Rulings and Strategic Trade, began producing an in-house CD–ROM for Customs officers which contained those infobases together with other material. Since that time, material from other Customs offices has been added. This CD–ROM is prepared monthly for dissemination to Customs field offices. The internal CD–ROM utilizes the Windows version of Folio VIEWS® 3.1. Each CD–ROM disk can hold approximately 650 MB of material. The infobases contain "hypertext" jump links so that a researcher who sees a reference to another ruling, a regulation or statute cited within a ruling may "double-click" on the reference and bring up the referenced document, if it is on the CD–ROM. Documents or portions of documents may be cut, copied and pasted to other Windows applications, such as word processors, or printed. Many members of the public who have seen the system in use have recommended that it be made available to the public. Because some of the material on the Customs internal CD–ROM is copyrighted, proprietary or for internal use, that material cannot be distributed to the public.

The Customs Service agrees that in accordance with the "informed compliance" mandate contained in the legislative history of the Customs Modernization Act (Title VI, Public Law 103–182) the broadest dissemination possible should be made of this material. Customs seeks public comment on dissemination of the rulings and related material in a CD–ROM format. Customs would like to offer the CD–ROM in the Folio Views® format, since that format is being used for internal dissemination and minimal additional costs would be incurred in preparing a public version. Customs would include the licensing fee for the program in the price of the CD–ROM. It is expected that CD–ROMs would be offered on an annual subscription basis with an estimated cost of approximately $240–300 per year for 10–12 CD–ROMs.

It is anticipated that the initial CD–ROMs would contain all the rulings available in electronic format (including all Headquarters Rulings and New York Rulings previously available on diskette). The rulings on CD–ROMs will be cumulative, unlike the current diskette services. In addition the initial CD–ROM will contain 19 CFR, 19 U.S.C., the Harmonized Tariff Schedules of the U.S., and the Valuation Encyclopedia. It is hoped that future CD–ROMs will contain various Informed Compliance publications and other material of interest to the importing and exporting community. The CD–ROMs would contain a small "Infobase Manager" program which would be installed on the PC's hard drive. The infobases themselves would remain on the CD–ROM, thereby conserving hard drive space. When a new CD–ROM is issued, the old one could be removed, since the CD–ROMs are cumulative. If this proposal is adopted, the first CD–ROMs would be available for the public in the Spring. An alternative to the above would be to provide the infobases on the CD–ROM without a program to run them. This would require the subscriber to purchase Folio Views® 3.1 from the Folio Corporation or an authorized reseller. A second alternative would be to put the ASCII (plain, un-indexed text) files containing the rulings and some other material or WordPerfect files on a CD–ROM without any indexing or hypertext program. Customs does not believe that this alternative will be as useful to the vast majority of users since the files will be uncompressed and unindexed and a search program will have to be purchased from another supplier.

Customs would encourage the broadest possible dissemination of the material contained on the CD–ROM infobases and would invite electronic publishers to add material on any commercial redistribution of the infobases. Customs also invites the public to identify the type of materials it would like to see on the CD–ROM.

Internet

Customs also proposes placing publications and other information of interest to the public on the Internet. Customs is considering including the CD–ROM infobases described above on the Internet where users could access, and search the material without charge. The public is invited to comment on these proposals and identify other documents and material which the public believes should be made available on the Internet. Public accessibility to the Customs material on the Internet is anticipated for late Spring, 1996.

Microfiche

For many years, Customs made microfiche copies of rulings available to the public by annual subscription. The production of microfiche is an expensive and time consuming process compared to the preparation and production of electronic rulings, which is a by-product of writing the ruling itself. The number of microfiche subscribers has been declining since the diskette subscription services were introduced. Customs expects to eliminate the microfiche service effective October, 1996, the beginning of the fiscal year. However, if sufficient public interest exists in continuing the microfiche rulings, Customs may reconsider this decision. However, it is anticipated that subscription prices will have to be increased dramatically to continue the microfiche.

Comments

Customs requests comments on implementation of the CD–ROM project and the Internet project and elimination of the microfiche rulings. Persons wishing to comment on any of these projects should send their comments to the Regulations Branch, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. Comments may be reviewed at the Regulations Branch, Office of Regulations and Rulings, Suite 4000W, 1099 14th Street, Washington, DC 20005 during the hours of 9:30 a.m. and 4:00 p.m.

Dated: February 14, 1996.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 96–3903 Filed 2–21–96; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Proposed Information Collection Activity; Public Comment Request: Persian Gulf Registry Questionnaire; VA Form 10–20988 (NR)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Correction.

In **Federal Register** Volume 61, No. 20, appearing on page 3087, in the issue of Tuesday, January 30, 1996, make the following corrections:

1. On page 3087, in the first column, under **AGENCY:** The first and second lines should read "Veterans Health Administration, Department of Veterans".

2. On the same page, in the same column, under **SUMMARY:** the third and fourth lines should read "burden, Veterans Health Administration (VHA) invites the".

3. On the same page, in the same column, under **ADDRESSES:** the second and third lines should read "to Ann Bickoff, Veterans Health Administration (161A4), Department of".

Dated: February 14, 1996.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–3923 Filed 2–21–96; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 61, No. 36

Thursday, February 22, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 11:30 a.m.–2:00 p.m.

PLACE: ADF Headquarters.

DATE: Monday, February 26, 1996.

STATUS: Open.

Agenda

11:30 a.m. Lunch
12:00 noon Chairman's Report
12:15 p.m. President's Report
1:00 p.m. Other

If you have any questions or comments, please direct them to Ms. Janis McCollim, Executive Assistant to the President, who can be reached at (202) 673–3916.

William R. Ford,

President.

[FR Doc. 96–4060 Filed 2–20–96; 9:43 am]

BILLING CODE 6116–01–P–M

ASSASSINATION RECORDS REVIEW BOARD

DATE: February 29–March 1, 1996.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Associate Director for Communications, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn,

General Counsel.

[FR Doc. 96–4154 Filed 2–20–96; 2:19 pm]

BILLING CODE 6118–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 19, 26, March 4, and 11, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 19

Wednesday, February 21

3:30 p.m.
Affirmation Session (Public Meeting)
a. Kerr-McGee Chemical Corporation—Motion To Dismiss Proceeding and Vacate Underlying Decisions (Tentative)
(Contact: Andrew Bates, 301–415–1963)

Week of February 26—Tentative

Monday, February 26

10:00 a.m.
Briefing by Organization of Agreement States (Public Meeting)
(Contact: Kathy Schneider, 301–415–2320)

Tuesday, February 27

10:00 a.m.
Briefing by Staff on Steam Generator Issues (Public Meeting)
(Contact: Jack Strosnider, 301–415–2795)
2:00 p.m.
Briefing by National Academy of Sciences on Review of Medical Use Program (Public Meeting)
(Contact: Trish Holahan, 301–415–7847)

Wednesday, February 28

9:30 a.m.
Briefing by NARUC on Utility Deregulation (Public Meeting)
(Contact: Spiros Droggitis, 301–415–2367)

Week of March 4—Tentative

There are no meetings scheduled for the Week of March 4.

Week of March 11—Tentative

There are no meetings scheduled for the Week of March 11.

ADDITIONAL INFORMATION: By a vote of 3–0 on February 15, the Commission determined pursuant to U.S.C. 552(e) and § 9.107(a) of the Commission's rules that "Affirmation of Draft OGC Order in Response to Citizens Awareness Network in Matter of Yankee Atomic Electric Company" (Public Meeting) be held on February 15, and on less than one week's notice to the public.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the Internet system is available.

If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: February 16, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–4059 Filed 2–20–96; 9:43 a.m.]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, March 4, 1996, and at 8:30 a.m. on Tuesday, March 5, 1996, in Washington, D.C.

The March 4 meeting is closed to the public (see 61 FR 6297, February 16, 1996). The second item, a filing with the Postal Rate Commission for classification reform of nonprofit rates, has been deferred. The March 5 meeting is open to the public and will be held at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas, J. Koerber, at (202) 268–4800.

Agenda

Monday Session

March 4–1:00 p.m. (Closed)

1. Consideration of the Postal Rate Commission Decision in Docket No. MC95–1, Mail Classification Reform. (M. Richard Porras, Vice President, Controller; John H. Ward, Vice President, Marketing Systems; and John L. DeWeerdt, Chief Counsel, Classification and Customer Service.)
2. Overview of the International Business Unit and Consideration of International Rate Setting Process. (James F. Grubiak, Vice President, International Business.)

Tuesday Session

March 5–8:30 a.m. (Open)

1. Minutes of the Previous Meeting, February 5–6, 1996.
2. Remarks of the Postmaster General/Chief Executive Officer. (Marvin Runyon).

3. Appointment of Members to Board Committees. (Chairman Tirso del Junco, M.D.)
4. Capital Investment.
a. Multiline Optical Character Reader (MLOCR) Co-Directory. (William J. Dowling, Vice President, Engineering.)
5. Tentative Agenda for the April 1–2, 1996, meeting in Phoenix, Arizona.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–4190 Filed 2–20–96; 3:24 pm]

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federal register

Thursday
February 22, 1996

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121 and 135
Training and Qualification Requirements for Check Airmen and Flight Instructors; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 28471; Notice No. 96–1]

RIN 2120–AF08

Training and Qualification Requirements for Check Airmen and Flight Instructors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: Some experienced pilots who would otherwise qualify as flight instructors or check airmen but who are not medically eligible to hold the requisite medical certificates, cannot perform flight instructor or check airmen functions even in simulators. This proposed rule would establish separate categories of requirements for check airmen who check only in flight simulators and flight instructors who instruct only in flight simulators. To ensure an equivalent level of safety, the affected check airmen and flight instructors would have to accomplish the following, which could be demonstrated in a flight simulator or flight training device: recency of experience requirements; biannual observation checks of their check airman/instructor abilities; and required training, including recurrent ground and flight training. A flight instructor (simulator) or check airman (simulator) would be required to meet recency of experience requirements, in the 12-month period preceding the performance of flight instruction or check airman functions, by flying two flight segments as a required crewmember for the type aircraft involved, if medically qualified and certificated, or by participating in a line-observation program. Additionally, the FAA proposes that check airmen and instructors can obtain all of their flight training in simulators, as opposed to the current scheme in which initial and transition flight training must include an in-flight element.

DATES: Comments must be submitted on or before March 25, 1996.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–10), Docket No. 28471, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 28471. Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov. Comments may be examined in Room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tom Toula, Air Carrier Training Branch, (AFS–210), Flight Standards Service, Federal Aviation Administration , 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267–3718.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposal contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comment, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with Federal Aviation Administration (FAA) personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. ____." The postcard will be date-stamped and mailed to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future NPRMs should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The requirements for training, checking, and qualification of check airmen and flight instructors who perform training and checking for certificate holders operating under 14 Code of Federal Regulations parts 121 and 135 appear in §§ 121.411 and 135.337 (check airman and flight instructor qualification) and §§ 121.413 and 135.339 (check airman and flight instructor training and checking).

When parts 121 and 135 were implemented, the primary means of training was in an aircraft. Therefore there was a requirement for check airmen instructors to hold appropriate medical certificates. Even after flight simulators came into use in the late 1970s, check airmen and flight instructors were likely to use both aircraft and flight simulators. Despite significant changes in methods of training, particularly an increased use of flight simulation in training, the sections of parts 121 and 135 mentioned above have not been significantly revised in over 20 years. These sections still focus primarily on check airmen and flight instructors who perform their functions in airplanes.

Today, flight simulators and flight training devices are now so sophisticated that they are used to conduct most training and checking with significant benefits to safety and to the environment and with significant cost savings. Training and checking in simulators and flight training devices have distinct advantages over training and checking in flight. Flight simulators provide a safe flight training environment, more comprehensive training, and may reduce the number of training and in-service accidents by allowing training for emergency situations that cannot be safely conducted in flight. The use of flight simulators and flight training devices in lieu of aircraft has resulted in a reduction in air traffic congestion, energy use, noise, air pollution, and training costs.

Some experienced pilots who would otherwise qualify as flight instructors or check airmen but who are not medically eligible to hold the requisite medical certificates, cannot perform flight instructor or check airmen functions even in simulators. Thus the regulations do not establish separate categories of requirements for check airmen who check only in flight simulators or for flight instructors who instruct only in flight simulators. There are a number of highly experienced airmen who might serve as flight instructors or check airmen, including former military pilots, former air carrier pilots, and furloughed pilots, as well as other experienced pilots, who because of medical conditions, are unable to hold an airman medical certificate.

This proposed rule would allow experienced check airmen and flight instructors who are not able to hold a current medical certificate to check or instruct in flight simulators and flight training devices. Affected check airmen and flight instructors would have to meet similar requirements that a pilot flying the line is required to meet, such as initial training, proficiency checks, and competency checks and could use flight simulators to meet these similar requirements. The proposed regulations also address check airmen in aircraft, check airmen in flight simulators or flight training devices, flight instructors in aircraft, and flight instructors in flight simulators or flight training devices.

The Air Carrier Training Working Group of the Aviation Rulemaking Advisory Committee (ARAC) recommended that the FAA amend its regulations so that airmen who were not eligible to hold medical certificates would nonetheless be eligible to instruct or check pilots and other airmen in simulators. On July 16, 1992, ARAC forwarded draft rule language for the FAA to review. The FAA used ARAC's draft as the basis for developing this proposal.

Discussion of the Proposed Rule

The proposed rule would revise the following sections of parts 121 and 135: §§ 121.411, 121.413, 135.337, and 135.339; it would add the following four new sections: §§ 121.412, 121.414, 135.338, and 135.340.

The most significant changes between the current and proposed rules are as follows:

(1) The categories of check airman (simulator) and flight instructor (simulator) would be defined with separate requirements for each.

(2) The following requirements for flight instructors and check airmen who only perform check airmen and instructor functions in flight simulators and flight training devices would be deleted:

- The requirement to hold at least a Class III medical certificate, in § 121.411(a)(6).
- The requirement to hold a Class I, II, or III medical certificate, in § 135.337(a).

(3) A flight instructor (simulator) or check airman (simulator) would be required to meet recency of experience requirements, in the 12-month period preceding the performance of flight instruction or check airman functions, by flying two flight segments as a required crewmember for the type aircraft involved, if medically qualified and certificated or by participating in a line-observation program.

(4) Training requirements for check airmen and flight instructors who serve in training programs under parts 121 and 135 are in §§ 121.413, 121.414, 135.339, and 135.340. The FAA proposes to change these requirements in the following ways:

- A new requirement would be imposed for check airmen and flight instructors, to satisfactorily complete, within the preceding 24 calendar months, an observation check of their check airman or flight instructor functions. This check may be accomplished in a flight simulator or in a flight training device as appropriate.
- Flight instructors would be required to have much of the same ground training requirements as check airmen. As a practical matter, ground training for flight instructors and check airmen are the same; however, the current rules are not specific in this area. This change would ensure that flight instructors and check airmen receive the same ground training.
- Initial and transitional flight training for pilot check airmen and pilot instructors currently requires in-flight training and practice. The FAA proposes to allow this training to take place in simulators or training devices.

These changes would allow certain experienced pilots who are unable to meet current medical certificate requirements to be able to check and instruct, but only in flight simulators and flight training devices. To allow this flexibility while maintaining safety, the proposed rules would require flight instructors (simulator) and check airmen (simulator) to meet recency of experience requirements, take biannual observation checks of their check airman/instructor abilities, complete the required recurrent training necessary to serve as a pilot-in-command under parts 121 and 135 or a flight engineer or flight navigator under part 121, and complete required proficiency or competency checks. A detailed section-by-section description of the proposed rule follows.

Section-by-Section Analysis

Section 121.411 Qualifications: Check Airmen (Airplane) and Check Airmen (Simulator)

Section 121.411(a)(1) now requires that a flight instructor or check airman who serves in a training program under part 121, for the particular airplane type involved, hold the airman certificates and ratings that must be held in order to serve as a pilot in command (PIC), a flight engineer, or a flight navigator, as appropriate, in operations under part 121. Current § 121.411(a)(6) requires that a check airman or flight instructor who serves in a training program under part 121 must hold at least a Class III medical certificate. Under current § 121.411(b)(1) a simulator instructor instructing for a course of training in an airplane simulator as provided in § 121.409(b) must hold an airline transport pilot (ATP) certificate.

Proposed revisions to this section would change the applicability from check airmen and flight instructors to check airmen (airplane) and check airmen (simulator). Flight instructors would be covered under proposed § 121.412. Proposed paragraph (a) of § 121.411 would state that a check airman (airplane) is a person who is qualified and permitted to conduct flight checks and instruction in an airplane, in a flight simulator, or in a flight training device for a particular type airplane. A check airman (simulator) would be qualified to conduct flight checks only in a flight simulator or in a flight training device for a particular type aircraft.

Proposed paragraph (b) would contain the eligibility requirements to serve as a check airman (airplane). With some editorial revisions and an additional requirement to satisfy the recency of experience requirement of § 121.439, the eligibility requirements would remain the same as the current requirements. The recency provisions would be added to ensure equivalent recency of experience for those check airmen who may not be flying line operations.

Proposed paragraph (c) of § 121.411 would establish the eligibility requirements for check airmen (simulator). These proposed requirements would be the same as those for check airmen (airplane) in proposed paragraphs (b) with two exceptions. There would be no requirement to hold a Class III medical certificate and the recency of experience requirements of proposed § 121.411(b)(6) would not be required of part 121 check airmen (simulator). Check airmen (simulator) would instead be allowed to meet proposed recency of

experience requirements in proposed paragraph (f), discussed later in this section. Check airmen (airplane) may only meet recency of experience requirements in an airplane because they are able to perform their functions in an airplane as a required flight crewmember. In addition, current § 121.411(c), which grants training relief to check airmen, flight instructors, and simulator instructors who were designated before December 22, 1969, would be deleted since the FAA believes that this provision is obsolete.

Proposed paragraph (d) would be added to clarify that the completion of the requirements of (b) (2), (3), and (4) or (c) (2), (3), and (4), whichever is applicable, must be entered into the operator's records for each individual check airman.

Proposed paragraph (e) would be added to restate the portion of current § 121.411(a)(6) allowing airmen who have passed their 60th birthday or who do not hold a medical certificate to perform check airmen functions, but, under this proposed paragraph, these airmen may not serve as crewmembers under part 121 operations.

Proposed paragraph (f) would be added to offer an alternate method for maintaining recency of experience requirements for check airmen (simulator). Under this proposal, check airmen (simulator) would, within the 12-month period preceding the performance of check airman duties, either fly two segments as a required crewmember for the type airplane or satisfactorily complete an approved line-observation program.

Proposed paragraph (g) would be added to provide that the recency of experience requirements of paragraph (f) may be completed in the calendar month before or the calendar month after the month in which it is due.

Section 121.412 Qualifications: Flight Instructors (Airplane) and Flight Instructors (Simulator)

The proposed requirements for this section are virtually identical to those in proposed § 121.411 for check airmen. Additionally, this proposed section would specify that individuals who do not hold a medical certificate may not function as a flight instructor in an airplane.

Section 121.413 Initial and Transition Training and Checking Requirements: Check Airmen (Airplane) and Check Airmen (Simulator)

Proposed paragraph (a)(1) would continue the current requirement that, in order to serve as a check airman, a person must have completed initial or transition check airman training. Additionally, proposed paragraph (a)(2) would require an observation check of check airman functions within the preceding 24 calendar months. The observation check could be done in part or in full in an airplane, in a flight simulator, or in a flight training device as appropriate. An FAA inspector or an appropriate designated examiner could administer this observation check. The FAA believes that the observation check requirement would better ensure that check airmen maintain their qualifications and their abilities to perform all other duties as appropriate for check airmen.

In proposed paragraph (b) the observation check requirement of paragraph (a)(2) could be accomplished in the month before or the month after the month in which it is due.

Proposed paragraph (c) of this section would cover initial ground training requirements for check airmen. Most of the requirements are in current paragraphs (a)(1) through (a)(6) of § 121.413. Some editorial revisions would be made in the proposal.

Proposed paragraph (d) would cover transition ground training for check airmen. This proposed paragraph would separate transition ground training requirements from initial ground training requirements, but would impose no new requirements since transition and ground training are currently required in § 121.413(a)(6).

Proposed paragraph (e) would be added to cover initial and transition flight training for pilot check airmen (airplane), flight engineer check airmen (airplane), and flight navigator check airmen (airplane). Proposed paragraph (e) would contain requirements equivalent to those contained in current § 121.413 (c) and (d), but would place greater emphasis on the safety issues required during checking that takes place under actual flight. Additionally, it would broaden the scope of current § 121.413(c) to include flight engineers (airplane) and flight navigators (airplane). The FAA believes that the flight engineer (airplane) and flight navigator (airplane) safety functions are as important to the safe conduct of a flight as that of the check airman (airplane).

Proposed paragraph (f) would be added to allow all the flight training provisions of proposed paragraph (e) to be accomplished in full or in part in flight, in flight simulators, or flight training devices as appropriate. Because of technological advances in simulation, the FAA believes that the requirements in current § 121.413(c)(1) may be conducted in a simulator. Current paragraph (c) allows the initial and transition flight training in safety measures for emergency situations (paragraph (c)(2)) and the results of improper or untimely safety measures (paragraph (c)(3)) to be accomplished in an approved flight simulator, but requires the training requirements of current paragraph (c)(1) to be conducted in flight. The FAA believes that this proposal is appropriate because of the proven effectiveness of flight simulator training. Flight training devices would also be allowed to fulfill the training requirements for the same reasons.

Proposed paragraph (g) would be added to establish initial and transition flight training for check airmen (simulator). The proposed requirements include training and practice in the required normal, abnormal, and emergency procedures and training in the operation of flight simulators or flight training devices. Under the proposed paragraph, the training could be conducted in flight training devices or flight simulators as appropriate. The proposed requirements are necessary to establish flight training requirements specifically for check airmen (simulator) who are qualified to conduct flight checks or instruction only in a flight simulator or in a flight training device.

Section 121.414 Initial and Transition and Checking Requirements: Flight Instructors (Airplane) and Flight Instructors (Simulotor)

The proposed requirements for this section would be identical to the provisions in proposed § 121.413 except that the terms and references would apply to flight instructors, the required observation check would be an observation check of instructor functions, and would include the current requirement for training in teaching methods and procedures except for the holder of a flight instructors certificate.

Section 135.337 Qualifications: Check Airmen (Aircraft) and Check Airmen (Simulator)

Section 135.337(a)(1) currently requires that a flight instructor or check airman serving in a training program under part 135, for the particular aircraft type involved, must hold the airman certificate and ratings that must be held to serve as a PIC in operations under part 135. Section 135.337(a)(5) currently requires that such a flight instructor or check airman hold a Class I or Class II medical certificate required to serve as a PIC in operations under part 135. Under current § 135.337(a)(7), a check airman who serves in an aircraft simulator only must hold a Class III medical certificate. Section 135.337(b) currently requires that a person who serves as a simulator instructor for a course of training in an aircraft simulator must hold at least a commercial pilot certificate.

Proposed revisions to this section would change the applicability from check airmen and flight instructors to check airmen (aircraft) and check airmen (simulator). Flight instructors would be covered under proposed § 135.338. Proposed paragraph (a) of § 135.337 would state that a check airman (aircraft) is a person who is qualified and permitted to conduct flight checks and instruction in an airplane, in a flight simulator, or in a flight training device for a particular type, class, or category aircraft. A check airman (simulator) would be qualified to conduct flight checks only in a flight simulator or in a flight training device for a particular type, class, or category aircraft.

Proposed paragraph (b) would contain the eligibility requirements to serve as a check airman (aircraft). With some editorial revisions and an additional requirement to satisfy the recency of experience requirement of § 135.247, the eligibility requirements would remain the same as current requirements. The recency provision would be added to ensure equivalent recency of experience for those check airmen who may not be flying line operations.

Proposed paragraph (c) of § 135.337 would be added to establish the eligibility requirements for check airmen (simulator). These proposed requirements are the same as those for check airmen (aircraft) in proposed paragraph (b) with two exceptions. There would be no requirement to hold a medical certificate and the recency of experience requirements of proposed § 135.337(b)(3) would not be required of part 135 check airmen (simulator). Check airmen (simulator) would instead be allowed to meet proposed recency of experience requirements in proposed paragraph (f), discussed later in this section.

Proposed paragraph (d) would be added to clarify that the completion of the requirements of (b) (2), (3), and (4) or (c) (2), (3), and (4), whichever is applicable, must be entered into the individual check airmen's training record.

Proposed paragraph (e) would be added to clarify that airmen who do not hold a medical certificate may perform check airmen functions, but they may not serve as a crewmember under part 135 operations.

Proposed paragraph (f) would be added to offer an alternate method for maintaining recency of experience requirements for check airmen (simulator). Check airmen (simulator) must, within the 12-month period preceding the performance of check airman duties, either fly two segments as a required crewmember for the type, class, or category aircraft or satisfactorily complete an approved line-observation program.

Proposed paragraph (g) would be added to provide that the recency of experience requirements of paragraph (f) may be completed in the calendar month before or in the calendar month after the month in which it is due.

Section 135.338 Qualifications: Flight Instructors (Aircraft) and Flight Instructors (Simulator)

The proposed requirements for this section are virtually identical to those in proposed § 135.337 for check airmen. Additionally, this proposed section would clarify that individuals who do not hold a medical certificate may not function as a flight instructor in an aircraft.

Section 135.339 Initial and Transition Training and Checking Requirements: Check Airmen (Aircraft) and Check Airmen (Simulator)

Proposed paragraph (a)(1) would continue the current requirement that, in order to serve as a check airman, a person must have completed initial or transition check airman training. Additionally, proposed paragraph (a)(2) would require an observation check of check airman functions within the preceding 24 calendar months. The observation check would be done in part or in full in an airplane, flight simulator, or flight training device as appropriate. An FAA inspector or an appropriate designated examiner could administer the observation check. The FAA believes that the observation check requirement would better ensure that check airmen maintain their qualifications and their abilities to perform all other duties as appropriate for check airmen.

In proposed paragraph (b) the observation check requirement of paragraph (a)(2) could be accomplished in the month before or the month after the month in which it is due.

Proposed paragraph (c) of this section would cover initial ground training requirements for check airmen. Most of the requirements are in current paragraphs (a)(1) through (a)(6) of § 135.339. Some editorial revisions are made in this proposal.

Proposed paragraph (d) would be added to cover transition ground training for check airmen. This proposed paragraph would separate transition ground training requirements from initial ground training requirements, but would impose no new requirements since transition and ground training are currently required in § 135.339(a)(6).

Proposed paragraph (e) would be added to cover initial and transition flight training for pilot check airmen (aircraft). Proposed paragraph (e) would contain requirements equivalent to those contained in current § 135.339(c), but would place greater emphasis on the safety issues required during checking that would take place under actual flight.

Proposed paragraph (f) would be added to allow all the flight training provisions of proposed paragraph (e) to be accomplished in full or in part in flight, in flight simulators, or in flight training devices as appropriate. This would make the requirements in current § 135.339(c)(1) less burdensome. Current § 135.339(c) allows the initial and transition flight training in safety measures for emergency situations (paragraph (c)(2)) and the results of improper or untimely safety measures (paragraph (c)(3) to be accomplished in an approved flight simulator, but requires the training requirements of (c)(1) to be conducted in flight. The FAA believes that this is appropriate because of the proven effectiveness of flight simulator training. Flight training devices will also be allowed to fulfill the training requirements for these same reasons.

Proposed paragraph (g) would be added to establish initial and transition flight training for check airmen (simulator). The proposed requirements would include training and practice in the required normal, abnormal, and emergency procedures and training in the operation of flight simulators or flight training devices. Under the proposed paragraph, the training could be conducted in flight training devices or flight simulators as appropriate. The proposed requirements are necessary to establish flight training requirements specifically for check airmen (simulator) who are qualified to conduct flight checks or instruction only in a flight simulator or in a flight training device.

Section 135.340 Initial and Transition Training and Checking Requirements: Flight Instructors (Aircraft) and Flight Instructors (Simulator)

The proposed requirements for this section would be identical to the provisions in proposed § 135.339 except that the terms and references would apply to flight instructors, the required observation check would be an

observation check of instructor functions, and paragraph (c)(7) would be added to include the current requirement for training in teaching methods and procedures except for the holders of a flight instructor certificate.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society outweigh the potential costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule is not "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This proposed rule would not have a significant impact on a substantial number of small entities and would have no impact on international trade. These analyses, available in the docket, are summarized below.

Benefits and Costs

The requirements of this proposed rule will not impose any additional cost on air carriers or other training entities currently providing simulator training. These additional requirements are generally incorporated into current industry practice.

In the past, the FAA has issued exemptions to air carriers and to training entities (FlightSafety, Simuflite, etc.), which permit them to use simulators to conduct training and checking for air carrier pilots. However, the FAA imposed certain conditions and limitations in these exemptions. The Agency required that the check airmen and instructors of these entities hold the same airman certificates and ratings and complete the same proficiency checks as required to serve as PIC in air carrier operations. In addition, check airmen and instructors that conduct Line-Oriented Flight Training and Line Operational Evaluation in simulators are required to be line qualified or line familiar and to participate in a line observation program. This line observation program is identical to that which is being proposed and, therefore, this program would not impose any additional burden on the aviation industry.

In addition, current FAA policy, as part of Flight Standards Work Program Functions, requires aviation safety inspectors to observe, at least once annually, half of the check airmen and instructors while they perform their duties. A portion of the current observation practice and policy would be incorporated into the Code of Federal Regulations by this proposed rulemaking. Since the above policy and practice exceed the proposed requirements, this rulemaking should not impose any additional burden on the airline industry.

The proposed rule would afford cost savings to air carriers by allowing them to hire experienced pilots who are not able to hold a current medical certificate to check or instruct in flight simulators and flight training devices if they satisfy the above requirements. These pilots, many of whom are retired, would probably offer their services at lower cost to the airlines than the full-time pilots that currently are performing these functions. Air carriers also would be able to reduce disruption to their operations by contracting with part-time pilots to provide training and checking services, thereby eliminating the need to pull line pilots from their routine duties. The proposed rule should also reduce costs to the industry in that the proposal would allow all initial and transition flight training for check airmen and instructors to be conducted in the simulators or training devices as opposed to the current in-flight requirement. Accordingly, the FAA finds this proposed rule to be cost-beneficial because it does not impose any additional cost on the aviation industry and allows for less costly training of future pilots.

The FAA solicits comments from the public on the possible extent of these cost savings.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule is expected to have a "significant (positive or negative) economic impact on a substantial number of small entities." Based on the standards and thresholds specified in implementing the FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the proposed rule would not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

This proposed rule is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. The cost savings that would be realized from the proposed rule are not likely to be significant enough to affect the competitive position of domestic concerns vis-a-vis foreign concerns.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA is not aware of any differences that this proposal would present if adopted. Any differences that may be presented in comments to this proposal, however, will be taken into consideration.

Paperwork Reduction Act

The reporting and recordkeeping requirements associated with this rule are being submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. chapter 35 under DOT NO:*new;* OMB NO: *new;* TITLE: Training and Qualification Requirements for Check Airmen and Flight Instructors; NEED FOR INFORMATION: This information is needed to maintain the training records of check airmen and instructors; PROPOSED USE OF INFORMATION: This information will be used to verify that check airmen and instructors have met the requirements of the regulation; FREQUENCY: A short entry indicating that the check airman or instructor has completed the observation; BURDEN ESTIMATE: It is estimated that the total time burden will be approximately 1.3 hours per year for an estimated 6000 respondents. The entries will be either satisfactory or unsatisfactory or a check mark in the appropriate space. No additional forms will be required and the time for making the necessary entries will be negligible; RESPONDENTS: The FAA or designated examiners or other check airmen will conduct the observations and they are estimated to be appropriately 6000 individuals; FORM(s): No additional forms will be used. Entries will be made on the standard training records required by § 121.401(c) and § 135.323 (c); AVERAGE BURDEN HOURS PER RESPONDENT: 15 seconds per individual every 2 years.

For further information contact: The Information Requirements Division, M–24, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–4735 or Edward Clark or Wayne Brough, Office of Management and Budget, New Executive Office Building, room 3228, Washington, DC 20503, (202) 395–7340.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Initial Regulatory Flexibility Determination

For further information contact: The Information Requirements Division, M–24, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–4735 or Edward Clark or Wayne Brough, Office of Management and Budget, New Executive Office Building, room 3228, Washington, DC 20503, (202) 395–7340.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Initial Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not significant under Executive Order 12866. In addition, it is certified that this proposal, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects

14 CFR Part 121

Air carriers, Air transportation, Aviation safety, Common carriers, Safety, Transportation.

121 CFR Part 135

Air carriers, Air taxi, Air transportation, Aviation safety, Safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR parts 121 and 135 as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, and 46105.

2. Section 121.411 is revised to read as follows:

§ 121.411 Qualifications: Check airmen (airplane) and check airmen (simulator).

(a) For the purposes of this section and § 121.413:

(i) A check airman (airplane) is a person who is qualified, and permitted, to conduct flight checks or instruction in an airplane, in a flight simulator, or in a flight training device for a particular type airplane.

(2) A check airman (simulator) is a person who is qualified to conduct flight checks or instruction, but only in a flight simulator or in a flight training device for a particular type airplane.

(3) Check airmen (airplane) and check airmen (simulator) are those check airmen who perform the functions described in § 121.401(a)(4).

(b) No certificate holder may use a person nor may any person serve as a check airman (airplane) in a training program established under this subpart unless, with respect to the airplane type involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(4) Has satisfactorily completed that applicable training requirements of § 121.413 including in-flight training and practice for initial and transition training;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or Class II medical certificate as appropriate;

(6) Has satisfied the recency of experience requirements of § 121.439; and

(7) Has been approved by the Administrator for the check airman duties involved.

(c) No certificate holder may use a person nor may any person serve as a check airman (simulator) in a training program established under this subpart unless, with respect to the airplane type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.413; and

(5) Has been approved by the Administrator for the check airman (simulator) duties involved.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the certificate holder.

(e) Check airmen who have reached their 60th birthday or who do not hold an appropriate medical certificate may function as check airmen, but may not serve as flight crewmembers in operations under this part.

(f) A check airman (simulator) must, within the 12-month period preceding the performance of any check airman duty, accomplish the following in a flight simulator—

(1) Fly at least two flight segments as a required crewmember for the type airplane involved; or

(2) Satisfactorily complete an approved line-observation program that—

(i) Includes a minimum of two flight segments to observe the flight operations of the specific type airplane on which the check airman duties are to be performed;

(ii) Is conducted from a cockpit observer seat; and

(iii) Is representative of the certificate holder's operation (may include ferry flights).

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered to be completed in the month required if completed in the calendar month before or in the

calendar month after the month in which it is due.

3. Section 121.412 is added to read as follows:

§ 121.412 Qualifications: Flight instructors (airplane) and flight instructors (simulator).

(a) For the purposes of this section and § 121.414:

(1) A flight instructor (airplane) is a person who is qualified to instruct in an airplane, in a flight simulator, or in a flight training device for a particular type airplane.

(2) A flight instructor (simulator) is a person who is qualified to instruct, but only in a flight simulator, in a flight training device, or both, for a particular type airplane.

(3) Flight instructors (airplane) and flight instructors (simulator) are those instructors who perform the functions described in § 121.401(a)(4).

(b) No certificate holder may use a person nor may any person serve as a flight instructor (airplane) in a training program established under this subpart unless, with respect to the airplane type involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command, a flight engineer, or flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.414, including in-flight training and practice for initial and transition training;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or Class II medical certificate as appropriate.

(6) Has satisfied the recency of experience requirements of § 121.439.

(c) No certificate holder may use a person, nor may any person serve as a flight instructor (simulator) in a training program established under this subpart, unless, with respect to the airplane type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part; and

(4) Has satisfactorily completed the applicable training requirements of § 121.414.

(d) Completion of the requirements in paragraphs (b)(2), (3), and (4) or (c)(2), (3), and (4) of this section as applicable shall be entered in the individual's training record maintained by the certificate holder.

(e) Airmen who have reached their 60th birthday, or who do not hold an appropriate medical certificate, may not function as a flight instructor (airplane), nor may they serve as flight crewmembers in operations under this part.

(f) A flight instructor (simulator) must, within the 12-month period preceding the performance of any instructor duty in a flight simulator—

(1) Fly at least two flight segments as a required crewmember for the type of airplane involved (and must hold a Class I or Class II medical certificate as appropriate); or

(2) Satisfactorily complete an approved line-observation program that—

(i) Includes a minimum of two flight segments to observe the flight operations of the specific type airplane on which flight instructor duties are to be performed;

(ii) Is conducted from a cockpit observer seat; and

(iii) Is representative of the air carrier's operation (may include ferry flights).

(g) The flight segments or line-observation program required in paragraph (f) of this section is considered completed in the month required if completed in the calendar month before, or the calendar month after the month in which it is due.

4. Section 121.413 is revised to read as follows:

§ 121.413 Initial and transition training and checking requirements: Check airmen (airplane), check airmen (simulator).

(a) No certificate holder may use a person nor may any person serve as a check airman unless:

(1) That person has satisfactorily completed initial or transition check airman training.

(2) Within the preceding 24 calendar months that person satisfactorily conducts a proficiency or competency check under the observation of an FAA inspector or an aircrew designated examiner. The observation check may be accomplished in part or in full in an airplane, in a flight simulator, or in a flight training device.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before, or the calendar month after, the month in which it is due.

(c) The initial ground training for check airmen must include the following:

(1) Check airman duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The appropriate methods, procedures, and techniques for conducting the required checks.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The appropriate corrective action in the case of unsatisfactory checks.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the airplane.

(d) The transition ground training for check airmen must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the airplane to which the check airman is in transition.

(e) The initial and transition flight training for pilot check airmen (airplane), flight engineer check airmen (airplane), and flight navigator check airmen (airplane) must include the following:

(1) The safety measures for emergency situations that are likely to develop during a check.

(2) The potential results of improper, untimely, or non-execution of safety measures during a check.

(3) For pilot check airman (airplane)—

(i) Training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence to conduct the pilot flight checks required by this part; and

(ii) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during a check.

(4) For flight engineer check airmen (airplane) and flight navigator check airmen (airplane), training to ensure competence to perform assigned duties.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for check airmen (simulator) must include the following:

(1) Training and practice in conducting flight checks in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight checks required by this part. This training and practice must be accomplished in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators or flight training devices, or both, to ensure competence to conduct the flight checks required by this part.

5. Section 121.414 is added to read as follows:

§ 121.414 Initial and transition training and checking requirements: flight instructors (airplanes), flight instructors (simulator).

(a) No certificate holder may use a person nor may any person serve as a flight instructor unless—

(1) That person has satisfactorily completed initial or transition flight instructor training; and

(2) Within the preceding 24 calendar months, that person satisfactorily conducts instruction under the observation of an FAA inspector, an operator check airman, or an operator aircrew designated examiner. The observation check may be accomplished in part or in full in an airplane, in a flight simulator, or in a flight training device.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before or the calendar month after the month in which it is due.

(c) The initial ground training for flight instructors must include the following:

(1) Flight instructor duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The appropriate methods, procedures, and techniques for conducting flight instruction.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory training progress.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the airplane.

(7) Except for holders of a flight instructor certificate—

(i) The fundamental principles of the teaching-learning process;

(ii) Teaching methods and procedures; and

(iii) The instructor-student relationship.

(d) The transition ground training for flight instructors must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the airplane to which the flight instructor is in transition.

(e) The initial and transition flight training for flight instructors (airplane), flight engineer instructors (airplane), and flight navigator instructors (airplane) must include the following:

(1) The safety measures for emergency situations that are likely to develop during instruction.

(2) The potential results of improper, untimely, or non-execution of safety measures during instruction.

(3) For pilot flight instructor (airplane)—

(i) In-flight training and practice in conducting flight instruction from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence as an instructor; and

(ii) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during instruction.

(4) For flight engineer instructors (airplane) and flight navigator instructors (airplane), in-flight training to ensure competence to perform assigned duties.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for flight instructors (simulator) must include the following:

(1) Training and practice in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight instruction required by this part. This training and practice must be accomplished in full or in part in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators or flight training devices, or both, to ensure competence to conduct the flight instruction required by this part.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

6. The authority citation for part 135 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44113, 44701, 44702, 44705, 44709, 44711–44713, 44715–44717, and 44722.

7. Section 135.337 is revised to read as follows:

§ 135.337 Qualifications: Check airmen (aircraft) and check airmen (simulator).

(a) For the purposes of this section and § 135.339:

(1) A check airman (aircraft) is a person who is qualified to conduct flight checks in an aircraft, in a flight simulator, or in a flight training device for a particular type aircraft.

(2) A check airman (simulator) is a person who is qualified to conduct flight checks, but only in a flight simulator, in a flight training device, or both, for a particular type aircraft.

(3) Check airmen (aircraft) and check airmen (simulator) are those check airmen who perform the functions described in §§ 135.321(a) and 135.323(a)(4) and (c).

(b) No certificate holder may use a person, nor may any person serve as a check airman (aircraft) in a training program established under this subpart unless, with respect to the aircraft type involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.339;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or Class II medical certificate as appropriate.

(6) Has satisfied the recency of experience requirements of § 135.247; and

(7) Has been approved by the Administrator for the check airman duties involved.

(c) No certificate holder may use a person, nor may any person serve as a check airman (simulator) in a training program established under this subpart unless, with respect to the aircraft type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the applicable airman certificates and ratings, except medical certificate, required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.339; and

(5) Has been approved by the Administrator for the check airman (simulator) duties involved.

(d) Completion of the requirements in paragraphs (b)(2), (3), and (4) or (c)(2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the certificate holder.

(e) Check airmen who do not hold an appropriate medical certificate may function as check airmen (simulator), but may not serve as flight crewmembers in operations under this part.

(f) A check airmen (simulator) must, within the 12-month period preceding the performance of any check airman duty in a flight simulator, accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type, class, or category aircraft involved; or

(2) Satisfactorily complete an approved line-observation program that—

(i) Includes a minimum of two flight segments to observe the flight operations of the specific type, class, or category aircraft on which the check airman duties are to be performed;

(ii) Is conducted from a cockpit observer seat or from the seat closest to the flightcrew; and

(iii) Is representative of the certificate holder's operations (may include ferry flights).

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered to be completed in the month required if completed in the calendar month before or the calendar month after the month in which they are due.

8. Section 135.338 is added to read as follows:

§ 135.338 Qualifications: Flight instructors (aircraft) and flight instructors (simulator).

(a) For the purposes of this section and § 135.340:

(1) A flight instructor (aircraft) is a person who is qualified to instruct in an aircraft, in a flight simulator, or in a flight training device for a particular type, class, or category aircraft.

(2) A flight instructor (simulator) is a person who is qualified to instruct in a flight simulator, in a flight training device, or in both, for a particular type, class, or category aircraft.

(3) Flight instructors (aircraft) and flight instructors (simulator) are those instructors who perform the functions described in §§ 135.321(a) and 135.323(a)(4) and (c).

(b) No certificate holder may use a person, nor may any person serve as a flight instructor (aircraft) in a training program established under this subpart unless, with respect to the type, class, or category aircraft involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.340;

(5) Holds at least a Class III medical certificate; and

(6) Has satisfied the recency of experience requirements of § 135.247.

(c) No certificate holder may use a person, nor may any person serve as a flight instructor (simulator) in a training program established under this subpart unless, with respect to the type, class, or category aircraft involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command in operations under this part; and

(4) Has satisfactorily completed the applicable training requirements of § 135.340.

(d) Completion of the requirements in paragraphs (b)(2), (3), and (4) or (c)(2), (3), and (4) of this section as applicable shall be entered in the individual's training record maintained by the certificate holder.

(e) An airman who does not hold a medical certificate may function as a flight instructor in an aircraft if functioning as a non-required crewmember, but may not serve as a flight crewmember in operations under this part.

(f) A flight instructor (simulator) must, within the 12-month period preceding the performance of any flight instructor duty in a simulator, accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type, class, or category aircraft involved; or

(2) Satisfactorily complete an approved line-observation program that—

(i) Includes a minimum of two flight segments to observe the flight operations of the specific type, class, or category aircraft on which flight instructor duties are to be performed;

(ii) Is conducted from a cockpit observer seat or the seat closest to the flightcrew; and

(iii) Is representative of the certificate holder's operations (may include ferry flights).

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered completed in the month required if completed in the calendar month before or in the calendar month after the month in which they are due.

9. Section 135.339 is revised to read as follows:

§ 135.339 Initial and transition training and checking: Check airmen (aircraft), check airmen (simulator).

(a) No certificate holder may use a person nor may any person serve as a check airman unless—

(1) That person has satisfactorily completed initial or transition check airman training; and

(2) Within the previous 24 calendar months, that person satisfactorily conducts a proficiency or competency check under the observation of an FAA inspector or an aircrew designated examiner. The observation check may be accomplished in part or in full in an aircraft, in a flight simulator, or in a flight training device.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before or the calendar month after the month in which it is due.

(c) The initial ground training for check airmen must include the following:

(1) Check airman duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The applicable methods, procedures, and techniques for conducting the required checks.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory checks.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.

(d) The transition ground training for check airmen must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the aircraft to which the check airman is in transition.

(e) The initial and transition flight training for check airmen (aircraft) must include the following—

(1) The safety measures for emergency situations that are likely to develop during a check;

(2) The potential results of improper, untimely, or non-execution of safety measures during a check;

(3) Training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence to conduct the pilot flight checks required by this part; and

(4) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during checking.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for check airmen (simulator) must include the following:

(1) Training and practice in conducting flight checks in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight checks required by this part. This training and practice must be accomplished in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators, flight training devices, or both, to ensure competence to conduct the flight checks required by this part.

10. Section 135.340 is added to read as follows:

§ 135.340 Initial and transition training and checking: Flight instructors (aircraft), flight instructors (simulator).

(a) No certificate holder may use a person nor may any person serve as a flight instructor unless—

(1) That person has satisfactorily completed initial or transition flight instructor training; and

(2) Within the previous 24 calendar months, that person satisfactorily conducts instruction under the observation of an FAA inspector, an operator check airman, or an operator aircrew designated examiner. The observation check may be accomplished in part or in full in an aircraft, in a flight simulator, or in a flight training device.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before or the calendar month after the month in which it is due.

(c) The initial ground training for flight instructors must include the following:

(1) Flight instructor duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The applicable methods, procedures, and techniques for conducting flight instruction.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory training progress.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.

(7) Except for holders of a flight instructor certificate—

(i) The fundamental principles of the teaching-learning process;

(ii) Teaching methods and procedures; and

(iii) The instructor-student relationship.

(d) The transition ground training for flight instructors must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the type, class, or category aircraft to which the flight instructor is in transition.

(e) The initial and transition flight training for flight instructors (aircraft) must include the following—

(1) The safety measures for emergency situations that are likely to develop during instruction;

(2) The potential results of improper or untimely safety measures during instruction;

(3) Training and practice from the left and right pilot seats in the required normal, abnormal, and emergency maneuvers to ensure competence to conduct the flight instruction required by this part; and

(4) The safety measures to be taken from either the left or right pilot seat for emergency situations that are likely to develop during instruction.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for a flight instructor (simulator) must include the following:

(1) Training and practice in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight instruction required by this part. These maneuvers and procedures must be accomplished in full or in part in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators, flights training devices, or both, to ensure competence to conduct the flight instruction required by this part.

Issued in Washington, D.C., on February 15, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

[FR Doc. 96–3868 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Thursday
February 22, 1996

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 25 and 52

Restrictions on Certain Foreign Purchases; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAR Case 95–303]

RIN 9000–AG82

Federal Acquisition Regulation; Restrictions on Certain Foreign Purchases

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to implement E.O. 12959, Prohibiting Certain Transactions with Respect to Iran, and to conform the FAR to other current restrictions of the Department of the Treasury. This regulatory action was not subject to the Office of Management and Budget review under E.O. 12866, dated September 30, 1993.

DATES: Comments on the proposed rule should be submitted in writing to the FAR Secretariat at the address shown below on or before April 22, 1996 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite FAR case 95–303 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501–1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 95–303.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the FAR to implement E.O. 12959, Prohibiting Certain Transactions with Respect to Iran, which became effective May 6, 1995, and to conform the FAR to current restrictions in 31 CFR Chapter V (Office of Foreign Assets Control, Department of the Treasury).

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any new requirements on contractors, large or small. The proposed rule merely notifies contractors of changes in the existing prohibitions against transactions with certain countries. This change should have minimal impact on U.S. firms. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 95–303), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: February 15, 1996.

Ralph J. Destefano,

Acting Director, Office of Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 25 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

2. Subpart 25.7 is revised to read as follows:

Subpart 25.7—Restrictions on Certain Foreign Purchases

Sec.
25.701 Restrictions.
25.702 Contract clause.

Subpart 25.7—Restrictions on Certain Foreign Purchases

25.701 Restrictions.

(a) The Government does not acquire supplies or services from foreign governments or their organizations when these supplies or services cannot be imported lawfully into the United States. Therefore, agencies and their contractors and subcontractors shall not acquire any supplies or services originating from sources within, or that were located in or transported from or through:

(1) Cuba (31 CFR part 515);
(2) Iran (31 CFR part 560);
(3) Iraq (31 CFR part 575);
(4) Libya (31 CFR part 550); or
(5) North Korea (31 CFR part 500).

(b) Agencies and their contractors and subcontractors shall not acquire any supplies or services from entities controlled by the Government of Iraq (E.O. 12722 and 12724).

(c) Questions concerning these restrictions should be referred to the Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, (202) 622–2520.

25.702 Contract clause.

The contracting officer shall insert the clause at 52.225–11, Restrictions on Certain Foreign Purchases, in solicitations and contracts.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.225–11 is revised to read as follows:

52.225–11 Restrictions on Certain Foreign Purchases.

As prescribed in 25.702, insert the following clause:

Restrictions on Certain Foreign Purchases (XXX 1996)

(a) Unless advance written approval of the Contracting Officer is obtained, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through countries whose products are banned from importation into the United States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries include Cuba, Iran, Iraq, Libya, and North Korea.

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the Government of Iraq.

(c) The Contractor agrees to insert the provisions of this clause, including this paragraph (c), in all subcontracts hereunder.

(End of clause)

[FR Doc. 96–3916 Filed 2–21–96; 8:45 am]
[BILLING CODE 6820–EP–P]

federal register

Thursday
February 22, 1996

Part IV

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program: Closing Date; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 960205021–6021–01]

Public Telecommunications Facilities Program: Closing Date

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Notice of closing date.

SUMMARY: Subject to the authority of the continuing resolution (P.L. 104–99), the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, announces that applications are available for planning and construction grants for public telecommunications facilities under the Public Telecommunications Facilities Program (PTFP). In order to make any awards this fiscal year, it is necessary to begin the application process now.

Applicants for matching grants under the PTFP must file their applications on or before Thursday, March 28, 1996. NTIA anticipates making grant awards by September 30, 1996, provided that funding for PTFP is continued beyond the March 15, 1996 expiration date of the continuing resolution. This continuing resolution includes $15.5 million for the PTFP. Issuance of grants is subject to the availability of FY 1996 funds. Further notice will be made in the **Federal Register** about the final status of funding for this program at the appropriate time. NTIA shall not be liable for any proposal preparation costs.

The amount of a grant award by NTIA will vary, depending on the approved project. For fiscal year 1995, NTIA awarded $27.6 million in funds to 142 projects. The awards ranged from $5,694 to $954,518.

The applicable Rules for the PTFP were published on November 22, 1991 and amended on December 22, 1995 (60 FR 66491). These rules, codified at 15 CFR part 2301, will be in effect for FY 1996 PTFP applications. Parties interested in applying for financial assistance should refer to these rules and to the authorizing legislation (47 U.S.C. 390–393 and Pub. L. 104–99) for additional information on the program's goals and objectives, eligibility criteria, evaluation criteria, and other requirements.

DATES: Pursuant to 15 CFR 2301.5(c), the Administrator of NTIA hereby establishes the closing date for the filing of applications for grants under the PTFP. The closing date selected for the submission of applications for 1996 is Thursday, March 28, 1996. Applications delivered by mail or by hand must be delivered to the address referenced below by 5 p.m. on or before Thursday, March 28, 1996. Applicants whose applications are not received by the deadline are hereby notified that their applications will not be considered in the current grant cycle and will be returned to the applicant. NTIA will also return any application which is substantially incomplete, or when the Agency finds that either the applicant or project is ineligible for funding under the Public Telecommunications Financing Act of 1978, as amended (47 U.S.C. 390–393). The Agency will inform the applicant the reason for the return of any application.

ADDRESSES: To obtain an application package, submit completed applications, or send any other correspondence, write to: Office of Telecommunications and Information Applications, NTIA/DOC, 14th Street and Constitution Ave., NW, Room H–4625, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Dennis R. Connors, Director, Public Broadcasting Division, telephone: (202) 482–5802; fax: (202) 482–2156. Information about the PTFP can also be obtained electronically via Internet (send inquiries to http://www.ntia.doc.gov) or through the NTIA BBS at (202) 482–1199 (set computer modems for 8 stop bits, 0 polarity).

SUPPLEMENTARY INFORMATION:

I. Application Forms and Regulations

To apply for a PTFP grant, an applicant must file an original and two copies of a timely and complete application on a current form approved by the Agency. The current application form will be provided to applicants as part of the application package. This form expires on October 31, 1997, and no previous versions of the form may be used. (In accordance with the Paperwork Reduction Act, the current application form has been cleared under OMB control no. 0660–0003.) Applications submitted by facsimile or electronic means are not acceptable.

All persons and organizations on the PTFP's mailing list will be sent a copy of the current application form and the Final Rules. Those not on the mailing list may obtain copies by contacting the PTFP at the address or telephone, fax, computer bulletin board, or Internet numbers noted above. Prospective applicants should read the Final Rules carefully before submitting applications. Applicants whose applications were deferred in FY 1995 will be mailed pertinent PTFP materials and instructions for requesting reactivation of their applications.

Applicants should note that they must comply with the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order requires applicants for financial assistance under this program to file a copy of their application with the Single Points of Contact (SPOC) of all states relevant to the project. Applicants are required to provide a copy of their completed application to the appropriate SPOC on or before March 28, 1996. Applicants are encouraged to contact the appropriate SPOC well before the PTFP closing date.

NTIA requires that all applicants whose proposed projects need authorization from the Federal Communications Commission (FCC) tender an application to the FCC for such authority on or before March 28, 1996. (An application is tendered to the FCC when it has been received by the Secretary of the FCC.) However, applicants are urged to submit it with as much lead time before the PTFP closing date as possible. The greater the lead time, the better the chance the FCC application will be processed to coincide with NTIA's grant cycle. NTIA will return the application of any applicant that fails to tender an application to the FCC for any necessary authority on or before March 28, 1996.

Indirect costs for *construction* applications are not supported by this program. The total dollar amount of the indirect costs proposed in a *planning* application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

(1) *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) *Drug Free Workplace.* Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(3) *Anti-lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applicants/bidders for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(4) *Anti-lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the grant award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to the Department. SF–LLL submitted by any tier recipient or subrecipient should be submitted to the Department in accordance with the instructions contained in the award document.

If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department.

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards. In addition, unsatisfactory performance by the applicant under prior Federal awards may result in the application not being considered for funding.

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they have received, there is no obligation on the part of the Department to cover preaward costs.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (1) the delinquent account is paid in full; (2) a negotiated repayment schedule is established and at least one payment is received, or (3) other arrangements satisfactory to the Department are made.

Applicants are reminded that a false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Special Note: NTIA has established a policy which is intended to encourage stations to increase from 25% to 50% the matching percentage for those proposals that call for equipment replacement, improvement, or augmentation (PTFP Policy Statement, (56 FR 59168 (1991))).

The presumption of 50% funding will be the general rule for the replacement, improvement or augmentation of equipment. Exceptions to this general policy direction are as follows: small community-licensee stations will not be subjected to this policy. The same is true of a station that is licensed to a large institution (e.g., a college or university) documenting that it does not receive direct or in-kind support from the larger institution. Also, a showing of extraordinary need or an emergency situation will be taken into consideration as justification for grants of up to 75% of the project cost for such proposals.

A point of clarification is in order: NTIA expects to continue funding projects to activate stations or to extend service at up to 75% of the total project cost. NTIA will do this because applicants proposing to provide first service to a geographic area ordinarily incur considerable costs that are not eligible for NTIA funding. The applicant must cover the ineligible costs including those for construction or renovation of buildings and other similar expenses.

We wish to take this opportunity to restate the policy published in the November 22, 1991, PTFP Policy Statement (56 FR 59168 (1991)), regarding applicants' use of funds from the Corporation for Public Broadcasting (CPB) to meet the local match requirements of the PTFP grant. NTIA continues to believe that the policies and purposes underlying the PTFP requirements could be significantly frustrated if applicants routinely relied upon another Federally supported grant program for local matching funds. Accordingly, NTIA has limited the use of CPB funds for the non-Federal share of PTFP projects to circumstances of "clear and compelling need" (CFR 2301.16(a)(4)). NTIA intends to maintain that standard and to apply it on a case-by-case basis.

The November 22, 1991, PTFP Policy Statement (56 FR 59168 (1991)) also discussed a number of issues of particular relevance to applicants proposing nonbroadcast educational and instructional projects and potential improvement of nonbroadcast facilities. These policies remain in effect and will be distributed to all PTFP applicants as part of the Guidelines for preparing FY 1996 PTFP applications.

II. Documentation Concerning Discrimination Complaints

The NTIA Administrator is hereby extending a blanket waiver to all PTFP FY 1996 applicants and grant recipients exempting them from the requirements contained at 15 CFR 2301.5(d)(2)(xvii) and 2301.21(b)(1–2) with regard to discrimination complaints. Based on its experience, NTIA has found these requirements to be too burdensome and generally not pertinent to the PTFP's selection criteria. This blanket waiver means that FY 1996 PTFP applicants will not be required to provide a detailed list and explanation of any complaints of discrimination currently pending or decided against the applicant before any court or governmental agency. Moreover, FY 1996 PTFP grant recipients, once their projects are completed, will not be required to submit such documentation on their Annual Status Reports; nor will recipients be required to provide the special academic certification concerning their admissions policies or their policies regarding the receiving or providing of services. Applicants are reminded, however, that they are still obligated to comply with the general Federal statutes relating to nondiscrimination, as stated in 15 CFR 2301.22(b)(15) and in Assurance No. 36 of the PTFP Application Form.

III. Eligible and Ineligible Costs

Eligible equipment for the 1996 grant round includes apparatus necessary for the production, interconnection, captioning, broadcast, or other distribution of programming, including but not limited to studio equipment; audio and video storage, processing, and switching equipment; terminal equipment; towers, antennas, transmitters, remote control equipment, transmission line, translators, microwave equipment, mobile equipment, satellite communications equipment, instructional television fixed service equipment, subsidiary communications authorization

transmitting and receiving equipment, cable television equipment, and optical fiber communications equipment.

NTIA recognizes that digital technology will be an important means for the more efficient creation and distribution of programming in the future. Consequently, public broadcasters seeking to replace, upgrade, and buy new equipment that employs digital technology will be permitted, when appropriate, to use PTFP funds for such purposes.

The following list provides clarification regarding several equipment and other cost areas that will be helpful in preparing applications. NTIA also reserves the right to eliminate any costs, whether specified here or not, that it determines are not appropriate prior to the awarding of a grant.

A. Equipment and Supplies

(1) Buildings and Modifications to Buildings. (a) Eligible: Small equipment shelters that are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities. (b) Ineligible: Purchase or lease of buildings and modifications to buildings, including the renovation of space for studios intended to house eligible equipment; costs associated with removing old equipment.

(2) Land and Land Improvements. (a) Eligible: Site preparation necessary to construct towers and guy anchors for transmission and interconnection equipment. (b) Ineligible: Purchase or lease of land.

(3) Moving Costs. Ineligible: Moving costs required by relocation of transmitter or studio equipment.

(4) Reception Equipment. (a) Eligible: Fixed frequency demodulator, as required by good engineering practice for monitoring the off-air transmission of signals; subcarrier demodulator; telemetry transmitters and receivers; satellite receivers; and subcarrier decoders for the handicapped. (b) Ineligible: Consumer-type TV sets and FM receivers.

(5) Tower Modifications. (a) Eligible: Strengthening or modifying a commercial entity's tower to accommodate a public broadcasting entity (structural modifications on towers and/or antenna changes must meet EIA and any required local standards). (b) Ineligible: Modifying or strengthening the applicant's tower to accommodate a commercial entity.

(6) Production and Control Room Equipment. (a) Eligible: Standard production studio and control room equipment for TV or radio program production. (b) Ineligible: Consumer-type mixers, tape recorders, turntables, CD players, etc; ancillary production devices such as stopwatches and stop-clocks, building lights, sound effects and sound effects equipment, scenery and props, cycloramas, sound insulation devices and materials, draperies and related equipment for production use, film and still photography processing, film sound synchronization editing.

(7) Video Equipment. (a) Eligible: Videotape editing and processing equipment that conforms to broadcast-standard quality equipment for field recording and production editing. (b) Ineligible: Consumer level videotape recording formats not accepted in the industry as broadcast-standard quality.

(8) Furniture and Office Equipment. (a) Eligible: Consoles required to mount equipment such as audio consoles and video switchers. (b) Ineligible: Such items as office furniture, office equipment, studio clocks and systems, blackboards, office intercoms, equipment inventory labels and label-makers, word processors, telephones and telephone systems, and printing and duplication equipment.

(9) Expendable Items and Spare Parts. (a) Eligible: A transmitter spare parts kit and one set of final and driver tubes for a transmitter awarded in the grant; a spare parts kit for video tape recorders awarded in the grant. (b) Ineligible: Spare lenses, spare circuit components, spare parts kits for studio equipment, except as noted above; recording tape, film, reels, cartridge tapes, records, compact discs, and record or tape cleaning equipment; art and graphics supplies; maintenance supplies, including replacement final and driver tubes normally considered in the industry as normal maintenance-budget-provided items and similar items.

(10) Backup Equipment. (a) Eligible: Hot standby or backup microwave for the main studio-to-transmitter link only; a backup or spare exciter for a television transmitter, as required by good engineering practice. (b) Ineligible: Redundant equipment, such as spare transmitters, or costs associated with them, as well as backup microwave equipment (except as noted above).

(11) Electric Power. (a) Eligible: Generally, all primary power costs from the output of the main power meter panel; regulators and surge protectors, as required by good engineering practice, to stabilize transmitter RF output. Where primary power is not available or is unusable for broadcast, then PTFP may provide funding for those devices needed to power the facility if the need for that equipment is fully documented in the application. (b) Ineligible: Costs of installing primary power to the facility, including transformers, power lines, gasoline or diesel powered generators, and related equipment.

(12) Test and Maintenance Equipment. (a) Eligible: Required test equipment, as indicated by good engineering practice for the maintenance of the project equipment. (b) Ineligible: Maintenance equipment such as hand and power tools, storage cabinets, and maintenance services.

(13) Air Conditioning and Ventilation. (a) Eligible: The costs to provide ventilation of eligible project equipment, such as ducting for transmitters, as required by good engineering practice. Transmitter air conditioning can be applied for and will be supported if the need is well-documented in the application. (b) Ineligible: Unless exceptionally well-documented, air conditioning for transmitters, control rooms, or equipment rooms, studios, mobile units, and other operational rooms and offices.

(14) Remote Vans. (a) Eligible: Items to equip a remote van for audio/video production. (b) Ineligible: All vehicles.

B. Other Costs

(1) Construction Applications: NTIA generally will not fund salary expenses, including staff installation costs, and pre-application legal and engineering fees. Certain "pre-operational expenses" are eligible for funding. (*See* 15 CFR § 2301.1.) Despite this provision, NTIA regards its primary mandate to be funding the acquisition of equipment and only secondarily funding of salaries. (A discussion of this issue appears in the PTFP Final Rules, 56 FR 59172 (1991)).

(2) Planning Applications. (a) Eligible: Salaries are eligible expenses for all planning grant applications, but should be fully described and justified within the application. Planning grant applicants may lease office equipment, furniture and space, and may purchase expendable supplies under the terms of Section 392 (c) of the Act. (b) Ineligible: Planning grant applications cannot include the cost of constructing or operating a telecommunications facility.

(3) Audit Costs. Organization-wide audits shall be performed in accordance with 15 CFR Part 29a, Audit Requirements for State and Local Governments, for recipients that are state or local governments; and 15 CFR Part 29b, Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations, for recipients that are educational institutions or nonprofit organizations. Additionally, when required under a special award condition, a project audit shall be performed in accordance with Federal Government Auditing Standards.

Federal guidelines allow NTIA to include an amount for audit costs as part of a grant award. NTIA policy permits non-profit organizations to include up to $5,000 for audit costs in an application. Because audit costs may vary depending on the size and scope of an organization's operations, NTIA recommends that applicants obtain estimates from auditors to determine the appropriate amount to include in their applications. Construction Grant Applicants should list the amount requested for audit costs in Part II, Section D—Other Project Costs, 1. Outside Services of the PTFP Application Form. Planning Grant Applicants should include the amount on line 7, Other, in Part III—Budget Information for Planning Grant Applicants of the PTFP Application Form.

IV. Notice of Applications Received

NTIA will publish a notice in the **Federal Register** listing all applications received by the Agency. Listing an application in such a notice merely acknowledges receipt of an application to compete for funding with other applications. Publication does not preclude subsequent return of the application for the reasons discussed under the Dates section above, or disapproval of the application, nor does it assure that the application will be funded. The notice will also include a request for comments on the applications from any interested party.

V. Evaluation Process

PTFP grants are awarded on the basis of a competitive review process. The evaluation of the applications is based upon the evaluation criteria provided in 15 CFR 2301.13 and 2301.14. The review may include the following: an evaluation by PTFP staff; a technical assessment by staff engineers using relevant evaluation criteria; outside readers, all of whom have demonstrated expertise in either public broadcasting or distance learning; and a rating by a national advisory panel, composed of representatives of the major national public radio and television organizations. The Agency shall consult, as necessary, with interested Federal and state agencies or other organizations.

VI. Special Consideration

In accordance with section 390 of the Act, one purpose of this program is to "increase public telecommunications services and facilities available to, operated by, and owned by minorities and women." Under section 392(f) of the Act, the Agency "shall give special consideration to applications which would increase minority and women's ownership of, operation of, and participation in public telecommunications." The Agency will accord special consideration only where there is more than 50 percent (50%) ownership or control of a telecommunications entity by minorities and/or women. The applicant must establish ownership of or control of a public telecommunications facility through the normal incidents of ownership, or by demonstrating participation by minorities and/or women on the Board of Directors, Executive Directors, governing body, management positions, or policy-making positions.

The special consideration element is provided as one of several funding criteria contained in the regulations, specifically, at 15 CFR 2301.13(e) for construction grants and 2301.14(c)(4) for planning grants. Those applicants demonstrating substantial ownership of or control of a public telecommunications entity by minorities and/or women shall receive a higher rating for the above-cited special consideration elements only.

VII. Selection Process

Based upon the above cited evaluation criteria, the PTFP program staff prepares summary evaluations. These incorporate the outside reviewers recommendations, engineering assessments, and program staff evaluations. The PTFP Director ranks the applications into three categories: "Recommended for Funding," "Recommended for Funding if Funds Available," and "Not Recommended for Funding." In ranking the applications, the Director considers the following discretionary selection factors:

- the program staff evaluations, including the outside reviewers;
- the program's priorities and the special applications category, as stated in the appendix to 15 CFR part 2301;
- whether the application is for a broadcast or a nonbroadcast project
- the geographic distribution of the proposed grant awards; and
- the availability of funds.

The Director presents recommendations to the Selection Official, the NTIA Administrator. The NTIA Administrator selects the applications to be negotiated for possible grant award taking into consideration the Directors recommendations and the degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes (see 47 U.S.C. 390 and 15 CFR 2301.2). These applications are negotiated between PTFP staff and the applicant. The negotiations are intended to resolve whatever differences might exist between the applicant's original request and what PTFP proposes to fund. During negotiations, some applications may be dropped from the proposed slate, due to lack of Federal Communications Commission licensing authority, an applicant's inability to make adequate assurances or certifications, or other reasons. When the negotiations are completed, the PTFP Director recommends final selections to the NTIA Administrator applying the same factors as listed above. The Administrator then makes the final award selections from the negotiated applications taking into consideration the Director's recommendations and the degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes (see 47 U.S.C. 390 and 15 CFR 2301.2).

VIII. Policy on Sectarian Activities

Applicants are advised that on December 22, 1995, NTIA issued a notice and an amendment to the PTFP regulations in the **Federal Register** on its policy with regard to sectarian activities. Under NTIA's prior policy, NTIA funds could not be used for any sectarian purposes. Under the revised policy, while religious activities cannot be the essential thrust of a grant, an application will not be ineligible where sectarian activities are only incidental or attenuated to the overall project purpose for which funding is requested. Applicants should read the policy that was published at 60 FR 66491, Dec. 22, 1995, and that will be included with the application materials.

IX. Project Period

Planning grant award periods customarily do not exceed one year, whereas construction grant award periods commonly range from one to two years. Although these time frames are generally applied to the award of all PTFP grants, variances in project periods may be based on specific circumstances of an individual proposal.

Authority: The Public Telecommunications Financing Act of 1978, as amended, 47 U.S.C. 390–393 (Act).

(Catalog of Federal Domestic Assistance No. 11.550)

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

[FR Doc. 96–3971 Filed 2–21–96; 8:45 am]

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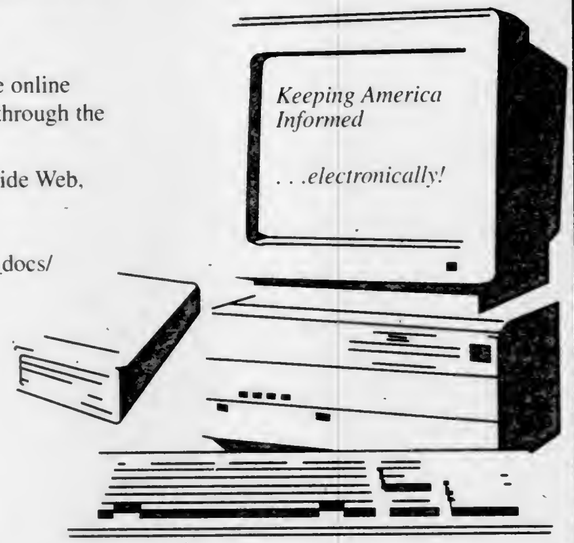
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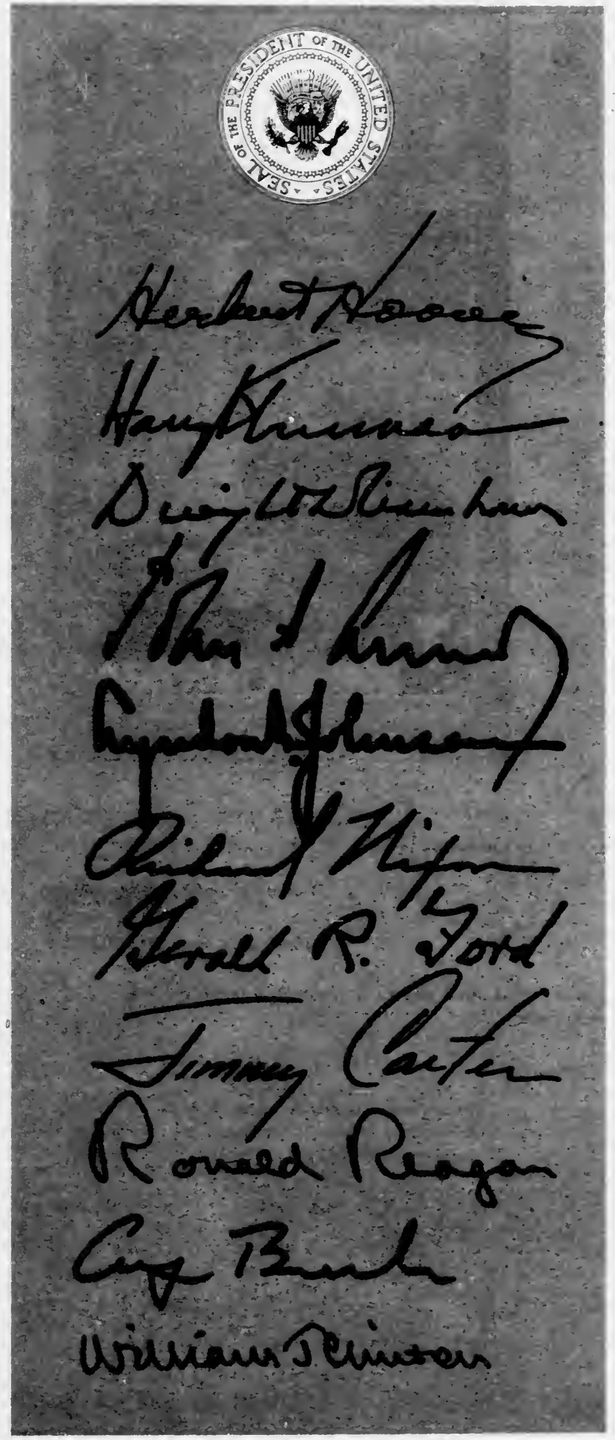
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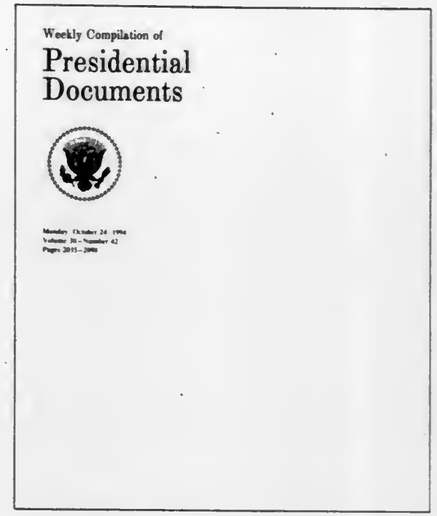
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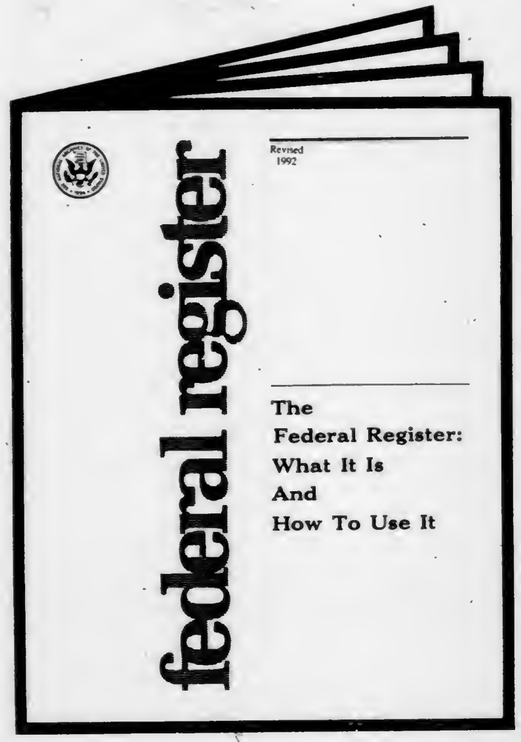
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